



CITY OF OREGON CITY CITY COMMISSION REGULAR MEETING AGENDA

Hanlon Commission Chambers, Libke Public Safety Facility, 1234 Linn Ave, Oregon City
Wednesday, September 17, 2025 at 7:00 PM

Ways to participate in this public meeting:

- Attend in person, location listed above. Please see the public comment guidelines below.
- Attend the livestream of the meeting on the City's YouTube Channel: <https://www.youtube.com/user/CityofOregonCity>
- Register to provide electronic testimony (email recorderteam@orc.org or call 503-496-1509 by 3:00 PM on the day of the meeting to register)
- Email recorderteam@orc.org (deadline to submit written public comment via email is 3:00 PM on the day of the meeting)
- Mail to City of Oregon City, Attn: City Recorder, P.O. Box 3040, Oregon City, OR 97045

REGULAR MEETING OF THE CITY COMMISSION

1. CONVENE MEETING AND ROLL CALL

2. FLAG SALUTE

3. CEREMONIES AND PROCLAMATIONS

- a. Hispanic Heritage Month Proclamation

4. PUBLIC COMMENTS

Please see the public comment guidelines below.

5. PRESENTATIONS

6. ADOPTION OF THE AGENDA

7. CONSENT AGENDA

- a. Resolution No. 25-27, A Resolution Declaring an Emergency and Temporarily Exempting Pole Replacement Construction Activities adjacent to 1145 Molalla Avenue from the Prohibition Against Unlawful Noises
- b. OLCC: Liquor License Application–Retail On-Premises Sales and Consumption; Pure Spicy Chinese Restaurant LLC dba Ginza Sushi & Asian Fusion, 818 Main Street, Oregon City
- c. Change Order No. 2 for the Molalla Avenue Transmission Main WIFIA 3-1 Project (CI 22-014)

8. PUBLIC HEARINGS

- a. Second Reading of Ordinance No. 25-1010, an Ordinance Adopting Amendments to Oregon City Municipal Code Title 12: Streets, Sidewalks and Public Places
- b. Zone Change at 19763 Parish Road (GLUA-25-031 / ZC-25-01)

9. GENERAL BUSINESS

- a. Monthly Stormwater Fee Exemption Request for The Blue at Abernethy Creek

10. COMMUNICATIONS

City Manager

Commissioners

Mayor

11. ADJOURNMENT

ORDINANCE NOTICE

If an ordinance is noticed above in this agenda, the text of the ordinance is available online with the posted agenda packet. In addition, three copies are provided for public review in the Office of the City Recorder upon request.

PUBLIC COMMENT GUIDELINES

Complete a Comment Card prior to the meeting and submit it to the City Recorder. When the Mayor/Chair calls your name, proceed to the speaker's table, and state your name and city of residence. Each speaker is given 3 minutes to speak. Representatives of neighborhood associations may be given 5 minutes to speak if requested. As a general practice, the City Commission does not engage in discussion with those making comments. Complaints shall first be addressed at the department level prior to addressing the City Commission. Electronic presentations are permitted but must be delivered to the City Recorder 48 hours in advance of the meeting.

ADA NOTICE

The location is ADA accessible. Hearing devices may be requested from the City Recorder prior to the meeting. Individuals requiring other assistance must make their request known 48 hours preceding the meeting by contacting the City Recorder's Office at 503-657-0891.

Agenda Posted at City Hall, Pioneer Community Center, Library, City Website.

Video Streaming & Broadcasts: The meeting is streamed live on the [Oregon City's website](#) and available on demand following the meeting. The meeting can be viewed on Willamette Falls Television channel 28 for Oregon City area residents as a rebroadcast. Please contact WPMC at 503-650-0275 for a programming schedule.

PROCLAMATION

HISPANIC HERITAGE MONTH

- Whereas,** in honor of Hispanic Heritage Month, the City of Oregon City is pleased to celebrate the Hispanic and Latino/a/x community throughout our city; and
- Whereas,** National Hispanic Heritage Month is celebrated in the United States from September 15 to October 15. The observance was introduced in 1969 as Hispanic Heritage Week under President Lyndon B. Johnson and expanded by President Ronald Reagan in 1988 to cover a 30-day period; and
- Whereas,** Hispanic Heritage Month celebrates the history, traditions, and culture of the Hispanic and Latino/a/x residents of Clackamas County. We admire the invaluable ways they contribute to our city by bringing a rich diversity and growth to our community; and
- Whereas,** we strive to continue to commemorate this month by recognizing and dedicating ourselves to working together to address the challenges that still face our Hispanic and Latino/a/x population.

Now, Therefore, I, Denyse C. McGriff, Mayor of the City of Oregon City, do proclaim:

September 15 to October 15, 2025

as

Hispanic Heritage Month

And, call upon the people of Oregon City to join their fellow citizens across the United States in recognizing and participating in this special observance.

In Witness Whereof, I have hereunto set my hand this day 17th day of September 2025.

DENYSE C. MCGRIFF,
Mayor



CITY OF OREGON CITY

625 Center Street
Oregon City, OR 97045
503-657-0891

Staff Report

To: City Commission **Agenda Date:** September 17, 2025
From: Dayna Webb, Public Works Director

SUBJECT:

Item 7.a. - Resolution No. 25-27, A Resolution Declaring an Emergency and Temporarily Exempting Pole Replacement Construction Activities adjacent to 1145 Molalla Avenue from the Prohibition Against Unlawful Noises

STAFF RECOMMENDATION:

Approve Resolution No.25-27, Declaring an Emergency and Temporarily Exempting Pole Replacement Construction Activities adjacent to 1145 Molalla Avenue Right-of-Way and Travel Lanes from the Prohibition Against Unlawful Noises.

EXECUTIVE SUMMARY:

Portland General Electric is conducting utility pole replacement and utility pole transfer work located adjacent to 1145 Molalla Avenue. Portland General Electric is requesting to perform this work at night due to unavoidable disruptions in electrical service to McLoughlin Place Senior Living Facility located at 1145 Molalla Avenue.

Per Oregon City Municipal Code (OCMC) 9.12.023(E) declares the construction, demolition, alteration or repair of any building or the excavation of any streets and highways in a residentially zoned neighborhood between the hours of 6:00 PM and 7:00 AM, Monday through Saturday; and between 6:00 PM and 9:00 AM on Sunday to be a violation. Because of this, staff request temporary noise exemption for the utility pole replacement and utility pole transfer work.

BACKGROUND:

Oregon City was contacted by Portland General Electric Company to obtain a franchise utility right-of-way permit for utility pole replacement work and utility pole transfer work on Molalla Avenue. Proposed pole replacement work requires disruption of electrical service to McLoughlin Place Senior Living Facility located at 1145 Molalla Avenue. McLoughlin Place Senior Living Facility has requested the service disruption take place after 7PM as to not affect crucial services they provide to residents. City Commission approved Resolution No. 25-25 during the August 6th, 2025, meeting for this same utility pole replacement and utility transfer work. Due to scheduling conflicts, Portland General Electric is now requesting to perform this work starting on September 25th, 2025, at 6:00 PM and concluding on September 26th, 2025 at 5:00 AM.

This utility pole replacement work and utility pole transfer work will require traffic control on Molalla Avenue travel lanes. Approved traffic control plans include shifting northbound

traffic into the center lane to provide a work zone for necessary equipment and vehicles. Southbound traffic will remain unaffected, and two lanes of travel will be maintained.

The contractor will provide written notification (via door hangers, knocking on doors, etc.) to properties located within 300 feet of this project. This public outreach will include contact information for the public to provide concerns regarding noise levels during the night work and/or impacts to property during the project, such as utility disruptions, impacts to driveways, etc. Engineering staff will work with communications staff to provide public notifications on social media prior to the work as well.

Per Oregon City Municipal Code (OCMC) 2.52.020, “emergencies” include “utility or transportation emergencies.” OCMC 2.52.040 (L) authorizes the City, in cases of emergency, to “order such other measures as are necessary for the protection of life or property, or for the recovery from the emergency.” Staff request these codes be utilized to fulfill the construction needs of this project.

OPTIONS:

1. Approve Resolution No. 25-27, A Resolution Declaring an Emergency and Temporarily Exempting Pole Replacement Construction Activities adjacent to 1145 Molalla Avenue from the Prohibition Against Unlawful Noises.
2. Approve Resolution No. 25-27, A Resolution Declaring an Emergency and Temporarily Exempting Pole Replacement Construction Activities adjacent to 1145 Molalla Avenue from the Prohibition Against Unlawful Noises with Amendments.
3. Deny Resolution No. 25-27, A Resolution Declaring an Emergency and Temporarily Exempting Pole Replacement Construction Activities adjacent to 1145 Molalla Avenue from the Prohibition Against Unlawful Noises and provide further direction.

BUDGET IMPACT:

Amount	\$0
Fiscal Year(s):	N/A
Funding Source(s):	N/A

RESOLUTION NO. 25-27

A RESOLUTION DECLARING AN EMERGENCY AND TEMPORARILY EXEMPTING POLE REPLACEMENT CONSTRUCTION ACTIVITIES ADJACENT TO 1145 MOLALLA AVENUE FROM PROHIBITION AGAINST UNLAWFUL NOISES

WHEREAS, Oregon City Municipal Code (OCMC) 2.52.020 defines “emergencies” to include “utility or transportation emergencies”; and

WHEREAS, OCMC 2.52.040(L) authorizes the City, in cases of emergency to “order such other measures as are necessary for the protection of life or property, or for the recovery from the emergency”; and

WHEREAS, the City would be acting in the best public interest by facilitating the completion of the utility pole replacement and utility pole transfer work at 1145 Molalla Avenue; and

WHEREAS, the pole replacement work requires electrical service disruption for a senior living facility located at 1145 Molalla Avenue; and

WHEREAS, OCMC 9.12.023(E) declares the construction, demolition, alteration or repair of any building or the excavation of any streets and highways in a residentially zoned neighborhood between the hours of 6:00 PM and 7:00 AM, Monday through Saturday; and between 6:00 PM and 9:00 AM on Sunday to be a violation.

NOW, THEREFORE, OREGON CITY RESOLVES AS FOLLOWS:

Section 1. The City Commission declares an emergency, limited to the utility pole replacement and utility pole transfer as shown in the map attached as **Exhibit A** to this resolution. Consistent with OCMC 2.52.070 and, by this resolution, the Commission declares an emergency from September 25th, 2025, at 6:00 PM to September 26th, 2025 at 5:00 AM.

Section 2. Based on the emergency identified above, the City Commission grants the construction activities in Center Street rights-of-way exemption from Section 9.12.020 of the Oregon City Municipal Code for construction activities associated with the utility pole replacement and utility pole transfer work located adjacent to 1145 Molalla Avenue during the period identified above in Section 1 of this resolution.

Section 3. This resolution shall take effect immediately upon its adoption by the City Commission.

Section 4. The City Commission hereby directs the City Manager and City staff to undertake all appropriate and practical measures to lessen the impacts of night-time work on City residents and businesses as authorized by this resolution.

Section 5. The City Commission adopts these procedures to prevent, minimize, respond to or recover from the emergency consistent with OCMC 2.52.040.

Approved and adopted at a regular meeting of the City Commission held on the 17th day of September, 2025.

DENYSE C. MCGRUFF
Mayor

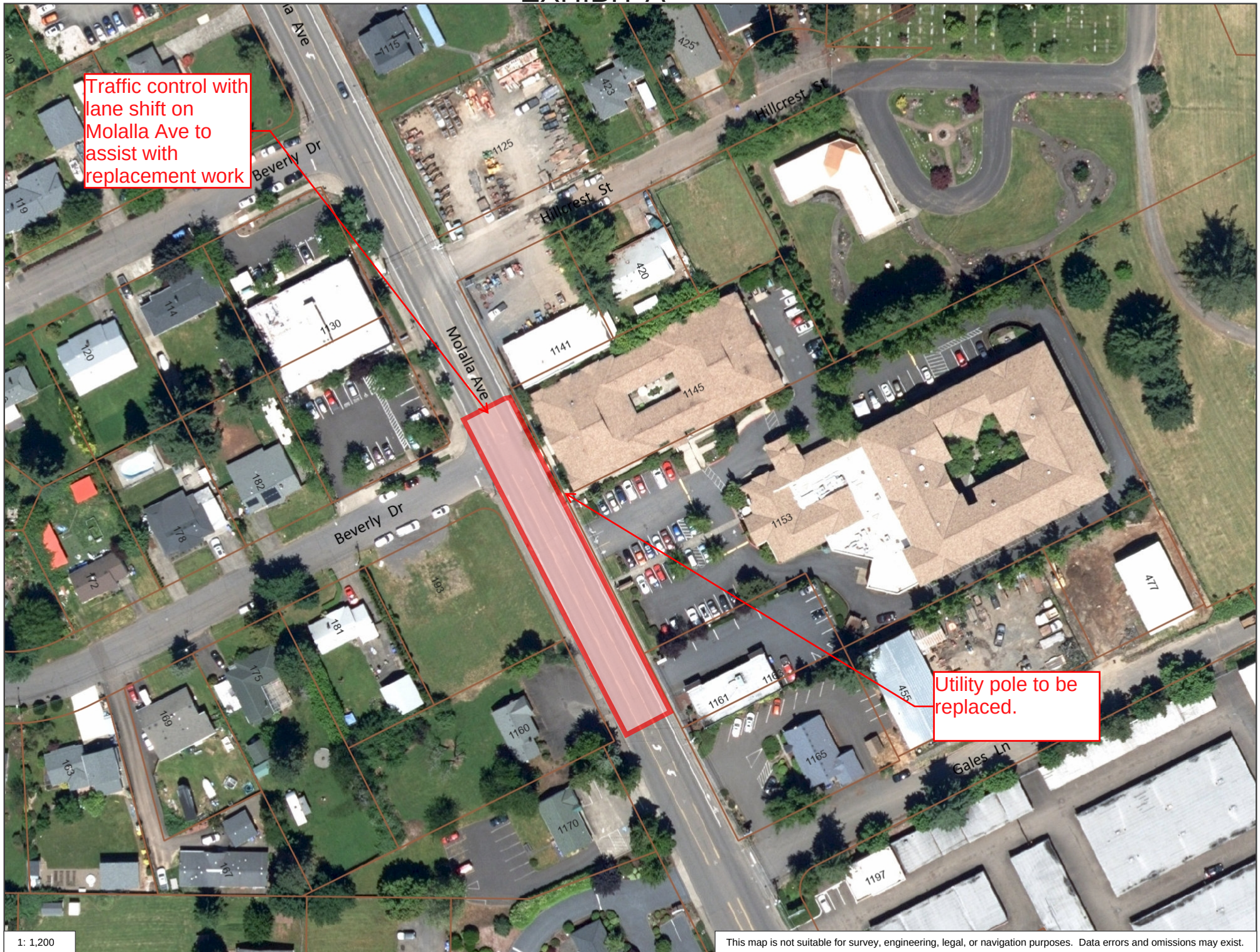
Attested to this 17th day of September, 2025:

Approved as to legal sufficiency:

Jakob Wiley, City Recorder

City Attorney

EXHIBIT A





CITY OF OREGON CITY

625 Center Street
Oregon City, OR 97045
503-657-0891

Staff Report

To:	City Commission	Agenda Date:	September 17, 2025
From:	Shaun Davis, Police Chief		

SUBJECT:

Item 7.b. - OLCC: Liquor License Application–Retail On-Premises Sales and Consumption;
Pure Spicy Chinese Restaurant LLC dba Ginza Sushi & Asian Fusion, 818 Main Street,
Oregon City

STAFF RECOMMENDATION:

Staff recommends the City Commission approve the OLCC Application for Pure Spicy Chinese Restaurant LLC dba Ginza Sushi & Asian Fusion, 818 Main Street, Oregon City

EXECUTIVE SUMMARY:

The attached application is for an OLCC Retail On-Premises Sales and Consumption license for Pure Spicy Chinese Restaurant LLC dba Ginza Sushi & Asian Fusion. This is a new license application for Retail On-Premises Sales and Consumption.

BACKGROUND:

Beginning August 12, 2024, OLCC no longer accepts paper applications for new annual licenses, changes to existing annual licenses, or special event licenses. All applications are now electronic, which is why the OLCC form has a different look.

The Oregon City Police Department ran a background check on Qing Tan, and she is eligible to hold a liquor license. This is a new license application for Retail On-Premises Sales and Consumption. All applicants must obtain an Oregon City business license before submitting their application for an OLCC liquor license. The Oregon City business license application process includes routing of the application for review through various City departments.

OPTIONS:

1. Approve OLCC: Liquor License Application–Retail On-Premises Sales and Consumption; Pure Spicy Chinese Restaurant LLC dba Ginza Sushi & Asian Fusion, 818 Main Street, Oregon City.
2. Approve OLCC: Liquor License Application–Retail On-Premises Sales and Consumption; Pure Spicy Chinese Restaurant LLC dba Ginza Sushi & Asian Fusion, 818 Main Street, Oregon City with Amendments.
3. Deny OLCC: Liquor License Application–Retail On-Premises Sales and Consumption; Pure Spicy Chinese Restaurant LLC dba Ginza Sushi & Asian Fusion, 818 Main Street, Oregon City and provide further direction.

BUDGET IMPACT:

Amount \$

Fiscal Year(s):

Funding Source(s):



Paid \$100 9/14/25. -JH

OREGON LIQUOR & CANNABIS COMMISSION

Local Government Recommendation – Liquor License

Annual Liquor License Types

Off-Premises Sales	Brewery-Public House
Limited On-Premises Sales	Brewery
Full On-Premises, Caterer	Distillery
Full On-Premises, Commercial	Grower Sales Privilege
Full On-Premises, For Profit Private Club	Winery
Full On-Premises, Non Profit Private Club	Wholesale Malt Beverage & Wine
Full On-Premises, Other Public Location	Warehouse
Full On-Premises, Public Passenger Carrier	

Section 1 – Submission – To be completed by Applicant:

License Information

Legal Entity/Individual Applicant Name(s): pure spicy chinese Restaurant LLC
Proposed Trade Name: Ginza sushi & Asian Fusion
Premises Address: 818 main st oregon city Unit:
City: 0 County: clackamas Zip: 97045
Application Type: ☒ New License Application ☐ Change of Ownership ☐ Change of Location
License Type: Full on-Premises ☐ Additional Location for an Existing License

Application Contact Information

Contact Name: Qing Hua Tan Phone: 503 481 1345
Mailing Address: [REDACTED]
City: [REDACTED] State: OR Zip: [REDACTED]
Email Address: qinghua-tan@yahoo.com

Business Details

Please check all that apply to your proposed business operations at this location:

- ☐ Manufacturing/Production
☐ Retail Off-Premises Sales
☒ Retail On-Premises Sales & Consumption

If there will be On-Premises Consumption at this location:

- ☒ Indoor Consumption ☐ Outdoor Consumption
☐ Proposing to Allow Minors

Section 1 continued on next page



Local Government Recommendation – Liquor License

Section 1 Continued – Submission - To be completed by Applicant:

Legal Entity/Individual Applicant Name(s): pure spice chinese restaurant LLC

Proposed Trade Name: Ginza sushi & Asian Fusion

IMPORTANT: You MUST submit this form to the local government PRIOR to submitting to OLCC.
Section 2 must be completed **by the local government** for this form to be accepted with your CAMP application.

Section 2 – Acceptance - To be completed by Local Government:

Local Government Recommendation Proof of Acceptance

After accepting this form, please return a copy to the applicant with received and accepted information

City or County Name: City of Oregon City Optional Date Received Stamp

Date Application Received: 9/4/2025

Received by: Jennifer Hummel 

Section 3 – Recommendation - To be completed by Local Government:

- ☐ Recommend this license be granted
- ☐ Recommend this license be denied (Please include documentation that meets [OAR 845-005-0308](#))
- ☐ No Recommendation/Neutral

Name of Reviewing Official:

Title:

Date:

Signature:

After providing your recommendation and signature, please return this form to the applicant.



OREGON LIQUOR & CANNABIS COMMISSION
INDIVIDUAL HISTORY FORM

PRINT FORM

RESET FORM

1. Name (Print):	Tan Last	Qing First	H Middle
2. Other names used (maiden, other):			
3. Do you have a Social Security Number (SSN) issued by the United States Social Security Administration? Yes ☒ No ☐ If yes, you must list your SSN: [REDACTED]			
SOCIAL SECURITY NUMBER DISCLOSURE: As part of your application for an initial or renewal license, Federal and State laws require you to provide your Social Security Number (SSN) to the Oregon Liquor Control Commission (OLCC) for child support enforcement purposes (42 USC § 666(a)(13) & ORS 25.785). If you are an applicant or licensee and fail to provide your SSN, the OLCC may refuse to process your application. Your SSN will be used only for child support enforcement purposes unless you indicate below. Based on our authority under ORS 471.311 and OAR 845-005-0312(6), we are requesting your <u>voluntary consent</u> to use your SSN for the following administrative purposes only: to match your license application to your Alcohol Server Education records (where applicable), and to ensure your identity for criminal records checks. OLCC will not deny you any rights, benefits or privileges otherwise provided by law if you do not consent to use of your SSN for these administrative purposes (5 USC § 552(a)).			
4. Do you consent to the OLCC's use of my SSN as described above? Check this box: ☒			
5. Date of Birth (DOB):	[REDACTED] (mm) (dd) (yyyy)		
6. Driver License or State ID #:	[REDACTED]	7. State	[REDACTED]
8. Contact Phone:	503-481-1345		
9. E-mail Address:	qinghua.tan@yahoo.com		
10. Mailing Address:	[REDACTED] (Number and Street) (City) (State) (Zip Code)		
11. In the past 10 years, have you been convicted of a felony or a misdemeanor in a U.S. state outside of Oregon? No ☒ Yes ☐ (If yes, explain in the space provided, below) Unsure ☐ Choose this option and provide an explanation if, for example: you were arrested or went to court, but are unsure of whether there was a conviction; you paid a fine or served probation or parole, but are unsure of whether there was a conviction; or if you know you had a conviction, but you are unsure of whether the conviction has been removed from your record, etc.			



OREGON LIQUOR & CANNABIS COMMISSION
INDIVIDUAL HISTORY FORM

12. Do you, or any entity that you are a part of, currently hold or have you previously held a recreational marijuana license in Oregon? (Note: marijuana worker permits are not marijuana licenses.)

No ☒ Yes ☐ Please list licenses (and year(s) licensed) below Unsure ☐ Please include an explanation:

13. Do you, or any entity that you are a part of, hold an alcohol license in a U.S. state outside of Oregon?

No ☒ Yes ☐ Please list licenses (and year(s) licensed) below Unsure ☐ Please include an explanation:

14. Do you or any entity that you are a part of, have any other liquor license applications pending with the OLCC?

No ☐ Yes ☒ Please list applications below Unsure ☐ Please include an explanation:

You must sign your own form (electronic signature acceptable). Another individual, such as your attorney or an individual with power of attorney, **may not** sign your form.

Affirmation

Even if I receive assistance in completing this form, I affirm by my signature below, that my answers on this form are true and complete. I understand the OLCC will use the above information to check my records, including but not limited to my criminal history. I understand that if my answers are not true and complete, the OLCC may deny my license application.

Name (Print):	Tan Last	Qing First	Hua Middle
Signature:			Date: 9/4/25

This box for OLCC use ONLY

Does the individual currently hold, or has the individual previously held, an OLCC- issued liquor license?



OREGON LIQUOR & CANNABIS COMMISSION BUSINESS INFORMATION

Please Print or Type

Applicant Name: _____ Phone: _____

Trade Name (dba): Ginza sushi & Asian Fusion

Business Location Address: 818 Main ST

City: Oregon city ZIP Code: 97045

DAYS AND HOURS OF OPERATION

Business Hours:

Sunday 10 am to 10 pm
Monday 10 am to 10 pm
Tuesday 10 am to 10 pm
Wednesday 10 am to 10 pm
Thursday 10 am to 10 pm
Friday 10 am to 10 pm
Saturday 10 am to 10 pm

Outdoor Area Hours:

Sunday _____ to _____
Monday _____ to _____
Tuesday _____ to _____
Wednesday _____ to _____
Thursday _____ to _____
Friday _____ to _____
Saturday _____ to _____

The outdoor area is used for:

☐ Food service Hours: _____ to _____
☐ Alcohol service Hours: _____ to _____
☐ Enclosed, how _____

The exterior area is adequately viewed and/or supervised by Service Permittees.

(Investigator's Initials)

Seasonal Variations: ☐ Yes ☐ No If yes, explain: _____

ENTERTAINMENT

Check ALL that apply:

- | | |
|--|---|
| ☐ Live Music | ☐ Karaoke |
| ☐ Recorded Music | ☐ Coin-operated Games |
| ☐ DJ Music | ☐ Video Lottery Machines |
| ☐ Dancing ☐ Nude Dancing | ☐ Social Gaming |
| ☐ Live Entertainment | ☐ Pool Tables |
| ☐ Minor Entertainers | ☐ Other: _____ |

*Minor Entertainers in an area prohibited to minors need prior approval from the OLCC

DAYS & HOURS OF LIVE OR DJ MUSIC

Sunday _____ to _____
Monday _____ to _____
Tuesday _____ to _____
Wednesday _____ to _____
Thursday _____ to _____
Friday _____ to _____
Saturday _____ to _____

SEATING COUNT

Restaurant: _____ Outdoor: _____ Lounge: _____
Banquet: _____ Other (explain): _____ Total Seating: _____

OLCC USE ONLY

Investigator Verified Seating: _____ (Y) _____ (N)

Investigator Initials: _____

Date: _____

I understand if my answers are not true and complete, the OLCC may deny my license application.

Applicant Signature: _____ Date: _____

www.oregon.gov/olcc

Rev: 2.1.23



CITY OF OREGON CITY

625 Center Street
Oregon City, OR 97045
503-657-0891

Staff Report

To: City Commission **Agenda Date:** September 17, 2025
From: Dayna Webb, Public Works Director

SUBJECT:

Item 7.c. - Change Order No. 2 for the Molalla Avenue Transmission Main WIFIA 3-1 Project (CI 22-014)

STAFF RECOMMENDATION:

Authorize the City Manager to execute Change Order No. 2 in the amount of \$384,281.00 for the Molalla Avenue Transmission Main WIFIA 3-1 Project (CI 22-014).

EXECUTIVE SUMMARY:

Change Order No. 2 is for modifications to the Molalla Avenue Transmission Main WIFIA 3-1 (CI 22-014) construction contract with Emery and Sons Construction Group, LLC. This change order authorizes replacement of the existing 16-inch water main in Beaver Creek Way. This work is being added to the project to reduce the risk of another water main failure and potential issues with the project's planned connection to this old main in Beaver Creek Way. The change order represents work additions of \$384,281.00, and a 5.4 percent increase in the contract amount.

BACKGROUND:

On December 4, 2024, the City Commission awarded the construction contract to Emery and Sons Construction Group, LLC, through the public procurement process, in the amount of \$7,011,261.00 to construct this project. Notice to Proceed was issued January 6, 2025, and substantial completion is expected by June 20, 2026.

The project included connection of the new 30-inch transmission main to the existing 16-inch transmission main in Beaver Creek Way.

Change Order No. 1 increased the contract by \$322,342.00 to address additional contaminated media, bringing the contract amount to \$7,333,603.00. The net increase of Change Order No. 2 is \$384,281.00 resulting in a revised total contract price of \$7,417,884.00 which represents a 5.4 percent increase.

The scope of the change order has been approved by EPA for inclusion in the project and completion of the work will be completed in compliance with the Water Infrastructure Finance Innovation Act (WIFIA). Funding is available for this additional work in the Water Fund and is outside the WIFIA Program Budget.

OPTIONS:

1. Approve Change Order No. 2 for the Molalla Avenue Transmission Main WIFIA 3-1 Project

(CI 22-014).

2. Approve Change Order No. 2 for the Molalla Avenue Transmission Main WIFIA 3-1 Project (CI 22-014) with Amendments.

3. Deny Change Order No. 2 for the Molalla Avenue Transmission Main WIFIA 3-1 Project (CI 22-014) and provide further direction.

BUDGET IMPACT:

Amount \$384,281.00

Fiscal Year(s): FY 25-26

Funding Source(s): Water Fund

CHANGE ORDER

No. 2

DATE OF ISSUANCE September 17, 2025 EFFECTIVE DATE _____

PROJECT: Molalla Avenue Transmission Main WIFIA 3-1

OWNER City of Oregon City

CONTRACTOR Emery and Sons Construction Group, LLC

Contract: Public Improvement Contract

OWNER's Contract No. CI 22-014 ENGINEER's Project No. 2294-11212

ENGINEER DOWL LLC – Construction Management

You are directed to make the following changes in the Contract Documents.

Description:

This change order provides payment for additional work as shown on Attachment 1 - Drawing. The Contractor will replace the existing water transmission main on Beaver Creek Way. The scope of the work includes installing approximately 575-feet of 16-inch DI Pipe and fittings from the existing tee at STA 51+90 to the existing valve on Beaver Creek Road. The scope also includes the replacement of two 1-inch services, disposal of contaminated media and required restoration including pavement, pavement markings, landscaping, concrete walks and monolithic curb and gutter. Compensation for this work will be made under a new item "Beaver Creek Way Transmission" on a Lump Sum unit with a total value of **\$ 384,281.00**. Compensation will include all the labor, equipment and materials required to perform the work. This Contract Change Order does not affect Contract Time.

Compensation for effort related to Boulder Excavation, Rock Excavation will be compensated under the Contract Bid Item if encountered. Bid Item, Beaver Creek Way 16-inch Connection, as shown on Sheet C-14 will be compensated at 100% of the Bid Item including the 16-inch gate valve, however the credit for redundant 16-inch DI piping (10-feet) and deleted 16-inch DI Tee MJxMJ is accounted for in this order.

Reason for Change Order:

The project as bid, included connection of the new 30-inch transmission main to the existing 16-inch transmission main in Beaver Creek Way. Upon completion of this project, the pipe in Beaver Creek Way will be the only remaining section of old pipe. On April 8, 2025, the old section of pipe ruptured and was temporarily repaired. Upon inspection the pipe was found to be in critical condition with section of the pipe with 100% section loss, raising concerns about the viability of connecting to the existing main as planned. With Emery and Sons already mobilized to the city with all the necessary labor and equipment, the city can realize significant savings by adding the work to the project as well as the ability to replace the pipe timely, avoid further ruptures and disruption to service and reduce risks associated with connection to the old pipe.

CHANGE IN CONTRACT PRICE:	CHANGE IN CONTRACT TIMES:
Original Contract Price: \$ 7,011,261.00	Original Contract Times: Substantial Completion: <u>June 20, 2026</u> Ready for final payment: _____ (days or dates)
Net Increase from previous Change Orders No. <u>1</u> to No. <u>1</u> : \$322,342.00	Net change from previous Change Orders No. <u>1</u> to No. <u>1</u> : Substantial Completion: <u>June 20, 2026</u> Ready for final payment: <u>0</u> (days)
Contract Price prior to this Change Order: \$ 7,333,603.00	Contract Times prior to this Change Order: Substantial Completion: <u>June 20, 2026</u> Ready for final payment: _____ (days or dates)
Net Increase of this Change Order: \$ 384,281.00	Net Increase (Decrease) of this Change Order: Substantial Completion: <u>0</u> Ready for final payment: <u>0</u> (days)
Contract Price with all approved Change Orders: \$ 7,417,884.00	Contract Times with all approved Change Orders: Substantial Completion: <u>June 20, 2026</u> Ready for final payment: _____ (days or dates)

RECOMMENDED:

By: _____
ENGINEER (Authorized Signature)

Date: _____

APPROVED:

By: _____
OWNER (Authorized Signature)

Date: _____

ACCEPTED:

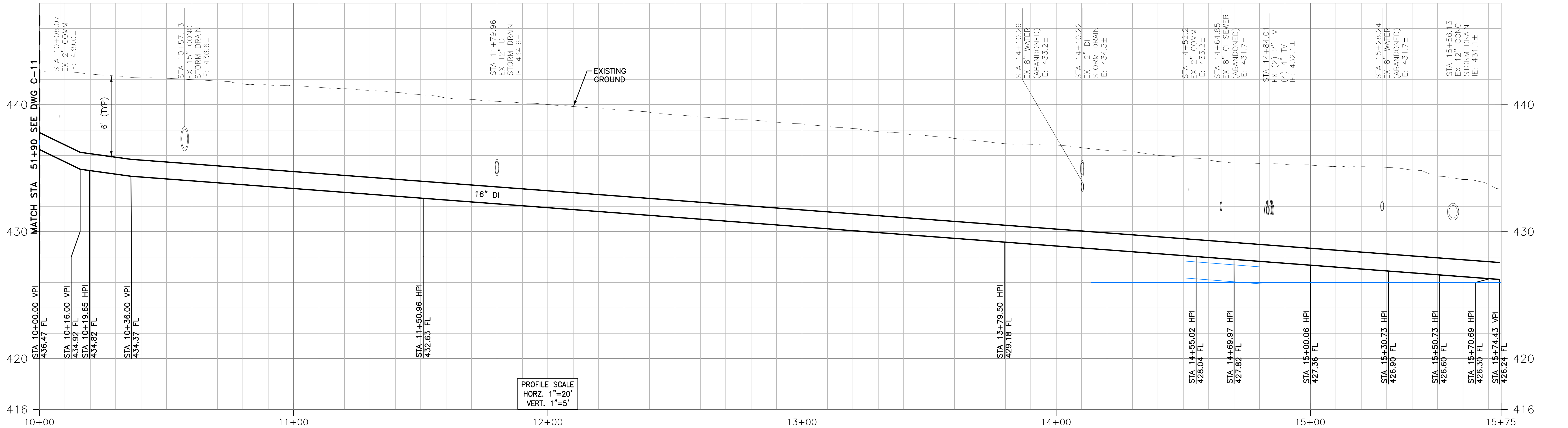
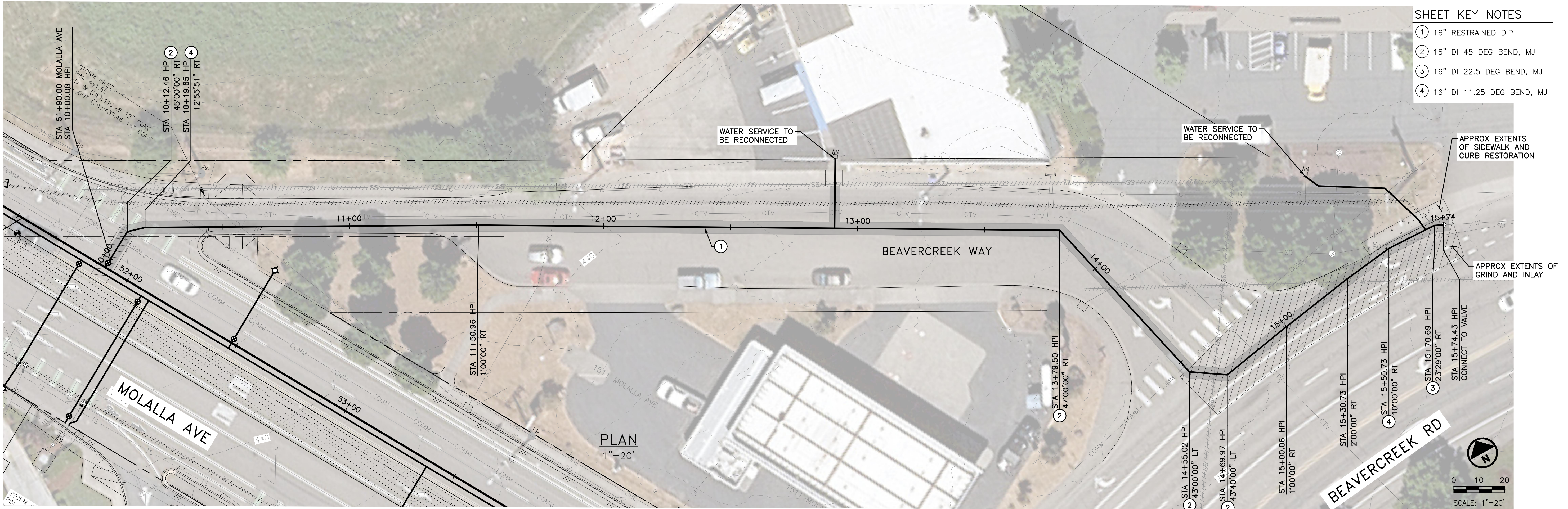
By: _____
CONTRACTOR (Authorized Signature)

Date: _____

EJCDC No. 1910-8-B (1996 Edition)

Prepared by the Engineers Joint Contract Documents Committee and endorsed by The Associated General Contractors of America and the Construction Specifications Institute.

