

**CITY OF CORVALLIS
COUNCIL ACTION MINUTES
March 2, 2015**

SUMMARY OF DISCUSSION

Agenda Item	Information Only	Held for Further Review	Decisions/Recommendations
Executive Session 1. Status of litigation filed or likely to be filed Page 89	Yes		
Visitors Propositions 1. Fossil fuel divestment (Winograd, Ozretich, Paul) 2. Council email archiving (Cauthorn) 3. Open carry of loaded firearms draft policy (Price, Highburger, Doyle, Wright, Josephson) Page 90	Yes Yes Yes		
Consent Agenda Page 91			<ul style="list-style-type: none"> • Adopted Consent Agenda <u>passed U</u>
Unfinished Business 1. Findings of Fact: House 2. Findings of Fact: William Lane House 3. City Manager Recruitment process 4. Council Goals adoption Pages 91-93			<ul style="list-style-type: none"> • Adopted Findings <u>passed U</u> • Adopted Findings <u>passed U</u> • <u>By consensus</u>, Councilors agreed candidates would provide five minute introduction, followed by question & answer period • Adopted Goals <u>passed U</u>
ASC Meeting – 2/18/15 1. Open Carry of Loaded Firearms Policy and Resolution 2. CPRR: 2.10, "Use of Electronic Mail by Mayor and City Council" 3. Livability Code/Neighborhood Outreach Department Advisory Committee update Page 93		Moved to 3/16/15 Moved to 3/16/15 Moved to 3/16/15	
City Legislative Committee – 2/19/15 Page 93	Yes		
Other Related Matters 1. Resolution: Insurance coverage for volunteers 2. Resolution: Safe Routes to Schools IGA Page 94			<ul style="list-style-type: none"> • RESOLUTION 2015-07 <u>passed U</u> • RESOLUTION 2015-08 <u>passed U</u>
Public Hearing 1. Coronado Tract B appeal of Planning Commission decision Pages 94-101		Deliberations 3/16/15	

Agenda Item	Information Only	Held for Further Review	Decisions/Recommendations
Mayor's Reports 1. OSU interim development draft agreement Page 101	Yes		
Staff Reports 1. CRFR 2. Planning Work Program Priorities 3. Public Works Solar Photovoltaic Array Page 102	Yes Yes Yes		

Glossary of Terms

ASC	Administrative Services Committee
CPRR	Council Policy Review and Update
CRFR	Council Request Follow-up Report
IGA	Intergovernmental Agreement
OSU	Oregon State University
U	Unanimous
USC	Urban Services Committee

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Mayor Traber read a statement, based upon Oregon law regarding executive sessions. The statement indicated that only representatives of the news media, designated staff, and other Council-designated persons were allowed to attend the executive session. News media representatives were directed not to report on any executive session discussions, except to state the general subject of the discussion, as previously announced. No decisions would be made during the executive session. He reminded Council members and staff that the confidential executive session discussions belong to the Council as a body and should only be disclosed if the Council, as a body, approved disclosure. He suggested that any Council or staff member who may not be able to maintain the Council's confidences should leave the meeting room.

Council entered executive session at 5:32 pm.

PRESENT: Mayor Traber; Councilors Baker, Beilstein, Brauner, Bull, Glassmire, Hann, Hirsch, Hogg, York

Pursuant to ORS 192.660(2)(h), Councilors and City Attorneys Fewel and Coulombe discussed pending litigation filed or likely to be filed.

Mayor Traber adjourned the executive session at 6:21 pm.

I. CALL TO ORDER

The regular meeting of the City Council of the City of Corvallis, Oregon was called to order at 6:34 pm on March 2, 2015 in the Charles S. Neville Medical Office Building, 3615 NW Samaritan Drive, Corvallis, Oregon, with Mayor Traber presiding.

II. PLEDGE OF ALLEGIANCE

III. ROLL CALL

PRESENT: Mayor Traber; Councilors Baker, Beilstein, Brauner, Bull, Glassmire, Hann, Hirsch, Hogg, York

Items at Councilors' places included a February 27 memorandum from Assistant Planner Bell containing additional application materials and written testimony related to Coronado Tract B (Attachment 1); a March 2 memorandum from Ms. Bell containing additional written testimony related to Coronado Tract B (Attachment 2); a March 2 memorandum from Ms. Bell containing staff findings on staff-identified applicable review criteria related to Coronado Tract B (Attachment 3); a March 2 memorandum from Planning Division Manager Young concerning the Oregon Department of Land Conservation and Development Direction in response to "Needed Housing" requirements related to Coronado Tract B (Attachment 4); a March 2 memorandum from Ms. Bell concerning additional application materials related to Coronado Tract B (Attachment 5).

IV. PROCLAMATION/PRESENTATION/RECOGNITION – None

V. VISITORS' PROPOSITIONS

Ken Winograd, a member of the divestment working group 350 Corvallis, proposed a fossil fuel divestment resolution that the City commit to not invest in fossil fuel companies and to urge the State Treasurer to divest such companies from Oregon's Public Employees Retirement System and the Local Government Investment Pool. Mayor Traber said the subject was already on the pending list of items for the Administrative Services Committee. In response to Councilor Hirsch's inquiry, several people in attendance stood in support of the resolution.

Bob Ozretich said the State's investment pools hold hundreds of millions of dollars in fossil fuel company bonds because preservation of equity, liquidity, and yield are the only investment considerations. Included in the State's investment pools are categories such as tobacco and oil company exploration; however, there was no category for investment in alternative fuel technologies. He supported an investment policy that excluded stocks or bonds of the companies that hold the largest reserves of coal, oil, and gas. He believed fossil fuel divestment should be implemented as soon as possible, rather than waiting for the matter to be included in social investing criteria discussions. Councilor Baker said there were a number of people in his Ward who were interested in the issue.

Kris Paul noted the City's commitment to sustainability and reviewed the proposed resolution that was included in the Council meeting packet. She asked the City to establish a policy that states it will not invest in fossil fuels. She noted materials she submitted for the packet included a list of 200 companies that were identified as having the largest fossil fuel reserves. She also requested that the City ask the State to identify its fossil fuel investments and divest its holdings of those over a five- year span. If the State did not do so, she asked that the City take steps to remove its investments from the Local Government Investment Pool and invest in a more socially and fiscally responsible manner.

Paul Cauthorn referred to the February 18, 2015 Administrative Services Committee minutes concerning review of Council Policy 2.10, "Use of Electronic Mail by Mayor and City Council." He supported having the City manage and archive City Councilor emails. He did not believe it was appropriate for Councilors to archive their own emails. He wanted Corvallis to protect its public records and surpass State law for government records, which includes emails.

Carl Price asked the Council to adopt the proposed policy regarding open carry of loaded firearms as written. He did not support additional amendments that were offered by other Councilors.

Ron Highburger agreed with Mr. Price's comments about adopting the proposed policy regarding open carry of loaded firearms.

Bernie Doyle said the Second Amendment was clear and he believed what happened in Corvallis affected Linn County as well.

Jeffrey Wright, a retired combat veteran, read the oath of office he took when he joined the military. He said Council did not have the right to change the Second Amendment. Approximately ten people stood in support.

Karen Josephson opined the United States Constitution was intended to be interpreted as the country moved forward to reflect what was needed for the times. She did not fear living in Corvallis, noting it was a great community where people help each other.

VI. CONSENT AGENDA

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

- A. Reading of Minutes
 - 1. City Council Meeting – February 17, 2015
 - 2. City Council Executive Session – February 23, 2015
 - 3. City Council Goal Setting – February 24, 2015
 - 4. For Information and Filing (Draft minutes may return if changes are made by the Board or Commission)
 - a. Downtown Advisory Board – February 11, 2015
 - b. Land Development Hearings Board – February 4, 2015
 - c. Planning Commission – January 21 and February 4, 2015
 - d. Watershed Management Advisory Board – January 28, 2015
- B. Appointments to the Community Relations Advisory Group (various)
- C. Schedule an Executive Session at 5:30 pm on March 16, 2015 under ORS 192.660(2)(a) (employment of a public officer) – City Manager recruitment
- D. Schedule a public hearing for March 16, 2015 to consider a Comprehensive Plan Amendment and Adoption of the 2013 Parks and Recreation Master Plan

The motion passed unanimously.

VII. ITEMS REMOVED FROM CONSENT AGENDA – None

VIII. UNFINISHED BUSINESS

- A. Findings of Fact and Order related to a Historic Resources Commission (HRC) decision (HPP14-00019, Farra House – Window Replacements)

Declarations of New Conflicts of Interest – None

Declarations of Ex Parte Contact – None

Declarations of New Site Visits – None

Rebuttal of Declarations – None

Councilors York and Beilstein, respectively, moved and seconded to adopt the Formal Findings and Conclusions, attached to the February 25, 2015 memorandum from Community Development Director Gibb to the Mayor and City Council, in support of the City Council's decision to deny the Historic Preservation Permit and deny the appeal of the Historic Resources Commission's decision (HPP14-00019).

The motion passed unanimously.

Mayor Traber announced that any participant not satisfied with this decision may appeal to the State Land Use Board of Appeals within 21 days of the date of this decision.

- B. Findings of Fact and Order related to a Historic Resources Commission decision (HPP14-00020, William Lane House – Window Replacements)

Declarations of New Conflicts of Interest – None

Declarations of Ex Parte Contact – None

Declarations of New Site Visits – None

Rebuttal of Declarations – None

Councilors Brauner and Hann, respectively, moved and seconded to adopt the Formal Findings and Conclusions, attached to the February 25, 2015 memorandum from Community Development Director Gibb to the Mayor and City Council, in support of the City Council's decision to approve the Historic Preservation Permit, as conditioned, and deny the appeal of the Historic Resources Commission's decision (HPP14-00020).

The motion passed unanimously.

Mayor Traber announced that any participant not satisfied with this decision may appeal to the State Land Use Board of Appeals within 21 days of the date of this decision.

- C. City Manager Recruitment process

Mayor Traber provided an overview and distributed a handout showing a sample final City Manager interview schedule (Attachment 6).

Councilor Glassmire proposed an alternative format for the March 10 public reception for City Manager candidates. The session from 5:30 to 8:00 pm would be split in two, with a public presentation panel from 5:30 to 6:30 pm and a reception for all the candidates from 6:30 to 8:00 pm. For the public presentation, from 5:30 to 5:50 pm, candidates would make a biographical introductory statement, three to four minutes long, followed by a short break. From 5:55 to 6:15 pm, candidates would make a brief presentation, also three to four minutes long. Questions from the audience would be taken from 6:15 to 6:30 pm. The second presentation would have an assigned topic, the same for all the candidates. Two possible topics were “What I would do in Corvallis in the first three months of being a city manager” and “One work accomplishment I am proud of.” He believed the proposed format would provide an opportunity to learn something from all the candidates, and for the candidates to learn something from each other.

Councilor Bull supported a question and answer format where the audience could hear all candidates, rather than people approaching candidates individually to ask questions and hear responses.

Mayor Traber suggested starting the public reception at 6:00 pm and including candidate presentations and a question and answer session.

Councilor Beilstein preferred that presentations were five minutes or less, with an opportunity to ask questions, followed by a meet-and-greet. He did not support having candidates provide a second presentation.

Councilor Hirsch supported having a question and answer component; however, he believed the new City Manager would be learning during his/her first few months on the job, so he did not support including a question asking candidates what they would do in their first three months of being a City Manager.

Councilor Hann suggested asking the audience to submit questions in advance by having forms available at the door for them to complete. The questions could be placed in a bowl and candidates answer questions drawn from the bowl.

Councilor Hirsch observed that some questions might be more instructive than others. He suggested having someone, such as Ms. Gantz from Waldron, review the questions before they were asked to ensure they provided value. Councilors agreed.

Mayor Traber summarized that candidates would provide a five minute introduction, followed by a question and answer period using audience questions drawn from a bowl; Councilors agreed.

Mayor Traber distributed a handout listing members of the community interview panel (Attachment 7) and read the names aloud for those in attendance. He hoped to add one or two additional panel members. Councilor Hirsch was pleased with the people selected for the community interview panel.

D. Council Goals adoption

Councilors Beilstein and Hirsch, respectively, moved and seconded to adopt the 2015-2016 Council goals presented in the Council meeting packet from the February 24, 2015 work session.

Councilor Hann said no commitment had been made to the dollar amounts associated with the goals. The strategy for implementing the goals would determine the resources that would be devoted to them.

The motion passed unanimously.

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

A. Human Services Committee – None

B. Urban Services Committee – None

C. Administrative Services Committee – February 18, 2015

This item was not discussed by the Council due to the anticipated time needed to accomplish the public hearing. It was moved to the March 16, 2015 Council meeting agenda.

D. City Legislative Committee (CLC) – February 19, 2015

This item was not discussed by the Council due to the anticipated time needed to accomplish the public hearing. It was moved to the March 16, 2015 Council meeting agenda.

E. Other Related Matters

1. A resolution relating to insurance coverage for City volunteers

City Attorney Fewel read a resolution concerning insurance coverage for City volunteers.

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

RESOLUTION 2015-07 passed unanimously.

2. A resolution relating to a Safe Route to Schools intergovernmental agreement with Corvallis School District 509J

Mr. Fewel read a resolution concerning a Safe Route to Schools intergovernmental agreement with Corvallis School District 509J.

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

RESOLUTION 2015-08 passed unanimously.

Councilor Beilstein recognized Corvallis Police Captain Henslee, who accepted the Police Chief position in Klamath Falls, Oregon.

Mayor Traber recessed the meeting from 7:25 pm to 7:32 pm.

Mayor Traber thanked Samaritan Health Services for providing space for tonight's meeting, which was moved from the Council Chambers in the Downtown Fire Station due to an expected increase in attendance.

XII. PUBLIC HEARINGS

- A. Appeal related to a Planning Commission decision (Coronado Tract B – PLD 14-00005)

Mayor Traber opened the public hearing at 7:33 pm and provided an overview of the appeal and process. He noted the Council reviewed appeals of land use decisions through a 'de novo' process, meaning that the Council was charged with considering the entire application in relation to all applicable review criteria, not just the issues raised on appeal. He said those who wished to comment could yield their time to another, allowing one person to use the combined time for testimony. Due to a change in venue late this afternoon, staff recommended holding the record open for an additional seven days.

Councilors Hirsch and Beilstein, respectively, moved and seconded to hold the record open for an additional seven days.

The motion passed unanimously.

Declarations of Conflicts of Interest – Councilor Brauner said he had a potential conflict of interest because he lived in the notice area; however, he said he could participate and deliberate in an unbiased manner. Councilor Hann was a member of the Planning Commission when Coronado was first approved and he was also a member of the Planning Commission when another proposal for development of Tract B was denied; however, he did not believe that would interfere with his ability to make a fair and impartial decision.

Declarations of Ex Parte Contact – Councilor York attended the February 4, 2015 Planning Commission meeting as a Council liaison and the meeting discussion was summarized in the Council meeting packet. She forwarded to staff all related emails she received, she did not comment on any of them, and the *ex parte* contact would not affect her ability to make a fair and impartial decision.

Declarations of Site Visits – Councilors Beilstein, York, Brauner, Hann, and Glassmire declared making site visits.

Rebuttal of Declarations – None

Objections on jurisdictional grounds – None

Mayor Traber said the land use case under consideration would be evaluated against applicable criteria from the Land Development Code (LDC) and Comprehensive Plan (CP). A list of the applicable criteria for the case was provided in the Council meeting packet and a copy was available for the public at the back of the room.

Staff Overview

Associate Planner Bell provided the staff overview via a PowerPoint presentation (Attachment 8).

Applicant/Appellant Presentation

Mayor Traber reminded the applicant to direct testimony toward the applicable criteria of the case or other criteria in the Municipal Code, CP, or LDC which they believed applied to the decision. He said failure to raise an issue, accompanied by statements or evidence sufficient to afford the City or other parties the opportunity to respond to the issue, precludes appeals to the State Land Use Board of Appeals (LUBA) based 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.

Teresa Bishow from Bishow Consulting and Lyle Hutchens from Devco Engineering provided a PowerPoint presentation outlining the history of Tract B, the proposed Coronado Tract B apartments, key findings for approval, and options for Council's consideration. Hard copies of the presentation were distributed to Councilors (Attachment 9). Ms. Bishow said approval of the project was legally defensible. If it was denied, the City would be at risk legally and the applicant/appellant would ask the City to design a ten-unit dwelling structure per Oregon Revised Statutes 227.184.

Councilor Hann recalled in 2005, Tract B was set aside and not considered to be part of the Coronado development. As a member of the Planning Commission at that time, he remembered being specifically instructed not to consider Tract B during deliberations for

the Coronado development. In response to his inquiry, Ms. Bishow confirmed no traffic study was available for Tract B at that time and there was no planned development or infrastructure. She said the focus at that time was the creation of legal tax lots and Tract B had to come back to the City for final detailed development plan approval before it could be developed. The subdivision required Tract B to have the necessary public infrastructure. When a traffic analysis was completed, Tract B was reviewed for extension of water and sewer infrastructure. Councilor Hann recalled Tract B was set aside, in part, in response to neighborhood concerns about development in proximity to the Maxine Avenue neighborhood and water run-off from the hillside. It was believed the water run-off system design would eventually fail. Mr. Hutchens said the line feeding the system, which was coming from The Regent, was deemed faulty. When City staff identified a plugged line, they discovered it was incorrectly laid across Tract B, which conflicted with what was shown on permit drawings for The Regent. Mr. Hutches believed the proposal before the Council provided an opportunity to correct the ground water issues. Mr. Hutches agreed with Councilor Hann's recollection that the Coronado development was represented as one of single family homes, even though the zoning would potentially allow for some duplexes; that had changed over time and some duplexes have since been built.

In response to Councilor Baker's inquiry about the timeline for the previous planned development, Ms. Bishow said the area was treated as a high-level concept encompassing The Regent, medical offices, and residential development. There was nothing in the record the applicant/appellant had found which specified how Tract B was to be treated. It was included with the remainder of the residential land when a minor land partition was approved in 1992. Councilor Baker said he was trying to establish whether there was a planned development that included Tract B. Ms. Bishow referred to the site plan for The Regent, noting there was nothing on the drawing to indicate there was anything planned or included on the detailed development plan.

In response to Councilor Bull's inquiry, Ms. Bishow said several design schemes were created to comply with site requirements. Ms. Bishow said if the ten-unit project was denied, the City was taking away any economic use of the property. She did not believe Tract B was included in the Parks and Recreation Master Plan.

Ms. Bishow agreed with Councilor Beilstein's understanding that the original detailed development plan for The Regent did not include Tract B and it was anticipated a detailed development plan for that parcel would be presented in the future.

Councilor Brauner said when Tract B was set aside, it was assumed the zoning would be addressed in the future. He said the issue related to what was the understanding and associated impact when Tract B was set aside.

Councilor Hann said his memory was that the 135-foot setback for The Regent was established in response to neighborhood concerns. In response to his inquiry about whether one bedroom or efficiency units were considered, Ms. Bishow said Condition #12 of The Regent established that the building needed to be 135 feet from the only property line that was legally established at the time. She said there was nothing in the record indicating that no future development could occur between the building and the property line to the south. If The Regent was requesting expansion of their building, that Condition would need to be modified. Ms. Bishow said The Regent was not making such a request. Rather, a new detailed development plan was proposed. Regarding traffic

generation relative to the number of dwelling units being proposed, Mr. Hutchens said as a local street, Mirador Place could handle up to 2,000 trips per day. The addition of the proposed project would not come close to causing traffic to exceed capacity. In response to Councilor Hann's inquiry, Mr. Hutchens said the traffic study did not include Tract B.

In response to Councilor Baker's inquiry about The Regent's property line, ownership and history, Ms. Bishow said The Regent's deed was recorded in 1988 and the parcel was their lease boundary. To her knowledge, The Regent never owned Tract B, although she opined they have opted to negotiate purchase of additional open space for residents of The Regent. Mr. Hutchens said in 1992 when the minor land partition was approved, the Elks Club owned the property. There had been other owners between the Elks Club and the current property owner. Ms. Bishow said the minimum residential zoning density required ten units on Tract B. A structure on Tract B could be taller or the units could be detached; however, those options would affect neighborhood livability and character. Other uses were allowed in the zone that could be viable through a discretionary permit process, such as a daycare or church; however, the property was on the buildable lands inventory and housing was the primary purpose for the zone.

In response to Councilor Bull's inquiry, Ms. Bishow said two-bedroom units were the preferred housing choice for many renters, so decreasing the size of the units would reduce the number of potential renters. Ms. Bishow said she would provide additional information within the seven-day response period.

Councilor Hann noted Council was reviewing a proposed detailed development plan; it was not indicating that ten units could not be built on the site.

In response to Councilor Baker's inquiry, Mr. Hutchens said the current owner purchased Tract B three or four years ago.

Staff Report

Ms. Bell provided the full staff report via a PowerPoint presentation (Attachment 10).

In response to Councilor Beilstein's inquiries, Ms. Bell said the proposal would implement a revised detailed development plan. Planning Division Manager Young said additional emergency access beyond the cul de sac was not required. Secondary access to the site through The Regent, which contained bollards, was for the benefit of The Regent. It was installed after the Coronado subdivision was approved. Civil Engineer Grassel said from a traffic study perspective, the amount of additional vehicle trips on Mirador Place was not an issue; however, the added traffic could be viewed as a compatibility concern.

In response to Councilor Bull's inquiries, Ms. Bell said based on a review of the land use history, staff believed Tract B was wholly within the planned development overlay. As such, the project fell within the detailed development plan associated with The Regent, so development on Tract B would require a modification to the detailed development plan. Nullification of the planned development was an alternative; however, that had not been requested by the applicant. Ms. Bell said staff evaluated the project as a part of the detailed development plan because Tract B was a separately owned legal lot of record and the proposal was contained within Tract B. Mr. Young said the applicant could apply for approval to develop the entire site or as a phased development. When

evaluating a project on a discrete portion of land within a planned development, with a major modification, the Planning Commission may consider approval of the project in whole or in part. When staff reviewed an application, it considered whether the proposed project was a free-standing development. That is, whether the proposed development would be dependent on the remaining portion of the planned development. If it was viewed as holding harmless any impact on the remaining portion of the planned development, staff would typically view the analysis from an in-part perspective; however, the Planning Commission had the discretion to review it from an in-whole perspective. He said it was not clear whether the Planning Commission's decision was an in-part or in-whole review. Mr. Young said street capacity was determined through a plausible maximum build out that considered zoning and anticipated densities.

Councilor Hogg said the staff report indicated the CP allowed 5 to 10 units; however the zoning was for 9 to 16 units. Mr. Young confirmed that was correct and it was somewhat unique to have differences in the CP and zoning. Research showed, the Council intentionally decided to establish different zoning and CP designations for The Regent site.

Public Testimony - Support – None

Public Testimony - Opposition

Pamela Hawkes, a resident of The Regent, cited compatibility issues and noise concerns associated with adding a ten-unit apartment complex. She understood that one of the developers said residents of the apartment complex would not create any more noise than those living at The Regent, particularly with respect to parties. She disagreed, noting residents of The Regent are generally quiet and their events are held early in the afternoon.

Josh Hall said when he purchased his home, he was told Tract B was non-buildable land. The retaining wall for the proposed project starts at the ridgeline of his house, blocking solar access. He also cited a loss of privacy, light pollution, and water run-off concerns. He urged the Council to deny the project. In response to Councilor Hirsch's inquiry, Mr. Hall said the real estate agent told him Tract B would not be developed.

Margot Pearson was present at the public hearing in 1981 when the Planning Commission reviewed the development. She read from a prepared statement that was included as Attachment A in Ms. Bell's February 27, 2015 memorandum containing additional application materials and written testimony (Attachment 1). In response to Councilor Hann's inquiry, Ms. Pearson said the record contained many references to The Regent's 135 foot setback as open space and references showing those who inquired about Tract B were told the property could not be built upon. She said others who planned to address the Council would be speaking to those references. In response to Councilor Hirsch's inquiry, Ms. Pearson said her neighbors believed the property should be open space, as that was what was always intended; however, they would consider discussing a few single family homes on the site. In response to Councilor Baker's inquiry, Ms. Pearson said she would try to locate the map that showed when the property was zoned at an RS3.5 density; however, she was not sure how quickly it could be located. She noted the RS3.5 density was raised to RS12 so The Regent could be built.

Tom Yates said parking at The Regent was barely adequate to accommodate its residents' vehicles. When social events are held, guests often park at the Corvallis Clinic parking lot. If a ten-unit apartment complex was built, he opined that guests would park at The Regent. Mr. Yates was concerned about emergency vehicle access, noting there are often multiple calls for emergency assistance on a single day. He suggested asking the Fire Department to provide data about the frequency of calls in the area.

Mayor Traber recessed the meeting from 9:27 pm to 9:39 pm

Michael Moreno, Renee Edwards, Janet Kantor, Leslie Redpath, Margaret Watson, Janene Hall, and Susan Savage yielded their time to Curt Hubele, who spoke from prepared testimony that included a PowerPoint presentation (Attachment 11). In response to Councilor Beilstein's inquiry, Mr. Hubele said The Regent was built on land that was initially leased from the Elks Club and later purchased by The Regent. The purchased parcel did not contain the whole planned development; however, the planned development still applied. In 1988, the City required a change to the property line if The Regent was to complete a minor land partition; however, The Regent never completed that condition of the partition. The 1992 plat map, which was created when The Corvallis Clinic's property was partitioned off of the Elks Club property, shows an RS3.5 was assigned to Tract B. However, since the application was only for a partition plat, and not a zone change, a zone change was never applied to Tract B, even though the plat map shows it as the intended RS3.5. In response to Councilor Glassmire's inquiry, Mr. Hubele said he provided a similar presentation to the Planning Commission when he was building his home.

David Stauffer said the proposed plan to use a garbage compactor for apartment trash and wheel a large rolling refuse container was not feasible. The proposed container weighed 740 pounds and an estimated 1,125 pounds of garbage would be generated per week. It was not reasonable to think someone could push nearly one ton an estimated 11 feet up hill to the curb weekly at collection time. In addition, he said the proposed garbage container appeared to exceed the width of the sidewalk and there was no curbing at the drive to prevent the container from rolling down hill toward The Regent.

Fran Staben yielded her time to Sandra Bell, who spoke from prepared testimony that was included in the Council meeting packet starting on page 77 of Exhibit II. Ms. Bell said the request was for a major development modification, it went well beyond a limited amount of flexibility with regard to site planning, and it was in direct opposition to the original intent of the site.

Paul Lieberman said the proposed project was out of character for the neighborhood. The parking lot would be five feet from his backyard and the apartment building would tower above his home. He cited issues with noise, lighting, and automobile fumes. The area was not within walking distance of stores, so traffic would increase.

Kara Smith spoke from prepared testimony (Attachment 12). She said the project was incompatible with the current single family subdivision, noting the duplexes were not disputed because they were in character with the neighborhood. She also expressed safety concerns for small children due to the location of a park on Mirador.

Sue Ferdig yielded her time to Jeff Diamond, who spoke from prepared testimony that was included in Attachment 1. He said the project was short on compensating benefits and noted that bollards across The Regent's private property did not serve as an additional street for emergency access. In response to Councilor Baker's inquiry, Mr. Diamond said the developers who sold the Coronado subdivision properties to him and his neighbors were the same people who were trying to develop Tract B.

Craig Bell cited concerns about neighborhood compatibility and said the City's motto of enhancing community livability was an important point to consider in the Tract B matter. He said the developer who created Coronado as a single-family subdivision never disclosed their intent to propose an apartment complex at the end of the cul de sac. He asked Council to consider the extra traffic, parking, and devaluation of Coronado residents' properties when weighing approval against compatibility standards. He opined Council approval would set troubling precedents. First, that language such as *should be no more than 18 units* was arbitrary, when really it was not. Second, that setbacks established as conditions of approval were arbitrary and meaningless. Third, compatibility with existing neighborhoods was arbitrary. Fourth, the term Tract and its definition were meaningless. Fifth, that building the project to meet the minimum number of units was a compensating benefit.

George Pearson spoke from prepared testimony that was included in Attachment 1. His comments focused on the number of trees in the area. He noted the property that became the Coronado subdivision originally contained over 1,400 trees, but only 13 had been preserved. He said the replacement trees were very small and many had not survived. He said the applicant's proposal for Tract B would preserve only 16 percent of the 24 significant trees identified on that site. He said the Planning Commission denied the application in part due to a failure to protect significant trees on the site to the greatest extent practicable.

John Engbring said he would not have purchased his home had he known a ten-unit apartment complex could have been built on Tract B. He was told by the real estate agent there was no intent to develop the site; however, the developers stated they did intend to develop the site. He said the staff report showed the property's water and sewer lines were stubbed for a single-family home and that clearly indicated the original intent.

Linda Lieberman referred to Attachments B1 and B2 in Attachment 1, noting her backyard abuts Tract B. She said a single-family home was reasonable for Tract B; apartments were not. She said a riparian corridor existed along the south side of Tract B and the back part her property was marshy and muddy during the winter due to water runoff from Tract B.

Jim Kline provided a photo exhibit of Tract B (Attachment 13) and referred to his written testimony included in Attachment 2. He said his house would be dwarfed by the retaining wall and apartment building, and light pollution was a concern. He believed the project presented a safety issue for The Regent, opined The Regent was over-built, and he did not see any compensating benefits for the project. He did not support removal of setbacks and any development of Tract B.

Written testimony was submitted at the meeting from Kim Down and Jindra Brandejska (Attachment 14), Richard Behan (Attachment 15), Nathan Smith (Attachment 16) and Tom Jensen (Attachment 17).

Public Testimony - Neutral - None

Rebuttals

Ms. Bishow wished to provide a written rebuttal by March 16, 2015 at 5:00 pm and agreed the rebuttal would not include any new evidence received after the March 9, 2015 5:00 pm deadline for additional written testimony.

Mayor Traber closed the public hearing at 10:55 pm.

Deliberations were scheduled for the March 16, 2015 City Council meeting.

Councilors Hirsch and Bull, respectively, moved and seconded to continue the meeting for another 30 minutes. The motion passed unanimously.

Questions for Staff

Councilors asked staff to provide responses to the following questions before the March 16 Council meeting:

Has any information been provided with this application that indicated whether the proposed units meet the definition of “needed housing?” (Councilor Baker)

What is the difference between a “tract” and a “lot?” (Councilor Beilstein)

Does a property’s status of “tract” or “lot” change when the property/development is located within the context of a planned development? Can you verify the land use history provided during public testimony; specifically, whether Tract B was approved/intended as open space? (Councilor Brauner)

Does a site’s inclusion in the buildable lands inventory make something buildable? What if a specific density had been prescribed, and what if prescribed density or zoning had been applied to an area used as open space? (Councilor Bull)

Please provide links to minutes from the 2005 Planning Commission's consideration of the subdivision application (Councilor Hann)

Please provide links to any information particularly relevant to the proposal (Councilor Glassmire)

What is the requirement per State law to demonstrate that an application is a “needed housing” application? (Councilor Bull)

XI. MAYOR, COUNCIL, AND STAFF REPORTS

A. Mayor's Reports

Mayor Traber said the City drafted an agreement concerning Oregon State University (OSU) development interim measures and it was being reviewed by the University. Council Leadership planned to meet the week of March 9 to further discuss the matter and it was hoped a draft agreement could be presented at the March 16 Council meeting.

B. Council Reports

Due to the late hour, no Council reports were given.

C. Staff Reports

1. Council Request Follow-up Report

The item was for information only.

2. Planning Work Program Priorities

The item was for information only.

3. Public Works Solar Photovoltaic Array

The item was for information only.

XI. NEW BUSINESS – None

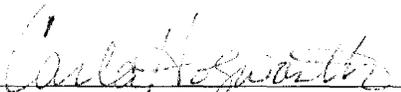
XIII. ADJOURNMENT

The meeting adjourned at 11:05 pm.

APPROVED:


MAYOR

ATTEST:


CITY RECORDER



MEMORANDUM

Date: February 27, 2015

To: Mayor and City Council

From: Amber Bell, Assistant Planner - Community Development Department

Re: Coronado Tract B (PLD14-00005)
Additional Application Materials and Written Testimony

Additional application materials and written testimony have been received since completion of the February 23, 2015 Staff Report to the City Council. These additional materials are attached to this memorandum as Attachments A to D, as described below.

Attachments

- A. Additional written testimony received from noon on February 23, 2015 to February 27, 2015
- B. Existing conditions plan and grading exhibit with engineer's stamp, submitted February 23, 2015
- C. Revised site plan, submitted February 26, 2015, to address a Pedestrian Oriented Design standard found in LDC Section 4.10.60.01.a.1
- D. Letter from the appellant to the City Council, submitted February 27, 2015

From: [Margot Pearson](#)
To: [Planning](#)
Subject: Attention: Amber Bell re: PLD14-00005
Date: Monday, February 23, 2015 11:10:51 PM
Attachments: [LettertoCityCouncil2015.pdf](#)
[1992MLP.pdf](#)
[9-14-92Final Plat let.pdf](#)

Dear Ms Bell,
Please find attached written testimony in opposition to PLD14-00005 with two attachments to include with the testimony. Please confirm by email that you have received this testimony.

Thank you very much,

Margot N. Pearson

Margot Pearson
477 NW Survista Ave
Corvallis, OR 97330
541 752-0657 (home)
541 602-0196 (cell)
pearsonm@science.oregonstate.edu

February 23, 2015

To: Corvallis City Council

From: Margot Pearson, 477 NW Survista Ave., Corvallis, OR 97330

Re: PLD14-00005, Coronado Tract B Apartments, Written Testimony in Opposition

Dear Corvallis City Council Members,

We have lived at 477 NW Survista Ave since 1972 and during that time have been involved in numerous land use and neighborhood meetings regarding the ~ 17 acre property bordering the north end of our lot. It was initially owned by the Corvallis Elks Lodge, but now consists of properties occupied by the Corvallis Clinic, The Regent Retirement Center, and the Coronado development. In September 1980, a proposal to rezone a portion of the property from R-1 to R-20 (PD-80-9) for construction of a Congregate Care Center retirement facility (now known as the Regent Retirement Center) was denied, because the proposed development would be disproportionate to the site area. In April 1981, after the implementation of the new Comprehensive Plan, the City Council approved a zoning change from RS-3.5 to RS-12 with a detailed development plan overlay (DC-81/PD-81-1) encompassing the current Regent Retirement Center and Tract B. In June 1981, in a Notice of Disposition from the Planning Commission concerning DC-81/PD-81-1, the staff recommended Condition of Approval (LDC1.2.110.04) #12 requiring the following: "The building shall be set back (LDC1.6.10) from Elks Drive no less than 30 feet, no less than 135 feet from the south property line (this is approximately the current south property line of Tract B), and no less than 55 feet from the east property line. Other setbacks are included on the site plan." This condition was applied in response to concerns by both the nearby residents and the Planning Commission that a building this size was incompatible with the surrounding RS-3.5 residential properties. In addition, the part of the Congregate Care Center closest to the homes on its south and east sides would be limited to no more than one story above grade so as to reduce its visual and privacy impact. The RS-12 designation of the planned development overlay was applied to all of this property, including Tract B, in order to provide the density needed for the number of units in the Congregate Care Center. This number of units accounted for all of the density allowed for the entire parcel. Although such density transfers are no longer done, the intent of locating the Regent Retirement Center building with a 135 foot setback on the south side, was to reduce the impact of such a large, dense building on the nearby single family homes. Therefore, Tract B should never have been partitioned nor retained this high density as a separate lot and should not have been entered as such into the City's Buildable Lands Inventory.

In May and June, 1988 the Elks Lodge applied for a Minor Land Partition, MLP-88-2 which would form 3 parcels: Parcel 1, Elks Lodge, Parcel 2, Regent Retirement Center, and Parcel 3, the remaining property to the south including Tract B. At that time, Condition of Approval #9 for this application was "Parcel 2 is to be expanded to the southerly border of the existing Elks parcel by extending the southwest (*sic*) corner of the proposed Parcel 2 approximately 145 feet...." This will include all land previously

approved for the Regency use through PD-81-1. This condition required that the Regent and Tract B be maintained as a single tax lot in accordance with the PD-81-1 approval. It is not clear whether this minor land partition was ever completed and filed. However, in June 1992, The Corvallis Clinic, the new owner of the Elks Club properties, filed MLP-92-7 (see attached Application-6-12-92 with map or on the Planning website>Land Use Cases>MLP-92-7 The Corvallis Clinic-Corvallis Congregate Care) requesting the partition of Tax Lots 1000, 1100, and 1400 into two parcels with respect to the existing City of Corvallis zoning on each parcel. Parcel 1 (Tax Lot 1000 and 1100) is PAO, Professional and Administrative Office (The Corvallis Clinic) and Parcel 2 is RS-3.5, Residential (see Partition Plat 92-22 (Final Plat)-letter size-attached or on the Planning website>Land Use Cases>MLP-92-7 The Corvallis Clinic-Corvallis Congregate Care). The 6-12-92 map shows Tract B as part of Parcel 2 with an RS3.5 designation, while on the 9-14-92 Partition Plat, Tract B has been separated from Parcel 2 and is cross-hatched for unknown reasons. In none of these documents is it clear as to how or when Tract B may have been partitioned from The Regent Retirement Center (TL 1101). However, it is certain that affected parties (*ie* neighboring property owners or neighborhoods) were not notified as required by LDC2.14.30.03-Public Notice about either of these Minor Land Partition applications (MLP-88-2 and MLP-92-7). (At the time of the previous Tract B application in 2013, Jason Yaich of the Corvallis Planning Division confirmed that there is no record that the neighboring property owners were notified about this Minor Land Partition application.) Such affected parties were, therefore, deprived of a substantial right to have input into these decisions. It is also clear from Condition of Approval #9 of MLP-88-2 (“Parcel 2 is to be expanded to the southerly border of the existing Elks parcel by extending the southwest (*sic*) corner of the proposed Parcel 2 approximately 145 feet.....” This will include all land previously approved for the Regency use through PD-81-1) that Tract B is an integral part of the Regent Retirement Center property and therefore could not be partitioned from that property. It appears that by some means which is not clear, Tract B was **improperly** partitioned into a separate lot from The Regent Retirement Center property and should not have been sold separately from it. In addition, the proposal for the Coronado Tract B Apartments (PLD12-5) clearly subverts the intent of PD-81-1 which was to provide a sense of scale and compatibility between the RS-12 Regent Retirement Center property and the surrounding RS3.5 residential neighborhoods (LDC, Chapter 2.13 and LDC 4.10.10) by preservation of a 135 foot setback area on Tract B. For these reasons, the proposal to build apartments on Tract B should be denied.

In June of 2013, PLD12-00005, a proposal for a Major Planned Development Modification to build a 10-unit apartment building on the Regent Retirement Residence Planned Development site was heard by the Corvallis Planning Commission. This application was unanimously denied (order no. 2013-034) by the Planning Commission for the following reasons:

1. Failure to demonstrate consistency with the cul-de-dac standards in LDC Section 4.0.60c
2. Failure to protect significant trees on the site “to greatest extent practicable,” per LDC Section 4.2.20.d

3. Failure to provide adequate compensating benefits for requested variations from code standards, as required by LDC Section 2.5.40.04.a.1; and
4. Lack of compatibility in basic site design, visual elements, odors and emissions, landscaping and protection of significant natural features, per LDC Sections 2.5.40.04.a.2,3,5,8, and 14.

The current application, PLD14-00005, does not address most of these issues and for this reason should be denied.

The applicant proposes to use a trash compactor to compact the apartment trash into a trash receptacle which will then be wheeled to Mirador Pl. for pickup by Republic Waste Services. They then state that "there will (sic) no need or expectation of Republic Services vehicles entering the site, thus Staff's determination that fire truck access, to the north of the building, is an access drive because it accommodates garbage truck ingress and egress is no longer valid". Aside from the fact that it seems unrealistic to expect the apartment manager to push a trash receptacle weighing 740 lbs and containing up to 1125 lbs of compacted trash 225 feet up a 4.8% slope to Mirador Pl (see letter from Jeff Diamond dated Jan 20, 2015), but once it is there, it needs to be left in front of the Tract B property for pickup. However, the only Tract B frontage on Mirador Pl and access to the Tract B property is a 47.8 foot long driveway along the northern edge of lot 22. This driveway is 21 feet wide including a 5 foot landscaping setback on its southern side. Next to this driveway on the west end, is the driveway access for lot 22 which is only 17 feet in width. On the northern side of the Tract B driveway, there is a 5 foot wide landscaped strip belonging to the Regent property and abutting the Regent fire lane access. Therefore, there is approximately 5 feet of usable frontage on Mirador Pl. belonging to Tract B which would need to accommodate a 7 foot wide trash receptacle. In addition, this frontage would need to accommodate 3 residential recycling carts side-to-side (see site plan on applicant's letter dated Jan 16, 2015), each of which is 2 feet wide, requiring a minimum of six feet on Mirador Pl. Any overlap of the trash receptacle or recycling carts would block either the narrow Tract B driveway, the Regent fire lane, or the driveway access to lot 22. It is clear that this proposal is not feasible for several reasons and should be rejected along with the entire PLD14-00005 plan.

Additionally, another aspect of the Tract B plan that has become increasingly clear and concerning, is that the fire access to the building is very limited. Should a fire occur, the only ingress for fire engines to the fire access lane on the north is the 17 foot wide, 47.8 foot long development driveway. However, this same driveway is also the only egress for the cars of the apartment residents. This could create a very hazardous situation in which, in case of an apartment building fire, responding fire engines would encounter residents trying to leave by car, thus completely blocking the driveway. This poses a fire spread threat to all the surrounding neighborhood residences in case of a fire. For reasons of safety the PLD14-00005 proposal should be denied.

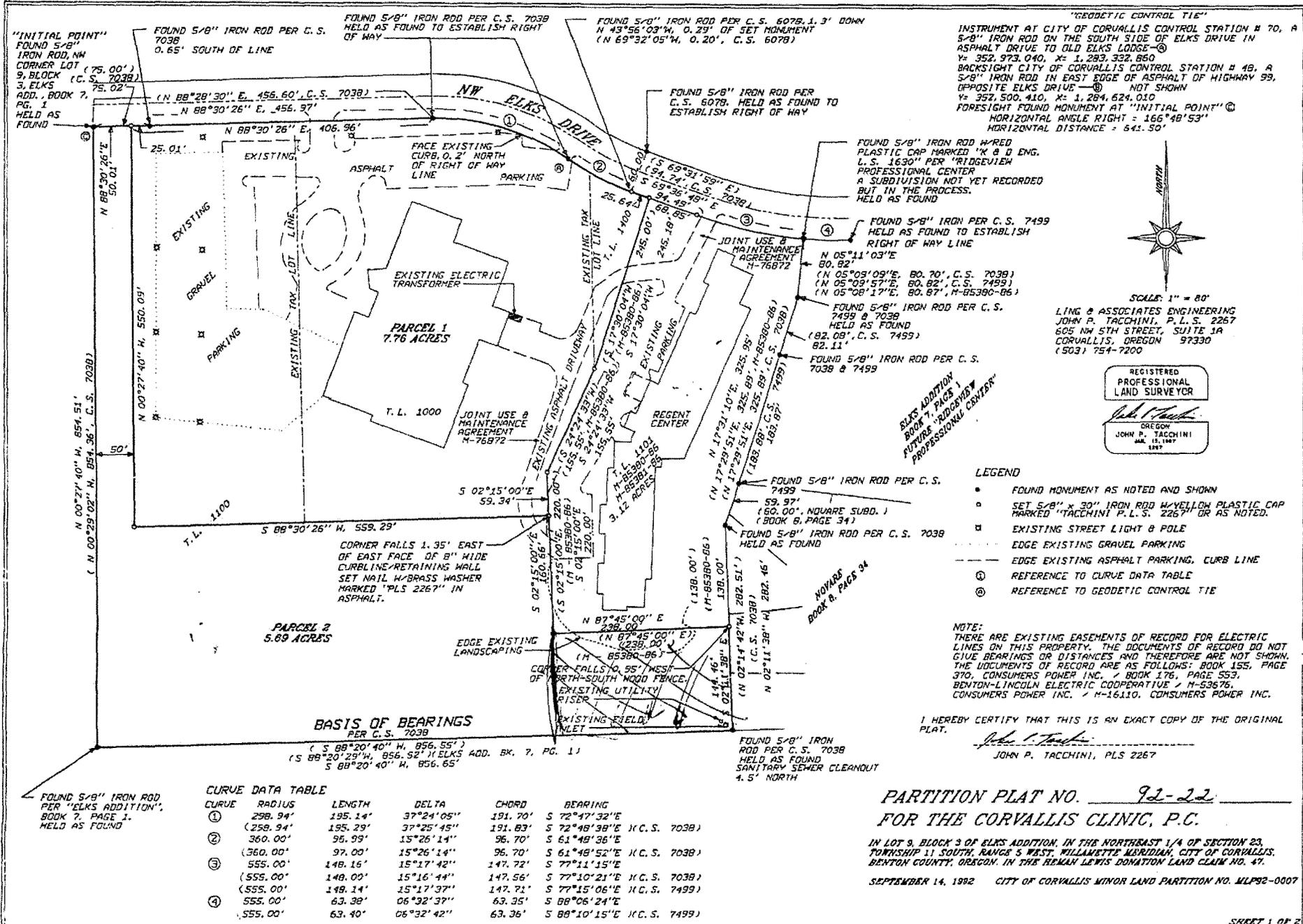
This proposal to build a 10 unit apartment building on Coronado Tract B has twice been unanimously denied by the Planning Commission, first, PLD12-00005 by order no. 2013-

034 dated 6-19-2013 and second, PLD14-00005 by order no. 2015-004 dated 1-21-2015.
I urge you to uphold the Planning Commission decision and deny this appeal.

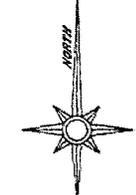
Two attachments: 1992MLP; 9-14-92 Final Plat

Sincerely Yours,

Margot N. Pearson
477 NW Survista Ave
520 NW Mirador Pl
Corvallis, OR 97330
pearsonm@science.oregonstate.edu
541-752-0657



"GEODETIC CONTROL TIE"
 INSTRUMENT AT CITY OF CORVALLIS CONTROL STATION # 70, A
 5/8" IRON ROD ON THE SOUTH SIDE OF ELKS DRIVE IN
 ASPHALT DRIVE TO OLD ELKS LODGE - (C)
 Y = 352.973, 040, X = 1, 283, 332, 860
 BACKSIGHT CITY OF CORVALLIS CONTROL STATION # 48, A
 5/8" IRON ROD IN EAST EDGE OF ASPHALT OF HIGHWAY 99,
 OPPOSITE ELKS DRIVE - (D) NOT SHOWN
 Y = 352, 900, 410, X = 1, 284, 624, 010
 FORESIGHT FOUND MONUMENT AT "INITIAL POINT" (C)
 HORIZONTAL ANGLE RIGHT = 166°48'53"
 HORIZONTAL DISTANCE = 843.50'



SCALE: 1" = 80'
 LING & ASSOCIATES ENGINEERING
 JOHN P. TACCHINI, P.L.S. 2267
 605 NW 5TH STREET, SUITE 1A
 CORVALLIS, OREGON 97330
 (503) 754-7200

REGISTERED
 PROFESSIONAL
 LAND SURVEYOR
 JOHN P. TACCHINI
 No. 15, 1987

LEGEND
 • FOUND MONUMENT AS NOTED AND SHOWN
 ◻ SET 5/8" x 30" IRON ROD W/ YELLOW PLASTIC CAP MARKED "TACCHINI P.L.S. 2267" OR AS NOTED.
 ◻ EXISTING STREET LIGHT & POLE
 --- EDGE EXISTING GRAVEL PARKING
 --- EDGE EXISTING ASPHALT PARKING, CURB LINE
 (C) REFERENCE TO CURVE DATA TABLE
 (D) REFERENCE TO GEODETIC CONTROL TIE

NOTE:
 THERE ARE EXISTING EASEMENTS OF RECORD FOR ELECTRIC
 LINES ON THIS PROPERTY. THE DOCUMENTS OF RECORD DO NOT
 GIVE BEARINGS OR DISTANCES AND THEREFORE ARE NOT SHOWN.
 THE DOCUMENTS OF RECORD ARE AS FOLLOWS: BOOK 155, PAGE
 370, CONSUMERS POWER INC. / BOOK 176, PAGE 553,
 BENTON-LINCOLN ELECTRIC COOPERATIVE / N-53676,
 CONSUMERS POWER INC. / M-16110, CONSUMERS POWER INC.

I HEREBY CERTIFY THAT THIS IS AN EXACT COPY OF THE ORIGINAL
 PLAT.
 JOHN P. TACCHINI, PLS 2267

PARTITION PLAT NO. 92-22
FOR THE CORVALLIS CLINIC, P.C.

IN LOT 9, BLOCK 3 OF ELKS ADDITION, IN THE NORTHEAST 1/4 OF SECTION 23,
 TOWNSHIP 11 SOUTH, RANGE 5 WEST, WILLAMETTE MERIDIAN, CITY OF CORVALLIS,
 BENTON COUNTY, OREGON, IN THE REAM LEWIS DONATION LAND CLAIM NO. 47.

SEPTEMBER 14, 1992 CITY OF CORVALLIS MINOR LAND PARTITION NO. MLP92-0007

CURVE DATA TABLE

CURVE	RADIUS	LENGTH	DELTA	CHORD	BEARING
①	298.94'	195.14'	37°24'05"	191.70'	S 72°47'32"E
	(258.94')	195.29'	37°25'45"	191.83'	S 72°48'38"E (C.S. 7038)
②	360.00'	95.99'	15°26'14"	96.70'	S 61°48'36"E
	(360.00')	97.00'	15°26'14"	96.70'	S 61°48'52"E (C.S. 7038)
③	555.00'	148.15'	15°17'42"	147.72'	S 77°11'15"E
	(555.00')	148.00'	15°16'44"	147.56'	S 77°10'21"E (C.S. 7038)
	(555.00')	148.14'	15°17'37"	147.71'	S 77°15'06"E (C.S. 7499)
④	555.00'	63.38'	06°32'37"	63.35'	S 88°06'24"E
	(555.00')	63.40'	06°32'42"	63.36'	S 88°10'15"E (C.S. 7499)

BASIS OF BEARINGS
 PER C.S. 7038
 (S 88°20'40" W, 856.55')
 (S 88°20'29" W, 856.52') (ELKS ADD. BK. 7, PG. 1)
 S 88°20'40" W, 856.65'

FOUND 5/8" IRON ROD
 PER "ELKS ADDITION",
 BOOK 7, PAGE 1,
 HELD AS FOUND

FOUND 5/8" IRON
 ROD PER C.S. 7038
 HELD AS FOUND
 SANITARY SEWER CLEARNOUT
 4.5' NORTH

NARRATIVE

THE PURPOSE OF THIS SURVEY IS TO PARTITION TAX LOTS 1000, 1100 AND 1400 INTO TWO PARCELS WITH RESPECT TO THE EXISTING CITY OF CORVALLIS ZONING ON EACH PARCEL. PARCEL 1 IS P.A.O., PROFESSIONAL & ADMINISTRATIVE OFFICE AND PARCEL 2 IS RS 3.5, RESIDENTIAL.

SURVEYOR'S CERTIFICATE

I, JOHN P. TACCHINI, A REGISTERED PROFESSIONAL LAND SURVEYOR IN THE STATE OF OREGON, DO HEREBY DEPOSE AND SAY THAT I HAVE CORRECTLY SURVEYED AND MARKED WITH PROPER MONUMENTS THE LAND REPRESENTED ON THE ATTACHED PARTITION PLAT, THE BOUNDARY OF WHICH IS DESCRIBED AS FOLLOWS:

BEGINNING AT THE "INITIAL POINT", A 5/8" IRON ROD MARKING THE NORTHWEST CORNER OF LOT 9, BLOCK 3 OF ELKS ADDITION A SUBDIVISION OF RECORD IN BOOK 7, PAGE 1, BENTON COUNTY PLAT RECORDS, SAID ROD BEING ON THE SOUTH LINE OF N.W. ELKS DRIVE, A 60.00 FOOT RIGHT OF WAY; THENCE ALONG SAID SOUTH LINE OF N.W. ELKS DRIVE NORTH 88°30'26" EAST, 458.97 FEET TO A 5/8" IRON ROD; THENCE CONTINUING ALONG SAID SOUTH RIGHT OF WAY LINE, ON THE ARC OF A 298.94 FOOT RADIUS CURVE TO THE RIGHT (LONG CHORD BEARS SOUTH 72°47'32" EAST, 191.70 FEET) A DISTANCE OF 195.14 FEET TO A 5/8" IRON ROD; THENCE ALONG THE ARC OF A 360.00 FOOT RADIUS CURVE TO THE LEFT (LONG CHORD BEARS SOUTH 61°49'36" EAST, 96.70 FEET) A DISTANCE OF 96.99 FEET TO A 5/8" IRON ROD; THENCE SOUTH 69°36'48" EAST, 25.64 FEET TO A 5/8" IRON ROD; THENCE LEAVING SAID SOUTH RIGHT OF WAY LINE OF SAID N.W. ELKS DRIVE, ALONG THE WEST LINE OF DEED, M-85380-86 AND M-85381-86, SOUTH 17°30'04" WEST, 245.00 FEET TO A 5/8" IRON ROD; THENCE SOUTH 24°24'33" WEST, 155.55 FEET TO A 5/8" IRON ROD; THENCE SOUTH 02°15'00" EAST, 220.00 FEET TO A 5/8" IRON ROD AT THE SOUTHWEST CORNER OF SAID M-85380-86 AND M-85381-86; THENCE ALONG THE SOUTH LINE OF SAID M-85380-86 AND M-85381-86, NORTH 87°45'00" EAST, 238.00 FEET TO A 5/8" IRON ROD ON THE EAST LINE OF SAID LOT 9, BLOCK 3, ELKS ADDITION; THENCE ALONG SAID EAST LINE, SOUTH 02°11'39" EAST, 144.46 FEET TO A 5/8" IRON ROD AT THE SOUTHEAST CORNER OF SAID LOT 9, BLOCK 3, ELKS ADDITION; THENCE ALONG THE SOUTH LINE OF SAID LOT 9, BLOCK 3, ELKS ADDITION, SOUTH 89°20'40" WEST, 856.65 FEET TO A 5/8" IRON ROD AT THE SOUTHWEST CORNER OF SAID LOT 9, BLOCK 3, ELKS ADDITION; THENCE ALONG THE WEST LINE OF SAID LOT 9, BLOCK 3, ELKS ADDITION, NORTH 00°27'40" WEST, 854.51 FEET TO A 5/8" IRON ROD AT THE NORTHWEST CORNER OF SAID LOT 9, BLOCK 3, ELKS ADDITION, THE "INITIAL POINT" AND THE POINT OF BEGINNING OF THIS DESCRIPTION.

