



## CITY OF ST. HELENS PLANNING DEPARTMENT

# M E M O R A N D U M

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**TO:** City Council and interested parties  
**FROM:** Jacob A. Graichen, AICP, City Planner  
**RE:** Appeal AP.1.22 Record for continued deliberations  
**DATE:** August 18, 2022

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At the City Council deliberations on August 17, 2022, the Council motioned and approved continuing deliberations to the September 21, 2022 regular session. The key purpose of this was to allow more time to review the record, given recent changes to the lot layout and other “last minute” correspondence.

This bundle is intended to provide a single document with all information available up to the August 17, 2022 appeal hearing for review prior to deliberations on September 21<sup>st</sup>.

Attached to this memo is the record thus far, including the presentation slides staff used to present the matter at the August 17, 2022 public hearing. I included these slides as they show the draft revised standards table based on the Planned Development (overlay zone) that was adopted by Ordinance No. 3286. The slides also have the original plan (with many lots less than 7,000 square feet) and the revised one received on August 15, 2022 (all lots at or above 7,000 square feet) back-to-back for easier comparison.

Attached:

1. Presentation slides used at the August 17, 2022 public hearing (5 total)
2. Letter dated August 15, 2022 from David J. Petersen
3. Potential conditions list if the Council agrees to addressing the sanitary sewer issue with a fee in lieu. This was created by staff on August 17, 2022.
4. Basis for sanitary sewer fee in lieu amount of \$6,600 per EDU and other related information.
5. City Council Staff Report dated August 10, 2022+ attachments







## \*COMSTOCK SUBDIVISION PLANNED DEVELOPMENT STANDARDS

The base standards the R7 zone, those which can deviate as a Planned Development, and those proposed:

**PLANNED DEVELOPMENT STANDARDS TABLE**

STANDARD	R7 ZONING DISTRICT	PD ALLOWS FLEXIBILITY?	PROPOSED
<b>Min. lot size</b>	7,000 s.f. for detached single-family dwellings and duplexes	Not per draft ORD	7,000 s.f. for detached single-family dwellings and duplexes
<b>Min. lot width at building line (interior lots)</b>	60 feet for detached single-family dwellings and duplexes	Yes	40 feet for detached single-family dwellings and duplexes
<b>Min. lot width at building line (corner lots)</b>	85 feet for detached single-family dwellings and duplexes	Yes	40 feet for detached single-family dwellings and duplexes
<b>Min. lot width at street (standard)</b>	50 feet for detached single-family dwellings and duplexes	Yes	30 feet for detached single-family dwellings and duplexes
<b>Min. lot width at street (cul-de-sac)</b>	30 feet	Yes	30 feet
<b>Min. lot width at street (flag lot)</b>	Flag lots prohibited	Yes (unless flag lots prohibited)	Flag lots prohibited
<b>Min. lot depth</b>	85 feet	Yes	80 feet
<b>Min. front yard (setback)</b>	20 feet	Yes (except along perimeter of PD and for garage structures which open facing a street)	15 feet (20 feet required along perimeter of PD and for any garage structure which opens facing a street)
<b>Min. side yard (setback)</b>	7 feet for interior lots and 14 feet for sides of corner lots along street for detached single-family dwellings and duplexes	Not per draft ORD	7 feet for interior lots and 14 feet for sides of corner lots along street for detached single-family dwellings and duplexes
<b>Min. rear yard (setback)</b>	20 feet	Yes (except along perimeter of PD)	15 feet (20 feet along perimeter of PD)
<b>Min. interior yard (building/structure separation)</b>	7 feet	No	7 feet
<b>Max. building height</b>	35 feet	Yes	35 feet
<b>Max. lot coverage</b>	Buildings and structures shall not occupy more than 40% of the lot area for detached single-family dwellings and duplexes	No	Buildings and structures shall not occupy more than 40% of the lot area for detached single-family dwellings and duplexes
<b>Min. landscaping</b>	25% of the lot area	No	25% of the lot area

**No other code exceptions or modifications are proposed.**

\*Final subdivision name requires approval by the County Surveyor. This is a preliminary name and may change.

June 2022 Updated Aug. 2022



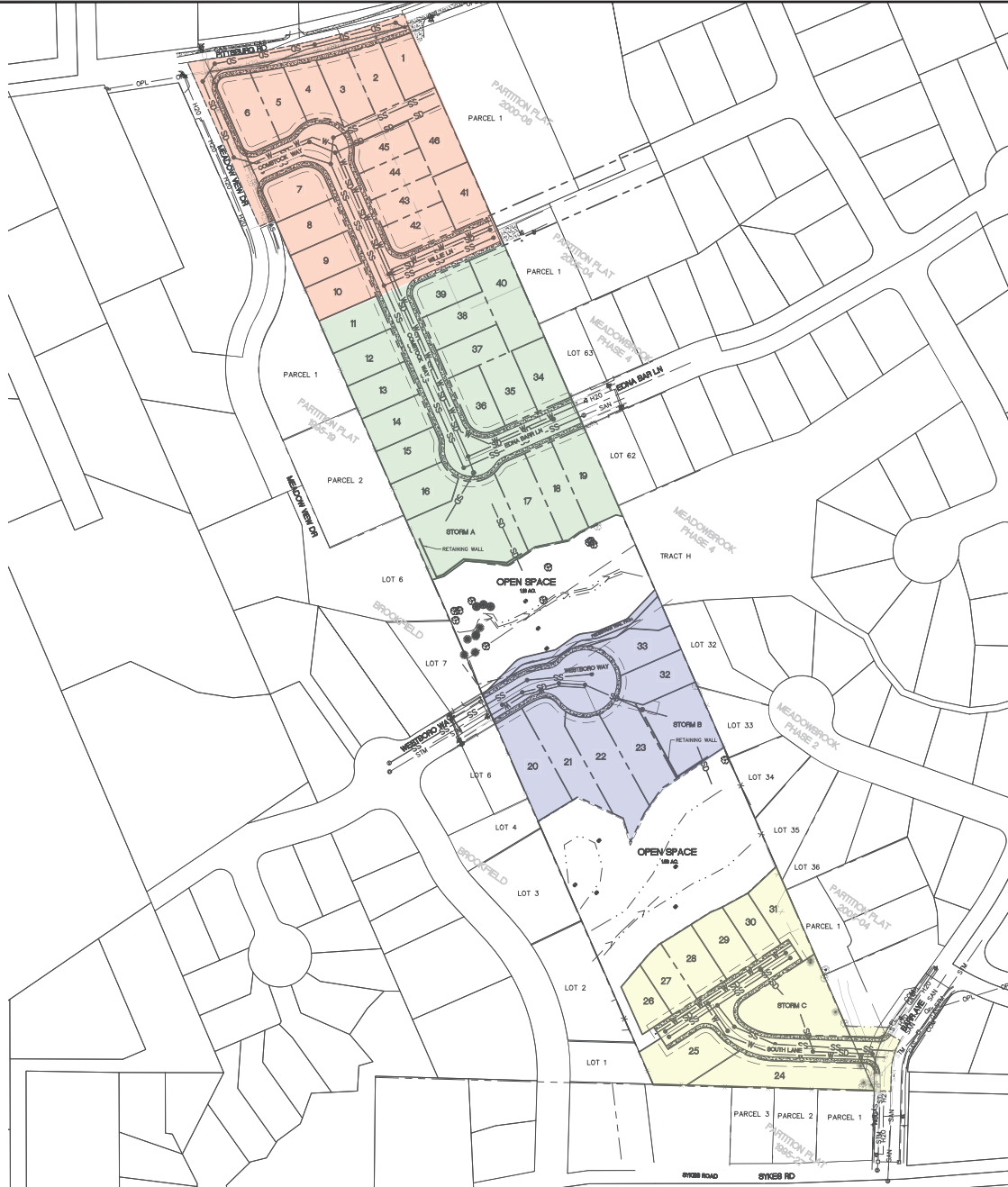
## Wastewater Master Plan



City of St. Helens, OR



DRAWING NAME: J:\2740-004\2740-004-01.dwg, ENGINEERING: J. CADY, PRODUCTION: J. LUTZ, DATE: 06/20/2023, 06:29:09, 01:59PM, 505





**REVISED PRELIMINARY  
PLAT SUBMITTED 8.15.22**

**NO LOTS BELOW 7,000 S.F.**







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August 15, 2022

VIA E-MAIL - [jgraichen@sthelensoregon.gov](mailto:jgraichen@sthelensoregon.gov)

St. Helens City Council  
c/o Mr. Jacob A. Graichen, City Planner  
City Hall  
265 Strand Street  
St. Helens, OR 97051

Re: Noyes Development Co. - Comstock Subdivision  
City File No. SUB.2.22

Dear Councilors:

This law firm represents the applicant Noyes Development Co. ("Noyes") with respect to the above-referenced land use matter. We submit this letter in furtherance of Noyes' July 22, 2022 appeal of the Planning Commission's July 18, 2022 order (the "Order") denying the above-referenced subdivision application. The City Council has scheduled the appeal hearing for August 17, 2022.

**1. Noyes has proposed a revised subdivision plat that will comply with proposed Ordinance 3286 adopting a Planned Development Overlay Zone for the subject property.**

The Commission denied the application on two grounds. The first reason was because "the lot sizes on the proposed preliminary plat are predominantly" less than 7,000 square feet. Order, p. 19. Subsequent to issuance of the Order, the City Council considered Noyes' application to amend the City zoning map for the property to add a Planned Development Overlay Zone that would, among other things, allow some lots in the project to be less than 7,000 square feet. On August 3, 2022, the City conducted a first reading of draft Ordinance 3286 adding the planned development overlay, except that the Ordinance would not permit the lot size flexibility requested by Noyes.

Ordinance 3286 is receiving its second reading concurrently with this appeal. Assuming the Ordinance is adopted without change, the Ordinance will amend the zoning for the subject property to impose a planned development overlay that would permit Noyes' original proposal except as to lot size. To comply with the anticipated Ordinance, Noyes proposes the enclosed revision to the preliminary plat that reduces

the number of lots in the subdivision to 34, all of which are 7,000 square feet or greater. Consequently, on the assumption that the Ordinance is approved without change, the first ground for denial of the subdivision has been rendered moot by Noyes' revised proposal.

**2. The Planning Commission erred in denying the subdivision based on allegedly insufficient capacity in the City sewer system to serve the proposed project.**

The only other ground upon which the Planning Commission denied the application is St. Helens Municipal Code (SHMC) 17.152.090(4), which states that:

Development permits may be restricted by the commission or council ... where a deficiency exists in the existing sewer system or portion thereof which cannot be rectified within the development and which if not rectified will result in a threat to public health or safety, surcharging of existing mains, or violations of state or federal standards pertaining to operation of the sewage treatment system.

Specifically, the Commission found that: (1) the City's November 2021 Wastewater Master Plan (the "Wastewater Plan") identifies "multiple undersized trunk lines already operating at or above capacity that this development would depend on;" (2) adding more sewage to those trunk lines could lead to surcharges; and (3) the cost to make the necessary improvements to the affected trunk lines is approximately \$10 million, which the Commission concluded would make the project "economically infeasible." Order, pp. 13-14. These findings are improper and erroneous for several reasons, as follows.

a. The Order contradicts the City's prior finding that adequate sewer capacity is available to serve the project.

The Order wholly contradicts City Ordinance No. 3281, adopted by the City Council on March 16, 2022. Ordinance 3281 annexed the subject property to the City after the City Council "considered findings of compliance with criteria and law applicable to the proposal." Ordinance, p. 1. In support of the City's decision to annex the subject property, the City Council made Findings of Fact and Conclusions of Law (the "Annexation Findings") that are attached to Ordinance 3281 as Exhibit C.

SHMC 17.28.030(1)(a) requires that, to approve an annexation, the City must find that "adequate public facilities are available with sufficient capacity to provide service for a proposed annexation area." Critically, the Annexation Findings





expressed zero concern regarding adequate sewer access or capacity. According to the Annexation Findings, there also was "no evidence" that the annexation would "be contrary to the health, safety, and welfare of the community." Annexation Findings, p. 2. To the contrary, in the Annexation Findings the City Council found that:

City sanitary sewer is available to the property in multiple locations: stubbed at Westboro Way to the west and stubbed at Edna Barr Lane and along Barr Avenue to the east. Within Pittsburg Road, the sanitary sewer is located approximately 615 feet away from the edge of the subject property.

With regards to capacity, the City's wastewater treatment plant currently has a daily limit (physically and as permitted by DEQ) to handle over 50,000 pounds of Biochemical Oxygen Demand (BOD) and a monthly average limit of 26,862 pounds. This is the "loading" or potency of the wastewater received by the plant. The average daily BOD is well below this at only 1,500 pounds. **Thus, any potential uses that occur on the subject property can be accommodated by the City's sanitary sewer system as infrastructure is in place and there is substantial capacity available.** Annexation Findings, p. 5 (emphasis added).

These findings make clear that the City found that "adequate public facilities are available to the area and have sufficient capacity to provide service for the proposed annexation area," as required by SHMC 17.28.030(1)(a). The City Council reached this conclusion only three months before the Planning Commission denied Noyes' subdivision application, but the Order identifies no changed circumstances justifying a reversal of the Annexation Findings. Accordingly, there is no substantial evidence in the record to support this complete disregard of the City Council's findings a mere three months earlier. For these reasons, the City Council should overturn the Order and find, consistent with Ordinance 3281, that there is sufficient sewer capacity to serve this project.

b. Even if there is inadequate sewer capacity to serve the project, the Order's reliance on SHMC 17.52.090(4) was erroneous and the subdivision still must be approved.

i. *The Planning Commission has imposed a de facto moratorium in violation of applicable law, mandating reversal.*



In the Order, the Commission found that "adding new development will increase surcharging potential and is a great risk considering the city's overarching obligation of public health, safety and welfare." Order, p. 13. It also found that existing deficiencies "cannot be rectified by development because the scale and cost is too high to require the improvements." *Id.* at 14.

By making these findings and failing to provide conditions under which development may proceed, the Commission established a *de facto* moratorium without following the requirements of ORS 197.505–197.540. Under ORS 197.524(1), a local government that delays or stops the issuance of permits necessary for the development of land due to a public facilities shortage must either adopt a public facilities strategy under ORS 197.768 or adopt a moratorium under ORS 197.505–197.540. To our knowledge the City has done neither, so imposition of a *de facto* moratorium via the Order is unlawful. Without a pre-existing and lawful moratorium in place, the project cannot be denied based on insufficient public facilities and the Order must be reversed. ORS 227.178(3)(a).

*ii. A subdivision is not a development permit and therefore SHMC 17.152.090(4) does not apply.*

In denying the application, the Planning Commission relied on SHMC 17.152.090(4) which says that "development permits" may be restricted when there is a deficiency in the existing sewer system. The SHMC does not define "development permit," but "development" is defined in SHMC 17.16.010 as:

any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, land clearing, grading, paving, excavation, or drilling operations, but not including maintenance such as grass mowing or planting, vegetation control, removal of noxious plants or nonnative vegetation, tree thinning for fire control or diseases, and removal of dangerous trees or materials.

A subdivision plat does none of these things. A subdivision plat merely draws lines on a map to create new legal lots from a larger parcel; it does not authorize any "manmade change to improved or unimproved real estate." As such, a subdivision plat is not a "development permit" and SHMC 17.152.090(4) may not be used to deny approval of a subdivision plat.

*iii. The standards of SHMC 17.52.090(4) are not clear and objective and therefore do not apply to a proposal for a residential subdivision.*





Even if a subdivision plat is a development permit within the scope of SHMC 17.52.090(4), that code provision still does not apply because it does not establish clear and objective approval standards. ORS 197.307(4) provides that the City "may adopt only clear and objective standards, conditions and procedures regulating the development of housing," and those regulations "may not have the effect, either in themselves or cumulatively, of discouraging needed housing through unreasonable cost or delay." See also ORS 227.175(4)(b)(a) (a city may not deny an application for housing within the UGB if the proposal complies with clear and objective standards).

Clear and objective standards must have "objective benchmarks" for measuring compliance. *Warren v. Washington County*, 78 Or LUBA 375, 388, *aff'd* 296 Or App 595 (2019). Conversely, phrases that require a "subjective analysis" to determine their meaning violate ORS 197.307. *Legacy Development Corp. v. City of The Dalles*, \_\_ Or LUBA \_\_ (LUBA No. 2020-099, *slip op* at 12) (Feb. 24, 2021).

SHMC 17.52.090(4) is not clear and objective. It permits a restriction on development permits only if: (1) there is a deficiency in the existing sewer system; (2) the deficiency cannot be rectified within the development; and (3) if not rectified the deficiency will result in a threat to public health or safety, surcharging of mains, or violation of government standards. There are no "objective benchmarks" in the code provision to determine when a deficiency exists, or if the deficiency will pose a threat if not rectified. Evaluating these issues requires a "subjective analysis" to determine their meaning and are therefore not clear and objective. As such, they may not be applied to a land use application for housing.

By applying standards that are not clear and objective, the City is acting outside the range of its discretion under its comprehensive plan and implementing ordinances. On appeal to LUBA, this would warrant reversal with an order requiring the City to approve the application and obligating the City to pay Noyes' attorney fees. ORS 197.835(10)(a) and (b).

c. The Order violates ORS 197.522(3) regarding needed housing.

ORS 197.522(2) provides that the City "shall approve an application for a permit, authorization or other approval necessary for the subdivision or partitioning of, or construction on, any land for needed housing that is consistent with the comprehensive plan and applicable land use regulations." "Needed housing" is "all housing on land zoned for residential use ... that is determined to meet the need for housing within an urban growth boundary at price ranges and rent levels that are affordable to households within the county ...." ORS 197.303(1). The need for housing is established by the local government's projections under ORS 197.303(2).



The City's most recent Housing Needs Analysis is dated May 30, 2019 and is attached to City Ordinance No. 3244 as Attachment A. The analysis found, among other things, that "population growth will require the addition of 1,621 new dwelling units between 2019 and 2039" and that "St. Helens has an existing deficit of affordable housing, as well as market-rate rental apartments." Further, in Ordinance 3281 the City Council expressly found, in response to SHMC 17.28.030(1)(e) requiring a "need" for the annexation, that "[t]here is an undisputed need for housing in the region." Annexation Findings, p. 10.

With an unequivocal need for additional housing in the City already established by prior ordinances, the City was obligated to comply with ORS 197.522(2) by approving the project, if consistent with the comprehensive plan and applicable land use regulations. If the project was inconsistent with the comprehensive plan or applicable land use regulations, then the City was obligated to (but did not) "allow the applicant to offer an amendment or propose conditions of approval that would make the application consistent ...." ORS 197.522(3). Because the City has not complied with ORS 197.522, the Order must be rejected.

d. The Planning Commission's findings regarding cost and economic infeasibility of the needed sewer improvements are not supported by substantial evidence in the record.

The Commission cited only two items of evidence in support of its findings under SHMC 17.52.090(4): the Wastewater Plan and an engineering staff report dated June 22, 2022. As discussed above in part (a), it is inappropriate to rely on the Wastewater Plan to conclude that the sewer trunk lines serving this site are inadequate since that conclusion is directly contradictory to Ordinance 3281, enacted by the City Council in March 2022 after adoption of the Wastewater Plan. However, even if Ordinance 3281 is disregarded and the Wastewater Plan supports the Commission's findings that there are inadequacies in the system and a risk of surcharges, the evidence still does not provide reasonable support for the Commission's third finding that the necessary improvements are economically infeasible.

The basis of the Commission's findings on sewer capacity are summarized on page 1 of the June 22 engineering staff report, which states:

[The d]evelopment proposes to connect to the public sewer main on Sykes Rd. which is identified in the City's Wastewater Master Plan as "operating at or above capacity". The deficiencies found in Sykes Rd. sewer are undersized trunklines and by high peak flows. These





deficiencies put the sewer main at risk of surcharging, which occurs when flows exceed the capacity of a full pipe causing wastewater to back up into and out of manholes. Surcharging sewer mains may cause an increase for potential backing up into residents' homes. Furthermore, the growth affects more than one basin trunkline. The undersized Sykes Rd. sewer trunkline is connected to the undersized Port Ave. trunkline and the undersized South Trunk.

This analysis, which the Commission specifically relies on, identifies three sewer facilities that are allegedly above capacity and are potentially impacted by this project: the Sykes Road, Port Avenue and South trunks. With respect to the Sykes Road trunk, the Wastewater Plan recommends upsizing to an 18-inch main. Wastewater Plan, p. 7-7. The estimated cost of these improvements is \$1,400,000. See Appendix 1 of the Wastewater Plan, cost estimates for Basin 2, Projects 2.a and 2.b. While the overall cost estimate for the Basin 2 upgrades is \$9.5 million, that sum is for all proposed upgrades in the basin, but the project would impact only the Sykes trunk and not any of the other trunks in Basin 2. Moreover, those costs should be shared by all development using the Sykes trunk, and this project should only be responsible for its proportionate share.<sup>1</sup>

Similarly, the Port Avenue upgrade is estimated at \$1,688,000. See Appendix 1 of the Wastewater Plan, cost estimates for Basin 6. The project's proportional share of these costs would be quite small, since the Port Avenue trunk drains about one-third of the City.<sup>2</sup> See Wastewater Plan, Figs. 1-2 and 1-3. And while it is not clear from the engineering staff report, solving the South Trunk bottleneck appears to be part of the \$2,890,000 Southern Trunkline upsizing costs. See Project 3.3 in Table 1.5.<sup>3</sup>

Thus, the project's proportional share of the improvements proposed in the Wastewater Plan would be: (1) a proportional share of 12% of the \$1,400,000 cost of the Sykes Road Trunk improvements; (2) a smaller proportional share of 7% of the \$1,688,000 cost of the Port Avenue improvements; and (3) a very small proportional

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<sup>1</sup> See Wastewater Plan, Table 1-5, attributing 88% of the cost of the Basin 2 upgrades to existing development and only 12% to new development. That 12%, in turn, must be distributed over all new development that will use the Sykes Road Trunk and that comes online during the 20-year planning horizon of the Wastewater Plan.

<sup>2</sup> Similar to the Basin 2 costs, Table 1-5 attributes 93% of the Basin 6 upgrade costs to existing development and 7% to new development. That 7% is then further distributed over all new development using the Port Avenue Trunk in the next 20 years.

<sup>3</sup> Similar to the other two trunklines, these costs are allocated 74% to existing development and 26% to new development. Since the South Trunk appears to drain about three-quarters of the City (see Wastewater Plan, Figures 1-2 and 1-3), this 26% would then be further shared by most of the new development in the City for the next 20 years.



share of 26% of the \$2,890,000 South Trunk improvements. The Order makes no effort to calculate the project's respective proportional shares,<sup>4</sup> but it is clear that this sum would be vastly less than the Commission's \$10 million figure, which is not supported by any evidence at all.<sup>5</sup>

It is also worth noting that all of the trunkline upgrades that would be affected by this project are ranked as Priority 3 in the Wastewater Plan, which is the lowest of the three possible priorities. See, e.g., Wastewater Plan Table 1-5. For trunkline upgrades, the Wastewater Plan describes Priority 3 as improvements in "areas where the City has reported infrequent or no observations of historical overflows or surcharging, but the hydraulic modeling evaluation identified as areas within capacity limitations within the 20-year planning period." Wastewater Plan, p. 7-6. In other words, these trunklines have not yet overflowed or surcharged, but might at some time prior to full buildout in the 20-year planning period. Contrast this rather mild level of concern with the alarmist language of the supplemental staff and engineering staff reports which suggest that surcharges are imminent. If that was true, then why were the Basin 2 and Basin 6 improvements not placed in Priorities 1 or 2? The Planning Commission has relied upon the lowest priority of sewer improvements needed in the City to accommodate 20 years of growth, to effectively prohibit any more growth at all until even the lowest priority improvements are fully funded. This is poor planning as it effectively prohibits the City from participating in any effort to meet the demand for housing, and it is also a *de facto* moratorium which, as discussed above in part b(i), has not been properly adopted.

Accordingly, the Commission's finding that the project's contribution to the cost of recommended trunkline improvements would make the project "economically infeasible" is not supported by substantial evidence. Decisions based on findings that offer no factual support for the conclusions reached are inadequate and will lead to a remand from LUBA. *Middleton v. Josephine County*, 31 Or LUBA 423, 433 (1996). If the proper calculation of the project's fair share had been done, as recommended by the engineering staff report, there is a reasonable possibility that Noyes may be willing to accept a condition of approval requiring payment of a fairly-calculated sewer impact fee. And as noted above in part (c), because needed housing is at issue here, ORS 197.522(3) requires that when an approval criterion may feasibly be met with imposition of a condition, the applicant must be given the opportunity to accept

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<sup>4</sup> Calculating and assessing a fair share cost is the second option outlined in the engineering staff report, but was rejected by the Commission.

<sup>5</sup> The \$14 million figure cited in the supplemental engineering staff report dated August 8, 2022, is not reasonable evidence in support of this conclusion. That figure lumps together the total cost of all desired improvements in both Basin 2 and Basin 6, but as explained in this letter, this development will only impact some of the sewer facilities in those basins, and any cost must be equitably shared with both existing users and other new development during the 20-year planning horizon.





the condition before the proposal is denied based on failure to meet the criterion. The City is obligated to work with the applicant to calculate a reasonable fair share contribution to future sewer upgrades that can potentially be imposed as a condition of approval.

\* \* \* \* \*

For the foregoing reasons, the Order should be overturned and, based on the entire record, the City Council should conclude that all applicable approval criteria for the subdivision are met and enter an order approving the subdivision. Alternatively, the Order should be overturned and remanded back to staff with instructions to work with the applicant on an amendment or condition of approval that would permit approval.

Please include this letter in the record in this matter. Thank you for your consideration of these issues.

Best regards,



David J. Petersen

DJP/rkb  
Enclosure

cc (via e-mail, w/enc):  
Clark Vorm  
Mick Harris  
Ken Sandblast

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**To: City Council**

**From: Jacob Graichen, AICP, City Planner**

**RE: Appeal AP.1.22 of SUB.2.22, Comstock Subdivision**

The conditions below are those from the Planning Commission's staff report dated July 5, 2022. The conditions have been amended (new text; ~~deleted text~~) based on the potential of approval by the Council given a revised preliminary plat concept and suggested fee in lieu condition to address the sanitary sewer issues, both provided by the appellant on August 15, 2022.

The memo is not intended to force the Council into any decision but is intended to represent the middle ground between the city and applicant, which if the Council agrees, will hopefully make the process more efficient.

\* \* \* \* \*

**Proposed Conditions:**

1. **This Subdivision preliminary plat approval shall be effective for a period of eighteen (18) months from the date of approval.** The approval shall become void if a final plat (for first phase) prepared by a professional registered surveyor in accordance with (1) the approved preliminary plat, (2) the conditions herein, and (3) the form and content requirements of the City of St. Helens Development Code (SHMC Title 17) and Oregon Revised Statutes is not submitted within the eighteen (18) month approval period.

**The approval for phase 2**, contingent upon completion of phase 1, shall be void if the same requirements for phase 1 (noted above, except the time period) are not completed within two years from the date the final plat is submitted for phase 1 and the requirements of SHMC 17.136.050 are not met.

**The approval for phase 3**, contingent upon completion of phases 1 and 2, shall be void if the same requirements for phase 1 (noted above, except the time period) are not completed within two years from the date the final plat is submitted for phase 2 and the requirements of SHMC 17.136.050 are not met.

**The approval for phase 4**, contingent upon completion of phases 1, 2 and 3, shall be void if the same requirements for phase 1 (noted above, except the time period) are not completed within two years from the date the final plat is submitted for phase 3 and the requirements of SHMC 17.136.050 are not met.

Two **time extensions** may be granted pursuant to SHMC 17.136.040(2) for any phase, but only two total are possible for all phases.

Notwithstanding any validity period or time extension above, **any portion or phase that is not vested, shall be void seven years from the date of the original decision of this preliminary plat.** Nothing under this condition is intended to preclude owner/developer from acting on multiple phases simultaneously.

2. **The following shall be completed prior to submission and the City's acceptance of a final plat application (as applicable to each phase):**
  - a. A Planned Development overlay (e.g., via file PD.2.22) shall be adopted and in effect for the subject property.
  - b. Homeowners Association (HOA) and CC&Rs for establishing the HOA shall be approved (see condition 8).
  - c. Engineering/construction plans for all public and other applicable improvements shall be submitted to the city for review and approval in compliance with all City of St. Helens laws and standards and in accordance with the conditions herein. As specific conditions of approval, these plans shall include:
    - A. Changes necessary for the final plat per condition 3 to avoid conflicts between these plans and the final plat to the maximum extent possible.
    - B. As per condition 3.a (tracts and phasing).
    - C. Construction details for the pedestrian path connecting Westboro Way to Tract H of the Meadowbrook Planned Community, Phase 3.
    - D. Methods of preventing disturbance and encroachment of wetland and upland wetland protection zone areas. See condition 4.c.
    - E. Tree plan for existing trees to be preserved, to be protected during construction per Chapter 17.132 SHMC.
    - F. Joint mailbox facility(ies) shall be included per City and USPS (Postmaster) standards. Subject to city and Postmaster approval.
    - G. All applicable street cross sections representing the appropriate classifications per the City's Transportation Systems Plan.
    - H. Street frontage improvements to Pittsburg Road per the city's minor arterial standards including street trees per Chapter 17.72 SHMC. Street trees shall be "small" per Chapter 17.72 SHMC due to existing overhead power.
    - I. Access and utility improvements to serve Lots accessed by access easement (private road). "No parking" designation required on both sides of street.



- J. Streets shall meet fire code specifications as applicable. For example, 26 radii are proposed at the hammerhead cul-de-sac off Barr Avenue except a 28' corner radius is required.
  - K. Per condition 3.b (approval of street names).
  - L. Streetlights are required at each intersection and at such locations to provide overlapping lighting to sufficiently illuminate the street. New streetlights shall use LED fixtures.
  - M. Infrastructure and improvements reconfiguration/relocation to allow the Barr Avenue access made possible by the dedication deed recorded as instrument no. 2022-3799.
- d. Prior to or with submission of engineering/construction plans per **condition 2.c**, a drainage plan and full stormwater report shall be submitted that includes methods of downstream conveyance and pre and post conditions. The proposed development shall mitigate the increased stormwater flows from the site so that the increased runoff will not impact the downstream flows. It shall also include provisions for protecting wetland water quality, for facilities draining into wetlands. As per Columbia County Public Works, no additional storm water to be added to Pittsburg Road or Meadowview Drive.
  - e. *The Full Completion Method.* **All public improvements shall be completed, in place and acceptable to the City, Columbia County, and Bonneville Power Administration (BPA) as applicable.** The only exception to this is that portions of sidewalk that abut buildable lots created by this subdivision where there may be a driveway approach are often not built until the lot is developed. Though some portions of sidewalk will be required where there will be no driveway approach such as corners and along non-buildable tracts. For these portions of sidewalk allowed to be left unfinished for the final plat, a performance guarantee will be required prior as approved by City Engineering. Completion includes providing final approved as-build plans to the City and any other guarantees (e.g., bonds) of workmanship or guarantees of performance for public improvements that may be required;

Or

*The HB 2306 Method (Oregon Laws Chapter 397).* **All public improvements shall be “substantially completed,” in place and acceptable to: the City, Columbia County, and Bonneville Power Administration (BPA) as applicable. “Substantial completed” means** the city, county or other appropriate public body has inspected, tested and found acceptable under applicable code requirements, unless the parties agree to a lower standard: (A) The water supply system; (B) The fire hydrant system; (C) The sewage disposal system; (D) The storm water drainage system, excepting any landscaping requirements that are part of the system; (E) The curbs; (F) The demarcating of street signs acceptable for emergency responders; and (G) The roads necessary for access by emergency vehicles. The remaining public improvements are secured with some type of financial guarantee such as a bond. Other guarantees (e.g., bonds) of

workmanship or guarantees of performance for public improvements may also be required. As-build plans shall be required unless insufficient work will be done per this “substantially completed” option, in which case the as-build plans shall be bonded.

- f. Maintenance plan for the private storm water facilities shall be approved by the city. This shall clearly identify maintenance activities and frequency, and the proposed entity(s) responsible for maintenance. Private responsibilities are also referenced in SHMC 13.20.060.
  - g. Approved access permit for connection to Meadowview Drive and approved construction permit(s) for Meadowview Drive and Pittsburg Road shall be obtained from Columbia County Public Works.
  - h. Applicable approvals from the Bonneville Power Administration (BPA).
  - i. Areas where natural vegetation has been removed, and that are not covered by approved landscaping, shall be replanted pursuant to SHMC 17.72.120. This includes the proposed lots to be developed to show how the lot themselves will be covered to prevent erosion, stream sedimentation, ground instability, or other adverse on-site and off-site effects or hazards before development of that specific lot commences.
  - j. Screening and buffering plan along the north side of all lots along Pittsburg Road per SHMC 17.152.030(16) and 17.136.060(3). This shall be in a form (e.g., 8.5” x 11” page) such that it can be attached to building permits.
3. **In addition to compliance with local, county, state and other requirements, the following shall be included on/with (for recordation) the final plats (as applicable to each phase):**
- a. The southerly wetland tract shall be part of Phase 1 of this subdivision. The wetland tract adjacent to Westboro Way and the pedestrian path connecting Westboro Way to Tract H of the Meadowbrook Planned Community, Phase 3, shall be a part of Phase 2 of this subdivision.
  - b. All new street names are subject to approval by Columbia 9-1-1 Communications District.
  - c. Minimum 8’ wide public utility easements will be required along the street frontage of all lots (and tracts) unless a greater width is determined necessary by City Engineering.
  - d. All utility easements necessary, as identified on approved engineering/construction plans shall be included on the final plat.
  - e. The County Surveyor shall approve the name of the plat.

- f. Right-of-way dedication for the Pittsburg Road, within 30' from the centerline of the right-of-way (approximately 10' of dedication along Pittsburg Road).
- g. Access control guarantees in a form approved by the city for the extension of Willie Lane. This shall be a note on the plat as approved by the city.
- h. Tracts shall be identified as to purpose.
- i. Maintenance agreement amongst the lots with shared access via easement. These are not public streets subject to public maintenance. Agreement shall include no-parking provisions within the private street (access easement).
- j. Any private shared access easement shall also be a public utility easement.
- k. Declaration of Protective Covenants, Conditions and Restrictions (CCRs) and Establishment of a Homeowners Association (HOA) shall be recorded with and noted on the final plat for HOA responsibility for common improvement maintenance (see condition 8).
- l. Conveyance of tracts and any other common area to the Planned Development's Homeowner's Association.
- m. The pedestrian path connecting Westboro Way to Tract H of the Meadowbrook Planned Community, Phase 3 shall be publicly accessible.
- n. All lots shall meet the dimensional and size requirements of the Development Code or as allowed by the Planned Development standards. This approval includes no Variance(s) or other means of allowing different standards. For example, Lot 24 shall meet the depth to width ratio of the R7 zoning district.
- ~~o. A notice shall be recorded on the deed of every lot indicating the building permit delay per condition 6.a.~~

[Changes to reflect the revised preliminary plat layout provided by the applicant on August 15, 2022, which still needs to comply with the other conditions and requirements herein.](#)

**4. Prior to any construction or development of the subject property of each phase:**

- a. Performance guarantees (e.g., performance bond) as approved by City Engineering shall be required for storm drainage systems, grading and erosion control. In addition, engineering/construction plans shall be approved.
- b. Applicant shall provide a copy of the approved 1200-C permit from Oregon DEQ.



- c. Any necessary sensitive lands permitting based on plans provided by condition 2.c for impacts not known or anticipated as part of the preliminary subdivision plat application.
- 5. **After completion of construction and City approval, all public improvements (for each phase) shall be guaranteed** (e.g., warranty bond) for at least two years as to workmanship in a form and value as required by City Engineering.
- 6. **The following requirements shall apply to the development of the lots of this Subdivision:**

- a. ~~No building permit may be submitted, processed, or issued for any lot created by this subdivision until the undersized trunk lines already operating at or above capacity that this development would connect to are upsized. This is not an explicit requirement of the developer, declarant or owner and is not a “condition of development” per Oregon Laws Chapter 397.~~

An additional “fair share” fee shall be paid per equivalent dwelling unit (EDU) based on the portions of the city wastewater collection system between the subject property and the wastewater treatment plant, that this development depends on, that are at or above capacity as identified in the 2021 Wastewater Master Plan. Estimated per EDU cost is \$6,600 in today’s dollars. Inflation adjustment to value at time of building permit issuance shall be included. See attached **Exhibit B**.

- b. If the “*HB 2306 Method*” is chosen under condition 2.e, certificate of occupancy for residential dwellings shall not be granted if **all public improvements are not completed, in place and acceptable to the City**. This includes providing final approved as-build plans to the City and release of any and all financial guarantees for improvements used to allow submission of the final plat or recordation of the final plat, before completion of said improvements. ~~This is in addition to condition 6.a above, which is more restrictive.~~
- c. Building permits for Lots created by this Subdivision cannot be accepted until the final plat is recorded. ~~This is in addition to condition 6.a above, which is more restrictive.~~
- d. If not otherwise recorded with the final plat as required, a Declaration of Protective Covenants, Conditions and Restrictions (CCRs) and Establishment of a Homeowners Association (HOA) shall be recorded (see condition 8).
- e. Curb/sidewalk shall be completed, and street trees will be required along all local streets (i.e., all streets except Pittsburg Road) as lots are developed. If the Pittsburg Road Street trees (installed as part of the subdivision infrastructure) are in a poor state, they will need to be replaced. The exception to the street tree installation requirement (i.e., none required) is within the BPA easement and along wetland or storm water tracts.
- f. Areas where natural vegetation has been removed, and that are not covered by approved landscaping, shall be replanted pursuant to SHMC 17.72.120.

- g. Sensitive Lands Permit will be required for any proposed structure to be placed or constructed on slopes of 25% or greater per Chapter 17.44 SHMC.
  - h. Vehicle access (e.g., driveways) are prohibited along Pittsburg Road. Direct access to Pittsburg Road is not allowed.
  - i. Screening and buffering plan per condition 2.j shall be implemented if not already installed and still intact (or not in disrepair and/or dying-dead, as applicable).
7. The zoning standards for this development shall be those as proposed per **Exhibit A**, attached hereto.
8. Declaration per ORS Chapter 94 that establishes the Planned Community **shall be recorded with the final plat**. Subject to review and approval by the City, it shall include the following:
- a. A Planned Development Homeowners Association formed as a nonprofit corporation.
  - b. Bylaws.
  - c. Specific language that prohibits the Homeowners Association from selling, transferring, conveying or subjecting to security interest of any platted open space or wetland tract without City of St. Helens approval.
  - d. The Planned Development Homeowners Association shall be responsible for all common improvements including but not limited to any open space tract, wetland tract, trail, stormwater quality facility (see condition 11), and subdivision entry monument signage.
  - e. Provisions for the City to veto dissolution of the Homeowners Association or have the right to assess owners for taxes and maintenance or lien properties.
  - f. Responsibility for common improvement maintenance. This includes but is not limited to the long-term operation and maintenance of the water quality facilities and wetland responsibilities. Storm management plan per condition 2.f shall be incorporated.
  - g. As applicable per condition 4.c related to any necessary sensitive lands permitting.
  - h. BPA's required notice per their preliminary subdivision plat comments shall be incorporated.
9. Any new sign (e.g., entrance monument signs for the development) requires a sign permit prior to installation.
10. All new utilities shall be underground pursuant to SHMC 17.152.120.

11. The city will not accept any open space, wetland, or stormwater facility tract or improvement. Ownership shall belong to the Homeowners Association of this Planned Development.
12. Developer will be required to repair damages to roadways as a result of subdivision construction, up to full width asphalt overlay as determined by City Engineering.
13. Portions of the property are encumbered by easements for high-voltage transmission lines owned by the Bonneville Power Administration (BPA). BPA has acquired rights for these easements that limit the landowner's use of this area. BPA has the right of ingress and egress, and the right to keep the easement free and clear of all buildings, sheds, fences, roads, in-ground and above-ground swimming pools, trampolines, or any other type of structure, trees, and all vegetation. **All activities planned within the BPA easement need to be reviewed by BPA prior to their occurrence.** Do not build, dig, install utilities, plant, or burn within the easement area. For further questions or concerns regarding any proposed uses of the easement you may contact BPA Real Estate Field Services by calling (800) 836-6619.
14. Owner/Developer shall be solely responsible for obtaining all approvals, permits, licenses, and authorizations from the responsible Federal, State and local authorities, or other entities, necessary to perform land clearing, construction and improvement of the subject property in the location and manner contemplated by Owner/Developer. City has no duty, responsibility or liability for requesting, obtaining, ensuring, or verifying Owner/Developer compliance with the applicable State and Federal agency permit or other approval requirements. This land use approval shall not be interpreted as a waiver, modification, or grant of any State or Federal agency or other permits or authorizations.
15. Owner/applicant and their successors are still responsible to comply with the City Development Code (SHMC Title 17).



## St Helens Sewer Trunk Basins and New EDUs Share of Downstream CIP Projects as it Pertains to the Comstock Planned Subdivision

The highlighted areas of the spreadsheet below reflects the share of costs that new upstream EDUs (as identified in the 2019 Housing Needs Analysis) would pay to complete the downstream CIP improvements along trunk lines they're flow conveys through. The costs per EDU are based on the CIP project costs broken down by trunkline.

Basin	Downstream CIP Share per New Upstream EDU	New In-Basin EDU
Allendale	\$ 104,900	1
Diversion	\$ 104,900	1
Firlock	\$ 7,600	-
Gable	\$ 7,900	589
Interceptor	\$ 2,200	512
Matzen	\$ 12,700	430
McNulty	\$ 3,200	144
Middle Trunk	\$ 41,400	91
Millard-OPR	\$ 3,200	806
North-11th	\$ 3,400	340
North-Willamette	\$ 2,200	134
Pittsburg	\$ 3,400	731
Port	\$ 3,800	36
South Trunk	\$ 1,800	124
Southwest	\$ 3,200	748
Sunset	\$ 7,900	321
Sykes	\$ 6,600	500
Vernonia	\$ 104,900	30

The Comstock Subdivision cost would be approximately \$6,600 per EDU.

Here's how methodology behind the calculation,

1. First, the EDU hierarchy as it pertained to upstream basins was calculated. The sum of the EDU impact from the Sykes basin is 930, which adds up the Sykes EDUs (500) and the Matzen EDUs (430).
2. Next the cost per EDU calculated is based on the cost of CIP projects which the Sykes Basin will impact divided by the EDUs,
  - Sykes CIP project costs/Upstream EDUs = \$2.6 Million/930 EDUs = \$2,800
  - Port CIP project costs /Upstream EDUs = \$3 Million/1,554 EDUs = \$2,000
  - South Trunk CIP project costs/Upstream EDUs = \$6 Million/3,408 EDUs = \$1,800

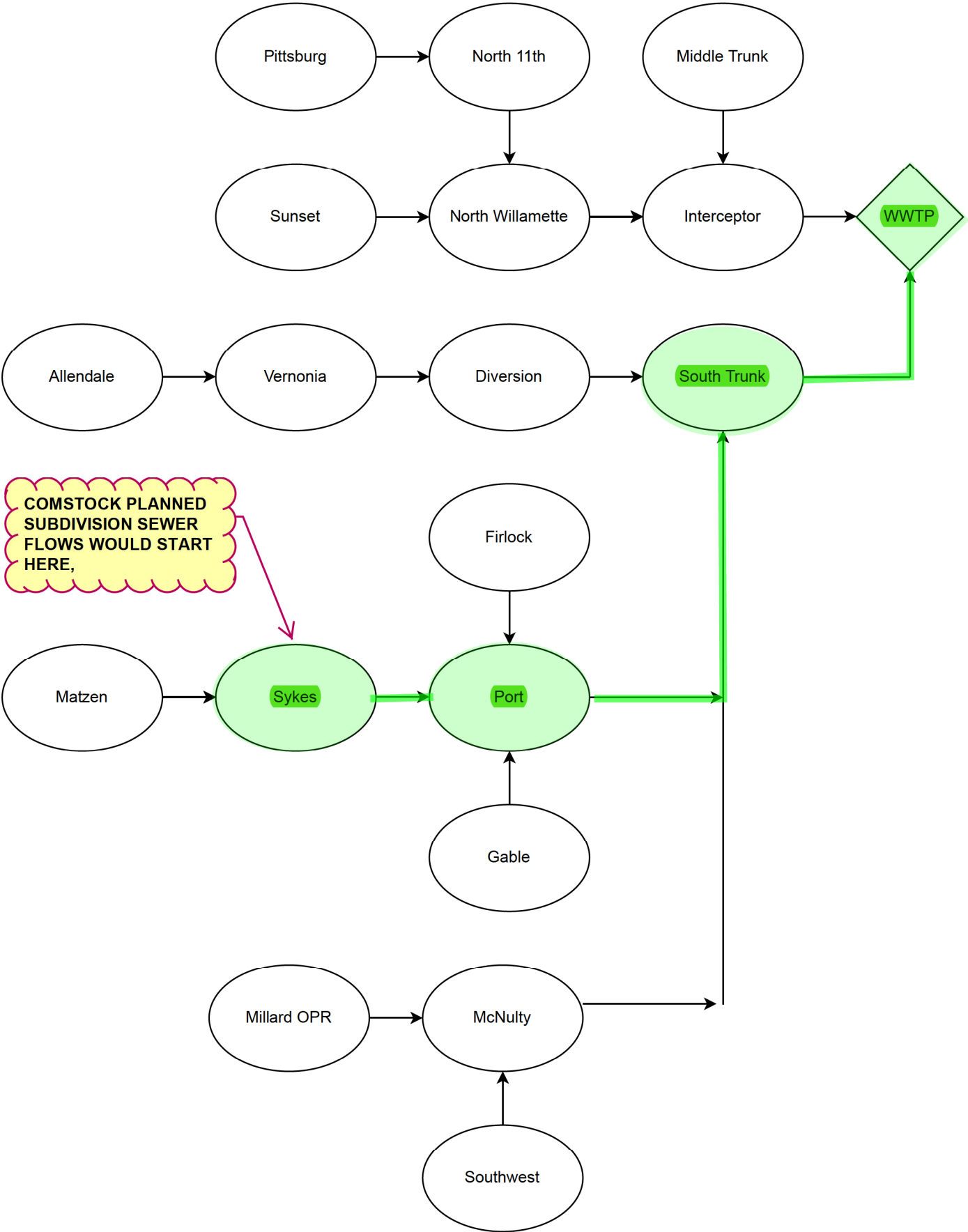
These add up to the \$6,600 share of the costs for the Sykes Basin.

