



# CITY OF SWEET HOME PLANNING COMMISSION AGENDA

May 19, 2022, 6:30 PM  
Sweet Home City Hall, 3225 Main Street  
Sweet Home, OR 97386

WIFI Passcode: guestwifi

PLEASE silence all cell phones – Anyone who wishes to speak, please sign in.

## Meeting Information

The City of Sweet Home is streaming the meeting via the Microsoft Teams platform and asks the public to consider this option. There will be opportunity for public input via the live stream. To view the meeting live, online visit <http://live.sweethomeor.gov>. If you don't have access to the internet, you can call in to 541-367-5128, choose option #1 and enter the meeting ID to be logged in to the call. Meeting ID: 379 062 887#

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## Call to Order and Pledge of Allegiance

## Roll Call of Commissioners

**Public Comment.** This is an opportunity for members of the public to address the Planning Commission on topics that are not listed on the agenda.

## Meeting Minutes:

- a) [April 21, 2022 Planning Commission Meeting Minutes](#)
- b) [May 5, 2022 Planning Commission Meeting Minutes](#)

## Public Hearings:

- a) [Application VR22-01 Staff Report](#)
- b) [Application VR22-02 Staff Report](#)
- c) [Application SD22-02 Staff Report](#)

## Draft Code Review:

- a) [Article III](#)
- b) [Article IV](#)

## Staff Updates on Planning Projects:

## Adjournment

Persons interested in commenting on these issues should submit testimony in writing to the Community and Economic Development Department Office located in City Hall prior to the hearing or attend the meeting and give testimony verbally. Persons who wish to testify will be given the opportunity to do so by the Chair of the Commission at the Planning Commission meeting. Such testimony should address the zoning ordinance criteria which are applicable to the request. The Sweet Home Planning Commission welcomes your interest in these agenda items. Pursuant to ORS 192.640, this agenda includes a list of the principal subjects anticipated to be considered at the meeting; however, the Commission may consider additional subjects as well. This meeting is open to the public and interested citizens are invited to attend.

The 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 based on that issue.

A copy of the application, all documents and evidence relied upon by the applicant and applicable criteria are available for inspection at no cost and a copy will be provided at reasonable cost. 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. Please contact the Community and Economic Development Department at 3225 Main Street, Sweet Home, Oregon 97386; Phone: (541) 367-8113.

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*The location of the meeting is accessible to the disabled. If you have a disability that requires accommodation, advanced notice is requested by notifying the City Manager's Office at 541-367-8969.*

## Planning Commission Process and Procedure for Public Hearings

- Open each Hearing individually
- Review Hearing Procedure (SHMC 17.12.130)
- Hearing Disclosure Statement (ORS 197.763)
  - At the commencement of a hearing under a comprehensive plan or land use regulation, a statement shall be made to those in attendance that:  
READ: “The applicable substantive criteria are listed in the staff report. Testimony, arguments and evidence must be directed toward the criteria described or other criteria in the plan or land use regulation which the person believes to apply to the decision. Failure to raise an issue accompanied by statements or evidence sufficient to afford the decision maker and the parties an opportunity to respond to the issue precludes appeal to the Land Use Board of Appeals based on that issue.”
- Declarations by the Commission:
  - Personal Bias - Prejudice or prejudgment of the facts to such a degree that an official is incapable of making an objective decision based on the merits of the case.
  - Conflict of Interest - Does any member of the Commission or their immediate family have any financial or other interests in the application that has to be disclosed.
  - Ex Parte Information - The Planning Commission is bound to base their decision on information received in the Public Hearing and what is presented in testimony. If a member of the Planning Commission has talked with an applicant or has information from outside the Public Hearing it needs to be shared at that time so that everyone in the audience has an opportunity to be aware of it and the rest of the Planning Commission is aware of it. In that way it can be rebutted and can be discussed openly.
- Staff Report
  - Review of application
  - Discussion of relative Criteria that must be used
  - During this presentation the members of the Planning Commission may ask questions of the staff to clarify the application or any part of the Zoning Ordinance or the applicable information.
- Testimony
  - Applicant's Testimony
  - Proponents' Testimony
    - Testimony from those wishing to speak in favor of the application
  - Opponents' Testimony
    - Testimony from those wishing to speak in opposition of the application
  - Neutral Testimony
    - Testimony from those that are neither in favor nor in opposition of the application.
  - Rebuttal
- Close Public Hearing
- Discussion and Decision among Planning Commissioners
  - Motion
    - Approval
    - Denial
    - Approval with Conditions
    - Continue
- If there is an objection to a decision it can be appealed to the City Council. The Planning Commission shall set the number of days for the appeal period. At the time the City Council goes through the Public Hearing Process all over again.
  - Recommendation made by Planning Commission—City Council makes final decision.

If you have a question, please wait until appropriate time and then direct your questions to the Planning Commission. Please speak one at a time so the recorder knows who is speaking.



# CITY OF SWEET HOME PLANNING COMMISSION MINUTES

April 21, 2022, 6:30 PM  
Sweet Home City Hall, 3225 Main Street  
Sweet Home, OR 97386

WIFI Passcode: guestwifi

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## Meeting Information

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## Call to Order and Pledge of Allegiance

The meeting was called to order at 6:32 PM

## Roll Call of Commissioners

### PRESENT

Henry Wolthuis  
Eva Journey  
Greg Stephens  
David Lowman

### ABSENT

Laura Wood  
Jamie Melcher  
Jeffrey Parker

### STAFF

Community and Economic Development Director Blair Larsen  
Associate Planner Angela Clegg

### GUESTS

Walt Wendolowski, MorganCPS Group, 835 Madrona Ave S, Salem, OR 97302

**Public Comment.** This is an opportunity for members of the public to address the Planning Commission on topics that are not listed on the agenda.

None

## Development Code Updates

### a) Memorandum

CEDD Director Larsen introduced Walt Wendolowski. Wendolowski gave a short introduction and discussed the memorandum.

### b) Article 1

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*The location of the meeting is accessible to the disabled. If you have a disability that requires accommodation, advanced notice is requested by notifying the City Manager's Office at 541-367-8969.*

Staff and the Commissioners reviewed the changes to Article I.

- c) Article 2

Staff and the Commissioners reviewed changes to Article II.

- d) Article 3

Staff and the Commissioners reviewed up to page III-71 of Article III.

- e) Article 4

Article IV was not reviewed.

**Staff Updates on Planning Projects:**

The meeting adjourned at 8:30 PM.

**Adjournment**

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Jeffrey Parker Chairperson  
Sweet Home Planning Commission

Respectfully submitted by Angela Clegg, Associate Planner





# CITY OF SWEET HOME PLANNING COMMISSION MINUTES

May 05, 2022, 6:30 PM  
Sweet Home City Hall, 3225 Main Street  
Sweet Home, OR 97386

WIFI Passcode: guestwifi

PLEASE silence all cell phones – Anyone who wishes to speak, please sign in.

## Meeting Information

The City of Sweet Home is streaming the meeting via the Microsoft Teams platform and asks the public to consider this option. There will be opportunity for public input via the live stream. To view the meeting live, online visit <http://live.sweethomeor.gov>. If you don't have access to the internet, you can call in to 541-367-5128, choose option #1 and enter the meeting ID to be logged in to the call. Meeting ID: 947 077 522#

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## Call to Order and Pledge of Allegiance

The meeting was called to order at 6:30 PM.

## Roll Call of Commissioners

### PRESENT

Jamie Melcher  
Eva Journey  
Jeffrey Parker  
Greg Stephens  
Laura Wood  
David Lowman

### ABSENT

Henry Wolthuis

### GUESTS

Mike Worthington, 1450 Meadowlark Lane, Sweet Home, OR 97386  
Mark Lund, 39627 Mt Hope Drive, Lebanon, OR 97355  
Tim Wood, FCS Group, 5335 Meadows Road, Suite 330, Lake Oswego, OR 97035  
Scott Fregonese, 3J Consulting, 9600 SW Nimbus Avenue, Suite 100, Beaverton, OR 97008

### STAFF

Associate Planner Angela Clegg  
Community and Economic Development Director Blair Larsen

## Public Comment.

None

## Meeting Minutes:

- a) April 7, 2022 Planning Commission Meeting Minutes
  - Motion to approve the minutes made by Stephens, Seconded by Melcher.
  - Yea: 6
  - Nay: 0
  - Absent: 1

## Public Hearings

### a) Application ZMA22-01 Staff Report

The Public Hearing was opened at 6:33 PM.

Commissioner Parker asked of the Committee if there were any Ex Parte, Conflicts of Interest or Personal Bias, there was none.

Staff Report: Associate Planner Angela Clegg gave the staff report and stated that the applicant is proposing to change the Zoning Map in an area consisting of approximately 114,690 square feet (2.62 acres) located in Sweet Home, OR 97386 (13S01E32AB Tax Lot 500). The Sweet Home Zoning Map is proposed to change from the Commercial Highway (C-2) Zone to the Industrial (M) Zone. The proposed zone change would bring the zoning designation into conformity with the property's existing Comprehensive Plan Map designation. The Planning Commission will hold a public hearing and make a recommendation to the City Council. The City Council will hold a public hearing and decide on this application.

Applicant's Testimony: Mark Lund, 39627 Mt Hope Drive, Lebanon, OR 97355, testified on behalf of the application.

Testimony in Favor: None

Testimony in Opposition: None

Neutral Testimony: None

The Public Hearing was closed at 6:40 PM

Committee Discussion: Commissioner Journey asked about the lack of development presented with the application. Associate Planner Clegg explained that there is no development presented with the zone map amendment. Development will be presented in future applications. Commissioner Melcher stated that the zone is consistent with the zoning of the surrounding properties, and storage units are in demand.

Motion to approve the application made by Melcher, Seconded by Stephens.

Yea: 6

Nay: 0

Absent: 1

### b) Application CU22-08 Staff Report

The Public Hearing was opened at 6:43

Commissioner Parker asked of the Committee if there were any Ex Parte, Conflicts of Interest, or Personal Bias, there were none.

Staff Report: Associate Planner Angela Clegg gave the staff report and state that the applicant is requesting a conditional use permit to allow for self-storage, enclosed RV/boat storage, canopy parking for RV/boat, and light industrial space in an Industrial (M) Zone. Any other use that is compatible with the purpose and intent of the zone, and that would have off-site impacts that would not significantly exceed those that are typical of the other conditionally permitted uses listed in this section [SHMC 17.44.030.L]. Tax Lot 100 contains approximately 257,366 square feet and is in the Industrial (M) Zone. Tax Lot 101 contains approximately 5,831 square feet and is in the Industrial (M) Zone. Tax Lot 500 contains approximately 114,690 square feet and is pending Zone Map Amendment application ZMA22-01 amending Tax Lot 500 from Commercial Highway (C-2) Zone to Industrial (M) Zone.

Applicants Testimony: Mark Lund, 39627 Mt Hope Drive, Lebanon, OR 97355, testified on behalf of the application.

Commissioner Parker asked the applicant about hours of operation. The applicant stated that it will be a 24-hour facility with security cameras. Commissioner Lowman asked the applicant if there will be a manager on site. The applicant stated that they are looking at two

options: coded gate or an on-site manager. They are leaning toward an on-site manager. Commissioner Wood asked the applicant about the paving and was concerned about paving into the wetlands. The applicant stated they will build up to the wetlands, will follow the setbacks, and may fence around them. Wood asked about the occupancy. The applicant stated that they hope for 100%. There is currently a waitlist for storage units. Commissioner Stephens confirmed that the RV storage will be covered. That applicant stated that they will be.

Testimony in Favor: None

Testimony in Opposition: None

Neutral Testimony: None

The Public Hearing was closed at 6:58 PM

Commissioners Discussion: Commissioner Melcher asked about the Public Works request to have an easement and was concerned about using the word 'recommend' instead of 'require'. CEDD Director Larsen stated that the easement is necessary. The easement shall be recorded at the county level and the applicant shall allow the City to have access to the easement. Associate Planner Clegg was not concerned with the word usage since the plan is a draft and will be finalized with the submission of the building plans.

Motion to approve the application made by Stephens, Seconded by Lowman.

Yea: 6

Nay: 0

Absent: 1

c) Application CU22-09 Staff Report

The Public Hearing was opened at 7:02 PM

Commissioner Parker asked of the Committee if there were any Ex Parte, Conflicts of Interest or Personal Bias, there was none.

Staff Report: Associate Planner Clegg gave the staff report and stated that the applicant is requesting a conditional use permit to allow for a non-dwelling accessory building and RV pad on the subject property. In the Residential Low Density (R-1) zone a secondary use on a lot without a primary use is allowed per a conditional use. [SHMC 17.24.030 (L)]. The subject property contains approximately 7,663 square feet and is in the Residential Low Density (R-1) Zone.

Commissioner Melcher asked how large the shed would be. Associate Planner Clegg stated that it was discussed that the shed would be approximately 200 square feet, but it wasn't the size that was the issue, it was that the lot that the house is on is not big enough for a shed to be within setbacks. Commissioner Journey asked the size of the lot that the shed is proposed to go on and if it could have a house built on it. Clegg stated that the lot is 7,663 square feet and could be build on, but there would be constraints due to the size and shape of the lot.

Applicants Testimony: Mike Worthington, 1450 Meadowlark Lane, Sweet Home, OR 97386, testified on behalf of his application.

Commissioner Melcher thanked the applicant for going through the proper channels and getting approval. Commissioner Wood asked the applicant to verify their reason for wanting to put the shed on the vacant lot. The applicant explained their reason. Commissioner Lowman asked how far the shed would be from the house. The applicant stated it will be approximately 14 feet. Associate Planner Clegg verified that they are within the setback requirements for the zone.

Testimony in Favor: None

Testimony in Opposition: None

Neutral Testimony: None

The Public Hearing was closed at 7:17 PM

Commissioners Comments: Commissioner Parker thanked Commissioner Melcher for her comments to the applicant. Commissioner Wood stated they she understood the reason for the Conditional Use request. Commissioner Journey stated that she agreed with Staff Engineer Graybill about doing a Property Line Adjustment in the future to combine the two lots. Commissioner Wood and Parker agreed.

Motion to approve the application made by Wood, Seconded by Journey.

Yea: 6

Nay: 0

Absent: 1

### **Housing Needs Analysis**

- a) Housing Needs Forecast Memo

Tim Wood of FCS Group and Scott Fregonese of 3J Consulting introduced the Housing Needs Analysis process to the Planning Commission.

### **Draft Code Review**

- a) Article I

Completed

- b) Article II

Completed

- c) Article III

Reviewed through Section 17.70

- d) Article IV

Was not reviewed

### **Staff Updates on Planning Projects:**

Associate Planner Clegg gave a brief update on pending land use applications.

CEDD Larsen gave an overview of the code review process at the City Council level.

### **Adjournment**

The meeting was adjourned at 8:35 PM

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Jeffrey Parker Chairperson  
Sweet Home Planning Commission

Respectfully submitted by Angela Clegg, Associate Planner



## Staff Report Presented to the Planning Commission

**REQUEST:** The applicant is seeking a variance to the limits on building height, fence height, and the use of barbed wire in the Residential Low Density (R-1) Zone. The Wastewater Treatment Plant Building A and Primary Digester building(s) may reach a building height of greater than 30' [SHMC 17.25.070]. Construction of the combined building requires the construction of a retaining wall along the south and west property lines that will exceed the allowable fence height and include the use of barbed wire [SHMC 17.08.033.E.1.a.2.B and 17.08.033.D.3.a].

The Wastewater Treatment Plant is a pre-existing Public Facility in a residential zone. A Public Facility is allowed in a residential zone via a Conditional Use. Conditional Use CU22-04 was approved by the Planning Commission on April 7, 2022.

**APPLICANT:** The City of Sweet Home

**PROPERTY OWNER:** The City of Sweet Home

**FILE NUMBER:** VR22-01

**PROPERTY LOCATION:** 1359 Pleasant Valley Road, Sweet Home, OR 97386; Identified on the Linn County Assessor's Map as 13S01E31BB Tax Lots 600, 1100, 1300, 1501, and 1502.

**REVIEW AND DESIGN CRITERIA:** Sweet Home Municipal Code Section(s) 17.88.040, 16.12.030, 17.24.020

**HEARING DATE & TIME:** May 19, 2022

**HEARING LOCATION:** City Hall Council Chamber at 3225 Main Street, Sweet Home, Oregon 97386

**STAFF CONTACT:** Angela Clegg, Associate Planner  
Phone: (541) 367-8113; Email: [aclegg@sweethomeor.gov](mailto:aclegg@sweethomeor.gov)

**REPORT DATE:** May 12, 2022

## I. PROJECT AND PROPERTY DESCRIPTION

### ZONING AND COMPREHENSIVE PLAN DESIGNATIONS:

Property	Zoning Designation	Comprehensive Plan Designation
Subject Property	Residential Low Density (R-1)	Public
Property North	Linn County	Linn County
Property East	Residential Low Density (R-1)	Medium Density Residential
Property South	Commercial Highway (C-2)	Medium Density Residential Highway Commercial
Property West	Residential Low Density (R-1) Linn County	Medium Density Residential Highway Commercial Linn County

Floodplain: Based on a review of the FEMA flood insurance rate map; Panel 41043C0913G, dated September 29, 2010, the eastern portion of the subject property is in the Special Flood Hazard Area.

Based on the Sweet Home ArcGIS map, the eastern portion of the subject property is in the AE (100 year) floodplain and the AE (100 year) Floodway.

Wetlands: The subject property does not show wetlands/waterways on the properties that are depicted on the Sweet Home Local Wetlands Inventory and the National Wetlands Inventory Map.

The eastern portion of the subject property is in the Natural Resource Zone.

Access: Access to the subject property is via a City Facilities access off Pleasant Valley Road.

Water and Sewer Services: The proposed parcels have access to City water and sewer services.

### **TIMELINES AND HEARING NOTICE:**

Application Received: April 13, 2022

Application Deemed Complete: April 13, 2022

Notice Distribution to Neighboring Property  
Owners Within 100 feet and Service Agencies: April 14, 2022

Notice Published in New Era Newspaper: April 20, 2022

Date of Planning Commission Hearing: May 19, 2022

120-Day Processing Deadlines: August 11, 2022

## II. COMMENTS

- CEDD Engineering:** Regarding the Variance Request for height and barbed wire fencing at the Wastewater Treatment Plant, as it is an important local government facility, building configuration and security is important. CEDD-ES has no issues with the request.
- Public Works Division:** No comments as of the mailing of this notice.
- Building Division:** The Building Program has no issues with this request for Variance.
- Sweet Home Fire District:** No comments as of the mailing of this notice.
- Public Comments:** No comments as of the mailing of this notice.

## III. REVIEW AND DESIGN CRITERIA

The review and decision criteria for a variance are listed below in bold. Findings and analysis are provided under each review and decision criterion.

- A. A determination that the criteria have been met involves the balancing of competing and conflicting interests. The following considerations may be used as guidelines in the granting authority's deliberations.**
- a. Whether the situation that created a need for a variance was created by the person requesting the variance;**
  - b. The economic impact upon the person requesting the variance if the request is denied;**
  - c. An analysis of the physical impacts the development could have, such as visual, noise, traffic, and increased potential for drainage, erosion or landslide hazards;**
  - d. Preservation of native tree species such as Oregon White Oak and Pacific Madrone over eight inches in caliper or Douglas Fir, Willamette Valley Ponderosa Pine, Big Leaf Maple, Incense and Western Red Cedar over 12 inches in caliper, measured at four and one-half feet above grade on the uphill side;**
  - e. Whether the proposal impacts the aesthetics of the property. [SHMC 17.88.050(A through E)]**

Staff Findings: The applicant is seeking a variance to the limits on building height, fence height, and the use of barbed wire in the Residential Low Density (R-1) Zone. The Wastewater Treatment Plant Building A and Primary Digester building(s) may reach a building height of greater than 30' [SHMC 17.25.070]. Construction of the combined building requires the construction of a retaining wall along the south and west property lines that will exceed the allowable fence height and include the use of barbed wire [SHMC 17.08.033.E.1.a.2.B and 17.08.033.D.3.a]. The Wastewater Treatment Plant is a pre-existing Public Facility in a residential zone. A Public Facility is allowed in a residential zone via a Conditional Use. Conditional Use CU22-04 was approved by the Planning Commission on April 7, 2022.

**B. The criteria that shall be used in approving, approving with conditions, or denying a requested variance will be based on findings with respect to compliance with each of the following criteria, if applicable.**

- a. **The development resulting from an approved variance will not be detrimental to public health or safety; [SHMC 17.88.040(A)]**

Staff Findings: Staff has not identified any reasons why the applicant's proposed variance would be detrimental to public health or safety.

With the above findings, the application complies with these criteria.

- b. **The request is not in conflict with the Comprehensive Plan; [SHMC 17.88.040(B)]**

Staff Findings: Staff has not identified any goals or policies of the Comprehensive Plan that would preclude the proposed variance.

With the above findings, the application complies with these criteria.

- c. **The request is the minimum variance necessary to make reasonable use of the property; [SHMC 17.88.040(C)]**

Staff Findings: Staff finds that the proposed variance is the minimum request necessary to make reasonable use of the property.

With the above findings, the application complies with these criteria.

- d. **The requested variance is consistent with the purposes of the zone; [SHMC 17.88.040(D)]**

- i. **The purpose of the R-1 zone is to provide areas suitable and desirable for single-family homes, associated public service uses and duplexes on corner lots. The R-1 zone is most appropriate in areas which have developed or will develop with single-family homes at a density which warrants provision of public water and sewer facilities.**

Staff Findings: The applicants are seeking a variance to the limits on building height, fence height, and the use of barbed wire in the Residential Low Density (R-1) Zone. The Wastewater Treatment Plant Building A and Primary Digester building(s) may reach a building height of greater than 30' [SHMC 17.25.070]. Construction of the combined building requires the construction of a retaining wall along the south and west property lines that will exceed the allowable fence height and include the use of barbed wire [SHMC 17.08.033.E.1.a.2.B and 17.08.033.D.3.a].

The Wastewater Treatment Plant is a pre-existing Public Facility in a residential zone. A Public Facility is allowed in a residential zone via a Conditional Use. Conditional Use CU22-04 was approved by the Planning Commission on April 7, 2022.

Staff finds, based on the Conditional Use criteria, that the application complies with these criteria.

- e. **If more than one variance is requested or needed, the cumulative effect of the variances will result in a project that remains consistent with the purposes of the zone; [SHMC 17.88.040(E)]**



Staff Findings: The applicants are requesting three variances: building height, fence height, and the use of barbed wire in the Residential Low Density (R-1) Zone.

Staff finds, based on the Conditional Use criteria, that the application shall remain consistent with the purposes of the zone.

- f. **Identified negative impacts resulting from the variance can be mitigated to the extent practical;** [SHMC 17.88.040(F)]

Staff Findings: Staff has not identified any negative impacts resulting from the proposed variance.

With the above findings, the application complies with these criteria.

- g. **The location, size, design characteristics and other features of the proposal shall have minimal adverse impacts on property values, livability of the development in the surrounding area, and the natural environment;** [SHMC 17.88.040(G)]

Staff Findings: Staff has not identified any characteristics or features of the variance proposal that would have an adverse impact on property values, livability of the development in the surrounding area or the natural environment.

With the above findings, the application complies with these criteria.

- h. **The property has a physical circumstance or condition that makes it difficult to develop. The request complies with the requirements of the underlying zone or overlay zone, city codes, state and federal laws.** [SHMC 17.88.040(H)]

Staff Findings: Staff has not identified a physical circumstance or condition that makes the subject property difficult to develop.

Based on the above findings, the application complies with criteria.

- C. **A variance shall be void one year, or other time specifically set by the Planning Commission, after the date of the Planning Commission approval if the development has not been substantially established within that time period.** [SHMC 17.88.060]

Staff Findings: As required under this section, if this application is approved, the variance shall be void one (1) year after the date of the Planning Commission approval if the use has not been substantially established, as defined under SHMC 17.88.060, within that time period.

#### **IV. STAFF RECOMMENDATION**

Staff finds the applicant has met the criteria listed above in Section III. As a result, staff recommends approval of VR22-02. Staff has not recommended any Conditions of Approval.

#### **V. PLANNING COMMISSION ACTION**

The Planning Commission will hold a public hearing at which it may either approve or deny the application. If the application is denied, the action must be based on the applicable review and decision criteria.

Appeal Period: Staff recommends that the Planning Commission's decision on this matter be subject to a 12-day appeal period from the date that the decision is mailed.

Order: After the Planning Commission makes a decision, staff recommends that the Planning Commission direct staff to prepare an Order that is signed by the Chairperson of the Planning Commission. The Order shall memorialize the decision and provide the official list of conditions (if any) that apply to the approval; if the application is approved.

Motion:

After opening of the public hearing and receiving testimony, the Planning Commission's options include the following:

1. Move to approve application VR22-01 and thereby permit the variance for Tax Lots 600, 1100, 1300, 1501, and 1502, located at 1359 Pleasant Valley Road Sweet Home, OR 97386; Identified on the Linn County Assessor's Map as 13S01E31BB Tax Lots 600, 1100, 1300, 1501, and 1502; adopting the Findings of Fact listed in Section III of the staff report, the setting of a 12-day appeal period from the date of the mailing of the decision, and hereby direct Staff to prepare an order to be signed by the Chair to memorialize this decision.
2. Move to deny application VR22-01 and thereby deny the request for a variance for Tax Lots 600, 1100, 1300, 1501, and 1502, located at 1359 Pleasant Valley Road Sweet Home, OR 97386; Identified on the Linn County Assessor's Map as 13S01E31BB Tax Lots 600, 1100, 1300, 1501, and 1502; adopting the following Finding of Fact (specify), the setting of a 12-day appeal period from the date of the mailing of the decision, and hereby direct Staff to prepare an Order to be signed by the Chair to memorialize this decision.
3. Move to continue the public hearing to a date and time certain (specify); or
4. Other

## **VI. ATTACHMENTS**

- A. Subject Property Map
- B. Application VR22-01

The full record is available for review at the City of Sweet Home Community and Economic Development Department Office located at City Hall, 3225 Main Street, Sweet Home, Oregon 97386. Regular business hours are between 7:00 AM and 5:00 PM, Monday through Friday, excluding holidays.





1 inch = 210 feet

Subject Property Map  
VR22-01

Date: 4/13/22





**City of Sweet Home**  
Community and Economic Development Department- Planning Program  
3225 Main Street, Sweet Home, OR 97386 541-367-8113

### Application for a Zoning Variance

Date Received: 04.13.22  
Date Complete: 04.13.22  
File Number: VR22-01  
Application Fee \$: \$590.00  
Receipt #: —  
Hearing Date: 05.19.22

**Applicant's Name:**

The City of Sweet Home

**Applicant's Address:**

3225 Main Street, Sweet Home, OR 97386

**Applicant's Phone and e-mail:**

541-367-8113, aclegg@sweethomeor.gov

**Subject Property Address:**

1359 Pleasant Valley Road, Sweet Home, OR 97386

**Subject Property Assessor's Map and Tax Lot:**

13S01E31BB 600, 1100, 1300, 1501, and 1502

**Subject Property Size:**

456,976 SF (per PLA20-07, PLA20-08, PLA20-09, and PLA20-10)

**Subject Property: Zoning Classification**

Residential Low Density (R-1)

**Property Owner:**

The City of Sweet Home

**Owner's Address:**

3225 Main Street, Sweet Home, OR 97386

**Owner's Phone and email:**

541-367-8113, aclegg@sweethomeor.gov

**Comprehensive Plan Classification:**

Public

**Nature of Applicants Request**
**Variance Request from Sweet Home Municipal Code Sections:**

17.24.070 Building Height, 17.08.033.E.1.a.(2).(B) Fence Height, 17.08.033.D.3.a. Barbed Wire

**Narrative describing the proposed variations from the stated code sections. Brief Description on this form and attach extra sheets if needed.**

The applicant requests a variance to the building height. The WWTP Building A and Primary Digester building(s) may reach a building height of greater than 30', which is the limit of the current zone for the WWTP site.

The applicant requests a variance for the fence height for an existing industrial use in a residential zone, including the use of barbed wire.

**Description of the alternatives considered and the reason for the choices made.**

Due to space on the project site and rapidly rising costs, the original design with 4 separate buildings for Administration, Maintenance, Headworks and Dewatering are now combined into a single Pre-Engineering Metal Building.

Construction of the combined building requires the construction of a retaining wall along the south and west property lines that will exceed the allowable fence height in the current zone for the WWTP site. See attached Site Plan and Profile Drawings.

**A brief review of how the application meets the review criteria. Attach sheets if needed.**

17.88.040.C The need for the variance is not self-imposed by the applicant or property owner (for example, the variance request does not arise as a result of a property line adjustment or land division approval previously granted to the applicant.) The subject property is an existing industrial use in a residential zone.

**Submittal Requirements**

The checklist on the other side of this application lists the required items must be submitted with this application and the Criteria the request must meet. Please address all items that apply to this request.

**I certify that the statements contained on this application, along with the submitted materials, are in all respects true and are correct to the best of my knowledge and belief.**

**Applicant's Signature:**

*Christina Munster*  
City Manager Pro Tem

Date:

4/13/2022

**Property Owner's Signature:**

*[Signature]*

Date:

4-12-2022

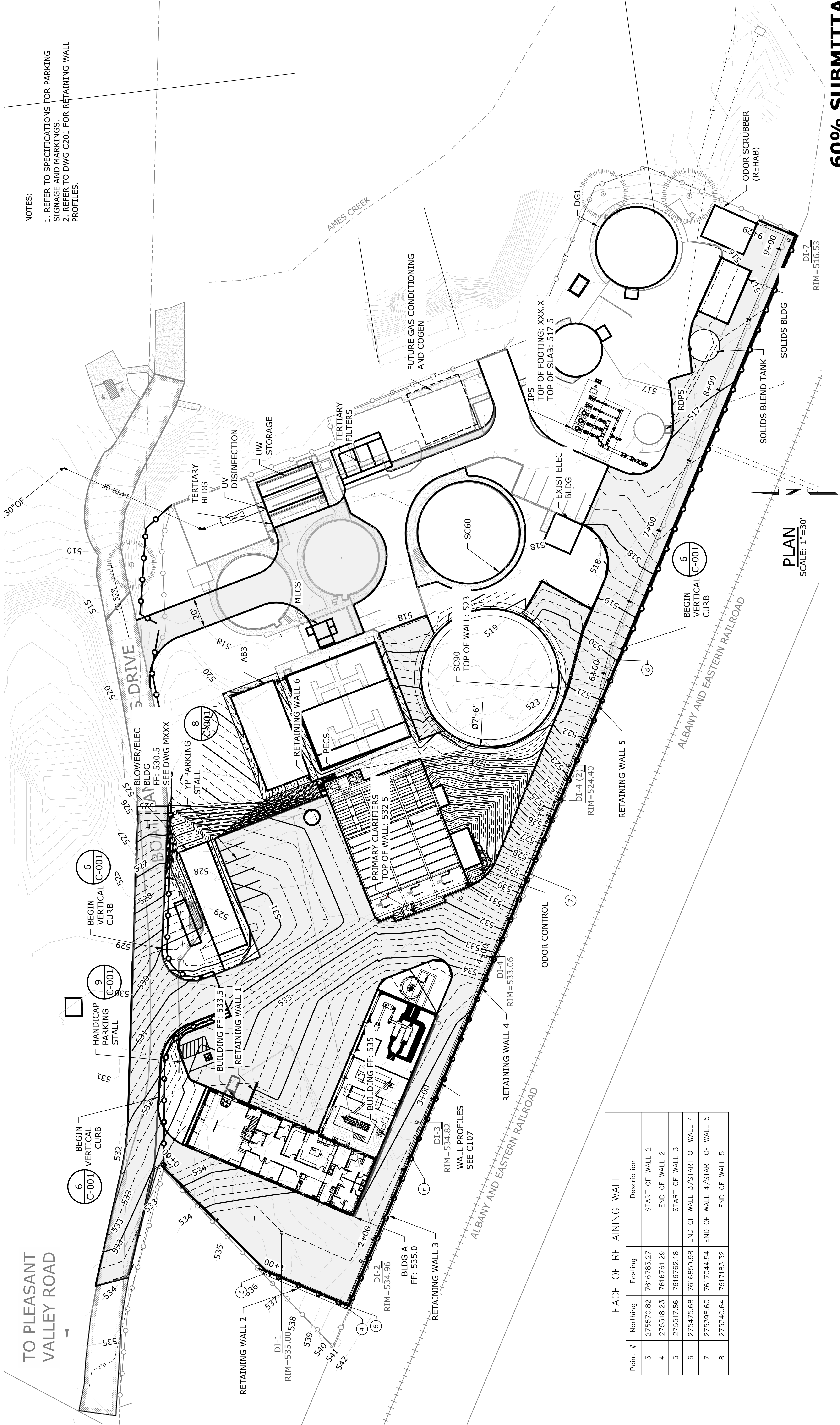
Within 30 days following the filing of this application, the City Planner will make a determination of completeness regarding the application. If deemed complete, the application will be processed.



TO PLEASANT  
VALLEY ROAD

NOTES:

1. REFER TO SPECIFICATIONS FOR PARKING SIGNAGE AND MARKINGS.
2. REFER TO DWG C201 FOR RETAINING WALL PROFILES.



FACE OF RETAINING WALL		
Point #	Northing	Easting
3	275570.82	7616783.27
4	275518.23	7616761.29
5	275517.86	7616762.18
6	275475.68	7616859.98
7	275398.60	7617044.54
8	275340.64	7617183.32

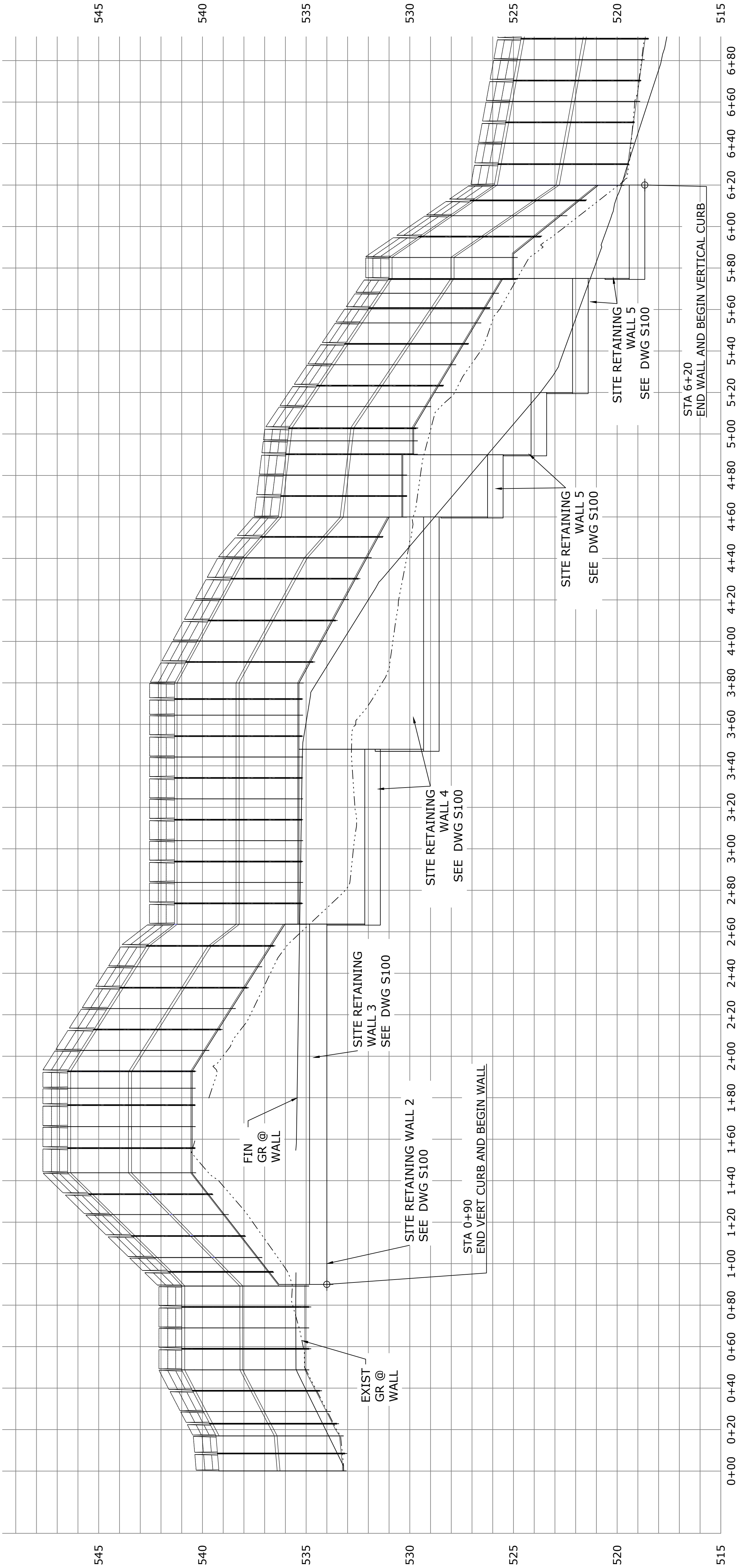
PLAN  
SCALE: 1"=30'

60% SUBMITTAL

<div><div></div><div></div><div></div><div></div><div></div><div></div><div></div><div></div></div>	PRELIMINARY ONLY DO NOT USE FOR CONSTRUCTION		WEST YOST Water. Engineered.		SWEET HOME WWTP IMPROVEMENTS PHASE 1		CIVIL SITE		SHEET	C-106	XX of XXX		
	BVB DESIGNED		MARCH 2022		OVERALL GRADING, DRAINAGE, AND PAVING PLAN		AS SHOWN		SCALE:				
	BVB DRAWN		WWW.WESTYOST.COM		DATE:		PROJECT NO.:						
NO.	DATE	BY	REVISION	19-2065	March 2022								







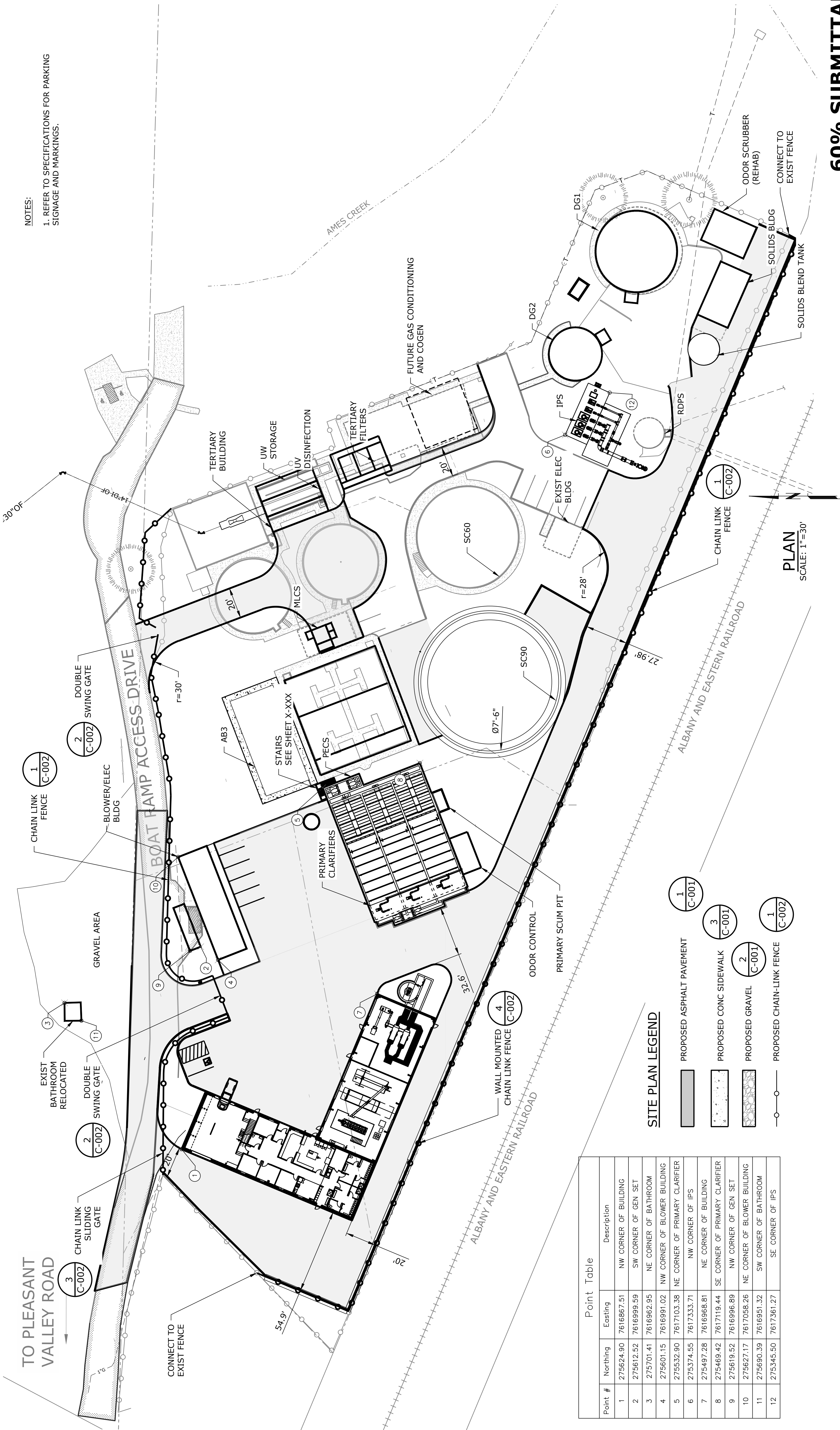
PROFILE  
HORZ SCALE: 1"=30' ; VERT SCALE 1"=3'

60% SUBMITTAL

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TO PLEASANT VALLEY ROAD



SITE PLAN LEGEND

- PROPOSED ASPHALT PAVEMENT
- PROPOSED CONC SIDEWALK
- PROPOSED GRAVEL
- PROPOSED CHAIN-LINK FENCE

Point Table		
Point #	Northing	Easting
1	275624.90	7616867.51
2	275612.52	7616999.59
3	275701.41	7616962.95
4	275601.15	7616991.02
5	275532.90	7617103.38
6	275374.55	7617333.71
7	275497.28	7616968.81
8	275469.42	7617119.44
9	275619.52	7616996.89
10	275627.17	7617058.26
11	275690.39	7616951.32
12	275345.50	7617361.27

PLAN  
SCALE: 1"=30'

60% SUBMITTAL

NOTES:  
1. REFER TO SPECIFICATIONS FOR PARKING SIGNAGE AND MARKINGS.