RECORDING

COUNTY OF BENTON } s.s.
STATE OF OREGON }

I HEREBY CERTIFY THAT THE ATTACHED PLAT WAS RECEIVED AND DULY RECORDED BY ME IN THE BENTON COUNTY RECORDS, BOOK OF PARTITION PLATS AS PLAT NO. 92-22 ON THIS 21 DAY OF Sept 1992, AT 9:01 O'CLOCK A.M.

BY: [Signature]
BENTON COUNTY CLERK

APPROVALS

[Signature] 9-21-92
CITY OF CORVALLIS, ENGINEER DATE

[Signature] 9-21-92
CITY OF CORVALLIS, DEVELOPMENT SERVICES MANAGER DATE

[Signature] 9-22-92
FOR BENTON COUNTY SURVEYOR DATE

REGISTERED PROFESSIONAL LAND SURVEYOR

JOHN P. TACCHINI, PLS 2267
LING & ASSOCIATES ENGINEERING
605 NW 5TH STREET, SUITE 1A
CORVALLIS, OREGON 97330
(503) 754-7200

OREGON
JOHN P. TACCHINI
JAN 15, 1987
EXPIRES

DECLARATION

KNOW ALL PERSONS BY THESE PRESENTS THAT THE CORVALLIS CLINIC, P.C., AN OREGON PROFESSIONAL CORPORATION, BERNIE H. PARSONS, ADMINISTRATOR, IS THE RECORDED OWNER OF THE LANDS REPRESENTED ON THE ATTACHED MAP AND MORE PARTICULARLY DESCRIBED IN THE SURVEYOR'S CERTIFICATE AND HAVE CAUSED SAID LANDS TO BE SURVEYED, PARTITIONED AND PLATTED INTO PARCELS AS SHOWN ON THE ATTACHED MAP IN ACCORDANCE WITH CHAPTER 32, OREGON REVISED STATUTES, 1991 EDITION. FURTHER, THERE ARE NO WATER RIGHTS APPURTENANT TO THIS PARTITION AND WE MAKE NO CLAIM FOR WATER RIGHTS. THESE PARCELS ARE TO BE SERVED BY THE CITY OF CORVALLIS MUNICIPAL WATER SYSTEM.

I HEREBY CERTIFY THAT THIS IS AN EXACT COPY OF THE ORIGINAL PLAT.

[Signature]
JOHN P. TACCHINI, PLS 2267

ACKNOWLEDGEMENT

COUNTY OF BENTON } s.s.
STATE OF OREGON }

THIS IS TO CERTIFY THAT ON THIS 21 DAY OF Sept 1992, BEFORE ME, A NOTARY PUBLIC IN AND FOR SAID STATE AND COUNTY, DID PERSONALLY APPEAR BERNIE H. PARSONS, IN THE CAPACITY SHOWN IN THE ABOVE DECLARATION, WHO BEING DULY SWORN, DID SAY THAT HE IS THE IDENTICAL PERSON NAMED IN THE FOREGOING INSTRUMENT AND THAT SAID INSTRUMENT WAS EXECUTED FREELY AND VOLUNTARILY ON BEHALF OF THE CORVALLIS CLINIC, P.C.

PARTITION PLAT NO. 92-22
FOR THE CORVALLIS CLINIC, P.C.

IN LOT 9, BLOCK 3 OF ELKS ADDITION IN THE NORTHEAST 1/4 OF SECTION 23, TOWNSHIP 11 SOUTH, RANGE 5 WEST, WILLAMETTE MERIDIAN, CITY OF CORVALLIS, BENTON COUNTY, OREGON, IN THE HEMAN LEWIS DONATION LAND CLAIM NO. 47.

SEPTEMBER 14, 1992
CITY OF CORVALLIS MINOR LAND PARTITION NO. MLP92-0007

[Signature]
NOTARY PUBLIC, STATE OF OREGON
MY COMMISSION EXPIRES 4/12/93

[Signature]
GLENN A. LING
NOTARY PUBLIC - OREGON
My Commission Expires 4/13/93

CASE NUMBER MLP 92-0007 DATE FILED 6-12-92
FEE \$14700 RECEIPT NO. 25314 PLANNER JPK DATE ACCEPTED _____
AVERAGE LOT AREA OF DEVELOPED LOTS WITHIN 300 FEET _____

APPLICATION FOR:
**MINOR LAND PARTITION &
LOT LINE ADJUSTMENT**



Community Development
Department
P.O. Box 1001
Corvallis, OR 97339-1001
757-6900

PLEASE TELL US ABOUT YOURSELF AND YOUR SITE:

APPLICANT: NAME THE CORVALLIS CLINIC P.C. WORK PHONE 754-1150
ADDRESS 3680 NW SAMARITAN DRIVE HOME PHONE _____
SIGNATURE [Signature] Corvallis, OR 97333 6-10-92
TITLE: Administrator (DATE)

PROPERTY OWNER*: NAME same as above PHONE _____
ADDRESS _____
SIGNATURE _____ (DATE)

*Where the owner and applicants differ, written authorization by owner is required.

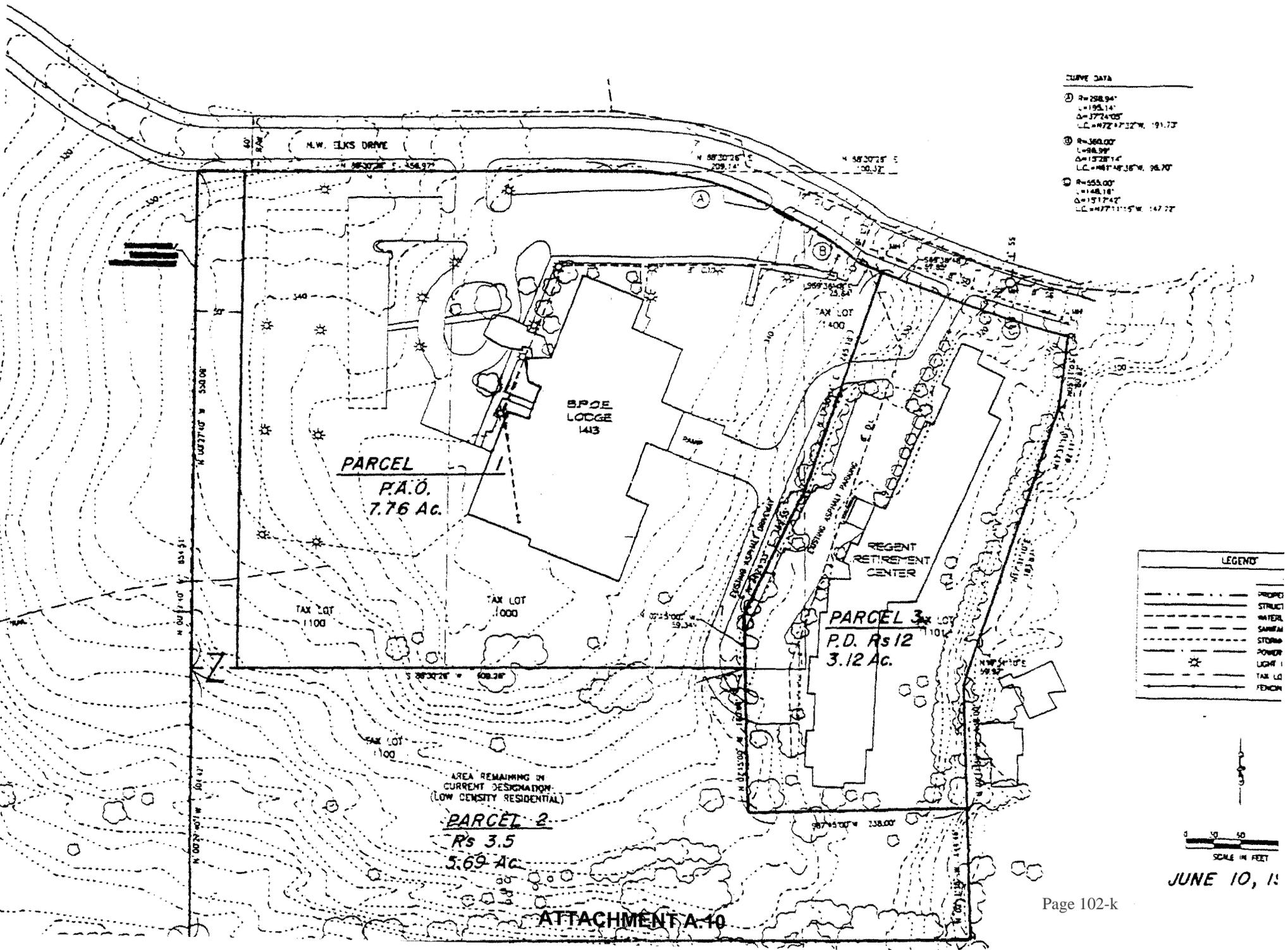
PROPERTY LOCATION: ADDRESS 444 NW ELKS DRIVE 1000, 1100, 1101
ASSESSOR'S MAP NO. 11-5-23A TAX LOT 1400

(The Assessor's Map Number (township/range/section) and the Tax Lot number can be found on your tax statement on the upper left side or at the Assessor's office.)

DEVELOPMENT DISTRICT T.L. 1100- Rs 3.5/ T.L. 1000&1400- P.A.O./T.L. 1101- P.D. Rs. 3.5
EXISTING USE OF PROPERTY T.L. 1100-vacant, T.L. 1000&1400-Elks Lodge
PROPOSED USE OF PROPERTY T.L. 1101-Regent Retirement Center
Existing zoning/use to remain

DATE OF LAST PARTITION (If known) _____

PROPOSED LOT SIZES - Parcel ~~XX~~ 1. 7.76 Acres ~~X~~ 2. 5.69 Acres ~~XX~~ 3. 3.12 Acres

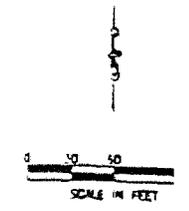


CURVE DATA

①	R=258.94'
	Δ=195.14'
	Δ=177°4'05"
	LC=472°17'12"W 191.73'
②	R=369.00'
	Δ=88.39'
	Δ=152°28'14"
	LC=441°48'16"W 26.70'
③	R=455.00'
	Δ=48.18'
	Δ=151°24'2"
	LC=477°11'15"W 147.27'

LEGEND

--- (dashed line)	PROPOSED STRUCTURE
--- (dashed line)	WATER
--- (dashed line)	SEWER
--- (dashed line)	STORM
--- (dashed line)	POWER
☆ (star symbol)	LIGHT
--- (dashed line)	TAX LOT
--- (dashed line)	FENCE



JUNE 10, 15

PARCEL 1
P.A.O.
7.76 Ac.

AREA REMAINING IN
CURRENT DESIGNATION
(LOW DENSITY RESIDENTIAL)

PARCEL 2
Rs 3.5
5.69 Ac.

PARCEL 3
P.D. Rs 12
3.12 Ac.

BPOE
LODGE
1413

REGENT
RETIREMENT
CENTER

TAX LOT
1100

TAX LOT
1000

TAX LOT
100

TAX LOT
1012

N.W. ELKS DRIVE

BOYCE & DILLON W

N 00°14'00" E 854.51'

N 00°24'00" W 1014.02'

N 88°30'26" E 209.14'

N 88°30'26" E 100.42'

TAX LOT
1400

TAX LOT
1012

N 87°51'00" W 238.00'

LL 55

N 77°11'00" E 193.84'

N 77°11'00" E 193.84'

N 00°14'00" E 854.51'

N 00°24'00" W 1014.02'

From: [Sue Ferdig](#)
To: [Bell, Amber](#)
Cc: [Day, Emely](#)
Subject: Memorandum to City Council
Date: Tuesday, February 24, 2015 3:26:33 PM
Attachments: [Memorandum to City Council.docx](#)

Please include as written testimony for the City Council meeting on March 2, 2015 regarding the request for an apartment building on Tract B in the Coronado Subdivision.

Thank you

MEMORANDUM

TO: Amber Bell, Associate Planner
City of Corvallis Council Members

FROM: Sue Ferdig and Dave Russell
619 NW Survista Avenue

SUBJECT: Coronado Tract B Apartments – Review of a Major Modification to a Detailed Development Plan (PLD14-00005). Written testimony for the March 2, 2015 City Council meeting

DATE: February 24, 2015

PLEASE INCLUDE WITH MATERIALS TO BE GIVEN TO THE CITY COUNCIL

We would like to state for the record that we are opposed to the Tract B Proposal. It is disheartening to see this back on the table so soon with very little change from the original proposal (PLD 12-00005) that was unanimously denied by the Planning Commission and denied by the City Council in 2013 for many valid reasons.

We refer you to the letter by John Engbring dated February 22, 2015, that list the myriad of reasons this project should not go through. For the purposes of brevity, we will not list them all in this petition. This piece of land should have never been placed on the Buildable Land Index. We strongly urge any City Councilors who have not visited the site to do so before making a final decision and not rely on the glossy photos presented in the applicant's packet for a totally accurate view of the land in question.

Regarding the public need for these apartments, there are literally hundreds of apartments within a couple of minutes of this site located on Conifer, Jack London, Lancaster, and Walnut Streets with many more having been built since 2013 all across Corvallis. "For Rent" signs are visible from almost any location in town. Much has changed with the vacancy rates since 2013. This does not seem to be a viable argument for the Developer any longer.

The Developer has consistently shown a blatant disregard for the Coronado, Autumn, and Survista neighborhoods by not meeting with neighbors this time around. This alone should be reason enough to deny the application. Several new families have moved into the Coronado neighborhood since 2013 who would have not had any knowledge of previous meetings. It would have been appropriate and courteous to have taken the time to talk with them given absolutely no disclosure of the planned apartment building was shared before they chose to purchase houses in the subdivision.

Lastly, the nitpicking by the Developer regarding the definition of the word "should" with regard to a cul-de-sac is ridiculous. Mirador is a very narrow street and there are already approximately 26 houses with a large commercial duplex being built very close to Tract B. Constant construction in the area has given an excellent preview of how more traffic from the remaining houses to be built, the commercial duplex, and a 10 unit apartment will negatively affect the area. Perhaps, we might discuss the definition of the words reasonable and appropriate instead of "should". Again, please visit the site and take a look at parking on Coronado Street for an idea of how Mirador will look if this project is approved.

In closing, we ask the City Council to once again deny this application to place a 10 unit apartment building on Tract B which is clearly an unbuildable piece of land.

From: [George Pearson](#)
To: [Planning](#)
Subject: Attention: Amber Bell re: PLD14-00005
Date: Tuesday, February 24, 2015 7:51:12 AM
Attachments: [LettertoCityCoun-Trees2015.pdf](#)

Sorry--there were no attachments to this letter!

Dear Ms Bell,

Please find attached written testimony in opposition to PLD14-00005. Please confirm by email that you have received this testimony.

Thank you very much,

George D. Pearson

George Pearson
477 NW Survista Avenue
Corvallis, OR 97330
home: 541-752-0657
mobile: 541-740-4193
pearsong@science.oregonstate.edu

February 23, 2015

To: Corvallis City Council

From: George Pearson, 477 NW Survista Ave., Corvallis, OR 97330

Re: PLD14-00005, Coronado Tract B Apartments, Written Testimony in Opposition

Dear Corvallis City Council members:

We have lived at 477 NW Survista Ave since 1972 and in addition own the Coronado subdivision lot at 540 NW Mirador Pl. Both of these properties abut Tract B on which the proposed Coronado Apartments (PLD14-00005) would be built. The property which became the Coronado subdivision contained more than 1400 trees before it was developed. Only 13 of these trees, 0.1% of the total, and none of the other vegetation were preserved, resulting in a complete denuding of the Coronado property. Replacement trees were very small and many of them have not survived.

In 2013, several of these same Coronado developers proposed to build a 10 unit apartment building on Tract B next to the Coronado development (PLD12-00005). This property contained 24 significant trees defined in LDC 1.6.b as "Located outside any area inventoried by the Natural Features Inventory and of a trunk size that is eight in. or greater in caliper at four ft. above existing grade and identified in the Arborists' Report (refer to letter from applicant to Jason Yaich dated 18 March 2013). Condition of Approval #2 of the Coronado development (case SUBOS-00005) stated that significant trees shown on Attachment G-46 from that approval were to be saved as part of the subdivision plat approval. These trees were identified as Nos. 100, 119, and 122. In the applicants' proposal for Tract B, trees 119 and 122 were to be removed along with all but three of the trees which were being retained because of the impact their removal would have on trees on neighboring properties. This meant that only 16% of the significant trees would be preserved and in fact the largest of these trees, an oak, was already removed in early spring of that year. This proposal was denied by the Planning Commission in part because of a "Failure to protect significant trees on the site 'to the greatest extent practicable' per LDC Section 4.2.20.d.

In the current proposal, PLD14-00005, which appears to be almost identical to PLD12-00005, once again no attempt has been made by these developers to save and integrate significant trees into the design of the development. In fact none of the many trees on the southern boundary would be preserved. A letter to the developers from Planning Division Staff dated February 2, 2013 states: "Based on compatibility review criteria, there may be some benefits to considering preservation of additional existing significant trees on the site". Instead the developers are proposing to provide dense plantings and a 6 foot fence to buffer the south portion of the development from the existing neighborhood. Such a solution hardly replaces the significant trees that will be removed to provide the parking for this development.

At a neighborhood meeting held in 2013 concerning the first proposal for Tract B (the developers did **not** meet with the neighborhood regarding this most recent application), the neighbors unanimously agreed that preservation of existing trees on the perimeter of the property is required for preserving both the privacy and appearance of the surrounding homes. In fact the intent of the 135 foot/55 foot Tract B setbacks from the properties south and east of the Regent Retirement Center (Condition of Approval #12 of DC-81/PD-81-1 for the Congregate Care Center) was to provide a buffer or transition zone between the RS-12 Congregate Care Center (now the Regent Retirement Center) and the surrounding lowest density residential neighborhoods. The current proposal for a 10 unit apartment building on Tract B with 20 parking spaces surrounding it subverts the intent of Condition of Approval # 12 and is not compatible with the surrounding neighborhoods as defined by LDC 2.5.40.04. For all of the above reasons this proposal to build apartments on Tract B should be denied.

Sincerely Yours,

George D. Pearson
pearsong@science.oregonstate.edu
541-752-0657

From: [Janene Hall](#)
To: [Planning](#)
Subject: Coronado Tract B appeal
Date: Thursday, February 26, 2015 4:30:21 PM
Attachments: [Property Rebuttal 2015.docx](#)

Amber please include this in the packet to City Council. Thank you, Janene and Josh Hall

Janene and Joshua Hall

3126 NW Autumn Street • Corvallis, OR 97330 • Janene: 541-760-1553 • Joshua 541-758-8195
E-Mail : jmjdhall@yahoo.com

Date: February 20, 2015

Dear City Council,

We have lived in our home for going on 12 years and are heavily invested in this home and neighborhood. We purchased it with the understanding that the lot being discussed was a designated set-back and would not have development. To then ignore this and make modifications would only benefit a select few and would negatively impact an entire community (At least three neighborhoods to be exact.) For whom does the City Council serve? Is it for public or individual private gains? Our neighborhood does not need at its heart a concentration of high-density living. Currently putting a complex just below us on the main thoroughfare of 9th Street makes sense. Putting apartment complexes en mass down by campus (although difficult to say goodbye to open space) is understandable. Putting one at the end of a narrow cul-de-sac is neither smart nor safe, and does not make sense. Furthermore, it is not needed in light of tremendous building that has gone on in Corvallis over the past year.

To build on the property that lies directly behind and above us would impact our family tremendously. We would have a tower looking down on us blocking *a lot* of our solar access. The foundation of the property would *begin* at the crest of the hill as visible from our large back windows. It would wreck our sense of privacy and safety, as we would have no capability to put up any barrier to that height! This flag lot was created on an establish green space that was deemed so in 1981 due to the City seeing that this unique property is surrounded by established single family homes and deserving Retirees. This is why the City of Corvallis denied the (what is now The Regent) Retirement Community to continue it's building plans onto this property. It is a strong reason why multiple bodies have rejected building in 2013-January 2015, and it is *still* the reason why we should continue to renounce it. It was wrong back then, and it's *still* wrong.

Our home would depreciate with obvious detriment to our property. We would have our windows invaded with apartment and vehicle light. Even at only 4 feet off the ground light would shine right down on us or block *all* solar access past 1pm in the winter if the formidable wall/fence proposed combination also goes up. The proposed trash compactor and crashing carts would be our new view and sounds. Our yard and house foundation would very likely be negatively impacted by water run-off. The Engineers can do their best, but we will not *know* for sure which way the waters will run until a mound of cement is placed directly above us. Since Mirador went in, there has been increased water run-off despite the owner's "improvement" and our own attempts to corral it.

We would not know who our neighbors are. For a Public Servant and Nurse of Benton County this is very concerning! We chose to purchased in a mature, quiet, developed part of town for this reason and have invested our future and fortune into this home. Our family along with the Retirement community of the Regent would be steps away from this proposed build. It would rob too much from life long residents of our beautiful city. These people, maybe even especially deserve light, sound, safety, and the reasonable sense of privacy.

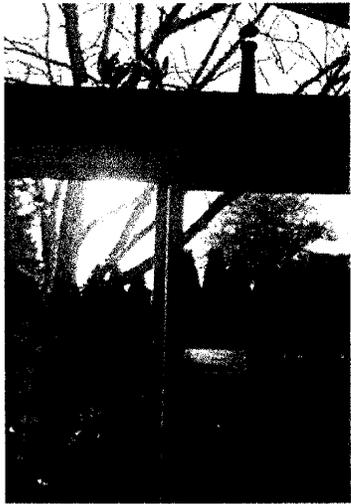
Please help protect us. Please see there is no compelling reason to grant the requested variances and *please* block building on this property. We firmly state that the space *is* a setback--protected space, and should remain as such.

Sincerely,



View from our living room

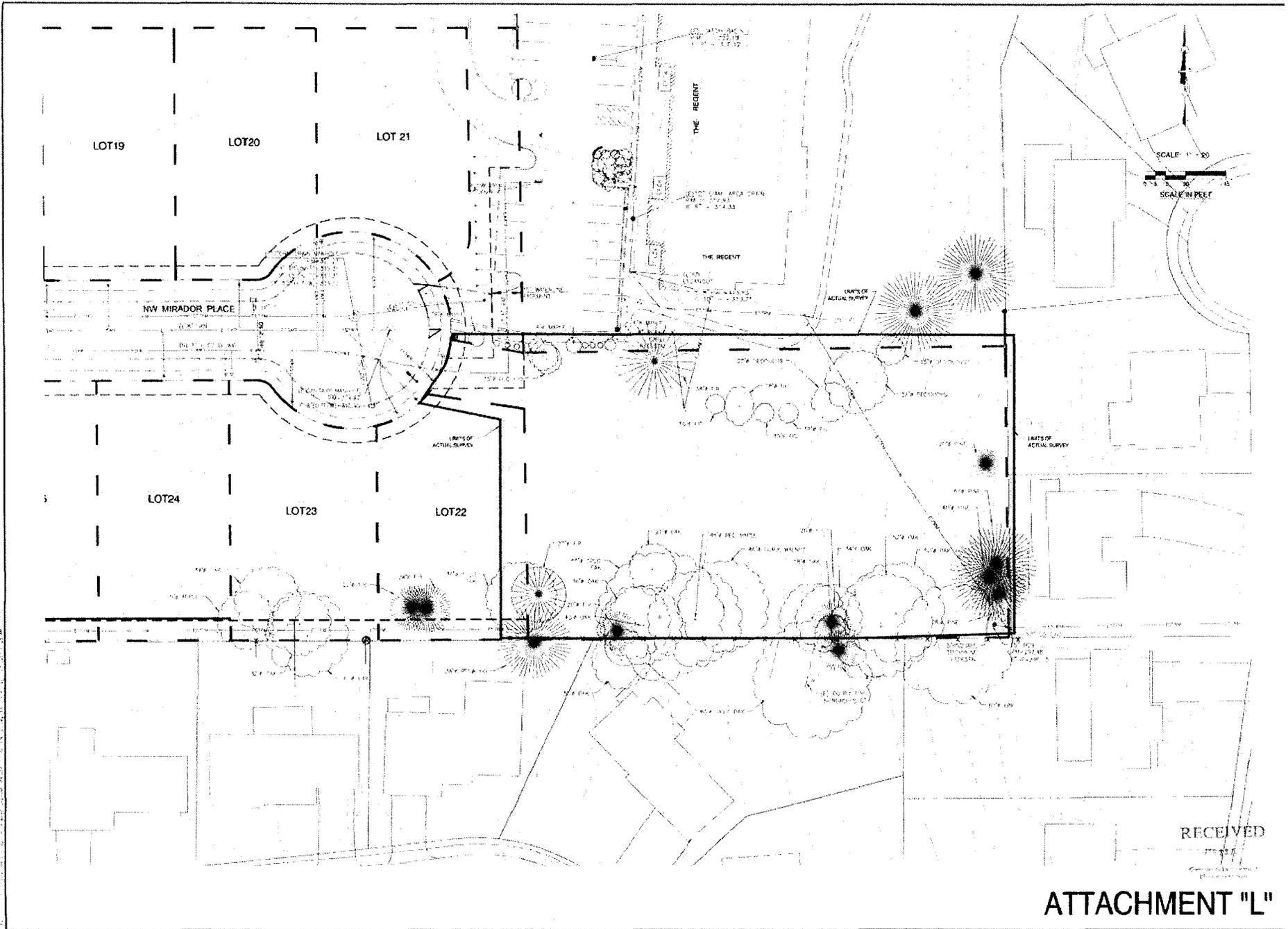
The Cherry Blossom tree would be cut down and now represents 3/4 of the total height of the complex as seen from our perspective.



The proposed retaining wall would be near the top of our arborvitae hedge. Then picture a utility fence on top of that, and a two story apartment on top of that!







DRAWING STATUS: DATE NO. REVISION:	DATE REVISION:
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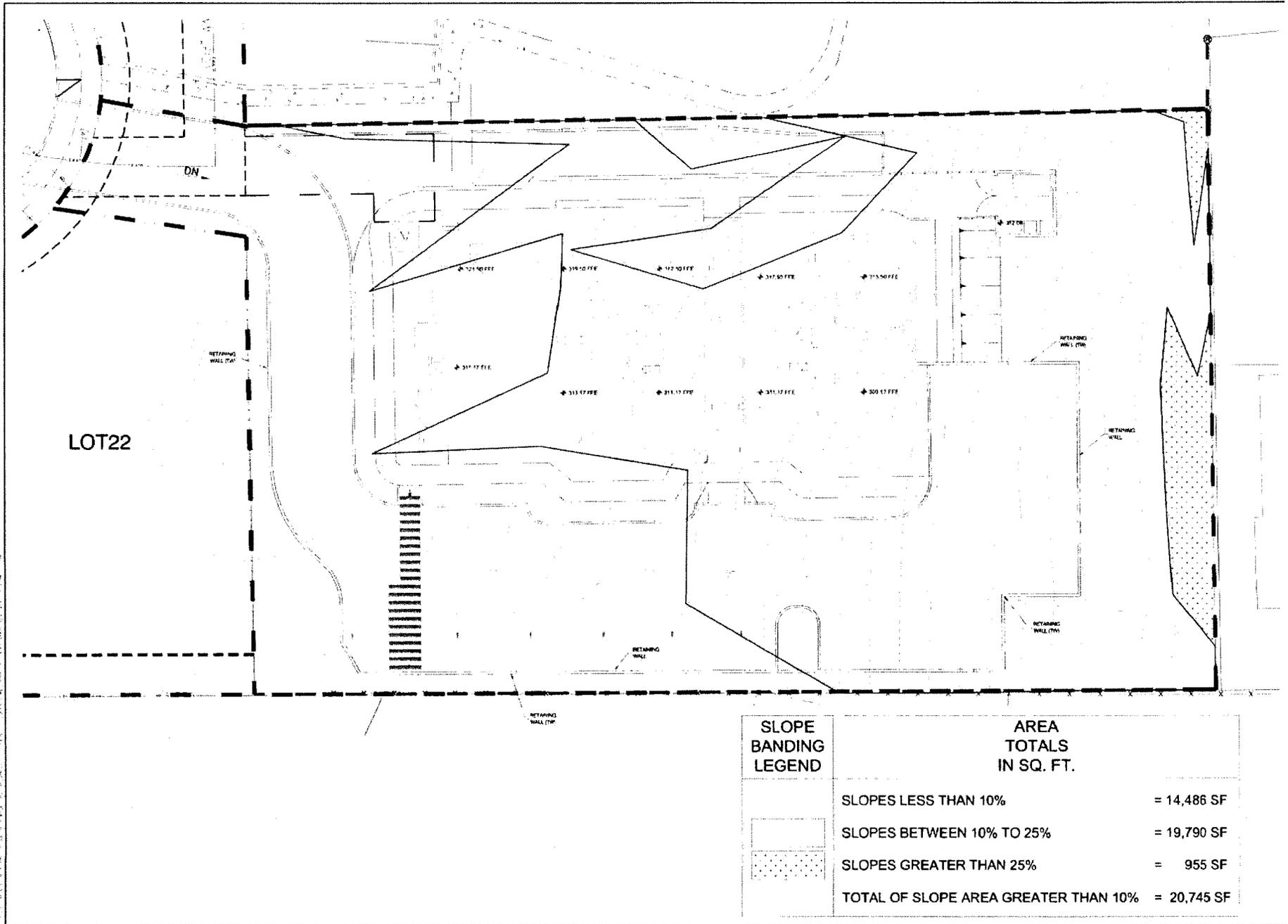
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ENGINEERING, INC.
340 NW CORVALLIS, OREGON 97331
WWW.DEVCOENGINEERING.COM

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PROJECT: TRACT 'B' OF CORONADO SUBDIVISION
PROJECT LOCATION: NW MIRADOR PLACE, CORVALLIS, OREGON
SUBJECT: GROUP B, LLC

SHEET TITLE: EXISTING SITE CONDITIONS

JOB NO.: _____
DRAWN BY: _____
CHECKED BY: _____



DATE	12/14/23
NO. REVISION	1
DRAWING STATUS	DATE
1	12/14/23
2	
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PROJECT: TRACT 'B' OF CORONADO SUBDIVISION
 PROJECT LOCATION: NW MIRADOR PLACE CORVALLIS, OREGON
 CLIENT: GROUP B, LLC

SLOPE BANDING LEGEND	AREA TOTALS IN SQ. FT.
[Blank Box]	SLOPES LESS THAN 10% = 14,486 SF
[Dotted Box]	SLOPES BETWEEN 10% TO 25% = 19,790 SF
[Hatched Box]	SLOPES GREATER THAN 25% = 955 SF
	TOTAL OF SLOPE AREA GREATER THAN 10% = 20,745 SF

SHEET TITLE: SITE SLOPES

JOB NO.: 24-000
 DRAWN BY: P. COOKE
 DRAWING:



LETTER OF TRANSMITTAL

245 NE Conifer Boulevard ♦ P.O. Box 1211 ♦ Corvallis, OR 97339
Phone 541.757.8991 ♦ Fax 541.757.9885

Date: 27 February 2015

Project: 08-402
Tract B

RECEIVED

FEB 27 2015

Community Development
Planning Division

Via:

UPS Ground
UPS 2nd Day
UPS Overnight
UPS Overnight Saver
U.S. Mail
Federal Express
Via Email
To Be Picked Up
x Hand Delivered

To: City of Corvallis
P.O. Box 1083
Corvallis, OR 97339-1083

Attention: City Council
via Amber Bell, Associate Planner

Enclosed are:			
	Items you requested	Details	Electronic Media
	Draft Documents	Drawings	
x	Final Documents	Calculations	

Copies	Date	Description
1	02-27-2015	Original letter to the City Council on the Tract B Appeal.
12	02-27-2015	Copies of the above referenced letter for distribution.

These are being Sent:

For your signature
For your use

For review
For your files

Notes:

<p>Copy to:</p> <p>File</p>	<p>Signature:</p> <div style="text-align: center;"> </div> <p>Lyle E. Hutchens, Project Manager</p>
-----------------------------	---

SCANNED

Date: 2/27 By: AB



27 February 2015

City Council of the City of Corvallis
P.O. Box 1083
Corvallis, OR 97339-1083

SUBJECT: Coronado Tract B Subdivision
PLD14-00005

RECEIVED

FEB 27 2015

Community Development
Planning Division

Ladies and Gentlemen:

This is the Applicant's second attempt to fit the minimum number of units on this site, this time without asking for any discretionary requests for relief from the city. The site has stood vacant for many years, planned and zoned for multi-family use. The case record is robust, and it includes much of the effort from the 2013 denial. We believe the Record fully supports an approval.

The City Council can and should find that the proposal meets all of the relevant code standards. The Applicant looks forward to providing the Council with an overview of the project at the hearing.

We have reviewed the Staff Report to the Council. It contains no new issues. What needs to be said has been said before. For a summary of the key issues, we refer the Council to two documents: (a) our *Final Argument to the Planning Commission*, which is Exhibit I, page 6, (PDF page 32); and (b) our *Summary Table of Tract B Issues Raised by Staff*, which is Exhibit I, page 18, (PDF page 44).

We offer the follow overview to several issues in the Staff Report:

1. **The Owner's right to use this cul-de-sac to support the minimum required development is plain from the language of the code, previous decisions, and state law that prohibits the city from denying the application based on "should" standards.**

On the issue of length and loading of the cul-de-sac, the Staff is struggling, trying to give the Council a theory to justify changing a conclusion from previous decisions. The cul-de-sac is existing; it is not being requested for creation. Numerous decisions by the city have been premised on the fact that Tract B would be developed – from the macro city commitment to the state that it can be developed, to the micro requirement that utilities be stubbed out to the site, with multiple decisions in between. Most simply, this is the kind of discretionary decision that State law prohibits the City from making.

2. Inclusion of this site as part of the 1981 DDP for The Regent does not negate the owner's right to invoke the guarantee of only clear and objective standards under the Needed Housing Statute.

Contrary to the staff's suggestion, the Applicant always has the right to invoke the Needed Housing Statute. It is well established that the Statute cuts through the local code and applies directly. *Forster v. Polk County*, 115 Or App 475, 478, 839 P2d 241 (1992)(EFU Statute); *Rudell v. City of Bandon*, 62 Or LUBA 279 (2010)(Needed Housing Statute). It is immaterial whether the City has imposed a PD overlay with discretionary standards (as here), or requires a conditional use permit with discretionary standards (as in *Rudell*), or has discretionary standards in a required Site Review process (as in *Parkview Terrace*). Any application of standards that are not clear and objective is "outside the range of discretion allowed the local government." *Parkview Terrace Dev't Inc. v. City of Grants Pass*, ___ Or LUBA ___ (No. 2014-024, July 23, 2014).

3. The initial development of this site in 1981 did not "opt into" the discretionary track for development, thus negating the applicant's right to invoke only clear and objective standards under the Needed Housing Statute now.

Staff and the City Attorney have an interesting theory that because development of this site was started in 1981, with this vacant acreage being part of the DDP for The Regent site, the City may find that the Owner committed this site to develop under the "alternative" discretionary track in the Needed Housing Statute, and the City may continue to apply discretionary standards now. This theory is not sound. The alternate discretionary track for review was not added to the Needed Housing Statute until 1997. Please reference HB 2772, 1997 Or Laws, Chapter 733. There was no alternative discretionary track in 1981 to opt into.

4. Applicant will seek its ORS 227.184 remedy if the City denies this application.

Should the City deny this application, the Owner proposes to file a "supplemental application" under ORS 227.184, which requires the city to approve what can be approved. The statute says:

"(1) A person whose application for a permit is denied by the governing body of a city or its designee under ORS 227.178 may submit to the city a supplemental application for any or all other uses allowed under the city's comprehensive plan and land use regulations in the zone that was the subject of the denied application.

"(2) The governing body of a city or its designee shall take final action on a supplemental application submitted under this section, including resolution of all appeals, within 240 days after the application is deemed complete. Except that 240 days shall substitute for 120 days, all other applicable provisions of ORS 227.178 shall apply to a supplemental application submitted under this section.

"(3) A supplemental application submitted under this section shall include a request for any rezoning or zoning variance that may be required to issue a permit under the city's comprehensive plan and land use regulations.

"(4) The governing body of a city or its designee shall adopt specific findings describing the reasons for approving or denying:

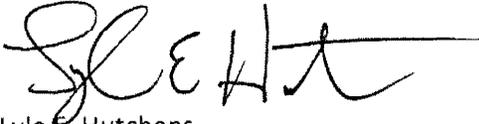
"(a) A use for which approval is sought under this section; and

"(b) A rezoning or variance requested in the application."

In summary, should this application be denied, the Owner will invoke this statute and require the City to approve a design, including any variances the City believes are necessary. The City may not approve fewer than the zoning minimum number of units. If the City does not approve the minimum development that is required by the Code, or it says no development is allowed, then the City will have effectively "taken" the site, and the Owner will receive payment of its fair market value for its allowed use under the current zoning. Denying development amounts to a policy decision to purchase the site.

It is most efficient for all concerned to approve this development now.

Sincerely,



Lyle E. Hutchens
Project Manager

LEH/nre

08-402 letter to abell 02-27-2015.docx

cc: Amber Bell, Associate Planner
Group B, LLC



MEMORANDUM

Date: March 2, 2015

To: Mayor and City Council

From: Amber Bell, Assistant Planner - Community Development Department

Re: Coronado Tract B (PLD14-00005)
Additional Written Testimony

Additional written testimony was received between February 28, 2015 and 5 pm, March 2, 2015. Written testimony received during this time period is attached to this memorandum, along with one piece of written testimony received on February 27, 2015 regarding the hearing venue.

From: Margot Pearson
To: Bell, Amber
Cc: Brewer, Nancy; Teri Engbring
Subject: City Council hearing on appeal if PLD14-00005)
Date: Friday, February 27, 2015 10:34:21 AM

Hi Amber,

Regarding the City Council meeting venue on Monday night where a decision on the appeal of PLD14-00005 will be made, there is a perceived conflict of interest concern with using a meeting room at Good Samaritan Hospital. Several of the developers proposing the Coronado Tract B apartments were directly involved in purchasing the Coronado property from Good Samaritan Hospital. In addition several meetings the developers held with the surrounding neighborhoods involving the plans for the Coronado development and the first Tract B proposal in 2013 took place in the Good Samaritan Hospital meeting rooms. Therefore, this venue is strongly associated with the developers' interests and could not be considered a neutral meeting place.

Thank you for your consideration of this issue.

Margot

Margot Pearson
477 NW Survista Ave
Corvallis, OR 97330
541 752-0657 (home)
541 602-0196 (cell)
pearsonm@science.oregonstate.edu

From: [james.kline](#)
To: [Planning](#)
Subject: Opposition to PLD14-00005 Tract B Major Planned Development Modification
Date: Sunday, March 01, 2015 9:48:34 PM

March 1, 2015

Amber Bell, Assistant Planner

Corvallis City Council Members

Letter in Opposition to PLD 14-00005 Tract B Proposal

I am a homeowner living at 3098 N.W. Autumn Street which is located on the steep, downhill, eastern border of Tract B. I bought my property in Dec. of 1984. This was just shortly after construction of the Regent Retirement Residence. I was told at that time there would be a permanent open space on the property above my home. That was the main reason I purchased my property. I was given a piece of paper showing the CC and R's related to that open space - which is presently called Tract B. It stated there were permanent setbacks from the Regent upon which nothing could be built. The land was to serve as a buffer area and permanent open space. This was the agreement made to the neighborhoods to the South (Survista St.) and East (Autumn St.). The Regent wanted to build more housing units than they were allowed by City code at the time. They also wanted to include fewer parking spaces than City code required. Negotiations between the neighbors, the City and developers reached an agreement which codified the buffer zone/open space area, now Tract B. The allowable housing density for the combined Regent and Tract B property was completely used up at this time. In fact, because of the agreement, it was overbuilt. This land should not be given additional housing unit potential. It was used up.

I have seen the letters of Teresa Engbring (Feb. 21), John Engbring (Feb 22), Sandra Bell (Feb 23) and Curtis Hubele (March 2), all of this year, to the Corvallis City Council Members addressing PDL 14 -00005. I concur with and support their arguments as to why these developers should be denied their appeal. Rather than repeat things they have written, I will address the issues of compatability of the project with the downslope neighborhood (Autumn St.).

Tract B starts out on a level surface with the Coronado lots on Mirador Place. It quickly begins sloping downwards to the East. It becomes a 15-25 % Hazardous slope by the time it approaches our properties. The land had previously been compacted and graded when the Regent was built. My house had been physically damaged by one of the large earth-moving machines that slid into it. The City's Land Development Code (ch. 4-14) that deals with Landslide Hazard and Hillside Development Provisions has listed many restrictions on developing these fragile and sensitive areas. I do not feel the developers have done much study of this site. They mentioned digging a few feet to see what soils were there. How valid of a "study" could this possibly be when this was fill soil from the Regent construction? They want to put part of a large 10-unit apartment building on the most steeply-sloped area of the site. Is this safe? Is this doing "due diligence"? Where are the water studies showing natural springs and runoff from the site?

The neighbors on Survista St. were interviewed about this and wrote letters of their problems to the Planning Commission. Wet yards and damaged crawl spaces have plagued many homes there despite a "swale" that was supposed to eliminate their problems. The swale was put in by the same people who want to now develop Tract B. Water issues persist to this day. I have had my own water issues with the Tract B property for years. For years, the City told me their was no drain line across that property. Water gushed out of the ground during heavy rains and went to my crawl space and to the sides of my house. Finally, I found a microfilm at City Hall that showed a drainage pipe had been installed across Tract B at the time the Regent was built. The same Public Works Dept. that told me for years there was no record of a drain across that property had to admit there was. Upon inspection, the

camera inside the pipe stopped 45 ft. across Tract B from my property. It wouldn't go any further. The video showed some kind of break - dirt piled up which the camera couldn't get beyond, and standing water below the dirt. The City only made the Tract B owners flush out the pipe with water. Nothing was repaired. Tract B PDL - 00005 mentions there was a break in the line. Nothing has been done to fix it. Water continues to come out at this spot during heavy rains.

I mention the above because I feel this is typical of how I and my neighbors will be treated if something more serious should happen on Tract B should there be a landslide or an earthquake. Our homes would be directly below a 30ft. 10-unit building and a large 20 - slot parking lot and a huge retaining wall they propose to build just to make the site buildable. I have spent considerable money having my crawlspace cleaned and waterproofed. I have little faith in these developers as they haven't repaired the line that they admitted was broken. The soil on this property needs a comprehensive study and one done by impartial engineers. Clay over bedrock is a recipe for disaster. The site itself would require huge amounts of fill to level and compact it. Will Group B pay to fix any cracks in my walls or clean out my ventilating and heating ducts that will get the dirt and dust drifting from the site during construction? The steepness of this slope, along with the setback requirements, had a lot to do with why this land hasn't been developed in the first place. It should remain an open space for the neighborhood.

Besides being a landslide hazard, the new apartment building and parking lot would practically eliminate any buffer zone between the properties at 3080, 3098 and 3126 N.W. Autumn St. on Tract B's eastern border. The Regent was planned with the present buffer - the 135 ft. southern and 55 ft. eastern setbacks, where no structure is to be built upon. Our open skies would disappear. Our clean air as well. The wall to us is like a Berlin Wall or a southern Border barrier being built. We do not see how lights from cars and buildings will be shielded from us as required in City Code. Exhaust fumes and vehicular noises will blow downhill at any time. My neighbors have children. Where is the benefit from this proposal to any of us? A tall 8 -ft. wall, with another fence atop it is their idea of compatibility? The wall would extend the entire length of my property and my neighbor's at 3126. It would be difficult to see any sky then. Also, we will be further downhill from the wall looking up at it constantly. There would be the loss of our privacy. I didn't look for a big-city in-fill building nextdoor when I bought my property. It's a real slap-in-the-face to a taxpayer who's paid 30 years rent(taxes) to a city to suddenly have to face this kind of disruption.

It's a little hard not to get upset at the way this proposal has played out. The setbacks were there in the original agreements for the Regent. The developers knew this. The city has ruled repeatedly against their proposals to develop the site. Yet we are assaulted time and again by the same people who have shown no real reason why they should be allowed to develop this property. We have to waste our time and peace of mind with their smoke and mirror approaches. Confuse the issues, rely on public apathy or ignorance. Keep coming at them until they are worn out. This is a tactic used by bullies. I hope and pray the City will put a stop to this. Tract B is not needed housing. It should not be in the City's Buildable Land Inventory. It's a safety hazard for the residents of the Regent who will have to try to avoid getting hit by vehicles as they enter or exit the narrow entrance to their site onto Mirador. It's a safety hazard to the newly-created City Park on Mirador (created precipitously without any input from the neighborhood, a violation of their own policy). There is no parking for the park except on a very narrow street. There are flaws upon flaws in this proposal that will negatively affect the liveability of entire neighborhoods. Even the developers can't come up with practical or beneficial reasons for building this monstrosity in a quiet neighborhood. Repeatedly, they say the benefit is so they can develop the site. Who benefits? They do. Then they leave us with the problems they've created. They may have deep pockets, but do they have a conscience? I hope they will finally put themselves in our shoes and see the problems they are causing us. And do the right thing. Withdraw this proposal. The land should be kept as it is, as it has been for over 30 years. The original intent was for Tract B to be a buffer zone, open space area. The City should stick to their original agreement with the neighborhood.

Please reject the Tract B apartment proposal.

Thank you,

James Kline

From: Rick Colwell
To: Planning
Subject: Coronado Tract B (PLD14-00005)
Date: Sunday, March 01, 2015 9:42:02 AM

It has come to my attention that Group B, LLC is planning to appeal a decision by the Planning Commission to deny a development modification for a 10-unit apartment building at Tract B within the Coronado Subdivision. **I am writing to support the Commission's original decision to deny the development modification and to encourage the Commission to deny this appeal by Group B.**

There are several reasons why building such an apartment complex would not be a good idea. First, and most important, such a development modification would violate the original agreement that allow construction of an oversized residence at the location of the Reagent Retirement Residence. When this larger-than-planned residence was constructed the subject property, Coronado B Tract, was set aside as a buffer to the existing single family homes in the neighborhood. Building a 10-unit apartment would eliminate the intended margin between a multiple-residence structure and single family homes. Second, with building on Mirador Place this area has become more tuned to a neighborhood with single family homes than one with apartments that host high turnover residents. Group B should have recognized this when it acquired the property. Third, access to and from the subject property is limited and already this area's main artery (Satinwood) suffers from drivers who exceed the speed limit by over 20 MPH en route to and from the hospital. The increases in traffic through an area that includes Wilson Grade School would be problematic and dangerous.

Thank you for this chance to comment.

Sincerely - Rick Colwell

680 NW Survista Ave.
Corvallis

Amber Bell
City of Corvallis Planning Commission
Planning Division, P.O. Box 1083
Corvallis, OR 97339

February 28, 2015

RECEIVED

MAR 02 2015

To: City of Corvallis Planning Commission

From: Jeff & Maria Diamond, 548 NW Mirador Pl, Corvallis

Community Development
Planning Division

Subject: Coronado Tract B Apartments – Review of a Major Modification to a Detailed Development Plan (PLD14-00005). Written testimony for the March 2, 2015 City Council meeting on this subject.

Dear City Council Members: I am opposed to approval of PLD14-0005. I urge the council to uphold the twice unanimous decision for denial by the experienced and thoughtful members of the Planning Commission.

Variations: Planning Staff cites the Applicant for being "Short on compensating benefits for variations, as per LDC2.5.40.04.a.1". Appeal letter states (pg. 30) in response to staff: "No variations requested in this application". The official notice of Land Use public hearing and the submitted application actually ask for 3 variances to LDC.

Variance 1) LDC 3.6.30.e.1: Requires maximum setback within RS-12 zoning to be 25'. Applicant seeks approval for an 91' setback, an increase of 364% above the standard. Applicant states that the compensating benefit "allows property to be developed".

Variance 2) LDC 4.10.60.01.b: Requires 40% street frontage within the setback zone. Applicant seeks approval of 0% within the mandated setback zone. No compensating benefit is listed anywhere within the application.

Variance 3) LDC 4.14.70.04.d.2.b: Requires graded area shall not to exceed 75%. Application states "Does not comply". Proposed graded area to be 82.7%. (Pages 64-65/359 Application 07.29.14)

LDC Conflicts:

1) Planning Staff report (pg. 17, 15-18, pgs. 25,29,31) cites "Access by garbage trucks on north results in noncompliance with driveway width, curb, sidewalk and landscaping standards." Applicant proposes to use roll-off garbage container to resolve these conflicts (Appeal pg. 11, D.1).

The Applicant's mitigation plan is not feasible. Page 12 of the Memorandum (submitted to PC dated Jan 16, 2015) states that a 2 yard trash compaction unit with rolling container will be wheeled to the curb by a facility manager at collection time. There are several major flaws with this proposed alternative:

1) Page 13 of Memorandum shows specifications of the compaction unit, and states that the Container weighs 740 lbs.

Page 12 of Memorandum shows calculations of trash generation per unit of 5 cubic yards (compacted into 1.2 CY). According to US *EPA Measuring Recycling: A Guide for State and Local Governments 1997*, Residential waste weighs 225 lbs./CY.

5 Cubic Yards x 225lbs/CY = 1,125lbs. waste per week

Total possible weight of Container and waste: 740 lbs. + 1125 lbs. = **1865 lbs.** (93% of 1 Ton)

2) Container dimensions are stated as approximately 58" by 95". The container's wheels are positioned at the outer edges. The sidewalks in development and through neighboring easement are only 60" wide

3) The path to the street crosses 5 mapped contour lines and moves upslope by at least 11' (as mapped on Grading Plan "R", Application pg. 92). Straight line distance divided by rise produces a **4.8% grade**

4) The distance from the container pen to the street using sidewalks is approximately 255', that's **85 yards** (calculated using diagram on Page 14). Without street frontage, where exactly will the container be placed?

5) 80' of the projected path to the street uses the 5' walkway easement granted by The Regent. The curbing on the parking lot side of this entire easement is of a non-standard sloping ramp style. There is no barrier or curbing to prevent the container from moving downhill and accelerating towards the very nearby parked cars of the regent residents, their shuttle bus, or the staff vehicles.

It is very obvious that this last-minute alternative plan presented by the Applicant to negate the city standards is not realistic. How could a facility manager, or even three, possibly push a 1 ton container up a 4.8% slope, while maintaining a path with only 2 inches of margin, for 85 yards? And the return trip trying to control 740 lbs. of steel pulling away downhill on the narrow path? Not once, but weekly?

Data documentation evidenced in earlier submission into record (Written Testimony; noon 1.13.2015 to 5 pm 1.21.2015, pgs. 17-23)

Where would the container be placed within the bulb of the Mirador cul-de-sac? Tract B has **no** open frontage onto the street. The proposed container is almost 7 feet long, plus a minimum of 5 standard household recycling containers (at 25 inches wide each), placed 1 foot apart, will require **27.5** feet total of street frontage for collection.

2) LDC 4.0.60.c.2 – Cul-de-sacs should not exceed 600' nor serve more than 18 units
Applicant wishes to place a total of 27 units on Mirador Pl (150% above the recommended cap), and add 335' more roadway to the existing 600' (935' total = 155% above recommended cap)

Applicant states that Mirador Place is not a cul-de-sac because it there is a secondary access (pg. 25 of appeal). **LDC 1.6.30: definition: Cul-de-sac: a local street with one outlet and turnaround.** Emergency access across private property, through The Regent's parking lot, **is not** the same as a connected, public roadway open to through traffic.

The appeal states (pg. 15) that "The folly of advocating remaking the cul-de-sac decision now can be appreciated if one were to assume that these 10 units had been constructed first in the

subdivision, not nearly last." This statement raises an important point. Most all of the current residents and landowners on Mirador would certainly not have purchased if an apartment complex occupied the terminus of the cul-de-sac. The developers, who are the applicants, sold these properties at a premium based upon the prime location on a quiet, limited access cul-de-sac. Now they wish to compromise our existing conditions to maximize their profits again, after selling almost all the lots at the higher prices merited by a cul-de-sac setting. They had previously either dismissed or openly denied their intentions to develop Tract B. Even their promotional signage placed on site for years purposely misled potential buyers on Mirador as well. (see attached photos). The signage showed that Tract B did not even have access to Mirador Place.

