

**URBAN AREA PLANNING COMMISSION**

**MEETING MINUTES**

**July 13, 2016 – 6:00 P.M.**

**Council Chambers**

**1. ROLL CALL:**

The Urban Area Planning Commission met in regular session on the above date with Chair Gerard Fitzgerald presiding. Vice Chair Jim Coulter and Commissioners Robert Wiegand, Blair McIntire, Loree Arthur, and David Kellenbeck were present. Commissioners Lois MacMillan and Dan McVay were absent. Also present and representing the City was Parks & Community Development (hereafter: PCD) Lora Glover and Justin Gindlesperger and City Council Liaison Rick Riker.

**2. ITEMS FROM THE PUBLIC: None.**

**3. CONSENT AGENDA:**

- a. **MINUTES: June 22, 2016** **Pg. 1-8**
- b. **FINDINGS OF FACT:**
  - I. **104-00101-16: Nuns Willow Estates II Subdivision Tentative Plan** **Pg. 9-28**
  - II. **201-00118-19 & 301-00102-16: Hampton Inn & Suites – Major Site Plan Review and Major Variance** **Pg. 29-50**

**MOTION/VOTE**

**Commissioner Coulter moved and Commissioner McIntire seconded the motion to approve the consent agenda and the minutes from June 22, 2016 as amended. The vote resulted as follows: “AYES”: Chair Fitzgerald, Vice Chair Coulter, and Commissioners Wiegand and McIntire. “NAYS”: None. Abstain: Commissioners Arthur and Kellenbeck. Absent: Commissioners MacMillan and McVay.**

**The motion passed.**

#### 4. PUBLIC HEARINGS:

**a. 402-00100-16: Stutzman – Dowell Road Comprehensive Plan Map Amendment, Zoning Map Amendment – Staff Report Pg. 51-78**

- Chair Fitzgerald stated, at this time I will open the public hearing to consider Application 402-00100-16: Stutzman – Dowell Road Comprehensive Plan Map Amendment, Zoning Map Amendment. We will begin the hearing with a staff report followed by a presentation by the applicant, statements by persons in favor of the application, statements by persons in opposition to the application, and an opportunity for additional comments by the applicant and staff. After that has occurred, the public comment portion will be closed and the matter will be discussed and acted upon by the Commission. Is there anyone present who wishes to challenge the authority of the Commission to consider this matter? Seeing none do any Commissioners wish to abstain from participating in this hearing or declare a potential conflict of interest? Seeing none are there any Commissioners who wish to disclose discussions, contacts, or other ex parte information they have received prior to this meeting regarding this application? Seeing none in this hearing the decision of the Commission will be based on specific criteria which are set forth in the development code. All testimony which apply in this case are noted in the staff report. If you would like a copy of the staff report please let us know and we will try and get you one. It is important to remember if you fail to raise an issue with enough detail to afford the Commission and the parties an opportunity to respond to the issue you'll not be able to appeal to the Land Use Board of Appeals based on that issue. The hearing will now proceed with a report from staff.
- Justin gave the staff report.
- Commissioner Kellenbeck is in favor of the zoning change. He believes this is a successful business that will continue to provide employment.

#### **MOTION/VOTE**

**Commissioner Kellenbeck moved and Commissioner McIntire seconded the motion to recommend that the City Council approve application 402-00101-16. The vote resulted as follows: “AYES”: Chair Fitzgerald, Vice Chair Coulter, and Commissioners Wiegand, McIntire, Arthur, and Kellenbeck. “NAYS”: None. Abstain: None. Absent: Commissioners MacMillan and McVay.**

**The motion passed.**

**b. City of Grants Pass Urban Renewal Plan**

**Pg. 79-164**

- Lora and Commissioner Fitzgerald confirmed that the UAPC would be acting as the public input portion of the review of the proposed Urban Renewal Plan. The commission will hear a presentation from Lora and the consultant, Elaine Howard, as well as public comment and make a recommendation to the City Council.
- Lora began a presentation on the Urban Renewal Plan.
- Elaine Howard continued the presentation on the financial aspects of the Urban Renewal Plan.
- Elaine explained in a portion of the presentation that legislature requires a specific dollar per student ratio for all school districts in the State. As an Urban Renewal district would remove some funds that may have been available from property taxes funds are then allocated from other sources by the legislature to meet that dollar per student ration. Commissioner Fitzgerald asked what would happen if the legislature determined that the funds were unavailable from other sources. Elaine let the commission know that she would not be able to answer that question specifically as it has not happened to date.
- Elaine let the commission know that they require a recommendation from the commission on whether the proposed plan would conform to the City's comprehensive plan or not.
- Commissioner Coulter wanted to confirm that with such a long list of projects is there communication between projects/departments to make sure they are completed in such a way as to not impede each other and to not have work done more than once. Lora let him know that PCD and Public Works are in regular communication to make sure that the City is as efficient as possible. The City as a whole will continue to redevelopment infrastructure and be good stewards of the funds that they are given. Council can re-prioritize any and all of the projects at any time. The City makes a point to be aware of each other's projects to combine projects and work together as needed.
- Commissioner Fitzgerald asked what ODOTs influence be on the urban renewal area that is out the 199 area. Lora let him know that the City is currently waiting on the transportation plan update to be completed with ODOT. PCD works with

ODOT on a regular basis and this will not differ from everyday procedures. Any of the items on the project list that may or may not be included in the transportation plan will go to the bottom of the list until they can complete conversations with ODOT.

- Lora and Elaine let it be known that the projects listed for the Urban Renewal plan are fairly broad at this time. They have not gone into specifics as to not tie council's hands and they will be developed further when it comes time to begin working on each specific project.
- Lora let the commission know that there was recently a sewer main failure. Items such as that failure are planned for in the flexibility of this project. This plan is structured in a way to take care of priorities as they come up in each year's budget process.
- Elaine and Lora again confirmed that they need a recommendation of whether this plan conforms to the comprehensive plan not a recommendation on the plan itself.
- David Strutz – 1214 SE Allenwood Drive – Mr. Strutz is in favor of the plan. He does want to see accountability for what the money is spent on, he brought up the bus stops as an example of what he does not want to see.
- Charlotte Hutt – 1341 NW Washington Blvd – Ms. Hutt had to move from southeast Grants Pass because of the air quality in that industrial area. She moved to Washington and is concerned on the industrial area up on Vine. She would hope to see the industrial areas moved father out Vine and away from school and residential areas to preserve air quality.
- Mike Jones – 587 Whitestone Drive – Mr. Jones agrees with the comments on accountability. He said that Econorthwest isn't going to face any backlash if this ends up blowing up. He would like to know why Council isn't present at this meeting.
- Commissioner Fitzgerald let him know that he is more than welcome to speak to Council when they hear the same presentation on the 20<sup>th</sup>.
- Tax increment financing – from what he understands the city is used to getting a 3% increase each year, but it will be going to the urban renewal plan instead of the City. Is the City prepared to have a flat rate over the life of this plan?
- Jon Bowen – 234 SW 5<sup>th</sup> Street – Mr. Bowen was on the committee for this plan. He is a strong supporter. He believes that this will change the tide of things

in the community. He is optimistic about growth in the city as it will allow for change and growth in the City.

- Rycke Brown – 1415 SW Bridge St – Ms. Brown made a note regarding the \$106,000 bus stops, she let it be known that those were put in place with grant money and they took 5 years to move forward due to that, which is something that never would have happened if the city was spending its own money. That is what urban renewal is- taking extra tax money and putting it in a different pocket and allowing it to be spent on different projects. While that money does put those tax jurisdiction in a strait jacket for a while, as people move in and put businesses in those vacant lots and manufacturing facilities the value of the properties being taxed rises tremendously. This increases value for everyone and the project ends up paying for itself and does so very well. As long as we pay attention to each project as it comes up all will be well.
- Caleb LaPlante – 436 NE Baker Dr – Mr. LaPlante is in favor of the project. He remembers seeing the parkway being developed and we have greatly benefited from that. He does not quite understand the increment vs the fixed tax rates. He did hear a number of concerns about accountability. He would like to know what would cancelling look like and if the council made that decision what would the fallout look like.
- James Charleboix – 394 Short Street – Would like to see more details on the projects. Do the citizens have any options for input on the projects? The community center – where is it? How high is it? What's the access down there? Who has the final determination? Does the public have input or is it out of our hands after this?
- Caleb LaPlante – 436 NE Baker Dr – He would like clarification on projects vs areas. He said that Lora mentioned that it was important to include areas. How do you determine what is important to include now or not include as 30 years is a long time.
- Rycke Brown – 1415 SW Bridge St – The City Council is the urban renewal district, they make decisions on all projects. City staff brings projects forward and Council approves them or they don't at that point. The project is made fluid at this point to allow council an opportunity to make final decisions at a later date. This is a powerful tool for getting infrastructure built.

- Matt Bender – 1615 Redwood Ave – Wants to know if the County and the sheriff's budget will be affected by the plan. Commissioner Fitzgerald said that the general fund from the county will take a slight hit. Might be able to get projected numbers from Elaine.
- Mike Jones – 587 Whitestone Drive – Will Econorthwest be calling any of the shots on who get contracts, etc. Commissioner Fitzgerald said that he believes they are merely consultants on how everything moves forward with the plan and that they will not have any say on the contractors.
- Lora let the commission and the public know that there is a frequently asked questions packets and a project list available to the public.
- As far as accountability these projects would go through the same standards that we have standards of operating that are currently in place.
- The urban renewal agency is also the city council and they would be the final decision makers on projects. The project would go through the standard bidding process and Econorthwest would not have no say on those matters.
- As for the concern about zoning on the northwest side of town we will not be changing any of the preexisting zoning. Most of the zoning is for indoor use so more laboratory type than plywood mills. Hopefully that will alleviate some of your concerns about air quality.
- Lora does not want to touch too much on the bus stops as there were more factors that went into that as some of the funding was government level. There were different survey requirements that fell in place and caused the price to go up.
- We do provide community input for each project. Citizens will have opportunities to give opinions to Council at each year's budget meeting, and again at the review process for each project before it is approved.
- Lora gave Mr. LaPlante a list of the projects and talks about capital projects that have already been identified (the water plants, landscaping, etc) and then broader areas like the redwood hwy/ave area. By defining the larger areas within the urban renewal area it allows council to make a capital project that could be in that area at a later date without needing to redefine the urban renewal plans.
- Jay Meredith – Finance Director – When the City does budget they factor in a two year time period. When budget was structured this year they did keep in

mind the possibility of an Urban Renewal district. The urban renewal district only encompasses 18% of the City and therefore only 18% of the city's taxes would fall under that plan. It does have an impact but it a very manageable one. Jay helped wrap up the last urban renewal plan that was put in place and what happened was as the area was developed further and growth happened that tax revenue increased as values went up. This increase in revenue compensated for the differences.

- There were concerns about the impact on the county sheriff's budget. There will be a smaller impact of somewhere between \$30,000 and \$50,000 per year. This will be considerable less than the impact on the City as the county taxes are on at a \$.58 tax rate vs the City's at around \$4. This project will remove some of the blight in those areas which should also have a positive effect on the crime rate in those areas.
- Bottom line this will help economic development, which will in turn helps public safety. Overall the growth and property tax revenues will match the growth in expenses over the long run.
- Commissioner Fitzgerald asked would or could state legislature cancel a urban renewal agency if they needed to? Jay said that he believes that is why there is a 25% limit put in place.
- Elaine said it can be terminated as long as existing debt could be paid as needed.
- Lora explained that there is a City Council presence here tonight, there were four council members at the open house, they read the minutes taken from this meeting and will hear the presentation on the 20<sup>th</sup> as well. City Council is aware and interested in the process.
- Commissioner Kellenbeck said that he thinks this is a good thing for the city and the county. He is in favor and would recommend the plan.
- Commissioner Coulter made mention of putting this out to the public to vote. He does agree with Commissioner Kellenbeck, but would like to see this as an addendum to the comprehensive plan. He does believe this is a good idea and as time goes on it will continue to get better but he does have a concern about the possibility of things going south over the 30 years as that is a long time to forecast. He believes this will be an all-around benefit for the future.

- Commissioner Arthur would like an explanation of the advantageous timing by having this put in place prior to October. She does not believe this need to go to public vote. The public portion is handled by the elected City Council. Elaine said that if this is put in place before October when the increase in taxes are assessed from the previous January we can use that as a jump start to the agency from the growth from the previous year. New development will jump start everything.

**MOTION/VOTE**

**Commissioner Kellenbeck moved and Commissioner Coulter seconded the motion to recommend to the City Council that the Grants Pass Urban Renewal Plan conformed to the Grnats Pass Comprehensive Plan. The vote resulted as follows: “AYES”: Chair Fitzgerald, Vice Chair Coulter, and Commissioners Wiegand, McIntire, Arthur, and Kellenbeck. “NAYS”: None. Abstain: None. Absent: Commissioners MacMillan and McVay.**

**The motion passed.**

**MOTION/VOTE**

**Commissioner Kellenbeck moved and Commissioner McIntire seconded the motion to recommend to the City Council that the Grants Pass Urban Renewal Plan be adopted.**

**The vote resulted as follows: “AYES”: Chair Fitzgerald, Vice Chair Coulter, and Commissioners Wiegand, McIntire, Arthur, and Kellenbeck. “NAYS”: None. Abstain: None. Absent: Commissioners MacMillan and McVay.**

**The motion passed.**

**5. OTHER ITEMS/STAFF DISCUSSION:**

- Lora sent out an email with the Council agenda. She asked if this is working for the commission. Commissioner Fitzgerald confirmed this is working for the commission.

**6. ITEMS FROM COMMISSIONERS:**

- Commissioner Fitzgerald let the commission know that City Council turned down verbatim minutes.
- Commissioner Coulter thinks this is a disadvantage to the public.

**7. ADJOURNMENT:**

Chair Fitzgerald adjourned the meeting at 8:32 P.M.

Next Meeting: July 27, 2016

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Gerard Fitzgerald, Chair  
Urban Area Planning Commission

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Date

These minutes were prepared by Carlie Paulsen, Administration Department, City of Grants Pass.



**CITY OF GRANTS PASS  
PARKS & COMMUNITY DEVELOPMENT DEPARTMENT**

**STUTZMAN – DOWELL ROAD  
COMPREHENSIVE PLAN MAP AMENDMENT, ZONING MAP AMENDMENT,  
FINDINGS OF FACT - URBAN AREA PLANNING COMMISSION**

<b>Procedure Type:</b>	Type IV: Planning Commission Recommendation and City Council Decision
<b>Project Number:</b>	402-00100-16
<b>Project Type:</b>	Comprehensive Plan Map Amendment, Zoning Map Amendment
<b>Owner/Applicant:</b>	Stutzman Investment
<b>Map &amp; Tax Lot:</b>	36-06-24-CC, TLs 501, 1200 & 1300
<b>Address:</b>	1701 & 1741 Dowell Road
<b>Total Acreage:</b>	11.32 acres (TL 501 ~ 0.03 ac, TL 1200 ~ 4.66 ac, TL 1300 ~ 6.63 ac)
<b>Existing Comprehensive Plan Designation:</b>	General Commercial
<b>Proposed Comprehensive Plan Designation:</b>	Business Park
<b>Existing Zoning:</b>	General Commercial (GC)
<b>Proposed Zoning:</b>	Business Park (BP)
<b>Planner Assigned:</b>	Justin Gindlesperger
<b>Application Received:</b>	April 8, 2016
<b>Application Complete:</b>	May 13, 2016
<b>Date of Staff Report:</b>	July 6, 2016
<b>Date of UAPC Hearing:</b>	July 13, 2016

**I. PROPOSAL:**

The request is for a Comprehensive Plan Map Amendment and Zoning Map Amendment from General Commercial (GC) to Business Park (BP) for the above-referenced properties containing approximately 11.32 acres. Existing uses on the properties include Farmer’s Building Supply and Rogue Truss Systems. The application includes a narrative addressing the criteria.

**II. AUTHORITY AND CRITERIA:**

Sections 13.5.5 and 13.8.3 of the Grants Pass Urban Area Comprehensive Plan provide that joint review by the City Council and Board of County Commissioners shall be required for amendment and revision to Comprehensive Plan findings, goals, policies, and land use maps of the Comprehensive Plan. However, the 1998 Intergovernmental Agreement modified that provision with the result that the City Council will make the decision, and the County will have automatic party status.

Section 13.8.3 of the Comprehensive Plan provides that notice shall be as provided in Section 2.060 of the *Development Code* for a Type IV procedure, with a recommendation from the

Urban Area Planning Commission and a final decision by City Council. The text or map of the Comprehensive Plan may be recommended for amendment and amended provided the criteria in Section 13.5.4 of the Comprehensive Plan Policies Document are met. The Zoning Map may be amended provided the Criteria in Section 4.033 of the *Development Code* are met.

### III. APPEAL PROCEDURE:

Section 10.060 provides the City Council's final decision to be appealed to the State Land Use Board of Appeals (LUBA) as provided in state statutes. A notice of intent to appeal must be filed with LUBA within 21 days of the Council's written decision.

### IV. PROCEDURE:

- A. An application for the Comprehensive Plan Map and Zone Map Amendment was submitted on April 8, 2016 and deemed complete on May 13, 2016. The application was processed in accordance with Section 2.060 of the Development Code.
- B. Notice of the proposed amendment and the July 13, 2016 public hearing was mailed to the Oregon Department of Land Conservation and Development on May 25, 2016, in accordance with ORS 197.610 and OAR Chapter 660, Division 18.
- C. Public notice of the July 13, 2016 public hearing was mailed on June 22, 2016, in accordance with Sections 2.053 and 2.063 of the Development Code.

### V. SUMMARY OF EVIDENCE:

- A. The basic facts and criteria regarding this application are contained in the staff report, which is attached as Exhibit "A" and incorporated herein.
- B. The minutes of the public hearing held by the Urban Area Planning Commission on July 13, 2016, which are attached as Exhibit "B" summarize the oral testimony presented and are hereby adopted and incorporated herein.
- C. The staff's PowerPoint Presentation given at the July 13, 2016 public hearing is attached as Exhibit "C" and incorporated herein.

### VI. GENERAL FINDINGS - BACKGROUND AND DISCUSSION:

#### A. Property Characteristics

##### 1. Land Use Designation:

- a. Comprehensive Plan: General Commercial
- b. Zone District: General Commercial
- c. Special Purpose District: None identified.

- 2. Size: 11.32 acres (0.03 ac, 4.66 ac, & 6.63 ac)
- 3. Frontage: Dowell Road & Redwood Highway
- 4. Access: Dowell Road
- 5. Existing Public Utilities:
  - a. Water: 12-inch in Dowell Road
  - b. Sewer: 8-inch in Dowell Road, and 8-inch main on tax lot 1200
  - c. Storm: 12-inch partial main and 15-inch partial main in Dowell Road
- 6. Proposed Public Utilities: None identified
- 7. Topography: Relatively flat
- 8. Natural Hazards: None identified
- 9. Natural Resources: None identified
- 10. Existing Land Use: Commercial and Indoor Industrial
- 11. Surrounding Land Use:
  - a. North: BP ~ Indoor Industrial
  - b. South: GC ~ Commercial
  - c. East: GC ~ Vacant
  - d. West: GC ~ Mixed commercial and residential

**B. Discussion**

**Comprehensive Plan Map Amendment & Zoning Map Amendment**

The subject property has a Comprehensive Plan and zoning designation of General Commercial (GC). The proposal would amend both the plan designation and the zoning designation to Business Park (BP). Section 12.321 of the Development Code states that the purpose of the Business Park District:

“ . . . is to provide a mixed-use zone for light industrial and commercial uses. Retail trade is permitted as an accessory use or when determined to be compatible with, or can be made compatible with, light industrial or wholesale trade uses via a discretionary review process. Performance Development Standards are designed to ensure the compatibility of the light industrial uses with the commercial uses, and the compatibility with adjacent Commercial and Residential Zoning Districts.”

Whereas, the purpose statement for the General Commercial districts is:

“ . . . to provide for all commercial and professional uses, excepting those requiring on-site manufacture or assembly.” (Section 12.222)

The subject parcel is located within the Redwood Highway commercial subarea and Redwood I industrial subarea as described in the Comprehensive Plan. Sections 13.9.11 and 13.9.13 of the Comprehensive Plan provide the following discussion for the subareas:

**13.9.11 South Area Commercial:**

The subarea includes existing strip development along the Redwood Highway and Redwood Avenue from Allen Creek Road to Leonard Road, and “Node” development proposed for the Redwood Highway and Redwood Avenue west to the boundary limit. Some 27 acres of commercial demand is projected, with very high land area ratios utilized to account for the mixed use zone proposed for the Redwood Highway – Redwood Avenue area.

**13.9.13 South Area Industrial:**

The Subarea is located in the “Redwood Triangle” area between and adjoining Redwood Avenue and Redwood Highway, and from their intersection west to Dowell Road. This area is also included in the Redwood Highway commercial subarea. The subarea has only 1% of its vacant lands in an industrial land use designation, while 53% of its acreage is vacant or underutilized. However, the vacant acreage would be just as suitable for either commercial, heavy commercial or light industrial uses.

The indoor industrial use on the site, Rogue Truss Systems, is not a permitted use in the General Commercial zoning district. The use was in operation prior to being incorporated in city limits and is considered a legally nonconforming use. The owners were approved for a one-time expansion to the nonconforming use in 2001. A Minor Site Plan Review for an additional expansion was approved in 2016, with a condition of approval that required the applicants to sign and record a Development Agreement that requires the applicant to apply for a Comprehensive Plan and Zone Map Amendment.

The Business Park zoning district permits industrial and retail uses, which would bring the existing uses on the site into conformance with the Development Code and provide the owners with the ability to expand the use in the future.

Trip rates for industrial uses are generally lower than commercial uses. For example, the current GC zoning allows a pharmacy with a drive-thru window with a very high trip rate (96.91 trips per 1,000 sq. ft.), which is not a permitted use in the Business Park zoning district. However, a fast food restaurant with a drive-thru window (496.12 trips per 1,000 sq. ft.) is allowed in both zones. Based upon the “worst case” scenario, and current development on the site, a Traffic Impact Analysis (TIA) was not required for the Comprehensive Plan Map/Zone Map amendment.

**VII. CONFORMANCE WITH APPLICABLE CRITERIA:**

**A. For comprehensive plan map amendments, Comprehensive Plan Policy 13.5.4 requires that all of the following criteria be met:**

**CRITERION (a):** Consistency with other findings, goals and policies in the Comprehensive Plan.

**Planning Commission Response: Satisfied.** The proposal is consistent with the applicable Goals and Policies found in Element 8 ~ Economy, Element 10 ~ Public Facilities and Services, and Element 13 ~ Land Use of the Comprehensive Plan for reasons summarized below.

**Element 8 - Economy**

**Goal:** To improve, expand, diversify and stabilize the economic base of the community

**Policy 8.1(d)** – “The City and County shall endeavor to improve, expand, diversify and stabilize the economic base of the community by insuring that an adequate quality and quantity of industrial land is available, properly zoned and services.”

**1<sup>st</sup> Conclusion under Criterion (a):**

The Comprehensive Plan identifies that very little of the acreage that is available for industrial development is fully serviced, has appropriate zoning and is vacant or underutilized. The proposed amendment will bring the existing development into compliance and provide additional industrial lands with existing services that have the potential for development.

**Element 10. Public Facilities and Services:**

**Goal:** To provide needed facilities and services for the Urban Growth Boundary area in a timely, orderly, efficient, economic and coordinated manner.

**2<sup>nd</sup> Conclusion under Criterion (a):**

Public services are available to serve the existing use and any proposed use, as covered by the adopted utility plans and service policies.

**Element 13. Land Use:**

**Goal:** To provide a vision of the future through maps and policies that shall guide and inform the land use decisions of the present, in such a manner that:

- (d) is responsive to the wishes of the citizens and property owners of the planning area, and
- (e) provides adequate amounts of industrial, commercial, and residential lands to meet growth needs over the planning period.

**Policy 13.2.1 Comp Plan Land Use Map:**

The Comprehensive Plan Land Use Map shall:

- (a) designate the highest and best land use for all portions of the Urban Growth Boundary area, on a parcel-by-parcel basis.
- (b) guide and direct changes to the Zoning Map
- (c) meet the demonstrated need during the planning period for residential, commercial, industrial, and public lands as determined by the Comprehensive Plan.

### **13.9.11 South Area Commercial**

The Redwood Highway subarea includes existing strip development along the Redwood Highway and Redwood Avenue from Allen Creek Road to Leonard Road, and “Node” development proposed for the Redwood Highway and Redwood Avenue west to the boundary limit. Some 27 acres of commercial demand is projected, with very high land area ratios utilized to account for the mixed use zone proposed for the Redwood Highway – Redwood Avenue area.

### **13.9.13 South Area Industrial:**

The Redwood I subarea is located in the “Redwood Triangle” area between and adjoining Redwood Avenue and Redwood Highway, and from their intersection west to Dowell Road. This area is also included in the Redwood Highway commercial subarea. The subarea has only 1% of its vacant lands in an industrial land use designation, while 53% of its acreage is vacant or underutilized. However, the vacant acreage would be just as suitable for either commercial, heavy commercial or light industrial uses.

### **3<sup>rd</sup> Conclusion under Criterion (a):**

The proposed amendment for a change in zoning from General Commercial to Business Park will not have a substantial impact on the planned land uses in this area. The policies for the Redwood I subarea states that the acreage within the subarea would be just as suitable for either commercial, heavy commercial or light industrial uses. The proposed zone change will increase the amount of industrial lands in the subarea, while still providing for commercial development/uses on the site.

**CRITERION (b):** A change in circumstances validated by and supported by the database or proposed changes to the database, which would necessitate a change in findings, goals and policies.

**Planning Commission Response: Satisfied.** The proposed amendment for the property will change the database to allow a variety of light industrial and commercial uses. The proposed amendment would amend the plan and zoning map from General Commercial (GC) to Business Park (BP) and would not require the amending of findings, goals or policies. Element 8 ~ Economy of the Comprehensive Plan shows site needs by size and use and supports the database change. From 2007 through 2027, approximately 25-45 industrial sites of 2-5 acres will be needed compared to 18 sites available.

**CRITERION (c):** Applicable planning goals and guidelines of the State of Oregon.

**Planning Commission Response: Satisfied.** The proposal is consistent with five (5) of the nineteen (19) applicable statewide planning goals described below:

### **Goal 1: Citizen Involvement**

The proposal is reviewed and noticed according to the requirements for a Type IV-B procedure. Property owners within two hundred and fifty (250) feet were sent notice of the application. Public notice is posted for both the Planning Commission and City Council hearings in the *Daily Courier* (the local newspaper), on the City of Grants Pass website, [www.grantspassoregon.gov](http://www.grantspassoregon.gov) and on the first floor of the City Hall building. Such notification provides the public an opportunity to provide written or oral comments on the matter either before or at the hearings.

The City has an acknowledged Citizen Involvement Program adopted under Resolution 1748 that insures the public can actively engage in the planning process.

No comments were received from surrounding property owners during the notice period.

Conclusion: The City's procedures outlined in the *Comprehensive Plan and Development Code* pertaining to citizen involvement are being followed. The proposal is consistent with Goal 1 standards and requirements.