NO.	DATE	BY	REVISION

NOTICE	B/VB DESIGNED	B/VB DRAWN	WJM CHECKED
0 1/2 1 IF THIS BAR DOES NOT MEASURE 1" THEN DRAWING IS NOT TO SCALE			

PRELIMINARY ONLY DO NOT USE FOR CONSTRUCTION
MARCH 2022
West Yost WWW.WESTYOST.COM



SWEET HOME WWTP IMPROVEMENTS PHASE 1

CIVIL SITE	OVERALL SITE PLAN, STRUCTURE COORDINATES, STAGING AND ACCESS
PROJECT NO.: 19-2065	SCALE: AS SHOWN
DATE: March 2022	

SHEET	C-105	XX of XXX
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## Staff Report Presented to the Planning Commission

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**REQUEST:** The applicants are seeking a variance to allow for a depth ratio that exceeds 2.5 times the width of the Proposed Partition P22-05 (Attachment C), a frontage of less than 25 feet and setback requirements less than R-1 standards. The variance is necessary because the subject code provision does not account for special or unique physical circumstances of the subject site, existing development patterns, or adjacent land uses. A legal lot determination may be sufficient evidence of a hardship for purposes of approving a variance [SHMC 17.88.040.A]. The applicants are proposing to partition Tax Lot 3700. Once partitioned, the applicant is proposing property line adjustments to combine the northern portion of the proposed partition with Tax Lot 2600, and the southern portion of the proposed partition with Tax Lot 3800, eliminating Tax Lot 3700. The property is in the Residential Low Density (R-1) Zone.

Application P22-05 is pending the approval of Application VR22-02. Application VR22-02 is being filed simultaneously with applications P22-05, PLA22-05, PLA22-06, and SD22-02.

<b>APPLICANT:</b>	Scott C. Miles, Alissa R. Miles-Russell, Cordle Construction LLC
<b>PROPERTY OWNER:</b>	Scott C. Miles, Alissa R. Miles-Russell, Cordle Construction LLC
<b>FILE NUMBER:</b>	VR22-02
<b>PROPERTY LOCATION:</b>	Sweet Home, OR 97386; Identified on the Linn County Assessor's Map as 13S01E33AC Tax Lot 3700.
<b>REVIEW AND DESIGN CRITERIA:</b>	Sweet Home Municipal Code Section(s) 17.88.040, 16.12.030, 17.24.020
<b>HEARING DATE &amp; TIME:</b>	May 19, 2022
<b>HEARING LOCATION:</b>	City Hall Council Chamber at 3225 Main Street, Sweet Home, Oregon 97386
<b>STAFF CONTACT:</b>	Angela Clegg, Associate Planner Phone: (541) 367-8113; Email: <a href="mailto:aclegg@sweethomeor.gov">aclegg@sweethomeor.gov</a>
<b>REPORT DATE:</b>	May 12, 2022

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## I. PROJECT AND PROPERTY DESCRIPTION

### ZONING AND COMPREHENSIVE PLAN DESIGNATIONS:

Property	Zoning Designation	Comprehensive Plan Designation
Subject Property	Residential Low Density (R-1)	Low Density Residential
Property North	Residential Low Density (R-1)	Low Density Residential
Property East	Residential Low Density (R-1)	Low Density Residential
Property South	Residential Low Density (R-1)	Low Density Residential
Property West	Residential Low Density (R-1)	Low Density Residential

**Floodplain:** Based on a review of the FEMA flood insurance rate map; Panel 41043C0914G, dated September 29, 2010, the subject properties are not in the Special Flood Hazard Area.

**Wetlands:** The subject property does not show wetlands/waterways on the properties that are depicted on the Sweet Home Local Wetlands Inventory and the National Wetlands Inventory Map.

**Access:** Proposed Parcel A and Parcel B have access from the 45th Avenue.

**Water and Sewer Services:** The proposed parcels have access to City water and sewer services.

### TIMELINES AND HEARING NOTICE:

Application Received: April 8, 2022

Application Deemed Complete: April 11, 2022

Notice Distribution to Neighboring Property Owners Within 100 feet and Service Agencies: April 11, 2022

Notice Published in New Era Newspaper: April 13, 2022

Date of Planning Commission Hearing: May 19, 2022

120-Day Processing Deadlines: August 9, 2022

## II. COMMENTS

**CEDD Engineering:** Regarding the Partition and Variance on the property west of 45<sup>th</sup> Ave and Kalmia St intersection, the only city utilities are the sanitary sewer system that is in an easement as noted. With the vague ownership records noted in the Linn County files, this process will help both adjoining properties. CEDD-ES has no concerns.

**Public Works Division:** Public Works has no concerns with the request at this time.

**Building Division:** The Building Program has no issues with this request for Variance.

**Sweet Home  
Fire District:**

No comments as of the mailing of this notice.

**Public Comments:**

No comments as of the mailing of this notice.

**III. REVIEW AND DESIGN CRITERIA**

The review and decision criteria for a variance are listed below in bold. Findings and analysis are provided under each review and decision criterion.

**A. A determination that the criteria have been met involves the balancing of competing and conflicting interests. The following considerations may be used as guidelines in the granting authority's deliberations.**

- a. **Whether the situation that created a need for a variance was created by the person requesting the variance;**
- b. **The economic impact upon the person requesting the variance if the request is denied;**
- c. **An analysis of the physical impacts the development could have, such as visual, noise, traffic, and increased potential for drainage, erosion or landslide hazards;**
- d. **Preservation of native tree species such as Oregon White Oak and Pacific Madrone over eight inches in caliper or Douglas Fir, Willamette Valley Ponderosa Pine, Big Leaf Maple, Incense and Western Red Cedar over 12 inches in caliper, measured at four and one-half feet above grade on the uphill side;**
- e. **Whether the proposal impacts the aesthetics of the property.** [SHMC 17.88.050(A through E)]

Applicant's Comments: Tax Lot 3700, the lot proposed to be partitioned, was created by legal description sometime prior to 1959 and documented by recorded boundary surveys since that time. This lot was created giving an undivided one-half ownership interest to each of the adjacent property owners to the north and south, now the owners of Tax Lots 2600 and 3800. There is no explanation in the Deed Record as to why it may have been created, and this occurred prior to the current ownership of Tax Lots 2600 and 3800.

Tax Lot 3700 is relatively flat and contains no significant topography and does not contain any natural features or natural hazards.

The current owners had no control over the original creation of this lot.

The partitioning of Tax Lot 3700 combined with the granting of this variance request is the first step in a process which will create lots with a single and the same ownership as the properties to which these new lots share a common boundary line. The next step in this process is the property line adjustment of the lots with common boundary lines and ownership into single lots. The property line adjustment applications have been submitted simultaneously with the partition application so each may be approved in successive step. The result of approving these successive applications will be to create lots, under individual ownership and of a size typical of other lots in the vicinity, all of which have significant development potential under the R-1 zone standards.

Staff Findings: The applicants are seeking a variance to allow for a depth ratio that exceeds 2.5 times the width of the Proposed Partition P22-05 (Attachment C), a frontage of less than 25 feet and

setback requirements less than R-1 standards. The subject property is co-owned (an undivided, one-half interest) by each of the applicants. The applicants are proposing to partition Tax Lot 3700. Once partitioned, the applicants are proposing to submit property line adjustment applications to combine the northern portion of the proposed partition with Tax Lot 2600, and the southern portion of the proposed partition with Tax Lot 3800, eliminating Tax Lot 3700.

The variance is necessary because the subject Code provision does not account for special or unique physical circumstances of the subject site, existing development patterns, or adjacent land uses. A legal lot determination may be sufficient evidence of a hardship for purposes of approving a variance [SHMC 17.88.040.A].

**B. The criteria that shall be used in approving, approving with conditions, or denying a requested variance will be based on findings with respect to compliance with each of the following criteria, if applicable.**

**a. The development resulting from an approved variance will not be detrimental to public health or safety; [SHMC 17.88.040(A)]**

Applicant's Comments: the granting of this variance is the first step to ultimately combine Tax Lot 3700 with adjacent properties which presently meet the purposes of Titles 16 and 17, and as such become properties with greater development potential to meet R-1 zone standards. By removing the divided ownership of TL 3700 and combining the respective partitioned lots with the adjacent properties the future development potential of the resulting lots is improved.

Staff Findings: Staff has not identified any reasons why the applicant's proposed variance would be detrimental to public health or safety.

With the above findings, the application complies with these criteria.

**b. The request is not in conflict with the Comprehensive Plan; [SHMC 17.88.040(B)]**

Staff Findings: Staff has not identified any goals or policies of the Comprehensive Plan that would preclude the proposed variance.

With the above findings, the application complies with these criteria.

**c. The request is the minimum variance necessary to make reasonable use of the property; [SHMC 17.88.040(C)]**

Applicant's Comments: partitioning is the only code adopted land division process that will separate the ownership interests in the property and provide the opportunity for the new non-conforming parcels to be combined with the adjacent properties and create larger code conforming properties.

Staff Findings: Staff finds that the proposed variance is the minimum request necessary to make reasonable use of the property.

With the above findings, the application complies with these criteria.

**d. The requested variance is consistent with the purposes of the zone; [SHMC 17.88.040(D)]**

**i. The purpose of the R-1 zone is to provide areas suitable and desirable for single-family homes, associated public service uses and duplexes on corner lots. The R-1 zone is most appropriate in areas which have developed or will develop with**

**single-family homes at a density which warrants provision of public water and sewer facilities.**

Staff Findings: The applicants are seeking a variance to allow for a depth ratio that exceeds 2.5 times the width of the Proposed Partition plat P22-05 (Attachment C), a frontage of less than 25 feet and setback requirements less than R-1 standards. The subject property is co-owned (an undivided, one-half interest) by each of the applicants. The applicants are proposing to partition Tax Lot 3700. Once partitioned, the applicants are proposing property line adjustments to combine the northern portion of the proposed partition with Tax Lot 2600, and the southern portion of the proposed partition with Tax Lot 3800, eliminating Tax Lot 3700.

Staff finds that with the approval of the partition and property line adjustments, the application complies with this criteria.

- e. **If more than one variance is requested or needed, the cumulative effect of the variances will result in a project that remains consistent with the purposes of the zone; [SHMC 17.88.040(E)]**

Staff Findings: The applicants are not requesting more than one variance.

- f. **Identified negative impacts resulting from the variance can be mitigated to the extent practical; [SHMC 17.88.040(F)]**

Staff Findings: Staff has not identified any negative impacts resulting from the proposed variance.

With the above findings, the application complies with these criteria.

- g. **The location, size, design characteristics and other features of the proposal shall have minimal adverse impacts on property values, livability of the development in the surrounding area, and the natural environment; [SHMC 17.88.040(G)]**

Staff Findings: Staff has not identified any characteristics or features of the variance proposal that would have an adverse impact on property values, livability of the development in the surrounding area or the natural environment.

With the above findings, the application complies with these criteria.

- h. **The property has a physical circumstance or condition that makes it difficult to develop. The request complies with the requirements of the underlying zone or overlay zone, city codes, state and federal laws. [SHMC 17.88.040(H)]**

Staff Findings: The subject property is co-owned (an undivided, one-half interest) by each of the applicants. The applicants are proposing to partition Tax Lot 3700. Once partitioned, the applicants are proposing to submit property line adjustment applications to combine the northern portion of the proposed partition with Tax Lot 2600, and the southern portion of the proposed partition with Tax Lot 3800, eliminating Tax Lot 3700. The length, width and joint ownership of the subject property make it difficult to develop. Staff finds that the variance will allow the owners of the subject property to partition the property and then complete property line adjustments to eliminate Tax Lot 3700.

With the above conditions, the application complies with criteria.

- C. **A variance shall be void one year, or other time specifically set by the Planning Commission, after the date of the Planning Commission approval if the development has not been substantially established within that time period. [SHMC 17.88.060]**

Staff Findings: As required under this section, if this application is approved, the variance shall be void one (1) year after the date of the Planning Commission approval if the use has not been substantially established, as defined under SHMC 17.88.060, within that time period.

#### **IV. STAFF RECOMMENDATION**

Staff finds the applicant has met the criteria listed above in Section III. As a result, staff recommends approval of VR22-02. Staff has not recommended any Conditions of Approval.

#### **V. PLANNING COMMISSION ACTION**

The Planning Commission will hold a public hearing at which it may either approve or deny the application. If the application is denied, the action must be based on the applicable review and decision criteria.

Appeal Period: Staff recommends that the Planning Commission's decision on this matter be subject to a 12-day appeal period from the date that the decision is mailed.

Order: After the Planning Commission makes a decision, staff recommends that the Planning Commission direct staff to prepare an Order that is signed by the Chairperson of the Planning Commission. The Order shall memorialize the decision and provide the official list of conditions (if any) that apply to the approval; if the application is approved.

#### Motion:

After opening of the public hearing and receiving testimony, the Planning Commission's options include the following:

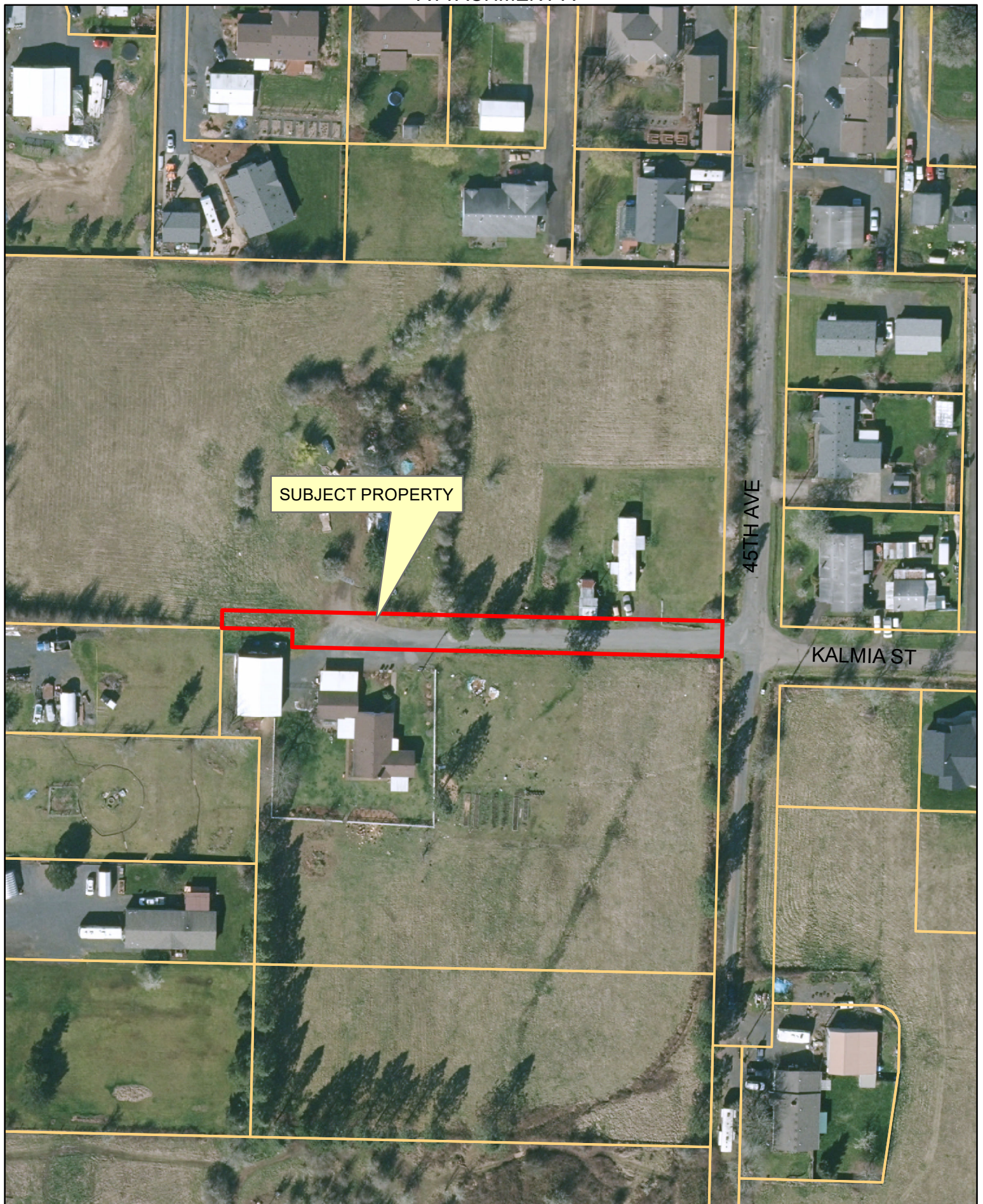
1. Move to approve application VR22-02 and thereby permit the variance for Tax Lot 3700, located in Sweet Home, OR 97386; Identified on the Linn County Assessor's Map as 13S01E33AC Tax Lot 3700; adopting the Findings of Fact listed in Section III of the staff report, the setting of a 12-day appeal period from the date of the mailing of the decision, and hereby direct Staff to prepare an order to be signed by the Chair to memorialize this decision.
2. Move to deny application VR22-02 and thereby deny the request for a variance for Tax Lot 3700, located in Sweet Home, OR 97386; Identified on the Linn County Assessor's Map as 13S01E33AC Tax Lot 3700; adopting the following Finding of Fact (specify), the setting of a 12-day appeal period from the date of the mailing of the decision, and hereby direct Staff to prepare an Order to be signed by the Chair to memorialize this decision.
3. Move to continue the public hearing to a date and time certain (specify); or
4. Other

#### **VI. ATTACHMENTS**

- A. Subject Property Map
- B. Proposed Site Plan
- C. Application P22-06
- D. Application VR22-02 submitted April 8, 2022

The full record is available for review at the City of Sweet Home Community and Economic Development Department Office located at City Hall, 3225 Main Street, Sweet Home, Oregon 97386. Regular business hours are between 7:00 AM and 5:00 PM, Monday through Friday, excluding holidays.





SUBJECT PROPERTY

45TH AVE

KALMIA ST

Subject Property Map  
P22-05



1 inch = 103 feet

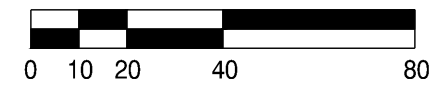
Date: 4/8/22



ATTACHMENT B



SCALE: 1" = 40'



SCALE IN FEET

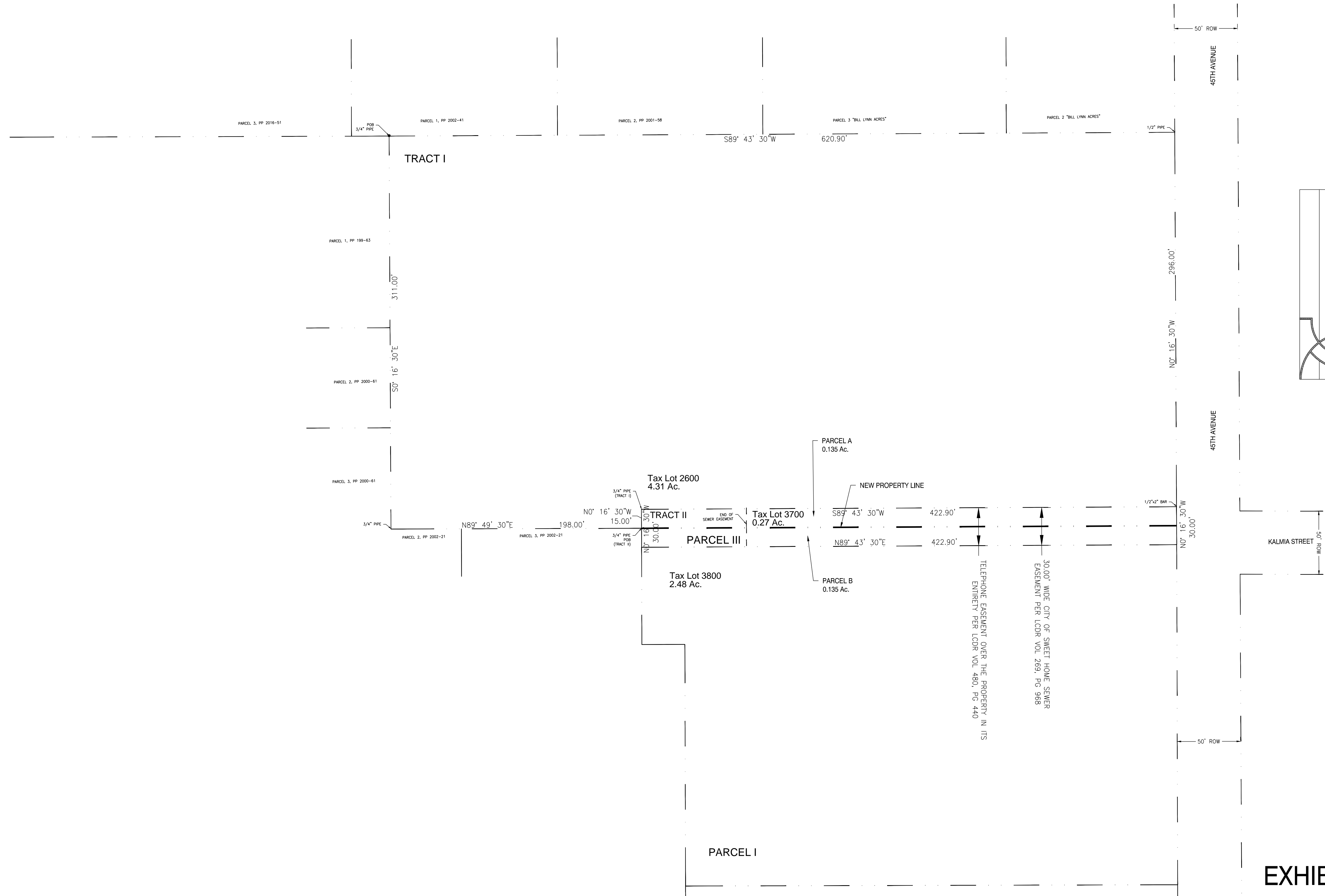
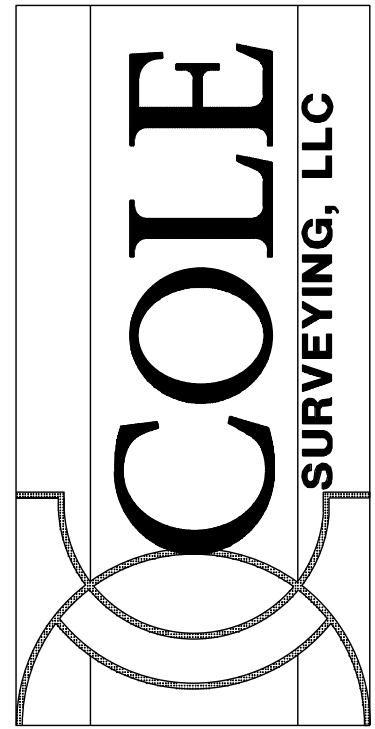


EXHIBIT 'D'

FOR LAND  
USE  
PURPOSES  
ONLY

DRAWING STATUS:	DATE:	No.	REVISION:	DATE:
<input type="checkbox"/> PRELIMINARY		△		
<input checked="" type="checkbox"/> SUBMITTED	04/08/22	△		
<input type="checkbox"/> BID SET		△		
<input type="checkbox"/> PERMIT SET		△		
<input type="checkbox"/> CONST. SET		△		
<input type="checkbox"/>		△		
		△		



PROJECT: **CORDLE / MILES PARTITION**

**PROJECT LOCATION:**  
**1068 45TH AVENUE**  
**SWEET HOME, OREGON**

**CLIENT:**

**SHEET TITLE:**

TENTATIVE  
PARTITION PLAT  
TL 3700

JOB NO.	21427
DRAWN BY:	DEVCO
DRAWING:	



**City of Sweet Home**

Community and Economic Development Department- Planning Program  
 3225 Main Street, Sweet Home, OR 97386 541-367-8113

## NOTICE OF ADMINISTRATIVE DECISION ON A LAND PARTITION APPLICATION

**REQUEST:** The applicant is requesting to partition an approximately 11,761 square feet lot into two parcels. The subject property is co-owed (an undivided, one-half interest) by each of the applicants. After the partition, existing tax lot 3700 will be split into two parcels. Proposed Parcel A shall be approximately 5,881 square feet. Proposed Parcel B shall be approximately 5,881 square feet. The subject properties are in the Residential Low Density (R-1) Zone.

Application P22-05 is pending the approval of Application VR22-02. Application VR22-02 was approved during a Public Hearing on May 19, 2022. Application P22-05 is being filed simultaneously with applications VR22-02, PLA22-05, PLA22-06, and SD 22-02.

<b>APPLICANT</b>	Scott C. Miles, Alissa R Miles-Russell, Cordle Construction LLC
<b>OWNER:</b>	Scott C. Miles, Alissa R Miles-Russell, Cordle Construction LLC
<b>FILE NUMBER:</b>	P22-05
<b>PROPERTY LOCATION:</b>	Sweet Home, Oregon; Identified on the Linn County Assessor's Map as 13S01E33AC Tax Lot 3700
<b>REVIEW AND DECISION CRITERIA:</b>	SHMC Sweet Home Municipal Code (SHMC) Sections: 16.16.025 and 17.24.020
<b>STAFF CONTACT:</b>	Angela Clegg. Phone: (541) 367-8113 Email: <a href="mailto:aclegg@sweethomeor.gov">aclegg@sweethomeor.gov</a>

## DECISION

Based on the Review Criteria listed in the Staff Report, the application for a land partition is **approved with conditions**. The application shall be subject to the compliance with the conditions listed below, as required by the findings in the Review Criteria (Section III of the Staff Report). Any modifications to conditions shall be approved in accordance with provisions of law. (e.g., variance, subsequent land use application, etc.).

### Conditions of Approval:

1. The final configuration of proposed Parcels A and B shall substantially conform to the plot plan reviewed in this application. See Attachment B. Proposed Parcel A shall be approximately 5,881 square feet. Proposed Parcel B shall be approximately 5,881 square feet.
2. Variance Application VR22-02 shall be approved by the Planning Commission.
3. Within one year from date of the approval of the tentative plan, the applicant shall prepare a final plat in conformance with the approved tentative plan, the provisions of the Sweet Home Municipal Code (SHMC) 16.20 and the provisions of O.R.S. Chapter 92. The applicant shall submit the final plat for City review as required by SHMC 16.20. The final partition plat shall include the information listed in SHMC 16.20.030.

4. Development of the subject parcels shall comply with all applicable local, state, and federal requirements.

DECISION DATE:

MAILING DATE:

APPEAL DEADLINE:

\_\_\_\_\_  
Blair Larsen, CEDD Director

\_\_\_\_\_  
Date

The decision made by the Planner is final unless written appeal from an aggrieved party is received by the City of Sweet Home no later than the appeal deadline (12 days from the date of this decision). All appeals must be filed with the appropriate fee and documentation and submitted to: City of Sweet Home Community and Economic Development Department, 3225 Main Street, Sweet Home, OR 97386. The Planning Commission will hold a public hearing on the request upon appeal. If you would like any information concerning filing of an appeal, please contact the Planning Office at (541) 367-8113).

The 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 based on that issue.

A copy of the application, all documents and evidence relied upon by the applicant and applicable criteria are available for inspection at no cost and a copy will be provided at reasonable cost. A copy of the staff report is available for inspection at no cost and a copy will be provided at reasonable cost. Please contact the Community and Economic Development Department at 3225 Main Street, Sweet Home, OR 97386; Phone: (541) 367-8113

## SWEET HOME COMMUNITY AND ECONOMIC DEVELOPMENT DEPARTMENT STAFF REPORT

**REQUEST:** The applicant is requesting to partition an approximately 11,761 square feet lot into two parcels. The subject property is co-owned (an undivided, one-half interest) by each of the applicants. After the partition, existing tax lot 3700 will be split into two parcels. Proposed Parcel A shall be approximately 5,881 square feet. Proposed Parcel B shall be approximately 5,881 square feet. The subject properties are in the Residential Low Density (R-1) Zone.

Application P22-05 is pending the approval of Application VR22-02. Application VR22-02 was approved during a Public Hearing on May 19, 2022. Application P22-05 is being filed simultaneously with applications VR22-02, PLA22-05, PLA22-06, and SD 22-02.

**APPLICANT:** Scott C. Miles, Alissa R Miles-Russell, Cordle Construction LLC  
**OWNER:** Scott C. Miles, Alissa R Miles-Russell, Cordle Construction LLC  
**FILE NUMBER:** P22-05  
**PROPERTY LOCATION:** Sweet Home, Oregon; Identified on the Linn County Assessor's Map as 13S01E33AC Tax Lot 3700  
**REVIEW AND DECISION CRITERIA:** SHMC Sweet Home Municipal Code (SHMC) Sections: 16.16.025 and 17.24.020  
**STAFF CONTACT:** Angela Clegg. Phone: (541) 367-8113  
Email: aclegg@sweethomeor.gov

### I. PROJECT AND PROPERTY DESCRIPTION

#### Zoning and Comprehensive Plan Designations:

Property	Zoning Designation	Comprehensive Plan Designation
Subject Property	Residential Low Density (R-1)	Low Density Residential
Property North	Residential Low Density (R-1)	Low Density Residential
Property East	Residential Low Density (R-1)	Low Density Residential
Property South	Residential Low Density (R-1)	Low Density Residential
Property West	Residential Low Density (R-1)	Low Density Residential

#### Property Information:

**Floodplain:** Based on a review of the FEMA flood insurance rate map; Panel 41043C0914G, dated September 29, 2010, the subject properties are not in the Special Flood Hazard Area.

**Wetlands:** The subject property does not show wetlands/waterways on the properties that are depicted on the Sweet Home Local Wetlands Inventory and the National Wetlands Inventory Map.

**Access:** Proposed Parcel A and Parcel B have access from the 45th Avenue

**Sidewalks:** There are no existing sidewalks along 45<sup>th</sup> Avenue and no development is planned with this Partition.

Services: Proposed Parcels A and B have sewer services along Parcel B and water services in 45<sup>th</sup> Avenue.

Street: Proposed Parcels A abuts approximately 15 feet of 45<sup>th</sup> Avenue. Proposed Parcel B abuts approximately 15 feet of 45<sup>th</sup> Avenue. Proposed Parcels A and B shall be accessed via 45<sup>th</sup> Avenue.

### **Notice and Timelines**

Application Received:	April 8, 2022
Application Deemed Complete:	April 11, 2022
Notice Distribution to Neighboring Property Owners Within 100 feet and Service Agencies:	April 11, 2022
Notice Published in New Era Newspaper:	April 13, 2022
120-Day Processing Deadlines:	August 9, 2022

## **II. COMMENTS RECEIVED**

**Joe Graybill**

**CEDD Engineering:** Regarding the Partition and Variance on the property west of 45<sup>th</sup> Ave and Kalmia St intersection, the only city utilities are the sanitary sewer system that is in an easement as noted. With the vague ownership records noted in the Linn County files, this process will help both adjoining properties.

**Trish Rice**

**Public Works Division:** Public Works has no issues with this request.

**Adam Leisinger**

**Building Division:** The Building Program has no issues with this request.

**Dave Barringer**

**Sweet Home Fire District:** The Fire District has no issues with this request.

**Public Comments:** No Comments as of the issuance of this staff report.

## **III. REVIEW CRITERIA AND FINDINGS OF FACT**

An application for a land partition is subject to the review criteria listed in Sweet Home Municipal Code Section (SHMC) 16.16.040. SHMC Section 16.16.030(B)(2) authorizes the City Manager, or designee to conduct such review and render a decision on this matter. Staff Findings of Fact and analysis are as follows.

**A. Approval of tentative plans will be granted if the City finds that the proposal substantially conforms to the applicable provisions of Sweet Home Municipal Code Titles 16 and 17 and the Comprehensive Plan. The following criteria apply:**

**1. The information required by this chapter has been provided. [SHMC 16.16.040(A)]**

Applicant's Comments: The applicable standards of SHMC Titles 16 and 17 are addressed in Parts II and III of the narrative.

Staff Findings: SHMC 16.16.025 provides a specific list of requirements for the application. The applicant submitted the plot plan on April 8, 2022, with the requirements to comply with SHMC Chapter 16.

Based on the above findings, the application complies with these criteria.

**2. The design and development standards of Sweet Home Municipal Code, Titles 16 and 17 and the Comprehensive Plan, have been met where applicable. [SHMC 16.16.40(B)]**

**a) Except as provided in § 17.08.060, in a R-1 zone, yard setbacks shall be as follows: [SHMC 17.24.050]**

- 1) The front yard shall be a minimum of 20 feet.**
- 2) Each side yard shall be a minimum of five feet, and the total of both side yard setbacks shall be a minimum of 13 feet.**
- 3) The street side yard shall be a minimum of 15 feet.**
- 4) The rear yard shall be a minimum of 15 feet.**
- 5) On a flag lot, or similarly configured lot, the inset front yard setback shall be a minimum of 15 feet.**
- 6) Regardless of the side and rear yard requirements of the zone, an accessory structure, excluding detached accessory dwellings, may be built to within five feet of side or rear lot line; provided, the structure is more than 70 feet from the street abutting the front yard and 20 feet from the street abutting the street side yard.**

Applicant's Comments: The parcel to be partitioned, and the proposed resultant parcels do not and will not meet R-1 zone standards thus no physical development is proposed. A land division variance is required to partition the parcel due to its size and dimensions and due to the size and dimensions of the resultant parcels after partitioning. The land division variance is addressed in Part IV of this narrative.

The lot size and width dimensions cannot be met, thus requiring a variance application to certain standards.

Staff Findings: No development is planned with this application. The applicants have proposed to partition the subject property to complete simultaneous property line adjustments with abutting tax lots 2600 and 3800, thus eliminating Tax Lot 3700. The proposed partition will not comply with SHMC 17.24.050 criteria.

Approval of Variance application VR22-02 will be required to approve the proposed partition.

**b) No lot or parcel shall be dimensioned to contain a part of an existing or proposed street. [SHMC 16.12.030(B)]**

Applicant's Comments: There is no master planned street extension through the property to be partitioned thus no variance to this standard is required.

Staff Findings: The subject property is an existing, co-owned, unbuildable parcel with an access easement. With the approval of this partition, Proposed Parcel A will be given to the owner of abutting Tax Lot 2600. The owner of Proposed Parcel A will simultaneously combine Proposed Parcel A with Tax Lot 2600 through a property line adjustment. Proposed Parcel B will be given to the owner of Tax

Lot 3800. The owner of Proposed Parcel B will simultaneously combine Proposed Parcel B with Tax Lot 3800 through a property line adjustment. Proposed Parcel B, the half interest being combined with Tax Lot 3800, will continue to be used as an access easement to the dwelling on Tax Lot 3800. Tax Lot 3700 will be eliminated with the approval of the property line adjustment applications being filed simultaneously.

Approval of Variance application VR22-02 will be required to approve the proposed partition.

**c) Residential lots and parcels shall be consistent with the residential lot size and width standards of Sweet Home Municipal Code Title 17. [SHMC 16.12.030(C)]**

Applicant's Comments: The R-1 zone standards of 17.24.040.A. and B. require a variance as noted in Part III of the narrative.

Staff Findings: No development is planned with this application. The applicants have proposed to partition the subject property to complete simultaneous property line adjustments with abutting tax lots 2600 and 3800, thus eliminating Tax Lot 3700. The proposed partition will not comply with SHMC Title 17.

Approval of Variance application VR22-02 will be required to approve the proposed partition.

**d) Lot depth shall not exceed two and one-half times the average width. [SHMC 16.12.030(D)]**

Applicant's Comments: This standard cannot be met under the proposed partition; thus a variance request is required.

Staff Findings: The applicants have proposed to partition the subject property to complete simultaneous property line adjustments with abutting tax lots 2600 and 3800, thus eliminating Tax Lot 3700. The proposed partition will not comply with the average depth to width ratio. The lot width for Proposed Parcel A and Proposed Parcel B is approximately 15 feet. The depth of Proposed Parcel A and Parcel B is approximately 423 feet.

Approval of Variance application VR22-02 will be required to approve the proposed partition.

**e) Frontage. Each lot or parcel, except those abutting private streets, shall abut upon a publicly owned street, other than an alley, for a width of at least 25 feet. [16.12.030(E)]**

Applicant's Comments: The 25' width standard cannot be met under the proposed partition; thus a variance request is required.

Staff Findings: The applicants have proposed to partition the subject property to complete simultaneous property line adjustments with abutting tax lots 2600 and 3800, thus eliminating Tax Lot 3700. The proposed partition will not comply with the lot frontage requirements of SHMC 16.12.030(E). Proposed Parcel A and Parcel B have a lot frontage width of approximately 15 feet.

Approval of Variance application VR22-02 will be required to approve the proposed partition.

**f) Access easements. Where no other practical access to lots or parcels exists, the City may allow access easements for actual access to lots or parcels. [SHMC 16.12.030(F)]**

**1) Joint use driveways. [SHMC 17.08.100(C)(6)]**

**a. Joint use driveways are permitted.**

**b. A joint use driveway shall comply with International Fire Codes**

- c. **A joint use driveway that serves four or more lots or parcels shall be developed to the standards of a local street.**
- d. **Where the city approves a joint use driveway, the property owners shall record an easement with the deed allowing joint use of and cross access between adjacent properties. The owners of the properties agreeing to joint use of the driveway shall record a joint maintenance agreement with the deed, defining maintenance responsibilities of property owners. The applicant shall provide a fully executed copy of the agreement to the city for its records, but the city is not responsible for maintaining the driveway or resolving any dispute between property owners.**

Staff Findings: The applicant is not proposing an access easement or joint use driveway. There is an existing access and utility easement that will remain a part of Proposed Parcel B.

Based on the above findings, the application complies with these criteria.

- g) **Through lots should be avoided except where they are essential to provide separation of residential development from non-residential activities, arterial streets, or to overcome specific disadvantages of topography and orientation. [SHMC 16.12.030(G)]**
  - 1) **A planting screen easement of at least ten feet in width and across which there shall be no right of access may be required along the lines of lots or parcels abutting a collector or arterial street or other incompatible uses. [SHMC 16.12.030(G)(1)]**
  - 2) **Lots shall be served from only one side via a local street. [SHMC 16.12.030(G)(2)]**
  - 3) **A through lot shall have the yard abutting a street that has no access to the back yard and shall utilize setbacks for a back yard as per the underlying zone standards. [SHMC 16.12.030(G)(3)]**

Staff Findings: The applicant is not proposing a through lot.

- h) **Lot side lines. The side lines of lots, as far as practicable, shall run at right angles to the street upon which the lots face. [SHMC 16.12.030(H)]**
  - 1) **Topographical conditions or street configurations may warrant an angle. [SHMC 16.12.030(H)(1)]**
  - 2) **Generally, any angle should not exceed 30° from right angle to the street. [SHMC 16.12.030(H)(2)]**

Staff Findings: As depicted on Attachment B, Proposed Parcel A would have side lines that are at, or very close, to right angles to 45<sup>th</sup> Avenue. Proposed Parcel B would have side lines that are at, or very close to, right angles to 45<sup>th</sup> Avenue.

Based on the above findings, the application complies with these criteria.

- i) **Flag lots. Flag lots should be avoided if local street connection can reasonable be included in lieu of the flag lot configuration. The thin strip of land, known as the flagpole, which provides access to the lot(s) furthest from the street shall not be used in determining lot size, lot width or yard setback requirements. [SHMC 16.12.030(I)]**

Staff Findings: The applicant is not proposing a flag lot.

- j) **If special setbacks are to be established in a subdivision or partition through the variance process, they shall be shown on the tentative plan and final plat and included in the deed restrictions.** [SHMC 16.12.030(J)]

Staff Findings: The applicant has not proposed any special setbacks.

3. **Development of any remainder of the property under the same ownership can be accomplished in accordance with this code.** [SHMC 16.16.040(C)]

Applicant's Comments: There is no remainder property owned by the applicant.

Staff Findings: Staff finds that based on the evidence in the record, if these parcels remain under the same ownership, they would be able to be developed in accordance with the SHMC.

The applicants have proposed to partition the subject property to complete simultaneous property line adjustments with abutting tax lots 2600 and 3800, thus eliminating Tax Lot 3700.

With the above conditions, the application complies with these criteria.

4. **Adjoining land can be developed or is provided access that will allow its development in accordance with all applicable city codes.** [SHMC 16.16.040(D)]

Applicant's Comments: The land division proposed herein does not preclude the future development of adjacent or abutting properties. All such properties have frontage on existing city right of way.

Staff Findings: Staff has not identified any features of this proposed partition that would inhibit development on adjoining property.

The applicants have proposed to partition the subject property to complete simultaneous property line adjustments with abutting tax lots 2600 and 3800, thus eliminating Tax Lot 3700.

Based on the above findings, the application complies with these criteria.

5. **The proposed street plan provides for the circulation of traffic and meets the street design standards of this title.** [SHMC 16.16.040(E)]

Staff Findings: There is no development planned with this partition application. There is a pre-existing access and utility easement that will remain on Proposed Parcel B.

6. **The location and design allows development to be conveniently served by public utilities.** [SHMC 16.16.040(F)]

Staff Findings: Staff finds that the location and design of the partition allows for development to be conveniently served by public utilities. Utility connections can be found along the private access and utility easement and in 45<sup>th</sup> Avenue.

Based on the above findings, the application complies with these criteria.

7. **Any special features of the site, including topography, floodplains, wetlands, vegetation, or historic sites, have been adequately considered, and protected if required by city, state or federal law.** [SHMC 16.16.040(G)]

Applicant's Comments: There are no mapped natural features or natural hazards on the property. There are no historic sites on the property.



Staff Findings: Staff has not identified any features of the site that require protection by the city, state or federal law.

The application complies with these criteria.

8. **If the tentative plan provides for development in more than one phase, the Planning Commission must make findings and conclusions that such phasing is necessary due to the nature of the development.** [SHMC 16.16.040(H)]

Staff Findings: The applicant has not proposed any development with this application.

9. **An application for residential development can be denied based on a lack of school capacity if:** [SHMC 16.16.040(I)]
  - a) **The City has been informed by the Sweet Home School District that there adopted school facility plan has identified the lack of school capacity; and** [SHMC 16.16.040(I)(1)]
  - b) **The City has considered option to address school capacity; and** [SHMC 16.16.040(I)(2)]
  - c) **The capacity of a school facility is not the basis for a development moratorium under O.R.S. 197.505 to 197.540.** [SHMC 16.16.040(I)(3)]
  - d) **This section does not confer any power to the school district to declare a building moratorium.** [SHMC 16.16.040(I)(4)]

Staff Findings: The subject property is in the Residential Low Density (R-1) Zone. The applicant has not proposed residential development with this application.