Mirador is a narrow neighborhood road with two-sided, on street parking, and no bike lanes. All applications and standards that are being applied consider that Mirador is a 28' wide surface street. **It is NOT.** Blacktop surface is only 24 feet, and including concrete margins, it is still less than 28 feet. I welcome anyone to go and measure it as I have. With cars parked on opposite sides, Mirador becomes a 1 lane road. Please see attached photo which clearly demonstrates the narrow nature of this street and the dangerous conditions which occur for anyone who wishes to share the road with cars.

My family could have moved to any city in the US, but we purposely purchased a home in Corvallis in 2011. I moved my then pregnant wife 2500 miles so that our son could be born here, grow here, and play here. An intelligent, progressive city which pledges to protect communities, encourage pedestrians over vehicles, and prides itself with the title of Bike City USA. We specifically purchased a home on a quiet and safe cul-de-sac, surrounded by a wonderful, established Satinwood neighborhood. All just a short walk up the road from a great elementary school. Now I have spent over 2 years and many hours just to protect what is normally never at risk- my right to live happily, peacefully, and safely in my home. A citizen of *this* community should never be required to fight this battle.

I urge the Council to uphold the twice unanimous decision of the Planning Commission and deny this application. Whether based on Staff Reports, Planning Commission reports, the incomplete and inaccurate appeal form, lack of compensating benefits for the requested variances, conflicts and noncompliance with the LDC, last-minute impracticable changes meant evade code standards, or any of the other valid and reasonable issues brought up by my neighbors.

This misguided application is a mistake which can be prevented. It can be prevented right here, right now, by this Council.

Please protect our property values, our neighborhood, our rights as citizens of Corvallis- but most of all, please protect our little boy.

Sincerely, Jeff & Maria Diamond

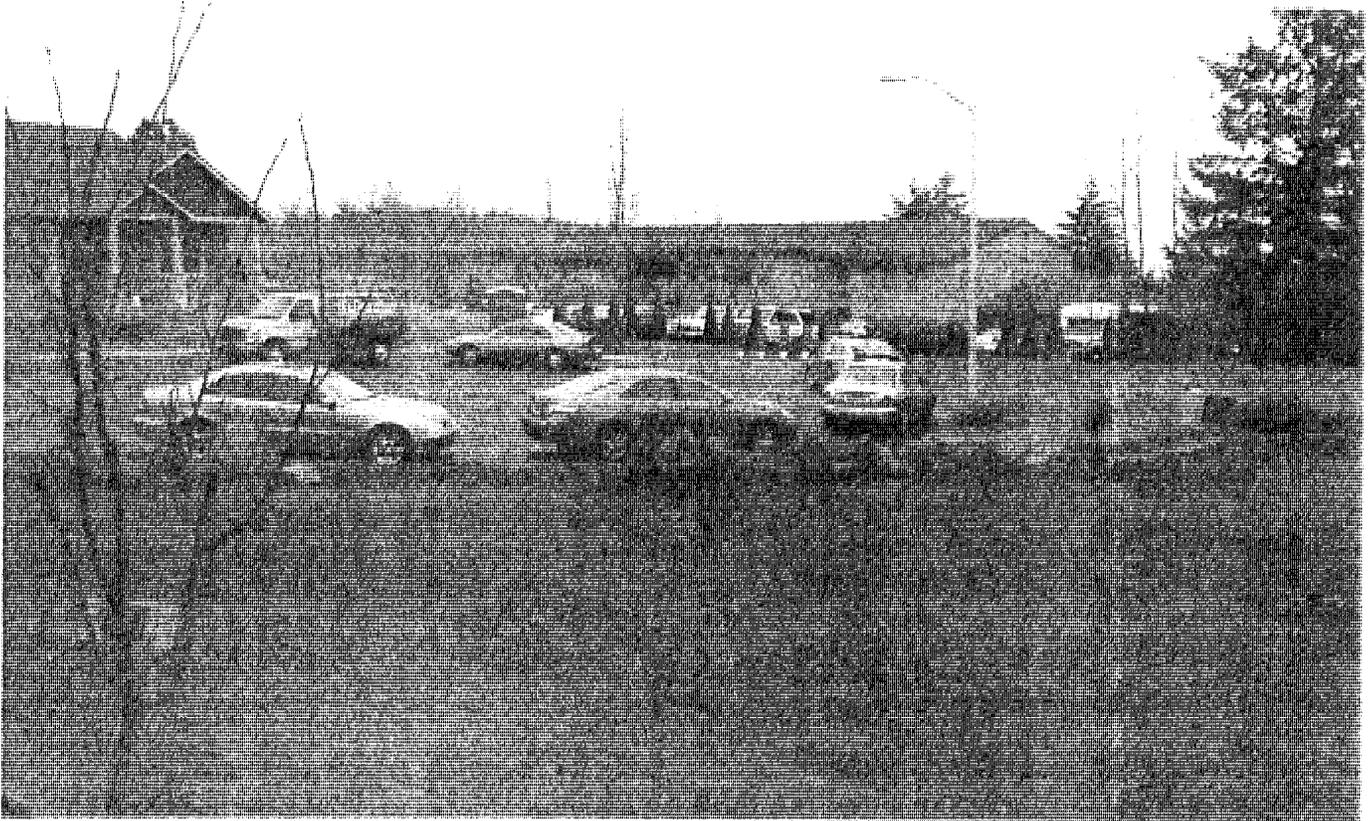
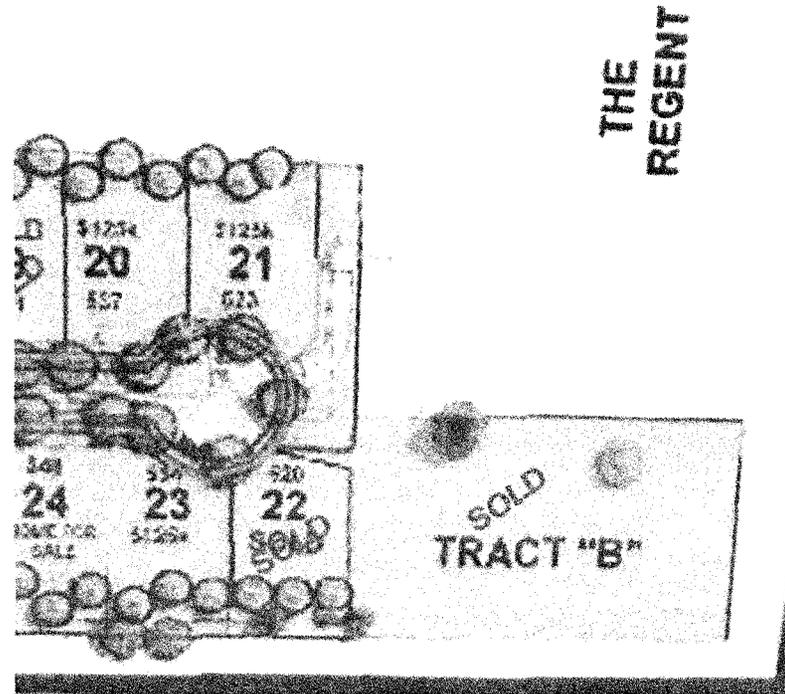
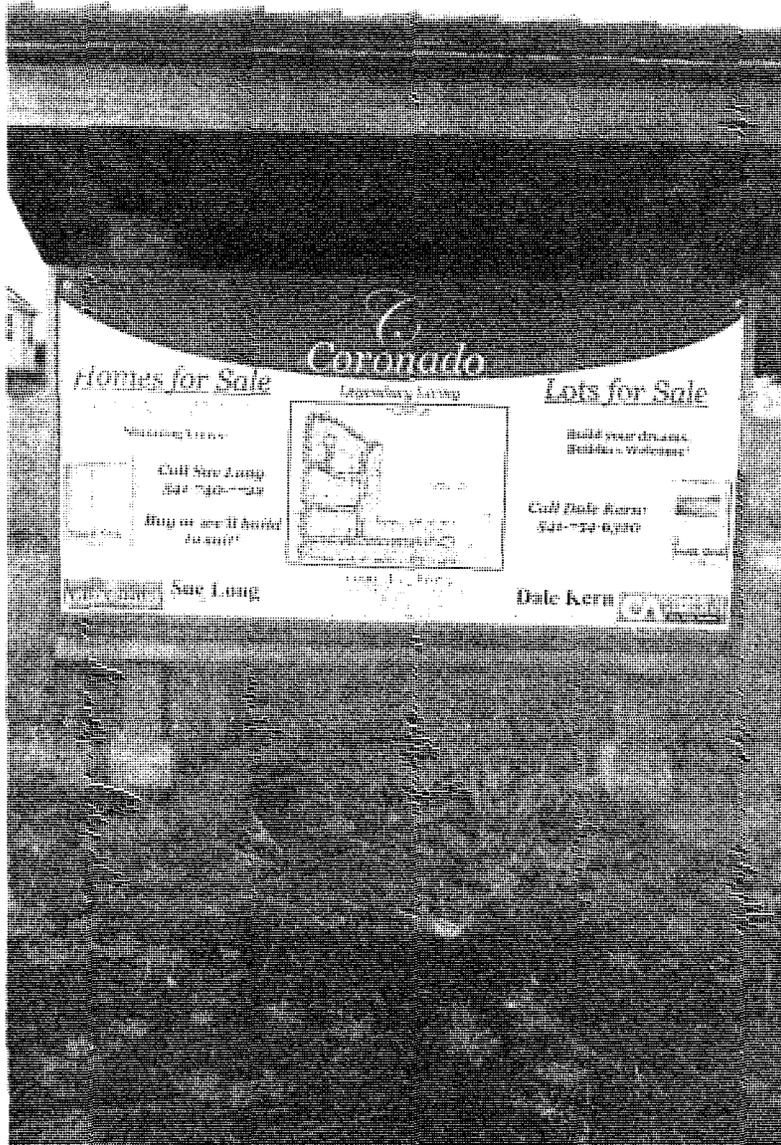


Photo taken Thursday, Feb. 26, 2015



ving
 opping, buses

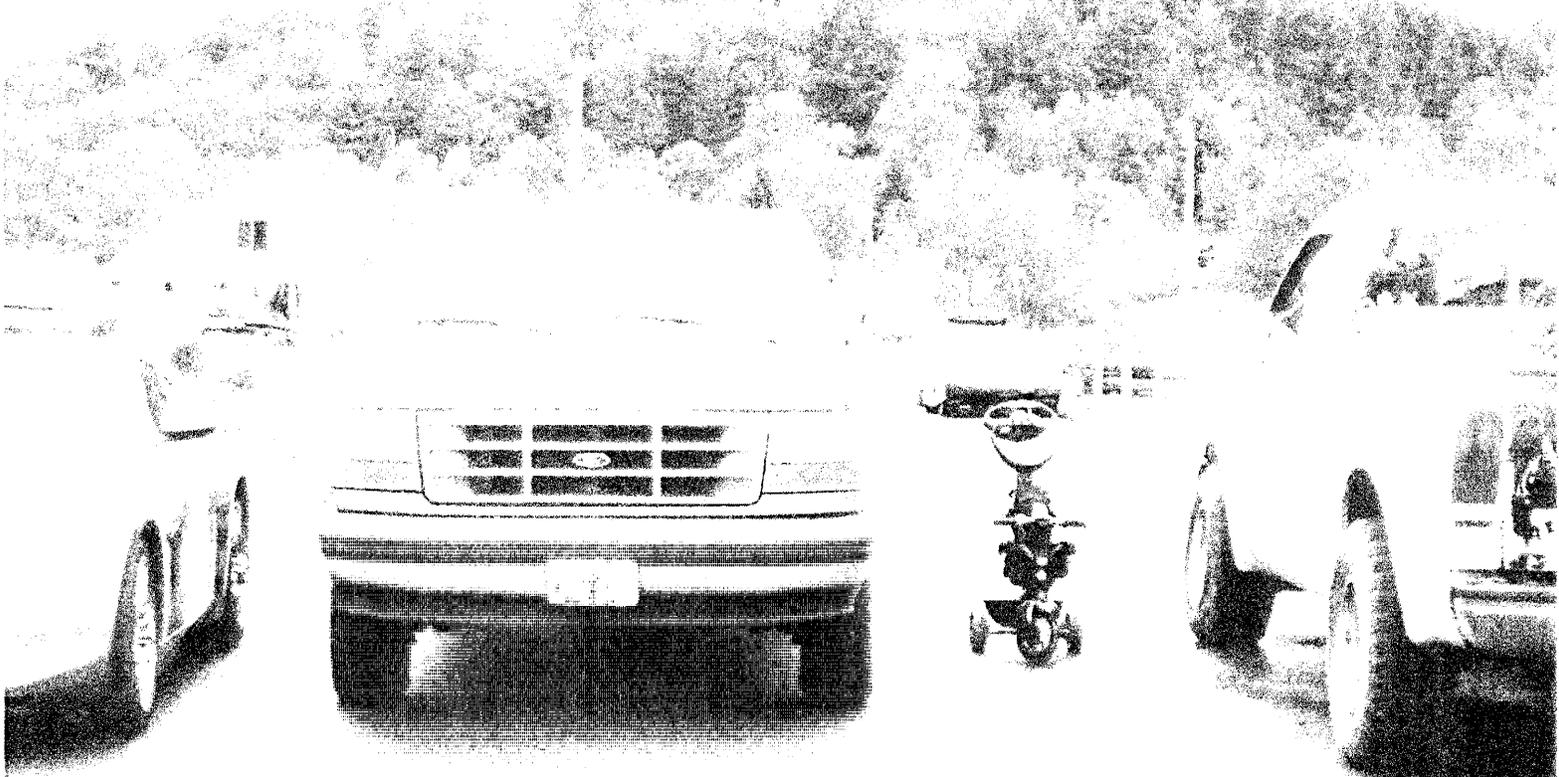
Attachment A

Actual width of shared surface and travel lane on Mirador Place



NARROW RESIDENTIAL STREETS that have parking along both sides of the street, leaving one wide travel lane, can be effective in reducing speeds. A street 28 feet wide with 7 ft parking width on both sides leaves a 14 ft travel lane. Two cars conceivably can pass within the 14 ft lane, but the street does not feel comfortable to the driver at high speeds. Streets with a narrow, residential look tend to keep drivers from speeding. Sidewalks and street landscaping help provide a residential look and feel. Narrowing streets at intersections or intermittently along their length with the use of chokers can have similar effects.

TRANSPORTATION
MASTER PLAN
3.50.4
NEIGHBORHOOD
TRAFFIC MANAGEMENT
AND SAFETY



Young, Kevin

From: Russell, Kevin
Sent: Monday, March 02, 2015 10:30 AM
To: Young, Kevin
Subject: FW: Coronado apt.

I think this is for you.

kevin

From: Biff Traber [<mailto:biff.traber@gmail.com>]
Sent: Monday, March 02, 2015 10:24 AM
To: Russell, Kevin
Subject: Fwd: Coronado apt.

For the record.
Biff

----- Forwarded message -----

From: **Bill and Becki Goslow** <becki.goslow@gmail.com>
Date: Mon, Mar 2, 2015 at 9:30 AM
Subject: Coronado apt.
To: Biff Traber <biff.traber@gmail.com>

Dear Biff,

My councilman never responds to my e-mails or calls, so I am contacting you directly and the other councilmen, to vote "no" on the Coronado apt.

I live in this area and the aparts. are not a good fit for this wonderful quaint neighborhoods. As a past member of the Public Participation Committee--i am asking that you listen to the neighbors in the area--again--and the planning commission and vote "no".

This project would be a better fit closer to OSU campus.

Thank you for voting "no" in advance.

becki and bill goslow

TO: CORVALLIS City Council
MEMBERS

MARCH 2, 2015

RECEIVED

MAR 02 2015

P.O. Box 1083

Corvallis, OR 97339

Community Development
Planning Division

Attention: Amber Bell, Assistant Planner, to deliver to Planning Commission

Written Testimony of Record in Opposition to Tract "B" of Coronado Subdivision-Major Modification (PLD 14-00005)

Corvallis Planning Commission Members,

We, the undersigned, are **opposed** to the Major Modification (PLD14-00005) for Tract B of the Coronado Subdivision. Due to the short time from notification to hearing, we do not have adequate time to compose our own responses, but feel sufficiently informed. We have read and are in full agreement with the attached testimony of Jeff and Maria Diamond of 548 Mirador Place, and support all that they have written.

We request that you hold the records open an additional 7 days to allow for additional testimony.

Please add our names as Testimony in Opposition to the Coronado Tract B Apartments – Major Planned Development Modification (PLD14-00005).

Thank you,

Attachment

Name	Address	City, Zip	Email
Kim Dore	3133 NW Autumn	Corvallis OR	dorekim@gmail.com
J. Traudtson	3133 NW Autumn	Corvallis OR	czckwn@aol.com
John A. Drexler, Jr.	349 NW Autumn Pl	CORVALLIS OR	drexler@bus.oregonstate.edu
Rachel Terry	3065 NW Autumn	Corvallis OR	rsmith_baking@yahoo.com
Ashley	"	"	ash-trey@hotmail.com
Christine	460 NW Maxine Ave	Corvallis 97330	catpestan@gmail.com
Andre Barbosc	460 NW Maxine Ave	Corvallis 97330	andre.barbosce@oregonstate.edu
MARILYN SARFF	470 N.W. MAXINE	CORVALLIS 97330	M-60-5@COMCAST.NET
David Bennett	495 NW Maxine Ave	Corvallis 97330	5417524694
Ellen Bennett	495 NW Maxine Ave	Corvallis 97330	5417524694
Mad Evans	449 NW Suvista Ave	CORVALLIS 97330	MADHUNT@YAHOO.COM

Lisa Evans

449 NW Suvista
Ave

Corvallis, OR
97330

Madhunt9902@yahoo.com

Sherry Mendenhall 486 NW Survista Corvallis, OR
 Rick Passey 486 NW Survista Corvallis, OR
 Richard D. Weisman mendenhall-passey@comcast.net
 Suzanne Ferdie 605 N.W. Survista Av. - Corvallis Or 97331
 Paul E. Russell 619 NW Survista Corvallis 97331
 Rebecca Mettles 619 NW Survista " "
 Rebecca Bae @hotmail.com 631 NW Survista Corvallis 97330
 Robert Peery rapid75@comcast.net 622 NW Survista Ave. Corvallis 97330
 Brandon Peery 809 Wild Rose Corvallis OR 97330
 Ethel J. Peery 622 NW Survista Ave. Corvallis 97330

the 21 signatures listed above - All signed JAN. 17, 2015

witnessed By JAMES KLINE
 James Kline 3098 NW Autumn St.
 CORVALLIS, OR. 97330
 JAMESKLINE5744@COMCAST.NE

NOTES

ADD OUR NAMES IN OPPOSITION TO THE
CORONADO TRACT B APARTMENTS. MAJOR PLANNED DEVELOPMENT
MODIFICATION

MARCH 2, 2015

RECEIVED

MAR 02 2015

NAME	ADDRESS	CITY/ZIP	Community Development
Paul, Linda Lieberman	3080 NW Autumn	Corvallis, 97330	1:6677 Planning Division <i>[Signature]</i>
Dave Volz Stefanie Volz	637 NW Sunista "	Corvallis, 97330 "	<i>[Signature]</i> <i>[Signature]</i>
Janell J. May	646 NW Sunista	Corvallis 97330	
Barbara J May	646 NW Sunista Ave	Corvallis, 97330	
Matt Hein	690 NW Sunista Ave	Corvallis, 97330	
Don Kraft	3126 NW Satinwood St.	Corvallis, 97330	
Aburch Buettner	3344 NW Satinwood	Corvallis 97330	
Charles Buettner	3344 NW Satinwood	Corvallis 97330	cebuettner@comcast.net
Whitney Adams	3424 NW Satinwood	Corvallis 97330	carver236@yahoo.com
SALLACE FORDHAM	3493 NW MAXINE CIR	CORVALLIS, 97330	<i>[Signature]</i>
Faye Hilborn	3463 NW Maxine Cir	Corvallis	<i>[Signature]</i>
Val Krauss	3463 NW Maxine Cir	Corvallis 97330	
Etherine E. Kraus	3463 NW Maxine Cir.	Corvallis, OR 97330	k.e.krauss@comcast.net
Ted Krauss	3463 NW Maxine Cir	Corvallis 97330	
Marjorie R Kind	3510 NW Mink Pl	Corvallis 97330	suncatche100@comcast.net
Donald P. Ki	3510 NW Mink Pl	Corvallis 97330	il
Chim Smit Chris Gregory	3525 NW Mink Pl.	Corvallis 97330	Chrisgndr@yahoo.com
Ronda Gregory	3525 NW Mink Pl.	Corvallis 97330	Chrisgndr@yahoo.com
<i>[Signature]</i>	3544 NW Mink Pl	Corvallis 97330	dganer10@comcast.net
Debi Tower	3544 NW Mink Pl	Corvallis 97330	debi@tower.com
Issam Rifai	3526 NW Mink Pl.	Corvallis 97330	issam.rifai@comcast

NOTES

Alan Jacobson 3442 NW Maxine Cir Corvallis, OR aj@alan-carl.com
alan Jacobson

Marc Norcross 3439 NW Maxine Cir Corvallis, OR marc.norcross@gmail.com
Marc F. Norcross

Thomas Kincaid 3422 NW Maxine Cir. Corvallis OR kincaid.tom@osu.edu
Thomas Kincaid

Jennifer Davis 3405 NW Maxine Cir Corvallis, OR davisjb@hotmail.com

Anne Hart 3384 NW Maxine Cir Corvallis, OR wrhart3384@comcast.net

Andrew Jordan 787 NW BEAVER PL, CORVALLIS, OR andrew.williams.jordan@gmail.com

Rosie Jordan 787 NW Beaver Pl Corvallis, OR rosie.m.jordan@gmail.com

Cindy Tracker 3034 NW Maxine Cir Corvallis OR 97331

Ernest Tracker 3034 NW Maxine Cir Corvallis, OR 97330

Paula Clark 3026 NW Maxine Cir Corvallis, OR 97330
puc3826@gmail.com

Amanda Nielsen 3017 NW Maxine Cir Corvallis, OR 97330
amnielsen028@gmail.com

Adam Nielsen 3017 NW Maxine Cir Corvallis, OR 97330

Patricia Lundberg 629 NW Maxine Cir OR 97330

Ken R 583 NW Maxine Cir 97330

Claire Hauge 475 NW Maxine Ave Corv. 97330

Emm Chytko 419 NW Sarviga 97330 chytko@comcast.net

Francis Arcevalo 450 NW Maxine 97330

James A. Kline 428 NW Maxine Av. 97330

James A. Kline 3098 NW Autumn St Corvallis 97330 James.kline5744@comcast.net

Witnessed by James A Kline
1-18-15

RECEIVED

MAR 02 2015

MARCH 2, 2015
CORVALLIS CITY COUNCIL
MEMBERS

Corvallis City Hall, 501 SW Madison Ave. Corvallis, OR 97333
Attention: Amber Bell

Community Development
Planning Division

**LETTER OF OPPOSITION for TRACT "B" OF CORONADO SUBDIVISION - MAJOR
MODIFICATION (PLD 14 - 00005)**

My name is James Kline. I live at 3098 N.W. Autumn Street in Corvallis. My house is directly below the proposed 10-unit apt. complex on the eastern downhill slope of the Tract "B" property. My neighbors on Autumn Street and Autumn Place, (even further downhill) will all be negatively affected by building on Tract "B".

To begin with, it is upsetting that we have to deal with this matter again. The Planning Commission and City Council both denied this proposal in 2013. The present proposal is almost identical to the applicant's original one (PLD 12-00005). Again, they are asking for variations, (in their favor) to do things that are not up to city code standards. Through the whole previous process, and this one, they deny that "should" has any compelling meaning for them to abide by. I won't get into detail about this matter now as it is covered in letters from other opponents, notably Sandy Bell and Jeff Diamond. Please refer to them, as I concur with them.

Tract "B" has been open space behind and above my house for 30 years now. I was told when buying the property in 1984 that Tract B could never be built upon. Anne Harrison and her husband Robert owned the property at the time. The Regent had just recently been constructed after City, developers, and neighbors worked out a compromise for the site. Tract "B" site was then part of the Regent property. The agreement was for the Regent to have a 135 ft. setback from its southern boundary line and a 55 ft. setback from its eastern. No structures were to be put there. I purchased my property for this reason. This was publicized in the newspaper and encoded in the CCR's for the property. The City says this is still in effect despite numerous maneuvers over the years to have this setback requirement removed. The present developers knew this when the property was split from the Regent.

The Regent got the peaceful and awesome view site they wanted. The Regent developers got more housing units and had to provide fewer parking spaces than City code then required. The neighbors on Autumn and Survista were granted the Tract "B" site as compensation for this denser development. Everyone was satisfied. That should have been the end of the drama of Tract "B".

I am asking the City for the same considerations they gave the Regent for their development. They wanted a serene setting with a great view. They got it. They wanted a site with little traffic. They got it. They got variances to City codes. Today, I and my downslope neighbors, are facing loss of privacy, solar access, and clean air. In addition, we would get the noise from traffic above us. Where would the exhaust

fumes from 20 plus parking space lot and the cars parked therein go? Directly to my house. I have a bedroom to the back of the house, very near the property line.

The lighting from a complex on Tract "B" would also be extremely hard to mask from my view of the property. Developers are proposing as a solution to this, to put up a massive retaining wall very near the property line. On top of which they would place an additional high fence to "shield" me from their glare. I don't see how this is even possible on a steep slope like this. It would also be difficult to meet the landscaping requirements of the City Code. This is a very far cry from what the Regent project got when they made the bargain with their neighbors. I urge you to go walk the site and see the Regent and Tract "B" and visually see how we are to be affected by this proposed project.

Landslide Hazard and Hillside Development Provisions 4.14.10.a Purpose - to protect human life, health, property. Exhaust fumes, noise, adverse lighting, massive wall, blocking of solar access, excessive grading on a hazardous slope, altering the underground aquifer do nothing to protect me and my neighbors.

4.14.10. b Reduce damage from steep slopes, Landslide Risk areas. Slope near my line is in the 15-25% range. Tract "B" was created with this in mind -4.14.10.e

Developers would have to disturb over 82% of the project site to bring it up to City code. Massive amounts of fill would need to be brought in. The underlying water features would force rainwater to find new channels. This is potentially very dangerous to us downslope. Go to Survista St. to see what the massive grading and filling of the Coronado subdivision left in their backyards. The water systems that were put in place there, by the same owners of Tract "B", are not working like promised, planned, and approved. Properties are still experiencing soggy backyards, crawlspace damage, etc. I can provide you street addresses if you need them. I canvassed the street in 2013 and homeowners there wrote letters explaining their issues in (PLD 12-00005) There was also a needed repair on Maxine St. downslope from Survista that the City had to fix in 2013 related to the runoff from the Coronado hillside. The road had crumbled due to underground water infiltration from uphill. Coronado site itself had to fix one of its plots that failed due to water and fill issues on lot 52. It makes me wonder what might happen in the future to the rest of the site since it has the same fill.

4.14.70.04 Grading Regulations - graded area shall not exceed 75% of site. Is building itself to be on hazardous slope? Then 4.14.20.02 greater restrictions on development must apply.

4.14.50.04 Site Assessment. Besides the developers, what studies have been done on this site? Did City do any? Results? Have there been slope failures in City on similar hazardous slope sites? I know of one property at 5994 NW. Rosewood Dr. that was knocked off its foundation when the slope collapsed during heavy rains on Jan. 19, 2012. (Gazette Times follow up articles 7-17-12 and 5-2-13) You can see why I am concerned.

There is a 10-inch drainage pipe along my property that connects to a catch basin at the SE corner of Tract "B". For years, the City told me there was no drainage pipe across Tract "B" from the Regent. Digging into City records found there were plans for it in the original Regent development. I have had open water coming out of the ground on Tract "B" for almost 20 years during the 3-day rain events. Water cascaded downhill from the overburdened catch basin to collect against my house foundation. I found water in my crawlspace. (Last year, I had my crawlspace sealed with a water barrier.) In 2012 and 2013, after I complained about the drainpipe, the City scoped it. The City found it infiltrated with roots and debris. The camera was unable to go across Tract "B" after about 45 feet from the catch basin. It looked like a break in the line. The City required owners of Tract "B" to flush out the line. I asked whether there was a break in the line and what could cause the water to come out of the ground like this. I wasn't given a clear answer by the city. Now, in the proposal by Tract "B" owners, I saw that they admitted there was a break in the line. As a result of 2 decades of dealing with this issue, you might be able to see why I am so skeptical and fearful of anything being built upon Tract "B". Adding another large apt. complex's storm water into an already overloaded pipe is putting me in harm's way. In early Dec. 2014, the water was again coming out of the ground in small stream to the catch basin.

Despite the problems, I've enjoyed living in the house and neighborhood. But, I am adamantly opposed to anything being built upon the Tract "B" site. Its intent was to serve as a buffer from the Regent. The developers knew the restrictions imposed upon the site when they purchased it (how did that happen?) I would have bought it myself if I'd known it was ever up for sale. I'd still like to know who was involved in doing this.

The main issues that I see in this affair are the two major City Land Development Codes that would be violated by any development upon this site. 1) No more than 18 housing units at the end of a Cul de Sac and, 2) The two setbacks put in place upon the entire Regent property in 1981. They were supposed to ensure the land was a permanent open space backyard for the Regent itself. The City needs to honor its agreements and live up to its codes. If a developer can pick at every "should" or variance in these codes and can get staff or administration to go along with it, then why have a code in the first place? Please be fair to the citizens of this City and honor the original intents of the Laws and Covenants.

Sincerely,

James Kline

From: [Young, Kevin](#)
To: [Bell, Amber](#)
Subject: FW: Coronado Apt.
Date: Monday, March 02, 2015 12:48:56 PM

For the record:

Kevin Young
Planning Division Manager
City of Corvallis
(541) 766-6572
kevin.young@corvallisoregon.gov

From: Penny York [<mailto:york.penny58@gmail.com>]
Sent: Monday, March 02, 2015 12:42 PM
To: Bill and Becki Goslow
Cc: Young, Kevin
Subject: Re: Coronado Apt.

Becki,
Just a reminder that I can't talk or correspond about a quasijudicial review.
Penny

On Mar 2, 2015 9:25 AM, "Bill and Becki Goslow" <becki.goslow@gmail.com> wrote:
Penny,

I will try to contact my councilman, but he never responds to me.
Bill and I are asking you and the council to vote 'no' on the Coronado
apt.
The apts are not a good fit for this nice residential area.

becki and bill goslow



MEMORANDUM

Date: March 2, 2015

To: Mayor and City Council

From: Amber Bell, Assistant Planner - Community Development Department

Re: Coronado Tract B (PLD14-00005)
Staff Findings on Staff-Identified Applicable Review Criteria

This memorandum provides references to the location of staff's findings and conclusions on LDC Section 2.5.40.04.a compatibility criteria, found in the exhibits to the February 23rd Staff Report to the City Council.

The January 14, 2015 Staff Report to the Planning Commission provided a full analysis of the application with respect to the review criteria found in LDC Section 2.5.50.04. After completion of the Planning Commission Staff Report, the applicant provided revised site plans to address certain criteria, along with a letter signed by Republic Waste indicating that the northern driveway (i.e. the fire access) would not be needed for vehicle maneuvering, given that a trash compactor and recycle carts are proposed and these would be rolled to the curb at designated collection times by apartment management staff. The most current version of the site plan was received on January 28, 2015. With this revised site plan, it appears that the sidewalk connection to the Regent site has been slightly realigned to the east to match the existing pedestrian and bicycle access easement (see **page 3 to 4** of the City Council Staff Report for further discussion).

The February 23, 2015 Staff Report to the City Council summarizes the Planning Commission's bases for denial of the application, the issues raised on appeal, staff's analysis of the issues raised on appeal, and staff's recommendation and revised conditions, based on the current iteration of the site plan. Since completion of the City Council Staff Report, the applicant provided a revised circulation plan on February 26, 2015, which includes an additional connection from the sidewalk on the west side of the

building to the primary entrance to unit 6 to address a Pedestrian Oriented Design Standard.

Summary of Staff Report on LDC Section 2.5.40.04 Review Criteria

1. Compensating benefits for the variations being requested:

See staff findings and conclusion on **Exhibit X, page 14 to 15.**

2. Basic site design (the organization of Uses on a site and the Uses' relationships to neighboring properties):

Staff provided findings and a conclusion on **pages 15 to 18 of Exhibit X.** In response to the revised site plan and proposed use of a trash compactor in lieu of vehicular refuse collection services, staff provided revisions to the potential condition of approval that applies to access on the north side of the building. This response can be found on **Exhibit VI, pages 13 to 15.** The Planning Commission decided to deny the proposal, partly based upon the finding that the proposal does not comply with the Basic Site Design compatibility criterion. **Pages 3 to 4** of the February 23, 2015 Staff Report to City Council summarize site plan revisions and staff's analysis of the revised site plan. Since completion of the February 23, 2015 City Council Staff Report, the applicant provide a revised circulation plan that adds a pedestrian connection to the primary entrance of Unit 6 to address a Pedestrian Oriented Design standard. No plan revisions have been provided to sufficiently address the Basic Site Design compatibility criterion.

3. Visual elements (scale, structural design and form, materials, etc.):

Staff provide findings and a conclusion on **pages 18 to 19 of Exhibit X.**

4. Noise attenuation:

Staff provide findings and a conclusion on this criterion on **pages 19 to 20 of Exhibit X.** Part of the bases for the Planning Commission's denial of this application was the finding that the application does not comply with the Noise Attenuation criterion. No plan revisions have been provided to address the Lighting compatibility criterion.

5. Odors and emissions:

Staff address this criterion on **page 20 of Exhibit X.**

6. Lighting:

Staff address this criterion on **page 20 of Exhibit X**. Part of the bases for the Planning Commission's denial of this application was the finding that the application does not comply with the Lighting criterion. No plan revisions have been provided to address the Lighting compatibility criterion.

7. Signage:

Staff address this criterion on **pages 20 to 21 of Exhibit X**.

8. Landscaping for buffering and screening:

Staff address this criterion on **pages 21 to 25 of Exhibit X**. In response to the revised site plan and proposed use of a trash compactor in lieu of vehicular refuse collection services, staff provided revisions to the potential condition of approval regarding landscaping construction and maintenance. This response can be located on **Exhibit VI – page 13**. Additional canopy trees along the driveway to the parking lot are still needed to comply with LDC Section 4.2.40.c.

9. Transportation facilities:

Staff respond to this criterion on **Exhibit X page 25 to 26**. The Planning Commission found that the proposal does not comply with LDC Section 4.0.60.c and does not justify variation to these standards. Staff respond to issues raised on appeal regarding cul-de-sac standards on **pages 11 to 14** of the City Council Staff Report, and Staff's summary and recommendation to deny the application is provided on **pages 14 to 15**.

10. Traffic and off-site parking impacts:

Staff respond to this criterion on **Exhibit X page 29** (see findings regarding Traffic and Access and Off-Site Parking Impacts). The Planning Commission found that the proposal does not comply with LDC Section 4.0.60.c and does not justify variation to these standards. Additionally, Staff respond to issues raised on appeal regarding cul-de-sac standards on **pages 11 to 14** of the City Council Staff Report, and Staff's summary and recommendation to deny the application is provided on **pages 14 to 15**.

11. Utility infrastructure:

See page 30 of Exhibit X.

12. Effects on air and water quality (note: a DEQ permit is not sufficient to meet this criterion) :

See page 31 of Exhibit X.

13. Design equal to or in excess of the types of improvements required by the standards in Chapter 4.10 - Pedestrian Oriented Design Standards:

See pages 31 to 32 of Exhibit X. In response to the revised site plan and proposed use of a trash compactor in lieu of vehicular refuse collection services, staff provided revisions to the potential condition of approval that applies to access on the north side of the building. This revision is provided on page 13 to 15 of Exhibit VI. Staff have provided additional revisions to the potential conditions of approval, as discussed on page 4 of the February 23, 2015 City Council Staff Report.

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:

Staff respond to this criterion on pages 32 to 33 of Exhibit X. The applicant provided grading exhibits as part of the application, demonstrating that the proposed grading area does not exceed 75% of the site's steep slope area. The area of steep slopes depicted on the applicant's exhibit is slightly different than the City's Natural Hazards Map. Therefore, the applicant provided plans prepared and stamped by an engineer, in accordance with LDC Section 4.14.80 – Map Refinements. The stamped plans were provided to the City Council in a memorandum distributed on February 27, 2015.



MEMORANDUM

Date: March 2, 2015

To: Mayor and City Council

From: Kevin Young, Planning Division Manager

Re: Coronado Tract B (PLD14-00005) – Oregon Department of Land Conservation and Development Direction in Response to “Needed Housing” Requirements

In response to the “Needed Housing” issue raised by the appellant in this case, Community Development staff have provided the attached copy of January 23, 2004, correspondence from the Oregon Department of Land Conservation and Development (DLCD) regarding Periodic Review Work Approval for Work Tasks 11 and 12. On the third page of the letter (Item # 19), the Land Conservation and Development Commission decision states as follows:

“(2) A property owner should have the ability to quickly “opt out” of the PD development process, which is not clear and objective, when no Detailed Development Plan or Conceptual Development Plan that includes a Detailed Development Plan has been approved by the City in connection with the PD.”

Staff note that, subsequent to receiving this letter, the City adopted a revised zoning map which removed Planned Development Overlays from residential properties that did not have either: 1) any type of approved Planned Development on the property, or 2) which were only subject to an approved Conceptual Development Plan, with no portion subject to a Detailed Development Plan. Additionally, the Zone Change process was revised to allow later removal of PD Overlay zones through an administrative process where there is no active Detailed Development Plan on any part of the site (LDC Section 2.2.50.06.b). Subsequent to these changes, DLCD found that the City had fully complied with their direction in the periodic review process.

Based on this history, staff conclude that the Coronado, Tract B site, because it is within the area of an approved Detailed Development Plan, is subject to Planned Development review criteria. The applicant has submitted an application to modify the prior Planned Development through this process. If the applicant wishes to remove the site from the Planned Development, a Planned Development Nullification would be the appropriate process through which to consider that proposal.



Oregon

Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

635 Capitol Street NE, Suite 150

Salem, Oregon 97301-2540

Phone: (503) 373-0050

Main/Coastal Fax: (503) 378-6033

Director's/Rural Fax: (503) 378-5518

TGM/Urban Fax: (503) 378-2687

Web Address: <http://www.lcd.state.or.us>

RECEIVED
JAN 26 2004
Community Development



January 23, 2004

The Honorable Helen Berg, Mayor
City of Corvallis
501 S.W. Madison Avenue
P.O. Box 1083
Corvallis, Oregon 97339-1083

Periodic Review Work Approval for Work Tasks 11 and 12 Approval Order No. 001601

Dear Mayor Berg:

I am pleased to inform you that the Land Conservation and Development Commission has approved the City of Corvallis Periodic Review Work Tasks Nos. 11 regarding "Strategies for Balancing Housing Needs" and 12 regarding "Balancing Housing Needs," subject to adoption by the city of the specific revisions listed on page 6 of the attached order.

Judicial review of this order may be obtained by filing a petition for review within 60 days from the service of this final order, pursuant to ORS 183.482 and 197.650.

I appreciate the efforts of the City of Corvallis officials and staff in completing the periodic review work tasks.

Please feel free to speak with Marguerite Nabeta, your periodic review team leader and regional representative at (541) 682-3132, if you have any questions or need further assistance.

Sincerely,

Jim Hinman
Urban Coordinator

Enclosure: Approval order 03-WKTASK-001601

J:\PRA LARGE\CITY\Corvallis\T11&12 approval letter.doc

- cc: Ken Gibb, Corvallis Community Development Director
- Peter Idema, Benton County Community Development Director
- William Hoelscher, representing Mr. Mel Stewart
- Bill Kloos, representing Century Properties LLC
- Larry French, DLCD Periodic Review Specialist
- Marguerite Nabeta, Regional Representative (email)
- Jim Hinman, Urban Coordinator (email)
- Periodic Review Assistance Team (email)



**BEFORE THE
LAND CONSERVATION AND DEVELOPMENT COMMISSION
OF THE STATE OF OREGON**

**IN THE MATTER OF)
THE PERIODIC REVIEW OF)
THE CITY OF CORVALLIS,)
WORK TASKS 11 & 12)**

**APPROVAL
ORDER
03-WKTASK-001601**

This matter came before the Land Conservation and Development Commission (Commission) on December 2, 2003, as an appeal of the Department of Land Conservation and Development (Department) approval of Work Tasks 11 and 12 of the City of Corvallis' (City) Periodic Review Work Program pursuant to ORS 197.633, ORS 197.644(2) and OAR chapter 660, division 025. The Commission, having fully considered the City's work task submittal; oral argument, written comments, objections and exceptions of the parties and City; and the reports of the Director of the Department now enters its:

Findings of Fact

1. On May 1, 1981, the Commission acknowledged the City's comprehensive plan and land use regulations to be in compliance with the Statewide Planning Goals (Goals).
2. On May 31, 1996, the Department notified the City of requirements under periodic review and initiated the periodic review process.
3. On July 28, 1997, the Department approved the City's periodic review work program.
4. On June 21, 2000, the Commission added Work Tasks 11 and 12 to the City's work program by Order #001223 which approved Work Tasks 1 through 8.
5. On July 18, 2001, the City submitted *inter alia* Work Tasks 11 and 12 to the Department for review and provided notice to interested parties.
6. By letters dated August 2 and 8, 2001, the Department received timely objections to Work Tasks 11 and 12 from Century Properties, LLC (Century) and Mr. Mel Stewart, respectively.
7. On February 19, 2003, Oregon Housing and Community Services submitted to the Department its review of the City's submittal relating to the inventory and analysis of housing, and measures taken to address the housing need, pursuant to ORS 197.637.
8. On September 2, 2003, the Department issued Order #001542 that rejected the objections and approved Work Tasks 11 and 12.

9. On September 22 and 23, 2003, the Department received timely appeals of Order #001542 to the Commission from Mr. Stewart and Century, respectively.
10. On November 4, 2003, the Department submitted a timely report to the Commission pursuant to OAR 660-025-0150(4) and 660-025-0160(2).
11. On November 12, 2003, the Department received Mr. Stewart's timely filed written exceptions to the Department's November 4, 2003 report, pursuant to OAR 660-025-0160(3).
12. On November 14, 2003, the Department received Century's timely filed written exceptions to the Department's November 4, 2003 report, pursuant to OAR 660-025-0160(3).
13. On November 18, 2003, the Department issued a response to the exceptions filed by Mr. Stewart and Century, pursuant to OAR 660-025-0160(3). The Department agreed in part with Mr. Stewart's exception and revised its recommendation to the Commission to address the issue raised in the exception, pursuant to OAR 660-025-0160(3).
14. On November 25, 2003, the City sent Century, Mr. Stewart and the Commission care of the Department, a letter with attachments that provided information regarding several properties for which the City, not the land owner, had originally initiated the Planned Development (PD) overlay zoning and for which the City had yet to remove the PD overlay zone. This information corrected an erroneous statement in the Department's November 4, 2003 report, that all such zoning had been removed in the amount of 487 acres.
15. On December 2, 2003, the Commission considered the appeal at a public meeting.
16. The Commission *sua sponte* decided to accept the City's November 25, 2003 submittal as new evidence or information pursuant to OAR 660-025-0160(6). The Commission decided not to postpone the hearing to the next regular meeting of the Commission because the City had provided the new evidence or information to all parties prior to the hearing; the Commission provided the parties an opportunity to respond to the new evidence or information through oral argument; and the next regular meeting of the Commission would not occur within a timeframe that would allow the Commission to comply with the requirements of ORS 197.633(3)(b) and OAR 660-025-0160(1) to take final action on an appeal within 90 days of the date the appeal was filed.

17. The Commission *sua sponte* decided to accept oral argument from the parties, pursuant to OAR 660-025-0160(6). The Commission heard oral argument from the Department, City, Century and Mr. Stewart.
18. After deliberations in all matters related to the appeal, the Commission adopted the staff recommendation in the November 18, 2003 and November 4, 2003 staff reports and approved Work Tasks 11 and 12 with specific revisions.
19. The Commission agreed with Mr. Stewart and Century to the extent that:
 - (1) The City did not remove the Planned Development (PD) zoning from all undeveloped properties where the PD zone was initiated by the City, and
 - (2) A property owner should have the ability to quickly "opt out" of the PD development process, which is not clear and objective, when no Detailed Development Plan or Conceptual Development Plan that includes a Detailed Development Plan has been approved by the City in connection with the PD.

Discussion

On review of Work Task 11 and 12, the Commission considers whether the submittal is consistent with the applicable Goals and administrative rules and is supported by substantial evidence. OAR 660-025-0140.

The Commission affirms the Department's interpretation of the requirements imposed on the City by Work Tasks 11 and 12. Work Tasks 11 and 12 required the City to conduct further analysis of its housing needs at various price ranges and rent levels, based on a forecast of future jobs and household income. The City adequately responded to Work Tasks 11 and 12 without making any amendments to the City's plan policies, plan map, development regulations or zoning map. To address Work Task 11, the City supplemented its economic opportunities analysis with new information on future jobs, income and the ability of future households to afford housing. To address Work Task 12, the City implemented a new housing model from the Oregon Department of Housing and Community Services.

Because the results of the new analysis were consistent with and confirmed the housing needs determined in Work Task 4, the City determined that no further changes to its plan or implementing regulations were required to comply with Goal 10.

Several deficiencies in the City's Development Code alleged by Century did not relate to Work Tasks 11 or 12. Although under ORS 197.644(1), OAR 660-025-0170(1), and *Hummel v. LCDC*, 152 Or App 404, 410-411, 954 P2d 824 (1998) the Commission recognizes generally that due to sequential nature of a work program, submittal of a subsequent work task may require reconsideration of previously acknowledged work tasks compliance with the Goals; however, that is not the circumstance presented here. In and of it, the submission of subsequent work tasks does not afford an opportunity to raise issues unrelated to the submission that assign error to a previously acknowledged work task. Under ORS 197.644(1) and OAR 660-025-0170(1), the Commission may modify a local government's work program when issues of goal compliance are raised "as a result of completion of a work program task[.]" Likewise, where the work task submittal conflicts with a previously acknowledged work task or violates a goal related to a previous work task the Commission will not approve the submittal until there is goal compliance. OAR 660-025-0140(5). The Commission concludes that the issues Century attempts to raise regarding Work Task 9 are not issues that arise *as a result* of the completion of Work Tasks 11 or 12. For example, the Commission does not find the direct connection asserted by Century between the annexation standards of the Land Development Code, which was acknowledged in Work Task 9, and the determination of housing needs at various price ranges and rent levels. The land availability impacts of the annexation provisions asserted by Century prove too tenuous a link to the analysis required under Work Task 11 and 12. The issue raised by Century regarding the LDC should be raised as objections to Work Task 9.

The "wide margin for error" cited by the City's economic consultant in connection with Work Task 11 does not render the City's submittal insubstantial when viewed in context of the City's entire submittal. The consultant argued that the needs analysis in Work Task 4 was more accurate than that conducted under Work Tasks 11 and 12 and that the analysis in Work Task 4 was sufficient to forecast housing needs.

The Commission declined to choose between the two analyses because they are substantially in agreement. Because the two studies (one a “market demand approach” and the other an “income approach”) yield similar results in confirmation of one another, the need is established despite concerns with both models. Further, it is reasonable to expect that the error in any forecast will increase as the time horizon of the forecast increases. The Commission expects that a local government will update its plan well before the plan’s twenty-year horizon is reached, as actual data becomes available to replace the forecast data. Finally, pursuant to ORS 197.637(2), the Commission considers that the Oregon Housing and Community Services reviewed and accepted the City’s work in determining that the City has complied with Goal 10.

Conclusion of Law

Based on the foregoing findings, discussion, the Director’s reports, and responses to the objections and the appeal, the Commission concludes that the City’s Periodic Review Work Tasks 11 and 12 will fully comply with the Goals upon adoption of the specific revisions, below, and are approved, pursuant to OAR 660-025-0160(7)(c).

THEREFORE, IT IS ORDERED THAT:

Work Tasks 11 and 12 are approved, subject to the adoption of the following specific revisions to the Corvallis Land Development Code within 90 days following any final appellate judgement on review of Corvallis' periodic review:

- (1) With the consent of the property owner, to remove the PD overlay zone from residentially zoned property for which no Conceptual or Detailed Development Plan has been approved and is still in existence; and
- (2) To provide a process where a property owner may request and the City must approve the removal of a PD or PD overlay zone from residentially zoned property where the residentially zoned property does not have a Detailed Development Plan or a Conceptual Development Plan that includes a Detailed Development Plan on any part of the site.

DATED THIS 21st DAY OF JANUARY, 2004.

FOR THE COMMISSION:



Nan Evans, Director
Department of Land
Conservation and Development

NOTE: You may be entitled to judicial review of this order. Judicial review may be obtained by filing a petition for review within 60 days from the service of this final order. Judicial review is pursuant to the provision of ORS 183.482 and 197.650.

Copies of all exhibits are available for review at the Department's office in Salem.

J:\pr\la largecity\Corvallis\T11 12 LCDCorder 1-21-2004.doc



MEMORANDUM

Date: March 2, 2015

To: Mayor and City Council

From: Amber Bell, Assistant Planner - Community Development Department

Re: Coronado Tract B (PLD14-00005)
Additional Application Materials

The applicant provided additional materials on March 2, 2015, including materials related to casefiles LDO14-00008 and MLP14-00007, and the City's franchise agreement with Republic Services of Corvallis Solid Waste. These materials are attached hereto.

From: Lyle Hutchens
To: Bell, Amber
Subject: Tract B, PLD14-00005
Date: Monday, March 02, 2015 9:47:04 AM
Attachments: Grove Street Cul-de-Sac Documents.pdf

Good Morning Amber, please include the attached with the documents included in the record for this evening's hearing and hand out this evening. We believe this clearly documents that the 18 unit maximum limit on a cul de sac is a discretionary requirement not a mandatory requirement. If a cul de sac or a dead end street can serve 44 units and now 45 units, as approved the Hearings Board, with no secondary emergency vehicle access, Mirador Place which has a secondary emergency vehicle access, can certainly serve 28 units.

-
Lyle E. Hutchens
Devco Engineering, Inc.
POB 1211 (Mail)
245 NE Conifer Boulevard (FedEx/UPS)
Corvallis, OR 97339-1211
www.devcoengineering.com (website)

☎ : 541.757.8991 | 📞 : 541.757.9885 | ✉ : lyle@devcoengineering.com

Housing plan gets approval

Student-unit project will add units on Grove Street

JAMES DAY
CORVALLIS GAZETTE-TIMES

Developers who hope to tear down a house on Southwest Grove Street, subdivide the lot and build two five-bedroom houses got the green light Wednesday from the Land Development Hearings Board.

The board, a three-person subset of the Corvallis Planning Commission, voted unanimously to approve the project despite a recommendation from city staff that it be rejected. Board members Paul Woods and James Feldmann voted in favor of the plan. Tucker Selko, who was acting as chairman, did not vote because the chair only votes to break a tie.

City staff opposed the plan because of the additional pressure it would put on parking on the street, which includes townhouses and apartment complexes. Also, the development would violate a code rule that calls for no more than 18 units in a cul-de-sac. In addition, staff wanted the development limited to two three-bedroom units.

See HOUSING on A5

'Music Man' works its magic with huge cast | B1

Your Community ... Your Newspaper

CORVALLIS

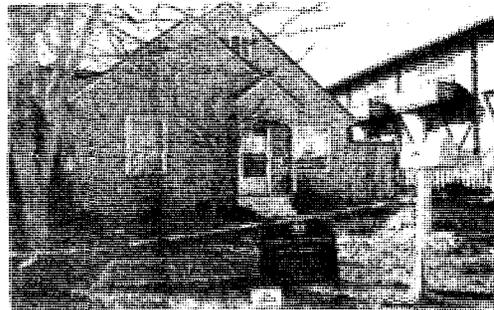
Gazette-Times

{ www.gazettetimes.com }

Thursday's fact

City Council committee urges a policy about open carry of guns | A3

February 19, 2015



Amanda Cowan, Gazette-Times

Developers hope to replace this house at 900 S.W. Grove St. with two five-bedroom units. The Land Development Hearings Board approved the plan Wednesday.

Continued from A5

The board was swayed, however, by compromises suggested by developers, who proposed to include three parking spaces per unit (one more than the code requires), plus covered and uncovered bicycle parking.

Also, the 18-unit rule for cul-de-sac had been interpreted as a recommendation rather than a

Housing

requirement until a 2013 Planning Commission decision in the Coronado Tract B apartment case.

The Grove Street project would bring the total number of units on the block to 45, although city staff thought it was quite likely that much of the development on the street preceded the 18-unit rule.

Woods said that going

to 45 units didn't seem like enough of an addition to deny the project.

The property is close to Reser Stadium, just southwest of Oregon State University, and the developers hope to rent the units to students.

Contact reporter James Day at jim.day@gazettetimes.com or 541-758-9542. Follow at Twitter: com/jameshday or gazettetimes.com/blogs/jim-day.



