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Rules of Conduct for Public Hearings

1. No person shall be disorderly, abusive, or disruptive of the orderly conduct of the hearing.
2. Persons shall not testify without first receiving recognition from the presiding officer and stating their full name and residence address.
3. No person shall present irrelevant, immaterial, or repetitious testimony or evidence.
4. There shall be no audience demonstrations such as applause, cheering, display of signs, or other conduct disruptive of the hearing.

CITY OF MILLERSBURG CITY COUNCIL PUBLIC HEARING – LAND USE APPEAL

Millersburg City Hall
4222 NE Old Salem Road
Albany OR 97321
July 1, 2019 @ 6:00 p.m.

Agenda

- A. CALL TO ORDER
- B. ROLL CALL
- C. PLEDGE OF ALLEGIANCE
- D. NEW BUSINESS
 - Open Public Hearing
 - 1) Appeal of Planning Commission approval of the Evening Star Manufactured Home Park, case CUP 19-01/SP 19-01.
 - Close Public Hearing
- E. ADJOURNMENT

Note: Council may adjourn to executive session in accordance with ORS 192.660.

Upcoming Meetings & Events:

June 25, 2019 @ 4 p.m. – City Council Work Session
July 9, 2019 @ 6:30 p.m. – City Council Meeting
July 11, 2019 @ 6 p.m. – Event Planning Committee

The location of the meeting is accessible to the disabled. If you have a disability that requires accommodation to attend or participate, please notify the Millersburg City Hall in advance by calling 541-928-4523.



**NOTICE OF PUBLIC REVIEW
FOR APPEAL OF CUP 19-01 and SP 19-01
July 1, 2019, 6:00 p.m.
City Council Chambers
4222 Old Salem Road NE,
Millersburg, Oregon, 97321**

The Millersburg Planning Commission held a public hearing on April 22, 2019 for the Evening Star Manufactured Home Park, case file CUP 19-01 and SP 19-01. The applications were approved with conditions of approval. The applicant filled an appeal to the approval. Pursuant to the Millersburg Development Code, the City Council will now hold a public hearing for the applications. The public hearing will be a “de-novo” public hearing, meaning that all previously submitted information will remain, and be available for the City Council to review. New information may also be submitted, like any public hearing.

The **CITY COUNCIL** will hold a public hearing at the above time and place to consider the request described below and the appeal. The request may be heard later than the time indicated, depending on the agenda schedule. Failure of an issue to be raised or failure to provide sufficient specificity to afford the Council an opportunity to respond to the issue precludes appeal to the Land Use Board of Appeals based on that issue. Please submit any written evidence, testimony, or other documents to the Planner, Matt Straite (mstraite@cityofmillersburg.org) prior to the public hearing, or supply at least 12 copies at the public hearing.

The application, all documents and evidence submitted by or on behalf of the applicant and the applicable criteria are available for inspection at no cost or copies are available for a minimal cost. A staff report relating to the proposal will be available seven (7) days prior to the public hearing. For further information, contact Matt Straite or Jake Gabell at Millersburg City Hall at (541) 928-4523.

- APPLICANTS:** William Eddings
- LOCATION:** The site has no address, it is located easterly of Sedona Road and southerly of Millersburg Drive (see backside of this notice).
- TAX LOT:** Township 10 South; Range 3 West; Section 17DD; Tax Lot 600.
- PARCEL SIZE:** 4.4 acres
- ZONING:** Rural Residential- 10 Acre Minimum- Urban Conversion
- REQUEST:** The applicant is proposing a Conditional Use Permit and Site Plan Review for a 28 space senior manufactured home park with four proposed guest parking spaces, drainage features, one open space area, landscaping, and one proposed point of access from Millersburg Drive.

CRITERIA: Millersburg Development Code; Section 2.400(2) and 2.500(2) and includes standards from Section 6.165 and 4.113.

FILE No.: CUP 19-01 and SP 19-01

HEARING PROCEDURE: The public hearing procedure will consist of a staff report presentation, applicant presentation, an opportunity for public testimony, the applicant will have an opportunity to rebut, and then the Council will deliberate.

The location of the meeting is accessible to the disabled. If you need any special accommodations to attend or participate in the meeting, please notify City Hall twenty-four (24) hours before the meeting. For further information, please contact City Hall at (541) 928-4523.



**City of Millersburg
City Council Staff Report June 24, 2019**

File No: CUP 19-01 and SP 19-01 Evening Star Manufactured Home Park Appeal

Proposal: The applicant is proposing a Conditional Use Permit and Site Plan Review for a 28-space senior manufactured home park with four proposed guest parking spaces, drainage features, one open space area, landscaping, and one proposed point of access from NE Millersburg Drive. The Planning Commission approved the project on May 21, 2019; subsequently two timely appeals were submitted. Thus, this staff report analyzes the appeals as well as the project for a de-novo review by the City Council.

I. BACKGROUND

- A. Applicant: William Eddings
- B. Location: The site has no address. It is located easterly of NE Sedona Road and southerly of NE Millersburg Drive (see attached vicinity map).
- C. Review Type: The proposed Conditional Use Permit and Site Plan review requires a hearing before the Planning Commission. The Planning Commission public hearing was held on April 22, 2019. On May 21, 2019 the Planning Commission approved the project. The decision was appealed to the City Council by two appeals which require a quasi-judicial public hearing before the Council. This has been scheduled for July 1, 2019 in order to comply with the 120-day requirement. Any appeal of the City Council's decision relating to this matter will be considered by the Oregon Land Use Board of Appeals (LUBA).
- D. Public Notice and Hearing: Notice of the appeal public hearing was mailed to all property owners within 100 feet of the proposed location and posted in City Hall on June 7, 2019.
- E. Review Criteria: Article 2 §2.400(2) for the Site Plan Review, §2.500(2) for the Conditional Use Permit and §6.165 for the Manufactured Home Park specific standards. It should be noted that §6.165 are standards, these are considered in addition to the criteria. In addition, it should be noted that these local criteria/standards are impacted by two additional State statutes, Oregon Revised Statutes Section Chapter 446, commonly called the Oregon Manufactured Dwelling and Park Specialty Code (OMDS) and Oregon Revised Statutes Section 197.303-307, commonly called the Needed Housing Act.
- F. Current Zoning: Rural Residential - 10 Acre Minimum - Urban Conversion (RR-10-UC)
- G. Proposed Zoning: N/A
- H. Property Size: 4.4 acres



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City Council Staff Report June 24, 2019**

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- I. Background: The applicant attended a pre-application meeting on January 2, 2019. The parcel proposed for the development was created as part of a partition done in 2008. On March 11, 2019 the City removed 'Manufactured Home Park' as a conditionally permitted use in the existing zone, RR-10-UC. However, in the State of Oregon, an application is 'vested' in the zoning rules that existed at the time the application was submitted. This application was submitted prior to the March 11 text amendment that eliminated the use from the zone. As such, the application is being processed as a conditional use permit because the 'manufactured home park' was listed as a conditional use in the code that existed at the time the application was accepted on February 12, 2018.

On April 22, 2019 the Millersburg Planning Commission held a public hearing for the applications—CUP 19-01 and SP 19-01. At the public hearing a staff report was presented, public testimony was taken, and the public portion of the hearing was closed. A request was made during the hearing to leave the record open for additional evidence to be submitted. The record was left open for a period of 21 days. At the May 21st Planning Commission meeting the Commission reviewed a Supplemental Staff Report (Memo) that contained additional findings and modified conditions of approval. After consideration of all evidence, the Planning Commission approved the applications with conditions of approval as modified by the memo.

Two appeals were subsequently submitted, thus requiring a de-novo hearing before the City Council, which has been scheduled for July 1, 2019. Each appeal is discussed in detail below and attached to this report.

It should be noted that while the applicant is proposing that this be an age-restricted community, the City cannot hold the applicant to that requirement. Should the applicant elect to change this to a non-age-restricted community, the City would not require an official change to the permit. Additionally, the City would not regulate any self-imposed age restrictions for the project. For the purposes of this staff report, and consideration of the project, the Planning Commission did not, and the City Council should not, consider the age restriction proposed by the applicant or any mitigation that the age restriction may present.

II. AFFECTED AGENCY, PUBLIC NOTICE, AND PUBLIC COMMENTS

Agencies:

The applicant's materials were transmitted to the following agencies/departments on March 12, 2019: City of Albany, Albany Fire Department, Linn County Sheriff's Office, City of Millersburg Engineer, Oregon Department of State Lands, PacificCorp, Linn County Planning and Building Department, Linn County GIS, Northwest Natural Gas, United States Postal Service, the Albany School District, the Cascade West COG, and Republic Services. To date, the following comments have been received from:

- City of Millersburg Engineer. These have been incorporated.
- Albany Fire Department, Lora Ratcliff, dated March 12, 2019.

Public:

Notice of the July 1, 2019 appeal public hearing was mailed to all property owners within 100 feet of the property. At the time this staff report was drafted, no written comments have been received by staff.

III. OTHER KEY APPLICABLE STATUTES

Oregon Manufactured Dwelling and Park Specialty Code (OMDS).

A manufactured home park is a unique type of project in the State of Oregon. The State has developed a set of requirements for manufactured home parks. These are found in Chapter 10 of the Oregon Manufactured Dwelling and Park Specialty Code (OMDS). Chapter 10 explains that cities are allowed to create additional regulations as long as those regulations are "not less than the minimum requirements" in the code and "not greater than the requirements for single family uses in the underlying zone." It is important to understand that the City Council has the ability to interpret the City code, and to interpret areas where ambiguity exists between State rules and City codes. While the staff report contains analysis of how each criterion and/or standard is met, the staff recommended findings (included here as a separate document) are proposed for adoption by the Council.

Needed Housing Act

There is another important Oregon statute that weighs significantly on the review of this project. Oregon Revised Statutes Section 197.303-307, commonly called the Needed Housing Act, explain that a City must have only clear and objective requirements for certain housing types, including manufactured home parks. Typically, this means that any local code requirements (criteria or standards) must be applicable without the need for subjectivity or discretion. An example would be a code requirement that says, "noise from the project must not impact a neighbor." Such a provision would require discretion to apply because a hearing body would need to determine the extent of allowable noise. A code requirement like this would fail the test. Whereas a requirement that all housing be less than 35 feet high is clear and objective, thus needing no discretion to apply. It was the application of the Needed Housing Act that led staff to alter some conditions of approval during the Planning Commission hearing process. The analysis below takes all condition revisions into consideration.

IV. APPEALS

The Millersburg Land Use Development Code (LUDC) explains that the decisions by the Planning Commission can be appealed to the City Council within 15 days. During the 15-day period, the City received two appeals. Both are reviewed below.

The appeal requires an additional public hearing before the City Council. This hearing is called a de-novo hearing, meaning that the City Council can take into account all previous testimony and evidence submitted, but is still required to open another public hearing, receive and additional testimony and evidence, and take a final action on the applications. The staff report below differs from the version presented to the Planning Commission. All required criterion and

standards are reviewed in detail (as they were before); however, the report also addresses the appeals and any pertinent issues that were presented in testimony and evidence to the Planning Commission prior. This report addresses the entirety of the record up to this point.

A. APPEAL NO. 1 - Applicant's appeal

The applicant and his attorney, Mr. Mike Reeder, submitted an appeal and narrative dated June 5, 2019. In his appeal letter, Mr. Reeder raised three issues, all of which were previously raised. Each is addressed below.

1. Condition of Approval #3 - 1 Year deadline

The applicant objected to the fact that he will be required to complete construction of the park within one-year of the date of final approval of the conditional use and site plan applications, and raises that issue again in the appeal. The applicant alleges this condition is intended to discourage development of the park, and hence to discourage development of needed housing, yet he provides no evidence or argument as to why he cannot complete this project within the one-year period, and admits in the appeal that it is likely he will complete construction within the next year. The LUDC Section 1.130(11) requires all land use approvals granted by the City be completed within the time period specified, or within one year if not specified. A one-year time frame is typical for most approvals in Millersburg. The application here has detailed engineering already done, including the site plan, concrete details, water details, as well as some storm and sanitary details. While there is now a need for revisions given the conditions recommended in Exhibit B, those revisions will not be time consuming. Staff recommends the one-year period for completion of construction is sufficient, though the City Council can certainly substitute other timelines. It is reasonable to believe that a developer can complete this project within one-year of approval.

2. Condition of Approval #5 - Expanding Street Width

The applicant's appeal re-states their objection to the City's requirement for wider internal streets. Planning staff continues to maintain that the City Council should uphold the requirement imposed by the Planning Commission, as detailed below.

The OMDS has a chart (Table 10C) that specifies various street standards for manufactured home parks such as width; this table includes several options available for different street widths. However, neither the OMDS nor Table 10C provides any guidance for the process of selecting one of the offered width options. Staff and, subsequently, the Planning Commission determined that the ultimate selection of which option in Table 10C to be selected is up to the City, not the applicant. The City has just cause for the selection, and the cause is not arbitrary or subjective. There is nothing in the OMDS that mandates this project have only a 20-foot street width. Also, there is nothing in the OMDS that prohibits the City from selecting which option in Table 10C should apply in this case. OMDS specifies the standards, not the design.

The City has the right to require the 30-foot-wide street design specified in Table 10C rather than the 20-foot design the applicant is proposing. This is an application for a Site Plan and Conditional Use, and as such the City has the right to impose conditions of approval. There is nothing in the OMDS that prohibits the City from imposing reasonable safety conditions

on this project, in the same manner these conditions would be imposed on a single-family subdivision in the RR-10 zone. There are significant safety concerns with emergency vehicle conflicts, specifically that in the event of a fire there is a probability that fire vehicles would not be able to provide adequate response time, jeopardizing lives and property in the development as a result of the way the application is currently designed. Section 10-3.1 of the OMDS provides that manufactured home parks must be designed "to provide reasonable safeguards against fire" and be arranged "in a manner that does not prevent or restrict access by emergency equipment and personnel." It further provides that a responding fire apparatus must be able to approach each manufactured dwelling to within 50 feet. This language is consistent with the 30-foot-wide street width condition imposed here in order to ensure fire equipment has access to extinguish fires in the new park. The Applicant's position is that a 20-foot-wide street is adequate for emergency vehicle access and fire prevention is specifically rejected in favor of evidence submitted by the City Manager who is an experienced fire professional. Additionally, OMDS Section 10-2.1 requires the local jurisdiction to apply the same standards as a single-family development. In Millersburg, a single-family development, even on private streets, is required to build to City standards, which would actually exceed the 30-foot requirement that staff is suggesting in order to stay consistent with the OMDS requirements from Table 10C. Adequate street width with minimum disruption of traffic for emergency vehicles is imperative and mandatory.

More specifically, the City has the right to impose a street width, sidewalk, and on-street parking conditions as part of its authority in LUDC 6.165 and 2.500. As previously explained, it is the City's right to select the street width option in OMDS Table 10C, and the City concludes the third option in Table 10C, which requires a 30-foot paved street section with parallel parking on one side best implements the health, safety, and welfare concerns and best complies with the LUDC. The condition requiring a 30-foot-wide street with parallel parking on one side is a standard that comes directly from OMDS Table 10C and, therefore, is considered to be clear and objective.

Based on all the evidence in the record, and by adopting evidence of the need for wider streets for emergency vehicles and fire protection and safety over conflicting evidence, staff concludes that all of the approval criteria, as modified by the OMDS and the Needed Housing Act, have been met outright, or will be met with compliance with the conditions of approval. It is further concluded that all conditions of approval are feasible, and do not unreasonable add to the cost of the project. Finally, the Planning Commission found and concluded that all the application and implementation involved in this case has been done with clear and objective standards, and at no time have value-laden judgments been imposed on the decision.

3. Site Plan Application

The applicant argued before the Planning Commission, and again here in the appeal, that he should not have been required to file an application for both the Conditional Use and the Site Plan. The applicant admits the approval criteria for both applications are identical and that the City combined both for analysis and consideration. As explained in the Staff Memo distributed to the Planning Commission, the applicant does not provide any evidence that he has been prejudiced by the decision of staff to require and process both application types. Where no prejudice is demonstrated, even procedural error is not subject to review or correction by the City Council. The time for the applicant to have

raised this issue was at the outset of filing the application. The applicant did not object or file the applications with a reservation of rights on this issue. He filed both applications, as requested, without objection. This issue has been waived by the applicant for failure to timely raise it. This argument should have been made at the time of filing, not after the fact at the public hearing. In any event, it was fully within the lawful discretion of the City to require both the Conditional Use and the Site Plan applications in this case. LUDC 2.400 gives the City the discretion to require both types of applications where there are unusual or special features present. The subject property is irregular in shape; has wetlands present requiring mitigation; has only one point of access; has a different elevation profile from the adjoining neighborhood, and is bordered by a creek along one boundary. There is nothing in the Needed Housing rules or case law that negates the LUDC allowance for what applications are required of a developer. The Planning Commission found that the City correctly and lawfully required the applicant to file both the Conditional Use and Site Plan applications.

B. APPEAL NO. 2 - Appeal shared by Corbett Richards, Tom Eisele, Nathan Van Nicholson, Erin Brazel, and Terrie Hill (all shared a narrative).

The second appeal was submitted by five citizens who shared one narrative. This narrative raises issues previously brought before the Planning Commission in several different letters submitted by many citizens. This narrative contends that the Planning Commission incorrectly applied/interpreted five separate criteria requirements. The narrative then focuses the alleged incorrect interpretations by listing seven different issues. Each is reviewed in detail below.

- 1. The Oregon Specialty Codes - Floodplains; and,**
- 2. The Oregon Specialty Codes - Drainage, Suitability of Site**

Concerns have been raised regarding the impact to wetlands on the subject property. The applicant submitted a wetland delineation study that shows that the project will not encroach on any wetlands that are considered part of Crooks Creek; however, some onsite historical drainage paths have been shown to contain wetlands. The study proposes that the applicant mitigate the impacts to the onsite wetlands through offsite mitigation that has yet to be identified. This is typical for impacts such as this. The amount of mitigation needed is not significant, and is feasible for the applicant to be able to satisfy the requirement. By letter dated April 18, 2019, the Department of State Lands (DSL) concurred with the applicant's delineation.

Additionally, concerns have been raised regarding the impact of floodplain designations on the subject property. The appeal argues that by allowing fill on the site within the Special Flood Hazard Area, as designated on the FIRM map, the applicant will force more water into Crooks Creek during a Base Flood Event, potentially causing damage to other properties. As is standard for development in Special Flood Hazard Areas within the City of Millersburg, the applicant will have to provide a study explaining how the project will not increase flood damage to adjacent or downstream properties.

Because, in this location, base flood elevations have been established, but a floodway has not, all development within the special flood hazard area must demonstrate that it will not increase the base flood elevation more than one (1) foot¹. This requires an encroachment certification to ensure that a development project will not obstruct flood

flows or cause increased flooding on other property. In addition, it should be noted that the OMDS does not prohibit siting manufactured homes in a floodplain; it simply requires a floor elevation of the home to be constructed at least 18 inches above the Base Flood Elevation. Once the wetlands mitigation and no rise certification are complete as per approved permits, all proposed lots will be suitable for the intended purpose of construction of a manufactured home thereon.

While the appellant's narrative indicates concerns with the lack of information regarding the final design of the hydrology, the application has provided the appropriate level of design detail for this stage of the development. Most developments show final hydrological design prior to the building permit stage. Conditions have been modified to provide additional specificity regarding wetland and floodplain development permitting requirements.

144 CFR 60.3(c)(10): *[Communities must] Require until a regulatory floodway is designated, that no new construction, substantial improvements, or other development (including fill) shall be permitted within Zones A1-30 and AE on the community's FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.*

3. White Oak Trees, "Redeeming Value"

The neighborhood appeal argues that there are a number of White Oak trees on the property that rise to the level of having 'redeeming value.' The appeal argues that a provision in the OMDS allows the City to prohibit disturbance of mature trees with 'redeeming value.' The appeal also argues that a provision of the Comprehensive Plan explains large trees should be preserved when possible. At the outset, it is prudent to mention that there are three oak trees noted on the existing site, a 48-inch oak and two 36-inch oak trees. Of the three, only the 48-inch oak is proposed for removal; the two 36-inch oak trees will remain in the final development as shown on the applicant's site plans. Discretion in tree removal is afforded to the City, and in this case, staff and ultimately the Planning Commission have determined that retention of the two 36-inch oak trees and removal of the 48-inch oak complies with the OMDS, LUDC and the Millersburg Comprehensive Plan.

Further, while the OMDS and the Comprehensive Plan call for protection, the specific details regarding the preservation of trees is not provided. The Comprehensive Plan simply calls for them to be preserved 'whenever possible.' Without clear and objective details explaining when trees are to be preserved, any required preservation could be deemed as using discretion to interpret the term, 'whenever possible.' If the use of discretion is required, enforcement of the provision could violate the Needed Housing Act.

4. Case Precedent

The neighbor appeal cites to the Pheasant Run subdivision in the City of Albany for the proposition that this application may be denied on the basis of tree removal and/or the Needed Housing Act. However, because the two cities have different land use codes and ordinances regarding tree removal, a comparison between the Albany case and this one is not applicable. Any precedent from a neighboring city is not relevant to the City's

decision in this case. The appellant's narrative did not provide sufficient evidence as to how the City of Albany made its decision, or how this should influence this decision for the City of Millersburg.

5. Vermin Breeding Grounds

The neighbor appeal cites a lack of suitability of this site for a manufactured home park because of its location adjacent to Crooks Creek. The narrative argued that vermin reside in and along Crooks Creek, which they believe is a violation of the OMDS section 10-2.3. The narrative argues that this is uncontested. However, the argument then devolves into fear-based speculation that the manufactured home park will not be built in such a way to eliminate or control the hazards. To the contrary, the park will be built to State building code specifications and will include normal improvements to the land associated with a 28-lot subdivision, including adequate drainage. While there is never a guarantee against infestation, staff and, ultimately, the Planning Commission determined that the construction of this park to the required building code standards will be sufficient to control any potential infestation.

6. Unshielded Street Lights - #7 Conditions of Approval Deleted

The shielding of streetlights is an issue that was originally objected to by the applicant. Upon further review, the Planning Commission determined that the requirement for shielding be removed. The issue is brought up again here in the neighbor appeal that argues the original shielding condition be imposed.

OMDS Section 10-3.4 provides requirements for internal illumination of the park; however there is nothing in that section that states these are the only requirements. In fact, the illumination provisions deal only with safety considerations inside the park and never address the issue of streetlights shining offsite into neighbors' homes. The City concludes that where the OMDS is silent as to offsite impacts of park illumination, the LUDC is authorized to fill in the void and impose lighting conditions that are not addressed in the OMDS, provided the condition is clear and objective and does not contain any value-laden judgments. With this understanding, and with a Millersburg Code requirement that the negative impacts to the neighbors be mitigated, the original condition was added for shielding. The City did not add the shielding requirement to address health risks, rather the condition was added to address any possible nuisance resulting from indirect lighting shining into neighboring homes.

However, the LUDC did not provide detail on how and when shielding must be provided. Therefore, staff and, ultimately, the Planning Commission, determined that any requirements for shielding of streetlights in the park to prevent offsite illumination were not sufficiently clear and objective, and too value-laden to pass muster under the Needed Housing Act. Staff continues to maintain that shielding should not be required.

The narrative also explains that the CC&Rs for the neighboring homes in Becker Ridge require lights from homes to be controlled to address possible annoyances. The appeal argues that if they are required on Becker Ridge, they should be required on the application as well. However, the requirements found in any CC&R is not a requirement from the City. CC&Rs are outside City control and not enforced by the City. A CC&R is a document that contains rules implemented by the community, on the community—all

outside the City's control. Therefore, the City has no authority to apply any CC&R requirement from one community onto any other community.

7. Identification Within the Park

The neighbors' appeal states issues regarding identification and signage within the park, including a request for stop signs. Issues regarding signage within a project are not normally addressed at the entitlement stage. Typically, a city addresses this at the development stage, meaning building permits. However, in order to provide more assurance, a condition of approval has been added to show compliance with OMDS 10-3.3, and that two stop signs are mandated; one at the intersection south of Lot 1, and one at the exit from the park onto Millersburg Drive NE. See Exhibit B for more detail.

All other arguments and proposed conditions of approval from the neighbors' appeal are found to be either already covered in the existing conditions of approval or are not well founded or which would otherwise violate the mandates of the Needed Housing Act.

V. CRITERION

CITY OF MILLERSBURG DEVELOPMENT CODE

As previously mentioned, the applicant's proposal requires both a conditional use permit and a site plan pursuant to the development code requirements. The code requires that the applicant satisfy criteria for each application. This staff report outlines how the applicant is meeting each set of criteria. However, the development code criteria for each case type (CUP and SP) are identical (see Code Section 2.400(2) and 2.500(2)). To avoid duplication, both the CUP and the SP are reviewed together below. Additionally, for this appeal, the official City findings are contained in Exhibit A.

For the Site Plan - (2) Decision Criteria. After an examination of the site and prior to approval, the Planning Commission¹ must make the following findings:

For the Conditional Use Permit - (2) Decision Criteria. The conditional uses listed in the Code may be permitted, altered, or enlarged upon authorization of the Planning Commission in accordance with the following findings:

For both the SP and CUP:

(a) The proposed development or use does not conflict with the City's Comprehensive Plan.

ANALYSIS: Section 9 of the Comprehensive Plan contains a list of Land Use Goals and Policies. Section V of this report goes through the pertinent policies from the Comprehensive Plan. In summary, based on staff's review, the project is consistent with the policies of the Comprehensive Plan. See Section V for more detail.

Based on the analysis above, the project meets the required criteria.

¹ City Council on appeal

(b) That the proposed development or use complies with the standards of the land use zone and does not conflict with city codes and ordinances that are applicable to the application.

ANALYSIS: This criterion requires the applicant to comply with standards listed in the code. The code standards come from several sections of the code including:

- Article 4 - Zoning Designation Standards
- Article 5 - Development Standards
- Article 6 - Use Standards, including Section 6.165 regulating Manufactured Home Parks
- Article 7 - Special Area Standards
- And Article 8 - Improvement Standards

This criterion is important because it links the standards to the criteria, essentially making all standards into criterion by extension. All standards are reviewed in detail in Section IV of this staff report. In summary, the project as proposed does not meet all standards. Conditions of approval were added to address these concerns. See Section IV for more detail and for proposed conditions of approval.

Based on the analysis above, the project does not meet the required standards; however, with the addition of conditions of approval, the project can comply.

(c) That the proposed development will not have an adverse impact on traffic flow or to pedestrian, bicycle and vehicular safety, and future street right-of-way are protected.

ANALYSIS: There are a number of staff concerns specific to traffic.

Access: The project site is proposing a singular access point on NE Millersburg Drive. The proposed access is located between an existing residential driveway and NE Sedona Road. Pursuant to the 2008 partition that created the project site parcel, the applicant is required to eliminate the driveway for the single-family home (existing, fronting NE Millersburg Drive) that is essentially surrounded by the applicant's property and have the existing home use the new access drive proposed for the manufactured home park. This will remove the existing single-family home driveway from NE Millersburg Drive, leaving only the proposed new intersection/driveway for the manufactured home park.

Section 5.122, Transportation Standards, subsection 5(f) explains the City's access spacing requirements. NE Millersburg Drive is designated as an arterial in the City Transportation System Plan (TSP). Therefore, the access spacing between the project access point and the nearest intersection (NE Sedona Road) is required to be at least 600 feet between intersections and/or 300 feet between driveways. It is not clear if the project driveway is to be considered an intersection or a driveway. Such a distinction may not be relevant because Section 5.122(5)(g) explains that access at less than these distances is permitted if the property has no other reasonable access. The applicant has no other 'reasonable' means of access. Bridges could be used, or neighboring homes along Sedona could be removed to provide access; however, these are not reasonable alternatives. Therefore, the applicant cannot provide the required spacing. However, Section 5.122(7)(a).6 further explains that *if* the access spacing cannot be achieved, a traffic impact analysis is required. The applicant has submitted a traffic impact analysis.

The traffic impact analysis, composed by DKS and Associates, explains that the proposed project will generate about 300 traffic trips per day. The study also explains that the access spacing will be about 165 feet between NE Sedona Road and the proposed project access, which does violate the access spacing requirements. The study explains that the low volume of expected traffic from the project will not create an unsafe traffic condition on NE Millersburg Drive and suggests the project be constructed as designed. No mitigation, such as signals or stop signs, are proposed in the study.² Because the code allows for substandard spacing if there are no other options for the applicants and if a traffic study has been submitted³, then staff finds that the access spacing is acceptable. If the intent of the spacing is to promote safety, and the study suggests that the intersection will be safe, then the intent of the code is met.

Additionally, the Albany Fire Department has reviewed the proposed project and determined that a single point of access is acceptable for up to 30 dwelling units, provided adequate internal circulation is provided. While the internal circulation is discussed further below, for the issue of access, the Fire Department has indicated the proposal is adequate.

Internal Circulation: The project proposes an internal loop for a circulation system. All internal circulation streets are considered private streets. The City has specific standards for private streets, and the streets proposed do not meet the City standards outlined in Article 5 and 8.

It appears that the applicant designed the internal streets using table 10-C of Chapter 10 in the OMDS (see table below). The site plan shows an internal street width of 20 feet. The City Code in Section 6.165, the manufactured home park standards, explains that when there is a conflict between the City Code and the OMDS, the State standards in Chapter 10 shall govern. As designed, the applicant is proposing a two-way street with no parking on either side.

However, the City and the Albany Fire Department, in their letter dated March 12, 2019, have expressed concerns with the lack of on-street parking.⁴ As previously noted, the applicant's proposal of a 20-foot pavement width would require that no on-street parking be permitted.

The City Manager, Kevin Kreitman, previously served as a Fire Chief for the City of Albany, Oregon, and later for Redding, California. Mr. Kreitman has expressed concerns that people often ignore no-parking signs and still park on the street. The Planning Commission has expressed similar concerns previously with street designs that do not allow on-street parking, going so far as to request that 'skinny streets' be removed from the Code during the forthcoming Code revision. Illegal parking on these posted no-parking streets presents a public health and safety concern. When a car is illegally parked on a 20-foot pavement

² It should be noted that a condition of approval has been added to require two stop signs internal to the project site. These were added in response to community appeal, not as a result of the traffic study.

³ The Code does not specify that the study demonstrate anything specific, only that a study be submitted. Staff is interpreting the Code to mean that the study must show that all proposed street improvements will be safe. The study does indicate that the proposed improvements will be safe.

⁴ The applicant submitted an email from the Albany Fire Department as additional evidence indicating that they were comfortable with the project as designed regarding street width.

width, the ability for a fire or emergency vehicle to navigate the project site is significantly restricted, creating a dangerous situation and hazard. Evidence on the record reaffirms this. Alternatively, when on-street parking is allowed, the 20-foot pavement width is maintained because the design of the street allows for cars to safely park on the side of the street. In addition, local law enforcement does not have jurisdiction to enforce no-parking requirements on private streets. Therefore, there is no City mechanism to insure on-street parking will not occur.

Because the proposed project is a conditional use permit⁵, the City Council has the authority to impose conditions deemed necessary for health, safety and welfare. Staff is recommending that the Council require, through conditions of approval, that the internal streets be redesigned to permit parallel, on-street parking on one side. Based on the OMDS Table 10-C (below) the State would then require a pavement width of 30 feet (see table).

**TABLE 10-C
MINIMUM PAVEMENT WIDTHS**

DESCRIPTION	ONE OR TWO WAY STREET	ONE LANE OF A DEVIDED STREET	PARK STREET CONNECTING TO THE PUBLIC WAY	ONE WAY ALLEY	TWO WAY ALLEY	COMMONDRIVE -WAY
UNOBSTRUCTED TRAFFIC LANE WIDTH	16 Feet	12 Feet	20 Feet	12 Feet	16 Feet	9 Feet
NO PARKING ON EITHER SIDE	20 Feet	14 Feet	30 Feet	14 Feet	20 Feet	12 Feet
PARALLEL PARKING ON ONE SIDE	30 Feet	19 Feet	34 Feet	19 Feet	26 Feet	19 Feet
PARALLEL PARKING ON BOTH SIDES	30 Feet	28 Feet	34 Feet	28 Feet	30 Feet	28 Feet
30 DEGREE DIAGONAL PARKING ON ONE SIDE	33.3 Feet	29.3 Feet	37.3 Feet	29.3 Feet	33.3 Feet	29.3 Feet
30 DEGREE DIAGONAL PARKING ON BOTH SIDES	50.6 Feet	46.6 Feet	54.6 Feet	46.6 Feet	50.6 Feet	46.6 Feet
45 DEGREE DIAGONAL PARKING ON ONE SIDE	35.6 Feet	32.6 Feet	39.6 Feet	32.6 Feet	35.6 Feet	32.6 Feet
45 DEGREE DIAGONAL PARKING ON BOTH SIDES	55.2 Feet	52.2 Feet	59.2 Feet	52.2 Feet	55.2 Feet	52.2 feet
60 DEGREE DIAGONAL PARKING ON ONE SIDE	39 Feet	39 Feet	41 Feet	39 Feet	39 Feet	39 Feet
60 DEGREE DIAGONAL PARKING ON BOTH SIDES	60 Feet	60 Feet	62 Feet	60 Feet	60 Feet	60 Feet
90 DEGREE PERPINDICULAR PARKING ON ONE SIDE	43 Feet	43 Feet	43 Feet	43 Feet	43 Feet	43 Feet
90 DEGREE PERPINDICULAR PARKING ON BOTH SIDES	62 Feet	62 Feet	62 Feet	62 Feet	62 Feet	62 Feet
NOTES:						
1. Use this table to size all streets, alleys, and common driveways with or without on-street parking.						
2. The dimensions shown are measured curb to curb and includes all traffic lanes and on street parking but does not include curbs, sidewalks, or walkways.						
3. Alternate street configurations may be used with prior approval from the authority having jurisdiction.						
4. Alternate parking angles or configurations may be used with the prior approval from the authority having jurisdictions.						
5. Where a street or alley is not designed for parking on one or both sides, it shall be identified as a "No Parking" area.						
6. A two-foot wide bike lane may be added to one side of any street or alley without increasing the size of the street or alley.						
7. This table does not include parking sized to meet the accessibility requirements of the Americans with Disabilities Act (ADA). For more information, see Chapter 11 of the Oregon Structural Specialty Code.						
8. This table is based on information provided through the American Institute of Architects (AIA).						

In addition, Section 10-2 of the OMDS lists a host of specific design features that the City may regulate. Internal street design is not listed. It is not clear if the silence on internal streets means that the City is allowed to regulate street design. Because this is ambiguous, the City Code can control.

Information was submitted into the record during the public hearing that argued both sides of this issue. Images were provided showing cars illegally parked in other nearby manufactured home parks; others submitted images showing no cars parked in other parks. In light of all the evidence, staff still contends there is an issue with the proposed 20-foot streets. Staff suggests that the Council is well within their authority to require the applicant to build streets that fully conform with *City street standards*. However, in an abundance of caution, City staff and, ultimately, the Planning Commission elected to require the applicant to build a street that would allow parking on one side and conform to the States OMDS Chapter 10 table regarding street width.⁶ As discussed previously, staff and the Planning Commission contend that the design of the street is up to the City. As such, staff and the Planning Commission have added a condition of approval requiring the street width to be revised to 30 feet with parking on one side.

Pedestrian circulation: The pedestrian requirements to be followed are set forth in OMDS 10-5.4(a). The submitted design includes the required 4-foot sidewalk, street adjacent, which staff believes to be appropriate.

Based on the analysis above, the project does not meet the required criterion; however, with the proposed conditions of approval, the project can meet the required criteria.

(d) That proposed signs or lighting will not, by size, location, color or operation, have an adverse impact on traffic, limit visibility or have an have an adverse impact on adjacent properties.

ANALYSIS: The applicant is not proposing any signs with the project. Lighting is proposed for streets. A total of 9 street lights are proposed. All street lighting will be required to comply with Section 5.135 of the Millersburg Code, which will require each to be 25 feet tall.

Section 5.135(3) requires that lighting shall not shine into neighboring residences. Staff originally argued that because the proposed project will be below grade of several existing homes that abut the site, all lighting will be visible from the neighboring homes. Staff previously required shielding on all lights to prevent glare into neighboring homes. However, upon further analysis, and in an abundance of caution, staff and ultimately the Planning Commission, found that the Millersburg Code requirement is not clear and objective in how the lighting should be shielded, or regarding the specifics on implementing the provision. As a reminder, standards that are not clear and objective are potentially inconsistent with the requirements of the Needed Housing Act requirements. As such, all previous requirements for shielding have been removed.

Based on the analysis above, the project is consistent with the required criteria.

⁶ The 30-foot pavement width would be less than the actual Millersburg Street Standards permit, but would be consistent with the OMDS table.

(e) That water, wastewater disposal and utilities are available and have the capacity to serve the proposed development or use and can be extended in the future to accommodate future growth beyond the proposed land division.

ANALYSIS: Existing sewer and water lines are available to the site within NE Millersburg Drive. Individual sewer and water extensions are provided at each potential home site through a private system. Individual meters can be provided by the applicant; however, this is not a requirement by the City. Individual City meters will not be permitted. The unique location of the site will likely prevent any additional future utility connections to the site, as all neighboring properties are either developed or un-developable.

Based on the analysis above, the project meets the required criteria.

(f) That the proposed development or use does not have an adverse impact on existing or proposed drainageways including flow disruptions, flooding, contamination or erosion on drainage-ways and required drainage facilities are provided that have the capacity to serve the proposed development or use.

ANALYSIS: The project site is located next to Crooks Creek. According to the County GIS system, and a wetland study submitted by the applicant, there is a wetland feature that crosses the site as well. Additionally, the site sits lower than the recently constructed homes to the south and west. Some backyard drainage seems to occasionally cross the property. The applicant has submitted a wetland delineation study that shows that the project will not encroach on any wetlands that are considered part of Crooks Creek; however, some onsite historical drainage is considered wetlands. The study proposes that the applicant mitigate the impacts to the onsite wetlands through offsite mitigation that has yet to be identified. This is typical for impacts such as this. The amount of mitigation needed is not significant, and the applicant should be able to satisfy the requirement with additional concurrence of DSL. The study has been sent to the Division of State Lands (DSL) for their review. The DSL responded with a standard response indicating concurrence with the delineation report.

Some conditions of approval have been added to the project to assure the standard processes for wetland development are followed. These are typical conditions of approval. Additionally, conditions of approval were added to require FEMA map corrections for the site.

The community appeal indicated concerns with the lack of specificity on implementing the drainage and general site disturbance. Staff can understand these concerns; however, these seem to reflect a lack of understanding for the steps involved in development. It is customary to have some details provided at later stages and move through the entitlement process (land use) with "preliminary" designs and documents. Specifically, the site shows conceptual designs for the drainage (hydrology). A more detailed, engineered plan is required prior to the issuance of any building permit. This is typical for all developments. Likewise, a wetland delineation can suggest impacts to the site, with offsite mitigation; however, the details of the offsite mitigation and the implementing fill of the wetlands on the site will still require further review by the DSL, as well as separate State fill permits. The State will still get a chance to review the proposed offsite mitigation before there is any disturbance to the site. This is typical. Indeed, the

response from the DSL reflects this. The processes are designed this way for several reasons. Perhaps the most important reason is that the applicant needs assurance that the land use is acceptable to the local City before they spend resources on the specific design details. The important fact here is that this project is not proposing anything out of the ordinary, and is not obfuscating design details that are germane to the land use review.

Based on the analysis above, the project does not meet the required criterion; however, with the proposed conditions of approval, the project can meet the required criteria.

(g) That the proposed development will not have an adverse impact, potential hazards or nuisance characteristics as identified in Section 2.140, Item 21 of the Application Site Plan consistent with the standards of the Zoning District and complies with the applicable standards of all regulatory agencies having jurisdiction.

ANALYSIS: Section 2.140 Item 21 explains that the applicant is required to identify any emissions that may result from the application. In this case, no emissions are anticipated. There could be a potential for aesthetic impacts because homes bordering the site on the west and south are situated on a higher elevation than the site itself. Screening is required in the Manufactured Home Park Standards. These are discussed at length later in this report. It should be noted that aesthetics are not listed in Section 2.140 Item 21, and as such are not considered a nuisance concern. Lighting, which could be a potential nuisance, is addressed elsewhere in this report.

Based on the analysis above, the project meets the required criteria.

(h) That the proposed development or use does not conflict with the standards of other regulatory agencies having jurisdiction.

ANALYSIS: The project was transmitted to other regulatory agencies for review. Any comments received were made conditions of approval on the project.

Based on the analysis above, the project does not meet the required criterion; however, with the proposed conditions of approval, the project can meet the required criteria.

VI. STANDARDS

The proposed design complies with all the specifications and design requirements and standards of the Millersburg Land Use Development Code, Articles 4-8, except as noted or explained in more detail below, including those impacted by the Needed Housing Act. The standards of the RR-10-UC zone do not apply because use listed in the Conditional Use section of the RR-10-UC zone specifically indicate that a manufactured home park shall use the standards from Section 6.165.

SECTION 5.118 DRAINAGEWAY SETBACKS & 5.119 WETLAND AND RIPARIAN AREAS

ANALYSIS: These Code sections explain that a setback of 50 feet from the top of the bank of any fish bearing stream is required. The existing conditions and topography provided by the applicant indicates that the project will remain more than 50 feet from the top of

bank of Crooks Creek. All mitigation for the wetland impacts will have to be approved through DSL prior to any ground disturbance. Previous conditions address this.

Based on the analysis above, the project does not meet the standard; however, with the proposed conditions of approval, the project can meet the required standard.

SECTION 5.122(3) PEDESTRIAN AND BICYCLE & 5.124 SIDEWALKS

ANALYSIS: This section has been previously discussed in this staff report for criterion C. Section 6.165, the Manufactured Home Park Section supersedes this standard and substitutes the standards from the OMDS, Chapter 10. As designed, the sidewalks within the project meet the requirements of the OMDS, Chapter 10.

Based on the analysis above, the project can meet the required standard.

SECTION 5.123 STREETS

ANALYSIS: As previously mentioned for criterion C, the streets as designed do not address the public health, safety and welfare of the City. Conditions of approval have been proposed to require wider streets in order to comply with the standards listed in this Code section.

Based on the analysis above, the project does not meet the standard; however, with the proposed conditions of approval, the project can meet the required standard.

SECTION 5.126 STORM DRAINAGE

ANALYSIS: This section requires drainage standards to assure the public is protected from flooding. Preservation of significant drainage features and setbacks from said features are requirements listed in these standards. The information provided by the applicant provides some detail of how the project proposes to address stormwater, however additional detail is required to assure compliance with City, State and Federal requirements. Conditions of approval are proposed to assure compliance.

Based on the analysis above, the project does not meet the standard; however, with the proposed conditions of approval, the project can meet the required standard.

SECTION 5.134 LANDSCAPING

ANALYSIS: The proposed project is required to provide landscaping consistent with this Code section. The landscape plan submitted was a preliminary plan that did not contain sufficient detail to satisfy the requirements of Section 5.134 (b). A condition of approval proposes the submittal of a more detailed landscape plan.

Based on the analysis above, the project does not meet the standard; however, with the proposed conditions of approval, the project can meet the required standard.

SECTION 6.165 MANUFACTURED DWELLING PARKS

Based on the nature of the application, each standard for this Code section is reviewed below. Again, it is important to note that these standards are impacted by the Needed Housing Act if any degree of subjectivity is required to implement them.

(1) Where Permitted: Class "A" or "B" Manufactured Dwellings are permitted in all Manufactured Dwelling Parks. Manufactured Dwelling Parks are permitted in the City's Rural Residential Zones in accordance with the standards of Section 6.165 and the provisions for Conditional Use approval contained in Section 2.500.

ANALYSIS: The applicant has indicated that all manufactured homes will be a class A or B, and under 10 years old.

Based on the analysis above, the project can meet the required standard.

(2) Minimum Site Area: An area that provides space for four or more manufactured dwellings together with all conditions and standards required by Chapter 10 of the OMDS and the standards contained in Section 6.165 herein.

ANALYSIS: The project proposes 28 units on 4.4 acres. The project is permitted up to 30 units based on the density allowance. The applicant's narrative has indicated that the project meets all the standards of OMDS Chapter 10.

Based on the analysis above, the project can meet the required standard.

(3) Density: Maximum density of the park shall not exceed 7 units per gross acre.

ANALYSIS: The project proposes 28 units on 4.4 acres. The project is permitted up to 30 units (4.4 acres x 7 per acre = 30 units) based on the density allowance. The proposed unit count is below the allowance, thus in conformance.

Based on the analysis above, the project can meet the required standard.

(4) Access: Manufactured Dwelling Park access shall occur from a public Collector or Arterial street.

ANALYSIS: The project takes access from NE Millersburg Drive which is classified as an arterial.

Based on the analysis above, the project can meet the required standard.

(5) Permitted Uses: Manufactured Dwelling Parks may contain manufactured dwellings and accessory structures, community laundry and recreation facilities and other common buildings for use by park residents only, and one residence other than a manufactured dwelling for the use of a caretaker or a manager responsible for maintaining or operating the park.

ANALYSIS: The applicant is not proposing any additional facilities; no laundry or office is proposed. The "unit" spaces are proposed. The applicant has indicated that he plans to

purchase the actual manufactured home structures for each space himself, though that is not a requirement of the project. He could also rent the space and allow a renter to provide their own dwelling unit. The applicant has indicated in his narrative that he plans to administer the facility himself.

Based on the analysis above, the project can meet the required standard.

(6) Conditions: Upon granting site plan approval for a manufactured dwelling park, the Planning Commission⁷ may require establishment of deed covenants, conditions and restrictions (CC&Rs) or other conditions including but not limited to any of the following where such are deemed necessary for the mitigation of adverse impacts on an adjacent area:

- (a) Limit the type of units to be installed to Class "A" or Class "B" or both.**
- (b) Additional landscaping or screening on the park boundary.**
- (c) Increased setbacks from park boundaries.**

ANALYSIS: The applicant has indicated that class A and B units will be used. It should be noted that the City selecting one or the other runs afoul of the Needed Housing Act, because the Code does not provide details on when or how the decision could be made. The same is true for additional landscaping. In the first Planning Commission Staff Report, staff proposed additional screening to comply with landscape standards; however, because the Code did not include details on how to implement the requirement, they conflicted with the Needed Housing Act and were removed before the Planning Commission acted on the project. Additional setbacks do not seem to be required.

As a note, any breach of the project description as approved by the City Council are grounds for penalties as outlined in the Code, which would include civil remedies. Any CC&R violations would not be enforceable by the City, but could be enforced through the courts using civil litigation. So, while the City Council may require CC&Rs, they offer protections that are similar to those granted to the City by virtue of the approval itself. The Council may require CC&Rs if desired. This application would not result in a subdivision. This project, if approved, would remain one owner. As such, CC&Rs would not be prudent, as the one owner could change them whenever they desired.

Based on the analysis above, the project can meet the required standard.

(7) Improvement Standards: Park standards shall conform to The Oregon Manufactured Dwelling and Park Specialty Code (OMDS) within the Park boundary and shall conform to City Standards when abutting public streets.

(8) Streets: Public streets located within the Park and the first 100 feet of private Park streets connecting to a public street shall conform to City standards.

ANALYSIS: The internal street, as shown on the applicant's exhibit and outlined in their narrative, is consistent with City standards where it meets NE Millersburg Drive and for 100 feet from NE Millersburg Drive. The project does not abut any other City street. The street standards for the rest of the internal streets have been discussed previously in this staff report for criterion C. Conditions have been added to re-design all internal streets to match OMDS Standards.

⁷ City Council on appeal

Additionally, the community appeal cited specific OMDs standards regarding signage that were allegedly not addressed. A condition of approval has been added in response to this concern that requires street directional signage within the park, including stop signs.

Based on the analysis above, with conditions of approval, the project can meet the required standard.

(9) Perimeter Setbacks: Distance of a manufactured dwelling or accessory structure from an exterior park boundary or public right of way shall be 20 feet.

ANALYSIS: The project was designed to meet the City setback requirement of 20 feet from the park boundary to any manufactured dwelling unit as shown on the applicant's site plan.

Based on the analysis above, the project does not meet the standard; however, with the proposed conditions of approval, the project can meet the required standard.

(10) Landscaping: All common areas within a Manufactured Dwelling Park shall be landscaped and maintained by the Park owner in conformance with the approved Landscape & Irrigation Plan.

(a) The following minimum standards per each 2,000 square feet of open area shall apply unless approved by the Planning Commission⁸:

- 1. One tree at least six feet in height.**
- 2. ten shrubs or accent plants.**
- 3. The remaining area containing walkways and attractive ground cover at least 50% of which must be living ground cover within one year of planting.**
- 4. All manufactured dwelling spaces shall be landscaped within six months of manufactured dwelling placement. Such landscaping shall be the responsibility of the park owner.**

ANALYSIS: The applicant submitted a preliminary landscape plan. Alone, it does not show full conformity with these requirements. The applicant's narrative expands on the exhibits to say that he will comply with the requirements. A condition of approval is proposed by staff that would require a more detailed landscape plan that would show conformity with these requirements.

Based on the analysis above, the project does not meet the standard; however, with the proposed conditions of approval, the project can meet the required standard.

(b) Perimeter Property Screening: The entire perimeter of the manufactured dwelling park shall be screened except for driveways and Clear Vision Areas. The following minimum standards shall apply:

- 1. One row of evergreen shrubs shall be planted which will grow to form a continuous hedge at least six feet in height and be at least 80 percent opaque, as seen from a perpendicular line of sight, within two years of planting, or**

⁸ City Council on appeal

2. A minimum of a five-foot wood fence or masonry wall shall be constructed, providing a uniform sight obscuring screen, or
3. An earth berm combined with evergreen plantings or wood fence or masonry wall shall be provided which shall form a sight and noise buffer at least six feet in height.
4. At least 5 five-gallon shrubs or 10 one-gallon shrubs for each remaining 1,000 square feet of required buffer area; and
5. The remaining area treated with attractive, living ground cover (i.e., lawn, ivy, evergreen shrubs, etc.).

ANALYSIS: The applicant's narrative goes into detail regarding how the applicant intends to meet the screening requirements. First, it is important to note that the project site sits below grade from the neighbors that surround the site on the west and south. Staff asked the applicant to provide an additional sight line exhibit showing a section diagram with the elevation difference, the existing units surrounding the site and the proposed unit locations to clarify how the grade difference impacts the project. This exhibit, attached, was provided but did not contain enough detail to clearly show the line of sight for what the existing homes will see if the project were approved and constructed.

In an attempt to meet the requirement of this Code section, staff originally added a conditional of approval that required additional plantings to meet the screening intent. However, in an abundance of caution, staff and ultimately the Planning Commission removed this requirement as it was inconsistent with the Needed Housing Act. Implementation of the standard is not clear and required some degree of subjectivity to implement. As such, it was removed.

Based on the analysis above, the project can meet the required standard where it applies.

(11) Utilities: All manufactured dwelling parks must provide each lot or space with storm drainage, municipal sanitary sewer, electric, telephone, and municipal water, with easements dedicated where necessary to provide such services. All such utilities shall be located underground. Utilities shall be connected in accordance with state requirements and the manufacturer's specifications.

ANALYSIS: The applicant's narrative has indicated that all utilities will be provided by the park owner and will all be placed underground.

Based on the analysis above, the project can meet the required standard.

(12) Design and Submission Requirements:

(a) Professional Design Team: The applicant for proposed Manufactured dwelling (MH) Parks shall certify in writing that the services of a registered architect, landscape architect or registered engineer licensed by the State of Oregon have been utilized in the design and development of the project.

ANALYSIS: The applicant's narrative has indicated that the design was done by a registered civil engineer.

Based on the analysis above, the project meets the required standard.

(b) Site Plans Required: The Conditional Use Application for a new or expansion of an existing MD Park shall be accompanied by 12 copies of the site plan of the proposed park containing the following information in addition to that required in Section 2.140 for Application Site Plans. The plot plan shall show the general layout of the entire Park and shall be drawn to scale. The drawing shall include all of the following information:

1. Name and type of Park, address, owner, Design Team members, scale, date and north point of plan.
2. A vicinity plan showing streets and properties within 500 feet of the development site.
3. Plot plan of park boundaries and the location, dimensions and number of MH spaces. Number each space and demonstrate that planned spaces can reasonably accommodate a variety of MH or RV types.
4. Location and dimensions of existing and proposed structures, together with the usage and approximate location of all entrances, heights, and gross floor areas.
5. Location and dimensions of roads, accessways, parking, loading facilities, garbage receptacles and walkways.
6. Extent, location, arrangement, and proposed improvements of all open space, landscaping, fences and walls.
7. Location of lighting fixtures for park spaces and grounds.
8. Location and area of recreation spaces and buildings in square feet.
9. Locations where park water, sewer, drainage and utility systems connect to City systems.
10. Location of existing and proposed fire and irrigation hydrants.
11. Enlarged plot plan of a typical MH space, showing location of the stand, patio, storage space, accessory structures, parking, sidewalk, utility connections, and landscaping.
12. Architectural drawings and sketches demonstrating the planning and character of the proposed development.
13. A construction time schedule and development phasing plan.
14. Detailed plans required. Prior to application for a building permit to construct a new Park or to expand an existing Park, the applicant shall submit five copies of the following detailed plans:
 - a. A legal survey.
 - b. Plans of new structures.
 - c. Water and sewer systems.
 - d. Utility easements.
 - e. Road, sidewalk, and patio construction.
 - f. Drainage system, including existing and proposed finished grades.
 - g. Recreational improvements including swimming pool plans approved by the Oregon State Board of Health.
 - h. Landscaping and irrigation plans.

ANALYSIS: The exhibits submitted by the applicant show most of the details required above. The plans did not show any details regarding the garbage receptacles. As such, a condition of approval has been added to require the submission of a detailed trash collection plan for staff approval. No permanent structures are proposed. A condition of approval has also been added for the building permit requirements of item 14 above, though because the Code requires this, the condition is redundant.

Based on the analysis above, the project does not meet the standard; however, with the proposed conditions of approval, the project can meet the required standard.

VII. CITY OF MILLERSBURG COMPREHENSIVE PLAN

City of Millersburg Comprehensive Plan

The City of Millersburg Comprehensive Plan implements the 19 State Goals. Based on staff review, the project is consistent with all goals and policies of the Comprehensive Plan. The following are *relevant and pertinent* policies from the Comprehensive Plan.

Chapter 9.1 - Planning

Policy 16. Close coordination shall be maintained between the school district, fire districts, serving utilities, Linn County, the City of Albany and other governmental agencies having facilities or programs in the area.

ANALYSIS: The project was transmitted to several agencies for review. Those who responded are included.

Based on the analysis above, the project is consistent with the policy.

Chapter 9.4 - Housing

Policy 1. The City recognizes the need for an adequate supply of sound, decent and attractive housing which includes a variety of types and designs which are responsive to community needs.

ANALYSIS: The project provides housing. Generally manufactured homes are more affordable than traditionally built homes, thus adding to the variety of housing types for the area. Some of the neighboring owners have expressed concerns with the proposed project indicating that the higher density afforded by the manufactured housing park may not be compatible with the surrounding community, and that the new project may impact their housing property values. The project density meets the requirements of the LUDC, and impact on property values is not a legitimate approval criteria in this matter.

Based on the analysis above, the project is consistent with the policy.

Chapter 9.5 - Land Use

Residential Land Use Policy 2, When urban development occurs, the city shall encourage compact residential development within the existing Residential District to provide more efficient land utilization and to reduce the cost of housing, public facilities and services.

ANALYSIS: The proposed project is a compact form of residential development, not as compact as multi-family, which would also be permitted on the site, but more than the 10,000 square foot minimum requirement for single family homes.

Based on the analysis above, the project is consistent with the policy.

Residential Land Use Policy 8, Residential areas shall be protected from excessive through traffic, conflicting land uses, or other encroachments that would impair a safe, quiet living environment.

ANALYSIS: Manufactured home parks are a controversial type of housing. They have traditionally suffered from a negative stigma. Future negative impacts are very difficult to predict. Compatibility between established single-family homes and manufactured home parks is highly subjective. Often this is established on a case by case basis; this project is no different. This project will not introduce additional through traffic to preexisting communities, and therefore it should not ultimately result in an unsafe community. The increased density could result in more noise than a traditionally platted 10,000 square foot community, based simply on the fact that there are more people per square foot.

Based on the analysis above, staff has determined the project to be consistent with the policy.

VIII. RECOMMENDATION

Based on the findings of fact set forth in Exhibit A, with the conditions of approval contained in Exhibit B, the proposed project satisfies the applicable criteria, and staff recommends the City Council approve Application No. CUP 19-01 and SP 19-01.

IX. ALTERNATIVE RECOMMENDATION

Should the City Council elect **not** to approve the proposed development, they could deny the application citing the specific criteria not satisfied by the application.

X. CONDITIONS OF APPROVAL- See Exhibit B

XI. NOTICES TO THE APPLICANT

The applicant should also be aware of the following standards and processes that are required for development. These are not part of the decision on this land use case and are provided as a courtesy to the applicant. Please contact City Hall with any questions.

1. Construction within City of Millersburg right-of-way must conform to the City of Albany Standard Construction Specifications, which have been adopted by the City of Millersburg and requires a City of Millersburg right-of-way permit. All pavement patching work shall conform to the City of Millersburg Trench Backfill and Pavement Patching Standards. All work within the public right-of-way shall be performed by a licensed

contractor and conform to the Albany Standard Construction Specifications, except as modified by the City of Millersburg Pavement Patching Standards

2. Construction on the City of Millersburg public water, sewer, street, or storm system requires a Private Construction of Public Infrastructure (PCPI) permit. If a PCPI permit is obtained, a right-of-way permit may not be required. All required public improvement plans shall be submitted to the City for review and approved by the City prior to beginning construction. The engineering plans shall conform to the Albany Engineering design standards, to the satisfaction of the City Engineer. All utilities shall remain uncovered until inspected and approved by the City. All required public improvements shall be completed and approved by the City prior to issuance of building permits.
3. A right-of-way permit is required for any work in the public right-of-way, including utility connections, sidewalks, and driveways. All pavement patching work shall conform to the City of Millersburg Trench Backfill and Pavement Patching Standards. All work within the public right-of-way shall be performed by a licensed contractor and conform to the Albany Standard Construction Specifications, except as modified by the City of Millersburg Pavement Patching Standards.
4. System Development Charges (SDCs) for water and sewer are due at the time of connection. Commercial SDC charges are based on equivalent dwelling units.
5. All agreements required as conditions of this approval must be signed and recorded.
6. Wetlands may be present on the site. Work within wetlands is subject to the requirements of the Authority Having Jurisdiction (AHJ).
7. A private water and sewer system shall be constructed to serve the development, with connections to the existing public water and sewer systems in Millersburg Drive meeting the requirements of the City of Albany Engineering Standards and the City of Albany Standard Construction Specifications. A single public water meter will be required to serve the development; individual public meters for individual dwellings are not allowed. It is the applicant's responsibility to determine the required meter size and fire flow bypass, if applicable, including any required vaults, to the satisfaction of the City Engineer.
8. All roof drains and yard drainage must be piped or trenched to an approved discharge point. Improved lots may not drain onto neighboring properties. Applicant must provide proposed drainage plan for approval.
9. Compliance with the Conditions of Approval is the responsibility of the developer or its successor in interest.
10. The developer is responsible for all costs associated with any remaining public facility improvements and shall assure the construction of all public streets and utilities within and adjacent to the tentative map as required by these conditions of approval, to the plans, standards and specifications of the City of Millersburg.
11. The continual operation of the property shall comply with the applicable requirements of the Millersburg Development Code.

12. This approval does not negate the need to obtain permits, as appropriate from other local, state or federal agencies, even if not specifically required by this decision.
13. The applicant shall comply with the fire protective standards administered by the Linn County Building Official and the Albany Fire Department. Hydrant and turnaround locations shall be provided by the applicant and approved by the Albany Fire Department and the City.
14. In the event there is engineered fill on any public roads or lots, the applicant's soils engineer and testing lab shall obtain and record compaction tests and submit results for the review and approval of the City Engineer.
15. Driveways shall conform to Section 5.120 of the Millersburg Development Code, with individual driveway slopes not exceeding a grade of 14%.
16. Decks, fences, sheds, building additions, and other site improvements shall not be located within any easement unless otherwise authorized in writing by the City Engineer.
17. Dust shall be controlled within the development during construction and shall not be permitted to drift onto adjacent properties.
18. Noise shall be kept at the minimum level possible during construction. The developer shall agree to aggressively ensure that all vehicles working in the development shall have adequate and fully functioning sound suppression devices installed and maintained at all times.
19. All construction sites shall be maintained in a clean and sanitary condition at all times. Construction debris, including food and drink waste, shall be restricted from leaving the construction site through proper disposal containers or construction fencing enclosures. Failure to comply with this condition may result in a "Stop Work" order until deficiencies have been corrected to the satisfaction of the City.

XII. EXHIBITS

- A. Findings and Conclusions
- B. Conditions of Approval
- C. Notice of decision from the Planning Commission approval (appealed)
- D. Planning Commission Decision (appealed)
- E. Appeal No. 1 by the applicant's team
- F. Appeal No. 2 by Corbett Richards, Tom Eisele, Nathan Van Nicholson, Erin Brazel, and Terrie Hill

EXHIBIT A
Findings of Fact and Conclusions of Law

The approval of CUP 19-01 and SP19-01 is based on the following findings of fact and conclusions of law:

1. On April 22, 2019 the Millersburg Planning Commission held a public hearing for a manufactured home park, CUP 19-01 and SP 19-01. At the public hearing a staff report was presented, public testimony was taken, and public portion of the hearing was closed. A request was made during the hearing to leave the record open for additional evidence to be submitted. The Record was left open for a period of 21 days. At the May 21st hearing the Commission reviewed a Supplemental Staff Report (Memo) that contained additional findings and modified conditions of approval. After consideration of all evidence the Planning Commission approved the applications with conditions of approval.
2. The Planning Commission approval was timely appealed to the City Council by the applicant on June 5, 2019, and a second appeal from a group of five citizens was timely received on June 6, 2019. The appeals were combined for hearing and consideration. A *de novo* hearing on the appeals before the City Council took place on July 1, 2019 after timely and appropriate notice was given pursuant to the Millersburg Land Use Development Code (LUDC) 3.700.
3. The applicant argued before the Planning Commission he did not receive a mailed copy of the Planning Commission hearing notice, however this objection was not included as a reason for this appeal. Notice of the April 22, 2019 Planning Commission hearing was mailed to the address provided to staff by the applicant. Such notice was duly mailed on April 3, 2019, and was not returned to the City. This issue is moot regardless of mailed notice, as the applicant and his attorney had actual notice of the April 22, 2019 hearing and attended the proceeding. The applicant and his attorney were given full opportunity to present evidence, argument and rebuttal at this hearing. Also, the Record was held open for an additional period of time to allow the applicant and his attorney time to present new evidence and to rebut any evidence placed in the Record after the hearing was concluded. Where a party has actual notice and attends the hearing, any flaws in the notice process present no prejudice to the applicant. Applicant's argument is denied.
4. The applicant also argued before the Planning Commission that he did not receive notice of the legislative text amendment (File No. DC 19-01) or the hearing conducted thereon, however this objection was also not included as a reason for this appeal. This quasi-judicial application is completely separate and distinct from the legislative process that was File No. DC 19-01. At the time of this process, the applicant had just purchased the property and the tax rolls had not yet reflected his ownership. Staff is authorized to use the current tax rolls for notification. Because the two cases are completely separate, any flaws that may have occurred in the text amendment case would have no bearing on this application. To the extent the argument regarding DC 19-01 can be considered to be a collateral attack, such is

not allowed in this separate proceeding. Especially, long after the appeal period for the text amendment has passed. The applicant's argument that there was a flawed notice in DC 19-01 is not relevant here; has no merit in this separate case; and is denied.

5. The applicant further argued before the Planning Commission, and again in this appeal, that he should not have been required to file an application for both the Conditional Use and the Site Plan. The applicant admits the approval criteria for both applications are identical, and that the City combined both for analysis and consideration, and does not provide any evidence that he has been prejudiced by the decision of staff to require and process both application types. Where no prejudice is demonstrated, even procedural error is not subject to review or correction by the Planning Commission. The time for the applicant to have raised this issue was at the outset of filing the application. The applicant did not object, or file the applications with a reservation of rights on this issue. He filed both applications, as requested, without objection. This issue has been waived by the applicant for failure to timely raise it. This argument should have been made at the time of filing, not after the fact at the public hearing. Regardless, it was fully within the lawful discretion of the City to require both the Conditional Use and the Site Plan applications in this case. The subject property is irregular in shape; has wetlands present requiring mitigation; has only one point of access; has a different elevation profile from the adjoining neighborhood, and is bordered by a creek along one boundary. LUDC 2.400 gives the City the discretion to require both types of applications where there are unusual or special features present. There is nothing in the Needed Housing rules or case law that negates the LUDC allowance for what applications are required of a developer. The City finds it correct and lawfully required the applicant to file both the Conditional Use and Site Plan applications.
6. There is a complex inter-relationship between the LUDC and the Specialty Code and the need for the City to balance the two in its decision on these applications. This complexity is compounded by the mandates of the Needed Housing Act. In this decision, the City has reconciled these laws to approve this project, and included necessary and appropriate conditions of approval that are clear and objective in compliance with the Needed Housing Act.
7. Both the OMDS and the LUDC apply to the siting of this manufactured home park. The OMDS at Section 10-2.1 specifically states that new parks have to be constructed in accordance with the Millersburg Comprehensive Plan and the LUDC, as well as the OMDS. However, the LUDC and the OMDS are not always consistent, are at times ambiguous and are sometimes confusing. Because of these issues, the City has the right to apply and implement the LUDC to fill the gaps and resolve the inconsistencies.
8. The City has the right to establish development standards, and the new park must comply with the city code, but where there are specific standards in the OMDS, they control over the same specific standards in the LUDC. Where the OMDS is silent on a provision that is in the LUDC, the City concludes it has the right to apply the LUDC in order to ensure the construction of the manufactured home park is treated no differently than single family uses

in the RR-10-UC zone. Things like perimeter setbacks simply do not apply to single family dwellings in the RR-10-UC zone, so the City concludes it may apply its own park standards, because such parks are allowed as conditional uses in the RR-10-UC zone. In siting any use, the City is very cognizant of issues that may affect the health, safety and welfare of the community, and applies and implements the LUDC in light of those issues, to the extent such application is not in conflict with the OMDS, and satisfies the mandates of the Needed Housing Act.

9. The primary reason for the applicant's appeal of the Planning Commission decision is a renewed attack on the street width condition of approval. The City concludes the applicant's position as to the street condition is not well founded, and is hereby rejected in favor of adherence to the language and reasoning adopted by the Planning Commission. The OMDS has a chart (Table 10C) that specifies various street width, and includes several options available in that Table. However, neither the OMDS nor Table 10C provides any guidance for the process of selecting one of the offered options. The City concludes, as explained further in later findings, the ultimate selection of which option in Table 10C is to be selected is up to the City, not the applicant. There is nothing in the OMDS that mandates this project have only a 20 foot street width. The applicant simply used Table 10C to draw his own conclusion as to the street width. There is nothing in the OMDS that prohibits the City from selecting which option in Table 10C should apply in this case. OMDS specifies the standards, not the design.
10. The LUDC provides that a new manufactured home park is allowed as a Conditional Use in the RR-10-UC zone, which means the City must make findings on the approval criteria in both LUDC 6.165 (parks), and 2.500 (CUP). However, if there is an inconsistency between the OMDS and the LUDC, the City must apply and implement the LUDC in such a way as to alleviate the potential Catch-22 between the two code provisions, to come up with a decision that allows a safe park to be constructed. Where the OMDS preempts provisions in the LUDC, the City is prohibited from applying its own code.
11. The City finds and concludes that an adequate street width with minimum disruption of traffic for emergency vehicles is mandatory. The City has the right to impose a street width, sidewalk and on-street parking conditions as part of its authority in LUDC 6.165 and 2.500. As previously discussed, it is the City's right to select the street width option in OMDS Table 10C, and the City concludes the third option in Table 10C, which requires a 30 foot paved street section with parallel parking on one side best implements mitigation for the health, safety and welfare concerns, and best complies with the LUDC. The condition requiring a 30 foot wide street with parallel parking on one side, is a standard that comes directly from OMDS Table 10C, and therefore is considered to be clear and objective.
12. The City concludes it has the lawful authority to impose development standards so long as those standards do not conflict with a specific provision of the OMDS. Therefore where the OMDS is silent as to a development standard, the City has the right to impose standards that are stated in the LUDC on those issues. Implementation of such standards may be by

application of the LUDC, or in conditions of approval found necessary to ensure compliance and safety. Similarly, where issues arise that are addressed in neither the OMDS nor the LUDC, the City concludes it has the right to address those issues, and impose conditions that are required in order to address and mitigate the issues that are not otherwise addressed.

13. The right to impose conditions of approval is specifically provided for in LUDC 2.500. The slate of conditions imposed on this approval are found to be clear and objective, and involves no value laden judgments.
14. The Needed Housing Act applies to the processing and approval of this application. While the applicant pays lip service to this law, the arguments before the Planning Commission lack specificity and factual evidence to support the arguments, and this objection was not included as a reason for this appeal. The Act is used as a sword without explanation, as if just waiving the sword is enough. The City concludes that the applicant has not made a case that the approval criteria applied here, or the conditions of approval imposed are not clear and objective. Further the City concludes that the applicant has not made a case with any factual evidence that any of the conditions of approval included here will cause him unreasonable cost of delay. Just saying it doesn't make it so. Without any better developed arguments, or without evidence of a factual nature, the City concludes its decision does comply with the mandates of the Needed Housing Act, and the process used, the decision reached and the conditions imposed are clear and objective; do not amount to anything that would not otherwise be imposed on any other single family project in the City; do not unreasonably add costs to the project; and were made without any value laden judgments.
15. The process by which this application has been reviewed is clearly and objectively set forth, and has been duly followed. There has been no delay in the processing. The timing of consideration of this application follows the timing requirements in ORS Chapter 197. The one open record period provided here, was consented to and taken advantage of by the applicant. There has been no unreasonable costs associated with the way this case has been processed.
16. The criteria and standards for decision making in this case are a combination of the LUDC and the OMDS. To a large extent, the OMDS controls the development standards, and it is code that is not of the City's making, nor is the City responsible for the language therein being clear and objective. To the extent any such argument is directed to the OMDS, the City has no control or responsibility for that language, and cannot be held responsible if its language is less than clear or objective.
17. ORS 197.480(5)(c) does not apply to this application, and the original argument to this effect is not included as a reason for this appeal. This ORS applies to Cities at the time the LUDC is being adopted or amended, and precludes the City from adding any new text to the LUDC that would preclude the development of a manufactured home park. This is a quasi-judicial land use case that does not involve adoption of any new code provisions. As such, this ORS does not apply. In addition, the code as it currently exists contains no provisions that would

preclude the development of a manufactured home park. Indeed, the Planning Commission approved the applications, thereby making it clear the current LUDC is written in such a way as to not preclude manufactured home parks.

18. This is an application for a Site Plan and Conditional Use, and as such the City has the right to impose conditions of approval. There is nothing in the OMDS that prohibits the City from imposing reasonable safety conditions on this project, in the same manner these conditions would be imposed on a single family subdivision in the RR-10 zone. The City concludes there are significant safety concerns with emergency vehicle conflicts, specifically that in the event of a fire there is a probability that fire vehicles would not be able to provide adequate response time, jeopardizing lives and property in the development in the way the application is currently designed. Section 10-3.1 of the OMDS provides that manufactured home parks must be designed “to provide reasonable safeguards against fire”, and be arranged “in a manner that does not prevent or restrict access by emergency equipment and personnel.” It further provides that fire apparatus must be able to approach each manufactured dwelling to within 50 feet. This language is consistent with the street width condition imposed here in order to ensure fire equipment has access to put out fires in the new park. Evidence that a 20 foot wide street is adequate for emergency vehicle access and fire prevention are specifically rejected in favor of evidence submitted by City staff who is an experienced fire professional.
19. The City finds and concludes that based on the evidence in this Record and as discussed herein, the conditions of approval imposed on this approval will not delay or increase the cost of development of the park.
20. The OMDS is silent as to irrigation requirements, therefore the City concludes it has the right to impose its own regulations so long as any condition would not be more stringent than what would be imposed on a stick built development. Irrigation is required in this type of housing development. For manufactured home parks, the requirement is set forth in LUDC 6.165(10). The ability of the City to condition its approval on the submission of an irrigation plan is stated in LUDC 6.165(6). With regard to the requirement that irrigation be provided in the park for landscaped areas, is clear and objective. Further, it is a requirement of every development in the City. The requirement for irrigation of landscaped areas is obvious, in that it provides a better aesthetic and eliminates browned out vegetation that may be subject to fire hazards, or at a minimum provide fuel for a fire.
21. The City has amended many of the originally proposed conditions, especially with regard to landscaping. These requirements have been pared down to simply requiring more detailed plans for the landscaping proposed by the applicant, which accounts for the limited arguments on appeal here.
22. The applicant originally objected to the condition which requires that stormwater from off-site that flows onto the subject property must be routed to an approved discharge point without adverse impacts to upstream or downstream properties, but does not include this

objection in his appeal. The objection appeared to be focused on detention on-site of the off-site flow. That is not the purpose or intent of the stormwater condition, which is to focus on the routing of off-site flow through the subject property to its discharge point at Crooks Creek. Further, the applicant alleged the off-site flow onto the subject property was illegal and should be routed elsewhere. It is not within the purview of the City to judge the legality of the flow of stormwater. That determination has to be made by a controlling state agency, or by the court. The applicant has submitted no evidence to this Record that the off-site flow is illegal or should be routed in a different direction, or how any such re-direction might occur given the lack of ability to deal with other properties that are not a part of this application. Without such evidence, the City must deal with the facts as presented. In this case, that is a recognition of the flow of off-site stormwater and the need to route it to the nearest natural drainage outlet, which is Crooks Creek, without doing any harm to other properties. This condition is clear and objective and contains no value laden judgments. The condition is based on LUDC 5.126 which states: "The City will approve a development request only where adequate provisions for storm and flood water run-off have been made as determined by the City." LUDC 5.126(1). The details of development requirements are found in 5.126(7). The City has an obligation to ensure stormwater is appropriately routed over and across new development. In this instance, all the applicant has to do is provide the City with a drawing showing how off-site stormwater is routed to Crooks Creek, and provide calculations as to the volume and velocity of the flow in order to comply with LUDC 5.126. The City concludes that it must take into consideration the legal obligation of all property owners to allow the natural flow of stormwater to pass over and across their property. This condition is necessary for the health, safety and welfare of the properties and people affected by the flow of stormwater in this area. A simple engineering drawing and calculation is all that is needed here in order appropriately deal with off-site stormwater. The cost of such engineering is not burdensome, and most developers would have included this cost in the original cost of the development.

23. The applicant objected to the fact that he will be required to complete construction of the park within one year of the date of final approval of the conditional use and site plan applications, and raises that issue again in this appeal. Applicant alleges this condition is intended to discourage development of the park, and hence to discourage development of needed housing, yet he provides no evidence or argument as to why he cannot complete this project within the one year period, and admits in the appeal that is likely he will complete construction within the next year. LUDC 1.130(11) requires all land use approvals granted by the City to be completed within the time period specified, or within one year if not specified. The application here has detailed engineering already done, including the site plan, concrete details, water details, as well as some storm and sanitary details. While there is now a need for revisions given the conditions recommended here, those revisions will not be time consuming. The City finds and concludes the one year period for completion of construction is sufficient. It is reasonable to believe that a developer can complete this project within one year of approval.
24. Based on all the evidence in the Record, and by adopting evidence of the need for wider

streets for emergency vehicles and fire protection and safety over conflicting evidence, the City finds and concludes that all of the approval criteria, as modified by the OMDS, have been met outright, or will be met with compliance with the conditions of approval. It is further found and concluded that all conditions of approval are feasible. Finally, the City finds and concludes that all the application and implementation involved in this case has been done with clear and objective standards, and at no time have value laden judgment been imposed on the decision.

25. Concerns have been raised regarding the impact to wetlands on the subject property. The applicant submitted a wetland delineation study that shows that the project will not encroach on any wetlands that are considered part of Crooks Creek; however, some onsite historical drainage paths have been shown to contain wetlands. The study proposes that the applicant mitigate the impacts to the onsite wetlands through offsite mitigation that has yet to be identified. This is typical for impacts such as this. The amount of mitigation needed is not significant, and is feasible for the applicant to be able to satisfy the requirement. By letter dated April 18, 2019, the Department of State Lands (DSL) concurred with the applicant's delineation.

Additionally, concerns have been raised regarding the impact of floodplain designations on the subject property. The appeal argues that by allowing fill on the site within the Special Flood Hazard Area, as designated on the FIRM map, , the applicant will force more water into Crooks Creek during a Base Flood Event, potentially causing damage to other properties. As is standard for development in Special Flood Hazard Areas within the City of Millersburg, the applicant will have to provide a study explaining how the project will not increase flood damage to adjacent or downstream properties. Because in this location base flood elevations have been established, but a floodway has not, all development within the special flood hazard area must demonstrate that it will not increase the base flood elevation more than one foot¹. This requires an encroachment certification to ensure that a development project will not obstruct flood flows or cause increased flooding on other property. In addition, it should be noted that the OMDS does not prohibit siting manufactured homes in a floodplain, it simply requires a floor elevation of the home to be constructed at least 18 inches above the Base Flood Elevation. Once the wetlands mitigation and no rise certification are complete as per approved permits, all proposed lots will be suitable for the intended purpose of construction of a manufactured home thereon.

26. The retention of White Oak trees is argued in the neighborhood appeal, based on a provision in the OMDS that indicates the City may prohibit disturbance of areas such as mature trees with redeeming value. At the outset, it is prudent to mention that there are three oak trees noted on the existing site, a 48 inch Oak and two 36 inch Oak trees. Of the three, only the 48 inch Oak is proposed for removal, the two 36 inch Oak trees will remain in the final development. Discretion in tree removal is afforded the City, and in this case, the City finds and concludes that retention of the two 36 inch Oak trees, and removal of the 48 inch Oak complies with the LUDC and the Millersburg Comprehensive Plan.

27. The neighbor appeal cites to the Pheasant Run subdivision in the City of Albany for the

proposition that this application may be denied on the basis of tree removal and/or the Needed Housing Act. This issue is not relevant to the City's decision in this case. There is not sufficient evidence provided as to what and why the City of Albany made its decision, to influence this decision for the City of Millersburg, and the City of Albany has different land use regulations and comprehensive plan goals and policies that may have come into play.

28. The neighbor appeal cites to a lack of suitability of this site for a manufactured home park due to its location adjacent to Crooks Creek. It is argued that vermin reside in and along Crooks Creek, which is uncontested. However, the argument then devolves into fear based speculation that the manufactured home park will not be built to eliminate or control the hazards. The park will be built to State building Code specifications, and will include normal improvements to the land associated with a 28 lot park. While there is never a guarantee against infestation, the City finds and concludes that the construction of this park to the required building code standards will control any potential infestation.

29. The shielding of street lights is an issue that was originally objected to by the applicant, who then accepted the modified conditions (where the shielding requirement was deleted) adopted by the Planning Commission. The issue is brought up again here in the neighbor appeal that argues the original shielding condition be imposed. OMDS Section 10-3.4 provides requirements for internal illumination of the park, however there is nothing in that section that states these are the only requirements. In fact, the illumination provisions deal only with safety considerations inside the park and never address the issue of street lights shining off- site into neighbor's homes. The City concludes that where the OMDS is silent as to off-site impacts of park illumination, the LUDC is authorized to fill in the void and impose lighting conditions that are not addressed in the OMDS, provided the condition is clear and objective and does not contain any value laden judgments. The City finds and concludes that requirements for shielding of street lights has little to do with health, safety or welfare for the surrounding area, and is more based on the value judgment of the neighbors. The City finds and concludes that any requirement for shielding of street lights in the park to prevent offsite illumination would not be sufficiently clear and objective, and too value laden to pass muster under the Needed Housing Act. The appeal also alleges that the CC&R's for the neighboring homes in Becker Ridge require lights from homes to be controlled to address possible annoyances. The appeal argues that if they are required on Becker Ridge, they should be required on the application as well. However, the requirements found in any CC&R is not a requirement from the City. CC&R's are outside City control and not enforced by the City. A CC&R is a document that contains rules implemented by the community, on the community- all outside the City's control. Therefore, the City has no authority to apply any CC&R requirement from one community onto any other community.

30. The neighbors appeal raises issues of identification and signage within the park, including a request for stop signs. The City finds and concludes that such issues shall be addressed, and a condition of approval is added to ensure compliance with OMDS 10-3.3, and that two stop signs are mandated, one at the intersection south of Lot 1, and one at the exit from the park onto Millersburg Drive NE.
31. All other arguments and proposed conditions of approval from the neighbors appeal are found to be either already covered in the existing conditions of approval, or are not well founded or which would otherwise violate the mandates of the Needed Housing Act, and are therefore denied.
32. As to all other approval criteria not otherwise addressed here, the City adopts the findings and conclusions set forth in Section VI, of the June 21, 2019 Staff Report to the City Council.

EXHIBIT B
Conditions of Approval

The approval of CUP 19-01 and SP19-01 is specifically conditioned on timely completion and compliance with the following Conditions of Approval:

1. This land use approval shall substantially comply with the submitted narrative and exhibits, except as indicated in the following conditions. Additional development or change of use may require a new development application and approval.
2. This approval permits no more than 28 manufactured home sites on the project site. Any other business or change to this business, including more than 28 units, is not permitted.
3. The project permitted by this approval shall commence within one year of approval or the permit is void. An extension of the permit may be granted through a new conditional use permit process.
4. All manufactured units within the project shall be less than 10 years old at the time of installation and shall be only class A or B units.
5. The applicant shall construct the first 100 feet of internal streets to city standards. The applicant shall revise the site plan showing the remainder of the internal streets with a minimum paved width of 30 feet, allowing for parallel parking on one side of the street. Should the inclusion of these requirements significantly change the design of the project, the Planning Commission will be required to review the revised design using the site plan review process.
6. Prior to application for a building permit, the applicant shall submit five copies of the following detailed plans: a legal survey, plans for placement of all new structures, water and sewer systems, utility easements, road, sidewalk, and patio construction, drainage system, including existing and proposed finished grades, recreational improvements and landscaping and irrigation plans.
7. Prior to application for a building permit, the applicant shall submit for review and approval a trash collection plan.
8. The applicant's detailed irrigation plan shall demonstrate conformance with LUDC 5.134.
9. The applicant shall submit a detailed landscaping plan in accordance with Sheet 5 of 9 of the submitted plans for staff review. Final construction of the project shall include the landscaping so proposed and approved by staff.
10. LUDC Section 5.126(7) states, "Stormwater runoff rates for new developments shall not exceed bare land runoff rates" and 5.126(7)(g) states, "Runoff from impervious surfaces must be collected and transported to a natural or public drainage facility with sufficient

capacity to accept the discharge.”

The Developer is required to provide a site-specific drainage plan, including means to detain peak flows so that runoff rates for the new development do not exceed bare land runoff rates, along with supporting calculations to collect, route, and discharge stormwater to an approved discharge point. The drainage plan must be approved by the City Engineer prior to issuance of building permits. The drainage plans shall conform to the Albany Engineering design standards, to the satisfaction of the City Engineer.

11. Any offsite flows of stormwater onto the property are not subject to detention requirements, but must be appropriately routed to an approved discharge point without adverse impacts to upstream or downstream properties.
12. Obtain a 1200-C Erosion Control Permit for all the disturbed ground, both on and off site that is in excess of one acre in addition to meeting all Albany Construction Standards (ACS). The applicant shall follow the latest requirements from DEQ for NPDES 1200-C Permit submittals. A copy of the approved and signed permit shall be provided to the City prior to any ground disturbing activities.
13. Based on LOMR 11-10-0824P effective 10/12/2011, FEMA floodplain is shown extending into an area of the project site that is designed to be filled per the applicant’s proposed site plan. The applicant’s figure Sheet 2 of 9 also shows the Special Flood Hazard Area (SFHA) of Zone AE extending into the site. Therefore, Section 7.100 of the Land Use Development Code applies to this project. Prior to construction, the applicant must conduct a detailed hydrology study and submit a no-rise certification stating that *the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community*. The study must be conducted by a registered professional engineer in the state of Oregon. In addition, the applicant must provide evidence that all necessary permits have been obtained from those federal, state, or local governmental agencies from which prior approval is required.
14. The applicant shall comply with all applicable provisions of the building code, and the LUDC, in the construction of the park, and in the placement of manufactured homes thereon. The applicant shall further comply with all applicable provisions of OMDS 10-3.3 with regard to signage and identification. The applicant shall install a stop sign at the intersection of the access drive and Millersburg Drive, and an additional stop sign on the eastern loop of the access road on or near Lot 1.
15. Construction on the City of Millersburg public water, sewer, street, or storm system requires a Private Construction of Public Infrastructure (PCPI) permit. If a PCPI permit is obtained, a right-of-way permit may not be required. All required public improvement plans shall be submitted to the City for review and approved by the City prior to beginning construction. The engineering plans shall conform to the Albany Engineering design standards, to the satisfaction of the City Engineer. All work within the public right-of-way shall be performed

by a licensed contractor and conform to the Albany Standard Construction Specifications, except as modified by the City of Millersburg Pavement Patching Standards. All utilities shall remain uncovered until inspected and approved by the City. All required public improvements shall be completed and approved by the City prior to issuance of building permits.