The application complies with these criteria.

**B. Conditions of Approval.**

1. **The approving authority may attach conditions of approval of a tentative subdivision of partition plan to ensure that the proposal will conform to the applicable review criteria.** [SHMC 16.16.050(A)]
2. **Conditions of approval may include, but are not limited to, the following:** [SHMC 16.16.050(B)]
  - a) **Street improvements as required to assure that transportation facilities are adequate for the proposed development, both on and off of the subject property.**
  - b) **Storm water drainage plans.**
  - c) **Fencing.**
  - d) **Landscaping.**
  - e) **Public land dedication.** [SHMC 16.16.050(B)(1 through 5)]

Staff Findings: The applicant is seeking to divide a property within the R-1 Zone that fronts 45<sup>th</sup> Avenue. To ensure compliance, staff recommends a condition of approval that upon development of the proposed parcels, the property owner shall construct all applicable street, sidewalk and storm drain improvements that are required by, and according to the provisions of the Sweet Home Municipal Code at the time of development. All public improvements must comply with the standards listed in the SHMC at the time of development.

Staff has recommended conditions of approval, listed in Section IV below, that act to ensure that the final partition plat comply with the application that has been proposed. Additional conditions of

approval may be required if any of the subject parcels are further divided under a future application or if they are physically developed with a residence.

With the above conditions, the application complies with these criteria.

**C. Duration of Tentative Plan Approval.** [SHMC 16.16.070]

1. **Approval of a tentative plan shall be valid for 12 months from the date of approval of the tentative plan, provided that if the approved tentative plan provides for phased development, the approval shall be valid for the time specified for each phase, subject to limitations of SHMC 16.16.060 of this chapter.** [SHMC 16.16.070(A)]
2. **If any time limitations exceeded, approval of the tentative subdivision plan, or of any un-platted phase of the tentative subdivision plan shall be void. Any subsequent proposal by the applicant for division of the property shall require a new application.** [SHMC 16.16.070(B)]

Staff Findings: This approval shall be valid for 12 months. The applicant is not proposing any development with this application. Extensions shall be permitted as allowed under SHMC 16.16.080.

**D. Final Partition Plat.** **Within one year from date of the approval of the tentative plan, the applicant shall prepare a final plat in conformance with the approved tentative plan, the provisions of this title and the provisions of O.R.S. Chapter 92.** [SHMC 16.20.010(B)(1)]

Staff Findings: To complete the partition once land use authorization is obtained, the applicant will need to submit a final partition plat as outlined in SHMC 16.20.010(B). The plat shall comply with the Final Plan Review Criteria listed in SHMC 16.20.020 and shall contain all the elements described in the SHMC 16.20.030; Final Plat Submittal.

#### **IV. CONCLUSIONS**

The application shall be subject to compliance with the conditions listed below, as required by the findings of fact presented in the Review Criteria (Section III), above. Any modifications to the conditions listed below would require approval in accordance with provisions of law (e.g., variance, subsequent land use application, etc.).

**Conditions of Approval:**

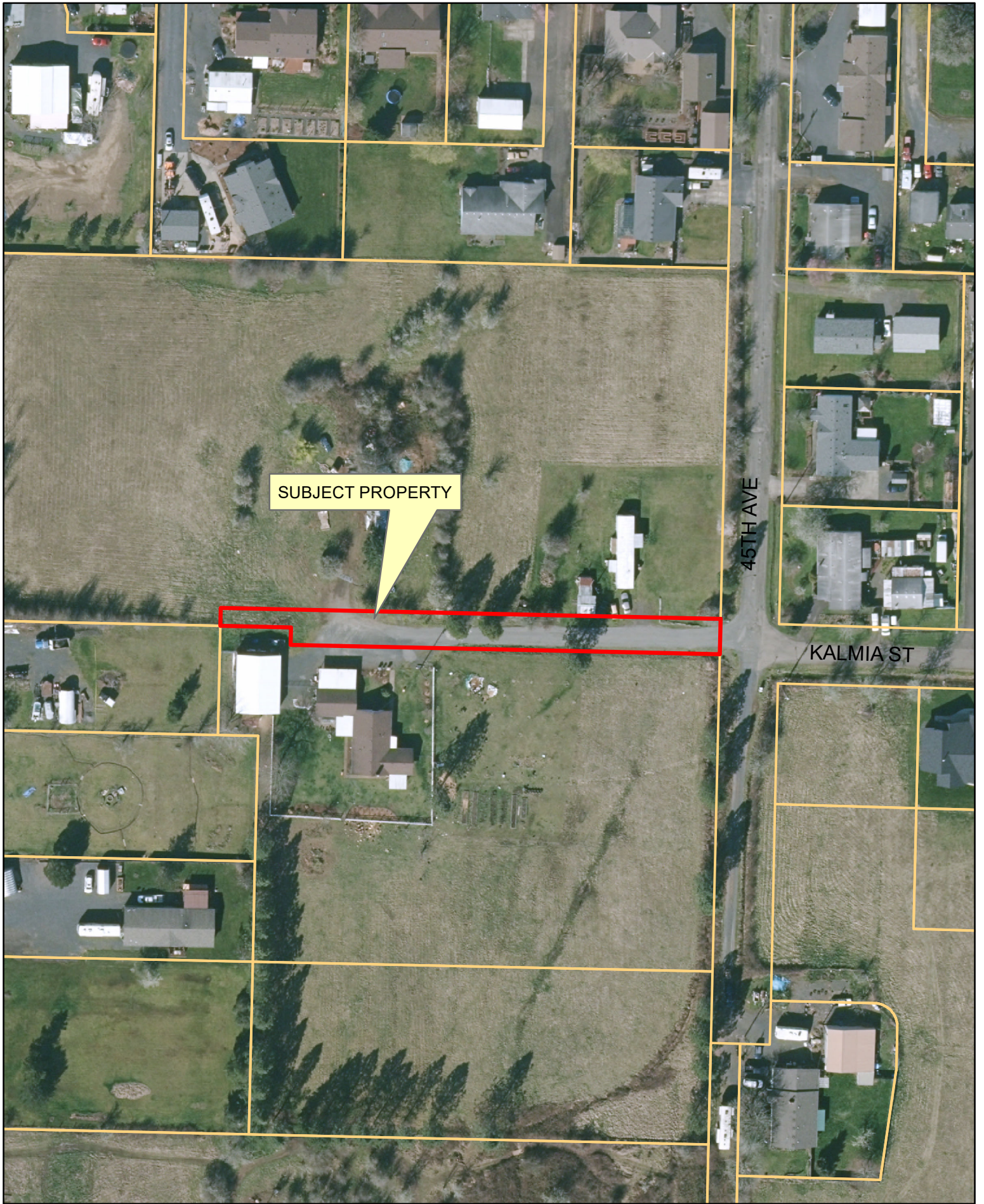
1. The final configuration of proposed Parcels A and B shall substantially conform to the plot plan reviewed in this application. See Attachment B. Proposed Parcel A shall be approximately 5,881 square feet. Proposed Parcel B shall be approximately 5,881 square feet.
2. Variance Application VR22-02 shall be approved by the Planning Commission.
3. Within one year from date of the approval of the tentative plan, the applicant shall prepare a final plat in conformance with the approved tentative plan, the provisions of the Sweet Home Municipal Code (SHMC) 16.20 and the provisions of O.R.S. Chapter 92. The applicant shall submit the final plat for City review as required by SHMC 16.20. The final partition plat shall include the information listed in SHMC 16.20.030.
4. Development of the subject parcels shall comply with all applicable local, state, and federal requirements.

#### **V. ATTACHMENTS**

- A. Subject Property Map
- B. Proposed Site Map
- C. Application

The full record is available for review at the City of Sweet Home Community and Economic Development Department Office located at City Hall, 3225 Main Street through Friday, excluding holidays.





1 inch = 103 feet

Subject Property Map  
P22-05

Date: 4/8/22





FOR LAND  
USE  
PURPOSES  
ONLY

EXHIBIT 'D'

**PROJECT:**  
**CORDLE / MILES PARTITION**

**PROJECT LOCATION:**  
**1068 45TH AVENUE**  
**SWEET HOME, OREGON**

**CLIENT:**  
**CORDLE CONSTRUCTION LLC**

The logo for Devco Engineering Inc. features a stylized 'D' composed of three vertical bars of increasing height, followed by the word 'devco' in a bold, lowercase sans-serif font, and 'engineering inc.' in a smaller, lowercase sans-serif font below it. To the right of the logo, the text 'Corvallis Oregon' is stacked, followed by the phone number '(541) 757-8991'. Below this, the address '245 NE CONIFER, P.O. BOX 1211 CORVALLIS, OR 97339' is listed, followed by the website 'WWW.DEVCOENGINEERING.COM'. At the bottom, a copyright notice reads '© COPYRIGHT 2022 DEVCO ENGINEERING, INC. ALL RIGHTS RESERVED.'

**City of Sweet Home**

Community and Economic Development Department- Planning Program  
3225 Main Street, Sweet Home, OR 97386 541-367-8113

**Application for a Land Division Variance**

Date Received: \_\_\_\_\_  
Date Complete: \_\_\_\_\_  
File Number: \_\_\_\_\_  
Application Fee \$: **\$590.00**  
Receipt #: \_\_\_\_\_  
Hearing Date: \_\_\_\_\_

**Applicant's Name:**

Scott C. Miles / Alisa R. Miles-Russell

**Applicant's Address:**

1068 NW 45th Avenue

**Applicant's Phone and e-mail:****Property Owner:**

Scott C. Miles / Alisa R. Miles-Russell

**Owner's Address:**

1068 NW 45th Avenue

**Owner's Phone and email:****Subject Property Address:**

1068 45th Avenue

**Subject Property Assessor's Map and Tax Lot:**

13S01E33AC Tax Lot 3700

**Subject Property Size:**

(per tax map) TL 3700 0.27 acre

**Subject Property: Zoning Classification**

R-1 (Low-Density Residential)

**Comprehensive Plan Classification:**

Low-density Residential

**Nature of Applicants Request****Variance Request from Sweet Home Municipal Code Sections:**

16.12.030.B. and D.

Narrative describing the proposed variations from the stated code sections. Brief Description on this form and attach extra sheets if needed.

See attached Narrative.

Description of the alternatives considered and the reason for the choices made.

See attached Narrative.

A brief review of how the application meets the review criteria. Attach sheets if needed.

See attached Narrative.

**Submittal Requirements**

The checklist on the other side of this application lists the required items must be submitted with this application and the Criteria the request must meet. Please address all items that apply to this request.

I certify that the statements contained on this application, along with the submitted materials, are in all respects true and are correct to the best of my knowledge and belief.

**Applicant's Signature:**

Scott C. Miles Date:

Alisa R. Miles-Russell

4-5-22

**Property Owner's Signature:**

Scott C. Miles Date:

Alisa R. Miles-Russell

4-5-22

Within 30 days following the filing of this application, the City Planner will make a determination of completeness regarding the application. If deemed complete, the application will be processed.





## City of Sweet Home

Community and Economic Development Department- Planning Program  
3225 Main Street, Sweet Home, OR 97386 541-367-8113

### Application for a Land Division Variance

Date Received: \_\_\_\_\_  
Date Complete: \_\_\_\_\_  
File Number: \_\_\_\_\_  
Application Fee \$: **\$590.00**  
Receipt #: \_\_\_\_\_  
Hearing Date: \_\_\_\_\_

**Applicant's Name:**

Cordle Construction LLC

**Applicant's Address:**

38747 Scavel Hill Road, Albany, Oregon 97322

**Applicant's Phone and e-mail:**

541-409-4290 mindycordle@gmail.com

**Subject Property Address:**

1068 45th Avenue

**Subject Property Assessor's Map and Tax Lot:**

13901E33AC Tax Lot 3700

**Subject Property Size:**

(per tax map) TL 3700 0.27 acre

**Subject Property: Zoning Classification**

R-1 (Low-Density Residential)

**Property Owner:**

Cordle Construction LLC

**Owner's Address:**

38747 Scavel Hill Road, Albany, Oregon 97322

**Owner's Phone and email:**

541-409-4290 mindycordle@gmail.com

**Nature of Applicants Request****Variance Request from Sweet Home Municipal Code Sections:**

16.12.030.B. and D.

Narrative describing the proposed variations from the stated code sections. Brief Description on this form and attach extra sheets if needed.

See attached Narrative.

Description of the alternatives considered and the reason for the choices made.

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A brief review of how the application meets the review criteria. Attach sheets if needed.

See attached Narrative.

**Submittal Requirements**

The checklist on the other side of this application lists the required items must be submitted with this application and the Criteria the request must meet. Please address all items that apply to this request.

**I certify that the statements contained on this application, along with the submitted materials, are in all respects true and are correct to the best of my knowledge and belief.**

**Applicant's Signature:**

*Melinda Cordle* Melinda Cordle

Date: 3.31.22

**Property Owner's Signature:**

*Melinda Cordle* Melinda Cordle

Date: 3.31.22

Within 30 days following the filing of this application, the City Planner will make a determination of completeness regarding the application. If deemed complete, the application will be processed.

## **PART IV - VARIANCES (PARTITION)**

### **CHAPTER 16.28: EXCEPTIONS AND VARIANCES**

#### **§ 16.28.030 CRITERIA USE IN GRANTING A VARIANCE**

Before a variance may be granted, the Planning Commission shall determine that all of the following criteria can be satisfied.

- A. Special circumstances apply to the property which do not apply generally to other properties in the same vicinity, including, but not limited to the following:
  - 1. Lot size or shape,

**Tax Lot 3700, the lot proposed to be partitioned, was created by legal description sometime prior to 1959 and documented by recorded boundary surveys since that time. This lot was created giving an undivided one-half ownership interest to each of the adjacent property owners to the north and south, now the owners of Tax Lots 2600 and 3800. There is no explanation in the Deed Record as to why it may have been created, and this occurred prior to the current ownership of Tax Lots 2600 and 3800.**

**As discussed further in this narrative TL 3700's size and shape does meet current R-1 zone standards.**

- 2. Topography, or

**Tax Lot 3700 is relatively flat and contains no significant topography, and does not contain any natural features or natural hazards.**

- 3. Other circumstances over which the owners of property have had no control.

**As explained in 1. above the current owners had no control over the original creation of this lot.**

- B. The variance is necessary for the preservation of a property right of the applicant substantially the same as owners for other property in the same vicinity possess.

**The partitioning of Tax Lot 3700 combined with the granting of this variance request is the first step in a process which will create lots with a single and the same ownership as the properties to which these new lots share a common boundary line.**

**The next step in this process is the property line adjustment of the lots with common boundary lines and ownership into single lots. The property line adjustment applications have been submitted simultaneously with the partition application so each may be approved in successive step.**

**The result of approving these successive applications will be to create lots, under individual ownership and of a size typical of other lots in the vicinity, all of which have significant development potential under the R-1 zone standards.**



- C. The variance would not be detrimental to the purposes of this title, or to property in the same vicinity in which the property is located, or otherwise conflict with the objectives of any city plan or policy.

**As explained in B. above the granting of this variance is the first step to ultimately combine Tax Lot 3700 with adjacent properties which presently meet the purposes of Titles 16 and 17, and as such become properties with greater development potential to meet R-1 zone standards.**

**By removing the divided ownership of TL 3700 and combining the respective partitioned lots with the adjacent properties the future development potential of the resulting lots is improved.**

- D. The variance requested is the minimum variance which would alleviate the identified special circumstances.

**Partitioning is the only code adopted land division process that will separate the ownership interests in the property, and provide the opportunity for the new non-conforming parcels to be combined with the adjacent properties and create larger code conforming properties.**

END OF PART IV

CLEAR WATER SUBDIVISION  
SWEET HOME, OREGO 46





# EXHIBIT A-1

511352AM TAX LOT 2600 AND TAX LOT 3700

## TRACT I:

Part of the Newton Russell Donation Land Claim No. 41, Township 13 South, Range 1 East of the Willamette Meridian, Linn County, Oregon and being more particularly described as follows, to-wit: Beginning at a 3/4 inch pipe which is South 0°16'30" East 306.00 feet and North 89°43'30" East 300.00 feet from the Northeast corner of the George Young Donation Land Claim No. 42 in said Township and Range; thence South 0°16'30" East, parallel to the West line of said Russell Donation Land Claim, 311 feet to a 3/4 inch pipe; thence North 89°49'30" East, 198.00 feet to a 3/4 inch pipe; thence North 0°16'30" West 15 feet to a 3/4 inch pipe; thence North 89°43'30" East 422.90 feet to a 1/2 x 2 inch bar; thence North 0°16'30" West along said East line 296.00 feet to a 1/2 inch pipe; thence South 89°43'30" West 620.90 feet to the place of beginning.

## TRACT II:

An undivided one-half interest in the following described tract, to wit: Part of the Newton Russell Donation Land Claim No. 41, Township 13 South, Range 1 East of the Willamette Meridian, Linn County, Oregon and being more particularly described as follows: to-wit: Beginning at a 3/4 inch pipe which is South 0°16'30" East 602.00 feet and North 89°43'30" East 498.00 feet from the Northeast corner of the George Young Donation Land Claim No. 42 in said Township and Range; thence South 0°16'30" East, parallel to the West line of said Russell Donation Land Claim 30.00 feet; thence North 89°43'30" East 422.90 feet to a 1/2 inch pipe; thence North 0°16'30" West 30.00 feet to a 1/2 x 2 inch bar; thence South 89°43'30" West 422.90 feet to the place of beginning.

## EXHIBIT A-2

**Scott C Miles**, Grantor, conveys to **Scott C Miles and Alissa R Miles-Russell, husband and wife**, Grantee, the following described real property, situated in the County of Linn, State of Oregon,

**PARCEL I: TAX LOT 3800**

Part of the Newton Russell Donation Land Claim No. 41, in Township 13 South, Range 1 East of the Willamette Meridian, described as follows: Beginning South 0°16'30" East 900.8 feet and North 89°43'30" East 532.0 feet from the Northeast corner of the George Young Donation Land Claim No. 42, in said Township and Range; thence North 89°43'30" East 388.9 feet; thence North 0°16'30" West 268.8 feet; thence South 89°43'30" West 422.9 feet; thence South 0°16'30" East 77.8 feet; thence North 89°43'30" East 34.0 feet; thence South 0°16'30" East 191.0 feet to the point of beginning, all in Linn County, Oregon.

**PARCEL II: TAX LOT 3800 AND TAX LOT 4400**

Being a part of the Newton Russell and Susan L. Russell Donation Land Claim No. 41, Township 13 South, Range 1 East of the Willamette Meridian, Linn County, Oregon, and being more particularly described as follows, to-wit: Beginning at a point on the East line of a County Road, which point is South 0°16'30" East 900.8 feet, and North 89°43'30" East 20.00 feet from the Northeast corner of the George Young Donation Land Claim No. 42, in said Township and Range; thence South 0°16'30" East, parallel to the West line of said Russell Claim, 145.05 feet; thence North 89°43'30" East 512.0 feet to the true point of beginning; thence North 89°43'30" East 388.9 feet to the East line of lands of the grantor herein named; thence North 0°16'30" West 145.05 feet; thence South 89°43'30" West 388.9 feet; thence South 0°16'30" East 145.5 feet to the true point of beginning, all in Linn County, Oregon.


ALSO part of the Newton Russell Donation Land Claim No. 41, Township 13 South, Range 1 East of the Willamette Meridian, Linn County, Oregon and being more particularly described as follows, to wit: Beginning at a point which is South 0°16'30" East 602.00 feet and North 89°43'30" East 498.00 feet and South 0°16'30" East 15.00 from the Northeast corner of the George Young Donation Land Claim No. 42 in said Township and Range; thence South 0°16'30" East 15.00 feet; thence North 89°43'30" East 60.00 feet; thence North 0°16'30" West 15.00 feet; thence South 89°43'30" West 60.00 feet to the place of beginning.

**PARCEL III: TAX LOT 3700**

An undivided one-half interest in the following described tract, to wit: Part of Newton Russell Donation Land Claim No. 41, Township 13 South, Range 1 East of the Willamette Meridian, Linn County, Oregon and being more particularly described as follows to wit: Beginning at a ¾ inch pipe which is South 0°16'30" East 602.00 feet and North 89°43'30" East 498.00 feet from the Northeast corner of the George Young Donation Land Claim No. 42 in said Township and Range; thence South 0°16'30" East parallel to the West line of said Russell Donation Land Claim 30.00 feet; thence North 89°43'30" East 422.90 feet to a ½ inch pipe; thence North 0°16'30" West 30.00 feet to a ½ x2 inch bar; thence South 89°43'30" West 422.90 feet to the place of beginning.

SHEET TITLE:

PROJECT: CORDLE / MILES PARTITION  
PROJECT LOCATION: 1068 45TH AVENUE  
SWEET HOME, OREGON  
CLIENT: CORDLE CONSTRUCTION LLC



**COLE**  
SURVEYING, LLC

SCALE: 1" = 40'



FOR LAND  
USE  
PURPOSES  
ONLY

GEORGE YOUNG DLC NO. 42  
T13S, R1E





## City of Sweet Home

Community and Economic Development Department- Planning Program  
3225 Main Street, Sweet Home, OR 97386 541-367-8113

### Staff Report Presented to the Planning Commission

**REQUEST:** The applicant is requesting to subdivide an approximately 193,625 square foot property into 18 lots. The subject property is to the west of 45<sup>th</sup> Avenue and is identified by 1070 45<sup>th</sup> Avenue and Linn County Tax Assessor's Map No. 13S01E33AC Tax Lot 2600. Lots would range in size from 8,000 square feet to 11,697 square feet. All lots would be eligible to be developed with single, family dwellings [SHMC 17.24.020.A]. The subject property is in the Residential Low Density (R-1) Zone.

Application SD22-02 is pending the approval of Applications P22-05, VR22-02, PLA22-05 and PLA22-06. Applications SD22-02, P22-05, VR22-02, PLA22-05 and PLA22-06 are being filed simultaneously.

**APPLICANT:** Cordle Construction LLC

**PROPERTY OWNER:** Cordle Construction LLC

**FILE NUMBER:** SD22-02

**PROPERTY LOCATION:** 1070 45<sup>th</sup> Avenue, Sweet Home, OR 97386; Identified on the Linn County Assessor's Map as 13S01E33AC Tax Lot 02600.

**REVIEW AND DECISION CRITERIA:** Sweet Home Municipal Code Section(s) 16.12, 16.16, 17.24.020 through 17.60.100

**HEARING DATE & TIME:** May 19, 2022, at 6:30 PM

**HEARING LOCATION:** City Hall Council Chambers, 3225 Main Street, Sweet Home, Oregon 97386

**STAFF CONTACT:** Angela Clegg, Associate Planner  
Phone: (541) 367-8113

**REPORT DATE:** May 12, 2022

### I. PROJECT AND PROPERTY DESCRIPTION

The application under consideration is a proposed tentative subdivision plat for an 18-lot residential subdivision with concurrent Partition, Variance, Property Line Adjustment approval to allow for the subdivision to be built to Sweet Home Municipal Code criteria. The subject property is to the northwest of the 45<sup>th</sup> Avenue and Kalmia Street intersection and is identified by 1070 45<sup>th</sup> Avenue and Linn County Tax Assessor's Map No. 13S01E33AC Tax Lot 2600. The subdivision is approximately 4.31 acres and improved with an existing single-family residential dwelling which will be demolished with the proposed development.

### ZONING AND COMPREHENSIVE PLAN DESIGNATIONS:

Property	Zoning Designation	Comprehensive Plan Designation
Subject Property	Residential Low Density (R-1)	Low Density Residential
Property North	Residential Low Density (R-1)	Low Density Residential

Property East	Residential Low Density (R-1)	Low Density Residential
Property South	Residential Low Density (R-1)	Low Density Residential
Property West	Residential Low Density (R-1)	Low Density Residential

**Floodplain** Based on a review of the FEMA flood insurance rate map; Panel 41043C0914G, dated September 29, 2010, the subject property is not in the Special Flood Hazard Area.

**Wetlands:** Based on a review of the City of Sweet Home Local Wetlands Inventory and a review of the National Wetlands Inventory Map, the subject property does not contain inventoried wetlands.

**Access:** The subject property has frontage and access along 45<sup>th</sup> Avenue. The applicant is proposing to create a local street within the subdivision [see Attachment B].

**Services:** The City water services are available in 45<sup>th</sup> Avenue. The City sewer services are available in 45<sup>th</sup> Avenue and along the southern boundary of the subject property.

#### TIMELINES AND HEARING NOTICE:

Mailed/Emailed Notice: April 11, 2022  
 Notice Published in Newspaper: April 13, 2022  
 Planning Commission Public Hearing: May 19, 2022  
 120-Day Deadline: August 9, 2022  
 Notice was provided as required by SHMC 17.12.120

## **II. COMMENTS**

**Joe Graybill**

**Engineering Division:** Regarding the Clearwater Subdivision proposal, the adjacent street of 45<sup>th</sup> Ave has full city utilities. There is an 8" water line and an 8" sewer line in 45<sup>th</sup> Ave that be connected to. Water connection would be a cut-in tee with full valving and an 8" line in the cul-de-sac. The sewer connection would be with a manhole and an 8" line in the cul-de-sac. The roadside drainage ditch in 45<sup>th</sup> Ave is available also for the stormwater runoff. The proposed subdivision has a perimeter storm drain easement to collect rear yard drainages. Impervious surface runoff will be contained in the cul-de-sac street. Both will be detained with storage and flow controls, with outlets to 45<sup>th</sup> Ave. The drainage area on the north lots is wider than the other segments to accommodate the runoff capture and the storage requirements. The frontage along 45<sup>th</sup> Ave has been recently paved leaving rock shoulders. The frontage will be developed to city standards with roadway and pedestrian facilities. The drainage ditch on the west side of 45<sup>th</sup> Ave may be piped or left open channel with a sidewalk assembly between it and the right-of-way lines of the property. The indicated 45ft of right-of-way for the street system appears wide enough for the required subdivision elements of curbs, planters, sidewalks, etc.

**Trish Rice**

**Public Works Dept.:**

We just paved 45<sup>th</sup> Ave last fall. Therefore, the street cuts for utilities into the subdivision shall be ground down across the full width of 45<sup>th</sup> Ave and repaved in a single piece, to maintain as best as practical the integrity of the new pavement. Street cuts shall be located as close together as practical to minimize disturbance to 45<sup>th</sup> Ave. There is an existing City sewer main along the south property line. Long-term, Public Works finds that is an excessive amount of infrastructure to maintain for the service area. Therefore, we require that all subdivision lots connect to the new sewer main in the new cul-de-sac, and any existing connections to the main on the south side be disconnected. This will leave only one house outside of the subdivision still served by the sewer main and at such time in the future that adjacent properties to the south are subdivided, that last service can be re-routed, and the redundant sewer main can be abandoned.

**Adam Leisinger**

**Building Division:**

The Building Program has no issues with this request.

**Chief Barringer**

**Sweet Home Fire District:**

The access portion looks good to me at this point. I am concerned about hydrants and water obviously. The closest hydrant is at 1101 45<sup>th</sup> Avenue. I show it at 622 GPM so it is probably on a smaller line. Is there a plan to have or add a hydrant in the area? We run by a rule of thumb that we like hydrants every 400 feet. Not rigid on that if we are close to within 500. The GPM needed for the number of homes beyond 400 feet of distance from the hydrant that is on 45th would determine that.

**Public Comments:**

See Attachment C, Attachment D and Attachment E

### **III. REVIEW AND DECISION CRITERIA**

The review and decision criteria for a subdivision are listed below in bold. Staff findings and analysis are provided under each review and decision criterion.

**A. Approval of tentative plans will be granted if the city finds that the proposal substantially conforms to the applicable provisions of Sweet Home Municipal Code Titles 16 and 17 and the comprehensive plan. The following criteria apply:**

- 1. The information required by this chapter has been provided. [SHMC 16.16.040(A)]**

Applicant Comments: The application materials presented herein document compliance with this standard.

Staff Findings: SHMC 16.16.025 provides a specific list of requirements for the application, and the applicant provided this information

Based on the above findings, the application complies with this criterion.

- 2. The design and development standards of Sweet Home Municipal Code, Titles 16 and 17 and the comprehensive plan, have been met where applicable. [SHMC 16.16.040(B)]**



- A. **Size and shape.** Lot and parcel size, width, shape and orientation shall be appropriate for the zone and location of the subdivision, as well as for the type of use contemplated. [SHMC 16.12.030(A)]
- B. **No lot or parcel shall be dimensioned to contain a part of an existing or proposed street.** [SHMC 16.12.030(B)]
- C. **Residential lots and parcels shall be consistent with the residential lot size and width standards of Sweet Home Municipal Code Title 17.** [SHMC 16.12.030(C)]

**YARD SETBACKS AND LOT SIZE AND WIDTH.**

**Except as provided in § 17.08.060, in a R-1 zone, yard setbacks shall be as follows.** [SHMC 17.24.050(A-F)]

- A. **The front yard shall be a minimum of 20 feet.**
- B. **Each side yard shall be a minimum of five feet, and the total of both side yard setbacks shall be a minimum of 13 feet.**
- C. **The street side yard shall be a minimum of 15 feet.**
- D. **The rear yard shall be a minimum of 15 feet.**
- E. **On a flag lot, or similarly configured lot, the inset front yard setback shall be a minimum of 15 feet.**
- F. **Regardless of the side and rear yard requirements of the zone, an accessory structure, excluding detached accessory dwellings, may be built to within five feet of side or rear lot line; provided, the structure is more than 70 feet from the street abutting the front yard and 20 feet from the street abutting the street side yard.**

Applicant Comments: The applicable standards of SHMC Titles 16 and 17 are addressed in Parts II, III, and IV of the narrative. The application materials presented document compliance with these standards. The lots as proposed in the Tentative Plat comply with the size and dimensional requirements of code section 17.24.040 which is addressed hereafter. Exhibit 'D', Tentative Plat demonstrates compliance with SHMC 16.12.030.B standard. The applicable provisions Title 17 are addressed in Part III of the narrative.

Staff Findings: Based on a review of the applicant's site plans (Attachment B), lot depth would not exceed two and one-half times the average width. There is a portion of each lot where the lot width would be at least 80 feet in width for single-family dwellings. No lot would be dimensioned to contain part of an existing or proposed street. In SHMC 17.60.040 the minimum lot width for a single-family dwelling is 80 feet (17.60.040.A.2).

Based on the above findings, the application complies with these criteria.

- D. Lot depth shall not exceed two and one-half times the average width.**  
[SHMC 16.12.030(D)]

Applicant Comments: The Tentative Plat, demonstrates compliance with this standard.

Staff Findings: Based on the review of the applicant's site plans (Attachment B), the lot depths shall not exceed two and one-half times the average lot width.

Based on the above findings, the application complies with these criteria.

- E. Frontage. Each lot or parcel, except those abutting private streets, shall abut upon a publicly owned street, other than an alley, for a width of at least 25 feet.** [SHMC 16.12.030(E)]

Applicant Comments: The Tentative Plat, demonstrates compliance with this standard.

Staff Findings: Based on a review of the applicant's site plans (Attachment B), the proposed lots would have at least 25 feet of frontage along a public road.

Based on the above findings, the application complies with this criterion.

**F. Access easements. Where no other practical access to lots or parcels exists, the Planning Commission may allow an access easements for actual access to lots or parcels. [SHMC 16.12.030(F)]**

1. **Joint use driveways. [SHMC 17.08.100(C)(6)]**
  - a. **Joint use driveways are permitted.**
  - b. **A joint use driveway shall comply with International Fire Codes**
  - c. **A joint use driveway that serves four or more lots or parcels shall be developed to the standards of a local street.**
  - d. **Where the city approves a joint use driveway, the property owners shall record an easement with the deed allowing joint use of and cross access between adjacent properties. The owners of the properties agreeing to joint use of the driveway shall record a joint maintenance agreement with the deed, defining maintenance responsibilities of property owners. The applicant shall provide a fully executed copy of the agreement to the city for its records, but the city is not responsible for maintaining the driveway or resolving any dispute between property owners.**

Applicant Comments: No access easements are required to provide access to a given lot or parcel. However, to reduce the number of street driveway approaches joint use access easements are anticipated for paired flag lots.

Staff Findings: The applicant has proposed an easement for franchise utilities and drainage, and joint use driveways on the proposed flag lots.

Based on the above findings, the application complies with this criterion.

**G. Through lots should be avoided except where they are essential to provide separation of residential development from non-residential activities, arterial streets, or to overcome a specific disadvantages of topography and orientation. [SHMC 16.12.030(G)]**

1. **A planting screen easement of at least ten feet in width and across which there shall be no right of access may be required along the lines of lots or parcels abutting a collector or arterial street or other incompatible uses.**
2. **Lots shall be served from only one side via a local street.**
3. **A through lot shall have the yard abutting a street that has no access to the back yard and shall utilize setbacks for a back yard as per the underlying zone standards.**

Applicant Comments: Not applicable, no through lots are proposed.

Staff Findings: The applicant has not proposed a through lot with the modification.

Based on the above findings, the application complies with this criterion.

**H. Lot side lines. The side lines of lots, as far as practicable, shall run at right angles to the street upon which the lots face. [SHMC 16.12.030(H)]**

1. **Topographical conditions or street configurations may warrant an angle.**
2. **Generally, any angle should not exceed 30° from a right angle to the street.**

Applicant Comments: All lot side lines as shown on the Tentative Plat are perpendicular to street right of way.

Staff Findings: As depicted on Attachment B, the proposed parcels would have side lines that are at, or very close, to right angles to a public road.

Based on the above findings, the application complies with this criterion.

- I. Flag Lots. Flag lots should be avoided if local street connection can reasonably be included in lieu of the flag lot configuration. The thin strip of land, known as the flag pole, which provides access to the lot(s) furthest from the street shall not be used in determining lot size, lot width or yard setback requirements. [SHMC 16.12.030(I)]**

Applicant Comments: Five (5) flag lots are proposed along the northerly boundary of the property. These flag lots are necessary to make efficient use of the land and to not have to construct a looped public street through the property in order to provide 80' of lot frontage each. Such additional street right of way for a loop system would reduce the developable lot area by approximately 0.6 to 0.7 acre and double the amount of street and utility infrastructure the City would own and maintain.

Staff Findings: The applicant has proposed 6 flag lots (proposed lot 7, lot 9, lot 11, lot 13, lot 15, and lot 17). Staff finds that the flag lots are the minimum necessary for the applicant to use as access from the identified lots to the local street.

Based on the above findings, the application complies with this criterion.

- J. If special setbacks are to be established in a subdivision or partition through the variance process, they shall be shown on the tentative plan and final plat and included in the deed restrictions. [SHMC 16.12.030(J)]**

Applicant Comments: The proposed lots are all of sufficient size that no special setbacks are required.

Staff Findings: The applicant has not proposed any special setbacks. Staff finds that the configuration of the proposed subdivision lots meets these criteria

Based on the above findings, the application complies with this criterion.

- 3. Development of any remainder of the property under the same ownership can be accomplished in accordance with this code. [SHMC 16.16.040(C)]**

Applicant Comments: 100% of applicant's property will be developed under this application. There is no remainder property owned by the applicant.

Staff Findings: The applicant is proposing to create 18 residential lots. As reviewed in this staff report, the lots would meet the minimum lot size of the zone and would be configured so that they could accommodate a residential dwelling. Staff finds that the applicant does not own any other property adjacent to the site.

Based on the above findings, the application complies with this criterion.

- 4. Adjoining land can be developed or is provided access that will allow its development in accordance with all applicable city codes. [SHMC 16.16.040(D)]**

Applicant Comments: The development proposed herein does not preclude the future development of adjacent or abutting properties. All such properties have frontage on existing city right of way.

Staff Findings: Staff has not identified any features of this proposed subdivision that would inhibit development on adjoining property.

Based on the above findings, the application complies with this criterion.

**5. The proposed street plan provides for the circulation of traffic and meets the street design standards of this title. [SHMC 16.16.040(E)]**

Applicant Comments: The narrative and Exhibits 'E', 'G', and 'H' demonstrate compliance with the applicable street design standards.

Staff Findings: Per the staff engineers' comments in Section II: The frontage along 45<sup>th</sup> Avenue has been recently paved leaving rock shoulders. The frontage will be developed to City standards with roadway and pedestrian facilities. The drainage ditch on the west side of 45<sup>th</sup> Avenue may be piped or left open channel with a sidewalk assembly between it and the right-of-way lines of the property. The indicated 45ft of right-of-way for the street system appears wide enough for the required subdivision elements of curbs, planters, sidewalks, etc.

Per the Public Works comments in Section II: The City paved 45<sup>th</sup> Avenue in the fall of 2021. Therefore, the street cuts for utilities into the subdivision shall be ground down across the full width of 45<sup>th</sup> Avenue and repaved in a single piece, to maintain as best as practical the integrity of the new pavement. Street cuts shall be located as close together as practical to minimize disturbance to 45<sup>th</sup> Avenue.

With the above conditions, the application complies with this criterion.

**6. The location and design allows development to be conveniently served by public utilities. [SHMC 16.16.040(F)]**

Applicant Comments: The narrative and Exhibit 'F' demonstrate compliance with this standard.

Staff Findings: Per the staff engineer's comments in Section II above: The adjacent street of 45<sup>th</sup> Avenue has full city utilities. There is an 8" water line and an 8" sewer line in 45<sup>th</sup> Avenue that can be connected to. Water connection would be a cut-in tee with full valving and an 8" line in the cul-de-sac. The sewer connection would be with a manhole and an 8" line in the cul-de-sac. The roadside drainage ditch in 45<sup>th</sup> Avenue is available also for the stormwater runoff. The proposed subdivision has a perimeter storm drain easement to collect rear yard drainages. Impervious surface runoff will be contained in the cul-de-sac street. Both will be detained with storage and flow controls, with outlets to 45<sup>th</sup> Ave. The drainage area on the north lots is wider than the other segments to accommodate the runoff capture and the storage requirements.

Per the Public Works comments in Section II above: There is an existing City sewer main along the south property line. Long-term, Public Works finds that is an excessive amount of infrastructure to maintain for the service area. Therefore, we require that all subdivision lots connect to the new sewer main in the new cul-de-sac, and any existing connections to the main on the south side be disconnected. This will leave only one house outside of the subdivision still served by the sewer main and at such time in the future that adjacent properties to the south are subdivided, that last service can be re-routed, and the redundant sewer main can be abandoned.

With the above conditions, the application complies with this criterion.

**7. Any special features of the site, including topography, floodplains, wetlands, vegetation, or historic sites, have been adequately considered, and protected if required by city, state or federal law. [SHMC 16.16.040(G)]**

Applicant Comments: There are no mapped natural features or natural hazards on the property. There are no historic sites on the property.

Staff Findings: Based on a review of the FEMA flood insurance rate map; Panel 41043C0914G, dated September 29, 2010, the subject property is not in the Special Flood Hazard Area. Based on a review of the City of Sweet Home Local Wetlands Inventory and a review of the National Wetlands Inventory Map, the subject property does not contain inventoried wetlands.

Based on the above findings, the application complies with this criterion.

- 8. If the tentative plan provides for development in more than one phase, the Planning Commission must make findings and conclusions that such phasing is necessary due to the nature of the development. [SHMC 16.16.040(H)]**

Applicant Comments: The tentative plat proposes development in a single phase.

Staff Findings: The applicant is not proposing to phase the proposed subdivision.

Based on the above findings, the application complies with this criterion.

- 9. An application for residential development can be denied based on a lack of school capacity if: [SHMC 16.16.040(I)]**
  - a. The city has been informed by the Sweet Home School District that their adopted school facility plan has identified the lack of school capacity; and [SHMC 16.16.040(I)(1)]**
  - b. The city has considered option to address school capacity; and [SHMC 16.16.040(I)(2)]**
  - c. The capacity of a school facility is not the basis for a development moratorium under O.R.S. 197.505 to 197.540. [SHMC 16.16.040(I)(3)]**
  - d. This section does not confer any power to the school district to declare a building moratorium. [SHMC 16.16.040(I)(4)]**

Applicant Comments: City staff has advised the applicant that the school district has not identified a lack of capacity.

Staff Findings: The City has not been informed by the Sweet Home School District that their adopted school facility plan has identified a lack of school capacity. Staff does not recommend that this application be denied based on a lack of school capacity.

Based on the above findings, the application complies with this criterion.

**B. Conditions of Approval.**

- 1. The approving authority may attach conditions of approval of a tentative subdivision or partition plan to ensure that the proposal will conform to the applicable review criteria. [SHMC 16.16.050(A)]**
- 2. Conditions of approval may include, but are not limited to, the following: [SHMC 16.16.050(B)]**
  - a. Street improvements as required to assure that transportation facilities are adequate for the proposed development, both on and off of the subject property.**
  - b. Storm water drainage plans**
  - c. Fencing.**
  - d. Landscaping.**
  - e. Public land dedication. [SHMC 16.16.050(B)(1 through 5)]**

Staff Findings: The applicant is requesting to subdivide an approximately 193,625 square foot site into 18 residential lots. The subject property is to the west of the 45<sup>th</sup> Avenue and is identified by 1070 45<sup>th</sup> Avenue and Linn County Tax Assessor's Map No. 13S01E33AC Tax Lot 2600. Lots sizes would range in size from 8,000 square feet to 11,697 square feet. The subject property is in the Residential Low Density (R-1) Zone.

To ensure compliance staff recommends a condition of approval that upon development of the proposed parcels, the property owner shall construct all applicable street, sidewalk and storm drain improvements that are required by, and according to the provisions of the Sweet Home

Municipal Code at the time of development. All public improvements must comply with the standards listed in the SHMC at the time of development.

Staff has recommended conditions of approval, listed in Section IV below, that act to ensure that the final subdivision plat comply with the application that has been proposed. Additional conditions of approval may be required if any of the subject parcels are further divided under a future application or if they are physically developed with a residence.

With the above conditions, the application complies with this criterion.

**C. Duration of Tentative Plan Approval.** [SHMC 16.16.070]

- 1. Approval of a tentative plan shall be valid for 12 months from the date of approval of the tentative plan, provided that if the approved tentative plan provides for phased development, the approval shall be valid for the time specified for each phase, subject to the limitations of § 16.16.060 of this chapter.** [SHMC 16.16.070(A)]
- 2. If any time limitation is exceeded, approval of the tentative subdivision plan, or of any un-platted phase of the tentative subdivision plan shall be void. Any subsequent proposal by the applicant for division of the property shall require a new application.** [SHMC 16.16.070(B)]

Staff Findings: This approval shall be valid for 12 months. The applicant has not proposed a phased development. Extensions shall be permitted as allowed under SHMC 16.16.080. With the above conditions, the application complies with these criteria.