Community Development
Planning Division
501 SW Madison Avenue
P.O. Box 1083
Corvallis, OR 97339-1083
(541) 766-6908

**CORVALLIS LAND DEVELOPMENT HEARINGS BOARD
NOTICE OF DISPOSITION**

ORDER 2015-007

CASE: 900 SW Grove Street Major Lot Development Option and Minor Land Partition (LDO14-00008; MLP14-00007)

TOPIC: Review of a Major Lot Development Option and Minor Land Partition Request

REQUEST: The applicant seeks approval of a Major Lot Development Option and associated Minor Land Partition to divide the subject site, which contains one dwelling unit, into two parcels to accommodate future redevelopment to construct two dwelling units. As part of the request, the application seeks approval of a request to vary from LDC Section 4.0.60.c.2, which states that cul-de-sacs should not serve more than 18 dwelling units.

APPLICANT: Ronnie Wilson
PO Box 1489
Clackamas, OR 97015

OWNER: Sheralyn Leavitt
91355 Donna Road
Springfield, OR 97478

SITE LOCATION: The subject site is located at 900 SW Grove Street, and is identified on Benton County Assessor's Map 12-5-03 BD as Tax Lot 1300.

DECISION: The Corvallis Land Development Hearings Board conducted a public hearing on February 4, 2015. At the meeting, the applicant retained the right to submit final written argument, and submitted final written argument on February 11, 2015. On February 18, 2015, the Land Development Hearings Board deliberated and approved the requested Major Lot Development Option and Minor Land Partition, subject to the attached Conditions of Approval, which contain a change to the Conditions of Approval presented in the staff report to the Land Development Hearings Board on February 4, 2015. That change is summarized as follows: to replace the staff-recommended Condition of Approval 13 with a new Condition of Approval 13, as presented for consideration by the applicant and accepted by the Land Development Hearings Board. The Land Development Hearings Board adopted the

findings contained in the January 28, 2015, staff report, and in findings made during deliberations in support of the application, as reflected in the February 18, 2015, Land Development Hearings Board meeting minutes.

February 19, 2015
Signature Date



G. Tucker Selko, Acting Chair
Corvallis Land Development Hearings Board

Appeals:

If you are an affected party and wish to appeal the Land Development Hearings Board's decision, appeals must be filed, in writing, with the City Recorder within 12 days from the date that the order is signed. The following information must be included:

1. Name and address of the appellant(s).
2. Reference the subject development and case number, if any.
3. A statement of the specific grounds for appeal.
4. A statement as to how you are an affected party.
5. Filing fee of \$391.20 (\$195.60 if appealed by a recognized Neighborhood Association).

Appeals must be filed by 5:00 p.m. on the final day of the appeal period. When the final day of an appeal period falls on a weekend or holiday, the appeal period shall be extended to 5:00 p.m. on the subsequent work day. The City Recorder is located in the City Manager's Office, City Hall, 501 SW Madison Avenue, Corvallis, Oregon.

The proposal, staff report, hearing minutes, and disposition may be reviewed at the Community Development Department, Planning Division, City Hall, 501 SW Madison Avenue.

Appeal Deadline: March 3, 2015 at 5:00 pm.

Conditions of Approval

Page #	Condition #	Condition of Approval
All	1	<u>Adherence to Land Development Code Standards:</u> With the exception of the variation approved through this decision, this approval does not authorize variations to LDC. All development shall comply with applicable Land Development Code standards unless further variations are approved through a subsequent land use process.
All	2	<u>Final Plat Application Requirements:</u> a. The Final Partition Plan shall conform to the approved Tentative Partition Plat, as described in Attachment B and the Conditions of Approval. b. The Final Partition Plat shall comply with the requirements in LDC Section 2.14.40.01 c.
All	3	<u>Final Plat Signature Block:</u> The applicant shall provide the following City of Corvallis case number and signature block on the Final Partition Plat: City of Corvallis Case MLP14-00007 <hr/> Corvallis Planning Division Manager <hr/> Corvallis City Engineer
All	4	<u>Monuments:</u> An Oregon-licensed land surveyor shall survey and place monuments on the parcels. All monuments on the exterior boundary and all parcel corner monuments for a partition shall be placed before the partition is offered for recording.
6, 7	5	<u>SW Grove Street ROW:</u> Concurrent with the final plat, the applicant shall dedicate additional ROW along the SW Grove Street frontage in order to provide a minimum of 25 feet of ROW from the original ROW centerline. An environmental assessment for all land to be dedicated must be completed in accordance with LDC Section 4.0.100.g.
6, 7	6	<u>SW Grove Street Improvements:</u> Prior to final plat, an irrevocable petition shall be recorded with Benton County against the parent and future lot for public street and storm drainage improvements to widen the street to City Standards. The applicant shall install set back sidewalks with site development.
6, 8	7	<u>Sewer Services:</u> Prior to final plat, each parcel 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 sanitary sewer lateral extensions on local streets will be subject to permitting through the City's Development Services Division consistent with City of Corvallis Standard Construction Specifications within the ROW (Standard Detail 206). Clean outs shall be placed at the property/ROW line. If laterals cross property lines, private easements shall be provided and shown on the plat. Common

		private sewers serving more than one parcel/lot are not allowed.
6, 8	8	<u>Water Services:</u> All water meters shall be located at the public ROW. City crews will install the service at the applicant's expense but the applicant will need to provide a 5' x 5' concrete pad poured around each meter box if the meter box is not located within an all-weather surface such as a sidewalk at the time of meter setting.
6, 9	9	<u>Parcel Drainage:</u> All lots shall be provided with individual storm drainage via gravity lines to the curb location. If a gravity system is not feasible, then alternate solutions will need to be explored. Installation of individual private storm drain laterals will be subject to permitting through the City's Development Services Division. If these laterals cross adjacent parcels, private easements shall be provided.
6, 9	10	<u>Franchise Utilities:</u> A 7-foot UE adjacent to all public ROW shall be provided on the final plat if not already present in accordance with LDC 4.0.100. The applicant shall also demonstrate each lot will be served by franchise utilities per LDC 4.0.90.
General	11	<u>Easements on Plat:</u> The final plat shall reference all existing easements impacting the property per LDC Section 2.14.40.01.6
10	12	<u>Street Trees and Location of Driveways and Utilities:</u> The applicant will need to demonstrate compliance with LDC Section 4.2.30.a.1, and may need to coordinate the placement of driveways and utilities to ensure that street trees are accommodated at the spacing specified by the Code and within the landscape strip. Prior to final plat, the applicant shall submit a streetscape plan to the Planning Division, to ensure that the requirements of LDC Section 4.2.30.a.1, can be satisfied at the time of building permit.
General	13	<u>Off-street Parking, Covered Bicycle Parking, and Uncovered Bicycle Parking:</u> As a Condition of Approval of LDO14-00008 to permit a Minor Land Partition to divide the existing parcel into 2 parcels for the construction of 2 single family detached dwelling units, each parcel shall provide a minimum of 3 off-street parking spaces, and the applicant shall provide covered bicycle parking on each parcel to accommodate 2 bicycles, and uncovered bicycle parking to accommodate 3 bicycles.

MEMORANDUM

TO: Land Development Hearings Board
FROM: Sarah Johnson, Associate Planner
DATE: February 12, 2015
SUBJECT: LDO14-00008, MLP14-00007 - Applicant's Final Written Argument

On February 11, 2015, staff received final written argument from the applicants of the above land use cases concerning development at 900 SW Grove Street. That argument is attached for your consideration.

Barnhisel, Willis, Barlow, Stephens, & Costa P.C.

Attorneys at Law
123 N.W. Seventh Street
P.O. Box 396
Corvallis, OR 97339-0396
www.bwbslaw.com

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E-Mail
stephens@bwbslaw.com
John B. Fenner, Retired

February 11, 2015

Corvallis Planning Division
Land Use Hearings Board

**Re: Grove Street Lot Development Option and Minor Replat
(LDO 14-00008, MLP 14-00007)**

Dear Board Members:

This supplemental testimony is provided on behalf of the Applicant.

This case presents an unfortunate situation where two city standards are incompatible with each other. The subject property is located on SW Grove Street. SW Grove Street is a dead-end street serving 2.72 acres of land. City staff has defined SW Grove Street as a cul-de-sac subject to LDC 4.0.60.c.2 and its 18 dwelling unit limit. Notably, staff's interpretation has been made despite SW Grove Street already supporting 44 dwelling units approved by the City.

The zoning of the subject property is RS-12. Thus, the City, when adopting its current zoning plan called for SW Grove Street to have a density of 12 to 20 units per acre. Given this zoning designation and an acreage of 2.72 acres, the planned density for SW Grove Street is 32.6 to 54.4 units. Under LDC Section 4.0.60.c.2, the maximum density is only 18 units. Thus, applying LDC 4.0.60.c.2 to S.W. Grove Street would have effectively required noncompliance with the zoning designation for the area. Something has got give when codes collide.

Based upon the City's prior approval of 44 dwelling units on SW Grove Street, it is clear that the density goal of RS-12 has been paramount to the 18 dwelling limitation for cul-de-sacs. This makes sense, especially given the proximity of SW Grove Street to the OSU campus and the desire to increase density surrounding the campus for student housing.

Conclusion: Given the City's prior approval of 44 dwelling units on SW Grove Street, applying LDC 4.0.60.c.2 to Applicant's proposal creates a conflict between city standards. In this case, the density goal of RS-12 should be paramount, especially since the cul-de-sac limitations have long since been exceeded.

City staff recommended Applicant use a Major Development Option process because it felt LDC 4.0.60.c.2 applied and its limits were mandatory. This conclusion was based upon a recent decision involving a cul-de-sac in another part of town. In that case, the facts were quite different, so the precedent is distinguishable. Nonetheless, in the context of the Applicant's requested Major Lot Development Option, and given the competing goal served by meeting the applicable zoning standard, Applicant's need to provide compensating benefits should be quite limited. Eliminating 40% of the potential occupancy proposed, as suggested by staff's proposed condition of approval, greatly exceeds what is needed. In fact, it renders the project financially unfeasible.

Applicant will be providing alternative conditions of approval for your consideration.

Very truly yours,



Cary B. Stephens

CBS:dw

Client

From: [Lyle Hutchens](#)
To: [Bell, Amber](#)
Subject: Tract B, PLD14-00005
Date: Monday, March 02, 2015 1:23:00 PM
Attachments: [Scanned from a Xerox multifunction device.pdf](#)

Hi Amber, hopefully this is the last. Please include the attached copy of City Ordinance no. 2013-06 in the record for this evenings hearing.

-
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ORDINANCE NO. 2013-06

AN ORDINANCE REGULATING SOLID WASTE MANAGEMENT INCLUDING, WITHOUT LIMITATION, GRANTING AN EXCLUSIVE SOLID WASTE FRANCHISE TO REPUBLIC SERVICES OF CORVALLIS; ESTABLISHING SERVICE STANDARDS AND ESTABLISHING PUBLIC RESPONSIBILITY; REPEALING ORDINANCE 2008-15; PRESCRIBING PENALTIES; AND STATING AN EFFECTIVE DATE.

THE CITY OF CORVALLIS ORDAINS AS FOLLOWS:

Section 1 - Introduction

1.1 Short Title. This ordinance shall be known as the "Solid Waste Management Ordinance."

1.2 Purpose and Policy. In order to protect the health, safety and welfare of the people of the City of Corvallis, it is the public policy of the City of Corvallis to regulate and to provide a Solid Waste management program.

1.3 Solid Waste Management Goals.

1.3.1 Ensure the safe and sanitary accumulation, storage, Collection, transportation and disposal or Resource Recovery of Solid Wastes. Ensure proper handling of Household Hazardous Waste, ensure that the community has an ongoing Resource Recovery and disposal service, and ensure that wasteshed Recycling goals are met.

1.3.2 Engage in research, studies, surveys and demonstration projects to develop a safe, sanitary, sustainable, efficient and economical Solid Waste management system.

1.3.3 Research, develop, and promote technologically and economically feasible Resource Recovery including, Source Separation, Recycling and reuse, and separation by and through the Franchisee. Research, develop, and promote Solid Waste reduction strategies.

1.3.4 Ensure efficient, economical and comprehensive Solid Waste Service. Maximize Collection to reduce the adverse environmental impacts of individual Collection and disposal efforts. Minimize duplication of Service or routes to conserve energy and material resources, to reduce air pollution and truck traffic, and to increase efficiency, thereby minimizing consumer cost, street wear, and public inconvenience.

1.3.5 Protect and enhance the public health and the environment.

1.3.6 Protect against improper and dangerous handling of Hazardous and Infectious Wastes.

1.3.7 Encourage the use of the expertise and capabilities of private industry.

1.3.8 Provide for equitable charges to the users of Solid Waste Services that are reasonable and adequate to provide necessary Service to the public, justify investment in Solid Waste management systems, and provide for equipment and systems modernization to meet environmental and community service requirements.

1.3.9 Provide Service without discrimination on the basis of race, religion, religious observance, citizenship status, gender identity or expression, color, sex, marital status, familial status, citizenship status, national origin, age, mental or physical disability, sexual orientation, or source or level of income and not give any Person any preference or advantage not available to all Persons similarly situated.

1.3.10 Work in cooperation with the City of Corvallis, Benton County, local citizen groups, and local industries to reduce the quantity of Solid Waste produced, optimize efficiencies, and conserve resources.

1.3.11 Provide efficient leaf Collection to protect the community's health, safety, and appearance, and to improve water quality.

1.3.12 Demonstrate a responsive, customer-service oriented business philosophy.

1.3.13 Increase recovery of organic and inorganic Solid Waste from all Solid Waste streams that the Franchisee Collects within the Franchise Territory.

1.4 Definitions. For the purpose of the ordinance, the following terms shall have the following meaning:

"Automated Frontload Service" means Servicing Commercial customer frontload style Receptacles where the Collection vehicle operator does not need to leave the Collection vehicle for any reason to Service the Receptacle.

"City" means the City of Corvallis, Oregon all of its officers, employees, and representatives.

"Collection" (or variations thereof) means a Service providing for collection of Solid Waste, Recyclable Materials, and Organic Debris.

“Commercial” means commercial and industrial businesses including but not limited to retail sales, services, wholesale operations, manufacturing, and industrial operations but excluding businesses conducted upon Residential premises which are permitted under applicable zoning regulations and are not the primary use of the property.

“Commingled Recyclables” means newspapers, corrugated cardboard, brown paper bags, tin/aluminum cans, aseptic containers, aerosol cans, plastics defined as tubs/bottles, and mixed paper consisting of household mail, paperboard, and magazines, or any other combination of Recyclable Materials approved by the City in accordance with state regulations.

“Compact and Compaction” means the process of, or to engage in the manual or mechanical compression of material.

“Council” means the governing body of the City.

“Curbside” means a location within three (3) feet of a City street, public access road, State or federal road. This does not allow Solid Waste or Recycling Receptacles to be placed on the inside of a fence or enclosure for Collection even if the Receptacle is within three (3) feet of said road or roads. For residences on “flag lots”, private roads, or driveways, “Curbside” shall be the point where the private road or driveway intersects a City street, public access road, State or federal road.

“Disposal” means the ultimate disposition of Solid Waste Collected by the Franchisee at a Disposal Site.

“Disposal Site” means land and facilities used for the Disposal, handling, or transfer of, or energy recovery, material recovery and Recycling from Solid Wastes, including but not limited to landfills, sludge lagoons, sludge treatment facilities, disposal sites for septic tank pumping or cesspool cleaning service, transfer stations, energy recovery facilities, incinerators for Solid Waste delivered by the public or by a Collection Service, composting plants and land and facilities previously used for Solid Waste Disposal at a land Disposal Site.

“Franchisee” means Republic Services of Corvallis, an Oregon corporation, granted a franchise pursuant to Section 2 of this ordinance or a subsequent ordinance. It also includes any sub-contractor to Republic Services of Corvallis operating within the Franchise Territory.

“Franchise Territory” means the area within the legal boundaries of the City of Corvallis, including any areas annexed during the term of this franchise, and all property owned by the City, outside City limits and within the urban growth boundary.

“Generator” means any Person whose act or process produces Solid Waste, Recyclable Materials, or Organic Debris or whose act first causes Solid Waste Recyclable Materials or Organic Debris to become subject to regulation. As used in this franchise, “Generator” does not include any Person who manages an intermediate function resulting in the alteration or Compaction of the Solid Waste or Recyclable Material after it has been produced by the Generator and placed for Collection.

“Green Feedstocks” include but are not limited to: yard debris, animal manures, wood waste (as defined in OAR 340-093-0030(94)), vegetative food waste, produce waste, vegetative restaurant waste, vegetative food processor by-products and crop residue. Green feedstocks may also include other materials approved by DEQ. Green Feedstock is a subset of Solid Waste.

“Gross Revenue” shall mean revenues derived from all sources of operations within the Franchise Territory allowed by law to be included within the term of Gross Revenue. No expenses, encumbrances, or expenditures shall be deducted from the Gross Revenue in determining the total Gross Revenue subject to the franchise fee, except net uncollectibles.

“Hazardous Waste” means any hazardous wastes as defined by ORS 466.005.

“Holidays” means legal holidays observed by the City of Corvallis.

“Household Hazardous Waste” means any discarded, useless or unwanted chemical, material, substance or product that is or may be hazardous or toxic to the public or the environment, is commonly used around households and is generated by the household.

“Industrial” means a Commercial customer whose waste is hauled directly to a disposal site in a customer dedicated container and the customer pays the actual cost of disposal. This definition applies only to Section 4.

“Infectious Waste” means as defined in ORS 459.386.

“Manual Frontload Service” means Servicing Commercial customer frontload style Receptacles where the Collection vehicle operator needs to exit the Collection Vehicle for any reason to service the container.

“Organic Debris” includes but is not limited to Green Feedstocks, Yard Debris, pre and post consumer food Waste (meat, poultry, fish, shellfish, bones, eggs, dairy products, bread, dough, pasta), food soiled paper (kitchen paper towels, uncoated paper takeout containers, pizza delivery boxes, paper napkins, waxed cardboard, and uncoated paper cups), Organic Debris is a subset of Solid Waste.

“Persons” means any individual, partnership, business, association, corporation, trust, firm, estate, joint venture, cooperative or other private entity or any public agency.

“Pilot Program” means a program which allows the Franchisee to offer Services on a trial basis for a limited duration of six months or less and to determine rates for such Services outside the approved rate structure. City approval is required prior to implementation of a pilot program.

“Public Rights-of-Way” includes, but is not limited to, streets, roads, highways, bridges, alleys, sidewalks, trails, multi-use paths, park strips, public easements on private property and all other public ways or areas, including surface of and the space above and below these areas, and includes any city-owned park, place, facility or grounds within the Franchise Territory that is open to the public.

“Putrescible Material” means organic materials that can decompose, which may create foul-smelling, offensive odors or products.

“Receptacle” means cans (owned by a customer), carts, bins, containers, drop boxes, or dumpsters used for the containment, Collection, and Disposal of Solid Waste.

“Recycling” means any process by which Solid Waste materials are transformed into new products where the Solid Waste materials may lose their identity.

“Recyclable Material” means any material or group of materials that can be Collected and sold for Recycling at a net cost equal to or less than the cost of Collection and Disposal of the same material. Recyclable Materials are a subset of Solid Waste.

“Residential” means property containing four dwelling units or less used for residential purposes irrespective of whether such dwelling units are rental units or are owner occupied.

“Resource Recovery” means the process of obtaining useful material or energy resources from Solid Waste, including reuse, Recycling, and other material recovery or energy recovery of or from Solid Wastes.

“Service” means the Collection, transportation, or Disposal of or Resource Recovery from Solid Waste by Franchisee.

“Solid Waste” means as defined in ORS 459.005.24 including but not limited to all useless or discarded Putrescible, non-putrescible and Recyclable Materials.

“Source Separation” means the separation of Solid Waste materials by the Generator in preparation for recovery by Recycling or reuse.

“Train System” means a group of small receptacles (typically 1-2 cubic yard capacity) placed in various locations around a customer’s property, by the customer and once full, either linked together or placed upon a trailer for transport and disposal to a larger Receptacle or compactor on the premises.

“Yard Debris” means grass clippings, leaves, hedge trimmings, and similar vegetative Solid Waste generated from Residential premises or landscaping activities but does not include stumps or similar bulky wood materials. Yard Debris is a subset of Solid Waste.

Section 2 - Grant of Authority and General Provisions

2.1 Franchise. Subject to the conditions and reservations contained in this ordinance, the Council hereby grants to Republic Services of Corvallis, the right, privilege, and exclusive franchise to Collect and transport Solid Waste, including Recyclable Materials, and Organic Debris, generated within the Franchise Territory in accordance with this ordinance and Corvallis Municipal Code.

2.2 Term. This franchise ordinance and the rights and privileges granted herein shall take effect June 1, 2013 and remain in effect through December 31, 2023 for a term of ten (10) years. If the City determines Service standards are not adequately being met, the City may re-open this franchise for renegotiation five (5) years from the effective date of this agreement or any date thereafter.

2.3 Written Acceptance. On or before the thirtieth (30th) day after this ordinance becomes effective, Franchisee shall file with the City a written acceptance of this ordinance, in a form approved by the City, executed by the Franchisee. Any failure on the part of Franchisee to file such written acceptance within such time shall be deemed an abandonment and rejection of the rights and privileges conferred hereby and this ordinance shall thereupon be null and void. Such acceptance shall be unqualified and shall be construed to be an acceptance of all the terms, conditions and restrictions contained in this ordinance.

2.4 Ownership of Waste. Once Solid Waste, Recyclable Materials, or Organic Debris are placed in Receptacles and properly placed for Collection, ownership and the right to possession of such material shall transfer directly from the Generator to Franchisee by operation of this agreement. Subject to the provisions of this agreement, the Franchisee shall have the right to retain any benefit resulting from its right to retain, Recycle, process, Dispose of, or reuse the Solid Waste, Recyclable Materials, and Organic Debris which it Collects. Solid Waste, Recyclable Materials, Organic Debris, or any part thereof, which is Disposed of at a Disposal Site or facility shall become the property of the owner or operator of the Disposal Site(s) or facility once deposited there by the Franchisee.

2.5 Hazardous Waste. Except as otherwise provided in this ordinance, the Franchisee is not required to store, Collect, transport, Dispose of or Resource Recover Hazardous Waste.

2.6 Separation of Waste. The City reserves the right to require the separation of component parts or materials in or from Solid Waste, and to require the deposit thereof in Receptacles or places and to prescribe the method of Disposal or Resource Recovery.

2.7 Franchise Exemptions. The franchise for the Collection and transportation of Solid Waste, Recyclable Materials, and Organic Debris granted to Franchisee shall be exclusive except as to the categories of Solid Waste, Recyclable Materials, and Organic Debris listed in this section. Nothing in this ordinance requires a franchise or permit for the following:

2.7.1 The Collection, transportation, and Recycling of Recycled Materials or the operation of a Collection center for Recycled Materials by charitable or non-profit organizations, provided they are not organized and operated for any Solid Waste management purpose.

2.7.2 The Collection, transportation or redemption of returnable beverage containers under ORS Chapter 459A or subsequent related legislation.

2.7.3 A Generator who transports and Disposes of Solid Waste created as an incidental part of regularly carrying on a business, such as auto wrecking; janitorial services; septic tank pumping, sludge (sludge ash, grit, and screenings) collection or disposal service; or gardening or landscape maintenance. "Janitorial service" does not include primarily Collecting Solid Waste generated by a property owner or occupant.

2.7.4 The transportation of Solid Waste, Recyclable Materials, or Organic Debris removed from any premises by the Generator, and transported personally by the owner or occupant of such premises (or by his or her full time employees) to any processing facility or Disposal Site with the exception that the owner, or agent of the owner, of a non-owner occupied dwelling unit may not remove and transport materials generated by a tenant.

2.7.5 Solid Waste, Recyclable Materials, or Organic Debris that is hauled by a contractor as an incidental activity associated with work performed by the contractor for another Person or work performed by the City. This includes, but is not limited to, a construction and demolition debris hauled by a company that is hired to remodel a home, or Yard Debris hauled by a landscaper that services a Commercial business. Such Solid Waste shall be generated by the contractor in connection with the contractor's work at said work site and hauled by the contractor and operated by the contractor's employees.

2.7.6 Government employees providing Solid Waste and Recycling Collection Services to government operations and facilities.

2.7.7 The acquisition of Source Separated materials from the Generator through a private arrangement with a Person.

2.7.8 Unless exempted by subsections above, or granted an exclusive franchise or license pursuant to this ordinance, no person shall solicit customers for Service, or advertise the providing of Service, or provide Service in the Franchise Territory.

2.8 Maps. Annually, or upon request, the Franchisee shall provide a map to the City showing Residential Collection schedules by day of the week. Franchisee shall provide such maps in an electronic format acceptable to the City and the Franchisee. In the event Franchisee re-routing significantly changes the days of Residential Collection, the Franchisee shall inform the City and provide an updated map.

2.9 City Authority. The City reserves the right to determine the Services authorized by this franchise agreement. The Council may amend this agreement at any time to include, authorize, or require new or revised services, based on information it receives from community groups, residents, or City staff.

Section 3 - Community Standards for Collection and Disposal of Solid Waste and Recyclable Materials

3.1 Collection Standards. Collection of Solid Waste and Recyclable Material shall be performed in such a way as to comply with all Federal, State and local environmental regulations. In addition the Franchisee shall:

3.1.1 Provide Solid Waste and Recycling Collection Services to any Person living within or conducting business within the Franchise Territory.

3.1.2 Collect Putrescible Material at least once each week.

3.1.3 Provide Collection of Infectious Waste as defined in ORS 459.387, either directly or through a qualified, licensed subcontractor. Collection shall be provided in a manner consistent with the requirements of all applicable laws and regulations.

3.1.4 Perform Collections a minimum of twice weekly in the business districts of the Franchise Territory. Downtown business district Collection hours are subject to Corvallis Municipal Code 4.01. Collection hours shall be scheduled to minimize noise and disruption to residents in or near the downtown business district.

3.1.5 Perform Curbside Collections of Putrescible Solid Waste and Recyclable Materials at least once weekly in Residential districts or as often as required by ORS 459 and ORS 459.A. Collection hours shall be between the hours of 7:00 am and 6:00 pm. All Collections shall be made as safely, efficiently, and quietly as possible. The Franchisee, under special circumstances, may request in writing that collection hours be temporarily extended. No changes shall be implemented without prior written approval from the City.

3.1.6 Provide Collection of Residential Solid Waste, Recyclable Materials, and Organic Debris Receptacles on the same day of the week. Franchisee shall not be required to go into garages or other buildings to make pick-ups at residences, nor shall the Franchisee be required to go into closed areas, through enclosed gates, or up or down stairs to make pick-ups.

3.1.7 Provide will-call Service for Residential and Commercial customers with Collection to be completed on the next scheduled route day for that neighborhood or service district.

3.1.8 Use due care to prevent Solid Waste from being spilled or scattered during Collection. If any Solid Waste or Recyclable Material is spilled during Collection, Franchisee shall promptly clean up all spilled materials. All Receptacle lids must be replaced after contents are emptied and the Receptacle shall be returned to its original position, if that original position does not jeopardize the safety of motorists, pedestrians or bicyclists.

3.1.9 Use reasonable care in handling all Collection Receptacles and enclosures. Damage caused by the negligence of the Franchisee's employees to private property, including landscaping, is the responsibility of the Franchisee and shall be promptly remedied with the owner.

3.1.10 Ensure that all Solid Waste Collection operations shall be conducted as quietly as possible and shall conform to applicable Federal, State, County and City noise emission standards. Unnecessarily noisy trucks or equipment are prohibited. The City may conduct random checks of noise emission levels to ensure such compliance.

3.1.11 Determine, with approval of the City, the maximum allowable capacity of Collection Receptacles. If the Franchisee refuses to Service an overweight Receptacle, a notice describing the problem must be provided. The notice shall include the name of Franchisee and alternative solutions to resolve the problem and a local phone number for additional information. In the resolution of this situation, the Franchisee must provide Service equivalent to the customer's subscribed Service level at no additional charge.

3.1.12 Offer unlimited vacation credits to customers who temporarily discontinue Service in a calendar year for any period of three (3) consecutive weeks or more. The customer must request the discontinuance no later than noon on the business day, excluding weekends, prior to the date of discontinuance.

3.1.13 Notify in the event of changes to the Collection schedule, all affected customers at least seven (7) calendar days prior to any change. The Franchisee shall not permit any customer to go more than eight (8) calendar days without Service in connection with a Collection schedule change.

3.1.14 Have the option to refuse Collection Service upon non-payment of a billing or portion of a billing after account becomes forty-five (45) days past due, or upon refusal to pay required advance payments, delinquent charges, or charges associated with starting a new Service. Franchisee may withhold Collection Services, providing at least a ten (10) day notice is given to the customer.

3.1.15 Continue Collection Services except in cases of street or road blockage, excessive weather conditions, acts of God, or customer violations of public responsibilities beyond the Franchisee's control. Adverse labor relations issues such as strikes or walkouts, shall be considered to be within the control of the Franchisee and shall not prevent Collection and Disposal Services as required by this ordinance.

3.1.16 Franchisee shall Resource Recover Collected Recyclable Materials and Dispose of remaining useless Solid Waste at a Disposal Site permitted by the Oregon Department of Environmental Quality (DEQ) or equivalent state agency and approved by the City. The City retains the option to direct the Franchisee to a different licensed and permitted Disposal Site other than the Disposal Site currently in use at that time. A review of a new Disposal Site shall be conducted by the City with cooperation from the Franchisee to determine if the Disposal Site meets the operational requirements of the Franchisee, including but not limited to daily capacity, truck access, and site longevity. City shall provide written notice to Franchisee not less than ninety (90) days before effective date of the change. The Franchisee has thirty (30) days to respond in writing. If the Franchisee can demonstrate a City-directed change in Disposal Site increases the Franchisee's expenses, a special rate review may be requested.

3.1.17 The Franchisee and City shall explore a rate structure based on Disposal weights (Pay As You Throw) rather than volume for Commercial customers within the first three (3) years of this agreement, including a review of the availability of the technology required to accurately charge customers.

3.2 Recycling Standards. Recycling Services shall include the following:

3.2.1 For Residential customers with regular weekly Service, provide Curbside Residential Recyclable Material Collection Receptacles including one (1) Recycle cart, one (1) Recycle bin and one (1) Organic Debris cart or composter at no additional charge.

3.2.2 For Residential customers and non-customers, Commingled Recyclables shall be Collected Curbside once each week on a designated Collection day. Motor oil shall be Collected weekly from Curbside when placed in a Franchisee-approved container. Glass shall be Collected on the first normal Collection day in the first full week of each month.

3.2.3 There shall be the opportunity for apartments, multi-family households and units, and Commercial customers to have Commingled Recyclables Collected at least once each week on a designated Collection day. Glass shall be Collected on the first normal Collection day in the first full week of each month. Materials shall be Collected Curbside or in a designated Collection center in cooperation with the building owner or manager. These customers shall also have the opportunity to Recycle wood and Organic Debris.

3.2.4 Organic Debris Receptacles for Residential customers shall be Collected every week on the same day as Solid Waste Collection. Organic Debris must be Disposed at a compost or vermiculture facility registered with the Oregon Department of Environmental Quality or equivalent state agency.

3.2.5 Recycling-only customers shall be offered Recycling Receptacles and be provided weekly Recycling Service at a rate approved by the City.

3.2.6 Commercial Recycling Service includes Receptacles provided at no additional charge with the exception of drop boxes.

3.2.7 For large quantities of cardboard, the frequency of Service shall be determined by an agreement between the Generator and the Franchisee. Agreements shall give due consideration to the volume of the material, storage capacity of Generator, and Generator's location.

3.2.8 Franchisee must provide notice to customers if Recyclable Material is not Collected due to improper preparation. Notice must include adequate explanation of refusal for Collection and local phone number for additional information. Franchisee shall leave notice securely attached to the customer's Receptacle or the customer's front door. The Franchisee shall Collect any properly prepared material that is accessible. The purpose of the notice is to educate residents and increase program participation, and shall be written in such a manner as to accomplish this purpose.

3.2.9 Operate and maintain at least one (1) Collection center (Recycling depot) within the Franchise Territory that permits Persons to deliver recyclables to the site. The Collection center shall be open from 7:00 am to 7:00 pm, seven (7) days per week to the public. When open, an employee knowledgeable in Recycling will be available to respond to questions or comments. Site shall accommodate at a minimum all Recyclable Materials Collected at Curbside plus compact florescent bulbs, household batteries, electronics, plastic film, and scrap metal. Restrictions on the size of these materials can be imposed by the Franchisee with approval of the City. Other materials shall be Recycled when it is technologically or economically feasible to do so.

3.2.10 Facilitate a reuse program referring useable items to local thrift shops, resale shops, non-profit groups or others who may have a legitimate use for the item. Maintain a list of businesses and groups that submit requests for needed items, and provide this information to others as requested.

3.2.11 Provide links from the Franchisee's website to other websites for businesses and individuals to post re-usable items. Franchisee shall promote the use of the website and provide informational and educational content on their website on the value of reusing materials.

3.2.12 Be responsible for ensuring a local compost demonstration site operates within the Franchise Territory, which offers information and advice for composters. Franchisee shall conduct at least two (2) composting workshops annually.

3.3 Public Education. Franchisee shall provide the following public education and promotion of activities for Solid Waste reduction, Recycling, reuse, and Source Separation, and cooperate with other Persons, companies, or local governments providing similar services. Franchisee shall:

3.3.1 Provide a Recycling information center within the Franchise Territory, with local telephone access and information concerning Collection schedules, Recycling locations, Recyclable Material preparation, conservation measures, reuse programs, Solid Waste reduction strategies and on-site demonstration projects. Recycling information booths at appropriate community events within the Franchise Territory shall also be provided by Franchisee to promote and increase Recycling and waste reduction awareness and participation.

3.3.2 Provide Recycling notification and educational packets for all new Residential and Commercial customers specifying the Collection schedule, materials Collected, proper material preparation, reuse programs, Solid Waste reduction strategies and Recycling benefits.

3.3.3 Provide quarterly informational newsletters to residences and businesses in the Franchise Territory that includes at least annually: the types of Recycled Materials Collected, the schedule for Collection, information about Solid Waste reduction, reuse opportunities, and proper handling and Disposal of Household Hazardous Waste and electronic Solid Waste. Special Franchisee events, holiday tree removal, and the leaf Collection program shall also be promoted. Franchisee shall submit all promotional materials to the City for review prior to publication or distribution to customers. If in the determination of the City, newsletters fail to provide annually the information outlined in this section, the City can require the Franchisee obtain City approval prior to publication for all subsequent newsletters. Informational newsletters shall be distributed to all mailing addresses within the Franchise Territory.

3.3.4 Maintain an internet website that includes a listing of all franchised Solid Waste and Recycling Services, applicable rates charged for such Services, and detailed information about what materials are Collected with each Service, such as materials included in Commingled Collection, updated regularly. The site shall also include Collection schedules for Organic Debris and glass, and Collection schedule changes during weeks affected by a Holiday.

3.3.5 Conduct at least twice annually, workshops on Solid Waste reduction strategies and reuse opportunities. Perform Solid Waste audits for Commercial customers when requested.

3.3.6 Coordinate with 509J school district and local private schools to assist in promoting awareness of Recycling and Solid Waste reduction strategies to children, and to cooperate in their Recycling efforts and programs.

3.3.7 Promote Solid Waste reduction and Recycling education through local widespread media, such as radio or newspapers, no less than twenty (20) times each year. Promotional information shall focus on Recycling, reuse and Solid Waste reduction strategies.

3.3.8 Provide the City with sufficient copies of all promotional fliers and other related information as requested.

3.3.9 Conduct a survey every three (3) years to evaluate customer participation in Recycling programs and customer opinion of Solid Waste and Recycling Services offered by the Franchisee. Results shall be used to evaluate existing Solid Waste Services and determine the need for additional and or enhanced Services. The City may also conduct an annual survey to evaluate customer participation and customer opinion. Significant statistical changes in either survey shall afford the City the option to renegotiate Section 3 of this agreement.

3.3.10 Have at least one employee dedicated to supporting the required educational and promotional activities within the Franchise Territory.

3.4 Resource Recovery Services.

3.4.1 Aggressively seek markets for reusable, Recyclable, and recoverable materials.

3.4.2 Research and develop improved Resource Recovery systems through Franchisee's specialist or other sources.

3.4.3 Develop strategies to promote the reduction of Solid Waste generated by Residential and Commercial customers. Continue or implement programs that encourage Generators to prevent or reduce materials which would otherwise constitute Solid Waste.

3.4.4 Review high-volume Resource Recovery facilities and implement a local or regional program when the City and Franchisee mutually agree on the technological and economic feasibility.

3.5 County Wasteshed. Coordinate Recycling efforts with other Solid Waste Collection efforts in the Benton County Wasteshed to further enhance Recycling and recovery efforts, and to meet wasteshed recovery goals as mandated by the State.

3.6 Additional Recycling Requirements.

3.6.1 The City reserves the right to require specific materials to be separated, Collected and Recycled.

3.6.2 Franchisee shall provide other Recycling Services as required by Oregon Revised Statute 459 or 459.A, ordinance, or municipal code, as amended, or by direction of the Council.

3.6.3 Franchisee shall endeavor to Recycle additional materials and to provide for an on-site Collection center for Household Hazardous Waste when economically feasible.

3.7 Community Service Standards.

3.7.1 Franchisee shall provide a one (1) day Household Hazardous Waste Collection event, quarterly, for Franchise Territory residents only, at no additional charge. Residents of the Franchise Territory shall be notified at least thirty (30) days in advance of each Collection event.

3.7.2 Franchisee shall also provide an annual small quantity Generator Hazardous Waste Collection event for Commercial customers within the Franchise Territory. Commercial customers shall be notified at least fifteen (15) days in advance of the Collection event.

3.7.3 Franchisee shall provide an annual Residential Recycling event at one (1) location in the Franchise Territory, for the Collection of Recyclable Materials, Yard Debris and scrap metal, at no additional charge.

3.7.4 Franchisee shall provide Collection and Recycling of holiday trees placed at Curbside for a period of three (3) weeks, after December 25th of each year, at no additional charge.

3.7.5 Franchisee shall provide an effective annual fall leaf Collection and Disposal Service within the Franchise Territory at no additional charge. Franchisee shall coordinate leaf Collection schedules as directed by the City. Program specifics, including the Collection schedule start date, shall be determined in writing at least two (2) months before the program begins. Leaf Collection shall last a minimum of eight (8) weeks but no more than ten (10) weeks. Franchisee shall provide daily Collection of leaves on streets with bicycle lanes in a manner that minimizes disruption of bicycle lane use and maximizes safety.

3.7.6 Franchisee shall provide twice weekly Solid Waste Collection and Disposal Service of public litter Receptacles placed along normal Collection routes, primarily in the central business district of the Franchise Territory. The locations, quantities and sizes for Service of public receptacles shall be mutually agreed upon between the City and Franchisee, in accordance with a written list that shall be kept updated and on file with the City. The cost to the Franchisee for providing this Service shall be included in the financial reports filed with the City.

3.8 Additional Services. Where a new Service or a substantial expansion of an existing Service is proposed by the City, another Person or the Franchisee the following shall apply.

3.8.1 If Service is proposed by the City, the Franchisee shall receive prior written notice of the proposed Service and justification by the City. If Service is proposed by the Franchisee, the City must be notified in writing prior to any consideration by the City. If service is proposed by another Person, both the City and the Franchisee must be notified in writing prior to any consideration by the City. The proposal shall include detailed information on how all affected customers within the Franchise Territory will receive the Service.

3.8.2 The City shall afford the public an opportunity to comment on the proposed Service and justification.

3.8.3 In determining whether the Service is needed, the City shall consider the public need for the Service, the effect on rates for Service, whether the Franchisee is already providing the Service or is willing to provide it, and the impact on other Services being provided or planned, the impact on any city, county or regional Solid Waste management plan, and compliance with any applicable statutes, ordinances or regulations.

3.8.4 If the City determines the Service is needed, the Franchisee shall have the option to provide the Service on a temporary basis through a Pilot Program to determine if the Service is functional on a permanent basis or the Franchisee may agree to provide the Service on a permanent basis within a specified time mutually acceptable to the City and the Franchisee.

3.8.5 If the Franchisee rejects the Service, the City may issue a license or franchise to another Person to provide only that Service. The provider of the limited Service shall comply with all applicable provisions of this ordinance.

3.9 Special Service.

3.9.1 With approval of the City, the Franchisee may negotiate a separate Collection and Disposal agreement with Oregon State University provided the institution continues to fund and operate its own comprehensive Recycling program. Revenues generated by such an agreement shall be included within the definition of Gross Revenue. Any other request for special Service shall require prior City approval including the proposed rates.

3.9.2 Where a customer requires an unusual Service requiring added or specialized equipment solely to provide that Service, the Franchisee may require a contract with the customer to finance and assure amortization of such equipment. The purpose of this subsection is to assure that such excess equipment or specialized equipment not become a charge against other ratepayers, if the customer later withdraws from Service.

3.10 Sub-Contract. Franchisee may sub-contract with other Persons to provide specialized or temporary Service covered by this franchise, but shall remain totally responsible for compliance with this agreement. Franchisee shall provide written notice to the City of intent to sub-contract Services prior to entering into agreements. If sub-contracting involves a material portion of the franchised Service, the Franchisee shall seek the approval of the City.

3.11 Equipment and Facility Standards.

3.11.1 All equipment shall be kept well painted, and properly maintained in good condition. Vehicles and Receptacles used to transport Solid Waste shall be kept reasonably clean to ensure no contamination to the environment or the stormwater system.

3.11.2 All vehicles and other equipment shall be stored in a safe and secure facility in accordance with applicable zoning and environmental regulations.

3.11.3 Trucks shall be equipped with a leak-proof metal body of the compactor type including front, rear, or automatic loading capabilities.

3.11.4 Pick-up trucks, open bed trucks or specially designed, motorized Collection vehicles used for the transporting of Solid Waste must have bodies that are leak-proof to the greatest extent possible and have adequate cover over the loads to prevent scattering of debris.

3.11.5 All fuel, oil, or vehicle fluid leaks or spills which result from the Franchisee's vehicles must be cleaned up immediately. All vehicles must carry an acceptable absorbent material for use in the event of leaks or spills. Damage caused by fuel, oil, or other vehicle fluid leaks or spills from Franchisee's vehicles or equipment shall be remedied at Franchisee's expense.

3.11.6 Collection equipment shall use biodegradable hydraulic oils, as it remains available, to provide an environmentally friendly operation.

3.11.7 All vehicles used by the Franchisee in providing Solid Waste and Recycling Collection Services shall be registered with the Oregon Department of Motor Vehicles and shall meet or exceed all legal operating standards. In addition, the name of the Franchisee, local telephone number and vehicle identification number shall be prominently displayed on all vehicles.

3.11.8 No Collection vehicles shall exceed safe loading requirements or maximum load limits as determined by the Oregon Department of Transportation. Franchisee shall endeavor to purchase and operate equipment that minimizes damage to Public Rights-of-Way.

3.11.9 When new purchases are scheduled, the Franchisee shall purchase, if available, alternative fuel/hybrid Collection equipment that meets Collection Service requirements.

3.11.10 Franchisee shall provide and maintain equipment that meets all applicable laws, ordinances, municipal codes, and regulations or as directed by the City.

3.11.11 Franchisee shall provide and replace as necessary, Solid Waste Collection Receptacles and composters at no charge to the public. Residential Curbside Receptacle sizes offered by the Franchisee for garbage Collection shall include twenty (20), thirty-two (32), sixty-four (64), and ninety (90) gallon capacities, or be as close to above stated sizes as possible. Organic Debris Receptacles shall be ninety (90) gallon capacity. Standard Commingled Recyclables Receptacles shall be sixty-four (64) gallon capacity. Solid Waste Receptacles shall be leak-proof, rigid, fire-resistant, and of rodent-proof construction and not subject to cracking or splitting. All new Residential Receptacles shall be constructed from the highest percentage of Recycled material available at the time of purchase. The City has the right to approve all Receptacles provided by the Franchisee for use in the Franchise Territory and may require additional or alternative Receptacle sizes. Colors of Receptacles shall remain consistent with colors currently in use.

3.11.12 Franchisee shall clean Receptacles once annually if requested by customer for no additional charge. If Franchisee determines such Receptacles are becoming a health hazard, requiring more frequent cleaning, such Service shall be an additional maintenance charge to the customer.

3.11.13 In cooperation with the Corvallis Police Department, the Franchisee shall remove graffiti from all Receptacles or facilities within forty-eight (48) hours of notice.

3.11.14 All surface areas around Franchisee's site facilities including vehicle and equipment storage areas, service shops, wash stations, transfer sites, Collection centers, and administrative offices must be kept clean to eliminate direct site run-off into the stormwater and open drainage system and to present an inviting environment for customers.

3.12 Safety Standards. The Franchisee shall operate within guidelines of the Oregon Refuse and Recycling Association, Oregon Department of Transportation, Oregon Public Utility Commission, Oregon Occupational Health and Safety Administration, Department of Environmental Quality, Corvallis Municipal Code and all other rules and regulations as they apply.

3.12.1 The Franchisee shall provide suitable operational and safety training for all of its employees who maintain, use, or operate vehicles, equipment, or facilities for Collection of Solid Waste or who are otherwise directly involved in such Collection. Employees involved in Collection Services shall be trained to identify, and not to Collect, Hazardous Waste or Infectious Waste. Employees who do handle such Solid Waste shall be properly trained.

3.13 Right-of-Way Standards. The Franchisee shall ensure proper and safe use of Public Right-of-Ways in accordance with Municipal Code, and provide compensation to the City in consideration of the grant of authority to operate a Solid Waste Collection and Disposal system in the Franchise Territory as directed in this agreement.

3.14 Customer Service Standards. Franchisee shall:

3.14.1 Provide sufficient Collection vehicles, Receptacles, facilities, personnel and finances to provide all types of necessary Services as determined by the City.

3.14.2 Sufficiently staff, operate and maintain a business office and operations facility within the Franchise Territory.

3.14.3 Provide minimum office hours of 8:00 am through 5:00 pm, Monday through Friday, not including Holidays.

3.14.4 Maintain a minimum of three (3) payment drop-off boxes within the Franchise Territory.

3.14.5 Provide for customers to pay their bills at the Franchisee's local office using check, money order, debit or credit cards. For customers that wish to pay in cash, the Franchisee must facilitate and pay for money order transaction fees. The Franchisee must provide multiple locations in the Franchise Territory for customers to generate money orders at no additional cost.

3.14.6 Ensure a responsive, customer service oriented business. Provide customers with a local telephone number, listed in a local directory, to a business office located within the Franchise Territory. Adequately staff operations to provide prompt response to customer service requests or inquiries and respond promptly and effectively to any complaint regarding Service. Calls received by 1:00 pm by office staff shall be returned the same day as received, and by noon of the following day if the call is received after 1:00 pm.

3.14.7 Train Collection crews prior to them beginning Solid Waste and Recycling Collection, and office staff prior to having public contact. The scope of the training shall include, but is not limited to, acceptable safety practices, acceptable standards of Service to the public, courteous customer service, and accuracy and completeness of information. All information conveyed to a customer or inquiring person shall be consistent with established service standards.

3.14.8 Require all employees of the Franchisee and all employees of companies under contract with Franchisee to present a neat appearance and conduct themselves in a courteous manner. The Franchisee shall require its drivers and all other employees who come into contact with the public, to wear suitable and acceptable attire which identifies the Franchisee.

3.14.9 Designate at least one (1) qualified employee as supervisor of field operations. The supervisor shall devote an adequate portion of his/her workday in the field checking on Collection operations, including responding to issues.

3.15 Quarterly Reporting Standards. Franchisee shall provide quarterly reports to the City within 30 days of the end of the preceding quarter.

3.15.1 Reports shall include a written log of all oral and written complaints or Service issues registered with the Franchisee from customers within the Franchise Territory. Franchisee shall record the name and address of complainant, date and time of issue, nature of issue, and nature and date of resolution. The City may require more immediate reports documenting complaints and resolutions.

3.15.2 Provide a summary of educational and promotional activities as required in sub-section 3.3.

3.15.3 Provide detailed quarterly tonnage information on Solid Waste, Recyclable Materials, and Yard Debris Collected within the Benton County watershed.

3.16 Annual Reporting Standards. Franchisee shall keep current, accurate records of account. The City may inspect the records of account any time during business hours and may audit the records from time to time. If an audit of the records is required, the cost of such satisfactory independent audit shall be the responsibility of Franchisee. The Franchisee shall submit to the City a report annually, no later than March 1st of each year, documenting the activities and achievements of all programs undertaken pursuant to this franchise for the previous year. The City shall evaluate the effectiveness of the programs in terms of the amount, level, and quality of the Services provided by the Franchisee. The report shall include the following specified information:

3.16.1 Total franchise payments remitted and basis for calculations;

3.16.2 Year-end financial statements of the Franchisee for Service within the Franchise Territory, including:

Calculated as a percentage of Republic Services of Corvallis Gross Revenue:

- Summary of financial highlights
- Statement of income and retained earnings
- Schedule of expenses

For the whole Republic Services of Corvallis division:

- Balance sheet
- Statement of Cash Flows (direct method)

3.16.3 Solid Waste Collected monthly within the Benton County watershed by Franchisee in tons, listed separately for Residential and Commercial Customers.

3.16.4 Recyclable Materials Collected monthly within the Benton County watershed by Franchisee in tons (listed separately for Residential Curbside, Recycling depot, and Commercial Customers) and the Disposal Sites used.

3.16.5 Yard Debris Collected monthly within the Benton County watershed by Franchisee in tons and the Disposal Site used.

3.16.6 Annual Recycling data as submitted to the Benton County Environmental Health Division.

3.16.7 A fixed asset list or an inventory by size and type of all Receptacles and Collection equipment.

3.16.8 Customer information that identifies each customer account type (e.g. 1 cubic yard Container with 1 pick-up per week) and the number of customers receiving such Service.

3.16.9 In appropriate years, a summary of the customer survey as required in sub-section 3.3.9.

3.16.10 Discussion of industry trends and the direction of franchisee over the next five years.

3.16.11 Summary of research related to section 3.4.2.

3.16.12 Summary of the community outreach through the media (where, what, when).

3.16.13 Summary of activities related to sections 3.11.6 and 3.11.9.

3.16.14 Other information pertaining to performance standards specified in the franchise agreement.

Section 4 - Rates

4.1 Rate Structure. The City reserves the right to approve the rate structure of the Franchisee, and to require specific Services

4.1.1 The Franchisee shall provide to the City a certified copy of the published rate schedule which shall contain the rates and charges made for all its operations. The rate schedule shall be kept current.

4.1.1.1 Rates established by Council are fixed rates and the Franchisee shall not charge more or less than the fixed rate unless changed pursuant to Section 4. The Franchisee shall not charge rates not in the rate schedule.

4.1.1.2 Rates for a given Service must be established under the provisions of these guidelines before such Service can be provided to customers unless Services are being offered under a Pilot Program. If the City determines the Franchisee is providing Services for a fee without following these guidelines, the City may require the Franchisee to continue providing such Services at no charge to the customer until such time as the rates are approved as described under Section 4. If rates are not approved, Service shall be discontinued and Franchisee shall take full responsibility in explaining to customers as to why the Service is no longer being provided.

4.1.2 Annually, on January 1 of each year, the franchisee may adjust rates for services utilizing the weighted Refuse Rate Index below up to four percent (4%). Adjustments exceeding four percent (4%) require City Council approval. For adjustments requiring City Council approval, the Franchisee must submit the materials required in Section 4.1.3.2 for City and City Council review.

Refuse Index Percentage Weights by Customer Category

	Industrial	Commercial	Residential
Collection - CPI	100%	78%	82%
Disposal - Garbage	0%	18%	11%
Disposal - Organics	0%	4%	7%
	100%	100%	100%

Rate Refuse Index Rate Modifiers

- o percent (%) change from the previous and current year's Half1 Portland-Salem All Urban Consumers Price Index (CPI) not seasonally adjusted.
- o percent (%) change in garbage disposal fees (per ton) from previous June 30 to the current June 30.
- o percent (%) change in organics disposal fees (per ton) from previous June 30 to the current June 30.

Residential Example:

	Index or Cost June 30, 2011 (Half 1)	Index or Cost June 30, 2012 (Half1)	% Change	Weight	Adjustment
Collection	223.105	228.746	2.53%	82%	2.05%
Disposal - Garbage	\$ 26.85	\$ 27.15	1.12%	11%	0.12%
Disposal - Organics	\$ 30.00	\$ 30.75	2.50%	7%	0.18%
Total adjustment					<u>2.35%</u>

4.1.2.1 Customers shall be notified of the new rates at least thirty (30) days prior to new rates taking effect.

4.1.2.2 The City shall be provided an adjusted rate sheet, an electronic spreadsheet illustrating how the new rates were calculated, and a copy of the CPI sixty (60) days prior to the rates taking effect.

4.1.2.3 Rates shall be rounded to the nearest cent (\$.01).

4.1.3 In addition to Section 4.1.2., rates shall be subject to review and change only one (1) time in a calendar year, beginning January 1 and ending December 31; provided:

4.1.3.1 The City may, with appropriate documentation submitted by Franchisee, grant an interim or emergency rate for new, special or different Service affecting less than 1% of a customer group, including Pilot Programs, for up to six (6) months before Council review.