16. Wetlands may be present on the site. Work within wetlands may be subject to the requirements of the Department of State Lands and Army Corps of Engineers. Copies of any required state or federal wetland permits shall be provided to the City prior to any ground disturbing activities.



City of Millersburg
Decision:

May 22, 2019

File No: CUP 19-01 and SP 19-01 Evening Star Manufactured Home Park

Summary: On April 22, 2019 the Millersburg Planning Commission held a public hearing for a manufactured home park, CUP 19-01 and SP 19-01. At that time the public hearing was held, a staff report was presented, public testimony was taken, and the public hearing was closed. A request was made during the hearing to leave the record open for additional evidence to be submitted. The matter was continued to May 21, 2019 with the record left open for 21 days. At the May 21st hearing the Commission reviewed a Supplemental Staff Report (memo) that contained additional findings and modified conditions of approval, in response to the applicants concerns. After consideration of all evidence the Planning Commission approved the applications with conditions of approval proposed in the Staff Report, as modified by the Staff memo dated May 15, 2019. The Commission indicated that all applicable criterion and standards were met. The Commission relied on facts from the Staff Report, the Supplemental Staff Report (memo), the applicant's materials, the City's Comprehensive Plan, Codes and Ordinances as the basis of their decision for the applications. The criteria for the applications come from Section 2, subsections 2.400(2) and 2.500(2) of the Millersburg Development Code as modified by the Oregon Manufactured Dwelling and Park Specialty Code (OMDPSC) and the Needed Housing Act. All are detailed in the attached Staff Report and Supplemental Staff Report (memo). All conditions of approval and findings used to make the decision are presented therein.

Jim Kirkendall
Planning Commission President



Rules of Conduct for Public Hearings

1. No person shall be disorderly, abusive, or disruptive of the orderly conduct of the hearing.
2. Persons shall not testify without first receiving recognition from the presiding officer and stating their full name and residence address.
3. No person shall present irrelevant, immaterial, or repetitious testimony or evidence.
4. There shall be no audience demonstrations such as applause, cheering, display of signs, or other conduct disruptive of the hearing.

NOTICE OF PUBLIC MEETING CITY OF MILLERSBURG PLANNING COMMISSION

Tuesday, May 21st, 2019
6:00 p.m.

Agenda

- A. CALL TO ORDER
- B. PLEDGE OF ALLEGIANCE
- C. ROLL CALL
- D. MEETING MINUTE APPROVAL
 - 1) Planning Commission Meeting held on:
 - i. April 16th 2019 Planning Commission Hearing
 - ii. April 22nd 2019 Planning Commission Hearing
 - iii. April 29th 2019 Planning Commission Work Session
 - iv. May 13th 2019 Planning Commission Work Session
- E. OLD BUSINESS
 - 1) Continued Planning Applications CUP 19-01 and SP 19-01
- F. CITY PLANNER UPDATE
- G. ADJOURNMENT

Upcoming Meeting:

May 28th, 2019 @ 5:00 p.m. – Planning Commission Workshop

June 18th, 2019 @ 6:00 p.m. – Planning Commission Meeting



To: Millersburg Planning Commission

From: All Staff

Date: May 15, 2019

Re: Response to Issues Raised by Attorney Reeder

This Memorandum is the staff response to the arguments made by the applicant's attorney in his letter dated April 22, 2019. This response is presented in the order argued by Mr. Reeder.

1. Procedural Error

A. The first issue raised is the allegation that the applicant did not receive a mailed copy of the hearing notice. Staff asserts that notice of the April 22, 2019 Planning Commission hearing was mailed to the address provided to staff by the applicant. Such notice was duly mailed on April 3, 2019, and was not returned to the City.

This issue is actually moot regardless of mailed notice, as the applicant and his attorney had actual notice of the April 22, 2019 hearing and attended the proceeding. The applicant and his attorney were given full opportunity to present evidence, argument and rebuttal at this hearing. Also, the Record was held open for an additional period of time to allow the applicant and his attorney time to present new evidence and to rebut any evidence placed in the Record after the hearing was concluded.

Where a party has actual notice and attends the hearing, any flaws in the notice process presents no prejudice to the applicant. As such, the applicant's argument has no merit and may be disregarded.

B. The argument is made that the applicant did not receive notice of the legislative text amendment (File No. DC 19-01) or the hearing conducted thereon. This quasi-judicial application is completely separate and distinct from the legislative process that was File No. DC 19-01. At the time of this process, the applicant had just purchased the property and the tax rolls had not yet reflected his ownership. Staff is authorized to use the current tax rolls for notification.

Because the two cases are completely separate, any flaws that may have occurred in the text amendment case would have no bearing on this application.

To the extent the arguments regarding DC 19-01 can be considered to be a collateral attack, such is not allowed in a separate proceeding. Especially, long after the appeal period for the text amendment has passed.

The applicant's argument that there was a flawed notice in DC 19-01 is not relevant here; has no merit in this separate case; and may be disregarded.

C. The argument is made that the applicant should not have been required to file an application for both the Conditional Use and the Site Plan. The applicant admits the approval criteria for both applications are identical, and that the City combined both for analysis and consideration, but does not provide any evidence that he has been prejudiced by the decision of staff to require and process both application types. Where no prejudice is demonstrated, even procedural error is not subject to review or correction by the Planning Commission.

The time for the applicant to raise this issue was at the outset of filing the application. The applicant did not object, or file the applications with a reservation of rights on this issue. He filed both applications, as requested, without objection. Staff believes this issue has been waived by the applicant for failure to timely raise it. This argument should have been made at the time of filing, not after the fact at the public hearing.

In any event, staff asserts that it was fully within the lawful discretion of the City to require both the Conditional Use and the Site Plan applications in this case. The subject property is irregular in shape; has wetlands present requiring mitigation; has only one point of access; has a different elevation profile from the adjoining neighborhood, and is bordered by a creek along one boundary. LUDC 2.400 gives the City the discretion to require both types of applications where there are unusual or special features present. There is nothing in the Needed Housing rules or case law that negates the LUDC allowance for what applications are required of a developer. Staff asserts it correctly and lawfully required the applicant to file both the Conditional Use and Site Plan applications.

2. Inter-relationship between the LUDC and the Specialty Code

The applicant argues that the Oregon Specialty Code (OMDS) controls all aspects of the development of a manufactured home park in the City. Aside from the applicant's attorney's unsupported and insulting allegations of bias and discrimination, the extremely narrow interpretation of the approval standards and development criteria for a manufactured home park in the City ignores the complex inter-relationship of the LUDC and the Specialty Code and the need for the City to balance the two in its decision on these applications.

Staff asserts the reconciliation of the two codes involves the City implementing its own code. Where a City is interpreting its own land use code, that interpretation is subject to deference by all reviewing authorities under ORS 197.829.

The City acknowledges that no deference is extended to interpretations of the Specialty Code (OMDS), and asserts that the staff analysis in this case involves only suggested interpretations of the LUDC, and not the OMDS.

It has to be understood that both the OMDS and the LUDC apply to the siting of this manufactured home park. The OMDS at Section 10-2.1 specifically states that new parks have to be constructed in accordance with the Millersburg Comprehensive Plan and the LUDC, as well as the OMDS.

However, the LUDC and the OMDS are not always consistent, are at times ambiguous and are sometimes confusing. Because of these issues, the staff asserts it has the right to apply and implement the LUDC to resolve the inconsistencies.

According to the OMDS, the City has the right to establish reasonable siting criteria, subject to some exceptions that are not clearly written, but the intent of which can be assumed. Such reasonable siting criteria includes perimeter setbacks, and wetlands buffers; some control of internal streets; and other similar matters. Where the OMDS is silent on a type of standard, the City has the right to utilize the LUDC so long as the criteria and standards are not more onerous than could be imposed on a single family development in the RR-10-UC zone, and involve clear and objective, non-value laden judgments.

The City has the right to establish development standards, and the new park must comply with the city code, but where there are specific standards in the OMDS, they will control over the same specific standards in the city code. However, where the OMDS is silent on a provision that is in the LUDC, staff asserts it has the right to apply the LUDC in order to ensure the construction of the manufactured home park is treated no differently than single family uses in the RR-10-UC zone. Things like perimeter setbacks simply do not apply to single family dwellings in the RR-10-UC zone, so staff asserts the City may apply its own park standards, because such parks are allowed as conditional uses in the RR-10-UC zone.

In siting any use in the City, staff is very cognizant of issues that may affect the health, safety and welfare of the community, and applies and implements the LUDC in light of those issues.

As to street conditions, the OMDS has a chart (Table 10C) that specifies street width, and allows for on-street parking, which is identified in the chart, but the OMDS has no criteria mandated for how the City determines when on-street parking should be provided, or where, or how many such spaces. In other words, Table 10C has options available for applying to manufactured home parks, but does not mandate any particular option for the City to apply. The choice of which option from Table 10C is to be selected is left up to the City.

There is nothing in OMDS that mandates this project have only a 20 foot street width. The applicant simply used Table 10C to draw his own conclusion as to the street width. The OMDS however does not mandate any specific street standard among the options in Table 10C. Further, there is nothing that prohibits the City from selecting which option in Table 10C should apply in this case. OMDS specifies the standards, not the design.

The LUDC provides that a new manufactured home park is allowed as a Conditional Use in the RR-10-UC zone which means the City may draw on the approval criteria in both LUDC 6.165 (parks), and 2.500 (CUP). The City is required to make appropriate findings on mandatory approval criteria found in LUDC 6.165 and 2.500. However, if there is an inconsistency between the OMDS and the LUDC, the City must apply and implement the LUDC in such a way as to alleviate the potential Catch-22 between the two code provisions, to come up with a decision that allows a safe park to be constructed.

From a health, welfare and safety standpoint, the staff dislikes creating streets with no on-street parking. This policy is to provide adequate street width with minimum disruption of traffic for emergency vehicles as is pointed out by the separate staff Memo on street safety. Staff asserts that the City may impose a street width, sidewalk and on-street parking conditions as part of its authority in LUDC 6.165 and 2.500. Using OMDS Table 10C, staff asserts that the third option in the Table (30 foot street with parallel parking on one side) best implements the health, safety and welfare concerns, and best complies with the LUDC.

Based on staff's additional research, and consideration of the inter-relationships between the LUDC and the OMDS, staff's recommended condition of approval is amended to read as follows:

5. The applicant shall construct the first 100 feet of internal streets to city standards. The applicant shall revise the site plan showing the remainder of the internal streets with a minimum paved width of 30 feet, allowing for parallel parking on one side of the street. Should the inclusion of these requirements significantly change the design of the project, the Planning Commission will be required to review the revised design using the site plan review process.

Staff asserts that the City has the lawful authority to impose additional development standards so long as those standards do not conflict with a specific provision of the OMDS. Therefore where the OMDS is silent as to a development standard, the City has the right to impose standards that are stated in the LUDC on those issues where the OMDS is silent. Implementation of such standards may be by application of the LUDC, or in conditions of approval found necessary to ensure compliance and safety.

Similarly, where issues arise that are addressed in neither the OMDS or the LUDC, staff asserts the City has the right to address those issues, and impose conditions that are required in order to address and mitigate the issue that is not otherwise addressed.

The right to impose conditions of approval is specifically provided for in LUDC 2.500. Further, staff asserts the amended condition is clear and objective, and involves no value laden judgments. The condition requires a 30 foot wide street with parallel parking on one side, a standard that comes directly from OMDS Table 10C.

Staff asserts that the findings, conclusions and recommended conditions of approval in the staff report properly and lawfully apply both the OMDS and the LUDC.

3. Applicability of the Needed Housing Act

The applicant asserts that the Needed Housing Act applies to this application, and the result of that is all standards, procedures and conditions must be clear and objective, and when applied cannot have the effect of creating unreasonable cost or delay. What the applicant does not make clear, with the exception of specific arguments on recommended conditions, is what specific standards or procedures are not clear and objective or which add unreasonable cost or delay. As previously noted, where there is an argument of a procedural flaw in a land use process, an applicant must demonstrate that the flaw caused him substantial prejudice. Staff asserts that there has been no flaw, and therefore no prejudice.

Discussion of the conditions follow, but as to standards and procedures, staff takes the position that the process here is not flawed. The procedural aspect of this case is discussed in detail above. The process by which this application has been reviewed is clearly and objectively set forth, and has been duly followed. There has been no delay in the processing. The timing of consideration of this application follows the timing requirements in the statute, and the one open record period provided here, was consented to and taken advantage of by the applicant. There has been no unreasonable costs associated with the way this case has been processed. With respect to the argument that the Needed Housing Act has been violated in the manner in which the City has processed this application, staff is of the opinion that no violation of the Act has taken place.

With regard to the argument that the standards in place in this case are not clear and objective, staff disagrees. As discussed above, and in the Staff Report, the criteria for decision making in this case is laid out as a combination of the LUDC and the OMDS. To a large extent, the OMDS controls the development standards, and it is code that is not of the City's making, nor is the City responsible for the language therein being clear and objective. To the extent any such argument is directed to the OMDS, staff asserts that the City has no control or responsibility for that language, and cannot be held responsible if its language is less than clear or objective.

The applicant further argues that ORS 197.480(5)(c) applies and is somehow violated by the manner in which the City is handling this application. This ORS applies to Cities at the time the LUDC is being adopted or amended, and precludes the City from adding any new text to the LUDC that would preclude the development of a manufactured home park. First of all, this is a quasi-judicial land use case, that does not involve adoption of any new code provisions. As such, this ORS does not apply. Secondly, the code as it currently exists contains no provisions that would preclude the development of a manufactured home park. Indeed, staff is recommending

that this proposed park be approved, thereby making it clear that the current LUDC is written in such a way as to not preclude manufactured home parks. This argument has no merit and may be disregarded.

Staff response to arguments related to the Needed Housing Act as to the recommended conditions are detailed below.

4. Response to Objections to Conditions 5 and 6

The applicant objects to Conditions #5 and #6 which together require the internal streets to have a minimum paved width of 32 feet, parking on one side, 5 foot sidewalks on both sides with a 4 foot planter strip between the sidewalk and the street. The applicant asserts the City is only allowed to mandate street standards for the first 100 feet from the public street as set forth in the OMDS, and has no authority for the remainder of the internal streets regardless of the text of the LUDC. In addition, the applicant argues the City requirement for street improvements because it is not a clear and objective standard and that it adds unreasonable cost to the project.

This is an application for a Site Plan and Conditional Use, and as such the City has the right to impose conditions of approval as described in the Staff Report. There is nothing in the OMDS that prohibits the City from imposing reasonable safety conditions on this project, in the same manner these conditions would be imposed on a single family subdivision in the RR-10 zone. Staff has detailed its safety concerns with emergency vehicle conflicts, specifically that in the event of a fire there is a probability that fire vehicles would not be able to provide adequate response time, jeopardizing lives and property in the development.

Staff further asserts that the OMDS is not as strictly applied as is argued by the applicant. Section 10-3. 1 provides that manufactured home parks must be designed “to provide reasonable safeguards against fire”, and be arranged “in a manner that does not prevent or restrict access by emergency equipment and personnel.” It further provides that fire apparatus must be able to approach each manufactured dwelling to within 50 feet. This language is consistent with the position taken by staff regarding street widths, and affirms the right of the City to impose safety conditions on the development to ensure fire equipment has access to put out fires.

Staff believes the City’s conditional use and site plan criteria, as well as the City’s Transportation System Plan are clear and objective, and the conditions recommended by staff are also clearly stated and are objectively imposed based on the safety concerns expressed by staff who is an experienced fire professional.

With regard to street width and parking, staff is recommending amendment of Condition #5 by adopting option 3 in the OMDS Table 10C that would require only 30 feet of street width instead of 32 feet. The requirement for parking on one side of the street remains. Staff asserts use of the OMDS option is implementation of a clear and objective standard.

The proposed amended condition #5 is as follows:

5. The applicant shall construct the first 100 feet of internal streets to city standards. The applicant shall revise the site plan showing the remainder of the internal streets with a minimum paved width of 30 feet, allowing for parallel parking on one side of the street. Should the inclusion of these requirements significantly change the design of the project, the Planning Commission will be required to review the revised design using the site plan review process.

As to the prior recommended condition regarding sidewalks, upon further research and consideration, staff is proposing to decrease the width of the required sidewalk to 4 feet, and only require a sidewalk on one side of the street. In addition, planting strips are not included in the OMDS, and add little to safety considerations and therefore are proposed to be eliminated. The pedestrian requirements to be followed are set forth in OMDS 10-5.4(a).

The existing design submitted includes the required 4 foot sidewalk, and has it designed as street adjacent, which staff now believes to be appropriate. Therefore, staff proposes to delete Condition #6 in its entirety as no longer needed.

As with the other conditions, staff asserts this amended condition is clear and objective and involves no value laden judgments. The terms of the amended condition come from the OMDS and simply provide the width of the sidewalk and allow it to be adjacent to the pavement.

Staff further asserts that the OMDS street and pedestrian requirements imposed here do not add an unreasonable cost to the project, and may actually enhance the value of the project in the long run. In any event, the burden of proving any argument about unreasonable costs lies with the applicant, and no evidence on what the additional cost might be, or why that additional cost would be unreasonable is made. Therefore, the argument is incomplete and may be denied.

5. Response to Objection to Condition 7

The applicant objects to Condition #7 that requires all street lighting to be shielded in order to prevent street lighting from shining into the surrounding neighborhood. Applicant asserts that the OMDS prohibits the City from imposing any lighting conditions.

Staff disagrees with the applicant. OMDS Section 10-3.4 does provide requirements for internal illumination of the park, however there is nothing in that section that states these are the only requirements. In fact, the illumination provisions deal only with safety considerations inside the park and never address the issue of street lights shining off-site into neighbors homes.

Where the OMDS is silent on an issue, here off-site impacts of park illumination, the LUDC is authorized to fill in the void and impose lighting conditions that are not addressed in the OMDS. However, staff understands the requirement for shielding has little to do with health, safety or welfare for the surrounding area. Staff is also concerned that the requirement for shielding from off-site illumination may not be sufficiently clear and objective to pass muster under the Needed Housing Act. Therefore, based on these considerations, staff is recommending that Condition #7 be deleted.

6. Response to Objection to Conditions 8, 10 and 11

The applicant objects to Conditions 8, 10 and 11 which requires sidewalks (already discussed above), as well as landscaping and irrigation plans, and specific requirement for a large sight obscuring tree to be placed on each space along the south and west borders in order to provide some sight obstruction buffering from the neighboring properties which are at a higher elevation. The applicant argues these conditions are not permitted, because the OMDS provides limits on what the City can impose, and that such requirements would not be imposed on a stick built subdivision in the RR-10 zone.

To begin with, staff disagrees with the argument that the same landscaping and irrigation requirements would not be imposed on a stick built subdivision. Given the unique circumstances of this site, the same conditions would be recommended by staff regardless of the type of development proposed. Note that LUDC Section 5.134(1)a, b and f for single family developments mirror the requirements for manufactured home parks Section 6.165(10). See also that Section 5.134(9)(a)2 lists landscaping provisions for Manufactured Dwelling Parks and the types of trees are listed at the end of this section.

The OMDS is silent as to irrigation, therefore the City may impose its own regulations so long as any condition would not be more stringent than what would be imposed on a stick built development. As already mentioned, irrigation is required in this type of housing development. For manufactured home parks, the requirement is set forth in LUDC 6.165(10). The ability of the City to condition its approval on the submission of an irrigation plan is stated in LUDC 6.165(6).

The Staff Report goes into considerable detail regarding the recommended landscaping condition, specifically including the grade differential between this proposed development and the existing developments adjacent. The proposed condition is intended to mitigate adverse impacts on surrounding dwellings that are at the higher grade. The Planning Commission has the right to impose such condition under LUDC 6.165(6), and so long as the same requirement would be imposed on a stick built development (which staff asserts would be the case regardless of the type of dwelling proposed).

As with the other objections, the applicant has simply objected, without demonstration of any harm, or the imposition of any unreasonable costs associated with compliance. As such the objection is incomplete.

It must be noted that Condition 8 only requires the submission of plans, and does not specify the content of any required plans. Staff believes this is a standard requirement (ie submission of plans for review) and is clear and objective.

With regard to Condition 10's requirement that irrigation be provided in the park for landscaped areas, staff asserts that condition is clear and objective. Further, it is a requirement of every development in the City. The requirement for irrigation of landscaped areas is obvious, in that it provides a better aesthetic and eliminates browned out vegetation that may be subject to fire

hazards, or at a minimum provide fuel for a fire. Staff proposes amending Condition 10 to read as follows:

10. The applicant's detailed irrigation plan shall demonstrate conformance with LUDC 5.134.

Note the elimination in Condition 10 of the landscape issue. Discussion of landscaping follows regarding Condition 11.

As to landscaping requirements and Condition 11, staff's further research would indicate that the existing language of proposed Condition 11 is most likely not in conformance with the clear and objective standards of the Needed Housing Act, and must be deleted in full. However, it is noted that the applicant's plan submitted with the application (Sheet 5 of 9) shows landscaping, plantings and tree preservation on the site. Because the applicant is proposing these improvements, staff believes a replacement Condition 11 can be imposed in conformance with the Needed Housing Act requirements. However, the plan submission is not detailed enough for staff review, therefore the following replacement Condition 11 is recommended:

11. The applicant shall submit a detailed landscaping plan in accordance with Sheet 5 of 9 of the submitted plans for staff review. Final construction of the project shall include the landscaping so proposed and approved by staff.

Staff believes Conditions #8, 10 and 11 as amended here are lawful, and the applicant's objections, incomplete as they are, may be denied.

7. Response to Objection to Condition 13

The applicant objects to Condition #13 which requires that stormwater from off-site that flows onto the subject property must be routed to an approved discharge point without adverse impacts to upstream or downstream properties. The objection appears to be focused on detention on-site of the off-site flow. That is not the purpose or intent of Condition #13, which is to focus on the routing of off-site flow through the subject property to its discharge point at Crooks Creek.

Because the objection is misplaced, the City has the right to deny it.

Further, the applicant alleges the off-site flow onto the subject property is illegal and should be routed elsewhere. It is not within the purview of the City to judge the legality of the flow of stormwater. That determination has to be made by a controlling state agency, or by the court. The applicant has submitted no evidence to this Record that the off-site flow is illegal or should be routed in a different direction, or how any such re-direction might occur given the lack of ability to deal with other properties that are not a part of this application. Without such evidence, the City must deal with the facts as presented. In this case, that is a recognition of the flow of off-site stormwater and the need to route it to the nearest natural drainage outlet, which is Crooks Creek, without doing any harm to other properties.

Condition 13 requires routing of off-site stormwater to an approved discharge point and in a manner

that will not adversely impact upstream or downstream properties. This condition is clear and objective and contains no value laden judgments. The condition is based on LUDC 5.126 which states: "The City will approve a development request only where adequate provisions for storm and flood water run-off have been made as determined by the City." LUDC 5.126(1). The details of development requirements are found in 5.126(7). The City has an obligation to ensure stormwater is appropriately routed over and across new development. In this instance, all the applicant has to do is provide the City with a drawing showing how off-site stormwater is routed to Crooks Creek, and provide calculations as to the volume and velocity of the flow in order to comply with LUDC 5.126.

Were the City to ignore the fact that there is off-site stormwater coming into the new development, it is unknown what impacts that stormwater would have on the subject property or other surrounding properties, and that is not good government. It seems odd that the applicant objects to this condition, which actually is intended to ensure his property is not adversely impacted by off-site stormwater that is not appropriately routed. In addition, the applicant does not take into consideration the legal obligation of all property owners to allow the natural flow of stormwater to pass over and across their property.

Staff believes Condition 13 does not violate the Needed Housing Act, and in fact is necessary for the health, safety and welfare of the properties and people affected by the flow of stormwater in this area. A simple engineering drawing and calculation is all that is needed here in order appropriately deal with off-site stormwater. The cost of such engineering is not burdensome, and most developers would have included this cost in the original cost of the development.

8. Response to Objection to Condition 3

The applicant objects to the fact that he will be required to commence construction of the park within one year of the date of final approval of the conditional use and site plan applications. Applicant alleges this condition is intended to discourage development of the park, and hence to discourage development of needed housing, yet he provides no evidence or argument as to why he cannot commence this project within the one year period.

LUDC 1.130(11) requires all land use approvals granted by the City shall be completed within the time period specified, or within one year if not specified. Condition #3 actually provides the applicant with more time than is standard in the City.

The application here has detailed engineering already done, including the site plan, concrete details, water details, as well as some storm and sanitary details. While there certainly will be a need for revisions given the conditions recommended here, those revisions will not be time consuming. Unless there are hurdles the applicant is not divulging, staff believes the one year period for commencement of construction is sufficient.

It must be remembered that this condition applies to "commencement" of the project not completion of the project. Construction is deemed to be commenced for compliance with Condition #3 when the construction plans are fully approved, and on-site activity has begun

(such as earth moving, digging trenches for utilities, etc). It is reasonable to believe that a developer can accomplish this much activity within one year of approval.

Staff believes Condition #3 is reasonable, and the objection may be denied.

5. Conclusion

Based on the original staff report, and the additional recommendations set out here, staff believes that if appropriately conditioned, the project satisfies the applicable criteria. Staff recommends the Planning Commission approve Application No .CUP 19-01 and SP 19-01 subject to the conditions of approval stated in the April 22, 2019 Staff Report, and as amended here.

Staff's amended recommendation for Conditions of Approval are as follows:

1. This land use approval shall substantially comply with the submitted narrative and exhibits, except as indicated in the following conditions. Additional development or change of use may require a new development application and approval.
2. This approval permits no more than 28 manufactured home sites on the project site. Any other business or change to this business, including more than 28 units, is not permitted.
3. The project permitted by this approval shall commence within one year of approval or the permit is void. An extension of the permit may be granted through a new conditional use permit process.
4. All manufactured units within the project shall be less than 10 years old at the time of installation and shall be only class A or B units.
5. The applicant shall construct the first 100 feet of internal streets to city standards. The applicant shall revise the site plan showing the remainder of the internal streets with a minimum paved width of 30 feet, allowing for parallel parking on one side of the street. Should the inclusion of these requirements significantly change the design of the project, the Planning Commission will be required to review the revised design using the site plan review process.
6. Deleted.
7. Deleted.
8. Prior to application for a building permit, the applicant shall submit five copies of the following detailed plans: a legal survey, plans for placement of all new structures, water and sewer systems, utility easements, road, sidewalk, and patio construction, drainage system, including existing and proposed finished grades, recreational improvements and landscaping and irrigation plans.

9. Prior to application for a building permit, the applicant shall submit for review and approval a trash collection plan.
10. The applicant's detailed irrigation plan shall demonstrate conformance with LUDC 5.134.
11. The applicant shall submit a detailed landscaping plan in accordance with Sheet 5 of 9 of the submitted plans for staff review. Final construction of the project shall include the landscaping so proposed and approved by staff.
12. LUDC Section 5.126(7) states, "Stormwater runoff rates for new developments shall not exceed bare land runoff rates" and 5.126(7)(g) states, "Runoff from impervious surfaces must be collected and transported to a natural or public drainage facility with sufficient capacity to accept the discharge."

The Developer is required to provide a site-specific drainage plan, including means to detain peak flows so that runoff rates for the new development do not exceed bare land runoff rates, along with supporting calculations to collect, route, and discharge stormwater to an approved discharge point. The drainage plan must be approved by the City Engineer prior to issuance of building permits. The drainage plans shall conform to the Albany Engineering design standards, to the satisfaction of the City Engineer.

13. Any offsite flows of stormwater onto the property are not subject to detention requirements, but must be appropriately routed to an approved discharge point without adverse impacts to upstream or downstream properties.
14. Obtain a 1200-C Erosion Control Permit for all the disturbed ground, both on and off site that is in excess of one acre in addition to meeting all Albany Construction Standards (ACS). The applicant shall follow the latest requirements from DEQ for NPDES 1200-C Permit submittals. A copy of the approved and signed permit shall be provided to the City prior to any ground disturbing activities.
15. Based on LOMR 11-10-0824P effective 10/12/2011, FEMA floodplain is shown extending into an area of the project site that is designed to be filled per the applicant's proposed site plan. The applicant's figure Sheet 2 of 9 also shows the Special Flood Hazard Area (SFHA) of Zone AE extending into the site. Therefore, Section 7.100 of the Land Use Development Code applies to this project, specifically 7.100(2)(d)2. The applicant must provide evidence that "all necessary permits have been obtained from those federal, state, or local governmental agencies from which prior approval is required, or that no permits are required for the fill that will be placed within the floodplain."

TO: Matt Straite, City Planner
FROM: Janelle Booth, Millersburg City Engineer
DATE: May 6, 2019
SUBJECT: CUP 19-01 and SP-01 – Additional Engineering Comments

In addition to the comments submitted on April 13, 2019, upon further review during the continuance period, Engineering has the following additional comments:

1. Based on LOMR 11-10-0824P effective 10/12/2011, FEMA floodplain is shown extending into an area of the project site that is designed to be filled per the applicant's proposed site plan. The applicant's figure Sheet 2 of 9 also shows the Special Flood Hazard Area (SFHA) of Zone AE extending into the site. Therefore, Section 7.100 of the Land Use Development Code applies to this project, specifically 7.100(2)(d)2. The applicant must provide evidence that "all necessary permits have been obtained from those federal, state, or local governmental agencies from which prior approval is required, or that no permits are required for the fill that will be placed within the floodplain.
2. Pursuant to the adopted Millersburg Land Development Standards for lot coverage, a condition of approval should be added to this project stating that the maximum coverage of impermeable surface on the parcel shall not exceed 50%. Prior to the issuance of building permits, the applicant shall submit lot coverage calculations demonstrating 50% or less coverage with impermeable surfaces. Impermeable surfaces include, but are not limited to, paving, concrete, and roofs. Gravel surfacing is considered impermeable unless specifically designed and construction for infiltration as a permeable pavement system.

CUP 19-01/SP 19-01 Letters submitted during the *first* seven day period ending April 29, 2019

Name	Date submitted to the City	Date/time on letter
City of Millersburg	4/29/2019	4/29/2019
Corbett Richards	4/29/2019	N/A
David and Valerie Phelps	4/29/2019	4/28/2019
Erin Brazel	4/29/2019	4/25/2019
Evening Star Draft CC&R's	4/29/2019	N/A
Mike Reeder (1)	4/29/2019	4/29/19 2:47pm
Mike Reeder (2)	4/29/2019	4/29/19 2:57pm
Mike Reeder (3)	4/29/2019	4/29/19 3:07pm
Mike Reeder (4)	4/29/2019	4/29/19 3:02pm
Nathaniel Van Nicholson	4/29/2019	4/26/2019
Neighborhood Petition	4/29/2019	N/A
Oregon Department of State Lands	4/25/2019	4/18/2019
Terrie Hill	4/29/2019	4/28/2019

CUP 19-01/SP 19-01 Letters submitted during the *second* seven day period ending May 6, 2019

Nathaniel Van Nicholson	5/3/2019	4/30/2019
Erin Brazel	5/6/2019	5/5/2019
Mike Reeder	5/6/2019	5/6/2019

CUP 19-01/SP 19-01 Letters submitted during the second seven day period ending May 6, 2019

Mike Reeder	5/13/2019	5/13/2019
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April 30, 2019

On April 22, 2019 the Planning Commission granted a continuance request for the Evening Star Manufactured Home Park application (CUP 19-01/SP 19-01) to a date certain - May 21, 2019. Pursuant to ORS Section 197.763 of the Oregon Rules and Statutes, the record will be left open for three (3) seven (7) day periods.

The first seven (7) day period runs from April 22, 2019 through April 29, 2019 at 5pm. This period is intended to allow anyone to submit additional evidence to the record. All additional evidence that was submitted during this first seven (7) day period is posted below.

The second seven (7) day period runs from April 23, 2019 through May 6, 2019 at 5pm. This seven (7) day period is intended to allow any participant (meaning the applicant, anyone who spoke, or anyone who submitted a letter) to respond to new evidence that was submitted during the first seven (7) period. New evidence should not be submitted during this period. Letters submitted during this second seven (7) day period will be posted below on May 6, 2019.

A third seven (7) day period will run between May 7, 2019 and May 13, 2019. This period is intended to allow time for the applicant to submit final written arguments in support of the application. No other parties are permitted to submit any additional evidence during this third seven (7) period. If applicant submits material, that will be posted below on May 13, 2019.

The hearing continued from April 22, 2019 will be held on May 21, 2019 @ 6pm.

Matt Straite
City Planner
City of Millersburg
541.928.4523

City Hall

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Albany OR 97321
(541) 928-4523
After Hours: (541) 967-6264

City Hall Hours
Monday-Friday, 8:00a-5:00p

Website
www.cityofmillersburg.org

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Kevin Kreitman
kkreitman@cityofmillersburg.org

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Janelle Booth
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Kimberly Wollenburg
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Jim Lepin
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Councilor
Dave Harms
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Councilor
Scott McPhee
smcphee@cityofmillersburg.org

Councilor
Don Miller
dmiller@cityofmillersburg.org

Fire Protection & Life Safety

Albany Fire Department
Emergency: 9-1-1
Non-Emergency: (541) 917-7700

Law Enforcement

Linn County Sheriff
Emergency: 9-1-1
Non-Emergency: (541) 967-3913



RECEIVED
APR 29 2019 3:56 P.M.
BY:

INTEROFFICE MEMORANDUM

TO: EVENING STAR FILE
FROM: KEVIN KREITMAN
SUBJECT: STREET WIDTH
DATE: 4/29/19

Attached are slides from a PowerPoint presentation I presented in 2000 as Fire Chief for the City of Albany for the Albany City Council and Planning Commission regarding consideration for the adoption of "skinny streets" standards. This was in regard to proposed 28' wide streets with parking allowed on one side. The concern was that experience showed that parking would occur on both sides even though it would be illegal, resulting in negative impacts on emergency response.

The potential for this and other conditions associated with reduced street widths is addressed in the Neighborhood Street Design Guidelines produced by the State of Oregon and dated November 2000, is attached as a reference.

The slides illustrate the impact legal and illegal parking have on emergency response when a "clear" area is not maintained. I would note that the applicant for the Evening Star Manufactured Home Site, in their illustration, recognizes that illegal parking is likely to occur with the depiction showing a vehicle parked taking up 6' on a 20' road section and showing there is still 14' of access remaining. I would first point out that assumes the vehicle is parked tight against the curb and is a smaller vehicle. Typically, road designs assume a 7' parking width, and often service and other vehicles represent up to 8' of width.

The first slide (Area Required with Aerial Outriggers Extended) represents aerial apparatus with outriggers extended in which 15' of clear area is required. Keep in mind you still need room to walk around the extended outriggers.

The second (Area Required for 5 Inch Supply Line and Fire Attack Line(s) Pull) slide illustrates the area required for connecting the large diameter 5" hydrant supply line to the engine and the pulling of fire attack lines off the opposite side which requires 26' of clear area. It is standard operating procedure to have the hydrant line and attack lines off the opposite side of the vehicle to avoid conflicts.

The third slide (Area Required for Door Access) demonstrates that a 14.2' area is required to open doors.

The fourth slide (Area Required for Ladder Rack Deployment and Ladder Removal) shows 14' of area required for operation of the ladder rack on the engine. You also

have to recognize that the need to lower the ladder rack will also require at a minimum the opening of compartment doors (which is a given) requiring 17' plus of clear area.

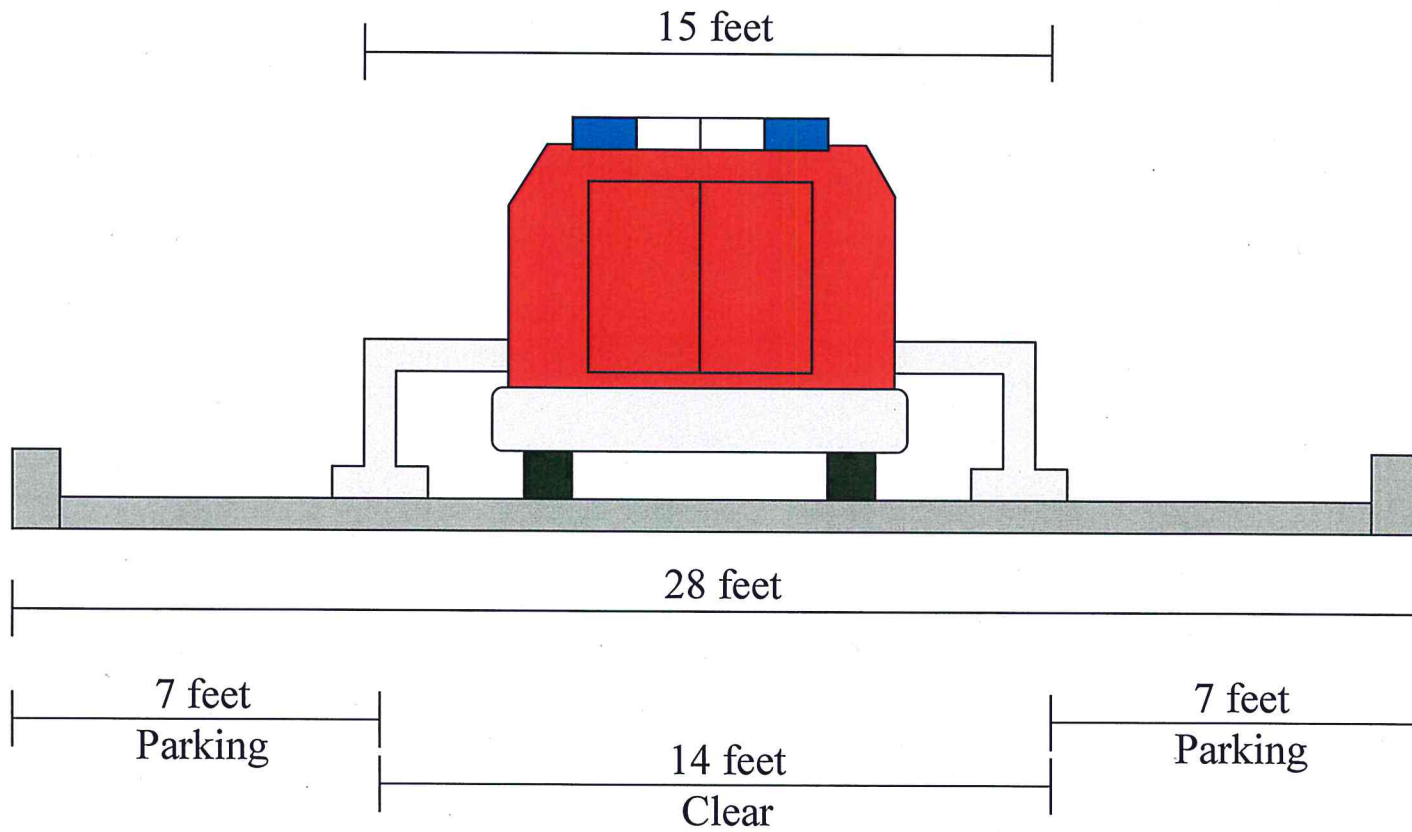
In closing, just one car parked illegally, as the applicant showed in their illustration, would have negative impacts on fire operations leaving only 13' for operations, additionally as a private street, law enforcement cannot enforce illegal parking. Most of the newer fire apparatus are now 102'' wide 8.5', on a 20' road section with two illegally parked cars across from each other, even utilizing the applicant's 6' representation you would only have a clear travel path of 8' remaining, and if utilizing the 7' standard 6' remaining.

This creates even greater concern with the limited access and higher density allowed in the proposed development and the given fact that it is not uncommon for family gatherings and other special events resulting in visitors parking illegally.

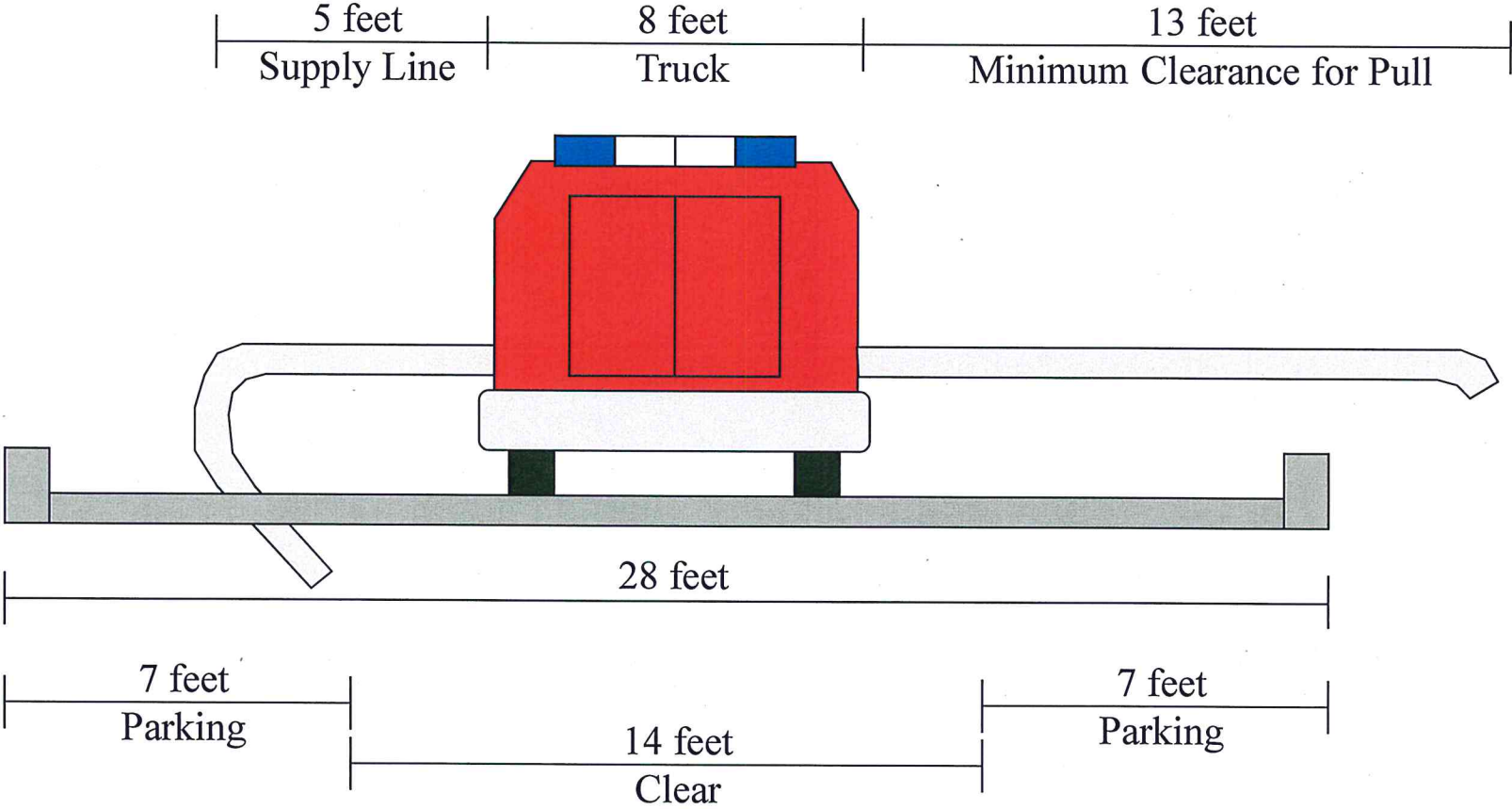
Attachments:

- Slides showing area required on 28' street
- Three photos of 32' wide streets in Millersburg. Exhibits 1-3, with engine assigned to Millersburg
- One photo of 20' wide street in Millersburg. Exhibit 4, with engine assigned to Millersburg
- Neighborhood Street Design Guidelines – November 2000

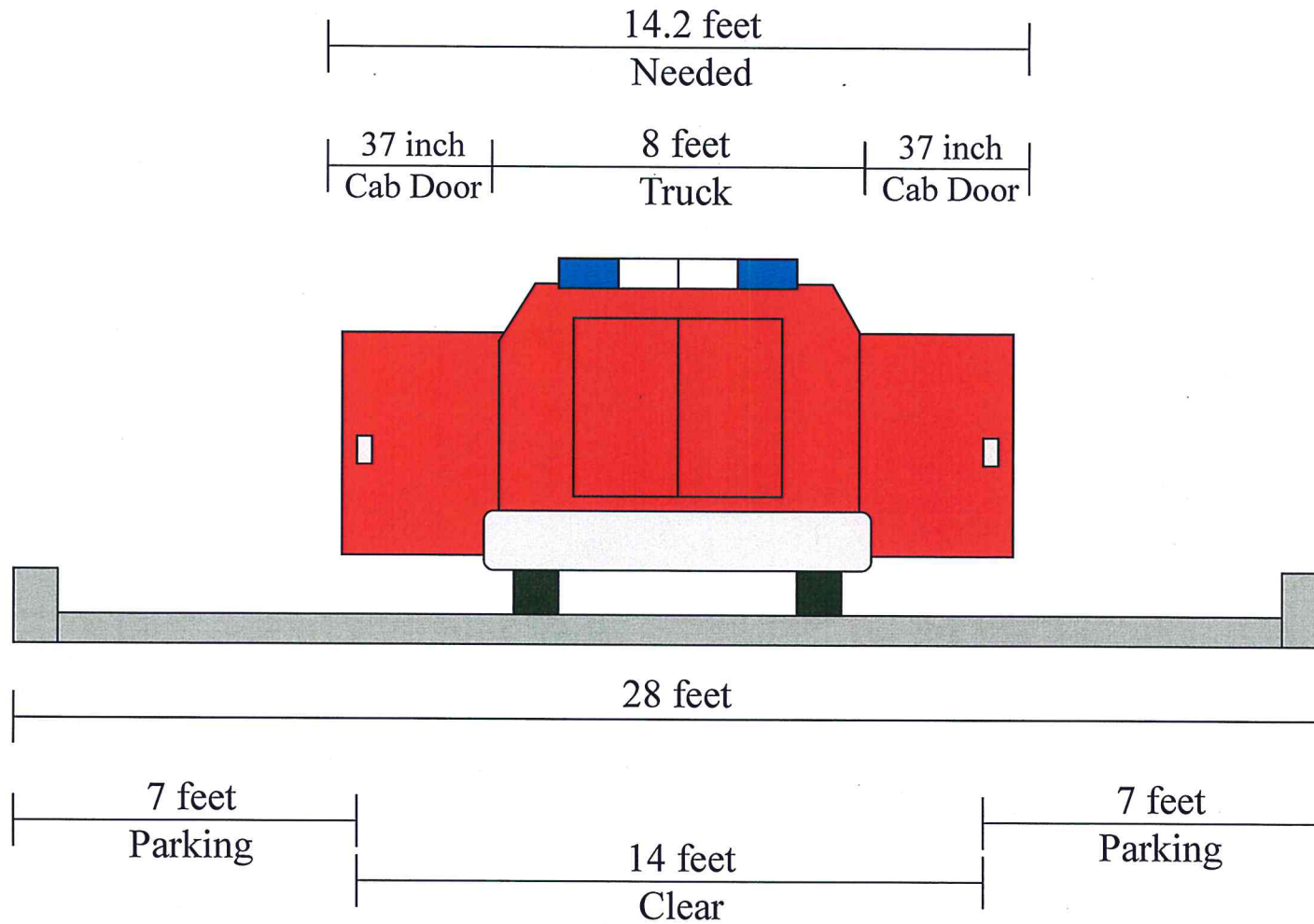
Area Required with Aerial Outriggers Extended



Area Required for 5 Inch Supply Line & Fire Attack Line(s) Pull



Area Required for Door Access



Area Required for Ladder Rack Deployment & Ladder Removal

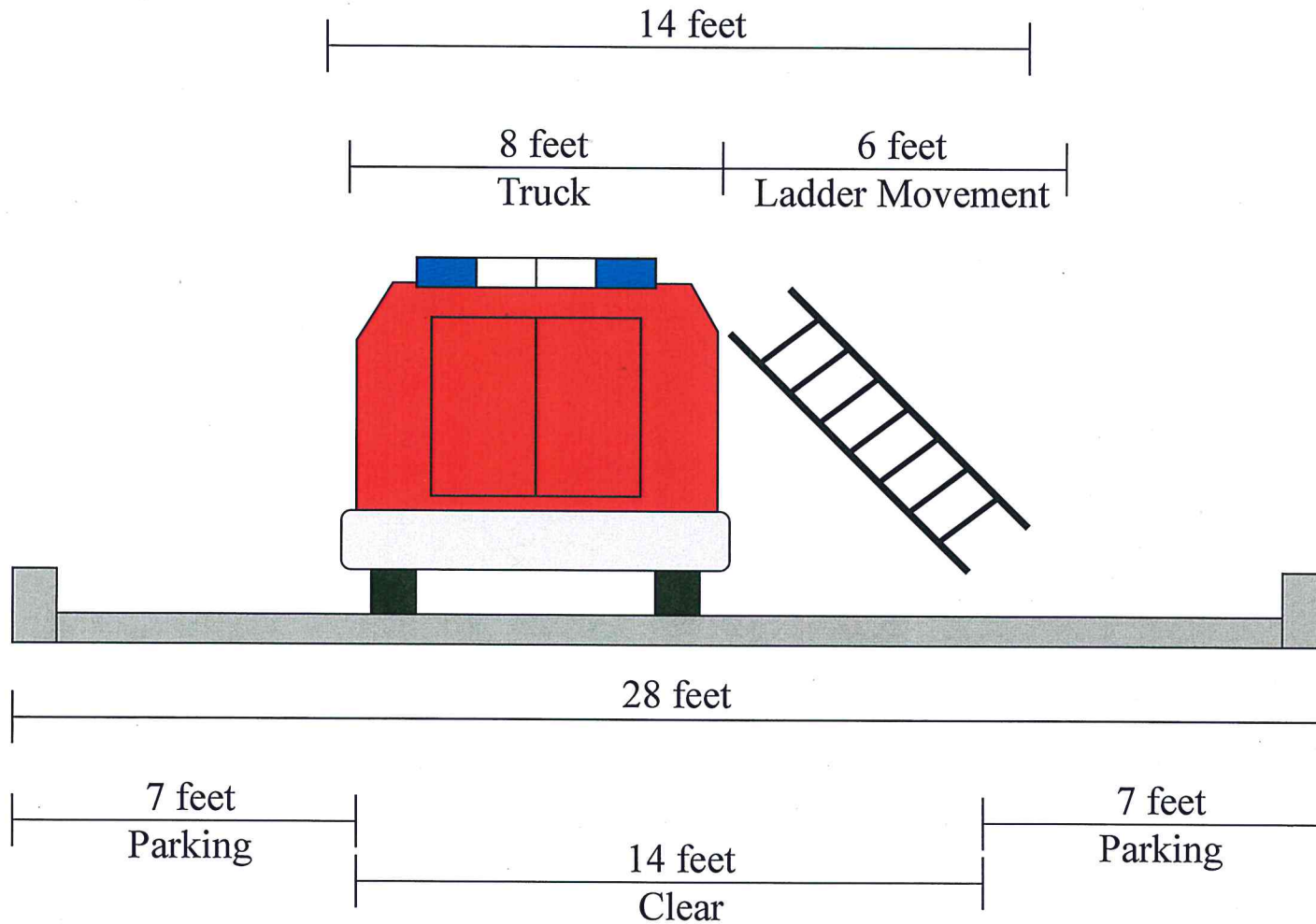




Exhibit 1



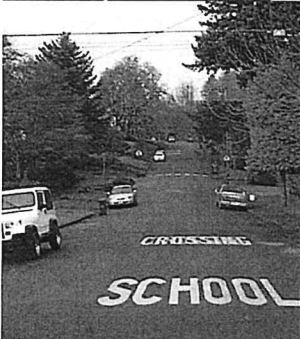
Exhibit 2



Exhibit 3



Exhibit 4



NEIGHBORHOOD STREET DESIGN GUIDELINES

*An Oregon Guide
for Reducing Street Widths*

**A Consensus Agreement
by the Stakeholder Design Team**

**November
2000**

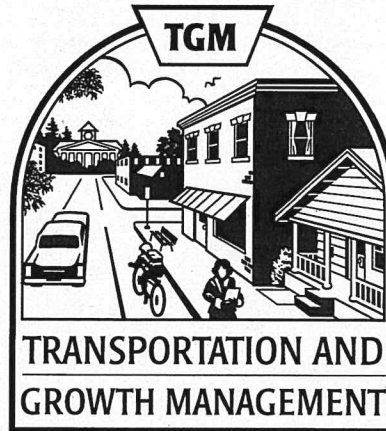
**Prepared by the
Neighborhood Streets
Project Stakeholders**

This guidebook is dedicated to the memory of

Joy Schetter

*who passed away before she could see the
remarkable success of this project.*

*Joy's leadership, hard work, calm manner, and
ability to work with all of the stakeholders
were key factors in that success.*



*Funding for this project was provided from
two State of Oregon programs:*

the Public Policy Dispute Resolution Program
and
the Transportation and Growth Management
(TGM) Program.

TGM is a joint program between the
Oregon Department of Transportation and the
Department of Land Conservation and Development.

The TGM Program relies on funding from the
Federal Transportation Efficiency Act
for the Twenty-First Century (TEA -21)
and the State of Oregon.

2nd Printing - June 2001

Includes minor clarifications to the sections on residential fire sprinklers (pages 9 and 16.)

JOHN A. KITZHABER, M.D.
GOVERNOR



February 16, 2001

To the Citizens of Oregon:

I am pleased to present to Oregon's communities a new publication called *Neighborhood Street Design Guidelines*. This handbook is a valuable tool for local governments. In workbook style, it recommends a process for development of street standards, provides important information to help communities consider and decide on the standards, and includes model designs as a starting point.

Street design, in particular street width, has been an important issue in Oregon for the past decade. Oregon's award-winning Transportation Planning Rule, adopted in 1991, requires local governments to minimize street width considering the operational needs of the streets. Also, citizens and planners in many Oregon communities, as well as towns across the country, have advocated for narrower streets as part of a larger movement to build more livable neighborhoods.

The desire to reduce the standards for street widths raises concerns about large vehicle access, especially emergency service providers who need to reach their destinations fast. The issue has resulted in heated debate in some communities and among state agencies and statewide organizations.

This document is the result of hard work and commitment of individuals who joined in a collaborative process to reconcile the multiple uses of our neighborhood streets. Many thanks to the Neighborhood Streets Project Stakeholders, Design Team members, and reviewers for the time and expertise they contributed to this effort.

A handwritten signature in black ink, appearing to read "John A. Kitzhaber".

John A. Kitzhaber, M.D.
Governor

PROJECT STAKEHOLDERS

These Guidelines have been endorsed by...

- Office of the State Fire Marshal
- Oregon Fire Chiefs Assoc.
- Oregon Fire Marshal's Assoc.
- Oregon Chiefs of Police Assoc.
- Oregon Refuse and Recycling Assoc.
- Oregon Building Industry Assoc.
- Oregon Chapter of the American Planning Assoc.
- Oregon Chapter of the American Public Works Assoc.
- Assoc. of Oregon City Planning Directors
- Livable Oregon, Inc.
- 1000 Friends of Oregon
- Oregon Department of Land Conservation & Development
- Oregon Department of Transportation

- Metro also supports the guidelines and has adopted a specific set of guidelines for the Portland metropolitan region.

*** Design Team Members**

The Design Team was responsible for the overall collaborative process with assistance from a facilitator and DLCD staff. The Design Team vested themselves with responsibility for negotiating the issues and guiding the development of this agreement.

Fire/Emergency Response

- * Bob Garrison (Office of State Fire Marshal)
- * Jeff Grunewald (Tualatin Valley Fire & Rescue)
- * Burton Weast (Oregon Fire District Directors' Association)
Gary Marshall (City of Bend Fire Marshal)
Ken Johnson (for Michael Sherman, Oregon Fire Chiefs Association)
Debbie Youmans (Oregon Chiefs of Police Association)

Service Providers

- Ron Polvi (NW Natural)
- Kristan Mitchell (Oregon Refuse and Recycling Association)
- John Fairchild (School Board Association)

Developers/Consultants

- * Ernie Platt (Oregon Building Industry Association)
- Rod Tomcho (Tennant Developments)
- Ryan O'Brien (LDC Design Group)

Transportation Engineers/Planners

- * Jim West (Institute of Transportation Engineers: Kimley-Horn Inc.)
Peter Fernandez (City of Salem)

Public Works

- * Byron Meadows (American Public Works Association, Oregon Chapter; Marion County Public Works Operations Supervisor)

Non-Profit Groups

- * Amber Cole Hall (Livable Oregon, Inc.)
Lynn Petersen (1000 Friends of Oregon)

City Representatives

- * John McLaughlin (City Planning Directors' Association;
Community Development Director, City of Ashland)
Cameron Gloss (City of Klamath Falls)
Jan Fritz (City Councilor of Sublimity)
Allen Lowe (City of Eugene Planning)
John Legros (City of Central Point Planning Commissioner)
Bob Dean (City of Roseburg Planning Commission Chair)
Margaret Middleton (for Randy Wooley, City of Beaverton Engineering)

County Representative/Planner

- Tom Tushner (Washington County)
Lori Mastrantonio-Meuser (County Planning Directors' Association)

Regional Government

Tom Kloster (and Kim White, Metro)

State Government

* Eric Jacobson (Department of Land Conservation and Development)
Amanda Punton (Department of Land Conservation & Development)
Kent Belleque (for Jeff Scheick, Oregon Department of Transportation)

Project Managers

Joy Schetter, ASLA (Department of Land Conservation & Development)
Elaine Smith, AICP (Department of Land Conservation & Development)

Project Mediator/Facilitator

Keri Green (Keri Green and Associates, Ashland, Oregon)

*Many thanks to the
Neighborhood Streets Project Stakeholders,
Design Team Members, and the
Community of Reviewers
for the time and expertise
they contributed to this effort.*

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I. Introduction

The standards for the design of local streets, in particular the width of streets, has been one of the most contentious issues in local jurisdictions in Oregon for the past decade. The disagreements have also been fought at the state level among state agencies and advisory, advocacy, and professional groups that have sought to influence decisions made at the local level. Previous efforts of these groups to provide guidance have failed because of lack of consensus.

This document is the result of the hard work of a group of diverse stakeholders that finally developed that consensus. *Neighborhood Street Design Guidelines* was developed to help local governments consider and select neighborhood street standards appropriate for their communities. As the title attests, the handbook provides guidelines and is not prescriptive. The authors hope that the consideration of the guidelines and examples will stimulate creative ideas for street designs in local communities.

This guidebook explains the issues surrounding the width of neighborhood streets with respect to livability and access for emergency and other large vehicles. It recommends a community process for developing neighborhood street width standards, a checklist of factors that should be addressed in that process, street cross-sections, and a list of resources that provide additional information. The guidelines are intended for *local* jurisdiction streets that carry limited traffic, not collectors or arterials. They are not intended, nor are they to be used on state highways.

II. The Issues

Why Narrow Streets?

Streets are key determinants of neighborhood livability. They provide access to homes and neighborhood destinations for pedestrians and a variety of vehicle types, from bicycles and passenger cars to moving vans and fire apparatus. They provide a place for human interaction: a place where children play, neighbors meet, and residents go for walks and bicycle rides. The design of residential streets, together with the amount and speed of traffic they carry, contributes significantly to a sense of community, neighborhood feeling, and perceptions of safety and comfort. The fact that these may be intangible values makes them no less real, and this is often reflected in property values.

The width of streets also affects other aspects of livability. Narrow streets are less costly to develop and maintain and they present less impervious surface, reducing runoff and water quality problems.

The topic of automobile speeds on neighborhood streets probably tops the list of issues. Where streets are wide and traffic moves fast, cities often get requests from citizens to install traffic calming devices, such as speed humps. However, these can slow response times of emergency service vehicles creating the same, or worse, emergency response concerns than narrow streets.

Oregon's Land Conservation and Development Commission recognized the values associated with narrow street widths when it adopted the Transportation Planning Rule. The rule requires local governments to establish standards for local streets and accessways that minimize pavement width and right-of-way. The rule requires that the standards provide for the operational needs of streets, including pedestrian and bicycle circulation and emergency vehicle access.

Why Are Emergency Service Providers Concerned?

Street width affects the ability of emergency service vehicles to quickly reach a fire or medical emergency. Emergency service providers and residents alike have an expectation that neighborhood streets provide adequate space for emergency vehicles to promptly reach their destination and for firefighters to efficiently set up and use their equipment.

Fire equipment is large and local fire departments do not have full discretion to simply "downsize" their vehicles. Efforts by some departments to do this have generally not been successful, since these smaller vehicles did not carry adequate supplies for many typical emergency events.

The size of fire apparatus is driven, in part, by federal Occupational Health and Safety Administration (OSHA) requirements and local service needs. The regulations require that fire trucks carry considerable equipment and that firefighters ride completely enclosed in the vehicle. In addition, to save money, fire departments buy multi-purpose vehicles that can respond to an emergency like a heart attack or a traffic accident, as well as a fire. These vehicles typically provide the

first response to an emergency. An ambulance will then provide transport to a hospital, if needed. To accommodate the need to move the vehicles and access equipment on them quickly, the Uniform Fire Code calls for a 20-foot wide clear passage.

The risk of liability also raises concerns about response time and the amount of equipment carried on trucks. A successful lawsuit in West Linn, Oregon found that a response time of eight minutes was inadequate. The National Fire Protection Association, which is the national standard-setting body for the fire service, is proposing new rules that would require a maximum four-minute response time for initial crews and eight-minute response for full crews and equipment for 90% of calls. Fire departments have also been sued for not having the proper equipment at the scene of an accident. This puts pressure on departments to load all possible equipment onto a vehicle and increases the need to use large vehicles.

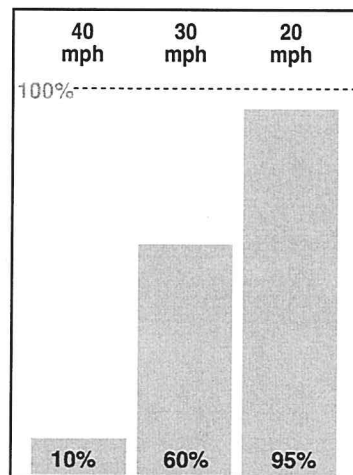
III. Background

Residential streets are complex places that serve multiple and, at times, competing needs. Residents expect a place that is relatively quiet, that connects rather than divides their neighborhood, where they can walk along and cross the street relatively easily and safely, and where vehicles move slowly. Other street users, including emergency service providers, solid waste collectors, and delivery trucks, expect a place that they can safely and efficiently access and maneuver to perform their jobs. Clearly, balancing the needs of these different users is not an easy task.

Oregon's cities reflect a variety of residential street types. In many older and historic neighborhoods built between 1900 and 1940, residential streets typically vary in width in relation to the length and function of the street. In many cases, a typical residential street may be 24 feet to 28 feet in width with parking on both sides. However, it is not uncommon to find streets ranging from 20 feet to 32 feet in width within the same neighborhood. Newer subdivisions and neighborhood streets built since 1950 tend to reflect a more uniform design, with residential streets typically 32 feet to 36 feet in width with parking on both sides and little or no variation within a neighborhood.

Designs For Livability. Over the last decade, citizens, planners, and public officials throughout the United States have expressed increased interest in development of compact, pedestrian-friendly neighborhoods. The design of neighborhood streets is a key component in this effort. Nationally, the appropriate width and design of neighborhood streets has been the subject of numerous books and articles targeted not just to the planning and development community, but also the general population. In May 1995, *Newsweek* magazine featured an article on neotraditional planning that listed reducing the width of neighborhood streets as one of the "top 15 ways to fix the suburbs." In addition, developments such as Kentlands in Maryland and Celebration in Florida have gained fame by incorporating many of the features of traditional, walkable neighborhoods and towns, including narrow neighborhood streets.

Chances of a Pedestrian Surviving a Traffic Collision



Survival Rates

Graphic adapted from "Best Management Practices," Reid Ewing, 1996; data from "Traffic Management and Road Safety," Durkin & Pheby, 1992.

Safe and Livable. There is growing appreciation for the relationship between street width, vehicle speed, the number of crashes, and resulting fatalities. Deaths and injuries to pedestrians increase significantly as the speed of motor vehicles goes up. In 1999, planner Peter Swift studied approximately 20,000 police accident reports in Longmont, Colorado to determine which of 13 physical characteristics at each accident location (e.g., width, curvature, sidewalk type, etc.) accounts for the crash. The results are not entirely surprising: the highest correlation was between collisions and the width of the street. A typical 36-foot wide residential street has 1.21 collisions/mile/year as opposed to 0.32 for a 24 foot wide street. The safest streets were narrow, slow, 24-foot wide streets.

Award-Winning Neighborhoods. In Oregon, citizens, non-profit organizations, transportation advocates, and state agencies interested in the livability of our communities have advocated reducing the width of neighborhood streets. Several new developments that include narrow neighborhood streets such as Fairview Village in Fairview, West Bend Village in Bend, and Orenco Station in Hillsboro have received *Governor's Livability Awards* (See Appendix A for contact

information). Although cited as models of livable communities, the narrow street widths included in these developments are not allowed in many of Oregon's cities, often because of concerns about emergency service access.

Emergency Response. The movement to reduce street standard widths raised concerns with emergency service providers. Thus, the most controversial issue facing Oregon's fire departments in the past decade has been street width. Fire departments must move large trucks, on average, 10 feet wide mirror-to-mirror.

Response times can be slowed depending upon the amount of on-street parking and traffic encountered. Narrow streets lined with parked cars may not provide adequate space for firefighters to access and use their equipment once they have reached the scene of an emergency. In addition, emergency vehicle access can be completely blocked on streets that provide less than 10 feet of clear travel width.

Authority to Establish Standards. Prior to 1997, there had been some confusion over who had the authority to establish street standards. Oregon's land use laws grant local governments the authority to establish local subdivision standards, which include street widths (ORS ~~92.044~~). However, the *Uniform Fire Code*, which was adopted by the State Fire Marshal and is used by many local governments to establish standards for the prevention of and protection from fires, includes standards which affect the width and design of streets. The *Uniform Fire Code* is published by the Western Fire Chiefs and the International Congress of Building Officials as partners.

This question of authority was clarified in 1997 when ORS ~~92.044~~ was amended to state that standards for the width of streets established by local governments shall "*supersede and prevail over any specifications and standards for roads and streets set forth in a uniform fire code adopted by the State Fire Marshal, a municipal fire department or a county firefighting agency.*" ORS ~~92.044~~ was also amended to establish a consultation requirement for the local governments to "*consider the needs of the fire department or fire-fighting agency when adopting the final specifications and standards.*"

Correction:
The incorrect ORS is cited in this section. The correct citation is ORS 368.039.

IV. Collaborative Process

This project was undertaken to:

“Develop consensus and endorsement by stakeholders on a set of flexible guidelines for neighborhood street designs for new developments that result in reduced street widths.”

The collaborative process relied on two groups of stakeholders. A larger group was comprised of a broad cross-section of interest groups and numbered about thirty people from around the state. A core team of nine members, a subset of the larger group, was convened to guide the collaborative problem-solving process, working in conjunction with the consultant and staff. This “Design Team” consisted of representatives from these groups: special districts, fire service, state fire marshal, non-profit advocacy, traffic engineering, builder/developer, city planner, public works, and a representative from the Department of Land Conservation and Development.

The Design Team’s responsibilities were to recommend participants for the larger collaborative working group, determine the priority interests, recommend a statewide endorsement and implementation process, and provide input on technical presentations required. At the Design Team’s first meeting, they decided to assign themselves the task of creating the draft street design guidelines. They would take their products to the larger group for input, recommendations, and eventual endorsement. Consensus would be sought within the Design Team before going to the large group. Likewise, consensus at the large group would be fundamental to achieving the project’s goals.

The large group was instrumental in providing actual scenarios of community experiences to the Design Team. They also helped enlarge the scope of affected parties and corresponding issues by including other service providers that use large vehicles, such as school busses and solid waste haulers. Members of the large group provided valuable reference materials to the Design Team. They provided substance that had been over-looked on more than one occasion. Large group members were pleased to know that a core team of well-respected stakeholders was representing their interests. The Design Team engaged the large group at significant junctures in its work.

V. A Community Process for Adopting Standards

Unique issues will arise in each community, whether related to hills, higher density neighborhoods, or existing street patterns. Close collaboration with fire and emergency service providers, public works agencies, refuse haulers, and other neighborhood street users must be maintained throughout the process. This will ensure that the standards developed to meet the general goals of the community will also meet the specific needs of different stakeholder groups.

Through broad-based involvement, educational efforts, and sensitive interaction with stakeholders, a community can adopt new street standards that will meet the transportation needs of the citizens, while providing and encouraging a very livable residential environment.

The following steps reflect a realistic process development and local government adoption of standards for narrow neighborhood streets.

Steps for Local Government Consideration and Adoption of Neighborhood Street Standards

1. Determine stakeholders
2. Inform/Educate: What is the value of narrow residential street standards?
3. Ensure dialogue among stakeholders
4. Identify specific issues, such as seasonal needs and natural features
5. Prepare draft standards
6. Review draft with stakeholders/officials /public
7. Revise, conduct public review, and adopt standards
8. Implement and ensure periodic evaluation

Determine stakeholders. There are many benefits to a community adopting narrow street standards. Many stakeholders share an interest in residential transportation issues. These stakeholders must be included from the outset of any new street standard adoption process.

Inform and Educate. A community or jurisdiction considering the adoption of narrow residential street standards must conduct an open and information-intensive process. Narrow streets have many advantages for a community, including slower traffic speeds and increased neighborhood livability. But there are some access trade-offs. A strong educational component involving city council members, planning commissioners, community groups, developers and emergency service providers must be conducted at the beginning of the process. Agreement about the value of narrow streets, i.e., slow speeds, safer pedestrian environments, and more livable neighborhoods must be understood and agreed to prior to beginning to develop specific standards. There are many educational resources available including printed materials, videos, and professional speakers willing to share their experience.

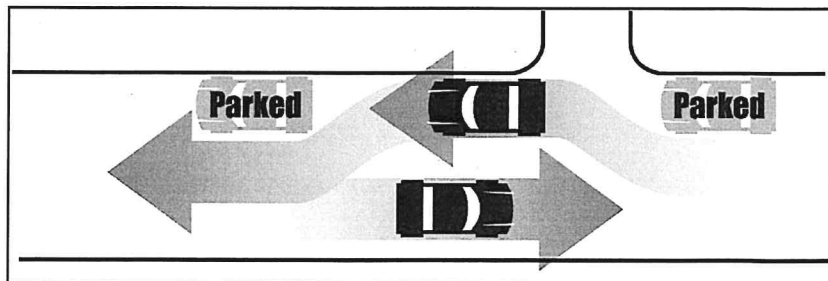
Develop standards that reflect local concerns. Once a jurisdiction has determined that more narrow street standards will be beneficial, the development of specific standards, unique to the community where they will be implemented, is the next step. Many cities and counties have adopted narrow street standards, and their efforts can provide a model for the initial drafts. Review and input from stakeholders, the public, and community officials will help identify local issues and provide the opportunity to tailor standards to local needs.

VI. Checklist for Neighborhood Streets

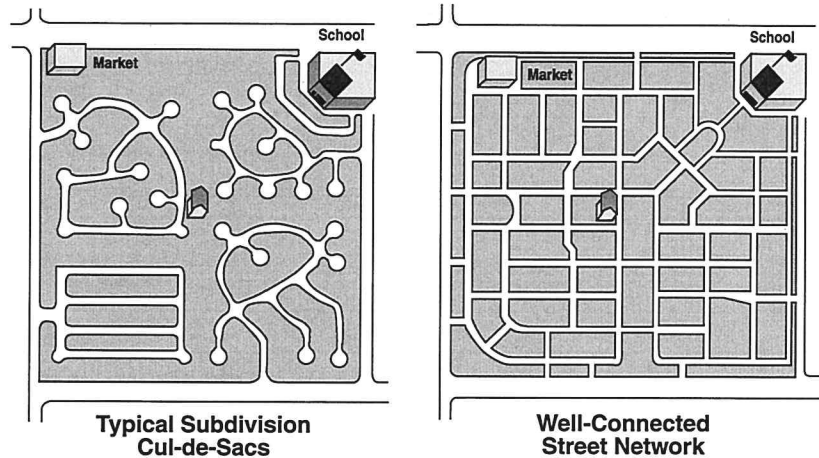
Key Factors

The checklist is based on five key factors listed below:

- ✓ *Queuing.* Designing streets so that moving cars must occasionally yield between parked cars before moving forward, as shown below, permits development of narrow streets, encourages vehicles to move slower, and allows for periodic areas where a 20-foot wide clear area is available for parking of fire apparatus.



- ✓ **Connected Street Networks.** Connected street networks provide multiple ways for emergency response vehicles to access a particular location and multiple evacuation routes. In addition, a connected street system encourages slow, cautious driving since drivers encounter cross traffic at frequent intervals.



- ✓ **Adequate Parking.** When parking opportunities are inadequate, people are more likely to park illegally in locations that may block access by emergency service vehicles. Communities need to review their parking standards when they consider adopting narrow street standards to make sure that adequate on-street and off-street parking opportunities will be available.

- ✓ **Parking Enforcement.** The guidelines are dependent on strict enforcement of parking restrictions. Communities must assure an on-going commitment to timely and effective parking enforcement by an appropriate agency. In the absence of such a commitment, these narrow street standards should not be adopted.

- ✓ **Sprinklers Not Required.** The checklist and model cross-sections provided in this guidebook do not depend upon having fire sprinklers installed in residences. More flexibility in street design may be possible when sprinklers are provided. However, narrow streets still need to accommodate fire apparatus that respond to non-fire, medical emergencies. Other types of vehicles (such as moving vans, public works machinery, and garbage/recycling trucks) also need to be able to serve the neighborhood.

The Checklist



Community stakeholder groups should systematically proceed through the checklist below as part of their decision making process. Also, your community may wish to add to this checklist. The format of the checklist includes room for comments: encourage stakeholders to make notes regarding their concerns and record decisions about how the items in the checklist have been addressed.

The factors are interrelated and are best considered together. The items are grouped by category in a logical order, but are not weighted.

Community Process/Decision-Making		<i>Notes</i>
<input type="checkbox"/> <p>Good City Department Working Relations Develop good, close working relationships between the fire/emergency response professionals, public works, building officials, land use and transportation planners, engineers, and other large vehicle operators. The goal is to achieve trusting working relationships that lead to effective accommodation of each other's needs related to agreements about neighborhood street standards.</p>	<hr/> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/>	
<input type="checkbox"/> <p>Consistency of Ordinances Review all applicable codes and ordinances and make them consistent with the narrow neighborhood street standards you are adopting. Consider performance-based codes and ordinances to address the larger development issues, of which street design is just one part. Amend ordinances only when you have the concurrence of emergency and large service vehicle providers.</p>	<hr/> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/>	
<input type="checkbox"/> <p>Uniformly Allowed Uniformly allow narrow neighborhood streets by code and ordinance rather than requiring a special process, such as a variance or planned unit development. Or consider a modification process similar to the City of Beaverton's that uses a multi-disciplinary committee review and approval process during the development review process. <i>See Appendix A for more info.</i></p>	<hr/> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/>	
<input type="checkbox"/> <p>Community Process Determine what your community process will be for developing and adopting neighborhood street standards including following legal requirements, gaining political support, and encouraging public education and involvement. Teamwork and involvement of all large vehicle service providers is a critical component for success. Consider the potential benefits of narrow streets, such as slower traffic, less stormwater runoff, and lower costs. Look for ways to minimize the risk that fire apparatus will not be able to quickly access an emergency and minimize possible inconvenience for other large vehicles. <i>For more information see Chapter V, "A Community Process for Adopting Standards."</i></p>	<hr/> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/>	

Users of the Street

Notes

Use of Street

Recognize the needs of all of the “everyday” users of the street, including autos, pedestrians, and bicycles. Street standards typically provide for easy maneuverability by autos. It is very important that neighborhood streets also provide a comfortable and safe environment for pedestrians. Consideration should be given to pedestrians both moving along and crossing the street.

Fire/Emergency Response and Large Service Vehicle Access

Provide access to the street for Fire/Emergency Response and large service vehicles to meet their main objectives. Consider the maneuvering needs of all large vehicles such as fire/emergency response, refuse/recycling trucks, school buses, city buses, delivery vehicles, and moving trucks. Fire trucks are generally 10-feet wide from mirror to mirror and room adjacent to a truck is necessary to access equipment from the truck. Recognize that for some service providers, the federal government has requirements that affect vehicle size such as fire trucks, school buses, and ambulances.

Utility Access

Provide utility access locations regardless of whether utilities are in the street, the right-of-way adjacent to the street, utility easements, or some combination thereof. Consider utility maintenance requirements.

Street Design

Traffic Volume and Type

Relate street design to the traffic that will actually use the street and the expected demand for on-street parking. Generally, on streets that carry less than 1,000 vehicles per day, a clear lane width of 12 to 14 feet is adequate for two-way traffic, if there are frequent pull-outs to allow vehicles to pass. Where there is on-street parking, driveways typically provide gaps in parking adequate to serve as pull-outs. If there is a high percentage of trucks or buses, wider streets or longer pull-outs may be needed. For street design, consider both the current traffic volume and the projected long-term traffic volume.

Provision for Parking

Make sure that adequate parking is provided so that on-street parking is not the typical primary source of parking. The objective is to have space between parked cars so that there are queuing opportunities. Also, parking near intersections on narrow streets should not be permitted because it can interfere with the turning movements of large vehicles (*see illustration at the end of the checklist*). This can be accomplished by a lack of demand for on-street parking or by design. The design option requires place-

ment of no-parking locations (i.e., driveways, fire hydrants, mailboxes) at appropriate intervals to provide the needed gaps.

Notes

Parking (con't)

When determining the number of parking spaces required, consider adjoining land uses and the availability of off-street parking. Parking demand is likely to be less where an adjoining land use is one that will create little or no parking demand (e.g., wetlands, parks, floodplains) or if adjoining development will provide off-street parking adequate for residents and guests. On-street parking demand may be affected by recreational vehicle/equipment if parking of such equipment is allowed. Parking availability will be affected by whether a neighborhood has alleys, if parking is allowed in the alley, or if visitor parking bays are provided in the area.

Self-Enforcing Design....perceptions count!

The design of the street should encourage the desired speed, traffic flow, parking, and use of the street. When this is the case, a design is said to be self-enforcing. This means that a driver would discern an implied prohibition against parking by the visual appearance of the street. A self-enforcing design intended to reduce speed might, for example, use trees in parkrows or strategically placed curb extensions.

- Unless traffic volumes are very low, 21 to 22-foot streets with parking on one side can be problematic for large vehicles.
- 21 to 24-foot streets with no on-street parking should not be considered because they invite parking violations.
- 26 and 27-foot streets where parking is permitted on one side can result in chronic violations because the street will look wide enough for parking on both sides.

Parking Enforcement

With adequate parking and proper street design, enforcement should not be a problem. Where parking is prohibited, provide signs that clearly indicate this, even on streets with a self-enforcing design. Enforcement is essential and can be done in a variety of ways. Consider tow zones or using volunteers to write parking tickets. (The City of Hillsboro allows both police and fire personnel to write traffic tickets.)

Public and Private Streets

Build public and private streets to the same standard. The need for access by emergency and other large vehicles is the same on private streets as for public. (In addition, private streets not built to the same construction standards may end up being a maintenance problem later if the local jurisdiction is forced to assume maintenance because homeowners do not fulfill their responsibilities.)

Block Length

Design block length to enhance street connectivity. Block lengths should generally not exceed 600 feet. As block lengths increase from 300 feet, attention to street width and other design features becomes more important. This is because fire apparatus preconnected hoses are 150 feet in length. With a connected street system and 300-foot block lengths, the fire apparatus can be parked at the end of the block where a fire is located and the hose can reach the fire.

Coordinate block length requirements with spacing requirements for connection to arterial streets. Preserve integrity, capacity, and function of the neighborhood's surrounding arterials and collectors by adhering to access management standards.

Notes

Local Issues**Evacuation Routes for Wildfire Hazard and Tsunami Zones**

Designated wildfire hazard or tsunami zones may need wider streets to provide for designated evacuation routes, including 20 feet of clear and unobstructed width. Different communities may have different street standards depending on whether a neighborhood is located in one of these zones or is in a designated evacuation route.

Agricultural Equipment

If your community is a regional agricultural center, consider adequate passage for agricultural equipment. Discourage passage on residential streets.

Preserving Natural Features

If your community has sensitive natural features, such as steep slopes, waterways, or wetlands, locate streets in a manner that preserves them to the greatest extent feasible. Care should be taken to preserve the natural drainage features on the landscape. Street alignments should follow natural contours and features, whenever possible, so that visual and physical access to the natural feature is provided as appropriate.

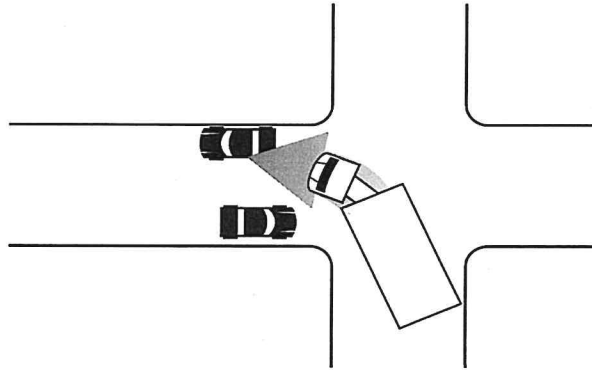
Snow

If snow removal and storage is an issue in your community, consider snow storage locations, and whether temporary parking restrictions for snow plowing or storage will be required. Some communities may consider providing auxiliary winter parking inside neighborhoods (though not on residential collectors). Work with your public works and engineering departments to see if any adjustments may be made in terms of operations or street design that would make narrow neighborhood streets work better for your community (wider parkrows to store snow, for instance).

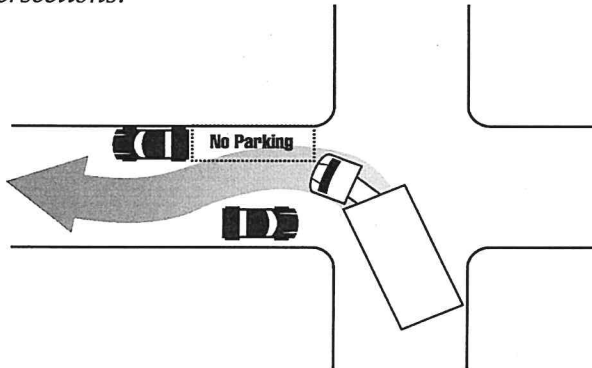
		<i>Notes</i>
<input type="checkbox"/>	Ice If maneuvering on icy roads is an issue in your community, consider parking restrictions near street corners, auxiliary winter parking at the base of hills, wider street cross-sections on hills, or seasonal parking restrictions on hills.	<hr/> <hr/> <hr/>
<input type="checkbox"/>	Sloping or Hilly Terrain If your community has steep slopes, make special design provisions. This can be done through utility placement, connected streets, sidewalk placement, provision of one-way streets, property access, and minimizing cut and fill slopes.	<hr/> <hr/> <hr/> <hr/>
<input type="checkbox"/>	<i>Other Community Concerns?</i>	<hr/> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/>

No Parking At Intersections

On narrow streets, parked cars near the intersection can interfere with the turning movements of large vehicles.



The solution is to prohibit on-street parking within 20 - 50 feet of intersections.



