



#### **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 16<sup>th</sup> 2019 Planning Commission Hearing
    - ii. April 22<sup>nd</sup> 2019 Planning Commission Hearing
    - iii. April 29<sup>th</sup> 2019 Planning Commission Work Session
    - iv. May 13<sup>th</sup> 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 28<sup>th</sup>, 2019 @ 5:00 p.m. – Planning Commission Workshop

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







**CITY OF MILLERSBURG  
PLANNING COMMISSION MEETING**

4222 NE Old Salem Road  
Tuesday, April 16, 2019  
6:00 p.m.

**Minutes**

- A. CALL TO ORDER: Commission President Jimmie Kirkendall called the meeting to order at 6:00 pm.
- B. PLEDGE OF ALLEGIANCE
- C. ROLL CALL:  
Members Present: Jimmy Kirkendall, Steve Vogler, Dennis Gunner  
John Sullivan, Connie Lepin, Anne Peltier, and Ed Perlenfein  
Members Absent: Ryan Penning and Scott Stimpson  
Staff Present: Jake Gabell, Deputy City Recorder; Matt Straite, City Planner; Forrest Reid, City Attorney; Kevin Kreitman, City Manager; and Janelle Booth, Assistant City Manager/City Engineer
- D. MEETING MINUTE APPROVAL  
1) Planning Commission Meetings held on:  
i. February 19<sup>th</sup> Planning Commission Hearing  
ii. March 11<sup>th</sup> Planning Commission Hearing  
1. Updates noted by Commissioner Lepin

**Action: Motion to Accept Minutes as presented made by Commissioner Vogler; seconded by Commissioner Sullivan.**

Corrections provided by Commissioner Lepin and noted in the record.

**Commissioner Kirkendall: Aye**  
**Commissioner Gunner: Aye**  
**Commissioner Vogler: Aye**  
**Commissioner Lepin: Aye**  
**Commissioner Sullivan: Aye**  
**Commissioner Perlenfein: Aye**  
**Commissioner Peltier: Aye**

E. QUASI-JUDICIAL PUBLIC HEARING

- 1) Public hearing on Land Use File PA 19-02 opened by President Kirkendall at 6:03 p.m. Deputy City Recorder, Jake Gabell, read disclosures. President Kirkendall finished opening the hearing.
- i. Commissioner Vogler declared site contact; he drove by the property.

File No: PA 19-02 Weddle Land Partition

*The applicant is requesting approval to partition a 2.94-acre lot into two lots of approximately 2.5 acres and .44 acres.*

- i. Staff report was presented by Matt Straite, City Planner. A memo was handed out by Mr. Straite and added to the record.
- ii. Discussion between the Planning Commission, staff, and audience members.
  1. The applicant, Scott Weddle, explained his reasoning for the site plan as it was first presented to staff. He had an additional question about the drainage requirement in a condition of approval.
- iii. Public hearing closed at 6:14 pm by President Kirkendall.
- iv. Deliberation by the Planning Commission.
  1. Commissioner Lepin had an additional questions about access easements and a potential public road in the future with further development.

**ACTION**

**The following Motion was made by Commissioner Perlenfein:**

**Based upon the findings of fact, any testimony, the conditions of approval, the memo from staff dated April 16, 2019, and staff recommendations listed in the staff report and because the proposed project satisfies the applicable criteria, I motion for the adoption of the findings from the staff report dated April 9, 2019, and further Motion that the Planning Commission approve Partition Application No. PA 19-02, Weddle Partition, pursuant to the conditions of approval listed in the staff report.**

**A seconded was given by Commissioner Peltier.**

**Commissioner Kirkendall: Aye**  
**Commissioner Gunner: Aye**  
**Commissioner Vogler: Aye**  
**Commissioner Lepin: Aye**  
**Commissioner Sullivan: Aye**  
**Commissioner Perlenfein: Aye**  
**Commissioner Peltier: Aye**

- 2) Public hearing on Land Use File PA 19-04 opened by President Kirkendall at 6:19 p.m. Deputy City Recorder, Jake Gabell, read disclosures. President Kirkendall finished opening the hearing.
  - i. Commissioner Vogler declared site contact; he drove by the property.

File No: PA 19-04 Lambrecht Land Partition:

*The applicant is requesting approval to partition a 7.61-acre lot into three lots of approximately 1.73 acres, 5.36 acres, and .52 acres.*

- i. Staff report was presented by City Planner Matt Straite.
- ii. Discussion between the Planning Commission, staff, and audience members.
  1. Commissioner Vogler asked Mr. Straite for clarification on the road plan.
  2. The Applicant's engineer, Jason Coda of 267 NW Hickory St, summarized the project to the Commission. He stated that the Applicant does not expect to develop parcel 2 in the near future, and proposes that parcel 3 will be developed with a single family

residence. Additional clarification was given about the proposed lot lines. Mr. Coda asked City Planner Straite for clarification on how long the notice of decision is good for.

3. Robert Wrightman, 3170 Millersburg Drive, gave some history between his property and the Applicant's property, which is next door. He had some additional questions about the flood plain and wetlands. Commissioner Kirkendall responded and stated that the application does not propose a development of homes, only a partition of the property.
- iii. Public hearing closed at 6:39 pm by President Kirkendall.
- iv. Deliberation by the Planning Commission.
  1. Commissioner Gunner asked staff to explain the connectivity of existing and future streets.

## **ACTION**

### **The following Motion was made by Commissioner Sullivan:**

**Based upon the findings of fact, any testimony, the conditions of approval, and staff recommendations listed in the staff report, and because the proposed project satisfies the applicable criteria, I motion for the adoption of the findings from the staff report dated April 9, 2019, and further Motion that the Planning Commission approve Partition Application No. PA 19-04, Lambrecht Partition, pursuant to the conditions of approval listed in the staff report.**

### **A seconded was given by Commissioner Perlenfein.**

**Commissioner Kirkendall: Aye**  
**Commissioner Gunner: Aye**  
**Commissioner Vogler: Aye**  
**Commissioner Lepin: Aye**  
**Commissioner Sullivan: Aye**  
**Commissioner Perlenfein: Aye**  
**Commissioner Peltier: Aye**

- 3) Public hearing on Land Use File SP 18-02 opened by President Kirkendall at 6:43 p.m. Deputy City Recorder, Jake Gabell, read disclosures. President Kirkendall finished opening the hearing.
  - i. All Commissioners declared site contact; they drove by the property.

### **File No: SP 18-02 Mid-Willamette Valley Intermodal Transfer Center:**

*The Applicant is proposing a facility that would transfer rail contents in shipping containers to trucks and from trucks to rail. The intent is to connect the International Port of Coos Bay with I-5 for containers and international shipping. The contents of the shipping containers will generally be agricultural, though the facility is not limited to these products. The application indicates that the facility could serve up to 76,340 containers a year. The site has been designed to accommodate cold storage as well. The application has indicated that the use, located on a portion of the old Albany Paper Mill site, will consist of:*

- *Two existing structures, one 60,750 square foot storage structure to be renovated to a shop and storage area, and another 7,000 square foot structure to be used as multi-use office spaces,*
- *Revised landscaping and site work on the project frontage,*
- *Offsite revisions to existing railroad track layout/design,*

- Onsite revisions to the existing railroad track layout,
- Truck path revisions to the site, including the use of the existing truck queuing areas near Old Salem Road, and new truck queuing areas internal to the site,
- Two new stormwater basins,
- And a new truck loading area with a gravel finish and lighting.

The Applicant has indicated that the proposed use is Phase 1 and takes only a portion of the property. Any future use of the site outside the area identified as Phase 1 will require additional entitlements. The intermodal facility would operate on a five-day work week, each day consisting of a ten hour shift. The site would be operational 261 days of the year, accounting for weekday holidays and weekends. Although the intermodal facility will operate at these hours, the site will be inhabited 24 hours a day, 365 days a year as truckers could use it as truck stop.

- ii. Staff report was presented by Matt Straite, City Planner.
- iii. Discussion between the Planning Commission, staff, and audience members.
  1. The Applicant, David Reese of 3211<sup>st</sup> Ave Albany Oregon, gave a presentation to the Planning Commission. He explained the background, benefits, and history behind the project. Mr. Reese stated that the state of Oregon is in the final steps of approval of the funding of an intermodal facility, and the Millersburg proposal is very strong. He presented a rendering of what the project is proposed to look like. He walked the Planning Commission through the site plan and proposed improvements. Mr. Reese presented the economic benefits the project presents to the City and the Willamette Valley.
  2. Questions from the Planning Commission.
    - a. Commissioners Perlenfein and Kirkendall asked questions about future ODOT plans for an additional overpass. Mr. Reese stated that the future interchange is on ODOT's horizon, but is currently not funded.
    - b. Commissioner Gunner asked about changing the traffic plan to have all the trucks enter and exit from the south. Mr. Reese, stated that through the operational instructions that could address that concern.
    - c. Commissioner Sullivan had concerns about the overnight parking and asked if the Applicant had presented an operational plan to the City for review. Mr. Reese stated that a plan has not been presented.
    - d. Commissioner Kirkendall had questions about the operations.
    - e. Commissioner Sullivan asked what percentage of the trucks are coming from the south vs the north. Mr. Reese stated that 80-90% will be coming from the south.
    - f. Commissioner Gunner asked staff for clarification on the noise ordinance.
    - g. Commissioner Kirkendall asked who will be involved in keeping the business afloat while the improvements are being made. Mr. Reese stated that Linn County has committed to subsidize the project for a couple of years.
    - h. Commissioner Perlenfein asked about Queen Street relief in Albany, and the Applicant does not expect any relief of traffic on that street.
  3. Comments and questions from the public:

- a. Craig Ziegenhagel, 4605 NE Granite Ave, Albany OR 97321, stated his opposition to the project. His concerns centered on traffic mitigation, noise mitigation, and other potential nuisances. Mr. Ziegenhagel handed out a list of recommendations that was added to the record.
  - b. Bob Nelson, 2878 NE Levi Ln, Albany OR 97321, stated that he does not believe that the proposed project provides any benefit to the City.
  - c. Denny Spilde, 3226 NE Siuslaw Ave, Albany OR 97321, stated that he is in favor of the project and that Millersburg has been a significant industrial town. He stated his opinion about potential.
  - d. Peter Spenser, 4726 Terry Lane, Albany OR 97321, stated his concerns about the potential traffic impacts that project could bring to the City. He stated that he is against the project due to the traffic concerns.
  - e. Lisa Lambert, 3268 NE Millersburg Drive, Albany OR 97321, stated her concerns about the potential traffic concerns of the project and the lack of additional jobs in the area; she is opposed to the project.
4. Rebuttal by the Applicant. Mr. Reese stated that the traffic concerns could be resolved with operational procedures, and that the site could be used to bring additional jobs in the future.
    - a. Commissioner Kirkendall had questions about the traffic study and the traffic study used.
    - b. Commissioner Gunner had questions about the planned location of the required multi-use path.
      - i. The Applicant, and staff Planner Straite, stated that the path is planned to meander through the project in the green space.
  5. Additional comments and questions from the public.
    - a. Gary Keen, 3254 NE Clearwater Drive, looks forward to seeing a site plan.
    - b. Justin Dopkin, 3412 Clearwater, Albany OR 97321, stated his approval of the project due to the potential economic benefits.
    - c. Renita Mendez, 5483 NE Luckiamute Court, had safety and security concerns about the project.
  6. No further rebuttal of by the Applicant.
  7. Commissioner Peltier asked if the site will be locked during non-operational times. The Applicant stated that the site will be secured during non-operational times.
- iv. Public hearing closed at 7:52 pm by President Kirkendall.
  - v. Deliberation by the Planning Commission.
    1. Commissioner Sullivan stated his concerns about the overnight parking and traffic concerns.
    2. Commissioner Lepin stated the overnight parking would be necessary due to the amount of overnight truck traffic already in the City at Love's Truck Stop.
    3. City Attorney Reid explained a condition of approval that could be added to address the concerns of the public and Planning Commission. The new condition of approval would require the site to

- comply with all state and federal noise regulations, as well as EPA air quality regulations.
4. Commissioner Sullivan stated his concerns about the lack of an operational plan and potential idle times of trucks parked overnight.
    - a. Staff Planner Straite suggested to Commissioner Sullivan that a condition of approval be added that requires signs be placed on site that state the max idle times. Commissioner Sullivan agreed with staff.
  5. Commissioner Kirkendall requested a condition of approval that states the site comply with all local, state, and federal rules for noise and emissions.
  6. City Planner Straite restated the three conditions of approval that the Planning Commission asked for:
    - a. Signs will be placed on site that state max idle times.
    - b. An operational plan to be given to and reviewed by City staff prior to occupancy that will include: height maximums of stacked containers, truck idle times, security, and traffic patterns.
    - c. The site will be required to comply with all local, state, and federal rules for noise and emissions.