4.1.3.2 An application for a rate adjustment may be made when the cost of Collection is increased by governmental regulations, when there is a new service offered, or when there is a substantial new expense. Franchisee shall notify the City immediately when any of the above new expenses becomes known to the Franchisee. Failure to immediately notify the City may result in the denial of a related future rate adjustment application. The Franchisee shall submit to the City, at least ninety (90) days prior to any contemplated change, a complete packet of information justifying the requested change. Information required in the packet shall include a breakdown of Residential, Commercial, Industrial and other rates by component (disposal, operating, and other), financial information and statistics relating to each component, a written justification for the rate adjustment, and other information as requested by the City. Proposal information shall be examined by Council in an appropriate public proceeding affording due process. Based on the information the Franchisee submits, the Council may grant some, all, or none of the requested rate change. In the event of denial, the current rate schedule remains in effect and the Franchisee may file with the Council further information to justify the rate schedule changes.

4.1.4 The approved rate schedule, as of the effective date of this ordinance, shall be deemed to be in effect.

Section 5 - Financial

5.1 Compensation. In consideration of the rights and privileges granted by this ordinance, the Franchisee shall pay to the City of Corvallis, five (5) percent per annum of its Gross Revenues derived from all Services within the Franchise Territory including the sale of Recyclable Material. Franchisee shall also pay five (5) percent per annum of the Gross Revenues derived from franchised Services, as defined in this ordinance, earned by Persons under contract to, or under the employment of the Franchisee.

5.1.1 The compensation required in this section shall be due on or before the last business day of each and every month for the month preceding. Franchisee shall furnish with each payment, a notarized statement, executed by an officer of Franchisee, showing the amount of Gross Revenue of the Franchisee within the Franchise Territory for the period covered by the payment computed on the basis as determined by sub-section 5.1, Compensation. If Franchisee fails to pay the entire amount of compensation due to the City through error or otherwise within the time allotted for, the unpaid balance shall be subject to a late penalty of an additional ten (10) percent, plus interest of two (2) percent per month on the amount of fee due and unpaid from the date due until it is paid together with the late penalty.

5.1.2 In the event the Franchisee is prohibited by State or federal law from paying a fee based on Gross Revenues or the City is prohibited by State or federal law from collecting such a fee, or if any legislation reduces the actual or projected amount of compensation collected in any given year, the City has the right to renegotiate the compensation section of this franchise agreement.

5.1.3 Franchisee shall not separately identify its franchise fee on billing statements to customers.

5.1.4 Nothing contained in this franchise shall give the Franchisee any credit against any ad valorem property tax levied against real or personal property within the Franchise Territory, or against any local improvement assessment or any business tax imposed on Franchisee, or against any charges imposed upon Franchisee including permit and inspections fees or reimbursement or indemnity paid to the City.

5.2 Insurance. Franchisee shall pay, save harmless, protect, defend and indemnify the City from any loss or claim against the City on account of, or in connection with, any activity of Franchisee in the operation or maintenance of its facilities and Services except those that arise out of the sole negligence of the City. Franchisee shall, for the purposes of carrying out the provisions of this agreement, have in full force and effect, and file evidence with the City the following requirements:

5.2.1 Workers' Compensation insurance as required by Oregon Law, including Employers Liability Coverage.

5.2.2 Commercial General Liability insurance as broad as Insurance Services Office (ISO) form CG 00 01, providing Bodily Injury, Property Damage and Personal Injury on an occurrence basis with the following as minimum acceptable limits:

Bodily Injury and Property Damage - Each Occurrence	\$1,000,000
Personal Injury - Each Occurrence	\$1,000,000
Products & Completed Operations - Aggregate	\$2,000,000
General Aggregate	\$2,000,000

5.2.3 Business Automobile Liability as broad as Insurance Services Office (ISO) form CA 00 01, providing bodily injury and property damage coverage for all owned, non-owned and hired vehicles, with the following as minimum acceptable limits:

Bodily Injury and Property Damage - Each Occurrence	\$1,000,000
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5.2.4 Franchisee shall furnish the City with Certificates of Insurance and with original endorsements for each insurance policy (if needed). All certificates and endorsements are to be received and approved by the City before the effective date of this ordinance. The Commercial General Liability Certificate shall name the City of Corvallis, its officers, officials, employees and agents as Additional Insured as respect to operations performed under this franchise agreement. Franchisee shall be financially responsible for all pertinent deductibles, self-insured retentions and/or self insurance. All such deductibles, retentions, or self-insurance must be declared to and approved by the City.

5.2.5 Any Certificate shall state, "Should any of the above described policies be canceled before the expiration date thereof, the issuing company will mail thirty (30) days written notice to the certificate holder named to the left." Any "will endeavor to" and "but failure to mail such notice shall impose no obligation or liability of any kind upon the company, its agents or representatives." shall be omitted.

5.3 Hold Harmless. The Franchisee agrees to indemnify, defend and hold harmless the City, its officers, employees, volunteers and agents from any and all claims, demands, action, or suits arising out of or in connection with the Council's grant of this franchise. Franchisee shall be responsible to defend any suit or action brought by any person challenging the lawfulness of this franchise or seeking damages as a result of or arising in connection with its grant; and shall likewise be responsible for full satisfaction of any judgment or settlement entered against the City in any such action. The City shall tender the defense to the Franchisee and Franchisee shall accept the tender whereupon the City shall assign to Franchisee complete responsibility of litigation including choice of attorneys, strategy and any settlement.

5.3.1 The Franchisee's costs incurred in satisfying its obligations as defined in 5.3 above, shall not decrease the total amount of revenue paid to the City and shall not increase the total amounts paid by the ratepayers for which the Franchisee serves under the authority of the franchise agreement. All such expenses shall be the sole responsibility and burden of the Franchisee.

5.4 Damages. Damages and penalties include, but shall not be limited to, damages arising out of personal injury, property damage, copyright infringement, defamation, antitrust, errors and omissions, theft, fire, and all other damages arising out of Franchisee's exercise of this franchise, whether or not any act or omission complained of is authorized, allowed, or prohibited by this franchise.

Section 6 - Administration and Enforcement

6.1 Customer Dispute Resolution Process.

6.1.1 Any citizen of Corvallis who is aggrieved or adversely affected by any application of the franchise or policy of the Franchisee shall first attempt to settle the dispute by notifying the Franchisee of the nature of the dispute and affording the Franchisee the opportunity to resolve the dispute.

6.1.2 If the dispute is unresolved, the citizen may contact the City. The City may require a written description of the dispute from either party, and shall attempt to mediate and resolve the grievance with the citizen and the Franchisee.

6.1.3 If the dispute is still unresolved, the citizen or the Franchisee may appeal to the Council who shall hear the dispute. The decision of the Council shall be final and binding.

6.2 Penalties and Procedures. Subject to the requirement of prior notice as set forth in Section 6.3 below, for violations of this ordinance occurring without just cause, the City may assess penalties against Franchisee as follows:

6.2.1 For failure to adhere to material provisions of this franchise, as defined in Section 6.4.1, the penalty shall be Five Hundred Dollars (\$500.00) per day per occurrence for each provision not fulfilled.

6.2.2 For failure to comply with Oregon Occupational Safety and Health Administration and Oregon Department of Transportation safety requirements or Oregon Department of Environmental Quality rules and regulations, the penalty shall be Five Hundred Dollars (\$500.00) per day, per occurrence.

6.2.3 For failure to comply with any provision of this franchise, for which a penalty is not otherwise specifically provided, the penalty shall be Two Hundred Fifty Dollars (\$250.00) per day, per occurrence.

6.2.4 For failure to comply with reasonable requests of the City related to Service, the penalty shall be One Hundred Fifty Dollars (\$150.00) per day per request.

6.3 Procedure for Imposition of Penalties.

6.3.1 Whenever the City finds that the Franchisee has violated one (1) or more terms, conditions or provisions of this franchise, a written notice, or a verbal notice followed by a written notice, shall be given to Franchisee informing it of such violation or liability. If the violation concerns requirements mandated by the Oregon Occupational Health and Safety Administration or the Oregon Department of Environmental Quality, a verbal notice followed by a written notice may be given. For these safety or public health violations, Franchisee shall have twenty-four (24) hours from notification to correct the violation. For all other violations and liabilities, the written notice shall describe in reasonable detail the specific violation so as to afford Franchisee an opportunity to remedy the violation. Franchisee shall have ten (10) days subsequent to receipt of the notice in which to correct the violation. Franchisee may, within five (5) days of receipt of notice, notify the City that there is a dispute as to whether a violation or failure has, in fact, occurred. Such notice by Franchisee to the City shall specify with particularity the matters disputed by Franchisee.

6.3.2 The Council shall hear Franchisee's dispute at its next regularly or specially scheduled meeting. The Council shall supplement the decision with written findings of fact.

6.3.3 If, after hearing the dispute, the claim is upheld by the Council, Franchisee shall have ten (10) days from such a determination to remedy the violation or failure. Penalties shall accrue from time of initial notification until such time as the violation or failure is resolved to the satisfaction of the City.

6.3.4 Franchisee shall be liable for full payment of all penalties imposed under this section.

6.4 City's Right to Revoke. In addition to all other rights which the City has pursuant to law or equity, the Council reserves the right to revoke, terminate, or cancel this franchise, and all rights and privileges pertaining thereto, in the event that:

6.4.1 Franchisee violates any of the following provisions of this franchise which are deemed to be material to the performance of the franchise:

- Standards for Collection and Disposal of Solid Waste and Recyclable Materials (Section 3)
- Rates (Section 4)
- Compensation (Section 5)
- Insurance (Section 5)
- Assignment or Sale of Franchise (Section 8)

6.4.2 Franchisee practices any fraud upon the City or a customer.

6.4.3 Franchisee becomes insolvent, unable or unwilling to pay its debts, or is adjudged bankrupt.

6.4.4 Franchisee misrepresents a material fact in the application for or negotiation of, or renegotiation of, or renewal of, the franchise.

6.4.5 It is determined to be in the best interest of the public to do so, after conducting a public hearing and documenting in findings of fact.

6.5 Enforcement.

6.5.1 The City shall have the right to observe and inspect all aspects of Collection operations, facilities, Services, and records which are subject to the provisions of this franchise, to ensure compliance.

6.5.2 If the Franchisee at any time fails to promptly and fully comply with any obligation of this agreement after receiving a written notice and a reasonable opportunity to comply, the City may elect to perform the obligation at the expense of the Franchisee.

6.5.3 If Franchisee defaults in any of the terms required to be performed by it under the terms of this franchise, and the default continues for ten (10) days after written notification by the City, this franchise may, at the option of the Council, become null and void.

6.5.4 The City reserves the right to make such further regulations as may be deemed necessary to protect the interests, safety, welfare and property of the public and carry out purposes stated in Section 3 of this ordinance. The City or the Franchisee may propose amendments to this franchise. Proposals shall be in writing and shall be afforded an adequate review process. Amendments to the franchise must be approved by the Council.

6.5.5 The City bases its rights reserved hereunder upon the inherent and statutory right of the City to perform in the best interests of the people of the City and to prevent any possible flagrant misuse of the rights granted hereunder. Conflicts or disputes arising under this franchise shall be subject to judicial review.

6.5.6 All remedies and penalties under this ordinance, including termination, are cumulative, and the recovery or enforcement of one is not a waiver or a bar to the recovery or enforcement or any other recovery, remedy or penalty. In addition, the remedies and penalties set out in this ordinance are not exclusive, and the City reserves the right to enforce the penal provisions of any other ordinance, statute or regulation, and to avail itself of any all remedies available at law or in equity. Failure to avail itself of any remedy shall not be construed as a waiver of that remedy. Specific waiver of any right by the City for a particular breach shall not constitute a general waiver of the City's right to seek remedies for any other breach, including a repetition of the waived breach.

6.6 Non-enforcement by the City. Franchisee shall not be relieved of its obligation to comply with any of the provisions of this franchise by reason of any failure of the City to enforce prompt compliance.

6.7 Written Notice. All notices, reports, or demands required to be given in writing under this franchise shall be deemed to be given when a registered or certified mail receipt is returned indicating delivery as follows:

If to the City: City of Corvallis
 P.O. Box 1083
 Corvallis, Oregon 97339-1083
 Attn: Franchise Utility Specialist

If to Franchisee: Republic Services of Corvallis
 P.O. Box 1
 Corvallis, Oregon 97339

Such addresses may be changed by either party upon written notice to the other party given as provided in this section.

Section 7 - Public Responsibilities

7.1 Hazardous Waste. No person shall place Hazardous Wastes for Collection or Disposal by Franchisee at the Curbside.

7.2 Approved Receptacles. No customer shall use any Solid Waste Collection Receptacle unless it is supplied by or approved by the Franchisee.

7.3 Safe Loading Requirements. No stationary compactor or Receptacle for Residential or Commercial use shall exceed the safe loading requirements designated by the Franchisee and agreed to by the City.

7.4 Access to Receptacle. No Receptacle shall be located behind any locked or latched gate or inside of any building or structure unless authorized by the Franchisee. No Person shall block the access to a Receptacle.

7.5 Safe Access. Each customer shall provide safe, above ground access to the Solid Waste or Solid Waste Receptacle without hazard or risk to Franchisee.

7.6 Curbside Receptacle Placement. Placement of Receptacles must be within three (3) feet of the curb but shall not restrict access to bicycle lanes or sidewalks and shall not be blocked by vehicles or other items. Items not for Collection must be at least three (3) feet from Receptacles. Placement of Receptacles is limited to a time period of twenty-four (24) hours prior to pick-up and twenty-four (24) hours after pick-up. Receptacles within alleys shall be placed to accommodate Collection vehicles.

7.7 Removal of Solid Waste Prohibited. No Person, other than the Generator of the materials contained therein, or an officer, employee or permittee of the City, or an employee of the Franchisee shall interfere with any Franchisee Serviced Solid Waste Receptacle, or remove any such Receptacle or its contents from the location where the same has been placed by the Generator.

7.8 Collection of Solid Waste Prohibited. No Person shall remove the lid from any Serviced Solid Waste Receptacle, nor enter into such Solid Waste Receptacle, nor shall any Person Collect, Compact, molest, or scatter Solid Waste placed out for Collection, except the Generator of the materials contained therein, or an officer, employee or permittee of the City, or an employee of the Franchisee.

7.9 Stationary Compactor. No person shall install a stationary compacting device for handling of Solid Wastes unless it complies with all applicable federal, state, and local laws and regulations. Franchisee shall not Service any such device unless these requirements are adhered to at all times.

7.10 Train System. No person shall install or operate a Train System for the purpose of Solid Waste Collection.

Section 8 - Miscellaneous

8.1 Assignment or Sale of Franchise. This franchise shall not be sold, assigned or transferred, either in whole or in part, in any manner, nor shall title thereto, either legal or equitable, or any right, interest or property therein, pass to or vest in any Person without the prior written consent of the City, which consent shall not be unreasonably withheld. The City's consent shall be based upon the financial responsibility of the party whom the franchise is proposing for sale, assignment or transfer. The proposed assignee must show, in addition to financial capability, technical ability, legal qualifications, demonstrated ability, and experience, to comply with the terms of the franchise as determined by the City, and must agree to comply with all provisions of the franchise, including all Services regularly performed by the company but not necessarily designated herein. The City shall be deemed to have approved the proposed transfer or assignment in the event that its consent is not communicated in writing to the Franchisee within one-hundred twenty (120) days following receipt of written notice of the proposed transfer or assignment.

8.2 Severability and Constitutionality. If any portion or phrase of this ordinance is for any reason held invalid or declared unconstitutional by any court, such portion shall be deemed a separate and independent provision; and such holding shall not affect the constitutionality of the remaining portion hereof. The Council hereby declares that it would have passed this ordinance and each portion and phrase hereof, irrespective of the fact that any one (1) or more portions or phrases be declared illegal, invalid or unconstitutional

8.3 Continuity of Service Mandatory. Upon expiration or the termination of this franchise, the City may require Franchisee to continue to operate the system for an extended period of time, not to exceed twelve (12) months. Franchisee shall, as trustee for its successor in interest, continue to operate under the terms and conditions of this franchise. In the event Franchisee does not so operate, the City may take such steps as deemed necessary to assure continued Service to subscribers. Costs associated with such actions shall be the sole responsibility of Franchisee.

8.4 Rules of Construction. This ordinance shall be construed liberally in order to effectuate its purposes. Unless otherwise specifically prescribed in this ordinance, the following provisions shall govern its interpretation and construction:

8.4.1 The singular may include the plural number, and the plural may include the singular number.

8.4.2 "May" is permissive and "shall" is mandatory.

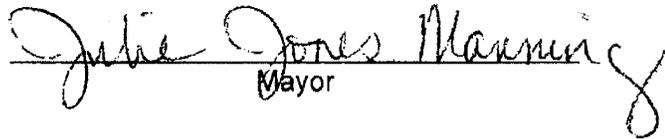
8.5 Calculation of Time. Time shall be computed so as to exclude the first and include the last day of the prescribed or fixed period of time unless stipulated otherwise in this agreement. When the last day of the period falls on Saturday, Sunday, or a legal holiday, that day shall be omitted from the computation.

8.6 Repeal; Effective Date. This ordinance shall repeal Ordinance 2008-15. If this ordinance is void for any reason, Ordinance 2008-15 shall remain repealed in its entirety. This ordinance shall be in full force and effect as of the date indicated below, but this ordinance shall be void unless the Franchisee files with the City Recorder, within 30 days, the Franchisee's unconditional written acceptance of the terms, conditions, and obligations to be complied with or performed by it under this ordinance.

PASSED by the Council this 20th day of May 2013.

APPROVED by the Mayor this 20th day of May 2013.

Effective this 1st day of June 2013.



Mayor

ATTEST:



City Recorder



CITY OF CORVALLIS, CITY MANAGER
FINAL INTERVIEW SCHEDULE - SAMPLE

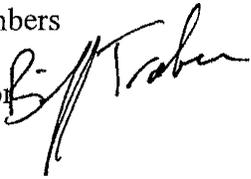
TUESDAY, MARCH 10, 2015

Time	Activity	Location
2:00PM - 4:00PM	Community Tour	Corvallis Community
5:30PM - 8:00PM	Community Meet and Greet, Individual Candidate Presentations	Corvallis Library, Main Meeting Room

WEDNESDAY, MARCH 11, 2015

Time	Council Panel City Hall Meeting Room, D Facilitator: Heather	Leadership Staff Panel City Hall Meeting Room, Planning Facilitator: Mary Beth	Stakeholder Panel Madison Avenue Meeting Room Facilitator: Robert
7:45AM - 8:25AM	Panel Orientation	Panel Orientation	Panel Orientation
8:30AM - 9:30AM	Candidate 1	Candidate 2	Candidate 4
9:45AM - 10:45AM	Candidate 2	Candidate 1	Candidate 3
11:00AM - 12:00PM	Candidate 3	Candidate 5	Candidate 1
12:05PM - 12:55PM	Lunch	Lunch	Lunch
1:00PM - 2:00PM	Candidate 4	Candidate 3	Candidate 5
2:15PM - 3:15PM	Candidate 5	Candidate 4	Candidate 2
3:20PM - 4:00PM	Panel Debrief	Panel Debrief	Panel Debrief
4:00PM - 5:30PM	Present Panel Feedback and Further Discussion (Council, Mary Beth, Heather, Robert)		

MEMORANDUM

To: City Council Members
From: Biff Traber, Mayor 
Date: March 2, 2015
Subject: Appointments to City Manager Recruitment Community Interview Committee

I am appointing the following people to the City Manager Recruitment Community Interview Committee:

Richard Hervey
Dennis Aloia
Annette Mills
Mike Corwin
B. A. Beierle
Jacque Schreck
Aleita Hass Holcombe
Cindee Lolik
Natalie Sullivan
Tracey Yee



CORONADO TRACT B

Monday, March 2nd, 2015
Staff Presentation to the City Council

Appeal of the Planning Commission's Decision to Deny a
Major Planned Development Modification
(PLD14-00005)

APPLICATION TIMELINE



March 2, 2015 Staff Presentation to the City Council

PLD14-00005

REVISED MEETING LOCATION



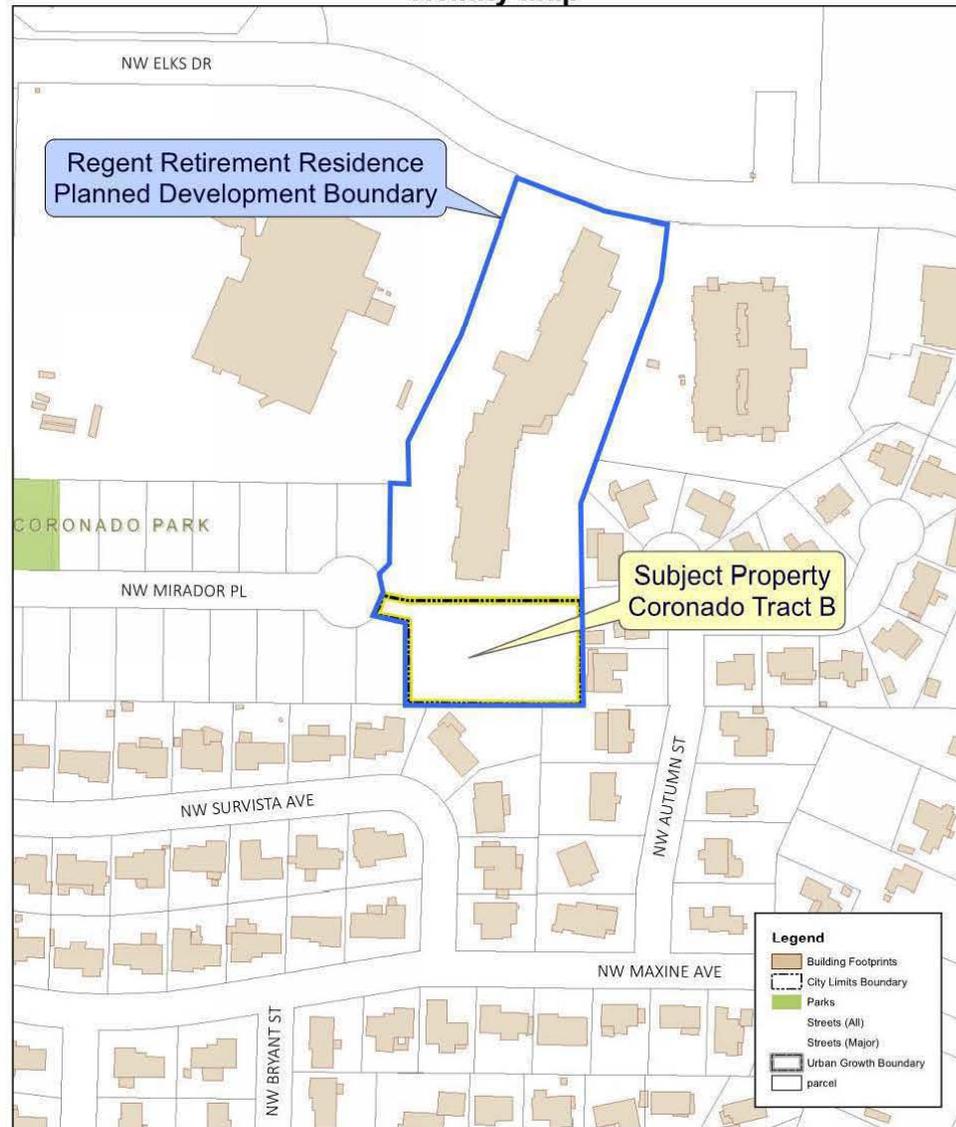
- Because of the change in the meeting location, staff recommend holding the written record open for seven (7) additional days to allow additional time for written testimony to be submitted

ADDITIONAL INFORMATION RECEIVED SINCE COMPLETION OF CITY COUNCIL STAFF REPORT



- 2/27/15 Staff Memorandum to City Council, which included
 - Additional written testimony received from noon 2/23/15 to 2/27/15
 - Stamped existing conditions & grading exhibits, submitted 2/23/15
 - Revised site plan to show compliance with PODS standard, submitted 2/26/15
 - Letter from the appellant to the City Council, submitted 2/27/15
- 3/2/15 Staff Memorandum to City Council with references to staff responses to compatibility criteria
- 3/2/15 Staff Memorandum to City Council regarding DLCD direction in response to “needed housing” requirements
- Additional testimony received between 2/28/15 and 5 pm, 3/2/15
- Additional materials submitted by the applicant on 3/2/15

**Coronado Tract B (PLD14-00005)
Vicinity Map**



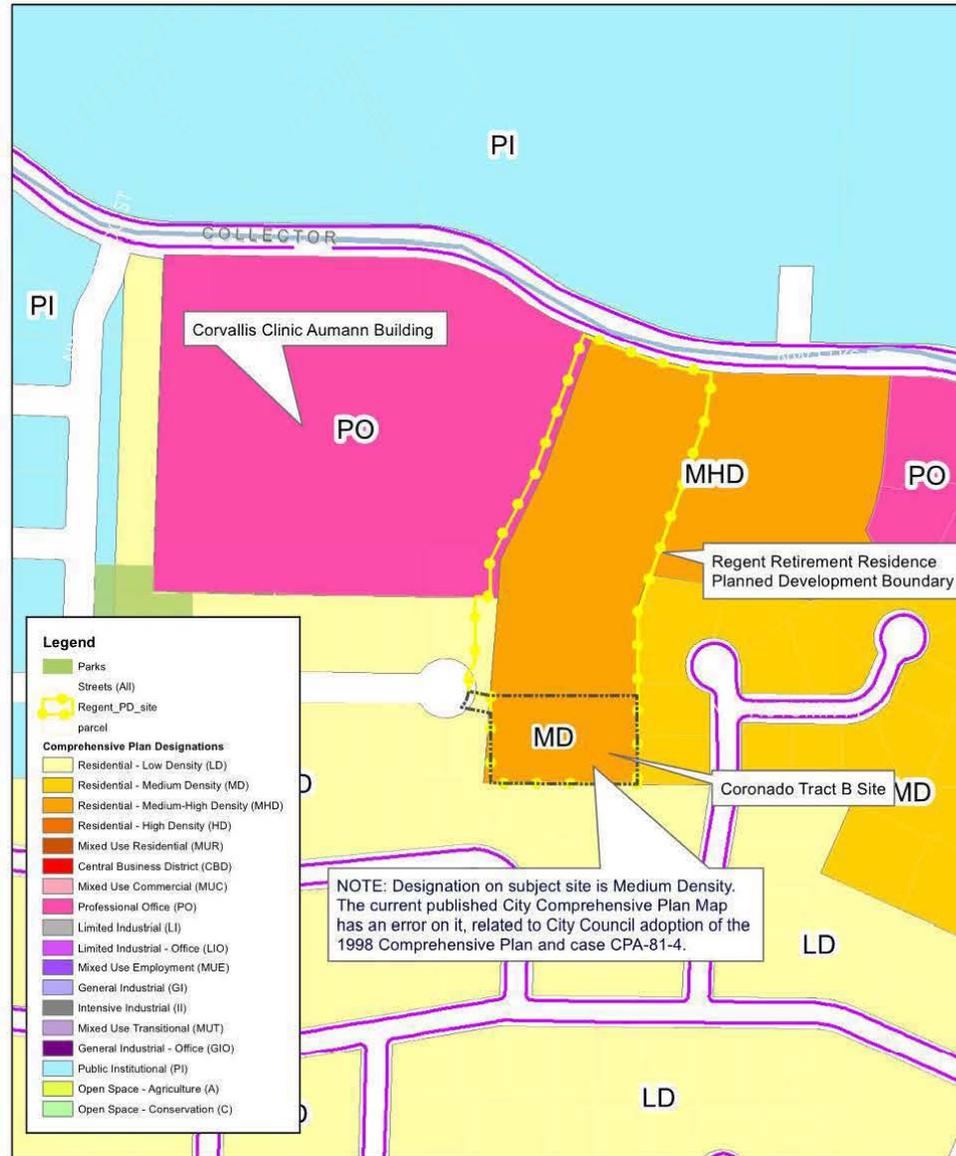
CORONADO TRACT B
PLD14-00005
VICINITY MAP



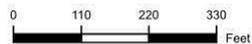
Corvallis Planning Division
501 SW Madison Ave
Corvallis, OR 97333
541-766-6908
Planning@CorvallisOregon.gov



Comprehensive Plan Map



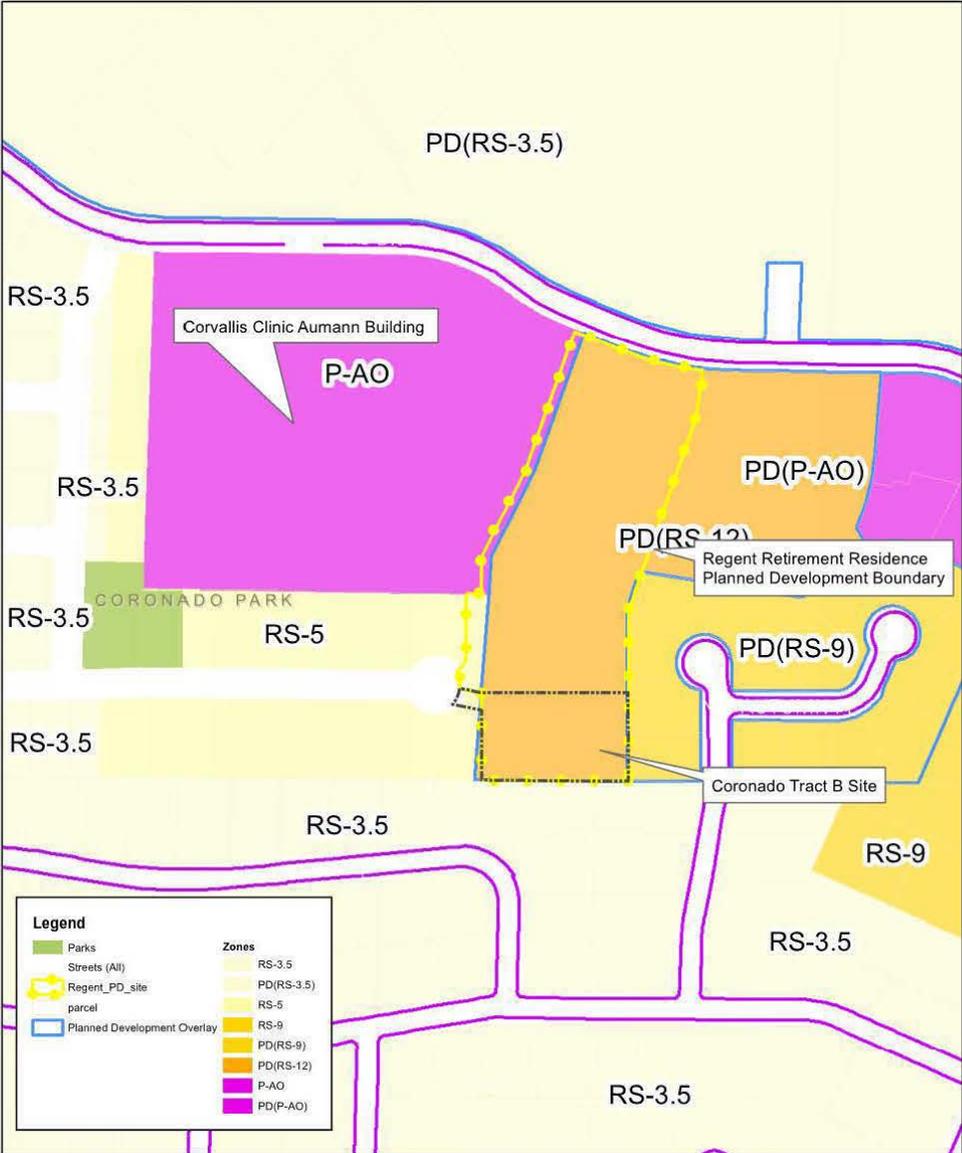
CORONADO TRACT B
PLD14-00005
ATTACHMENT A-3



Corvallis Planning Division
501 SW Madison Ave
Corvallis, OR 97333
541.766.6908
Planning@CorvallisOregon.gov



Zoning Map



Legend	
	Parks
	Streets (All)
	Regent_PD_site
	parcel
	Planned Development Overlay
Zones	
	RS-3.5
	PD(RS-3.5)
	RS-5
	RS-9
	PD(RS-9)
	PD(RS-12)
	P-AO
	PD(P-AO)

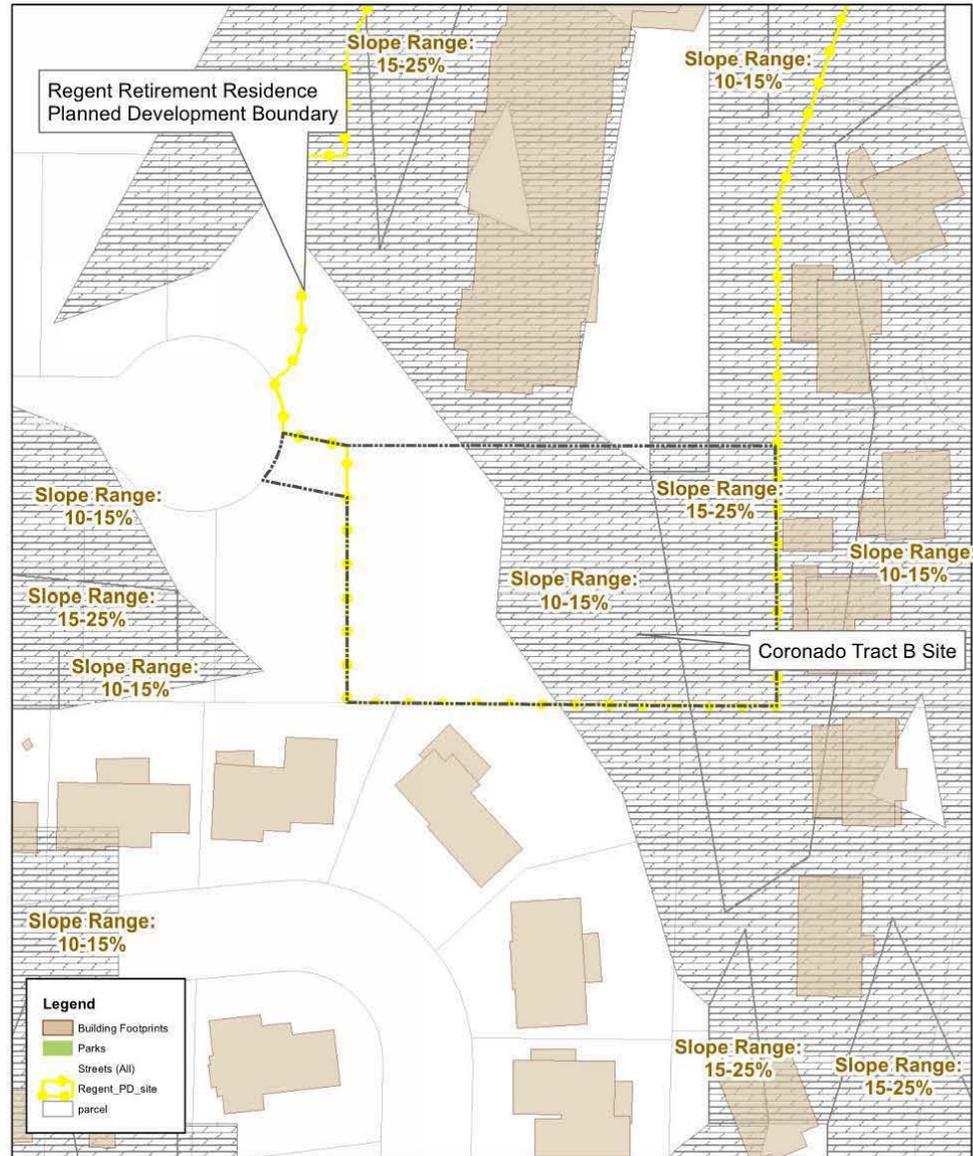
CORONADO TRACT B
 PLD14-00005
 ATTACHMENT A-4



Corvallis Planning Division
 501 SW Madison Ave
 Corvallis, OR 97333
 541.766.6908
 Planning@CorvallisOregon.gov



Natural Hazards Map (Slopes)



CORONADO TRACT B
PLD14-00005
ATTACHMENT A-5



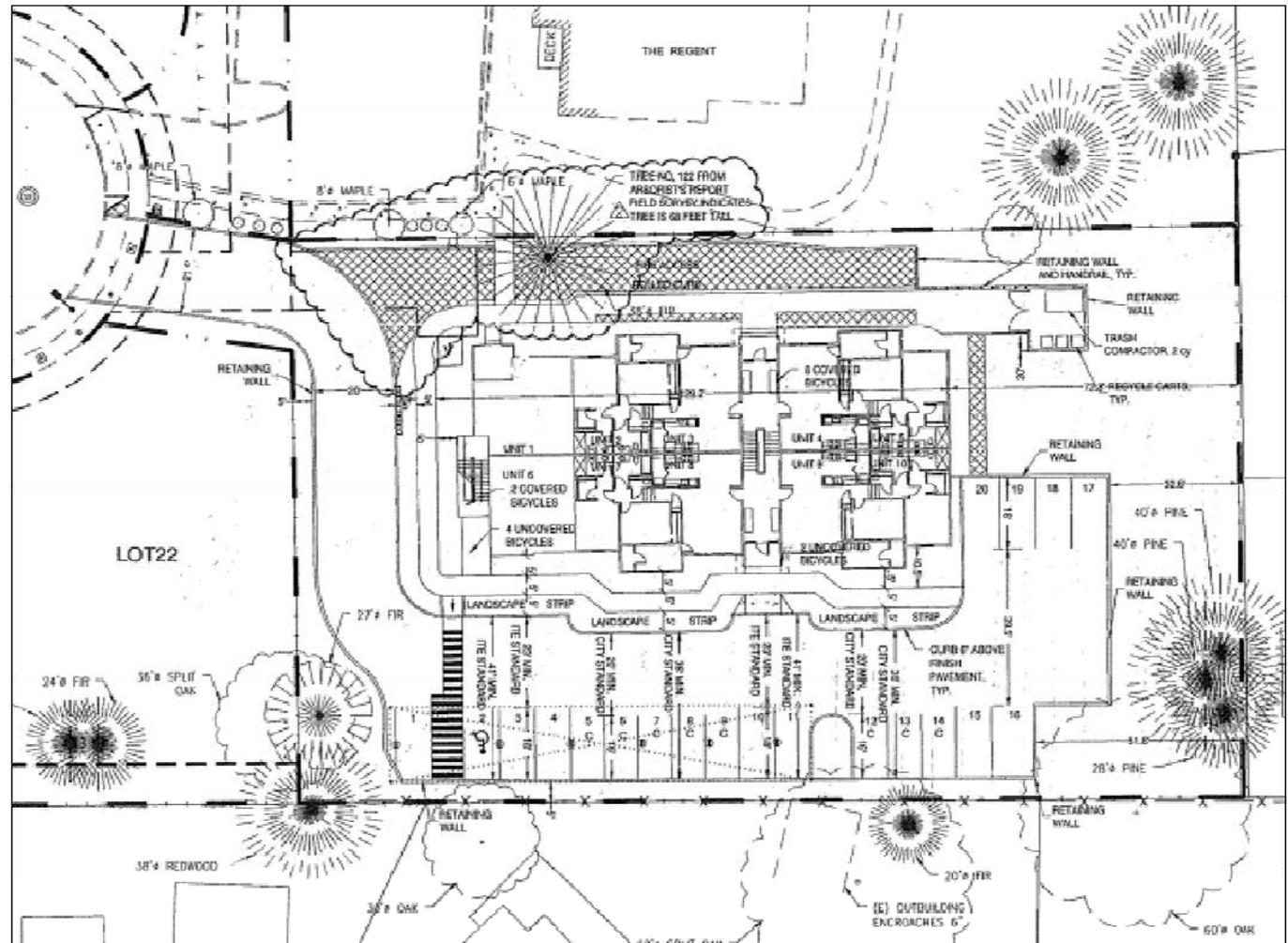
Corvallis Planning Division
501 SW Madison Ave
Corvallis, OR 97333
541.766.6908
Planning@CorvallisOregon.gov



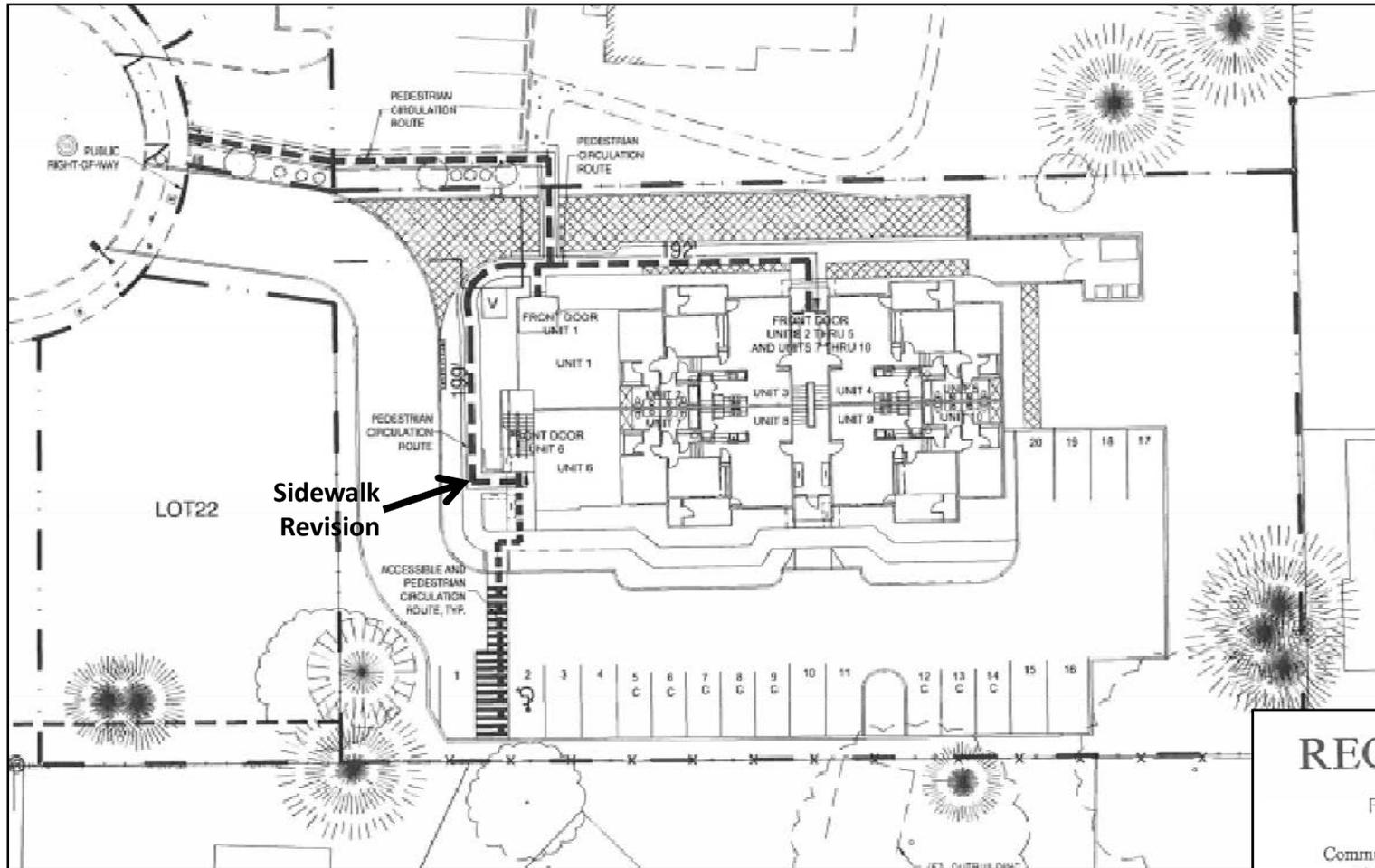
WHAT IS PROPOSED?

Revised Site Plan "N"

- 10-unit apartment building
- 2 bedrooms per unit
- 20 vehicle parking spaces
- Bicycle parking
- Pedestrian walkways
- Landscaping
- Refuse collection
- Garbage truck access and fire lane
- Preservation of portion of existing Significant Trees
- Two (2) variations requested (max front yard setback and PODS orientation)



WHAT IS PROPOSED?



RECEIVED	
FEB 26 2015	
Community Development Planning Division	
ATTACHMENT "O"	
<small>SHEET TITLE</small>	CIRCULATION PLAN PEDESTRIANS
<small>JOB NO.</small>	14033
<small>DRAWN BY</small>	ELUC
<small>DRAWING</small>	

March 2, 2015 Staff Presentation to the City Council

PLD14-00005

Coronado Tract B Apartments

Major Modification to Planned Development



Corvallis City Council Public Hearing
 March 2, 2015



Corvallis
 Oregon
 (541) 757-8991

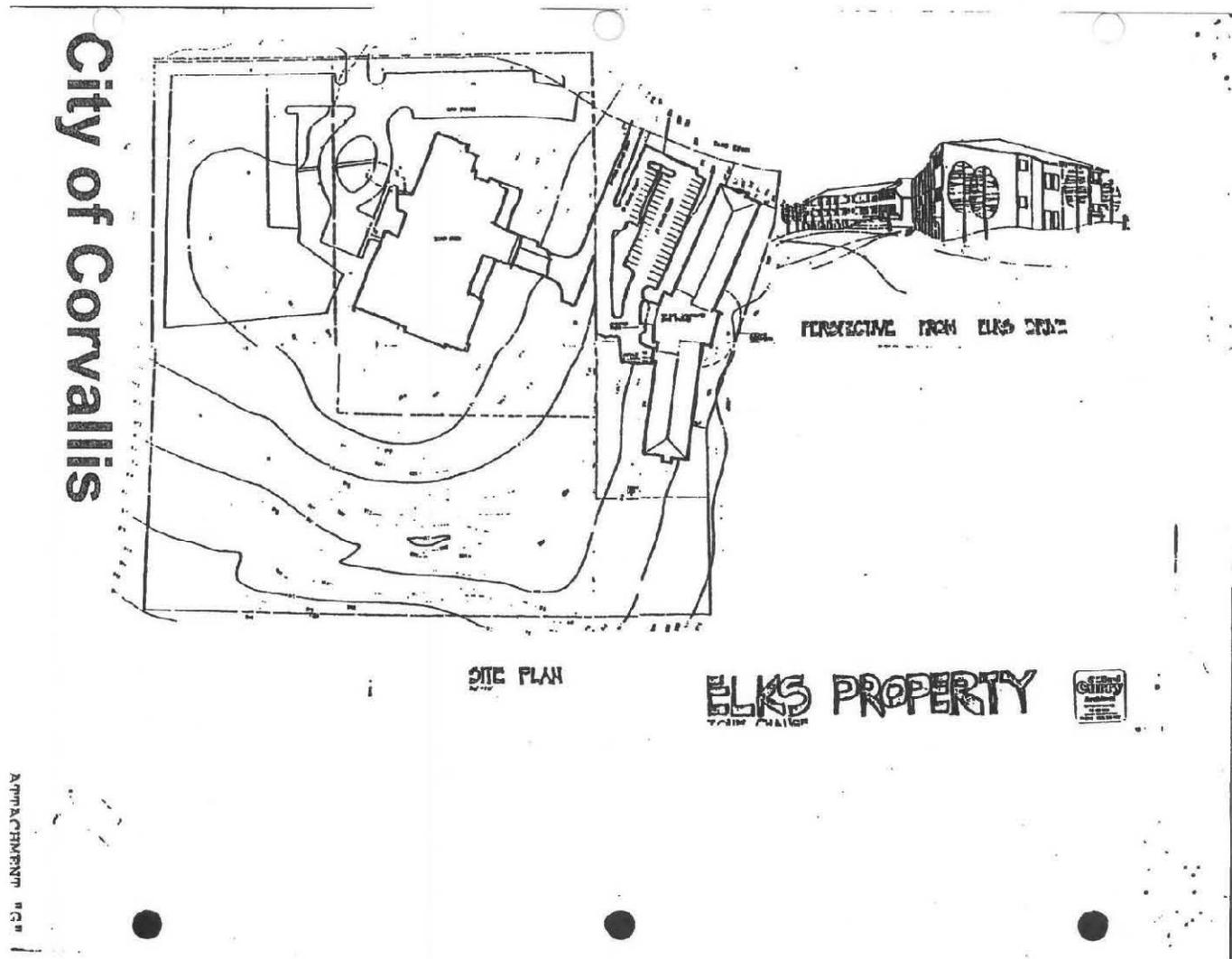
Presentation Overview

- History of Tract B
- Coronado Tract B Apartments
- Key Findings for Approval
- Council Options – Looking Ahead

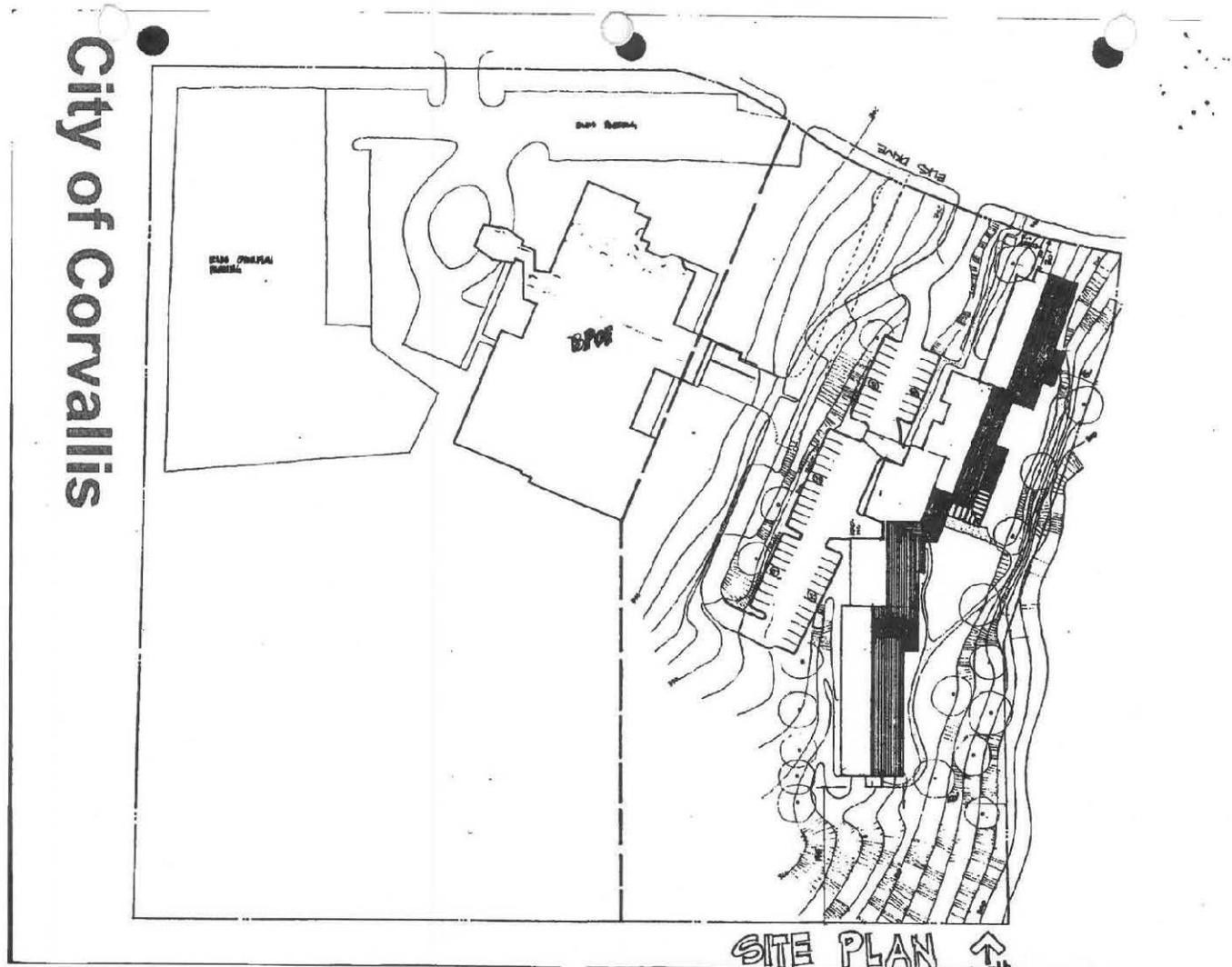
History

- **1981** – Plan designation changed from Low Density to Medium Density Residential *
Zoning changed to PD (RS-12)
- **1981** – Property included in original Conceptual and Detailed Development Plan for Regent Retirement Residence
- **1988** – Regent Parcel deed recorded, southern boundary excluded Tract B
- **1992** – Minor Land Partition acknowledged Regent Parcel, created separate lots for office zoned land and remainder of residential zoned land
- **2000** – Comprehensive Plan Update re-approved Medium Density designation for Tract B and retained PD (RS-12) zoning
- **2005** – Satinwood (Coronado) Subdivision created Tract B as separate legal lot

1981 Detailed Development Plan (PD-81-1)



1981 Detailed Development Plan (PD-81-1)



1992 Minor Land Partition (MLP92-00007)

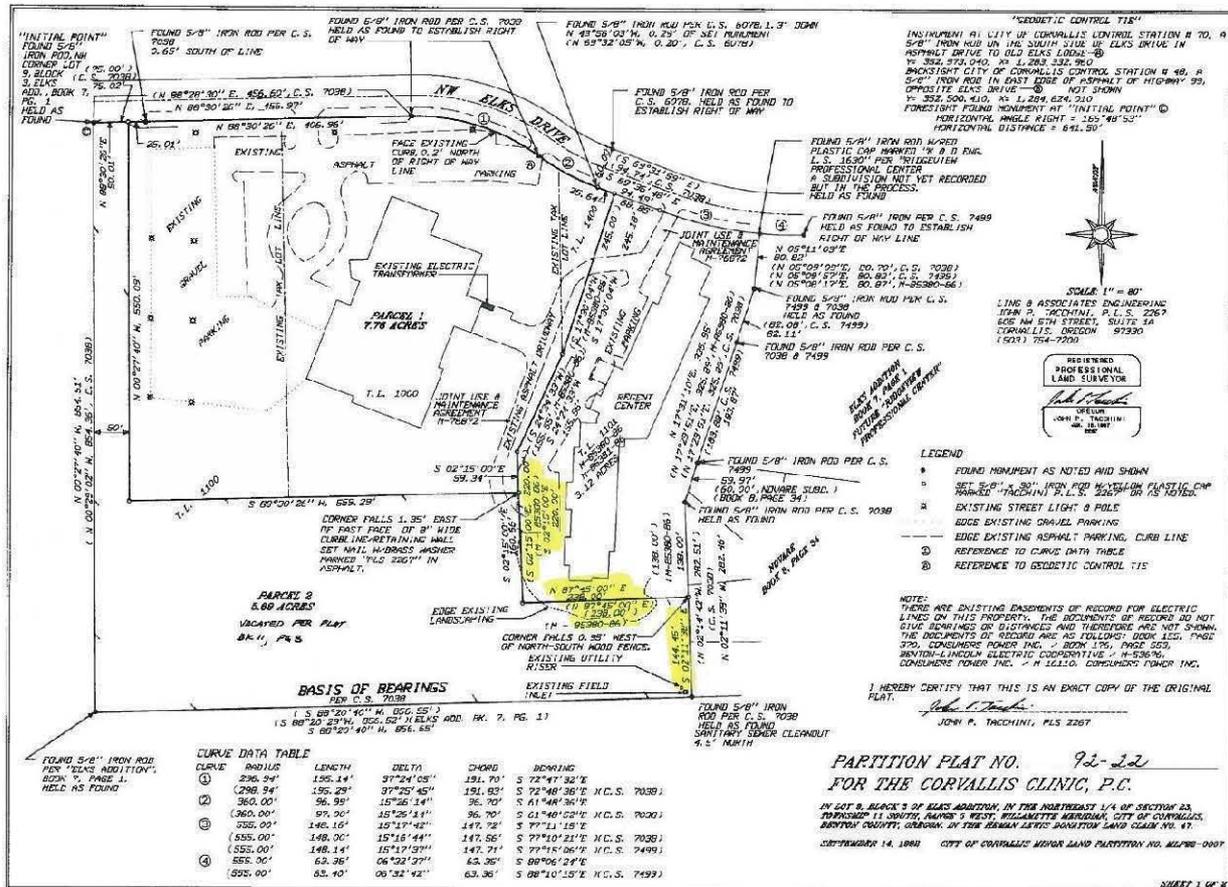
DRAWING NUMBER
92-22

DRAWING NUMBER
1 of 2

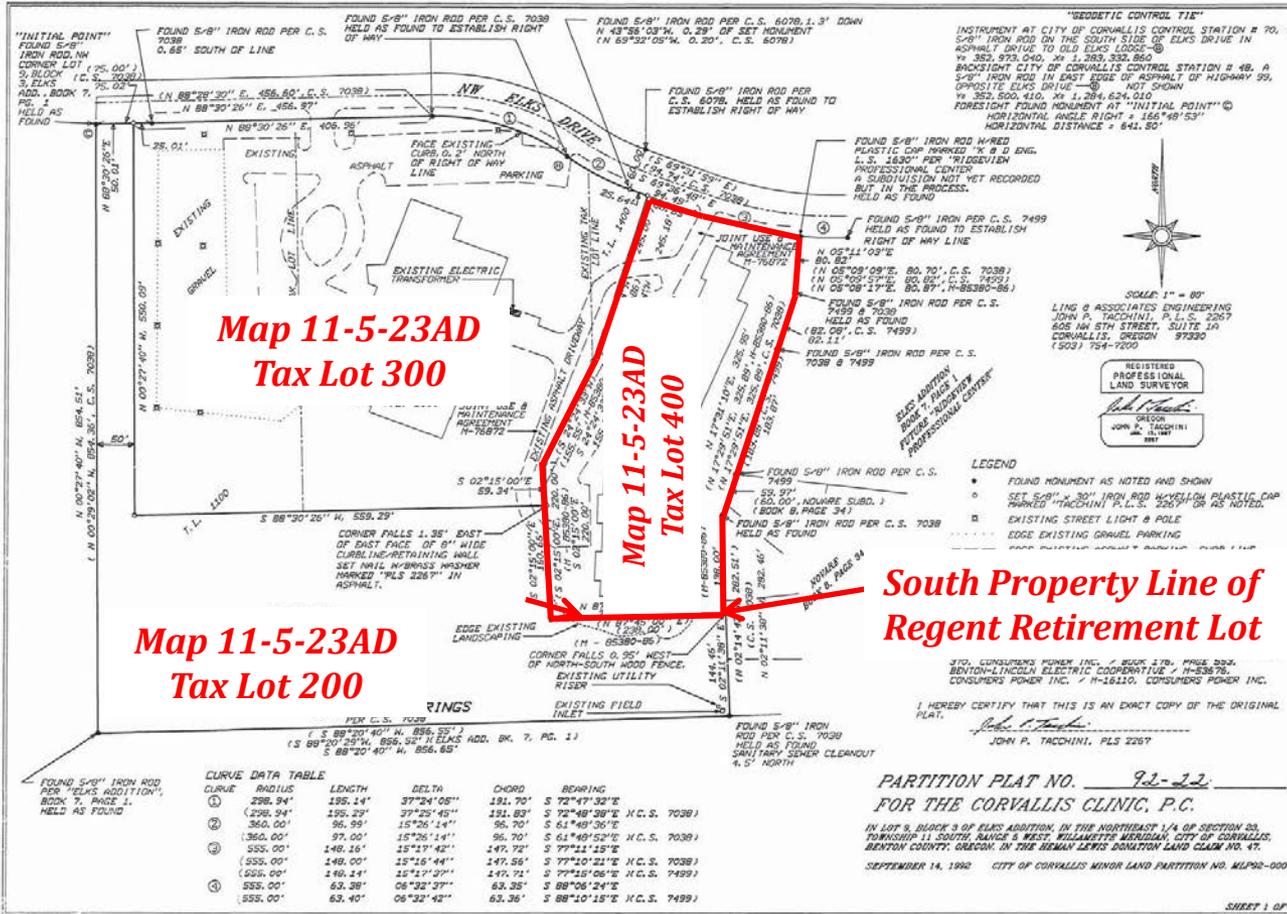
DRAWING NUMBER
1 of 2

DRAWING NUMBER
92-22

92-22



1992 Minor Land Partition (MLP92-00007)



MLP92-00007 confirmed southern property line of Regent Retirement lot.

