



## AGENDA

### CANBY CITY COUNCIL MEETING

June 6, 2018

7:30 PM

Council Chambers

222 NE 2<sup>nd</sup> Avenue, 1<sup>st</sup> Floor

*Mayor Brian Hodson*

*Council President Tim Dale*

*Councilor Tracie Heidt*

*Councilor Traci Hensley*

*Councilor Greg Parker*

*Councilor Tyler Smith*

*Councilor Sarah Spoon*

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### CITY COUNCIL MEETING – 7:30 PM

1. **CALL TO ORDER – 6:00 PM – Willow Creek Conference Room** – The Council will immediately go into Executive Session with the Regular Session following at 7:30 PM in the Council Chambers.
2. **EXECUTIVE SESSION:** ORS 192.660(2)(i) Performance Evaluation of Public Officer
3. **OPENING CEREMONIES**
  - A. Invocation
  - B. Pledge of Allegiance
  - C. Canby Livability Day Proclamation
4. **COMMUNICATIONS**
5. **CITIZEN INPUT & COMMUNITY ANNOUNCEMENTS**

*(This is an opportunity for audience members to address the City Council on items not on the agenda. Each person will be given 3 minutes to speak. You are first required to fill out a testimony/comment card prior to speaking and hand it to the City Recorder. These forms are available by the sign-in podium. Staff and the City Council will make every effort to respond to questions raised during citizens input before tonight's meeting ends or as quickly as possible thereafter. For Agenda items, please fill out a testimony/comment card and give to the City Recorder noting which item you wish to speak on.)*
6. **MAYOR'S BUSINESS**
7. **COUNCILOR COMMENTS & LIAISON REPORTS**
8. **CONSENT AGENDA**

*(This section allows the City Council to consider routine items that require no discussion and can be approved in one comprehensive motion. An item may be discussed if it is pulled from the consent agenda to New Business.)*

  - A. Approval of Minutes of the May 16, 2018 City Council Regular Meeting
  - B. Reappointment to Bike & Pedestrian Committee
9. **PUBLIC HEARINGS**
  - A. Noise Variance for Wild Hare Saloon & Café (June 23, 2018 7 PM – 12 AM & August 11, 2018 6 PM – 12 AM)
  - B. APP 18-01 Redwood Landing Subdivision (SUB 17-06/APP 17-03)

Pg. 1

Pg. 2

Pg. 3

Pg. 6

**10. RESOLUTIONS & ORDINANCES**

- A. Res. 1285, Extending Workers' Compensation Coverage to Volunteers of the City of Canby and Repealing Resolution 1263 Pg. 86
- B. Ord. 1483, Proclaiming Annexation of 2.64 Acres of Real Property; Amending the Existing County Zoning from Rural Residential Farm Forest Five Acre to City Low Density Residential for the Entire Area; and Setting the Boundaries of the Property to be Included Within the Canby City Limits **(2<sup>nd</sup> Reading)** Pg. 90
- C. Ord. 1484, Authorizing Contract with Master Cleen, Inc. For Janitorial Services For Various City Facilities, Not to Exceed \$57,787.00; and Repealing Ordinance 1452 Pg. 102
- D. Ord. 1486, Authorizing Contract with Canby Excavating, Inc. in the Amount of \$481,373.30 for Construction of the NE 11<sup>th</sup> Place Sanitary Sewer Replacement & Offsite Storm Drainage; and Declaring an Emergency **(2<sup>nd</sup> Reading)** Pg. 112
- E. Ord. 1487, Authorizing Amended Contract with Kintechnology, Inc. to Continue to Provide Computer Technical Services For the City **(2<sup>nd</sup> Reading)** Pg. 121

**11. NEW BUSINESS**

- A. Findings, Conclusion & Final Order ANN 18-01/ZC 18-01 Pg. 130

**12. CITY ADMINISTRATOR'S BUSINESS & STAFF REPORTS**

**13. CITIZEN INPUT/ACTION REVIEW**

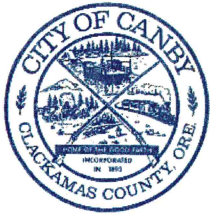
**14. EXECUTIVE SESSION: ORS 192.660(2)(h) Litigation**

**15. ADJOURN**

\*The meeting location is accessible to persons with disabilities. A request for an interpreter for the hearing impaired or for other accommodations for persons with disabilities should be made at least 48 hours before the meeting to Kim Scheafer at 503.266.0733. A copy of this Agenda can be found on the City's web page at [www.canbyoregon.gov](http://www.canbyoregon.gov). City Council and Planning Commission Meetings are broadcast live and can be viewed on CTV Channel 5. For a schedule of the playback times, please call 503.263.6287.

**Starting July 5, 2018, City Council  
meetings will start at 7:00 PM instead  
of 7:30 PM**





*Office of the Mayor*

# *Proclamation*

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## “Canby Livability Day”

**WHEREAS**, the Canby Livability Coalition is dedicated to maintaining the quality of life in the community of Canby by empowering citizens and providing resources to preserve livability for future generations; and

**WHEREAS**, citizens, organizations, and neighborhood associations are encouraged to select community service clean-up projects and activities that beautify the City of Canby before summer festivities.

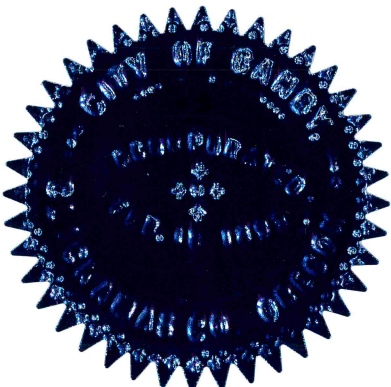
**NOW, THEREFORE**, I, Brian Hodson, by the virtue of the authority vested in me as the Mayor of the City of Canby, hereby proclaim the last Sunday in June this year as:

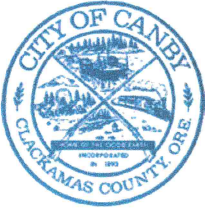
### Canby Livability Day

in Canby and encourage all citizens to join in this observance and volunteer on June 24, 2018 at one of the clean-up sites.

Given unto my hand this 6<sup>th</sup> day of June 2018.

Brian Hodson  
Mayor





Term to Expire 6.30.2021

***CITY OF CANBY  
COMMITTEE, BOARD, &  
COUNCIL APPOINTMENT APPLICATION***

Date: APRIL 24, 2018 Position Applying For: BIKE & PEDESTRIAN COMMITTEE

Name: CLIFFORD N. ASH Occupation: RETIRED

Home Address: \_\_\_\_\_, CANBY OR 97013

Employer: N/A Position: N/A

Daytime Phone: \_\_\_\_\_ Evening Phone: \_\_\_\_\_

E-Mail Address:

What are your community interests (committees, organizations, special activities)?

MEMBER OF ST PATRICK CATHOLIC CHURCH IN CANBY.  
ACTIVITIES INCLUDE BIKING, HIKING, SKIING, CAMPING, GARDENING

What are your major interests or concerns in the City's programs?

THAT THE INFRASTRUCTURE IS MAINTAINED, THAT CANBY CONTINUES TO ATTRACT WALKING & BIKING ACTIVITIES.

Reason for your interest in this position:

I WOULD LIKE TO CONTINUE SERVING ON THIS COMMITTEE

Experience and educational background:

B.S. OREGON STATE UNIVERSITY  
RETIRED FROM SOCIAL SECURITY ADMINISTRATION

List any other City or County positions on which you serve or have served:

BIKE + PEDESTRIAN COMMITTEE

Referred by (if applicable): REAPPOINTMENT

*Please return to:*

*City of Canby - Attn: City Recorder*  
*PO Box 930, 222 NE 2nd Avenue, Canby, OR 97013*  
*Phone: 503.266.0733 Fax: 503.266.7961 Email: [scheaferk@canbyoregon.gov](mailto:scheaferk@canbyoregon.gov)*

**Note: Information on this form may be available to anyone upon a Public Records Request and may be viewable on the City's web page.**

Date Received: 5-9-2018 Date Appointed: 6-6-2018 Term Expires: 6-30-2021  
Date Resigned: \_\_\_\_\_ Destruction Date: \_\_\_\_\_



# City of Canby

PO Box 930 Phone: 503.266.4021  
222 NE 2nd Ave Fax: 503.266.7961  
Canby, OR 97013 www.canbyoregon.gov

## **M E M O R A N D U M**

**TO:** *Honorable Mayor Hodson and City Council*  
**FROM:** *Kim Scheafer, MMC, City Recorder*  
**DATE:** *May 23, 2018*  
**THROUGH:** *Rick Robinson, City Administrator*

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Issue: Request for Noise Variance

Synopsis: A request has been received from The Wild Hare Saloon & Café for a noise variance for activities to be held on June 23 and August 11. The variance is being requested to allow live music that will be performed outside on June 23 between the hours of 7 p.m. and 12:00 a.m. and on August 11 from 6:00 p.m. to 12:00 a.m. Previous Noise Variances have been granted for similar events to this business.

Per Canby Municipal Code Section 9.48.050(B)(4), at least 20 days prior to the public hearing a notice was mailed to property owners within 200' of the establishment, published in the Canby Herald, and posted in various locations around the City. Section 9.48.050B allows the Council to approve a variance after certain criteria which would apply to the facts of the requested variance are considered by the Council. In granting a variance, the Council shall consider:

The protection of health, safety and welfare of citizens as well as the feasibility and cost of noise abatement.

- c. The past, present and future patterns of land use changes.
- d. The relative timing of land use changes.
- e. The acoustical nature of the sound emitted.
- f. Whether variance from the provision would produce a benefit to the public.

If, after review of the evidence submitted by the applicant and hearing any testimony from the public, the Council chooses to allow the variances as requested, a motion to grant the variances would be appropriate.

Recommendation: Staff recommends Council approve the Noise Variance request.

Recommended Motion: *I move to grant a Noise Variance to the Wild Hare Saloon & Café on June 23 between the hours of 7 p.m. and 12:00 a.m. and on August 11 from 6:00 p.m. to 12:00 a.m. to allow them to provide live music outside located at 1190 SW First Avenue.*





**CITY OF CANBY  
NOISE VARIANCE  
APPLICATION**

**\$75.00**

Receipt No:

Date Paid:

Amount Paid:

Attn: City Recorder - PO Box 930 -222 NE 2<sup>nd</sup> Avenue - Canby, OR 97013 - 503.266.0733

Applicant Name

Address

City

State

Zip

Phone

Address of Noise Variance Request

Name of Property/Business Owner of Variance Request

Type of Event

Date(s) of Event

Time of Event

Requested Hours of Variance

Date(s) of Event

Time of Event

Requested Hours of Variance

Date(s) of Event

Time of Event

Requested Hours of Variance

Acoustical Nature of Sound to be Emitted

Will you be continually present at this activity

Yes

No

If No is marked, who is to be the contact

should the need arise?

Additional Comments

*A list of property owners and their addresses within 200' of the location of the noise variance must be submitted with this application. Canby Municipal Code Chapter 9.48 requires that any person who owns, controls or operates any source which violates provisions of that chapter apply to the City Council for a noise variance.*

*By signing below, I acknowledge that I have read the attached Canby Municipal Code Chapter 9.48 and understand that violations of this chapter are subject to a fine of \$500. Signature of Police Chief or Designee must be obtained prior to submitting Application for Council Approval.*

Signature of Applicant

Police Chief or Designee

Mayor

Date

Date

Date

✓#13653 &

RECEIVED

APR 27 2018

CITY OF CANBY

April 19 '18

April 19, 2018

# CITY OF CANBY NOTICE OF PUBLIC HEARING - NOISE VARIANCE

**Date and Time Requested for**

**Variance:**

June 23, 2018 7 PM – 12 AM

August 11, 2018 6 PM – 12 AM

**Address of Variance:**

1190 SW 1<sup>st</sup> Avenue, Canby, Oregon 97013

**Name of Business:**

The Wild Hare Saloon & Café

**Business Owner:**

Joan Monen

A public hearing conducted by the Canby City Council will be held on Wednesday, June 6, 2018 at 7:30 PM in the City Council Chambers located at 222 NE 2<sup>nd</sup> Avenue, 1<sup>st</sup> Floor, Canby, Oregon. The purpose of this hearing is to consider the granting of a Noise Variance to The Wild Hare Saloon & Café.

The variance on June 23 and August 11 are being requested to allow live music that will be performed outside between the hours of 7 PM – 12 AM on June 23 and 6 PM - 12:00 AM on August 11.

Dated this 1<sup>st</sup> day of May 2018.

Kimberly Scheafer, MMC  
City Recorder



# *City of Canby*

## **MEMORANDUM**

**DATE:** *Prepared: May 25, 2018 for June 6, 2018 City Council Hearing*

**TO:** *Mayor and City Council*

**FROM:** *Bryan Brown, Planning Director*

**RE:** *Appeal APP 18-01 of (SUB 17-06/APP 17-03 Remand Order Modification of Redwood Landing Subdivision) a residential development located at 1440, 1548, 1612, 1650 & 1758 N Redwood Street*

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### **Background:**

At their April 23, 2018 meeting, the Canby Planning Commission approved the Redwood Landing Subdivision modified by the applicant as directed by the 5 points of concern listed in the Interlocutory Remand Order made by the City Council on March 7, 2018. Written findings of their decision was approved at the same evening meeting with a decision notice sent out starting the 10-day appeal period on April 27 to all those having legal standing by either requesting to be kept informed or having provided written or oral testimony on this proposed development.

An appeal of the Planning Commission decision was received on the May 8, 2018 deadline from the same parties that made the original subdivision appeal (APP 17-03 – submitted by Daniel Webb on behalf of four property owners north of the subdivision). The Council provided no charge to those associated with the original appeal reasoning it was the same subdivision project for which direction on needed modifications were provided in the remand order. In order to obtain adequate processing time for the appeal, staff was able to secure from the applicant an extension of the 120-day processing rule to June 22, 2018 for a final written decision on this subdivision.

### **Appeal Discussion:**

The appellant(s) final “appeal statement” was submitted on May 21. It states that the Appellants are not satisfied by the applicant’s modification of the size of park land dedication and the resulting density transfer utilized in the modified development plan (preliminary plat design). They state the amount of park land dedication is disproportionate to the total park land outlined in the NRDCP. Staff understands the reasoning presented, but believe it is more a statement of fact that the majority of the park land identified by the NRDCP to be dedicated for public access and protection as a Park occurs on the parcels now being proposed to be developed. To honor and follow the Plan’s direction we are in fact requiring almost twice the amount of Park land dedication from this subdivision than the standard City Ordinance dedication formula would otherwise allow the City to ask from this subdivision were it not located in the

NRDCP area. The NRDCP provisions to allow for transfer of density within the developable portion of the park dedication area as the primary mechanism proposed and accepted in the Plan adoption process and then utilized by the Plan to address acquiring the desired park land while adequately protecting the development rights of the property owners. This transfer of density allows the clustering or concentration of the same number of lots that could have been otherwise built on the property as a whole. A similar mechanism for clustering density otherwise allowed in order to provide desired natural resource or tree protection, avoidance of difficult areas to develop or simply to provide desired open space is provided through the Planned Unit Development chapter of our development code and has been utilized successfully many times within the community. In fact, it has a provision to allow density bonuses within it when providing certain amenities with the project. The NRDCP places a few more “side boards” on the use of the density transfer such as setting the minimum 5,000 sf average lot size and made it a bit easier to use when multiple property owners are involved.

The appellant’s second element cited to be of concern pertains to how SDC credits are to be applied for this subdivision. The appellant cites CMC 16.120.030.D of the parks and open space section of the City Code that indicates not to credit more than 25% of land in a floodway (stream or wetlands) or 50% for land within a 100 year-floodplain when proposed as part of a park dedication. However, page 34 of the NRDCP indicates that while the City does not always accept unbuildable or wetland area dedications in lieu of Park SDC fees; in the case of the North Redwood Development Concept Plan the City’s determination is that doing so is reasonable given the quality and importance of the wetland for flood and drainage control, overall open space and the creek’s role in encouraging responsible development of the NR area to accept such land for a park and provide a lower value to those undevelopable areas which was suggested by the Plan consultants to equal \$2/sf for use in those circumstances when an actual appraisal is not deemed necessary. Planning staff have indicated throughout the Redwood Landing subdivision approval process that dedication of both the developable and undevelopable portions of the park area identified in the Plan would not only be accepted but that the City was specifically asking for this area to be dedicated. It was assumed in the Plan that the value of the developable park and the value of residential transfer would approximately offset each other in value.

In order to avoid “double dipping” (giving credit for both the density transfer and the same developable land area twice) the density transfer value is subtracted from the total Park land value. The formulae provided within the NRDCP for determining SDC credit does not allow both the Transfer of Density from the developable park land and SDC credits as well.

**Appeal Review Criteria:**

This appeal is unique in that it is an appeal of the Planning Commission decision regarding a previous specific remand order from the City Council back to the Planning Commission. The remand order indicated five items which needed to be adequately addressed for the second look by the Planning Commission. The Planning Commission’s findings in their decision indicates they believed those items were satisfactorily addressed.

The Land Development & Planning Ordinance provides in (Section 16.89.050 (I) (3) “The City Council shall overturn the decision of the Planning Commission only when one or more of the following findings are made:

- a. That the Commission did not correctly interpret the requirements of this title, the Comprehensive Plan, or other requirements of law,
- b. That the Commission did not observe the precepts of good planning as interpreted by the Council; or



- c. That the Commission did not adequately consider all of the information which was pertinent to the case”.

The Council’s action on an appeal shall be governed by the same general regulations, standards, and criteria as applied to the Commission in the original consideration of the application. To this end, staff has attached the remand staff memorandum to the Planning Commission with our recommendation, the applicant’s submittal and supporting modified drawings, and all additional written comments received to date along with the Appellant’s Appeal Statement sent providing new notice of this appeal. The written findings of the Planning Commission are attached as well as the minutes of the Planning Commission meeting to review the remand modification.

**The Nature of the NRDCP & Its Density Transfer Provision:**

A lot of effort went into securing grant funding through the TGM Growth Management program to bring on dedicated planning professional consultants to assist staff in finding an amicable way to reach agreement amongst divergent property owners in the North Redwood Concept Plan area so that property in the area could successfully move forward with annexation and eventual urbanization through development. The heart of the planning effort hinged on two major principals: 1) identify and find a way to protect the Willow Creek environs as potential City Park, and 2) do so in a manner that would protect the property owner’s development rights who would be dedicating an outsized portion of their property as a Park. This led to the concept of using “Transfer of Density” to keep those who are forced to dedicate an outsized portion of their individual property as a park whole in terms of the development value that their property would have otherwise had.

Most of the provisions contained in the NRDCP are actually “recommendations”, basically a toolbox to assist in directing its transition into proposed developable land. Some of the particularly critical aspects of the Plan design were codified and became ordinance in CMC 16.13. However, the Transfer of Density recommended tool which was one of the two primary principal on which the NRDCP was based; is just a recommendation in order to facilitate the fair and just implementation of the Plan. The proposed Density Transfer could be eliminated from this proposed subdivision (resulting in typical R-1 zone sized lots with standard lot averaging), keeping the basic design intact with larger lots with the City providing outright purchase of that portion of the total park dedication (5.30 acres) beyond our standard park dedication amount (2.51 acres). As indicated in the Park Valuation & SDC Credit Options indicated below, the City would be fronting a portion of the Park dedication purchase price from our Park Development Funds and would recoup most if not all of the purchase price as a portion of the subdivision homes paid park SDC fees and future homes in the remaining NRDCP paid park SDC fees.

**Park Valuation & SDC Credit Options:**

The City Council final concern in the remand order was to provide information to help better understand the value being given to the land being dedicated and its relationship to the amount of Park SDC fees that would be collected or provided as a credit. Staff’s handout with an estimate of the Park valuation and SDC credit was not available until the day of the Planning Commission hearing. That initial estimate did not account for the lots only recently proposed on the preliminary plat in the future development tracts on the east side of Willow Creek. Staff asked for a clarification at the hearing from the applicant as to whether they were seeking those lots as part of the preliminary plat, and was provided with an affirmative answer. This original breakdown of Park Dedication Valuation and SDC Credit handout supplied to the Planning Commission has been corrected to include those lots and is attached to this report for Council review.

Based on discussions with the applicant, it has been assumed that the applicant would accept the City standard “values” of \$100,000 per acre for the developable land to be dedicated and \$2/sf (\$87,120/acre) for the undevelopable land being dedicated rather than proceeding to have a location specific appraisal of the property performed, which is within their right by ordinance to perform. A summary of three possible Park Valuation and SDC Credit Options are indicated below:

- 1) **Allowed Density Transfer as Proposed:** A density transfer formula in the NRDCP was developed to address the fact that a few of the properties would be dedicating disproportionately more park land than other properties and a method was needed to collect those funds from properties that would not be dedicating park but paying the fee to pay back those providing an oversize park dedication, if needed. The bottom line in applying the formulae to the proposed subdivision which utilizes transfer of density and the assumption of: \$100,000 per acre for developable park land and \$2 per sf for the natural undevelopable steep slopes and wetland areas, is as follows:
  - The total SDC that could be collected from 93 lots is \$513,937
  - The total net value of the park dedication is \$274,876 (minus the transfer of density value)
  - The developer owes the City \$239,061 and the City is providing an SDC credit of \$274,876.
  - This means that applicant obtains the benefit of his density transfer, and approximately 50 homes will be credited park SDC’s while the City will collect Park SDC’s for 43 homes.
- 2) **If No Density Transfer Allowed Using Park Dedication Required Formula:** If we were to use the City’s existing park dedication formula with no density transfer involved the following scenario would apply for a modified subdivision:

**Note: The City’s park dedication ordinance would require only a 2.51 acre park dedication. The intent of the NRCP is to require 5.3 acres of park for this site area.**

- The total value of the 5.30 park dedication is \$488,876 (not reduced by Transfer of Density Value)
- Total SCD’s generated by development without Density Transfer: \$458,675 (83 lots) but credit for park dedication per standard formula as indicated below proposed to be provided.
- Of the required 2.51 acres the City could obtain by ordinance formula, 2.14 acres could be assumed to be developable land with a value of \$214,000 and 0.37 acres to be undevelopable land with a value of \$32,234. Together -\$246,234 of SDC Credit would apply (44.55 homes). The remainder of the required Park land dedication (2.79 acres would be undevelopable land with a value of \$243,065) which the City would purchase outright up front from the Park Development Funds using the assumed City standard land values indicated in Option 1 and the remaining 48.45 homes would pay Park SDC fees in the amount of \$267,744.

**Note: The above determination will change if an appraisal is requested causing the land values to differ as indicated in Option 3.**

- 3) **Use of Land Appraisal Using Park Dedication Required Formula:** A third Park Valuation and SDC scenario would apply if the applicant chooses a land appraisal to determine the value of both the developable and undevelopable land. In this scenario:

The City would share the cost of an appraisal (typically \$3,500). A new wetland delineation may be required to accurately determine the boundary of the wetlands for appraisal purposes (\$3000 – 6,000 estimated). The cost of the wetland delineation would be borne by the developer. We would not be able to determine the final Park land value and SDC credit situation until the appraisal is completed in an estimated 30 to 60 day period. The developer would need to agree to extend the 120 day rule if knowing the exact appraisal value was deemed necessary before approving a development (this has never been a condition of approval for a subdivision in the past).

**Note:** A documented recent sale of vacant land within this subdivision development as of 3/12/18 was \$221,398 per acre. So a rough estimate of our costs to purchase 2.79 acres beyond the required 2.51 acres using the recent sale price which contained both developable and undevelopable land would be: \$617,700

#### **Planning Commission Decision:**

The Planning Commission approved the modified Redwood Landing Subdivision finding substantial evidence that both the criteria relevant to the subdivision application and the basis for the City council's remand are satisfied in the record. They acknowledged the concerns voiced about the resulting size of the lots but accepted the Density Transfer as provided within the Plan and the revised Park dedication as following the intent of the NRDCP. In summary, the intent of the allowed provisions provided within the NRDCP had been correctly executed.

*Planning Commission Recommended Motion: I move to uphold the Planning Commission decision and approve the Redwood Landing Subdivision and deny the appeal.*

#### **Possible Council Appeal Decision Options**

- 1) Use Density Transfer Formula (Noted in NRCP) and as Proposed by Applicant:** Uphold the Planning Commission decision to approve the subdivision as proposed, allowing the density transfer as called for within the Plan and as proposed, accepting the Park dedication as proposed and indicated within the Plan, providing Park SDC credits equal to approximately 50 lots at the current SDC rate (which excludes the value of land for density transfer area to assure no "double dipping") with 43 lots to pay Park SDC's to the City, and deny the appeal.
- 2) Purchase 2.79 acres of the 5.30 acre Park Dedication & Disallow Density Transfer (Recognizing it is Ultimately City Discretion By Adopted Plan to Allow Density Transfer & NRDCP District Regulations for Lot Averaging to 5,000 sf Lot Sizes):** Approve a revised subdivision plan meeting the development standards of the R-1 zone withdrawing the option for use of Density Transfer, City to purchase 2.79 acres of the park land with Park Development Funds with Park SDC credits for the value of the 2.51 acres of standard ordinance formula for park land dedication and the collection of Parks SDC's for the purchased park land dedication (approximately an SDC credit for 44.55 homes and 48.45 homes respectively at today's park SDC rate).
- 3) Address Appeal Concerns:** Use the discretion allowed by the NRDCP provisions to further reduce the amount of Park land to be dedicated and thus reduce the associated Transfer of Density resulting in marginally overall increase in lot sizes demonstrating general support for the appeal concerns and leading to the request for another modified subdivision design.

**Attachments:**

- Appellant's (File No. APP 18-01) Appeal Statement
- Written Comment's Received on Appeal (APP 18-01)
- Planning Commission Written Findings for (SUB 17-06/APP 17-03) Remand Order Modification of Redwood Landing Subdivision
- Planning Commission Minutes for April 23, 2018 Hearing
- Staff Memorandum (report) Dated April 13 for April 23, 2018 PC Hearing
- Park Dedication Valuation and SDC Credit Estimate (Corrected 5.25.18)
- Applicant's Modified Subdivision Submittal: Applicant's Response to Council Concerns & Modified Subdivision Design, and additional supporting drawings
- Applicant Attorney Michael Robinson's Letter Dated April 23, 2018 Response to PC on Modified Subdivision
- Comments received for April 23, 2018 PC Remand/Modification Hearing

**BEFORE THE CITY COUNCIL  
OF THE CITY OF CANBY, OREGON**

**RE: SUB 17-06 / APP 17-03 REMAND ORDER MODIFICATION  
REDWOOD LANDING SUBDIVISION**

- 1) The property owners listed in this appeal application feel the Commission did not correctly interpret the requirements of this title, the Comprehensive Plan, or other requirements of law;
- 2) That the Commission did not observe the precepts of good planning
- 3) The Commission did not adequately consider all of the information which was pertinent to the case.

**Statement from Appellants**

The Appellants are aggrieved because the Planning Commission approved the application for **SUB 17-06 / APP 17-03 REMAND ORDER MODIFICATION**

The Redwood Landing Subdivision, more specifically under the following outlines, there contains details not addressed in the staff report or by the Planning Commission as outlined in the Remand Order Modification and the outline of concerns by the City Council.

The Appellants feel the following ordinances and the details of the NRDCP and the Remand Order Modification were not followed in detail or considered in such a way as to preserve the quality of life and property values in the City of Canby, and more specifically, within the NRDCP.

As a result of the Remand Order by the City Council, the applicant worked with the Appellants and City staff to address the City Council's concerns of the proposed street locations not aligning with adjacent lot boundaries as outlined in the Remand. The Appellants are satisfied with this portion of the modification.

However, the Appellants are not satisfied by the applicant's modification of the size of park land dedication and the resulting Density Transfer in the applicant's modification of the development plan.

**16.13.010 North Redwood Plan District**

**Park land dedication**

The Planning Commission, in their public hearing April 23, 2018, indicated they could not address the Council's concerns of lot sizes in the R-1 area of the NRDCP as outlined in the Remand, without the benefit of an amendment to the NRDCP of which requires an action by the City Council.

The amount of park land dedication in the applicant's revised development plan is disproportionate to the total park land and total acreage as outlined in the NRDCP.

Total acreage within the NRDCP = 65.31 acres

Total acreage within Redwood Landing = 25.20 acres, **39% of the total**

Total park area within the NRDCP = 9.47 acres

Total park area dedicated by Redwood Landing = 5.29 acres, **55% of the total**

Total park area dedicated by Redwood Landing = 5.29 acres

39% of total park area within the NRDCP = 3.69 acres

Disproportionate acreage dedication by Applicant = +1.6 acres

The Planning Commission should have reduced the amount of park land to be accepted by the City to a total of no more than 3.69 acres.

Therefore, the Appellants believes the City Council needs to reduce the amount of park land dedication accepted by the council to a maximum of 3.69 acres, or at a minimum, recalculate the park land dedication to achieve 7,000 square foot lot sizes in a majority of the lots, as clearly outlined in the NRDCP.

The NRDCP should take priority over any other City ordinances which could have a negative impact on the varied density which is clearly defined in the DCP. The zoning density as outlined in the NRDCP should remain as outlined with no deviations allowed by the City Council.

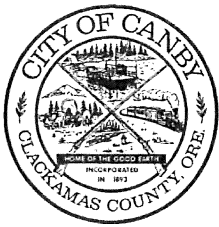
The DCP demonstrated a balanced approach with intentionally varied density and zoning type, and this extreme use of density transfer is in violation of the spirit of this zoning balance provided in the adopted NRDCP for the area.

## **SDC credit's**

### **16.120.030 Dedication procedures**

**D.** Trails that are to be dedicated that are within the floodway of a 100-year floodplain shall be credited no more than 25% of land dedication requirements. Trails that are to be dedicated that are not within the floodway, but are within the 100-year floodplain, or which are part of irrigation ditches or storm water detention areas shall be credited no more than 50% of land dedication requirement. **No other land dedicated in a floodplain shall receive any credit.**

(Appellants comments) The park land dedication calculations by the applicant were not verified by the Planning Commission, and furthermore the City Council had previously stated if the applicant utilized density transfer from park land they would not be eligible for SDC credits for the same park land (double dipping).



# City of Canby

## CITY COUNCIL PUBLIC HEARING NOTICE & REQUEST FOR COMMENTS FORM

**CITY FILE NO:** APP 18-01

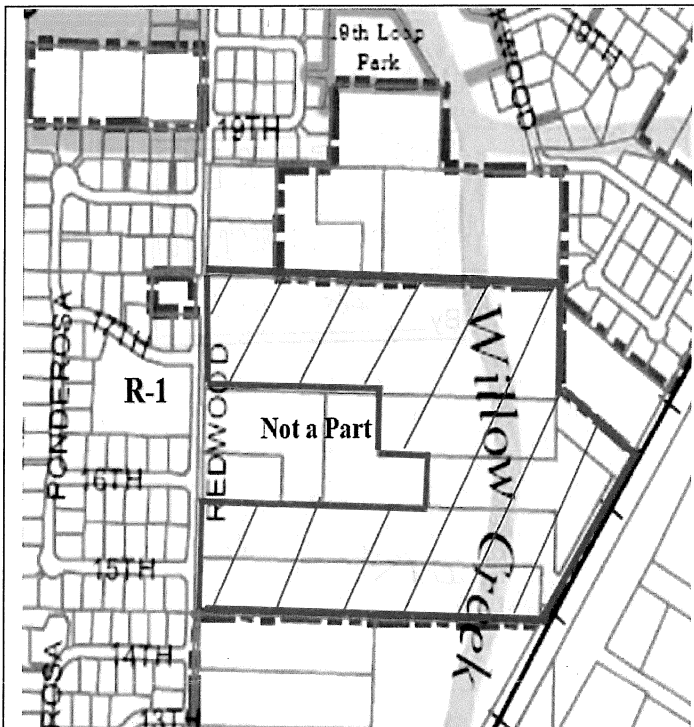
**PROJECT NAME:** APPEAL OF PLANNING

**COMMISSION DECISION FOR REDWOOD**

**LANDING SUBDIVISION (SUB 17-06/APP 17-03)**

**CC PUBLIC HEARING DATE:** June 6, 2018, 7:30 pm

The City received an Appeal form (APP 18-01) from Daniel Webb, Linda Thomas, Andrew Jarmer, Ryan & Kerrie Oliver, and Eric & Josephine Recht appealing the Planning Commission's approval of the Redwood Landing Subdivision application (SUB 17-06/APP 17-03) which had been remanded back to the Planning Commission by the City Council for modification. Appeals of a Planning Commission decision may be made to the City Council by those with legal standing by their previous participation in the review process. The applicable criteria for Appeals are stated in Chapter 16.89.050(I) and (J) of the *Canby Land Development and Planning Ordinance*. The Council's action on an appeal shall be governed by the same general regulations, standards and criteria as apply to the Planning Commission in consideration of the original application. An appeal hearing is conducted using the same procedure as used at the Planning Commission hearing. **The purpose of this Notice is to invite you to comment on an Appeal of the Planning Commission decision. The Canby City Council will hold a Public Hearing on June 6, 2018 at 7:30 pm in the City Council Chambers at 222 NE 2<sup>nd</sup> Ave.**



**Comments Due:** Written comments to be included in the Staff Report are due by May 24, 2018

**Location:** East side of N Redwood St between NE 12<sup>th</sup> Ave & NE 19<sup>th</sup> Loop

**Tax Lots:** 31E27C00301, 00500, & 01200, 31E34B00700 & 00701 (See hatch area at left)

**Lot Size and Zoning:** 25.21 acres, R-1 Low Density Residential

**Owners:** John Boyle, Jim Boyle, Hugh Boyle, Kathleen Boyle, Kristeen Boyle, Karen Seratt, Steven Stewart, Pamela King, Rebecca Stewart Gray, Ethan and Stephanie Manuel

**Applicant's Representative:** Michael Robinson, Schwabe Williamson & Wyatt

**Appellants:** Daniel Webb, Linda Thomas, Andrew Jarmer, Ryan & Kerrie Oliver, and Eric & Josephine Recht

**Type:** Appeal Form

**City File Number:** APP 18-01 (SUB 17-06/APP 17-03)

**Contact:** Bryan Brown at 503-266-0702 or email [brownb@canbyoregon.gov](mailto:brownb@canbyoregon.gov)

**What is the Decision Process?** The City Council will make a decision after the Public Hearing. The Public Hearing will be limited to issues already raised in the City Council remand or

as indicated in the Appeal (18-01) statement. New evidence is limited to the issues raised at the Planning Commission hearing unless the Council determines such evidence is necessary to resolve the case.