With the above conditions, the application complies with these criteria.

**D. Final Subdivision Plat. Within one year from date of the approval of the tentative plan, the applicant shall prepare a final plat in conformance with the approved tentative plan, the provisions of this title and the provisions of O.R.S. Chapter 92.** [SHMC 16.20.010(B)(1)]

Staff Findings: Within one year from date of the approval of the tentative plan, the applicant shall prepare a final plat in conformance with the approved tentative plan, the provisions of this title and the provisions of O.R.S. Chapter 92. The applicant shall submit a final subdivision plat for approval by the City according to the procedures and requirements of SHMC 16.20. The applicant shall provide all information required by SHMC 16.20.

#### **IV. CONCLUSION AND RECOMMENDATION**

Based on the findings discussed in Section III above, staff recommends that this application be **approved**. The application shall be subject to compliance with the conditions listed below, as required by the findings of fact presented in the Review Criteria (Section III), above. Any modifications to the conditions listed below would require approval in accordance with provisions of law (e.g., variance, subsequent land use application, etc.).

If the Planning Commission approves this application, staff recommends that the conditions of approval listed below be required in order to ensure that the application is consistent with the findings in the Review and Decision Criteria (Sections III) and as required by the Sweet Home Municipal Code and other provisions of law. Appeals to the Land Use Board of Appeals (LUBA) may only be based on Review and Decision Criteria listed above.

**Recommended Conditions If the Application is Approved:**

- 1. The final configuration of the proposed lots shall substantially conform to the plot plan reviewed in this application (See Attachment B). The final configuration to subdivide an approximately 193,625 square foot property into 18 lots. The subject property is to the west of 45<sup>th</sup> Avenue and is identified by 1070 45<sup>th</sup> Avenue and Linn County Tax Assessor's Map No. 13S01E33AC Tax Lot 2600. Lots sizes would range in size from 8,000 square feet to**

11,697 square feet. All lots would be eligible to be developed with single, family dwellings [SHMC 17.24.020.A]. The subject property is in the Residential Low Density (R-1) Zone.

2. The applicant shall ground down the street cuts for utilities across the full width of 45<sup>th</sup> Avenue and repave it in a single piece to maintain the integrity of the new pavement. Street cuts shall be located as close together as practical to minimize disturbance to 45<sup>th</sup> Avenue.
3. The City shall require the applicant to connect all subdivision lots to the new sewer main in the new cul-de-sac, and any existing connections to the main on the south side be disconnected.
4. SHMC 16.12.040 WATER SYSTEM. The design shall be to city standards and shall be approved by the City Engineer. The design shall take into account provisions for extension beyond the subject property. The design shall adequately loop the city system.
5. SHMC 16.12.045. SANITARY SEWER SYSTEM. The design shall be to city standards and shall be approved by the City Engineer. The design shall take into account capacity and grade to allow for desirable extension beyond the subject property.
6. Upon development of the proposed parcels, the property owner shall construct all applicable street, sidewalk and storm drain improvements that are required by, and according to the provisions of, the Sweet Home Municipal Code at the time of development. All public improvements must comply with the standards listed in the SHMC at the time of development.
7. The new property lines shall be situated so that all buildings and structures comply with yard (setback) requirements of the Recreation Commercial (RC) zone.
8. Improvements within the subdivision shall be installed at the expense of the subdivider as required by SHMC 16.24.050. Improvements shall be made under the procedures and specifications listed in SHMC Chapter 16.24.
9. Within one year from date of the approval of the tentative plan, the applicant shall prepare a final plat in conformance with the approved tentative plan, the provisions of this title and the provisions of O.R.S. Chapter 92. The applicant shall submit a final subdivision plat for approval by the City according to the procedures and requirements of SHMC 16.20. The applicant shall provide all information required by SHMC 16.20.
10. The applicant shall obtain all applicable development permits which include, but are not limited to: Public Works permits, development permits including building permits, and erosion control permits. The applicant shall obtain a 1200-C Stormwater Permit from the Oregon Department of Environmental Quality and any Department of State Lands permits as applicable.

## **V. PLANNING COMMISSION ACTION**

In taking action on a subdivision, the Planning Commission will hold a public hearing at which it may either approve or deny the application. The decision on the application must be based on the applicable review and decision criteria. If approved, the Planning Commission may impose conditions of approval. Staff's recommended conditions are included in Section IV.

Appeal Period: Staff recommends that the Planning Commission's decision on this matter be subject to a 12-day appeal period from the date that the notice of decision is mailed.

Order: After the Planning Commission makes a decision, staff recommends that the Planning Commission direct staff to prepare an order that is signed by the Chairperson of the Planning

Commission. The Order would memorialize the decision and provide the official list of conditions (if any) that apply to the approval; if the application is approved.

**Motion:**

After opening the public hearing and receiving testimony, the Planning Commission's options include the following:

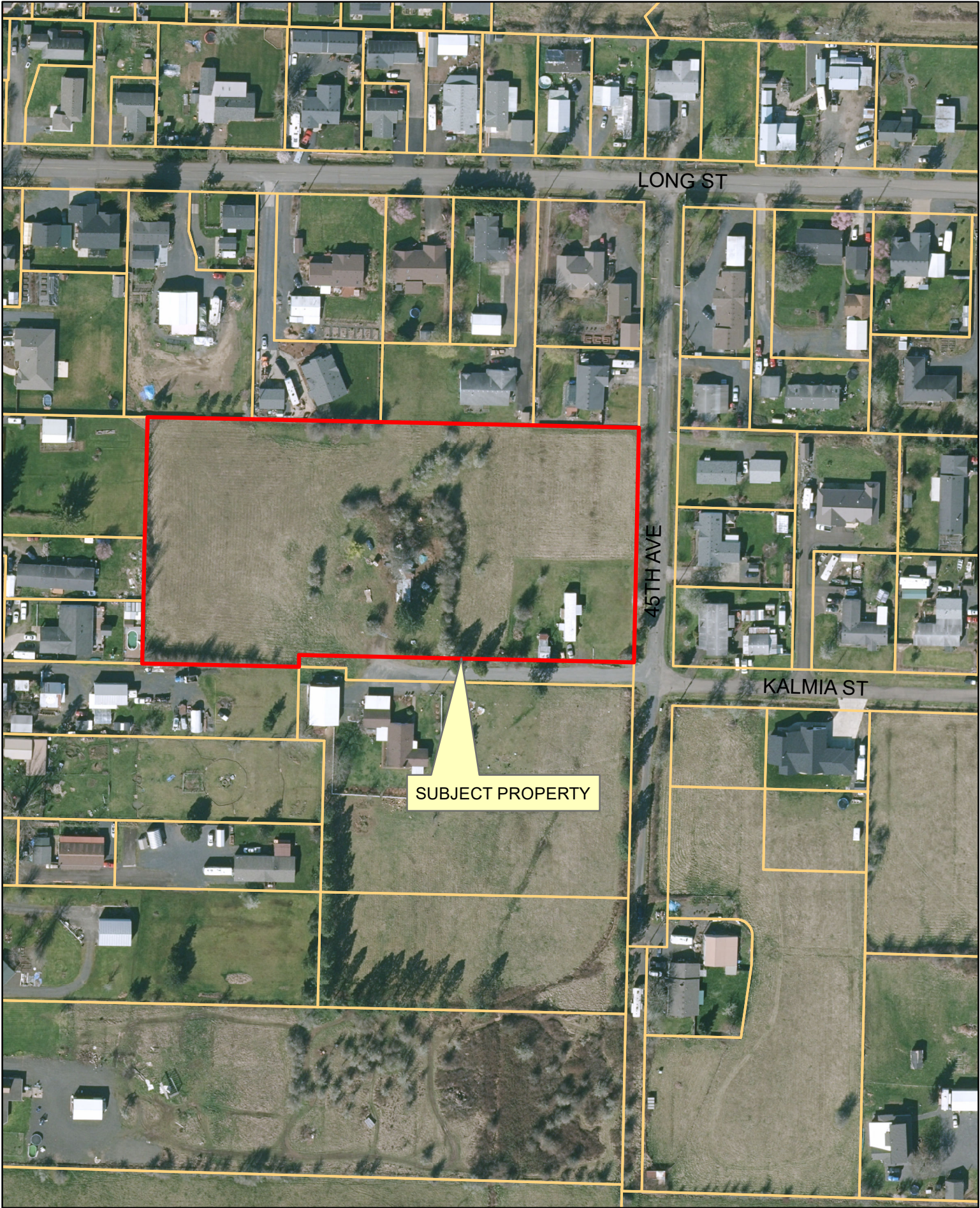
1. Move to approve application SD22-02; including the conditions of approval listed in Section IV of the Staff Report; adopting the findings of fact listed in Section III of the staff report, the setting of a 12-day appeal period from the date of the mailing of the decision, and hereby direct staff to prepare an order to be signed by the Chair to memorialize this decision.
2. Move to deny application SD22-02; including adopting findings (specify), the setting of a 12-day appeal period from the date of mailing of the decision, and hereby direct staff to prepare an order to be signed by the Chair to memorialize this decision.
3. Move to continue the public hearing to a date and time certain (specify); or
4. Other.

## **V. ATTACHMENTS**

- A. Subject Property Map
- B. Tentative Subdivision Maps
- C. Austin Comments
- D. Nicholson Comments
- E. Vineyard Comments

The full record is available for review in the Community and Economic Development Department office during normal business hours. The office is located at 3225 Main Street, Sweet Home, OR 97386.



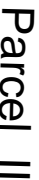


1 inch = 155 feet

Subject Property Map  
SD22-02

Date: 4/8/22





# EXHIBIT 'D-3'



CLIENT:  
CORDLE CONSTRUCTION LLC

© COPYRIGHT 2022  
DEVCO ENGINEERING, INC.  
ALL RIGHTS RESERVED.

<input type="checkbox"/>	PRELIMINARY
<input checked="" type="checkbox"/>	SUBMITTED
<input type="checkbox"/>	BID SET
<input type="checkbox"/>	PERMIT SET
<input type="checkbox"/>	CONST. SET

FOR LAND  
USE  
PURPOSES  
ONLY

## TENTATIVE PLAT

21427

**DRAWING:**

## ATTACHMENT C

**From:** [Don and Peggy Austin](#)  
**To:** [Angela Clegg](#)  
**Subject:** Construction proposal file number SD22-02  
**Date:** Friday, April 15, 2022 3:30:24 PM

---

Thank you for sending the information about the proposed development.

Initially my concerns are:

1. Since they put down new paving on 45th Avenue it is narrower that it used to be. You have to be very careful when meeting oncoming traffic because there is barely room to pass. This new development will greatly increase the amount of traffic on 45th Avenue; even more so during the construction faze with large trucks coming and going. Widening the street would make it safer.
2. Has there been any study on the effect of all those roofs and pavement on run off. Where is the water going to go when there is no place for it to soak in? If it is funneled to the ditch on 45th is it going to cause flooding down the line? Is that storm drain easement on the drawing another open ditch that will be a safety hazard for children who are likely to come along with housing?
3. It would be nice if the main entrance could be on the south side of the property off where Kalmia would go through, only because every car that comes and goes will shine it's lights directly into my living room. There is only an open field on the south side toward this end.

Thank you,

Peggy Austin  
1121 45th Ave

April 22, 2022

Mr. Blair Larsen, Community and Economic Development Director,

RE: File Number SD22-02

Thank you for the opportunity to submit written comments regarding the subject property development. Following are my remarks, in italics, to the Clearwater Application.

PART II – LAND DIVISIONS  
CHAPTER 16.12: DESIGN STANDARDS  
16.12.035 EASEMENTS

C. Drainage channels. If a subdivision or partition is traversed by a drainage channel, there shall be provided a public drainage easement. The drainage easement shall conform substantially with the lines of the drainage channel, with additional width as needed for channel maintenance.

**Applicant responded, “There are no water ways or drainageways on the site.” Pg 10 of 20.**

16.12.050 STORM WATER AND SURFACE DRAINAGE

Design of drainage within a subdivision or partition shall be to city standards, and shall be approved by the City Engineer.

A. The design shall take into account the capacity and grade necessary to maintain unrestricted flow from areas draining through the subdivision or partition and to allow extension of the system to serve such areas.

**Applicant responded, “There are no areas of concentrated flow from any adjacent property through the applicant’s property. This property and the adjacent properties generally slope south to north. Any surface water from the southerly adjacent property is channeled to the east to the 45th Avenue ditch, or on the western side of the site, collected surface water from the south is collected and discharged by pipe to the detention area along the northerly site boundary. These drainage related improvements are shown on the Grading and Utility Plans, Exhibits ‘E’ and ‘H’.” Pgs 10-11 of 20**

CHAPTER 16.16: TENTATIVE PLAN

16.16.025 TENTATIVE SUBDIVISION, SUBDIVISION REPLAT OR PARTITION,  
PARTITION REPLAT PLAN SUBMITTAL

M. Location, width, direction and rate of flow at peak discharge of all water ways.

**Applicant responded, “There are no water ways or drainageways on the site.” Pg 14 of 20**

*I counter these statements. There is a drainage feature, on the West side of the subject property, which carries water during rain events. This rainfall accumulates and inundates adjacent and nearby tax lots as the elevation of the subject property is lowest in the northwest corner. I experience standing water on the north side and northeast corner of my property during heavy rain events from this accumulation.*

*At this time seasonal rains are intercepted by vegetation and absorbed into the ground. Development will disrupt natural infiltration and create obstructions to these historical flow patterns. The creation of impermeable surface area increases the total discharge leaving the site.*

*I would highly recommend the permitting agency require a hydrological investigation of the surrounding area to include, at a minimum, a water table map, water flow direction, identification of water potential zones, and a quantitative sub surface water assessment. These measures will guide what course of action will provide an approach that ensures development does not adversely impact the property and rights of others or incur loss as a result of a developer's actions.*

PART II – LAND DIVISIONS  
CHAPTER 16.12: DESIGN STANDARDS  
16.12.035 EASEMENTS

A. City utility lines;

1. Easements for city sanitary sewer, storm water collection systems, and water mains, or other utilities, not located within the public right-of-way, shall be dedicated wherever necessary.

**Applicant responded, “The applicant concurs, such additional public easements are indicated on the Tentative Plat, Exhibit ‘D’.”**

2. City easements shall be at least 20 feet wide and offset on rear or side lot lines with five feet on one side and 15 feet on the other.

**Applicant responded, “The applicant concurs, although no public water or sanitary sewer extensions are required within a public easement.” Pgs 9-10 of 20**

*The City of Sweet Home Municipal Code states, as shown above, that City easements shall be at least 20 feet wide. Exhibit “D” indicates only a 10' STORM DRAIN EASEMENT on the south and west sides of the development. City shall not permit this reduced width.*

PART II – LAND DIVISIONS  
CHAPTER 16.12: DESIGN STANDARDS  
16.12.030 LOTS AND PARCELS

I. Flag lots. Flag lots should be avoided if local street connection can reasonably be included in lieu of the flag lot configuration. The thin strip of land, known as the flag pole, which provides access to the lot(s) furthest from the street shall not be used in determining lot size, lot width or yard setback requirements.

**Applicant responded, “Five (5) flag lots are proposed along the northerly boundary of the property. These flag lots are necessary to make efficient use of the land and to not have to construct a looped public street through the property in order to provide 80' of lot frontage each. Such additional street right of way for a loop system would reduce the developable lot area by approximately 0.6 to 0.7 acre and double the amount of street and utility infrastructure the City would own and maintain.” Page 9 of 20**

*The City of Sweet Home Municipal Code states, as shown above, that flag lots should be avoided. If in fact flag lots should be avoided, why are they being proposed for approval other than for profit of the applicant? A loop system is not needed to develop the property. Also, Exhibit 'D' reflects lot sizes including the flag pole areas which the code specifically states, "shall not be used in determining lot size." Lot sizes shall be revised accordingly.*

#### PART V – EXHIBITS

Exhibits 'D', 'E', and 'H'; Tentative, Grading, and Utility Plans

*How will the permitting agency ensure functionality of the detention area along the northerly site boundary in perpetuity so that development does not adversely impact the property and rights of others or incur loss as a result of a developer's actions? What is the purpose of (N) CONTROL MANHOLE on Exhibit H? What is the elevation of the surface water drainage feature on the south side of Long Street?*

*There exists mosquitoborne disease such as West Nile virus and Zika virus. In an effort to mitigate public health concerns in the foreseeable future and prevent future cases of chronic associated symptoms I would encourage the permitting agency require the developer propose stormwater drainage that does not incorporate a stormwater quality and detention rain garden. Many public health agencies are advocating removal of small pools of standing water from around homes to protect the environment from mosquitoes. I would encourage the permitting agency require the developer to cause storm water and surface drainage to be diverted away from adjacent property to avoid adverse impact to the property and rights of others or incur loss as a result of a developer's actions.*

Exhibits 'D', 'E', 'F', 'H', and 'I'; Tentative, Grading, New Street, Utility, and Streetscape Plans

*If flag lots are permitted, which should be avoided as noted above, I would highly recommend the permitting agency require the developer to reverse the layout of the lots such that the flag lots are on the south side of the development which will disburse noise pollution away from existing flag lots.*

Thank you for your consideration of my comments. I look forward to a written response to any questions noted above.

Cordially,



Marilyn Nicholson

## ATTACHMENT E

**From:** [Katie Vineyard](#)  
**To:** [Angela Clegg](#)  
**Subject:** File Number SD22-02  
**Date:** Thursday, April 28, 2022 11:02:10 PM

---

File Number SD22-02

Here are my comments and recommendations for the Clearwater Application.

The drainage on the north side is going to have a huge impact on my already wet property that does not drain. I have pumps under my house and curtain drains that run up my driveway to Long St. Having water sit in the North 20 foot drainage is going to have a negative effect on my house and property. I propose you find a way to have the storm drain easement be drained out to Long st or over to 43rd out to the ditch lines to remove the water. By developing the land there is going to be less place for the water to drain into soil which will cause more onto my property and under my house because there will be less soil for the water to be soaked up by. How much water is expected to stand in this storm drain? This is a major concern for adjacent land owners with small children. What will the depth be?

Who is going to maintain? Many places around town are not and this not getting maintained will have an even bigger impact on my land and house.

I want water diverted away from my property so the development does not have an impact on my property or my structures but most of all my young children.

Leon and Katie Vineyard  
541-409-0188  
4309A Long St

Sent from my iPhone

**ARTICLE III  
DEVELOPMENT REQUIREMENTS**

**ARTICLE III – DEVELOPMENT REQUIREMENTS**

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**ARTICLE III  
DEVELOPMENT REQUIREMENTS**

**17.40 GENERAL PROVISIONS**

**17.40.010 PURPOSE**

The purpose of this Article is to:

- A. Carry out the Comprehensive Plan with respect to development standards and policies.
- B. Promote and maintain healthy environments and minimize development impacts upon surrounding properties and neighborhoods.

**17.40.020 APPLICATION OF STANDARDS**

- A. Application. The standards set forth in this Article shall apply to partitions; subdivisions; developments; commercial and industrial projects; single family dwellings, duplexes and multi-family dwellings.
- B. Alternatives to Standards. The application of these standards to a particular development shall be modified as follows:
  - 1. Development standards which are unique to a particular use, or special use, shall be set forth within the applicable zone or in this Chapter.
  - 2. Those development standards which are unique to a particular zone shall be set forth in the Chapter governing that zone.

**17.40.030 APPLICATION OF PUBLIC FACILITY STANDARDS**

Standards for the provision and utilization of public facilities or services available within The City of Sweet Home shall apply to all land developments in accordance with the following table of reference. No development permit shall be approved unless the following improvements are provided prior to occupancy or operation, or unless future provision is assured through a bond, deposit, agreement or similar instrument approved by The City.

## ARTICLE III DEVELOPMENT REQUIREMENTS

**Public Facilities Improvement Requirements Table – Table 17.40.1**

Land Use Activity	Fire Hydrant	Street Improvement	Water Hookup	Sewer Hookup	Storm Drain	Street Lights	Bike and Pedestrian
Single Family Home, Duplex	No, Unless required by Fire Code	C-2	Yes	Yes	Yes	No	C-2
Multi-Family Dwelling	Yes	Yes	Yes	Yes	Yes	Yes	Yes (4+ units)
New Commercial Building	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Commercial Expansion	C-1	C-3	Yes	Yes	Yes	Yes	C-4No
New Industrial Building	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Industrial Expansion	C-1	C-4	Yes	Yes	Yes	Yes	NoC-4
Partition (without public utilities)	No, must comply with Fire Code	C-2	No	No	No, must accommodate drainage on-site	No	NoC-4
Partition (with public utilities)	No, Unless required by Fire Code	C-2	C-3	C-3	Yes	No	C-2
Subdivision, PD & Mnfr. Home Park	Yes	Yes	Yes	Yes	Yes	Yes	Yes

**Commented [BL1]:** Wait, this was left blank. I believe C-4 is correct here. Do you concur?

**Commented [WW2R1]:** Tie into the vehicle trips (C-4).

**Commented [AC3]:** PC: should this be yes?

**Commented [AC4]:** PC: should this be yes?

**Commented [WW5R4]:** Tie both into vehicle trips (C-4).

**Legend:** No = Not required Yes = Required C = Conditional, as noted:

**C-1 Fire Hydrants for Commercial or Industrial Expansions:** One or more fire hydrants are required when the total floor area of a new or expanded building exceeds 2,500 square feet, or the proposed use is classified as Hazardous (H) in the Uniform Building Code or Uniform Fire Code.

**C-2 Street Improvements for Single Family Dwellings, Duplex Dwellings and Partitions:**  
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### ARTICLE III DEVELOPMENT REQUIREMENTS

1. New single-family dwellings and duplex dwellings on an existing parcel less than 2.0 acres in size and fronting an existing street which does have a full street improvement including sidewalks, as required in The City's street design standards and Chapter 17.42.040, shall dedicate the needed right-of-way and shall install the full improvement along a parcel's frontage.
2. If there is no adjacent improvement, a right-of-way permit fee, in accordance with The City's adopted connection fees, will be required in lieu of constructing the improvement.
3. If a street extension to serve the residence is necessary, the owner must provide the necessary right-of-way dedication and street improvement to city street standards along the full frontage of the parcel.
4. A partition to parcels of 2.0 acres or larger does not require street improvements. A partition to parcels smaller than 2.0 acres requires street improvements.

**Commented [WW6]:** Per OAR

**Commented [AC7]:** PC: define frontage fee – nothing in Sweet Home fees

**Commented [BL8R7]:** This should probably be a right-of-way permit fee. Let's verify this with Joe.

C-3 Partitions – Wells are only allowed per Municipal Code provisions.

C-4 Street Improvements for Commercial or Industrial Expansions: The City will require improvement to full City standards when the use meets either of the following criteria:

1. The use generates an average of 100+ trips per day per 1000 gross square feet of building as documented in the *Trip Generation Manual* of the Institute of Transportation Engineers, or other qualified source; **or**
2. The use includes daily shipping and delivery trips by vehicles over 20,000 pounds gross vehicle weight.

### ARTICLE III DEVELOPMENT REQUIREMENTS

#### 17.42 STREET STANDARDS

Commented [AC9]: Staff: the Fire District will have notes for this section

##### 17.42.010 PURPOSE

- A. To provide for safe, efficient, convenient multi-modal movement in The City of Sweet Home.
- B. To provide adequate access to all proposed developments in The City of Sweet Home.
- C. To provide adequate area in all public rights-of-way for sidewalks, bikeways, sanitary sewers, storm sewers, water lines, natural gas lines, power lines and other utilities commonly and appropriately placed in such rights-of-way.
- D. For purposes of this Chapter:
  - 1. "Adequate access" means direct routes of travel between destinations; such destinations may include residential neighborhoods, parks, schools, shopping areas, and employment centers.
  - 2. "Adequate area" means space sufficient to provide all required public services to Standards defined in this Development Code or The City's most current Engineering Standards.

##### 17.42.020 SCOPE

The provisions of this Chapter shall be applicable to:

- A. The creation, dedication or construction of all new public or private streets, bikeways, or accessways in all subdivisions, partitions or other developments in The City of Sweet Home.
- B. The extension or widening of existing public or private street rights-of-way, easements, or street improvements including those which may be proposed by an individual or The City, or which may be required by The City in association with other development approvals.
- C. The construction or modification of any utilities, sidewalks, or bikeways in public rights-of-way or street easements.

**ARTICLE III  
DEVELOPMENT REQUIREMENTS**

**17.42.030 GENERAL PROVISIONS**

The following provisions shall apply to the dedication, construction, improvement or other development of all public streets in The City of Sweet Home. Unless otherwise modified through provisions in this Chapter, all streets shall be designed in conformance with the specific requirements of The City's Transportation System Plan and most current Engineering Standards.

- A. Street Layout. The location, width, and grade of streets shall be considered in their relation to existing and planned streets, to topographical conditions, to public convenience and safety, and to the proposed use of the land to be served by the streets.
- B. Continuation. Development proposals shall provide for the continuation of all streets, bikeways and accessways within the development and to existing streets, bikeways, and accessways outside the development.
- C. Future Street Extensions. When it appears possible to continue a street, bicycle path and/or pedestrian accessway into a future subdivision, adjacent acreage or area attractors such as schools and shopping centers, these facilities shall be platted to a boundary of the subdivision or development. Further, the street may be platted without a turnaround unless the Public Works Department or local Fire District finds a turnaround is necessary for reasons of traffic safety.
- D. Dead End Streets. The following shall apply:
  - 1. Dead end streets can be allowed only when the extension of street is not possible due to one or more of the following reasons:
    - a. A natural feature, such as a wetland, stream or steep slope makes it impractical for the street to be extended.
    - b. An existing structure or use is located on an adjacent parcel within the alignment of the proposed street.
    - c. An existing deed restriction or covenant or political boundary does not allow the extension of the street.
    - d. The alignment is approved as part of a Planned Development.
  - 2. Reserve strips and street plugs may be required to preserve the objectives of dead-end streets.

### ARTICLE III DEVELOPMENT REQUIREMENTS

- E. Alignment. All streets other than local streets or cul-de-sacs, shall be in alignment with existing streets by continuation of the centerlines to the maximum extent feasible. The staggering of street alignments resulting in "T" intersections shall be avoided wherever practical. However, when not practical, the staggering of street alignments resulting in "T" intersections shall meet with the approval of the City Engineer and ensure compliance with accepted traffic safety standards.
- F. Intersection Angles. Streets shall be laid out to intersect at angles as near to right angles as practical, except where topography requires lesser angles. Intersections of less than 80 degrees shall require approval of the City Engineer. All tangent calculations and curb radii shall comply with Engineering Standards.
- G. Existing Streets. Whenever existing public streets adjacent to or within a tract are of inadequate width, additional right-of-way shall be provided at the time of subdivision, partitioning, or development.
- H. Half-Streets. Half-streets may be approved where essential to the reasonable development of an area and when The City finds it to be practical to require the dedication of the other half when the adjoining property is developed. Whenever a half-street is adjacent to a tract to be developed, the other half of the street shall be dedicated. Specific improvement requirements are contained in Chapter 17.42.050. Reserve strips and street plugs may be required to preserve the objectives of half-streets.
- I. Cul-de-sacs. Cul-de-sacs are not encouraged and allowed only where no other reasonable alternative exists. Where permitted, a cul-de-sac shall have maximum lengths of 800 feet and terminate with a circular turn-around. Cul-de-sacs over 400 feet in length shall provide accessways to provide connectivity to adjacent streets and uses, unless physical constraints preclude a pedestrian/bicycle accessway. The Fire Code may establish additional standards.
- J. Street Names. Street names and numbers shall conform to regulations contained in the Sweet Home Municipal Code Chapter 12.20.
- K. Grades and Curves. Grades shall conform with City of Sweet Home Engineering Standards.

### ARTICLE III DEVELOPMENT REQUIREMENTS

- L. Marginal Access Streets. If a development abuts or contains an existing or proposed arterial street, The City may require marginal access streets, reverse frontage lots with suitable depth, screen planting contained in a non-access reservation along the rear or side property line, or such other treatment as may be necessary for adequate protection of residential properties and to afford separation of through and local traffic.
- M. Lots Abutting a Partial Street. Development of property abutting an existing public street which does not meet the minimum right-of-way standards, shall include sufficient yard setback equal to the minimum yard requirements of the zoning district, plus, the additional land required to meet the minimum right-of-way width.
- N. Unimproved Street. Development of property adjacent to an unimproved right-of-way shall require the installation of an improved surface to meet fire code requirements and the submittal of a non-remonstrance agreement to participate in future street improvements.

#### 17.42.040 STREETS

The location, width and grade of streets shall be considered in their relation to existing and planned streets, topographical and drainage conditions, public convenience and safety, the proposed use of land to be served by the streets, and full land utilization which will not result in tracts of vacant inaccessible land. Street design standards are intended to provide city staff with standards and guidelines for protecting the function and integrity of The City's transportation system. There are two types of Improved Type Standards for City streets:

- **Improved streets** are Urban Standard roadways that provide paved travel lanes, curb and gutter or infiltration basin drainage, pedestrian sidewalks, bike lanes, and landscaped planter areas. **Improved streets** are also Rural Standard roadways that provide paved travel lanes, roadside ditch or infiltration basin drainage, pedestrian sidewalks, shared road & bike lanes, and sometimes beautification planter areas.
- **Unimproved streets** are Rural Standard roadways that provide paved travel lanes, roadside ditch drainage, however no pedestrian sidewalks or bike lanes, and no landscaped planter areas.

The following table implements the standards of the Transportation System Plan.

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### ARTICLE III DEVELOPMENT REQUIREMENTS

<b>Standards</b>	<b>Major Arterial</b>	<b>Minor Arterial</b>	<b>Collector</b>	<b>Local Street</b>	<b>Residential Neighborhood Street ***</b>
ROW Width	80' (max)	70' (max)	60' (max)	50' (max)	20' (min)
Curb to curb width	60' (max)	40' (max)	40' (max)	36' (max)	20' (min)
Travel Lane width	11' (min)	10.5' (min)	10' (min)	7' (min)	7' (min)
Number of lanes	4 (max)	3 (max)	2 (min)	2 (max)	2 (min)
Median/center turn width (max)	12'	11.5'	Not required	Not required	Not required
Bike Lane width (min)	2 @ 6'	2 @ 6'	1 @ 6'	7'	Not required
Parking width (max)	8'	8'	8'	7'	Not required
Curb *	6"	6"	6"	6"	Not required
Planting Strip width (min)**	7'	7'	7'	3'	3'
Sidewalk width (min)	8'	7'	6'	5'	Not required
System spacing	1 mile	½ mile	½ mile	250'	100'
Design speed - (max)	40 mph	35 mph	25 mph	25 mph	20 mph
Access management: intersection spacing (min)****	300'	100'	100'	75'	50'
Access Management: driveway spacing	No direct driveway access	Shared driveway access	Shared driveway access	Direct access allowed	Direct access allowed

\* Other City approved alternatives may be proposed, such as "Green Streets" standards, as defined by Portland Metro Green Streets handbook, and subsequent updates. A green street can be defined as a street designed to integrate a system of storm water management within its right of way, and to:

- Reduce the amount of water that is piped directly to streams and rivers.



### ARTICLE III DEVELOPMENT REQUIREMENTS

- Be a visible component of a system of "green infrastructure" that is incorporated into the aesthetics of the community.
- Make the best use of the street tree canopy for storm water interception as well as temperature mitigation and air quality improvement.
- Ensure the street has the least impact on its surroundings, particularly at locations where it crosses a stream or other sensitive area.
  - \*\* Planting strips may include filtration strips and swales.
  - \*\*\* Allowed only within a Planned Development.
  - \*\*\*\* Measured as adjacent edge to edge of right-of-way, with the higher street category controlling.

#### 17.42.050 HALF STREET DEVELOPMENT AND IMPROVEMENT

Half-Street development conditions typically occur in areas where existing travel lanes are pre-existing and development occurs on one side of the right-of-way only.

- A. Extension of Roadways. In areas where street pavement, curbs, stormwater drainage, and sidewalks do not exist; sidewalk, curb, drainage system and driveway construction shall be required in the following conditions:
1. When located adjacent to existing street improvements of sidewalk, curb, drainage system and street paving.
  2. When as a property lot of an existing subdivision, lot frontages were not constructed within or around the perimeter of the subdivision.
  3. When located on a corner of two public street rights-of-way, both of which do not have existing sidewalk, curb and drainage. Corner development will set line and grade for the remainder of street block segment.
  4. When located on a corner of two public street rights-of-way, only one of which has sidewalk, curb and drainage, the undeveloped adjacent side shall be constructed to match line and grade of the abutting roadway right-of-way and shall provide linkages in the sidewalk network.
  5. When located ~~across~~ on the opposite side of the public right-of-way from an existing system of sidewalk, curb and drainage, development of street structure shall match both vertical and horizontal alignments.
  6. When commercial development projects are constructed, or when existing commercial projects are redeveloped, reconstructed or modified, and could provide access to the roadway frontage for vehicles and pedestrians, regardless of adjacent roadway conditions ~~that such improvements shall be provided~~. Not providing access to the right-of-way

Commented [AC10]: PC: review paragraph

Commented [AC11]: PC: correct, doesn't make sense

### ARTICLE III DEVELOPMENT REQUIREMENTS

frontage will not remove the requirement for development of pedestrian access along that frontage.

Commented [BL12]: Walt, can you clarify what this is supposed to me?

Commented [WW13R12]: Revised.

B. Layout Standards. Half-Street improvements shall follow the existing grade and curvature alignment of the roadway and right-of-way. Half-Street Improvements have 3 different scenarios.

1. Half-Street improvements in the truest condition shall extend to the centerline of the right-of-way. In cases where the roadway is not centered in the right-of-way the improvement will terminate as close as practical to the center of the roadway. The Public Works Director shall review the project for consideration of alternative options.
2. The equivalent of a Quarter-Street Improvement is where the roadway is in good condition, at the right slope and elevation, and nothing needs to be changed or updated, then the roadway may be sawcut along the edge of pavement or Fog Line. The new construction improvements shall meet flush with the existing roadway surface and be sealed with a tack coat and sand seal on the joint.
3. The equivalent of a Three-Quarter-Street Improvement is where the roadway is in bad enough shape in any form, that the improvement shall extend across the centerline to cover the opposite lane area. This applies also when development happens in category 1 and 2 roadways (grass and gravel respectively) that undergo improvements for access without the benefit of subdivision requirements.
4. Where the existing roadway is at adequate elevation relative to the adjoining property, the half-street improvement may meet the edge of existing pavement or roadway structure. If pavement degradation or excavations are significant to the roadway frontage, the developer may be required to complete finish paving to the centerline of the street.
5. When one end of the roadway section is at a lower elevation and remainder is higher than the abutting property, the half-street improvement will require the excavation of the full width of the travel lanes and the lowering of the roadway surface.
6. When both ends of the roadway section are at the higher incorrect elevation, the roadway does not need to be constructed. In this case street improvements will have to be accomplished in a comprehensive neighborhood street improvement project, taking into account driveway apron slopes, stormwater drainage and property area drainage inlets, etc.

**ARTICLE III  
DEVELOPMENT REQUIREMENTS**

**17.42.060 MODIFICATION OF RIGHT-OF-WAY AND IMPROVEMENT WIDTH**

The City may allow modification to the public street standards of Chapter 17.42.040 when **both** of the following criteria are satisfied:

- A. The modification is necessary to provide design flexibility in instances where:
  - 1. Unusual topographic conditions require a reduced width or grade separation of improved surfaces; or
  - 2. Parcel shape or configuration precludes accessing a proposed development with a street which meets the full standards of this Chapter; or
  - 3. A modification is necessary to preserve trees or other natural features determined by The City to be significant to the aesthetic character of the area.
- B. Modification of the standards of Chapter 17.42.040 shall only be approved if The City finds that the specific design proposed provides adequate vehicular access based on anticipated traffic volumes.

**17.42.070 CONSTRUCTION SPECIFICATIONS**

Construction specifications for all public streets shall comply with the criteria of the most recently adopted public works/street standards of The City of Sweet Home.

**17.42.080 SIDEWALKS**

Public sidewalk improvements are required for all property development in The City of Sweet Home and along Arterial and Collector streets. Sidewalks may be deferred by The City where future road or utility improvements will occur and on property in the rural fringe of The City where urban construction standards have not yet occurred. The property owner is obligated to provide the sidewalk when requested by The City or is obligated to pay their fair share if sidewalks are installed by The City at a later date.

- A. Sidewalks shall be constructed within the street right-of-way. Sidewalk easements shall only be accepted where the Public Works Department determines that full right-of-way acquisition is impractical.

### ARTICLE III DEVELOPMENT REQUIREMENTS

- B. Sidewalks shall connect to and align with existing sidewalks. Sidewalks may transition to another alignment as part of the approval process.
- C. Sidewalks width and location, including placement of any landscape strip, shall comply with City of Sweet Home Engineering Standards.
- D. Planter strips and the remaining right-of-way shall be landscaped and maintained as part of the front yard of abutting properties. Maintenance of sidewalks and planters shall be the continuing obligation of the abutting property owner.
- E. Mid-block Crosswalks. The City may require mid-block crosswalks for long blocks or to provide access to schools, parks, shopping centers, public transportation stops or other community services.
- F. Internal pedestrian circulation and accessways shall be provided within all commercial, multifamily and planned developments.

**Commented [AC14]:** PC: wants further discussion about planter strips

**Commented [WW15R14]:** This is always a tough one. They are attractive but can be a mess in the middle of winter for people exiting a vehicle. Suggest DPW may want to have a say.

**Commented [AC16]:** PC: do we combine or change existing language? 17.08.100 (C)(6) – we just updated this code in the past few years

**Commented [BL17]:** Wait, we recently updated our code on Joint Use Driveways, and that update should be incorporated into this. I've attempted to do that here, but would like another set of eyes on it.

Our code currently states:

F. *Joint use driveways.*

1. Joint use driveways are permitted.
2. A joint use driveway shall comply with International Fire Code.
3. A joint use driveway that serves four or more lots or parcels shall be developed to the standards of a local street.
4. Where The City approves a joint use driveway, the property owners shall record an easement with the deed allowing joint use of and cross access between adjacent properties. The owners of the properties agreeing to joint use of the driveway shall record a joint maintenance agreement with the deed, defining maintenance responsibilities of property owners. The applicant shall provide a fully executed copy of the agreement to The City for its records, but The City is not responsible for maintaining the driveway or resolving any dispute between property owners.

**Commented [WW18R17]:** Suggest limiting a shared driveway to two homes. My experience is these driveways usually apply to the creation of two or three parcels, where one parcel maintains frontage on a street. Otherwise, looks good!

#### 17.42.090 BIKEWAYS

Bikeways are required along Arterial and Collector streets. Bikeways shall comply with City Engineering Standards. Developments adjoining existing or proposed bikeways shall include provisions for connection and extension of such bikeways through dedication of easements or rights-of-way.

#### 17.42.100 PRIVATE STREETS

Private streets shall only be permitted as part of an approved Planned Development. At a minimum, the streets shall conform to the Residential Neighborhood Street requirements unless otherwise modified by the decision.

#### 17.42.110 PRIVATE ACCESS EASEMENT (JOINT USE DRIVEWAY)

A private access easement (joint use driveway) created as the result of an approved land division shall conform to the following.

- A. Width. Where permitted, the access easement shall comply with the following standards:

1. Minimum easement width: 20 feet

### ARTICLE III DEVELOPMENT REQUIREMENTS

2. Minimum paved width: For private access of 150' or less and serving one dwelling - 12 feet; serving two dwellings - 16 feet. For private access of more than 150' - 16 feet.
3. Maximum length: 200 feet
4. ~~No more than four dwelling units shall have their sole access to the easement. Easements serving more than two homes shall comply with provisions for a Residential Neighborhood Street. No more than 4 single-family detached dwellings or 4 duplexes shall have their sole access to the easement and easements serving more than 2 homes or 2 duplexes shall comply with the provisions for a Residential Neighborhood Street.~~

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- B. Surface Improvement. The surface width noted in A.1. above shall be improved with either asphalt or concrete for the entire length of the private access easement.
- C. Maintenance. Provision for the maintenance of a private access driveway shall be provided in the form of a maintenance agreement, homeowners' association, or similar instrument acceptable to The City. The applicable document shall be recorded against the deed record of each parcel, and if appropriate, placed on the final partitioning plat.
- D. Turn-around. A turn-around shall be required for any access easement which is the sole access, and which is either in excess of 150 feet or which serves more than one dwelling. Turn-arounds shall comply with the requirements of the Sweet Home Fire District.
- E. Fire Lanes. All private access easements shall be designated as fire lanes and signed for "no parking." All private access easements and joint use driveways shall comply with International Fire Code.
- F. Easement Required. Where The City approves a private access easement or joint use driveway, the property owners shall record an easement with the deed allowing joint use of and cross access between adjacent properties. The owners of the properties agreeing to joint use of the driveway shall record a joint maintenance agreement with the deed, defining maintenance responsibilities of property owners. The applicant shall provide a fully executed copy of the agreement to The City for its records, but The City is not responsible for maintaining the driveway or resolving any dispute between property owners.

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### ARTICLE III DEVELOPMENT REQUIREMENTS

#### 17.42.120 LOTS AND PARCELS SERVED BY PRIVATE ACCESS EASEMENTS

The following shall apply to all lots and parcels that are accessed by either a private street or private access easement:

- A. Lot and Parcel Size. The easement containing the private access easement shall be excluded from the lot or parcel size calculation.
- B. Setbacks. The line fronting along a private street or private access easement shall be considered a property line. Setbacks to the garage and home shall be measured from this easement line.
- C. Lot Depth and Width. Where required by the underlying zone, the lot width shall be measured along the easement boundary and the lot depth shall be measured from the easement boundary to the rear lot line.

**Commented [WW20]:** Audit suggested eliminating this requirement. Disagree – the lot sizes are reduced overall and excluding this travel surface that will significantly reduce the usable space.

#### 17.42.130 TRAFFIC IMPACT STUDY

The purpose of this subsection is to coordinate the review of land use applications with roadway authorities and to implement Section [OAR 660-012-00451.E](#) of the state Transportation Planning Rule, which requires The City to adopt a process to apply conditions to development proposals in order to minimize impacts and protect transportation facilities. The following provisions also establish when a proposal must be reviewed for potential traffic impacts; when a Traffic Impact Analysis must be submitted with a development application in order to determine whether conditions are needed to minimize impacts to and protect transportation facilities; the required contents of a Traffic Impact Analysis; and who is qualified to prepare the analysis.