### **Goal 2: Land Use**

The Grants Pass *Comprehensive Plan and Development Code* outline the planning process to consider a Comprehensive Plan Map Amendment and the Zoning Map Amendment. The process requires the application to be heard by both the Planning Commission and the City Council. The Planning Commission will review the proposal and provide a formal recommendation that will be considered by the City Council for final decision. Specific criteria have been adopted that relate to the proposal. The review bodies will evaluate the proposal against those criteria in order to make a decision.

Conclusion: The application is being reviewed through the City's land use process, making it consistent with the purpose of statewide Goal 2.

### **Goal 9: Economic Development**

The proposed amendment to change the subject parcel to Business Park (BP) would provide additional light industrial development in the South City Commercial, Redwood Highway subarea and South City Industrial, Redwood I subarea. Lands in this area are suitable for either commercial, heavy commercial or light industrial uses.

Oregon Administrative Rule (OAR) Division 9, Economic Development (660-009-0000) requires that cities review and amend their comprehensive plans as necessary to comply with this division to provide economic opportunity analyses for the demand of land for industrial and other employment uses to the existing land supply.

Element 8 ~ Economy of the Grants Pass & Urbanizing Area Comprehensive Plan (GPUACP) states that industrial sites needed exceeds current supply for site of 2-5 acres in size.

Conclusion: The proposal provides additional industrial lands and further economic opportunities, thus meeting the standards and requirements of Goal 9.

### **Goal 11: Public Facilities and Services**

The City has acknowledged master plans for urban services (including water, sewer and transportation) as part of the *Comprehensive Plan* and *Grants Pass Development Code*. Both water and sewer services are currently available to the subject properties and are adequate and available to serve further development of the properties.

Trip rates for industrial uses are generally lower than commercial uses. For example, the current GC zoning allows a pharmacy with a drive-thru window with a very high trip rate (96.91 trips per 1,000 sq. ft.), which is not a permitted use in the Business Park zoning district. However, a fast food restaurant with a drive-thru window (496.12 trips per 1,000 sq. ft.) is allowed in both zones. Based upon the “worst case” scenario, and current development on the site, a Traffic Impact Analysis (TIA) was not required for the Comprehensive Plan Map/Zone Map amendment.

Conclusion: Public services are available to serve the existing use and any proposed use, as covered by the adopted utility plans and service policies. Based on the existing use, a TIA was not required and the applicant is not proposing additional development that will significantly affect the adjacent transportation facilities. The proposal is consistent with Goal 11.

### **Goal 12: Transportation**

The City has an acknowledged Master Transportation Plan as part of the *Comprehensive Plan* and *Grants Pass Development Code*. The tract has frontage on Dowell Road and Redwood Highway, an Oregon Department of Transportation (ODOT) state highway.

The proposal is subject to the Transportation Planning Rule outlined in OAR 660-012-0060 and the Grants Pass Development Code. As noted above, the applicants were not required to submit a Traffic Impact Analysis (TIA) for the proposed development.

Conclusion: As noted above, based upon the “worst case” scenario, a TIA was not required for the Comprehensive Plan Map/Zone Map amendment. The Oregon Department of Transportation provided comments that the project would not significantly affect the state transportation facilities. The proposal is consistent with Goal 12.

**CRITERION (d):** Citizen review and comment.

**Planning Commission Response: Satisfied.** Public notice of the proposal was mailed to surrounding properties in accordance with the Comprehensive Plan and Development Code procedures. No comments were received from property owners during the notice period.

**CRITERION (e):** Review and comment from affected governmental units and other agencies.

**Planning Commission Response: Satisfied.** Affected governmental units and agencies were notified.

Notice of the proposal was mailed to the Department of Land Conservation and Development (DLCD) on May 25, 2016. No comments were received.

Notice of the proposal was mailed to Josephine County on May 26, 2016, in accordance with the 1998 Intergovernmental Agreement. The County had no comments.

Notice was provided to the ODOT. Their comments are attached in Exhibit 7.

**CRITERION (f):** A demonstration that any additional need for basic urban services (water, sewer, streets, storm drainage, parks, and fire and police protection) is adequately covered by adopted utility plans and service policies, or a proposal for the requisite changes to said utility plans and service policies as a part of the requested Comprehensive Plan amendment.

**Planning Commission Response: Satisfied.** Water, sewer, storm, and streets are all present adjacent to the property and are available to serve the property. Therefore, the proposed amendment is in conformance with the Comprehensive Plan.

**CRITERION (g):** Additional information as required by the review body.

**Planning Commission Response: Satisfied.** Additional information will be provided upon request of the review body.

**CRITERION (h):** In lieu of item (b) above, demonstration that the Plan was originally adopted in error.

**Planning Commission Response: Not Applicable.** There is no indication that the original boundaries were adopted in error.

**B. For Zone Map Amendments, Section 4.033 of the City of Grants Pass Development Code requires that all of the following criteria be met:**

**CRITERION 1:** The proposed use, if any is consistent with the proposed Zoning District.

**Planning Commission Response: Satisfied.** The site has existing commercial and indoor industrial uses. If the proposed zone change is approved, the existing Indoor Industrial use, a permitted use in the Business Park zone as listed in Schedule 12-2 of the Development Code, will be consistent with the proposed zoning.

**CRITERION 2:** The proposed Zoning District is consistent with the Comprehensive Plan Land Use Map designation.

**Planning Commission Response: Satisfied based on action taken on the proposed Comprehensive Plan Amendment.** If the Comprehensive Plan designation is amended as proposed, the Business Park zoning district and the Business Park comprehensive plan map designation would correspond. As described above, and reflected on the zoning map, the parcels are located between Business Park zoning

districts to the north and south. The inclusion of the Business Park zone by the proposed amendment for the subject property is consistent with the surrounding plan designations, zoning, and the policy for this subarea and neighborhood.

**CRITERION 3:** A demonstration that existing or proposed levels of basic urban services can accommodate the proposed or potential development without adverse impacts upon the affected service area or without a change to adopted utility plans.

**Planning Commission Response: Satisfied.** Basic services such as sewer and water are available to accommodate the proposed development. As noted in ODOT's comments, the properties are not permitted to have direct access to Redwood Highway.

**CRITERION 4:** A demonstration that the proposed amendment is consistent with the functions, capacities, and performance standards of transportation facilities identified in the Master Transportation Plan.

**Planning Commission Response: Satisfied.** Trip rates for industrial uses are generally lower than commercial uses. Trip rates for industrial uses are generally lower than commercial uses. For example, the current GC zoning allows a pharmacy with a drive-thru window with a very high trip rate (96.91 trips per 1,000 sq. ft.), which is not a permitted use in the Business Park zoning district. However, a fast food restaurant with a drive-thru window (496.12 trips per 1,000 sq. ft.) is allowed in both zones. Based upon the "worst case" scenario, and current development on the site, a Traffic Impact Analysis (TIA) was not required for the Comprehensive Plan Map/Zone Map amendment. ODOT provided comments that the project would not significantly affect the state transportation facilities. Their comments are attached in Exhibit 7.

**CRITERION 5:** The natural features of the site are conducive to the proposed Zoning District.

**Planning Commission Response: Not Applicable.** No natural features were identified on the subject parcels.

**CRITERION 6:** The proposed zone is consistent with the requirements of all overlay districts that include the subject property.

**Planning Commission Response: Not Applicable.** The parcels are not located within an overlay district or other special district.

**CRITERION 7:** The timing of the zone change request is appropriate in terms of the efficient provision or upgrading of basic urban services versus the utilization of other buildable lands in similar zoning districts already provided with basic urban services.

**Planning Commission Response: Satisfied.** The timing of the zone change is appropriate. The applicant does not have a proposed development plan and the proposed zone change will bring the existing uses into compliance. Urban services are available to the site and are adequate for the applicant's intended use.

**CRITERION 8:** In the case of rezoning from the Urban Reserve District, that the criteria for conversion are met, as provided in Section 4.034.

**Planning Commission Response: Not Applicable.** The subject property is not located within an Urban Reserve District, and this criterion does not apply.

**VIII. RECOMMENDATION:**

The Urban Area Planning Commission recommends that the City Council **APPROVE** the proposed Comprehensive Plan map amendment and zoning map amendment from General Commercial/GC to Business Park/BP. The vote was 6-0 with Commissioners Arthur, Coulter, Fitzgerald, Kellenbeck, McIntire and Wiegand in favor. Commissioners MacMillan and McVay were absent.

**IX. FINDINGS APPROVED BY THE URBAN AREA PLANNING COMMISSION** this 27<sup>th</sup> day of July 2016.

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Gerard Fitzgerald, Chair



**CITY OF GRANTS PASS  
PARKS & COMMUNITY DEVELOPMENT DEPARTMENT**

**BLACKBERRY LANE  
SUBDIVISION TENTATIVE PLAN  
STAFF REPORT**

<b>Procedure Type:</b>	Type III: Urban Area Planning Commission	
<b>Project Number:</b>	104-00102-16	
<b>Project Type:</b>	Subdivision Tentative Plan	
<b>Owner(s):</b>	Maurer Properties, LLC	
<b>Applicant:</b>	Gayle Atkins	
<b>Representative:</b>	Gerlitz Engineering Consultants. Attn: Justin Gerlitz	
<b>Property Address:</b>	2587 Leonard Road	
<b>Map and Tax Lot:</b>	36-06-23-BD, TL 800 <i>See Exhibits 1 and 2.</i>	
<b>Zoning:</b>	R-2 (Urban Growth Boundary)	
<b>Size:</b>	5.83 acres	
<b>Planner Assigned:</b>	Justin Gindlesperger	
<b>Application Date:</b>	June 10, 2016	
<b>Application Complete:</b>	June 24, 2016	
<b>Date of Staff Report:</b>	July 20, 2016	Due: 07/20/2016
<b>Hearing Date:</b>	July 27, 2016	
<b>120 Day Deadline:</b>	October 22, 2016	

**I. PROPOSAL:**

The proposal is to subdivide the approximately 5.83 acre property into a total of 38 single family lots located at 2587 Leonard Road in the R-2 residential zoning district (see *Exhibit 3*). The proposal will construct two (2) sections of public street and six (6) private streets for access to the individual lots. The development will also include frontage improvements along Leonard Road.

In conjunction with the application for the subdivision, the applicant has applied for two (2) separate Property Line Adjustment (PLA) applications. The first PLA is between the applicant and an adjacent property owner due to structures encroaching onto the subject parcel (see *Exhibit 4*). The second PLA is between tax lot 800 and tax lot 1900 to the south, which is also owned by the applicant. The applicant has submitted a future development plan to show further development for the subdivision (see *Exhibit 5*).

**II. AUTHORITY:**

Section 2.050, Schedule 2-1, Section 6.050 and Section 17.031 of the City of Grants Pass Development Code, authorize the Planning Commission to consider the request and make a decision to approve, approve with conditions, or deny.

### III. CRITERIA:

The decision on the Tentative Plan must be based on the criteria contained in Section 17.413 of the Development Code.

### IV. APPEAL PROCEDURE:

Section 10.050, City of Grants Pass Development Code, provides for an appeal of the Urban Area Planning Commission's decision to the City Council. An appeal application and fee must be submitted within twelve (12) calendar days of the Urban Area Planning Commission's oral decision. A statement of grounds to the appeal must be filed within seven (7) calendar days of the Urban Area Planning Commission's written decision.

### V. BACKGROUND AND DISCUSSION:

#### A. Characteristics of the Property:

1. Land Use Designation:
  - a. Comprehensive Plan: Moderate Density Residential
  - b. Zone District: R-2
  - c. Special Purpose District: R-3-2 transition overlay; Grants Pass Irrigation District; Sand Creek Drainage
  
2. Size: 5.83 acres
  
3. Frontage: Leonard Road and Raydean Drive
  
4. Access: Lots will have access from interior public and private streets
  
5. Public Utilities:
  - a. Existing Utilities:
    - i. Water: 12-inch main in Leonard Road and 8-inch main in Raydean Drive.
    - ii. Sewer: 8-inch main Leonard Road and Raydean Drive
    - iii. Storm Drain: 12-inch main in Raydean Drive
  
  - b. Proposed Utilities:
    - i. Water: 8-inch main in SW Blackberry Lane and 8-inch extension in Raydean Drive;
    - ii. Sewer: 8-inch main in SW Blackberry Lane, an 8-inch extension along Raydean, and 8-inch main in each private street;
    - iii. Storm: Extension of the storm drain in Leonard Road and SW Blackberry Lane (size to be determined).

- |                       |  |
|-----------------------|--|
| 6. Topography:        | Relatively flat                                |
| 7. Natural Hazards:   | None   |
| 8. Natural Resources: | Wetlands                                       |
| 9. Existing Land Use: |  |
| a. Subject Parcel:    | Undeveloped pasture with agriculture structure |
| b. Surrounding:       | Moderate Density Residential                   |

**B. Background:**

The proposal is for a 38-lot Subdivision on an approximately 5.83 acre tract in the R-2 zoning district, located at 2587 Leonard Road. Individual lots are approximately 5,000 square feet in size and are proposed single-family residences, with two (2) of the lots featuring attached dwelling units.

The development includes an extension of Raydean Drive, frontage improvements along Leonard Road, a new public street (SW Blackberry Lane) and six (6) private streets. Access to the individual lots will be from the proposed internal streets. SW Blackberry Lane will be constructed to Local Access street standards and the private streets will be a minimum of twenty (20) feet wide with four dwelling units accessing each private street segment. The private street segments will be designated as “fire lanes” to help ensure emergency vehicle access.

In conjunction with the application for the subdivision, the applicant has applied for two (2) separate Property Line Adjustment (PLA) applications. The first PLA is between the applicant and an adjacent property owner due to structures encroaching onto the subject parcel. The second PLA is between tax lot 800 and tax lot 1900 to the south, which is also owned by the applicant. The applicant has submitted a future development plan to show further development or subdivision, which is attached as Exhibit 5.

Due to the number of trips generated by the subdivision, the applicant was required to provide a Traffic Impact Analysis (TIA) (see **Exhibit 6**). The TIA City’s traffic consultant concurred with the conclusions of the TIA that no additional mitigation is required for the project (see **Exhibit 7**).

**VI. CONFORMANCE WITH APPLICABLE CRITERIA:**

**Section 17.413 of the City of Grants Pass Development Code states that the review body shall approve, approve with conditions or deny the request based upon the following criteria:**

**CRITERION (1):** The plan conforms to the lot dimension standards of Article 12, the base lot standards of Section 17.510, and the requirements of any applicable overlay district.

**Staff Response: Satisfied with Conditions.** The R-2 zone district requires a minimum lot size of 5,000 square feet. The proposed lots meet or exceed this base requirement. Each lot is required to have a minimum width of fifty (50) feet, as required by the Development Code, and all lots meet this base requirement.

As previously noted, the applicant has submitted a Property Line Adjustment with TL 1900. However, the tentative plan for the subdivision does not reflect the area being adjusted into TL 800. The adjusted area is proposed to be developed at a future date and is reflected on the “future development plan”. As conditioned below, the applicant will be required to submit a revised tentative plan reflecting the adjusted area as Tract B.

**CRITERION (2):** When required, the proposed future development plan allows the properties to be further developed, partitioned, or subdivided as efficiently as possible under existing circumstances, in accordance with requirements for typical permitted uses in the applicable zone and comprehensive plan district, and in conjunction with other development in the neighborhood.

**Staff Response: Satisfied.** The proposed lots in the subdivision cannot be further divided due to minimum lot size requirements in the R-2 zoning district. The maximum development potential of the individual lots will be completed with the construction of single-family residences.

As previously noted, the tentative plan application is in conjunction with two (2) Property Line Vacation applications. On the second PLA, the applicant is proposing to adjust the common property line with an adjacent property (tax lot 1900) that is under common ownership. Tax lot 1900 is not part of the current subdivision application and the applicant has submitted a future development plan as Exhibit 5.

**CRITERION (3):** When one is required or proposed, the street layout conforms to the applicable requirements of the adopted street plans, meets the requirements of Article 27 and other applicable laws, and best balances needs for economy, safety, efficiency and environmental compatibility.

**Staff Response: Satisfied with Conditions.** The tentative plan reflects the development of a new internal local access street (50 ft. right-of-way, 5.5 ft. planter strips and 5 ft. sidewalks) and six (6) private streets. As conditioned below, the private streets shall be a minimum of 20-feet wide and be designated as a “fire lane” with no parking along the street or within the turn-around.

As conditioned below, the applicant will be required to extend Raydean Drive along the length of the subject property to Local Access standards (5.5 ft. planter strip and 5 ft. sidewalks) and install frontage improvements along Leonard Road to Collector street standards (7.5 ft. planter strip, 6 ft. sidewalk and 5 ft. bike lane).

In 2004, the City Council passed Resolution 4851, which requires off-site pedestrian paths to connect all new subdivisions to “destination” streets. Willow Lane is listed as a destination street. Willow Lane and George Tweed Boulevard are the nearest destination streets. As reflected on the tentative plan, sidewalks will be provided on the new local access street, the extension of Raydean Drive and the improvements along Leonard Road in accordance with Resolution 4851.

The application is subject to the connectivity standards of Section 27.122 to ensure that a pattern of streets and accessways are provided for vehicles, pedestrians and bicyclists. Due to the existing development on the east and west property lines, the applicant is unable to meet the 600 ft. block length standards under Section 27.122(1). The review body is allowed to grant an exception to this requirement when it is found to be impractical due to existing development patterns. During the pre-application for the proposed subdivision, staff and the applicant had extensive discussions regarding alternative street layouts. Due to the existing development, staff and the applicant believe the tentative plan provides the best possible design due to the existing limitations.

**CRITERION (4):** The proposed utility plan conforms to the applicable requirements of adopted utility plans, the requirements of Article 28 and other applicable laws, and best balances needs for economy, safety, efficiency and environmental compatibility.

**Staff Response: Satisfied with Conditions.**

**Water:** The proposal includes the extension of a public water main to provide domestic and fire services to the individual properties. As conditioned below, the applicant shall submit a detailed utility plan to the Engineering Division for review and approval. The plan will need to include: location of fire hydrants, and water services for each lot within a public right-of-way.

**Sewer:** The applicant proposes sewer main extensions within the dedicated public right of way and within the private streets. Separate sewer laterals are required for each lot. The installation of the proposed sewer mains across private lots will require the dedication of a twenty (20) ft. drivable and unobstructed easement, to include drivable access to all manholes and cleanouts. As conditioned below, a detailed utility plan shall be submitted to the Engineering Division.

**Storm Water:** The property is located in the Sand Creek Drainage basin. Development in the basin is subject to the Storm System Development Charges (SDCs) rate (see **Exhibit 8**). The proposal includes storm mains in SW Blackberry Lane that drain into a proposed detention pond on the northeast corner of the property. The applicants are proposing to connect to an existing storm drain that flows through Rainwood Estates. Rainwood Lane is not a City street and the applicant is required to obtain permission from Josephine County.

As conditioned below, the applicant shall submit storm drain calculations that demonstrate that post-development run-off does not exceed pre-development run-off and that storm drainage does not cross property lines without an easement. The applicant must also provide information on the maintenance of the proposed storm detention facility. The tentative plan notes that Tract A is to be maintained by the City; the City has not accepted this dedication. Prior to any acceptance of the detention area, the applicant will be required to submit a detailed design for the detention pond to include demonstration of its function to the Public Works Department for review and approval. If it is all future "City Street" water that is going into the detention pond, the City will decide whether to accept responsibility for the future maintenance. If the City

accepts the maintenance responsibility, the installation of landscaping and a separate irrigation meter may be required.

As noted above, a detailed utility plan shall also be required to be submitted for review and approval.

**Other Utilities:** As conditioned below and reflected on the tentative plan, a 10 ft. City Utility Easement (CUE) must be dedicated along all existing and proposed public street frontages, and along one side of each of the private streets.

**CRITERION (5):** The tentative plan allows for the preservation or establishment of natural features or the preservation of historic features of the property, and allows access to solar energy to the extent possible under existing circumstances, including:

- (a) Providing the necessary information to complete the tree chart identified in Section 11.041.
- (b) No cuts shall result in retaining walls greater than 15 feet high in a single wall from the finish grade or create any un-retained slopes greater than 100%.
- (c) No fills shall result in a retaining wall within the required setback from a property not included in the development plan greater than 6 feet in height from the finish grade or create any slopes which are greater than 100%.

**Staff Response: Satisfied with Conditions.** The applicant provided a tree canopy chart (see **Exhibit 9**) showing existing tree canopy and existing trees to be removed. The site has an existing tree-canopy cover of approximately 5%. As required by Section 11.041, residential developments in the R-2 zone shall maintain or re-establish a tree-canopy cover of 20% to 30%, which typically requires 3-4 trees per lot. As conditioned below, prior to final plat, the applicant shall submit a revegetation plan and pay applicable tree deposits per Section 11.060.

**Solar Standards:** The solar lot design standards in Section 22.632 (1) requires, "At least 80 percent of lots in a residential subdivision shall:  
(a) have a north-south dimension of at least 80 feet; or  
(b) have a solar building line located on the lot(s) to the north of the subject lot. The solar building line shall be at least 85 feet north of the south property line of the subject lot. Construction on the lot shall be setback from the recorded solar building line in accordance with Section 22.623(2)."

Section 22.632 (3) states,

"Any proposed lot where any structure built on that lot would be exempt from solar setback standards as given in Section 22.621 of this Code shall not be included in the total number of lots in the subdivision when calculating the number of lots in subsection (1) above."

Of the 38 proposed lots, four (4) lots do not meet or exceed the eighty (80) foot minimum north/south lot dimension. The remaining 34 lots exceed the minimum percentage of lots that comply with the minimum lot dimension requirements.

The site is relatively flat; therefore areas of cut and fill are not expected to exceed 1-2 feet. No retaining walls are proposed as part of the development plan. Cut fill slopes will not exceed 5:1 or 20%.

**CRITERION (6):** The plan complies with applicable portions of the Comprehensive Plan, this Code, and state and federal laws.

**Staff Response: Satisfied with Conditions.** The proposed subdivision name of "Blackberry Lane Subdivision" was approved by the County Surveyor (see **Exhibit 10**). As conditioned below, the proposed street names shall be amended to include the "SW" directional identifier (Section 6.40.030.B of the Municipal Code).

The subject property is located outside of the City limits within the Urban Growth Boundary and is considered a Category 2 development, pursuant to the 1998 Intergovernmental Agreement for the Orderly Management of the Grants Pass Urban Growth Boundary. As conditioned below, the applicants will be required to submit a signed Service and Annexation Agreement (see **Exhibit 11**).

Based upon the conditions listed below, along with the submittal of a revised tentative subdivision plan and utility plans as previously discussed, the applicant is demonstrating compliance with all applicable Grants Pass Comprehensive Plan, Development Code requirements, and state and federal laws given the conditions of approval stated below.

## VII. RECOMMENDATION:

Staff recommends the Planning Commission **APPROVE** the request for the two phased twenty-five (25) lot tentative plan with the conditions listed below.

### CONDITIONS OF APPROVAL:

**A. The following must be accomplished within 24 months of the Planning Commission's Decision and prior to issuance of a Development Permit. (Note: A Development Permit is required in order to obtain a grading permit.):**

1. Provide a letter from the Responsible Engineer who will be supervising the construction of the subdivision. The Responsible Engineer will be required to submit a letter at final plat application verifying that he/she supervised the grading and construction for the entire parcel and individual lots and that the grading and construction was completed according to approved plans.

If the responsible engineer proposes to delegate any of these responsibilities, the arrangement shall be approved in writing by the City Engineering Division prior to issuance of a Development Permit.

2. Submit a revised tentative showing the following:
  - a. Tract B (formerly part of TL 1900).
  - b. Revised street names with the directional identifier of "SW" in accordance with Section 6.40.030 of the Municipal Code.
  - c. An approved turn-around design for each of the six (6) private streets that comply with the requirements of Grants Pass Public Safety. Designate the private streets as "Fire Lane No Parking".
  - d. Reflect the parking areas for each lot along the private streets.
  - e. Identify mailbox locations.
3. Obtain an NPDES permit from the Department of Environmental Quality. Submit a copy of the approved permit to the Parks and Community Development Department.
4. Submit four (4) copies of civil drawings with appropriate review fees to the City Engineering Division for review and approval:
  - a. Provide an engineered drainage plan for the subdivision and tentative drainage plans for each lot. The plan shall include line size and percentage of fall. The drainage plan shall include the prevention of storm water from crossing property lines unless within dedicated easements. GPID approval must be obtained prior to drainage into their system.
    - i. The applicant shall provide maintenance information on the proposed stormwater detention facility. Upon review and approval of the stormwater detention plan, the City will make a determination regarding the future maintenance of the proposed detention facility. If the City excepts the maintenance, the applicant will be required to install appropriate landscaping, irrigation and a separate irrigation meter.
    - ii. The applicant shall obtain permission from Josephine County prior to connection of the storm drain into the existing main along the western property line of the subject property.
  - b. Provide a grading plan and receive a grading permit prior to any earthwork. Include the creation of building pads in the grading plan if completed as part of the construction of the subdivision. If building pads are created as part of the grading of the subdivision then a map showing the extent of the grading will be required at the time of final plat.

- c. Provide an erosion control and dust control plan for the subdivision.
- d. Include any provisions of the NPDES permit on the construction plans.
- e. Present engineered construction drawings stamped by a registered Engineer, including plans and profiles if necessary, that detail the following improvements to the City Engineering Division for review and approval.

**Street Improvements:**

- i. Show full street improvements to Raydean Drive and SW Blackberry Lane to City standards.
- ii. Show the half-street improvements along Leonard Road to the eastern property line of the subject property (tax lot 800).
- iii. Construction of a City Standard commercial drive approach at the intersection of each private street and SW Blackberry Lane. The City Engineer may require appropriate transitioning from the private street to the City street.
- iv. Reflect proposed street lighting in accordance with Section 27.121.16 of the Development Code.
- v. Provide a striping and signage plan.
  - (a) Developer will paint 20' yellow setbacks at the corners and paint white stop bar at stop sign.
  - (b) City will install the required street name sign, "stop" sign, and will bill developer for all costs.
  - (c) Any other signs will be the developers to install.
- vi. Obtain encroachment permits prior to any work in the right-of-way.

**Utility Plan Provide detailed engineered drawings containing plan and profiles for the Utility Division Review (Specific conditions or changes to the utility shall be approved by the Engineering and Utility Departments).**

- i. Show the extension of an 8" public water main in SW Blackberry Lane and Raydean Drive

- ii. Show the extension of an 8" public sewer main in SW Blackberry Lane, Raydean Drive and each of the six (6) private streets.
- iii. Show the extension of public storm water main in SW Blackberry Lane and Leonard Road.
- iv. RP backflow devices shall be required as "premises" protection on all water services (new and existing) if GPID or private wells are present.
- v. All "premises" backflow prevention devices shall be located within 10 feet behind each water meter.
- vi. DC backflow devices shall be required as "point of use" protection on all water services containing multiple zone irrigation systems.
- vii. Separate sewer and water services shall be required for separate lots.
- viii. Provide utility plans for PPL, Qwest and Avista. Show all pedestals and boxes to be installed (This is to verify utilities can be installed within dedicated City Utility Easements).

- 5. Sign a Developer Installed Agreement for Public Improvements.
- 6. Sign a Service and Annexation Agreement.
- 7. A recorded copy of the two Property Line Adjustments under concurrent review.

