



#### 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, October 15, 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. September 17<sup>th</sup> 2019 Planning Commission Work Session
- E. QUASI-JUDICIAL PUBLIC HEARINGS
  - 1) File No: SP 19-03 Jeff Benge Outdoor Storage  
*The applicant is proposing a Site Plan Review (SP 19-03) to add a 0.75 acre paved outdoor storage area to an existing facility of 8.08 acres. The applicant proposes to store paving materials that are manufactured on-site.*
- F. CITY PLANNER UPDATE
  - 1) Wills Lot Line Adjustment
- G. NEW BUSINESS
  - 1) Discussion of draft Article IV, Land Use Development Code, with City Planning Director, John Morgan of MorganCPS Group.
- H. ADJOURNMENT

#### Upcoming Meeting:

October 22, 2019 @ 4:00 p.m. – City Council Work Session





**CITY OF MILLERSBURG  
PLANNING COMMISSION WORK SESSION**

4222 NE Old Salem Road  
Tuesday, September 17<sup>th</sup>, 2019  
6:00 p.m.

**Minutes**

- A. CALL TO ORDER: Commission President Jimmie Kirkendall called the meeting to order at 6:00 pm.
- B. ROLL CALL:  
Members Present: Jimmy Kirkendall, Steve Vogler, Connie Lepin, Ryan Penning, and John Sullivan  
Members Absent: Dennis Gunner, Ed Perlenfein, Scott Stimpson, and Anne Peltier  
Staff Present: Jake Gabell, Deputy City Recorder; Forrest Reid, City Attorney; John Morgan, Planning Director; Janelle Booth, Assistant City Manager/City Engineer; and Kevin Kreitman, City Manager.
- C. MEETING MINUTE APPROVAL  
1) August 20<sup>th</sup> meeting minutes  
**Action: Motion to accept the minutes as presented made by Commissioner Vogler; seconded by Commissioner Lepin.**  
**Commissioner Kirkendall: Aye**  
**Commissioner Vogler: Aye**  
**Commissioner Lepin: Aye**  
**Commissioner Sullivan: Aye**  
**Commissioner Penning: Aye**
- D. Old Business  
1) No discussion
- E. New Business - Presentation by John Morgan.  
1) Review of 2.103 Residential Low Zone  
i. 2.103.04, Conditional Uses, Home Occupations, was discussed and no changes made.  
2) Review of 2.104 Rural Zone  
i. 2.104.01, Purpose, was modified to clarify when the zone is changed to Residential Low Density.  
ii. 2.104.04, Conditional Uses, Home Occupations, was modified to be the same as the Conditional Uses, Home Occupations in the Residential Low Zone.  
iii. 2.104.06, Dimensional Standards, were discussed and no changes made.

- 3) Review of 2.105 Residential Mixed Density Zone
  - i. 2.105.07 Development Standards, (E) Multiple Family and Non-residential Development. Landscaping provisions that were in version 1 will be added back to the final version.
- 4) Review of 2.106 Mixed Use Zone
  - i. 2.106.02, Permitted Uses, single family dwelling and duplexes were removed
  - ii. 2.106.07, Mixed Uses, were revised to include a provision of 90% maximum of one use.
- 5) Review of 2.107 Commercial Office Zone
  - i. 2.102.02, Permitted Uses, (D) Retail, was discussed and no changes made.
  - ii. 2.107.05, Dimensional Standards, Maximum Lot Coverage, was changed to 90%.
- 6) Review of 2.108 General Commercial Zone
  - i. 2.108.05 Dimensional Standards, Maximum Lot Coverage, was changed to 90%.
- 7) Review of 2.109 Limited Industrial Zone
  - i. Discussion and no changes made.
- 8) Review of 2.110 General Industrial Zone
  - i. 2.110.04 Conditional Uses, Battery manufacture was moved to Permitted Uses.
- 9) Review of 2.111, Public Facility Zone
  - i. 2.111.05 Dimensional Standards Maximum Structure Height was changed to 60 feet.
- 10) Review of 2.202.01 Historical Property Overlay Zone
  - i. Eleven references throughout the section to "City Recorder" were changed to "City Manager"
- 11) Reviewed of 2.205 Limited Use Overlay Zone
  - i. This overlay zone was removed.

F. Recess at 6:59 pm and resumed at 7:06 pm.

G. New Business Continuation - Presentation by John Morgan.

- 1) Review of 3.101 General Provisions
  - i. Minor typo corrections made.
- 2) Review of 3.102 Street Standards
  - i. 3.102.04 Access Spacing will be updated to conform to the access spacing decision that was made by the City Council during the September 2019 meeting.
- 3) Review of 3.103 Off-Street Parking Standards
  - i. 3.103.08 Parking and Loading Area Development Requirements will be updated to conform to what was decided during the August 2019 Planning Commission Meeting.



- ii. 3.103.08 Parking and Loading Area Development, Landscaping requirements will be added, and be similar to what the current code contains.
- 4) Review of 3.106 Signs
    - i. 3.106.12 Conditional Use Permits – Signs, the reference to an interchange zone was changed to Mixed Use Zone.
    - ii. A criteria will be added to conditional use permitted signs to allow the Planning Commission to approve larger signs.
  - 5) Review of 3.107 Fencing and Screening
    - i. 3.107.07 (C) was changed from 300 to 100 feet.
  - 6) Review of 3.108 Land Divisions
    - i. This section will be modified to be a new article and not be within Article III.
    - ii. 3.108.03 Standards for Lots or Parcels (D) Flag Lots, (1) was discussed but not changed.
    - iii. 3.108.04 (D) Connectivity was changed to “the City shall require”.
    - iv. 3.108.06 (A) (10) (B) Street Trees was modified.
    - v. 3.108.07 Improvement Procedures, was discussed and no changes made.
  - 7) Review of 3.202 Manufacture Dwelling Parks
    - i. 3.202.01 (J) Landscaping – the City of Albany code language will be added to this section.
    - ii. A provision will be added to specify where a Class A and Class B will be permitted.
  - 8) Review of 3.203 Design Standards for Homes on Individual Lots
    - i. 3.203.02 (I) Garage – was modified to require a two-car garage.
  - 9) Review of 3.206 Residential Accessory Structures
    - i. 3.203.01 (A) Footnote (2) was modified to require the same exterior siding as the primary dwelling.
    - ii. 3.206.01 (D) Prohibited Structures was updated to include tractor trailer used for storage.
  - 10) Review of 3.207 Special Residential Dwellings
    - i. 3.207.01 Accessory Dwelling Units was discussed and no changes made. City Attorney Forrest Reid is going to research the legality of these provisions and give to the City Council prior to adoption of the new code.
  - 11) Review of 3.211.04 Farm Uses and Livestock
    - i. 3.211.04 will be modified to remove the one provisions and tie the permitted provision for livestock to only the lot size.
    - ii. 3.211.04 (C) Chickens and Rabbits will be modified. There was discussion about whether these provisions should be in the new land use code or in the Municipal Code.
  - 12) Review of 3.211.10 (E) was changed from Mixed Density zone to Low Density zone.

H. Additional topics of discussion by the Planning Commission.

- 1) Food trucks. It was decided to add a general provision for food trucks.

- 2) Salem Road Design Standards. City Manager Kreitman stated that a provision to require specific landscape requirements along Old Salem Road is needed. It was decided to allow John Morgan to draft a design standard the specifically address landscape standards along Old Salem Road.
- 3) Discussion on Type 1 decisions and appeals.
- 4) The new DOCUMENT was discussed

I. Meeting adjourned by Commission President Kirkendall at 9:23 pm.

Respectfully submitted:

Reviewed by:

Jake Gabell  
Deputy City Recorder

Matt Straite  
City Planner

DRAFT



**File No: SP 19-03 Jeff Benge Outdoor Storage**

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**Proposal:** The applicant is proposing a Site Plan Review (SP 19-03) to add a 0.75 acre paved outdoor storage area to an existing facility of 8.08 acres. The applicant proposes to store paving materials that are manufactured on-site.

**I. BACKGROUND**

- A. Applicant: HHPR Inc. Brady Kilby, AICP
- B. Location: 3484 Old Salem Road
- C. Review Type: Section 4.133(2)(d) explains that additions to existing businesses are allowed to use an administrative review instead of a full site plan review. The code goes on to specify that a full site plan review is required if the addition allows any additional manufacturing or if the project does not clearly meet other sections of the code. Because the project has the potential to impact nearby drainage ways and wetlands, staff felt it was more appropriate to review the project through a full site plan review process. It should be noted that with conditions of approval the project does comply with all sections of the code, as explained in detail in this staff report. The site plan review requires a hearing before the Planning Commission. The Planning Commission is scheduled to hold a hearing on the application on October 15, 2019. The Planning Commission decision can be appealed to the City Council. Any appeal of the City Council's decision relating to this matter will be considered by the Oregon Land Use Board of Appeals (LUBA).
- D. Public Notice and Hearing: Notice was mailed to all property owners within 100 feet of the proposed location, posted in City Hall on September 18, 2019 and information related to the hearing is posted on the City's website here - <http://cityofmillersburg.org/planning-commission/>
- E. Review Criteria: Article 2 §2.400(2)- Site Plan Review
- F. Current Zoning: General Industrial (GI)
- G. Proposed Zoning: N/A
- H. Property Size: 8.08 acres (only a portion of the property is to be used for the proposed use)
- I. Background: The project location was originally approved for a different use and user to build solar panels. In 2009 the site was approved for several structures. The previous owner built part of the existing site structures, but went out of business before the whole site could be constructed as designed and previously approved. The current owner acquired the property to manufacture paving materials and seal

coating products. The current owner has made some minor modifications to the existing facility, all with the benefit of permit. The applicant now proposes to use a portion of the site, previously intended for an office building, to store modified asphalt products outdoors (but shrink-wrapped for weather protection). The plans include paving the storage area and some minor drainage improvements.

## II. AFFECTED AGENCY, PUBLIC NOTICE, AND PUBLIC COMMENTS

### Agencies:

The applicant's materials were transmitted to the following agencies/departments on September 17, 2019: City of Albany, Albany Fire Department, Linn County Sheriff's Office, City of Millersburg Engineer, Oregon Department of State Lands, PacificCorp, Linn County Planning and Building Department, Linn County GIS, Linn County Road Department, Northwest Natural Gas, and Republic Services. To date, the following comments have been received:

- The City of Albany responded that they have no comments.
- The Department of State Lands indicating the project avoids all wetland impacts.
- Albany Fire indicated they have no comments.
- The Millersburg City Engineer provided comments and conditions of approval.

### Public:

Notice of the October 15, 2019 hearing was mailed to all property owners within 100 feet of the property. To date, no written comments have been received by staff.

## III. CRITERION

### CITY OF MILLERSBURG DEVELOPMENT CODE

#### Article 2 §2.400(2)- Site Plan Review

**(2) Decision Criteria. After an examination of the site and prior to approval, the Planning Commission must make the following findings:**

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

**ANALYSIS:** The zoning code implements the Comprehensive Plan. Consistency with the zoning code demonstrates consistency with the Comprehensive Plan. Section 9 of the Comprehensive Plan contains a list of Land Use Goals and Policies. Section V of this report goes through the pertinent policies from the Comprehensive Plan. In summary, based on staff's review, the project is consistent with the plan.

**FINDING:** Based on the analysis above, the project meets the required criteria.

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

**ANALYSIS:** The standards of the General Industrial Zone are reviewed in detail in section IV of this staff report. In general, the project complies with the standards of the zone and all

other codes and ordinances of the City. The Municipal Code does not contain any provisions that apply to an outdoor storage expansion.

**FINDING:** Based on the analysis above, the project meets the criterion.

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

**ANALYSIS:** Section 5.122(7) explains when a traffic study is needed. The proposed project is the addition of an outdoor storage area to an existing manufacturing business. This additional storage area may lead to changes in the volume of trucks visiting the site throughout the day, but not in the amount of staff working at the location. Any change in traffic patterns would be minimal. This project should not have a significant impact to existing traffic patterns.

**FINDING:** Based on the analysis above, the project meets the required criterion.

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

**ANALYSIS:** The proposal does not include any signage or lighting.

**FINDING:** This criterion does not apply.

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

**ANALYSIS:** The proposed project will not require any additional utility connections. The applicant is requesting to add a storage area. The proposal should not result in the need for a significant increase in staffing levels; as such, the existing plumbing facilities will suffice for wastewater disposal.

**FINDING:** Based on the analysis above, the project meets the required criteria.

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

**ANALYSIS:** Based on the information in the Linn County GIS system, there are some wetlands nearby to the north, however the established site features a storm water pond that will treat the surface water from the site. The treatment basin was constructed based on the eventual build out of the previously approved 'campus,' which included a possible office building on the site now proposed for outdoor storage. As such, the addition of the paved storage site will not have any impacts on the existing storm water

basin, which is currently oversized. The applicant submitted a storm water study with the project to demonstrate the adequacy of the existing basin. The Department of State Lands has indicated that the improvements are avoiding any impacts to the wetland area. The project will have no impact on drainage.

**FINDING:** Based on the analysis above, the project meets the required criteria.

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

**ANALYSIS:** Section 2.140 Item 21 explains that the applicant is required to identify any emissions that may result from the application. In this case, no emissions are anticipated. The applicant has indicated in the narrative that the current on-site operations also meet all emissions requirements, and the proposed addition of the storage area will not compromise the owners ability to continue to meet any such requirements.

**FINDING:** Based on the analysis above, the project meets the required criteria.

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

**ANALYSIS:** The project was transmitted to several other jurisdictional agencies for their review, including the Department of State Land which has jurisdiction on wetlands. No one responded with any concerns regarding the addition of the storage area.

**FINDING:** Based on the analysis above, the project meets the required criteria.

#### **IV. STANDARDS**

The proposed design complies with all the specifications and design requirements of Chapter 4, specifically the GI zone and Chapter 5, Development Standards, except as noted or explained in more detail below.

##### **SECTION 4.133 GENERAL INDUSTRIAL ZONE SUBSECTION (4)(c) IMPERVIOUS SURFACES**

**ANALYSIS:** This section of code requires that no more than 80% of the site be impervious surface. The site currently features many improvements. The site is about 8 acres. All existing improvements consist of structures, manufacturing areas, sidewalks, access and parking. Based on staff's analysis this adds up to about 3.5 acres. This does not count the proposed storage area which is currently exposed dirt. Again, based on Staff's analysis, the proposed paved area is about 0.75 acres. Together this will bring the total developed portion of the lot to about 4.25 acres. That would make the impervious areas of the property total less than 60% of the site. Thus the project meets this requirement.

**FINDING:** Based on the analysis above, the project meets the standard.

## **SUBSECTION (4)(d) SETBACKS**

**ANALYSIS:** The GI zone requires a 20 foot setback to be fully landscaped. The proposed project fronts Old Salem Road and currently features landscaping along the full property frontage. This landscape area is well in excess of 20 feet.

**FINDING:** Based on the analysis above, the project meets the required standard.

## **SECTION 5.119 WETLANDS**

**ANALYSIS:** The project site is located near two possible wetlands based on information provided in the applicant's materials. The wetlands are located on the larger parcel, but well away from the proposed area of development. The proposed development includes catch basins and will drain through the oversized storm basin. The proposed paved storage area will not impact wetlands. In an abundance of caution Staff transmitted the project to the Department of State lands for review. They did not express any concerns. Some minor technical revisions were requested to the storm water study. It is not anticipated that these will change the needs for the site regarding impacts to wetlands. A condition of approval has been added to the project to revise the study to assure compliance with the City storm water standards.

**FINDING:** Based on the analysis above, with the proposed conditions of approval, the project meets the required standard.

## **SECTION 5.120 PARKING**

**ANALYSIS:** This section regulates parking. The landscape requirements of the parking area are reviewed below in the landscape section. The site is currently over parked, featuring 80 parking spaces. The applicant stated that these were built to the full intended need of the original project design (for the previous owner), which included an office building that was never built. There are typically only 3-5 employees on-site and the business is not open to the public. The addition of the outside storage area will not impact parking.

**FINDING:** Based on the analysis above, the project meets the required standard.

## **SECTION 5.134 LANDSCAPING**

**ANALYSIS:** The project features some landscaping from the previous proposed project which would have featured an office building (which was never constructed). However, the code states that all new development must feature landscaping. The project seems to conform to all planting requirements except the trees required by subsection 2. The code specifies that street trees are required. As such, the applicant has provided a landscape plan showing new proposed trees to assure conformance with the code requirements. The applicant proposes to plant 14 new medium sized street trees 30 feet apart along the Old Salem frontage. A condition of approval has been added to assure the trees are planted. With this, the proposal is in full conformance with the code requirements for landscaping.

**FINDING:** Based on the analysis above, with the proposed conditions of approval, the project meets the required standard.

**PROPOSED CONDITION OF APPROVAL:** Within 6 months of issuing the grading permit, the applicant shall install the required street trees and irrigation consistent with the landscape plans.

## V. CITY OF MILLERSBURG COMPREHENSIVE PLAN

### City of Millersburg Comprehensive Plan

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

#### Chapter 9.1- Planning

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

**ANALYSIS:** The project was transmitted to a full suite of jurisdictional agencies including the County, Albany, Albany Fire, and the utility companies. All responses have been included.

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

#### Chapter 9.5- Land Use

**Commercial Land Use, Policy Industrial Land Use No. 10- Utilization of natural features and landscaping as screening buffers, to reduce the impact of industrial developments on the community, shall be encouraged.**

**ANALYSIS:** The proposed project features some mature landscaping along Old Salem Road. Additional street trees are also proposed. The applicant has constructed fencing along the street frontage. The street trees are actually proposed to the rear of the fencing due to overhead powerline locations. The existing landscaping, the trees, and the fencing will all help screen the project site from the public.

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

## VI. RECOMMENDATION

Based on the above findings of fact, and the conditions of approval, the proposed project satisfies the applicable criteria, and staff recommends the Planning Commission approve Application SP 19-03 pursuant to the conditions of approval listed below.



## **VII. ALTERNATIVE RECOMMENDATION**

Should the Planning Commission elect not to approve the proposed development, they could continue the item for further discussion or deny the application citing the specific criteria not satisfied by the application.

## **VIII. CONDITIONS OF APPROVAL**

### **General Conditions:**

1. This land use approval shall substantially comply with the submitted preliminary site plans as included as Exhibits C and D, except as indicated in the following conditions. Additional development or change of use may require a new development application and approval.
  2. Applicant must obtain a Grading Permit from the City of Millersburg prior to beginning work.
  3. Storm water drainage plans and calculations have been submitted, reviewed, and comments have been returned to the applicant's engineer. All comments must be addressed and drawings approved prior to issuance of a Grading Permit.
  4. A detention pond outfall structure must be constructed, in accordance with approved storm water management memo and design drawings, within 6 months of grading permit issuance.
  5. All required public improvement plans shall be approved by the City prior to beginning construction. All utilities shall remain uncovered until inspected and approved by the City. All required public improvements shall be completed and approved by the City prior to construction.
  6. The project permitted by this approval shall commence within 1 year of approval or the permit is void. An extension of the permit may be granted through a new site design review process.
  7. Within 6 months of issuing the Grading Permit, the applicant shall install the required street trees and irrigation consistent with the landscape plans.
  8. Within 6 months of issuing the Grading Permit, the applicant shall pay all required street connection fees as outlined in the pre-application process.
- 

## **IX. NOTICES TO THE APPLICANT**

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

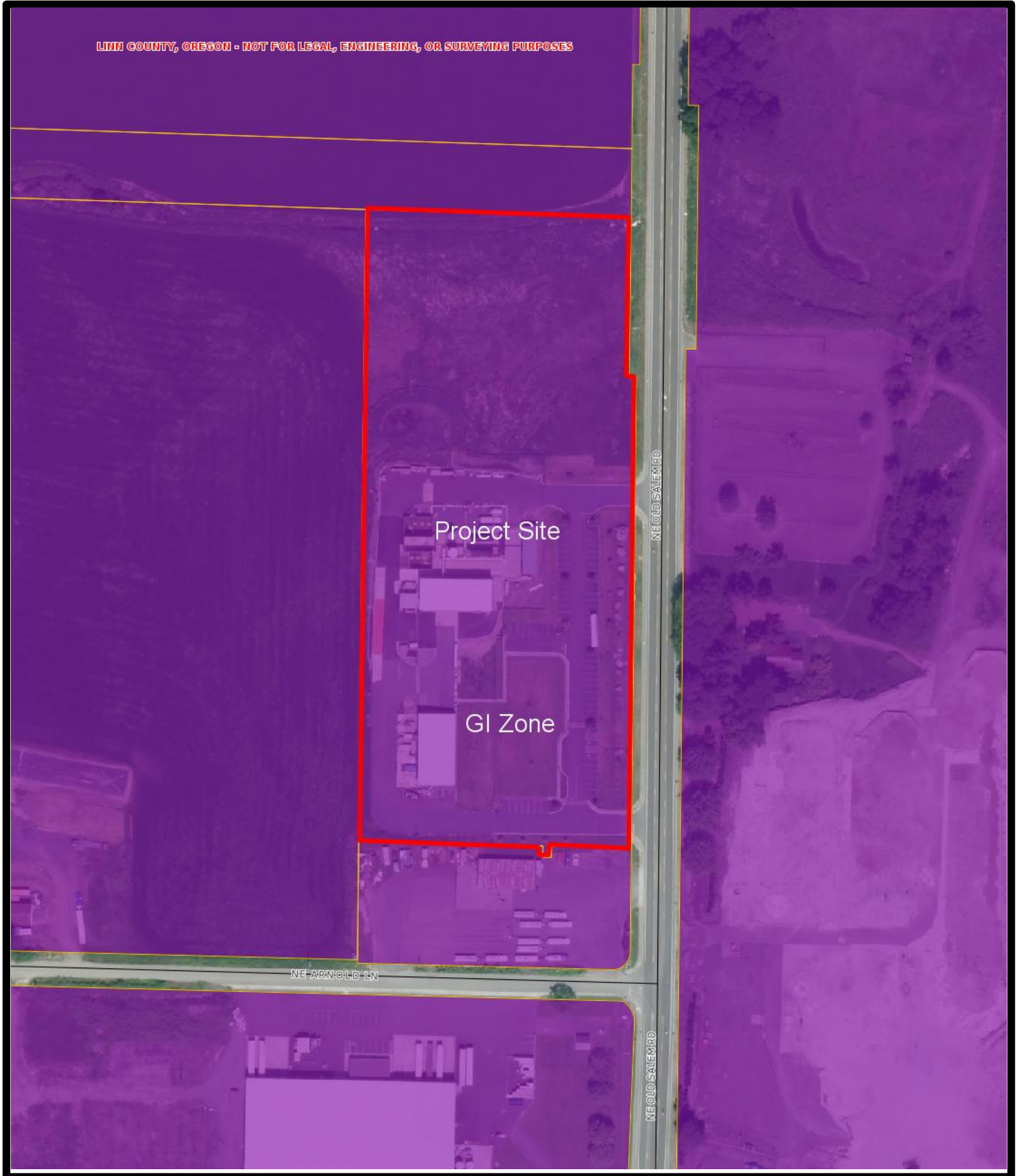
1. Construction within Linn County right-of-way must conform to Linn County construction standards and requires a Linn County right-of-way permit.
2. System Development Charges (SDCs) for water and sewer are due at the time of connection. Commercial SDC charges are based on equivalent dwelling units.
3. Sewer connections require oil/water separator(s).

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

**X. EXHIBITS**

- A. Zoning Map
- B. Vicinity Map
- C. Applicant's Description and Narrative
- D. Applicant's Exhibits labeled sheets 1.0 through 6.0
- E. Material Safety Data Sheets (MSDS) for proposed material to be stored on-site
- F. Albany Fire email
- G. City Engineer comments dated September 26, 2019
- H. Department of State Lands letter (no date)
- I. City of Albany Email dated 9/17/19
- J. Public Hearing Notice

# Zoning Map



This product is for informational purposes only and may not have been prepared for, or be suitable for legal, engineering, or surveying purposes. Users of this information should review or consult the primary data and information sources to ascertain usability of the information.



# Vicinity Map



This product is for informational purposes only and may not have been prepared for, or be suitable for legal, engineering, or surveying purposes. Users of this information should review or consult the primary data and information sources to ascertain usability of the information.