P:\Forms\Contract & Bid Documents\Contract Boiler Plates\CHNGORD.docx



WSC

4640 S MACADAM AVE
PORTLAND, OR 97239
PHONE: (503) 419-6336
FAX: (971) 275-1911

DESIGNED: PE
DRAWN: C.H.
CHECKED: SBD
APPROVED: SBD

CONFORMED TO INCLUDE ADDENDA

MOLALLA AVENUE TRANSMISSION MAIN
BEAVERCREEK WAY TRANSMISSION MAIN

REVNO	DATE	DESCRIPTION



WIFIA 3-1

OC PROJECT #:
CI 22-014

DATE: FEBRUARY 2025
OC RECORD DRAWING#:
100301.00

DRAWING NUMBER:
C-XX
SHEET ---- OF 67

CHANGE ORDER

No. 1

DATE OF ISSUANCE July 5, 2025 EFFECTIVE DATE _____

PROJECT: Molalla Avenue Transmission Main WIFIA 3-1

OWNER City of Oregon City

CONTRACTOR Emery and Sons Construction Group, LLC

Contract: Public Improvement Contract

OWNER's Contract No. CI 22-014 ENGINEER's Project No. 2294-11212

ENGINEER DOWL – Construction Management

You are directed to make the following changes in the Contract Documents.

Description: This change order provides for payment for Additional Contaminated Media beyond the bid amount of 4,443 cubic yards (6,837 tons). The agreed unit price for additional contaminated media is \$76.06 per ton, with a not-to-exceed amount of \$322,342. This Contract Change Order does not affect Contract Time.

Reason for Change Order: Additional testing was completed by Emery and Son's Construction Group, LLC ("Emery and Sons") between station 32+25 and 46+80, where testing and characterization of the soil was not completed prior to bid. Test results and findings were compiled in an April 14, 2025, report by Shannon and Wilson and submitted to the city, identifying additional contaminated media. The city and its consultant reviewed the test results and confirmed levels found do not meet Oregon Department of Environmental Quality's requirements for Clean Fill, requiring disposal at a Class D facility. Section 00195.20 of the Contract Documents provides for agreement of payment for significant changes. The quantity of additional contaminated media represents a significant change to the as-bid quantity, therefore an agreement has been made and reflected in this change order to provide for payment of additional contaminated media, as described above. The supporting details for this agreement can be found in the attached July 1, 2025, letter from the city's Construction Manager, Jason Kelly from DOWL.

CHANGE IN CONTRACT PRICE:	CHANGE IN CONTRACT TIMES:
Original Contract Price: \$ 7,011,261.00	Original Contract Times: Substantial Completion: June 20, 2026 Ready for final payment: _____ (days or dates)
Net Increase from previous Change Orders No. _____ to No. _____: \$0	Net change from previous Change Orders No. <u>0</u> to No. _____: Substantial Completion: June 20, 2026 Ready for final payment: <u>0</u> (days)
Contract Price prior to this Change Order: \$ 7,011,261.00	Contract Times prior to this Change Order: Substantial Completion: June 20, 2026 Ready for final payment: _____ (days or dates)
Net Increase of this Change Order: \$ 322,342.00	Net Increase (Decrease) of this Change Order: Substantial Completion: June 20, 2026 Ready for final payment: <u>0</u> (days)
Contract Price with all approved Change Orders: \$7,333,603.00	Contract Times with all approved Change Orders: Substantial Completion: June 22, 2026 Ready for final payment: _____ (days or dates)

RECOMMENDED:

APPROVED:

ACCEPTED:

By: Jason Kelly
Jason Kelly (Aug 7, 2025 12:25:35 PDT)
ENGINEER (Authorized Signature)

By: Anthony J. Konkol, III
Anthony J. Konkol, III (Aug 7, 2025 12:16:19 PDT)
OWNER (Authorized Signature)

By: Dan Johnston
Dan Johnston (Aug 11, 2025 08:03:12 PDT)
CONTRACTOR (Authorized Signature)

Date: Aug 7, 2025

Date: Aug 7, 2025

Date: Aug 11, 2025



July 1, 2025

Dan Johnston
Principal
Emery & Sons Construction Group, LLC
3841 Fairview Industrial Dr SE, Suite 150
Salem, OR 97302

Re: Molalla Avenue Transmission Main WIFIA 3-1 Project (CI 22-014)
DOWL Job No. 2690.80621.01

Dear Mr. Johnston:

This letter is in response to the contaminated media test results provided by Shannon and Wilson dated April 14, 2025. Emery and Sons completed additional testing required by your selected disposal sites in accordance with 00290.20(c) as outlined in RFI 1.

The scope of the additional testing was to determine whether the excavated area within the project from Station 32+35 to approximately 46+80 met the State's Clean Fill Screening Levels (CFSL's). The scope and depth of contamination of Station 32+25 to 46+80 was assumed to meet CFSL's at the time of bid. Shannon and Wilson collected 10 additional samples throughout the aforementioned station range during the spring of 2025. The results of the testing showed that the Project area did not meet CFSL's standards. It should be noted that the contamination is believed to be naturally occurring and consistent with other areas of the project site that had been previously tested and known at the time of bid.

Therefore, in accordance with the prior correspondence under RFI 1: this additional quantity of contaminated media will be paid for in accordance with 00195.20 of the Contract.

Per attachment 1, the Engineer of Record has determined that the additional contaminated media between Station 32+25 to 46+80 is 2,752 cubic yards based on the bid documents and matching assumptions for pavement depth, pipe cover, and trench width consistent with previous estimates. A separate calculation was made to determine the reduction in contaminated media for installation of small diameter long-side services using boring methods instead of open cut trenching, however this reduction is not accounted for in the 2,752 cubic yards. Per the table in 00290.20(c)(1) of the Contract the original assumed volume was 3,445 cubic yards, this quantity is also shown in attachment 1. We also understand that for constructability/disposal reasons Emery and Sons bid the project if the material between Station ranges 10+00 to 14+70 and 28+90 to 30+85 and 52+80 to 55+60 would be treated as full depth contaminated media instead of partial depth as shown in the Contract. Therefore, that would increase the amount of materials assumed at the time of bid going to Class D solid waste facility by an additional 998 cubic yards. That would bring the total volume of contaminated media anticipated to be transported to a Class D facility to 7,195 cubic yards, of which 4,443 cubic yards was bid as contaminated by Emery and an additional 2,752 cubic yards that was bid as clean fill.

During information sharing the last month Emery and Sons provided cost information for their trucking and disposal expenses for both Hillsboro and Coffin Butte. At present they are using Coffin Butte, while the trucking costs are more, the dump fee is less (\$72/ton for Hillsboro vs \$42/ton for Coffin Butte) and therefore the overall cost to dispose of the material at Coffin Butte was selected.

Emery & Sons cost for disposal at Coffin Butte in Benton County is \$83.61/ton (\$27.68/ton trucking and \$42/ton dump fee including markup).

At the time of bid Emery & Sons priced the cost of disposal for material between Station 32+25 to 46+80 at \$7.55/ton (\$4.15/ton trucking & \$2.14/ton dump fee including markup) for clean material to be deposited at Heidelberg in Canby.

Total increase in cost for trucking and disposal = \$83.61/ton - \$7.55/ton = \$76.06/tons

Conversion from tons to cubic yards: Based on AASHTO T310 testing on other projects in the vicinity a unit weight of 114 Lbs./ft³ is appropriate given the material and time of year. 1 CY material equals 1.54 Tons.

For an additional Volume of 2,752 CY or 4,238 tons at \$76.06/ton = \$322,342

I propose writing a CCO with a unit cost for additional contaminated media of \$76.06/ton, with an estimated amount of 4,238 tons with a not-to-exceed amount of \$322,342. The item would not be triggered until a bid amount of 4,443 CY or 6,837 ton was disposed of.

Feel free to contact me at any time to discuss these matters or any other questions you might have.

Sincerely,

Jason Kelly

Digitally signed by Jason Kelly
DN: CN=Jason Kelly, OU=Standard,
OU=Users, OU=Staff, DC=DOWL,
DC=COM
Date: 2025.07.01 09:46:16-07'00'

Jason Kelly, PE
Senior Project Manager

cc: Patty Nelson, P.E., Senior Engineer, City of Oregon City
Scott Duren, P.E., Vice President, WSC Consulting

SECTION III A **CONTRACT AGREEMENT**

This Agreement made and entered into this 10th day of **December 2024**, between the CITY OF OREGON CITY (“CITY”), acting by and through the City Commission and **EMERY & SONS CONSTRUCTION GROUP, LLC** (“CONTRACTOR”).

Witnesseth, that the CONTRACTOR and the CITY, for the considerations stated herein, agree as follows:

ARTICLE I - Scope of Work

The CONTRACTOR hereby agrees to furnish all of the materials, equipment and labor necessary, and to perform all of the work for the project entitled: **MOLALLA AVENUE TRANSMISSION MAIN WIFIA 3-1 (CI 22-014)** in accordance with the contract documents which are hereby made a part of this agreement.

The contract documents consist of:

Invitation to Bid Scope of Work Instructions to Bidders Bid Submittal Requirements and Forms Contract Agreement Oregon City Public Improvement Standard Conditions Statutory Conditions to Contract Agreement WIFIA Contract Requirements Performance Bond Payment Bond State of Oregon Statutory Public Works Bond General Conditions Davis Bacon Wage Rates for Public Works Contracts in Clackamas County, Oregon for Heavy Construction, WD# OR20240053, Modification 10, Published Date: <u>09/06/2024</u>	Prevailing Wage Rates for Public Works Contracts in Oregon, dated October 5, 2024 Amendments to the Prevailing Wage Rates for Public Works Contracts in Oregon dated October 5, 2024 Prevailing Wage Apprenticeship Rates dated October 5, 2024 Definitions of Covered Occupations for Public Works Contracts in Oregon dated October 5, 2024 Special Provisions Contract Drawings City of Oregon City Standard Details Technical Specifications 2021 Oregon Standard Specifications for Construction (ODOT and APWA) as referenced by these documents Addendum 1 – November 7, 2024 Addendum 2 - November 8, 2024 All items included within these Contract Documents.
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The order of items cited above does not constitute an order of precedence different than that established in the special or standard specifications. Equivalent titles, which may be substituted for the above listed items, are included as if specifically named.

ARTICLE II - Time of Completion

The project shall be complete within **530 calendar** days from the authorized start date for On-site work as identified in the Notice to Proceed.

ARTICLE III – Contract Amount

The Contract Amount for the work covered by this Agreement is estimated to be **seven million eleven thousand two hundred sixty-one dollars (\$7,011,261.00)**.

ARTICLE IV - Warranty and Quality of Work

In addition to all other warranties, express or implied, that are part of this Agreement, the Contractor expressly warrants to the City for a period of one year from acceptance of the work by the City that all materials and equipment furnished under this contract will be new, unless otherwise specified, and that the work will be of good quality, free from faults and defects and in conformance with the City's specifications. Work that does not conform to these standards shall be considered defective.

Contractor shall, at its own expense, make good and repair any and all defects arising from faulty workmanship or materials, if the defective work is discovered within the one-year warranty period and notice thereof is given to the Contractor within 60 days after the expiration of the warranty period. If required by the City, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment used to repair the defect.

In witness whereof, the parties hereto have executed this agreement, the day and year first above written.

CITY OF OREGON CITY

By: Anthony J. Konkol III
Anthony J. Konkol III (Dec 10, 2024 17:10 PST)
Anthony J. Konkol III
City Manager

By: Dayna Webb
Dayna Webb (Dec 9, 2024 12:03 PST)
Dayna Webb, P.E.
Public Works Director

Approved as to Legal Sufficiency

By: Bill Kabeiseman
Bill Kabeiseman (Dec 9, 2024 11:15 PST)
City Attorney

City Commission Award Date:

December 04, 2024

EMERY AND SONS CONSTRUCTION GROUP, LLC

Dan Johnston
Printed Name

By: Dan Johnston
Dan Johnston (Dec 9, 2024 13:12 PST)
Authorized Signature
Principal
Title

Date Dec 9, 2024

Address:
PO Box 13069

Salem, Or

97309

Federal Taxpayer ID Number:

83-0966301



CITY OF OREGON CITY

625 Center Street
Oregon City, OR 97045
503-657-0891

Staff Report

To: City Commission **Agenda Date:** September 17, 2025
From: Dayna Webb, Public Works Director

SUBJECT:

Item 8.a. - Second Reading of Ordinance No. 25-1010, an Ordinance Adopting Amendments to Oregon City Municipal Code Title 12: Streets, Sidewalks and Public Places

STAFF RECOMMENDATION:

Second reading of Ordinance No. 25-1010, Adopting Amendments to Oregon City Municipal Code Title 12: Streets, Sidewalks and Public Places.

EXECUTIVE SUMMARY:

The Oregon City Municipal Code Title 12: Streets, Sidewalks, and Public Places defines responsibility, liability, and requirements for repairs to public sidewalks. Following Commission feedback from meetings held on June 10, July 8, and August 20, 2025, it was determined that the Oregon City Municipal Code and staff operations and practices needed to be brought into alignment with one another. The proposed code revisions align with the general practices of the Public Works Department and addresses the request for additional time for the construction permit.

BACKGROUND:

Public sidewalk maintenance is the responsibility of the adjacent property owner. Maintenance is required whenever the sidewalk is not in "good repair." The term "good repair" is defined as a tripping hazard. A tripping hazard is defined by the Americans with Disabilities Act as a change in vertical elevation of ¼" or greater.

Enforcement of sidewalk maintenance is performed solely on a complaint basis with a notice to Code Enforcement. Code Enforcement forwards the complaint to the Public Works Department, who performs an onsite inspection. Once an inspection is completed, and it determines a tripping hazard exists, OCMC 12.04 is used to obtain compliance with the City Code. The code provides timelines for addressing the sidewalk that is not in compliance.

The Oregon City Streets, Sidewalks, and Public Places Code provides responsibility, liability, and requirements for repairs to public sidewalks. After discussion with the City Commission on June 10 and July 8, 2025, it was determined that the Oregon City Municipal Code and staff operations and practices needed to be brought into alignment. These proposed code revisions align with the general practices of the Public Works Department.

The code revisions are based on obtaining a permit for work that will bring the violation into compliance. The code revisions propose giving a property owner 60 days with a first warning

to get a permit. If no permit is obtained in the first 60 days, a second warning letter is provided giving the property owner an additional 30 days to get a permit. If, after 90 days, no permit has been obtained, no work has been completed, and no contact has been made with city staff, the code violation is forwarded to Code Enforcement, who will start proceedings using municipal court to bring the property into compliance.

On August 20, City Commission directed staff to change the validity of a sidewalk permit from 90 days to 180 days. Theoretically, an applicant who obtains a permit on day 60 during the 1st warning period has until day 240 to complete the work. Also, an applicant who obtains a permit on day 90, which occurs during the 2nd warning period, has until day 270 to complete the work. If no work is completed and no extension of time is requested during the permit period, municipal court is used to bring the property into compliance. A property may be brought to municipal court for failure to obtain a permit or failure to complete work associated with a permit.

It should be noted that municipal court is the last option and, historically, has rarely been needed to be used for sidewalk enforcement. This code amendment generally allows a property to go through a notification process and permit process which allows for winter contractor slowdowns, busy summer contractor availability, and other potential delays like holidays or other issues which arise.

The primary goal of sidewalk enforcement is voluntary compliance. In special circumstances, staff apply the code with a compassionate, rather than a punitive, approach, considering individual situations while also maintaining consistency across cases. As long as a property owner remains in communication with staff and demonstrates a good-faith effort to resolve the complaint, the City has historically achieved compliance in 99% of the sidewalk code enforcement cases without the need for court involvement.

This proposed code amendment clarifies the process clearer and standardizes the enforcement process. Staff recommends approval of the code revisions.

OPTIONS:

1. Approve Second Reading of Ordinance No. 25-1010, an Ordinance Adopting Amendments to Oregon City Municipal Code Title 12: Streets, Sidewalks and Public Places .
2. Approve Second Reading of Ordinance No. 25-1010, an Ordinance Adopting Amendments to Oregon City Municipal Code Title 12: Streets, Sidewalks and Public Places with Amendments.
3. Deny Second Reading of Ordinance No. 25-1010, an Ordinance Adopting Amendments to Oregon City Municipal Code Title 12: Streets, Sidewalks and Public Places and provide further direction.

BUDGET IMPACT:

Amount	\$0
Fiscal Year(s):	NA
Funding Source(s):	NA

ORDINANCE NO. 25-1010

AN ORDINANCE ADOPTING AMENDMENTS TO OREGON CITY MUNICIPAL CODE TITLE 12: STREETS, SIDEWALKS, AND PUBLIC PLACES

WHEREAS, enforcement of sidewalk violations practices and codes are not in alignment necessitating a change to the City Code; and

WHEREAS, Oregon City Municipal Code Title 12 (“Streets, Sidewalks, and Public Places”) outlines the responsibilities, liabilities, requirements and enforcement standards for maintaining and repairing public sidewalks; and

WHEREAS, at the July 8, 2025 City Commission Work Session, City Commission discussed the discrepancies between City code and current staff practices and procedures and requested revisions to align the two; and

WHEREAS, at the August 20, 2025 Regular City Commission meeting, City Commission discussed the length of the permit validity and requested an extension to the permit length; and

WHEREAS, the amendments will result in clear and consistent practices for enforcing sidewalk repairs.

NOW, THEREFORE, THE CITY OF OREGON CITY ORDAINS AS FOLLOWS:

Section 1. The City Commission hereby amends the applicable sections of the Oregon City Municipal Code, Title 12: *Streets, Sidewalks, and Public Places*, as shown in the the red-lined text in **Exhibit A** and as set forth in final form in **Exhibit B**, both of which are attached to incorporated by reference into this Ordinance.

Section 2. The City Commission hereby adopts the findings and recommendations contained in the Staff Report in support of this Ordinance.

Section 3. Severability. If any provision of this Ordinance or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this Ordinance that can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are severable.

Section 4. Effectiveness. This Ordinance shall take effect 30 days from the date of adoption.

Read for the first time at a regular meeting of the City Commission held on the 3rd day of September 2025, and enacted the foregoing Ordinance this 17th day of September 2025.

Denyse C. McGriff, Mayor

Attested to this 17th day of September 2025:

Approved as to legal sufficiency:

Jakob Wiley, City Recorder

City Attorney

Exhibits:

Exhibit A – Red Line Code

Exhibit B – Final Form Code

12.04.032 - Required sidewalk repair.

- A. When the public works director determines that repair of a sidewalk is necessary, written notice shall be provided to the owner of property adjacent to the defective sidewalk subject to the following procedure:

1. First Notice – Mailed written notice of a tripping hazard or other defect of a public sidewalk shall be directed to the owner of the adjacent property. This notice shall explain that a city issued right-of-way permit is required in advance of completing the work and provides that this permit shall be obtained within the first sixty (60) days and the work completed within two hundred and forty (240) days.

2. Second Notice – Where a permit is not obtained within the initial sixty (60) day period, the City shall mail a second written notice. The second notice shall grant the owner an additional thirty (30) days to obtain a permit and extending the completion deadline to two hundred and seventy (270) days after the first notice. This notice shall also explain that failure to proceed with repairs within an extended 30 days resulting in a two hundred and seventy (270) day total period with a valid right-of-way permit may result in a code enforcement violation, pursuant to OCMC 1.16, 1.20 and 1.24, and/or the City may complete the necessary repairs with the cost for the work assessed as a lien against the property located adjacent to the sidewalk.

3. Third Notice – Where no permit is obtained following the ninety (90) day notice period or the repairs are not completed by the two hundred and seventieth (270) day, the City will provide a courtesy notice to the adjacent owner that due to the owner's inaction to complete the work, the City will be completing the work as provided by OCMC 12.04.033. At the end of the ninety (90) day notice period, OCMC 12.04.040 will be enforced which may result in municipal court proceedings.

4. All permits shall be valid for one hundred eighty (180) days.

5. The public works director shall cause a copy of the notices to be served personally upon the owner of the property adjacent to the defective sidewalk, or the notice may be served by registered or certified mail, return receipt requested. If after diligent search the owner is not discovered, the public works director shall cause a copy of the notice to be posted in a conspicuous place on the property, and such posting shall have the same effect as service of notice by mail or by personal service upon the owner of the property.

6. The person serving the notice shall file with the city recorder a statement stating the time, place and manner of service or notice.

- B. Repair Standards, subject to a city-issue right-of-way permit:

1. All sidewalks hereafter constructed in the city on improved streets shall be constructed to city standards and widths required in the Oregon City Transportation System Plan and OCMC 16.12. Sidewalks and curbs are to be constructed according to plans and specifications approved by the city engineer.

2. Sidewalks constructed on unimproved streets shall be constructed of concrete according to lines and grades approved by the city engineer. On unimproved streets, curbs do not have to be constructed.

12.04.033 - City may do work.

If repair of the sidewalk is not completed within two hundred and seventy (270) days after the service of the first notice, the public works director shall carry out the needed work on the sidewalk. Upon completion of the work, the public works director shall submit an itemized statement of the cost of the work to the finance director. The city may, at its discretion, construct, repair or maintain sidewalks deemed to be in disrepair by the public works director for the health, safety, and general welfare of the residents of the city.

12.04.034 - Assessment of costs.

Upon receipt of the report, the finance director shall assess the cost of the sidewalk work against the property adjacent to the sidewalk. The assessment shall be a lien against the property and may be collected in the same manner as is provided for in the collection of street improvement assessment.

12.04.040 - Sidewalks—Enforcement.

Any person whose duty it is to maintain and repair any sidewalk, as provided by this chapter, and who fails to do so shall be subject to the enforcement procedures of OCMC 1.16, 1.20 and 1.24, which may commence within ninety-one (91) days after the first notice. Failure to comply with the provisions of this chapter shall be deemed a nuisance. Violation of any provision of this chapter is subject to the code enforcement procedures of OCMC 1.16, 1.20 and 1.24.

12.04.032 - Required sidewalk repair.

- A. When the public works director determines that repair of a sidewalk is necessary, written notice shall be provided to the owner of property adjacent to the defective sidewalk subject to the following procedure:
1. First Notice – Mailed written notice of a tripping hazard or other defect of a public sidewalk shall be directed to the owner of the adjacent property. This notice shall explain that a city issued right-of-way permit is required in advance of completing the work and provides that this permit shall be obtained within the first sixty (60) days and the work completed within two hundred and forty (240) days.
 2. Second Notice – Where a permit is not obtained within the initial sixty (60) day period, the City shall mail a second written notice. The second notice shall grant the owner an additional thirty (30) days to obtain a permit and extending the completion deadline to two hundred and seventy (270) days after the first notice. This notice shall also explain that failure to proceed with repairs within an extended 30 days resulting in a two hundred and seventy (270) day total period with a valid right-of-way permit may result in a code enforcement violation, pursuant to OCMC 1.16, 1.20 and 1.24, and/or the City may complete the necessary repairs with the cost for the work assessed as a lien against the property located adjacent to the sidewalk.
 3. Third Notice – Where no permit is obtained following the ninety (90) day notice period or the repairs are not completed by the two hundred and seventieth (270) day, the City will provide a courtesy notice to the adjacent owner that due to the owner's inaction to complete the work, the City will be completing the work as provided by OCMC 12.04.033. At the end of the ninety (90) day notice period, OCMC 12.04.040 will be enforced which may result in municipal court proceedings.
 4. All permits shall be valid for one hundred eighty (180) days.
 5. The public works director shall cause a copy of the notices to be served personally upon the owner of the property adjacent to the defective sidewalk, or the notice may be served by registered or certified mail, return receipt requested. If after diligent search the owner is not discovered, the public works director shall cause a copy of the notice to be posted in a conspicuous place on the property, and such posting shall have the same effect as service of notice by mail or by personal service upon the owner of the property.
 6. The person serving the notice shall file with the city recorder a statement stating the time, place and manner of service or notice.
- B. Repair Standards, subject to a city-issue right-of-way permit:
1. All sidewalks hereafter constructed in the city on improved streets shall be constructed to city standards and widths required in the Oregon City Transportation System Plan and OCMC 16.12. Sidewalks and curbs are to be constructed according to plans and specifications approved by the city engineer.

2. Sidewalks constructed on unimproved streets shall be constructed of concrete according to lines and grades approved by the city engineer. On unimproved streets, curbs do not have to be constructed.

12.04.033 - City may do work.

If repair of the sidewalk is not completed within two hundred and seventy (270) days after the service of the first notice, the public works director shall carry out the needed work on the sidewalk. Upon completion of the work, the public works director shall submit an itemized statement of the cost of the work to the finance director. The city may, at its discretion, construct, repair or maintain sidewalks deemed to be in disrepair by the public works director for the health, safety, and general welfare of the residents of the city.

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Upon receipt of the report, the finance director shall assess the cost of the sidewalk work against the property adjacent to the sidewalk. The assessment shall be a lien against the property and may be collected in the same manner as is provided for in the collection of street improvement assessment.

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Any person whose duty it is to maintain and repair any sidewalk, as provided by this chapter, and who fails to do so shall be subject to the enforcement procedures of OCMC 1.16, 1.20 and 1.24, which may commence within ninety-one (91) days after the first notice. Failure to comply with the provisions of this chapter shall be deemed a nuisance. Violation of any provision of this chapter is subject to the code enforcement procedures of OCMC 1.16, 1.20 and 1.24.



CITY OF OREGON CITY

625 Center Street
Oregon City, OR 97045
503-657-0891

Staff Report

To: City Commission **Agenda Date:** September 17, 2025
From: Pete Walter, Planning Manager

SUBJECT:

Item 8.b. - Zone Change at 19763 Parish Road (GLUA-25-031 / ZC-25-01)

STAFF RECOMMENDATION:

Recommend approval of GLUA-25-031 / ZC-25-001 to the City Commission with the recommended conditions.

EXECUTIVE SUMMARY:

The applicant requests the rezoning of their property from FU-10 to R-8 or R-10 Low Density Residential. The previous emergency sewer annexation (AN 16-02) did not include a zoning designation for the site, and the county FU-10 (Future Urban 10 acre) zone was retained. As Oregon City does not have a FU-10 zoning district, new structures or additions to the property cannot occur until the site is rezoned. The applicant intends to build an addition to the house once it is rezoned.

As the annexation approval was based on an emergency need for service and occurred after the necessary service hookup had been made, and required the recording of the covenant, however, the previous owner chose not to proceed with its recording. The house was purchased by the current applicant in 2020, who was unaware of the restrictions placed on the property due to its non-city-zoned status. Although the document was not recorded, the requirements remain valid and are part of the land decision for AN 16-02. The purpose of the condition and covenant was to inform future owners of the restriction on the site laid out in the emergency annexation approval.

The previous owner also did not proceed with the required annexation into the Tri-City Sewer District, a separate service district that can be annexed administratively through Clackamas County Water Environmental Services (WES) once the city approves the annexation. A condition has been added to this application to ensure that this process is completed before the certificate of occupancy for any new additions or buildings onsite.

At the August 25, 2025, Planning Commission Hearing, the Planning Commission recommended approval to the City Commission for a Zone Change to Low-Density Residential R-10.

The applicant has no preference for the zoning attached to the property (R-8 or R-10). The pre-application conference indicated a potential rezone to R-10. Staff also provided an R-8 option in the notice. The Planning Commission could choose either the R-8 or R-10 zone, as both are within the Low Density Residential Comprehensive Plan designation. The site is

located in an area abutting R-10, although the area across the street is zoned R-8. There are three lots currently in the county that could be rezoned to R-8 if annexed, creating an R-8 corridor on Central Point Road, which is identified as a Collector Street in the Transportation System Plan. With the adoption of city and state regulations for middle housing, there is little discernible difference between the development capacities of the two zones. While one Commissioner discussed the need to look for relatively easy upzone areas that could support additional dwelling units, the remainder of the Planning Commission wished to retain the same zoning as the abutting properties (R-10).

BACKGROUND:

OPTIONS:

1. Approve GLUA-25-031 ZC-25-0001 with the recommended conditions.
2. Approve GLUA-25-031 ZC-25-000 with revised findings and conditions.
3. Deny GLUA-25-031 ZC-25-000 and provide further direction to Staff.
4. Continue GLUA-25-031 ZC-25-000 and keep the public record open until a date certain.

BUDGET IMPACT:



Type IV STAFF RECOMMENDATION

Revised

September 5, 2025

The following staff report includes a preliminary analysis of the applicable approval criteria. All relevant criteria must be met or met with conditions in order to be approved. The Commission may choose to adopt the findings as recommended by staff or alter any finding as determined appropriate.

FILE NO: **GLUA-25-031 ZC-25-0001** Zone Change

APPLICANT/ Brandi Henry
19763 Parish Road,
Oregon City, OR 97045

PROPOSAL: Zone Change for approximately 0.9-acre property. The applicant has requested a zone change from County FU-10 to City R-8 or R-10 Dwelling District. The subject property was annexed in 2016, and the previous owner chose not to rezone the property at that time. The property has a Comprehensive Plan designation of LR – Low Density Residential. No development is proposed with this application.

REVIEWER: Christina Robertson-Gardiner AICP, Senior Planner

CURRENT ZONING County: FU-10

LOCATION: 19763 Parish Road, Oregon City, OR 97045
Clackamas County Map 3-1E-12DC-05600

RECOMMENDATION: Approval with Conditions

PROCESS: Pursuant to The procedure for a zone change is outlined in Oregon City Code Chapter 17.50 and 17.68.

The public hearing process is governed by OCMC 14.04 and 17.50. The Applicant and all documents submitted by or on behalf of the Applicant are available for inspection at no cost at the Oregon City Planning Division, 221 Molalla Avenue, Oregon City, Oregon 97045, from 8:30 am to 3:30 pm Monday thru Friday. The staff report, with all the applicable approval criteria, will also be available for inspection seven days before the hearing. Copies of these materials may be obtained for a reasonable cost in advance. The Annexation was initiated as a result of a public health hazard, and as a result, City policy is to forward these annexations directly to the City Commission without a Planning Commission recommendation. Therefore, the City Commission will open the record and consider testimony to determine whether the application has or has not complied with the factors outlined in section 14.04.060 and 17.68.020 of the Oregon City Municipal Code. The City Commission decision is appealable to LUBA within 21 days of issuance of the Notice of Decision.

CONDITIONS OF APPROVAL

Planning File GLUA-25-031 ZC-25-0001 Zone Change

(P) = Verify that condition of approval has been met with the Planning Division.

(DS) = Verify that condition of approval has been met with the Development Services Division.

(B) = Verify that condition of approval has been met with the Building Division.

(F) = Verify that condition of approval has been met with Clackamas Fire Department

1. A Tri-City Sewer District (TCSD) annexation packet must be submitted and paid to WES before the applicant can obtain a building permit for a new structure or building addition on the property. The sewer annexation must be completed before a final certificate of occupancy can be issued for any new structures on the site. Please contact WES Permits staff if there are any questions about the TCSD annexation requirements. 503-742-4567. The TCSD annexation application can be found on the WES website: [tps://www.clackamas.us/wes/annexation.html](https://www.clackamas.us/wes/annexation.html). A copy of the signed Annexation Ordinance is included as an exhibit in the staff report, which will need to be submitted as part of the annexation packet.

STAFF SUMMARY

The Applicant requests the rezoning of their property from FU-10 to R-8 or R-10. The previous emergency sewer annexation (AN 16-02) did not include a zoning designation for the site, and the county FU-10 zone was retained. As Oregon City does not have a FU-10 zoning district, new structures or additions to the property cannot occur until the site is rezoned with a city-recognized zone. The applicant intends to build an addition to the house once it is rezoned.

A condition of AN 16-02 provided the following direction to the applicant.

Prior to annexation, the property owner or assigns will record a covenant, to be approved by the City Attorney, which limits development of the site until such time that a zone change to a City zoning designation has been approved. The covenant shall acknowledge that development is reviewed for compliance with the Oregon City Municipal Code and Clackamas County Zoning and Development Ordinance. Further, until a zone change is approved the site use shall not change or intensify, or receive approval of a land division or development of the site including, but not limited to: new structures or additions to existing structures. In addition the property shall be subject to the City's fence regulations in OCMC 17.54.100 as well as the City's nuisance and animal regulations

As the annexation approval was based on an emergency need for service and occurred after the necessary service hookup had been made, and required the recording of the covenant, however, the previous owner chose not to proceed with its recording. The house was purchased by the current applicant in 2020, who did not know the restrictions placed on the property by not having a city zone. Although the document was not recorded, the requirements remain valid and are part of the land decision for AN 16-02. The purpose of the condition and covenant was to inform future owners of the restriction on the site laid out in the emergency annexation approval.

The previous owner also did not proceed with the required annexation into the Tri-City Sewer District, a separate service district that can be annexed administratively through Clackamas County Water Environmental Services (WES) once the city approves the annexation. A condition has been added to this application to ensure that this process is completed before the certificate of occupancy for any new additions or buildings onsite.

At the August 25, 2025, Planning Commission Hearing, the Planning Commission recommended approval to the City Commission for a Zone Change to Low-Density Residential R-10.

The applicant has no preference for the zoning attached to the property (R-8 or R-10). The pre-application conference indicated a potential rezone to R-10. Staff also provided an R-8 option in the notice. The Planning Commission could choose either the R-8 or R-10 zone, as both are within the Low Density Residential Comprehensive Plan designation. The site is located in an area abutting R-10, although the area across the street is zoned R-8. There are three lots currently in the county that could be rezoned to R-8 if annexed, creating an R-8 corridor on Central Point Road, which is identified as a Collector Street in the Transportation System Plan. With the adoption of city and state regulations for middle housing, there is little discernible difference between the development capacities of the two zones. While one Commissioner discussed the need to look for relatively easy upzone areas that could support additional dwelling units, the remainder of the Planning Commission wished to retain the same zoning as the abutting properties (R-10).

SITE DETAILS

The little under 1-acre site is located at the intersection of Parish and Central Point Roads. The area is generally flat and features a single-family dwelling, one attached garage, and several small accessory buildings on-site. No development is proposed as part of this application; however, once rezoned, the application will submit building permits to add additional square footage to the house, which is currently not allowed due to the property's lack of a city zone.