VII. Model Cross-Sections

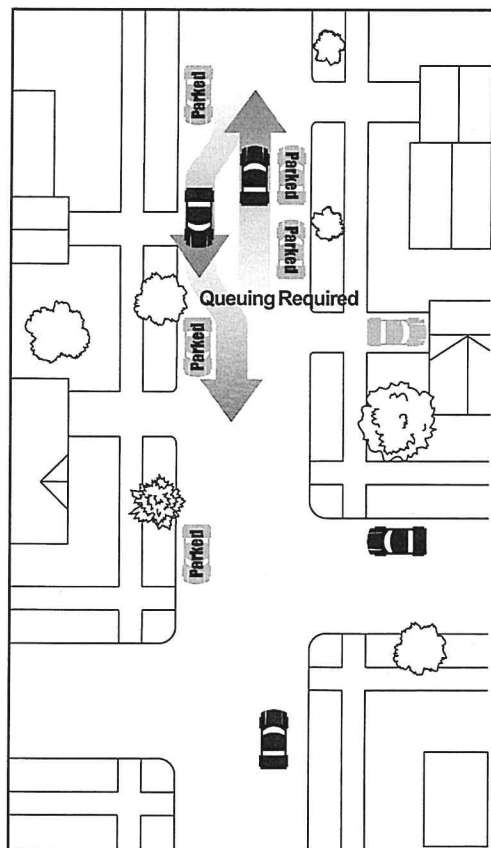
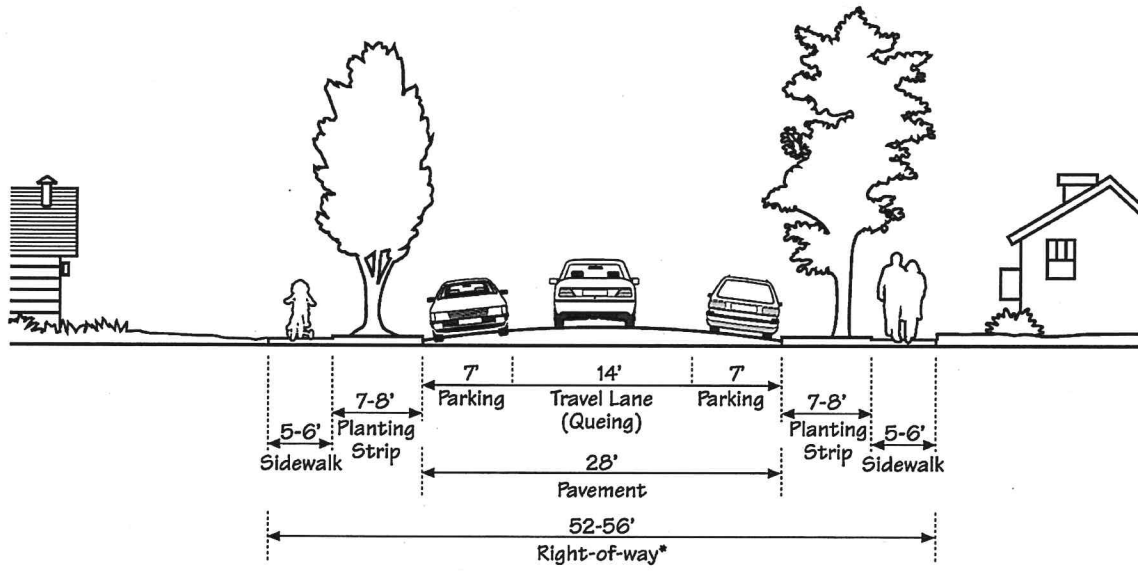
The following three scenarios are presented as “model standards.” However, *they do not represent the full range of possible solutions.* Communities are encouraged to use these as a starting point; innovative solutions can be designed for local situations. Here are a few key points to keep in mind:

- ✓ Streets wider than 28 feet are NOT, by definition, a “narrow street.”
- ✓ Two-way streets under 20 feet are NOT recommended. If, in a special circumstance, a community allows a street less than 20 feet, safety measures such as residential sprinklers*, one-way street designations, and block lengths less than 300 feet may be needed.

* Fire sprinklers in one and two family structures must be approved by the local building department in accordance with standards adopted by the Building Codes Division under ORS 455.610.

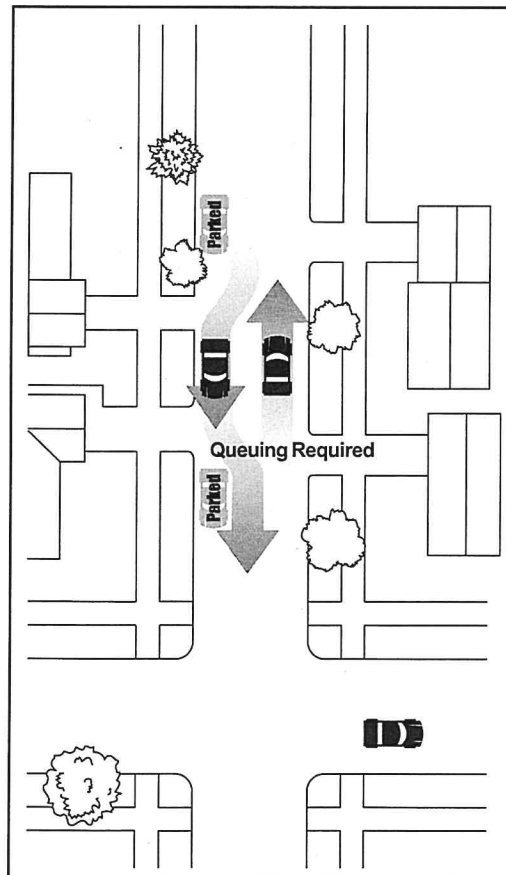
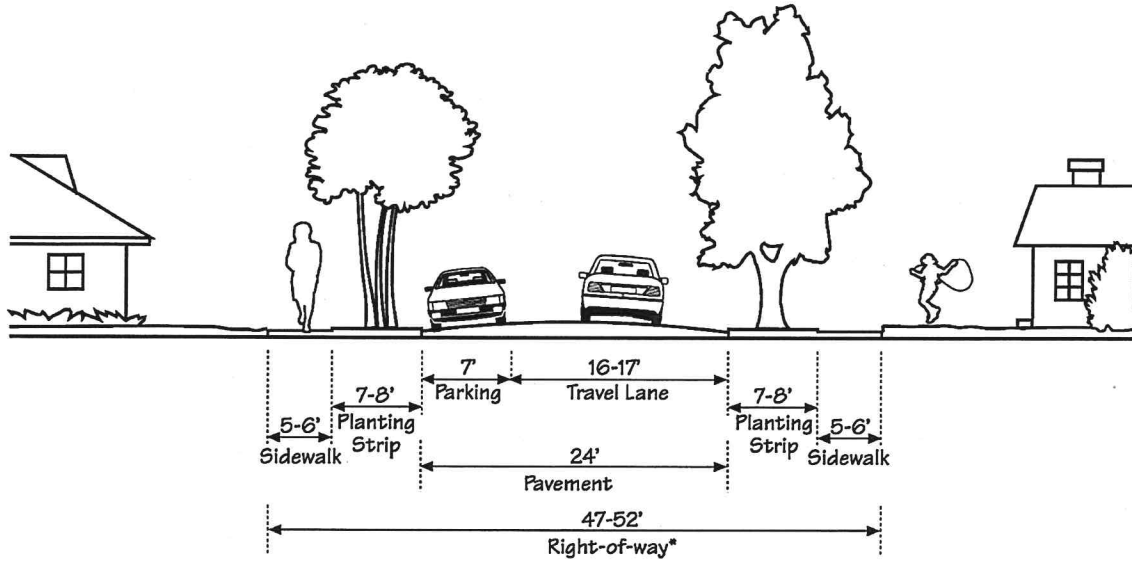
Scenario 1

28 Ft. Streets Parking on both sides



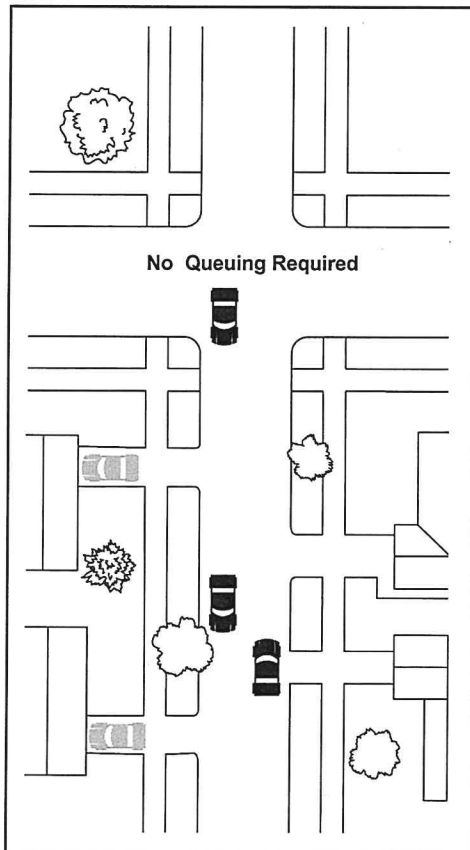
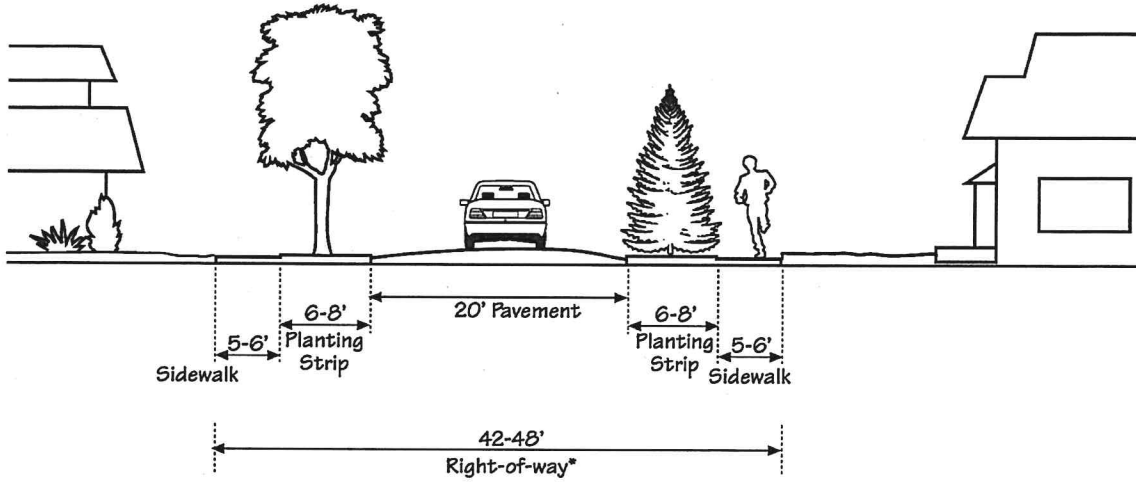
Scenario 2

24 Ft. Streets Parking on one side only



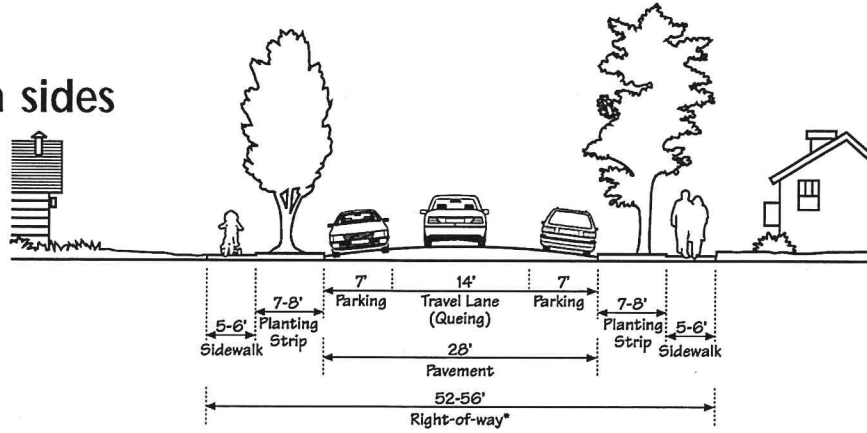
Scenario 3

20 Ft. Streets
No parking allowed

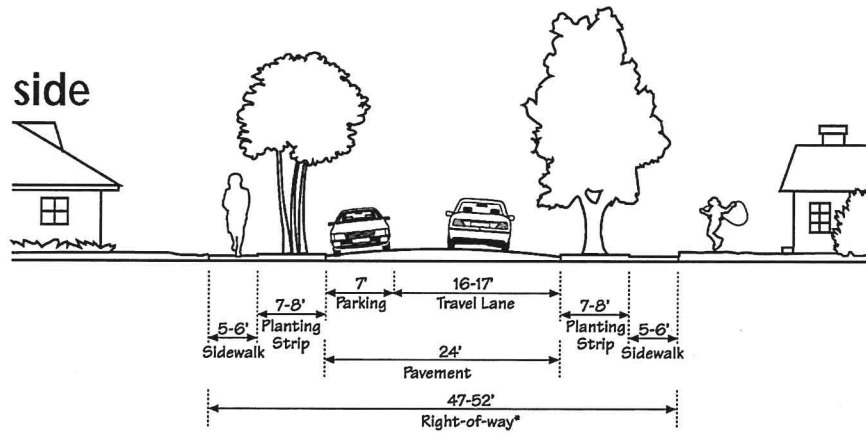


Summary of Three Potential Scenarios

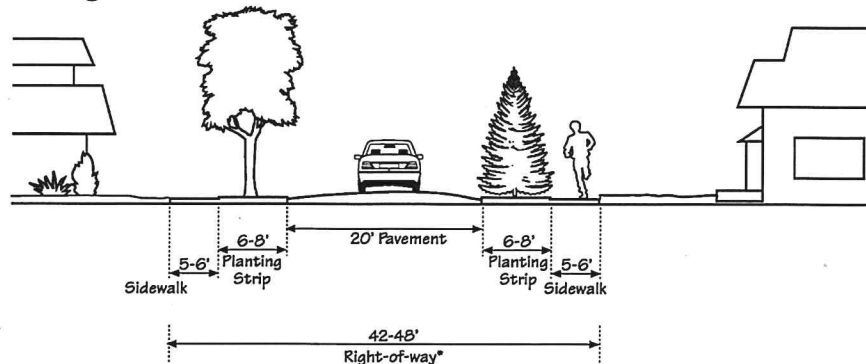
28 Ft Street Parking on both sides



24 Ft Street Parking on one side



20 Ft Street No on-street parking allowed



Appendix A - References and Resources

Annotated References

AASHTO - The Policy on Geometric Design of Highways and Streets, also known as the "*Green Book*," is published by the American Association of State Highway and Transportation Officials (AASHTO) and is considered to be the principle authority on street geometrics. Narrow streets are sometimes cited as being contrary to traffic engineering practices because they may hinder the free-flowing movement of vehicular traffic. However, the *Green Book* supports the notion of using narrow residential streets. For example, the *Green Book* states: "On residential streets in areas where the primary function is to provide land service and foster a safe and pleasant environment, at least one unobstructed moving lane must be ensured even where parking occurs on both sides. The level of user inconvenience occasioned by the lack of two moving lanes is remarkably low in areas where single-family units prevail...In many residential areas a 26-ft.-wide roadway is typical. This curb-face-to-curb-face width provides for a 12-ft. center travel lane and two 7-ft. parking lanes. Opposing conflicting traffic will yield and pause on the parking lane area until there is sufficient width to pass."

Residential Streets - Residential Streets is published jointly by the American Society of Civil Engineers, the National Association of Homebuilders, and the Urban Land Institute. This book was published to encourage a flexible approach to designing residential streets to respond to the street's function in the transportation system as well as part of the community's living environment. *Residential Streets* is a hierarchy of residential streets, including 22'-24' access streets with parking on both sides, 26' subcollector street with parking on both sides, and a 28' subcollector with parking on both sides where "on-street parking lines both sides of the street continuously."

ITE - The Institute of Transportation Engineers (ITE) has published several documents that refer to the recommended width of neighborhood streets. The 1993 publication *Guidelines for Residential Subdivision Street Design* states that a 28-foot curbed street with parking on both sides is an acceptable standard "based upon the assumption that the community has required adequate off-street parking at each dwelling unit." In addition, the 1994 publication *Traffic Engineering for Neo-Traditional Neighborhood Design, (NTND)*, states that the recommended width of a basic NTND residential street "may be as narrow as 28 to 30 feet."

Street Design Guidelines for Healthy Neighborhoods - Published by the Local Government Commission's Center for Livable Communities, Street Design Guidelines for Healthy Neighborhoods was developed by a multi-disciplinary team based upon field visits to over 80 traditional and 16 neo-traditional neighborhoods. When combined with other features of traditional neighborhoods, the guidelines recommend neighborhood streets ranging from 16-26 feet in width. The team found 26-foot-wide roadways to be the most desirable, but also "measured numerous 24-foot and even 22-foot wide roadways, which had parking on both sides of the street and allowed delivery, sanitation and fire trucks to pass through unobstructed."

Oregon Resources

Fairview Village. Holt & Haugh, Inc., phone: 503-222-5522, fax: 503-222-6649, www.fairviewvillage.com

West Bend Village. Tennant Developments, 516 SW 13th St., Suite A, Bend, Oregon 97702, phone: 541-388-0086

Orenco Station. Mike Mehaffy, Pac Trust, 15350 SW Sequoia Pkwy, Suite 300, Portland, Oregon 97224, 503-624-6300, www.orencostation.com

Street Standard Modification Process. The City of Beaverton has a modification process similar to an administrative variance procedure. If you would like information on this process contact: Margaret Middleton, City of Beaverton, Engineering Department, P.O. Box 4755, Beaverton, Oregon 97076-4755, 503-526-2424, mmiddleton@ci.beaverton.or.us

Additional References

Street Design Guidelines for Healthy Neighborhoods. Dan Burden with Michael Wallwork, P.E., Ken Sides, P.E., and Harrison Bright Rue for Local Government Commission Center for Livable Communities, 1999.

A Policy on Geometric Design of Highways and Streets. American Association of State Highway and Transportation Officials (AASHTO), 1994.

Guidelines for Residential Subdivision Street Design. Institute of Transportation Engineers (ITE), 1993.

Traffic Engineering for Neo-Traditional Neighborhood Design. Institute of Transportation Engineers (ITE), 1994.

Residential Streets. American Society of Civil Engineers (ASCE), National Association of Home Builders (NAHB), Urban Land Institute (ULI), 1990.

A Handbook for Planning and Designing Streets. City of Ashland, 1999.

Eugene Local Street Plan. City of Eugene, 1996.

Skinny Streets, Better Streets for Livable Communities. Livable Oregon, Inc. and the Transportation and Growth Management Program, 1996.

The Technique of Town Planning, Operating System of the New Urbanism. Duany Plater-Zyberk & Company, 1997.

Narrow Streets Database. A Congress for the New Urbanism. Alan B. Cohen AIA, CNU, Updated 1998.

Washington County Local Street Standards. Revision Project No. 2455. McKeever/Morris, Inc., Kittleson & Associates, Inc. and Kurahashi & Associates, Inc., 1995.

Washington County Uniform Road Improvement Design Standards. Washington County Department of Land Use and Transportation, 1998.

Livable Neighborhoods Community Design Code. A Western Australian Government Sustainable Cities Initiative. Ministry for Planning.

Woonerf. Royal Dutch Touring Club, 1980.

Creating Livable Streets: Street Design Guidelines for 2040. Prepared by Fehr & Peers Associates, Inc. Calthorpe Associates, Kurahashi & Associates, Julia Lundy & Associates for Metro, 1997.

Model Development Code & User's Guide for Small Cities. Transportation and Growth Management Program by Otak, 1999.

APA Recommendations for Pedestrians, Bicycle and Transit Friendly Development Ordinances. TPR Working Group Oregon Chapter APA, 1993.

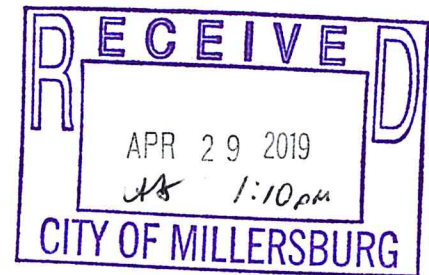
Residential Street Typology and Injury Accident Frequency. Swift & Associates, Longmont, CO, Peter Swift, Swift and Associates, Longmont, CO., 1998.

Appendix B
Oregon Community Street Widths

City/County	No Parking	Parking One Side	Parking Both Sides	Contact Information
Ashland		22'	25'-28'	Maria Harris, Associate Planner, 541-552-2045
Albany		28'		Rich Catlin, Senior Planner, Albany Community Development, 541-917-7564
Beaverton	20'	25.5' "infill option," with rolled curb on other	28'	Margaret Middleton, Engineering Department, 503-526-2424
Brookings			30'	John Bischoff, Planning Director, 541-469-2163,x237
Clackamas County			28'	Joe Marek, County Engineer, 503-650-3452
Coburg			28'	Harriet Wagner, City Planner, 541-682-7858
Corvallis			28'	Kelly Schlesener, Planning Manager - Community Development, 541-766-6908
Eugene		24'	28'	Allen Lowe, Eugene Planning, 541-682-5113
Forest Grove			26'	Jon Holan, Community Dev. Director, 503-992-3224
Gresham			26'	Brian Shetterly, Long Range Planner, 503-618-2529; Ronald Papsdorf, Lead Transportation Planner, 503-618-2806
Happy Valley			26'	Jim Crumley, Planning Director, 503-760-3325
Lincoln City			28'	Richard Townsend, Planning Director 541-996-2153
McMinnville			26'	Doug Montgomery, Planning Director, 503-434-7311
Milton-Freewater		28'		Gina Hartzheim, City Planner, 503-938-5531
Portland		20'	26'	Steve Dotterer, Portland Department of Transportation, 503-823-7731
Redmond			28'	Bob Quitmeier, Community Development Director, 541-923-7716
Seaside		20'	26'	Kevin Cupples, Planning Director, 503-738-7100
Sherwood			28'	John Morgan, City Manager, 503-625-5522
Washington County		24'	28'	Tom Tushner, Principal Engineer, 503-846-7920
Wilsonville		28'		Stephan Lashbrook, Planning Director, 503-682-1011.

Source: February 2000, Livable Oregon, Inc.

To: Planning Commission, City of Millersburg.



Regarding: Proposed Evening Star Manufactured Dwelling Park (MDP), on property identified as Tax Account No: 10-3W-17DD, Tax Lot 600.

Attorney Mike Reeder submitted a memo dated April 22, 2019 on behalf of Evening Star LLC and its owner William Eddings, regarding their application to build a Manufactured Dwelling Park in Millersburg.

Regardless of Mr. Reeder's assertions, it is clear that Mr. Eddings needs your approval to move forward with the project. Mr. Reeder's memo cites several ORS statutes and Oregon Manufactured Dwelling and Park Specialty Codes (OMDPC) to make his case. He also clearly displays his feelings that local planning authorities have little authority when it comes to applying discretion that is "more or less restrictive" than the state codes. The good news is that none is needed because the proposed site DOES NOT currently meet the legal criteria for multiple codes, and therefore, should be denied.

Mr. Reeder's memo and statements at the April 22, 2019 planning commission meeting were both predatory and bullying in nature in pushing this application. If the proposed MHP were to be hastily approved, this would serve to undermine the safety and well-being of future tenants and adjacent residents. **There is a reason why Mr. Eddings needs your approval. Please review, evaluate, make use of conditions of approval, and apply appropriate discretion based on the merits of the OMPDC and Oregon State Saw, as your authority is clearly referenced throughout these documents.**

PART 1

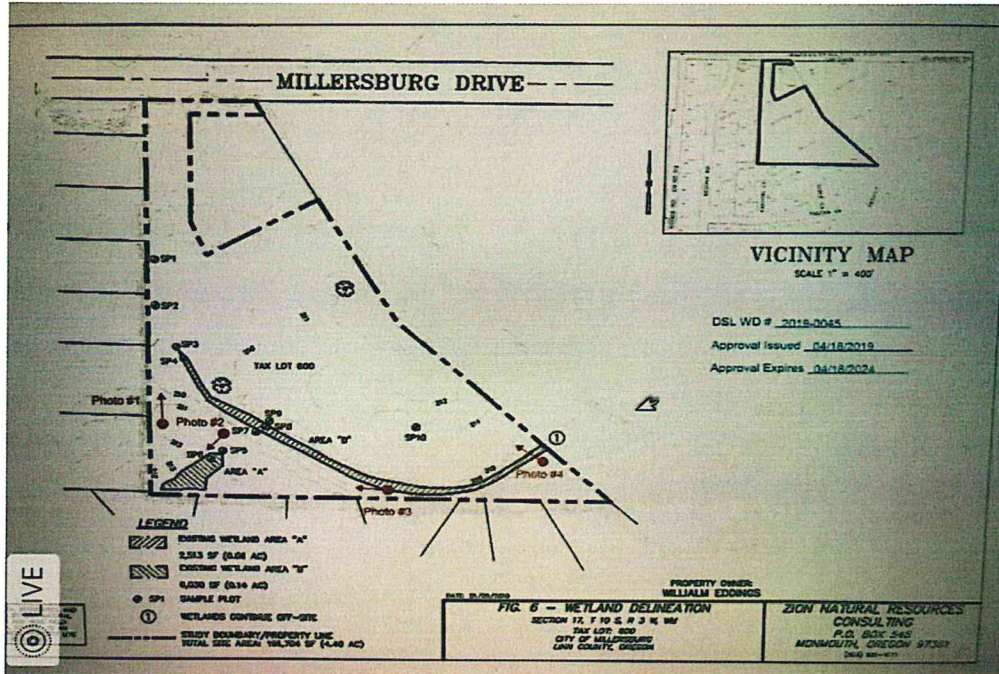
Site Plan Review

In Mr. Reeder's memo, he argues the application does not merit a Site Plan Review stating:

"The Application does not merit a Site Plan Review application because it is not a commercial or industrial development, and neither the proposed development nor the property have unusual or special features or otherwise require City decision-making".

I argue the proposed property is a textbook example of an "unusual" property in that the east property line abuts a FEMA certified flood plain (see photo), and because Oregon Dept of State Lands (DSL) certified two areas within the south property line as "wetlands" (see picture). Where these wetlands are located, approximately 35% of the manufactured dwellings are proposed to be built. The builder has yet to provide a water mitigation plan (as of the April 22nd, 2019). The proposed site is also a designated riparian zone, holds many mature oak trees, and provides home to migratory fowl and sensitive habit. This property rises above the threshold to be considered an "unusual" property for many reasons.

DSL wetlands delineation map of proposed property, April 18th, 2019
 (areas A and B are certified wetlands)



FEMA Flood Plain map of proposed area
 (flood plain extends into proposed property)



Part 2 Department of State Land

Dept of State Lands issued a wetland delineation report on April 18th, 2019 for the proposed manufacture home park (see exhibit A). According to the report, the two delineated wetland areas (A&B) are subject to permit requirements of the state Removal-Fill Law (ORS 196.795-990). (See paragraph two of the DSL report). The report (paragraph three) states federal or local permit requirements may also apply.

Paragraph four, DSL report: *"Please be advised that state law establishes a preference for avoidance of wetland impacts. Because measures to avoid and minimize wetland impacts may include reconfiguring parcel layout and size or development design, we recommend that you work with Department staff on appropriate site design before completing the city or county land use approval"*.

Mr. Eddings has already moved forward with site preparation, mowing the wetlands, slashing brush, cutting down trees, and burning debris piles. It is not clear if he has retained all required permits, in particular, the state Removal-Fill law (ORS 196.795-990) permit, but DSL makes clear their preference is to work with applicants on site design for water mitigation before completing city or county land permits. **(emphasis)**.

Given to the fact that Mr. Eddings has yet to provide a water mitigation plan - as the Millersburg City engineer so stated "there is no plan" - it would be appropriate to stay, object, or require additional conditions of approval until all required permits have been obtained, certified, and independently reviewed by the planning commission to satisfaction.

PART 3 OMDPC Specialty Codes

In regards to the proposed Evening Star MDP application, there are multiple OMDPC codes and ORS statues that preclude the proposed Evening Star MDP application. It is clear these codes and statues rely on "local planning authority" to evaluate, verify, weigh, or apply discretionary judgment in the review of the building permit applications, in part, to prevent predatory building practices on low-income families, and ensure public safety.

Review of important codes: Oregon Manufactured Dwelling and Park Specialty Code (OMDPC)

3.4 (3.1) OMPDC: *Each Site shall be suitable for its intended use **acceptable to the authority having jurisdiction** based on this code and local land use regulations. Manufactured dwellings **shall not be located on land that is unsuitable due to swampy terrain, lack of drainage, or proximity to the vermin** unless improvements have been made to the land to eliminate or control the hazards. In areas having highly expansive compressible or shifting soils, the **authority having jurisdiction may require a soil test.***

As you can see, the application should be objected based on 3.4 (3.1) - suitability of site. Local planning authority is referenced. The proposed site has serious concerns related swampy terrain, lack of drainage, and proximity to rodent breeding grounds.

3-4.2 OMPDC Unforeseen factors: *"When unforeseen factors are encountered (i.e. rock formation, **high ground water levels, springs, or biological generated gasses**), **corrective drainage work acceptable to the authority having jurisdiction**, shall be completed prior to the sitting of the manufactured dwelling or cabana."*

Again, local authority referenced, proposed water mitigation should be acceptable to planning commission.

3-4.3 OMPDC Grading and Drainage: Site grading and drainage shall provide the following (e) lots shall have sufficient drainage to prevent standing water, excessive soil saturation, or erosion from becoming detrimental to the lot, stand, or any structures.

Millersburg already struggles with significant water drainage problems as evidenced by many neighbors complaints of water of saturation, crawlspace pooling, high water tables, etc. This proposed MDP site will be even more subject to drainage problems due to it's proximity to a FEMA flood plain, and being on the downhill side of residential neighborhoods.

3.4-4 Erosion: Where erosion of the site, due to high water **runoff velocity**, threatens the manufactured dwelling stand, adequate grading, plantings or drainage systems, **acceptable to the authority having jurisdiction**, shall be provided to protect the site, stand, and **adjacent properties from degradation**.

This is very important! **Runoff velocity to adjacent property poses erosion concerns. Again, codes reference local authority here in detail.**

3.4-6 OMDPC Soil Tests: When soil tests are performed, a soil investigation report shall be submitted to the **authority having jurisdiction**. Soil investigation reports shall be made by an **independent** Oregon certified engineering geologist, Oregon registered licensed geotechnical engineer, Oregon professional engineer, or by a laboratory conforming to the requirements of ORS Chapter 672

10-2.3 Suitability of Site OMPDC: (b) The authority having jurisdiction shall consider the condition of the soil, ground water level, drainage, and topography of the land **prior to issuing construction permits**.

I request that an independent (emphasis) certified technician (stated above example) be allowed to perform an independent soil investigation for soil bearing capacity.

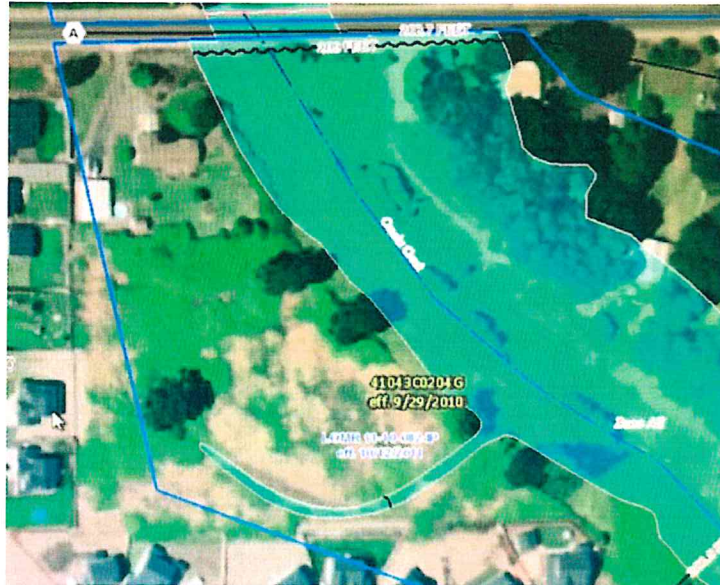
3-2.4.1 OMPDC (a) When manufactured dwellings are to be located in a **flood hazard zone**, according to the Flood Insurance Rate Map (FIRM), a **FEMA elevation Certificate shall be submitted to the authority having jurisdiction**.

I request that a FEMA Elevation Certificate be added to conditions of Approval

3-2.4.2 OMDPC: Floodways, as identified on National Flood insurance program (NFIP) maps, are generally along the waterway's edge and carry most of the floodwater. The water in a floodway is often deeper and faster than in the adjacent floodplain. Homes in floodways are subject to greater damage

and risks to the occupants than homes in a floodplain; **therefore, new installations of manufactured dwellings in floodways are prohibited.**

FEMA flood map



After review of FEMA flood maps and OMPDC 3-2.4.2, the south property line of the proposed site is certified by FEMA to be an area flood zone hazard; therefore, it is **illegal** to build new manufactured dwellings along the south property line.

I request no manufactured dwelling installations be built on government certified flood plains as an additional condition of approval, based on above stated OMPDC 3-2.4.2.

Flooding onto propose MDP site, April 2, 2019
(Picture taken from Crooks Creek at Millersburg Dr,)



**Crooks Creek, at the southeast property line of proposed MDP.
(water is extending towards proposed MDP site)**



PART 3 - Miscellaneous, important codes

Seismic Zone 3 requirements: 3.2.5.2 OMDPC manufactured dwellings in Seismic Zone 3 shall comply with the structural requirements by OMDPC 3.2.5.2 (a) (b) (c). (see exhibit B). The proposed site is designated as a zone 3.

I request certification of seismic zone 3 structural criteria be applied to conditions of approval. (see exhibit B)

10-2.1 OMDPC Land Use: No manufactured dwelling park or mobile home park shall be **constructed**, altered, converted, or expanded unless it is in accordance with comprehensive plan and local zoning ordinance and meets the requirements of this code.

- (a) The local planning department is **given specific authority** to establish reasonable criteria related to the following as long as the criteria for a park is not less than the minimum requirements in this code and not greater than the requirements for single family uses in the underlying zone.

10-2.1 14 (b) The **local planning department may prohibit the disturbance of certain aspects of the land having a redeeming value, such as land with mature trees, geological formation, waterways, or historical significance.**

Again, clear authority is given to the local planning commission. This land is a designated riparian wetland, has mature Oak trees, and yields breeding grounds for several migratory birds species, among other ecological considerations. This site certainly rises to the level of "redeeming value".

I request conditions of approval be placed to preserve DSL certified wetlands, and that no mature trees be cut down.

10-2.3 OMPDC Suitability of Site: (a) Manufactured dwelling parks or park expansions shall not be located on land that is unsuitable due to **swampy terrain, lack of drainage, or proximity to the breeding places of rodents or vermin** unless improvements have been made to the land to eliminate or control the hazards and such improvements are acceptable to the **authority having jurisdiction**.

This code is important enough that is stated twice in the OMPDC (see 3-4 3.1). Again, the planning commission has discretion to deny the proposed MDP based on "proximity to the breeding places of rodents or vermin". It is estimated 20% of mice in Oregon carry Hanta virus, which can cause a life-threatening respiratory illness. It's conceivable that in 10, 20, or 30 years from now, mice or rat infestations in an older, dilapidated MHP would pose a public health risk.

10-3.1 OMPDC Park Design. Manufactured dwelling parks shall be designed to provide reasonable **safeguards against fire and other hazards** according to the following: (a) manufactured dwellings, park buildings, accessory buildings, and accessory structures shall be arranged in a manner that **does not prevent or restrict access by emergency equipment and personnel**.

Senior Deputy Fire Marshal Lora Ratcliff in response to proposed MDP -

"Albany Fire has concern in regard to the 20-foot required width minimum remaining unobstructed. With only one way in, one way out, and minimal designated parking spaces, this project has the strong potential for illegal parking within the required fire access lane. Illegal parking will greatly impact the fire department's ability to respond adequately and timely in a medical or fire emergency. If the road is allowed to be constructed to meet the only minimum 20-foot width, this site could potentially pose a fire and life safety hazard to its occupants as well as become a compliance nightmare."

10-3.1 Fire trucks are 8 feet wide, have 4 foot stabilizers on both sides for boom lifts. This is 16 feet or 4/5ths of the proposed width of the MDP road. You have to take into consideration other emergency vehicles and potential illegally parked cars; ambulances, police vehicles, multiple fire trucks could all potentially need to respond to the same emergency, and they would not have enough room to operate. This is not tenable. I recommend additional conditions of approval be placed to the specifications recommended by Senior Deputy Fire Marshal Lora Ratcliff.

Conclusion

In conclusion, the planning commission has an important decision to make that will affect our community for years and decades. Mr. William Eddings does not reside in our community, and nor should his MDP. It is inconsistent with the city's "comprehensive plan" for development. Despite Mr. Reeder's statements and memo relegating the planning commission role, stating their authority is "very limited" in applying law, the OMDPC and other ORS statues, make it clear that you have both discretion and authority. If it didn't, Mr. Eddings would not need or seek your approval. The proposed site DOES NOT is in violation of many OMDPC codes in a multitude of ways, and this application should be denied outright. I request the planning commission deny Mr. William Eddings's application on May 21st, 2019.

Sincerely,



Corbett Richards
Resident, Millersburg, OR

Exhibit A - DSL wetlands delineation report



Oregon

Kate Brown, Governor

April 18, 2019

Attn: William Eddings
1979 Clover Ridge Road NE
Albany, OR 97322

Re: WD # 2019-0045 Wetland Delineation Report for the
Eddings Manufactured Home Park, Linn County;
T 10S R 3W S17D TL 600

Department of State Lands
775 Summer Street NE, Suite 100
Salem, OR 97301-1279
(503) 986-5200
FAX (503) 378-4844
www.oregon.gov/dsl
State Land Board

Kate Brown
Governor

Bev Clarno
Secretary of State

Tobias Read
State Treasurer

Dear Mr. Eddings:

The Department of State Lands has reviewed the wetland delineation report prepared by Zion Natural Resources Consulting for the site referenced above. Based upon the information presented in the report, we concur with the wetland boundaries as mapped in Figure 6 of the report. Please replace all copies of the preliminary wetland map with this final Department-approved map.

Within the study area, two wetlands (Wetland A and B), totaling approximately 0.20 acres were identified. Both wetlands are subject to the permit requirements of the state Removal-Fill Law. Under current regulations, a state permit is required for cumulative fill or annual excavation of 50 cubic yards or more in the wetlands or below the ordinary high-water line (OHWL) of the waterway (or the 2-year recurrence interval flood elevation if OHWL cannot be determined).

This concurrence is for purposes of the state Removal-Fill Law only. Federal or local permit requirements may apply as well. The Army Corps of Engineers will determine jurisdiction for purposes of the Clean Water Act. We recommend that you attach a copy of this concurrence letter to both copies of any subsequent joint permit application to speed application review.

Please be advised that state law establishes a preference for avoidance of wetland impacts. Because measures to avoid and minimize wetland impacts may include reconfiguring parcel layout and size or development design, we recommend that you work with Department staff on appropriate site design before completing the city or county land use approval process.

This concurrence is based on information provided to the agency. The jurisdictional determination is valid for five years from the date of this letter unless new information necessitates a revision. Circumstances under which the Department may change a determination are found in OAR 141-090-0045 (available on our web site or upon request). In addition, laws enacted by the legislature and/or rules adopted by the Department may result in a change in jurisdiction; individuals and applicants are subject to the regulations that are in effect at the time of the removal-fill activity or complete permit application. The applicant, landowner, or agent may submit a request for reconsideration of this determination in writing within six months of the date of this letter.

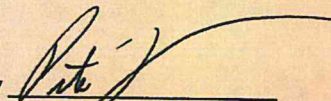
Thank you for having the site evaluated. Please phone me at 503-986-5262 if you have any questions.

Sincerely,



Matt Unitis
Jurisdiction Coordinator

Approved by



Peter Ryan, PWS
Aquatic Resource Specialist

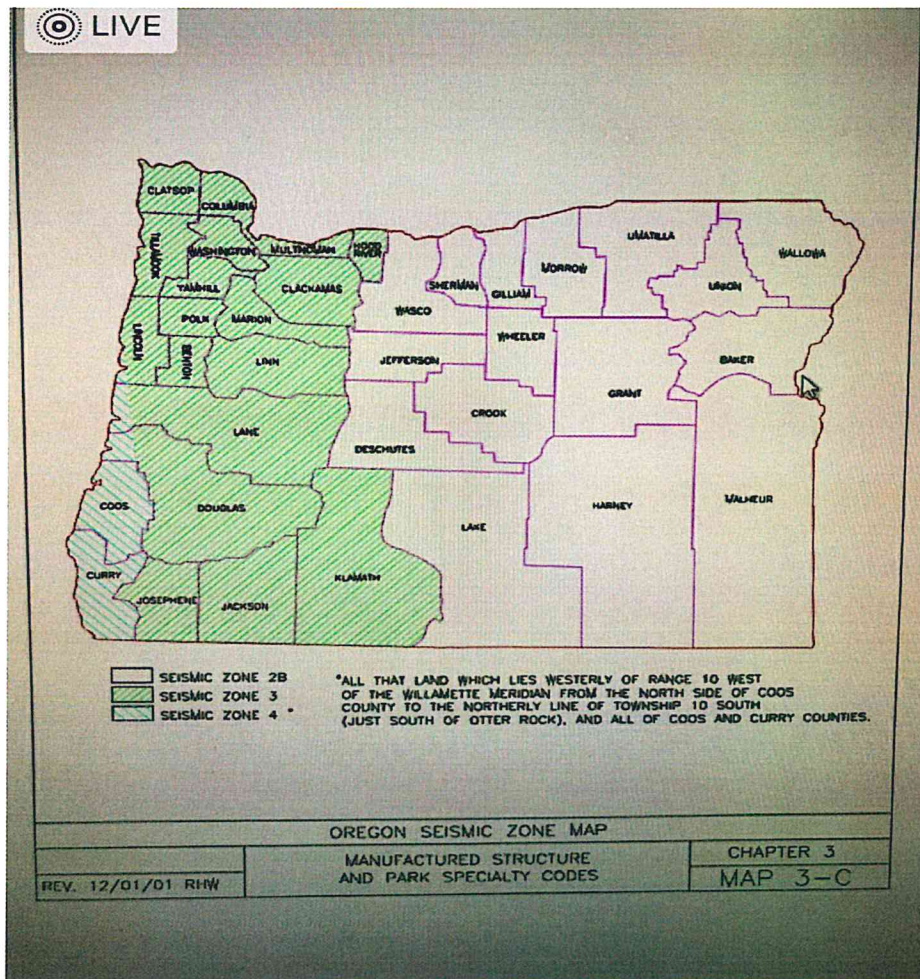
Enclosures

ec: Eric Henning, Zion Natural Resources Consulting
City of Albany Planning Department (Maps enclosed for updating LWI)
Andrea Wagner, Corps of Engineers
Carrie Landrum, DSL

Exhibit B - OMPDC structural requirements for zone 3

3-2.5.2 Seismic Zone 3. Manufactured dwellings in Seismic Zone 3 shall comply with the following (see Map 3- C): (a) Manufactured dwellings shall be limited in height to 3 feet (91 cm) as measured from the top of the footing to the bottom of the main frame for 75 percent of the under-floor area; (b) Manufactured dwellings shall be limited in height to 6 feet (183 cm) as measured from the top of the footing to the bottom of the main frame for 25 percent of the under-floor area; (c) The fuel gas supply to the manufactured dwelling shall be made with a 6 foot (183 cm) flexible gas connector; and (d) The maximum height limitations identified in this section may be exceeded when the support system is designed for the appropriate wind and/or seismic zones by an Oregon professional engineer, architect, or manufacturer's DAPIA approved plans, and accepted by the authority having jurisdiction.

Exhibit C (Page 75, OMDPC, seismic zone map, Oregon)



4/28/19

To Whom It May Concern,

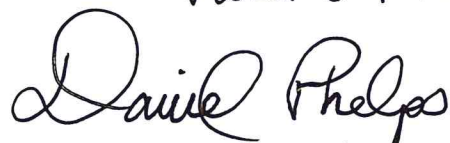
As Owners of the property
at 2690 Millersburg Dr NE, Albany, OR,
We have No intention of allowing an
easement on this property. We will
not allow an easement on ANY
part of the property.

We have already experienced
heavy flooding on our land that
backs to the proposed building site.
Pictures attached.

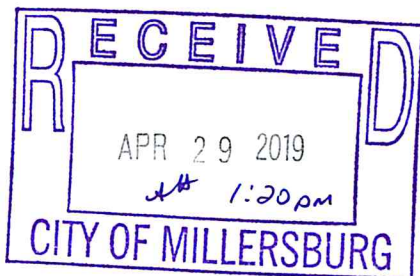
Thank You,



Valerie Phelps, Owner



David Phelps, Owner









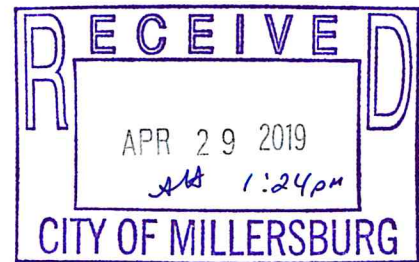




6212 Mesa Ct.
Albany, Oregon 97321

April 25, 2019

The City of Millersburg Planning Commission
4222 NE Old Salem Road
Albany, Oregon 97321



To the City of Millersburg Planning Commissioners and To Whom It May Concern,

In addition to my previous letter dated April 22, 2019 I am bringing forth additional concerns and request for denial of the proposed CUP 19-01 and SP 19-01 Evening Star Manufactured Home Park.

I previously addressed how the application does not meet requirements for criteria a, b, and g. I would also like to bring the following to the attention of the commission to show further areas of concern with the proposed project.

- 1) Conflict with the City of Millersburg Comprehensive Plan: Chapter 9.5 – Residential Land Use Policy 8, Residential areas shall be protected from excessive through traffic, conflicting land uses, or other encroachments that would impair a safe, quiet living environment.
 - a. Regarding the parking situation discussed at the Planning Commission meeting. The proposed plan shows that residents will have 2 parking spaces per unit with 4 overflow parking spaces in total for the entire 28 unit park. In addition, there will not be any allowed spaces to park on the street due to the narrow width proposed. When visitors of the Evening Star Manufactured Home Park come to visit and find all the overflow parking occupied, they will be looking for parking elsewhere. If they follow the “rules” and do not park along the narrow Park street (which was previously discussed as being a safety hazard due to emergency vehicles not being able to get around on a narrow drive). They will look for the closest street parking to the residence. There is no street parking along Millersburg Drive. This leads me to believe that the visitors will park along the entrance to the Becker Ridge subdivision along Sedona Rd. If we are being honest, having 28 proposed units and no parking along the park street with only 4 overflow parking spots creates an issue. When visitors begin to park along Sedona Road we are now talking about increasing traffic and creating other encroachments that would impair a safe, quiet living environment to Becker Ridge residents which should be protected by the above-mentioned policy 8. This again shows that proposed project conflicts with the City of Millersburg Comprehensive Plan (criteria a) and therefore the project should be denied.
- 2) There is also conflict with the Comprehensive plan under chapter 9.4, “The City recognizes the need for an adequate supply of sound, decent and attractive housing which includes a variety of types and designs which are responsive to community needs.” (9.400-22) Community need is not present for more affordable housing especially considering the lack of available jobs in the area. The residents would need to drive outside the city to find available job growth at this time.

- 3) I also want to remind and show support for the Planning Commission to revisit the staff recommendation for the project to have the same design standards as those required for public streets. With the “proposed project being a conditional use permit the Planning Commission has the authority to impose conditions deemed necessary for health, safety, and welfare.” (Section 5.117(4))
- 4) It also does not matter if the land was built up surrounding the site. With Mr. Eddings buying the land after the development of adjacent property he is still required to meet the screening guidelines at line of sight from adjacent/perpendicular properties (which is elevated 8-9 feet from the proposed property). This is not possible without a condition of approval that trees will need to meet the 80% opaque line of sight requirement. This would require a lot more than the additional canopy tree at each space. It would mean the applicant would need to install trees along the perimeter which grow to at least 14 feet in height within 2 years (8 feet elevation difference plus the 6 feet requirement). **Please consult the city’s attorney regarding the applicant stating that they do not need to meet the perimeter screening/buffering requirement.** The conditions of approval need to be bolstered here:

“The applicant shall include one additional sight obscuring, large canopy tree on each unit space along the south and west of the park, including along the west side of the entry drive. The trees should be at least 24” box in size, 7 feet tall at planting, and that will grow to substantial canopy within 5 years, at which time they must provide at least 80% opacity when viewed from at least 6 feet in height from a perpendicular line of sight (from adjacent property). The canopy at full growth should not overhang the property lines of the park site. All planting must be completed prior to occupancy of any manufactured home.” Highlighted emphasis added.
- 5) The traffic study was conducted on January 29, 2019. I ask the Planning Commission to cross reference this date with the construction that was going on along Millersburg Drive for many weeks around that same time.
- 6) The additional documents submitted by the applicant showing the profile of space 26 that represents what a typical space will look like does not show the grade along the perimeter sites correctly. Typical profile of “existing ground” is not accurate to the elevation levels between the properties that it borders along the South and West.
- 7) If the applicant is to argue that the street lighting cannot have a condition attached to it and lighting will not be screened, then the adjacent neighbors to the South and West of the proposed property will be affected greatly by light pollution without proper screening to protect them. Even with screening that directs the light downward, if any light emits from the sides of the street lights it will shine directly in to the homes that are adjacent to the proposed projects property due to the elevation difference on the South and West. It is **imperative for the planning commission to deny this project to reduce the effects the street lights, and the subsequent light pollution, will have on the current adjacent residents. This is a major health concern to the adjacent residents! If the screening does become a condition of approval, please be sure it is highly detailed where NO light shall shine directly in to the adjacent residences to help prevent health issues.**
- 8) According to the FEMA National Flood Hazard Layer FIRMette map, there are special flood hazard areas that extend in to the south portion of the proposed project property. This is

more so than the originally though small “bubble” of flood zone. Please see attached map for the current special flood hazard areas on the proposed projects property. The special flood hazard area on the property is labeled “Zone AE” and needs to be examined further as far as the impacts it has. The current proposed site plan shows home sites directly in the flood hazard area. According to FEMA, “The land area covered by the floodwaters of the base flood is the Special Flood Hazard Area (SFHA) on NFIP maps. The SFHA is the area where the National Flood Insurance Program's (NFIP's) **floodplain management regulations must be enforced and the area where the mandatory purchase of flood insurance applies.** The SFHA includes Zones A, AO, AH, A1-30, **AE**, A99, AR, AR/A1-30, AR/AE, AR/AO, AR/AH, AR/A, VO, V1-30, VE, and V.” (Map attached)

It is also important to note that the wetland and special flood hazard area on the proposed projects property clearly constitutes a “unusual and special feature”. For the proposed sites that are to be in the flood hazard area, an elevation certificate is required per the Oregon Manufactured Dwelling and Park Specialty Code 1-6.7 (h). The applicant will also need to include the base flood elevation in the permit application per section 1-7.2 (j). The authority having jurisdiction shall also require evidence of flood hazard mitigation when reviewing plans prior to issuing a permit when the site is in a flood hazard area as designated on the Flood Insurance Rate Maps (FIRM) per section 1-7.11 (c). There is also an entire section in 3-2.4 titled “Flood Hazards” of strict standards that needs to be reviewed before approving the site plans and placing manufactured homes. (see attached)

According to the Department of State Lands, “State law also establishes a preference for avoidance of wetland impacts.”

Images below are of the flood plain approximately 2/3 of the way in from Crooks Creek along the special flood hazard area on proposed projects property. *Taken 04/24/19*





- 9) Lastly, I ask that the city not to allow any variances for conditions of approval. The proposed project is incompatible with the surrounding low-density neighborhoods. With all of this in mind, the city should properly exercise its discretion and deny the proposed project based on violation of the comprehensive plan in addition to not meeting the requirements for the majority of criteria a-g.

Sincerely,

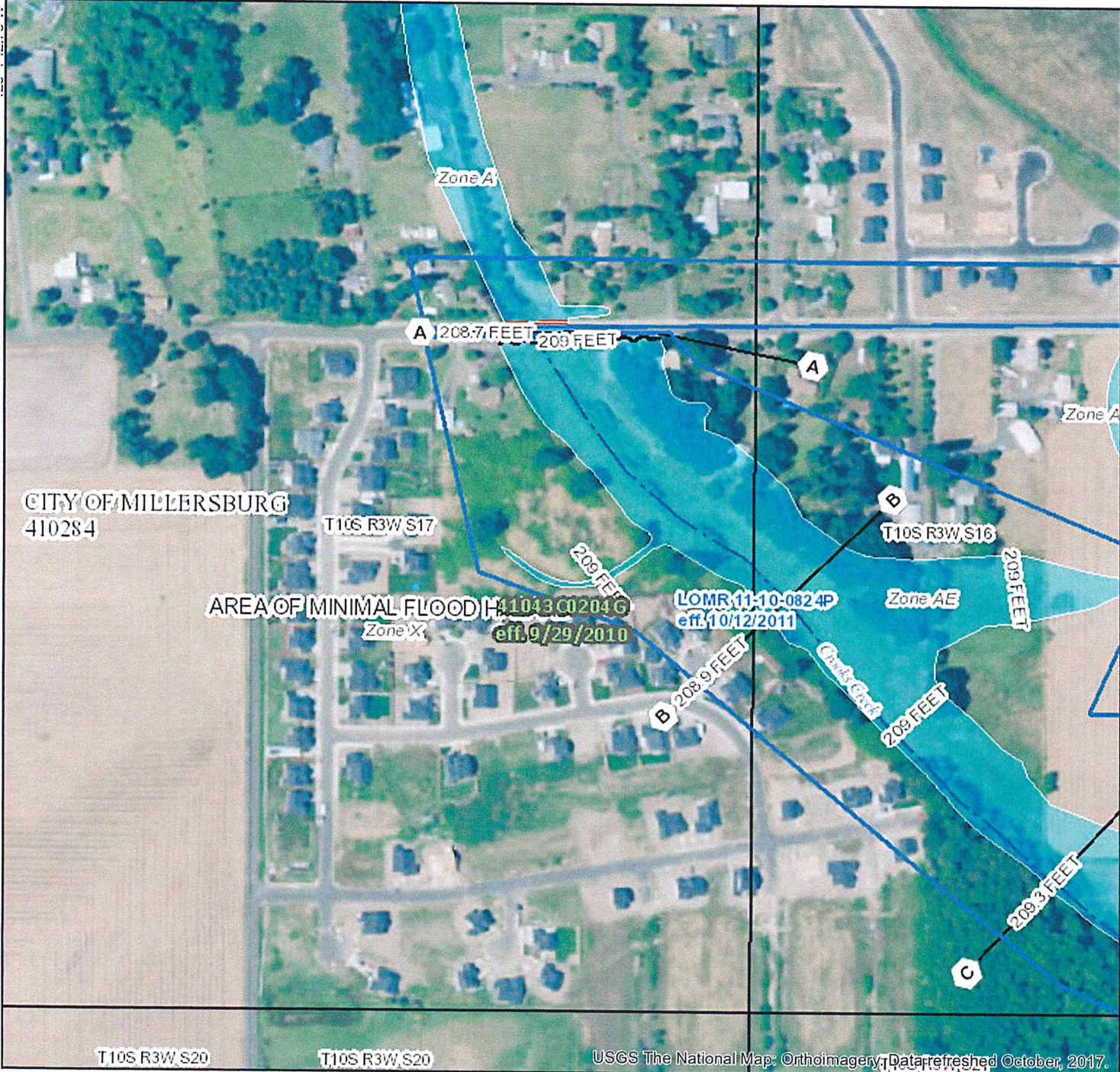
A handwritten signature in black ink, appearing to read "Erin Brazel". The signature is written in a cursive, flowing style.

Erin Brazel

National Flood Hazard Layer FIRMette



44°42'1.79"N



Legend

SEE FIS REPORT FOR DETAILED LEGEND AND INDEX MAP FOR FIRM PANEL LAYOUT

SPECIAL FLOOD HAZARD AREAS		Without Base Flood Elevation (BFE) Zone A, V, A99
		With BFE or Depth Zone AE, AO, AH, VE, AR
		Regulatory Floodway

OTHER AREAS OF FLOOD HAZARD		0.2% Annual Chance Flood Hazard, Areas of 1% annual chance flood with average depth less than one foot or with drainage areas of less than one square mile Zone X
		Future Conditions 1% Annual Chance Flood Hazard Zone X
		Area with Reduced Flood Risk due to Levee. See Notes, Zone X
		Area with Flood Risk due to Levee Zone D

OTHER AREAS		Area of Minimal Flood Hazard Zone X
		Effective LOMRs
GENERAL STRUCTURES		Area of Undetermined Flood Hazard Zone I
		Channel, Culvert, or Storm Sewer
		Levee, Dike, or Floodwall

OTHER FEATURES		Cross Sections with 1% Annual Chance Water Surface Elevation
		Coastal Transect
		Base Flood Elevation Line (BFE)
		Limit of Study
		Jurisdiction Boundary
		Coastal Transect Baseline
OTHER FEATURES		Profile Baseline
		Hydrographic Feature

MAP PANELS		Digital Data Available
		No Digital Data Available
		Unmapped

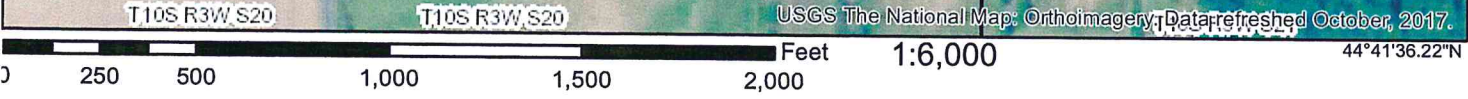


The pin displayed on the map is an approximate point selected by the user and does not represent an authoritative property location.

This map complies with FEMA's standards for the use of digital flood maps if it is not void as described below. The basemap shown complies with FEMA's basemap accuracy standards

The flood hazard information is derived directly from the authoritative NFHL web services provided by FEMA. This map was exported on 4/29/2019 at 4:12:45 PM and does not reflect changes or amendments subsequent to this date and time. The NFHL and effective information may change or become superseded by new data over time.

This map image is void if the one or more of the following map elements do not appear: basemap imagery, flood zone labels, legend, scale bar, map creation date, community identifiers, FIRM panel number, and FIRM effective date. Map images for unmapped and unmodernized areas cannot be used for regulatory purposes.





100ft

-123.074 44.698 Degrees

Oregon Manufactured Dwelling and Park Specialty Code

3-2.4 Flood Hazards. 3-2.4.1 Flood Hazard Areas. Manufactured dwellings may only be located in hazardous areas according to the following minimum requirements: (a) When manufactured dwellings are to be located in a flood hazard zone, according to the Flood Insurance Rate Map (FIRM), a FEMA Elevation Certificate shall be submitted to the authority having jurisdiction; (b) Manufactured dwellings located in a flood hazard zone shall have the finished floor elevated a minimum of 18 inches (46 cm) above the Base Flood Elevation (BFE) as identified on the FIRM. When the Base Flood Elevation has not been established within a flood hazard zone, the finished floor shall be elevated to the elevation established by the Flood Plain Administrator. (see Figure 3-2.4.1A): 1. Where a manufactured dwelling has a ground level or pit set installation, the manufactured dwelling stand shall be a minimum of one foot (305 mm) above the BFE unless openings are provided per FEMA Technical Bulletin 1-93. (see Figure 3-2.4.1B); 2. Where a manufactured dwelling is installed over a basement, the floor of the basement, whether finished or unfinished, shall be a minimum of one foot (305 mm) above the BFE or openings are provided per FEMA Technical Bulletin 1-93. (see Figure 3-2.4.1C); 3. Manufactured dwelling electrical and mechanical components and equipment shall be elevated a minimum of one foot (305 mm) above the BFE. Under-floor crossover ducts are exempt from this requirement; and 4. Plumbing openings below the elevation of one foot (305 mm) above the BFE shall be flood proofed and equipped with backwater valves.

3-2.4.4 Local Requirements. The local flood plain manager may require manufactured dwellings to be located higher than the minimum requirements of this code when justified by updated mapping of the specific area. When fill is used to elevate a manufactured dwelling above the BFE, the local flood plain manager may require an equal amount of earth be removed from the same lot so the fill will not cause a net rise in the water level. Local requirements for manufactured dwellings in flood hazard areas should be no greater than the requirements for other types of single family residential construction in the same area. Because of the substantial increased cost of raising a manufactured dwelling an additional 30 inches (76 cm) in height {48 inches (122 36 cm) above the BFE}, this code allows the under-floor crossover ducts to be located below the BFE. The crossover ducts are considered to be expendable since their replacement cost is minimal in comparison to the cost of elevating the home.

3-2.4.5 Flood Resistant Anchoring. To resist flotation, collapse, or lateral movement during a base flood; manufactured dwellings located in a flood hazard area shall be anchored according to one of the following. Manufactured dwellings may only be: (a) Installed on positive connection piers and anchored with approved ground anchors; (b) Supported on and secured to an approved foundation wall or basement wall; (c) Attached to an approved structural skirting system; or (d) Supported on and secured to a foundation system capable of resisting flooding that was designed by an Oregon professional engineer or architect and approved by the authority having jurisdiction.

3-4.1 Suitability of Site. Each site shall be suitable for its intended use and acceptable to the authority having jurisdiction based on this code and local land use regulations. Manufactured dwellings shall not be located on land that is unsuitable due to swampy terrain, lack of drainage, or proximity to the breeding places of rodents or vermin unless improvements have been made to the land to eliminate or control the hazards. In areas having highly expansive, compressible, or shifting soils, the authority having jurisdiction may require a soil test.

3-4.2 Unforeseen Factors. When unforeseen factors are encountered (i.e., rock formation, high ground water levels, springs, or biological generated gasses), corrective drainage work, acceptable to the authority having jurisdiction, shall be completed prior to the siting of the manufactured dwelling or cabana.

3-4.3 Grading and Drainage. Site grading and drainage shall provide the following: (a) Roof run-off from manufactured dwellings, cabanas, and accessory buildings shall be adequately diverted away from the structures; (b) Lots and stands shall be provided with adequate drainage and shall be properly graded to divert surface water away from manufactured dwellings, accessory buildings, and accessory structures. (see Figures 3-4.3A and B); (c) Dry wells or French drains shall be used for storm drains only when the soils are suitable for subsurface disposal of storm water; (d) The top of any exterior foundation wall, perimeter retaining wall, or basement wall shall extend a minimum of 12 inches (305 mm) above the elevation of the street or driveway adjacent to the manufactured dwelling except where it can be demonstrated to the authority having jurisdiction that an alternate elevation will provide adequate drainage away from the manufactured dwelling; (e) Lots shall have sufficient drainage to prevent standing water, excessive soil saturation, or erosion from becoming detrimental to the lot, stand, or any structures; (f) The ground within a five (5) foot (152 cm) perimeter adjacent to a stand shall be graded to a minimum fall of 3 inches (76 mm) in 5 feet (152 cm) (see Figure 3-4.3A, B and C). Alternate grading methods may be used when needed and approved by the authority having jurisdiction within this 5 foot (152 cm) perimeter space; (g) Sidewalks, walkways, patio slabs, or driveways abutting the manufactured dwelling stand or foundation shall have a slope of ¼ inch (6 mm) per foot (305 mm) to divert water away from the stand or foundation; (h) The slope of cut or fill surfaces shall be no steeper than is safe for the intended use according to Section 401.6 of the Oregon One and Two Family Dwelling Specialty Code; (i) Setbacks and clearances from ascending and descending slopes shall be according to Section 401.6.1 of the Oregon One and Two Family Dwelling Specialty Code (see Figure 3-4.3D); (j) Concrete poured along side a manufactured dwelling, shall be graded away from the manufactured dwelling at minimum grade of ¼ inch per foot (6 mm per 305 mm) and shall be no closer than 3 inches (76 mm) vertically to any untreated wood or siding (see Figure 3- 4.3E); and (k) Earth back-filled along side a manufactured dwelling, shall be graded away from the manufactured dwelling at a minimum grade of 3 inches in 5 feet (76 mm in 152 cm). Earthen back fill shall be no closer than 6 inches (15 cm) vertically to any untreated wood or siding (see Figure 3-4.3F).

Evening Star Manufactured Home Park

55 +

Evening Star Park, rules and regulations must be followed and signed by all residents. We want all residents to fill safe and have pride in this community. This Park is your home and your community.

MANAGEMENT APPROVAL

Applications must be approved by Management before they began to live in the park.

The Park policy is that all residents shall complete an application and screening, which includes residences where the applicant has lived in the past 7 years.

Screening will consider your credit reports, public records and criminal records. Your application gives us permission to contact your employers, and landlords.

Management has the right to reject an applicant for any reason, not prohibited by law. If an applicant provides false or misleading statements in the rental application, they will not be approved for residency.

Total number of permanent residents in any mobile home shall not be greater than 2 persons.

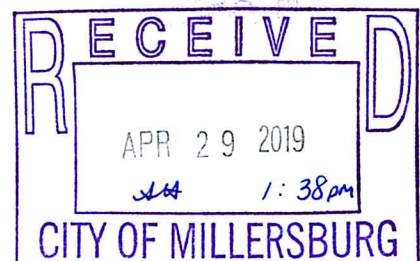
Residents must give 30 days notice of a contemplated sale of the home to make certain that it complies with Oregon law and park policies before it is sold.

The Resident cannot finalize the sale of the home on the lot until Management has screened and approved the potential purchaser.

GUESTS

Guests must respect the rules and regulations of the manufactured home park.

Residents must notify management of guests staying longer than 14 days. No one may stay in home when resident is not present.



Residents who need a full time caregiver must have them cleared with a background check prior to entering the park. Caregivers are to vacate the residence when the services are no longer needed.

House sitting is not permitted.

RECORDS OF OWNER

Residents must provide a copy of proof of ownership of manufactured home. All homes must be titled by The State of Oregon and a copy must be provided to management.

Resident must provide contact number in case of an emergency.

CONDUCT

It is required that all residents respect the rights of others. Repeated complaints to management, after arbitration may be cause for evection.

Quiet time from 9pm – 7:30am.

Residents need be considerate of neighbors.

Causing disturbances to other residents shall not be tolerated. All state and local laws shall be observed by residents.

Excessive shouting, abusive language, loud music/televisions and disturbing noises are not permitted.

The manufacturing, processing, planting, growth, cultivation, smoking, and distribution of marijuana is strictly prohibited within the community. This also applies to inside the homes. This includes residents who have a valid medical marijuana medical card for use of or growing such plants.

No open containers of alcohol permitted outside of residences' space, also they are not permitted in any common areas.

MOBILE HOME and LAW STANDARDS

All manufactured homes, carports, accessories, alterations or additions shall comply with Federal, State and Local statues and ordinances as to their construction, installation and maintenance.

Manufactured homes including awnings, deck and steps are required to be approved by management.

Management reserves the right to refuse admission of manufactured homes, which does not meet park standards, conditions or appearance.

Management shall approve paint colors, consistent appearances in the park.

Appearance of Deck shall be kept clean and free of rubbish.

Each resident shall be responsible for maintaining, keeping clean, and repairing the exterior of home.

Common areas, driveway and streets and resident space shall be clear from trash.

Garbage shall be deposited in proper containers. (Oregon State Law)

No storage is allowed beneath the home. No rubbish will be allowed to accumulate. (Oregon State Law)

Residents' cans, gardening tools, equipment etc. must be stored in resident storage shed.

Residents are responsible for maintaining all lawn areas, flowers, trees and shrubbery within their space.

Lawns must be mowed on a regular basis during Spring/Summer/Fall-growing season. Must be edged, kept free of clutter/weeds and watered as necessary.

AUTOMOBILE, MOTORCYCLE and PARKING

Speed limit is 10 miles per hour all times.

Each space is provided with 2 parking spots.

As permitted by law, vehicles parked in violations of park rules, parked in fire zones, roadway, blocking access to a residence will be towed at owner's expense.

Residents registration of cars must be provided to management.

Vehicles not properly muffled or with malfunctioning mufflers are not allowed in park.

Vehicles not in operating condition or not licensed are not allowed.

No minor repair or general maintenance. Washing of vehicles is permitted.

PETS

Cats or dogs are limited to two per household. Fish and small caged animals are allowed without a pet application, no snakes.

Every pet owner must fill out a Pet Agreement. To be valid, resident must provide a picture of pet and a current rabies vaccination certificate before pet can live on property. Records are to be kept in resident folder.

Service dogs are allowed by law, official paperwork must be provided to management.

These dog breeds are not permitted under any circumstances: Chow, Rottweiler, Doberman, (bull of any kind) Blue Heeler, Huskies, Malamutes, German Shepherd (Shepherd of any kind) Wolf-hybrid and any other breed or mix as determined by park owner. No dogs over 25 pounds.

All pets must be on a leash no longer than 6ft.

Pets are not allowed to roam onto other home areas.

Your pet must go to bathroom in your yard only.

SERVICES

Managers will provide water, sewage, electrical lines to household connection. Residents are responsible for electric, garbage, telephone, TV and internet payments.

RESIDENT HAS RECEIVED A COPY OF THE ABOVE RULES AND REGULATIONS, HAS READ THEM AND WILL ABIDE BY THEM.

RESIDENT _____ DATE _____

RESIDENT _____ DATE _____

Jake Gabell

From: Janelle Booth
Sent: Monday, April 29, 2019 3:06 PM
To: Jake Gabell
Subject: FW: Evening Star LLC CUP 19-01; SP 19-01 | Open Record Submittal
Attachments: Bill Eddings Ltr re Fire Department Email 042519.pdf

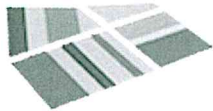
From: Mike Reeder <mreeder@oregonlanduse.com>
Sent: Monday, April 29, 2019 2:47 PM
To: Matt Straite <mstraite@cityofmillersburg.org>
Cc: william eddings <williameddings@gmail.com>; nbickell0027@aol.com; Janelle Booth <jbooth@cityofmillersburg.org>; Kevin Kreitman <kkreitman@cityofmillersburg.org>; lora.ratcliff@cityofalbany.net
Subject: Evening Star LLC CUP 19-01; SP 19-01 | Open Record Submittal

Dear Mr. Straite:

Please see the attached and enter into the record of the above-referenced application on behalf of Evening Star LLC and William Eddings. Please confirm receipt.

Respectfully,

Mike Reeder
Attorney for Evening Star LLC



Law Office of Mike Reeder
Oregon Land Use Law

Office: (458) 210-2845 | oregonlanduse.com
375 W. 4th Ave., Suite 205, Eugene, OR 97401

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William Eddings

1979 Clover Ridge Rd Albany, Or 97322

To whom it my concern, this letter is to summarize my meeting with the Albany Deputy Fire Marshal, Lora Ratcliff.

On the Morning of April 23,2019, I went to the downtown Albany Fire Department. I was intent on discussing the drastic difference in the two letters produced by the fire department, January, 8, 2019 and March 12, 2019. I asked to see the Chief, but the secretary thought I should meet with the Deputy Fire Marshal, as she wrote the letters. I agreed to start there.

I presented Ms. Ratcliff with the letters and asked why she had made the changes. I also asked who she talked with in doing so, she stated she had talked to the Fire Chief.

Ms. Ratcliff stated that I did not have enough parking. I told her that I had two parking spaces per dwelling and four visitor spaces. Ms. Ratcliff commented she did not know that. I asked if she would like to see my engineered drawings. We reviewed my engineered drawings, with me pointing out the parking spaces. Also, we looked at the width of my roadway and its radiuses. I pointed out that I have by design 20 ft travel surface and a 4 ft walkway.

I then brought out my book with the City's criteria and the State's chapter 10. I pointed out, in the State's code table 10C, the requirements for the roadway.

Ms. Ratcliff agreed I met the code.

I told Ms. Ratcliff that I really appreciate the fire department as the day before Thanksgiving, the guys in ambulance #13 saved my life.

We discussed my service in the Navy CBs, I informed her I had a service connected disability. She thanked me for my service. We discussed my dislike at being, by view point, wronged by the City.

Later that morning I emailed Ms. Ratcliff and asked if she could amend her letter (see attached).



Respectfully, William Eddings

Get news releases and emergency notifications from the City of Albany by email or text message. Sign up at [redacted] or text 97321 to 888-777.

From: william eddings <[redacted]>
Sent: Tuesday, April 23, 2019 11:01 AM
To: Ratcliff, Lora <[redacted]>
Subject: Manufactured Home Park.

[External Email Notice: Avoid unknown attachments or links, especially from unexpected mail.]

Ms. Ratcliff, after reviewing my drawings with me and seeing my parking details. I was wondering if you could admend your letter to the city. If so could you cc me. Good meeting you and thanks for your time.
William Eddings

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Manufactured Home Park.

Ratcliff, Lora <Lora.Ratcliff@cityofalbany.net>
To: william eddings <williameddings@gmail.com>

Tue, Apr 23, 2019 at 3:04 PM

William,

Fire's comments were based on a basic site plan which showed just a few spaces for visitor parking and was based on first-hand experience/knowledge of the access constraints inherent with manufactured home parks. The 20 foot unobstructed access requirement is an absolute must and per our conversation this morning I see you've taken steps to ensure compliance:

- NO PARKING restriction placed on the entire access road
- This NO PARKING restriction and towing capabilities written into CC&R's
- Two parking spaces provide on each lot

I looked at three other similar sites in Albany, two of which are manufactured dwelling parks, which have no on-road parking and provided two parking spaces per lot. These sites were clear of cars on the road and the access remained open. They had varying road widths ranging from 25' to 28'. It is my opinion that they would be just as successful with 20', as you're proposing.

The comment in my original letter is still a valid concern – which you can demonstrate you'll be mitigating with the bullet points above. I want to keep the concern to show history as to why the need for the No Parking restriction and providing of two on-site parking spots per lot.

Thank you for stopping in to speak with me and please call or email with any questions you may have.

Sincerely,



Senior Deputy Fire Marshal - Compliance
541-917-7728 phone

City of Albany, Oregon

Jake Gabell

From: Janelle Booth
Sent: Monday, April 29, 2019 3:07 PM
To: Jake Gabell
Subject: FW: Periwinkle Manufactured park - Open Record Submittal - Evening Star LLC
Attachments: 20190423_141653.jpg

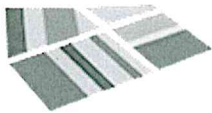
From: Mike Reeder <mreeder@oregonlanduse.com>
Sent: Monday, April 29, 2019 2:57 PM
To: Matt Straite <mstraite@cityofmillersburg.org>
Cc: william eddings <williameddings@gmail.com>; nbickell0027@aol.com; Janelle Booth <jbooth@cityofmillersburg.org>; Kevin Kreitman <kkreitman@cityofmillersburg.org>; lora.ratcliff@cityofalbany.net
Subject: FW: Periwinkle Manufactured park - Open Record Submittal - Evening Star LLC

Dear Mr. Straite:

Please introduce the attached image and this email into the record for the Evening Star LLC application. The attached photo illustrate the current conditions at Periwinkle Place, 1700 Periwinkle Circle, SE Albany 97322. This manufactured dwelling park has 32 spaces and 18 foot wide travel surface. The street view of Google Maps <https://www.google.com/maps/place/1700+Periwinkle+Cir+SE,+Albany,+OR+97322/@44.6248015,-123.0766002,3a,75y,198.2h,72.17t/data=!3m6!1e1!3m4!1s7mCKyrmZSPzkHn8upAMFbQ!2e0!7i13312!8i6656!4m5!3m4!1s0x54c06c9785eb7a85:0x169ced5d304c2cbf!8m2!3d44.6244749!4d-123.0764281> (June 2012) also shows that this particular manufactured dwelling park has no on-street parking.

Respectfully,

Mike Reeder
Attorney for Evening Star LLC



Law Office of Mike Reeder
Oregon Land Use Law

Office: (458) 210-2845 | oregonlanduse.com
375 W. 4th Ave., Suite 205, Eugene, OR 97401

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From: william eddings <williameddings@gmail.com>
Sent: Friday, April 26, 2019 9:23 AM
To: Mike Reeder <mreeder@oregonlanduse.com>
Subject: Periwinkle Manufactured park

18 ft travel surface.



Jake Gabell

From: Matt Straite
Sent: Tuesday, April 30, 2019 9:07 AM
To: Jake Gabell
Subject: Fw: Shorewood - Evening Star LLC
Attachments: 20190423_113509.jpg

Did you get this one?

Matt Straite
City Planner
City of Millersburg
541.928.4523



From: Mike Reeder <mreeder@oregonlanduse.com>
Sent: Monday, April 29, 2019 3:07 PM
To: Matt Straite
Cc: william eddings; nbickell0027@aol.com; Kevin Kreitman; Janelle Booth; lora.ratcliff@cityofalbany.net
Subject: FW: Shorewood - Evening Star LLC

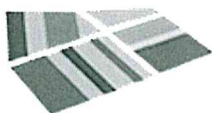
Dear Mr. Straite:

Please see the attached photo illustrating the conditions at the Shorewood Estates manufactured dwelling park located at 1905 Waverly Drive SE, Albany 97322. There are 102 spaces. The Google Maps street view from June 2012 also shows no on-street parking in this park. https://www.google.com/maps/place/1905+Waverly+Dr+SE,+Albany,+OR+97322/@44.6240611,-123.0719573,3a,75y,22.86h,83.27t/data=!3m6!1e1!3m4!1sO_RSY6rAYDLC7GCSNNv_QQ!2e0!7i13312!8i6656!4m5!3m4!1s0x54c06c9729672bab:0xe7ae1517f2def7e!8m2!3d44.6241437!4d-123.0727226

Please enter this email and the attached photo into the record of the Evening Star LLC application.

Respectfully,

Mike Reeder
Attorney for Evening Star LLC



Law Office of Mike Reeder
Oregon Land Use Law

Office: (458) 210-2845 | oregonlanduse.com
375 W. 4th Ave., Suite 205, Eugene, OR 97401

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From: william eddings <williameddings@gmail.com>
Sent: Friday, April 26, 2019 9:26 AM
To: Mike Reeder <mreeder@oregonlanduse.com>
Subject: Shorewood

24 ft travel, no walkway.



Jake Gabell

From: Matt Straite
Sent: Tuesday, April 30, 2019 9:07 AM
To: Jake Gabell
Subject: Fw: Columbus Greens - Evening Star LLC Open Record Submittal
Attachments: 20190423_131002.jpg

Matt Straite
City Planner
City of Millersburg
541.928.4523



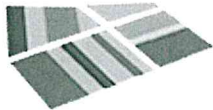
From: Mike Reeder <mreeder@oregonlanduse.com>
Sent: Monday, April 29, 2019 3:02 PM
To: Matt Straite
Cc: william eddings; nbickell0027@aol.com; Janelle Booth; Kevin Kreitman; lora.ratcliff@cityofalbany.net
Subject: FW: Columbus Greens - Evening Star LLC Open Record Submittal

Dear Mr. Straite:

Please see the attached photo from the Columbus Greens manufactured dwelling park located at 505 Columbus SE, Albany. There are 268 spaces. A Google Map street view <https://www.google.com/maps/@44.5996018,-123.085183,3a,75y,165.26h,78.63t/data=!3m6!1e1!3m4!1sUm6o1tYPCaqT0zj6rfeWpw!2e0!7i13312!8i6656> shows no illegal parking on the private street. Please enter into the record on this matter.

Respectfully,

Mike



Law Office of Mike Reeder
Oregon Land Use Law

Office: (458) 210-2845 | oregonlanduse.com
375 W. 4th Ave., Suite 205, Eugene, OR 97401

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From: william eddings <williameddings@gmail.com>
Sent: Friday, April 26, 2019 9:24 AM
To: Mike Reeder <mreeder@oregonlanduse.com>
Subject: Columbus Greens

25 ft travel, no sidewalk.



RECEIVED
APR 29 2019

BY:

10:16 am

April 26, 2019
Nathaniel J. Van Nicholson
6347 Sedona Road
Albany OR 97321

To the Millersburg Planning Committee,

This letter is both in part a response to Mike Reeder's letter written on April 22, 2019, as well as further documentation/ reasoning to either encourage Conditions of Approval, or to deny the manufactured park planning altogether.

Response to Mike Reeder's letter:

- "Site Plan Review is Unnecessary"

Mr. Reeder argues that the property does not have any "unusual or special features." I very much disagree with this statement, as not only is the property located at a lower elevation level than surrounding family homes and roads, needs to install special equipment to pump drainage uphill to connect to city pipes, the very fact that the owner has had to apply for a State approved permit to even work in the *wetlands* that is present on the property, as well as have special water treatment installations to prevent disturbances to Crooks Creek, shows that this site does indeed contain "unusual or special" features.

Furthermore, I looked at: Conditional Uses – Defined from the City of Albany of Oregon. Article 2 – Review Criteria for the Development Code, Section 2.230, paragraph 1 reads as follows:

"The City does not allow some uses outright, although they may have beneficial effects and serve important public interests. These uses are subject to the conditional use regulations because they may have adverse effects on the environment, overburden public services, change the desired character of an area, or create major nuisances. A review of these proposed uses is necessary due to the potential individual or cumulative impacts they may have on the surrounding area or neighborhood. The conditional use review process provides an opportunity to allow the use when it will have minimal impacts, to allow the use but impose conditions to address identified concerns, or to deny the use if the concerns cannot be resolved." (Emphasis added).

The importance of this shows that regardless of whether the site has "unusual or special" features, a review is indeed *necessary* due to the *potential* impacts it may have on the surrounding area or neighborhood. It would be foolish for *any* body of government to not review applications involving neighborhoods as any change might have adverse effects on either the surrounding areas, or go against the overall goal of the city.

- "Introduction to Manufactured Dwelling Parks Statutes"

1.) Mr. Reeder argues that the staff has somehow violated the Comprehensive Plan by discriminating against housing types that address the needs of the City. However, he has not shown how preventing future manufactured or mobile housing in specific zones, while still allowing them in other zones, goes against the “needs of the City,” as those housing types are still allowed.

2.) Mr. Reeder also argues that somehow the Comprehensive Plan is violated by not providing a variety of housing. Again this is not true, as the City of Millersburg already has mobile homes and manufactured homes, and thus is currently providing “a variety of housing.” Removing future mobile homes or manufactured homes in specific zones does not disallow a variety of housing in the City, and the Comprehensive Plan does not say that *all* types of housing need to be present in *all* zones. In fact, simply offering only 2 different types of housing would still be considered a variety, and meet the requirement. The text amendment did not deny any building of manufactured homes or mobile homes altogether, but merely designated them to specific zones. Just as the City is allowed to designate where commercial zones are, the City is allowed to designate which housing types are allowed in residential zones, provided that the housing type isn’t prevented outright for the City.

3.) Mr. Reeder argues that the Comprehensive Plan has been violated by not allowing a mix of housing types and densities that address the needs of the citizens. Again, several different housing types and densities are currently found throughout the City of Millersburg, and there are still zones that allow the development of manufactured and mobile homes, so this statement is false.

4.) Mr. Reeder has underlined notes from Chapter 10-2.1, “Land Use,” of the OMDPC. Following in order of his underlining:

- *“The local planning department is given specific authority to establish reasonable criteria related to the following as long as the criteria for a park is not less than the minimum requirements in this code and not greater than the requirements for single family uses in the underlying zone:”*

It is not unreasonable to establish conditions in regards to safety, and/or disturbances from lights or noise. In Millersburg’s own Comprehensive Plan, in Section 9.130, Comprehensive Plan – Description and Purpose, ORS 197.015 (4), it states:

““Comprehensive Plan” means a generalized, coordinated land use map and policy statement of the governing body of a state agency, city, county or special district that interrelates all functional and natural systems and activities relating to the use of lands, including but not limited to sewer and water systems, transportation systems, educational systems, recreational facilities, and natural resources and air and water quality management programs. “Comprehensive” means all-inclusive, both in terms of the geographic area covered and the functional and natural activities and systems occurring in the area covered by the Plan.

The Comprehensive Plan for Millersburg is the City's official policy guide for conservation and development of community resources. It is intended to ensure that the City's livability will be enhanced rather than weakened in the face of growth and change and is designed to promote the public health, safety, and general welfare of community, residents.

The Comprehensive Plan is the document through which the citizens of Millersburg will implement their choices on how growth and change will occur and how it will be managed. It should not be considered a detailed development proposal, but a framework within which public officials and private citizens can coordinate their individual developmental decisions.”
(Emphasis added)

This means that rather than settling for the bare minimum requirements, the City should strive to *enhance* livability, and general welfare of community. With the minimum requirements being sought out, Mr. Reeder is essentially arguing that it is perfectly fine to enter a store that says, “No Shoes, No Shirt, No Service,” with just shoes and shirt on, and no pants. While technically it does meet the minimum, it would be in no way acceptable with the current public. Like-wise, just because a plan *may* meet the minimum codes, if the overall effect does not *enhance* livability by public health, safety, and general welfare of community, it should not be allowed regardless of minimum codes being met.