**B. The following must occur within 18 months of issuance of the Development Permit and prior to Final Plat approval:**

- 1. Substantially complete all construction items related to SW Blackberry Lane, Raydean Drive, Leonard Road and the six (6) private streets.
  - a. Secure for any remaining construction items in accordance with City Standards.
  - b. Submit a one year maintenance guarantee.
  - c. Submit as-built drawings of all public improvements or secure for them in accordance with City policy.
  - d. Install a commercial thickness approach for the approaches on the private streets.

2. Submit a tree revegetation plan in accordance with Section 11.060:
  - a. Location of trees or groups of trees remaining on site post development as related to new lot lines.
  - b. A tree planting plan identifying general locations of where new trees will be planted and include the height, caliper and species of trees recommended to be planted.
  - c. The percentage of tree canopy proposed to be re-established. The calculation shall be based upon the type of trees to be planted and number of trees needed per lot, and shall meet the conditions of tentative plan approval.
  - d. Demonstration of efforts to promote diversity of tree species.
  - e. The Tree Re-vegetation Plan shall be recorded along with the final plat/plan.
3. Pay the tree deposit fee in the amount of \$400 for each new lot in Phase I (Section 11.060.2).
4. Separate sewer and water services are required for each lot. Private sewer and water lines shall not cross other lots.
5. Existing private laterals reutilized by the new development shall be TV inspected prior to reuse. All defects discovered during the TV inspection shall be corrected prior to reuse by the new development.
6. If individual lots were graded as part of the grading permit for the subdivision, provide a map of those lots with new building pads and include the dimensions of the area graded.
7. All adjacent streets shall be swept regularly during construction.
8. Street name sign, "stop" sign, and "no parking" signs (if needed) shall be paid for by the developer and installed by the City. All other signs and markings including "sidewalk ends signs", painting curbs at 20 foot setback at intersections for no parking, ten feet of yellow each side of hydrants, and a white stop bar at the stop signs are to be completed by the developer.
9. Power, telephone, cable television and natural gas lines shall be installed underground and within the 10 foot City Utility Easements.
10. Pay all engineering inspection fees due.
11. Submit a letter from the Responsible Engineer stating that he/she supervised the grading and construction for the entire parcel and

individual lots and the grading and construction was completed according to approved plans.

12. Properly abandon any existing wells and provide evidence of proper abandonment to the Parks and Community Development Department.
13. All water services on existing public water lines shall be installed by City of Grants Pass Water Distribution Crews. All encroachment fees related to the installation of water services shall be the responsibility of the developer.
14. Complete installation of the public utility services as reflected on the approved utility plans.
15. Provide a copy of any proposed CC&R's & deed restrictions if they are desired by the developer. There are no CC&Rs or deed restrictions required as a condition of this approval.
16. Provide a land division guarantee issued by a title company.
17. Submit a final plat in accordance with Section 17.422 of the City of Grants Pass Development Code. Incorporate any modifications or conditions required as part of tentative approval. A professional land surveyor must survey the subdivision. A plat check by the City Surveyor and payment of appropriate fees is required. Failure to comply with this condition will nullify the approval of the Tentative Plat. Include the following on the plat:
  - a. Dedication of SW Blackberry Lane and Raydean Drive to the public.
  - b. All easements indicated on approved construction plans.
  - c. A ten-foot wide City Utility Easement dedicated to the City of Grants Pass along all necessary public street frontages, and along one side of each of the private streets.
  - d. Dedicate the ten (10) feet of additional right-of-way for Leonard Road as reflected on the tentative plan.
  - e. Include any necessary drainage and cross access easements.
  - f. Twenty (20) foot unobstructed and drivable public sewer main easements within the four (4) private streets.

After all signatures are obtained, the plat must be recorded with the Josephine County Recorder within 30 days. The subdivider shall file one print of the recorded plat with the Parks and Community Development Department. Failure to do so will nullify plat approval.

**C. The following shall be accomplished at the time of development of individual lots in the subdivision:**

**Note:** The following conditions are not all-inclusive and are provided for the information of the applicant.

1. Payment of all System Development Charges due; including, but not limited to, water, storm, sewer, parks and transportation (see *Exhibit 6*).
2. Development of lots shall be in accordance with solar standards.
3. Each lot shall have separate utility services.
4. All utilities shall be placed underground.
5. Comply with the Uniform Fire and Building Codes.
6. Install landscaping in accordance with the approved landscape plan (Sections 11.041 ~ Tree Canopy and 23.031 ~ Residential Front Yard).
7. Submit lot drainage plans for approval on all building plans.
8. Tree refund in the amount of \$400 per lot is available within one (1) year of final inspection and submittal of a valid receipt meeting or exceeding that amount of trees only.
9. Developed or undeveloped building lots will need to be maintained for weed and grass control throughout the year.
10. Provide addresses visible from the public right-of-way.
11. Gravel driveway approaches and other erosion and track out control measures shall be in place during construction of individual lots.
12. Prior to occupancy, driveways and parking and maneuvering areas shall be paved in accordance with the requirements of the Development Code.

**VIII. PLANNING COMMISSION ACTION:**

- A. Positive Action: Approve the request
  - 1. as submitted.
  - 2. with the conditions stated in the staff report.
  - 3. with the conditions stated in the staff report as modified by the Planning Commission (list):
- B. Negative Action: Deny the request for the following reasons (list):
- C. Postponement: Continue item
  - 1. indefinitely
  - 2. to a time certain.

NOTE: State law requires that a decision be made on the application within 120 days of when the application was deemed complete.

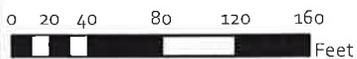
**IX. INDEX TO EXHIBITS:**

- 1. Location Map
- 2. Aerial Photo
- 3. Tentative Plan & Narrative
- 4. Property Line Adjustment Tentative Plan
- 5. Future Development Plan
- 6. Traffic Impact Analysis
- 7. Replinger & Associates comments
- 8. SDC Brochure
- 9. Tree Canopy Retention Plan
- 10. County Surveyor comments
- 11. Service and Annexation Agreement



# CITY OF GRANTS PASS

2587 Leonard Road  
36-06-23-BD, TL 800



## Legend

-  Subject Parcel
-  Water Mains
-  Sewer Gravity Mains
-  Storm Water Gravity Main



## CITY OF GRANTS PASS

Parks & Community Development Dept.  
101 Northwest "A" Street  
Grants Pass, OR 97526  
Phone: (541) 450-6060  
Fax: (541) 476-9218  
Web: [www.grantspassoregon.gov](http://www.grantspassoregon.gov)



June 9, 2016

City of Grants Pass Community Development Dept.  
101 NW "A" Street  
Grants Pass, OR 97526

RE: Tentative Subdivision Submittal – Blackberry Lane Subdivision

Attached is the tentative subdivision submittal for a 38-lot residential subdivision located at 2587 Leonard Road. This project would split the existing 5.83-acre parcel into 38 single family lots while creating two sections of dedicated public roadway and six private streets for lot access. In addition to the on-site improvements, frontage improvements will also be completed on Leonard Road.

In conjunction with this application, two other associated property line adjustments (PLA) have been submitted ahead of the subdivision approval. The first PLA was submitted by the adjacent property owner to the east (TL 700), after it was discovered during initial surveying efforts, that several of the secondary structures on the property (mobile home park) were encroaching up to 4' over the existing property line. To remedy this situation, the owner of our property will be transferring 5' along the east boundary to TL 700 which in effect makes all existing buildings compliant.

The second PLA is between the subject parcel (TL 800) and the 4.0 acre parcel to the south (TL 1900) which is owned by the developer. This adjustment will move the common property line that is currently centered on the proposed Raydean Drive extension further to the south, allowing more flexible development options in the future. The future development plan submitted with this PLA has been attached as an exhibit with this application as a reference (reduced copy).

### **Existing Conditions**

The site is primarily pasture land and undeveloped other than an existing barn that will be removed as part of the proposed improvements. There is currently a developed street plug off of Raydean Drive that was established for this future development and a single driveway access point off of Leonard Road. A 10' right-of-way dedication will be required along Leonard Road based on existing property surveys and adjacent development patterns.

Utilities are currently available both from Raydean Drive and Leonard Road. An existing public storm drain main is located within an easement just over our west property line. In addition, the existing irrigation lateral that runs along the east property line will be replaced by the Grants Pass Irrigation District within a new 5' easement that is being dedicated on the above mentioned property line adjustment plat.

## **Proposed Conditions**

The parcel will be split into 38 separate single family lots, two of which will be attached housing. Access is being proposed through a new full width public street that will run through the center of the subdivision and a half street improvement extending Raydean Drive along the southern boundary. Due to the overall lot width, private streets will be utilized off of the new roadway to access the interior lots not adjacent to the public street. Four lots will access each private street and they will be constructed to the 20' paved standard. Per our discussion with the Fire Marshal during the pre-application review process, we will be providing three driveway parking stalls for each residence on the private street and will dedicate the streets as "fire lanes" to prevent parking along the roadways and alleviate concerns over emergency access. Driveway access will be limited on Leonard Road to the lots that do not abut the new interior roadway.

Based on existing utility locations and grades, sewer and water will connect to either Leonard Road and/or the Raydean Drive street plug. Water/sewer mains will be routed up the new public roadways and sewer will extend into the private streets as shown. Storm drainage will be routed through a common detention pond located at the northwest corner of the property, connecting into the existing public storm drain main (following existing drainage patterns). Other franchise utilities would run along new 10' city utility easements and connect to the existing infrastructure currently in place on adjacent developments.

## **Traffic Analysis**

Per the City of Grants Pass Development Code, a traffic impact analysis (TIA) was prepared for the project to analyze the effects of the project on the surrounding transportation system (see attached "Leonard Road Subdivision TIA" by Sandow Engineering dated May 18, 2016). Per the executive summary of the TIA the report findings are as follows:

- Existing crash patterns and rates do not trigger the need for additional mitigation.
- The traffic generated by the proposed development will not degrade any of the study intersections to below the acceptable mobility standards.
- The traffic generated by the proposed development will not substantially increase queuing conditions over the background condition.
- No off-site improvements are needed to facilitate the development traffic.

Based on this information, no additional traffic mitigation is required for the project.

## **Tree Revegetation Plan**

As required for the application, we have prepared a tree revegetation plan showing the approximate location of existing trees to be removed and those that will be replanted as part of the subdivision development. Several of the existing trees along the east property line will be removed during the installation of the Grants Pass Irrigation District lateral replacement. Trees will be primarily 25' canopy specimens and will be placed both in the street planter strips and on-site.

## Summary

Overall, we feel that this development will be a nice addition to the area and will blend well with surrounding development patterns. It creates an efficient lot layout and density and through careful house plan selection, will provide a unique character to the new neighborhood. We look forward to working with you through the planning process.

Sincerely,

A handwritten signature in black ink, appearing to read 'Justin Gerlitz', with a long horizontal flourish extending to the right.

Justin Gerlitz, P.E.

Encl.







# TRAFFIC IMPACT ANALYSIS

## Leonard Road Subdivision



RENEWAL 06/30/16

Grants Pass, Oregon  
May 18, 2016

Kelly Sandow PE  
Sara McCrea EIT

**SANDOW  
ENGINEERING**  
160 Madison Street, Suite A  
Eugene Oregon 97402  
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project # 5596

**EXHIBIT 6**

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## EXECUTIVE SUMMARY

This report describes the Traffic Impact Analysis (TIA) performed for the proposed Leonard Road Subdivision in Grants Pass, Oregon. The site is located between Leonard Road and Raydean Drive and is planned to be developed with 37 single-family homes.

The analysis evaluates the transportation impacts as per Grants Pass TIA criteria. The following findings and recommendations are based on the information and analysis contained within this report.

## FINDINGS

The analysis concludes the following findings:

- Existing crash patterns and rates do not trigger the need for additional mitigation.
- The traffic generated by the proposed development will not degrade any of the study intersections to below the acceptable mobility standards.
- The traffic generated by the proposed development will not substantially increase queuing conditions over the background condition.
- No off-site improvements are needed to facilitate the development traffic.



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APPENDIX H: 2016 QUEUING ANALYSIS
APPENDIX I: 2017 QUEUING ANALYSIS

## 1.0 BACKGROUND

### 1.1 SITE INFORMATION

This report describes the Traffic Impact Analysis for the proposed Leonard Road Subdivision in Grants Pass, Oregon. The proposal includes the construction of 37 single-family homes. The site is located between Leonard Road and Raydean Drive. Figure 1 illustrates the site location and Appendix A provides the proposed site plan.

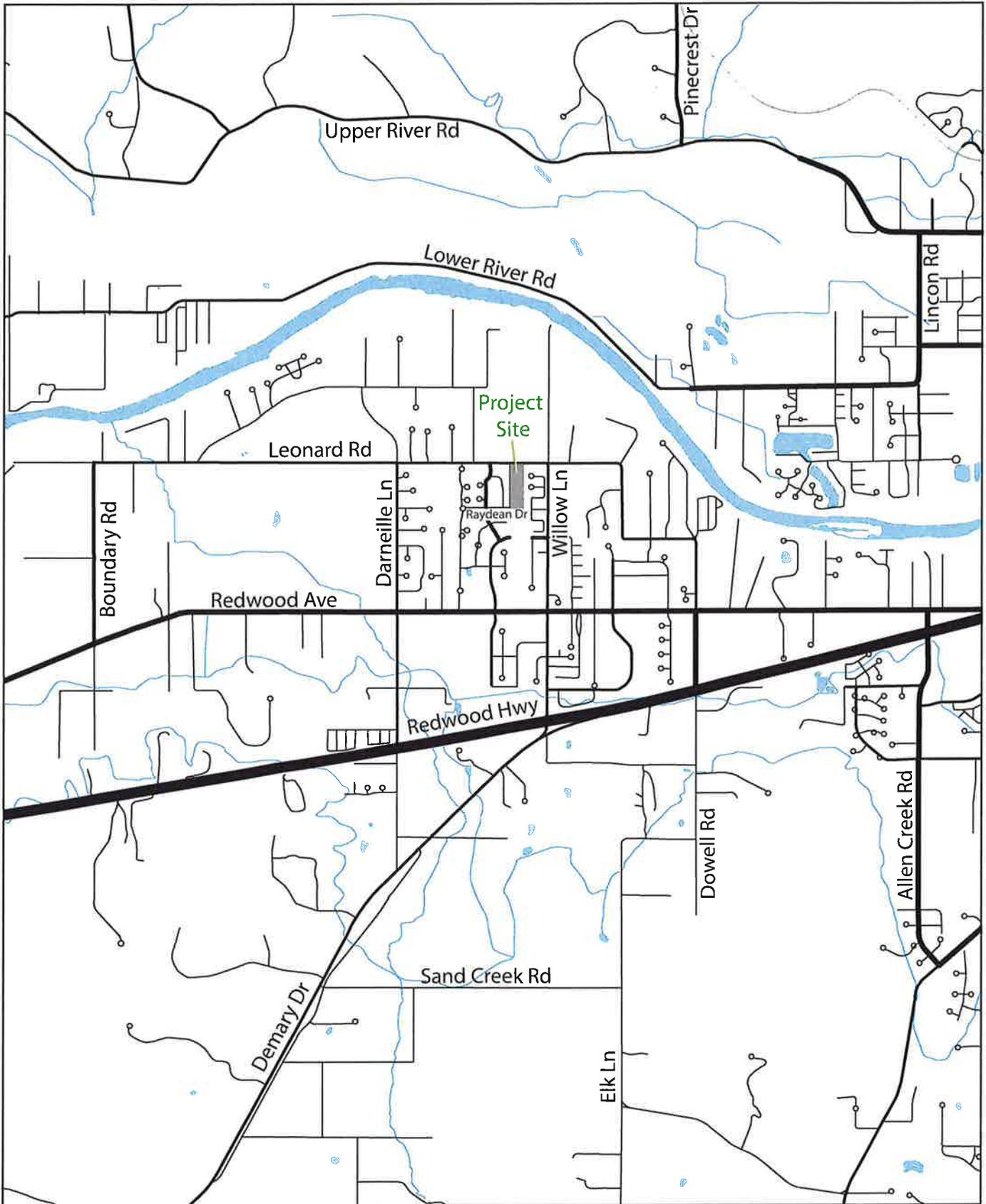
### 1.2 SCOPE OF ANALYSIS

The traffic study was performed in accordance with Grants Pass Traffic Impact Analysis standards and criteria. The Scope of Work coordinated by Sandow Engineering and Grants Pass, included in Appendix B, establishes evaluation criteria for off-site impacts at the following locations and time periods.

Traffic analysis is performed for weekday 4:00 PM to 6:00 PM time period. The analysis evaluates intersections with 20 or more trips added. The following locations were included in the analysis:

- Leonard Road @ Site Access
- Redwood Avenue @ Willow Lane
- Redwood Avenue @ Dowell Road

The operational analysis was performed at the studied intersections, during the PM peak hour of the system, for the existing year and year of completion with and without the development (2017).



Leonard Road Subdivision  
Grants Pass, Oregon

Figure 1: Vicinity Map and Site Location

SANDOWENGINEERING

160 Madison Street Suite A Eugene, Oregon 97402 - 541.513.3376 - sandowengineering.com

## 2.0 EXISTING ROADWAY CONDITIONS

### 2.1 STREET NETWORK

Streets included within the study area are Leonard Road, Willow Lane, Redwood Avenue, and Dowell Road. The site access will be from Leonard Road to the north and the extension of Raydean Drive to the east. Table 1 illustrates the roadway characteristics within the study area. Figure 2 illustrates the study area intersection geometry and control.

TABLE 1: ROADWAY CHARACTERISTICS

Characteristic	Leonard Road	Willow Lane	Redwood Avenue	Dowell Road
<b>Functional Classification</b>	Urban Collector	Urban Collector	Urban Minor Arterial	Urban Collector
<b>Posted Speed</b>	30 mph – East of Willow Ln 35 mph - West of Willow Lane	30 mph - North of Redwood Ave 35 mph – South of Redwood Ave	35 mph	30 mph
<b>Lanes per Direction</b>	1	1	1	1
<b>Center Left Turn lane</b>	No	No	TWLTL	TWLTL – South of Redwood Ave
<b>Restrictions in the Median</b>	No	Intermittent	No	No
<b>Bikes Lanes Present</b>	No	Yes	Yes	Yes
<b>Sidewalks Present</b>	No	Yes	Yes	Yes
<b>Transit Route</b>	No	No	Yes	No
<b>On-Street Parking</b>	No	No	No	No

### 2.2 CRASH ANALYSIS

A crash investigation was performed for the study area intersections along Redwood Avenue. The analysis investigates crashes that have been reported to the state for the most recent 5 years, 1/1/2010 – 12/31/2014, to determine a crash rate in crashes per million vehicles on the roadway and the types of crashes that occurred. The crash rate is compared to a standard threshold of 1.0 crashes. Million entering vehicles. If the calculated crash rate exceeds the 1.0 crashes/MEV or there is a high percentage of a certain crash type, the location is investigated for further mitigation measures. Crash data was provided by ODOT for the study area and is included in Appendix C. The results of the crash analysis are provided in Table 2.



Leonard Road Subdivision  
Grants Pass, Oregon

Figure 2: Lane Configuration and  
Intersection Control

TABLE 2: INTERSECTION CRASH RATES

Location	Number of Crashes	Types of Crashes					Pedestrian/ Bike	ADT	Crash Rate*
		Head	Rear	Side	Turn	Other			
Redwood Ave @ Dowell Rd	11	0	3	0	3	3	2	13400	0.45
Redwood Ave @ Willow Ln	1	0	1	0	0	0	0	7450	0.01

\*(crashes/million entering vehicles)

As illustrated, the studied locations all have crash rates lower than the 1.0 threshold for warranting further mitigation measures.

The intersection of Redwood Avenue and Dowell Road had one collision involving a pedestrian and one collision involving a bicyclist. The pedestrian crash involved a motor vehicle making a left turn from Redwood Avenue south onto Dowell Road and a pedestrian crossing westbound in the south crosswalk. Fault was assigned to the motor vehicle for not yielding right-of-way although there is a note that the sun blinded the driver. The bicycle crash involved a motor vehicle making a left turn from Dowell Road west onto Redwood Avenue and a bicycle crossing southbound in the west crosswalk. Fault was assigned to the motor vehicle for not yielding right-of-way.

### 3.0 BACKGROUND TRAFFIC VOLUMES

#### 3.1 INTERSECTION COUNTS

As part of the analysis, PM peak hour turning movement counts were collected at the study area intersections. Traffic counts were performed for the peak hour during the weekday 4:00 PM to 6:00 PM time period. The turning movement counts illustrate that the weekday PM peak hour within the study area occurs from 5:00 – 6:00 PM at the intersections of Redwood Avenue at Willow Lane and Leonard Road at the site driveway. The PM peak hour at the intersection of Redwood Avenue at Dowell Road occurred from 4:00-5:00PM. The traffic counts are included in Appendix D.

#### 3.2 SEASONAL ADJUSTMENT

Application of seasonal adjustment factors account for the fact that through volumes along State Highways and recreational routes tend to fluctuate from month to month due to changes in recreational behavior, etc. Monthly volume variations for routes with recreational traffic show much higher seasonal peaking than routes with predominantly intercity traffic. The studied intersection is intercity and typically does not experience a seasonal fluctuation. Therefore, no seasonal adjustment factor was applied.

### 3.3 FUTURE YEAR BACKGROUND VOLUMES

The site is anticipated to be completed during the year 2017. The year 2017 traffic volumes were determined by applying an annual growth rate. Average Daily Traffic (ADT) volumes from Josephine County for Redwood Avenue over the last 10 years show a decline in traffic volumes. Therefore, a conservative 2% growth rate per year was applied to the collected traffic volumes to estimate 2017 traffic volumes. A 2% growth rate is also consistent with data found in the ODOT Future Highway Volumes Table for Redwood Highway near the studied intersections. The growth rate calculations are included in Appendix E.

### 3.4 BACKGROUND VOLUMES

The existing traffic volumes were adjusted according to the methodology described above. Appendix E provides the traffic volume calculations. Figures 3 and Figure 4 illustrate the 2016 and 2017 weekday PM peak hour traffic volumes.

## 4.0 DEVELOPMENT TRAFFIC

### 4.1 TRIP GENERATION

The trip generation for the site was estimated using information contained within the ITE Trip Generation Manual 9<sup>th</sup> edition. The site is proposed to be divided into 37 plots for single-family homes (Land Use Code 210). Table 3 illustrates the trip generation estimates for the PM peak hour.

TABLE 3: TRIP GENERATION

ITE Land Use	Size	Units	Rate	Trips	Trip Generation		Trips In	Trips Out
					% In	% Out		
<b>210 – Single-Family Detached Housing</b>	37	Dwelling Units	1.0	37	63%	37%	23	14

### 4.2 TRIP DISTRIBUTION AND ASSIGNMENT

The new development trips were distributed throughout the study area network using existing observed travel patterns as a base with modifications as per reasonable origins and destinations with in the surrounding area. The trip assignment is as follows:

#### FROM THE SITE:

- 43% to east on Redwood Avenue
  - 22% via Willow Lane
  - 21% via Raydean Road and Kokanee Lane
- 43% to south on Dowell Road

- 22% via Willow Lane
- 21% via Raydean Road and Kokanee Lane
- 14% to west on Leonard Rd
  - 7% via North Site Driveway
  - 7% via Raydean Road and Kokanee Lane

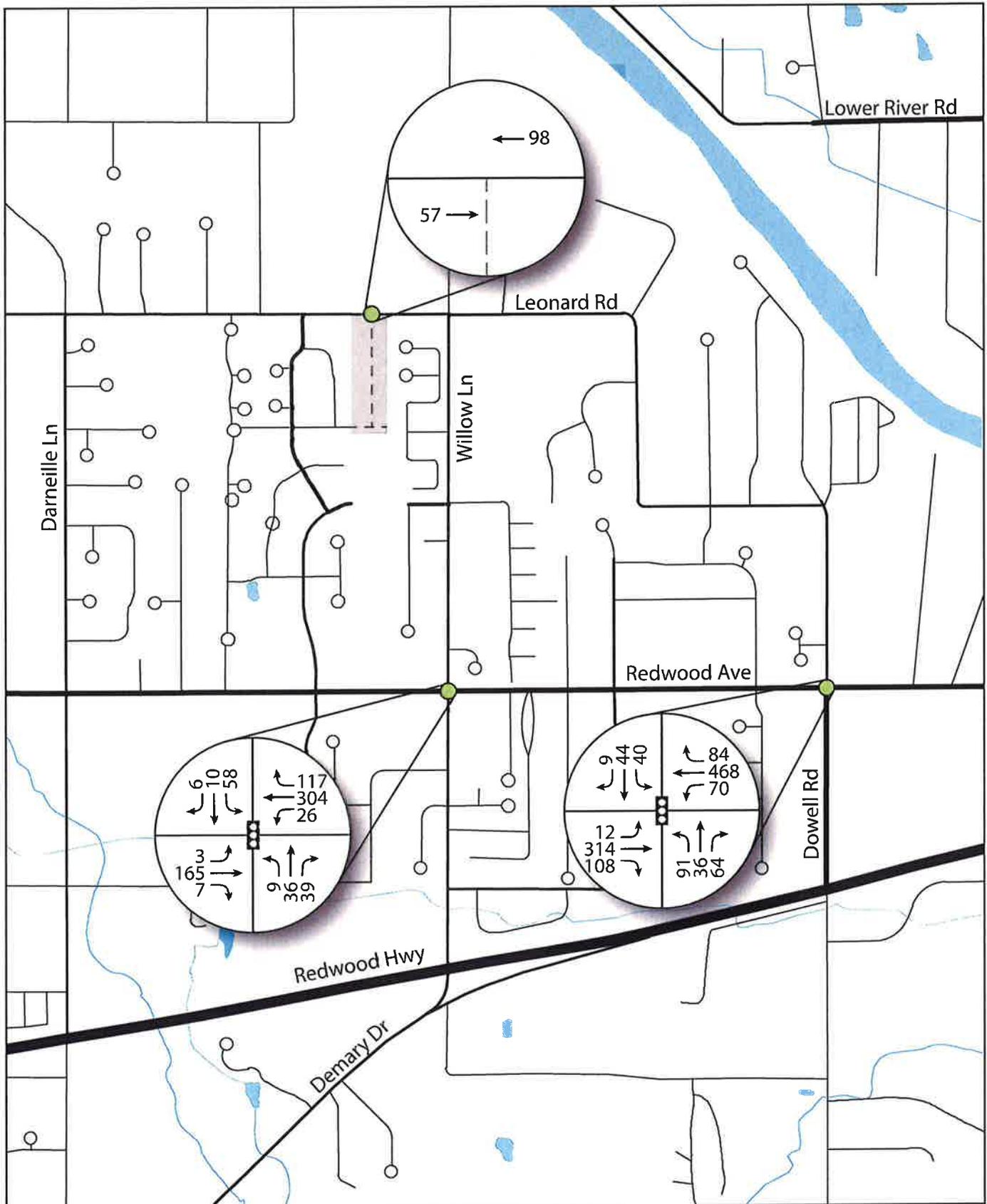
#### TO THE SITE:

- 52% from east on Redwood Avenue
  - 26% via Willow Lane
  - 26% via Kokanee Lane and Raydean Road
- 40% from south on Willow Lane
  - 22% via Willow Lane
  - 18% via Kokanee Lane and Raydean Road
- 8% from west on Leonard Road
  - 4% via North Site Driveway
  - 4% via Kokanee Lane and Raydean Road

The new development trips assigned to the existing street network are illustrated in Figure 5.