#### **ACTION**

#### **The following motion was made by Commissioner Perlenfein:**

**Based upon the findings of fact, any testimony, the conditions of approval, and staff recommendations listed in the staff report and because the proposed project satisfies the applicable criteria, I motion for the adoption of the findings from the staff report dated February 9, 2019, and further Motion that the Planning Commission approve Site Plan No. SP 18-02, Mid-Willamette Valley Intermodal Transfer Center, pursuant to the conditions of approval listed in the staff report including the additional the three conditions of approval stated by staff during this meeting.**

#### **A second was given by Commissioner Peltier.**

**Commissioner Kirkendall: Aye**  
**Commissioner Gunner: Aye**  
**Commissioner Vogler: Aye**  
**Commissioner Lepin: Aye**  
**Commissioner Sullivan: Aye**  
**Commissioner Perlenfein: Aye**  
**Commissioner Peltier: Aye**

- F. Workshop and hearing dates:  
April 22, 2019 @ 6:00 p.m. – Planning Commission Hearing  
April 29, 2019 @ 4:00 p.m. – Planning Commission Workshop
- G. ADJOURNMENT: meeting adjourned at 8:08 p.m.

Respectfully submitted:

Reviewed by:

Jake Gabell  
Deputy City Recorder

Matt Straite  
City Planner

Upcoming Meetings:

April 22, 2019 @ 6:00 p.m. – Planning Commission Hearing

April 29, 2019 @ 4:00 p.m. – Planning Commission Workshop

*These notes are not final until approved by the Planning Commission.*

DRAFT







## CITY OF MILLERSBURG PLANNING COMMISSION MEETING

4222 NE Old Salem Road  
Monday, April 22, 2019  
6:00 p.m.

### Minutes

- A. CALL TO ORDER: Commission President Jimmie Kirkendall called the meeting to order at 6:00 pm.
- B. PLEDGE OF ALLEGIANCE
- C. ROLL CALL:
- Members Present: Jimmy Kirkendall, Steve Vogler, Dennis Gunner  
John Sullivan, Connie Lepin, Anne Peltier, Ed Perlenfein, and Scott Stimpson
- Members Absent: Ryan Penning
- Staff Present: Jake Gabell, Deputy City Recorder; Matt Straite, City Planner; Forrest Reid, City Attorney; Wallace Lien, City Land Use Attorney; Kevin Kreitman, City Manager; and Janelle Booth, Assistant City Manager/City Engineer
- D. QUASI-JUDICIAL PUBLIC HEARING
- 1) Public hearing on Land Use Files CUP 19-01 and SP 19-01 opened by President Kirkendall at 6:02 p.m. Deputy City Recorder, Jake Gabell, read disclosures. President Kirkendall finished opening the hearing.
- i. Commissioners Vogler, Peltier, Lepin, and Gunner declared site contact; they drove by the property.

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.*

Staff report was presented by Matt Straite, City Planner. A memo was handed out by City Planner Straite and added to the record.

- ii. Staff report was presented by Matt Straite, City Planner.
1. A memo was handed out by the applicant and added to the record.
- iii. Presentation by Norman Bickell, applicant's planner from 2232 42<sup>nd</sup> Ave SE #821, Salem OR 97371 and Mike Reeder, applicant's attorney of 375 W 4<sup>th</sup>

Ave Suite 205, Eugene OR 97401 presented for the applicant.

1. Mr. Bickel stated that the applicant does agree with conditions of approval 1-4, 8-10 and 14, but does not agree with conditions of approval 5-7 and 11-13. He reviewed each condition of approval and gave detail on those that the applicant does not agree with.
2. Statement by Mr. Reeder, applicant's attorney.
  - a. A memo was given to the Planning Commission by Mr. Reader. He also reviewed the state code and how he believed it applies to this application.

iv. Public Testimony

1. Corbett Richards of 6218 Mesa Ct, Albany OR 97321 reviewed state codes that he believes the application is in violation of. Mr. Richards handed a memo to the Planning Commission that was added to the record.
2. David Phelps of 2690 Millersburg Dr, Albany OR 97321, neighbor to the applicant, has a concerns centered on storm water runoff from the project into his property.
3. Tarry Hill, 2595 Millersburg Drive, discussed his concerns about the private street width, traffic concerns, parking concerns, sidewalks, and agreed with the conditions of approval recommended in the staff report.
4. Erin Brazel, of 6219 Mesa Court, handed a letter to the Planning Commission detailing her concerns. Her concerns centered on state statute 446.100, possible conflicts with the City Comprehensive Plan, soil densities, screening requirements, and traffic.
5. Brian Stafferson of 6230 Sedona Rd, indicated that he had no new evidence and yielded his time.
6. Wayne Hardner with Clayton Homes stated his approval of the project, the price of the new manufactured home, and that the Planning Commission could take a tour.
7. Jerome Magnason, 4612 Terri Ln, stated that he supports the project due to affordable housing needs; he also had concerns about the additional screening requirements.
8. Tom Eisele, 6351 Sedona Road, had concerns about drainage and flooding in the proposed site.
9. Beth Eddings, 1979 Clover Ridge, the applicant's wife, explained the reasoning behind the application, and her personal history with family members in manufactured home parks. She stated that the CC&R's will have age limits of residents in the proposed manufactured home park.
10. Jessica Stafferson of 6230 Sedona, requested a continuance.
11. Chris Martin, 6211 Masa Court, had concerns centered on lack of enforceability of CC&R's, traffic, and parking.
12. Nathan Van Nicholson, 6347 Sedona Rd, is opposed to the project; his oppositions centered on the quality of life, and the density of the housing in the project in comparison to the nearby neighborhoods.
13. Nola Richards, 6218 Masa Court, has concerns about the parking and lack of enforceability of age restricted communities.

- v. Rebuttal by the applicant.
  1. Planning Commissioner Kirkendall asked what the difference is between the type A and type B manufactured homes.
    - a. William Eddings stated that a type A is a double wide home and a type B is a single wide home, both 10 years or newer. He also stated that the project will have all new homes.
  2. Mr. Reeder and Mr. Bickell gave a rebuttal on behalf of the applicant.
    - a. They addressed the concerns by the public which included:
      - i. Screening, floodway, rodent breeding grounds, traffic, and parking.
    - b. Mr. Reeder stated that the applicant had no concerns with the record remaining open.
    - c. Commissioner Sullivan had concerns with the width of the streets and getting a garbage truck through the proposed private street.
    - d. Commissioner Vogler had a clarifying question about the amount of parking.
    - e. Commissioner Lepin had questions about the traffic study and when it when occurred.
      - i. Mr. Reeder stated that the traffic study was not required by state law, and was provided as a request from the City.
    - f. Mr. Reeder showed the site plan that was provided to the Fire Marshall in January 2019.
  3. Additional staff statements.
    - a. Kevin Kreitman, Millersburg City Manager, has 16 years as a fire chief and 37 total years in the firefighting profession. He addressed the requirements for a wider street due to the size of emergency service vehicles.
    - b. Commissioner Kirkendall asked staff if the COA's in the staff report were in legal compliance with state law.
      - i. Attorney Lien stated that the staff report has been fully vetted by the legal staff.
    - c. Commissioner Vogler asked a clarifying question about the drainage requirements. City Planner Straite explained the drainage requirements.
    - d. Mr. Reeder stated that the information on the white board will be given to staff to be included in the record.
  4. Attorney Lien gave a timeline for the continuance.
    - a. The record is held open until April 29<sup>th</sup> at 5:00 pm for anyone to submit material.
    - b. If material is received, the record is held open until May 6<sup>th</sup> at 5:00 pm for rebuttal; however no new evidence will be accepted.
    - c. The record is held open until May 13<sup>th</sup> at 5:00 pm for only the applicant to offer rebuttal; however no new evidence will be accepted.
    - d. May 21<sup>st</sup> at 6:00 pm the Planning Commission will reconvene

- and consider all new evidence and deliberate.
- e. Comments and letters may be delivered to Millersburg City Hall, mailed, or emailed to [info@cityofmillersburg.org](mailto:info@cityofmillersburg.org) by 5:00 pm on each specific day noted above.
5. Additional questions by the Planning Commission:
- a. Commissioner Lepin asked staff a clarifying question about the proposed detention basin and treatment pond in a flood plain.
    - i. Assistant City Manager/City Engineer Booth responded and explained the condition of approval requiring the detention basins and the standard review process by staff.
  - vi. Public hearing continued at 7:58 pm by President Kirkendall.

**ACTION**

**The following motion was made by Commissioner Sullivan:**

**Moved to continue with the timeline given by Attorney Lien noted above.**

**A second was given by Commissioner Perlenfein.**

**Commissioner Kirkendall: Aye**  
**Commissioner Gunner: Aye**  
**Commissioner Stimpson: Aye**  
**Commissioner Vogler: Aye**  
**Commissioner Lepin: Aye**  
**Commissioner Sullivan: Aye**  
**Commissioner Perlenfein: Aye**  
**Commissioner Peltier: Aye**

F. ADJOURNMENT: meeting adjourned at 8:00 p.m.

Respectfully submitted:

Reviewed by:

Jake Gabell  
Deputy City Recorder

Matt Straite  
City Planner

Upcoming Meetings:

April 29, 2019 @ 4:00 p.m. – Planning Commission Workshop

*These notes are not final until approved by the Planning Commission.*



**CITY OF MILLERSBURG  
PLANNING COMMISSION WORK SESSION**

4222 NE Old Salem Road  
Monday, April 29, 2019  
4:00 p.m.

**Minutes**

- A. CALL TO ORDER: Commission President Jimmie Kirkendall called the meeting to order at 4:01pm.
- B. ROLL CALL:  
Members Present: Jimmy Kirkendall, Steve Vogler, Dennis Gunner, John Sullivan, Connie Lepin, Anne Peltier, and Scott Stimpson  
Members Absent: Ryan Penning and Ed Perlenfein  
Staff Present: Jake Gabell, Deputy City Recorder; Matt Straite, City Planner; Forrest Reid, City Attorney; John Morgan, Planning Manager; Kimberly Wollenburg, City Recorder; Kevin Kreitman, City Manager; and Janelle Booth, Assistant City Manager/City Engineer.
- C. Presentation by John Morgan. The Planning Commission reviewed the new Land Use Development Code draft with Mr. Morgan, articles 1-4.
- 1) Article 1
    - i. The definitions for a Planned Unit Development (PUD) and Subdivision will be clarified.
  - 2) Article 2
    - i. The Urban Transition Zone was proposed:
      1. Several updates were suggested to clarify the zone, specifically in the section 2.104.08 "Public Services and Rezoning".
      2. 2.103.02, "Senior Housing" will be removed in the permitted uses for this zone and moved to the residential mixed density zone.
      3. The garage setback in this zone will be changed to 25 feet.
    - ii. The Residential Mixed Density Zone was reviewed:
      1. Clarification was given on 2.104.06, and it was decided to change the max height to 35 feet.
      2. The garage setback in this zone will be changed to 25 feet.
    - iii. The Mixed Use Zone was reviewed:
      1. City Planner Straite explained what this zone could do for the City if modified.
      2. A PUD will be added to this zone, and remove detached single family zone from permitted uses.
      3. This zone will be discussed in more detail during future work sessions.
    - iv. The General Commercial Zone was reviewed:
      1. 2.107.06 F 2 will be changed to allow outdoor storage.
      2. RV parks will be added to special uses.
    - v. The General Industrial Zone was reviewed.
    - vi. Recess 5:27 pm and ended at 6:00 pm.
    - vii. The Public Facility Zone was reviewed:

The location of the meeting/hearing is accessible to the disabled. If you need special accommodations to attend or participate, please notify the City Recorder in advance by calling (541) 928-4523.