**Benge Sealcoating Inc.**  
Millersburg Site Storage Project

**Owner:** Hunter Jackson, LLC  
PO Box 4266  
Wilsonville, OR 97070

**Owner Contact:** Jeff Benge  
[Jeff@benge.com](mailto:Jeff@benge.com)

**Planner:** Harper Houf Peterson Righellis Inc.  
205 SE Spokane Street, Suite 200  
Portland, OR 97202  
(503) 221-1131

Brad Kilby, AICP  
[bradk@hhpr.com](mailto:bradk@hhpr.com)

**Engineer:** Harper Houf Peterson Righellis, Inc.  
205 SE Spokane Street, Suite 200  
Portland, OR 97202  
(503)221-1131

Chris Beatty, PE  
[chrisb@hhpr.com](mailto:chrisb@hhpr.com)

**Proposal:** The property owner proposes to modify the existing site plan to pave an area internal to the site where a building was previously approved to provide additional on-site storage of materials for the paving systems that are manufactured on-site.

**Adjacent Zoning and Use:** The properties surrounding the site are all zoned for and developed with a variety of industrial uses including trucking and manufacturing. There was a mill located across Old Salem Road that appears to have been demolished. There is a trucking company located directly south of the site, and an airport located south and west of the site that is used by hobbyists to fly remote controlled aircraft

**Site Location:** Parcel Number 10S03W280000107. The property is physically addressed as 3484 NE Old Salem Road

**Site Size:** ~8.08 Acres  
**Zoning:** General Industrial (IG)

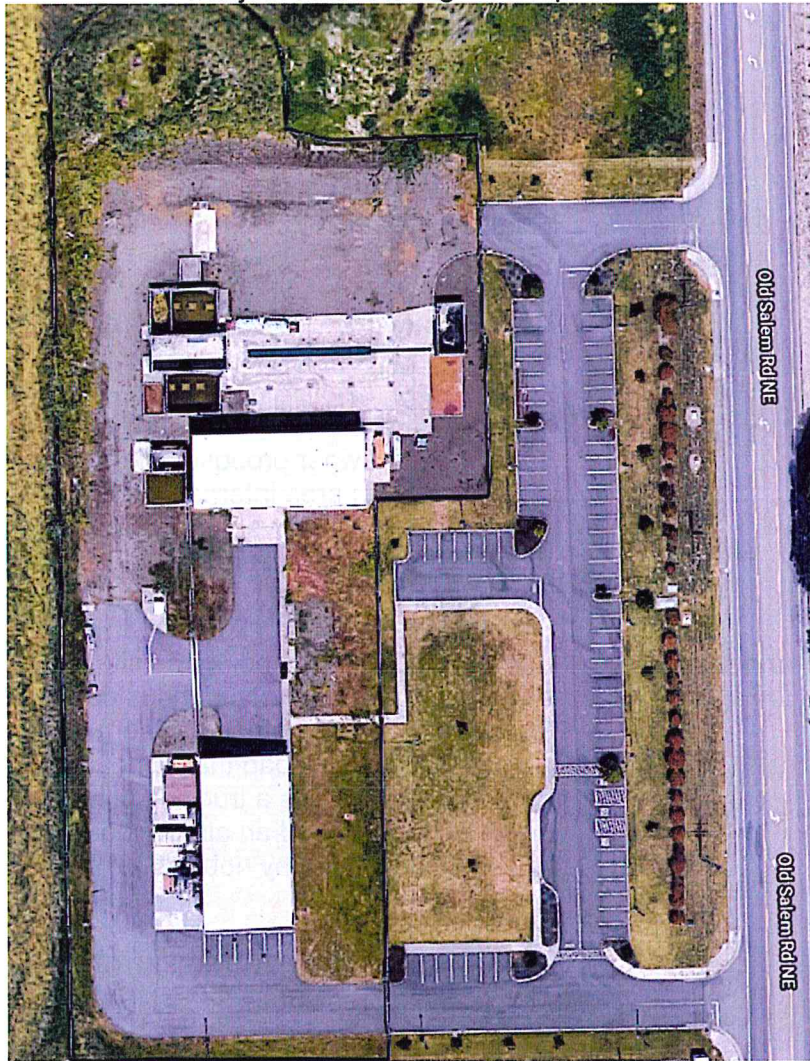




**Project Background:**

The subject site was approved as the former home of Peak Sun Silicon Corporation, a solar panel manufacturer. In 2008-2009, the City approved construction of the campus which included development of approximately 5.36 acres of the site with two manufacturing/storage buildings an office located at the front of the site and associated parking, circulation, and utilities. It appears that all of the improvements were constructed except for the office building. The company went bankrupt and the site was sold. Luckily, the facilities that were constructed on site fit the needs of the current owner who manufactures paving and seal coating products for sale throughout the northwest. The original construction included all on-site improvements, utilities, and a storm pond in the northwest corner of the site. The current owner has made minor improvements to the site and has relocated the fence that was originally approved for the overall development further away from Old Salem Road.

Subject Site/Existing Development



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## I. DESCRIPTION OF PROPOSAL

The purpose of this application is to pave approximately .75 acres for storage of raw materials that are brought to the site on pallets, and improve an access to the paved area for forklifts to be able to access the storage area. Improvements include adding new catch basins to tie into the existing stormwater system. Only the applicable sections of the Millersburg Development Code are addressed in the narrative below. The notes of the pre-application conference are attached to this narrative as Exhibit 1. No hazardous or toxic chemicals are going to be stored on site. Any chemicals associated with the on-site activities will be managed and maintained by the contractor in accordance with the Material Safety Data Sheets associated with those chemicals.

## II. RESPONSE TO APPLICABLE CODE STANDARDS AND APPROVAL CRITERIA

### SECTION 2.400 SITE PLAN REVIEW

#### Decision Criteria

*After an examination of the Site and prior to approval, the Planning Commission must make the following findings:*

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

**Response:** The proposed development is a modification to an existing site plan that was approved under the comprehensive plan and development code that was in existence in 2009. The property is zoned General Industrial. Section 4.133(2)(b) states, "Industrial Buildings and Uses. All manufacturing, warehousing, wholesaling, compounding, assembling, processing, storing, researching, treating, or testing or any combination thereof of items, materials or goods is permitted subject to the conditions and standards of this Code" are a permitted use in the zone. Further, 4.133(2)(d) states, "Additions, accessory structures or equipment added to existing uses may be reviewed and permitted administratively by the City Administrator in lieu of the Site Plan Review procedures provided they do not constitute a new manufacturing or processing operation and provided they comply with all other requirements of this Code." Presumably, the development code is implementing the goals and policies of the Comprehensive Plan. The proposed addition of a paved pad for the purposes of storing raw materials used in the manufacturing process on site appears to fit within the allowed uses of the zone and would thereby not be in conflict with the City's Comprehensive Plan.

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

**Response:** The proposed improvements have been designed to comply with the zone and any applicable standards as addressed within this narrative.





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

**Response:** The proposed development will pave a portion of the site used to store raw materials that are utilized in the manufacturing process approved for this location. The improvements will not have any impact to off-site traffic of any mode. Further, the proposed improvement does not lead to more truck trips to the site. The materials are already being delivered to the site. In fact, the number of trips to and from the site are likely less than what was originally considered in the Peak Sun site since the proposed office building was never constructed, and the number of employees on this site with and without the paved storage yard will remain the same. At any given time, the number of employees fluctuates but would never exceed 7.

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

**Response:** This proposal does not include the addition of any signage or lighting. To the owners' knowledge, the existing lighting and signage has no adverse impacts to traffic or adjacent properties. All activities are located interior to the site.

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

**Response:** The site has existing public services. There is no anticipated additional need for public services as a result of the proposed improvements. All stormwater from the paved area will be captured, treated, and discharged to the existing storm pond located in the northwest corner of the site. A stormwater report verifying that there is adequate capacity within the existing system is included with this application as Exhibit 1.

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

**Response:** The proposed development will not have an adverse impact on any existing drainageways. There are wetlands located directly north and west of the existing storm pond. Stormwater will be captured on the site, and conveyed to the storm pond where it will be treated prior to any discharge.

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

**Response:** The proposed paving project will allow the owner/operator to store raw materials on the site. The storage area is interior to the site, and is not expected to have any adverse



impacts or create any hazards or nuisances to adjacent properties. The owner maintains that his operation is in compliance with all applicable regulatory agencies and their regulations. The proposed addition of the storage area does not compromise the owners' ability to continue to meet those regulations that are applicable to his business. All wastewater is recycled and utilized in the manufacturing process. There are no hazardous materials generated as a result of this proposed improvement.

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

**Response:** As stated previously, the proposed development is a modification to an existing site plan that was approved under the comprehensive plan and development code that was in existence in 2009. The property is zoned General Industrial. Section 4.133(2)(b) states, "Industrial Buildings and Uses. All manufacturing, warehousing, wholesaling, compounding, assembling, processing, storing, researching, treating, or testing or any combination thereof of items, materials or goods is permitted subject to the conditions and standards of this Code" are a permitted use in the zone. To our knowledge, the proposed development will not conflict with the standards of any other regulatory agency that has jurisdiction over this site.

**SECTION 4.133 GENERAL INDUSTRIAL ZONE - GI**

*Purpose. The General Industrial Zone is applied to areas well suited for all types of industrial development that require excellent highway and rail access and are free from conflict with other non-compatible land uses. The GI Zone is intended to protect and preserve these areas for industrial development to assist in supporting the area's economy.*

*Permitted Uses. In an GI Zone, the following uses and their accessory uses are permitted subject to the Site Plan Review provisions of Section 2.400 and the standards, provisions and exceptions set forth in this Code.*

**Response:** The property is zoned General Industrial. Section 4.133(2)(b) states, "Industrial Buildings and Uses. All manufacturing, warehousing, wholesaling, compounding, assembling, processing, storing, researching, treating, or testing or any combination thereof of items, materials or goods is permitted subject to the conditions and standards of this Code" are a permitted use in the zone. The storage area is an accessory use and also permitted subject to the applicable standards of the code.

**GI Zone Development Standards.**

*(a) Minimum lot area – Lot size shall be approved by the Planning Commission as part of the Site Plan Review procedures of Sections 2.400. Lots are required to be large enough to accommodate the building, required parking, service access and pedestrian circulation including persons with disabilities and landscaping.*

**Response:** No new lots are proposed with this development. This criterion is not applicable to the proposed development.

*(b) Minimum lot depth and width - As approved by the Planning Commission.*



**Response:** No new lots are proposed to be created or reconfigured with this development. This criterion is not applicable to the proposed development.

*(c) Maximum Impervious Surface coverage - 80%. unless approved by the Planning Commission.*

**Response:** The subject property is approximately 8.08 acres. The area where all of the sites improvements are located make up approximately 5.36 acres. After approval and construction, approximately 3.70 acres (161,172 square feet) would be impervious. This represents approximately 46 percent of impervious surface coverage which is well below the maximum established by this criterion.

*(d) Yard Setbacks:*

- 1. Exterior yards - 20 -foot landscaped in accordance with Section 5.134. See Section 6.310-6.314 for commercial setback standards.*
- 2. Interior yards - 10 -foot landscaped in accordance with Section 5.134. where abutting residential property and zero where abutting commercial or industrial property.*
- 3. See Section 5.117 for additional setbacks on identified streets.*

**Response:** There are no new buildings proposed as part of this development. Existing setbacks will not be affected by this proposal. This criterion is not applicable to the proposed development.

*(e) Maximum Building Height - As approved by the Planning Commission.*

**Response:** There are no new buildings proposed as part of this development. This criterion is not applicable to the proposed development.

*(f) Access shall be from an arterial or collector street and shall be designated to cause a minimum interference with traffic and shall be subject to the review and approval of the City or County Engineer. Upon recommendation of the City or County Engineer, the dedication of additional right-of-way and street improvements may be required of the Applicant to facilitate traffic circulation.*

**Response:** There are two existing accesses to the site from Old Salem Road. The existing accesses will not be affected by the proposed improvements. This criterion is not applicable to the proposed development.

*g) The capacity of city roads and freeway interchanges is a development factor that must be addressed by proposed developments. The City shall require development proposals to identify the potential traffic impacts on city roads and interchanges. The improvements may be required to accommodate the proposed development traffic.*

**Response:** The proposed improvements do not result in the addition of any new trips. The existing capacity of the adjacent roads and interchanges will not be affected by this proposal.



## SECTION 5.119 WETLAND AND RIPARIAN AREAS

*The City of Millersburg does not have a Local Wetlands Inventory (LWI). The City requires all applicants to identify riparian areas, wetlands and floodplains on the Application. All applications are required to comply with State Law and with the standards required by this Code. Refer to Sections 7.100, 7.200 and 7.300 for additional Special Area Standards.*

*Wetlands are defined as those areas that are inundated or saturated often enough to support a prevalence of vegetation adapted for life in standing water or saturated soil. (Hydric Soils). Wetlands include swamps, bogs, marshes and similar areas.*

*Riparian Areas are defined as the area immediately adjacent to surface water such as rivers, streams, ponds, lakes, wetlands and springs consisting of transition areas between aquatic ecosystem to terrestrial ecosystems.*

**Response:** While there are wetlands located on the greater parcel, they are located north of the development site, and are not affected by the proposed improvements. The site plan and proposed improvements do not affect any areas designated as a flood hazard area (7.100), any Wetland or riparian areas (7.200), or the Willamette Greenway (7.300).

## SECTION 5.120 – 5.121 OFF-STREET PARKING REQUIREMENTS

*The Albany Construction Specifications (ACS) is the City of Millersburg's adopted standard for all public construction. For each new structure or use or for each change of structure or use there shall be provided and maintained off-street parking areas in conformance with the provisions of this Section.*

**Response:** The site currently has 80 parking spaces, 3 of which are ADA spaces. The spaces were constructed in anticipation of the full buildout of the site under the former owner. There was a large office building that was never constructed on the site, so just the two manufacturing and storage buildings are located on the site. Given that there are only 3-5 employees on site, and that the business is not open to the general public, the existing parking more than meets the demand of the existing facility. With the proposed improvements the applicant would like to remove up to 7 parking spaces directly adjacent to the north end of the new laydown yard to allow for circulation of the forklift. With the removal of those spaces, there would still be 73 parking spaces and 3 ADA spaces provided. None of the existing areas designated for landscaping would be affected by the proposal. Under this section of the code, "Manufacturing, Fabrication, Processing, and Assembly facilities are required to provide 1 space per employee plus 1 space per 300 SF of office or public area." The proposed parking provided would exceed these requirements. These criteria are not affected by the proposal.

## SECTION 5.122 TRANSPORTATION STANDARDS

**Response:** The provisions of this section are not applicable to the proposed improvements, as they do not result in an increase in traffic to or from the site. Access locations are not proposed to be changed. This is an existing development whose traffic impacts were considered and mitigated by the original development which likely anticipated higher traffic volumes based on the office use that was never constructed. The proposal is simply to provide additional storage



for raw materials that are used in the manufacturing process on site. Stormwater from the new impervious area will be managed on-site as explained in detail in the stormwater report that accompanies this proposal as Exhibit 1.

### **SECTION 5.123 STREETS**

**Response:** No new streets are proposed with this development. The standards of this section are not applicable to this proposal.

### **SECTION 5.124 SIDEWALKS**

**Response:** No new sidewalks are proposed with this development. Existing sidewalks on site will remain. The standards of this section are not applicable to this proposal.

### **SECTION 5.125 BIKEWAYS**

**Response:** No new bikeways are proposed with the development. As stated previously, this is simply a request to add a paved storage area to an existing site. Should bikeways be required or requested of the County, please ensure that the request is accompanied by a “rough proportionality” analysis that justifies that request.

### **SECTION 5.126 STORM DRAINAGE**

*Urban level curb inlets, catch basins, and drainage pipe improvements are required for all land divisions and property development in the City of Millersburg. Urban storm drainage systems may be deferred by the City in lieu of a rural system of culverts and open drainageways.*

*(1) General Provisions. It is the obligation of the property owner to provide proper drainage and protect all runoff and drainage ways from disruption or contamination. On-site and off-site drainage improvements may be required. Property owners shall provide proper drainage and shall not direct drainage across another property except within a continuous drainageway. Paving and catch basin outflows may require detention cells and/or discharge permits. Maintaining proper drainage is a continuing obligation of the property owner. 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. The storm water drainage system must be separate and independent of any sanitary sewerage system. Inlets shall be provided so surface water is not carried across any intersection or allowed to flood any street. Surface water drainage patterns and proposed storm drainage must be shown on every development plan submitted for approval. All proposed drainage systems must be approved by the City as part of the review and approval process.*

**Response:** Noted by the applicant. Existing storm water and any new storm water resulting from the added storage area will be captured in a series of on-site catch basins, conveyed to the existing pond, treated, and detained. A storm memo explaining existing and proposed flows, conveyance, and treatment has been prepared by Bill Long, a licensed professional engineer in the state of Oregon. His memo is attached as Exhibit 1 to this report.





(2) *Natural Drainageways.* Open natural drainageways of sufficient width and capacity to provide for flow and maintenance are permitted and encouraged. For the purposes of this Section, an open natural drainageway is defined as a natural path which has the specific function of transmitting natural stream water or storm water run-off from a point of higher elevation to a point of lower elevation. Natural drainageways should be protected as linear open space features wherever possible within the community and shall be protected from pollutants and sediments.

**Response:** There would be no natural drainageways affected by this proposal. This criterion is not applicable to the proposed development.

(3) *Easements.* Where a land division is traversed by a water course, drainageway, channel or stream, there shall be provided a public storm water easement or drainage right-of-way conforming substantially with the lines of such water course and such further width as the City determines will be adequate for conveyance and maintenance. Improvements to existing drainageways may be required of the property owner. The property owner is also responsible for continuing maintenance and protection of natural drainageways.

**Response:** The proposal does not include a land division. This standard is not applicable to this proposal.

(4) *Drainageway Setbacks.* Setbacks are required for drainageways, streams, riparian areas, wetlands and floodplains in conformance with Sections 5.118 & 5.119 Building permit applications and land use applications to the City shall clearly indicate the boundary limits for riparian areas, wetlands and floodplains. Alteration of these areas by grading or placement of structures or impervious surfaces is prohibited unless approved by the City in accordance with the procedures of city ordinances and state law. Refer to Sections 7.100, 7.200 and 7.300 for additional Special Area Standards.

**Response:** While there are wetlands and riparian areas on the north side of the site, those were left undeveloped by the original developer of the site. With this proposal, those same areas are left undisturbed. All of the proposed improvements are interior to the site.

(5) *Accommodation of Upstream Drainage.* A culvert or other drainage facility shall be large enough to accommodate potential run-off from its entire upstream drainage area, whether inside or outside of the development. The City must review and approve the necessary size of the facility, based on sound engineering principles and assuming conditions of maximum potential watershed development permitted by the Comprehensive Plan.

**Response:** Noted by the applicant. The existing drainage facility was analyzed by Bill Long in his memo. According to Mr. Long, the existing facility is large enough to accommodate the potential run-off from the proposed development of the site, and any run-off that came on to the site before it was developed.

(6) *Effect on Downstream Drainage.* Where it is anticipated by the City that the additional run-off resulting from the development will overload an existing drainage



*facility, the City may withhold approval of the development until mitigation measures have been approved.*

**Response:** Noted by the applicant.

*(7) Drainage Management Practices. Developments within the City must employ drainage management practices approved by the City which limit the amount and rate of surface water run-off into receiving streams or drainage facilities. Stormwater runoff rates for new developments shall not exceed bare land runoff rates. Drainage management practices must include, but are not limited to one or more of the following practices:*

*(a) Temporary ponding or detention of water to control rapid runoff.*

*(b) Permanent storage basins.*

*(c) Minimization of impervious surfaces.*

*(d) Emphasis on natural drainageways.*

*(e) Prevention of water flowing from the development in an uncontrolled fashion.*

*(f) Stabilization of natural drainageways as necessary below drainage and culvert discharge points for a distance sufficient to convey the discharge without channel erosion.*

*(g) Runoff from impervious surfaces must be collected and transported to a natural drainage facility with sufficient capacity to accept the discharge.*

*(h) Other practices and facilities designed to transport storm water and improve water quality.*

**Response:** The proposed development employs a couple of the management practices listed above. Only 46% of the site is impervious. There is on-site flow control and an existing drainage facility located in the northwest corner of the site which collects, conveys, treats and detain run-off from the development prior to being discharged. The onsite wetlands remain on site, and are not impacted by the proposed improvements. Specific details related to the on-site storm system are provided in Exhibit 1.

*(8) Design Requirements for New Development. All new development within the City shall make provisions for the continuation or appropriate projection of existing storm sewer lines or drainageways serving surrounding areas. Drainage extensions may be required-through the interior of a property to be developed where the City determines that the extension is needed to facilitate upstream flows.*



**Response:** Noted by the applicant.

*(9) NPDES Permit Required. A National Pollutant Discharge Elimination System (NPDES) permit must be obtained from the Department of Environmental Quality (DEQ) for construction activities (including clearing, grading, and excavation) that disturb 5 or more acres of land.*

**Response:** The total site is approximately 8.08 acres. Of that acreage, approximately 5.36 acres have been previously impacted by development. The proposed improvements disturb less than an acre of the existing development; therefore, this requirement does not apply. It should be noted that the plans include a demolition and erosion Control Plan (Sheet 3.0) that identifies how erosion issues on the site are managed and controlled during construction.

### **SECTION 5.127 WATER**

**Response:** The subject site already has access to public water, and the proposed improvements do not impact those services.

### **SECTION 5.128 SANITARY SEWERS**

**Response:** The subject site already has access to sanitary sewer, and the proposed improvements do not impact those services.

### **SECTION 5.129 UTILITIES**

**Response:** Any relocated utilities for water and storm will be placed underground as required. All franchise utilities are existing. Please refer to Sheet 4.0 the Site and Utility Plans for specific details.

### **SECTION 5.130 EASEMENTS**

**Response:** Existing public and franchise utilities located on site are already provided. No new easements are proposed as a part of the development.





## **SECTION 5.131 BLOCKS**

**Response:** The proposed development does not include a land division or any reconfiguration of the existing parcel of land. These criteria are not applicable to the proposed development.

## **SECTION 5.132 BUILDING SITES**

**Response:** No new lots or buildings are proposed with these improvements. These criteria are not applicable to the proposed development.

## **SECTION 5.133 GRADING**

*General grading shall conform to the following standards unless engineered and approved by the City.*

- (1) Cut slopes shall not exceed one and one-half feet horizontally to one foot vertically.*
- (2) Fill slopes shall not exceed two feet horizontally to one foot vertically.*
- (3) The type and characteristics of imported fill soils shall be the same or compatible with the existing soils on the site.*
- (4) Fills for streets and building sites shall be engineered and approved by the City.*
- (5) All sites shall be graded to direct storm water to City storm sewers or to natural drainage ways.*
- (6) All grading activities shall comply with any required removal or fill permits issued by the State or Federal agencies.*

**Response:** Chris Beatty, a licensed professional engineer prepared a grading plan, (See sheet 5.0) as part of this design. Chris' grading plan has been completed with these requirements in mind. There are not cut slopes exceeding 1.5:1 or any fill slopes exceeding 2:1. There is not an anticipated need to import any fill soils, and all on-site grading is intended to direct storm water to the existing on-site storm facility. These criterion are satisfied by the proposed development.

## **SECTION 5.134 LANDSCAPING**

*All required yards in each zone and the entire open space of all commercial and multiple-family dwelling sites exclusive of walks, drives, parking areas and buildings shall be landscaped and permanently maintained. Landscaping shall primarily consist of ground cover, trees, shrubs or other living plants with sufficient irrigation to properly maintain all vegetation. Decorative design elements such as fountains, pools, benches, sculptures, planters, fences and similar elements may be placed within the area.*

*All properties shall be landscaped and maintained according to the standards contained herein. All front yard or street side yard setbacks and parking areas shall be landscaped in accordance with the following requirements:*



**Response:** The proposed improvements do not impact any existing required landscaping. There was landscaping proposed with the prior approval because of an associated office building. That building was never constructed, and the landscaping was never installed. There were landscape plants that were removed and a fence relocated with approval when the owner purchased the property. The landscaping that was removed, was not replaced. Through this process, the applicant proposes to replace the trees that were removed in the location shown on Sheet 6.0 the landscape plan.