Lower Basin	Upstream Basins	New EDUs	Row Labels	Sum of New EDUs
Interceptor	Interceptor	512	Allendale	1
Interceptor	Middle Trunk	91	Diversion	32
Interceptor	North-Willamette	134	Firlock	0
Interceptor	Sunset	321	Gable	589
Interceptor	North-11th	340	Interceptor	2129
Interceptor	Pittsburg	731	Matzen	430
Middle Trunk	Middle Trunk	91	McNulty	1698
North-Willamette	North-Willamette	134	Middle Trunk	91
North-Willamette	Sunset	321	Millard-OPR	806
North-Willamette	North-11th	340	North-11th	1071
North-Willamette	Pittsburg	731	North-Willamette	1526
Sunset	Sunset	321	Pittsburg	731
North-11th	North-11th	340	Port	1554
North-11th	Pittsburg	731	South Trunk	3408
Pittsburg	Pittsburg	731	Southwest	748
South Trunk	South Trunk	124	Sunset	321
South Trunk	Diversion	1	Sykes	929
South Trunk	Vernonia	30	Vernonia	31
South Trunk	Allendale	1	Grand Total	16093
South Trunk	Port	36		
South Trunk	Firlock	0		
South Trunk	Sykes	500		
South Trunk	Gable	589		
South Trunk	Matzen	430		
South Trunk	McNulty	144		
South Trunk	Southwest	748		
South Trunk	Millard-OPR	806		
Diversion	Diversion	1		
Diversion	Vernonia	30		
Diversion	Allendale	1		
Vernonia	Vernonia	30		
Vernonia	Allendale	1		
Allendale	Allendale	1		
Port	Port	36		
Port	Firlock	0		
Port	Sykes	500		
Port	Gable	589		
Port	Matzen	430		
Gable	Gable	589		
Firlock	Firlock	0		
Sykes	Sykes	500		
Sykes	Matzen	430		
Matzen	Matzen	430		

Top Basin	Lower Basins	Basin CIP/New EDU	Row Labels	Sum of Basin CIP/New EDU	New EDUs In-Basin	Check Sum
Interceptor	Interceptor	\$ 2,200.00	Allendale	\$104,900	0.8	\$ 86,543.34
Middle Trunk	Middle Trunk	\$ 39,200.00	Diversion	\$104,900	1.0	\$ 105,515.97
Middle Trunk	Interceptor	\$ 2,200.00	Firlock	\$7,600	0.0	\$ -
North-Willamette	North-Willamette	\$ -	Gable	\$7,900	588.6	\$ 4,649,897.04
North-Willamette	Interceptor	\$ 2,200.00	Interceptor	\$2,200	512.2	\$ 1,126,937.76
North-11th	North-11th	\$ 1,200.00	Matzen	\$12,700	429.6	\$ 5,455,424.47
North-11th	North-Willamette	\$ -	McNulty	\$3,200	143.9	\$ 460,330.80
North-11th	Interceptor	\$ 2,200.00	Middle Trunk	\$41,400	91.5	\$ 3,787,856.98
Pittsburg	Pittsburg	\$ -	Millard-OPR	\$3,200	805.8	\$ 2,578,519.60
Pittsburg	North-11th	\$ 1,200.00	North-11th	\$3,400	340.0	\$ 1,156,079.13
Pittsburg	North-Willamette	\$ -	North-Willamette	\$2,200	133.8	\$ 294,456.18
Pittsburg	Interceptor	\$ 2,200.00	Pittsburg	\$3,400	730.8	\$ 2,484,806.51
Sunset	Sunset	\$ 5,700.00	Port	\$3,800	36.2	\$ 137,412.20
Sunset	North-Willamette	\$ -	South Trunk	\$1,800	123.8	\$ 222,924.57
Sunset	Interceptor	\$ 2,200.00	Southwest	\$3,200	748.1	\$ 2,394,033.16
South Trunk	South Trunk	\$ 1,800.00	Sunset	\$7,900	320.8	\$ 2,534,654.71
Diversion	Diversion	\$ 103,100.00	Sykes	\$6,600	499.5	\$ 3,296,865.20
Diversion	South Trunk	\$ 1,800.00	Vernonia	\$104,900	30.4	\$ 3,183,970.33
Vernonia	Vernonia	\$ -	Grand Total	\$425,200		\$ 33,956,227.95
Vernonia	Diversion	\$ 103,100.00				
Vernonia	South Trunk	\$ 1,800.00				
Allendale	Allendale	\$ -				
Allendale	Vernonia	\$ -				
Allendale	Diversion	\$ 103,100.00				
Allendale	South Trunk	\$ 1,800.00				
Port	Port	\$ 2,000.00				
Port	South Trunk	\$ 1,800.00				
Firlock	Firlock	\$ -				
Firlock	Port	\$ 2,000.00				
Firlock	South Trunk	\$ 1,800.00				
Sykes	Sykes	\$ 2,800.00				
Sykes	Port	\$ 2,000.00				
Sykes	South Trunk	\$ 1,800.00				
Matzen	Matzen	\$ 6,100.00				
Matzen	Sykes	\$ 2,800.00				

Basin	In-Basin and Up-Basin New EDUs	In-Basin CIP	Basin CIP per Up-Basin New EDU
Allendale	1	\$ -	\$ -
Diversion	33	\$ 3,400,000	\$ 103,100
Firlock	0	\$ 100,000	\$ -
Gable	589	\$ 2,400,000	\$ 4,100
Interceptor	2130	\$ 4,500,000	\$ 2,200
Matzen	430	\$ 2,600,000	\$ 6,100
McNulty	1698	\$ 2,229,400	\$ 1,400
Middle Trunk	92	\$ 3,600,000	\$ 39,200
Millard-OPR	806	\$ -	\$ -
North-11th	1071	\$ 1,200,000	\$ 1,200
North-Willamette	1526	\$ -	\$ -
Pittsburg	731	\$ -	\$ -
Port	1554	\$ 3,000,000	\$ 2,000
South Trunk	3408	\$ 6,000,000	\$ 1,800
Southwest	749	\$ -	\$ -
Sunset	321	\$ 1,800,000	\$ 5,700
Sykes	930	\$ 2,600,000	\$ 2,800
Vernonia	32	\$ -	\$ -

# SEWER BASIN FLOW PATH



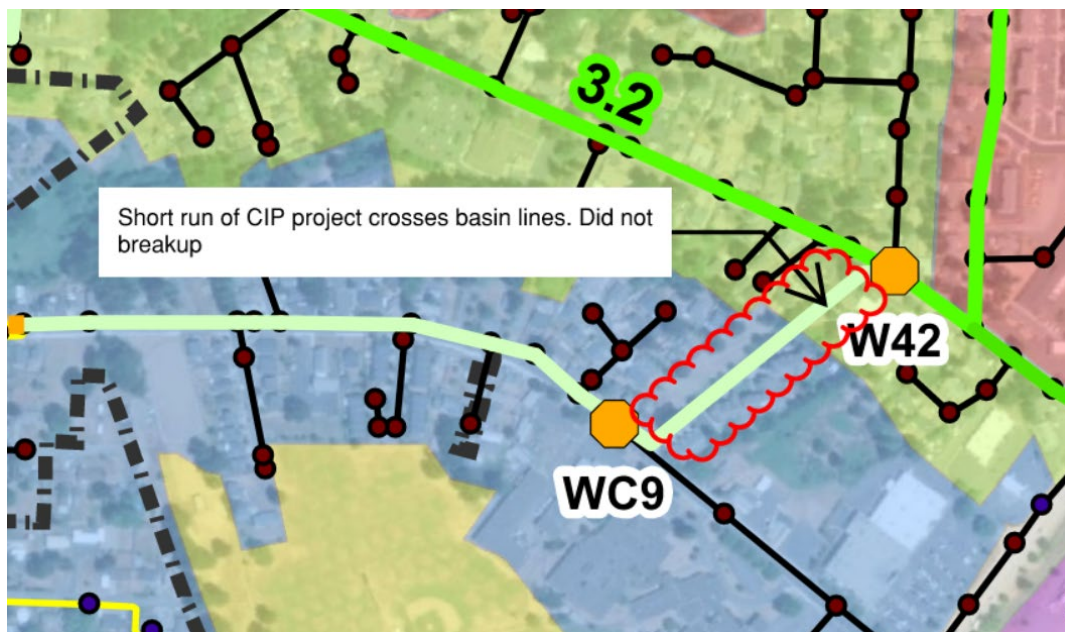


DATE: August 17, 2022

SUBJECT: St Helens Basins and CIP Cost Estimates

## BASINS

- Basin delineation assumed to follow attached figure and **flow chart**
- Simplified process to not include a 'perfect' delineation CIP projects as they pertain to basins. In the figure below, the CIP replacement is mostly in the blue basin, with a small portion in the green basin. All costs were assigned to the blue basin. There are a few instances of this simplification. Where *major* portions of a CIP spans more than basin, the projects were split by basin.



- Delineation generally reflects existing conditions, except the Pittsburg basin, which is largely undeveloped. Anticipated to discharge to the North-11<sup>th</sup> basin.

## GROWTH AREAS

- Growth areas and EDU allocation to the growth areas are as identified in the 2019 Housing Needs Analysis.

## CIP PROJECT COSTS

- Delineation generally reflects existing conditions, except the Pittsburg basin, which is largely undeveloped. Anticipated to discharge to the North-11<sup>th</sup> basin.
- **Costs are calculated by summing the CIP costs in and downstream of a basin and summing the EDUs in and upstream of the basin. The downstream CIP costs are divided by the upstream EDUs.**

**CITY OF ST. HELENS PLANNING DEPARTMENT  
STAFF REPORT**

**Appeal AP.2.22 (of Subdivision Preliminary Plat, SUB.2.22)**

**DATE:** August 10, 2022  
**TO:** City Council  
**FROM:** Jacob A. Graichen, AICP, City Planner

**APPLICANT:** Ken Sandblast, Westlake Consultants, Inc. (also appellant)  
**OWNER:** Chieko Comstock

**ZONING:** Moderate Residential, R7  
**LOCATION:** 4N1W-6D-604 and 4N1W-6AD-2600  
**PROPOSAL:** 46 lot Planned Development Subdivision Preliminary Plat

**SITE INFORMATION / BACKGROUND**

The subject property is approximately 12 acres in size and is undeveloped. The property is roughly rhomboidal in shape and generally descends in elevation from where it abuts Pittsburg Road to its southern boundary that abuts a row of lots that abut Sykes Road. The property itself does not abut Sykes Road. There are two wetland areas that divide the property into three segments. Some roads stub to the property along the long sides of the rhombus such as Westboro Way on the west side and Edna Barr Lane on the east side. Also, Meadowview Drive on the NW side and Barr Avenue on the SE side abut the property along the sides of those streets.

This property was annexed recently (file Annexation A.5.21) via Ordinance No. 3281 adopted by the City of St. Helens in March of this year.

This is an appeal of the Planning Commission's denial of SUB.2.22.

**Associated file:** Planned Development (overlay zone), PD.1.22.

**PUBLIC HEARING & NOTICE**

**Public hearing** before the City Council: August 17, 2022

**Notice** of this proposal was sent to surrounding property owners within 300 feet of the subject property(ies) on July 27, 2022 via first class mail. Notice was sent to agencies by e-mail on July 26, 2022.

**Notice** was published on August 3, 2022 in The Chronicle newspaper.

**APPLICATION COMPLETENESS**

This application was originally received on April 11, 2022. Staff identified missing information or other aspects that rendered the application incomplete and notified the applicant of the issue pursuant to SHMC 17.24.050 on April 29, 2022. The applicant provided revised or new information on May 9, 2022. Following this, the applicant submitted a phasing plan not originally proposed on May 20, 2022 (acknowledged via email on the same day), which substantially altered the application; this is when the application as reviewed by the Commission was determined to be complete.

The 120-day rule (ORS 227.178) for final action for this land use decision is September 17, 2022.

### **AGENCY REFERRALS & COMMENTS**

None based on the notice for this appeal.

### **APPLICABLE CRITERIA, ANALYSIS & FINDINGS**

**Important: this report is not a stand-alone document and is meant to be reviewed with the original decision (Partition PT.1.21) and other documents in the record.**

The Council has several options to consider. These include but are not limited to the following that were presented to the Planning Commission:

1. Uphold the Commission's denial.

The Commission denied the subdivision based on noncompliance with their recommended decision of the Planned Development Overlay Zone to the Council where the minimum lot size and side yard of the R7 zone could not be altered by the overlay zone, and based on 17.136.060(2)(a):

Lot size, width, shape and orientation shall be appropriate for the location of the development and for the type of use contemplated

It was also based on SHMC 17.152.090(4):

Permits Denied. Development permits may be restricted by the commission or council (i.e., the applicable approval authority) where a deficiency exists in the existing sewer system or portion thereof which cannot be rectified within the development and which if not rectified will result in a threat to public health or safety, surcharging of existing mains, or violations of state or federal standards pertaining to operation of the sewage treatment system.

As noted by the Supplemental Engineering Staff Report dated August 8, 2022, the circumstances of the sanitary sewer infrastructure this development depends on is already above capacity in multiple areas. This already poses surcharging threats and violations from Oregon DEQ and adding substantial development as proposed increases this.

Denial based on this section also means SHMC 17.136.060(1)(a) is not entirely met.



It is not practical to condition the subdivision based on upgrading the deficient sanitary sewer infrastructure due to excessive cost. Moreover, System Development Charges alone only accounts for approximately 8% of project costs and cannot be depended on unto themselves to resolve the issue. And as the system is already above capacity, “fair share” can be viewed as a moot point for the purpose of this denial.

2. Approve the subdivision and allow the subdivision to be built, and the lots to be created (platted), but prohibit building permit activity (development of individual lots) until the sanitary sewer infrastructure is upgraded.

The recommended conditions of the SUB.2.22 Staff Report dated July 5, 2022 are based on this.

Those conditions are not based on the restricted Planned Development overlay zone approval, still pending as of the date of this report, and may need to be amended.

Note that one of the conditions, 2.a, says that a Planned Development overlay must be adopted and in affect. So, the fate of this subdivision also rests with the overlay zone, even if this Subdivision preliminary plat was approved. If approved, conditions regarding revisions to the plat per the parameters of the Planned Development overlay zone, may be necessary.

3. Approve the subdivision and allow the subdivision to be built as “normal.” In this case, the Council would be willing to take the risk of increased probability of sanitary sewer surcharge and fines.

The recommended conditions of the SUB.2.22 Staff Report dated July 5, 2022 would need to be amended, which is explained in said staff report.

As with option 2, a Planned Development overlay must be adopted and in affect. If approved, conditions regarding revisions to the plat per the parameters of the Planned Development overlay zone, may be necessary.

### **CONCLUSION & RECOMMENDATION**

**The Council needs to carefully consider the materials in the record and any relevant testimony received from the applicant and others when drawing your conclusion(s).**

#### **Attachment(s):**

- Appellant’s Grounds for Appeal
- Supplemental Engineering Staff Report dated August 8, 2022
- Subject property analysis from property owner, received August 8, 2022
- SUB.2.22 Finding and Conclusions (of denial)
- SUB.2.22 Staff Report dated July 5, 2022 with the following attachments:
  - Exhibit A, A summary of the standards proposed for this Planned Development Subdivision based on applicant’s application materials with corrections by staff.

- Engineering Staff Report dated June 22, 2022
- Applicant's main application narrative
- Applicant's preliminary storm report (summary only, pages 1-7)
- Applicant's PD standards table (with city staff notes)
- Applicant's density calculation sheet (as received July 1, 2022)
- Applicant's Traffic Impact Analysis (summary only, pages 1-24)
- Applicant's plan set
- Letter from Rhoda Kirtland received July 5, 2022
- Email from Steve Toschi received July 12, 2022

**Comstock Subdivision Land Use Application**  
**Grounds for Appeal (SUB.2.22)**

As per the July 18, 2022 notice and signed Planning Commission decision, there are two specific issues which are the basis of denial of the proposed Comstock property subdivision: (i) lot size and density compatibility and (ii) sanitary sewer capacity identified in a recently completed Citywide masterplan.

**Lot Size and Density Compatibility**

The Planning Commission findings are specifically that SHMC 17.136.060(2) – Lot Dimensions are not met (see Findings Page 19).

For reference, here is SHMC 17.136.060(2) in its entirety:

*16.136.060(2) Lot Dimensions.*

- (a) Lot size, width, shape and orientation shall be appropriate for the location of the development and for the type of use contemplated, and:*
  - i. No lot shall be dimensioned to contain part of an existing or proposed public right-of-way;*
  - ii. The depth of all lots shall not exceed two and one-half times the average width, unless the parcel is less than one and one-half times the minimum lot size of the applicable zoning district; and*
  - iii. Depth and width of properties zoned for commercial and industrial purposes shall be adequate to provide for the off-street parking and service facilities required by the type of use proposed.*

**Response:**

As stated in the Planning Commission findings, the lot size basis of denial is solely on subsection (a) “....appropriate for the location of the development lot size”. None of the other above criteria applicable to this proposed subdivision are cited as a basis of denial.

A Planned Development allows for flexibility in base zoning standards, including for lot sizes, shapes, and depths as well as setbacks, to provide a subdividing alternative for properties in the City that have constraints (e.g. wetlands and associated buffers, public street stub locations and overall configuration of the subdivision property itself).

The purpose statement for Section 17.148 Planned Development provides that a PD is used to “encourage development that recognizes the relationship between buildings, their use, open space, and accessways and thereby maximizes the opportunities for innovative and diversified living environments.” Further it states that it will facilitate the efficient use of land. This proposed subdivision meets both of these criteria by retaining existing wetlands and offers in open space tracts, as well as proposing single family detached houses at allowable R7 density in an efficient plat configuration that achieves needed and required public street connectivity into and through the property. As noted in the Commission findings the density calculations of 46 lot at R7 zoning for the property meet the requirements of SHMC 17.56. To provide a more moderate density for the site, most of the lot’s sizes need to be reduced in order to preserve and shift more of a focus to the open space. The subdivision streets, sidewalks, and pedestrian paths connect to the surrounding neighborhoods improving the network already in place. The detached single-dwelling lots

and future homes are consistent and compatible with the surrounding existing house adjacent to the east, west and south of the property.

The applicant appeals the decision of this denial solely based on neighborhood compatibility. Staff has noted that the criteria of SHMC 17.136.060(1) have been met and the lot sizes proposed through the PD are compatible with the challenges of the site. The applicant does acknowledge the irregular shape of lot 24 and can propose a change.

### **Sanitary Sewer Capacity**

The denial on the basis of sewer capacity is on page 14 in its analysis of utility standards under SHMC 17.152. The decision that the city has adequate services to serve the property was already made at the time of annexation and cannot be collaterally attacked in this process. See SHMC 17.28.030(1)(a). Also, the city erred by concluding that any necessary sewer improvements to adequately serve the subdivision are cost prohibitive and would make the project economically unfeasible. This finding is not based on substantial evidence, particularly since the city already has a wastewater SDC in place for new development to pay for identified upgrades needed to the City's sewer system. Instead, the finding is based on the improper assumption that the project would have to pay for all needed sewer improvements city-wide, when in fact the city is entitled only to condition the project upon payment of its fair share of the cost of the necessary improvements, to the extent not paid by the wastewater SDC. There is no evidence or finding that such a condition is infeasible, nor has the city given the applicant an opportunity to propose a feasible condition as required by ORS 197.522(3). By its finding, the Commission has effectively adopted a moratorium on new development without compliance with applicable state law regarding moratoria.





# SUPPLEMENTAL ENGINEERING STAFF REPORT

## PROJECT/SITE: COMSTOCK

REPORT DATE	PROJECT NAME	PREPARED BY
8/8/2022	Comstock (Planned Subdivision)	Sharon Darroux Engineering Manager

## SUPPLEMENTAL DATA TO THE 6/22/2022 COMSTOCK ENGINEERING STAFF REPORT

### A. **Availability and Capacity of the Public Sanitary Sewer**

Per Section 1.3.4 PIPELINE CAPACITY of the Wastewater Master Plan (WWMP), the City's wastewater collection system capacity was evaluated at its current condition and for the anticipated 20-year future conditions. Using the 5-year, 24-hour design storm event, the existing wastewater collection system was shown to be operating at or above capacity with several manholes having the potential to overflow. It was noted that the deficiencies found in the system was caused by high peak flows and undersized trunklines. (See Attachment A). The sewer trunklines which would potentially serve the Comstock Planned Development is one of the trunklines that is presently operating at or above capacity with at least three manholes with the potential to overflow per the WWMP. (See Figure 1-3 of Attachment A)

### B. **Evaluation and Study of the Existing Sewer Collection System**

Section 4.13. EXISTING SYSTEM EVALUATION of the WWMP details the criteria used in assessing the existing capacity of the wastewater collection system. Sewer pipes are considered "at capacity" when peak flows exceed 85% of the full depth of the pipe in accordance with industry standards. This depth is based on the maximum depth of flow ratio ( $d/D$ ), where  $d$  is "depth of flow" and  $D$  is the diameter of the pipe. Attachment B (Figure 18 of the WWMP) shows the color-coded gradation with red indicating the pipe is operating at or above 100% of its capacity, orange indicating the pipe is operating at 85% to 99% of its capacity; yellow indicating the pipe is operating at 75% to 84% of its capacity; and so forth. The map shows that the major portion of the sewer trunklines which would potentially serve the Comstock Planned Development is in the "red", indicating that these trunklines are currently operating at or above 100% of its capacity.

### C. **Regulatory Requirements**

Section 2.6. REGULATORY REQUIREMENTS & GUIDANCE of the WWMP affirms that "... DEQ prohibits all sanitary sewer overflows (SSOs). The Oregon sanitary sewer overflow rules include both wet-weather and dry-weather design criteria. The DEQ has indicated that they have enforcement discretion and that fines will not occur for overflow resulting from storm events that exceed the DEQ design criteria (i.e. greater than a winter 5-year storm event or a summer 10-year storm event)." SSOs can occur when pipes are undersized or during high peak flows. "Pipeline surcharging occurs as flows exceed the capacity of a full pipe, causing wastewater to back up into manholes and services. Surcharging of gravity pipelines is generally discouraged because of 1) the increased potential for backing up into residents' homes, 2) the increased potential of exfiltration, and 3) health risks associated with sanitary sewer overflows". (See Attachment C).

D. **Application of Growth Areas in the Master Planning Effort**

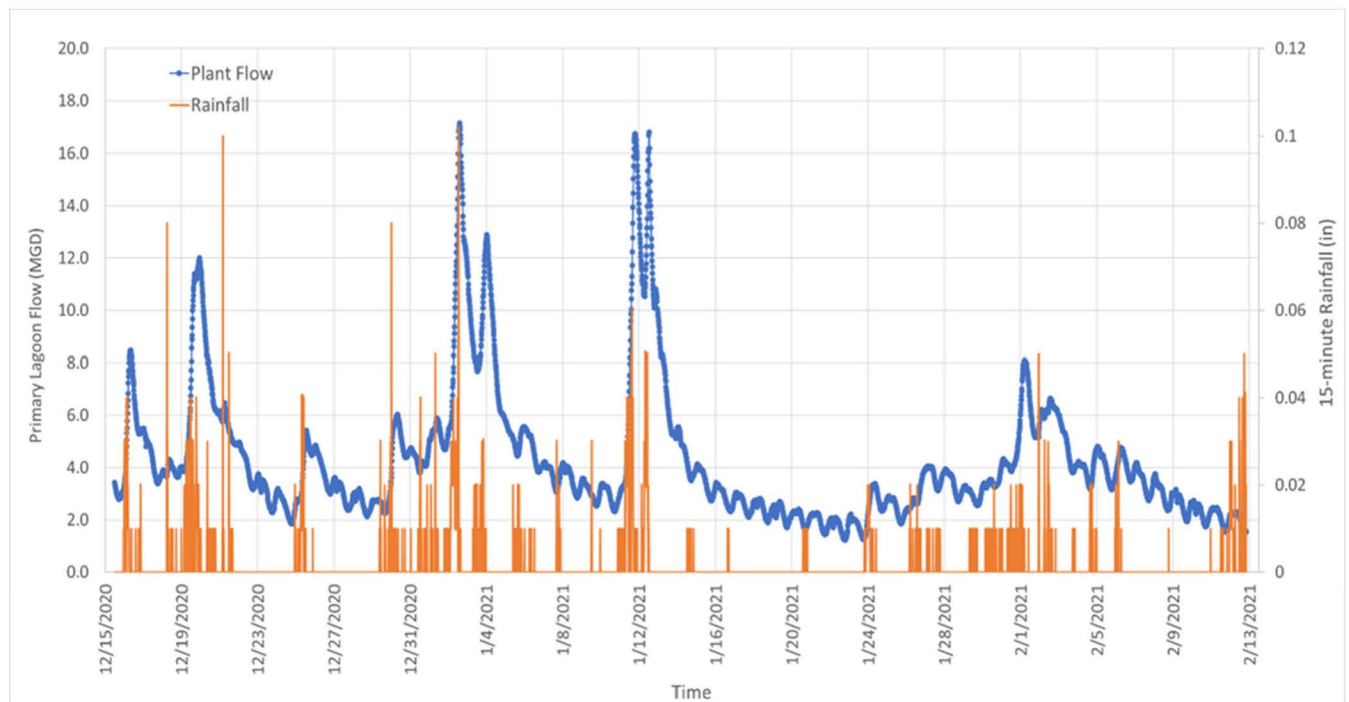
Attachment D (Figure 9 of the WWMP) shows the 20-Year anticipated growth areas. As part of the master planning process, the City examined the wet-weather and dry weather loading from known anticipated growth areas for inclusion into the 20-year capacity evaluation model for future loading. The conclusion of the study with the added load from future growth areas shows that the *“problem areas identified in the 20-year evaluation reflect the same areas identified in the existing system analysis, with many of the deficiencies being caused by high peak flows and undersized trunklines exacerbated in the 20-year model”* (Section 1.3.4 of the WWMP).

Note: Future growth areas shown in Attachment D were not included when performing the evaluation of the current sewer capacity, therefore the fact that the Comstock Planned Development was not included in the anticipated growth areas at the time of the study has no bearing in the subdivision's denial. The conditions governing the sewer capacity regarding the subdivision are existing conditions and not the 20-year anticipated conditions.

E. **Anticipated Costs of Capital Improvement Projects and the use of System Development Charges**

While Wastewater System Development Charges can be used for portion of the sewer upgrades, the greater portion of the costs will have to be borne by the City and will require funding. Attachment E shows the list of 20-year Capital Improvement Projects for the City's sewer collection system and how much SDCs may be used for each project. In the case of the Comstock Planned Development, SDCs will only cover 8% of the project costs. The total project cost is anticipated to cost over \$14 million dollars.

CHART 1-1: DAILY FLOW AND PRECIPITATION DURING WET WEATHER



### 1.3.3 STAFFING EVALUATION

A high-level evaluation of existing wastewater staffing levels, deficiencies in existing staffing levels, and staffing recommendations was completed as part of this study. The City Public Works (PW) Operations staff, who are responsible for the operations and maintenance (O&M) of the wastewater collection system, and the WWTP staff, who are responsible for the O&M of the City's nine pump stations, were interviewed to collect information on existing staffing levels, annual O&M activities, and level of service (LOS) goals for the City wastewater infrastructure. In general, St. Helens' public works staff provide support for many City activities that are not directly related to public utility O&M (i.e. building maintenance, building remodels, City events, etc.), which reduces time and O&M activities they can spend and complete on utility infrastructure. It is recommended that either additional Full Time Employee (FTE) be budgeted for the PW Operations staff to complete the existing workload requested, or the responsibilities of the PW Operations staff be reduced to focus solely on utility O&M. Additionally, it is advised that staffing needs be re-evaluated every two to three years.

### 1.3.4 PIPELINE CAPACITY EVALUATION

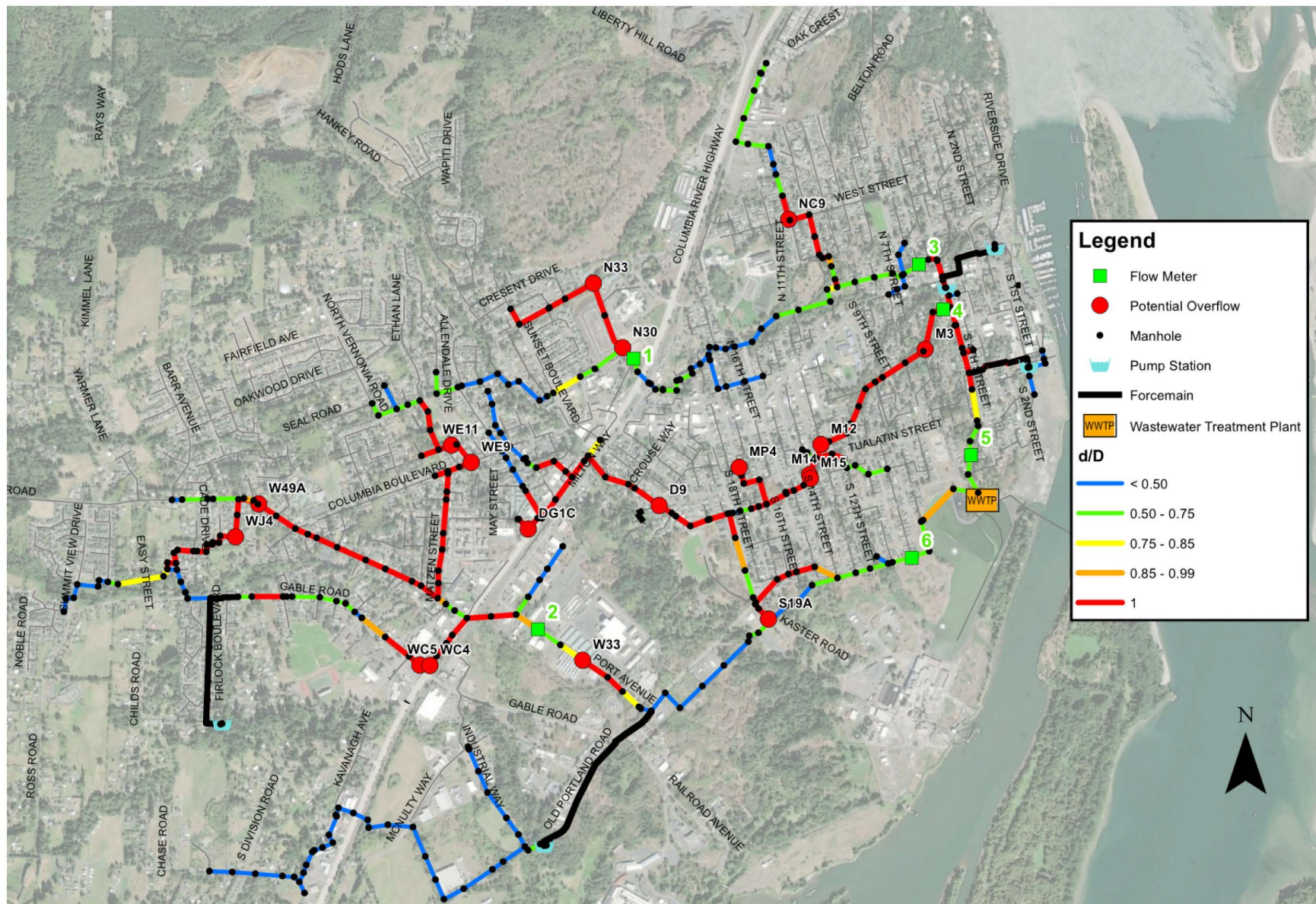
A wastewater collection system model was developed using InfoSWMM software (Suite 14.7 Update #2) to **evaluate existing and 20-year collection system capacity**. Wastewater trunklines (10-inch diameter and larger) were included in the model as well as five pump stations. Some 8-inch pipelines were modeled to connect disparate areas that were served by 10-inch pipelines. Continuous flow monitoring was completed at six locations during the wet weather period between December of 2020 and January of 2021. The six flow monitoring locations divided the system into six monitoring basins, shown in Figure 1-2. The collected data was analyzed along with continuous precipitation data to establish typical 24-hour patterns, average base flows at each site, and gauge rainfall influence in the system. Both dry weather (minimal to no rain in days prior) and wet weather periods were used for base flows and calibration efforts.

Gravity pipelines were evaluated according to the City's Public Works Design Standards. Pipe capacity was assessed by evaluating the ratio of the depth of maximum flow to the diameter of the pipe ( $d/D$ ), with pipes considered undersized if they exceed a ratio of 0.85. This planning criteria was established in meetings with City staff. Pump stations were evaluated based on the capacity to handle peak flows with the largest pump out of service (defined as firm capacity).

The calibrated model was used to assess the effects of a 5-year, 24-hour design storm event on the existing system. The existing system evaluation showed a significant portion of the modeled trunk lines operating at or above capacity. There are pipelines operating at or above capacity in each of the six monitoring basins, and almost all have manholes with the potential to overflow. The deficiencies found in the evaluation are caused by high peak flows and undersized trunklines. Figure 1-3 shows locations of over-capacity pipes in the existing system model, displayed in orange and red, with potential overflow locations marked with a red circle.



FIGURE 1-3: EXISTING SYSTEM EVALUATION - D/D AND POTENTIAL OVERFLOW LOCATIONS





For the 20-year capacity evaluation, future loads were distributed based on PSU population projections and City anticipated future residential, commercial, and industrial growth areas, shown in Figure 1-4. A majority of the areas anticipated to develop have topography that would allow for gravity flow to the existing collection system, while four growth areas may require additional infrastructure. These four identified areas are the Riverfront District (Growth Area #2), the Business Industrial Park (Growth Area #17), and Growth Areas #1 and #9 located near Pump Station 11 (PS#11).

The City is currently evaluating development options for the Riverfront District, which includes the relocation of Pump Station 1 (PS#1). A 10-inch pipeline at minimum slope would have the capacity to convey the projected 20-year flows through the Riverfront District. The proposed pipeline would be routed underneath the proposed roadways depicted in the current City planning documents.

The City is seeking new opportunities for the Industrial Business Park and completed a parcellation framework report for the site. To provide sewer service for the future development, a pump station will be required. The pump station will likely need to be located near the waterfront to follow existing topography. The gravity sewer piping will follow the proposed roadway alignments and drain to the proposed pump station location. The force main can be routed along existing and/or proposed roadways and discharge to the existing trunkline on Kaster Road. The existing gravity trunkline downstream on Old Portland Road has a section of parallel pipes which are capacity limited and should be included as part of the development process and project.

The City has expressed interest in relocating PS#11 further north, to the intersection of Firlok Park Street and Hazel Street. If relocated, the depth of the wetwell could be sized at predesign to receive flow via a gravity line from the northern portions of Growth Areas #1 and #9, which would involve a bore under McNulty Creek to serve Growth Area #1. These upgrades would include a new force main. The southern portion of both growth areas could be served by 8-inch pipelines conveyed to existing gravity trunklines. Grinder pumps might need to be installed at residences adjacent to McNulty Creek, as the relative elevation of these locations may make serving them via gravity pipeline not feasible.

Overall, problem areas identified in the 20-year evaluation reflect the same areas identified in the existing system analysis, with many of the deficiencies being caused by high peak flows and undersized trunklines exacerbated in the 20-year model. PS #7 is capacity limited for future growth and will require upsizing. Figure 1-5 shows locations of over-capacity pipes in the 20-year model, displayed in orange and red, with potential overflow locations marked with a red circle.

the scope of this study. A maximum discharge estimate of 500 gpm from the Columbia City forcemain was taken from the 2013 Columbia City Master Plan. I/I contributions from Columbia City could result in an increase of pump starts and runtime but would not result in an increase to the peak pumping capacity. An assumed constant point load of 575 gpm (500 gpm plus a 15% safety factor to account for unknowns in pumping fluctuations) was used to model flows from Columbia City during wet weather.

#### Design Storm

The design storm used for model evaluation was the 5-year, 24-hour storm event. A standard 24-hour Natural Resources Conservation Service rainfall distribution for a Type 1A storm was used. The rainfall for the 5-year, 24-hour storm event from National Oceanic and Atmospheric Administration isopleth maps is 2.4 inches. This was used as the multiplier for the Type 1A storm hyetograph. The existing system calibrated model was run with the design storm event.

The modeled peak instantaneous (PIF<sub>5</sub>) and peak day (PDAF<sub>5</sub>) flows at the WWTP were compared to the modified PIF<sub>5</sub> and PDAF<sub>5</sub> planning criteria (Table 4-1). The modeled peak instantaneous flows and peak day at the plant were lower than the planning criteria. These low peak flows were primarily due to surcharging and flooding throughout the system. The flow comparison is summarized in Table 4-1. The model was also ran with increased pipe capacities to review system flows if capacity limitations in the system were alleviated. These flows are summarized in Table 4-1 as Unconstrained Model Outflow. The calibrated model flow, with capacity limitations eliminated, is within 10% of the modified planning criteria flows. Additional discussion and details of existing system capacity limitations are summarized in the following section.

TABLE 4-1: PLANNING CRITERIA VS. MODELED PEAK FLOWS

Flow	Modified Planning Criteria (MGD)	Model Outflow (MGD)	Unconstrained Model Outflow (MGD)
PDAF <sub>5</sub>	19.9	16.2	17.8
PIF <sub>5</sub>	26.0	23.2	26.9

#### 4.1.3 EXISTING SYSTEM EVALUATION

The calibrated model was used to assess the existing system capacity during a 5-year, 24-hour design storm event. Figure 18 in Appendix A illustrates the potential overflow sites and pipe capacity limitations identified during the existing system peak instantaneous flow model evaluation. The figure is color-coded to show a gradation of pipes based on utilized capacity (e.g., red = flowing at >100% capacity, orange = flowing at 85-99% of capacity, yellow = flowing at 75-84% capacity, etc.). As stated in Section 2, the planning criteria for undersized pipelines is if the flow is equal or greater than 85% of full capacity based on maximum depth of flow (d/D). The figure also displays manholes which experience surcharging and have the potential to overflow according to the model analysis. As stated in Section 2, the Department of Environmental Quality prohibits sanitary sewer overflows, and surcharging in wastewater systems is generally discouraged.

The existing system evaluation shows a significant portion of the modeled trunk lines operating at or above capacity. There are pipelines operating at or above capacity in each of the six basins, with most basins having manholes with the potential to overflow. Several of the deficiencies are caused by undersized trunklines. There are a few areas, where a downstream bottleneck is causing the upstream surcharging. Additional discussion of each deficiency location and alternatives to address the issue are discussed in Section 5.

Table 4-2 shows a list of modeled manholes that may experience potential overflows during peak flow conditions. Each of these locations experience surcharging due to downstream capacity







### 2.6 REGULATORY REQUIREMENTS & GUIDANCE

Regulations, existing constraints, and water quality impacts directly affect the requirements and guidance for wastewater infrastructure, as discussed below.

#### 2.6.1 COLLECTION SYSTEM

##### Pump Station Regulatory Requirements

Pump stations lift wastewater and convey it to a discharge point. Pump stations must meet the DEQ's requirements, such as the following:

**Redundant Pumping Capacity** – The DEQ design criteria requires the pump station firm capacity to be capable of conveying the larger of the 10-year dry-weather or 5-year wet-weather event. For St. Helens, due to the I/I, this means that the pump stations must pump the 5-year, 24-hour storm event peak instantaneous flows with the largest pump out of service.

**Hydrogen Sulfide Control** – Hydrogen sulfide can be corrosive (especially to concrete materials) and lead to odor problems. Where septic conditions may occur, provisions for addressing hydrogen sulfide should be in place.

**Alarms** – The alarm system should include high level, overflow, power, and pump fail conditions. The DEQ also requires an alarm condition when all pumps are called on (loss of redundancy alarm) to keep up with inflow into the pump station.

**Standby Power** – Standby power is required for every pump station because extended power outages may lead to wastewater backing up into homes and sanitary sewer overflows. Mobile generators or portable trash pumps may be acceptable for pump stations, depending on the risk of overflow, available storage in the wet well and pipelines, alarms, and response time.

The DEQ has also established guidelines for wet well volumes, overflows, maximum force main velocities, and location/elevation relative to mapped floodplains.

##### Pipeline Guidelines (CMOM Guidance)

CMOM refers to Capacity Management, Operation, and Maintenance of the entire wastewater conveyance system. The vast majority of all sanitary sewer overflows originate from three sources in the collection system: 1) I/I, 2) roots, and 3) fats, oil, and grease (FOG). I/I problems are best addressed through a program of regular flow monitoring, T.V. monitoring, and pipeline rehabilitation and replacement. Blockages from roots or FOG are also addressed via a routine cleaning program. A FOG control program may also involve public education and City regulations (e.g. requirements for installation and regular maintenance of grease interceptors). All new facilities believed to contribute FOG should be equipped with grease interceptors.

The DEQ prohibits all sanitary sewer overflows. The Oregon sanitary sewer overflow rules include both wet-weather and dry-weather design criteria. The DEQ has indicated that they have enforcement discretion and that fines will not occur for overflow resulting from storm events that exceed the DEQ design criteria (i.e. greater than a winter 5-year storm event or a summer 10-year storm event).

In December 2009, the DEQ developed a Sanitary Sewer Overflow Enforcement Internal Management Directive that provides guidance for preventing, reporting, and responding to sanitary sewer overflows. The DEQ updated this document in November 2010.

##### Excessive Infiltration and Inflow

EPA defines excessive I/I as the quantity that can be economically eliminated from a sewer system by rehabilitation. Some guidelines for determining excessive I/I were developed in 1985 by EPA based on a survey of 270 standard metropolitan statistical area cities (EPA Infiltration/Inflow Analysis and Project Certification, 1985). Non-excessive numeric criteria for infiltration was defined

as average daily dry-weather flows that are below 120 gallons per capita day (gpcd). Similarly, a guideline of 275 gpcd average wet-weather flow was established as an indicator below which is considered non-excessive storm water inflow. According to the flow evaluation completed as part of this study (Section 2.4), flows at the St. Helens treatment plan show excessive I/I in the collection system per these guidelines.

### Pipeline Surcharging

Pipeline surcharging occurs as flows exceed the capacity of a full pipe, causing wastewater to back up into manholes and services. Surcharging of gravity pipelines is generally discouraged because of: 1) the increased potential for backing up into residents' homes, 2) the increased potential of exfiltration, and 3) health risks associated with sanitary sewer overflows.

### Illicit Cross Connections

Cross-connections to the stormwater system are prohibited by City Code, Section 13.14.090. This prohibition includes discharges to the sewer system via connecting roof downspouts, exterior foundation drains, areaway drains, and sump pumps. Any illicit cross connections from the City's stormwater system should be removed. Based on the rapid and significant I/I response in the City collection system, City staff expect there are sump pumps connected to the sewer system in several areas. Further discussion on sump pumps can be found in Sections 3 and 5 of this report.

## **2.7 COMMUNITY ENGAGEMENT**

The City provided several opportunities for community engagement with the wastewater master planning process through a City Council workshop, a Planning Commission meeting presentation, and City Council adoption process. These meetings provided members of the community spaces to engage in the planning process and a platform provide comments.



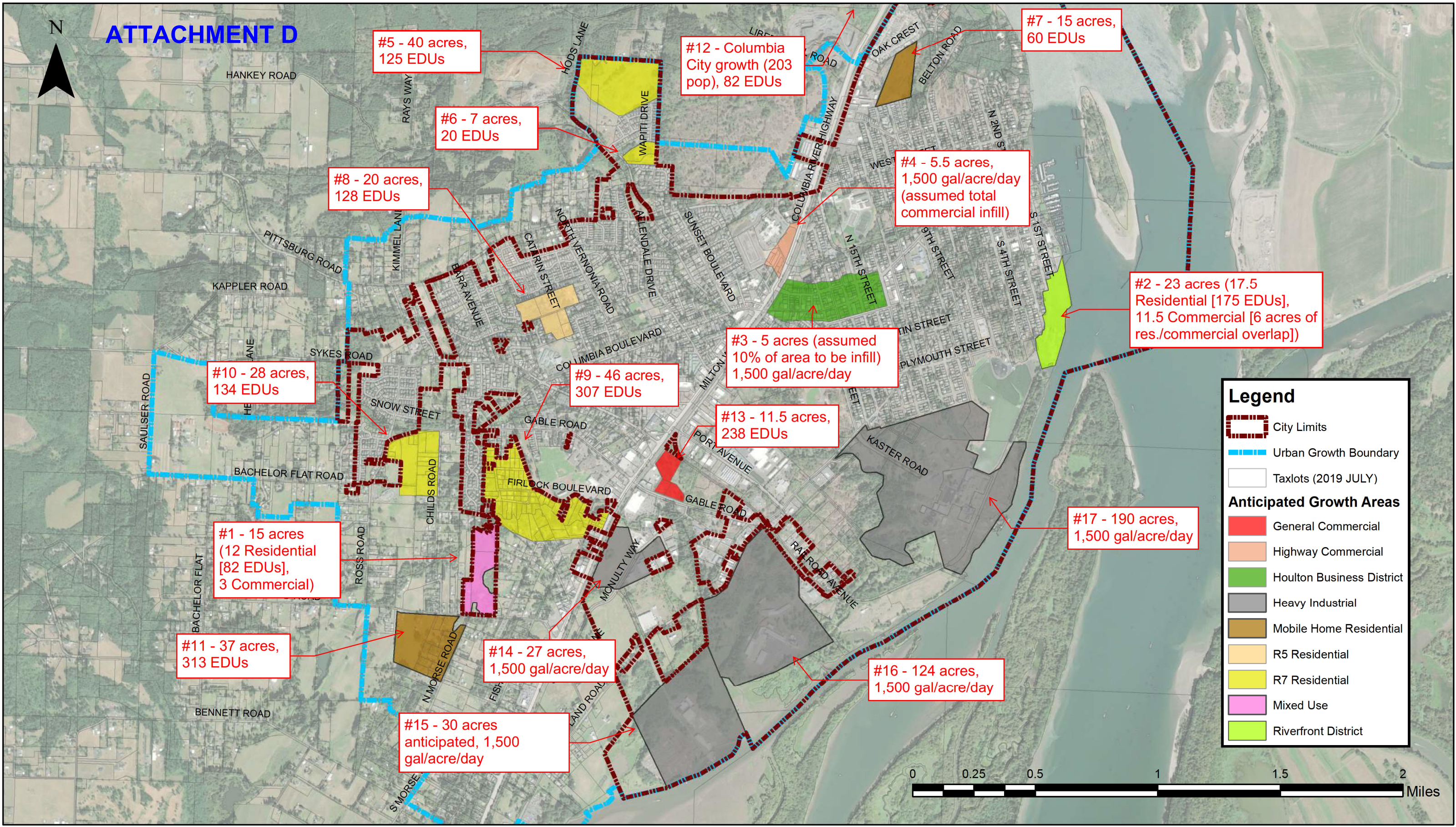




TABLE 1-5: 20-YEAR CAPITAL IMPROVEMENT PLAN (CIP)

Project No.	Project Name	Primary Purpose	Total Estimated Cost (2021)	SDC Growth Apportionment		City's Estimated Portion
				%	Cost	
Priority 1 Improvements						
1.1	WWTP Influent Flow Meter	Operations	\$ 68,000	10%	\$ 7,000	\$ 61,000
1.2	Basin 4 Pipeline Upsize and Reroute	Capacity	\$ 3,600,000	0%	\$ -	\$ 3,600,000
1.3	Basin 5 Pipeline Upsize	Capacity	\$ 4,500,000	3%	\$ 150,000	\$ 4,350,000
1.4	Install Overflow Alarms	Operations	\$ 9,000	20%	\$ 2,000	\$ 7,000
1.5	Pump Station 3 On-site Generator	Operations	\$ 90,000	0%	\$ -	\$ 90,000
1.6	Annual I/I Reduction Program (6-Year)	Capacity	\$ 3,000,000	20%	\$ 590,000	\$ 2,410,000
Total Priority 1 Improvement Cost (rounded)			\$ 11,300,000			\$ 10,500,000
Priority 2 Improvements						
2.1	Riverfront District Trunkline and Pump Station 1 Relocation	Capacity, Operations	\$ 2,400,000	18%	\$ 440,000	\$ 1,960,000
2.2	Relocate Pump Station 11	Capacity, Operations	\$ 3,100,000	68%	\$ 2,110,000	\$ 990,000
2.3	Industrial Business Park Trunklines and Pump Station	Capacity, Operations	\$ 13,200,000	100%	\$ 13,200,000	\$ -
2.4	Pump Station Upgrades	Operations, Safety	\$ 700,000	20%	\$ 140,000	\$ 560,000
2.5	Master Plan Update	Operations	\$ 300,000	100%	\$ 300,000	\$ -
2.6	Annual I/I Reduction Program (8-Year)	Capacity	\$ 4,000,000	20%	\$ 790,000	\$ 3,210,000
Total Priority 2 Improvement Cost (rounded)			\$ 23,700,000			\$ 6,700,000
Priority 3 Improvements						
3.1	Basin 6 Pipeline Upsize and Reroute	Capacity	\$ 6,300,000	7%	\$ 460,000	\$ 5,840,000
3.2	Basin 2 Pipeline Upsize and Reroute	Capacity	\$ 9,400,000	12%	\$ 1,140,000	\$ 8,260,000
3.3	Southern Trunkline Upsize	Capacity	\$ 3,900,000	26%	\$ 1,010,000	\$ 2,890,000
3.4	Pump Station 7 Upgrades	Capacity	\$ 2,200,000	65%	\$ 1,430,000	\$ 770,000
3.5	Basin 1 Pipeline Upsize	Capacity	\$ 1,800,000	9%	\$ 150,000	\$ 1,650,000
3.6	Basin 3 Pipeline Upsize	Capacity	\$ 1,200,000	3%	\$ 40,000	\$ 1,160,000
3.7	Annual I/I Reduction Program (6-year)	Capacity	\$ 3,000,000	20%	\$ 590,000	\$ 2,410,000
Total Priority 3 Improvement Cost (rounded)			\$ 27,900,000			\$ 23,000,000
Total Collection System Improvement Costs (rounded)			\$ 62,900,000			\$ 40,200,000

Note:

The cost estimate herein is concept level information only based on our perception of current conditions at the project location and its accuracy is subject to significant variation depending upon project definition and other factors. This estimate reflects our opinion of probable costs at this time and is subject to change as the project design matures. This cost opinion is in 2021 dollars and does not include escalation to time of actual construction. Keller Associates has no control over variances in the cost of labor, materials, equipment, services provided by others, contractor's methods of determining prices, competitive bidding or market conditions, practices or bidding strategies. Keller Associates cannot and does not warrant or guarantee that proposals, bids, or actual construction costs will not vary from the cost presented herein.