**Where can I send my comments?** Written comments can be submitted up to the time of the Public Hearing and may also be delivered in person to the City Council during the Public Hearing (Please see *Comment Form*). Comments can be mailed to the Canby Planning Department, PO Box 930, Canby, OR 97013; dropped off at 222 NE 2<sup>nd</sup> Ave; or emailed to [PublicComments@canbyoregon.gov](mailto:PublicComments@canbyoregon.gov).

**How can I review the documents and staff report?** Weekdays from 8 AM to 5 PM at the Canby Planning Department. The staff report and the appeal statement for the City Council will be available for inspection starting May 25, 2018 and can be viewed on the City's website: <http://www.canbyoregon.gov> Copies are available at \$0.25 per page or can be emailed to you upon request.

**Applicable Criteria:** Canby Municipal Code Chapters: Chapter 16.89.050(I) and (J) Application and Review Procedures

**Please Note:** Failure of an issue to be raised in a hearing, in person or by letter, or failure to provide statements or evidence sufficient to afford the decision maker an opportunity to respond to the issue precludes appeal to the board based on that issue.



## CITY OF CANBY –COMMENT FORM

If you are unable to attend the Public Hearing, you may submit written comments on this form, in a letter or by email. Please send comments to the City of Canby Planning Department:

By mail: Planning Department, PO Box 930, Canby, OR 97013  
In person: Planning Department at 222 NE 2nd Ave, 2nd floor  
E-mail: [PublicComments@canbyoregon.com](mailto:PublicComments@canbyoregon.com)

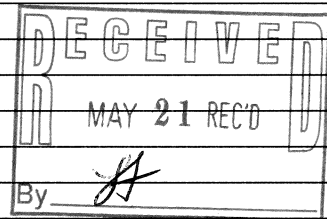
Written comments to be included in Council packet are due by March 24, 2018.

Written and oral comments can be submitted up to the time of the Public Hearing and may also be delivered in person during the Public Hearing on June 6, 2018 at 7:30 pm in the Council Chambers.

**Application:** APP 18-01: Appeal of Planning Commission's Approval of the Redwood Landing Subdivision application (SUB 17-06/APP 17-03).

COMMENTS:

*See attached*



CITIZEN NAME: Eric - Jo Reent  
ADDRESS: 1594 N. Redwood Canby OR  
EMAIL: Josephine.b. Reent @ gmail.com DATE: 5-21-2018

### AGENCY COMMENTS:

**Please check one box and fill in your Name/Agency/Date below:**

- ☐ Adequate Public Services (of your agency) are available.
- ☐ Adequate Public Services will become available through the development.
- ☐ Conditions are needed, as indicated.
- ☐ Adequate public services are not available and will not become available.
- ☐ No Comments.

Please submit all comments by email  
to:  
[PublicComments@canbyoregon.gov](mailto:PublicComments@canbyoregon.gov)  
Thank You!

NAME: \_\_\_\_\_ AGENCY: \_\_\_\_\_

DATE: \_\_\_\_\_

To the Planning Commission,

We wish to express our concerns regarding the Revised Preliminary Plan submitted by ICON as follows:

The proposed new lots are well below the traditional 7,000+ square foot low density norm as follows:

- a. 34% of lots less than 5,500 square feet
- b. 31% of lots between 5,500 and 6,100 square feet
- c. 21% of lots between 6,100 and 6,900 square feet
- d. 5% of lots 7,000+ square feet

Thus, only 5% of the proposed new lots meet the minimum standard for a low density lot. We contend that this does not meet the spirit of the North Redwood Concept Development plan for an area designated as low density.

The area under consideration for development was clearly identified visually and discussed verbally as low density. A review of testimony by city planning staff before this body referred to 'modest changes' that would result from the application of density transfer. The statistics above demonstrate that this plan is far more than a 'modest' change, rather we contend that it upends the spirit of the concept plan in its entirety. The entire public hearing process has failed to sufficiently inform the public of the possibility of this outcome.

There was specific discussion during the adoption phase of the North Redwood Concept Plan relating to density, once before the planning commission and again before the city council. Much of this discussion focused on a small portion of the intended low density area, the East side of Willow Creek. During this testimony it did not occur to any of the public that these comments would be limited to only a small portion of the area identified as low-density. Excerpts follow:

1. September 27, 2015 Planning Commission meeting -
  - a. Regarding density transfer, the consultant indicated a 'modest change', a 'tweak' to lot sizes
  - b. Consultant indicated that lots on the East side of Willow Creek would match existing Willow Creek lots
  - c. City Staff indicates that density transfer would only apply to a 'small handful of lots'
2. October 7, 2015 City Council Meeting -
  - a. City staff indicated 2 mechanisms for parks funding: 'SDC's' and 'density transfer to some degree'. 'You are not going to see a huge change' was another comment by city staff
  - b. Regarding the East side of Willow Creek, city staff indicated 'not too much potential for density transfer.....could add maybe an extra house'
  - c. Again regarding the East side of Willow Creek, city staff indicated 'we don't think it will be a lot, because of the nature of how this is situated'

This testimony clearly implies that the East side of Willow Creek was intended to remain low density. As a lay person, one would anticipate that the West side of Willow Creek would have the same intended outcome. It is not unreasonable to infer from these comments that this would be the likely outcome for all of the area intended as low density. The possibility that the East and West side of the creek would be treated differently was not made clear.

Additionally the extracts above confirm that the city's professional staff did not anticipate a wholesale switch to medium density. If the City's professional staff did not anticipate this outcome, it can surely not be expected that citizens could have anticipated this outcome. The problem is that the planning process did not in any way communicate the possibility of turning the majority of the low density area to medium density.

As we have stated, both before the Planning Commission and the City Council, we do not oppose development. To that end we participated as stakeholders in every opportunity allowed by the process. We asked questions and worked to inform ourselves as lay citizens, as did many of our neighbors. We were pleased with the **spirit** of the concept plan, a plan that resulted in a walkable, accessible community.

It was not until after all the hearings had been held and ICON brought their interpretation of the concept plan forward that we came to realize that ICON's proposal used a technicality in the concept plan that results in turning the majority of the low density area into medium density through use of 'density transfer'.

When this misunderstanding became clear, we decided to inform our unsuspecting neighbors of the outcome. We canvassed Postlewaite Estates, 19<sup>th</sup> loop and others in the neighborhood to advise them of the coming density configuration. We visited more than 40 homes and attended a meeting of the Willow Creek Homeowner's association board meeting. Not one person understood that the ICON development would be uniformly medium density. It was only Real Estate professionals who recognized an opportunity to capitalize on this aspect of the plan, as is their job. The integrity of the public hearings opportunities were essentially nullified by the use of the fine print to determine the ultimate outcome.

We contend that the planning department did not fully inform the public of possible outcomes. The general public are lay persons with regard to real estate development. It is unreasonable to expect that a lay person be presented with a concept map, and then be expected to go home, read the fine print, pull out the calculator and run the numbers.

If it has all along been the city's intention to have nearly all of the N Redwood area result in high and medium density housing, with a mere token amount of low density area, I contend that we as citizens did not have an opportunity for that conversation. We were shown a visual representation of the concept, with the fine print driving the ultimate outcome.

The testimony for the North Redwood Concept Plan was lengthy and exhaustive. Storm water runoff, traffic congestion and the condition of Redwood Street have all been addressed. Engineering studies have been undertaken and the eventual upgrade of Redwood Street has been discussed. All of these items have been addressed and more importantly can be revisited over time as needed.

Unlike the issues of water runoff, traffic management and the condition of Redwood Street, density transfer is an issue that changes the character of the neighborhood.....a change that can never be addressed again. Using farming language, this is the final rotation of this land. We are seeking an outcome that will result in something that our neighbors currently enjoy and support: a neighborhood similar to Postlewaite Estates. The ICON proposal will result in **medium density** for nearly all of the west side of Redwood unlike the **low density** Postlewaite Estates.

We are advocating for a third option, one that would allow public access to Willow Creek within the context of a traditional low-density configuration (7,000+ Square foot lots) This would involve the street layout of the 'Revised Preliminary Plan' and the density of the 'Standard R-1 Plan'. We encourage the city council to request the developer submit such a plan.

At this late stage in the process, it is difficult not to be cynical about opportunity for public input at the earliest stage of creating the basic foot print for the development of North Redwood Street. The documented lack of candor has resulted in frustration by current members of this neighborhood who participated in good faith in the opportunities made available for public input. It has certainly been no less frustrating to the applicant.

If it had been the city's intention to have essentially the entire N Redwood area be one of medium and high density, then let's have an honest conversation. For all of the meetings that were held, and all of time that community members spent, we contend that that honest conversation was not had. It can be said that according to the letter of the law, we were heard. But we saw and heard the **spirit of the law**, and were not savvy enough to figure out the true **impact** of the law.

Thank you for this opportunity to express our concerns.

Eric and Jo Recht

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5-20-2018

## Comments on ICON Development's Redwood Landing Plan

May 23, 2018

From: Carol Palmer

[Carolpalmer24@gmail.com](mailto:Carolpalmer24@gmail.com)

1646 N Ponderosa St

Canby, Oregon 97013

503.504.2638

As a resident of Postlewait Estates (west of the proposed Redwood Landing), I support the development of the eastside of Redwood, the city's comprehensive plan for the area, and the 2015 North Redwood Development Concept Plan (NRDCP). The maps associated with both plans depict the proposed Redwood Landing site as low density residential. I oppose the revised Redwood Landing plan submitted by ICON because it is not consistent with those plans and it does not address the issue of minimum low density lot sizes raised by this council at your February 21<sup>st</sup> and March 7<sup>th</sup> meetings and detailed in the Interlocutory Order of March 21<sup>st</sup>. In response to the council's and residents' concerns, ICON has made token changes that leave 95% of the lots at less than 7,000 square feet, over one-third are less than 5,500 square feet.

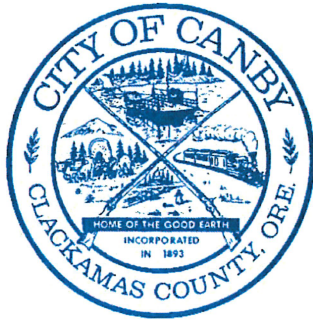
As you consider the ICON revised plan, I ask that you think about the residents, in particular, those who took an active role in the development of the 2015 NRDCP. They did everything civic leaders hope residents will do – they got involved, asked questions, and worked with others to create a roadmap for their neighborhood that would benefit the community at large. For them, ICON's first plan looked, felt, and smelled like a bait and switch. ICON's revised plan is a cynical attempt to mollify the concerns of the city council while doing as little as possible to change the original plan. If approved, those individuals who did the right thing and got involved will most likely join the ranks of the "you cannot trust city hall" cohort. They will share their dismay with friends and acquaintances, it will not be confined to the few who are directly affected.

I think it is important to note that ICON has reinforced residents' negative assessment of their intentions. At the March 7<sup>th</sup> council meeting, you encouraged more dialogue with residents and ICON's attorney assured you this would happen. It did not. ICON gave residents less than 24-hours' notice for a neighborhood meeting at 7:30pm on the Friday before the start of spring break. While I did not attend the meeting, two of my neighbors reported that the representatives from ICON were unprepared to answer questions and responded to residents' concerns in a dismissive and condescending fashion - something I observed while attending ICON's first neighborhood meeting and while watching the CTV5 video of the February 21<sup>st</sup> council meeting.

Again, put yourself in the shoes of the residents who participated in the NRDGP process. If the ICON plan felt like a kick in the teeth, its cynical attempt to "communicate" was akin to throwing salt in the wound. If you step back and look at the overall picture of ICON's behavior, the company has clearly communicated its disdain and disregard for the members of the community in which it wants to do business. If you approve their revised plan, they will be pleased, they will complete the project, and then they will leave town. The distrusting, and disgruntled residents will remain.

I also oppose ICON's revised plan based on my experience as chair of the Heritage and Landmark Commission. Those distrusting residents will not view "the city" as their advocate. Of course, most do not make a distinction between elected leaders, city staff, and volunteer boards. As the chair of the HLC, which is involved in preservation and development issues, I have had interactions with unhappy and suspicious residents who want nothing to do with preservation because they do not trust the city to protect their rights as property owners. I ask you to do the right thing – do not enlarge the pool of distrustful residents. Demonstrate that you support them and are willing to consider the spirit and intent of the city's planning process, not just the letter of the law.

Carol Palmer



# City of Canby

## Planning and Building Department

Sent Via Email

Rick Givens, [rickgivens@gmail.com](mailto:rickgivens@gmail.com)

Michael Robinson, [MRobinson@SCHWABE.com](mailto:MRobinson@SCHWABE.com)

**DATE:** April 27, 2018

**TO:** Rick Givens, ICON Construction  
Michael C. Robinson, Schwabe, Williamson, & Wyatt

**RE:** Notice of Decision/Final Order for Redwood Landing Subdivision (SUB 17-06/APP 17-03)

The Canby Planning Commission hereby provides notice that a decision to approve **Redwood Landing Subdivision/Remand (SUB 17-06/APP 17-03)** has been rendered. The enclosed Findings, Conclusions and Final Order is your notice of the official action of the City of Canby Planning Commission.

According to Section 16.89.50 (I) of the Canby Municipal Code, this decision may be appealed to the City Council within ten (10) days of the date this notice was mailed. To do so, you must file an application for appeal with the Planning Director. If no appeal is taken within the specified period, and if no appeal is initiated by action of the City Council, the decision of the Planning Commission shall be final.

The application for appeal shall clearly state the nature of the decision being appealed and the reasons why the appellant is aggrieved. A \$1,920 fee must be enclosed with your appeal application.

If you have any further questions or concerns, please contact the Planning office at 503-266-7001.

Sincerely,

A black rectangular redaction box covering the signature of Bryan C. Brown.

Bryan C. Brown  
Planning Director

Attachment: Signed Final Findings

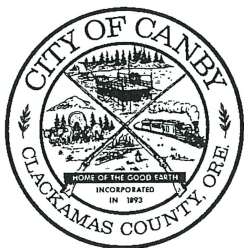
### CERTIFICATE OF MAILING

This Notice of Decision was postmarked and placed in the mail and/or emailed on April 27, 2018 and sent to all parties with standing. The appeal period will end on

May 8, 2018

Bryan C. Brown, Planning Director





BEFORE THE PLANNING COMMISSION  
OF THE CITY OF CANBY

A REQUEST FOR A SUBDIVISION	)	FINDINGS, CONCLUSION & FINAL ORDER 1440,
1548, 1612, 1650, 1758	)	SUB 17-06 & APP 17-03
N. REDWOOD STREET	)	ICON CONSTRUCTION & DEVELOPMENT, LLC

**NATURE OF THE APPLICATION**

The Applicant, upon remand of an appeal, has sought approval for a modified Subdivision (SUB 17-06/APP 17-03 Remand) design that addresses five points of concern identified by the Council Interlocutory Order made on March 21, 2018. The new modified subdivision design proposes to divide a 25.21 acre parcel into an 82 lot subdivision on property located at 1440, 1548, 1612, 1650, 1758 N. Redwood Street and described as Tax Map/Lot 31E34B00700, 00701 and 31E27C00301, 00500, 01200, Clackamas County, Oregon. The property is zoned Low Density Residential (R-1) under the Canby Municipal Code (CMC), and provisions within the North Redwood Development Concept Plan allow the transfer of development density for the otherwise “buildable” portion of the park land dedication.

**HEARINGS**

The Planning Commission considered application SUB 17-06/APP 17-03 Remand after the duly noticed public hearing scheduled and held on April 23, 2018 as directed by Council Remand during which the Planning Commission approved **SUB 17-06/APP 17-03 Remand Order Modification for Redwood Landing Subdivision submitted by Icon Construction and Development**. These findings are entered to document the specifics of approval.

**CRITERIA AND STANDARDS**

In judging whether or not a Subdivision Application shall be approved, the Planning Commission determines whether criteria from the *City of Canby Land Development and Planning Ordinance* are met, or can be met by observance of conditions. Applicable code criteria and standards were reviewed in the original Staff Report dated November 13, 2017 and presented at the December 11, 2017 of the Canby Planning Commission. The staff memorandum dated April 13, 2018 presented at the April 23, 2018 hearing for the revised subdivision design addressing the Council’s remand issues included proposed amendments and additions to the previously approved conditions of approval and are reflected in this Order.

**FINDINGS AND REASONS**

The Staff Memorandum was presented, and written and oral testimony was received at the public hearing. Staff recommended approval of the proposed revised Subdivision Application and applied proposed amended Conditions of Approval which were reflected in the staff memorandum in order to

ensure that the proposed development will meet all required *City of Canby Land Development and Planning Ordinance* approval criteria. After accepting public testimony, the Planning Commission closed the public hearing and made the following additional findings beyond those contained in the staff report to arrive at their decision and support their recommended Conditions of Approval and the exact wording thereof:

- Staff pointed out to the applicant that their initial proposal to make the internal street pavement widths 28' although allowed would result in no parking on one side of those streets. With the smaller 5 to 6,000 sf lot sizes with most having less than 60 foot of lot frontage, it was recommended they widen the pavement to the standard local street width to assure adequate on-street parking was available without causing undue congestion on the streets. The applicant agreed to the wider 34' standard local street width. It was noted the lot size would not change but the 6' required sidewalk would be pushed 3' into the front yards and be served by a pedestrian easement on the recorded plat. The wider standard street width was supported by the Planning Commission and agreed to by the Developer.
- The use of the alternative lot arrangement provided for in CMC 16.64.040 (3) was acknowledged justifying deviation from standard side yard setback from 7' to 5' and 15' to 10' setback on corner side street yards for all lots that range in size from 5,000 to 6,000 square feet in size, and to reduce lot width frontages as low as 50' to match the lot sizes based on grouping building lots into a smaller portion of the total development, reserving the remainder for dedicated park open space while not exceeding the underlying maximum density allowed by the R-1 zone. The Planning Commission acknowledged the use of the alternative lot arrangement within this subdivision design to be appropriate when grouping lots into a smaller portion of the total development, reserving the remainder for dedicated park open space.
- Staff indicated the City is willing to provide long-term maintenance of a water quality facility handling public street runoff on the adjacent Park property, while City ordinance requires on-site disposal of private property storm water runoff. The Planning Commission finds follows the recommendation within the N Redwood Concept Plan.
- The inclusion of a new condition of approval to have the applicant provide a list of lots utilizing the reduced side yard and corner lot side street setback to assist staff in evaluating plot plans at the time of building permit issuance was supported by the Planning Commission.
- The Planning Commission finds that the Applicant has addressed the relevant approval standards, including those in CZO 16.13.030.D.1 and 2. The Planning Commission has the authority to allow parkland dedication as proposed by the Applicant. The Applicant's proposed parkland dedication area has been reduced from that originally proposed in order to address the City Council's concern that the parkland dedication area accurately reflected areas that could be developed and that was represented by the N Redwood Concept Plan for future park dedication.
- Further, the Planning Commission finds that CAO 16.13.030.C1-7 are satisfied. Specifically, CAO 16.13.030.C7 is satisfied because the Applicant has proposed that future local streets "split" parcel lines, where feasible. Additionally, CAO 16.13.030.C.1 is satisfied because the proposed new road alignments are generally consistent with those identified on DCP Figure 9.
- Finally, the Planning Commission finds that the park and open space corridor along Willow Creek as identified in DCP Figure 7 "shall be provided through required land dedication to parks" in CAO 16.13.030.C.10. This requirement is satisfied by the Applicant's proposed parkland dedication area.
- For these reasons identified above and in staff's April 13, 2018 Memorandum, the Planning Commission finds that the Application on remand from the City Council satisfies relevant approval criteria as to lot size averaging, parkland dedication and the street system.



## **CONCLUSION**

In summary, the Planning Commission adopted the applicant's modified subdivision design as represented in the Revised Preliminary Plat drawing finding it satisfactorily addressed the five areas of concern expressed in the Council remand order along with the additional amendments to the conditions of approval addressed in the Staff Report, concluding that the revised residential design meets all applicable approval criteria, and recommending that File SUB 17-06/APP 17 03 Remand Order Modification be approved with the Conditions of Approval reflected in the written Order below.

## **ORDER**

The Planning Commission concludes that, with the following conditions, the application meets the requirements for Subdivision approval. Therefore, **IT IS ORDERED BY THE PLANNING COMMISSION** of the City of Canby that **SUB 17-06/APP 17-03 Remand Order Modification** is approved, subject to the following conditions:

1. Prior to the start of any public improvement work, the applicant must schedule a pre-construction conference with the city and obtain construction plan sign-off from applicable agencies.
2. The development shall comply with all applicable City of Canby Public Works Design Standards.
3. The final construction design plans shall conform to the comments provided by the City Engineer in his memorandum dated April 6, 2018 pertaining to the revised design and striking item #5 as not appropriate for sharing lot driveways with the temporary stub street turnarounds.
4. The builder or applicant shall comply with the NW Natural Gas comments dated October 27, 2017.
5. The applicant shall comply with the applicable recommendations listed in the DKS Traffic Impact Study dated August 2017 and in the November 13, 2017 staff report.
6. The applicant shall locate the drainage water quality facility to the City Engineer's satisfaction which has been recommended to be located on a separate tract not a part of the Park or in close proximity of a street within the Park to facilitate future City maintenance and allowing runoff through a buffer prior to entering the wetland and Willow Creek. The location of a water quality/detention facility within the Park shall be sited in a manner that would allow future construction of a paved pedestrian path as envisioned in the adopted North Redwood Concept Plan.
7. Turnarounds shall be required at the end of all interior streets exceeding 150' in length with the area of the turnaround subtracted from the overall lot area to confirm lot size is greater than the 5,000 square foot lot minimum allowed. The temporary turnaround area may be removed at such time as the street is extended.

### **Fees/Assurances:**

8. All public improvements are normally installed prior to the recordation of the final plat. If the applicant wishes to forgo construction of any portion of the public improvements until after the recordation of the final plat, then the applicant shall provide the City with appropriate performance security (subdivision performance bond or cash escrow) in the amount of 110% of the cost of the remaining public improvements to be installed.
9. If the applicant chooses to provide a subdivision performance bond for some or all of the

required public improvements, the applicant shall obtain a certificate from the city engineer that states:

- a. The applicant has complied with the requirements for bonding or otherwise assured completion of required public improvements.
  - b. The total cost or estimate of the total cost for the development of the subdivision. This is to be accompanied by a final bid estimate of the subdivider's contractor, if there is a contractor engaged to perform the work, and the certificate of the total cost estimate must be approved by the city engineer.
10. The applicant must guarantee or warranty all public improvement work with a 1 year subdivision maintenance bond in accordance with 16.64.070(P).
11. The applicant must pay the City Master Fee authorized engineering plan review fee equal to 0.4% of public improvement costs prior to the construction of public improvements (approval of construction plans) or applicable adopted fee at the time of construction plan approval submittal.

**Streets, Signage & Striping:**

12. The applicant shall meet the Clackamas County recommended conditions of approval listed in the memorandum dated November 13, 2017 unless City of Canby standards are more stringent. The County Conditions are as follows:

A. All required street, street frontage and related improvements shall comply with the standards and requirements of the Clackamas County Zoning and Development Ordinance and the Clackamas County Roadway Standards unless otherwise noted herein.

B. The applicant shall dedicate approximately 10 feet of right-of-way along the entire site frontage on N Redwood Street and verify by a professional survey that a 30-foot wide, one-half right-of-way width exists.

C. The applicant shall grant an 8-foot wide public easement for sign, slope and public utilities along the entire frontage of N. Redwood Street.

D. The applicant shall design and construct improvements along the entire site frontage of N Redwood Street to collector roadway standards, per Clackamas County Roadway Standards, Standard Drawing C130. These improvements shall consist of:

a. A one half-street improvement with a minimum paved width of 18 feet from the centerline of the right-of-way. The structural section shall be designed and constructed per Standard Drawing C100 for a collector roadway.

b. Inbound and outbound tapers shall be provided per Section 250.6.4 of the Clackamas County Roadway Standards.

c. Standard curb, or curb and gutter if curb line slope is less than one percent, with the curb face located 18 feet from the centerline of the right-of-way.

d. A 5-foot wide sidewalk behind a 5-foot wide landscape strip, including street

trees shall be constructed along the entire site frontage. Where the sidewalk does not connect to sidewalk on adjacent property, the end of the sidewalk requires a concrete ADA compliant curb ramp, providing a transition from the new sidewalk to the edge of pavement.

e. Dual curb ramps shall be provide at the proposed intersections of NE 15th Avenue and NE 17th Avenue, constructed per Standard Drawing S910. The designer shall complete the county ADA Assessment Checklist and provide a copy with the improvement plans. The county has adopted the following curb ramp design and construction standards:

Feature	Design Standard	Construction
Standard		
Ramp Slope	7.5%	8.33%
Ramp Cross Slope	1.5%	2.0%
Landing (turning space)		
Cross Slope	1.5%	2.0%

f. Storm drainage facilities in conformance with City of Canby Standards and *Clackamas County Roadway Standards* Chapter 4. Any surface water runoff from the site to the N Redwood Street right-of-way shall be detained outside of the right-of-way in conformance with *Clackamas Roadway Standards*.

E. Adequate intersection sight distance, per Section 240 of the Clackamas County Roadway Standards shall be provided at the intersections with N Redwood Street. Intersection sight distance shall be based on a design speed of 30 MPH, requiring a minimum of 335 feet of sight distance north and south.

F. A note shall be placed on the plat indicating no direct access to North Redwood Street by any Lot having such frontage, with access to those lots to the interior of the subdivision on a local street classification. (Access restriction indicated to be for Lots 1, 5, 6, 22, 62, 63, 64 and 65 as indicated on the March 22, 2018 Revised Preliminary Plat.

G. Utility Placement Permit shall be required for any utility work required within the right-of-way of N Redwood Street.

H. The applicant shall submit an Engineer's cost estimate to be approved by Clackamas County Engineering for the asphalt concrete, aggregates, and any other required public improvement in the N Redwood Street right-of-way.

I. Prior to commencement of site work and recording of the plat the applicant shall obtain a Development Permit from this office for design and construction of required improvements to Leland Road. To obtain the Permit, the applicant shall submit plans prepared and stamped by an Engineer registered in the State of Oregon, provide a Performance Guarantee, and pay an Inspection Fee. The Performance Guarantee is 125% of the approved Engineer's cost estimate for the required improvements.

12. The street improvement plans for all internal interior streets shall conform to the TSP and Public Works standards as indicated by the city engineer.
13. A roadway striping plan shall be submitted by the applicant and shall be approved by city engineer and by the Public Works street department prior to the



construction of public improvements.

14. A roadway signage plan shall be submitted by the applicant and shall be approved by the city engineer and by the Public Works street department prior to the construction of public improvements.
15. The applicant shall be responsible for installing all required street signage and striping at the time of construction of public improvements, unless other arrangements are agreed to by the City.

**Sewer:**

16. The applicant shall submit documentation of DEQ approval of the sewer plans to the City Engineer prior to the construction of this public improvement with each phase of development.

**Storm water:**

17. Storm water systems shall be designed in compliance with the Canby Public Works Design Standards as determined by the City Engineer.
18. The applicant shall obtain DEQ approved drywells if proposed within the subdivision.

**Grading/Erosion Control:**

19. The applicant shall submit grading and erosion control plans for approval by Canby Public Works in conjunction with construction plan approval prior to the installation of public improvements and start of grading with each phase of development.
20. The applicant shall grade all areas of the site, including the proposed lots, to minimize the amount of soil to be removed or brought in for home construction.

**Final plat conditions:**

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**General Final Plat Conditions:**

21. The applicant shall apply for final plat approval at the city and pay any applicable city fees to gain approval of the final subdivision plat. Prior to the recordation of the final plat at Clackamas County, it must be approved by the city and all other applicable agencies. The city will distribute the final plat to applicable agencies for comment prior to signing off on the final plat if deemed necessary.
22. All public improvements or submittal of necessary performance security assurance shall be made prior to the signing and release of the final plat for filing of record.
24. The final plat shall conform to the necessary information requirements of CMC 16.68.030, 16.68.040(B), and 16.68.050. The city engineer or county surveyor shall verify that these standards are met prior to the recordation of the subdivision plat.
27. All "as-built" of City public improvements installed shall be filed with Canby Public Works within sixty days of the completion of improvements.
28. Clackamas County Surveying reviews pending subdivision plat documents for Oregon Statutes and county requirements. A subdivision final plat prepared in substantial conformance with the approved tentative plat must be submitted to the City for approval within one year of approval of the tentative plat or formally request an extension of up to 6-months with a finding of good cause.
29. The applicant shall record the final plat at Clackamas County within 6 months of the date of the signature of the Planning Director.

30. The applicant shall assure that the city is provided with a copy of the final plat in a timely manner after it is recorded at Clackamas County, including any CC&Rs recorded in conjunction with the final plat.
31. The City shall assign addresses for each newly created subdivision lot and distribute that to the developer, and other agencies that have an interest.
32. The applicant must specify at the public hearing which lots are proposed for dwelling setback reduction and identify which lots are proposed for minimum lot frontage of 50 feet in order for the Planning Commission to make a detailed decision.

#### **Dedications**

33. As stated by the City Engineer, the applicant shall dedicate by separate instrument 10 feet of R.O.W. width for the full length of the subject property along N. Redwood Street on the Final Plat.
34. The applicant shall dedicate 5.29 acres for a public park as indicated in the revised new design.

#### **Easements**

35. A dual 12 foot utility, pedestrian, and temporary street tree easement along all of the lot street frontages shall be noted on the final plat. This easement may be combined with other easements and shall be measured from the property boundary.
36. Sidewalk easements are required along the frontage of the newly created private lots for any portion of the 6' public sidewalk that will lie on private property.

#### **Street Trees**

37. A Street Tree Plan shall be submitted with the final plat, and street tree fees paid prior to release of the final plat. The plan will allow the city to establish street trees per the Tree Regulation standards in Chapter 12.32 of the Canby Municipal Code. The total per tree fee amount is calculated at one tree per 30 linear feet of total street frontage on both sides of all internal streets and the adjacent side of external streets or as determined by an approved Street Tree Plan on a per tree basis.

#### **Monumentation/Survey Accuracy Conditions**

38. The county surveyor and/or city engineer shall verify that the lot, street, and perimeter monumentation shall meet the requirements set forth in Oregon Revised Statutes and conform with the additional survey and monumentation standards of 16.64.070(M)(1-3) prior to recordation of the final plat.

#### **Residential Building Permits Conditions:**

39. Construction of all required public improvements and recordation of the final subdivision plat must be completed prior to the construction of any homes.
40. The homebuilder shall apply for a City of Canby Site Plan Permit and County Building Permit for each home and satisfy the residential design standards of CMC 16.21.
41. The homebuilder shall apply for a City of Canby Erosion Control Permit.




42. All residential construction shall be in accordance with applicable Public Works Design Standards.
43. On-site storm water management shall be designed in compliance with the Canby Public Works Design Standards.
44. Clackamas County Building Codes Division will provide structural, electrical, plumbing, and mechanical plan review and inspection services for home construction per contract with the City. The applicable county building permits are required prior to construction of each home.
45. Per the Canby Public Works Design Standards, minimum residential driveway widths at the inside edge of the sidewalk shall be 12 feet and the maximum residential driveways widths shall be 24 feet with an allowed exception for 28 feet for a home with 3 or more garages.
46. Sidewalks and planter strips shall be constructed by the developer and shown on the approved tentative plat.
47. All system development fees shall be collected with each home within this development except as otherwise indicated within the agreed upon Redwood Landing Park Valuation and SDC Compensation Calculation Agreement.
48. The applicant shall provide staff with a list of lots based upon the recorded Final Plat that have been agreed to utilize the reduced side yard and corner lot side street setback to assist staff in accurately evaluating plot plans at the time of building permit issuance.

I CERTIFY THAT THIS ORDER approving **SUB 17-06/APP 17-03 Redwood Landing Subdivision Remand from City Council** which was presented to and **APPROVED** by the Planning Commission of the City of Canby.  
**DATED** this 23<sup>rd</sup> day of April, 2018

  
John Savory  
Planning Commission Chair

  
Bryan Brown  
Planning Director

  
Laney Fouse, Attest  
Recording Secretary

**ORAL DECISION: April 23, 2018**

<i>Name</i>	<i>Aye</i>	<i>No</i>	<i>Abstain</i>	<i>Absent</i>
<i>John Savory</i>	x			
<i>John Serlet</i>		x		
<i>Larry Boatright</i>		x		
<i>Derrick Mottern</i>	x			
<i>Tyler Hall</i>	x			
<i>Shawn Varwig</i>	x			
<i>Andrey Chernishov</i>	x			

**WRITTEN DECISION: April 23, 2018**

<i>Name</i>	<i>Aye</i>	<i>No</i>	<i>Abstain</i>	<i>Absent</i>
<i>John Savory</i>	x			
<i>John Serlet</i>		x		
<i>Larry Boatright</i>		x		
<i>Derrick Mottern</i>	x			
<i>Tyler Hall</i>	x			
<i>Shawn Varwig</i>	x			
<i>Andrey Chernishov</i>	x			

**MINUTES**  
**CANBY PLANNING COMMISSION**  
7:00 PM – Monday, April 23, 2018  
City Council Chambers – 222 NE 2<sup>nd</sup> Avenue

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**PRESENT:** Commissioners John Savory, Larry Boatright, John Serlet, Derrick Mottern, Tyler Hall, Shawn Varwig, and Andrey Chernishov

**ABSENT:** None

**STAFF:** Bryan Brown, Planning Director, and Laney Fouse, Recording Secretary

**OTHERS:** Clint Coleman, NJ Erickson, Susan Myers, Rick Givens, John Boyle, Judy Boyle, Jo & Eric Recht, Daniel Webb, Greg Penner, Lauren Robertson, Marty Moretty, Charlie Burden, Jay Spillum, Ronald McCord, Jim Boyle, Bobbie McCord, D. Berkner, Rosemary Hands, Ethan & Stephanie Manuel, Bob Cambra, Michael Robinson, and Darren Gusdorf.

Chair Savory called the meeting to order at 7 p.m.

**CITIZEN INPUT ON NON-AGENDA ITEMS** – None

**MINUTES**

- a. Approval of Planning Commission Minutes for March 12, 2018.

**Motion:** A motion was made by Commissioner Hall and seconded by Commissioner Varwig to approve the March 12, 2018 Planning Commission Minutes. Motion passed 7/0.

**NEW BUSINESS** – None

**PUBLIC HEARINGS**

*(To testify, please fill out a testimony/comment card and give to the Recording Secretary.)*

- a. Consider a request for an Annexation and Zone Change for properties located in an unincorporated area of Clackamas County on the north side of NE Territorial Road approximately 660 feet west of State Highway 99E and extending north to border on Willamette Wayside Park. **(DUPONT ANN 18-01/ZC 18-01)**

Chair Savory opened the public hearing and read the hearing statement. He asked if any Commissioner had conflicts of interest and ex parte contacts to declare.

Commissioner Serlet drove by the site all of the time. Chair Savory also drove by the site several times per week. Commissioner Cherishnov had visited the site.

Bryan Brown, Planning Director, entered his staff report into the record. This was a request for annexation of 2.64 acres and to rezone the property to R-1. The annexation included Spitz Road, which ended at the park property. The road was vacated by the County and given to the City to become City property when the park land was granted all along the river. The applicant planned to build a subdivision on the property, but this was only an annexation request before the Commission tonight. They could not hold the applicant to exactly what the subdivision concept plan was, although it was likely to be similar. He then reviewed the conceptual site plan for ten lots. The applicant had lined the streets up with the existing Vine St to be continued across Territorial. They also proposed that Spitz be built as a fully developed road to City standards which would also provide future access to the adjacent church property. There would be a turnaround utilized by the flag lot which had been approved by the Fire Marshall. Spitz Road would not have access onto Territorial, but there would be a pedestrian and bike pathway that would continue to Territorial. The Transportation Planning Rule analysis had

been done and it was found that the amount of traffic anticipated from this development was fully accounted for in the City's Transportation System Plan. A neighborhood meeting had been held on this application. Staff recommended approval with conditions. There was a development agreement associated with the application which would guarantee the road configurations as he had discussed.

Commissioner Serlet asked about the access for the driveways on lots 1 and 2. Mr. Brown clarified the driveways would not be allowed to access onto Territorial Road.

Applicant: Rick Givens, planning consultant with Icon Construction in Oregon City, was representing the applicant. The subdivision application would be very similar to the concept plan being proposed. All of the lots would meet the R-1 lot size requirements. There was a public need for more buildable land for single family homes in the City. The annexation would match the limits of the Urban Growth Boundary and would be consistent with the Comprehensive Plan. A neighborhood meeting had been held and he thought overall people understood that the application was consistent with the Comprehensive Plan.

Proponents: None

Opponents: Jay Spillum, Canby resident, lived west of the annexation area and also owned property on Territorial Place. He had a number of concerns regarding annexation including increased activity, noise, traffic, and degradation of the peaceful view. He thought the community was growing too fast and there was more crime. He hoped that the number of lots and size of the lots would not be changed when the subdivision application came through. He was also concerned about cut through traffic and a future parking lot and walking path for the park on Territorial Place. He thought a fence along the development should be put in as well. He would prefer this parcel not be annexed.

There was discussion regarding the confusion around the ownership of Territorial Place, and how the City had not been aware of its ownership previously.

Greg Penner, Canby resident, lived on Territorial Place. He was in agreement with Mr. Spillum's points. There was a connection between Spitz Road and Territorial Place and it formed a loop. There was a fair amount of traffic there to the park and he would like Territorial Place to become a dead end road so it did not become a park access road. He questioned how this annexation fit in with the Willamette Wayside Park development plan. Thought needed to be given as to where people would park. The plans had included a road that ran through his property, which he was not planning to annex and he had not been consulted about. He thought putting in 10 new homes in this area would take away from the rural feel of the neighborhood.

Lauren Robertson, Canby resident, also lived on Territorial Place. She had been involved in bringing community gardens to the City and she looked out for the greater good. She did not see the benefit of annexing this land that was surrounded by neighbors who were not intending to annex. It was incongruous to drop a housing development into a rural area and no one else had intentions of developing. She thought Territorial Place should be a dead end. She was against the annexation.

Mr. Brown clarified the parameters to allow the annexation and annexation criteria.

Ms. Robertson explained her concerns about her well being contaminated and septic system failing and finding herself in a situation where she would have to annex. Mr. Brown said there was an approved DEQ standard that protected wells and the applicant would have to follow that standard when they built the subdivision.

Ronald McCord, Canby resident, lived in a rental on Territorial Place. There had been a lot more traffic on the road since the park was established. The road was not being maintained by the City or County; he explained how he had been maintaining it. He thought development would change the environment of the area and ten homes were too many.

NJ Erickson, Canby resident, lived across from the annexation property. She submitted written comments for the record. She walked her dog in this area every day. The economy and character of Canby was agricultural based. For centuries this area had flooded and all of the area near the river was agriculturally rich. She did not take lightly the thought of paving it. She stated the Stone family had been maintaining the road for 20 years since the City did not know they owned it. She thought that meant the Stones would have a right-of-way by adverse possession. The people who had been accessing it for

their homes and maintaining it had a vested interest and ownership interest in the road. She thought development would change the character of the community.

Robert Cambra, Canby resident, referred to the traffic study and noted the table on page 3 that spelled out the number of trips that this development would generate was confusing. He questioned the national standards that they were using and thought it should be reviewed further. He was in favor of the requirement for sidewalks throughout the development.

Clint Coleman, Canby resident, wanted to make sure that any development maintained the quality of life for the neighborhood. He was concerned about the caliber of homes that would go in and if they would be consistent with the neighborhood. He was also concerned about maintaining the trees and if there would be a brick wall along Territorial. If sidewalks were being put in, there should be crosswalks as well. He recommended making this a private drive with a turnaround, a brick wall and trees along the front, putting in parking down by the proposed dog park area, and making the area a 25 mph speed limit.

Rebuttal: Mr. Givens explained the vacation process that took place and how the City owned Territorial Place and Spitz Road. He had no objection to closing off Territorial Place. Most of the comments related to the subdivision, which were not appropriate for this application. There was an urban church nearby and the Urban Growth Boundary was the northern boundary of this property. The neighbors who came to speak were in the Urban Growth Boundary. This was a planned development consistent with the City's Comprehensive Plan. It would provide for population growth without taking larger properties that were agricultural and expanding the Urban Growth Boundary. All of the details for the development would be brought back to the Commission in the subdivision application. He requested approval of the annexation.

Rosemary Hands, Canby resident, stated this was a rural piece of property that connected to a park and the river. There was a lot of wildlife in the area that would be impacted by the annexation. The property was not surrounded by the City except across the street. She thought Canby's character was being diminished. She did not think the annexation made sense.

Chair Savory closed the public hearing.

There was discussion regarding how the Planning Commission had to follow the code and decide whether the application met the criteria. They had to keep personal feelings out of the decision.

**Motion:** A motion was made by Commissioner Boatright and seconded by Commissioner Mottern to approve ANN 18-01/ZC 18-01 and that the development agreement be adopted and recorded with the property within seven days of the final approval of the annexation and rezoning application. Motion passed 7/0.

- b.** Consider the Council's Remand for Redwood Landing Subdivision to allow the Planning Commission to review a modification to address Council concerns and conformance with original approved criteria (**ICON SUB 17-06**)

Chair Savory opened the public hearing and read the hearing statement. He asked if any Commissioner had conflicts of interest or ex parte contacts to declare. There were none.

Mr. Brown entered his staff report into the record. This was a subdivision application that the Planning Commission saw once before. It was the same project and property. It was appealed to the City Council and the Council remanded it back to the Commission to address five specific concerns. Staff supported the modifications that the applicant made to address those concerns. He discussed the original preliminary plan and compared it to the revised plan. One change was the three extended stub streets to the north had been reduced to two stubs. That created some flag lots to more efficiently use the land. Another was the park area that was being dedicated had been shrunk. That meant there was less density transfers and clustering and the number of lots had been reduced from 89 to 82. Many of the lots were larger than they were in the previous plan. He would have the applicant clarify which drawing the Commission was approving, either the revised preliminary plan or the compromise draft plan. He discussed the stormwater drainage strategy for the public street run off and how the treatment facility would be located in the park which would be maintained by the City. He clarified which park areas were and were not counted towards the density transfers and explained the benefits of the density transfers. He then reviewed the future street plan that showed how the stubbed streets could be extended to serve the lots to the north while preserving the existing homes. The stubbed streets to the south had turnarounds that complied with the Council's

concern that they would count towards the minimum lot area. He discussed the concept plan which showed the property to the east of Willow Creek and a future cul-de-sac street as the only way to serve that area. He also discussed a picture that showed an existing driveway that went across the railroad tracks which would be a possible future emergency access route. He reviewed the overall street pattern and components of the natural resource area that was being dedicated. A traffic study was done with this application which identified a pedestrian crossing on 15<sup>th</sup> Avenue. Any development would add new traffic, but it was well within the boundaries of what N Redwood was intended to handle. The main concern was that only half of the street would be improved adjacent to the subdivision leaving the rest for future development or a City capital improvement project.

Commissioner Serlet asked about parks maintenance. Mr. Brown said the City had already been responsive to neighbor's concerns about the beavers in the area and a non-profit group had worked to plant native vegetation to enhance the wetlands. If the subdivision went through, it would be a City park and would be put on the list for maintenance. It would be maintained in its natural state and the only future improvement would be to put in a walkway and pedestrian bridge. He thought SDC funds would be used to create the walkway and bridge.

Mr. Brown said three documents had been submitted to the Commission tonight. One letter was from Carol Palmer who was concerned that the lots were still below the R-1 minimum of 7,000 square feet which she thought changed the character of the neighborhood and devalued property. She also mentioned that the entire process for the N Redwood Concept Plan was not clear enough for neighbors to understand what the transfer of density really meant and how it might be implemented and resulted in this size of lots. Another concern was not knowing what the SDC credit would be for the park land dedication. Mr. Brown clarified from staff's calculations, the developer would get credit for the first 49.7 homes built based on the value assigned to the Park land dedicated and Park SDC fees collected for the remainder. This is based on agreed upon buildable land value established with the Park dedication ordinance and the "non-developable" land with adoption of the North Redwood Plan. Another letter was from the applicant's attorney that proposed additional verbiage on how the applicant satisfied the Council's remand concerns. Also included were additional findings proposed for the Planning Commission to add. Staff recommended approval of the revised application.

Commissioner Chernishov asked about development on slopes greater than 25%. Mr. Brown said it became more expensive to develop a home when the slopes were greater than 25% and it was a good dividing point for what would be transferable for density. The code did not restrict development on slopes.

Chair Savory asked how many vehicle trips per day this development would add. Mr. Brown explained the calculation, which would be about 757 trips and a collector street could take up to 3,500 trips.

Applicant: Rick Givens, planning consultant with Icon Construction in Oregon City, clarified the plan they were asking for approval for was the revised preliminary plan. On that plan there was a shadow plat of the area to the east of Willow Creek which showed potentially how development in the future could occur. The plan had changed significantly in response to the neighbor's and Council's concerns. The biggest change was the layout of the roads. He noted the two stubbed streets to the north were on the common property line. Regarding the concern about the turnarounds for emergency vehicles being counted towards lot area, the applicant had given two calculations, one was counting them and one was not. Those lots met the 5,000 square foot lot standard. They had reduced the number of lots in the plan and the park size was the same as the concept plan indicated at 5.3 acres. The smallest lots were on the area to the south boundary where it abutted R-1.5. Most of the lots abutting neighboring properties were 6,000 square feet. They were transferring density, which was encouraged in the concept plan. There was no provision in the code that said they could not build on 25% slope. He had prepared a concept plan for how this site could be developed and achieve the same density of lots 7,000 square feet or larger. The concept plan showed that the density they were transferring could exist on this property.

Michael Robinson, land use attorney in Portland, said the applicant was making a good faith effort to address what the neighbors and Council had asked him to do when it was remanded back to the Planning Commission. The number of lots had been reduced and more evidence on how the density transfer was appropriate had been submitted. The streets to the north had been taken care of and the lots with the turnarounds had sufficient square footage. The Council had remanded the application to address parkland dedication, density transfer, temporary turnarounds, parkland value for SDCs, and future streets splitting parcel lines. These had all been addressed in the revised plan. They had tried to keep the larger lots closer to like size lots and smaller lots closer to like size lots as well. The code allowed lot size averaging and as long as there was an average size of 5,000 square feet, it was permissible in the N Redwood Development Concept Plan. The

Commission's charge was to apply the criteria. This was still an R-1 development. Through the Concept Plan they were allowed to reduce lot sizes though lot size averaging. They met the approval criteria and agreed with all of the previous conditions of approval. He had given additional findings to the Commission to demonstrate that the flexibility in the code was there. He requested approval of the application.

Commissioner Boatright asked Mr. Robinson to read the zoning ordinance sections on lot area exceptions and lot size averaging. Mr. Robinson read those sections. This was the basis for the 5,000 square foot lots. Mr. Givens clarified the average lot size in the development was 6,059 square feet. There was one large lot that contained Mr. Manuel's home and if that was taken out, the average lot size would be 5,900 square feet.

Proponents: Ethan Manuel, Canby resident, was in support of the application. The people who were a part of the development were part of the community and had been here for generations. They would continue to be part of the community. This was a well thought out plan that had been adjusted to address the concerns that had been raised. One of the biggest concerns was the density transfer and how they ended up with lots that were less than 7,000 square feet in an R-1 zone. It had been stated that these smaller lots were not in the spirit of the concept plan. He had participated in the development of the concept plan and he thought this was exactly what was intended. The property owners were asked to give more than they were required to give for the express purpose of securing the park land for everyone in the community to enjoy. Because of that, they could not develop as many lots on their land and that transferred over to the developable land. In total it was the same number of lots that they could get if they did not have to dedicate the park land. It was not benefitting him over anyone else. The property owners that did not have a portion of their property in the wetland were not required to dedicate land. It was intended to be an equitable situation while protecting the natural resource and was all discussed at the time the concept plan was created.

Chair Savory asked how he would define Canby 30 years ago. Mr. Manuel still viewed Canby as a farming community. He thought they had maintained the small town feel and people were moving here because it still had that feel. It was a matter of how they would grow, and he thought this development was in the spirit of the community. It would be a nice place for people to live.

Chair Savory was concerned about the traffic this would generate and changing the small town feel of the City.

Opponents: Susan Meyers, Canby resident, was the secretary for Postelwait Estates Homeowners Association. She spoke on some of the points that the president of the Association had made in a letter he submitted. She pointed out that the wrong code section had been used by the applicant, and that would need to be corrected in the findings. Postelwait Estates had 64 homes, and was involved in the concept plan process. The membership did not understand the level of the density transfer and questioned if it was in the spirit of the concept plan that had R-1 for this area. When 75 of the 82 lots, or 91% of the lots, were in essence R-1.5 due to the size of the lots, there was frustration because they thought the lot sizes would be bigger. They were concerned about the long term impact on their community when there were so many people living in a tight area. They thought the smaller lots to this degree was excessive and was more than anyone anticipated. They were asking to the extent the Commission had discretion to help increase the size of the lots. They also asked for a condition of approval for CC&Rs to be placed on the property to allow for an HOA. It would help with maintaining the fence, landscaping, and signage around the development. They also wondered since Postelwait Estates had to maintain their stormwater detention facility, why the facility for this development would be maintained by the City and not the neighborhood. If they had to accept this level of density, an HOA would assist in keeping property values up.

Erick and Jo Rect, Canby residents, owned one of the properties that would be surrounded by the new development. They were not opposed to development and participated in the concept plan process. They were concerned about how the plan was presented to the public. In the concept plan discussions, the density transfer was characterized as maybe adding an extra lot and not much would change. In reality it changed the density to medium rather than low density. They did not think it met the spirit of the concept plan. No one had anticipated this outcome. The public was not fully informed on what was going to happen and there had not been an opportunity for an honest conversation about what this really meant.

Daniel Webb, Canby resident, had represented the appellants in the appeal of this application. The applicant had for the most part addressed the issues that the appellant presented in the appeal and the City Council's concerns. However the density issue was still a problem. This area was supposed to be developed as R-1. The applicant had used the code and concept plan to their advantage in order to maximize their potential development, which was to be expected. Over the past few months, it was made apparent that the concept plan was flawed and the responsibility went to the Commission and



staff. The spirit of the plan was forgotten somewhere along the way. Many hours of citizen time had been invested in creating the concept plan and he thought they had all been misled. They were told the density transfer would make very little difference and the street plan could be changed to fit property owner's needs. He did not think this would be the last time the Commission would be addressing the density transfer and the other issues of this development. Commissioner Mottern asked if those he represented would be willing to have less park land instead of what was being proposed to be donated.

Mr. Webb thought the park would never be developed. It would not have mattered if they dedicated more or less park land, it would continue to be an unimproved wetland. The city had no funds for maintenance. The application was nothing like community members had envisioned.

Charles Burden was the property manager for Hazeldell LLC in Canby. His family were long-time residents of Canby. In the 1960s they had constructed an irrigation pond upstream from this development. He had always been told that they were not allowed to build any closer than 50 feet from the edge of the waterway. These homes looked like they were being built on the water's edge. It was a concern as they were upstream from this area. He wanted to make sure there was not a problem with rising water and flooding. He did not think it was good to build this close to a waterway.

Commissioner Chernishov asked how frequently they released water from the upstream pond. Mr. Burden explained the release used to be more prevalent than it was today. Approximately two years ago they released water. There was concern that there would be a liability if something failed with their dam. This year they had a blockage on the spillway that caused water to overflow the dam. They wanted to make sure everyone was safe downstream.

Rebuttal: Mr. Givens had reviewed the FEMA maps for this area and there were no lots in the 100 year floodplain. The hash pattern on the map was the wetlands boundary, not the stream boundary. There should be about a 50 foot separation between the stream and the rear yards of the lots. The lots would be built up in elevation and the homes would be built on the upper portion of the lots. He did not anticipate a problem with safety. The concept plan and code allowed for an average of 5,000 square foot lots, and the average for this development was 6,000 square feet. The density was consistent with R-1 zoning. He thought the design was consistent with the code. They had addressed the concerns of the neighbors and Council as much as they could. They could not reduce the density further without it hurting the property owners, which was not fair because they were being asked to give up a significant asset from their property.

Mr. Robinson submitted a new letter that addressed the typos that had been pointed out. This was an adopted concept plan, and the issue before the Commission was whether this application followed that plan. The plan could be amended but currently it was in effect as an acknowledged document and everyone was bound by it. He read from the list of remand items from the City Council. The Council did not say that they had to reduce the number of lots or that the lots had to be 7,000 square feet because that was not what the code stated. The code allowed less than 7,000 square foot lots as long as there was an average lot size of 5,000 square feet. They were not getting any more density than they would if they developed on Willow Creek. The Council wanted evidence that the calculations were accurate and reflected appropriately the density transfer provision in the code. He read from sections of the concept plan regarding Willow Creek and the density transfers and lot size averaging. It was a conscious choice to push density over to where it could be developed in return for dedicating Willow Creek as public park land. The code did not allow the Commission to require a Homeowners Association, however the applicant was willing to consider it. They asked for approval of the application.

Jim Boyle, Canby resident, had also attended the concept plan meetings and he thought the issues were made clear at those meetings. The material in the concept plan was also clear. Neighbors should have done their homework and raised these issues three years ago when the plan was being created.

Jo Rect had canvassed the neighborhood and went to community meetings and did not find one person who had a clear understanding on this issue. They had been paying attention.

Chair Savory closed the public hearing.

Commissioner Chernishov discussed the SDC credit estimate. The developable land was valued at \$100,000 per acre, and the undevelopable land was valued at \$87,000 per acre. He was concerned there was not enough difference between the two.

Councilor Varwig did not think this development with small lots fit the spirit of Canby. He wanted to maintain the small town feel. However, the developers met the code and he understood the need for the applicant to make the most of the development.

Commissioner Boatright stated the code did allow density transfers for the park land, however he thought the applicant was willing to donate the land because of the expense to try to build on it. In R-1 the lots were supposed to be 7,000 to 10,000 square feet and there were not enough of those lots in this development. The Council had remanded this back to the Commission and he thought the Council had wanted more done than what was proposed. They did not have to allow 5,000 square foot lots and he thought they made a mistake approving this application the first time.

Commissioner Varwig stated if this was approved, he highly recommended forming an HOA for the development.

Commissioner Hall said the Commission had approved it the first time with smaller lot sizes. All of the necessary changes were made, and he thought they had to approve it.

Commissioner Mottern agreed with Commissioner Hall. This was an adopted plan and he thought the application should be approved.

Commissioner Serlet thought there had been a bait and switch between what they thought the concept plan said and this development. He was concerned about the park being maintained, as the city could not maintain the current parks. The traffic impact on Territorial should have been addressed. He was opposed to this application.

Chair Savory said it came down to the spirit versus the law and they had to follow the law. The applicant had fulfilled his obligation under the law, and it was up to the Council to make the citizens of the neighborhood whole. He thought traffic issues had been neglected as well.

**Motion:** A motion was made by Commissioner Mottern and seconded by Commissioner Hall to approve SUB 17-06/APP 17-03 with staff's recommendations and the recommendations and typo corrections from Mr. Robinson. Motion passed 5/2 with Commissioners Serlet and Boatright opposed.

## **FINAL DECISIONS**

(Note: These are final, written versions of previous oral decisions. No public testimony.)

### **a. DUPONT ANN 18-01/ZC 18-01 Final Findings**

**Motion:** A motion was made by Commissioner Boatright and seconded by Commissioner Serlet to approve the final findings for DUPONG ANN 18-01/ZC 18-01. Motion passed 7/0.

### **b. ICON SUB 17-06/APP 17-03 Remand Final Findings**

**Motion:** A motion was made by Commissioner Mottern and seconded by Commissioner Hall to approve the final findings for ICON SUB 17-06/APP 17-03. Motion passed 6/1 with Commissioner Serlet opposed.

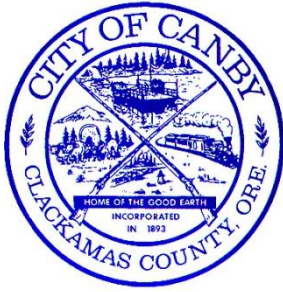
## **ITEMS OF INTEREST/REPORT FROM PLANNING STAFF**

- a.** Next regularly scheduled Planning Commission meeting – Monday, May 14, 2018
  - Site & Design Review/Conditional Use for two warehouse spaces in the Canby Pioneer Industrial Park.

## **ITEMS OF INTEREST/GUIDANCE FROM PLANNING COMMISSION – None**

## **ADJOURNMENT**

Chair Savory adjourned the meeting at 10:15 pm.



# *City of Canby*

## **MEMORANDUM**

**DATE:** *April 13, 2018 for April 23, 2018 Planning Commission Hearing*

**TO:** *Planning Commission*

**FROM:** *Bryan Brown, Planning Director*

**RE:** *Redwood Landing Subdivision Council Remand from Appeal (SUB 17-06, APP 17-03)*

**Background:** Upon appeal of the Planning Commission's decision to approve the originally submitted Redwood Landing Subdivision, the City Council made a final decision on the appeal remanding review back to the Planning Commission to review a modification of the subdivision design in a manner that satisfactorily addresses five points of concern indicated in the Council Interlocutory Order made on March 21, 2018.

The Council remand order required that notification of a new public hearing take place for those receiving the original notice and making their interest known in the previous case record for April 23, 2018. This action was facilitated by the applicant agreeing to extend the 120-day allowed application review time for a City decision to be made. Within the short agreed time available, the applicant prepared a revised subdivision design, held a neighborhood meeting to seek input, made additional modifications and submitted their revised design to the City on April 2, 2018. Staff provided a 20-day public hearing notice and request for comments. The staff memorandum and Planning Commission packet was published and made available on April 9, 2018, although portions of the applicant's revised submittal was distributed earlier to interested parties who had requested it.

**Discussion and Findings:** Most of the original accompanied record and previous applicant and staff findings and recommended conditions of approval remain applicable with the revised subdivision modification now presented for approval. The modified subdivision site plan design and new applicant narrative focus only on the five specific points of concern indicated by the City Council remand order. **Staff accepts the design changes and supports the provided applicant narrative response as having satisfactorily addressed the concerns voiced by the Council in the remand order as meeting all parameters and standards allowed by the development code and finds it to follow the intent of the provisions of the adopted North Redwood Concept Plan with the exception of needed modifications to the Park Land Valuation and SDC Compensation Calculation Estimate.** Staff's recommended changes to the original Planning Commission conditions of approval are reflected in the draft Findings, Conclusion & Final Order for SUB 17-06/APP 17-03 Remand Order which is attached for possible action and approval by the Planning Commission.

**Changes in Recommended Conditions of Approval:** The applicant previously agreed with the original subdivision design and again with this revised design, to provide full city standard local paved street widths of 34' which will allow on-street parking on both sides of all streets. The actual rights-of-way for the proposed streets varies from 58' to 52' in width which will result in a difference in the amount of public sidewalk width that will be placed in a common public utility and pedestrian easement outside of the public rights-of-way on the front of the private lot from none at 58' width to up to 3' on either side of a 52' wide width. This has been a common accepted practice in Canby but does result in a portion of the sidewalk being closer to the 20' front yard setback of the building structure and therefore requiring careful planning for adequate parking space length outside of a garage door. This eliminated an earlier recommended condition of approval.

Temporary emergency turnarounds are shown near the end of all street stubs that exceed the 150' typical design standard as requested by Canby Fire. The City Council asked that the area taken up by these temporary turnarounds be subtracted from the minimum allowed 5,000 square foot lot size to assure adequate useable lot area. The applicant has demonstrated compliance with both the fire code standard where applicable and useable lot size when excluding the temporary turnaround area. The temporary turnaround can be removed when the stub street extends as planned with future development. The related previous condition of approval has been slightly amended.

The applicant responded to a request by staff to remove 3 lots located on the east side of the perimeter street next to the park near 17<sup>th</sup> Avenue indicated on the original design by eliminating two of the lots and moving the other down further south. This continues to be reflected in the revised design and is consistent with what was expected with the North Redwood Concept Plan in terms of area suitable for development.

A new memorandum from the City Engineer dated April 6, 2018 pertaining to the revised subdivision design and striking item #5 as not appropriate for sharing lot driveways with the temporary stub street turnarounds has resulted in an amendment to the related previous condition of approval.

A previous condition of approval has been amended to now reflect a reduction in the size of the Park dedication from 6.45 to 5.29 acres. The final condition of approval has been amended to reflect the park dedication value and SDC compensation estimate which still needs some fine tuning to accurately reflect how it was intended to be calculated by the North Redwood Concept Plan. In explanation, It is clear that the property owners who are providing the land making up this proposed subdivision will be dedicating the largest portion of the recommended area for the future Park and are therefore by Plan formulae expected to fully utilize Park dedication in lieu of Park SDC fee payment (credit) and should also qualify for additional NRDCP Park SDC Fee collection account reimbursement when funds become available through park fee collection from other NRDCP future development that will pay the Parks SDC fee. An estimate of the final reimbursement amount will be prepared in conjunction with the applicant to bring to the public hearing. Staff discovered a minor math error and what looks like the need to eliminate the next to the last paragraph of the applicant's estimate methodology since the formulae in the NRDCP uses gross acreage, not accounting for anticipated street area or average units per acre in determining the value for subtracting the 9 transferred lots, but rather an acreage base for the buildable park area. Staff and the applicant will continue to fine tune the reimbursement calculation to present at the Planning Commission public hearing.

Staff recommends adding an additional condition of approval pertaining to the applicant's continued request to avail themselves of the provisions afforded to them within 16.64.040(B)(3) Alternative Lot

Layout, to utilize a reduction in the standard required side yard setback from 7' to 5' and 15' to 10' setback of corner side street yards for all lots that range from 5,000 to 6,000 square feet in size. The applicant also intends to reduce lots widths as indicated on the preliminary plat from the standard 60' to the allowed "Alternative Lot Layout" to 50' minimum for some of the lots. Staff recommends that the applicant specify which lots are proposed for setback and minimum lot frontage reduction in order for the Planning Commission to make a definitive finding with this regard. Administration of these standard reductions will be difficult to tract at the time of building permit issuance without a clear list of the applicable lots qualifying for the reduction. Staff supports the applicant's qualification to invoke this existing provision of the development code building lots are shown to be grouped into a smaller portion of the otherwise total development area. The density allowed shall continue to not exceed the underlying maximum allowed by the underlying zone.

Staff recommends adding an additional condition of approval prompted by the Canby Fire Marshal to consider potentially changing the name of N River Alder Street to facilitate emergency response.

***Street Stubs to Property to the North:*** Staff fully supports the design solution which altered the street stubs to the property to the north of this subdivision in the revised design. The alignment results in a modification of the neighborhood route (proposed Sycamore Street) as envisioned by the adopted NRDCP by directing the northern portion of this street to flow out to N Redwood Street by way of 17<sup>th</sup> Avenue rather than following a path through the property to the north out to 18<sup>th</sup> Avenue. Staff is satisfied that the basic spirit of the Concept Plan remains in tack with this design change leading to a much more flexible future layout for all property ownership to the north. It is clear to staff that the NRDCP district approval criteria indicated in 16.13(C)(1 -11) intended that "road alignments" shown in Figure 9 of the Concept Plan should "generally" be consistent, allowing necessary flexibility to respond to design concerns that arise in the approval process of development that do not result in significant harm to the Plan.

***Public Concerns & Input:*** The revised design resulted in seven fewer lots within the same subdivision area. This has resulted in only an incremental increase in the size of the lots proposed. Many surrounding residents have voice continuing concerns with the smaller lot sizes presented. However, the applicant has sufficiently demonstrated that the density allowed within the underlying R-1 zone has not been increased beyond what would otherwise be allowed were minimum 7,000 square foot lots be developed on the otherwise developable area being dedicated as a park. The NRDCP was specifically commissioned by the City to provide a fair and equitable way protect Willow Creek wetlands and obtain beneficial surrounding area open space for a City park while making individual property owners whole when required to dedicate much of their otherwise developable property for a future park. The primary mechanism agreed to in the extensive plan adoption process was to allow "transfer of development rights". The new NRDCP district code language pertaining to lot size averaging (Section 16.13(D)(1) indicates that the park land dedication area may be allowed to be included when utilizing the standard lot size averaging code provision and that the minimum lot size shall not be less than 5,000 square feet. The applicant choose to also use the previously existing subdivision lot provisions pertaining to "Alternative Lot Layout" to request a reduction in the side yard and corner street side yard setbacks. It was not realistic when developing the Plan for all possible development configuration scenarios that might occur with regard to which properties would come in together to form a subdivision application and therefore the size of the resulting lots. In recognition of this, the Planning process placed a minimum lot size of 5,000 square feet when utilizing the transfer of development provision and only allowed "developable" land to count toward the area qualifying for transfer of development rights.

The applicant has satisfactorily demonstrated compliance with the above mentioned provisions of the NRDCP associated provisions utilized within the development code.

**Staff Recommendation:**

Staff recommends that the modified Redwood Landing Subdivision (SUB 17-06/APP 17-03) as a result of the Council Remand indicated by the Interlocutory Order, be approved subject to the conditions of approval of the original Planning Commission approval of SUB 17-06 as amended by staff in this memorandum and reflected on the draft new Findings, Conclusions & Final Order attached to this report.

**Attachments:**

- 1) Applicant Submittals as indicated in Consultant Rick Givens April 2, 2018 Letter
- 2) The previous proposed and approved Preliminary Plat dated November 20, 2017
- 3) North Redwood Development Concept Plan Figure 9; Figure 4; and Figure 2
- 4) Previous Park Area Wetland, Steep Slope, Density Transfer Map dated December 14, 2017
- 5) Public Comments & Service Agency Comments
- 6) Corrected Revised Park Value & SDC Compensation Estimate from that Submitted by Applicant (To Be Provided for the Record at the Public Hearing)
- 7) Previously approved Planning Commission Final Findings (SUB 17-06), dated December 11, 2017
- 8) Proposed SUB 17-06/APP 17-03 Remand Draft Findings

## Park Dedication Valuation and SDC Credit Estimate (Corrected 5.25.18)

The Park Dedication Area is comprised of both developable and undevelopable (natural resource land).

**Total Park Site = 230,692 sf/5.30 acres**

**Undevelopable (Natural Area) = 137,438 sf/3.16 acres**

**Wetlands: 77,913 sf/1.79 acres and Steep Slopes Over 25%: 59,525 sf/1.37 acres**

**Developable Land = 93,254 sf/2.14 acres**

**The value of the undevelopable land is \$2 per sf: 3.16 acres (137,438 sf) X \$2/sf = \$274,876**

**The value of the developable land is \$100,000 per acre: 2.14 acres X \$100,000/acre = \$214,000**

**The total value of the Park land dedicated is: Undevelopable (\$274,876) + Developable (\$214,000) = \$488,876**

**For SDC Credit Available: We are required to subtract the developable land – which was allowed as a density bonus - to be subtracted from the total park dedication to determine SDC Credit (Total Park Site Value – Developable Park Area Value = Undevelopable Park Area Value)/(\$488,876 – \$214,000 = \$274,876)**

**Total SDC's for the development is: 93 homes at current SDC Fee of \$5,526.20 = \$513,937.**

**We take value of the total SDC's for the development and subtract the value of the park dedication (total park value minus developable value (density transfer) to arrive at the amount of SDC's owed for the subdivision: (\$513,937 – \$274,876 = \$239,061).**

**The City is providing a Park SDC Credit of \$274,876. At the current individual home SDC Fee rate of \$5,526.20, the applicant will receive a credit for approximately 50 homes and 43 homes will pay a Park SDC. Inflation adjustment to the SDC approved for July 1, 2018 will slightly change these calculations.**



## Redwood Landing

### Applicant Response to Council Concerns

The decision of the Canby City Council regarding APP 17-03 lists five areas of concern that need to be addressed by the Planning Commission in considering the remand of the Redwood Landing subdivision. The applicant has considered these five areas of concern in formulating the redesigned site plan for the project. The following responses address the points of concern and demonstrate that the proposed site plan is consistent with these concerns.

- 1. The first issue raised by City Council relates to lot size. The site plan is based on the concept of density transfer encouraged by the North Redwood Development Concept Plan (NRDCP) as a mechanism to compensate property owners for park land dedicated to the City. The Council expressed concern that islands of lands within the areas over 25% grade were being included in the calculation of transferable density. The Council questioned whether some of the land counted for transfer was truly developable.*

Response: New density calculations have been prepared for the revised site plan. The density calculations include a map showing the sloped areas and wetlands areas that are required to be deducted from calculation of transferrable density. The isolated pockets of areas of less than 25 percent slope that are found within larger areas of slopes exceeding the 25 percent grade threshold have been added to the steep slope deduction area.

It must be noted that the 25 percent grade threshold for “unbuildable land” used in the NRDCP is only used in that document for the calculation of density transfer. There is no limitation anywhere else in the Canby Municipal Code on building on slopes in excess of 25 percent grade. As a practical matter, slopes of that grade are commonly built upon throughout the Portland metropolitan area and elsewhere. In the instance of the subject property, the steeper slopes run in narrow bands as the property steps down from the upper portion to the area of the wetlands. It would be easily practicable to develop lots in these areas with daylight basement homes or to fill and grade the slopes so that there would be flat building pads. We are not suggesting that the density calculation method of the NRDCP does not apply, but rather that the concern that some of the flatter areas separated from the road by steeper slopes are not truly buildable. We have prepared an exhibit demonstrating that standard R-1 lots could be developed quite readily on these areas of the site. Further, we would point out that if the NRDCP wanted to exclude some of the flatter land from the density transfer calculations, it could have been written to do so. The density calculations submitted with our application are completely consistent with the language of the NRDCP and the Alternative Lot provisions of Chapter 16.64.040.B.3.

- 2. The second issue raised by City Council relates to the amount of proposed park land that was shown on the previously approved Redwood Landing Site Plan. Council correctly pointed out that the park area exceeded the amount of land shown on the NRDCP.*

Response: In preparing the previous application, we assumed that the City would prefer more park land. In response to the Council’s concern, the applicant measured the amount of park area shown on the DCP as approximately 5.3 acres. The revised site plan now proposes a dedication consistent with the park size shown on the DCP. The revised density calculations submitted with this new application show that the total allowable density is 83

units. The revised plan, however, proposes 82 lots. This is seven fewer lots than were proposed in the first Redwood Landing site plan. It should be noted, too, that the applicant has worked to ensure that lots adjacent to adjoining R-1 properties are typically 6,000 sq. ft. or larger. The smallest lots, (5,100 to 5,500 sq. ft.) have been located on the south border where they abut property zoned R-1.5.

To demonstrate that the proposed density is consistent with the R-1 zoning of the site, the applicant has prepared a concept plan showing how the property could be developed if it were not required to dedicate a large park area per the requirements of the DCP. The Redwood Landing site plan now proposed for consideration by the Planning Commission contains 82 lots and shows 11 future lots on the east side of Willow Creek that can be developed in the future when N. Teakwood is extended to the site. Thus, the total density of the site would be 93 units. The R-1 layout, which depicts a bridge crossing Willow Creek and has typical lots per Canby R-1 standards, shows 94 lots. This confirms that the proposed density is, in fact, consistent with the density that could otherwise be developed on the property if it were not impacted by the DCP.

3. *The third City Council concern related to the "temporary" turnarounds located at street stubs and their belief that the area of these easements should not be counted towards meeting minimum lot size requirements.*


Response: The turn-arounds proposed in the site plan are temporary in nature in that the subdivision plat will allow for them to be extinguished once the streets are extended as adjoining properties develop and the roads are extended. The applicant grants that there is no certainty as to how long of a time period that may be, but we are sure that Council would not object to the turn-arounds being eliminated when they are no longer needed and that the land be made usable by the owners of the lots that they are located on. To address the Council concern regarding the lots containing the turn-arounds the site plan now shows the area of the lots in total and the area not counting the turn-around easement. In all cases, the area exclusive of the easement is well in excess of the 5,000 sq. ft. minimum lot size standard allowed by the NRDCP.

4. *The fourth concern of the City Council related to their not being information provided regarding the valuation of the park land dedication area.*

Response: The NRDCP provides a process of valuation of the land to be dedicated for parks via an independent appraisal. However, throughout the applicant's discussions with City staff regarding the valuation process it was presented that the City would accept a value of \$100,000 per acre for developable land in lieu of having an appraisal done. This figure comes from Table 4-2 of Chapter 4-3 of the Canby Park & Open Space Acquisition Plan 2002 developed by FCS Consulting. Further, the applicant was informed that a figure of \$2 per square foot for non-developable land could be used without the need for an independent appraisal. This figure was provided in an email to the City at staff's request during the Redwood Concept Plan development process by consultant Brian Vanneman with Leland Consulting as a reasonable value for the City's use with the Plan adoption in 2015. The applicant is satisfied with the use of these land values, although we believe that an independent appraisal would likely result in a valuation that is higher. We have prepared a calculation of the land value for the park site based upon these values for consideration by the Planning Commission.

5. *The final concern raised by City Council relates to the locations of street stubs to the property to the north. Appellants prefer an alignment that centers the street stubs on property lines.*

Response: The applicant has completely redesigned the site plan to provide street stubs to the north on property lines in the exact locations that were suggested by the representative of the property owners to the north.



April 2, 2018

Mr. Bryan Brown  
Planning Director  
City of Canby  
22 NE 2nd Avenue  
Canby, OR 97013

**Rick Givens**  
**Planning Consultant**  
18680 Sunblaze Dr.  
Oregon City, Oregon 97045

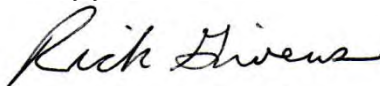
RE: Redwood Landing (SUB 17-06, APP 17-03)

Dear Bryan:

We are submitting the following items for consideration by the Canby Planning Commission at its April 23, 2018 public hearing regarding the Redwood Landing subdivision:

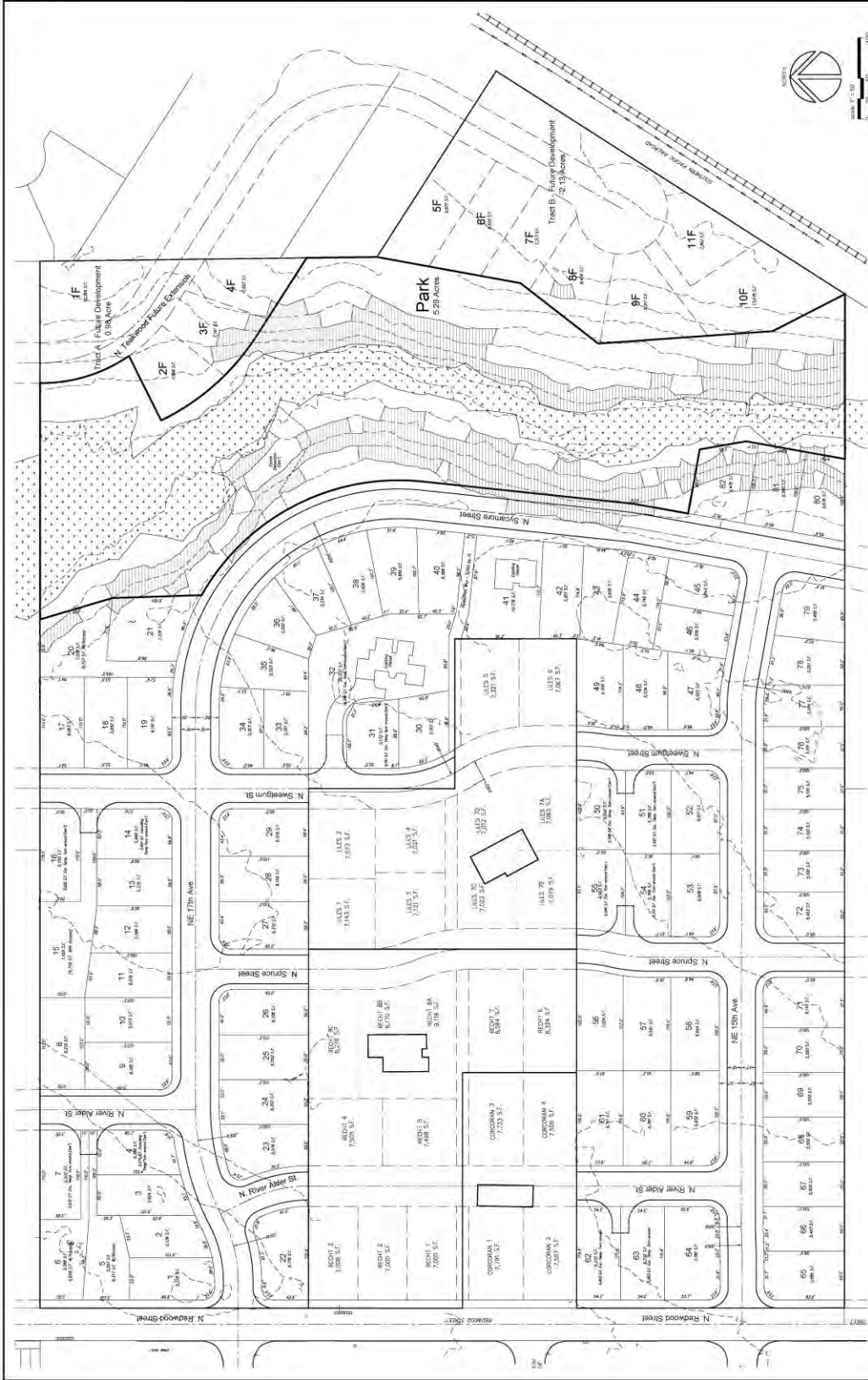
1. Revised preliminary plan. This plan addresses the concerns raised by the owners of property to the north regarding the alignment of the loop street (Sycamore) as well as the location of the stub streets to align on common property lines. The plan also features a park that is the same in size (5.3 acres) and general location as the park shown on the subject property in the North Redwood Development Concept Plan. Further, the density of the proposed development has been reduced from 89 lots to 82 lots.
2. Redwood Landing Storm Water Strategy Plan. This plan shows the three main points in the plan for handling storm water from the Redwood Landing project. First, the future within the subdivision will have water from roof and foundation drains handled via individual infiltration systems to be located on each lot. Second, the westerly portion of the project drains to the existing storm sewer in Redwood Street. Storm water treatment and detention for the streets in this area will be handled through the use of swales that will be located in the planter strip between the curb and the sidewalk. Third, storm water from the remainder of the property flows to Willow Creek. This water will be collected and piped to a detention and treatment facility to be constructed on the east side of N. Sycamore Street.
3. Narrative addressing five points of concern in the interlocutory order.
4. Density calculations based upon the new park size and 25% & greater slope map that eliminates "islands" of flatter ground, and map showing areas excluded as not developable per NRDCP.
5. An alternative layout for the subject property showing that the density proposed is consistent with what could be achieved on the site under a standard R-1 site plan were the property not subject to the NRDCP.
6. A conceptual Future Streets Plan showing how Redwood Landing ties in to the remainder of the NRDCP.
7. Park SDC Compensation Estimate calculations.

Sincerely yours,



Rick Givens

CC: Mark Handris, Darren Gusdorf, Mike Robinson



**Redwood Landing**  
 Revised Preliminary Plan

## Redwood Landing

### Applicant Response to Council Concerns

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- 1. The first issue raised by City Council relates to lot size. The site plan is based on the concept of density transfer encouraged by the North Redwood Development Concept Plan (NRDCP) as a mechanism to compensate property owners for park land dedicated to the City. The Council expressed concern that islands of lands within the areas over 25% grade were being included in the calculation of transferable density. The Council questioned whether some of the land counted for transfer was truly developable.*

Response: New density calculations have been prepared for the revised site plan. The density calculations include a map showing the sloped areas and wetlands areas that are required to be deducted from calculation of transferrable density. The isolated pockets of areas of less than 25 percent slope that are found within larger areas of slopes exceeding the 25 percent grade threshold have been added to the steep slope deduction area.

It must be noted that the 25 percent grade threshold for “unbuildable land” used in the NRDCP is only used in that document for the calculation of density transfer. There is no limitation anywhere else in the Canby Municipal Code on building on slopes in excess of 25 percent grade. As a practical matter, slopes of that grade are commonly built upon throughout the Portland metropolitan area and elsewhere. In the instance of the subject property, the steeper slopes run in narrow bands as the property steps down from the upper portion to the area of the wetlands. It would be easily practicable to develop lots in these areas with daylight basement homes or to fill and grade the slopes so that there would be flat building pads. We are not suggesting that the density calculation method of the NRDCP does not apply, but rather that the concern that some of the flatter areas separated from the road by steeper slopes are not truly buildable. We have prepared an exhibit demonstrating that standard R-1 lots could be developed quite readily on these areas of the site. Further, we would point out that if the NRDCP wanted to exclude some of the flatter land from the density transfer calculations, it could have been written to do so. The density calculations submitted with our application are completely consistent with the language of the NRDCP and the Alternative Lot provisions of Chapter 16.64.040.B.3.

- 2. The second issue raised by City Council relates to the amount of proposed park land that was shown on the previously approved Redwood Landing Site Plan. Council correctly pointed out that the park area exceeded the amount of land shown on the NRDCP.*

Response: In preparing the previous application, we assumed that the City would prefer more park land. In response to the Council’s concern, the applicant measured the amount of park area shown on the DCP as approximately 5.3 acres. The revised site plan now proposes a dedication consistent with the park size shown on the DCP. The revised density calculations submitted with this new application show that the total allowable density is 83

units. The revised plan, however, proposes 82 lots. This is seven fewer lots than were proposed in the first Redwood Landing site plan. It should be noted, too, that the applicant has worked to ensure that lots adjacent to adjoining R-1 properties are typically 6,000 sq. ft. or larger. The smallest lots, (5,100 to 5,500 sq. ft.) have been located on the south border where they abut property zoned R-1.5.

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3. *The third City Council concern related to the "temporary" turnarounds located at street stubs and their belief that the area of these easements should not be counted towards meeting minimum lot size requirements.*

Response: The turn-arounds proposed in the site plan are temporary in nature in that the subdivision plat will allow for them to be extinguished once the streets are extended as adjoining properties develop and the roads are extended. The applicant grants that there is no certainty as to how long of a time period that may be, but we are sure that Council would not object to the turn-arounds being eliminated when they are no longer needed and that the land be made usable by the owners of the lots that they are located on. To address the Council concern regarding the lots containing the turn-arounds the site plan now shows the area of the lots in total and the area not counting the turn-around easement. In all cases, the area exclusive of the easement is well in excess of the 5,000 sq. ft. minimum lot size standard allowed by the NRDCP.

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Response: The NRDCP provides a process of valuation of the land to be dedicated for parks via an independent appraisal. However, throughout the applicant's discussions with City staff regarding the valuation process it was presented that the City would accept a value of \$100,000 per acre for developable land in lieu of having an appraisal done. This figure comes from Table 4-2 of Chapter 4-3 of the Canby Park & Open Space Acquisition Plan 2002 developed by FCS Consulting. Further, the applicant was informed that a figure of \$2 per square foot for non-developable land could be used without the need for an independent appraisal. This figure was provided in an email to the City at staff's request during the Redwood Concept Plan development process by consultant Brian Vanneman with Leland Consulting as a reasonable value for the City's use with the Plan adoption in 2015. The applicant is satisfied with the use of these land values, although we believe that an independent appraisal would likely result in a valuation that is higher. We have prepared a calculation of the land value for the park site based upon these values for consideration by the Planning Commission.



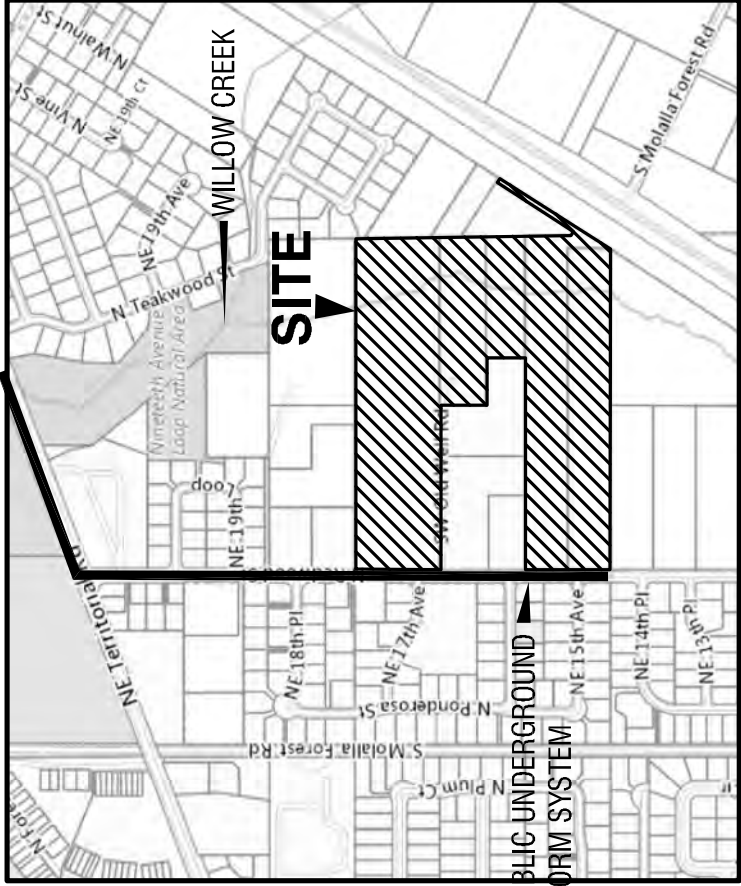
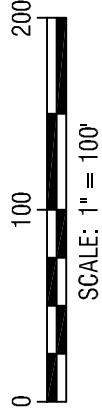
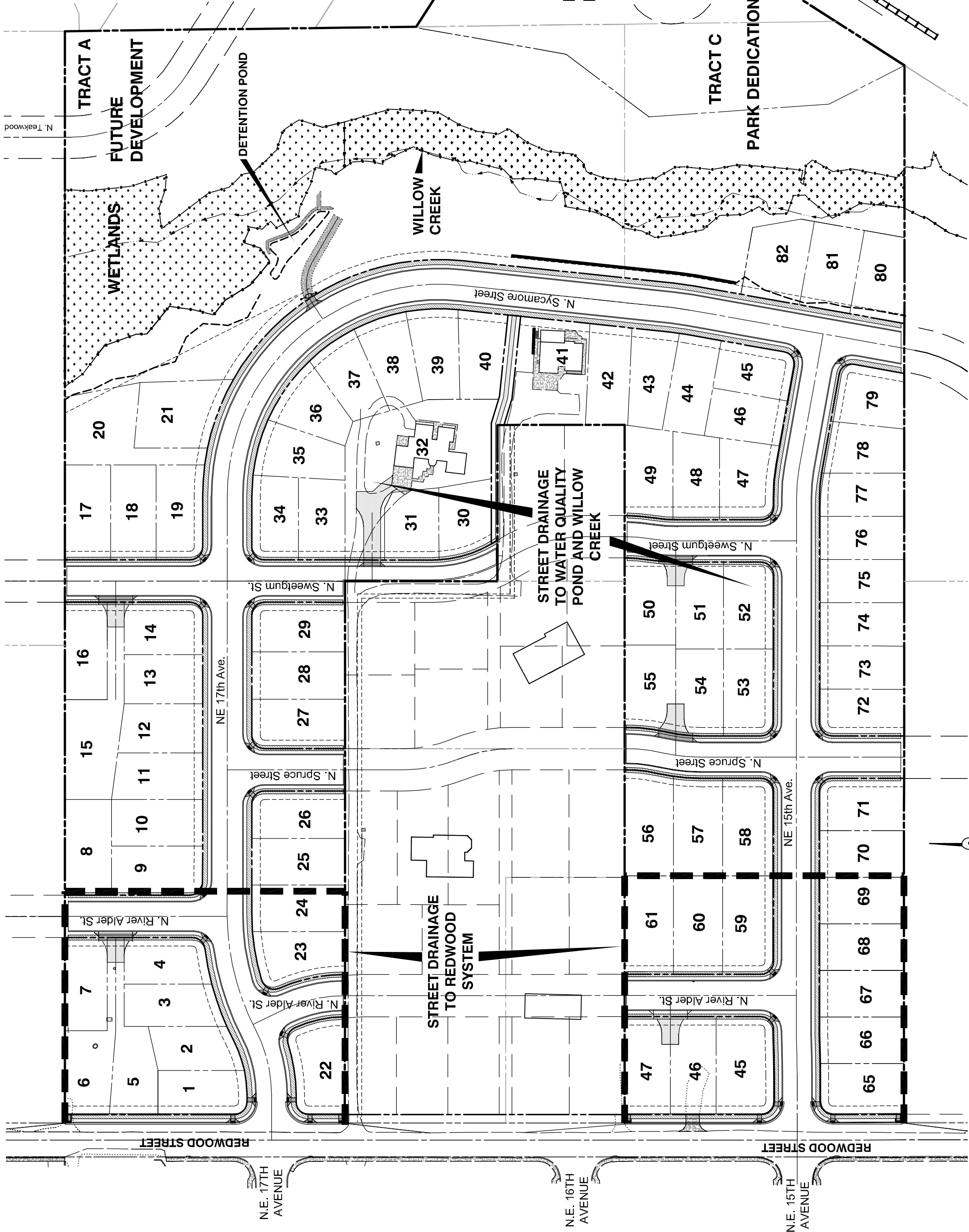
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REDWOOD LANDING SUBDIVISION

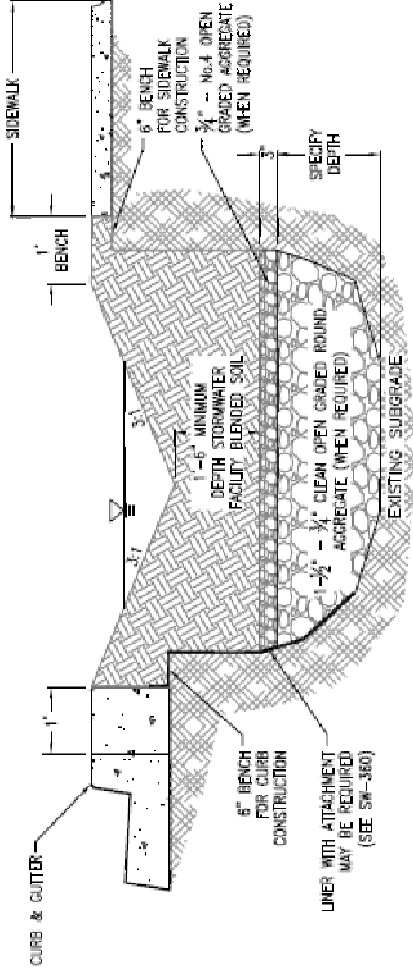
T.3S. R.1E. Section 34B, TL 701, 440, 1548, 1612, 1758 N. REDWOOD STREET

STORM WATER STRATEGY



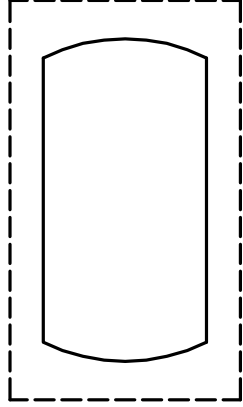
VICINITY MAP

SCALE: NTS



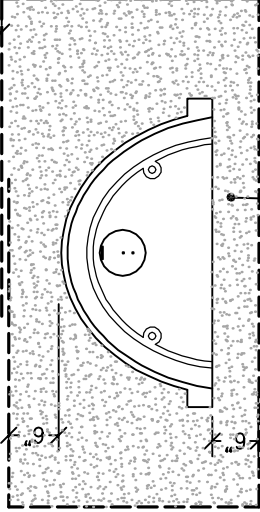
SIDEWALK SWALE SECTION

SCALE: NTS



PLAN

EXISTING GROUND  
~ NATIVE ~



ELEVATION

1/2"x3/4"-0" DRAIN ROCK  
FILTER FABRIC  
MMPAF 500X OR EQUIVALENT

STORMTECH  
ROOF INFILTRATION

SCALE: NTS

NARRATIVE:

1. IMPERVIOUS ROOF WATER TO BE INFILTRATED ON SITE.
2. STREET WATER TO BE:
  - A. PROCESSED THROUGH ROADSIDE SWALES TO THE EXTEND FEASIBLE FOR STORM DRECTED TO THE REDWOOD SYSTEM.
  - B. PROCESS THROUGH WATER QUALITY/DETENTION POND AND RELEASED TO THE WETLANDS AND WILLOW CREEK.

EXHIBIT

2017-129Q

DESIGNED:	BDG		
DRAWN:	BJS		
SCALE:	1" = 100'		
DATE:	March, 2018		
FILE:	Redwood Canby Hearing	DATE	NO. REVISION

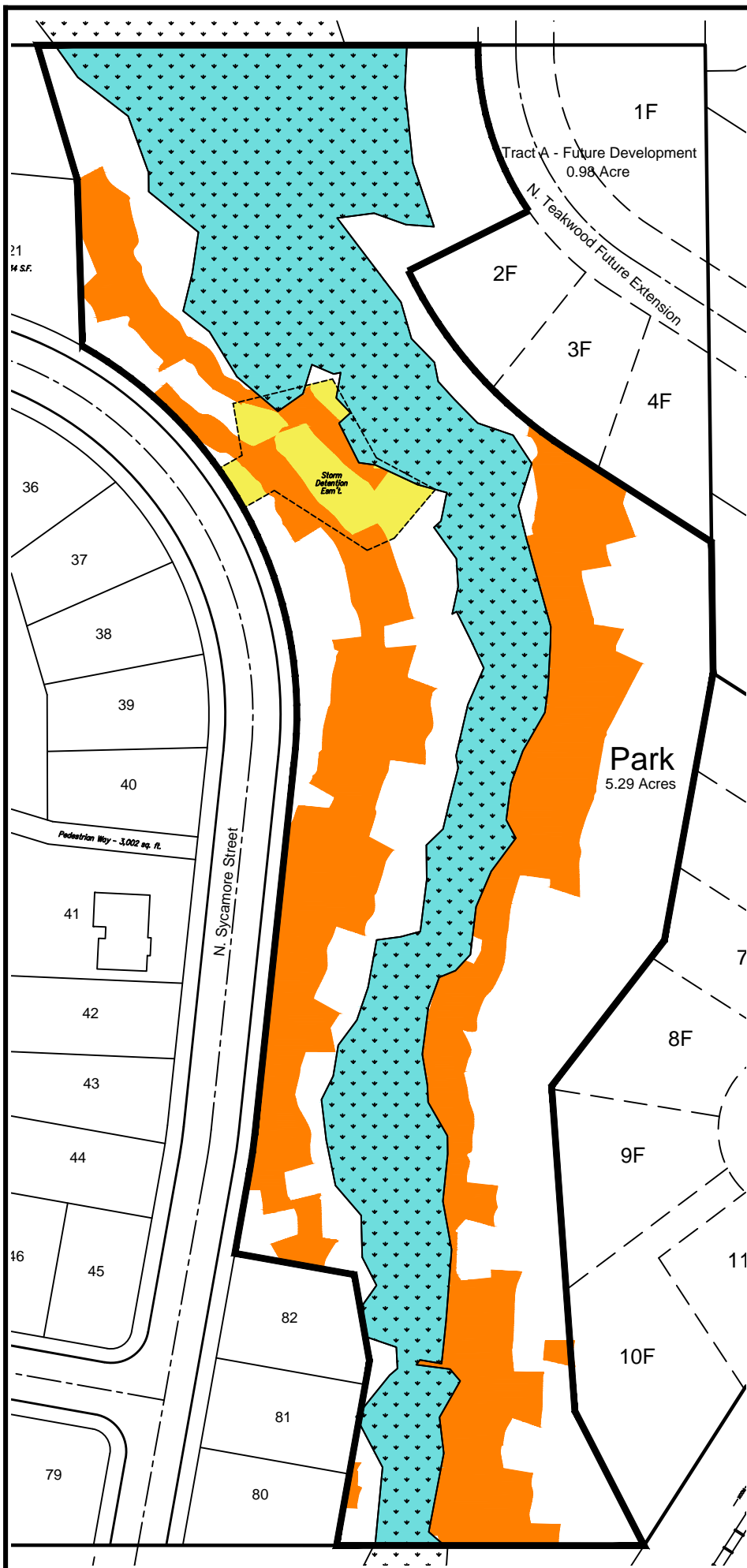
**Theta, LLC**  
ENGINEERING - SURVEYING - PLANNING  
PO Box 1345  
Lake Oswego, Oregon 97035  
503/481-4822  
email: thetaeng@comcast.net

Icon Construction & Development LLC  
1980 Willamette Falls Drive, Suite 200  
West Linn, Oregon 97068  
Phone: 503-657-0406




Redwood Landing Subdivision  
Canby, Oregon

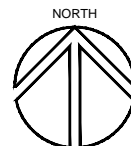
SHEET:

.



Areas Not Counted for Density Transfer

-  Slopes 25% or Greater
-  Wetlands
-  "Buildable" Land Within Storm Detention Area



## Redwood Landing

### *Park Density Transfer Map*

SCALE 1" = 100'

DATE: March 28, 2018

March 28, 2018

Mr. Bryan Brown  
Planning Director  
City of Canby  
PO Box 930  
Canby, OR 97013

**Rick Givens**  
**Planning Consultant**  
18680 Sunblaze Dr.  
Oregon City, Oregon 97045

RE: Redwood Landing Density Transfer

Dear Bryan:

Here are the updated density calculations for Redwood Landing based upon the revised street system for the new plan. Note that we have removed the "islands" of "developable" area within the "undevelopable" portion of the site.

Total Site Area:	1,098,026 sq. ft.
Current Development Site Area:	731,932 sq. ft.
Park Site:	230,692 sq. ft.
Tract A – Future Development:	42,896 sq. ft.
Tract B – Future Development:	92,961 sq. ft.

Density for the Current Development Site is calculated as follows:

Current Development Site Area:	731,932 sq. ft.
Less Streets =	212,922 sq. ft.
Less Pedestrian Walkway =	3,002 sq. ft.
Net Site Area =	516,008 sq. ft.
Net Site Area Divided by 7,000 sq.ft./Unit =	<b>73.71 Units</b>

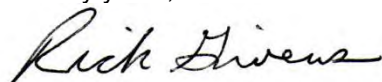
Density available for transfer from the park site is calculated as follows:

Park Site =	230,692 sq. ft.
Less Wetlands =	77,913 sq. ft.
Less Slopes > 25% =	59,525 sq. ft.
Less buildable portion of storm detention facility	3,829 sq. ft.
Buildable Area =	89,425 sq. ft.
Less Typical 20% for Streets =	17,885 sq. ft.
Net Buildable Site Area =	71,540 sq. ft.
Net Buildable Site Area/7,000 sq. ft./Unit =	<b>10.22 Units</b>

Total Density Allowed in Current Dev. Site =	<b>83 Units</b>
--	-----------------

Please let me know if you have any questions.

Sincerely yours,



Rick Givens

Cc: Mark Handris, Icon Construction & Development, LLC



DESIGNED: RSD  
DRAWN: RSD  
SCALE: 1" = 50'  
DATE: March 23, 2015  
FILE: 17-014102

Richard E. Givens, Planning Consultant  
18880 Sunblaze Dr.  
Oregon City, OR 97045  
PH: (503) 479-0097

APPLICANT: Icon Construction & Development, LLC  
18880 Willamette Falls Drive, Suite 200  
West Linn, OR 97068  
PH: (503) 657-0406

**Redwood Landing**  
Future Streets Plan

## Redwood Landing

### Park SDC Compensation Estimate

Total Park Area: 5.3 Acres

Of this total, wetlands make up 77,913 sq. ft. (1.79 acres) and slopes over 25% grade account for 59,525 sq. ft. (1.37 acres). The remaining 2.14 acres are considered “buildable land” per the North Redwood Development Concept Plan (NRDCP).

The 3.16 acres of “unbuildable lands” are proposed to be valued at the \$2.00 per square foot cost identified by City staff as a default acceptable value. The \$2.00 per square foot for non-developable land was provided in an email to the City at staff’s request during the Redwood Concept Plan development process by Leland Consulting as a reasonable value for the City’s use during the Plan adoption process in 2015. This results in a value for this part of the park dedication of \$274,876.00.

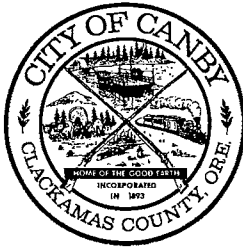
The buildable portion of the park dedication area, 2.14 acres, is valued at \$100,000 per acre as set forth in Table 4-2 of Chapter 4-3 of the Canby Park & Open Space Acquisition Plan 2002. The developable area is thus valued at \$214,000. The total value of the park dedication area per these formulas is \$488,876.00.

The North Redwood Plan says that there is a subtraction from the total park valuation for the value of residential density transfer that takes place. The proposed plan provides for 9 units of density transfer.

Assuming an average of 5 units per acre (43,560 sq. ft. less 20% for streets, divided by 7,000 sq. ft. per unit) and the developable land valuation figure of \$100,000 per acre, the per lot raw land value would amount to \$20,000. That would reduce the value of the park dedication area by \$180,000 for this project. Deducting the \$180,000 land value of the 9 transferred lots from the total park value of \$488,876 would result in an SDC credit for the project of \$308,876.

Park SDCs for single-family homes are \$5,318.76 per lot. There are four existing houses on the subdivision property, so there will be 78 new homes paying SDCs that will total \$414,863.00. This means that the net amount of SDC’s that would be owed after using the credits would be \$105,987.00.





BEFORE THE CITY COUNCIL  
OF THE CITY OF CANBY

In RE:

APPEAL OF PLANNING COMMISSION	)	INTERLOCUTORY ORDER
DECISION FOR APPLICATION SUB 17-06	)	
REDWOOD LANDING SUBDIVISION BY	)	APP 17-03
ICON CONSTRUCTION & DEVELOPMENT,	)	
LLC, LOCATED AT 1440, 1548, 1612, 1650,	)	
& 1758 N REDWOOD STREET	)	

**NATURE OF THE APPLICATION**

Daniel Webb (Appellant & Applicant), on behalf of property owners north of the proposed Redwood Landing Subdivision, including Linda Thomas at 1864, Andrew Jarmer at 1860, Ryan and Kerrie Oliver at 1850 and Eric and Josephine Recht at 194 N Redwood Street through an Appeal seeks to reverse the Planning Commission recommendation to the Council for approval of SUB 17-06 Redwood Landing Subdivision to divide a 25.21 acres into an 89-lot subdivision on property located at 1440, 1548, 1612, 1650, & 1758 N. Redwood Street and described as Tax Map/Lot 31E34B00700, 00701 and 31E27C00301, 00500, 01200, Clackamas County, Oregon. The property is zoned Low Density Residential (R-1) under the Canby Municipal Code (CMC).

**HEARINGS**

The Planning Commission considered application SUB 17-06 after the duly noticed public hearing held on December 11, 2017 during which the Planning Commission by a vote of 5/1 approved **SUB 17-06 North Redwood Landing Subdivision submitted by Icon Construction and Development** and approved written findings of their decision at the same evening meeting. Staff sent the final decision notice to those with standing on December 12, 2017.

An Appeal Form and narrative statement outline (File No. APP 17-03) was submitted by Daniel Webb on the appeal deadline of December 22, 2017. Staff requested an extension of the 120-day decision rule from the then existing January 18 deadline to which the applicant provided by email an extension to February 23, 2018 for which Council action and a written decision must otherwise be adopted. The appellant provided a more succinct "appeal statement narrative" on February 9, 2018 that explains the basis of the appeal made of the Planning Commission's approval of the proposed subdivision application.

The City Council after a duly noticed hearing on February 21, 2018, moved to remand application SUB 17-06 on March 7, 2018. This interlocutory order supports the City Council's decision to remand SUB 17-06, thereby allowing the Planning Commission to review an intermediate modification of SUB 17-06.

**COUNCIL CONCERNS**

After hearing testimony on February 21, 2018 and taking into consideration the Appellant's statement for appeal, the Planning Commission's written decision, and record from the Planning Commission's deliberations and hearing testimony, the staff report, and applicant's original application submittals; the City Council voted to remand City File No. SUB 17-06 Redwood Landing Subdivision located at 1440, 1548, 1650, and 1758 N Redwood Street.

When reviewing modification, the City Council wants the Planning Commission to consider the following concerns:

- The lots in the proposed development were well below the R-1 minimum size of 7000 square feet. The applicant relied on an alternative method of lot sizing (using the concept of density transfer) because of proposed parkland dedication in the application. However, the calculations for the purposes of conducting the density transfer were problematically based on a concept of buildable lands donated that unrealistically relied on tiny, noncontiguous pockets of land that in reality were themselves not truly buildable due to being admittedly surrounded by unbuildable lands, either too steep or too wet to even provide access.
- The amount of proposed parkland dedication was also in excess of what was designated in the Development Concept Plan. This further affected the calculation of density transfer, allowing for even more proposed lots, frustrating the purpose of the R-1 designation in the Development Concept Plan by leading to increasingly smaller lot sizes well below the standards of the R-1 designation. The DCP demonstrated a balanced approach with intentionally varied density and zoning type, and this extreme use of density transfer violated the spirit of this zoning balance provided in the adopted DCP for the area.
- The application relied on numerous “temporary” turnarounds located at street stubs that indefinitely created easements that covered lot areas that were not properly subtracted from the lot sizes of the affected parcels. Because surrounding owners never have to develop, these “temporary” turnarounds might very well exist in perpetuity. In several instances, the subtraction of the easement area of the “temporary” turnarounds would see the lot sizes of affected proposed parcels fall below the absolute minimum of 5000 square feet called for in the Canby Municipal Code.
- The parkland dedication was problematically incomplete in that there was no evidence of appraisal of value for the City Council to consider in their decision-making regarding the amount of parkland dedication to accept.
- Proposed street locations in the application didn’t align with existing lot boundaries of adjacent land owners as recommended by the adopted DCP and against Section 16.13(C) (7) of the Canby Municipal Code, even though the applicant admitted it was feasible to do so.


**INTERLOCUTORY ORDER**

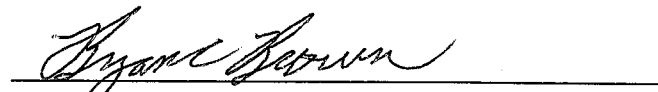
The City Council hereby remands by this interlocutory order City File No. SUB 17-06 to the Planning Commission to consider an intermediate modification consistent with Council concerns contained herein.

**THEREFORE, IT IS ORDERED BY THE CITY COUNCIL** of the City of Canby that **SUB 17- 06** be remanded back to the Planning Commission to be modified at a newly advertised public hearing on April 23, 2018.

**I CERTIFY THAT THIS INTERLOCUTORY ORDER REGARDING REMANDING SUB 17-06** was presented to and **ORDERED** by the City Council of the City of Canby.

DATED THIS 21st day of March 2018.

  
Brian Hodson  
Mayor

  
Bryan C. Brown  
Planning Director

**ORAL DECISION – March 7, 2018**

AYES: Smith, Parker, Hensley, Dale, Spoon, & Heidt

NOES: None

ABSTAIN: None.

ABSENT: None.

**WRITTEN FINDINGS – March 21, 2018**

AYES: Smith, Parker, Hensley, Dale, Spoon, & Heidt

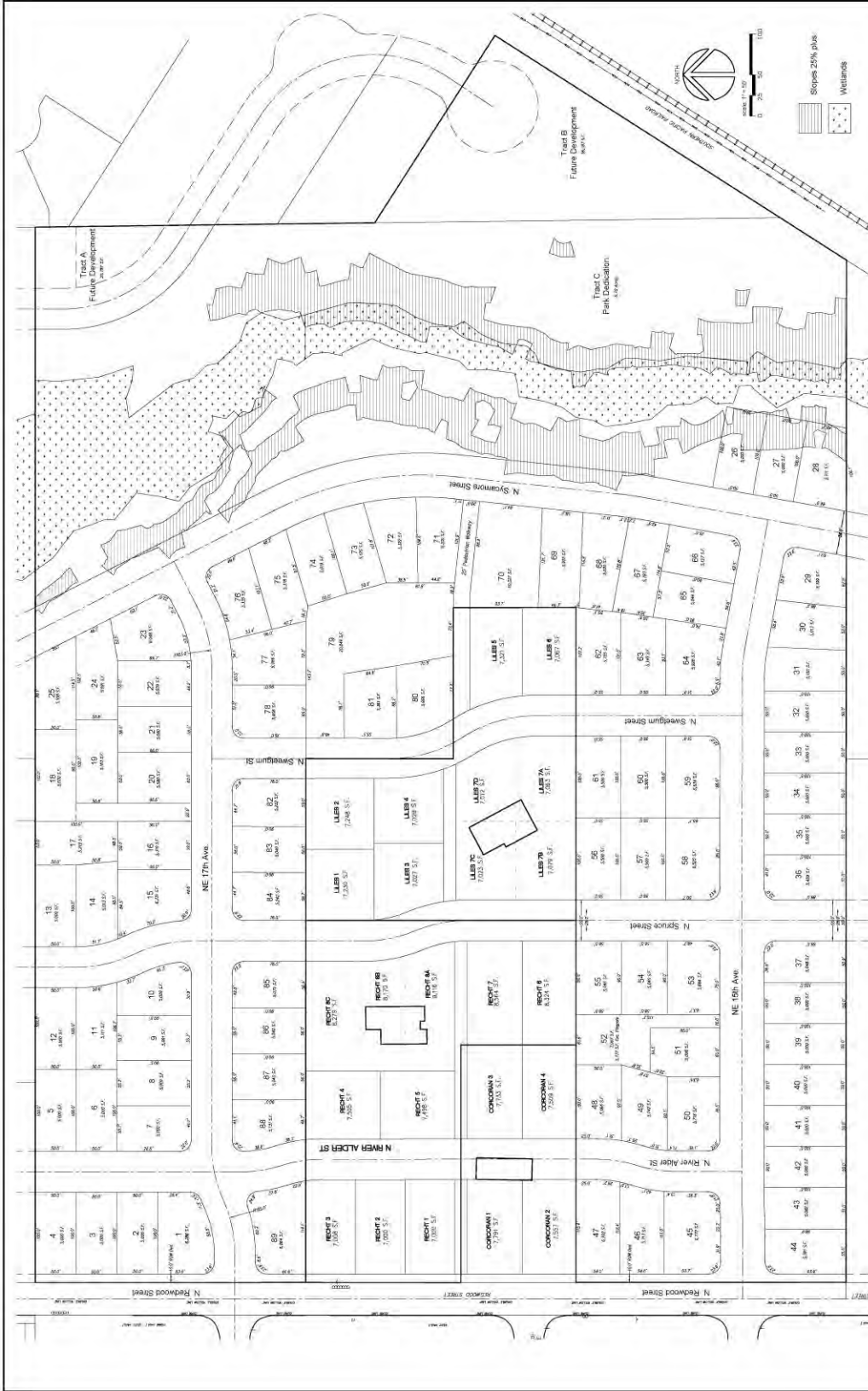
NOES: None

ABSTAIN: None.

ABSENT: None.

**ATTEST:**

  
Kimberly Scheafer, MMC  
City Recorder



SHEET 1/1	<b>Redwood Landing</b> Preliminary Plan	APPLICANT Iron Construction & Development LLC 1000 Wilmette Park Drive, Suite 200 Wilmette, IL 60091 PH: (847) 607-6400	Richard E. Green, Planning Consultant 10000 Sunbloss Dr. Chicago, IL 60648 PH: (847) 475-0207
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## Plan Connectivity

The DCP provides several connections to Canby's existing city fabric, with extensions to existing streets on the west side of North Redwood in five locations (NE 18th Pl, NE 17th, NE 15th, NE 13th and NE 12th). This grid of streets will maximize circulation choices for future residents and provide safer, more walkable non-collector streets for residents, potentially reducing overall vehicle miles traveled.

North Redwood Street is currently only improved to City standards on its west half. When individual development proposals are submitted, the City will require half-street dedication from adjacent property owners along North Redwood of approximately 10' to 30' to allow the street to be improved to Collector standard as shown in the TSP (see cross-section on page 16). As a project with citywide importance, it will need to be funded through a combination of developer contributions and public capital improvement budgets, and the precise cross-section will be determined with City and neighborhood input. Adding sidewalks to the east edge of North Redwood will improve safety and allow pedestrian access to city parks north of Territorial, as well as the Fred Meyer (and Orange Line commuter bus service) to the south of Highway 99E.

An internal loop Neighborhood Route (Fig 9 at right) is a key 'wayfinding' and placemaking component, looping from NE 18th Place, along the edge of the Willow Creek open space, then continuing south to North Redwood between NE 13th and NE 12th. This route would be the most likely option for future transit access, although the existing Dial-A-Ride service in Canby could serve all of the streets in the DCP. Other internal streets shown are advisory and will be located according to future individual development plans.

Approximately 11-15 large lots on the east side of Willow Creek will be connected to Teakwood Street and Willow Creek Estates to the north. The 15 lots would generate approximately 110-150 daily trips (11 peak AM hour trips, and 15 peak PM hour trips.) The City's threshold for evaluating impacts to local neighborhood streets is 30 peak hour trips and 300 daily trips, so this would not reach that threshold. The local street serving these lots would require a stop sign where it meets N. Teakwood Street.

An emergency route, with a locked gate preventing pedestrian or bicycle access, would be desirable across the UP rail line to access Hwy 99E, closing the existing driveway (photo at right). Discussions about this crossing have been initiated with UPRR.

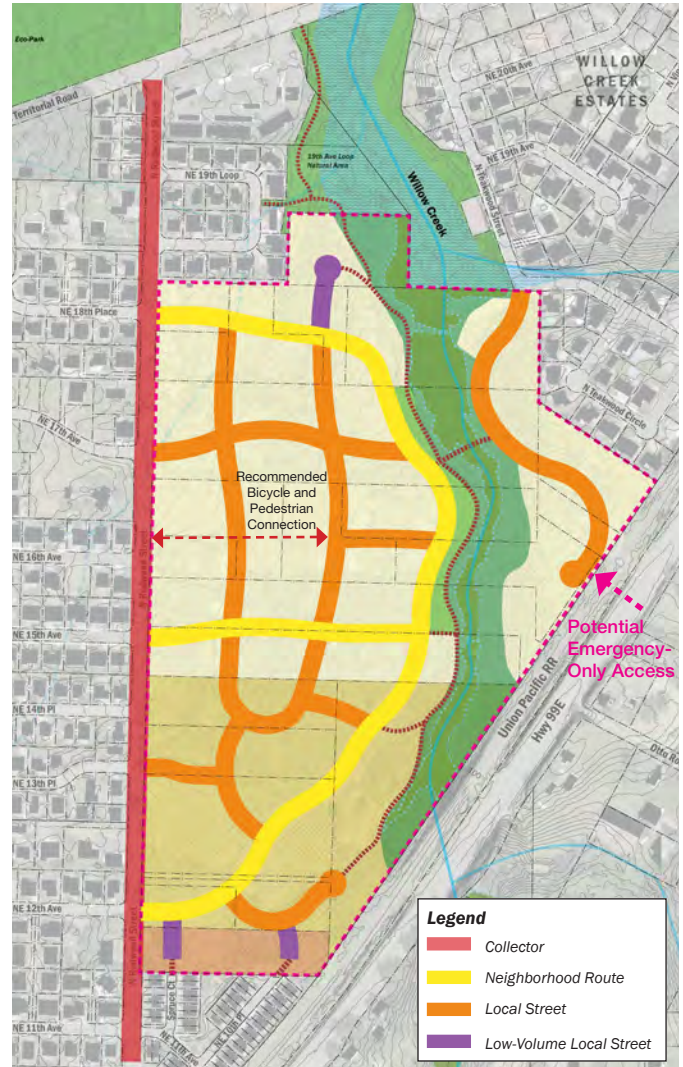


Figure 9: DCP Street Plan



Existing driveway across UP railroad, accessing three parcels



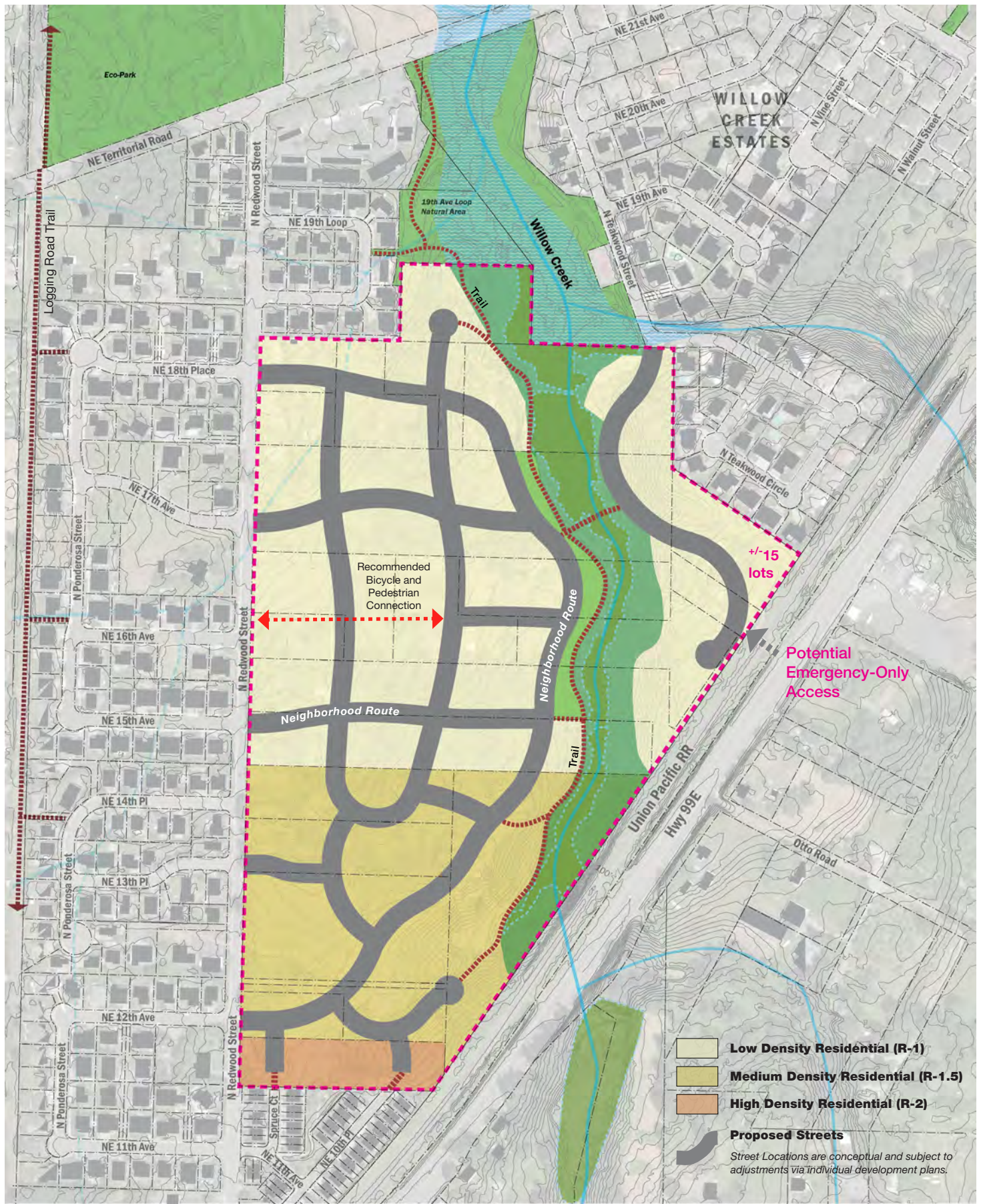
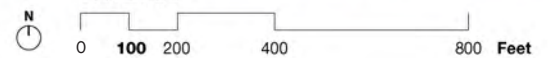


Figure 4: Development Concept Plan

NORTH REDWOOD DEVELOPMENT CONCEPT  
BASE MAP





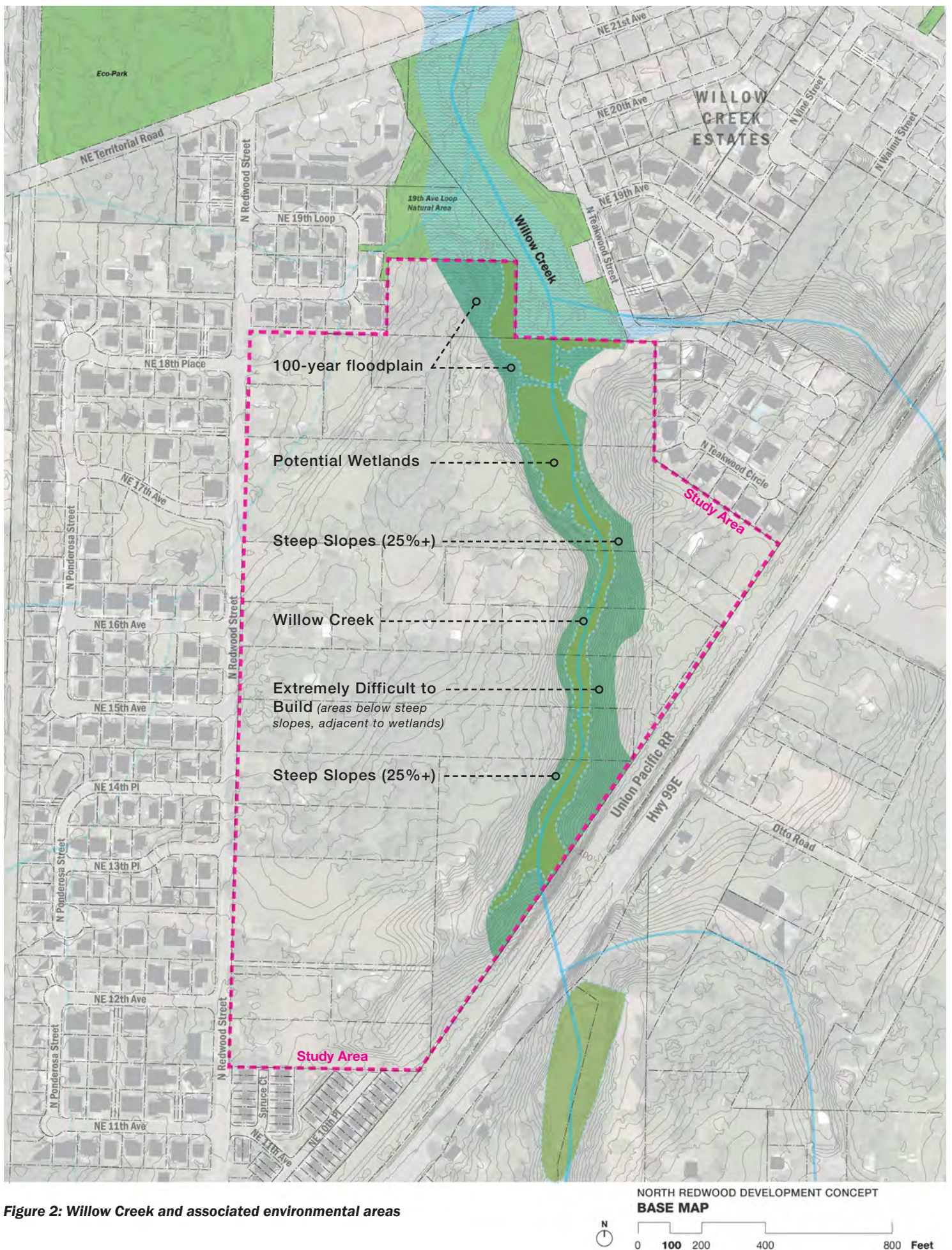
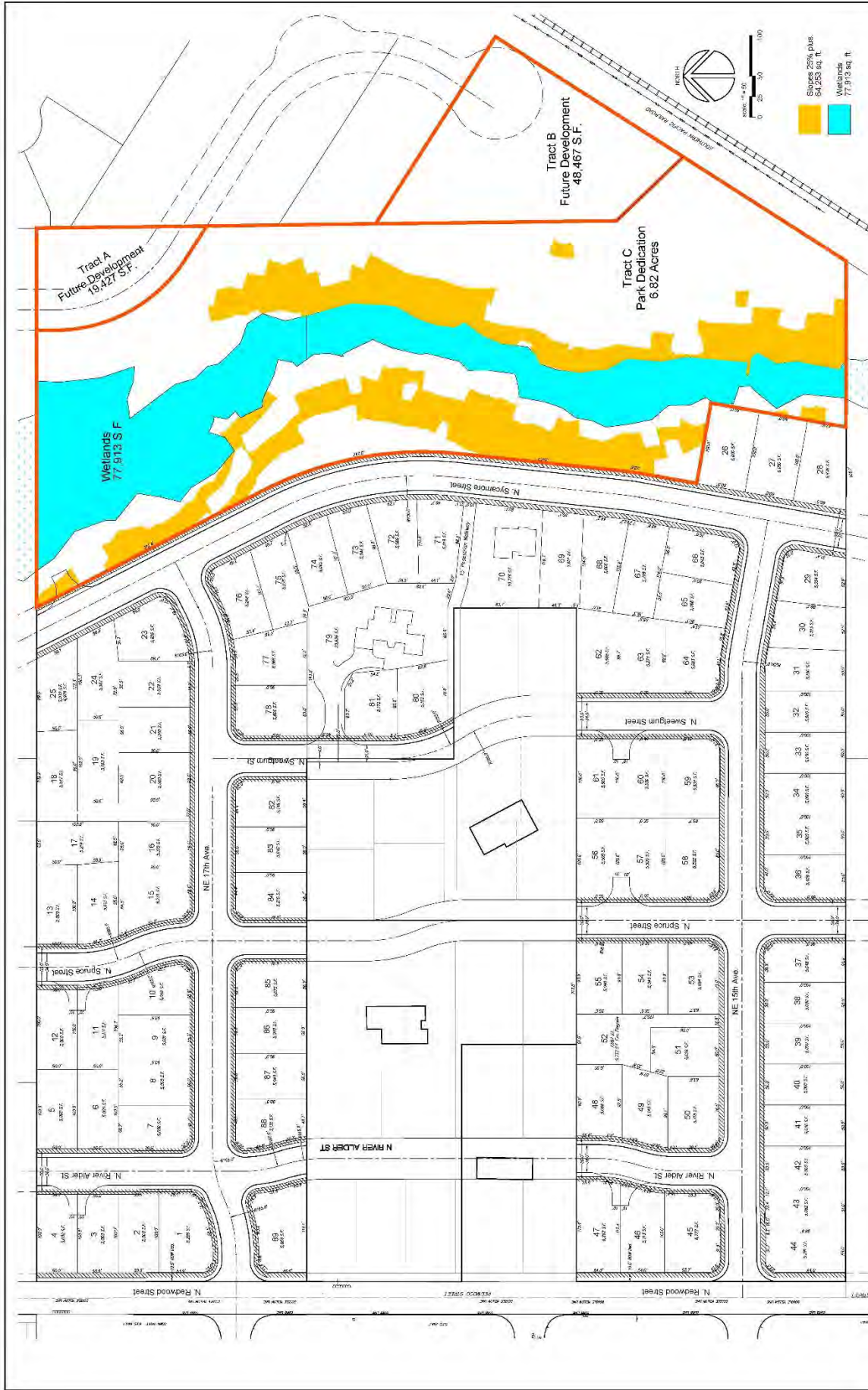


Figure 2: Willow Creek and associated environmental areas





DESIGNED BY BRS	APPLICANT Icon Construction & Development LLC 1880 Wilmette Falls Drive, Suite 200 Wilmette, IL 60091 PH: (630) 567-0405	SHEET 1/1
SCALE 1" = 40'	Richard E. Givens, Planning Consultant 1880 Sunbreeze Dr. Orland Park, IL 60465 PH: (630) 419-0697	Redwood Landing Preliminary Plan
DATE September 1, 2017		
FILE 17-04003		

April 23, 2018

**Michael C. Robinson**

Admitted in Oregon

T: 503-796-3756

C: 503-407-2578

mrobinson@schwabe.com

**VIA E-MAIL**

John Savory, Chair  
City of Canby Planning Commission  
Canby City Hall  
222 NE 2nd Avenue  
Canby, OR 97013

RE: City of Canby File No. SUB 17-06; Application by Icon Construction and Development, LLC for Approval of a Type III Subdivision Application on Five Tax Lots Containing 25.21 Acres in the R-1 Low Density Residential Zoning District with Right to Transfer Density from Parkland Dedication Area Located in the North Redwood Concept Plan District

Dear Chair Savory and Members of the Canby Planning Commission:

This office represents Icon Construction and Development, LLC (the “Applicant”). This letter responds to the Staff Report to the Planning Commission for the April 23, 2018 public hearing on remand from the Canby City Council (the “City Council”), the recommended conditions of approval and public testimony received by the Planning Commission prior to today’s public hearing. This letter does not contain new evidence.

The Applicant wishes to thank the public, the Planning Department staff and the Canby City Council for working with them to address issues identified by the City Council in its hearing on appeal of the Planning Commission’s approval of the proposed residential subdivision. As the Staff Report explains, the Applicant has addressed the five issues identified by the City Council for remand. As explained below, the Planning Commission has substantial evidence before it to demonstrate that both the approval criteria relevant to the subdivision application and the basis for the City Council’s remand of Planning Commission are satisfied by substantial evidence in the whole record. The Applicant reserves the right to respond to issues regarding the approval criteria in order to make its case for this Needed Housing application under ORS 197.303(1) and 197.307(4), and to work with the City Council, as needed, to address its concerns.

**1. Response to City Council Remand Issues.**

The Staff Report identifies five issues the City Council asked the Applicant to address in its remand of the Application to the Planning Commission. The Application narrative and the Staff Report to the Planning Commission identify each of the five areas – lot size and density transfer, parkland dedication, parkland valuation, temporary turnarounds to the “out parcel” located in the

center of the subdivision and street stubs to the north – and it has concluded that the Applicant has satisfactorily addressed these issues.

**2. Response to Further Public Testimony.**

Several persons have submitted written testimony to the Planning Commission. The Applicant appreciates their comments and responds as follows.

**a. Trees.**

The Applicant is permitted to remove trees for the development of its subdivision. To the extent in the approval criteria prior to the tree removal, the Applicant is bound to follow that approval criteria.

**b. Lot sizes below 7,000 square feet.**

The site is governed by Canby Zoning Ordinance (“CZO”) 16.13.010, “North Redwood Plan District.” CZO 16.13.010.B.1 allows the Planning Commission to include public parkland dedications to be included in the lot size averaging calculation in order to achieve community development goals and allow protection of natural resources. The Applicant has proposed parkland dedication consistent with the City Council’s instructions by reducing the parkland dedication from 6.45 acres to 5.29 acres. The Applicant proposes to use the density transfer in CZO 16.13.010.B.1 to provide additional lots within the developable area and outside of the parkland dedication area. Nevertheless, the density will not exceed that allowed in the R-1 zoning district and the Applicant has reduced the proposed number of lots from 89 to 82 lots.

Additionally, CZO 16.13.010.B.2 provides that lot sizes in the North Redwood Concept Plan area may be less than the 7,000 required in the R-1 low density residential zone in CZO Chapter 16.16. CZO 16.13.010.B.2 provides “the following exceptions to the City’s lot size standards and lot size averaging provisions will be allowed for developments in the North Redwood Plan District. \* \* \* 2. The resulting average lot size shall not be less than 5,000 square feet in the R-1 zone.”

Therefore, while lot sizes may be less than 7,000 square feet provided that the average lot size is not less than 5,000 square feet, the Applicant has properly addressed the North Redwood Concept Plan. The Applicant is not proposing a zoning map amendment and the proposed subdivision is consistent with the City’s applicable land use regulations.

**c. Traffic.**

The City Council did not instruct the Applicant to address vehicle trip generation in its application. First, substantial evidence in the whole record demonstrates that no standards relevant to traffic impact will fail to be satisfied. Further, because the North Redwood Concept Plan does not provide more density than allowed in the R-1 low density residential zone, traffic



will not be increased. Further, the Applicant now proposes seven fewer lots than originally proposed.

**d. Stormwater.**

The Applicant's plan satisfactorily addresses stormwater disposal.

**e. Homeowners Association.**

The Applicant does not propose to create a homeowners association. Homeowners associations are typically required to maintain common areas. The Applicant does not propose to create any common areas.

**3. Additional Findings.**

In addition to the proposed Findings by the Canby Planning Department, the Applicant proposes the following additional Findings should the Planning Commission choose to approve the Application:

**"The Planning Commission finds that the Applicant has addressed the relevant approval standards, including those in CZO 16.13 and applicable subdivision regulations. The Applicant's proposed lot sizes are consistent with those allowed through lot averaging in CZO 16.13.010.B.1 and 2. The Planning Commission has the authority to allow parkland dedication as proposed by the Applicant. The Applicant's proposed parkland dedication area has been reduced from that originally proposed in order to address the City Council's concern that the parkland dedication area accurately reflected areas that could be developed.**

**Further, the Planning Commission finds that CZO 16.13.010.C.1-7 are satisfied. Specifically, CZO 16.13.010.C.7 is satisfied because the Applicant has proposed that future local streets "split" parcel lines, where feasible. Additionally, CZO 16.13.010.C.1 is satisfied because the proposed new road alignments are consistent with those identified on DCP Figure 9.**

**Finally, the Planning Commission finds that the park and open space corridor along Willow Creek as identified in DCP Figure 7 "shall be provided through required land dedication to parks" in CZO 16.13.010.B.10. This requirement is satisfied by the Applicant's proposed parkland dedication area.**

**For these reasons, the Planning Commission finds that the Application on remand from the City Council satisfies relevant approval criteria as to lot size averaging, parkland dedication and the street system."**

**4. Conclusion.**

The Applicant appreciates the cooperation of the Canby Planning Department and the public in the modification of this Application. The Applicant respectfully requests that the Planning Commission approve the modified Application with the recommended conditions of approval.

Very truly yours,



Michael C. Robinson

MCR/jmh

Cc Mr. Mark Handris *(via email)*  
Mr. Darren Gusdorff *(via email)*  
Mr. Rick Givens *(via email)*  
Mr. Bryan Brown *(via email)*  
Ms. Laney Fouse *(via email)*

PDX\132873\238779\MCR\22890612.1



## Comments on ICON Development's Redwood Landing Plan

April 23, 2018

From: Carol Palmer

[Carolpalmer24@gmail.com](mailto:Carolpalmer24@gmail.com)

1646 N Ponderosa St

Canby, Oregon 97013

503.504.2638

As a resident of Postlewait Estates (west of the proposed Redwood Landing) and as chair of the Canby Heritage and Landmark Commission, I support the development of the eastside of Redwood, the city's comprehensive plan for the area, and the 2015 North Redwood Development Concept Plan (NRDCP). I oppose the revised Redwood Landing plan submitted by ICON because it is not consistent with the comprehensive plan or the NRDCP and it does not address the issue of minimum low density lot sizes raised by the city council members at their February 21<sup>st</sup> and March 7<sup>th</sup> meetings and detailed in the Interlocutory Order of March 21<sup>st</sup>.

The 2015 NRDCP designates the land area in question as low density. As the mayor explained in the February 21<sup>st</sup> council meeting, in the 2013 visioning process, Canby residents expressed an expectation that low density lots be a minimum of 7,000 square feet. In the March 7<sup>th</sup> council meeting, when the ICON plan was remanded to the Planning Commission, he reiterated that point. In response, ICON has made token changes that leave 95% of the lots at less than 7,000 square feet.

As you consider the ICON revised plan, I ask that you think about the residents, in particular, those that took an active role in the development of the 2015 NRDCP process. They did everything civic leaders hope residents will do – they got involved, asked questions, and worked with others to create a roadmap for their neighborhood that would benefit the community at large. For them, ICON's first plan looked, felt, and smelled like a bait and switch. ICON's revised plan is a cynical attempt to mollify the concerns of the city council while doing as little as possible to change the original plan.

If approved, those individuals who did the right thing and got involved will most likely join the ranks of the “you cannot trust city hall” cohort. They will share their dismay with friends and acquaintances, it will not be confined to the few who are directly affected.

I think it is important to note that ICON has reinforced residents’ negative assessment of their intentions. At the March 7<sup>th</sup> council meeting, councilors encouraged more dialogue with residents and ICON’s attorney assured them that this would happen. It did not. ICON gave residents less than 24-hours’ notice for a neighborhood meeting at 7:30pm on the Friday before the start of spring break. While I did not attend that meeting, two of my neighbors reported that the representatives from ICON were unprepared to answer questions and responded to resident’s concerns in a dismissive and condescending fashion - something I observed while attending ICON’s first neighborhood meeting and while watching the CTV5 video of the February 21<sup>st</sup> council meeting.

Again, put yourself in the shoes of the residents who participated in the NRDCP process. If the ICON plan felt like a kick in the teeth, its cynical attempt to “communicate” was akin to throwing salt in the wound. If you step back and look at the overall picture of ICON’s behavior, the company has clearly communicated its disdain and disregard for the members of the community in which it wants to do business. If you approve their revised plan, they will be pleased, they will complete the project, and then they will leave town. The distrusting, and disgruntled residents will remain.

Those resident will not view “the city” as their advocate. Of course, most do not make a distinction between elected leaders, city staff, and volunteer boards and commissions such as this body. As the chair of one of those volunteer boards, one that is involved in preservation and development, I have had interactions with unhappy and suspicious residents who want nothing to do with preservation because they do not trust the city to protect their rights as property owners. I ask you to do the right thing – do not enlarge the pool of distrustful residents. Demonstrate that you support them and are willing, as the council did at the February 21<sup>st</sup> meeting, to consider the spirit and intent of the city’s planning process, not just the letter of the law.

Carol Palmer

## Laney Fouse

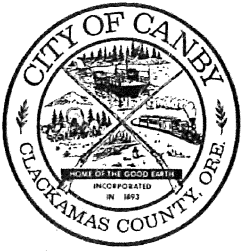
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**From:** Jennifer Rosenblad <jenniferrosenblad7@hotmail.com>  
**Sent:** Sunday, April 15, 2018 8:00 PM  
**To:** PublicComments  
**Subject:** Redwood Zoning

Hello,

I'm Jennifer Rosenblad from 1422 NE 18th. What I like about this neighborhood is the tall trees. They give the feel of a less developed area and just make it more pleasant. I am not in favor in taking down any more forested areas around my neighborhood.

I keep rereading the letter you sent for where it says in plain English what exactly the proposal is. "Subdivision (Type III)" is a poor description. I feel many more people would be concerned if they understood this letter. Sincerely, Jennifer Rosenblad

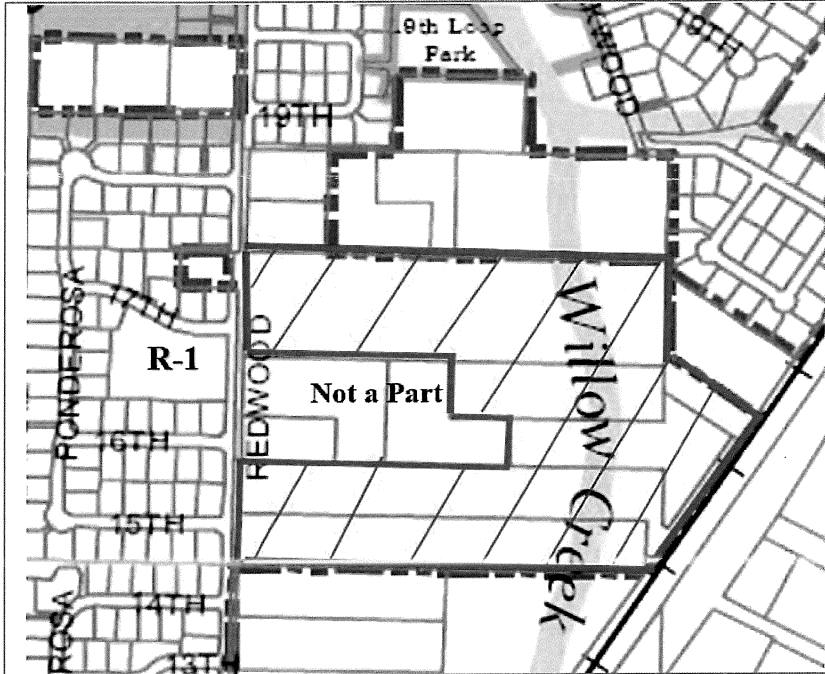


# City of Canby

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**Tax Lots:** 31E34B00700, 00701 and 31E27C00301, 00500, 01200

**Lot Size & Zoning:** 25.21 acres, R-1 Low Density Residential with right to transfer density from park land dedicated area.

**Owners:** John Boyle, Jim Boyle, Hugh Boyle, Kathleen Boyle, Kristeen Boyle, Karen Seratt, Steven Stewart, Pamela King, Rebecca Stewart Gray, Ethan Manuel, and Stephanie Manuel

**Applicant:** Icon Construction & Development, LLC

**Application Type:** Subdivision (Type III)

**City File Number:** SUB 17-06

**Contact:** Bryan Brown, 503-266-0702

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**Application: Remand of SUB 17-03 Redwood Landing Subdivision, ICON Construction & Development**

**COMMENTS:**

*See Attached*

NAME: Eric + Jo Reent  
EMAIL: Josephine.b.Reent@gmail.com  
ORGANIZATION/BUSINESS/AGENCY: \_\_\_\_\_  
ADDRESS: 1594 N. Redwood Canby  
PHONE # (optional): 503-266-4538  
DATE: 4-10-2018

**PLEASE EMAIL COMMENTS TO**  
**[PublicComments@canbyoregon.gov](mailto:PublicComments@canbyoregon.gov)**

**AGENCIES: Please check one box and fill in your Name/Agency/Date below:**

**Thank you!**

- ☐ Adequate Public Services (of your agency) are available
- ☐ Adequate Public Services will become available through the development
- ☐ Conditions are needed, as indicated
- ☐ Adequate public services are not available and will not become available
- ☐ No Comments

NAME: \_\_\_\_\_  
AGENCY: \_\_\_\_\_  
DATE: \_\_\_\_\_

To the Planning Commission,

We wish to express our concerns regarding the Revised Preliminary Plan submitted by ICON as follows:

The proposed new lots are well below the traditional 7,000+ square foot low density norm as follows:

- a. 34% of lots less than 5,500 square feet
- b. 31% of lots between 5,500 and 6,100 square feet
- c. 21% of lots between 6,100 and 6,900 square feet
- d. 5% of lots 7,000+ square feet

Thus, only 5% of the proposed new lots meet the minimum standard for a low density lot. We contend that this does not meet the spirit of the North Redwood Concept Development plan for an area designated as low density.

The area under consideration for development was clearly identified visually and discussed verbally as low density. A review of testimony by city planning staff before this body referred to 'modest changes' that would result from the application of density transfer. The statistics above demonstrate that this plan is far more than a 'modest' change, rather we contend that it upends the spirit of the concept plan in its entirety. The entire public hearing process has failed to sufficiently inform the public of the possibility of this outcome.

There was specific discussion during the adoption phase of the North Redwood Concept Plan relating to density, once before the planning commission and again before the city council. Much of this discussion focused on a small portion of the intended low density area, the East side of Willow Creek. During this testimony it did not occur to any of the public that these comments would be limited to only a small portion of the area identified as low-density. Excerpts follow:

1. September 27, 2015 Planning Commission meeting -
  - a. Regarding density transfer, the consultant indicated a 'modest change', a 'tweak' to lot sizes
  - b. Consultant indicated that lots on the East side of Willow Creek would match existing Willow Creek lots
  - c. City Staff indicates that density transfer would only apply to a 'small handful of lots'
2. October 7, 2015 City Council Meeting -
  - a. City staff indicated 2 mechanisms for parks funding: 'SDC's' and 'density transfer to some degree'. 'You are not going to see a huge change' was another comment by city staff
  - b. Regarding the East side of Willow Creek, city staff indicated 'not too much potential for density transfer.....could add maybe an extra house'
  - c. Again regarding the East side of Willow Creek, city staff indicated 'we don't think it will be a lot, because of the nature of how this is situated'

This testimony clearly implies that the East side of Willow Creek was intended to remain low density. As a lay person, one would anticipate that the West side of Willow Creek would have the same intended outcome. It is not unreasonable to infer from these comments that this would be the likely outcome for all of the area intended as low density. The possibility that the East and West side of the creek would be treated differently was not made clear.



Additionally the extracts above confirm that the city's professional staff did not anticipate a wholesale switch to medium density. If the City's professional staff did not anticipate this outcome, it can surely not be expected that citizens could have anticipated this outcome. The problem is that the planning process did not in any way communicate the possibility of turning the majority of the low density area to medium density.

ICON's plan will change a majority of the low density area to medium density. Are we to anticipate that the area designated as medium density will become high density through density transfer as well? No one, other than ICON, was aware that density transfer could be used to drastically reduce the size of the low density area described in the North Redwood Concept Plan. When this misunderstanding became clear, I spent a weekend canvassing Postlewaite Estates, 19<sup>th</sup> loop and others in the neighborhood to advise them of the coming density configuration. I visited more than 40 homes and attended a meeting of the Willow Creek Homeowner's association board meeting. Not one person understood that the ICON development would be uniformly medium density.

As we have stated, both before the Planning Commission and the City Council, we do not oppose development. To that end we participated as stakeholders in every opportunity allowed by the process. We asked questions and worked to inform ourselves as lay citizens, as did many of our neighbors. We were pleased with the **spirit** of the concept plan, a plan that resulted in a walkable, accessible community.

It was not until after all the hearings had been held and ICON brought their interpretation of the concept plan forward that we came to realize that ICON's proposal used a technicality in the concept plan that results in turning the majority of the low density area into medium density through use of 'density transfer'.

We contend that the planning department did not fully inform the public of possible outcomes. The general public are lay persons with regard to real estate development. It is unreasonable to expect that a lay person be presented with a concept map, and then be expected to go home, read the fine print, pull out the calculator and run the numbers.

If it has all along been the city's intention to have nearly all of the N Redwood area result in high and medium density housing, with a mere token amount of low density area, I contend that we as citizens did not have an opportunity for that conversation. We were shown a visual representation of the concept, with the fine print really driving the ultimate outcome.

The testimony for the North Redwood Concept Plan was lengthy and exhaustive. Storm water run off, traffic congestion and the condition of Redwood Street have all been addressed. Engineering studies have been undertaken and the eventual upgrade of Redwood Street has been discussed. All of these items have been addressed and more importantly can be revisited over time as needed.

Unlike the issues of water runoff, traffic management and the condition of Redwood Street, density transfer is an issue that changes the character of the neighborhood.....a change that can never be addressed again. Using farming language, this is the final rotation of this land. We are seeking an outcome that will result in something that our neighbors currently enjoy and support: a neighborhood similar to Postlewaite Estates. The ICON proposal will result in **medium density** for nearly all of the west side of Redwood unlike the **low density** Postlewaite Estates.

We are advocating for a third option, one that would allow public access to Willow Creek within the context of a traditional low-density configuration (7,000+ Square foot lots) This would involve the street layout of the 'Revised Preliminary Plan' and the density of the 'Standard R-1 Plan'. Elimination of the bridge from the 'Standard R-1 Plan' would result in several additional lots, mitigating the loss of lots. We encourage the city planning commission to request the developer submit such a plan.

At this late stage in the process, it is difficult not to be cynical about opportunity for public input at the earliest stage of creating the basic foot print for the development of North Redwood Street. The documented lack of candor has resulted in frustration by current members of this neighborhood who participated in good faith in the planning opportunities provided. It has certainly been no less frustrating to the applicant.

If it had been the city's intention to have essentially the entire N Redwood area be one of medium and high density, then let's have an honest conversation. For all of the meetings that were held, and all of time that community members spent, we contend that that honest conversation was not had. It can be said that according to the letter of the law, we were heard. But we saw and heard the **spirit of the law**, and were not savvy enough to figure out the true **impact** of the law.

Thank you for this opportunity to express our concerns.

Josephine Leach  
Eric W. Leach

March 9, 2018

Mr. Bryan Brown  
Planning Director  
City of Canby  
22NE 2<sup>nd</sup> Avenue  
Canby, OR 97013

Glen J. France  
Postlewait Estates HOA  
President

Re: Redwood Landing (SUB 17-06, APP 17-03)

Dear Bryan:

We are submitting the following items for consideration by the City Planning Commission at its April 23, 2018 public hearing regarding the Redwood Landing Draft Compromise Plan.

1. The Developer's March 23, 2018 Draft Compromise Plan is still frustrating the purpose of the R-1 designation in the Development Concept Plan and the City's Comprehensive Plan in the area designated as R-1. This is unacceptable in that 72 of Icon's 82 lots are below 7,000 sq ft lot size making them nearly all R-1.5 and not R-1. This is in violation of the spirit of a zoning balance for R1 lots adopted in the DCP for this area. In addition, it cannot be assumed that the R-1 lots in private land surrounded by R1.5 lots in the DCP will remain as R-1 and not be modified by a future developer to match the surrounding R-1.5 lots further increasing this density. While the Developer argues that the public will benefit from a larger park area, this does not outweigh the negative public impacts caused by this higher density compounded by the possibility of increased density in the future.
  - a. Lower home values
  - b. Increased traffic, and noise
  - c. Increased pressure on our schools
  - d. Not enough R-1 available to those wanting R-1. Not everyone wants to live in R-1.5
  - e. Negative impact on Postlewait Estates and other surrounding neighborhoods in the area
2. We ask that an HOA be required as a development approval requirement.
  - a. The new neighborhood should maintain the storm water detention area the same as Postlewait Estate's HOA is required to maintain our storm water detention area using HOA fees.
  - b. The City requires the subdivision to install a fence along North Redwood Road and a landscaped area between the fence and the back of curb, and possibly a neighborhood sign. Since this is a requirement for the whole neighborhood the cost to maintain it should be paid for by the whole neighborhood which can only be accomplished by requiring the establishment of an HOA. This would insure the fence and landscaping would be properly maintained over time. This is consistent with Postlewait Estates, Willow Creek, Tofte Farms, Dismore Estates and many other neighborhoods within the City. Neighborhoods where this was not required such as Fiest Addition, and several others along 13<sup>th</sup> Ave, show the negative results of not utilizing an HOA and the many benefits it brings to the community.
  - c. The burden on the City would be lessened by having the HOA maintain the common areas of this neighborhood.
  - d. Additional benefits are:
    - i. Maintains and increases property values especially over time
    - ii. Creates a mechanism to deal with abandoned property and foreclosures
    - iii. Builds a stronger sense of community
    - iv. Creates an aesthetically pleasing neighborhood
    - v. Creates continuity between neighborhoods
    - vi. Fosters a reduction in crime by disseminating critical information to neighborhood residents and law enforcement in an efficient manner.
3. Condition of North Redwood Street – While we understand the negotiations between the City and the County over upgrading North Redwood Road to the City's street standards continues, it is imperative that the City collect funds, or a bond, from the developer sufficient to upgrade North Redwood Street to City Street Standards proportional to the amount of traffic generated by this subdivision.
4. Positive improvements recognized within the plan.
  - a. Valuable wetlands will be preserved and protected for the future
  - b. Trail and park access are provided from developed roads within the development
  - c. Trail and park access is being envisioned as an internal component of development and considers access to Willow Creek from neighborhoods east of Willow Creek, and west of North Redwood Street for those desiring to utilize the developed logging road (i.e. bike and walking trail).

Sincerely Yours,

Glen J. France  
Postlewait Estates HOA President



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**COMMENTS:**

This image shows a single sheet of white paper with horizontal ruling lines. The lines are evenly spaced and run across the width of the page. There are no margins, text, or other markings on the paper.

NAME: \_\_\_\_\_

EMAIL: \_\_\_\_\_

ORGANIZATION/BUSINESS/AGENCY: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

PHONE # (optional): \_\_\_\_\_

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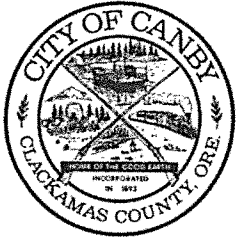
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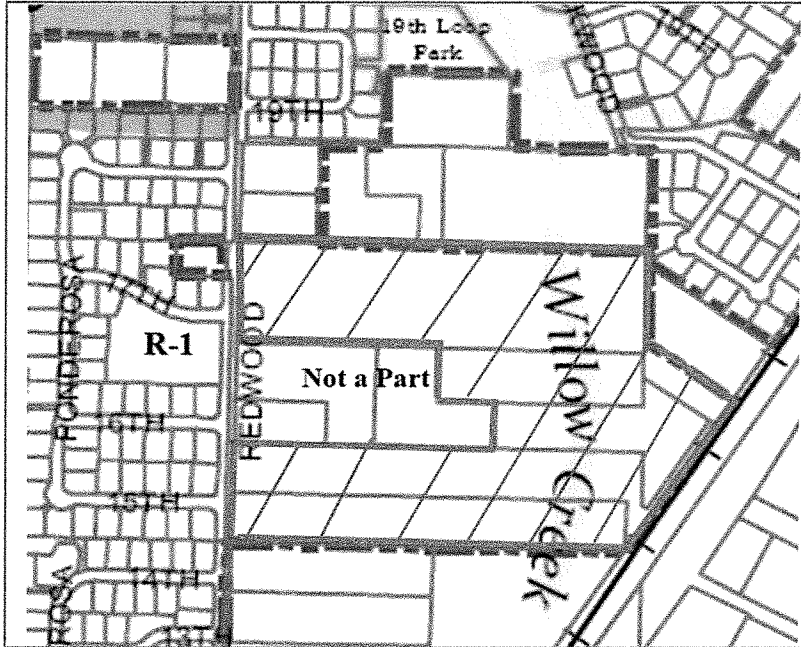


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### COMMENTS:

For Comments, see attached Memo dated April 6, 2018.

NAME: HASSAN IBRAHIM  
EMAIL: haci@Curran-McLeod.com  
ORGANIZATION/BUSINESS/AGENCY: CM1  
ADDRESS: 6655 SW HAMPTON ST. SUITE 210  
PHONE # (optional): PORTLAND, OR 97223  
DATE: 4/6/2018 503 684 3418

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☐ No Comments

NAME: HASSAN IBRAHIM  
AGENCY: CURRAN-MCLEOD CONSULTING ENGINEERS  
DATE: 4/6/2018

CURRAN-McLEOD, INC.  
CONSULTING ENGINEERS

6655 S.W. HAMPTON STREET, SUITE 210  
PORTLAND, OREGON 97223

April 6, 2018

**MEMORANDUM**

**TO:** Public Comments  
City of Canby

**FROM:** Hassan Ibrahim, P.E.  
Curran-McLeod, Inc.



**RE: CITY OF CANBY  
REDWOOD LANDING SUBDIVISION (SUB 17-03)**

We have reviewed the submitted preliminary plans on the above mentioned project and have the following comments:

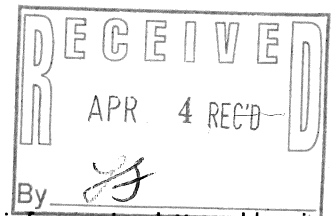
1. N Redwood Street is classified as a collector street as per the City Transportation System Plan (TSP), the existing right-of-way width of 50 feet (30-foot to the west and 20-foot to the east. A 10 –foot wide right of way dedication will be required along the entire site frontage with N Redwood Street including half street improvements with curbs, 4.5-foot planter strip, 6-foot wide concrete sidewalks, utilities as required and street lights. The half street improvements shall be built to City Standards with the curb placed at 18-foot from the centerline right-of-way to match the east side of the roadway in conformance with section 2.207 of the City of Canby Public Works Design Standards dated June 2012. An asphalt tapers at the rate of 10:1 shall be constructed to match existing asphalt surface at both ends of the street.
2. Sight distance verification by a registered professional engineer shall be submitted to the City for review and approval. The sight distance each at access point with N Redwood Street shall be a minimum of 240 feet in northbound direction and 280 feet in the southbound direction to ensure the existing vegetation growth doesn't obstruct the vehicular traffic.
3. A crosswalk striping, pedestrian crossing signage and adequate lighting at N Redwood Street and NE 15<sup>th</sup> Ave intersection shall be constructed to facilitate pedestrian movements to the Logging Road trail.

4. All interior streets within the subdivision shall be designed to City local street standards with 34-foot paved width, curbs, 4.5' planters, 6' sidewalks, street lights and utilities in conformance with Chapter 2 of the City of Canby Public Works Design Standards, dated June 2012. Turnarounds may be required at the end of each street as directed by Canby Fire Department.
5. All the fire truck turnarounds shall be constructed with a curb extension across the driveway to the northerly property line and be used as a shared driveway for lots 62 & 63, 35 & 36 and 50 & 51 so that those three streets are constructed to City standards and no future modifications are needed by the City.
6. All corner ADA ramps and sidewalks along the park and the existing houses frontage shall be constructed as part of this development.
7. The developer's design engineer will be required to submit as part of the construction plans a signing and striping plan. All street names and traffic signs shall be installed by the developer at his expense and as part of this development. The City may supply the required traffic and street name signs based on a mutually agreed cost.
8. As part of the final design, the developer's design engineer shall provide a minimum of 200-foot future centerline street profile design to assure future grades can be met at all the adjoining properties.
9. An erosion control permit will be required from the City of Canby prior to any on-site disturbance.
10. A demolition permit will be required from the City prior to demoing any existing structures.
11. Any existing domestic or irrigation wells shall be abandoned in conformance with OAR 690-220-0030. A copy of WRD abandonment shall be submitted to the City.
12. Any existing on-site sewage disposal system shall be abandoned in conformance with Clackamas County WES regulations. A copy of the septic tank removal certificate shall be submitted to the City.
13. Sanitary sewer exists along N Redwood Street to serve this site. Sanitary sewer lines shall be extended to serve the adjoining properties.

14. The storm drainage runoff can be discharged into Willow Creek, however, a storm drainage report shall be prepared by a registered professional engineer including a downstream analysis to ensure the added flow will not cause any flooding on the downstream properties. The final storm report shall meet Chapter 4 of the City of Canby Public Works Design Standards dated June 2012.

Should you have any questions or need additional information, please let me know.

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**E-mail:** [PublicComments@canbyoregon.gov](mailto:PublicComments@canbyoregon.gov)

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**Application: Remand of SUB 17-03 Redwood Landing Subdivision, ICON Construction & Development**

### **COMMENTS:**

Lots 1F through 11F will not be allowed without a 2nd entrance to willow creek estates. Willow creek estates currently has to many homes for a single entrance  
Oregon Fire Code appendix D section D107

N River Alder has no connection with the other N River Alder this make efficient emergency response challenging.

NAME: Todd Gary  
EMAIL: tgary@canbyfire.org  
ORGANIZATION/BUSINESS/AGENCY: Canby Fire Dist  
ADDRESS: 211 S Pine Canby Or 97013  
PHONE # (optional): 503-266-5851  
DATE: 4/04/2018

**PLEASE EMAIL COMMENTS TO**  
**[PublicComments@canbyoregon.gov](mailto:PublicComments@canbyoregon.gov)**

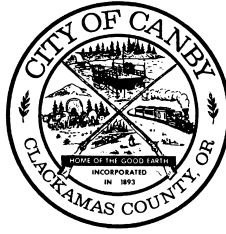
**AGENCIES: Please check one box and fill in your Name/Agency/Date below:**

**Thank you!**

- ☒ Adequate Public Services (of your agency) are available  
☐ Adequate Public Services will become available through the development  
☐ Conditions are needed, as indicated  
☐ Adequate public services are not available and will not become available  
☐ No Comments

NAME: Todd Gary  
AGENCY: Canby Fire Dist.  
DATE: 4/04/2018





## MEMORANDUM

---

**DATE:** JUNE 6, 2018  
**TO:** HONORABLE MAYOR HODSON AND CANBY CITY COUNCIL  
**FROM:** AMANDA ZEIBER, ASSISTANT CITY ADMINISTRATOR/HR DIRECTOR  
**THROUGH:** RICK ROBINSON, CITY ADMINISTRATOR  
**RE:** VOLUNTEER WORKERS COMPENSATION RESOLUTION NO. 1285

---

**ISSUE:**

Adoption of a Resolution extending workers compensation coverage to volunteers of the City of Canby and repealing Resolution 1263.

**SYNOPSIS:**

The City of Canby provides workers compensation coverage to volunteers, elected City officials and City boards and commissions. Coverage is provided through a resolution, which is reviewed annually to capture any changes from current or prior year(s) or as a result of new legislation or mandated changes. The City's insurance provider, City County Insurance Services, requires the City to have a current volunteer resolution on file. The City of Canby volunteer resolution was previously updated in June 2017. The volunteer resolution specifically lists which types of non-public safety volunteers will be covered.

**RECOMMENDATION:**

Staff recommends that the Council approve Resolution 1285, authorizing workers compensation coverage for City of Canby volunteers, elected officials and City boards and commissions for the 2018-2019 fiscal year.

**MOTION:**

***"I move to adopt Resolution 1285, a Resolution Extending Workers Compensation Coverage to Volunteers of the City of Canby and Repealing Resolution 1263."***

**ATTACHED:**

Resolution No. 1285

## RESOLUTION NO. 1285

### **A RESOLUTION EXTENDING WORKERS' COMPENSATION COVERAGE TO VOLUNTEERS OF THE CITY OF CANBY AND REPEALING RESOLUTION 1263.**

**WHEREAS**, the Canby City Council elects the following:

Pursuant to ORS 656.031, workers' compensation coverage will be provided to the classes of volunteer workers listed on the Volunteer Election Form, noted on CIS payroll schedule, and verified at audit.

**1. Public Safety Volunteers.**

☐Applicable

☒Non-applicable

An assumed monthly wage of \$800 per volunteer will be used for public safety volunteers in the following volunteer positions:

☒ Police reserve

**2. Volunteer boards, commissions, and councils for the performance of administrative duties.**

☒Applicable

☐Non-applicable

An aggregate assumed annual wage of \$2,500 will be used per each volunteer board, commission, or council for the performance of administrative duties. The covered bodies are (list each body):

- a. Bike and Pedestrian Committee
- b. City Council & Mayor
- c. Library Board
- d. Parks and Recreation Advisory Board
- e. Planning Commission
- f. Public Transit Advisory Committee
- g. Traffic Safety Commission

**3. Manual labor by elected officials.**

☒Applicable

☐Non-applicable

An assumed monthly wage of \$800 per month will be used for public officials for the performance of non-administrative duties other than those covered in paragraph 2 above. Covered duties include:

- a. Participation in City of Canby parades/events

**4. Non-public safety volunteers.**

☒Applicable

☐Non-applicable

All non-public safety volunteers listed below will track their hours and Oregon minimum wage will serve as assumed wage for both premium and benefits calculations. CIS will assign the appropriate classification code according to the type of volunteer work being performed.

☒ General administrative/clerical

☒ Library

☒ Parks / Public Works

**5. Public Events**

☒ **Applicable**

☐ **Non-applicable**

City volunteers at the following public events will be covered under workers' compensation coverage using verified hourly Oregon minimum wage as basis for premium and/or benefit calculation:

- a. Canby Independence Day Celebration
- b. Canby Street Dance

**6. Community Service Volunteers/Inmates**

☒ **Applicable**

☐ **Non-applicable**

Pursuant to ORS 656.041, workers' compensation coverage will be provided to community service volunteers commuting their sentences by performing work authorized by the City of Canby Municipal Court. Oregon minimum wage tracked hourly will be used for both premium and benefit calculations, verifiable by providing a copy of the roster and/or sentencing agreement from the court.

**7. Other Volunteers**

Volunteer exposures not addressed here will have workers' compensation coverage if, prior to the onset of the work provided, that the City of Canby:

- a. Provides at least two weeks' advance written notice to CIS underwriting requesting the coverage
- b. CIS approves the coverage and date of coverage
- c. CIS provides written confirmation of coverage

**City of Canby agrees to maintain verifiable rosters for all volunteers including volunteer name, date of service, and hours of service and make them available at the time of a claim or audit to verify coverage.**

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Canby to provide for workers' compensation insurance coverage as indicated above. This resolution will be reviewed annually.

This resolution shall take effect July 1, 2018.

**ADOPTED** this 6<sup>th</sup> day of June 2018 by the Canby City Council.

---

Brian Hodson  
Mayor

ATTEST:

---

Kimberly Scheafer, MMC  
City Recorder

## **ORDINANCE NO. 1483**

**AN ORDINANCE, PROCLAIMING ANNEXATION INTO THE CITY OF CANBY, OREGON 2.64 ACRES INCLUDING 2.0 ACRES OF REAL PROPERTY DESCRIBED AS TAX LOTS 200 AND 201 OF PORTION OF SE ¼, SEC. 27, T.3S., R.1E., W.M. (TAX MAP 31E27DB); AND APPROX. 0.20 ACRES OF ADJACENT NE TERRITORIAL ROAD RIGHT-OF-WAY AND APPROX. 0.44 ACRES) OF PART OF TAX LOT 1500 (TAX MAP 31E27AD) KNOWN AS SPITZ ROAD WHICH IS VACATED COUNTY ROADWAY NOW OWNED BY THE CITY OF CANBY; AND AMENDING THE EXISTING COUNTY ZONING FROM RURAL RESIDENTIAL FARM FOREST FIVE ACRE (RRFF-5) TO CITY LOW DENSITY RESIDENTIAL (R-1) FOR THE ENTIRE AREA; AND SETTING THE BOUNDARIES OF THE PROPERTY TO BE INCLUDED WITHIN THE CANBY CITY LIMITS.**

**WHEREAS**, on March 16, 2018, at a public hearing the City Council of the City of Canby approved by a vote of 5 to 0, Annexation (ANN/ZC 18-01) which called for the annexation of 2.64 acres into the City of Canby. The applicant is Paul DuPont and owner of Tax Lot 200 and 201 of Tax Map 31E27DB. A complete legal description and survey map of the applicant's tax lots and adjacent Territorial Road right-of-way abutting along the south and adjacent City owned property known as Spitz Road abutting along the east delineates the property to be annexed and is attached hereto as Exhibit A & B respectively and by this reference are incorporated herein; and

**WHEREAS**, Pursuant to CMC 16.84.080, the City must proclaim by ordinance or resolution, the annexation of said property into the City and set the boundaries of the property by legal description; and

**WHEREAS**, the zoning of the annexed land shall be designated as R-1 Low Density Residential to conform with the Canby Comprehensive Plan Map, and such zoning shall be indicated on the official zoning map for the City of Canby; and

**WHEREAS**, an application was filed with the City by the applicant listed above to change the zoning of two parcels as indicated herein along with the adjacent road right-of-way and City owned vacated right-of-way where the applicable R-1 zoning will also apply; and

**WHEREAS**, a public hearing was conducted by the Canby Planning Commission on April 23, 2018 after public notices were mailed, posted and published in the Canby Herald, as required by law; and

**WHEREAS**, the Canby Planning Commission heard and considered testimony regarding the annexation and accompanying zone change required for annexations by Figure 16.84.040 of Chapter 16.84 of the Land Development and Planning Ordinance at the public hearing and at the conclusion of the public hearing; the Planning Commission voted to recommend that the City Council approve the applications.

The Planning Commission written Findings, Conclusions and Order was approved with acknowledgement an accompanying Annexation Development Agreement to memorialize provisions to apply to the eventual residential development subdivision to be submitted for future development of the property; and

**WHEREAS**, the Canby City Council considered the matter and the recommendation of the Planning Commission following a public hearing held at its regular meeting on May 16, 2018; and

**WHEREAS**, the Canby City Council, after considering the applicant's submittal, the staff report, the Planning Commission's hearing record and their recommendation documented in their written Findings, Conclusions and Order and the Annexation Development Agreement, and after conducting its own public hearing; voted to approve the annexation and associated zoning designation for the properties and the Annexation Development Agreement; and

**WHEREAS**, the written Findings, Conclusions and Order of the Council action is to be approved by the City Council at the next regular Council meeting on June 6, 2018.

**NOW, THEREFORE, THE CITY OF CANBY ORDAINS AS FOLLOWS:**

Section 1. It is hereby proclaimed by the City Council of Canby that 2.64 acres of property described, set, and shown in Exhibit A & B and attached hereto, is annexed into the corporate limits of the City of Canby, Oregon.

Section 2. The annexed land shall be rezoned from the county Rural Residential Farm Forest (RRFF-5) to city Low Density Residential (R-1) as reflected on the Canby's Comprehensive Plan Map and as indicated by Tax Lot and legal description in this Ordinance. The Mayor, attested by the City Recorder, is hereby authorized and directed to have the zone change made to the official zoning map for the City of Canby.

Section 3. The City Council hereby approves the Development Agreement by and between the City of Canby and Paul DuPont, attached as Exhibit "C", an as-yet –unexecuted draft copy of which is attached hereto this ordinance for which the City Administrator is hereby authorized and directed to sign the final Development Agreement at which time "Dupont" is hereby authorized to record the signed Development Agreement with the official records of Clackamas County within seven (7) calendar days from the 2<sup>nd</sup> reading of this ordinance.



**SUBMITTED** to the Canby City Council and read the first time at a regular meeting therefore on Wednesday, May 16, 2018; ordered posted as required by the Canby City Charter and scheduled for second reading on Wednesday, June 6, 2018, after the hour of 7:30 PM at the Council Meeting Chambers located at 222 NE 2<sup>nd</sup> Avenue, 1<sup>st</sup> Floor, Canby, Oregon.

---

Kimberly Scheafer, MMC  
City Recorder

**PASSED** on the second and final reading by the Canby City Council at a regular meeting thereof on June 6, 2018 by the following vote:

YEAS\_\_\_\_\_ NAYS\_\_\_\_\_

---

Brian Hodson  
Mayor

ATTEST:

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Kimberly Scheafer, MMC  
City Recorder

# EXHIBIT A



## CENTERLINE CONCEPTS LAND SURVEYING, INC.

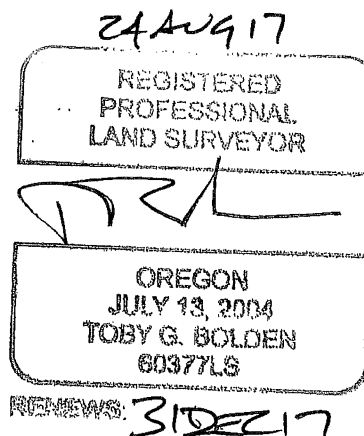
19376 Molalla Avenue, Ste. 120, Oregon City, OR 97045  
P. 503-650-0188 F. 503-650-0189

### *Annexation Description*

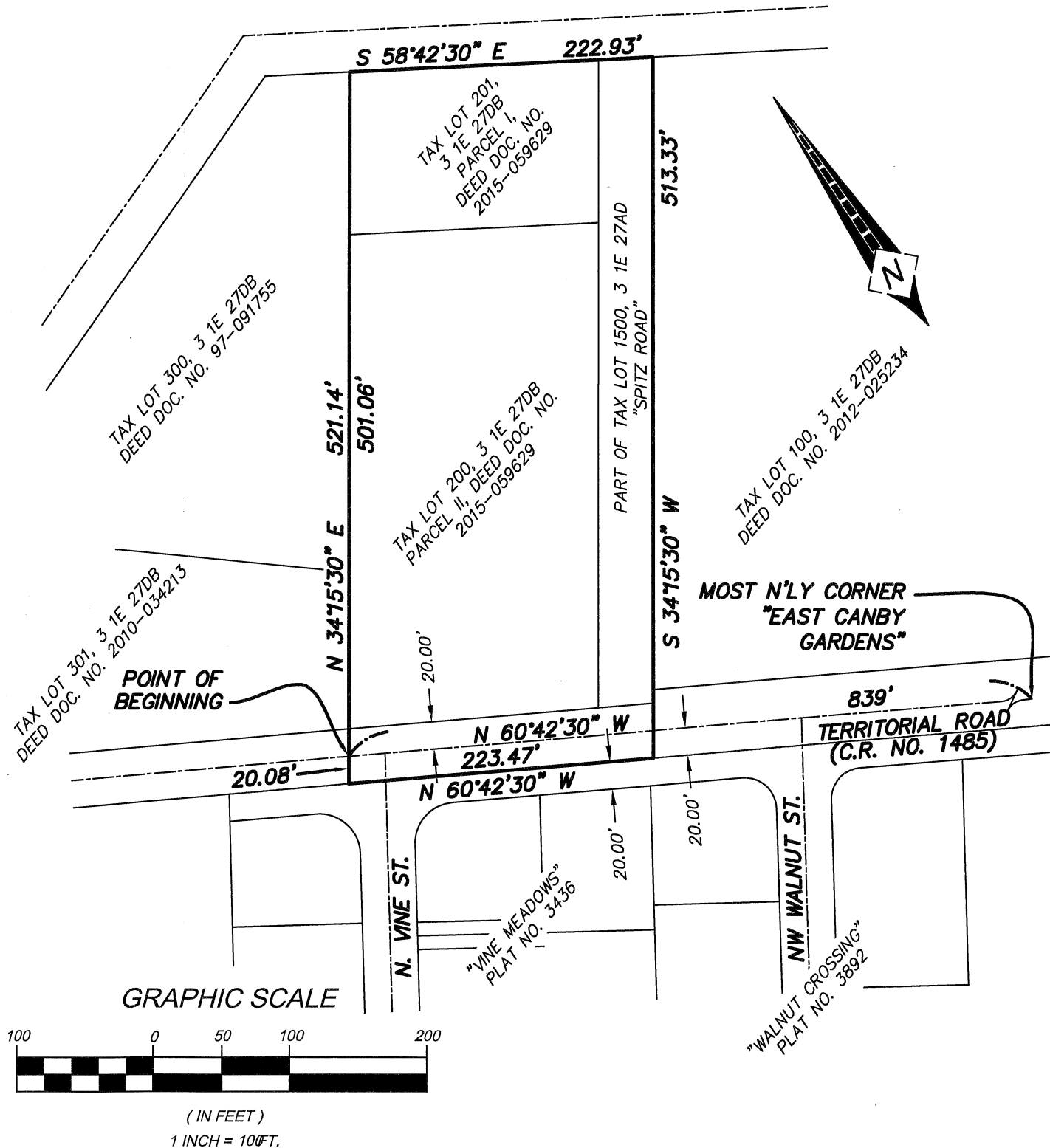
A tract of land located in the southeast one-quarter of Section 27, Township 3 South, Range 1 East of the Willamette Meridian, Clackamas County, Oregon, being more particularly described as follows:

**BEGINNING** at a point on the centerline of Territorial Road, aka County Road No. 1485 (a 40.00 foot wide right of way), being North 60°42'30" West, 839 feet from the most northerly corner of the plat of "East Canby Gardens", Plat No. 436, Clackamas County Plat Records, thence, along the southeasterly line of that tract of land conveyed by deed recorded as Document No. 2010-034213, and continuing along the southeasterly line of that tract of land conveyed by deed recorded as Document No. 97-091755, Clackamas County Deed Records, North 34°15'30" East, 501.06 feet to the northeast corner of that tract of land described as Parcel I in deed recorded as Document No. 2015-059629, Clackamas County Deed Records; thence, along the northeasterly line of said deed Document No. 2015-059629, and the southeasterly extension thereof, South 58°42'30" East, 222.93 feet to the northwesterly line of that tract of land conveyed by deed recorded as Document No. 2012-025234, Clackamas County Deed Records; thence, along said northwesterly line, South 34°15'30" West, 513.33 feet to the northeast line of the plat of "Walnut Crossing", Plat No. 3892, Clackamas County Plat Records, being 20.00 feet southwesterly of the centerline of said Territorial Road; thence, along the northeast line of said plat of "Walnut Crossing", and continuing along the northeast line of the plat of "Vine Meadows", Plat No. 3436, Clackamas County Plat Records, North 60°42'30" West, 223.47 feet; thence North 34°15'30" East, 20.08 feet to the centerline of said Territorial Road and the **POINT OF BEGINNING**.

Containing 115,154 square feet, more or less



## EXHIBIT B



CLIENT: PAUL DUPONT  
 ORIG. DATE: 23AUG17  
 DRAWN BY: TGB  
 Scale: 1" = 100'

## PROPOSED ANNEXATION

*TAX LOTS 200 AND 201, 3 1E 27DB  
AND PART OF TAX LOT 1500, 3 1E 27AD*

NE 1/4 & SE 1/4 SEC 27, T3S R1E, WM, CLACKAMAS COUNTY, OR



**CENTERLINE CONCEPTS**  
**LAND SURVEYING, INC.**  
 19376 MOLALLA AVE., SUITE 120  
 OREGON CITY, OREGON 97045  
 PHONE 503.650.0188 FAX 503.650.0189

## ORDINANCE 1483 EXHIBIT C

AFTER RECORDING RETURN TO:  
City of Canby  
P O Box 930  
Canby OR 97013

UNTIL REQUESTED OTHERWISE,  
SEND TAX STATEMENTS TO:  
Paul DuPont  
21211 Olmstead Rd. NE  
Aurora, OR 97002

### DEVELOPMENT AGREEMENT (ANNEXATION)

#### RECITALS:

1. Paul DuPont hereinafter referred to as "DUPONT", owns real property commonly described as 2525 NE Territorial Place, Canby, OR 97013 and more particularly described in the attached Exhibit A and depicted on a survey attached as Exhibit B.
2. The City of Canby, hereinafter referred to as "CANBY", is an Oregon municipal corporation.
3. The property described in Exhibit A and depicted on Exhibit B is located within the boundaries of a designated annexation "Development Agreement Area" as shown on the City of Canby Annexation Development Map (City of Canby Municipal Code Title 16, Figure 16.84.040).
4. CANBY procedures for annexation specify the Planning Commission shall conduct a public hearing to review any proposed annexations and determine the appropriate zoning designation upon annexation. The Planning Commission shall furnish its recommendation concerning annexation and assigned zoning to the City Council. The City Council will determine whether the applicable standards and criteria of Canby Municipal Code 16.84.040 are met and will determine appropriate zoning for the property based on the criteria set forth in the Canby Municipal Code 16.54.040.
5. The purpose of this Annexation Development Agreement is to satisfy the requirements of Canby Municipal Code 16.84.040 including providing adequate public information and information evaluating the physical, environmental, and related social effects of a proposed annexation. The proposed annexation does not require the statutory development agreement of ORS 94.504 et seq.

NOW, THEREFORE, it is hereby agreed:

#### I. CANBY MUNICIPAL CODE 16.84.040 APPLICABLE PROVISIONS.

A. Timing of the submittal of an application for zoning. Concurrent with review of this Agreement, the Council shall consider DUPONT'S annexation application and

requests that, upon approval of the annexation by the City Council, the property described in Exhibit A shall be zoned R-1. This approach will insure that the development agreement as well as the annexation and zone change approvals are consistent with City Code 16.84.

B. Scope of annexation request. In addition to the property owned by DUPONT and described in Exhibit A, DUPONT'S annexation application shall include the northern portion of the NE Territorial Road, County Road No. 1485, right-of-way that is presently outside of the city limits and adjacent to the DUPONT property. The northern portion of the NE Territorial Road right-of-way shall be as described in Exhibit A and depicted on Exhibit B. DUPONT agrees to dedicate street right-of-way for NE Territorial Road to meet the standards of the City of Canby with future land use actions on the property as part of the development approval process.

C. Timing for Recording. DUPONT shall have seven (7) calendar days from the date the City Council takes final action approving this Agreement, the annexation, the zone change request, to record this Agreement. A condition of approval will be attached to the annexation and zone change approval imposing this requirement.

D. Dedication of land for future public facilities including park and open space land. At the time of development, DUPONT agrees to dedicate street right-of-way for NE Territorial Road, N. Vine Street and for other streets being created inside the property to the standards of the City of Canby and to satisfy CANBY's parkland dedication obligation through payment of the City's park system development charge.

E. Street construction/layouts, utilities, right of ways/dedications, and lots. At the time of development, City required public street improvements will be constructed to Canby Municipal Code specifications by DUPONT. Specifically, DUPONT agrees to improve the northern one-half of the NE Territorial Road right-of-way along the frontage of the property. Additionally, DUPONT will construct the 40 foot strip of land presently called Spitz Road. This strip of land is owned by the City of Canby and the City agrees to dedicate it as street right-of-way. DUPONT will also be responsible for the dedication and construction of new street within DUPONT'S property to Canby Municipal Code specification. Street cross section layouts, public utilities, franchise utilities, and right-of-way-widths/associated dedications will be determined at the time of development in conformance with the Canby Municipal Code and Canby Public Works Design Standards. The submitted Conceptual Site Plan A, dated January, 2018, in conjunction with the ANN/ZC 18-01 applications is for general reference only and is non-binding. Lot sizes and layouts will be determined at the time of development and are contingent upon street cross sections and right-of-way widths.

F. Utility availability. At the time of development, DUPONT agrees to ensure that utilities and infrastructure are available to serve the property described in Exhibit A at densities currently authorized in the R-1 zone. To the extent that additional utility or service infrastructure is required to serve the property in the future, DUPONT agrees to provide those utilities and services in a way that is commensurate with the impacts from development and consistent with the City's Code. DUPONT also agrees to allow connection to DUPONT's constructed public facilities by adjacent property owners.



G. Water and Sewer. At the time of development, DUPONT agrees to install public waterlines in all new or extended public streets and sewer lines in new City streets as is needed to serve the development. CANBY agrees that DUPONT can connect to the public water system and that DUPONT can connect the existing public sanitary sewer. CANBY agrees that no new sewer main is needed in NE Territorial Road along the frontage of the DUPONT parcel.

H. Waiver of compensation claims. DUPONT waives compensation or waiver of land use regulations as provided in ORS 195.300 and 195.336, as well as Measure 49, resulting from annexation and the concurrent zone change approval.

I. Rough proportionality of future exactions. To the extent that this agreement identifies right-of-way dedication, utility or service obligations, these obligations are necessary and will be limited to an amount necessary to serve this development based on the proposed development application as well as on the uses and densities permitted in the R-1 zone.

J. Other commitments deemed valuable to the City of Canby. DUPONT agrees any future development will meet the requirements of the adopted CANBY Municipal Code in effect at the time of development.

## II. OTHER CONSIDERATIONS.

A. Duration. This Agreement shall be effective upon CANBY, acting by and through its city council, approving this Agreement and upon its recording with the Clackamas County Recording Office. As used herein, "approval" means the granting of the approval and the expiration of the period of appeal, or if appeal is filed, the resolution of that appeal. This Agreement shall continue in effect for a period of eight (8) years after its effective date unless cancelled as provided in Section II, C below

B. Recording. Within seven (7) calendar days after the City Council makes a final decision approving ANN/ZC 18-01, DUPONT shall record this agreement with the Clackamas County Recorder's Office and provide a copy of the recorded agreement to the City Attorney.

C. Cancellation. This Development Agreement shall not be cancelled.

D. Modification. This Agreement may be modified, amended, or extended upon the mutual consent of DUPONT and CANBY.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

---

Paul DuPont

CITY OF CANBY, OREGON

By: \_\_\_\_\_  
Richard W. Robinson, City Administrator

Dated: \_\_\_\_\_

APPROVED AS TO FORM:

By: \_\_\_\_\_  
Joseph Lindsay, City Attorney

Dated: \_\_\_\_\_

**APPROVED BY ACTION OF CITY COUNCIL ON JUNE 6, 2018 BY CITY COUNCIL  
ORDINANCE NO. 1483.**

STATE OF OREGON            )  
  ) ss.  
County of Clackamas        ) \_\_\_\_\_, 2018

Personally appeared before me, PAUL DUPONT, and acknowledged the foregoing instrument to be his voluntary act and deed.

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

STATE OF OREGON       )  
                                  ) ss.  
County of Clackamas     ) \_\_\_\_\_, 2018

Personally appeared before me, RICHARD W. ROBINSON, as the City  
Administrator of the City of Canby, Oregon.

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

## EXHIBIT A



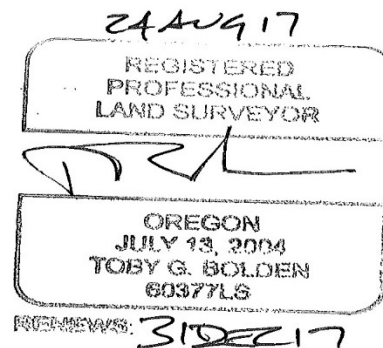
19376 Molalla Avenue, Ste. 120, Oregon City, OR 97045  
P. 503-650-0188 F. 503-650-0189

### ***Annexation Description***

A tract of land located in the southeast one-quarter of Section 27, Township 3 South, Range 1 East of the Willamette Meridian, Clackamas County, Oregon, being more particularly described as follows:

**BEGINNING** at a point on the centerline of Territorial Road, aka County Road No. 1485 (a 40.00 foot wide right of way), being North 60°42'30" West, 839 feet from the most northerly corner of the plat of "East Canby Gardens", Plat No. 436, Clackamas County Plat Records, thence, along the southeasterly line of that tract of land conveyed by deed recorded as Document No. 2010-034213, and continuing along the southeasterly line of that tract of land conveyed by deed recorded as Document No. 97-091755, Clackamas County Deed Records, North 34°15'30" East, 501.06 feet to the northeast corner of that tract of land described as Parcel I in deed recorded as Document No. 2015-059629, Clackamas County Deed Records; thence, along the northeasterly line of said deed Document No. 2015-059629, and the southeasterly extension thereof, South 58°42'30" East, 222.93 feet to the northwesterly line of that tract of land conveyed by deed recorded as Document No. 2012-025234, Clackamas County Deed Records; thence, along said northwesterly line, South 34°15'30" West, 513.33 feet to the northeast line of the plat of "Walnut Crossing", Plat No. 3892, Clackamas County Plat Records, being 20.00 feet southwesterly of the centerline of said Territorial Road; thence, along the northeast line of said plat of "Walnut Crossing", and continuing along the northeast line of the plat of "Vine Meadows", Plat No. 3436, Clackamas County Plat Records, North 60°42'30" West, 223.47 feet; thence North 34°15'30" East, 20.08 feet to the centerline of said Territorial Road and the **POINT OF BEGINNING**.

Containing 115,154 square feet, more or less

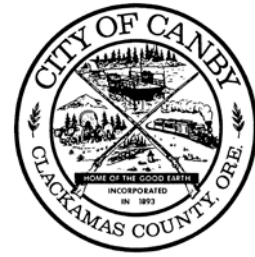


**CLIENT:** PAUL DUPONT  
**ORIG. DATE:** 23AUG17  
**DRAWN BY:** TGB  
**Scale:** 1"= 100'

**PROPOSED ANNEXATION**  
 TAX LOTS 200 AND 201, 3 1E 27DB  
 AND PART OF TAX LOT 1500, 3 1E 27AD  
 NE 1/4 & SE 1/4 SEC 27, T3S R1E, WM, CLACKAMAS COUNTY, OR

**CENTERLINE CONCEPTS**  
 LAND SURVEYING, INC.  
 19376 MOLALLA AVE., SUITE 120  
 OREGON CITY, OREGON 97045  
 PHONE 503.650.0188 FAX 503.650.0189

# MEMORANDUM



**TO:** Honorable Mayor Hodson and City Council  
**FROM:** Amanda Zeiber, Assistant City Administrator  
**DATE:** June 6, 2018  
**THROUGH:** Richard Robinson, City Administrator

---

## Issue:

The City of Canby contracts out janitorial services. The current provider, Master Cleen, has been the service provider for the City of Canby for over 20 years. Master Cleen provides janitorial services at the Library and Civic Building, Canby Police Department, CAT Offices, Transit Station, and the Waste Water Treatment Plan. Master Cleen provides services on a regular basis and is also on call for any additional janitorial needs that arise.

Master Cleen staff have received the training and have the knowledge to effectively maintain facilities specific to the City of Canby, including law enforcement, public transit and wastewater. The City intends to solicit a Request for Qualifications for Janitorial Services in the spring of 2019 for the 2019-2020 fiscal year.

## Recommendation:

*Staff recommends the Council approve Ordinance 1484, AN ORDINANCE AUTHORIZING THE MAYOR AND CITY ADMINISTRATOR TO EXECUTE A CONTRACT WITH MASTER CLEEN, INC. FOR JANITORIAL SERVICES FOR VARIOUS CITY FACILITIES, NOT TO EXCEED \$57,787.00; AND REPEALING ORDINANCE 1452*

## Recommended Motion:

**“I move to approve Ordinance No. 1484, AN ORDINANCE AUTHORIZING THE MAYOR AND CITY ADMINISTRATOR TO EXECUTE A CONTRACT WITH MASTER CLEEN, INC. FOR JANITORIAL SERVICES FOR VARIOUS CITY FACILITIES, NOT TO EXCEED \$57,787.00; AND REPEALING ORDINANCE 1452, to come up for second reading on June 20, 2018.**

## Attachments:

- Ordinance 1484
- Ordinance 1484 Exhibit A – Personal Services Agreement



**ORDINANCE NO. 1484**

**AN ORDINANCE AUTHORIZING THE MAYOR AND CITY ADMINISTRATOR TO EXECUTE A CONTRACT WITH MASTER CLEEN, INC. FOR JANITORIAL SERVICES FOR VARIOUS CITY FACILITIES, NOT TO EXCEED \$57,787.00; AND REPEALING ORDINANCE 1452**

**WHEREAS**, the City of Canby requires ongoing scheduled janitorial services in order to properly maintain City facilities for the comfort and safety of its employees and citizens; and

**WHEREAS**, the City has previously adopted Ordinance 1452 which selected Master Clean, Inc., as an independent contractor under a personal services contract for the purpose of carrying out the these activities; and

**WHEREAS**, the City Council meeting and acting as the Contract Review Board for the City of Canby has reviewed this proposal, reviewed the staff report and finds that the contract is in the best interest of the City to enter into.

**NOW, THEREFORE, THE CITY OF CANBY ORDAINS AS FOLLOWS:**

Section 1. The Mayor and City Administrator are hereby authorized and directed to make, execute and declare in the name of the City of Canby and on its behalf, an appropriate contract with Master Clean, Inc., the copy of said contract is attached hereto and marked as Exhibit "A" and by this reference fully incorporated herein.

Section 2. Ordinance 1452 is hereby repealed.

**SUBMITTED** to the Canby City Council and read the first time at a regular meeting thereof on Wednesday, June 6, 2018, and ordered posted in three (3) public and conspicuous places in the City of Canby as specified in the Canby City Charter and scheduled for second reading before the City Council for final reading and action at a regular meeting thereof on Wednesday, June 20, 2018, commencing at the hour of 7:30 p.m. in the Council Meeting Chambers located at 222 NW 2<sup>nd</sup> Avenue, 1<sup>st</sup> Floor, Canby, Oregon.

---

Kimberly Scheafer, MMC  
City Recorder

**PASSED** on the second and final reading by the Canby City Council at a regular meeting thereof on June 20, 2018 by the following vote:

YEAS\_\_\_\_\_ NAYS\_\_\_\_\_

---

Brian Hodson  
Mayor

ATTEST:

---

Kimberly Scheafer, MMC  
City Recorder

## PERSONAL SERVICES AGREEMENT

THIS AGREEMENT is between the CITY OF CANBY (City) and MASTER CLEEN, INC. (Contractor).

- A. City requires services which Contractor is capable of providing, under terms and conditions hereinafter described.
- B. Contractor is able and prepared to provide such services as City requires, under those terms and conditions set forth.

The Parties Agree a Follows:

- 1. Scope of Services. Contractor's services under this Agreement are set forth in Exhibit "A", attached hereto.
- 2. Contractor Identification. Contractor shall furnish to City its employer identification number as designated by the Internal Revenue Service, or Contractor's Social Security Number, as City deems applicable. **Contractor understands it is required to obtain a City of Canby Business License for conducting business in the City. Contractor agrees to obtain a Canby Business License prior to commencing work under this contract.**
- 3. Compensation:
  - A. City agrees to pay Contractor according to the proposed rate schedule submitted with the Contractor's proposal. See Exhibit "A" attached hereto. Contractor agrees that \$57,787.00 is the not to exceed price of this contract, without prior written approval from the City.
  - B. City agrees to pay Contractor within 30 days after receipt of Contractor's itemized statement reporting completed work. Amounts disputed by the City may be withheld pending settlement.
  - C. City certifies that sufficient funds are available and authorized for expenditure to finance costs of the Agreement.
- 4. Contractor is Independent Contractor.
  - A. Contractor's services shall be provided under the general supervision of the City Administrator. Contractor shall be an independent contractor for all purposes and shall be entitled to no compensation other than the compensation provided for under Paragraph #3 of this Agreement.
  - B. Contractor certifies that it is either a carrier-insured employer or a self-

insured employer as provided in Chapter 656 of the Oregon Revised Statutes.

- C. Contractor hereby represents that no employee of the City, or any partnership or corporation in which a City Employee has an interest, will or has received any remuneration of any description from Contractor, either directly or indirectly, in connection with the letting or performance of this contract, except as specifically declared in writing.

5. **Subcontractors and Assignment.** Contractor shall neither subcontract any of the work, nor assign any rights acquired hereunder, without obtaining prior written approval from City. City, by this Agreement, incurs no liability to third persons for payment of any compensation provided herein to Contractor. Any subcontract between Contractor and subcontractor shall require the subcontractor to comply with all terms and conditions this agreement as well as applicable OSHA regulations and requirements.

6. Work is Property of City. All work performed by Contractor under this Agreement shall be the property of the City. City agrees that the Contractor may use its work in other assignments if all City of Canby data and references are removed.

7. Term.

- A. This Agreement may be terminated by:

1. Mutual written consent of the parties.
2. Either party, upon thirty (30) days written notice to the other, delivered by certified mail or in person.
3. City, effective upon deliver of written notice to Contractor by certified mail, or in person, under any of the following:
  - a. If Contractor fails to provide services called for by this Agreement within the time specified or any extension thereof.
  - b. If Contractor fails to abide by the terms of this Agreement.
  - c. If services are no longer required.

8. Professional Standards. Contractor shall be responsible to the level of competency presently maintained by others practicing the same type of work in City's community, for the professional and technical soundness, accuracy and adequacy of all work and materials furnished under this authorization.

By entering into this agreement, contractor represents and warranties that they have complied with the tax laws of the State of Oregon and the City of Canby.

Further, for the duration of this contract, Contractor promises to continue to comply with said State and local tax laws. Any failure to comply with tax laws will be considered a default of this contract and could result in the immediate termination of this agreement and/or other sought damages or other such relief under applicable law.

9. Insurance. Insurance shall be maintained by the Contractor with the following limits:

A. For Comprehensive General Liability Insurance, Contractor shall provide a Certificate of Insurance naming the City of Canby as an additional named insured showing policy limits of not less than \$1,000,000 Combined Single Limit for Bodily Injury/Property Damage on an occurrence basis.

B. For Automobile Insurance, Contractor shall provide a Certificate of Insurance naming the City of Canby as an additional named insured showing policy limits of not less than \$1,000,000 Combined Single Limit for Bodily Injury/Property Damage on an occurrence basis for any vehicle used for City business or use otherwise related to this contract.

C. For Professional Liability—errors and omissions—a \$1,000,000 Combined Single Limit for Bodily Injury/Property Damage limit. **(Required for Architects, Appraisers, Attorneys, Consultants, Engineers, Planners, Programmers, etc.).** For purposes of professional liability, Contractor shall provide proof of a Certificate of Insurance naming the City of Canby as a Certificate Holder.

D. For Worker's Compensation, Contractor shall provide a Certificate of Insurance naming the City of Canby as a Certificate Holder showing Worker's Compensation Insurance with statutory limits of coverage.

Procuring of such required insurance at the above-stated levels shall not be construed to limit the Contractor's liability hereunder. Notwithstanding said insurance, Contractor shall be obligated for the total amount of any damage, injury, loss, or related costs caused by or related to Contractor's negligence or neglect connected with this Agreement.

10. Legal Expense. In the event legal action is brought by City or Contractor against the other to enforce any of the obligations hereunder or arising out of any dispute concerning the terms and conditions hereby created, the losing party shall pay the prevailing party such reasonable amounts for attorneys fees, costs, and expenses as may be set by the court both at trial and all appeals there from.

11. Modifications. Any modification of the provisions of this Agreement shall be in writing and signed by the parties.

12. Notices. Any notice, bills, invoices, reports, or other documents required by this Agreement shall be sent by the parties by United States mail, postage paid, electronically, faxed, or personally delivered to the address below. All notices shall be in writing and shall be effective when delivered. If mailed, notices shall be deemed effective forty-eight (48) hours after mailing unless sooner received.
13. Entire Agreement. This Agreement contains the entire understanding of the parties regarding the subject matter of this Agreement and supersedes all prior and contemporaneous negotiations and agreements, whether written or oral, between the parties with respect to the subject matter of this Agreement.
14. Savings Clause. Should any provision of this Agreement be found to be in conflict with any federal or Oregon state law, or final controlling decision of any Court of competent jurisdiction, or ruling or decision of any controlling administrative agency, all other provisions of this Agreement shall remain in full force and effect.

CITY: Rick Robinson, City Administrator  
City of Canby  
PO Box 930  
Canby, OR 97013

CONTRACTOR: Jim Dye  
Master Clean, Inc.  
PO Box 208  
Oregon City, OR 97045

**Please submit invoices to: Attn: Accounts Payable  
City of Canby  
PO Box 930  
Canby, OR 97013  
ap@canbyoregon.gov**

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly appointed officers.

**CONTRACTOR: CITY OF CANBY**

By: By:

Date: Date:

**Subcontractors will be used \_\_\_\_ Yes \_\_\_\_ No (If Yes, please complete List of Subcontractors attached to this Agreement)**

Approved as to Form:

\_\_\_\_\_  
Joseph Lindsay, City Attorney

11/6/15



## LIST OF SUBCONTRACTORS

***As per Section 5 of the Personal Services Agreement, the following businesses will be subcontractors. Subcontractors are required to have a City of Canby Business License prior to commencing work under this contract.***

[illegible]

**The City hereby approves the above listed subcontractors.**

City of Canby

Date \_\_\_\_\_

# Masterclean Schedule

FY 2018-2019

Facility Location	General Info	Bathrooms Other	Lunch Rooms Offices	Floors	Glass	Annual Rate
CAT OFFICE	3 x per week General cleaning rules apply			S/W HARD FLOOR 1 x per year  CARPET 1 x per year	GLASS 2 x per year	\$234 a month  \$2,808
CAT TRANSIT STATION	General cleaning rules apply	BATHROOM 1 x per week	LUNCHROOM 2 x per week	FLOOR 1 x per year	GLASS 2 x per month  CIGARETTE CANS 2 x per month	Glass - \$52 a month Driver Lounge - \$88 a month Driver Bathroom - \$62 a month CAT Lounge Floors - \$150/yr.  \$2,574
CIVIC BUILDING	ENTRY AREA Clean entry doors, Vacuum sweep and mop, Pick up any trash left in the area  KITCHEN AREAS Empty trash, Wipe down tables and counter tops, Wipe counter faces, Wipe off faces of microwaves fridges, (Does not include cleaning them inside), Restock supplies as applicable, Wall smudges, Clean sinks, Mop floors	BATHROOMS Clean Sinks, Toilets, Mirrors, Counters and door faces, Wall smudges, Empty trash, Restocking supplies, Mopping the floors, Using disinfectant products  STAIRS AND ELEVATOR Sweep, Mop and or vacuum stairs. Prints on inside and out and vacuum Elevator	OFFICES Empty Trash and Recycling, Wipe down any flat surfaces that are cleared off, (Will not move desk top items), Wipe off phones and computer screens, Dust as needed flat open surfaces, Tops and faces of filing cabinets, Watch for cobwebs, Vacuum	FLOORS Strip and wax as needed, where applicable. Carpeting spills could be dealt with as they occur. Small areas may need to be done periodically. As for a full carpet cleaning of an area (library upstairs) Negotiate at time needed	GLASS <u>Add on - \$40 per cleaning.</u> Top to bottom 1x per quarter as requested	\$2,340 a month  \$28,080
LIBRARY	Wipe off Counters and flat surfaces, Filing cabinets tops and faces (tops cleared). Wipe off any open desk areas					

	Flat surfaces have to be cleared. Clean phones and computer screens Dust anywhere needed. Empty trash and recycle. Vacuum floor. We do not clean book shelves.					
<b>POLICE/COURT</b>	General cleaning rules apply  Basement/lower level not included	<b>Mondays</b> All secure shredding dumped, records room shredding	<b>Lunch Room</b> 3x a year	<b>Floors</b> 4 areas of hard floors to be maintained	<b>Glass</b> 2x a year in/out. 2nd floor glass not included	\$1,494 a month <b>\$17,928</b>
<b>WWTP</b>						\$321 a month <i>Blower Room - \$120/yr.</i> <i>Floors - \$1,225/yr.</i> <i>Carpet - \$1,200/yr.</i> <b>\$6,397</b>
<b>TOTAL ANNUAL COST</b>						<b>\$57,787</b>

## **ORDINANCE NO. 1486**

### **AN ORDINANCE AUTHORIZING THE MAYOR AND CITY ADMINISTRATOR TO EXECUTE A CONTRACT WITH CANBY EXCAVATING, INC. IN THE AMOUNT OF \$481,373.30 FOR CONSTRUCTION OF THE NE 11<sup>TH</sup> PLACE SANITARY SEWER REPLACEMENT & OFFSITE STORM DRAINAGE; AND DECLARING AN EMERGENCY.**

**WHEREAS**, the City of Canby has heretofore advertised and received four (4) bids for the NE 11<sup>th</sup> Place Sanitary Sewer Replacement & Offsite Storm Drainage; and

**WHEREAS**, the notice of call for bids was duly and regularly published in the Oregon Daily Journal of Commerce on April 11, 2018; and

**WHEREAS**, bids were received and opened on May 2, 2018 at 2:00 pm in the City Hall Conference Room of the City of Canby and the bids were read aloud:

**WHEREAS**, this ordinance needs to be declared an emergency due to the availability of the contractor to begin the work as soon as possible and perform the work to in a timely manner and to minimize the impact and the inconvenience on the surrounding residences:

**WHEREAS**, the bidders are as listed below and a detailed tabulation of all items is attached herein and summarized as follows:

The summary of cost from each of the four (4) bidders is shown on the attached tabulation and listed below:

1.	Canby Excavating, Inc.	\$481,373.30
2.	Braun Construction & Design LLC	\$516,244.00
3.	Turney Excavating, Inc.	\$563,301.25
4.	Eagle-Elsner, Inc.	\$697,575.00

**WHEREAS**, the Canby City Council, acting as the City's Contract Review Board, met on Wednesday, May 16, 2018, and considered the bids and reports and recommendations of the City staff, including the staff recommendation that the low responsive bid be selected; and

**WHEREAS**, the Canby City Council determined that the low responsive bid was that of Canby Excavating Inc.

2nd Reading

**NOW, THEREFORE, THE CITY OF CANBY ORDAINS AS FOLLOWS:**

Section 1. The Mayor and/or City Administrator are hereby authorized and directed to make, execute, and declare in the name of the City of Canby and on its behalf, an appropriate contract with Canby Excavating, Inc. for the NE 11<sup>th</sup> Place Sanitary Sewer Replacement & Offsite Storm Drainage in the amount of \$481,373.30. A copy of the construction contract with Canby Excavating, Inc. is attached and incorporated herein.

Section 2. Inasmuch as it is in the best interest of the citizens of Canby, Oregon, to complete this project as soon as possible, an emergency is hereby declared to exist and this ordinance shall therefore take effect immediately upon its enactment after final reading.

**SUBMITTED** to the Canby City Council and read the first time at a regular meeting therefore on Wednesday, May 16, 2018; ordered posted as required by the Canby City Charter and scheduled for second reading on Wednesday, June 6, 2018, after the hour of 7:30 PM at the Council Meeting Chambers located at 222 NE 2<sup>nd</sup> Avenue, 1<sup>st</sup> Floor, Canby, Oregon.

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Kimberly Scheafer, MMC  
City Recorder

**PASSED** on second and final reading by the Canby City Council at a regular meeting thereof on the 6<sup>th</sup> day of June 2018, by the following vote:

YEAS \_\_\_\_\_ NAYS \_\_\_\_\_

---

Brian Hodson  
Mayor

ATTEST:

---

Kimberly Scheafer, MMC  
City Recorder

## CONTRACT FOR CONSTRUCTION

THIS AGREEMENT is dated as of the \_\_\_\_\_ day of \_\_\_\_\_ in the year 2018 by and between

**City of Canby**

(hereinafter called OWNER) and

**Canby Excavating, Inc.**

(hereinafter called CONTRACTOR)

OWNER and CONTRACTOR, in consideration of the mutual covenants hereinafter set forth, agree as follows:

### ARTICLE 1 - WORK

CONTRACTOR shall complete all Work as specified or indicated in the Contract Documents:

**City of Canby**

**NE 11th Place Sanitary Sewer Replacement  
& Off-Site Storm Drainage**

The scope of work consists of the following:

- Construction of approximately 1,200 lineal feet of 8" sanitary sewer main line, five (5) manholes and reconnecting 16 existing services, abandoning in place the existing 8" concrete mainline, the existing pump station and one (1) manhole, asphalt trench paving, driveway approaches and existing landscaping restoration. The work also includes three drywells and associated piping at three separate locations.

### ARTICLE 2 - ENGINEER

The Project has been designed by CURRAN-McLEOD, INC., Consulting Engineers, who is hereinafter called ENGINEER and who will assume all duties and responsibilities and will have the rights and authority assigned to ENGINEER in the Contract Documents in connection with completion of the Work in accordance with the Contract Documents.



### **ARTICLE 3 - CONTRACT TIME**

- 3.1 The Work will be substantially completed within 45 calendar days after the date when the Contract Time commences to run as provided in paragraph 4.01 of the General Conditions, and completed and ready for final payment in accordance with Paragraph 15.06 of the General Conditions within 15 days after the date when the issuance of the Certificate of Substantial Completion including punch list items.
- 3.2 Liquidated Damages: OWNER and CONTRACTOR recognize that time is of the essence of this Agreement and that OWNER will suffer financial loss if the Work is not substantially complete within the time specified in paragraph 3.1 above, plus any extensions thereof allowed in accordance with Article 12 of the General Conditions. They also recognize the delays, expense and difficulties involved in proving in a legal proceeding the actual loss suffered by OWNER if the Work is not substantially complete on time.

Accordingly, instead of requiring any such proof, OWNER and CONTRACTOR agree that as liquidated damages for delay (but not as a penalty) CONTRACTOR shall pay OWNER or the OWNER may withhold from amounts due the CONTRACTOR Four Hundred Dollars (\$400.00) for each day that expires after the time specified in paragraph 3.1. for Substantial Completion until the Work is substantially complete AND/OR for each day of delay beyond the deadline for Final Completion.

### **ARTICLE 4 - CONTRACT PRICE**

- 4.1 OWNER shall pay CONTRACTOR for performance of the Work in accordance with the Contract Documents in current funds by check, an amount totaling

Four Hundred Eighty-One Thousand Three Hundred Seventy-Three and 30/100

Dollars (\$481,373.30) as shown in the attached Bid Proposal.

### **ARTICLE 5 - PAYMENT PROCEDURES**

CONTRACTOR shall submit Applications for Payment in accordance with Article 14 of the General Conditions. Applications for Payment will be processed by ENGINEER as provided in the General Conditions.

- 5.1 Progress Payments: OWNER shall make progress payments on account of the Contract Price on the basis of CONTRACTOR'S Applications for Payment as recommended by ENGINEER, on or about the 25th day of each month during construction as provided below. All progress payments will be on the basis of the progress of the Work measured by the schedule of values provided for in paragraph 2.03 of the General Conditions.

5.1.1 Prior to Substantial Completion progress payments will be in an amount equal to:

- (a) 95 % of the Work completed; and
- (b) 95 % of materials and equipment not incorporated in the Work but delivered and suitably stored, less in each case the aggregate of payments previously made.

5.1.2 Upon Substantial Completion, OWNER shall pay an amount sufficient to increase total payments to CONTRACTOR to 95% of the value of the Contract Work completed, less such amounts as ENGINEER shall determine in accordance with paragraph 15.01 of the General Conditions.

5.2 Final Payment: Upon final completion and acceptance of the Work in accordance with paragraph 15.06 of the General Conditions, OWNER shall pay the remainder of the value of the Contract Work completed, as recommended by ENGINEER as provided in said paragraph 15.06.

## **ARTICLE 6 - INTEREST**

All monies not paid when due hereunder shall bear interest at the maximum rate allowed by law at the place of the Project, when requested in accordance with ORS 279C.570

## **ARTICLE 7 - CONTRACTOR'S REPRESENTATIONS**

In order to induce OWNER to enter into this Agreement CONTRACTOR makes the following representations:

- 7.1 CONTRACTOR has familiarized himself with the nature and extent of the Contract Documents, Work, locality, and with all local conditions and federal, state and local laws, ordinances, rules and regulations that in any manner may affect cost, progress or performance of the Work.
- 7.2 CONTRACTOR has visited and explored the site soil conditions or if attached studied carefully all reports of investigations and tests of subsurface and latent physical conditions at the site or otherwise affecting cost, progress or performance of the Work which were relied upon by ENGINEER in the preparation of the Drawings and Specifications and which have been identified in the Supplementary Conditions.
- 7.3 CONTRACTOR has visited and explored the site soil conditions, made or caused to be made if attached examinations, investigations and tests and studies of such reports and related data in addition to those referred to in paragraph 7.2 as he deems necessary for the performance of the Work at the Contract Price, within the Contract Time and in accordance with the other terms and conditions of the Contract

Documents; and no additional examinations, investigations, tests, reports or similar data are or will be required by CONTRACTOR for such purposes.

- 7.4 CONTRACTOR has conversed with the ENGINEER regarding the site soil conditions or correlated if attached the results of all such observations, examinations, investigations, tests, reports and data with the terms and conditions of the Contract Documents.
- 7.5 CONTRACTOR has given ENGINEER written notice of all conflicts, errors or discrepancies that he has discovered in the Contract Documents and the written resolution thereof by ENGINEER is acceptable to CONTRACTOR.
- 7.6 Large boulders are expected to be encountered on-site during trench excavation.

## **ARTICLE 8 - CONTRACT DOCUMENTS**

- 8.1 This Agreement
- 8.2 Exhibits to this Agreement.
- 8.3 Performance and other Bonds
- 8.4 Notice of Award.
- 8.5 General Conditions of the Construction Contract
- 8.6 Supplementary Conditions
- 8.7 Technical Specifications as listed in the Table of Contents.
- 8.8 Drawings & Specifications bearing the following general title:  
**City of Canby**  
**NE 11th Place Sanitary Sewer Replacement**  
**& Off-Site Storm Drainage**
- 8.9 Addenda numbers -0-.
- 8.10 CONTRACTOR'S Bid
- 8.11 Any Modification, including Change Orders, duly delivered after execution of Agreement.

There are no Contract Documents other than those listed above in this ARTICLE 8. The Contract Documents may only be altered, amended or repealed by a Modification (as defined in Article 1 of the General Conditions).

## ARTICLE 9 - MISCELLANEOUS

- 9.1 Terms used in this Agreement which are defined in Article 1 of the General Conditions shall have the meanings indicated in the General Conditions.
- 9.2 No assignment by a party hereto of any rights under or interests in the Contract Documents will be binding on another party hereto without the written consent of the party sought to be bound; and specifically by without limitation, moneys that may become due and moneys that are due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.
- 9.3 OWNER and CONTRACTOR each binds himself, his partners, successors, assigns and legal representatives to the other party hereto, his partners, successors, assigns and legal representatives in respect to all covenants, agreements and obligations contained in the Contract Documents.
- 9.4 In the event a suit, arbitration or other legal action is required by either the OWNER or the CONTRACTOR to enforce any provisions of this Agreement, the prevailing parties shall be entitled to all reasonable costs and reasonable attorney's fees upon trial or subsequent appeal.

IN WITNESS WHEREOF, the parties hereto have signed three counterparts of this Agreement.

This Agreement will be effective on \_\_\_\_\_, 2018.

OWNER:

**City of Canby  
P.O. Box 930  
Canby, OR 97013**

CONTRACTOR:

**Canby Excavating, Inc.  
P.O. Box 848  
Canby, OR 97013**

By: \_\_\_\_\_

By: \_\_\_\_\_

Name/Title: \_\_\_\_\_

Name/Title: \_\_\_\_\_

Name/Title: \_\_\_\_\_

Attest: \_\_\_\_\_

Address for giving notices:

## City of Canby

Project: NE 11th Place Sanitary Sewer Replacement &amp; Off-Site Storm Drainage

Bid Date: Wednesday, May 2, 2018 @ 2:00 PM

1 2 3 4

## BID TABULATION

Basic Bid Items:		Units	Canby Excavating	Braun Construction	Turney Excavating	Eagle-Elsner
A. Sanitary Sewer & Site Preparation			Unit / Total	Unit / Total	Unit / Total	Unit / Total
A.1	Mobilization, Bonds & Insurance	1 LS	\$ 33,000.00	\$ 12,000.00	\$ 31,000.00	\$ 44,000.00
			\$ 33,000.00	\$ 12,000.00	\$ 31,000.00	\$ 44,000.00
A.2	Traffic Protection & Direction of Traffic and Pedestrian Traffic on Logging Road Trail	1 LS	\$ 5,000.00	\$ 7,500.00	\$ 10,000.00	\$ 45,000.00
			\$ 5,000.00	\$ 7,500.00	\$ 10,000.00	\$ 45,000.00
A.3	Erosion Control & Spill Prevention Control & Countermeasure (SPCC) Plans	1 LS	\$ 856.00	\$ 2,500.00	\$ 2,000.00	\$ 15,000.00
			\$ 856.00	\$ 2,500.00	\$ 2,000.00	\$ 15,000.00
A.4	Tree & Landscape Protection, Tree Removal, Ditch & Site Restoration	1 LS	\$ 11,300.00	\$ 20,000.00	\$ 30,000.00	\$ 13,000.00
			\$ 11,300.00	\$ 20,000.00	\$ 30,000.00	\$ 13,000.00
A.5	Trench Stabilization (If needed)	20 CY	\$ 48.00	\$ 100.00	\$ 85.00	\$ 200.00
			\$ 960.00	\$ 2,000.00	\$ 1,700.00	\$ 4,000.00
A.6	Sawcut Asphalt/ Concrete Surfaces (All Depth)	2,000 LF	\$ 1.32	\$ 1.00	\$ 1.25	\$ 2.00
			\$ 2,640.00	\$ 2,000.00	\$ 2,500.00	\$ 4,000.00
A.7	8" PVC 3034 Pipe including Excavation, Material Disposal & Crushed Rock Backfill	592 LF	\$ 145.00	\$ 160.00	\$ 109.00	\$ 170.00
			\$ 85,840.00	\$ 94,720.00	\$ 64,528.00	\$ 100,640.00
A.8	8" PVC 3034 Pipe including Excavation, Material Disposal & Native Backfill	410 LF	\$ 66.00	\$ 135.00	\$ 50.00	\$ 160.00
			\$ 27,060.00	\$ 55,350.00	\$ 20,500.00	\$ 65,600.00
A.9	Reconnect Existing Laterals w/ 8"x6" Tee, 6" PVC Pipe, Fittings & 6" Cleanout, Installed Complete	15 Ea.	\$ 3,175.00	\$ 4,250.00	\$ 2,600.00	\$ 4,500.00
			\$ 47,625.00	\$ 63,750.00	\$ 39,000.00	\$ 67,500.00
A.10	Connect to Existing Manhole & Construct New Channel	2 Ea.	\$ 8,085.00	\$ 2,500.00	\$ 2,700.00	\$ 1,500.00
			\$ 16,170.00	\$ 5,000.00	\$ 5,400.00	\$ 3,000.00
A.11	Abandon Existing Manhole in Place	1 Ea.	\$ 2,550.00	\$ 650.00	\$ 2,600.00	\$ 1,500.00
			\$ 2,550.00	\$ 650.00	\$ 2,600.00	\$ 1,500.00
A.12	Abandon Existing Pump Station in Place	1 Ea.	\$ 3,315.00	\$ 1,300.00	\$ 2,600.00	\$ 1,500.00
			\$ 3,315.00	\$ 1,300.00	\$ 2,600.00	\$ 1,500.00
A.13	48" Diameter Standard Manhole	4 Ea.	\$ 4,623.00	\$ 4,500.00	\$ 8,000.00	\$ 9,500.00
			\$ 18,492.00	\$ 18,000.00	\$ 32,000.00	\$ 38,000.00
A.14	Type "C" Concrete Curb	100 LF	\$ 70.00	\$ 45.00	\$ 28.00	\$ 55.00
			\$ 7,000.00	\$ 4,500.00	\$ 2,800.00	\$ 5,500.00
A.15	4" Concrete Driveway Approach	20 SY	\$ 177.00	\$ 120.00	\$ 100.00	\$ 115.00
			\$ 3,540.00	\$ 2,400.00	\$ 2,000.00	\$ 2,300.00
A.16	6" Concrete Driveway Approach	35 SY	\$ 148.00	\$ 165.00	\$ 130.00	\$ 125.00
			\$ 5,180.00	\$ 5,775.00	\$ 4,550.00	\$ 4,375.00
A.17	Grind Existing Asphalt Pavement (6' Wide Panel, 2" Max Depth Along Gutter Line)	803 SY	\$ 9.80	\$ 13.00	\$ 11.00	\$ 10.00
			\$ 7,869.40	\$ 10,439.00	\$ 8,833.00	\$ 8,030.00
A.18	Asphalt Pavement Reconstruction (As needed and as determined in the field)	50 SY	\$ 113.50	\$ 175.00	\$ 100.00	\$ 80.00
			\$ 5,675.00	\$ 8,750.00	\$ 5,000.00	\$ 4,000.00
A.19	Trench Patching Prep (Asphalt Pavement will be paid under item A.20)	930 LF	\$ 9.62	\$ 12.00	\$ 13.00	\$ 10.00
			\$ 8,946.60	\$ 11,160.00	\$ 12,090.00	\$ 9,300.00
A.20	1/2" Asphalt Concrete Paving Overlay (2' Overlay and 2' Depth in Trenches)	450 Tons	\$ 108.00	\$ 125.00	\$ 105.00	\$ 95.00
			\$ 48,600.00	\$ 56,250.00	\$ 47,250.00	\$ 42,750.00
A.21	Open Trench Rock Excavation	150 CY	\$ 13.00	\$ 130.00	\$ 152.00	\$ 350.00
			\$ 1,950.00	\$ 19,500.00	\$ 22,800.00	\$ 52,500.00
A.22	Minor Manhole Adjustment	1 Ea.	\$ 815.00	\$ 680.00	\$ 700.00	\$ 1,800.00
			\$ 815.00	\$ 680.00	\$ 700.00	\$ 1,800.00
Subtotal Sanitary Sewer & Site Preparation			\$ 344,384.00	\$ 404,224.00	\$ 349,851.00	\$ 533,295.00
Basic Bid Items:		Units	Unit / Total	Unit / Total	Unit / Total	Unit / Total
B. Off-Site Storm Drainage Improvements						
B.1	Mobilization, Bonds & Insurance	1 LS	\$ 11,860.00	\$ 1,700.00	\$ 7,600.00	\$ 9,000.00
			\$ 11,860.00	\$ 1,700.00	\$ 7,600.00	\$ 9,000.00
B.2	Traffic Protection & Direction of Traffic	1 LS	\$ 2,165.00	\$ 2,700.00	\$ 5,500.00	\$ 7,000.00
			\$ 2,165.00	\$ 2,700.00	\$ 5,500.00	\$ 7,000.00
B.3	Erosion Control (Catch Basin Inserts)	1 LS	\$ 410.00	\$ 450.00	\$ 2,000.00	\$ 500.00
			\$ 410.00	\$ 450.00	\$ 2,000.00	\$ 500.00

BID TABULATION		Canby Excavating	Braun Construction	Turney Excavating	Eagle-Elsner
B.4	Sawcut Asphalt / Concrete Surfaces (All Depth)	325 LF \$ 1.50 \$ 487.50 \$ 1.00 \$ 1.25 \$ 2.00			
B.5	10" PVC 3034 Pipe including Excavation, Material Disposal & Rock Backfill	82 LF \$ 123.50 \$ 15,990.00 \$ 195.00 \$ 270.00 \$ 200.00			
B.6	Connect to Existing Catch Basin	1 Ea. \$ 1,617.00 \$ 1,800.00 \$ 1,000.00 \$ 1,000.00 \$ 750.00			
B.7	Connect to Existing Manhole	2 Ea. \$ 3,380.00 \$ 2,200.00 \$ 1,000.00 \$ 1,000.00 \$ 750.00			
B.8	Type G-2 Catch Basin	1 Ea. \$ 2,890.00 \$ 3,500.00 \$ 3,000.00 \$ 2,000.00 \$ 1,500.00			
B.9	48" Diameter Drywell	3 Ea. \$ 14,600.00 \$ 8,900.00 \$ 3,000.00 \$ 3,000.00 \$ 2,500.00			
B.10	Remove Existing 48" Diameter Manhole & Dispose	1 Ea. \$ 43,800.00 \$ 26,700.00 \$ 117,000.00 \$ 52,500.00			
B.11	Trench Patching Prep (Asphalt pavement 4" Depth will be paid under item A.20)	82 LF \$ 2,540.00 \$ 1,000.00 \$ 3,500.00 \$ 5,000.00			
B.12	1/2" Asphalt Concrete Trench Patching (4" depth installed in two lifts)	10 Tons \$ 1,476.00 \$ 2,050.00 \$ 1,394.00 \$ 1,640.00			
Subtotal Off-Site Storm Drainage Improvements		\$ 2,530.00 \$ 3,000.00 \$ 2,500.00 \$ 2,500.00			
Subtotal Off-Site Storm Drainage Improvements		\$ 86,662.50 \$ 63,615.00 \$ 168,040.25 \$ 99,940.00			

Basic Bid Items:		Units	Unit / Total	Unit / Total	Unit / Total
C. Sanitary Sewer Improvements at 159 NE 10th Avenue					
C.1	Mobilization, Bonds & Insurance	1 LS \$ 13,027.00 \$ 1,700.00 \$ 4,400.00 \$ 5,000.00			
C.2	Traffic Protection & Direction of Traffic	1 LS \$ 2,165.00 \$ 2,500.00 \$ 4,800.00 \$ 4,000.00			
C.3	Erosion Control (Catch Basin Inserts)	1 LS \$ 406.00 \$ 450.00 \$ 500.00 \$ 500.00			
C.4	Trench Stabilization (if needed)	20 CY \$ 48.00 \$ 100.00 \$ 85.00 \$ 200.00			
C.5	Sawcut Asphalt / Concrete Surfaces (All Depth)	80 LF \$ 2.36 \$ 1.00 \$ 1.25 \$ 2.00			
C.6	8" PVC 3034 Pipe including Excavation, Material Disposal & Crushed Rock Backfill	37 LF \$ 155.00 \$ 200.00 \$ 220.00 \$ 240.00			
C.7	8" PVC 3034 Pipe including Excavation, Material Disposal & Native Backfill	140 LF \$ 85.00 \$ 135.00 \$ 60.00 \$ 180.00			
C.8	Reconnect Existing Laterals w/ 8"x6" Tee, 6" PVC Pipe, Fittings & 6" Cleanout, Installed Complete	1 Ea. \$ 11,900.00 \$ 18,900.00 \$ 8,400.00 \$ 25,200.00			
C.9	Construct New Laterals w/ 8"x6" Tee, 6" PVC Pipe, Fittings & 6" Cleanout & Plug for Future Use, Installed Complete	1 Ea. \$ 1,910.00 \$ 2,000.00 \$ 3,000.00 \$ 3,400.00			
C.10	48" Diameter Standard Manhole over Existing Line	1 Ea. \$ 10,000.00 \$ 7,000.00 \$ 9,000.00 \$ 6,000.00			
C.11	8" Cleanout	1 Ea. \$ 530.00 \$ 750.00 \$ 1,000.00 \$ 1,500.00			
C.12	Type "C" Concrete Curb	5 LF \$ 99.00 \$ 85.00 \$ 30.00 \$ 200.00			
C.13	Trench Patching Prep (Asphalt pavement will be paid under Item A.20)	40 LF \$ 18.00 \$ 45.00 \$ 18.00 \$ 20.00			
C.14	1/2" Asphalt Concrete Paving (4" depth installed in two lifts)	2 Tons \$ 720.00 \$ 1,800.00 \$ 720.00 \$ 800.00			
Subtotal Sanitary Sewer Improvements at 159 NE 10th Avenue		\$ 380.00 \$ 600.00 \$ 500.00 \$ 500.00			
Subtotal Sanitary Sewer Improvements at 159 NE 10th Avenue		\$ 50,326.80 \$ 48,405.00 \$ 45,410.00 \$ 64,340.00			

TOTAL BASIC BID	\$ 481,373.30	\$ 516,244.00	\$ 563,301.25	\$ 697,575.00
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**ORDINANCE NO. 1487**

**AN ORDINANCE AUTHORIZING THE CITY OF CANBY TO ENTER INTO AN AMENDED CONTRACT WITH KINTECHNOLOGY, INC. TO CONTINUE TO PROVIDE COMPUTER TECHNICAL SERVICES FOR THE CITY**

**WHEREAS**, the City of Canby desires to continue its contract between the City and KinTechnology, Inc. to provide computer technical services for the City; and

**WHEREAS**, the current contract with KinTechnology, Inc. needs to be renewed and amended;

**NOW, THEREFORE, THE CITY OF CANBY ORDAINS AS FOLLOWS:**

**Section 1.** The City Administrator is hereby authorized on behalf of the City to enter into an amended Personal Services Agreement with KinTechnology, Inc. to continue to provide computer technical services for the City. A copy of the Personal Services Agreement is attached hereto as Exhibit "A."

**SUBMITTED** to the Canby City Council and read the first time at a regular meeting therefore on Wednesday, May 16, 2018, and ordered posted in three (3) public and conspicuous places in the City of Canby as specified in the Canby City Charter and scheduled for second reading before the City Council for final reading and action at a regular meeting thereof on Wednesday, June 6, 2018 commencing at the hour of 7:30 p.m. at the Council Meeting Chambers located at 222 NE 2<sup>nd</sup> Avenue, 1<sup>st</sup> Floor, Canby, Oregon.

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Kimberly Scheafer, MMC  
City Recorder

2nd Reading

**PASSED** on second and final reading by the Canby City Council at a regular meeting thereof on the 6<sup>th</sup> day of June 2018 by the following vote:

YEAS\_\_\_\_\_ NAYS\_\_\_\_\_

\_\_\_\_\_  
Brian Hodson  
Mayor

ATTEST:

\_\_\_\_\_  
Kimberly Scheafer, MMC  
City Recorder

## PERSONAL SERVICES AGREEMENT

THIS AGREEMENT is between the CITY OF CANBY (City) and KINTECHNOLOGY, INC. (Contractor).

- A. City requires services which Contractor is capable of providing, under terms and conditions hereinafter described.
- B. Contractor is able and prepared to provide such services as City requires, under those terms and conditions set forth.

The Parties Agree a Follows:

- 1. Scope of Services. Contractor's services under this Agreement are set forth in Exhibit "A", attached hereto.
- 2. Contractor Identification. Contractor shall furnish to City its employer identification number as designated by the Internal Revenue Service, or Contractor's Social Security Number, as City deems applicable. **Contractor understands it is required to obtain a City of Canby Business License for conducting business in the City. Contractor agrees to obtain a Canby Business License prior to commencing work under this contract.**
- 3. Compensation:
  - A. City agrees to pay Contractor according to the proposed rate schedule submitted with the Contractor's proposal. See Exhibit "A" and "B" attached hereto. Contractor agrees that \$100,000.00 is the not to exceed price for general services of this contract without prior written approval from the City. Out of contract fees are per the hourly rate schedule listed in Exhibit "B".
  - B. City agrees to pay Contractor within 30 days after receipt of Contractor's itemized statement reporting completed work. Amounts disputed by the City may be withheld pending settlement.
  - C. City certifies that sufficient funds are available and authorized for expenditure to finance costs of the Agreement.
- 4. Contractor is Independent Contractor.
  - A. Contractor's services shall be provided under the general supervision of the City Administrator. Contractor shall be an independent contractor for all purposes and shall be entitled to no compensation other than the compensation provided for under Paragraph #3 of this Agreement.

- B. Contractor certifies that it is either a carrier-insured employer or a self-insured employer as provided in Chapter 656 of the Oregon Revised Statutes.
  - C. Contractor hereby represents that no employee of the City, or any partnership or corporation in which a City Employee has an interest, will or has received any remuneration of any description from Contractor, either directly or indirectly, in connection with the letting or performance of this contract, except as specifically declared in writing.
5. **Subcontractors and Assignment.** Contractor shall neither subcontract any of the work, nor assign any rights acquired hereunder, without obtaining prior written approval from City. City, by this Agreement, incurs no liability to third persons for payment of any compensation provided herein to Contractor. Any subcontract between Contractor and subcontractor shall require the subcontractor to comply with all terms and conditions this agreement as well as applicable OSHA regulations and requirements.
6. Work is Property of City. All work performed by Contractor under this Agreement shall be the property of the City. City agrees that the Contractor may use its work in other assignments if all City of Canby data and references are removed.
7. Term.
- A. This Agreement may be terminated by:
    - 1. Mutual written consent of the parties.
    - 2. Either party, upon thirty (30) days written notice to the other, delivered by certified mail or in person.
    - 3. City, effective upon deliver of written notice to Contractor by certified mail, or in person, under any of the following:
      - a. If Contractor fails to provide services called for by this Agreement within the time specified or any extension thereof.
      - b. If Contractor fails to abide by the terms of this Agreement.
      - c. If services are no longer required.
8. Professional Standards. Contractor shall be responsible to the level of competency presently maintained by others practicing the same type of work in City's community, for the professional and technical soundness, accuracy and adequacy of all work and materials furnished under this authorization.

By entering into this agreement, contractor represents and warranties that they

have complied with the tax laws of the State of Oregon and the City of Canby. Further, for the duration of this contract, Contractor promises to continue to comply with said State and local tax laws. Any failure to comply with tax laws will be considered a default of this contract and could result in the immediate termination of this agreement and/or other sought damages or other such relief under applicable law.

9. Insurance. Insurance shall be maintained by the Contractor with the following limits:

A. For Comprehensive General Liability Insurance, Contractor shall provide a Certificate of Insurance naming the City of Canby as an additional named insured showing policy limits of not less than \$1,000,000 Combined Single Limit for Bodily Injury/Property Damage on an occurrence basis.

B. For Automobile Insurance, Contractor shall provide a Certificate of Insurance naming the City of Canby as an additional named insured showing policy limits of not less than \$1,000,000 Combined Single Limit for Bodily Injury/Property Damage on an occurrence basis for any vehicle used for City business or use otherwise related to this contract.

C. For Professional Liability—errors and omissions—a \$1,000,000 Combined Single Limit for Bodily Injury/Property Damage limit. **(Required for Architects, Appraisers, Attorneys, Consultants, Engineers, Planners, Programmers, etc.).** For purposes of professional liability, Contractor shall provide proof of a Certificate of Insurance naming the City of Canby as a Certificate Holder.

D. For Worker's Compensation, Contractor shall provide a Certificate of Insurance naming the City of Canby as a Certificate Holder showing Worker's Compensation Insurance with statutory limits of coverage.

Procuring of such required insurance at the above-stated levels shall not be construed to limit the Contractor's liability hereunder. Notwithstanding said insurance, Contractor shall be obligated for the total amount of any damage, injury, loss, or related costs caused by or related to Contractor's negligence or neglect connected with this Agreement.

10. Legal Expense. In the event legal action is brought by City or Contractor against the other to enforce any of the obligations hereunder or arising out of any dispute concerning the terms and conditions hereby created, the losing party shall pay the prevailing party such reasonable amounts for attorneys fees, costs, and expenses as may be set by the court both at trial and all appeals there from.

11. Modifications. Any modification of the provisions of this Agreement shall be in writing and signed by the parties.

12. Notices. Any notice, bills, invoices, reports, or other documents required by this Agreement shall be sent by the parties by United States mail, postage paid, electronically, faxed, or personally delivered to the address below. All notices shall be in writing and shall be effective when delivered. If mailed, notices shall be deemed effective forty-eight (48) hours after mailing unless sooner received.
13. Entire Agreement. This Agreement contains the entire understanding of the parties regarding the subject matter of this Agreement and supersedes all prior and contemporaneous negotiations and agreements, whether written or oral, between the parties with respect to the subject matter of this Agreement.
14. Savings Clause. Should any provision of this Agreement be found to be in conflict with any federal or Oregon state law, or final controlling decision of any Court of competent jurisdiction, or ruling or decision of any controlling administrative agency, all other provisions of this Agreement shall remain in full force and effect.

CITY: Rick Robinson, City Administrator  
City of Canby  
PO Box 930  
Canby, OR 97013

CONTRACTOR: Tim Kimble  
KinTechnology, Inc.  
PO Box 305  
Canby, OR 97013

**Please submit invoices to: Attn: Accounts Payable  
City of Canby  
PO Box 930  
Canby, OR 97013  
ap@canbyoregon.gov**

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly appointed officers.

**CONTRACTOR: CITY OF CANBY**

By: By:  
Date: Date:  
**Subcontractors will be used \_\_\_\_ Yes \_\_\_\_ No (If Yes, please complete List of Subcontractors attached to this Agreement)**

Approved as to Form:

\_\_\_\_\_  
Joseph Lindsay, City Attorney

11/6/15



## LIST OF SUBCONTRACTORS

***As per Section 5 of the Personal Services Agreement, the following businesses will be subcontractors. Subcontractors are required to have a City of Canby Business License prior to commencing work under this contract.***

[illegible]

**The City hereby approves the above listed subcontractors.**

City of Canby

Date \_\_\_\_\_

## **EXHIBIT A**

### **Monthly Scope of Services –**

KinTech agrees to manage and maintain the City of Canby computer network system using the following services:

- One technician for an average of 36-40 hours per week.
- Maintain network level web filtration system.
- Maintain inventory documentation.
- Coordinate and consolidate all requests for support using KinTech ticketing system.
- Monitor network system status and performance.
- Create and manage users and groups.
- Manage data organization and security.
- Manage data backup and data restore systems.
- Planning, installation, and maintenance of physical network backbone.
- Manage internal and external network security.
- Planning and maintenance of email systems.
- Research and implement technology advancements.
- Plan, research, and assist with acquisitions of new hardware and software.
- Setup, configure, and maintain new and current workstations.
- Troubleshoot software and hardware issues.
- Relocate user workstation environments.
- Removal of malware and viruses from network systems.
- Troubleshoot and maintain network printing.
- Assess user requirements and propose solutions to meet them.
- Manage hardware recycling and, or secure disposal.

Scope of Services does not include the following:

- All hardware needs - costs will be discussed as needed.
- Anti-Virus licensing renewals - City will be responsible for renewal fees.
- Web Filtration subscription – Three systems available for \$475 per month.
- Anti-Spam filtration subscription - Service available at a cost of \$5.90 per user per month.
- Create documentation for training purposes.
- Provide training for users on hardware and software systems.

## **EXHIBIT B**

### **Monthly Service Fee:**

\$8,333.33 set monthly fee not to exceed \$100,000.00 for the 18'19 budget year.

### **Other Services:**

Other services not included in the above *Monthly Scope of Services* will be charged at our regular rates listed below. All charges will be approved in advance by an authorized City representative. [Authorized City representatives include Assistant City Administrator/HR Director, City Administrator, and City Recorder.]

Rates - Base hourly rates apply to services provided during normal weekday business hours Monday through Friday, 8:00am to 6:00pm in the time zone where services are performed. Holiday rates will be charged at double the base hourly rate on national holidays. Emergency rates will be charged at double that base hourly rate for non-scheduled urgent-care-response events. *Overtime* rates will be charged at one and one half times the base hourly rate during non-holiday, non-emergency and non-weekday business hours. KinTechnology reserves the right to change base hourly rates with prior notice to customers.

#### **Base Hourly Rates**

\$95/hr

\$145/hr

\$145/hr

\$95 to \$145/hr

\$95 to \$145/hr

#### **Consulting Position**

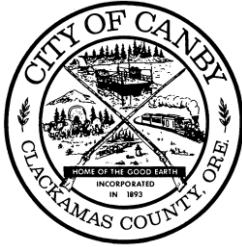
PC/MAC Tech

Networking Tech

Server Tech

Programmer

Training



BEFORE THE CITY COUNCIL  
OF THE CITY OF CANBY

A REQUEST FOR APPROVAL OF	)	FINDINGS, CONCLUSION & FINAL ORDER
ANNEXATION AND ZONE CHANGE	)	ANN 18-01/ZC 18-01
FOR PROPERTY LOCATED IN	)	PAUL M. AND SUSAN E. DUPONT
NORTHEAST CANBY AT 2125 NE	)	
TERRITORIAL ROAD	)	

**NATURE OF THE APPLICATION**

The Applicants sought approval for an annexation/zone change application City File# **ANN 18-01/ZC 18-01** to annex 2.64 acres of property described as Tax Lots 31E27DB00200, 00201 and a portion of 41E27AD01500 where the previous County Spitz Road traverses along the east side of the private property and one-half of the adjacent Territorial Road adjacent to the south side, Clackamas County, Oregon. The property is zoned Clackamas County RRFF-5 and is requested to be zoned City R-1, (Low Density Residential) in accordance with the City Comprehensive Plan.

**HEARINGS**

The Planning Commission considered applications City File# **ANN 18-01/ZC 18-01** after the duly noticed hearing on April 23, 2018 during which the Planning Commission recommended by a 7/0 vote that the City Council approve City File# **ANN 18-01/ZC 18-01** per the recommendation contained in the staff report. This includes approval of the proposed Development Agreement.

The City Council considered applications **ANN 18-01/ZC 18-01** after the duly noticed hearing on May 16, 2018 during which the Council voted 5/0 to approve City File# **ANN 18-01/ZC 18-01**. These findings are entered to document the approval.

**CRITERIA AND STANDARDS**

In judging whether or not the annexation and zone change applications shall be approved, the Planning Commission and City Council determines whether criteria from the *City of Canby Land Development and Planning Ordinance* are met, or can be met by observance of conditions. Applicable criteria and standards were reviewed in the Planning staff report dated April 23, 2018 and the staff memorandum prepared for Council review dated May 3, 2018 and presented at the May 16, 2018 City Council public hearing along with the Planning Commission's recommendation.

**FINDINGS AND REASONS**

The Staff Report was presented, and written and oral testimony was received at the Council public hearing. The recommendation to approve City File# **ANN 18-01/ZC 18-01** from the Planning Commission was noted by staff.

After hearing public testimony, and closing the public hearing, the City Council made no additional findings beyond those contained in the staff report to arrive at their decision and support their recommendation.

### **CONCLUSION**

In summary, the City Council adopted the findings contained in the staff report, concluded that the annexation/zone change/Development Agreement met applicable approval criteria, and approved City File# ANN 18-01/ZC 18-01 as recommended by the Planning Commission. The City Council's order is reflected below.

### **ORDER**

Based on the application submitted and the facts, findings, and conclusions of the staff report, and from the public hearing, and the Planning Commission's recommendation, the City Council **APPROVES** Annexation and Zone Change applications for the DuPont Annexation City File# **ANN 18-01/ZC 18-01** as follows:

1. The Development Agreement be adopted and recorded with the property within 7 days of final approval of the annexation and rezoning application, and
2. ANN 18-01/ZC 18-01 be approved and,
3. Upon annexation, the zoning of the subject properties be designated as R-1 as indicated by the Canby Comprehensive Plan Map.

**I CERTIFY THAT THIS ORDER** approving **ANN 18-01/ZC 18-01 DuPont Annexation & Zone Change** was presented to and **APPROVED** by the City Council of the City of Canby.

DATED this 6th day of June, 2018

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Brian Hodson  
Mayor

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Bryan Brown  
Planning Director

### **ORAL DECISION – May 16, 2018**

AYES: Smith, Parker, Hensley, Dale, and Spoon.

NOES: None.

ABSTAIN: None.

ABSENT: Heidt.

**WRITTEN FINDINGS – June 6, 2018**

AYES:

NOES:

ABSTAIN:

ABSENT:

**ATTEST:**

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Kimberly Scheafer, MMC  
City Recorder