**Tree Plantings.** *Tree plantings in accordance with the following standards are required:*

*(a) Street Tree Maximum Spacing*

- 1. Large canopy trees - 50 feet*
- 2. Medium canopy trees - 30 feet*

*(b) Parking Lot Minimum Tree Plantings*

- 1. Medium canopy trees - 1 tree per 8 cars*
- 2. Large canopy trees - 1 tree per 12 cars*

*(c) It is unlawful to plant willow, cottonwood, or poplar trees anywhere in the City unless the City approves the site as one where tree roots will not likely interfere with public sewers.*

*(d) It is unlawful to plant any of the following trees in or adjacent to any street right-of-way or parking strip in the City: Box Elder, Tree of Heaven, Golden Chair, Holly, Silver Maple, Bamboo, Poplar, Willow, Conifers, Cottonwood, fruit trees (other than ornamental fruit trees), nut trees (other than ornamental nut trees), and Ailanthus.*

*(e) Trees may not be planted under the following conditions unless approved by the City:*

- 1. Three feet from permanent hard surface paving or walkways unless using special planting techniques and specifications approved by the City.*
- 2. Within 10' of fire hydrants and telephone poles;*
- 3. Within 20' of street light standards;*
- 4. Within 10' of a public sanitary sewer, storm drainage or water line;*
- 5. Where the tree poses a hazard to the public.*
- 6. Where the minimum clearance is less than eight feet above sidewalks and twelve feet above street and roadway surfaces.*



*(f) Tree Species: Tree species shall be selected from the City's approved list. Alternate selections may be approved by the City Administrator following written request.*

**Response:** The proposed development includes the installation of street trees as requested by staff in the pre-app meeting and required by this code. As proposed, the applicant will plant medium canopy trees 30-feet on center with a variety of street tree that is on the City's approved street tree list and available on the market. Street trees are shown in a location that respects the standards listed above recognizing that there is a 20-inch waterline that runs through the front of the property.

Regarding all other landscape standards, the area between the street and the rest of the site is greater than 60 feet in width it is planted with ground cover, trees and shrubs. All previously installed landscaping associated with screening, parking, and buffering is proposed to remain. All remaining standards of this section have been previously satisfied and are not impacted by this proposal.

### **SECTION 5.135 EXTERIOR LIGHTING**

**Response:** No new lighting is proposed with the improvements. All existing lighting on the site will be maintained. These standards are not applicable to the proposed development.

### **III. CONCLUSION**

This summary of the request and attachments demonstrate compliance with applicable approval criteria and code. The applicant respectfully requests that the City approve the proposed development as requested.

### **IV. Exhibits**

Exhibit 1 – Preliminary Storm Memo from Bill Long PE.

Exhibit 2 – Pre-application Conference Notes from the City of Millersburg

### **V. Plans**

Sheet 1.0 Cover Sheet

Sheet 2.0 Existing Conditions Plan

Sheet 3.0 Demolition and Erosion Control Plan

Sheet 4.0 Site and Utility Plan

Sheet 5.0 Grading Plan

Sheet 6.0 Landscape Plan





# MILLERSBURG SITE STORAGE PROJECT

3484 NE OLD SALEM ROAD  
MILLERSBURG, OREGON

PROPERTY: NORTH OF SITE  
OWNER: CITY OF MILLERSBURG OREGON  
TAX NUMBER: 00807-774045  
MAILING ADDRESS:  
4222 NE OLD SALEM ROAD  
ALBANY, OR 97321



PROPERTY: WEST OF SITE  
OWNER: TELEDYNE INDUSTRIES INC.  
TAX NUMBER: 00807-774029  
MAILING ADDRESS:  
PO BOX 460  
ALBANY, OR 97321

**SITE**  
3484 NE OLD SALEM ROAD  
MILLERSBURG, OR 97321

PROPERTY: EAST OF SITE  
OWNER: IP EAT THREE.  
TAX NUMBER: 00805-940863  
MAILING ADDRESS:  
PO BOX 2118  
MEMPHIS, TN 38101

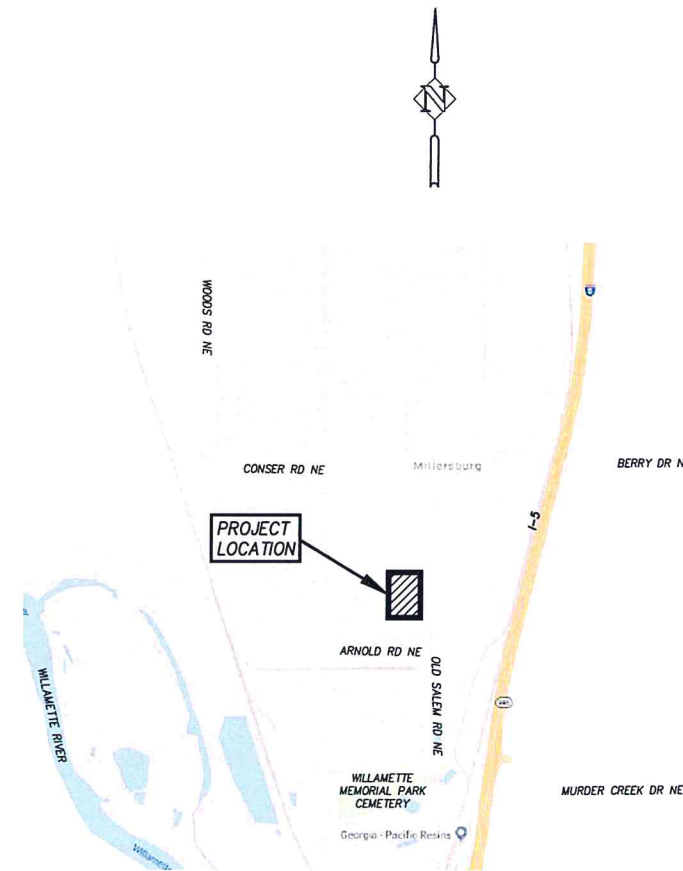
PROPERTY: SOUTH OF SITE  
OWNER: MARSHALL LOY  
TAX LOT: 00807-392809  
MAILING ADDRESS:  
4222 NE OLD SALEM ROAD  
ALBANY, OR 97321

PROPERTY: SOUTH OF SITE  
OWNER: TRUAX OIL COMPANY  
TAX LOT: 00807-392791  
MAILING ADDRESS:  
PO BOX 3002  
CORVALLIS, OR 97339-3002

**SITE PLAN**  
N.T.S.

DATE	NO.	DESCRIPTION
R E V I S I O N S		

DESIGNED:	CAB
DRAWN:	CAB
CHECKED:	---
DATE:	9-5-19



**VICINITY MAP**  
N.T.S.

**PROJECT CONTACTS:**

OWNER'S REPRESENTATIVE:  
JEFF BENGE  
503-887-3788  
JEFF@BENGEINDUSTRIES.COM

ENGINEER:  
HARPER HOUF PETERSON RIGHELLIS INC.  
CHRIS BEATTY, P.E.  
503-221-1131  
CHRISB@HHPR.COM

**GENERAL NOTES**

1. ALL WORK SHALL CONFORM TO CITY OF MILLERSBURG AND THE OREGON STANDARD SPECIFICATIONS FOR CONSTRUCTION, 2018, AS AMENDED BY THE SPECIAL PROVISIONS.
2. THE CONTRACTOR SHALL PRUNE ALL VEGETATION, AS NECESSARY, AWAY AND UP FROM THE STREET AS WELL AS ANY ROOT PRUNING AS DETERMINED BY THE ENGINEER. THE CONTRACTOR SHALL PROTECT ALL EXISTING TREES AND LANDSCAPING THAT IS TO REMAIN.
3. THE CONTRACTOR SHALL MAKE EVERY REASONABLE EFFORT TO PROTECT THE REMAINING EXISTING CONCRETE CURBS AND SIDEWALKS.
4. AT THE END OF EACH WORK DAY THE CONTRACTOR SHALL CLEAN UP THE PROJECT AREA AND LEAVE IT IN A NEAT AND SECURED MANNER. UPON COMPLETION, THE CONTRACTOR SHALL LEAVE THE PROJECT AREA FREE OF DEBRIS AND UNUSED MATERIAL.

**UTILITY GENERAL NOTES**

1. EXISTING ABANDONED UTILITIES (I.E. STORM AND WATER LINE, ETC.) MAY EXIST THAT ARE NOT SHOWN ON THE PLANS. IF THE CONTRACTOR ENCOUNTERS ABANDONED FACILITIES DURING EXCAVATION THEY SHALL NOTIFY THE ENGINEER AND UTILITY IMMEDIATELY.
2. EXISTING UTILITIES SHOWN ON THE PLANS ARE PER SURFACE LOCATIONS AND AS-BUILT DRAWINGS. THE CONTRACTOR SHALL VERIFY THE EXACT LOCATIONS AND ELEVATIONS OF ALL EXIST. UTILITIES PRIOR TO CONSTRUCTION TO AVOID POTENTIAL CONFLICTS.
3. EXCAVATOR(S) MUST COMPLY WITH O.R.S. 757.542 THROUGH 757.562. EXCAVATOR(S) SHALL NOTIFY OREGON UTILITY NOTIFICATION CENTER FOR LINE LOCATIONS AT LEAST TWO, BUT NOT MORE THAN TEN, BUSINESS DAYS PRIOR TO START OF WORK. DAMAGE TO UTILITIES SHALL BE CORRECTED AT THE CONTRACTOR'S EXPENSE. OREGON UTILITY NOTIFICATION CENTER: PH. 1-800-332-2344

**SHEET INDEX**

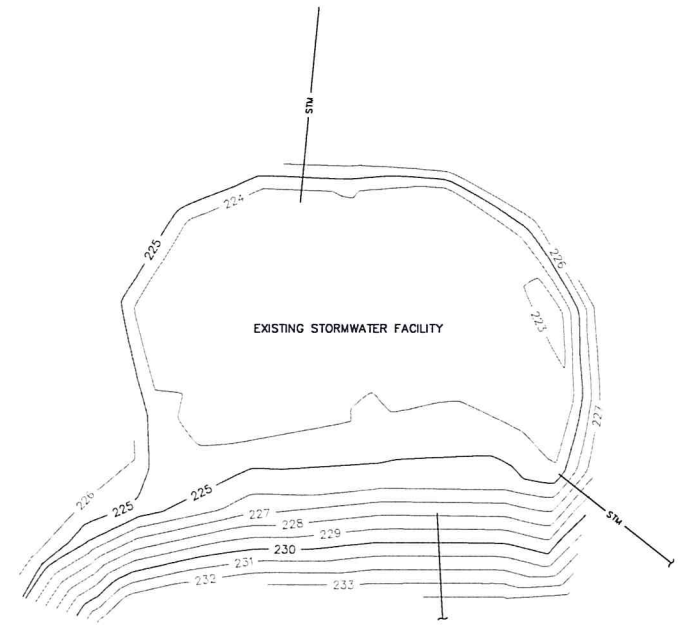
- 1.0 COVER SHEET
- 2.0 EXISTING CONDITIONS PLAN
- 3.0 DEMOLITION AND EROSION CONTROL PLAN
- 4.0 SITE AND UTILITY PLAN
- 5.0 GRADING PLAN
- 6.0 LANDSCAPE PLAN



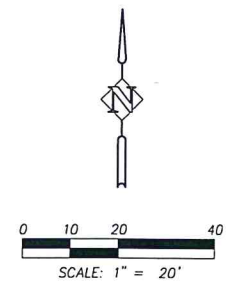
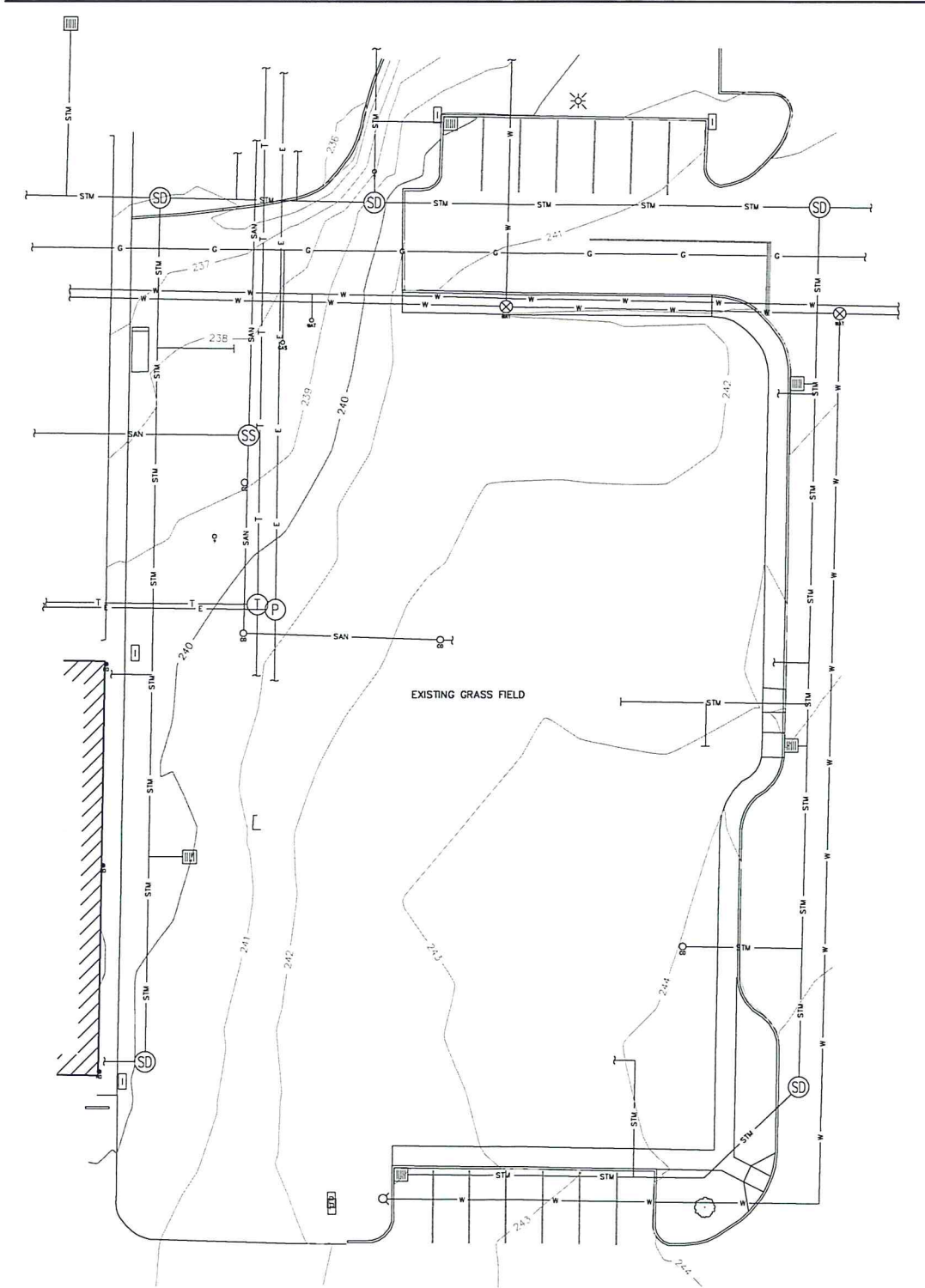
<p>COVER SHEET</p> <p><b>MILLERSBURG SITE STORAGE PROJECT</b></p> <p>MILLERSBURG, OREGON</p>	<p>SHEET NO.</p> <p><b>1.0</b></p> <p>JOB NO.</p> <p>BNG-05</p>
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MATCH LINE – REFER TO THE LEFT



MATCH LINE – REFER TO THE RIGHT



**TOPOGRAPHIC LEGEND:**

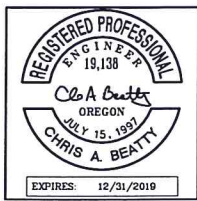
STM	STORM SEWER LINE	?	UNKNOWN UTILITY/JUNCTION BOX
SAN	SANITARY SEWER LINE	?	UNKNOWN UTILITY MANHOLE
W	WATER LINE	?	UNKNOWN STAND PIPE
G	GAS LINE	?	UNKNOWN UTILITY VAULT
OW	OVERHEAD WIRE	??	UNKNOWN RISER/CABINET
X	FENCE LINE, TYPE AS NOTED	←	GUY WIRE
FO	FIBER OPTIC LINE	⊙	GROUND LIGHT
T	TELEPHONE LINE	⊙	LIGHT POLE
IRR	IRRIGATION LINE	⊙	STREET LIGHT
E	ELECTRIC LINE	⊙	STREET LIGHT BOX
TV	CABLE TELEVISION LINE	⊙	UTILITY POLE
	FRENCH DRAIN	⊙	UTILITY POLE / UNDERGROUND UTILITIES
→	FLOWLINE	⊙	UTILITY POLE / STREET LIGHT
—	GUARD RAIL	⊙	UTILITY POLE / UNDERGROUND UTILITIES AND STREET LIGHT
—	BUILDING LINE	⊙	LOCATION OF PHOTO
—	LINEAR AC PATCH (UTILITY?)	⊙	SINGLE POST SIGN
—	UTILITY LINE IS BELIEVED TO CONTINUE, CONNECTION NOT LOCATED OR UNKNOWN	⊙	DOUBLE POST SIGN
—	MAJOR CONTOUR – 5' INTERVALS	⊙	FLAG POLE
—	MINOR CONTOUR – 1' INTERVALS	⊙	PICNIC TABLE
⊙	SANITARY SEWER MANHOLE	⊙	BENCH
⊙	CLEANOUT	⊙	GATE POST
⊙	STORM SEWER MANHOLE	⊙	BOLLARD
⊙	CATCH BASIN	⊙	MAIL-BOX
⊙	DITCH INLET	⊙	GRAVE
⊙	CURB INLET	⊙	HANDI-CAP PARKING SPACE
⊙	AREA DRAIN	⊙	SHRUB / BUSH (SIZE AS NOTED)
⊙	ROOF DRAIN DOWN SPOUT	⊙	CONIFEROUS TREE (APPROXIMATE DIAMETER BREAST HIGH AS NOTED)
⊙	WEEP HOLE	⊙	DECIDUOUS TREE (APPROXIMATE DIAMETER BREAST HIGH AS NOTED)
⊙	WATER MANHOLE	⊙	STUMP – APPROXIMATE DIAMETER ON TOP, OR DBH, IF OVER 4' TALL.
⊙	WATER VALVE	⊙	TRAFFIC SIGNAL BOX
⊙	FIRE HYDRANT	⊙	TRAFFIC SIGNAL CABINET
⊙	FIRE DEPT. CONNECTION	⊙	POLE WITH PEDESTRIAN PUSH BUTTON
⊙	WATER METER	⊙	SIGNAL POLE
⊙	WATER STAND PIPE	⊙	SIGNAL POLE WITH PEDESTRIAN PUSH BUTTON
⊙	WATER VAULT	⊙	SIGNAL POLE WITH LIGHT
⊙	WELL	⊙	SIGNAL POLE WITH LIGHT AND PEDESTRIAN PUSH BUTTON
⊙	HOSE BIB / WATER SPIGOT	⊙	ROCK (SIZE AS NOTED)
⊙	WATER BOX	⊙	SEE TOPO/SURVEY NOTES TABLE
⊙	IRRIGATION VALVE	⊙	EXCEPTION NUMBER PER TITLE REPORT
⊙	SPRINKLER HEAD	⊙	ELEV. HPR CONTROL POINT
⊙	IRRIGATION METER	⊙	FOUND MONUMENT AS NOTED IN TABLE. PROTECT.
⊙	IRRIGATION BOX		
⊙	GAS WARNING SIGN		
⊙	GAS MANHOLE		
⊙	GAS VALVE		
⊙	GAS METER		
⊙	GAS STAND PIPE		
⊙	GAS VAULT		
⊙	GAS RISER		
⊙	POWER MANHOLE		
⊙	POWER METER		
⊙	POWER RISER		
⊙	POWER STAND PIPE		
⊙	POWER CABINET		
⊙	POWER VAULT		
⊙	TRANSFORMER PAD		
⊙	TRANSMISSION TOWER		
⊙	ELECTRIC BOX		
⊙	POWER TRANSFORMER		
⊙	CABLE TELEVISION BOX		
⊙	CABLE TELEVISION RISER		
⊙	CABLE TELEVISION VAULT		
⊙	CABLE TELEVISION STAND PIPE		
⊙	TELEPHONE BOX		
⊙	FIBER OPTIC WARNING SIGN		
⊙	TELEPHONE MANHOLE		
⊙	TELEPHONE RISER		
⊙	TELEPHONE STAND PIPE		
⊙	TELEPHONE VAULT		
⊙	WETLAND TEST PIT		
⊙	PARKING METER		
⊙	WETLAND FLAG		

NOTE: SYMBOLS SHOWN HEREON ARE FOR GRAPHICAL REPRESENTATION PURPOSES AND DO NOT NECESSARILY SHOW SHAPE, SIZE, ROTATION, CONDITION, TYPE, ETC. OF THE ACTUAL PHYSICAL IMPROVEMENTS THAT THEY REPRESENT. CONDITION, TYPE, ROTATION, ETC. MAY VARY AMONGST ITEMS SHOWN BY THE SAME SYMBOL.

**VERTICAL DATUM:**  
ELEVATIONS ARE BASED UPON LINN COUNTY SURVEYOR GPS STATION NO. 93197, BEING A 2" ALUMINUM CAP IN CONCRETE  
ELEVATION = 240.22' NGVD (29)47 DATUM

**HORIZONTAL DATUM**  
LOCAL DATUM PLANE GROUND COORDINATES BASED UPON THE OREGON STATE PLANE COORDINATE SYSTEM – NORTH ZONE, UTILIZING LINN COUNTY SURVEYOR GPS STATION NO. 93196 AND 93197.