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1. Parks will be added to permitted uses.
  - viii. The Flood Plain Overlay, Historical Property Overlay, Wetland and Riparian Area Overlay, Willamette Greenway Overlay, and Airport Approach Area Overlay were briefly reviewed with no changes proposed.
  - ix. The Limited Use Overlay Zone was reviewed and the use was explained to the Planning Commission.
- 3) Article 3
- i. Design standards for Old Salem Road frontage will be added to Article 3.
  - ii. Partition standards will be updated to comply with current City standards.
  - iii. Street Standards:
    1. General provisions will be updated to include Transportation System Plan and current Public Works Standards.
    2. Access spacing – arterial driveway spacing was discussed at length. A note will be added to address circular driveway provisions.
    3. Sidewalks, multifamily will be added to (F).
    4. Private streets construction standards will be modified to meet public street standards.
    5. Private access easement—the minimum easement width will be changed to 25 feet.
    6. Traffic impact study requirements were discussed.
  - iv. Parking and loading area development requirements:
    1. Various sections were reviewed and the Commission asked clarifying questions.
    2. Paving requirements were discussed, and the standards will be adjusted.
  - v. Signs
    1. Section 3.106.06 (I) was discussed and will be changed to 3 days after an election.
    2. Criteria will be added throughout the sign code.
    3. A provision for larger signs near I-5 will be added to the conditional use permits.
  - vi. Review of the code concluded on 3.107.01. The next work session will start in the fencing code.
- D. The Planning Commission will meet again for an additional work session on May 13<sup>th</sup>, 2019 at 5:00pm.
- E. Meeting adjourned by Commission President Kirkendall at 8:10 pm.

Respectfully submitted:

Reviewed by:

Jake Gabell  
Deputy City Recorder

Matt Straite  
City Planner

*These notes are not final until approved by the Planning Commission.*





**CITY OF MILLERSBURG  
PLANNING COMMISSION WORK SESSION**

4222 NE Old Salem Road  
Monday, May 13, 2019  
5:00 p.m.

**Minutes**

- A. CALL TO ORDER: Commission President Jimmie Kirkendall called the meeting to order at 5:08 pm.
- B. ROLL CALL:
- Members Present: Jimmy Kirkendall, Steve Vogler, Dennis Gunner, John Sullivan, Connie Lepin, and Anne Peltier
- Members Absent: Ryan Penning, Ed Perlenfein, and Scott Stimpson
- Staff Present: Jake Gabell, Deputy City Recorder; Matt Straite, City Planner; Forrest Reid, City Attorney; John Morgan, Planning Manager; and Janelle Booth, Assistant City Manager/City Engineer.
- C. Presentation by John Morgan. The Planning Commission reviewed the new Land Use Development Code draft with Mr. Morgan, articles 1-4.
- 1) Article 3
- i. Review of 3.107, the Fencing code.
    1. Residential fencing permits will not be required, and are limited to 6 feet in height.
    2. Industrial/commercial fences will be limited to 8 feet, including any wires on top.
    3. Retaining walls were discussed, and a definition will be added and will conform to the building code.
    4. Swimming pool fencing will be modified to conform to the building code requirements.
  - ii. Review of 3.108, the Land Division code.
    1. Discussion on partitions and serial partitions.
    2. Flag lots will be changed to have a minimum 25 foot access strip with a minimum improved surface of 20 feet.
    3. Improvement requirements – Subdivisions will be modified to move the requirements to the engineering standards and not place them in the code.
    4. A requirement will be added to require 2 trees per new home, in either the front yard or planter strip.
    5. A street name policy was discussed.
  - iii. Review of 3.109, the Yard and Lot Standards.
    1. A drawing, or visual, will be added to the “Vision Clearance” section.
  - iv. Review of 3.200, and 3.201– no comments
  - v. Review of 3.202, the Manufactured Dwelling Parks.
    1. Streets were discussed and will be changed to the first of 100 feet of the private park streets will conform to City standards.

2. Types of manufactured homes were discussed.
3. Clear and objective standards were discussed.
- vi. Review of 3.203, Design Standards for Homes on Individual Lots.
  1. The title will be changed to add "module".
- vii. Review of 3.204. This section was discussed with no changes.
- viii. Review of 3.205, Manufactured Home, Trailer, and Vehicular Sales, Service and Related Uses was discussed.
- ix. Review of 3.206, Residential Accessory Structures.
  1. A footnote will be added to the table in 3.206.01 (A) to include total lot coverage and impervious surfaces.
- x. Review of 3.207, Accessory Dwelling Units.
  1. An "owner occupied" requirement will be added.
  2. Specific ADU requirements will be added.
  3. One additional off street parking spot will be required.
  4. Separate metering of City utilities will not be allowed.
- xi. Review of 3.208, Permitted Temporary Uses.
  1. Section (B) (8) will be removed.
  2. Section (C) will be removed.
  3. Section (G) will be modified to conform to the Municipal Code.
- xii. Review of 3.209, 3.210 - no changes proposed.
- xiii. Review of 3.211, Houses of Worship.
  1. A provision for exterior lighting and screening will be added.
- xiv. Review of 3.211, Standard Uses.
  1. Livestock provisions will be removed from all zones. A provision will be added to 3.211 to allow livestock within minimum lot size of 2.5 acres, regardless of zoning. Livestock standards will also be added. Chickens are regulated by the Municipal Code.
  2. Food stand limitations will be removed.
  3. Automobile service station will be added back to the new draft; it was in the prior draft.
  4. 3.211.11 (C) will modified to allow for rebuilding of a structure destroyed less than 80% of the assessed value.
- 2) Article 4
  - i. The next Planning Commission work session will begin with the review of Article 4. Planning Director Morgan will add the comments from City Planner Straite and City Attorney Reid.
- 3) Review of the map and zone changes.
  - i. City Planner Straite proposed to annex the two areas within the UGB that are not included within the City limits.
  - ii. Presentation by City Planner Straite on the new zones and the proposed zoning staff recommends.
- 4) The Planning Commission will meet for an additional work session on May 28<sup>th</sup>, 2019 at 5:00 pm.
- 5) Meeting adjourned by Commission President Kirkendall at 9:14 pm.

*These notes are not final until approved by the Planning Commission.*





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**

<b>Name</b>	<b>Date submitted to the City</b>	<b>Date/time on letter</b>
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
-------------	-----------	-----------







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

4222 NE Old Salem Road  
Albany OR 97321  
(541) 928-4523  
After Hours: (541) 967-6264

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

Website  
[www.cityofmillersburg.org](http://www.cityofmillersburg.org)

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[kkreitman@cityofmillersburg.org](mailto:kkreitman@cityofmillersburg.org)

### Assistant City Manager / City Engineer

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### City Recorder

Kimberly Wollenburg  
[kwollenb@cityofmillersburg.org](mailto:kwollenb@cityofmillersburg.org)

### City Council

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Jim Lepin  
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**Council President** Scott  
Cowen  
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**Councilor**  
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**Councilor**  
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**Councilor**  
Don Miller  
[dmiller@cityofmillersburg.org](mailto: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.

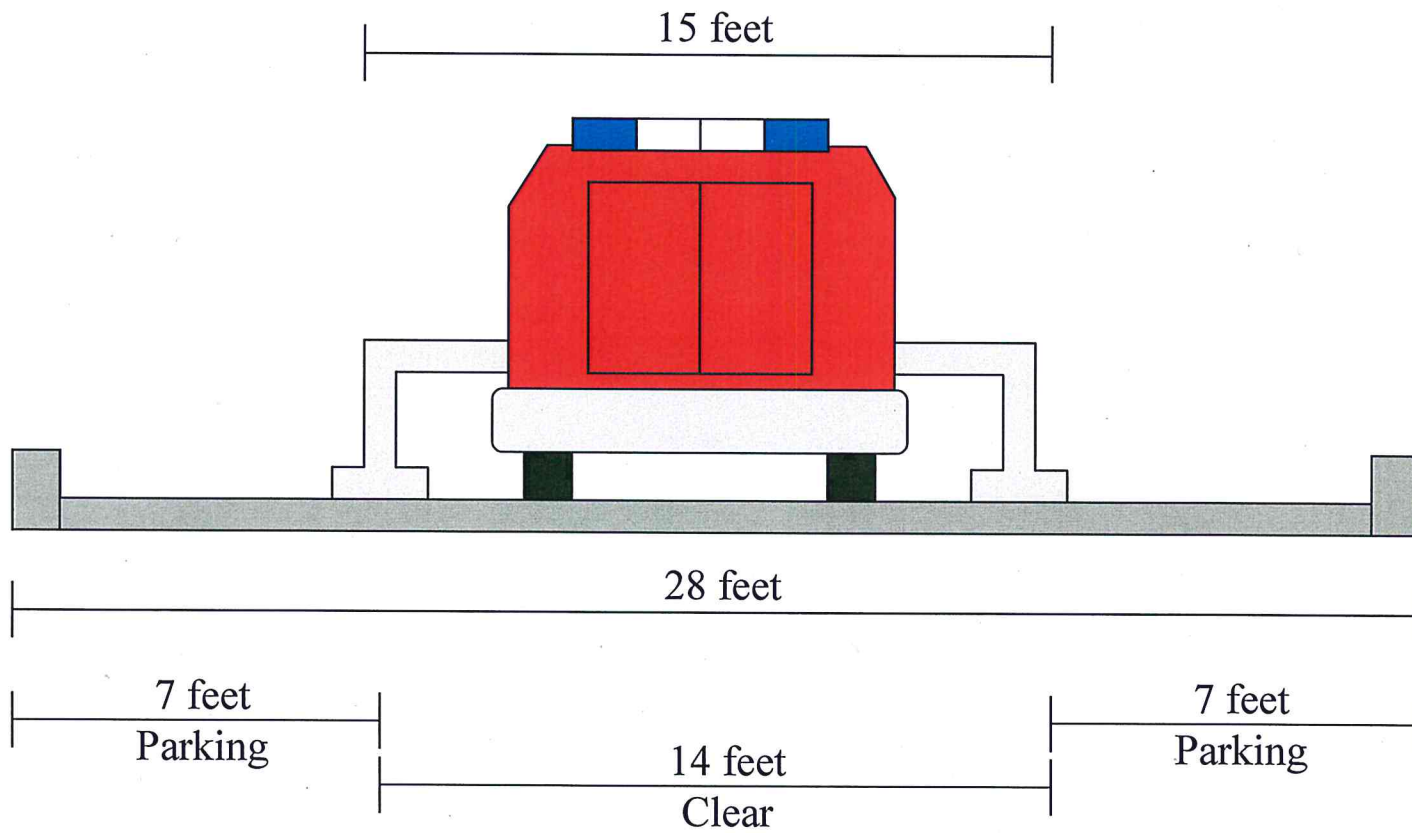
In closing, just one car parked illegally, as the applicant showed in their illustration, would have negative impacts on fire operations leaving only 13' for operations, additionally as a private street, law enforcement cannot enforce illegal parking. Most of the newer fire apparatus are now 102'' wide 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.