- *“The landscaping, fencing, and buffer zones around the perimeter of the park;”*

Mr. Reeder underlines this section as if to say that the Committee is in violation for have Conditions of Approval for the landscaping, fencing, and buffer zones around the perimeter of the park.

I argue that the Committee is being very generous in not currently putting Conditions of Approval for protections of the Natural Vegetation, or denying the project altogether, and that by the owner destroying the Natural Vegetation preemptively he has denied the City a chance to prevent the destruction of the vegetation and wildlife habitats already affected. I go further in detail about this in my own arguments for preventing the approval of this project later in this paper.

- *“The size and construction of the park street, curbs, and sidewalks where they connect to the public way for the first 100 feet (30.5 m) of length or to the first intersection street within the park, whichever is less.”*

Mr. Reeder failed to read the next point, which states:

“The location, size, and construction of a public street(s) running through the park when the municipality can demonstrate the street(s) is

needed as required for conductivity [sic] or when the street(s) is already designated in the municipalities [sic] acknowledged transportation system plan. All other streets within the park shall remain private and part of the park property:

(Emphasis added)

I point this out, as the streets running to the dwellings are required for conductivity, thereby granting access for the committee to require further enhancements on the roads (more than the minimum) to be provided in order to address the public's concerns for safety.

By *not* having the streets widened to accommodate pedestrian travel with a safe buffer zone, or to allow for street parking, does not promote safety in any means. By only going by the minimum, despite hearing not only public concerns from a previous garbage truck company owner, a fire chief, and current residents, is blatantly ignoring safety concerns of the public and putting the public at risk.

Additional Information Against Construction

- Possible Violation

According to the ORS Chapters 446, 918-600-0020:

“No person, firm or corporation shall establish, construct, enlarge, or alter any mobile home or manufactured dwelling park or cause the same to be done without first obtaining all required permits from issuing authority and paying the prescribed permit fee.”

Key notes would be “establish” without first obtaining all required permits. Establish, synonymous with:

“set up, start, begin, get going, put in place, initiate, institute, form, found, create, bring into being, inaugurate, organize, lay the foundations of, build, construct, install, plant”

I bring this to attention because I have pictures of the area containing wetlands both before and after clearing (see below). This area has been cleared before obtaining permission from the State (which was obtained mid-late April, 2019) to be able to fill in the wetlands. This is important to note, because while it does not apply to “filling in” the wetlands, the owner of the property had intent to build a mobile home park and began clearing the area of vegetation before the permit was acquired (or applied for) from the State. This may have also impacted the report sent in to acquire the permit, as in the report it has made mention of “recent mowing” in the area. This could have allowed other locations to dry out from air and sun exposure, reducing the area of effective wetlands long enough to fool the State into believing that the wetland coverage is smaller than what it

originally was. Based on this, the area has effectively been tampered with and should be grounds for immediate disapproval, or at the very least brought to the attention of the State.

Any builder would not start building without first clearing the area of debris or obstacles, so it is safe to say that the owner was setting up, beginning, or establishing the process of building when he removed the natural vegetation. In accordance with the previous quote from ORS, the owner is in violation.



Above, taken April 26, 2016 at 6347 Sedona Rd, looking east onto the property in question.



Taken February, 24, 2019 at 6347 Sedona Rd, looking east onto the property in question.

- Protection of Features That are Special and Unique to the Community

According to The City of Millersburg Comprehensive Plan, Section 9.190, Planning Goals and Policies, under Goals and Objectives:

“There are certain basic aims to which the Comprehensive Plan is broadly committed. These general goals and objectives are:

1. To encourage development in a planned and considered manner consistent with the community's general health, safety and welfare.

2. To achieve an environment that assures each individual the widest possible choices and opportunities for a productive and meaningful life-style within the community.

3. To preserve those features that are special and unique to the community while also being responsive to changing needs and conditions.

4. To achieve public interest, understanding, and support of the planning process and the goals toward which the process is directed.”

(Emphasis added)

Goal 1 is already being addressed by the Conditions of Approval. Goals 3 and 4 are what I ask to be considered as well, in that this location was a beautiful (and can be again) wild vegetative area. Residents surrounding the area can attest to this, and it can be proven by the fence styles and choices the residents have chosen to put up (if any at all) in their backyards. Specifically, the fences closest to the vegetative area are mostly short in height that largely allow visibility through the fences.

- Protection of Natural Vegetation Areas

Nothing has been done to protect the natural vegetation in the proposed area. According to The City of Millersburg Comprehensive Plan, Section 9.200, Environment under the Natural Vegetation, Fish and Wildlife (Natural Vegetation Values), it states:

“Natural vegetation serves a number of important functions. Stands of timber have obvious economic value. There are no areas of commercial timber within the Millersburg Urban Growth Boundary but the natural vegetation which does exist provides additional benefits which are not always obvious. On steep slopes and in flood plains, natural vegetative cover helps stabilize the soil and thereby protect water resources from excessive sedimentation. The protection of water quality by natural vegetation also helps protect fishery resources and helps provide habitat for a wide variety of wildlife.

Areas of riparian vegetation, other woodland, railroad and utility right-of-ways, and fence lines around fields, provide important wildlife habitat. The understory of brush on the river bank is particularly important for small fur-bearing animals such as nutria,

beaver, opossum and raccoon. The larger overstory of trees provides a range for larger animals and homes for a variety of birds.

Vegetation along rivers and streams helps minimize high surface run-off, erosion and flood damage.

Vegetative buffers around industrial plants can help reduce air pollution and odor problems. Similarly, street trees in residential areas can reduce dust and air pollution problems. Plants remove particles of pollution from the air.

The planned use of vegetation around homes and public buildings can help to conserve energy.

*Vegetation can also help screen some sound levels by absorbing, deflecting, refracting and reflecting noise. The use of trees as sound buffers around such areas as highways or industrial plants can reduce noise levels. Natural vegetation also supports outdoor recreation activities, provides an open space resource for the urban environment, and generally enhances the esthetic quality of the community. **Because of these multiple values, a full discussion of natural vegetation resources is warranted.***

(Emphasis added)

I point this out because it states that there are several benefits to preserving and protecting such areas, and that a “full discussion of natural vegetation resources is warranted.”

What the owner of the property has done, was show a complete disregard to the natural vegetation resource, and putting in *any development* (mobile homes or otherwise) in the proposed area will only further devalue the esthetics of the area and increase noise levels, let alone a high density development.

Furthermore in the following “Natural Vegetation Areas” category of the same Comprehensive Plan, it states that,

“...natural vegetation throughout most of the Millersburg Urban Growth Area is very limited. There are approximately 300 acres of natural vegetation within the Millersburg Urban Growth Boundary or 10 percent of the total area. However, over two-thirds of this total is west of the Burlington Northern tracks and isolated from the rest of the community.”

Again, natural vegetation is limited, as known by Millersburg’s own Comprehensive Plan. The section goes on to inform the reader of what is considered part of the “Natural Vegetation” arena:

“Natural vegetation in this area consists of riparian vegetation with areas of brush, black cottonwood, scattered Douglas Fir, Oregon Oak, and areas of swamp vegetation around the lakes, particularly west of Second Lake.”

Lastly, the section identifies the locations of known “Natural Vegetation,” specifically 2 areas:

“Northwest Millersburg. This area contains 10 acres of Oregon Oak intermixed with agricultural properties. These surrounding oaks provide Millers Cemetery with an attractive setting. This stand also helps protect small drainage courses and provides an attractive landscape.

Crooks Creek Valley. Apart from the Willamette River flood plain, the Crooks Creek Valley provides the largest concentration of woodland in Millersburg. This area contains approximately 40 acres of trees and brush. The main concentrations of growth occur in the northeast corner of Millersburg in the vicinity of the I-5 and Old Salem Road interchange; in an area adjacent to the Millersburg School; and in bands of growth intermixed with agricultural properties between 54th Avenue and Millers Cemetery Road. Some of this vegetation can provide desirable open space for the area when it is developed.”

I point this out because it is *known* that these areas have Natural Vegetation, and the proposed building site is clearly designated to be in those areas. *It is imperative to protect the Natural Vegetation in the proposed building area, as not only does it provide a multitude of benefits described in the Comprehensive Plan, but because it is already known to be a limited resource.*

- Wildlife Habitat Types and Protections

While the Committee requested to have all arguments stay along the matters discussed in the previous meeting, the committee has allowed the public to provide further insights that might have been missed or should be considered.

Going along the lines of preservation, Wildlife needs to be preserved as well. It has already been noted in the previous meeting that the area is a riparian zone, but what was not specifically noted was that in the Comprehensive Plan, section 9.200-27, Wildlife Habitat Types goes on to say:

“The key to maintaining a diverse and abundant wildlife is simply to provide an abundance of diverse habitats.

The Oregon Department of Fish and Wildlife identifies ten habitat types:

Slow still waters
Fast moving water
Marsh Riparian
Open areas
Edges
Deciduous trees
Coniferous trees
Coniferous and deciduous mixed trees
Dead and defective trees

Nearly all areas can provide some habitat for non-game wildlife of some kind. Some species can adapt to a variety of habitats but others are restricted to specific habitat types. For example, the spotted owl is restricted to old growth timber areas while woodpeckers need dead or defective trees for nesting.

To insure an abundance and variety of wildlife, development proposals should be reviewed to insure the maximum feasible preservation of habitat types identified above. Preservation of riparian zones, particularly along major streams, is of particular importance for both fish and wildlife. Provision of parks, open space and water areas is also an important provider of habitats.

All rivers, streams and lakes and adjacent riparian zones are considered sensitive areas for protection of fish and wildlife values.

(Emphasis added)

Since this is in regards to a development proposal, and the land owner has recklessly destroyed several habitats by chopping down old trees and dead trees, mowing the vegetation, and filling in wetlands, it goes to show that the Committee needs to stop this proposed development immediately and should issue a “cease and desist” order to prevent further damages to the habitats. While this will not restore the area to its full former glory, it will at least allow the vegetation to recover in a few years.

This can again be emphasized in the “Land Use Conflicts,” Section 9.200-29. It states:

“Changes to more intensive land use and development is reducing the total wildlife habitat base, resulting in a net loss of both numbers and types of wildlife. Any activity which removes or alters existing habitat, adversely affects wildlife. Those activities and land uses which have the most widespread affects on fish and wildlife are:

Filling or draining of aquatic habitats.

Water pollution.

Clearing of riparian zones.

High density development in or adjacent to sensitive habitats

Practices which remove vegetation from roadsides, fence rows, and other unused areas.

Conversion of forest and agricultural land to small parcels.

The guidelines for achieving LCDC's Goal #5, "Open Spaces, Scenic and Historic Areas and Natural Resources", states that all Fish and wildlife areas and habitats should be protected and managed in accordance with the Oregon Wildlife Commission's fish and wildlife management plans".

Most of the policies and recommendations concerning fish and wildlife are based on those made by the Department of Fish and Wildlife in the Linn County fish and wildlife habitat protection plans. For both fish and wildlife, preservation of the riparian zone and prevention of pollution are among the most critical concerns."

(Emphasis added)

It would be environmentally reckless to ignore the preservation of riparian zones, specifically in the proposed development area with a high density. I feel that since the Northwest zone is known to contain these areas of interest, that the Committee has recognized that and moved to prevent future high density dwellings such as mobile or manufactured homes in the zone. I ask that the Committee strengthens its resolve and prevents any building in the proposed building area before it is too late for the environment.

It should also be noted, that in the proposal the large oak trees (which are currently planned to be cut down should the proposal be approved) are in danger, and I ask that for the reasons listed above (the City's own Comprehensive Plan) that at the very least the Committee requests the preservation of those mature trees to be a part of the Condition of Approval.

Thank you for your time and consideration,

Sincerely,

A handwritten signature in black ink, appearing to read 'N. J. Van Nicholson', written in a cursive style.

Nathaniel J. Van Nicholson

Information Handout

The proposed CUP 19-01 and SP 19-01 Evening Star Manufactured Home Park plan does not meet criteria a, b, c, d, f, or g of the City of Millersburg development code requirements and violates Oregon State Statutes as well as the Oregon Manufactured Dwelling and Park Specialty Code and should be denied.

Criteria (a) states: The proposed development or use does not conflict with the City's Comprehensive Plan.

-The City's Comprehensive plan states that...

*"Residential areas shall be protected from excessive through traffic, conflicting land uses, or other encroachments that would impair a safe, quiet living environment" (9.500-29) **With the lack of on site parking of the project as well as no proposed street parking, overflow parking will be naturally directed to Sedona Rd. since there is no street parking along Millersburg Dr. This subsequent encroachment will impair a safe, quiet living environment on the residents of Becker Ridge neighborhood. In addition to the noise pollution that the high density development will produce there is a conflict of land use that does not preserve the low density properties in the surrounding area. This in and of itself is enough to deny the project and is within the cities rights to do so.***

*"The City recognizes the need for an adequate supply of sound, decent and attractive housing which includes a variety of types and designs which are responsive to community needs." 9.400-22 **There are already a variety of types of housing within the City of Millersburg. The community need is not there.***

*"Land Use Conflicts Changes to more intensive land use and development is reducing the total wildlife habitat base, resulting in a net loss of both numbers and types of wildlife. Any activity which removes or alters existing habitat, adversely affects wildlife. Those activities and land uses which have the most widespread affects on fish and wildlife are: High density development in or adjacent to sensitive habitat." 9.200-29, 9.200-30 **The proposed MHP is a high density development and is adjacent to a sensitive habitat along Crooks Creek, therefore it will adversely impact the surrounding wildlife habitat.***

*"During development, large live trees should be preserved wherever possible, and dead trees of any size should be preserved for wildlife habitat when there is little hazard or obstruction to doing so." 9.200-36 **The project proposes to remove a large live oak tree that should be preserved for the many types of wildlife that use this for habitat and protection.***

Criteria (b) states: That the proposed development or use complies with the standards of the land use zone and does not conflict with city codes and ordinances that are applicable to the application.

-Many items within this criterion do not meet the standards and will need conditions of approval.

- Lora Ratcliff, Senior Deputy Fire Marshal stated that **"Albany Fire has concern in regard to the 20-foot required width minimum remaining unobstructed. With only one way in, one way out, and minimal designated parking spaces, this project has the strong potential for illegal parking within the required fire access lane. Illegal parking will greatly impact the fire department's ability to respond adequately and timely in a medical or fire emergency. If the road is allowed to be constructed to meet only the minimum 20-foot width, this site could potentially pose a fire and life safety hazard to its occupants as well as become a compliance nightmare."**

- The project cannot meet standards placed by the Manufactured Dwelling Parks code in relation to the perimeter screening requirement due to the elevation differences of the properties that border the South and West of the proposed property.

-Wetland and FEMA flood plains exist on the South side of the proposed property. Water mitigation would be required and poses a serious concern for soil bearing capacity and flooding, both a major public health risk.

Criteria (c) states: That the proposed development will not have an adverse impact on traffic flow or to pedestrian, bicycle and vehicular safety, and future street right-of-way are protected.

- With the lack of on site parking overflow will be naturally directed to Sedona Road. Since there is no street parking along Millersburg Drive, this will adversely congest and impact Sedona Road, as well as the neighboring residents

-No stop sign is proposed for safety of pedestrians who cross the private drive along Millersburg Drive.

-The traffic study contracted out by the applicant was completed on January 29th. We would like to reference the date of that traffic study with the construction that was being done along Millersburg Drive and the impact that would have had on the study results.

Criteria (d) states: That proposed signs or lighting will not, by size, location, color or operation, have an adverse impact on traffic, limit visibility or have an have an adverse impact on adjacent properties.

-The proposed 9 street lights will have a significant effect due to the elevation difference (8-9 ft higher) between the properties located along the South and West sides of the proposed project. They will essentially shine directly in to the adjacent properties and have an adverse impact on the adjacent properties.

Criteria (f) states: That the proposed development or use does not have an adverse impact on existing or proposed drainageways including flow disruptions, flooding, contamination or erosion on drainage-ways and required drainage facilities are provided that have the capacity to serve the proposed development or use.

-There is currently no proposed plan for how the proposed project will direct the flow of water. This should be in place prior to approval (to show how they plan to do so without adverse impact on the surrounding area along Crooks Creek) and not just a condition of approval.

-Dept of State land has designated proposed site to have significant wetland areas. Additionally, the adjacent Crooks Creek is a FEMA designated flood plain. This provides a significant concern regarding water mitigation and encroachment.

Criteria (g) states: That the proposed development will not have an adverse impact, potential hazards or nuisance characteristics as identified in Section 2.140, Item 21 of the Application Site Plan consistent with the standards of the Zoning District and complies with the applicable standards of all regulatory agencies having jurisdiction.

-The proposed project is a high density development and will therefore produce more noise pollution simply based on the density of residents.

-Since the proposed project cannot meet the standards for the perimeter screening (due to the elevated adjacent residences), there will be an adverse impact on the surrounding area including but not limited to noise (which is stated as a nuisance in Section 2.140, Item 21 of the Application Site Plan). In addition, sound will travel up to the adjacent residences more readily due to the elevation difference as the proposed project sits down lower.

Violates ORS 446 Prohibited acts in connection with construction and use of parks; rules for spacing of units. (1) A person may not: (a) Construct a mobile home or manufactured dwelling park at a place that is unsuitable due to swampy terrain, lack of adequate drainage or proximity to the breeding places of insects or rodents. **The proposed MHP borders Crooks Creek along the East border which is prime breeding ground for insects, rodents, and vermin.**

Current FEMA National Flood Hazard Layer FIRMette map shows a special flood hazard area (zone AE) on the south portion of the proposed plan property where home sites are proposed.

PETITION

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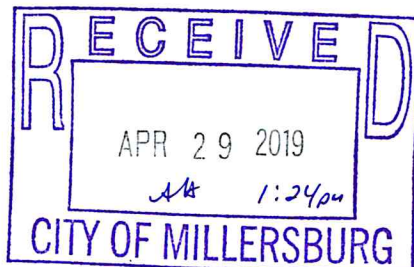
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The Planning Commission decision meeting will be held on May 21st at 6pm at City Hall.

Name	Address	Phone #	Signature
John Anderson	2650 NE TUSEAN LN	360.487.2543	[Signature]
Sharla Baker	65701 NE Noel Ln	541-335-9875	Sharla Baker
Kristen Champion	2872 NE Kimila Dr.	541.733.5832	Kristen Champion
Matt Barnes	2878 NE Kimila Dr	541-990-3457	[Signature]
Kristen Barnes	2878 NE Kimila Dr.	541-905-3033	[Signature]
Shelwyn Ziegler	6546 NE NOEL Lane	626.388.5567	S. Ziegler
Dorothy S Norris	6562 NE Noel Lane	926 3186	Dorothy S Norris
Julie Breazeal	6574 NE NOEL Lane	541-606-3077	Julie Breazeal
Lucas Breazeal	6574 NE Noel Lane	541-915-8586	[Signature]
Arlis Lenhardt	6594 NE Noel Ln	541-923-7192	Arlis Lenhardt
Devin Fillman	6618 NE NOEL LN	503-551-0428	[Signature]
Kirk Fillman	6618 NE Noel Lane	503-551-0446	Kirk Fillman
David Ulrich	6622 NE Noel Ln	541 974-2483	David Ulrich
Stephanie Ulrich	6622 NE Noel Ln	541-609-9299	[Signature]
May Mumphrey	6635 NE Noel Ln	503 522 9730	May Mumphrey



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Name	Address	Phone #	Signature
Robin Wilson	2530 NE Thacker Ln Albany ⁹⁷³²¹	541-401-7994	[Signature]
John Bates	2944 NE Kimila Dr Albany ⁹⁷³²¹	541-852-1785	[Signature]
[Signature]	2938 NE Kimila Dr Albany	503 4028942	[Signature]
Emily J. West	6571 NE Dixie Ct Albany OR.	541-913-8701	[Signature]
Mat Snow	6586 ne Dixie Ct	541-974-6785	[Signature]
Melinda Rumble	6593 NE Noel Lane	5804836560	Melinda Rumble
GREGORY LAY	6637 NE NOEL Lane	503-798-3949	[Signature]
[Signature]	6745 NE Noel Ln	541-231-6060	[Signature]
Michael Ann McInerney	6745 NE Noel Lane	541-760-9926	[Signature]
Georgette Eapleton	6764 NE Noel Ln	530-701-5661	Georgette Eapleton
Kent Eapleton	6764 NE Noel Ln	530-701-5661	Kent Eapleton
Terry R Wilson	2795 NE S. Hall Dr	503-545-3832	[Signature]
Odd Foglesy	33812 Sunnyview Dr	541-979-4182	[Signature]
Duane Leever	6652 Parker Ln NE	541-928-5257	Duane Leever
Pat Leever	6652 Parker Ln NE	541-928-5257	Pat Leever

[Handwritten mark]

PETITION

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Name	Address	Phone #	Signature
Erin Brazeal	6212 Mesa Ct. Albany, OR 97321	541-521-5907	
Dennis Watson	6363 Sedona Rd Albany OR 97321	541-223-4046	
Angela Watson	6363 Sedona Rd Albany	541-223-4226	
Steve Hagen	6347 NE Forest St.	541-666-2980	
Wendy Dixon	6261 NE Forester St.	541-979-8379	
Caroline Huseygn	6259 NE Forester St.	541-351-1879	
Julie Teagarden	6255 NE Forester St	951-505-6878	
Teddy Teagarden	6255 NE Forester St.	951-505-6878	
BEN Tessaro	2427 NE Deciduous Ave	541-936-2770	
June Tessaro	2427 NE Deciduous Ave	541-619-9100	
Corbett Richard	6218 Mesa Ct	541-732-7571	
Ramiro Leon	2421 Deciduous Ave Albany OR	541-960-5555	
Richard Smith	2361 Deciduous Ave NE	583-580-5554	
Heather Smith	2282 Deciduous Ave NE	541-609-7345	
Cassandra Larimer	21602 NE Deciduous	541-619-7000	

PETITION

Conduct of Rick Adams

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Name	Address	Phone #	Signature
Zac Pung	2153 Deciduous	541.277.7780	<i>Zac Pung</i>
<i>[Signature]</i>	2154 Deciduous	503 764-7473	Heather McLean
<i>[Signature]</i>	2002 Evergreen	541 619-7611	<i>[Signature]</i>
Jeff GUDSWELL	2010 EVERGREEN	253 261 9032	<i>[Signature]</i>
JOE GUDSWELL	" "	" "	Joe Gudswell
Caryl Thomas	2020 EVERGREEN	541-791-7935	Caryl Thomas
Dennis Thomas	" "	" "	Dennis Thomas
Graham Peoples	2101 Evergreen AVE	511-971-3148	<i>[Signature]</i>
CHAD STOKER	2107 NE EVERGREEN AVE	208 867 7060	<i>[Signature]</i>
VIM MOORE	2108 NE Evergreen Ave.	541-661-3621	<i>[Signature]</i>
Christine Villa	2111 Evergreen Ave	480-993-4715	Christine Villa
Elio Villa	2111 Evergreen Ave	503-624-5179	<i>[Signature]</i>
Jessy T. Rig	2114 NE Evergreen	541-312-1142	<i>[Signature]</i>
LARRY HYATT	2127 NE Evergreen		Larry Hyatt
Bow King	2131 NE Evergreen	541-360-5582	Bow King

PETITION

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Name	Address	Phone #	Signature
Don McGee	2243 Evergreen	503 260-3153	Don McGee
Marian McGee	2243 Evergreen Avenue	503-260-3152	Marian McGee
Jason Klittworth	6284 Barker St	503-949-8868	Jason Klittworth
Betty White	6283 Barker St NE	541-223-3657	Betty White
Chris Bohanan	6296 Barker St NE	541-974-7056	Chris Bohanan
Sandie Bohanan	6296 NE Barker St	541-974-4353	Sandie Bohanan
Gary Boies	6411 NE Banker St	541-971-3218	Gary Boies
Stephanie Brown	2363 Evergreen Ave.	541-913-6300	Stephanie Brown
Jason Brown	2363 Evergreen Ave	541-520-2404	Jason Brown
Justin Hankins	2366 NE Evergreen Ave	541-990-8160	Justin Hankins
Sharon Hayes	2433 NE Evergreen	541-974-8816	Sharon Hayes
Nola Richards	6218 mesact	541-760-6743	Nola Richards
Brandon Fore	2250 NE Summit Dr	386-956-0578	Brandon Fore
Krista McDaniel	2250 NE Summit Dr	407-704-0686	Krista McDaniel
Tim ORE	2122 NE SUMMIT DR	541-500-7881	Tim ORE

PETITION

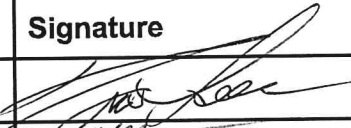



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Name	Address	Phone #	Signature
TOM GRACIT	2269 NE SUMMIT DRIVE	503-620-6860	
MICHAEL VANPATTER	2392 NE SUMMIT DR.	541-791-7232	
Michelle VanPatter	2392 NE SUMMIT DR	503-991-9774	Michelle VanPatter
Rafael Munoz	2390 NE SUMMIT DR	541-971-1653	
Sandra Moffet	2120 NE SUMMIT DR	541-926-7649	Sandra Moffet
Lynn Dunn	2120 NE SUMMIT DR.	541-979-2505	Lynn R. Dunn
Mary Loney	2116 SUMMIT DR.	541-238-3638	Mary Loney
DOUG IVERSON	2113 SUMMIT DR	541-666-2350	Doug Iverson
SANDRA IVERSON	2113 SUMMIT DR.	541-666-2350	Sandra Iverson
Gary Daffy	2106 NE SUMMIT DR.	541-281-5596	Gary Daffy
Melissa Daffy	2106 NE SUMMIT DR	541-281-3390	Melissa Daffy
MITCH WEBSTER	2008 NE SUMMIT DR	503-730-1061	Mitch B. Webster
WANZA WEBSTER	2008 NE SUMMIT DR	503-730-1061	Wanda Webster
Justin Doe	2112 NE SUMMIT DR	541-971-6629	
ERNIE BAHOU	2006 NE SUMMIT DR	925-8580745	Ernie Bahou

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Name	Address	Phone #	Signature
Kathryn Borninski	6302 Sedona Rd	541-570-5806	
Nicholas Borninski	6302 Sedona Rd	972-333-8221	N. Borninski
Christine Wilson	2795 SHAYLA DR	541-990-2985	
Julie Ogs	6283 Sedona Rd	541-760-8353	
Bobbie Castel	6235 Sedona Rd	541-990-8649	Bobbie Castel
Bill Castel			William C. Castel
Goldie Toews	6201 Sedona Rd.	541-990-7366	Goldie Toews
JUSTIN TOEWS	6201 SEDONA RD.	541-905-1588	
Rebekah Schaff	6246 Sedona Rd	541 990 5113	
Brian Staffenson	6230 Sedona Rd	541-556-2980	
DON STACHELM	6204 SEDONA RD	541-570-0854	
Dan Bixler	6114 Sedona Rd	541-207-1548	
Justin Oxenrider	6095 NE SEDONA CT	503-334-5700	
Celeste Krueger	6072 NE Sedona Ct	541 967 6142	Celeste Krueger
RYAN GRANT	6088 NE sedona Ct	503-347-2655	

PETITION

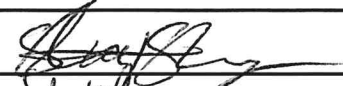


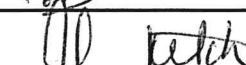
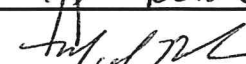
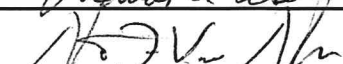
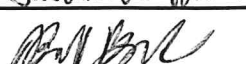
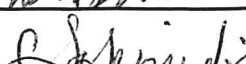
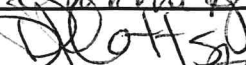

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Steve Klampe	6429 Sedona rd.	541-619-9868	
Lindsay Klampe	10429 Sedona Rd Albany	541-974-7934	
Mari Reddington	6442 Sedona Rd Albany	541-464-9861	
Carli Trudell	6428 Sedona Rd Albany	541-967-1897	Carli Trudell
Adrienne Betterton	6424 Sedona Rd Albany	559-910-7300	AB
Jennifer Ketchum	5988 NE Tucuman Loop Albany	805-708-7009	
MIKE Sreniawski	6422 Sedona Rd 97321	541-740-9146	
Brian Nicholas	6368 Sedona Rd 97321	541-926-8115	Brian Nicholas
Tom Eisele	6351 Sedona Rd 97321	509-833-2394	Thomas A Eisele
Nathan Van Nicholson	6347 Sedona Rd 97321	503-569-9345	
Savannah Van Nicholson	6347 Sedona Rd 97321	541-990-6186	Savannah Van Nicholson
Bobby Burcatt	6303 Sedona Rd 97321	541-401-8683	
Courtney Schmiedig	6303 Sedona Rd 97321	503-507-1177	
Dranna Plotts	6334 Sedona Rd 97321	503-738-2478	
Nick Plotts	6334 Sedona Rd 97321	503-302-7662	

PETITION

We, the citizens of the City of Millersburg, petition the Planning Commission to **deny** the proposed CUP 19-01 and SP 19-01 Evening Star Manufactured Home Park and not to allow any variances for conditions of approval.

The applicant is proposing a Conditional Use Permit and Site Plan Review for a 28 space manufactured home park with four proposed guest parking spaces, drainage features, one open space area, landscaping, and one proposed point of access from NE Millersburg Drive.

The proposed plan does not meet criteria a, b, c, d, f, or g of the City of Millersburg development code requirements.

We ask the city to exercise their legal discretion to deny the project based on confliction with the City of Millersburg comprehensive plan, violation of Oregon State Statutes and Oregon Manufactured Dwelling and Park Specialty Code, the conflict of land use, and the adverse impacts it will have on adjacent properties and environment. We would like to protect and preserve the character of the surrounding low-density neighborhoods. We ask that the Planning Commission weighs the concerns stated on the attached information sheet heavily towards the impact this proposed project will have on the current adjacent neighborhoods, the community of Millersburg, and safety of the proposed parks residents.

The Planning Commission decision meeting will be held on May 21st at 6pm at City Hall.

Name	Address	Phone #	Signature
DEBRA BRAANFLADT	6098 NE SEDONA CT.	360-798-3079	
Stephanie Aworn	2565 Sonora DR	541-908-0661	
Katie Krumpholt	2627 NE Sonora DR	541-606-5746	
Dave Piggman	2653 NE SONORA DR.	503-409-3573	
Rita de Groen	2659 NE Sonora Dr.	503-828-2853	
Kristen de Groen	5929 NE Chandra Ct	503-550-7579	
Doreen MAKERS	2785 NE Sonora DR	541-979-9489	
Robert W. ALBERS	2785 NE Sonora DR	541-979-9489	
Mark Lee	2791 Sonora Dr.	541 990 5937	
Amanda Jennings	2792 NE sonora dr.	541-511-2070	
Emily Zessin	26107 NE SONORA DR	541-602-0090	
Robert McLean	6092 NE Danica Ct.	408-375-4009	
FIANNEY Whittenberg	6103 S. SONA Rd	510 410 4313	
Manon Whittenberg	6103 Sedona Rd	510 410 6043	
Barbar Peterson	6423 Sedona Rd	541-990-9234	

PETITION

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Name	Address	Phone #	Signature
Steve Peterson	6423 Sedona Rd	541-760-1919	Steve Peterson
Justin Eisele	6351 Sedona Rd	509-833-5646	Justin Eisele
Kristin Starr	6339 Sedona Rd	703-904-2312	Kristin Starr
STEVEN STARR	6339 Sedona Rd	591-731-1473	Steven Starr
Gerald Jones	6346 Sedona Rd	541 974 2016	Gerald Jones
Lynna Jones	6346 Sedona Rd	541 974 2016	Lynna Jones
Marie Annin	2582 Tuscan Ln	503 385 5419	Marie Annin
Steve Smolnik	2584 Tuscan Ln	503-490-3634	Steve Smolnik
Amy Smolnik	" " "	541-517-7690	Amy Smolnik
Justin Byrd	2602 NE Tuscan Ln	541-801-1936	Justin Byrd
Ben Floyd	" " "	541 801 4088	Ben Floyd
ARVIN RICHAZOSAN	6208 CANYON CT	541 991-1893	Arvin Richazosan
JOE CLARY	6214 CANYON CT	360-931-5736	Joe M. Clary
Tyler Headrick	6210 Sable Ct	541-223-2075	Tyler Headrick
Kim Moore	6213 Canyon Ct.	951-905-5704	Kim Moore

PETITION

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Name	Address	Phone #	Signature
Chelsea Headrick	6210 Sable Ct Albany, OR 97321	541 497-9025	
Mark Moore	6213 Canyon Court Albany	951-315-4082	
Richard Fox	6207 Canyon Ct	541-954-4606	
Nicole Hobbs	6201 Canyon Ct	334-806-9464	
Jared L. Hobbs	6201 Canyon Ct	843-441-3802	
Michelle Sparks	2610 NE Tuscan Ln	541-207-5617	
Tanner Sparks	2610 NE Tuscan Ln	541-220-8803	
Justi Fitzpatrick	2630 NE Tuscan Ln	503-602-2961	
Derek Fitzpatrick	2630 NE Tuscan Ln	503-732-9403	
Shanna Lamore	6204 NE Sable Ct.	541-270-1700	
Billy Lamore	6204 NE Sable Ct.	541-270-1701	
Kristina Taylor	6216 Sable Ct	541-619-6532	
Steve Taylor	6216 Sable Ct	(541) 619-6532	
SARAH FARLEY	6223 SABLE CT	541-905-3799	
Ryan Jay	6223 Sable Ct	541-905-0881	

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Name	Address	Phone #	Signature
Rebekah Andersen	2650 Tuscan Dr		Rebekah Andersen
Donna Griswold	2720 Tuscan Ln	541-730-7544	Donna Griswold
Chris Martin	6211 Mesa Court	541-760-2816	Chris Martin
John Elder	6206 Mesa Ct	541-971-7019	John Elder
Deanne Elder	6206 Mesa Ct	503-580-2527	Deanne Elder
Emily Martin	6211 Mesa Ct	541-231-4770	Emily Martin



Oregon

Kate Brown, Governor

Department of State Lands

775 Summer Street NE, Suite 100

Salem, OR 97301-1279

(503) 986-5200

FAX (503) 378-4844

www.oregon.gov/dsl

State Land Board

April 18, 2019

RECEIVED
APR 25 2019

BY: *[Signature]* 10:51am

Attn: William Eddings
1979 Clover Ridge Road NE
Albany, OR 97322

Kate Brown
Governor

Re: WD # 2019-0045 Wetland Delineation Report for the
Eddings Manufactured Home Park, Linn County;
T 10S R 3W S17D TL 600

Bev Clarno
Secretary of State

Tobias Read
State Treasurer

Dear Mr. Eddings:

The Department of State Lands has reviewed the wetland delineation report prepared by Zion Natural Resources Consulting for the site referenced above. Based upon the information presented in the report, we concur with the wetland boundaries as mapped in Figure 6 of the report. Please replace all copies of the preliminary wetland map with this final Department-approved map.

Within the study area, two wetlands (Wetland A and B), totaling approximately 0.20 acres were identified. Both wetlands are subject to the permit requirements of the state Removal-Fill Law. Under current regulations, a state permit is required for cumulative fill or annual excavation of 50 cubic yards or more in the wetlands or below the ordinary high-water line (OHWL) of the waterway (or the 2-year recurrence interval flood elevation if OHWL cannot be determined).

This concurrence is for purposes of the state Removal-Fill Law only. Federal or local permit requirements may apply as well. The Army Corps of Engineers will determine jurisdiction for purposes of the Clean Water Act. We recommend that you attach a copy of this concurrence letter to both copies of any subsequent joint permit application to speed application review.

Please be advised that state law establishes a preference for avoidance of wetland impacts. Because measures to avoid and minimize wetland impacts may include reconfiguring parcel layout and size or development design, we recommend that you work with Department staff on appropriate site design before completing the city or county land use approval process.

This concurrence is based on information provided to the agency. The jurisdictional determination is valid for five years from the date of this letter unless new information necessitates a revision. Circumstances under which the Department may change a determination are found in OAR 141-090-0045 (available on our web site or upon request). In addition, laws enacted by the legislature and/or rules adopted by the Department may result in a change in jurisdiction; individuals and applicants are subject to the regulations that are in effect at the time of the removal-fill activity or complete permit application. The applicant, landowner, or agent may submit a request for reconsideration of this determination in writing within six months of the date of this letter.

Thank you for having the site evaluated. Please phone me at 503-986-5262 if you have any questions.

Sincerely,



Matt Unitis
Jurisdiction Coordinator

Approved by



Peter Ryan, PWS
Aquatic Resource Specialist

Enclosures

ec: Eric Henning, Zion Natural Resources Consulting
City of Albany Planning Department (Maps enclosed for updating LWI)
Andrea Wagner, Corps of Engineers
Carrie Landrum, DSL

WETLAND DELINEATION / DETERMINATION REPORT COVER FORM

Fully completed and signed report cover forms and applicable fees are required before report review timelines are initiated by the Department of State Lands. Make checks payable to the Oregon Department of State Lands. To pay fees by credit card, go online at: <https://apps.oregon.gov/DSL/EPS/program?key=4>.

Attach this completed and signed form to the front of an unbound report or include a hard copy with a digital version (single PDF file of the report cover form and report, minimum 300 dpi resolution) and submit to: Oregon Department of State Lands, 775 Summer Street NE, Suite 100, Salem, OR 97301-1279. A single PDF of the completed cover form and report may be e-mailed to: Wetland_Delineation@dsl.state.or.us. For submittal of PDF files larger than 10 MB, e-mail DSL instructions on how to access the file from your ftp or other file sharing website.

Contact and Authorization Information	
<input checked="" type="checkbox"/> Applicant <input checked="" type="checkbox"/> Owner Name, Firm and Address: William Eddings 1979 Clover Ridge Road NE Albany, OR 97322	Business phone # (503) 569-9758 Mobile phone # (optional) E-mail: williameddings@gmail.com
<input type="checkbox"/> Authorized Legal Agent, Name and Address (if different):	Business phone # Mobile phone # (optional) E-mail:
I either own the property described below or I have legal authority to allow access to the property. I authorize the Department to access the property for the purpose of confirming the information in the report, after prior notification to the primary contact.	
Typed/Printed Name: <u>William L. Eddings</u> Signature: <u>William L. Eddings</u> Date: _____ Special instructions regarding site access: _____	
Project and Site Information	
Project Name: Eddings Manufactured Home Park	Latitude: 44.6971 Longitude: -123.0735 decimal degree - centroid of site or start & end points of linear project
Proposed Use: Manufactured Home Park 55+	Tax Map # 10.3.17DD Tax Lot(s) 600
Project Street Address (or other descriptive location): East of Sedona Road and south of Millersburg Drive NE	Tax Map # Tax Lot(s)
City: Millersburg County: Linn	Township 10S Range 3W Section 17 QQ DD Use separate sheet for additional tax and location information
Waterway: _____	River Mile: _____
Wetland Delineation Information	
Wetland Consultant Name, Firm and Address: Eric Henning Zion Natural Resources Consulting PO Box 545 Monmouth OR 97361	Phone # (503) 881-4171 Mobile phone # (if applicable) E-mail: eric@zionconsulting.org
The information and conclusions on this form and in the attached report are true and correct to the best of my knowledge.	
Consultant Signature: <u>[Signature]</u> Date: <u>2/4/2019</u>	
Primary Contact for report review and site access is <input checked="" type="checkbox"/> Consultant <input type="checkbox"/> Applicant/Owner <input type="checkbox"/> Authorized Agent	
Wetland/Waters Present? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No Study Area size: 4.40 acres Total Wetland Acreage: 0.2000	
Check Applicable Boxes Below	
<input type="checkbox"/> R-F permit application submitted <input type="checkbox"/> Mitigation bank site <input type="checkbox"/> Industrial Land Certification Program Site <input type="checkbox"/> Wetland restoration/enhancement project (not mitigation) <input type="checkbox"/> Previous delineation/application on parcel If known, previous DSL # _____	<input type="checkbox"/> Fee payment submitted \$ _____ <input type="checkbox"/> Fee (\$100) for resubmittal of rejected report <input type="checkbox"/> Request for Reissuance. See eligibility criteria. (no fee) DSL # _____ Expiration date _____ <input type="checkbox"/> LWI shows wetlands or waters on parcel Wetland ID code _____
For Office Use Only	
DSL Reviewer: <u>MU</u> Fee Paid Date: <u>2 / 6 / 19</u>	DSL WD # <u>2019-0045</u>
Date Delineation Received: <u>2 / 4 / 19</u> Scanned: <input type="checkbox"/> Electronic: <input checked="" type="checkbox"/>	DSL App.# _____



FIGURE 1
Vicinity Map



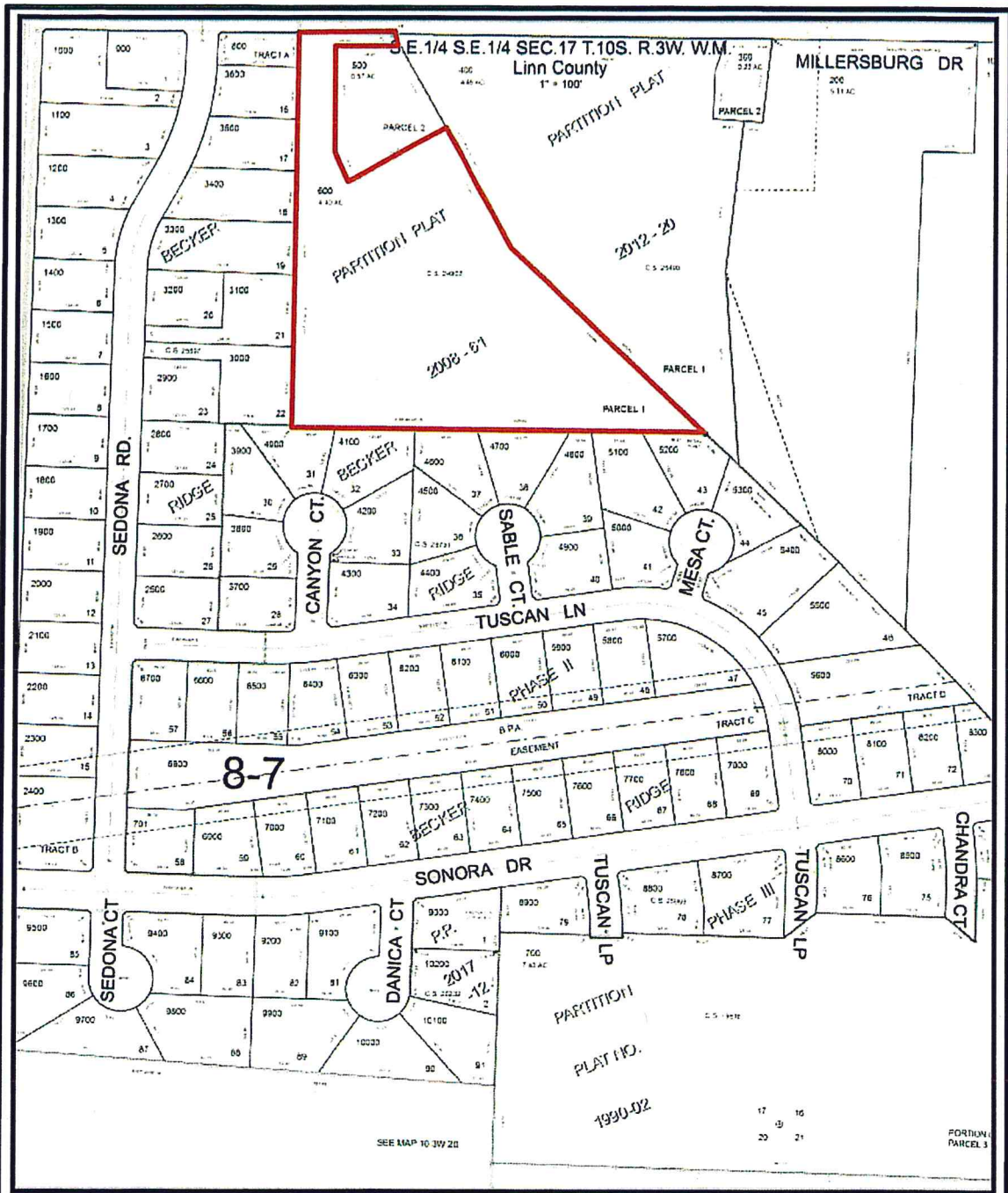
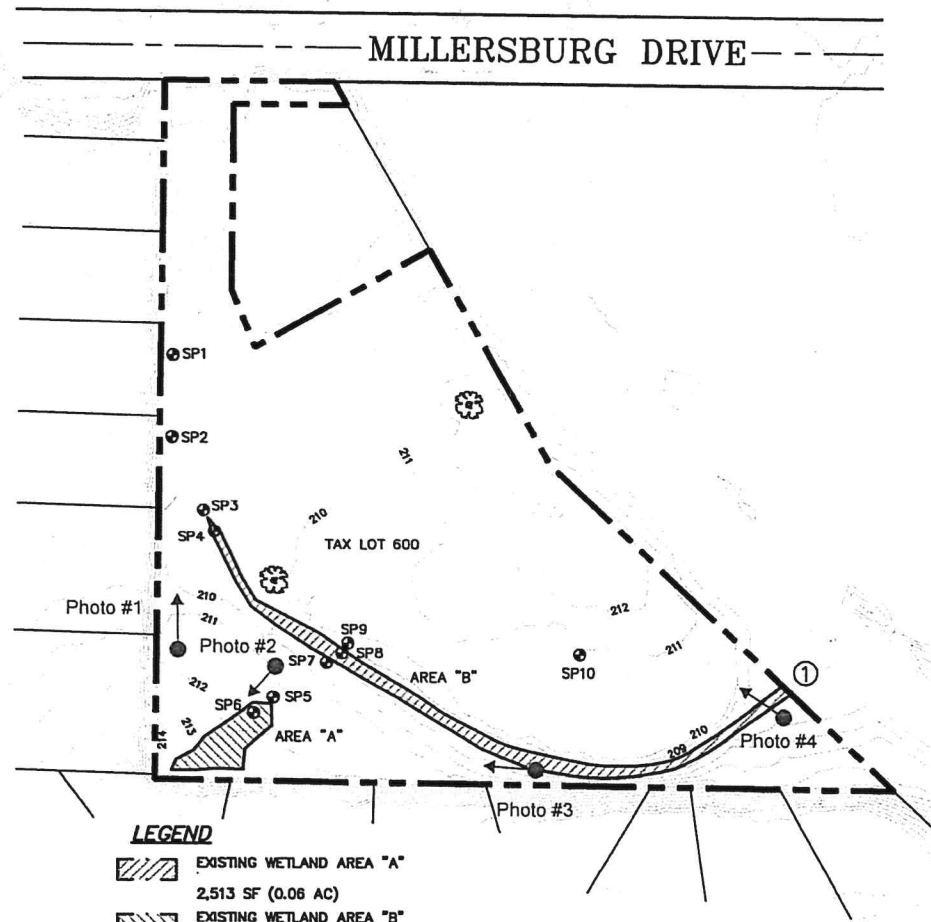
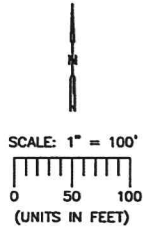







FIGURE 2
Tax Lot Map

Project: Eddings MH Park Project

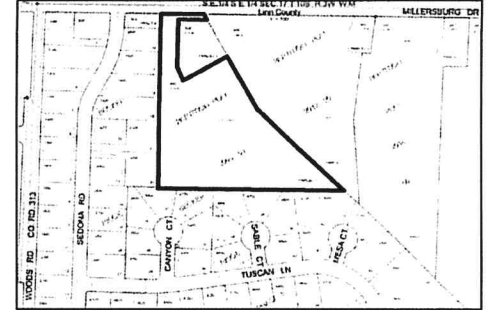
AMERICAN VILLAGE WETLANDS/WETLANDS.DWG



LEGEND

-  EXISTING WETLAND AREA "A"
2,513 SF (0.06 AC)
-  EXISTING WETLAND AREA "B"
6,030 SF (0.14 AC)
-  SP1 SAMPLE PLOT
-  WETLANDS CONTINUE OFF-SITE
-  STUDY BOUNDARY/PROPERTY LINE
TOTAL SITE AREA: 191,704 SF (4.40 AC)

WETLAND AREA, STUDY AREA, BOUNDARIES AND PLOTS WERE ESTABLISHED BY ZION NATURAL RESOURCES CONSULTING AND WERE FIELD SURVEYED WITH A TOTAL STATION, TO AN ACCURACY OF ±1 FOOT WHERE PROPERTY LINE MONUMENTS WERE RECOVERED.



VICINITY MAP
SCALE 1" = 400'

DSL WD # 2019-0045
Approval Issued 04/18/2019
Approval Expires 04/18/2024

DATE: 01/25/2019
PROPERTY OWNER:
WILLIAM EDDINGS

FIG. 6 - WETLAND DELINEATION
SECTION 17, T 10 S, R 3 W, WM
TAX LOT: 600
CITY OF MILLERSBURG
LINN COUNTY, OREGON

ZION NATURAL RESOURCES CONSULTING
P.O. BOX 545
MONMOUTH, OREGON 97361
(503) 881-4171

RECEIVED
APR 29 2019
BY: KW @ 4:55P

April, 28 2019
Terrie Hill
2595 Millersburg Dr NE
Albany OR 97321

The City of Millersburg Planning Commission
4222 NE Old Salem Road
Albany, Oregon 97321

To: Millersburg Planning Commission, Millersburg City Council.

Regards to: Manufacture Home Park, CUP19-01 Evening Star Manufactured Dwelling Park
(MDP), on property identified as Tax Account No: 10-3W-17DD, Tax Lot 600

I am writing to urge you not to support the Manufactured Dwelling Park. Beyond the testimonies, letters and petitions the city has already heard and received.

There is already an abundant amount of water flowing into the creek from the proposed Manufactured Dwelling Park, streets, and other subdivisions. Additional water flow from the proposed sites streets, property and gutters from the new homes would cause additional flooding issues from the Crooks Creek

Less than 200 feet to the west of the proposed site is a holding pond for Becker Ridge that already drains into the storm drain. In times of heavy rain, the holding pond files up to the verge of flooding.

Millersburg has a history of water drainage problems and this has become a bigger issue with all the housing developments. Now we have a request for a high density develop, a Manufactured Dwelling Park in an area with existing water issues, next to a flood plain.

I urge the city to **not to allow any variances** for this proposal, including but not limited to.

1. Street width - Proposal for a 20 feet street.
2. Sidewalks
3. Storm drain water
4. Wetland and wetland mitigation
5. Parking
6. High density development

Parking will become an issue in the Manufactured Dwelling Park, it is a high density development and the overflow will cause issues in the Manufactured Dwelling Park, neighbors and surrounding neighbor hoods close to the proposed Manufactured Dwelling Park.

The proposed site poses several safety issues, it is fire department nightmare, a disaster in the making, an accident looking for a place to happen.

- High density development
- 20 foot wide road (Proposed)
- Manufactured Homes
- Only one way in and out.

- A second (additional) fire truck, rescue vehicles would not be able get past an existing fire/rescue vehicle.

This proposed site raises way too many red flags that have been raise by several individuals and businesses, organizations,... including the Albany Fire Department. These red flags that cannot be ignored for this to be a successful development and a safe place to live.

The city of Millersburg, planning commission and city council has the discretion to apply, to enforce the rules and standards set forth by the City of Millersburg and the State of Oregon to protect the current and future residence of the City of Millersburg, not to allow any variances.

I implore you to do just that, protect the current and future citizens of Millersburg. Do not allow any variances for the proposal, deny this high density development request, CUP19-01 Evening Star Manufactured Dwelling Park (MDP), on property identified as Tax Account No: 10-3W-17DD, Tax Lot 600

Sincerely,
Terrie Hill
2595 Millersburg Dr NE.
Albany, OR 97321

RECEIVED
MAY 03 2019

BY: 10:06 am

4/30/19
Nathaniel Van Nicholson
6347 Sedona Rd.
Albany, OR 97312

To the Planning Committee of Millersburg Oregon,

This is my response to the new evidence submitted in regards to Mr. Eddings' Evening Star Manufactured Home Park application (CUP 19-01/SP 19-01).

Rebuttal to Mr. Eddings' Submitted Evidence:

I do not believe the Conditions of Approval (C.O.A.), placed upon street widths for the current park's plan, are contesting if the required code is being met. I believe it is a matter of concern for safety, quality of life, and ease of access for emergency vehicles.

I appreciate the Senior Deputy Fire Marshall including the statements in her letter to Mr. Eddings saying, "*The 20 foot unobstructed access requirement is an absolute must,*"... "*The comment in my original letter is still a valid concern,*" and "*I want to keep the concern to show history as to why the need for the No Parking restriction and providing of two on-site parking spots per lot.*"

It is clear to me that the Senior Deputy Fire Marshall is concerned about having the 20 foot road unobstructed. While the Senior Deputy Fire Marshall notes that Mr. Eddings has taken steps to ensure compliance, it is also noted (or rather, lack of) that the Senior Deputy Fire Marshall did **not** say, "This plan will guarantee 100% compliance."

The general impression I took away after reading the Senior Deputy Fire Marshall's letter to Mr. Eddings was a polite explanation essentially saying, "that if a 20 foot road is put in, it is an absolute necessity to have them clear."

I believe it would be a terrible mistake on the City to not consider all possible scenarios when planning. It is much easier to make changes in planning, rather than to make changes **after** roads and buildings are put in place. As such, my current concerns for problematic street scenarios are as follows:

- Daily
 - Mail
 - With only one 4ft sidewalk on one side of the street, (some) tenants will have to cross the street just to check their mail. This will cause crossing-foot-traffic that needs to be watched out for by other drivers.
 - Having a mailbox located at the entrance to the park (understandably so) will undoubtedly cause some residents to temporarily park in the street near the mailbox to check their mail. This will be done mostly out of convenience, and examples of this can be found at any centralized mailbox. However, having even a brief moment of blockage will cause vehicles coming into the park to back up (or cross into the opposing lane) – and could even potentially back out to Millersburg Drive (which currently does not

have a center lane). Additionally, having a park that is designated to seniors 55+ will have more likely instances of this occurring since they will be more inconvenienced on having to walk to the mailbox. There is no mitigation to prevent this from happening other than signs and warnings.

- Any packages being delivered will have temporary blockages of the street by the delivery truck, especially ones that have large deliveries (i.e. a refrigerator), or ones requiring a signature.

- Landscapers

- As noted in Mr. Eddings' letter showing the Resident requirements, "*Residents are responsible for maintaining all lawn areas, flowers, trees and shrubbery within their space.*" While several seniors enjoy doing their own landscaping, there are others (senior or otherwise) that will opt to have someone else landscape for them. Since, "*Lawns must be mowed on a regular basis during Spring/Summer/Fall-growing season. Must be edged, kept free of clutter/weeds and watered as necessary.*", it is safe to assume that any hired landscapers will frequently block the street since they will have nowhere else to park, and because it is unreasonable to transport their equipment any distance beyond a few feet from the work site. Additionally, the landscapers cannot even count on having the overflow parking be available. This would potentially deny a service that is openly available to the surrounding community, and thus hinder the quality of life for those living in the park.

- Weekly

- Garbage/ Recycling

- It is unclear as to where the garbage/recycling receptacles will be placed each week for collection. They won't be allowed on the street, as they would be impairing the limited street space for traffic. If placed on the single sidewalk, the receptacles would impair any foot traffic forcing pedestrians to enter the street. Lastly, if placed in the tenants parking spaces, the receptacles would possibly conflict with garbage collection spacing requirements (which some are in place to help avoid any potential property damage). Regardless, it would be reckless to not consider or address the problems created by such limitations.

- Seasonally / Annually

- Moving vehicles

- Tenants will have to be able to safely load or unload furniture and belongings when they either vacate or occupy a space. Moving trucks are most commonly used, and will have to be allowed to be

in the street if the carport isn't tall enough or long enough to accommodate the vehicle.

- Holidays

- Undoubtedly tenants will either leave to visit family/friends, or have family/friends come and visit them. With only 4 additional parking spaces outside the 2 current spaces allotted to the tenants, they will undoubtedly be filled up quickly during the holidays. I can personally attest to this, as I have lived in apartments, mobile home parks, town houses, and of course single-family houses. ***Almost all of these locations have had parking seriously hindered.*** I have seen vehicles parked in fire lanes, handicapped spaces, on lawns, and even on sidewalks. The most common time for such illegal parking is done in the middle of the night. The only location that I have yet to see completely hindered would be my current residence on Sedona Road, and I believe that is because of ample street widths for parking along the streets. With a mobile home park containing 28 units, I believe even Sedona Road (the closest place for parking outside of the park) will suffer parking problems during the holidays.

- Other

- A sidewalk being only one side is another concern of mine. Sidewalks offer a buffer not only for pedestrians, but to property as well. Oregon does reach freezing temperatures in the winter months, and roads are susceptible to ice. The road is on private property, so it will not receive the same benefits of de-icing measures that the City would be allotted. Since the proposed location is also lower than the surrounding areas, a natural slope will be present. The properties and anyone walking along the sides not having a sidewalk are at risk for accidental impacts from vehicles slipping down the slope.

I have been unable to find any means in which Mr. Eddings plans to enforce the restrictions on the tenants other than signs or warnings. This tells me that these restrictions will only be acted upon if the landlord is on site or if violations are reported by the community, and that there is nothing actually preventing the violations from happening. Also, should ownership change hands, there is nothing to uphold any enforcements previously required.

Careful planning is needed for any development. ***While meeting the minimum requirements is legal, it can sometimes make things more problematic than not doing them at all.*** After all, there can't be traffic accidents or congestions where there is no traffic.

I have also been unable to find any pricing that Mr. Eddings will be charging, as his previous arguments (made by Mr. Reeder) say that the City is denying "affordable housing." "Affordability" has not been defined with current prices. Regardless of definition, Mr. Eddings could effectively charge the tenant rent for both the house as well as the space it is on. This

could even be more than what surrounding residents pay for their mortgage, even if it does not initially start that way. Since the property is privately owned, the City will not be able to easily impose restrictions rent rate increases, thereby nullifying any case for “affordability.”

Rebuttal to Mike Reeder’s Submitted Evidence:

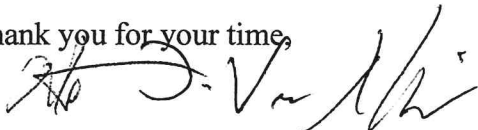
Mr. Reeder has submitted images showing empty streets in a few mobile home parks. This is not solid evidence, as the images could have easily been “cherry picked” for areas that don’t have any vehicles on the streets, and they don’t show a time-lapse comparison like a video would. If the images were taken at the same locations during holidays when most parking problems occur, for instance, and included late night images as well, then I feel there might be an argument. As it stands, I can easily just assume that Mr. Reeder looked for an empty street at a particular time that had less traffic.

Other Submitted Evidence:

It seems clear to me that a large majority of the community is opposed to the development of the proposed property for environmental concerns, safety concerns, and quality of life concerns. It appears to me that all of these areas will be negatively impacted, and largely unwelcomed by the current residents. To allow this proposal to carry through would be an insult to the majority of people who currently resides in the City of Millersburg.

I ask that you deny the proposal.

Thank you for your time,

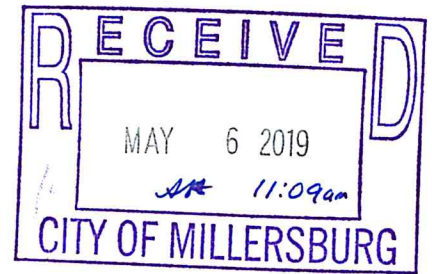


-Nathaniel Van Nicholson

6212 Mesa Ct.
Albany, Oregon 97321

May 5, 2019

The City of Millersburg Planning Commission
4222 NE Old Salem Road
Albany, Oregon 97321



To The City of Millersburg Planning Commissioners and To Whom It May Concern,

I am writing to provide a rebuttal to Mr. Reeder's photo evidence of certain Manufactured Home Parks located within the Albany area, specifically speaking to Periwinkle Place and Shorewood Estates. The photo evidence submitted was to show the current conditions of these parks and to draw specific attention to the fact that no on street parking was shown. Below you will see photos of on street parking violations at the same manufactured home parks mentioned in Mr. Reeder's emails.

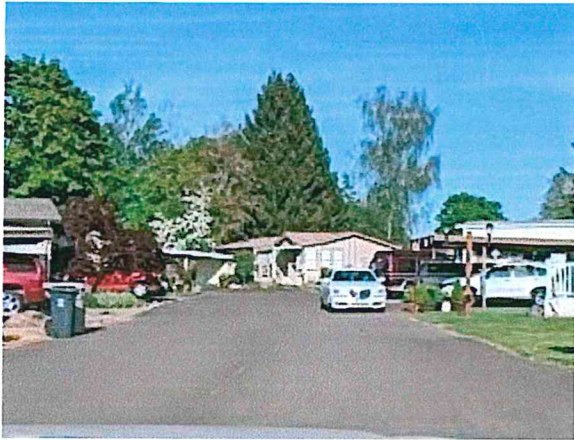
Periwinkle Place: Image shows a jeep parked along the street/sidewalk 5/4/19



Shorewood Estates: Image shows two vehicles parked along the street and one red vehicle sticking out from parking spot at their home. 5/4/19



Shorewood Estates: Image shows another vehicle parked along the side of the street. 5/4/19



These photos were taken during a random, casual drive through of the parks. After one loop through each of these two parks I saw multiple incidents of on street parking.

Thank you for your consideration in this matter,

A handwritten signature in cursive script, appearing to read 'Erin Brazel'.

Erin Brazel



Law Office of Mike Reeder
Oregon Land Use Law

May 6, 2019

Planning Commission
City of Millersburg
4222 NE Old Salem Road
Albany, Oregon 97321

**Re: Evening Star Manufactured Dwelling Park | CUP 19-01 & SP 19-01
Rebuttal Letter to Planning Commission**

Dear Planning Commissioners:

Please accept this letter as the Applicant's rebuttal to the open record period comments received by the City from April 22, 2019 to April 29, 2019.

I. Rebuttal of Mr. Kreitman Interoffice Memorandum

Mr. Kreitman, City Manager for the City of Millersburg provided to the record a Interoffice Memorandum dated April 29, 2019 regarding the Applicant's proposed street width.

First, Mr. Kreitman claims that the Applicant "...recognizes that illegal parking is likely to occur..." Mr. Kreitman is wrong. My client's illustration showing a fire truck and a parked car on one side of the private street is not an admission that he believes that illegal parking is likely to occur. The illustration was meant to respond to City staff's erroneous conclusion *for sake of argument*. The illustration was meant to show that *if* illegal parking did occur, there would still be room for a standard sized fire truck (with mirrors extended) to navigate the private street unobstructed. Mr. Kreitman's mischaracterization of my client's position perhaps was unintended, in which case, this simple explanation should suffice: it is a common and wise practice to make alternative arguments. In this case my client takes two, consistent positions: (1) it is unlikely that motor vehicles will illegally park on the private street, and (2) even if such illegal parking did occur and was not dealt with, the 20-foot wide street would still accommodate both a typical motor vehicle and a typical fire truck. There is no inconsistency in these two positions. It should also be noted that Mr. Kreitman does not address the fact that in addition to the 20-foot wide travel surface for motor vehicles, the proposal calls for a 4-foot wide sidewalk for pedestrian travel, but which also provides additional room for emergency vehicles (if ever necessary).

Second, Mr. Kreitman attempts to introduce evidence into the record to bolster staff's claim that skinny streets impede emergency access and that illegal parking occurs. However, this testimony is irrelevant as the State of Oregon has already determined that streets located in a Manufactured Dwelling Park ("MDP"), if they are designed for two-way traffic with no parking on either side, are sufficiently wide at 20 feet. See Oregon Manufacture Dwelling and Park Specialty Code ("OMDPSC") Table 10-C, "Minimum Pavement Widths." As noted at the public hearing, the OMDPSC is *the* controlling authority for the design and development of the of the streets within the MDP (except for the first 100 feet from the public right of way). What the bulk of the documents provided by Mr. Kreitman actually illustrate is that policy considerations should be taken into account when a jurisdiction adopts street width standards. The policy considerations for designing and constructing "skinny" streets should be weighed against the desire to accommodate public safety vehicles and apparatuses. Each jurisdiction is free to make such policy choices for streets located outside of MDPs.¹ This is an important policy debate² to be sure, but this debate is not only unwise in a quasi-judicial permit application such as this, it is illegal. The Application must be judged by the applicable criteria in effect at the time the Application was submitted. ORS 227.178(3).³ The Application cannot be held to a standard that varies from the currently-applicable standards, no matter how strong desire by a former Albany Fire Chief turned Millersburg City Manager to do otherwise.

Third, while Mr. Kreitman provided photos from 2000 of unidentified streets in typical single-family neighborhoods (vs. MDPs), the Applicant provided photos and testimony showing that three different MDPs in Albany do not have illegal on-street parking. The Applicant's evidence is much more relevant and current than Mr. Kreitman's purported evidence. In addition to the evidence of three MDPs in the Albany area that show no illegal, on-street parking, the Applicant provided to the record email hyperlinks to the Google Maps "street view" for each of those three MDPs also, which also shows no on-street parking in any of the three Albany MDPs.

Fourth, during the open record period, the Applicant provided an April 23, 2019 email from the Albany Deputy Fire Marshal, Lora Ratcliff, wherein she takes the position that, with three conditions, the proposed 20-foot wide private street would be satisfactory. She states:

"Fire's comments were based on the basic site plan which showed just a few spaces for visitor parking and was based on first-hand experience/knowledge of the access constraints inherent with manufactured home parks. The 20 foot unobstructed access

¹ According to Appendix B "Oregon Community Street Widths" of the *Neighborhood Street Design Guidelines: An Oregon Guide for Reducing Street Widths*, November 2000, provided by Mr. Kreitman in the open record period, the City of Beaverton (at least as of February 2000) allowed 20-foot wide streets with no parking on either side. The City of Eugene allowed "skinny" streets of 24 feet with parking on one side.

² *Neighborhood Street Design Guidelines: An Oregon Guide for Reducing Street Widths*, November 2000 states on page 2: "Narrow streets are less costly to develop and maintain and they present less impervious surface, reducing runoff and water quality problems."

³ ORS 227.178(3)(a), the "fixed goal post rule," states: "If the application was complete when first submitted or the applicant submits the requested additional information within 180 days of the date of the application was first submitted...approval or denial of the application shall be based upon the standards and criteria that were applicable at the time the application was first submitted."

requirement is an absolute must and per our conversation this morning I see you have taken steps to ensure compliance:

- *NO PARKING restriction place on the entire access road*
- *This NO PARKING restriction and towing capabilities written into the CC&R's*
- *Two parking spaces provide[d] on each lot*

I looked at three other similar sites in Albany, two of which are manufactured dwelling parks, which have no on-road parking and provided two parking spaces per lot. These sites were clear of cars on the road and the access remained open. They had varying widths ranging from 25' to 28'. It is my opinion that they would be just as successful with 20', as you're proposing.

The comment in my original letter is still a valid concern – which you can demonstrate you'll be mitigating with the bullet points above. I want to keep the concern to show history as to why the need for the No Parking restriction and providing of two on-site parking spots per lot.

Thank you for stopping in to speak with me and please call or email with any questions you may have."

While Mr. Kreitman may have “concerns” about the 20-foot width, it is clear that, with the above-listed mitigation measures, Albany Fire Department believes that the proposed 20-foot width for the private street is satisfactory.

Lastly, as discussed in my April 22, 2019 letter to the Planning Commission and in my oral comments at the April 22, 2019 public hearing, regardless of City staff's “concerns” about the adequacy of the 20-foot wide private street, state law preempts any local standards, including staff's proposed condition of approval that would obliterate the Application and preclude, for all practical purposes, the location of a MDP at this location. Such a condition of approval violates the Needed Housing Statute and ORS 197.480(5)(c).⁴

II. Rebuttal of Corbett Richards

Corbett Richards provided an 11-page letter to the Planning Commission on April 29, 2019 (the “Richards Letter”). The Richards Letter makes many erroneous assertions that I will respond to below.

First, the Richards Letter asserts that the Applicant does not need Planning Commission “approval to move forward with the project.” While there is some merit to the question

⁴ ORS 197.480(5)(c) states: “No criteria or standards established under paragraph (a) of this subsection shall be adopted which would preclude the development of a mobile home or manufactured dwelling parks within the intent of ORS 197.295 to 197.490.”

of whether the MDP must obtain discretionary land use approval from the City,⁵ I did not make that argument at the Planning Commission public hearing, nor did I make that argument in my April 22, 2019 letter. The short version of my April 22, 2019 letter and my oral comments at the public hearing may be summarized thusly: For MDPs proposed to be located in a zone that the local government imposes a conditional use permit requirement, to the extent that a CUP (or any other statutory permit such as site review) is ostensibly required, the City's land use regulations must be clear and objective and may not have the effect of precluding the MDP nor have the effect of discouraging the development of the "needed housing" in the MDP through unreasonable cost or delay. In other words, to the extent that a statutory permit is imposed on the Applicant by the City, the standards/criteria, conditions and procedure must be clear and objective and cannot prohibit or discourage the development of the MDP. The Needed Housing Statute, Section 10 of the OMDPSC, and ORS 197.480(5), together, require the City to not apply any local comprehensive plan or zoning/development code provisions that would otherwise apply to development proposals in circumstances described above. Chapter 10 of the OMDPSC controls and permits a very limited set of local standards to be imposed on an MDP. This was exhaustively explained in my April 22, 2019 letter.

Second, the portion entitled "Part 1: Site Plan Review" of Richards Letter (page 1) goes to great lengths to suggest that Site Plan Review is appropriate in this case because, among other things, the site is "unusual" and abuts a "*FEMA certified flood plain...and because [DSL] certified two areas within the southern property line as 'wetlands'...*" However, regardless of whether the City is permitted to impose a Site Plan Review requirement on this Application, the City may only impose clear and objective standards and conditions as with the CUP application. This portion of the Richards Letter is therefore superfluous.

Third, the portion entitled "Part 2: Department of State Land[s]" (page 3) DSL Concurrence Letter is irrelevant since the Oregon Department of State Lands ("DSL") has provided the Applicant with its Concurrence Letter dated April 18, 2019 ("DSL Concurrence Letter"). The Concurrence Letter determines the location of the jurisdictional wetlands as described by the Applicant's consulting wetlands expert, Zion Natural Resources Consulting. There is no indication that the Applicant cannot develop the property as proposed by complying with the Oregon Removal-Fill Law. The Richards Letter erroneously claims that my client cut down trees and implies that my client may have violated the Oregon Removal-Fill Law. This implication is totally false. My client did not remove any trees, nor did he fill or remove any wetlands. The rest of the Richards Letter is suspect based on this unfounded accusation.

Lastly, the photos provided on page 6 of the Richards Letter are irrelevant since they do not depict the subject property, and as admitted by the Richards Letter itself, the water shown in these photos do not touch my client's property.

⁵ See ORS 197.480(5), *Multi/Tech Engineering Services, Inc. v. Josephine County*, 37 Or LUBA 314 (1999) and *Doob v. Josephine County*, 39 Or LUBA 276 (2001).

III. Rebuttal of David Phelps

David Phelps provided to the record on April 29, 2019 a handwritten letter with attached photos dated April 28, 2019 (the “Phelps Letter”). The Phelps Letter asserts that Phelps has “*no intention of allowing an easement on this property.*” It is not clear why Phelps believes that the Applicant needs an “easement” from Phelps. To be clear, the Application is not dependent on the Applicant obtaining any type of easement from Phelps. As with the photos provided by Richards, the photos attached to the Phelps Letter are not photos of the subject property.

IV. Rebuttal of Erin Brazel

Erin Brazel provided a letter to the record on April 29, 2019 (the “Brazel Letter”). The Brazel Letter attempts to paint the subject property as a special flood hazard area. However, only a very small portion of the subject property in the southeast corner is in the flood plain and the Applicant is avoiding that area. See Boatwright Engineering February 5, 2019 Sheet 4 of 9 showing the precise location of the 100-year floodplain.

In addition, the wetlands on the subject property are not “significant” wetlands. The City of Millersburg does not identify any wetlands within the City as “significant” as the City has not gone through the Goal 5 Planning process for wetlands. Lastly, the Brazel Letter suggests that the Applicant is seeking “variances” for conditions of approval. To be clear, the Applicant is not requesting, nor is the Applicant required to obtain, any variances from the City.

V. Rebuttal of Nathaniel J. Van Nicholson

Nathaniel J. Van Nicholson provided a letter of opposition to the record on April 29, 2019 (the “Van Nicholson Letter”). The Van Nicholson Letter generally misunderstands the applicability of Comprehensive Plan policies to this Application.

Next, the Van Nicholson Letter seems to suggest that my client is prohibited from mowing the subject property and cutting down and removing invasive species. The Van Nicholson Letter is dead wrong. It is not a violation of the Oregon Removal-Fill Law to mow a field or remove invasive species. In order to trigger a requirement for a Removal-Fill permit, the activity must be located in a jurisdictional wetland and meet the definition of removal or fill. Mowing the site and removing invasive vegetation does not meet the definition of “removal” or “fill”.

The Van Nicholson Letter also suggests that the subject property is full of “natural vegetation.” However, the subject property is infested with Himalayan blackberries (*rubus armeniacus*) which is classified as a “Class B” noxious weed by the Oregon Department of Agriculture. My client cleared the subject property of weeds as is a customary and legal activity

of a landowner as part of prudent land management. To the extent that the Van Nicholson Letter suggests that my client removed trees or filled wetlands, it is in error.

VI. Rebuttal of Terri Hill

On April 29, 2019, Terrie Hill submitted a letter to the record on this matter (the “Hill Letter”). The Hill Letter urges the City to “*not allow an variances for this proposal...*” However, no variances are being sought and none are required.

The Hill Letter also characterizes the project as “high density.” However, the proposal is based on the density allowed in the current zoning and is identical to the zoning and development potential of the adjacent residential subdivisions. Characterizing the project as “high density” is not only incorrect, but irrelevant.

VII. Rebuttal of Petition

The record includes 15 pages of names and signatures of people that signed a petition urging the Planning Commission to deny the Application (the “Petition”). The Petition, makes unsubstantiated claims already discussed above. Specifically, it states:

“We ask the city to exercise their [sic] discretion to deny the project based on confliction with the City of Millersburg comprehensive plan, violation of Oregon State Statutes and Oregon Manufactured Dwelling and Park Specialty Code...”

First, a petition is not an appropriate method for a decision maker to analyze the project and make a quasi-judicial decision on a statutory permit such as this. The ability to use one’s property is not subject to a vote of the general public. This is not legislation. Consideration of the merits of the Application is to be given based on the facts and the substantive law; it is not subject to the whims of the petitioners, regardless of how many petitioners are opposed to the project. *See generally, Fasano v. Board of County Commissioners of Washington County*, 264 Or 574 (1973).

Second, the petitioners’ charges that the Application violates the comprehensive plan and the OMDPSC has already been discussed. The Petition makes few factual assertions; it generally only makes blanket, undeveloped conclusions. In order for the Planning Commission to give any merit to the Petition its arguments must be based on evidence for which a reasonable person would rely. The Petition fails to do that.

Respectfully,

/s/Micheal M. Reeder

Micheal M. Reeder



Law Office of Mike Reeder
Oregon Land Use Law

May 13, 2019

Planning Commission
City of Millersburg
4222 NE Old Salem Road
Albany, Oregon 97321

**Re: Evening Star Manufactured Dwelling Park | CUP 19-01 & SP 19-01
Final Written Argument to Planning Commission**

Dear Planning Commissioners:

Please accept this letter as the Applicant's final written argument to the Planning Commission regarding this Needed Housing Manufactured Dwelling Park CUP (the "Application").

I. Proposed Condition of Approval #5 – Expanding Street Width

Proposed Condition #5 of the April 15, 2019 Staff Report (page 21) attempts to unilaterally revise the Application by proposing to the Planning Commission that it require the Applicant to revise the site plan showing all internal streets with a minimum curb to curb width of 32 feet, allowing parking on one side of the street.

As discussed by me at length at the April 22, 2019 public hearing and in my April 22, 2019 letter to the Planning Commission, this proposed condition of approval cannot be adopted. To do so would be to violate the Needed Housing Statute (ORS 197.303-.307) and the Oregon Manufacture Dwelling and Park Specialty Code ("OMDPSC"). These two state statues pre-empt any local legislation. No party, including the two city attorneys who attended the April 22nd public hearing, have provided any legal rebuttal to this legal issue. While the Applicant provided evidence into the record to show that Proposed Condition #5 is not merited from a factual/practical point of view, the fact remains that the state has preempted this issue of street width and adequate parking.

If certain City staff and/or opponents to this Application do not like the fact that the state has provided uniform private street minimums and other standards not subject to local discretion their remedy is to seek redress in Salem and seek to have the laws regarding MDPs changed. Likewise, if the City and/or opponents to this Application do not like the Needed Housing Statute as it applies in this case, they are free to lobby the Legislative Assembly. They cannot however, change the current standards that are in place in order to fit their notions of

how things should be done without seeking such changes legislatively in Salem. The ability to use one's property is not subject to a vote of the general public. The Application is not legislation – it is a statutory permit that is afforded the process for quasi-judicial acts. Consideration of the merits of the Application is to be given based on the facts and the substantive law as it currently exists; it is not subject to the whims of the petitioners, regardless of how many petitioners are opposed to the project. *See generally, Fasano v. Board of County Commissioners of Washington County*, 264 Or 574 (1973).

II. Proposed Condition of Approval #6 – Sidewalks & Planters Strips

Proposed Condition #6 of the April 15, 2019 Staff Report (page 21) attempts to unilaterally revise the Application by proposing to the Planning Commission that it require the Applicant to revise the site plan to increase the amount of sidewalk from a 4-foot wide sidewalk on one side of the street to 5-foot wide sidewalks on both sides of the street. Additionally, the proposed condition of approval would impose a 4-foot wide planter strip separating the sidewalks from the curbs.

This proposed condition of approval is surely an attempt to kill this project. For the reasons discuss in response to Proposed Condition of Approval #5, this proposed condition of approval cannot be imposed on the Application. It would fundamentally change the Application. It would be a new application. It would also violate the Needed Housing Statute and Chapter 10 of the OMDPSC. Such overreach by staff would likely kill any MDP, not just this one. Simply put, MDPs are not designed to accommodate such intensive transportation facilities internally because such infrastructure is unnecessary and cost-prohibitive. Such an imposition violates the Needed Housing Statute.

III. All Other Objections & Arguments

In addition to the above-discussed proposed conditions of approval, the Applicant reaffirms its objections to the other proposed conditions of approval and attempts by neighbors to stop this proposal. Simply put, the City staff and neighborhood objections cannot be sustained and the Application must be approved pursuant to state law.

Respectfully,

/s/Micheal M. Reeder

Micheal M. Reeder



Rules of Conduct for Public Hearings

1. No person shall be disorderly, abusive, or disruptive of the orderly conduct of the hearing.
2. Persons shall not testify without first receiving recognition from the presiding officer and stating their full name and residence address.
3. No person shall present irrelevant, immaterial, or repetitious testimony or evidence.
4. There shall be no audience demonstrations such as applause, cheering, display of signs, or other conduct disruptive of the hearing.

NOTICE OF PUBLIC MEETING CITY OF MILLERSBURG PLANNING COMMISSION

Monday, April 22, 2019
6:00 p.m.

Agenda

A. CALL TO ORDER

B. PLEDGE OF ALLEGIANCE

C. ROLL CALL

D. QUASI-JUDICIAL PUBLIC HEARINGS

- 1) File No: CUP 19-01 and SP 19-01 Evening Star Manufactured Home Park
The applicant is proposing a Conditional Use Permit and Site Plan Review for a 28 space senior manufactured home park with four proposed guest parking spaces, drainage features, one open space area, landscaping, and one proposed point of access from NE Millersburg Drive.

E. CITY PLANNER UPDATE

F. ADJOURNMENT

Upcoming Meeting:

April 29, 2019 @ 4:00 p.m. – Planning Commission Workshop



File No: CUP 19-01 and SP 19-01 Evening Star Manufactured Home Park

Proposal: The applicant is proposing a Conditional Use Permit and Site Plan Review for a 28 space senior manufactured home park with four proposed guest parking spaces, drainage features, one open space area, landscaping, and one proposed point of access from NE Millersburg Drive.

I. BACKGROUND

- A. Applicant: William Eddings
- B. Location: The site has no address. It is located easterly of NE Sedona Road and southerly of NE Millersburg Drive (see attached vicinity map).
- C. Review Type: The proposed Conditional Use Permit and Site Plan review requires a hearing before the Planning Commission. The Planning Commission is scheduled to hold a hearing on the application on April 22, 2019. The Planning Commission decision can be appealed to the City Council. Any appeal of the City Council's decision relating to this matter will be considered by the Oregon Land Use Board of Appeals (LUBA).
- D. Public Notice and Hearing: Notice was mailed to all property owners within 100 feet of the proposed location, posted in City Hall on April 3, 2018 and information related to the hearing is posted on the City's website here - <http://cityofmillersburg.org/planning-commission/>
- E. Review Criteria: Article 2 §2.400(2) for the Site Plan Review and 2.500(2) for the Conditional Use Permit.
- F. Current Zoning: Rural Residential- 10 Acre Minimum- Urban Conversion (RR-10-UC)
- G. Proposed Zoning: N/A
- H. Property Size: 4.4 acres
- I. Background: The applicant attended a pre-application meeting on January 2, 2019. The parcel proposed for the development was created as part of a partition done in 2008. On March 11, 2019 the City removed the Manufactured Home Park as a conditionally permitted use in the existing zone, RR-10-UC. However, in the State of Oregon, an application is 'vested' in the zoning rules that existed at the time the application was submitted. This application was submitted prior to the March 11 text amendment that eliminated the use from the zone. As such, the application is being processed as a conditional use permit because the 'manufactured home park' was

listed as a conditional use in the code that existed at the time the application was accepted on February 12, 2018.

It should be noted, while the applicant is proposing that this be an age-restricted community, the City cannot hold the applicant to that requirement. Should the applicant elect to change this to a non-age-restricted community, the City would not require an official change to the permit. Additionally, the City would not regulate any self-imposed age-restrictions for the project. For the purposes of this staff report, and consideration of the project, the Planning Commission cannot consider the age-restriction proposed by the applicant.

II. AFFECTED AGENCY, PUBLIC NOTICE, AND PUBLIC COMMENTS

Agencies:

The applicant's materials were transmitted to the following agencies/departments on March 12, 2019: City of Albany, Albany Fire Department, Linn County Sheriff's Office, City of Millersburg Engineer, Oregon Department of State Lands, PacificCorp, Linn County Planning and Building Department, Linn County GIS, Northwest Natural Gas, United States Postal Service, the Albany School District, the Cascade West COG, and Republic Services. To date, the following comments have been received:

- The City of Millersburg Engineer provided comments. These have been incorporated.

Public:

Notice of the April 22, 2019 hearing was mailed to all property owners within 100 feet of the property. To date, no written comments have been received by staff.

III. CRITERION

CITY OF MILLERSBURG DEVELOPMENT CODE

The applicant's proposal requires both a conditional use permit and a site plan pursuant to the development code requirements. The code requires that the applicant satisfy criteria for each application. This staff report is required to outline how the applicant is meeting each set of criteria. However, the development code criteria for each case type (CUP and SP) are identical (see Code Section 2.400(2) and 2.500(2)). To avoid duplication, both the CUP and the SP are reviewed together below.

As an additional note, a manufactured home park is a unique type of project in the State of Oregon. The State has developed a set of requirements for manufactured home parks. These are found in the Oregon Manufactured Dwelling and Park Specialty Code (OMDPSC). Chapter 10 of the OMDPSC regulates manufactured home parks. Chapter 10 explains that cities are allowed to create additional regulations as long as those regulations are "not less than the minimum requirements" in the code and "not greater than the requirements for single family uses in the underlying zone." It is important to understand that the Planning Commission has the ability to interpret the City code, and to interpret areas where ambiguity exists between State rules and City codes. The Commission cannot interpret the State Code. Any

interpretation must be explained in the findings.¹ Where staff feels that some interpretation is required, the findings provided in the staff report will attempt to clearly detail the interpretation. Any Planning Commission interpretation made during the hearing (that is not used in the staff report) should be fully explained so it can be included in the final decision.