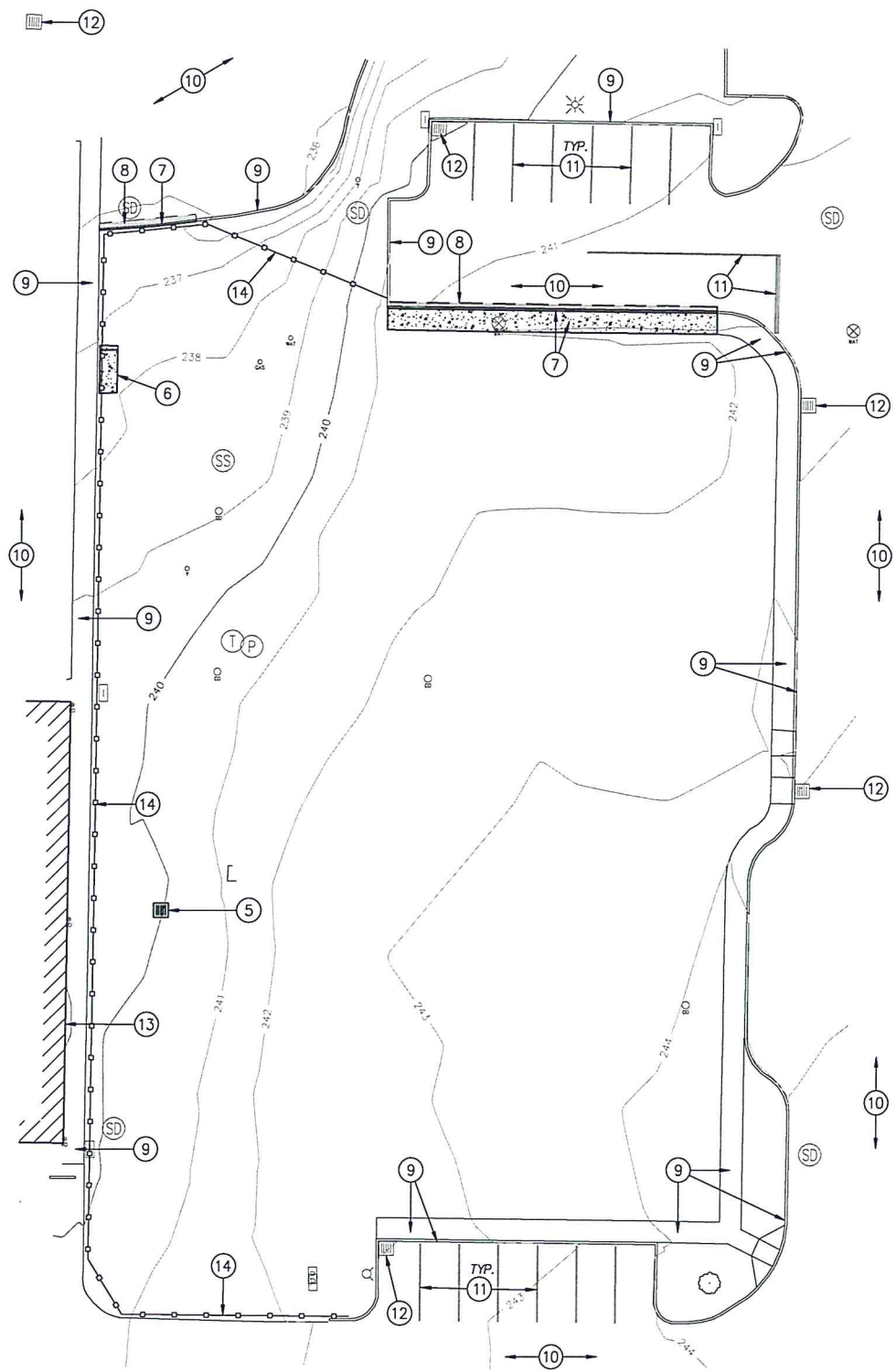
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DATE	NO.	DESCRIPTION



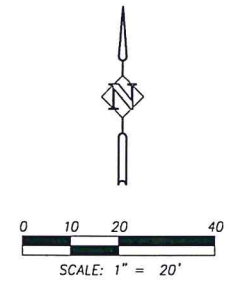
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**EXISTING CONDITIONS PLAN**  
**MILLERBURG SITE STORAGE PROJECT**  
MILLERSBURG, OREGON

SHEET NO.  
**2.0**  
JOB NO.  
BNG-05

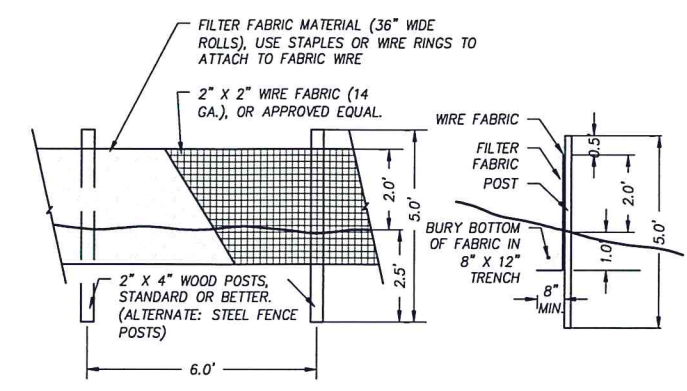


PLAN VIEW

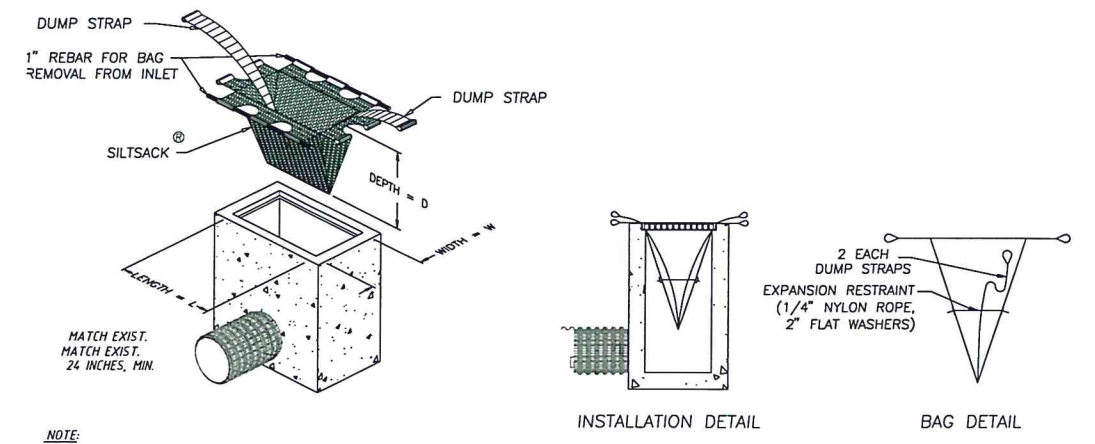


**CONSTRUCTION NOTES:**

- ⑤ REMOVE EXISTING CATCH BASIN. SALVAGE INLET FOR REINSTALLATION.
- ⑥ REMOVE EXISTING CONCRETE STRUCTURE.
- ⑦ REMOVE EXISTING CONCRETE CURB AND/OR SIDEWALK. SAWCUT NEAT LINE AT LIMIT OF REMOVAL.
- ⑧ REMOVE EXISTING ASPHALT OR CONCRETE TO LIMITS AT SAWCUT LINE. SAWCUT AS REQUIRED AND DIRECTED.
- ⑨ PROTECT EXISTING CONCRETE CURB, SIDEWALK, OR DRIVEWAY APPROACH.
- ⑩ PROTECT EXISTING AC PAVEMENT SECTION
- ⑪ PROTECT EXISTING TRAFFIC STRIPING.
- ⑫ PROTECT EXISTING CATCH BASIN. REFER TO "SILT SOCK" INLET PROTECTION DETAIL ON THIS SHEET.
- ⑬ PROTECT EXISTING BUILDING STRUCTURE.
- ⑭ INSTALL EROSION CONTROL SEDIMENT FENCING PER DETAIL ON THIS SHEET.



SEDIMENT CONTROL FENCE DETAIL  
N.T.S.



NOTE:  
INSTALL SILTSACK AND ACCESSORIES AS SUPPLIED BY  
ACF WEST, INC., PH. 771-5115, OR APPROVED EQUAL.

"SILT SOCK" INLET PROTECTION  
N.T.S.

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DATE:	9-5-19

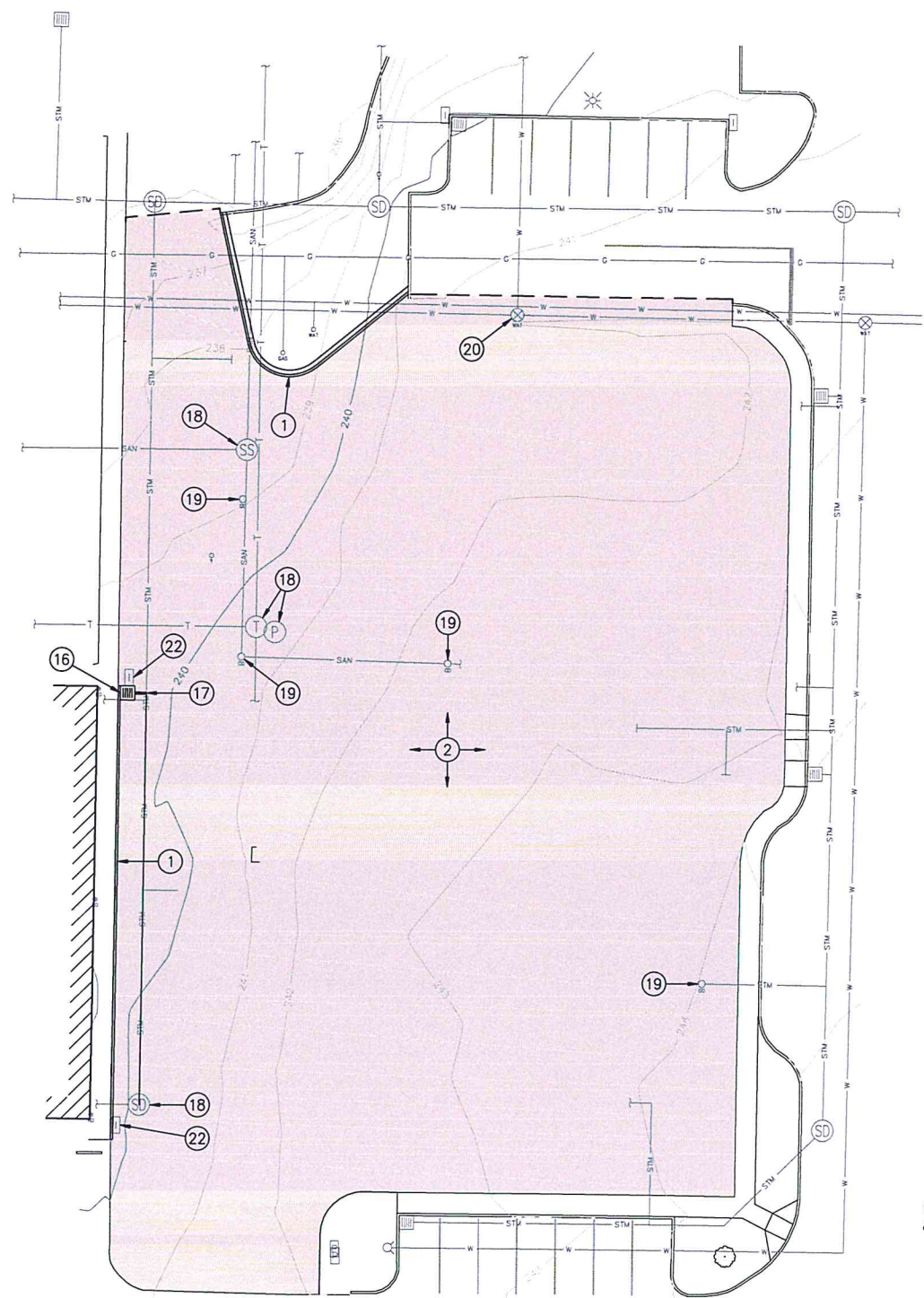
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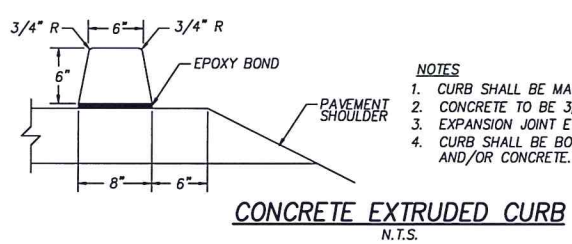
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<p>DEMOLITION AND EROSION CONTROL PLAN MILLERBURG SITE STORAGE PROJECT MILLERSBURG, OREGON</p>	<p>SHEET NO. <b>3.0</b> JOB NO. BNG-05</p>
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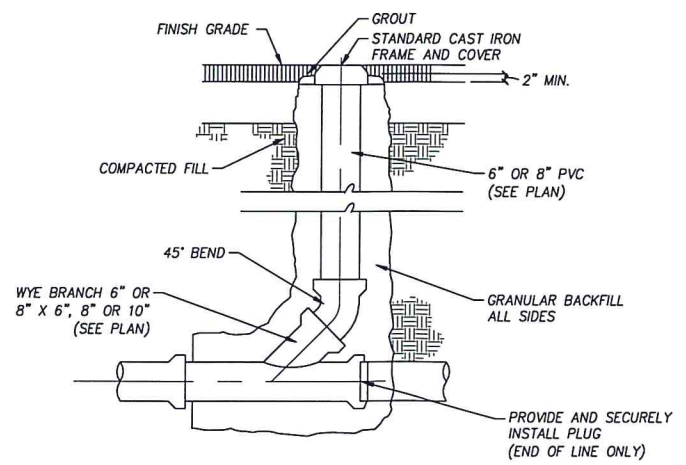
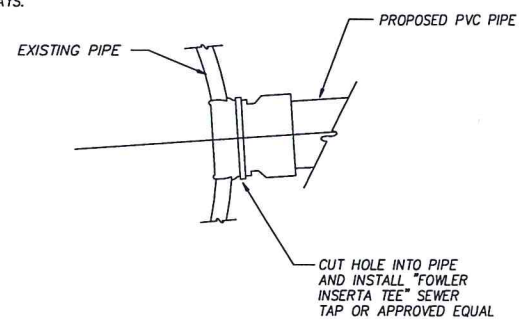




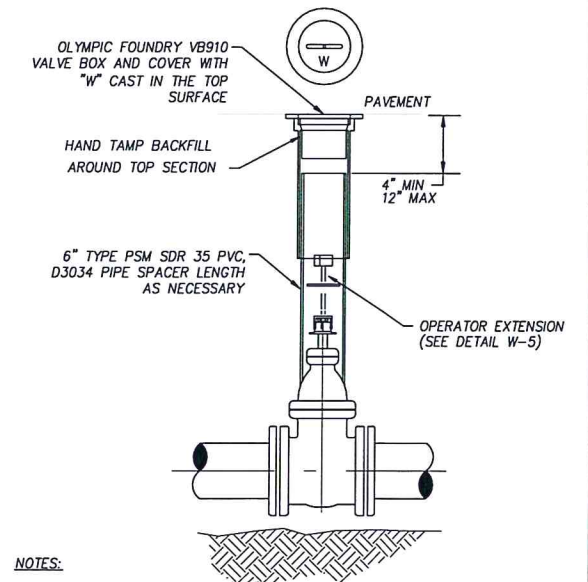
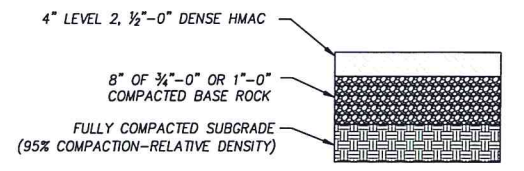
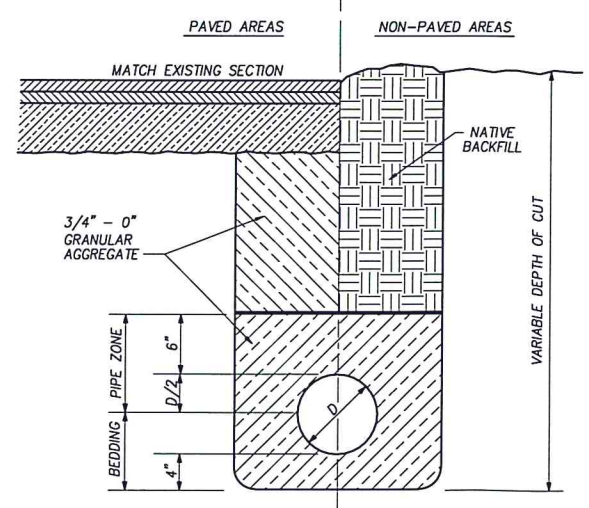
**PLAN VIEW**  
N.T.S.



- NOTES**
1. CURB SHALL BE MACHINE EXTRUDED.
  2. CONCRETE TO BE 3,000 P.S.I. AFTER 28 DAYS.
  3. EXPANSION JOINT EVERY 20 FEET.
  4. CURB SHALL BE BONDED TO ASPHALT AND/OR CONCRETE.



NOTE: CAST IRON FRAME AND COVER SHALL BE VALLEY IRON & STEEL CO. NO.'S 202 (6") OR 203 (8") OR APPROVED EQUAL.



- NOTES:**
1. VALVE BOX NOT TO REST ON OPERATING ASSEMBLY
  2. OPERATOR EXTENSION REQUIRED WHEN VALVE NUT IS DEEPER THAN 3 FEET FROM FINISHED GRADE
  3. CENTER VALVE BOX ON AXIS OF OPER NUT
  4. PROVIDE 24" SQUARE BY 4" THICK CONCRETE PAD AROUND VALVE BOX OUTSIDE OF PAVED AREAS
  5. VALVE BOX COVER SHALL BE A MINIMUM OF 2 1/2" IN LENGTH

**CONSTRUCTION NOTES:**

1. CONSTRUCT CONCRETE EXTRUDED CURB PER DETAIL ON THIS SHEET.
2. CONSTRUCT ASPHALT PAVEMENT SECTION PER DETAIL ON THIS SHEET.
16. INSTALL SALVAGED LYNCH STYLE CATCH BASIN. REFER TO NOTE 5 ON SHEET 3.0. RIM ELEV. = 239.83, 6" IE OUT = 238.63, 3 LF OF 6" PVC PIPE, SLOPE = VERTICAL.
17. CONNECT TO EXISTING 8" PVC STORM PIPE PER PIPE CONNECTION DETAIL ON THIS SHEET. EX. 8" IE = 234.63, PR. 6" IE = 235.30 (TOP).
18. ADJUST MANHOLE FRAME AND COVER TO GRADE. REFER TO SHEET 5.0 FOR EXISTING AND PROPOSED GRADES.
19. ADJUST CLEANOUT RISER TO FINISH GRADE. INSTALL TRAFFIC RATED CLEANOUT AND COVER TO GRADE PER DETAIL ON THIS SHEET. REFER TO SHEET 5.0 FOR EXISTING AND PROPOSED GRADES.
20. ADJUST WATER VALVE BOX AND LID TO FINISH GRADE PER DETAIL ON THIS SHEET. REFER TO SHEET 5.0 FOR EXISTING AND PROPOSED GRADES.
22. EXISTING IRRIGATION CONTROL VALVE BOX. REMOVE ALL IRRIGATION INCLUDING BOXES AND SPRINKLER HEADS AS REQUIRED. PROVIDE TRAFFIC RATED BOXES WHERE BOXES ARE TO REMAIN.

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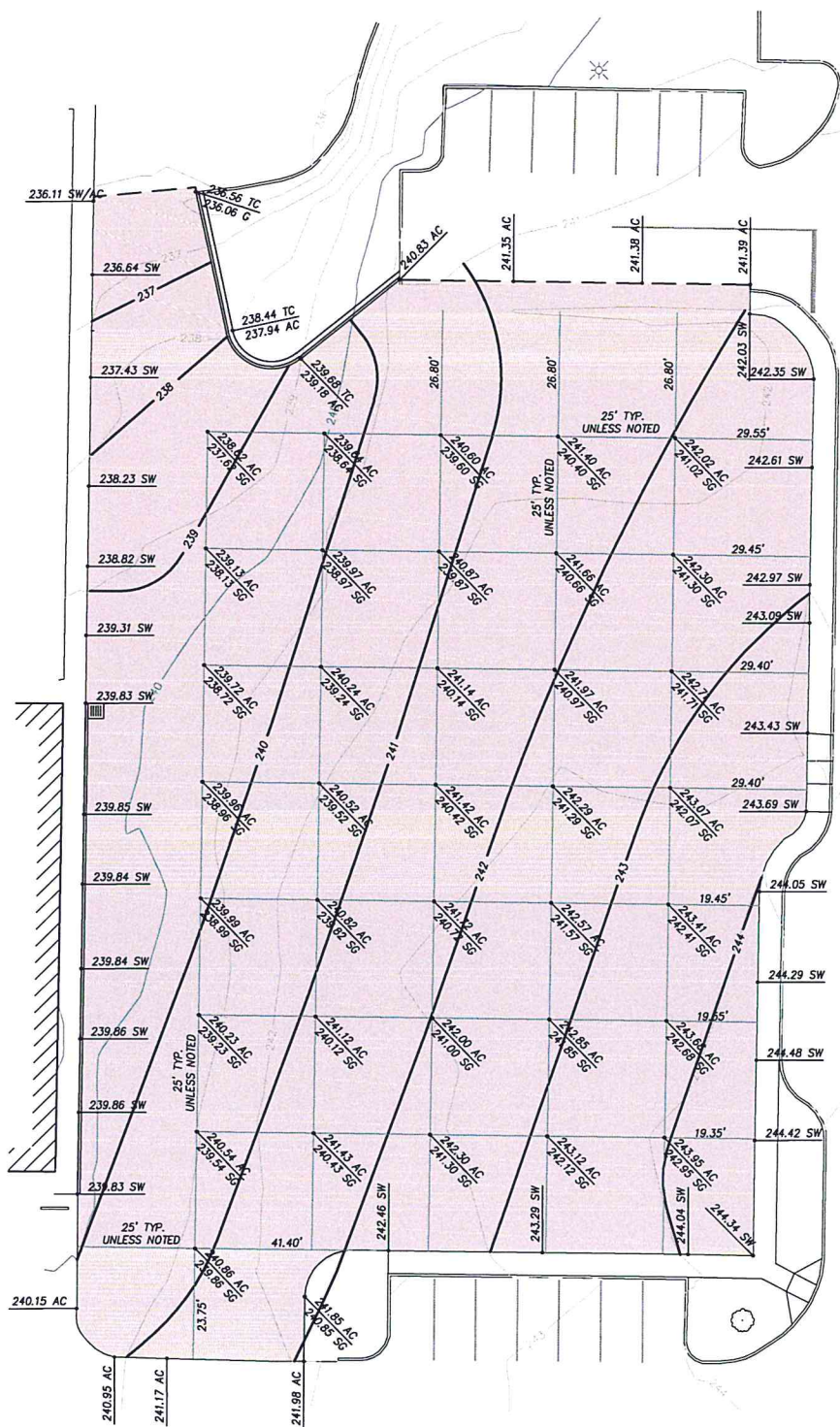


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**SITE AND UTILITY PLAN**  
**MILLERBURG SITE STORAGE PROJECT**  
**MILLERSBURG, OREGON**

SHEET NO.  
**4.0**  
JOB NO.  
BNG-05

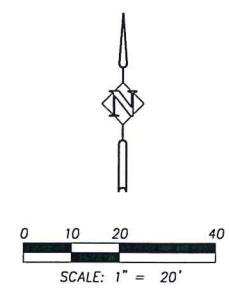




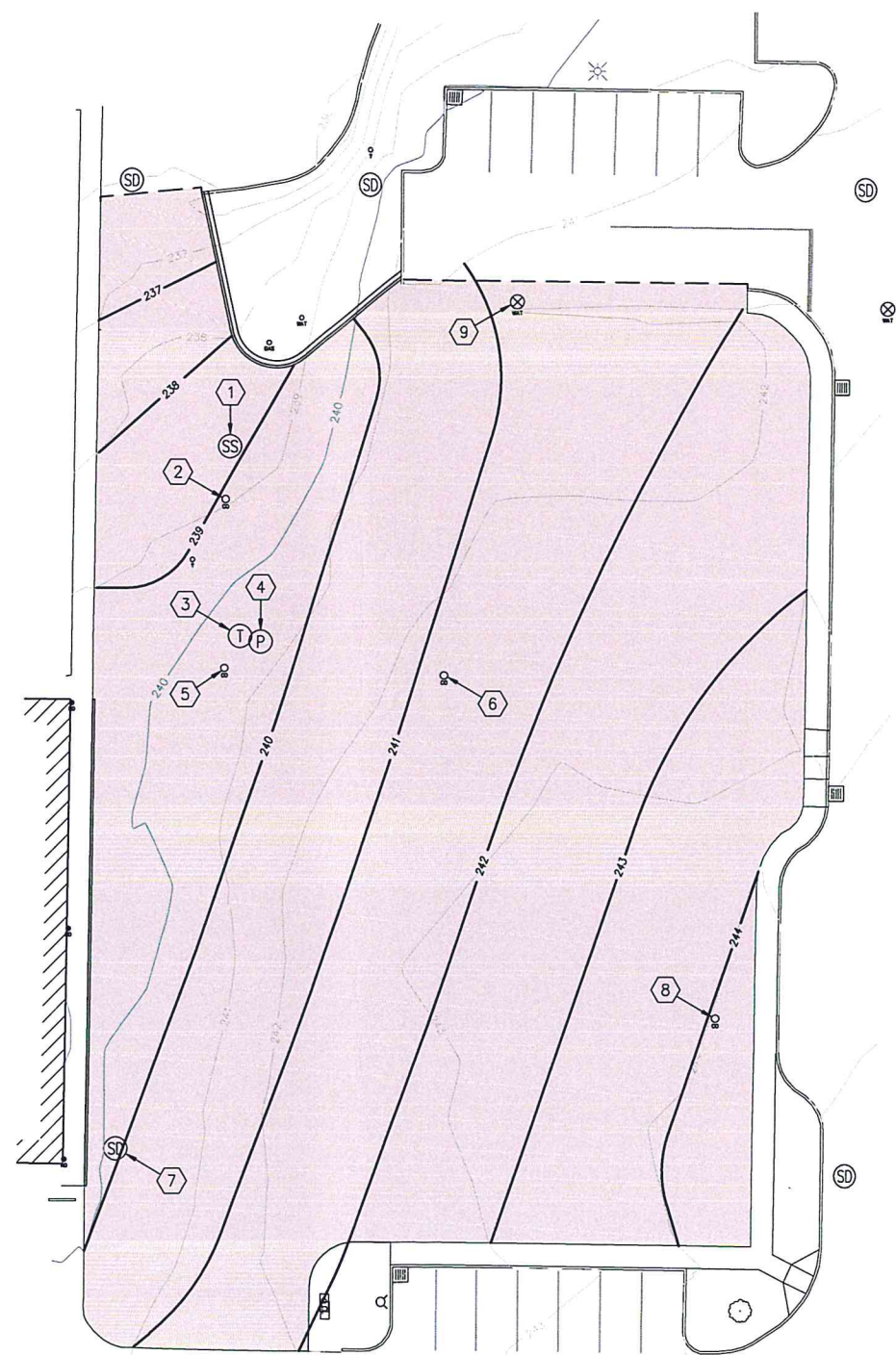
GRADING PLAN

**LEGEND:**

- 240 FINISH GRADE CONTOUR
- 240 EXISTING CONTOUR
- FINISH GRADE SPOT ELEVATION
- EXISTING SIDEWALK ELEVATION
- FINISH GRADE TOP OF ASPHALT
- SUBGRADE ELEVATION