- A. When a Traffic Impact Analysis is Required. The City or other road authority with jurisdiction may require a Traffic Impact Analysis (TIA) as part of an application for development, a change in use, or a change in access. A TIA shall be required where a change of use or a development involves one or more of the following:

1. A change in zoning or a plan amendment designation;
2. Operational or safety concerns documented in writing by a road authority;
3. An increase in site traffic volume generation by 300 Average Daily Trips (ADT) or more;
4. An increase in peak hour volume of a particular movement to and from a street or highway by 20 percent or more;

**Commented [AC21]:** This is not a SHMC chapter or an ORS, what is it referencing?

**Commented [WW22R21]:** Oregon Administrative Rule

**Commented [BL23]:** Wait, can you tell us what this is referencing?

**Commented [WW24R23]:** Oregon Administrative Rule



**ARTICLE III  
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5. An increase in the use of adjacent streets by vehicles exceeding the 20,000-pound gross vehicle weights by 10 vehicles or more per day;
  6. Existing or proposed approaches or access connections that do not meet minimum spacing or sight distance requirements or are located where vehicles entering or leaving the property are restricted, or such vehicles are likely to queue or hesitate at an approach or access connection, creating a safety hazard;
  7. A change in internal traffic patterns that may cause safety concerns; or
  8. A TIA required by ODOT pursuant to OAR 734-051.
- B. Traffic Impact Analysis Preparation. A professional engineer registered by the State of Oregon, in accordance with the requirements of the road authority, shall prepare the Traffic Impact Analysis.

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**17.44 OFF-STREET PARKING AND LOADING**

**17.44.010 PURPOSE**

The purpose of this Chapter is to provide adequate areas for the parking, maneuvering, loading and unloading of vehicles for all land uses in The City of Sweet Home.

**17.44.020 SCOPE**

- A. Application. Except as modified or restricted elsewhere within this Development Code, the provisions of this Chapter shall apply to the following types of development:
1. Any new building or structure erected after the effective date of this Development Code.
  2. The construction or provision of additional floor area, seating capacity, or other expansion of an existing building or structure.
- B. Change of Use Exception. A change in the use of an existing building or structure to another use permitted in the underlying zone **shall not** require additional parking spaces or off-street loading areas.

**17.44.030 LOCATION**

Off-street parking and loading areas shall be provided on the same lot with the main building or structure or use except that:

- A. Yards. Off-street parking areas may be located in a required yard setback for multi-family residential, commercial and industrial uses with an approved 10-foot landscaped buffer.
- B. Residential. In residential zones, automobile parking for dwellings and other uses permitted in a residential zone may be located on another lot if such lot is within 200 feet of the lot containing the main building, structure or use, and if guaranteed by access easement or other recorded agreement prior to development. In no case shall the parking requirements at the off-site location be reduced, unless otherwise approved as joint-use parking.

**Commented [AC25]:** PC: clarify. Lot owned by owner/ manager/ HOA?

**Commented [WW26R25]:** Ownership is not critical – really a matter of an agreement.

**Commented [BL27]:** Walt, the PC is concerned that this provision needs to specify how this parking would be guaranteed to continue. I've tried to add some language here, but would like your input. Thoughts?

**Commented [WW28R27]:** Concur - an agreement is needed and prior to development..

### ARTICLE III DEVELOPMENT REQUIREMENTS

- C. Parking. Driveways may be used for off-street parking for single-family and ~~two-family duplex~~ dwellings.
- D. Non-Residential. In non-residential zones, parking may be located off the site of the main building, structure or use if it is within 500 feet of such site. In no case shall the parking requirements at the off-site location be reduced, unless otherwise approved as joint-use parking.

Commented [WW29]: Per Audit

#### 17.44.040 JOINT USE

Parking area may be used for a loading area during those times when the parking area is not needed or used. Parking areas may be shared between uses where hours of operation or use are staggered such that peak demand periods do not occur simultaneously. The requirements of this Chapter may be reduced accordingly. Such joint use shall not be approved unless satisfactory evidence is presented which demonstrates the access and parking rights of all parties.

#### 17.44.050 GENERAL PROVISIONS OFF-STREET PARKING AND LOADING

- A. Parking Required. The provision and maintenance of off-street parking and loading space is a continuing obligation of the property owner. No building permit shall be issued until plans are presented that show property that is and will remain available for exclusive use as off-street parking and loading space. The subsequent use of property for which the building permit is issued shall be conditional upon the unqualified continuance and availability of the amount of parking and loading space required by this Development Code.
- B. Interpretation of Parking Requirements. Requirements for types of buildings and uses not specifically listed herein shall be determined by the City Planner based upon the requirements of comparable uses listed and expectations of parking and loading need.
- C. Multiple Use Facilities. In the event several uses occupy a single structure or parcel of land, the total requirements for off-street parking shall be the sum of the requirements of the uses computed separately, unless a reduction is approved for shared parking pursuant to Chapter 17.44.040.

### ARTICLE III DEVELOPMENT REQUIREMENTS

- D. Storage Prohibited. Required parking spaces shall be available for the parking of operable passenger automobiles of residents, customers, patrons, and employees only, and shall not be used for storage of vehicles or materials.

#### 17.44.060 OFF STREET AUTOMOBILE AND BICYCLE PARKING REQUIREMENTS

- A. Vehicle Parking Spaces. Provisions for off street vehicle and bicycle parking shall comply with the following minimum requirements:

##### VEHICLE AND BICYCLE PARKING SPACE REQUIREMENTS

	Land Use Activity	Vehicle Spaces	Bicycle Spaces	Measurement
A.	<del>1, 2, and 3 family dwellings</del> <del>Accessory Dwelling</del> <del>Single family and Duplex</del>	2 spaces per <del>single family</del> dwelling unit ; <del>two spaces total for a duplex</del> <del>1 space per Accessory Dwelling</del>	0	None
B.	Multi-family dwellings (4 or more units)	Studio – 1 space/unit 1-2 bedroom – 1.5 spaces/unit 3+ bedroom – 2 spaces/unit	0.25	Per dwelling unit
C.	Hotel, motel, boarding house	1 space per guest room plus 1 space for the owner or manager	1	Per 20 guest rooms
D.	Club, lodge	Spaces sufficient to meet the combined minimum requirements of the uses being conducted, such as hotel, restaurant, auditorium, etc.	2	Per 20 vehicle spaces
E.	Hospital, nursing home	1 space per two beds and 1 space per 2 employees	0.5	Per five beds
F.	Public assembly, churches, auditorium, stadium, theater	1 space per 4 seats or every 8 feet of bench length, or 60 sq. ft. of area w/o fixed seats	1	Per 20 vehicle spaces
G.	Preschool, kindergarten, elementary, junior high school	Greater of 2 spaces per classroom, or the requirement for a place of public assembly	2	Per classroom
H.	High school	Greater of 8 spaces per	1	Per classroom

Commented [WW30]: Per OAR

Commented [WW31]: Audit comment stated it may be difficult to determine number of bedrooms. Disagree – either building permit or site plan will reveal the number of bedrooms/unit.

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		classroom, or the requirement for a place of public assembly		
I.	Bowling alley, skating rink, community center	1 space per 100 sq. ft. plus 1 space per two employees	1	Per 20 vehicle spaces
J.	Retail store, except as provided in "K"	1 space per 500 sq. ft. plus 1 space per 2 employees	1	Per 20 vehicle spaces
K.	Service or repair shop, retail store handling exclusively bulky merchandise such as automobiles or furniture	1 space per 800 sq. feet of gross floor area, plus 1 space per 2 employees	1	Per 30 vehicle spaces
L.	Bank; office buildings; medical and dental clinic	1 space per 400 sq. ft. of gross floor area, plus 1 space per 2 employees	1	Per 20 vehicle spaces
M.	Eating and drinking establishment	Greater of 1 space per 4 seats, or, 1 space per 400 sq. ft. of gross floor area	1	Per 20 vehicle spaces
N.	Wholesale establishment	1 space per 1,000 sq. ft. of gross floor area, plus 1 space per 800 sq. ft. of retail area	1	Per 30 vehicle spaces
O.	Municipal and governmental	1 space per 800 square feet, plus 1 space per 2 employees	1	Per 20 vehicle spaces
P.	Manufacturing and processing:	One space per employee during the largest shift, <u>plus</u> ,		
	0-24,900 sq. ft.	1 space per 800 sq. ft.	1	Per 20 vehicle spaces
	25,000-49,999 sq. ft.	1 space per 900 sq. ft.	1	Per 20 vehicle spaces
	50,000-79,999 sq. ft.	1 space per 1000 sq. ft.	1	Per 20 vehicle spaces
	80,000-199,999 sq. ft.	1 space per 1,200 sq. ft.	1	Per 20 vehicle spaces
	200,000 sq. ft. and over	1 space per 2,000 sq. ft.	1	Per 20 vehicle spaces

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Q.	Warehousing and storage distribution, terminals	One space per employee during the largest shift, <u>plus</u> ,		
	0-49,999 sq. ft.	1 space per 3,000 sq. ft.	1	Per 30 vehicle spaces
	50,000 sq. ft and over	1 space per 5,000 sq. ft.	1	Per 30 vehicle spaces

B. Bicycle Spaces. Bicycle parking development requirements

1. Space Size. Each bicycle parking space shall be a minimum of six feet long and two feet wide and be accessible by a minimum five-foot aisle.
2. Location. All bicycle parking shall be within 100 feet from a building entrance(s) and located within a well-lit area. Any long-term bicycle parking spaces shall be sheltered from precipitation.

C. Maximum Vehicle Parking Spaces. The minimum spaces identified under item A. in this Section, shall not be increased by more than 30%.

**17.44.070 OFF-STREET LOADING REQUIREMENTS**

Commercial or industrial buildings between 10,000 to 25,000 square feet in area shall require a loading space. This initial loading space may incorporate the parking area. One additional space shall be required for each additional 25,000 square feet of gross floor area, or any portion thereof. The minimum loading space dimensions shall be 12 feet wide, 30 feet long, and 14 feet vertical clearance.

**17.44.080 PARKING AND LOADING AREA DEVELOPMENT REQUIREMENTS**

All parking and loading areas shall be developed and maintained as follows:

- A. Surfacing. All driveways, parking and loading areas shall have a durable hard surface of asphaltic cement or concrete. Surface improvements shall conform to the following:
  1. Paving Improvements. Paving shall comply with adopted Engineering Standards of The City of Sweet Home.
  2. Timing. Unless modified by a variance or a site development review, or, bonded per City requirements, all driveways and off-street parking and

### ARTICLE III DEVELOPMENT REQUIREMENTS

loading areas shall be improved prior to occupancy of the primary structure.

3. Surfacing Options for Industrial Zone – The City Engineer may allow the use of a graveled parking area in the industrial zones, provided surface drainage is addressed per Engineering Standards and at least 20-feet of each access driveway connecting with a public street is paved.

- B. Parking Spaces. Parking spaces shall be a minimum 9-feet wide and 20-feet in length. Up to 20% of the parking area may contain “compact spaces” with dimensions of 8.5-feet in width and 18-feet in length.

- C. Driveways. The following standards shall apply to all driveways:

1. Single Family Residence, and Duplex Dwellings and Tri-plex

Commented [WW32]: Recommendation per Audit

- a. If one driveway is installed, no driveway width shall be less than 12 feet nor exceed 24 feet as measured at the property line. For lots or parcels exceeding 100-feet in width, the driveway width shall not exceed 36-feet.
- b. If more than one driveway is installed, for property with 50 to 100 feet of frontage, the maximum width for each driveway is 20 feet and no more than two driveways may be permitted. For frontage in excess of 100 feet, each additional 100 feet or fraction thereof shall be considered as separate frontage.
- c. Driveways shall be limited to off-street parking, and, the parking and storage of recreational vehicles.

2. Multi-Family, Commercial, Industrial and Public Uses

- a. Without adjacent parking (minimums):

- (i) One-way: 12 feet
- (ii) Two-way: 24 feet

- b. With adjacent parking:

<u>Parking Angle</u>	<u>Driveway Width</u>
0 to 40	12 feet*
41 to 45	13 feet*
46 to 55	15 feet*
56 to 70	18 feet*
71 to 90	26 feet

\*One-way only driveways

- c. There shall be a minimum separation of 22 feet between all driveways.



### ARTICLE III DEVELOPMENT REQUIREMENTS

3. General Standards.

- a. *Distance from intersection.* All driveways shall be located the maximum distance which is practical from a street intersection and in no instance shall the distance from an intersection be closer than the following measured from the nearest curb return radius, which is the nearest beginning point of the arc of a curb:

Local street	20 feet
Collector street	30 feet
Arterial street	40 feet

Where streets of different functional classification intersect, the distance required shall be that of the higher classification.

- b. *Number of accesses permitted.* Access points to a public street shall be the minimum necessary to provide reasonable access while not inhibiting the safe circulation and street carrying capacity.
- c. *Double frontage properties.* Properties which have frontage on more than one street may be restricted to access on the streets of a lower classification through site plan review or other review procedures.
- d. *Joint access encouraged.* Common accessways at a property line shall be encouraged and, in some instances, may be required, in order to reduce the number of access points to street. Construction of common accessways shall be preceded by recording of joint access and maintenance easements.
- e. *Maximum slope.* Access and approach grades shall not exceed 10% slope except as otherwise approved by the City Engineer.
- f. *Access to state highways.* Access to designated state highways shall be subject to the provisions of this chapter in addition to requirements of the Highway Division, Oregon Department of Transportation. Where regulations of The City and state may conflict, the more restrictive requirement shall apply.

- D. Screening. When any public parking or loading area is within or adjacent to a residential zone, such parking or loading area shall be screened from all residential properties with an ornamental fence, wall or hedge of at least 4 feet in height. The screening shall otherwise comply with applicable height limitations and clear vision requirements.

### ARTICLE III DEVELOPMENT REQUIREMENTS

- E. Lighting. Any light used to illuminate a parking or loading area shall be arranged to be directed entirely onto the loading or parking area, shall be deflected away from any residential use and shall not cast a glare or reflection onto moving vehicles on public rights-of-way.
- F. Driveway Required. Groups of more than four parking spaces shall be so located and served by a driveway that their use will require no backing movements or maneuvering within a street right-of-way.
- G. Traffic Safety. Service drives to off-street parking areas shall be designed and constructed to facilitate the flow of traffic, provide maximum safety of traffic access and egress and the maximum safety of pedestrians and vehicular traffic on the site.
- H. Curbing. Parking spaces along the outer boundaries of a parking area shall be contained by a curb or a bumper rail at least 4" high, located a minimum of 3 feet from the property line, to prevent a motor vehicle from extending over an adjacent property or a street.

## ARTICLE III DEVELOPMENT REQUIREMENTS

### 17.46 STORM DRAINAGE AND GRADING

#### 17.46.010 PURPOSE

To provide for the drainage of surface water from all residential, commercial and industrial development; to minimize erosion; to reduce degradation of water quality due to sediments and pollutants in storm water runoff.

#### 17.46.020 SCOPE

The provisions of this Chapter shall apply to all partitions, subdivisions, multi-family developments, commercial developments and industrial development; and to the reconstruction or expansion of such developments.

#### 17.46.030 PLAN FOR STORM DRAINAGE AND EROSION CONTROL

No construction of any facilities in a development included in Chapter ~~3.404~~ 17.90 shall be permitted until a storm drainage and erosion control plan, designed in accordance with The City's Engineering Standards, for the project is prepared by an engineer registered in the State of Oregon and is approved by The City. This plan shall contain at a minimum:

- A. The methods to be used to minimize the amount of runoff, siltation, and pollution created from the development both during and after construction.
- B. Plans for the construction of storm sewers, open drainage channels and other facilities which depict line sizes, profiles, construction specifications and other such information as is necessary for The City to review the adequacy of the storm drainage plans.
- C. Calculations used by the engineer in sizing storm drainage facilities.

#### 17.46.040 GENERAL STANDARDS

- A. Design Standards. All development shall be planned, designed, constructed and maintained to:
  1. Protect and preserve existing natural drainage channels to the maximum practicable extent;

**Commented [AC33]:** Not a SHMC Chapter or an ORS. What is it referencing?

**Commented [WW34R33]:** See change.

**Commented [BL35]:** Walt, can you shed light on which section this should be referencing?

**Commented [WW36R35]:** See change

### ARTICLE III DEVELOPMENT REQUIREMENTS

2. Protect development from flood hazards;
3. Provide a system by which water within the development will be controlled without causing damage or harm to the natural environment, or to property or persons within the drainage basin;
4. Assure that waters drained from the development are substantially free of pollutants, through such construction and drainage techniques as sedimentation ponds, reseeding, phasing or grading;
5. Assure that waters are drained from the development in such a manner that will not cause erosion to any greater extent than would occur in the absence of development;
6. Avoid placement of surface detention or retention facilities in road rights-of-way.

**Commented [BL37]:** Wait, this previously said "phasing of grading," which doesn't make sense. Should it be "or"?

**Commented [WW38R37]:** Corrected.

- B. Public Easements. In the event a development or any part thereof is traversed by any water course, channel, stream or creek, gulch or other natural drainage channel, adequate easements for storm drainage purposes shall be provided to The City. This shall not imply maintenance by The City.
- C. Obstruction of Channel. Channel obstructions are not allowed except as approved for the creation of detention or retention facilities approved under the provisions of this Development Code and in compliance with City Engineering Standards.
- D. City Inspection. Prior to acceptance of a stormwater system by The City, it shall be flushed and inspected by The City. All costs shall be borne by the developer.

#### 17.46.050 GRADING

- A. Grading Permits are required for the following activities and shall be subject to City of Sweet Home Public Works Standards.
1. Grading in excess of 50 cubic yards;
  2. Grading potentially impacting, Riparian Areas, Drainage ways, Flood Hazard Areas or Greenways;
  3. Grading that could possibly impact adjacent properties;
  4. Grading proposed over public storm drains, sanitary sewers or water lines;
  5. Grading requiring tree removal;
  6. Other areas with potential impacts as determined by The City as part of a land use review;

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- 7. Land partitions and subdivisions.
- B. If the approved grading activity is associated with a building permit, a final grading inspection shall be required prior to issuance of certificate of occupancy.

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**17.48 UTILITY LINES AND FACILITIES**

**17.48.010 PURPOSE**

To provide adequate services and facilities appropriate to the scale and type of development.

**17.48.020 STANDARDS**

- A. Design and Location. The location, design, installation and maintenance of all utility lines and facilities shall be carried out with minimum feasible disturbances of soil and site.
- B. Private Utilities. All development which has a need for electricity, gas and communications services shall install them pursuant to the requirements of the district or company serving the development. Except where otherwise prohibited by the utility district or company, all such facilities shall be underground.
- C. Water Service Required. All development which has a need for public water shall install the facilities pursuant to the requirements of The City. Installation of such facilities shall be coordinated with the extension of necessary sanitary sewer services and storm drainage facilities.
- D. Sanitary Sewer Required. All development which has a need for public sanitary sewers shall install the facilities pursuant to the requirements of The City. Installation of such facilities shall be coordinated with the extension of necessary water services and storm drainage facilities.
- E. Street Lights. When required, the installation of street lights shall be pursuant to the requirements of The City Engineering Standards and the requirements of the utility company serving the development.
- F. Easements, General. Easements shall be provided along property lines as deemed necessary by The City, special districts, and utility companies. Easements for special purpose uses shall be of a width deemed appropriate by the responsible agency. Such easements shall be designated on the final plat of all subdivisions and partitions.

**17.48.030 PUBLIC FACILITY IMPROVEMENTS**

*Sweet Home Development Code – 2024~~2~~ - April Planning Commission Draft*

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### **ARTICLE III DEVELOPMENT REQUIREMENTS**

All public facility improvements shall be designed and constructed in compliance with adopted City of Sweet Home Engineering Standards. The Director of Public Works (or designee) shall determine compliance with these standards. These standards are considered requirements and may not be altered pursuant to provisions in this Development Code.

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**17.50 SIGNS**

**17.50.010 PURPOSE.**

- A. The purpose of this chapter is to provide reasonable and necessary regulations for the design, construction, placement and maintenance of signs to protect the public health, safety and general welfare of the community. The regulations allow a variety of sign types and sizes. The sign standards are intended to allow for signs with adequate visibility to adjacent streets, but not necessarily to streets farther away.
- B. The regulations for signs have the following specific objectives:
1. To ensure that signs are designed, constructed, installed and maintained to ensure public and traffic safety and enhance the appearance of The City;
  2. To reflect and support the desired character and development patterns of the community;
  3. To provide for adequate and effective signs without dominating the visual landscape;
  4. To balance the needs of business with the desire to preserve and enhance the visual character of The City;
  5. To allow clear visibility of traffic signs and signal devices, pedestrians, driveways, intersections and other necessary clear vision areas.

**17.50.020 DEFINITIONS.**

**ABANDONED SIGN.** A sign structure with a display surface associated with a use of a property that has ceased for a period of at least six months.

**ALTERED.** The modification of the size, shape, or height of a sign, including the replacement of the display surface materials with other comparable materials and the sign structure. This does not include normal maintenance and repair of an existing sign.

**AWNING.** A permanent roofed structure which may be free-standing or partially attached to a building for the purpose of providing shelter.

**CLEARANCE.** The distance measured from the highest point of the grade below the sign to the lowest point of the sign.

### ARTICLE III DEVELOPMENT REQUIREMENTS

**CURB LINE.** The face of the curb that delineates the roadway line from block to block, excluding pedestrian and parking bulb outs.

**DISPLAY SURFACE.** The area made available by the sign structure for the purpose of displaying the message.

**ERECT.** To build, construct, attach, place, suspend or affix, including the painting of wall signs.

**HEIGHT.** The distance measured from the highest point of the natural grade below the sign to the highest attached component of the sign.

**ILLUMINATED.** A sign that contains or consists of lights or a light source including the following:

**EXPOSED ILLUMINATION.** A light source that is seen such as neon, fiber optics, LED, bare bulbs, or similar light sources.

**EXTERNAL ILLUMINATION.** An external light source directed to illuminate the exterior surface of the sign.

**INTERNAL ILLUMINATION.** A source of illumination from within a sign.

**MARQUEE.** A permanent roofed structure attached to and supported by the building and projecting over public property.

**MURAL.** Artwork on the inventory of and under the ownership of the Sweet Home Active Revitalization Effort (SHARE) - Mural Committee, a part of the Sweet Home Economic Development Group (SHEDG).

**NATURAL GRADE.** The elevation of the original or undisturbed natural surface of the ground.

**NONCONFORMING SIGN.** A sign lawfully existing at the time this chapter becomes effective which does not conform to the requirements of this chapter.

**PERMANENT.** Any sign intended to be used for a period greater than 60 days.

### ARTICLE III DEVELOPMENT REQUIREMENTS

**SIGN.** Any object or device or part thereof that is used to advertise or identify an object, person, institution, organization, business, product, service, event or location by means including words, pictures, graphics, logos, symbols, colors, motion, illumination or projected images.

**SIGN STRUCTURE.** Any structure which supports a sign.

**WORK OF ART.** A work made and/or valued primarily for an artistic rather than practical function.

#### 17.50.030 GENERAL STANDARDS.

- A. It is unlawful for any person to erect, repair, alter, relocate or maintain within The City, any sign except as provided in this chapter.
- B. Signs shall not be attached to an approved sign without permits to ensure compliance with this chapter.
- C. Signs, along with their supports, braces, guys, anchors and electrical equipment, shall be kept fully operable, in good repair and maintained in a safe condition.
- D. The display surfaces of signs shall be kept clean and legible.
- E. Signs which do not conform to this chapter but which existed and were maintained as of the effective date of the ordinance codified in this chapter shall be considered nonconforming signs.
- F. Any nonconforming sign that is altered or relocated shall immediately comply with all provisions of this chapter.
- G. Sign area includes the area within a perimeter enclosing the limits of words, pictures, graphics, logos, symbols, colors, motion, illumination or projected images used to advertise or identify an object. The area of a sign with no such perimeter or the area of a sign with irregular shape shall be computed by enclosing the surface area within a known geometric size or shape. The measurable area shall not include the essential sign structure, foundations, supports, pole covers, or decorative roofing provided there is no advertising copy, symbols or logos present.

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**17.50.040 DESIGN AND CONSTRUCTION**

Signs shall be designed and constructed to comply with the provisions of this chapter and of building codes, as adopted in Title 15 for the use of materials, loads and stresses. Illuminated signs may require an electrical permit that must be obtained from the appropriate governmental agency, currently the Linn County Building Department.

- A. All signs are subject to Sweet Home Building Inspection Program permit or a zoning permit, unless specifically exempted by this chapter.
- B. Where a permit is required, construction documents shall include a site plan and show the dimensions, material and required details of construction, including loads, stresses and anchors.
- C. Signs shall be designed and constructed for wind and seismic load and working stresses to meet building codes.
- D. LED signs shall have photocell(s) that dim to 50% levels during the night hours.
- E. Guy wires are permitted for support of a sign only in instances in which no other means of safe support exists.
- F. Trusses and frames which support signs, excepting sandwich board signs, will be enclosed with the supporting structures constructed as a part of the continuation of the sign.

**17.50.050 TYPES OF SIGNS**

- A. Awning Sign. Any sign that is displayed on or is a part of a fabric, metal or other structural awning material supported entirely from the exterior wall of a building.
- B. Directional Sign. An on-premise sign designed to be read by a person already on the premises and used only to identify and locate an office, entrance, exit, telephone or similar place, service or route.
- C. Double Faced Sign. When two display surfaces supported by the same sign structure are placed back-to-back, or the distance between each sign face does not exceed two feet at any point, the display surfaces shall be regarded as a

### ARTICLE III DEVELOPMENT REQUIREMENTS

single sign.

- D. Flexible Sign. A windsock, flag, pennant, streamer, banner or similar sign or structure that identifies the building or the business and/or attracts attention to the business and is constructed of cloth, canvas or similar material.
- E. Group Sign. A sign identifying a group of businesses located on the same property, such as a shopping center shall be considered independent of the permitted sign area for the individual businesses.
- F. Household Sign. A sign placed at a ~~single-family~~ residence identifying the occupants.
- G. Marquee Sign. A sign placed under a marquee or awning.
- H. Projecting Sign. A sign that projects from and is supported by a wall of a building or structure and perpendicular or nearly perpendicular to the structure or wall.
- I. Reader Board. A sign designed so that the message may be changed by removal or addition of specially designed letters that attach to the display surface of the sign.
- J. Sandwich Board Sign. A temporary sign of A-frame construction, usually two sided, designed for placement on the sidewalk in front of a place of business.
- K. Temporary Sign. Any sign, regardless of construction material, which is not permanently mounted.
- L. Wall Sign. A display surface attached flat onto a building or structure.
- M. Window Sign. A sign placed in or on a window or glass door in a building.

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#### 17.50.060 EXEMPTIONS

- A. The following are not included as signs:
  - 1. Flags of nations, states, and cities;
  - 2. Window displays that are not signs;
  - 3. Works of art.



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- B. Signs exempt from the Building Inspection Program permits include the following:
1. Signs painted directly on a structure. The Planning Office will issue a sign permit for these signs;
  2. Signs erected by a transportation authority;
  3. Signs that are replaced or are upgraded with no change to the frame or anchorage.

**17.50.070 MARQUEE SIGNS**

No part of a sign located under a marquee or awning shall project more than 12 inches below the marquee or awning and shall be at least eight feet above grade.

**17.50.080 TEMPORARY SIGNS**

- A. Temporary signs in a residential zone must be removed within 60 days of being placed on a property.
- B. Temporary signs may not be located on private property without consent of the property owner or their agent.

**17.50.090 PROHIBITED SIGNS**

No sign shall be constructed, erected or maintained that:

- A. Intends to be, is an imitation of, or resembles an official traffic sign or signal;
- B. By reason of its size, location, movement, content, coloring or manner of illumination:
1. May be interpreted as a traffic control device;
  2. Blocks from view any traffic signal or street sign; or
  3. May pose a hazard to pedestrians or vehicular traffic.
- C. Is affixed to a utility pole;
- D. Is affixed to a mural;

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- E. Is attached to or painted on vehicles visible from the right-of-way unless the vehicle is used for transport in the normal day-to-day operations of a business;
- F. Projects any sound that may create a safety hazard;
- G. Shines directly into any adjacent residential quarters or onto vehicle drivers;
- H. Obstructs any fire escape, window, door or opening used as a means of egress;
- I. Prevents free passage from one part of a roof to any other part of the roof or any opening required for ventilation;
- J. Substantially obstructs the view of a sign on adjoining property when viewed from a distance of 200 feet at any point four feet above the grade of the traffic lane closest to the street property line.

**17.50.100 SIGNS IN RESIDENTIAL ZONES**

In an R-I, R-2 and R-3 zones, the following signs shall be allowed:

- A. A household sign not exceeding six inches by 18 inches in size [per dwelling unit](#), is not illuminated and is located entirely within the property lines of the lot;
- B. The maximum square footage of signs in a residential zone shall not exceed 60 square feet;
- C. Neighborhood organizations may place signs on private property with owner approval, provided that the sign does not exceed 18 inches by 24 inches in size, and is not illuminated;
- D. Commercial and professional uses and residential care facilities allowed in a residential zone may have one of the following principal signs:
  - 1. One monument or ground-mounted sign with up to 32 square feet of sign area and a maximum of five feet in height, or
  - 2. Signs attached to the structure not to exceed a maximum combined sign area of 12 square feet for each principal use in the building;

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- E. Multi-family dwellings and subdivisions may have two monument or ground-

**ARTICLE III  
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mounted signs up to a total of 32 square feet of sign area and a maximum of five feet in height located at the principal entrances to the multi-family dwelling or subdivision;

- F. A temporary sign shall not exceed six square feet in area;
- G. A directional sign shall not exceed two square feet in area.

**17.50.110 SIGNS IN COMMERCIAL AND INDUSTRIAL ZONES**

- A. The total square footage of signs for each property may not exceed an area equal to one square foot for each linear foot of public frontage of the property. Regardless of frontage, all properties are allocated at least 50 square feet of signage.
- B. In addition to square footage authorized for each property based on public frontage, an additional square footage for each business, as identified by a current certificate of occupancy, located on that property, is authorized as follows:
  - 1. If a business is located less than 50 feet from a public right-of-way, that business is allocated an additional 16 square feet of sign area, regardless of frontage.
  - 2. If a business is located more than 50 feet but less than 100 feet from a public right-of-way, that business is allocated an additional 32 square feet of sign area, regardless of frontage.
  - 3. If a business is located more than 100 feet but less than 200 feet from a public right-of-way, that business is allocated an additional 100 square feet of sign area, regardless of frontage.
  - 4. If a business is located more than 200 feet from a public right-of-way, that business is allocated an additional 200 square feet of sign area, regardless of frontage.
- C. A group sign, excluded from any square footage authorized, may not exceed an area equal to one square foot for each foot of public frontage of the property or 200 square feet, whichever is the least.
- D. Temporary and flexible signage is not included in the allocated square footage on a property in these zones.

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- E. Signs in these zones may be illuminated.
- F. Signs in the Central Commercial (C-1) zone must conform to the following standards:
  - 1. Every sign must maintain a minimum horizontal distance between the sign and the curb line of not less than two feet;
  - 2. A sign projecting more than two-thirds of the distance from the property line to the curb line shall have a minimum clearance of at least 12 feet;
  - 3. A sign projecting less than two-thirds of the distance from the property line to the curb line shall have a minimum clearance of at least eight feet.
- G. Signs in the Highway Commercial (C-2) and Recreational Commercial (RC) and Industrial(M) zones must conform with the following standards:
  - 1. No sign shall be located so it will extend beyond the property lines;
  - 2. Signs shall meet one of the following standards:
    - a. The display surface of the sign must have a minimum clearance of 12 feet if located within five feet of the property line;
    - b. If a display surface has a clearance of less than 12 feet, all parts of the sign shall be located a minimum of five feet behind the property line.
- H. Signs in the Neighborhood Commercial (C-3) zone must conform with the following standards:
  - 1. No more than one sign, not to exceed 25 square feet in area.
  - 2. The sign shall be placed flat against the building.

**17.50.120 SIGNS ON PUBLIC PROPERTY**

- A. The City or another public agency sign shall be allowed to be erected, installed, replaced, or maintained in or on any public property, including streets.
- B. Temporary signs may not be located in public rights-of-ways, except as allowed by this section:
  - 1. Flexible signs in existing pole hole locations in sidewalks, or as approved

### ARTICLE III DEVELOPMENT REQUIREMENTS

in the future by the appropriate jurisdiction, as long as the display surface does not exceed 12 inches in width, three feet in length, and is not located in an area that will block the view of vehicular or pedestrian traffic;

2. In the Central Commercial zone, sandwich board signs may be placed on the sidewalk as long as they do not exceed six square feet in size, three feet in height, and are not located in an area that will block the view of vehicular or pedestrian traffic. Placement of a sandwich board must maintain a clear pedestrian passage area of at least four feet for Americans with Disabilities Act passage clearance. Placement should take into consideration curb parking and the ability to open car doors.
- C. Banners for special events may be placed over rights-of-ways at locations with permanent attachments with approval of the jurisdictions having authority of the right-of-way and the structure where the banner will be attached.

#### 17.50.130 SPECIAL SIGNS

Signs that either do not lend themselves to the ordinary processes of measurement because they are integrated into the design of the building structure or signs designed for a special purpose that makes strict application to this chapter difficult may be permitted as a conditional use when the Planning Commission finds such signs conform with the intent of this chapter and are appropriate to the type of development or structure to which they are related.

#### 17.50.140 ENFORCEMENT

- A. All required permits must be obtained prior to placement of the sign.
- B. Signs that do not comply with this chapter or that are abandoned are declared a nuisance and The City may cause the removal of the sign.
- C. The City may use Chapter 8.04.020 for the abatement procedures for this Chapter.
- D. If the owner of the sign, or the owner of the premises upon which the sign was located, does not pay the costs of removal, The City may dispose of the sign.

#### 17.50.150 INTERPRETATION

### ARTICLE III DEVELOPMENT REQUIREMENTS

Where the conditions imposed by any provision of this chapter are less restrictive than comparable conditions imposed by any other applicable codes, the provisions which are more restrictive shall govern.

#### 17.50.160 VARIANCES - SIGNS

Any allowance for signs not complying with the standards set forth in these regulations shall be by variance. Variances to Chapter 17.50 shall be processed according to the variance procedures in Chapter 17.106; however, the variance request shall be subject to the following criteria:

- A. There are unique circumstances of conditions of the lot, building or traffic pattern such that the existing sign regulations create an undue hardship;
- B. The requested variance is consistent with the purpose of the Section as stated in Chapter 17.50.010; and
- C. The granting of the variance compensates for those circumstances in a manner equitable with other property owners and is thus not a special privilege to the business. The variance requested shall be the minimum necessary to compensate for those conditions and achieve the purpose of this Chapter.
- D. The granting of the variance shall not decrease traffic safety nor detrimentally affect any other identified items of public welfare.
- E. The variance will not result in a special advertising advantage in relation to neighboring businesses or businesses of a similar nature. The desire to match standard sign sizes (for example, franchise store signs) shall not be listed or considered as a reason for a variance.
- F. The variance request shall not be the result of a self-imposed condition or hardship.

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**17.52 FENCING AND SCREENING**

**17.52.010 PURPOSE**

Fences can create a sense of privacy, protect children and pets, provide separation from busy streets, and enhance the appearance of property. The negative effects of fences can include the creation of street walls that inhibit police and community surveillance, decrease the sense of community, hinder emergency access, lessen solar access, hinder the safe movement of pedestrians and vehicles, and create an unattractive appearance. These standards are intended to promote the positive aspects of fences and to limit the negative ones.

For purposes of this Chapter, "front yard" means a yard extending across the full width of a lot or parcel of land and extending from the front lot line to the entire actual front building line or shall be the same as the respective front setbacks required by the underlying zone, whichever is less. The following standards shall apply to all fences, hedges, and walls.

**17.52.020 GENERAL STANDARDS**

Construction of fences and walls shall conform to all of the following requirements:

- A. Permits Required. No person shall construct or reconstruct any fence or wall without first obtaining a permit.
- B. Clear Vision Areas. All fences, hedges, and walls adjacent to a roadway intersection shall comply with clear vision requirements.
- C. Land Use Approval. The Planning Commission may require installation of walls and/or fences as a condition of development in a land use approval. When so conditioned by a land use action, no further land use review is required for the fence or wall.
- D. Measuring Fence Height. Fence height shall be measured from the average height of the grade adjacent to where the fence is to be located. If a fence is to be constructed on top of a berm, the height shall be measured from the bottom of the berm. Where the natural grade changes (i.e., hillside or swale) the fence, hedge, and wall height shall change with the grade.



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- E. Temporary Fences. A temporary fence may be constructed with wire, rolled plastic, wood or other suitable material as determined by the City Manager or designee. The City Manager or designee shall establish the time duration for a temporary fence not to exceed 12 months. All temporary fences, prior to installation, must first have the approval of the City Manager or designee.
- F. Hedges. Hedges located within five feet of a property line abutting a street shall not exceed a maximum height of three and one-half feet.
- G. Gates. Gates shall not open or swing into public right-of-way.

**17.52.030 MATERIALS**

Fences and walls shall comply with the materials standards set forth in this subsection.

- A. Fences. Fences shall be constructed of materials specifically designed and manufactured for fencing purposes, including, but not limited to, wood, wrought iron, vinyl, aluminum, and chain link (with a top rail support). Materials not specifically designed as fencing material, include, but are not limited to, corrugated cardboard, corrugated metal, plywood, wooden pallets, concrete rubble, and junked material, are prohibited.
- B. Walls. Walls shall be constructed of materials specifically designed and manufactured for use as walls, including, but not limited to, masonry, rock, concrete, concrete block, or other similar materials.
- C. Hazardous Materials. Fences and walls shall not be constructed of or contain any material that will do bodily harm, such as electric or barbed wire, broken glass, spikes, or any other hazardous or dangerous materials, except as follows:
  - 1. Barbed wire is permitted on top of a six-foot tall fence in the industrial (M) zone. The total height of the fence and barbed wire is limited to seven feet. Barbed-wire-only fences are prohibited except as allowed in subsection "a." below:
    - a. Livestock Containment. Where cattle, sheep, horses or other livestock are permitted or existed when the property was annexed to The City, barbed wire is permitted when used to contain or restrict livestock provided that the fences are posted at 15-foot

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- intervals with clearly visible warnings of the hazard.
2. Above ground electrically charged fences are only permitted when used to pasture or control livestock, for farming or other similar agricultural uses in zones where such uses are permitted and when the following standards can be met:
    - a. On boundary fences, the electrically charged wires shall be located on the inside face of the fence posts;
    - b. The electrically charged fence shall not exceed four feet in height;
    - c. The electrically charged fence shall be a pulsed charge system, and not a continuous charge system; and
    - d. Warning signs stating, "Warning, Electric Fence" shall be posted at intervals not less than 15 feet.

**17.52.040 LOCATION AND HEIGHT - RESIDENTIAL ZONES**

*Residential Zoning Districts (R-1, R-2, R-3, MU).* The maximum height of a fence and wall within residential zoning districts shall be as follows:

**A. Fences and Walls**

1. Front Yard Abutting Street. Fences and walls within a front yard abutting a street shall not exceed a maximum height of three and one-half feet when constructed with solid materials (i.e. wood fence) or four feet when constructed with open material (i.e. chain-link fence).
2. Side and Rear Yards Abutting Street.
  - a. Fences and walls located less than three feet from a street property line shall not exceed a maximum height of three and one-half feet when constructed with solid materials (i.e. wood fence) or four feet when constructed with open material (i.e. chain-link fence).
  - b. Fence and walls located more than three feet from the street property line shall not exceed a maximum height of seven feet.
3. Interior Side and Rear Yards. Fences and walls located at a property line not abutting a street shall not exceed a maximum height of seven feet.
4. Through lots. Fences and walls shall be constructed in accordance with the front setbacks required by underlying zone on both streets.
5. Flag lots. On flag lots, the maximum height of a front yard fence or wall shall not exceed seven feet, provided the front yard of the flag lot is abutting interior side or rear yards on all sides.
  - a. Fences and walls located in the portion of the pole that abut a front

### ARTICLE III DEVELOPMENT REQUIREMENTS

or corner side yard (i.e. from the street property line to the front building line of the adjacent property, or respective front setbacks required by underlying zone, whichever is less) shall not exceed a maximum height of three and one half feet when constructed with solid materials (i.e. wood fence) or four feet when constructed with open material (i.e. chain-link fence).

#### 17.52.050 LOCATION AND HEIGHT – NON-RESIDENTIAL ZONES

The maximum height of fences and walls within the commercial and industrial zones, shall be as follows.

- A. *Yards Abutting Street*
  - 1. Fences and walls located less than five feet from a street property line shall not exceed a maximum height of three and one-half feet when constructed with solid materials (i.e. wood fence) or four feet when constructed with open material (i.e. chain-link fence).
  - 2. Fences and walls located more than five feet from the street property line shall not exceed a maximum height of seven feet.
- B. *Interior Side and Rear Yards.* Fences and walls located at a property line not abutting a street shall not exceed a maximum height of seven feet.
- C. *Barbed Wire.* Concertina Barbed Wire may be used at in t The City Limits.

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Commented [BL42]: Walt, the PC questioned this provision, as Concertina wire and barbed wire are not the same thing. Concertina seems more military or prison oriented than barbed wire. Thoughts?

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#### 17.52.060 PLACEMENT OF FENCING ON PUBLIC RIGHTS-OF-WAY OR EASEMENTS

Fences may be constructed on public rights-of-way and/or easements subject to certain restrictions. Construction of fences on public rights-of-way or easements requires permission from the appropriate public agency. The City allows placement of fences on public rights-of-way and certain easements, provided that action does not impair The City's ability to address its public functions and the permit holder agrees to remove the fence upon request.

#### 17.52.070 PATHWAY FENCING

- A. When residential construction includes a pathway or walkway intended to be constructed adjacent to these pedestrian type features, the Applicant shall install along the full length of the property frontage intersecting or encountering these features, a fence composed of metal, rock or vinyl material with the supporting wood treated posts placed on an adequate concrete footing. Pathway or walkway

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type fencing shall be installed in such a fashion as to provide better visibility from adjacent homes or buildings and to assure public safety and avoid a tunneling effect associated with tall fences bordering narrow pathways.

- B. See-through pathway fencing shall not exceed five feet in height and solid fencing shall not exceed four feet in height the length of the property frontage intersecting or encountering the pathway, walkway or greenbelt.