FIGURE 1. LOCATION MAP



FIGURE 2. ZONING MAP



FIGURE 3. STREET VIEW (2023)

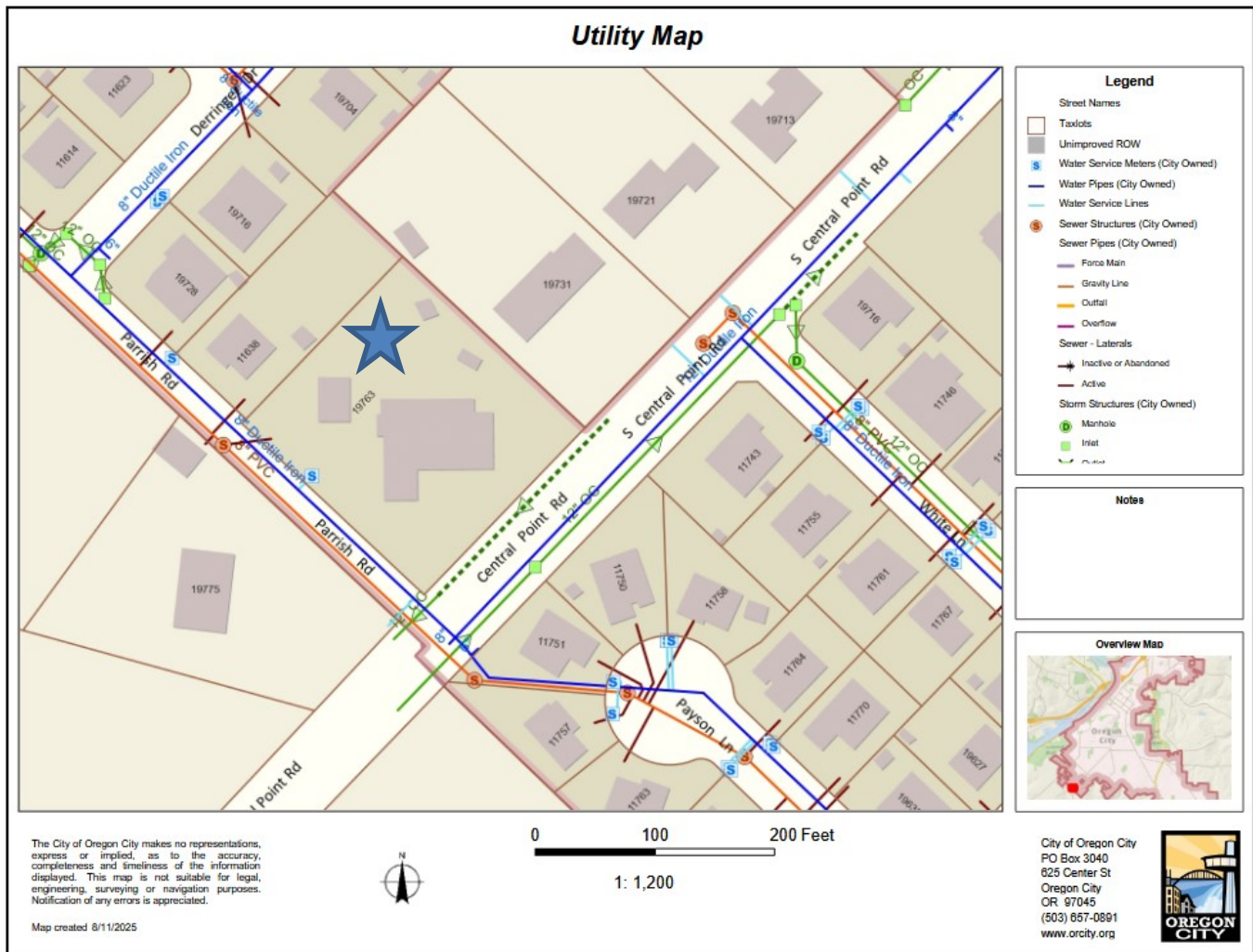


FIGURE 4. UTILITIES

The figure above indicates the location of the Oregon City sewer and water utilities near the property.

Public Comment

Eric Burtram- Water Environment Services (WES)

Tri-City Service District (TCSD) provides regional collection and wholesale sanitary sewer treatment services within the District. TCSD boundaries coincide with those of the partner cities of Gladstone, Oregon City and West Linn.

Tax Lot 31E12DC05600 is not currently within the Tri-City Service District (TCSD). As a condition of connecting to public sewer, the owner will need to annex the parcel into the TCSD. Note: this a separate annexation process from that of the city annexation and requires a separate application, which will be processed by Clackamas Water Environment Services (WES).

The TCSD annexation application can be found on the WES website:

<https://www.clackamas.us/wes/annexation.html>

Please contact WES Permits staff if there are any questions about the TCSD annexation requirements. 503-742-4567

Staff Comment: Connection to the Tri-City sewer district was also a requirement of the previous annexation approval, which the previous owner did not complete. A condition has been added that a Tri-City sewer annexation packet must be submitted and paid to WES/Tri-Cities before the applicant can obtain a building permit for a new structure on the site. The sewer annexation must be completed before a final certificate of occupancy can be issued for any new structures on the site.

ANALYSIS AND FINDINGS

CHAPTER 17.08 LOW DENSITY RESIDENTIAL DISTRICTS

7.08.010 - Designated.

The R-10, R-8 and R-6 residential districts are designed for low density residential development.

Finding: Permitted.

7.08.020 - Permitted uses.

Permitted uses in the R-10, R-8 and R-6 districts are:

- A. Single-family detached residential units;*
- B. Accessory uses, buildings and dwellings;*
- C. Duplexes;*
- D. Triplexes;*
- E. Quadplexes;*
- F. Townhouses;*
- G. Cottage clusters;*
- H. Residential homes;*
- I. Parks, playgrounds, playfields and community or neighborhood centers;*
- J. Home occupations;*
- K. Family day care providers;*
- L. Farms, commercial or truck gardening and horticultural nurseries on a lot not less than twenty thousand square feet in area (retail sales of materials grown on-site is permitted);*
- M. Temporary real estate offices in model homes located on and limited to sales of real estate on a single piece of platted property upon which new residential buildings are being constructed;*
- N. Transportation facilities.*

Finding: Permitted. The applicant proposed to construct single-family detached residential units, allowed in OCMC 17.08.020.A.

17.08.025 - Conditional uses.

The following uses are permitted in the R-10, R-8 and R-6 districts when authorized by and in accordance with the standards contained in OCMC 17.56:

- A. Golf courses, except miniature golf courses, driving ranges or similar commercial enterprises;*
- B. Bed and breakfast inns/boarding houses;*
- C. Cemeteries, crematories, mausoleums and columbariums;*
- D. Child care centers and nursery schools;*
- E. Emergency service facilities (police and fire), excluding correctional facilities;*
- F. Residential care facilities;*
- G. Private and/or public educational or training facilities;*
- H. Public utilities, including sub-stations (such as buildings, plants and other structures);*

I. Religious institutions;

J. Assisted living facilities; nursing homes and group homes for over fifteen patients;

Finding: Permitted. The applicant proposed to construct single-family detached residential units, allowed in OCMC 17.08.025.A.

17.08.040 - Dimensional standards.

Dimensional standards in the R-10, R-8 and R-6 districts are as follows:

Table 17.08.040

Standard	R-10	R-8
<i>Minimum lot size¹</i> <i>Single-family detached, Duplex & Triplex</i> <i>Quadplex and Cottage cluster</i> <i>Townhouse</i>	<i>10,000 sq. ft.</i> <i>10,000 sq. ft.</i> <i>1,500 sq. ft.</i>	<i>8,000 sq. ft.</i> <i>8,000 sq. ft.</i> <i>1,500 sq. ft.</i>
Finding: Complies as Proposed. 40,489 square feet		
<i>Maximum height: All, except</i>	<i>35 ft., except</i>	<i>35 ft., except</i>
<i>Cottage cluster unit</i>	<i>25 ft.</i>	<i>25 ft.</i>
Finding: Complies as Proposed. All structures on the single-family house are under 35 feet		
<i>Maximum building lot coverage</i> <i>All, except</i> <i>With ADU</i> <i>Cottage cluster</i>	<i>40%, except</i> <i>45%</i> <i>None</i>	<i>40%, except</i> <i>45%</i> <i>None</i>
Finding: Complies as Proposed. Existing lot 16% Lot coverage		
<i>Minimum lot width</i> <i>All, except</i> <i>Townhouse</i>	<i>65 ft., except</i> <i>20 ft.</i>	<i>60 ft., except</i> <i>20 ft.</i>
Finding: Complies as Proposed. Smallest width 206 feet		
<i>Minimum lot depth</i> <i>All, except</i> <i>Townhouse</i>	<i>80 ft., except</i> <i>75 ft.</i>	<i>75 ft., except</i> <i>75 ft.</i>
Finding: Complies as Proposed. Smallest depth 188 feet		
<i>Minimum front yard setback</i> <i>All, except</i> <i>Porch</i> <i>Cottage cluster</i>	<i>20 ft., except</i> <i>15 ft.</i> <i>10 ft.</i>	<i>15 ft., except</i> <i>10 ft.</i> <i>10 ft.</i>
Finding: Complies as Proposed. Smallest setback 33 feet		
<i>Minimum interior side yard setback:</i>		

<i>All, except Townhouse</i>	<i>8 ft., except 0 ft. (attached) /8 ft. (side)</i>	<i>7 ft., except 0 ft. (attached) /7 ft. (side)</i>
Finding: Complies as Proposed. Smallest setback 22 feet		
<i>Minimum corner side yard setback</i>	<i>10 ft.</i>	<i>10 ft.</i>
Finding: Complies as Proposed. Smallest setback 29 feet		
<i>Minimum rear yard setback All, except Porch Cottage cluster/ADU</i>	<i>20 ft., except 15 ft. 10 ft.</i>	<i>20 ft., except 15 ft. 10 ft.</i>
Finding: Complies as Proposed. Smallest setback 44 feet		
<i>Garage setbacks</i>	<i>20 ft. from ROW, except 5 ft. from alley</i>	<i>20 ft. from ROW, except 5 ft. from alley</i>
Finding: Complies as Proposed. Smallest setback 45 feet		

Notes:

1. For land divisions, lot sizes may be reduced pursuant to OCMC 16.08.065.
2. Accessory structures may have reduced setbacks pursuant to OCMC 17.54.010.B.
3. Public utility easements may supersede the minimum setback.

17.08.035 – Prohibited uses.

Prohibited uses in the R-10, R-8 and R-6 districts are:

- A. Any use not expressly listed in OCMC 17-08-020, 17.08.025 or 17.08.030;
- B. Marijuana businesses.

Finding: Complies as Proposed.

17.08.045 - Exceptions to setbacks.

A. Projections from buildings. Ordinary building projections such as cornices, eaves, overhangs, canopies, sunshades, gutters, chimneys, flues, sills or similar architectural features may project into the required yards up to twenty-four inches.

Finding: Complies as Proposed.

B. Through lot setbacks. Through lots having a frontage on two streets shall provide the required front yard on each street. The required rear yard is not necessary.

Finding: Complies as Proposed

17.08.050 - Density standards.

A. Density standards in the R-10, R-8 and R-6 districts are as follows:

Table 17.08.050

Standard	R-10	R-8	R-6
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<i>Minimum net density: All</i>	<i>3.5 du/acre</i>	<i>4.4 du/acre</i>	<i>5.8 du/acre</i>
<i>Except cottage clusters</i>	<i>4 du/acre</i>	<i>4.4 du/acre</i>	<i>5.8 du/acre</i>
<i>Maximum net density: All</i>	<i>4.4 du/acre</i>	<i>5.4 du/acre</i>	<i>7.3 du/acre</i>
<i>Except townhouses</i>	<i>17.4 du/acre</i>	<i>21.6 du/acre</i>	<i>25 du/acre</i>

B. Exceptions.

1. Any dwelling units created as accessory dwelling units do not count towards the minimum or maximum density limits in Table 17.08.050.

2. Duplexes, triplexes and quadplexes shall count as a single dwelling unit for the purposes of calculating maximum net density. Total dwelling units within a development may count for the purposes of calculating minimum net density.

3. Cottage clusters are exempt from maximum net density standards.

Finding: Complies as Proposed. The applicant is not proposing a new dwelling units as part of this application.

CHAPTER 17.50 – ADMINISTRATION AND PROCEDURES

17.50.010 Purpose.

This chapter provides the procedures by which Oregon City reviews and decides upon applications for all permits relating to the use of land authorized by ORS 92, 197 and 227. These permits include all form of land divisions, land use, limited land use and expedited land division and legislative enactments and amendments to the Oregon City Comprehensive Plan and Titles 16 and 17 of this code. Pursuant to ORS 227.175, any applicant may elect to consolidate applications for two or more related permits needed for a single development project. Any grading activity associated with development shall be subject to preliminary review as part of the review process for the underlying development. It is the express policy of the City of Oregon City that development review not be segmented into discrete parts in a manner that precludes a comprehensive review of the entire development and its cumulative impacts.

17.50.050 – Pre-application conference.

A Pre-application Conference. *Prior to a Type II – IV or Legislative application, excluding Historic Review, being deemed complete, the applicant shall schedule and attend a pre-application conference with City staff to discuss the proposal, unless waived by the Community Development Director. The purpose of the pre-application conference is to provide an opportunity for staff to provide the applicant with information on the likely impacts, limitations, requirements, approval standards, fees and other information that may affect the proposal.*

- 1. To schedule a pre-application conference, the applicant shall contact the Planning Division, submit the required materials, and pay the appropriate conference fee.*
- 2. At a minimum, an applicant should submit a short narrative describing the proposal and a proposed site plan, drawn to a scale acceptable to the City, which identifies the proposed land uses, traffic circulation, and public rights-of-way and all other required plans.*

3. *The Planning Division shall provide the applicant(s) with the identity and contact persons for all affected neighborhood associations as well as a written summary of the pre-application conference.*

B. *A pre-application conference shall be valid for a period of six months from the date it is held. If no application is filed within six months of the conference or meeting, the applicant shall schedule and attend another conference before the City will accept a permit application. The Community Development Director may waive the pre-application requirement if, in the Director's opinion, the development has not changed significantly and the applicable municipal code or standards have not been significantly amended. In no case shall a pre-application conference be valid for more than one year.*

C. *Notwithstanding any representations by City staff at a pre-application conference, staff is not authorized to waive any requirements of this code, and any omission or failure by staff to recite to an applicant all relevant applicable land use requirements shall not constitute a waiver by the City of any standard or requirement.*

Finding: Complies. A pre-application meeting (PA-25-00025) was held on June 3, 2025 to review the proposed zone change. Pre-application meeting notes were provided, and all relevant land use requirements have been acknowledged and addressed as part of this application narrative.

17.50.055 - Neighborhood association meeting.

Neighborhood Association Meeting. The purpose of the meeting with the recognized neighborhood association is to inform the affected neighborhood association about the proposed development and to receive the preliminary responses and suggestions from the neighborhood association and the member residents.

A. *Applicants applying for annexations, zone change, comprehensive plan amendments, conditional use, Planning Commission variances, subdivision, or site plan and design review (excluding minor site plan and design review), general development master plans or detailed development plans applications shall schedule and attend a meeting with the City-recognized neighborhood association in whose territory the application is proposed no earlier than one year prior to the date of application. Although not required for other projects than those identified above, a meeting with the neighborhood association is highly recommended.*

B. *The applicant shall request via email or regular mail a request to meet with the neighborhood association chair where the proposed development is located. The notice shall describe the proposed project. A copy of this notice shall also be provided to the chair of the citizen involvement committee.*

C. *A meeting shall be scheduled within thirty days of the date that the notice is sent. A meeting may be scheduled later than thirty days if by mutual agreement of the applicant and the neighborhood association. If the neighborhood association does not want to, or cannot meet within thirty days, the applicant shall host a meeting inviting the neighborhood association, citizen involvement committee, and all property owners within three hundred feet to attend. This meeting shall not begin before six p.m. on a weekday or may be held on a weekend and shall occur within the neighborhood association boundaries or at a city facility.*

D. *If the neighborhood association is not currently recognized by the City, is inactive, or does not exist, the applicant shall request a meeting with the citizen involvement committee.*

E. *To show compliance with this section, the applicant shall submit a copy of the email or mail notice to the neighborhood association and CIC chair, a sign-in sheet of meeting attendees, and a summary of issues discussed at the meeting. If the applicant held a separately noticed meeting, the applicant shall submit a copy of the meeting flyer, postcard or other correspondence used, and a summary of issues discussed at the meeting and submittal of these materials shall be required for a complete application.*

Finding: Complies A meeting was requested with the Hazel Grove -Westling Farms and scheduled for June 25, 2025. An email confirmation from the Hazel Grove -Westling Farms is provided as part of this application

17.50.060 Application Requirements.

Finding: Complies as Proposed. All required application materials are submitted with this narrative. The applicant has provided full-size and two reduced-size sets of plans to accompany the submittal items.

17.50.070 Completeness Review and 120-day Rule.

17.50.080 Complete Application--Required Information.

Finding: Complies as Proposed. This land use application was submitted/paid on July 24, 2025. The application was deemed incomplete on July 28, 2025 and after the submittal of additional information, the application was deemed complete on August 1, 2025. The 120 day land use deadline is November 29, 2025

17.50.090 Public Notices.

Finding: Complies as Proposed. Staff provided public notice within 300 feet of the site via mail; the site was posted with multiple land use notices and posted on the Oregon City website. Staff provided email transmittal of the application and notice to affected agencies and Neighborhood Associations.

17.50.100 Notice Posting Requirements.

Finding: Complies as Proposed. The site was posted with a sign longer than the minimum requirement.

17.50.130 Conditions of approval and notice of decision.

A. All City decision-makers have the authority to impose reasonable conditions of approval designed to ensure that all applicable approval standards, including standards set out in city overlay districts, the City's master plans, and City public works design standards, are, or can be met.

Finding: Complies- the City Commission may place conditions upon this application as appropriate to the approval criteria. As this application is for a residential zone property, any condition shall be clear and objective and is required to be proportional to the proposal.

17.50.140 – Financial guarantees.

When conditions of permit approval require a permittee to construct certain public improvements, the City shall require the permittee to provide financial guarantee for construction of the certain public improvements. Financial guarantees shall be governed by this section.

17.50.141 – Public improvements – Warranty

All public improvements not constructed by the City, shall be maintained and under warranty provided by the property owner or developer constructing the facilities until the City accepts the improvements at the end of the warranty period. The warranty is to be used at the discretion of the City engineer or designee to correct deficiencies in materials or maintenance of constructed public infrastructure, or to address any failure of engineering design.

Finding: Not Applicable- No development is proposed at this time.

CHAPTER 17.68 ZONING CHANGES AND COMPREHENSIVE PLAN AMENDMENTS

17.68.010 – INITIATION OF THE AMENDMENT.

A text amendment to the comprehensive plan, or an amendment to the zoning code or map or the Comprehensive Plan map, may be initiated by:

- A. A resolution request by the City Commission;*
- B. An official proposal by the Planning Commission;*
- C. An application to the Planning Division; or.*
- D. A Legislative request by the Planning Division.*

All requests for amendment or change in this title shall be referred to the Planning Commission.

Finding: Complies. The proposed zone change requires an amendment to the zoning map and has been initiated by the property owners through an application to the Planning Division.

17.68.020 – CRITERIA.

The criteria for comprehensive plan amendment or text or map amendment in the zoning code are set forth as follows:

- A. The proposal shall be consistent with the applicable goals and policies of the comprehensive plan;*

Finding: Complies. The project site has the Comprehensive Plan designation of LR (Low Density Residential), which permits the City zoning of R-6, R-8, and R-10. The zone change to R-8 or R-10 is consistent with the applicable goals and policies of the City of Oregon City's Comprehensive Plan for transportation and infrastructure availability. Staff could not identify any specific policy that called out a desire for R-8 or R-10 in this area. As discussed below in the transportation analysis portion, the two going will not create much discernible difference in impact on the transportation network or other public utilities.

- B. That public facilities and services (water, sewer, storm drainage, transportation, schools, police, and fire protection) are presently capable of supporting the uses allowed by the zone or plan amendment, or can be made available prior to issuing a certificate of occupancy. Service shall be sufficient to support the range of uses and development allowed by the zone or plan amendment;*

Finding: Complies. The project site has access to adjacent public utility lines, nearby public facilities, and services that can serve the development. There is an existing water main and sanitary sewer main that runs within Parrish Road and a stormwater main within Central Point Road. The properties are also currently served by Clackamas Fire District #1 and the Oregon City School District and will have access to police service under the Oregon City Police Department. All public facilities and services are available to support the proposed zone change to R-8 or R-10 zoning district, which permits low-density residential development. No development is proposed at this time.

- C. The land uses authorized by the proposal are consistent with the existing or planned function, capacity and level of service of the transportation system serving the proposed zoning district or plan amendment; and*

Finding: Complies. A Transportation Analysis Letter (TAL) was provided, but incorrectly discussed a change of jurisdiction from the City of Happy Valley to the City of Oregon City. This appears to be a grammatical error from a previous report. The TAL indicates that the annexation and zone change will not significantly affect the planned function, capacity, and level of service of the transportation system serving the project site. Staff agree with the analysis and findings. The TAL indicates that the annexation and zone change will not significantly affect the planned function, capacity, and level of service of the transportation system serving the project site. The applicant's transportation engineer, Massoud G. Saberian, PE, PTOE, provided a revised memo (Exhibit 1a) that addresses the errors of the initially submitted transitional Analysis Letter (TAL). There was no change in the analysis and findings.

With the inclusion of a number of middle housing uses as permitted in both the R-8 and R-10 projecting the number of trips generated through the redevelopment of the site can vary significantly. This will be explicitly analyzed during any development process. Generally, trip generation for middle housing (duplexes, triplexes, townhomes, etc.) is about half the rate of trip generation for a single-family home, which is 10 trips per day. The maximum potential number of trips for the lot upon development could be five lots with a fourplex on each, producing 100 new trips daily at full build-out. However, four lots are most likely, as dedication of right-of-way may be required even with R-8 zoning. The purpose of a zone change transportation analysis is to evaluate the most reasonable and highest development scenario to ensure that the proposed use complies with the Transportation System Plan and the Transportation Planning Rule (TPR). It functions as a stress test to determine whether the transportation system needs modifications to accommodate increased use or if a zone change should include a temporary trip cap until a solution is found. In this case, the general redevelopment of uses within the low-density residential districts is anticipated within the transportation plan and the model. Actual analysis and exactions will be performed once the site redevelops, which may not occur for quite a long time.

D. Statewide planning goals shall be addressed if the comprehensive plan does not contain specific policies or provisions which control the amendment.

Response: The subject properties are designated as Low-Density Residential (LR) under Oregon City's acknowledged the Comprehensive Plan, which is in compliance with the Statewide Planning Goals. The proposal complies with the goals and policies of the comprehensive plan designation.

Finding: Complies. The proposed Zone Change complies with the zoning designations for Low Density Residential (LR) Comprehensive Plan Classification as identified in Table 17.06.030. The most recently adopted comprehensive plan, OC2040, was acknowledged by the Department of Land Conservation and Development (DLCD) as complying with statewide planning goals.

17.68.040 – APPROVAL BY THE COMMISSION.

If the Planning Commission finds that the request or application for an amendment, or change, complies with the criteria of OCMC 17.68.020, it shall forward its findings and recommendation to the City Commission for action thereon by that body.

Finding: Complies. The subject properties are currently located within the existing UGB. The proposed zone changes to the R-8 or R-10 zoning district are consistent with the Oregon City Comprehensive Plan designation of Low-Density Residential (LR) for both properties and comply with the criteria of OCMC 17.68.020.

17.68.050 – CONDITIONS.

In granting a change in zoning classification to any property, the Commission may attach such conditions and requirements to the zone change as the Commission deems necessary in the public interest and such conditions and restrictions shall thereafter apply to the zone change or map amendment.

Finding: Complies The proposed zone changes from the FU-10 zoning district to the City's low-density residential R-8 or R-10 zoning district is consistent with the Oregon City Comprehensive Plan designation of Low Density Residential (LR) for both properties. The Planning or City Commissions may choose to add conditions to this application that are proportional to the request and are consistent with the goals and strategies of the Commission through the adopted comprehensive plan.

CONCLUSION AND DECISION:

Based on the analysis and findings as described above, Staff concludes that the proposed Zone change to either R-8 or R-10 located at 19763 Parish Road, Oregon City, OR 97045 Oregon City, Oregon 97045, identified as Clackamas County Map 3-1E-12DC-05600 can meet the requirements as described in the Oregon City Municipal Code by complying with the Conditions of Approval provided in this report.

Therefore, the Community Development Director recommends approval with conditions, based upon the findings and exhibits contained in this staff report.

Exhibits:

1. Applicant's Submittal
 - a. Traffic Memo-Revised
2. Public Comment
 - a. Erik Bertram- Clackamas Water Environment Services (WES)
3. AN 16-02 Ordinance (Ordinance 17-1008)

LAND USE APPLICATION FORM

Type I (OCMC 17.50.030.A) ☐ Compatibility Review ☐ Willamette River Greenway ☐ Communication Facility / Eligible Modification ☐ Lot Line Adjustment ☐ Non-Conforming Use Review ☐ Natural Resource (NROD) Verification ☐ Minor Site Plan & Design Review ☐ Extension of Approval ☐ Historic Review – Remodel ☐ Detailed Dev. Plan (DDP) ☐ LUCS Expedited Type II (OCMC 17.50.030.B & 16.24) ☐ Middle Housing Land Division	Type II (OCMC 17.50.030.B) ☐ Master Plan / PUD / GDP or Amendment ☐ Detailed Development Plan (DDP) ☐ Floodplain Review ☐ Geologic Hazard Overlay ☐ Minor Partition (<4 lots) ☐ Minor Site Plan & Design Review ☐ Non-Conforming Use Review ☐ Proportional Upgrades ☐ Site Plan and Design Review / DDP ☐ Manufactured Home Park ☐ Compatibility Review Modifications / Adjustments ☐ Residential Design ☐ Site Plan & Design Review ☐ Public Improvement ☐ Tree Mitigation ☐ Subdivision (4+ lots) ☐ Administrative (Minor) Variance ☐ Natural Resource (NROD) Review ☐ Willamette River Greenway ☐ Phased Subdivision / Site Plan and Design Review Occupancy Plan ☐ Expedited Land Division
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File Number(s):	GLUA-25-031 ZC-25-0001.	Application Date:
Project Name:		
Proposed Land Use or Activity:	Zone Change	# of Lots Proposed (If Applicable):
Physical Address(es) of Site: 19763 Parish Road		
Clackamas County Map and Tax Lot Number(s):3-1E-12DC-05600		

Applicant(s)

Applicant(s) Signature:	
Applicant(s) Name Printed: Brandi Henry (see attached cc form for sig)	Date:7/28/25
Mailing Address: 19763 Parish Road	
Phone:	Email:

Property Owner(s) – If more than 2 owners, add all information to back of page including signatures.

Property Owner #1

Property Owner#1 Signature:	
Property Owner#1 Name Printed:	Date:
Mailing Address:	
Ownership Address:	
Phone:	Email:

Property Owner #2

Property Owner#2 Signature:	
Property Owner#2 Name Printed:	Date:
Mailing Address:	
Ownership Address:	
Phone:	Email:



Planning and Zoning
Department of Transportation and Development
Development Services Building
150 Beaver Creek Road | Oregon City, OR 97045
503-742-4500 | zoninginfo@clackamas.us
www.clackamas.us/planning

STAFF USE ONLY

Land use application for:

ZONE CHANGE

Reviewed by Hearings Officer

Application Fee: \$6,340 if filed with another application for the same property, or \$6,890 if filed alone. (+ \$150 for an expanded notification area if the property is in the AG/F, EFU, FF-10, FU-10, RA-1, RA-2, RC, RI, RR, RRFF-5, or TBR zone.)

Staff Initials:

File Number:

APPLICANT INFORMATION

Applicant name: Brandi Henry, Tony Henry	Applicant email: Brandi.Henry@hotmail.com	Applicant phone: 503 708 588
Applicant mailing address: 19763 Parrish Rd	City: OC	State: OR
Contact person name (if other than applicant): Tony Henry	Contact person email: Tony.henry@lwe.com	Contact person phone: 503 481 2467
Contact person mailing address: Sum	City:	State: ZIP:

PROPOSAL

Brief description of proposal: Zone Change Fu10-R10	Pre-application conference file number: PA 25-025
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SITE INFORMATION

Site address: 19763 Parrish Rd	Comprehensive Plan designation: 31E12DC05600	Zoning district:
Map and tax lot #: Township: 3S Range: 1E Section: 12 Tax Lot: 05600		Land area: 662-092
Adjacent properties under same ownership: Township: _____ Range: _____ Section: _____ Tax Lot: _____ Township: _____ Range: _____ Section: _____ Tax Lot: _____		

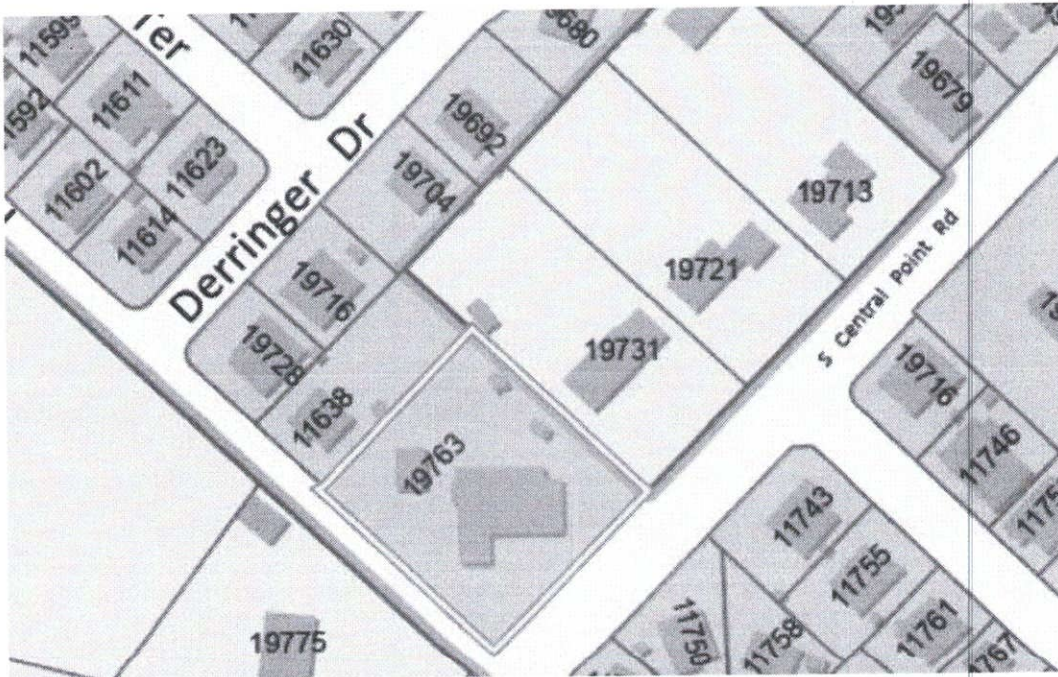
Printed names of all property owners: Brandi + Tony Henry	Signatures of all property owners: Brandi Henry	Date(s): 6/23/25
I hereby certify that the statements contained herein, along with the evidence submitted, are in all respects true and correct to the best of my knowledge.		Date: 6/23/25
Applicant signature: Brandi Henry		

Pre-Application Conference Notes*Meeting Date: June 3, 2025**Final Notes Sent:***Pre-application Conference File #: PA 25-025**

These non-binding pre-application conference notes reflect the applicant's submission to the City along with the discussion at the meeting. The applicant has one week from the receipt of the notes to notify City staff of any perceived mistake or omission in the notes; staff will then review and respond to the inquiry, and the inquiry will be added to the City's file. If no notification is received within 7 business days, the notes will be considered final and will not be modified. See additional disclaimers at the end of this document.

Proposed Project:

Rezoning of the property from FU-10 to R-10. The previous annexation (AN 16-02) did not include a zoning designation for the site, and the county FU-10 zone was retained. As Oregon City does not have a FU-10 zoning district, new structures or additions to the property cannot occur until the site is rezoned. The applicant intends to make substantial additions to the site once it is rezoned.



A. Complete a pre-application conference:

You must attend a pre-application conference with Planning and Zoning staff before filing this application. [Information about the pre-application conference](#) process and a request form are available from the Planning and Zoning website.

B. Review applicable land use rules:

This application is subject to the provisions of [Section 1202, Zone Changes](#) of the [Clackamas County Zoning and Development Ordinance](#) (ZDO).

It is also subject to the ZDO's definitions, procedures, and other general provisions, as well as to the specific rules of the subject property's zoning district and applicable development standards, as outlined in the ZDO.

C. Turn in all of the following:

- ☒ **Complete application form:** Respond to all the questions and requests in this application, and make sure all owners of the subject property sign the first page of this application. Applications without the signatures of *all* property owners are incomplete.
- ☐ **Application fee:** The cost of this application is \$6,340 if it is filed concurrently with another land use application for the same property or \$6,890 if it is filed alone. A \$150 notification surcharge also applies if an expanded notification area is required by ZDO Section 1307. Payment can be made by cash, by check payable to "Clackamas County", or by credit/debit card with an additional card processing fee using the [Credit Card Authorization Form](#) available from the Planning and Zoning website. Payment is due when the application is submitted. Refer to the FAQs at the end of this form and to the adopted [Fee Schedule](#) for refund policies.
- ☒ **Vicinity map:** Provide a map of the area around the property, drawn to scale, that shows the uses and location of improvements on adjacent properties and properties across any road.
- ☐ **Site plan:** Provide a site plan (also called a plot plan). A [Site Plan Sample](#) is available from the Planning and Zoning website. The site plan must be accurate and drawn to-scale on paper measuring no larger than 11 inches x 17 inches. The site plan must illustrate all of the following (when applicable):
 - Lot lines, lot/parcel numbers, and acreage/square footage of lots, and contiguous properties under the same ownership;
 - All existing and proposed structures, fences, roads, driveways, parking areas, and easements, each with identifying labels and dimensions;
 - Setbacks of all structures from lot lines and easements;
 - Significant natural features (rivers, streams, wetlands, slopes of 20% or greater, geologic hazards, mature trees or forested areas, drainage areas, etc.); and
 - Location of utilities, wells, and all onsite wastewater treatment facilities (e.g., septic tanks, septic drainfield areas, replacement drainfield areas, drywells).
- ☐ **Service Feasibility Determinations:** Request that the property's water provider, sanitary sewer provider, and surface water management authority, as applicable, each complete a [Preliminary Statement of Feasibility](#) and include those completed statements with your application. If the proposed development will be served by an onsite wastewater treatment system (e.g., a septic system), include an approved Site Evaluation or Authorization Notice from the [Septic & Onsite Wastewater Program](#) attesting to the feasibility of your proposal.
- ☐ **Transportation impact study:** Refer to the information provided at the pre-application conference regarding the need for a transportation impact study. Include a copy of any required study with your application submittal.
- ☐ **Any additional information or documents advised of during the pre-application conference**

D. Answer the following questions:

1. What zoning district designation are you requesting for the subject property?

Requested zoning district: R10

2. If the zoning designation you requested in response to Question 1 cannot be approved because the property doesn't meet the approval criteria, would you like an alternate zoning district designation to be considered?

☐ NO

☒ YES, and the alternate zoning district designation(s) I would like is/are:

3. Are you filing this zone change application with another application?

☒ NO, this application is being filed alone.

☐ YES, this application is being filed with another application. That other application requests the following:

E. Respond in a narrative:

Your application submittal must include a narrative that fully responds to the following. Due to the technical nature of these requirements, guidance on how best to respond will be provided during the required pre-application conference.