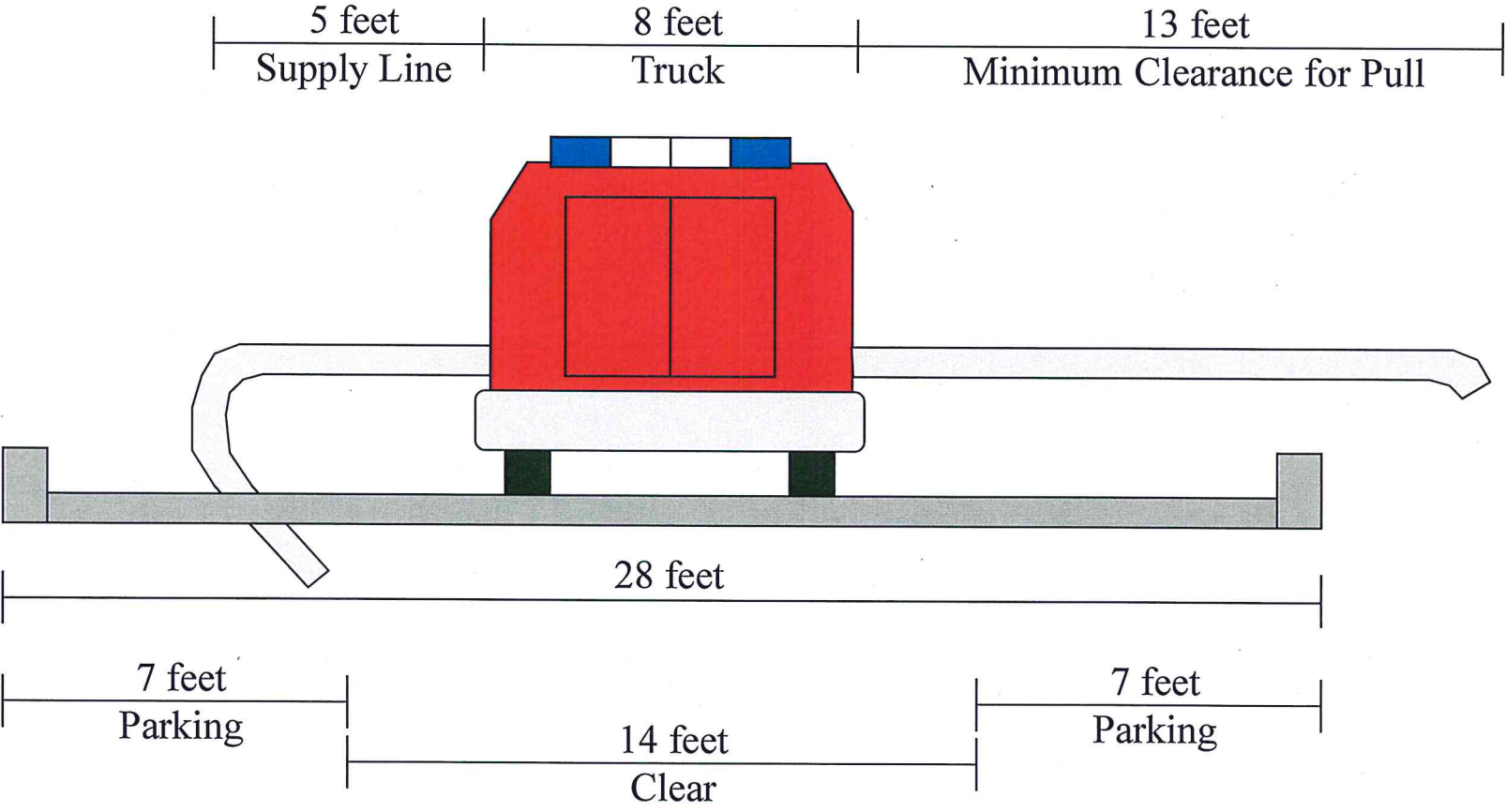
Attachments:

- 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

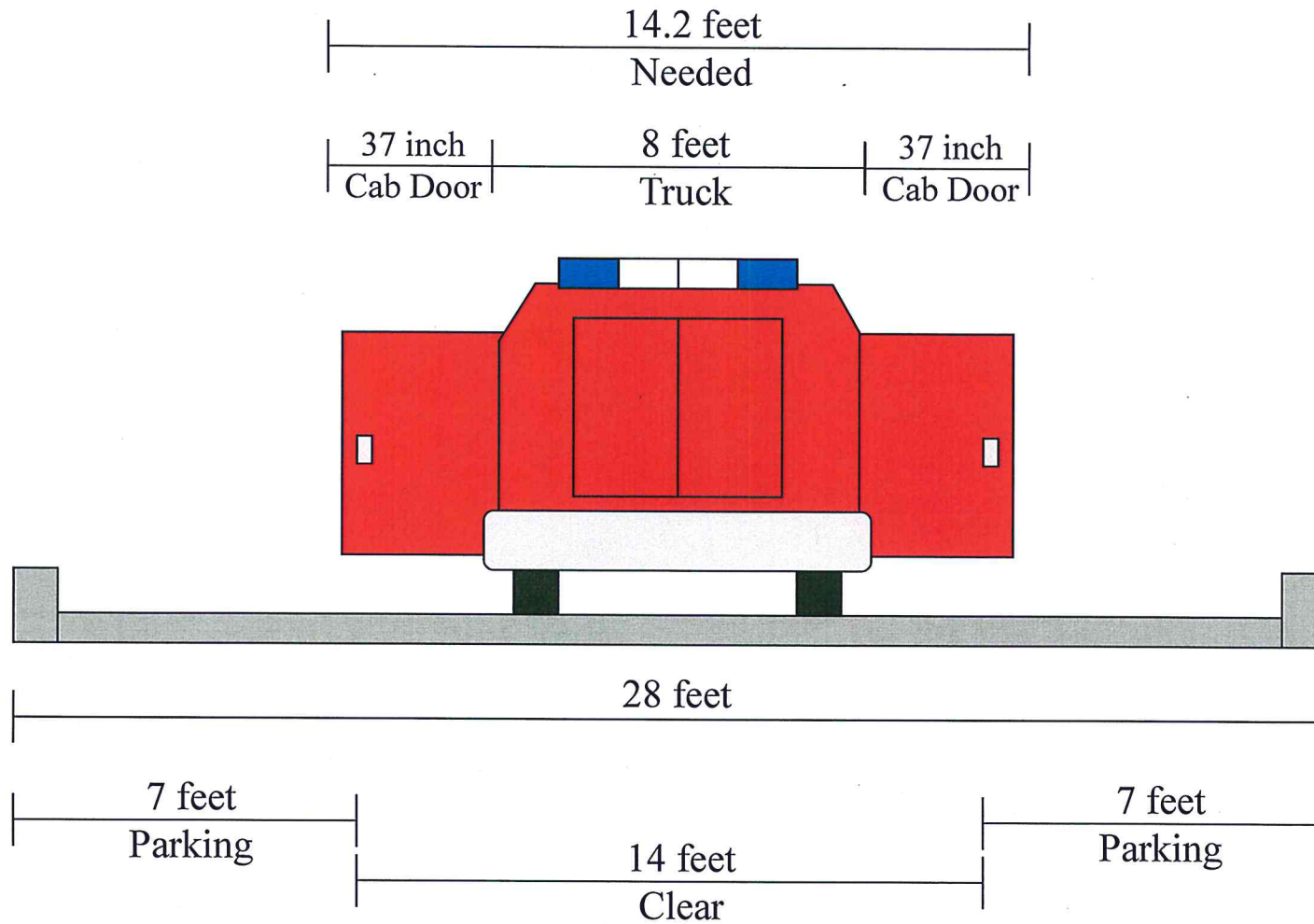


# Area Required for 5 Inch Supply Line & Fire Attack Line(s) Pull





# Area Required for Door Access



# Area Required for Ladder Rack Deployment & Ladder Removal

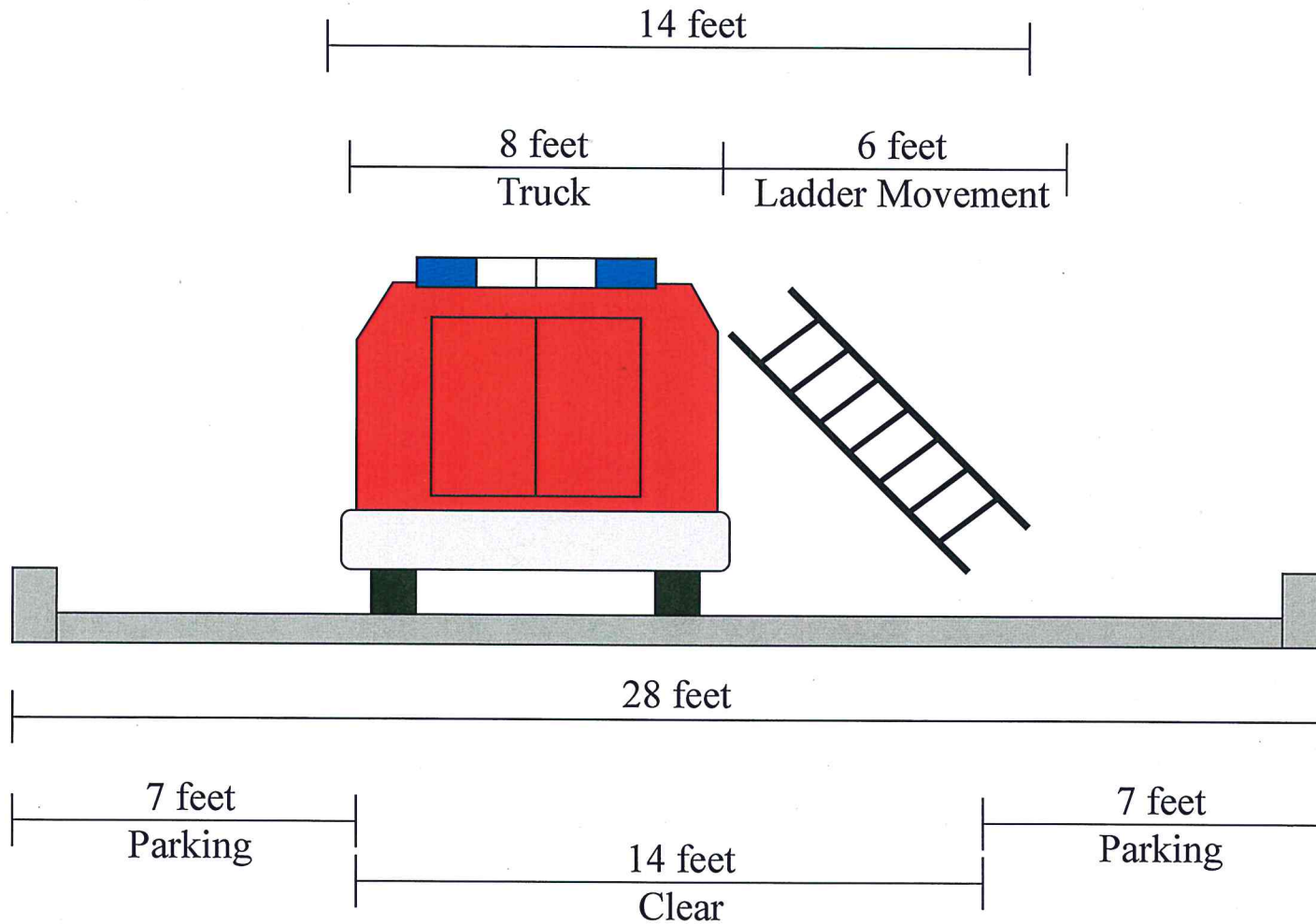






Exhibit 1





Exhibit 2





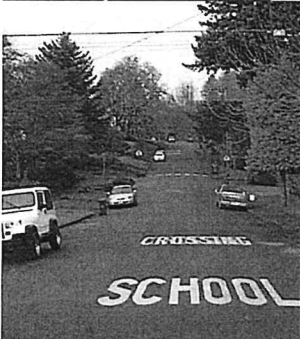
Exhibit 3





Exhibit 4





# NEIGHBORHOOD STREET DESIGN GUIDELINES

*An Oregon Guide  
for Reducing Street Widths*

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

**November  
2000**

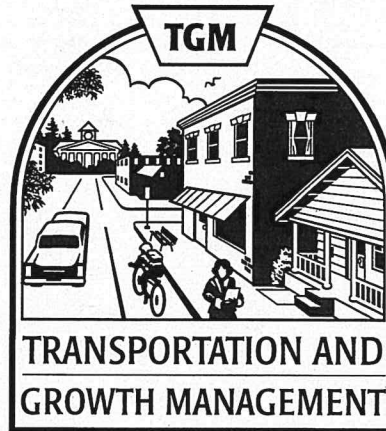
**Prepared by the  
Neighborhood Streets  
Project Stakeholders**

*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.

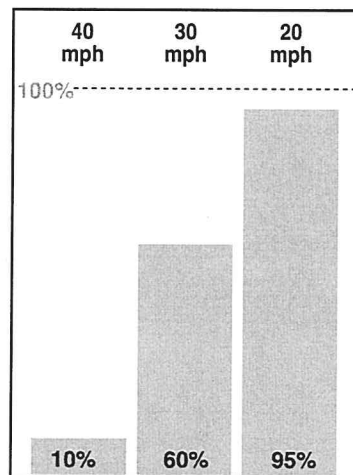
### III. Background

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.