#### 17.52.080 FENCES REQUIRED FOR SIGHT-OBSCURING PURPOSES

- A. Sight obscuring fences shall be constructed of an aluminum mesh fencing with slats or other solid non-vision-type fencing of such design and material that will retain its attractiveness with nominal maintenance.
- B. The following uses are declared to require sight obscuring fences: junkyards, wrecking yards, equipment or vehicle salvage storage yards, auction blocks, lumberyards, sanitary landfills, recycling collection stations and other uses determined to be similar in nature to the aforementioned as determined by the community and economic development director or designee.

#### 17.52.090 FENCE ADVERTISING OR SIGNAGE

- A. Except as noted in item "B.", no signage may be installed on fencing except for advisory purposes (such as "no trespassing") consistent with the sign code provisions in this Development Code. No such sign shall exceed two square feet and no such sign shall be located closer than 20 feet from any other sign posted on the same fence.
- B. Signs may be placed on the interior side of fences delineating athletic fields, such as the outfield fence at a baseball park.

#### 17.52.100 SWIMMING POOL FENCING

All swimming pools shall be enclosed by a locking fence of at least six (6) feet in height. An existing structure or structures may be incorporated into the fence design.

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**17.54 LANDSCAPING**

**17.54.010 PURPOSE**

- A. Landscaping Guidelines. To guide the planting and maintenance of landscaping materials.
- B. Appearance. To enhance the appearance of The City, provide areas for outdoor recreation and to:
  - 1. Provide shade and windbreaks where appropriate to conserve energy in building and site design;
  - 2. Buffer and screen conflicting land uses;
  - 3. Provide for the landscaping of parking areas to facilitate vehicular movement and break up large areas of impervious surface.
  - 4. Promote public safety through appropriate design principles.
- C. Erosion Control. To prevent or reduce erosion potential on steep terrain by providing appropriate landscape materials.

**17.54.020 SCOPE**

- A. Landscaping Required. All construction, expansion, or redevelopment of structures or parking lots for commercial, multi-family, or industrial uses shall be subject to the landscaping requirements of this Section. No building permit shall be issued for new construction or for additions to existing buildings without compliance with this Section.
- B. Plan Submittal. With the exception of land divisions, landscaping plans shall be submitted for all Type II and Type III land use applications.

**17.54.030 MINIMUM AREA REQUIREMENTS**

Landscaped areas may include landscaping around buildings; in open spaces and outdoor recreation areas; in islands and perimeter planting areas in parking and loading areas; and in areas devoted to buffering and screening as required in this Section and elsewhere in this Code. The following area requirements shall be the minimum areas devoted to landscaping:

### ARTICLE III DEVELOPMENT REQUIREMENTS

- A. Multi-Family Developments. A minimum of 25% of the gross land area shall be devoted to landscaping in multi-family developments. Interior courtyards, atriums, solar greenhouses and roof gardens may be included with general landscaped areas in the calculation of this percentage.
- B. Mixed Used Developments. A minimum of 15% of the gross land area shall be devoted to landscaping in mixed use combining commercial and residential development. Otherwise, single uses in the MUE zone are subject to the landscaping requirements for that type of use.
- C. Commercial Developments. Except for land in the C-1 zone, a minimum of 10% of the gross land area shall be devoted to landscaping in commercial developments.
- D. Industrial Developments. A minimum of 10% of the gross land area shall be devoted to landscaping in industrial developments.
- E. Expansions. For expansions of existing developments and parking lots, the minimum new landscaped area shall be determined by: first calculating the percentage of the increase of total floor area or parking area; multiplying the gross site area by this percentage of increase; multiplying the resulting area by the minimum percentage for the type of development, as noted above.

#### 17.54.040 GENERAL PROVISIONS

- A. Landscaped Area. For purposes of satisfying the minimum requirements of this Code, a "landscaped area" must be planted in lawn, ground cover plants, shrubs, annuals, perennials or trees, or desirable native vegetation, or be used for other landscape elements as defined in this Code.
- B. Submittal Requirements. A submitted landscaping plan shall include the following:
  - 1. Type, variety, scale and number of plants used;
  - 2. Placement and spacing of plants;
  - 3. Size and location of landscaped areas;
  - 4. Contouring, shaping and preparation of landscaped areas;
  - 5. Use and placement of non-plant elements within the landscaping.
  - 6. Method of irrigation.



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7. Significant Trees.
- a. The existing significant trees identified by their common names, along with the size of such significant trees. Existing significant trees shall include any trees which were removed within the one-year period prior to the date the application was first submitted.
  - b. Which significant trees are proposed to be removed or have been removed within the past year.
  - c. Which significant trees are to be left standing and what steps will be taken to protect and preserve those trees.
  - d. Location, size and type of replacement trees proposed to be added, if any.
  - e. As used herein, "significant trees" are trees having a height of more than fifty (50) feet and/or having a trunk whose diameter is more than twelve (12) inches at ground level.
  - f. The above provisions include and apply to all significant trees located on the subject property or on any adjacent public right-of-way
- C. Existing Vegetation. The landscape design shall incorporate existing significant trees and vegetation preserved on the site.

**17.54.050 PLANTING AND MAINTENANCE**

- A. Planting Height. No sight-obscuring plantings exceeding 30 inches in height shall be located within any required vision clearance area.
- B. Plant Materials. Plant materials shall not cause a hazard. Landscape plant materials over walks, pedestrian paths and seating areas shall be pruned to a minimum height of eight feet. Landscape plant materials over vehicular traffic areas shall be pruned to a minimum height of 15 feet.
- C. Utility Interference. Landscape plant materials shall be selected which do not generally interfere with utilities above or below ground.
- D. Installation. Landscape plant materials shall be properly guyed and staked to current industry standards as necessary. Stakes and guy wires shall not interfere with vehicular or pedestrian traffic.

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- E. Suitability. Plant materials shall be suited to the conditions under which they will be growing. As an example, plants to be grown in exposed, windy areas that will not be irrigated should be sufficiently hardy to thrive under these conditions. Plants should have vigorous root systems, and be sound, healthy, free from defects, diseases, and infections.
- F. Deciduous Trees. Deciduous trees should be fully branched, have a minimum caliper of 1 1/4 inches, and a minimum height of 8-feet at the time of planting.
- G. Evergreen Trees. Evergreen trees shall be a minimum of 6 feet in height, fully branched at time of planting.
- H. Shrubbery. Shrubs shall be supplied in a minimum 1-gallon containers or 8-inch burlap balls with a minimum spread of 12 to 15 inches.
- I. Ground Cover. Ground cover plants shall be spaced in accordance with current nursery industry standards to achieve covering of the planting area. Rows of plants are to be staggered for a more effective covering. Ground cover shall be supplied in a minimum 4-inch size container or a 2 1/4-inch container or equivalent if planted 18 inches on center.
- J. Irrigation. All developments are required to provide appropriate methods of irrigation for the landscaping. Sites with over 1,000 square feet of landscaped area shall be irrigated with automatic sprinkler systems to insure the continued health and attractiveness of the plant materials. Sprinkler heads shall not cause any hazard to the public. Irrigation shall not be required in wooded areas, wetlands, floodplains, or along natural drainage channels or stream banks.
- K. Re-planting. Trees or shrubbery which die-off shall be replaced with a new plant of the same or similar type. Replacement is ultimately the responsibility of the property owner.
- L. Maintenance. Landscaping shall be continually maintained. Appropriate methods of care and maintenance of landscaped plant material shall be provided by the owner of the property.
- M. Plant Protection. Landscape plant material shall be protected from damage due to heavy foot traffic or vehicular traffic by protective tree grates, pavers or other suitable methods.

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**17.56 YARD AND LOT STANDARDS**

**17.56.010 NEW BUILDINGS SHALL BE ON A LOT**

Every building erected shall be located on a lot as herein defined.

**17.56.020 YARDS APPLY ONLY TO ONE BUILDING**

No required yard or other open space or required driveway provided around or for any building or structure for the purpose of complying with the provisions of this Development Code shall be considered as providing a yard or open space for any other building. No yard or other required space on an adjoining lot shall be considered as providing a yard or open space on the lot whereon the building is to be erected.

**17.56.030 FRONT YARD PROJECTIONS**

The following features, when not more than one story high, may project into the front yard setback area, provided the projection shall come no closer than 10 feet from the property line: planter boxes, chimneys and flues, steps, cornices, eaves, gutters, belt courses, leaders, sills, pilasters, lintels, and other ornamental features, uncovered porches, covered but unenclosed porches.

**17.56.040 SIDE YARD PROJECTIONS**

- A. Cornices, eaves, gutters and fire escapes may project into a required side yard not more than one-third of the width of the required side yard.
- B. Chimneys, flues, belt courses, leaders, sills, pilasters, lintels and ornamental features may project not more than 1.5 feet into a required side yard, provided the chimneys and flues shall not exceed 6 feet in width.
- C. Uncovered decks and patios attached to the main building, and no more than 3-feet in height when measured directly beneath the outside edge of the deck or patio, may be extended to the side yard property line. This provision shall exclude street side yards.

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**17.56.050 REAR YARD PROJECTIONS**

- A. Chimneys, flues, belt courses, leaders, sills, pilasters, lintels, gutters and other ornamental features, may project not more than 1.5 feet into a required rear yard, provided the chimneys and flues shall not exceed 6 feet in width.
- B. A fire escape, balcony, outside stairway, cornice or other unenclosed, unroofed projections may project not more than 5 feet into a required rear yard.
- C. The following features, when not more than one story high, may project into the rear yard setback area: planter boxes, chimneys and flues, steps, cornices, eaves, gutters, belt courses, leaders, sills, pilasters, lintels, and other ornamental features, uncovered porches, covered but unenclosed porches.
- D. No permitted projection into a required rear yard shall extend within 10-feet of the center line of an alley or within 5-feet of a rear lot line if no alley exists.

**17.56.060 VISION CLEARANCE**

A clear vision area shall be maintained where streets and private points of access intersect. The clear vision area shall conform to the following:

- A. Measurement. A clear vision area at an intersection shall be the triangular area established according to the following procedure:
  - 1. A line extending a certain number of feet from the intersection along a public street right-of-way;
  - 2. A line extending a certain number of feet from the intersection along the intersecting access;
  - 3. A third line that creates the triangular clear vision area by connecting the ends of the lines described in 1. and 2., above.
- B. Street-Driveway. The clear vision area for a street-driveway intersection shall be 10 feet along the driveway from its intersection with the street right-of-way and 20 feet along the street right-of-way at the point of intersection with the driveway.
- C. Street-Alley. The clear vision area for street-alley intersections shall be 10 feet along the alley from its intersection with the street right-of-way and 20 feet along the street right-of-way at the point of intersection with the alley.

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- D. Street-Private Access Easement. The clear vision area for street-access easement intersections shall be 10 feet along the access easement from its intersection with the street right-of-way and 20 feet along the street right-of-way at the point of intersection with the access easement.
- E. Corner Lots (Street-Street Intersection). The clear visions area for corner lots shall be 20 feet along the right-of-way of each intersecting street.
- F. Prohibited Development. A clear vision area shall contain no planting, fence, wall, structure, or temporary or permanent obstruction exceeding 36 inches in height, measured from the top of the curb or, where no curb exist, from the established street centerline grade, except that the following may be allowed in the clear vision area:
1. Trees, provided all branches and foliage are removed to a height of eight feet above grade;
  2. Telephone, power, and cable television poles; and
  3. Telephone switch boxes provided they are less than ten inches wide at the widest dimension.
- G. Exemption. Clear visions areas shall not be required at intersections containing traffic signals.

### ARTICLE III DEVELOPMENT REQUIREMENTS

#### 17.58 LAND DIVISIONS

##### 17.58.010 PURPOSE

The purpose of this Chapter is to provide for the orderly, safe and efficient division of land within The City.

##### 17.58.020 SCOPE

The provisions of this Chapter shall apply to all partitions and subdivisions within The City of Sweet Home. The following shall determine the appropriate process and design standards:

- A. Partition. A land division creating two or three parcels within a calendar year shall be processed as a Partition and subject to the design and improvement standards for a Partition.
- B. Subdivision. A land division creating four or more lots within a calendar year shall be processed as a Subdivision and subject to the design and improvement standards for a Subdivision.
- C. Serial Partition. If a Partition results in the creation of a large parcel that can be subsequently divided so that there is the potential to create more than three parcels from the original, the request shall be processed as a Subdivision and subject to the design and improvement standards for a Subdivision.

##### 17.58.030 STANDARDS FOR LOTS OR PARCELS

The following standards shall apply to all partitions and subdivisions.

- A. Minimum Lot Area. Minimum lot area shall conform to the requirements of the zoning district in which the parcel is located. Access easements, or the access strip to a flag lot, shall not be included in the calculation of lot area for purposes of determining compliance with any minimum lot size provision of this Development Code.
- B. Lot Width and Depth. The depth of a lot or parcel shall not be more than three times the width. Lots or parcels created for commercial, industrial or public uses shall be exempt from width to depth ratio provisions.

**Commented [WW44]:** Audit suggested incorporating provisions for "middle housing" per SB458 (ORS 197.758). These provisions only apply to cities greater than 25,000 in population and therefore not to Sweet Home. Must also note all three residential zones allow single family home, duplexes and cottage cluster developments. Two of the zones (R-2 & R-3) allow attached single family homes while R-3 zone allows multi-family (R-2 zone requires a CUP). On balance, the City has included many of the provisions identified in SB458.

**Commented [WW45]:** Audit again recommended for including access easements in lot area calculation. Disagree for previously noted reasons.



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- C. Access. All new lots or parcels shall access a public street. Except that, residential lots or parcels may be accessed by a private access easement developed in accordance with the provisions of Chapter 17.42 when it is determined that a public street access is:
1. Infeasible due to parcel shape, terrain, or location of existing structures;
  2. Unnecessary to provide for the future development of adjoining property.
  3. No more than 10% of the lots within a subdivision may be accessed by a private street or private access easement.
- D. Flag Lots. Flag lots shall be subject to the following development standards:
1. The access strip shall be a minimum of 20 feet in width. The improved surface shall be a minimum of 14 feet in width.
  2. The access strip shall not be included in the lot area calculation.
  3. If the length of the access strip exceeds 150 feet, the parcel or lot shall include a turn-around area per applicable fire district requirements.
- E. Through Lots. Through lots shall be avoided except where essential to provide separation of residential development from traffic arteries, adjacent non-residential activities, or to overcome specific disadvantages of topography. Screening or buffering, pursuant to the provision of Chapter 17.54, may be required during the review of the land division request.
- F. Lot Side Lines. The side lines of lots, as far as practicable, shall run at right angles to the public street, private street or private access easement upon which the lot or parcel faces.
- G. Utility Easements. Utility easements shall be provided on lot areas where necessary to accommodate public utilities. Easement width shall conform to adopted Engineering Standards.

**17.58.040 ADDITIONAL STANDARDS FOR SUBDIVISIONS**

- A. General. The length, width, and shape of blocks shall be designed with regard to providing adequate building sites for the use contemplated; consideration of needs for convenient access, circulation, control, and safety of street traffic - including pedestrian and bicyclist - and recognition of limitations and opportunities of topography.

### ARTICLE III DEVELOPMENT REQUIREMENTS

- B. Sizes. Blocks shall not exceed 1,000 feet in between street lines with a preferred length of 500 feet. Exceptions are permitted for blocks adjacent to arterial streets, or, if the previous development pattern or topographical conditions justify a greater length. The recommended minimum distance between collector street intersections with arterial streets is 1,800 feet.
- C. Traffic Circulation. The subdivision shall be laid out to provide safe, convenient, and direct vehicle, bicycle and pedestrian access to nearby residential areas; neighborhood activity centers (e.g., schools and parks); shopping areas; and employment centers; and provide safe, convenient and direct traffic circulation. At a minimum, "nearby" means the distance from the subdivision boundary – 1/4 mile for pedestrians, and one mile for bicyclists.
- D. Connectivity. To achieve the objective in "C. Traffic Circulation" above, The City may require the following:
1. Stub-end Streets: Where the potential exists for additional residential development on adjacent property. The City may require reserve strips and streets plugs to preserve the objectives of street extensions.
  2. Accessways: Public accessways to provide a safe, efficient and direct connection to cul-de-sac streets, to pass through oddly shaped or blocks longer than 600-feet, to provide for networks of public paths creating access to nearby residential areas, neighborhood activity centers (e.g., schools and parks); shopping areas; and employment centers.
- E. Collector and Arterial Connections. Accessway, bikeway, or sidewalk connections with adjoining arterial and collector streets shall be provided if any portion of the site's arterial or collector street frontage is over 600 feet from either a subdivision access street or other accessway. The placement of an accessway may be modified or eliminated if natural features (e.g., adverse topography, streams, wetlands) preclude such a connection.
- F. Design Standards. Pedestrian/bicycle accessways shall meet the following design standards:
1. Minimum dedicated width: 10 feet
  2. Minimum improved width: 8 feet
  3. The accessway shall be designed to prohibit vehicle traffic.

**Commented [WW46]:** The audit recommended more "Clear & Objective" standards. For example: establish specific LOS standards. This is something the Commission can consider.

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**17.58.050 IMPROVEMENT REQUIREMENTS - PARTITION**

During the review of partition proposals, The City shall require, as a condition of approval, the following improvements:

- A. Private Access. Where included, private driveways serving flag lots, or private easements shall be surfaced per the requirements of this Development Code.
- B. Street Frontage Improvements. The following improvements shall be required:
  - 1. Consistent with the adopted transportation plans, sufficient land shall be dedicated to establish the appropriate right-of-way width.
  - 2. If the street frontage of the subject property is less than or equal to 250 feet and does not connect to existing improvements, the applicant shall sign a non-remonstrance agreement with The City of Sweet Home. This agreement shall stipulate that the applicant, or future property owner, will agree to participate in right-of-way improvements. The agreement may include provisions for the following: street paving, curbing, sidewalks, water lines, storm sewer facilities and sanitary sewer facilities. The agreement shall be recorded at the County Clerk's Office at the time of the recording of the final plat.
  - 3. If the street frontage of the subject property exceeds 250 feet, or extends an existing dedicated right-of-way, the applicant shall improve the following:
    - a. Public streets upon which the property fronts to public standards, including: surfacing from center line to curb, installation of curbing, storm sewers, sanitary sewers, water lines and other necessary public utilities per approved master plans. Where a master plan has not been adopted, the developer shall enter into a non-remonstrance agreement consistent with item (B)(2), above.
    - b. Sidewalks, meeting City standards, along public street frontage. Sidewalk construction may be deferred until such time a building permit is issued.
    - c. The installation of storm sewers, sanitary sewers, water lines and other utilities necessary to serve parcels accessing off of the new street.

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- C. Public Facilities. Sewer, Water, and Storm Drainage facilities may be required on and adjacent to the project. The developer shall submit engineering plans or facility improvement plans to The City for review. The plans shall address the required improvements contained in this Article, and any conditions of approval, and shall conform with City Engineering Design Standards. The plans shall be reviewed and approved prior to the recording of the final partition plat.
- D. Completion Requirements. All required improvements shall be completed prior to the issuance of any building permits for the subject property. Alternatively, improvements required under this Section may be assured through a performance bond or other instrument acceptable to The City prior to the approval of the final plat of the partition.

#### 17.58.060 IMPROVEMENT REQUIREMENTS - SUBDIVISION

- A. Improvements. The following improvements shall be required for all subdivisions:
  - 1. Frontage Improvements. Half-street improvements designed to The City's Engineering Standards shall be required for all public streets on which a proposed subdivision fronts. Additional frontage improvements shall include: sidewalks, curbing, storm sewer, sanitary sewer, water lines, other public utilities as necessary, and such other improvements as The City shall determine to be reasonably necessary to serve the development or the immediate neighborhood.
  - 2. Project Streets. Streets within the subdivision shall be constructed as required by City Engineering Standards.
  - 3. Monuments. Monuments shall be established as required by the Engineering Design Standards.
  - 4. Surface Drainage and Stormwater System. Drainage facilities shall be provided within the subdivision and to connect the subdivision drainage to drainageways or to storm sewers outside the subdivision. Design of drainage within the subdivision shall be constructed in accordance with the Engineering Design Standards. In the circumstance where existing stormwater lines are adjacent to or within the project, a system development charge is required in accordance with The City's adopted System Development Charge ordinance.
  - 5. Sanitary Sewers. Sanitary sewer shall be installed to serve the subdivision and to connect the subdivision to existing mains both on and off the

### ARTICLE III DEVELOPMENT REQUIREMENTS

property being subdivided conforming to Engineering Design Standards. The City may require that the developer construct sewage lines of a size in excess of that necessary to adequately service the development in question, where such facilities are or will be necessary to serve the entire area within which the development is located when the area is ultimately developed. The City may also require that the construction take place as an assessment project with such arrangement with the developer as is desirable to assure his share of the construction. In the circumstance where existing sanitary sewer lines are adjacent to or within the project, a system development charge is required in accordance with The City's adopted System Development Charge ordinance.

6. Water System. Water lines with valves and fire hydrants serving the subdivision and connecting the subdivision to The City mains shall be installed in conformance with the Engineering Design Standards. The design shall take into account provisions for extension beyond the subdivision to adequately grid The City system and to serve the area within which the development is located when the area is fully developed. However, The City will not expect the developer to pay for the extra cost of mains exceeding eight inches in size. In the circumstance where existing water lines are adjacent to or within the project, a system development charge is required in accordance with The City's adopted System Development Charge ordinance.
7. Sidewalks. Sidewalks shall be installed along both sides of each public street and in any pedestrian ways within the subdivision. Sidewalks shall be constructed at time of development of the subdivision.
8. Street Lights. The installation of street lights is required at locations, and of a type required by City standards.
9. Street Signs. The installation of street name signs and traffic control signs is required at locations determined to be appropriate by The City and shall be of a type required by City standards.
10. Other Requirements:
  - a. Curb cuts and driveway installations are not required of the developer at the time of development, but if installed, shall be according to The City standards.
  - b. Street tree planting is not required of the developer, but, if planted, shall be according to City requirements and of a species compatible with the width of the planting strip and underground facilities. At least one tree will be located in the planting strip. An additional tree shall be planted either in the planting strip or yard adjacent to the

**Commented [AC47]:** PC: ?? research if there is an ordinance. Is this supposed to be SDC fees?

**Commented [BL48R47]:** This is supposed to be SDCs.

**Commented [AC49]:** PC: ?? research if there is an ordinance. Is this supposed to be SDC fees?

**Commented [BL50R49]:** This is supposed to be SDCs.

### ARTICLE III DEVELOPMENT REQUIREMENTS

street or streets. Trees must be planted and viable prior to occupancy.

- B. Completion of Improvements. All improvements required under this Chapter shall be completed to City standards, or assured through a performance bond or other instrument acceptable to the City Attorney, prior to the approval of the Final Plat of the subdivision. In no case shall the bond exceed 5% of the remaining project improvements as determined by the City Engineer.

#### 17.58.070 IMPROVEMENT PROCEDURES

In addition to Engineering Design Standards, improvements installed by a developer for any land division, either as a requirement of these regulations or the developer's option, shall conform to the requirements of this Development Code, the improvement standards and specifications adopted by The City, and shall be installed in accordance with the following procedures:

- A. City Approval Required. Improvement work shall not commence until plans are approved by The City. All plans shall be prepared in accordance with requirements of The City.
- B. Notification. Improvement work shall not commence until The City has been notified in advance; and, if work has been discontinued for any reason, it shall not be resumed until The City has been notified.
- C. Inspections. Improvements shall be constructed under the inspection and to the satisfaction of the Public Works Director or designee. The City may require changes in typical street sections and improvements if unusual conditions arise during construction to warrant such changes.
- D. Installation of Utilities. All underground utilities, sanitary sewers, and storm drains installed by the developer shall be constructed prior to the surfacing of the streets. Stubs for service connections for underground utilities and sanitary sewers shall be placed to a length eliminating the necessity for disturbing the street improvements when service connections are made.
- E. As-Built Drawings. A map or plan showing all public improvements as built shall be filed with the Department of Public Works upon completion of the improvements.



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**Commented [BL51]:** Wait, we deleted this portion because it doesn't seem to apply to us---Linn County does assessments, not the City. Is there any reason why we should include this?

**Commented [WW52R51]:** No issues.

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**17.60 PLANNED DEVELOPMENT (PD)**

**17.60.010 PURPOSE**

The purpose of Planned Development regulations is to encourage and allow more creative and imaginative design of land developments than is possible under district zoning regulations. Planned Developments are intended to allow substantial flexibility in planning and designing a proposal. This flexibility often is in the form of relief from compliance with conventional zoning ordinance site and design requirements. This flexibility must result in a development that is better planned, contains more amenities, and ultimately more desirable to live in than one produced in accordance with typical subdivision controls.

While greater density or more lenient siting requirements may be granted, the Planned Development should contain features not normally required of traditional developments. This requires greater scrutiny on the part of The City to assess a proposal. To realize these objectives and enable thorough analysis of a Planned Development, more information is demanded about the proposal than would be required if development were being pursued under conventional subdivision requirements.

**17.60.020 OBJECTIVES**

Through proper planning and design, each Planned Development should include features which further, and are in compliance with, the following objectives:

- A. To design developments that are architecturally and environmentally innovative, and that achieves better utilization of land than is possible through strict application of standard zoning and subdivision controls.
- B. To encourage land development that, to the greatest extent possible, preserves natural vegetation, respects natural topographic and geologic conditions, and refrains from adversely affecting flooding, soil, drainage, and other natural conditions.
- C. To combine and coordinate architectural styles, building forms, and structural/visual relationships within an environment that allows mixing of different land uses in an innovative and functionally efficient manner.

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- D. To provide for abundant, accessible, and properly located open and recreation space.
- E. To ensure that development occurs at proper locations, away from environmentally sensitive areas, and on land physically suited to construction.
- F. To enable land developments to be completely compatible and congruous with adjacent and nearby land developments.

#### 17.60.030 OWNERSHIP

The site of the Planned Development must be under single ownership and/or unified control.

#### 17.60.040 USES PERMITTED – RESIDENTIAL ZONES

Planned Developments within the R-1, R-2 and R-3 zones shall be limited to the following uses:

- A. Residential Uses.
- B. Recreational facilities including, but not limited to, tennis courts, swimming pools, and playgrounds.
- C. Open space.
- D. Schools, libraries, community halls, and churches.
- E. Offices, buildings, and facilities required for the operation, administration, and maintenance of any Planned Development and for recreation purposes, such as golf courses, recreation rooms, and vehicle storage areas.
- F. Commercial uses identified as permitted uses in the C-1 Zone provided:
  - 1. Commercial establishments shall be designed to be an integral part of the general plan of development for the Planned Development and provide facilities related to the needs of the prospective residents.
  - 2. Commercial establishments and their parking areas shall not occupy more than one (1) acre per fifty (50) dwelling units.
  - 3. Commercial establishments will be located, designed, and operated to

**Commented [AC53]:** Why is this under 'Residential Zones'? Should it go under 17.60.050?

**Commented [BL54]:** Wait, our current rules for PDs don't allow any uses that aren't allowed in the underlying zone. Are you suggesting that we change that? This part doesn't seem to fit. Thoughts?

**Commented [WW55R54]:** You may wish to allow commercial activities as a supplement to the residential project. The allowable area is limited and they must be designed to serve the neighborhood and not provide a new commercial district.

### ARTICLE III DEVELOPMENT REQUIREMENTS

efficiently serve frequent trade and to serve the needs of persons residing in the Planned Developments.

4. Commercial establishments will not, by reason of their location, construction, or operation, have adverse effects on residential uses within or adjoining the district, or create traffic congestion or hazards to vehicular or pedestrian traffic.

#### 17.60.050 USES PERMITTED – OTHER ZONES

Planned Developments located within the zones not identified in Chapter 17.60.040 shall be limited to any uses identified within the respective zone.

#### 17.60.060 DEVELOPMENT REQUIREMENTS

Planned Developments shall comply with the following requirements:

- A. Relationship to Standards of the Underlying Zoning District. In cases of conflict between standards of the underlying zone and the Planned Development provisions, the Planned Development provisions shall apply.
- B. Minimum Site Area. If the Planned Development will result in common open space being privately maintained, the Planned Development shall contain sufficient area to provide a minimum of fifty (50) residential units based on the density requirements of this Section.
- C. Site Adaptation: To the maximum extent possible, the plan and design of the development shall assure that natural or unique features of the land and environment is preserved.
- D. Residential Density: Permitted dwelling density of development in all Planned Developments shall be determined in accordance with the following procedures:
  1. Determine total gross site area (G.S.A.)
  2. Multiply the G.S.A. by .85 to determine the Net Site Area (N.S.A.).
  3. Deduct from the N.S.A. any proposed commercial areas or nonresidential uses to determine Net Developable Site Area (N.D.S.A). Open space areas and hillside areas which will be in open space areas are not required to be deducted.
  4. Determine maximum density of development in accordance with the

### ARTICLE III DEVELOPMENT REQUIREMENTS

applicable method below:

- a. R-1 Zone: Multiply NDSA by 6 units per acre.
- b. R-2 Zone: Multiply NDSA by 10 units per acre.
- c. R-3 Zone: Multiply NDSA by 16 units per acre.

Note: each duplex counts as one unit.

**Commented [WW56]:** Per OAR

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- E. Lot Area. Except as otherwise required by these provisions, the minimum lot area, width, frontage, and yard requirements otherwise applying to individual buildings in the zone in which a Planned Development is proposed do not apply within a Planned Development.
- F. Lot Arrangement: All residential buildings shall be located adjacent to an open space area, recreational area or recreational facility. If direct access to these areas is not provided for each residential building, then a walkway or sidewalk accessing such facilities shall be located no more than 200-feet from any residential building.
- G. Housing Types. With the exception of manufactured homes, there are no restrictions as to housing types, provided, multiple family units shall be limited to no more than 10% of the total housing units in the R-1 zone, 30% of the units in the R-2 zone; and, 30% of the units in the R-3 zone.
- H. Structure Setback Provisions: Yard setbacks for lots on the perimeter of the project shall be a minimum of 20-feet. Detached structures on individual lots shall maintain a minimum front, side or rear yard setback of five feet. A minimum yard setback of 20-feet shall be required for any garage structure whose opening faces onto a public street. Otherwise, the minimum setbacks of the underlying zone do not apply.
- I. Common Open Space: At least 20% of the gross acreage shall be devoted to open space, outdoor recreational areas or recreational facilities. At least one-half of the designated open space shall contain slopes less than 10%. Open space may include pedestrian access routes, bicycle trails, natural or landscaped buffer areas, recreational facilities and buildings and similar areas reserved for common use. Streets and on-street parking spaces shall not be considered open space.

**Commented [BL57]:** Walt, the PC was interested in knowing more about what is typical in this area. Do other cities have restrictions/allowances like this?

**Commented [WW58R57]:** The purpose of the PD is to allow flexibility in development that goes beyond a conventional subdivision. A mix may include detached and attached homes as well as apartments.

If buildings, structures, or other improvements are to be made in the common open space, the developer shall provide a bond or other adequate assurance

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that the buildings, structures, and improvements will be completed. The City shall release the bond or other assurances when the buildings, structures, and other improvements have been completed according to the development plan.

J. Circulation:

1. Roads and pedestrian and bikeway paths shall be an integrated system designed to provide efficient and safe circulation to all users. Pedestrian/bikeway paths shall be integrated into the open space areas.
2. Pedestrian/bikeways shall be clearly signed and have adequate crossing facilities where warranted.

K. Off-Street Parking. Off-street parking requirements shall be as specified in Chapter 17.44 of this Development Code. Parking may be provided on each lot or in clustered parking areas. Additional off-street parking for guests and recreational vehicles may be required if warranted by reduced lot sizes and/or traffic volumes.

L. Utilities. In addition to other requirements set forth herein, the following shall apply:

1. All sewer and water provisions shall be approved by The City before construction of such improvements.
2. All utility services shall be placed underground.
3. Provisions shall be made for fire prevention, including service water lines, fire hydrant location, and emergency access for fire-fighting equipment.
4. Provision shall be made for control of site storm water drainage.

M. Homeowners Association - A non-profit incorporated homeowners' association, or an alternative acceptable to The City, shall be required for improving, operating, and maintaining common facilities, including open space, drives, service and parking areas, and recreation areas. The following shall be observed in the formation of a homeowner's association:

1. A homeowner's association shall be set up before approval of the final plat, or any portion thereof.
2. Membership shall be mandatory for each homeowner and any successive buyer.
3. The open space restrictions shall be in perpetuity.
4. The homeowner's association shall be responsible for liability insurance,



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- applicable taxes, and the maintenance of recreational and other facilities.
5. Homeowners shall pay their pro-rated share of the cost or the assessment levied by the association shall become a lien on the property.
  6. The association shall be able to adjust the assessment to meet changes needed.
  7. No change in open space use or dissolution of homeowner's association shall occur without a public hearing before the Planning Commission and approval by the City Council.

**17.60.070 CONDITIONS OF APPROVAL**

The Planning Commission may impose reasonable conditions upon its approval. Such conditions may include conditions necessary to ensure that public services and facilities are available to serve the proposed development; to protect the natural environment and conserve natural resources; to ensure compatibility with adjacent uses of land; to ensure compliance with the design standards contained within this Section; and, to ensure the Planned Development will be developed as approved by The City.

**17.60.080 MODIFICATION OF AN APPROVED PLANNED DEVELOPMENT**

A new public hearing shall be required if any one of the following changes is proposed to an approved planned development site plan:

- A. An increase or decrease in the number of dwelling units not including conversion of an existing or planned single-family detached residence into a duplex.
- B. A decrease in the open space or recreational space.

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**Commented [WW59]:** Per OAR

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## ARTICLE III DEVELOPMENT REQUIREMENTS

### 17.62 COTTAGE CLUSTER DEVELOPMENTS

#### 17.62.010 PURPOSE

This Section establishes standards for cottage cluster development as an alternative development type that provides usable common open space in residential development; allows for a variety of housing types both detached as well as attached; promotes interaction and safety through design; ensures compatibility with surrounding neighborhoods; and provides opportunities for creative infill development. It is intended to be a flexible development alternative similar to the planned development alternative whereby many of the standards of the underlying zone do not apply in consideration for the provision of open space and other unique design features. Successful cottage cluster development projects include the following design principles:

- A. Shared Open Space and Active Commons. The shared common space binds the cottage development together and gives it vitality. Residents surrounding this space share in its management, care and oversight, thereby enhancing a sense of security and identity.
- B. Common Buildings. An advantage of living in a cottage development is being able to have shared buildings such as a tool shed, outdoor barbeque, picnic shelter, or a multipurpose room.
- C. Adequate Parking. Parking areas should be screened from adjacent parcels and adjoining public streets. Locating parking areas away from the homes can allow more flexible use of a site, limit the dominance of garages and driveways, decrease the amount of hard surface, and allow more light into homes.
- D. Front Porches. The front porch is a key element in fostering neighborly connections. Its placement, size, and relation to the interior and the public space are important to creating strong community connections.
- E. Smaller, High-Quality, Well-Designed Dwellings. Smaller, high-quality houses, together with the common open area and cottage development elements, help ensure the intensity of development is compatible with the surrounding neighborhood.

**Commented [BL60]:** Wait, this chapter doesn't specify which zones allow cottage clusters. The PC is open to them being allowed in all residential zones. Where should this be stated?

In addition, the PC is interested in seeing examples of cottage clusters. Do you have any recommendations for us to look at?

**Commented [WW61R60]:** Cottage clusters are identified as Special Uses in the individual zones. Same density requirements as PD but with the addition of specific design standards.

This is rather new – let me ask around.

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**17.62.020 PERMITTED COTTAGE CLUSTER BUILDING TYPES**

- A. Cottage cluster development cottages.
- B. Two-unit structures.
- C. Community Building with common areas but excluding commercial uses.
- D. Accessory Structures.
- E. Shared accessory structures, including parking and storage buildings, but excluded from the common area.

**17.62.030 SITE REQUIREMENTS**

- A. Ownership. Ownership may be a common lot, fee simple lots with a homeowner's association holding common areas, or condominium ownership of the whole development. Any development meeting the definition of a "Planned Development" or "Condominium" per state statute shall comply with all applicable provisions of state law. If condominium ownership, common areas shall be designated as 'general common elements and private yard spaces shall be designated as 'limited common elements for purposes of ORS Chapter 100 Condominium Law.
- B. Development Standards
  - 1. The parent parcel shall be at least 30,000 square feet. The parent parcel may be divided into individual cottage lots and shared common areas consistent with The City's regulations.
  - 2. Cottage lots. There is no minimum lot size for the individual cottage lots.
  - 3. Density. The planned development standards shall apply.
  - 4. There is no minimum lot width or depth for the individual cottage lots.
  - 5. There is no maximum lot coverage for the individual cottage lots.
  - 6. The maximum structure height is 25-feet.
  - 7. Minimum setbacks are as follows:

Front	15-feet
Side	5-feet
Rear	10-feet

**Commented [WW62]:** Audit suggested setbacks apply only to external lines. Note that this is not feasible as a cottage cluster may include individual lots..

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Street-side	10-feet
Garage Entrance	20-feet

8. Interior units on a common lot or separate lots shall be spaced at least 10 feet apart. If individual lots are created, the applicant may create an attached lot line configuration between units to maximize usable private area and provide privacy.

#### C. Lot/Cottage Arrangement

1. Cottage cluster developments shall contain a minimum of four cottages and no more than allowed in the underlying zone by density.
2. Cottages shall be arranged around a common open space, and each cottage shall have frontage on the common open space.
3. Units along the public right-of-way ~~should~~ shall have their primary entrance facing the public right-of-way.
4. A community building may be provided adjacent to or at the edge of the central common area as part of the cottage development.

Commented [WW63]: Suggested by audit – concur.

#### D. Private and Common Space.

1. Common Space.
  - a. Common space is a defining characteristic of a cottage housing development. A minimum of 400 square feet of common open space per unit shall be provided.
  - b. The common space shall include a sidewalk or walk connecting to each cottage front entrance facing the common area.
2. Private Space. A minimum of 250 square feet of usable private open space shall be provided adjacent to each unit.

#### E. Frontage, Access, Parking, and Vehicular Circulation.

1. The parent parcel shall have frontage on a public street.
2. If individual lots are created within the development, each lot shall abut a common area, but is not required to have public street frontage.
3. Access to individual dwelling units will be provided meeting city and fire district standards.
4. A minimum of two off street parking spaces per unit shall be provided.

Commented [WW64]: Audit suggested one space per unit. While developed in a different manner, these are still single family homes – suggest maintaining the two spaces.

### ARTICLE III DEVELOPMENT REQUIREMENTS

5. Parking and/or garage structures shall be located behind or to the side of the residential area and open space.
6. Parking areas, shared parking structures, and garages shall be screened from public streets by landscaping or architectural screening.
7. If the property has frontage on a public alley, access and parking may be provided from the alley.
8. If individual lots are created, parking and access shall be provided in a common area with access easement.

F. Screening and Landscaping. To ensure that cottage developments do not create adverse visual impacts for residents of both the cottage development and adjacent properties the following requirements shall be adhered to:

1. Where feasible, cottage developments ~~should shall~~ be designed to retain existing significant trees (at least twelve inches in diameter) that do not pose a safety hazard.
2. Landscaping located in common open spaces shall be designed to allow for easy access and use of the space by all residents, and to facilitate maintenance needs.
3. Boundaries between cottage developments and neighboring properties shall be screened with landscaping and fencing as identified in G.2., below, in order to reduce the appearance of bulk or intrusion onto adjacent properties or may be otherwise treated through increased building setbacks or architectural techniques to meet the intent of this section. Additional screening and buffering may be required to help mitigate any compatibility issues between the cottage cluster development and adjacent properties.

**Commented [WW65]:** Suggested by audit – concur as it is consistent with other code provisions.

G. Fences.

1. No fence taller than 3 feet in height shall be located between the front wall of a cottage or community building and the common open space.
2. A sight-obscuring fence at least 6-feet high shall be placed along the property line adjacent to any residential single-family use.

H. Utilities.

1. Streets. Street improvements shall be required for all cottage cluster developments ~~that contain 4 or more dwelling units~~. Street improvements

**Commented [WW66]:** Audit notes this is redundant - a cluster development requires at least 4 units.

### ARTICLE III DEVELOPMENT REQUIREMENTS

~~may shall~~ include street widening, curb, gutters, and sidewalks. All street improvements shall comply with the current Design Standards and Construction Standards of The City of Sweet Home Department of Public Works.

**Commented [WW67]:** Audit recommendation – concur as it is consistent with other code provisions.

2. Water. An individual water meter servicing each dwelling unit will be required unless there is an ownership association or the property is under a single ownership in which case a single water meter servicing an individual building of multiple units is allowed. All water system improvements shall comply with City of Sweet Home Public Works Department requirements.
3. Sewer. Service laterals may be extended from a sewer main in the public right-of-way. Sewer mains may be extended in the driving and circulation areas in a public utility easement, with service laterals to individual units. Private sewer laterals may be extended across common areas, but shall not cross individual building lots. All sanitary sewer design and construction shall comply with City of Sweet Home wastewater requirements.
4. Gas/Electric/Phone/Cable/Utility Pedestals. These utility services may be extended from the public right-of-way across common areas to individual lots, or extended in a utility easement to individual lots.
5. Trash Storage. Any areas where communal trash and recycling are stored shall be screened by a sight-obscuring fence and/or vegetation. In addition, a trash and recycling plan will be required.
6. Mailboxes. Mailboxes are subject to post office requirements.
7. Storm water. The development of the property shall comply with all city regulations regarding storm water drainage including on-site detention and water quality requirements. All storm water system improvements shall comply with the current City of Sweet Home design and construction standards.

- I. Addressing. All units within the cottage cluster development shall be addressed consistent with City standards.

#### 17.62.040 BUILDING REQUIREMENTS

- A. Cottages.



### ARTICLE III DEVELOPMENT REQUIREMENTS

1. Building footprint. Cottages shall have a maximum building footprint of 1,000 square feet. An attached garage is not included in this maximum, but shall not exceed 300 square feet per unit.
2. Porches. Attached, covered porches are required and shall have minimum depth of 6 feet and shall be a significant feature of the structure.
3. Other design requirements. Cottages shall contain a variety of designs that include articulation of facades; changes in materials, texture, color, and window treatments; and other architectural features so all units do not appear identical. Cottage development structures shall provide for substantial exterior architectural elements that are consistent with traditional northwest cottage design and small home craftsmanship design elements. Roofs of cottage developments shall have eaves to efficiently shed rain and provide protection for exterior walls.
4. Height. Cottages shall comply with the height limitation of 25 feet and are limited to a maximum of single story plus a loft.
5. Street facing facades. The street facing facades of cottages in a cottage development shall avoid blank walls that appear to "turn their backs" to the street. This shall be avoided by providing design features such as windows, change in building material, entryway, porches or similar features.