### 4.3 BUILD-OUT TRAFFIC VOLUMES

The site trips were added to the 2017 background traffic volumes to represent traffic conditions in the build condition. The build-out traffic volumes are include in Figure 6.



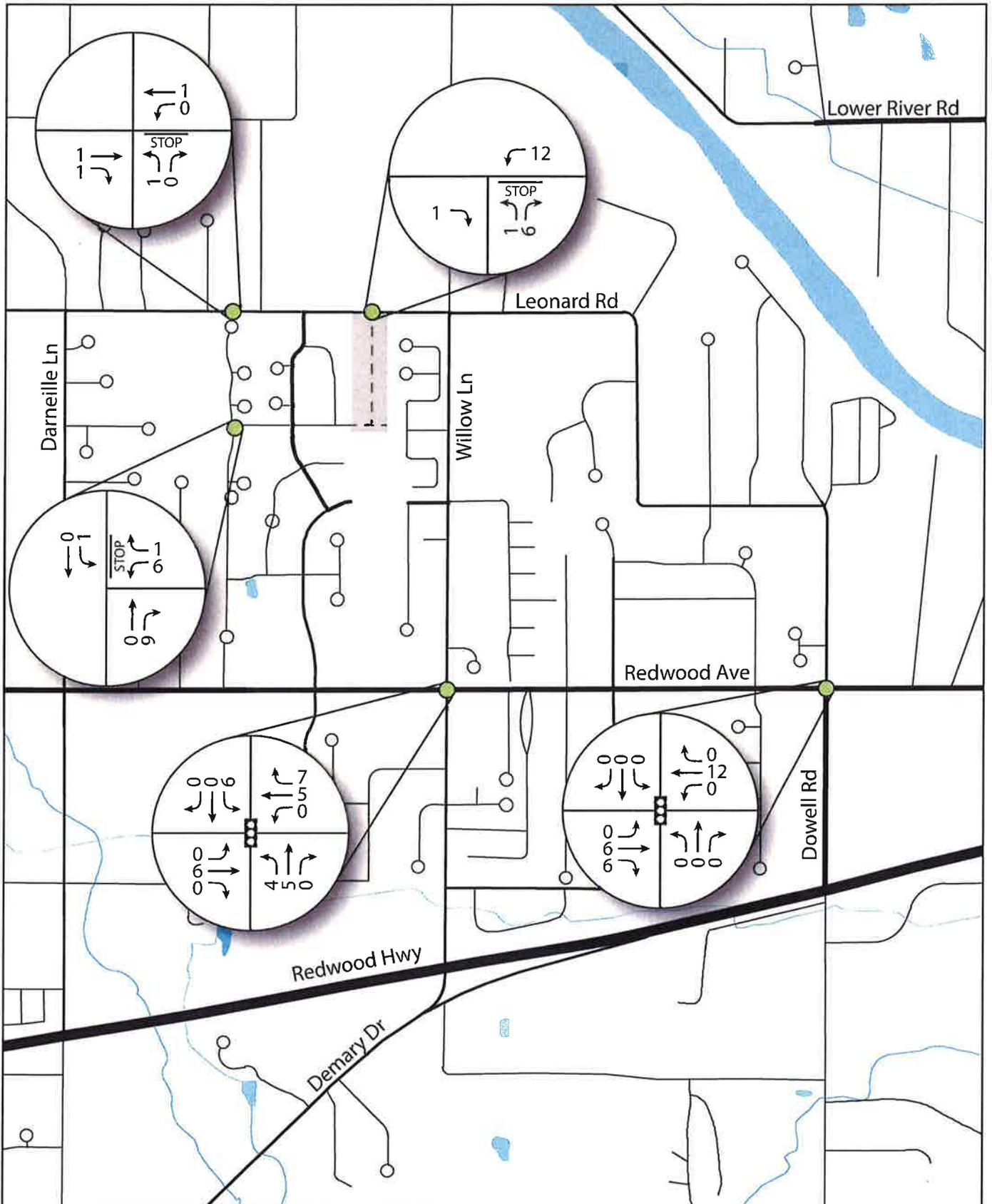
Leonard Road Subdivision  
Grants Pass, Oregon

Figure 3: 2016 PM Peak Hour  
Background Traffic Volumes



Leonard Road Subdivision  
Grants Pass, Oregon

Figure 4: 2017 PM Peak Hour  
Background Traffic Volumes



Leonard Road Subdivision  
Grants Pass, Oregon

Figure 5: Development Trips



Leonard Road Subdivision  
Grants Pass, Oregon

Figure 6: 2017 PM Peak Hour Traffic Volumes  
with Development Trips

## 5.0 INTERSECTION EVALUATION

### 5.1 PERFORMANCE MEASURES

The intersection in this study was evaluated for Level of Service. Level of Service is a measure of performance for intersections based on the Highway Capacity Manual (HCM) defined level of service (LOS). LOS is a concept developed to quantify the degree of comfort (including such elements as travel time, number of stops, total amount of stopped delay, and impediments caused by other vehicles) afforded to drivers as they travel through an intersection or along a roadway segment. It was developed to quantify the quality of service of transportation facilities.

LOS is based on average delay, defined as the average total elapsed time from when a vehicle stops at the end of a queue until the vehicle departs from the stop line. Average delay is measured in seconds per vehicle per hour and then is translated into a grade, or “level of service”, for each intersection. LOS ranges from A to F, with A indicating the most desirable condition and F indicating the most unsatisfactory condition.

Grants Pass has a level of service threshold of LOS D for all intersections with no approach operating below LOS E. The LOS criteria as defined by the Highway Capacity Manual, for signalized intersections are provided in Table 4.

TABLE 4: HCM LEVEL OF SERVICE FOR INTERSECTIONS

Level of Service	Stopped Delay Per Vehicle (Seconds per Vehicle)	
	Unsignalized Intersections	Signalized Intersections
A	≤ 10.0	≤ 10
B	> 10.0 and ≤ 15.0	> 10 and ≤ 20
C	> 15.0 and ≤ 25.0	> 20 and ≤ 35
D	> 25.0 and ≤ 35.0	> 35 and ≤ 55
E	> 35.0 and ≤ 50.0	> 55 and ≤ 80
F	> 50.0	> 80

### 5.2 INTERSECTION ANALYSIS RESULTS – YEAR 2016

A performance analysis was conducted for the studied intersections for the year 2016 existing conditions during the PM peak hour. The results of the analysis are illustrated in Table 5. The SYNCHRO outputs are provided in Appendix F.

TABLE 5: INTERSECTION PERFORMANCE: YEAR 2016 WEEKDAY PM PEAK HOUR

<b>Intersection</b>	<b>Mobility Standard LOS</b>	<b>2016 Existing LOS*</b>
<b>Willow Ln @ Redwood Ave</b>	D	B
<b>Dowell Rd @ Redwood Ave</b>	D	C
<b>Leonard Rd @ Site Dvwy</b>	D	N/A

\*results reported for critical movement at unsignalized intersections

As illustrated, all of the studied intersections are projected to operate better than the mobility standard at the time of development completion.

### 5.3 INTERSECTION ANALYSIS RESULTS –YEAR 2017

A performance analysis was conducted for the studied intersections for the year 2017 conditions during the PM peak hour with and without full build-out of the site. The results of the analysis are illustrated in Table 6. The SYNCHRO outputs are provided in Appendix G.

TABLE 6: INTERSECTION PERFORMANCE: YEAR 2017 WEEKDAY PM PEAK HOUR

<b>Intersection</b>	<b>Mobility Standard LOS</b>	<b>2017 No-Build LOS*</b>	<b>2017 Build LOS*</b>
<b>Willow Ln @ Redwood Ave</b>	D	B	B
<b>Dowell Rd @ Redwood Ave</b>	D	C	C
<b>Leonard Rd @ Site Dvwy</b>	D	N/A	A

\*results reported for critical movement at unsignalized intersections

As illustrated, all of the studied intersections are projected to operate better than the mobility standard for the build year, 2017.

### 5.4 INTERSECTION QUEUING ANALYSIS RESULTS - YEAR 2016

A queuing analysis was performed following procedures within the Highway Capacity Manual and implemented within SimTraffic 8. SimTraffic, a micro simulation software, evaluates traffic operations as a network and provides queuing estimates. The average and 95<sup>th</sup> percentile queues for the year 2016 existing conditions are included in Table 7. The outputs are included in Appendix H.



TABLE 7: INTERSECTION QUEUING: YEAR 2016 WEEKDAY PM PEAK HOUR

Intersection			Available Storage (Feet)	2016 PM Existing (Feet)	
				Average	95 <sup>th</sup> percentile
Willow Ln @ Redwood Ave	EB	L	125	0	25
		TR	500+	75	125
	WB	L	125	25	75
		TR	500+	125	175
	NB	LTR	500+	25	75
	SB	LTR	500+	25	50
Dowell Rd @ Redwood Ave	EB	L	100	25	75
		TR	500+	200	325
	WB	L	125	75	150
		TR	500+	200	350
	NB	L	TWLTL	50	75
		TR	500+	50	75
	SB	L	125	25	75
		TR	500+	25	75

EB=Eastbound, WB=Westbound, NB=Northbound, SB=Southbound, L=Left, T=Thru, R=Right, TWLTL=Two-way Left-turn Lane

### 5.5 INTERSECTION QUEUING ANALYSIS RESULTS - YEAR 2017

A queuing analysis was performed following procedures within the Highway Capacity Manual and implemented within SimTraffic 8. SimTraffic, a micro simulation software, evaluates traffic operations as a network and provides queuing estimates. The average and 95<sup>th</sup> percentile queues for the year 2017 with and without full build-out of the site are included in Table 8. The outputs are included in Appendix I.

TABLE 8: INTERSECTION QUEUING: YEAR 2017 WEEKDAY PM PEAK HOUR

Intersection			Available	2017 PM Existing		2017 PM Build		
			Storage (Feet)	Average	95 <sup>th</sup> percentile	Average	95 <sup>th</sup> percentile	
Willow Ln @ Redwood Ave	EB	L	125	0	25	0	25	
		TR	500+	50	125	75	125	
	WB	L	125	25	50	25	75	
		TR	500+	125	200	100	175	
	NB	LTR	500+	25	50	25	75	
		SB	LTR	500+	25	75	25	75
Dowell Rd @ Redwood Ave	EB	L	100	25	75	25	75	
		TR	500+	200	325	200	325	
	WB	L	125	75	150	75	150	
		TR	500+	200	325	200	350	
	NB	L	TWLTL	50	75	50	75	
		TR	500+	50	75	50	100	
	SB	L	125	25	50	25	50	
		TR	500+	25	75	25	75	
	Leonard Rd @ N Site Dvwy	EB	TR	500+	N/A	N/A	0	0
		WB	LT	425	N/A	N/A	0	25
NB		LR	Dvwy	N/A	N/A	25	25	

EB=Eastbound, WB=Westbound, NB=Northbound, SB=Southbound, L=Left, T=Thru, R=Right, TWLTL=Two-way Left-turn Lane

As illustrated, the development traffic will not significantly affect the queuing conditions.

## 6.0 CONCLUSION

The traffic analysis contained within this report evaluates the proposed Leonard Road Subdivision in Grants Pass, Oregon. The following describes the findings within the report.

### FINDINGS

- Existing crash patterns and rates do not trigger the need for additional mitigation.
- The traffic generated by the proposed development will not degrade any of the study intersections to below the acceptable mobility standards.
- The traffic generated by the proposed development will not substantially increase queuing conditions over the background condition.
- No off-site improvements are needed to facilitate the development traffic.

**REPLINGER & ASSOCIATES LLC**  
TRANSPORTATION ENGINEERING

June 30, 2016

Mr. Lora Glover  
City of Grants Pass  
101 NW A Street  
Grants Pass, OR 97526

**SUBJECT: REVIEW OF TRAFFIC IMPACT ANALYSIS – LEONARD ROAD  
SUBDIVISION**

Dear Lora:

In response to your request, I have reviewed the Traffic Impact Analysis (TIA) submitted in support of the proposed Leonard Road Subdivision located between Leonard Road and Raydean Drive. The TIA was prepared under the direction of Kelly Sandow, PE of Sandow Engineering. The TIA is dated May 18, 2016.

The proposed subdivision would have 37 lots with single-family homes.

**Overall**

I find the TIA addresses the city's requirements. The TIA provides an adequate basis to assess the impacts of the proposed development.

**Comments**

**1. Study Area.** The city code requires analysis of intersections where the impact of the proposal causes an increase of 25 or more trips during either the AM or PM peak hour. The trip generation during the PM peak hour produces volumes that exceed this threshold.

The TIA includes an analysis during the PM peak hour of the following intersections:

- Redwood Avenue/Willow Lane
- Redwood Avenue/Dowell Road

In addition, the TIA provided an analysis of the site access point:

- Site access at Leonard Road

The analysis area is appropriate and covers the key intersections impacted by the development of the site.

2. **Traffic Counts.** The traffic counts were conducted in April 2016. The traffic volumes were adjusted to account for seasonal variations. The traffic counts and adjustments appear reasonable.
3. **Trip Generation.** The engineer estimated trip generation from the proposed subdivision using trip generation rates from the Institute of Transportation Engineers' *Trip Generation Manual* for Single-Family Detached Housing. Calculations were provided for the PM peak hour. The subdivision is predicted to generate 37 PM peak hour trips. This trip generation estimate appears reasonable.
4. **Trip Distribution.** The TIA presents information on trip distribution. Trip distribution was based on existing travel patterns and logical assumptions about trip origins and destinations. Almost half of the traffic was predicted to use Redwood Avenue and the next largest percentage was predicted to use Willow Lane to and from the south. Trips were distributed logically to the local streets with which the subdivision connects. The trip distribution seems reasonable.
5. **Traffic Growth.** The subdivision is expected to be completed in 2017. The TIA provides estimates for the year 2017 background traffic based on a two percent annual increase in volumes. The 2017 background volumes used in the analysis appear reasonable.
6. **Analysis.** Traffic volumes were calculated for the intersections described in #1, above. The analysis was conducted for base year 2016 conditions, 2017 background conditions, and 2017 conditions with the development.

Intersection level of service (LOS) and delay calculations were provided to assess operations relative to the city's intersection LOS standard.

The TIA presents the results of the operational analysis for the intersections identified in #1, above. The intersection of Redwood Avenue/Dowell Road is predicted to operate at LOS C during the PM peak hour with the development; the intersection of Redwood Avenue/Willow Lane is predicted to operate at LOS B during the PM peak hour with the development. The site driveway at Leonard Road is predicted to operate at LOS A. The predicted performance of these intersections easily meets the city operational standards.

The TIA also includes an analysis of queuing. The proposed development is predicted to add at most one vehicle to the queues at the analyzed intersections. Sufficient storage is available for predicted queues at all locations.

The engineer shows that traffic operations at the study area intersections will meet operational standards during the PM peak hour and concludes that no off-site mitigation is required for this development proposal. I concur with this conclusion.

**7. Crash Information.** The TIA provides information on crashes at the intersections of Redwood Avenue/Dowell Road and Redwood Avenue/Willow Lane for years 2010 through 2015. Crash rates at the intersection of Redwood Avenue/Dowell Road are modest, but well below the threshold requiring additional analysis or mitigation. Of the 11 crashes, one involved a pedestrian and one involved a bicyclist. In each case fault was assigned to the motorist. The crash rate at Redwood Avenue/Willow Lane was very low.

There is no reason to believe that the proposed subdivision will disproportionately affect safety in the study area.

**8. Site Plan and Access.** The subdivision will connect with Leonard Road to the north and Raydean Drive to the west. The subdivision provides for logical expansion of the street network. Access points are appropriate.

**9. Conclusions and Recommendations.** The engineer concludes that the proposal does not cause intersection operations to deteriorate below adopted performance standards and does not cause either queuing or safety concerns. The engineer also concludes that mitigation for transportation impacts is not necessary. I concur with these conclusions.

### **Conclusion and Recommendations**

I find that the TIA addresses city requirements for analysis of the impacts of the proposed subdivision. The applicant's traffic engineer uses appropriate methods and accurately describes his analysis of traffic operations. I concur with the applicant's engineer that no mitigation is required for operational or safety issues.

If you have any questions or need any further information concerning this review, please contact me at [replinger-associates@comcast.net](mailto:replinger-associates@comcast.net) or at 503-719-3383.

Sincerely,



John Replinger, PE  
Principal

This brochure is intended to be used as a **guideline** only for estimating System Development Charges as a part of total project costs. Actual costs for your project may differ due to site specific requirements.

**It does not include information on other fees which may be due including planning review fees, engineering fees, building permit fees, water and sewer connection fees, reimbursement district fees and business licenses.**

Please contact the Parks & Community Development office at 541-450-6060 for information on SDC's specific to your project and information on other potential costs.

Who to contact at Community Development:

Our Planning Division can assist you with questions on our Parks and Transportation SDC's. The Building Permit Technician can assist with Water, Sewer and Storm Drain SDC questions and

Visit our website at:  
[www.grantspassoregon.gov](http://www.grantspassoregon.gov)

Parks & Community Development Office  
is located at:

101 NW A Street  
Upstairs Room 201  
Grants Pass, Oregon 97526  
541-450-6060

Open 8 am – 5 pm Monday – Friday  
Building Counter Hours 8 – 10 M – F  
Planning Counter Hours 8 – 5 M – F

## Storm Drain System

Storm Water and Open Space SDC's were adopted by the City Council on February 4, 2004. At that time, two separate charges were created, one applying to all lands within the urban growth boundary, and one specifically limited to properties which fall within the Sand Creek Drainage Basin.

The Storm Water and Open Space SDC's are an incurred charge for the planning, acquisition and capital development of facilities to accommodate and control storm water runoff, directly associated open space, and water quality control facilities to clean surface water runoff prior to return to natural surface water conveyances.

Storm Drain SDC's are due and payable upon issuance of building permit for any new construction or expansion which creates additional residential units and any construction which expands or remodels a business building which includes an increase in impervious surface of 25% or more.

The Storm Drain and Open Space Plan SDC For residential and commercial development is **\$488.11 per development permit.**

The Sand Creek Drainage Basin Storm Drain SDC For residential and commercial development is **.33 per square foot of the lot or improvement.**

## What are SDCs?

The City of Grants Pass is committed to providing quality services to our community.

As our community grows, old systems need to be updated and new systems must be built. System Development Charges are one way to fund those improvements.

System Development Charges (SDCs) are fees imposed upon new and expanding development within the City of Grants Pass and the urbanizing area that connects to or otherwise will use City services of the water system, sanitary sewer system, parks, streets and storm drainage.

The objective of SDCs is to charge new users an equitable share of the cost of services and to pay for improvements necessary as a result of increased development and demand on the City's infrastructure.

## SDC Fee Adoption & Adjustments

On July 17, 1991 the City of Grants Pass adopted an ordinance allowing the creation of system development charges. SDCs are now in place to fund the Water, Sewer, Parks, Storm Drain and Transportation Systems.

On January 2, 2002, the Council adopted a resolution establishing Cost of Living (COLA) Adjustments for SDCs.

The figures in this brochure reflect the fees for January 1, 2016 through December 31, 2016 only.

## For further assistance...

If you would like more information on System Development Charges call (541) 450-6060

# SYSTEM DEVELOPMENT CHARGES



Fees Effective  
January 1, 2016 through  
December 31, 2016

This brochure is only a guideline for anticipating potential system charges for new development and is subject to change.

## Water System

The Water SDC was first adopted by the City Council on August 21, 1991 and last amended on July 25, 2005. It is charged and payable for development at the time of permit to connect to the water system.

The method of calculating the Water SDC depends on what Water Pressure Zone service area the development is connecting to, as follows:

<u>Water Pressure Zones 1, 2&amp;3</u>	
(based on water meter size)	
3/4" .....	\$2,845
1" .....	\$7,116
1-1/2" .....	\$14,234
2" .....	\$22,776

### Water Pressure Zones 4, 5 & up:

(based on water meter size)	
3/4" .....	\$3,311
1" .....	\$8,279
1-1/2" .....	\$16,559
2" .....	\$26,494

Water meter size required for your project can vary and is site specific please contact our office for actual cost for your connection.

Per Municipal Code 3.11.400 All Residential Development. The water system development charge shall be the greater of the charge based on water meter size or the charge based on residential living units.

## Sewer System

The Sewer SDC was first adopted by the City Council on October 19, 1994 and last amended on July 25, 2005. The Sewer SDC is charged and payable for development at the time of permit to connect to the sewer system.

Sewer SDCs for residential use are based on Equivalent Residential Units (ERUs) as follows:

Single-family or Manufactured Home .....	\$3,009
Duplex .....	\$4,814
Tri-plex .....	\$7,222

Sewer SDCs for commercial, public and quasi-public development are determined by the number of fixture units and strength of discharge. A worksheet is available to estimate the sewer SDC for individual projects.

## Redwood Sewer District

Properties located within the Redwood Sanitary Sewer Service District (RSSSD) are Subject to a different sewer SDC schedule, \* and may be subject to additional assessment charges or eligible for credits. *Please contact the Community Development office for an estimate of RSSSD charges.*

\*For typical new construction within the RSSSD, the following schedule applies:

<u>Residential in Redwood Sewer District:</u>	
1 toilet .....	\$3,835
2 toilets .....	\$4,135
3 toilets .....	\$4,435

Redwood Sewer SDCs for commercial, public and quasi-public development are determined by the number of fixtures units, strength of discharge and water meter size. A worksheet is available to estimate the sewer SDC for individual projects.

## Transportation

The Transportation SDC was adopted by the City Council on September 15, 1999. The Transportation SDC helps to pay for the expansion and capital development of the transportation system to accommodate and control motorized vehicular traffic, pedestrian traffic, and bicycle traffic.

In September 2011, the City Council adopted Ordinance 5546 which identifies the method of calculating the SDC's to be based on the Institute of Transportation Engineers Trip Generation Report. Trips are calculated based on the Land Use and Title that best fits the Development as interpreted by the City. If the ITE Trip Generation Report includes multiple measures that can be used to determine average daily trip generation including area, the measure of square footage (area) will be used. The Director may consider an alternative trip calculation when a report is supplied by a licensed traffic engineer and said alternative is reviewed and approved by the City Engineer.

The Transportation SDC is due and payable at the time of building permit issuance for construction.

The City Council adopted Resolution 15-6338 to establish the current Transportation SDC trip rate. This rate is a 30% reduction from the previous rate.

**In certain cases, a credit may be applied towards the Transportation SDC for previous uses on the site. Please contact Planning for an estimate of the Transportation SDC's for your project.**

**Below is an example using the \$111.13/trip rate.**  
Single Family Residence

Category: Single-family (9.57 trips/unit)  
1 unit x 9.57 trips/unit x \$111.13/trip = \$1063.51

## Parks

The City of Grants Pass has adopted two SDCs for Parks. The Parkland Acquisition SDC was adopted by the City Council on June 30, 1997. The SDC pays for the purchase of parkland, trails, and open space for the parks and recreation master plan. On December 18, 2006 the City Council adopted a Park Development SDC effective June 1, 2007. This SDC will help fund capital improvements and development of the park, trail and open space system.

Parks SDCs are due and payable upon issuance of a building permit for: any new construction or expansion which creates additional residential units; any construction which creates a new business building or enlarges a business building; or issuance of the first manufactured home placement permit granted upon an individual building lot.

The Parks SDCs for residential development is based on the number of units:  
Parkland Acquisition ..... \$461.21 per residence  
Park Development ..... \$370.45 per residence  
Total per unit \$831.66

The Parks SDCs for non-residential development is based upon the number of required parking spaces built to serve the development.

Parkland Acquisition ..... \$42.23 per new parking space built  
Park Development ..... \$32.97 per new parking space built  
Total per parking space \$75.20

The City Council adopted Resolution 15-6338 to establish the current Transportation SDC trip rate. This rate is a 30% reduction from the previous rate.

**See other side for Storm Drain SDC Information**



PRELIMINARY

30% SD

2587 LEONARD ROAD, GRANTS PASS, OREGON

# BLACKBERRY LANE SUBDIVISION

Project No.	2587 Leonard Road
Client	Grant's Pass, Oregon
Date	10/15/2023
Scale	1" = 40'
Sheet No.	C1.1
Sheet Title	Tree Plan & House Layout

TREE PLAN &  
HOUSE LAYOUT  
C1.1

**TREE RETENTION/RE-ESTABLISHMENT CALCULATIONS:**

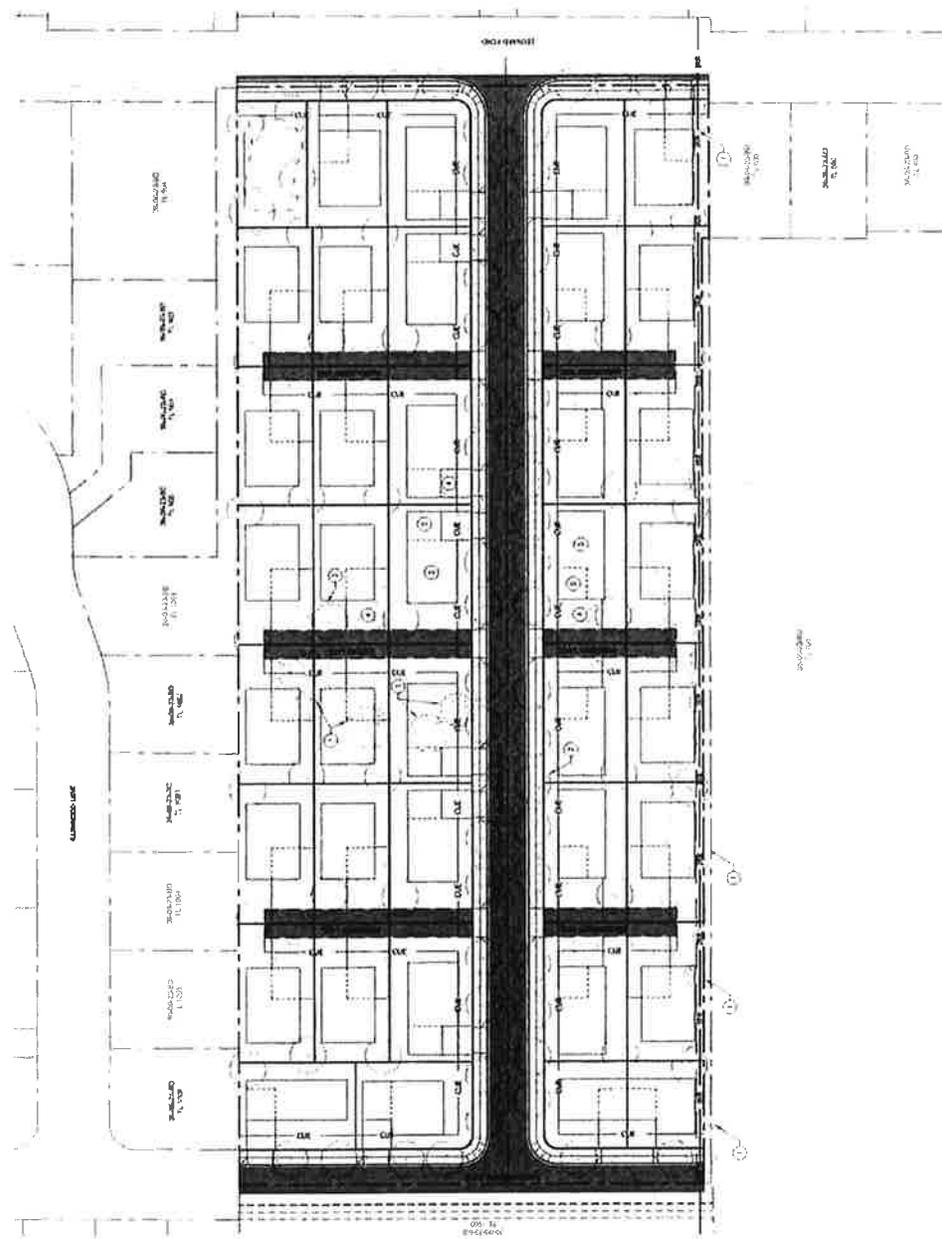
NUMBER OF ORIGINAL TREES TO BE RETAINED: 12

NUMBER OF TREES TO BE REPLANTED: 12

PERCENTAGE OF TREES TO BE RETAINED: 100%

PERCENTAGE OF TREES TO BE REPLANTED: 100%

PERCENTAGE OF TREES TO BE REPLANTED: 100%



- KEYED NOTES:**
- 1. EXISTING TREE CANNOPY TO BE RECONSTRUCTED PER PHOTO
  - 2. PROPOSED CANNOPY LINES (TYPICAL) PROXIMATE TREE SPACES AND OCCASIONAL SUBJECT MATTER
  - 3. REPROPOSED TREE LOCATIONS (TYPICAL)
  - 4. HOUSES TO BE RECONSTRUCTED PER PHOTO AND TREE PLANNING PER OUR AGREEMENT WITH THE NEIGHBOR.
  - 5. PROPOSED EXISTING DAMAGE LOCATIONS (TYPICAL)



## Josephine County, Oregon

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### County Surveyor

Peter D. Allen, P.L.S.  
Josephine County Courthouse  
500 NW 6<sup>th</sup> Street / Grants Pass, OR 97526  
(541) 474-5311 / FAX (541) 474-5312  
surveyor@co.josephine.or.us

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June 30, 2016

Ms. Kayla Wallace  
City of Grants Pass  
101 NW A St.  
Grants Pass, OR 97526

RE: Subdivision name approval

Dear Ms. Wallace,

Per your email to me on June 28, 2016, I have reviewed and approve the following subdivision name for use in a new subdivision application:

- 1) Blackberry Lane Subdivision (2587 Leonard Road; 36-06-23-BD, TL 800)

Thank you for your help in this matter. Please feel free to contact me should you have any questions.