1. How is the proposed zone change consistent with the applicable goals and policies of the County's Comprehensive Plan?
2. If development under the proposed zone would need public services (sanitary sewer, surface water management, and water), could the need be accommodated with the implementation of the applicable service provider's existing capital improvement plan? The cumulative impact of the proposed zone change and development of other properties under existing zoning designations must be considered.
3. Explain how the transportation system is adequate and will remain adequate with approval of the proposed zone change. This explanation should take into consideration the following:
 - a. "Adequate" means a maximum volume-to-capacity ratio (v/c), or a minimum level of service (LOS), as established by Comprehensive Plan Tables 5-2a, *Motor Vehicle Capacity Evaluation Standards for the Urban Area*, and 5-2b, *Motor Vehicle Capacity Evaluation Standards for the Rural Area*.
 - b. Conduct the evaluation of transportation system adequacy pursuant to the Transportation Planning Rule (Oregon Administrative Rules 660-012-0060).
 - c. Assume that the subject property is developed with the primary use, allowed in the proposed zoning district, with the highest motor vehicle trip generation rate.
 - d. The methods of calculating v/c and LOS are established by the Clackamas County Roadway Standards.
 - e. The adequacy standards apply to all roadways and intersections within the impact area of the proposed zone change. The impact area is identified based on the Clackamas County Roadway Standards.
 - f. A determination of whether submittal of a transportation impact study is required is made based on the Clackamas County Roadway Standards, which also establish the minimum standards to which a transportation impact study shall adhere.
 - g. (d) through (f) above do not apply to roadways and intersections under the jurisdiction of the State of Oregon. Instead, motor vehicle capacity calculation methodology, impact area identification, and transportation impact study requirements are established by the ODOT Transportation Analysis Procedures Manual for such roadways and intersections.
4. Explain how the safety of the transportation system is adequate to serve the level of development anticipated by the proposed zone change.

TEMPLATE INSTRUCTIONS FOR APPLICANTS

The following code criteria template includes sections of the Oregon City Municipal Code that are applicable to your proposal. For a complete application, a detailed response to each applicable subsection is required. Example responses to code sections and responses are provided below.

EXAMPLE RESPONSES

Example 1:

16.08.063 - Minimum density.

All layouts shall achieve at least the minimum density of the base zone for the net developable area as defined in OCMC 17.04. Alternatively, a site may be partitioned into two lots, though one of the lots shall not contain sufficient lot area to allow further division.

 Example of Acceptable Response	Applicant's Response: The gross site area is 2.01 acres (87,556 square feet) . After the dedication of right-of-way, a net area of 63,672 square feet or 1.46 acres remains. With 20 total units, the overall density is 13.7 dwelling units per acre, which exceeds the minimum of 10 units/acre for the R-3.5 zone.
 Example of Unacceptable Responses	Applicant's Response: The minimum density is met. Applicant's Response: Complies. Applicant's Response: See plans.

If a section or standard is not applicable, please explain why it does not apply.

Example 2:

17.62.085 - Refuse and recycling standards for commercial, industrial, office, institutional, and multi-family developments.

The purpose and intent of these provisions is to provide an efficient, safe and convenient refuse and recycling enclosure for the public as well as the local collection firm. All new development, change in property use, expansions or exterior alterations to uses, other than single-family or duplex residences, single-family attached dwellings, 3-4 plexes, internal conversions, or accessory dwelling units (ADUs), shall include a refuse and recycling enclosure. The area(s) shall be:

- A. *Fully enclosed and visually screened;*
- B. *Located in a manner easily and safely accessible by collection vehicles;*
- C. *Located in a manner so as not to hinder travel lanes, walkways, streets or adjacent properties;*
- D. *On a level, hard surface designed to discharge surface water runoff and avoid ponding;*

- E. Maintained by the property owner;
- F. Used only for purposes of storing solid waste and recyclable materials;
- G. Designed in accordance with applicable sections of the Oregon City Municipal Code (including

OCMC 8.20—Solid Waste Collection and Disposal) and city adopted policies.

Enclosures are encouraged to be sized appropriately to meet the needs of current and future tenants and designed with sturdy materials which are compatible to the primary structure(s).

 Example of Acceptable Response	Applicant's Response: No new refuse and recycling enclosures or changes to existing refuse and recycling enclosures are proposed, therefore, these standards are not applicable to the development.
 Example of Unacceptable Response. An explanation is needed for why a section does not apply.	Applicant's Response: Does not apply.

If a section or chapter in its entirety is not applicable, you may delete the entire section, however, please take care to ensure that subsections that do apply to the development are not deleted.

Example:

 No need to respond to each subsection of a code section that is not applicable to the development	<i>17.54.100 Fences, Hedges, Walls, and Retaining Walls.</i> <i>A. A fence, hedge, wall, retaining wall, or combination thereof may be located on real property, not within the right-of-way, subject to all of the following:</i> <i>1. A fence, hedge, wall, retaining wall, or combination thereof located in front of a building may be up to 3.5-feet in total height as measured from the finished grade at any point on the fence.</i> Applicant's Response: No new fences or changes to existing fences are proposed as part of this project. <i>2. A fence, hedge, wall, located next to, or behind the forward most building, or within more than forty feet of the right-of-way, whichever is less may be up to:</i> <i>a. Six feet in total height for residential properties with less than five units as measured from the finished grade at any point on the fence; or</i> Applicant's Response: No new fences or changes to existing fences are proposed as part of this project.
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	<i>b. Eight feet in total height for all other uses as measured from the finished grade at any point on the fence.</i> Applicant's Response: No new fences or changes to existing fences are proposed as part of this project. <i>3. A retaining wall or combination of a fence, hedge, wall located next to and behind the forward most building, or within more than forty feet of the right-of-way, whichever is less, may be up to (as measured from the finished grade) 8.5 feet in height from the finished grade.</i> Applicant's Response: No new fences or changes to existing fences are proposed as part of this project. <i>4. Fences, hedges, and/or walls located within two feet above a retaining wall, as measured on a horizontal plane, shall be measured together for the purposes of determining height.</i> Applicant's Response: No new fences or changes to existing fences are proposed as part of this project. <i>5. Property owners shall ensure compliance with the Traffic Sight Obstruction requirements in Chapter 10.32 of the Oregon City Municipal Code.</i> Applicant's Response: No new fences or changes to existing fences are proposed as part of this project. <i>6. Retaining walls completely below the elevation of the right-of-way may be up to six feet in height.</i> Applicant's Response: No new fences or changes to existing fences are proposed as part of this project. <i>7. Minimum fall protection required by the Building Official, such as railings, is not included in the height of a retaining wall but must comply with the fence height requirements.</i> Applicant's Response: No new fences or changes to existing fences are proposed as part of this project.	
 Section can be collapsed, and only one response explaining why the entire section is not applicable is needed.	<i>17.54.100 Fences, Hedges, Walls, and Retaining Walls.</i> Applicant's Response: No new fences or changes to existing fences are proposed as part of this project, therefore this section in its entirety is not applicable.	

Please complete the following template with as much detail as possible in your responses to applicable sections. Please note that applications with responses that lack sufficient detail will be deemed incomplete. For questions on this template, please contact the planner you are working with.

TYPE II –SITE PLAN AND DESIGN REVIEW

Applicant's Submittal

Date

APPLICANT: Name: Brandi Henry
Address: 19763 Parrish rd Oregon City OR 97045

OWNER: Name Tony, Brandi Henry
Address 5037068588

REQUEST: Description of project rezone

LOCATION: Address 19763 Parrish Rd Oregon City OR 97045
Map and tax lot number 05600

I. BACKGROUND:

1. **Existing Conditions:** The previous homeowner conducted an emergency sewer annexation into the city of Oregon City, which did not require a zone change at the time. However, the previous homeowner failed to inform the new buyers that this process was incomplete. There was no indication on the title with the county or the city of Oregon City to protect the new buyers from the responsibility of addressing the previous owner's failure to rezone
2. **Project Description:** We are seeking to rezone the property at 19763 Parrish Road in Oregon City from FU10 to R10. This change will enable us to obtain the necessary permits and make desired modifications to the property.

Municipal Code Standards and Requirements: The following sections of the Oregon City Municipal Code are applicable to this land use approval:

Chapter 17.50 Administration And Procedures
Chapter 17.68 Zone Change and Comprehensive Plan Amendments

The City Code Book is available on-line at www.orcity.org.

Permits and Approvals: The applicant is responsible for obtaining approval and permits from each applicable governmental agency and department at Oregon City including but not limited to the Engineering and Building Divisions.

REQUIRED CODE RESPONSES:**CHAPTER 17.50 – ADMINISTRATION AND PROCEDURES****17.50.010 Purpose.**

This chapter provides the procedures by which Oregon City reviews and decides upon applications for all permits relating to the use of land authorized by ORS 92, 197 and 227. These permits include all form of land divisions, land use, limited land use and expedited land division and legislative enactments and amendments to the Oregon City Comprehensive Plan and Titles 16 and 17 of this code. Pursuant to ORS 227.175, any applicant may elect to consolidate applications for two or more related permits needed for a single development project. Any grading activity associated with development shall be subject to preliminary review as part of the review process for the underlying development. It is the express policy of the City of Oregon City that development review not be segmented into discrete parts in a manner that precludes a comprehensive review of the entire development and its cumulative impacts.

17.50.030 Summary of the City's decision-making processes.

The following decision-making processes chart shall control the City's review of the indicated permits:

Table 17.50.030 – Permit Approval Process

Permit Type	I	II	III	IV	Expedited Land Division
Annexation				X	
Compatibility review for communication facilities	X				
Compatibility review for the Willamette Greenway Overlay District			X		
Code Interpretation			X		
Master plan/planned unit development - General Development plan			X		
Master plan/planned unit development - General Development plan amendment	X	X	X		
Conditional use (excluding shelters)			X		
Conditional use for a shelter				X	
Detailed development plan*	X	X	X		
Expedited land division		X(modified)			X
Extension	X				
Final plat	X				
Geologic hazards		X			
Historic review	X		X		
Live/Work dwelling review		X			
Lot line adjustment and abandonment	X				
Manufactured home park review (new or modification)	X				
Middle housing land division		X(modified)			X
Minor partition		X			
Modifications of residential design standards		X			

Natural resource overlay district exemption	X					
Natural resource overlay district review		X	X			
Nonconforming use, structure and lots review	X	X				
Placement of a single manufactured home on existing space or lot within a park	X					
Plan or code amendment					X	
Residential design standards review for single-family detached, duplexes, triplexes, quadplexes, townhouses, cottage clusters and accessory dwelling units (uses minor site plan and design review)	X					
Revocation					X	
Site plan and design review	X	X				
Subdivision		X			X	
Variance		X	X			
Zone Change				X		

**If any provision or element of the master plan/planned unit development requires a deferred Type III procedure, the detailed development plan shall be processed through a Type III procedure.*

A. Type I decisions do not require interpretation or the exercise of policy or legal judgment in evaluating approval criteria. Because no discretion is involved, Type I decisions do not qualify as a land use, or limited land use, decision. The decision-making process requires no notice to any party other than the applicant. The Community Development Director's decision is final and not appealable by any party through the normal city land use process.

B. Type II decisions involve the exercise of limited interpretation and discretion in evaluating approval criteria, similar to the limited land use decision-making process under state law. Applications evaluated through this process are assumed to be allowable in the underlying zone, and the inquiry typically focuses on what form the use will take or how it will look. Notice of application and an invitation to comment is mailed to the applicant, recognized active neighborhood association(s) and property owners within three hundred feet. The Community Development Director accepts comments for a minimum of fourteen days and renders a decision. The Community Development Director's decision is appealable to the City Commission, by any party who submitted comments in writing before the expiration of the comment period. Review by the City Commission shall be on the record pursuant to OCMC 17.50.190 under ORS 197.195(5). The City Commission decision is the City's final decision and is subject to review by the land use board of appeals (LUBA) within twenty-one days of when it becomes final.

C. Type III decisions involve the greatest amount of discretion and evaluation of subjective approval standards, yet are not required to be heard by the City Commission, except upon appeal. In the event that any decision is not classified, it shall be treated as a Type III decision. The process for these land use decisions is controlled by ORS 197.763. Notice of the application and the Planning Commission or the Historic Review Board hearing is published and mailed to the applicant, recognized neighborhood association(s) and property owners within three hundred feet. Notice shall be issued at least twenty days pre-hearing, and the staff report shall be available at least seven days pre-hearing. At the evidentiary hearing held before the Planning Commission or the Historic Review Board, all issues are addressed. The decision of the Planning Commission or Historic Review Board is appealable to the City Commission, on the record pursuant to OCMC 17.50.190. The City Commission decision on appeal from is the City's final

decision and is subject to review by LUBA within twenty-one days of when it becomes final, unless otherwise provided by state law.

D. Type IV decisions include only quasi-judicial plan amendments and zone changes. These applications involve the greatest amount of discretion and evaluation of subjective approval standards and shall be heard by the City Commission for final action. The process for these land use decisions is controlled by ORS 197.763. Notice of the application and Planning Commission hearing is published and mailed to the applicant, recognized neighborhood association(s) and property owners within three hundred feet. Notice shall be issued at least twenty days pre-hearing, and the staff report shall be available at least seven days pre-hearing. At the evidentiary hearing held before the Planning Commission, all issues are addressed. If the Planning Commission denies the application, any party with standing (i.e., anyone who appeared before the Planning Commission either in person or in writing within the comment period) may appeal the Planning Commission denial to the City Commission. If the Planning Commission denies the application and no appeal has been received within fourteen days of the issuance of the final decision, then the action of the Planning Commission becomes the final decision of the City. If the Planning Commission votes to approve the application, that decision is forwarded as a recommendation to the City Commission for final consideration. In either case, any review by the City Commission is on the record and only issues raised before the Planning Commission may be raised before the City Commission. The City Commission decision is the City's final decision and is subject to review by LUBA within twenty-one days of when it becomes final.

E. Expedited land divisions and middle housing land divisions are subject to the requirements of OCMC 16.24. The expedited land division (ELD) process is set forth in ORS 197.360 to 197.380.

F. Decisions, completeness reviews, appeals, and notices in this chapter shall be calculated according to OCMC 1.04.070 and shall be based on calendar days, not business days.

17.50.050 – Pre-application conference.

A. Pre-application Conference. Prior to a Type II – IV or Legislative application, excluding Historic Review, being deemed complete, the applicant shall schedule and attend a pre-application conference with City staff to discuss the proposal, unless waived by the Community Development Director. The purpose of the pre-application conference is to provide an opportunity for staff to provide the applicant with information on the likely impacts, limitations, requirements, approval standards, fees and other information that may affect the proposal.

1. To schedule a pre-application conference, the applicant shall contact the Planning Division, submit the required materials, and pay the appropriate conference fee.

2. At a minimum, an applicant should submit a short narrative describing the proposal and a proposed site plan, drawn to a scale acceptable to the City, which identifies the proposed land uses, traffic circulation, and public rights-of-way and all other required plans.

3. The Planning Division shall provide the applicant(s) with the identity and contact persons for all affected neighborhood associations as well as a written summary of the pre-application conference.

Applicant's Response: the homeowner met with Christina Robertson-Gardine on June 16th at 4:00 PM for the pre-application process and paid the pre application fee.

B. A pre-application conference shall be valid for a period of six months from the date it is held. If no application is filed within six months of the conference or meeting, the applicant shall schedule and attend another conference before the City will accept a permit application. The Community Development Director may waive the pre-application requirement if, in the Director's opinion, the development has not changed significantly and the applicable municipal code or standards have not been significantly amended. In no case shall a pre-application conference be valid for more than one year.

Applicant's Response: Pre application meeting was on 6/16/2025 at 4:00 pm

C. Notwithstanding any representations by City staff at a pre-application conference, staff is not authorized to waive any requirements of this code, and any omission or failure by staff to recite to an applicant all relevant applicable land use requirements shall not constitute a waiver by the City of any standard or requirement.

Applicant's Response: No requirements have been waved, we are going through the whole process

17.50.055 - Neighborhood association meeting.

Neighborhood Association Meeting. The purpose of the meeting with the recognized neighborhood association is to inform the affected neighborhood association about the proposed development and to receive the preliminary responses and suggestions from the neighborhood association and the member residents.

A. Applicants applying for annexations, zone change, comprehensive plan amendments, conditional use, Planning Commission variances, subdivision, or site plan and design review (excluding minor site plan and design review), general development master plans or detailed development plans applications shall schedule and attend a meeting with the City-recognized neighborhood association in whose territory the application is proposed no earlier than one year prior to the date of application. Although not required for other projects than those identified above, a meeting with the neighborhood association is highly recommended.

B. The applicant shall request via email or regular mail a request to meet with the neighborhood association chair where the proposed development is located. The notice shall describe the proposed project. A copy of this notice shall also be provided to the chair of the citizen involvement committee.

C. A meeting shall be scheduled within thirty days of the date that the notice is sent. A meeting may be scheduled later than thirty days if by mutual agreement of the applicant and the neighborhood association. If the neighborhood association does not want to, or cannot meet within thirty days, the applicant shall host a meeting inviting the neighborhood association, citizen involvement committee, and all property owners within three hundred feet to attend. This meeting shall not begin before six p.m. on a weekday or may be held on a weekend and shall occur within the neighborhood association boundaries or at a city facility.

D. If the neighborhood association is not currently recognized by the City, is inactive, or does not exist, the applicant shall request a meeting with the citizen involvement committee.

E. To show compliance with this section, the applicant shall submit a copy of the email or mail notice to the neighborhood association and CIC chair, a sign-in sheet of meeting attendees, and a summary of issues discussed at the meeting. If the applicant held a separately noticed meeting, the applicant shall submit a copy of the meeting flyer, postcard or other correspondence used, and a summary of issues discussed at the meeting and submittal of these materials shall be required for a complete application.

Applicant's Response: Home owner met with Chris Nolte on 6/21/2025 and talked about the rezoning process, Chris is going to talk about the rezoning to the NA Steering Committee on Wednesday June 25th at 10:00 AM

CHAPTER 17.68 ZONING CHANGES AND COMPREHENSIVE PLAN AMENDMENTS

17.68.010 - Initiation of the amendment.

A text amendment to the comprehensive plan, or an amendment to the zoning code or map or the Comprehensive Plan map, may be initiated by:

- A. A resolution request by the City Commission;*
- B. An official proposal by the Planning Commission;*
- C. An application to the Planning Division; or.*
- D. A Legislative request by the Planning Division.*

All requests for amendment or change in this title shall be referred to the Planning Commission.

Applicant's Response: the request for a zone change complies with the criteria outlined in OCMC 17.68.020, including consistency with the applicable goals and policies of the comprehensive plan, availability of public facilities and services, compatibility with the transportation system, and alignment with statewide planning goals. We respectfully request that the Planning Commission forward its findings and recommendation to the City Commission for final action.

17.68.015 –Procedures.

Applications shall be reviewed pursuant to the procedures set forth in Chapter 17.50.

17.68.020 - Criteria.

The criteria for comprehensive plan amendment or text or map amendment in the zoning code are set forth as follows:

- A. The proposal shall be consistent with the applicable goals and policies of the comprehensive plan;*
- B.*

CHAPTER 2: DIVERSE ECONOMY

GOAL 3 Guide growth and development in a manner that implements the City's 2040 Vision and maintains an urban growth boundary that supports and accommodates projected population and employment during the 20-year planning period.

POLICY 3.1 Promote efficient use of land and public infrastructure and plan for appropriate infill development, redevelopment, and new development.

POLICY 2.1 Plan for housing supply that supports and implements the recommendations of the current Housing Needs Analysis.

STRATEGY 2.1.A Ensure housing policies allow for increased opportunities for home ownership by regularly evaluating housing supply, market demand, buildable land, and infrastructure costs through a Housing Needs Analysis.

POLICY 2.3 Support retention of existing homes and opportunities for community members to "age in place".

Applicant's Response: Policy 3.1: The proposed development will promote the efficient use of land and public infrastructure by planning for appropriate infill development, redevelopment, and new development. This approach aligns with the city's goal of optimizing land use and ensuring that public resources are utilized effectively.

Policy 2.1: The development plan includes provisions for housing supply that support and implement the recommendations of the current Housing Needs Analysis. By addressing the identified housing needs, the project will contribute to the city's efforts to provide adequate housing options for its residents.

B. That public facilities and services (water, sewer, storm drainage, transportation, schools, police and fire protection) are presently capable of supporting the uses allowed by the zone or plan amendment, or can be made available prior to issuing a certificate of occupancy. Service shall be sufficient to support the range of uses and development allowed by the zone or plan amendment;

Applicant's Response: The public facilities and services, including water, sewer, storm drainage, transportation, schools, police, and fire protection, are currently capable of supporting the uses allowed by the zone or plan amendment. Alternatively, these services can be made available prior to issuing a certificate of occupancy. The services will be sufficient to support the range of uses and development allowed by the zone or plan amendment.

C. The land uses authorized by the proposal are consistent with the existing or planned function, capacity and level of service of the transportation system serving the proposed zoning district or plan amendment; and

Applicant's Response: the land uses authorized by the proposal are consistent with the existing or planned function, capacity, and level of service of the transportation system serving the proposed zoning district or plan amendment.

D. Statewide planning goals shall be addressed if the comprehensive plan does not contain specific policies or provisions which control the amendment.

Applicant's Response: Statewide planning goals shall be addressed if the comprehensive plan does not contain specific policies or provisions which control the amendment.

17.68.025 - Zoning for land annexed into the City.

Upon annexation into the City, the property shall be rezoned from County zoning to the corresponding City zoning designation as identified in Table 17.06.030, provided the criteria for a zone change can be met.

Applicant's Response: Applicant's Response: The request for a zone change complies with the criteria outlined in OCMC 17.68.020, including consistency with the applicable goals and policies of the comprehensive plan, availability of public facilities and services, compatibility with the transportation system, and alignment with statewide planning goals. We respectfully request that the Planning Commission forward its findings and recommendation to the City Commission for final action including consistency with the applicable goals and policies of the comprehensive plan, availability of public facilities and services, compatibility with the transportation system, and alignment with statewide planning goals. We respectfully request that the Planning Commission forward its findings and recommendation to the City Commission for final action

17.68.040 - Approval by the Commission.

If the Planning Commission finds that the request or application for an amendment, or change, complies with the criteria of OCMC 17.68.020, it shall forward its findings and recommendation to the City Commission for action thereon by that body.

Applicant's Response: Applicant's Response: We understand that the Commission may attach conditions and requirements to the zone change as deemed necessary in the public interest. We are prepared to comply with any conditions or restrictions that may be applied to ensure the zone change aligns with the community's needs and goals.

17.68.050 - Conditions.

In granting a change in zoning classification to any property, the Commission may attach such conditions and requirements to the zone change as the Commission deems necessary in the public interest and such conditions and restrictions shall thereafter apply to the zone change or map amendment.

Applicant's Response: Applicant's Response: The property at 19763 Parrish Road was annexed into the City of Oregon City through an emergency sewer annexation. We are seeking to rezone the property from FU10 to the corresponding City zoning designation of R10, as identified in Table 17.06.030. The criteria for a zone change, as outlined in OCMC 17.68.020, are being addressed to ensure compliance with the requirements for this rezoning process.

Proposed addition (shown in Figure 2) does not add any living area, change of land use, or lot access points.

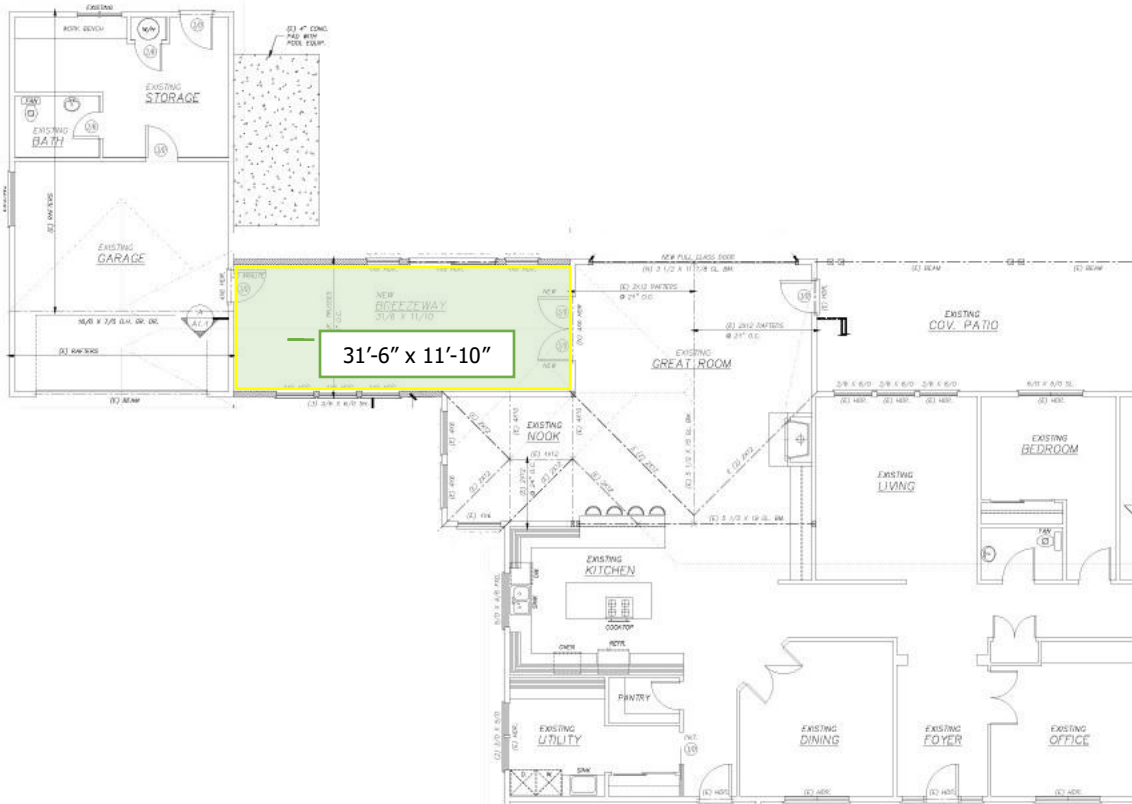


Figure 2 – Proposed Breezeway Shown

Discussion and Conclusion

The proposed addition of the breezeway precludes any change to the dwelling unit in any form. The single-family home remains, and the breezeway simply connects the existing house to the existing garage. Therefore, there is no net increase in trips generated.

Table 1 summarizes the before and after trip generation based on the previous land use zoning (Clackamas County) vs. the City of Oregon City land use zoning.

It is noteworthy that the existing dwelling unit, driveway, garage and other structures built on the site as they stand now, nor the applicant's desire to add a breezeway will not change the anticipated site trip generation.

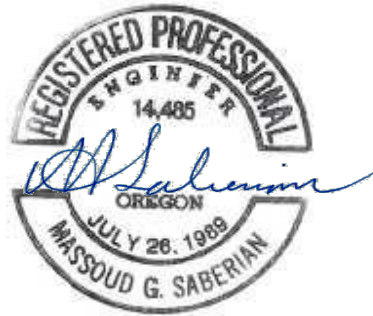
Table 1 – Land Use Comparison

Land Use	Jurisdiction	Description	Dwelling Unit	Daily Trips
FU-10	Clackamas County	Future Urbanization 10 Acre Minimum	1	~10
R-10 or R-8	Oregon City	One Dwelling per 10,000 or 8,000 Sq. Ft.	1	~10

Conclusions and Recommendations

Based on the nature of the application and existing city of Oregon City's Community Development Code, since the applicant is not applying to change the lot configuration nor add any more living area, or additional structures for the specifically intended as living space, it is therefore concluded that the addition of the breezeway for the purpose of making it more practical to go from the garage to the house or vice versa, there is no net change in average daily trip to and from the site under the review.

Any future development will be analyzed for compliance with city development code at the time of development application.



Exp. June 2026



LAND USE APPLICATION TRANSMITTAL – RESPONSE FORM

Date: 8/5/25

Land Use Application File Number: GLUA 25-032 ZC35-01

NAME: Erik Bertram

AGENCY: Water Environment Service

EMAIL ADDRESS: WES-Planning@clackamas

The land use application material is referred to you for your information, study and official comments. Your recommendations and suggestions will be used to guide the Planning staff when reviewing this proposal. If you wish to have your comments considered and incorporated into the staff report, please return a copy of this form to facilitate the processing of this application and to ensure prompt consideration of your recommendations.

Please check the appropriate spaces below.

☐	The proposal does not conflict with our interests.
☐	The proposal conflicts with our interests for the reasons attached. (Please attach additional information)
☐	The proposal would not conflict our interests if the changes noted below or attached are addressed.

Please add any specific comments below or attach a separate document with more information.

Tri-City Service District (TCSD) provides regional collection and wholesale sanitary sewer treatment services within the District. TCSD boundaries coincide with those of the partner cities of Gladstone, Oregon City and West Linn.

Tax Lot 31E12DC05600 is not currently within the Tri-City Service District (TCSD). As a condition of connecting to public sewer, the owner will need to annex the parcel into the TCSD. Note: this a separate annexation process from that of the city annexation and requires a separate application, which will be processed by Clackamas Water Environment Services (WES).

The TCSD annexation application can be found on the WES website: <https://www.clackamas.us/wes/annexation.html>

Please contact WES Permits staff if there are any questions about the TCSD annexation requirements. 503-742-4567.

CONTACT THE PLANNING DIVISION IF YOU HAVE ANY QUESTIONS ABOUT THIS APPLICATION

ORDINANCE NO. 17-1008

AN ORDINANCE OF THE CITY OF OREGON CITY APPROVING ANNEXATION PROPOSAL NO. AN-16-0002 AND APPROVING THE ANNEXATION OF CERTAIN PROPERTY LOCATED AT 19763 SOUTH PARRISH ROAD TO THE CITY OF OREGON CITY

WHEREAS, the owner of certain real property adjacent to the City of Oregon City, Betty Savage, proposed in Annexation Proposal No. AN-16-0002 that their 0.92 acre property located at 19768 S. Parrish Road, Clackamas County map 3S-1E-12DC tax lot 5600, more fully identified in Exhibit 'A' to this Ordinance, be annexed to the City; and

WHEREAS, the City finds that the proposal complies with all applicable legal requirements, as detailed in the findings attached hereto and made a part of this ordinance as Exhibit 'B'; and

WHEREAS, Senate Bill 1573, adopted in 2016, requires annexation of territory without a vote by the people, notwithstanding city charter and regulations to the contrary, and the City finds that the annexed area is within the urban growth boundary, will be subject to an acknowledged comprehensive plan, is contiguous to the city limits and conforms with all other city requirements; and

WHEREAS, the City finds that applicant's proposal does not include rezoning the property at this time, and that any such proposal shall be reviewed through a separate application consistent with OCMC 17.06.030 Zoning of Annexed Areas, the Oregon City Transportation System Plan, and the Statewide Transportation Planning Rule to support such rezoning; and

WHEREAS, the identified property is currently in Clackamas Fire District # 1 (CFD#1); and CFD#1 will continue to provide fire protection service to the identified property when annexed; and

WHEREAS, the identified property is currently within the Clackamas County Service District for Enhanced Law Enforcement; and the Oregon City Police Department will be responsible for police services to the identified property when annexed; and

WHEREAS, the identified property is currently within Clackamas River Water (CRW) District service area; and will remain within CRW upon annexation of the property; and

WHEREAS, the identified property is not currently within the Tri-City Service District and must petition for annexation into said District with the concurrence of the City; and

WHEREAS, the City Commission concurs that the Tri-City Service District can annex the identified properties into their sewer district.

NOW, THEREFORE, OREGON CITY ORDAINS AS FOLLOWS:

Section 1. That the area further identified in the legal description attached hereto as Exhibit "A", is hereby annexed to and made a part of the City of Oregon City.

Section 2. That the territory identified in Exhibit "A" shall hereby remain within Clackamas County Fire District # 1.

Section 3. That the territory identified in Exhibit "A" is hereby withdrawn from Clackamas County Service District for Enhanced Law Enforcement, and henceforth, the Oregon City Police Department will be responsible for police services to the identified property.

Section 4. That the territory identified in Exhibit "A" will remain within Clackamas River Water District.

Section 5. The City hereby concurs with and approves the annexing of the territory identified in Exhibit "A" into the Tri-City Service District by the Clackamas County Board of Commissioners, to the extent allowed by law.

Section 7. That the effective date for this annexation is the date this ordinance is submitted to the Secretary of State, as provided in ORS 222.180.

Read for the first time at a regular meeting of the City Commission held on the 5th day of July, 2017, and the City Commission finally enacted the foregoing ordinance this 19th day of July, 2017.



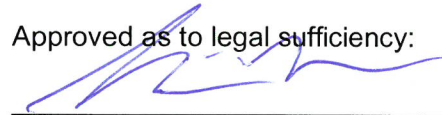
DAN HOLLADAY, Mayor

Attested to this 19th day of July 2017:



Kattie Riggs, City Recorder

Approved as to legal sufficiency:



City Attorney

ATTACHMENTS:

Exhibit A – Map and Legal Description of Proposed Annexation

Exhibit B – Proposed Findings, Reasons for Decision and Conclusions



GLUA-25-031 ZC-25-0001 Zone Change

19763 Parish Road

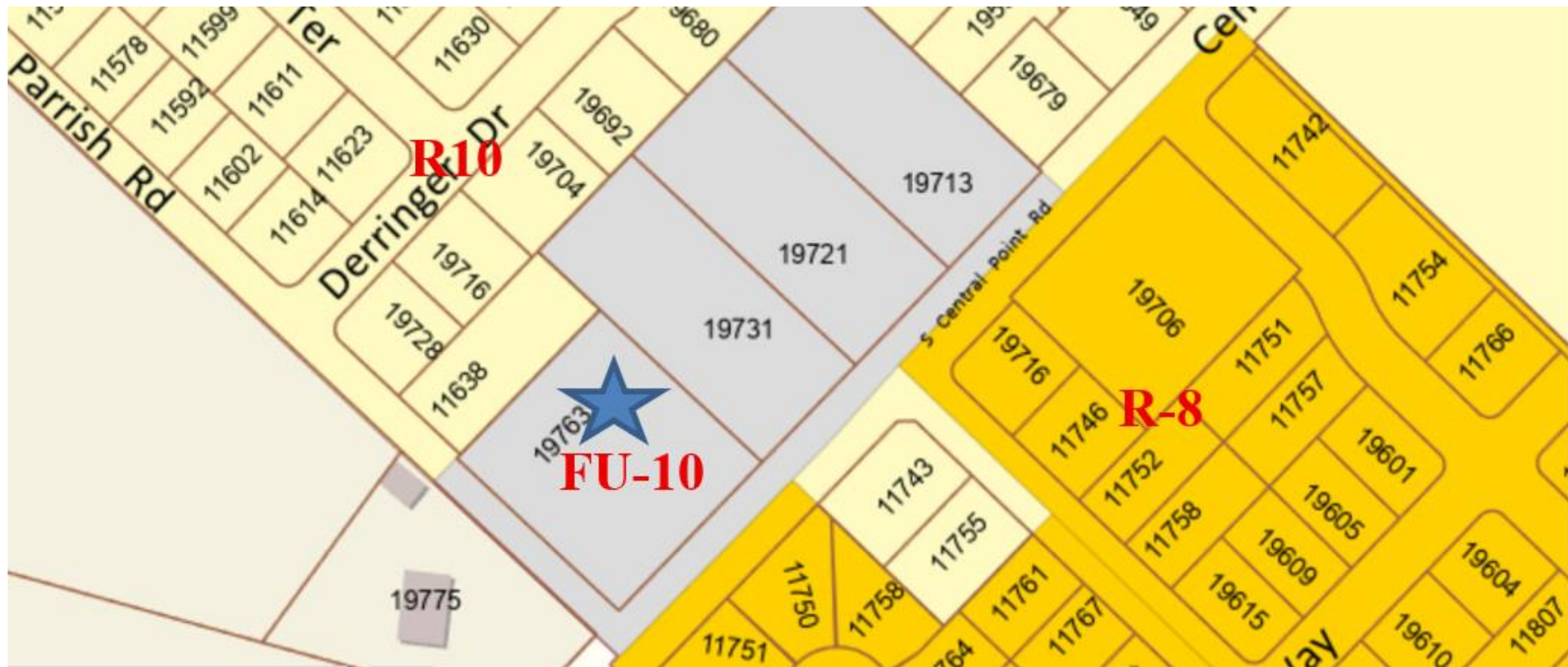


Criteria for Approval

- Chapter 17.68 - Zoning Changes and Comprehensive Plan Amendments
- Oregon City Comprehensive Plan
 - Applicable goals and policies

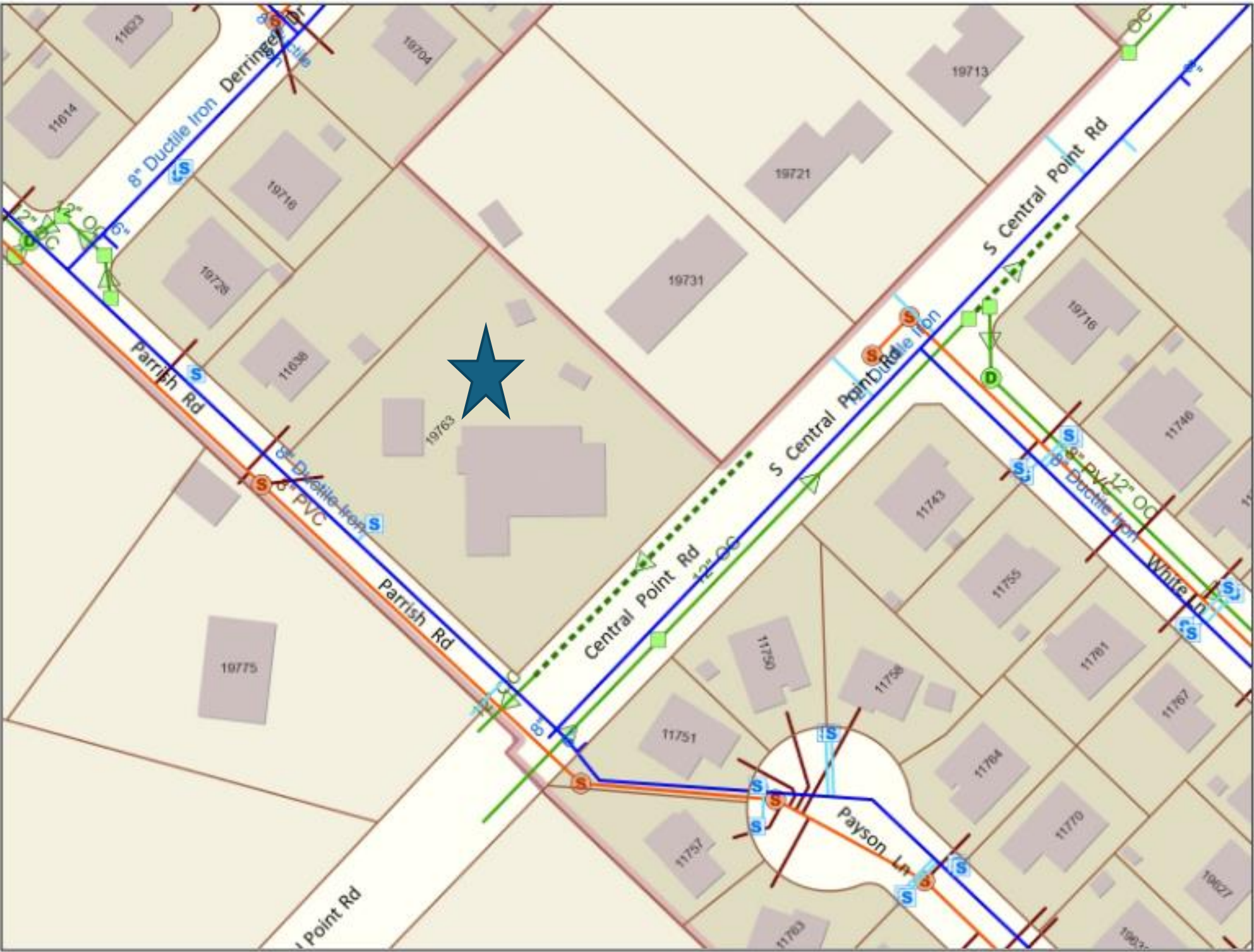
Staff has provided a draft report with findings for the above criteria.

At the August 25, 2025, Planning Commission Hearing, the Planning Commission recommended approval to the City Commission for a Zone Change to Low-Density Residential R-10.



- The applicant has no preference for the zoning attached to the property (R-8 or R-10).
- The site is located in an area abutting R-10 zoning, although the area across the street is zoned R-8 along Central Point Road, identified as a Collector Street in the Transportation System Plan.
- Adoption of city and state regulations for middle housing, there is little discernible difference between the development capacities of the two zones.
- While one Planning Commissioner discussed the need to look for relatively easy upzone areas that could support additional dwelling units, the remainder of the Planning Commission wished to retain the same zoning as the abutting properties (R-10).

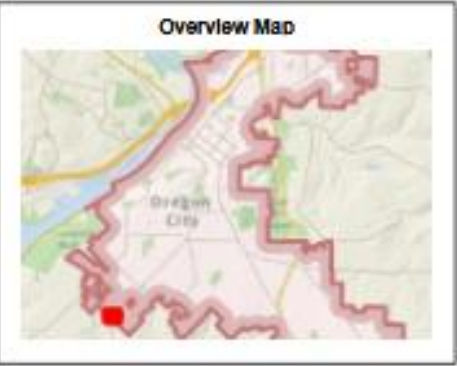
Utility Map



Legend

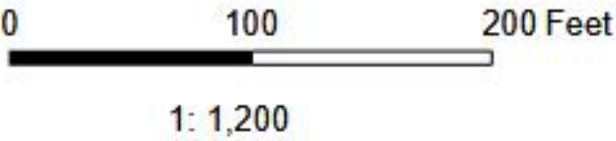
- Street Names
- Taxlots
- Unimproved ROW
- Water Service Meters (City Owned)
- Water Pipes (City Owned)
- Water Service Lines
- Sewer Structures (City Owned)
- Sewer Pipes (City Owned)
- Force Main
- Gravity Line
- Outfall
- Overflow
- Sewer - Laterals
- Inactive or Abandoned
- Active
- Storm Structures (City Owned)
- Manhole
- Inlet
- Overflow

Notes



The City of Oregon City makes no representations, express or implied, as to the accuracy, completeness and timeliness of the information displayed. This map is not suitable for legal, engineering, surveying or navigation purposes. Notification of any errors is appreciated.

Map created 8/11/2025



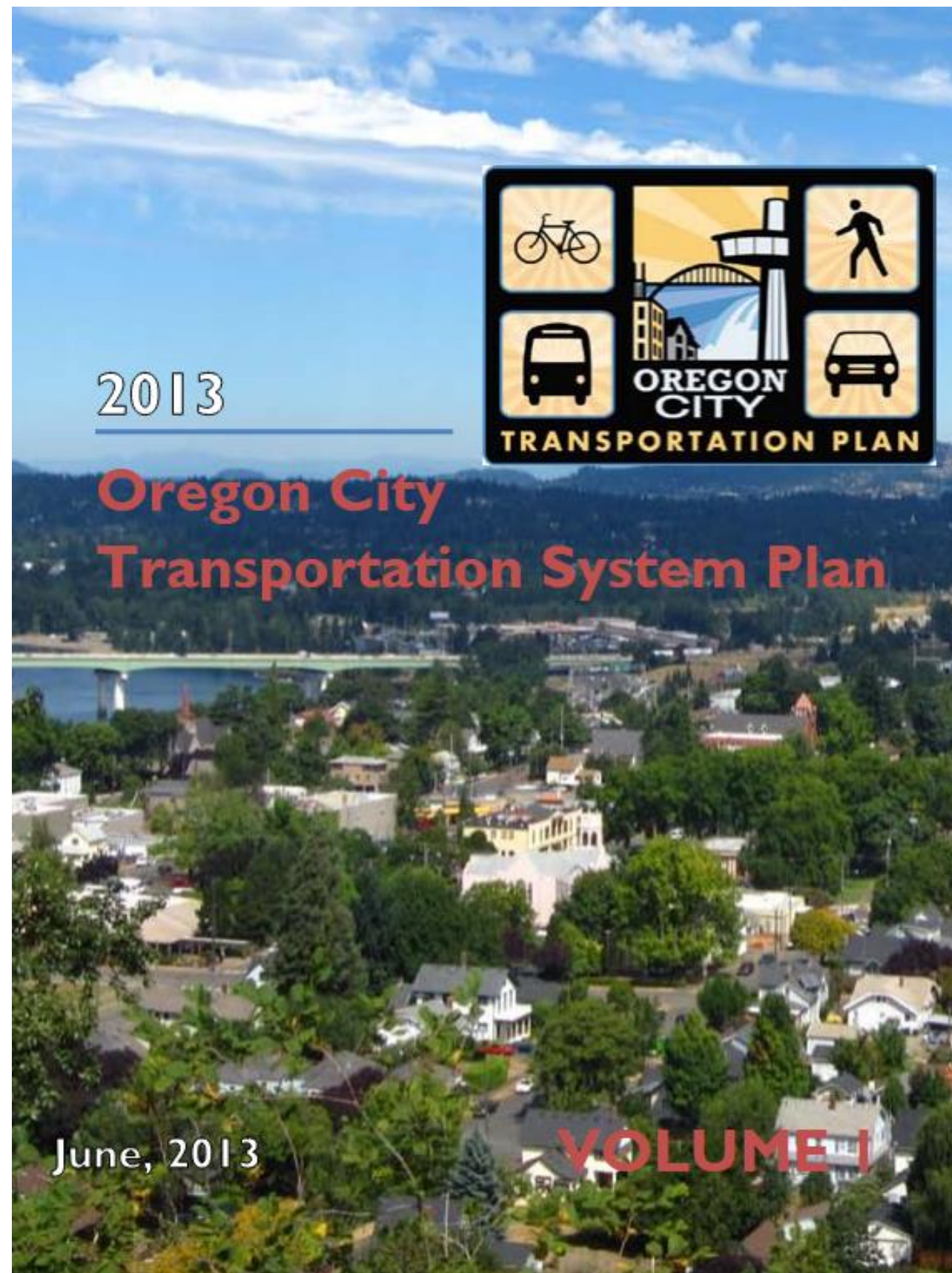
City of Oregon City
PO Box 3040
625 Center St
Oregon City
OR 97045
(503) 657-0891
www.oregoncity.org



Tri-City Service District (TCSD) provides regional collection and wholesale sanitary sewer treatment services within the District. TCSD boundaries coincide with those of the partner cities of Gladstone, Oregon City and West Linn.

Tax Lot 31E12DC05600 is not currently within the Tri-City Service District (TCSD). As a condition of connecting to public sewer, the owner will need to annex the parcel into the TCSD.

Public Comment
Eric Burtram- Water Environment Services (WES)



The Transportation Analysis Letter (TAL) indicates that the zone change will not significantly affect the planned function, capacity, and level of service of the transportation system serving the project site.

- The purpose of a zone change transportation analysis is to evaluate the most reasonable and highest development scenario to ensure that the proposed use complies with the Transportation System Plan and the Transportation Planning Rule (TPR).
- It functions as a stress test to determine whether the transportation system needs modifications to accommodate increased use or if a zone change should include a temporary trip cap until a solution is found.
- In this case, the general redevelopment of uses within the low-density residential districts is anticipated within the transportation plan and the model. Actual analysis and exactions will be performed once the site redevelops, which may not occur for quite a long time.

Recommendation & Options

OPTIONS:

1. Approve GLUA-25-031 ZC-25-0001 with the recommended conditions, rezone property to R-10
2. Approve GLUA-25-031 ZC-25-000 with revised findings and conditions.
3. Deny GLUA-25-031 ZC-25-000 and provide further direction to Staff.
4. Continue GLUA-25-031 ZC-25-000 and keep the public record open until a date certain.

At the August 25, 2025, Planning Commission Hearing, the Planning Commission recommended approval to the City Commission for a Zone Change to Low-Density Residential R-10.

Staff is looking for City Commission direction to support zoning small parcels as part of an emergency annexation.

- Previously, properties were zoned at the lowest zoning of the Comprehensive Plan designation and at the time of annexation.
- Transportation (TPR) analysis is required for all properties (even small one-lot annexations).
- Staff is exploring ways to rezone these properties at the time of annexation. (in-house, refined fees to reflect staff time, code amendments etc..)
- Simple rezoning for residential will be moving to a Type II process per state direction next year. (SB 974- July 1, 2026)





CITY OF OREGON CITY

625 Center Street
Oregon City, OR 97045
503-657-0891

Staff Report

To: City Commission **Agenda Date:** September 17, 2025
From: Dayna Webb, Public Works Director

SUBJECT:

Item 9.a. - Monthly Stormwater Fee Exemption Request for The Blue at Abernethy Creek

STAFF RECOMMENDATION:

Staff seeks Commission direction on whether to maintain the exemption effective November 22, 2024, or extend it back to the requested acquisition date of the property.

EXECUTIVE SUMMARY:

The Blue at Abernethy Creek, LLC requested an exemption from Oregon City's stormwater drainage service fees for its properties along Abernethy Road. After review, the Public Works Director approved the exemption effective November 22, 2024, the date the request was submitted, following certification that stormwater infrastructure discharges directly to Abernethy Creek. The property owner has since asked the City to reconsider and apply the exemption retroactively to June 6, 2023, when they acquired the property.

BACKGROUND:

On November 22, 2024, the City received a formal request from The Blue at Abernethy Creek, LLC for an exemption from Oregon City's monthly stormwater fees for multiple properties along Abernethy Road, as outlined in Oregon City Municipal Code 13.16.100.

In response, staff reviewed past exemption requests for comparable sites and consulted with the City Attorney. Staff sent a response back to the property owner on January 3, 2025. The response stated "The non-conforming status of the development and uses occurring on these properties suggests that the stormwater conveyance system may also pre-date compliance with current stormwater standards. Given these thresholds, offering only Google imagery noting the approximate location of storm drains is insufficient." To move forward, the property owner would need to submit engineer-stamped drawings documenting the existing stormwater conveyance system, topography, and flow calculations to confirm that no site-generated stormwater discharged into the public system.

On June 3, 2025, the City received a letter from Superior Excavation, dated May 30, 2025, certifying that all onsite stormwater infrastructure drains directly to Abernethy Creek. Based on this documentation, the City issued a letter on July 11, 2025, granting the exemption effective as of the original request date, November 22, 2024, and requesting payment of all outstanding fees. On July 15, 2025, a representative of The Blue at Abernethy Creek responded, accepting the exemption as applied from November 22, 2024, but requesting reconsideration of charges assessed between their acquisition of the property on June 6,

2023, and the exemption application date.

Before the exemption request was submitted, City Engineering and Utility Customer Service staff met with the property owner on multiple occasions between April to October 2024, to establish a mutually agreed upon framework for separating stormwater fees into four billing accounts for the property, as shown on the Stormwater Fee Map and Fee Summary. City staff dedicated considerable time in 2024 to work with the owner on structuring these fees. However, shortly after the billing separation was finalized and implemented, the City received the exemption request. Staff applied the exemption back to the date of the request, November 22, 2024.

Following is a summary of the Stormwater Fees for the 4 accounts. More details are provided in the attached Stormwater Fee Summary:

- Area A: If the additional exemption is granted the City will not owe any money to The Blue at Abernethy Creek. If the additional exemption is not granted The Blue at Abernethy Creek will owe the City \$1,243.46.
- Area B: If the additional exemption is not granted The Blue at Abernethy Creek will owe the City \$21,847.44. If the additional exemption is granted the City will owe The Blue at Abernethy Creek \$23,575.57.
- Area C: If the additional exemption is granted the City will owe Classic Collision \$3,490.11. If the additional exemption is not granted the City will owe Classic Collision \$2,765.72.
- Area D: If the additional exemption is not granted the City will owe Classic Collision \$13,104.66. If the additional exemption is granted the City will owe Classic Collision \$17,306.84.

Since the property owner does not consider the issued exemption sufficient, staff is seeking feedback from the City Commission on whether fees should instead be exempted retroactively to June 6, 2023, the date the property was acquired.

OPTIONS:

1. Approve Monthly Stormwater Fee Exemption Request for The Blue at Abernethy Creek.
2. Approve Monthly Stormwater Fee Exemption Request for The Blue at Abernethy Creek with Amendments.
3. Deny Monthly Stormwater Fee Exemption Request for The Blue at Abernethy Creek and provide further direction.

BUDGET IMPACT:

Amount \$

Fiscal Year(s):

Funding Source(s):

Abernethy Properties Stormwater Fee Summary

Stopped billing Storm on all accounts as of 5/31/25

				Area A The Blue at Abernethy Creek (Owner)	Area B The Blue at Abernethy Creek (Owner)	Area C Classic Collision (Tenant)	Area D Classic Collision (Tenant)
				1010 Abernethy Rd Acct #07-664655-00 52.44 ERU	1030 Abernethy Rd Acct #07-663300-06 71.27 ERU	1080.5 Abernethy Rd Acct #07-663611-00 152.74 ERU	1090 Abernethy Rd Acct #07-663301-03 30.55 ERU
Bill Date	Rate Code	Service Start Date	Service End Date	Total Dollars	Total Dollars	Total Dollars	Total Dollars
06/30/2025	Storm - per ERU	04/30/2025	05/31/2025	\$ 774.54	\$ 1,052.66	\$ 2,255.97	\$ 451.22
05/31/2025	Storm - per ERU	03/31/2025	04/30/2025	774.54	1,052.66	2,255.97	451.22
04/30/2025	Storm - per ERU	02/28/2025	03/31/2025	774.54	1,052.66	2,255.97	451.22
03/31/2025	Storm - per ERU	01/31/2025	02/28/2025	774.54	1,052.66	2,255.97	451.22
02/28/2025	Storm - per ERU	12/31/2024	01/31/2025	774.54	1,052.66	2,255.97	451.22
01/31/2025	Storm - per ERU	11/30/2024	12/31/2024	717.38	974.97	2,089.48	417.92
12/31/2024	Storm - per ERU	11/22/2024	11/30/2024	191.30	259.99	557.19	111.45
Approved Exemption back to 11/22/24				\$ 4,781.38	\$ 6,498.26	\$ 13,926.52	\$ 2,785.47
12/31/2024	Storm - per ERU	10/31/2024	11/22/2024	\$ 526.08	\$ 714.98	\$ 1,532.29	\$ 306.47
11/30/2024	Storm - per ERU	09/30/2024	10/31/2024	717.38	974.97	2,089.48	417.92
10/31/2024	Storm - per ERU	08/31/2024	09/30/2024	-	2,881.97	580.41	-
09/30/2024	Storm - per ERU	07/31/2024	08/31/2024	-	3,378.96	-	-
08/31/2024	Storm - per ERU	06/30/2024	07/31/2024	-	3,378.96	-	-
07/31/2024	Storm - per ERU	05/31/2024	06/30/2024	-	3,378.96	-	-
06/30/2024	Storm - per ERU	04/30/2024	05/31/2024	-	3,378.96	-	-
05/31/2024	Storm - per ERU	03/31/2024	04/30/2024	-	3,378.96	-	-
04/30/2024	Storm - per ERU	02/29/2024	03/31/2024	-	3,378.96	-	-
03/31/2024	Storm - per ERU	01/31/2024	02/29/2024	-	3,378.96	-	-
02/29/2024	Storm - per ERU	12/31/2023	01/31/2024	-	3,378.96	-	-
01/31/2024	Storm - per ERU	11/30/2023	12/31/2023	-	3,127.02	-	-
12/31/2023	Storm - per ERU	10/31/2023	11/30/2023	-	3,127.02	-	-
11/30/2023	Storm - per ERU	09/30/2023	10/31/2023	-	3,127.02	-	-
10/31/2023	Storm - per ERU	08/31/2023	09/30/2023	-	3,127.02	-	-
09/30/2023	Storm - per ERU	08/18/2023	08/31/2023	-	1,311.33	-	-
Additional Exemption Requested (prior to 11/22/24)				\$ 1,243.46	\$ 45,423.01	\$ 4,202.18	\$ 724.39
Account Balance as of 8/8/25				\$ 6,024.84	\$ 28,345.70	\$ 821.86	\$ 19.75
Total storm credit with full exemption request				6,024.84	51,921.27	18,128.70	3,509.86
Refund to customer				\$ -	\$ (23,575.57)	\$ (17,306.84)	\$ (3,490.11)
Account Balance as of 8/8/25				\$ 6,024.84	\$ 28,345.70	\$ 821.86	\$ 19.75
Storm credit exemption already approved				4,781.38	6,498.26	13,926.52	2,785.47
Remaining account balance (refund to customer)				\$ 1,243.46	\$ 21,847.44	\$ (13,104.66)	\$ (2,765.72)
Pro rated per day				\$ 23.91	\$ 32.50	\$ 69.65	\$ 13.93
<i>From 11/1 - 11/22</i>				\$ 526.08	\$ 714.98	\$ 1,532.29	\$ 306.47
<i>From 11/22 - 11/30</i>				191.30	259.99	557.19	111.45
				\$ 717.38	\$ 974.97	\$ 2,089.48	\$ 417.92

Summary:

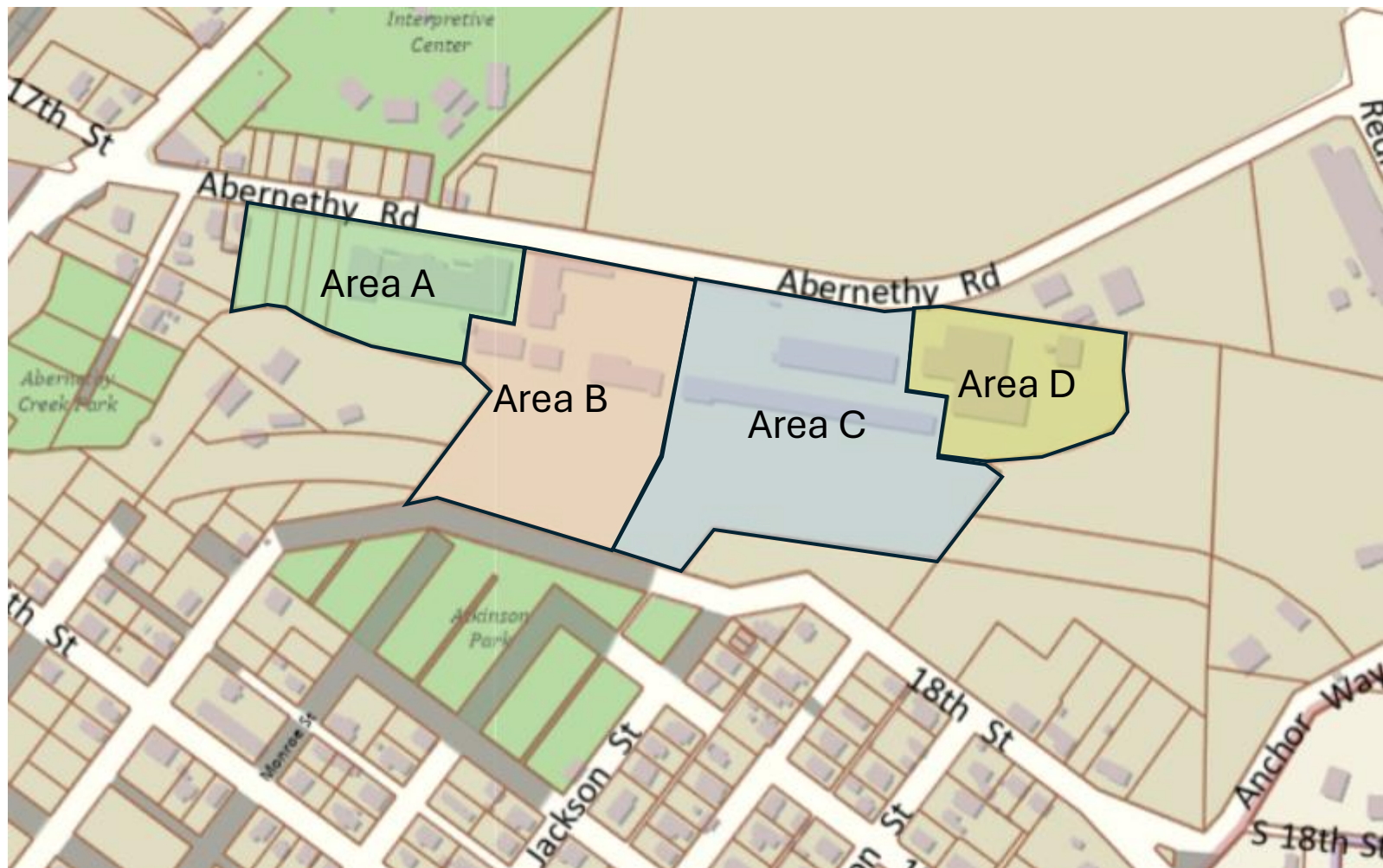
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Area D: If the additional exemption is not granted the City will owe Classic Collision \$13,104.66 if the additional exemption is granted the City will owe Classic Collision \$17,306.84.

Abernethy Properties Stormwater Fee Map



Area A = 52.44 ERU

Area B = 71.27 ERU

Area C = 152.74 ERU

Area D = 30.55 ERU



Email Letter
John Miller, Manager
PO Box 230698
Portland, Oregon 97281
P. 503.969.3640
E. johnm@greenwayig.com

DELIVERY BY EMAIL

dwebb@orccity.org

November 22, 2024

Dayna Webb
Public Works Director
Oregon City Public Works Department
13895 Fir Street
Oregon City, OR 97045
Phone: 971-204-4633
Email: dwebb@orccity.org

Subject: Request for Stormwater Fee Exemption under OCMC 13.16.100

I am writing on behalf of The Blue at Abernethy Creek, LLC (the “**Company**”), to formally request an exemption from Oregon City’s stormwater drainage service fees for our properties, generally located at 1000, 1010, 1020, 1030, 1040, 1050, 1060, 1070, 1080, 1090, 1102, and 1110 Abernethy Rd., Oregon City, Oregon (the “**Properties**”). This request is based on specific exemption provisions outlined in Oregon City Municipal Code (OCMC) Sections 13.16.100.

Background:

The Company recently purchased these Properties in June of 2023 from Clackamas County. The zoning falls under the Type Non-Conforming Use Designation as of November 3, 2023, where the legally established use was M1 - Light Industrial. Combined, the properties consist of approximately 718,000 square feet, of which 437,000 square feet is impervious surface (e.g., paving, rooftops). All stormwater generated on-site is managed through private conveyance facilities that discharge directly into Abernethy Creek (See attached “**Exhibit A**”).

Basis for Exemption:

1. **Exemption from Stormwater Fees under OCMC 13.16.100:** OCMC 13.16.100 provides an exemption for properties where stormwater does not enter the city’s public storm drainage system. Specifically, the code states:

“Any other person seeking an exemption or reduction in the storm drainage fee... may do so pursuant to a demonstration to the city manager or the manager’s designee that the public storm drain service does not receive stormwater from property used or occupied by that person. Such demonstration shall include evidence of legal disposal of stormwater to a private retention system, private storm drain system, public water body, or other receiving facility.”

The Properties qualify for this exemption, as their stormwater is managed on-site and discharged directly into Abernethy Creek, a public water body. This ensures that no stormwater from these Properties enters or utilizes the city’s storm drainage infrastructure.

Request for Individual Property Evaluation:

We recognize that stormwater management may vary slightly between individual addresses across the Properties. We respectfully request that the exemption application be evaluated on an address-by-address basis, allowing for exemptions to be granted for those properties that meet the criteria outlined in OCMC 13.16.100, even if an exemption is not applicable to a specific address.

This approach ensures that each property is assessed fairly and independently, in accordance with the Code's intent to exempt properties where the City's stormwater system is not impacted.

Additional Considerations:

While we understand the City may have concerns about potential impacts to City infrastructure in extreme or hypothetical scenarios, such as flooding, or minor interactions, such as stormwater passing through a culvert or simple public facility downstream, it is important to emphasize that government-imposed fees must be based on actual, measurable impacts. The recent Supreme Court decision in *Sheetz v. County of El Dorado* reaffirmed that such fees must be proportional to direct impacts and cannot rely on speculative or minimal scenarios.

In this case, even if some stormwater from the Properties were to flow through minor City infrastructure downstream, such as a culvert, the impact would be negligible in the grand scheme of the City's stormwater management. These minimal interactions do not rise to the level of a direct or meaningful burden on the City's stormwater system, particularly given that the majority of stormwater from the Properties is managed independently on-site and discharged directly into Abernethy Creek.

We trust that this application will be evaluated in alignment with these principles, ensuring that any fees or exemptions are grounded in actual, proportional impacts rather than remote or low-impact contingencies.

We respectfully request that the City consider this application and grant exemptions for those properties that meet the criteria under OCMC 13.16.100. Please let us know if further information is necessary to facilitate your review. I am available at your convenience to discuss the details of this request.

Thank you for considering this request. We look forward to your response.

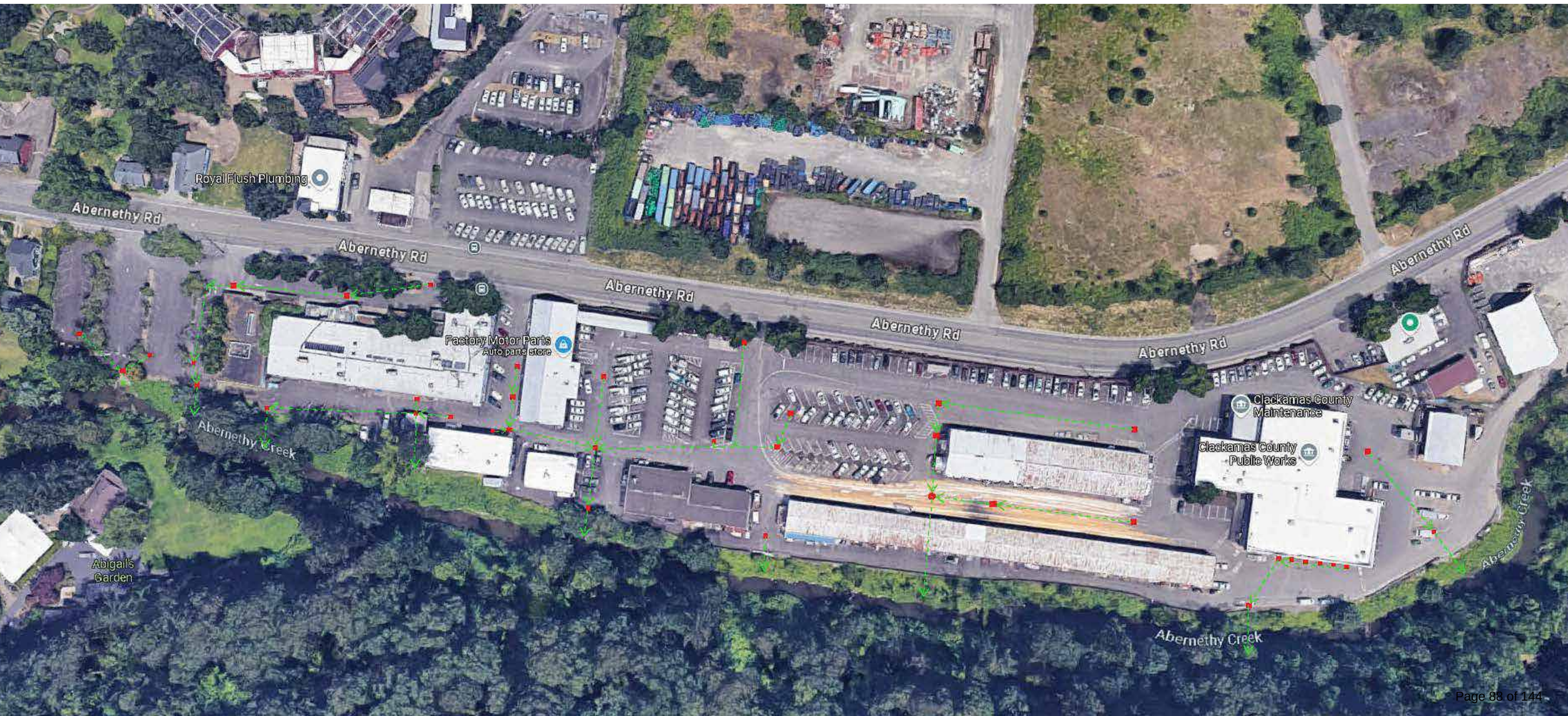
Sincerely,



John Miller, Manager

Cc: Josh Wheeler, Oregon City Public Works, Assistant City Engineer
(jwheeler@orc.org)
Dan Fowler, The Blue at Abernethy Creek, LLC
(danf@fandfstructures.com)

- Catch Basin
- Storm Line



- Catch Basin
- - - - - Storm Line





PO BOX 4340
Salem, OR 97302
CCB# 203766

Loscar@SuperiorExcavationInc.com

Superior Excavation, Inc.

PO Box 4340
Salem, OR 97302
Phone: (503) 999-8335
Email: Loscar@superiorexcavationinc.com

Date: May 30, 2025

To: Whom It May Concern

Subject: Certification of Drainage Line Field Observations and Graphics – The Blue at Abernethy Creek

I am writing to certify that the drainage graphics provided for The Blue at Abernethy Creek (covering 1000, 1010, 1020, 1030, 1040, 1050, 1060, 1070, 1080, 1090 and 1102 Abernethy Rd., Oregon City, Oregon 97045) which are attached hereto, accurately represent the stormwater conveyance to Abernethy Creek as observed and verified in the field.

Our field team conducted a detailed site walk and assessment on November 15, 2024, during which we identified and mapped all catch basins and connected private storm lines. Flow directions were confirmed by checking catch basin invert and outfall elevations on-site by visual inspection and functional tracing of infrastructure routing to known outfalls terminating at Abernethy Creek.

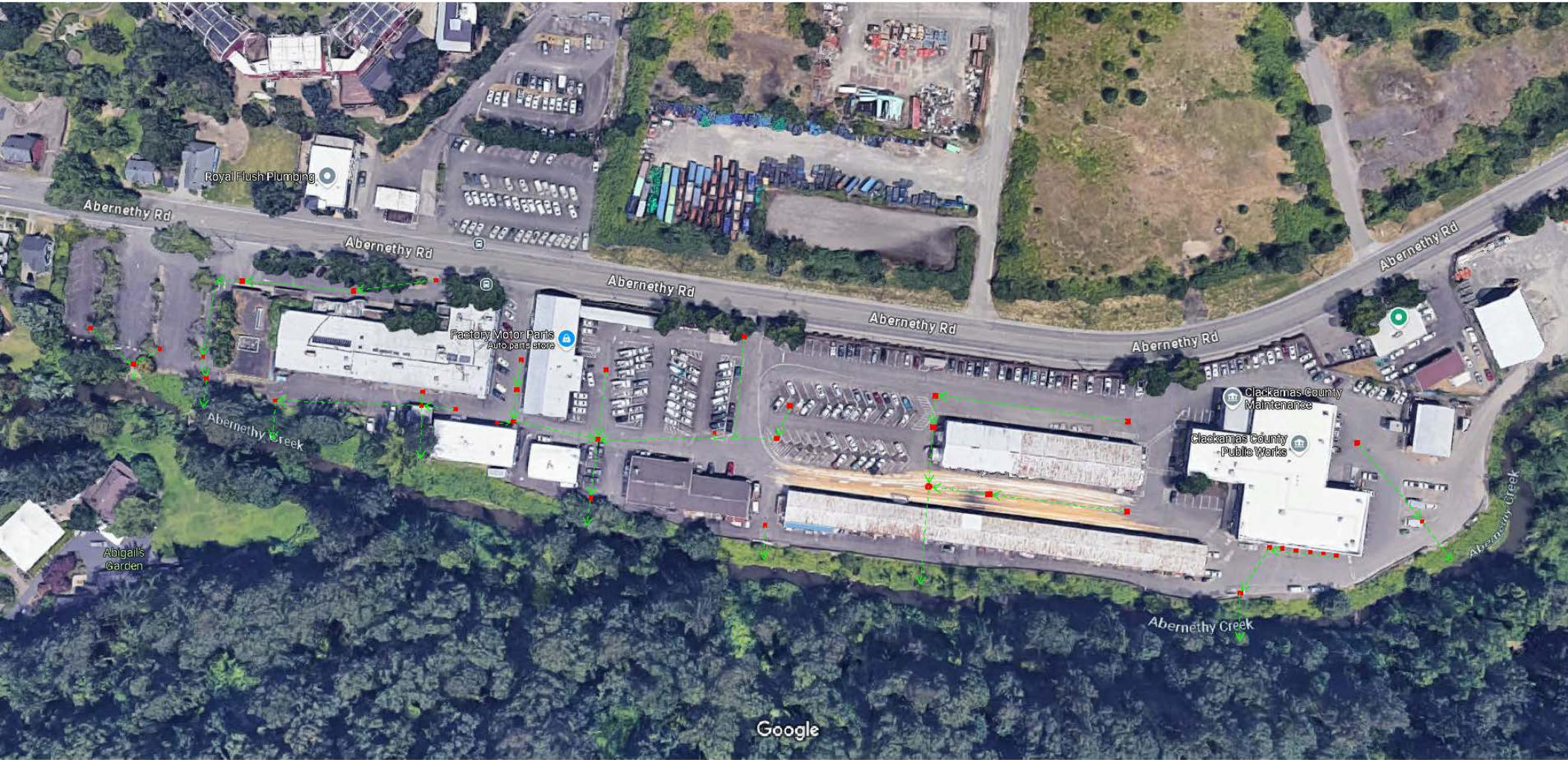
The submitted graphics reflect this field verification and are a true and accurate depiction of existing drainage features and flow direction as they exist on the ground. No connections to the City's municipal stormwater system exist from the aforementioned property locations.

If further clarification is required, I am available to discuss our findings.

Sincerely,

Daniel Loscar

President
Superior Excavation, Inc.



Imagery ©2024 Google, Imagery ©2024 Airbus, Maxar Technologies, Metro, Portland Oregon, Map data ©2024 100 ft





July 11, 2025

John Miller, Manager
The Blue at Abernethy Creek, LLC
PO Box 230698
Portland, OR 97281

RE: Stormwater Fee Exemption Request
1000, 1010, 1020, 1030, 1040, 1050, 1060, 1070, 1080, 1090, 1102, and 1110
Abernethy Road, Oregon City, Oregon

Dear Mr. Miller,

In response to your initial request dated November 22, 2024 and your subsequent submittal on June 3, 2025, we have determined that the subject property is currently exempt from the Stormwater Utility Fee based on Oregon City Municipal Code 13.16.100 at this time.

The exemption will be applied effective as of the date of the initial request, November 22, 2024. Any outstanding fees incurred prior to this date shall remain due and payable.

The City reserves the right to revise assessments and exemptions if the municipal code or calculation methods are amended or newly adopted by the City Commission, and such changes are subsequently enforced.

Sincerely,

Dayna Webb, PE
Public Works Director

Jakob Wiley

From: James Nicita <james.nicita@gmail.com>
Sent: Tuesday, September 16, 2025 7:18 PM
To: Denyse McGriff; Rocky Smith, Jr.; Adam Marl; Mike Mitchell; Scott Wilson
Cc: Tony Konkol; Dayna Webb; Jakob Wiley; City Recorder Team; Carrie Richter; Dan Fowler
Subject: Oregon City Commission September 17, 2025 Agenda Item 9a Monthly Stormwater Fee Exemption Request for The Blue at Abernethy Creek
Attachments: Ex. A. 1989-06-23 City Commission Minutes Final Passage Ord 89-1010.PDF; Ex. B. 1993-12-01 and 12-15 City Commission Minutes Storm Water Utility Fee Code Amendment.PDF; Ex. C Roseburg School Dist v City of Roseburg 316 Or 374 851 P2d 595 Or 1993.pdf

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

I respectfully submit these thoughts in reference to the above-referenced agenda item. I do so because I have a direct stake in its outcome and whatever precedent it sets. My house is in a geologic bowl, does not discharge to the City's storm drain system, and is potentially eligible for the identical storm water utility fee exemption.

I have reviewed the code, and I believe it has several flaws. It needs to be corrected. My thoughts are directed to those issues, as well as to this particular proceeding.

A. OCMC 13.16.100 Does Not Grant an Applicant a Right to Reconsideration, or Appeal to the City Commission

This is perhaps the most profound flaw of the code provision. Appeal rights are available when the code or a statute expressly provides for them. For example, in land use hearings the right to appeal a final decision of the Planning Commission to the City Commission, if the proper fee is paid.

The current proceeding, however it is framed, is an appeal by the applicant of an adverse decision of the city manager's designee to deny his request to extend the exemption he was granted from the date of his application to the date he first acquired the property. There is no such express entitlement given to applicants in OCMC 13.16.

The legislative history of the code makes clear that the situation is not simply the code being "silent" on the question of an appeal right. In fact, the code used to have such an express appeal right, but the City Commission expressly and *intentionally removed* that appeal right.

Here is the link to OCMC 13.16:

https://library.municode.com/or/oregon_city/codes/municipal_code?nodeId=TIT13PUSE_CH13.16STDRSECH

As you can see by the parenthetical reference below each paragraph, current OCMC chapter 13.16 was formerly numbered Sections 8-9-1, etc..

Attached as Ex. A are the minutes of the June 23, 1989 City Commission meeting at which the City Commission gave final approval to the original adoption of the current storm water utility fee in Ordinance 89-

1010. On p. 169, I have asterisked Section 8-9-11, which clearly and explicitly granted citizens the right to an appeal to the City Commission.

Attached as Ex. B are the minutes of the December 1, 1993 City Commission meeting at which the City Commission amended the storm water utility fee code, under the current numbering, through Ordinance 93-1025. At pp. 377-378, one can see that the storm water utility fee code no longer grants the right of an appeal to the City Commission.

I will note that Mr. Fowler voted for both versions of the code, first as a city commissioner and then as mayor. He certainly has had notice that the code does not grant the right of an appeal to the City Commission.

B. OCMC 13.16 is Silent on the Date an Exemption Would Accrue

This is the nub of the current proceeding. The lack of specificity in the code as to when the exemption accrues is another serious flaw.

Obviously to me the precedent should be that the exemption accrues at the time of purchase. Under such an interpretation the City owes me a refund in the storm water utility fees I have paid going back to 2007, when I purchased my home. (In fact, I would say that prior owners could claim an exemption and refund going back to the time of the 1989 adoption of the ordinance.)

I will leave it to the City Commission to decide whether it wants to adopt such a precedent. There are probably numerous property owners in Oregon City who would be due an exemption refund going back to the adoption of the storm water utility fee in 1989.

This brings up an ancillary flaw in the code: it does not require notice to property owners of their right to the exemption. It would be a simple matter to add a few words to the back of utility statements notifying citizens of the right to an exemption.

C. OCMC 13.16.100 Appears to Conflict with State Law

The origin of the code exemption in 1993 appears to be a 1993 Oregon Supreme Court case (Ex. C) that discussed individuals not being charged a municipal service fee if they do not in fact use that service.

OCMC 13.16.100 appears to state that if an appellant can demonstrate a legal disposal of storm water through a private conveyance system to a "public water body," then they are not using Oregon City's municipal storm water system.

However, the implementing rule for Oregon Statewide Planning Goal 11

<https://secure.sos.state.or.us/oard/displayDivisionRules.action?selectedDivision=3061>

provides the following definition of a local storm drain system:

660-011-0005

Definitions

(...)

(7) “Public Facility Systems”: Public facility systems are those facilities of a particular type that combine to provide water, sewer or transportation services. For purposes of this division, public facility systems are limited to the following:

(...)

(c) *Storm sewer:*

(A) *Major drainageways (major trunk lines, **streams**, ditches, pump stations and retention basins);*

(B) *Outfall locations.*

(Emphasis added).

Thus it would appear that a direct discharge into Abernethy Creek (or any other stream in Oregon City) is a use of the Oregon City storm water system that is or should be subject to the utility fee.

There is a fairness issue here, because exempting such properties increases the financial burden on other taxpayers for maintenance and legal compliance of the city-wide storm water system that includes Abernethy Creek.

D. The Applicant has not Demonstrated “Legal” Storm Water Disposal

OCMC 13.16.100 requires the demonstration of “legal” storm water disposal. At least in the record before the City Commission, there is no demonstration by the applicant of compliance with water quality laws and regulations. The evidence does show an aerial photograph of a very crowded parking lot, the cars in which are leaking oil, brake fluid, other chemicals, etc., onto the pavement. The rainfall is then washing this pollution into private storm drains discharging into Abernethy Creek, which contains salmon among other species.

Relevant laws and regulations include, but are probably not limited to, the following:

OCMC 8.08.020 - Nuisances affecting health.

The following are declared nuisances affecting health:

(...)

G. The pollution of any public or private well or cistern, stream, lake, canal or body of water by sewage, creamery or industrial wastes *or other substances* (emphasis added).

(Note: whether or not this provision is subject to the prosecutorial discretion of the City is irrelevant. OCMC 13.16.100 puts the burden on the applicant to demonstrate that no pollution of Abernethy Creek is being caused by the storm water discharges.)

ORS 468B.025 Prohibited activities. (1) Except as provided in ORS 468B.050 or 468B.053, no person shall:

(a) Cause pollution of any waters of the state

ORS 468B.050 Water quality permit; issuance by rule or order; rules. (1) Except as provided in ORS 468B.053 or 468B.215, without holding a permit from the Director of the Department of Environmental Quality or the State Department of Agriculture, which permit shall specify applicable effluent limitations, a person may not:

(a) Discharge any wastes into the waters of the state from any *industrial or commercial* establishment or activity *or any disposal system* (emphasis added).

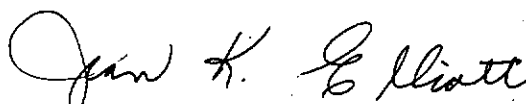
Thank you for your consideration of these comments.

James Nicita
Oregon City

At this time, Mayor Spear, requested Commissioner Fowler to chair the meeting. It was moved by Spear, second by VanOrman, to refer Commission Report 89-109, Proposed Annexation of Property on South Holcomb Boulevard to the City of Oregon City - Resolution No. 89-29, back to staff for reconsideration.

Roll call: Spear, Aye; Smith, Abstain; VanOrman, Aye; Fowler, Aye.

There being no further business, the meeting adjourned at 11:20 p.m.



JEAN K. ELLIOTT, City Recorder

SPECIAL MEETING

Oregon City, Oregon, June 23, 1989

A special meeting of the City Commission was held in the Commission Chambers of City Hall on the above date at 8:00 a.m.

Roll call showed the following present:

Mayor David D. Spear	Thomas Fender III, City Manager
Commissioner Carol A. Powell	Jean K. Elliott, City Recorder
Commissioner Suzanne VanOrman	Mark Greenfield, City Attorney
Commissioner Daniel W. Fowler	
Commissioner Bobby L. Smith	

Mayor Spear opened the meeting by calling for Manager's Report No. 89-119, Proposed Ordinance No. 89-1010, An Ordinance Amending Title VIII: Health and Sanitation, of the 1963 City Code, by Adding Chapter 9 Creating a Storm Drainage Utility Fund and Establishing and Imposing Drainage Charges - Second Reading. The report noted that the Oregon City Charter of 1982, Chapter VIII, Ordinances, Section 34, Mode of Enactment, (b), states, in part, the following: "...an ordinance may be enacted at a single meeting of the commission by unanimous vote of all commission members present...".

At the June 15, 1989 meeting, first reading of proposed Ordinance No. 89-1010 was approved on a three - aye; one - nay, vote with one Commission member absent. Therefore, on the June 23, 1989 agenda, there was proposed Ordinance No. 89-1010 presented for second reading and final enactment.

Notice of proposed Ordinance No. 89-1010 was posted at City Hall, 320 Warner Milne Road; Courthouse, 807 Main Street; and, Senior Center, 615 5th Street, by direction of the City Recorder. It was recommended that second reading be approved for final enactment to become effective July 23, 1989.

Commissioner Powell requested a review of the reason for the nay vote on first reading. The Development Services Director reminded the Commission of their prior approval of the master plans and of the Capital Improvement Program and the budget process and that in order to implement those processes, it was necessary for funding to be provided. This was one aspect of the funding needed. Commissioner VanOrman noted that she was not against what was needed, only that she was expressing concern for the costs to the homeowners.

Second reading was called after which it was moved by Powell, second by Fowler, to approve second reading for final enactment.

Roll call: Smith, Aye; VanOrman, Aye; Powell, Aye; Fowler, Aye; Spear, Aye.

ORDINANCE NO. 89-1010

AN ORDINANCE AMENDING TITLE VIII: HEALTH AND SANITATION, OF THE 1963 CITY CODE, BY ADDING CHAPTER 9 CREATING A STORM DRAINAGE UTILITY FUND AND ESTABLISHING AND IMPOSING STORM DRAINAGE CHARGES.

OREGON CITY ORDAINS AS FOLLOWS:

Section 1. That Title VIII: HEALTH AND SANITATION, of the 1963 City Code, be and the same is hereby amended by adding Chapter 9: STORM DRAINAGE UTILITY FUND, to read as follows:

CHAPTER 9

STORM DRAINAGE UTILITY FUND

SECTION:

- 8-9- 1: Intention of City to Operate Storm Drainage System
- 8-9- 2: Definitions
- 8-9- 3: Service Charges
- 8-9- 4: Determination of Service
- 8-9- 5: Rates Established
- 8-9- 6: Payment Required
- 8-9- 7: Collection
- 8-9- 8: Recovery of Unpaid Charges
- 8-9- 9: Right of Entry by City Employees
- 8-9-10: Exemptions
- 8-9-11: Appeal

8-9-1: INTENTION OF CITY TO OPERATE STORM DRAINAGE SYSTEM:
Pursuant to the Constitution and general laws of the State and powers granted in the Charter of the City of Oregon City, the Commission does declare its intention to acquire, own, construct, equip, operate and maintain within and without the City limits of Oregon City, Oregon, open drainageways, underground storm drains, equipment and appurtenances necessary, useful or convenient for the construction of storm drainage improvements including maintenance, extension and reconstruction of the present storm drainage system of Oregon City.

8-9-2: DEFINITIONS: As used in this chapter, except where the context otherwise requires:

- (A) "Residential Dwelling Unit" means one or more rooms with bathroom and kitchen facilities designed for occupancy by one family.
- (B) "Non-Residential Unit" means any building, or facility or other improved property used other than as a residential dwelling unit.
- (C) "Equivalent Residential Unit" (ERU) means a non-residential configuration estimated to place approximate equal demand on the City's storm drainage system as a residential dwelling unit. The equivalent residential unit (ERU) of a non-residential property is computed by multiplying the property's area range number (ARN) by its intensity factor (DIF) as follows:

$$ERN = ARN \times DIF$$

- (D) "Area Range Number" (ARN) are ranges of gross area square footage used to classify non-single family residential properties into groups of similar parcel size. Parcels with gross areas of 1 to 2,500 square feet are assigned an area range number (ARN) 1. Parcels with gross areas of 2,500 to 5,000 square feet have an ARN of 2. Parcels with gross areas of 5,000 to 7,500 square feet would have an ARN of 3 and so on so that each additional range of 2,500 square feet shall be counted as an additional ARN of 1.
- (E) "Development Intensity Factor" (DIF) is the runoff coefficient that is indicative of the land use or impervious coverage of each property. The following table represents the DIFs for each of the existing land uses and zoning to the use in the calculations.

Non-Residential
Land Use or Zoning

Development
Intensity Factor

LOC	Limited Office Conditional	0.70
LO	Limited Office	0.80
NC	Neighborhood Commercial	0.80
HC	Historic Commercial	0.70
LC	Limited Commercial	0.70
C	General Commercial	0.90
CBD	Central Business District	0.90
M1	Light Industrial	0.70
M2	Heavy Industrial	0.80
	Conditional Use or Non-Conforming	Apply a composite runoff factor

(F) "Improved Property" means any area which has been altered such that the runoff from the property is greater than that which could have been expected in an undeveloped state. Such condition shall be determined by the City Engineer.

8-9-3: SERVICE CHARGES: There is hereby established and imposed on all improved properties in the City a just and equitable storm drainage utility service charge to implement the City's Drainage Master Plan and the aforesaid storm drainage system. Charges collected shall be deposited into the Storm Drainage Fund of the City and used only for the purposes aforesaid.

8-9-4: DETERMINATION OF SERVICE: The City Commission determines that the property not used for residential dwelling purposes is furnished service in proportion to the size of the property and its development intensity factor based on the definition of "equivalent residential unit" aforesaid.

8-9-5: RATES ESTABLISHED: The following rates are established:

Residential Dwelling Unit	Per Month	\$2.00
Non-Residential Unit	Per Month	\$2.00/ERU

The service charges, pursuant to this section may be amended by the City Commission by resolution so as to continue to recover cost of service.

8-9-6: PAYMENT REQUIRED: Such service charges shall be paid by those liable therefor and every person subject to a charge provided herein shall pay the same, when due, to the City of Oregon City.

8-9-7: COLLECTION: The service charges shall be collected with the monthly water bill for those connected to water or billed alone as a storm drainage charge for those users not connected to or not otherwise charged for water service.

8-9-8: RECOVERY OF UNPAID CHARGES: Any charge due hereunder which shall not be paid when due shall be collectable with and in the same manner as charges imposed for water service and in any other manner provided by law. Failure to pay the charges imposed by this Chapter shall subject the user and the premises or other person responsible to the collection and lien provisions imposed for water charges.

8-9-9: RIGHT OF ENTRY BY CITY EMPLOYEES: Subject to Constitutional limitations, the employees of the City shall at all reasonable times have access to any premises served by the City for inspection, repair or the enforcement of the provisions of this Chapter.

8-9-10: EXEMPTIONS: Vacant and unimproved properties within the City of Oregon City are exempt from the charges in Section 8-9-5.

* 8-9-11: APPEAL: Any person who disputes the City's storm drainage service charge may appeal the same within 30 days of first imposition of new or amended charges. The City Manager or the designee of the City Manager shall attempt informally to review such charges and resolve the appeal in writing. If the person is still dissatisfied, that person may appeal the City Manager's decision in writing filed with the City Recorder within 15 days of the City Manager's decision. Such appeal shall be resolved by the City Commission.

Read first time at a regular meeting of the City Commission held on the 15th day of June, 1989, and the foregoing ordinance was finally enacted by the City Commission this 23rd day of June, 1989.

/s/Jean K. Elliott
JEAN K. ELLIOTT, City Recorder

ATTESTED this 23rd day of June, 1989.

/s/David D. Spear
DAVID D. SPEAR, Mayor

Manager's Report No. 89-118, Proposed Annexation of Property on South Holcomb Boulevard to the City of Oregon City - Resolution No. 89-29 - continued from the June 15, 1989 meeting, was presented. The report noted that at the June 15, 1989 City Commission meeting, the Commission referred the proposed annexation on South Holcomb Boulevard to staff for further review. At issue was the inclusion of three properties on the west side of the five properties petitioning for annexation.

The report continued that the three properties were recommended to be included to give the proposal a more logical boundary and to provide a more efficient extension of urban services, in particular sanitary sewer service. Attached was a map of the proposed annexation with the five properties petitioning colored

in yellow and the three properties recommended to be added colored in blue.

The City Commission heard from a lot of property owners adjacent to, but not included in the proposed annexation. Most of the comments came from the South Winston Drive and South Armel Drive neighborhoods, many of whom thought they would become an island.

The issue, as with most of the recent annexations, is the inclusion of some properties that do not want to be annexed. The City Commission's policy has been that these properties should be included where they form a more typical boundary and where they would achieve a more efficient extension of urban services.

The report concluded that staff reviewed the proposal again and still believed that the three intervening properties should be included. Keeping in mind that the City Commission only recommends a particular boundary, the ultimate decision of which property to include rests with the Portland Metropolitan Area Local Government Boundary Commission. It was recommended that the City Commission approve staff's analysis and adopt Resolution No. 89-29 that will forward the annexation request to the Boundary Commission for consideration.

The Development Services Director presented a review of the Commission guidelines for aggressive annexation with the Commission discussing the creation of a logical boundary.

James Ebert of the HOPP Association was present and addressed the Commission noting that he has talked to the petitioners and supports those that want to annex and supports those that do not. He supports the annexation as proposed and noted that the property owners that objected were enjoying the open space provided by the undeveloped property and were therefore, trying to block the annexation, while the property owners were carrying the burden of taxes with no prospect for relief through development.

It was moved by Powell, second by Fowler, to adopt Resolution No. 89-29 as presented.

Roll call: VanOrman, Aye; Powell, Aye; Fowler, Aye; Smith, Nay; Spear, Nay.

RESOLUTION NO. 89-29

A RESOLUTION INITIATING A DOUBLE MAJORITY ANNEXATION REQUEST TO THE PORTLAND METROPOLITAN AREA LOCAL GOVERNMENT BOUNDARY COMMISSION.

WHEREAS, the City Commission is authorized by ORS 199.490 (2) (B) to initiate an annexation upon receiving consent in writing from a majority of the electors registered in the territory proposed to be annexed and the written consent from owners of more than half the land in the territory proposed to be annexed; and

WHEREAS, the City Commission has received the necessary "consents" in sufficient numbers to meet so-called "double-majority" annexation requirements listed above and has set the boundary of the territory proposed for annexation as authorized by ORS 199.480; and

WHEREAS, the territory proposed to be annexed is presently within the Clackamas County Fire District No. 71, and the Clairmont Water District, and would, be operation of ORS 199.510 (1), be automatically withdrawn from those districts immediately upon consummation of the annexation.

NOW, THEREFORE, BE IT RESOLVED by the City Commission of the City of Oregon City, as follows:

Section 1. That the Commission by this Resolution approves the proposed annexation with the boundaries described in Exhibit "A" and depicted in Exhibit "B" attached hereto;

Section 2. That the City Recorder is hereby directed to file certified copies of the statements of consent and this Resolution with the Portland Metropolitan Area Local Government Boundary Commission at once.

Adopted, signed and approved this 23rd day of June, 1989.

Mayor-Commissioner

/s/Carol A. Powell
Commissioner

/s/Suzanne VanOrman
Commissioner

/s/Daniel W. Fowler
Commissioner

Commissioner

Comprising the City Commission
of Oregon City, Oregon

Manager's Report No. 89-115, Creation of Checking Account - Resolution No. 89-30, was presented. The report noted that recently, proposals were requested and reviewed for the creation of a checking account for the City's payroll account. After analysis of the proposals submitted, it was the recommendation of staff that the United States National Bank, Hilltop Branch, be selected as the City's payroll account provider.

The report continued that this was not a bid award as the dollar value was below the requirements for the bidding process. It was that the bank requires a corporate resolution whenever an account is created involving public funds.

Therefore, on the June 23, 1989, Special Commission meeting agenda, there was proposed Resolution No. 89-30 which directs the United States National Bank to create a checking account for the City of Oregon City for the purpose of direct deposit of employee payroll and provides City agreement to be bound by applicable Federal and State laws, rules and regulations regarding the account.

It was moved by Fowler, second by VanOrman, to adopt Resolution No. 89-30 as presented.

Roll call: Powell, Aye; Fowler, Aye; Smith, Aye; VanOrman, Aye; Spear, Aye.

RESOLUTION NO. 89-30

WHEREAS, the City Commission of Oregon City, Oregon, desires to create a checking account at United States National Bank, Hilltop Branch, 1600 Molalla Avenue, Oregon City, Oregon; and

WHEREAS, the City Commission hereby certifies that the City of Oregon City is a municipal corporation of the State of Oregon; and

WHEREAS, the funds to be deposited to the credit of the account are and will be public funds.

NOW, THEREFORE, BE IT RESOLVED by the City Commission of Oregon City, Oregon, that the above named bank is hereby authorized to create said checking account and that we hereby agree to be bound by applicable Federal and State laws, rules and regulations for as long as the account remains open.

Adopted, signed and approved this 23rd day of June, 1989.

/s/David D. Spear
Mayor-Commissioner

/s/Carol A. Powell
Commissioner

/s/Suzanne VanOrman
Commissioner

/s/Daniel W. Fowler
Commissioner

/s/Bobby L. Smith
Commissioner

Comprising the City Commission
of Oregon City, Oregon

Manager's Report No. 89-116, Transfer of Appropriations for Fiscal Year 1988-89 - Resolution No. 89-32, was presented. The report noted that ORS 294.450 provides the legal basis for transfer of appropriations within a fund. One of those methods provides that the City Commission can make adjustments by resolution if the adjustments involve transfer of funds between departments within the General Fund or between major expenditure areas of other funds. Likewise, utilization of Contingency funds must also be approved by City Commission resolution.

On the June 23, 1989 agenda, there was proposed Resolution No. 89-32 which included an explanation of the changes to appropriations. The expenditure transfers are balanced within each fund, except for the elimination of the Street Department, now a separate fund, revenues and expenditures.

GENERAL FUND

City Commission: Increase to provide for payment of membership dues and salary of part-time employee.

City Manager and Recorder: Increase to provide for payment of secretarial salary, printing, office supplies, newspaper ads, legal ads and miscellaneous.

City Attorney (Legal): Increase to provide for legal services on a contracted basis. Expenses are paid on a case-by-case basis with an appropriation to cover the entire amount as contracted services.

Municipal Court: Increase to provide for the increase in contracted services of the Municipal Judge as directed by the City Commission.

Finance/Personnel: Increase to provide for computer maintenance, printing and publications.

Non-Departmental: Decrease in amount for general insurance from negotiated decrease in cost. Decrease in Contingency to provide for payment of increases listed.

Streets: Decrease as the Department is now a separate fund as created by Supplemental Budget No. 2 in January, 1989. The salaries for Elevator Operators will remain an obligation of the General Fund.

Cemetery Fund: Balances by shifting appropriation as required between Personal Services, Materials and Services, Capital Outlay and Contingency.

Cable TV Systems Improvement: Balances by shifting appropriation as required between Materials and Services and Capital Outlay to allow for payments to the cable operations for the cities of West Linn, Gladstone and Oregon City.

The report concluded that in order to make the transfer of appropriations as needed, it was necessary for the City Commission to approve a resolution. Based on the information provided, it was recommended that the City Commission approve Resolution No. 89-32.

It was moved by Smith, second by Powell, to adopt Resolution No. 89-32 as presented.

Roll call: Fowler, Aye; Smith, Aye; VanOrman, Aye; Powell, Aye; Spear, Aye.

RESOLUTION NO. 89-32

WHEREAS, ORS 294.450 provides the legal basis for transfers of appropriations within a fund, and

WHEREAS, the City Commission adopted a budget for 1988-89 and by Resolution No. 88-44 made appropriations for the current fiscal year; and

WHEREAS, the need now exists to transfer additional appropriations within the General Fund to prevent a deficit.

NOW, THEREFORE, BE IT RESOLVED by the City Commission of Oregon City that the Changes to Appropriations as attached and made a part hereof, be authorized.

Adopted, signed and approved this 23rd day of June, 1989.

/s/David D. Spear
Mayor-Commissioner

/s/Carol A. Powell
Commissioner

/s/Suzanne VanOrman
Commissioner

/s/Daniel W. Fowler
Commissioner

/s/Bobby L. Smith
Commissioner

Comprising the City Commission
of Oregon City, Oregon

Manager's Report No. 89-117, Invitation to Clackamas County - Resolution No. 89-31, was presented. The report noted that recently, newspaper articles have carried information that Clackamas County is considering moving their corporate offices to an as yet undetermined location possibly outside of Oregon City.

As a result of that information, on the June 23, 1989 agenda, there was proposed Resolution No. 89-31 which extends an invitation to the Clackamas County Board of Commissioners to continue their commitment to our community by consolidating and keeping County offices in Oregon City.

The report continued that until the "Location Bill" of 1851 moved the State capital to Salem, Oregon City, historically, has been the seat of the Oregon Territorial government.

Given that Oregon City was the first incorporated City west of the Rockies, it was natural that Oregon City be the "seat" of County government.

Pursuant to ORS 202.120, the county court may temporarily fix the county seat, however, an election is then required wherein the electors are provided the opportunity to vote on such change.

The report concluded by recommending that the City Commission adopt Resolution No. 89-31 to be forwarded to the Board of Commissioners as an expression of Oregon City's desire to continue as a viable and important business of our community.

It was moved by Fowler, second by Powell, to adopt Resolution No. 89-31 as presented.

Commissioner VanOrman requested that the word "invited" in the last paragraph of the resolution be changed to "encouraged". The motion was amended and seconded to include that change.

Roll call: Smith, Aye; VanOrman, Aye; Powell, Aye; Fowler, Aye; Spear, Aye.

RESOLUTION NO. 89-31

A RESOLUTION EXTENDING AN INVITATION FROM THE CITY COMMISSION OF OREGON CITY TO THE CLACKAMAS COUNTY BOARD OF COMMISSIONERS TO CONTINUE THEIR COMMITMENT TO OUR COMMUNITY BY CONSOLIDATING AND KEEPING COUNTY OFFICES IN OREGON CITY.

WHEREAS, Oregon City was laid out and named in 1842 by Dr. John McLoughlin on his Land Claim of 1829; and,

WHEREAS, Oregon City became a Provisional Government in 1844; and

WHEREAS, in 1849, Oregon City was the Territorial Government; and

WHEREAS, with the passage of the "Location Bill" of 1851, Oregon City ceased to be the capital of Oregon; and

WHEREAS, with Oregon City's richness of history and early political involvement as the Provisional Government, Territorial Government and as the original and only County Seat of Clackamas County, Oregon City does not wish to cease to be the County Seat of Clackamas County.

NOW, THEREFORE, BE IT RESOLVED by the City Commission of Oregon City that the Clackamas County Board of Commissioners are hereby encouraged to continue their commitment to Oregon City by consolidating and keeping County offices in Oregon City.

Adopted, signed and approved this 23rd day of June, 1989.

/s/David D. Spear
Mayor-Commissioner

/s/Carol A. Powell
Commissioner

/s/Suzanne VanOrman
Commissioner

/s/Daniel W. Fowler
Commissioner

/s/Bobby L. Smith
Commissioner

Comprising the City Commission
of Oregon City, Oregon

Manager's Report No. 89-114, Railroad Depot Relocation Purchase Agreement Authorization, was presented. The report noted that a copy of an Agreement for Sale and Purchase with Emmert International for the relocation of the City's Old Railroad Freight Depot was attached. The form of the agreement was changed from a relocation contract to a purchase and sale agreement to reduce the cost associated with prevailing wage requirements and to reduce the liability involved for the City.

The report continued that the Commission discussed the funding sources and amounts at the June 7 meeting and at the June 15 work session. Only representatives from the Enhancement Committee attended the work session. There was a lack of consensus on which funding sources and how much to use from each fund. The staff recommendation had been to use some from each of the three funding sources discussed, i.e., \$19,842 - Civic Improvement Trust; \$15,000 - Oregon City-METRO Enhancement; and, \$15,000 - Urban Renewal, for a total of \$49,842.

Funds were available in each of the funds; however, there were differences of opinion on whether the depot project would fit the intent of each of the funds. The Enhancement Committee was the only committee that did not want enhancement funds used.

In assisting the Commission, there is need to better distinguish the ultimate use of the Depot. This would decide which funding source/s to use. The staff position was that the Depot would be a potential tourism resource, therefore, eligible for Trust Funds; an economic development project, therefore eligible for Urban Renewal Funds; and, an improvement to the gateway if located there, therefore eligible for Enhancement funds.

The report concluded that if the Commission did not want to use Enhancement funds, then it should consider allocating more funds from the other sources. If the Commission felt the project was economic development and tourism, one option might be: \$30,000 - Urban Renewal; and, \$19,842 - Civic Improvement Trust. Staff followed Commission direction and negotiated a contract. A decision on funding is needed before the building is moved.

The Development Services Director advised that the Herman Bergman, Station Master, lives in Canby, and worked in this particular depot. He advised that this depot was both freight and passenger.

It was moved by Powell, second by Fowler, in favor of the project with the funding of \$30,000 Urban Renewal and, \$19,842 Trust funds, and that the Mayor and City Recorder are directed to execute the sales agreement.

VanOrman questioned from whose budget the upkeep of this project would be funded. The Manager noted the Parks budget with the project managed by the Urban Renewal District. Smith noted that he was opposed to the project.

Roll call: VanOrman, Nay; Powell, Aye; Fowler, Aye; Smith, Nay; Spear, Nay.

Manager's Report No. 89-120, Litigation - Country Village, was presented. The report noted that on June 17, 1989, the City Commission met in Executive Session to receive information from City legal counsel pursuant to ORS 192.660 (1)(h), regarding the Country Village litigation process and status.

Based upon counsel's opinion as to ultimate appellate jurisdictional decision, and upon their own motion, the City Commission expressed wanting to go on record that they will not pursue the \$410,742.00 damages portion of the enforcement action (CA A50862) as to the defendant, Clackamas County, when and if that case is remanded to Circuit Court.

The report concluded that this report, once accepted, would be forwarded to City legal counsel for appropriate action.

It was moved by Fowler, second by VanOrman, to accept Commission Report No. 89-120.

It was then moved by Powell, second by Spear, to table this matter pending a decision in the Appellate Courts.

Roll call: Powell, Aye; Fowler, Nay; Smith, Nay; VanOrman, Nay; Spear, Aye.

Fowler noted that he feels the public relations that needs to be done and supports this action.

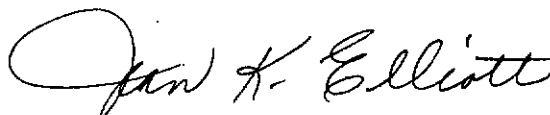
Smith noted supporting this action because it went with Resolution No. 89-31 just adopted.

Powell asked if this was a removal of the entire case. The Manager advised no that this is to remove the damages portion only and the City would not lose its ability to settle this case. It was asked what will the County extend to the City and will the County move forward and cooperate with the City now. Fowler

noted feeling that this action will move the City forward with the County.

Roll call: Fowler, Aye; Smith, Aye; VanOrman, Aye; Powell, Nay; Spear, Aye.

There being no further business, the meeting adjourned at 9:20 a.m.



JEAN K. ELLIOTT, City Recorder

REGULAR MEETING

Oregon City, Oregon, July 5, 1989

A regular meeting of the City Commission was held in the Commission Chambers of City Hall on the above date at 8:00 p.m.

Roll call showed the following present:

Mayor David D. Spear	Thomas Fender III, City Manager
Commissioner Carol A. Powell	Jean K. Elliott, City Recorder
Commissioner Suzanne VanOrman	Edward Sullivan, City Attorney
Commissioner Daniel W. Fowler	
Commissioner Bobby L. Smith	

It was moved by VanOrman, second by Smith, to approve the minutes of June 15 and 23, 1989.

Roll call: Powell, Abstain; Fowler, Aye; Smith, Aye; VanOrman, Aye; Spear, Aye.

This was the opportunity for citizens to present items for future agendas.

Gary Kuehn, 904 Pierce Street, requested that the City's water shut-off policy be on a future agenda.

James Curtis, 16038 S. Depot Lane, requested the exemption of CPO's appeals to Planning Commission decisions with regard to waiver of fees be brought before the Commission. Further, he noted that an appeal of the Knappton/Reidel log pond issue was in appeal and requested a waiver of the fees.

When asked if the City can waive the fee, the City Attorney advised the ordinance does not provide for that but the Commission can make a policy decision and do so. He noted that the law does not require this and it can be on a case-by-case basis but it is better to amend the zoning ordinance for the waivers.

REGULAR MEETING

Oregon City, Oregon, December 1, 1993

A regular meeting of the City Commission was held in the Commission Chambers of City Hall on the above date at 8:00 p.m.

Roll call showed the following present:

Mayor Daniel W. Fowler
Commissioner Suzanne VanOrman
Commissioner Robert M. Light
Commissioner James R. Ebert

Charles Leeson, City Manager
Edward J. Sullivan, City Attorney

The flag salute was lead by Mayor Fowler, after which he called for approval of the minutes. It was moved by Light, second by VanOrman, to approve the minutes of November 3 and 17, 1993.

Roll call: Ebert, Aye; VanOrman, Aye; Light, Aye; Fowler, Aye.

On the call for citizen presentations and future agenda items, Sherry Davis, Oregon City, spoke regarding the City's commemorative coin and presented a coin to each member of the Commission.

John Stewart, Deputy Chief of Police, presented the City an award from the Paralyzed Veterans of America in recognition of leadership and participation in the parking for the disabled volunteers enforcement program. He announced that the Oregon City Police Department would be bringing three crime prevention programs to be presented on Willamette Falls TV, Channel 11, at 1:00 PM on Mondays, 8:30 PM on Tuesdays and will be repeated weekly through the month of March.

Commission Report No. 93-259, Request for Comprehensive Plan Amendment Zone Change for 4.71 Acres Located on the South Side of S. Thayer Road, East of Beavercreek Road - Public Hearing, was presented by the Manager. The report noted that on the December 1, 1993 agenda was a request by Pro West, Inc., for a Comprehensive Plan Amendment and Zone Change for property located on the south side of S. Thayer Road, containing approximately 4,71 acres. The request was to change the Comprehensive Plan from "LR", Low Density Residential to "LR/MH", Low Density Residential/Manufactured Home, and a zone change from "R-10", Single-Family Dwelling District to "R-6/MH", Single-Family Dwelling District.

The report continued that the Planning Commission conducted a public hearing on this request on November 23, 1993. The action taken was to recommend approval of the request; no conditions were attached at this time.

Attached for Commission review were the following: 1) Planning Commission minutes from November 23, 1993; 2) staff report; and 3) public notice and map of the property.

The report concluded by noting that it should be noted that the Commission has the responsibility to consider all facts presented and to interpret these facts against the Comprehensive Plan and Zone Change criteria. Upon a decision by the City Commission, a final order and ordinance would be prepared for adoption at a future meeting.

The City Attorney read the cautions which arise out of ORS 197.763 (5). At the beginning of the hearing a statement shall be made to those in attendance that lists the applicable criteria. The criteria is available in the staff report and anyone wanting a copy, they are available. The testimony and evidence must be directed toward those criteria or other criteria in the Plan or regulations which the person believes to apply to the decision and failure to raise an issue with sufficient specificity to afford the decision maker and other parties an opportunity to respond to that issue precludes appeal to LUBA on that issue.

Mayor Fowler opened the public hearing and called for abstentions. None were declared. There were no conflicts or ex parte communications.

Denyse McGriff, Principal Planner, presented the Commission Report. She advised that this property was annexed, along with several others, earlier this year.

Fowler asked if the new law, effective May 1994, would make this zone obsolete. McGriff responded that it would not, this zone will still continue to be a valid zone and was designed to accommodate a range of manufactured housing.

VanOrman asked why manufactured homes are on 6,000 square feet. McGriff responded that this was not a 6,000 square foot lot, it was 6,800 square feet. VanOrman asked if they could be placed on R-10. McGriff responded that our ordinance currently only allows manufactured dwellings on individual lots in the R-6/MH zone.

Jim Hall, 328 Ainsworth, applicant, addressed the Commission noting that he has had this property listed for an extended period of time. He worked for annexation and to have it designated Campus Industrial. It was annexed as R-6/MH and not Campus Industrial. He then met with the property owners to put together a package to accommodate all property owners. Regarding the lot size, the configuration of the particular properties, they will end up with a max of three lots more than under R-10.

On the call for testimony, none was offered. The hearing was closed.

Light expressed concern that R-6/MH exceeds the minimum requirement about 38 percent. McGriff responded this was correct. The City has two parcels of about 25 acres that is being utilized for other than R-6/MH, so that would be removed from the inventory.

It was moved by VanOrman, second by Ebert, to approve the Comprehensive Plan Amendment and zone change request.

Roll call: Light, Aye; Ebert, Aye; VanOrman, Aye; Fowler, Aye.

Commission Report No. 93-255, Proposed Ordinance No. 93-1025, An Ordinance Amending Title 13: Public Services, Chapter 13.16.030: Service Charges, Chapter 13.16.060: Payment Required, Chapter 13.16.080: Recovery of Unpaid Charges, Chapter 13.16.100: Exemptions, Chapter 13.16.110: Appeal, of the Oregon City Municipal Code, 1991, to Require Fees to be assessed for Use of the City's Storm Drainage Services, was presented by the Manager. The report noted that on the December 1, 1993 agenda was proposed Ordinance No. 93-1025 which would amend Title 13: Public Services, Chapter 13.16; Storm Drainage Service Charges.

The report continued that basically the changes were as follows:

13.16.030. Service Charges. This Section now places payment of the service charge on the persons occupying the property as opposed to imposition on the improved property.

13.16.060. Payment Required. This Section now provides for payment by the current occupant or person entitled to possession of the property.

13.16.080. Recovery of Unpaid Charges. This Section removes the placement of a lien against the property for non-payment and provides for collection efforts or other lawful remedies, such as curtailment of City services.

13.16.100. Exemptions. This Section combines exemptions, reductions and appeal and provides for a process for each.

13.16.110 Appeal. This Section will be repealed because it is combined with 13.16.100.

The report concluded by noting that Notice of proposed Ordinance No. 93-1025 was been posted at City Hall, Courthouse and Senior Center by direction of the City Recorder. It is recommended that first reading be approved, second reading be called and approved for final enactment to become effective December 31, 1993.

Fowler asked about 13.16.030, if the change was to move from the owner to the occupant and would that preclude the City from billing the owner. Scott Harper, Finance Officer, responded that a declaration by the Supreme Court is to bill the one who is using the service; if the owner wants the billing to rebill the occupant, this can be done with the owner considered the user of the service. The City cannot make it mandatory that the owner be liable for this fee.

It was moved by VanOrman, second by Light, to approve first reading of proposed Ordinance No. 93-1025, noting a typographical error in the second line of the third "whereas" the word "sue" should be "use".

Roll call: Light, Aye; Ebert, Aye; VanOrman, Aye; Fowler, Aye.

Second reading was called after which it was moved by VanOrman, second by Ebert, to approve second reading for final enactment to become effective December 31, 1993.

Roll call: Light, Aye; Ebert, Aye; VanOrman, Aye; Fowler, Aye.

ORDINANCE NO. 93-1025

AN ORDINANCE AMENDING TITLE 13: PUBLIC SERVICES, CHAPTER 13.16.030: SERVICE CHARGES, CHAPTER 13.16.060: PAYMENT REQUIRED, CHAPTER 13.16.080: RECOVERY OF UNPAID CHARGES, CHAPTER 13.16.100: EXEMPTIONS, CHAPTER 13.16.110: APPEAL, OF THE OREGON CITY MUNICIPAL CODE, 1991, TO REQUIRE FEES TO BE ASSESSED FOR USE OF THE CITY'S STORM DRAINAGE SERVICES

OREGON CITY MAKES THE FOLLOWING FINDINGS:

WHEREAS, Oregon City presently provides for the construction maintenance and reconstruction of storm drainage systems within the City; and

WHEREAS, Oregon City presently imposes certain service charges to implement the City's Drainage Master Plan and storm drainage system; and

WHEREAS, Oregon City wishes to amend and clarify such service charges so that only persons actually using the storm drainage system are charged for its use and so that it is clear that the service charge is not a general or property tax obligation.

Therefore,

OREGON CITY ORDAINS AS FOLLOWS:

Section 1. That Title 13: PUBLIC SERVICES, Chapter 13.16.030: SERVICE CHARGES, is hereby amended to read as follows:

13.16.030 Service Charges. There is established and imposed on all persons occupying improved properties utilizing the City's storm drainage system, a just and equitable storm drainage utility service charge to implement the City's Drainage Master Plan and pay for the City's storm drainage system. Charges collected shall be deposited into the storm drainage fund of the City and used only for storm drainage purposes.

Section 2. That Title 13: PUBLIC SERVICES, Chapter 13.16.060: PAYMENT REQUIRED, is hereby amended to read as follows:

13.16.060 Payment Required. Such service charges shall be paid by the current occupant or person entitled to possession of the property from which stormwater discharges (directly or indirectly) to the City storm drainage system.

Section 3. That Title 13: PUBLIC SERVICES, Chapter 13.16.080: RECOVERY OF UNPAID CHARGES, is hereby amended to read as follows:

13.16.080 Recovery of Unpaid Charges. Any charge due hereunder which shall not be paid when due shall be collectable pursuant to collection efforts or other lawful remedies of the City, but no lien may be placed on the property solely for failure to pay the service charges. The City may curtail or cut off the supply of water or other City services to persons who have failed to pay unpaid charges. In no event shall water supply be withheld from any new occupant of property because of the failure of a prior occupant to pay a storm drainage utility service charge.

Section 4. That Title 13: PUBLIC SERVICES, Chapter 13.16.100: EXEMPTIONS, is hereby amended to read as follows:

13.16.100 Exemptions, Reductions and Appeal. Vacant and unimproved properties within the City are exempt from the charges in Section 13.16.050. Any other person seeking an exemption or reduction in the storm drainage fee, or appealing therefrom, may do so pursuant to a demonstration to the City Manager or the Manager's designee that the public storm drain service does not receive stormwater from property used or occupied by that person. Such demonstration shall include evidence of legal disposal of storm water to a private retention system, private storm drain system, public water body, or other receiving facility.



Section 5. That Title 13: PUBLIC SERVICES, Chapter 13.16.110: APPEAL, is hereby repealed.

Read for the first time at a regular meeting of the City Commission held on the 1st day of December, 1993 and the foregoing ordinance was finally enacted by the City Commission this 1st day of December, 1993.

/s/JEAN K. ELLIOTT, City Recorder

ATTESTED this 1st day of December, 1993.

/s/DANIEL W. FOWLER

DANIEL W. FOWLER, Mayor

Commission Report No. 93-258, Resolution No. 93-70 - Combined Sewer Separation Program - Sewer Rate Increase, was presented by the Manager. The report noted that on the December 1, 1993 agenda was a resolution that increased the bimonthly sanitary sewer user charge from \$16 per equivalent residential unit to \$18, effective January 1, 1994, and from \$18 to \$20 effective January 1, 1995, and from \$20 to \$22 effective January 1, 1996. The timing of the increase is to coincide with the issuing of \$6,000,000 in Sewer Revenue Bonds. The increase is part of the implementation program for the EPA required combined sewer separation program. The original cost of sewer separation phases 4 through 8 was \$4.8 million. The final cost is now at \$6.9 million, with a loan of \$900,000 from the State Revolving Fund. The final rates must provide for debt service and required coverage. It was recommended that Resolution No. 93-70 be adopted.

It was moved by Light, second by Ebert, to adopt Resolution No. 93-70.

Roll call: VanOrman, Aye; Ebert, Aye; Light, Aye; Fowler, Aye.

RESOLUTION NO. 93-70

A RESOLUTION ESTABLISHING THE MINIMUM BIMONTHLY RATE TO BE CHARGED FOR SANITARY SEWER SERVICE FURNISHED EACH USER WITHIN THE CITY LIMITS

WHEREAS, the City has an agreement with Tri-City Service District that allows the City to set its own sewer rates by resolution; and

WHEREAS, the City increased its bimonthly sewer rates from \$14 to \$16, July 1, 1992 and established a reserve fund for the EPA required combined sewer separation program; and

WHEREAS, the City needs to increase sewer rates over the next three years to fully meet the debt service obligation of the EPA required combined sewer separation program.

NOW, THEREFORE, BE IT RESOLVED by the City Commission of Oregon City, a municipal corporation of the State of Oregon, at a regular session held on the 1st day of December, 1993, that:

Section 1. SEWER RATES shall be as set forth below:

<u>Customer Class</u>	<u>Effective</u> Jan. 1, 1994	<u>Bimonthly Charge</u> <u>Effective</u> Jan. 1, 1995	<u>Effective</u> Jan. 1, 1996
Rates per equivalent residential unit (ERU)	\$18	\$20	\$22
Senior/Disabled Citizens (Subject to income eligibility)	\$ 9	\$10	\$11

Adopted, signed and approved this 1st day of December, 1993.

/s/Daniel W. Fowler
Mayor

/s/James R. Ebert
Commissioner

/s/Suzanne VanOrman
Commissioner

/s/
Commissioner

/s/Robert M. Light
Commissioner

Comprising the City Commission
of Oregon City, Oregon

Commission Report No. 93-254, Public Works Purchase of a Backhoe/Loader - Bid Award, was presented by the Manager. The report noted that contained within the 1993-94 Water Division of the Public Works budget was funding for the purchase of a Backhoe/Loader. On November 22, 1993, the City received sealed bids for the purchase of this equipment. The Tabulation of Bids is attached for Commission review.

The report continued by noting that the City received four requests for specifications; however, one bid only was submitted from: Triad Machinery, Inc. \$67,921.05

Based upon the receipt of the one bid only, it was recommended that the bid be awarded to Triad Machinery, Inc. for the amount of \$67,921.05.

It was moved by VanOrman, second by Ebert, to award the bid to Triad Machinery, Inc. for the amount of \$67,921.05.

Roll call: Light, Aye; VanOrman, Aye; Ebert, Aye; Fowler, Aye.

CONSENT AGENDA

The following were routine and could be approved in one motion. On the call for discussion of a particular item, none was requested. It was moved by Light, second by VanOrman, to approve the items in the Consent Agenda as recommended on each report.

Roll call: Ebert, Aye; Light, Aye; VanOrman, Aye; Fowler, Aye.

Commission Report No. 93-256, Proposed Ordinance Revising the Business License Fees and Proposed Resolution for New Fees - Request for Continuance, was presented. The report noted that at its November 17, 1993 meeting, the City Commission held a lengthy discussion regarding

proposed Ordinance No. 93-1024 and proposed Resolution No. 93-68. As a result of that discussion, staff was directed to amend the proposed ordinance, meet with the Chamber of Commerce and members of the business community for their input. Both the ordinance and resolution were continued to the December 1, 1993 agenda.

In order to properly communicate with the Chamber of Commerce and members of the business community, it is requested that this matter be continued until next spring. Since the end of the business year is upon us, it is not possible to present the Commission with a report that contains what was directed.

Delaying action until next year would provide the time to schedule a work session to properly receive input from the Chamber and the business community and will allow for the business license process to be completed for 1994.

If the Commission agrees with this proposal, staff should be directed to delay this matter to next spring for implementation in 1995.

* * * * *

Commission Report No. 93-257, Liquor License Application - Trail's End Saloon, 1320 Main Street - Greater Privilege, was presented. The report noted that at a Special meeting of the City Commission held March 28, 1983, Commission Policy 1-7 entitled, "Approval of Liquor License Renewals" was adopted. Commission Policy 1-7 states as follows: "The Mayor is authorized to approve all liquor license renewals if these renewals are approved and recommended by the Fire and Police Department. The approval by the Mayor can be made without City Commission authorization. However, all new liquor licenses shall be submitted to the City Commission for consideration."

On the December 1, 1993 agenda was an application for an OLCC liquor license for Greater Privilege for the Trail's End Saloon, 1320 Main Street. The requested change was from a Retail Malt Beverage to Class A Dispenser License which allows service of by-the-drink of distilled spirits in addition to the beer and wine currently licensed.

Fire and Police Department investigation revealed no information that would warrant denial of the application. Based upon the information provided, it was recommended that the application be approved.

* * * * *

Commission Report No. 93-253, Intergovernmental Agreement - Community Development Block Grant - Front Avenue Drainage and Road Improvements, was presented. The report noted that Oregon City obtained Community Development Block Grant funding for design and construction of street, drainage and water facility connection improvements on Front Avenue from Holcomb Boulevard to Forsythe Road in the Park Place neighborhood. This street was selected because sewer and water improvements have been completed and improvement would greatly enhance safety in the area of Park Place Elementary School. The grant provides up to \$200,000 for design and construction of roadway reconstruction and widening, drainage, and water facility connection improvements. The City's 20 percent match will include \$29,000 of road transfer funds and \$21,000 of street funds for a total of \$250,000 in project funding. Due to the limited funding, roadway

improvements will include two twelve foot travel lanes and two bikelanes, but not curb and sidewalks at this time.

Attached was the standard City/County Intergovernmental Agreement for Community Development Block Grants. It was recommended that the agreement be approved and the City Manager authorized to sign them on behalf of the City.

* * * * *

The Manager advised of the receipt of the approval of the HUD funding in the amount of \$3 million for the construction and design of the Preview Center. He believed that staff had the authority up to date. He asked again to direct probably the Mayor to execute the agreement subject to review by the City Attorney's office. You will have the final form before you, the grant is just exactly as explained in work sessions.

The City Attorney advised he read the agreement and has no disagreement with the form and you are not going to be able to do much with it anyway. He had no objection to its form. The Manager requested that the Mayor be authorized to execute the agreement.

It was moved by VanOrman, second by Ebert, to authorize the Mayor to execute the agreement.

Roll call: Light, Aye; Ebert, Aye; VanOrman, Aye; Fowler, Aye.

At this time, Mayor Fowler re-appointed Doug Neeley to a vacant position on the Library Board with term expiring December 31, 1997.

VanOrman advised she was called by Mary Whiteside Buol regarding attending a meeting to discuss with Metro councilors the transfer station. VanOrman advised she did not feel comfortable discussing the transfer station and the Wilsonville transfer station. VanOrman asked what the opinion of the Commission with the Commission deciding who should attend a meeting. The Manager noted that they had their opportunity this evening to discuss that or make their presentation. They did not mention the transfer station. Fowler noted the City has an agreement and that should be respected by both parties under the approved terms of the agreement. When it expires, the City should raise concerns during negotiations. Ebert wanted a work session before the discussions are held.

With no further business, the meeting adjourned at 9:20 p.m. with the Commission meeting in Executive Session pursuant to ORS 192.661 (1)(h) Legal Counsel.

CHARLES LEESON, Recording Secretary

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REGULAR MEETING

Oregon City, Oregon, December 15, 1993

A regular meeting of the City Commission was held in the Commission Chambers of City Hall on the above date at 8:00 p.m.

Roll call showed the following present:

Mayor Daniel W. Fowler
Commissioner Suzanne VanOrman
Commissioner Robert M. Light

Charles Leeson, City Manager
Edward J. Sullivan, City Attorney

The flag salute was lead by Mayor Fowler, after which he called for approval of the minutes. It was moved by VanOrman, second by Light, to approve the Executive Session minutes of November 3 and December 1, 1993 and the regular session minutes of December 1, 1993.

Roll call: Light, Aye; VanOrman, Aye; Fowler, Aye.

On the call for citizen presentations and future agenda items, Police Chief Martin presented the AAA Award for no pedestrian fatalities in Oregon City for the last four years.

Stepping back in time, Mayor Fowler noted that on October 29, 1866, an ordinance was passed giving City officers the power to suppress "houses of ill-fame"; on February 6, 1867, a special committee examined the records of deeds on file in the County Recorders office and could find no records of deeds from John McLoughlin to the Methodist Episcopal Church or to any other party for the said Church property with Jesse Applegate surveying that tract in 1843; our population on March 9, 1867 in Oregon City was 1,018 with 561 males, 457 females and children between the ages of 4 and 20 were 390; and, in 1867, a bill was presented by J.M. Bacon for expenses in going to Eugene city for the search for the original plat of Oregon City supposed to be in the land office at that place.

Commission Report No. 93-266, Request for Zone Change 21.97 Acres South of Glen Oak Road, west of South Beaver Creek Road - Public Hearing, was presented by the Manager. The report noted that on the December 15, 1993 agenda was a request for a zone change by the Randall Group for a change from "R-10" Single-Family Dwelling District to "R-8" Single-Family Dwelling District. The parcel is the plat of Homestead Acres and is approximately 21.97 acres located south of S. Glen Oak Road and west of S Beaver Creek Road.

The report continued that the Planning Commission held a public hearing on November 23, 1993 to review the request. After public testimony, they voted 5 to 0 to approve the request for the following reasons: 1) rezoning would encourage a replat of the Homestead Acres; 2) would facilitate compatibility with the subdivision to the north (Fairway Downs 1); and 3) provide housing on land available for development.

The Planning Commission minutes of November 23, 1993, the staff report and the public notice and map of the property were attached for review.

The report concluded by noting that the City Commission had the responsibility to consider all facts presented and to review these facts against the zone change criteria. A final order and ordinance would be prepared for Commission consideration and adoption at a future meeting.

In presenting the Commission Report, the Manager introduced the City's new Community Development Director, Max Talbot.

The City Attorney noted that this was a quasi-judicial proceeding and disclosed that the applicable criteria were those contained in the staff report with a copy available for review; testimony and other evidence must be directed toward the criteria or to any other criteria in the City's Plan or land use regulations which any party may believe to apply to the decision and failure to raise an issue with sufficient specificity to afford the decision makers or the other party an opportunity to respond to that issue would preclude appeal to the Land Use Board of Appeals on that issue.

Mayor Fowler opened the hearing and called for abstentions. None were declared.

Denyse McGriff, Principal Planner, presented the staff report. Additionally, she noted that in 1991, the City reviewed a request for annexation of this property with the property to the north owned by the Robert Randall and the Company and the property to the south owned by the Tiki Company. The Robert Randall Group has purchased this property and are requesting the re-zone. She advised this was platted in the 1970s with 40-foot rights-of-way, large amount of open space that is not accessible to most of the development. In order for the development proposals to meet the City's criteria for the property width for streets, sidewalks and other public improvements, a re-platting is in the City's best interest. Approval of the request is recommended.

Steve Mozinski, representative of the Randall Company, spoke supporting the staff recommendations. Light asked what the reason was to go from R-10 to R-8. Mozinski noted a survey of builders in the area was done with a number of houses not needing 10,000 square foot lots in the price range that the homes would be. These lots are adequate to provide for three-car garages plus the homes. R-10 would not provide any more of a lot for a builder to build upon, an R-8 is more affordable than an R-10; economy was the reason.

At this point testimony was requested. With none offered, the hearing was closed.

Light felt that one reason for the change was that Fairway Downs would be more compatible to the neighboring development. One side is R-8 and the other R-10. McGriff responded that a small portion of the property to the south was not in the City limits or the Urban Growth Boundary with those parcels zoned Future Urban 10-acre minimum with the developments platted in the early 1970s with them being non-conforming to the zone. Fairway Downs to the north on Glen Oak is an R-8.

On the call to re-open the public hearing, no request was presented.

It was moved by VanOrman, second by Light, to approve the request and direct staff to prepare an ordinance and final order for future presentation.

Roll call: VanOrman, Aye; Light, Aye; Fowler, Aye.

Commission Report No. 93-263, Proposed Ordinance No. 93-1026, An Ordinance Authorizing the City Manager to Enter into the Clackamas Regional Elected Group (CREG) Intergovernmental Agreement on Behalf of the City of Oregon City and to do all Things Necessary to Protect the

Interests of the City Under that Agreement, was presented by the Manager. The report noted that at its November 17, 1993 meeting, the City Commission adopted Resolution No. 93-69 which contained the Clackamas Regional Elected Group (CREG) Intergovernmental Agreement. After Commission adoption of the resolution, staff was advised by legal counsel that the Intergovernmental Agreement should have been adopted by ordinance.

The report continued that on the December 15, 1993 agenda was proposed Ordinance No. 93-1026 which presents again the CREG Intergovernmental Agreement for Commission approval.

Notice of proposed Ordinance No. 93-1026 was posted at City Hall, Courthouse and Senior Center by direction of the City Recorder. It was recommended that first and second readings be approved for final enactment to become effective January 14, 1994.

It was moved by VanOrman, second by Light, to approve first reading of proposed Ordinance No. 93-1026.

Roll call: Light, Aye; VanOrman, Aye; Fowler, Aye.

Second reading was called after which it was moved by VanOrman, second by Light, to approve second reading for final enactment to become effective January 14, 1994.

Roll call: Light, Aye; VanOrman, Aye; Fowler, Aye.

ORDINANCE NO. 93-1026

AN ORDINANCE AUTHORIZING THE CITY MANAGER TO ENTER INTO THE CLACKAMAS REGIONAL ELECTED GROUP (CREG) INTERGOVERNMENTAL AGREEMENT ON BEHALF OF THE CITY OF OREGON CITY AND TO DO ALL THINGS NECESSARY TO PROTECT THE INTERESTS OF THE CITY UNDER THAT AGREEMENT

OREGON CITY MAKES THE FOLLOWING FINDINGS:

WHEREAS, a region-wide emergency response communication network is an important component of a coordinated emergency services system; and

WHEREAS, all of the incorporated cities in Clackamas County, the Clackamas County Sheriff's office, the county itself, and all fire service providers in the county have been invited to form an organization to coordinate the establishment and operation of a county-wide 911 emergency response network; and

WHEREAS, because of the impact this organization poses for the City, and the significance of the services it will provide, it is important that the City should become a participating member of the organization by authorizing the City Manager to execute the agreement on behalf of the City; and

WHEREAS, if the City is to become a member of CREG, it is also important that the City authorize the City Manager to participate fully in CREG and to do all things necessary and lawful under the CREG agreement to ensure that the best interests of the City and its citizens are protected.

Now, therefore,

OREGON CITY ORDAINS AS FOLLOWS:

Section 1. That the City Manager is hereby authorized and directed to sign the Intergovernmental Agreement (the "Agreement"), attached as Exhibit "A" hereto and incorporated herein as if fully set forth, thereby committing the City to participation in the Clackamas Regional Elected Group (CREG).

Section 2. That the City Manager is hereby authorized and directed to participate as the City's representative in the intergovernmental organization thereby formed and to do all things necessary and lawful under the agreement to protect the interests of the City.

Read for the first time at a regular meeting of the City Commission held on the 15th day of December, 1993, and the foregoing ordinance was finally enacted by the City Commission this 15th day of December, 1993.

/s/JEAN K. ELLIOTT, City Recorder

ATTESTED this 15th day of December, 1993.

/s/Daniel W. Fowler

DANIEL W. FOWLER, Mayor

Commission Report No. 93-264, Proposed Ordinance No. 93-1027, An Ordinance Amending Chapter 17.06.030, Official Zoning Map of the Oregon City Municipal Code, 1991, by Changing Certain Districts; and, Final Order on File 93-04, Approval of a Plan Amendment and Zone Change for Smith/Pro West Inc. Property, was presented by the Manager. The report noted that at its December 1, 1993 meeting, the City Commission conducted a public hearing on the request for Plan Amendment and zone change for property located on the south side of S. Thayer Road east of Beavercreek Road. As a result of that public hearing, the City Commission approved the Comprehensive Plan Amendment and zone change.

On the December 15, 1993 agenda was proposed Ordinance No. 93-1027 which would amend the zoning map. Also attached was the Final Order which would allow the land use action.

Notice of proposed Ordinance No. 93-1027 was posted at City Hall, Courthouse and Senior Center by direction of the City Recorder. It was recommended that first and second readings be approved for final enactment to become effective January 14, 1994. It was further recommended that the Mayor be authorized to execute the Final Order.

It was moved by VanOrman, second by Light, to approve first reading of proposed Ordinance No. 93-1027 and to authorize the Mayor to execute the Final Order.

Roll call: VanOrman, Aye; Light, Aye; Fowler, Aye.

Second reading was called after which it was moved by VanOrman, second by Light, to approve second reading for final enactment to become effective January 14, 1994.

Roll call: VanOrman, Aye; Light, Aye; Fowler, Aye.

ORDINANCE NO. 93-1027

AN ORDINANCE AMENDING CHAPTER 17.06.030, OFFICIAL ZONING MAP, OF THE OREGON CITY MUNICIPAL CODE, 1991, BY CHANGING CERTAIN DISTRICTS

WHEREAS, public necessity and the general welfare of Oregon City require changes to certain districts, which changes have been heard by the Oregon City Planning Commission and approved by it after public notice and hearing as required by Chapter 17.50 of the 1991 City Code, and the City Commission after public hearing finding the following described property:

A part of the Washington Williams and wife DLC No. 56 in Section 9, township 3 South, Range 2 East, of the Willamette Meridian, in Clackamas County, Oregon, described as:

Beginning at a point on the north boundary of said DLC which point is south 89° 55' West 1667.77 feet from the corner common to Sections 3, 4, 9 and 10, said township and range; THENCE south 751.65 feet to a point; THENCE north 89° east, 288 feet to a point; THENCE north 0° 24' west 751 feet, more or less, to a point on the north boundary of said DLC; THENCE south 89° 55' west 280 feet, more or less, to the PLACE OF BEGINNING.

The above described tract of land contains 4.71 acres (205,167 square feet), more or less, which is now zoned "R-10" Single-Family Dwelling District, which is hereby changed to "R-6/MH", Single-Family Dwelling District and the Comprehensive Plan designation which is now "LR", Low Density Residential, is hereby changed to "LR-MH", Low Density Residential/Manufactured Home.

Read first time at a regular meeting of the City Commission held on the 15th day of December 1993, and the foregoing ordinance was finally enacted by the City Commission this 15th day of December 1993.

/s/JEAN K. ELLIOTT, City Recorder

ATTESTED this 15th day of December, 1993.

/s/Daniel W. Fowler

DANIEL W. FOWLER, Mayor

Commission Report No. 93-265, Transfer of Appropriations for Fiscal Year 1993-94 - Resolution No. 93-71, was presented by the Manager. The report noted that in order to continue funding Municipal Court operations within budget limitations, funds originally appropriated within Non-Departmental Capital Outlay need to be transferred to the Municipal Court budget.

SCHEDULE OF APPROPRIATION TRANSFERS

FOR 1993-94 BUDGET

GENERAL FUND

<u>Description</u>	<u>Approved Current</u>	<u>Increase</u>	<u>Decrease</u>	<u>Amended Budget</u>
Municipal Court Materials/ Services (computer training)	-0-	1,650		1,650
Capital Outlay	5,000	2,500		7,500
Non-Departmental Transfer to Muni. Court Capital Outlay	20,000		4,150	15,850
	25,000	4,150	4,150	25,000

This transfer of funds is for the Local Area Network (LAN) expansion to Municipal Court and implementation of the Court software for handling cases. The total cost of the project for LAN within the General Fund was placed in Non-Departmental for control purposes pending the implementation of each phase. In order to make the transfer of appropriations as needed, it was recommended that Resolution No. 93-71 be adopted.

Scott Harper, Finance Officer, presented the staff report.

It was moved by Light, second by VanOrman, to adopt Resolution No. 93-71.

Roll call: Light, Aye; VanOrman, Aye; Fowler, Aye.

RESOLUTION NO. 93-71

A RESOLUTION FOR TRANSFER OF APPROPRIATIONS FOR FISCAL YEAR 1993-94 FROM NON-DEPARTMENTAL CAPITAL OUTLAY TO THE MUNICIPAL COURT BUDGET

WHEREAS, ORS 294.450 provides the legal basis for transfers of appropriations within a fund; and

WHEREAS, the City Commission adopted a budget for 1993-94 and by Resolution No. 93-43 made appropriations for the current fiscal year; and

WHEREAS, the need now exists to transfer additional appropriations within the General Fund to prevent a deficit.

NOW, THEREFORE, BE IT RESOLVED by the City Commission of Oregon City that the Changes to Appropriations as attached and made a part hereof, be authorized.

Adopted, signed and approved this 15th day of December, 1993.

/s/Daniel W. Fowler
Mayor

Commissioner

/s/Suzanne VanOrman
Commissioner

Commissioner

/s/Robert M. Light
Commissioner

Comprising the City Commission
of Oregon City, Oregon

Commission Report No. 93-262, Regional Emergency Management Workplan and Intergovernmental Agreement for Regional Emergency Management - Appointment of Representatives, was presented by the Manager. The report noted that at its November 17, 1993 meeting, the City Commission adopted Resolution No. 93-65 which contained the Regional Emergency Management Workplan and Intergovernmental Agreement for Regional Emergency Management.

Contained within the Intergovernmental Agreement was the need for appointment of an elected official, and an alternative, for the Policy Advisory Committee and the need for appointment of a representative to the Technical Committee. Adoption of Resolution No. 93-65 and approval of Commission Report No. 93-226 provided for the appointment of Officer William Blanchard, Police Officer and Emergency Program Manager for the City, to the Technical Committee.

Presented at this time, was the need for the Mayor to appoint an elected official and an alternate to represent Oregon City on the Policy Advisory Committee and a recommendation to appoint Deputy Chief Clark Poulton as alternate to the Technical Committee.

As a point of information, the first meeting for the Policy Advisory Committee is scheduled for Friday, February 25, 1994, 9:00 AM, at the Metro Building. A briefing for the appointee and alternate will be scheduled prior to the date of the meeting. The first meeting of the Technical Committee is scheduled for Tuesday, December 21, 1993, 2:00 PM, at the Portland Fire Bureau station on 122nd Avenue. A briefing will also be scheduled for the alternate Technical Committee appointee.

Mayor Fowler appointed Commissioner VanOrman to the Policy Advisory Committee and Poulton to the Technical Committee.

CONSENT AGENDA

The following matters were considered routine and could be adopted in one motion. Upon the call for discussion of a particular item, none was requested. It was moved by Light, second by VanOrman, to approve the Consent Agenda items as recommended on each report.

Roll call: Light, Aye; VanOrman, Aye; Fowler, Aye.

Commission Report No. 93-267, Request to Change Street Name - Resolution No. 93-72, was presented. The report noted that recently, the Fire Department became aware that contained within the developments of Gerber Woods and Castleberry Park was a continuous street in the adjoining

developments off Meyers Road. Currently, that same street has been named Aubuchon Drive in the Gerber Woods development and Aubuchon Way and Castleberry Loop in the Castleberry Park development. This will tend to cause confusion and could delay emergency response and non-emergency deliveries to this area.

The report continued that on the December 15, 1993 agenda was proposed Resolution No. 93-72 which proposed to change the names from Aubuchon Drive, Aubuchon Way and Castleberry Loop to Castleberry Loop only. Attached was a letter from the Vice-President of Oak Brook Financial Corporation (Gerber Woods) and a letter from the President of Cedar Ridge Development, Inc. (Castleberry Park) indicating no objection to the proposed change. Also attached were responses from various Department Directors which indicate no conflict with their interests.

Based upon the information provided, it was recommended that Resolution No. 93-72 be adopted.

RESOLUTION NO. 93-72

A RESOLUTION CHANGING A STREET NAME FROM AUBUCHON DRIVE IN THE GERBER WOODS DEVELOPMENT, AUBUCHON WAY AND CASTLEBERRY LOOP IN THE CASTLEBERRY PARK DEVELOPMENT TO CASTLEBERRY ~~WAY~~ Loop.

WHEREAS, contained within the developments of Gerber Woods and Castleberry Park is a continuous street that has been named Aubuchon Drive in the Gerber Woods Development and Aubuchon Way and Castleberry Loop in the Castleberry Park development; and

WHEREAS, the continuation of the three names for the same continuous street will create unnecessary confusion for emergency responses and non-emergency deliveries to this area.

NOW, THEREFORE, BE IT RESOLVED by the City Commission of Oregon City that the streets now known as Aubuchon Drive in the Gerber Woods development and Aubuchon Way and Castleberry Loop in the Castleberry Park development shall be known as Castleberry Loop.

Adopted, signed and approved this 15th day of December, 1993.

/s/Daniel W. Fowler
Mayor

/s/
Commissioner

/s/Suzanne VanOrman
Commissioner

/s/
Commissioner

/s/Robert M. Light
Commissioner

Comprising the City Commission
of Oregon City, Oregon

* * * * *

Commission Report No. 93-260, Liquor License Application - Chuck's Tavern, 1200 Main Street - Change of Ownership, was presented. The report noted that at a Special meeting of the City Commission held March 28, 1983, Commission Policy 1-7 entitled, "Approval of Liquor License Renewals" was adopted. Commission Policy 1-7 states as follows: "The Mayor is authorized to approve all liquor license renewals if these renewals are approved and recommended by the Fire and Police Departments. The approval by the Mayor can be made without City Commission

authorization. However, all new liquor license licenses shall be submitted to the City Commission for consideration."

On the December 15, 1993 agenda was an application for an OLCC liquor license for a Change of Ownership of Chuck's Tavern, 1200 Main Street from Fred B. Frost to Terry Jo Carey, 6415 NE Killingsworth #Cedar 1, Portland. Police and Fire Department investigation of the new owners reveals no information that would warrant denial of the application. Based upon the information provided, it was recommended that the application be approved.

* * * * *

Commission Report No. 93-261, November 9, 1993 Special Election - Election Results, was presented. The report noted that on Tuesday, November 9, 1993, Oregon City's Ballot Measure 3-1 which asked the question: "Should Charter prohibit City from adopting or enforcing policies based on homosexuality status or expending funds to promote homosexuality?"

The Oregon City Charter of 1982, Chapter 6, Elections, Section 27, Canvass of Returns, states in part the following: "...The results of all elections shall be entered in the record of the proceedings of the Commission. The entry shall state the total number of votes cast at the election, the votes cast for each person and for and against each proposition..."

Attached was a copy of the certified Summary of Votes Cast as prepared by the office of County Clerk and on file in the City Recorder's office. The statement shows the following:

Measure 3-1

Yes:	2,661
No:	2,381
Overvotes:	7
Undervotes:	275
Total:	5,324

This information was provided pursuant to Chapter 6, Section 27, of the Oregon City Charter of 1982.

With no further business, the meeting adjourned at 8:32 p.m. with the City Commission sitting as the Urban Renewal Agency convening an Executive Session pursuant to ORS 192.660 (1)(e) Real Property Transactions.



CHARLES LEESON, Recording Secretary

jke

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**851 P.2d 595
316 Or. 374
ROSEBURG SCHOOL DISTRICT, a local
government unit; G & I
Investments, an Oregon Partnership;
Horizon Motors, Inc.,
an Oregon corporation, dba Horizon
Mazda; Rapat, Inc., an
Oregon corporation, dba Douglas Inn;
Parkway Holdings,
Inc., an Oregon corporation, dba Parkway
Ford; Parkway
Holdings, Inc., an Oregon corporation, dba
Parkway Nissan;
Jack Mathis General Contractors, Inc., an
Oregon
corporation; Paul Jackson Wholesale Co.,
Inc., an Oregon
corporation; Roseburg Lumber Co., an
Oregon corporation;
Roseburg Resources Co., an Oregon
corporation; Old School
Offices, Inc., an Oregon corporation; and
One Champion
Plaza, Inc., an Oregon corporation,
Respondents,
v.
CITY OF ROSEBURG, an Oregon city,
Appellant.
OTC 3242; SC S39874.
Supreme Court of Oregon,
In Banc.
Argued and Submitted March 16, 1993.
Decided May 21, 1993.**

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[316 Or. 375] William F. Gary of Harrang, Long, Watkinson, Laird & Rubenstein, P.C., Eugene, argued the cause for appellant. With him on the briefs was Glenn Klein.

Joel S. DeVore of Luvaas, Cobb, Richards & Fraser, P.C., Eugene, argued the cause and filed the brief for respondents.

David B. Frohnmayer, Eugene, Daniel Olsen, Hillsboro, Thomas Sponsler, Gresham, and James Coleman, Portland, filed a brief for amici curiae League of Oregon Cities and Ass'n of Oregon Counties.

Matthew R. Baines, Gresham, Jan L. Betz, Portland, Michael E. Kohlhoff, Wilsonville, and Loretta Skurdahl, Hillsboro, filed a brief for amicus curiae Oregon Ass'n of Clean Water Agencies.

E. Andrew Jordan of Tarlow, Jordan & Schrader, Portland, filed a brief for amicus curiae Special Districts Ass'n of Oregon.

[316 Or. 377] UNIS, Justice.

The issue in this case is whether a storm drainage utility fee of the City of Roseburg (City) is a "tax on property" that is subject to the limitations of Article XI, section 11b, of the Oregon Constitution, adopted in 1990 by an initiative petition commonly known as "Ballot Measure 5."

Roseburg School District and interested taxpayers (taxpayers) filed a petition under ORS 305.583, asking the Oregon Tax Court (Tax Court) to declare that City's storm drainage utility fee is a tax subject to the limitations of Article XI, section 11b, of the Oregon Constitution. Both parties filed motions for summary judgment. The Tax Court entered a summary judgment for taxpayers. Roseburg School Dist. v. City of Roseburg, 12 OTR 329 (1992).

On review under ORS 305.445, we hold that City's storm drainage utility fee is not a tax on property that is subject to the limitations of Article XI, section 11b, of the Oregon Constitution. Accordingly, we reverse the judgment of the Tax Court and remand this case to the Tax Court with instructions to enter summary judgment for City.

The current version of City's storm drainage utility fee at issue provides in part:

"A. Except as the fees may be reduced or eliminated under Subsection 5.40.050E, the obligation to pay storm

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drainage fees arises when a person responsible uses storm drainage services. It is presumed that storm drainage services are used whenever there is an improved premises.

"B. Unless another person responsible has agreed in writing to pay and a copy of that writing is filed with the city, the person(s) paying the city's water utility charges shall pay the storm drainage fees set by Council resolution. If there is no water service to the property or if water service is discontinued, the storm drainage fees shall be paid by the person(s) having the right to occupy the property." RMC 5.40.050 (as amended by Roseburg Ordinance 2803 at 1-2 (July 15, 1992)).

1

[316 Or. 378] Article XI, section 11b, of the Oregon Constitution is a limitation on taxes. ² Article XI, section 11b(2)(b), defines a "tax" as

"any charge imposed by a governmental unit upon property or upon a property owner as a direct consequence of ownership of that property except incurred charges and assessments for local improvements." ³ (Emphasis added.)

Our task is to determine whether the storm drainage utility fee in Roseburg Municipal Code (RMC) 5.40.050 is a tax within the meaning of Article XI, section 11b.

In interpreting a constitutional provision adopted through the initiative process, our task is to discern the intent of the voters. The best evidence of the voters' intent is the text of the provision itself. *Comeaux v. Water Wonderland Improvement Dist.*, 315 Or. 562, 568-69, 847 P.2d 841 (1993); *Northwest Natural Gas Co. v. Frank*, 293 Or. 374, 381, 648 P.2d 1284 (1982). ⁴ The context of the language of the ballot measure may also be considered; however, if the intent is clear based on the text and context of the constitutional

provision, the court does not look further. See, e.g., *Comeaux v. Water Wonderland Improvement Dist.*, supra, 315 Or. at 569, 570, 847 P.2d 841 (meaning of phrase "governmental unit" in Ballot [316 Or. 379] Measure 5 determined based on text and context of amendment). ⁵

The specific question in this case is whether City's storm drainage utility fee is a tax under Article XI, section 11b(2)(b), i.e., whether it is a "charge imposed by a governmental unit upon property or upon a property owner as a direct consequence of ownership of that property." There is no dispute in this case that there was a charge by a governmental unit. The dispute centers around whether the charge either was "imposed * * * upon property" or was "imposed * * * upon a property owner as a

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direct consequence of ownership of that property."

The verb "impose" suggests more than a request for voluntary compliance, and the phrase "impose upon" carries even stronger force. ⁶ A charge is imposed upon property or upon a property owner and is a tax under Article XI, section 11b(2)(b), if payment of the charge is a legal obligation of that property or property owner as a direct consequence of property ownership. ⁷

In this case, City structured the storm drainage utility fee in an effort to avoid the limitations of Ballot [316 Or. 380] Measure 5. ⁸ The charge in question is intended as "a fee for service and not a charge against property," Roseburg Ordinance 2755, Section 1(3) (June 10, 1991), and Chapter 5.40 of the RMC is to be construed in accordance with that intent, id., Section 2. Under the RMC, the person responsible for paying City's water utility charges for a particular piece of property is responsible for paying the storm drainage utility fee. RMC 5.40.050B. ⁹ Thus, the fee is not necessarily imposed on the owner, who may not be the

occupier of the property and responsible for its water usage.

RMC 5.40.070¹⁰ provides that, "[i]n addition to other lawful remedies, the city manager may enforce the collection of charges required by this chapter by withholding delivery of water to any premises where the storm drain utility charges are delinquent or unpaid," but no provision is made for the charge to become a lien against the property, as is the case, for example, with respect to the systems development charge in RMC 5.40.080.¹¹ RMC 5.40.090¹² provides that a "[r]equest for water service will automatically initiate appropriate billing for storm drainage services as established in this chapter."

Although they relate to real property, City's fees for storm drainage services are

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not imposed upon real property. [316 Or. 381] There is no provision for attaching a lien against the property for non-payment of the fee, so it appears that the property itself cannot be encumbered by City as a result of non-payment of the fee. Neither are City's fees for storm drainage services imposed upon the owner of real property as a direct consequence of ownership. Although some property owners may be responsible for paying the fee, the fee is not imposed upon property owners because of their ownership of the property, but instead is imposed upon the user of the water service or upon the person with the right of occupancy, whoever that may be.¹³ Moreover, under the RMC, "a person responsible [who may be the owner, but also may be someone else] may seek a reduction or elimination of the monthly charge for storm drainage service" by demonstrating that the service is not being used. RMC 5.40.050E.¹⁴

By its terms, Article XI, section 11b, is a limitation on only those certain forms of revenue generation that fall within its definitions. It is not a limitation on other forms of revenue generation that do not fall within its definitions. It is clear that the constitutional provision defines those

charges that it limits and, by its terms, excludes from its limits other forms of revenue generation, including income taxes, sales taxes, and any other charges not imposed upon property or upon property owners as a direct consequence of property ownership. The charge at issue in this case meets neither criterion and, therefore, is not a tax within the meaning of Article XI, section 11b.

¹⁵

The judgment of the Oregon Tax Court is reversed. The case is remanded to the Oregon Tax Court with instructions to enter summary judgment for the City of Roseburg.

1 Before the July 15, 1992, amendments, Roseburg Municipal Code 5.40.050 provided in part:

"Except as the fees may be reduced under subsection 5.40.050D, the obligation to pay storm drainage fees arise[s] whenever there is an improved premises. Unless another person responsible has agreed in writing to pay and a copy of that writing is filed with the city, the person(s) paying the city's water utility charges shall pay the storm drainage fees set by council resolution. If there is no water service to the property or if water service is discontinued, the storm drainage fees shall be paid by the person(s) having the right to possess the property." RMC 5.40.050A (as amended by Roseburg Ordinance 2755 at 6 (June 10, 1991)).

Although taxpayers have challenged both versions of the storm drainage utility fee, the differences between the two versions do not require separate analyses in this case.

2 See ORS 310.140 (codifying legislative interpretations of certain terms in Article XI, section 11b, of the Oregon Constitution).

3 Article XI, section 11b(2)(c) defines "incurred charges," and Article XI, section 11b(2)(d) defines "local improvement." Neither term is relevant to this opinion.

4 The text of a document must always be the starting point in any interpretative endeavor. See *State ex rel. Juv. Dept. v. Ashley*, 312 Or. 169, 174, 818 P.2d 1270 (1991) (stating rule with respect to statutes); *id.* at 185, 818 P.2d 1270 (Unis, J., dissenting) (same); *Perlenfein and Perlenfein*, 316 Or. 16, 20, 848 P.2d 604 (1993) (stating rule with respect to statutes and regulations).

5 The same is true with respect to interpreting statutes, see, e.g., *Boone v. Wright*, 314 Or. 135, 138-39, 836 P.2d 727 (1992) (applying rule), and with respect to regulations, see, e.g., *Perlenfein and Perlenfein*, *supra*, note 4 (meaning of administrative rules determined based on text and context of those rules).

6 The Random House Dictionary of the English Language 962 (unabridged 2d ed 1987) includes the following definitions of the verb "impose":

"1. to lay on or set as something to be borne, endured, obeyed, fulfilled, paid, etc.: to impose taxes. * * * 12. impose on or upon, a. to thrust oneself offensively upon others; intrude. b. to take unfair advantage of; misuse (influence, friendship, etc.). c. to defraud; cheat; deceive * * *." (Emphasis in original.)

Webster's Third New International Dictionary 1136 (unabridged 1976) includes the following definitions of the verb "impose":

"1. obs: charge, impute 2: to give or bestow (as a name or title) authoritatively or officially 3 a obs: to cause to be burdened * * * b(1): to make, frame, or apply (as a charge, tax, obligation, rule, penalty) as compulsory, obligatory, or enforceable * * *-impose on or impose upon 1 a: to force oneself esp. obnoxiously on (others) * * *." (Emphasis in original.)

7 By contrast, the fact that a person is allowed to pay or actually has paid a charge, with no legal obligation to do so, cannot be the basis for determining that the charge is imposed on that person. If that were the basis for the determination, it would be impossible to determine in advance of payment on whom the charge is imposed, and the task of determining

whether a charge is a tax could be done only on a case-by-case basis after payment had been received.

8 The 1992 ordinance adopting the amendments to RMC Chapter 5.40 include this finding:

"If the City continued its practice before the enactment of Chapter 5.40 of the Roseburg Municipal Code (RMC) in 1989, the owners of all taxable property within the City would be bearing the burden of storm drainage services through general property taxes when it is more equitable to have those who use storm drainage services or create the demand for such service, including but not limited to developed property exempt from ad valorem taxes, bear the cost of such service." Roseburg Ordinance 2803, Finding B (July 15, 1992).

Section 4 of that ordinance also provides:

"The Council hereby classifies the fees imposed by this ordinance a fee not subject to the limits of section 11b, Article XI of the Oregon Constitution. The City Manager is directed to publish notice of this classification as required by ORS 305.583(8)."

9 This is true both under RMC 5.40.050, as amended by Roseburg Ordinance 2755 at 6 (June 10, 1991), quoted *supra*, 316 Or. at 377 n. 1, 851 P.2d at 597 n. 1, and under RMC 5.40.050B, as amended by Roseburg Ordinance 2803 at 1-2 (July 15, 1992), quoted *supra*, 316 Or. at 377, 851 P.2d at 597.

10 RMC 5.40.070 was not amended by the July 15, 1992, ordinance.

11 RMC 5.40.080 was not amended by the July 15, 1992, ordinance.

12 RMC 5.40.090 was not amended by the July 15, 1992, ordinance.

13 City represented in oral argument, and we accept, that if the person responsible for a delinquent water bill that has resulted in delivery of water being withheld leaves the premises and a new occupant enters, water services would be

restored on request with no consequence to a new occupant or to the property owner as a result of the prior person's delinquency.

14 RMC 5.40.050E was renumbered by the July 15, 1992, amendment; the phrase "or elimination" was also added, and other changes were made in accordance with that change. The changes do not affect our analysis.

15 Because we hold that the storm drainage utility fee is not a tax within the meaning of that term in Article XI, section 11b, of the Oregon Constitution, we need not and do not consider the exceptions to the meaning of the term "tax" in Article XI, section 11b(2)(b).

Evan Lee

From: John Miller <johnm@greenwayig.com>
Sent: Wednesday, September 17, 2025 11:36 AM
To: Dayna Webb
Cc: Josh Wheeler; Dan Fowler; Tony Konkol; Denyse McGriff; Rocky Smith, Jr.; Adam Marl; Mike Mitchell; Scott Wilson; City Recorder Team
Subject: Sept 17 Agenda Item 9a – Request for Deferral Until Record Is Corrected
Attachments: Living Hope Refund Approval.pdf

Some people who received this message don't often get email from johnm@greenwayig.com. [Learn why this is important](#)

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hi Dayna,

I just reviewed the staff report for tonight's meeting. As written, it mischaracterizes our request and, if left uncorrected, will place the **wrong issue** before the City Commissioners tonight.

Our exemption under OCMC 13.16.100 was approved effective November 22, 2024, and that matter is settled. We are not seeking a retroactive exemption.

Our request has always been for a **refund/credit for overbilling** between our acquisition date (June 6, 2023) and the application date. As I wrote to you on July 15, 2025:

"We acknowledge and accept the City's application of the exemption going forward as of the November 22, 2024 request date. However, we respectfully request reconsideration of the City's position on charges assessed between our acquisition of the property on June 6, 2023 and the application date... we believe these charges were not properly applicable under the law and respectfully request that they be refunded."

The exemption itself confirms that our property has never connected to the City's MS4. That finding necessarily establishes that all stormwater fees billed before the exemption date were **overbilling**, because they were assessed for a service that was never provided. Correcting those charges through a refund is not creating a new entitlement—it is simply aligning the billing record with the City's own determination.

This is consistent with the City's long-standing practice. In the **Living Hope Church** matter (see attached staff report), staff and the Public Works Director recommended a reimbursement based on a 30-month lookback. More generally, the City routinely applies shorter lookbacks—such as six months—when correcting billing errors. Our request for a slightly less than six-month correction is entirely within that established practice.

For that reason, we ask that Item 9a not be taken up tonight in its current form. We respectfully request that it be either:

1. Resolved administratively by staff as a billing correction, or
2. Brought back to Council at a later meeting with a corrected staff report that clearly frames the issue as a **refund for overbilling**, not a retroactive exemption.

This ensures that when the matter is addressed, the Commissioners will be deliberating on the correct question.

Best regards,

John Miller

*“Enhancing Communities with
Thoughtful Investment”*

P. 503.969.3640

E. johnm@greenwayig.com



CITY OF OREGON CITY

Staff Report

625 Center Street
Oregon City, OR 97045
503-657-0891

To: City Commission
From: Public Works Director John M. Lewis, PE

Agenda Date: 1/5/2021

SUBJECT:

Living Hope Church Monthly Stormwater Fee Reduction and Overpayment Reimbursement

STAFF RECOMMENDATION:

In accordance with the November 1, 2021, Director Lewis memo, authorizing the City's Finance Department to issue a 30-month lookback reimbursement in the sum of \$12,909.60, Staff recommends that the City Commission support the analysis and staff determination for an overpayment reimbursement.

EXECUTIVE SUMMARY:

On July 26, 2021, the City was notified that the Living Hope Church had been charged by the City a stormwater fee that was based on 78 Equivalent Residential Units (ERU) and that this amount was not calculated correctly. The notice suggested that the City had been using an inappropriate Development Intensity Factor (DIF) instead of factor more indicative of the land. The Church requested that their monthly stormwater fee be adjusted to reflect the correct ERU. As per a November 1, 2021, memo from Public Works Director John Lewis, this adjustment request has been verified as valid and honored. The Church is now being charged a stormwater utility bill based on 38.4 ERUs.

In addition to the monthly bill correction, church members Mr. Kim Foster and Mr. Larry Marl along with correspondence from the church Paster Mr. Dwight Walker have indicated they expect the City to provide the Church with a lookback reimbursement for the 13 years and 6 months (March 2008 to September 2021) of overbilling and overpayment. Mr. Lewis, within his authority as the Department Director has approved a 30-month lookback in the amount of \$12,909.60.

Before the City Commission is a question of whether the City is wishing or obligated to apply a longer lookback period and pay the Church something in addition to the 30-month reimbursement.

BACKGROUND:

The Living Hope Church property has a stormwater billing history that goes back over 32 years. During that time (July 1989 to September 2021) the utility bill has been either under billed or overbilled by the City using incorrect Equivalent Unit Rate (ERU) multipliers. In total the account has overpaid a total of \$44,002.45.

Billing Period	Amount billed	What should have been billed	Overpayment/(Underpayment)
July 1989 to February 2008	\$591.74	\$11,302.23	(\$10,710.49)
March 2008 to September 2021	\$107,767.92	\$53,054.98	\$54,712.94
		Total	\$44,002.45

The City's Stormwater Utility started in July 1989 at which time the Living Hope Church included a smaller building and impervious footprint, however the ERU used for the account from July 1989 to February 2008 was 1. The correct ERU should have been calculated at 19.1. In 2008 the church completed a significant redevelopment adding on to the building and developing a paved parking lot as well as the associated stormwater and other utility improvements. This change is what triggered the application of a new ERU; however, at the time the church's ERU was calculated based on the entire area of the property being impervious rather than completing the ERU calculation using the appropriate surface type development intensity factors. As such, the stormwater fee was calculated based on 78 ERU instead of the actual ERU calculation applicable for the property which has since been established to be 38.4 ERU (2021) using runoff coefficients appropriate for the land types (Exhibit B).

On July 26, 2021, Brian Lee with Pace Engineers sent Tony Konkol an email sharing concerns about the current stormwater fee for the Living Hope Church located at 19691 Meyers Road. Brian went on to explain his finding that the ERU of 78 was not indicative of the pervious and impervious coverage of the property and he also pointed out that based on his review of OCMC 13.16.020, the City should be charging the Living Hope Church something less based on a OCMC provision that allows Conditional Use development to be charged a reduced rate by applying a Conditional Use Development Intensity Factor.

In Oregon City, church use is a conditional use development and as such working further with Brian resulted in a graphic (Exhibit A; plot date 8/12/21) which depicts four surface categories and the associated area measurements. This information was used in determining an updated Stormwater Rate for the Living Hope Church using a varied composite runoff factor calculation (Exhibit B).

Overpayment Reimbursement and the Overcharge Lookback Evaluation

The City has a longstanding practice of looking back 6 months when over billing errors are reported. Based on the City's typical lookback practice, the Living Hope Stormwater Utility Account would be credited for the maximum six months or \$2,582.28 (\$430.38 x 6 months).

The church member and pastor request was to look back 13 years. The OCMC does not address lookback provisions and the City Attorney was not able to find a statute or rule that directly addressed the Living Hope Church situation. However, he did offer the following, which was considered in the November 1, 2021, memo, and conclusion from Mr. Lewis:

Mr. Kabeiseman wrote:

"I was not able to find a statute or rule that directly addressed your question below, regarding the statute of limitations, but there are three that could be applicable:

- 2 years, based on ORS 12.110, which generally governs "tort" claims for injury to persons or property. This seems like the least likely outcome, as it really doesn't seem like a tort.*
- 3 years, based on ORS 12.100, which provides the limitation period for "official act or penalty," but (1) appears to be directed at "sheriffs or constable" and the language in subsection (2) doesn't seem quite on point either. However, the PUC has also adopted a three year period as the maximum refund when a large telecom utility overcharges a customer. OAR 860-21-0135(1)(b).*
- 6 years based on ORS 12.080, which is the general statute of limitations on contract claims, which I assume we have with our clients.*

Having said that, OCMC 13.16.100 provides an express opportunity to seek a reduction or to appeal a charge, and the church never pursued that, so we would at least have an argument that they've waived any chance for a refund."

To date, the church has yet to submit records supporting their lookback claim. However, we did seek out email correspondence from the City's Deputy Finance Director, Ryan Bredehoeft, who had documentation of correspondence on Church topics that traces back to February 7, 2019. In 2019, church member Dean Brown was inquiring about the City's stormwater charges and was seeking a reduction in charges. His reasoning did not bring forth the ERU overage but instead was based on his concern that the church should not need to pay a stormwater fee because in 2008 they were required to build stormwater facilities that reduced or eliminated stormwater from reaching the City's stormwater system. The ERU rate value was not raised as a concern and was not a focus by staff, nor was it raised as a concern or question until July 26, 2021. OCMC 13.16.100 provides an express opportunity to seek a reduction or to appeal a charge, however, the church had not pursued a reduction due to their ERU

rate until July 2021. As such, essentially this code provision is not perfectly applicable.

Despite the details of the church's 2019 inquiry, and to rectify what is a real overcharge, rather than using the City's lookback practice of six months, it was determined that the lookback period should be extended to include 30 months. This includes stormwater fee overcharges back to and including March 2019, which is the first billing period after the church representative Dean Brown broached the topic of excessive stormwater charges with the City. This 30-month lookback includes stormwater fees collected in the amount of \$25,428 using the 78 ERU multiplier, and then applying the 38.4 ERU multiplier resulting in the corrected stormwater fees which would have been \$12,518.40. The difference of \$12,909.60 is the total amount of the lookback overcharge and will be paid via reimbursement check.

The Church is pressing for a full refund looking back to 2008 as the Living Hope Church congregation is made up of young families through retirees, with everyday occupations such as our teachers, nurses, electricians, produce managers, business owners, executives, technicians, maintenance workers, bus drivers, and engineers, among many other such professions. The assertion is members were freely giving their hard-earned money for the benefit of the Oregon City community, with the expectation that their donations were going to serve residents or homeless, houseless, and food insecure teens to women's health care, and that money owed can best support making Oregon City a better place to live, and work.

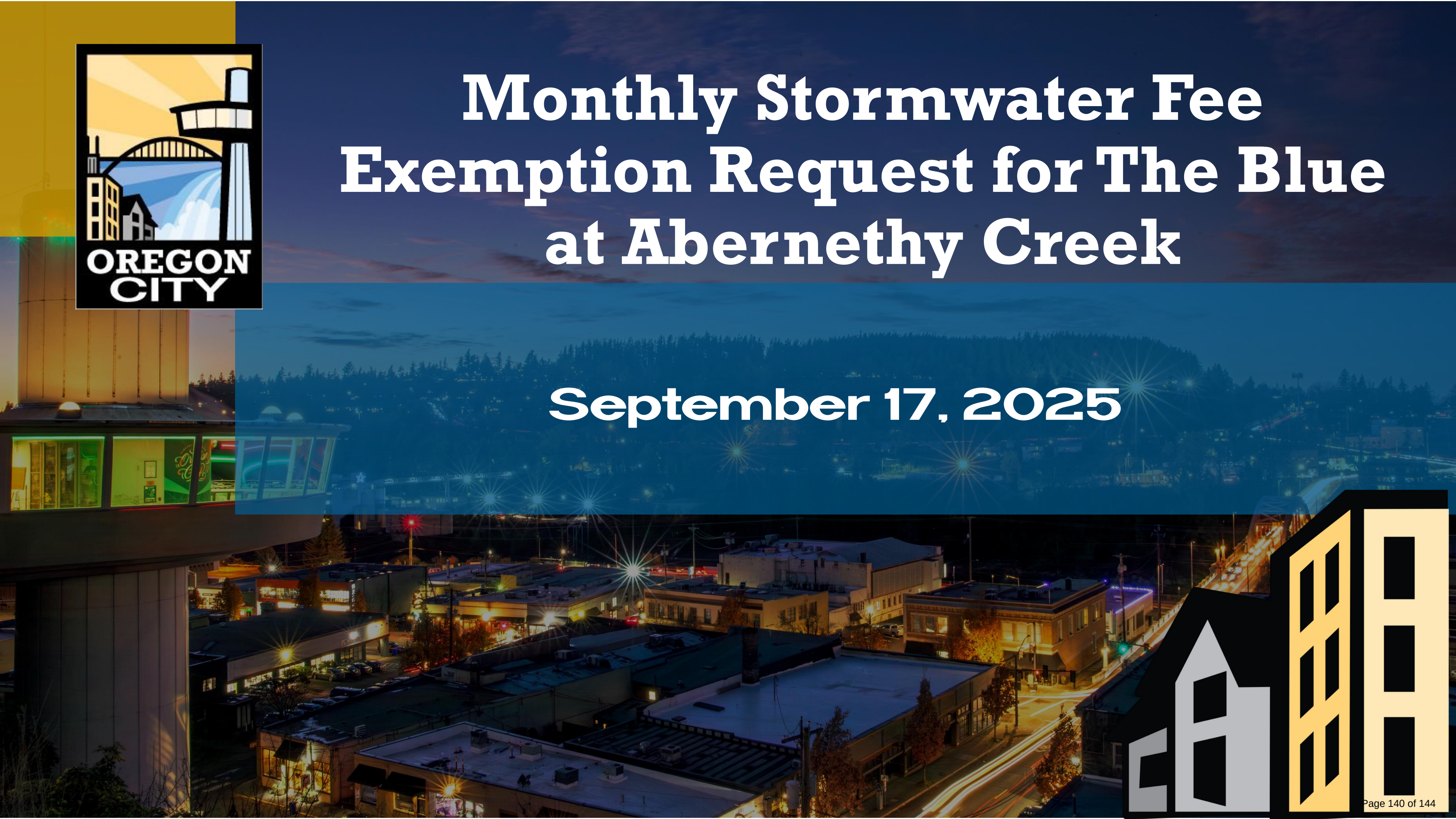
OPTIONS:

1. Move to approve an amount in addition to the \$12,909.60 already paid.
2. Move to approve the amount requested by the church using a 13 year and 6 month lookback for a total reimbursement of approximately \$54,712.94; the actual amount will need to be validated by the Finance Department.
3. Defer the decision and continue the matter to a future meeting to address concerns beyond what the City Commission feels can be addressed tonight. If this option is selected, direct staff on the kind of information of interest for further consideration.



Monthly Stormwater Fee Exemption Request for The Blue at Abernethy Creek

September 17, 2025



Background

- Nov. 22, 2024 – City received Stormwater Fee Exemption Request. Staff reviewed past cases, consulted with City Attorney.
- Jan. 3, 2025 – Requested engineer-stamped drawings to confirm no site-generated stormwater enters public system.
- June 3, 2025 – Superior Excavation certified all onsite drainage flows directly to Abernethy Creek.
- July 11, 2025 – Granted exemption effective Nov. 22, 2024 (date of request); owner required to pay outstanding fees.
- July 15, 2025 – Owner accepted exemption from Nov. 22, 2024 but requested reconsideration back to property acquisition date (June 2023).



Property Map

Area A = 52.44 ERU
Area B = 71.27 ERU
Area C = 152.74 ERU
Area D = 30.55 ERU



Fee Summary



Bill Date	Rate Code	Service Start Date	Service End Date
06/30/2025	Storm - per ERU	04/30/2025	05/31/2025
05/31/2025	Storm - per ERU	03/31/2025	04/30/2025
04/30/2025	Storm - per ERU	02/28/2025	03/31/2025
03/31/2025	Storm - per ERU	01/31/2025	02/28/2025
02/28/2025	Storm - per ERU	12/31/2024	01/31/2025
01/31/2025	Storm - per ERU	11/30/2024	12/31/2024
12/31/2024	Storm - per ERU	11/22/2024	11/30/2024
Approved Exemption back to 11/22/24			
12/31/2024	Storm - per ERU	10/31/2024	11/22/2024
11/30/2024	Storm - per ERU	09/30/2024	10/31/2024
10/31/2024	Storm - per ERU	08/31/2024	09/30/2024
09/30/2024	Storm - per ERU	07/31/2024	08/31/2024
08/31/2024	Storm - per ERU	06/30/2024	07/31/2024
07/31/2024	Storm - per ERU	05/31/2024	06/30/2024
06/30/2024	Storm - per ERU	04/30/2024	05/31/2024
05/31/2024	Storm - per ERU	03/31/2024	04/30/2024
04/30/2024	Storm - per ERU	02/29/2024	03/31/2024
03/31/2024	Storm - per ERU	01/31/2024	02/29/2024
02/29/2024	Storm - per ERU	12/31/2023	01/31/2024
01/31/2024	Storm - per ERU	11/30/2023	12/31/2023
12/31/2023	Storm - per ERU	10/31/2023	11/30/2023
11/30/2023	Storm - per ERU	09/30/2023	10/31/2023
10/31/2023	Storm - per ERU	08/31/2023	09/30/2023
09/30/2023	Storm - per ERU	08/18/2023	08/31/2023
Additional Exemption Requested (prior to 11/22/24)			
Account Balance as of 8/8/25			
Total storm credit with full exemption request			
Refund to customer			
Account Balance as of 8/8/25			
Storm credit exemption already approved			
Remaining account balance (refund to customer)			

Area A The Blue at Abernethy Creek (Owner)	Area B The Blue at Abernethy Creek (Owner)	Area C Classic Collision (Tenant)	Area D Classic Collision (Tenant)
1010 Abernethy Rd Acct #07-664655-00	1030 Abernethy Rd Acct #07-663300-06	1080.5 Abernethy Rd Acct #07-663611-00	1090 Abernethy Rd Acct #07-663301-03
52.44 ERU	71.27 ERU	152.74 ERU	30.55 ERU
Total Dollars	Total Dollars	Total Dollars	Total Dollars
\$ 774.54	\$ 1,052.66	\$ 2,255.97	\$ 451.22
774.54	1,052.66	2,255.97	451.22
774.54	1,052.66	2,255.97	451.22
774.54	1,052.66	2,255.97	451.22
774.54	1,052.66	2,255.97	451.22
717.38	974.97	2,089.48	417.92
191.30	259.99	557.19	111.45
\$ 4,781.38	\$ 6,498.26	\$ 13,926.52	\$ 2,785.47
\$ 526.08	\$ 714.98	\$ 1,532.29	\$ 306.47
717.38	974.97	2,089.48	417.92
-	2,881.97	580.41	-
-	3,378.96	-	-
-	3,378.96	-	-
-	3,378.96	-	-
-	3,378.96	-	-
-	3,378.96	-	-
-	3,378.96	-	-
-	3,378.96	-	-
-	3,378.96	-	-
-	3,127.02	-	-
-	3,127.02	-	-
-	3,127.02	-	-
-	3,127.02	-	-
-	1,311.33	-	-
\$ 1,243.46	\$ 45,423.01	\$ 4,202.18	\$ 724.39
\$ 6,024.84	\$ 28,345.70	\$ 821.86	\$ 19.75
6,024.84	51,921.27	18,128.70	3,509.86
\$ -	\$ (23,575.57)	\$ (17,306.84)	\$ (3,490.11)
\$ 6,024.84	\$ 28,345.70	\$ 821.86	\$ 19.75
4,781.38	6,498.26	13,926.52	2,785.47
\$ 1,243.46	\$ 21,847.44	\$ (13,104.66)	\$ (2,765.72)

OPTIONS:

- Maintain the exemption effective November 22, 2024 (date of request).
- Extend the exemption back to the acquisition date of the property (June 2023).