TABLE 1-6: PRIORITY 1 CIP SCHEDULE

Project No.	Item	Cost (2021)	Opinion of Probable Costs					
			2022	2023	2024	2025	2026	2027
Priority 1 Improvements								
1.1	WWTP Influent Flow Meter	\$ 68,000	\$ 68,000					
1.2	Basin 4 Pipeline Upsize and Reroute	\$ 3,600,000		\$ 400,000	\$ 3,200,000			
1.3	Basin 5 Pipeline Upsize	\$ 4,500,000				\$ 500,000	\$ 4,000,000	
1.4	Install Overflow Alarms	\$ 9,000	\$ 9,000					
1.5	Pump Station 3 On-site Generator	\$ 90,000	\$ 90,000					
1.6	Annual I/I Reduction Program (6-Year)	\$ 3,000,000	\$ 500,000	\$ 500,000	\$ 500,000	\$ 500,000	\$ 500,000	\$ 500,000
Total (Rounded)		\$ 11,300,000	\$ 700,000	\$ 900,000	\$ 3,700,000	\$ 1,000,000	\$ 4,500,000	\$ 500,000

Note:

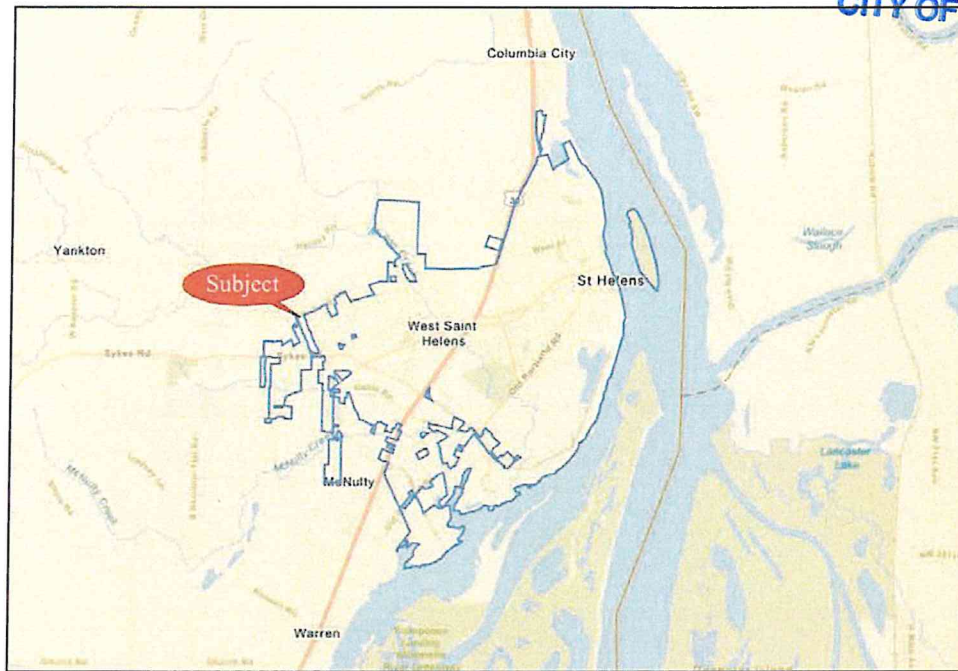
The cost estimate herein is concept level information only based on our perception of current conditions at the project location and its accuracy is subject to significant variation depending upon project definition and other factors. This estimate reflects our opinion of probable costs at this time and is subject to change as the project design matures. This cost opinion is in 2021 dollars and does not include any escalation. Keller Associates has no control over variances in the cost of labor, materials, equipment, services provided by others, contractor's methods of determining prices, competitive bidding or market conditions, practices or bidding strategies. Keller Associates cannot and does not warrant or guarantee that proposals, bids, or actual construction costs will not vary from the cost presented herein.



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CITY OF ST. HELENS



*City of St. Helens Map*

The subject property is roughly 29 road miles northwest of central Portland and immediately outside the city limits of St. Helens limits. St. Helens lies in Columbia County and is generally situated between Columbia City to the north, Warren to the south, the Columbia River to the east and rural areas of Columbia County to the west. St. Helens was incorporated in 1889 and is a bedroom community of Portland.

According to ESRI, St. Helens has a 2021 estimated population of 14,178 residents, which is up by 13.6% from 13,031 in 2010. The population is expected to grow 3.5% to 14,670 by 2026 per ESRI projections. The annual growth rate of 0.68% is expected to be below both the state (1.02%) and nation (0.71%) over the next five years. Median household income is \$59,106; 41.6% of the households earn \$75,000 or more and 25.6% earn \$100,000 or more.



Name/Location: Comstock Property, St. Helens, Oregon

Map & Tax Lot: 4N1W06AD TL 2600, 4N1W06D TL 604, Columbia County, Oregon

Assessor's Parcel No. 16566, 16690

Owner of Record: James Martin Comstock and Chieko Comstock, Trustees of the James and Chieko Trust, dated February 3, 2006

Site Size: 12 Acres per County Assessor's Map

Site Shape: Rectangular

Site Topography : Level, Sloped

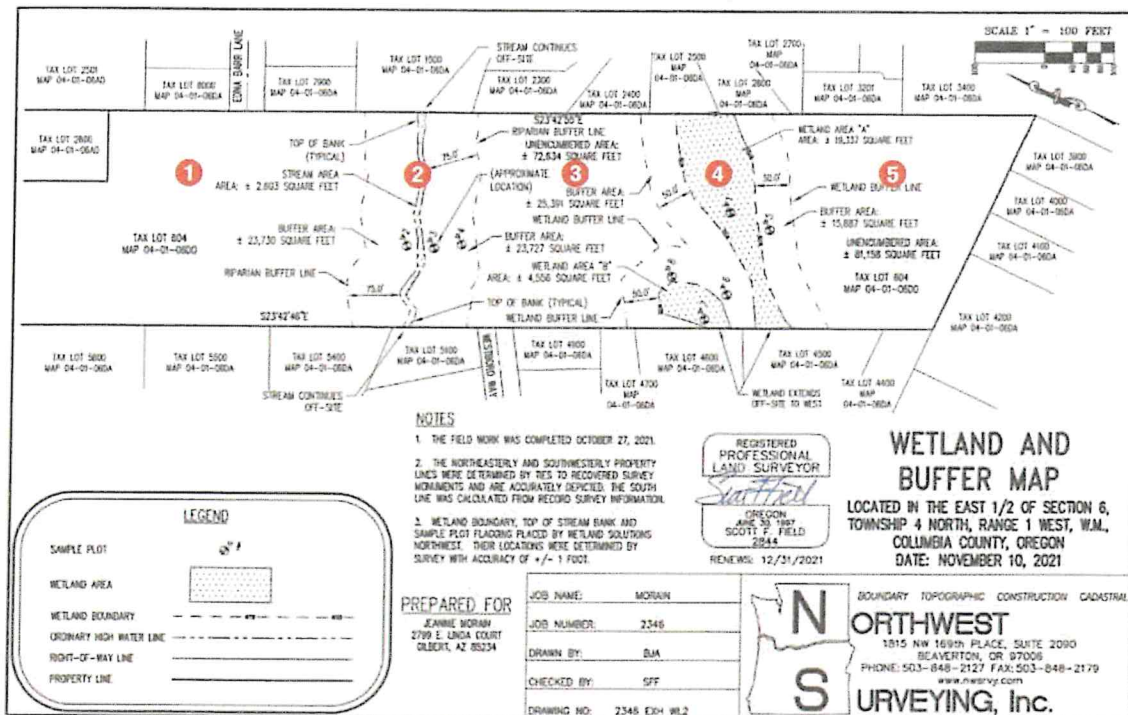
Site Features: Territorial and Mountain Views, Creek Frontage, Wetlands and Trees

Current Zoning: R-10; Single-Family Residential - Columbia County

Potential Zoning: R-7; Moderate Residential Zone - City of St. Helens







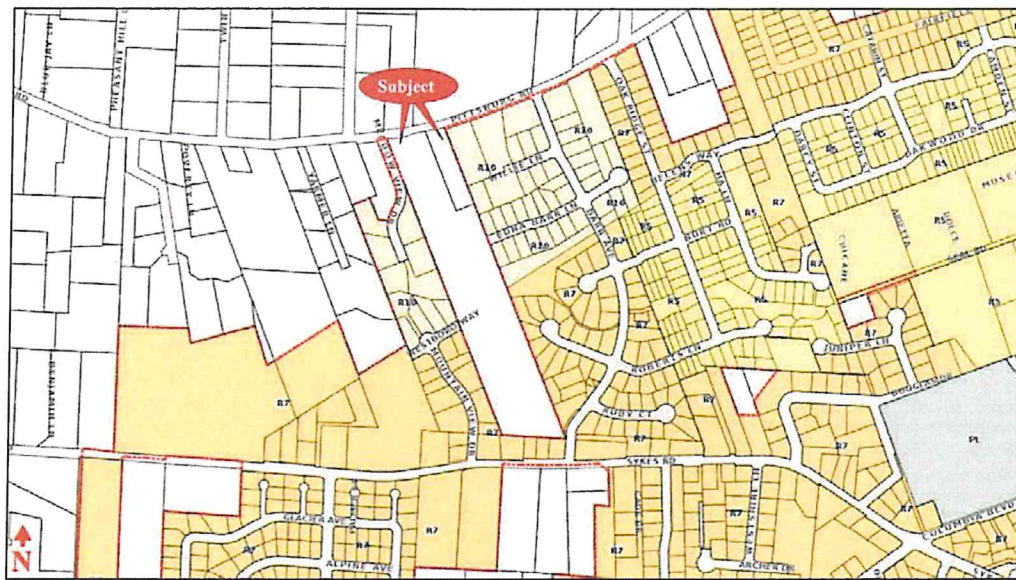
**Wetland and Buffer Map**  
 (North is on the left)

As reflected on the Wetland and Buffer Map above, a creek that runs through the subject in an east/west direction. There are two wetland areas on the subject property. The stream near the center of the site requires a 75' buffer on each side. The wetlands in the southern portion of the site require a 50' buffer. Based upon the map, the unencumbered and wetland, stream, and buffer areas of the site are indicated as follows.

#### Wetlands, Buffers, and Total Site Area

1	Unencumbered Area	253,697 Square Ft.	5.82 Acres
2	Stream & Buffer	50,060	1.15
3	Unencumbered Area	72,634	1.67
4	Wetland & Buffer	65,171	1.50
5	Unencumbered Area	81,158	1.86
Total Unencumbered Areas		407,489	9.35
Stream, Wetland, & Buffers		115,231	2.65
Total Site Area per assessor's map		522,720 Square Ft.	12.00 Acres





**St. Helens Zoning Map**  
Potential Zoning is R7 if annexed to the City

**Zoning:** The subject is zoned Single Family Residential (R-10) by Columbia County. The Single-Family Residential (R-10) District is intended to provide minimum development standards for low density residential uses in unincorporated urban growth areas where public water and public sewer exist, or are programmed, and where resource activities are declining. Permitted uses are generally limited to detached single family dwellings.

Development standards include a minimum lot size of one-acre without public water or sewer and 10,000 SF if public water and sewer are available. Water and sewer are physically present at abutting streets; annexation would be required for their use. A minimum lot width of 70' and depth of 100' are required. Setbacks are 25', 10' and 20' for front, side and rear, respectively. Lot coverage is limited to 30%, maximum height 35'; two off-street parking spaces are required.

The subject is surrounded to the east, west and south by the City of St. Helens city limits.. Jennifer Dimsho, Associate Planner/Community Development project manager for the City of St. Helens, indicated that the subject would be a prime candidate for inclusion because of its location relative to the city limits as well as its residential zoning. The city has recognized need for residential properties. Typically, if brought into the city, the subject zoning would mirror that of the adjoining land. Thus, the subject's northern portion would be zoned R-10 (10,000 SF lots) and the southern portion zoned R-7 (7,000 SF lots). However, a May 2019 Housing Needs Analysis reports an oversupply of low-density lots. As a result, Ms. Dimsho notes it is highly likely that the entire subject would be zoned R-7 if annexed.

While developing under the city's zoning would require annexation, time and fees, the time is two to three months and the fees minimal. In addition, the City would be likely to see the annexation favorably since the site is surrounded to the east, south and west by the city.



R-7 (Moderate Residential Zone-7,000 SF). The purpose of the R-7 zone is to provide minimum development standards for residential purposes and to establish urban moderate density residential homesites. City development standards for R-7 are presented below.

Residential density (maximum)	1 unit/7,000 SF
Lot width (minimum)	60 Feet
Lot depth (minimum)	85 Feet
Lot coverage (maximum)	35%
Building setbacks (minimum):	TBD
Building height (maximum)	35'
Landscaping	25%

TBD = To be determined by Planning Commission

**Physical suitability for development:** The subject is located within a steadily developing area of Columbia County abutting the St. Helens city limits. The area is highly supportive of residential use as reflected in the immediate neighborhood. The underlying site has multiple points of access, though the southernmost area would likely require some onsite mitigation to develop. In terms of utilities, if annexed, all utilities required for development to its highest and best use are immediately available. Further, its size and shape are competitive allowing for a significant development which increases efficiencies and lowers costs. However, the subject's wetlands and associated buffer limits lot yield and add complexity.

The creek, wetlands, and buffers reduce the unencumbered area to 407,489 SF, or ±9.35 acres. After a 20% deduction for roads and infrastructure (81,498 SF) the net area for lot placement is 325,991 SF. If developed under current R-10 zoning, at an average of 10,000 SF per lot, the site could yield up to 32 lots (325,991 SF ÷ 10,000 SF /lot).

If the subject were to be annexed into the city, the lot yield is estimated from an unencumbered area to 407,489 SF, or ±9.35 acres, minus a 20% deduction for roads and infrastructure (81,498 SF) and a net area for lot placement of 325,991 SF. At R-7 zoning, at an average of 7,000 SF per lot, the site could yield up to 46 lots (325,991 SF ÷ 7,000 SF /lot). In light of the City's expressed wishes for relatively higher density, the R-7 scenario and a yield of 46 lots is reasonable and will be used in the analysis.



265 Strand Street  
St. Helens, Oregon  
97051

## NOTICE OF DECISION

July 18, 2022

**RE:** Subdivision Preliminary Plat, **SUB.2.22**

Dear applicant/interested party,

The **Planning Commission** for the City of St. Helens **denied** the application referenced above for a 46 lot Planned Development Subdivision Preliminary Plat.

All required notices pursuant to SHMC 17.24.130 have been met. The adopted findings of fact, decision, and statement of conditions, as applicable, are on file at City Hall and are available for review during normal business hours. Copies are available for a nominal charge.

This decision of the **Planning Commission** may be appealed to the St. Helens **City Council** by a party with standing to appeal pursuant to SHMC 17.24.290. The deadline for filing an appeal application with the required fee is **5pm the 14<sup>th</sup> day starting after the day of mailing this decision. If the 14<sup>th</sup> day falls on a legal holiday for the City or a weekend, the next business day for the City is the appeal deadline.** If you feel that the decision meets the requirements for an amended decision pursuant to SHMC 17.24.275 and you wish to apply for such, the deadline for a proper amended decision application with the required fee is the same as that of the appeal. If no appeal or amended decision is filed this decision becomes effective as of the deadline noted herein.

If you have any questions, please contact this office. Some information such as the St. Helens Municipal Code (SHMC) can also be obtained at the City's website:

<https://www.sthelensoregon.gov/>.

Respectfully yours,

Jacob A. Graichen, AICP  
City Planner

**CITY OF ST. HELENS PLANNING DEPARTMENT**  
**FINDINGS OF FACT AND CONCLUSIONS OF LAW**  
Subdivision Preliminary Plat, SUB.2.22

**APPLICANT:** Ken Sandblast, Westlake Consultants, Inc.

**OWNER:** Chieko Comstock

**ZONING:** Moderate Residential, R7

**LOCATION:** 4N1W-6D-604 and 4N1W-6AD-2600

**PROPOSAL:** 46 lot Planned Development Subdivision Preliminary Plat

**SITE INFORMATION / BACKGROUND**

The subject property is approximately 12 acres in size and is undeveloped. The property is roughly rhomboidal in shape and generally descends in elevation from where it abuts Pittsburg Road to its southern boundary that abuts a row of lots that abut Sykes Road. The property itself does not abut Sykes Road. There are two wetland areas that divide the property into three segments. Some roads stub to the property along the long sides of the rhombus such as Westboro Way on the west side and Edna Barr Lane on the east side. Also, Meadowview Drive on the NW side and Barr Avenue on the SE side abut the property along the sides of those streets.

This property was annexed recently (file Annexation A.5.21) via Ordinance No. 3281 adopted by the City of St. Helens in March of this year.

**Associated file:** Planned Development (overlay zone), PD.1.22.

**PUBLIC HEARING & NOTICE**

**Public hearing** before the Planning Commission: July 12, 2022

**Notice** of this proposal was sent to surrounding property owners within 300 feet of the subject property(ies) on May 20, 2022 via first class mail. Notice was sent to agencies by mail or e-mail on the same date.

**Notice** was published on June 29, 2022 in The Chronicle newspaper.

**Wetland Land Use Notification** was provided to Oregon DSL on May 17, 2022 pursuant to ORS 227.350.

**APPLICATION COMPLETENESS**

This application was originally received on April 11, 2022. Staff identified missing information or other aspects that rendered the application incomplete and notified the applicant of the issue pursuant to SHMC 17.24.050 on April 29, 2022. The applicant provided revised or new

information and the application was deemed complete on May 9, 2022. The 120-day rule (ORS 227.178) for final action for this land use decision is September 6, 2022.

However, the applicant submitted a phasing plan not originally proposed, on May 20, 2022, so the 120<sup>th</sup> day could be considered as September 17, 2022.

### AGENCY REFERRALS & COMMENTS

As of the date of this staff report, the following agency referrals/comments were received that are pertinent to the analysis of this proposal:

**City Engineering Manager:** See Engineering Staff Report dated June 22, 2022, an attachment of the staff report to the Planning Commission.

**Columbia County Public Works:** Here are the Columbia County Public Works Departments comments for this subdivision:

1. The applicant needs to obtain an access permit for their connection to Meadowview Drive from the Columbia county Public Works department.
2. The applicant must obtain a construction permit for any work within the Pittsburg Road ROW and a construction permit for any work in the Meadowview Drive ROW.
3. No additional storm water to be added to Pittsburg Road or Meadowview Drive. The applicant must treat and contain all additional storm water within the property.
4. The County supports the City of St Helens requirements for street frontage improvements and ROW dedications.

**Bonneville Power Administration:** Bonneville Power Administration (BPA) has reviewed the above-referenced materials and its relationship to the BPA transmission line easement that this project impacts. BPA does not have any objection to this project as long as, except as shown on the drawings supplied with the Notice of Public Hearing, all buildings and facilities remain off of the BPA right-of-way. We do request, however, that the following statement be forwarded to the property owners that are adjacent to the right-of-way to help ensure public safety and reliable operation of BPA's facilities.

*Portions of the property are encumbered by easements for high-voltage transmission lines owned by the Bonneville Power Administration (BPA). BPA has acquired rights for these easements that limit the landowner's use of this area. BPA has the right of ingress and egress, and the right to keep the easement free and clear of all buildings, sheds, fences, roads, in-ground and above-ground swimming pools, trampolines, or any other type of structure, trees, and all vegetation. All activities planned within the BPA easement need to be reviewed by BPA prior to their occurrence. Do not build, dig, install utilities, plant, or burn within the easement area. For further questions or concerns regarding any proposed uses of the easement you may contact BPA Real Estate Field Services by calling (800) 836-6619.*

The plans do indicate that a road and pedestrian path will be located within the easement area. These improvements will require an application to be submitted for review by BPA. This review process generally takes between 6 and 8 weeks. This review process will determine if your requested uses are compatible with the operation and maintenance of the transmission line.

Your cooperation in this matter is greatly appreciated. By working together with our agency, your effort will help to minimize later disputes or unnecessary costs associated with the required removal or modification of incompatible or non-permitted activities placed within BPA's easement. If you have any questions regarding this request or need additional information, please feel free to contact me.

### **APPLICABLE CRITERIA, ANALYSIS & FINDINGS**

The first step to a Planned Development proposal is to adopt a Planned Development overlay zone. This overlay zone is necessary to use the flexibility of Chapter 17.148 SHMC. **Such an overlay zone is proposed via file PD.2.22.** Though a separate matter, this Subdivision Preliminary Plat approval shall be contingent on successful adoption of a Planned Development overlay since it would not be possible without it.

The Planned Development overlay zone allows flexibility to the provisions of the base zoning district. The site is zoned R7 and this zone will be the focus in considering zoning flexibility per **SHMC 17.148.080 as follows:**

- (1) The provisions of the base zone are applicable as follows:
  - (a) Lot Dimensional Standards. The minimum lot size, lot depth and lot width standards shall not apply except as related to the density computation under Chapter 17.56 SHMC;
  - (b) Site Coverage. The site coverage provisions of the base zone shall apply;
  - (c) Building Height. The building height provisions shall not apply except within 100 feet of an "established area"; and
  - (d) Structure Setback Provisions.
    - (i) Front yard and rear yard setbacks for structures on the perimeter of the project shall be the same as that required by the base zone unless otherwise provided by Chapter 17.96 SHMC;
    - (ii) The side yard setback provisions shall not apply except that all detached structures shall meet the applicable building code (as administered by the building official) requirements for fire walls; and
    - (iii) Front yard and rear yard setback requirements in the base zone setback shall not apply to structures on the interior of the project except that:
      - (A) A minimum front yard setback of 20 feet is required for any garage structure which opens facing a street;
      - (B) A minimum front yard setback of eight feet is required for any garage opening for an attached single-family dwelling facing a private street as long as the required off-street parking spaces are provided.
- (2) All other provisions of the base zone shall apply except as modified by this chapter.

**Finding(s):** The applicant proposes some desired standards as allowed per the provisions above.

Note that per (1)(b) above, the site coverage rules cannot be changed.



Also note that building height can be flexible, but not within 100' of an "established area" per Chapter 17.112. Per SHMC 17.112.020:

- (1) Established Area.
  - (a) An "established area" is an area where the land is not classified as buildable land under OAR 660-08-0005;
  - (b) An established area may include some small tracts of vacant land (tracts less than an acre in size) provided the tracts are surrounded by land which is not classified as buildable land; and
  - (c) An area shown on a zone map or overlay map as an established area.
- (2) Developing Area. A "developing area" is an area which is included in the city's buildable land inventory under the provisions of OAR except as provided by subsection (1)(b) of this section.

OAR 660-008-0005 classifies *buildable land* as:

Residentially designated land within the urban growth boundary, including both vacant and developed land likely to be redeveloped, that is suitable, available and necessary for residential uses. Publicly owned land is generally not considered available for residential uses. Land is generally considered "suitable and available" unless it:

- (a) Is severely constrained by natural hazards as determined under Statewide Planning Goal 7;
- (b) Is subject to natural resource protection measures determined under Statewide Planning Goals 5, 6, 15, 16, 17 or 18;
- (c) Has slopes of 25 percent or greater;
- (d) Is within the 100-year flood plain; or
- (e) Cannot be provided with public facilities.

Generally, surrounding lands can be considered buildable. There is no severe constraints, there are some Goal 5 lands but not enough to prevent development, predominant slopes are less than 25%, there is no 100-year floodplain and public facilities can be or are anticipated to be available within a 20 year planning period. But, since the applicant proposes the standard building height, this issue is moot.

Moreover, "interior yards" (i.e., distance between buildings) as established via Ordinance No. 3264 in 2021 are not included in the provisions that may be flexed and thus apply per (2). Applicant proposed a change, by accident, which was verified by staff.

Applicant proposes a 15-foot building and 12-foot porch front yard. SHMC 17.64.050(4) allows a porch to extend into a front yard as much as four feet. Thus, applicants' three-foot proposal is more restrictive. Staff assumed this was based on the applicant being unaware of this provision, and this was verified by staff.

A summary of the standards proposed for this development per the applicant's proposal and based on staff's observations and assumptions as noted above, was attached as Exhibit A to the staff report to the Planning Commission.

ORS 94.550 to 94.783 (2019) address Planned Communities, which are defined as:

**ORS 94.550(20)(a)** "Planned community" means any subdivision under ORS 92.010 to 92.192 that results in a pattern of ownership of real property and all the buildings, improvements and rights located on or belonging to the real property, in which the owners collectively are responsible for the maintenance, operation, insurance or other expenses relating to any property within the planned

community, including common property, if any, or for the exterior maintenance of any property that is individually owned.

ORS record of declaration requirements:

**ORS 94.565(2)** A person may not convey any lot or unit in a planned community until the planned community is created by the recording of the declaration for the planned community with the county recording officer of each county in which the planned community is located.

The declaration is the instrument per ORS 94.580 that establishes a planned community. This includes formation of a homeowners association, bylaws and such.

**ORS 94.625(1) and (2)** requires that a homeowners association be formed as a nonprofit corporation, and adopt and record bylaws either (1) not later than when the first lot is conveyed or (2) if the plat contains a conveyance of any property to the association, before the plat is recorded. This is important since tracts of the subdivision will be conveyed to the homeowners association.

**ORS 94.665(1)** says that a homeowners association may sell, transfer, convey or subject to security interest any portion of the common property given certain affirmative votes, except as otherwise provided in the declaration. The exception is important given common ownership of wetlands. The declaration will need to include a provision that any sale, transfer, etc. also requires city approval.

\* \* \* \* \*

### **Subdivision Standards**

#### **SHMC 17.136.040(1)**

(1) The preliminary plat approval by the planning commission or final approving authority shall lapse if:

(a) A final plat (first phase in an approved phased development) has not been submitted within a one-year period; or

(b) The final plat does not conform to the preliminary plat as approved or approved with conditions.

**Discussion:** This is not a standalone subdivision request. Four phases are proposed.

Note that Planned Developments may have an initial validity period of 1.5 years, which may be applied.

**Finding:** This Subdivision preliminary plat approval shall be effective for a period of eighteen (18) months from the date of approval per this section. Time extensions are possible per SHMC 17.136.040.

\* \* \*

#### **SHMC 17.136.050 (1) and (2) Phased development.**

(1) The planning commission may approve a time schedule for developing a subdivision in phases, but in no case shall the actual construction time period for any phase be greater than two years (unless an extension is granted) without reapplying for a preliminary plat, nor the cumulative time exceed six years (regardless of extensions) without applying for a new preliminary plat.

(2) The criteria for approving a phased site development review proposal are:

(a) The public facilities shall be scheduled to be constructed in conjunction with or prior to each phase to ensure provision of public facilities prior to building occupancy;

(b) The development and occupancy of any phase shall not be dependent on the use of temporary public facilities:

(i) For purposes of this subsection, a temporary public facility is an interim facility not constructed to the applicable city or district standard;

(c) The phased development shall not result in requiring the city or other property owners to construct public facilities that were required as a part of the approval of the preliminary plat; and

(d) Public facilities approved as conditions of approval must be bonded.

**Discussion:** Four phases are proposed as follows:

Phase 1: Lots accessed via Barr Avenue

Phase 2: Lots accessed via Westboro Way

Phase 3: Lots accessed via Edna Barr Lane all south of the Willie Lane

Phase 4: Remaining lots on the north side of the site

Note that Planned Developments may have a total time period of all phases up to seven years, which may be applied.

**Finding:** The Commission needs to approve the phasing scheme. The Commission denied the application and did not discuss phasing much. However, the applicant did confirm that the southerly wetland tract should be a part of Phase 1 as access to it is provided via that phase, and the wetland tract adjacent to Westboro Way should be a part of Phase 2, as the extension of Westboro will provide access to that and ties in with the proposed trail. At the Commission's hearing staff observed and the applicant acknowledged that Lot 40 and/or the Willie Lane extension need to be reconfigured as the current phase layout isolates Lot 40 in Phase 3 from Willie Lane of Phase 4.

The conditions of said sections (1) and (2) shall apply.

\* \* \*

#### **SHMC 17.136.060(1) – Approval standards – Preliminary plat.**

(1) The planning commission may approve, approve with conditions or deny a preliminary plat based on the following approval criteria:

(a) The proposed preliminary plat complies with the city's comprehensive plan, the applicable sections of this code and other applicable ordinances and regulations;

(b) The proposed plat name is not duplicative or otherwise satisfies the provisions of ORS Chapter 92[.090(1)];

(c) The streets and roads are laid out so as to conform to the plats of subdivisions and maps of partitions already approved for adjoining property as to width, general direction and in all other respects unless the city determines it is in the public interest to modify the street or road pattern; and



(d) An explanation has been provided for all common improvements.

**(a)** This criterion asks if the proposed preliminary plat complies with the city's comprehensive plan, the applicable sections of this code and other applicable ordinances and regulations. The City's development code (SHMC Title 17) implements the Comprehensive Plan. The Development Code standards are addressed herein.

**There are no known conflicts with the Comprehensive Plan.** This includes addendums to the Comprehensive Plan: Economic Opportunities Analysis (Ord. No. 3101), Waterfront Prioritization Plan (Ord. No. 3148), the Transportation Systems Plan (Ord. No. 3150), the Corridor Master Plan (Ord. No. 3181), the Parks & Trails Master Plan (Ord. No. 3191), the Riverfront Connector Plan (Ord. No. 3241), and the Housing Needs Analysis (Ord. No. 3244).

There is an identified routes in the city's Parks and Trails Master Plan that traverses through the subject property: trail #9. This is discussed further below.

**Applicable provisions of the Development Code are addressed per Chapter as follows:**

- **17.32 – Zones and Uses** → The subject property is zoned Moderate Residential, R7. As a Planned Development, the applicant is seeking different standards as allowed by the city's Planned Development provisions, which are summarized (including the correction of errors noted on page 4 herein) per Exhibit A, as attached to the staff report to the Planning Commission.

The subdivision appears to comply with the proposed standards. However, as part of their recommendation to the City Council for the planned development overlay zone (file PD.2.22), the Commission found that the minimum lot size and minimum side yard of the R7 zone need to be maintained to remain consistent with the development patterns (lot size/density and air light and space between buildings) of adjacent and neighboring properties. As such, the flexibility for lot size and side yard as possible per SHMC 17.148.080 cannot be granted if the Council or higher appellate authorities uphold the Commission recommendations. In that case, this preliminary play would not comply with the planned development overlay zone.

There are no existing dwellings or other buildings to determine compliance with proposed property lines

Flag lots are not allowed in the R7 zoning district. Other zoning districts where flag lots are allowed, identify flag lots as possible. For example, see SHMC 17.32.070(5)(d), 17.32.080(5)(d) and 17.140.055(2). Planned Development overlay zone does not exempt this allowance. No flags lots are proposed. Though Lot 46 looks like a flag lot, its lot width at the street—30 feet—meets the minimum proposed PD standard.

- **17.40 – Wetlands & Riparian Areas** → There are two significant wetlands within the boundaries of the subject properties:

Wetland MC-1, a type I wetland with a required 75' upland protection zone.

Wetland MC-2, a type II wetland with a required 50' upland protection zone.

Both of these wetlands are inventoried as riparian corridor too, but R-MC-18 is not significant per this Chapter and does not result in any additional requirements.

An environmental assessment has been conducted (DSL WD # 2021-0642) identifying the specific location of these significant wetlands. This is required for land divisions such as this.

All proposed lots, roads and stormwater facilities are located outside of wetlands MC-1 and MC-2 and their upland protection zones.

A trail is proposed along the south side of the 75' upland protection zone on the south side of the wetland/stream of MC-1. This is acceptable provided impacts are minimal. Trail specifications will be necessary to evaluate this. Sensitive Lands Permit may be required based on anticipated impacts of the trail.

Moreover, the easterly extension of Westboro Way street improvements are proposed to abut the MC-1 75' upland protection zone in the same area. This immediate adjacency begets necessary identification to prevent impact during construction. Sheet P202 shows protection fencing behind the outer edge of the protection zone, which by itself, would be insufficient.

Subdivision infrastructure will be within proximity of these sensitive lands as will development of any lot adjacent to them. Methods of how sensitive lands/upland protection zones will be identified and protected during development of the subdivision and development of its lots will be necessary. Any impacts, including temporary may require a Sensitive Lands Permit

Density transfer is allowed as part of a Planned Development with a Development Agreement. A Development Agreement application has not been submitted. However, the applicant proposes density transfer, but as allowed by Chapter 17.56 SHMC, not this chapter.

The wetlands and their protection zones are required to be preservation tracts to be managed by a homeowner association or other entity responsible for preservation.

- **17.44 – Sensitive Lands** → This chapter addresses various types of sensitive lands, including steep slopes 25% or greater.

The applicant proposes creating steep slopes along the lots that abut Pittsburg Road. There is a 20 minimum yard that cannot be reduced by the Planned Development

aspect of this proposal along Pittsburg that will contain much of the proposed steep slope area, but not necessarily all of the steep slope.

There is potential for someone to want to build within the steep slope. If such is proposed, a Sensitive Lands Permit per this chapter will be required.

- **17.56 – Density Computations** → The applicant provided a summary of the density calculations as revised and received on July 1, 2022 justifying the proposed 46 lots.

This property was annexed and zoned as R7, which needs to be honored.

- **17.72 – Landscaping and Screening** → Street trees are required per this Chapter because the site fronts a street for more than 100 feet.

All abutting and stubbed streets to be extended within the subject property are classified as local per the City's Transportation Systems Plan, except Pittsburg Road, which is classified as a minor arterial.

For the local streets, street trees will be planted behind the sidewalk in the right-of-way or landscape/public utility easement, per this Chapter. These trees will be planted as each lot is developed, as a condition of building permits. Exceptions to this are within the BPA easement, where no trees are required (BPA doesn't want trees) and along a wetland protection zone or along storm water tracts. These "natural areas" will provide "green-scape" there.

For Pittsburg Road, which requires a landscape strip with street trees as part of the public street frontage improvements (curb, gutter, landscape strip, and sidewalk), street trees will need to be installed as part of the frontage improvements required for the subdivision (as opposed to development of the subdivision's lots). As Pittsburg Road has overhead utilities, tree species shall be "small" per this Chapter.

- **17.84 – Access, Egress & Circulation** → Pittsburg Road is a minor arterial street per the city's Transportation Systems Plan. All other adjacent streets are classified as local.

The development code does not favor access from minor arterial streets. No direct access using Pittsburg Road is proposed. Direct access shall not be allowed.

Access from Barr Avenue was approved prior to this Subdivision application (see dedication deed recorded as instrument no. 2022-3799 and public utility easement recorded as instrument no. 2022-3800). All other streets are stubbed to the site and will be extended within, except for the proposed Comstock Way off of Meadow View Drive, which will provide access to Pittsburg Road. A minimum 150' separation (measured from centerline) is required; the distance between Pittsburg Road and Comstock Way (off Meadow View Drive) exceeds 150 feet.



Some private streets (shared accesses) are proposed, and this Chapter provides some guidance for those.

Lots 1, 2, 3 and 46 (four total) are proposed to share an access. A 30' wide easement is proposed, which is suitable for 3-6 lots. Minimum pavement width required is 20 feet.

Note that because Pittsburg Road is a minor arterial street. Lots 1-3 cannot have direct access onto it.

20' roadway is the minimum width needed for traffic circulation. No parking signage is necessary.

No private drive exceeds 150 feet, which would require a turnaround suitable for emergency vehicles (fire department standard).

Easements for access to lots are possible per this Chapter 17.152. Easements need to be shown properly on all plans. These will require a maintenance agreement between all lots that utilize such access, to be recorded with the final plat. These are not to be public streets subject to city maintenance and such. Physical improvements shall be included on construction plans. Will need to include utility easements to serve the lots served by access. They will be too narrow for on-street parking.

- **17.132 – Tree Removal** → A tree plan is a required for a property with more than 10 trees or any tree over 2 feet diameter at breast height (DBH). This chapter focuses on trees over 12 inches DBH.

There are about 51 trees pertaining to this chapter. 20 of those are proposed to be removed. As this is less than 50% of these trees, replacement is required as a 1:1 ratio.

Street trees will be required and there are anticipated to be more than 20 street trees within the site upon full buildout, which will satisfy the replacement requirement.

Tree plan includes protection of existing trees as required. This, as revised, will need to be a part of subsequent development permits.

- **17.152 – Street & Utility Improvement Standards** → Development is required to have frontage along a public street improved to city standards. Streets are proposed to be dedicated and improved both adjacent to and within the subject property.

Pittsburg Road will require approximately 10' of right-of-way dedication (30' from centerline) to meet the 60' ROW width for Minor Arterial classified streets.

Other streets that abut the subject property along their sides (i.e., Meadow View Drive and Barr Avenue) are already at the 50' minimum width for local classified streets.

An access easements (private shared drive/street) is proposed for some lots, which the code allows if it's the only reasonable method to create lots large enough to be developed. These must be approved by the Commission; they are described in greater detail under Chapter 17.84 SHMC above. As the commission denied the subdivision based on other standards, their acceptance of this was not addressed.

The applicant is acknowledging all streets stubbed to the property and extending them within. This includes continuation of the right-of-way recently dedicated for access to Barr Avenue (see dedication deed recorded as instrument no. 2022-3799 and public utility easement recorded as instrument no. 2022-3800), Westboro Way, Edna Barr Lane and Willie Lane.

Willie Lane differs from the others since it does not stub to the subject property, rather, the stub is about 260' to the east, with an easement in between—instrument no. 01-10543 as depicted on P.P. No. 2003-100. The purpose of this easement is to preserve right-of-way for Willie Street to eventually be extended westward. The Willie Lane portion of the development will be the only street stub that does not abut a fully improved stub on the other side of the property line.

The Westboro Way extension will have the additional review and agreements required by the Bonneville Power Administration. Road, utility and other construction within the BPA easement will require review and approval from the BPA.

Any county road will require coordination with Columbia County. See Columbia County Public Works comments herein.

Generally, the street layout proposed is logical utilizing existing surrounding streets and avoiding wetland/upland protection zone impacts. Intersection angles are at right angles more-or-less as required.

**Cul-de-sac.** Cul-de-sacs are allowed only when there are justifiable constraints. Cul-de-sacs shall be no more than 400' long and not provide access to more than 20 dwelling units per normal standards.

Two cul-de-sacs are proposed, each logical due to surrounding development and wetlands.

The first is the extension of Westboro Way. Currently, the leg of this street from the centerline of Mountain View Drive to the east stub to the subject property is 175' long and provides access to 5 lots (east of the Mountain View Drive C/L). The proposal extends the leg 200' ending in a conventional circular cul-de-sac; it will still

be less than 400' total. An additional 6 lots will be added, remaining under the 20 total.

Being longer than 150' the cul-de-sac needs to terminate with a turnaround area meeting fire code standards (which exceeds the city's normal cul-de-sac end standards). Plans show a 96-diameter cul-de-sac end, exclusive of sidewalks, which meets the minimum per the fire code.

The second proposed cul-de-sac is the southerly access off Barr Avenue. This is proposed to be approximately 300' long, providing access to 8 lots and terminating in a modified hammerhead, which appears to exceed fire code, except a 28' corner radius is required; 26 radii are proposed at the hammerhead. Note that the longer of the hammerhead sides is at 150 feet. Any longer would require another turn-around!

This southerly cul-de-sac is proposed to be a skinny street. Local "skinny" streets are possible with only a 40' wide right-of-way provided they will provide access to land whose combined average daily trip rate (ADT) is 200 ADT or less (in this case 20 lots). Only 8 lots are proposed for access. Roadway must be 28' wide, which will permit parking on one side of the street. Roadway section on the plans show this. No parking signage, etc. will be necessary.

**Street names.** All new street names are subject to approval by Columbia 9-1-1 Communications District. There are a couple new street names that will need to be reviewed. These should be approved prior to construction plans to ensure street name consistency throughout the post preliminary plat approval review processes.

**Street grade and curves.** Street grades for new streets appear less than 12%, which is the basic maximum standard for local streets. The greatest road grades are around 6.5%. The centerline radii of proposed curves is not less than 100' (except at intersections), which is the normal minimum requirement.

**Access to Arterials/Collectors.** Pittsburg abutting the north side of the subject property is a Minor Arterial Street. Separate access is required (no direct access for lots) and will be provided via Meadowview Drive and the rest of the proposed street network. SHMC 17.152.030(16) calls for buffering or screening for the lots with frontage along Pittsburg Road. A plan to address this for these lots shall be approved prior to the final plat, to be implemented no later than prior to occupancy of any permitted principle building on each lot.

**Mailboxes.** Joint mailbox facility shall be included on engineering/construction plans per city standards and the USPS. Subject to city and Postmaster approval.

**Street signage.** Signs for street names, traffic control and such are the financial responsibility of the developer.



**Street lights.** Are required at least at each intersection and as otherwise required by City Engineering.

**Blocks.** This proposal will nearly create the one possible block with Edna Barr Lane on the south side and Willie Lane on the north side. It will approximate the normal 1,800-foot maximum perimeter.

**Easements.** Minimum 8' wide public utility easements will be required along the street frontage of all lots unless a greater width is determined necessary by City Engineering. Moreover, other utility easements necessary, as identified on approved engineering/construction plans shall be included on the final plat. Approved engineering/construction plans will be required before submission of the final plat.

Easements specific to city utilities (e.g., sanitary sewer) are proposed. These are typically 15' wide on the center of the utility line, unless the utility is really deep or there is another unusual circumstance.

**Sidewalks/street frontage improvements.** All abutting streets and those within, except Pittsburg Road, are local classified streets and will require curb-tight sidewalks. Because, Pittsburg Road is a minor arterial, a planter strip between the curb and sidewalk will be required.

**City Utilities.** Water, sanitary sewer, and storm water system plans will be required in accordance with city requirements.

Water is available in multiple locations and is available along all abutting rights-of-way. City Engineering comments on water in their June 22, 2022 Engineering Staff report.

Sanitary sewer is problematic and is a significant basis for the Commission's denial of this proposal.

The city adopted a new Wastewater Master Plan in November 2021 that identifies multiple undersized trunk lines already operating at or above capacity that this development would depend on, which can cause surcharges (i.e., wastewater backing up and out of manholes). This can also result in sewerage backing up into existing buildings (like people's homes). Adding new development will increase surcharging potential and is a great risk considering the city's overarching obligation of public health, safety and welfare. See Engineering Staff Report dated June 22, 2022, as attached to the Planning Commission's staff report for additional details.

Given this issue, the Commission considered SHMC 17.152.090(4):

Permits Denied. Development permits may be restricted by the commission or council (i.e., the applicable approval authority) where a deficiency exists in the existing sewer system or portion thereof which cannot be rectified within the development and which if not rectified will result in a threat to public health or safety, surcharging of existing mains,

or violations of state or federal standards pertaining to operation of the sewage treatment system.

There is now a known existing deficiency that:

1. Cannot be rectified by development because the scale and cost is too high to require the improvements (disproportionately high) for this development and would make the project economically infeasible. The estimates cost of the necessary off-site sanitary sewer improvements that this development would depend on is approximately \$10 million.
2. Surcharging problems can be worsened by this and result in violations of a higher governmental authority, such as Oregon DEQ.

The Commission discussed the possibility of allowing the subdivision to be constructed (roads, infrastructure, etc.) so it can be platted (lots created), but delay building permit activity until the off-site sanitary sewer is upgraded. However, because the estimated timeline for the off-site sanitary sewer upgrades is approximately 2-4 years, there would be lag time between the subdivision completion and when building permits would be possible. Further, once divided, each lot can be sold; disparate ownership could additionally complicate the matter. The Commission finds that because the subdivision will result in additional lots resulting in additional dwellings burdening the system not yet ready to accommodate additional load (and undersized for current load), that this proposal must be denied.

The Commission finds that burdening the sanitary sewer system considering the recently adopted Wastewater Management Plan adds unnecessary risk to the city, a government entity with the obligation of preserving health, safety and welfare. The Commission was unwilling to add risk to the city's portfolio of responsibilities.

Allowing the subdivision to be completed, including building permits for those lots will increase the probably of surcharges and other backups. Potential issues include but are not limited to individual claims for cleanup and repair for sanitary sewer backup into a building, cleanup of backup out of manholes and potential claims of individuals from sewerage exposure, political backlash (e.g., "how could you let this happen"), and fines from Oregon DEQ. Because it is identified in our recently adopted Wastewater Master Plan, the city cannot plead ignorance. Examples of DEQ fines can be found here:

[https://www.oregon.gov/deq/Pages/enforcement-actions.aspx?wp2643=p:2#g\\_c4e47a01\\_bc88\\_4a9f\\_aa38\\_c1bcac799ce5](https://www.oregon.gov/deq/Pages/enforcement-actions.aspx?wp2643=p:2#g_c4e47a01_bc88_4a9f_aa38_c1bcac799ce5)

For example, in February 2022 the City of Seaside was fined close to \$13,000 for untreated sewerage discharge. For egregious situations, the fine amount can be considerable such as the nearly \$1.3 million fine to the Port of Morrow in Boardman from January 2022. Even the US Army Corps of Engineers is subject to Oregon DEQ's wrath having been fined nearly \$31,000 in December of 2021.

As residential development, housing need must also be discussed. The city's housing needs are met per the adopted Housing Needs Analysis (HNA) adopted in 2019, with a small deficiency of high-density land for multi-family development. This deficiency is met with some multidwelling projects on General Commercial zoned land. R7 zoned land is not needed for the city to achieve its housing goals for the 20-year period contemplated by the 2019 HNA. Thus, a delay of a subdivision here does not hinder the city's housing needs and the sanitary sewer issue that impacts this proposal is proposed to be resolved long before the end of the 20-year horizon of the HNA.

The Commission must also consider ORS 197.522, which suggests that the city approve the subdivision (for needed housing) if it is possible with reasonable conditions. However, ORS 197.522(4) specifically allows a government to deny an application that cannot be made consistent with reasonable conditions. The off-site sanitary sewer burden is too expensive and vast to burden this specific development with resolving; such condition would be unreasonable.

Storm water infrastructure is proposed within the public streets for the conveyance (pipes) system. Easements will be needed anywhere the conveyance, or any other part of the public storm system is proposed outside of a public right-of-way.

For storm purposes, the site is divided into three "regions" each with a stormwater facility within a proposed tract. For two of these, storm water encounters the stormwater facilities before being discharged to the two on-site wetlands. The third storm facility (the most southerly one) is not adjacent to a wetland.

Per the Engineering Staff Report dated June 22, 2022, on-site detention is necessary, thus the proposed storm water facilities. There are other pertinent details in the Engineering Staff Report as well. A final drainage report will be required. Note also the preference that the stormwater facilities be privately owned with the maintenance plan.

As the city will not accept these facilities, they must be private. Engineering has determined that they are to be private facilities per SHMC 17.152.100(6) and will not be accepted by the city for use by the general public and that management of them by a private entity is something that can be approved via SHMC 13.20.050(4).

Storm water facilities not part of a public storm water system are to be managed by the persons responsible for property per SHMC 13.20.060. As these will not be accepted as public or not part of the public storm water system per SHMC 13.20.060(a), they will be subject to private management. As a planned development this is logical as the very definition of "planned community" per ORS 94.550(20)(a) emphasizes a subdivision in which owners are collectively responsible for common property.



All utilities shall be underground pursuant to SHMC 17.152.120.

**Bikeways and trails.** There are no bicycle improvements identified in the city's Transportation Systems Plan that affect the subject property as it pertains to this subdivision. There is an identified route in the city's Parks and Trails Master Plan that traverses through the subject property: trail #9.

Trail #9 is classified as a local access trail connecting Pittsburg Road and Sykes Road. There is a standard for local access trails along roadways (asphalt, concrete or other smooth and hard surface 5' to 12' wide), but no standard for a local access trail not along roadways.

Staff believes that the proposed W-E trail along proposed just north of the Westboro Way cul-de-sac that will connect Westboro Way and the open space tract of the Meadowbrook Subdivision will ultimately help facilitate north/south connectedness and thus meets the intent of the trail, provided it is accessible by the public.

**Development completion, financial guarantees, building permit timing, etc.**

There are two options for completing the subdivision for the purpose of completing the final plat and creating lots eligible for building permits: 1) the *HB 2306 method* (Oregon Laws Chapter 397) and 2) the *full completion method*. "Completion" in this case pertains to public improvements that a developer, declarant or owner must construct. For this specific subdivision, this pertains to on-site improvements and not the city's sanitary sewer system off-site that is inadequate, and the remedy is too large in scope and cost to require as a condition of approval for the developer to complete. In other words, there are issues outside the scope of HB 2306 (Oregon Laws Chapter 397), that also impact building permits for this subdivision. The text below (but before Chapter 17.165 SHMC analysis) pertains specifically to HB 2306 (Oregon Laws 397). The broader issue is reflected in the recommended conditions.

Developments require financial guarantees (e.g., bonds) of workmanship and guarantees of performance for public improvements, as determined by City Engineering. All public improvements shall be guaranteed (e.g., warranty bond) as to workmanship in a form and value as required by City Engineering. The degree of various financial guarantees required of the developer will depend on whether or not they use the ***HB 2306 method or the full completion method***.

*The HB 2306 Method (Oregon Laws Chapter 397).*

HB 2306 (effective January 1, 2020), as it pertains to subdivisions, disallows a city from denying a building permit for residential dwellings for a residential subdivision based on the conditions of a preliminary plat not being met, if "substantial completion" occurs and the remaining public improvements are secured with some type of financial guarantee such as a bond.

A city may still delay (deny) any certificate of occupancy for residential dwellings if the conditions of the development are not fully completed or the conditions for the release of the financial guarantee are not fulfilled.