For the Site Plan- (2) Decision Criteria. After an examination of the site and prior to approval, the Planning Commission must make the following findings:

For the Conditional Use Permit- (2) Decision Criteria. The conditional uses listed in the Code may be permitted, altered, or enlarged upon authorization of the Planning Commission in accordance with the following findings:

For both the SP and CUP:

(a) The proposed development or use does not conflict with the City's Comprehensive Plan.

ANALYSIS: Section 9 of the Comprehensive Plan contains a list of Land Use Goals and Policies. Section V of this report goes through the pertinent policies from the Comprehensive Plan. In summary, based on staff's review, the project may be consistent with the policies of the Comprehensive Plan depending on how the Planning Commission interprets the Provisions of the Plan. See Section V for more detail.

FINDING: Based on the analysis above, the project may meet the required criteria.

(b) That the proposed development or use complies with the standards of the land use zone and does not conflict with city codes and ordinances that are applicable to the application.

ANALYSIS: This criterion requires the applicant to comply with standards listed in the code. The code standards come from several sections of the code including:

- Article 4 - Zoning Designation Standards
- Article 5 - Development Standards
- Article 6 - Use Standards, including Section 6.165 regulating Manufactured Home Parks
- Article 7 - Special Area Standards
- And Article 8 - Improvement Standards

This criterion is important because it links the standards to the criteria, essentially making all standards into criterion by extension. All standards are reviewed in detail in Section IV of this staff report. In summary, the project as proposed does not meet several standards. Conditions of approval were added to address these concerns. See Section IV for more detail and for proposed conditions of approval.

FINDING: Based on the analysis above, the project does not meet the required standards; however, with the addition of conditions of approval, the project can comply.

¹ ORS 197.829

(c) That the proposed development will not have an adverse impact on traffic flow or to pedestrian, bicycle and vehicular safety, and future street right-of-way are protected.

ANALYSIS: There are a number of staff concerns specific to traffic.

Access: The project site is proposing a singular access point on NE Millersburg Drive. The proposed access is located between an existing residential driveway and NE Sedona Road. Pursuant to the 2008 partition that created the project site parcel, the applicant is required to eliminate the driveway for the single-family home that is essentially surrounded by the applicant's property, and have the home use the new access drive proposed for the manufactured home park. This will remove the existing single-family home driveway from NE Millersburg Drive, leaving only the proposed new intersection for the manufactured home park.

Section 5.122, Transportation Standards, subsection 5(f) explains the City's access spacing requirements. NE Millersburg Drive is designated as an arterial in the City Transportation System Plan (TSP). Therefore, the access spacing between the project access point and the nearest intersection (NE Sedona Road) is required to be at 600 feet between intersections and/or 300 feet between driveways. It is not clear if the project driveway is to be considered an intersection or a driveway. Such a distinction may not be relevant because Section 5.122(5)(g) explains that access at less than these distances is permitted if the property has no other reasonable access. The applicant has no other 'reasonable' means of access. Bridges could be used, or neighboring homes along Sedona could be removed to provide access; however, these are not reasonable alternatives. Therefore, the applicant cannot provide the required spacing. However, Section 5.122(7)(a).6 further explains that *if* the access spacing cannot be achieved, a traffic impact analysis is required. The applicant has submitted a traffic impact analysis.

The traffic impact analysis, composed by DKS and Associates, explains that the proposed project will generate about 300 traffic trips per day. The study also explains that the access spacing will be about 165 feet between NE Sedona Road and the proposed project access, which does violate the access spacing requirements. The study explains that the low volume of expected traffic from the project will not create an unsafe traffic condition on Millersburg Drive and suggests the project be constructed as designed. No mitigation, such as signals or stop signs, are proposed in the study. Because the code allows for substandard spacing if there are no other options for the applicants and if a traffic study has been submitted², then staff finds that the access spacing is acceptable. If the intent of the spacing is to promote safety, and the study suggests that the intersection will be safe, then the intent of the code is met.

Additionally, the Albany Fire Department has reviewed the proposed project and determined that a single point of access is acceptable for up to 30 dwelling units,

² The code does not specify that the study demonstrate anything specific, only that a study be submitted. Staff is interpreting the code to mean that the study must show that all proposed street improvements will be safe. The study does indicate that the proposed improvements will be safe.

provided adequate internal circulation is provided. While the internal circulation is discussed further below, for the issue of access, the Fire Department has indicated that the proposal is adequate.

Internal Circulation: The project proposes an internal loop for a circulation system. All internal circulation streets are considered private streets. The City has specific standards for private streets, and the streets proposed do not meet the City standards outlined in Article 5 and 8.

It appears that the applicant designed the internal streets using table 10-C of Chapter 10 in the OMDPSC (see table below). The site plan shows an internal street width of 20 feet. The City Code in Section 6.165, the manufactured home park standards, explains that when there is a conflict between the City Code and the OMDPSC, the State standards in Chapter 10 shall govern. As designed, the applicant is proposing a two-way street with no parking on either side. Based on the table, that would require a 20-foot pavement width.

However, the City and the Albany Fire Department, in their letter dated March 12, 2019, have expressed concerns with the lack of on-street parking. The 20-foot pavement width would require that no on-street parking be permitted. The City Manager, Kevin Kreitman, who previously served as a Fire Chief for the City of Albany, Oregon, and later for Redding, California, and the letter from the Albany Fire Department, have explained that people will often ignore no-parking signs and still park on the street. The Planning Commission has expressed similar concerns previously with street designs that do not allow on-street parking, going so far as to request that 'skinny streets' be removed for the Code during the next forthcoming Code revision. Illegal parking on these posted no-parking streets presents a public health and safety concern. When a car is illegally parked on a 20-foot pavement width, the ability for a fire or emergency vehicle to navigate the project site is significantly restricted, creating a dangerous situation and hazard. Alternatively, when on-street parking is allowed, the 20-foot pavement width is maintained because the design of the street allows for cars to safely park on the side of the street. In addition, local law enforcement does not have jurisdiction to enforce no-parking requirements on private streets. Therefore, there is no mechanism to insure on-street parking will not occur.

Because the proposed project is a conditional use permit³, the Planning Commission has the authority to impose conditions deemed necessary for health, safety and welfare. Staff is recommending that the Planning Commission require, through conditions of approval, that the internal streets permit parallel, on-street parking on both sides. Based on the OMDPSC Table 10-C (below) the State would then require a pavement width of 30 feet.

³ Section 5.117(4) explains that the Planning Commission has the authority to request additional setbacks, street right of way, and improvements for development projects that are submitted as conditional use permits.

TABLE 10-C
MINIMUM PAVEMENT WIDTHS

DESCRIPTION	ONE OR TWO WAY STREET	ONE LANE OF A DEVIDED STREET	PARK STREET CONNECTING TO THE PUBLIC WAY	ONE WAY ALLEY	TWO WAY ALLEY	COMMONDRIVE -WAY
UNOBSTRUCTED TRAFFIC LANE WIDTH	16 Feet	12 Feet	20 Feet	12 Feet	16 Feet	9 Feet
NO PARKING ON EITHER SIDE	20 Feet	14 Feet	30 Feet	14 Feet	20 Feet	12 Feet
PARALLEL PARKING ON ONE SIDE	30 Feet	19 Feet	34 Feet	19 Feet	26 Feet	19 Feet
PARALLEL PARKING ON BOTH SIDES	30 Feet	28 Feet	34 Feet	28 Feet	30 Feet	28 Feet
30 DEGREE DIAGONAL PARKING ON ONE SIDE	33.3 Feet	29.3 Feet	37.3 Feet	29.3 Feet	33.3 Feet	29.3 Feet
30 DEGREE DIAGONAL PARKING ON BOTH SIDES	50.6 Feet	46.6 Feet	54.6 Feet	46.6 Feet	50.6 Feet	46.6 Feet
45 DEGREE DIAGONAL PARKING ON ONE SIDE	35.6 Feet	32.6 Feet	39.6 Feet	32.6 Feet	35.6 Feet	32.6 Feet
45 DEGREE DIAGONAL PARKING ON BOTH SIDES	55.2 Feet	52.2 Feet	59.2 Feet	52.2 Feet	55.2 Feet	52.2 feet
60 DEGREE DIAGONAL PARKING ON ONE SIDE	39 Feet	39 Feet	41 Feet	39 Feet	39 Feet	39 Feet
60 DEGREE DIAGONAL PARKING ON BOTH SIDES	60 Feet	60 Feet	62 Feet	60 Feet	60 Feet	60 Feet
90 DEGREE PERPINDICULAR PARKING ON ONE SIDE	43 Feet	43 Feet	43 Feet	43 Feet	43 Feet	43 Feet
90 DEGREE PERPINDICULAR PARKING ON BOTH SIDES	62 Feet	62 Feet	62 Feet	62 Feet	62 Feet	62 Feet
NOTES:						
1. Use this table to size all streets, alleys, and common driveways with or without on-street parking.						
2. The dimensions shown are measured curb to curb and includes all traffic lanes and on street parking but does not include curbs, sidewalks, or walkways.						
3. Alternate street configurations may be used with prior approval from the authority having jurisdiction.						
4. Alternate parking angles or configurations may be used with the prior approval from the authority having jurisdictions.						
5. Where a street or alley is not designed for parking on one or both sides, it shall be identified as a "No Parking" area.						
6. A two-foot wide bike lane may be added to one side of any street or alley without increasing the size of the street or alley.						
7. This table does not include parking sized to meet the accessibility requirements of the Americans with Disabilities Act (ADA). For more information, see Chapter 11 of the Oregon Structural Specialty Code.						
8. This table is based on information provided through the American Institute of Architects (AIA).						

In addition, Section 10-2 of the OMDPSC lists a host of specific design features that the City may regulate. Internal street design is not listed. It is not clear if the silence on internal streets means that the City is allowed to regulate street design. Because this is ambiguous, the City code can control. Section 5.123(15) of the City Code explains:

"Private streets are permitted within Planned Unit Developments, Mobile Home Parks and singularly owned developments of sufficient size to warrant interior circulation on private streets. Design standards shall be the same as those required for public streets unless approved by the Planning Commission."

Table 2 of the Transportation System Plan adopted by the City of Millersburg in 2016 shows required design width requirements for public and private streets. This table explains that a residential local street with parking on one side would require a curb to

curb pavement width (not including sidewalks) of 32 feet. Staff proposes the following condition of approval:

PROPOSED CONDITION OF APPROVAL: The applicant shall revise the site plan showing all internal streets with a minimum curb to curb width of 32 feet, allowing for parking on one side of the street. Streets shall be signed to allow parking on one side only. Should the inclusion of these requirements significantly change the design of the project, the Planning Commission will be required to review the revised design using the site plan review process.

Pedestrian circulation Following on the previous understanding that the City street standards apply to the project site, the requirements shown in the street design table previously mentioned (from Section 5.123(4)) apply. Therefore, the internal streets are required to include sidewalks on both sides of the street, with landscape planters separating the sidewalk from the street. The sidewalks must be 5 feet wide on each side, and the planter strips must be 4 feet wide⁴ on each side, for a total street width of 50 feet. The site plan shows 4-foot sidewalks on one side of the internal streets which does not conform to the Code requirement. A condition of approval is proposed requiring the project include sidewalks and planter strips in conformance with the Code.

It should be noted that Code Section 5.123(4)⁵ allows the Planning Commission to approve alternative right-of-way widths based on topography or the shape of a project. While the shape of the project is unique, the need for safe pedestrian walkways is critical. Safe pedestrian walkways are needed because of the unique shape of the project's site; inherently the streets do not provide long sight distances to allow motorists to see pedestrians and pedestrians to see motorists. The short streets and sharp internal curves of the street design make sidewalks essential to protect pedestrians. Additionally, it should be noted that this requirement is the same requirement used for traditional single-family homes. These are not additional, more strict requirements, but rather, these are the standard requirements of the Code. Staff proposes the following condition:

PROPOSED CONDITION OF APPROVAL: The applicant shall revise the site plan showing all internal streets with 5-foot sidewalks on both sides and 4-foot planter strips separating the sidewalks from the curbs. The minimum full street width, sidewalk to sidewalk shall be at least 50 feet, to allow safe pedestrian circulation consistent with the code. Should the inclusion of these requirements significantly change the design of the project, the Planning Commission will be required to review the revised design using the site plan review process.

FINDING: Based on the analysis above, the project does not meet the required criterion; however, with the proposed conditions of approval, the project can meet the required criteria.

(d) That proposed signs or lighting will not, by size, location, color or operation, have an adverse impact on traffic, limit visibility or have an have an adverse impact on adjacent properties.

⁴ This is required again in Section 5.123(5)g and 5.124(4)

⁵ And Section 5.123(5)h

ANALYSIS: The applicant is not proposing any signs with the project. Lighting is proposed for streets. A total of 9 street lights are proposed. All street lighting will be required to comply with Section 5.135 of the Millersburg Code, which will require each to be 25 feet tall. Specifically, Section 5.135(3) requires that lighting shall not shine into neighboring residences. Because the proposed project will be below grade of several existing homes that neighbor the site, all lighting will be visible from the neighboring homes. Required landscape screening (discussed later in this report) will help prevent glare into homes; however, staff proposes the following condition of approval:

PROPOSED CONDITION OF APPROVAL: The applicant shall provide details on the lighting to show all street lighting to be shielded to prevent any light from shining into a neighboring residence. This includes general downward shielding on lights not directly adjacent to homes.

FINDING: Based on the analysis above, the project does not meet the required criterion; however, with the proposed conditions of approval, the project can meet the required criteria.

(e) That water, wastewater disposal and utilities are available and have the capacity to serve the proposed development or use and can be extended in the future to accommodate future growth beyond the proposed land division.

ANALYSIS: Existing sewer and water lines are available to the site within NE Millersburg Drive. Individual sewer and water extensions are provided at each potential home site through a private system. Individual meters can be provided by the applicant; however, this is not a requirement by the City. Individual City meters will not be permitted. The unique location of the site will likely prevent any additional future utility connections to the site, as all neighboring properties are either developed or un-developable.

FINDING: Based on the analysis above, the project meets the required criteria.

(f) That the proposed development or use does not have an adverse impact on existing or proposed drainageways including flow disruptions, flooding, contamination or erosion on drainage-ways and required drainage facilities are provided that have the capacity to serve the proposed development or use.

ANALYSIS: The project site is located next to Crooks Creek. According to the County GIS system, and a wetland study submitted by the applicant, there is a wetland feature that crosses the site as well. Additionally, the site sits lower than the recently constructed homes to the south and west of the site. Some backyard drainage seems to occasionally cross the property. The applicant has submitted a wetland delineation study that shows that the project will not encroach on any wetlands that are considered part of Crooks Creek; however, some onsite historical drainage is considered wetlands. The study proposes that the applicant mitigate the impacts to the onsite wetlands through offsite mitigation that has yet to be identified. This is typical for impacts such as this. The amount of mitigation needed is not significant, and the applicant should be able to satisfy the requirement with the concurrence of DSL. The study has been sent to

the Division of State Lands (DSL) for their review. DSL will need to approve (concur with) both the study and any mitigation prior to any disturbance of the soil. Staff proposes the following condition of approval:

PROPOSED CONDITION OF APPROVAL:

- Any offsite flows of stormwater onto the property are not subject to detention requirements, but must be appropriately routed to an approved discharge point without adverse impacts to upstream or downstream properties.
- Obtain a 1200C Erosion Control Permit for all the disturbed ground, both on and off site that is in excess of one acre in addition to meeting all Albany Construction Standards (ACS). The applicant shall follow the latest requirements from DEQ for NPDES 1200-C Permit submittals. A copy of the approved and signed permit shall be provided to the City prior to any ground disturbing activities.

FINDING: Based on the analysis above, the project does not meet the required criterion; however, with the proposed conditions of approval, the project can meet the required criteria.

(g) That the proposed development will not have an adverse impact, potential hazards or nuisance characteristics as identified in Section 2.140, Item 21 of the Application Site Plan consistent with the standards of the Zoning District and complies with the applicable standards of all regulatory agencies having jurisdiction.

ANALYSIS: Section 2.140 Item 21 explains that the applicant is required to identify any emissions that may result from the application. In this case, no emissions are anticipated. There could be a potential for aesthetic impacts because homes bordering the site on the west and south are situated on a higher elevation than the site itself. Screening is required in the Manufactured Home Park Standards. These are discussed at length later in this report. It should be noted that aesthetics are not listed in Section 2.140 Item 21, and as such are not considered a nuisance concern.

FINDING: Based on the analysis above, the project meets the required criteria.

(h) That the proposed development or use does not conflict with the standards of other regulatory agencies having jurisdiction.

ANALYSIS: The project was transmitted to other regulatory agencies for review. Any comments received were made conditions of approval on the project.

FINDING: Based on the analysis above, the project does not meet the required criterion; however, with the proposed conditions of approval, the project can meet the required criteria.

IV. STANDARDS

The proposed design complies with all the specifications and design requirements and standards of the Millersburg Development Code, Articles 4-8, except as noted or explained in more detail below. The standards of the RR-10-UC zone do not apply because use listed in the Conditional Use section of the RR-10-UC zone specifically indicate that a manufactured home park shall use the standards from Section 6.165.

SECTION 5.118 DRAINAGWAY SETBACKS & 5.119 WETLAND AND RIPARIAN AREAS

ANALYSIS: These Code sections explain that a setback of 50 feet from the top of the bank of any fish bearing stream is required. The existing conditions and topography provided by the applicant indicates that the project will remain more than 50 feet from the top of bank of Crooks Creek. All mitigation for the wetland impacts will have to be approved through DSL prior to any ground disturbance. Previous conditions address this.

FINDING: Based on the analysis above, the project does not meet the standard; however, with the proposed conditions of approval, the project can meet the required standard.

SECTION 5.122(3) PEDESTRIAN AND BICYCLE & 5.124 SIDEWALKS

ANALYSIS: This section has been previously discussed in this staff report for criterion C. Staff is proposing that sidewalks be added on both sides of the street in order to comply with these standards. See previously proposed conditions of approval.

FINDING: Based on the analysis above, the project does not meet the standard; however, with the proposed conditions of approval, the project can meet the required standard.

SECTION 5.123 STREETS

ANALYSIS: As previously mentioned for criterion C, the streets as designed do not address the public health, safety and welfare of the City. Conditions of approval have been proposed to require wider streets in order to comply with the standards listed in this code section.

FINDING: Based on the analysis above, the project does not meet the standard; however, with the proposed conditions of approval, the project can meet the required standard.

SECTION 5.126 STORM DRAINAGE

ANALYSIS: This section requires drainage standards to assure the public is protected from flooding. Preservation of significant drainage features and setbacks from said features are requirements listed in these standards. The information provided by the applicant provides some detail of how the project proposes to address stormwater, however additional detail is required to assure compliance with City and State requirements. Conditions of approval are proposed below to assure compliance.

PROPOSED CONDITIONS OF APPRPOVAL:

- LUDC Section 5.126(7) states, "Stormwater runoff rates for new developments shall not exceed bare land runoff rates" and 5.126(7)(g) states, "Runoff from impervious surfaces must be collected and transported to a natural or public drainage facility with sufficient capacity to accept the discharge."

The Developer is required to provide a site-specific drainage plan, including means to detain peak flows so that runoff rates for the new development do not exceed bare land runoff rates, along with supporting calculations to collect, route, and discharge stormwater to an approved discharge point. The drainage plan must be approved by the City Engineer prior to issuance of building permits. The drainage plans shall conform to the Albany Engineering design standards, to the satisfaction of the City Engineer.

- All roof drains and yard drainage must be piped or trenched to an approved discharge point. Improved lots may not drain onto neighboring properties. Applicant must provide proposed drainage plan for approval.
- Any offsite flows of stormwater onto the property are not subject to detention requirements, but must be appropriately routed to an approved discharge point without adverse impacts to upstream or downstream properties.

FINDING: Based on the analysis above, the project does not meet the standard; however, with the proposed conditions of approval, the project can meet the required standard.

SECTION 5.134 LANDSCAPING

ANALYSIS: The proposed project is required to provide landscaping consistent with this code section. The landscape plan submitted was a preliminary plan that did not contain sufficient detail to satisfy the requirements of Section 5.134 (b). A condition of approval proposes the submittal of a more detailed landscape plan to show conformance with all aspects of Section 5.134, including screening, street trees and front yard landscaping. Any screening required in Section 5.134(9) is superseded by the screening requirement specific to manufactured housing (listed in Section 6.135).

PROPOSED CONDITION OF APPROVAL: The applicant shall submit detailed landscape and irrigation plans showing conformance with Section 5.134 and all other landscape requirements.

FINDING: Based on the analysis above, the project does not meet the standard; however, with the proposed conditions of approval, the project can meet the required standard.

SECTION 5.135 EXTERIOR LIGHTING

ANALYSIS: Lighting for the project has been discussed previously for criterion D. All street lights are required to include shielding to be compatible with the neighbors to the north, east and south.

FINDING: Based on the analysis above, the project does not meet the standard; however, with the proposed conditions of approval, the project can meet the required standard.

SECTION 6.165 MANUFACTURED DWELLING PARKS

Based on the nature of the application, each standard for this Code section is reviewed below.

(1) Where Permitted: Class "A" or "B" Manufactured Dwellings are permitted in all Manufactured Dwelling Parks. Manufactured Dwelling Parks are permitted in the City's Rural Residential Zones in accordance with the standards of Section 6.165 and the provisions for Conditional Use approval contained in Section 2.500.

ANALYSIS: The applicant has indicated that all manufactured homes will be a class A or B, and under 10 years old.

FINDING: Based on the analysis above, the project can meet the required standard.

(2) Minimum Site Area: An area that provides space for four or more manufactured dwellings together with all conditions and standards required by Chapter 10 of the OMDS and the standards contained in Section 6.165 herein.

ANALYSIS: The project proposes 28 units on 4.4 acres. The project is permitted up to 30 units based on the density allowance. The applicant's narrative has indicated that the project meets all the standards of OMDPSC Chapter 10.

FINDING: Based on the analysis above, the project can meet the required standard.

(3) Density: Maximum density of the park shall not exceed 7 units per gross acre.

ANALYSIS: The project proposes 28 units on 4.4 acres. The project is permitted up to 30 units (4.4 acres x 7 per acre = 30 units) based on the density allowance. The proposed unit count is below the allowance, thus in conformance.

FINDING: Based on the analysis above, the project can meet the required standard.

(4) Access: Manufactured Dwelling Park access shall occur from a public Collector or Arterial street.

ANALYSIS: The project takes access from NE Millersburg Drive which is classified as an arterial.

FINDING: Based on the analysis above, the project can meet the required standard.

(5) Permitted Uses: Manufactured Dwelling Parks may contain manufactured dwellings and accessory structures, community laundry and recreation facilities and other common buildings for use by park residents only, and one residence other than a manufactured dwelling for the use of a caretaker or a manager responsible for maintaining or operating the park.

ANALYSIS: The applicant is not proposing any additional facilities; no laundry or office is proposed. No structures of any kind are proposed with this project. The "unit" spaces are proposed. The applicant has indicated that he plans to purchase the units for each

space himself, though that is not a requirement of the project. He could also rent the space and allow a renter to provide their own dwelling unit. The applicant has indicated in his narrative that he plans to administer the facility himself.

FINDING: Based on the analysis above, the project can meet the required standard.

(6) Conditions: Upon granting site plan approval for a manufactured dwelling park, the Planning Commission may require establishment of deed covenants, conditions and restrictions (CC&Rs) or other conditions including but not limited to any of the following where such are deemed necessary for the mitigation of adverse impacts on an adjacent area:

- (a) Limit the type of units to be installed to Class "A" or Class "B" or both.**
- (b) Additional landscaping or screening on the park boundary.**
- (c) Increased setbacks from park boundaries.**

ANALYSIS: The applicant has indicated that class A and B units will be used. Additional landscape screening is discussed below (additional screening is proposed by staff). Additional setbacks do not seem to be required.

Any requirements such as these will be required to be shown on the project documents. Any breach of these will be considered a breach of the project description as approved by the Planning Commission and are grounds for penalties as outlined in the Code, which would include civil remedies. The same would be true of any CC&R restrictions that would be imposed. So, while the Planning Commission may require CC&R's, they offer protections that are similar to those granted to the City by virtue of the approval itself. The Commission may require CC&R's if desired.

FINDING: Based on the analysis above, the project can meet the required standard.

(7) Improvement Standards: Park standards shall conform to The Oregon Manufactured Dwelling and Park Specialty Code (OMDS) within the Park boundary and shall conform to City Standards when abutting public streets.

(8) Streets: Public streets located within the Park and the first 100 feet of private Park streets connecting to a public street shall conform to City standards.

ANALYSIS: The internal street, as shown on the applicants exhibit and outlined in their narrative, is consistent with the City standards where it meets NE Millersburg Drive and for 100 feet from NE Millersburg Drive. The project does not abut any other City street. The street standards for the rest of the internal streets have been discussed previously in this staff report for criterion C. Conditions have been added to re-design all internal streets to match City standards.

FINDING: Based on the analysis above, the project can meet the required standard.

(9) Perimeter Setbacks: Distance of a manufactured dwelling or accessory structure from an exterior park boundary or public right of way shall be 20 feet.

ANALYSIS: The project was designed to meet the City setback requirement of 20 feet from the park boundary to any manufactured dwelling unit as shown on the applicant's site plan.

FINDING: Based on the analysis above, the project can meet the required standard.

(10) Landscaping: All common areas within a Manufactured Dwelling Park shall be landscaped and maintained by the Park owner in conformance with the approved Landscape & Irrigation Plan.

(a) The following minimum standards per each 2,000 square feet of open area shall apply unless approved by the Planning Commission:

- 1. One tree at least six feet in height.**
- 2. ten shrubs or accent plants.**
- 3. The remaining area containing walkways and attractive ground cover at least 50% of which must be living ground cover within one year of planting.**
- 4. All manufactured dwelling spaces shall be landscaped within six months of manufactured dwelling placement. Such landscaping shall be the responsibility of the park owner.**

ANALYSIS: The applicant submitted a preliminary landscape plan. Alone, it does not show full conformity with these requirements. The applicant's narrative expands on the exhibits to say that he will comply with the requirements. Previously a condition of approval was proposed by staff that would require a more detailed landscape plan that would show conformity with these requirements.

The applicant points out that the code is not clear regarding the need for the detention and wetland areas to be added into the calculation regarding coverage. If these areas are to be included, the applicant would be required to provide an additional 48 trees and 477 shrubs. Typically, areas such as basins and wetlands are not considered buildable and are excluded from any percentage requirements for landscaping. Staff recommends that these areas be excluded from the required landscape calculations.

FINDING: Based on the analysis above, the project does not meet the standard; however, with the proposed conditions of approval, the project can meet the required standard.

(b) Perimeter Property Screening: The entire perimeter of the manufactured dwelling park shall be screened except for driveways and Clear Vision Areas. The following minimum standards shall apply:

- 1. One row of evergreen shrubs shall be planted which will grow to form a continuous hedge at least six feet in height and be at least 80 percent opaque, as seen from a perpendicular line of sight, within two years of planting, or**
- 2. A minimum of a five-foot wood fence or masonry wall shall be constructed, providing a uniform sight obscuring screen, or**

- 3. An earth berm combined with evergreen plantings or wood fence or masonry wall shall be provided which shall form a sight and noise buffer at least six feet in height.**
- 4. At least 5 five-gallon shrubs or 10 one-gallon shrubs for each remaining 1,000 square feet of required buffer area; and**
- 5. The remaining area treated with attractive, living ground cover (i.e., lawn, ivy, evergreen shrubs, etc.).**

ANALYSIS: The applicant's narrative goes into detail regarding how the applicant intends to meet the screening requirements. First, it is important to note that the project site sits below grade from the neighbors that surround the site on the west and south. Staff asked the applicant to provide an additional sight line exhibit showing a section diagram with the elevation difference, the existing units surrounding the site and the proposed unit locations to clarify how the grade difference impacts the project. This exhibit, attached, was provided but did not provide enough detail to clearly show the line of sight for what the existing homes will see if the project were approved and constructed.

The screening described in the Code above was clearly intended for a situation where the neighbors were at grade. Further, it is clear that the Code's intent is to assure that the manufactured homes cannot be seen from the neighboring property. The grade separation is a unique site feature. Indeed, the Code anticipated that not all circumstances would be as clear cut as the listed requirements seem to imply. The Code allows the Planning Commission to require additional screening if needed. In this case, in order for the applicant to meet the intent of the Code, additional screening will be required.

The applicant has explained in the narrative and shown on the site plan that they intend to plant 5-foot Leyland Cypress trees along the entire outer park perimeter. Their narrative explains that within 2 years these should screen 80% of the view from the park boundary. Property to the east is additionally separated by Crooks Creek, thus these properties to the east should be adequately screened with the proposal. The neighbor to the north is also at grade with the project site, thus the screening proposed by the applicant should be sufficient for this neighbor.

However, the homes along the west and south of the site are higher. The proposed Cyprus trees taper near the tops of the trees; the sight obscuring ability diminishes as the trees ascend. Because the homes along the south and west border are at a higher elevation, the trees will not meet the intent of the Code, which is to obscure the park from the neighbors. Additionally, most of the neighboring homes are two story homes. The Code is not clear on the details or perspective of the need to obscure the park from view. People on the second floor of the homes will command even more of a view of the property. Where the Code is not clear, the Planning Commission has additional ability to apply discretion in order to assure the intent of the Code is met. Again, staff contends that the intent is not met with Cyprus trees alone. While the Cyprus trees will help, staff proposes a condition of approval that would require additional large canopy trees for each manufactured home site and along the entry drive. A canopy will obscure large portions of the park from additional heights, including the second stories of the neighboring homes. Staff proposes the following condition of approval:

PROPOSED CONDITION OF APPROVAL: The applicant shall include one additional sight obscuring, large canopy tree on each unit space along the south and west of the park, including along the west side of the entry drive. The trees should be at least 24" box in size, 7 feet tall at planting, and that will grow to substantial canopy within 5 years, at which time they must provide at least 80% opacity when viewed from at least 6 feet in height from a perpendicular line of sight. The canopy at full growth should not overhang the property lines of the park site. All planting must be completed prior to occupancy of any manufactured home.

FINDING: Based on the analysis above, the project does not meet the standard; however, with the proposed conditions of approval, the project can meet the required standard.

(11) Utilities: All manufactured dwelling parks must provide each lot or space with storm drainage, municipal sanitary sewer, electric, telephone, and municipal water, with easements dedicated where necessary to provide such services. All such utilities shall be located underground. Utilities shall be connected in accordance with state requirements and the manufacturer's specifications.

ANALYSIS: The applicant's narrative has indicated that all utilities will be provided by the park owner and will all be placed underground.

FINDING: Based on the analysis above, the project can meet the required standard.

(12) Design and Submission Requirements:

(a) Professional Design Team: The applicant for proposed Manufactured dwelling (MH) Parks shall certify in writing that the services of a registered architect, landscape architect or registered engineer licensed by the State of Oregon have been utilized in the design and development of the project.

ANALYSIS: The applicant's narrative has indicated that the design was done by a registered civil engineer.

FINDING: Based on the analysis above, the project meets the required standard.

(b) Site Plans Required: The Conditional Use Application for a new or expansion of an existing MD Park shall be accompanied by 12 copies of the site plan of the proposed park containing the following information in addition to that required in Section 2.140 for Application Site Plans. The plot plan shall show the general layout of the entire Park and shall be drawn to scale. The drawing shall include all of the following information:

- 1. Name and type of Park, address, owner, Design Team members, scale, date and north point of plan.**
- 2. A vicinity plan showing streets and properties within 500 feet of the development site.**
- 3. Plot plan of park boundaries and the location, dimensions and number of MH spaces. Number each space and demonstrate that**

planned spaces can reasonably accommodate a variety of MH or RV types.

4. Location and dimensions of existing and proposed structures, together with the usage and approximate location of all entrances, heights, and gross floor areas.

5. Location and dimensions of roads, accessways, parking, loading facilities, garbage receptacles and walkways.

6. Extent, location, arrangement, and proposed improvements of all open space, landscaping, fences and walls.

7. Location of lighting fixtures for park spaces and grounds.

8. Location and area of recreation spaces and buildings in square feet.

9. Locations where park water, sewer, drainage and utility systems connect to City systems.

10. Location of existing and proposed fire and irrigation hydrants.

11. Enlarged plot plan of a typical MH space, showing location of the stand, patio, storage space, accessory structures, parking, sidewalk, utility connections, and landscaping.

12. Architectural drawings and sketches demonstrating the planning and character of the proposed development.

13. A construction time schedule and development phasing plan.

14. Detailed plans required. Prior to application for a building permit to construct a new Park or to expand an existing Park, the applicant shall submit five copies of the following detailed plans:

a. A legal survey.

b. Plans of new structures.

c. Water and sewer systems.

d. Utility easements.

e. Road, sidewalk, and patio construction.

f. Drainage system, including existing and proposed finished grades.

g. Recreational improvements including swimming pool plans approved by the Oregon State Board of Health.

h. Landscaping and irrigation plans.

ANALYSIS: The exhibits submitted by the applicant show most of the details required above. The plans did not show any details regarding the garbage receptacles. As such, a condition of approval has been added to require the submission of a detailed trash collection plan for staff approval. No permanent structures are proposed. A condition of approval has also been added for the building permit requirements of item 14 above, though because the Code requires this, the condition is redundant.

PROPOSED CONDITIONS OF APPROVAL:

- Prior to application for a building permit, the applicant shall submit for review and approval a trash collection plan.
- Prior to application for a building permit, the applicant shall submit 5 copies of the following detailed plans: a legal survey, plans for placement of all new structures, water and sewer systems, utility easements, road, sidewalk, and patio

construction, drainage system, including existing and proposed finished grades, recreational improvements and landscaping and irrigation plans.

- Construction on the City of Millersburg public water, sewer, street, or storm system requires a Private Construction of Public Infrastructure (PCPI) permit. If a PCPI permit is obtained, a right-of-way permit may not be required. All required public improvement plans shall be submitted to the City for review and approved by the City prior to beginning construction. The engineering plans shall conform to the Albany Engineering design standards, to the satisfaction of the City Engineer. All utilities shall remain uncovered until inspected and approved by the City. All required public improvements shall be completed and approved by the City prior to issuance of building permits.

FINDING: Based on the analysis above, the project does not meet the standard; however, with the proposed conditions of approval, the project can meet the required standard.

V. CITY OF MILLERSBURG COMPREHENSIVE PLAN

City of Millersburg Comprehensive Plan

The City of Millersburg Comprehensive Plan implements the 19 State Goals. Based on staff review, the project is consistent with all goals and policies of the Comprehensive Plan. The following are *relevant and pertinent* policies from the Comprehensive Plan.

Chapter 9.1- Planning

Policy 16. Close coordination shall be maintained between the school district, fire districts, serving utilities, Linn County, the City of Albany and other governmental agencies having facilities or programs in the area.

ANALYSIS: The project was transmitted to several agencies for review. Those who responded are included.

FINDING: Based on the analysis above, the project is consistent with the policy.

Chapter 9.4- Housing

Policy 1. The City recognizes the need for an adequate supply of sound, decent and attractive housing which includes a variety of types and designs which are responsive to community needs.

ANALYSIS: The project provides housing. Generally manufactured homes are more affordable than traditionally built homes, thus adding to the variety of housing types for the area. It is not clear if the last portion of the policy speaks to the needs of those needing housing or those that live in the surrounding area. Some of the neighboring owners have expressed concerns with the proposed project indicating that the higher density afforded by the manufactured housing park may not be compatible with the surrounding community, and that the new project may impact their housing property values.

FINDING: Based on the analysis above, the project may be consistent with the policy.

Chapter 9.5- Land Use

Residential Land Use Policy 2, When urban development occurs, the city shall encourage compact residential development within the existing Residential District to provide more efficient land utilization and to reduce the cost of housing, public facilities and services.

ANALYSIS: The proposed project is a compact form of residential development, not as compact as multi-family, which would also be permitted on the site, but more than the 10,000 square foot minimum requirement for single family homes.

FINDING: Based on the analysis above, the project is consistent with the policy.

Residential Land Use Policy 8, Residential areas shall be protected from excessive through traffic, conflicting land uses, or other encroachments that would impair a safe, quiet living environment.

ANALYSIS: Manufactured homes parks are a controversial type of housing. They have traditionally suffered from a negative stigma. Future negative impacts are very difficult to predict. Compatibility between established single-family homes and manufactured home parks is highly subjective. Often this is established on a case by case basis; this project is no different. Ultimately the role of the Planning Commission is to act as a body of community representatives and apply discretion to subjective areas of policy and code, such as compatibility. This project will not introduce additional through traffic to preexisting communities, and should not ultimately result in an unsafe community. The increased density could result in more noise than a traditionally platted 10,000 square foot community, based simply on the fact that there are more people per square foot. The question of the proposed project being a possible conflicting land use will be up to the Planning Commission.

FINDING: Based on the analysis above, the project may be consistent with the policy.

VI. RECOMMENDATION

Based on the above findings of fact, with the conditions of approval, the proposed project satisfies the applicable criteria, and staff recommends the Planning Commission approve Application No. CUP 19-01 and SP 19-01 pursuant to the conditions of approval listed below.

VII. ALTERNATIVE RECOMMENDATION

Should the Planning Commission elect not to approve the proposed development, they could continue the item for further discussion or deny the application citing the specific criteria not satisfied by the application.

VIII. CONDITIONS OF APPROVAL

General Conditions:

1. This land use approval shall substantially comply with the submitted narrative and exhibits, except as indicated in the following conditions. Additional development or change of use may require a new development application and approval.
2. This approval permits no more than 28 manufactured home sites on the project site. Any other business or change to this business, including more than 28 units, is not permitted.
3. The project permitted by this approval shall commence within one year of approval or the permit is void. An extension of the permit may be granted through a new conditional use permit process.
4. All manufactured units within the project shall be less than 10 years old at the time of installation and shall be either class A or B.

Prior to the submittal of any building permits:

5. The applicant shall revise the site plan showing all internal streets with a minimum curb to curb width of 32 feet, allowing for parking on one side of the street. Should the inclusion of these requirements significantly change the design of the project, the Planning Commission will be required to review the revised design using the site plan review process.
6. The applicant shall revise the site plan showing all internal streets with 5-foot sidewalks on both sides and 4-foot planter strips separating the sidewalks from the curbs. The minimum full street width, sidewalk to sidewalk shall be at least 50 feet, to allow safe pedestrian circulation consistent with the Code. Should the inclusion of these requirements significantly change the design of the project, the Planning Commission will be required to review the revised design using the site plan review process.
7. The applicant shall provide details on the lighting to show all street lighting to be shielded to prevent any light from shining into a neighboring residence. This includes general downward shielding on lights not directly adjacent to homes.
8. Prior to application for a building permit, the applicant shall submit five copies of the following detailed plans: a legal survey, plans for placement of all new structures, water and sewer systems, utility easements, road, sidewalk, and patio construction, drainage system, including existing and proposed finished grades, recreational improvements and landscaping and irrigation plans.
9. Prior to application for a building permit, the applicant shall submit for review and approval a trash collection plan.
10. The applicant shall submit detailed landscape and irrigation plans showing conformance with Section 5.134 and all other landscape requirements.

11. The applicant shall include one additional sight obscuring,- large canopy tree on each unit space along the south and west of the park, including along the west side of the entry drive. The trees should be at least 24" box in size, 7 feet tall at planting, and that will grow to substantial canopy within 5 years, at which time they must provide at least 80% opacity when viewed from at least 6 feet in height from a perpendicular line of sight. The canopy at full growth should not overhang the property lines of the park site. All planting must be completed prior to occupancy of any manufactured home.
12. LUDC Section 5.126(7) states, "Stormwater runoff rates for new developments shall not exceed bare land runoff rates" and 5.126(7)(g) states, "Runoff from impervious surfaces must be collected and transported to a natural or public drainage facility with sufficient capacity to accept the discharge."

The Developer is required to provide a site-specific drainage plan, including means to detain peak flows so that runoff rates for the new development do not exceed bare land runoff rates, along with supporting calculations to collect, route, and discharge stormwater to an approved discharge point. The drainage plan must be approved by the City Engineer prior to issuance of building permits. The drainage plans shall conform to the Albany Engineering design standards, to the satisfaction of the City Engineer.
13. Any offsite flows of stormwater onto the property are not subject to detention requirements, but must be appropriately routed to an approved discharge point without adverse impacts to upstream or downstream properties.
14. Obtain a 1200C Erosion Control Permit for all the disturbed ground, both on and off site that is in excess of one acre in addition to meeting all Albany Construction Standards (ACS). The applicant shall follow the latest requirements from DEQ for NPDES 1200-C Permit submittals. A copy of the approved and signed permit shall be provided to the City prior to any ground disturbing activities.

IX. NOTICES TO THE APPLICANT

The applicant should also be aware of the following standards and processes that are required for development. These are not part of the decision on this land use case and are provided as a courtesy to the applicant. Please contact City Hall with any questions.

1. Construction within City of Millersburg right-of-way must conform to the City of Albany Standard Construction Specifications, which have been adopted by the City of Millersburg and requires a City of Millersburg right-of-way permit. All pavement patching work shall conform to the City of Millersburg Trench Backfill and Pavement Patching Standards. All work within the public right-of-way shall be performed by a licensed contractor and conform to the Albany Standard Construction Specifications, except as modified by the City of Millersburg Pavement Patching Standards
2. Construction on the City of Millersburg public water, sewer, street, or storm system requires a Private Construction of Public Infrastructure (PCPI) permit. If a PCPI permit is obtained, a right-of-way permit may not be required. All required public improvement

plans shall be submitted to the City for review and approved by the City prior to beginning construction. The engineering plans shall conform to the Albany Engineering design standards, to the satisfaction of the City Engineer. All utilities shall remain uncovered until inspected and approved by the City. All required public improvements shall be completed and approved by the City prior to issuance of building permits.

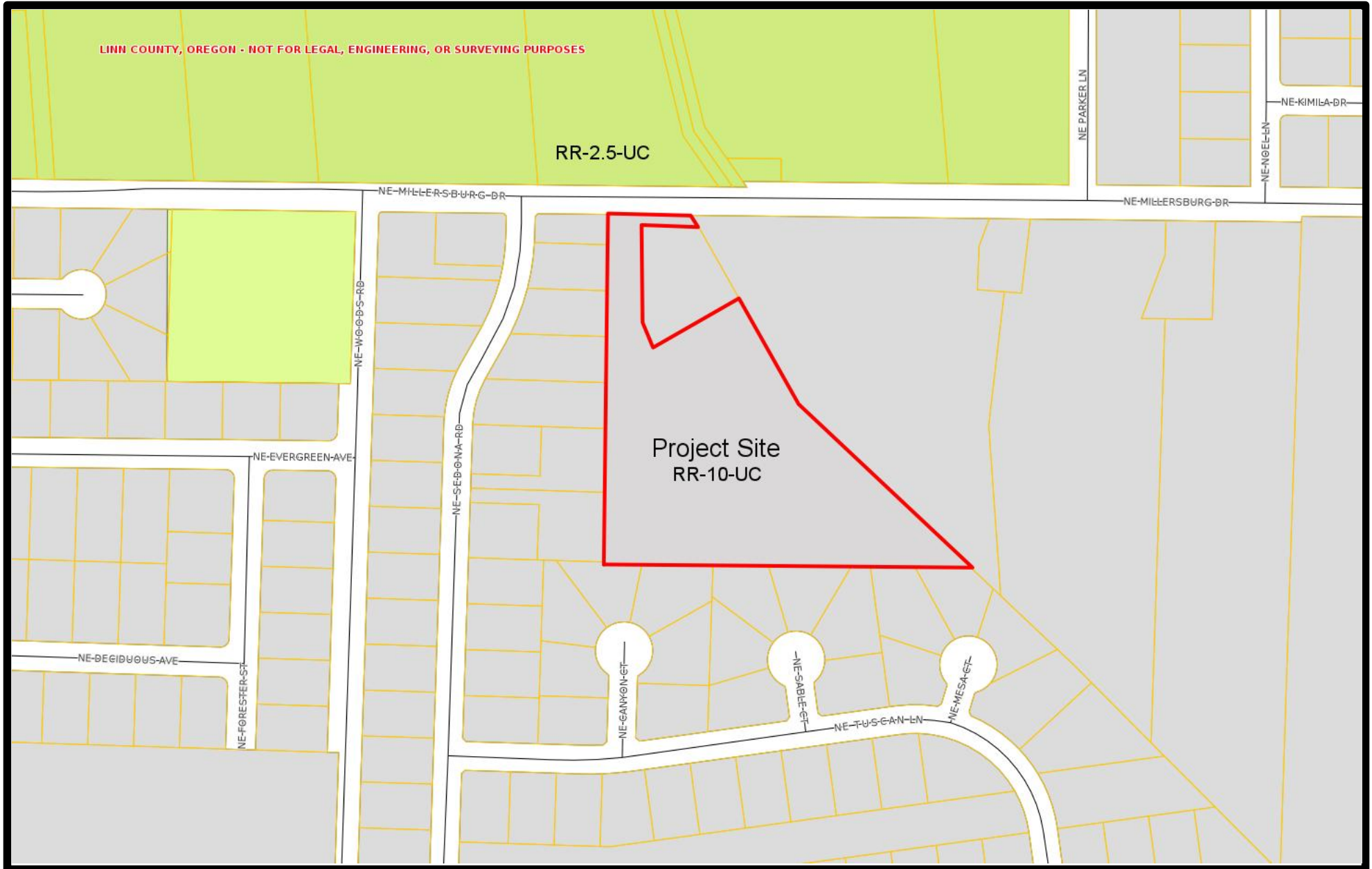
3. A right-of-way permit is required for any work in the public right-of-way, including utility connections, sidewalks, and driveways. All pavement patching work shall conform to the City of Millersburg Trench Backfill and Pavement Patching Standards. All work within the public right-of-way shall be performed by a licensed contractor and conform to the Albany Standard Construction Specifications, except as modified by the City of Millersburg Pavement Patching Standards.
4. System Development Charges (SDCs) for water and sewer are due at the time of connection. Commercial SDC charges are based on equivalent dwelling units.
5. All agreements required as conditions of this approval must be signed and recorded.
6. Wetlands may be present on the site. Work within wetlands is subject to the requirements of the Authority Having Jurisdiction (AHJ).
7. A private water and sewer system shall be constructed to serve the development, with connections to the existing public water and sewer systems in Millersburg Drive meeting the requirements of the City of Albany Engineering Standards and the City of Albany Standard Construction Specifications. A single public water meter will be required to serve the development; individual public meters for individual dwellings are not allowed. It is the applicant's responsibility to determine the required meter size and fire flow bypass, if applicable, including any required vaults, to the satisfaction of the City Engineer.
8. All roof drains and yard drainage must be piped or trenched to an approved discharge point. Improved lots may not drain onto neighboring properties. Applicant must provide proposed drainage plan for approval.
9. Compliance with the Conditions of Approval is the responsibility of the developer or its successor in interest.
10. The developer is responsible for all costs associated with any remaining public facility improvements and shall assure the construction of all public streets and utilities within and adjacent to the tentative map as required by these conditions of approval, to the plans, standards and specifications of the City of Millersburg.
11. The continual operation of the property shall comply with the applicable requirements of the Millersburg Development Code.
12. This approval does not negate the need to obtain permits, as appropriate from other local, state or federal agencies, even if not specifically required by this decision.

13. The applicant shall comply with the fire protective standards administered by the Linn County Building Official and the Albany Fire Department. Hydrant and turnaround locations shall be provided by the applicant and approved by the Albany Fire Department and the City.
14. In the event there is engineered fill on any public roads or lots, the applicant's soils engineer and testing lab shall obtain and record compaction tests and submit results for the review and approval of the City Engineer.
15. Driveways shall conform to Section 5.120 of the Millersburg Development Code, with individual driveway slopes not exceeding a grade of 14%.
16. Decks, fences, sheds, building additions, and other site improvements shall not be located within any easement unless otherwise authorized in writing by the City Engineer.
17. Dust shall be controlled within the development during construction and shall not be permitted to drift onto adjacent properties.
18. Noise shall be kept at the minimum level possible during construction. The developer shall agree to aggressively ensure that all vehicles working in the development shall have adequate and fully functioning sound suppression devices installed and maintained at all times.
19. All construction sites shall be maintained in a clean and sanitary condition at all times. Construction debris, including food and drink waste, shall be restricted from leaving the construction site through proper disposal containers or construction fencing enclosures. Failure to comply with this condition may result in a "Stop Work" order until deficiencies have been corrected to the satisfaction of the City.

X. EXHIBITS

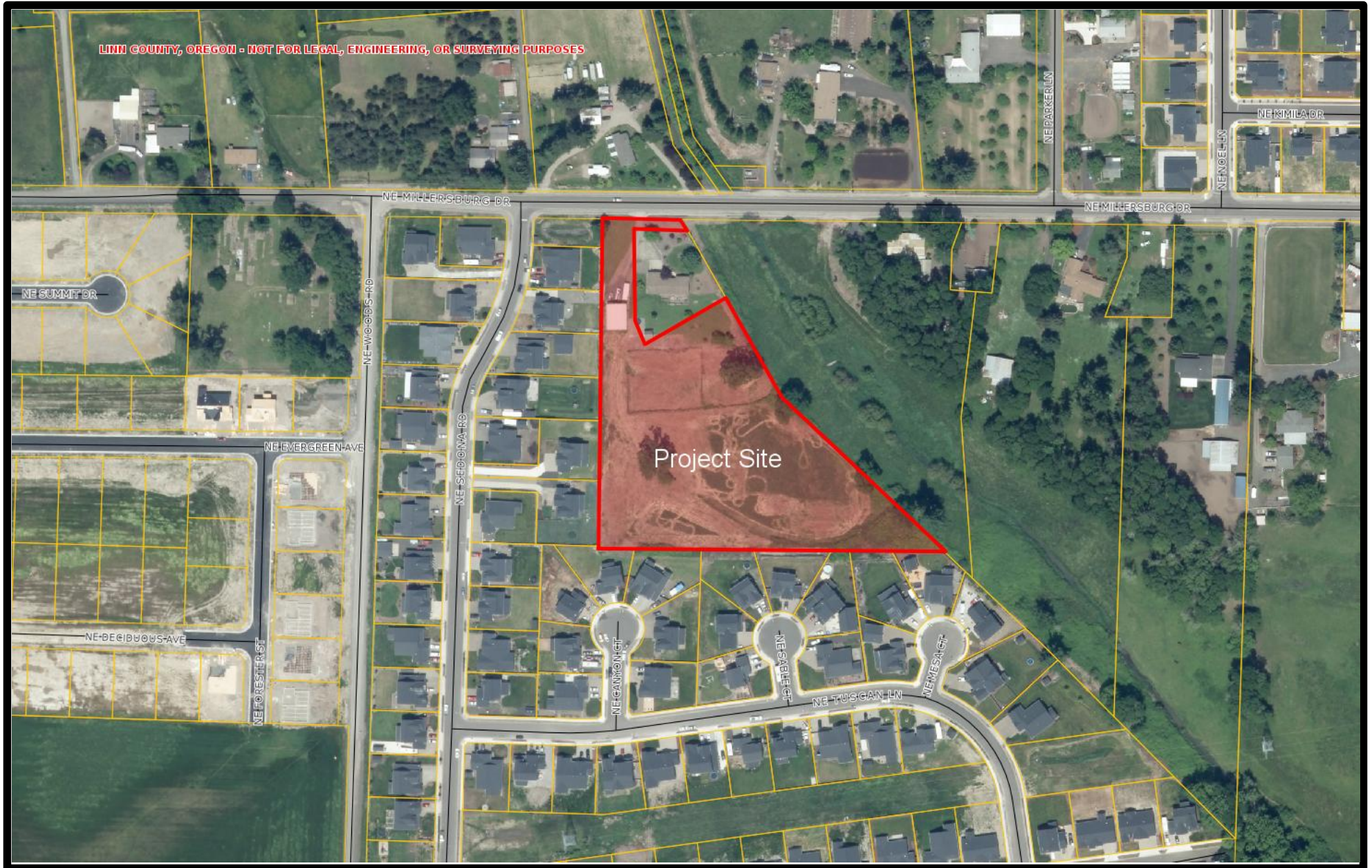
- A. Zoning Map
- B. Vicinity Map
- C. Applicant's Description, application and project materials
- D. Incompleteness letter dated 2/27/19
- E. Applicant response to incompleteness dated 3/4/19
- F. Additional exhibit showing sight line distances (not included, to be distributed at hearing)
- G. City Engineer comments dated 4/15/19
- H. Public Hearing Notice

Zoning Map CUP/SP 19-01



This product is for informational purposes only and may not have been prepared for, or be suitable for legal, engineering, or surveying purposes. Users of this information should review or consult the primary data and information sources to ascertain the usability of the information.

Vicinity Map CUP/SP 19-01



This product is for informational purposes only and may not have been prepared for, or be suitable for legal, engineering, or surveying purposes. Users of this information should review or consult the primary data and information sources to ascertain the usability of the information

APPLICANT STATEMENT

William L Eddings owns a 4.4 acre parcel located south off of 2652 N Millersburg Road that is zoned Rural Residential-Urban Conversion-RR-10-UC (Township 10S; Range 3W; Section 17DD; Tax Lot 600). The owner is proposing to construct a 55 or older manufactured park which is listed in the zone as a conditional use in the zone. The development will have 28 spaces and have direct access onto Millersburg Road. All units placed within the park will meet the "A" or "B" standards of doublewide or single wide less than 10 years in age. Mr. Eddings has chosen the name of Evening Star for the name of the park. The following will address the City of Millersburg zoning criteria for a manufactured dwelling park in the RR-10-UC zone:

Section 4.113 (1) Purpose. The Rural Residential-Urban Conversion Zone is applied in rural residential area with standards for continued rural development until a transition to urban residential use occurs. Urban Residential standards shall apply to approved Urban Conversion areas where municipal water and sewer facilities are provided or approved by the City.

Response: The subject property is located just east and north of recently subdivided land that has both public sewer and water that serves the residential dwellings that have been built on the individual lots. Prior to construction of the manufactured park the applicant will obtain approval for the design of a water and sewer service plan for the park. Noted in the approval for the partition that created the subject parcel in Staff review #6 is that Municipal water and sewer is available from Millersburg Drive. It was also noted in the conditions for approval in #5 that with future development of the subject parcel municipal water and sewer are available to serve both parcels created in the partitioning but that connection to Parcel 2 is deferred until development of parcel 1. The proposed development will comply with the Section 1.113 (1) of the zone.

Section 4.113 (3) Conditional Uses In an RR-10-UC Zone, the following uses and their accessory uses may be permitted subject to the additional provisions of Section 2.500.

(e) Manufactured dwelling parks in conformance with Section 6.165.

Response The applicant will address both Sections 2.500 and 6.165 later in this report. At this time it is possible to conclude that a manufactured park can be permitted under the conditional use provisions of the RR-10-UC Zone.

Section 2.500 Conditional Uses (2) Decision Criteria. Conditional uses listed in this Code may be permitted altered, or enlarged upon authorization of the Planning Commission in accordance the following findings:

- (a) *That the proposed development or use does not conflict with the City's comprehensive Plan.*

Response: The current zoning is the implementing ordinance for the Comprehensive Plan. A manufactured dwelling park is listed in the zone as a conditional use. Therefore it can be concluded that the proposed manufactured park is consistent with the Comprehensive Plan and is not in conflict with its provisions.

- (b) *That the proposed development or use complies with the standards of the land use zone and does not conflict with city codes and ordinances that are applicable to the application*

Response: As part of this review the applicant will supply a response to the specific standards of the city zoning code and ordinances that apply to the creation of a manufactured home park. These responses will be done addressing specific sections of the land use code as well as the engineering standards of the city. In each instance the applicant will list the specific standard that needs to be addressed and provide a response that verifies compliance. Subject to these responses the applicant will comply with (b) above.

- (c) *That the proposed development does not have an adverse impact on traffic flow or to pedestrian, bicycle and vehicular safety and future street rights-of-ways are protected.*

Response: The proposed manufactured park is to serve the adult senior segment of the housing market. As such it will not be a source of any major traffic generation. The park will have one entrance onto a public road and will be developed in accordance with city design standards. The surrounding subdivisions do not provide any street access points onto the subject parcel and will not be used for access. Any public improvements to streets for the items listed in (c) will occur along Millersburg Road and will comply with the city standards. In the approval that created the partitioning for the subject parcel it was noted that the "proposed street plan submitted with the request was in conformance City standards and provides the most economic, safe and efficient circulation of traffic in relation to the existing City street system and does not have an adverse impact on pedestrian, bicycle and vehicular safety" (see Findings for approval of the request #6). Subject to compliance with city standards for development the applicants proposal will comply with (c) above.

- (d) *That the proposed signs or lighting will not, by size, location, color or operation, have an adverse impact on traffic limit visibility or have an have adverse impact on adjacent properties.*

Response: Again, it should be noted that the proposed use of the property is for a senior manufactured park. As such it should not have lighting that will not conform to the size, location, color or operation that would cause impact on traffic, limit visibility, or have impact on

adjacent properties. These concerns are usually addressing commercial or industrial developments and are not a concern for residential developments. As conditioned, the applicant will comply with (d) above.

- (e) *That water, wastewater disposal and utilities are available and have the capacity to serve the proposed development or use and can be extended in the future to accommodate future growth beyond the proposed land division.*

Response: The engineering firm that has conducted the design of the development has shown that the issues relating to water, wastewater disposal and utilities will conform to city standards. As far as these items being extended in the future, it is not anticipated that this will occur because the development does not connect to other developable lands without a creek and wetland crossing. The above findings will show compliance with (e) above.

- (f) *That the proposed development or use does not have an adverse impact of existing or proposed drainage ways including flow disruptions, flooding, contamination or erosion, on drainage-ways and required drainage facilities are provided that have the capacity to serve the proposed development or use.*

Response: The applicant has employed a wetlands consultant that is addressing these issues and that report will be submitted along with this report. Findings in that report will show compliance with the standards and findings listed in (f) above.

- (g) *That the proposed development will not have an adverse impact potential hazards or nuisance characteristic as identified in **Section 2.140, Item 21** of the Zoning District and complies with the applicable standards of all regulatory agencies having jurisdiction.*

Response: Section 2.140, Item 21 specifically addresses potential impacts of the development with regards to emissions such as noise, water quality, vibration, smoke, odor, fumes, dust, heat, or glare of electromagnetic interference. These issues are usually related to a conditional use for a commercial or industrial use of a property. None of these potential impacts would be associated with a residential development and especially a senior manufactured park. It is not anticipated that the issues addressed in Section 2.140, Item 21 will occur in any amount that would affect neighboring properties so (g) is met.

- (h) *That the proposed development or use does not conflict with the standards of other regulatory agencies having jurisdiction.*

Response: Other jurisdictions that may have standards or regulations governing the subject parcel would be the State Division of Lands for any fill or mitigation of wetland issues and these are being addressed by the wetlands consultant. Additional standards may be imposed by local fire jurisdictions as to access and street design but these standards can be imposed as a condition

of any approvals given. It is not expected that there will be any impacts to the 100 year floodplain so there should not be an issue with the Federal Emergency Management Agency (FEMA). Other than these two issues the regulatory reviews will be addressed by the City of Millersburg. Item (h) above is or will be met.

Section 6.165 Manufactured Dwelling Parks

Oregon Revised Statutes (ORS), Chapter 446 and Oregon Administrative Rules (OAR), Chapter 918, and Chapter 10 of the Oregon Manufactured Dwelling and Park Specialty Code (OMDS) specify the standards and regulations for Manufactured Dwelling Parks in the State of Oregon. Section 6.165 contains additional supporting standards for all Manufactured Dwelling Parks located within the City of Millersburg as permitted in Chapter 10 of the OMDS. In case of conflict, the state standards of Chapter 10 shall govern.

Response: Chapter 10 begins with a general statement specifically: 10-1-1 Statewide Code. It states “This code establishes the minimum and maximum requirements for the design and construction of manufactured dwelling parks throughout the State of Oregon to provide uniformity and affordability and to keep construction costs predictable. Except where specifically permitted by this code, no jurisdiction may require a person to exceed the requirements of this code.” In discussions with staff additional requirements were being proposed as a possibility within the park concerning the internal street improvements. Staff mentioned that there could be an increased street standard above that proposed by the applicant. In reviewing Chapter 10 it is apparent that Table 10-C specifically allows for a 20 foot street as long as there is no parking allowed. In addition, park streets can be constructed with a 4 foot pedestrian walkway on either side of the street with the requirement for a walkway only on one side of the street. Table 10-C of the OMD State Code requires a travel width of 16 feet for two way roadways and also requires a 4 foot pedestrian walkway on one side. Therefore, the proposed 24 foot private drive within the park could accommodate both the travel lanes as well as the pedestrian walkway. As noted in the OMDS standards, where there are conflicts with local jurisdictions the OMDS code shall govern. Based upon these standards the proposed manufactured park will meet the minimum standards required in Table 10-C.

- (1) *Were permitted: Class “A” or “B” Manufactured Dwellings are permitted in all Manufactured Dwelling Parks. Manufactured Dwelling Parks are permitted in the City’s Rural Residential Zones in accordance with the standards of Section 6.165 and the provisions for Conditional Use approval contained in Section 2.500.*

Response: As noted in the introduction, all of the units placed in the park will conform to the design standards of an “A” or “B” unit. They will all be under 10 years in age and will either be double wide or single wide. The applicant is working with a new home sales and manufacture to

obtain units for each space meeting the standards listed above. The applicant will comply with (1) above.

- (2) *Minimum Site Area: An area that provides space for four or more manufactured dwellings together with all conditions and standards required by Chapter 10 of the OMDS and the standards contained in Section 6.165 herein.*

Response: The subject parcel is 4.4 acres in size. The standard in the development ordinance is a density of no more than 7 dwelling units per acre. The park could have up to 30 units but the applicant is proposing 28 spaces and will comply with the code density maximum. Many of the OMDS Code standards are specific to space design as well as building materials. This can be addressed as part of any site plan approval and during the building permit process. The standards listed in Section 6.165 are being addressed as part of this applicant statement throughout out this report. Findings will show compliance with the standards and provisions of this section of the code. (2) above will be met.

- (3) *Density: Maximum density of the park shall not exceed 7 units per gross acre.*

Response: The subject parcel is 4.4 acres in size. Using this measurement there would be a possibility of 30 units within the park. The applicant is proposing 28 units so will comply with (3) above.

- (4) *Access: Manufactured Dwelling Park access shall occur from a public collector or Arterial street.*

Response: The sole access point of the proposed manufactured dwelling park will be onto Millersburg Drive. Millersburg Drive is listed in the transportation plan as an arterial. Therefore, the proposed manufactured park will comply with (4) above.

- (5) *Permitted Uses: Manufactured Dwelling Parks may contain manufactured dwellings and accessory structures, community laundry and recreation facilities and other common buildings for use by park residents only, and one residence other than a manufactured dwelling for the use of a caretaker or a manager responsible for maintaining or operating the park.*

Response: Mr. Eddings lives within a 10 minutes driving time to the park and will serve as the manager and rental agent so there will be no need for an onsite manager. The park plan does not include any community laundry facilities, developed recreation facilities or common buildings. Since this is a senior park the need for recreation facilities are limited. The proposed park will comply with the elements listed in (5) above.

- (6) *Conditions: Upon granting site plan approval for a manufactured dwelling park, the Planning Commission may require establishment of deed covenants, conditions and restrictions (CC&Rs) or other conditions including but not limited*

to any of the following where such are deemed necessary for the mitigation of adverse impacts on an adjacent area:

- (a) Limit the type of units to be installed to Class "A" or Class "B" or both.*
- (b) Additional landscaping or screening on the park boundary.*
- (c) Increased setbacks from park boundaries.*

Response: As noted previously, all of the units placed in the park will either be Class "A" or Class "B" units. The applicant is proposing to plant 5 foot Leyland Cypress along the entire outer boundary of the park. Within 2 years these will grow to an 8 foot height and will form a sight obscuring border the will be 80% opaque. All units will meet the 20 foot setback from the park boundary as required in the conditional use standards.

The surrounding land to the west and south is developed with a single family subdivision. All of the lots are at least 5 feet above the subject parcel and this restricts the location of units on the subject parcel at the 20 feet setback provided in the ordinance. Properties to the east are buffered from the development by an area of wetlands and Crooks Creek. To the north will be another single family dwelling. that will also be screened from the manufactured park by the planted buffer trees. No additional setbacks are being proposed. Based upon this discussion, the applicants' proposal will comply with the conditions listed in (a), (b) and (c) above

- (7) Improvement Standards: Park standards shall conform to the Oregon Manufactured Dwelling and Park Specially Code (OMDS0 within the park boundary and shall conform to City Standards when abutting public streets.*

Response: In discussions with Planning Division Staff is was noted that the first 100 feet of the access driveway off Millersburg Drive will have to be developed to a city street standard. The applicant has included that development into the design. The remainder of the park will be developed to meet the OMDS standards and other standards listed by the City. Subject to conditions, the applicant can comply with (7) above.

- (8) Streets: Public streets located within the Park and the first 100 feet of private Park streets connecting to a public street shall conform to City standards.*

Response: This standard is included in the park design as noted in (8) above will be met.

- (9) Perimeter Setbacks: Distance of a manufactured dwelling or accessory structure from an exterior park boundary of public right of way shall be 20 feet.*

Response: All manufactured dwellings and accessory structures will comply with the standard setback listed in (9) above.

- (10) *Landscaping: All common areas within a manufactured dwelling park shall be landscaped and maintained by the Park Owner in conformance with the approved Landscape & Irrigation Plan.*
- (a) *The following minimum standards per each 2,000 square feet of open area shall apply unless approved by the Planning Commission.*
1. *One tree at least six feet in height.*
 2. *Ten shrubs or accent plants.*
 3. *The remaining area containing walkways and attractive ground cover at least 50% of which must be living ground cover within one year of planting.*
 4. *All manufactured dwelling spaces shall be landscaped within six months of manufactured dwelling placement. Such landscaping shall be the responsibility of the park owner.*

Response: The applicant will meet all of the above standards as part of the development of the park. The applicant has submitted a site plan for a typical space with the landscape noted. In addition, the applicants engineer has submitted a landscaping design standard that states that 40 trees are required and an additional 395 shrubs/accent plants (this is based on a design area of 78,873 square feet of open space in the home area. These trees and shrubs will be dispersed to each lot and along the entrance road and park. If the area within the 16,495 square feet of open space in wetland/detention area is included there will be a need to increase to 48 additional trees and 477 shrubs/accent plants will be required. Due to the limitation of a portion of the property being within an identified wetland the trees and shrubs can only be planted at the north and east angle points of the wetland. The trees and shrubs will be dispersed to each lot an along the entrance road. Based upon this plan and subject to conditions, the applicant can conform to (10) (a) 1-4.

- (b) *Perimeter Property Screening: The entire perimeter of the manufactured dwelling park shall be screened except for driveways and Clear vision area. The following minimum standards shall apply:*
1. *One row of evergreen shrubs shall be planted which will grow to form a continuous hedge at least six feet in height and be at least 80 percent opaque as seen from a perpendicular line of sight within two years of planting, or*
 2. *A minimum of a five foot wood fence or masonry wall shall be constructed providing a uniform sight obscuring screen, or*

3. *An earth berm combined with evergreen plantings or wood fence or masonry wall shall be provided which shall form a sight and noise buffer at least six feet in height.*
4. *At least 5 five-gallon shrubs or 10 one-gallon shrubs for each remaining 1,000 square feet of required buffer area, and*
5. *The remaining area treated with attractive, living ground cover (i.e., lawn, ivy, evergreen shrubs, etc.)*

Response: As noted in the engineers findings, the trees and interior landscaping plan can comply with the standards listed in (b) above. Perimeter trees will be planted at the property boundary and will be able to meet the standard listed in 1 above. No fence or masonry wall is being proposed as a perimeter screen because the trees will meet the screening standard of the ordinance. In addition, the applicant is not proposing to build an earth berm on the property, and again, this is because the proposed buffering trees will comply with 1 above. The engineer has allowed for the shrubs noted in 4 as part of their landscaping calculations. Each lot will be developed to the design of the individual space renters with attractive living ground cover to meet 5 above. Based upon the above discussion, the applicants' proposal can comply with the elements listed in (b) (1-5) above.

- (11) *Utilities: All manufactured dwelling parks must provide each lot or space with storm drainage, municipal sanitary sewer, electric, telephone, and municipal water, with easements dedicated where necessary to provide such services. All such utilities shall be located underground. Utilities shall be connected in accordance with state requirements and the manufacturer's specifications.*

Response: The engineering design of the park will assure that all utilities will be provided to each space and they will be underground. A storm drainage plan is included in the engineering plan submitted by the applicant. Due to the utility design being done by a registered civil engineer there are assurances that the services to each lot will be engineered and designed to meet the manufactured specific design standards.

- (12) *Design and Submission Requirements:*

- (a) *Professional Design Team: The applicant for proposed Manufactured dwelling (MH) Parks shall certify in writing that the services of a registered architect, landscape architect or registered engineer licensed by the State of Oregon have been utilized in the design and development of the project.*

(b) *Site Plans Required: A Conditional Use Application for a new or expansion of an existing MD Park shall be accompanied by 12 copies of the site plan of the proposed park containing the following information in addition to that required in Section 2.140 for Application Site Plans. The plot plan shall show the general layout of the entire park and shall be drawn to scale. The drawing shall include all of the following information:*

1. *Name and type of park, address, owner, Design Team members, scale, date and north point of plan.*
2. *A vicinity plan showing streets and properties within 500 feet of the development site.*
3. *Plot plan of park boundaries and location, dimensions and number of MH spaces. Number each space and demonstrate that planned spaces can reasonably accommodate a variety of MH or RV types.*
4. *Location and dimensions of existing and proposed structures, together with the usage and approximate location of all entrances, heights, and gross floor areas.*
5. *Location and dimensions of roads, accessways, parking loading facilities, garbage receptacles and walkways.*
6. *Extent, location, arrangement, and proposed improvements of all open space, landscaping fences and walls.*
7. *Location of lighting fixtures for park spaces and grounds.*
8. *Location and area of recreation spaces and buildings in square feet.*
9. *Locations where park water, sewer, drainage and utility systems connect to City systems*
10. *Location of existing and proposed fire and irrigation hydrants.*
11. *Enlarged plot plan of a typical MH space, showing location of the stand, patio, storage space, accessory structures, parking, sidewalks utility connections, and landscaping*
12. *Architectural drawing and sketches demonstrating the planning and character of proposed development.*

13. *A construction time schedule and development phasing plan.*
14. *Detailed plans required. Prior to application for a building permit to construct a new Park or to expand an existing Park, the applicant shall submit five copies of the following detailed plans:*
 - a. *A legal survey.*
 - b. *Plans of new structures.*
 - c. *Water and sewer systems.*
 - d. *Utility easements.*
 - e. *Road, sidewalk and patio construction.*
 - f. *Drainage system including existing and proposed finished grades.*
 - g. *Recreational improvements including swimming pool plans approved by the Oregon State Board of Health.*
 - h. *Landscaping and irrigation plans.*

Response: The applicant has employed the services of a Traffic Engineer, a Registered Civil Engineer, a Wetlands Consulting Service and a Land Use Planner to compile the elements needed to make this application. All of the above elements are addressed by the submittals and will be submitted to the city for their review and approval. Any questions should be directed to Norman Bickell at (503) 510-1742 for an immediate response to the issue.

Summary: The issues and criteria are complex and the applicant has supplied what is believed an answer to each criteria and shown compliance. There may still be questions or a need for further clarification by city staff and these elements will be addressed prior to the public hearing with the Planning Commission. The applicant awaits your review and comments.



Land Use Application Form

Case No. CUP 19-01/SP 19-01

Date _____

Type _____

Check the Type of Land Use Requested:

- | | |
|---|--|
| <input type="checkbox"/> (PA) Pre Application | <input type="checkbox"/> (VR) Variance (list standards can be varied in description) |
| <input type="checkbox"/> (SP) Site Plan Review | <input type="checkbox"/> (CP) Comprehensive Plan Amendment |
| <input checked="" type="checkbox"/> (CUP) Conditional Uses | <input type="checkbox"/> (ZC) Zone Change |
| <input type="checkbox"/> (PL) Property Line Adjustment | <input type="checkbox"/> (AN) Annexations |
| <input type="checkbox"/> (SD) Subdivisions (4 or more lots) | <input type="checkbox"/> (VA) Vacations |
| <input type="checkbox"/> (PA) Partition (3 or less lots) | |

THIS FORM MUST BE FILLED OUT COMPLETELY

I. Property Owner/Applicant Information

- A. Applicant(s) Norman Bickell (actual applicant is Mr. Eddings)
Email Address nbickell0027@aol.com
Mailing Address 2232 42nd Av. SE #771 Salem, Oregon 97317
Phone number (503) 510-1742
- B. Owner(s) William L Eddings
Email Address williameddings@gmail.com
Mailing Address 1979 Clover Ridge NE Albany, Oregon 97322
Phone number (503) 569-9758

II. Property Information

- A. Legal description of property: Township 10S Range 3W Section 17DD
Tax Lot 600
- B. Additional Properties:
Township --- Range --- Section --- Tax Lot ---
Township --- Range --- Section --- Tax Lot ---
- C. Site Address (if any) None
- D. Zoning/Comp Plan Designation RR-10-UC/Residential

III. **Authorizing Owner/Applicant Certifications**

I hereby certify that the statements, attachments, exhibits, plot plan and other information submitted as a part of this application are true and any approval granted based on this information may be revoked if it is found that such statements are false. By submitting this form the Owner, or Owner's authorized agent/ representative, acknowledges and agrees that City of Millersburg employees, and appointed or elected City Officials, have authority to enter the project site at all reasonable times for the purpose of inspecting project site conditions and gathering information related specifically to the project site. I further acknowledge that I have read the applicable standards for review of the land use action I am requesting and understand that I must demonstrate to the City review authorities compliance with these standards prior to approval of my request.

Owner/applicant signature William J. Edlung Date 6-12-19
Owner/applicant signature _____ Date _____

IV. **The following materials must be submitted with your application or it will not be accepted at the counter.** Once taken at the counter, the City has up to 30 days to review the materials submitted to determine if we have everything we need to complete the review.

A **narrative** explaining how the application meets all required criteria shown in City land use Development Code, Article 2 (<http://cityofmillersburg.org/millersburg-land-use-development-code/>)

At least 3 folded sets of the project **Site plan**. The site plan must be drawn to scale and show existing and proposed locations of buildings, access, parking, loading, landscaping, screening, fencing, drainage, water supply, sewage disposal, public utilities, unique site features (creeks and wetlands) and exterior lighting.¹

A copy of the **deed** for the subject property.

A copy of any **easement** granting access to the subject property, if the property does not have frontage on a public road.

If the applicant for this request is not the property owner, then **authorization** from the owner must be submitted with the application.

A copy of all permits, licenses, and **authorizations** from other government agencies pertaining to the proposed use, including highway access, water and sewer connections, state or federal discharge permits.

Land Use Application **Checklist** (separate form)

Digital versions of all Site Plans, other plans and/or studies.

Application **Fee**. The total fee shall be the sum of all individual procedural fees unless adjusted by the City Manager.

¹ Additional copies of all exhibits may be required if the application is deemed complete.
City of Millersburg Land Use Application
Revised, September 2018

V. Proposed Use of Property

- A. Describe in detail the proposed use and your development plans for the property. Include a description of the number and type of buildings and their intended use, roadways, driveways, parking lots, signs, landscaping, drainage plans and outdoor lighting.

The applicant is proposing a 28 space senior manufactured home park that will derive its access off a 20 foot paved driveway with 4 guest parking spaces along with allowances for 1 parking space for each space. The applicant is submitting plans for all of the remainder of the items listed above.

- B. Please describe the general operating characteristics of the proposed use and the hours of operation.

The proposed senior manufactured park will be a full time residential development and operate in a similar manor to a residential subdivision.

- C. Will any other permits from local or state agencies be required? If yes, please list permits needed and if they have been secured.

Additional permits were applied for with the State of Oregon Division of State lands for Wetlands mitigation plan and it is still under review at the time of this report.

- D. How much land area will be used for the proposed activity? Will the proposed use generate wastewater and if so, how will it be disposed?

The proposed senior manufactured development will use approximately 4 of the 4.4 acres of the subject parcel. The remainder of the area is within a wetland or provides for setbacks from property lines. The individual manufactured homes will connect to an interior sewer collection system and then to the public sewer along Millersburg Drive.

- E. Will the proposed use require a water supply? If so, how much will be needed and how will it be supplied?

All of the proposed units will be connected to an interior water service line which will be connected to the water line in Millersburg. Water use will be metered and the tenants at the connection with the city water service. The exact amount needed for each unit will vary but a common amount used is 525 gallons per day for each unit. Additional water will be needed for landscaping maintenance.

- F. Please describe the types of vehicles, machines and/or tools to be used. Please estimate the amount of vehicle trips per day that will be generated by the proposed use.

At the time of construction there will be some heavy equipment use for the establishment of the infrastructure. After the initial construction of the park the only equipment that will be used are mowers to maintain the landscaping.

- G. What are the proposed hours and days of operation? Will any products be offered for sale on the property? If products are sold, what will be sold?

As noted previously, the proposed use is a residential development. No products will be offered for sale from the property.

- H. How many people will be employed including the applicant? Please indicate whether the employees will be full or part-time. Will anyone live on the property? If so, who?

The applicant and maybe one additional employee will be employed to manage the development once it is established. No onsite housing for management will occur.

- I. Does the property front a county road or public road? Which one? Is there an existing driveway and how is it improved (gravel, asphalt, concrete)?

The property fronts on Millersburg Drive which is in the city of Millersburg. There is an existing gravel driveway that enters the property from the parcel to the east.

- J. How is the property now used? Are there any unique features on the property such as a creek, steep topography, or wetlands?

The property currently contains a storage building that will be removed upon development of the property. Crooks Creek is on its east side and there are areas of wetland along the eastern and southern side of the parcel. The developed subdivision to the south and west are elevated above the elevation of the subject parcel.