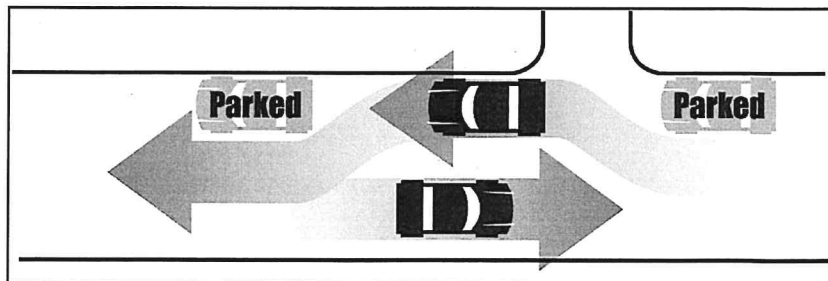
*Develop standards that reflect local concerns.* Once a jurisdiction has determined that more narrow street standards will be beneficial, the development of specific standards, unique to the community where they will be implemented, is the next step. Many cities and counties have adopted narrow street 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

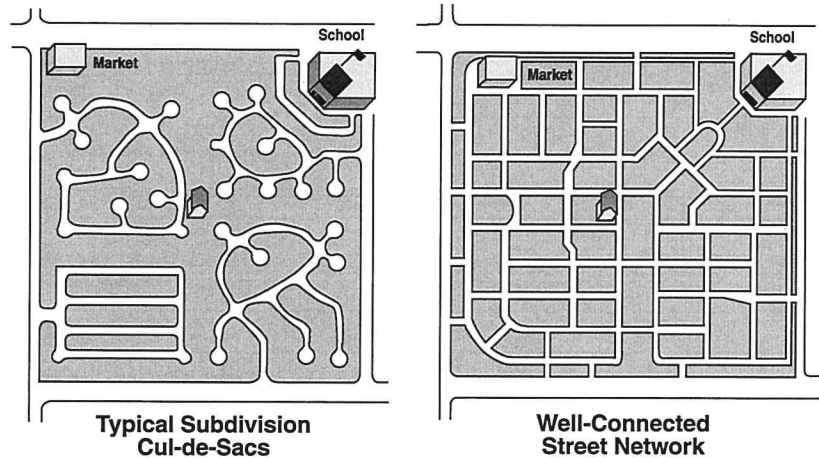
### *Key Factors*

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.

<b>Community Process/Decision-Making</b>		<i>Notes</i>
<input type="checkbox"/> <p><b>Good City Department Working Relations</b> 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><b>Consistency of Ordinances</b> 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><b>Uniformly Allowed</b> 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><b>Community Process</b> 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.

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### 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.

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### 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.

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## 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.

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### 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-

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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.

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**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.

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**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.)

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**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.)

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**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*


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**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.

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**Agricultural Equipment**

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

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**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.

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**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).

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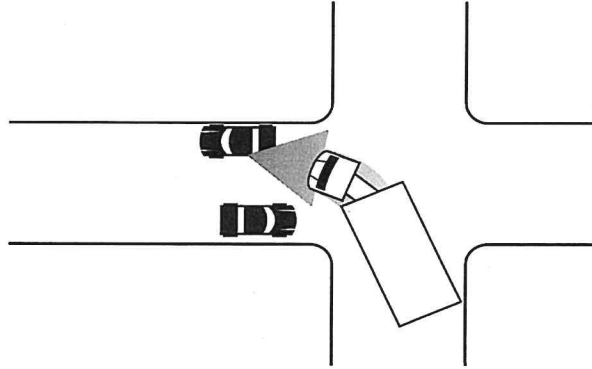
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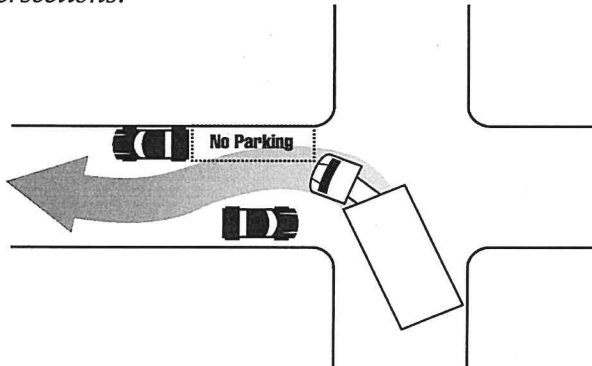
		<i>Notes</i>
<input type="checkbox"/>	<p><b>Ice</b> If maneuvering on icy roads is an issue in your community, consider parking restrictions near street corners, auxiliary winter parking at the base of hills, wider street cross-sections on hills, or seasonal parking restrictions on hills.</p>	<hr/> <hr/> <hr/>
<input type="checkbox"/>	<p><b>Sloping or Hilly Terrain</b> 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.</p>	<hr/> <hr/> <hr/> <hr/> <hr/>
<input type="checkbox"/>	<p><b><i>Other Community Concerns?</i></b></p>	<hr/> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/>

## No Parking At Intererctions

*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

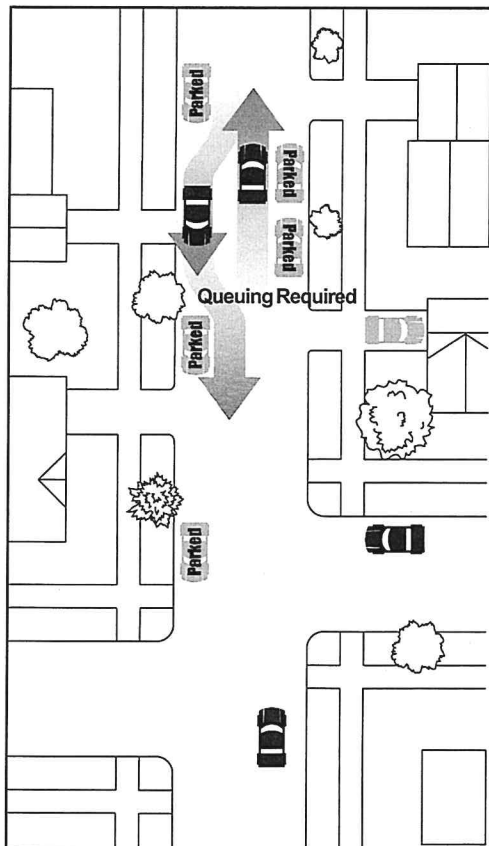
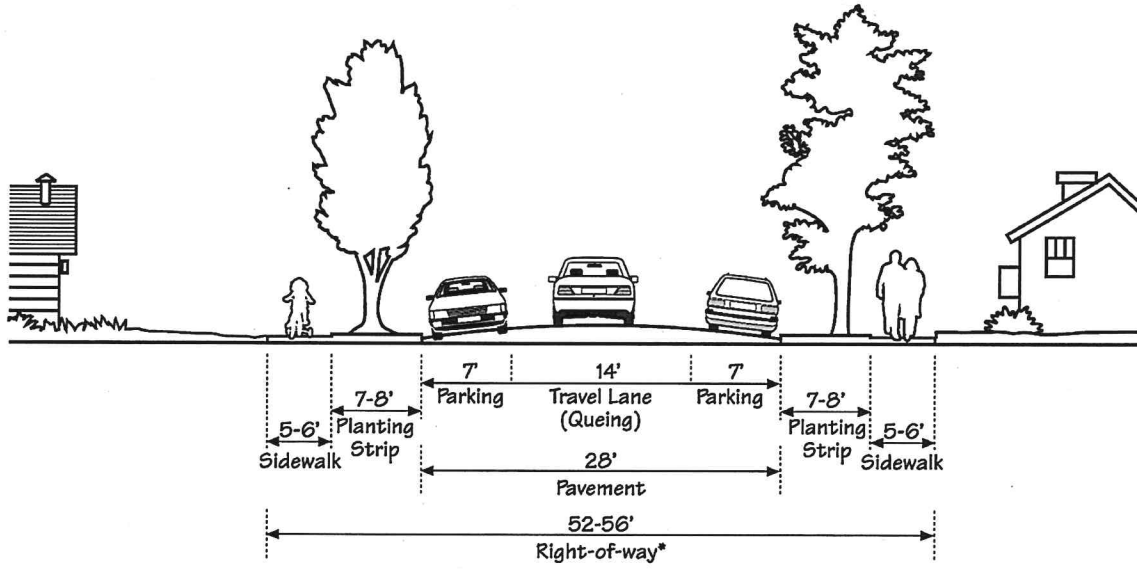
The following three scenarios are presented as “model standards.” However, *they do not represent the full range of possible solutions.* Communities are encouraged to use these as a starting point; innovative solutions can be designed for local situations. Here are a few key points to keep in mind:

- ✓ 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.

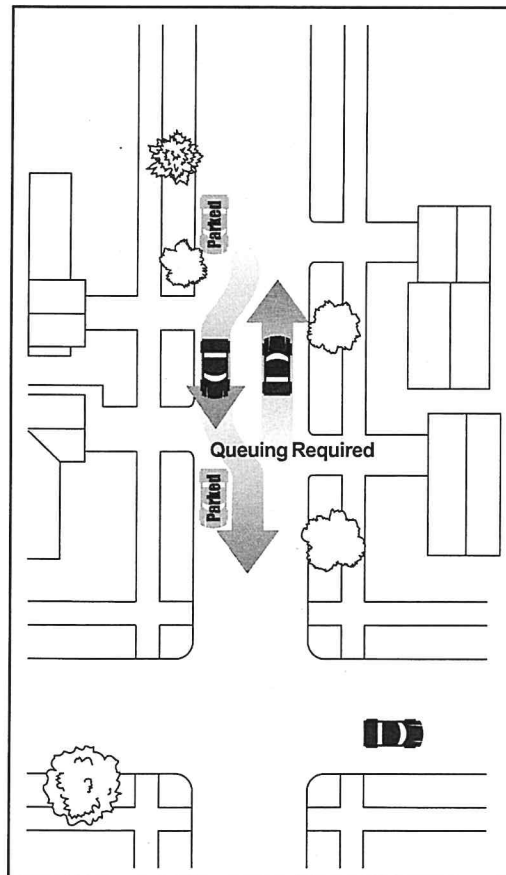
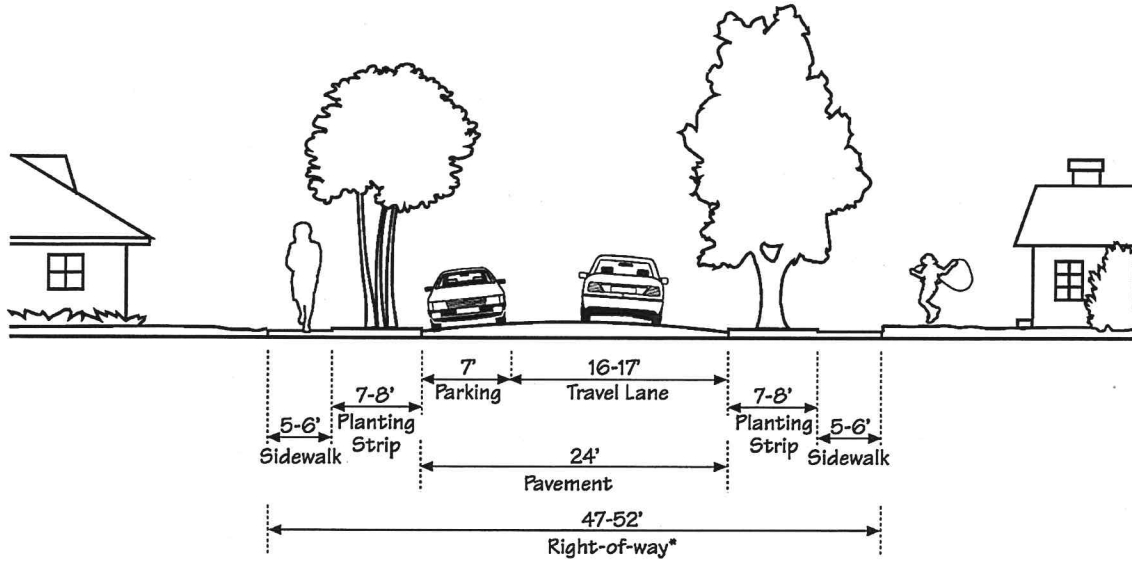
Scenario 1

# 28 Ft. Streets Parking on both sides



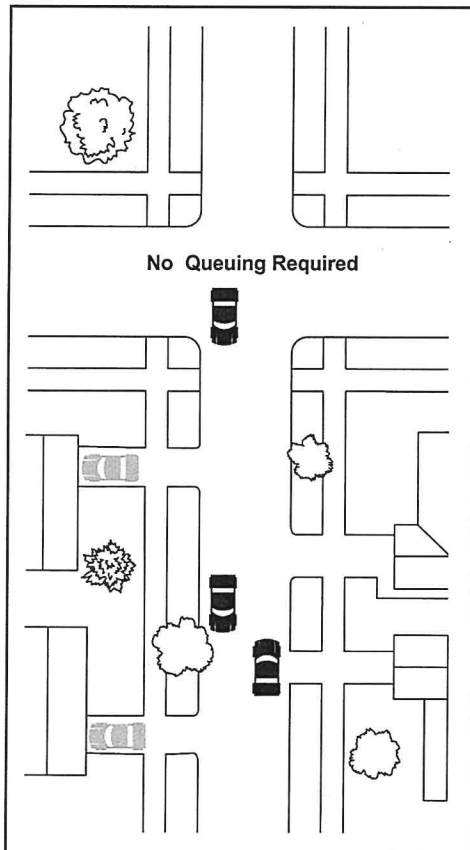
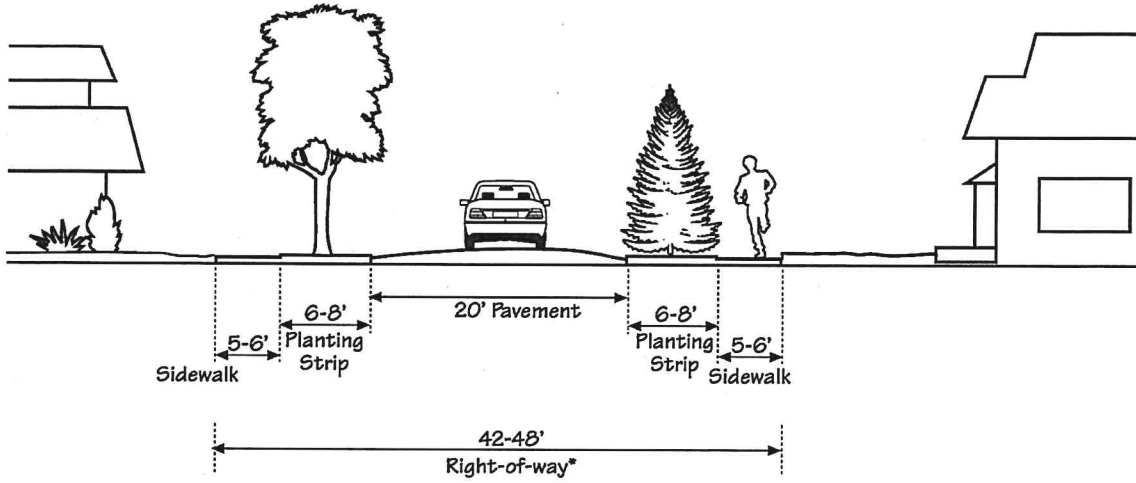
Scenario 2

# 24 Ft. Streets Parking on one side only



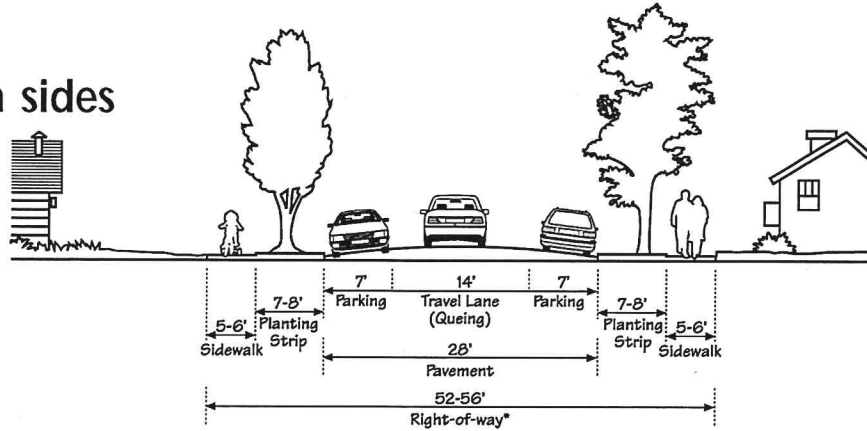
Scenario 3

# 20 Ft. Streets No parking allowed

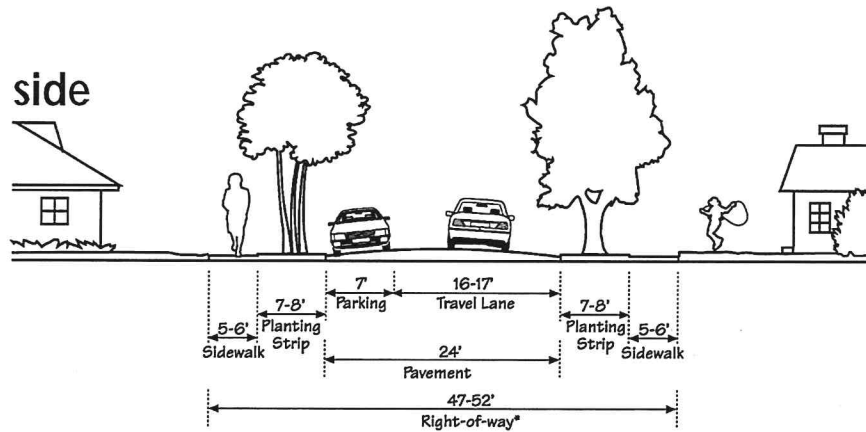


# Summary of Three Potential Scenarios

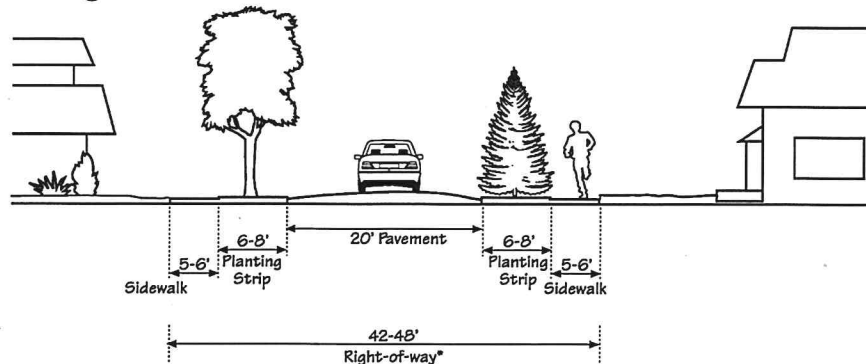
## 28 Ft Street Parking on both sides



## 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](http://www.fairviewvillage.com)

*West Bend Village.* Tennant Developments, 516 SW 13<sup>th</sup> 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](http://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](mailto: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 (ASSHTO), 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.

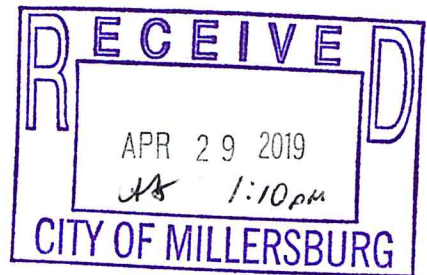
## Appendix B

# 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

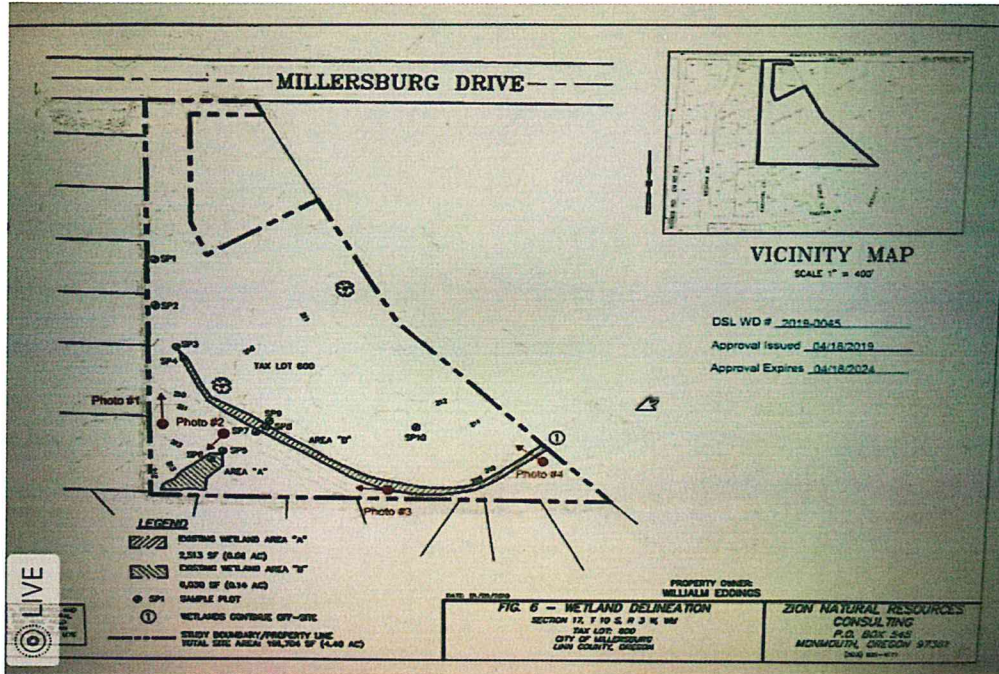
In Mr. Reeder's memo, he argues the application does not merit a Site Plan Review stating:

*"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.**

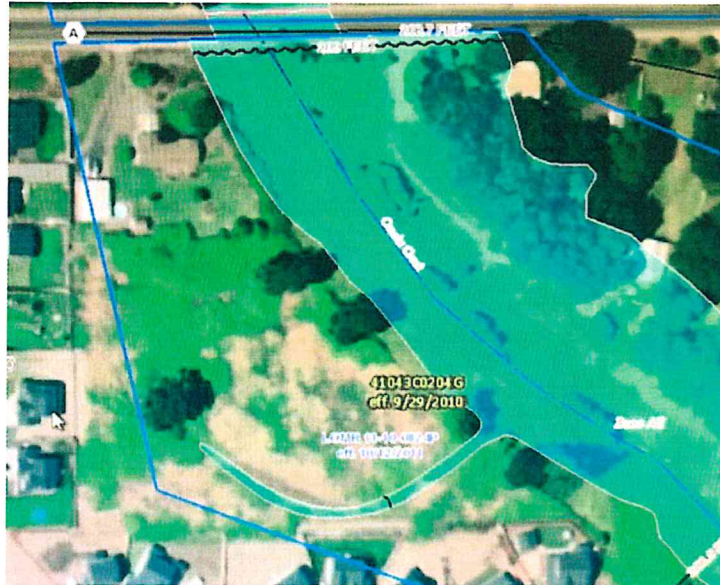
3-2.4.1 OMPDC (a) When manufactured dwellings are to be located in a **flood hazard zone**, according to the Flood Insurance Rate Map (FIRM), a **FEMA elevation Certificate shall be submitted to the authority having jurisdiction**.

**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](http://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.

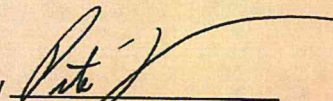
Thank you for having the site evaluated. Please phone me at 503-986-5262 if you have any questions.