STRUCTURE NO.	EX. LID ELEV.	PR. LID ELEV.
1	238.50	238.86
2	238.78	239.06
3	241.04	239.72
4	241.03	239.82
5	240.40	239.78
6	241.41	241.20
7	239.76	239.97
8	244.02	244.06
9	241.93	241.25



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<p>GRADING PLAN  <b>MILLERBURG SITE STORAGE PROJECT</b>          MILLERSBURG, OREGON</p>	<p>SHEET NO.  <b>5.0</b>          JOB NO.          BNG-05</p>
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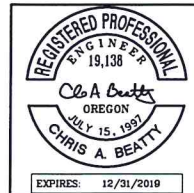




PLAN VIEW

APPROX. FENCE LINE  
APPROX. POWER EASEMENT  
APPROX. R/W

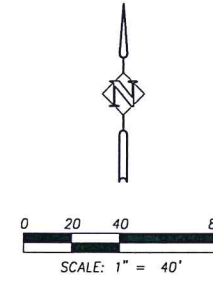
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REVISIONS		
DATE	NO.	DESCRIPTION



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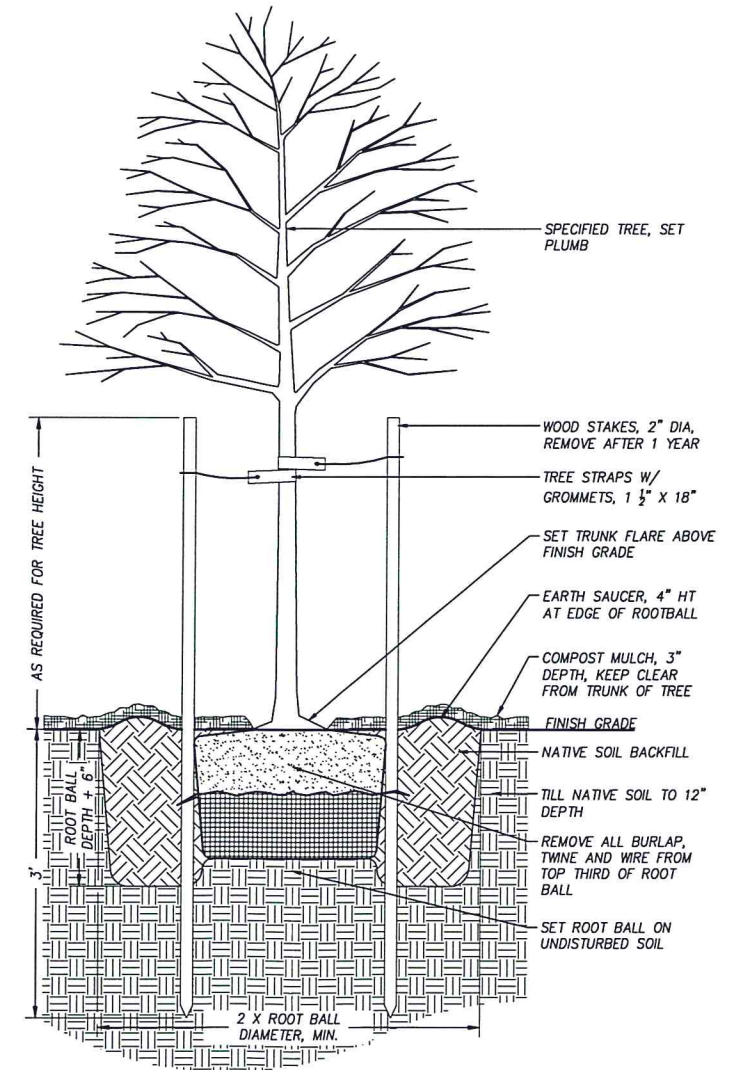
**GENERAL PLANTING NOTES**

1. ALL CONSTRUCTION SHALL BE PERFORMED IN ACCORDANCE WITH CURRENT CITY OF MILLERSBURG STANDARDS AND OREGON BUILDING AND SPECIALTY CODES.
2. INSTALL EROSION CONTROL SYSTEMS IN ACCORDANCE WITH CITY OF MILLERSBURG STANDARDS PRIOR TO SITE WORK AND LANDSCAPE INSTALLATION.
3. CONTRACTOR SHALL MARK AND PROTECT ALL UTILITIES, SITE FEATURES, AND VEGETATION TO REMAIN IN PLACE.
4. CONTRACTOR SHALL REMOVE ALL WEEDS AND INVASIVE SPECIES PRIOR TO PLANTING OR SEEDING.
5. ALL PLANTER BEDS SHALL BE SCARIFIED 12" BELOW FINISHED GRADE AND HAVE 12" OF TOPSOIL ADDED TO BRING BACK TO FINISHED GRADE PRIOR TO PLANTING.
6. CONTRACTOR TO INSTALL 3" LAYER OF COMPOST MULCH AT ALL TREE, SHRUB AND GROUNDCOVER AREAS.
7. LANDSCAPE INSTALLATION SHALL INCLUDE PROVISION OF AN AUTOMATIC IRRIGATION SYSTEM TO SUSTAIN LANDSCAPE PLANTINGS, MEETING LOCAL AND STATE BUILDING CODES.
8. PLANT MATERIAL INSTALLED SHALL CONFORM IN SIZE AND GRADE TO THE "AMERICAN STANDARD FOR NURSERY STOCK" CURRENT EDITION.
9. QUANTITIES OF PLANT MATERIALS SHALL BE AS DETERMINED BY CONTRACTOR IN ACCORDANCE WITH SPECIFIED SPACING OR LOCATION ON PLAN. MATERIAL QUANTITIES SHOWN ON PLAN ARE FOR CONTRACTOR CONVENIENCE ONLY AND SHALL BE VERIFIED BY CONTRACTOR PRIOR TO INSTALLATION. SURPLUS OR SHORTAGES OF PLANT QUANTITIES SHALL BE RESPONSIBILITY OF CONTRACTOR.
10. LANDSCAPE CONTRACTOR SHALL WATER PLANTINGS FOR DURATION OF ONE-YEAR WARRANTY PERIOD AFTER INSTALLATION AND GUARANTEE ALL PLANTINGS TO BE IN SATISFACTORY HEALTH. LANDSCAPE CONTRACTOR SHALL REPLACE ALL DAMAGED, DEAD, OR DYING PLANTS COVERED BY WARRANTY WITHIN 30 DAYS OF INITIAL IDENTIFICATION OF CONDITION.



**CONSTRUCTION NOTES:**

1. INSTALL 2" CALIPER STREET TREE PER DETAIL ON THIS SHEET. TREE SPECIES SHALL BE SELECTED FROM THE CITY'S APPROVED LIST AND TREES THAT ARE READILY AVAILABLE AT THE TIME OF PLANTING. ALTERNATE SELECTION MAY BE APPROVED BY THE CITY ADMINISTRATOR FOLLOWING WRITTEN REQUEST.



○ TREE PLANTING – DECIDUOUS  
Section NOT TO SCALE

LANDSCAPE PLAN  
MILLERSBURG SITE STORAGE PROJECT  
MILLERSBURG, OREGON

SHEET NO.	6.0
JOB NO.	BNG-05



**1. IDENTIFICATION**

**Product Name:** SA Premier(MP), SA 102(MP), SA 102HV(MP), SA 103(MP), SA 103HV(MP), SA 180(MP), SA 200(MP), SA Bridge Bond(MP), SA Bridge Bond Adhesive(MP), SA PLF210(MP), SA PLF 210V(MP), SA 210(MP)

**Chemical Name:** Modified Asphalt

**Chemical Formula:** Mixture

**CAS Number:** Mixture

**Manufacturer**

Maxwell Products, Inc.  
 650 South Delong St.  
 Salt Lake City, UT 84104

**Emergency telephone number:**  
**Infotrac: 1-800-535-5053, 1-352-323-3500**

**2. HAZARD(S) IDENTIFICATION**

**▲ HAZARDS EXEMPT WHEN IN BONDED FORM OR WHEN IT CANNOT BE RELEASED DUE TO CUTTING, GRINDING, HEATING, ETC.**

**Classification of the substance or mixture:**

GHS08 Health hazard, Carc. 1B H350 May cause cancer,  
 GHS07, Skin Irrit. 2 H315 Causes skin irritation, Eye Irrit. 2B H320  
 Causes eye irritation.

**Signal word:** Danger

**Hazard-determining components of labeling:**

Asphalt  
 Distillates (petroleum), solvent-refined heavy naphthenic  
 Trade Secret(s)

**Hazard statements:**

Causes skin and eye irritation.  
 May cause cancer.

**Precautionary statements:**

Do not handle until all safety precautions have been read and understood.  
 Wear protective gloves/protective clothing/eye protection/face protection. (see section 8)  
 Read application instructions before use.  
 IF IN EYES: Rinse cautiously with water for several minutes. Remove contact lenses, if present and easy to do. Continue rinsing. Specific treatment (see section 4).  
 If skin irritation occurs: Get medical advice/attention.

If eye irritation persists: Get medical advice/attention.  
 Dispose of contents/container in accordance with local/regional/national/international regulations

**Hazards not otherwise classified (HNOC):** None known.

**Classification system:**

**NFPA ratings (scale 0 - 4)**



**HMIS-ratings (scale 0 - 4)**



**3. COMPOSITION / INFORMATION ON INGREDIENTS**

**▲ HAZARDS EXEMPT WHEN IN BONDED FORM OR WHEN IT CANNOT BE RELEASED DUE TO CUTTING, GRINDING, HEATING, ETC.**

**Chemical characterization:** Mixtures

**Description:** Mixture of the substances listed below with nonhazardous additions

**Dangerous components:**

8052-42-4	Asphalt - Flam liq. 3 H226, Carc. 2 H351, Skin Irrit. 2 H315, STOT SE 3 H335, Eye Irrit. 2B H320	25-75%
64741-96-4	Distillates (petroleum), solvent-refined heavy naphthenic - Carc. 1B H350	0-25%
	Trade Secret(s) - Carc. 2 H351, Acute Tox. 4 H302, Skin Irrit. 2 H315, STOT SE 3 H335, Eye Irrit. 2B H320, Carc. 1B H350	

**Additional information:**

Trade Secret(s) made in accordance with paragraph (i) of §1910.1200 of 29 CFR 1910.1200, the OSHA Hazard Communication Standard.

## 4. FIRST AID MEASURES

**After skin contact:** Immediately wash with water and soap and rinse thoroughly. Consult a doctor if needed.

**After inhalation:** If irritation occurs, remove to fresh air. Consult a doctor if needed.

**After eye contact:** Rinse opened eye for several minutes under running water. If symptoms persist, consult a doctor

**After swallowing:** Immediately consult a doctor

**Most important symptoms and effects, both acute and delayed:** No further relevant information available.

**Indication of any immediate medical attention and special treatment needed:** No further relevant information available.

## 5. FIRE-FIGHTING MEASURES

**Suitable extinguishing agents:** Use fire fighting measures that suit the environment.

**Special hazards arising from the substance or mixture:** No further relevant information available.

**Advice for firefighters:**

**Protective equipment:** As in any fire, wear self-contained breathing apparatus pressure-demand (NIOSH approved or equivalent) and full protective gear to prevent contact with skin and eyes.

## 6. ACCIDENTAL RELEASE MEASURES

**Personal precautions, protective equipment and emergency procedures:** Not required.

**Environmental precautions:** Do not allow to enter sewers or ground water.

**Methods and material for containment and cleaning up:** Dispose of collected material according to regulations.

**Reference to other sections**

See Section 7 for information on safe handling.

See Section 8 for information on personal protection equipment.

See Section 13 for disposal information.

## 7. HANDLING & STORAGE

**Precautions for safe handling:** No special requirements.

**Storage:** No special requirements.

## 8. EXPOSURE CONTROLS / PERSONAL PROTECTION

**Components with occupational exposure limits:**

	8052-42-4 Asphalt
REL	Short-term value: C 5* mg/m <sup>3</sup> *15-min; See Pocket Guide App. A
TLV	Long-term value: 0.5* mg/m <sup>3</sup> *inh. fraction; as benzene-soluble aerosol; BEIp
	Trade Secret(s)
PEL	Long-term value: 20 mppcf ppm (containing <1% Quartz)
REL	Long-term value: 2* mg/m <sup>3</sup> *respirable dust
TLV	Long-term value: 2* mg/m <sup>3</sup> *as respirable fraction; E
STEL	Short-term value: 10 mg/m <sup>3</sup>
TWA	Short-term value: 10 mg/m <sup>3</sup>
PEL	Short-term value: 5 mg/m <sup>3</sup>
PEL	Long-term value: 15 mg/m <sup>3</sup>

**Ingredients with biological limit values:**

	8052-42-4 Asphalt
BEI	- urine end of shift at end of workweek 1-Hydroxypyrene with hydrolysis (non-quantitative)

**General protective and hygienic measures:**

Keep away from foodstuffs, beverages and feed.  
Wash hands before breaks and at the end of work.

**Breathing equipment:** Not required.

**Protection of hands:** Leather gloves suggested.

**Safety equipment required for application.**

Read and understand application instructions before use.

**Additional Information:** The lists that were valid during the creation of this SDS were used as basis.

## 9. PHYSICAL AND CHEMICAL PROPERTIES

### Appearance:

Form: ..... Solid

Color: ..... Brown/Black

Odor: ..... Petrol Like

pH Value: ..... Not applicable

### Change in condition:

Melting point/melting range ..... 175°-250° F (79°-121° C)

Boiling point/boiling range: ..... 599° F (315° C)

Flash Point: ..... >430° F (>221° C)

Flammability (solid, gaseous): ..... Not determined

Ignition Temperature: ..... >700° F (>371° C)

Decomposition Temperature: ..... Not determined

Auto igniting: ..... Product is not self igniting

Danger of Explosion: ..... Product does not present an explosion hazard

### Explosion Limits:

Lower: ..... Not determined

Upper: ..... Not determined

Vapor Pressure: ..... Not applicable

Density @ 68° F (20° C): ..... Specific gravity 1.0 - 1.5

Relative Density: ..... Not determined

Vapor Density: ..... Not applicable

Evaporation Rate: ..... Not applicable

### Solubility in / Miscibility with:

water @ 68° F (20° C): ..... < 0.0001 g/l

Partition coefficient (n-octanol/water): ..... Not determined

### Viscosity:

Dynamic: ..... Not applicable

Kinematic: ..... Not applicable

## 10. STABILITY AND REACTIVITY

**Reactivity:** No relevant information available.

**Thermal decomposition / conditions to be avoided:** No decomposition if used according to specifications.

**Possibility of hazardous reactions:** No dangerous reactions known.

**Conditions to avoid:** No further relevant information available.

**Incompatible materials:** No further relevant information available.

**Hazardous decomposition products:** No dangerous decomposition products known

## 11. TOXICOLOGICAL INFORMATION

### Acute toxicity:

LD/LC50 values that are relevant for classification: Trade Secret(s)

Oral	LD50	>5000 mg/kg (rat)
Dermal	LD50	>5000 mg/kg (rabbit)
Inhalative	LC50/4 H	>5 mg/l (rat)

### Primary irritant effect:

**On the skin:** Irritant to skin and mucous membranes. **On the eye:**

Irritating effect. Causes serious eye irritation.

**Additional toxicological information:** The product shows the following dangers according to internally approved calculation methods for preparations: Irritant, Carcinogenic

### IARC (International Agency for Research on Cancer

Group 1 - Carcinogenic to humans.

Group 2a - Probably carcinogenic to humans.

Group 2b - Possibly carcinogenic to humans.

Group 3 - Not classifiable as to its carcinogenicity to humans.

Group 4 - Probably not carcinogenic to humans.

8052-42-4	Asphalt	2b
	Trade Secret(s)	2a, 2b, 3

### NTP (National Toxicology Program):

None of the ingredients are listed.

### OSHA-Ca (Occupational Safety and Health Administration):

None of the ingredients are listed.

## 12. ECOLOGICAL INFORMATION

**Aquatic toxicity:** No further relevant information available.

**Persistence and degradability:** No further relevant information available.

**Bioaccumulative potential:** No further relevant information available

**Mobility in soil:** No further relevant information available.

**Additional ecological information:**

**General notes:**

- Water hazard class 3 (Self-assessment): extremely hazardous for water
- Do not allow product to reach ground water, water course or sewage system, even in small quantities.
- Danger to drinking water if even extremely small quantities leak into the ground.

**Results of PBT and vPvB assessment:**

**PBT:** Not applicable.

**vPvB:** Not applicable.

**Other adverse effects:** No further relevant information available

## 13. DISPOSAL CONSIDERATIONS

**Waste treatment methods:**

- Must not be disposed of together with household garbage.
- Do not allow product to reach sewage system.

**Uncleaned packagings:** Dispose according to official regulations

## 14. TRANSPORT INFORMATION

**UN-Number:**

**DOT, ADR, ADN, IMDG, IATA**.....Non-regulated Material

**UN proper shipping name DOT, ADR, ADN, IMDG, IATA**.....Non-regulated Material

**Transport hazard class(es) DOT, ADR, ADN, IMDG, IATA Class**.....Non-regulated Material

**Packing group DOT, ADR, IMDG, IATA** .....Non-regulated Material

**Environmental hazards** ..... Not Applicable

**Special precautions for user** ..... Not Applicable

**Transport in bulk according to Annex II of MARPOL73/78 and the IBC Code** ..... Not Applicable

**UN "Model Regulation":**.....Non-regulated Material

## 15. REGULATORY INFORMATION

**▲ HAZARDS EXEMPT WHEN IN BONDED FORM OR WHEN IT CANNOT BE RELEASED DUE TO CUTTING, GRINDING, HEATING, ETC.**

**Sara:**

**Section 355 (extremely hazardous substances):** None of the ingredients are listed.

**Section 313 (specific toxic chemical listings):** None of the ingredients are listed.

**TSCA (Toxic Substances Control Act):**

8052-42-4	Asphalt
64741-96-4	Distillates (petroleum), solvent-refined heavy naphthenic
	Trade Secret(s)

**Proposition 65:**

**Chemicals known to cause cancer:** None of the ingredients are listed.

**Chemicals known to cause reproductive toxicity for females:** None of the ingredients are listed.

**Chemicals known to cause reproductive toxicity for males:** None of the ingredients are listed.

**Chemicals known to cause developmental toxicity:** None of the ingredients are listed.

**Carcinogenic Categories:**

**EPA (Environmental Protection Agency):** None of the ingredients are listed.

**TLV (Threshold Limit Value established by ACGIH):**

8052-42-4	Asphalt	A4
	Trade Secret	A4

**NIOSH-Ca (National Institute for Occupational Safety and Health)**

8052-42-4	Asphalt
-----------	---------

**Signal word:** Danger**Hazard-determining components of labeling:**

Asphalt

Distillates (petroleum), solvent-refined heavy naphthenic

Trade Secret(s)

**Hazard statements:** Causes skin and eye irritation, May cause cancer.**Precautionary statements:**

Do not handle until all safety precautions have been read and understood.

Read application instructions before use.

IF IN EYES: Rinse cautiously with water for several minutes. Remove contact lenses, if present and easy to do. Continue rinsing.

If skin irritation occurs: Get medical advice/attention.

If eye irritation persists: Get medical advice/attention.

IF ON SKIN: Wash with plenty of soap and water.

Dispose of contents/container in accordance with local/regional/national/international regulations.

**National regulations:** The product is subject to be classified according with the latest version of the regulations on hazardous substances.**State Right to Know:**

8052-42-4	Asphalt - Flam liq. 3 H226, Carc. 2 H351, Skin Irrit. 2 H315, STOT SE 3 H335, Eye Irrit. 2B H320	25-75%
64741-96-4	Distillates (petroleum), solvent-refined heavy naphthenic - Carc. 1B H350	0-25%
	Trade Secret(s) - Carc. 2 H351, Acute Tox. 4 H302, Skin Irrit. 2 H315, STOT SE 3 H335, Eye Irrit. 2B H320, Carc. 1B H350	

**Chemical safety assessment:** A Chemical Safety Assessment has not been carried out.**16. OTHER INFORMATION**

This information and recommendations in this safety data sheet are, to the best of our knowledge, accurate as of the date of issue. Nothing herein shall be deemed to create warranty, expressed or implied, and shall not establish a legally valid contractual relationship. It is the responsibility of the user to determine applicability of this information and the suitability of the material or product for any other particular purpose.

**Date of preparation / last revision:** 07-21-2015 / 6**Abbreviations and acronyms:****ADR:** European Agreement concerning the International Carriage of Dangerous Goods by Road**ADN:** European Agreement concerning the International Carriage of Dangerous Goods by Inland Waterways**IMDG:** International Maritime Code for Dangerous Goods**DOT:** US Department of Transportation**IATA:** International Air Transport Association**ACGIH:** American Conference of Governmental Industrial Hygienists**EINECS:** European Inventory of Existing Commercial Chemical Substances**ELINCS:** European List of Notified Chemical Substances**CAS:** Chemical Abstracts Service (division of the American Chemical Society)**NFPA:** National Fire Protection Association (USA)**HMIS:** Hazardous Materials Identification System (USA)**LC50:** Lethal concentration, 50 percent**LD50:** Lethal dose, 50 percent**PBT:** Persistent, Bioaccumulative and Toxic**vPvB:** Very Persistent and Very Bioaccumulative**Flam. Liq. 3:** Flammable Liquids Hazard Category 3**Acute Tox. 4:** Acute toxicity, Hazard Category 4**Skin Irrit. 2:** Skin corrosion/irritation, Hazard Category 2**Eye Irrit. 2B:** Serious eye damage/irritation, Hazard Category 2B**Carc. 1B:** Carcinogenicity, Hazard Category 1B**Carc. 2:** Carcinogenicity, Hazard Category 2**STOT SE 3:** Specific target organ toxicity - Single exposure, Hazard Category 3

# RE: SP 19-03 Project Review Request

DELETE REPLY REPLY ALL FORWARD



Ratcliff, Lora <Lora.Ratcliff@cityofalbany.net>

Mark as unread

Thu 9/26/2019 8:06 AM

To: Matt Straite;

To help protect your privacy, some content in this message has been blocked. To re-enable the blocked features, [click here](#).

To always show content from this sender, [click here](#).

Matt,

Fire has no comments.

Thank you,



**Lora Ratcliff**

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

**Albany Fire Department**

City of Albany, Oregon  
611 Lyon St SE, Albany, Oregon 97321

[fire.cityofalbany.net](http://fire.cityofalbany.net)



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---

**From:** Matt Straite <mstraite@cityofmillersburg.org>

**Sent:** Tuesday, September 24, 2019 9:35 AM

**To:** Ratcliff, Lora <Lora.Ratcliff@cityofalbany.net>

**Subject:** Re: SP 19-03 Project Review Request

Here you go. Let me know if you need anything else.

Matt Straite  
City Planner  
City of Millersburg  
541.928.4523



---

**From:** Ratcliff, Lora <[Lora.Ratcliff@cityofalbany.net](mailto:Lora.Ratcliff@cityofalbany.net)>

**Sent:** Monday, September 23, 2019 11:38 AM

TO: Matt Straite, City Planner  
FROM: Janelle Booth, Millersburg City Engineer  
DATE: September 26, 2019  
SUBJECT: SP 19-03 HHPR Outdoor Storage - Engineering Comments

Engineering has reviewed the above project and has the following comments:

1. Applicant must obtain a Grading Permit from the City of Millersburg prior to beginning work.
2. Stormwater drainage plans and calculations have been submitted, reviewed, and comments have been returned to the applicant's engineer. All comments must be addressed and drawings approved prior to issuance of a Grading Permit.
3. Detention pond outfall structure must be constructed, in accordance with approved stormwater management memo and design drawings, within 6 months of grading permit issuance.



## File SP 19-03

X DELETE   ← REPLY   ⇐ REPLY ALL   → FORWARD   ...



Martineau, David <David.Martineau@cityofalbany.net>

Mark as unread

Tue 9/17/2019 11:24 AM

To: Matt Straite;

Matt,

Thank you for inviting us to review this proposal. The Planning Division has no comments.