“Substantial completion” means the city, county or other appropriate public body has inspected, tested and found acceptable under applicable code requirements, unless the parties agree to a lower standard: (A) The water supply system; (B) The fire hydrant system; (C) The sewage disposal system; (D) The storm water drainage system, excepting any landscaping requirements that are part of the system; (E) The curbs; (F) The demarcating of street signs acceptable for emergency responders; and (G) The roads necessary for access by emergency vehicles.

Building permits must be applied for based on lots that actually exist. The City of St. Helens views these requirements as when a final plat can be considered for review as it is the final part of the process before the land is divided into lots. This will be incorporated into the conditions for final plat review for this subdivision.

#### *The Full Completion Method.*

As an alternative to the HB 2306 (Oregon Laws Chapter 397) method as described, in order to minimize financial guarantees, all public improvements shall be completed, in place and acceptable to the city prior to the final plat. The only exception to this is that portions of sidewalk that abut buildable lots created by this subdivision where there may be a driveway approach are often not built until the lot is developed. Though some portions of sidewalk will be required where there will be no driveway approach such as corners and along non-buildable tracts. For these portions of sidewalk allowed to be left unfinished for the final plat, a performance guarantee will be required prior as approved by City Engineering.

#### *Required in all cases.*

Before construction, **performance guarantees** will be required for storm drainage systems, grading and erosion control. This is necessary for public health, safety and welfare, because if this work is only partially done and the developer/owner abandons the project, these could have negative impacts on other property owners. Other improvements left unfinished (e.g., streets, water and sewer infrastructure) do not necessarily have the same impact to a neighboring property owner. This initial guarantee should not be encumbered by other “non-impact” issues as it complicates executing the security; thus, dealing with storm drainage systems, grading and erosion control specifically.

- **17.156 – Traffic Impact Analysis (TIA)** → A TIA is warranted per SHMC 17.156.030.

A study was conducted based on a study scope that city staff and the traffic consultant agreed to (based on city code standards). The study found that the development will

not result in functional issues as it pertains to vehicle use and no mitigation, including left-turn lanes, are warranted.

Note that the study was based on 50 lots (more than proposed) for conservative analysis.

**Other applicable ordinances and regulations.**

As per the Bonneville Power Administration (BPA) (see comments above), improvements within their easement requires an application with them.

BPA also has a required notice, per the comments above. For the Forest Trail Subdivision (on the opposite end of Westboro Way) the BPA required this specific language on the final plat. More will be known with the application to the BPA for this proposal and any requirements thereof, but as a communication tool, it is logical that the BPA language be added to any Homeowners Association documentation.

**(b)** This criterion requires that the proposed plat name is not duplicative or otherwise satisfies the provisions of ORS Chapter 92.

The name “Comstock Subdivision” will need to be approved by the County Surveyor per ORS 92.090.

There is no evidence that the applicant has made an attempt to determine the eligibility of this name with the County Surveyor. This is recommended for consistency of plans following this preliminary plat decision.

**(c)** This criterion requires that the streets and roads are laid out so as to conform to the plats of subdivisions and maps of partitions already approved for adjoining property as to width, general direction and in all other respects unless the city determines it is in the public interest to modify the street or road pattern.

All streets stubbing into the property are being utilized. All abutting streets (except Pittsburg Road) are also utilized. The proposal acknowledges surrounding street patterns and connections well considering the wetland constraints.

**(d)** This criterion requires that an explanation has been provided for all common improvements.

Common improvements are proposed. These include: three storm water tracts. In addition, the wetland areas will be tracts as well (as required by Chapter 17.40 SHMC).

The city will require the Homeowners Association to own and maintain responsibility of these improvements.

\* \* \*



## SHMC 17.136.060(2) – Lot Dimensions

(a) Lot size, width, shape and orientation shall be appropriate for the location of the development and for the type of use contemplated, and:

- (i) No lot shall be dimensioned to contain part of an existing or proposed public right-of-way;
- (ii) The depth of all lots shall not exceed two and one-half times the average width, unless the parcel is less than one and one-half times the minimum lot size of the applicable zoning district; and
- (iii) Depth and width of properties zoned for commercial and industrial purposes shall be adequate to provide for the off-street parking and service facilities required by the type of use proposed.

**Findings: (a)** The commission considered this criterion and determined that the lot size and side yard proposed are inappropriate for the location of the development, given surrounding development patterns (lot size/density and air light and space between buildings) of adjacent and neighboring properties.

In addition to receiving much testimony about neighborhood compatibility, the Commission (and public testimony) also noted testimony from the applicant and prospective developer (Noyes Development) for the recent Annexation of the property and the emphasis on large lots. The Commission observed that despite this emphasis to accept/advocate for the R7 zone as part of the Annexation process, the lot sizes on the proposed preliminary plat are predominately less than the R7 minimal lot size (i.e., 7,000 s.f.), many being under 5,000 square feet and more akin to an R5 zone development, which has a normal minimum lot size of 5,000 square feet.

Lots sizes proposed are as follows:

Lots at or greater than 7,000 s.f. in size:	10 or 22% of all lots
Lots between 5,000 and 6,999 s.f. in size:	23 or 50% of all lots
Lots less than 5,000 s.f. in size:	13 or 28% of all lots

The majority, 78%, of the proposed lots are less than 7,000 square feet. And more than a quarter are less than 5,000 square feet.

The proposed side yard is also the same as the R5 zone.

The Commission finds that this is a basis for denial of this proposal.

**(i)** No proposed lot interferes with existing or proposed right-of-way given compliance with the conditions herein. **(ii)** The normal minimum lot size of the R7 zone is 7,000 square feet. 150% of that is 10,500 square feet. Of the lots that are 10,500 or greater, the following have an issue:

- Lot 24 @ 10,677 s.f. Lot width 40 feet. Lot depth >240 feet. Depth to width is about 6:1 and well above the 2.5:1 maximum. This should be easy to correct.

**(iii)** The site is zoned residential; thus, this criterion is not applicable.

\* \* \*

### **SHMC 17.136.060(3) – Through Lots**

(a) Through lots shall be avoided except where they are essential to provide separation of residential development from major traffic arterials or to overcome specific disadvantages of topography and orientation, and:

- (i) A planting buffer at least 10 feet wide is required abutting the arterial rights-of-way; and
- (ii) All through lots shall provide the required front yard setback on each street.

**Discussion:** The Development Code defines a through lot is a lot having frontage on two parallel or approximately parallel streets. Note that access easements are considered “streets” for the purpose of the Development Code.

**Finding:** Some through lots are proposed. This includes all lots along Pittsburg Road, a minor arterial street. A planting buffer at least 10 feet wide is required along Pittsburg Road and shall be incorporated into the conditions of this decision.

\* \* \*

### **SHMC 17.136.060(4) – Large Lots**

(a) In dividing tracts into large lots or parcels which at some future time are likely to be redivided, the approving authority may require that the lots be of such size and shape, and be so divided into building sites, and contain such site restrictions as will provide for the extension and opening of streets at intervals which will permit a subsequent division of any tract into lots or parcels of smaller size, and:

- (i) The land division shall be denied if the proposed large development lot does not provide for the future division of the lots and future extension of public facilities.

**Finding:** This proposal more-or-less maximizes the potential density, lot creation wise, of the subject property. Future development plans or “shadow plans” are not warranted.

\* \* \*

### **SHMC 17.136.060(5) – Access Control**

(5) Control of access to adjoining properties, including but not limited to continuation of streets, shall be granted to the city via reserve strips or language in lieu of reserve strips as a note on the plat. Generally, language in lieu of reserve strips is preferred.

**Discussion:** One street stub is proposed—Willie Lane—that will not connect to another street.

**Finding:** The current west facing Willie Lane stub terminates about 260 feet from the subject properties east line. Right-of-way dedication is anticipated eventually between the existing street stub and the proposed one of this subdivision as the intervening parcels are divided or more intensely developed. This is contemplated in an easement recorded as instrument number 01-10543.

This criterion will apply to the Willie Lane stub of this subdivision.

\* \* \*

## SHMC 17.136.060(6) – Additional Conditions

(6) The planning commission may require additional conditions as are necessary to carry out the comprehensive plan and other applicable ordinances and regulations.

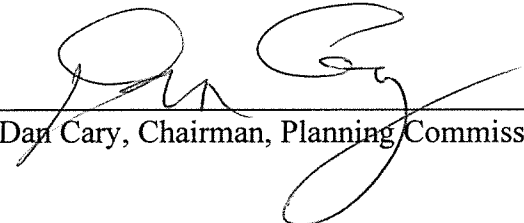
**Finding:** The city worked with the applicant and the Meadowbrook Homeowners Association to dedicate right of way to allow access from Barr Avenue from the SE corner of the site. This is described earlier in this report. There are improvements within this area that will need to be relocated to allow for street construction. Applicant will be responsible for this.

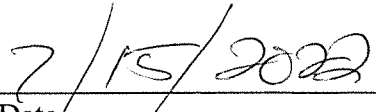
It is important that wetland, open space, storm water tracts and such are not landlocked for access and maintenance purposes. Storm Tract A has direct access from the proposed extension of Edna Barr Lane. The northerly tract for the wetland and related protection zone has direct access from the proposed extension of Westboro Way. Storm Tract B has access via an easement off Westboro Way. This is identified as a city shared driveway easement on sheet P301; this will need to be public if the infrastructure is public, otherwise it does not. Both the southerly tract for the wetland and related protection zone and Storm Tract C have direct access from the road proposed off Barr Avenue.

\* \* \*

## CONCLUSION & DECISION

**Based upon the facts and findings herein, the City Planning Commission denies this Subdivision Preliminary Plat.**

  
\_\_\_\_\_  
Dan Cary, Chairman, Planning Commission

  
\_\_\_\_\_  
Date

**CITY OF ST. HELENS PLANNING DEPARTMENT  
STAFF REPORT**

Subdivision Preliminary Plat, SUB.2.22

**DATE:** July 5, 2022  
**TO:** Planning Commission  
**FROM:** Jacob A. Graichen, AICP, City Planner

**APPLICANT:** Ken Sandblast, Westlake Consultants, Inc.  
**OWNER:** Chieko Comstock

**ZONING:** Moderate Residential, R7  
**LOCATION:** 4N1W-6D-604 and 4N1W-6AD-2600  
**PROPOSAL:** 46 lot Planned Development Subdivision Preliminary Plat

**SITE INFORMATION / BACKGROUND**

The subject property is approximately 12 acres in size and is undeveloped. The property is roughly rhomboidal in shape and generally descends in elevation from where it abuts Pittsburg Road to its southern boundary that abuts a row of lots that abut Sykes Road. The property itself does not abut Sykes Road. There are two wetland areas that divide the property into three segments. Some roads stub to the property along the long sides of the rhombus such as Westboro Way on the west side and Edna Barr Lane on the east side. Also, Meadowview Drive on the NW side and Barr Avenue on the SE side abut the property along the sides of those streets.

This property was annexed recently (file Annexation A.5.21) via Ordinance No. 3281 adopted by the City of St. Helens in March of this year.

**Associated file:** Planned Development (overlay zone), PD.1.22.

**PUBLIC HEARING & NOTICE**

**Public hearing** before the Planning Commission: July 12, 2022

**Notice** of this proposal was sent to surrounding property owners within 300 feet of the subject property(ies) on May 20, 2022 via first class mail. Notice was sent to agencies by mail or e-mail on the same date.

**Notice** was published on June 29, 2022 in The Chronicle newspaper.

**Wetland Land Use Notification** was provided to Oregon DSL on May 17, 2022 pursuant to ORS 227.350.

**APPLICATION COMPLETENESS**



This application was originally received on April 11, 2022. Staff identified missing information or other aspects that rendered the application incomplete and notified the applicant of the issue pursuant to SHMC 17.24.050 on April 29, 2022. The applicant provided revised or new information and the application was deemed complete on May 9, 2022. The 120-day rule (ORS 227.178) for final action for this land use decision is September 6, 2022.

However, the applicant submitted a phasing plan not originally proposed, on May 20, 2022, so the 120<sup>th</sup> day could be considered as September 17, 2022.

### AGENCY REFERRALS & COMMENTS

As of the date of this staff report, the following agency referrals/comments have been received that are pertinent to the analysis of this proposal:

**City Engineering Manager:** See **attached** Engineering Staff Report dated June 22, 2022

**Columbia County Public Works:** Here are the Columbia County Public Works Departments comments for this subdivision:

1. The applicant needs to obtain an access permit for their connection to Meadowview Drive from the Columbia county Public Works department.
2. The applicant must obtain a construction permit for any work within the Pittsburg Road ROW and a construction permit for any work in the Meadowview Drive ROW.
3. No additional storm water to be added to Pittsburg Road or Meadowview Drive. The applicant must treat and contain all additional storm water within the property.
4. The County supports the City of St Helens requirements for street frontage improvements and ROW dedications.

**Bonneville Power Administration:** Bonneville Power Administration (BPA) has reviewed the above-referenced materials and its relationship to the BPA transmission line easement that this project impacts. BPA does not have any objection to this project as long as, except as shown on the drawings supplied with the Notice of Public Hearing, all buildings and facilities remain off of the BPA right-of-way. We do request, however, that the following statement be forwarded to the property owners that are adjacent to the right-of-way to help ensure public safety and reliable operation of BPA's facilities.

*Portions of the property are encumbered by easements for high-voltage transmission lines owned by the Bonneville Power Administration (BPA). BPA has acquired rights for these easements that limit the landowner's use of this area. BPA has the right of ingress and egress, and the right to keep the easement free and clear of all buildings, sheds, fences, roads, in-ground and above-ground swimming pools, trampolines, or any other type of structure, trees, and all vegetation. All activities planned within the BPA easement need to be reviewed by BPA prior to*

*their occurrence. Do not build, dig, install utilities, plant, or burn within the easement area. For further questions or concerns regarding any proposed uses of the easement you may contact BPA Real Estate Field Services by calling (800) 836-6619.*

The plans do indicate that a road and pedestrian path will be located within the easement area. These improvements will require an application to be submitted for review by BPA. This review process generally takes between 6 and 8 weeks. This review process will determine if your requested uses are compatible with the operation and maintenance of the transmission line.

Your cooperation in this matter is greatly appreciated. By working together with our agency, your effort will help to minimize later disputes or unnecessary costs associated with the required removal or modification of incompatible or non-permitted activities placed within BPA's easement. If you have any questions regarding this request or need additional information, please feel free to contact me.

### **APPLICABLE CRITERIA, ANALYSIS & FINDINGS**

The first step to a Planned Development proposal is to adopt a Planned Development overlay zone. This overlay zone is necessary to use the flexibility of Chapter 17.148 SHMC. **Such an overlay zone is proposed via file PD.2.22.** Though a separate matter, this Subdivision Preliminary Plat approval shall be contingent on successful adoption of a Planned Development overlay since it would not be possible without it.

The Planned Development overlay zone allows flexibility to the provisions of the base zoning district. The site is zoned R7 and this zone will be the focus in considering zoning flexibility per **SHMC 17.148.080 as follows:**

- (1) The provisions of the base zone are applicable as follows:
  - (a) Lot Dimensional Standards. The minimum lot size, lot depth and lot width standards shall not apply except as related to the density computation under Chapter 17.56 SHMC;
  - (b) Site Coverage. The site coverage provisions of the base zone shall apply;
  - (c) Building Height. The building height provisions shall not apply except within 100 feet of an "established area"; and
  - (d) Structure Setback Provisions.
    - (i) Front yard and rear yard setbacks for structures on the perimeter of the project shall be the same as that required by the base zone unless otherwise provided by Chapter 17.96 SHMC;
    - (ii) The side yard setback provisions shall not apply except that all detached structures shall meet the applicable building code (as administered by the building official) requirements for fire walls; and
    - (iii) Front yard and rear yard setback requirements in the base zone setback shall not apply to structures on the interior of the project except that:
      - (A) A minimum front yard setback of 20 feet is required for any garage structure which opens facing a street;
      - (B) A minimum front yard setback of eight feet is required for any garage opening for an attached single-family dwelling facing a private street as long as the required off-street parking spaces are provided.
- (2) All other provisions of the base zone shall apply except as modified by this chapter.

**Finding(s):** The applicant proposes some desired standards as allowed per the provisions above.

Note that per (1)(b) above, the site coverage rules cannot be changed.

Also note that building height can be flexible, but not within 100' of an "established area" per Chapter 17.112. Per SHMC 17.112.020:

(1) Established Area.

- (a) An "established area" is an area where the land is not classified as buildable land under OAR 660-08-0005;
- (b) An established area may include some small tracts of vacant land (tracts less than an acre in size) provided the tracts are surrounded by land which is not classified as buildable land; and
- (c) An area shown on a zone map or overlay map as an established area.

(2) Developing Area. A "developing area" is an area which is included in the city's buildable land inventory under the provisions of OAR except as provided by subsection (1)(b) of this section.

OAR 660-008-0005 classifies *buildable land* as:

Residentially designated land within the urban growth boundary, including both vacant and developed land likely to be redeveloped, that is suitable, available and necessary for residential uses. Publicly owned land is generally not considered available for residential uses. Land is generally considered "suitable and available" unless it:

- (a) Is severely constrained by natural hazards as determined under Statewide Planning Goal 7;
- (b) Is subject to natural resource protection measures determined under Statewide Planning Goals 5, 6, 15, 16, 17 or 18;
- (c) Has slopes of 25 percent or greater;
- (d) Is within the 100-year flood plain; or
- (e) Cannot be provided with public facilities.

Generally, surrounding lands can be considered buildable. There is no severe constraints, there are some Goal 5 lands but not enough to prevent development, predominant slopes are less than 25%, there is no 100-year floodplain and public facilities can be or are anticipated to be available within a 20 year planning period. But, since the applicant proposes the standard building height, this issue is moot.

Moreover, "interior yards" (i.e., distance between buildings) as established via Ordinance No. 3264 in 2021 are not included in the provisions that may be flexed and thus apply per (2).

**Applicant proposed a change, probably by accident.**

Applicant proposes a 15-foot building and 12-foot porch front yard. SHMC 17.64.050(4) allows a porch to extend into a front yard as much as four feet. Thus, applicants' three-foot proposal is more restrictive. **Staff assumes this was based on the applicant being unaware of this provision.**

A summary of the standards proposed for this development per the applicant's proposal and based on staff's observations and assumptions as noted above, is **attached** as Exhibit A.

ORS 94.550 to 94.783 (2019) address Planned Communities, which are defined as:

**ORS 94.550(20)(a)** "Planned community" means any subdivision under ORS 92.010 to 92.192 that results in a pattern of ownership of real property and all the buildings, improvements and rights located on or belonging to the real property, in which the owners collectively are responsible for the maintenance, operation, insurance or other expenses relating to any property within the planned

community, including common property, if any, or for the exterior maintenance of any property that is individually owned.

ORS record of declaration requirements:

**ORS 94.565(2)** A person may not convey any lot or unit in a planned community until the planned community is created by the recording of the declaration for the planned community with the county recording officer of each county in which the planned community is located.

The declaration is the instrument per ORS 94.580 that establishes a planned community. This includes formation of a homeowners association, bylaws and such.

**ORS 94.625(1) and (2)** requires that a homeowners association be formed as a nonprofit corporation, and adopt and record bylaws either (1) not later than when the first lot is conveyed or (2) if the plat contains a conveyance of any property to the association, before the plat is recorded. This is important since tracts of the subdivision will be conveyed to the homeowners association.

**ORS 94.665(1)** says that a homeowners association may sell, transfer, convey or subject to security interest any portion of the common property given certain affirmative votes, except as otherwise provided in the declaration. The exception is important given common ownership of wetlands. The declaration will need to include a provision that any sale, transfer, etc. also requires city approval.

\* \* \* \* \*

### **Subdivision Standards**

#### **SHMC 17.136.040(1)**

(1) The preliminary plat approval by the planning commission or final approving authority shall lapse if:

(a) A final plat (first phase in an approved phased development) has not been submitted within a one-year period; or

(b) The final plat does not conform to the preliminary plat as approved or approved with conditions.

**Discussion:** This is not a standalone subdivision request. Four phases are proposed.

Note that Planned Developments may have an initial validity period of 1.5 years, which may be applied.

**Finding:** This Subdivision preliminary plat approval shall be effective for a period of eighteen (18) months from the date of approval per this section. Time extensions are possible per SHMC 17.136.040.

\* \* \*

#### **SHMC 17.136.050 (1) and (2) Phased development.**



(1) The planning commission may approve a time schedule for developing a subdivision in phases, but in no case shall the actual construction time period for any phase be greater than two years (unless an extension is granted) without reapplying for a preliminary plat, nor the cumulative time exceed six years (regardless of extensions) without applying for a new preliminary plat.

(2) The criteria for approving a phased site development review proposal are:

(a) The public facilities shall be scheduled to be constructed in conjunction with or prior to each phase to ensure provision of public facilities prior to building occupancy;

(b) The development and occupancy of any phase shall not be dependent on the use of temporary public facilities:

(i) For purposes of this subsection, a temporary public facility is an interim facility not constructed to the applicable city or district standard;

(c) The phased development shall not result in requiring the city or other property owners to construct public facilities that were required as a part of the approval of the preliminary plat; and

(d) Public facilities approved as conditions of approval must be bonded.

**Discussion:** Four phases are proposed as follows:

Phase 1: Lots accessed via Barr Avenue

Phase 2: Lots accessed via Westboro Way

Phase 3: Lots accessed via Edna Barr Lane all south of the Willie Lane

Phase 4: Remaining lots on the north side of the site

Note that Planned Developments may have a total time period of all phases up to seven years, which may be applied.

**Finding:** The Commission needs to approve the phasing scheme and as part of that, determine which phases the two wetland tracts belong to as that is not clear in the applicant's materials. Logically, the southerly wetland tract should be a part of Phase 1 as access is provided to it via that phase. And the wetland tract adjacent to Westboro Way should be a part of Phase 2, as the extension of Westboro will provide access to that and ties in with the proposed trail. This is staff's recommendation and is reflected in the draft conditions of approval herein.

The conditions of said sections (1) and (2) shall apply.

\* \* \*

#### **SHMC 17.136.060(1) – Approval standards – Preliminary plat.**

(1) The planning commission may approve, approve with conditions or deny a preliminary plat based on the following approval criteria:

(a) The proposed preliminary plat complies with the city's comprehensive plan, the applicable sections of this code and other applicable ordinances and regulations;

(b) The proposed plat name is not duplicative or otherwise satisfies the provisions of ORS Chapter 92[.090(1)];

(c) The streets and roads are laid out so as to conform to the plats of subdivisions and maps of partitions already approved for adjoining property as to width, general direction and in all other respects unless the city determines it is in the public interest to modify the street or road pattern; and

(d) An explanation has been provided for all common improvements.

**(a)** This criterion asks if the proposed preliminary plat complies with the city’s comprehensive plan, the applicable sections of this code and other applicable ordinances and regulations. The City’s development code (SHMC Title 17) implements the Comprehensive Plan. The Development Code standards are addressed herein.

**There are no known conflicts with the Comprehensive Plan.** This includes addendums to the Comprehensive Plan: Economic Opportunities Analysis (Ord. No. 3101), Waterfront Prioritization Plan (Ord. No. 3148), the Transportation Systems Plan (Ord. No. 3150), the Corridor Master Plan (Ord. No. 3181), the Parks & Trails Master Plan (Ord. No. 3191), the Riverfront Connector Plan (Ord. No. 3241), and the Housing Needs Analysis (Ord. No. 3244).

There is an identified routes in the city’s Parks and Trails Master Plan that traverses through the subject property: trail #9. This is discussed further below.

**Applicable provisions of the Development Code are addressed per Chapter as follows:**

- **17.32 – Zones and Uses** → The subject property is zoned Moderate Residential, R7. As a Planned Development, the applicant is seeking different standards as allowed by the city’s Planned Development provisions—see **attached** Exhibit A, **which includes correction of errors noted on page 4 herein**.

The subdivision appears to comply with the proposed standards per **attached** Exhibit A, **which include correction of errors noted on page 4 herein**.

There are no existing dwellings or other buildings to determine compliance with proposed property lines

Flag lots are not allowed in the R7 zoning district. Other zoning districts where flag lots are allowed, identify flag lots as possible. For example, see SHMC 17.32.070(5)(d), 17.32.080(5)(d) and 17.140.055(2). Planned Development overlay zone does not exempt this allowance. No flags lots are proposed. Though Lot 46 looks like a flag lot, its lot width at the street—30 feet—meets the minimum proposed PD standard.

- **17.40 – Wetlands & Riparian Areas** → There are two significant wetlands within the boundaries of the subject properties:

Wetland MC-1, a type I wetland with a required 75’ upland protection zone.

Wetland MC-2, a type II wetland with a required 50’ upland protection zone.

Both of these wetlands are inventoried as riparian corridor too, but R-MC-18 is not significant per this Chapter and does not result in any additional requirements.

An environmental assessment has been conducted (DSL WD # 2021-0642) identifying the specific location of these significant wetlands. This is required for land divisions such as this.

All proposed lots, roads and stormwater facilities are located outside of wetlands MC-1 and MC-2 and their upland protection zones.

A trail is proposed along the south side of the 75' upland protection zone on the south side of the wetland/stream of MC-1. This is acceptable provided impacts are minimal. Trail specifications will be necessary to evaluate this. Sensitive Lands Permit may be required based on anticipated impacts of the trail.

Moreover, the easterly extension of Westboro Way street improvements are proposed to abut the MC-1 75' upland protection zone in the same area. This immediate adjacency begets necessary identification to prevent impact during construction. Sheet P202 shows protection fencing behind the outer edge of the protection zone, which by itself, would be insufficient.

Subdivision infrastructure will be within proximity of these sensitive lands as will development of any lot adjacent to them. Methods of how sensitive lands/upland protection zones will be identified and protected during development of the subdivision and development of its lots will be necessary. Any impacts, including temporary may require a Sensitive Lands Permit

Density transfer is allowed as part of a Planned Development with a Development Agreement. A Development Agreement application has not been submitted. However, the applicant proposes density transfer, but as allowed by Chapter 17.56 SHMC, not this chapter.

The wetlands and their protection zones are required to be preservation tracts to be managed by a homeowner association or other entity responsible for preservation.

- **17.44 – Sensitive Lands** → This chapter addresses various types of sensitive lands, including steep slopes 25% or greater.

The applicant proposes creating steep slopes along the lots that abut Pittsburg Road. There is a 20 minimum yard that cannot be reduced by the Planned Development aspect of this proposal along Pittsburg that will contain much of the proposed steep slope area, but not necessarily all of the steep slope.

There is potential for someone to want to build within the steep slope. If such is proposed, a Sensitive Lands Permit per this chapter will be required.

- **17.56 – Density Computations** → The applicant provided a summary of the density calculations as revised and received on July 1, 2022 justifying the proposed 46 lots.

This property was annexed and zoned as R7, which needs to be honored.

- **17.72 – Landscaping and Screening** → Street trees are required per this Chapter because the site fronts a street for more than 100 feet.

All abutting and stubbed streets to be extended within the subject property are classified as local per the City's Transportation Systems Plan, except Pittsburg Road, which is classified as a minor arterial.

For the local streets, street trees will be planted behind the sidewalk in the right-of-way or landscape/public utility easement, per this Chapter. These trees will be planted as each lot is developed, as a condition of building permits. Exceptions to this are within the BPA easement, where no trees are required (BPA doesn't want trees) and along a wetland protection zone or along storm water tracts. These "natural areas" will provide "green-scape" there.

For Pittsburg Road, which requires a landscape strip with street trees as part of the public street frontage improvements (curb, gutter, landscape strip, and sidewalk), street trees will need to be installed as part of the frontage improvements required for the subdivision (as opposed to development of the subdivision's lots). As Pittsburg Road has overhead utilities, tree species shall be "small" per this Chapter.

- **17.84 – Access, Egress & Circulation** → Pittsburg Road is a minor arterial street per the city's Transportation Systems Plan. All other adjacent streets are classified as local.

The development code does not favor access from minor arterial streets. No direct access using Pittsburg Road is proposed. Direct access shall not be allowed.

Access from Barr Avenue was approved prior to this Subdivision application (see dedication deed recorded as instrument no. 2022-3799 and public utility easement recorded as instrument no. 2022-3800). All other streets are stubbed to the site and will be extended within, except for the proposed Comstock Way off of Meadow View Drive, which will provide access to Pittsburg Road. A minimum 150' separation (measured from centerline) is required; the distance between Pittsburg Road and Comstock Way (off Meadow View Drive) exceeds 150 feet.

Some private streets (shared accesses) are proposed, and this Chapter provides some guidance for those.

Lots 1, 2, 3 and 46 (four total) are proposed to share an access. A 30' wide easement is proposed, which is suitable for 3-6 lots. Minimum pavement width required is 20 feet.

Note that because Pittsburg Road is a minor arterial street. Lots 1-3 cannot have direct access onto it.



20' roadway is the minimum width needed for traffic circulation. No parking signage is necessary.

No private drive exceeds 150 feet, which would require a turnaround suitable for emergency vehicles (fire department standard).

Easements for access to lots are possible per this Chapter 17.152. Easements need to be shown properly on all plans. These will require a maintenance agreement between all lots that utilize such access, to be recorded with the final plat. These are not to be public streets subject to city maintenance and such. Physical improvements shall be included on construction plans. Will need to include utility easements to serve the lots served by access. They will be too narrow for on-street parking.

- **17.132 – Tree Removal** → A tree plan is a required for a property with more than 10 trees or any tree over 2 feet diameter at breast height (DBH). This chapter focuses on trees over 12 inches DBH.

There are about 51 trees pertaining to this chapter. 20 of those are proposed to be removed. As this is less than 50% of these trees, replacement is required as a 1:1 ratio.

Street trees will be required and there are anticipated to be more than 20 street trees within the site upon full buildout, which will satisfy the replacement requirement.

Tree plan includes protection of existing trees as required. This, as revised, will need to be a part of subsequent development permits.

- **17.152 – Street & Utility Improvement Standards** → Development is required to have frontage along a public street improved to city standards. Streets are proposed to be dedicated and improved both adjacent to and within the subject property.

Pittsburg Road will require approximately 10' of right-of-way dedication (30' from centerline) to meet the 60' ROW width for Minor Arterial classified streets.

Other streets that abut the subject property along their sides (i.e., Meadow View Drive and Barr Avenue) are already at the 50' minimum width for local classified streets.

An access easements (private shared drive/street) is proposed for some lots, which the code allows if it's the only reasonable method to create lots large enough to be developed. **These must be approved by the Commission**; they are described in greater detail under Chapter 17.84 SHMC above.

The applicant is acknowledging all streets stubbed to the property and extending them within. This includes continuation of the right-of-way recently dedicated for access

to Barr Avenue (see dedication deed recorded as instrument no. 2022-3799 and public utility easement recorded as instrument no. 2022-3800), Westboro Way, Edna Barr Lane and Willie Lane.

Willie Lane differs from the others since it does not stub to the subject property, rather, the stub is about 260' to the east, with an easement in between—instrument no. 01-10543 as depicted on P.P. No. 2003-100. The purpose of this easement is to preserve right-of-way for Willie Street to eventually be extended westward. The Willie Lane portion of the development will be the only street stub that does not abut a fully improved stub on the other side of the property line.

The Westboro Way extension will have the additional review and agreements required by the Bonneville Power Administration. Road, utility and other construction within the BPA easement will require review and approval from the BPA.

Any county road will require coordination with Columbia County. See Columbia County Public Works comments herein.

Generally, the street layout proposed is logical utilizing existing surrounding streets and avoiding wetland/upland protection zone impacts. Intersection angles are at right angles more-or-less as required.

**Cul-de-sac.** Cul-de-sacs are allowed only when there are justifiable constraints. Cul-de-sacs shall be no more than 400' long and not provide access to more than 20 dwelling units per normal standards.

Two cul-de-sacs are proposed, each logical due to surrounding development and wetlands.

The first is the extension of Westboro Way. Currently, the leg of this street from the centerline of Mountain View Drive to the east stub to the subject property is 175' long and provides access to 5 lots (east of the Mountain View Drive C/L). The proposal extends the leg 200' ending in a conventional circular cul-de-sac; it will still be less than 400' total. An additional 6 lots will be added, remaining under the 20 total.

Being longer than 150' the cul-de-sac needs to terminate with a turnaround area meeting fire code standards (which exceeds the city's normal cul-de-sac end standards). Plans show a 96-diameter cul-de-sac end, exclusive of sidewalks, which meets the minimum per the fire code.

The second proposed cul-de-sac is the southerly access off Barr Avenue. This is proposed to be approximately 300' long, providing access to 8 lots and terminating in a modified hammerhead, which appears to exceed fire code, **except a 28' corner**

radius is required; 26 radii are proposed at the hammerhead. Note that the longer of the hammerhead sides is at 150 feet. Any longer would require another turn-around!

This southerly cul-de-sac is proposed to be a skinny street. Local “skinny” streets are possible with only a 40’ wide right-of-way provided they will provide access to land whose combined average daily trip rate (ADT) is 200 ADT or less (in this case 20 lots). Only 8 lots are proposed for access. Roadway must be 28’ wide, which will permit parking on one side of the street. Roadway section on the plans show this. No parking signage, etc. will be necessary.

**Street names.** All new street names are subject to approval by Columbia 9-1-1 Communications District. There are a couple new street names that will need to be reviewed. These should be approved prior to construction plans to ensure street name consistency throughout the post preliminary plat approval review processes.

**Street grade and curves.** Street grades for new streets appear less than 12%, which is the basic maximum standard for local streets. The greatest road grades are around 6.5%. The centerline radii of proposed curves is not less than 100’ (except at intersections), which is the normal minimum requirement.

**Access to Arterials/Collectors.** Pittsburg abutting the north side of the subject property is a Minor Arterial Street. Separate access is required (no direct access for lots) and will be provided via Meadowview Drive and the rest of the proposed street network. SHMC 17.152.030(16) calls for buffering or screening for the lots with frontage along Pittsburg Road. A plan to address this for these lots shall be approved prior to the final plat, to be implemented no later than prior to occupancy of any permitted principle building on each lot.

**Mailboxes.** Joint mailbox facility shall be included on engineering/construction plans per city standards and the USPS. Subject to city and Postmaster approval.

**Street signage.** Signs for street names, traffic control and such are the financial responsibility of the developer.

**Street lights.** Are required at least at each intersection and as otherwise required by City Engineering.

**Blocks.** This proposal will nearly create the one possible block with Edna Barr Lane on the south side and Willie Lane on the north side. It will approximate the normal 1,800-foot maximum perimeter.

**Easements.** Minimum 8’ wide public utility easements will be required along the street frontage of all lots unless a greater width is determined necessary by City Engineering. Moreover, other utility easements necessary, as identified on approved engineering/construction plans shall be included on the final plat. Approved engineering/construction plans will be required before submission of the final plat.

Easements specific to city utilities (e.g., sanitary sewer) are proposed. These are typically 15' wide on the center of the utility line, unless the utility is really deep or there is another unusual circumstance.

**Sidewalks/street frontage improvements.** All abutting streets and those within, except Pittsburg Road, are local classified streets and will require curb-tight sidewalks. Because, Pittsburg Road is a minor arterial, a planter strip between the curb and sidewalk will be required.

**City Utilities.** Water, sanitary sewer, and storm water system plans will be required in accordance with city requirements.

Water is available in multiple locations and is available along all abutting rights-of-way. City Engineering comments on water in their June 22, 2022 Engineering Staff report.

Sanitary sewer is problematic. The city adopted a new Wastewater Master Plan in November 2021 that identifies multiple undersized trunk lines already operating at or above capacity, that this development would depend on, which can cause surcharges (i.e., wastewater backing up and out of manholes). This can also result in sewerage backing up into existing buildings (like people's homes). Adding new development will increase surcharging potential and is a great risk considering the city's overarching obligation of public health, safety and welfare.

As such, city engineering recommends disallowance of connection to the sanitary sewer system until it is upsized such that it can handle additional load. Note that the sanitary sewer infrastructure for this subdivision itself could be allowed to be constructed in the interim, which is important as completion of infrastructure is necessary for the final plat to be executed and for the lots to be created. However, no building permit could be submitted, processed or issued until the sewer system until it is upsized.

See Engineering Staff Report dated June 22, 2022 for additional details.

The sanitary sewer issue presents a critical decision for the Planning Commission. Allowing the subdivision to be completed, including building permits for those lots will increase the probability of surcharges and other backups. Potential issues include but are not limited to individual claims for cleanup and repair for sanitary sewer backup into a building, clean up of backup out of manholes and potential claims of individuals from sewerage exposure, political backlash ("how could you let this happen"), and fines from Oregon DEQ. Because it is identified in our recently adopted Wastewater Master Plan, the city cannot plead ignorance. Examples of DEQ fines can be found here:



[https://www.oregon.gov/deq/Pages/enforcement-actions.aspx?wp2643=p:2#g\\_c4e47a01\\_bc88\\_4a9f\\_aa38\\_c1bcac799ce5](https://www.oregon.gov/deq/Pages/enforcement-actions.aspx?wp2643=p:2#g_c4e47a01_bc88_4a9f_aa38_c1bcac799ce5)

For example, in February 2022 the City of Seaside was fined close to \$13,000 for untreated sewerage discharge. For egregious situations, the fine amount can be considerable such as the nearly \$1.3 million fine to the Port of Morrow in Boardman from January 2022. Even the US Army Corps of Engineers is subject to Oregon DEQ's wrath having been fined nearly \$31,000 in December of 2021

**So, it is a question of risk.** Will “bad” things happen before the overall sanitary system is upgraded?

The Commission could also consider denial of the subdivision. This may be an option if the Commission is not comfortable with allowing the infrastructure to be built so the subdivision can be platted and lots created, but bar any building permit until the sanitary sewer is upgraded. This is an estimated 2-4 year wait. If approved with this delay, a notice should be recorded on every deed, because once the lots are created, they can be sold and anybody who may purchase a lot that is not eligible for a building permit for several years needs to be aware of that. Perhaps this complexity alone, will cause the commission to consider denial?

A key provision providing basis for denial is SHMC 17.152.090(4):

Permits Denied. Development permits may be restricted by the commission or council (i.e., the applicable approval authority) where a deficiency exists in the existing sewer system or portion thereof which cannot be rectified within the development and which if not rectified will result in a threat to public health or safety, surcharging of existing mains, or violations of state or federal standards pertaining to operation of the sewage treatment system.

There is now a known existing deficiency that:

1. Cannot be rectified by development because the scale and cost is too high to require the improvements (disproportionately high) and would make the project economically infeasible.
2. Surcharging problems can be worsened by this and result in violations of a higher governmental authority.

The “permits denied” provision above fits the circumstances of this proposed like a glove; thus, denial should be evaluated as an option by the Commission.

So, in considering the risk, there is a “where do you draw a line in the sand” question. Do you allow this development now, but deny later ones after (and if) surcharges become more of a problem?

The Commission must also consider ORS 197.522, which suggests that the city approve the subdivision (for needed housing) if it is possible with reasonable

conditions. However, ORS 197.522(4) specifically allows a government to deny an application that cannot be made consistent with reasonable conditions. Is it more reasonable to outright deny this or to approve with the delay of building permit activity until the sanitary sewer is upsized?

Note that the Council discussed the overall sanitary sewer conveyance issue (though outside of an actual land use application), at their April 6, 2022 meeting. They were posed with a more general question of how we address development given the sanitary sewer issue. The Council did not like the idea of suppressing development. Perhaps the Planning Commission would consider this in your decision for this specific proposal. Note that the City Council is the appellate authority.

Storm water infrastructure is proposed within the public streets for the conveyance (pipes) system. Easements will be needed anywhere the conveyance, or any other part of the public storm system is proposed outside of a public right-of-way.

For storm purposes, the site is divided into three “regions” each with a stormwater facility within a proposed tract. For two of these, storm water encounters the stormwater facilities before being discharged to the two on-site wetlands. The third storm facility (the most southerly one) is not adjacent to a wetland.

Per the Engineering Staff Report dated June 22, 2022, on-site detention is necessary, thus the proposed storm water facilities. There are other pertinent details in the Engineering Staff Report as well. A final drainage report will be required. Note also the preference that the stormwater facilities be privately owned with the maintenance plan.

As the city will not accept these facilities, they must be private. Engineering has determined that they are to be private facilities per SHMC 17.152.100(6) and will not be accepted by the city for use by the general public and that management of them by a private entity is something that can be approved via SHMC 13.20.050(4).

Storm water facilities not part of a public storm water system are to be managed by the persons responsible for property per SHMC 13.20.060. As these will not be accepted as public or not part of the public storm water system per SHMC 13.20.060(a), they will be subject to private management. As a planned development this is logical as the very definition of “planned community” per ORS 94.550(20)(a) emphasizes a subdivision in which owners are collectively responsible for common property.

All utilities shall be underground pursuant to SHMC 17.152.120.

**Bikeways and trails.** There are no bicycle improvements identified in the city’s Transportation Systems Plan that affect the subject property as it pertains to this subdivision. There is an identified route in the city’s Parks and Trails Master Plan that traverses through the subject property: trail #9.

Trail #9 is classified as a local access trail connecting Pittsburg Road and Sykes Road. There is a standard for local access trails along roadways (asphalt, concrete or other smooth and hard surface 5' to 12' wide), but no standard for a local access trail not along roadways.

Staff believes that the proposed W-E trail along proposed just north of the Westboro Way cul-de-sac that will connect Westboro Way and the open space tract of the Meadowbrook Subdivision will ultimately help facilitate north/south connectedness and thus meets the intent of the trail, provided it is accessible by the public.

**Development completion, financial guarantees, building permit timing, etc.**

There are two options for completing the subdivision for the purpose of completing the final plat and creating lots eligible for building permits: 1) the *HB 2306 method* (Oregon Laws Chapter 397) and 2) the *full completion method*. “Completion” in this case pertain to public improvements that a developer, declarant or owner must construct. For this specific subdivision, this pertains to on-site improvements and not the city’s sanitary sewer system off-site that is inadequate, and the remedy is too large in scope and cost to require as a condition of approval for the developer to complete. In other words, there are issues outside the scope of HB 2306 (Oregon Laws Chapter 397), that also impact building permits for this subdivision. The text below (but before Chapter 17.165 SHMC analysis) pertains specifically to HB 2306 (Oregon Laws 397). The broader issue is reflected in the recommended conditions.

Developments require financial guarantees (e.g., bonds) of workmanship and guarantees of performance for public improvements, as determined by City Engineering. All public improvements shall be guaranteed (e.g., warranty bond) as to workmanship in a form and value as required by City Engineering. The degree of various financial guarantees required of the developer will depend on whether or not they use the ***HB 2306 method or the full completion method***.

*The HB 2306 Method (Oregon Laws Chapter 397).*

HB 2306 (effective January 1, 2020), as it pertains to subdivisions, disallows a city from denying a building permit for residential dwellings for a residential subdivision based on the conditions of a preliminary plat not being met, if “substantial completion” occurs and the remaining public improvements are secured with some type of financial guarantee such as a bond.

A city may still delay (deny) any certificate of occupancy for residential dwellings if the conditions of the development are not fully completed or the conditions for the release of the financial guarantee are not fulfilled.

“Substantial completion” means the city, county or other appropriate public body has inspected, tested and found acceptable under applicable code requirements, unless the parties agree to a lower standard: (A) The water supply system; (B) The fire hydrant

system; (C) The sewage disposal system; (D) The storm water drainage system, excepting any landscaping requirements that are part of the system; (E) The curbs; (F) The demarcating of street signs acceptable for emergency responders; and (G) The roads necessary for access by emergency vehicles.

Building permits must be applied for based on lots that actually exist. The City of St. Helens views these requirements as when a final plat can be considered for review as it is the final part of the process before the land is divided into lots. This will be incorporated into the conditions for final plat review for this subdivision.

#### *The Full Completion Method.*

As an alternative to the HB 2306 (Oregon Laws Chapter 397) method as described, in order to minimize financial guarantees, all public improvements shall be completed, in place and acceptable to the city prior to the final plat. The only exception to this is that portions of sidewalk that abut buildable lots created by this subdivision where there may be a driveway approach are often not built until the lot is developed. Though some portions of sidewalk will be required where there will be no driveway approach such as corners and along non-buildable tracts. For these portions of sidewalk allowed to be left unfinished for the final plat, a performance guarantee will be required prior as approved by City Engineering.

#### *Required in all cases.*

Before construction, **performance guarantees** will be required for storm drainage systems, grading and erosion control. This is necessary for public health, safety and welfare, because if this work is only partially done and the developer/owner abandons the project, these could have negative impacts on other property owners. Other improvements left unfinished (e.g., streets, water and sewer infrastructure) do not necessarily have the same impact to a neighboring property owner. This initial guarantee should not be encumbered by other “non-impact” issues as it complicates executing the security; thus, dealing with storm drainage systems, grading and erosion control specifically.

- **17.156 – Traffic Impact Analysis (TIA)** → A TIA is warranted per SHMC 17.156.030.

A study was conducted based on a study scope that city staff and the traffic consultant agreed to (based on city code standards). The study found that the development will not result in functional issues as it pertains to vehicle use and no mitigation, including left-turn lanes, are warranted.

Note that the study was based on 50 lots (more than proposed) for conservative analysis.

#### **Other applicable ordinances and regulations.**



As per the Bonneville Power Administration (BPA) (see comments above), improvements within their easement requires an application with them.

BPA also has a required notice, per the comments above. For the Forest Trail Subdivision (on the opposite end of Westboro Way) the BPA required this specific language on the final plat. More will be known with the application to the BPA for this proposal and any requirements thereof, but as a communication tool, it is logical that the BPA language be added to any Homeowners Association documentation.

**(b)** This criterion requires that the proposed plat name is not duplicative or otherwise satisfies the provisions of ORS Chapter 92.

The name “Comstock Subdivision” will need to be approved by the County Surveyor per ORS 92.090.

There is no evidence that the applicant has made an attempt to determine the eligibility of this name with the County Surveyor. This is recommended for consistency of plans following this preliminary plat decision.

**(c)** This criterion requires that the streets and roads are laid out so as to conform to the plats of subdivisions and maps of partitions already approved for adjoining property as to width, general direction and in all other respects unless the city determines it is in the public interest to modify the street or road pattern.

All streets stubbing into the property are being utilized. All abutting streets (except Pittsburg Road) are also utilized. The proposal acknowledges surrounding street patterns and connections well considering the wetland constraints.

**(d)** This criterion requires that an explanation has been provided for all common improvements.

Common improvements are proposed. These include: three storm water tracts. In addition, the wetland areas will be tracts as well (as required by Chapter 17.40 SHMC).

The city will require the Homeowners Association to own and maintain responsibility of these improvements.

\* \* \*

### **SHMC 17.136.060(2) – Lot Dimensions**

(a) Lot size, width, shape and orientation shall be appropriate for the location of the development and for the type of use contemplated, and:

- (i) No lot shall be dimensioned to contain part of an existing or proposed public right-of-way;
- (ii) The depth of all lots shall not exceed two and one-half times the average width, unless the parcel is less than one and one-half times the minimum lot size of the applicable zoning district; and
- (iii) Depth and width of properties zoned for commercial and industrial purposes shall be adequate to provide for the off-street parking and service facilities required by the type of use proposed.

**Findings:** (i) No proposed lot interferes with existing or proposed right-of-way given compliance with the conditions herein. (ii) The normal minimum lot size of the R7 zone is 7,000 square feet. 150% of that is 10,500 square feet. Of the lots that are 10,500 or greater, the following have an issue:

- Lot 24 @ 10,677 s.f. Lot width 40 feet. Lot depth >240 feet. Depth to width is about 6:1 and well above the 2.5:1 maximum. This should be easy to correct.

(iii) The site is zoned residential; thus, this criterion is not applicable.

\* \* \*

### **SHMC 17.136.060(3) – Through Lots**

(a) Through lots shall be avoided except where they are essential to provide separation of residential development from major traffic arterials or to overcome specific disadvantages of topography and orientation, and:

- (i) A planting buffer at least 10 feet wide is required abutting the arterial rights-of-way; and
- (ii) All through lots shall provide the required front yard setback on each street.

**Discussion:** The Development Code defines a through lot is a lot having frontage on two parallel or approximately parallel streets. Note that access easements are considered “streets” for the purpose of the Development Code.

**Finding:** Some through lots are proposed. This includes all lots along Pittsburg Road, a minor arterial street. A planting buffer at least 10 feet wide is required along Pittsburg Road and shall be incorporated into the conditions of this decision.

\* \* \*

### **SHMC 17.136.060(4) – Large Lots**

(a) In dividing tracts into large lots or parcels which at some future time are likely to be redivided, the approving authority may require that the lots be of such size and shape, and be so divided into building sites, and contain such site restrictions as will provide for the extension and opening of streets at intervals which will permit a subsequent division of any tract into lots or parcels of smaller size, and:

(i) The land division shall be denied if the proposed large development lot does not provide for the future division of the lots and future extension of public facilities.