Elks Property Tax Lots 1992



2000 Comprehensive Plan Map Update

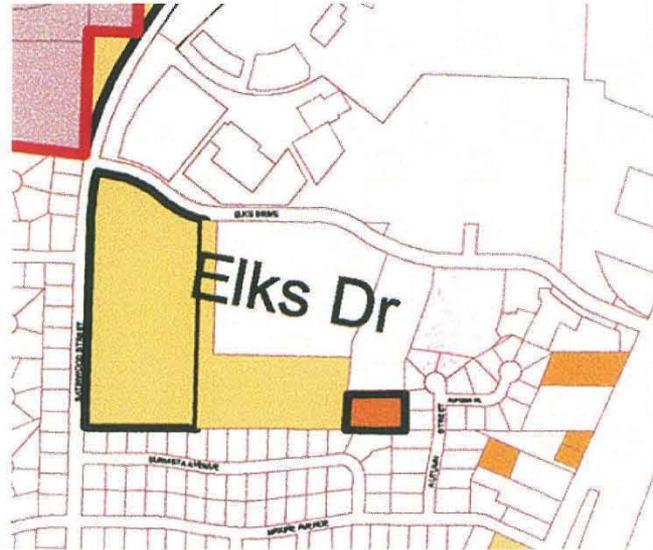


In 2000, the Corvallis City Council revised the Comprehensive Plan Map as part of the City's periodic review process.

The City Council chose to maintain the Comprehensive Plan and Zoning Designations for the development site, which allows for the construction of Medium Density residential housing.

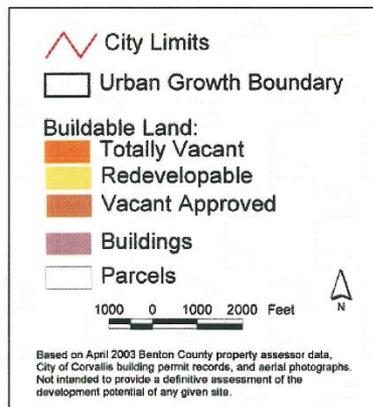
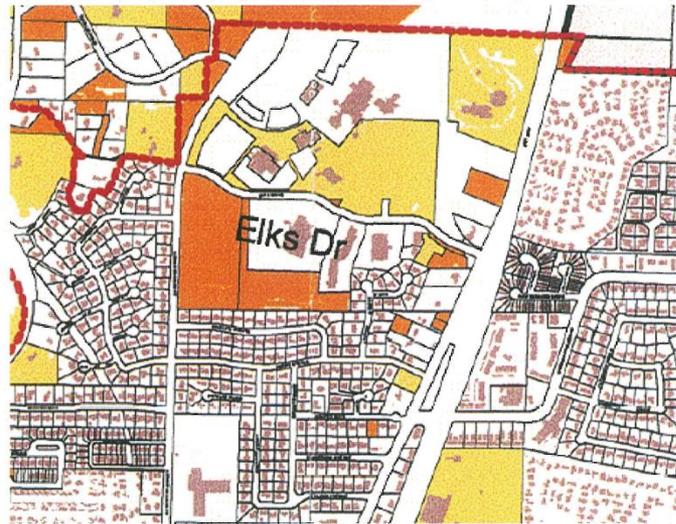
Map III: 2000 Corvallis Vacant Lands

(Vacant Lands are Shown in Color; Based on GIS and Assessor Data through 12-31-00)



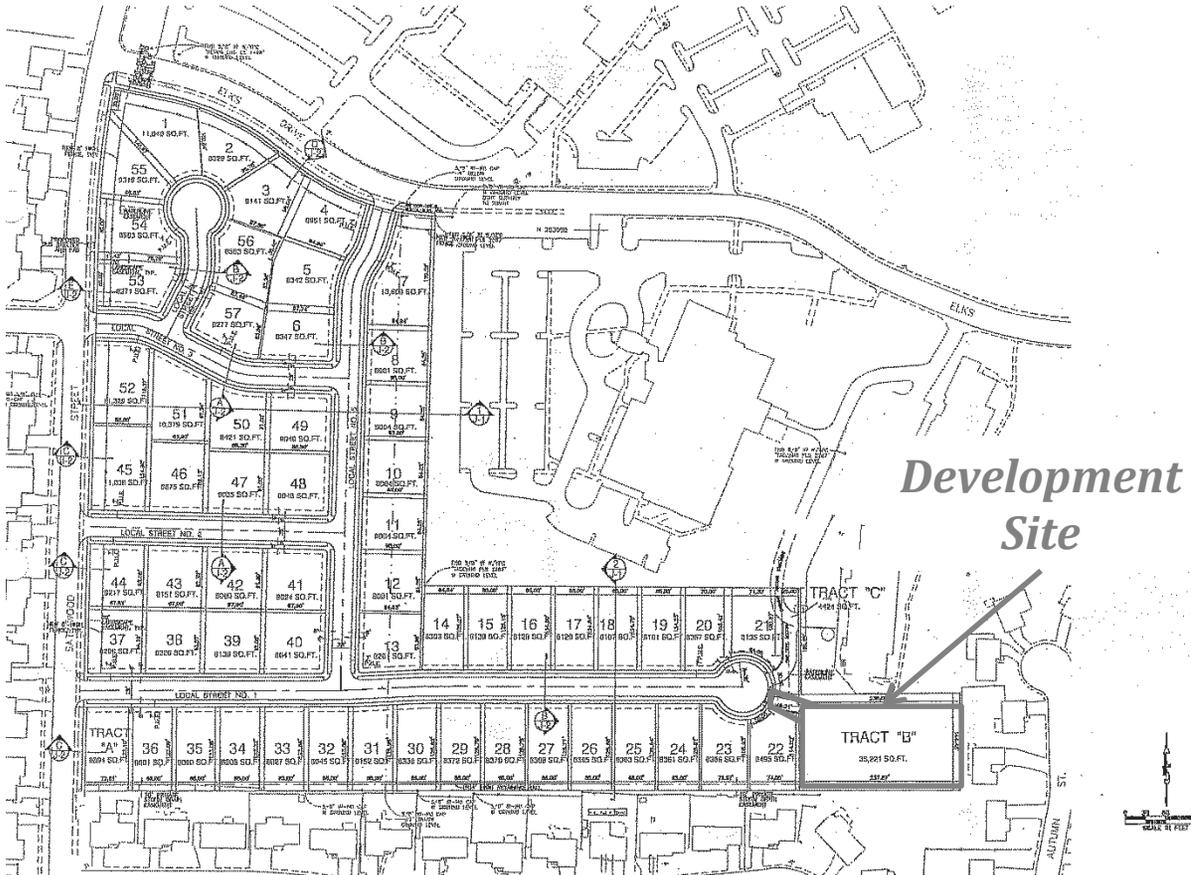
2002 Corvallis Urban Growth Boundary Buildable Land

(Depicted by Land Availability Category;
Initial Constraints Removed)



Tract B is on the City
adopted Buildable Lands
Inventory as approved
by the State

2005 Satinwood (Coronado) Subdivision (ZDC05-00009/SUB05-00005)



In 2005, Tract "B" was created as part of the Satinwood Subdivision.

The 1996 Land Development Code in effect at that time, did not include a definition for the term "Tract".

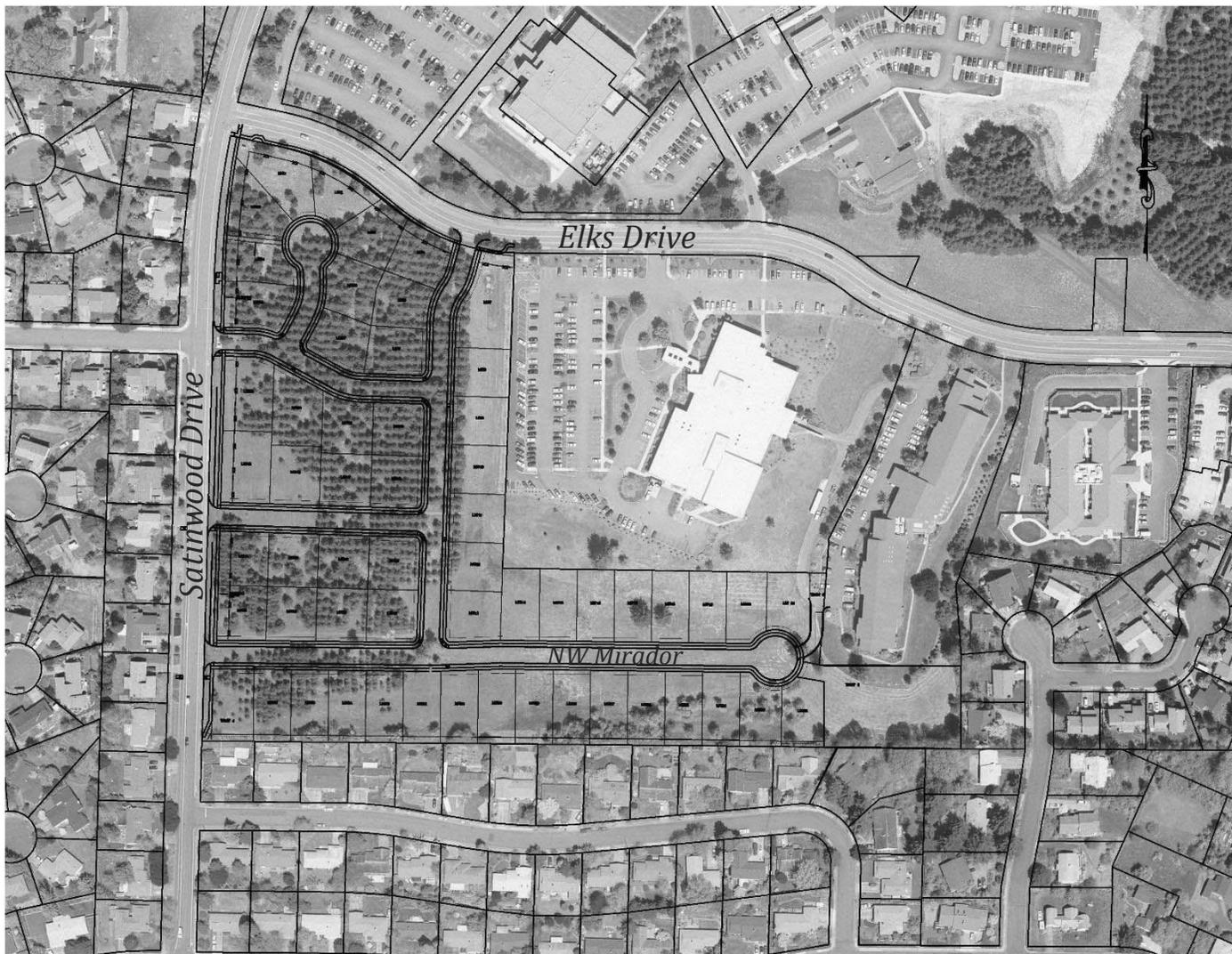
When flag lot was platted in 2005, there was no maximum building setback .



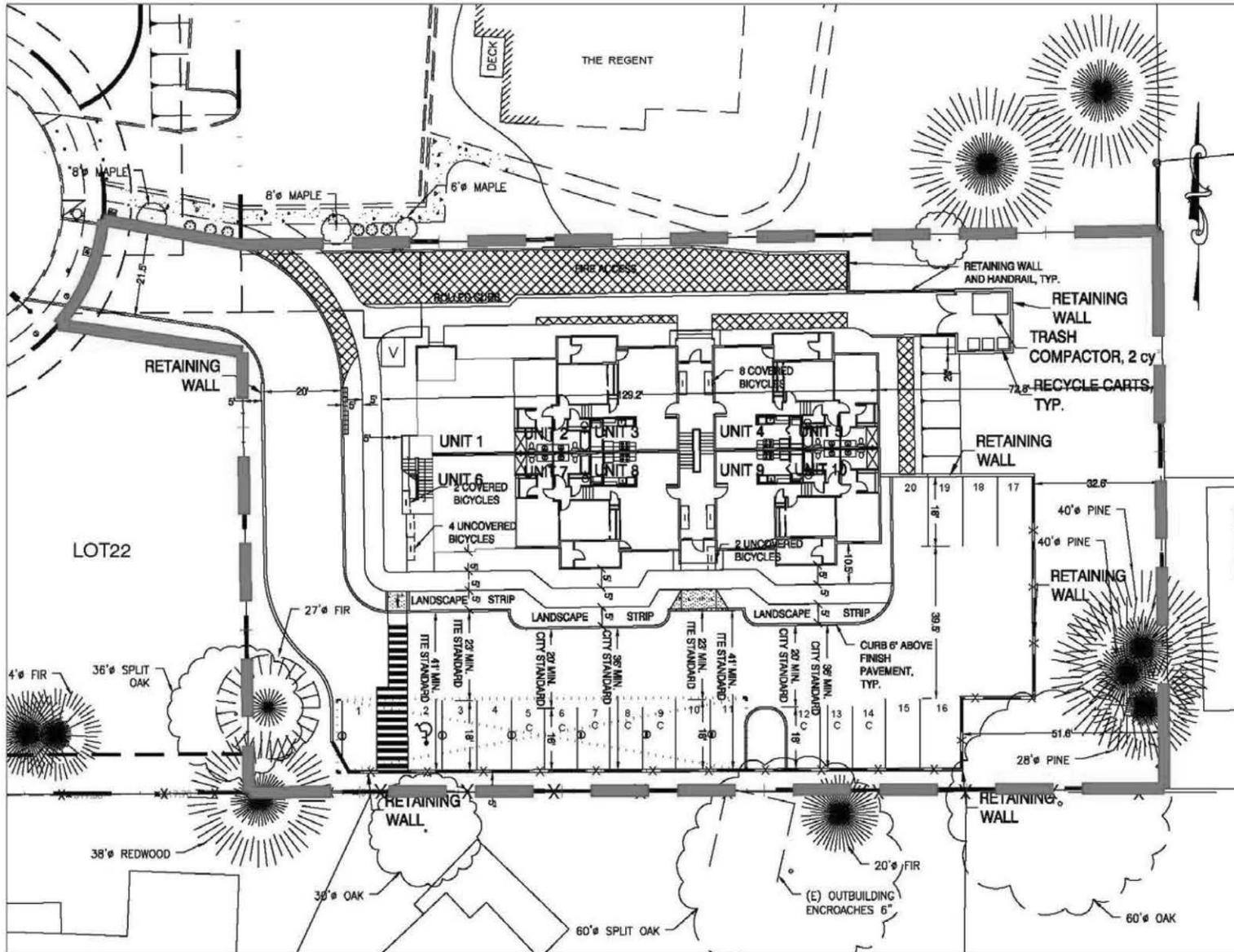
2005 Satinwood (Coronado) Subdivision

- Tract “B” contains entire area of TL 200 zoned PD(RS-12)...
- The only large lot created through the subdivision is Tract “B”, which is subject to Planned Development review provisions. Therefore, no development or future partitioning of this Tract may occur without a Detailed Development Plan approval.
- Subdivision required extension of water and sewer lines to Tract B designed to serve future medium density residential development

2005 Satinwood (Coronado) Subdivision



Coronado Tract B Apartments



Coronado Tract B Apartments



1 FRONT (NORTH) ELEVATION
3/16" = 1'-0"

WINDOW-DOOR AREA CALCULATION
WALL AREA: 2177.9; OPENING AREA: 300.7
NET AREA: 1877.2



2 REAR (SOUTH) ELEVATION
3/16" = 1'-0"

WINDOW-DOOR AREA CALCULATION
WALL AREA: 2125.5; OPENING AREA: 291.9
NET AREA: 1833.6

ATTACHMENT Z



RDC
Ralph Dixon Group
ARCHITECTS, INC.
7105 SW Causeway Boulevard, Clatsop, Oregon 97138 (503) 742-8388

TRACT 'B', CORONADO SUBDIVISION
NW MIRADOR PLACE, CORVALLIS, OREGON

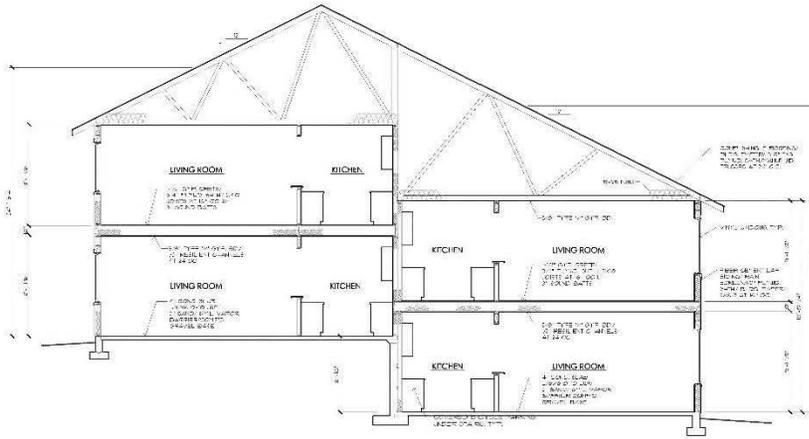
OWNER:
CORONADO TRACT B, LLC
202 NW 5TH ST., CORVALLIS, OREGON 97330

FRONT AND REAR ELEVATIONS

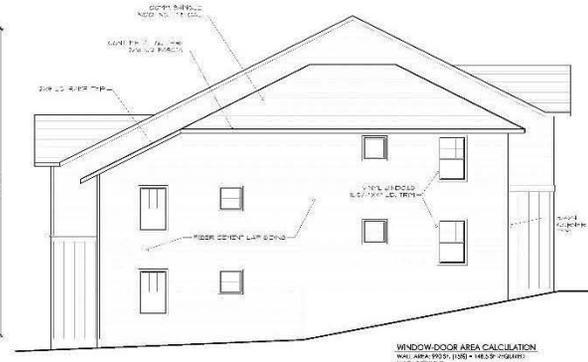
DATE: DECEMBER 8, 2012
PROJECT: AS NOTED
SHEET: 044
SCALE: AS SHOWN

A
6.1

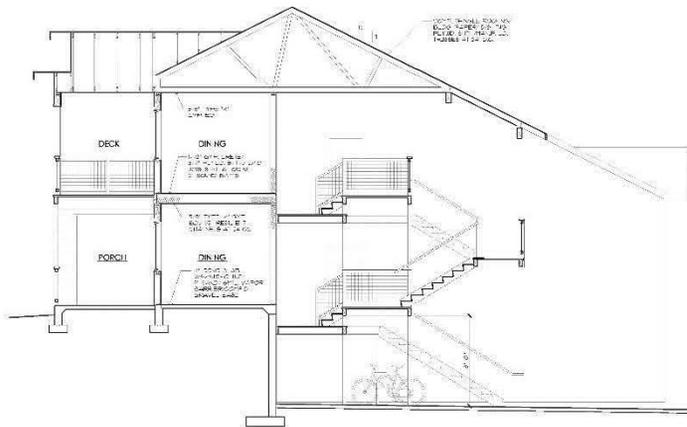
Coronado Tract B Apartments



1 TYPICAL BUILDING SECTION
1/4" = 1'-0"



1 SIDE (EAST) ELEVATION
3/16" = 1'-0"



2 BUILDING SECTION AT STAIR
1/4" = 1'-0"



2 SIDE (WEST) ELEVATION
3/16" = 1'-0"

ATTACHMENT Z-1



RDG
R. D. G. GROUP, INC.
ARCHITECTS, INC.

TRACT 'B', CORONADO SUBDIVISION
NW MIRADOR PLACE, CORVALLIS, OREGON

EAST AND WEST ELEVATIONS
TYPICAL BUILDING SECTIONS

A
6.2

Key Findings for Approval

Tract B is a developable site

- Major Modification Implements Comprehensive Plan
- Coronado Subdivision Approved Extension of Water and Sewer Lines
- Site on Buildable Lands Inventory Intended for Residential Development

Key Findings for Approval

Tract B is a Legal Lot of Record

- State law entitles applicant to develop according to standards in effect at the time Tract B was platted
- Land Development Code guarantees lot may be occupied by a Use permitted in the zone
- Applicant revised site plan to fully comply with all applicable code standards

Key Findings for Approval

Tract B has legal access to NW Mirador

- Subdivision approved length of NW Mirador and access to Tract B for medium – density housing
- Subdivision provided secondary emergency access thru the Regent parcel to Elks Drive
- Corvallis code defines “should” as “not mandatory”
- Applicant is seeking approval thru Needed Housing Statute
- Owner’s right to use NW Mirador
 - Plain language in code
 - Previous decisions
 - State law – Needed housing statute

Key Findings for Approval

Design Provides Compensating Benefits

- Increased building setbacks
- Unique building design
- Building follows natural grade
- Covered bike parking
- Limiting units to the lowest number possible

Council Options – Looking Ahead

- Approve
- Approve with Conditions
- Deny

Council Options – Looking Ahead

If approved - legally defensible

Sustainable job growth

Support middle class

Provide unique housing option

If denied – legally at risk

Owner options – ORS 227.184

LUBA Appeal

Coronado Tract B Apartments



Creating a new housing option for Corvallis residents

LAND USE HISTORY



1967 to 1968 – Annexation, Elks Addition subdivision plat

1981 – Planned Development approval

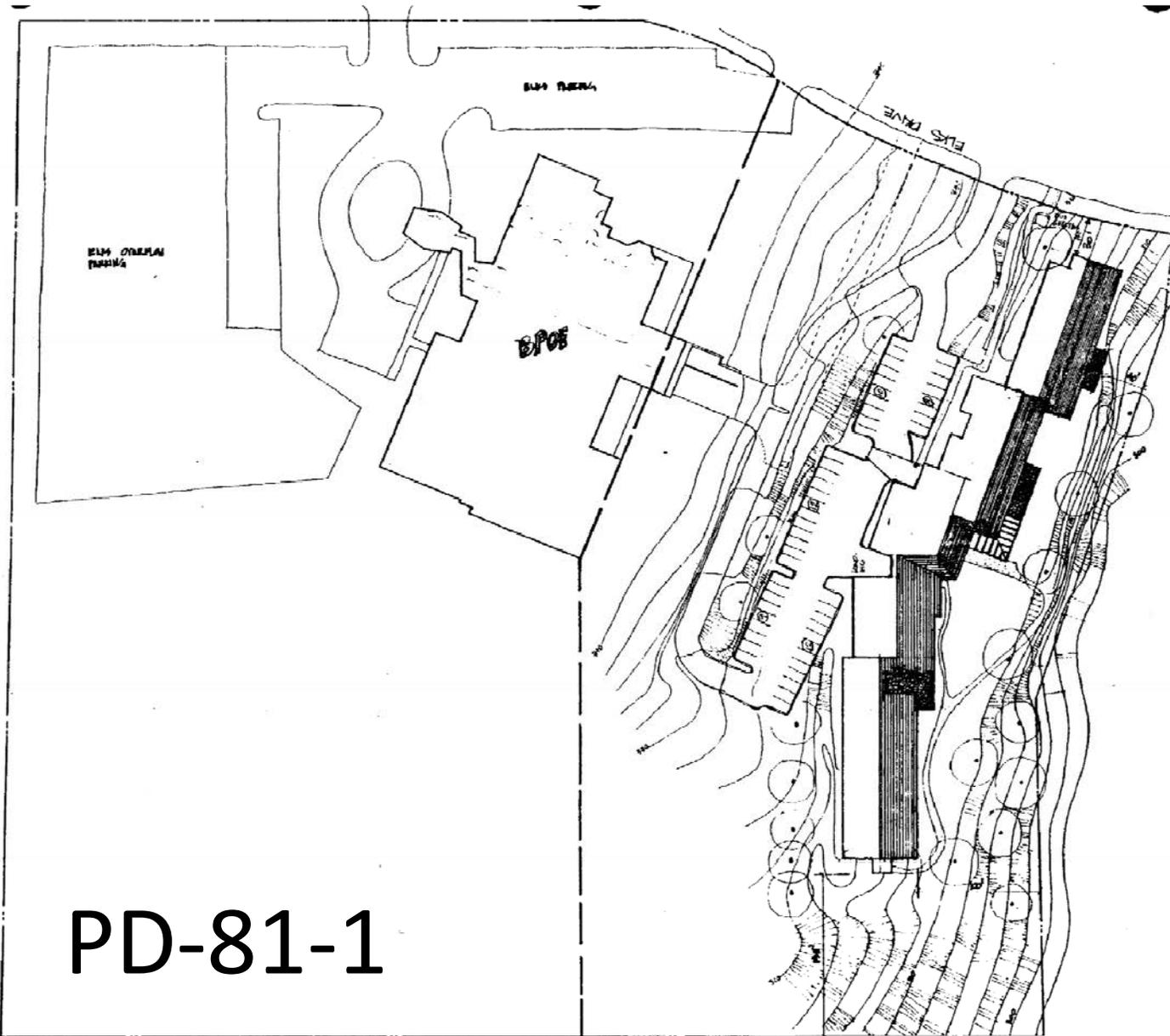
- CPA-81-4: Comprehensive Plan designation change to Residential - Medium Density
- DC-81-2: Zone Change from RS-3.5 to PD RS-12 (Medium-High Density Residential)
- PD-81-1 : Conceptual & Detailed Development Plan approved

1992 – Minor Land Partition, subject site part of Parcel 2

2000/2006 – Periodic Review Comprehensive Plan Changes

2005-2006 – Satinwood district change and Coronado subdivision, which created Tract B

2007-2008 – Major Planned Development Modification for additional parking and an emergency access, and slight PD boundary modification (PLD07-00010/CDP07-00006/MRP07-00006)



PD-81-1

SITE PLAN ↑

PLD REVIEW CRITERIA



Conceptual Development Plan Criteria LDC § 2.5.40.04:

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;
2. Basic site design (the organization of Uses on a site and the Uses’ relationships to neighboring properties)
3. Visual elements (scale, structural design and form, materials, etc.);
4. Noise attenuation;
5. Odors and emissions;
6. Lighting
7. Signage
8. Landscaping for buffering and screening
9. Transportation facilities
10. Traffic and off-site parking impacts
11. Utility infrastructure
12. Effects on air and water quality
13. Design equal to or in excess of the types of improvements required by the standards in Chapter 4.10 – Pedestrian Oriented Design Standards
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.

PLD REVIEW CRITERIA



2.5.60.03 - Procedures for a Major Planned Development Modification

c. Upon finding that the petition is reasonable and valid, the Planning Commission may consider the redesign in whole or in part of any Detailed Development Plan.

PLANNING COMMISSION DECISION



- The Planning Commission's decision to deny the request was based upon three general findings:
 - Failure to demonstrate that alterations to the conditions of the 1981 Planned Development Approval (PD-81-1/DC-81-2) are warranted;
 - Failure to demonstrate consistency with the cul-de-sac standards in LDC Section 4.0.60.c, and failure to justify a variation to those standards; and
 - Lack of compatibility in basic site design, noise attenuation, and lighting, per LDC Sections 2.5.40.04.a.2, 4, and 6.

SUMMARY OF APPEAL ISSUES



INADEQUACY OF PC FINDINGS

- Planning Commission erred by incorporating the minutes of the proceeding as findings for its decision
- Planning Commission did not address each applicable standard, and the application and supporting evidence demonstrated compliance
- Bases for denial are too general

STAFF RESPONSE TO APPEAL ISSUES



INADEQUACY OF PC FINDINGS

- This hearing is de novo
- City Council will deliberate based on all review criteria and adopted adequate findings
- By the City Council adopting adequate findings, this issue will become moot
- Audio file of the Planning Commission's deliberations was and is available on the City's website

SUMMARY OF APPEAL ISSUES



PRIOR CONDITIONS OF APPROVAL

- No application standard requires a finding that alterations to the conditions are warranted, or that consistency with 1981 PD conditions is required
- Discretionary standards do not apply to this application, per the “Needed Housing” statute
- The applicant has not requested an alteration to the 1981 PD conditions; approval under ‘code standards that apply’ is requested
- The Planning Commission did not explain which 1981 PD Conditions apply
- Approval of this application would be consistent with the 1981 PD Conditions, as were prior land use applications affecting the subject site

STAFF RESPONSE TO APPEAL ISSUES



PRIOR CONDITIONS OF APPROVAL

- Until the Detailed Development Plan is modified or nullified, the 1981 conditions apply
- Prior conditions evaluated because the proposal could have the effective of modifying certain conditions, e.g. Condition 12 (135 foot setback to southern property line)
- PD modification would be appropriate process to modify prior conditions, if other applicable criteria are met
- City Council will need to determine whether the proposal meets all of the criteria for a Major Planned Development Modification
- Where a condition would be modified, the Council will need to determine whether the proposal maintains the purpose of that condition or provides compensation for that condition

SUMMARY OF APPEAL ISSUES



CUL-DE-SAC STANDARDS (LDC Section 4.0.60.c)

- Reasons provided as bases for approval of use of the Mirador Place cul-de-sac:
 - LDC Section 4.0.60.c only applies at time of street construction
 - Due to the presence of a secondary emergency access, the road is not a “cul-de-sac”
 - *Cul-de-Sac - Local Street with one outlet and a turnaround. Because emphasis should be placed on the creation of a roughly rectilinear street pattern that encourages the dispersion of local traffic through a number of streets, the use of Cul-de-sacs should be minimized. See Comprehensive Plan Policy 11.3.8.*
 - “Should” means not mandatory per LDC definition
 - Given use of “should,” this standard is discretionary and does not apply per Needed Housing statute
 - LDC Section 2.5.50.04 makes LDC Section 4.0.60.c not applicable
 - Site included on the Buildable Lands Inventory, and the Comprehensive Plan minimum density is 10 units
 - Design and loading of the street may not be challenged in a later decision
 - Staff report correctly explains why a variation from this standard would be justified

STAFF RESPONSE TO APPEAL ISSUE



CUL-DE-SAC STANDARDS

- Access to the Regent is emergency only access
- Mirador Place cul-de-sac meets “cul-de-sac” definition per LDC Chapter 1.6
- LDC Section 4.0.60.c applies, given context of Transportation Facilities and Traffic compatibility criteria
- Proposal would result in as many as 27 units taking access from Mirador Place cul-de-sac
- 2005 subdivision application did not include trip generation for Tract B
- Site-specific standards were adopted with 1981 Detailed Development Plan and do not negate application of LDC Section 4.0.60.c
- Other lots/parcels may have site constraints, e.g. natural features
- Decision on this application would not negate SUB05-00005

SUMMARY OF APPEAL ISSUES



NEEDED HOUSING STATUTE

- This application is a “needed housing” application per ORS 197.307
- The City lacks authority to apply discretionary standards to a needed housing application

STAFF RESPONSE TO APPEAL ISSUES



NEEDED HOUSING STATUTE

- Memo from City Attorney's Office dated 1/28/15
 - Unlikely that "Needed Housing" statute applies if proposal is evaluated in light of conditions or standards imposed by the approved conceptual and detailed development plans (PD-81-1 and subsequent modifications)
- Regent was constructed based on the approval Detailed Development Plan
- City Council could interpret that the site was developed under an alternative process as it was part of a Planned Development Process

CONCEPTUAL DEVELOPMENT PLAN CRITERIA



DENSITY

Comprehensive Plan (Low & Medium Residential)

- Site's density range = 5 to 10 units

Zoning (RS-5 & RS-12)

- Site's density range = 9 to 16 units

➤ *Therefore, proposal complies within Comprehensive Plan Designation and Zoning Density Ranges*

CONCEPTUAL DEVELOPMENT PLAN CRITERIA



COMPENSATING BENEFITS FOR VARIATIONS:

Standard #1: LDC § 3.6.30.e.1, RS-12 Maximum front yard setback = 25 ft.

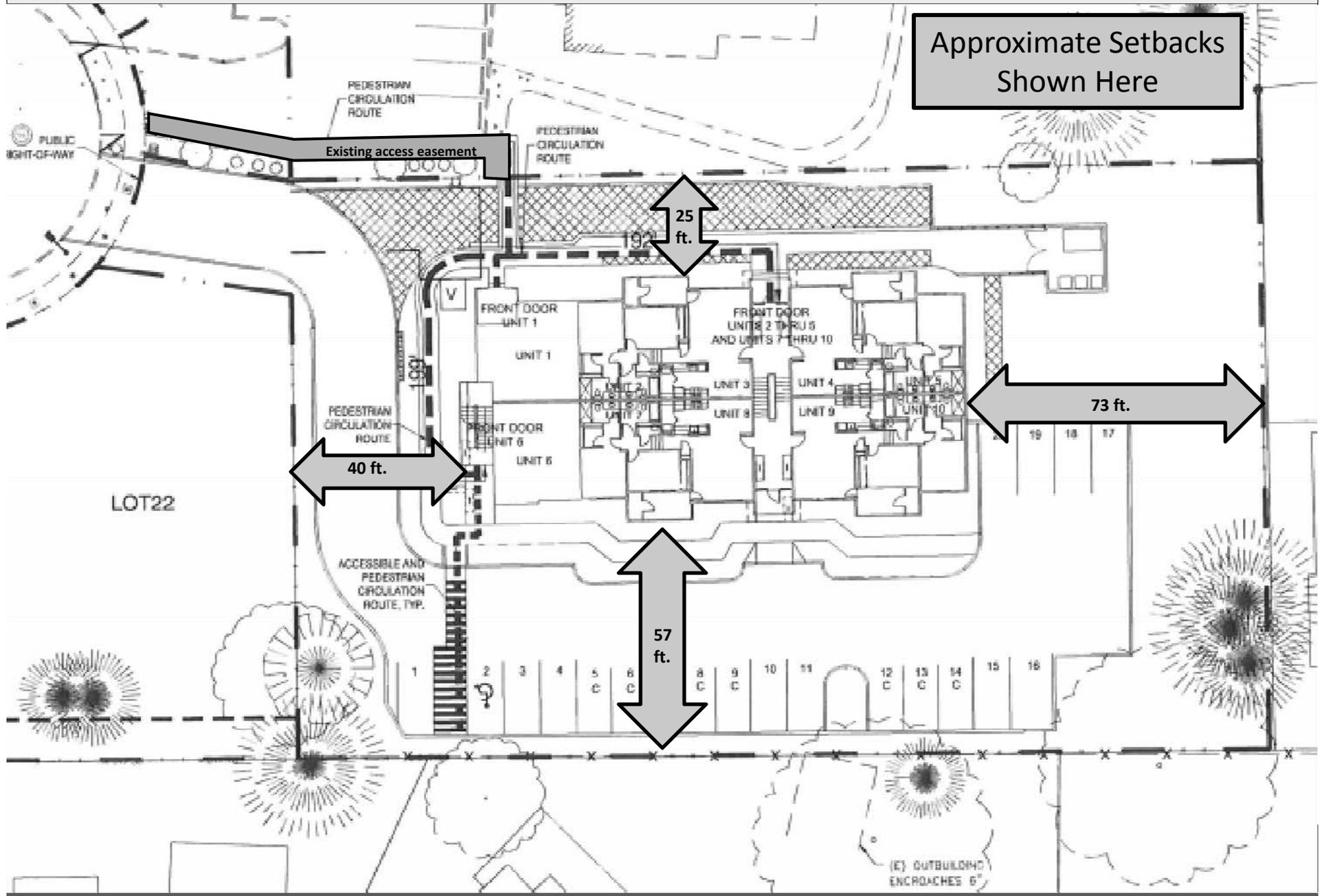
Standard #2: LDC § 4.10.60.01.b, percentage of frontage occupied by buildings in max. setback

Variation: Building located 90.8 feet from front property line at NW Mirador Place

Potential Compensating Benefits:

- Site can develop to minimum density
- Additional buffer provided to single family development

BASIC SITE DESIGN



CONCEPTUAL DEVELOPMENT PLAN CRITERIA

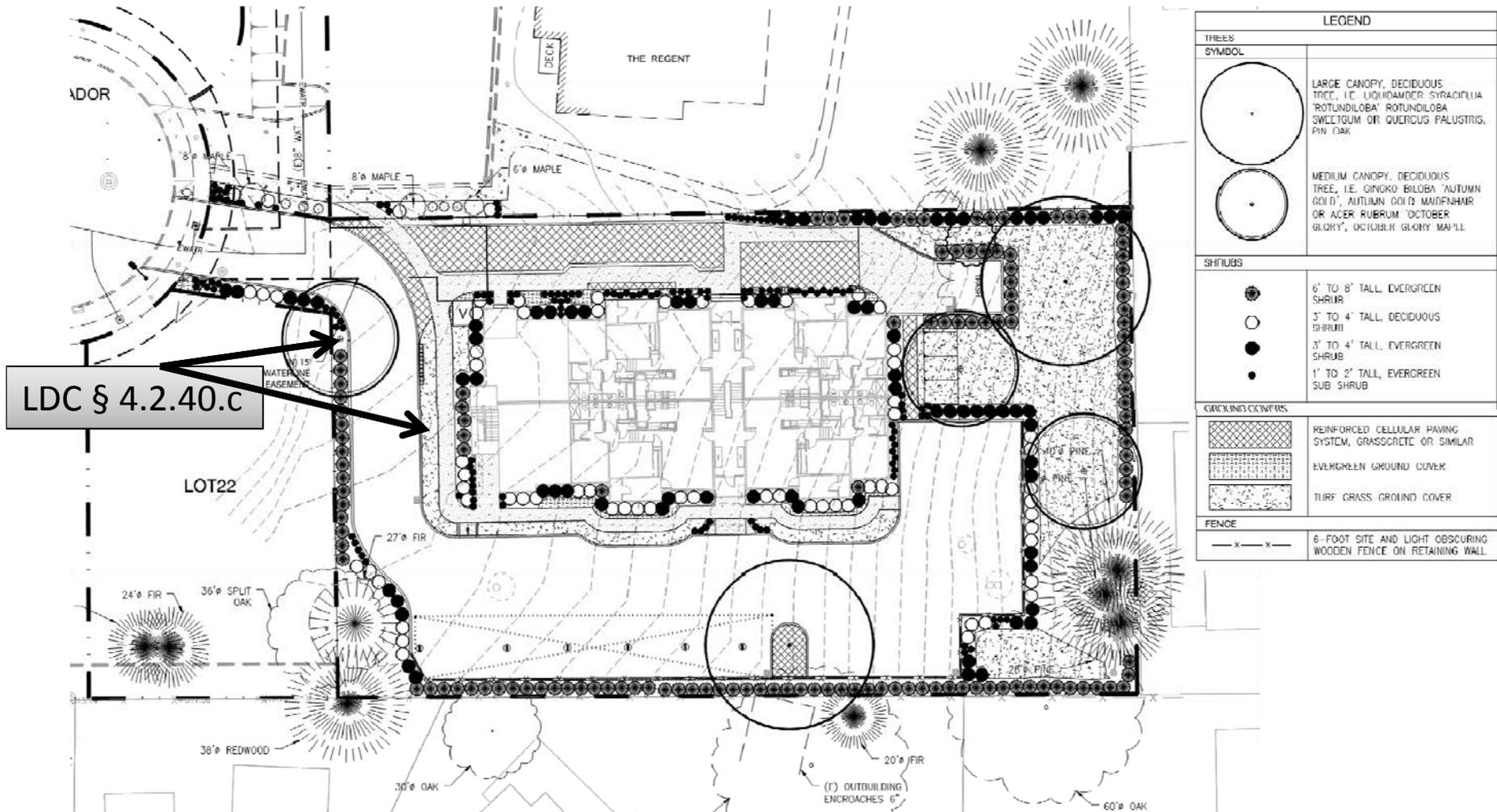


- Visual elements
- Odors and emissions
- Signage
- Effects on air and water quality
- Landscaping for buffering and screening
- Utility infrastructure

CONCEPTUAL DEVELOPMENT PLAN CRITERIA



LANDSCAPING FOR BUFFERING & SCREENING



CONCEPTUAL DEVELOPMENT PLAN CRITERIA



TRANSPORTATION FACILITIES & TRAFFIC IMPACTS

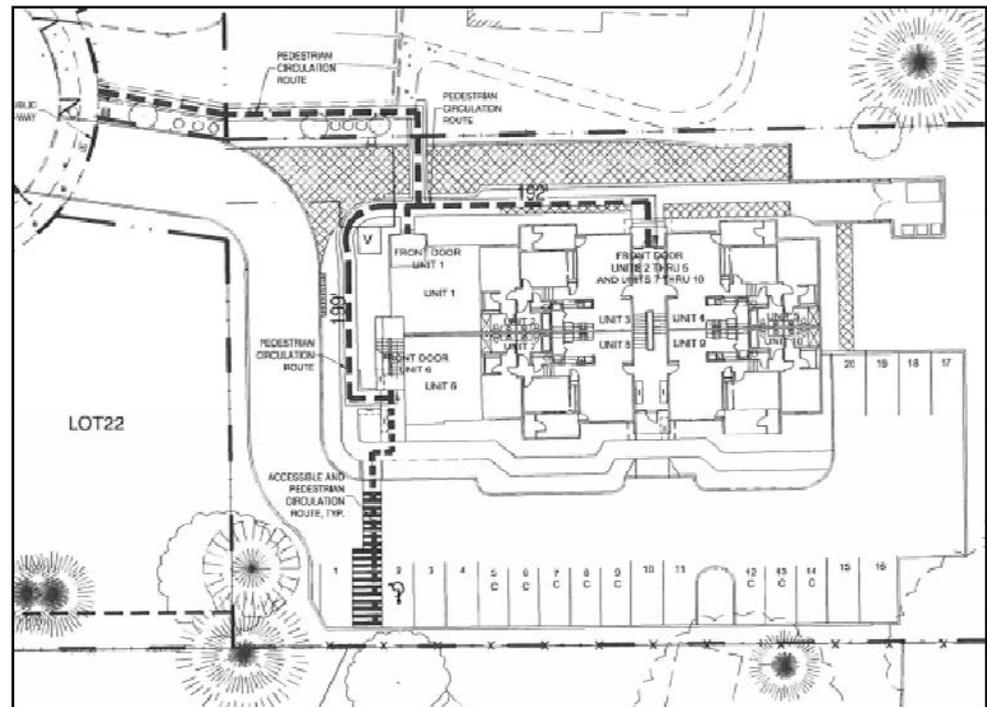
- Cul-de-sac standards:
 - Mirador Place meets “cul-de-sac” definition:
 - *“Cul-de-Sac - Local Street with one outlet and a turnaround. Because emphasis should be placed on the creation of a roughly rectilinear street pattern that encourages the dispersion of local traffic through a number of streets, the use of Cul-de-sacs should be minimized. See Comprehensive Plan Policy 11.3.8.”*
 - LDC 4.0.60.c applied to this application, which requires:
 - *“Cul-de-sacs should not exceed 600 ft. nor serve more than 18 dwelling units.”*
 - Proposal would result in as many as 27 units taking access from a cul-de-sac
- Therefore, proposal does not comply with this criterion

CONCEPTUAL DEVELOPMENT PLAN CRITERIA



PEDESTRIAN ORIENTED DESIGN STANDARDS

- Variation requested to LDC Section 4.10.60.01.b
- Compliance with LDC Sections 4.10.60.06 (d) and (f) addressed, Condition #7 removed
- Revised site plan provided to demonstrate compliance with 200 ft. max pedestrian path to primary building entrance requirement

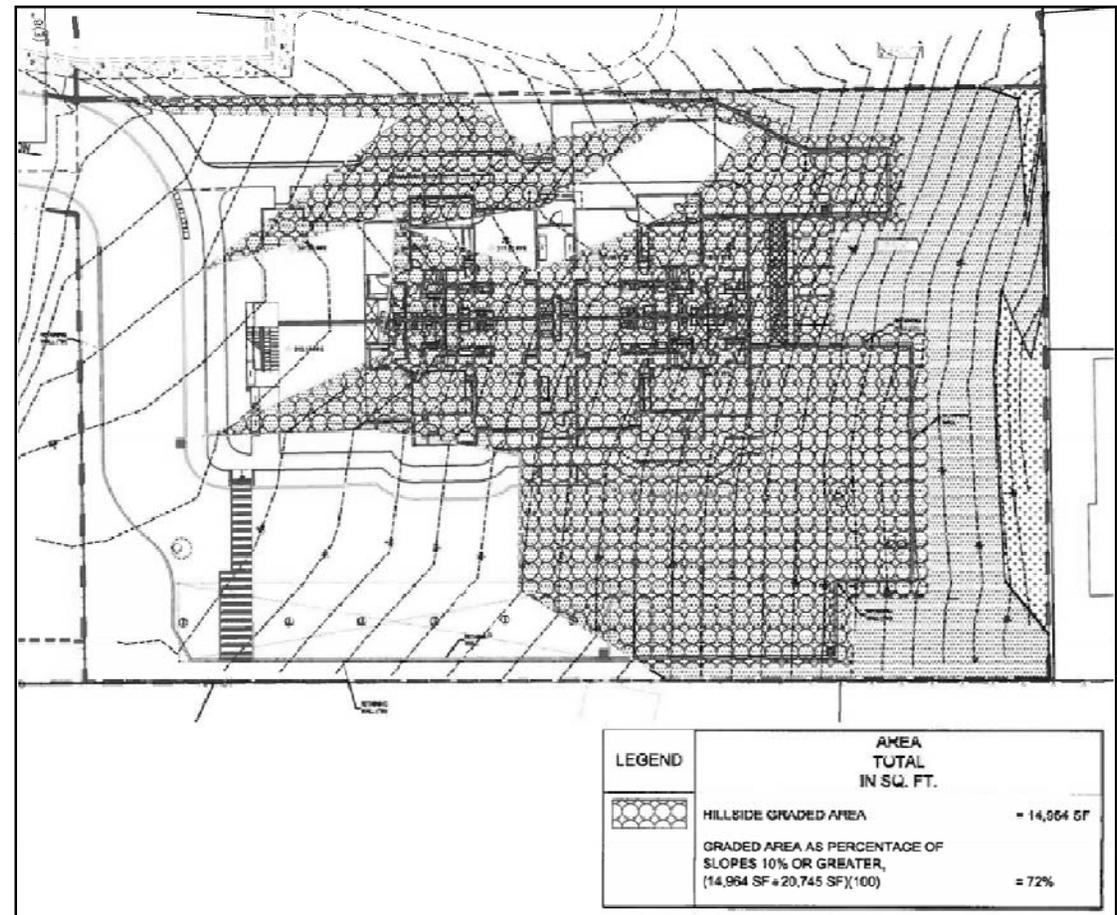


CONCEPTUAL DEVELOPMENT PLAN CRITERIA



NATURAL FEATURES PROTECTIONS

- No mapped Natural Resources
- Mapped Natural Hazards = steep slopes (>10%)
- Proposed grading = 72% of steep slope area
- Complies with 8 ft. maximum cut/fill
- Map refinement provided



STAFF RECOMMENDATION



- Planning Commission and Staff find compatibility issues have not been sufficient addressed, and recommend denial
- However, if the City Council determines that the proposal meets the applicable decision criteria and should be approved, Staff have provided potential conditions of approval

Date: March 2, 2015

To: Corvallis City Council

From: Curtis Hubele, 688 NW Mirador Place, Corvallis OR 97330

Re: Testimony in Opposition to Tract B Apartment Application (PLD14-00005)

The applicant has applied for a Major Modification to the Regent Planned Development (PD-81-1). I am writing to the City Council in opposition to the application because the proposed action is inconsistent with previous and current Corvallis Land Development Codes, previous relevant land use decisions, ORS Chapters 92 and 94, and is generally incompatible with the surrounding neighborhood and uses.