Sincerely,



Matt Unitis  
Jurisdiction Coordinator

Approved by



Peter Ryan, PWS  
Aquatic Resource Specialist

Enclosures

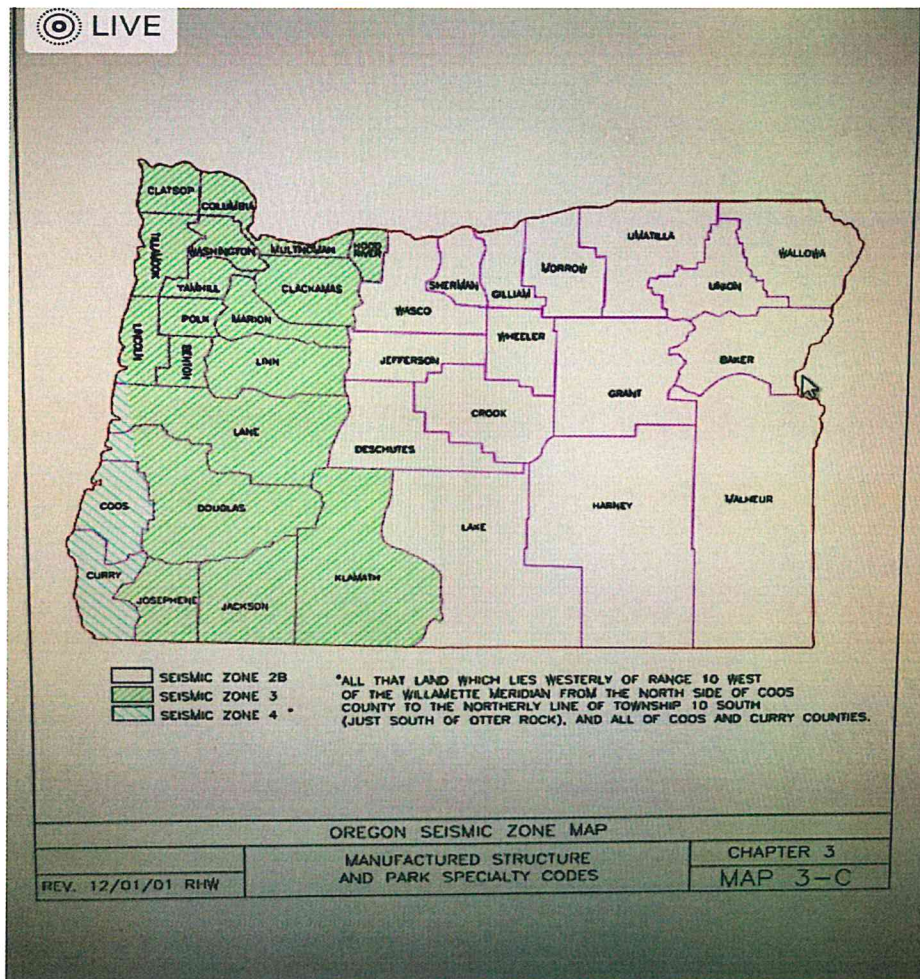
ec: Eric Henning, Zion Natural Resources Consulting  
City of Albany Planning Department (Maps enclosed for updating LWI)  
Andrea Wagner, Corps of Engineers  
Carrie Landrum, DSL



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

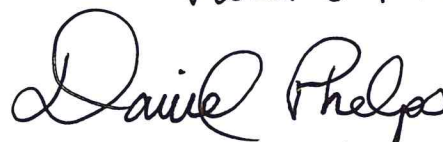
To Whom It May Concern,

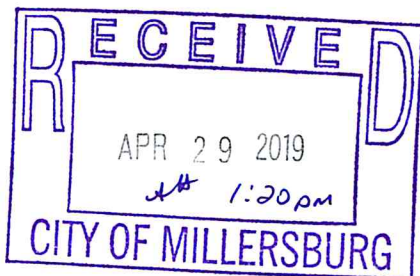
As Owners of the property  
at 2690 Millersburg Dr NE, Albany, OR,  
We have No intention of allowing an  
easement on this property. We will  
not allow an easement on ANY  
part of the property.

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























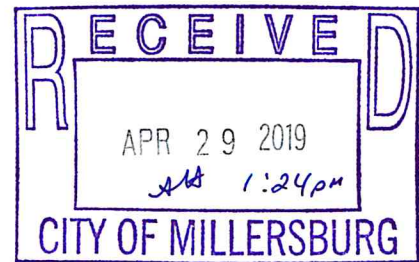




6212 Mesa Ct.  
Albany, Oregon 97321

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		20.2 Cross Sections with 1% Annual Chance Water Surface Elevation
		17.5 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

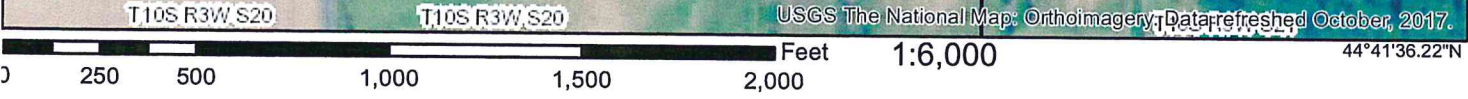


The pin displayed on the map is an approximate point selected by the user and does not represent an authoritative property location.

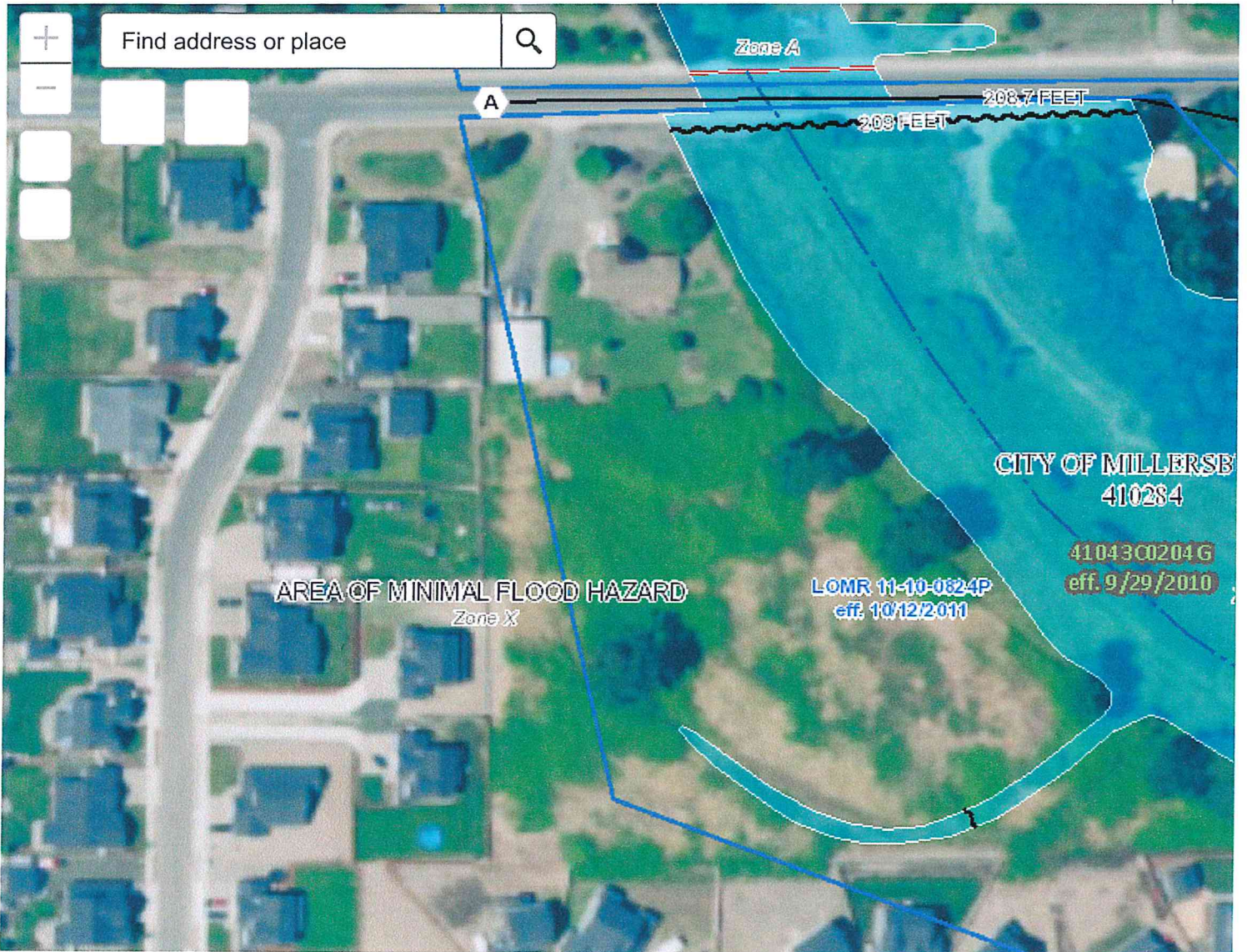
This map complies with FEMA's standards for the use of digital flood maps if it is not void as described below. The basemap shown complies with FEMA's basemap accuracy standards

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.**

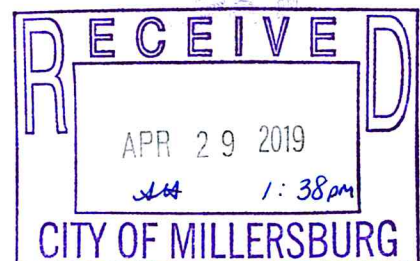
**Residents must give 30 days notice of a contemplated sale of the home to make certain that it complies with Oregon law and park policies before it is sold.**

**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

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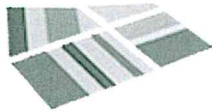
**From:** Mike Reeder <mreeder@oregonlanduse.com>  
**Sent:** Monday, April 29, 2019 2:47 PM  
**To:** Matt Straite <mstraite@cityofmillersburg.org>  
**Cc:** william eddings <williameddings@gmail.com>; nbickell0027@aol.com; Janelle Booth <jbooth@cityofmillersburg.org>; Kevin Kreitman <kkreitman@cityofmillersburg.org>; 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](http://oregonlanduse.com)  
375 W. 4<sup>th</sup> 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

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**From:** william eddings < >  
**Sent:** Tuesday, April 23, 2019 11:01 AM  
**To:** Ratcliff, Lora < >  
**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

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**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

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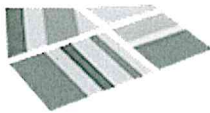
**From:** Mike Reeder <mreeder@oregonlanduse.com>  
**Sent:** Monday, April 29, 2019 2:57 PM  
**To:** Matt Straite <mstraite@cityofmillersburg.org>  
**Cc:** william eddings <williameddings@gmail.com>; nbickell0027@aol.com; Janelle Booth <jbooth@cityofmillersburg.org>; Kevin Kreitman <kkreitman@cityofmillersburg.org>; 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](http://oregonlanduse.com)  
375 W. 4<sup>th</sup> 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

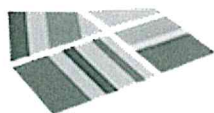
Dear Mr. Straite:

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](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](http://oregonlanduse.com)  
375 W. 4<sup>th</sup> 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



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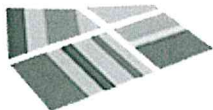
**From:** Mike Reeder <mreeder@oregonlanduse.com>  
**Sent:** Monday, April 29, 2019 3:02 PM  
**To:** Matt Straite  
**Cc:** william eddings; nbickell0027@aol.com; Janelle Booth; Kevin Kreitman; lora.ratcliff@cityofalbany.net  
**Subject:** FW: Columbus Greens - Evening Star LLC Open Record Submittal

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](http://oregonlanduse.com)  
375 W. 4<sup>th</sup> 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. Van Nicholson', written over the word 'Sincerely,'.

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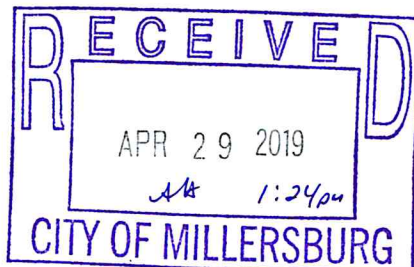
The applicant is proposing a Conditional Use Permit and Site Plan Review for a 28 space manufactured home park with four proposed guest parking spaces, drainage features, one open space area, landscaping, and one proposed point of access from NE Millersburg Drive.