EVENING STAR

55 & Older Manufactured Home Park

FEBRUARY 2019

Millersburg, Oregon

PROPERTY LOCATION:

Tax Lot: 10S 3W 17DD 600
 Address: 2600 Blk Millersberg Dr.
 Zoning: Rural Residential 10UC

OWNER / APPLICANT:

William Eddings
 Contact: William Eddings
 1979 Clover Ridge Road NE
 Albany, Oregon 97322
 Phone: 503.569.9758
 gcarn@gcamltd.com

LAND USE PLANNER

Norm Bickell Planning Services
 Contact: Norm Bickell
 2232 42nd Avenue S.E., #771
 Salem, Oregon 97317
 Phone: 503.510.1742
 nbickell0027@aol.com

ENGINEER:

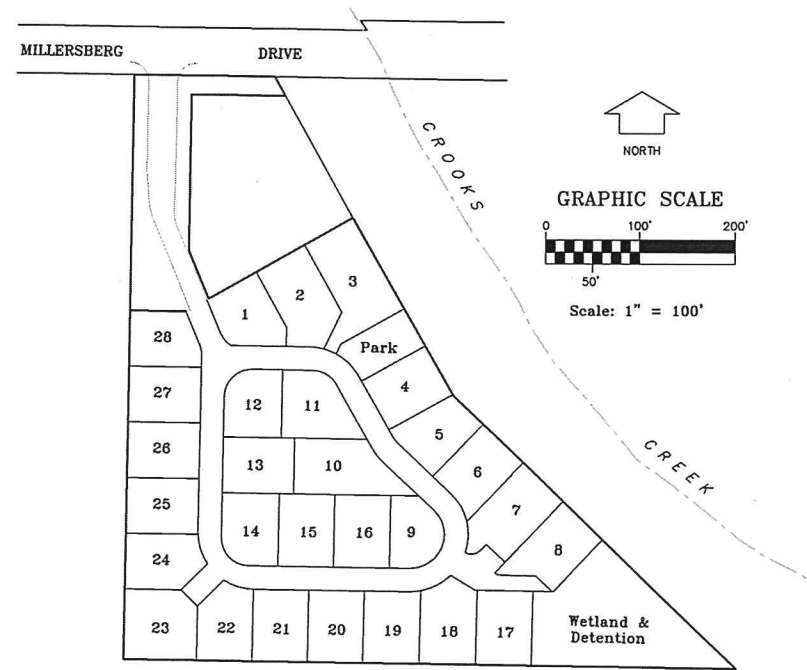
Boatwright Engineering, Inc.
 Contact: Corbey Boatwright, PE
 2613 12th Street S.E.
 Salem, Oregon 97302
 Phone: 503.363.9225
 corbey@boatwrightengr.com

TRAFFIC ENGINEER:

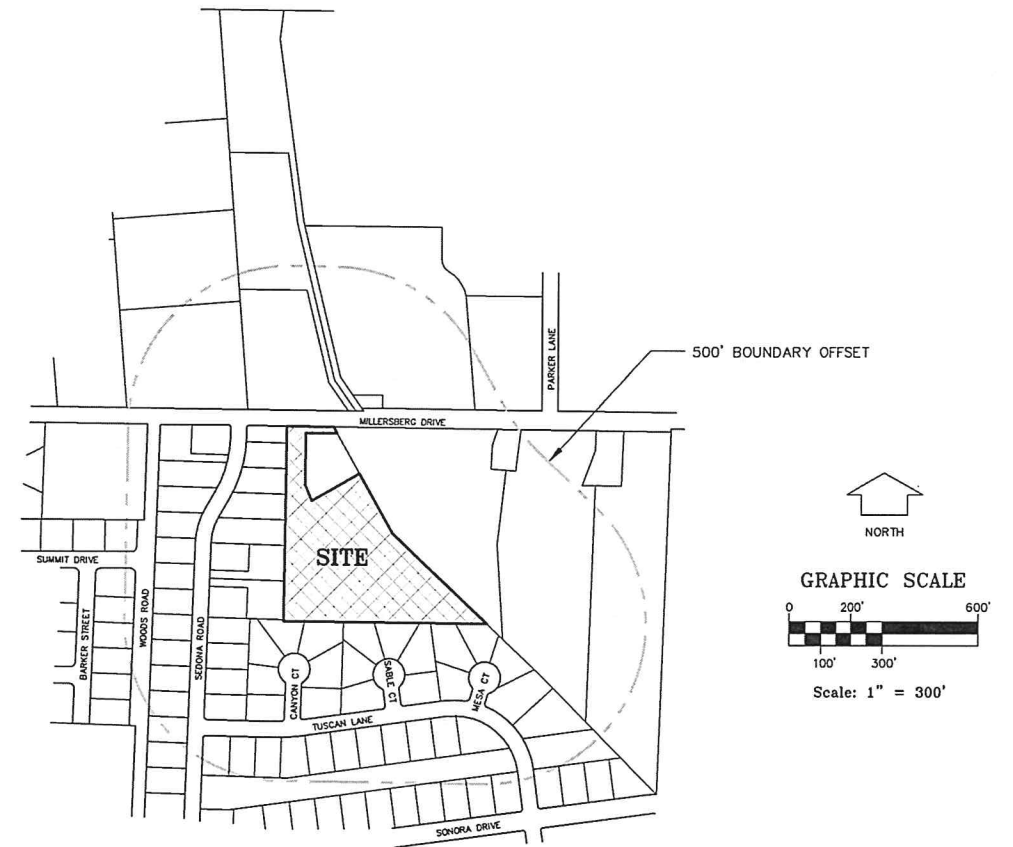
DKS Associates
 Contact: Lacy Brown, PhD, PE
 117 Commercial Street N.E.
 Salem, Oregon 97301
 Phone: 503.391.8773
 lacy.brown@dksassociates.com

WETLAND & WILDLIFE SERVICES

Zion Natural Resources Consulting
 Contact: Eric Henning
 PO Box 545
 Monmouth, Oregon 97361-0545
 Phone: 503.881.4171
 eric@zionconsulting.org



PARK LAYOUT
 SCALE: 1" = 100'



VICINITY MAP

LEGEND

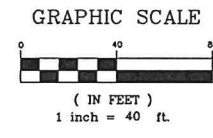
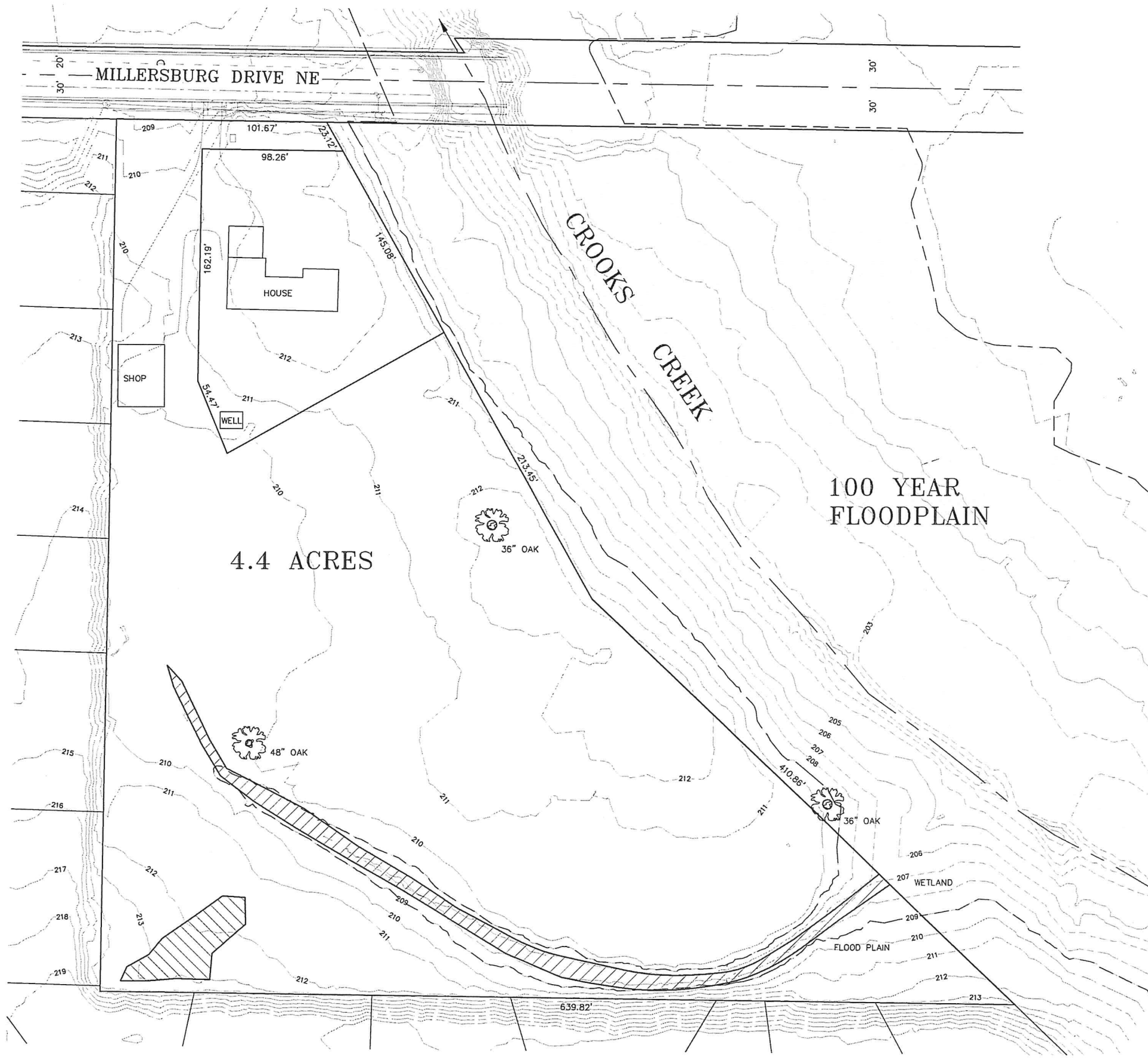
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[Symbol]	[Symbol]	POWER POLE	----- EXIST STORM DRAIN LINE
[Symbol]	[Symbol]	FIRE HYDRANT	----- PROPOSED STORM DRAIN LINE
[Symbol]	[Symbol]	STREET LIGHT	○----- PROPOSED STORM DRAIN LATERAL
[Symbol]	[Symbol]	WATER VALVE	----- EXIST SANITARY SEWER LINE
[Symbol]	[Symbol]	SANITARY MANHOLE	----- PROPOSED SANITARY LINE
[Symbol]	[Symbol]	STORM DRAIN MANHOLE	○----- PROPOSED SANITARY LATERAL
[Symbol]	[Symbol]	STORM DRAIN CATCH BASIN	----- EXIST WATER LINE
[Symbol]	[Symbol]	CURB LINE	----- PROPOSED WATER LINE
			---○--- WATER SERVICE
		CB	CATCH BASIN
		DI	DUCTILE IRON
		GV	GATE VALVE
		SD	STORM DRAIN
		SS	SANITARY SEWER
		W	WATERLINE
		MH	MANHOLE
		TYP	TYPICAL



SHEET INDEX

- Sheet 1 of 9 Cover
- Sheet 2 of 9 Existing Site
- Sheet 3 of 9 Space Layout
- Sheet 4 of 9 Proposed Site Improvements
- Sheet 5 of 9 Planting Plan
- Sheet 6 of 9 Concrete Details
- Sheet 7 of 9 Concrete Details
- Sheet 8 of 9 Waterline Details
- Sheet 9 of 9 Sanitary Sewer & Storm Drain Details



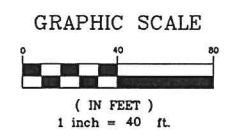
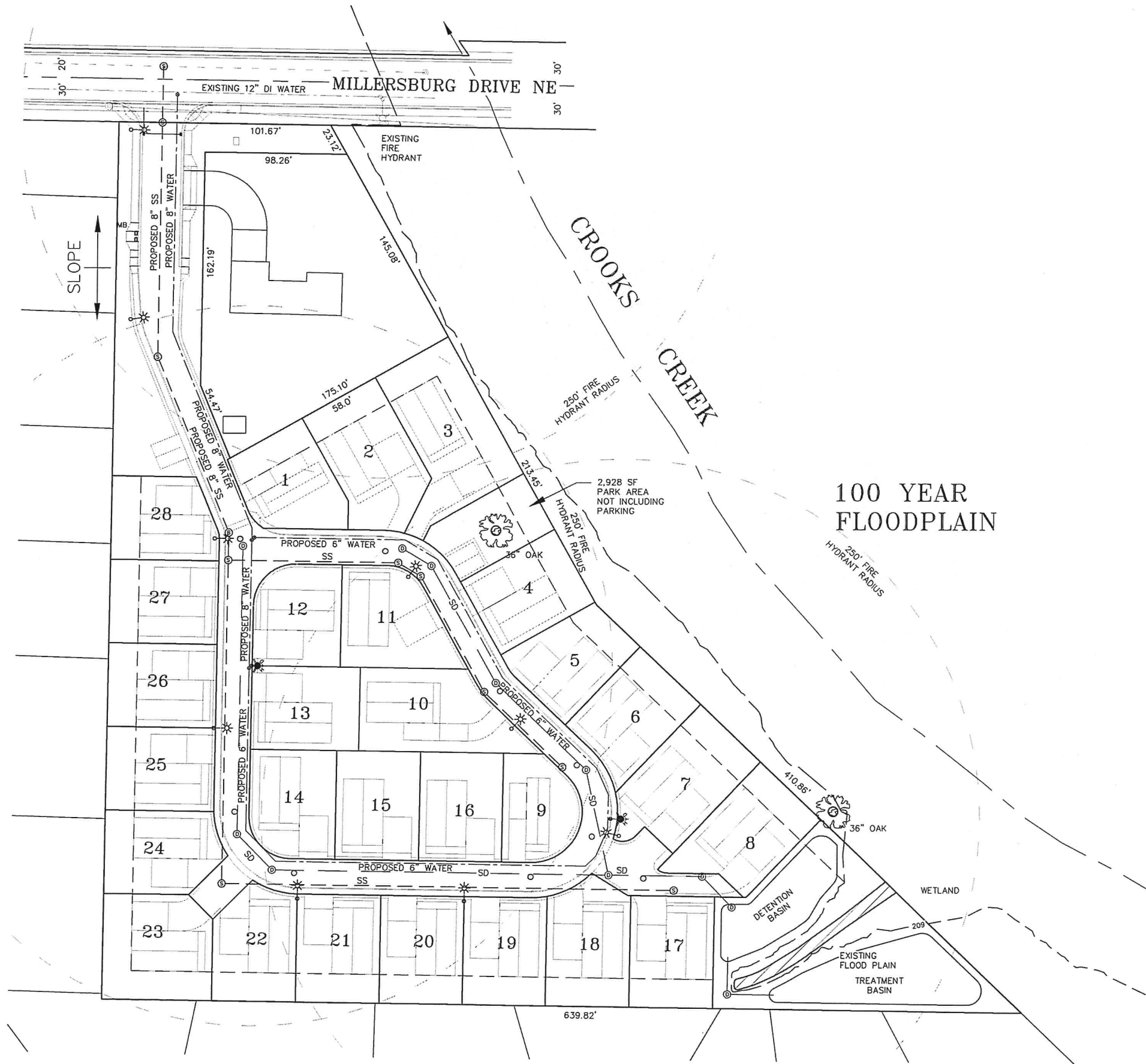
RENEWAL 12/31/2019



-  WETLANDS PER ZION NATURAL RESOURCES CONSULTING
-  FLOOD PLAIN FROM LOMR CASE No.11-10-0824P CITY OF MILLERSBURG LINN COUNTY COMMUNITY No 410284, MAP 41043C0240G EFFECTIVE DATE OCTOBER 12, 2011 ADJUSTED TO LIDAR CONTOUR ON PROPERTY

CONTOURS: NAVD 88 DATUM FROM OREGON DEPARTMENT OF GEOLOGY & MINERAL INDUSTRIES (DOGMI) LIDAR PROGRAM

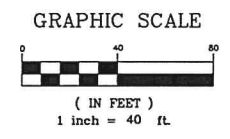
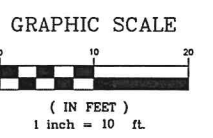
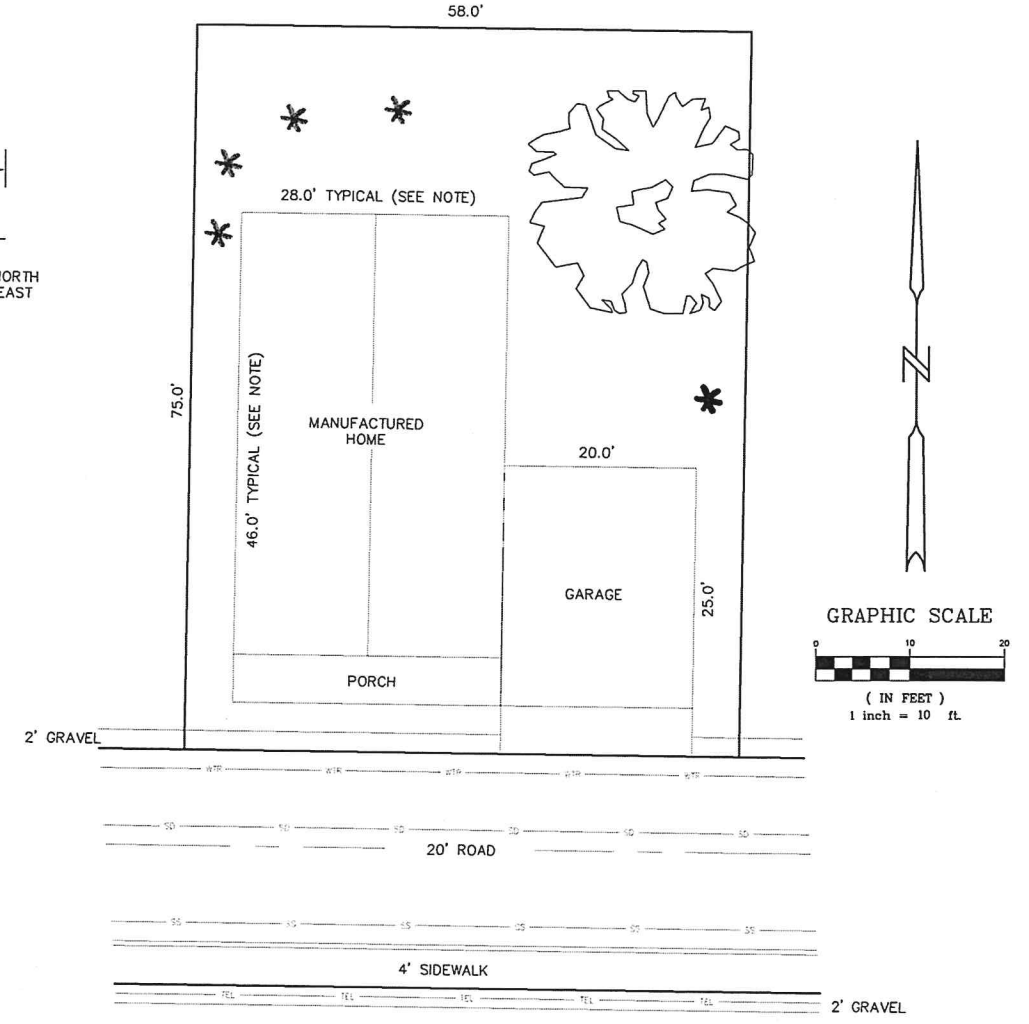
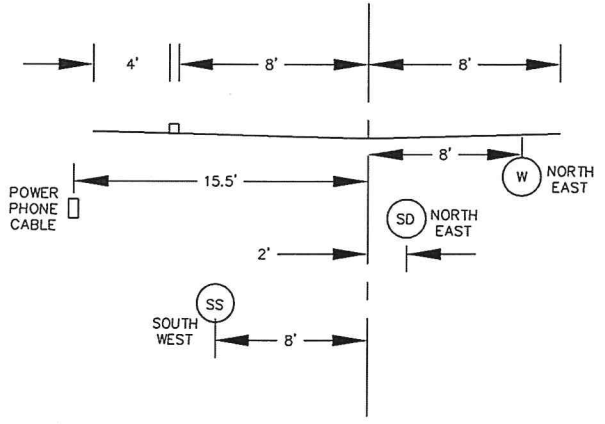
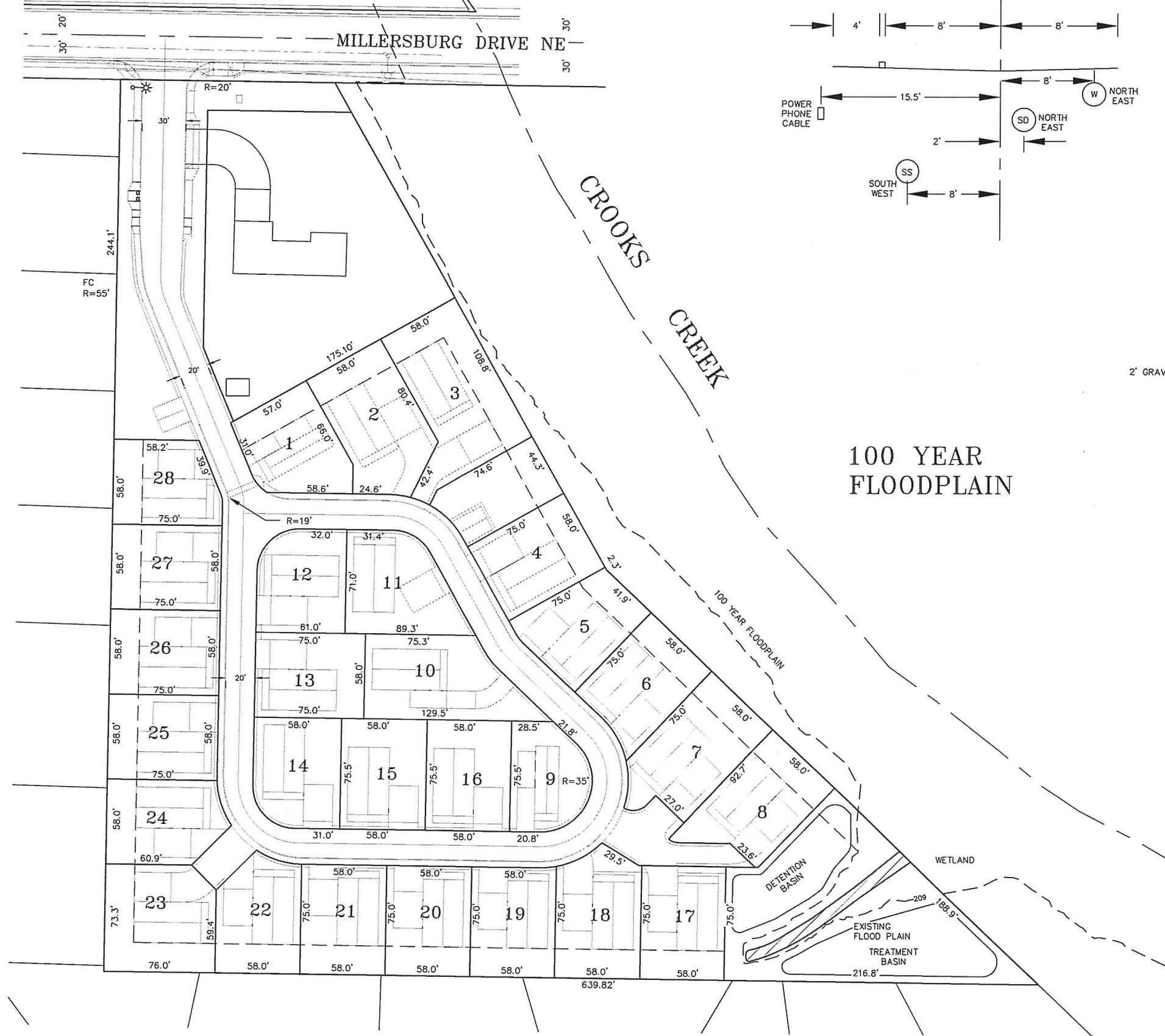
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	EXISTING SITE Millersburg				
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	Scale: Vert. NONE	Design: CFB	Boatwright Engineering, Inc.		Job No. 19/1
Drawn: CFB	Chkd: JMB	2613 12th Street SE, SALEM, OREGON 97302	Sheet	2 of 9	
EXPIRES 12/31/19		TEL: (503) 363-9225 • FAX: (503) 363-1051			



- WETLANDS PER ZION NATURAL RESOURCES CONSULTING
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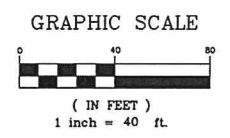
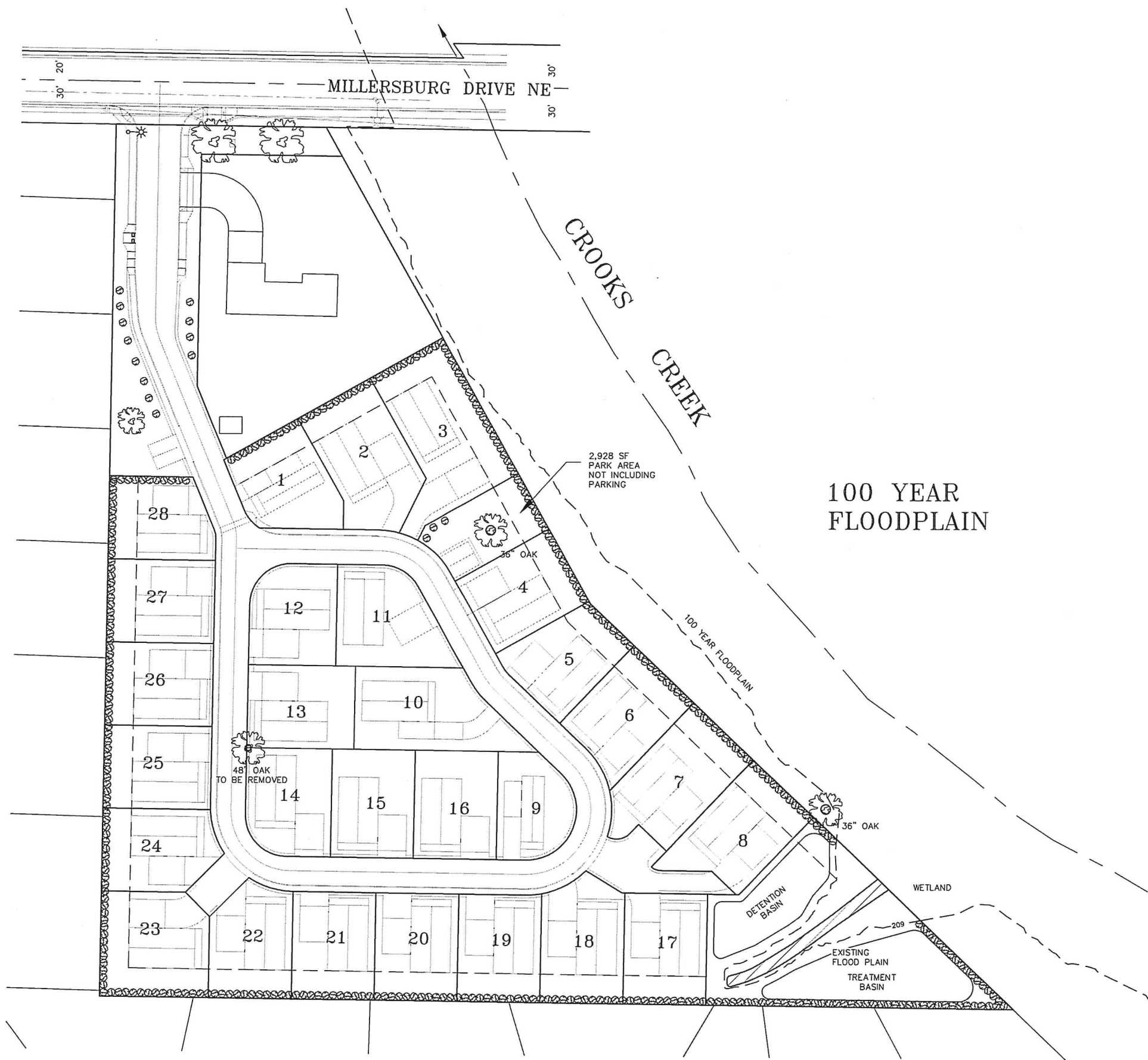
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	55 & Older		
PROPOSED SITE			
Millersburg			
LINN COUNTY, OREGON			
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Design: CFB	Boatwright Engineering, Inc.	Job No. 19/1	
Drawn: CFB	2613 12th Street SE, SALEM, OREGON 97302	Sheet	
Chkd: JMB	TEL: (503) 363-9225 • FAX: (503) 363-1051		4 of 9
EXPIRES 12/31/19			



- NOTES**
- ALL DRIVEWAYS SERVING ONE HOUSE ARE 20' WIDE AND ALL DRIVEWAYS SERVING TWO HOUSES ARE 24' WIDE
 - ALL INSIDE ROAD RADIUS ARE 29' AND OUTSIDE RADIUS ARE 55' UNLESS NOTED
 - ALL MH LOCATIONS ARE SIZED FOR A 28'x46' HOME EXCEPT FOR SPACE 1, 9 & 28.
SPACE 1 IS 16'x46'
SPACE 9 IS 16'x46'
SPACE 28 IS 28'x44'
 - SPACES 2,3,7,8,10,15, & 16 MAY BE LONGER THAN 46'.

CONTOURS: NAVD 88 DATUM FROM OREGON DEPARTMENT OF GEOLOGY & MINERAL INDUSTRIES (DOGMI) LIDAR PROGRAM

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Design: CFB Drawn: CFB Chkd: JMB	Boatwright Engineering, Inc. 2613 12th Street SE, SALEM, OREGON 97302 TEL: (503) 363-9225 • FAX: (503) 363-1051		3 of 9
EXPIRES 12/31/19			

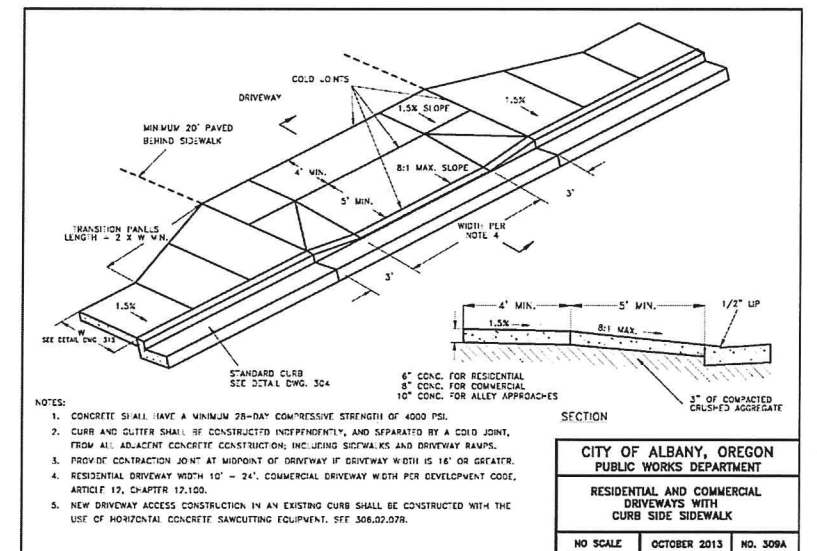
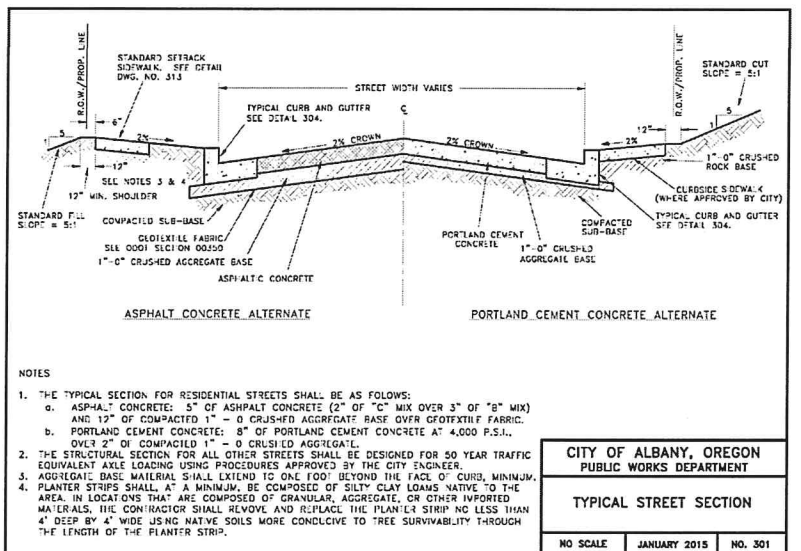
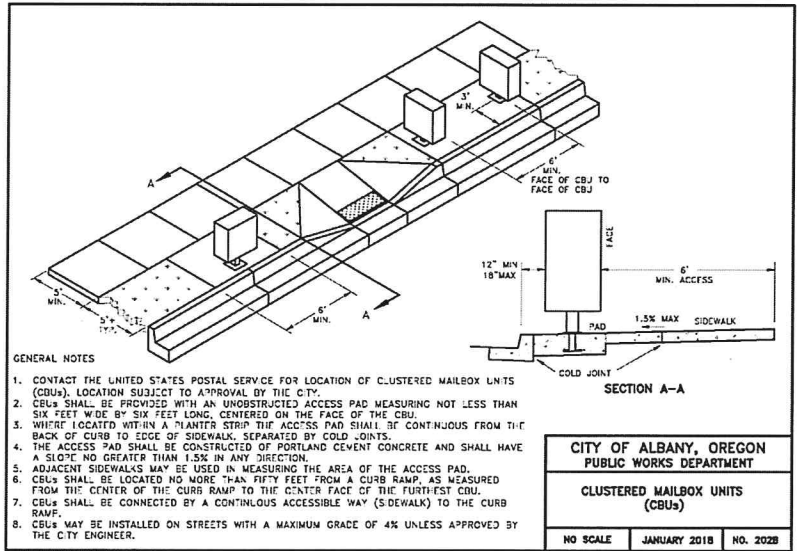
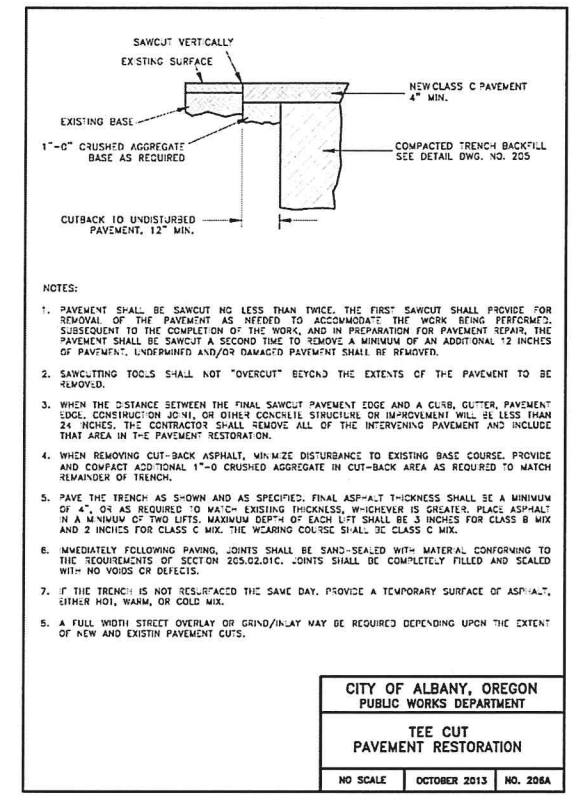
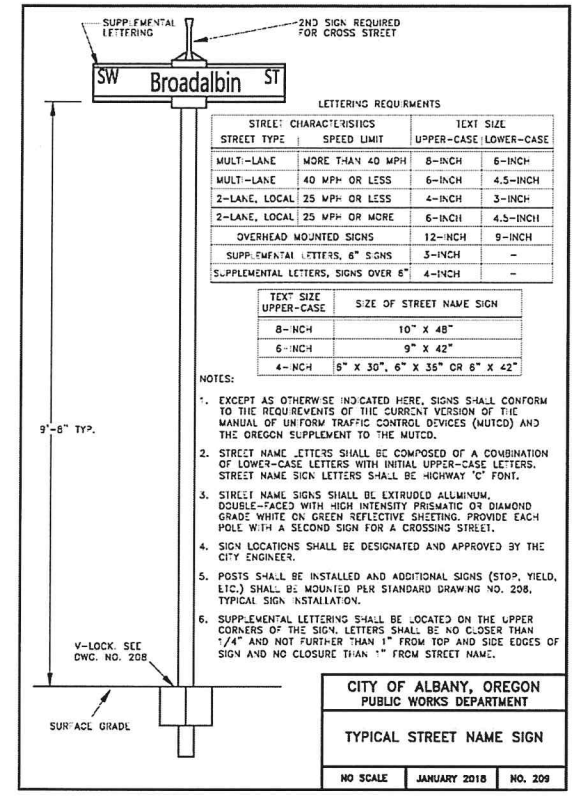
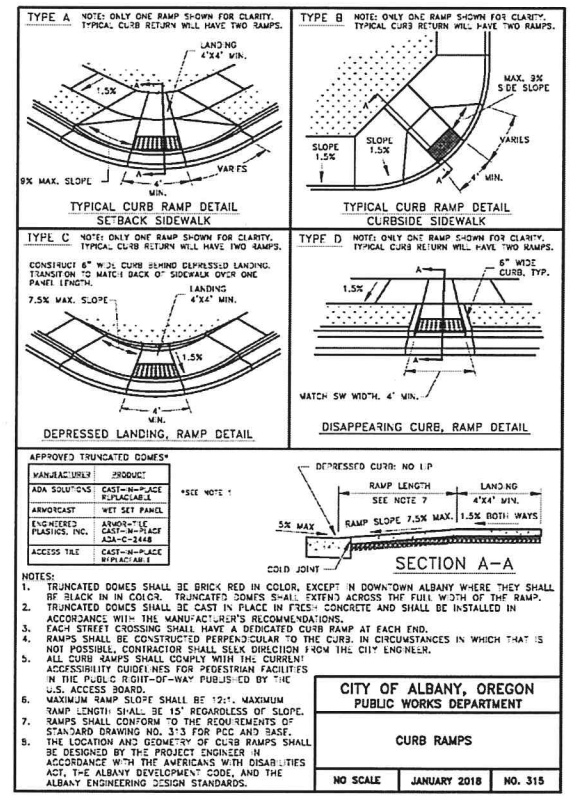
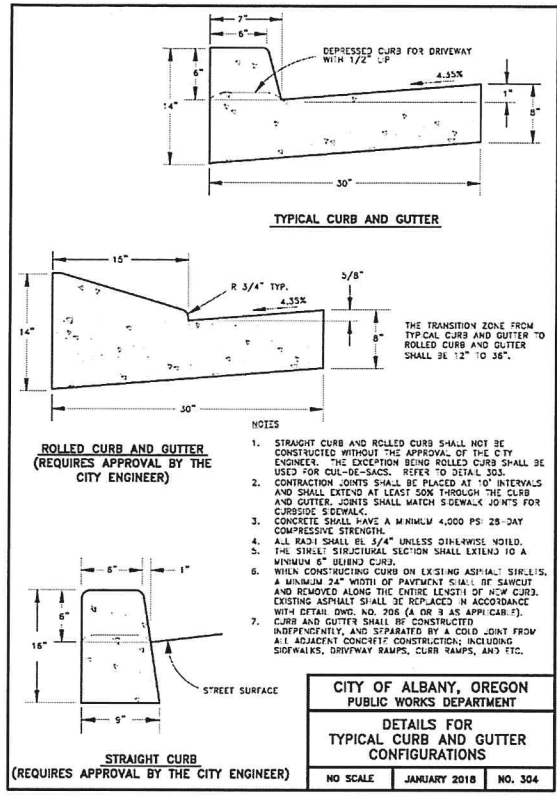


- 20' SETBACK FROM PROPERTY LINE
- WETLANDS PER ZION NATURAL RESOURCES CONSULTING

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	Design: CFB Drawn: CFB Chkd: JMB	Boatwright Engineering, Inc. 2613 12th Street SE, SALEM, OREGON 97302 TEL: (503) 363-9225 • FAX: (503) 363-1051	5 of 9

DATE PLOTTED: 11/15/2018 10:54:03 AM



REGISTERED PROFESSIONAL ENGINEER
18,824
Cody Boatwright
OREGON
JULY 28, 1995
BOATWRIGHT

EVENING STAR MANUFACTURED HOME PARK

CONCRETE DETAILS 1
MILLERSBURG
LINN COUNTY, OREGON

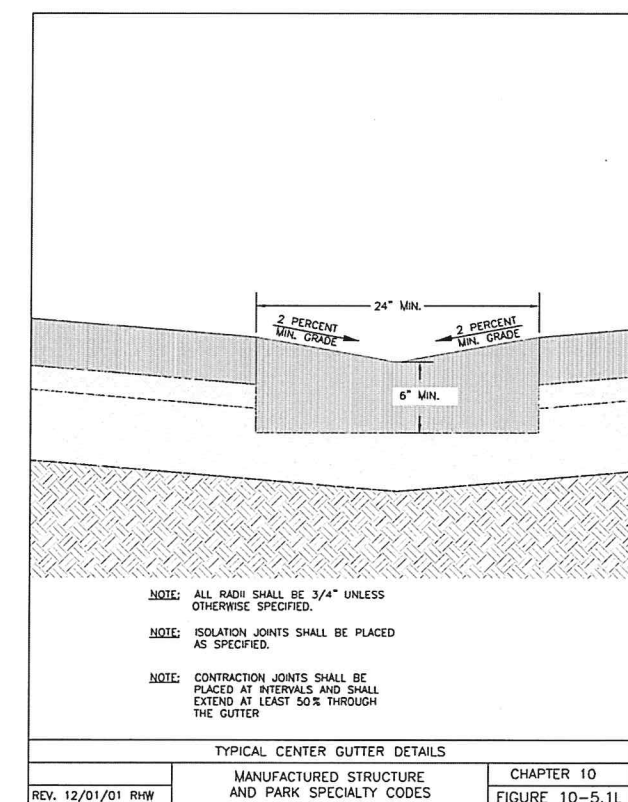
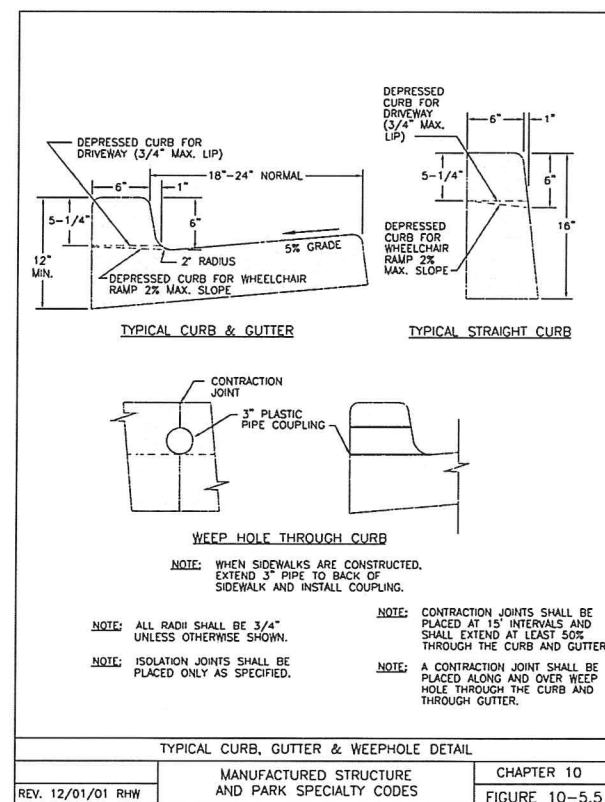
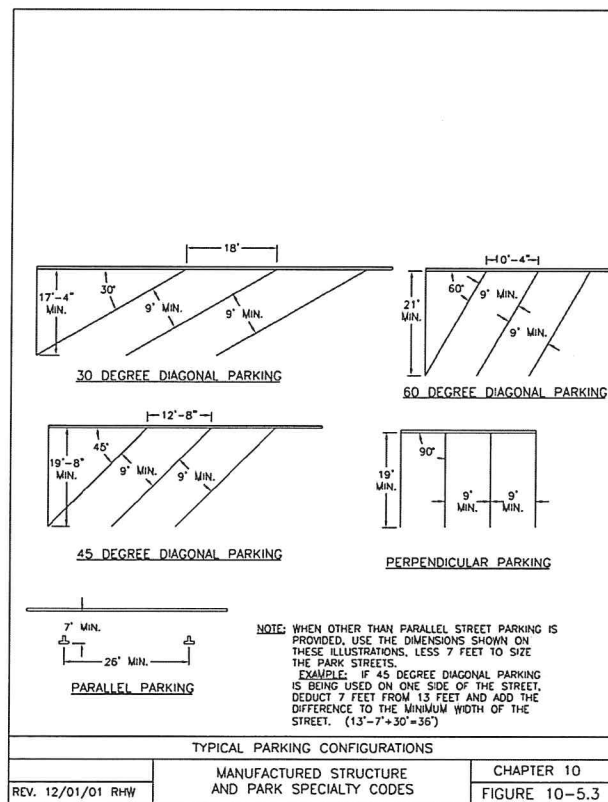
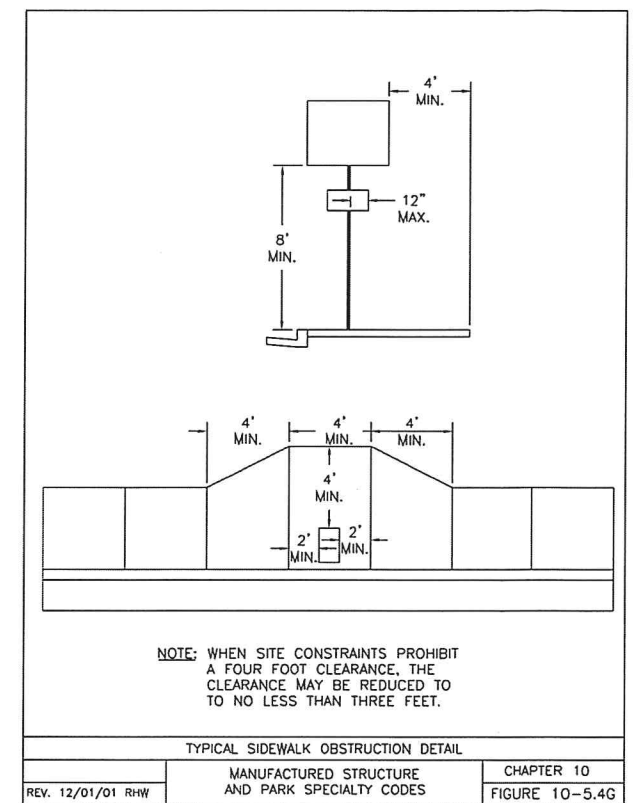
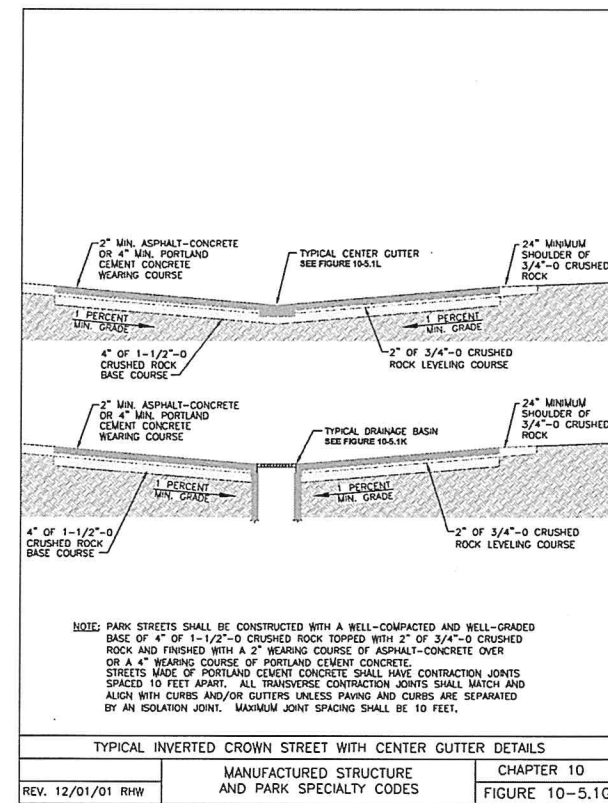
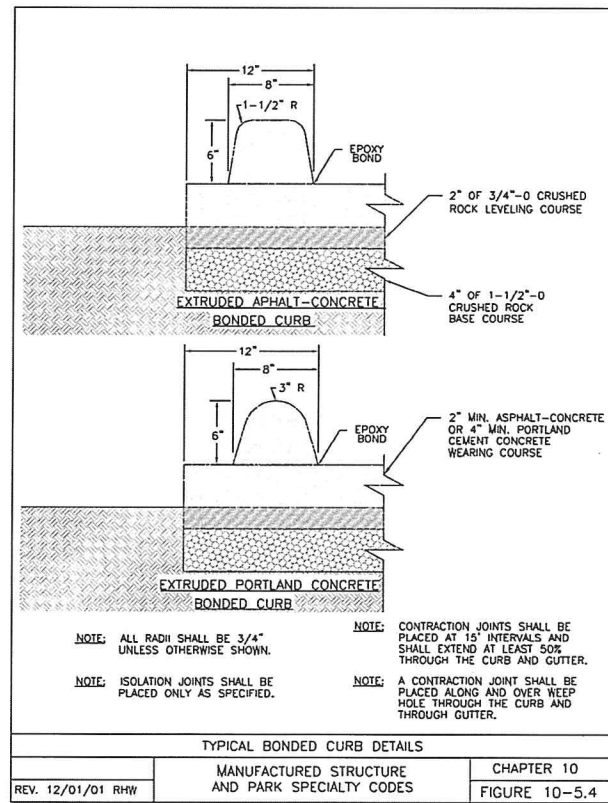
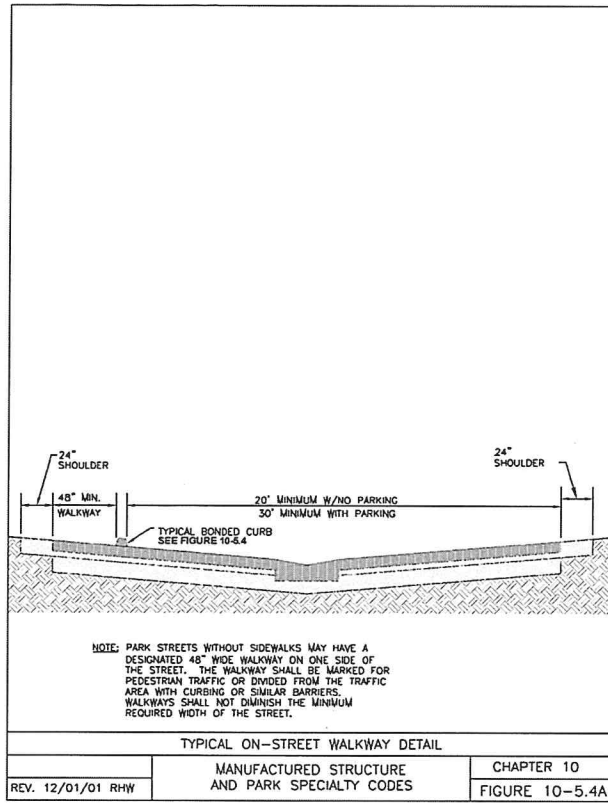
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Scale: Vert. NTS
Date: FEBRUARY, 2019
Revised:

Design: Boatwright Engineering, Inc.
2613 12th Street SE, SALEM, OREGON 97302
TEL: (503) 363-9225 • FAX: (503) 363-1051

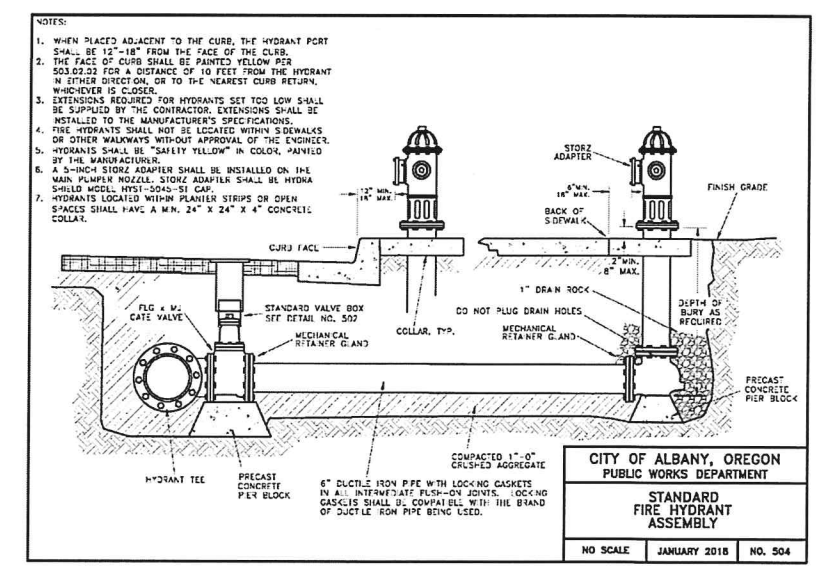
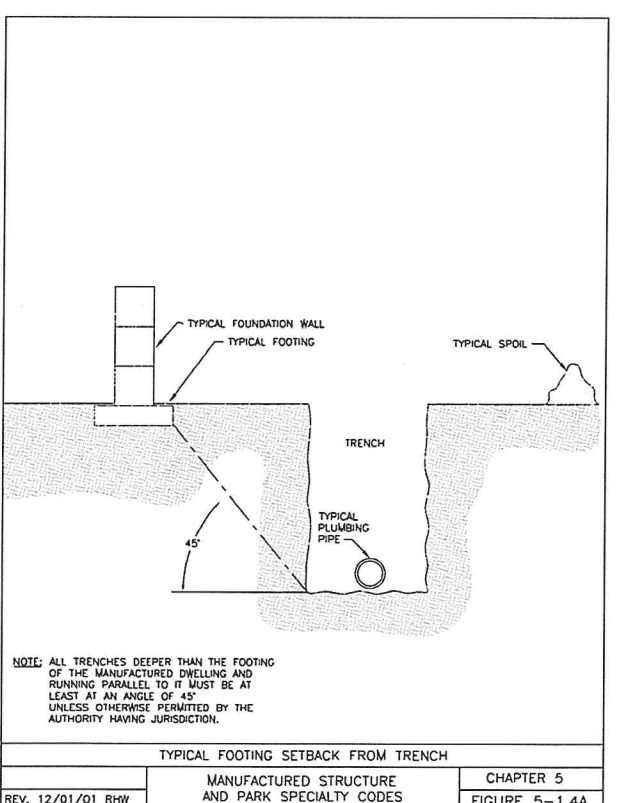
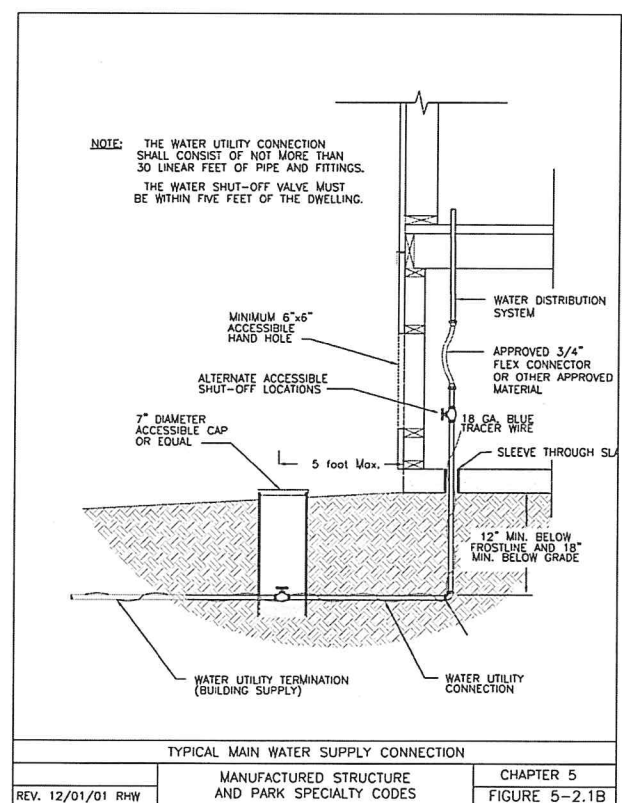
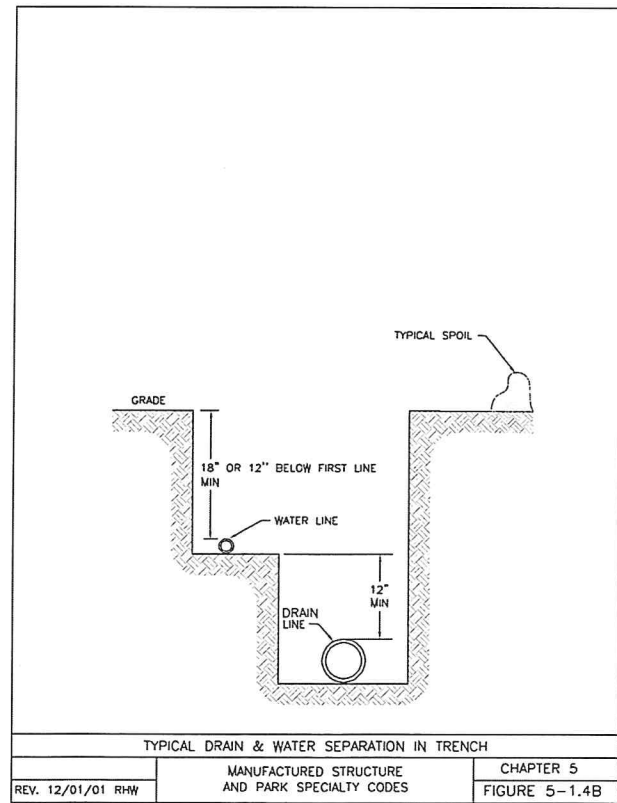
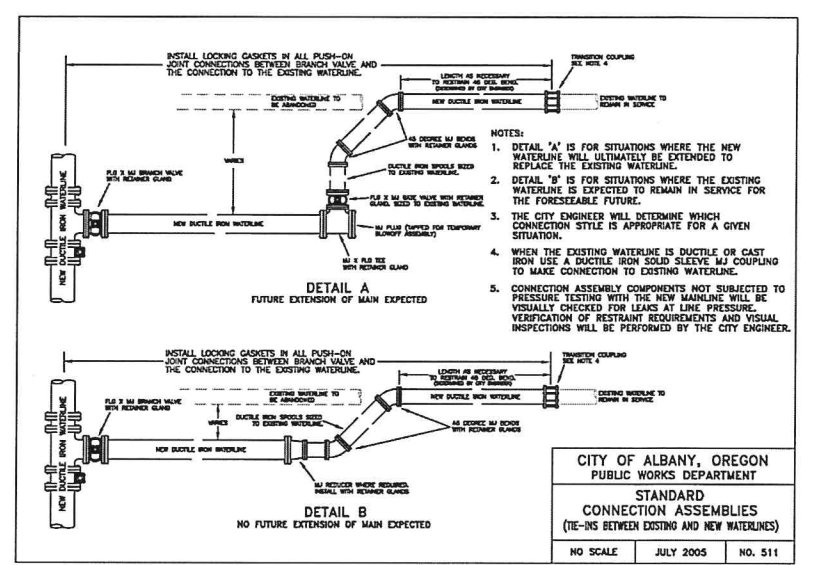
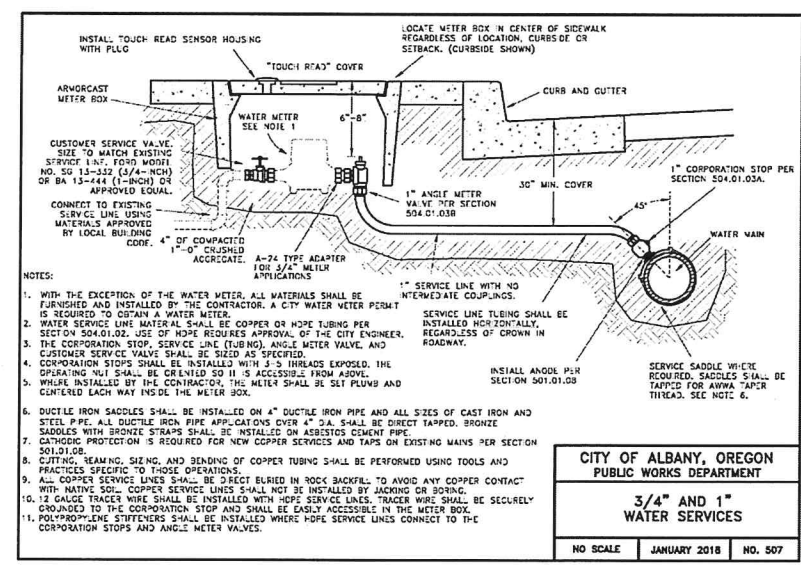
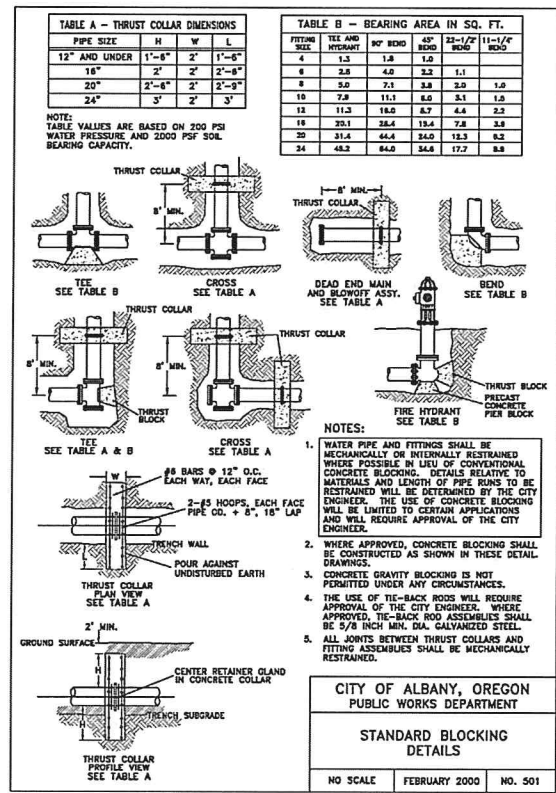
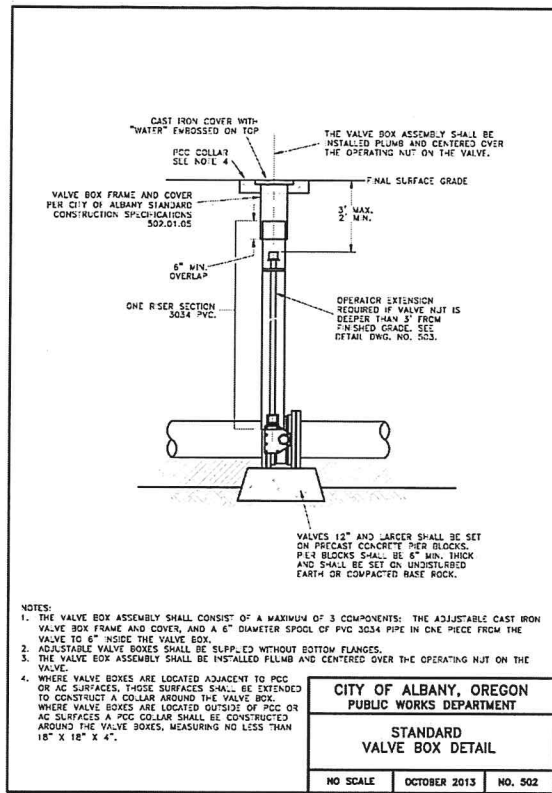
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Sheet
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EXPIRES 12/31/19





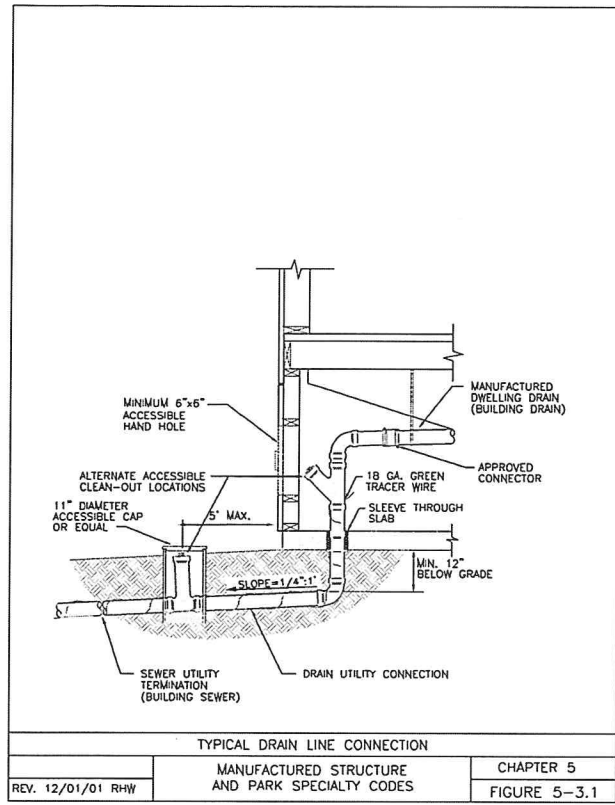
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	CONCRETE DETAILS 2		
Sec. 17, T.10S., R.3W., W.M. Scale: Vert. NTS Date: FEBRUARY, 2019 Design: Boatwright Engineering, Inc. Drawn: AMC Chkd: CFB		LINN COUNTY, OREGON Revised: 2613 12th Street SE, SALEM, OREGON 97302 TEL: (503) 363-9225 • FAX: (503)363-1051	Job No. 19/1 Sheet 7 of 9



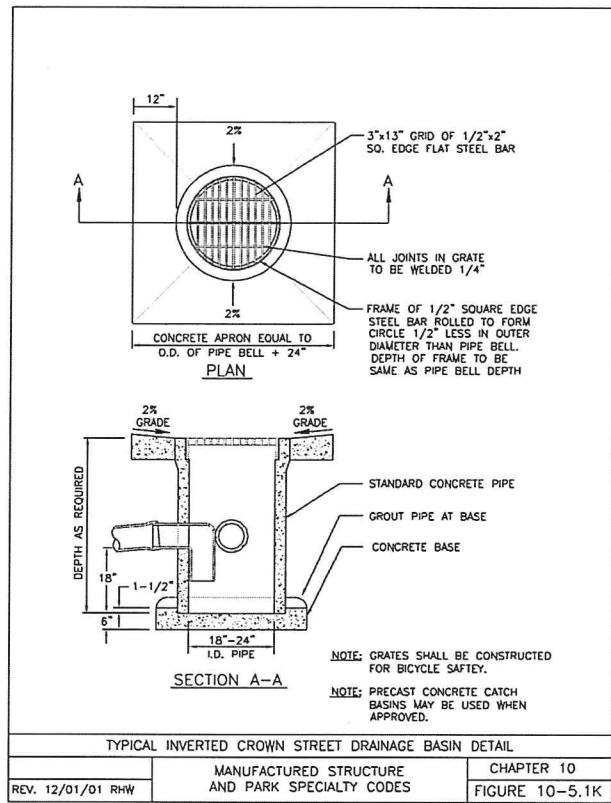
REGISTERED PROFESSIONAL ENGINEER
12,984
Boatwright Engineering, Inc.
CORSET BOATWRIGHTS
EXPIRES 12/31/19

EVENING STAR MANUFACTURED HOME PARK
WATER DETAILS
MILLERSBURG
LINN COUNTY, OREGON

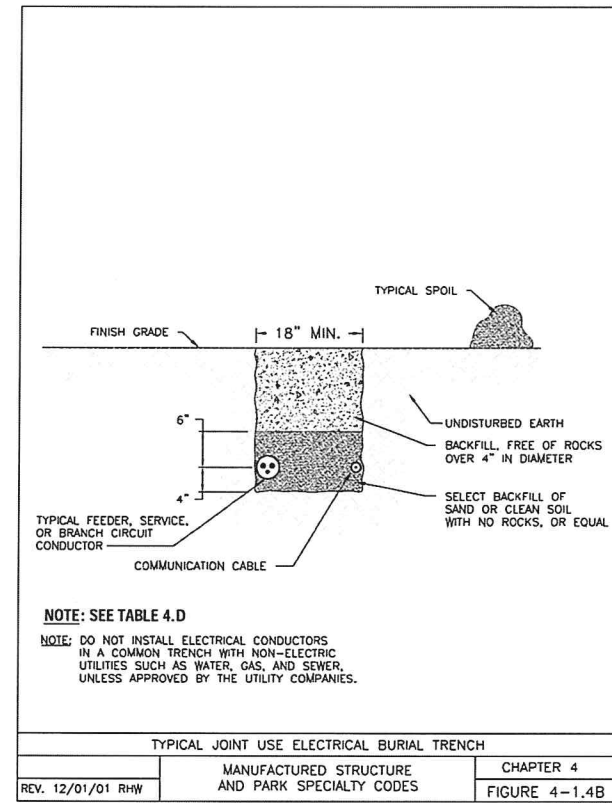
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Revised:
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Job No. 19/1
Drawn: AMC
2613 12th Street SE, SALEM, OREGON 97302
Sheet
Chkd: CFB
TEL: (503) 363-9225 • FAX: (503) 363-1051
8 of 9



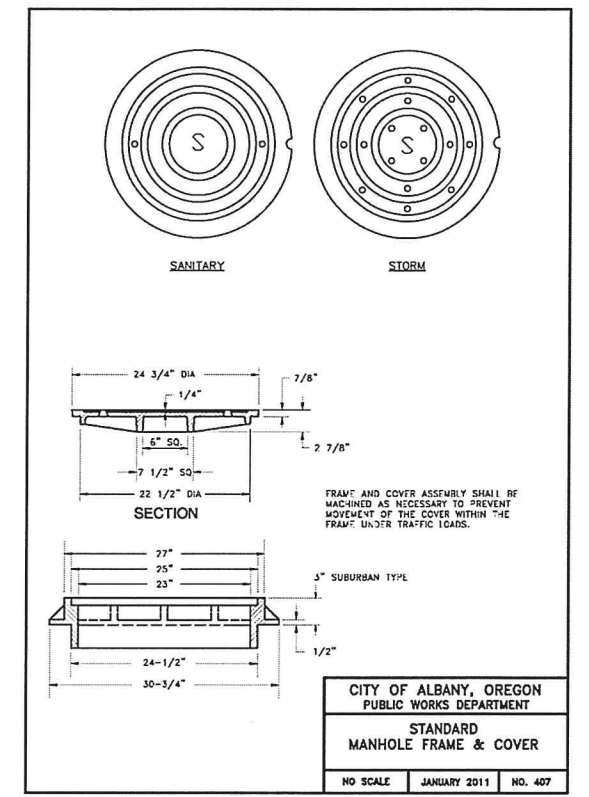
TYPICAL DRAIN LINE CONNECTION
 MANUFACTURED STRUCTURE AND PARK SPECIALTY CODES
 CHAPTER 5
 FIGURE 5-3.1
 REV. 12/01/01 RHW



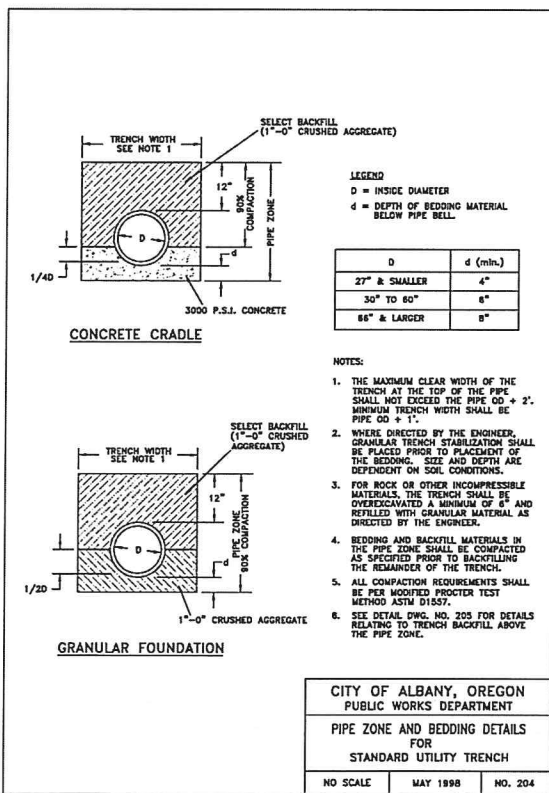
TYPICAL INVERTED CROWN STREET DRAINAGE BASIN DETAIL
 MANUFACTURED STRUCTURE AND PARK SPECIALTY CODES
 CHAPTER 10
 FIGURE 10-5.1K
 REV. 12/01/01 RHW



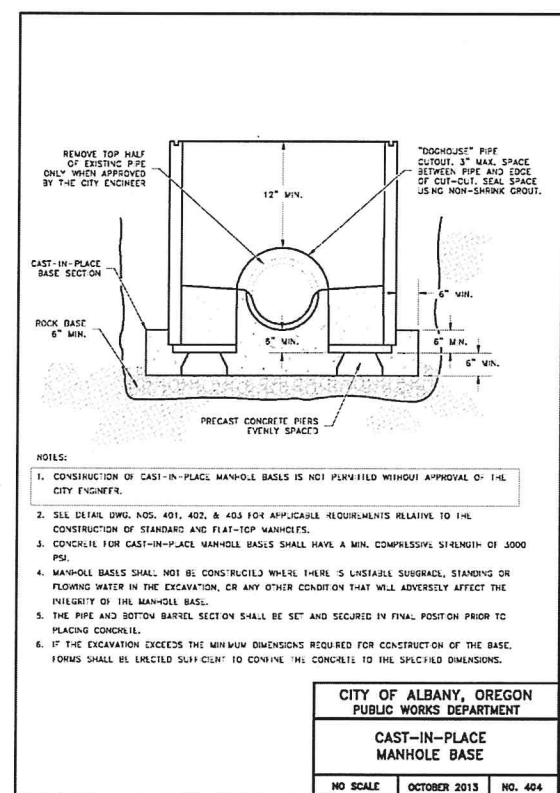
TYPICAL JOINT USE ELECTRICAL BURIAL TRENCH
 MANUFACTURED STRUCTURE AND PARK SPECIALTY CODES
 CHAPTER 4
 FIGURE 4-1.4B
 REV. 12/01/01 RHW



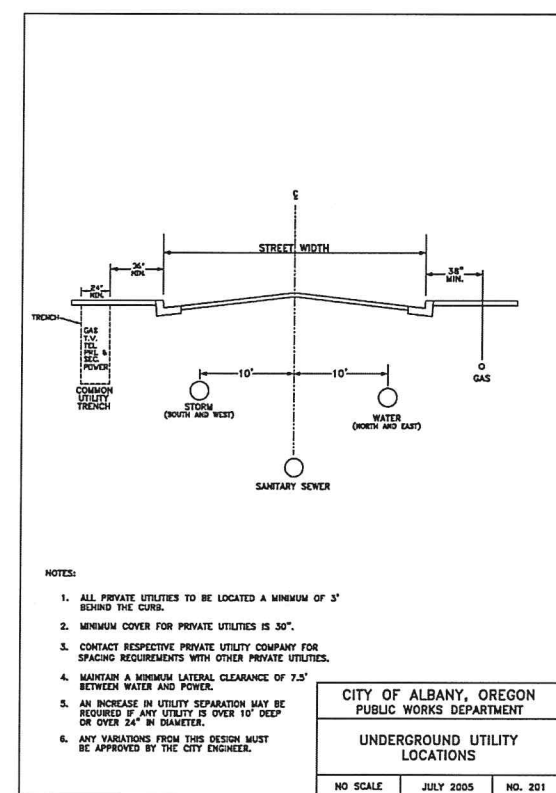
CITY OF ALBANY, OREGON
 PUBLIC WORKS DEPARTMENT
 STANDARD
 MANHOLE FRAME & COVER
 NO SCALE JANUARY 2011 NO. 407



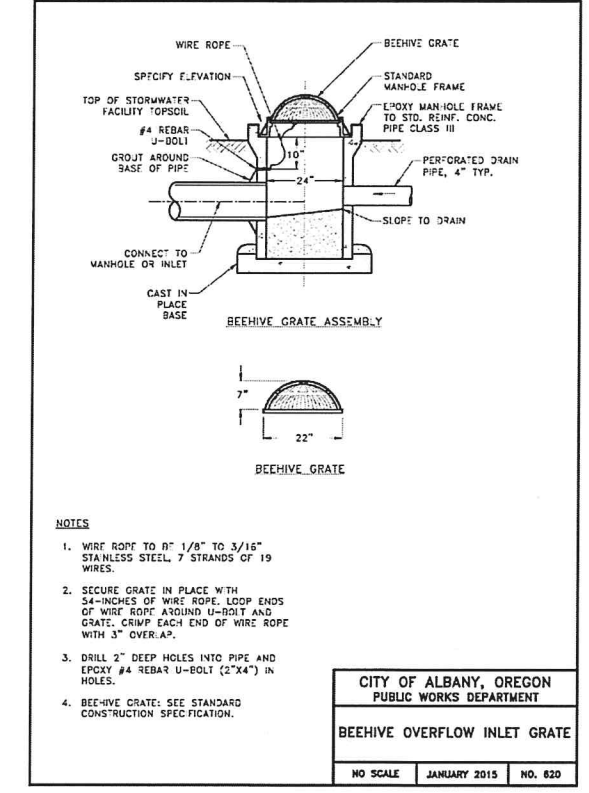
CITY OF ALBANY, OREGON
 PUBLIC WORKS DEPARTMENT
 PIPE ZONE AND BEDDING DETAILS
 FOR
 STANDARD UTILITY TRENCH
 NO SCALE MAY 1998 NO. 204



CITY OF ALBANY, OREGON
 PUBLIC WORKS DEPARTMENT
 CAST-IN-PLACE
 MANHOLE BASE
 NO SCALE OCTOBER 2013 NO. 404



CITY OF ALBANY, OREGON
 PUBLIC WORKS DEPARTMENT
 UNDERGROUND UTILITY
 LOCATIONS
 NO SCALE JULY 2005 NO. 201



CITY OF ALBANY, OREGON
 PUBLIC WORKS DEPARTMENT
 BEEHIVE OVERFLOW INLET GRATE
 NO SCALE JANUARY 2015 NO. 620

FIRST 100' ± THIS STANDARD DETAIL

EVENING STAR MANUFACTURED HOME PARK
STORM & SANITARY DETAILS
 MILLERSBURG
 LINN COUNTY, OREGON

Sec. 17, T.10S., R.3W., W.4E.		Date: FEBRUARY, 2019		Revised:	
Scale: Vert. NTS		Design: Boatwright Engineering, Inc.		Job No. 19/1	
Drawn: AMC		2613 12th Street SE, SALEM, OREGON 97302		Sheet	
Chkd: CFB		TEL: (503) 363-9225 • FAX: (503) 363-1051		9 of 9	

Boatwright Engineering, Inc.

civil engineering ♦ water rights ♦ land surveying

2613 12th Street SE, Salem, Oregon 97302

Phone (503) 363-9225

Fax (503) 363-1051

e-mail: corbey@boatwrightengr.com

MEMO

To: Norm Bickell
From: Corbey Boatwright
Date: February 7, 2019
Re: Bill Eddings – Evening Star Manufactured Home Park

Proposed Units: 28
Additional Parking Spaces: 4, as required
Street Parking: None proposed
Fencing: None proposed
Trash Collection: Individual receptacles at each unit per ORD 6.165 (12)(b)(5)
Public Utility Easement: Private utilities common trench in access road area
Existing Trees: 4' Oak tree to be removed, 3' Oak to remain in park area
Park Recreation Area: 2,500 SF required; 2,828 SF provided
Entrance Roadway: 30' crowned section off of Millersburg Drive for the first 100' with curb and sidewalk both sides.
Remaining Roadway: 20' inverted crown with 4' AC sidewalk and extruded curb on one side of section road.
*Deputy Fire Marshal states an inside 30' radius and 50' outside radius on access road. Oregon Manufactured Dwelling and Park Specialty Code (OMDPSC) states an inside minimum radius of 29' and an outside minimum radius of 55'.
Plans show 29' inside & 55' outside radii. These can be modified to 30' & 55', if needed. (Oregon Fire Code 503 Appendix D shows a radius of 28' on a 20' fire lane.)*
Perimeter Screening: As shown, species to be determined. No perimeter shrubs in floodplain or wetland area.
Landscaping: 78,873 SF open space in home area
40 Trees, required
395 Shrubs/Accent Plants, required
Trees and Shrubs will be dispersed to each lot and along the entrance road and park
If 16,495 SF open space in wetland /detention area is included:
48 Trees, required
477 Shrubs/Accent Plants, required
Trees and Shrubs will be dispersed to each lot and along the entrance road. Trees and shrubs can only be planted at the north and east angle points of the wetland area.

MEMORANDUM

DATE: February 8, 2019

TO: William Eddings

FROM: Lacy Brown, Ph.D., P.E. | DKS Associates
Jenna Hills, E.I.T. | DKS Associates

SUBJECT: Millersburg Mobile Home Development Traffic Study

This memorandum documents a preliminary traffic assessment related to the impacts of a proposed senior living mobile home park in Millersburg, Oregon. Table 1 provides more details regarding the study area and characteristics of the proposed project.

Table 1: Study Area and Proposed Project Characteristics

Study Area	
Number of Study Intersections	Two
Analysis Period(s)	Weekday AM peak hour (peak hour between 7:00-9:00 AM) Weekday PM peak hour (peak hour between 4:00-6:00 PM)
Proposed Development	
Size and Land Use	4.4-acre property, mobile home park with 28 units
Project Trips	298 daily trips 25 (5 in, 20 out) AM peak hour trips 19 (12 in, 7 out) PM peak hour trips
Vehicle Access Points	One existing access point on Millersburg Drive NE
Other Transportation Facilities	
Pedestrian Facilities	Existing sidewalks on both sides of Millersburg Drive NE
Bicycle Facilities	Existing bicycle lanes on both sides of Millersburg Drive NE
Transit Facilities	No existing transit facilities within the study area

The following sections summarize the existing conditions of the study area as well as the proposed site plan's impact to the surrounding transportation network.

EXISTING CONDITIONS

This section details the existing study area conditions including the proposed site development, existing bicycle and pedestrian facilities, existing transit facilities, roadway network, future planned projects, and existing traffic volumes and operations. Supporting details are provided in the appendix.

STUDY AREA

The proposed development includes a 28-unit mobile home park south of Millersburg Drive NE, shown in Figure 1. There will be one driveway access to Millersburg Drive NE from the site.

ROADWAY NETWORK

The roadways within the study area are City of Millersburg local roads. The transportation characteristics of the roadways within the study area are shown in Table 2. The table includes the functional classification, the number of travel lanes, posted speed, and the facilities for bicyclists and pedestrians.

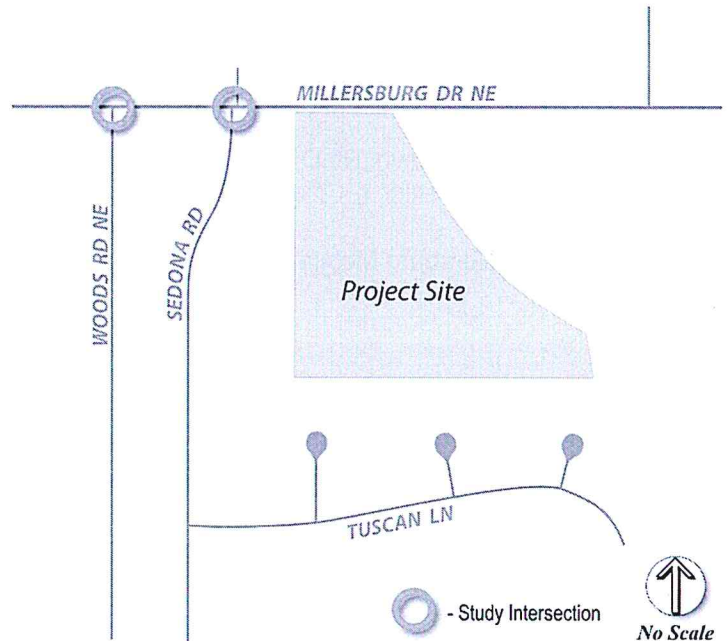


Figure 1: Study Area

Table 2: Existing Study Area Roadway Characteristics

Roadway	Functional Classification	Lanes	Posted Speed	Sidewalk	Bike Lanes
Millersburg Drive NE	Arterial	2	40	Yes	Yes
Sedona Road	Collector	2	25	Yes	No
Woods Road	Residential/Local	2	25	Yes	Yes

The functional classification specifies the purpose of the facility and is a determining factor of applicable cross-section, access spacing, and intersection performance standards.

EXISTING TRAFFIC VOLUMES

An analysis of the 2019 existing intersection operations was performed for the study intersections to ensure the transportation network meets City of Millersburg mobility targets. Intersections are the focus of the analysis because they are the controlling bottlenecks of traffic flow and the ability of a roadway system to carry traffic efficiently is nearly always diminished in their vicinity.

Intersection operations were analyzed for the AM and PM peak hours. Turning movement counts were collected on January 29, 2019 from 7 – 9 AM and 4 - 6 PM at each of the following study intersections.¹²

- Millersburg Drive NE/Woods Road
- Millersburg Drive NE/Sedona Road

Figure 2 shows the peak hour turn movement volumes, intersection traffic control, and lane configurations at the study intersections.

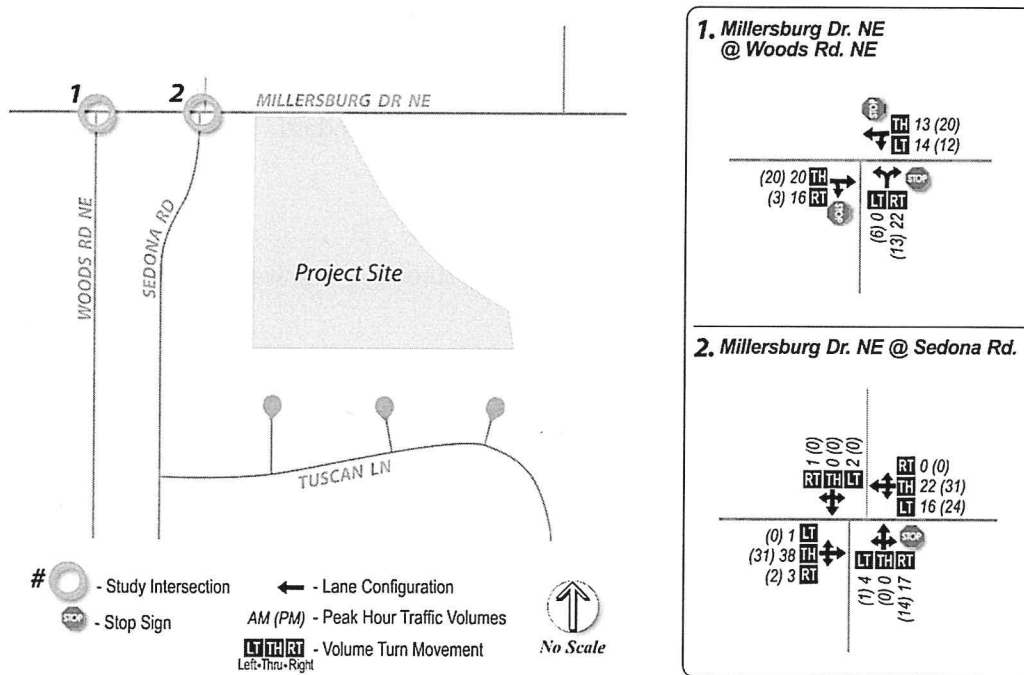


Figure 2: Existing Traffic Volumes

INTERSECTION PERFORMANCE MEASURES

Level of service (LOS) ratings and volume-to-capacity (v/c) ratios are two commonly used performance measures that provide a good representation of intersection operations. In addition, they are often incorporated into agency mobility standards.

- **Level of service (LOS):** A “report card” rating (A through F) based on the average delay experienced by vehicles at the intersection. LOS A, B, and C indicate conditions where traffic moves without significant delays over periods of peak hour travel demand. LOS D and

¹ Study intersections based on discussions with Janelle Booth, City of Millersburg. January 21, 2019.

² At the time of the traffic counts, road construction resulted in a lane closure on Millersburg Drive NE east of the project site. However, there are no convenient alternate routes to/from the study intersections and the lane closure likely had little effect on traffic patterns. This was confirmed through a comparison to 2015 traffic volumes included in the Millersburg TSP, which showed similar traffic patterns and significantly lower volumes than those collected for this traffic study.

E are progressively worse operating conditions. LOS F represents conditions where average vehicle delay has become excessive and demand has exceeded capacity. This condition is typically evident in long queues and delays.

- **Volume-to-capacity (v/c) ratio:** A decimal representation (typically between 0.00 and 1.00) of the proportion of capacity that is being used at a turn movement, approach leg, or intersection. It is determined by dividing the peak hour traffic volume by the hourly capacity of a given intersection or movement. A lower ratio indicates smooth operations and minimal delays. As the ratio approaches 0.95, congestion increases, and performance is reduced. If the ratio is greater than 1.00, the turn movement, approach leg, or intersection is oversaturated and usually results in excessive queues and long delays.

The City of Millersburg has adopted level-of-service standards³ for signalized and unsignalized intersections. For unsignalized intersections, LOS D or better is standard.

EXISTING TRAFFIC OPERATIONS

Existing study intersection operations were evaluated based on the Highway Capacity Manual 2010 for unsignalized intersections.⁴

Table 3 on the following page lists the study intersection’s existing volume to capacity (v/c) ratio, delay, and LOS. As shown, all intersections currently meet operating standards and mobility targets.

Table 3: 2019 Existing Peak Hour Study Intersection Operations

Intersection	Traffic Control	Mobility Targets/ Operating Standard	AM Peak			PM Peak		
			v/c	Delay	LOS	v/c	Delay	LOS
Millersburg Dr/ Woods Road	All-way stop	LOS D	0.05	7.1	A/A	0.05	7.3	A/A
Millersburg Dr/ Sedona Road	Two-way stop	LOS D	0.03	8.8	A/A	0.02	8.6	A/A

Two-Way Stop Controlled intersections:

- v/c = Volume-to-Capacity Ratio of Worst Movement
- Delay = Critical Movement Approach Delay (sec)
- LOS = Level of Service of Major Street/Minor Street

³ Page 13, Millersburg Transportation System Plan, Volume 1, December 2016.

⁴ Highway Capacity Manual, Transportation Research Board, Washington D.C., 2000 and 2010.

PROJECT IMPACTS

This section presents the anticipated number of trips generated by the proposed development, the distribution of trips within the study area, the future traffic volumes and operating conditions, the recommended mitigations, and a review of the preliminary site plan. Supporting information can be found in the appendix.

The proposed development involves the construction of a 28-unit mobile home park located off Millersburg Drive NE in Millersburg, Oregon. The development will be accessed through one existing driveway.