**Commented [BL68]:** I deleted "one-car" to make it clear that any garage is limited to the 300 square feet, regardless of the number of cars they claim to hold.

#### B. Two-Unit Structures

1. Attached two-unit structures are allowed and must be similar in appearance to detached cottages.
2. Attached two-unit structures shall have one primary shared entry facing the common open space.

#### C. Community Buildings

1. A community building shall be of similar scale, design, and height as the cottages.
2. Commercial uses are prohibited in the community building.

#### D. Accessory Structures

1. Accessory structures such as garages, carports, storage or tool sheds shall not exceed 300 square feet per unit, or 600 square feet per accessory structure that is shared by two or more dwelling units.

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2. The design of accessory structures must be similar or compatible with that of the cottages in the development.
- E. Existing Dwellings on the Site. Existing dwellings may be incorporated into the development as a residence or community building, and may be nonconforming to standards. Noncompliance may not be increased.
- F. Renovation and Expansion.
  1. Renovations shall be in keeping with the size and architectural character of the new development.
  2. A covenant restricting any increases in unit size after initial construction beyond the maximum allowed by this Section shall be recorded against the property.

**17.62.050 PROCESS**

Cottage cluster development applications shall be processed per the planned development requirements in Chapter 17.110.

**ARTICLE III  
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**17.64 MANUFACTURED DWELLING PARKS**

**17.64.010 SCOPE**

Oregon Revised Statutes (ORS), Chapter 446 and Oregon Administrative Rules (OAR), Chapter 918, and Chapter 10 of the Oregon Manufactured Dwelling and Park Specialty Code (OMDS) specify the standards and regulations for Manufactured Dwelling Parks in the State of Oregon.

- A. Permitted Housing. ~~Class "A" or "B" Manufactured Dwellings are permitted in all Manufactured Dwelling Parks. There are no restrictions provided no~~ No manufactured dwelling shall be more than 10 years in age at time of placement.
- B. Minimum Site Area. The minimum area for a park shall be one acre.
- C. Density. Maximum density of the park shall not exceed 8 units per ~~gross-net~~ acre.
- D. Access. Manufactured Dwelling Park access shall occur from a public Collector or Arterial street.
- E. Permitted Uses: Manufactured Dwelling Parks may contain manufactured dwellings and accessory structures, community laundry and recreation facilities and other common buildings ~~for use by park residents only~~, and one residence other than a manufactured dwelling for the use of a caretaker or a manager responsible for maintaining or operating the park.
- F. Conditions. Upon granting site plan approval for a manufactured dwelling park, the Planning Commission may require establishment of deed covenants, conditions and restrictions (CC&Rs) or other conditions including but not limited to any of the following where such are deemed necessary for the mitigation of adverse impacts on an adjacent area:
1. Limit the type of units to be installed.
  2. Additional landscaping or screening on the park boundary.
  3. Increased setbacks from park boundaries.

- G. Improvement Standards. Park standards shall conform to The Oregon Manufactured Dwelling and Park Specialty Code within the Park boundary and

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**Commented [BL69]:** Wait, these terms seem to be missing from the definitions. We need to make it clear what class A and B means. Do these definitions include mobile homes or modular homes?

**Commented [WW70R69]:** The age limit effectively requires newer, Class "A" homes. Pre-existing homes are allowed but can only be replaced by homes 10 years or newer.

**Commented [WW71]:** Consistent with other code provisions.

### ARTICLE III DEVELOPMENT REQUIREMENTS

shall conform to City Standards when abutting public streets. Parks shall also meet all requirements of the Sweet Home Fire District.

- H. Streets. Public streets located within the Park and the first 100 feet of private Park streets connecting to a public street shall conform to City standards. Other private streets within the Park shall be no less than 30 feet in paved width in accordance with [Oregon Manufactured Dwelling and Park Specialty Code \(2002\) Table 10-C](#). ~~Table 10-C of the OMDS~~.
- J. Perimeter Setbacks. Distance of a manufactured dwelling or accessory structure from an exterior park boundary shall be 20 feet.
- K. Unit Separation. Manufactured dwellings must be separated from other dwellings by a minimum of ~~45~~ 10 feet.
- L. Caretaker or On-Site Manager Required. Manufactured Home Parks of 10 units or more must include a caretaker unit or on-site manager.
- M. Parking. Parks must include a carport or garage for each unit, or a covered parking space for each unit.
- N. Storage Facilities Required. Parks must include a storage shed for each unit.
- O. Landscaping. All common areas within a Manufactured Dwelling Park shall be landscaped and maintained by the Park owner in conformance with an approved landscape and irrigation plan submitted as part of the application. Landscaping shall include street trees within a public right-of-way in accordance with adopted street tree regulations of The City.
- P. Perimeter Property Screening. The entire perimeter of the manufactured dwelling park shall be screened except for driveways and Clear Vision Areas. The following minimum standards shall apply:
1. One row of evergreen shrubs shall be planted which will grow to form a continuous hedge at least six feet in height and be at least 80 percent opaque, as seen from a perpendicular line of sight, within two years of planting; or
  2. A minimum of a six-foot high wood fence or masonry wall shall be

**Commented [AC72]:** Haven't been able to verify this

**Commented [BL73]:** Walt, we've been unable to find out what this reference is. I found the Oregon Manufacture Dwelling Specialty Code, and there is no Table 10-C.

**Commented [WW74R73]:** Located Table C in the 2002 edition on the BCD website. Good set of standards.

**Commented [BL75]:** Walt, the PC was interested in these additions. Do you have any wording suggestions, or any concerns?

**Commented [WW76R75]:** An on-site manager for 10 units is a bit steep. Maybe 15 or 20 units -- land is a valuable commodity for a park. Also the 10-foot separation is standard. Storage and a garage/carport is a plus.

**ARTICLE III  
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- constructed, measured as provided in Chapter 17.52, providing a uniform sight obscuring screen; or
3. An earth berm combined with evergreen plantings or wood fence or masonry wall shall be provided which shall form a sight and noise buffer at least six feet in height.
  4. The remaining area treated with attractive, living ground cover (i.e., lawn, evergreen shrubs, etc.).
- Q. Utilities. All manufactured dwelling parks must provide each lot or space with storm drainage, municipal sanitary sewer, electric, telephone, and municipal water, with easements dedicated where necessary to provide such services. All such utilities shall be located underground. Utilities shall be connected in accordance with state requirements and the manufacturer's specifications.
- R. Design and Submission Requirements. The submittal shall include sufficient information to indicate compliance with the requirements in Chapter 17.66.

## ARTICLE III DEVELOPMENT REQUIREMENTS

### 17.66 MANUFACTURED HOMES ON INDIVIDUAL LOTS

#### 17.66.010 SCOPE

The provisions of this Chapter are applicable to all manufactured homes sited on individual lots in The City of Sweet Home. Manufactured homes sited in approved mobile/manufactured home parks or manufactured home subdivisions are not affected by the provisions of this chapter.

**Commented [BL77]:** Wait, the PC would like to know if we can legally put an age limit on these? Thoughts?

**Commented [WW78R77]:** Compliance with the thermal envelope effectively requires a new or newer unit.

#### 17.66.020 GENERAL STANDARDS

Manufactured homes are permitted in all residential zones, in accordance with the following general standards, and the design compatibility standards set forth in this Chapter. The minimum lot area, setback, and height standards of the subject zone shall also apply to manufactured homes sited on individual lots.

**Commented [WW79]:** Audit suggested adding "modular homes" to this Chapter. Note: modular homes are effectively equivalent to a site built structure (both require building permits and inspections). These regulations follow state law which were designed to allow a specific type of structure.

- A. Size. The manufactured home shall be multi-sectional and have at least 1,000 square feet of gross floor area.
- B. Performance Standards. The exterior thermal envelope must meet the standards specified by state law for single family dwellings, as defined in ORS 455.010.
- C. Removal of Towing Equipment. All towing hitches, wheels, running lights, and other towing related equipment shall be removed within thirty (30) days after installation of the manufactured home.
- D. Foundations. The manufactured home shall be placed on an excavated and back filled foundation with no more than 12 inches of inclosing material exposed above grade. Where the building site has a sloped grade, no more than 12 inches of the inclosing material shall be exposed on the uphill side of the home. If the home is placed on a basement, the twelve (12) inch limitation shall not apply. Furthermore, the twelve (12) inch limitation shall not apply if the requirements of the Flood Hazard District mandate that the home be elevated more than twelve (12) inches above grade.

The foundation shall meet building code and Flood Hazard Area (if applicable) standards. The base of the manufactured home shall be enclosed continuously at the perimeter with either concrete, concrete block, brick, stone, or a combination thereof.



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- E. Utilities. The manufactured home shall be provided with storm drainage, sanitary sewer, electric, telephone, and potable water utility services with easements dedicated where necessary to provide such services. All such utilities shall be located underground unless waived by the City Building Official where underground service would require an exception to local prevalent conditions. Manufactured homes shall not be occupied purposes unless connected to local water, sewer, and electrical systems.
- F. Historical Sites. No manufactured home shall be located on property containing a historic landmark, or, on a lot or parcel immediately adjacent to property containing a historic landmark. For the purpose of this Chapter, a historic landmark is property designated by the Sweet Home Comprehensive Plan as containing a significant historical resource.
- G. Roofing. The manufactured home must have a composition asphalt, fiberglass, shake, or tile roof with a nominal pitch of three (3) feet in height for each twelve (12) feet in width.
- H. Exterior Siding and Finish. The exterior siding of the manufactured home must have the same appearance as materials commonly used on residential dwellings.
- I. Garage or Carport. A garage or carport of like material and color of the manufactured home is required. The garage or carport shall be placed on the property prior to occupancy of the manufactured home.
- J. Off-Street Parking. Parking and improvements shall be as specified in Chapter 17.44.

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**17.68 HOME OCCUPATIONS**

**17.68.010 STANDARDS**

Home occupations may be allowed as an accessory use on any property on which there is a residence, subject to the following standards and restrictions:

- A. Staffing.
  - 1. If no person is employed other than a member of the family residing on the premises, the home occupation is allowed as a permitted use.
  - 2. If persons other than a member of the family residing on the premises are proposed to be employed, a Conditional Use Permit is required.
- B. Character. The character and primary use function of the residence and premises shall not be changed by the use of colors, materials design, construction, lighting, landscaping or lack of landscaping.
- C. Noise. A home occupation shall not create noise of a type, duration or intensity that is detectable to normal sensory perception, off the premises of the home occupation.
- D. Equipment and Process Restrictions. No home occupation conducted within a single-family detached residence or an accessory structure shall create vibration, glare, fumes, odors, or electrical interference detectable to the normal sensory perception, off the property. In the case of electrical interference, nothing shall be used which creates visual or auditory interference in any radio or television off the premises.
- E. Hazards. No equipment, process or material shall be used which will change the fire rating or structure separation, fire wall, or ventilation requirements for the structure in which the home occupation is located. No hazardous materials shall be used or stored on the property on which a home occupation located in quantities not typical of those customarily used in conjunction with activities or primary uses allowed in the zoning district.
- F. Signs. Signing shall be as provided in Chapter 17.50.

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- G. On-Premise Client Contact. Customer and client contact shall be primarily by telephone or mail, and not on the premises of the home occupation, except those home occupations, such as tutoring, counseling or personal services, which cannot be conducted except by personal contact. Services or sales conducted on the premises shall be by appointment only, and shall not be oriented toward, or attract, off-the-street customer or client traffic.
- H. Prohibited Businesses. The repair and/or maintenance of automobiles, trucks, recreational vehicles, trailers, motorcycles, farm equipment, boats, lawn mowers and similar equipment shall be prohibited.
- I. Vehicles. Only one vehicle associated with the home occupation may be parked on the property or adjacent street.
- J. Storage and Use of Yard Areas. Storage of tools, equipment and materials, and display of merchandise and all other activities associated with a home occupation, except as provided above for parking, shall be contained and conducted wholly within covered and enclosed structures and shall not be visible from the exterior of the containing structure(s). Home occupations which involve the care of children by a babysitter, as defined in Chapter 17.04.020, may use yard areas for playground equipment.
- K. Day Care. Day care facilities with ~~12~~ 8 or fewer children shall not be subject to the provisions in this Section.

**Commented [BL80]:** Wait, the PC is interested in lowering this to 8. Are there state regulations in play here?

**Commented [WW81R80]:** Actually, watching more than 3 children (not related) requires registration with the state. Recognizing not everyone will register, limiting such activities to 8 may be a good idea. With more than 8 it becomes a home occupation and the City could require proof of licensing, which has a number of requirements such as CPR certification, food handlers permit, etc. .

#### 17.68.020 PROCESS

Home occupations are allowed as an accessory use to any residential use in The City, subject to provisions in this Chapter, with the exception of a home occupation utilizing staff other than family members residing on the property, in which case a Conditional Use Permit is required. The standards of this Section shall govern all home occupations.

## ARTICLE III DEVELOPMENT REQUIREMENTS

### 17.70 RESIDENTIAL ACCESSORY STRUCTURES

#### 17.70.010 SINGLE FAMILY RESIDENCES

Residential accessory structures for attached or detached single family homes and duplexes, excluding Accessory Dwelling Units as defined in Chapter 17.72, shall be subject to the following regulations.

- A. Dimensions and Design Requirements. Residential accessory structures shall be subject to the following requirements: ~~(864 SF or % of building size/area coverage)~~ \*option to put greater than 864 SF as a conditional use

Structure Size and Finish <sup>1,2</sup>	Location on Property	Area Coverage for Accessory Structure <sup>1</sup>	Maximum Height
Up to 200 sf	Side or Rear Yard	No Maximum	10 feet <sup>3</sup>
200 to 600 sf	Side or Rear Yard	50% of Yard	20 feet <sup>3</sup>
Over 600 sf	<del>Side or Rear</del> <u>Side or Rear or side Yard Only</u>	35% of Yard	Shall not exceed height of primary residence

**Commented [BL82]:** Angela, let's compare notes on this and talk to the PC about it. I know they said something about 864 SF, but I think the sizes listed here are quite reasonable.

**Commented [WW83R82]:** Blair – the key is to keep is proportional to the residence AND the lot size.

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**Commented [BL84]:** Angela, I think we should revisit this with the PC.

1. Up to 10,000 square feet of lot area, maximum size is 1,200 square feet; over 10,000 square feet of lot area, the structure may be increased an additional 100 square feet for each 1,000 square feet of lot size.
2. For any accessory structure located on a lot of 10,000 or less, the exterior siding shall have the same appearance as materials commonly used on residential dwellings. Otherwise, there are no restrictions.
3. The greater of 20 feet, or the height of the primary residence.

**Commented [BL85]:** Walt, it's not clear what this is referencing. There is no 3 in the above chart.

**Commented [WW86R85]:** Made the change.

- A. Setbacks. Accessory structures shall comply with the following setbacks:

1. Front and/or Street Side Yard: Comply with requirements of underlying zone.
2. Side Yard: 5-feet plus 1-foot for every foot above 8-feet.
3. Rear Yard: 10-feet plus 1-foot for every foot above 15-feet.

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- C. Multiple Accessory Structures. There shall be no limit to the number of structures, provided the structures in combination comply with the area coverage requirements. When there is more than one accessory structure within a yard, all provisions in this Chapter shall apply and shall be based on the total square footage of all accessory structures within the yard.
- D. Prohibited Structures. The use of metal shipping containers, railroad box cars, manufactured homes and similar buildings as an accessory structure shall be prohibited.

**17.70.020 MULTIPLE FAMILY DEVELOPMENTS**

There shall be no limit to the size, number, location or exterior finish of accessory structures for multiple family developments, provided, the accessory structures shall comply with all setback, height restrictions and other dimensional and design requirements for the primary structure(s).

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**17.72 SPECIAL RESIDENTIAL DWELLINGS**

**17.72.010 RESIDENTIAL ACCESSORY DWELLING UNITS**

Where identified as an allowed use, a maximum of one accessory dwelling is allowed per legal single-family dwelling. The unit may be a detached building, in a portion of a detached accessory building (e.g., above a garage or workshop), or a unit attached or interior to the primary dwelling (e.g., an addition or the conversion of an existing floor); subject to the following standards:

- A. A detached accessory dwelling shall not exceed 75% of the primary dwelling's floor area and shall comply with the lot coverage requirements.
- B. An attached or interior accessory dwelling shall not exceed 40% of the dwelling's floor area. However, accessory dwellings that result from the conversion of a level or floor (e.g., basement, attic, or second story) of the primary dwelling may occupy the entire level or floor, even if the floor area of the accessory dwelling exceeds 40% of the floor area.
- C. A detached accessory dwelling shall have a roof with a minimum pitch of three feet in height for each 12 feet in width.
- D. An accessory dwelling shall be placed on a foundation that meets the requirements of all applicable building codes.
- E. ~~One off-street parking space shall be provided for each accessory dwelling. In addition, parking~~ Parking shall be increased for the primary dwelling if needed so that the primary dwelling is provided two off-street parking spaces.
- F. Unless otherwise specified, accessory dwellings shall meet all other development standards (e.g., height, setbacks, lot coverage, etc.) for accessory buildings in the zoning district.

Commented [WW87]: Per DLCD ADU

**17.72.020 ATTACHED DWELLINGS**

Attached dwelling units are single family homes on individual platted lots that are attached to a similar unit on one or two sides. Where permitted as a special use, attached dwelling units shall meet the following use and development standards:



### ARTICLE III DEVELOPMENT REQUIREMENTS

- A. Permitted Development. Any number of attached dwellings may be built contiguous with one or both sides of a separate platted lot with one dwelling per lot.
- B. Setbacks
1. Zero side yard units shall comply with the setback requirements for the front yard, rear yard and yard adjacent to a street in the applicable zone.
  2. Interior side yard requirements of the applicable zone shall be met when any part of an exterior wall faces, but is not contiguous to, a side lot line. Otherwise, the interior side yard requirements shall not apply.
- C. Building Separation. Buildings on adjacent properties, but not attached to each other, shall be separated by a distance of at least ten feet.
- D. Accessory Buildings. The provisions of this section apply to accessory as well as main buildings.

**Commented [AC88]:** Currently, we don't allow accessory buildings on adjacent properties without a conditional use, and they must adhere to the setbacks of the zone.

**Commented [BL89R88]:** These wouldn't be accessory buildings, they would be separate parcels, separate buildings, but a part of the same development.

**Commented [WW90R88]:** One owns the land and the building but shares a wall or walls.

**Commented [WW91]:** Section 17.72.030 required by SB8.

#### 17.72.030 AFFORDABLE HOUSING PROVISIONS

- A. Purpose. To implement Oregon State Legislature Bills SB 8 and HB 2008, as well as enhance affordable housing opportunities in Sweet Home and open opportunities for affordable housing on land not currently zoned for residential development.
- B. Applicability
1. All land in the City of Sweet Home currently zoned C-1, C-2, and PF may be developed for affordable housing without a zone change application or process provided all conditions of this section and state law are met.
  2. All land in the City of Sweet Home currently zoned I may be developed for affordable housing without a zone change application and only if the property is: (a) publicly owned; (b) adjacent to lands zoned for residential uses or schools; and (c) not specifically designated for heavy industrial uses.

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3. The land is owned by religious organizations or government agencies; or non-profit organizations with housing development as their primary goal/purpose.
4. The project shall develop affordable housing for those individuals or households with a combined annual income at or below 60% of the most recent Linn County median income.

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**C. Application Requirements**

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1. Application shall be made on forms prescribed by the City and shall demonstrate that all state and Residential Medium Density (R-3) Zone requirements are met. The following exceptions apply to the R-3 zone requirements:
  - a. Density may increase by 150 percent of the existing density.
  - b. Structures may be increased in height by 24 additional feet.
2. The parcel(s) proposed for affordable housing development shall not contain slopes greater than 25%, be located within the City's 100-year floodplain or be identified as hazardous land.
3. The site, when developed, shall meet all state and county requirements for public safety, health, and habitability, and as well as city utility, street, and water drainage requirements.

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- D. Affordable Housing shall be administered through the Site Design Review process contained in Chapter 17.102.**

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**17.74 TEMPORARY USES**

**17.74.010 PURPOSE**

The purpose of these regulations is to provide standards for the establishment of temporary businesses and similar uses within The City of Sweet Home.

**17.74.020 PERMITTED USES**

Where allowed, the following temporary uses shall be permitted subject to the following limitations and requirements:

A. Tree and Fireworks. Christmas tree or fireworks sales are permitted subject to the following:

1. The sales shall be limited to Commercial or Industrial zones, except that sales may occur on those properties containing public or semi-public uses, such as schools or churches, regardless of the underlying zone.
2. Unless otherwise excepted by provisions in this Section, the sales activity shall be subject to provisions in Chapter 17.74.020.B.
3. Temporary uses located within Residential zones (on properties with public or semi-public uses) shall not operate beyond 9:00 PM.

**Commented [AC92]:** 17.74.020.A.1 states commercial or industrial or public. #3 contradicts #1

**Commented [BL93R92]:** 1 contains an exception. I believe this clarification helps.

**Commented [WW94R92]:** Many churches and schools are located in a residential zone.

B. Commercial Activities. Amusement and recreational services and retail sales and services are permitted in the Commercial zone, subject to the following:

1. The business may be operated from a vehicle, temporary structure or a vacant building.
2. The activity is located on the same lot for no more than 90 days in any calendar year.
3. The required parking for the primary uses on the same lot is not reduced below Development Code requirements.
4. The use does not block driveways, driveway entrances or parking aisles.
5. The activity conforms to all signage requirements in Chapter 17.50.
6. The activity conforms to all setback requirements applicable to the lot and zone.
7. The operator of a temporary use shall obtain a Transient Merchant permit (see Chapter 5.12 of this Code) and all permits required by other agencies including those required for food handling and sales, and the sale of

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fireworks.

- C. Food Services. Food services shall be subject to the requirements in B., except that they may be located on the same lot for 180-days with unlimited renewals.
- D. Temporary Construction Facilities. Mobile offices, temporary power equipment and temporary structures used by personnel and to store equipment during construction, provided the structures are located on the construction site and not used as dwellings. There is no restriction as to the zoning.
- E. Yard Sales and Auctions. Yard sales or auctions in any zone, provided there are not more than four sales in a calendar year, with each sale not to exceed three consecutive days. Merchandise and signs shall remain on private property. This Section does not limit the number of times, or duration, that public agencies may conduct sales or auctions regard agency land, equipment, supplies or other materials.
- F. Additional Permitted Temporary Uses. The City Council may, by resolution, authorize additional permitted temporary uses during a specific event or festival and set forth reasonable types of uses, appropriate zones for such uses, and any time restrictions the City Council finds necessary to protect the health, safety and welfare of the public.
- G. RVs as Temporary Habitation. The use of trailers, detached campers, recreational vehicles, fifth-wheelers, motorized dwellings, travel trailers, tent trailers and similar recreational facilities for temporary habitation is limited to 30 consecutive days or a total of 60 days in a calendar year within The City limits and shall require a Temporary RV Permit from The City, and must comply with chapter 10.28 of this Code.

**Commented [AC95]:** Boats and trailers as RV's??

**Commented [AC96]:** A tent is not an RV

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**17.76 BED AND BREAKFAST ESTABLISHMENTS** ~~\*\*look into AirBNB~~  
criteria

**17.76.010 PURPOSE**

The purpose of this Chapter is to provide development guidelines and operating requirements for a bed and breakfast establishment within The City.

**17.76.020 GENERAL PROVISIONS**

Where allowed, the following provisions shall apply:

- A. Location. The establishment shall be located along, or within 300 feet, of a collector or arterial street.
- B. Rooms. The bed and breakfast establishment shall be limited to a maximum of two guest rooms in the R1 zones and four guest rooms in all other zones.
- C. Room Restrictions. No guest room shall be located within a basement.
- D. Building Modification. The guest rooms utilized by the establishment shall be part of the primary residential use and not specifically constructed for rental purposes. In no case shall the residential character be modified or altered to accommodate the establishment.
- E. Parking. In addition to the parking requirements for the residence, one additional parking space shall be required for each guest room. The parking space(s) shall comply with the following improvement provisions:
  - 1. No parking shall be permitted within the designated front yard setback.
  - 2. Parking located within the side yard or rear yards shall be screened from adjacent residential zoned property. Screening shall be provided by a six-foot sight-obscuring wood or chain-link fence; or, vegetative hedge.
- F. Signs. Signs shall be limited to one non-illuminated wall-mounted sign not to exceed eight (8) square feet in area. Signs must comply with chapter 17.50 of this Code.

**Commented [BL97]:** Walt, the PC is interested in examining regulations on Short-term rentals (such as AirBnB), and felt that this section might be the best place for that. Do you have any recommendations in that area, both content and location within the code?

**Commented [WW98R97]:** Would suggest a separate set of regulations outside of the Development Code. Making it a regulatory issue and not a land use matter provides greater flexibility for the City as circumstances change and experience improves.

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DEVELOPMENT REQUIREMENTS**

**17.76.030 OPERATION REQUIREMENTS**

The following shall continually apply to the operation of the establishment:

- A. Owner/Operator. The establishment shall be maintained and operated solely by the on-premise owner of the residence containing the bed and breakfast.
- B. Retail Activity. No retail or other sales shall be permitted unless clearly incidental and directly related to the conduct of the establishment (e.g., coffee cups or t-shirts with the business logo).
- C. Receptions. The establishment shall not be used by the public or paying guests for the hosting of receptions, weddings, private parties or similar functions.
- D. Meals. Meals shall be limited to breakfast and snacks and shall be served only to overnight guests. The operator shall be responsible for obtaining necessary food service permits.
- E. Safety. The improvements, maintenance and operation of the establishment shall continually comply with applicable building code, fire safety and health regulations.



**ARTICLE III  
DEVELOPMENT REQUIREMENTS**

**17.78 HOUSES OF WORSHIP**

**17.78.010 ALLOWED USES**

Where identified as a permitted or conditionally permitted use, a house of worship, church, non-profit religious or philanthropic institution; may include the following activities and uses customarily associated with the practices of the religious activity:

- A. Worship services.
- B. Religion classes.
- C. Weddings.
- D. Funerals.
- E. Meal programs.
- F. Child care, but not including private or parochial school education for prekindergarten through grade 12 or higher education.
- G. House or residence for clergy, religious leaders.

**17.78.020 SPECIAL HOUSING PROVISIONS**

- A. Houses of worship may provide housing or space for housing in a building that is detached from the place of worship, provided:
  - 1. At least 50% of the residential units provided under this paragraph are affordable to households with incomes equal to or less than 60% of the median family income for the county in which the real property is located;
  - 2. The real property is in an area zoned for residential use that is located within the urban growth boundary; and
  - 3. The housing or space for housing complies with applicable land use regulations and meets the standards and criteria for residential development for the underlying zone.
- B. Housing and space for housing provided under subsection A., above, must be subject to a covenant appurtenant that restricts the owner and each successive

**ARTICLE III  
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owner of the building or any residential unit contained in the building from selling or renting any residential unit described in subsection A.1., of this section as housing that is not affordable to households with incomes equal to or less than 60% of the median family income for the county in which the real property is located for a period of 60 years from the date of the certificate of occupancy.

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**17.80 WIRELESS TELECOMMUNICATIONS FACILITIES**

**17.80.010 PURPOSE**

The purpose of this section is:

- A. To minimize adverse health, safety, public welfare or visual impacts of towers, through careful design, siting, landscaping and innovative visual compatibility techniques.
- B. To encourage shared use/co-location of towers and antenna support structures as a primary option rather than construction of additional single-use towers.
- C. To encourage utilization of technological designs that will either eliminate or reduce the need for construction of new tower facilities.
- D. To avoid potential damage to property caused by facilities, by ensuring such structures are sound and carefully designed, constructed, modified, maintained and removed when no longer used or are determined to be structurally unsound.
- E. To ensure that towers are compatible with surrounding land uses.

**17.80.020 DEFINITIONS** ~~(these should be added to general definitions in Chapter 17.04)~~

For the purpose of this Development Code, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**ANTENNA, WIRELESS TELECOMMUNICATIONS** - The physical device, commonly in the form of a metal rod, wire panel or dish, through which electromagnetic, wireless telecommunications signals authorized by the Federal Communications Commission are transmitted or received. Antennas used by amateur radio operators, police, fire and AM radio are excluded from this definition.

**ATTACHED WIRELESS COMMUNICATION FACILITY** - A wireless telecommunications facility that is affixed to an existing structure, other than a wireless telecommunications tower.

**CO-LOCATION** - A wireless telecommunications facility comprised of a single telecommunications tower or building supporting one or more antennas, dishes or

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**Commented [BL99]:** Walt, the PC asked about moving these definitions to the definitions for the entire development code, which has been done with some, but not all. Any reason why that shouldn't be done for all of the definitions? Any reason to (redundantly) keep the definitions here as well?

**Commented [WW100R99]:** I re-examined Article 1 and two definitions were not placed in the correct order – I made the corrections. Reason for the duplication is this is often a "pull-out" section where both definitions and regulations should be kept together – think floodplain.

### ARTICLE III DEVELOPMENT REQUIREMENTS

similar devices owned or used by more than one provider.

**HANDOFF** - Refers to the process of transferring an active call or data session from one cell in a cellular network to another or from one channel in a cell to another.

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**LATTICE TOWER** - A support structure constructed of vertical metal struts and cross braces forming a triangular or square structure which often tapers from the foundation to the top.

**MONOPOLE** - A support structure constructed of a single, self-supporting hollow metal tube securely anchored to a foundation.

**PROVIDER** - A company holding a Federal Communications Commission (FCC) license that is in business to provide telecommunications services.

**VISUAL COMPATIBILITY TECHNIQUES** – Design, engineering and construction techniques that minimize the visual impact of a tower or antennas.

**WIRELESS TELECOMMUNICATIONS** - The transmission, via radio frequency electromagnetic waves, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent and received.

**WIRELESS TELECOMMUNICATIONS ACCESSORY STRUCTURE/EQUIPMENT** - Equipment shelters or radio equipment necessary for the operation of wireless telecommunications in addition to the antenna and tower.

**WIRELESS TELECOMMUNICATIONS EQUIPMENT SHELTER** - The structure in which the electronic radio equipment and relay equipment for a wireless telecommunications facility is housed.

**WIRELESS TELECOMMUNICATION FACILITY (WTCF)** - A facility consisting of the equipment and structures involved in receiving and or transmitting telecommunications or radio signals.

**WIRELESS TELECOMMUNICATIONS SUPPORT FACILITY** - A wireless telecommunication tower.

**WIRELESS TELECOMMUNICATIONS TOWER** - A structure intended to support

### ARTICLE III DEVELOPMENT REQUIREMENTS

equipment used to transmit and/or receive telecommunications signals including monopoles, guyed and lattice towers, but not excluding any other approved structure.

~~VISUAL COMPATIBILITY TECHNIQUES — Design, engineering and construction techniques that minimize the visual impact of a tower or antennas.~~

#### 17.80.030 REVIEW PROCEDURES

- A. Wireless telecommunications facilities, hereby referred to as "WTCF" and/or "facilities" within this section, require a conditional use permit, unless located within an industrial zone.
- B. The process of review is dependent on the type of facility proposed (i.e. co-located/attached or freestanding) and its proposed location.
  1. Notice. When mailed notice of a public hearing or an administrative action relating to a wireless communication facility is required by this chapter, the notice shall be sent to owners of record of property where the property is located as follows:
    - a. Within 300 feet from the exterior boundary of the subject property when the proposed WTCF meets the height requirement of this chapter; and
    - b. For WTCFs that exceed the height requirement of this chapter, an additional 50 feet of notice area is required for every ten-foot increment in height.
  2. Action by the Planning Commission. Applications to site a WTCF through means other than attachment shall be processed as a Conditional Use subject to the Type III process in Chapter 17.126, unless located within an industrial zone.
  3. Uses prohibited. Wireless telecommunications facilities shall be prohibited in the Natural Resources Overlay Zone.

Commented [AC101]: Other area of code say "WTF"

#### 17.80.040 SITING PREFERENCES

WTCFs shall be sited in accordance with the following priorities, in order of their preference. If the applicant proposes a facility on lower priority preferences, the applicant shall prove conclusively, that each of the higher priorities has been considered and found to be not feasible.

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- A. Priority #1. Use of an attached wireless communication facility whereby transmission and reception devices are placed on existing structures which are consistent in height with and situated similarly to types normally found in the surrounding area, such as telephone, electrical or light poles.
- B. Priority #2. Co-location by placement of antennas or other transmission and reception devices on an existing tower, building or other structure, such as a utility pole, water tank or similar existing structure.
- C. Priority #3. Siting of a new tower, in a visually subordinate manner, using visual compatibility techniques.
- D. Priority #4. Siting of a new tower in a visually dominant location, but employing visual compatibility techniques.
- E. Priority #5. Siting of a tower in a visually dominant location, not employing visual compatibility techniques.

**17.80.050 STANDARDS AND REQUIREMENTS**

- A. General: Conflict. All facilities shall meet all requirements established by the other provisions of SHMC that are not in conflict with the requirements contained in this chapter.
- B. General: Compliance. All facilities shall comply with all federal, state and city codes, including, but not limited to, Federal Communication Commission and Federal Aviation Administration standards.
- C. Access. Access shall meet the standards of the underlying zone.
- D. Height.
  - 1. Except as specified in Chapter 17.80.090, height of a facility shall be measured from the natural, undisturbed ground surface below the center of the base of the proposed facility to the top of the facility or if higher, the tip of the highest antenna or other transmission or reception device.
  - 2. No WTCF shall exceed the height standard of this chapter, except where attached to an existing structure that exceeds that height and the attached antennas do not increase the total height of that structure by more than



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ten feet.

**E. Co-location.**

1. New facilities, if technically feasible, will be designed and constructed for three antennas/providers to co-locate on the facility and to allow antennas mounted at varying heights.
2. The owner of a facility may not deny a wireless telecommunications provider the ability to co-locate on its wireless communication facility at a fair market rate or at another cost agreed to by the affected parties.
3. A facility may be attached to any existing structure as long as the height of that structure is not increased by more than ten feet and so long as it meets all relevant requirements of this section.
4. Co-location shall not be precluded simply because a reasonable fee or shared use is charged or because reasonable costs necessary to adopt the existing or proposed uses to a shared tower. The Planning Commission may consider expert testimony to determine whether the fees and costs are reasonable.
5. Co-location costs that exceed new tower development costs are considered to be unreasonable.

**F. Construction.** All facilities must meet the requirements of the *Uniform Building Code* and/or the *Oregon Structural Specialty Code*.

**G. Design.** Where possible new facilities will be located in such a manner that they blend in with the background around them, using techniques to ensure visual compatibility characteristics.

1. All new WTCF towers shall be a monopole or lattice tower structure constructed out of metal or other nonflammable material.
2. All accessory structures (i.e. vaults, equipment rooms, utilities and equipment enclosures) shall be concealed, camouflaged, shall be consistent with the underlying zone or shall be placed underground.
3. Visible exterior surfaces of accessory facilities (i.e. vaults, equipment rooms, utilities and equipment enclosures) shall be constructed out of nonreflective materials.
4. Unless constructed of a naturally dull or non-reflective material, WTCFs shall be initially painted and thereafter repainted as necessary with a "flat" paint. The color shall be one that will minimize the facility's visibility to the

### ARTICLE III DEVELOPMENT REQUIREMENTS

maximum extent feasible.

- H. Landscaping. All WTCF shall be installed in such a manner as to maintain and enhance existing vegetation. Where no vegetation exists, a landscaping plan must be submitted for the site.
- I. Lighting. No lighting shall be permitted on a WTCF except as required for security and as required by the Federal Aviation Administration. Security lighting shall be located in such a manner so as not to face directly, shine or reflect glare onto any street or a lot in a residential zone.
- J. Location. No telecommunications facility shall be installed on an exposed ridge line unless it blends with the surrounding existing natural and human-made environment in such a manner as to be visually compatible with the environment.
- K. Setbacks. Facilities shall be set back at least 25% of the tower height from all property lines or shall meet the setbacks of the underlying zone, whichever is greater.
- L. Safety. All WTCF shall maintain in place a security program that will deter unauthorized access and vandalism.
- M. Underground equipment shelters. Underground equipment shelters should be considered.
- N. Signs.
  - 1. Signs shall comply with the requirements set forth in this chapter.
  - 2. All telecommunications facilities shall be clearly identified as to the location and operator so as to facilitate emergency response.

#### 17.80.060 ATTACHED TELECOMMUNICATIONS FACILITIES

All attached facilities shall be located and designed to appear an integral part of the structure.

- A. Roof mounted antennas and all building mounted accessory equipment shall be located no closer to the nearest edge of the roof than the height of the antenna or accessory equipment, whichever is greater.

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- B. Wall mounted antennas shall be architecturally integrated into the building.
- C. Wall mounted antennas shall be located no more than 4-feet from the wall face.
- D. Accessory structures for attached facilities, such as equipment shelters, cabinets or other enclosed structures containing electronic equipment, shall be camouflaged or otherwise constructed using visual compatibility techniques.

**17.80.070 ABANDONMENT OF FACILITIES**

Wireless telecommunications facilities that do not have functioning antennas for a period of six months shall be considered abandoned and shall be removed by the owner or operator within 60 days thereafter.

**17.80.080 APPLICATION**

- A. Application requirements.
  - 1. One copy of the narrative on eight and one-half inch by 11-inch sheets;
  - 2. A development site plan drawn to scale with sheet size not to exceed 24 inches by 36 inches. Where necessary, an overall plan with additional detail sheets may be submitted;
  - 3. All information necessary to evaluate the request;
  - 4. One set of the plan shall be reduced to fit on eight and one-half inch by 11-inch sheets of paper. Names and numbers must be legible on this sheet size; and
  - 5. After the application is accepted as complete, any revisions may require a new application, additional filing fees and rescheduling of the public hearing.
- B. Development plan required. All applications shall be accompanied by a development plan drawn to scale showing the following:
  - 1. Use or uses;
  - 2. Location of the proposed facility and relevant dimensions;
  - 3. Height of the proposed facility;
  - 4. Setbacks for the proposed facility;
  - 5. A photo simulation of the proposed WTCF for the maximum number of

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- providers;
6. Dimensions and location of areas to be reserved for vehicular and pedestrian access and circulation;
  7. A landscaping plan that indicates how the facility will be screened from adjoining uses;
  8. A fencing plan that indicates the location, height and design of any proposed fencing;
  9. A lighting plan that indicates the type and location of any proposed lighting;
  10. A sign plan that indicates the size, location, and design of any proposed signage;
  11. Drawings demonstrating the materials, color and design of the proposed facility;
  12. A map showing all existing wireless communication facility sites operated by the provider within two miles of the Sweet Home boundary, or the top of the nearby ridges, whichever is greater, including a description of the facility at each location;
  13. A propagation study indicating the proposed facility and the adjacent hand-off sites;
  14. If provider proposes to construct a new facility (tower), all applications shall include findings that demonstrate that it is not legally or technically feasible to co-locate:
    - a. Documentation of the efforts that have been made to co-locate on existing or previously approved towers;
    - b. Each provider shall make a good faith effort to contact the owner(s) of all existing or approved towers and shall provide a list of all owners contacted in the area, including the date, form of contact and the result of contact; and
    - c. Documentation as to why co-locating on an existing or proposed tower or attachment to existing structures within one-half mile of the proposed site is not feasible.
  15. Such other pertinent information shall be included as may be considered necessary by the review authority to make a determination that the contemplated arrangement or use makes it necessary and desirable to apply regulations and requirements differing from those ordinarily applicable under this chapter and the subdivision provisions.

**Commented [BL102]:** Walt, is this correction proper? Do we need to define "hand-off" sites?

**Commented [WW103R102]:** Definition added (also in Article 1).

**Commented [AC104]:** Hand-off ??

C. Narrative required. A written statement shall include the following information:

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1. The name and contact information for the provider;
2. A description of the character of the proposed facility;
3. Analysis of how the application meets the review criteria;
4. Applicants/providers shall provide evidence of legal access to the proposed wireless telecommunications facility;
5. The applicant/provider shall provide evidence that legal access to the facility site will be maintained for the duration of the facility's operation;
6. Where a proposed wireless telecommunications facility is located on a property not owned by the provider, the applicant/provider shall present documentation that the owner of the property has granted an easement or entered into a lease for the proposed facility and that vehicular access is provided to the facility;
7. The applicant shall provide evidence that describes the facility tower's structural capacity to carry the antennas of at least three wireless telecommunications providers;
8. The applicant shall provide evidence of steps the provider will take to avoid interference with normal radio and television reception in the surrounding area and with any public safety agency or organization, per FCC requirements;
9. The applicant shall demonstrate that the WTCF is intended to provide service primarily within the community. The City reserves the right to deny a permit if it is shown that the facility is not intended to provide service primarily within the community.
10. The applicant/provider shall demonstrate that the WTCF must be located where it is proposed in order to service the provider's service area. There shall be an explanation of why a facility at this proposed site is technically necessary;
11. If the applicant/provider proposes a new tower or co-located facility, the applicant shall provide evidence that the facility's height is the lowest height at which the gap in coverage can be filled;
12. All applications shall include evidence that at least one provider will use the proposed facility and provide wireless telecommunications service immediately upon completion of the facility. The City reserves the right to deny applications that propose a facility without a provider.
13. The application shall include a written agreement that WTCFs owned by the provider, that do not have an operating antenna for a period of six months, shall be considered abandoned and shall be removed by the operator within 60 days.
14. The application shall include a written agreement from the property owner

### ARTICLE III DEVELOPMENT REQUIREMENTS

that if the provider fails to remove an abandoned WTCF, the property owner has full legal and fiscal responsibility for the WTCF removal.

**Commented [AC105]:** 9-14 switches between wireless telecommunications facility and WTF. Choose one for consistency

**Commented [WW106R105]:** Concur – WTCF was agreed to.

#### 17.80.090 SPECIAL REVIEW CRITERIA

- A. Residential zones. A wireless telecommunications facility is not allowed in any residential zone unless it is an attached WTCF that meets the requirements of this section.
1. Access. Standards for access are set by the underlying zone.
  2. Height. A facility that is attached to an existing structure may not exceed the height of the existing structure, unless findings are made by the Planning Commission that such an increase will have a minimal impact on the appearance of the structure.
  3. Landscaping. Existing trees and other screening vegetation in the vicinity and along the access road shall be protected from damage, both during the construction period and thereafter.
  4. Signs. Facilities shall be identified with an identification sign not exceeding two square feet in size.
  5. Accessory facilities. Accessory structures for attached facilities, such as equipment shelters, cabinets or other enclosed structures containing electronic equipment, shall be camouflaged or otherwise constructed using visual compatibility techniques.
- B. Commercial Zones. A wireless telecommunications facility in any commercial zone must be either an attached WTCF or a monopole, and that meets the requirements of this section.
1. Access. Standards for access are set by the underlying zone.
  2. Height. The height of a WTCF shall not exceed 80 feet.
  3. Landscaping. Existing trees and other screening vegetation in the vicinity and along the access road shall be protected from damage, both during the construction period and thereafter. The accessory structure shall be screened by an evergreen material with an ultimate height of at least eight feet and a planted height of at least three feet. The landscaping must be protected and maintained.
  4. Signs. Facilities shall be identified with an identification sign not exceeding two square feet in size.
  5. Accessory facilities. Accessory structures for attached facilities, such as



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equipment shelters, cabinets or other enclosed structures containing electronic equipment, shall be camouflaged or otherwise constructed using visual compatibility techniques.

#### C. Industrial zones.

1. *Access.* Standards for access are set by the underlying zone.
2. *Height.* Facilities shall not exceed 100 feet.
3. *Landscaping.* Existing trees and other screening vegetation in the vicinity and along the access road shall be protected from damage, both during the construction period and thereafter. The accessory structure shall be screened by an evergreen material with an ultimate height of at least eight feet and a planted height of at least three feet. The landscaping must be protected and maintained.
4. *Signs.* Facilities shall be identified with an identification sign not exceeding two square feet in size.
5. *Accessory facilities.* Accessory structures for facilities, such as equipment shelters, cabinets or other enclosed structures containing electronic equipment, shall be camouflaged or otherwise constructed using visual compatibility techniques.

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**17.82 GENERAL STANDARDS**

**17.82.010 LOTS OF RECORD**

- A. A parcel is a legal lot of record for purposes of this Development Code when the lot conforms to all zoning requirements, subdivision requirements, and Comprehensive Plan provisions, if any, in effect on the date when a recorded separate deed or contract creating the separate lot or parcel was signed by the parties to the deed or contract.
- B. Lots in recorded plats may be combined under a single ownership for the purpose of developing the combined property, subject to approval of a property line adjustment.
- C. The use or development of any legal lot of record shall be subject to the regulations applied to the property when such development or use is commenced, irrespective of the lot width, street frontage, depth or area, but subject to all other regulations.

**17.82.020 EXCEPTIONS TO LOT SIZE REQUIREMENTS**

This section shall apply in the event that a lot or the aggregate of contiguous lots held in a single ownership as recorded in the office of the Recorder of the county and located in The City as of January 1, 1971, or the date of annexation of the property to The City, whichever is later, has an area or dimension which does not meet the lot size requirements of the zone in which the property is located. In this case, the holdings may be by a use permitted in the zone subject to the other requirements of the zone. If there is an area deficiency, residential use shall be limited to a single-family dwelling, or to the number of dwelling units consistent with the lot area per dwelling unit requirement of the zone.

**17.82.030 LOTS ABUTTING A PARTIAL STREET**

New structures which are proposed to be constructed on lots abutting an existing public street which does not meet the minimum standards of [Chapter 17.42](#) for right-of-way width shall provide setbacks sufficient to allow for the future widening of the right-of-way. Building permits shall not be issued unless a yard setback equal to the minimum yard requirements of the zoning district plus the required minimum additional right-of-way width is provided.

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**17.82.040 PROTECTION OF RUNOFF CAPACITY OF NATURAL DRAINAGE CHANNELS**

A property owner shall not allow the water carrying capacity of any drainageway within his property to deteriorate and subsequently contribute to flood hazard. The property owner shall remove excess debris from the channel including dead vegetation. Neither shall any fill or garbage be dumped in any drainageway. Failure to maintain the water carrying capacity of the drainageway shall empower The City to enter the property and take whatever action is necessary to ensure that the carrying capacity of the drainageway is not impaired and then assess the real property and improvements for the cost of The City's actions. Grading permits may be required and are subject to provisions in Chapter 17.46.

**17.82.050 FARM USES AND LIVESTOCK**

If permitted in the zone, allowed as an accessory use, or otherwise permitted as a commercial or industrial activity, the following limitations shall apply:

- A. Crops, Orchards and Gardens. The growing of crops, orchard products, vegetables or similar food items for personal use shall be permitted.
- B. Livestock, Chickens, Rabbits and Similar. The breeding, raising, boarding, or selling of horses, cows, bulls, mules, sheep, goats, alpacas, llama, emus, bees, or other similar farm animals are subject to provisions in Title 6 of the Sweet Home Municipal Code.

**17.82.060 GENERAL EXCEPTION TO BUILDING HEIGHT LIMITATIONS**

Projections such as chimneys, spires, domes, elevator shaft housing, towers, aerials, flagpoles, and other similar objects not used for human occupancy may be constructed to a height not to exceed 1.25 times the height limit for the zone.

**17.82.070 HEIGHT EXCEPTIONS FOR PUBLIC BUILDINGS**

Public or quasi-public buildings, religious buildings, hospitals, and educational institutions when permitted in a zone may be constructed to a height not to exceed 1.75 times the height limit for the zone, provided all the required yards are increased one foot for each two feet of additional building height above the height regulation for the zone.

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**17.82.080 ADDITIONS TO EXISTING STRUCTURES**

When structures exist at the time a zone is adopted which do not comply with an individual yard setback restriction, additions to such structures not conforming to the yard setbacks shall be allowed, provided:

- A. The setback distance will not be decreased by the addition.
- B. The addition conforms to all other provisions of the zoning district.
- C. The addition shall not be greater than forty (40) percent of the square footage on the ground level of the existing structure.

**17.82.090 MISCELLANEOUS EXCEPTIONS TO SETBACK REQUIREMENTS**

Setback limitations stipulated elsewhere in this Development Code may be modified as follows:

- A. Bus Shelters. Bus shelters which are intended for use by the general public and are under the ownership and/or control of a city, county, state or municipal corporation shall be exempt from setback requirements, provided they do not violate clear-vision provisions in Chapter 17.56.
- B. Underground Structures. Side and rear yards of underground structures may be reduced to 3 feet except:
  - 1. Where the perimeter wall of the structure is above the natural elevation of the adjacent ground, in which case the setback provisions of the district shall apply.
  - 2. All openings into the structure, including doors, windows, skylights, plumbing, intake and exhaust vents, shall meet the minimum setbacks of the district.
- C. Public Dedication. Setback restrictions of this Development Code shall not apply to existing structures where the setback is reduced by a public dedication.
- D. Special Right-of Way. The placement of buildings and the establishment of yards shall conform the right-of-way widths for existing and proposed street alignments shown on the Sweet Home Street Plan.

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- E. Commercial & Industrial Setbacks. In commercial or industrial districts where an interior yard is not required and a structure is not located at the property line, it shall be set back at least three (3) feet from the property line to accommodate access to the building.

F. Drainageway Setback Provisions

1. All fish-bearing streams and all year-round flowing streams shall have a minimum setback of 50 feet from the top of each bank and 75-feet for the South Santiam River. Additional setbacks may be required for riparian areas, wetlands and floodplains. 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, other than for continuation of agricultural use, by grading or placement of structures or impervious surfaces is prohibited unless approved by The City in accordance with the procedures of this Development Code and State Law.
2. All other intermittent drainageways and watercourses shall have a minimum setback that includes the vegetative fringe, top of bank or a minimum 15 feet from the center of the drainageway whichever is greater.

**Commented [AC107]:** For Wiley and Ames Creek, but South Santiam is 75 feet

**Commented [WW108R107]:** Added South Santiam setback.

#### 17.82.100 NONCONFORMING USES

- A. Continuation. A nonconforming use may be continued although not in conformity with the regulations for the zone in which the use is located.
- B. Discontinuation. If a nonconforming use is discontinued for a period of more than one year, the use shall not be resumed unless the resumed use conforms with the requirements of the Development Code.
- C. Restoration. If a nonconforming use is damaged or destroyed by fire, other casualty or natural disaster, such use may be restored or replaced provided physical restoration or replacement is lawfully commenced within one year of the damage or destruction. The City may administratively grant a one time, one-year extension to this requirement.

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- D. Alteration and Change of Use. Alterations or changes in a nonconforming use may be permitted to reasonably continue the use. Such alterations or changes are subject to the Nonconforming Use provisions in Chapter 17.108.
- E. Exemptions. Non-conforming single-family homes or duplex dwellings in a non-residential zone may be modified, or expanded in compliance with development requirements of the R-3 Zone without the need to comply with the requirements and procedures in Chapter 17.108. Conversions of non-conforming single-family homes to duplexes in non-residential zones are similarly permitted without the need to comply with the requirements an procedures of Chapter 17.108 when they do not increase the nonconformance.

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**Commented [WW109]:** Per OAR





**ARTICLE IV  
REVIEW PROCEDURES**

**ARTICLE IV – REVIEW PROCEDURES**

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**17.90 APPLICATIONS - GENERAL**

**17.90.010 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.

**17.90.020 TYPE OF ACTIONS**

- 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 Development Code requirements and implement these standards. Decisions are memorialized on the relevant permit form or other order and notice provided to applicant. Appeal is to the Planning Commission.
- B. Type II Action. A ministerial action reviewed by staff based on clear and objective standards, but with limited discretion. Conditions are limited to those that ensure compliance with Development 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.
- 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.
- 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 Planning Commission providing an advisory role and the City



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Council rendering the Final Decision. Public notice is provided for both and public hearings. Appeal of the decision is to the Land Use Board of Appeals (LUBA).

**17.90.030 TABLE OF LAND USE APPLICATION PROCEDURES**

Land Use Action	Type	Staff	Planning Commission	City Council
Property Line Adjustment	Type - I	Final Decision unless appealed	Appeal - Staff Decision	Appeal - Planning Commission Decision
Home Occupation	Type - I	Final Decision unless appealed	Appeal - Staff Decision	Appeal - Planning Commission Decision
Interpretations	Type - I	Final Decision unless appealed	Appeal - Staff Decision	Appeal - Planning Commission Decision
Partition	Type - II	Final Decision unless appealed	Appeal - Staff Decision	Appeal - Planning Commission Decision
Adjustment	Type - II	Final Decision unless appealed	Appeal - Staff Decision	Appeal - Planning Commission Decision
Site Development Review	Type III	Recommendation to Planning Commission	Final Decision unless appealed	Appeal - Planning Commission Decision
Conditional Use	Type - III	Recommendation to Planning Commission	Final Decision unless appealed	Appeal - Planning Commission Decision
Variance	Type - III	Recommendation to Planning Commission	Final Decision unless appealed	Appeal - Planning Commission Decision
Nonconforming Uses	Type - III	Recommendation to Planning Commission	Final Decision unless appealed	Appeal - Planning Commission Decision
Subdivision & Planned Development	Type - III	Recommendation to Planning Commission	Final Decision unless appealed	Appeal - Planning Commission Decision
Comp. Plan Map Amendment	Type - IV	Recommendation to Planning Commission	Recommendation to City Council	Final Decision unless appealed
Zone Map Amendment	Type - IV	Recommendation to Planning	Recommendation to City Council	Final Decision unless appealed

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		Commission		
Text Amendment	Type - IV	Recommendation to Planning Commission	Recommendation to City Council	Final Decision unless appealed
Annexation	Type - IV	Recommendation to Planning Commission	Recommendation to City Council	Final Decision unless appealed

**17.90.040 OTHER REVIEWS**

The City shall process the following activities administratively. These are non-discretionary actions by City staff whose decision is final and not subject to appeal:

- A. Building permits
- B. Sign permits
- C. Fence permits
- D. Temporary Use

**17.90.050 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. If the approval period is allowed to lapse, the applicant must resubmit the proposal, including all applicable fees. The applicant will be subject to all applicable standards currently in effect.
- B. Time Extension. Extensions may be granted in accordance with the original procedure for the application. Requests for extension of approval time shall be submitted, in writing, 30 days prior to the expiration date of the approval period.
- C. Decision. For a time extension request, the only matter to be considered is the extension. Approval shall be based on a determination that the approved application cannot proceed due to circumstances beyond the applicant's control.

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- D. Conditions of Approval. During the review of an extension request, the conditions of approval may be revised to reflect Development Code changes and/or changes in site or area conditions.
- E. Number of Extensions. No more than two extensions shall be granted. Any further action shall require the submittal of a new application and fee.
- F. Time Extension Provisions for Subdivisions and Planned Developments. The Planning Commission may extend the approval period for any subdivision or PD for not more than two additional years. 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.

#### 17.90.060 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 Home 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.

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**17.90.070 MODIFICATION OF DECISIONS**

- A. Except as noted in "B.", below, modifications to a final approved land use application shall be processed as a new application. However, the review of the modified request shall be limited to the proposed modification(s) with a determination on whether the change or changes comply with the decision criteria. Further:
1. The modified request shall be considered a new application, with new notice, final decision date and rights of appeal.
  2. Conditions of approval may be revised to address the modified findings.
- B. Modification of a final approved plan or existing development by the Planning Commission may be processed as a Type II decision by the City Planner only if the following threshold criteria can be met:
1. There will be no change in land use;
  2. The proposed change does not result in an increase in the overall impacts to adjacent properties;
  3. There is no increase in the amount of operational activity;
  4. The proposed change does not violate the standards of the land use zone;
  5. The proposed change does not result in a change to lot or parcel boundary lines.

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**17.92 PROPERTY LINE ADJUSTMENTS**

**17.92.010 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.

**17.92.020 PROCESS**

A Property Line Adjustment application shall be reviewed in accordance with the Type I review procedures specified in Chapter 17.122.

**17.92.030 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 17.122.

**17.92.040 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 regulations of the applicable zone.

**17.92.050 DECISION CRITERIA**

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

#### **ARTICLE IV REVIEW PROCEDURES**

- A. A property line 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.

#### **17.92.060 IMPLEMENTATION**

After a property 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 the 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 17.98.

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**17.94 HOME OCCUPATION**

**17.94.010 APPLICABILITY**

The purpose of this Section is to provide a means to allow residents to create and operate a business within their residence without creating significant impacts on adjacent properties.

**17.94.020 PROCESS**

- A. No Employees. A Home Occupation where there are no employees other than family members residing in the residence or no more than one vehicle associated with the home occupation shall be reviewed in accordance with the Type I review procedures specified in Chapter 17.122.
- B. With Employees. 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 17.104.

**17.94.030 APPLICATION**

Any application for a Home Occupation 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.

**17.94.040 SUBMITTAL REQUIREMENTS**

The application shall include a statement explaining the proposal and providing analysis of the proposal relative to the approval criteria. If appropriate, a preliminary plan should show pertinent information to scale to facilitate the review of the proposed development.

**17.94.050 DECISION CRITERIA**

- A. No Employees. The proposed home occupation must comply with the requirements in Chapter 17.68.
- B. With Employees. In addition to requirements in Chapter 17.68, the proposed home occupation must comply with the Conditional Use criteria.



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**17.96 INTERPRETATIONS**

**17.96.010 APPLICABILITY**

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

**Commented [AC1]:** Commissioner Jurney concerned with verbiage

**Commented [BL2R1]:** I think the adjustments I made will help.

**Commented [WW3R1]:** One other tweak.

**17.96.020 PROCESS**

Interpretation requests shall be reviewed in accordance with the Type I review procedures in Chapter 17.122.

**17.96.030 APPLICATION**

Any application for an Interpretation 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 17.122.

**17.96.040 DECISION CRITERIA**

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

- A. The interpretation is consistent with the purpose of the Development 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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**17.98 PARTITIONS**

**17.98.010 APPLICABILITY**

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

**17.98.020 PROCESS**

Preliminary plats for partitions shall be reviewed in accordance with the Type II review procedures in Chapter 17.124.

**17.98.030 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 Chapter 17.124.

**17.98.040 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 applicant shall submit one 11" x 17" copy of the preliminary plan along with one digital copy. The plan shall include the following information:
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.

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- d. 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.
- 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, specific requirements may be waived provided there is sufficient information to allow processing of an application.

**17.98.050 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 17.58.
- 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 provisions in Chapters 17.42 and 17.44.

**17.98.060 FINAL PLAT APPROVAL**

- A. Survey. Unless the Final Decision approving a preliminary plat is appealed, a final survey of the approved plat shall be recorded within two years. 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.

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- 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. The final Plat shall be recorded with Linn County and a copy of the recorded document shall be submitted to The City. The applicant shall be responsible for all recording fees.
- E. Sale and Development. No parcel shall be sold, transferred or assigned until the final approved Plat is recorded and evidence of the recording is submitted to The City. Building permits shall not be issued prior to recording of the final plat if the proposed structure will violate this Code absent recording the partition.
- F. Validity. Partition approval is valid in perpetuity upon recording of the final surveyed plat.

**17.98.070 EXPEDITED LAND DIVISION**

When an expedited land division for residential use 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 17.98, if the application complies with the conditions and standards of ORS 197.360 through 197.380.

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**17.100 ADJUSTMENTS**

**17.100.010 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 requirements. An Adjustment may be approved for those requests resulting in no more than a 10% change in a quantifiable standard.

**17.100.020 PROCESS**

Adjustments applications shall be reviewed in accordance with the Type II review procedures specified in Chapter 17.124.

**17.100.030 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 17.124.

**17.100.040 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 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.
    - e. Location of all existing easements and City utilities (water, sanitary sewer, storm drainage) within the property.
    - f. 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.

- g. A site plan or other information clearly indicating the proposed adjustment, including dimensions if applicable.
- B. At the discretion of The City, specific requirements may be waived provided there is sufficient information to allow processing of an application.

**17.100.050 ADJUSTMENT APPLICABILITY**

An applicant may propose a modification from a standard or requirement of this Development 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 Development 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 sign standards, or minimum lot sizes.

**Commented [WW4]:** Audit suggested allowing adjustments to lot sizes. Given current smaller lot sizes (for SFD and Duplexes) recommend leaving this as a variance request.

**17.100.060 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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**17.102 SITE DEVELOPMENT REVIEW**

**17.102.010 PURPOSE**

- 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.

**17.102.020 PROCESS**

Site Development Review applications shall be reviewed in accordance with the Type III review procedures in Chapter 17.126.

**17.102.030 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 17.126.

**17.102.040 APPLICABILITY OF PROVISIONS**

- A. Site Development Review is applicable to all new industrial, commercial, mixed use, and multi-family developments and expansions involving a 10% or more increase in total square footage of existing industrial, commercial, mixed use, and multi-family structures.
- B. All of the provisions and regulations of the underlying zone shall apply unless modified by other Sections of this Development Code.
- C. Expansions of 10% 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.



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- D. A Site Development Review shall not be required for a change in use from a permitted use identified in the underlying zone to another permitted use within the same zone

### 17.102.050 SUBMITTAL REQUIREMENTS

- A. The following information shall be submitted as part of a complete application for Site Development 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 and identified flood zones;
    - 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.
    - j. A traffic impact analysis if requested by the City Manager or designee.
    - k. Other appropriate studies and information that may be required by The City to adequately evaluate the project.

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### 17.102.060 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 development standards, such as setbacks, height restrictions, parking and so forth.
- B. The proposed use will not create adverse 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. Provisions for public utilities, including drainage and erosion control needs;
- D. Parking, traffic safety, and connectivity of internal circulation to existing and proposed streets, bikeways and pedestrian facilities.
- E. Provision for adequate noise and/or visual buffering from non-compatible uses including using site and landscaping design to provide needed buffering;
- F. Protections from any potential hazards.

**Commented [WW5]:** The audit recommended more "Clear & Objective" standards. For example: establish specific levels of allowable noise levels. This is something the Commission can consider.

**Commented [BL6]:** Wait, do you have any suggestions on rewording B? See Angela's comment below.

**Commented [AC7]:** B. PC would like to reword so that it is not so restrictive. Talk to Walt about legally defensible options

**Commented [WW8R7]:** Concur. Toned it down a quite a bit – traffic, noise and buffering are reviewed in items D. and E (and F.).

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**17.104      CONDITIONAL USE**

**17.104.010    APPLICABILITY**

A conditional use is one 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.

**17.104.020    PROCESS**

Conditional Use shall be reviewed in accordance with the Type III review procedures specified in Chapter 17.126.

**17.104.030    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 17.126.

**17.104.040    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, flood zones, 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.

#### **17.104.050 DECISION CRITERIA**

A Conditional Use shall be approved if the applicant provides supporting evidence that all the requirements of this Development 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.
- E. Any negative impacts of the proposed use on adjacent properties and on the public can be mitigated through application of other code standards, or other reasonable conditions of approval that include but are not limited to those listed in this chapter.

#### **17.104.060 CONDITIONS OF APPROVAL**

In approving a conditional use permit application, the Planning Commission may impose, in addition to those standards and requirements expressly specified by this chapter, additional conditions determined to be necessary to assure that the proposed development meets the decision criteria as well as the best interests of the surrounding properties, the neighborhood, and The City as a whole.

- A. These conditions may include, but are not limited to, the following:

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1. Requiring larger setback areas, lot area, and/or lot depth or width;
  2. Limiting the hours, days, place and/or manner of operation;
  3. Requiring site or architectural design features that minimize environmental impacts such as noise, vibration, exhaust/emissions, light, glare, erosion, odor or dust;
  4. Limiting the building height, size or lot coverage, or location on the site;
  5. Designating the size, number, locations and/or design of vehicle access points, parking areas, or loading areas;
  6. Increasing the number of required parking spaces;
  7. Requiring street rights-of-way to be dedicated and streets, sidewalks, curbs, planting strips, pathways or trails to be improved, so long as findings in the development approval indicate how the dedication and/or improvements, if not voluntarily accepted by the applicant, are roughly proportional to the impact of the proposed development;
  8. Limiting the number, size, location, height and lighting of signs;
  9. Limiting or setting standards for the location, design, and/or intensity of outdoor lighting;
  10. Requiring fencing, screening, landscaping, berms, drainage, water quality facilities or other facilities to protect adjacent or nearby property, and the establishment of standards for their installation and maintenance;
  11. Designating sites for open space or outdoor recreation areas;
  12. Requiring the protection and preservation of existing trees, soils, vegetation, watercourses, habitat areas, drainage areas, and historic or cultural resources;
  13. Requiring ongoing maintenance of buildings and grounds;
  14. Setting a time limit for which the conditional use is approved.
- B. Uses existing prior to the effective date of this Chapter and classified in Title 17 as a conditional use shall meet the criteria for modification of approved plans and developments.
- C. The Planning Commission may require the applicant of an approved conditional use permit to enter into an agreement with The City for public facility improvements.

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### **17.106 VARIANCE**

#### **17.106.010 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 requirements. A Variance may be approved for those requests resulting in greater than a 10% change in a quantifiable standard.

#### **17.106.020 PROCESS**

Variance applications shall be reviewed in accordance with the Type III review procedures specified in Chapter 17.126.

#### **17.106.030 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 17.126.

#### **17.106.040 SUBMITTAL REQUIREMENTS**

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. The following general information shall be shown on the site plan:

- A. Vicinity map showing all streets, property lines 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.
- E. Location of all existing easements and 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 or other information clearly indicating the proposed variance, including dimensions if applicable.

**17.106.050 VARIANCE APPLICABILITY**

- A. Under the following provisions, a property owner or his designate may propose a modification or variance from a standard of this Development Code, except when one or more of the following apply:
  - 1. The proposed variance would allow a use which is not permitted in the district.
  - 2. Another procedure and/or criterion is specified in the Development Code for modifying or waiving the particular requirement or standard.
  - 3. Modification of the requirement or standard is prohibited within the district.
- B. Variances to the sign regulations are subject to provisions in Chapter 17.50.

**17.106.060 DECISION CRITERIA**

The Planning Commission may allow a Variance from a requirement or standard of this Development 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. The variance is necessary because the subject Development Code provision does not account for special or unique physical circumstances of the subject site, existing development patterns, or adjacent land uses. A legal lot determination may be sufficient evidence of a hardship for purposes of approving a variance.
- 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. An economic hardship shall not be the basis for a variance request.



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- 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 the property is located, or otherwise conflict with the objectives of any City plan or policy.
- D. The need for the variance is not self-imposed by the applicant or property owner (for example, the variance request does not arise as a result of a property line adjustment or land division approval previously granted to the applicant).
- E. The variance requested is the minimum variance which would alleviate the identified hardship.
- F. All applicable building code requirements and engineering design standards shall be met.

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### 17.108 NONCONFORMING USES

#### 17.108.010 APPLICABILITY

Within the zoning districts established by this Development Code, and amendments thereto, uses and structures may exist which were lawful before the date of adoption or amendment of this Development Code but which would be prohibited or restricted under the terms of this Development 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.

#### 17.108.020 PROCESS

Proposed alterations of nonconforming uses shall be reviewed in accordance with the Type III review procedures in Chapter 17.126.

#### 17.108.030 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 17.126. The application shall contain sufficient information and/or plans to address the decision criteria.

#### 17.108.040 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.

C. Conversion of an existing detached single family dwelling to a Duplex is\* allowed, for a total of two dwelling units on a property, provided that the conversion does not increase nonconformance with applicable clear and objective standards in this code.

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#### 17.108.050 CONDITIONS OF APPROVAL

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

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### **17.110 SUBDIVISIONS AND PLANNED DEVELOPMENTS**

#### **17.110.010 APPLICABILITY**

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

#### **17.110.020 PROCESS**

Preliminary plats for Subdivisions and Planned Developments shall be reviewed in accordance with the Type III review procedures in Chapter 17.126.

#### **17.110.030 APPLICATION**

An application for a Subdivision or Planned Development shall be filed with The City and accompanied by the appropriate fee. Notice shall be subject to the provisions in Chapter 17.126.

#### **17.110.040 SUBMITTAL REQUIREMENTS**

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

- A. All applications shall be submitted on forms provided by The City 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 one 11" x 17" copy of the preliminary plan along with one digital copy. The preliminary plan shall include 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, flood plain 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.

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- d. Dimensions and size in square feet or acres of the subject property.
  - e. Name of the Subdivision or Planned Development.
  - 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 Planned Development Preliminary Plan applications:
- 1. Proposed uses on the property, including sites, if any, for attached dwelling units, recreational facilities, parks and playgrounds or

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other public or semi-public uses, with the purpose, condition and limitations of such reservations clearly indicated.

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 Chapter 17.60.
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.

**17.110.040 DECISION CRITERIA - SUBDIVISION**

- 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 17.58.
- 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.

**17.110.050 DECISION CRITERIA – PLANNED DEVELOPMENT**

Approval of a Planned Development shall require compliance with the following:

- A. Conformance with provisions of Chapter 17.60 (Purpose Statement) and Chapter 17.110 (Objectives of this Chapter).

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- B. The proposal shall comply with the applicable development and layout provisions contained in Chapter 17.60.
- C. 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.

**17.110.050 FINAL PLAT REQUIREMENTS**

- A. 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.
- B. The applicant shall submit two identical reproducible copies of the final plat for signature. The plats shall be mylar, meeting the requirements of the County Surveyor.
- C. All monumentation shall meet the requirements of State law including provisions for post-monumentation.
- D. 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.
  - 1. City Manager or designee.
  - 2. Public Works Director or designee
  - 3. Signature blanks for the Mayor with acceptance declaration for dedications of land to public use (other than public utility easements).
- E. 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, restrictions, covenants and other encumbrances pertaining to the subject property.
  - 2. Copy of any dedication requiring separate documents.



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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.

**17.110.060 PROCESS FOR FINAL PLAT APPROVAL**

- A. Within two years of the Final Decision, 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 and a new application shall be required. 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 Development Code and the provisions of the tentative plat as approved, including any conditions imposed in connection therewith;
  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, bikeways, sidewalks, paths, and sewage disposal and water supply systems, the donation of which is required by this Development Code or was made a condition of the approval of the tentative plat;

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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, bikeways, storm drainage, sewer and water systems. The provisions for providing adequate assurance are found in the Public Works Design Standards.
- D. If The City 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 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 two 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.
- 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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**17.112 COMPREHENSIVE PLAN MAP AMENDMENT**

**17.112.010 APPLICABILITY**

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

**17.112.020 PROCESS**

Amendments to the Comprehensive Plan map shall be reviewed in accordance with the Type IV review procedures specified in Chapter 17.128.

**17.112.030 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 17.128.

**17.112.040 SUBMITTAL REQUIREMENTS**

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. A site plan shall not be required to initiate a Comprehensive Plan map amendment.

**17.112.050 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 address the impacts from decreasing acreage of one map designation and increasing 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

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criteria in the Land Conservation and Development Commission (LCDC) Administrative Rules for the type of exception needed shall also apply.

- C. Consistency with the applicable goals and policies in the Comprehensive Plan is demonstrated.
- D. 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.
- E. The Plan provides more than the projected need for lands in the existing land use designation.
- F. 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.
- G. Public facilities and services, including transportation facilities, necessary to support uses allowed in the proposed designation are available, or, will be available in the near future.

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**17.114 ZONE MAP AMENDMENT**

**17.114.010 APPLICABILITY**

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

**17.114.020 PROCESS**

Zone changes shall be reviewed in accordance with the Type IV review procedures specified in Chapter 17.128.

**17.114.030 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 17.128.

**17.114.040 SUBMITTAL REQUIREMENTS**

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. A site plan shall not be required to initiate a Zone Map amendment.

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**17.114.050 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 Development Code.

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- 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.

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**17.116 TEXT AMENDMENTS**

**17.116.010 PROCESS**

Amendments to the Comprehensive Plan and Development Code texts shall be reviewed as a Type IV application as specified in Chapter 17.128.

**17.116.020 APPLICATION**

A Plan or Development 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 Planning Commission or City 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 17.128.

**17.116.030 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~~ The proposed amendment will not adversely impact the following: ~~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 with existing 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 applicable administrative rule requirements. In addition, amendments to the Development Code shall conform with applicable City Comprehensive Plan policies.
- 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.

**Commented [BL11]:** Walt, do you have any suggestions on changes to this language that would allow more flexibility, and not just "no"? One of our PC is concerned that this is too rigid.

**Commented [WW12R11]:** I do see the Commissioner's point. Let me know if the revisions work.

**Commented [AC13]:** A. Henry would like to see language that is not so restrictive. Work with Walt on language.



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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.

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**17.118 ANNEXATIONS**

**17.118.01 AUTHORITY OF CITY TO ANNEX**

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

**17.118.02 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 17.128. A concurrent development proposal is not required to annex property.

**17.118.03 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 17.128.

**17.118.04 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.

**17.118.05 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

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remain part of The City. The date of such filing shall be the effective date of annexation.

**17.118.06 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.

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**17.120 GENERAL ADMINISTRATIVE PROVISIONS**

**17.120.010 MULTIPLE APPLICATIONS**

Applications for more than one land use action and permit 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 Conditional Use (Type III) with an Adjustment (Type II) shall be reviewed and decided as a Type III request.

**17.120.020 GENERALIZED AREA**

Applications involving multiple properties may be aggregated if, in the opinion of the City Manager or designee, 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.

**17.120.030 APPLICATION FORMS**

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

**17.120.040 TIME LIMIT**

- A. The City shall take final action on all land use actions, limited land use actions or zone change applications including all appeals, within 100 days of completion of the application for all applications listed under O.R.S. 197.311 or within 120 days of completion of the application for all other land use actions, limited land use actions or zone change applications that do not also require a comprehensive plan amendment. Applications or appeals which require consideration by agencies or entities outside The City jurisdiction are excepted from this deadline. The 120-day deadline may be extended at the request of the applicant.
- B. If an application is incomplete, The City shall notify the applicant within 30 days of receipt of the application and allow the applicant to submit the missing information. If the applicant refuses to submit the missing information, the application shall be deemed incomplete and no further action shall be taken. If the applicant agreed to supply the missing information, the application shall be deemed complete for the purpose of subsection A of this section when the missing information is supplied.

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- C. If the application was complete when first submitted, or if the applicant supplies requested additional information within 180 days of initial submittal, approval or denial of the application shall be based upon the standards and conditions which were in effect at the time of submittal.
- D. 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 Development Code.
  - 1. 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.
  - 2. Public notice shall be mailed to affected parties as specified in Chapter 17.126 except the notice shall be for a period of 10 days
  - 3. The City Council shall hold in a public hearing on the specified date, in accordance with the provisions of Chapter 17.132 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.
- E. If an application is not acted upon within the time period specified in subsection A. of this section:
  - 1. The City shall refund to the applicant either the unexpended portion of any application fees previously paid or 50% of the total amount of the fees, whichever is greater.
  - 2. The applicant may apply in the Circuit Court of Linn County for a writ of mandamus to compel The City to issue the approval.

#### **17.120.050 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 along with the existing record.

#### **17.120.060 NOTICE**

All mailed notices shall include an affidavit confirming the date and time the notice was mailed along with a list of those to receive notice. Failure to receive a notice shall not invalidate the mailed notice.

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**17.122 TYPE I APPLICATION AND REVIEW PROCEDURES**

**17.122.010 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 designee.
- B. Application and Completeness. The application and completeness review process shall comply with provisions in Chapter 17.120.040.
- C. 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 Development Code.
- D. Notice. Notice of the decision is provided only to the applicant.
- E. Appeals. All Type I land use decisions may be appealed to the Planning Commission. The appeal shall be submitted within 12 days of the date the decision is mailed on forms provided by The City.
- F. Planning Commission Hearing and Notice of Appeal. If a Type I decision is appealed, City staff shall schedule a hearing before the Planning Commission. The Planning Commission shall conduct the hearing consistent with procedures set forth in Chapter 17.130. 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 17.130.
- G. Planning Commission Action. The Planning Commission action on a Type I appeal shall be in the form of a decision. Within 7 days of the Planning 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.
- H. Appeals. All appeals of Type I land use decisions of the Planning Commission may be appealed to the City Council. The appeal shall be submitted within 12 days of the date the decision is mailed.

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- I. City Council Hearing and Notice of Appeal. If the Planning Commission decision on a Type I decision is appealed, City staff shall schedule a hearing before the City Council. The City Council shall conduct the hearing consistent with procedures set forth in Chapter 17.132. Written notice of a public hearing on the appeal shall be mailed to the applicant and those who received notice of the Planning 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 17.126.01.
- J. Notice of City 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 City Council decision. The notice shall specify findings justifying the approval or denial of the request and any applicable conditions of approval.
- K. Appeal of City 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.



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**17.124 TYPE II APPLICATIONS AND REVIEW PROCEDURES**

**17.124.010 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 designee.
- B. Application and Completeness. The application and completeness review process shall comply with provisions in Chapter 17.120.040.
- C. 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 17.130.
- D. Notice. 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.
  - 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.
  - 5. The City may notify other affected agencies, as appropriate, for review of the application.
- E. 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 Development Code sections.

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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 any person or agency who submitted written comments or who is otherwise legally entitled to notice.
- F. 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 Development Code.
- G. 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 or agency who submits a written request to receive notice, or provides comments during the application review period.
  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.
- H. Appeals and Reconsideration. All Type II land use decisions may be appealed to the Planning Commission. The appeal shall be submitted within 12 days of the date the decision is mailed.
- I. Planning Commission Hearing and Notice of Appeal. If a Type II decision is appealed, City staff shall schedule a hearing before the Planning Commission. The Planning Commission shall conduct the hearing consistent with procedures set forth in Chapter 17.130. Written notice of a public hearing on the appeal shall be mailed to the applicant and those

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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 17.126.01.

- J. Planning Commission Action. The Planning Commission action on a Type II appeal shall be in the form of a decision. Within five working days of the Planning 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.
- K. 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 12 days of the date the decision is mailed on forms provided by The City.
- L. City Council Hearing and Notice of Appeal. If the Planning Commission decision on a Type II decision is appealed, City staff shall schedule a hearing before the City Council. The City Council shall conduct the hearing consistent with procedures set forth in Chapter 17.132. Written notice of a public hearing on the appeal shall be mailed to the applicant and those who received notice of the Planning 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 17.126.01.
- M. Notice of City Council Decision. Within five working 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 City Council decision. The notice shall specify findings justifying the approval or denial of the request and any applicable conditions of approval.
- N. Appeal of City 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.

#### 17.124.020 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

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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 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.

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**17.126 TYPE III APPLICATIONS AND REVIEW PROCEDURES**

**17.126.01 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 and Completeness. The application and completeness review process shall comply with provisions in Chapter 17.120.040.
- 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 Oregon Department of Transportation.
- D. Planning 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 300 feet of the boundaries of the subject property and to affected county and state agencies, including highways and roads. The Planning Commission shall conduct the hearing consistent with procedures set forth in Chapter 17.130. 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 Development Code.
  - 3. Identify the location of the property.
  - 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;

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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.
- E. Planning Commission Action. The Planning 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 Planning 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.
- F. 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 12 days of the date the decision is mailed.
- G. City Council Hearing and Notice of Appeal. If the Planning Commission decision on a Type III decision is appealed, City staff shall schedule a hearing before the City Council. The City Council shall conduct the hearing consistent with procedures set forth in Chapter 17.132. Written notice of a public hearing on the appeal shall be mailed to the applicant and those who received notice of the Planning 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 17.126.01.
- H. Notice of City 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 City Council decision. The notice shall specify findings justifying the approval or denial of the request and any applicable conditions of approval.
- I. Appeal of City 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.

**17.126.020 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

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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 or designee 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.

**17.126.030 CALL UP BY THE CITY MANAGER**

- A. After consultation with the City Attorney, the City Manager may call up a decision by the Planning Commission on a quasi-judicial land use application for review by the City Council.
- B. On receiving a call by the City Manager, the Community and Economic Development Department shall provide to the City Council the application and all other documents constituting the entire record for the quasi-judicial land use request.
- C. The City Manager shall set a date and time for a public hearing before the City Council to consider the call under the notice of public hearing per Chapter 17.126.01 and the process listed in Chapter 17.132. The decision resulting from this public hearing by the City Council shall constitute the final City decision.
- D. A call by the City Manager stays all proceedings by all parties in connection with the matter until the City Council has made a decision on the application.



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**17.128 TYPE IV APPLICATIONS AND REVIEW PROCEDURES**

**17.128.010 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 and Completeness. The application and completeness review process shall comply with provisions in Chapter 17.120.040.
- 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 Oregon Department of Transportation.
- D. Planning 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 Planning Commission shall conduct the hearing consistent with procedures set forth in Chapter 17.130. 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 300-feet of the subject property shall be notified by mail at least 20 days prior to the initial 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 Development 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.

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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 are available for inspection at no cost and a copy can be obtained at a reasonable cost.
- 
- E. Planning Commission Action. The Planning Commission action on a Type IV request shall be in the form of a recommendation to the City Council. Within 7 days of the Planning Commission decision, the applicant and all individuals who requested notice of the decision, shall be mailed written notice of the Planning Commission decision. The notice shall specify findings justifying the recommendation to approve or deny the request and any recommended conditions of approval.
  - F. City Council Hearing. Subsequent to the Planning Commission hearing, City staff shall schedule a hearing before the City Council. Notice shall be provided as per Chapter 17.126.01. The City Council shall conduct the hearing consistent with procedures set forth in Chapter 17.132. The City Council and Planning Commission hearings can be combined if approved by the Mayor.
  - G. Notice of City 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 City 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 City Council.
  - H. 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.
  - I. 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.

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**17.128.020 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. Citizens may suggest possible amendments to either body.
- 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 Oregon Department of Transportation.
- 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 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. Planning Commission Action. The Planning 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 Planning Commission decision, the applicant and all individuals who requested notice of the decision, shall be mailed written notice of the Planning 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 City 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 City 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 City 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

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in the form of an ordinance; a denial shall be in a form acceptable to the City 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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**17.130 PUBLIC HEARING - PLANNING COMMISSION**

**17.130.01 GENERAL PROVISIONS**

- A. Timing. Land use actions which require a public hearing by the Planning Commission under the provisions of this Development Code shall be initially heard by the Planning Commission within 45 days of the receipt of an application which is deemed complete.
- B. Planning Commission Decisions. The Planning Commission shall prepare and adopt written findings for approval or denial, and any conditions of approval. All decisions shall require an order.
- C. 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.
- D. 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.
- E. Type I and Type II Appeals. Appeal of a Type I or Type II action shall be heard by the Planning Commission. Findings of the Planning Commission on such appeals shall be final unless further appealed to the City Council.
- F. Type III Action. The decisions of the Planning Commission on applications for Type III actions shall be final unless appealed to the City Council.
- G. 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 Planning Commission recommendation is required but shall not be subject to appeal.

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**17.130.020 PLANNING COMMISSION HEARING PROCEDURES**

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

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- 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 Planning Commission members.
- C. Receive the staff report and recommendation.
- D. Applicant addresses Planning Commission.
- E. Those in favor of the application address the Planning Commission.
- F. Those not in favor of the application address Planning Commission.
- G. Those not necessarily in favor or opposed address the Planning Commission.
- H. Clarifying questions of proponents and opponents from the Planning Commission directed through the Chair.
- I. Applicant rebuttal.
- J. Staff comments and recommendation based on the testimony.
- K. Close of public testimony.
- L. Deliberation of Planning Commission of findings of fact.
- M. Decision of Planning Commission.
- N. Close hearing.

**17.130.030 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 Planning Commission shall not preclude action or cause reversal on appeal unless shown to have substantially prejudiced the rights of a party. Evidence may be received in written form.

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- C. Public Record. All evidence shall be offered and made a part of the public record in the case.
- 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 present evidence, and all interested persons shall be allowed to testify.
- F. 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.
- G. Ex parte Contacts. Ex parte contacts with a member of the decision-making body shall not invalidate a final decision or action of said body. The member receiving the information shall report the information for the record at the hearing. The Chair shall allow rebuttal of the content at the first hearing where action will be considered or taken.

##### 17.130.040 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.

##### 17.130.050 EXHIBITS

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

##### 17.130.060 RECORD OF HEARING



**ARTICLE IV  
REVIEW PROCEDURES**

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

**ARTICLE IV  
REVIEW PROCEDURES**

**17.132 REVIEW AND PUBLIC HEARINGS BY CITY COUNCIL**

**17.132.010 GENERAL PROVISIONS**

- A. 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.
- B. City Council Decisions. The City Council shall prepare and adopt written findings for approval or denial, and any conditions of approval, within 14 days 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.

**17.132.020 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 Chapter 17.130.020. Further, submittal and review of evidence shall comply with provisions in Chapter 17.130.030.
- 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.