Incomplete Application

The application for the above land use decision is incomplete and should be rejected under Corvallis LDC 2.0.50.01 as an incomplete application because it does not contain the signed consent of all property owners in the planned development.

2.0.50.01 - Acceptance of Application

a. ...The applicant also shall be advised that the hearing authority will be unable to approve an incomplete application...

This application seeks to add a new use type to the site (multi-family residential), increases noise, traffic, parking and other nuisances, reduces the available open space from 98,776 sq. ft. to 80,461 sq. ft. (reduction of 19%), reduces the future developable footprint of The Regent by 18,315 sq. ft., and would have the effect of reducing the Regent building setback from adjacent developed property to the south from 201 feet to 56.5 feet (a reduction of 72%). The above listed reasons combined with the fact that The Regent property consists of 76% of the total property within the subject Planned Development Modification, The Regent has a vested interest in this application

Corvallis LDC 2.5.60.03, 2.5.50.01 and 2.5.40.01 (*relevant sections included below for ease of review*) requires that the application be submitted and reviewed using the same requirements as a Conceptual Plan submission. This includes the requirement that the application include the signed consent of all owners of property contained within the Planned Development. While the owners of The Regent were provided public notice and apparently have not yet submitted testimony objecting to the proposal, their lack of testimony in opposition does satisfy the requirement that their signed consent is necessary to validate the application.

2.5.40.01 - Application Requirements

Applications shall be made on forms provided by the Director and shall be accompanied by:

b. Signed consent by the subject property's owner(s) and/or the owner's legal representative(s)...

In 2008, the applicant appealed the Major Modification of The Regent Conceptual and Detailed Development Plan to expand parking for The Regent (PLD07-00010) on the grounds that the appellant was requesting that the Planned Development also be modified to remove Tract B from the Regent Planned Development. That request was denied by the Planning Commission, then appealed and upheld by the City Council. In the letter of appeal, the applicant argues that a Detailed Development Plan cannot be changed without the consent of all owners of property under the Development Plan, stating that, "if our property is part of the Detailed Development Plan, as the decision suggests, that plan cannot be changed without our consent" (see below).

W I L L A M E T T E V A L L E Y P L A N N I N G		
June 17, 2008	RECEIVED	RECEIVED
Ms. Kathy Louie, City Recorder Corvallis City Managers Office 501 SW Madison Avenue Corvallis, OR 97333	JUN 17 2008 Community Development Planning Division	JUN 17 2008 CITY MANAGERS OFFICE
Subject: Appeal of The Regent Parking Addition (PLD07-00010, CDP07-00006, MRP07-00006)		
Dear Ms. Louie:		
We wish to appeal the Planning Commission's June 4 th decision on the The Regent Parking Addition referenced above. Having submitted written testimony on behalf of Safe Equities LLC, we are considered an affected party with standing. <u>On its face, the Planning Commission's decision affects Safe Equities LLC's interests and, if our property is part of the Detailed Development Plan as the decision suggests, that plan cannot be changed without our consent.</u>		

Due to its ownership of property contained within the Regent Planned Development, the applicant was given legal standing and appealed PLD07-00010 to request the removal of their property from the Planned Development. On July 21, 2008, the City Council denied the appellants request to remove Tract B from the Regent Planned Development boundary. As a part of that decision the City Council affirmed the Planning Commission's development related concern "H", which reads...

Tract B - Coronado Subdivision and Case PD-81-1 - The approval of case PLD07-00010 in no way alters the original boundary of case PD-81-1, except to the extent that Tract C of the Coronado subdivision is added. A major portion of Tract B of the Coronado subdivision is still located within the original Planned Development boundary as shown on the Official Zoning Map - Planned Development Overlay, and is subject to the 1981 Planned Development site plan and conditions.

As required in LDC 2.5.40.01, and as argued by the current applicant in their 2008 appeal of PLD07-00010, The Regent Detailed Development Plan cannot be changed without the consent of all owners of property within the Planned Development.

This application for a Major Modification of the Regent Planned Development does not include the signed consent of The Regent, the owner of the majority of the property contained within the Planned Development. Therefore, the application does not meet the application submission requirements of LDC 2.5.40.01 and must be **denied**.

Not a Lawfully Established Lot or Parcel

The current application narrative, page 1, paragraph 1, reads as follows:

"This is an application to develop ten multi-family units on a subdivided tract of land that is planned and zoned for that use..."

However, Tract B has never been the subject of any subdivision, partition or other land use action establishing it as a lawfully established unit of land in compliance with all applicable planning, zoning and subdivision or partition ordinances and regulations, as required by the ORS Chapter 92 and Chapter 215. Tract B is a unit of land created solely to establish a separate tax account, or a "tax lot".

As used in ORS 92.010 to 92.192, unless the context requires otherwise:

(3) "Lot" means a single unit of land that is created by a subdivision of land. 2005 ORS 92.010

Under Corvallis LDC active at the time of the approval of the Coronado Subdivision (LDC 07/19/93, amended 12/02/02) a Lot is a unit of land created by a subdivision of land and intended as a unit for the purpose, whether immediate or future, or transfer of ownership and/or for development.

In the narrative section on page 1 of the application for the Coronado Subdivision (ZDC05-00009/SUB05-00005) the applicant states that Tract B is not a subject of the application for subdivision, and is not proposed to be subdivided.

"The PD (RS12) portion appears to have been established when the Regent Retirement Residence was approved. Because this portion of the site appears to have a previously approved Detailed Development Plan, the applicant is proposing to leave this portion of the property in a separate tract that is not proposed to be subdivided."

Under the Coronado Subdivision, the applicant never applied for a land use action for Tract B other than "to leave this portion of the property in a separate tract that is not proposed to be subdivided". Tract B is tax lot under 2005 ORS 215.010(d) as it is a "unit of land created solely to establish a separate tax account", but it is not a "lot" or "parcel" in compliance with all applicable planning, zoning and subdivision or partition ordinances and regulations as required by 2005 ORS 215.010(B). Tract B was excluded from the land use approvals for the Coronado Subdivision other than the requirement to preserve Significant Trees.

The owner's intent that Tract B not be considered a lot or other legally conforming parcel subject to the plat approval of the Coronado Subdivision is confirmed just 97 days after the recording of the Coronado Subdivision final plat when the owner applied for a Zone Change (ZDC07-00005) for Tract B. In that application, the applicant affirms that Tract B was not intended to be created as a legal lot with the recording Coronado Subdivision final plat (SUB05-00005) or subject to any subdivision approvals. On page 2 of the application in the section titled "Background" the applicant states,

"2007 – Benton County recorded the Coronado Subdivision which included Tract B as the subject property, but not as a lot within the subdivision".

Page 4, of the same application (ZDC07-00005) reads,

"There must be no active Detailed Development Plan on any part of the site. An active Detailed Development Plan includes one which has a final Subdivision or Partition plat filed and recorded;

"The land division performed under the Coronado Subdivision Plat has no impact upon this request, as the subject site was established as a tract and not a lot through the subdivision process, to meet the state's needed housing." (applicant's response).

As demonstrated above, Tract B was excluded from the subdivision application, review and approval at the request of the applicant. As a result the separate tax lot or "tract" was created, but not a legally conforming "lot". The applicant affirms that intent in application for ZDC07-00005. Tract B is not a "lot", rather, it is a separate tax lot created in its current configuration by the subdivision declarant after the subdivision of all other property able to be developed outside the Regent Planned Development.

- Tract B was excluded from the Satinwood Subdivision application and approval, except as a landscape maintenance and tree preservation tract, its use under the Regent Planned Development approval.
- There has never been any other land use application, such as a Minor Replat or other land use application to establish Tract B a legally conforming unit of land.
- Under Oregon land use law ORS Chapter 92 and Chapter 215, Tract B is not a "Lot", "Parcel", or "unit of land created in compliance with all applicable planning, zoning and subdivision or partition ordinances and regulations".
- Tract B is a "tax lot" created to allow the applicant to retain ownership and to establish a separate tax account for that portion of the original property excluded by the applicant from the Coronado Subdivision application due to its inclusion in the Regent Conceptual and Detailed Development Plan.

As Tract B is a "tax lot" and not a lawfully established unit of land, the proposed development of this tract must be **denied**.

Required Open Space/Setback Area

The subject area identified as Tract B of the Coronado subdivision is also identified as **both** a required minimum 135 foot open space/building setback from the southern property line and a 100 foot required setback from the eastern property line in the Regent Conceptual and Detailed Development Plan.

Tract B has been confirmed multiple times throughout the past 33 years as both an historic and currently defined open space/building setback area which was required as a condition of approval for the Regent Planned Development (DC-81-2/PD-81-1) for which the applicant is now requesting a Major Modification of the Detailed Development Plan.

Original Intent

This land use application would change the approved use of the Tract B portion of the Regent Planned Development from the original approval as a required open space/building setback area to a 10-unit multi-family apartment complex. A Major Modification to a Planned Development Detailed Development Plan cannot change the intent of the original conditions of approval.

***Planned Development Modification (Major):** Land use process that provides an opportunity to allow flexibility with regard to site planning and architectural design for previously approved Conceptual or Detailed Development Plans. Such flexibility is in excess of the thresholds that define a Minor Planned Development Modification and provides benefits within the development site that compensate for requested variations from the approved Conceptual or Detailed Development Plan such that the intent of the original approval is still met. (2005 LDC 1.6.30)*

2.5.60.01 - Purposes of a Planned Development Modification

- a. Provide a limited amount of flexibility with regard to site planning and architectural design for approved Conceptual or Detailed Development Plans; and
- b. Provide elements within the development site that compensate for requested variations from approved Conceptual or Detailed Development Plans such that the intent of the original approvals is still met. (2005 LDC 2.5.60.01)

Required Permanent Open Space

The intent of the 135 foot and 100 foot setback requirements is to provide adequate permanent open space as a buffer or transition zone between the large congregate care facility and the abutting single family residential use to the south.

The original 1980 Congregate Care Center application (PD80-9) was denied by the Planning Commission because:

III. Due to the scale of the proposed structure, in conjunction with nearby development (Elks Club Lodge, Good Samaritan Hospital and adjacent facility approved through the Planned Development Modification for the Novare Planned Development), a suitable balance between the proposed structure and open space was not provided. The proposed development would be disproportionate to the overall site area.

A second application was then filed in 1981 with adjustments having been to the building scale, required setbacks, and increased permanent open space around the building.

In the revised 1981 application for Zone Change and Detailed Planned Development designated as DC-81-2/PD-81-1, the applicants state that they selected the site layout and overall design because:

- "...the large amount of open space that can be maintained around the building"
- "...the Elks (Regent) congregate care building has been designed so that it works well with the surrounding single family use"
- "Over the course of the past several months, this design has gone through a substantial amount of public review and input that has resulted in the current proposal"
- "The design for the site has been carefully reviewed and amended so that the surrounding facilities and structures to be created blend well into the surrounding area and are not incompatible with single family housing to the east or south"

City planning staff then recommended and the planning commission ordered (PC Order 81-23) under condition of approval #12, "The building shall be set back... no less than 135 feet from the south property line... Other applicable setbacks are included on the site plan". The Planning Commission also adopted the Staff Finding of Facts which states, "...the applicant has substantially improved the appearance of the structure and its relationship to the site and surrounding uses..., and the applicant has provided more open space surrounding the structure, decreasing visual impact".

Under the 1980 Corvallis LDC active at the time of the original 1981 Planned Development application and approval, the term "Open Space" was defined as:

"Open Space - Areas intended for common use...designed for outdoor living and recreation or the retention of an area in its natural state."

Our current LDC definitions define "Open Space" as:

"Open Space - Undeveloped or predominately undeveloped land, including waterways, in and around an urban area. Open Space lands are reserved for general community use, and include parks, preserves... and other areas permanently precluded from development."

Under both the 1980 Corvallis LDC and the current codes, the required open area/setback is required to be maintained as a permanent open area.

Per 1980 LDC 204.04.08 – Open Area, Landscaping and Screening (RS-12)
"A minimum of 40 percent of the gross lot area shall be developed as permanent open area. Landscaping shall consist of ground cover, ferns, trees, shrubs..."

In the 6/22/88 Letter from Elizabeth Papadopoulos - Engineering Services to Joseph Kasper – Assistant Planner regarding MLP88-2 (Corvallis Archives “Dispositions” for MLP88-2), there are two significant findings of fact. The first is that ***“in 1986 and 1988 additional tax lots were created without minor land partition approval. One of these tax lots (Regent) has now been sold, in effect, making it a separate parcel.”***

The Elks BPOE is proposing to create three parcels on the site currently containing the Elks Lodge and the Regency, a congregate care facility. The site originally consisted of two parcels (and two tax lots) but in 1986 and 1988 additional taxlots were created without minor land partition approval. One of these taxlots has since been sold, in effect, making it a separate parcel. The conditions for this proposed partition include items that will meet our concerns regarding the the earlier parcel creation.

The second, finding is that ***“the land to the south of the regency parcel was intended to serve as open space for the Regency. Thus the southern boundary of parcel 2 (Regent) should be extended to the south to include the open space”***.

Proposed parcel 2, which would contain the Regency is already a single tax lot (tax lot 1101). However, the land to the south of the regency parcel was intended to serve as open space for the Regency. Thus the southern boundary of parcel 2 should be extended to the south to include the open space. In addition easements for the extension of public sewer and water to parcel 3 are needed.

Planned Development/Permanent Open Space Requirement Still Applies to Tract B

Various Planning Commission, City Council and City Planning Staff decisions over the years have repeatedly affirmed the original intent of the building setbacks across Tract B to be preserved as permanent open area.

In the staff report during the July 21, 2008 City Council PLD07-00010 appeal hearing Assistant Planner Yaich states the following:

- » From the approved drawings, the Conditions of Approval, and the 1981 staff findings, it is apparent that Tract B was part of the 1981 DDP, as evidenced by the PDO boundary on the Zoning Map reflecting the 1981 boundary.
- » The final 1981 Planning Commission approval included the property south of the Regent building as part of the open space and building set-back for the approval. A 1981 Condition of Approval indicated a 135-foot distance between the Regent building and the southern property line. The southern property line referenced in 1981 is the current southern property line of Tract B.

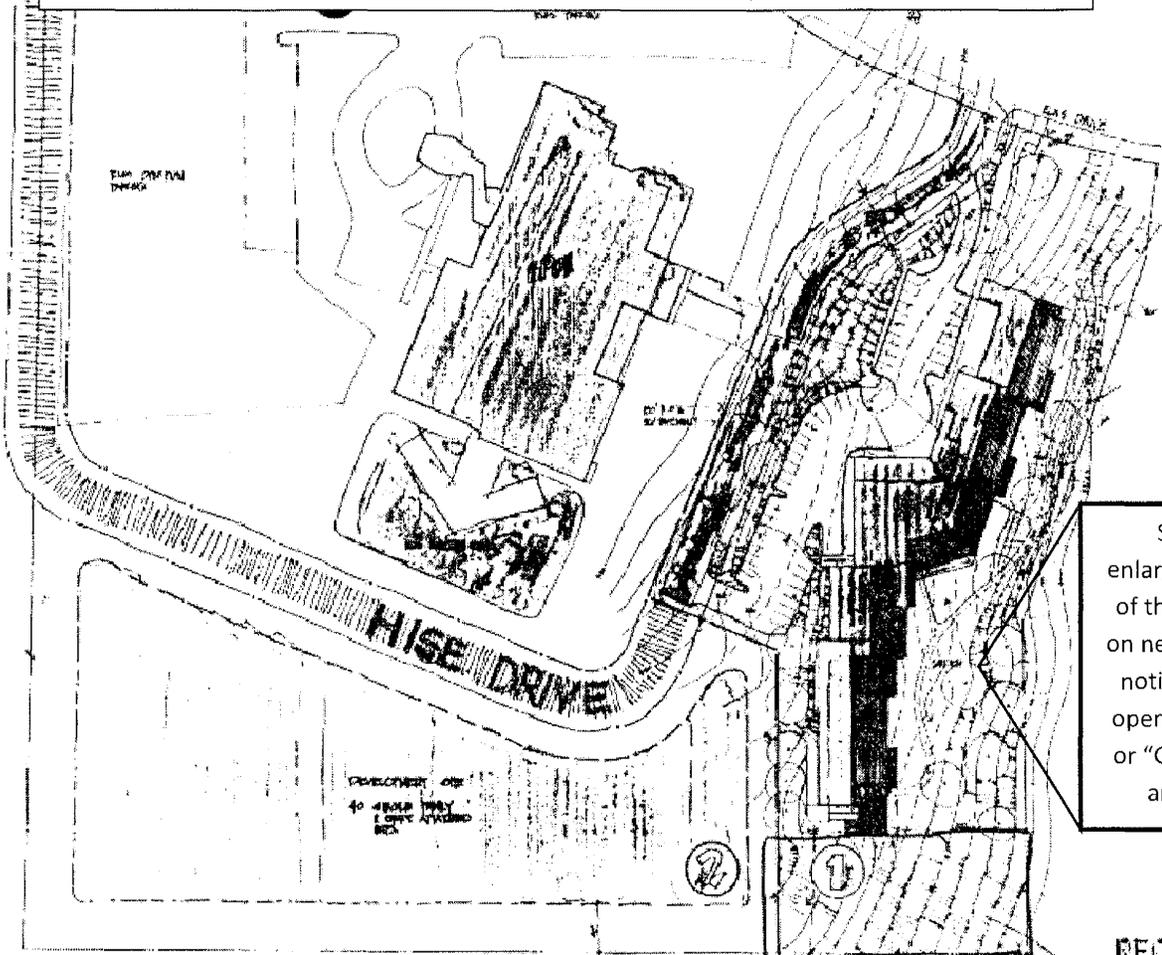
During the May 21, 2008 Planning Commission hearing for PLD07-00010

Commissioner Hann said he remembers that there was a lot of discussion about Tract B by the neighborhood at the time of consideration of Coronado Subdivision, related to assertions made during the 1981 approval process. Planner Yaich said that any applicant for developing Tract B would have to address the 1981 Condition of Approval that assumed an open space area between the Regent building and the south property line.

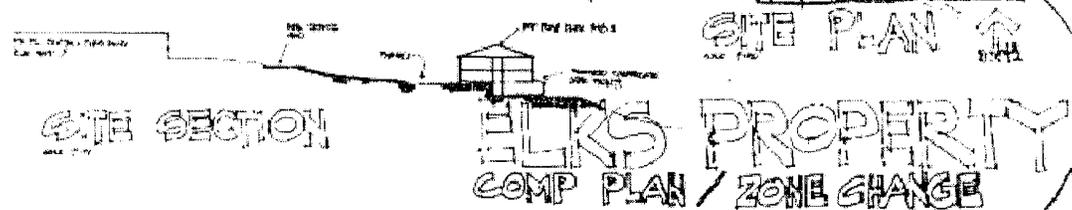
8/1/83 BUILDING PERMIT

Green Area and Landscaping to be installed with Construction

Source: Corvallis Archives MLP88-00002 Map Site Section



See enlargement of this area on next page noting the open space, or "GREEN" areas



RECEIVED
MAY 6 1983
City Planning Dept.
Architect
1000 SW 3rd St
Corvallis, OR 97331

PART 1 8/1/83 BUILDING PERMIT
IS TO

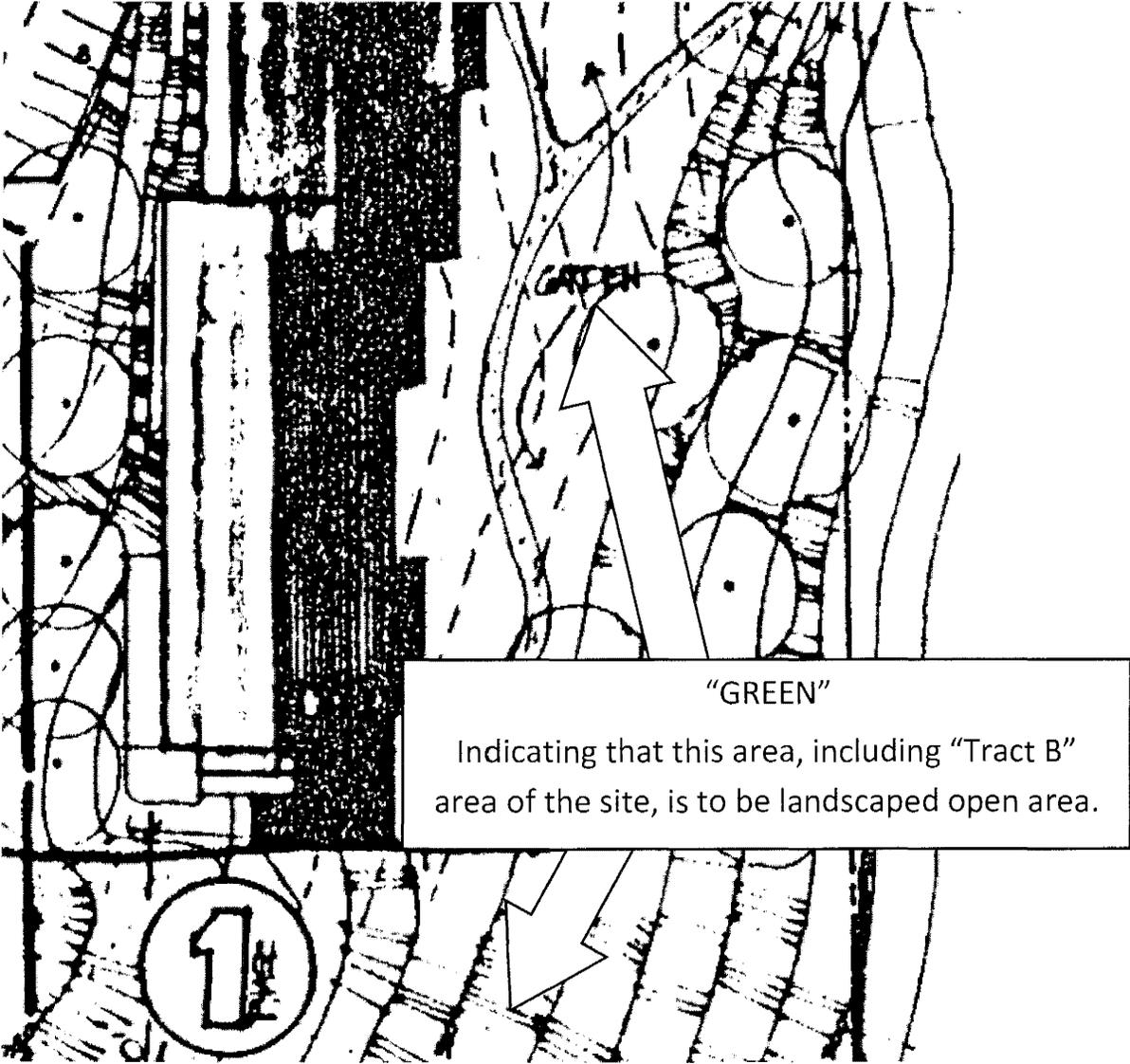
1. ROUGH GRADE THIS AREA
2. PLANT TO A TALL FESCUE TURF TO BE MAINTAINED BY CONGREGATE CARE
3. PLANT A FEW ASPEN IN AREA TO MAKE TRANSITION FROM CARE FACILITY TO UNIMPROVED AREA

Part 1 8/1/83 Building Permit is to

1. Rough grade this area
2. Plant to a tall fescue turf to be maintained by Congregate Care (non-irrigated)
3. Plant a few aspen in area to make transition from care facility to unimproved area.

Permanent open space was required at the time the Regent Planned Development was approved in 1981, was still valid in 1988, and continues to be valid today. Tract B is a portion of the required permanent open space and was developed and landscaped along with the construction of the Regent Building in 1985. A careful review of the Regent Approved Site plan required for the 8/1/1983 Building Permit (previous page) reveals the original intent that these open areas to the east and south (now Tract B) of the Regent building were required to be landscaped open space or "Green" areas.

8/1/83 Building Permit landscape plan showing "GREEN" open areas to be planted with construction of the building.



The required setback/permanent open areas (including Tract B) were fully developed and landscaped as required by Condition #12 of PLD81-1 and the necessary building permits (see photos on next 2 pages).

1985 Photo of Regent Planned Development Area

Tract B area (photo right) has been fully developed, graded and landscaped, as required.



1985 Photo of Regent Planned Development Area

Tract B area (photo right) is fully developed, graded and landscaped, as required.



Note the large Douglas fir tree just south of the Regent building (#122 on Arborist's Report) and the large trees along the south property line (right). These trees have been on the site for more than 50 years and are now proposed to be removed for the Tract B Apartments.

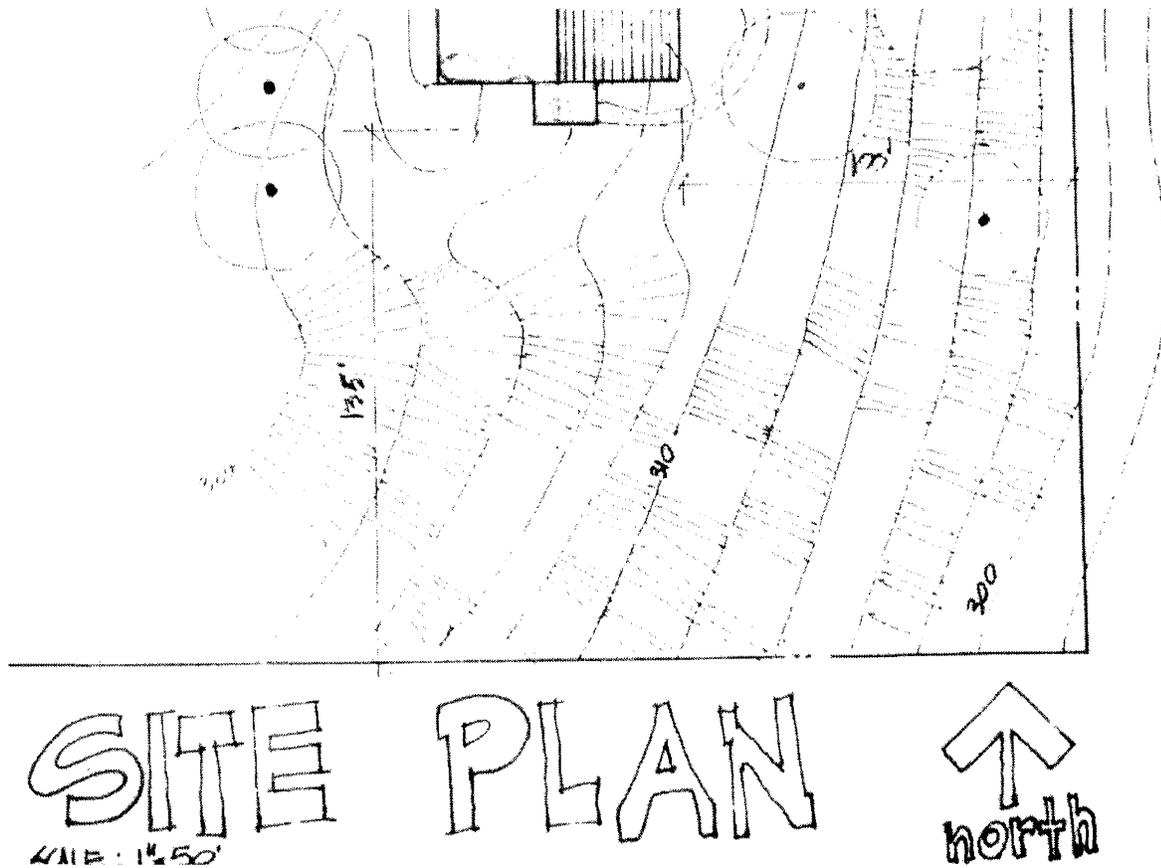
The applicant now proposes to modify the original condition of approval requiring that the Tract B remain as permanent open space and change it to a multifamily apartment complex. As this clearly does not meet previous code and current code requirements for permanent open space, and does not meet the original intent of the planned development approval, this application must be **denied** under LDC 2.5.60.01.

Site Setback Requirements

While the status of the property now defined as Tract B is clearly dedicated as a required permanent open space for the Regent Planned Development, and a dedicated landscape and tree preservation tract for the Coronado Subdivision, it is also within two required building setback lines areas for the Planned Development in which no building may occur.

Condition of Approval #12 has more than one effect upon the site. It required the placement of the Regent building a specific minimum distance from the property line, but it also states that, "Other applicable setbacks are included on the site plan". Under the definition of a setback in the applicable 1980 LDC Section 1.6, a setback is the minimum allowable horizontal distance from a property line to the nearest vertical wall of a building or structure, that is any building or structure, not just the original Regent building. These other setbacks are not specific to the Regent building, but apply to any building on the site.

A careful review of the approved site plan (below) shows that there are at least two "other applicable" site development setbacks noted on the plan in the area of Tract B. One is the 135 foot setback from the southern property boundary and the other is a 100 foot setback from the eastern property boundary of future Tract B.



The staff report during the June 4, 2008 Planning Commission meeting concluded that the setbacks across Tract B are still valid and *“compatibility was a major issue with property owners to the south, and that is where the setback condition came from.”*

Planner Yaich said staff feels that, while the property ownership is separate due to the 1985 land partition, the scope of the 1981 Planned Development approval and the Detailed Development Plan would still incorporate Tract B, because it falls within the Planned Development boundary and because there is a specific Condition of Approval that spells out a setback for that area.

In response to inquiries from Commissioner Howell, Planner Yaich drew attention to the area of Tract B in Attachment F of the staff report, and to Condition of Approval 12 in Attachment E, which has wording related to building setback from the south property line. This condition, coupled with the site plan approval, would lock in that area of the site as part of the original Planned Development. When the 1985 land partition was approved, there was no physical change to the development site. Staff interprets Condition 12 as referring to the south property line of the Planned Development without respect to property ownership. A Major Modification to the original Planned Development would be necessary to remove that part of the site from the original Planned Development boundary. It is clear from the record of the 1981 approval that compatibility was a major issue with property owners to the south, and that is where the setback condition came from.

Condition #12 from the 1981 Planned Development approval which refers to the 135-foot and 100-foot open space/site setbacks from the southern and eastern planned development boundary have been contested by the applicant several times over the past several years and has been affirmed each time; most recently by the Corvallis Planning Commission under land use case PLD 12-00005 and PLD07-00010. PLD07-00010 was then appealed and the Planning Commission decision was upheld by the Corvallis City Council on July 21, 2008. In order 2008-072, the City Council affirmed that Tract B is subject to the original “site plan and conditions”.

The scale of the Regent Building in relation to the residences to the south and east, the compatibility of the site with the adjacent uses, and the need to maintain an appropriate residential density in compliance with the Comprehensive Plan policies and applicable zoning is what led to the required site setbacks and open space requirements in the original Regent Conceptual Plan.

The requested Major Modification of the Detailed Development Plan can only be approved if it is found to be in compliance with the Conceptual Plan and the intent of the original approvals is still met. The applicant’s request to change the original approved use of this area from an open space/building and site setback area to a 10-unit multi-family apartment complex violates the intent of the original intent of the original approval. Therefore, under LDC 1.6.30 and LDC 2.5.60.01, the application for a Major Planned Development Modification **must be denied.**

Comprehensive Plan Density

A review of the 1981 land use decisions (PD81-1/DC 81-2) shows that the Regent Planned Development was zoned RS-12 to allow for the Group Residential use, but assigned a Medium Density designation to limit the density of development on the site to maintain compatibility with adjacent uses (see pages 6-10 of Staff Report CPA-81-4 May 4, 1981, and June 3 1981 PC Minutes attached). The subsequent land partitions and Comprehensive Plan amendments have served to maintain site compliance with density requirements of the zoning (RS-12) applicable to the Regent Planned Development site.

The current RS-12 zoning allows a maximum of 20 dwelling units per acre. The Regent apartment building has 82 individual dwelling units, as defined under previous and current codes. The entire Regent Planned Development site as it is currently configured, including Tract B, has a land area of just over 4.02 acres. The 82 dwelling units sited on a 4.02 acre planned development site results in a site density of 20.4 dwelling units per acre, or 20 units per acre when rounded to the nearest unit. The Regent Planned Development currently complies with the maximum allowed density under the Comprehensive Plan.

Removal of the Tract B from the Regent Planned Development site would result in a density of 27 dwelling units per acre for the remaining Regent portion, exceeding the allowable density by 36%. Retaining Tract B in the Planned Development and allowing the current application for 10 additional dwelling units would result in an overall site density of 23 units (rounded) per acre, exceeding the maximum site density by 14%.

Some might claim that the Regent apartments should not count toward the density of the site because some may not consider each living unit as one "dwelling unit". They might argue that just as we do not count every room in a fraternity or sorority as a dwelling unit, we should also not count each apartment at the Regent as one unit. However, that is not correct. A brief walk down the halls of the Regent will confirm that the Regent is neither a fraternity nor sorority. Each unit was considered a dwelling unit for density calculations when the Regent was approved and the appropriate zone density was applied, and each of the 82 units at the Regent is a separate dwelling unit under the previous and current code definitions of a dwelling unit.

In LDC 1.6 – Definitions

Dwelling Unit - One or more rooms, with bathroom and kitchen facilities (limited to one kitchen only), designed for occupancy by one family. See Family.

Family - Individual or two or more persons related by blood, adoption, marriage, or domestic partnership, or a group of not more than five adults unrelated by blood or marriage, living together in a dwelling unit.

All Regent dwelling units have a separate living area, with bathroom and kitchen facilities, designed for occupancy by one family. The Regent is an independent living, senior apartment facility. It is NOT licensed as an assisted-living facility or other medical assistance facility, there are no medical staff or nurses on site, and each resident has the opportunity to either dine in their unit or eat at a dining facility. They offer a range of services, but these are not mandatory and any in-home care is provided by outside providers, just as would be the case at any other apartment facility.

The density calculation for the Regent Planned Development must include the 82 apartments in the Regent building and the entire approved site of 4.02 acres, including Tract B, for a maximum of 20 units per acre; the maximum allowed under the Comprehensive Plan density for the zone. Any Planned Development Modification to either reduce the size of the Planned Development or to add additional units would exceed the maximum allowed density for the site zoning under the Comprehensive Plan and **must be denied.**

Significant Vegetation/Trees

Corvallis LDC 4.2.20(d)(1) requires that Significant Trees should “*be preserved to the greatest extent practicable and integrated into the design of a development*”. The current proposal would remove 15 of the 26 Significant Trees on the proposed apartment site. Removal of 58% of the Significant Trees cannot be interpreted as preserving “to the greatest extent practicable” the existing Significant Trees. The site design has not been configured in manner allow integration of the existing Significant Trees into the site plan.

There are many alternative ways in which the site could have been designed to preserve the existing Significant Vegetation, such as possibly using the site topography to locate vehicle parking underneath the units, or proposing to develop fewer units on the site consistent with the Medium Density designation of the site. For example, a proposal to build four assisted-living units would be more consistent with the site’s current Planned Development and would require far fewer parking spaces and lot coverage, allowing preservation and integration of the Significant Trees (and probably far fewer neighborhood objections to the proposed Modification).

On page 24 of the Planning Commission Staff Report for this proposal (PLD14-00005), staff error in determining that two Significant Trees on Tract B are not intended to be preserved as a part of the Coronado subdivision approval. Item 9 from page 24 of the Staff Report reads as follows:

*“Staff note that the Coronado subdivision approval contains a discrepancy between the condition of approval requiring protection of 13 trees on the subject Coronado site, and the drawing referred to as “Attachment G-46”, which appears to illustrate two additional existing Significant Trees on Tract B and identifies in the legend those trees as “Existing Trees To Be Saved”. It is not clear in looking at Attachment G-46, whether the additional two trees are intended to be preserved, **other than their illustration appears to match the legend item.** After a detailed review of the record for the Coronado subdivision approval including discussion in the staff report and application materials for that approval (Attachment C, page 126), Staff believe that it was intended that only two of the four Significant Trees identified on Tract B are affected by the condition of approval. **This is primarily based on a description in the staff report that states “...a total of 13 significant trees will be preserved, all of which are located along the boundaries of the site.***

Staff find that the two additional trees located in the north side of Tract B (Trees # 119 (Plum) and 122 (Douglas Fir) in this application) and illustrated on Attachment G-46 are not intended to be preserved.

I have bolded two statements in the staff report that are particularly flawed and will address those below.

*“It is not clear in looking at Attachment G-46, whether the additional two trees are intended to be preserved, other **than their illustration appears to match the legend item.**”*

If the illustration of the trees matches the legend item for “Existing Trees To Be Saved” on the map legend for the final approved landscaping plan for the subdivision, then by definition they are to be saved. The two trees are also identified as “Existing Trees To Be Saved” on both the final approved Coronado Landscape Plan and the Coronado Grading and Tree Preservation Plan (available as APPROVED PLANS FOR ORDER #2006-025 under ZDC05-00009 on the city archive website).

The two trees in question, noted on the arborists report at #119 and #122, are also shown on the final approved Landscape Plan approved for the Coronado Subdivision in 2007 (LND07-00001) on as “Existing Deciduous Tree to be Preserved” (#119 – Plum on current arborist report) and “Existing Evergreen Tree to be Preserved” (#122 – Douglas Fir on current arborist report).

As evidenced by the approved Coronado Landscape Plan and the approved Grading and Tree Preservation Plan as a part of the approval of Coronado Subdivision (SUB05-00005) in 2005, and the final Landscape Plan approval for the subdivision in 2007 (LND07-00001), the two Significant Trees in question were intended to be protected and Preserved

*“After a detailed review of the record for the Coronado subdivision approval...Staff believe that it was intended that only two of the four Significant Trees identified on Tract B are affected by the condition of approval. **This is primarily based on a description in the staff report that states “...a total of 13 significant trees will be preserved, all of which are located along the boundaries of the site.**”*

These two trees are located along the boundaries of the site. The Douglas Fir #122 is within 10 feet of the boundary and the Plum #119 is located less than 20 feet from the site boundary.

Douglas Fir (Tree #122 on Arborist Report)

It is particularly concerning that the applicant and staff find that the large Douglas Fir identified as tree #122 on the arborist report is not a Significant Tree to be preserved. This tree is over 65 feet tall, 40 feet wide, and is more than 50 years old. It can be seen throughout the surrounding neighborhoods and visually screens the south side of the Regent building from surrounding areas.

This tree predates the construction of the Regent Retirement Residence in 1983 and was a tall, large diameter tree protected during construction of the Regent from 1983 to 1985. This tree can be seen in the aerial photo taken in 1985 (Page 10 and 11 of this written testimony), shortly after the completion of the Regent. It is observed to be a large, tall tree creating a long shadow on the ground just to the south of the southwest corner of the Regent building.



City of Corvallis Archives – 1985 Aerial Photo, Flight Line 6, Image #7

Douglas Fir (#122) was large enough to be seen in this aerial photo taken on April 2, 1976.



City of Corvallis Archives -- 1976 Aerial Photo C-COC2-9 B5-4-10

Douglas Fir (#122) as seen in the aerial photo taken in 1982.



Aerial Photography by WAC Corp. T11S, R5W, Sec. 23 1982-83

Douglas Fir (#122) as seen in aerial photo taken in 1985.
City of Corvallis Archives – 1985 Aerial Photo, Flight Line 6, Image #7



Photos of Douglas Fir (#122) as it appears today.



It is important to note that this Douglas fir:

- Is over 65 feet tall, 40 feet wide, and is more than 50 years old,
- Was on the site in 1976, prior to construction of the Regent, and was protected throughout the construction process,
- Was designated as a Significant Tree to be preserved as a condition of approval under for the Coronado Subdivision (SUB05-0009),
- Was designated as a Significant Tree to be preserved on the approved Landscape Plan for Coronado Subdivision (LND07-00001),
- Was identified as a Significant Tree and required to be in the Arborist report required for BLD08-01196 and PLD07-00010 the previous Major Modification of the Regent Planned Development to expand parking, and
- Is identified a tree #122, to be removed, in the current arborists report for the proposed Tract B Apartments.

The current Arborist Report and Tree Management Plan (attachment "M" of the subject application) identifies tree #122 (the Douglas Fir) as a 32 foot tall tree, to be removed, in only "fair" condition. However, the casual observer can see that the identified tree is far taller than 32 feet and appears to be quite healthy. The Arborist Report required under PLD07-00010 Regent Parking Expansion identifies the same tree as being greater than 65 feet tall and in "good condition" (see attached Arborist Report for BLD08-01196). These inconsistencies call into question the validity of the entire proposed Tree Management Plan, as it seems to be significantly skewed in favor of tree minimization and favors tree removal over integration into the site development plan, as required

Corvallis LDC 4.2.20(d)(1) requires that Significant Trees should *"be preserved to the greatest extent practicable and integrated into the design of a development"*.

Corvallis LDC 4.2.20(d)(2)(b) requires that *"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."*

The proposed project does not make any reasonable effort preserve the majority of the existing Significant Trees on the site "to the greatest extent practical", and the proposed site design does not effectively integrate the existing trees into the design of the development. The proposed project does not comply with LDC 4.2.20(d)(1) or LDC 4.2.20(d)(2)(b) as required under LDC 2.5.40.04(a)(14) Compatibility Factors - Preservation and/or protection of Significant Natural Features, and must be **denied.**

Variances and Pedestrian Oriented Design Standards

The applicant has requested two variances from code requirements for the proposed development. The requested variances are for conditions which are the result of site conditions which the owner/developer created when the Tract B was originally platted. It is a fundamental tenant of planning that variances from development standards cannot be granted for self-created conditions. These are self-created conditions which should prevent the granting of any variances.

Tract B was created by the applicant or his predecessor in its current configuration with the recording of the Coronado Subdivision Plat. If the configuration of Tract B now renders it an undevelopable tract, then this condition was created by the original subdivision developer, for whom the applicant is a successor. The applicant is requesting a variance from a self-created condition which should prevent the granting of any variations. Therefore, the application should be denied.

Pedestrian Oriented Design Code Violation (No Variance Requested)

The applicant has proposed to place the too narrow "accessway" between the proposed building and the street (NW Mirador Place) to which the buildings are primarily oriented. This is in direct violation of LDC 4.10.60.01(a)3, which states,

"Off-street parking and vehicular circulation shall not be placed between buildings and the streets to which those buildings are primarily oriented."

The proposed development does not comply with applicable code and no variance has been requested.

Tract B was created by the applicant or his predecessor in its current configuration with the recording of the Coronado Subdivision Plat. If the configuration of Tract B now renders it a difficult to develop tract, then this condition was created by the original subdivision developer, for whom the applicant is a successor. The applicant is requesting a variance from a self-created condition which should prevent the granting of any variations. Therefore, the application should be **denied**.

Cul-de-sac Access and Standards

Tract B has access from Mirador Place, and the Coronado Subdivision, only as needed for the homeowner's association to complete its responsibilities related to landscape maintenance and tree preservation. This explains why Tract B was platted in a way that makes it unbuildable if access from Mirador were anticipated to be the only legal access for any building to be built upon it. The access for Tract B did not comply with legal street frontage for a buildable lot in the subdivision at the time it was platted. A legal lot in the RS-5 zone, which is the zoning for the portion of the lot that accesses Mirador, was a minimum of 30 feet. Tract B has only 29 feet of frontage on Mirador. As accessed from Mirador, Tract B would have been created by the applicant and recorder of the subdivision as a nonconforming flag lot, rendering it unbuildable in the future for anything other than possibly a duplex or two as a part of a Major Modification to the Regent Planned Development.

Any future development which might occur on Tract B was anticipated to be accessed in cooperation with the Regent, as a part of a major modification of the Regent Planned Development. Access was anticipated to come from Elks Drive, either through the Regent parking area, or via the shared access easement with the Regent (M-76872-86) and Tract C. Tract B was not intended to be accessed from Mirador, as evidenced by the following comments made in the application for the Coronado Subdivision.

- c. **Local streets shall be designed to discourage through traffic. NOTE: For the purposes of this section, "through traffic" means the traffic traveling through an area that does not have a local origination or destination. To discourage through traffic the following street designs shall be considered, as well as other designs intended to discourage traffic:**
1. **Straight segments of local streets should be kept to less than a quarter mile in length, and include design features such as curves and "T" intersections.**
 2. **Local streets should typically intersect in "T" configurations rather than 4-way intersections to minimize conflicts and discourage through traffic. Adjacent "T" intersections shall maintain a minimum of 125 ft between the nearest edges of the 2 rights-of-way.**
 3. **Cul-de-sacs should not exceed 600 ft nor serve more than 18 dwelling units.**

All local streets within the proposed subdivision have straight segments that are less than a quarter mile in length, in compliance with the straight street segment requirements. The local streets within the proposed subdivision have "T" intersections that are a minimum of 125-feet between the nearest edges of the 2 rights-of-way, in compliance with the intersection separation requirements.

The project contains two cul-de-sacs. The first is near the northwest corner of the project and is just over 200-feet in length (between center lines) and serves 8 lots.

The second is near the southeast corner of the project and is 600-feet in length (between center lines) and serves 18 lots. Lot 13 receives access from the street to the west. Both cul-de-sacs serve no more than the allowable 18 lots, and do not exceed the maximum length of 600-feet.

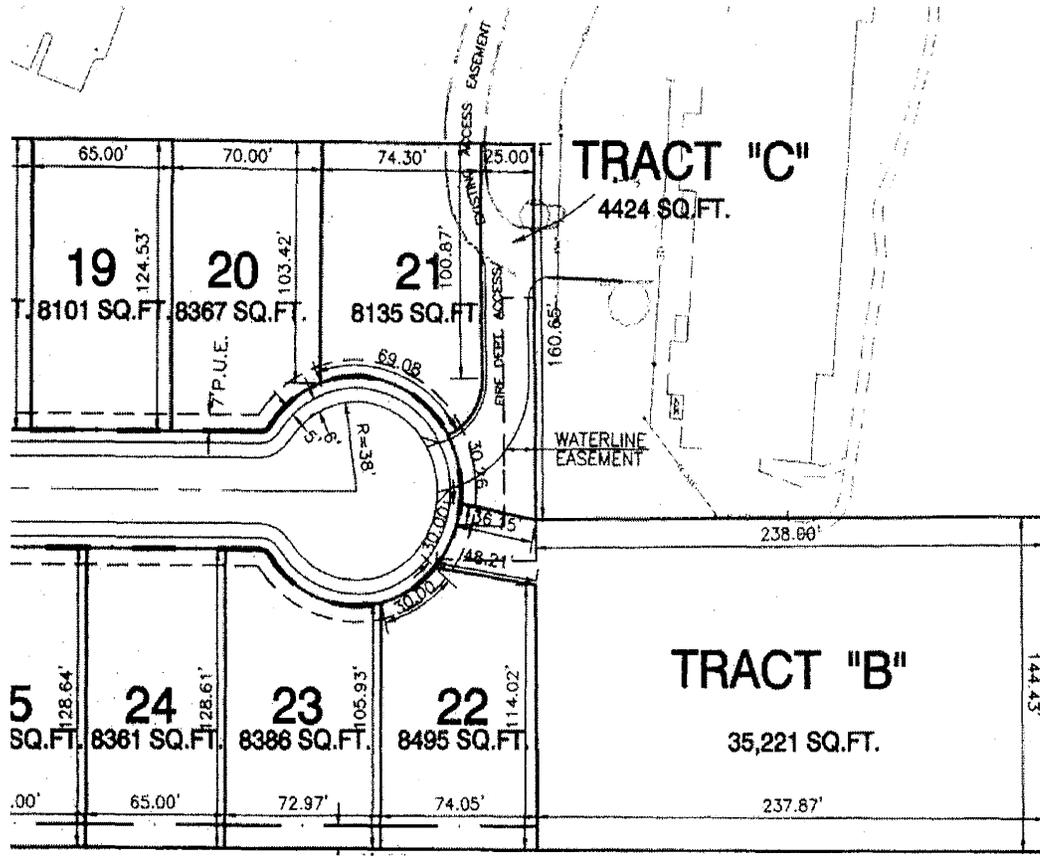
At the time of the application for the Coronado Subdivision, the applicants seemed to have no question that a cul-de-sac could "serve no more than the allowable 18 lots, and do not exceed the maximum length of 600 feet". At the time of Coronado approval, it was understood by all that Tract B could not be accessed from the cul-de-sac and would require development restrictions to ensure that the cul-de-sac would not serve more than 18 lots, but the applicant assured the community and Planning Commission that no development restrictions would be necessary for Tract B because any future development proposal would require a Major Modification to the Regent Planned Development. Access as a part of that proposal would come from Elks Drive, via the Regent parking area or the

shared access agreement (M-76872-86) for this property, the Regent, the Aumann Building.

There is no need to impose development restrictions on tract B at this time because it is already associated with the Regent Detailed Development Plan. The PD overlay can not be removed because a Detailed Development Plan is already in place. Emergency vehicle access to future development on tract B will be reviewed at the time someone submits a modification to the existing Regent Detailed Development Plan. The neighbors have expressed a desire to see tract B used for a neighborhood park, however a park use would still be subject to Planning Commission review and approval through the PD modification procedures.

A 20-foot wide reciprocal access easement was recorded in 1986, (M-76872-86) for this property, the Regent, and the Aumann Building. The easement actually crosses the northeast corner of lot 21 in the proposed subdivision, and is fully paved. The applicant is proposing to construct a new 20-foot wide paved connection between the cul-de-sac and the existing service drive, within a separate tract C. The accessway will be paved to meet the City's loading requirements and will have spring loaded knock down bollards behind the sidewalk. The bollards will allow emergency vehicles to cross, but will discourage day to day vehicular use.

As can be seen above, Tract B was not intended to be accessed from Mirador Place. If it were ever to be developed as a part of the Regent Planned Development it would be accessed using the same access off of Elks Drive that the Regent uses. It would share the same driveway, and then either cross the Regent parking area directly to Tract B, or veer right to the paved shared access drive, then across a paved access road over Tract C to Tract B. Contiguous with the other recorded access easement providing access to Elks Drive, Tract C provided fire department access between the Regent and Mirador Place and it provided access to Tract B from Elks Drive. Tract B had legal access at the time it was created, but from Elks Drive and not from Mirador Place.



Coronado Subdivision Approval and Home Owners' Association

Tract B is a tract noted on the Coronado Subdivision Plat. This subdivision was approved under Planning Commission Order #2006-025 as ZDC05-00009/SUB05-00005. The associated Conditions of Approval designate Tract B as a Tree Preservation and Landscape Maintenance Tract to be perpetually maintained by the Coronado Home Owners' Association.

The Coronado Home Owners' Association CC&Rs and Association Bylaws were originally recorded in Benton County as document number 2007-423440, subsequently replaced by document recorded as 2010-468791. A review of these documents reveals the intent of the original approval and the declarants to designate Tract B as a permanent Tree Preservation and Landscape Maintenance Tract to be maintained as a Common Maintenance area by the Coronado Home Owners' Association.

Condition of Approval #2

Tree Preservation and Replanting – As proposed by the applicant and shown on Attachment G-46, 13 existing significant trees will be preserved on the subject site.

Condition of Approval #3d Landscape Installation and Maintenance

Home Owners' Association Landscape Maintenance Responsibilities – "The Home Owners' Association created for this subdivision will be responsible for the perpetual maintenance of landscaping within the following areas:

5. Tract 'A', Tract 'B', and Tract 'C'."

Condition of Approval #4 Review of Home Owners' Association CC&Rs

"A Home Owners' Association shall be established to help assure appropriate maintenance of... the landscaped areas within the subdivision... The Homeowners' Association's CC&Rs or bylaws shall include language from each of the following Conditions of Approval:

Condition of Approval No.2 – Tree Preservation and Replanting

Condition of Approval No. 3, Part d – Home Owners' Association Landscape Maintenance Responsibilities"

From the above references, it is clear that the maintenance of Tract B as Tree Preservation and Landscape Maintenance tract was an important consideration of the Planning Commission in approving the Coronado Subdivision in 2006.

Coronado Subdivision CC&Rs

The original approved Coronado CC&Rs were recorded in Benton County as document 2007-423440 (Attachment H). The Coronado Subdivision was originally intended to be exclusively single-family residences. The first sentence of the CC&Rs which were required as a condition of approval to be reviewed and approved by the City prior to recording states the intent of the subdivision:

"Now, therefore, Declarant hereby declares that the purpose of these covenants and restrictions is to insure the use of the property for attractive single-family residential purposes only..."

The next paragraph reads...