Sincerely,

Peter D. Allen  
Josephine County Surveyor

cc: (via email) Surveyor's Office, Lora Glover, Justin Gindlesperger, Shelly Stichter, Taylor Stichter, Otto Ribansky

**EXHIBIT<sup>f1</sup> 10**

**After Recording Return To:**  
City of Grants Pass, Oregon  
101 NW 'A' Street  
Grants Pass, OR 97526  
Attn: Lora Glover

## SERVICE AND ANNEXATION AGREEMENT

**PARTIES:** The City of Grants Pass, Oregon, hereinafter referred to as "City" and \_\_\_\_\_, hereinafter referred to as "Owner"

**WHEREAS:**

- A. Owner is the owner of real property, (hereinafter referred to as Property) more particularly described as  
Address \_\_\_\_\_,  
Assessor's Map & Tax Lot Number \_\_\_\_\_,  
\_\_\_\_\_ a legal description of which is marked as Exhibit "A" and a map showing the location of the Property which is marked as Exhibit "B", both of which are attached and incorporated herein;
- B. Owner has made application to the City to receive City water service, City sewer service, and/or City Public Safety service, or has otherwise elected to enter into this agreement, which makes it subject to City Ordinances and requires payment of City fees. The application was reviewed and approved by the City, subject to Owner agreeing to the terms and conditions contained herein;

**NOW, THEREFORE,** based on the above, the Parties agree to the following terms and conditions:

- 1. TERM OF AGREEMENT.** This agreement shall be effective from the date of execution by all Parties and is binding until such time as the property is annexed to the City. After annexation, all conditions relative to payment for water service shall remain in full force and effect except that payment of property taxes shall displace the separate requirement for payment of Public Safety Service Fees.
- 2. SUPPLY OF CITY SERVICES.** If the Property is not within the City limits, upon application for connection to the City's water system or sewer system, the City shall provide Owner with said water or sewer service and with Public Safety Services per the conditions set forth herein.
- 3. PUBLIC SAFETY SERVICE.** The City will provide the Property with Public Safety Services, including personnel and equipment, when required for the protection and safety of the real Property and occupants thereon, to the same degree that Public Safety Services are afforded properties located within the City limits, with the understanding that the City may contract for the fire protection services with Rural Metro Fire Service or an equivalent.
- 4. TRANSPORTATION UTILITY FEE, TRANSPORTATION SDC, AND PARKS SDC.** From and after the date this agreement is signed by both Parties, Owner shall pay the monthly Transportation Utility Fee calculated in the same manner as City properties. Owner shall also pay

Transportation System Development Charges and Parks System Development Charges as if the Property was located in the City.

5. **CITY CODES AND ORDINANCES.** From and after the date this agreement is executed by all Parties, the Property and all structures or improvements hereafter in or thereupon shall be subject to and shall comply with all City Codes and Ordinances including but not limited to the City Building, Development, and Utility standards and procedures.
6. **COMPUTING PUBLIC SAFETY SERVICE FEES.** Each year the Owner shall pay the City an amount equivalent to the current tax rate then in effect for the City of Grants Pass, multiplied by the current M50 assessed value of the Property (including land and improvements). Such Public Safety Service Fees will vary from fiscal year to fiscal year depending on the then current tax rate and the then current M50 assessed value. The Parties agree and understand, Owner's assessed valuation for the Property will also be adjusted from time to time by the Josephine County Assessor's Office as real property values fluctuate and improvements are constructed. These factors will usually result in higher Service Fees payable by the Owner.

**EXAMPLE:** If the Property (including land and buildings) is valued by the assessor at \$120,000 and the then current tax rate of the City for City residents is \$6.3232 per \$1,000 of value (including bonded indebtedness), the Fee would be  $6.3232 \times 120 = \$758.78$  per year = \$63.23 per month.

7. **TIME FOR PAYMENT OF SERVICE FEES.** Owner will be billed annually, with a discount for full annual payment paid in advance within 30 days of the date of billing or may pay the Public Safety Service Fees in twelve monthly payments beginning from the effective date of this agreement. Owner shall also pay any service fees or charges for water or sewer as said fees or charges become due and shall also pay applicable System Development Charges and payments on bonded indebtedness as if the Property was annexed to and made a part of the City.
8. **INITIAL CALCULATION OF VALUE IN LIEU OF ASSESSOR RECORDS.**  
Notwithstanding any condition to the contrary:
  - A. The initial value of residential land shall be not less than \$8 per square foot and residential buildings at not less than \$95 per square foot.
  - B. The initial value of commercial land shall be not less than \$8 per square foot and commercial buildings at not less than \$75 per square foot.
  - C. The initial value of industrial land shall be not less than \$5 per square foot and industrial buildings at not less than \$50 per square foot.

These values may change annually based on the updating of the County Assessor's rate books.

9. **EXAMINATIONS AND INSPECTIONS.** Owner grants City and any of its authorized representatives the right to go upon the Property at all reasonable times to make such examinations and inspections as are reasonably necessary in City's opinion to inspect connections to the City sewer, water, and storm drain facilities and determine that regulations relative to utility services are being complied with by the Owner or occupant. City shall make reasonable efforts to contact the Owner or a representative prior to entrance of any building unless such a delay would represent a threat to the public health or safety.
10. **ANNEXATION.** If the Property is not currently annexed to the City, Owner hereby requests and grants continuing, irrevocable consent to annexation of the Property to the City and acknowledges same is a continuing petition to the City for annexation. Pursuant to an

intergovernmental agreement with Josephine County, the City will usually pursue annexation within one year of this agreement to annex.

11. **WAIVER.** Owner hereby waives all rights under ORS 222.173, which limits the duration of the annexation agreement to one year. Owner intends for this agreement to be in effect until the Property is annexed. Owner's consent and waiver are continuing and are binding on the heirs, executors, administrators, personal representatives, successors and assigns of the Owner, including but not limited to lessors, lessees, renters and any other occupants of the Property. See also Addendum, "A" which is attached to and incorporated herein.
12. **DENIAL OF ANNEXATION - TERMINATION OF WATER AND SEWER SERVICE AND PUBLIC SAFETY SERVICES.** If at anytime the City is denied the ability to annex by the actions of the Owner or occupant, or the Owner or occupant fails or refuses to pay the required Public Safety Service Fees or direct fees or charges for water or sewer service, then it is understood and agreed, the City has the right, authority, and permission to terminate the water and sewer service and Public Safety Services to the Property upon 30 days prior notice posted on the Property. The termination of water and sewer service and Public Safety Services to the Property shall not affect the other provisions of this agreement (including continual consent to annexation), which shall remain in full force and effect, and shall not affect the City's right to collect delinquent fees and charges.
13. **BINDING AFFECT OF AGREEMENT.** This agreement is binding upon the heirs, executors, administrators, personal representatives, successors and assigns of Owner, including but not limited to lessors, lessees, renters and any other occupants of the Property. If there is more than one owner, each owner is jointly and severally bound hereby. Owner shall assist City in the enforcement of any and all of the conditions of this agreement upon persons bound hereby. **Owner agrees to provide renters, lessees, and other long term occupants of the Property with a copy of this agreement to insure said occupants have a full understanding of the termination of water, sewer, and public safety services noted in Section 12 upon failure to pay (whether by Owner or occupant) as required by this agreement. Failure to notify does not affect the City's rights to terminate service.**
14. **ENFORCEABILITY.** If any of the provisions contained in this agreement are held unconstitutional or unenforceable, the enforceability of the remaining provisions shall not be impaired.

**IN WITNESS WHEREOF**, the Parties hereto, on the dates indicated, set their hands by and through their duly authorized agents and affirm the responsibilities and covenants contained herein

**OWNER (S):** \_\_\_\_\_

STATE OF OREGON     )  
County of Josephine     ) ss.  
This Service and Annexation Agreement Was Signed Before Me on  
The \_\_\_\_\_ Day of \_\_\_\_\_, 20\_\_\_\_  
by \_\_\_\_\_ And \_\_\_\_\_  
And Was Acknowledged as Their Voluntary Act and Deed.  
IN WITNESS WHEREOF, I set my hand and seal hereto  
on this same date.  
Notary Public for Oregon: \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_

**CITY OF GRANTS PASS** by Lora Glover, Parks & Community Development Director

\_\_\_\_\_ Date \_\_\_\_\_

**Attest:** Karen Frerk, City Recorder

\_\_\_\_\_ Date \_\_\_\_\_

**Copies:** City Manager, Public Safety Director, Parks & Community Development Director, Public Works Director, Finance Director, County Clerk, County Commissioners, Property File

**ADDENDUM "A"**  
**\* WAIVER OF ANNEXATION LIMITATION \***  
**RE: SERVICE AND ANNEXATION AGREEMENT**

The below listed person(s) or corporation(s) owns Property which is the subject of a Service and Annexation which agreement contains a consent and request for annexation. Owner hereby waives ORS 222.173, which limits the duration of the annexation agreement to one year. The intent of this waiver is that the agreement to annex is to be in effect until the Property is officially annexed. Owner's consent and waiver are continuing and are binding on the heirs, executors, administrators, personal representatives, successors and assigns of the Owner, including but not limited to lessors, lessees, renters and any other occupants of the Property. Owner understands the City generally desires to annex property within one year of signing an annexation agreement, but also understands annexation may be delayed based on applicable elections and upon determinations that the annexation should be delayed. Owner does not object to any such delay.

WE THE UNDERSIGNED have read and agree to the terms contained in this Waiver.

**OWNER (S):**

\_\_\_\_\_  
(PRINT NAME)

\_\_\_\_\_  
(SIGNATURE)

\_\_\_\_\_  
(PRINT NAME)

\_\_\_\_\_  
(SIGNATURE)

STATE OF OREGON )  
County of Josephine ) ss.

This Addendum "A" Was Signed Before Me on  
The \_\_\_\_\_ Day of \_\_\_\_\_, 20\_\_\_\_  
by \_\_\_\_\_ And \_\_\_\_\_  
And Was Acknowledged as Their Voluntary Act and Deed.  
IN WITNESS WHEREOF, I set my hand and seal hereto  
on this same date.

Notary Public for Oregon: \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_

**WAIVER ACKNOWLEDGED AND ACCEPTED  
ON BEHALF OF THE CITY OF GRANTS PASS**

**BY** Lora Glover, Parks & Community Development Director

\_\_\_\_\_

**CITY OF GRANTS PASS COMMUNITY DEVELOPMENT DEPARTMENT**

**DEVELOPMENT CODE TEXT AMENDMENTS**  
**ARTICLES 2, 10 AND 19**  
**PLANNING COMMISSION STAFF REPORT-TYPE IV**

<b>Procedure Type:</b>	Type IV: Planning Commission Recommendation and City Council Decision
<b>Project Number:</b>	405-00103-16
<b>Project Type:</b>	Development Code Text Amendments
<b>Applicant:</b>	Director of Parks and Community Development
<b>Planner Assigned:</b>	Lora Glover
<b>Application Received:</b>	4/29/16
<b>Application Complete:</b>	4/29/16
<b>Date of Planning Commission Staff Report:</b>	July 20, 2016 <span style="float: right;">Due: 7/20/16</span>
<b>Date of Planning Commission Hearing:</b>	July 27, 2016

**I. PROPOSAL:**

The proposal is to amend Articles 2, 10 and 19 of the Development Code as follows:

- 1) Amending indices and outlines in Article 2 and 10 to conform to other indices and outlines within the Code.
- 2) Article 2, Schedule 2-1 #25 adding language for Site Plan Reviews in Regionally Significant Industrial Areas (RSIA);
- 3) Article 2, Section 2.038, revising language for a Director's decision with a Type I-D application;
- 4) Article 2, Sections 2.043(2)(e), 2.044(2) adding quasi-judicial language for a Hearings Officer Decision, and 2.045(2);
- 5) Article 2, Sections 2.053(3)(c) adding Type I-D RSIA application language and 2.053(4)(e);
- 6) Article 2, Sections 2.055(3) and 2.055(4) language regarding the effective date of the Planning Commission Type III decision;
- 7) Article 2, Section 2.064(2)(b) language regarding notice of Planning Commission recommendation in Type IV proceedings;
- 8) Article 2, Section 2.065(1) language regarding action hearing before City Council;
- 9) Article 10, Sections 10.033(1), 10.036, 10.037, 10.038(1) and (d), 10.038(3), 10.038(4)(b), 10.038(5), 10.038(7), 10.038(8)(a-d), 10.051(1) (a) and (c) procedure language regarding filing an appeal of final action by Planning Commission on Type III decision, and 10.051(5) ;
- 10) Minor changes to timeframes within Article 10 allowing the Director sufficient review time of appeal applications;
- 11) Article 19, Section 19.030 Note language.

**See Exhibits 1-3 for mark-up text of the proposed amendments to the existing sections.**

## **II. AUTHORITY AND CRITERIA:**

Section 4.102 of the City of Grants Pass Development Code provides that the Director, Planning Commission or City Council may initiate a text amendment. These amendments have been initiated by the Director of Parks and Community Development.

Section 2.062 authorizes the Planning Commission to make a recommendation to the City Council and authorizes the City Council to make a final decision on an application for a Development Code Text Amendment, pursuant to the requirements of a Type IV procedure.

The text of the Development Code may be recommended for amendment and amended provided the criteria in Section 4.103 of the Development Code are met.

## **III. APPEAL PROCEDURE:**

The City Council's final decision may be appealed to the State Land Use Board of Appeals (LUBA) as provided in state statutes. A notice of intent to appeal must be filed with LUBA within 21 days of the Council's written decision.

## **IV. BACKGROUND AND DISCUSSION:**

Periodic reviews and housekeeping of the Development Code is necessary to assure the Plan and Code is up to date and conforms to current Oregon laws. The following proposed amendments to the Development Code are:

1. Correcting the Indices and outlines to Article 2 and 10 to conform to other indices and outlines within the Code.
2. Amending Article 2, Schedule 2-1 #25 by adding language for Site Plan Reviews in Regionally Significant Industrial Areas (RSIA).
3. Amending Article 2, Section 2.038 by revising the language for a Director's decision with a Type I-D application to be more consistent with statute.
4. Amending Article 2, Sections 2.043(2)(e), 2.044(2) adding quasi-judicial language for a Hearings Officer decision as some hearings are quasi-judicial in nature and statute requires the public have an opportunity to request a continuance of a hearing and 2.045(2).
5. Amending Article 2, Sections 2.053(3)(c) by adding RSIA language and 2.053(4)(e).
6. Amending Article 2, Sections 2.055(3) and 2.055(4) by revising the effective date of the Planning Commission Type III decision to be 12 calendar days from the date the written decision is mailed and not 7 days as currently.

7. Amending Article 2, Section 2.064(2)(b) by revising the recommendation of the Planning Commission in Type IV proceedings to not send notices of the final recommendation within 10 days of the hearing, but incorporate that recommendation language within the City Council hearing notice which is mailed within 14 days of the Planning Commission hearing, thereby eliminating duplicate noticing and avoiding conflict with two notices crossing in the mail.
8. Amending Article 2, Section 2.065(1) by changing calendar days to 14 days to coincide with changes in number 7 above and changing oral to final recommendation to coincide with other proposed changes.
9. Amending Article 10, Sections 10.033(1), 10.036, 10.037, 10.038(1) and (d), 10.038(3), 10.038(4)(b), 10.038(5), 10.038(7), 10.038(8)(a-d), 10.051(1)(a) and (c) revising procedures for filing an appeal of final action by the Planning Commission on Type III decisions by having the appeal filed within 12 days from the date the written decision is mailed, thus allowing sufficient noticing time and to be consistent with statute language and 10.051(5).
10. Minor changes to timeframes within Article 10 to allow the Director sufficient review time of appeal applications and other minor changes to Articles 2 and 10 language to be consistent with other Articles within the Code.
11. Revising Article 19, Section 19.030 Note language to reflect the correct Section number.

**V. APPLICABLE CRITERIA:**

*The text of the Development Code may be recommended for amendment and amended provided all of the criteria of Section 4.103 of the Development Code are satisfied.*

**SECTION 4.103:**

**CRITERION 1:** The proposed amendments are consistent with the purpose of the subject sections and articles.

**Staff Response: Satisfied.** The proposed amendments are consistent with both the purpose and intent of the articles. The purposes of the Code remain intact.

**CRITERION 2:** The proposed amendments are consistent with other provisions of this code.

**Staff Response: Satisfied.** The proposed amendments are in harmony with other provisions in the code.

**CRITERION 3:** The proposed amendments are consistent with the goals and policies of the Comprehensive Plan and most effectively carry out those goals and policies of all alternatives considered.

**Staff Response: Satisfied.** The proposed changes are consistent with Element 13, Land Use, of the Comprehensive Plan. The proposed changes assure the Development Code and Comprehensive Plan is in agreement and consistent.

**CRITERION 4:** The proposed amendments are consistent with the functions, capacities, and performance standards of transportation facilities identified in the Master Transportation Plan.

**Staff Response: Not Applicable.** The proposed amendments do not affect the functions, capacities, or performance standards of transportation facilities identified in the Master Transportation Plan (MTP).

**VI. RECOMMENDATION:**

Staff recommends the Planning Commission **RECOMMEND APPROVAL** of the proposed amendments to the City Council, as presented in **Exhibits 1-3.**

**VII. PLANNING COMMISSION ACTION:**

- A. Positive Action: Recommend the City Council approve the request:
  - 1. As submitted; or,
  - 2. With revisions recommended by the Planning Commission (list):
  
- B. Negative Action: Recommend the City Council deny the request for the following reasons (list):
  
- C. Postponement: Continue item
  - 1. Indefinitely; or,
  - 2. To a certain time.

**NOTE:** The application is a legislative amendment and is not subject to the 120-day limit.

**VIII. INDEX TO EXHIBITS**

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- 2. Mark up text for Article 10~ Development Code Amendment
- 3. Mark up text for Article 19 ~ Development Code Amendment

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**Article 2: Procedure Types**

**2.010 Purpose**

The purposes of this section are:

- (1) To establish land use review procedures;
- (2) To stratify land use review procedures according to the degree of discretionary judgment required and the extent of public participation appropriate; and
- (3) To relate the type of the procedure to the degree of impact of the proposed development.

**2.020 Procedure Types**

- (1) For purpose of administering the provisions of this Code, and other ordinances and policies of the City pertaining to land use and development, there are hereby established five types of basic procedures for processing all land use applications.
- (2) Applications shall be processed in accordance with the procedures specified in Schedule 2-1. Consolidated procedures shall be processed in accordance with Section 3.044(3) of this Code.
- (3) The Director may modify the procedure types as provided in this Code as follows. The Director may:
  - (a) Refer a Type I-B or I-C application to a Type II or Type III review as provided in Sections 2.036 and 2.037.
  - (b) Refer a Type II application to a Type III review as provided in Section 2.042(2).
  - (c) Refer a Type III application to a Type II review as provided in Section 2.052.
  - (d) In special cases where there is a compelling public interest, refer any Type I, II, or III application to a Type IV-A or IV-B review.

**Schedule 2-1. Application Procedures**

		Procedure Type										
Application Type	Development Code Section	Type I-EX	Type I-AU	Type I-A	Type I-B	Type I-C	Type I-D	Type II	Type III	Type IV-A	Type IV-B	Type V
1. Urban Growth Boundary Amendment	Comp. Plan Section 13.6											✓-p
2. Comprehensive Plan Map Amendment (1)	Comp. Plan Section 13.5										✓-p	
3. Comprehensive Plan Text Amendment (1)	Comp. Plan Section 13.5										✓-p	
4. Zoning Map Amendment (1) -Base Zone District -Special Purpose Districts ---Slope Hazard ---Flood Hazard ---Historic (See 'Historic Designation, Amendment, or Recision below) -Medical Overlay District	Sections: -4.030 -4.040  ---4.043 ---4.044 ---  -4.050										✓-p	
5. Development Code Text Amendment (1)	4.100										✓-p	
6. Annexation	Article 5									✓-p		
7. Minor Variance	Article 6							✓				
8. Major Variance	Article 6								✓			
9. Historic Designation, Amendment, or Recision	Sections 4.045 – 047 & 13.430										✓-p	
10. Nonconforming Use and Development	Article 15	See Schedule 15-1										
11. Property Line Vacation	17.100									✓		
12. Property Line Adjustment	17.200				✓							
13. Partition	17.300					✓						
14. Subdivision	Article 17											
a. Tentative Plan (<= 9 lots)	17.410							✓-p				
b. Tentative Plan (>= 10 lots)	17.410								✓-p			
c. Final Plat	17.420	✓										
15. Final Plat	17.422											
a. Major Modification	17.422							Same as for Tentative				
b. Minor Modification	17.422					✓						
16. Lot Authorization	17.534							✓				
17. Future Development Plan	17.540							Submitted with Tentative Plan				
18. Revision of Future Development Plan	17.547					✓						

Application Type	Development Code Section	Type I-EX	Type I-AU	Type I-A	Type I-B	Type I-C	Type I-D	Type II	Type III	Type IV-A	Type IV-B	Type V
19. Future Street Plan (local streets only)	17.550					Same as for Land Division						
20. Future Street Plan (arterials and collectors)	17.550										✓	
21. Planned Unit Development	Article 18											
a. Preliminary Plan in Residential Zone	Article 18								✓-p			
b. Preliminary Plan in Commercial or Industrial Zone	Article 18							✓-p				
c. Final Plan	Article 18	✓										
22. Modification to Planned Unit Development Final Plan	18.063											
a. Major Modification	18.063					Same as for Tentative						
b. Minor Modification	18.063					✓						
23. Planned Unit Development Modification or Termination	Article 18								✓			
24. Expedited Industrial Site Plan Review	Article 19						✓					
25. Site Plan Review (Minor or Major) <i>NOTE: Applicant can request an Expedited Industrial Site Plan Review Procedure for property within a Regionally Significant Industrial Area (RSIA).</i>	Article 19 Section 2.038	Based on use, activity, zoning, adjacent zoning, and overlay zoning (-p) -See Schedule 12-2 (-p) -See Schedule 12-3 for procedures for RTC District (-p) -See Schedule 13-1 for procedures for medical uses within Medical Overlay Zone -See Schedule 13-2 for procedures for Historic Review (-p) <sup>9</sup> -See Section 20.210 for alternate review procedures for commercial site plan review										
26. Conditional Use Permit	Article 16						See Schedule 12-2 (-p)					
27. Solar Access Permit	22.640							✓				
28. Removal of noxious vegetation & replacement with riparian vegetation within stream corridor	24.343	✓										
29. Allowed Activities in Conservation Class Wetlands	24.551	✓										
30. Conditionally Permitted Activities in Conservation Class Wetlands	24.552					✓						
31. Allowed activities in Protection Class Wetlands	24.561	✓										
32. Performance Parking	25.050					✓						

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**Table Legend**

I-EX = Type I Procedure, Exempt from Development Permit Review, Section 2.033

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- I-AU = Type I Procedure, Administrative Use Permit Review Only, Section 2.034
- I-A = Type I Procedure, Building Permit Serves as Development Permit, Section 2.035
- I-B = Type I Procedure, Director's Decision without Comment Period, Section 2.036
- I-C = Type I Procedure, Director's Decision with Comment Period, Section 2.037
- I-D = Type I Procedure, Director's Decision with Comment Period for Expedited Industrial Site Plan Review w/in RSIA with Public Comment Period, Section 2.038
- II = Type II Procedure, Hearings Officer's Decision, Section 2.040
- III = Type III Procedure, Planning Commission's Decision (or Historic Buildings and Sites Commission's Decision), Section 2.050
- IV-A = Type IV Procedure, City Council Decision without Planning Commission Recommendation, Section 2.060
- IV-B = Type IV Procedure, City Council Decision with Planning Commission Recommendation, Section 2.060
- V = Type V Procedure, Joint Board of County Commissioners & City Council Decision with Planning Commission Recommendation, Section 2.070
- ✓ = Specifies the required procedure for the application type, using the procedure specified at the top of the column in which the check mark is located.
- p = In accordance with Section 3.041, a pre-application is required unless the Director finds a conference is not needed.

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**Notes**

- (1) = The 1998 Intergovernmental Agreement gives the City decision-making authority for these items within the Urbanizing Area, and gives the County automatic party status.

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**2.030 Type I Procedures**

2.031 Purpose. The purpose of the Type I procedure is to provide a method for the Director to make decisions on applications under land use standards either which do not require interpretation or the exercise of policy or legal judgment, or which require only limited discretion in applying land use standards.

2.032 Type I Procedure Subcategories. This Code identifies numerous developments and activities that require a Type I review. The Type I designation includes several subcategories that have different procedural requirements.