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We ask the city to exercise their legal discretion to deny the project based on conflict 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 21<sup>st</sup> 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	Stephanie Ulrich
May Mumpson	6635 NE Noel Ln	503 522 9730	May Mumpson



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Name	Address	Phone #	Signature
Robin Wilson	2530 NE Thacker Ln Albany OR 97321	541-401-7994	[Signature]
John Bates	2944 NE Kimila Dr Albany OR 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]
Luella McHenry	6745 NE Noel Ln	541-231-6060	[Signature]
Michael Ann McHenry	6745 NE Noel Lane	541-760-9926	[Signature]
Georgette Egleton	6764 NE Noel Ln	530-701-5661	Georgette Egleton
Kent Egleton	6764 NE Noel Ln	530-701-5661	Kent Egleton
Terry R Wilson	2795 NE S. Hall Dr	503-545-3830	[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

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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	541-730-7571	
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

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Name	Address	Phone #	Signature
Don McGee	2243 Evergreen	<del>503</del> 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	541-974-8810	Shantays
Nola Richards	6218 mesact	541-760-6743	Nola Richards
Brandan Fore	2250 NE Summit Dr	386-956-0578	Brandan Fore
Krista McDaniel	2250 NE Summit Dr	407-704-0686	Krista McDaniel
Tim ORE	2122 NE SUMMIT DR	541-500-7881	Tim ORE

# PETITION

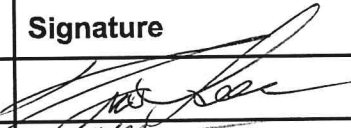



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Name	Address	Phone #	Signature
TOM GRACIT	2269 NE SUMMIT DRIVE	503-620-6860	
MICHAEL VANPATTER	2392 NE SUMMIT DR.	541-791-7232	
Michelle VanPatter	2392 NE SUMMIT DR	503-991-9774	Michelle VanPatter
Rafael Munoz	2390 NE SUMMIT DR	541-971-1653	
Sandra 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	Roberto & 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 STAHELM	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

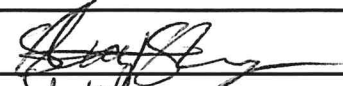
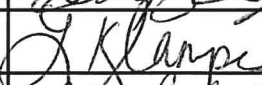
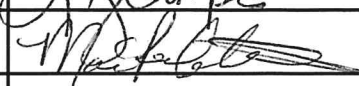
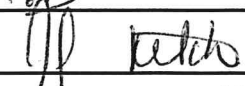
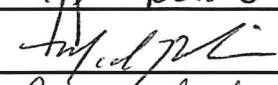
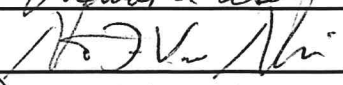
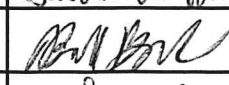
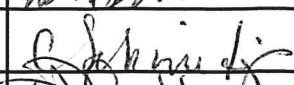
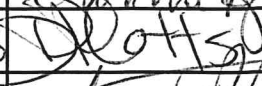
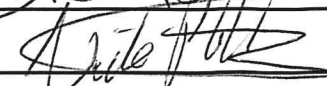
We, the citizens of the City of Millersburg, petition the Planning Commission to **deny** the proposed CUP 19-01 and SP 19-01 Evening Star Manufactured Home Park and not to allow any variances for conditions of approval.

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.

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**The Planning Commission decision meeting will be held on May 21<sup>st</sup> at 6pm at City Hall.**

Name	Address	Phone #	Signature
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 Tucan 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	

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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	



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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
Lynnda Jones	6346 Sedona Rd	541 974 2016	Lynnda Jones
Marie Ann P. W.	2582 Tuscan Ln	503 385 5419	Marie Ann P. W.
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 CLARK	6214 CANYON CT	360-931-5736	Joe M. Clark
Tyler Headrick	6210 Sable Ct	541-223-2075	Tyler Headrick
Kim Moore	6213 Canyon Ct.	951-905-5704	Kim Moore

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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

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

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.

RECEIVED  
APR 25 2019

BY: *[Signature]* 10:51am

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](http://www.oregon.gov/dsl)

State Land Board

Kate Brown  
Governor

Bev Clarno  
Secretary of State

Tobias Read  
State Treasurer

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.# _____

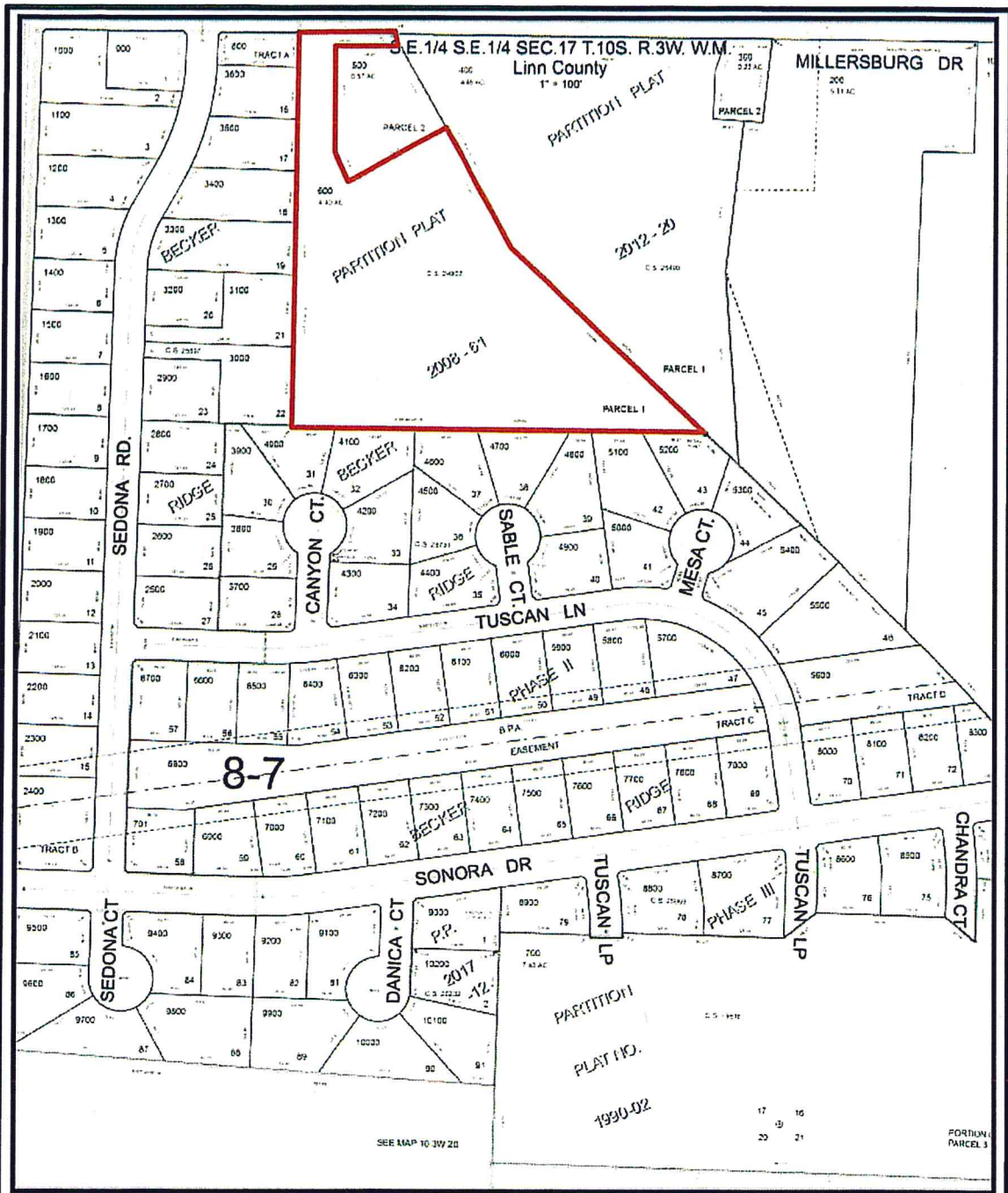


**FIGURE 1**  
Vicinity Map

Project: Eddings MH Park Project





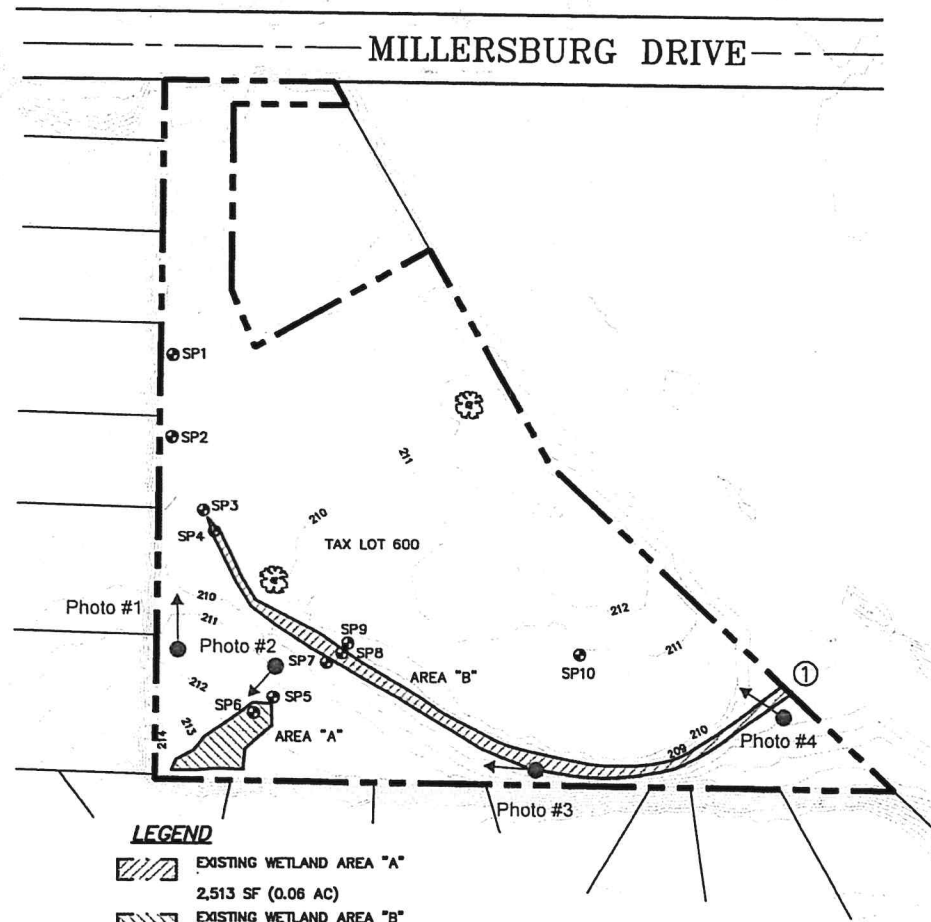
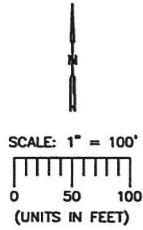


**FIGURE 2**  
Tax Lot Map






Project: Eddings MH Park Project



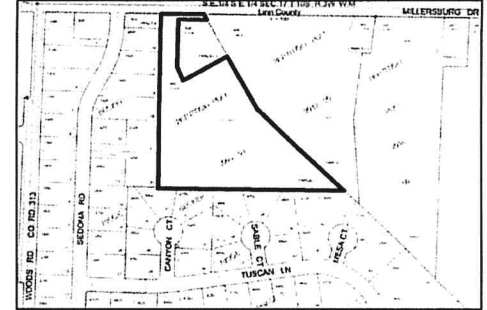
AMERICAN VILLAGE WETLANDS/WETLANDS.DWG



**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:**

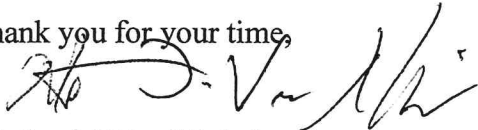
Mr. Reeder has submitted images showing empty streets in a few mobile home parks. This is not solid evidence, as the images could have easily been “cherry picked” for areas that don’t have any vehicles on the streets, and they don’t show a time-lapse comparison like a video would. If the images were 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,

A handwritten signature in black ink, appearing to read "Nathaniel Van Nicholson". The signature is fluid and cursive, with a large initial "N" and "V".

-Nathaniel Van Nicholson

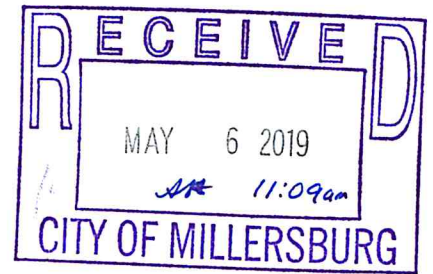




6212 Mesa Ct.  
Albany, Oregon 97321

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

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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.<sup>1</sup> This is an important policy debate<sup>2</sup> 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).<sup>3</sup> 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*

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<sup>1</sup> 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.

<sup>2</sup> *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."

<sup>3</sup> 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).<sup>4</sup>

## **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

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<sup>4</sup> 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,<sup>5</sup> 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.

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<sup>5</sup> 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

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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 22<sup>nd</sup> 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