**Finding:** This proposal more-or-less maximizes the potential density, lot creation wise, of the subject property. Future development plans or “shadow plans” are not warranted.

\* \* \*

### **SHMC 17.136.060(5) – Access Control**

(5) Control of access to adjoining properties, including but not limited to continuation of streets, shall be granted to the city via reserve strips or language in lieu of reserve strips as a note on the plat. Generally, language in lieu of reserve strips is preferred.

**Discussion:** One street stub is proposed—Willie Lane—that will not connect to another street.

**Finding:** The current west facing Willie Lane stub terminates about 260 feet from the subject properties east line. Right-of-way dedication is anticipated eventually between the existing street stub and the proposed one of this subdivision as the intervening parcels are divided or more intensely developed. This is contemplated in an easement recorded as instrument number 01-10543.

This criterion will apply to the Willie Lane stub of this subdivision.

\* \* \*

### **SHMC 17.136.060(6) – Additional Conditions**

(6) The planning commission may require additional conditions as are necessary to carry out the comprehensive plan and other applicable ordinances and regulations.

**Finding:** The city worked with the applicant and the Meadowbrook Homeowners Association to dedicate right of way to allow access from Barr Avenue from the SE corner of the site. This is described earlier in this report. There are improvements within this area that will need to be relocated to allow for street construction. Applicant will be responsible for this.

It is important that wetland, open space, storm water tracts and such are not landlocked for access and maintenance purposes. Storm Tract A has direct access from the proposed extension of Edna Barr Lane. The northerly tract for the wetland and related protection zone has direct access from the proposed extension of Westboro Way. Storm Tract B has access via an easement off Westboro Way. This is identified as a city shared driveway easement on sheet P301; this will need to be public if the infrastructure is public, otherwise it does not. Both the southerly tract for the wetland and related protection zone and Storm Tract C have direct access from the road proposed off Barr Avenue.

\* \* \*

### **CONCLUSION & RECOMMENDATION**

**The Commission has *at least* three choices:**

**1. Deny based on inadequate sanitary sewer infrastructure.**

Under this scenario, no conditions would be needed.

**2. Approve with the conditions below including delaying any building permits until the off-site sanitary sewer system is upsized.**

The conditions below are based on this scenario.

3. **Approve with the conditions below, but as amended, to “take the risk” that allowing the lots created by this subdivision to connect to the sanitary sewer system will not result in major issues between now and when the sewer system is upsized (est. 2-4 years).**

At least The following conditions would need to be removed or amended:

- 3.o – delete
- 6.a – delete
- 6.b – amended to remove reference to condition 6.a
- 6.c – amended to remove reference to condition 6.a

Note that the Commission can “give” this to the City Council with or without cause with a two-thirds affirmative vote from appointed members. You may want to consider this if you as a Commission are considering approval but are uncomfortable putting the city at risk due to the now known and documented sanitary sewer issue. Your basis for giving this to the Council could be that placing such risk on the city should come from the governing body and not a volunteer commission.

### **Proposed Conditions:**

1. **This Subdivision preliminary plat approval shall be effective for a period of eighteen (18) months from the date of approval.** The approval shall become void if a final plat (for first phase) prepared by a professional registered surveyor in accordance with (1) the approved preliminary plat, (2) the conditions herein, and (3) the form and content requirements of the City of St. Helens Development Code (SHMC Title 17) and Oregon Revised Statutes is not submitted within the eighteen (18) month approval period.

**The approval for phase 2**, contingent upon completion of phase 1, shall be void if the same requirements for phase 1 (noted above, except the time period) are not completed within two years from the date the final plat is submitted for phase 1 and the requirements of SHMC 17.136.050 are not met.

**The approval for phase 3**, contingent upon completion of phases 1 and 2, shall be void if the same requirements for phase 1 (noted above, except the time period) are not completed within two years from the date the final plat is submitted for phase 2 and the requirements of SHMC 17.136.050 are not met.

**The approval for phase 4**, contingent upon completion of phases 1, 2 and 3, shall be void if the same requirements for phase 1 (noted above, except the time period) are not completed within two years from the date the final plat is submitted for phase 3 and the requirements of SHMC 17.136.050 are not met.

Two **time extensions** may be granted pursuant to SHMC 17.136.040(2) for any phase, but only two total are possible for all phases.



Notwithstanding any validity period or time extension above, **any portion or phase that is not vested, shall be void seven years from the date of the original decision of this preliminary plat.** Nothing under this condition is intended to preclude owner/developer from acting on multiple phases simultaneously.

*\*Note for Planning Commission: Condition #1 assumes the Commission approves the phasing concept proposed. Don't forget that which phases the wetlands tracts belong to also need to be determined. See condition 3.a.*

2. **The following shall be completed prior to submission and the City's acceptance of a final plat application (as applicable to each phase):**
  - a. A Planned Development overlay (e.g., via file PD.2.22) shall be adopted and in effect for the subject property.
  - b. Homeowners Association (HOA) and CC&Rs for establishing the HOA shall be approved (see condition 8).
  - c. Engineering/construction plans for all public and other applicable improvements shall be submitted to the city for review and approval in compliance with all City of St. Helens laws and standards and in accordance with the conditions herein. As specific conditions of approval, these plans shall include:
    - A. Changes necessary for the final plat per condition 3 to avoid conflicts between these plans and the final plat to the maximum extent possible.
    - B. As per condition 3.a (tracts and phasing).
    - C. Construction details for the pedestrian path connecting Westboro Way to Tract H of the Meadowbrook Planned Community, Phase 3.
    - D. Methods of preventing disturbance and encroachment of wetland and upland wetland protection zone areas. See condition 4.c.
    - E. Tree plan for existing trees to be preserved, to be protected during construction per Chapter 17.132 SHMC.
    - F. Joint mailbox facility(ies) shall be included per City and USPS (Postmaster) standards. Subject to city and Postmaster approval.
    - G. All applicable street cross sections representing the appropriate classifications per the City's Transportation Systems Plan.
    - H. Street frontage improvements to Pittsburg Road per the city's minor arterial standards including street trees per Chapter 17.72 SHMC. Street trees shall be "small" per Chapter 17.72 SHMC due to existing overhead power.

- I. Access and utility improvements to serve Lots accessed by access easement (private road). “No parking” designation required on both sides of street.
  - J. Streets shall meet fire code specifications as applicable. For example, 26 radii are proposed at the hammerhead cul-de-sac off Barr Avenue except a 28’ corner radius is required.
  - K. Per condition 3.b (approval of street names).
  - L. Streetlights are required at each intersection and at such locations to provide overlapping lighting to sufficiently illuminate the street. New streetlights shall use LED fixtures.
  - M. Infrastructure and improvements reconfiguration/relocation to allow the Barr Avenue access made possible by the dedication deed recorded as instrument no. 2022-3799.
- d. Prior to or with submission of engineering/construction plans per **condition 2.c**, a drainage plan and full stormwater report shall be submitted that includes methods of downstream conveyance and pre and post conditions. The proposed development shall mitigate the increased stormwater flows from the site so that the increased runoff will not impact the downstream flows. It shall also include provisions for protecting wetland water quality, for facilities draining into wetlands. As per Columbia County Public Works, no additional storm water to be added to Pittsburg Road or Meadowview Drive.
  - e. *The Full Completion Method.* **All public improvements shall be completed, in place and acceptable to the City, Columbia County, and Bonneville Power Administration (BPA) as applicable.** The only exception to this is that portions of sidewalk that abut buildable lots created by this subdivision where there may be a driveway approach are often not built until the lot is developed. Though some portions of sidewalk will be required where there will be no driveway approach such as corners and along non-buildable tracts. For these portions of sidewalk allowed to be left unfinished for the final plat, a performance guarantee will be required prior as approved by City Engineering. Completion includes providing final approved as-build plans to the City and any other guarantees (e.g., bonds) of workmanship or guarantees of performance for public improvements that may be required;

Or

*The HB 2306 Method (Oregon Laws Chapter 397).* **All public improvements shall be “substantially completed,” in place and acceptable to: the City, Columbia County, and Bonneville Power Administration (BPA) as applicable.** “Substantial completed” means the city, county or other appropriate public body has inspected, tested and found acceptable under applicable code requirements, unless the parties agree to a lower standard: (A) The water supply system; (B) The fire hydrant system; (C) The sewage disposal system; (D) The storm water drainage system, excepting any

landscaping requirements that are part of the system; (E) The curbs; (F) The demarcating of street signs acceptable for emergency responders; and (G) The roads necessary for access by emergency vehicles. The remaining public improvements are secured with some type of financial guarantee such as a bond. Other guarantees (e.g., bonds) of workmanship or guarantees of performance for public improvements may also be required. As-build plans shall be required unless insufficient work will be done per this “substantially completed” option, in which case the as-build plans shall be bonded.

- f. Maintenance plan for the private storm water facilities shall be approved by the city. This shall clearly identify maintenance activities and frequency, and the proposed entity(s) responsible for maintenance. Private responsibilities are also referenced in SHMC 13.20.060.
- g. Approved access permit for connection to Meadowview Drive and approved construction permit(s) for Meadowview Drive and Pittsburg Road shall be obtained from Columbia County Public Works.
- h. Applicable approvals from the Bonneville Power Administration (BPA).
- i. Areas where natural vegetation has been removed, and that are not covered by approved landscaping, shall be replanted pursuant to SHMC 17.72.120. This includes the proposed lots to be developed to show how the lot themselves will be covered to prevent erosion, stream sedimentation, ground instability, or other adverse on-site and off-site effects or hazards before development of that specific lot commences.
- j. Screening and buffering plan along the north side of all lots along Pittsburg Road per SHMC 17.152.030(16) and 17.136.060(3). This shall be in a form (e.g., 8.5” x 11” page) such that it can be attached to building permits.

**3. In addition to compliance with local, county, state and other requirements, the following shall be included on/with (for recordation) the final plats (as applicable to each phase):**

- a. The southerly wetland tract shall be part of Phase 1 of this subdivision. The wetland tract adjacent to Westboro Way and the pedestrian path connecting Westboro Way to Tract H of the Meadowbrook Planned Community, Phase 3, shall be a part of Phase 2 of this subdivision.

*\*Comment for Planning Commission: This assumes the Commission concurs with staff's recommendation on this matter.*

- b. All new street names are subject to approval by Columbia 9-1-1 Communications District.
- c. Minimum 8’ wide public utility easements will be required along the street frontage of all lots (and tracts) unless a greater width is determined necessary by City Engineering.

- d. All utility easements necessary, as identified on approved engineering/construction plans shall be included on the final plat.
- e. The County Surveyor shall approve the name of the plat.
- f. Right-of-way dedication for the Pittsburg Road, within 30 from the centerline of the right-of-way (approximately 10' of dedication along Pittsburg Road).
- g. Access control guarantees in a form approved by the city for the extension of Willie Lane. This shall be a note on the plat as approved by the city.
- h. Tracts shall be identified as to purpose.
- i. Maintenance agreement amongst the lots with shared access via easement. These are not public streets subject to public maintenance. Agreement shall include no-parking provisions within the private street (access easement).
- j. Any private shared access easement shall also be a public utility easement.
- k. Declaration of Protective Covenants, Conditions and Restrictions (CCRs) and Establishment of a Homeowners Association (HOA) shall be recorded with and noted on the final plat for HOA responsibility for common improvement maintenance (see condition 8).
- l. Conveyance of tracts and any other common area to the Planned Development's Homeowner's Association.
- m. The pedestrian path connecting Westboro Way to Tract H of the Meadowbrook Planned Community, Phase 3 shall be publicly accessible.
- n. All lots shall meet the dimensional and size requirements of the Development Code or as allowed by the Planned Development standards. This approval includes no Variance(s) or other means of allowing different standards. For example, Lot 24 shall meet the depth to width ratio of the R7 zoning district.
- o. A notice shall be recorded on the deed of every lot indicating the building permit delay per condition 6.a.

*\*Comment for Planning Commission: This condition is not necessary if the Commission disagrees with a delay of building permits based on sanitary sewer upsizing and doesn't want to deny the proposal.*

**4. Prior to any construction or development of the subject property of each phase:**



- a. Performance guarantees (e.g., performance bond) as approved by City Engineering shall be required for storm drainage systems, grading and erosion control. In addition, engineering/construction plans shall be approved.
  - b. Applicant shall provide a copy of the approved 1200-C permit from Oregon DEQ.
  - c. Any necessary sensitive lands permitting based on plans provided by condition 2.c for impacts not known or anticipated as part of the preliminary subdivision plat application.
5. **After completion of construction and City approval, all public improvements (for each phase) shall be guaranteed** (e.g., warranty bond) for at least two years as to workmanship in a form and value as required by City Engineering.
6. **The following requirements shall apply to the development of the lots of this Subdivision:**
- a. No building permit may be submitted, processed, or issued for any lot created by this subdivision until the undersized trunk lines already operating at or above capacity that this development would connect to are upsized. This is not an explicit requirement of the developer, declarant or owner and is not a “condition of development” per Oregon Laws Chapter 397.  
  
*\*Comment for Planning Commission: This condition is not necessary if the Commission disagrees with a delay of building permits based on sanitary sewer upsizing and doesn't want to deny the proposal.*
  - b. If the “HB 2306 Method” is chosen under condition 2.e, certificate of occupancy for residential dwellings shall not be granted if **all public improvements are not completed, in place and acceptable to the City**. This includes providing final approved as-build plans to the City and release of any and all financial guarantees for improvements used to allow submission of the final plat or recordation of the final plat, before completion of said improvements. **This is in addition to condition 6.a above, which is more restrictive.**  
  
*\*Comment for Planning Commission: The last sentence of this condition is not necessary if the Commission disagrees with a delay of building permits based on sanitary sewer upsizing and doesn't want to deny the proposal.*
  - c. Building permits for Lots created by this Subdivision cannot be accepted until the final plat is recorded. **This is in addition to condition 6.a above, which is more restrictive.**  
  
*\*Comment for Planning Commission: The last sentence of this condition is not necessary if the Commission disagrees with a delay of building permits based on sanitary sewer upsizing and doesn't want to deny the proposal.*

- d. If not otherwise recorded with the final plat as required, a Declaration of Protective Covenants, Conditions and Restrictions (CCRs) and Establishment of a Homeowners Association (HOA) shall be recorded (see condition 8).
  - e. Curb/sidewalk shall be completed, and street trees will be required along all local streets (i.e., all streets except Pittsburg Road) as lots are developed. If the Pittsburg Road Street trees (installed as part of the subdivision infrastructure) are in a poor state, they will need to be replaced. The exception to the street tree installation requirement (i.e., none required) is within the BPA easement and along wetland or storm water tracts.
  - f. Areas where natural vegetation has been removed, and that are not covered by approved landscaping, shall be replanted pursuant to SHMC 17.72.120.
  - g. Sensitive Lands Permit will be required for any proposed structure to be placed or constructed on slopes of 25% or greater per Chapter 17.44 SHMC.
  - h. Vehicle access (e.g., driveways) are prohibited along Pittsburg Road. Direct access to Pittsburg Road is not allowed.
  - i. Screening and buffering plan per condition 2.j shall be implemented if not already installed and still intact (or not in disrepair and/or dying-dead, as applicable).
7. The zoning standards for this development shall be those as proposed per **Exhibit A**, **attached** hereto.
8. Declaration per ORS Chapter 94 that establishes the Planned Community **shall be recorded with the final plat**. Subject to review and approval by the City, it shall include the following:
- a. A Planned Development Homeowners Association formed as a nonprofit corporation.
  - b. Bylaws.
  - c. Specific language that prohibits the Homeowners Association from selling, transferring, conveying or subjecting to security interest of any platted open space or wetland tract without City of St. Helens approval.
  - d. The Planned Development Homeowners Association shall be responsible for all common improvements including but not limited to any open space tract, wetland tract, trail, stormwater quality facility (see condition 11), and subdivision entry monument signage.
  - e. Provisions for the City to veto dissolution of the Homeowners Association or have the right to assess owners for taxes and maintenance or lien properties.

- f. Responsibility for common improvement maintenance. This includes but is not limited to the long-term operation and maintenance of the water quality facilities and wetland responsibilities. Storm management plan per condition 2.f shall be incorporated.
  - g. As applicable per condition 4.c related to any necessary sensitive lands permitting.
  - h. BPA's required notice per their preliminary subdivision plat comments shall be incorporated.
9. Any new sign (e.g., entrance monument signs for the development) requires a sign permit prior to installation.
10. All new utilities shall be underground pursuant to SHMC 17.152.120.
11. The city will not accept any open space, wetland, or stormwater facility tract or improvement. Ownership shall belong to the Homeowners Association of this Planned Development.
12. Developer will be required to repair damages to roadways as a result of subdivision construction, up to full width asphalt overlay as determined by City Engineering.
13. Portions of the property are encumbered by easements for high-voltage transmission lines owned by the Bonneville Power Administration (BPA). BPA has acquired rights for these easements that limit the landowner's use of this area. BPA has the right of ingress and egress, and the right to keep the easement free and clear of all buildings, sheds, fences, roads, in-ground and above-ground swimming pools, trampolines, or any other type of structure, trees, and all vegetation. **All activities planned within the BPA easement need to be reviewed by BPA prior to their occurrence.** Do not build, dig, install utilities, plant, or burn within the easement area. For further questions or concerns regarding any proposed uses of the easement you may contact BPA Real Estate Field Services by calling (800) 836-6619.
14. Owner/Developer shall be solely responsible for obtaining all approvals, permits, licenses, and authorizations from the responsible Federal, State and local authorities, or other entities, necessary to perform land clearing, construction and improvement of the subject property in the location and manner contemplated by Owner/Developer. City has no duty, responsibility or liability for requesting, obtaining, ensuring, or verifying Owner/Developer compliance with the applicable State and Federal agency permit or other approval requirements. This land use approval shall not be interpreted as a waiver, modification, or grant of any State or Federal agency or other permits or authorizations.
15. Owner/applicant and their successors are still responsible to comply with the City Development Code (SHMC Title 17).

**Attachment(s):** Exhibit A, A summary of the standards proposed for this Planned Development Subdivision based on applicant's application materials with corrections by staff.

Engineering Staff Report dated June 22, 2022

Applicant's main application narrative

Applicant's phased development narrative

Applicant's preliminary storm report (summary only, pages 1-7)

Applicant's PD standards table (with city staff notes)

Applicant's density calculation sheet (as received July 1, 2022)

Applicant's Traffic Impact Analysis (summary only, pages 1-24)

Applicant's plan set



## \*COMSTOCK SUBDIVISION PLANNED DEVELOPMENT STANDARDS

The base standards the R7 zone, those which can deviate as a Planned Development, and those proposed:

**PLANNED DEVELOPMENT STANDARDS TABLE**

STANDARD	R7 ZONING DISTRICT	PD ALLOWS FLEXIBILITY?	PROPOSED
<b>Min. lot size</b>	7,000 s.f. for detached single-family dwellings and duplexes	Yes	4,000 s.f. for detached single-family dwellings and duplexes
<b>Min. lot width at building line (interior lots)</b>	60 feet for detached single-family dwellings and duplexes	Yes	40 feet for detached single-family dwellings and duplexes
<b>Min. lot width at building line (corner lots)</b>	85 feet for detached single-family dwellings and duplexes	Yes	40 feet for detached single-family dwellings and duplexes
<b>Min. lot width at street (standard)</b>	50 feet for detached single-family dwellings and duplexes	Yes	30 feet for detached single-family dwellings and duplexes
<b>Min. lot width at street (cul-de-sac)</b>	30 feet	Yes	30 feet
<b>Min. lot width at street (flag lot)</b>	Flag lots prohibited	Yes (unless flag lots prohibited)	Flag lots prohibited
<b>Min. lot depth</b>	85 feet	Yes	80 feet
<b>Min. front yard (setback)</b>	20 feet	Yes (except along perimeter of PD and for garage structures which open facing a street)	15 feet (20 feet required along perimeter of PD and for any garage structure which opens facing a street)
<b>Min. side yard (setback)</b>	7 feet for interior lots and 14 feet for sides of corner lots along street for detached single-family dwellings and duplexes	Yes	5 feet for interior lots and 10 feet for sides of corner lots along street for detached single-family dwellings and duplexes
<b>Min. rear yard (setback)</b>	20 feet	Yes (except along perimeter of PD)	15 feet (20 feet along perimeter of PD)
<b>Min. interior yard (building/structure separation)</b>	7 feet	No	7 feet
<b>Max. building height</b>	35 feet	Yes	35 feet
<b>Max. lot coverage</b>	Buildings and structures shall not occupy more than 40% of the lot area for detached single-family dwellings and duplexes	No	Buildings and structures shall not occupy more than 40% of the lot area for detached single-family dwellings and duplexes
<b>Min. landscaping</b>	25% of the lot area	No	25% of the lot area

**No other code exceptions or modifications are proposed.**

\*Final subdivision name requires approval by the County Surveyor. This is a preliminary name and may change.

June 2022



# ENGINEERING STAFF REPORT

## PROJECT/SITE: COMSTOCK

REPORT DATE	PROJECT NAME	PREPARED BY
6/22/2022	Comstock Property (Subdivision / SUB.2.22 & Planned Development / PD.2.22)	Sharon Darroux Engineering Manager

## CONCLUSIONS/RECOMMENDATIONS

### STREETS

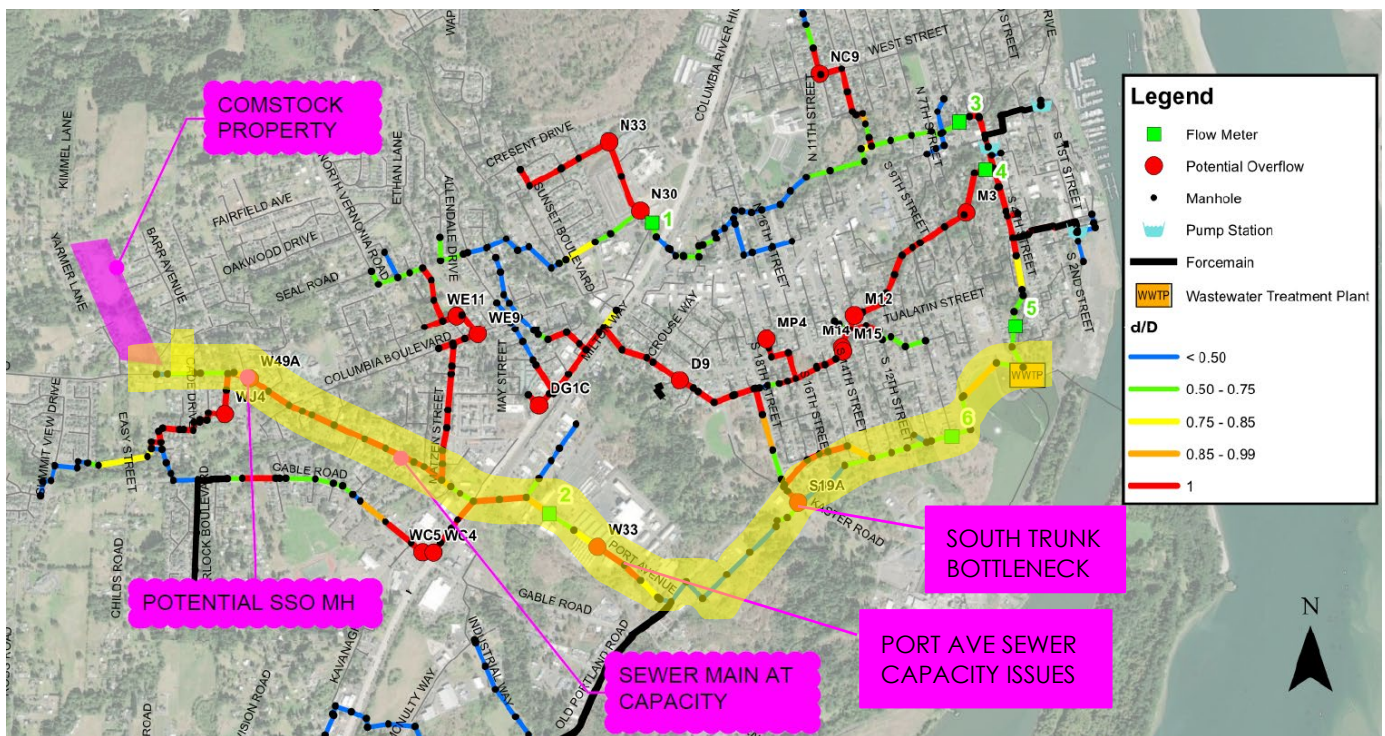
- Construction of the subdivision is anticipated to be detrimental to adjacent roadway surfaces, particularly Meadow View Drive, Edna Barr Ln, Westboro Way, and Barr Ave. Contractor will be required to repair damages to roadways, up to full width asphalt overlay, as determined by the City Engineering Manager or authorized representative.

### WATER

- Site is located in the high pressure zone, the design will need to incorporate pressure and elevation needs in design of the water system.
- Fire Flow: The 12-inch diameter water mains on Pittsburg Rd, Meadow View Drive, and Barr Ave meet current fire flow demands.
- Pressures: The average day demand water pressures for the site are 40 to 60 psi for the Pittsburg Rd watermain; 40 to 80 psi for the Meadow View and Edna-Barr Ave watermain; and 80 to 100 psi for the Barr Ave watermain.

### SEWER

- Development proposes to connect to the public sewer main on Sykes Rd which is identified in the City's Wastewater Master Plan as "operating at or above capacity". The deficiencies found in Sykes Rd sewer are undersized trunklines and by high peak flows. These deficiencies put the sewer main at risk of surcharging, which occurs when flows exceed the capacity of a full pipe causing wastewater to back up into and out of manholes. Surcharging sewer mains may cause an increase for potential backing up into residents' homes. Furthermore, the growth affects more than one basin trunkline. The undersized Sykes Rd sewer trunkline is connected to the undersized Port Ave trunkline and the undersized South Trunk.



The City has considered and studied several options to address the development's connection and added load to the public sewer. Options considered are as follows,

- (1) Do nothing regarding the identified sewer capacity issues and continue to allow new developments, Single Family Homes, etc. to connect to the public sewer system.
- (2) Assess a sewer capacity impact fee to new developments, Single Family Homes, etc. wanting to connect to the public sewer. Built into this framework would be a predetermined fair share cost per EDU for each new sewer connection which would distribute the costs of upsizing the public sewer.
- (3) Disallow future connections to the public sewer until the sewers have been upsized and capacity has been increased to carry the added growth.

After a full review of all options, recommendation is to disallow connection to the public sewer until the City upsizes the public sewer main to be able to accommodate the additional load the development will add to the system. The City intends to secure Clean Water State Revolving Funds to begin the process of upsizing the sewer and anticipates two to four years for this work to be completed. During the interim, the Developer will be allowed to construct public sewer for the proposed subdivision in preparation to connect the system to the public sewer after it has been upsized.

- Additional requirements (See Wastewater Master Plan Appendix C – Engineering Standards Review),
  - Distance between manholes shall be 300 feet.
  - Pipes shall be ductile iron or other material as approved by the City Engineering Division where the pipe velocity is greater than 15 feet per second.

- Hydraulic calculations shall be performed to ensure that pipe size is adequate for conveying PIF5 flows (peak instantaneous flow) at full development of the drainage basin. Pipe size should be adequate for conveying PIF5 at full development of the basin with pipe flow no more than 85% full depth (d/D). Capacity shall be based on Manning's Equation with "n" = 0.013.

## **STORM**

- Site drains to the McNulty Creek Basin. Per SHMC 18.16.090, "All development on sites within the McNulty Creek Drainage Basin that are one-half acre or greater in area shall be required to provide on-site detention. A complete drainage report is required for all proposed developments greater than one-half acre in area addressing the existing and proposed conditions and any detention requirements".
- Per the recommendations of the Stormwater Master Plan, the post-development peak release rates shall equal the pre-development release rates for their matching design storm event up to the 10-year design storm. The 25-year storm event peak release rate should not exceed the 10-year pre-development peak release rate.
- Storm detention facilities shall be designed to provide storage using the 25-year event, with the safe overflow conveyance of the 100-year storm. Calculations of site discharge for both the existing and proposed conditions is required.
- Storm flows shall be pretreated by a water quality manhole before entering a stormwater detention facility.
- Distance between manholes shall be 300 feet.
- Provisions shall be made for gravity drainage of roofs and foundation (footing) drains to be connected directly to public storm drain system. No weepholes through sidewalk
- The City prefers the proposed stormwater detention facilities to be privately owned and maintained. Developer shall submit a maintenance plan that clearly identifies maintenance activities and frequency, and the proposed entity(s) responsible for maintenance.
- In the hydrological analysis, the Engineer shall reduce the maximum sheet flow distance from 300 feet to 100 feet as recommended by the Stormwater Master Plan. Additionally, the storm drainage conveyance system shall be designed to be able to pass runoff from the 25-yr storm event without flooding.



# **Comstock Subdivision**

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**46-Lot Subdivision  
with Planned Development Overlay**

# **Comstock Subdivision**

## **46-Lot Subdivision**

### **With Planned Development Overlay**

Prepared for:

Noyes Development Co.  
16305 NW Bethany Court, Suite 101  
Beaverton, OR 97006  
503-451-6138

Prepared by:

Westlake Consultants, Inc.  
15115 SW Sequoia Parkway, Suite 150  
Tigard, OR 97224  
Phone: (503) 684-0652

## APPLICANT AND SUBJECT PROPERTY SUMMARY

**APPLICANT:** Clark Vorm  
Noyes Development Co.  
16305 NW Bethany Court, Suite 101  
Beaverton, OR 97006  
Phone: 503-451-6138  
Email:

**PROPERTY OWNER:** Chieko Comstock  
980 Joshua Place  
Fremont, CA 94539

**APPLICANT'S REPRESENTATIVE:** Ken Sandblast, AICP  
Westlake Consultants, Inc.  
15115 SW Sequoia Parkway, Suite 150  
Tigard, OR 97224  
Phone: (503) 684-0652  
Email: [ksandblast@westlakeconsultants.com](mailto:ksandblast@westlakeconsultants.com)

**PROPOSED PROJECT:** 46-Lot Subdivision with Planned Development Overlay

**PROPERTY LOCATION:** Pittsburg Road, St. Helens, OR

**TAX MAP/LOTS:** 4N1W06AD / 2600 and 4N1W06D / 604

**SITE SIZE:** 12.0 Acres

**ZONING DESIGNATION:** R-7 – Single-Family Residential

**COMP PLAN DESIGNATION:** Rural Suburban Unincorporated Residential (RSUR)

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Exhibit B. P500 Preliminary Utility Plan
Exhibit C. P501 Preliminary Utility Plan
Exhibit D. Preliminary Storm Drainage Report
Exhibit E. P200 Existing Conditions Plan
Exhibit F. P201 Existing Conditions Plan
Exhibit G. Development Standards Table
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# **APPLICABLE DEVELOPMENT REVIEW CRITERIA**

## **City of St. Helens Community Development Code**

### **PROJECT OVERVIEW**

Introduction  
Subject Property  
Adjacent Properties  
Proposed Development  
Facilities and Services

### **APPLICANT'S NARRATIVE**

#### **17.20 PROCEDURES FOR DECISION-MAKING – LEGISLATIVE**

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#### **17.32 ZONES AND USES**

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#### **17.64 ADDITIONAL YARD SETBACK REQUIREMENTS AND EXCEPTIONS**

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**CONCLUSION**

# PROJECT OVERVIEW

## Introduction

The applicant, Noyes Development, is seeking Subdivision and Planned Development approval for a 46-lot subdivision within the City of St. Helens.

## Subject Property

The subject property consists of two undeveloped parcels totaling 12 acres, with frontage on Pittsburg Road to the north. The property was recently annexed into the City, with a zoning designation of R-7, Moderate Residential (Figure 1).

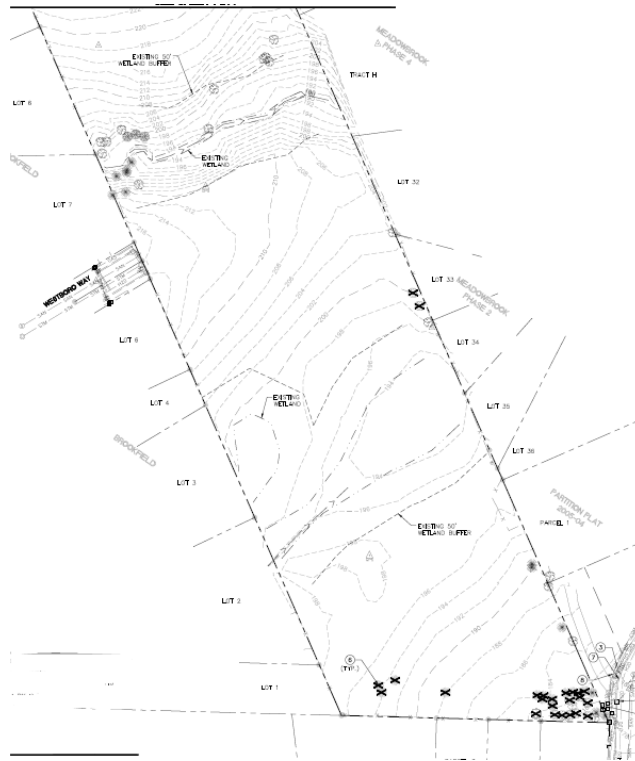
The site has a stream and associated riparian area that cross the site about midway between the north and south property lines, essentially dividing the site into two parts. Within the southern portion of the site, there are two wetlands (MC-2) with associated 50-foot upland protection zones, that further divide that portion of the site into two parts.

Currently, direct access to the site is available from Pittsburg Road, along the site's northern property line, although future direct access from Pittsburg Rd will be prohibited. Following development of the subdivision, access from Pittsburg Road will be provided to the subdivision via Meadow View Drive, which will intersect with the proposed Comstock Way. Access to the southern half of the subdivision will be from the connections made to the existing rights-of-way on Westboro Way and Barr Avenue. The Barr connection will provide a hammerhead style accessway with no internal connection to the other lots, while the Westboro connection provides a cul-de-sac.

**Figure 1. Existing Conditions North**



### Existing Conditions South



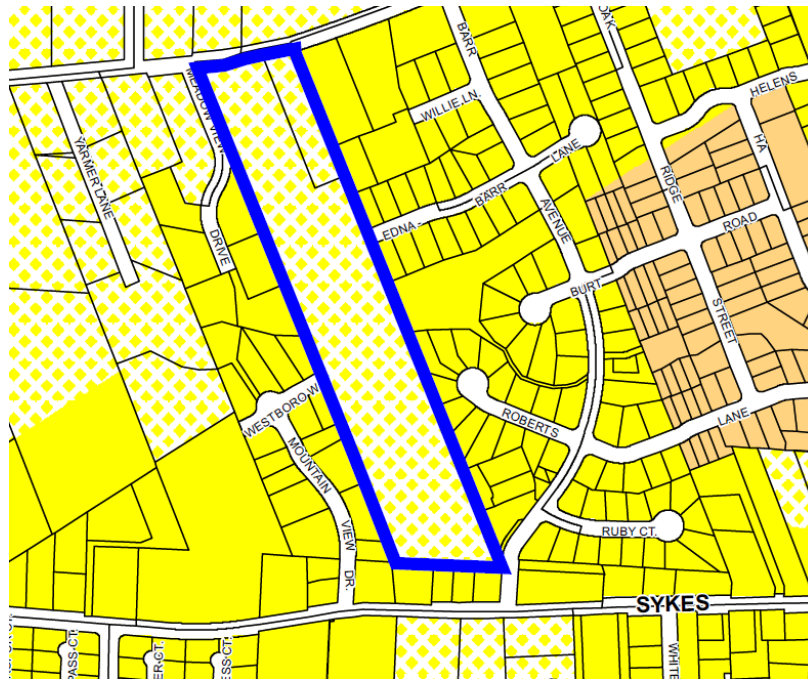
### Adjacent Properties

The subject property is adjacent to constructed subdivisions along its eastern, western and southern sides. Zoning in the area is split between R7 moderate residential and R5 General Residential in the south and R10 Suburban residential adjacent to the northern portion of the site. Many of the subdivisions in the near proximity also include PD (Planned Development) overlays.

Figure 2. Vicinity Map



**Figure 3. Comprehensive Plan Map**



### **Proposed Development**

This application proposes a 46-lot subdivision with a Planned Development overlay. Within the PD subdivision, future development will include 46 single-family homes. The site has two wetland areas and associated buffer zones. The protected wetland area will provide approximately 2.75 acres of open space. In an effort to prioritize the protection of these wetland and buffer zones, the proposed site design divides the property into three areas of development. The three areas will have access from the existing rights-of-way and proposed sidewalks to meet the required connectivity requirements. The proposed layout of the subdivision can be referenced on the site plan (Exhibit A).

### **Facilities and Services**

Water: Water service is available from the City of St. Helens from the existing public water mains in Meadow View Drive, Barr Avenue and Westboro Way. Water service will be extended to development on the site through the public streets, with laterals provided to each lot. The proposed design for water service is shown in Sheet P500 of Exhibit B.

Sewer: Sanitary Sewer service is available from the existing public lines located in Meadow View Drive to the west, Westboro Way to the southwest and Barr Avenue to the southeast. As shown in the Preliminary Utilities Plan, Sheet P500 of Exhibit B, the new lines will be extended into the development within the new public streets on site in order to provide service to every lot.

Stormwater: A new storm line will be constructed within the new streets to all lots. As shown in the Preliminary Utility Plan, Sheets P500 & P501 of Exhibit B & C, the stormwater will be directed to the stormwater treatment

and detention facility located adjacent to each lot cluster. The storm facilities are shown on the utility plan as "Storm A-C". Additional information about stormwater collection is included in the Preliminary Storm Drainage Report, submitted as Exhibit D.

Streets: The subject property has frontage along Pittsburg Road, Meadow View Drive and at the connection point in Barr Avenue. The site also has connection stubs at Westboro Way and Edna Barr Avenue. The proposed dedicated streets will provide adequate circulation and connection to every lot in the subdivision. Sidewalks will be installed adjacent to the new streets to provide safe pedestrian access throughout the subdivision. The access to the lots will be unique in order to preserve existing wetland areas and utilize existing roadway stubs. The lots will be broken up into 3 clusters with open spaces separating each cluster.

## APPLICANT'S NARRATIVE

The applicable chapters of the City of Hillsboro Community Development Code appear in **BOLD CAPS**. Criteria from each chapter are cited in *Italics*, followed by the applicant's response, which presents evidence and recommended findings for approval of the 46-lot Planned Development Subdivision.

### 17.20 PROCEDURES FOR DECISION-MAKING – LEGISLATIVE

#### 17.20.020 The application process

- (1) A request for a legislative change may be initiated by:*
  - (a) Order of the council;*
  - (b) Resolution of a majority of the commission;*
  - (c) The director;*
  - (d) Any person or the person's agent authorized in writing to make the application.*
- (2) Application acceptance:*
  - (a) Form must be complete;*
  - (b) City council must approve the concept;*
  - (c) Fee must be paid unless previously waived by the city council*

**Applicant Response:** The applicant acknowledges the application process for legislative decisions. The application, a subdivision with a planned development overlay, will require the planning commission provide a recommendation for this application since the required hearing body for the planned development overlay will be the city council.

#### 17.20.030 Time Periods – Submissions/hearings

- (1) The director may receive proposed legislative changes four times a year, and the completed application shall be submitted not more than 75 days and not less than 45 days before the first commission meetings in March, June, September, and December.*
- (2) The commission shall normally hear the matter at the first meeting in March, June, September, or December, depending upon which date the item has been scheduled.*
- (3) The council shall normally receive the commission's recommendations within 30 days after the commission's decision and schedule a public hearing of the commission's recommendation. If the*



*planning commission fails to act within 60 days after the scheduled public hearing date, the application shall be forwarded to the city council without a recommendation.*

**Applicant Response:** The applicant acknowledges the time periods applicable to this application. It is the intent of the applicant to meet the legislative deadlines to be heard at the next available meeting.

#### **17.20.130 Approval process and authority**

- (1) The commission shall:
  - a. After notice and a public hearing, formulate a recommendation to the council to approve, to approve with modifications, or to deny the proposed change, or to adopt an alternative; and
  - b. Within 30 days of determining a recommendation, cause the written recommendation to be signed by the presiding officer of the commission and to be filed with the director.*
- (2) Any member of the commission who voted in opposition to the recommendation by the commission on a proposed change may file a written statement of opposition with the director prior to any council public hearing on the proposed change. The director shall transmit a copy to each member of the council and place a copy in the record.*
- (3) If the commission fails to recommend approval, approval with modification, or denial of the proposed legislative change within 60 days of the first public hearing on the proposed change, the director shall:
  - a. Report the failure together with the proposed change to the council; and
  - b. Cause notice to be given, the matter to be placed on the council's agenda, a public hearing to be held and a decision to be made by the council. No further action shall be taken by the commission.*
- (4) The council shall:
  - a. Have the responsibility to approve, approve with modifications, or deny an application for the legislative change or to remand to the commission for rehearing and reconsideration on all or part of an application transmitted to it under this code;
  - b. Consider the recommendation of the commission; however, it is not bound by the commission's recommendation; and
  - c. Act by ordinance, if application approved with or without modifications.*

**Applicant Response:** The applicant acknowledges the approval criteria and authority of the planning commission and city council. It is also understood that the council will provide the decision for the planned development overlay.

#### **17.24 PROCEDURES FOR DECISION-MAKING – QUASI-JUDICIAL**

##### **17.24.040 Preapplication conference**

##### **17.24.050 Application Submittal Requirements – Refusal of an Application**

**Applicant Response:**

The applicant attended a pre-application conference with the City of St. Helens on February 15, 2022 and was advised that the proposed Pittsburg Road Subdivision would be subject to the applicable development standards within Chapter 17 of the St. Helens Municipal Code. This narrative is therefore provided in response to the City of St. Helens approval criteria.

## **17.32 ZONES AND USES**

### **17.32.060 Moderate residential zone – R-7**

**Applicant's Response:** The proposed 46-lot Planned Development Subdivision, located within the R-7 zone, is designed to include 46 future single-family, detached homes, which is an outright permitted use in the zone. This provision is satisfied.

## **17.40 PROTECTIVE MEASURES FOR SIGNIFICANT WETLANDS, RIPARIAN CORRIDORS, AND PROTECTION ZONES\***

### **17.40.015 Establishment of significant wetlands, riparian corridors and protection zones.**

**Applicant's Response:** No wetland delineation is proposed with this application. The wetlands on this site are currently being delineated and further delineation will not be submitted. The existing conditions plan and as well as the site plans show the existing wetlands and respective wetland buffers. The site includes a 50-foot buffer from the wetland's edge to provide the required protection zone for a type II wetland. All wetlands and buffers are to be dedicated as tracts and no projections or disturbance will happen with the development of this subdivision.

### **17.40.025 Prohibitions within significant wetlands, significant riparian corridors and protection zones**

1. *All significant wetlands, significant riparian corridors and protection zones shall be protected from alteration or development activities, except as specifically provided herein.*
2. *Except as set forth in the exemption, exception, or other approval authorized in this chapter, no person or entity shall alter or allow, or permit or cause to be altered, any real property designated as a significant wetland, significant riparian corridor, or a wetland/riparian protection zone.*
3. *Except as set forth in the exemption, exception, or other approval authorized in this chapter, no person or entity shall use or allow, or permit or cause to be used, property designated as a significant wetland, significant riparian corridor, or wetland/riparian protection zone.*

**Applicant Response:** The applicant acknowledges the prohibitions within wetlands and riparian corridors. This application does not seek to encroach or seek exemptions to the provisions of chapter 17.40.

### **17.40.050 Additional requirements for land divisions and new development**

1. *Density Transfer. Except as provided below, residential density transfer shall not be available.*
  - a. *Residential density transfer within the same property, or within contiguous properties within the same ownership, shall be permitted for planned development with a development agreement pursuant to ORS Chapter 94, subject to the following:*
    - i. *Density Bonus. The maximum gross density for the buildable area of the site shall not exceed 150 percent of the maximum density allowed by the underlying zoning district for that buildable area notwithstanding Chapter 17.56 SHMC.*
2. *Design Standards. Except as provided below, significant wetlands, significant riparian corridors and protection zones shall not be permitted as part of individual lots or new streets or infrastructure areas and shall be made part of separate preservation tracts to be managed by a homeowners association or other entity responsible for preservation.*

- a. *Protection zones may be made part of individual lots and protection zones may vary in width provided average protection zone width complies with this chapter in planned developments with a development agreement pursuant to ORS Chapter 94, provided additional protection zones or off-site mitigation over the minimum standard is provided as consideration for such flexibility.*
- b. *For parcels created by land partition per Chapter 17.140 SHMC, significant wetlands, significant riparian corridors and protection zones may be part of a parcel if:*
  - i. *The parcel's area excluding the significant wetlands, significant riparian corridors and/or protection zone meets the minimum size and dimension requirements of the zoning district; and*
  - ii. *A conservation easement benefiting the City of St. Helens shall be required for the portions of the parcel containing the significant wetlands, significant riparian corridors and/or protection zone. The easement shall be depicted on and incorporated into the recorded plat of the partition.*
3. *A development agreement entered into pursuant to ORS Chapter 94, and in accordance with city requirements may be used where a planned development is not available to achieve flexibility in design standards, density transfer, and density bonuses as discussed in subsections (1) and (2) of this section.*

**Applicant Response:** This planned development proposes the transfer of 4 units from the wetlands areas to be developed on the net developable area. The transferred units do not exceed 150% of the base zoning, further it considers the provisions listed in 17.56.030 which limits the transfer of density to 25%. The provisions of design have been significantly considered as the proposed layout and design promotes the preservation of the wetlands and riparian corridors. No disturbance of any kind is proposed within these areas, further they will be dedicated as tracts to ensure they are maintained. This provision is met.

## **17.56 DENSITY COMPUTATIONS**

### **17.56.020 Density Calculation**

3. *All density calculations shall comply with the provisions of SHMC 17.56.040, Residential density transition*

**Applicant Response:** The net development area does not include or take into account rights-of-way or wetland & open space tracts, all of which are present on site. Calculating density based on the criteria mentioned in 17.56.020, the site is permitted to have 42 lots, however there are 4 additional lots that can be transferred from the gross site area. The proposed density and calculations meet the applicable provisions of this section. Please see Exhibit H for the breakdown and calculation of the proposed and allowed density.

### **17.56.030 Transfer of Residential Density**

1. *Units per acre calculated by subtracting land areas listed in SHMC 17.56.020(1)(a) from the gross acres may be transferred to the remaining buildable land areas*

**Applicant Response:** The proposed subdivision has 4.36 acres of open space. Based on the provisions for density transfer, the subject site would be able to transfer 4.36 units to the net development area. This proposed site

design incorporates 4 additional units creating a total of 46 single-family lots. Exhibit H provides a more detailed calculation of the allowed density transfer.

## **17.64 ADDITIONAL YARD SETBACK REQUIREMENTS AND EXCEPTIONS**

### **17.64.020 Additional Setback from Centerline Required**

#### **17.64.040 Exceptions to yard requirements.**

**Applicant Response:** Pittsburg Road is the only arterial adjacent to the subject site. However, with the proposed Comstock Way right-of-way, lots 1 through 6 will be through lots fronting on both Pittsburgh and Comstock. As shown on the Site layout exhibit, (Exhibit E) the building envelopes are setback a minimum of 50' from the center line of Pittsburg Road. The adjacent parcels have structures but do not have front yard depths less than the required minimum. The subject site does not fall within an exemption category but is designed to meet the required setback from the centerline.

## **17.72 LANDSCAPING AND SCREENING**

### **17.72.020 General provisions**

#### **17.72.030 Street trees**

- 1. All development projects fronting on a public or private street, or a private driveway more than 100 feet in length approved after the adoption of the ordinance codified in this code shall be required to plant street trees in accordance with the standards in SHMC 17.72.035.*
- 2. Certain trees can severely damage utilities, streets, and sidewalks or can cause personal injury. Approval of any planting list shall be subject to review by the director. A list of suggested appropriate tree species is located at the end of this chapter. Additional or alternative tree species also may be recommended by the applicant or determined by the director based on information provided in adopted city plans, policies, ordinances, studies or resolutions. Proposals by the applicant shall require approval by the director*

**Applicant Response:** Street trees will be selected from the City's suggested planting list and be planted in accordance Section 17.72.030. Trees will be selected and shown on the final engineering construction set.

#### **17.72.035 Location of street trees**

**Applicant Response:** Street trees will be placed at the appropriate spacing per the requirements of 17.72.035(2). The applicant acknowledges the required spacing requirements for small, medium, and large trees. The proposed tree locations will take into account, utilities, streetlights and visibility requirements along all street frontages.