"No lot shall be used except for single family residential purposes... No building shall be erected, altered, placed, or permitted to remain on any lot other than one detached single-family dwelling..."

The original approved CC&Rs were subsequently amended in 2010 and the new document recorded in Benton County as document 2010-468791.

"Residential Use – All Lots and Units shall be kept and maintained primarily for single family residential purposes."

The 2010 amended CC&Rs supersede and revise statements made on the plat map and make several important changes relating to the status of Tract B as a Common Maintenance Area.

“Common Maintenance Areas” shall mean any areas within public rights-of-way, Tracts, easements (public or private) or other property that the board is required to maintain...for the common benefit of the members” (Page 3, Section 1.5)

*“The Association shall establish a Maintenance Fund composed of annual maintenance assessments and shall use the proceeds of such fund in providing for normal, recurring maintenance charges for **Common Maintenance Areas for the use and benefit of all members of the Association.**”* (Page 8, Section 3.4)

“From the date of responsibility for any Common Maintenance Area vests in the Association, the Association may purchase and carry a general public liability insurance policy for the benefit of the Association and its members.” (Page 11, Section 5.1)

“Without limitation to the Association’s overall maintenance and other obligations, the Association will permanently maintain and repair the Common Maintenance Areas depicted on the plat...” (Page 11, Section 5.2)

The 2006 Corvallis Land Development Code applicable in 2010 at the time of the recording of the amended CC&Rs defines a “tract” as follows:

“Tract - A piece of land created and designated as part of a land division that is not a lot, lot of record, or parcel. Tracts are created and designed for a specific purpose. Land uses within a tract are restricted to those uses consistent with the stated purpose as described on the plat, or in the maintenance agreements, or through Conditions, Covenants and Restrictions (CC&Rs). Examples include stormwater management tracts, private access tracts, private street or alley tracts, tree preservation tracts, landscaping or common area tracts, environmental resource tracts, and open space tracts, etc.” (underline emphasis added)

Taken together, it is clear that Tract B is defined as a Common Maintenance Area in the amended CC&R’s, as well as a “Tract” under the Corvallis LDC in effect at the time the revised CC&Rs were recorded. As such, it is “not a lot, lot of record, or parcel”; rather, it is a “tree preservation tract”, “landscaping or common area tract”, “and open space tract” dedicated for that purpose as a condition of approval under the Coronado Subdivision approval and its previous designation as a building setback/open area under PD-81-1.

Tract B cannot be developed as proposed due to its status as a tract (not a lot, lot of record, or parcel) under the management and control of the Coronado Home Owners’ Association as a Common Maintenance Area, as defined by the CC&Rs and required by

the Conditions of Approval for the Coronado Subdivision, as well as it being a required building setback/open area required for the Corvallis Congregate Care (Regent) Center PD-81-1. For these reasons, application 2012-00005 must be denied.

Oregon Revised Statutes

ORS Chapter 92

Tract B was not intended to be a legal lot or parcel at the time of the creation of the tract when the Coronado subdivision was recorded. If the original developer had intended to designate the tract as a legal lot or parcel he would have numbered the tract on the plat map, as require by ORS 92.050

“92.050 Requirements of survey and plat of subdivision and partition. (1) A person shall not submit a plat of a subdivision or partition for record, until all the requirements of ORS 209.250 and the plat requirements of the subdivision or partition have been met.

(b) Each lot or parcel is numbered consecutively”

Tract B was not designated by the developer as a lot or parcel, instead it was labeled as a tract with specific purpose as stated in the Conditions of Approval and CC&Rs.

ORS Chapter 94

The Coronado Subdivision was declared in both CC&Rs and Association Bylaws to be for single-family residential uses only (see ORS 94.580(m) below).

94.580 Declaration; recordation; contents. (1) A declarant shall record, in accordance with ORS 94.565, the declaration for a planned community in the office of the recording officer of each county in which the planned community is located.

(2) The declaration shall include:

(e) A legal description, as required under ORS 93.600, of the real property included in the planned community;

(f) A legal description, as required under ORS 93.600, of any real property included in the planned community which is or must become a common property;

(m) A statement of the use, residential or otherwise, for which each lot is intended;

(n) A statement as to whether or not the association pursuant to ORS 94.665 may sell, convey or subject to a security interest any portion of the common property and any limitation on such authority;

The Common Maintenance Area by definition in the CC&Rs includes Tract B, and there is no conversion plan to convert or annex Tract B from common property to become a lot

within the subdivision, nor does the declarant reserve such rights as would be required to do so as described under ORS 94.580(3) or ORS 94.580(4). Relevant sections of ORS Chapter 94 are included below for reference:

(3) If the declarant reserves the right to expand the planned community by annexing lots or common property or by creating additional lots or common property by developing existing property in the planned community, the declaration shall contain, in addition to the provisions required under subsections (1) and (2) of this section, a general description of the plan of development including:

(a) The procedure by which the planned community will be expanded;

(b) The maximum number of lots and units to be included in the planned community or a statement that there is no limitation on the number of lots or units which the declarant may create or annex to the planned community;

(c) A general description of the nature and proposed use of any common property which the declarant agrees to create or annex to the planned community or a statement that there is no limitation on the right of the declarant to create or annex common property;

(d) The method of allocation of votes if additional lots are to be created or annexed to the planned community; and

(e) The formula to be used for reallocating the common expenses if additional lots are to be created or annexed to the planned community, and the manner of reapportioning the common expenses if lots are created or annexed during the fiscal year.

(4) If the declarant may withdraw property from the planned community, the declaration shall include in addition to the provisions required under subsections (1), (2) and (3) of this section:

(a) The procedure by which property will be withdrawn;

(b) A general description of the property which may be withdrawn from the planned community;

(c) The method of allocation of votes if lots are withdrawn from the planned community;

(d) The formula to be used for reallocating the common expenses if the property to be withdrawn has been assessed for common expenses prior to withdrawal; and

(e) The date after which the right to withdraw property from the planned community shall expire or a statement that such a right shall not expire.

In order to comply with the requirements of ORS 95.580, in order to convert Tract B from a Common Maintenance Area to a developable "lot", the original decalarant (and by extension his successor, the current applicant) would have had to reserve such a right

under section 3 above. The declarant did not do so and therefore does not have the right to develop Tract B as a lot.

Conclusion

The application for a Major Modification to the Planned Development (PD-81-1) Detailed Development Plan for the Corvallis Congregate Care Center (The Regent) must be denied as it does not comply with applicable Land Development Code. As proposed, the Major Modification would develop Tract B in violation of the intent and letter of the following Corvallis Land Development Code Sections, Previous Land Use Decisions, Oregon Revised Statutes, and the Federal Fair Housing Act:

1980 LDC 101.03	Definition of Open Space
1980 LDC 204.04.08	Open Area, Landscaping and Screening
2006 LDC 1.6.30	Definition of a Planned Development Modification (Major)
2006 LDC 1.6.30	Definition of an Open Space and Tract
2006 LDC 2.5.60.01	Purpose of a Planned Development Modification
2006 LDC 2.5.40.01	Conceptual Development Plan Application Requirements
2006 LDC 2.5.50.01	Detailed Development Plan Application Requirements
2006 LDC 2.5.60.03	Procedures for a Major Planned Development Modification
2006 LDC 4.4.30.01(a)3	Accessway Width Requirements
2006 LDC 4.10.60.01(a)1	PODS – Maximum Building Setback (variance requested)
2006 LDC 4.10.50.01(a)2	PODS – Building Orientation (variance requested)
2006 LDC 4.10.60.01(a)3	PODS – Vehicle Circulation (No variance requested)
Planning Commission Order #81-23	Regent Planned Dev. Conditions of Approval
Planning Commission Order #2006-25	Coronado Subdivision Conditions of Approval
Planning Commission Order #2008-72	Regent Planned Dev. Major Modification Appeal
Oregon Revised Statute 92.050(1)(b)	Requirements of survey and plat of subdivision
Oregon Revised Statute 94.580(m)	Declaration, Statement of use - Residential
Oregon Revised Statute 94.580(3)	Annexing lots, creating lots, converting property
Oregon Revised Statute 94.580(4)	Withdrawal of property from planned development

CPA-81-4

Corvallis Congregate Care
Center, Elks Drive
Planning Department
STAFF REPORT
May 4, 1981

CASE: CPA-81-4

APPLICANT: William Colson and Al Carrick
Holiday Management Company
2741 12th Street SE
Salem, OR 97302

OWNER: Corvallis Elks Club
447 Elks Drive
Corvallis, OR 97330

LOCATION: The subject property is located on the south
side of NW Elks Drive, west of NW Ninth
Street. Assessor Map #11-5-23 (Insert),
Tax Lot 101 (ATTACHMENT "A").

SITE AREA: 17 acres

PRESENT
COMPREHENSIVE
PLAN DESIGNATION: Low Density Residential (2-6 units per acre)
(ATTACHMENT "A").

PRESENT DISTRICT
DESIGNATION: RS-3.5 (ATTACHMENT "B").

ACTION REQUESTED: The City Council has initiated a Comprehensive
Plan designation change from Low Density
Residential (2-6 units per acre) to Medium-
High Density Residential (12-20 units per
acre) (ATTACHMENT "A").

NOTICES MAILED: 63

BACKGROUND

On November 3, 1980, the applicants' agent submitted a site plan to build a 90 unit congregate care facility on a portion of the Elk's Club property.

On November 12, 1980, members of the Technical Review Team met with the applicants' agent. The agent was requested to submit a revised development plan that was in compliance with the Comprehensive Plan and compatible with the site.

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On November 24, 1980, the applicants' agent submitted a revised site plan to build an 82-unit congregate care facility on 13.5 acres of the subject property.

On January 28, 1981, the applicants submitted a revised plan for the 82-unit care facility indicating a height reduction at the south end of the building.

On February 4, 1981, the Planning Commission held a public hearing to consider the subject case. Following testimony and discussion, the Planning Commission voted 6 to 2 to deny the request.

On February 23, 1981, the decision of the Planning Commission was appealed by Mr. John N. Morgan on behalf of the applicants, Mr. Colson and Mr. Carrick.

On March 3, 1981, the City Attorney notified the applicant in writing that, in light of the City's adoption of the Land Development Code and consequent changes related to Planned Developments, the City Council must decide whether they had jurisdiction to consider the appeal before proceeding to evaluate the merits of the appeal (ATTACHMENT "D").

On April 6, 1981, the City Council held a public hearing to consider the subject case. The City Council held the hearing in conformance with the appeal procedures set forth in the Land Development Code. However, since under the Code, the Planned Development process can no longer be used to change the use types of the underlying district, Council determined that it lacked authority to grant the applicant's request for a zone change to Planned Development. In order to provide relief to the applicants, the City Council initiated the subject CPA, as well as a district change to RS-12 with a Planned Development overlay for the property in question.

On April 22, 1981 and April 29, 1981, the applicants and their agent met with the Staff Review Committee to discuss the subject Comprehensive Plan Amendment and a revised development plan (ATTACHMENT "E").

AREA CHARACTERISTICS

The surrounding Comprehensive Plan designations (ATTACHMENT "A"), Land Development Code District designations (ATTACHMENT "B"), and land uses (ATTACHMENT "C") are as follows:

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The area north of the subject property is designated Public-Institutional on the Comprehensive Plan, except for a small area north of Elks Drive and east of the subject property, which is designated Low Density Residential. These areas are districted PD (RS-3.5) and RS-3.5 respectively. The area has been developed for Good Samaritan Hospital and related medical facilities.

Areas east and southeast of the subject property are designated Medium Density Residential, Professional Office, and Low Density Residential. These areas are districted PD (RS-9), RS-9, PA-0 and RS-3.5. These areas have been developed predominately for attached and detached single-family units, commercial and office uses. A portion of the area directly east of the subject property is presently vacant and has been approved for an 83-unit congregate care facility (Novare, PDM-79-21). Further east and across Ninth Street is an area designated Medium-High and Medium Density Residential, and is districted RS-12 and RS-9. This area contains vacant lands and lands developed predominately for multiple-family uses.

The area south of the subject property is designated Low Density Residential on the Comprehensive Plan, districted RS-3.5 and developed for single-family residences. Further south lies Wilson School, which is also designated for Low Density Residential use and districted RS-3.5.

The area directly west of the subject property is designated Public-Institutional on the Comprehensive Plan and is presently vacant. This vacant land is part of the Good Samaritan Planned Development and is districted PD (RS-3.5). Areas further to the west, across Satinwood Avenue, are designated Low Density Residential on the Comprehensive Plan, districted RS-3.5, and developed for single-family residences.

SITE CHARACTERISTICS

Presently, the Elks Club building and related parking exist on the site and are located on the highest portion of the subject property. The remainder of the site is grass covered and slopes away from the Elks building.

FINDINGS

1. Comprehensive Plan Policy 10.1.4 states:

THE CITY SHOULD MAKE LAND USE DECISIONS THAT MINIMIZE DISTANCES TO GOODS AND SERVICES.

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The applicant has stated that the proposed congregate care facility will serve persons who are at least 62 years of age. Availability of medical services is important to elderly persons and the subject property is conveniently located in terms of the variety of medical facilities north of Elks Drive. The subject property is not, however, located close to neighborhood shopping areas and other goods and services. The applicant has stated that due to the in-house dining and recreational facilities which will be available in the proposed congregate care facility, and due to the somewhat limited mobility of the residents, close proximity to shopping and other services is not necessary to the proposed development.

City bus service is presently available on Elks Drive in the general vicinity of the subject property and could be provided directly to the congregate care center if sufficient demand for service is found to exist. "Dial-A-Ride" service will also be available directly to the subject property.

2. Comprehensive Plan Policy 9.1.9 states:

THE CITY SHALL CONSIDER THE LEVEL OF KEY FACILITIES THAT CAN BE PROVIDED WHEN PLANNING FOR VARIOUS DENSITIES AND TYPES OF LAND USES.

Investigation by the City Engineering and Utilities Divisions indicates that sewer and water services commensurate with the proposed Comprehensive Plan designation of Medium-High Density Residential (12-20 units per acre) are available to the subject property.

3. Comprehensive Plan Policy 8.2.1., 8.2.2., and 8.2.10.

TO MEET STATE AND LOCAL GOALS, THE CITY SHALL IDENTIFY HOUSING NEEDS AND ENCOURAGE THE COMMUNITY, UNIVERSITY, AND HOUSING INDUSTRY TO MEET THOSE NEEDS.

THE CITY SHALL MEET FUTURE HOUSING NEEDS IN THE PLANNING AREA BY ENCOURAGING THE DEVELOPMENT OF AFFORDABLE DWELLING UNITS WHICH PRODUCE DIVERSE RESIDENTIAL ENVIRONMENTS AND INCREASE HOUSING CHOICE.

THE CITY SHALL ENCOURAGE PROPOSALS TO DEVELOP SPECIALIZED HOUSING FOR THE AREA'S ELDERLY, HANDICAPPED, STUDENTS, AND OTHER DISADVANTAGED GROUPS BASED ON THE NEEDS OF THESE GROUPS.

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Congregate care facilities are a relatively new form of housing which offers elderly persons an intermediate living situation between typical private residences and nursing homes. These facilities are similar to private housing in that residents will have their own apartment but the facilities also offer group dining and recreational facilities, and are serviced by a professional staff. No regular nursing or medical care is part of the living arrangement. Typical residents are ambulatory, in relatively good health, average in age over 70 years, and are single person households. Although in good health, most residents need assistance in tasks such as meal preparation, house-keeping, transportation and shopping. (Congregate Housing Survey, Lane Council of Governments, 1979).

The concept of congregate care facilities has been supported by the federal and state governments and locally by the Western Oregon Health Service Agency (report entitled "Community-Based Living" 1980). To staff's knowledge, with the exception of one of the services offered by the Heart of the Valley Center, Corvallis does not have any congregate care facilities. Investigation by staff indicated that all forms of housing, including nursing homes and private apartment complexes which cater specifically to the elderly, presently have an effective vacancy rate approaching zero. Most apartments and elderly facilities contacted indicated that they either presently have waiting lists or that they usually have waiting lists and vacant units are rapidly filled.

Precise estimates of the quantitative need for congregate care housing in Corvallis are difficult to determine, due to the fact that this is a relatively new concept in housing and few local or national studies have been done concerning the needs, preferences, requirements and market factors related to congregate care facilities. Several facts, however, are apparent. The elderly population is increasing as a percentage of the general population. The market area for a congregate care facility encompasses at least the greater Corvallis-Albany area (State Housing Division, Pederson & Associates, Eugene). Also, it is likely that, as in the case of Samaritan Village and other elderly developments, relatives of area residents who live outside the immediate market area would be potential residents. Preliminary estimates indicate a local market of 121-581 potential households for a congregate care facility (State Housing Division, Area Agency on Aging, City Planning Department).

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The applicant has stated that the expected rent range for units in the congregate care center will be in the area of \$600-\$800 per month and will be directed towards a middle and upper income clientele. The Heart of the Valley Center, which offers a comparable level of service, has rent ranges between \$450-\$825 per month. Local nursing homes contacted indicated monthly charges varying between \$960-\$1300 per month. Staff was unable to determine the precise level of effective market demand for the proposed congregate center, although as noted previously, general feasibility analysis indicates a market exists. Analysis and evaluation of effective market demand is typically the responsibility of the developer. Staff contact with local establishments indicated that many elderly residents in group care facilities receive supplemental rental assistance from relatives.

4. Comprehensive Plan Policy 8.1.1. states:

CORVALLIS, BENTON COUNTY, AND LINN COUNTY SHALL WORK TOGETHER TO ASSURE THAT ADEQUATE URBANIZABLE LAND IS AVAILABLE TO MEET FUTURE HOUSING NEEDS.

The Land Resources report (City Planning Department, June 1980) indicates that in the general vicinity of the proposed project, i.e., north of Circle Boulevard, there is only one parcel of serviced, suitably designated, and districted land which would be appropriate for a congregate care facility. This is a 9.4 acre parcel on the northeast corner of Conifer Boulevard and Highway 99. The only other suitably sized parcel in the general vicinity is a 7.6 acre parcel at Satinwood and Conifer, across from the Wilson School. This parcel would require a District Change to be utilized for the proposed use. The applicant has informed staff that various amenity features of the subject parcel, as well as the developer's ability to lease rather than purchase the subject land from the Elks Club, makes the subject property the most suitable property available for the proposed development.

5. Comprehensive Plan Policy 8.4.4. states:

THE CITY SHOULD REVIEW ALL DEVELOPMENT PROPOSALS FOR COMPATIBILITY WITH SURROUNDING ESTABLISHED RESIDENTIAL AREAS. POLICIES RELATED TO LAND USE, TRANSPORTATION, PUBLIC FACILITIES, AND UTILITIES SHALL SEEK TO MAINTAIN THE QUALITY OF THESE AREAS.

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The subject property is located on a hill which slopes down towards the surrounding residential areas. Any development on the subject property will have a visual impact on surrounding areas and the impact will tend to increase with increasing densities.

The undeveloped portion of the subject property is approximately 15 acres in size. The present Low Density Residential (2-6 units per acre) Comprehensive Plan designation would allow for a maximum of 90 additional units on the subject property. The proposed Comprehensive Plan Amendment for Medium-High Density Residential (12-20 units per acre) would allow for 180-300 additional units. A major increase in traffic and congestion would be associated with development at a Medium-High Density level.

The applicant is proposing the development of approximately 122 units, 92 in the congregate care center and 40 units of single-family attached townhouses (ATTACHMENT "E"). This amounts to a gross density of about 8 units per acre on the vacant portion of the subject property. This density corresponds to the Medium Density (6-12 units per acre) Comprehensive Plan designation.

6. Comprehensive Plan Policy 8.4.3. states:

MORE INTENSIVE LAND USES PROPOSED FOR ESTABLISHED RESIDENTIAL AREAS SHALL BE SUBJECT TO SPECIAL SITE DEVELOPMENT STANDARDS WHICH MINIMIZE THE NEGATIVE IMPACT ON ABUTTING PROPERTIES.

The City Council, in initiating the subject Comprehensive Plan Amendment, directed that any subsequent District Change be effected through the Planned Development process. This allows for development to be planned in a manner which minimizes negative impacts on abutting properties.

CONCLUSIONS

Based on the above information, staff concludes:

1. The subject property is reasonably close to necessary goods and services and, therefore, complies with Comprehensive Plan Policy 10.1.4.

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2. An adequate level of key facilities can readily be provided to the subject property. Therefore, the subject request complies with Comprehensive Plan Policy 9.1.9.
3. A demonstrated need and a likely market for congregate care housing in Corvallis exists. Vacancy rates for housing specifically serving the elderly are extremely low and thus the proposed development will increase housing choice for the area's elderly residents. When compared to other examples of local facilities for the elderly, the proposed development represents an affordable housing option to, at least, a segment of the elderly population. Therefore, the subject request complies with Comprehensive Plan Policies 8.2.1., 8.2.2., and 8.2.10.
4. There is a lack of locational choice in terms of serviced, suitably designated, and districted lands for a congregate care center. In the area north of Circle Boulevard, only one parcel exists which meets all applicable criteria. One other parcel is available but would require a District change. Staff does not believe this represents adequate market choice and, therefore, the subject request complies with Comprehensive Plan Policy 8.1.1.
5. The subject Comprehensive Plan Amendment involves a potential for 180-300 dwelling units under Medium-High Density Residential designation as compared to 90 units under the present Low Density Residential designation. This level of potential development, particularly in a highly visible location such as the Elks property, raises serious concerns about compatibility with the surrounding low density residential areas. The height, configuration, mass and scale of 180-300 units would be markedly dissimilar from any other residential development in the area. Traffic and congestion generated by this level of development would be significantly increased. Therefore, staff believes that it has not been demonstrated that the subject Comprehensive Plan Amendment complies with Comprehensive Plan Policy 8.4.4.

It appears to staff that the central reason for the applicant's request for a Comprehensive Plan Amendment from Low Density to Medium-High Density Residential is to facilitate a District Change to PD (RS-12). This is the lowest density district designation which allows for a facility such as a congregate care center. As indicated on the applicant's proposal (ATTACHMENT "E"), approximately

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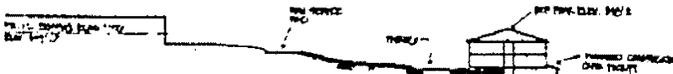
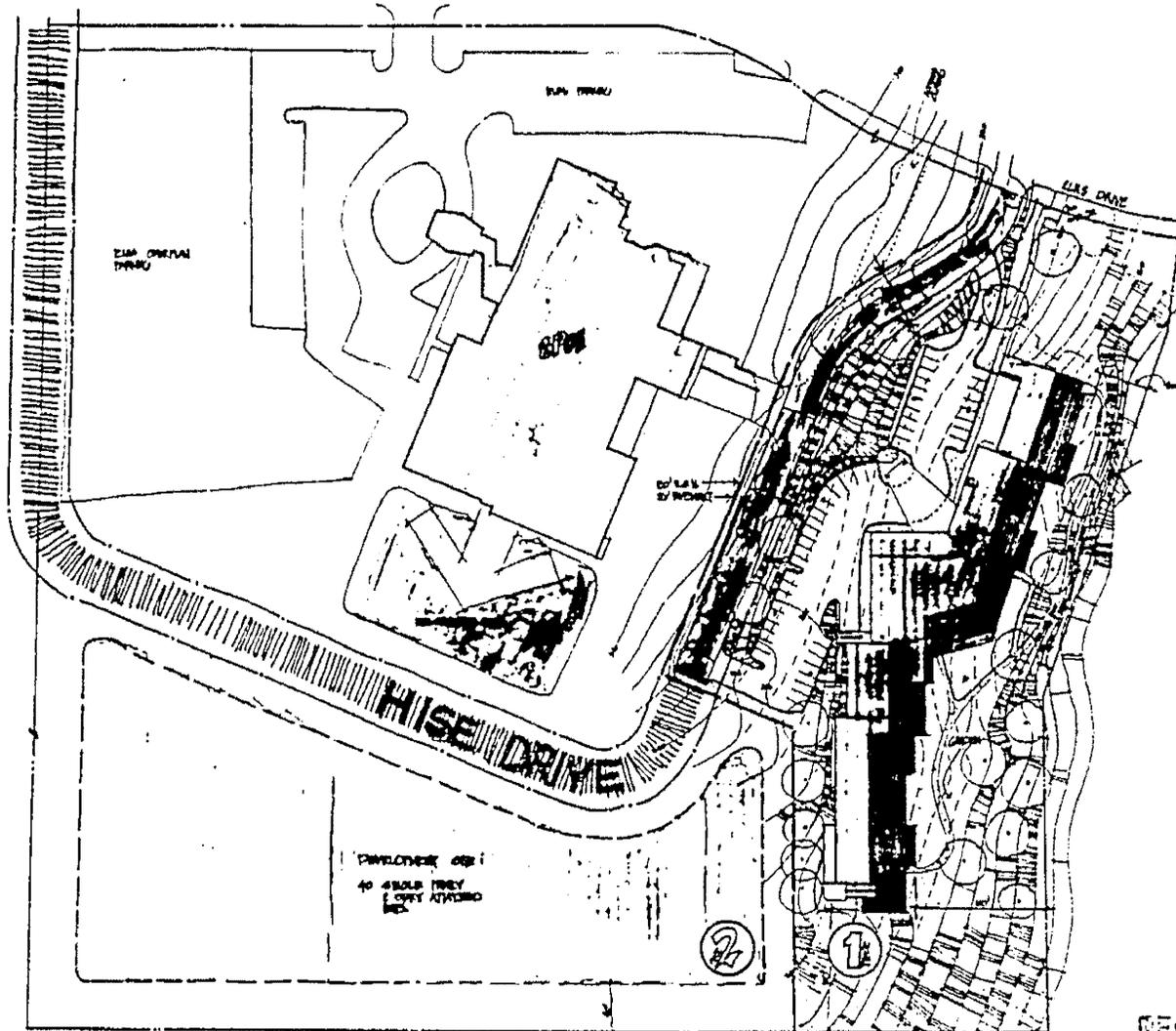
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122 units are planned for the subject site. The congregate care center will consist of 82 units while the remaining 40 units will consist of single-family attached units located along the southern portion of the subject property. The overall density is 8 units per acre, which falls in the range of the Medium Density Residential Comprehensive Plan designation. Staff believes that a Medium Density rather than Medium-High Density Comprehensive Plan designation would be more appropriate in the subject case since it could allow for PD (RS-12) districting, thus permitting a congregate care center, while simultaneously limiting overall density on the subject site in order to preclude the problems of compatibility cited above.

6. The City Council, by directing that any development on the subject property take place through the Planned Development process, has insured that attention will be given and special standards will be utilized for minimizing negative impacts on abutting properties. The applicant's proposal (ATTACHMENT "E") indicates that setbacks from property lines and open space areas are at least the equivalent of what would be common in a typical low-density residential development. Therefore, the subject request complies with Comprehensive Plan Policy 8.4.3.

RECOMMENDATION

Based on the above analysis and conclusions, staff recommends that the Planning Commission recommend approval of a Comprehensive Plan Amendment to Medium Density Residential to the City Council, rather than the requested Medium-High Density Residential, for the subject property.



SITE PLAN ↑ north

RECEIVED
MAY 8 1981

SITE SECTION

ELKS PROPERTY
COMP PLAN / ZONE CHANGE

City Planning Dept.
Giffey
Architect
1111 1st Ave. S.E.
Atlanta, Georgia 30316
404 525-1111

ATTACHMENT "E"

CORVALLIS PLANNING COMMISSION

JUNE 3, 1981

The Corvallis Planning Commission met at 7:30 p.m. at the Oregon State University Cultural and Conference Center.

Commissioners in attendance were: Blackledge, Davis, Heilig, Koenitzer, Parsons, Christianson, Ostby, Hagelstein and Martin (8:25). Councilor Read was in attendance. Staff present were: Coffee, Coursolle, Pace, Nebergall, Rodeman and McDonald.

Chairman Heilig called the meeting to order and reviewed the agenda items and meeting procedures.

I. MINUTES OF MAY 6, 1981
MINUTES OF MAY 13, 1981

The Minutes of May 6 and May 13, 1981 were approved as distributed.

II. CONTINUED PUBLIC HEARINGS

A. DC-81-2, PD-81-1 Congregate Care Center, Elks Drive

Coursolle gave a brief staff report, indicating that the applicants and consultants had presented a revised site plan to the Planning and Engineering staff at a meeting held late afternoon on June 3. He indicated that people from the neighborhood had participated in the meeting and stated that concerns regarding the project had been worked out at a meeting held earlier with the consultants and applicants. Coursolle stated that staff felt the proposed revisions were significant and that because a thorough review could not be conducted, particularly by the Fire Marshall's Office and the Utilities Division, the hearing should be continued until a complete review could be completed. Director Coffee added that City Council had upheld Planning Commission's recommendation to redesignate only the easterly 6.8 acres to medium density, completing the Comprehensive Plan Amendment request review for the subject property.

In response to a question from Chairman Heilig, Deputy City Attorney Rodeman indicated that he had not reviewed the proposed modifications.

Heilig questioned whether the time frame for submitting modifications and permitting staff review, as required by the Land Development Code, had been adhered to. Rodeman indicated that the Land Development Code specifically

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requires submittal 20 days prior to a public hearing, but that the Commission would have to determine whether the submittal actually represented a significant modification. Coffee commented that staff did not take issue with the required 20-day period, but was concerned that staff had received the applicant's submittal at 4:30 p.m. prior to the evening meeting and did not have sufficient time for adequate review, in spite of staff's attempts to expedite the process. Coffee explained that the application under review was submitted to the Commission in May and that the attachment represented revisions that had been made by the developer in response to neighbors concerns expressed at a neighborhood meeting. He stated that staff reviewed the revisions as significant and felt that it was important for the Fire Marshall and Utilities staff to review any potential changes in fire life and safety requirements prior to a Planning Commission recommendation.

There was discussion as to whether there was a need to continue the hearing, thus delaying action on the case.

Chairman Heilig, indicating that the hearing may have to be continued to permit further review of the revised plan by staff, opened the public hearing.

John Morgan of Morgan, Ryan and Associates, 875 High N.E., Salem, gave a brief presentation on behalf of the applicants. He stated that he did not agree with staff's recommendation to continue the public hearing, that further delay would cause hardship in terms of securing financing and expediting the process as directed by City Council. He stated that concerns expressed by the neighbors had been resolved and that there had been only two major changes to the plan. The first change, he said, involved moving the facility closer to Elks Drive. The second change involved use of a driveway rather than a public street system. He explained that this change had been made because the western portion of the property would be retained at lower (3.5 units per acre) density and that lower traffic volumes would not require a public street. He stressed that the Planning Commission should act on this issue without delay. He stated that the new design is workable and agreeable with the neighbors in the area, that the proposed 30-foot setback from Elks Drive right-of-way is a design issue that could be decided now. He indicated that the curb cut is in the same location as previously approved and that proper turning radii were designed for fire truck use. He said that any decisions related to utilities could be worked out with staff.

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Referring to the May 4 Staff Report, he indicated that need for the facility had been determined, that the site was indeed suitable, and that a positive factor was the close proximity to medical services. He reminded the Commission that City Council had taken positive action in redesignating the property to medium density. He added that a letter had been submitted to the Council stating that neighbors of the proposed congregate care facility would be provided 6 months notice of any plans of application in the development of the westerly lower-density property. Using revised site plan visuals, Morgan explained specific details of the submittal. He stated that parking location and conditions and monitoring of future parking needs would be included. He reviewed the visual concepts of the building design and proposed buffering from the surrounding residential area. He indicated that the building location had been moved north to allow up to a 100-foot setback from residences on Survista Avenue and a 30-foot setback from Elks Drive. Mr. Morgan indicated that there is an agreement with the neighbors of the area that they will be involved in developing a landscaping/screening plan. He further explained that the street access system had been deleted because it was not necessary and the cost of such a system was extremely high when considering what area and number of residences would be served. He said that the Elks Lodge service drive had also been deleted where there had been problems with site distance for traffic coming up the hill. The proposal now included a shared driveway, providing maximum visibility from either direction on Elks Drive. The shared driveway would be designed to accommodate fire trucks and other service vehicles. He concluded that the Planned Development and District Change proposed are appropriate and justified.

In response to a question from Commissioner Blackledge, Mr. Morgan indicated that construction would begin immediately upon approval.

Referring to the neighboring and newly approved Novare Planned Development, Chairman Heilig questioned whether there is a need to construct two congregate care facilities in such close proximity to each other. Mr. Morgan responded that it was both the consultant's and staff's findings that there is a need for two such facilities based on the number of units needed. He said that the location of the project is ideal; its proximity to medical facilities is important, and because the residents of such a facility spend considerable time inside, the view is equally important. Chairman Heilig expressed concern for what the costs

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for living in the facility would be. Mr. Morgan stated that the project represented "middle-America" living standards, with individual units renting for \$525 to \$750, including maid service, meals, transportation and recreational facilities.

There was further discussion concerning an underutilization of public facilities and services. Mr. Morgan added that the revised driveway system would be privately owned and would be maintained as part of the facility.

Carl E. Aschenbrenner, 638 NW Survista Avenue, stated that he was in favor of the project and encouraged the Commission to approve it as proposed in the revised plan. He explained that there had been a compromise made which the neighbors were in agreement with and that the Commission should not delay a decision on the project any longer.

Chairman Heilig expressed concern for locating a congregate care facility so far from the downtown/shopping areas. Mr. Morgan responded that a location downtown, as is the case with Pringle Creek congregate care facility in Salem, requires that the occupants cross numerous streets to get to the shopping area, but is too close to warrant van service.

William E. Colson, Holiday Management Company, 2741 12th Street, S.E., Salem, indicated that the owners of the Novare project has offered the property for sale and that he did not think the project was going to be built. He stated that the proposed congregate care facility was not a subsidized project, but would be financed with private monies. He said that the project was designed as an alternative to people going into nursing homes too early, and to provide a place for people who would not take proper care of themselves if living alone. He indicated that the rates are considered low, with \$700 per month for two people, including meals, utilities, recreational and transportation services included.

Commissioner Parsons expressed concern for locating the structure on a property with considerable slope, in view of the physical limitations of the prospective client. Colson explained that the slope is integrated into the design of the facility and surrounding grounds to insure that the grade does not inhibit the tenant's mobility.

In response to a question from Commissioner Blackledge regarding the rates for a similar facility, Heart of the Valley, Director Coffee said that rates range from \$450 to \$825 per month with comparable services.

Chairman Heilig expressed concern for using multi-family type land for a project which is a more intensified use, and for a location disassociated from the downtown area. Colson stated that he has chosen not to build congregate care facilities in the downtown areas. He said that experience has shown that such facilities downtown become more like a hotel, and that with higher land costs, rents become considerably higher. He also indicated that there are no plans for ever adding to the proposed structure. He stated that when sites were being reviewed, a residential setting had high priority. He added that the design features included those items which have been well-received and used in other projects; walking areas, sitting areas, with a few recreational areas. Inside activity areas include space for exercise classes, meetings, invited speakers and other uses.

In response to Chairman Heilig's question regarding the cost difference between the originally proposed road system and the driveway system, Mr. Morgan indicated that he could not give an accurate figure, but that the cost of the road system, in addition to the cost of utilities, would create a great financial burden.

Margo Pearson, 477 NW Survista Avenue, stated that she was very involved in the activities and meetings related to this project, and that there had been a consensus reached between the neighbors and the developer. She said that there are still numerous people who strongly object to the location of the facility. In referencing the location of the building, she indicated that the neighbors have strongly supported a location as close to Elks Drive as possible, increasing the distance between the building and the surrounding residences. This distance, she said, would preserve the livability of the neighborhood. She stated that they agree with the developer and consultant that a location 30 feet from Elks Drive is more in keeping with the neighbors wishes. She said that the developer wanted the neighbors to be involved in the landscaping plan. She also requested that if the proposed project were not built, that the property revert back to a low density district. Director Coffee clarified that the Planned Development would become null and void if the project were not built, but that the property would not revert back to the original density. He stated that any other project would have to be reviewed by the Commission.

Dennis Harms, 3142 NW Autumn Street, stated that as the most affected resident of the proposed project, he is in favor of the revised plan. He stated that he had discussed

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the revised plan with the Hutchinsons and the Steels, who are the next door neighbors, and they all agree that the revised plan is livable and would not effect the value of their property.

Ann Harrison, 3098 NW Autumn Street, stated that she owns the most southerly lot on Autumn Street and that she supports approval of the revised plan. She said that she would rather have the congregate care facility built on the property than apartments or townhouses and feel that this type of facility would have less impact on traffic volumes than any other type of residential use. She stated that she felt this type of facility would provide more privacy to surrounding residences than would single-family units placed closer to property lines.

Morgan was provided time for rebuttle. He asked that if the Commission decided to continue the hearing, could a special meeting be scheduled, rather than waiting until the regular July 1 meeting.

In response to a question from Chairman Heilig, Coursolle indicated that the remaining concern was providing enough time for the Utilities Division and the Fire Marshall's office to review the revised plan. Nebergall added that the Fire Department may have concerns for the emergency vehicle access as shown in the revised driveway plan. He stated that the revised access could reduce the development potential of the remaining low-density residential area.

In response to Commissioner Davis' question, Director Coffee explained that the revised plan before the Commission is sufficient to be considered a Detailed Development Plan.

Commissioner Blackledge encouraged the Commission to review and take action on the plan now, not continuing the decision any longer.

Commissioner Ostby directed a question to the Engineering staff regarding the preference of the loop access system to the drive and cul-de-sac system. Nebergall explained that the cul-de-sac would be designed to service the remaining residential area and would be 1,000 feet in length. He stated that the major concern was for the blockage of such a driveway system during construction, for example, blocking access for emergency vehicles to the residential area.

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Morgan stated that the building is designed for added fire protection because of the type of cliental. He said he did not anticipate any real concerns from the Fire Marshall's Office. He further stated that any technical problems with the utility services could be worked out with staff and that approval of the project should not be held up for that reason. He indicated that any costs related to requiring the loop street system which are substantially higher than the costs of the proposed driveway system, would be passed along to the tenants. Therefore, he hoped the Commission would look closely at the feasibility of requiring the loop system at a time when the residential area was most certainly not to be developed.

Robert L. Butterfield, 560 NW Mt. Laurel Circle, a member of the Elks Lodge Board of Trustees, stated that there are absolutely no plans to develop any of the land west and south of the Elks Lodge. He said that there had been discussion of the future of this land only because it was "necessary information" in reviewing the congregate care project.

There being no further testimony, Chairman Heilig returned the matter to the table.

There was a motion made to close the public hearing. During discussion of the motion, Commissioner Parsons expressed reservation in taking action on the matter without giving appropriate time for staff to review the revised plan. She stated that fire and utility concerns are of major importance. Commissioner Koenitzer stated that she would prefer to proceed, holding a special meeting if necessary.

Commissioner Blackledge stated that he preferred to move ahead with action on the project, approving the plan subject to the approval of the Fire Marshall.

There being no further discussion of the motion to close the public hearing, the Commission voted. The motion passed 7-1 with Commissioner Parsons voting against it.

Commissioner Blackledge moved that the District Change and Planned Development be approved subject to the conditions outlined in the Staff Report, subject to approval of the Utilities Engineer and modifications required by the City Engineer and the Fire Marshall.

The proposed conditions of the motion and approval were reviewed one by one, additions and revisions were made.

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Commissioner Hagelstein seconded the motion.

Commissioner Christianson moved to approve the motion to require a 30-foot building setback from Elks Drive and 55-foot setback from the easterly property line, instead of the 50-foot setback recommended by staff. Other setbacks to be adjusted accordingly. Commissioner Koenitzer seconded the motion.

In response to a question from Commissioner Blackledge, Coursolle indicated that the setback of the Novare facility from Elks Drive was approved at more than 50 feet. He indicated that the original setback proposed for the subject facility was 125 feet from Elks Drive.

Chairman Heilig called for the question on the amendment of the motion. The motion to amend the motion passed 7-1 with Commissioner Blackledge voting against it.

Chairman Heilig questioned staff as to where visitors to the facility would park. Director Coffee indicated that the parking calculations assume that there will be visitors. Commissioner Parsons expressed concern for staff parking. Director Coffee reminded the Commission of the condition for monitoring the parking and requiring additional parking at a later date if necessary.

Commissioner Martin stated that he would not be voting on the project because he had arrived late and had missed portions of the testimony. He stated, however, that he encouraged the Commission to approve the project.

Chairman Heilig called for the vote on the motion as amended. The motion passed 6-1, with Commissioner Parsons voting against it.

Chairman Heilig stated that the 10-day appeal period was now in effect.

The conditions approval are:

1. A detailed landscape plan showing the size and type of all plant materials and all existing trees over 12 inches in diameter, shall be submitted prior to building permit approval. Mature trees 4 inches or larger in diameter and shrubs 3 feet or larger in height shall be planted initially to achieve the applicant's landscaping proposal.

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2. The building permit plans shall show three stories on the north side of the structure and two stories on the south side of the structure. The building shall have various heights and offsets with a pitched roof and wood siding.
3. Any signs proposed for use during any phase of development and/or future identification shall be approved by Planning Commission prior to issuance of any building permit.
4. A sanitary sewer extension from NW Elks Drive shall be installed to serve the congregate care facility. This shall include a new stubconnection to the existing sewer in NW Elks Drive. An equivalent assessment for sewer shall be due with the building permit. The approved costs of providing a new stub (within the right-of-way) shall apply towards the equivalent assessment charge.
5. Parking lot, accessway and walkway design and construction, including site drainage and grading, shall meet the approval of the City Engineer.
6. A storm drain extension shall be required from the southeast corner of the property to drain the proposed public road, and to provide for a future extension to serve the remainder of the property. The design and construction of this line shall meet the approval of the City Engineer and shall occur concurrently with the congregate care project.
7. An on-site water main extension and fire hydrants shall be required subject to City ordinances and policies. Locations of fire hydrants and the water main extension shall meet the approval of the Fire Chief and Utilities Director.
8. Easements, at no cost to the City, shall be required for water mains not constructed within public rights-of-way. All easements shall meet the approval of the Utilities Director.
9. The fire sprinkler system shall be looped from the existing 12-inch main on NW Elks Drive to the on-site main extension. A valve shall be cut into the 12-inch main between the main extension and the fire sprinkler connection.
10. Adequate access for fire protection equipment shall be provided as required by the Fire Marshall.
11. If within one year after occupancy of the congregate care facility it is shown that the proposed 51 parking spaces are inadequate, the applicant/owner of the congregate care

facility shall supply additional parking immediately adjacent and south of the proposed lot to meet Land Development Code parking requirements for group care dwelling facilities and the approval of the City Engineer. Prior to building permit approval for the congregate care facility, the applicant shall submit a written statement outlining the process for monitoring on-site parking demand. This process shall be reviewed and approved by the City Engineer and the Planning Director.

12. The building shall be set back from Elks Drive no less than 30 feet, no less than 135 feet from the south property line, and no less than 55 feet from the east property line. Other applicable setbacks are included on the site plan.
13. The easements for storm drains, sanitary sewers and other utilities, except water, shall be provided and shall meet the approval of the City Engineer.
14. Retaining walls shall be constructed where required by the City Engineer.

III. ITEMS FROM THE GENERAL PUBLIC

IV. UNFINISHED BUSINESS

Director Coffee reviewed the staff recommendation for Planning Commission to hold a public hearing on the proposed amendment to the Parking Standards on July 1, following with a recommendation to the City Council for action on the amendment. Commissioner Blackledge stated that prior to initiating the public hearing process on the amendment, he would like to make an additional amendment to section 301.02 by adding a part "o" to read "Sites located within a pedestrian-oriented shopping district, as designated by the Planning Commission, may be allowed to pay a public parking equivalent assessment to the City in lieu of providing the required parking spaces on site. The fee shall be set by the Planning Commission and funds collected shall be used for providing additional public parking within the designated area." Commissioner Blackledge stated that his intent in proposing this amendment was to provide relief from parking requirements until which time a detailed study can be completed with respect to the downtown area, instead of processing variance applications which do not contribute to establishing public parking facilities.

Commissioner Martin expressed concern that this type of option may create the incentive to pay the fee rather than provide the parking.

March 2, 2015

Re: Coronado Tract B Apartments-Major Planned Development Modification (PLD14-00005)

City of Corvallis City Council

Attention: Amber Bell

Subject: written testimony opposing this proposal

Dear Corvallis City Council Members:

I am in opposition to this proposal for the following reasons.

- Violation of public and private street requirements of a cul-de-sac as stated in LDC 4.0.60.c.2

“Cul-de-sacs should not exceed 600 ft. **nor serve more than 18 dwelling units.**” There are already 17 units on this cul-de-sac, and this apartment complex would increase this number to 27 units.

- Violation of the condition of approval #3d for the original proposal for the Satinwood District Change and Tentative Subdivision Plat (ZDC05-00009, SUB05-00005), Order 2006-025 dated 2/16/06

“3d. Home Owners’ Association Landscape Maintenance Responsibilities – After completion of the required three-year maintenance period, the Home Owners’ Association created for this subdivision will be **responsible for the perpetual maintenance of landscaping** within the following areas:

1. Planter strips along all local streets within the subdivision;
2. Planter strips adjacent to the subdivision that are along the east side of Satinwood Street and south side of Elks Drive;
3. Through lot landscaping within 20 feet of the rear lot line of Lots 1-3, and 53-55;
4. Buffer landscaping within 20 feet of the side lot line of Lots 4, 7, 37, 44, 45, and 52 that is adjacent to either NW Elks Drive or NW Satinwood Street;
5. **Tract “A”, Tract “B”, and Tract “C”.**”

- Violation of the intent of the original Detailed Development Plan for the congregate care facility in 1981 and the DDP for the Coronado Subdivision in 2006, in which Tract B was to be an **open space to preserve existing significant trees.**

The current proposal will **remove nearly 600 sq ft of tree canopy**, leaving barely 200 sq ft.

- Incompatibility with the current single family dwelling subdivision.

The original CC&Rs states: “Now, therefore, Declarant hereby declares that the purpose of these covenants and restrictions is to insure the use of the property for attractive **single-family residential purposes only**, to prevent nuisances, to prevent the impairment of the attractiveness of the property, to maintain the desired tone of the community, and thereby to secure to each site owner the full benefit and enjoyment of his home with no greater restrictions upon the free and undisturbed use of his site than is necessary to insure the same advantages to the other. site owners. Anything tending to detract from the attractiveness of the property and its value for residential purposes will not be permitted.”

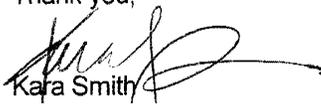
“USE AND BUILDING TYPE

No lot shall be used except for single-family residential purposes and must contain 8000 or more square feet.”

As a mother of two young daughters, my husband and I chose this particular street to build our house on specifically because it was a cul-de-sac which provides added security from traffic. It is a huge relief to know that a car will not come speeding down the street when a child is playing outside. Therefore, when a 20 bedroom apartment complex is proposed at the end of the cul-de-sac, not only does it significantly increase the allowable number of units on a cul-de-sac, it completely changes the compatibility with the neighborhood.

So please review these points stated above and consider denying this request.

Thank you,


Kara Smith

Corvallis, OR 97330

TRACT B

Rec'd @ PC mtg + 1/21/2015
 Date 6/5/2013
 City of Corvallis



REGENT

SHOW STEEP SLOPE 15% - 25%
 PLAN IS TO GRADE OVER 75% OF SITE
 STEEP WALLS TO BE BUILT TO LEVEL SITE FOR CONSTRUCTION

3098 NW AUTUMN



REGENT SENIOR RESIDENCE

APARTMENTS - 10, 2-BED ROOM UNITS WILL BE ON
 LEFT SIDE OF PHOTO - TREES CUT DOWN

AUTUMN STREET HOMES

PARKING LOT FOR 20 CARS WILL
 BE BUILT ON THIS SIDE
 TREES WILL BE CUT DOWN



REGENT

↑ TREES WILL ALL BE CUT ↑

VIEW TOWARD EAST

HOMES ON AUTUMN ST:

↑ TREE TO BE CUT

↑ TREES TO BE CUT



3098 NW AUTUMN

SOUTH BOUNDARY ON TRACT B - MOST TREES WILL BE CUT DOWN
FOR A PARKING LOT IN UPPER AREA
THIS AREA IS ON HAZARDOUS SLOPE
APT. BUILDING WILL BE ON LOWER RIGHT OF PHOTO



CORVALLIS CLINIC

REGENT HOME

HOMES ON AUTUMN STREET

James KLING

CORVALLIS OR 97330

March 2nd, 2015

Kim Dowe and Jindra Brandejska

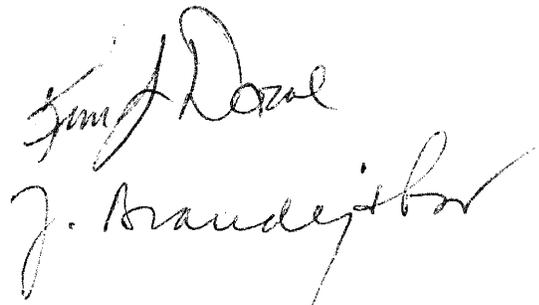
Corvallis, OR 97330

Dear City Council,

We think it's clear from the neighborhood map that we've seen that the request for variance regarding the street frontage and setback should be denied. In a neighborhood of single family homes each driveway must get two or three cars a day. This variance would allow for a driveway with 25 or more cars per day at the end of a 'dead end' street. I does not make sense!

We would have a view of the building from our front window. It feels like a violation to have our neighborhood impacted like that. We understand that this project has been rejected before. We would like it to stay that way.

Sincerely,

Handwritten signatures of Kim Dowe and Jindra Brandejska. The signature of Kim Dowe is written above the signature of Jindra Brandejska.

Corvallis City Council Hearing on
Coronado Tract B Apartments case
March 2, 2015

Testimony of Richard W. Behan
Corvallis, OR

rwbehian

My name is Richard Behan. I live at

Thank you for the opportunity to express my opposition to the Tract B proposal.

My wife and I only recently moved to Corvallis, just about a month ago, but I have visited Tract B on the ground, and have carefully leafed through the 369 page Detailed Development Plan. I am not uninformed then, but I do not believe the proposed development can be accomplished without severe and unacceptable impacts in several dimensions: physical, spatial, social, and environmental.

In a recent newspaper article, Mr. Dale Kern said however, in advocating for the project, "The facts in the Tract B case are very clear. If a qualified, disinterested third party land use attorney reviewed the application, applied state statutes, the (land development code) and relevant evidence, that attorney would conclude that the applicant had clearly made its case."

Mr. Kern's speculation is wholly unnecessary. In fact, a qualified disinterested third party, with extraordinary expertise in land use *has* reviewed the application, applied state statutes, the land development code and relevant evidence. It did so twice and twice reached a vastly different conclusion: the proposed development is seriously deficient and should be summarily rejected. I refer, of course, to the work of the Benton County Planning Commission.

We need not speculate. The facts are indeed very clear: the applicant has *not* made its case.

We moved to Corvallis, among other reasons, because it is a pleasant, physically attractive community—the result, we presume, of sustained and competent work by the Planning Commission and intelligent decisions by the City Council.

I urge you to continue this well established record of expert analysis and sound judgment, and reject the Tract B proposal.

March 2, 2015

Re: Coronado Tract B Apartments-Major Planned Development Modification (PLD14-00005)

Corvallis City Council

Attention: Amber Bell

Dear Corvallis City Council:

Please consider these factors in opposition to this proposal for a 10-unit apartment complex at the end of the cul-de-sac on Mirador Place:

- As stated in **LDC 4.0.60.c.2**: Cul-de-sacs should not exceed 600 ft. **nor serve more than 18 dwelling units.**

There are already 17 units on this cul-de-sac. Adding this apartment complex would make this cul-de-sac service 27 units, far more than the intent of this narrow end of the street.

- One of the conditions of approval for the original proposal for the Satinwood District Change and Tentative Subdivision Plat (ZDC05-00009, SUB05-00005) in 2006 was that a Home Owners' Association will be **“responsible for the perpetual maintenance of landscaping within...Tract A, Tract B, and Tract C.”**

An apartment complex built on Tract B, does not allow for HOA maintained landscaping.

- Violating the intent of the original Detailed Development Plan for the congregate care facility in 1981 and the DDP for the Coronado Subdivision in 2006, in which Tract B was to be an **open space to preserve existing significant trees.**

This proposal will remove nearly 75% of the current tree canopy, 598 sq ft, leaving only 229 sq ft.

- It is incompatible with the existing neighborhood of single family dwellings on Mirador Pl, Autumn St, and Survista Ave.

The purpose of this subdivision was to create a neighborhood to “insure the use of the property for attractive **single-family residential purposes only**”, per the original development proposal and CC&Rs. This clearly goes against the intent for this subdivision.

Thank you for considering these factors in your decision.

Nathan Smith

Corvallis, OR 97330

Mr Mann (Frank)

Thank you for serving the people of Corvallis. I hope you enjoy this novel learning opportunity.

Thank you for taking time to read these concerns.

- As for "open carry", creating a policy is a gross waste of time and energy. Constitutional rights don't need municipal scrutiny.
- OSU must follow all LDC standards as Corvallis does. No separate standards.
- OSU has no committees with voting members representing Corvallis. Corvallis shouldn't have committees with voting members representing OSU.
- Though not Corvallis' decision, OSU should require sophomores to live on campus. This puts an at risk population, people under 21 - under closer scrutiny. This may reduce drug/alcohol/assault events.

There's so much more. For today, have a beautiful weekend

To Lase