David



**David Martineau**

Planning Manager

541-917-7561 phone | 541-917-7598 fax

**Community Development**

City of Albany, Oregon

333 Broadalbin St SW, Albany, Oregon 97321

[www.cityofalbany.net](http://www.cityofalbany.net)



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**NOTICE OF PUBLIC REVIEW**  
**October 15, 2019, 6:00 p.m.**  
**City Council Chambers**  
**4222 Old Salem Road NE,**  
**Millersburg, Oregon, 97321**

The **MILLERSBURG PLANNING COMMISSION** will hold a Hearing at the above time and place to consider the request described below. The request may be heard later than the time indicated, depending on the agenda schedule. Interested parties are invited to send written comment. Failure of an issue to be raised or failure to provide sufficient specificity to afford the Commission an opportunity to respond to the issue precludes appeal to the Land Use Board of Appeals based on that issue.

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

- APPLICANTS:** HHPR- Brad Kilby, AICP
- LOCATION:** 3484 NE Old Salem Road
- TAX LOT:** Township 10 South; Range 3 West; Section 28; Tax Lot 00107
- PARCEL SIZE:** 8.08 Acres (project area 0.75)
- ZONING:** General Industrial (GI)
- REQUEST:** The applicant is proposing to add 0.75 acre paved outdoor storage area to an existing facility of 8.08 acres.
- CRITERIA:** Millersburg Development Code; Section 2.400(2)
- FILE No.:** SP 19-03

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

# Vicinity Map



This product is for informational purposes only and may not have been prepared for, or be suitable for legal, engineering, or surveying purposes. Users of this information should review or consult the primary data and information sources to ascertain usability of the information.



**DRAFT LAND USE  
DEVELOPMENT CODE  
ARTICLE IV**

**ARTICLE IV  
REVIEW PROCEDURES**

**ARTICLE IV – REVIEW PROCEDURES**

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## 4.101 APPLICATION TYPES

### **4.101.01 Summary of Application Types**

- (A) **General.** With the exceptions noted below, all development permits and land use actions are processed under the administrative procedures provided for in this Chapter. There are four types of actions, each with its own procedures.
  
- (B) **Building Permit.** Building permits are subject to provisions of the Uniform Building Code and are processed administratively. Therefore, these actions are not considered land use actions and subject to appeal. The procedures in this Chapter only apply if an action is necessary to site the use or vary a requirement of the Development Code.

### **4.101.02 Type I Action**

- (A) **Type I Action**

A ministerial action reviewed by staff based on clear and objective standards. Conditions are limited to those that ensure compliance with Code requirements and implement these standards. Decisions are memorialized on the relevant permit form or other order. Specific Type I processes are shown Section 4.101.08 - Table of Land Use Application Procedures

- (B) **Type II Action**

A ministerial action reviewed by staff based on clear and objective standards. Conditions are limited to those that ensure compliance with Code requirements and implement these standards. Notice of the decision is sent to the applicant, and adjacent property owners who submitted comments, after a decision is reached. Appeal is to the Planning Commission. Specific Type II processes are shown Section 4.101.08 - Table of Land Use Application Procedures

- (C) **Type III Action**

A Type III action is a quasi-judicial review in which the Planning Commission applies a mix of objective and subjective standards that allow discretion. Public notice and a public hearing are provided. Appeal of a Type III decision is to the City Council. Specific Type III processes are shown Section 4.101.08 - Table of Land Use Application Procedures

**ARTICLE IV  
REVIEW PROCEDURES**

(D) **Type IV Action**

A Type IV action can be either quasi-judicial or legislative actions. The quasi-judicial process applies to map amendments for individual properties. Plan and zone amendments or text amendments that impact larger areas are legislative actions. These later amendments must be initiated by City staff, Planning Commission, or City Council, although a private party may suggest such amendments. Both actions require hearings before both the Planning Commission and City Council with the Commission providing an advisory role and the Council rendering the Final Decision unless appealed. Public notice is provided for both and public hearings. Appeal of the decision is to the Land Use Board of Appeals (LUBA). Specific Type IV processes are shown Section 4.101.08 - Table of Land Use Application Procedures

**4.101.03 Table of Land Use Application Procedures**

**LAND USE APPLICATION PROCEDURES**

Land Use Action	Type	Staff	Planning Commission	City Council
Property Line Adjustment	Type - I	Final Decision	No role	No role
Type Temporary Use	Type - I	Final Decision unless appealed	No role	No role
Sign Permit	Type - I	Final Decision unless appealed	No role	No role
Fence Permit	Type - I	Final Decision unless appealed	No role	No role
Partition	Type – II	Final Decision unless appealed	Appeal - Staff Decision	Appeal - Commission Decision
Adjustment	Type - II	Final Decision unless appealed	Appeal - Staff Decision	Appeal - Commission Decision
Interpretations	Type - II	Final Decision unless appealed	Appeal – Staff Decision	Appeal - Commission Decision
Site Development Review	Type III	Recommendation to Commission	Final Decision unless appealed	Appeal - Commission Decision
Variance	Type - III	Recommendation to Commission	Final Decision unless appealed	Appeal - Commission Decision
Conditional Use Permits	Type - III	Recommendation to Commission	Final Decision unless appealed	Appeal - Commission Decision
Nonconforming Uses	Type - III	Recommendation to Commission	Final Decision unless appealed	Appeal - Commission Decision



**ARTICLE IV  
REVIEW PROCEDURES**

Subdivision	Type - III	Recommendation to Commission	Final Decision unless appealed	Appeal - Commission Decision
Comp. Plan Map Amendment	Type - IV	Recommendation to Commission	Recommendation to Council	Final Decision unless appealed
Zone Map Amendment	Type - IV	Recommendation to Commission	Recommendation to Council	Final Decision unless appealed
Text Amendment	Type - IV	Recommendation to Commission	Recommendation to Council	Final Decision unless appealed
Annexation	Type - IV	Recommendation to Commission	Recommendation to Council	Final Decision unless appealed

**4.101.04 Expiration of Approval and Time Extension**

- (A) Time Limit. Unless otherwise specifically stated, Type I and Type II approvals shall be effective for two years following final approval. The applicant or developer shall exercise the approved decision within this time period. Type III time limits shall be dependent upon the type of application and applicable conditions. Type IV approvals shall have no time limits.
- (B) Time Extension. Extensions may be granted in accordance with the original procedure for the application. For a time extension request, the only matter to be considered is the extension.
- (C) Conditions of Approval. During the review of an extension request, the conditions of approval may be revised to reflect Code changes and/or changes in site or area conditions.
- (D) Number of Extensions. No more than two extensions shall be granted.
- (E) Time Extension Provisions for Subdivisions and PUDs. The following provisions apply:
  - (1) The Planning Commission, after holding a hearing, may extend the approval period for any subdivision for not more than one additional year. Requests for extension of approval time shall be submitted, in writing, 30 days prior to the expiration date of the approval period. The Planning Commission may grant the request for extension if the circumstances are the same and the findings of fact are still appropriate. The Planning Commission may modify the original conditions of approval as part of any time extension review.

**ARTICLE IV  
REVIEW PROCEDURES**

- (2) The City Council, after holding a hearing, may extend the approval period for up to five years if the Council finds there are extenuating circumstances. There is no limit on the number of extensions the Council may consider and approve.
- (3) If the approval period is allowed to lapse, the applicant must resubmit the proposal, including all applicable fees, for public hearing before the Planning Commission. The applicant will be subject to all applicable standards currently in effect.

**4.101.05 Exercising a Land Use Approval**

Unless otherwise specifically stated, exercising a land use decision shall be subject to the following regulations.

- (A) Building Permit. Except for manufactured home parks, when a building permit is required as part of an approved land use, the decision shall be considered exercised with the first placement or permanent construction of a structure on a site. This may include the pouring of slabs or footings, any work beyond the stage of excavation, including the first permanent framing or assembly of the structure or any part thereof on its piling or foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; the installation of driveways or walkways; the excavation for a basement, footings, piers or foundations or the erection of temporary forms; the construction of accessory buildings, such as garages or sheds not occupied as dwelling units or not used as part of the main structure.
- (B) Manufactured Homes Parks. The decision shall be considered exercised with the beginning of construction of facilities for servicing the site on which the manufactured homes are to be placed. This shall include, at a minimum, the construction of streets with final site grading or the pouring of concrete pads, or the extension or installation of utilities.
- (C) Specific Use. If the approval does not require a building permit, the decision shall be considered exercised if the use or activity which was approved is in operation within the allotted time limit.

## 4.102 PRCESS FOR PROPERTY LINE ADJUSTMENTS

### **4.102.01 Applicability**

A Property Line Adjustment is a change to a property boundary that only extinguishes property lines or modifies existing lots or parcels and does not create a new parcel of land. This may include the elimination of property boundaries to consolidate lots or parcels.

### **4.102.02 Process**

A Property Line Adjustment application shall be reviewed in accordance with the Type I review procedures specified in Chapter 4.202.

### **152.402.03 Application**

An application for a Property Line Adjustment shall be filed with the City and accompanied by the appropriate fee. It shall be the applicant's responsibility to submit a complete application which addresses the review criteria of this Chapter. Notice shall be subject to the provisions in Chapter 4.202.

### **4.102.04 Submittal Requirements**

The following information and material must be submitted by the applicant:

- (A) The application must be signed by the owners of all lots affected by the application.
- (B) In addition, the following information shall be submitted by the applicant:
  - (1) Copies of the officially recorded title transfer instrument (deed, warranty deed, or contract) that shows the legal description for the affected parcels.
  - (2) Plan, map or other document showing the properties before and after the adjustment.
  - (3) A written statement which explains the applicants' reasons for adjusting the boundaries and demonstrating that the adjustment conforms to City land use policies and regulations of the applicable zone.
  - (4) The applicant(s) shall certify in writing that the application does not violate any deed restrictions that may be attached to or imposed upon the subject property.

**4.102.05 Decision Criteria**

Approval of a property boundary adjustment shall require compliance with the following criteria:

- (A) A property boundary adjustment cannot create or vacate a parcel. Creation or vacation of a parcel requires approval of a land division.
- (B) Following the adjustment, all lots or parcels must comply with the area and dimension standards of the applicable zone. For existing non-conforming lots or parcels, the adjustment shall not increase the degree of non-conformance of the subject property or surrounding properties.
- (C) If there are existing structures on the lots or parcels, the boundary adjustment shall not reduce required setbacks or place a boundary beneath a structure.

**4.102.06 Implementation**

After a lot line adjustment is approved, the new boundary becomes effective only after the following steps are completed:

- (A) A legal description of the adjusted lots is recorded with Linn County Clerk.
- (B) If required by ORS Chapter 92, or the County Surveyor, a final map and boundary survey are prepared and all new boundaries are monumented as required by ORS Chapters 92 and 209. The final map is submitted to the City for signatures and approval as outlined in Chapter 4.104.

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4.103      **PROCESS FOR A HOME OCCUPATION**

**4.103.01      Process**

Home Occupations are permitted as listed in individual zones. where there are no employees other than family members residing in the residence or no more than one vehicle associated with the home occupation. Home Occupations proposed to have employees in addition to family members residing in the residence or more than one vehicle associated with the home occupation shall be reviewed as a Conditional Use in accordance with the Type III review procedures specified in Chapter 4.204.



## 4.104 PROCESS FOR PARTITIONS

### **4.104.01 Applicability**

A partition is required for any land division which creates two or three parcels in any calendar year.

### **4.104.02 Process**

Preliminary plats for partitions shall be reviewed in accordance with the Type II review procedures in Chapter 4.1xx.

### **4.104.03 Application**

An application for a Partition shall be filed with the City and accompanied by the appropriate fee. Notice shall be subject to the provisions in Section 4.1xx.

### **4.104.04 Submittal Requirements**

- (A) The applicant shall prepare and submit a preliminary plan and other supplemental information as may be required by City staff to indicate the intent of the development. The application shall include a statement explaining the proposal and providing analysis of the proposal relative to the approval criteria. The preliminary plan should show pertinent information to scale to facilitate the review of the proposed development.
- (1) General Information. The following general information shall be shown on the tentative plan:
- (a) Vicinity map showing all streets, property lines, streams, and other pertinent data to locate the proposal.
  - (b) North arrow and scale of drawing.
  - (c) Tax map and tax lot number or tax account of the subject property.
  - (d) Dimensions and size in square feet or acres of the subject property and of all proposed parcels.
- (2) Existing Conditions:
- (a) Location of all existing easements within the property.
  - (b) Location of City utilities (water, sanitary sewer, storm drainage) within or adjacent to the property proposed for use to serve the development.
  - (c) The location and direction of water courses or drainage swales on the subject property.
  - (d) Existing use of the property, including location of existing structures with dimensions of the structures and distances

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from property lines. It shall be noted whether the existing structures are to remain or be removed from the property.

- (3) Proposed Plan:
  - (a) Locations, approximate dimensions and area in square feet of all proposed parcels. All parcels shall be numbered consecutively.
  - (b) Location, width and purpose of any proposed easements.
  
- (B) At the discretion of the City Planner the previous requirements may be waived provided there is sufficient information to allow processing of an application.

**4.104.05 Decision Criteria**

Approval of a partition shall be subject to the following decision criteria:

- (A) Each parcel shall satisfy the dimensional standards of the applicable zone, unless a variance from these standards is approved.
  
- (B) The parcels shall meet the Development Standards for Land Division of Chapter 3.219.
  
- (C) Existing dwellings and accessory structures shall comply with the setback requirements of the applicable zone, including accessory structures which have a setback established by the building size, unless a variance from the requirements is approved.
  
- (D) Adequate public facilities, including access, shall be available to serve the existing and newly created parcels. If adjacent properties are undeveloped, not developed to their maximum density, or landlocked, consideration will be given to extending appropriate access to those properties in accordance with adopted City policy.

**4.104.06 General Provisions**

- (A) Partition approval is valid in perpetuity upon recording of the final surveyed plat.
  
- (B) A master plan for development is required for any application which leaves a portion of the subject property capable of platting. If this would allow the creation of four or more parcels, the partition is considered a serial partition and must be processed as a subdivision.

**4.104.07 Final Plat Approval**

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- (A) Survey. Within two years of the Final Decision unless appealed approving a preliminary plat, a final survey of the approved plat shall be recorded. Failure to record a plat within the required time period shall void the approval and require a new partitioning application.
- (B) Final Approval. The City Manager shall sign the final plat if the plat substantially conforms to the approved preliminary plat, and if the conditions of approval are satisfied.
- (C) Final Plat. The final plat shall conform to the requirements in ORS Chapter 92 and applicable County surveying requirements.
- (D) Recording of Approved Plat. No building permit shall be issued, or parcel sold, transferred or assigned until the final approved Plat has been recorded with the County Manager. The applicant shall be responsible for all recording fees.

**4.104.08 Expedited Land Division**

When an expedited land division for residential use only is requested by an Applicant the City shall use the procedures for expedited land divisions specified under ORS 197.365 in lieu of the procedures described in Chapter 4.104 if the application complies with the conditions and standards of ORS 197.360 through 197.380.

## 4.105 PROCESS FOR ADJUSTMENTS

### **4.105.01 Applicability**

The development standards in this Development Code protect the public health, safety and welfare by establishing standard setbacks, maximum building heights and other development standards that apply to various uses. For lands or uses with unique characteristics the intent and purpose of the development standards may be maintained while allowing for a modification to the quantifiable requirements. An Adjustment may be approved for those requests resulting in no more than a 10% change in a *quantifiable* standard.

### **4.105.02 Process**

Adjustments applications shall be reviewed in accordance with the Type II review procedures specified in Chapter 4.203.

### **4.105.03 Application**

An application for an Adjustment shall be filed with the City and accompanied by the appropriate fee. Notice shall be subject to the provisions in Chapter 4.203.

### **4.105.04 Submittal Requirements**

- (A) The applicant shall prepare and submit an application, site plan, and other supplemental information as may be required by City staff to indicate the intent of the development. The application shall include a statement explaining the proposal and providing analysis of the proposal relative to the approval criteria. The site plan shall show pertinent information to scale to facilitate the review of the proposed development.
- (1) General Information. The following general information shall be shown on the site plan:
- (a) Vicinity map showing all streets, property lines, streams, and other pertinent data to locate the proposal.
  - (b) North arrow and scale of drawing.
  - (c) Tax map and tax lot number or tax account of the subject property.
  - (d) Dimensions and size in square feet or acres of the subject property and of any proposed parcels or lots.
  - (e) Location of all existing easements within the property.
  - (f) Location of City utilities (water, sanitary sewer, storm drainage) within the property.

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- (g) Existing use of the property, including location of existing structures with dimensions of the structures and distances from property lines. It shall be noted whether the existing structures are to remain or be removed from the property.
  - (h) A site plan clearly indicating the proposed adjustment including dimensions.
- (B) At the discretion of the City Planner the previous requirements may be waived provided there is sufficient information to allow processing of an application.

**4.105.05 Adjustment Applicability**

An applicant may propose a modification from a standard or requirement of this Code, except when one or more of the following apply:

- (A) The proposed request would allow a use which is not permitted in the district.
- (B) Another procedure and/or criterion is specified in the Code for modifying or waiving the particular requirement or standard.
- (C) Modification of the requirement or standard is prohibited within the district.
- (D) Adjustments are not allowed for parking, sign standards, or minimum lot sizes.

**4.105.06 Decision Criteria**

Approval of an Adjustment shall require compliance with the following:

- (A) The particular proposed development otherwise clearly satisfies the intent and purpose of the provision being adjusted.
- (B) The proposed development will not unreasonably impact adjacent existing or planned uses and development.
- (C) The Adjustment does not expand or reduce a quantifiable standard by more than 10% and is the minimum necessary to achieve the purpose of the Adjustment.
- (D) There has not been a previous land use action prohibiting an application for an Adjustment.

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4.106 PROCESSING VARIANCES

**4.106.01 Applicability**

The development standards in this Development Code protect the public health, safety and welfare by establishing standard setbacks, maximum building heights and other development standards that apply to various uses. For lands or uses with unique characteristics the intent and purpose of the development standards may be maintained while allowing for a variance to quantifiable requirements. A Variance may be approved for those requests resulting in greater than a 10% change in a quantifiable standard.

**4.106.02 Process**

Variance applications shall be reviewed in accordance with the Type III review procedures specified in Chapter 4.204.

**4.106.03 Application**

An application for a Variance shall be filed with the City and accompanied by the appropriate fee. Notice shall be subject to the provisions in Chapter 4.204.

**4.106.04 Submittal Requirements**

- (A) The applicant shall prepare and submit an application, site plan, and other supplemental information as may be required by City staff to indicate the intent of the development. The application shall include a statement explaining the proposal and providing analysis of the proposal relative to the approval criteria. The site plan shall show pertinent information to scale to facilitate the review of the proposed development.
  - (1) General Information. The following general information shall be shown on the site plan:
    - (a) Vicinity map showing all streets, property lines, streams, and other pertinent data to locate the proposal.
    - (b) North arrow and scale of drawing.
    - (c) Tax map and tax lot number or tax account of the subject property.
    - (d) Dimensions and size in square feet or acres of the subject property and of any proposed parcels or lots.
    - (e) Location of all existing easements within the property.
    - (f) Location of City utilities (water, sanitary sewer, storm drainage) within the property.

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- (g) Existing use of the property, including location of existing structures with dimensions of the structures and distances from property lines. It shall be noted whether the existing structures are to remain or be removed from the property.
  - (h) A site plan clearly indicating the proposed variance including dimensions.
- (B) At the discretion of the City Planner the previous requirements may be waived provided there is sufficient information to allow processing of an application.

**4.106.05 Variance Applicability**

Under the following provisions, a property owner or his designate may propose a modification or variance from a standard or requirement of this Code, except when one or more of the following apply:

- (A) The proposed variance would allow a use which is not permitted in the district.
- (B) Another procedure and/or criterion is specified in the Code for modifying or waiving the particular requirement or standard.
- (C) Modification of the requirement or standard is prohibited within the district.

**4.106.05 Decision Criteria**

The Planning Commission may allow a Variance from a requirement or standard of this Code after a public hearing conducted in accordance with the Type III review procedures provided that the applicant provides evidence that the following circumstances substantially exist:

- (A) Exceptional or extraordinary circumstances apply to the property which do not apply generally to other properties in the same zone or vicinity, and result from lot size or shape, legally existing prior to the date of this Code, topography, or other circumstances over which the applicant has no control.
- (B) Such variance is necessary for the preservation and enjoyment of a substantial property right of the applicant possessed by the owners of other properties in the same vicinity or district.
- (C) The authorization of such variance will not be materially detrimental to the public welfare or injurious to property in the vicinity or district in which

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property is located, or otherwise conflict with the objectives of any City plan or policy.

- (D) That the special conditions and circumstances on which the application is based do not result from a self-imposed hardship or a negligent or knowing violation of this Code by the applicant.
- (E) The variance requested is the minimum variance which would alleviate the hardship.

## 4.107 PROCESSING A CONDITIONAL USE

### **4.107.01 Applicability**

A conditional use is a use which is generally acceptable as a land use activity in a particular zone, but due to certain aspects of the activity, buffering, screening, time limitations or other conditions are necessary to ensure compatibility with adjacent property. Conditional uses are presumed to be allowed unless conditions to ensure their compatibility cannot be established.

### **4.107.02 Process**

Conditional Use shall be reviewed in accordance with the Type III review procedures specified in Chapter 4.204.

### **4.107.03 Application**

An application for a conditional use shall be filed with the City and accompanied by the appropriate fee. Notice shall be subject to the provisions in Chapter 4.204.

### **4.107.04 Submittal Requirements**

- (A) The applicant shall prepare and submit an application, site plan, and other supplemental information as may be required by City staff to indicate the intent of the development. The application shall include a statement explaining the proposal and providing analysis of the proposal relative to the approval criteria. The site plan shall show pertinent information to scale to facilitate the review of the proposed development.
- (1) General Information. The following general information shall be shown on the site plan:
- (a) Vicinity map showing all streets, property lines, streams, and other pertinent data to locate the proposal.
  - (b) North arrow and scale of drawing.
  - (c) Tax map and tax lot number or tax account of the subject property.
  - (d) Dimensions and size in square feet or acres of the subject property and of any proposed parcels or lots.
  - (e) Location of all existing easements within the property.
  - (f) Location of City utilities (water, sanitary sewer, storm drainage) within the property.
  - (g) Existing use of the property, including location of existing structures with dimensions of the structures and distances

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from property lines. It shall be noted whether the existing structures are to remain or be removed from the property.

- (h) A site plan clearly indicating the proposed location of the proposed conditional use including the dimensions of any existing, expanded, or new structure proposed to house the conditional use along with all site improvements including parking, lighting, screening, landscaping, etc..
  
- (B) At the discretion of the City Planner the previous requirements may be waived provided there is sufficient information to allow processing of an application.

**4.107.05 Decision Criteria**

A Conditional Use shall be approved if the applicant provides supporting evidence that all the requirements of this Code relative to the proposed use are satisfied, and demonstrates that the proposed use also satisfies the following criteria:

- (A) The use is listed as a conditional use in the underlying district and complies with the development requirements of the underlying zone.
  
- (B) The characteristics of the site are suitable for the proposed use considering size, shape, location, topography, and location of improvements and natural features.
  
- (C) The proposed development is timely, considering the adequacy of transportation systems, public facilities and services, existing or planned for the area affected by the use.
  
- (D) The proposed use will not alter the character of the surrounding area in a manner which substantially limits, impairs, or precludes the use of surrounding properties for the primary uses listed in the underlying zone.

## 4.108 PROCESSING A SITE DEVELOPMENT REVIEW

### **4.108.01 Applicability**

- (A) The Site Development Review is intended to:
- (1) Guide future growth and development in accordance with the Comprehensive Plan and other related regulations;
  - (2) Provide an efficient process and framework to review development proposals;
  - (3) Ensure safe, functional, energy-efficient developments which are compatible with the natural and man-made environment; and
  - (4) Resolve potential conflicts that may arise between proposed developments and adjacent uses.
- (B) The site development review provisions relate to physical characteristics of a property, proposed site improvements, and proposed buildings. The site development review provisions do not deal with the use of property. Use is regulated by the provisions of each individual zone.

### **4.108.02 Process**

Site Development Review applications shall be reviewed in accordance with the Type III review procedures in Chapter 4.204.

### **4.108.03 Application**

An application for Site Development Review shall be filed with the City and accompanied by the appropriate fee. Notice shall be subject to the provisions in Chapter 4.204.