#### **17.72.040 Cut and fill around existing trees**

- 1. Existing trees may be used as street trees if no cutting or filling takes place within the dripline of the tree unless an exception is approved by the director*

**Applicant Response:** The applicant acknowledges the provisions of utilizing existing trees as street trees. To the greatest extent possible, the applicant will try to salvage and protect-in-place all existing street trees.

#### **17.72.050 Replacement of street trees**

1. *Existing street trees removed by development projects or other construction shall be replaced by the developer with those types of trees approved by the director.*
2. *The replacement trees shall be of a size and species similar to the trees that are being removed unless lesser sized alternatives are approved by the director.*

**Applicant Response:** The Applicant acknowledges the provisions of this section.

#### **17.72.070 Buffering and screening – General provisions**

1. *It is the intent that these requirements shall provide for privacy and protection and reduce or eliminate the adverse impacts of visual or noise pollution at a development site, without unduly interfering with the view from neighboring properties or jeopardizing the safety of pedestrians and vehicles.*
2. *Buffering and screening are required to reduce the impacts on adjacent uses which are of a different type in accordance with the matrix in this chapter. The owner of each proposed development is responsible for the installation and effective maintenance of buffering and screening.*
3. *In lieu of these standards, a detailed buffer area landscaping and screening plan may be submitted for the director's approval as an alternative to the buffer area landscaping and screening standards, provided it affords the same degree of buffering and screening as required by this code*

**Applicant Response:** The proposed use for the residential site is a detached single-family product. This is consistent with the adjacent uses and does not require a buffer. These provisions are not applicable.

#### **17.72.080 Buffering and screening requirements**

**Applicant Response:** The proposed use for the residential site is a detached single-family product. This is consistent with the adjacent uses and does not require a buffer. These provisions are not applicable.

#### **17.72.090 Setbacks for fences or walls**

1. *No fence or wall shall be constructed which exceeds the standards in subsection (2) of this section except when the approval authority, as a condition of approval, allows that a fence or wall be constructed to a height greater than otherwise permitted in order to mitigate against potential adverse effects. For residential uses, a fence may only exceed the height standards if approved by a variance.*
2. *Fences or walls:*
  - a. *May not exceed four feet in height in a required front yard along local or collector streets or six feet in all other yards and, in all other cases, shall meet vision clearance area requirements (Chapter 17.76 SHMC);*
  - b. *Are permitted up to six feet in height in front yards adjacent to any designated arterial or street. For any fence over three feet in height in the required front yard area, permission shall be subject to review of the location of the fence or wall;*
  - c. *All fences or walls shall meet vision clearance area requirements (Chapter 17.76 SHMC);*
  - d. *All fences or walls greater than six feet in height shall be subject to building official approval.*

**Applicant Response:** No fences, walls or landscaping are proposed through this application.



### **17.72.100 Height restrictions**

- 1. The prescribed heights of required fences, walls, or landscaping shall be measured from the actual adjoining level of finished grade, except that where parking, loading, storage, or similar areas are located above finished grade, the height of fences, walls, or landscaping required to screen such areas or space shall be measured from the level of such improvements.*
- 2. An earthen berm and fence or wall combination shall not exceed the six-foot height limitation for screening*

**Applicant Response:** No fences, walls or landscaping are proposed through this application.

### **17.72.120 Revegetation**

- 1. Where natural vegetation has been removed through grading in areas not affected by the landscaping requirements and that are not to be occupied by structures, such areas are to be replanted as set forth in this section to prevent erosion after construction activities are completed.*
- 2. Methods of Revegetation. Acceptable methods of revegetation include hydromulching or the planting of rye grass, barley, or other seed with equivalent germination rates, and:*
  - a. Where lawn or turf grass is to be established, lawn grass seed or other appropriate landscape cover is to be sown at not less than four pounds to each 1,000 square feet of land area;*
  - b. Other revegetation methods offering equivalent protection may be approved by the approval authority;*
  - c. Plant materials are to be watered at intervals sufficient to ensure survival and growth; and*
  - d. The use of native plant materials is encouraged to reduce irrigation and maintenance demands.*

**Applicant Response:** The wetlands and open space are remaining protected and in place, therefore no grading or incidental grading will occur in those areas. The areas where vegetation has been removed, such as individual lot yards will be revegetated with lawns or similar landscaping at the time of lot and home construction.

## **17.76 VISUAL CLEARANCE AREAS**

### **17.76.020 Visual clearance – Required**

- 1. A visual clearance area shall be maintained on the corners of all property adjacent to the intersection of two streets, a street and a railroad, or a driveway providing access to a public or private street.*
- 2. A clear vision area shall contain no vehicle, hedge, planting, fence, wall structure, or temporary or permanent obstruction (except for an occasional utility pole or tree), exceeding three feet in height, measured from the top of the curb, or where no curb exists, from the street centerline grade, except that trees exceeding this height may be located in this area, provided all branches below eight feet are removed.*
- 3. Where the crest of a hill or vertical curve conditions contribute to the obstruction of clear vision areas at a street or driveway intersection, hedges, plantings, fences, walls, wall structures and temporary or permanent obstructions shall be further reduced in height or eliminated to comply with the intent of the required clear vision area.*

**Applicant Response:** The Applicant acknowledges the provisions of 17.76.020 and has designed the corner lots to incorporate the 30-foot by 30-foot required visibility triangle. The proposed lots and respective building envelopes take into account the abovementioned visibility requirements.

### **17.76.030 Computation – Nonarterial street and all accessways**

*A visual clearance area for all street intersections, street and accessway intersections, and street or accessway and railroad track intersections shall be that triangular area formed by the right-of-way or property lines along such lots and a straight line joining the right-of-way or property line at points which are 30 feet distance from the intersection of the right-of-way line and measured along such lines*

**Applicant Response:** As shown on the Preliminary Plat, intersections have been designed to provide the required visual clearance and maintain safe access to and through the subdivision.

## **17.80 OFF-STREET PARKING AND LOADING REQUIREMENTS**

### **17.80.020 General Provisions**

1. *Parking Dimensions. The minimum dimensions for parking spaces are:*
  - e. *Special provisions for side-by-side parking for single-family dwellings (attached and detached) and duplexes:*
    - i. *The total unobstructed area for side-by-side parking spaces for single-family dwellings (attached and detached) and duplexes shall still be 18 feet by 18 feet (two nine-foot by 18-foot standard spaces together), but the improved portion may be 16 feet in width centered within the 18 feet for the purposes of the surface (paving) requirements of this chapter and, if the spaces are adjacent or close to the street, driveway approach width.*
    - ii. *This does not apply to single parking spaces by themselves or rows of parking spaces that exceed two spaces. This only applies to two standard space parking areas where the spaces are adjacent to each other along the long side.*

**Applicant Response:** The proposed lots are designed to provide adequate area for the required parking-space design. Compliance will be further confirmed at the time of building permit issuance. This provision is met.

### **17.80.30 Minimum off-street parking requirements**

1. *Residential.*
  - i. *Single-dwelling units, detached – Two off-street spaces for each dwelling unit or pair of dwelling units as allowed by the zoning district. No more than two spaces are required for one detached single-family dwelling on a single lot, or two detached single-family dwellings on a single lot.*

**Applicant Response:** The proposed lots are designed to provide adequate area for the required minimum number of parking spaces. Compliance will be further confirmed at the time of building permit issuance. This provision is met.

## **17.84 ACCESS, EGRESS AND CIRCULATION**

### **17.84.030 Joint access and reciprocal access easements**

*Owners of two or more uses, structures, or parcels of land may agree to utilize jointly the same access and egress when the combined access and egress of both uses, structures, or parcels of land satisfies the combined requirements as designated in this code, provided:*

- 1. Satisfactory legal evidence shall be presented in the form of deeds, easements, leases, or contracts to establish the joint use; and*
- 2. Copies of the deeds, easements, leases, or contracts are placed on permanent file with the city.*

**Applicant Response:** Access easements are proposed to provide access to lots within the subdivision with limited street frontage and will be designed to meet the requirements of Section 17.84.030. As shown on the Preliminary Plat, attached Sheets P300 & P301. There will be access easements over adjacent lots to the open spaces and storm facilities in order to meet the access requirements. There will also be an access easement over lot 45 to provide access and frontage to lots one through 3 and a shared driveway easement over lots 31 and 32. All recorded deeds will be provided to the city of St. Helens in order to satisfy this code provision.

### **17.84.040 Public street access**

- 1. All vehicular access and egress as required in SHMC 17.84.070 and 17.84.080 shall connect directly with a public or private street approved by the city for public use and shall be maintained at the required standards on a continuous basis.*
- 2. Vehicular access to structures shall be provided to residential uses and shall be brought to within 50 feet of the ground floor entrance or the ground floor landing of a stairway, ramp, or elevator leading to the dwelling units.*

...

- 7. Development Fronting onto an Arterial Street.*
  - a. New residential land divisions fronting onto an arterial street shall be required to provide secondary (local or collector) streets for access to individual lots. When secondary streets cannot be constructed due to topographic or other physical constraints, access may be provided by consolidating driveways for clusters of two or more lots (e.g., includes flag lots and mid-block lanes).*

- 8. Number of Access Points. All access points, including additional ones as noted below, are subject to the access spacing standards in subsection (5) of this section and all other provisions of this chapter. Specific standards based on use are as follows:*

- a. For single-family dwellings, detached and duplexes, one street access point is permitted per lot/parcel except an additional (second) access point may be allowed when:*
  - i. The property is a corner lot/parcel and the additional access point is on the other street (i.e., one access per street).*
  - ii. The lot/parcel does not abut a street that provides any on-street parking on either side.*
- b. For single-family dwellings, attached, one street access point is permitted per lot/parcel.*

*9. Shared Driveways. The number of driveway and private street intersections with public streets shall be minimized by the use of shared driveways with adjoining lots where feasible. The city shall require shared driveways as a condition of land division or site development review, as applicable, for traffic safety and access management purposes in accordance with the following standards:*

- a. *Shared driveways and frontage streets may be required to consolidate access onto a collector or arterial street. When shared driveways or frontage streets are required, they shall be stubbed to adjacent developable parcels to indicate future extension. "Stub" means that a driveway or street temporarily ends at the property line, but may be extended in the future as the adjacent parcel develops. "Developable" means that a parcel is either vacant or it is likely to receive additional development (i.e., due to infill or redevelopment potential).*
- b. *Reciprocal access easements (i.e., for the benefit of affected properties) shall be recorded for all shared driveways, including pathways, at the time of final plat approval or as a condition of site development approval.*
- c. *Exception. Shared driveways are not required when existing development patterns or physical constraints (e.g., topography, parcel configuration, and similar conditions) prevent extending the street/driveway in the future.*

**Applicant Response:** The applicant acknowledges the applicable access point requirements for the proposed subdivision. Each lot is proposed to have one connection point allowing access to the dwelling, storm facility or usable open space. Due to the narrowness of the site, some constraints required lot design flexibility and easements in order to provide access. Access was shared where feasible and any through lots were given frontage to local streets.

#### **17.84.070 Minimum requirements – Residential use**

1. *Vehicular access and egress for single-dwelling units, duplexes or attached single-dwelling units on individual lots, residential use, shall comply with the following:*

**Figure 4: Residential Dwelling Use**

Number Dwelling Units/Lot	Minimum Number of Driveways Required	Minimum/Maximum Access Width	Minimum Pavement Width
1 or 2	1	15'/24'	10'
3 to 6	1	24'/30'	20'

1. *Private residential access drives shall be provided and maintained in accordance with the provisions of the Uniform Fire Code.*
2. *Access drives in excess of 150 feet in length shall be provided with approved provisions for the turning around of fire apparatus in accordance with the engineering standards of SHMC Title 18 and/or as approved by the fire marshal.*
3. *Vehicle turnouts (providing a minimum total driveway width of 24 feet for a distance of at least 30 feet) may be required so as to reduce the need for excessive vehicular backing motions in situations where two vehicles traveling in opposite directions meet on driveways in excess of 200 feet in length.*
4. *Where permitted, minimum width for driveway approaches to arterials or collector streets shall be no less than 20 feet so as to avoid traffic turning from the street having to wait for traffic exiting the site.*

**Applicant Response:** The proposed lots are designed to provide adequate area for the required minimum driveway widths. Compliance will be further confirmed at the time of building permit issuance. This provision is met.

## **17.132 TREE REMOVAL**

### **17.132.025 Tree plan requirement**

1. *A tree plan for the planting, removal, and protection of trees prepared by a certified arborist or other capable professional as allowed by the director (for property or site with more than 10 trees or any tree over two feet DBH) shall be provided for any lot, parcel or combination of lots or parcels for which a development application for a land division, site development review, planned development or conditional use is filed. Protection is preferred over removal where possible.*

**Applicant Response:** The applicant acknowledges the requirements for a tree plan if any trees are to be removed. At the time of construction, the trees indicated to be removed on the existing conditions plan will only be removed with the approval of the appropriate tree removal permit.

### **17.132.030 Permit requirement**

1. *Tree removal permits shall be required only for the removal of any tree which is located on or in a sensitive land area as defined by Chapter 17.44 SHMC.*

**Applicant Response:** The subdivision has created tracts around the wetland and sensitive areas of the site in order to protect it. No trees or plant material is going to be removed from these areas therefore, this provision is not applicable.

### **17.132.040 Permit criteria**

1. *The following approval standards shall be used by the director or designee for the issuance of a tree removal permit on sensitive lands:*
  - a. *Removal of the tree must not have a measurable negative impact on erosion, soil stability, flow of surface waters, or water quality as evidenced by an erosion control plan which precludes:*
    - i. *Deposits of mud, dirt, sediment or similar material exceeding one-half cubic foot in volume on public or private streets, adjacent property, or into the storm and surface water system, either by direct deposit, dropping, discharge or as a result of the action of erosion; and*
    - ii. *Evidence of concentrated flows of water over bare soils; turbid or sediment-laden flows; or evidence of on-site erosion such as rivulets on bare soil slopes where the flow of water is not filtered or captured on site.*
2. *Within stream or wetland corridors, tree removal must maintain no less than a 75 percent canopy cover or no less than the existing canopy cover if the existing canopy cover is less than 75 percent*

**Applicant Response:** No trees will be removed from sensitive areas and therefore a tree permit is not required. The applicant is not seeking a tree permit therefore this provision is not applicable.



#### **17.132.050 Expiration of approval – Extension of time**

1. *A tree removal permit shall be effective for one and one-half years from the date of approval.*
2. *Upon written request by the applicant prior to the expiration of the existing permit, a tree removal permit shall be extended for a period of up to one year if the director finds that the applicant is in compliance with all prior conditions of permit approval and that no material facts stated in the original application have changed.*

**Applicant Response:** The applicant acknowledges the expiration timeframe of a tree removal permit.

#### **17.132.060 Application submission requirements**

##### **17.132.070 Illegal tree removal – Violation – Replacement of trees**

**Applicant Response:** The applicant acknowledges the penalty for removing trees without a city permit. If trees that fall within the applicable criteria need to be removed, the applicant will seek the appropriate permit and approval.

#### **17.136 LAND DIVISION – SUBDIVISION**

##### **17.136.020 General provisions**

1. *An application for a subdivision shall be processed through a two-step process\*: the preliminary plat and the final plat:
  - (a) *The preliminary plat shall be approved by the planning commission before the final plat can be submitted for approval consideration; and*
  - (b) *The final plat shall reflect all conditions of approval of the preliminary plat.**
2. *All subdivision proposals shall be in conformity with all state regulations set forth in ORS Chapter 92, Subdivisions and Partitions.\**
3. *When subdividing tracts into large lots, the planning commission shall require that the lots be of such size and shape as to facilitate future redivision in accordance with the requirements of the zoning district or comprehensive plan and this code and that a redevelopment plat be approved and used to approve building permits.*
4. *Temporary sales offices in conjunction with any subdivision may be granted as set forth in Chapter 17.116 SHMC.*
5. *All subdivision proposals shall be consistent with the need to minimize flood damage.*
6. *All subdivision proposals shall have underground public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.*
7. *All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage; and*
8. *Where base flood elevation has not been provided or is not available from another authoritative source, it shall be generated for subdivision proposals and other proposed developments which contain at least 50 lots or five acres (whichever is less)*

**Applicant Response:** The applicant acknowledges the procedures, special provisions and two-step process required for subdivisions. The proposal includes, preliminary grading and drainage, utility and site plans (all within this application) in order to meet all of the abovementioned criteria in 17.136.020.

**17.136.030 Administration and approval process**

**17.136.040 Expiration of approval – Standards for extension of time**

**17.136.050 Phased development**

**17.136.060 Approval standards – Preliminary plat**

1. *The planning commission may approve, approve with conditions or deny a preliminary plat based on the following approval criteria:*
  - a. *The proposed preliminary plat complies with the city's comprehensive plan, the applicable sections of this code and other applicable ordinances and regulations;*
  - b. *The proposed plat name is not duplicative or otherwise satisfies the provisions of ORS Chapter 92[.090(1)];*
  - c. *The streets and roads are laid out so as to conform to the plats of subdivisions and maps of partitions already approved for adjoining property as to width, general direction and in all other respects unless the city determines it is in the public interest to modify the street or road pattern; and*
  - d. *An explanation has been provided for all common improvements.*
2. *Lot Dimensions.*
  - a. *Lot size, width, shape and orientation shall be appropriate for the location of the development and for the type of use contemplated, and:*
    - i. *No lot shall be dimensioned to contain part of an existing or proposed public right-of-way;*
    - ii. *The depth of all lots shall not exceed two and one-half times the average width, unless the parcel is less than one and one-half times the minimum lot size of the applicable zoning district; and*
    - iii. *Depth and width of properties zoned for commercial and industrial purposes shall be adequate to provide for the off-street parking and service facilities required by the type of use proposed.*
5. *Control of access to adjoining properties, including but not limited to continuation of streets, shall be granted to the city via reserve strips or language in lieu of reserve strips as a note on the plat. Generally, language in lieu of reserve strips is preferred.*
6. *The planning commission may require additional conditions as are necessary to carry out the comprehensive plan and other applicable ordinances and regulations.*

**Applicant Response:**

1. The proposed plat takes into account the cities goals and projections from the comprehensive plan. The site has been successfully annexed and rezoned to R7 to have a similar density to compatible subdivisions adjacent to the subject site. The Plat name is the first of its kind and the site design provides connections to existing streets utilizing the existing street names. Further, the proposed subdivision meets all applicable criteria herein.
2. Lot sizes and shapes have been designed to be appropriate for their location. There is adequate right-of-way, and width to depth ratio to be consistent with adjacent subdivisions while also meeting the

requirements for lot sizes with PUD overlays. There are four through lots along Comstock Way. Three of these are along Comstock and Pittsburg, however, the lots are oriented inwards to provide safe access.

#### **17.136.070 Application submission requirements – Preliminary plat**

#### **17.136.080 Additional information required and waiver of requirements**

**Applicant Response:** The applicant acknowledges the submittal requirements for a preliminary plat. This narrative and submitted materials will meet the submittal criteria set forth in this chapter.

### **17.148 PLANNED DEVELOPMENT**

#### **17.148.015 The process**

1. *The planned development designation is an overlay zone applicable to all zones.*
2. *There are three elements to the planned development approval process and the elements are as follows:*
  - a. *The recommendation of approval by the planning commission of the planned development overlay zone and the subsequent approval by the city council;*
  - b. *The approval by the planning commission of the preliminary planned development plan; and*
3. *The approval by the director of the final detailed development plan.*
4. *The planned development overlay zone shall be processed in the same manner as a zone change under the provisions of SHMC 17.24.090(3)(o), Approval authority responsibilities, except in the situation where zone change is part of a legislative rezoning. In the case of an existing planned development overlay zone for a subdivision, conditional use or site development review application, the proposal shall be reviewed by the commission. In the case of an existing planned development overlay zone for any other type of application, the application shall be reviewed under the provisions required in the chapters which apply to the particular land use application.*
5. *The application for the overlay zone and for approval of the preliminary development plan may be heard concurrently if an application for each of the actions is submitted.*
6. *If the application involves subdivision of land, the applicant may apply for preliminary plat approval and the applications shall be heard concurrently.*
7. *The application for the preliminary development plan shall satisfy all of the requirements of SHMC 17.148.110. The applicant may file for exceptions under the provision of SHMC 17.148.190.*
8. *The application for the detailed development plan shall satisfy all of the requirements of SHMC 17.148.020(7).*
9. *The applicant can file for an overlay zone, or overlay plus preliminary planned development, or overlay zone and subdivision preliminary plat.*

**Applicant Response:** The applicant acknowledges the process requirements for a Planned Development. This application will be concurrently reviewed with a subdivision application. The application includes all of the applicable plans required of the specific applications as well as responses to all applicable code criteria.

#### **17.148.020 Administration and approval process**

1. *The applicant for a planned development overlay zone may be as provided by SHMC 17.24.020. The applicant for the preliminary plan and detailed plan shall be the recorded owner of the property or an agent authorized in writing by the owner.*
2. *A preapplication conference with city staff is required (see SHMC 17.24.040).*
3. *Due to possible changes in state statutes, or regional or local policy, information given by staff to the applicant during the preapplication conference is valid for no more than six months:*

- a. *Another preapplication conference is required if any planned development application is submitted six months after the preapplication conference; and*
  - b. *Failure of the director to provide any of the information required by this section shall not constitute a waiver of the standards, criteria, or requirements of the applications.*
- 4. *Notice of the planned development proceeding before the commission shall be given as required by SHMC 17.24.130.*
- 5. *Action on the application shall be in accordance with Chapter 17.24 SHMC and the following:*
  - a. *The commission shall make a recommendation per planned development overlay zone application to city council for their final decision;*
  - b. *Unless otherwise provided by this code, the commission shall hold a public hearing and approve, approve with conditions, or deny the application for subdivision or development plan based on findings related to the applicable criteria set forth in SHMC 17.148.120; and*
  - c. *A decision on subdivision or development plan by the commission may be reviewed by the council as provided by SHMC 17.24.310(2).*
- 6. *Where a planned development overlay zone has been approved, the development zoning district map shall be amended to indicate the approved planned development designation for the subject development site.*
- 7. *Within one and one-half years after the date of commission approval of the preliminary development plan, the owner shall prepare and file with the director a detailed, final development plan. Action on the detailed development plan shall be ministerial and taken by the director, and:*
  - a. *The director shall approve the detailed, final development plan upon finding that the final plan conforms with the preliminary development plan approved, or approved with conditions, by the commission. The final plan shall be approved unless the director finds:*
    - i. *The change increases the residential densities, the lot coverage by buildings or reduces the amount of parking;*
    - ii. *The change reduces the amount of open space and landscaping;*
    - iii. *The change involves a change in use;*
    - iv. *The change commits land to development which is environmentally sensitive or subject to a potential hazard; and*
    - v. *The change involves a major shift in the location of buildings, proposed streets, parking lot configuration, utility easements, landscaping, or other site improvements;*
  - b. *A decision by the director may be appealed by the applicant or other affected/approved parties to the commission and the commission shall decide whether the detailed, final development plan substantially conforms to the approved preliminary development plan based on the criteria set forth in subsection (7)(a) of this section:*
    - i. *The decision shall be based on testimony from the applicant and the staff exclusively; and*
    - ii. *No notice shall be required except as required by SHMC 17.24.120.*
- 8. *Substantial modifications made to the approved preliminary development plan shall require a new application.*

**Applicant Response:** The applicant has attended a preapplication conference for this proposal, included with this application is a signed copy of the notes provided by St. Helen's. The applicant acknowledges the action criteria for this application as well as the approval length for the application. Further, it is understood the requirements of the development plan to be submitted as an additional part of the subdivision application.

#### **17.148.030 Expiration of approval – Standards for extension of time**

**Applicant Response:** The applicant acknowledges the process provisions for the approval, administration and expiration standards for planned developments.

#### **17.148.060 Planned development allowed and disallowed**

1. *A planned development shall not be allowed on any lands, with less than a two-acre minimum, shown on the comprehensive plan map as “developing areas” (SHMC 17.112.030).*
2. *A planned development shall not be allowed in residential zones located in areas designated as “established areas” on the comprehensive plan map, except the commission may approve a planned development within an “established area” where the commission finds:*
  - a. *Development of the land in accordance with the provisions of the “established area” would:*
    - i. *Result in an inefficient use of land;*
    - ii. *Result in removing significant natural features; or*
    - iii. *Result in a change of the character of the area surrounding a significant historic feature or building;*
  - b. *The planned development approach is the most feasible method of developing the area; and*
  - c. *The site is of a size and shape that the compatibility provisions of Chapter 17.56 SHMC can be met.*

**Applicant Response:** The subject site is 11.91 acres prior to the subtraction of right-of-way but will well exceed the require 2-acre minimum size requirement. Additionally, the site is not within an established area as noted on the city of St. Helens comprehensive plan map. This provision is met.

#### **17.148.070 Applicability and allowed uses**

1. *In addition to the use allowed outright in an underlying residential zone the following uses are allowed outright where all other applicable standards are met:*
  - a. *Community building;*
  - b. *Indoor recreation facility, athletic club, fitness center, racquetball court, swimming pool, tennis court, or similar use;*
  - c. *Outdoor recreation facility, golf course, golf driving range, swimming pool, tennis court, or similar use; and*
  - d. *Recreational vehicle storage area.*
2. *In all commercial and industrial planned developments the uses permitted outright shall comply with the underlying zoning district.*

**Applicant Response:** Detached single-family housing is an allowed use in the underlying zoning district. The proposed subdivision does not include any of the abovementioned additional uses listed in a-d. This criteria is met.

#### **17.148.080 Applicability of the base zone provisions**

1. *The provisions of the base zone are applicable as follows:*



- a. *Lot Dimensional Standards. The minimum lot size, lot depth and lot width standards shall not apply except as related to the density computation under Chapter 17.56 SHMC;*
  - b. *Site Coverage. The site coverage provisions of the base zone shall apply;*
  - c. *Building Height. The building height provisions shall not apply except within 100 feet of an “established area”; and*
  - d. *Structure Setback Provisions.*
    - i. *Front yard and rear yard setbacks for structures on the perimeter of the project shall be the same as that required by the base zone unless otherwise provided by Chapter 17.96 SHMC;*
    - ii. *The side yard setback provisions shall not apply except that all detached structures shall meet the applicable building code (as administered by the building official) requirements for fire walls; and*
    - iii. *Front yard and rear yard setback requirements in the base zone setback shall not apply to structures on the interior of the project except that:*
      - A. *A minimum front yard setback of 20 feet is required for any garage structure which opens facing a street;*
      - B. *A minimum front yard setback of eight feet is required for any garage opening for an attached single-family dwelling facing a private street as long as the required off-street parking spaces are provided.*
2. *All other provisions of the base zone shall apply except as modified by this chapter.*

**Applicant Response:** The proposed subdivision meets the density calculation requirements set forth in the base zoning district but does incorporate lot design changes. The site has a few restrictions such as wetlands and existing road stubs that require modification to conventional lot layout and design. Many of the lots are laid out in a traditional fashion with widths averaging 50’ and depths averaging 96’. However, there are lots that incorporate a flagpole or shared driveways. The applicant acknowledges the applicability and flexibility to specific development standards within the PUD overlay. Setbacks, building height and other site specific development standards will be reviewed when the individual lots are reviewed and permitted.

#### **17.148.090 Applicability of site development review chapter**

*The provisions of Chapter 17.96 SHMC shall apply to all uses except as provided by Chapter 17.96 SHMC.*

**Applicant Response:** The applicant acknowledges the applicability of 17.96. Section 17.96 lists single-family dwellings as an exception to this review. This provision is not applicable.

#### **17.148.110 Application submission requirements – Preliminary development plan**

#### **17.148.120 Approval standards**

**Applicant Response:** The applicant acknowledges the applicability of the chapters listed in this section, this narrative addresses all applicable criteria with justifications of how this planned development meets the sections. In addition, the planned development provides ample open space and landscaping that can be enjoyed by the community. The open space includes a trail as well as each individual lot containing its own yard. The

open space and protected areas make up 22.9% of the gross lot size, exceeding the required 20% landscape area.

#### **17.148.130 Site conditions**

**Applicant Response:** The applicant has included an existing condition plan with this application (Exhibit E & F). The plan incorporates all of the requirements listed in this section. This provision is met.

#### **17.148.150 Detailed plan**

**Applicant Response:** The applicant acknowledges the site plan requirements. The included site plan with this application does contain the required information as mentioned in this section.

#### **17.148.160 Grading and drainage plan**

**Applicant Response:** The applicant acknowledges the grading and drainage plan requirements. The included grading and drainage plan with this application does contain the required information as mentioned in this section.

#### **17.148.170 The landscape plan**

**Applicant Response:** The proposed landscape areas will be dedicated as tracts to the HOA and will not be disturbed with site development. No landscaping is being proposed with this application. Any future landscaping requiring a landscape plan will be submitted for and reviewed under the city review process.

#### **17.148.190 Exceptions to underlying zone, yard, parking, sign and landscaping provisions**

3. *The commission may grant an exception to the landscape requirements of this code upon a finding that:*
  - a. *The overall landscape plan provides for 20 percent of the gross site area to be landscaped.*

**Applicant Response:** No exceptions are being proposed with this application. This provision is not applicable.

#### **17.148.200 Shared open space**

*Where the open space is designated on the plan as common open space the following applies:*

1. *The open space area shall be shown on the final plan and recorded with the director; and*
2. *The open space shall be conveyed in accordance with one of the following methods:*
  - a. *By dedication to the city as publicly owned and maintained as open space. Open space proposed for dedication to the city must be acceptable to it with regard to the size, shape, location, improvement, and budgetary and maintenance limitations;*
  - b. *By leasing or conveying title (including beneficial ownership) to a corporation, home association, or other legal entity, with the city retaining the development rights to the property. The terms of such lease or other instrument of conveyance must include provisions suitable to the city attorney for guaranteeing the following:*
    - i. *The continued use of such land for the intended purposes;*
    - ii. *Continuity of property maintenance;*
    - iii. *When appropriate, the availability of funds required for such maintenance;*

- iv. *Adequate insurance protection; and*
- v. *Recovery for loss sustained by casualty and condemnation or otherwise;*
- c. *By any method which achieves the objectives set forth in subsection (2) of this section.*

**Applicant Response:** The open space provided within the subdivision will be conveyed to a homeowners association in order to maintain and provide adequate protection for the sensitive lands. The HOA will also provide proper insurance and allow continued use of the area for the adjacent homeowners.

## **17.152 STREET AND UTILITY IMPROVEMENT STANDARDS**

### **17.152.030 Streets**

- 3. *Creation of Access Easements. The approval authority may approve an access easement established by deed without full compliance with this code provided such an easement is the only reasonable method by which a lot, large enough to develop, can be created:*
  - a. *Access easements which exceed 150 feet shall be improved in accordance with the Uniform Fire Code;*
  - b. *Access shall be in accordance with Chapter 17.84 SHMC and Figures 15, 16, and 17.*

**Applicant Response:** The proposed subdivision includes lots with shared access and easements in order to create a lot. The easement sections of this code have been addressed earlier in this narrative. This criterion has been met.

### **17.152.060 Sidewalks and other frontage improvements**

- 1. *Sidewalks and frontage improvements shall be constructed, replaced or repaired to city design standards as set forth in the standard specifications manual and located as follows:*
  - a. *On both sides of arterial and collector streets to be built at the time of street construction;*
  - b. *On both sides of all other streets and in pedestrian easements and rights-of-way, except as provided further in this section or per SHMC 17.152.030(1)(d), to be constructed along all portions of the property designated for pedestrian ways in conjunction with development of the property.*

**Applicant Response:** Sidewalks are proposed on both sides of the proposed streets installed with this development. In addition, the subdivision will do frontage improvements along Pittsburg, Meadowview, and at the connection point in Barr Avenue. The sidewalks will be constructed at the same time as the street construction as required in the section above. The proposed sidewalks can be referred to in Exhibit A.

### **17.152.080 Water Services**

- 1. *Water Supply (Required). Municipal water system shall be installed to serve each new development and to connect development to existing mains in accordance with the provisions set forth in the standard specification manual and the adopted policies of the St. Helens comprehensive plan.*

**Applicant Response:** Water service is available from the City of St. Helens from the existing public water mains in Meadow View Drive, Barr Avenue and Westboro Way. Water service will be extended to development on the

site through the public streets, with laterals provided to each lot. The proposed design for water service is shown in Sheet P500 of Exhibit B.

#### **17.152.100 Storm drainage**

1. *Storm Drainage – General Provisions. The director and city engineer shall issue a development permit only where adequate provisions for storm water and floodwater runoff have been made, which may require storm water facilities, and:*
  - a. *The storm water drainage system or storm water facilities shall be separate and independent of any sanitary sewerage system;*
  - b. *Where possible, inlets shall be provided so surface water is not carried across any intersection or allowed to flood any street; and*
  - c. *Surface water drainage patterns shall be shown on every development proposal plan.*

**Applicant Response:** A new storm line will be constructed within the new streets to all lots. As shown in the Preliminary Utility Plan, Sheets P500 & P501 of Exhibit B & C, the stormwater will be directed to the stormwater treatment and detention facility located adjacent to each lot cluster. The storm facilities are shown on the utility plan as “Storm A-C”. Additional information about stormwater collection is included in the Preliminary Storm Drainage Report, submitted as Exhibit D.

#### **17.152.120 Utilities**

1. *Underground Utilities. All utility lines including, but not limited to, those required for electric, communication, lighting and cable television services and related facilities shall be placed underground, except for surface-mounted transformers, surface-mounted connection boxes and meter cabinets which may be placed above ground, temporary utility service facilities during construction, high capacity electric lines operating at 50,000 volts or above, and:*
  - (a) *The subdivider shall make all necessary arrangements with the serving utility to provide the underground services;*
  - (b) *The city reserves the right to approve location of all surface-mounted facilities;*
  - (c) *All underground utilities, including sanitary sewers and storm drains installed in streets by the subdivider, shall be constructed prior to the surfacing of the streets; and*
  - (d) *Stubs for service connections shall be long enough to avoid disturbing the street improvements when service connections are made.*

**Applicant Response:** Planned utilities will be located underground per the provisions mentioned in 17.152.120. Exhibit B & C show the proposed 8-foot utility easements along all frontages in order to provide space for the utilities. This provision is met.

## **CONCLUSION**

This narrative and the supporting documentation demonstrate compliance with all of the applicable City of Saint Helens Development Review criteria for building design and support the applicant's request for approval of the proposed 46-Lot single family development. The applicant therefore respectfully requests approval of the development as proposed.

# COMSTOCK SUBDIVISION PRELIMINARY STORMWATER REPORT

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St. Helens, Oregon

*For:*

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WCI #2740-004



Planning | Engineering | Surveying



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## Introduction:

### Pre-Developed

This site is located 34816-34820 Pittsburg Road, St Helens, Oregon. The existing site has a total area of 11.90 acres. The site contains two wetland areas that divides the site into three separate regions. The property currently has no improvements and is a mix of medium to dense grass/brush with occasional trees.

The site topography of the north region slopes generally from north to south towards on onsite unnamed drainage that flows east towards the North Fork McNulty Creek.

The site topography of the middle region is split with half of its areas generally flowing from south to north towards the onsite unnamed drainage that continues to North Fork McNulty Creek, and the other half generally flowing from north to south towards an onsite wetland.

The site topography of the south region slopes generally from north to south towards Barr Ave. The northern portion of this south region also drains north towards an onsite wetland.

### Post-Developed

The developed area of 11.90 acres will provide 45 new residential homes with public streets and a new public walking path. The property will still be divided into three separate regions and will have three separate storm facilities.

Stormwater for the north region will be collected by catch basins and conveyed through a pipe network to a new storm detention pond at the southwest corner of the north region. The new pond will treat the 2 half street improvements, all the new streets and 32 of the 46 lots.

Stormwater for the middle region will be collected by catch basins and conveyed through a pipe network to a new detention pond at the south of the region. The new pond will treat the street extension and 6 of the 46 lots.

Stormwater for the south region will be collected by catch basins and conveyed through a pipe network to a new detention pond in the east of the region. The new ponds will treat most of the new street and 8 of the 46 lots.

## Purpose:

The purpose of this Preliminary Stormwater Report is to demonstrate that this development complies with the requirements set forth in the City of St Helens municipal code. The following requirements apply:

1. Water quality treatment per King County WA standards for all new impervious surfaces
  - a. The Water quality event is defined as the 6-month event or 72% of the 2-year rainfall per the King County 2021 Surface Water Design Manual.
2. Water quantity
  - a. Provide detention up to the 25-year, 24-hour storm. (ODOT TransGIS storm values)
  - b. As required the post developed will peak match with the 10 year 24 hr storm. (ODOT TransGIS storm values)
  - c. All systems will be designed with a weir to keep the 100 year storm event from overtopping the facility.
  - d. The ponds are designed to drawdown within 48 hours to the permanent pool depth.
3. Stormwater conveyance
  - a. Convey the 25-year storm

### Stormwater Management Calculations:

#### Pre-Developed

<b>Basin Area (North) =</b>	<b>288,981 sf</b>
Impervious Area =	10,753 sf
Pervious Area =	278,228 sf
 <b>Basin Area (Middle) =</b>	 <b>106,800 sf</b>
Impervious Area =	0 sf
Pervious Area =	106,800 sf
 <b>Basin Area (South) =</b>	 <b>71,198 sf</b>
Impervious Area =	0 sf
Pervious Area =	71,198 sf

#### Post-Developed

<b>Basin Area (North) =</b>	<b>263,631sf</b>
Impervious Area =	194,298 sf
32 Lots @65% =	128,762 sf
ROW =	65,536 sf
Pervious Area =	69,333 sf
All Landscaping	
 <b>Basin Area (Middle) =</b>	 <b>70,731 sf</b>
Impervious Area =	50,807 sf
6 Lots @65% =	37,002 sf
ROW =	13,805 sf
Pervious Area =	19,924 sf
All Landscaping	

<b>Basin Area (South) =</b>	<b>84,400 sf</b>
Impervious Area =	62,405 sf
8 Lots @65% =	40,848 sf
ROW =	21,557 sf
Pervious Area =	21,995 sf
All landscaping	

See **Appendix A:** Basin Map – Existing Site and **Appendix B:** Basin Map – Proposed Site.

### Water Quantity

Impacts to the downstream receiving water bodies will be mitigated via the construction of 3 retention ponds. A retention pond is a stormwater management approach that addresses quantity for conveyance capacity and qualifies as a flow control approach and a water quality treatment approach.

The northern retention pond requires a bottom elevation of 217', a top of pond elevation of 223' and a freeboard of 1 foot. The flow control effects are summarized in Table 1 with required orifice inverts in Table 2.

The middle retention pond requires a bottom elevation of 203', a top of pond elevation of 209' and a freeboard of 1 foot. The flow control effects are summarized in Table 3 with required orifice inverts in Table 4.

The southern retention pond requires a bottom elevation of 188', a top of pond elevation of 194' and a freeboard of 1 foot. The flow control effects are summarized in Table 5 with required orifice inverts in Table 6.

Table -1: Pond Peak Flow Release Rates – North Pond

DESIGN STORM EVENT	DEPTH (IN)	PRE-DEVELOPED PEAK FLOW RATE (CFS)	POST-DEVELOPED PEAK FLOW RATE BEFORE FACILITY (CFS)	POST-DEVELOPED PEAK FLOW RATE AFTER FACILITY (CFS)
Water Quality <sup>1</sup>	1.80	0.10	1.80	0.10
10 Year	3.00	0.60	3.35	0.57
25 Year	3.50	0.96	4.02	0.88
100 Year	4.50	1.80	5.41	2.07

1. Water quality event is defined per the King County 2021 Surface Water Design Manual as the 6-month event or 72% of the 2-year rainfall.

Table -2: Orifice Data - North Pond

DESIGN STORM EVENT	ORIFICE SIZE AND NUMBER OF ORIFICES	ORIFICE INVERT ELEVATION	PEAK ELEVATION
Water Quality <sup>1</sup>	1.4" vert.	217.20	220.96
10 Year	24"x12" vert.	221.50	221.67
25 Year	-	-	221.74
100 Year	-	-	221.95 (Pond Rim@223.00)

1. Water quality event is defined per the King County 2021 Surface Water Design Manual as the 6-month event or 72% of the 2-year rainfall.

Table -3: Pond Peak Flow Release Rates – Middle Pond

DESIGN STORM EVENT	DEPTH (IN)	PRE-DEVELOPED PEAK FLOW RATE (CFS)	POST-DEVELOPED PEAK FLOW RATE BEFORE FACILITY (CFS)	POST-DEVELOPED PEAK FLOW RATE AFTER FACILITY (CFS)
Water Quality <sup>1</sup>	1.80	0.02	0.46	0.04
10 Year	3.00	0.08	0.87	0.08
25 Year	3.50	0.14	1.05	0.15
100 Year	4.50	0.37	1.41	0.23

1. Water quality event is defined per the King County 2021 Surface Water Design Manual as the 6-month event or 72% of the 2-year rainfall.

Table -4: Orifice Data - Middle Pond

DESIGN STORM EVENT	ORIFICE SIZE AND NUMBER OF ORIFICES	ORIFICE INVERT ELEVATION	PEAK ELEVATION
Water Quality <sup>1</sup>	1.0" vert.	203.20	206.04
10 Year	4" vert.	207.70	207.80
25 Year	-	-	207.91
100 Year	-	-	208.06 (Pond Rim@209.00)



1. Water quality event is defined per the King County 2021 Surface Water Design Manual as the 6-month event or 72% of the 2-year rainfall.

*Table -5: Pond Peak Flow Release Rates – South Pond*

DESIGN STORM EVENT	DEPTH (IN)	PRE-DEVELOPED PEAK FLOW RATE (CFS)	POST-DEVELOPED PEAK FLOW RATE BEFORE FACILITY (CFS)	POST-DEVELOPED PEAK FLOW RATE AFTER FACILITY (CFS)
Water Quality <sup>1</sup>	1.80	0.03	0.55	0.04
10 Year	3.00	0.14	1.08	0.14
25 Year	3.50	0.23	1.29	0.17
100 Year	4.50	0.45	1.73	0.24

1. Water quality event is defined per the King County 2021 Surface Water Design Manual as the 6-month event or 72% of the 2-year rainfall.

*Table -6: Orifice Data - South Pond*

DESIGN STORM EVENT	ORIFICE SIZE AND NUMBER OF ORIFICES	ORIFICE INVERT ELEVATION	PEAK ELEVATION
Water Quality <sup>1</sup>	1.0" vert.	188.20	190.37
10 Year	2.8" vert.	191.00	191.31
25 Year	-	-	191.49
100 Year	-	-	191.97(Pond Rim@194.00)

1. Water quality event is defined per the King County 2021 Surface Water Design Manual as the 6-month event or 72% of the 2-year rainfall.

See **Appendix C:** HydroCAD Analysis

### Water Quality:

Retention ponds are utilized to meet water quality design criteria for the post developed basins. The water quality event of a 1.8-inch 24-hour storm (72% of the 2-year storm), was used to calculate the water quality volumes and the water quality orifice size. Final detailing and arrangement of the pond discharge structure or riser pipe will be deferred to final engineering.

### Conveyance:

Conveyance will be designed to convey the 25-year storm. Calculations deferred to Final Engineering.

### Computer Modeling:

The analysis of the stormwater conditions was completed using HydroCAD 10 and the Santa Barbara Urban Hydrograph method. This program uses site conditions, such as soil types, storm characteristics, and impervious areas, to determine runoff rates and volumes for a site for different storm events.

The United States Department of Agriculture Natural Resources Conservation Service (NRCS) websoil survey was utilized to determine the hydrological soil group for the project site. The subdivision site falls within hydrological soils group C or C/D.

See **Appendix D:** NRCS Soils Report.

### Summary:

The proposed development will impact how surface water moves through the project site, however, flow control and water quality facilities have been designed to mitigate these impacts to match the pre 10 year peak flow with the post 10 year peak flow. The proposed water quantity and quality facility has been shown to meet the city of St Helens stormwater standards. Three retention ponds will detain the water quality event to treat the water and then detain post-developed peak flow rates to pre-developed peak flow rates for 10, and 25-year design storms.

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EXHIBIT G – PLANNED DEVELOPMENT STANDARDS

The base standards the R7 zone, those which can deviate as a Planned Development, and those proposed:

PLANNED DEVELOPMENT STANDARDS TABLE

STANDARD	R7 ZONING DISTRICT	PD ALLOWS FLEXIBILITY?	PROPOSED
Min. lot size	7,000 s.f. for detached single-family dwellings and duplexes	Yes	4,000 s.f. for detached single-family dwellings and duplexes
Min. lot width at building line (interior lots)	60 feet for detached single-family dwellings and duplexes	Yes	40 feet for detached single-family dwellings and duplexes
Min. lot width at building line (corner lots)	85 feet for detached single-family dwellings and duplexes	Yes	40 feet for detached single-family dwellings and duplexes
Min. lot width at street (standard)	50 feet for detached single-family dwellings and duplexes	Yes	30 feet for detached single-family dwellings and duplexes
Min. lot width at street (cul-de-sac)	30 feet	Yes	30 feet
Min. lot width at street (flag lot)	Flag lots prohibited	Yes (unless flag lots prohibited)	Flag lots prohibited
Min. lot depth	85 feet	Yes	80 feet
Min. front yard (setback)	20 feet	Yes (except along perimeter of PD and for garage structures which open facing a street)	15-foot building, 12-foot porch, 20-foot garage (20 feet required along perimeter of PD and for any garage structure which opens facing a street)
Min. side yard (setback)	7 feet for interior lots and 14 feet for sides of corner lots along street for detached single-family dwellings and duplexes	Yes	5 feet for interior lots and 10 feet for sides of corner lots along street for detached single-family dwellings and duplexes
Min. rear yard (setback)	20 feet	Yes (except along perimeter of PD)	15 feet (20 feet along perimeter of PD)
Min. interior yard (building/structure separation)	7 feet	No	5 feet
Max. building height	35 feet	Yes	35 feet
Max. lot coverage	Buildings and structures shall not occupy more than 40% of the lot area for detached single-family dwellings and duplexes	No	Buildings and structures shall not occupy more than 40% of the lot area for detached single-family dwellings and duplexes
Min. landscaping	25% of the lot area	No	25% of the lot area

SEE REVISED VERSION ATT. TO STAFF REPORT!  
 NOTE SHAW 17.64.050 (4)  
 RE PORCH

CAN'T CHANGE

No other code exceptions or modifications are proposed.

\*Final subdivision name requires approval by the County Surveyor. This is a preliminary name and may change.

**EXHIBT H - COMSTOCK SUBDIVISION DENSITY CALCULATIONS**

	S.F.	Acres
Total Gross Site Area ("GSA")	<b>518,767</b>	<b>11.91</b>
R-7 Zoning	518,767	11.91

**R-7**

	S.F.	Acres
Total GSA	518,767	11.91
MINUS		
Public Rights-of-Way (Actual Proposed)	89,148	2.05 17.2%
Private Street	4,428	0.10
Sensitive Lands		
100-yr Floodplain	-	-
>25% Slopes	-	-
Drainageways	-	-
Wetlands & Open Space Tracts	121,968	2.80 23.5%
Sub-Total	215,544	4.95
Net Developable Area ("NDA")	303,223	6.96

**Net Density Calculation**

Total NDA	303,223	6.96
Zone Minimum Lot Size	7,000	
Allowable Units NDA	43.32	
PLUS		
Density Transfer Units	4.36	
Calculated Units	47.67	Max.

**Maximum Allowable Density 47.67**

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R-7 Density Transfer	Total Area Unbuildable	Density Transfer %	Gross Area Transfer	20% R/W Dedication	Net Area	Allowable Units
Wetlands/Buffers/Open Space	121,968	25%	30,492	-	30,492	4.36
<b>TOTALS</b>	<b>121,968</b>		<b>30,492</b>	<b>-</b>	<b>30,492</b>	<b>-</b>

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**moble**

## Noyes Subdivision

Transportation Impact  
Study

St Helens, Oregon

Date:

May 5, 2022

Prepared for:

Clark Vorm

Prepared by:

Jessica Hjar

Jennifer Danziger, PE



RENEWS: 12/31/2023



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## Executive Summary

1. A subdivision of up to 50 lots is proposed to be located on tax lots 4N1W6D TL 604 and 4N1W6AD TL 2600 south of Pittsburgh Road in St Helens, Oregon. Roadway extensions will be constructed at Meadowview Drive, Willie Lane, Edna Barr Lane, Barr Road, and Westboro Way.
2. The trip generation calculations show that the proposed development is projected to generate 35 morning peak hour trips, 47 evening peak hour trips, and 472 new average weekday trips.
3. No significant trends or crash patterns were identified at any of the study intersections that would be affected by the proposed development. Accordingly, no safety mitigation is recommended per the crash data analysis.
4. Preliminary traffic signal warrants are not projected to be met any of the unsignalized study intersections upon full buildout of the proposed development. Accordingly, no related mitigation is necessary or recommended.
5. Left-turn lanes are not projected to be met at the applicable intersections upon full buildout of the proposed development. Accordingly, no related mitigation is necessary or recommended.
6. All study intersections are currently operating acceptably per jurisdictional standards and are projected to continue operating acceptably through the 2024 site buildout year.



## Project Description

### Introduction

A subdivision of up to 50 lots is proposed to be located on tax lots 4N1W6D TL 604 and 4N1W6AD TL 2600 south of Pittsburgh Road in St Helens, Oregon. Roadway extensions will be constructed at Meadowview Drive, Willie Lane, Edna Barr Lane, Barr Road, and Westboro Way.

Based on correspondence with City of St Helens, the report conducts safety and capacity/level of service analyses at the following intersections:

1. Pittsburgh Road at Meadowview Drive (site access)
2. Pittsburgh Road at Barr Road (site access)
3. Pittsburgh Road at Highway 30
4. Mountainview Drive at Sykes Road (site access)
5. Sykes Road at Barr Road (site access)
6. Sykes Road at Columbia Boulevard

The purpose of this study is to determine whether the transportation system within the vicinity of the site is capable of safely and efficiently supporting the existing and proposed uses, and to determine any mitigation that may be necessary to do so. Detailed information on traffic counts, trip generation calculations, safety analyses, and level of service calculations is included in the appendix to this report.

### Location Description

The subject property is located south of Pittsburgh Road and north of Sykes Road. The proposed development includes roadway connections Willie Lane, Edna Barr Lane, and Westboro Way. Figure 1 on the following page shows the site vicinity with the subject site highlighted in blue.





Figure 1: Vicinity Map

### Vicinity Streets

The proposed development is expected to impact seven roadways near the site. Table 1 provides a description of each vicinity roadway.



Table 1: Vicinity Roadway Descriptions

Street Name	Jurisdiction	Functional Classification	Cross-Section	Speed (MPH)	Curbs & Sidewalks	On-Street Parking	Bicycle Facilities
Pittsburgh Road	City of St Helens	Minor Arterial	2 lanes	35 mph posted	Partial South Side	Not Permitted	None
Meadowview Drive	City of St Helens	Local Road	2 lanes	25 mph statutory	None	Permitted	None
Barr Road	City of St Helens	Local Road	2 lanes	25 mph posted	Both sides	Permitted	None
US-30	ODOT	Statewide Highway	5 lanes	35-45 mph posted	West Side, Partial East Side	Not Permitted	Both Sides
Mountainview Drive	City of St Helens	Local Road	2 lanes	25 mph statutory	Both sides	Permitted	None
Sykes Road	City of St Helens	Minor Arterial	2 lanes	25 mph posted	Partial both sides	Partially Permitted	Partial
Columbia Boulevard	City of St Helens	Collector/ Minor Arterial	2-3 lanes	25 mph posted	Partial both sides	Partially Permitted	None

### Study Intersections

Based on coordination with City of St Helens staff, six intersections were identified for analysis. A summarized description of these study intersections, under their existing lane configurations, is provided in Table 2.

Table 2: Study Intersection Configurations

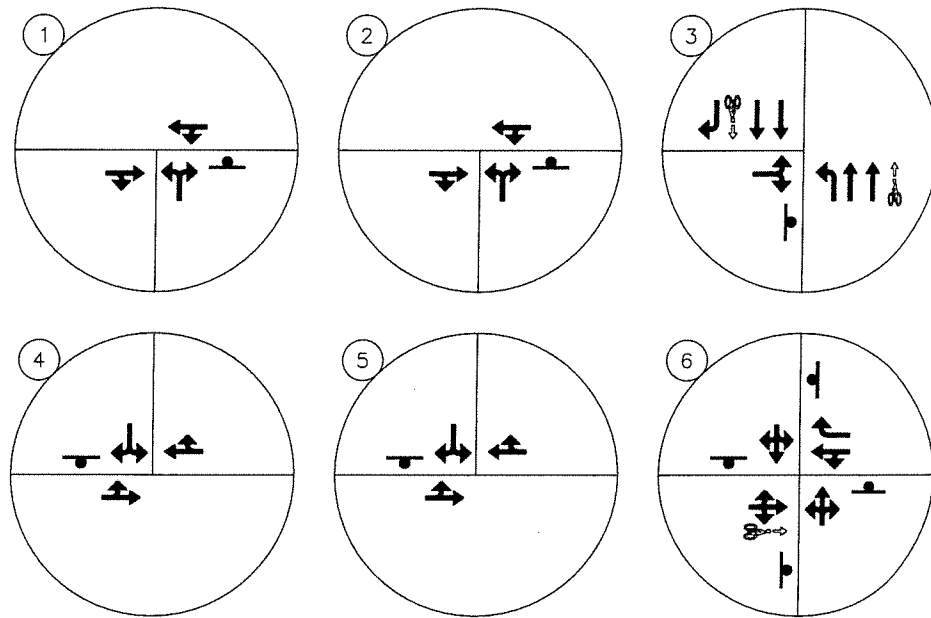
	Intersection	Geometry	Traffic Control	Phasing/Stopped Approaches
1	Meadowview Drive at Pittsburgh Road	Three-Legged	Stop-Controlled	Northbound Stop-Controlled
2	Pittsburgh Road at Barr Road	Three-Legged	Stop-Controlled	Northbound Stop-Controlled
3	Pittsburgh Road at Highway 30	Three-Legged	Stop-Controlled	Eastbound Stop-Controlled
4	Mountainview Drive at Sykes Road	Three-Legged	Stop-Controlled	Southbound Stop-Controlled
5	Sykes Road at Barr Road	Three-Legged	Stop-Controlled	Southbound Stop-Controlled
6	Sykes Road at Columbia Boulevard	Four-Legged	Stop-Controlled	All-way Stop-Controlled

A vicinity map showing the project site, vicinity streets, and study intersection configurations is shown in Figure 2.



## LEGEND

- STUDY INTERSECTION
- ⊥ STOP SIGN
- 🚲 BIKE LANE
- ▨ PROJECT SITE
- ══ INTERSTATE
- ARTERIAL ROADWAY
- COLLECTOR ROADWAY
- LOCAL ROADWAY



no scale

## Site Trips

### Trip Generation

To estimate the number of trips that are projected to be generated by the development, trip rates from the *Trip Generation Manual*<sup>1</sup> were used. Specifically, data from land use code 210, Single Family Detached Housing, was used to estimate the proposed development's trip generation based on the number of dwelling units (DU). Note the most recent site plan shows 46 lots, however this report analyzes the impact of up to 50 lots for conservative analysis.

The trip generation calculations show that the proposed development is projected to generate 35 morning peak hour trips, 47 evening peak hour trips, and 472 new average weekday trips. The trip generation estimates are summarized in Table 3. Detailed trip generation calculations are included in the technical appendix.

Table 3: Trip Generation Summary

Land Use	ITE Code	Size	Morning Peak Hour			Evening Peak Hour			Weekday
			In	Out	Total	In	Out	Total	Total
Single Family Housing	210	50 DU	9	26	35	30	17	47	472

### Trip Distribution

The directional distribution of site trips to/from the project site was estimated based on locations of likely trip destinations, locations of major transportation facilities in the site vicinity, and existing travel patterns at study intersections.

The following trip distribution is projected:

- Approximately 40 percent of trips will travel to/from the south along US-30;
- Approximately 25 percent of trips will travel to/from the north along US-30;
- Approximately 10 percent of trips will travel to/from the west along Pittsburgh Road;
- Approximately 10 percent of trips will travel to/from local destinations within St Helens, specifically in the St Helens Street/Columbia Boulevard couplet;
- Approximately 10 percent of trips will travel to/from the west along Columbia Boulevard; and
- Approximately 5 percent of trips will travel to/from the south patronizing St Helens High School.

The trip distribution and assignment of site trips generated during the morning and evening peak hours is shown in Figure 3 and Figure 4, respectively.

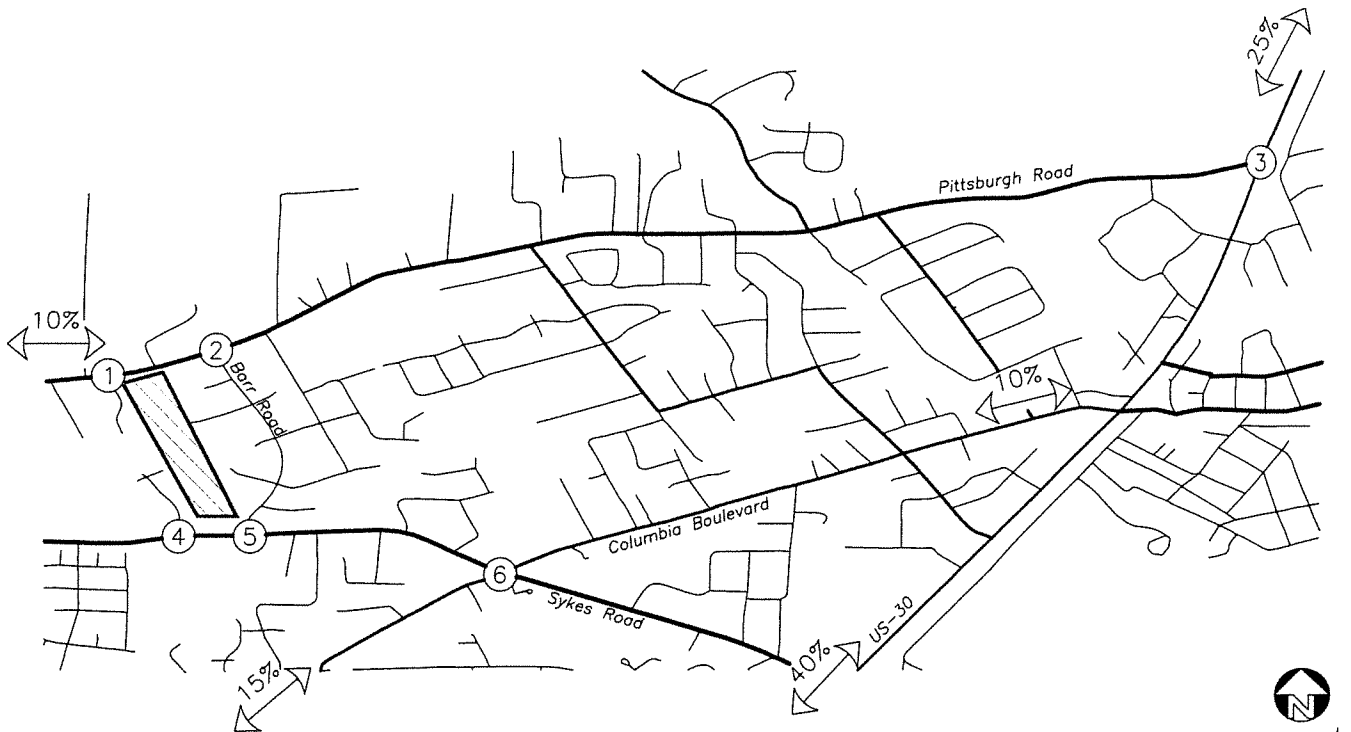
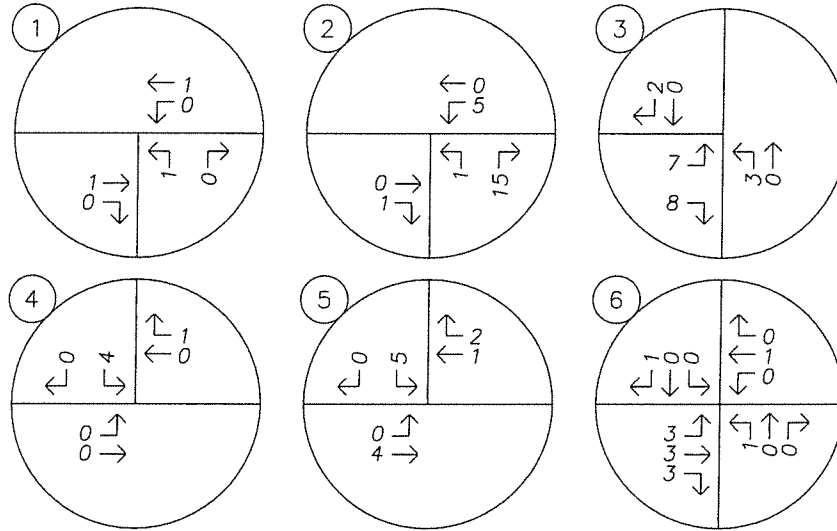
<sup>1</sup> Institute of Transportation Engineers (ITE), *Trip Generation Manual*, 11<sup>th</sup> Edition, 2021.



# LEGEND

XX% PERCENT OF PROJECT TRIPS

TRIP GENERATION			
	IN	OUT	TOTAL
AM	9	26	35
PM	30	17	47

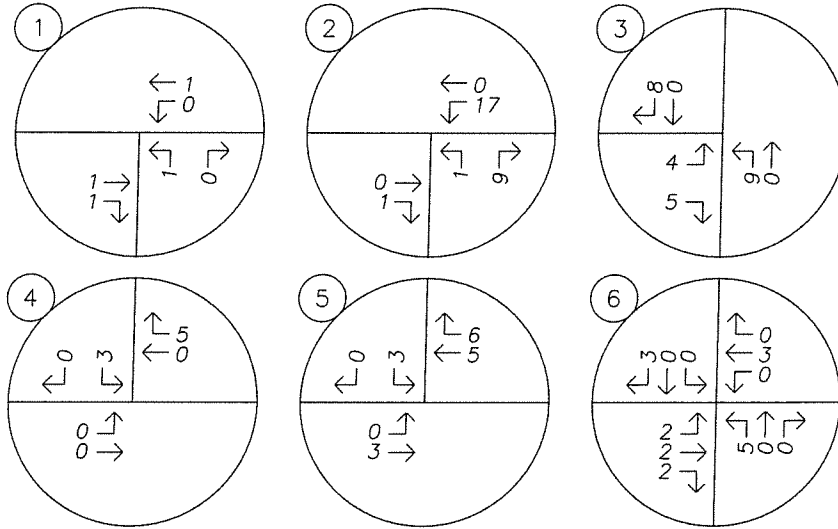


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# LEGEND

XX%  
PERCENT OF PROJECT TRIPS

TRIP GENERATION			
	IN	OUT	TOTAL
AM	9	26	35
PM	30	17	47



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## Traffic Volumes

### Existing Conditions

The ongoing COVID-19 pandemic is still causing a significant decrease in traffic due to closed or limited business operations and telecommuting. Therefore, adjustments are needed to reflect more normalized traffic conditions.

Traffic counts were collected at all study intersections during the morning (between 7:00 AM and 9:00 AM) and evening (between 4:00 PM and 6:00 PM) peak hours. To approximate year 2022 existing traffic volumes under “typical” conditions, recently collected counts were compared to counts collected at the intersection of US-30 at Pittsburgh Road in 2018 before the pandemic, which were adjusted to year 2022 volumes by adding a growth rate based on local and state methodology.

Since US-30 is under ODOT jurisdiction, traffic volumes were seasonally adjusted to reflect the 30<sup>th</sup> highest hour of traffic, as per procedures described in ODOT’s *Analysis Procedures Manual* (APM)<sup>2</sup>. Using the ODOT’s Seasonal Trend Table<sup>3</sup>, a seasonal adjustment factor of 1.09 was calculated based on a Commuter seasonal trend and applied to the year 2018 traffic volumes. The adjustment factor was applied to through volumes on US-30.

A growth rate for through traffic along US-30 was derived using ODOT’s 2040 Future Volume Table in accordance with ODOT’s APM. Using data corresponding to milepost 28.58 and 29.48 of ODOT highway number 92, an average linear growth rate of 0.8 percent per year for the four-year scenario. For all other turning movements at the US-30 study intersection, a compounded growth rate of two percent per year was applied to the 2018 traffic volumes to approximate year 2022 existing conditions.

Since the year 2022 traffic counts were collected on a different date than the 2018, a seasonal adjustment factor was calculated for these counts as well. A seasonal adjustment factor of 1.04 was calculated for the recently collected counts based on a Commuter seasonal trend and applied to the year 2022 through highway volumes.

When comparing the calculated 2022 volumes to the recently collected counts, a COVID adjustment factor was calculated to be 1.14 for the morning peak hour and 1.04 for the evening peak hour. The factors were applied to the recently collected counts to estimate the year 2022 traffic volumes under “typical” conditions.

The existing traffic volumes at the study intersections during the morning and evening peak hours are shown in Figure 5 and Figure 6, respectively.

### Background Conditions

To provide analysis of the impact of the proposed development on the existing transportation facilities, an estimation of future traffic volumes is required. To calculate future traffic volumes for the year 2024 conditions, the linear growth rate of 0.6 percent per year calculated using ODOT’s 2040 Future Volume Table was applied to through highway volumes. For all other turning movements at highway intersections and local intersection

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<sup>2</sup> Oregon Department of Transportation, *Analysis Procedures Manual Version 2*. April 2022.

<sup>3</sup> ODOT Seasonal Trend Table (Updated 7/20/2021)



volumes, a compounded growth rate of two percent per year was applied. A build-out condition of two years was assumed.

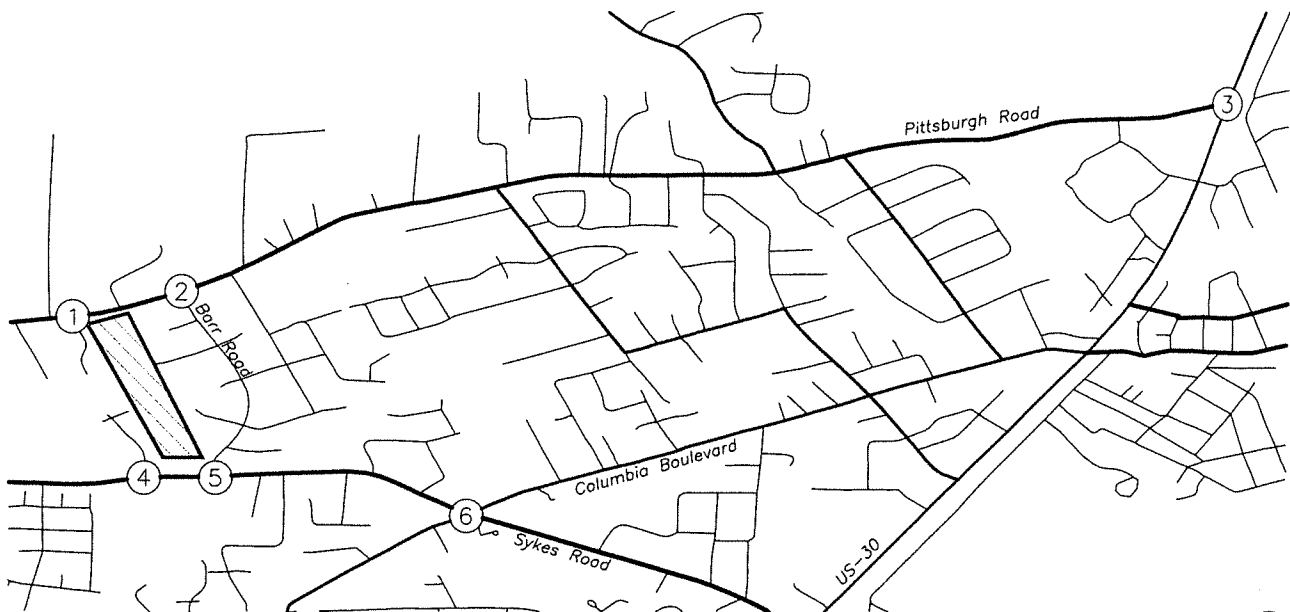
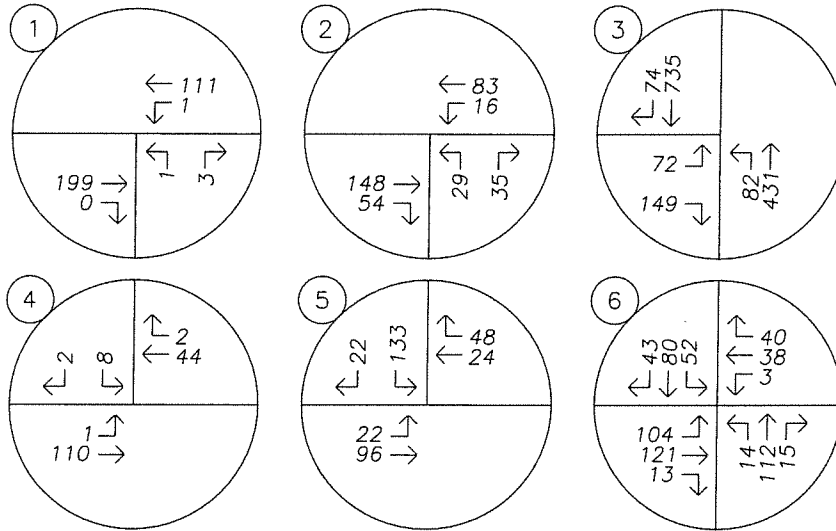
The background traffic volumes at the study intersections during the morning and evening peak hours are shown in Figure 7 and Figure 8, respectively.

## Buildout Conditions

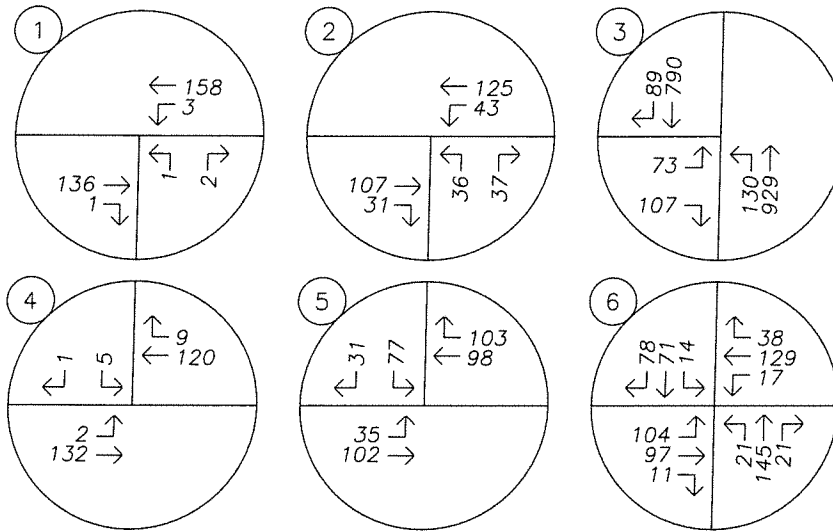
Peak hour trips calculated to be generated by the proposed development, as described earlier within the *Site Trips* section, were added to the projected year 2024 background traffic volumes to obtain the expected 2024 site buildout volumes.

The buildout traffic volumes at the study intersections during the morning and evening peak hours are shown in Figure 9 and Figure 10, respectively.

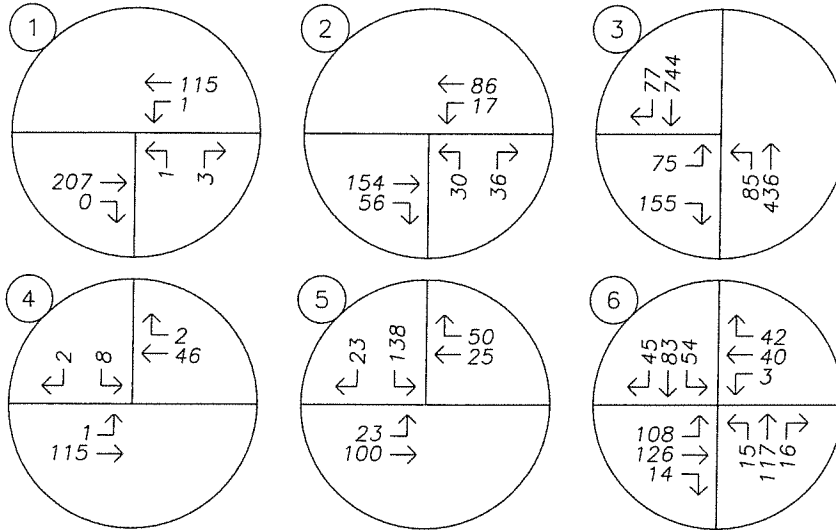




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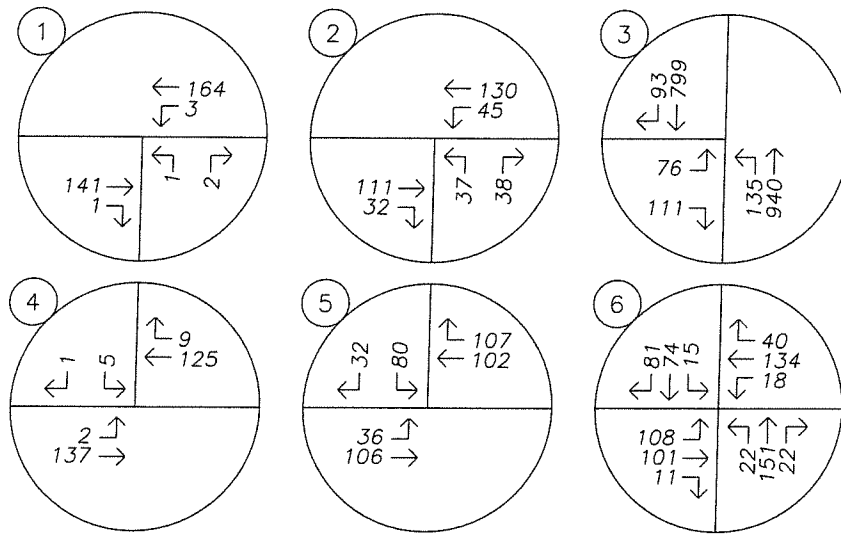


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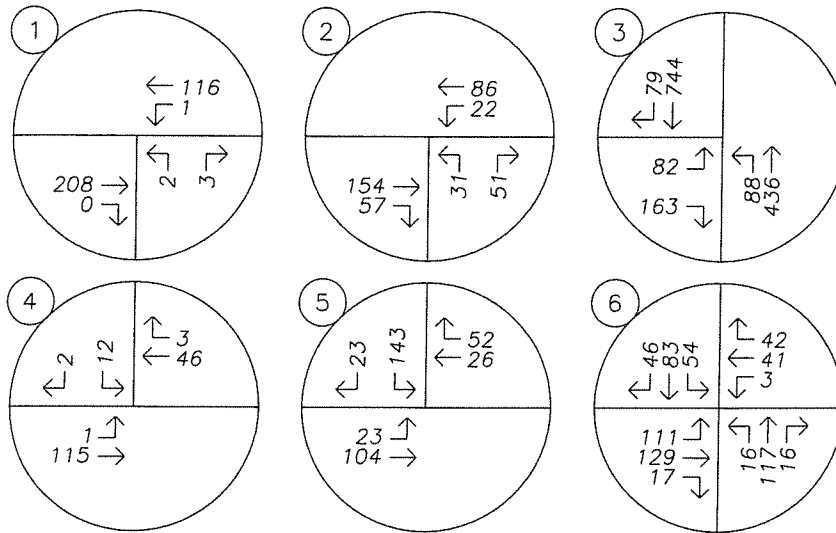


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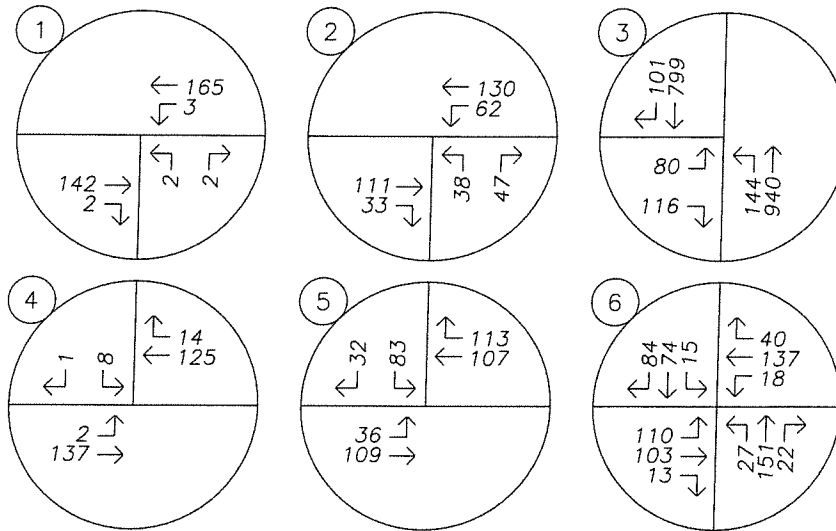




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## Safety Analysis

### Crash History Review

Using data obtained from ODOT's Crash Data System, a review of approximately five years of the most recent available crash history (January 2016 through December 2020) was performed at the study intersections. The crash data was evaluated based on the number of crashes, the type of collisions, and the severity of the collisions. Crash severity is based on injuries sustained by people involved in the crash, and includes five categories:

- Property Damage Only (PDO)
- Possible Injury (Injury C)
- Non-Incapacitating Injury (Injury B)
- Incapacitating Injury (Injury A)
- Fatality or Fatal Injury

Crash rates provide the ability to compare safety risks at different intersections by accounting for both the number of crashes that have occurred during the study period and the number of vehicles that typically travel through the intersection. Crash rates were calculated using the common assumption that traffic counted during the evening peak period represents approximately 10 percent of the annual average daily traffic (ADT) at the intersection.

Since the study area includes one intersection along US-30, calculated crash rates were compared with rates in ODOT's APM. According to *Exhibit 4-1: Intersection Crash Rates per MEV by Land Type and Traffic Control* of the APM, intersections which experience crash rates in excess of their respective 90<sup>th</sup> percentile crash rates should be "flagged for further analysis".

Table 4 provides a summary of crash types while Table 5 summarizes crash severities and rates for each of the study intersections. It is noted that only intersections which had reported collisions during the analysis period are shown in the tables. Detailed crash data is provided in the appendix to this report.

Table 4: Crash Type Summary

Intersection	Crash Type								Total Crashes
	Turn	Rear End	Angle	Fixed Object	Side Swipe	Ped	Bike	Other	
3 Pittsburgh Road at Highway 30	3	1	1	0	0	0	0	0	5
5 Sykes Road at Barr Road	0	0	0	1	1	0	0	0	2
6 Sykes Road at Columbia Boulevard	1	1	0	0	0	0	1	0	3



Table 5: Crash Severity and Rate Summary

	Intersection	Severity					Total Crashes	Peak Hour Volume	Crash Rate	ODOT 90 <sup>th</sup> %
		PDO	C	B	A	Fatal				
3	Pittsburgh Road at Highway 30	1	1	3	0	0	5	2,118	0.13	0.293
5	Sykes Road at Barr Road	2	0	0	0	0	2	446	0.25	N/A
6	Sykes Road at Columbia Boulevard	1	1	1	0	0	3	746	0.22	N/A

The only crash involving vulnerable users was reported at the intersection of Sykes Road at Columbia Boulevard. A bicycle collision was reported which was caused by the vehicle not yielding to the right of way of the cyclist. The cyclist sustained a non-incapacitating injury (Type B).

#### Conclusion

Based on review of the most recent five years of available crash data, no significant trends or crash patterns were identified at any of study intersections that would be affected by the proposed development. In addition, none of the study intersections exhibit crash rates exceeding ODOT's 90<sup>th</sup> percentile rate. Accordingly, no safety mitigation is recommended per crash data analysis.

### Preliminary Traffic Signal Warrant Analysis

Traffic signal warrants were examined for all unsignalized intersections based on the methodologies in the Manual on Uniform Traffic Control Devices (MUTCD) published by the Federal Highway Administration in 2009. Volumes were used from the year 2024 buildout conditions. Warrant 1, Eight Hour Vehicular Volumes, was evaluated based on the common assumption that traffic counted during the evening peak hour represents ten percent of the ADT. Detailed information on the traffic signal warrant analysis is included in the attached appendix.

Preliminary traffic signal warrants are not projected to be met any of the unsignalized study intersections upon full buildout of the proposed development.

### Left-Turn Lane Warrants

A left-turn refuge lane is primarily a safety consideration for the major-street, removing left-turning vehicles from the through traffic stream. The left-turn lane warrants were examined for all intersections in which site trips are expected to increase the major street left turn movement using methodologies provided within the National Cooperative Highway Research Program's (NCHRP) Report 457. Turn lane warrants were evaluated based on the number of advancing and opposing vehicles as well as the number of turning vehicles, the travel speed, and the number of through lanes.

Left-turn lane warrants are not projected to be met at any of the applicable study intersections under the year 2024 buildout scenario.



## Operational Analysis

### Intersection Capacity Analysis

A capacity and delay analysis were conducted for each of the study intersections per the unsignalized intersection analysis methodologies in the *Highway Capacity Manual* (HCM)<sup>4</sup>. Intersections are generally evaluated based on the average control delay experienced by vehicles and are assigned a grade according to their operation. The level of service (LOS) of an intersection can range from LOS A, which indicates very little, or no delay experienced by vehicles, to LOS F, which indicates a high degree of congestion and delay.

### Performance Standards

The operating standards adopted by the City of Scappoose and ODOT are summarized below.

#### City of St Helens

According to the City of St Helen's Transportation System Plan (TSP), LOS "E" is considered acceptable for the poorest operating approach at two-way stop intersections. LOS "F" is allowed in situations where a traffic signal is not warranted.

#### ODOT

ODOT's operating mobility target for intersections along US-30 is v/c ratio no greater than 0.85 per Table 6 of the *Oregon Highway Plan*<sup>5</sup>.

### Delay & Capacity Analysis

The LOS, delay, and v/c results of the capacity analysis are shown in Table 6 for the evening peak hour. Detailed calculations as well as tables showing the relationship between delay and LOS are included in the appendix to this report.

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<sup>4</sup> Transportation Research Board, *Highway Capacity Manual 6<sup>th</sup> Edition*, 2016.

<sup>5</sup> Oregon Department of Transportation, *Oregon Highway Plan*. 1999



Table 6: Capacity Analysis Summary

Intersection & Condition	AM Peak Hour			PM Peak Hour		
	LOS	Delay (s)	V/C	LOS	Delay (s)	V/C
<b>1. Meadowview Drive at Pittsburgh Road</b>						
Year 2022 Existing Conditions	B	10	0.01	A	10	0.01
Year 2024 Background Conditions	B	10	0.01	A	10	0.01
Year 2024 Buildout Conditions	B	11	0.01	B	10	0.01
<b>2. Barr Road at Pittsburgh Road</b>						
Year 2022 Existing Conditions	B	11	0.14	B	11	0.13
Year 2024 Background Conditions	B	12	0.15	B	11	0.14
Year 2024 Buildout Conditions	B	12	0.18	B	11	0.16
<b>3. Pittsburgh Road at Highway 30</b>						
Year 2022 Existing Conditions	C	21	0.53	E	35	0.64
Year 2024 Background Conditions	C	23	0.56	E	40	0.69
Year 2024 Buildout Conditions	C	25	0.60	E	48	0.76
<b>4. Mountainview Drive at Sykes Road</b>						
Year 2022 Existing Conditions	A	9	0.01	A	10	0.01
Year 2024 Background Conditions	A	9	0.01	B	10	0.01
Year 2024 Buildout Conditions	A	9	0.02	B	10	0.01
<b>5. Barr Road at Sykes Road</b>						
Year 2022 Existing Conditions	B	11	0.23	B	11	0.17
Year 2024 Background Conditions	B	11	0.24	B	11	0.18
Year 2024 Buildout Conditions	B	11	0.25	B	12	0.19
<b>6. Sykes Road at Columbia Boulevard</b>						
Year 2022 Existing Conditions	B	12	0.47	B	11	0.36
Year 2024 Background Conditions	B	12	0.50	B	11	0.37
Year 2024 Buildout Conditions	B	12	0.52	B	11	0.39

Based on the results of the operational analysis, all study intersections are currently operating acceptably per jurisdictional standards and are projected to continue operating acceptably through the 2024 site buildout year. No operational mitigation is necessary or recommended at these intersections.

## Conclusions

Key findings include:

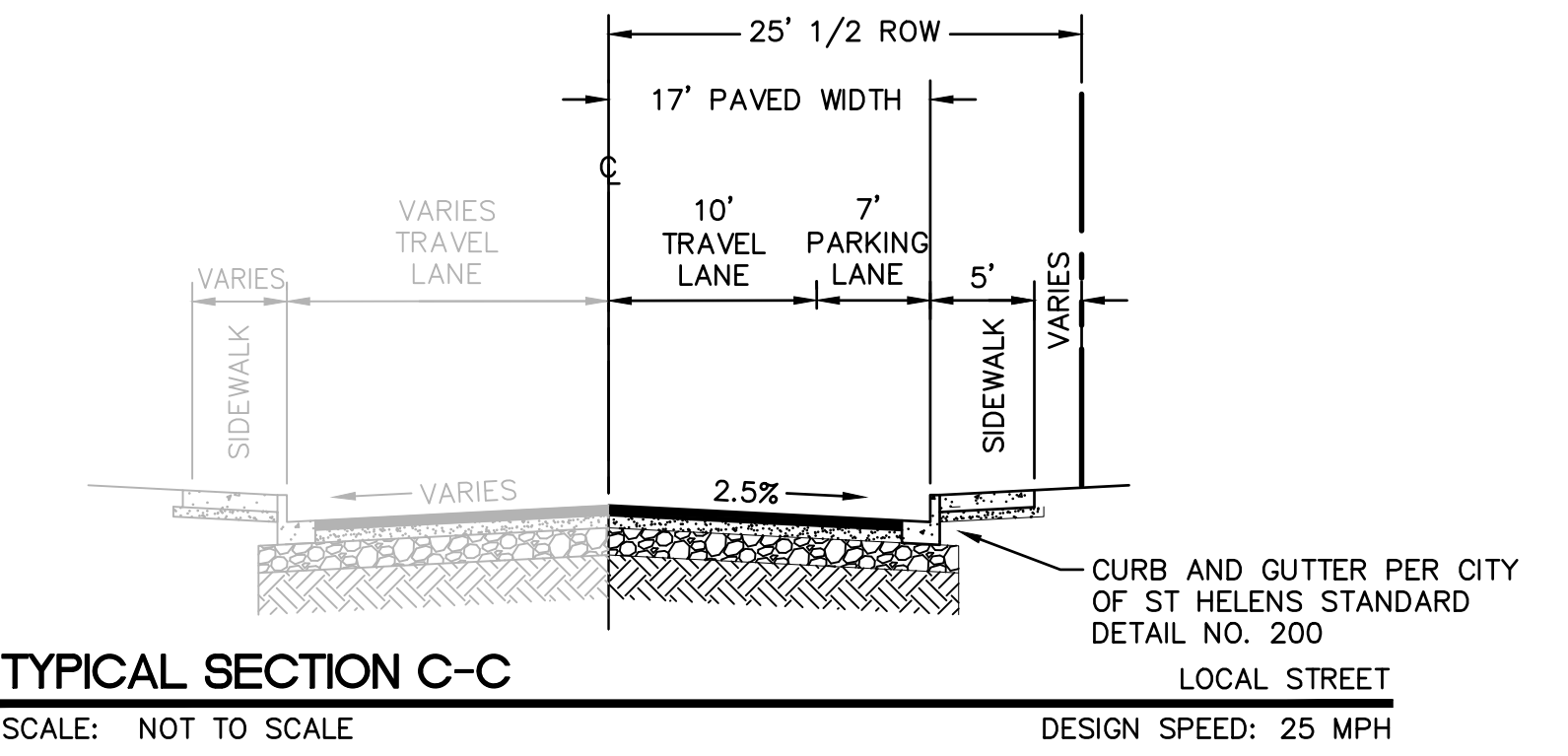
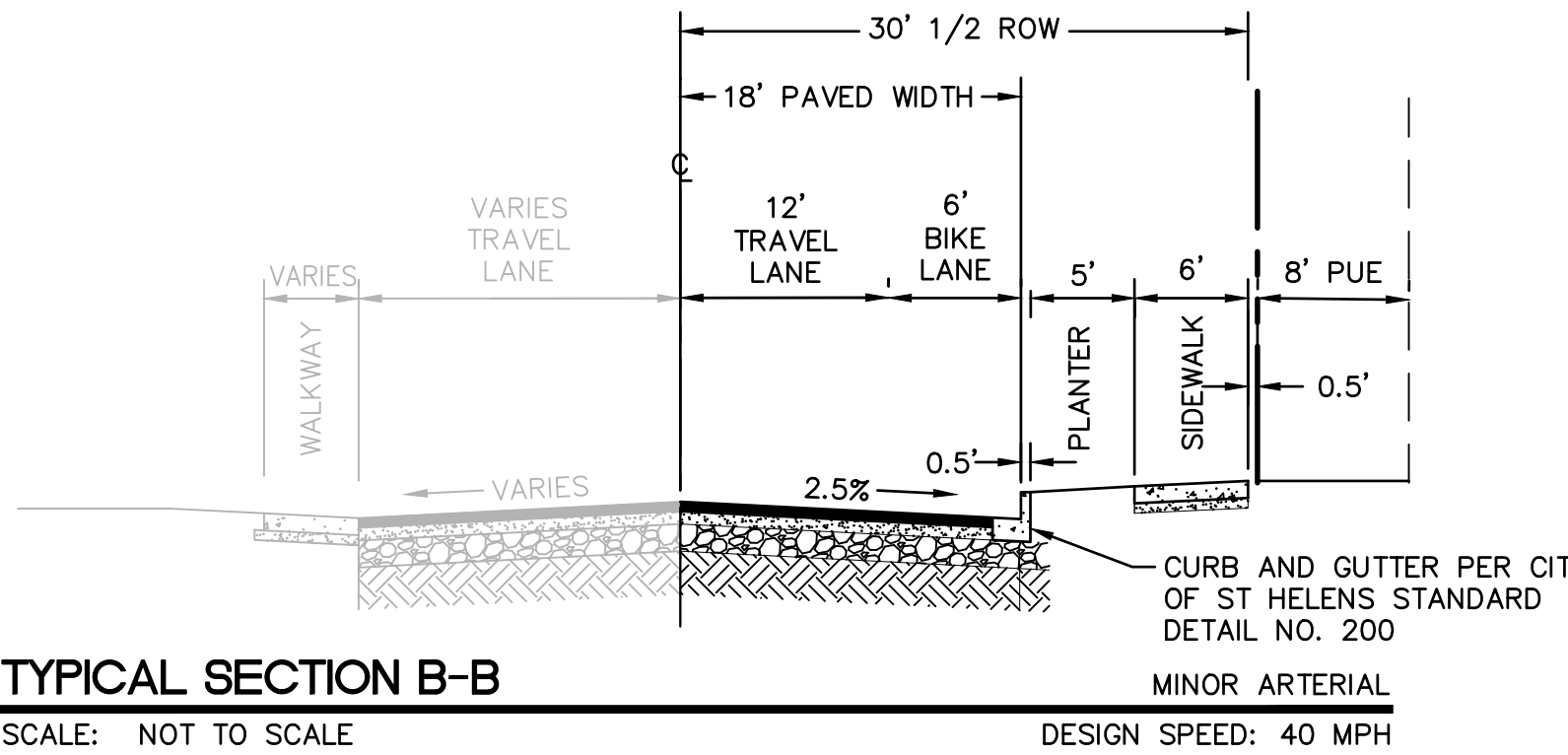
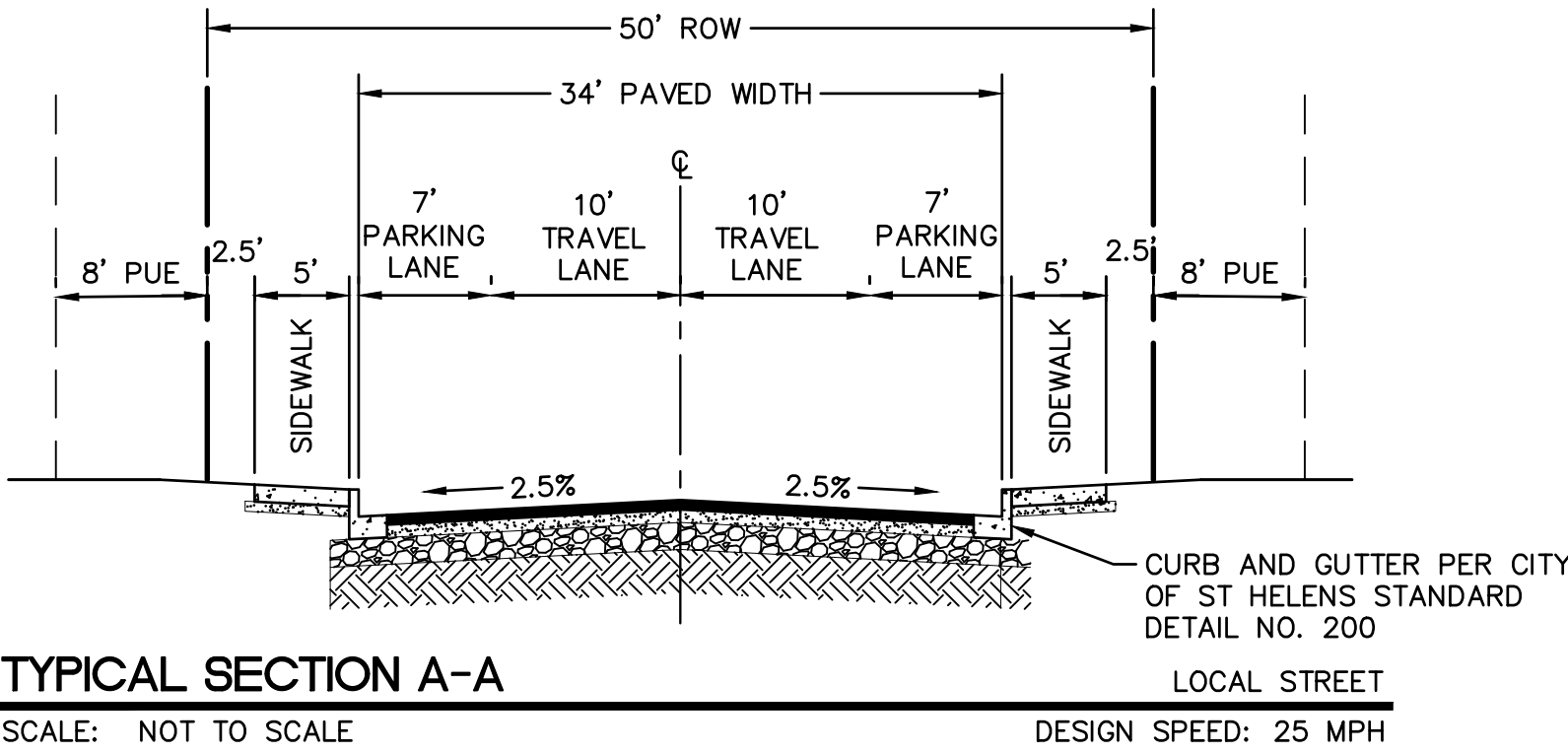
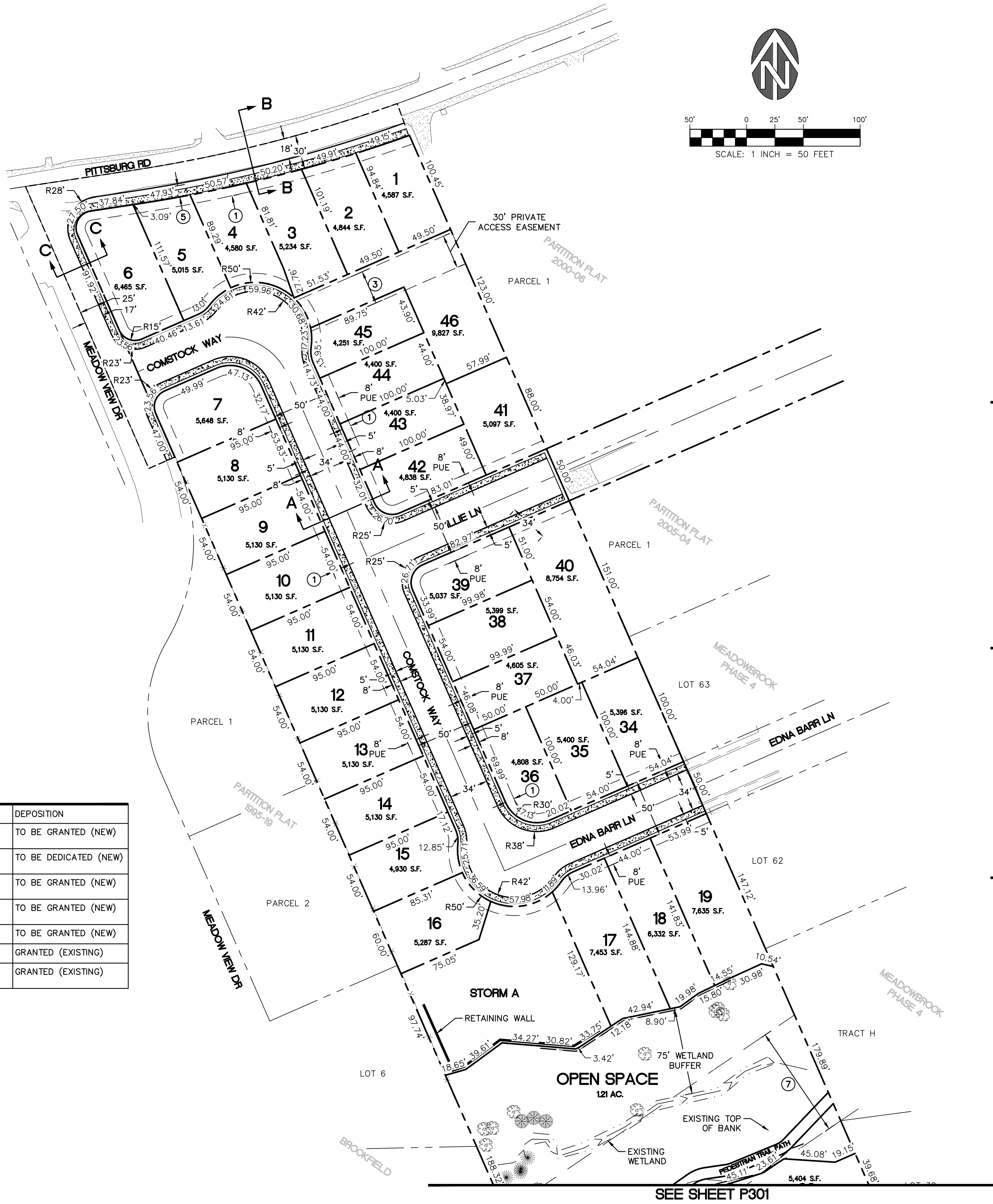
- No significant trends or crash patterns were identified at any of the study intersections that would be affected by the proposed development. Accordingly, no safety mitigation is recommended per the crash data analysis.
- Preliminary traffic signal warrants are not projected to be met any of the unsignalized study intersections upon full buildout of the proposed development. Accordingly, no related mitigation is necessary or recommended.
- Left-turn lanes are not projected to be met at the applicable intersections upon full buildout of the proposed development. Accordingly, no related mitigation is necessary or recommended.
- All study intersections are currently operating acceptably per jurisdictional standards and are projected to continue operating acceptably through the 2024 site buildout year.





EASEMENT TABLE

NO.	PURPOSE	BENEFICIARY	DEPOSITION
①	8' PUBLIC UTILITY EASEMENT	FRANCHISE UTILITY	TO BE GRANTED (NEW)
②	20' SHARED DRIVEWAY EASEMENT	CITY OF ST HELENS	TO BE DEDICATED (NEW)
③	30' ACCESS AND UTILITY EASEMENT	HOME OWNERS	TO BE GRANTED (NEW)
④	15' STORM ACCESS EASEMENT	CITY OF ST HELENS	TO BE GRANTED (NEW)
⑤	10' ROW DEDICATION	CITY OF ST HELENS	TO BE GRANTED (NEW)
⑥	15' ROW DEDICATION	CITY OF ST HELENS	GRANTED (EXISTING)
⑦	100' UTILITY EASEMENT	BPA	GRANTED (EXISTING)



LEGEND	
	PROPERTY LINE
	PROPOSED EASEMENT
	PROPOSED CURB
	PROPOSED SIDEWALK
	CENTERLINE
	TOP OF BANK
	WETLAND
	WETLAND BUFFER
	CREEK
	STORMWATER FACILITY BOUNDARY
	RETAINING WALL

COMSTOCK SUBDIVISION

SE 1/4 SECTION 6, TOWNSHIP 4N, RANGE 1W  
ST. HELENS, OREGON

PRELIMINARY PLAT AND SITE PLAN  
(NORTH)



EXPIRES: 06/30/23

THESE DRAWINGS ARE THE PROPERTY OF WESTLAKE CONSULTANTS, INC. (WCI) AND ARE NOT TO BE REPRODUCED IN ANY MANNER EXCEPT WITH THE WRITTEN PERMISSION OF WCI

REVISIONS	NO.	DATE	DESCRIPTION	DRAFT BY:	CHECK BY:
	0	2022/04/04	LAND USE SUBMITTAL		

SHEET

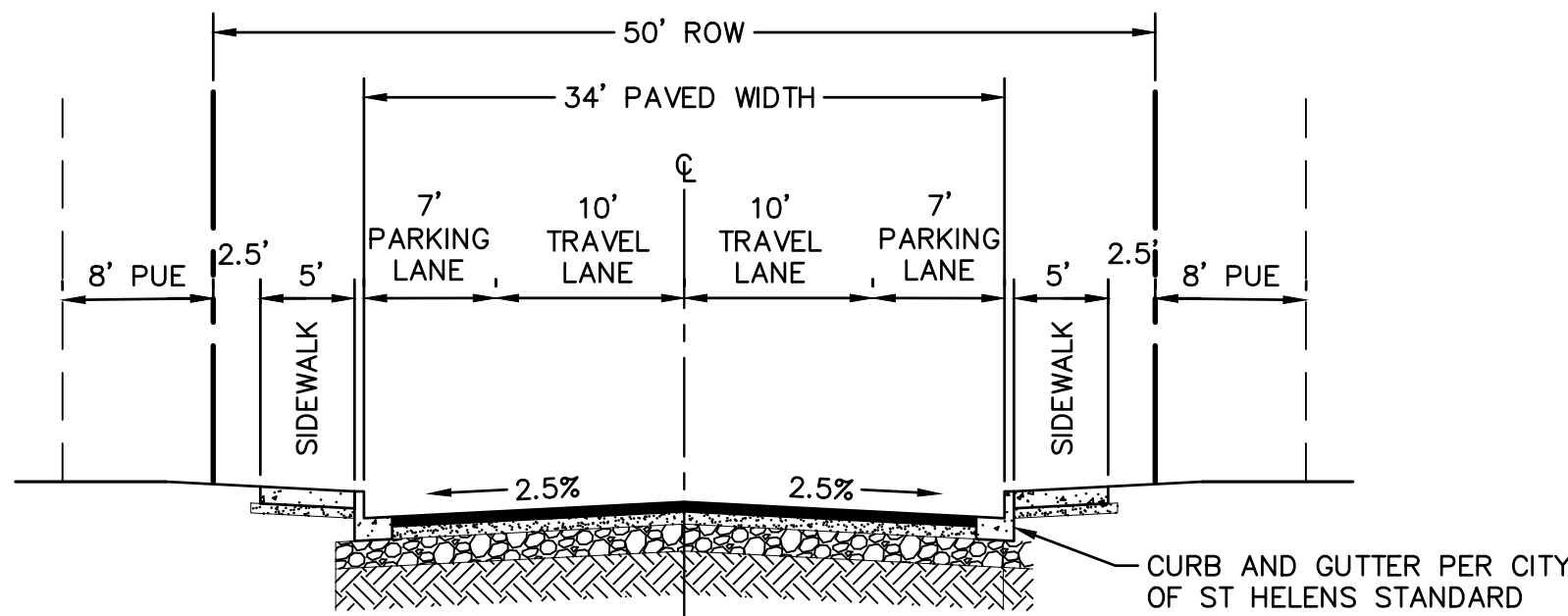
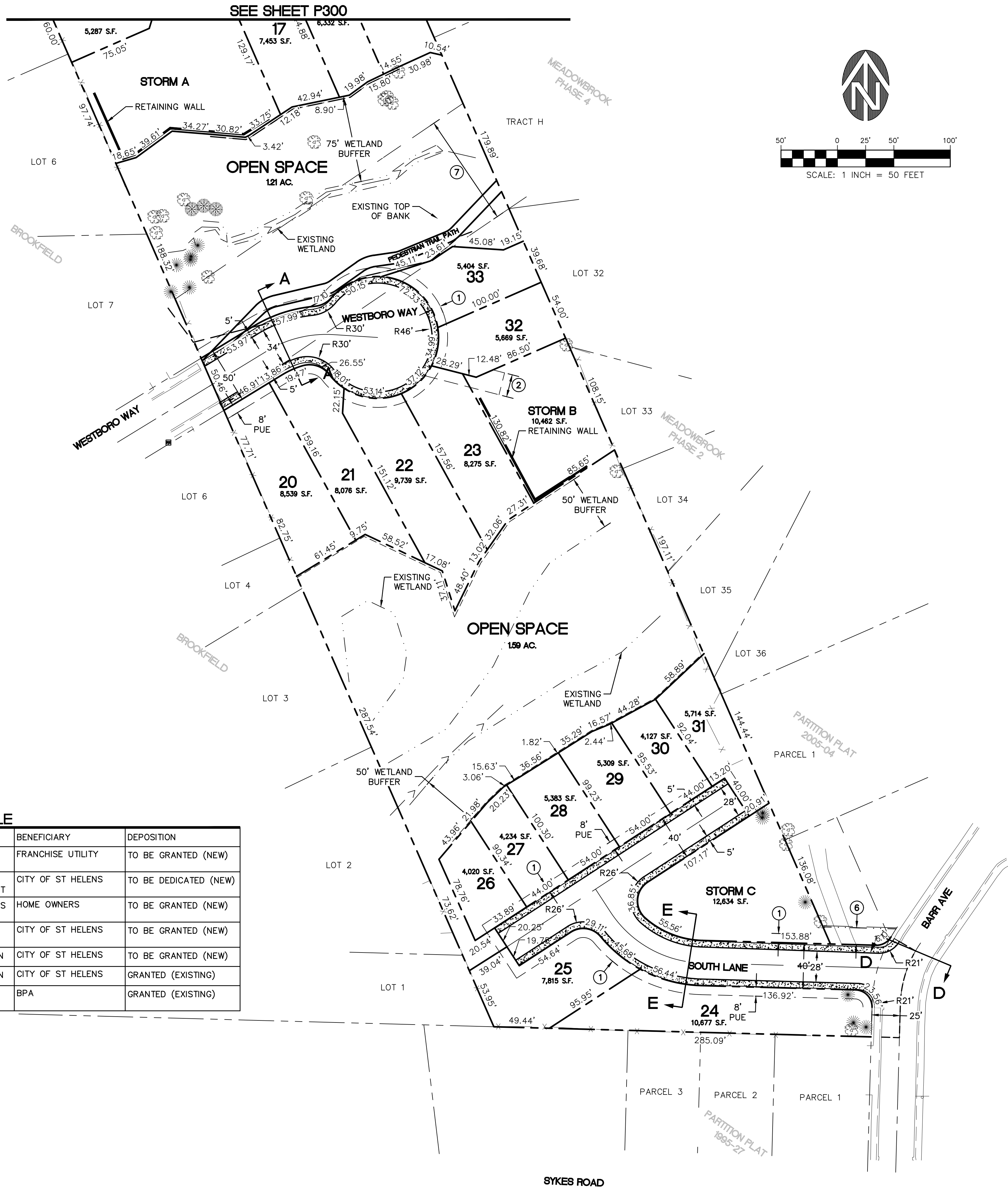
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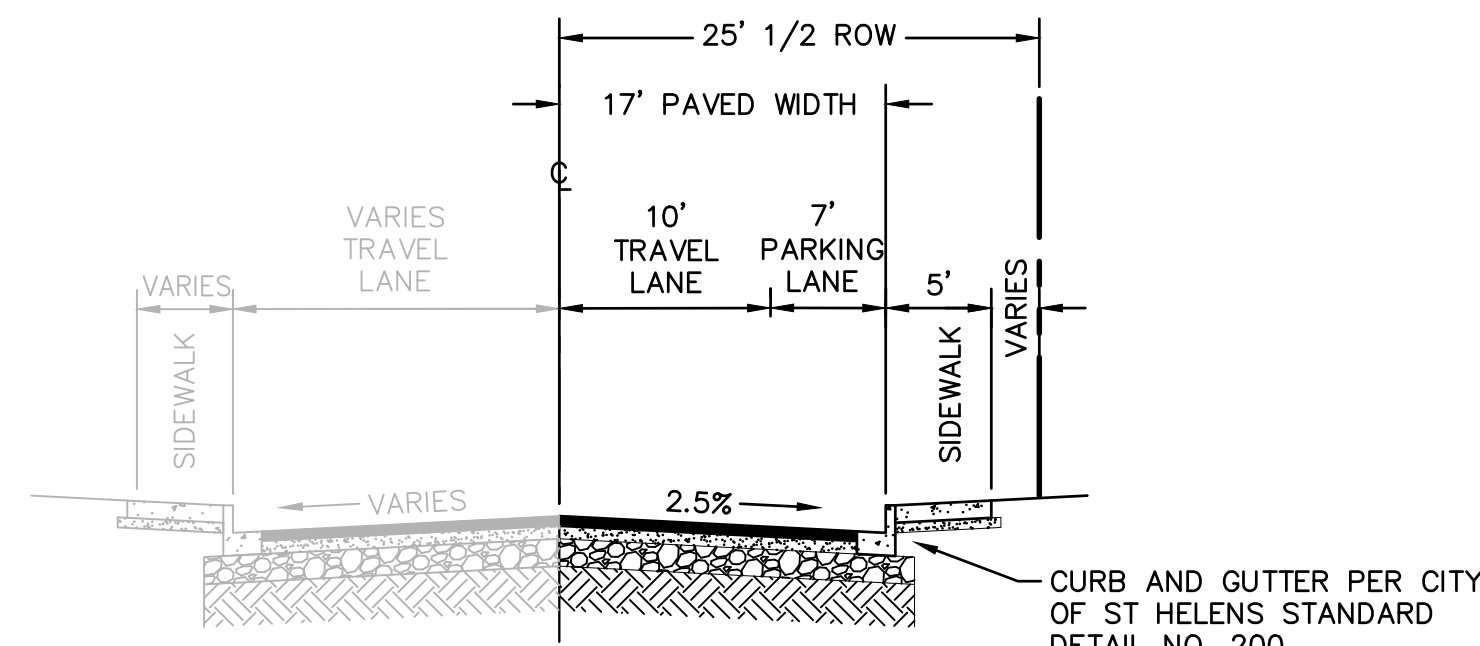


EASEMENT TABLE

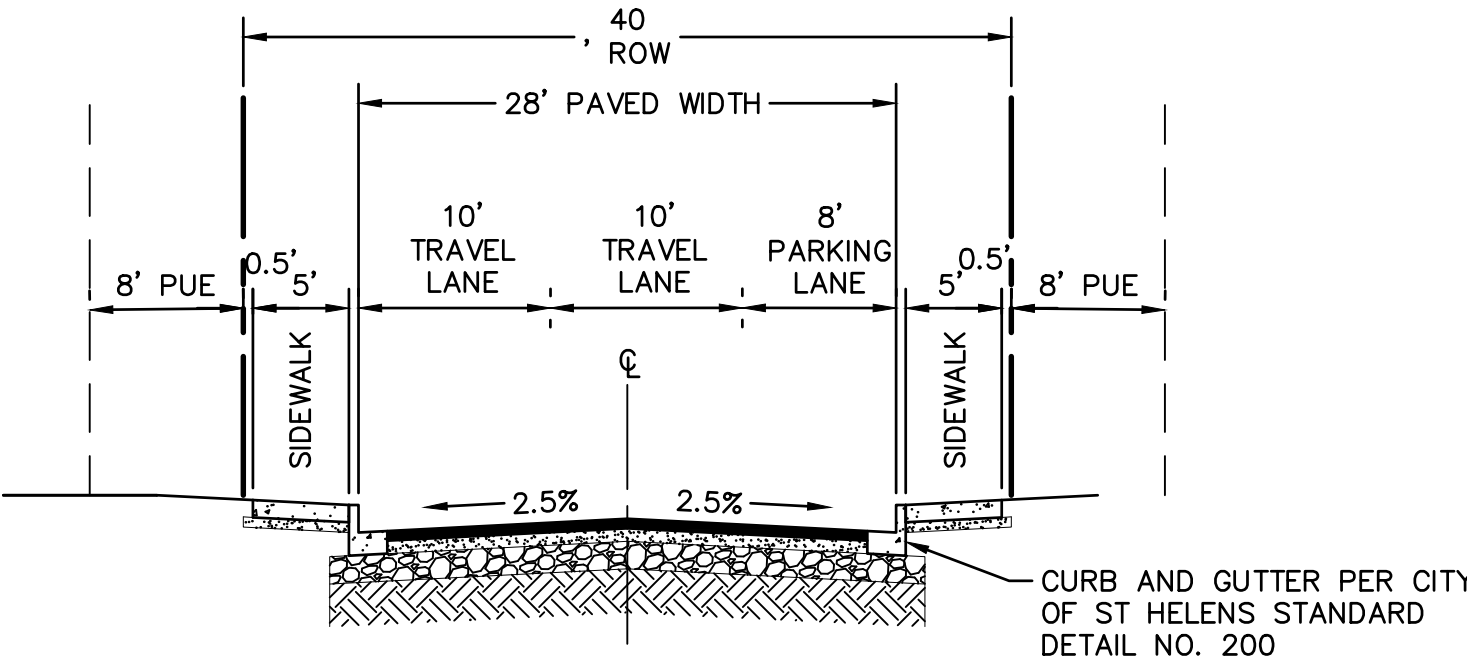
NO.	PURPOSE	BENEFICIARY	DEPOSITION
①	8' PUBLIC UTILITY EASEMENT	FRANCHISE UTILITY	TO BE GRANTED (NEW)
②	20' SHARED DRIVEWAY EASEMENT	CITY OF ST HELENS	TO BE DEDICATED (NEW)
③	30' PRIVATE ACCESS EASEMENT	HOME OWNERS	TO BE GRANTED (NEW)
④	15' STORM ACCESS EASEMENT	CITY OF ST HELENS	TO BE GRANTED (NEW)
⑤	10' ROW DEDICATION	CITY OF ST HELENS	TO BE GRANTED (NEW)
⑥	15' ROW DEDICATION	CITY OF ST HELENS	GRANTED (EXISTING)
⑦	100' UTILITY EASEMENT	BPA	GRANTED (EXISTING)



TYPICAL SECTION A-A  
SCALE: NOT TO SCALE  
DESIGN SPEED: 25 MPH



TYPICAL SECTION D-D  
SCALE: NOT TO SCALE  
DESIGN SPEED: 25 MPH



TYPICAL SECTION E-E  
SCALE: NOT TO SCALE  
DESIGN SPEED: 25 MPH

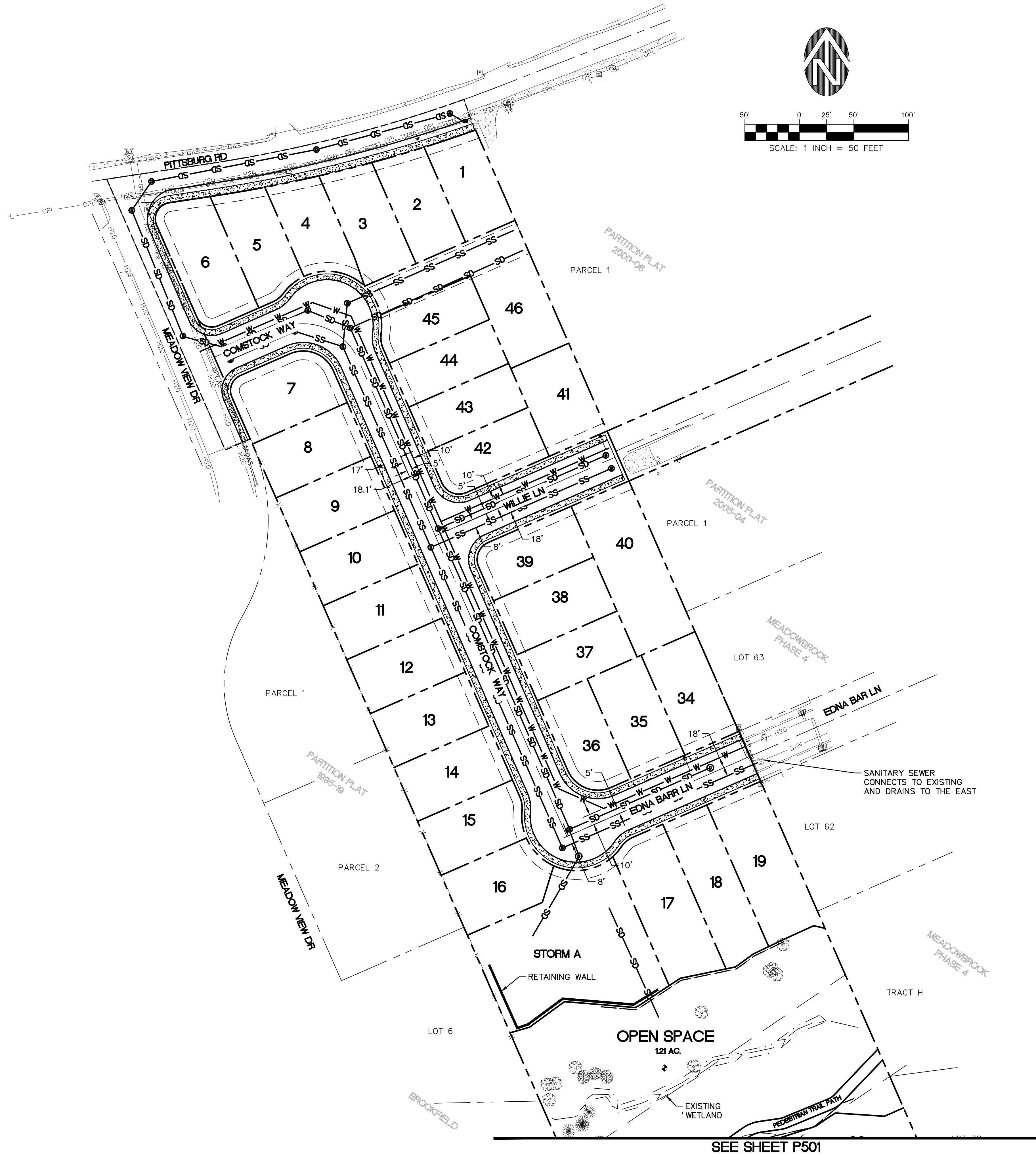
LEGEND

- PROPERTY LINE
- PROPOSED EASEMENT
- PROPOSED CURB
- PROPOSED SIDEWALK
- CENTERLINE
- TOP OF BANK
- WETLAND
- WETLAND BUFFER
- CREEK
- STORMWATER FACILITY BOUNDARY
- RETAINING WALL

REVISIONS	NO.	DATE	DESCRIPTION	CHECK BY:	DRAW BY:



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LEGEND

- SS SS SS PROPOSED SANITARY LINE
- ⊙ PROPOSED SANITARY MANHOLE
- SD SD SD PROPOSED STORM LINE
- ⊙ PROPOSED STORM MANHOLE
- PROPOSED CATCH BASIN
- W W W PROPOSED WATER LINE
- ▼ PROPOSED FIRE HYDRANT
- VEGETATED BUFFER

COMSTOCK SUBDIVISION  
SE 1/4 SECTION 6, TOWNSHIP 4N, RANGE 1W  
ST. HELENS, OREGON

PRELIMINARY COMPOSITE UTILITY PLAN



EXPIRES: 06/30/23

THESE DRAWINGS ARE THE PROPERTY OF WESTLAKE CONSULTANTS, INC. (WCI) AND ARE NOT TO BE REPRODUCED IN ANY MANNER EXCEPT WITH THE WRITTEN PERMISSION OF WCI

REVISIONS	NO.	DATE	DESCRIPTION	SDS	DRAFT BY:	DAG/OMH	CHECK BY:
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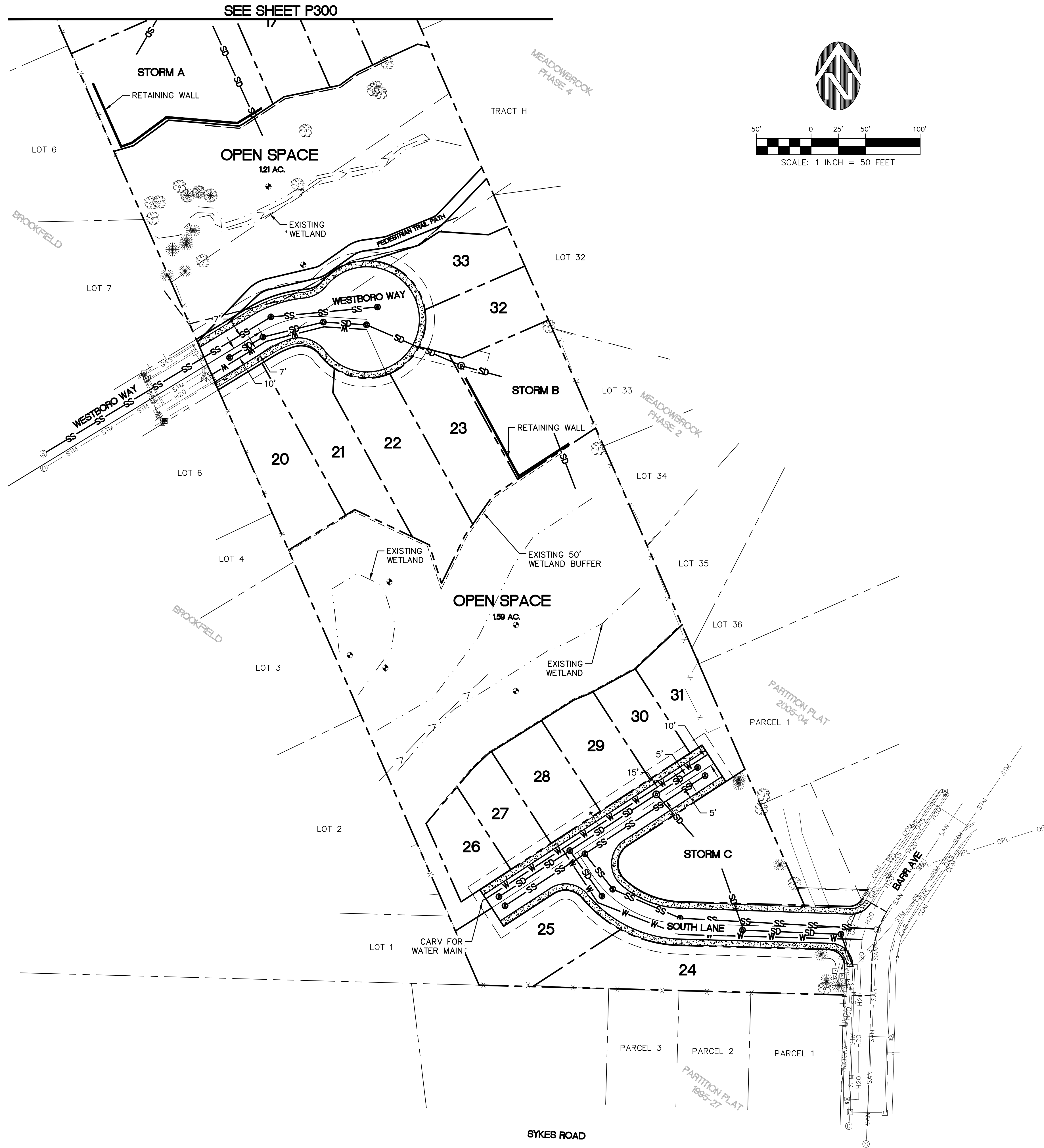
SHEET

**P500**

JOB NO.  
2740-004

LAND USE SUBMITTAL





**NOTES**

1. LOTS 21-22 AND 29-31 WILL NEED TO BE PUMPED OUT OF THE BASEMENT ON THESE LOTS. GRAVITY SERVICE CAN BE PROVIDED TO THE MAIN FLOOR OF ALL OF THESE LOTS.

LEGEND	
—SS—SS—SS—	PROPOSED SANITARY LINE
⊙	PROPOSED SANITARY MANHOLE
—SD—SD—SD—	PROPOSED STORM LINE
⊙	PROPOSED STORM MANHOLE
■	PROPOSED CATCH BASIN
—W—W—W—	PROPOSED WATER LINE
▼	PROPOSED FIRE HYDRANT
- - - - -	VEGETATED BUFFER

REVISIONS		NO.	DATE	DESCRIPTION	SDS DRAFT BY:	DAG/OMH CHECK BY:
NO.	DATE					
0	2022/04/04			LAND USE SUBMITTAL		

Comstock Subdivision 7/5/2022

Subdivision Preliminary Plat, SUB.2.22 request  
Map No: 4N1W-6D-604 and 4N1W-6AD-2600

RECEIVED  
JUL 5 2022  
CITY OF ST. HELENS

**Subdivision, Preliminary Plat-Chapter 17.136 St. Helens Municipal Code (SHMC)**

*17.136.010 Purpose.*

- (1) To implement the comprehensive plan;
- (3) To carry out the development pattern and plan of the city;

The projected Subdivision Preliminary Plat, SUB.2.22 does accommodate for the established wetlands and necessary drainage areas but does not follow the R7 zoning approved by the planning commission in Ordinance No. 3281, section 3 of the approved annexation based on the Comprehensive Plan. (ORS 197.175(1) *Statewide Planning Goals 1, 2, 10, 11 and 12* were satisfied for the approval of the annexation of this property. The planning commission determined the need for higher density housing had been met with other properties and that the subject property would be at an R7 zoning.

*Ord. No. 3281 Exhibit "C" A.5.21 F&C*

- *The city's housing needs are technically met for the next approximate 20 years. The highest density zoning is the only category that is close to a deficiency (i.e., no large surplus)*
- *The Planning Commission recommended R7 for the **entire** property in part because the sensitive lands and their respective upland protection zones will dictate a certain amount of protected open space for the subdivision. The sensitive lands create there separate and distinct development areas which will inherently result in a subdivision that contains more open space and separation. This Commission felt this would be perceived as a less dense development overall. The City Council agreed with this.*

**Finding:** Upon annexation, the subject property's Comprehensive Plan designation shall be Suburban Residential (Incorporated) SR and be zoned entirely Moderate Residential, R7.

**Planned Development standard-SHMC 17.148.080**

*17.148.080 Applicability of the base zone provisions.*

*(1) The provisions of the base zone are applicable as follows:*

*(d) Structure Setback Provisions.*

*(i) Front yard and rear yard setbacks for structures on the perimeter of the project shall be the same as that required by the base zone unless otherwise provided by **Chapter 17.96 SHMC**;*

*(ii) The side yard setback provisions shall not apply except that all detached structures shall meet the applicable building code (as administered by the building official) requirements for fire walls; and*

*(iii) Front yard and rear yard setback requirements in the base zone setback shall not apply to structures on the interior of the project except that:*

I would like to refer to **Title 17 Community Development Code Ch. 17.96 Site Development Review**

(1)(2)(a)(b)(c)(e) regarding purpose in **Planned Development standard-SHMC 17.148.080**.

**Title 17 Community Development Code Ch. 17.96 Site Development Review**

*17.96.010 Purpose.*

*(1) The purpose and intent of site development review is to promote the general welfare by directing attention to site planning, and giving regard to the natural environment and the elements of creative design to assist in conserving and enhancing the appearance of the city.*



- (2) It is in the public interest and necessary for the promotion of the health, safety and welfare, convenience, comfort and prosperity of the citizens of the city of St. Helens:*
- (a) To implement the city of St. Helens comprehensive plan and other approval standards in this code;*
  - (b) To preserve and enhance the natural beauties of the land and of the manmade environment, and enjoyment thereof;*
  - (c) To maintain and improve the qualities of and relationships between individual buildings, structures and the physical developments which best contribute to the amenities and attractiveness of an area or neighborhood;*
  - (d) To protect and ensure the adequacy and usefulness of public and private developments as they relate to each other and to the neighborhood or area; and*
  - (e) To ensure that each individual development provides for a quality environment for the citizens utilizing that development as well as the community as a whole.*

Referring to the preliminary plat and site plan (middle & south) map. I would like to suggest that STORM C Greenspace should connect to the OPEN SPACE (1.89ac) via a pathway between proposed Lot 31 and established Parcel 1. There is a similar pathway proposed between established Lot 2 and proposed Lot 26 that could be swapped to the other end of the development at proposed lot 31 and Parcel 1. The lot layout could be shifted accordingly. Currently the existing wildlife travel from Sykes & Barr via the STORM C area and along the proposed Lot 31 to access the wetland OPEN SPACE. If this route is cut off by proposed Lot 31 the wildlife will travel through the new development via South Lane to access the opening between Proposed Lot 26 and existing Lot 2. There are also existing trees that lie on or just beside the property line of proposed Lot 31 and existing Parcel 1. (1) (2)(b) (See photos A. B. C. D.)

In addition, establishing a wildlife pathway between proposed Lot 31 and established Parcel 1 will alleviate the discomfort and lack of privacy caused by the newly developed Lot 31. The established Parcel 1, tax lot 3201 differs in regards to placement of the known front, back and side of the residence. The back entrance/patio of Parcel 1, tax lot 3201 is technically the side of the residence with a setback of 5 feet. With the construction of likely a two-story home for proposed Lot 31 the side of this new home will be 5 feet 18 inches from the "back" patio slab of existing Parcel 1, tax lot 3201. The proposed plot plan follows the setback provisions but in the interest of the privacy and comfort of both homeowner's I propose the creation of a wildlife pathway as described. This is the moment to advocate for this accommodation and it would preserve the livability and comfort of existing and future homeowners of these two residences. The pathway currently shown at proposed Lot 26 and established Lot 2 is butted up against Lot 2's back yard and the removal of this pathway to the other side of the development would not have the same impact of privacy concerns. (c)(d)(e) see photos E. F.

Lastly as a general inquiry regarding the creation of South Lane (middle & south) map. Currently Parcel 1, which includes 3 tax lots, accesses the residences directly from Barr Avenue via a private driveway. The new right of way creating a public access road will change the residential access via the easement driveway from Barr to the newly named South Lane. Does the city expect this to affect the mailing addresses of the existing 3 residences of Parcel 1? Removal of the mailbox for the three residences will be removed from Barr Ave. during the creation of the new road. What is the expectation for the homeowners in Parcel 1 regarding mail delivery during construction and reinstallation of the mailboxes post construction?

Thank you,  
Rhonda Kirtland  
Parcel 1, Tax Lot 3201

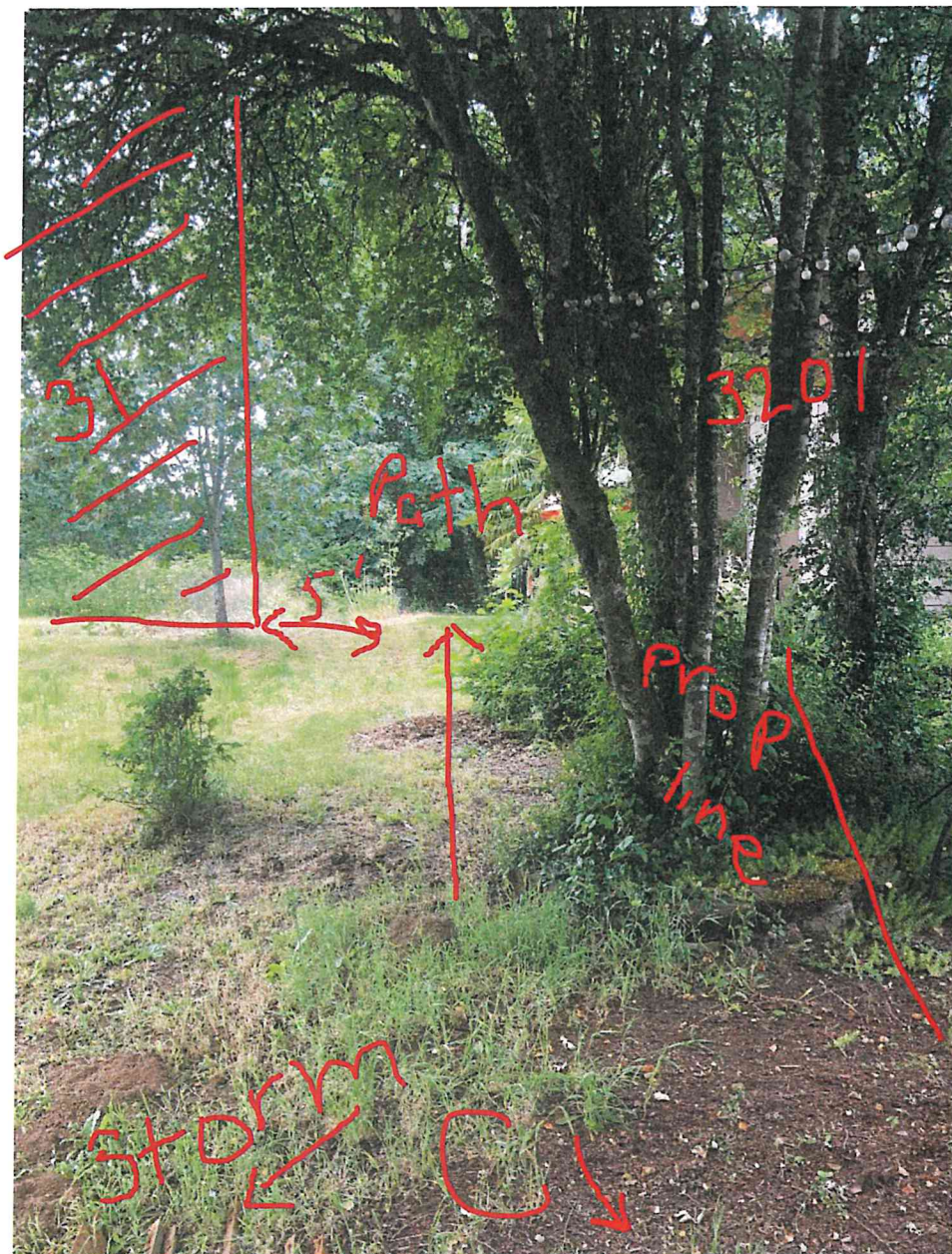


A. Wildlife currently traveling from Storm C to Open Area south end flanking Parcel 1



B. Storm C off of Barr Ave. flanking Parcel 1, Existing trees on property line

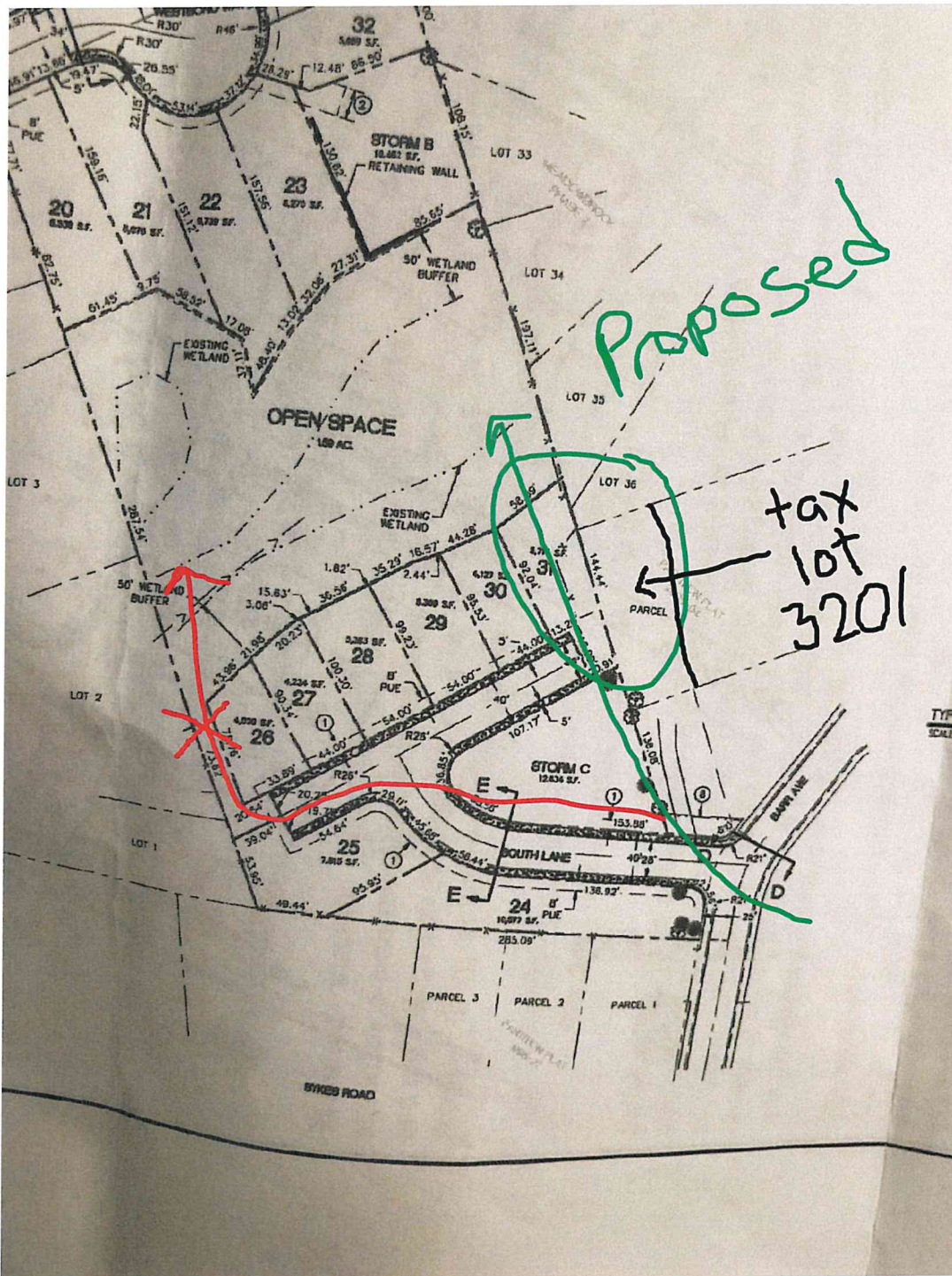




C. Proposed wildlife pathway,  
retains existing trees



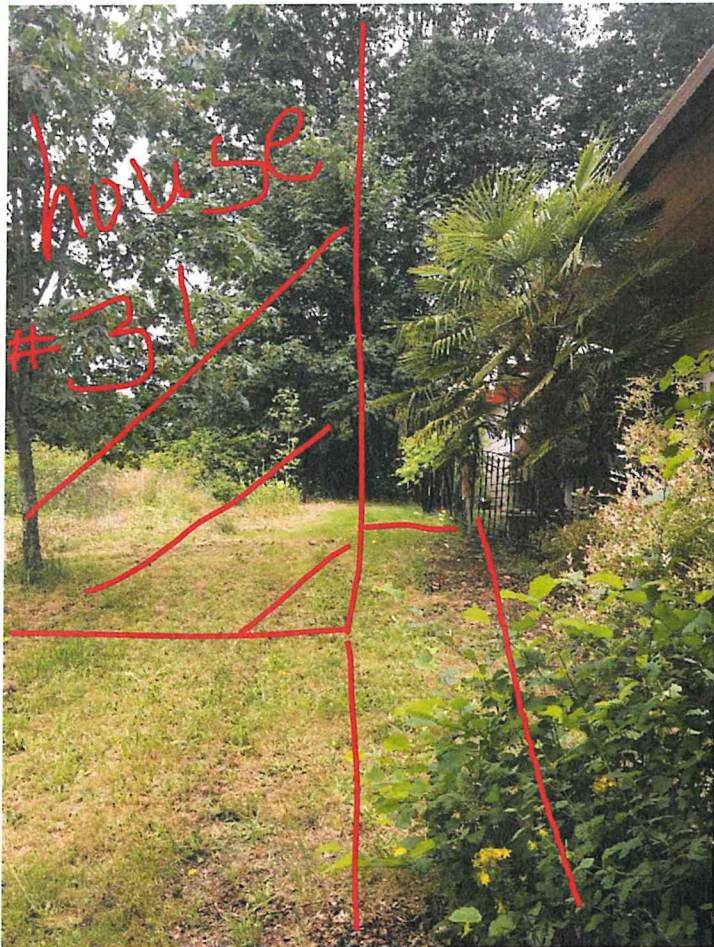
**D. Swap path from  
Lot 26 over to Lot  
31**







**E.** Side of Lot 31 will have a significant effect on privacy of Parcel 1, tax lot 3201. Adding wildlife pathway will increase perception of distance between side setback



**F.** Side of Lot 31 will have a significant effect on privacy of Parcel 1, tax lot 3201. Adding wildlife pathway will increase perception of distance between side setback

## Jacob Graichen

---

**From:** Steven Toschi <SToschi@tcdlegal.com>  
**Sent:** Tuesday, July 12, 2022 9:03 AM  
**To:** Jacob Graichen  
**Subject:** [External] Please forward this to the Planning Commissioners for Tonight's hearing re Comstock and to the Applicant as well

Per the Oregon Supreme Court:

“Judicial estoppel is a common law equitable principle that has no single, uniform formulation in the several jurisdictions in which it has been recognized. *See generally* Note, *Judicial Estoppel: The Refurbishing of a Judicial Shield*, 55 Geo Wash L Rev 409 (1987) (summarizing approaches used by courts). **The purpose of judicial estoppel is "to protect the judiciary, as an institution, from the perversion of judicial machinery."** *Edwards v. Aetna Life Ins. Co.*, [690 F.2d 595, 599](#) (6th Cir 1982). **The doctrine may be invoked under certain circumstances to preclude a party from assuming a position in a judicial proceeding that is inconsistent with the position that the same party has successfully asserted in a different judicial proceeding.** *See generally* *Caplener v. U.S. National Bank*, [317 Or. 506, 516, 857 P.2d 830](#) (1993) (stating principle); *Oneida Motor Freight, Inc. v. United Jersey Bank*, [848 F.2d 414, 417](#) (3d Cir), *cert den* 488 U.S. 967 (1988) (same). Some courts have stated that judicial estoppel should apply when a litigant "is playing fast and loose with the courts." *Sandstrom v. Chemlawn Corp.*, [904 F.2d 83, 87-88](#) (1st Cir 1990) (citing *Scarano v. Central R.R.*, [203 F.2d 510](#) (3d Cir 1953)); *Grant v. Lone Star Co.*, [21 F.3d 649, 651](#) n 2 (5th Cir), *cert den* \_\_\_ US \_\_\_ (1994); *Fleck v. KDI Sylvan Pools, Inc.*, [981 F.2d 107, 121-22](#) (3d Cir 1992) (judicial estoppel is intended to protect the courts rather than the litigants), *cert den* \_\_\_ US \_\_\_ (1993); *Rockwell Intern. v. Hanford Atomic Metal Trades*, [851 F.2d 1208, 1210](#) (9th Cir 1988) (same). Other courts have said that judicial estoppel should be used only to preclude a party from taking an inconsistent position in a later proceeding if that party has "received a benefit from the previously taken position in the form of judicial success." *Water Technologies Corp. v. Calco, Ltd.*, [850 F.2d 660, 665](#) (Fed Cir), *cert den* 488 U.S. 968 (1988). *See* *Bates v. Long Island R. Co.*, [997 F.2d 1028, 1038](#) (2d Cir) (the prior inconsistent position must have been adopted by the court in some manner), *cert den* \_\_\_ US \_\_\_ (1993); *Edwards*, [690 F.2d at 599](#) (judicial estoppel cannot be applied in a subsequent proceeding unless a party has successfully asserted an inconsistent position in a prior proceeding); *Konstantinidis v. Chen*, [626 F.2d 933, 939](#) (DC Cir 1980) (success in the prior proceeding is an essential element of judicial estoppel); *see also* Comment, *Precluding Inconsistent Statements: The Doctrine of Judicial Estoppel*, NW U L Rev 1244 (1986) (favoring "prior success" rule).” *Hampton Tree Farms, Inc. v Jewett*, (1995) 320 Or. 599.

...

Although detrimental reliance is not a component of judicial estoppel, it may be a relevant consideration. *See* *Davis v. Wakelee*, [156 U.S. 680, 689, 15 S Ct 555, 39 L Ed 578](#) (1895) (party may not assume a contrary position in later judicial proceeding, "especially if it be to the prejudice of the party who has acquiesced in the position formerly taken by him").

*Hampton Tree Farms, Inc. v Jewett*, (1995) 320 Or. 599.

And the U.S. Supreme Court has stated:

**""[W]here a party assumes a certain position in a legal proceeding, and succeeds in maintaining that position, he may not thereafter, simply because his interests have changed, assume a contrary position,**

**especially if it be to the prejudice of the party who has acquiesced in the position formerly taken by him...** This rule, known as judicial estoppel, 'generally prevents a party from prevailing in one phase of a case on an argument and then relying on a contradictory argument to prevail in another phase.' Several factors typically inform the decision whether to apply the doctrine in a particular case: First, a party's later position must be clearly inconsistent with its earlier position. \* \* \*. Second, courts regularly inquire whether the party has succeeded in persuading a court to accept that party's earlier position. A third consideration is whether the party seeking to assert an inconsistent position would derive an unfair advantage or impose an unfair detriment on the opposing party if not estopped. *New Hampshire v. Maine*, 532 U.S. 742, 749, 750-51, 121 S.Ct. 1808, 149 L.Ed.2d 968 (2001 ).