Section 3.050 of this Code provides an option where the applicant may choose to have an application that requires a Type I-EX, I-AU, or I-A procedure reviewed through a Type I-B procedure, which provides a land use decision.

- (1) Type I-EX. Exempt from the requirements for a Development Permit. Processed in accordance with Section 2.033.
- (2) Type I-AU. Do not require a Development Permit, but do require a use permit issued in accordance with the provisions of this Code. Processed in accordance with Section 2.034.

- (3) Type I-A. Building Permit serves as Development Permit. Processed in accordance with Section 2.035.
- (4) Type I-B. Director's Decision without a public hearing, which does not require a public comment period. Processed in accordance with Section 2.036.
- (5) Type I-C. Director's Decision without a public hearing, which requires a public comment period. Processed in accordance with Section 2.037.
- (6) Type I-D. Director's Decision without a public hearing, which requires a public comment period. Processed in accordance with Section 2.038 those specific procedures consistent with Expedited Industrial Site Plan Review statutes and available only for application types authorized by statute.

2.033

Type I-EX. Exempt. The permitted development and activities listed as Type I-EX in Schedules 2-1 and 12-2, and the following activities regardless of use, are exempt from the requirements for a Development Permit, but are nonetheless subject to the provisions of this Code:

- (1) Landscaping, irrigation, maintenance or other treatment or use of the land not involving a structure EXCEPT:
  - (a) grading which requires a permit under the Uniform Building Code or other applicable regulations.
  - (b) grading in any of the following areas, where grading shall only occur as allowed by the applicable section, and in accordance with the procedure required by the applicable section:
    - (1i) a slope hazard area, which shall be processed in accordance with Section 13.100,
    - (2ii) a flood hazard area, which shall be processed in accordance with Section 13.200,
    - (3iii) a stream corridor setback, which shall be processed in accordance with Section 24.340
    - (4iv) a wetland or wetland buffer, which shall be processed in accordance with Section 24.500.
- (2) Construction or improvement of parking areas of less than 1,000 square feet.

- (3) Paving an existing driveway in a manner that complies with the current standards, access provisions, and landscaping provisions of this Code, subject to an encroachment permit for any work within the right-of-way.
- (4) An emergency measure necessary for the safety or protection of property when authorized by the City Manager.
- (5) Structures not requiring a building permit.
- (6) Maintenance of a building for which a building permit is not required.
- (7) Interior remodel of a building for which a building permit is not required provided it does not result in any of the items listed in Section 2.035(6).
- (8) Roofing or siding of a building for which a building permit is not required, unless the property is an Historic Landmark or within a district that requires review for the work, such as the Historic District or Riverfront Tourist Commercial District.
- (9) Fences meeting the requirements of Section 23.037 that do not require a building permit.

2.034 Type I-AU. Administrative Use Permit. The permitted uses, development and activities listed as Type I-AU in Schedules 2-1 and 12-2 do not require a Development Permit, but do require issuance of a use permit issued in accordance with the applicable Sections of this Code for the stated use.

2.035 Type I-A. Building Permit as Development Permit. The permitted uses, development and activities listed as Type I-A in Schedules 2-1 and 12-2, and the following activities regardless of use, may use the Building Permit as the Development Permit, provided the provisions of this Code are met:

- (1) Fences meeting the requirements of Section 23.037 that require a building permit.
- (2) Required strengthening of non-conforming building or structure as provided in Section 15.090.
- (3) Maintenance of a building for which a building permit is required.
- (4) Roofing or siding of a building for which a building permit is required, unless the property is an Historic Landmark or within a district that requires review for the work, such as the Historic District or Riverfront Tourist Commercial District.

- (5) Expansions of 400 square feet floor area or less which comprise less than 25 percent of the existing floor area of the building, provided the expansion would meet the requirements for a Minor Modification in Section 19.058 and the requirements of Subsection (6) below.
- (6) A change of use, interior remodel, or change internal to a building or other structure, provided all of the following are satisfied. If the change would create a noncompliant situation, it shall not be permitted. For all other situations below, review shall be through the applicable review procedure for site plan review, rather than the Type I-A Procedure where building permit acts as development permit.

Noncompliant Situation Created

- (a) the change does not convert the existing use to a non-permitted use, either based on zoning or proximity to other land uses, such as an Adult Business as provided in Article 14.
- (b) there is no change to the characteristics of the existing use that would make it noncompliant with this Code, such as the standards for a Home Occupation, Bed and Breakfast Inn, or Adult Business, as provided in Article 14.
- (c) the change does not violate conditions of approval of a land use decision or Development Agreement, such as those designed to protect public facilities or adjoining properties.

Site Plan Review Required

- (d) the change would not result in a use that requires review through a higher Procedure Type than the existing use, such as to convert a single-family dwelling to two units, or to convert a residential accessory use structure to a dwelling, in a zone where a Type II review is required for two units.
- (e) the change does not require more parking than is already present for the existing use on-site or through existing parking agreements.
- (f) the change does not generate more than 20 additional PM Peak Hour vehicle trips or 500 additional Average Daily Weekday Trips vehicle trips, based on the 6<sup>th</sup> Edition ITE Trip Generation Manual, or otherwise generate additional traffic that creates a transportation deficiency or hazard.

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- (g) the change does not use the property in a manner substantially different than the original approval, such that a different decision or additional mitigation requirements at the time of the original approval would have been required.

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Examples include:

-converting an area approved for outdoor retail to a parking lot when the area does not have the required parking lot landscaping

-installing windows in a commercial structure at a location that would have required screening or privacy considerations for adjacent residential development

-change to a noise intensive use adjacent to residential development that could have required conditions to limit noise or hours of operation

- (h) the change does not add a drive-through window.

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- (i) the change would not convert a use from one "land use category" listed in Schedule 12-2 to a different land use category, unless the Director determines that they have substantially the same operating characteristics or impacts on adjoining properties and public facilities. The land use categories are summarized below:

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- (1) Agriculture
- (2) Residential Dwelling Unit
- (3) Trade
- (4) Services
- (5) Recreation
- (6) Public
- (7) Industrial
- (8) Temporary Use

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For example, the following would require site plan review: conversion of a residence to an office or retail building; conversion of an industrial warehouse to a retail use.

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2.036

**Type I-B. Type I Decision without Public Comment Period.** The permitted uses, development and activities listed as Type I-B in Schedules 2-1 and 12-2 shall be processed by the Director in accordance with the requirements of this Section. At the Director's discretion, an application requiring a Type I-B review may be referred directly to the Hearings Officer for review through a Type II review or the Planning Commission for review through a Type III review.

- (1) Director's Decision.
- (a) Action and Criteria. Within 20 working days of the date of determination that an application is complete, the Director shall make a decision by approving, conditionally approving, or denying the application based upon compliance with the provisions of this Code.
  - (b) Conditions. Conditions may be applied to the approval of any application when such conditions are required to comply with the relevant Sections of the Code.
- (2) Notice of Decision. Upon reaching a final decision on the application, the Director shall provide notice in accordance with this Section.
- (a) Notice Area. The Director shall mail notice of the decision to:
    - (i) The applicant.
    - (ii) Owners of property within 100 feet of the entire contiguous site for which the application is made. The list shall be compiled from the most recent property tax assessment roll.
    - (iii) Any neighborhood or community organization whose boundaries include the site and who is listed by the City on a public notice registry.
    - (iv) If requested by the applicant in writing at the time of application, the Director shall also provide notice to the Department of Land Conservation and Development.
    - (v) Public agencies which provide transportation facilities and services, such as Josephine County and the Oregon Department of Transportation (ODOT), for applications which affect private access to roads.
  - (b) Notice Content. The notice shall:
    - (i) Explain the nature of the application and the proposed use or uses which could be authorized.
    - (ii) List, by commonly used citation, the applicable criteria from the ordinance and the plan that apply to the application at issue.
    - (iii) Set forth the street address or other easily understood geographical reference to the subject property.

- (iv) Include the name of a City representative to contact and the telephone number where additional information may be obtained.
  - (v) State that a copy of the application, all documents and evidence submitted by or on behalf of the applicant and applicable criteria are available for inspection at no cost and will be provided at reasonable cost.
  - (vi) Describe the nature of the decision.
  - (vii) State that any person who is adversely affected or aggrieved or who is entitled to written notice under paragraph (a) of this Subsection may appeal the decision by filing a written appeal in a manner provided in this Code within 12 calendar days of the date the written notice is mailed.
  - (viii) State the place, date and time that the appeal is due.
  - (ix) State that the decision will not become final until the period for filing a local appeal has expired.
  - (x) State that a person who is mailed written notice of the decision cannot appeal the decision directly to the Land Use Board of Appeals under ORS 197.830.
- (3) Effective Date. The effective date of the final decision shall be 12 calendar days following the date the notice of decision is mailed, unless appealed, in which case the effective date shall as provided for the Type III decision.
- (4) Appeal. A final decision may be appealed to the Planning Commission as provided in Section 10.020 of this Code.
- (5) Resubmittal. A denied application may be resubmitted as provided in Section 3.080 of this Code.

2.037

Type I-C. Type I Decision with Public Comment Period. The permitted uses, development and activities listed as Type I-C in Schedules 2-1 and 12-2, shall be processed by the Director in accordance with the requirements of this Section. At the Director's discretion, an application requiring a Type I-C review may be referred directly to the Hearings Officer for review through a Type II review or the Planning Commission for review through a Type III review.

- (1) Public Comment Period Required. The Director shall provide a 14 day period for submission of written comments prior to making a decision on any application requiring a Type I-C procedure.
- (2) Notice of Public Comment Period. The Director shall mail public notice within 10 working days of receiving a complete application pursuant to Section 3.050 of this Code.
- (3) Notice Area. The Director shall mail notice of the public comment period to the following:
  - (a) The applicant.
  - (b) Owners of property within 100 feet of the entire contiguous site for which the application is made. The list shall be compiled from the most recent property tax assessment roll.
  - (c) Any neighborhood or community organization whose boundaries include the site and who is listed by the City on a public notice registry.
  - (d) Public agencies which provide transportation facilities and services, such as Josephine County and the Oregon Department of Transportation (ODOT), for all partitions, and other applications which affect private access to roads.
- (4) Notice of Comment Period Content. The notice shall:
  - (a) State that issues which may provide the basis for an appeal shall be raised in writing prior to the expiration of the comment period. Issues shall be raised with sufficient specificity to enable the decision maker to respond to the issue.

*[Note: The above language is required by ORS 197.195 for Limited Land Use Decisions, even though the procedures herein provide for appeal of a Type I-C decision to be heard by the Planning Commission through a 'de novo' hearing, which allows new issues to be raised and allows introduction of new evidence. The 'notice of comment period' and 'notice of decision' language below is slightly different than the statutory language to reflect the fact that this code allows for local appeal].*

- (b) Explain the nature of the application and the proposed use or uses which could be authorized.
- (c) Briefly summarize the local decision making process for the decision being made.

- (d) List, by commonly used citation, the applicable criteria from the ordinance and the plan that apply to the application at issue.
  - (e) Set forth the street addresses or other easily understood geographical reference to the subject property.
  - (f) Include the name of a City representative to contact and the telephone number where additional information may be obtained.
  - (g) State that a copy of the application, all documents and evidence submitted by or on behalf of the applicant, all evidence relied upon by the applicant, and applicable criteria are available for inspection at no cost and will be provided at reasonable cost.
  - (h) State that any person who is adversely affected or aggrieved, anyone who is entitled to written notice under paragraph (3) of this Subsection, and anyone who provides written comments during the comment period may appeal the decision by filing a written appeal in a manner provided in this Code within 12 calendar days of the date the written notice of decision is mailed.
  - (i) State the place, date and time that comments are due.
  - (j) State that the decision will not become final until the period for filing a local appeal has expired.
  - (k) State that a person who is mailed written notice of the decision cannot appeal the decision directly to the Land Use Board of Appeals under ORS 197.830.
- (5) Director's Decision.
- (a) Action and Criteria. Within <sup>8</sup>10 working days of the end of the public comment period, the Director shall make a decision by approving, conditionally approving, or denying the application based upon compliance with the provisions of this Code.
  - (b) Conditions. Conditions may be applied to the approval of any application when such conditions are required to comply with the relevant Sections of the Code.
- (6) Notice of Decision. Upon reaching a final decision on the application, the Director shall mail a copy of the decision to the applicant and any person who submits comments during the public comment period.

The Director shall also mail notice of the decision in writing to parties who were notified of the comment period in Subsection (3) of this Section.

- (7) Notice of Decision Content. The content of the notice of the decision shall:
- (a) Explain the nature of the application and the proposed use or uses which could be authorized.
  - (b) Briefly summarize the local decision making process for the decision being made.
  - (c) List, by commonly used citation, the applicable criteria from the ordinance and the plan that apply to the application at issue.
  - (d) Set forth the street addresses or other easily understood geographical reference to the subject property.
  - (e) Include the name of a City representative to contact and the telephone number where additional information may be obtained.
  - (f) State that a copy of the application, all documents and evidence submitted by or on behalf of the applicant, applicable criteria, and all evidence relied upon by the decision-maker are available for inspection at no cost and will be provided at reasonable cost.
  - (g) Describe the nature of the decision.
  - (h) State that any person who is adversely affected or aggrieved, anyone who is entitled to written notice under paragraph (3) of this Subsection, or anyone who provided testimony for the record may appeal the decision by filing a written appeal in a manner provided in this Code within 12 calendar days of the date the written notice of decision is mailed.
  - (i) State that issues which may provide the basis for an appeal shall be raised in writing prior to the expiration of the appeal period. Issues shall be raised with sufficient specificity to enable the decision maker to respond to the issue.
  - (j) State the place, date, and time the appeal is due.
  - (k) State that the decision will not become final until the period for filing a local appeal has expired.

- (i) State that a person who is mailed written notice of the decision cannot appeal the decision directly to the Land Use Board of Appeals under ORS 197.830.
- (8) Effective Date. The effective date of the final decision shall be 12 calendar days following the date the notice of decision is mailed, unless appealed, in which case the effective date shall as provided for the Type III decision.
- (9) Appeal. A final decision may be appealed to the Planning Commission as provided in Section 10.030 of this Code.
- (10) Resubmittal. A denied application may be resubmitted as provided in Section 3.080 of this Code.

2.038 Type I-D. Type I Decision for Expedited Industrial Site Plan Review within Regionally Significant Industrial Area (RSIA) with Public Comment Period.

Purpose. Consistent with ORS 197.724, this Section provides procedures for an Expedited Industrial Land Use Permit for properties within a Regionally Significant Industrial Area (RSIA) designated by the Economic Recovery Review Council (ERRC).

An applicant for a new industrial use or the expansion of an existing industrial use located within a RSIA may request an application for a land use permit be reviewed as an application for an Expedited Industrial Land Use Permit and the local government shall review the application applying the standards and criteria that otherwise apply to the review and by using the procedures set forth for review of an expedited land division in ORS 197.365 (Application for Expedited Land Division) and ORS 197.370 (Failure of Local Government to Approve or Deny Application within Specified Time).

The permitted uses, development and activities listed as Type I-D in Schedules 2-1 and 12-2, shall be processed by the Director in accordance with the requirements of this Section. ~~At the Director's discretion, an application requiring a Type I-D review may be referred directly to the Hearings Officer for review through a Type II review or the Planning Commission for review through a Type III review.~~

- (1) Public Comment Period Required. The Director shall provide a 14 day period for submission of written comments prior to making a decision on any application requiring a Type I-D procedure.
- (2) Notice of Public Comment Period. The Director shall mail public notice within 10 working days of receiving a complete application pursuant to Section 3.050 of this Code.

- (3) Notice Area. The Director shall mail notice of the public comment period to the following:
- (a) The applicant.
  - (b) Owners of property within 100 feet of the entire contiguous site for which the application is made. The list shall be compiled from the most recent property tax assessment roll.
  - (c) Any neighborhood or community organization whose boundaries include the site and who is listed by the City on a public notice registry.
  - (d) ~~Public agencies which provide transportation facilities and services, such as Josephine County and the Oregon Department of Transportation (ODOT), for all partitions, and other applications which affect private access to roads. Any state agencies, local governments or special districts responsible for providing public facilities or services to the development.~~

- (4) Notice of Comment Period Content. The notice shall:
- (a) State the deadline for submitting written comments, and that issues which may provide the basis for an appeal to the referee shall be raised in writing prior to the expiration of the comment period. Issues shall be raised with sufficient specificity to enable the decision maker to respond to the issue.

*[Note: The above language is required by ORS 197.365 for Expedited Land Divisions, even though the procedures herein provide for appeal of a Type I-D decision to be heard by referee under ORS 197.375. The 'notice of comment period' and 'notice of decision' language below is slightly different than the statutory language to reflect the fact that this code allows for local appeal].*

- (b) Explain the nature of the application and the proposed use or uses which could be authorized.
- (c) Briefly summarize the local decision making process for the decision being made.
- (d) List, by commonly used citation, the applicable criteria from the ordinance and the plan that apply to the application at issue.
- (e) Set forth the street addresses or other easily understood geographical reference to the subject property.

- (f) Include the name of a City representative to contact and the telephone number where additional information may be obtained.
- (g) State that a copy of the application, all documents and evidence submitted by or on behalf of the applicant, all evidence relied upon by the applicant, and applicable criteria are available for inspection at no cost and will be provided at reasonable cost.
- (h) State that any person who is adversely affected or aggrieved, anyone who is entitled to written notice under paragraph (3) of this Subsection, and anyone who provides written comments during the comment period may appeal the decision by filing a written appeal ~~in a manner provided in this Code~~ within ~~12 calendar~~ 14 days of the date the written notice of decision is mailed.
- (i) State the place, date and time that comments are due.
- (j) State that the decision will not become final until the period for filing a local appeal has expired.
- (k) State that a person who is mailed written notice of the decision cannot appeal the decision directly to the Land Use Board of Appeals under ORS 197.830.

(5) Director's Decision.

- (a) Action and Criteria. Within ~~10 working days of the end of the public comment period,~~ 63 days of receiving a completed application, the Director shall make a decision by approving, conditionally approving, or denying the application based upon compliance with the provisions of this Code. For applications subject to this section, the local government:
  - (i) Shall not hold a hearing on the application; and
  - (ii) Shall issue a written determination of compliance or non-compliance with applicable land use regulations that include a summary statement explaining the determination,
- (b) Conditions. Conditions may be applied to the approval of any application when such conditions are required to comply with the relevant Sections of the Code.

**Comment [A11]: Article 3.065 – should Type I-D be included?**

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- (6) Notice of Decision. Upon reaching a final decision on the application, the Director shall mail a copy of the decision to the applicant and any person who ~~submits comments during the public comment period.~~

~~The Director shall also mail notice of the decision in writing to parties who were received notice under notified of the comment period in~~ Subsection (3) of this Section within 63 days of the date of a completed application and any person who submitted comments during the public comment period.

- (7) Notice of Decision Content. The content of the notice of the decision shall:
- (a) Explain the nature of the application and the proposed use or uses which could be authorized.
  - (b) Briefly summarize the local decision making process for the decision being made.
  - (c) List, by commonly used citation, the applicable criteria from the ordinance and the plan that apply to the application at issue.
  - (d) Set forth the street addresses or other easily understood geographical reference to the subject property.
  - (e) Include the name of a City representative to contact and the telephone number where additional information may be obtained.
  - (f) State that a copy of the application, all documents and evidence submitted by or on behalf of the applicant, applicable criteria, and all evidence relied upon by the decision-maker are available for inspection at no cost and will be provided at reasonable cost.
  - (g) ~~Describe the nature of the decision.~~ Describe the nature of the decision in a summary statement.
  - (h) State that any person who is adversely affected or aggrieved, anyone who is entitled to written notice under paragraph (3) of this Subsection, or anyone who provided testimony for the record may appeal the decision by filing a written appeal in a manner provided in this Code within 14 calendar days of the date the written notice of decision is mailed.
  - (i) State that issues which may provide the basis for an appeal shall be raised in writing prior to the expiration of the appeal period. Issues shall be raised with sufficient specificity to enable the decision maker to respond to the issue.

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- (j) State the place, date, and time the appeal is due.
  - (k) State that the decision will not become final until the period for filing a local appeal has expired.
  - (l) State that a person who is mailed written notice of the decision cannot appeal the decision directly to the Land Use Board of Appeals under ORS 197.830.
- (8) Effective Date. The effective date of the final decision shall be 14 calendar days following the date the notice of decision is mailed, unless appealed, in which case the effective date shall be ~~as provided for the Type III decision in accordance with ORS 197.375 (Appeal of Decision on Application for Expedited Land Division) or ORS 197.726 (Jurisdiction on Appeal).~~
- (9) Appeal. A final decision shall be in accordance with ORS 197.375 (Appeal of Decision on Application for Expedited Land Division) or ORS 197.726 (Jurisdiction on Appeal).
- (10) Resubmittal. A denied application may be resubmitted as provided in Section 3.080 of this Code.
- (11) Review, Eligibility.
- (a) An applicant for a new industrial use or the expansion of an existing industrial use located within a regionally significant industrial area may request that an application for a land use permit be reviewed as an application for an expedited industrial land use permit under this section if the proposed use does not require:
    - (i) An exception taken under ORS 197.732 (Goal Exceptions) to a statewide land use planning goal;
    - (ii) A change to the acknowledged comprehensive plan or land use regulations of the local government within whose land use jurisdiction the new or expanded industrial use would occur; or
    - (iii) A federal environmental impact statement under the National Environmental Policy Act.
  - (b) If the applicant makes a request that complies with section 2.038, the local government shall review the applications for land use permits for the proposed industrial use by applying the standards and criteria that otherwise apply to the review and by using the procedures set forth for

review of an expedited land division in ORS 197.365 (Application for Expedited Land Division) and ORS 197.370 (Failure of Local Government to Approve or Deny Application within Specified Time).

- (12) Jurisdiction on Appeal: Standing. Jurisdiction for appeal of a local decision for an Expedited Industrial Site Plan within a RSIA shall be in accordance with ORS 197.726 (Jurisdiction on Appeal). See also ORS 197.375 (Appeal of Decision on Application for Expedited Land Division).
- (a) The Land Use Board of Appeals does not have jurisdiction to consider decisions, aspects of decisions or actions taken under ORS 197.722 (Definitions for ORS 197.722 to 197.728) to ORS 197.728 (Rules). See also ORS 197.360 (Expedited Land Division Defined) to ORS 197.380 (Application Fees for Expedited Land Division).
  - (b) An appeal of a decision on an application for an Expedited Industrial Land Use Permit made under ORS 197.724 (Review of Application for Land Use Permit within Regionally Significant Industrial Area) may be made in the manner set forth in ORS 197.375 (Appeal of Decision on Application for Expedited Land Division) for appeal of a decision on an expedited land division. Notwithstanding ORS 197.375 (Appeal of Decision on Application for Expedited Land Division);
    - (i) The applicant and a person who filed written comments in the time period established under ORS 197.365 (Application for Expedited Land Division) may file an appeal;
    - (ii) If an appeal is filed, the referee shall hold a hearing on the appeal; and
    - (iii) The referee shall issue a written decision within 42 days (ORS 197.375(4)(b) or 56 days (ORS 197.726(2)(c)) after the appeal was filed.
  - (c) A party to a proceeding before a referee under this Section may seek judicial review of the referee's decision in the manner provided for review of final orders of the Land Use Board of Appeals under ORS 197.850 (Judicial Review of Board Order) and 197.855 (Deadline for Final Court Order). The Court of Appeals shall review decisions of the referee in the manner provided for review of final orders of the Land Use Board of Appeals in ORS 197.850 (Judicial Review of Board Order) and 197.855 (Deadline for Final Court Order). However, notwithstanding ORS 197.850 (Judicial Review of Board Order) (9) or any other provision of law, the court shall reverse or remand the decision only if the court finds that:

(i) The local government's decision clearly does not concern an application for an expedited industrial land use permit as described in [ORS 197.360 \(Expedited Land Division Defined\)](#) or ORS 197.724 (Review of Application for Land Use Permit within Regionally Significant Industrial Area) and the appellant raised this issue in proceedings before the referee;

(ii) [There is a basis to vacate the decision as described in ORS 36.705 \(Vacating Award\)\(1\)\(a\) to \(d\), or a basis for modification or correction of an award as described in ORS 36.710 \(Modification or Correction of Award\)\(ORS 197.375\(8\)\(b\)\);](#)

(iii) The referee's decision contains a clear, material error of fact based on the record, and the Appellant raised the issue in proceedings before the referee;

(iv) The referee's decision contains a clear, material error of law, giving deference to any interpretations of law by the referee, and the Appellant raised the issue in proceedings before the referee; or

(v) The decision of the local government or the referee is unconstitutional.

#### 2.040 Type II Procedure

2.041 Purpose. The purpose of the Type II procedure is to hold a meeting between the applicant and surrounding property owners, in which the opportunity is given to resolve any potential conflict between the applicant and affected parties in an informal setting, and reach an acceptable decision regarding the proposal. The decisions involved in development review are to be objective in nature, and require only moderate discretion in the application of the requirements of this Code.

#### 2.042 Processing.

- (1) Except as provided in Section 2.042(2), a Type II application shall be processed by the Hearings Officer through a publicly held and noticed mediation hearing.
- (2) Hearing Option. At the Director's discretion, a Type II review may be referred directly to the Planning Commission for review and approval, using the Type III procedure as provided in Section 2.050.

- (3) Upon verification of a complete application pursuant to Section 3.050 of this Code, the Director shall provide for a public mediation meeting within 35 calendar days, as provided in Section 2.043 through 2.044 following, and shall cause review of the application as required by this Code to proceed.
- (4) A staff report on the application shall be prepared and shall be available to the applicant and any other interested parties at least seven calendar days prior to the meeting.

2.043

Notice of Mediation Hearing

- (1) Notice Area. The Director shall mail notice not less than <sup>8</sup>20 calendar days prior to the mediation hearing to the following:
  - (a) The applicant.
  - (b) Owners of record of property on the most recent property tax assessment roll where such property is located within 250 feet of the property which is the subject of the notice.
  - (c) Any neighborhood or community organization whose boundaries include the site and who is listed by the City on a public notice registry.
  - (d) Public agencies which provide transportation facilities and services, such as Josephine County and the Oregon Department of Transportation (ODOT), for all subdivisions, and other applications which affect private access to roads.
- (2) Notice Content. The notice shall:
  - (a) Explain the nature of the application and the proposed use or uses which could be authorized.
  - (b) List the applicable criteria from this Code and the Comprehensive Plan that apply to the application at issue.
  - (c) Set forth the street address or range of addresses, Assessor's map reference, or other easily understood geographical reference to the subject property.
  - (d) State the date, time and location of the meeting.
  - (e) ~~State that failure of an issue to be raised in a hearing, in person or by letter, or failure to provide statements or evidence sufficient to afford the decision-maker an opportunity to respond to the issue may preclude~~

appeal based on that issue. State that 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 may preclude an appeal to the board based on that issue.

*[Note: ORS 197.763 requires the language "...precludes appeal to the board on that issue." The procedures herein provide for local appeal of a Type II decision to be heard by the Planning Commission and City Council prior to an appeal to the Land Use Board of Appeals. The procedures also allow for the possibility of a 'de novo' hearing, which allows new issues to be raised and allows introduction of new evidence].*

- (f) Include the name of a City representative to contact and the telephone number where additional information may be obtained.
- (g) State that a copy of the application, all documents and evidence submitted by or on behalf of the applicant and applicable criteria are available for inspection and will be provided at a reasonable cost.
- (h) State that a copy of the staff report will be available for inspection at no cost at least seven calendar days prior to the hearing and will be provided at reasonable cost.
- (i) Include a general explanation of the requirements for submission of testimony and the procedure for conduct of hearings.