### **4.108.04 Applicability of Provisions**

- (A) Site Design Review is applicable to all new industrial, commercial, mixed use, and multi-family developments and expansions involving a 20% or more increase in total square footage of existing industrial, commercial, mixed use, and multi-family.
- (B) All of the provisions and regulations of the underlying zone shall apply unless modified by other Sections of this Code.



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- (C) Expansions of 20% or less shall be permitted and processed as a building permit, provided the expansion and associated use(s) comply with all applicable development requirements such as parking, setbacks, height restrictions.

**4.108.05 Submittal Requirements**

- (A) The following information shall be submitted as part of a complete application for Site Design Review. The application shall include a statement explaining the proposal and providing analysis of the proposal relative to the approval criteria. At the discretion of the City, the information may be submitted graphically or by written summary.
  - (1) Site Analysis
    - (a) Existing site topography;
    - (b) Identification of areas exceeding 10% slopes;
    - (c) Site drainage, identified flood zones and areas within the Greenway;
    - (d) Existing structures, roadway access and utilities; and
    - (e) Existing and proposed streets, bikeways, and pedestrian facilities within 300 feet.
  - (2) Site Plan
    - (a) Proposed grading and topographical changes;
    - (b) All proposed structures including finished floor elevations, setbacks, exterior elevations, and exterior finishing.
    - (c) Vehicular and pedestrian circulation patterns, parking, loading and service areas;
    - (d) Proposed access to public roads and highways, railroads or transportation systems;
    - (e) Site drainage plan including methods of storm drainage, sanitary sewer system, water supply system and electrical services.
    - (f) Proposed landscape plan, to include appropriate visual screening and noise buffering, where necessary, to ensure compatibility with surrounding properties and uses;
    - (g) Proposed on-premise signs, fencing or other fabricated barriers, together with their heights and setbacks;
    - (h) Proof of ownership and signed authorization for the proposed development if applicant is not the owner of the site; and
    - (i) A schedule of expected development.
    - (k) A traffic impact analysis if requested by the City Manager.
    - (l) Other appropriate studies and information that may be required by the City to adequately evaluate the project.

**4.108.06 Decision Criteria**

The review of a Site Plan shall be based upon the following criteria:

- (A) The proposed use is allowed in the zone and complies with the underlying zone development standards.
- (B) The proposed use will not create negative impacts on the surrounding area resulting from traffic flow, noise, dust, glare, odor, potential incompatible adjacent uses such as parking lots, or other impacts identified in the public hearing process.
- (C) The City may impose conditions of approval intended to mitigate potential impacts including but not limited to:
- (D) Provisions for public utilities, including drainage and erosion control needs;
- (E) Parking, traffic safety, and connectivity of internal circulation to existing and proposed streets, bikeways and pedestrian facilities.
- (F) Provision for adequate noise and/or visual buffering from non-compatible uses including using site and landscaping design to provide needed buffering;
- (G) Protections from any potential hazards.

4.109 INTERPRETATIONS

**4.109.01 Applicability**

The purpose of this Section is to provide a means to resolve potentially conflicting requirements and unclear Code requirements, and, identify uses not specifically listed in a particular zoning district (similar uses) but which are similar in character, scale and performance to the permitted uses specified therein.

**4.109.02 Process**

Interpretation requests shall be reviewed in accordance with the Type I review procedures in Chapter 4.1xx.

**4.109.03 Application**

Any application for an Interpretation use shall be filed with the City and accompanied by the appropriate fee. It shall be the applicant's responsibility to submit a complete application which addresses the review criteria of this Section. Notice shall be subject to the provisions in Chapter 4.1xx.

**4.109.04 Decision Criteria**

The City Manager is authorized to make such an appropriate interpretation of the Code provided that the applicant demonstrates that the proposed use satisfies the following criteria:

- (A) The interpretation is consistent with the purpose of the Code and any appropriate purpose statement in an underlying zoning district or development requirement.
- (B) The resulting interpretation conforms to the applicable standards and limitations of the underlying zoning district. In approving an application for a similar use, the City may determine whether the use is prohibited or classified as permitted, special use or conditionally permitted in a specified zone.

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**4.110 NONCONFORMING USES**

**4.110.01 Applicability**

Within the zoning districts established by this Code, and amendments thereto, uses and structures may exist which were lawful before the date of adoption or amendment of this Code but which would be prohibited or restricted under the terms of this Code. This Section allows nonconforming uses and structures to be altered, restored or replaced subject to satisfaction of the review criteria specified. No alteration of a nonconforming use shall be permitted except in compliance with the provisions of this Section.

**4.110.02 Process**

Proposed alterations of nonconforming uses shall be reviewed in accordance with the Type III review procedures in Chapter 4.1204.

**4.110.03 Application**

An application for an alteration or expansion of a nonconforming use shall be filed with the City and accompanied by the appropriate fee. Notice shall be subject to the provisions in Chapter 4.204.

**4.110.04 Decision Criteria**

The alteration of a nonconforming use or structure may be authorized provided that the applicant demonstrates that the proposal satisfies the following criteria:

- (A) That the alteration of structures would not result in an increase in nonconformity of the structure.
- (B) A change in use to another non-conforming use shall be permitted if it is of the same or less intensity of use.

**4.110.05 Conditions of Approval**

In approving the alteration, restoration, or replacement of a nonconforming use, the City Manager may impose such conditions as it deems appropriate to ensure that the intent of this Section is carried out.

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**4.111 SUBDIVISIONS AND PLANNED UNIT DEVELOPMENTS  
(PUD)**

**4.111.01 Applicability**

All subdivisions and Planned Unit Developments shall conform to all applicable standards of the underlying zone, as well as the development standards and other provisions of this Code unless otherwise modified by provisions in this Section.

**4.111.02 Process**

Preliminary plats for subdivisions and planned unit developments shall be reviewed in accordance with the Type III review procedures in Chapter 4.204.

**4.111.03 Application**

An application for a Subdivision or Planned Unit Development shall be filed with the City and accompanied by the appropriate fee. Notice shall be subject to the provisions in Chapter 4.204.

**4.111.04 Submittal Requirements**

The following submittal requirements shall apply to all Preliminary Plat applications for subdivisions or Planned Unit Development.

- (A) All applications shall be submitted on forms provided by the City to the City Manager along with the appropriate fee. It shall be the applicant's responsibility to submit a complete application which addresses the review criteria of this Section. The application shall include a statement explaining the proposal and providing analysis of the proposal relative to the approval criteria.
- (B) Applicants for subdivisions shall submit the following:
  - (1) General Information. The following general information shall be shown on the tentative plan:
    - (a) Vicinity map showing all streets, property lines, streams, and other pertinent data to locate the proposal.
    - (b) North arrow and scale of drawing.
    - (c) Tax map and tax lot number or tax account of the subject property.
    - (d) Dimensions and size in square feet or acres of the subject property.



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- (e) Name of the subdivision or PUD.
- (2) Existing Conditions:
  - (a) Location of all existing easements within the property.
  - (b) Location of City utilities (water, sanitary sewer, storm drainage) within or adjacent to the property proposed for use to serve the development.
  - (c) The location and direction of water courses or drainage swales on the subject property.
  - (d) Existing use of the property, including location of existing structures. It should be noted whether the existing structures are to remain or be removed from the property.
  - (e) Direction of drainage and approximate grade of abutting streets.
  - (f) Proposed streets, approximate grade, and radius of curves.
  - (g) Any other legal access to the subdivision other than a public street.
  - (h) Contour lines related to an established bench mark on City datum, having the following minimum intervals:
    - (i) Areas with less than 5% slope: One-foot contours
    - (ii) Areas with slope between 5% and 10%: Two-foot contours.
    - (iii) Areas with slope greater than 10%: Five-foot contours.
- (3) Proposed Plan:
  - (a) Locations, approximate dimensions and area in square feet of all proposed lots. All lots shall be numbered consecutively.
  - (b) Location, width and purpose of any proposed easements.
  - (c) All areas to be offered for public dedication.
  - (d) If any portion of the property is not proposed to be included in the subdivision or any public dedication, that portion shall be identified as a remnant parcel. A draft subdivision or development plan shall be included showing how the proposed subdivision will provide needed access and utilities to serve future development of the remnant parcel.
  - (e) Proposed phasing
- (C) The following supplemental information shall be required for all PUD Preliminary Plan applications:
  - (1) Proposed uses on the property, including sites, if any, for attached dwelling units, recreational facilities, parks and playgrounds or other public or semi-public uses, with the purpose, condition and limitations of such reservations clearly indicated.

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- (2) Designation of the location of the building pads, or areas, or setback lines or setback standards for all buildings to be constructed.
- (3) Architectural renderings of the proposed residential and commercial buildings and structures
- (4) The approximate location and dimensions of all commercial, mixed-use, or multi-family structures proposed to be located on the site.
- (5) Calculations justifying the proposed density of development as required by Section 152.311.
- (6) Landscaping plan indicating location of existing vegetation and proposed improvements.
- (7) Statement of improvements to be made or installed including streets, sidewalks, bikeways, trails, lighting, tree planting, landscaping, and time such improvements are to be made or completed.
- (8) Written statement outlining proposals for ownership and maintenance of all open space areas and any commonly owned facilities.

**4.111.04 Decision Criteria**

- (A) Each parcel shall satisfy the dimensional standards of the applicable zone, unless a variance from these standards is approved.
- (B) The parcels shall meet the Development Standards for Land Division of Chapter 3.219.
- (C) Existing buildings shall comply with the setback requirements of the applicable zone, unless a variance from the requirements is approved.
- (D) Adequate public facilities, including access, shall be available to serve the existing and newly created parcels. If adjacent properties are undeveloped or landlocked, consideration will be given to extending appropriate access to those properties in accordance with adopted City policy
- (E) PUD. Approval of a Planned Unit Development shall require compliance with the following in addition to the criteria listed above:
  - (1) Conformance with provisions of 3.220 (Purpose Statement) and Section 3.220 (Objectives of this Code).
  - (2) The proposal shall comply with the applicable development and layout provisions contained in Section 3.220 of this Code.

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- (3) Infrastructure shall be available and appropriate to serve the proposed development.

**4.111.05 Final Plat Requirements**

- (A) Approvals of any preliminary plat for a subdivision or Planned Unit Development shall be valid for ten years after the date of final approval. The first phase shall be recorded within two years or the approval shall lapse.
- (B) The final plat shall be submitted to the City in a form and with information consistent with Linn County survey and map standards and State laws regarding plats of record and surveys. Where the Development Code directly conflicts with State or County laws, Codes or regulations, the provisions of the State and County laws, Codes or regulations shall apply.
- (C) The applicant shall submit three (3) identical reproducible copies of the final plat for signature. The plats shall be mylar, meeting the requirements of the County Surveyor.
- (D) All monumentation shall meet the requirements of State law including provisions for post-monumentation.
- (E) Endorsements required: The following endorsements represent the minimum required for a final plat. Additional endorsements required by State or County, or City laws, Codes or regulations shall also be supplied. Signature blanks for these endorsements shall be provided on the final plat. Eliminate Mayor and consolidate with City manager
  - (1) City Manager (or designee).
  - (2) City Engineer.
  - (3) Signature blanks for the Mayor with acceptance declaration for dedications of land to public use (other than public utility easements).
- (F) Supplemental Information with Final Plat:
  - (1) An amended title report or subdivision guarantee, as appropriate, issued by a title insurance company in the name of the owner of the land, showing all parties with a title or interest in the property and whose consent is necessary, as well as all existing easements,

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restrictions, covenants and other encumbrances pertaining to the subject property.

- (2) Copy of any dedication requiring separate documents.
- (3) Where applicable, all Homeowner's Agreements, Articles and By-Laws shall be submitted with the final plat for review by the City Attorney.
  - (a) The final plat shall not be approved by the City until the Homeowner's Association Agreement, Articles and By-Laws are approved.
  - (b) The Homeowner's Association Agreement shall be consistent with State law, including ORS 94.
  - (c) A Certificate of Formation of a non-profit corporation for the Homeowner's Association, with a State Seal, shall be submitted with the final plat for review by the City.
  - (d) Signed, original documents of the Homeowner's Association Agreement, Articles and By-Laws and the certificate of Formation shall be recorded with the final plat.
- (4) Maintenance Agreements for common property or common access easements shall be submitted with the final plat for review by the City Attorney.

**4.111.06 Process for Final Plat Approval**

- (A) Within three years of the Final Decision unless appealed approving a preliminary plat, a final approved plat (or first phase) shall be recorded with the County. If the first phase final plat is not recorded within two years, the preliminary approval shall lapse. All phases of an approved plat shall be recorded within 10 years of the final date of decision.
- (B) A final plat shall be submitted to the City Manager. After the final plat has been submitted, the City Staff shall review and compare it with the approved tentative plat to ascertain whether the final plat conforms substantially to the approved tentative plat and with such conditions of approval as may have been imposed.
- (C) No final plat shall be approved unless:
  - (1) The plat is in substantial conformance with this Code and the provisions of the tentative plat as approved, including any conditions imposed in connection therewith;

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- (2) The plat contains land free and clear of all liens and encumbrances. All dedications to the public of all public improvements, including but not limited to streets, roads, sewage disposal and water supply systems, the donation of which is required by this Code or was made a condition of the approval of the tentative plat;
  - (3) Any common areas or improvements to be held jointly by the future owners of the lots or by a Home Owners Association are indicated on the plat with the appropriate references to the structure of ownership. Any bylaws or agreements subject to approval by the City will be approved before the City Manager signs the plat.
  - (4) The City has received adequate assurances that the applicant has agreed to make all public improvements which are required as conditions of approval of the tentative plan, including but not limited to streets, alleys, pedestrian ways, storm drainage, sewer and water systems. The provisions for providing adequate assurance are found in the Public Works Design Standards.
- (D) If the City Manager finds that conditions specified in subsection (C) of this section have not been met, the applicant shall be advised of the changes that must be made and afforded the opportunity to comply. Rejection of a final plat shall not affect the tentative plan approval.
- (E) When the City Manager finds that the final plat is in substantial conformity to the approved tentative plan and is otherwise in lawful form, the City Manager shall sign and date all three reproducible copies of the plat.
- (F) Following endorsement of the plat by the City Manager, and the City Engineer, the applicant shall submit the plats to the Linn County Surveyor for final review and compliance with applicable state and county regulations. take the following actions and pay all required review fees:
- (G) Effective Date for Final Plat Approval. The approval process for a development shall become final upon the recording of the approved final plat together with any required documents with the County. Approved final plats shall become void one year after final City approval if they are not recorded.

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**4.112 COMPREHENSIVE PLAN MAP AMENDMENT**

**4.112.01 Applicability**

The Comprehensive Plan Map designates property for long term development purposes. A Plan Map amendment is required to change the designation of property.

**4.112.02 Process**

Amendments to the Comprehensive Plan map shall be reviewed in accordance with the Type IV review procedures specified in Chapter 4.205.

**4.112.03 Application**

An application for a map amendment shall be filed with the City and accompanied by the appropriate fee. Notice shall be subject to the provisions in Chapter 4.205.

**4.112.04 Submittal Requirements**

- (A) The applicant shall prepare and submit an application, site plan, and other supplemental information as may be required by City staff to indicate the intent of the development. The application shall include a statement explaining the proposal and providing analysis of the proposal relative to the approval criteria. Except for a City initiated Comprehensive Plan amendment, a site plan shall be required demonstrating the ability of the property to be used for the proposed type of uses. The site plan shall show pertinent information to scale to facilitate the review of the proposed development.
  - (1) General Information. The following general information shall be shown on the site plan:
    - (a) Vicinity map showing all streets, property lines, streams, and other pertinent data to locate the proposal.
    - (b) North arrow and scale of drawing.
    - (c) Tax map and tax lot number or tax account of the subject property.
    - (d) Dimensions and size in square feet or acres of the subject property and of any proposed parcels or lots.
    - (e) Location of all existing easements within the property.
    - (f) Location of City utilities (water, sanitary sewer, storm drainage) within the property.



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- (g) Existing use of the property, including location of existing structures with dimensions of the structures and distances from property lines. It shall be noted whether the existing structures are to remain or be removed from the property.
  - (h) A site plan clearly indicating the proposed location of proposed improvements or buildings, if any, including the dimensions of any existing, expanded, or new structures along with all site improvements including driveways, parking, lighting, screening, landscaping, etc..
- (B) At the discretion of the City Planner the previous requirements may be waived provided there is sufficient information to allow processing of an application.

**4.112.05 Decision Criteria**

Plan map amendment proposals shall be approved if the applicant provides evidence substantiating the following:

- (A) All information and analysis must justify the proposed change relative to the Map designation to which the property is proposed to change, and to the Map designation from which the property is changing. The analysis must speak to the impacts from the decrease in land acreage of one map designation and the increase in land acreage for the proposed map designation.
- (B) Compliance is demonstrated with the Statewide Land Use Planning Goals and Guidelines and any relevant Administrative Rules applying to the subject properties or to the proposed land use designation. If the proposed designation requires an exception to the Goals, the applicable criteria in the LCDC Administrative Rules for the type of exception needed shall also apply.
- (B) Consistency with the applicable goals and policies in the Comprehensive Plan is demonstrated.
- (C) The Plan does not provide adequate areas in appropriate locations for uses allowed in the proposed land use designation and the addition of this property to the inventory of lands so designated is consistent with projected needs for such lands in the Comprehensive Plan.
- (D) The Plan provides more than the projected need for lands in the existing land use designation.

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- (E) The proposed land use designation will not allow zones or uses that will destabilize the land use pattern in the vicinity or significantly adversely affect existing or planned uses on adjacent lands.
- (F) Public facilities and services necessary to support uses allowed in the proposed designation are available or will be available in the near future.

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**4.113 ZONE MAP AMENDMENT**

**4.113.01 Applicability**

The Zone Map establishes zone for individual properties. A zone change approval is required to change the zoning of any property.

**4.113.02 Process**

Zone changes shall be reviewed in accordance with the Type IV review procedures specified in Chapter 4.205.

**4.113.03 Application**

An application for a zone change shall be filed with the City and accompanied by the appropriate fee. Notice shall be subject to the provisions in Chapter 4.205.

**4.113.04 Submittal Requirements**

- (A) The applicant shall prepare and submit an application, site plan, and other supplemental information as may be required by City staff to indicate the intent of the development. The application shall include a statement explaining the proposal and providing analysis of the proposal relative to the approval criteria. Except for a City initiated zone change, a site plan shall be required demonstrating the ability of the property to be used for the proposed type of uses. The site plan shall show pertinent information to scale to facilitate the review of the proposed development.
  - (1) General Information. The following general information shall be shown on the site plan:
    - (a) Vicinity map showing all streets, property lines, streams, and other pertinent data to locate the proposal.
    - (b) North arrow and scale of drawing.
    - (c) Tax map and tax lot number or tax account of the subject property.
    - (d) Dimensions and size in square feet or acres of the subject property and of any proposed parcels or lots.
    - (e) Location of all existing easements within the property.
    - (f) Location of City utilities (water, sanitary sewer, storm drainage) within the property.

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- (g) Existing use of the property, including location of existing structures with dimensions of the structures and distances from property lines. It shall be noted whether the existing structures are to remain or be removed from the property.
  - (h) A site plan clearly indicating the proposed location of proposed improvements or buildings, if any, including the dimensions of any existing, expanded, or new structures along with all site improvements including driveways, parking, lighting, screening, landscaping, etc..
- (B) At the discretion of the City Planner the previous requirements may be waived provided there is sufficient information to allow processing of an application.

**4.113.05 Decision Criteria**

Zone change proposals shall be approved if the applicant provides evidence substantiating the following:

- (A) The proposed zone is appropriate for the Comprehensive Plan land use designation on the property and is consistent with the description and policies for the applicable Comprehensive Plan land use classification.
- (B) The uses permitted in the proposed zone can be accommodated on the proposed site without exceeding its physical capacity.
- (C) Allowed uses in the proposed zone can be established in compliance with the development requirements in this Code.
- (D) Adequate public facilities, services, and transportation networks are in place or are planned to be provided concurrently with the development of the property.
- (E) For residential zone changes, the criteria listed in the purpose statement for the proposed residential zone shall be met.

**4.114 TEXT AMENDMENTS**

**4.114.01 Process**

Amendments to the Comprehensive Plan and Development Code texts shall be reviewed in accordance with the Type IV review procedures specified in Chapter 4.205.

**4.114.02 Application**

A Plan or Code text amendment can only be initiated by the Planning Commission or City Council. Private citizens, however, may suggest text changes. Upon direction of either the Commission or Council, City staff shall establish a file and set a schedule to review the proposed changes. Notice shall be subject to the provisions in Chapter 4.205.

**4.114.03 Decision Criteria**

Amendments to the Comprehensive Plan or Development Code text shall be approved if the evidence can substantiate the following:

- (A) There are no negative impacts of the proposed amendment on land use and development patterns within the city, as measured by:
  - (1) Traffic generation and circulation patterns;
  - (2) Demand for public facilities and services;
  - (3) Level of park and recreation facilities;
  - (4) Economic activities;
  - (5) Protection and use of natural resources;
  - (6) Compliance of the proposal with existing adopted special purpose plans or programs.
- (B) A demonstrated need exists for the proposed amendment.
- (C) The proposed amendment complies with all applicable Statewide Planning Goals and administrative rule requirements.

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- (D) The amendment is appropriate as measured by at least one of the following criteria:
  - (1) It corrects identified error(s) in the provisions of the plan.
  - (2) It represents a logical implementation of the plan.
  - (3) It is mandated by changes in federal, state, or local law.
  - (4) It is otherwise deemed by the City Council to be desirable, appropriate, and proper.



4.115 ANNEXATIONS

**4.115.01 Authority of City to Annex**

The boundary of the City may be extended by the annexation of territory not then within the City and which territory is within the urban growth boundary and contiguous to the City or separated from it by a stream or right-of-way only.

**4.115.02 Process**

Annexations shall be reviewed in accordance with the requirements of ORS 222.111 through 222.183 as may be amended, and the City's Type IV review procedures specified in Chapter 4.205. A concurrent development proposal is not required to annex property.

**4.115.03 Application**

An application for an annexation shall be filed with the City and accompanied by the appropriate fee. Requirements for an application are found in ORS 222.111 through 222.183 as may be amended. It shall be the applicant's responsibility to submit a complete application which addresses the review criteria of both the Statute and this Section. Notice shall be subject to the provisions in Statute and Chapter 4.205.

**4.115.04 Decision Criteria**

Annexation shall be approved if the evidence can substantiate the following:

- (A) The property abuts the City limits.
- (B) Public facilities are available or can be extended in the future to serve the property.
- (C) Public access is available or may be extended in the future to serve the property.

**4.115.05 Effective Date of Annexation**

The annexation shall be complete from the date of filing with the Secretary of State as provided in ORS 222.150, 222.160, 222.170, 111.900 and the requirements of this Chapter. Thereafter, the annexed territory shall be and remain part of the City. The date of such filing shall be the effective date of annexation.

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**4.115.06 Zone Designation of Annexed Property**

Unless a request to amend the Comprehensive Plan map and Zone map is made in conjunction with the annexation, the City Council shall establish a zone that corresponds to the underlying Plan designation.

## 4.201 GENERAL ADMINISTRATIVE PROVISIONS

### **4.201.01 Multiple Applications**

Applications for more than one land use action for the same property may, at the applicant's discretion, be heard or reviewed concurrently. Multiple land use requests involving different processing Types shall be heard and decided at the higher processing Type. For example, an application involving a Subdivision (Type III) with an Adjustment (Type II) shall be reviewed and decided as a Type III request.

### **4.201.02 Generalized Area**

Applications involving multiple properties may be aggregated if in the opinion of the City Manager a better understanding of the entire land use proposal is served by combining requests. A Final Decision unless appealed shall be granted for each request and each request is appealable individually.

### **4.201.03 Application Forms**

All applications shall be on forms supplied by the City and include the necessary requirements and submittal information.

### **4.201.04 Time Limit**

If for any reason it appears that a final action may not be completed within the 120-day period, and unless the time period is voluntarily extended by the applicant, the following procedures shall be followed regardless of other processes set forth elsewhere in this Code.

- (A) The City staff shall notify the City Council of the timing conflict by the 85th day. The Mayor shall set a time for an emergency meeting within the 120-day period.
- (B) Public notice shall be mailed to affected parties as specified in Chapter 4.204 except the notice shall be for a period of 10 days
- (C) The City Council shall hold in a public hearing on the specified date, in accordance with the provisions of Chapter 4.207 and render a decision approving or denying the request within the 120-day period. Such action shall be the final action by the City on the application.

**4.201.05 Nature of Appeal Hearings**

Any Planning Commission or City Council hearing on an appeal shall be held de novo, meaning new testimony may be submitted in addition to the existing record of the case and prior hearings.

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4.202 TYPE I APPLICATION AND REVIEW PROCEDURES

**4.202.01 Procedure for Type I Action**

- (A) Decision Authority. Applications subject to a Type I review shall be reviewed and decided by the City Manager or his/her designee.
- (B) Application. Upon receipt of an application for a Type I land use action, the City staff shall review the application for completeness.
  - (1) If determined to be complete, the 120-day time period shall begin.
  - (2) If determined to be incomplete, the applicant shall be notified and provided an additional 30 days to submit supplemental information as necessary.
- (C) Completeness. The application shall be deemed complete for the purposes of scheduling and all related timing provisions either:
  - (1) Upon receipt of the requested acceptable additional information; or, refusal by the applicant to submit the requested information;
  - (2) On the 31st day after the original application submittal.
- (D) Decision. The City Manager or designee shall review the application and shall make a decision based on an evaluation of the proposal and on applicable clear and objective standards as set forth in this Code.
- (E) Appeals. Type I land use decisions are not appealable.

4.203 TYPE II APPLICATIONS AND REVIEW PROCEDURES

**4.203.01 Procedure for Type II Action**

- (A) Decision Authority. Applications subject to a Type II procedure shall be reviewed and decided by the City Manager or his/her designee.
- (B) Application. Upon receipt of an application for Type II land use action, the City staff shall review the application for completeness.
  - (1) If determined to be complete, the 120-day time period shall begin.
  - (2) If determined to be incomplete, the applicant shall be notified and provided an additional 30 days to submit supplemental information as necessary.
- (C) Completeness. The application shall be deemed complete for the purposes of scheduling and all related timing provisions either:
  - (1) Upon receipt of the requested acceptable additional information; or, refusal by the applicant to submit the requested information;
  - (2) On the 31st day after the original application submittal.
- (D) Hearing Option. The City Manager or designee may request a public hearing before the Planning Commission. A public hearing may also be requested by the applicant. The procedures for conducting the public hearing shall comply with the standards in Chapter 4.206.
- (E) Before making a Type II decision, the City shall mail notice of the application to:
  - (1) All owners of record of real property within 100-feet of the subject site.
  - (2) Any person who submits a written request to receive a notice; and
  - (3) Any governmental agency that is entitled to notice under an intergovernmental agreement entered into with the City, or required by State statute.
  - (4) The road authority, and rail authority and owner, when there is a proposed development abutting or affecting their transportation facility and allow the agency to review, comment on, and suggest conditions of decision for the application.



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- (5) The City may notify other affected agencies, as appropriate, for review of the application.
  
- (F) The notice of a pending Type II decision in item (E) above shall include the following:
  - (1) Provide a 14-day period for submitting written comments before a decision is made on the land use application.
  - (2) Identify the specific land use decisions or decisions requested.
  - (3) Describe the street address or other easily understandable reference to the location of the site.
  - (4) List the relevant decision criteria by name and number of Code sections.
  - (5) State the place, date and time the comments are due, and the person to whom the comments should be addressed.
  - (6) Include the name and telephone number of a contact person regarding the Administrative Decision.
  - (7) State that if any person fails to address the relevant decision criteria with enough detail, they may not be able to appeal to the Land Use Board of Appeals or Circuit Court on that issue. Only comments on the relevant decision criteria are considered relevant evidence.
  - (8) State that all evidence relied upon by the City to make this decision is in the public record, available for public review. Copies of this evidence can be obtained at a reasonable cost from the City. application
  - (9) State that after the comment period closes, the City shall issue a decision. The decision shall be mailed to the applicant and to anyone else who submitted written comments or who is otherwise legally entitled to notice.
  
- (G) Decision. The City Manager or designee shall review the application and shall make a decision based on an evaluation of the proposal and on applicable criteria as set forth in this Code.
  
- (H) Notice of Decision. Within five working days after a decision is made, a Notice of Decision shall be sent by mail to:
  - (1) The applicant and all owners or contract purchasers of record of the site that is the subject of the application.
  - (2) Any person who submits a written request to receive notice, or provides comments during the application review period.

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- (3) Any governmental agency that is entitled to notice under an intergovernmental agreement entered into with the City, and other agencies that were notified or provided comments during the application review period.
- (I) Appeals and Reconsideration. All Type II land use decisions may be appealed to the Planning Commission. The appeal shall be submitted within 15 days of the date the decision is mailed and in conformance with provisions in Chapter 4.207.
- (J) Commission Hearing and Notice of Appeal. If a Type II decision is appealed, City staff shall schedule a hearing before the Planning Commission. The Commission shall conduct the hearing consistent with procedures set forth in Chapter 4.1xx. Written notice of a public hearing on the appeal shall be mailed to the applicant and those who received notice of the original decision. This notice shall be mailed at least 10 days prior to the public hearing on the appeal and shall contain the information required in Chapter 4.204.
- (K) Commission Action. The Commission action on a Type II appeal shall be in the form of a decision. Within 7 days of the Commission decision, the applicant and all individuals who participated in the public hearing or requested notice of the decision, shall be mailed written notice of the decision. The notice shall specify findings justifying the decision to approve or deny the request and any conditions of approval.
- (J) Appeals. All appeals of Type II land use decisions of the Planning Commission may be appealed to the City Council. The appeal shall be submitted within 15 days of the date the decision is mailed and in conformance with provisions in Chapter 4.204.
- (L) Council Hearing and Notice of Appeal. If the Commission decision on a Type II decision is appealed, City staff shall schedule a hearing before the City Council. The Council shall conduct the hearing consistent with procedures set forth in Chapter 4.207. Written notice of a public hearing on the appeal shall be mailed to the applicant and those who received notice of the Commission decision on appeal. This notice shall be mailed at least 10 days prior to the public hearing on the appeal and shall contain the information required in Chapter 4.204.
- (M) Notice of Council Decision. Within 7 days of the final City Council decision, the applicant and those who attended the hearing or requested notice, shall be mailed written notice of the Council decision. The notice shall

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specify findings justifying the approval or denial of the request and any applicable conditions of approval.

- (N) Appeal of Council Decision. All appeals heard by the City Council may be appealed to the Land Use Board of Appeals (LUBA). The appeal shall be submitted within 21 days of the date the decision is mailed. Appeals shall comply with LUBA procedures.

**4.203.02 Conditions of Approval**

- (A) Authorization for Conditions. Approvals of a Type II action may be granted subject to conditions. Conditions shall be designed to protect public health, safety and general welfare from potential adverse impacts caused by a proposed land use described in an application. Conditions shall either ensure compliance with the standards of the development code; or fulfill the need for public service demands created by the proposed use.
- (B) Timing of Conditions. Whenever practical, all conditions of approval required by the City shall be completed prior to the issuance of an occupancy permit. When an applicant demonstrates that it is not practical to fulfill all conditions prior to issuance of such permit, the City Manager may require a performance bond or other guarantee to ensure compliance with zoning regulations or fulfillment of required conditions. Bonding shall comply with adopted City regulations and procedures.
- (C) Modify Conditions. A request to change or alter conditions of approval shall be processed as a new Type II action.

4.204 TYPE III APPLICATIONS AND REVIEW PROCEDURES

**4.204.01 Procedures for Type III Actions**

- (A) Decision Authority. Applications subject to a Type III procedure shall be reviewed and decided by the Planning Commission.
- (B) Application. Upon receipt of an application for a Type III land use action, the City staff shall review the application for completeness.
  - (1) If determined to be complete, the 120-day time period shall begin.
  - (2) If determined to be incomplete, the applicant shall be notified and provided an additional 180 days to submit supplemental information as necessary.
- (C) Completeness. The application shall be deemed complete for the purposes of scheduling and all related timing provisions either:
  - (1) Upon receipt of the requested adequate additional information; or, refusal by the applicant to submit the requested information;
  - (2) On the 31st day after the original application submittal.
- (D) Agency Referrals. Referrals will be sent to interested agencies such as City departments, police and fire departments, the school district, utility companies, and applicable state agencies. If a county road or state highway is impacted, referrals should be sent to the applicable County Public Works Department and/or ODOT.
- (E) Commission Hearing and Notification Area. City staff shall schedule a hearing before the Planning Commission. Written notice of the public hearing shall be mailed at least twenty (20) days prior to the hearing date to the applicant, owners of property within 100 feet of the boundaries of the subject property and to affected county and state agencies responsible for roads and highways. The Commission shall conduct the hearing consistent with procedures set forth in Chapter 4.206. The notice of a pending Type III hearing shall include the following:
  - (1) Explain the nature of the application.
  - (2) Cite the applicable criteria from the Code.
  - (3) Identify the location of the property.

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- (4) State the date, time and location of the Planning Commission hearing.
  - (5) Include the name of the City representative to contact and the telephone number where additional information may be obtained;
  - (6) State that failure of an issue to be raised in a hearing, in person or by letter, or failure to provide sufficient specificity to afford the decision maker an opportunity to respond to the issue precludes appeal to the Land Use Board of Appeals;
  - (7) State that a copy of the application, all documents and evidence relied upon by the applicant and application criteria are available for inspection at no cost and a copy will be available at reasonable cost;
  - (8) State that a copy of the staff report will be available for inspection at no cost at least seven days prior to the hearing and a copy will be provided at reasonable cost;
  - (9) Include a general explanation of the requirements for submission of testimony and the procedure for conduct of hearing.
- (F) Commission Action. The Commission action on a Type III request shall be in the form of a decision. Decisions are to be signed by the Planning Commission Chair or acting Planning Commission Chair. Within 7 days of the Commission decision, the applicant and all individuals who participated in the public hearing or requested notice of the decision, shall be mailed written notice of the decision. The notice shall specify findings justifying the decision to approve or deny the request and any conditions of approval.
- (G) Appeals. All appeals of Type III land use decisions of the Planning Commission may be appealed to the City Council. The appeal shall be submitted within 15 days of the date the decision is mailed and in conformance with provisions in Chapter 4.207.
- (H) Council Hearing and Notice of Appeal. If the Commission decision on a Type III decision is appealed, City staff shall schedule a hearing before the City Council. The Council shall conduct the hearing consistent with procedures set forth in Chapter 4.1xx. Written notice of a public hearing on the appeal shall be mailed to the applicant and those who received notice of the Commission decision. This notice shall be mailed at least 10 days prior to the public hearing on the appeal and shall contain the information required in Chapter 4.204.
- (I) Notice of Council Decision. Within 7 days of the final City Council decision, the applicant and those who attended the hearing or requested notice,

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shall be mailed written notice of the Council decision. The notice shall specify findings justifying the approval or denial of the request and any applicable conditions of approval.

- (J) Appeal of Council Decision. All appeals heard by the City Council may be appealed to the Land Use Board of Appeals (LUBA). The appeal shall be submitted within 21 days of the date the decision is mailed. Appeals shall comply with LUBA procedures.

**4.204.02 Conditions of Approval**

- (A) Authorization for Conditions. Approvals of any Type III action may be granted subject to conditions. Conditions shall be designed to protect public health, safety and general welfare from potential adverse impacts caused by a proposed land use described in an application. Conditions shall either ensure compliance with the standards of the development code; or fulfill the need for public service demands created by the proposed use.
- (B) Timing of Conditions. Whenever practical, all conditions of approval required by the City shall be completed prior to the issuance of an occupancy permit. When an applicant demonstrates that it is not practical to fulfill all conditions prior to issuance of such permit, the City Manager may require a performance bond or other guarantee to ensure compliance with zoning regulations or fulfillment of required conditions. Bonding shall comply with adopted City regulations and procedures.
- (C) Modify Conditions. A request to change or alter conditions of approval shall be processed as a new Type III action.

4.205 TYPE IV APPLICATIONS AND REVIEW PROCEDURES

**4.205.01 Procedures for Type IV Actions (Quasi-Judicial)**

- (A) Decision Authority. Zone Changes and Comprehensive Plan Map amendments initiated at the request of a property owner are quasi-judicial applications and subject to a Type IV procedure and shall be reviewed and decided by the City Council with the recommendation of the Planning Commission.
  
- (B) Application. Upon receipt of an application for a Type III land use action, the City staff shall review the application for completeness.
  - (1) If determined to be complete, the 120-day time period shall begin.
  - (2) If determined to be incomplete, the applicant shall be notified and provided an additional 180 days to submit supplemental information as necessary.
  
- (C) Completeness. The application shall be deemed complete for the purposes of scheduling and all related timing provisions either:
  - (1) Upon receipt of the additional information; or, refusal by the applicant to submit the requested information;
  - (2) On the 31st day after the original application submittal.
  
- (D) Agency Referrals. Referrals will be sent to interested agencies such as City departments, police and fire departments, the school district, utility companies, and applicable state agencies. If a county road or state highway is impacted, referrals should be sent to the applicable County Public Works Department and/or ODOT.
  
- (E) Commission Hearing and Notice. City staff shall schedule a hearing before the Planning Commission. The City Council and Planning Commission hearings can be combined if approved by the Mayor. The Commission shall conduct the hearing consistent with procedures set forth in Chapter 4.206. Notice of the public hearings before the Planning Commission and City Council for a Type IV land use action, shall be published in a newspaper of general circulation in the City at least 20 days prior to each public hearing. Affected property owners within 200-feet of the subject property shall be notified by mail at least 20 days prior to the initial



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Planning Commission hearing. Mailed notice of a pending Type IV hearing shall include the following:

- (1) Identify the specific land use decisions or decisions requested.
  - (2) Describe the street address or other easily understandable reference to the location of the site.
  - (3) List the relevant decision criteria by name and number of Code sections.
  - (4) State the place, date and time of the Planning Commission hearing.
  - (5) Include the name and telephone number of a contact person regarding the Administrative Decision.
  - (6) State that if any person fails to address the relevant decision criteria with enough detail, they may not be able to appeal to the Land Use Board of Appeals or Circuit Court on that issue. Only comments on the relevant decision criteria are considered relevant evidence.
  - (7) State that all evidence relied upon by the City to make this decision is in the public record, available for public review. Copies of this evidence can be obtained at a reasonable cost from the City application
- (F) Commission Action. The Commission action on a Type IV request shall be in the form of a recommendation to the City Council. Within 7 days of the Commission decision, the applicant and all individuals who requested notice of the decision, shall be mailed written notice of the Commission decision. The notice shall specify findings justifying the recommendation to approve or deny the request and any recommended conditions of approval.
- (G) Council Hearing. Subsequent to the Commission hearing, City staff shall schedule a hearing before the City Council. Notice shall be provided consistent with requirements in Chapter 4.204. The Council shall conduct the hearing consistent with procedures set forth in Chapter 4.207. The City Council and Planning Commission hearings can be combined if approved by the Mayor.
- (H) Notice of Council Decision. Within 7 days of the final City Council decision, the applicant and all individuals who requested notice of the decision, shall be mailed written notice of the Council decision. The notice shall specify findings justifying the approval or denial of the request and any applicable conditions of approval. City Council approval shall be in the form of an ordinance; a denial shall be in a form acceptable to the Council.

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- (I) Appeals. All Type IV land use decisions of the City Council may be appealed to the Land Use Board of Appeals (LUBA). The appeal shall be submitted within 21 days of the date the decision is mailed. Appeals shall comply with LUBA procedures.
- (J) Joint Notice Publication. The City has the option of publishing a single notice for both the Planning Commission and City Council hearings, provided the notice is set to publish at least 20-days prior to the Planning Commission hearing.

**4.205.02 Conditions of Approval**

- (A) Authorization of Conditions. Approvals of a zone change may be granted subject to conditions to the extent permitted under this Code.
- (B) Timing of Conditions. Whenever practical, all conditions of approval required by the City shall be completed prior to the issuance of an occupancy permit. When an applicant demonstrates that it is not practical to fulfill all conditions prior to issuance of such permit, the City Manager may require a performance bond or other guarantee to ensure compliance with zoning regulations or fulfillment of required conditions. Bonding shall comply with adopted City regulations and procedures.
- (C) Modify Conditions. Changes of alterations of conditions shall be processed as a new administrative action.

**4.205.03 Procedures for Type IV Actions (Legislative)**

- (A) Procedures. Type IV legislative applications may be initiated by either a majority vote of the City Council or a majority vote of the Planning Commission.
- (B) Time Limit. Type IV legislative actions are not subject to the 120-day time limit.
- (C) Agency Referrals. Referrals will be sent to interested agencies such as City departments, police and fire departments, the school district, utility companies, and applicable state agencies. If a county road or state highway is impacted, referrals should be sent to the applicable County Public Works Department and/or ODOT.
- (D) Public Hearings by Planning Commission. A public hearing shall be held by the Planning Commission. Notice of the time, place and purpose of the

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Planning Commission's hearings shall be given by publication of a notice in a newspaper of general circulation in the City not less than 20 days prior to the date of hearing.

- (E) Commission Action. The Commission action on a Type IV legislative request shall be in the form of a recommendation to the City Council. Within 7 days of the Commission decision, the applicant and all individuals who requested notice of the decision, shall be mailed written notice of the Commission decision. The notice shall specify findings justifying the recommendation to approve or deny the request and any recommended conditions of approval.
- (F) Public Hearing by City Council. Following Planning Commission action, the City Council shall hold a public hearing to consider the Planning Commission's recommendation on proposed amendments. Notice of the time, place and purpose of the Council hearings shall be given by publication of a notice in a newspaper of general circulation in the City not less than 10 days prior to the date of hearing.
- (G) Notice of Council Decision. Within 7 days of the final City Council decision, the applicant and all individuals who requested notice of the decision, shall be mailed written notice of the Council decision. The notice shall specify findings justifying the approval or denial of the request and any applicable conditions of approval. City Council approval shall be in the form of an Ordinance; a denial shall be in a form acceptable to the Council.
- (H) Appeals. All Type IV land use decisions by the City Council may be appealed to the Land Use Board of Appeals (LUBA). The appeal shall be submitted within 21 days of the date the decision is mailed. Appeals shall comply with LUBA procedures.
- (I) Joint Hearing and Notice of Publication. The Planning Commission and City Council hearings can be combined if approved by the Mayor. The City has the option of publishing a single notice for both the Planning Commission and City Council hearings, provided the notice is set to publish at least 20-days prior to the Planning Commission hearing.

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4.206 PUBLIC HEARING BEFORE THE PLANNING COMMISSION

**4.206.01 General Provisions**

- (A) Timing. Land use actions which require a public hearing by the Planning Commission under the provisions of this Code shall be initially heard by the Planning Commission within 60 days of the receipt of an application which is deemed complete.
- (B) Hearing Action. The Planning Commission may continue a public hearing for additional information, testimony, or for decision only, to its next regular meeting or to a special meeting. In no instance, however, shall the decision be continued more than 30 days beyond the initial hearing date.
- (C) Continuance and Open Record. Unless there is a continuance, if a participant so requests before the conclusion of the initial evidentiary hearing, the record shall remain open for at least seven days after the hearing for the receipt of additional written testimony.
- (D) Type II Appeals. Appeal of a Type II action shall be heard by the Planning Commission. Findings of the Planning Commission on such appeal shall be final unless further appealed to the City Council.
- (E) Type III Action. The decisions of the Planning Commission on applications for Type III actions shall be final unless appealed to the City Council.
- (F) Type IV Actions. The recommendations of the Planning Commission on applications for Type IV actions shall be referred to the City Council for final determination. Notice of the Commission recommendation is required but shall not be subject to appeal.

**4.206.02 Planning Commission Hearing Procedures**

A public hearing before the Planning Commission shall be conducted under the following procedures unless modified by the Commission for a specific hearing:

- (A) Open the public hearing and announce the purpose.
- (B) Call for abstentions and objections to jurisdiction; and, *ex parte* contacts, conflicts of interest or bias on behalf of the Commission members.

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- (C) Receive the staff report and recommendation.
- (D) Applicant addresses Commission.
- (E) Those in favor of the application address the Commission. Commissioners may ask questions of the speaker.
- (F) Those not in favor of the application address Commission. Commissioners may ask questions of the speaker.
- (G) Those not necessarily in favor or opposed address the Commission.
- (G) Clarifying questions of proponents and opponents from the Commission directed through the Chair.
- (H) Applicant rebuttal.
- (I) Staff comments and recommendation based on the testimony.
- (J) Close of hearing for the receipt of any additional testimony.
- (K) Deliberation of Commission of findings of fact.
- (M) Close hearing.
- (L) Decision of Commission.

**4.206.03 Evidence**

- (A) Acceptance of Evidence. All evidence offered and not objected to may be received unless excluded by the Planning Commission on its own motion. Evidence may be received subject to a later ruling as to its admissibility.
- (B) Exclusion of Evidence. The Planning Commission may exclude irrelevant, unduly repetitious, immaterial or cumulative evidence; but erroneous admission of evidence by the Commission shall not preclude action or cause reversal on appeal unless shown to have substantially prejudiced the rights of a party. When a hearing will be expedited, any part of the evidence may be received in written form.
- (C) Public Record. All evidence shall be offered and made a part of the public record in the case.

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- (D) Use of Other Information. The Planning Commission may take notice of judicially recognizable facts, and members may take notice of general, technical or scientific facts within their specialized knowledge. Parties shall be notified at any time during the proceeding, but in any event prior to the final decision unless appealed, of the material so noticed, and they shall be afforded an opportunity to contest the facts so noticed. The Planning Commission members may utilize their experience, technical competence and specialized knowledge in evaluation of the evidence presented.
- (E) Rights of Participants. Every party is entitled to an opportunity to be heard and to present and rebut evidence.
- (F) Testify. All interested persons shall be allowed to testify.
- (G) LUBA Appeal. An issue which may be the basis for an appeal to the Land Use Board of Appeals (LUBA) may be raised not later than the close of the record at or following the final evidentiary hearing on the proposal before the City. Such issues shall be raised with sufficient specificity so as to afford the City Council or Planning Commission, and the parties, an adequate opportunity to respond to each issue.

**4.206.04 Record of Hearing**

A record of the proceeding shall be made by written, mechanical or electronic means.

**4.206.05 Limits on Oral Testimony**

The Planning Commission Chair may set consistent, reasonable time limits for oral presentations to the end that parties are encouraged to submit as much evidence as possible in writing prior to the hearing.

**4.206.06 Exhibits**

All exhibits received shall be marked so as to provide identification upon review. Such exhibits shall be retained by the City.

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4.207 REVIEW AND PUBLIC HEARINGS BY CITY COUNCIL

**4.207.01 General Provisions**

- (A) Council Review. The City Council may call up a Type II or Type III decision for its own review within the appeal period without an appeal being filed. A majority of the Council, as determined by the City Attorney, must concur in considering calling up the application. If there is concurrence, the agenda item will be set at a regular meeting or at a special meeting set by the Mayor. The Council must take the action to call up a decision in a public meeting and cite the reasons. The Council must find the original decision likely violated City regulations, policy, or best interest as determined by the Council. Matters called up by the Council shall be processed in the same manner as an appeal.
- (B) Timing. All hearings or reviews required by the City Council shall be heard within 30 days of the Planning Commission's written decision or appeal request. In no instance, however, shall this period extend the date of the hearing and final action beyond 120 days from the date of the initial submission of a complete application, unless voluntarily agreed to by the applicant.
- (C) Council Decisions. The City Council shall prepare and adopt written findings for approval or denial, and any conditions of approval, within two weeks of the hearing by the City Council. In no case, however, shall this decision and the preparation of written findings extend beyond 120 days from the date of initial submittal of a complete application, unless voluntarily agreed to by the applicant. Amendments to adopted maps and texts shall require an ordinance; other decisions shall require an order.

**4.207.02 City Council Review of Appeals**

- (A) Appeals. The City Council shall hear the appeals of Planning Commission decisions, including appeals of Type II decisions rendered by staff and appealed to the Commission. The City Council action on such appeals shall be the final action of the City on the request.
- (B) Submission of New Testimony and De Novo Hearings. The City Council shall admit additional testimony and other evidence by holding a de novo hearing. The hearing procedures shall be the same as for a Planning Commission hearing found in Section 4.206.02.



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- (C) City Council Action. The City Council may affirm, rescind, or amend the action of the Planning Commission and may grant approval subject to conditions necessary to carry out the decision. The City Council may also remand the matter back to the Planning Commission for additional information, subject to the agreement of the applicant to extend the 120-day review period.