TRIP GENERATION

Trip generation is the method used to estimate the number of vehicles a development adds to site driveways and the adjacent roadway network during a specified period (i.e., such as the PM peak hour). Trip generation estimates are performed using trip rates surveyed at similar land uses, as provided by the Institute of Transportation Engineers (ITE).⁵

The proposed development is estimated to generate 298 daily trips including 25 (5 in, 20 out) AM peak hour trips and 19 (12 in, 7 out) PM peak hour trips. Table 4 lists the AM and PM peak hour vehicle trip generation estimates, which were used for intersection operations.

Table 4: Trip Generation Summary

Land Use (ITE Code)	Trip Generation Rate ^a (trips per unit)		Units	AM Peak Hour			PM Peak Hour			Daily Trips
	AM Peak	PM Peak		In	Out	Total	In	Out	Total	
Mobile Home Park (240)	0.89	0.68	28	5	20	25	12	7	19	298

^a Trip generation rate is back calculated from ITE rate equation.

It should be noted that the 28-unit mobile home park is intended for residents aged 55 or older, with a higher percentage of retired and non-working adults than a traditional mobile home park. As such, the actual number of trips generated by the development during peak hours will likely be lower than the estimates shown in Table 4.

TRIP DISTRIBUTION

Trip distribution provides an estimation of where project-related trips would be coming from and going to. It is given as percentages at key gateways to the study area and is used to route project trips through the study intersections. The trip distribution, estimated using the existing traffic counts, is shown in Figure 3 on the following page.

⁵ *Trip Generation Manual, 10th Edition*, Institute of Transportation Engineers, 2017.

FUTURE TRAFFIC OPERATIONS

Intersection operations analysis was performed for the future build scenario. The traffic conditions at the study intersections were determined based on the *2010 Highway Capacity Manual* methodology for unsignalized intersections. The estimated level of service (LOS) and volume to capacity ratio (v/c) of each study intersection for the two scenarios are shown in Table 5 below. As shown in Table 5, both study intersections meet operating standards.

Table 5: Existing + Project Intersection Operations

Intersection	Traffic Control	Mobility Targets/ Operating Standard	AM Peak			PM Peak		
			v/c	Delay	LOS	v/c	Delay	LOS
Millersburg Dr/ Woods Road	All-way stop	LOS D	0.05	7.1	A/A	0.05	7.3	A/A
Millersburg Dr/ Sedona Road	Two-way stop	LOS D	0.03	8.8	A/A	0.02	8.7	A/A

Two-Way Stop Controlled intersections:

- v/c = Volume-to-Capacity Ratio of Worst Movement
- Delay = Critical Movement Approach Delay (sec)
- LOS = Level of Service of Major Street/Minor Street

SITE PLAN REVIEW

A site plan provided by the project sponsor can be found in the appendix.

Site Access

There is one existing access to the site off Millersburg Drive NE. The site plan proposes that the existing driveway be closed, and a proposed new driveway would be located just 50 feet to the west of the existing driveway. The new driveway would provide full access to Millersburg Drive NE.

Access Spacing

- City Design Guidelines:
 - Minimum spacing between driveways on an arterial (Millersburg Drive NE) is 300 feet for a posted speed of 40 mph.
 - Minimum spacing between intersections on an arterial (Millersburg Drive NE) is 600 feet for a posted speed of 40 mph.
- City Land Use Development Code⁶ states: "Access to property at less than the designated spacing standards shall be allowed only if that property does not have any other reasonable

⁶ Section 5.122 (5)(g), City of Millersburg Development Code, Amended April 10, 2012.

access and designated spacing cannot be accomplished. Where possible, joint access should be considered.”

- History of Development:
 - In June 2008, the property owner was granted access to Millersburg Drive NE as part of a parcel partition approval, with the condition that the existing residential driveway would need to be vacated once the new access roadway is available to Parcel 1. See the Partition Request from June 2008.
 - Sedona Road was constructed around 2010, two years after the partition and access approval to the subject property. The subdivision served by Sedona Road was constructed over the next roughly seven years (completed in 2017).⁷
 - The spacing between Sedona Road and the proposed access is approximately 165 feet which does not meet the City’s access spacing guidelines.
 - Recommendation: Although the proposed access location does not meet City access spacing standards, the relatively low volume of traffic accessing the site is not expected to create any operational or safety issues at the site access or nearby intersections. The only other possible (though infeasible) location for an access to this parcel would be at the eastern edge of the property; However, this location would create left-turn conflicts with existing accesses on the north side of Millersburg Drive NE and would provide even less spacing between driveways. It is recommended that access to this property be provided as shown on the site plan.

Driveway Sight Distance

Based on preliminary observations, there are no existing sight distance concerns at the existing driveway or study intersections. However, prior to occupancy, sight distance at any existing any proposed access points will need to be verified, documented, and stamped by a registered professional Civil or Traffic Engineer licensed in the State of Oregon.

Site Circulation

The site plan shows an internal street, which loops through the site and connects to the access driveway. According to the Oregon Manufactured Dwelling and Park Specialty Code⁸, two-way streets within Mobile Home Parks that do not allow parking on either side must have a minimum pavement width of 20 feet. The internal street shows 20-foot width and is sufficient for two-way motor vehicle circulation.

Although this site is located in the City of Millersburg, the purpose statement⁹ of the Manufactured Dwelling and Park code states that no jurisdiction may require a development to exceed this code except where specifically permitted within the code.

⁷ Dates estimated from Google Earth historical aerial imagery.

⁸ Table 10-C, Oregon Manufactured Dwelling and Park Specialty Code, 2002.

⁹ Section 1-1.2, Oregon Manufactured Dwelling and Park Specialty Code, 2002.

Parking

The site plan shows a total of four visitor parking stalls on-site. Two stalls are located approximately 250 feet south of the site access and the other two stalls are located at the small community park, which is near the northeast corner of the site. There is no on-street parking and each mobile home unit has space for two vehicles under their carport.

Oregon Manufactured Dwelling and Park Specialty Code¹⁰ requires that two parking spaces be provided per dwelling unit. Additionally, one guest parking space shall be provided for every eight dwelling units. The parking facilities shown on the proposed site plan meet both of these requirements.

Bicycle and Pedestrian Facilities

The site plan shows new sidewalk facilities on all internal streets and a pedestrian crosswalk on the northwest corner of the internal street loop. This is sufficient to meet pedestrian needs on-site and adheres to Oregon Manufactured Dwelling and Park Specialty Code¹¹.

PROJECT SUMMARY

The proposed senior living mobile home development is anticipated to result in the following impacts:

Trip Generation and Intersection Operations

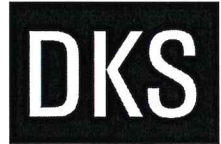
- The proposed development will include a 28-unit mobile home park.
- The future development is estimated to generate 298 daily trips including 25 (5 in, 20 out) AM peak hour trips and 19 (12 in, 7 out) PM peak hour trips.
- Both study intersections meet the City of Millersburg mobility targets with the addition of site generated trips.

Site Plan Evaluation

- The proposed access location does not meet City access spacing standards. However, the volume of traffic generated by this development is not expected to create any safety or operational concerns on the surrounding roadway network. City code guarantees that every parcel is permitted one access point, regardless of access spacing and the proposed access location is the best option for access to this parcel. It is recommended that access to this site be provided as shown on the site plan.
- The proposed site plan includes adequate space for two-way traffic on the internal street. Adequate pedestrian facilities and connections are included in the site plan.
- The site plan shows a total of 4 visitor parking stalls and two parking spaces per dwelling unit, which meets the minimum parking requirements.

¹⁰ Section 10-5.3, Oregon Manufactured Dwelling and Park Specialty Code, 2002.

¹¹ Section 10-5.4, Oregon Manufactured Dwelling and Park Specialty Code, 2002.



Appendix A – Site Plan



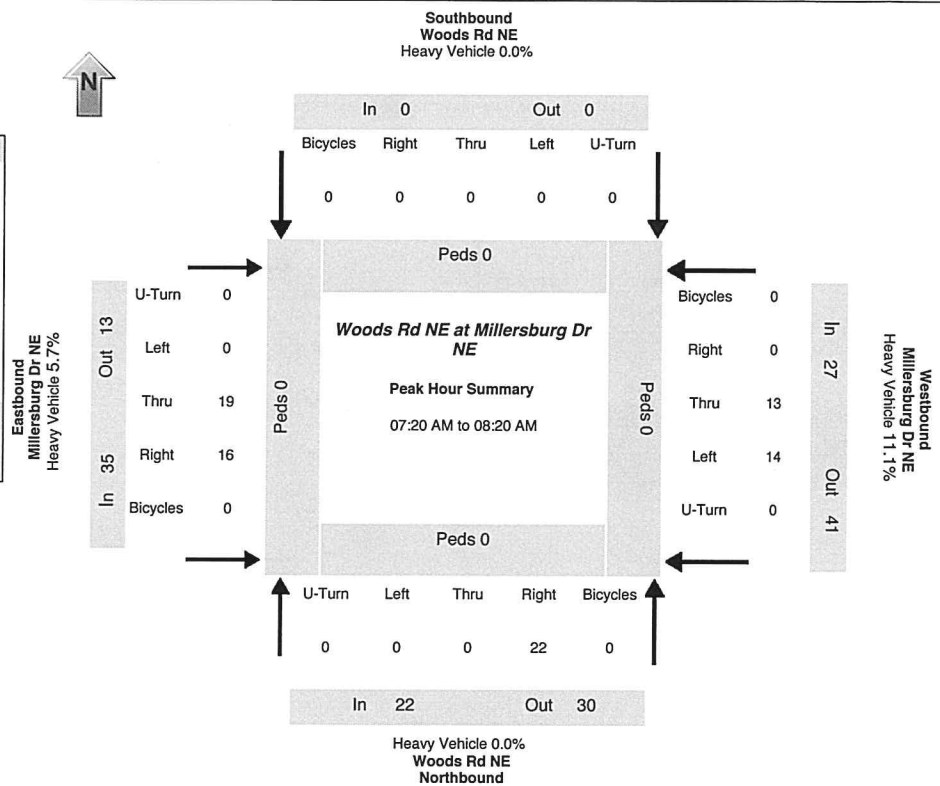
Appendix B – Existing Peak Hour Traffic Counts



KEY DATA NETWORK

Data Provided by K-D-N.com 503-594-4224

N/S street	Woods Rd NE
E/W street	Millersburg Dr NE
City, State	Millersburg OR
Site Notes	
Location	44.69831 - -123.076197
Start Date	Tuesday, January 29, 2019
Start Time	07:00:00 AM
Weather	
Study ID #	
Peak Hour Start	07:20:00 AM
Peak 15 Min Start	08:05:00 AM
PHF (15-Min Int)	0.75

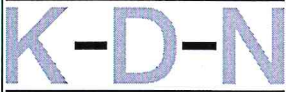


Peak-Hour Volumes (PHV)																							
Northbound				Southbound				Eastbound				Westbound				Entering		Leaving					
Left	Thru	Right	Uturn	Left	Thru	Right	Uturn	Left	Thru	Right	Uturn	Left	Thru	Right	Uturn	NB	SB	EB	WB	NB	SB	EB	WB
0	0	22	0	0	0	0	0	0	19	16	0	14	13	0	0	22	0	35	27	30	0	13	41

Percent Heavy Vehicles																							
0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	10.5%	0.0%	0.0%	7.1%	15.4%	0.0%	0.0%	0.0%	0.0%	5.7%	11.1%	3.3%	0.0%	15.4%	4.9%

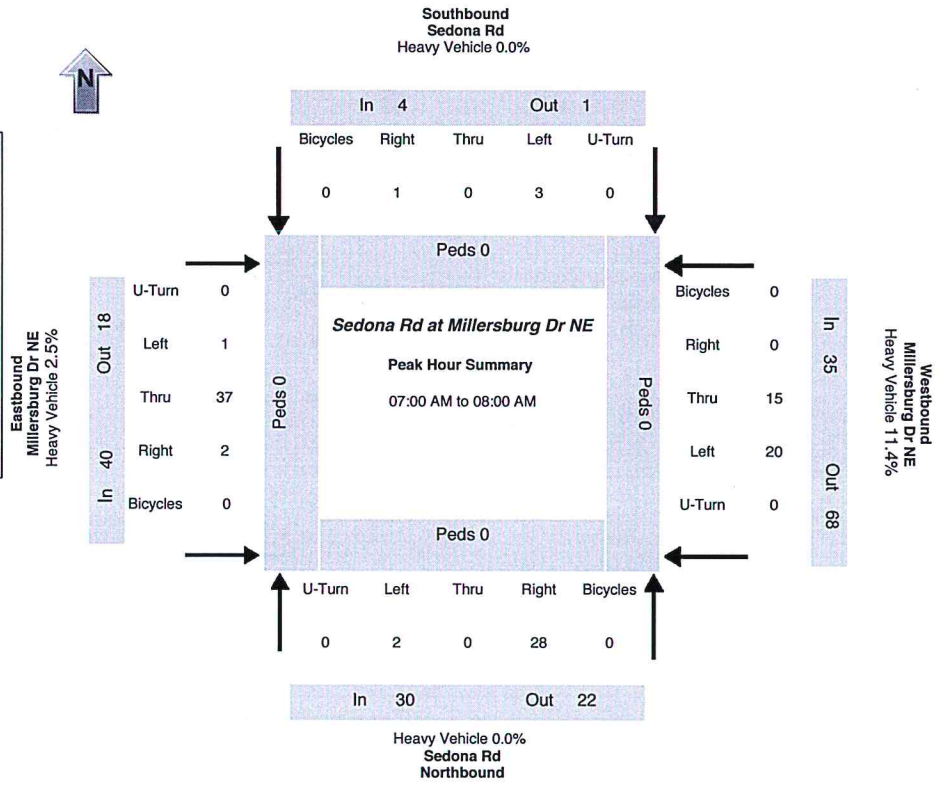
PHV - Bicycles																PHV - Pedestrians					
Northbound				Southbound				Eastbound				Westbound				Sum	in Crosswalk				
Left	Thru	Right	Uturn	Left	Thru	Right	Uturn	Left	Thru	Right	Uturn	Left	Thru	Right	Uturn	Sum	NB	SB	EB	WB	Sum
0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0

Time	Northbound Woods Rd NE				Southbound Woods Rd NE				Eastbound Millersburg Dr NE				Westbound Millersburg Dr NE				15 Min Sum	1 HR Sum
	Left	Thru	Right	Uturn	Left	Thru	Right	Uturn	Left	Thru	Right	Uturn	Left	Thru	Right	Uturn		
07:00:00 AM	0	0	2	0	0	0	0	0	0	3	0	0	1	0	0	0		
07:05:00 AM	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0		
07:10:00 AM	0	0	1	0	0	0	0	0	0	1	0	0	0	1	0	0	10	
07:15:00 AM	0	0	2	0	0	0	0	0	0	4	0	0	0	0	0	0	10	
07:20:00 AM	0	0	3	0	0	0	0	0	0	1	0	0	0	1	0	0	14	
07:25:00 AM	0	0	0	0	0	0	0	0	0	4	0	0	2	2	0	0	19	
07:30:00 AM	0	0	1	0	0	0	0	0	0	2	0	0	0	1	0	0	17	
07:35:00 AM	0	0	5	0	0	0	0	0	0	3	1	0	1	0	0	0	22	
07:40:00 AM	0	0	1	0	0	0	0	0	0	1	1	0	2	1	0	0	20	
07:45:00 AM	0	0	1	0	0	0	0	0	0	0	2	0	0	0	0	0	19	
07:50:00 AM	0	0	3	0	0	0	0	0	0	0	1	0	2	1	0	0	16	
07:55:00 AM	0	0	2	0	0	0	0	0	0	1	1	0	2	2	0	0	18	67
08:00:00 AM	0	0	2	0	0	0	0	0	0	2	0	0	0	1	0	0	20	66
08:05:00 AM	0	0	0	0	0	0	0	0	0	0	1	0	3	1	0	0	18	70
08:10:00 AM	0	0	3	0	0	0	0	0	0	4	5	0	1	2	0	0	25	82
08:15:00 AM	0	0	1	0	0	0	0	0	0	1	4	0	1	1	0	0	28	84
08:20:00 AM	0	0	0	0	0	0	0	0	0	2	2	0	0	1	0	0	28	84
08:25:00 AM	0	0	0	0	0	0	0	0	0	0	0	0	1	0	0	0	14	77
08:30:00 AM	0	0	0	0	0	0	0	0	0	0	2	0	0	1	0	0	9	76
08:35:00 AM	0	0	3	0	0	0	0	0	0	0	1	0	1	0	0	0	9	71
08:40:00 AM	0	0	0	0	0	0	0	0	0	2	2	0	0	2	0	0	14	71
08:45:00 AM	0	0	4	0	0	0	0	0	0	1	0	0	0	1	0	0	17	74
08:50:00 AM	1	0	2	0	0	0	0	0	0	1	2	0	0	0	0	0	18	73
08:55:00 AM	0	0	0	0	0	0	0	0	0	0	0	0	1	3	0	0	16	69



KEY DATA NETWORK

Data Provided by K-D-N.com 503-594-4224	
N/S street	Sedona Rd
E/W street	Millersburg Dr NE
City, State	Millersburg OR
Site Notes	
Location	44.698299 - -123.075098
Start Date	Tuesday, January 29, 2019
Start Time	07:00:00 AM
Weather	
Study ID #	
Peak Hour Start	07:00:00 AM
Peak 15 Min Start	07:20:00 AM
PHF (15-Min Int)	0.80



Peak-Hour Volumes (PHV)																							
Northbound				Southbound				Eastbound				Westbound				Entering				Leaving			
Left	Thru	Right	Uturn	Left	Thru	Right	Uturn	Left	Thru	Right	Uturn	Left	Thru	Right	Uturn	NB	SB	EB	WB	NB	SB	EB	WB
2	0	28	0	3	0	1	0	1	37	2	0	20	15	0	0	30	4	40	35	22	1	18	68
Percent Heavy Vehicles																							
0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	2.7%	0.0%	0.0%	10.0%	13.3%	0.0%	0.0%	0.0%	0.0%	2.5%	11.4%	9.1%	0.0%	11.1%	1.5%

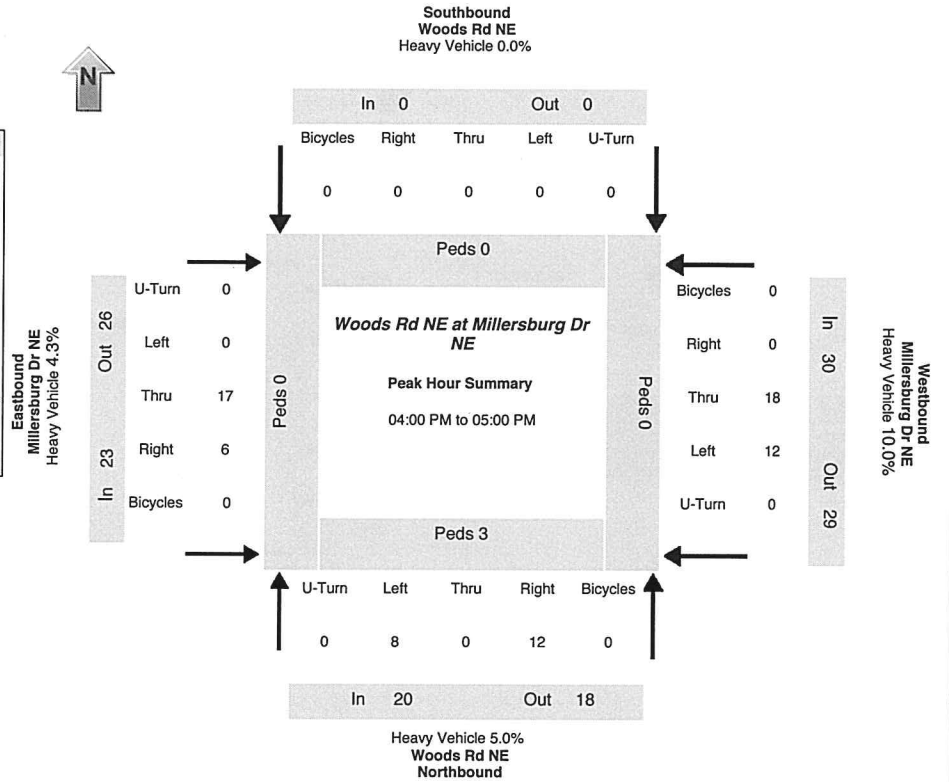
PHV - Bicycles																PHV - Pedestrians					
Northbound				Southbound				Eastbound				Westbound				in Crosswalk					
Left	Thru	Right	Uturn	Left	Thru	Right	Uturn	Left	Thru	Right	Uturn	Left	Thru	Right	Uturn	Sum	NB	SB	EB	WB	Sum
0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0

All Vehicle Volumes																		
Time	Northbound Sedona Rd				Southbound Sedona Rd				Eastbound Millersburg Dr NE				Westbound Millersburg Dr NE				15 Min Sum	1 HR Sum
	Left	Thru	Right	Uturn	Left	Thru	Right	Uturn	Left	Thru	Right	Uturn	Left	Thru	Right	Uturn		
07:00:00 AM	0	0	5	0	0	0	0	0	0	5	0	0	1	1	0	0		
07:05:00 AM	0	0	2	0	1	0	0	0	0	1	0	0	0	0	0	0		
07:10:00 AM	0	0	4	0	0	0	0	0	0	1	0	0	5	1	0	0	27	
07:15:00 AM	0	0	4	0	0	0	0	0	0	4	0	0	1	0	0	0	24	
07:20:00 AM	0	0	1	0	0	0	0	0	0	7	0	0	1	1	0	0	30	
07:25:00 AM	0	0	4	0	1	0	0	0	0	2	0	0	2	4	0	0	32	
07:30:00 AM	0	0	2	0	1	0	0	0	0	4	1	0	2	1	0	0	34	
07:35:00 AM	0	0	1	0	0	0	0	0	0	5	0	0	2	0	0	0	33	
07:40:00 AM	0	0	1	0	0	0	1	0	0	3	0	0	0	2	0	0	27	
07:45:00 AM	0	0	2	0	0	0	0	0	0	1	0	0	3	0	0	0	22	
07:50:00 AM	0	0	1	0	0	0	0	0	0	1	1	0	2	2	0	0	20	
07:55:00 AM	2	0	1	0	0	0	0	0	0	3	0	0	1	3	0	0	23	109
08:00:00 AM	1	0	0	0	0	0	0	0	0	3	0	0	0	0	0	0	21	101
08:05:00 AM	1	0	1	0	0	0	0	0	0	2	0	0	0	3	0	0	21	104
08:10:00 AM	0	0	2	0	0	0	0	0	0	3	0	0	2	3	0	0	21	103
08:15:00 AM	0	0	1	0	0	0	0	0	0	4	1	0	1	2	0	0	26	103
08:20:00 AM	0	0	1	0	0	0	0	0	0	2	0	0	1	1	0	0	24	98
08:25:00 AM	0	0	1	0	0	0	0	0	0	1	0	0	6	2	0	0	24	95
08:30:00 AM	0	0	1	0	0	0	0	0	0	0	0	0	1	1	0	0	18	87
08:35:00 AM	0	0	1	0	1	0	0	0	0	3	0	0	0	1	0	0	19	84
08:40:00 AM	0	0	1	0	0	0	0	0	0	2	0	0	1	2	0	0	15	83
08:45:00 AM	0	0	0	0	0	0	0	0	0	2	0	0	4	1	0	0	19	84
08:50:00 AM	0	0	2	0	0	0	0	0	0	2	2	0	0	0	0	0	19	83
08:55:00 AM	0	0	0	0	0	0	0	0	0	2	0	0	2	3	0	0	20	80



KEY DATA NETWORK

Data Provided by K-D-N.com 503-594-4224	
N/S street	Woods Rd NE
E/W street	Millersburg Dr NE
City, State	Millersburg OR
Site Notes	
Location	44.69831 - -123.076197
Start Date	Tuesday, January 29, 2019
Start Time	04:00:00 PM
Weather	
Study ID #	
Peak Hour Start	04:00:00 PM
Peak 15 Min Start	04:20:00 PM
PHF (15-Min Int)	0.79



Peak-Hour Volumes (PHV)																							
Northbound				Southbound				Eastbound				Westbound				Entering		Leaving					
Left	Thru	Right	Uturn	Left	Thru	Right	Uturn	Left	Thru	Right	Uturn	Left	Thru	Right	Uturn	NB	SB	EB	WB	NB	SB	EB	WB
8	0	12	0	0	0	0	0	0	17	6	0	12	18	0	0	20	0	23	30	18	0	26	29
Percent Heavy Vehicles																							
0.0%	0.0%	8.3%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	5.9%	0.0%	0.0%	0.0%	16.7%	0.0%	0.0%	5.0%	0.0%	4.3%	10.0%	0.0%	0.0%	11.5%	6.9%

PHV- Bicycles														PHV - Pedestrians							
Northbound				Southbound				Eastbound				Westbound				in Crosswalk					
Left	Thru	Right	Uturn	Left	Thru	Right	Uturn	Left	Thru	Right	Uturn	Left	Thru	Right	Uturn	Sum	NB	SB	EB	WB	Sum
0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	3	0	0	0	3

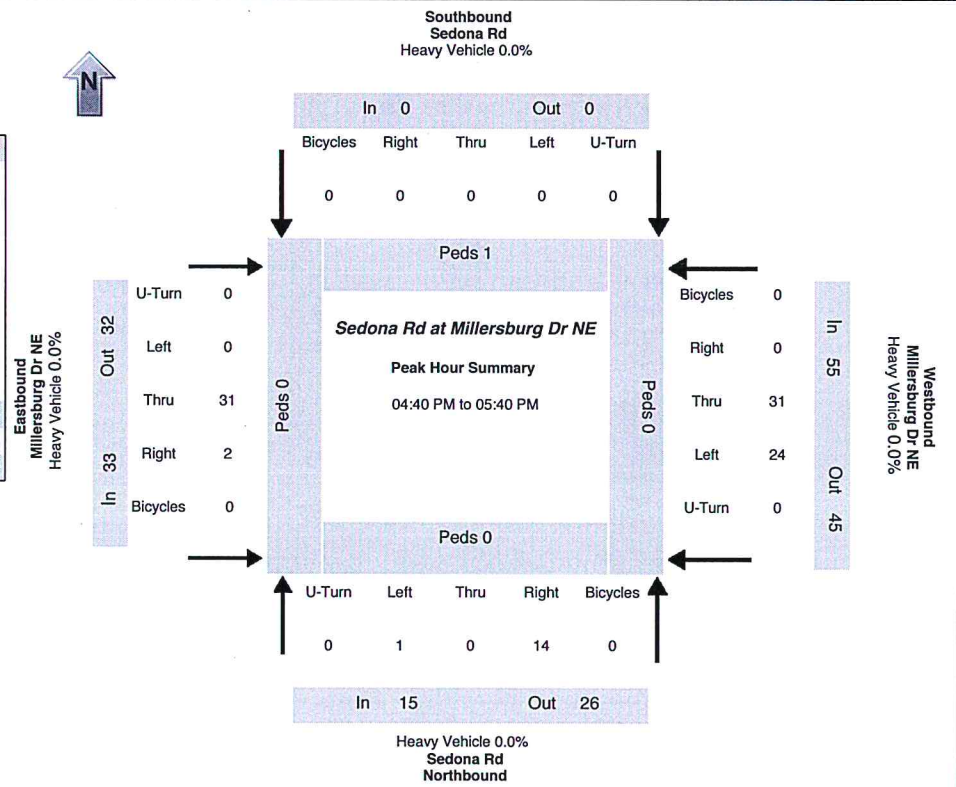
Time	Northbound Woods Rd NE				Southbound Woods Rd NE				Eastbound Millersburg Dr NE				Westbound Millersburg Dr NE				15 Min Sum	1 HR Sum
	Left	Thru	Right	Uturn	Left	Thru	Right	Uturn	Left	Thru	Right	Uturn	Left	Thru	Right	Uturn		
04:00:00 PM	0	0	2	0	0	0	0	0	0	0	1	0	3	1	0	0		
04:05:00 PM	2	0	0	0	0	0	0	0	0	2	0	0	0	4	0	0		
04:10:00 PM	1	0	0	0	0	0	0	0	0	0	0	0	0	1	0	0	17	
04:15:00 PM	0	0	1	0	0	0	0	0	0	0	1	0	2	0	0	0	14	
04:20:00 PM	0	0	2	0	0	0	0	0	0	3	1	0	0	3	0	0	15	
04:25:00 PM	0	0	1	0	0	0	0	0	0	1	1	0	1	1	0	0	18	
04:30:00 PM	1	0	0	0	0	0	0	0	0	3	0	0	4	1	0	0	23	
04:35:00 PM	1	0	2	0	0	0	0	0	0	1	0	0	0	3	0	0	21	
04:40:00 PM	2	0	1	0	0	0	0	0	0	2	0	0	0	1	0	0	22	
04:45:00 PM	1	0	1	0	0	0	0	0	0	1	0	0	2	0	0	0	18	
04:50:00 PM	0	0	0	0	0	0	0	0	0	3	1	0	0	3	0	0	18	
04:55:00 PM	0	0	2	0	0	0	0	0	0	1	1	0	0	0	0	0	16	73
05:00:00 PM	0	0	0	0	0	0	0	0	0	0	0	0	0	1	0	0	12	67
05:05:00 PM	0	0	0	0	0	0	0	0	0	3	0	0	3	4	0	0	15	69
05:10:00 PM	0	0	1	0	0	0	0	0	0	0	1	0	0	0	0	0	13	69
05:15:00 PM	0	0	2	0	0	0	0	0	0	2	0	0	2	1	0	0	19	72
05:20:00 PM	0	0	1	0	0	0	0	0	0	3	0	0	0	2	0	0	15	69
05:25:00 PM	2	0	2	0	0	0	0	0	0	2	0	0	1	0	0	0	20	71
05:30:00 PM	0	0	1	0	0	0	0	0	0	1	0	0	4	5	0	0	24	73
05:35:00 PM	1	0	2	0	0	0	0	0	0	0	0	0	0	3	0	0	24	72
05:40:00 PM	0	0	0	0	0	0	0	0	0	0	1	0	1	1	0	0	20	69
05:45:00 PM	0	0	2	0	0	0	0	0	0	2	0	0	1	2	0	0	16	71
05:50:00 PM	0	0	0	0	0	0	0	0	0	0	0	0	1	1	0	0	12	66
05:55:00 PM	0	0	1	0	0	0	0	0	0	1	0	0	1	2	0	0	14	67

K-D-N

KEY DATA NETWORK

Data Provided by K-D-N.com 503-594-4224

N/S street	Sedona Rd
E/W street	Millersburg Dr NE
City, State	Millersburg OR
Site Notes	
Location	44.698299 - -123.075098
Start Date	Tuesday, January 29, 2019
Start Time	04:00:00 PM
Weather	
Study ID #	
Peak Hour Start	04:40:00 PM
Peak 15 Min Start	05:25:00 PM
PHF (15-Min Int)	0.74



Peak-Hour Volumes (PHV)																							
Northbound				Southbound				Eastbound				Westbound				Entering				Leaving			
Left	Thru	Right	Uturn	Left	Thru	Right	Uturn	Left	Thru	Right	Uturn	Left	Thru	Right	Uturn	NB	SB	EB	WB	NB	SB	EB	WB
1	0	14	0	0	0	0	0	0	31	2	0	24	31	0	0	15	0	33	55	26	0	32	45
Percent Heavy Vehicles																							
0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%

PHV - Bicycles												PHV - Pedestrians									
Northbound				Southbound				Eastbound				Westbound				in Crosswalk					
Left	Thru	Right	Uturn	Left	Thru	Right	Uturn	Left	Thru	Right	Uturn	Left	Thru	Right	Uturn	Sum	NB	SB	EB	WB	Sum
0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	0	0	1

Time	Northbound Sedona Rd				Southbound Sedona Rd				Eastbound Millersburg Dr NE				Westbound Millersburg Dr NE				15 Min Sum	1 HR Sum
	Left	Thru	Right	Uturn	Left	Thru	Right	Uturn	Left	Thru	Right	Uturn	Left	Thru	Right	Uturn		
04:00:00 PM	1	0	1	0	0	0	0	0	0	3	0	0	1	3	0	0		
04:05:00 PM	0	0	1	0	0	0	1	0	0	2	0	0	1	3	0	0		
04:10:00 PM	0	0	2	0	0	0	0	0	0	0	0	0	0	1	0	0	20	
04:15:00 PM	0	0	2	0	0	0	0	0	0	0	0	0	1	2	0	0	16	
04:20:00 PM	0	0	0	0	0	0	0	0	0	6	0	0	1	3	0	0	18	
04:25:00 PM	0	0	1	0	0	0	0	0	0	2	0	0	2	2	0	0	22	
04:30:00 PM	0	0	1	0	0	0	0	0	0	2	0	0	2	3	0	0	25	
04:35:00 PM	0	0	0	0	0	0	0	0	1	1	0	0	1	4	0	0	22	
04:40:00 PM	0	0	0	0	0	0	0	0	0	4	1	0	1	1	0	0	22	
04:45:00 PM	0	0	1	0	0	0	0	0	0	1	0	0	3	2	0	0	21	
04:50:00 PM	0	0	1	0	0	0	0	0	0	3	0	0	1	3	0	0	22	
04:55:00 PM	0	0	0	0	0	0	0	0	0	4	0	0	5	0	0	0	24	88
05:00:00 PM	0	0	1	0	0	0	0	0	0	0	0	0	0	1	0	0	19	81
05:05:00 PM	1	0	0	0	0	0	0	0	0	3	0	0	2	5	0	0	22	84
05:10:00 PM	0	0	1	0	0	0	0	0	0	1	0	0	1	1	0	0	17	85
05:15:00 PM	0	0	0	0	0	0	0	0	0	3	0	0	3	2	0	0	23	88
05:20:00 PM	0	0	2	0	0	0	0	0	0	4	1	0	4	1	0	0	24	90
05:25:00 PM	0	0	1	0	0	0	0	0	0	2	0	0	2	3	0	0	28	91
05:30:00 PM	0	0	3	0	0	0	0	0	0	2	0	0	0	9	0	0	34	97
05:35:00 PM	0	0	4	0	0	0	0	0	0	4	0	0	2	3	0	0	35	103
05:40:00 PM	0	0	0	0	0	0	0	0	0	0	0	0	0	2	0	0	29	98
05:45:00 PM	0	0	0	0	0	0	0	0	0	3	0	0	1	2	0	0	21	97
05:50:00 PM	0	0	3	0	0	0	0	0	0	1	0	0	2	3	0	0	17	98
05:55:00 PM	0	0	1	0	0	0	0	0	0	2	0	0	1	2	0	0	21	95



Appendix C – Existing HCM Analysis Results

Intersection	
Intersection Delay, s/veh	7.1
Intersection LOS	A

Movement	EBT	EBR	WBL	WBT	NBL	NBR
Lane Configurations	↗			↖	↘	
Traffic Vol, veh/h	20	16	14	13	0	22
Future Vol, veh/h	20	16	14	13	0	22
Peak Hour Factor	0.75	0.75	0.75	0.75	0.75	0.75
Heavy Vehicles, %	11	0	7	31	0	5
Mvmt Flow	27	21	19	17	0	29
Number of Lanes	1	0	0	1	1	0

Approach	EB	WB	NB
Opposing Approach	WB	EB	
Opposing Lanes	1	1	0
Conflicting Approach Left		NB	EB
Conflicting Lanes Left	0	1	1
Conflicting Approach Right	NB		WB
Conflicting Lanes Right	1	0	1
HCM Control Delay	7.1	7.4	6.6
HCM LOS	A	A	A

Lane	NBLn1	EBLn1	WBLn1
Vol Left, %	0%	0%	52%
Vol Thru, %	0%	56%	48%
Vol Right, %	100%	44%	0%
Sign Control	Stop	Stop	Stop
Traffic Vol by Lane	22	36	27
LT Vol	0	0	14
Through Vol	0	20	13
RT Vol	22	16	0
Lane Flow Rate	29	48	36
Geometry Grp	1	1	1
Degree of Util (X)	0.028	0.052	0.042
Departure Headway (Hd)	3.445	3.899	4.21
Convergence, Y/N	Yes	Yes	Yes
Cap	1035	921	853
Service Time	1.481	1.911	2.222
HCM Lane V/C Ratio	0.028	0.052	0.042
HCM Control Delay	6.6	7.1	7.4
HCM Lane LOS	A	A	A
HCM 95th-tile Q	0.1	0.2	0.1

Intersection												
Int Delay, s/veh	3.3											
Movement	EBL	EBT	EBR	WBL	WBT	WBR	NBL	NBT	NBR	SBL	SBT	SBR
Lane Configurations		↕			↕			↕			↕	
Traffic Vol, veh/h	1	38	3	16	22	0	4	0	17	2	0	1
Future Vol, veh/h	1	38	3	16	22	0	4	0	17	2	0	1
Conflicting Peds, #/hr	0	0	0	0	0	0	0	0	0	0	0	0
Sign Control	Free	Free	Free	Free	Free	Free	Stop	Stop	Stop	Stop	Stop	Stop
RT Channelized	-	-	None	-	-	None	-	-	None	-	-	None
Storage Length	-	-	-	-	-	-	-	-	-	-	-	-
Veh in Median Storage, #	-	0	-	-	0	-	-	0	-	-	0	-
Grade, %	-	0	-	-	0	-	-	0	-	-	0	-
Peak Hour Factor	76	76	76	76	76	76	76	76	76	76	76	76
Heavy Vehicles, %	0	3	0	10	13	0	0	0	0	0	0	0
Mvmt Flow	1	50	4	21	29	0	5	0	22	3	0	1

Major/Minor	Major1			Major2			Minor1			Minor2		
Conflicting Flow All	29	0	0	54	0	0	126	125	52	136	127	29
Stage 1	-	-	-	-	-	-	54	54	-	71	71	-
Stage 2	-	-	-	-	-	-	72	71	-	65	56	-
Critical Hdwy	4.1	-	-	4.2	-	-	7.1	6.5	6.2	7.1	6.5	6.2
Critical Hdwy Stg 1	-	-	-	-	-	-	6.1	5.5	-	6.1	5.5	-
Critical Hdwy Stg 2	-	-	-	-	-	-	6.1	5.5	-	6.1	5.5	-
Follow-up Hdwy	2.2	-	-	2.29	-	-	3.5	4	3.3	3.5	4	3.3
Pot Cap-1 Maneuver	1597	-	-	1502	-	-	852	769	1021	840	767	1052
Stage 1	-	-	-	-	-	-	963	854	-	944	840	-
Stage 2	-	-	-	-	-	-	943	840	-	951	852	-
Platoon blocked, %	-	-	-	-	-	-	-	-	-	-	-	-
Mov Cap-1 Maneuver	1597	-	-	1502	-	-	841	757	1021	812	755	1052
Mov Cap-2 Maneuver	-	-	-	-	-	-	841	757	-	812	755	-
Stage 1	-	-	-	-	-	-	962	853	-	943	828	-
Stage 2	-	-	-	-	-	-	929	828	-	929	851	-

Approach	EB	WB	NB	SB
HCM Control Delay, s	0.2	3.1	8.8	9.1
HCM LOS			A	A

Minor Lane/Major Mvmt	NBLn1	EBL	EBT	EBR	WBL	WBT	WBR	SBLn1
Capacity (veh/h)	981	1597	-	-	1502	-	-	879
HCM Lane V/C Ratio	0.028	0.001	-	-	0.014	-	-	0.004
HCM Control Delay (s)	8.8	7.3	0	-	7.4	0	-	9.1
HCM Lane LOS	A	A	A	-	A	A	-	A
HCM 95th %tile Q(veh)	0.1	0	-	-	0	-	-	0

Intersection						
Int Delay, s/veh	0					
Movement	EBT	EBR	WBL	WBT	NBL	NBR
Lane Configurations	↔			↔	↔	
Traffic Vol, veh/h	0	0	0	0	0	0
Future Vol, veh/h	0	0	0	0	0	0
Conflicting Peds, #/hr	0	0	0	0	0	0
Sign Control	Free	Free	Free	Free	Stop	Stop
RT Channelized	-	None	-	None	-	None
Storage Length	-	-	-	-	0	-
Veh in Median Storage, #	0	-	-	0	0	-
Grade, %	0	-	-	0	0	-
Peak Hour Factor	90	90	90	90	90	90
Heavy Vehicles, %	2	2	2	2	2	2
Mvmt Flow	0	0	0	0	0	0

Major/Minor	Major1	Major2	Minor1	Minor2	Minor3
Conflicting Flow All	0	0	1	0	2
Stage 1	-	-	-	-	1
Stage 2	-	-	-	-	1
Critical Hdwy	-	-	4.12	-	6.42
Critical Hdwy Stg 1	-	-	-	-	5.42
Critical Hdwy Stg 2	-	-	-	-	5.42
Follow-up Hdwy	-	-	2.218	-	3.518
Pot Cap-1 Maneuver	-	-	1622	-	1021
Stage 1	-	-	-	-	1022
Stage 2	-	-	-	-	1022
Platoon blocked, %	-	-	-	-	-
Mov Cap-1 Maneuver	-	-	1622	-	1021
Mov Cap-2 Maneuver	-	-	-	-	1021
Stage 1	-	-	-	-	1022
Stage 2	-	-	-	-	1022

Approach	EB	WB	NB
HCM Control Delay, s	0	0	0
HCM LOS			A

Minor Lane/Major Mvmt	NBLn1	EBT	EBR	WBL	WBT
Capacity (veh/h)	-	-	-	1622	-
HCM Lane V/C Ratio	-	-	-	-	-
HCM Control Delay (s)	0	-	-	0	-
HCM Lane LOS	A	-	-	A	-
HCM 95th %tile Q(veh)	-	-	-	0	-

Intersection						
Int Delay, s/veh	0					
Movement	EBL	EBT	WBT	WBR	SBL	SBR
Lane Configurations		↕	↕		↕	
Traffic Vol, veh/h	0	0	0	0	0	0
Future Vol, veh/h	0	0	0	0	0	0
Conflicting Peds, #/hr	0	0	0	0	0	0
Sign Control	Free	Free	Free	Free	Stop	Stop
RT Channelized	-	None	-	None	-	None
Storage Length	-	-	-	-	0	-
Veh in Median Storage, #	-	0	0	-	0	-
Grade, %	-	0	0	-	0	-
Peak Hour Factor	90	90	90	90	90	90
Heavy Vehicles, %	2	2	2	2	2	2
Mvmt Flow	0	0	0	0	0	0

Major/Minor	Major1	Major2	Minor2		
Conflicting Flow All	1	0	-	0	1 1
Stage 1	-	-	-	-	1 -
Stage 2	-	-	-	-	0 -
Critical Hdwy	4.12	-	-	-	6.42 6.22
Critical Hdwy Stg 1	-	-	-	-	5.42 -
Critical Hdwy Stg 2	-	-	-	-	5.42 -
Follow-up Hdwy	2.218	-	-	-	3.518 3.318
Pot Cap-1 Maneuver	1622	-	-	-	1022 1084
Stage 1	-	-	-	-	1022 -
Stage 2	-	-	-	-	- -
Platoon blocked, %		-	-	-	
Mov Cap-1 Maneuver	1622	-	-	-	1022 1084
Mov Cap-2 Maneuver	-	-	-	-	1022 -
Stage 1	-	-	-	-	1022 -
Stage 2	-	-	-	-	- -

Approach	EB	WB	SB
HCM Control Delay, s	0	0	0
HCM LOS			A

Minor Lane/Major Mvmt	EBL	EBT	WBT	WBR	SBLn1
Capacity (veh/h)	1622	-	-	-	-
HCM Lane V/C Ratio	-	-	-	-	-
HCM Control Delay (s)	0	-	-	-	0
HCM Lane LOS	A	-	-	-	A
HCM 95th %tile Q(veh)	0	-	-	-	-

Intersection	
Intersection Delay, s/veh	7.1
Intersection LOS	A

Movement	EBT	EBR	WBL	WBT	NBL	NBR
Lane Configurations	↗			↖	↘	
Traffic Vol, veh/h	20	3	12	20	6	13
Future Vol, veh/h	20	3	12	20	6	13
Peak Hour Factor	0.75	0.75	0.75	0.75	0.75	0.75
Heavy Vehicles, %	0	0	0	0	0	0
Mvmt Flow	27	4	16	27	8	17
Number of Lanes	1	0	0	1	1	0

Approach	EB	WB	NB
Opposing Approach	WB	EB	
Opposing Lanes	1	1	0
Conflicting Approach Left		NB	EB
Conflicting Lanes Left	0	1	1
Conflicting Approach Right	NB		WB
Conflicting Lanes Right	1	0	1
HCM Control Delay	7	7.3	6.8
HCM LOS	A	A	A

Lane	NBLn1	EBLn1	WBLn1
Vol Left, %	32%	0%	38%
Vol Thru, %	0%	87%	62%
Vol Right, %	68%	13%	0%
Sign Control	Stop	Stop	Stop
Traffic Vol by Lane	19	23	32
LT Vol	6	0	12
Through Vol	0	20	20
RT Vol	13	3	0
Lane Flow Rate	25	31	43
Geometry Grp	1	1	1
Degree of Util (X)	0.026	0.033	0.048
Departure Headway (Hd)	3.679	3.899	4.043
Convergence, Y/N	Yes	Yes	Yes
Cap	971	921	889
Service Time	1.709	1.913	2.054
HCM Lane V/C Ratio	0.026	0.034	0.048
HCM Control Delay	6.8	7	7.3
HCM Lane LOS	A	A	A
HCM 95th-tile Q	0.1	0.1	0.2

Intersection												
Int Delay, s/veh	3											
Movement	EBL	EBT	EBR	WBL	WBT	WBR	NBL	NBT	NBR	SBL	SBT	SBR
Lane Configurations		↕			↕			↕			↕	
Traffic Vol, veh/h	0	31	2	24	31	0	1	0	14	0	0	0
Future Vol, veh/h	0	31	2	24	31	0	1	0	14	0	0	0
Conflicting Peds, #/hr	0	0	1	1	0	0	0	0	0	0	0	0
Sign Control	Free	Free	Free	Free	Free	Free	Stop	Stop	Stop	Stop	Stop	Stop
RT Channelized	-	-	None	-	-	None	-	-	None	-	-	None
Storage Length	-	-	-	-	-	-	-	-	-	-	-	-
Veh in Median Storage, #	-	0	-	-	0	-	-	0	-	-	0	-
Grade, %	-	0	-	-	0	-	-	0	-	-	0	-
Peak Hour Factor	74	74	74	74	74	74	74	74	74	74	74	74
Heavy Vehicles, %	0	0	0	0	0	0	0	0	0	0	0	0
Mvmt Flow	0	42	3	32	42	0	1	0	19	0	0	0

Major/Minor	Major1		Major2		Minor1		Minor2					
Conflicting Flow All	42	0	0	46	0	0	151	151	45	159	152	42
Stage 1	-	-	-	-	-	-	45	45	-	106	106	-
Stage 2	-	-	-	-	-	-	106	106	-	53	46	-
Critical Hdwy	4.1	-	-	4.1	-	-	7.1	6.5	6.2	7.1	6.5	6.2
Critical Hdwy Stg 1	-	-	-	-	-	-	6.1	5.5	-	6.1	5.5	-
Critical Hdwy Stg 2	-	-	-	-	-	-	6.1	5.5	-	6.1	5.5	-
Follow-up Hdwy	2.2	-	-	2.2	-	-	3.5	4	3.3	3.5	4	3.3
Pot Cap-1 Maneuver	1580	-	-	1575	-	-	821	744	1031	811	743	1034
Stage 1	-	-	-	-	-	-	974	861	-	905	811	-
Stage 2	-	-	-	-	-	-	905	811	-	965	861	-
Platoon blocked, %	-	-	-	-	-	-	-	-	-	-	-	-
Mov Cap-1 Maneuver	1580	-	-	1574	-	-	807	728	1030	783	727	1034
Mov Cap-2 Maneuver	-	-	-	-	-	-	807	728	-	783	727	-
Stage 1	-	-	-	-	-	-	973	860	-	905	794	-
Stage 2	-	-	-	-	-	-	886	794	-	947	860	-

Approach	EB	WB	NB	SB
HCM Control Delay, s	0	3.2	8.6	0
HCM LOS			A	A

Minor Lane/Major Mvmt	NBLn1	EBL	EBT	EBR	WBL	WBT	WBR	SBLn1
Capacity (veh/h)	1011	1580	-	-	1574	-	-	-
HCM Lane V/C Ratio	0.02	-	-	-	0.021	-	-	-
HCM Control Delay (s)	8.6	0	-	-	7.3	0	-	0
HCM Lane LOS	A	A	-	-	A	A	-	A
HCM 95th %tile Q(veh)	0.1	0	-	-	0.1	-	-	-

Intersection						
Int Delay, s/veh	0					
Movement	EBT	EBR	WBL	WBT	NBL	NBR
Lane Configurations	↔			↔	↔	
Traffic Vol, veh/h	0	0	0	0	0	0
Future Vol, veh/h	0	0	0	0	0	0
Conflicting Peds, #/hr	0	0	0	0	0	0
Sign Control	Free	Free	Free	Free	Stop	Stop
RT Channelized	-	None	-	None	-	None
Storage Length	-	-	-	-	0	-
Veh in Median Storage, #	0	-	-	0	0	-
Grade, %	0	-	-	0	0	-
Peak Hour Factor	90	90	90	90	90	90
Heavy Vehicles, %	2	2	2	2	2	2
Mvmt Flow	0	0	0	0	0	0

Major/Minor	Major1	Major2	Minor1	Minor2	Minor3
Conflicting Flow All	0	0	1	0	2
Stage 1	-	-	-	-	1
Stage 2	-	-	-	-	1
Critical Hdwy	-	-	4.12	-	6.42
Critical Hdwy Stg 1	-	-	-	-	5.42
Critical Hdwy Stg 2	-	-	-	-	5.42
Follow-up Hdwy	-	-	2.218	-	3.518
Pot Cap-1 Maneuver	-	-	1622	-	1021
Stage 1	-	-	-	-	1022
Stage 2	-	-	-	-	1022
Platoon blocked, %	-	-	-	-	-
Mov Cap-1 Maneuver	-	-	1622	-	1021
Mov Cap-2 Maneuver	-	-	-	-	1021
Stage 1	-	-	-	-	1022
Stage 2	-	-	-	-	1022

Approach	EB	WB	NB
HCM Control Delay, s	0	0	0
HCM LOS			A

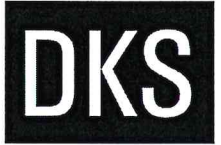
Minor Lane/Major Mvmt	NBLn1	EBT	EBR	WBL	WBT
Capacity (veh/h)	-	-	-	1622	-
HCM Lane V/C Ratio	-	-	-	-	-
HCM Control Delay (s)	0	-	-	0	-
HCM Lane LOS	A	-	-	A	-
HCM 95th %tile Q(veh)	-	-	-	0	-

Intersection						
Int Delay, s/veh	0					
Movement	EBL	EBT	WBT	WBR	SBL	SBR
Lane Configurations		↖	↗		↖	↗
Traffic Vol, veh/h	0	0	0	0	0	0
Future Vol, veh/h	0	0	0	0	0	0
Conflicting Peds, #/hr	0	0	0	0	0	0
Sign Control	Free	Free	Free	Free	Stop	Stop
RT Channelized	-	None	-	None	-	None
Storage Length	-	-	-	-	0	-
Veh in Median Storage, #	-	0	0	-	0	-
Grade, %	-	0	0	-	0	-
Peak Hour Factor	90	90	90	90	90	90
Heavy Vehicles, %	2	2	2	2	2	2
Mvmt Flow	0	0	0	0	0	0

Major/Minor	Major1	Major2	Minor2		
Conflicting Flow All	1	0	-	0	1 1
Stage 1	-	-	-	-	1 -
Stage 2	-	-	-	-	0 -
Critical Hdwy	4.12	-	-	-	6.42 6.22
Critical Hdwy Stg 1	-	-	-	-	5.42 -
Critical Hdwy Stg 2	-	-	-	-	5.42 -
Follow-up Hdwy	2.218	-	-	-	3.518 3.318
Pot Cap-1 Maneuver	1622	-	-	-	1022 1084
Stage 1	-	-	-	-	1022 -
Stage 2	-	-	-	-	- -
Platoon blocked, %		-	-	-	
Mov Cap-1 Maneuver	1622	-	-	-	1022 1084
Mov Cap-2 Maneuver	-	-	-	-	1022 -
Stage 1	-	-	-	-	1022 -
Stage 2	-	-	-	-	- -

Approach	EB	WB	SB
HCM Control Delay, s	0	0	0
HCM LOS			A

Minor Lane/Major Mvmt	EBL	EBT	WBT	WBR	SBLn1
Capacity (veh/h)	1622	-	-	-	-
HCM Lane V/C Ratio	-	-	-	-	-
HCM Control Delay (s)	0	-	-	-	0
HCM Lane LOS	A	-	-	-	A
HCM 95th %tile Q(veh)	0	-	-	-	-



Appendix D – Future HCM Analysis Results

Intersection	
Intersection Delay, s/veh	7.1
Intersection LOS	A

Movement	EBT	EBR	WBL	WBT	NBL	NBR
Lane Configurations	↶			↷	↶	↷
Traffic Vol, veh/h	20	16	17	14	0	23
Future Vol, veh/h	20	16	17	14	0	23
Peak Hour Factor	0.75	0.75	0.75	0.75	0.75	0.75
Heavy Vehicles, %	11	0	7	31	0	5
Mvmt Flow	27	21	23	19	0	31
Number of Lanes	1	0	0	1	1	0

Approach	EB	WB	NB
Opposing Approach	WB	EB	
Opposing Lanes	1	1	0
Conflicting Approach Left		NB	EB
Conflicting Lanes Left	0	1	1
Conflicting Approach Right	NB		WB
Conflicting Lanes Right	1	0	1
HCM Control Delay	7.1	7.4	6.6
HCM LOS	A	A	A

Lane	NBLn1	EBLn1	WBLn1
Vol Left, %	0%	0%	55%
Vol Thru, %	0%	56%	45%
Vol Right, %	100%	44%	0%
Sign Control	Stop	Stop	Stop
Traffic Vol by Lane	23	36	31
LT Vol	0	0	17
Through Vol	0	20	14
RT Vol	23	16	0
Lane Flow Rate	31	48	41
Geometry Grp	1	1	1
Degree of Util (X)	0.029	0.052	0.048
Departure Headway (Hd)	3.454	3.905	4.218
Convergence, Y/N	Yes	Yes	Yes
Cap	1031	920	852
Service Time	1.493	1.918	2.23
HCM Lane V/C Ratio	0.03	0.052	0.048
HCM Control Delay	6.6	7.1	7.4
HCM Lane LOS	A	A	A
HCM 95th-tile Q	0.1	0.2	0.2

Intersection												
Int Delay, s/veh	3.1											
Movement	EBL	EBT	EBR	WBL	WBT	WBR	NBL	NBT	NBR	SBL	SBT	SBR
Lane Configurations	↕			↕			↕			↕		
Traffic Vol, veh/h	1	39	3	16	26	0	4	0	17	2	0	1
Future Vol, veh/h	1	39	3	16	26	0	4	0	17	2	0	1
Conflicting Peds, #/hr	0	0	0	0	0	0	0	0	0	0	0	0
Sign Control	Free	Free	Free	Free	Free	Free	Stop	Stop	Stop	Stop	Stop	Stop
RT Channelized	-	-	None	-	-	None	-	-	None	-	-	None
Storage Length	-	-	-	-	-	-	-	-	-	-	-	-
Veh in Median Storage, #	-	0	-	-	0	-	-	0	-	-	0	-
Grade, %	-	0	-	-	0	-	-	0	-	-	0	-
Peak Hour Factor	76	76	76	76	76	76	76	76	76	76	76	76
Heavy Vehicles, %	0	3	0	10	13	0	0	0	0	0	0	0
Mvmt Flow	1	51	4	21	34	0	5	0	22	3	0	1

Major/Minor	Major1			Major2			Minor1			Minor2		
Conflicting Flow All	34	0	0	55	0	0	132	131	53	142	133	34
Stage 1	-	-	-	-	-	-	55	55	-	76	76	-
Stage 2	-	-	-	-	-	-	77	76	-	66	57	-
Critical Hdwy	4.1	-	-	4.2	-	-	7.1	6.5	6.2	7.1	6.5	6.2
Critical Hdwy Stg 1	-	-	-	-	-	-	6.1	5.5	-	6.1	5.5	-
Critical Hdwy Stg 2	-	-	-	-	-	-	6.1	5.5	-	6.1	5.5	-
Follow-up Hdwy	2.2	-	-	2.29	-	-	3.5	4	3.3	3.5	4	3.3
Pot Cap-1 Maneuver	1591	-	-	1500	-	-	845	763	1020	832	761	1045
Stage 1	-	-	-	-	-	-	962	853	-	938	836	-
Stage 2	-	-	-	-	-	-	937	836	-	950	851	-
Platoon blocked, %	-	-	-	-	-	-	-	-	-	-	-	-
Mov Cap-1 Maneuver	1591	-	-	1500	-	-	834	752	1020	805	750	1045
Mov Cap-2 Maneuver	-	-	-	-	-	-	834	752	-	805	750	-
Stage 1	-	-	-	-	-	-	961	852	-	937	824	-
Stage 2	-	-	-	-	-	-	923	824	-	928	850	-

Approach	EB	WB	NB	SB
HCM Control Delay, s	0.2	2.8	8.8	9.1
HCM LOS			A	A

Minor Lane/Major Mvmt	NBLn1	EBL	EBT	EBR	WBL	WBT	WBR	SBLn1
Capacity (veh/h)	978	1591	-	-	1500	-	-	872
HCM Lane V/C Ratio	0.028	0.001	-	-	0.014	-	-	0.005
HCM Control Delay (s)	8.8	7.3	0	-	7.4	0	-	9.1
HCM Lane LOS	A	A	A	-	A	A	-	A
HCM 95th %tile Q(veh)	0.1	0	-	-	0	-	-	0

Intersection						
Int Delay, s/veh	0					
Movement	EBT	EBR	WBL	WBT	NBL	NBR
Lane Configurations	↶			↷	↶	↷
Traffic Vol, veh/h	0	0	0	0	0	0
Future Vol, veh/h	0	0	0	0	0	0
Conflicting Peds, #/hr	0	0	0	0	0	0
Sign Control	Free	Free	Free	Free	Stop	Stop
RT Channelized	-	None	-	None	-	None
Storage Length	-	-	-	-	0	-
Veh in Median Storage, #	0	-	-	0	0	-
Grade, %	0	-	-	0	0	-
Peak Hour Factor	90	90	90	90	90	90
Heavy Vehicles, %	2	2	2	2	2	2
Mvmt Flow	0	0	0	0	0	0

Major/Minor	Major1	Major2	Minor1	Minor2	Minor3
Conflicting Flow All	0	0	1	0	2
Stage 1	-	-	-	-	1
Stage 2	-	-	-	-	1
Critical Hdwy	-	-	4.12	-	6.42
Critical Hdwy Stg 1	-	-	-	-	5.42
Critical Hdwy Stg 2	-	-	-	-	5.42
Follow-up Hdwy	-	-	2.218	-	3.518
Pot Cap-1 Maneuver	-	-	1622	-	1021
Stage 1	-	-	-	-	1022
Stage 2	-	-	-	-	1022
Platoon blocked, %	-	-	-	-	-
Mov Cap-1 Maneuver	-	-	1622	-	1021
Mov Cap-2 Maneuver	-	-	-	-	1021
Stage 1	-	-	-	-	1022
Stage 2	-	-	-	-	1022

Approach	EB	WB	NB
HCM Control Delay, s	0	0	0
HCM LOS			A

Minor Lane/Major Mvmt	NBLn1	EBT	EBR	WBL	WBT
Capacity (veh/h)	-	-	-	1622	-
HCM Lane V/C Ratio	-	-	-	-	-
HCM Control Delay (s)	0	-	-	0	-
HCM Lane LOS	A	-	-	A	-
HCM 95th %tile Q(veh)	-	-	-	0	-

Intersection						
Int Delay, s/veh	0					
Movement	EBL	EBT	WBT	WBR	SBL	SBR
Lane Configurations		↕	↕		↕	
Traffic Vol, veh/h	0	0	0	0	0	0
Future Vol, veh/h	0	0	0	0	0	0
Conflicting Peds, #/hr	0	0	0	0	0	0
Sign Control	Free	Free	Free	Free	Stop	Stop
RT Channelized	-	None	-	None	-	None
Storage Length	-	-	-	-	0	-
Veh in Median Storage, #	-	0	0	-	0	-
Grade, %	-	0	0	-	0	-
Peak Hour Factor	90	90	90	90	90	90
Heavy Vehicles, %	2	2	2	2	2	2
Mvmt Flow	0	0	0	0	0	0

Major/Minor	Major1	Major2	Minor2		
Conflicting Flow All	1	0	-	0	1 1
Stage 1	-	-	-	-	1 -
Stage 2	-	-	-	-	0 -
Critical Hdwy	4.12	-	-	-	6.42 6.22
Critical Hdwy Stg 1	-	-	-	-	5.42 -
Critical Hdwy Stg 2	-	-	-	-	5.42 -
Follow-up Hdwy	2.218	-	-	-	3.518 3.318
Pot Cap-1 Maneuver	1622	-	-	-	1022 1084
Stage 1	-	-	-	-	1022 -
Stage 2	-	-	-	-	- -
Platoon blocked, %		-	-	-	
Mov Cap-1 Maneuver	1622	-	-	-	1022 1084
Mov Cap-2 Maneuver	-	-	-	-	1022 -
Stage 1	-	-	-	-	1022 -
Stage 2	-	-	-	-	- -

Approach	EB	WB	SB
HCM Control Delay, s	0	0	0
HCM LOS			A

Minor Lane/Major Mvmt	EBL	EBT	WBT	WBR	SBLn1
Capacity (veh/h)	1622	-	-	-	-
HCM Lane V/C Ratio	-	-	-	-	-
HCM Control Delay (s)	0	-	-	-	0
HCM Lane LOS	A	-	-	-	A
HCM 95th %tile Q(veh)	0	-	-	-	-

Intersection	
Intersection Delay, s/veh	7.1
Intersection LOS	A

Movement	EBT	EBR	WBL	WBT	NBL	NBR
Lane Configurations	↶			↷	↶	↷
Traffic Vol, veh/h	21	3	13	20	6	15
Future Vol, veh/h	21	3	13	20	6	15
Peak Hour Factor	0.75	0.75	0.75	0.75	0.75	0.75
Heavy Vehicles, %	0	0	0	0	0	0
Mvmt Flow	28	4	17	27	8	20
Number of Lanes	1	0	0	1	1	0

Approach	EB	WB	NB
Opposing Approach	WB	EB	
Opposing Lanes	1	1	0
Conflicting Approach Left		NB	EB
Conflicting Lanes Left	0	1	1
Conflicting Approach Right	NB		WB
Conflicting Lanes Right	1	0	1
HCM Control Delay	7.1	7.3	6.8
HCM LOS	A	A	A

Lane	NBLn1	EBLn1	WBLn1
Vol Left, %	29%	0%	39%
Vol Thru, %	0%	88%	61%
Vol Right, %	71%	12%	0%
Sign Control	Stop	Stop	Stop
Traffic Vol by Lane	21	24	33
LT Vol	6	0	13
Through Vol	0	21	20
RT Vol	15	3	0
Lane Flow Rate	28	32	44
Geometry Grp	1	1	1
Degree of Util (X)	0.028	0.035	0.05
Departure Headway (Hd)	3.658	3.907	4.052
Convergence, Y/N	Yes	Yes	Yes
Cap	975	918	887
Service Time	1.693	1.922	2.064
HCM Lane V/C Ratio	0.029	0.035	0.05
HCM Control Delay	6.8	7.1	7.3
HCM Lane LOS	A	A	A
HCM 95th-tile Q	0.1	0.1	0.2

Intersection												
Int Delay, s/veh	2.8											
Movement	EBL	EBT	EBR	WBL	WBT	WBR	NBL	NBT	NBR	SBL	SBT	SBR
Lane Configurations	↕			↕			↕			↕		
Traffic Vol, veh/h	0	34	2	24	32	0	1	0	14	0	0	0
Future Vol, veh/h	0	34	2	24	32	0	1	0	14	0	0	0
Conflicting Peds, #/hr	0	0	1	1	0	0	0	0	0	0	0	0
Sign Control	Free	Free	Free	Free	Free	Free	Stop	Stop	Stop	Stop	Stop	Stop
RT Channelized	-	-	None	-	-	None	-	-	None	-	-	None
Storage Length	-	-	-	-	-	-	-	-	-	-	-	-
Veh in Median Storage, #	-	0	-	-	0	-	-	0	-	-	0	-
Grade, %	-	0	-	-	0	-	-	0	-	-	0	-
Peak Hour Factor	74	74	74	74	74	74	74	74	74	74	74	74
Heavy Vehicles, %	0	0	0	0	0	0	0	0	0	0	0	0
Mvmt Flow	0	46	3	32	43	0	1	0	19	0	0	0

Major/Minor	Major1			Major2			Minor1			Minor2		
Conflicting Flow All	43	0	0	50	0	0	156	156	49	164	157	43
Stage 1	-	-	-	-	-	-	49	49	-	107	107	-
Stage 2	-	-	-	-	-	-	107	107	-	57	50	-
Critical Hdwy	4.1	-	-	4.1	-	-	7.1	6.5	6.2	7.1	6.5	6.2
Critical Hdwy Stg 1	-	-	-	-	-	-	6.1	5.5	-	6.1	5.5	-
Critical Hdwy Stg 2	-	-	-	-	-	-	6.1	5.5	-	6.1	5.5	-
Follow-up Hdwy	2.2	-	-	2.2	-	-	3.5	4	3.3	3.5	4	3.3
Pot Cap-1 Maneuver	1579	-	-	1570	-	-	815	740	1025	805	739	1033
Stage 1	-	-	-	-	-	-	969	858	-	903	811	-
Stage 2	-	-	-	-	-	-	903	811	-	960	857	-
Platoon blocked, %	-	-	-	-	-	-	-	-	-	-	-	-
Mov Cap-1 Maneuver	1579	-	-	1569	-	-	801	724	1024	778	723	1033
Mov Cap-2 Maneuver	-	-	-	-	-	-	801	724	-	778	723	-
Stage 1	-	-	-	-	-	-	968	857	-	903	794	-
Stage 2	-	-	-	-	-	-	884	794	-	942	856	-

Approach	EB	WB	NB	SB
HCM Control Delay, s	0	3.1	8.7	0
HCM LOS			A	A

Minor Lane/Major Mvmt	NBLn1	EBL	EBT	EBR	WBL	WBT	WBR	SBLn1
Capacity (veh/h)	1005	1579	-	-	1569	-	-	-
HCM Lane V/C Ratio	0.02	-	-	-	0.021	-	-	-
HCM Control Delay (s)	8.7	0	-	-	7.3	0	-	0
HCM Lane LOS	A	A	-	-	A	A	-	A
HCM 95th %tile Q(veh)	0.1	0	-	-	0.1	-	-	-

Intersection						
Int Delay, s/veh	0					
Movement	EBT	EBR	WBL	WBT	NBL	NBR
Lane Configurations	↗			↖	↘	↙
Traffic Vol, veh/h	0	0	0	0	0	0
Future Vol, veh/h	0	0	0	0	0	0
Conflicting Peds, #/hr	0	0	0	0	0	0
Sign Control	Free	Free	Free	Free	Stop	Stop
RT Channelized	-	None	-	None	-	None
Storage Length	-	-	-	-	0	-
Veh in Median Storage, #	0	-	-	0	0	-
Grade, %	0	-	-	0	0	-
Peak Hour Factor	90	90	90	90	90	90
Heavy Vehicles, %	2	2	2	2	2	2
Mvmt Flow	0	0	0	0	0	0

Major/Minor	Major1	Major2	Minor1	Minor2	Minor3
Conflicting Flow All	0	0	1	0	2
Stage 1	-	-	-	-	1
Stage 2	-	-	-	-	1
Critical Hdwy	-	-	4.12	-	6.42
Critical Hdwy Stg 1	-	-	-	-	5.42
Critical Hdwy Stg 2	-	-	-	-	5.42
Follow-up Hdwy	-	-	2.218	-	3.518
Pot Cap-1 Maneuver	-	-	1622	-	1021
Stage 1	-	-	-	-	1022
Stage 2	-	-	-	-	1022
Platoon blocked, %	-	-	-	-	-
Mov Cap-1 Maneuver	-	-	1622	-	1021
Mov Cap-2 Maneuver	-	-	-	-	1021
Stage 1	-	-	-	-	1022
Stage 2	-	-	-	-	1022

Approach	EB	WB	NB
HCM Control Delay, s	0	0	0
HCM LOS			A

Minor Lane/Major Mvmt	NBLn1	EBT	EBR	WBL	WBT
Capacity (veh/h)	-	-	-	1622	-
HCM Lane V/C Ratio	-	-	-	-	-
HCM Control Delay (s)	0	-	-	0	-
HCM Lane LOS	A	-	-	A	-
HCM 95th %tile Q(veh)	-	-	-	0	-

Intersection						
Int Delay, s/veh	0					
Movement	EBL	EBT	WBT	WBR	SBL	SBR
Lane Configurations		↕	↕		↕	
Traffic Vol, veh/h	0	0	0	0	0	0
Future Vol, veh/h	0	0	0	0	0	0
Conflicting Peds, #/hr	0	0	0	0	0	0
Sign Control	Free	Free	Free	Free	Stop	Stop
RT Channelized	-	None	-	None	-	None
Storage Length	-	-	-	-	0	-
Veh in Median Storage, #	-	0	0	-	0	-
Grade, %	-	0	0	-	0	-
Peak Hour Factor	90	90	90	90	90	90
Heavy Vehicles, %	2	2	2	2	2	2
Mvmt Flow	0	0	0	0	0	0

Major/Minor	Major1	Major2	Minor2		
Conflicting Flow All	1	0	-	0	1
Stage 1	-	-	-	-	1
Stage 2	-	-	-	-	0
Critical Hdwy	4.12	-	-	-	6.42
Critical Hdwy Stg 1	-	-	-	-	5.42
Critical Hdwy Stg 2	-	-	-	-	5.42
Follow-up Hdwy	2.218	-	-	-	3.518
Pot Cap-1 Maneuver	1622	-	-	-	1022
Stage 1	-	-	-	-	1022
Stage 2	-	-	-	-	-
Platoon blocked, %		-	-	-	
Mov Cap-1 Maneuver	1622	-	-	-	1022
Mov Cap-2 Maneuver	-	-	-	-	1022
Stage 1	-	-	-	-	1022
Stage 2	-	-	-	-	-

Approach	EB	WB	SB
HCM Control Delay, s	0	0	0
HCM LOS			A

Minor Lane/Major Mvmt	EBL	EBT	WBT	WBR	SBLn1
Capacity (veh/h)	1622	-	-	-	-
HCM Lane V/C Ratio	-	-	-	-	-
HCM Control Delay (s)	0	-	-	-	0
HCM Lane LOS	A	-	-	-	A
HCM 95th %tile Q(veh)	0	-	-	-	-







William Eddings
1979 Clover Ridge NE
Albany, OR 97322

RE: Evening Star Application Status (City File No. CUP 19-01 and SP 19-01)

The City received your application for a manufactured home park, assigned file CUP 19-01 and SP 19-01. The application proposes to construct a 28 unit manufactured home park near the intersection of Sedona Road and Millersburg Drive. At this time the application has been reviewed for completeness as outlined in the Millersburg Code Section 2.130 and has been deemed **incomplete**. Please submit the following items:

1. Please provide section drawings showing the relationship between the proposed park and the residential development on the west and south of the proposed park. While some were provided, they did not provide the detail required to fully understand how the view of the existing homes will be impacted by the proposed development with newly planted screening vegetation and fully grown screening vegetation. Please be sure to show the sightlines of a viewer in the backyards of the homes, and the sightlines of viewers in the second story of the existing homes.
2. While a narrative was provided, the Millersburg Land Use Development Code indicates that the standards for a manufactured home park actually come from the Oregon Manufactured Dwelling and Park Specialty Code (OMDPS), please expand the narrative to demonstrate how the project conforms to the requirements of the OMDPS, Chapter 10.

Please contact City staff with any question regarding these additional items, or with questions regarding anything else. Additional copies of materials may be requested if the project is deemed complete. Please contact staff in writing if you do not intend to provide the additional information requested. If the City does not receive a response within 180 days the application may be deemed abandoned.

Matt Straite, Planning

CC: Norman Bickell 2232 42nd Av. Suite #771 Salem OR 97322

To : The City of Millersburg, Or

Jim Lepin, Mayor

Kevin Kreitman, City Manager

Janelle Booth, City Engineer

Matt Straite, Planner

RE: Evening Star Application (No. CUP 19-01 and SP 19-01)

The applicant has received notice that the City has deemed the application incomplete.

Regarding screening and buffering:

Applicant 's response: As previously addressed in the Applicant's Statement, the City's requirements are met. In addition to the Applicant's Statement the Applicant provided an engineered profile indicating a 6 foot hedge. Upon additional review, the Applicant would submit that under OMDPS Chapter 10-2.1 (a)

*The local planning department is given specific authority to establish reasonable criteria related to the following as long as the criteria for a park is not less than the minimum requirements in this code **and not greater than the requirements for single family uses in the underlying zone** : 6. The landscaping, fencing, and buffer zones around the perimeter of the park.*

The City's LUDC Section 5.134 (8) Buffering is not required for single-family residential properties. (11) Single-family and two-family dwellings and farming are exempt from the buffering and screening provisions.

The screening and buffering of the Applicant's park is greater than single family uses in the underlying zone(OMDPS 10-2.1(a)), therefore the screening and buffering violates OMDPS 10-2.1(a).

Regarding the park's conforming to OMDPS, Chapter 10:

Applicant's Response: The Applicant's park will meet the relevant criteria in Chapter 10, OMDPS, as indicated in the Applicant's Statement, Boatwright Engineering's drawings and calculations, DKS traffic study, Zion's wetland study. These include but are not limited to:

1. Street design (10-5)
2. Utilities(10-4)
3. Lighting (10-3.4)
4. Landscaping (10-2)
5. Driveways (10-5.2)
6. Parking (10-5.3)
7. Power Supply (10-4.2)
8. Pedestrian Access (10-5.4)
9. Park (10-7)
10. Mail Boxes
11. Signage(10-3)
12. Storm Water Drainage (10-4.3)

Regarding the abandonment of the application:

Applicant's response: The City's LUDC 2.130 (9) *The application shall be deemed complete if the Applicant supplies the missing information, or if the applicant refuses to submit the missing information, it shall be deemed complete on the 31st day after the application is received by the City.* Therefore this application cannot be abandoned in that the applicant has supplied all necessary documentation and the application should be deemed complete before the 30th day or no later than the 31st day from the City receiving the application.



Applicant, William L. Eddings

3-4-19

TO: Matt Straite, City Planner

FROM: Janelle Booth, Millersburg City Engineer

DATE: April 13, 2019

SUBJECT: CUP 19-01 and SP-01 - Engineering Comments

Engineering has reviewed the above project and has the following comments:

1. Access spacing is less than required per the Transportation System Plan (TSP) due to proximity to Sonora for either an intersection (600') or driveway (300'). Section 5.122 of the Millersburg LUDC states that access at less than the designated spacing standards shall be allowed if there are no other reasonable access options. Submitted traffic study indicates traffic impacts will be minimal and will not impact the LOS at either the intersection of Sonora and Millersburg Drive or Woods Road and Millersburg Drive.
2. Street width proposed is less than required by Millersburg LUDC. Private streets are permitted within mobile home parks and the design standards shall be the same as those required for public streets. Per the City's TSP, local streets with parking on one side must have a 32' pavement width. Local skinny streets with parking on one side must be 29' wide and are only allowed by approval of the Planning Commission. Local streets with no on-street parking are not allowed. Skinny streets and streets without adequate on-street parking present significant challenges to emergency vehicle access and local utility providers (garbage trucks). In addition, local law enforcement does not have jurisdiction to enforce no-parking requirements on private streets. Therefore, there is no mechanism to insure on-street parking will not occur. This can pose a health, safety, and welfare risk to citizens and property. If it is determined that the OMDPSC supersedes local land use codes, a 30' wide street with parallel parking on both sides per Table 10-C should be required to address utility provider and emergency access concerns.
3. A private water and sewer system shall be constructed to serve the development, with connections to the existing public water and sewer systems in Millersburg Drive meeting the requirements of the City of Albany Engineering Standards and the City of Albany Standard Construction Specifications. A single public water meter will be required to serve the development; individual public meters for individual dwellings are not allowed. It is the applicant's responsibility to determine the required meter size and fire flow bypass, if applicable, including any required vaults, to the satisfaction of the City Engineer.

4. All work on the public water and sewer system requires a Private Construction of Public Infrastructure (PCPI) permit, shall be designed by a registered engineer in the state of Oregon, and shall be performed by a licensed contractor conforming to the Albany Standard Construction Specifications. Applicant shall be responsible for all costs associated with the design and installation on the public water and sewer systems.
5. All required public improvement plans shall be submitted to the City for review and approved by the City prior to beginning construction. The engineering plans shall conform to the Albany Engineering design standards, to the satisfaction of the City Engineer. All utilities shall remain uncovered until inspected and approved by the City. All required public improvements shall be completed and approved by the City prior to issuance of building permits.
6. System Development Charges (SDCs) are due at the time of connection to the public water and sewer systems.
7. A right-of-way permit is required for any work in the public right-of-way, including utility connections, sidewalks, and driveways. All pavement patching work shall conform to the City of Millersburg Trench Backfill and Pavement Patching Standards. All work within the public right-of-way shall be performed by a licensed contractor and conform to the Albany Standard Construction Specifications, except as modified by the City of Millersburg Pavement Patching Standards.
8. LUDC Section 5.126(7) states, "Stormwater runoff rates for new developments shall not exceed bare land runoff rates" and 5.126(7)(g) states, "Runoff from impervious surfaces must be collected and transported to a natural or public drainage facility with sufficient capacity to accept the discharge."

The Developer is required to provide a site-specific drainage plan, including means to detain peak flows so that runoff rates for the new development do not exceed bare land runoff rates, along with supporting calculations to collect, route, and discharge stormwater to an approved discharge point. The drainage plan must be approved by the City Engineer prior to issuance of building permits. The drainage plans shall conform to the Albany Engineering design standards, to the satisfaction of the City Engineer.

9. All roof drains and yard drainage must be piped or trenched to an approved discharge point. Improved lots may not drain onto neighboring properties. Applicant must provide proposed drainage plan for approval.

10. Any offsite flows of stormwater onto the property are not subject to detention requirements, but must be appropriately routed to an approved discharge point without adverse impacts to upstream or downstream properties.
11. Obtain a 1200C Erosion Control Permit for all the disturbed ground, both on and off site that is in excess of one acre in addition to meeting all Albany Construction Standards (ACS). The applicant shall follow the latest requirements from DEQ for NPDES 1200-C Permit submittals. A copy of the approved and signed permit shall be provided to the City prior to any ground disturbing activities.
12. All agreements required as conditions of this approval must be signed and recorded.
13. Wetlands may be present on the site. Work within wetlands is subject to the requirements of the Authority Having Jurisdiction (AHJ).
14. This approval does not negate the need to obtain permits, as appropriate from other local, state or federal agencies, even if not specifically required by this decision.



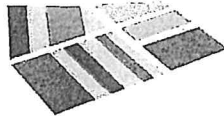
NOTICE OF PUBLIC REVIEW
April 22, 2019, 6:00 p.m.
City Council Chambers
4222 Old Salem Road NE,
Millersburg, Oregon, 97321

The **MILLERSBURG PLANNING COMMISSION** will hold a Hearing at the above time and place to consider the request described below. The request may be heard later than the time indicated, depending on the agenda schedule. Interested parties are invited to send written comment. Failure of an issue to be raised or failure to provide sufficient specificity to afford the Commission an opportunity to respond to the issue precludes appeal to the Land Use Board of Appeals based on that issue.

The application, all documents and evidence submitted by or on behalf of the applicant and the applicable criteria are available for inspection at no cost or copies are available for a minimal cost. A staff report relating to the proposal will be available seven (7) days prior to the public hearing. For further information, contact Millersburg City Hall at (541) 928-4523.

- APPLICANTS:** William Eddings
- LOCATION:** The site has no address, it is located easterly of Sedona Road and southerly of Millersburg Drive (see backside of this notice).
- TAX LOT:** Township 10 South; Range 3 West; Section 17DD; Tax Lot 600.
- PARCEL SIZE:** 4.4 acres
- ZONING:** Rural Residential- 10 Acre Minimum- Urban Conversion
- REQUEST:** The applicant is proposing a Conditional Use Permit and Site Plan Review for a 28 space senior manufactured home park with four proposed guest parking spaces, drainage features, one open space area, landscaping, and one proposed point of access from Millersburg Drive.
- CRITERIA:** Millersburg Development Code; Section 2.400(2) and 2.500(2) and includes standards from Section 6.165 and 4.113.
- FILE No.:** CUP 19-01 and SP 19-01

The location of the meeting is accessible to the disabled. If you need any special accommodations to attend or participate in the meeting, please notify City Hall twenty-four (24) hours before the meeting. For further information, please contact City Hall at (541) 928-4523.



Law Office of Mike Reeder
Oregon Land Use Law

April 22, 2019

Planning Commission
City of Millersburg
4222 NE Old Salem Road
Albany, Oregon 97321

**Re: Evening Star Manufactured Dwelling Park | CUP 19-01 & SP 19-01
Response to April 15, 2018 Staff Report**

Dear Planning Commissioners:

I represent Evening Star LLC and its manager William L. Eddings, the owner of property identified as Tax Account No: 10-3W-17DD, Tax Lot 600 (the "Subject Property"). My client performed due diligence with the City staff prior to purchasing the Subject Property with the intent to develop it with a Manufactured Dwelling Park ("MDP"). My client participated in a pre-application conference with the City on January 2, 2019 and purchased the Subject Property on January 11, 2019.

I. Introduction

On February 12, 2019 my client, as the new owner of the Subject Property, applied to the City for a Conditional Use Permit and Site Plan Review (CUP 19-01 and SP 19-01) (together, the "Application") to develop the Subject Property for a MDP, which is a conditionally permitted use in the applicable zone, RR-10-UC. The current Comprehensive Plan designation for the Subject Property is Residential.

a. Procedural Error

My client did not receive a mailed copy of the April 22, 2019 hearing as required by ORS 197.763(2) and (3).

This is extremely troubling since my client also did not receive the required Measure 56 notice regarding the City's Manufactured Home Park Text Amendment, File Number DC 19-01. On behalf of my client, I submitted written testimony on March 11, 2019 wherein I provided to the Planning Commission and the City Council my client's objection to the then-proposed text amendment. Despite the fact that I have alerted the City to the fact that my client did not receive required notice for the text amendment, the City again erred by also not providing to my client the required 20-day notice of the public hearing for its own

Application. Regardless of whether this omission was intentional or not, it prejudices my client's substantial rights.

b. Site Plan Review is Unnecessary

It is unclear to me why the Applicant was required to apply for a Site Plan Review. The CUP criteria are sufficient to protect the health, safety and welfare of the proposed residents, the adjacent neighbors and the residents of the City. The Site Plan Review criteria are redundant and therefore unnecessary. The discretionary application of Site Plan Review and arbitrary nature of the Site Plan Review criteria violates the commands of ORS 197.303-307 (the "Needed Housing Statute"). The Needed Housing Statute will be discussed below in greater detail.

The Land Use Development Code ("LUDC") Section 2.400 states in relevant part:

"A Site Plan Review is required for all new commercial or industrial developments... The City may also request a Site Plan Review for any development proposal, in addition to those specifically required by this Code if the property, proposed development or use has unusual or special features or require a decision by the City." (Emphasis added).

The Application does not merit a Site Plan Review application because it is not a "commercial" or "industrial" development, and neither the proposed development nor the property have unusual or special features or otherwise require City decision-making (i.e. does not involve a City-owned property interest).

In any case, determining whether a property or a development has an "unusual" and/or "special" "feature" is extremely discretionary, and therefore cannot be applied in the context of this Application for Needed Housing. See *Walter v. City of Eugene*, 73 Or LUBA 356 (2016), *aff'd* 281 Or App 461 (2016); *Rogue Valley Assoc. of Realtors v. City of Ashland*, 35 Or LUBA 139 (1998), *aff'd*, 158 Or App 1 (1999).

c. Introduction to Manufactured Dwelling Parks Statutes

ORS 197.475 states:

"The Legislative Assembly declares that it is the policy of this state to provide for mobile home or manufactured dwelling parks within all urban growth boundaries to allow persons and families a choice of residential settings."

The staff report for the text amendment opines that since the City is growing rapidly and since the majority of the growth has been stick-built single-family housing, that "manufactured housing parks are no longer compatible with the type of housing that has been trending in the

City.” The staff report for the text amendment and the text amendment change itself violates the Comprehensive Plan policies as provided below:

- (1) Not discriminating against housing types that address the needs of the City,
- (2) By providing a variety of housing opportunities through implementation of the Land Use Plan, and
- (3) By seeking means to reduce housing costs by providing a mix of housing types and densities that address the needs of the citizens.

Removing the ability to place MDP in two residential zones, the City violated each of these three policies. It is clear discrimination in violation of state policy and local law. A careful read of the April 15th Staff Report for the Application shows that this discrimination towards manufactured home parks continues.

In my March 11, 2019 letter to the Planning Commission and the City Council I stated:

“MDPs serve a unique housing type – they are a rare hybrid. The owners of the dwelling may rent the ground where the house is placed, thereby having the ability to own a dwelling (and potentially increase wealth through increased equity) but with lower initial cost (through not having the purchase in fee the land). It provides certain populations the comfort and security of a single-family home, without the cost and hassle generally associated with single-family home ownership on individually owned lots or parcels. Generally, property taxes and utilities are less and are paid by the park owner. This is a major advantage to those on fixed incomes. MDPs provide limited disturbances and offer the ability to screen residents. MDPs suffer from stereotypes that generally do not match reality, especially 55-and older parks. Lastly, this amendment would remove through much of the City the option for lower-cost housing and diminishing the mix of housing types allowed in the City.”

The LUDC definition for “manufactured dwelling park” recognizes that the Oregon Manufactured Dwelling and Specialty Code (“OMDPC”) specifies the applicable design and construction standards for the Application. LUDC Section 1.200, defines “Manufactured Dwelling Park” as follows:

“Four or more Manufactured Dwellings located on a single parcel of land. Chapter 10 of the Oregon Manufactured Dwelling and Park Specialty Code specifies the applicable design and construction standards.”

With notable exceptions specifically enumerated in Chapter 10-2.1(a)(1)-(14), the OMDPC establishes the standards for MDPs. Any standards, criteria or conditions that are not established in the OMDPC or expressly authorized to be established by the local

government in 10-2.1(a)(1)-(14) cannot be applied to the Application even if expressly found in the LUDC.

In addition, as explained below, even those standards, criteria and conditions that may be imposed pursuant to 10-2.1(a)(1)-(14), must be clear and objective and may not have the effect, either cumulatively or individually of discouraging the MDP through unreasonable cost or delay or stopping the development of the MDP altogether. See ORS 197.303-.307 (and the discussion of the Needed Housing Statute below) and ORS 197.480(5)(c).¹

The OMDPC is a state specialty building code and it is the standard for establishing the design and construction standards for MDPs. See ORS 446.062; ORS 446.155; ORS 455.040; and OAR 918-600-0010.

Chapter 10-1.1, “Statewide Code,” of the OMDPC states:

“This code establishes the minimum and maximum requirements for the design and construction of manufactured dwelling parks throughout the state of Oregon to provide uniformity and affordability and to keep construction costs predictable. Except where specifically permitted by this code, no jurisdiction may require a person to exceed the requirements of this code.” (Emphasis added).

Chapter 10-2.1, “Land Use,” of the OMDPC states:

“No manufactured dwelling park or mobile home park shall be constructed, altered, converted, or expanded unless it is in accordance with comprehensive plan and local zoning ordinance and meets the requirements of this code.

(a) The local planning department is given specific authority to establish reasonable criteria related to the following as long as the criteria for a park is not less than the minimum requirements in this code and not greater than the requirements for single family uses in the underlying zone:

- 1. The location of the park within the municipality;*
- 2. The density of the park;*
- 3. The minimum setbacks around the perimeter of the park;*
- 4. The minimum setbacks and buffer zones around existing wetlands within the park;*
- 5. The minimum setbacks and buffer zones around a stream, creek, or river running through the park;*
- 6. The landscaping, fencing, and buffer zones around the perimeter of the park;*
- 7. The establishment of open areas and green ways within the park;*

¹ ORS 197.480(5)(c) states: “No criteria or standards established under paragraph (a) of this subsection shall be adopted which would preclude the development of a mobile home or manufactured dwelling parks within the intent of ORS 197.295 to 197.490.” (Emphasis added).

8. *The orientation of those manufactured dwellings and accessory buildings within the park adjacent to a public way;*
 9. *The location of play areas within the park;*
 10. *The size and construction of the park street, curbs, and sidewalks where they connect to the public way for the first 100 feet (30.5 m) of length or to the first intersecting street within the park, whichever is less.*
 11. *The location, size, and construction of a public street(s) running through the park when the municipality can demonstrate the street(s) is needed as required for conductivity [sic] or when the street(s) is already designated in the municipalities [sic] acknowledged transportation system plan. All other streets within the park shall remain private and part of the park property;*
 12. *The street and address designations within the park;*
 13. *The color and style of street signage within the park; and*
 14. *The control of erosion and construction debris.*
- (b) *The local planning department may prohibit the disturbance of certain aspects of the land having redeeming value such as land with mature trees, geological formations, waterways, or historical significance.*
- (c) *A municipality is not permitted to establish or require construction standards for manufactured dwelling parks or manufactured dwelling installations that are more or less restrictive than this code except where specifically permitted in this code.* (Emphasis added).

d. Introduction to the Needed Housing Statute

Manufactured dwelling parks are also “needed housing” and any proposal for such are afforded the protections of the ORS 197.303-307 (the “Needed Housing Statute”). ORS 197.303(1)(c).

There are two principal elements of the Needed Housing Statute that apply to the Application: (1) all standards, procedures and conditions must be **clear and objective**,² and (2) the standards, procedures and conditions cannot individually, or cumulatively have the effect of discouraging need housing through unreasonable cost or delay.

While the Staff Report ostensibly recommends approval, the proposed conditions of approval are so onerous (not to mention unlawful) that the supposed recommendation of approval is really a de facto recommendation for denial. If the Planning Commission approved the Application with the proposed conditions of approval, it would violate the

² In addition to the Needed Housing Statute that requires the standards, procedures and conditions be clear and objective and not discourage the provision of needed housing through unreasonable cost or delay, ORS 197.480(5) also requires a local government to establish “clear and objective criteria and standards for the placement and design” of manufactured dwelling parks. This statute also requires that no criteria or standards for the placement and design of the manufactured dwellings “shall be adopted which would preclude the development of mobile home or manufactured dwelling parks...” ORS 197.480(5)(c).

Needed Housing Statute as well as the state Manufactured Dwelling Park provisions. Many of the proposed conditions of approval are “poison pills” that would kill the proposal.

e. Conclusion

In conclusion, as discussed in greater detail in Part II below, the City may not impose additional or more burdensome design and construction standards, criteria or conditions on the Application. The state regulatory scheme for MDPs, with few exceptions, is preemptive – meaning the state standards, criteria and conditions control and the City may not impose additional, more restrictive standards, criteria and conditions even if the LUDC appears to permit them.

In addition, even in the very limited situations where the City may impose additional standards, criteria and conditions, such must be clear and objective and may not have the effect of discouraging or prohibiting the proposed MDP. As will be discussed below, the Staff Report recommends that the Planning Commission do just that in some notable circumstances in violation of state law.

II. Response to Staff Report Proposed Conditions of Approval

a. Response to Albany Senior Deputy Fire Marshal letter, March 12, 2019

The March 12, 2019 letter from Lora Ratcliff, Senior Deputy Fire marshal states:

“The fire apparatus roadways for this project are required to be provided and maintained at a minimum of 20 feet wide of improved surface. (OFC 503.2.1)”

The Oregon Fire Code and the Oregon Manufactured Dwelling Park Construction Code (“OMDPC”), Chapter 10, establish a 20-foot wide minimum standard for private streets that do not accommodate parking on either side of the private street. Except for the first 100 feet of length or to the first intersecting street within the park, whichever is less, the City is not permitted to establish or require construction standards for manufactured dwelling parks that are more or less restrictive than the OMDPC except where specifically permitted in the OMDPC. See OMDPC 10-2.1(14)(c).

Notwithstanding this prohibition on imposing greater standards than permitted by the OMDPC the Senior Deputy Fire Marshal and planning staff have recommended an imposition on the Applicant to change the designed proposal in violation of state law.

Specifically, on March 12th the Senior Deputy Fire Marshal stated in **bold** (in the original) as follows:

“Albany Fire has concern in regard to the 20-foot required width minimum remaining unobstructed. With only one way in, one

way out, and minimal designated parking spaces, this project has the strong potential for illegal parking within the required fire access lane. Illegal parking will greatly impact the fire department's ability to respond adequately and timely in a medical or fire emergency. If the road is allowed to be constructed to meet only the minimum 20-foot width, this site could potentially pose a fire and life safety hazard to its occupants as well as become a compliance nightmare."

It should be noted that this "concern" was not raised in the Pre-application meeting, the staff completeness letter (undated) from Matt Straite, or the Fire Marshal's January 8, 2019 letter. This "newly discovered" concern smacks of bias against this project, especially in light of the City's recent decision to remove MDPs as conditionally permitted uses in the vast majority of the City.

b. Response to Proposed Condition of Approvals #5 & #6

Proposed Condition #5 states as follows:

"The applicant shall revise the site plan showing all internal streets with a minimum curb to curb width of 32 feet, allowing for parking on one side of the street. Should the inclusion of these requirements significantly change the design of the project, the Planning Commission will be required to review the revised design using the site plan review process."

Proposed Condition #6 is related in nature and scope to Proposed Condition #5 and states as follows:

"The applicant shall revise the site plan showing internal streets with 5-foot sidewalks on both sides and 4-foot platers strips separating the sidewalks from the curbs. The minimum full street width, sidewalk to sidewalk shall be at least 50 feet, to allow safe pedestrian circulation consistent with the [City] Code. Should the inclusion of these requirements significantly change the design of the project, the Planning Commission will be required to review the revised design using the site plan review process."

These two Proposed Condition are unacceptable to the Applicant. Each separately and together violate state statutes as discussed in Part I above. Specifically, as discussed above, the City is authorized to impose size and construction requirements only on the first 100 feet of the private street from the public right of way. The Application shows the private street to be 30-feet in width for the first 100 feet from Millersburg Drive NE. The rest of the private street will be 24 feet in width – 20 feet of vehicular travel surface with 4 feet for pedestrian circulation. The proposal is to provide 4 feet more than is required by Table 10-C of the

MMDPC. Table 10-C requires only 20 feet for a 2-way street with no parking on either side. No sidewalks, pedestrian walk ways, curbs, gutters or planter strips are required.

The Staff Report (page 5) suggests that there will be more demand for parking that will be provided (“*However, the City and the Albany Fire Department, in their letter dated March 12, 2019, have expressed concerns with the lack of on-street parking.*”) (Emphasis added). However, nowhere does the Staff Report or the Fire Department letter provide evidence that the off-street parking is somehow deficient. They do not do so because they cannot. Although the Fire Department and the City Manager express “concern” about “skinny” streets, neither of them provide any evidence to support the conclusion that there is not enough off-street parking.

Notably, the OMDPSC Chapter 10-5.3 provides the standard for parking. The Application meets the standard. Speculation regarding the “lack of” parking is not justified and is certainly not a reason to impose additional street width as proposed by the Fire Marshal and staff.

The Staff Report (page 5) also states as follows: “*Because the proposed project is a conditional use permit, the Planning Commission has the authority to impose conditions deemed necessary for health, safety and welfare.*” (citing Section 5.117(4) that provides the general authority to demand additional setbacks, street right of way, and improvements). However, that grant of authority is general to all conditional use permits and cannot be used in this Application. Such a general grant of authority is limited by the OMDPSC and the Needed Housing Statute. In other words, local code is “preempted” by state statutes as discussed above.

On page 6 of the Staff Report, staff states in relevant part:

“In addition, Section 10-2 of the OMDPSC lists a host of specific design features that the City may regulate. Internal street design is not listed. It is not clear if the silence on internal streets means that the City is allowed to regulate street design. Because this is ambiguous, the City code can control.”

Staff’s conclusion above is totally incorrect. Chapter 10-1.1 (quoted above) states explicitly that “[e]xcept where specifically permitted in this code, no jurisdiction may require a person to exceed the requirements of this code.” This is not ambiguous at all. When the OMDPSC is silent, the City cannot impose its own regulations. What’s more, the OMDPSC is not silent or ambiguous. As cited above in Part I, Chapter 10-2.1(a) only allows the City to regulate the first 100 feet of the internal streets greater than what is required by Table 10-C. The rest of the internal street network is off-limits to the local government’s desire to impose additional standards. The OMDPSC made this abundantly clear when it included the following statement:

“A municipality is not permitted to establish or require construction standards for manufactured dwelling parks or manufactures dwelling installations that are more or less restrictive than this code except where specifically permitted in this code.” Chapter 10-2.1(c), (Emphasis added).

It is clear that the City is prohibited from imposing a condition of approval that requires the Applicant to put in additional street width, curbs, sidewalks and planter strips. In addition to the prohibition for doing so found at Chapter 10-1.1 and 2.1, such a condition of approval would violate the Needed Housing Statute. The City's position is that the street width standards are ambiguous and must be defined by the City. That ambiguity and that discretion violates the Needed Housing Statute's requirement for clear and objective standards. *See Parkview Terrace Development LLC v. City of Grants Pass*, 70 Or LUBA 37 (2014). It also imposes costs to the project that make developing the Subject Property for this particular Needed Housing type infeasible. Hence, it discourages or prohibits the development of Needed Housing in violation of ORS 197.307(4)(b).

c. Response to Proposed Condition of Approval #7

The Proposed Condition of Approval #7 states that the "*applicant shall provide details on the lighting to show all street lighting to be shielded...*" However, OMDPSC Chapter 10-3.4 provides specific standards for lighting that the Applicant will adhere to. Lighting is not one of the 14 enumerated "reasonable criteria" for which a local governments may imposed additional or more restrictive standards, criteria or conditions.

d. Response to Proposed Conditions of Approval #8, #10 & #11

Proposed Condition #8 speaks to plans for sidewalks (which is not applicable as already discussed above) and "landscaping and irrigation plans." Proposed Condition #10 requires a detailed landscape and irrigation plan showing conformance with Section 5.134 and "all other landscaping requirements." Proposed Condition #11 would impose additional "sight obscuring, -large canopy tree[s]" on each unit space along the south and west of the entry drive.

These three Proposed Conditions are not permitted. Chapter 10-2.1(a) specifically limits the City to imposing landscaping, fencing and buffer areas requirements that are imposed in zones that permit single-family uses. LUDC Section 5.134(8), (9)(a)(1) and (11) specifically exempt single-family residential properties from complying with the landscape buffering and screening requirements.

Since the LUDC does not impose any landscaping buffering or screening for single-family residential use in the underlying zone the City may not impose any as a condition of the Application in this case.

e. Response to Proposed Condition of Approval #13

The Subject Property receives stormwater runoff from the neighboring properties. The Applicant is not required to detain the runoff from the neighbors who should be routing

their stormwater elsewhere. The Applicant is not required to take on additional costs to mitigate the illegal runoff from the neighbors.

f. Response to Proposed Condition of Approval #3

The one-year approval is extremely stingy and appears to serve no legitimate planning purpose. Rather, it appears to discourage the establishment of this project. If any expiration is merited, the Applicant should be provided at least 4 years to begin construction on the project.

Anything less is simply punitive and an attempt to assure that the project will not come to fruition. Such a proposed condition violates the Needed Housing Statute as being an unreasonable condition of approval that discourages Needed Housing.

III. Conclusion

For the reasons articulated above, the Application should be approved as proposed. The above-cited Proposed Conditions are not in accordance with state law and cannot be imposed. Please approve the Application as proposed.

Respectfully submitted,

/s/Micheal M. Reeder

Micheal M. Reeder
Attorney for Applicant

Attachment: Needed Housing Statute (ORS 197.303 & .307)

197.303 “Needed housing” defined. (1) As used in ORS 197.307, “needed housing” means all housing on land zoned for residential use or mixed residential and commercial use that is determined to meet the need shown for housing within an urban growth boundary at price ranges and rent levels that are affordable to households within the county with a variety of incomes, including but not limited to households with low incomes, very low incomes and extremely low incomes, as those terms are defined by the United States Department of Housing and Urban Development under 42 U.S.C. 1437a. “Needed housing” includes the following housing types:

(a) Attached and detached single-family housing and multiple family housing for both owner and renter occupancy;

(b) Government assisted housing;

(c) Mobile home or manufactured dwelling parks as provided in ORS 197.475 to 197.490;

(d) Manufactured homes on individual lots planned and zoned for single-family residential use that are in addition to lots within designated manufactured dwelling subdivisions; and

(e) Housing for farmworkers.

(2) Subsection (1)(a) and (d) of this section does not apply to:

(a) A city with a population of less than 2,500.

(b) A county with a population of less than 15,000.

(3) A local government may take an exception under ORS 197.732 to the definition of “needed housing” in subsection (1) of this section in the same manner that an exception may be taken under the goals. [1981 c.884 §6; 1983 c.795 §2; 1989 c.380 §1; 2011 c.354 §2; 2017 c.745 §4]

197.307 Effect of need for certain housing in urban growth areas; approval standards for residential development; placement standards for approval of manufactured dwellings.

(1) The availability of affordable, decent, safe and sanitary housing opportunities for persons of lower, middle and fixed income, including housing for farmworkers, is a matter of statewide concern.

(2) Many persons of lower, middle and fixed income depend on government assisted housing as a source of affordable, decent, safe and sanitary housing.

(3) When a need has been shown for housing within an urban growth boundary at particular price ranges and rent levels, needed housing shall be permitted in one or more zoning districts or in zones described by some comprehensive plans as overlay zones with sufficient buildable land to satisfy that need.

(4) Except as provided in subsection (6) of this section, a local government may adopt and apply only clear and objective standards, conditions and procedures regulating the development of housing, including needed housing. The standards, conditions and procedures:

(a) May include, but are not limited to, one or more provisions regulating the density or height of a development.

(b) May not have the effect, either in themselves or cumulatively, of discouraging needed housing through unreasonable cost or delay.

(5) The provisions of subsection (4) of this section do not apply to:

(a) An application or permit for residential development in an area identified in a formally adopted central city plan, or a regional center as defined by Metro, in a city with a population of 500,000 or more.

(b) An application or permit for residential development in historic areas designated for protection under a land use planning goal protecting historic areas.

(6) In addition to an approval process for needed housing based on clear and objective standards, conditions and procedures as provided in subsection (4) of this section, a local government may adopt and apply an alternative approval process for applications and permits for residential development based on approval criteria regulating, in whole or in part, appearance or aesthetics that are not clear and objective if:

(a) The applicant retains the option of proceeding under the approval process that meets the requirements of subsection (4) of this section;

(b) The approval criteria for the alternative approval process comply with applicable statewide land use planning goals and rules; and

(c) The approval criteria for the alternative approval process authorize a density at or above the density level authorized in the zone under the approval process provided in subsection (4) of this section.

(7) Subject to subsection (4) of this section, this section does not infringe on a local government's prerogative to:

(a) Set approval standards under which a particular housing type is permitted outright;

(b) Impose special conditions upon approval of a specific development proposal; or

(c) Establish approval procedures.

(8) In accordance with subsection (4) of this section and ORS 197.314, a jurisdiction may adopt any or all of the following placement standards, or any less restrictive standard, for the approval of manufactured homes located outside mobile home parks:

(a) The manufactured home shall be multisectional and enclose a space of not less than 1,000 square feet.

(b) The manufactured home shall be placed on an excavated and back-filled foundation and enclosed at the perimeter such that the manufactured home is located not more than 12 inches above grade.

(c) The manufactured home shall have a pitched roof, except that no standard shall require a slope of greater than a nominal three feet in height for each 12 feet in width.

(d) The manufactured home shall have exterior siding and roofing which in color, material and appearance is similar to the exterior siding and roofing material commonly used on residential dwellings within the community or which is comparable to the predominant materials used on surrounding dwellings as determined by the local permit approval authority.

(e) The manufactured home shall be certified by the manufacturer to have an exterior thermal envelope meeting performance standards which reduce levels equivalent to the performance standards required of single-family dwellings constructed under the state building code as defined in ORS 455.010.

(f) The manufactured home shall have a garage or carport constructed of like materials. A jurisdiction may require an attached or detached garage in lieu of a carport where such is consistent with the predominant construction of immediately surrounding dwellings.

(g) In addition to the provisions in paragraphs (a) to (f) of this subsection, a city or county may subject a manufactured home and the lot upon which it is sited to any development standard, architectural requirement and minimum size requirement to which a conventional single-family residential dwelling on the same lot would be subject. [1981 c.884 §5; 1983 c.795 §3; 1989 c.380 §2; 1989 c.964 §6; 1993 c.184 §3; 1997 c.733 §2; 1999 c.357 §1; 2001 c.613 §2; 2011 c.354 §3; 2017 c.745 §5]

To: Millersburg Planning Commission.

Regarding: Notice of public review, April 22, 2019, conditional use permit regarding planned 28-space senior manufactured home park, File number CUP 19-01 and SP 19-01

I request objections or stays to this permit based on the current Oregon Manufactured Dwelling and Park Specialty codes:

10-2.3 Suitability of Site:

- (a) Manufactured dwelling parks or park expansions shall not be located on land that is unsuitable due to swampy terrain, lack of drainage, or proximity to the breeding places of rodents or vermin unless improvements have been made to the land to eliminate or control the hazards and such improvements are acceptable to the authority having jurisdiction

As you can see, the proposed property abuts to a FEMA designated wetland. There is no better textbook example of "proximity to the breeding places of rodents or vermin" than the proposed manufactured home site. There is evidence of rat nesting, nutria, mice breeding in the proposed and surrounding areas. Rodents propose a public health risk due to such viruses as Hanta virus, which appx 15-20% mice in Oregon carry. There is no way to mitigate the vermin and rodent populations in surrounding flood areas.

10-2.3 Suitability of Site:

- (e) The ground supporting the park streets, alleys, driveways, and common driveways shall have or be improved to have a minimum soil bearing capacity of 2,000 lbs per square foot
- (g) Fills over 12 inches in depth shall be placed in accordance with accepted engineering practice. A soil investigation report of satisfactory placement of fill, acceptable to the authority having jurisdiction, shall be submitted prior to final approval of the park.

3-2.4.2 Floodways

Floodways, as identified on NIFP maps, are generally along the waterway's edge and carry most of the floodwater. The water in a floodway is often deeper and faster than in the adjacent floodplain. Homes in floodways are subject to greater damage and risk to the occupants than homes in a floodplain; therefore, new installations of manufactured dwellings in floodways are prohibited.

3-2 4.4 Local Requirements state "The local flood plain manager may require manufactured dwellings to be located higher than the minimum requirements".

10-2.1 (a) Local planning department is given specific authority to establish reasonable criteria related to the following ... # 5. The minimum setbacks and buffer zones around a stream, creek, or river running through the park

The proposed property site abuts a recognized FEMA flood plain. It is not clear whether the proposed construction site presents a floodway concern to future inhabitants. Concerns of swampy, marshy terrain, soil bearing capacity, and lack of drainage should be allowed to be independently evaluated through soil, hydrologic, and hydraulic analysis, and be presented to the planning commission for review.

Millersburg has a history of water drainage problems in new developments, despite being well above recognized flood plains. This should provide caution in building a manufactured home park right next to known flood plains.

Best Regards,

A handwritten signature in black ink, appearing to read 'Corbett Richards', with a stylized flourish at the end.

Corbett Richards.

541-730-7521

FEMA's National Flood Hazard Layer (NFHL) Viewer

with Web AppBuilder for ArcGIS

Find address or place



Map navigation controls: zoom in (+), zoom out (-), home, and a blank square button.



-123.073 44.697 Degrees

100ft

Erin Brazel

6212 Mesa Ct.
Albany, Oregon 97321

April 22, 2019

The City of Millersburg Planning Commission
4222 NE Old Salem Road
Albany, Oregon 97321

To The City of Millersburg Planning Commissioners and To Whom It May Concern,

I am writing to offer my comment and concern for the proposed CUP19-01 Evening Star Manufactured Home Park. As a resident that borders the proposed project I would like to bring the following to the attention of the Planning Commissioners.

The East side of the proposed project borders along Crooks creek in which there is a riparian zone. The Millersburg Comprehensive Plan itself goes in to lengthy detail about the importance of these natural habitats and riparian zones. The Comprehensive Plan also discusses the vast wildlife that lives and thrives in a riparian zone environment and "is suited to the needs of virtually all wildlife species occurring in the valley", including nutria and other rodents. This has been observed to be true along the section of Crooks creek that is adjacent to the proposed project.

With this being noted, Oregon State Statute 446.100 states prohibited acts in connection with construction and use of manufactured home parks. It states that a person may not construct manufactured home parks where it is unsuitable due to swampy terrain, lack of adequate drainage or in proximity to the breeding places of insects or rodents. The swampy terrain and wetlands have been addressed in the staff report. My concern is related to the proximity to the breeding places of insects or rodents along Crooks creek being adjacent to the proposed project. There is a dense insect population in this area including but not limited to mosquitos, wasps, lady bugs, and brown marmorated stink bug, to name a few. Having the creek and riparian zone directly next to our properties does mean we also encounter more rodents and insects due to the prime breeding grounds provided within that environment.

Furthermore, the Land Use Conflicts section of the Millersburg Comprehensive Plan goes on to say "Land Use Conflicts Changes to more intensive land use and development is reducing the total wildlife habitat base, resulting in a net loss of both numbers and types of wildlife. Any activity which removes or alters existing habitat, adversely affects wildlife. Those activities and land uses which have the most widespread affects on fish and wildlife are: High density development in or adjacent to sensitive habitat." (9.200-29, 9.200-30). The proposed manufactured home park is a high density development and is therefore in conflict with the comprehensive plan since it is adjacent to a sensitive habitat.

Another area of concern is discussed on page 14 of the staff report to the Planning Commission section 6.165 titled, "Manufactured Dwelling Parks", item 6. To mitigate adverse impacts on the adjacent residents, requiring CC&Rs, increasing additional landscaping or screening on the park boundary and increasing the setbacks from the park boundaries would aid in protecting and creating a more safe, quiet living environment in the residential area. This may also help to reduce some of the noise (traffic,

pets, etc.), light (from street lamps, exterior home lights, and headlights on cars), and/or other nuisance of the proposed project. It is important to note that noise is listed as a nuisance characteristics as identified in Section 2.140, Item 21 of the city code. All in all however, these conditions of approval are not likely to make a big enough of an impact to reduce the noise, light, or other overall nuisances due to the high density living community a manufactured home park is. Therefore, the proposed project is not compatible with the surrounding community in that it does not conform to the Land Use Goals and Policies section of the City's Comprehensive Plan under Residential Land Use item 8 ("Residential areas shall be protected from excessive through traffic, conflicting land uses, or other encroachments that would impair a safe, quiet living environment." 9.500-29).

In addition, the short-term plan for the manufactured home park may be in fact decent and attractive housing but in the long run the concern stands that the park could yield future deterioration as it ages especially if it is not regulated to up keep the standard for maintaining decent and attractive housing. This is hard to predict, as the staff report noted, but the impact it will have on the surrounding neighbors will be significant as stated previously. This leads me to question Chapter 9.490 of the Comprehensive Plan titled "Housing Goals and Policies" item 1, under "Housing Need", where "the City recognizes the need for an adequate supply of sound, decent and attractive housing which includes a variety of types and designs which are responsive to community needs." (9.400-22). This then stands to question what the community need is in Millersburg. Is the proposed project looking to bring people to Millersburg who are in need of housing or is it to provide housing in response to the Millersburg community need? If it is the latter, does the council believe this need exists in our community?

It is also important to make note about the elevation change between the properties that border the land that is being proposed with that of the property to the West and to the South. There is an elevation change of up to approximately 8-9 feet in some areas as well as all homes on the West and South side of the property being two story residences. Sound especially being of one concern in that it will travel more readily up to those homes. With the high density of the proposed project, this will have an adverse impact on the surrounding neighbors.

This brings me to the landscaping section 6.165, item 10b of the Manufactured Dwelling Parks code. The staff report does detail much of the concern in their analysis on pages 15 and 16 of the report. With the above mentioned 8 to 9 foot elevation change this poses a serious issue in regards to how the applicant will meet the perimeter screening requirements. It is my understanding from reading the code that within 2 years of planting, the screen needs to be at least 6 feet in height with 80% opaque from perpendicular line of sight. Therefore, with the elevation difference, the line of sight from perpendicular property will not be 80% opaque to obscure the park from view. The staffs proposed condition of approval to include one additional sight obscuring canopy tree at each unit space as well as along the West side of the drive is a good start but this, on its own, is not adequate for year-round screening since canopy trees are deciduous. In addition, it would take several years before any line of sight is obscured from the elevated properties. Therefore, this project cannot meet standards placed by the Manufactured Dwelling Parks code in relation to the perimeter screening requirement.

In regards to the impact of traffic, the submitted traffic study (detailed on page 4 of the staff report in regards to: (c) That the proposed development will not have an adverse impact on traffic flow or to pedestrian, bicycle and vehicular safety, and future street right-of-way are protected.) explains that the volume of expected traffic from the project will not create an unsafe traffic condition along Millersburg.

Drive. I would like to know if the traffic study took in to consideration the already approved upcoming subdivisions down from the proposed project along Millersburg Drive and included the subsequent future traffic that it would create? If not, a new traffic study which addresses the additional future traffic on Millersburg Drive and the impact (flow, safety, etc.) that it will have, should be required. There is also a significant amount of foot traffic along Millersburg Drive that would cross the driveway of the manufactured home park. A stop sign would seem pertinent for safety purposes due to the high volume of pedestrians and cars coming into contact when residents are exiting the private drive.

Lastly, in section 9.290 "Environment Goals & Policies" under "Natural Vegetation, Fish, and Wildlife" item 9, it states, "During development, large live trees should be preserved wherever possible, and dead trees of any size should be preserved for wildlife habitat when there is little hazard or obstruction to doing so." (9.200-36). There is a large oak tree on the West side of the property that is proposed to be removed. I ask that the planning commission considers whether the removal of this tree is necessary or if it could be preserved in any means for wildlife habitat. There are many types of wildlife that use this for habitat and protection.

With all this being said, it is my understanding that the proposed CUP19-01 Evening Star Manufactured Home Park development conflicts with the City's Comprehensive Plan, violates ORS 446.100, and cannot meet certain standards placed by the Manufactured Dwelling Parks code.

I ask that the Planning Commission weighs these concerns heavily towards the impact this proposed project will have on the community, current residents and the compatibility of the proposed manufactured home park to the existing surrounding neighborhoods and its confliction of land use.

Thank you for providing an opportunity for residents to express their concern over this project.

Sincerely,

A handwritten signature in black ink, appearing to read "Erin Brazel". The signature is fluid and cursive, with the first name "Erin" being more prominent than the last name "Brazel".

Erin Brazel

Areas of Concern:

1. Violation of ORS 446.100 Prohibited acts in connection with construction and use of parks; rules for spacing of units. (1) A person may not: (a) Construct a mobile home or manufactured dwelling park at a place that is unsuitable due to swampy terrain, lack of adequate drainage or **proximity to the breeding places of insects or rodents.**

2. Conflicts within the City of Millersburg Comprehensive Plan in the following areas:
 - a. Land Use Conflicts section of the Millersburg Comprehensive Plan states, "Land Use Conflicts Changes to more intensive land use and development is reducing the total wildlife habitat base, resulting in a net loss of both numbers and types of wildlife. Any activity which removes or alters existing habitat, adversely affects wildlife. Those activities and land uses which have the most widespread affects on fish and wildlife are: **High density development in or adjacent to sensitive habitat.**" 9.200-29, 9.200-30 (*see more narrative below from the Comprehensive Plan on this topic)
 - b. Land Use Goals and Policies section of the City's Comprehensive Plan under Residential Land Use item 8 "**Residential areas shall be protected from excessive through traffic, conflicting land uses, or other encroachments that would impair a safe, quiet living environment.**" 9.500-29.
 - c. Chapter 9.490 of the Comprehensive Plan titled "Housing Goals and Policies" item 1, under "Housing Need", where "the City recognizes the need for an adequate supply of sound, decent and attractive housing which includes a variety of types and designs **which are responsive to community needs.**" 9.400-22
 - d. Chapter 9.290 "Environment Goals & Policies" under "Natural Vegetation, Fish, and Wildlife" item 9, it states, "**During development, large live trees should be preserved wherever possible, and dead trees of any size should be preserved for wildlife habitat when there is little hazard or obstruction to doing so.**" 9.200-36

3. Does not and cannot meet standards placed by the Manufactured Dwelling Parks code in the following area:
 - a. landscaping section 6.165, item 10b of the Manufactured Dwelling Parks code.
 - (b) Perimeter Property Screening: The entire perimeter of the manufactured dwelling park shall be screened except for driveways and Clear Vision Areas. The following minimum standards shall apply:
 1. One row of evergreen shrubs shall be planted which will grow to form a continuous hedge at least six feet in height and be at least 80 percent opaque, as seen from a perpendicular line of sight, within two years of planting, or
 2. A minimum of a five-foot wood fence or masonry wall shall be constructed, providing a uniform sight obscuring screen, or
 3. An earth berm combined with evergreen plantings or wood fence or masonry wall shall be provided which shall form a sight and noise buffer at least six feet in height.

4. At least 5 five-gallon shrubs or 10 one-gallon shrubs for each remaining 1,000 square feet of required buffer area; and 5. The remaining area treated with attractive, living ground cover (i.e., lawn, ivy, evergreen shrubs, etc.).

4. Does not satisfy "that the proposed development will not have an adverse impact on traffic flow or to pedestrian, bicycle and vehicular safety, and future street right-of-way are protected."
 - a. Did the traffic study take in to consideration the already approved upcoming subdivisions down from the proposed project along Millersburg Drive and include the subsequent future traffic that it would create? If not, a new traffic study which addresses the additional future traffic on Millersburg Drive and the impact (flow, safety, etc.) that it will have, should be required.
 - b. A stop sign would seem pertinent for safety purposes due to the high volume of pedestrians and cars coming into contact when residents are exiting the private drive.

*Additional narrative related to area of concern 2a above:

Natural Vegetation, Fish and Wildlife: Natural Vegetation Values:

"Areas of riparian vegetation, other woodland, railroad and utility right-of-ways, and fence lines around fields, provide important wildlife habitat. The understory of brush on the river bank is particularly important for small fur-bearing animals such as nutria, beaver, opossum and raccoon. The larger overstory of trees provides a range for larger animals and homes for a variety of birds." 9.200-23

The Riparian Zone: "The Riparian Zone is that band of land adjacent to and influenced by water bodies, including lakes, ponds, marshes and intermittent and perennial streams. Much of the best wildlife habitat remaining in the Willamette Valley is found in riparian zones. The most significant attribute of major riparian zones is variety, with stands of mature cottonwood, ash, willow and occasional Douglas Fir trees interspersed with stands of young and intermediate age trees. The understory typically consists of shrubs such as elderberry, showberry, wild rose, and blackberry. Grassy openings, field borders, sloughs and gravel bars in all stages of stability and revegetation add to the diversity of habitats. This mix of many habitats, combined with the productive aquatic environment, is suited to the needs of virtually all wildlife species occurring in the valley." 9.200-24



Land Use Appeal Form

THIS FORM MUST BE FILLED OUT COMPLETELY

I. The Case Number of the Decision Being Appealed: CUP 19-01 & SP 19-01

Date of the Hearing for the Case Being Appealed: April 22, 2019

II. Appellant Information

A. Appellant(s) EVENING STAR, LLC (William Eddings)
Email Address William.eddings@gmail.com
Mailing Address 1999 Clover Ridge Rd NE, Albany, OR 97322
Phone number (503) 569-9758

III. Statement

The appellant must be a party to the initial proceedings. Please provide a statement explaining how the appellant provided letters, spoke at the public hearing, or otherwise raised an issue before the hearing body with sufficient detail to allow the hearing body to respond.

The Appellant is the applicant for the two applications and objected to the imposition of certain conditions of approval. See the attached written narrative. These issues were raised during the April 22, 2019 Planning Commission hearing and in writing.

III. Basis of the Appeal/ Criteria Relied Upon for the Appeal Request

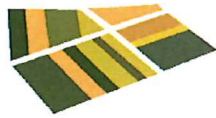
Attach a separate document with a narrative explaining the basis of the appeal. This must describe specifically:

- 1) Which criteria the appellant contends was incorrectly applied/interpreted the criteria from the City code; and,
- 2) How the criteria was incorrectly applied/interpreted.

The appeal cannot be accepted until the appellant has provided a written basis for the appeal.

IV. Appellant signature William J Eddings

Date 6/5/19



Law Office of Mike Reeder
Oregon Land Use Law

June 5, 2019

Hon. Mayor Lepin and City Council
City of Millersburg
4222 NE Old Salem Road
Albany, Oregon 97321

**Re: Evening Star Manufactured Dwelling Park | CUP 19-01 & SP 19-01
Appeal Statement of Applicant**

Dear Mayor Lepin and City Council:

I represent Bill Eddings and Evening Star, LLC, the applicant for the Manufactured Dwelling Park Conditional Use Permit and Site Plan application, City File No: CUP 19-01 and SP 19-01 (the “Application”) that was conditionally approved by the Planning Commission on May 22, 2019.

As an introduction, it should be noted that the Planning Commission’s decision is, for practical purposes, a denial of the applicant’s proposal disguised as an approval with conditions. Please accept this letter as the Applicant’s written appeal statement supporting the appeal of the Planning Commission’s decision pursuant to Land Use Development Code Section 3.700.

I. Condition of Approval #3 – 1 Year Deadline

The Applicant objects to the arbitrarily short deadline of 1 year for this CUP/SP approval. While it is likely that the Applicant can begin construction of the project within one year of the approval, there is, as is customary with all development projects, an outside chance that the project could be delayed, especially if the decision is appealed by another party.

II. Condition of Approval #5 – Expanding Street Width

The Application includes a proposal for a 20-foot wide internal private street with a 4-foot wide sidewalk on one side through the entire project, except for the first lineal 100 feet from the public street. The Applicant selected this design feature pursuant to the Oregon Manufactured Dwelling and Park Specialty Code (“OMDPSC”) Table 10-C.

Condition #5 adopted by the Planning Commission unilaterally revises the Application by requiring the Applicant to revise the site plan showing all internal streets with a minimum curb to curb width of 30 feet and allowing parking on one side of the street.

As discussed by me at length at the April 22, 2019 public hearing and in my April 22, 2019 letter to the Planning Commission, this condition of approval cannot be adopted. It violates the Needed Housing Statute (ORS 197.303-.307) and the OMDPSC. These two state statues pre-empt any local legislation and prohibit City staff from arbitrarily imposing additional width to the proposed private street. While the Applicant provided evidence into the record to show that Condition #5 is not merited from a factual/practical point of view, the fact remains that the state has preempted this issue of street width and adequate parking.

City staff asserts for the first time in its May 15th staff memorandum that it is the City that determines which “option” from the OMDPSC Table 10C to use. The staff memorandum states:

“In other words, Table 10C has options available for applying to manufactured home parks, but does not mandate any particular option for the City to apply. The choice of which option from Table 10C is to be selected is left up to the City.”

City staff are wrong. It is the Applicant that chooses which of the “options” to use from Table 10C. City staff provide no support for the proposition that the City determines which option to select. Without any LUDC standard or criterion on point such a selection by staff would be arbitrary and therefore would violate the Needed Housing Statute.

III. Site Plan Application

The CUP criteria are sufficient to protect the health, safety and welfare of the proposed residents, the adjacent neighbors and the residents of the City. While the Applicant made application for both the CUP and a Site Plan application because it was required by the City, there is no planning purpose for such redundancy. If the application criteria are identical or substantially similar, the redundancy violates ORS 197.303-.307 (the “Needed Housing Statute”) for imposing an unreasonable cost to the Applicant.

In addition, the discretionary application of Site Plan Review and arbitrary nature of the Site Plan Review criteria violates the “clear and objective” commands of the Needed Housing Statute.

The Land Use Development Code (“LUDC”) Section 2.400 states in relevant part:

“A Site Plan Review is required for all new commercial or industrial developments...The City may also request a Site Plan Review for any development proposal, in addition to those specifically required by this Code if the property,

proposed development or use has unusual or special features or require a decision by the City.” (Emphasis added).

The Application does not merit a Site Plan Review application because it is not a “commercial” or “industrial” development, and neither the proposed development nor the property have unusual or special features or otherwise require City decision-making (i.e. does not involve a City-owned property interest).

In any case, determining whether a property or a development has an “unusual” and/or “special” “feature” is extremely discretionary, and therefore cannot be applied in the context of this Application for Needed Housing. See *Walter v. City of Eugene*, 73 Or LUBA 356 (2016), *aff’d* 281 Or App 461 (2016); *Rogue Valley Assoc. of Realtors v. City of Ashland*, 35 Or LUBA 139 (1998), *aff’d*, 158 Or App 1 (1999).

In its May 15, 2019 staff memorandum to the Planning Commission, (which was filed after the close of the record and for which the Applicant could not respond), staff asserted that the Applicant “waived” this argument by making application for the SP application. Staff are in error. See *Recovery House VI v. City of Eugene*, 150 Or App 382; 946 P2d 342 (1997). The Applicant does not waive the argument that the Site Plan review process is not required simply because the Applicant chose to make such application.

Respectfully,

/s/Micheal M. Reeder

Micheal M. Reeder



Land Use Appeal Form

THIS FORM MUST BE FILLED OUT COMPLETELY

I. The Case Number of the Decision Being Appealed: CUP 19-01 & SP 19-01 Evening Star Manufactured Home Park
Date of the Hearing for the Case Being Appealed: May 21st 2019

II. Appellant Information

A. Appellant(s) Corbett Richards
Email Address _____
Mailing Address _____
Phone number _____

III. Statement

The appellant must be a party to the initial proceedings. Please provide a statement explaining how the appellant provided letters, spoke at the public hearing, or otherwise raised an issue before the hearing body with sufficient detail to allow the hearing body to respond.

Gave public testimony at the April 22nd Planning Commission meeting and submitted additional letters during the continuance period.

III. Basis of the Appeal/ Criteria Relied Upon for the Appeal Request

Attach a separate document with a narrative explaining the basis of the appeal. This must describe specifically:

- 1) Which criteria the appellant contends was incorrectly applied/interpreted the criteria from the City code; and,
- 2) How the criteria was incorrectly applied/interpreted.

The appeal cannot be accepted until the appellant has provided a written basis for the appeal.

IV. Appellant signature 

Date 6/6/19



Land Use Appeal Form

THIS FORM MUST BE FILLED OUT COMPLETELY

I. The Case Number of the Decision Being Appealed: CUP 19-01 and SP 19-01 Evening Star Manufactur
Home Park
Date of the Hearing for the Case Being Appealed: May 21st 2019

II. Appellant Information

A. Appellant(s) Tom Eisele
Email Address _____
Mailing Address 6351 Sedona Road, Albany, OR 97321
Phone number 509-833-2394

III. Statement

The appellant must be a party to the initial proceedings. Please provide a statement explaining how the appellant provided letters, spoke at the public hearing, or otherwise raised an issue before the hearing body with sufficient detail to allow the hearing body to respond.

Gave public testimony on April 22nd Planning Commission Meeting
regarding concerns about drainage and flooding in the
proposed site.

III. Basis of the Appeal/ Criteria Relied Upon for the Appeal Request

Attach a separate document with a narrative explaining the basis of the appeal. This must describe specifically:

- 1) Which criteria the appellant contends was incorrectly applied/interpreted the criteria from the City code; and,
- 2) How the criteria was incorrectly applied/interpreted.

The appeal cannot be accepted until the appellant has provided a written basis for the appeal.

IV. Appellant signature Thomas Eisele Date 6-6-19



Land Use Appeal Form

THIS FORM MUST BE FILLED OUT COMPLETELY

I. **The Case Number of the Decision Being Appealed:** CUP 19-01 & SP 19-01 Evening Star Manufactured Home Park
Date of the Hearing for the Case Being Appealed: May 21st 2019

II. **Appellant Information**

A. Appellant(s) Nathaniel Van Nicholson
Email Address Vannicholson.nathanielj@gmail.com
Mailing Address 6347 Sedona Rd
Phone number (503) 569-9345

III. **Statement**

The appellant must be a party to the initial proceedings. Please provide a statement explaining how the appellant provided letters, spoke at the public hearing, or otherwise raised an issue before the hearing body with sufficient detail to allow the hearing body to respond.

Gave public testimony at the April 22nd Planning Commission Meeting and submitted letters during the continuance period surrounding concerns.

III. **Basis of the Appeal/ Criteria Relied Upon for the Appeal Request**

Attach a separate document with a narrative explaining the basis of the appeal. This must describe specifically:

- 1) Which criteria the appellant contends was incorrectly applied/interpreted the criteria from the City code; and,
- 2) How the criteria was incorrectly applied/interpreted.

The appeal cannot be accepted until the appellant has provided a written basis for the appeal.

IV. **Appellant signature** Nathaniel Van Nicholson

Date 6/6/2019



Land Use Appeal Form

THIS FORM MUST BE FILLED OUT COMPLETELY

- I. The Case Number of the Decision Being Appealed: CUP 19-01 & SP 19-01 Evening Star Manufactured Home Park
Date of the Hearing for the Case Being Appealed: May 21st 2019

II. Appellant Information

- A. Appellant(s) Erin Brace
Email Address emarie-32@yahoo.com
Mailing Address 6212 mesa ct. Albany, OR 97321
Phone number 541-521-5907

III. Statement

The appellant must be a party to the initial proceedings. Please provide a statement explaining how the appellant provided letters, spoke at the public hearing, or otherwise raised an issue before the hearing body with sufficient detail to allow the hearing body to respond.

Gave Public testimony at April 22nd Planning Commission Meeting regarding concerns surrounding state statute 446.100, conflicts of proposed plan to the City Comprehensive Plan, soil densities, screening requirements, and traffic. Also submitted 2 additional letters during continuance period.

III. Basis of the Appeal/ Criteria Relied Upon for the Appeal Request

Attach a separate document with a narrative explaining the basis of the appeal. This must describe specifically:

- 1) Which criteria the appellant contends was incorrectly applied/interpreted the criteria from the City code; and,
- 2) How the criteria was incorrectly applied/interpreted.

The appeal cannot be accepted until the appellant has provided a written basis for the appeal.

- IV. Appellant signature E Brace Date 6/6/19



Land Use Appeal Form

THIS FORM MUST BE FILLED OUT COMPLETELY

I. **The Case Number of the Decision Being Appealed:** CUP19-01 + SP19-01 Evening Star Manufactured Home Park
Date of the Hearing for the Case Being Appealed: May 21st 2019

II. **Appellant Information**

A. Appellant(s) Terrie Hill
Email Address tlhdo2@comcast.net
Mailing Address 2595 Millersburg Dr NE, Albany OR 97321
Phone number 541 619 9780

III. **Statement**

The appellant must be a party to the initial proceedings. Please provide a statement explaining how the appellant provided letters, spoke at the public hearing, or otherwise raised an issue before the hearing body with sufficient detail to allow the hearing body to respond.

gave public testimony at the April 22nd Planning Commission Meeting and submitted a letter during the continuance period.

III. **Basis of the Appeal/ Criteria Relied Upon for the Appeal Request**

Attach a separate document with a narrative explaining the basis of the appeal. This must describe specifically:

- 1) Which criteria the appellant contends was incorrectly applied/interpreted the criteria from the City code; and,
- 2) How the criteria was incorrectly applied/interpreted.

The appeal cannot be accepted until the appellant has provided a written basis for the appeal.

IV. **Appellant signature** 

Date 6/6/19

To: City Council, Millersburg Oregon Millersburg.

Regarding: Appeal, [Evening Star CUP 19-01 and SP 19-01](#)

This letter serves as an appeal to the Planning Commission's decision of approval (May 22nd, 2019) regarding the Evening Star Manufactured Dwelling Park (MDP) application and the property identified as Tax Account No: 10-3W-17DD, Tax Lot 600, and owned by William Eddings.

This letter represents the interest of Millersburg residents opposed to the Evening Star manufacture home project, and who either spoke or submitted letters against the application at the planning commission level. The following are the criteria that were incorrectly applied/interpreted (based on our arguments):

- a) The proposed development or use does not conflict with the City's Comprehensive Plan.
- b) That the proposed development or use complies with the standards of the land use zone and does not conflict with city codes and ordinances that are applicable to the application.
- d) That proposed signs or lighting will not, by size, location, color or operation, have an adverse impact on traffic, limit visibility or have an adverse impact on adjacent properties.
- f) That the proposed development or use does not have an adverse impact on existing or proposed drainage ways including flow disruptions, flooding, contamination or erosion on drainage-ways and required drainage facilities are provided that have the capacity to serve the proposed development or use.
- h) That the proposed development or use does not conflict with the standards of other regulatory agencies having jurisdiction.

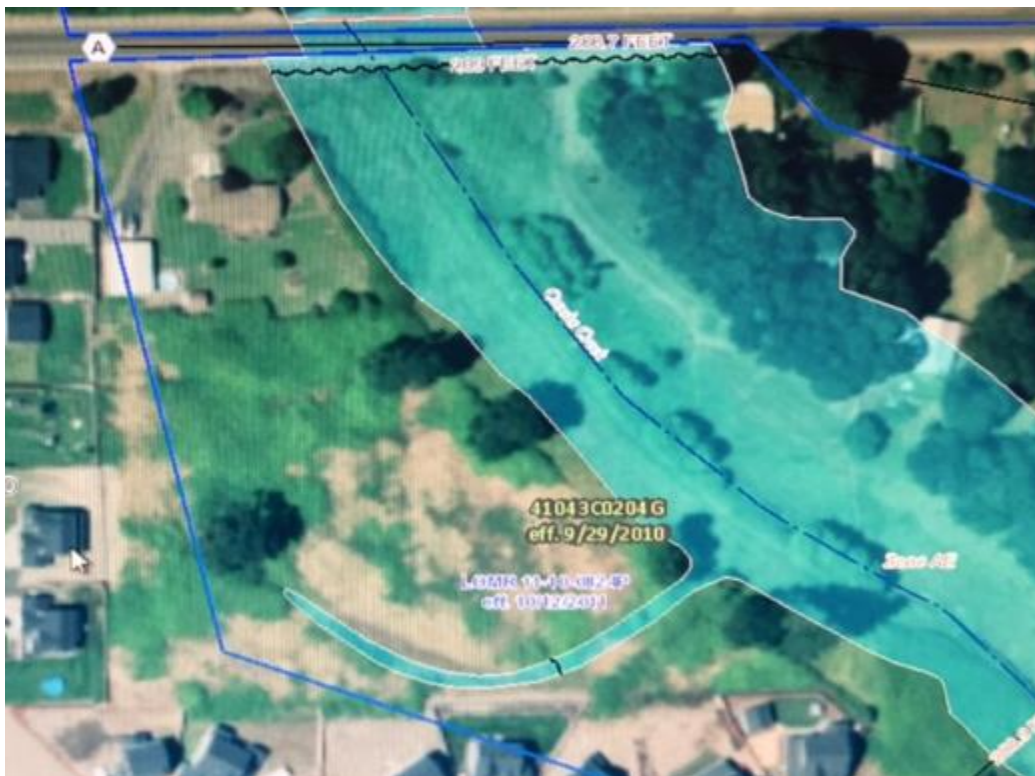
All issues raised in this appeal letter were objected to in one form or another throughout the planning commission process, which we'll discuss again here in this appeal. Specifically, we feel there are multiple Oregon Manufactured Dwelling and Specialty Codes (OMDPSC) applied incorrectly or were not accounted for (despite being raised) in the planning commission's review, decision, the staff memo, or within the 15 conditions of approval placed on the application. We also feel there are multiple OMDPSCs that preclude the approval of this project, and that this project should be subject to denial, stay, or added conditions at the conclusion of the city council appeal.

The basis of this appeal revolves around the unusual and unique characteristics of the proposed property for Manufactured Home Park. It is irregular in shape, has one point of access, contains multiple DSL designated wetland areas and a FEMA certified floodplain within west and south ends of the property, borders a FEMA floodplain to the east in Crooks Creek, contains mature 200 + year old white oak trees, represents proximity to rodent and vermin breeding areas, sits at a different elevation profile to adjoining neighborhoods, poses water run-off and drainage concerns, as well as unshielded artificial light. The OMDPSC yields discretion to local authorities in reviewing these unique challenges.

Part 1 - The Oregon Specialty Codes - Floodplains

3-2.4.1 OMDPSC: (a) when manufactured dwellings are to be located in a flood hazard zone, according to the Flood Insurance Rate Map (FIRM), a FEMA elevation Certificate shall be submitted to the authority having jurisdiction. (b) Manufactured dwellings located in a flood hazard zone shall have the finished floor elevated a minimum of 18 inches above the Base Flood Elevation (BFE) as identified on the FIRM. When the BFE has not been established within a flood hazard zone, the finished floor shall be elevated to the elevation established by the Flood Plain Administrator.

FEMA Floodplain FIRM map of proposed area (see citation) (Floodplain extension into proposed property)



As illustrated in the graphic above, the property contains a FEMA zone "AE" certified flood plain extending along the south property line of proposed site. By definition, this area, which is proposed to hold approximately 20-30% of the manufactured dwellings, lies within the 100-year flood plain. This corresponds to a 1% annual chance (or 26% chance over 30 years) of suffering flood damage. (Note: 100 year flood plain does not mean a flood every 100 years).

If developer plans to fill these areas, this will have the effect of pushing flood discharge east into Crooks Creek, and potentially onto the properties and homes on the other side of Crooks Creek. This is not too hard to visualize, especially when you consider flood debris build up at creek beds, and potentially at the Millersburg Dr. Bridge.

Pictures below demonstrate flood discharge, lack of drainage, standing water, and soil saturation within and adjacent to the proposed Evening Star MHP property.

**Flood discharge on the eastside of Crooks Creek at the Millersburg Dr. Bridge
- Water extends onto personal residence east of Crooks Creek**



Standing water (flood discharge) extending from the FEMA floodplain located on the proposed property due to floodplain discharge from Crooks, saturated wetlands, and poor drainage.



Flood plains, wetlands, soil saturation in the south end of proposed property



Floodplains (Crooks Creek) just outside the southeast corner of the proposed property

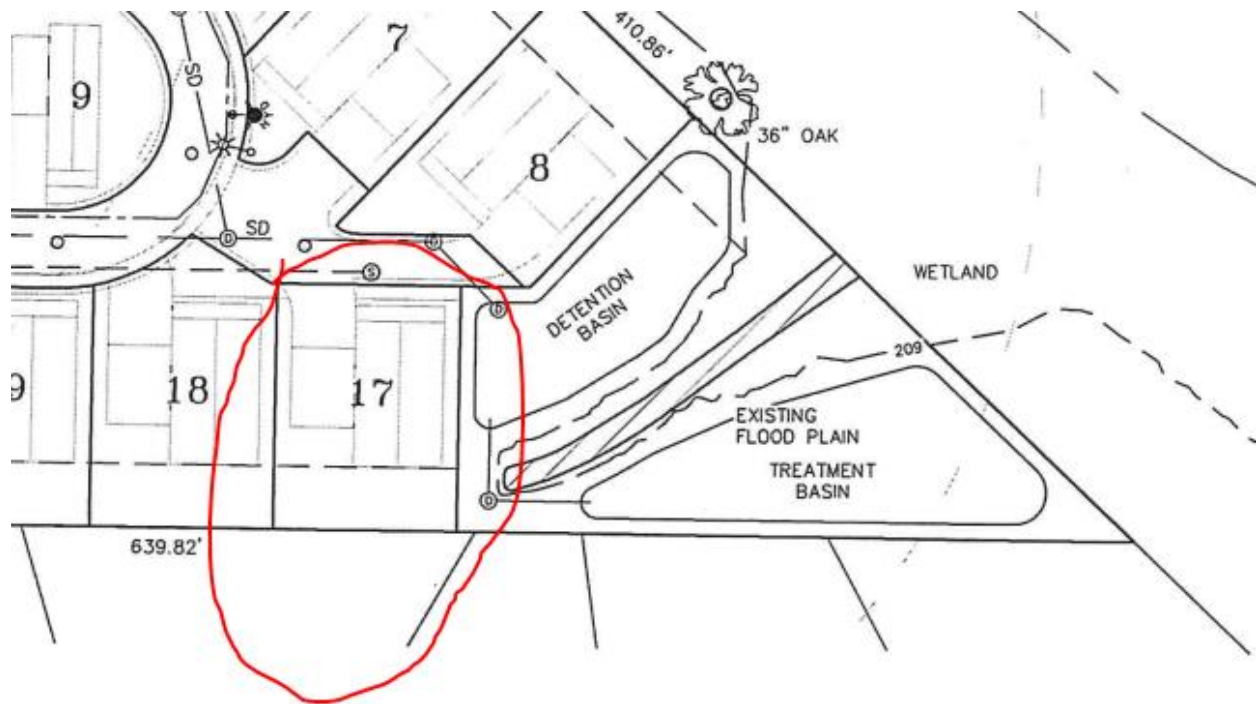


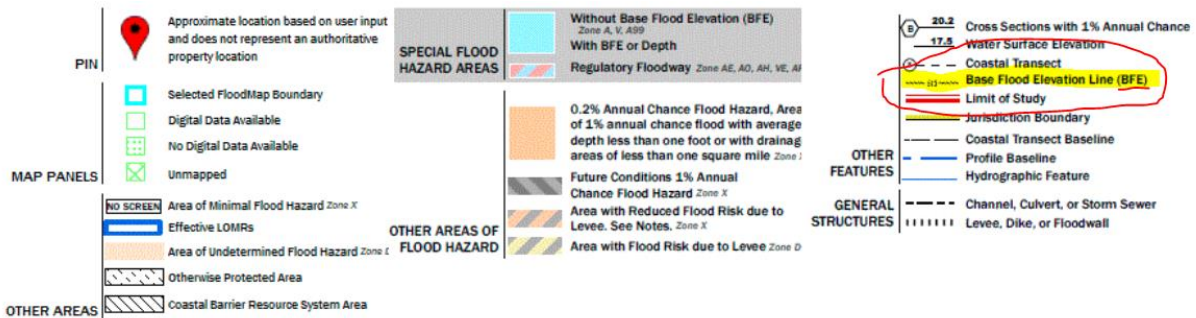
Images below are of the flood plain approximately 2/3 of the way in from Crooks Creek along the special flood hazard area on proposed projects property. Taken 4/24/19 (map shows where the below photos were taken.)





In addition to the above, space 17 on the proposed park plan is partially below the BFE line and will therefore need to be elevated according to 3-2.4 Flood Hazard Areas (page 34) of the ODMS. See Map (black line is the BFE in the floodplain within the proposed plan/property). See code in blue text above.





Part 2 - The Oregon Specialty Codes - drainage, suitability of site

3.4 (3.1) OMDPSC: Suitability of Site. Each site shall be suitable for its intended use and acceptable to the authority having jurisdiction based on this code and local land use regulations. Manufactured dwellings shall not be located on land that is unsuitable due to swampy terrain, lack of drainage, or proximity to the breeding places of rodents or vermin unless improvements have been made to the land to eliminate or control the hazards. In areas having highly expansive, compressible, or shifting soils, the authority having jurisdiction may require a soil test.

3-4.3 OMDPSC: Grading and Drainage: Site grading and drainage shall provide the following (e) lots shall have sufficient drainage to prevent standing water, excessive soil saturation, or erosion from becoming detrimental to the lot, stand, or any structure;

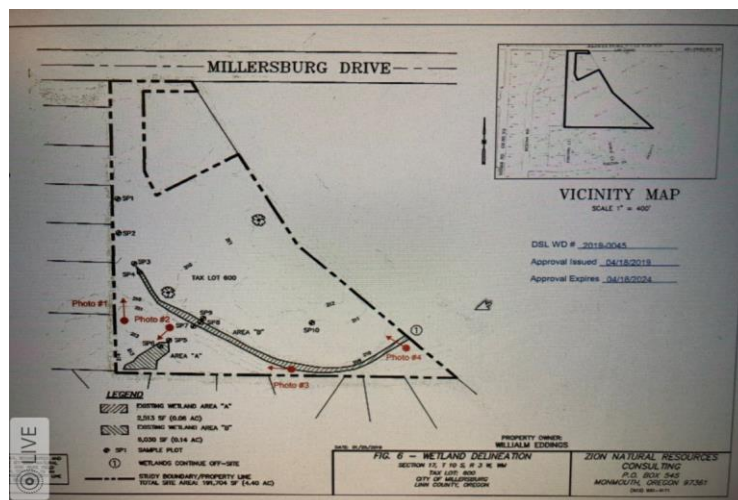
3-4.5 OMDPSC Stands: Manufactured dwelling and cabana stands shall be natural undisturbed soils or engineered fill and shall be free of grass, highly expansive, compressible, or shifting soils, and organic material and subject to the following: (c) Engineered fill, when used for a manufactured dwelling or cabana stand, shall have a soil compaction test to assure the stand is capable of supporting a minimum of 1,000 PSF (50 kgsm). Compaction tests shall be performed according to ASTM D-698-98 or ASTM D-1557-98 based on a 95 percent compaction rate

3.4-4 OMDPSC Erosion: Where erosion of the site, due to high water runoff velocity, threatens the manufactured dwelling stand, adequate grading, plantings or drainage systems, acceptable to the authority having jurisdiction, shall be provided to protect the site, stand, and adjacent properties from degradation.

10-2.3 Suitability of Site OMDPSC (b) the authority having jurisdiction shall consider the condition of the soil, ground water level, drainage, and topography of the land prior to issuing construction permits.

3.4-6 OMDPSC Soil Tests: When soil tests are performed, a soil investigation report shall be submitted to the authority having jurisdiction. Soil investigation reports shall be made by an independent Oregon certified engineering geologist, Oregon registered licensed geotechnical engineer, Oregon professional engineer, or by a laboratory conforming to the requirements of ORS Chapter 672

DSL wetland certification map indicating Two wetlands, area "A" and area "B" in proposed site



them. If they intend to fill these areas, we simply don't know what the run-off or drainage will look like until after filling has taken place. As stated earlier, this is a unique property due to varying elevation profiles and adjacent floodplains. We just don't know if these "water-prone" areas will simply be too wet, soggy, soft, etc. The idea of placing manufactured dwellings in floodplains or wetlands seems incredulous at best, but rather, a serious safety concern to say the least. Despite all the mitigating measures, engineering studies, etc., flooding has historically shown to be unpredictable and not fail proof.

Staff Report, condition #15, requires FEMA floodplain certification. This is not enough. The application should also required federal permits from the Army Corp of Engineers, Department of State Lands, and well as comply with the Flood Insurance Program (NFIP) standards of development in floodplains. These can all be conditionally placed requirements by local jurisdiction. The application should also be required to follow Oregon Removal-fill Law (ORS 196.800-990) for any fill activity, and be subjected to soil compaction testing according to Oregon specialty code 3-4.5 (OMDPSC).

Paragraph four, DSL delineation report, April 18th, 2019 states:

- "Please be advised that state law establishes a preference for avoidance of wetland impacts. Because measures to avoid and minimize wetland impacts may include reconfiguring parcel layout and size or development design, we recommend that you work with Department staff on appropriate site design before completing the city or county land use approval".-

Part 3 - White Oak trees, "redeeming value"

*10-2.1 OMDPSC Land Use: No manufactured dwelling park or mobile home park shall be **constructed**, altered, converted, or expanded unless it is in accordance with comprehensive plan and local zoning ordinance and meets the requirements of this code.*

(a) The local planning department is given specific authority to establish reasonable criteria related to the following as long as the criteria for a park is not less than the minimum requirements in this code and not greater than the requirements for single family uses in the underlying zone.

10-2.1 14 (b) the local planning department may prohibit the disturbance of certain aspects of the land having a redeeming value, such as land with mature trees, geological formation, waterways, or historical significance.

There are multiple, mature white oak trees estimated at greater than 200 years of age within or extend directly onto the proposed property, meeting the threshold of "redeeming value" according to 10-2.1 OMDPSC. Tree age is based on circumference and diameter (see calculation citation). These large canopy trees hold tremendous ecological value as they serve as breeding grounds for several bird species including eagles, hawks, osprey, and the acorn woodpeckers, as well as prevent soil erosion in wetland areas, provide shade, and improve air quality. Of note, it is estimated less than 5% of mature white oak trees remain in the Willamette Valley compared to pre-European settlers due to develop, deforestation, among other reasons. (1)

We feel these giant mature white oak trees meet the threshold and criteria of "redeeming value" according to 10-2.1 OMPDSC, and therefore, should be preserved as a condition for approval. Specifically, the large giant white oak near wetlands area "B" should stay. Oregon specialty codes yields discretion to local planning authorities to prohibit the disturbance of these trees. As well, according to city comprehensive plan, section 9.290 (Environment Goals & Policies), it states "During development, large live trees should be preserved wherever possible."

Additionally, the Land Use Conflicts section of the Millersburg Comprehensive Plan clearly points out the concern for high density development, and its effects on wildlife by stating the following:

-"any activity which removes or alters existing habitat, adversely affects wildlife. Those activities and land uses which have the most widespread affects on fish and wildlife are: High density development in or adjacent to sensitive habitat." 9.200-29, 9.200-30 -

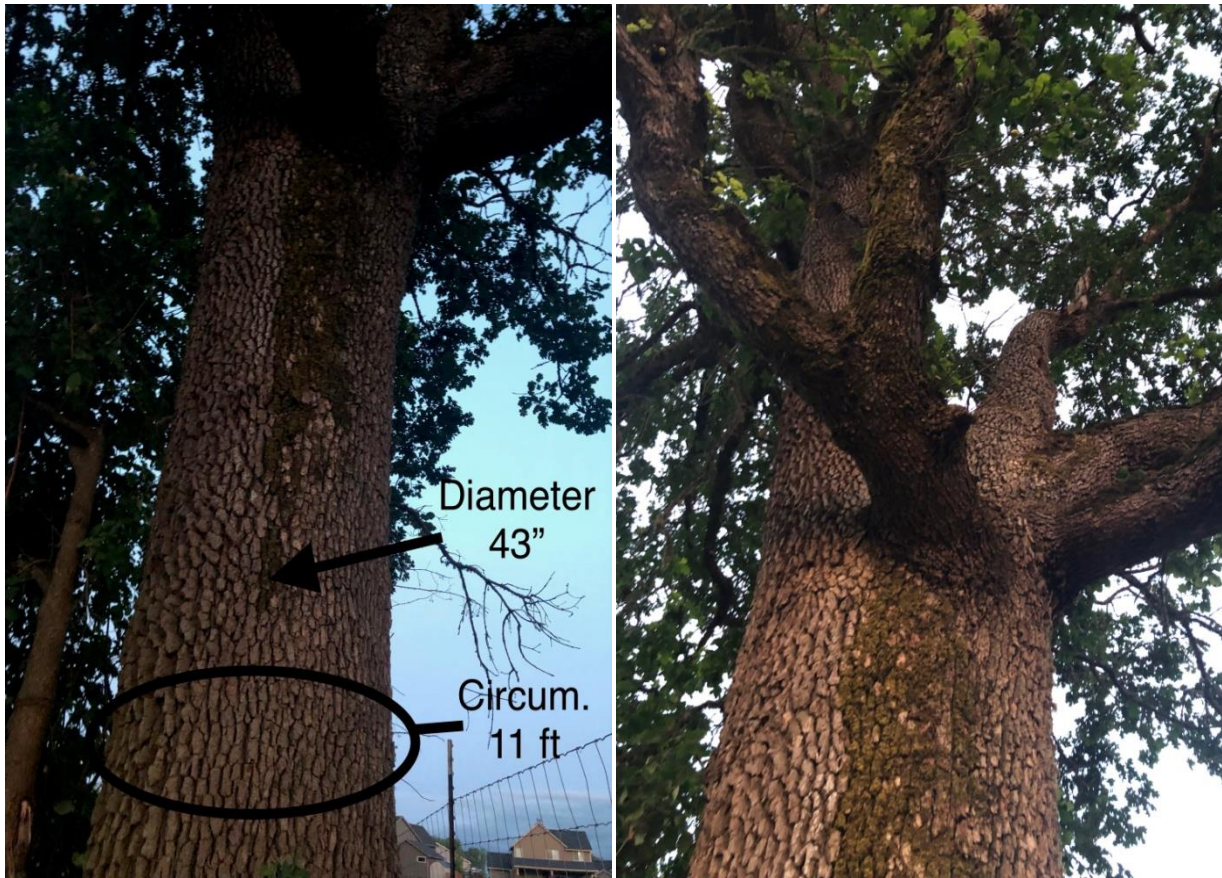
We feel that preserving the trees is not a violation of the "needed housing act", as this does not require more or less restrictions on the developer, and by leaving the trees, it does not add any unreasonable cost to the project. The "needed housing act" does not take into consideration profitability of the project.

Pictures of Oak Trees in proposed site.





Diameter and close up pictures of large White Oak trees.



Part 4 - Case Precedent
Pheasant Run Subdivision denied by Albany Planning Commission
Subdivision (SD-05-17) and Site Plan Review for Tree Felling (SP-14-17)



In March 2018, the City of Albany planning commissioners voted 4-3 to deny application of a 148 lot Pheasant Run subdivision in north Albany, stating "applicant didn't meet all standards, particularly for tree removal". (Democrat Herald, March 22, 2019). The "Needed housing act" was a large part of the developer's argument to remove all the large white oak Trees on the property. This was appealed to the City Council and eventually overturned, in part due to compromise between the builder and city to preserve several of the white oak mature trees in question.

Part 5 - Vermin breeding grounds

10-2.3 OMDPSC Suitability of Site: (a) Manufactured dwelling parks or park expansions shall not be located on land that is unsuitable due to swampy terrain, lack of drainage, or proximity to the breeding places of rodents or vermin unless improvements have been made to the land to eliminate or control the hazards and such improvements are acceptable to the authority having jurisdiction.

This code is stated twice in the specialty code (10-2.3, and 3-4 3.1) indicating its importance. There is no question whether this property is in proximity to the breeding grounds of rodents and vermin. It is home to many species of rodents and vermin including rats, mice, nutria, opossum, snakes, skunks, among others that reside along the riparian areas of Crooks Creek. This code clearly places the burden on the developer, requiring improvements to "eliminate or control the hazards" acceptable to the City. The potential mice and rat infestations within HVAC, flooring, insulation are concerning and pose a serious health risk to occupants and adjacent residents. Mice carry known health hazards such as hanta virus. Any future dilapidation could yield a very serious public health risk. If the developer would like to build on wetlands, or adjacent to riparian areas, this code ensures the safety and well-being of future tenants and local residents.

Part 6 - unshielded street lights -
7 conditions for approval, deleted by staff

Staff report in their final summary, and approved by the planning commission, deleted condition #7, requiring all street lights to be shielded in order to prevent street lights from shining into the surrounding neighborhood. The applicant asserted that the OMDPSC prohibited the City from imposing any lighting conditions. Staff disagreed with this assertion, but in the end, stated "...However, staff

understands the requirement for shielding has little to do with health, safety or welfare for the surrounding area".

We object to the notion that unshaded street lights are not a "health related issue", as light sensitivity (photosensitivity) is a cardinal symptom of many common medical conditions such as migraine headaches, cataracts, dry eyes, concussions, among others. Light sensitivity is also a common side-effect of multiple common prescription medications such as doxycycline, tetracycline, or lasix.

OMDPSC discussing park lighting (pg 169-170) in terms of "Visual Comfort Probability (VCP)" and "disability Glare"

- "Visual Comfort Probability", as defined by the Illuminating Engineering Society of North America, means the rating of a lighting system expressed as a percentage of the people who, when viewing from a specified location and in a specified direction, will be expected to find it comfortable in terms of discomfort glare.

- "Disability Glare" as defined by the Northwest Lighting Industry Association, means glare resulting in reduced visual performance and visibility often accompanied by discomfort glare.

According the declaration of Becker Ridge Estates protective Covenants, Conditions, and Restrictions (CC&R's), "Exterior lighting must be designed to eliminate glare and annoyance to adjacent property owner and passerby."

The same standard should be placed for the Evening Star manufactured home park. Given the different elevation profiles of the proposed site, the street lights, being lower, may very well be at eye level to adjacent homes. It is not too much to ask to make these a condition for approval.

Part 7 – Identification within the park

As City Staff asserted in their final report, "To a large extent, the OMDS controls the development standards, and it is code that is not of the City's making, nor is the City responsible for the language therein being clear and objective. To the extent any such argument is directed to the OMDS, staff asserts that the City has no control or responsibility for that language, and cannot be held responsible if its language is less than clear or objective." The OMDS is the authority here and should be followed. There are many items that we did not see listed in the site plan including identification.

Page 44 of OMDS discusses various identification:

10-3.3 Identification. Manufactured dwellings and park buildings shall be posted in a conspicuous and uniform manner that is clearly visible from the street or alley serving the site according to the following: (a) Each park shall have a general directory located at each entrance to the park. The directory shall indicate street names, addresses and/or lot numbers and be easily legible from a vehicle entering the park; (b) Each park street, alley or common driveway shall be posted with a sign identifying its name according to the requirements of the authority having jurisdiction; (c) Each manufactured dwelling lot shall be clearly identified with 3 inch (76 mm) high numbers on the curb, mail box, home, or other location acceptable to the authority having jurisdiction; (d) Each park building shall be clearly identified with 3 inch (76 mm) high characters giving the name or number; (e) The park shall be identified by name and street address on the public way according the local municipality's requirements; (f) Curbs or streets shall be painted with a 4 inch (10 cm) wide red stripe 10 feet (305 cm) either side of a fire hydrant; (g) Applicable park streets, alleys, or common driveways serving as fire lanes shall be marked with red painted curbs, 145 striped pavement, or 12 inch by 18 inch (30 cm by 46 cm) white signs with red letters, to indicate where parking is prohibited. The marking shall state "Fire Lane - No Parking" and shall be in minimum 3 inch (76 mm) high block letters and posted every 25 feet; (h) One way park streets shall be posted with a 18 inch by 24

inch (46 cm by 61 cm) white sign with black letters indicating "ONE WAY" with an arrow to indicate the correct direction of the traffic flow; (i) Park streets shall be posted with a 24 inch by 24 inch (61 cm by 61 cm) red octagon shaped sign with white letters indicating "STOP" located at each intersection with the park and at the exit from the park onto the public way when required by the municipality. A stop sign is not necessary at the exit from the park when it exits into an intersection controlled by municipal traffic signal lighting;

We propose a condition stating that a stop sign be added along with various other identification as stated in 10-3.3 of the OMDS within the manufactured home park for safety reasons.

Conditions for approval requested

1. Preservation of mature oak trees within the property, or that extend onto property (10-2.1, 10-2 OMDPSC).
2. Vermin/rodent study completed (OMDPSCs 10-2.3; 3.4 (3.1)
3. FEMA elevation Certificate (3-2.4.1 OMDPSC)
4. Army Corps of Engineers permit (DSL delineation report paragraph 3)
5. Follow National Flood Insurance Program (NFIP) regulations for floodplain mitigation
6. DSL wetland permits
7. Removal-Fill permits
8. Run-off/drainage studies acceptable to city (3.4-4 OMDPSC)
9. Soil compaction testing post mitigation, fill. (3-4.5 OMDPSC)
10. Re-insert #7 condition of approval from staff report. This would require all street lighting to be shielded
11. Uphold all conditions placed, otherwise, in the staff report, as written.
12. Stop sign added at the exit of the park along with other identification as noted in OMDPSC (OMDS 10-3.3.)

Conclusion

In conclusion, this letter serves to represent multiple Millersburg residents opposed to the Planning Commission's approval of application for the [Evening Star CUP 19-01 and SP 19-01](#), on May 22, 2019. We request a new hearing be allowed to take place in pursuit of this appeal to present evidence and speak against the proposed project in pursuit of denial, stay, or further conditions of approval.

We request to work with city council on the format to present opposition at a future hearing. The 3 minute allotted time for community members to speak was not long enough to read a letter, let alone, discuss concerns with the planning commission. The applicant's attorney was given an open-ended time allotment to talk to the planning commissioners. We request a more fair process, such as allowing community opposition members to yield their allotted time to others, who can then speak on their behalf.

Sincerely:

Residents of Millersburg, representing this appeal

Addendum

FEMA Definitions

Base Flood Elevations: The computed elevation to which floodwater is anticipated to rise during the base flood. Base Flood Elevations (BFEs) are shown on Flood Insurance Rate Maps (FIRMs) and on the flood profiles. The BFE is the regulatory requirement for the elevation or floodproofing of structures. The relationship between the BFE and a structure's elevation determines the flood insurance premium.

Floodway: channel of a stream plus any adjacent floodplain areas that must be kept free of encroachment so that the 100-year flood discharge can be conveyed without increasing the elevation of the 100-year flood by more than 1 foot (most states).

Floodplain: Any land area susceptible to inundation by water from any source

Flood Insurance Rate Map (FIRM): A map on which the 100-year (1% annual chance) and 500-year (0.2% annual chance floodplains. Base Flood Elevations, and risk premium zones (and floodway information on Map Initiatives FIRMs) are delineated to enable insurance agents to issue accurate flood insurance policies to homeowners in communities participating in the National Flood Insurance Program

100-year flood: The flood having a 1-percent chance of being equaled or exceeded in any given year; also known as the base flood. The 1-percent annual chance flood, which is the standard used by most Federal and state agencies, is used by the National Flood Insurance Program (NFIP) as the standard for floodplain management and to determine the need for flood insurance. A structure located within a special flood hazard area show on an NFIP map has a 26 percent chance of suffering flood damage during the term of a 30-year flood pain.

DSL Removal-Fill Law - *Flood TRG, Oregon Department of Land Conservation & Development*

3.1.4 Division of State Lands (DSL) Fill and Removal Permit Program Oregon's Removal-Fill Law (ORS 196.800-990) requires individuals who remove or fill 50 cubic yards or more in "waters of the state" to obtain a permit from the DSL. "Waters of the state" are defined as "natural waterways including all tidal and non-tidal bays, intermittent streams, constantly flowing streams, lakes, wetlands and other bodies of water in this state, navigable and non-navigable, including that portion of the Pacific Ocean which is in the boundaries of this state." In State Scenic Waterways or areas designated by DSL as essential indigenous anadromous salmonid habitat, most removal fill activities require a permit, regardless of the number of cubic yards affected.⁴² In addition, the Oregon Department of Environmental Quality is responsible for water quality certification under section 401(a) of the Clear Water Act. This certification is required as part of the DSL permitting process

3.2.3 Army Corps of Engineers Permit Program - *Flood TRG, Oregon Department of Land Conservation & Development*

The U.S. Army Corps of Engineers is responsible for the protection and development of the nation's water resources, including navigation, flood control, energy production through hydropower management, water supply storage and recreation. The Corps administers a permit program to ensure that the nation's waters are used in the public interest, and requires any person, firm, or agency

planning work in the waters of the United States to first obtain a permit from the Corps. Permits are required even when land next to or under the water is privately owned. It is a violation of federal law to begin work before a permit is obtained and penalties of fines and/or imprisonment may apply. Examples of activities in waters that may require a permit include: construction of a pier, placement of intake and outfall pipes, dredging, excavation and depositing of fill. Permits are generally issued only if the activity is found to be in the public interest. In Oregon, permits for development of these activities are issued jointly by the Oregon Division of State Lands (DSL) and the U.S. Army Corps of Engineers. As mentioned in the discussion of DSL permits, local planning agencies are required to sign off on any permits issued by DSL and the U.S. Army Corps of Engineers and water quality certification is required by the Department of Environmental Quality.⁵⁰ Contact information for the U.S. Army Corps of Engineers is provided in Section 6.

DSL wetlands delineation report



Oregon

Kate Brown, Governor

April 18, 2019

Attn: William Eddings
1979 Clover Ridge Road NE
Albany, OR 97322

Re: WD # 2019-0045 Wetland Delineation Report for the
Eddings Manufactured Home Park, Linn County;
T 10S R 3W S17D TL 600

Department of State Lands

775 Summer Street NE, Suite 100
Salem, OR 97301-1279

(503) 986-5200

FAX (503) 378-4844

www.oregon.gov/dsl

State Land Board

Kate Brown
Governor

Bev Clarno
Secretary of State

Tobias Read
State Treasurer

Dear Mr. Eddings:

The Department of State Lands has reviewed the wetland delineation report prepared by Zion Natural Resources Consulting for the site referenced above. Based upon the information presented in the report, we concur with the wetland boundaries as mapped in Figure 6 of the report. Please replace all copies of the preliminary wetland map with this final Department-approved map.

Within the study area, two wetlands (Wetland A and B), totaling approximately 0.20 acres were identified. Both wetlands are subject to the permit requirements of the state Removal-Fill Law. Under current regulations, a state permit is required for cumulative fill or annual excavation of 50 cubic yards or more in the wetlands or below the ordinary high-water line (OHWL) of the waterway (or the 2-year recurrence interval flood elevation if OHWL cannot be determined).

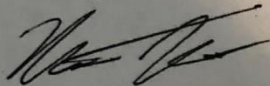
This concurrence is for purposes of the state Removal-Fill Law only. Federal or local permit requirements may apply as well. The Army Corps of Engineers will determine jurisdiction for purposes of the Clean Water Act. We recommend that you attach a copy of this concurrence letter to both copies of any subsequent joint permit application to speed application review.

Please be advised that state law establishes a preference for avoidance of wetland impacts. Because measures to avoid and minimize wetland impacts may include reconfiguring parcel layout and size or development design, we recommend that you work with Department staff on appropriate site design before completing the city or county land use approval process.

This concurrence is based on information provided to the agency. The jurisdictional determination is valid for five years from the date of this letter unless new information necessitates a revision. Circumstances under which the Department may change a determination are found in OAR 141-090-0045 (available on our web site or upon request). In addition, laws enacted by the legislature and/or rules adopted by the Department may result in a change in jurisdiction; individuals and applicants are subject to the regulations that are in effect at the time of the removal-fill activity or complete permit application. The applicant, landowner, or agent may submit a request for reconsideration of this determination in writing within six months of the date of this letter.

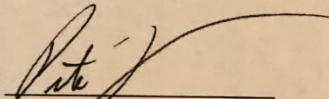
Thank you for having the site evaluated. Please phone me at 503-986-5262 if you have any questions.

Sincerely,



Matt Uitis
Jurisdiction Coordinator

Approved by


Peter Ryan, PWS
Aquatic Resource Specialist

Enclosures

ec: Eric Henning, Zion Natural Resources Consulting
City of Albany Planning Department (Maps enclosed for updating LWI)
Andrea Wagner, Corps of Engineers
Carrie Landrum, DSL

Citations:

1. MacDougall, Andrew S.; Beckwith, Brenda R.; Maslovat, Carrina Y. 2004. Defining conservation strategies with historical perspectives: a case study from a degraded oak grassland ecosystem. *Conservation Biology*. 18(2): 455-465. [65432]

FEMA maps:

Tree year estimate guide <https://www.hunker.com/12001364/how-to-tell-the-age-of-a-tree-without-cutting-it-down>



June 20, 2019

611 Lyon Street SE
P.O. Box 490
Albany, OR 97321-0144

Administration
541-917-7700
FAX 541-917-7716

Ambulance Billing
541-917-7710
FAX 541-917-7540

Station 11
Lyon Street &
Sixth Avenue SE

Station 12
34th Avenue &
Lyon Street SE

Station 13
Three Lakes Road &
18th Avenue SE

Station 14
Gibson Hill Road &
Grandview Drive NW

Station 15
Conser Road NE &
Old Salem Road NE

fire.cityofalbany.net

[@AlbanyFDOregon](https://twitter.com/AlbanyFDOregon)

[albanyfiredepartment](https://www.facebook.com/albanyfiredepartment)

City of Millersburg
4222 Old Salem Road NE
Albany, Oregon 97321

To Whom it May Concern:

The Albany Fire Department provides emergency fire and medical response to the City of Millersburg, Oregon. In order to properly serve this community during an emergency, the Fire Department enforces the fire code to ensure appropriate access and water supply for all new construction. Emergency vehicles must be able to approach an incident to mitigate the situation, adequate egress routes must be provided for emergency responders and occupants during a disaster, and appropriate water supply must be available to suppress any potential fire incident.

It is my understanding that a manufactured home park has been proposed for construction in Millersburg. The Albany Fire Department supports use of the Oregon Manufactured Dwelling and Park Specialty Code regarding the minimum standards for construction and approves of the City's request for 30-foot street width with parallel parking allowed on one side of the street, as outlined in the code.

Appropriate access is critical and providing adequate space for emergency vehicles and first responders is vital to providing emergency services to a community.

Thank you,

John R. Bradner
Fire Chief
Albany Fire Department