2.044

Mediation Hearing.

- (1) Purpose. The mediation hearing is a face-to-face meeting of those persons directly involved, whose purpose is to determine design and development conditions that may mitigate the impacts of the proposed development. The Hearings Officer shall take the role of mediator, and shall encourage a design solution meeting the needs and concerns of both the applicant and objecting property owners.
- (2) The Mediation Hearing shall be held by the Hearings Officer on the date noticed by the Director. The conduct of the hearing shall be as provided in Article 8, Quasi-Judicial Hearing Rules.
- (23) Orderly Conduct. The Hearings Officer shall chair the mediation hearing, and shall provide for the orderly conduct of the hearing in an informal but fair and open manner. Participants will conduct themselves in a reasonable and orderly manner, and may be excused from the meeting by the Hearings Officer for disruptive conduct.

- (34) At the commencement of the hearing, a statement shall be made to those in attendance that:
- (a) Lists the applicable criteria by which a decision will be made.
  - (b) States that testimony, evidence, and arguments, must be directed toward these criteria or other criteria contained in this Code or the Comprehensive Plan which the person believes to apply to that decision.
  - (c) States that 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 may preclude appeal based on that issue.

*[Note: ORS 197.763 requires the language "...precludes appeal to the board on that issue". The procedures herein provide for local appeal of a Type II decision to be heard by the Planning Commission and City Council prior to an appeal to the Land Use Board of Appeals. The procedures also allow for the possibility of a 'de novo' hearing, which allows new issues to be raised and allows introduction of new evidence].*

- ~~(4) If a participant so requests before the conclusion of the hearing, the record shall remain open for at least seven calendar days after the meeting.~~

2.045

Hearings Officer's Decision.

- (1) Action and Criteria. The Hearings Officer shall review the application, written comments, mediation hearing testimony, if any, and the requirements of this Code, and shall make a decision on the application by approving, conditionally approving, or denying the application. The criteria for reaching a decision under a Type II procedure shall be based on compliance with the provisions of the Code.
- (2) Conditions. Conditions may be applied to the approval of any application under a Type II procedure when such conditions are required to comply with the applicable provisions of this code. ~~Conditions in excess of the requirements of this Code may be made, but only if agreed to in writing by the applicant, and made at this option in order that the project may go forward speedily.~~
- (3) Final Decision and Notice. At the conclusion of the mediation hearing, or within 10 calendar days of the mediation hearing, the Hearings Officer shall reach a final decision, and shall mail notice in writing of the final decision to the applicant, all affected parties participating in the mediation meeting, and all

affected parties submitting written comment prior to the mediation meeting requesting such notice. The content of the notice of final decision shall be as provided in Section 2.037(7) of this Code, and shall state the right of appeal of the final decision as provided in this Code.

- (4) Effective Date. The effective date of the final decision shall be 12 calendar days following the date the written notice of decision is mailed, unless appealed, in which case the effective date shall be as provided for the Type III decision.

2.046 Appeal. The final decision of the Hearings Officer under the Type II procedure may be appealed to the Planning Commission as provided in Section 10.040 of this Code.

2.047 Resubmittal. A denied application may be resubmitted as provided in Section 3.080 of this Code.

#### 2.050 Type III Procedure

2.051 Purpose. The purpose of the Type III procedure is to provide for quasi-judicial review of designated land use actions by the Planning Commission at a public hearing. Such actions may be complex and discretionary in nature, requiring the exercise of judgment in applying the policies of the Comprehensive Plan and the requirements of this Code.

#### 2.052 Processing.

- (1) A Type III application shall be reviewed at a public hearing before the Planning Commission. At the Director's discretion, a Type III review may be referred to the Hearings Officer, in which case the application shall be reviewed using the Type II procedure. The Director shall only refer a Type III decision to the Hearings Officer when unusual circumstances apply, and the amount of discretion is not substantially greater than applications reviewed through a Type II procedure.
- (2) Upon verification of a complete application pursuant to Section 3.050 of this Code, the Director shall schedule a public hearing within 55 calendar days, as provided in Sections 2.053 through 2.054 following, and shall cause review of the application as required by this Code to proceed.

#### 2.053 Notice of Public Hearing

- (1) Notice shall be mailed not less than 20 calendar days prior to the hearing, or, if there are two or more evidentiary hearings, notice shall be mailed not less than 10 days before the first hearing. Notice shall be mailed to the following:
- (a) The applicant.

- (b) Owners of record of property on the most recent property tax assessment roll where such property is located within 250 feet of the property which is the subject of the notice.
  - (c) Any neighborhood or community organization whose boundaries include the site and who is listed by the City on a public notice registry.
  - <sup>7</sup>(d) Public agencies which provide transportation facilities and services, such as Josephine County and the Oregon Department of Transportation (ODOT).
- (2) If the hearing is a Planning Commission recommendation hearing or City Council action hearing for a Type IV procedure, the following notice shall also be provided:
- (a) For Development Code text amendments and Comprehensive Plan amendments, notice shall be provided in a newspaper of general circulation 4 to 10 days prior to the hearing.
  - (b) If the application would change the zone of property which includes all or part of a manufactured home park, notice shall be mailed to each existing mailing address for tenants of the manufactured home park at least 20 calendar days and not more than 40 calendar days prior to the hearing.
  - (c) For Development Code amendments and Comprehensive Plan amendments that “rezone” property as defined in Section 2.095, mailed notice shall be provided in Section 2.095.
- (3) On an appeal from the Type I or II procedures, the Director shall mail notice to parties specified in Section 10.022, 10.032, 10.036, or 10.042, provided below for reference:
- (a) Type I-B. The applicant, the appellant, any adversely affected or aggrieved party requesting notice in writing, and all persons previously mailed written notice of the decision.
  - (b) Type I-C. The applicant, the appellant, any adversely affected or aggrieved party requesting notice and writing, and all persons previously noticed as part of the process leading to the Director’s final action.

- (c) Type I-D. The applicant, the appellant, any adversely affected or aggrieved party requesting notice in writing, and all persons previously noticed as part of the process leading to the Director's final action.
  - (ed) Type II. The applicant, the appellant, any adversely affected or aggrieved person requesting notice in writing, and all person's previously noticed leading to the Hearings Officer's written decision.
- (4) Notice Content. The notice shall:
- (a) Explain the nature of the application and the proposed use of uses which could be authorized.
  - (b) List the applicable criteria from this Code and the Comprehensive Plan that apply to the application at issue.
  - (c) Set forth the street address or range of addresses, Assessor's map reference, or other easily understood geographical reference to the subject property.
  - (d) State the date, time and location of the meeting.
  - (e) State the failure of an issue to be raised in a hearing, in person or by letter, or failure to provide statements or other evidence to afford the decision maker an opportunity to respond to the issue may preclude appeal of the Planning Commission's decision based on that issue, and precludes appeal of a City Council decision to the Land Use Board of Appeals based on that issue. State that 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 may preclude appeal of the Planning Commission's decision based on that issue and may preclude an appeal of the City Council's decision to the Land Use Board of Appeals based on that issue.
  - (f) Include the name of a City representative to contact and the telephone number where additional information may be obtained.
  - (g) State that a copy of the application, all documents and evidence submitted by or on behalf of the applicant and applicable criteria are available for inspection and will be provided at a reasonable cost.
  - (h) State that a copy of the staff report will be available for inspection at no cost at least seven calendar days prior to the hearing and will be provided at reasonable cost.

- (i) Include a general explanation of the requirements for submission of testimony and the procedure for conduct of hearings.

2.054 **Public Hearing.** A public hearing shall be held by the Hearing Officer or the Planning Commission on the date noticed by the Director. The conduct of the hearing shall be as provided in Article 8, Quasi-judicial Hearing Rules.

2.055 **Final Decision**

- (1) **Action and Criteria.** The review body shall review the application, together with staff review, written comment received prior to or during the hearing, and testimony made at the hearing, and shall make a decision on the application by approving, approving with conditions or denying the application. The criteria for reaching a decision under a Type III procedure, including decisions made under appeal, shall be based upon compliance with the provisions of this Code.
- (2) **Conditions.** Conditions may be applied to the approval of any application under a Type III procedure, when such conditions are required to comply with the applicable Sections of this Code.
- (3) **Findings and Notice of Final Decision.** The initial action by the Planning Commission shall be known as the oral decision, as provided in Section 8.038, and ~~9.037~~.
  - (a) A final decision by the Planning Commission incorporating the oral decision shall be adopted by the next regularly scheduled meeting of the Commission, and shall include findings which address the applicable criteria when required by this Code.
  - (b) Notice of the final decision shall be mailed to the applicant, and other affected parties requesting such notice in writing, within 10 calendar days of the rendering of the final decision by the Planning Commission, and shall state the right of appeal of the final decision as provided in this Code.
- (4) **Effective Date.** The effective date of the final decision shall be ~~7-12~~ calendar days following the ~~final decision by the Planning Commission~~ date the written notice of decision is mailed, unless appealed, in which case the effective date shall be as provided for the Type IV decision.

2.056 **Appeal.** The final decision of the review body under the Type III procedure may be appealed to the City Council as provided in Section 10.050 of this Code.

2.057 **Resubmittal.** A denied application may be resubmitted as provided in Section 3.080 of this Code.

2.060 Type IV Procedure

2.061 Purpose. The purpose of the Type IV procedure is to provide for quasi-judicial and legislative review of designated land use actions by the City Council at a public hearing. Such actions are complex and discretionary in nature, and require the exercise of judgment in applying the policies of the Comprehensive Plan and the requirements of this Code.

2.062 Processing.

- (1) A Type IV application may be reviewed at a public hearing before the Planning Commission for a recommendation, unless otherwise stipulated by this Code, and shall be reviewed at a public hearing before the City Council for action on the matter.
- (2) Upon verification of a complete application pursuant to Section 3.050 of this Code, the Director shall schedule a public hearing before the Planning Commission within 55 calendar days, as provided in Sections 2.063 through 2.064 following, and shall cause review of the application required by this Code to proceed.
- (3) As specified in this Code, certain land use actions processed under the Type IV procedure may require review by the City Council only, all other particulars of the review process under the Type IV procedure remaining the same. These actions are designated as Type "IV-A" in Schedule 2-1. Unless specifically stated otherwise in this Code, the Type IV procedure shall include consideration by the Planning Commission. These actions are designated as Type "IV-B" in Schedule 2-1.

2.063 Recommendation Hearing Before Planning Commission.

- (1) Notice. When an application is scheduled for the recommendation hearing by the Planning Commission, notice area, method and content shall be as provided in Section 2.053 of this Code.
- (2) Public Hearing. A public hearing shall be held by the Planning Commission on the date noticed by the Director. The conduct of the hearing shall be as provided in Article 8, Quasi-Judicial Hearing Rules or Article 9, Legislative Hearing Guidelines, as appropriate.

2.064 Recommendation Hearing by the Planning Commission

- (1) Action, Criteria and Conditions. The Planning Commission shall review the application and make a recommendation to the City Council, either for approval, approval with conditions or denial of the proposal. The criteria for reaching a decision under the Type IV procedure shall be in compliance with the Comprehensive Plan, including but not limited to the Master Transportation Plan, and the provisions of this Code.
- (2) Findings and Notice of Recommendation Decision. The initial action by the Planning Commission at the Recommendation Hearing shall be known as the oral recommendation.
  - (a) A final recommendation embodying the oral recommendation by the Planning Commission shall be adopted at the next regularly scheduled meeting of the Commission, and shall include findings which address the applicable criteria of this Code.
  - (b) Notice of the final recommendation shall be incorporated within the City Council's mailed to the applicant, and to other affected parties requesting such notice in writing, public hearing notice indicating the hearing date the City Council will review the recommendation, within 10 calendar days of the rendering of the final recommendation by the Planning Commission, and shall indicate the tentative date of the scheduled before the City Council on the matter.

2.065 Action Hearing Before City Council.

- (1) Schedule. Within ~~12~~14 calendar days of the ~~oral~~ final recommendation by the Planning Commission, the Director shall ~~tentatively~~ schedule the action hearing on the application before the City Council.
- (2) Notice of Public Hearing. Notice shall be as provided in Section 2.053 of this Code, except that mailed notice shall also include those affected parties who testified either in person or in writing at the recommendation hearing before the Planning Commission.
- (3) Public Hearing. A public hearing by the City Council shall be held on the date noticed by the Director. The conduct of the hearing shall be as provided in Article 8, Quasi-Judicial Hearing Rules, or Article 9, Legislative Hearing Guidelines, as appropriate.

2.066 Final Decision by City Council

- (1) Action and Criteria. The City Council shall review the application, together with the staff review, findings and final recommendation of the Planning Commission, evidence received prior to and during both the Planning

Commission and City Council hearings, and shall make a decision on the application by approving, conditionally approving or denying the application. The criteria for reaching a decision under the Type IV procedure shall be in compliance with the Comprehensive Plan and the provisions of this Code.

- (2) Conditions. Conditions may be applied to the approval of any application under Type IV procedure, when such conditions are in accord with the applicable Sections of this Code.
- (3) Findings and Notice of Final Decision. The initial action by the City Council shall be known as the oral decision.
  - (a) A final decision embodying the oral decision shall be adopted by the City Council by the second regularly scheduled meeting of the Council following the oral decision by Council.
  - (b) Notice of the final action shall be mailed to the applicant, and to other affected parties requesting such notice in writing, within 10 calendar days of the rendering of the final decision, and shall include the adopted findings of Council, and shall state the right of appeal under state statute.
- (4) Effective Date. The decision of the Council shall be final upon signing of the findings of fact.

2.067 Appeal. The final decision of the City Council under the Type IV procedure may be appealed to the Oregon Land Use Board of Appeals as provided in Section 10.060.

2.068 Resubmittal. A denied application may be resubmitted as provided in Section 3.080 of this Code.

2.070 Type V Procedure. Type V procedure providing for joint City Council and Board of County Commissioners review shall be as provided in the Joint Urban Area Services Management Agreement.

2.071 Appeal. The final decision of the City Council and Board of County Commissioners under the Type V procedure may be appealed to the Oregon Land Use Board of Appeals as provided in Section 10.060.

2.080 Deadline for Decision

The review body shall take final action on any application including resolution of all appeals as provided in Section 3.050.

2.085 Coordinated Review for Transportation Facilities

All land use decisions involving transportation facilities, corridors and sites shall include as part of the record, and consider the findings of, any relevant Environmental Impact Statements and Environmental Assessments completed by the Oregon Department of Transportation (ODOT).

2.090      Noticing Requirements for Certain Proposed Administrative Rules and New State Statutes and Administrative Rules

The purpose of this Section is to comply with noticing procedures required by ORS 197.047.

- (1) Applicability. The provisions of this Section apply to all statutes and administrative rules of the Land Conservation and Development Commission that limit or prohibit otherwise permissible uses or cause a local government to rezone property.
- (2) 'Rezoned' Defined. For purposes of this section, property is rezoned when the statute or administrative rule causes the City to:
  - (a) Change the base zoning classification of property; or
  - (b) Adopt or amend an ordinance in a manner that limits or prohibits land uses previously allowed in the affected zone.
- (3) 'Owner' Defined. As used in this section, "owner" means the owner of the title to real property or the contract purchaser of real property, of record as shown on the last available complete tax assessment roll.
- (4) Notice Requirement for Proposed LCDC Administrative Rule That Rezones Property. When the City receives notice under ORS 197.047(2) of a proposed new or amended administrative rule of the Land Conservation and Development Commission, it shall cause the notice set forth in Subsection (5) of this Section to be mailed to every property owner that will be rezoned as a result of the proposed rule. Notice to an owner under this subsection must be mailed at least 45 days prior to the final public hearing on the proposed rule.
- (5) Notice Content for Proposed LCDC Administrative Rule That Rezones Property. The notice required in Subsection (4) of this Section must:
  - (a) Contain substantially the following language in boldfaced type across the top of the face page extending from the left margin to the right margin:

This is to notify you that the Land Conservation and Development Commission has proposed a new or amended administrative rule that, if adopted, may affect the permissible uses of your property and other properties.”

- (b) Contain substantially the following language in the body of the notice:

“On (date of public hearing), the Land Conservation and Development Commission will hold a public hearing regarding adoption of proposed (new or amended) rule (number). Adoption of this rule may affect the permissible uses of your property, and other properties in the affected zone, and may change the value of your property.

Rule (number) is available for inspection at the Department of Land Conservation and Development located at (address). A copy of the proposed rule (number) also is available for purchase at a cost of \$ \_\_\_\_.

For additional information, contact the Department of Land Conservation and Development at (phone number).”

- (6) Notice Requirement for Adopted Statute or LCDC Administrative Rule That Rezones Property. When the City receives notice under ORS 197.047(6) of an adopted new or amended statute or administrative rule of the Land Conservation and Development Commission, it shall cause the notice set forth in Subsection (7) of this Section to be mailed to every property owner that will be rezoned as a result of adoption of the rule or enactment of the statute, unless notice was provided pursuant to Subsection (4) of this Section.

The City shall mail the notice to an owner under this subsection at least 45 days prior to the effective date of the rule or statute unless the rule or statute is effective within 90 days of enactment or adoption, in which case the City shall mail the notice to an owner under this subsection not later than 30 days after the City receives notice under ORS 197.047(6).

- (7) Notice Content for Adopted Statute or LCDC Administrative Rule That Rezones Property. The notice required in Subsection (6) of this notice must:

- (a) Contain substantially the following language in boldfaced type across the top of the face page extending from the left margin to the right margin:

“(Check on the appropriate line:)

\_\_\_\_\_ This is to notify you that the Land Conservation and Development Commission has adopted an administrative rule that may affect the permissible uses of your property and other properties; or

\_\_\_\_\_ This is to notify you that the Legislative Assembly has enacted a land use planning statute that may affect the permissible uses of your property and other properties.”

- (b) Contain substantially the following language in the body of the notice:

“(Check on the appropriate line:)

\_\_\_\_\_ On (date of rule or adoption), the Land Conservation and Development Commission adopted administrative rule (number). The rule may affect the permissible uses of your property, and other properties in the affected zone, any may change the value of your property.

Rule (number) is available for inspection at the Department of Land Conservation and Development located at (address). A copy of the rule (number) also is available for purchase at a cost of \$\_\_\_\_\_.

For additional information, contact the Department of Land Conservation and Development at (phone number); or

\_\_\_\_\_ On (date of enactment), the Legislative Assembly enacted (House/Senate bill number). The Department of Land Conservation and Development has determined that enactment of (House/Senate bill number) may affect the permissible uses of your property, and other properties in the affected zone, and may change the value of your property.

A copy of the (House/Senate bill number) is available for inspection at the Department of Land Conservation and Development located at (address). A copy of (House/Senate bill number) also is available for purchase at a cost of \$\_\_\_\_\_.

For additional information, contact the Department of Land Conservation and Development at (telephone number).

- (8) DLCD Reimbursement to City. The Department of Land Conservation and Development shall reimburse the City for:

- (a) The actual costs incurred responding to questions from the public related to a proposed new or amended administrative rule of the Land

Conservation and Development Commission and to notice of the proposed rule; and

- (b) All usual and reasonable costs of providing notices required under subsection (4) or (8) of this section.

2.095 Noticing Requirements for Certain Comprehensive Plan and Ordinance Amendments that Rezone Property

The purpose of this Section is to comply with noticing procedures required by ORS 227.186.

- (1) 'Rezoned' Defined. For purposes of this Section, property is rezoned when the City:
  - (a) Changes the base zoning classification of the property; or
  - (b) Adopts or amends an ordinance in a manner that limits or prohibits land uses previously allowed in the affected zone.
- (2) 'Owner' Defined. As used in this Section, "owner" means the owner of the title to real property or the contract purchaser of real property, of record as shown on the latest available complete tax assessment roll.
- (3) Legislative Acts by Ordinance. All legislative acts relating to comprehensive plans, land use planning or zoning adopted by the City shall be by ordinance.
- (4) Additional Notice Requirement for Proposed Ordinance Amending Comprehensive Plan That Would Require Rezoning of Property to Comply with Plan. The noticing requirement in this Section is in addition to the applicable notice requirements contained elsewhere within this Article.

Except as provided in Subsection (7) of this Section, at least 20 days but not more than 40 days before the date of the first hearing on an ordinance that proposes to amend an existing comprehensive plan or any element thereof, or to adopt a new comprehensive plan, a city shall cause written individual notice of a land use change to be mailed to each owner whose property would have to be rezoned in order to comply with the amended or new comprehensive plan if the ordinance becomes effective.

- (5) Additional Notice Requirement for Proposed Ordinance That Rezones Property. The noticing requirement in this Section is in addition to the applicable notice requirements contained elsewhere within this Article.

At least 20 days but not more than 40 days before the date of the first hearing on an ordinance that proposes to rezone property, the City shall cause a written individual notice of a land use change to be mailed to the owner of each lot or parcel of property that the ordinance proposes to rezone.

- (6) Notice Content for Proposed Ordinance Described in Subsection (4) or (5). An additional individual notice of land use change required by Subsection (4) or (5) of this Section shall be approved by the City and shall describe in detail how the proposed ordinance would affect the use of the property. The notice shall:

- (a) Contain substantially the following language in boldfaced type across the top of the face page extending from the left margin to the right margin:

“This is to notify you that the City of Grants Pass has proposed a land use regulation that may affect the permissible uses of your property and other properties.”

- (b) Contain substantially the following language in the body of the notice:

“On (date of public hearing), the City of Grants Pass will hold a public hearing regarding the adoption of Ordinance Number \_\_\_\_\_. The City of Grants Pass has determined that adoption of this ordinance may affect the permissible uses of your property, and other properties in the affected zone, any may change the value of your property.

Ordinance Number \_\_\_\_\_ is available for inspection at the Grants Pass City Hall located at 101 NW ‘A’ Street. A copy of Ordinance Number \_\_\_\_\_ also is available for purchase at a cost of \$\_\_\_\_\_.

For additional information concerning Ordinance Number \_\_\_\_\_, you may call the City of Grants Pass Planning Division at 474-6355.”

- (7) Notice Requirement for Adoption of Ordinance Amending Comprehensive Plan or Land Use Regulation for Periodic Review. At least 30 days prior to the adoption or amendment of a comprehensive plan or land use regulation by a city pursuant to the requirements of periodic review of the comprehensive plan under ORS 197.628, 197.633 and 197.636, the City shall cause a written individual notice of the land use change to be mailed to the owner of each lot or parcel that will be rezoned as a result of the adoption or enactment. The notice shall describe in detail how the ordinance or plan amendment may affect the use of property. The notice also shall:

- (a) Contain substantially the following language in boldfaced type across the top of the face page extending from the left margin to the right margin:

“This is to notify you that the City of Grants Pass has proposed a land use regulation that may affect the permissible uses of your property and other properties.”

- (b) Contain substantially the following language in the body of the notice:

“As a result of an order of the Land Conservation and Development Commission, the City of Grants Pass has proposed Ordinance Number \_\_\_\_\_. The City of Grants Pass has determined that adoption of this ordinance may affect the permissible uses of your property, and other properties in the affected zone, and may change the value of your property.

Ordinance Number \_\_\_\_\_ will become effective on (date).

Ordinance Number \_\_\_\_\_ is available for inspection at the Grants Pass City Hall located at 101 NW ‘A’ Street. A copy of Ordinance Number \_\_\_\_\_ also is available for purchase at a cost of \_\_\_\_\_.

For additional information concerning Ordinance Number \_\_\_\_\_, you may call the City of Grants Pass Planning Division at 474-6355.

- (8) **Combined Mailing Option.** Notice provided under this Section may be included with the tax statement required under ORS 311.250.
- (9) **Method of Mailing.** Notwithstanding Subsection (8) of this Section, a city may provide notice of a hearing at any time provided notice is mailed by first class mail or bulk mail to all persons for whom notice is required under Subsections (4) and (5) of this Section.
- (10) **Relationship to Section 2.090.** The provisions of this Section do not apply to legislative acts of the City Council resulting from action of the Legislative Assembly or the Land Conservation and Development Commission for which notice is provided under Section 2.090 or resulting from an order of a court of competent jurisdiction.
- (11) **Notice Not Required to Duplicate Ownerships.** The City Council is not required to provide more than one notice under this Section to a person who owns more than one lot or parcel affected by a change to the comprehensive plan or land use regulation.

- (12) DLCD Reimbursement to City. The Department of Land Conservation and Development shall reimburse the City for all usual and reasonable costs to provide notice required under Subsection (7) of this Section.

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10/7/92	4747
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9/4/02	5152
4/20/05	5285
1/18/16	5333
6/7/06	5359
4/16/08	5442
5/20/09	5489
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**<sup>1</sup>Article 10: Appeals**

**10.010 Purpose**

The purpose of this Article is to provide appeal procedures for the review of decisions on land use and development matters by the Director, Hearings Officer, Planning Commission, Historic Buildings and Sites Commission, and City Council.

**<sup>3</sup>10.015 Appeal Procedures and Hearing Types**

The appeal procedures are summarized in Schedule 10-1, 'Summary of Appeal Procedures.' The detailed procedural requirements for each appeal type are contained in the following Sections of this Article.

An appeal hearing shall be 'de novo,' 'limited to issues,' or 'on the record' as specified in this Article.

Each of the hearing types is summarized below.

- (1) de novo: Anyone may testify. Issues are not limited to those raised in the appeal. New evidence and argument may be presented.
- (2) limited to issues: Anyone may testify. Issues are limited to those raised in the appeal. New evidence and argument may be presented, but it must only be used to consider the issues raised in the appeal.

Rather than hold a de novo hearing to consider issues not raised in the appeal, the review body may hold a hearing to consider an expanded scope of issues. In this case, the review body may consider issues raised on appeal plus additional issues specified by the review body. Prior to, or at the outset of the hearing, the review body shall specify which additional issues can be considered. New evidence and argument may be presented, but it must only be used to consider the issues raised in the appeal and the additional issues specified by the review body.

- (3) on the record:
  - (a) Anyone may testify. Issues are limited to those raised in the appeal. New evidence may not be presented. New argument may be presented.
  - (b) The Council may admit additional testimony and other evidence without holding a de novo hearing if it is satisfied that the testimony or other evidence could not have been presented at the initial hearing. In deciding such admission, the Council shall consider:

- (4i) Prejudice to parties

(2ii) Convenience of locating the evidence at the time of initial hearing.

(3iii) Surprise to opposing parties.

(4iv) When notice was given to the other party as to the attempt to admit.

(5v) The competency and relevancy of the proposed testimony.

- (c) If additional evidence is admitted, then upon request, any other party may submit additional rebuttal evidence at that time, or for a period of 7 calendar days thereafter, and may also require that the decision of the review body be delayed for a period of not less than 14 calendar days to allow for consideration of the rebuttal evidence. The submission of additional evidence that results in a delay shall constitute a 30 day waiver of the 120 day decision making time frame, both by the party submitting the new evidence and by the party submitting the rebuttal evidence.

<sup>4</sup>SEE Section 10.036 for appeal procedures for Expedited Industrial Site Plan Review.

**Schedule 10-1. Summary of Appeal Procedures**

Type I-B	Type I-C	*Type I-D	Type II		
<p><b>Initial Decision by Director</b> (no hearing, no comment period, notice of decision is mailed)</p> <p align="center">↓</p>	<p><b>Initial Decision by Director</b> (no hearing, comment period, notice of decision is mailed)</p> <p align="center">↓</p>	<p><b>Initial Decision by Director</b> (no hearing, comment period, notice of decision is mailed)</p> <p align="center">↓</p>	<p><b>Initial Decision by Hearings Officer</b> (de novo hearing)</p>		
				Type III	Type IV & V
<p><b>Director's Decision is Appealed to Planning Commission</b></p> <p><u>Who may appeal?</u> Any person who is adversely affected or aggrieved or anyone entitled to written notice of decision</p> <p><u>What type of Planning Commission hearing?</u> De novo hearing required</p> <p align="center">↓</p>	<p><b>Director's Decision is Appealed to Planning Commission</b></p> <p><u>Who may appeal?</u> Any person who is adversely affected or aggrieved, anyone entitled to written notice of decision, or anyone who provided written comments during the comment period</p> <p><u>What type of Planning Commission hearing?</u> De novo hearing required</p> <p align="center">↓</p>	<p><b>Director's Decision is Appealed to Referee</b></p> <p><u>Who may appeal?</u> The Applicant or anyone who provided written comments during the comment period</p> <p><u>What type of Review?</u> The referee appointed by the local government may use any procedure for decision-making consistent with the interests of the parties to ensure a fair opportunity to present information and argument</p> <p align="center">↓</p> <p><b>Cannot be appealed to LUBA</b></p>	<p><b>Hearings Officer's Decision is Appealed to Planning Commission</b></p> <p><u>Who may appeal?</u> Anyone who provided written or oral testimony in the record for the initial decision</p> <p><u>What type of Planning Commission hearing?</u> De novo hearing, unless, at the outset of the hearing, the Commission specifies that it will be: -limited to issues, or -on the record</p> <p align="center">↓</p>	<p><b>Initial Decision by Planning Commission</b> (de novo hearing)</p> <p align="center">↓</p>	<p><b>Type IV-A</b> (No Planning Commission Recommendation)</p> <p><b>Type IV-B</b> Recommendation by Planning Commission (de novo hearing)</p> <p><b>Type V</b> Recommendation by Planning Commission (de novo hearing)</p>
<p><b>Planning Commission's Decision is Appealed to City Council</b></p> <p><u>Who may appeal the Planning Commission's decision to City Council?</u> Anyone who previously provided written or oral testimony in the record, whether for the initial decision or for the Planning Commission hearing on appeal.</p> <p><u>What type of City Council hearing?</u> De novo hearing, unless, at the outset of the hearing, the Council specifies that it will be: -limited to issues, or -on the record</p> <p align="center">↓</p>					<p><b>Type IV-A, IV-B</b> Initial Decision by City Council (de novo hearing)</p> <p><b>Type V</b> Initial Decision by City Council and Board of County Commissioners (de novo hearing)</p> <p align="center">↓</p>
<p><b>City Council's Decision is Appealed to LUBA, or City Council/Board of County Commissioners Decision is Appealed to LUBA</b></p> <p>In accordance with ORS 197.805-860.</p>					

10.020 Appeal of Final Action by the Director on Type I-B Decision (without Public Comment Period).

10.021 Appeal. A final action of the Director on a Type I-B decision (without public comment period) may be appealed to the Planning Commission, provided that the procedures of this Section are followed.

10.022 Procedures.

<sup>3</sup>(1) Any person who is adversely affected or aggrieved or who is entitled to written notice of the decision may appeal the decision by filing a written appeal. The appeal must be filed with the Director within 12 calendar days from the date the written notice of decision is mailed, on a form provided by the Director. The appeal shall contain:

- (a) A reference to the application or matter sought to be appealed to the Planning Commission, and the date of the decision.
- (b) The name, address, and phone number of the appellant.
- (c) The specific grounds relied upon in the request for appeal, including a statement of the specific criteria the appellant contends have or have not been satisfied.
- (d) The required appeal fee.

(2) Not later than ~~482 business days~~ hours after receiving an appeal, the Director shall make a determination whether or not the appeal is and whether or not it has been filed on time. A negative determination by the Director shall nullify the appeal. If no valid appeals have been received within the time frame given, the Director's decision shall become final and is not subject to local appeal.

(3) Notice of the appeal hearing shall be mailed to the applicant, the appellant, any adversely affected or aggrieved party requesting notice in writing, and all persons previously mailed written notice of the decision. The manner and content of notice shall be as provided in Section 2.053.

(4) The appeal shall be reviewed by the Planning Commission under the Type III procedure as provided in Section 2.050.

<sup>3</sup>10.023 Planning Commission Action

(1) Review. The hearing shall be "de novo" as required by ORS 227.175(10)(a)(D). The de novo hearing shall be the initial evidentiary hearing required under ORS 197.763 as the basis for an appeal to the Land Use Board of Appeals. At the de novo hearing:

- (a) The applicant and other parties shall have the same opportunity to present testimony, arguments, and evidence as they would have had in a hearing before the decision was issued.
  - (b) The presentation of testimony, arguments, and evidence shall not be limited to the issues raised in a notice of appeal; and
  - (2) The Planning Commission shall consider the record, all relevant testimony, arguments, and evidence that are accepted at the hearing.
  - (3) Commission Action. The Planning Commission may affirm, amend, or reverse the final action of the Director.
- 10.024 Notice of Decision. Within 10 calendar days of the written decision, written notice of the decision shall be mailed to the applicant, appellant, and all parties who appeared, either orally or in writing, before the hearing who requested such notice in writing. The notice of decision shall state the right of appeal of the decision as provided in this Code.
- 10.025 Appeal. Any appeal of the Planning Commission's decision on the appeal shall follow the procedures for appeal of a Type III decision.
- 10.030 Appeal of Final Action by the Director on Type I-C Decision (with Public Comment Period).
- 10.031 Appeal. A final action of the Director on a Type I-C decision (with public comment period) may be appealed to the Planning Commission, provided that the procedures of this Section are followed.
- 10.032 Procedures.
- (1) Any person who is adversely affected or aggrieved, anyone who is entitled to written notice of the decision, or anyone who provided written comments during the comment period may appeal the decision by filing a written appeal. The appeal must be filed with the Director within 12 calendar days from the date the written notice of decision is mailed, on a form provided by the Director. The appeal shall contain:
    - (a) A reference to the application or matter sought to be appealed to the Planning Commission, and the date of the decision.
    - (b) The name, address, and phone number of the appellant.
    - (c) The specific grounds relied upon in the request for appeal, including a statement of the specific criteria the appellant contends have or have not been satisfied.

(d) The required appeal fee.

- (2) Not later than ~~482 business days~~ ~~hours~~ after receiving an appeal, the Director shall make a determination whether or not the appeal is complete and whether or not it has been filed on time. A negative determination by the Director shall nullify the appeal. If no valid appeals have been received within the time frame given, the Director's decision shall become final and is not subject to local appeal.
- (3) Notice of the appeal hearing shall be mailed to the applicant, the appellant, any adversely affected or aggrieved party requesting notice in writing, and all persons previously noticed as part of the process leading to the Director's final action. The manner and content of notice shall be as provided in Section 2.053.
- (4) The appeal shall be reviewed by the Planning Commission under the Type III procedure as provided in Section 2.050.

10.033

Planning Commission Action

- (1) ~~Review.~~ Review. The hearing shall be "de novo" as required by ORS 227.175(10)(a)(D). The de novo hearing shall be the initial evidentiary hearing required under ORS 197.763 as the basis for an appeal to the Land Use Board of Appeals. ~~At the de novo hearing:~~

~~The hearing shall be "de novo." At the de novo hearing:~~

- (a) The applicant and other parties shall have the same opportunity to present testimony, arguments, and evidence as they would have had in a hearing before the decision was issued.
- (b) The presentation of testimony, arguments, and evidence shall not be limited to the issues raised in a notice of appeal; and
- (2) The Planning Commission shall consider the record, all relevant testimony, arguments, and evidence that are accepted at the hearing.
- (3) Commission Action. The Planning Commission may affirm, amend, or reverse the final action of the Director.

**Comment [A11]:** Type I-B language should be same as Type I-C. Appeal is 'de novo' for this as well

10.034

Notice of Decision. Within 10 calendar days of the written decision, written notice of the decision shall be mailed to the applicant, appellant, and all parties who appeared, either orally or in writing, before the hearing who requested such notice in writing. The notice of decision shall state the right of appeal of the decision as provided in this Code.

10.035

Appeal. Any appeal of the Planning Commission's decision on the appeal shall follow the procedures for appeal of a Type III decision.

10.036 Appeal of Regionally Significant Industrial Area (RSIA) Overlay Review.

10.037 Appeal. A final action of the Director on a Type I-D decision (with public comment period) may be appealed to a local government appointed referee in accordance with the statutory procedures for an Expedited Industrial Site Plan Review (ORS 197.375) which are only available for application types authorized by statute (Expedited Industrial Site Plan Review). If the application for a land use permit does not meet the criteria for review under an Expedited Industrial Site Plan Review and is processed in accordance with ORS 197.724 (Review of land use permit within a Regionally Significant Industrial Area (RSIA)), then an appeal to a local government appointed referee for a land use permit shall follow the statutory procedures as outlined in ORS 197.726.

**Comment [AI2]:** ORS 197.375 and ORS 197.724 contain separate language for deadline times for an appeal and type of hearing process

10.038 Procedures.

- (1) The applicant or any person or organization who files written comments in the time period established under ORS 197.365 (Application for Expedited Land Division) or ORS 197.724 (Application for Land Use Permit within a Regionally Significant Industrial Area (RSIA)) may appeal the decision by filing a written appeal and paying the applicable deposit for costs. The appeal must be filed with the Director within 14 calendar days from the date the written notice of decision is mailed on a form provided by the Director. The appeal shall be based solely on allegations:
  - (a) Of violation of the substantive provisions of the applicable land use regulations;
  - (b) Of unconstitutionality of the decision;
  - (c) That the application is not eligible for review under ORS 197.360 (Expedited Land Division Defined) to 197.380 (Application fees for Expedited Land Division) and should be reviewed as a land use decision or limited land use decision; or
  - (d) That the parties-parties' substantive rights have been substantially prejudiced by an error in procedure by the local government.
- (2) The local government shall appoint a referee to decide the appeal of a decision made under ORS 197.360 (Expedited Land Division Defined) and ORS 197.365 (Application for Expedited Land Division). The referee shall not be an employee or official of the local government. However, the local government which has a designated hearings officer under ORS 215.406 (Planning and Zoning Hearings Officers) or 227.165 (Planning and Zoning Hearings Officers) may designate the hearings officer as the referee for appeals of a decision made under ORS 197.360 (Expedited Land Division Defined) and ORS 197.365 (Application for Expedited Land Division).

**Comment [AI3]:** ORS 197.375(1)(a) states fee of \$300. Include?

- (3) The referee shall, within seven (7) days of being appointed, notify the applicant, the local government, the appellant if other than the applicant, any person or organization entitled to notice under ORS 197.365 (2) (Application for Expedited Land Division) that provided written comments to the local government and all providers of public facilities and services entitled to notice under ORS 197.365 (2) (Application for Expedited Land Division) and advise them of the manner in which they may participate in the appeal. A person or organization who provided written comments but did not file an appeal may participate only with respect to the issues raised in the written comments submitted by that person or organization. The referee may use any procedure for decision-making consistent with the interests of the parties to ensure a fair opportunity to present information and argument. ORS 197.375(3). See ORS 197.726(2) for applications that do not meet the criteria for an expedited land use permit. The referee shall provide the local government an opportunity to explain its decision, but is not limited to reviewing the local government decision and may consider information not presented to the local government.
- (4) (a) The referee shall apply substantive requirements of the local government's land use regulations and ORS 197.360 (Expedited Land Division Defined). If the referee determines the application does not qualify as an Expedited Land Division as described in ORS 197.360 (Expedited Land Division Defined), the referee shall remand the application for consideration as a land use decision or limited land use decision. In all other cases, the referee shall seek to identify means by which the application can satisfy the applicable requirements.
- (b) The referee may not reduce the density of the land division application. The referee shall make a written decision approving or denying the application or approving it with conditions designed to ensure that the application satisfies the land use regulations; within 42 days (ORS 197.375(4)(b) or within 56 days (ORS 197.726(2)(c))) of the filing of the appeal. The referee may not remand the application to the local government for any reason other than as set forth in this subsection.
- (5) Unless the governing body of the local government finds exigent circumstances, a referee who fails to issue a written decision with 42 days (ORS 197.375(5) or within 56 days (ORS 197.726(2)(c))) of the filing of an appeal shall receive no compensation for services as referee in the appeal.
- (6) Notwithstanding any other provision of law, the referee shall order the local government to refund the deposit for costs to an appellant who materially improves his or her position from the decision of the local government. The referee shall assess the cost of the appeal in excess of the deposit for costs, up to a maximum of \$500, including the initial deposit, against an appellant who does not materially improve his or her position from the decision of the local government. The local government shall pay the portion of the costs of the appeal not assessed against the appellant. The costs of the appeal include the

**Comment [A14]:** ORS 197.375(3)

**Comment [A15]:** ORS 197.726(2)(b) states referee shall hold a hrg

**Comment [A16]:** ORS 197.365(4)(b)(A) states referee shall not hold a hrg

**Comment [A17]:** ORS 197.375(4)(b) states 42 days; ORS 197.726(2)(c) states w/in 56 days

**Comment [A18]:** Above comment

compensation paid the referee and costs incurred by the local government, but not the costs of other parties.

- (7) The Land Use Board of Appeals (LUBA) does not have jurisdiction to consider any decision, aspects of decisions or action made under ORS 197.360 (Expedited Land Division Defined) to 197.380 (Application fees for Expedited Land Division) or ORS 197.722 (Definitions for ORS 197.722 to 197.728) to ORS 197.728 (Rules).
- (8) Any party to a proceeding before a referee under this Section may seek judicial review of the referee's decision in the manner provided for review of final orders of the Land Use Board of Appeals under ORS 197.850 (Judicial Review of Board Order) and 197.855 (Deadline for Final Court Order). The Court of Appeals shall review the decision of the referee in the same manner as provided for review of final orders of the Land Use Board of Appeals in those statutes. However, notwithstanding ORS 197.850 (Judicial Review of Board Order)(9) or any other provision of law, the court shall reverse or remand the decision only if the court finds:
- (a) That the decision does not concern an expedited land division as described in ORS 197.360 (Expedited Land Division Defined) or ORS 197.722 (Definitions for ORS 197.722 to 197.728) and the appellant raised this issue in proceedings before the referee;
- (b) That there is a basis to vacate the decision as described in ORS 36.705 (Vacating Award)(1)(a) to (d), or a basis for modification or correction of an award as described in ORS 36.710 (Modification or Correction of Award) (ORS 197.375(8)(b));
- (c) That the referee's decision contains a clear, material error of fact based on the record, and the appellant raised the issue in proceedings before the referee (ORS 197.726(3)(b) – use only for those applications for land use permit within Regionally Significant Industrial Area that do not meet the criteria in ORS 197.365 (Application for expedited land division));
- (b)(d) That the referee's decision contains a clear, material error of law, giving deference to any interpretations of law by the referee, and the appellant raised the issue in proceedings before the referee (ORS 197.726(3)(c) – use only for those applications for land use permit within Regionally Significant Industrial Area that do not meet the criteria in ORS 197.365 (Application for expedited land division)); or
- (e)(e) That the decision is unconstitutional.

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10.040 Appeal of Final Action by the Hearings Officer on Type II Decision.

10.041 Appeal. A final action of the Hearings Officer on a Type II decision may be appealed to the Planning Commission, provided that the procedures of this Section are followed.

10.042 Procedures.

- (1) Any adversely affected or aggrieved person who provided written or oral testimony in the record may appeal the decision by filing a written appeal.

The appeal must be filed with the Director within 12 calendar days from the date the written decision is mailed, on a form provided by the Director. The appeal shall contain:

- (a) A reference to the application or matter sought to be appealed to the Planning Commission, and the date of the decision.
- (b) The name, address, and phone number of the appellant, and a statement showing that the appellant was a party to the proceedings.
- (c) The specific grounds relied upon in the request for appeal, including a statement of the specific criteria the appellant contends have or have not been satisfied.
- (d) The required appeal fee.

- (2) Not later than ~~482 business days~~ ~~hours~~ after receiving an appeal, the Director shall make a determination whether or not the appeal is complete, whether or not it has been filed on time, and whether or not the appellant was a party to the proceedings. A negative determination by the Director shall nullify the appeal. If no valid appeals have been received within the time frame given, the Hearings Officer's decision shall become final and is not subject to local appeal.

- (3) Notice of the appeal hearing shall be mailed to the applicant, the appellant, any adversely affected or aggrieved party requesting notice in writing, and all persons previously noticed as part of the process leading to the Hearings Officer's written decision. The manner and content of notice shall be as provided in Section 2.053.

- (4) The appeal shall be reviewed by the Planning Commission under the Type III procedure as provided in Section 2.050.

<sup>3</sup>10.043 Planning Commission Action

- (1) Review.

The hearing shall be “de novo”, unless prior to or at the outset of the hearing, the Planning Commission specifies that the hearing will be a “limited to issues” hearing or an “on the record” hearing, as described in Section 10.015. This decision will govern who may testify, whether the hearing is limited to issues raised in the appeal, and whether new evidence will be permitted.

- (2) The Planning Commission shall review the appeal and consider the record, all relevant evidence and arguments that are accepted at the hearing, or that are already in the record if the hearing is limited to the record.
- (3) **Commission Action.** The Planning Commission may affirm, amend, or reverse the final action of the Hearings Officer.

10.044 **Notice of Decision.** Within 10 calendar days of the written decision, written notice of the decision shall be mailed to the applicant, appellant, and all parties who appeared, either orally or in writing, before the hearing who requested such notice in writing. The notice of decision shall state the right of appeal of the decision as provided in this Code.

10.045 **Appeal.** Any appeal of the Planning Commission’s decision on the appeal shall follow the procedures for appeal of a Type III decision.

10.050 Appeal of Final Action by the Planning Commission on Type III Decision.

A final action of the Planning Commission on a Type III decision may be appealed to the City Council provided that the procedures of this section are followed.

<sup>2</sup>10.051 **Procedures**

- (1) **Filing an Appeal.** Any adversely affected or aggrieved person who provided written or oral testimony in the record may appeal the decision by filing a written appeal.

The appeal must be filed with the Director within 12 calendar days ~~of the Planning Commission’s oral decision~~ from the date the written notice of decision is mailed, on a form provided by the Director. The appeal shall contain:

- (a) A reference to the application or matter sought to be appealed to the Council, and the date of the ~~oral~~written decision.
- (b) The name, address, and phone number of the appellant, and a statement showing that the appellant was a party to the proceedings.
- (c) The specific grounds relied upon in the request for appeal, including a statement of the specific criteria the appellant contends have or have not been satisfied.

(ed) The required appeal fee.

- (2) Not later than ~~482 business days~~ ~~hours~~ after receiving an appeal, the Director shall make a determination whether or not the appeal is complete, whether or not it has been filed on time, and whether or not the appellant was a party to the proceedings. A negative determination by the Director shall nullify the appeal. If no valid appeals have been received within the time frame given, the Planning Commission's decision shall become final and is not subject to local appeal.

~~(3) Filing a Statement of Grounds for Appeal. Within 7 calendar days of the review body's written decision, the appellant shall file a statement specifying the grounds relied upon for the appeal, including a statement of the specific criteria the appellant contends have or have not been satisfied. If no statement of grounds for appeal has been received within the time frame given, the Planning Commission's decision shall become final and is not subject to local appeal.~~

- (34) Notice. Notice of the appeal hearing shall be mailed to the applicant, appellant, any adversely affected or aggrieved party requesting notice in writing, and all persons previously noticed as part of the process leading to the Planning Commission's written decision. The manner and content of notice shall be as provided in Section 2.053.

- (45) Procedure Type. The appeal shall be reviewed by the City Council using the "Action Hearing before City Council" portion of the Type IV procedure as provided in Section 2.060.

<sup>3</sup>(56) Review Request by City Council.

Any final action of the Planning Commission may be reviewed by the City Council on its own motion, which motion shall be made no later than 12 calendar days from the Planning Commission's written decision. ~~No separate prior action is required within 12 days of the oral decision. The motion initiating review of the Planning Commission's decision does not include a statement of grounds for appeal.~~

City Council review of the Planning Commission's decision initiated by the City Council on its own motion shall be reviewed using the same notice and hearing procedures in Subsection (34) and (45) of this Section.

10.052 City Council Action.

- (1) Review.

The Council shall hear the appeal "de novo," unless, prior to or at the commencement of the hearing, the Council specifies that the hearing will be a

“limited to issues” hearing or an “on the record” hearing, as described in Section 10.015. This decision will govern who may testify, whether the hearing is limited to issues raised in the appeal, and whether new evidence will be permitted.

- (2) Review. The City Council shall review the appeal and consider the record, all relevant evidence and arguments that are accepted at the hearing, or that are already in the record if the hearing is limited to the record.
- (3) City Council Action. The City Council may affirm, amend, or reverse the Planning Commission’s decision under appeal.

10.053 Notice of Decision. Within 10 calendar days of the written decision, written notice of the decision shall be mailed to the applicant, appellant, and all parties who appeared, either orally or in writing, before the hearing or provided oral or written testimony in the record leading up to the appeal hearing who requested such notice in writing. The notice of decision shall state the right of appeal of the decision as provided in this Code.

10.054 Appeal. Any appeal shall follow the procedures for appeal of a Type IV decision.

10.060 Appeal of Final Action on Type IV Decision or Type V Decision

A final action of the City Council on a Type IV decision or a final action of the City Council and Board of Commissioners on a Type V decision may be appealed to the Oregon Land Use Board of Appeals within 21 days of the written decision as provided in ORS 197.830.

10.070 Waiver of Right to Appeal

If all parties to a decision waive in writing their right to appeal, the appeal period shall terminate immediately and the written decision of the review body shall be the City's final decision.

<sup>3</sup>10.080. County Automatic Party Status.

The County shall be deemed to have automatic party status for quasi-judicial proceedings within the Urbanizing Area and for legislative proceedings, as specified in the 1998 Intergovernmental Agreement. The County may appeal a decision in accordance with the appeal provisions of this Article.

10.090. City Council Initiation of Review.

Prior to expiration of the appeal period of a Type I or Type II decision, the City Council on its own motion may require that the Planning Commission review the decision of the previous review body. The motion initiating review of the decision does not include a statement of grounds for appeal, but shall summarize the general

reasons for sending the decision to the Planning Commission for review. The review shall be processed in accordance with a Type III procedure.

This authority shall have the same purpose as the City Council review of a Planning Commission decision provided in Section 10.051(6) of this Code, but shall allow for a decision of a lower review body to be considered by the Planning Commission first, rather than directly by the City Council. The City Council then has the opportunity to review the decision of the Planning Commission in accordance with Section 10.051(6). The City Council shall not initiate said review on behalf of a party to the proceedings who has standing to file an appeal, but shall reserve this authority for situations where further review may be necessary to ensure a decision adequately represents the public interest.

<sup>3</sup>10.100. Final Action Following LUBA Remand.

- (1) Final Action Required Within 90 Days. Pursuant to a final order of the Land Use Board of Appeals under ORS 197.830 remanding a decision to a city, the City Council shall take final action on an application within 90 days of the effective date of the final order issued by the board. For purposes of this subsection, the effective date of the final order is the last day for filing a petition for judicial review of a final order of the board under ORS 197.850(3). If judicial review of a final order of the board is sought under ORS 197.830, the 90-day period established under this subsection shall not begin until final resolution of the judicial review.
- (2) 90-day Period Begins upon Written Request by Applicant. In addition to the requirements of subsection (1) of this section, the 90-day period established under subsection (1) of this section shall not begin until the applicant requests in writing that the city proceed with the application on remand.

The 90-day period may be extended for a reasonable period of time at the request of the applicant.
- (3) The 90-day period established under subsection (1) of this section applies only to decisions wholly within the authority and control of the City Council.
- (4) Subsection (1) of this section does not apply to a remand proceeding concerning an amendment to an acknowledged comprehensive plan or land use regulation or the adoption of a new land use regulation that was forwarded to the Director of the Department of Land Conservation and Development under ORS 197.610.
- (5) Procedures.
  - (a) The City Council may use any procedure permitted by law to consider the issues on remand. Where LUBA's remand does not require an

evidentiary hearing, the City Council is not required to conduct an evidentiary hearing, but may choose to do so.

- (b) Absent instructions from LUBA, the City Council may limit the scope of the remand proceedings to correcting the deficiencies that were the basis for LUBA's remand, although it may also choose to expand the scope of remand proceedings beyond the scope of LUBA's remand.

If the City Council chooses to limit the scope of the remand proceedings to correcting the deficiencies that were the basis for LUBA's remand, the Council may also limit testimony to those parties who participated in the LUBA proceedings, including the petitioner, respondent, their authorized agents, and intervenors who spoke on behalf of a party to the LUBA proceedings.

- (c) The City Council shall provide notice consistent with the nature of the proceeding. If the City Council provides an evidentiary hearing, prior to or at the outset of the hearing, the City Council shall specify the scope of issues to be considered and the parties who will be permitted to provide testimony.

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<sup>1</sup> Revised 2-16-94

<sup>2</sup> Revised 11-15-95

<sup>3</sup> Revised 4-20-05

<sup>4</sup> Revised 12/3/14, Ordinance 5632

(f) Director, Field Operations

(g) Director, Utilities

19.030 Procedures

Prior to the issuance of a development permit, the applicant shall secure site plan approval in accordance with this Article, following the procedure type specified in Article 12, Schedule 12-2 or 12-3 as applicable.

<sup>15</sup>NOTE: SEE Section 12.0279 – Applicant can request Expedited Industrial Site Plan Review Procedure for property located within a Regionally Significant Industrial Area (RSIA) Overlay.

Comment [A11]: 12.027 renumbered with Ord 5630 dated 11/12/14 but Ord 5632 dated 12/3/14 had incorrect section number

19.031 Pre-application Conference. Prior to submitting an application for review, the applicant shall request a pre-application conference with the Director as provided in Section 3.041 of this Code.

<sup>1</sup>19.032 Minor and Major Site Plans.

(1) Minor Site Plans are:

(a) Residential: Request for development permit for one or two family dwellings on lot of record.

(b) For Commercial and Industrial, involving only Change of Use, and minor expansions less than 25% of existing square footage of building.

(2) Major Site Plans are all other Land Use requests.

19.033 Appeals. The Final Action of the review body may be appealed as provided in Article 10 of this Code.

<sup>12</sup>19.034 Expiration. The land use decision shall expire in accordance with the provisions of Section 3.075 of this Code. The development permit shall expire in accordance with the provisions of Section 3.092 of this Code.

19.040 Minor Site Plan Review

19.041 Complete Submittal. Prior to review of the request, a complete application shall be prepared, submitted to the Director in accordance with the minimum submittal requirements contained in Section 19.072 of this Code.

19.042 Criteria for Approval. The Director shall approve, approve with conditions, or deny the request based upon the following criteria: