

December-07

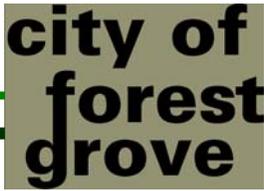
Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
						COUNCIL WS 8am-10am Coffee Hour
2	Planning Comm 7pm CITY COUNCIL WORK SESSION - TBA	Fire Bd 7pm	Water Providers CB 7:00pm			
9	CITY COUNCIL 5:30 PM - WORK SESSION (B&C Interviews) 6:50 PM - TVCTV HOLIDAY GREETING 7:00 PM - REGULAR MEETING COMMUNITY AUDITORIUM	CCI 4pm		PAC 5pm		
16	Planning Comm 7pm CITY COUNCIL WORK SESSION - TBA	EDC Noon Library 7pm	P&R 7am CFC 5:15pm	Fernhill Wetlands 6pm		
<i>Mayor Kidd out</i>						
23	NO CITY COUNCIL REGULAR MEETING	CITY OFFICES CLOSED HOLIDAY	PSAC 7:30am			
<i>Mayor Kidd out</i>						
30						

January-08

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
		CITY OFFICES CLOSED HOLIDAY				COUNCIL WS 8am-10am Coffee Hour
6	Planning Comm 7pm CITY COUNCIL WORK SESSION - TBA	Fire Bd 7pm CCI 4pm		PAC 5pm	B&C Recognition Dinner 6pm Comm Aud	
13	CITY COUNCIL 7:00 PM - REGULAR MEETING COMMUNITY AUDITORIUM	EDC Noon? Library 7pm	P&R 7am CFC 5:15pm		JWC 12pm	
20	CITY OFFICES CLOSED HOLIDAY	Planning Comm 7pm	PSAC 7:30am	Fernhill Wetlands 6pm		
27	CITY COUNCIL 7:00 PM - REGULAR MEETING COMMUNITY AUDITORIUM	HLB 7pm				

February-08

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
						COUNCIL WS 8am-10am Coffee Hour
3	Planning Comm 7pm CITY COUNCIL WORK SESSION - TBA	Fire Bd 7pm				
10	CITY COUNCIL 7:00 PM - REGULAR MEETING COMMUNITY AUDITORIUM	CCI 4pm		PAC 5pm		
17	Planning Comm 7pm CITY COUNCIL WORK SESSION - TBA	EDC Noon? Library 7pm	P&R 7am CFC 5:15pm	Fernhill Wetlands 6pm		
24	CITY COUNCIL 7:00 PM - REGULAR MEETING COMMUNITY AUDITORIUM		PSAC 7:30am			



FOREST GROVE CITY COUNCIL

Monday, December 10, 2007

5:30 PM – Work Session (B&C Interviews)
6:50 PM – TVCTV Council Holiday Greeting
7:00 PM – Regular Meeting

Community Auditorium
1915 Main Street
Forest Grove, OR 97116

Forest Grove City Council Meetings are broadcast by Tualatin Valley Community Television (TVCTV) Government Access Programming. To obtain the monthly programming schedule, please contact TVCTV at 503.629.8534 or call the City Recorder at 503.992.3235.

Thomas L. Johnston
Victoria J. Lowe
Camille Miller

Richard G. Kidd, Mayor

Ronald C. Thompson
Peter B. Truax
Elena Uhing

All meetings of the City Council are open to the public and all persons are permitted to attend any meeting except as otherwise provided by ORS 192. The public may address the Council as follows:

→ Public Hearings – Public hearings are held on each matter required by state law or City policy. Anyone wishing to testify should sign in for any Public Hearing prior to the meeting. The presiding officer will review the complete hearing instructions prior to testimony. The presiding officer will call the individual or group by the name given on the sign in form. When addressing the Council, please use the witness table (center front of the room). Each person should speak clearly into the microphone and must state his or her name and give an address for the record. All testimony is electronically recorded. In the interest of time, Public Hearing testimony is limited to three minutes unless the presiding officer grants an extension. Written or oral testimony is heard prior to any Council action.

→ Citizen Communications – Anyone wishing to address the Council on an issue not on the agenda should sign in for Citizen Communications prior to the meeting. The presiding officer will call the individual or group by the name given on the sign in form. When addressing the Council, please use the witness table (center front of the room). Each person should speak clearly into the microphone and must state his or her name and give an address for the record. All testimony is electronically recorded. In the interest of time, Citizen Communications is limited to two minutes unless the presiding officer grants an extension.

The public may not address items on the agenda unless the item is a public hearing. Routinely, members of the public speak during Citizen Communications and Public Hearings. If you have questions about the agenda or have an issue that you would like to address to the Council, please contact the City Recorder at 503-992-3235.

City Council meetings are handicap accessible. Assistive Listening Devices (ALD) or qualified sign language interpreters are available for persons with impaired hearing or speech. For any special accommodations, please contact the City Recorder at 503-992-3235, at least 48 hours prior to the meeting.

AGENDA

5:30

WORK SESSION: BOARDS, COMMITTEES AND COMMISSIONS INTERVIEWS

The City Council will convene in the Community Auditorium - Conference Room to conduct the above work session. The public is invited to attend and observe the work session; however, no public comment will be taken. The Council will take no formal action during the work session.

6:50

TVCTV - COUNCIL HOLIDAY GREETING

7:00

1. REGULAR MEETING: Roll Call and Pledge of Allegiance

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- 2. **CITIZEN COMMUNICATIONS:** Anyone wishing to speak to Council on an item not on the agenda may be heard at this time. *Please sign-in before the meeting on the Citizen Communications form posted in the foyer.* In the interest of time, please limit comments to two minutes. Thank you.
 - 3. **CONSENT AGENDA:** See Page 4
 - 4. **ADDITIONS/DELETIONS:**
 - 5. **PRESENTATIONS:**
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|--|------|--|-------|--|
| | 7:10 | | 5. A. | Bank Bots, Sid Young
<i>FIRST LEGO League</i> |
|--|------|--|-------|--|
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|----------------------------------|------|--|-------|--|
| Glenn VanBlarcom
Police Chief | 7:20 | | 5. B. | Oregon Research Institute, Anne Kraft
<i>Reducing Youth Access to Alcohol</i> |
|----------------------------------|------|--|-------|--|
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|--|------|--|----|---|
| Janet Lonneker
Light and Power Director | 7:30 | | 6. | <u>PUBLIC HEARING AND RESOLUTION NO. 2007-65 ADOPTING NEW LIGHT AND POWER DEPARTMENT ELECTRIC RATES AND REPEALING RESOLUTION NO. 2005-58</u> |
|--|------|--|----|---|
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|---|------|--|----|---|
| Paul Downey
Administrative Services Director | 7:45 | | 7. | <u>RESOLUTION NO. 2007-66 AUTHORIZING THE ISSUANCE AND SALE OF EDUCATION FACILITY REVENUE BONDS FOR THE EXPANSION OF THE PACIFIC UNIVERSITY COLLEGE OF HEALTH PROFESSIONS (PHASE II)</u> |
|---|------|--|----|---|
 - | | | | | |
|---|------|--|----|--|
| Jon Holan
Community Development Director | 8:00 | | 8. | <u>PUBLIC HEARING AND FIRST READING OF ORDINANCE NO. 2007-21 VACATING WRIGLEY STREET AND SEGMENTS OF 36TH AVENUE, 36TH PLACE AND 37TH AVENUE. APPLICANT: CHURCH OF JESUS CHRIST OF LATTER DAY SAINTS (MARK COTTLE). FILE NO. VAC-07-01</u> |
|---|------|--|----|--|
 - | | | | | |
|---|------|--|----|---|
| Jon Holan
Community Development Director

Kerstin Cathcart
Senior Planner | 8:15 | | 9. | <u>PUBLIC HEARING AND FIRST AND SECOND READING OF ORDINANCE NO. 2007-22 AMENDING CODE SECTION 5.310-5.360, RELATING TO MITIGATING PUBLIC HEALTH AND WELFARE IMPACTS OF FORCED EVICTIONS ASSOCIATED WITH CLOSURE OF MANUFACTURED DWELLING PARKS, DECLARING AN EMERGENCY, AND AMENDING ORDINANCE NO. 2007-09</u> |
|---|------|--|----|---|

Jon Holan Community Development Director Kerstin Cathcart Senior Planner	8:30	10.	<u>PUBLIC HEARING AND FIRST READING OF ORDINANCE NO. 2007-23 ANNEXING CERTAIN TRACTS OF LAND INTO THE CITY LIMITS OF FOREST GROVE AND WITHDRAWING THE TRACTS FROM WASHINGTON COUNTY ENHANCED LAW ENFORCEMENT DISTRICT, WASHINGTON COUNTY URBAN ROADS MAINTENANCE DISTRICT, AND THE FOREST GROVE RURAL FIRE PROTECTION DISTRICT. THE TERRITORY TO BE ANNEXED CONSISTS OF 2.82 ACRES, LOCATED AT 2741 JUNIPER STREET. WASHINGTON COUNTY TAX LOT MAP NO. 1N3 3100-1005. PETITIONERS: DARREN AND PATTY PANG, PROPERTY OWNERS, AND PAM DANZER, APPLICANT. FILE NO. ANX-07-02</u>
Jon Holan Community Development Director	8:45	11.	<u>CONTINUED FROM THE MEETING OF NOVEMBER 26, 2007: SECOND READING OF ORDINANCE NO. 2007-15 ADOPTING TEXT AMENDMENTS TO THE COMPREHENSIVE PLAN, MUNICIPAL CODE, AND ZONE AND LAND DIVISION ORDINANCES TO COMPLY WITH METRO'S NATURE IN NEIGHBORHOOD FUNCTIONAL PLAN REQUIREMENTS (OTHERWISE REFERRED TO AS GOAL 5). FILE NO. CPA-06-03, FILE NO. ZA-06-03; AND FILE NO. LDO-06-02</u>
Rob Foster Public Works Director Derek Robbins Civil Engineer	9:00	12.	<u>CONTINUED FROM THE MEETING OF NOVEMBER 26, 2007: RESOLUTION NO. 2007-64 FIXING WATER SYSTEM DEVELOPMENT CHARGES FOR THE CITY OF FOREST GROVE, ADOPTING THE METHODOLOGY STUDY, AND REPEALING RESOLUTION NO. 2006-38</u>
Paul Downey Administrative Services Director	9:10	13.	<u>RESOLUTION NO. 2007-67 REINSTATING GENERAL FUND POSITIONS ELIMINATED IN THE FISCAL YEAR 2007-08 ADOPTED BUDGET</u>
Michael Sykes City Manager	9:20	14.	<u>CITY MANAGER'S REPORT:</u> <ul style="list-style-type: none"> - Review Wastewater System Master Plan - Review Storm Drainage Master Plan
	9:30	15.	<u>COUNCIL COMMUNICATIONS:</u> <ul style="list-style-type: none"> - Council Deliberation on Appointments for Various Boards, Committees and Commissions
	10:00	16.	<u>ADJOURNMENT</u>

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3. **CONSENT AGENDA:** Items under the Consent Agenda are considered routine and will be adopted with a single motion, without separate discussion. Council members who wish to remove an item from the Consent Agenda may do so prior to the motion to approve the item(s). Any item(s) removed from the Consent Agenda will be discussed and acted upon following the approval of the Consent Agenda item(s).
- A. Approve City Council Work Session (Sewer and Storm Master Plan) Meeting Minutes of November 26, 2007.
 - B. Approve City Council Regular Meeting Minutes of November 26, 2007.
 - C. Accept Historic Landmarks Board Meeting Minutes of October 23, 2007.
 - D. Accept Community Development Department Monthly Building Activity Informational Report for November 2007.
 - E. Accept Abstract of Votes for Forest Grove Measure 34-147 Public Safety/Community Services Levy Relating to the Election held November 6, 2007.
 - F. Endorse Liquor License Applications:
 - Change in Application for Cost Mart, 1905 Birch Street (Applicant: KugJoo Kim).
 - Change in Applicant for Forest Grove Food Market, LLC (DBA: David Ok Market), 2248 Main Street (Applicant: Jiah Pack).
 - Change in Application for Half Moon Sports Bar, 1924 Main Street (Applicant: Ming Yu Chen).
 - New Application for Latinos Forest Grove Mini Mart, 1916 21st Avenue (Applicant: Dennys Guzman).

WORK SESSION

TO: Mayor Kidd and City Councilors

PROJECT TEAM: Anna D. Ruggles, CMC, City Recorder
Michael Sykes, City Manager

DATE: December 10, 2007

SUBJECT: Interviews for Vacancies on Various Boards,
Committees, and Commissions

Attached you will find the following items for the Citizen Advisory Boards, Committees, and Commissions interviews that are scheduled for December 10, 2007.

- Boards, Committees and Commissions Applicant List and Number of Vacancies.
Note: The vacancies available are after re-appointment of the applicants who expressed interest in seeking re-appointment.
- Possible Interview Questions; and
- Applications

RECOMMENDATION: Conduct interview of the applicants who expressed interest in serving on various Boards, Committees and Commissions. At the end of the Work Session, Council is scheduled to return to the Community Auditorium to continue the regular meeting and conduct its deliberations of the applicants under Council Communications. Additionally, staff recommends re-appointing the commissioners who expressed interest in seeking re-appointment. Resolutions making formal appointment(s) will be presented for Council consideration at the next regular Council meeting.

**Boards, Committees and Commissions
2007 Applicant List and Number of Vacancies**

Interview Time	Applicant Name		Budget	CCI	CFC	EDC	HLB	Library	P&R	Planning	PAC	PSAC
			1 vacancy	2 vacancies	1 vacancy	0 vacancies	0 vacancies	1 vacancy	1-Vacancy At-Large	0 vacancy	1 vacancy At-Large	0 vacancies
			All members must live in City		Three members may live outside City - Currently four	19 Members 6 Public & Non-Profit 12 Business 1 At-Large	Two members may live outside City - Currently none	0	1 member each district; two may live outside City - Currently one	One member in real estate - Currently one; Two members same occup - Currently none; Two members may live outside City - Currently one	3 At Large; 1 Senior Rep. Rep. Pacific, Sch. Dist. Chamber, Theater In Grove, Valley Art Assoc	2 members may live within Rural Fire District - Currently two
5:30 PM	Arvin	Andrew						X				
5:40 PM	Taylor	Linda									X	
5:50 PM	Garrison	Drue										X
6:00 PM	Pero	David		X								
6:10 PM	Sandusky	Chère	3rd							1st		2nd
6:20 PM	Savage	Aaron	1st	1st	2nd	1st	3rd	2nd	2nd	1st	3rd	2nd
6:30 PM	Smoland	Dayla						X				
6:40 PM	Vasquez	Stephanie	2nd			3rd			4th	1st		
Seeking reappointment - DO NOT REQUIRE INTERVIEW												
Reappt to:	Last	First	Appt/Elected	Term Exp	Term		Served	Attendance				
Budget	Hasiem	Aaron	Jan-05	Dec-07	3 yr		1 term					
CCI	Nigbor	Edward	May-06	Dec-07	4 yr		1-1/2 yrs					
CCI	Pena	Jolynne	Apr-05	Dec-07	4 yr		3 yrs		Library 2nd preference			
CFC	Beall	Stephanie	Jan-05	Dec-07	3 yr		1 term					
CFC	Nakajima	Mark	Jul-92	Dec-07	3 yr		5 terms	75%	Interviewed in 2004			
CFC	Wiley	Dale	Feb-06	Dec-07	3 yr		2 yrs	100%				
Library	Eller	Anita	Jan-07	Dec-07	2 yr		1 yr	90%				
Library	Shephard	Karen	Aug-06	Dec-07	2 yr		1-1/2 yrs					
Library	Smith	Deborah	Jan-06	Dec-07	2 yr		1 term					
P&R	Johnson	Quinn	Jan-07	Dec-07	4 yr		1 yr	90%				
P&R	Kover	Dick	Jul-00	Dec-07	4 yr		1-1/2 terms		Interviewed in 2003			
Planning	Beck	Thomas	Nov-00	Dec-07	4yr		1-1/2 terms	95%	Interviewed in 2003			
Planning	McIntyre	Cindy	May-05	Dec-07	4 yr		2-1/2 yrs	100%				
PAC	Alderson	Julie	Feb-06	Dec-07	3 yr		2 yrs					
PAC	Schmitz-Thursam	Patty	Feb-06	Dec-07	3 yr		2 yrs	90%				

2007 – BOARDS, COMMITTEES & COMMISSIONS VACANCIES

COMMISSION	REQUIREMENTS	# VACANCIES	TERM EXPIRES
BUDGET	7-Members 3-Year Term All members must live in City per ORS	1 – Vacancy	12/31/10
COMMITTEE FOR CITIZEN INVOLVEMENT	7-Members 4-Year Term	1 – Vacancy 1 – Vacancy	12/31/11 12/31/11
COMMUNITY FORESTRY COMMISSION	7-Members 3-Year Term Three members may live outside City – Currently four	1 – Vacancy	12/31/09
ECONOMIC DEVELOPMENT COMMISSION	19-Members 3-Year Term 6 Public & Non-Profit 12 Business 1 At-Large		
HISTORIC LANDMARKS BOARD	7-Members 4-Year Term Two members may live outside City – Currently none		
LIBRARY	7-Members 2-Year Term	1 Vacancy	12/31/09
PARKS & RECREATION COMMISSION	9-Members 4-Year Term Two members may live outside City – Currently one	1 At-Large Vacancy	12/31/10
PLANNING COMMISSION	7-Members 4-Year Term Two members may live outside City – Currently one One member in real estate for profit – Currently one Two members same trade/occupation – Currently none		
PUBLIC ARTS COMMISSION	9-Members 3-Year Term Three At-Large Voting reps Chamber; School Dist; Pacific University; Senior Center; Theater In The Grove; and Valley Art	1 At-Large Vacancy	12/31/10
PUBLIC SAFETY ADVISORY COMMISSION	7-Members 4-Year Term Two members within Rural Fire Dist – Currently two Non-voting reps Rural Fire Dist; Chamber; School Dist; and Pacific University		

Citizens Advisory Boards, Committees, and Commissions

Budget Committee: Reviews the City's proposed budget annually; brings the citizen perspective on prioritizing how dollars are spent. Staff liaisons: Finance Director and City Manager. The Budget Committee is governed by Local Budget Law (ORS 294.336-341). The Budget Commission consists of 14 members; seven members of the Council and an equal number of qualified electors of the City. All members must reside within the City limits. Budget Committee meets three or four times annually as needed for the upcoming fiscal year. (3-Year Term)

Committee for Citizen Involvement (CCI): Advises the City Council on ways to include people in planning Forest Grove's future; emphasis on communication and land use. Staff liaison: Community Development Director. The Committee for Citizen Involvement consists of seven members. The Committee develops and implements City programs to involve citizens in the land use planning process. Some of the significant responsibilities include: 1) Provide citizen access and opportunity to be involved in the land use process; 2) Achieve two-way communication between citizens and policy makers; and 3) Conduct the Annual Town Meeting. The Committee meets the second Tuesday of each month at 4:00 p.m. in the Community Auditorium - Conference Room. (4-Year Term)

Community Forestry Commission (CFC): Advises and makes recommendations to the City Council on economic development policy and issues and to support advancing the community and prosperity of Forest Grove. Staff liaison: Community Development Director. The Community Forestry Commission consist of seven members: two members may reside outside the City limits. The members are selected from organizations, interest groups, and people with expertise in growing, planting and maintenance of trees. Some of the significant responsibilities are to: 1) Promote and protect trees and their benefits; and 2) Make funding recommendations for the Tree Management Program. The Committee meets the third Wednesday of each month at 5:15 p.m. in the Community Auditorium - Conference Room. (3-Year Term)

***NEWLY CREATED* – ECONOMIC DEVELOPMENT COMMISSION (EDC):** Advises and makes recommendations to City Council on economic development policy and issues and to support advancing the community and prosperity of Forest Grove. Staff liaison: Economic Development Coordinator. The Economic Development Commission consists of nineteen members. The members are selected from public and non-profit entities, private businesses, and one person at large. Once the Commission is established, the Commission will set its meeting schedule. (3-Year Term)

Historic Landmarks Board (HLB): Advises City Council on preservation of historic landmarks. Staff liaison: Community Development Director. The Historic Landmarks Board consist of seven members: two members may reside outside the City limits, but must demonstrate an active interest in Forest Grove and reside within a reasonable distance of the City. The Historic Landmarks Board is responsible for duties relating to the preservation and inventory of the City's historical and cultural resources. Some of the significant duties include: 1) Public education; 2) Advising Council and other boards on preservation; 3) Recommending historical designations on various properties or resources; and 4) Making recommendations on programs to preserve historical resources. The Board meets the fourth Tuesday of each month at 7:00 p.m. in the Community Auditorium – Conference Room. (4-Year Term)

Library Commission: Advises City Council on library programs, policies, and practices. Staff liaison: Library Director. The Library Commission consists of seven members. The Commission meets the third Tuesday of each month at 7:00 p.m. in the Library – Conference Room. (2-Year Term)

Parks & Recreation Commission (P&R): Advises City Council on park and recreation programs, planning and facility development. Staff liaison: Parks and Recreation Director. The Parks & Recreation Commission consists of nine members: one member from each of the five areas of the City (NNW, NW, NE, SW, SE); one member from the School Board; and three members chosen at large. Two members may reside outside the City limits. The Commission meets the third Wednesday of each month at 7:00 a.m. in the Parks Shop. (4-Year Term)

Planning Commission: Participates in the development of community plans; holds hearings; interprets state and local laws and codes related to community development plans for regulations of future growth. Staff liaison: Community Development Director. The Planning Commission consists of seven members: two members may reside outside the City limits; one member may engage in real estate; and two may engage in the same kind of occupation, business, trade, or profession. The Commission meets the first and third Mondays of each month at 7:00 p.m. in the Community Auditorium. (4-Year Term)

Public Arts Commission (PAC): Advises the City Council and make recommendations regarding policies and programs that would enhance and encourage the planning, placement and maintenance of public displays of art in locations open to the public within the community. Staff liaison: Library Director and Parks and Recreation Director. The Public Arts Commission consists of nine members: three members at large, a senior community member, and a member from Pacific University, Forest Grove School District, Chamber of Commerce, Theatre In The Grove, and Valley Art Association. The Public Arts Commission meets the second Thursday of each month at 5:00 p.m. in the Community Auditorium. (3-year Term)

Public Safety Advisory Commission (PSAC): Advises City Council and makes recommendations regarding public safety, service levels, fiscal budgetary impacts, and sustain safe and livable neighborhoods. Staff liaison: Fire Chief and Police Chief. The Public Safety Advisory Commission consists of seven members: two members may reside within the Rural Fire District. The Public Safety Advisory Commission meets fourth Wednesday of each month at 7:30 a.m. in the Fire Station Training Room. (4-year Term)

3A

**FOREST GROVE CITY COUNCIL WORK SESSION
(SANITARY SEWER AND STORM DRAINAGE MASTER PLAN UPDATE)
NOVEMBER 26, 2007 – 6:00 P.M.
COMMUNITY AUDITORIUM
PAGE 1**

Minutes are unofficial until approved by the Council.

1. ROLL CALL

Mayor Richard Kidd called the Work Session to order at 6:00 p.m. **ROLL CALL:**
COUNCIL PRESENT: Thomas Johnston, Victoria Lowe, Camille Miller, Ronald Thompson, Peter Truax (arrived at 6:07 p.m.), Elena Uhing, and Mayor Kidd.
STAFF PRESENT: Michael Sykes, City Manager; Pam Beery, City Attorney (arrived at 6:07 p.m.); Paul Downey, Administrative Services Director; Susan Cole, Assistant Finance Director; Jon Holan, Community Development Director; Derek Robbins, Civil Engineer; and Anna Ruggles, City Recorder.

2. SANITARY SEWER AND STORM DRAINAGE MASTER PLAN UPDATE:

Robbins facilitated the work session, noting the purpose of the work session was to review the Executive Summary of the findings and recommendations of the Sanitary Sewer and Storm Drainage Master Plan update, noting the Master Plan is an update to the previous 1989 Master Plan. Robbins introduced Kennedy/Jenks Consultants who the City contracted to evaluate the City's wastewater collection system and update the 1989 Master Plan. Kennedy/Jenks Consultants presented an Executive Summary of the findings and recommendations of the Sanitary Sewer and Storm Drainage Master Plan and reported on the study area and population; flow projections based on land use analysis, city-wide zoning, specific diurnal curves defined per land usage and population projections based on regional forecasts; current conveyance system conditions and future system requirements. Kennedy/Jenks Consultants reported 16 capital improvement projects have been identified based on current and future needs of the City (Table 1.1 Capital Improvement Projects Summary Sheet). Kennedy/Jenks Consultants presented a map showing the location of the capital improvement projects and areas within the current Urban Growth Boundary (UGB), noting the UGB areas currently do not provide coverage to future development sites and would need truck extensions connecting to existing service lines depending on future developments.

Council Discussion:

Mayor Kidd opened the floor and roundtable discussion ensued pertaining to the map study area; new development overloading the existing systems capacity; future system requirements; increasing flow capacity; concerns along areas that commonly flood due to rainwater; monitoring Beal pond; UGB trunk expansions; and prioritizing the capital improvement projects identified in Table 1.1 (Capital Improvement Projects Summary Sheet) with particular focus on the City's current needs.

In conclusion of the above discussion, Council collectively agreed to ask staff to

**FOREST GROVE CITY COUNCIL WORK SESSION
(SANITARY SEWER AND STORM DRAINAGE MASTER PLAN UPDATE)
NOVEMBER 26, 2007 – 6:00 P.M.
COMMUNITY AUDITORIUM
PAGE 2**

prioritizing the capital improvement projects identified in Table 1.1 (Capital Improvement Projects Summary Sheet) with particular focus on the City's current needs. Robbins advised that staff would bring back the Sanitary Sewer and Storm Drainage Master Plan with projects prioritized for Council consideration at a later date.

Council took no formal action nor made any formal decisions during the work session.

3. ADJOURNMENT

Mayor Kidd adjourned the work session at 7:05 p.m.

Respectfully submitted,

Anna D. Ruggles, CMC, City Recorder

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**FOREST GROVE CITY COUNCIL REGULAR MEETING
NOVEMBER 26, 2007 – 7:00 P.M.
COMMUNITY AUDITORIUM
PAGE 1**

Minutes are unofficial until approved by Council.

1. ROLL CALL:

Mayor Richard Kidd called the regular City Council meeting to order at 7:10 p.m. and led the Pledge of Allegiance. **ROLL CALL: COUNCIL PRESENT:** Thomas Johnston, Victoria Lowe, Camille Miller, Ronald Thompson, Peter Truax, Elena Uhing, and Mayor Kidd. **STAFF PRESENT:** Michael Sykes, City Manager; Pam Beery, City Attorney; Paul Downey, Administrative Services Director; Susan Cole, Assistant Finance Director; Jon Holan, Community Development Director; Derek Robbins, Civil Engineer; and Anna Ruggles, City Recorder.

2. CITIZEN COMMUNICATIONS: None.

3. CONSENT AGENDA: Items under the Consent Agenda are considered routine and will be adopted with a single motion, without separate discussion. Council members who wish to remove an item from the Consent Agenda may do so prior to the motion to approve the item(s). Any item(s) removed from the Consent Agenda will be discussed and acted upon following the approval of the Consent Agenda item(s).

- A. Approve City Council Work Session (Council Meetings for 2008) Meeting Minutes of November 13, 2007.
- B. Approve City Council Executive Session (Exempt Records) Meeting Minutes of November 13, 2007.
- C. Approve City Council Regular Meeting Minutes of November 13, 2007.
- D. Accept Planning Commission Meetings Minutes of September 4 and September 17, 2007.
- E. Fire Department Monthly Statistics Report for October 2007.
- F. Library Department Circulation Statistics Report for November 2007.
- G. Endorse Liquor License Application (Change in Application) for Montgomery's, 2004 Main Street (Applicant: Sally Montgomery).

MOTION: Councilor Truax moved, seconded by Councilor Lowe, to approve the Consent Agenda as presented. MOTION CARRIED 7-0 by voice vote.

**FOREST GROVE CITY COUNCIL REGULAR MEETING
NOVEMBER 26, 2007 – 7:00 P.M.
COMMUNITY AUDITORIUM
PAGE 2**

4. ADDITIONS/DELETIONS:

Sykes added Agenda Item 4. A. Periodic Review - Plan Evaluation.

4. A. PERIODIC REVIEW - PLAN EVALUATION

Holan reported the Plan Evaluation is the first step in the Periodic Review process, noting staff is asking for a motion from Council to support staff's finding to proceed with the Periodic Review based on the Evaluation analysis presented to the Council and Planning Commission at its joint Public Hearing held on November 19, 2007. Holan noted the Planning Commission adopted its motion at the hearing of November 19, 2007. Holan advised the reason for the request is to demonstration to the Department of Land Conservation and Development that a Public Hearing was held and the City has taken initial action, noting Council will be asked to consider taking final action in April, 2008.

Before proceeding with Council discussion, Mayor Kidd asked for a motion supporting staff's finding to proceed with the Periodic Review - Plan Evaluation.

MOTION: Councilor Truax moved, seconded by Councilor Johnston, to support staff's finding to proceed with the Periodic Review based on the Evaluation analysis presented at the Public Hearing held on November 19, 2007.

Council Discussion:

Truax advised he suggested at the joint Public Hearing held on November 19, 2007, that Council consider making its motion at a regular Council meeting instead of at the joint hearing.

Hearing no further discussion from the Council, Mayor Kidd asked for a roll call vote on the above motion.

ROLL CALL VOTE: AYES: Councilors Johnston, Lowe, Miller, Thompson, Truax, Uhing, and Mayor Kidd. NOES: None. MOTION CARRIED 7-0.

5. PUBLIC HEARING AND RESOLUTION NO. 2007-64 FIXING WATER SYSTEM DEVELOPMENT CHARGES FOR THE CITY OF FOREST GROVE AND REPEALING RESOLUTION NO. 2006-38, SECTION II

**FOREST GROVE CITY COUNCIL REGULAR MEETING
NOVEMBER 26, 2007 – 7:00 P.M.
COMMUNITY AUDITORIUM
PAGE 3**

Robbins, Cole, and Downey, presented the above-proposed resolution proposing to increase the Water System Development Charges (SDC) to \$4,000 (3/4" or smaller) based on capital improvement project costs and timing. Robbins, Cole, and Downey reported after reviewing the Water SDC methodology study and the 59 identified capital improvement projects over the next 20 years, staff prioritized the projects with particular focus on projects that would be occurring within the next three or four years. Cole advised that staff is recommending scaling back or delaying capital improvement projects and instead implementing a project phased approach to increasing Water SDC over a period of time with the next project phased increase occurring in 2010.

Robbins introduced the Financial Consulting Solutions Group (FSC Group) consultant who the City contracted to analyze the City's current Water SDC against the City's capital improvement project needs over the next 20 years. FSC Group presented a PowerPoint presentation outlining an Executive Summary of the Water SDC methodology used to determine the Water SDC based on the 20-year capital improvement projects, noting the study determined that an increase of 100 percent (100%) would be required to meet all the 20-year capital improvement projects that were identified in the study. FSC Group reported the methodology study is proposing a Water SDC of \$6,262 (3/4" or smaller) based on the 59 capital improvement projects that are identified in the study.

Before proceeding with the Public Hearing and Council discussion, Mayor Kidd asked for a motion to adopt Resolution No. 2007-64.

Beery read Resolution No. 2007-64 by title.

MOTION: Councilor Uhing moved, seconded by Councilor Lowe, to adopt Resolution No. 2007-64 Fixing Water System Development Charges for the City of Forest Grove and Repealing Resolution No. 2006-38, Section II.

Public Hearing Opened:

Mayor Kidd opened the Public Hearing.

Proponents:

**FOREST GROVE CITY COUNCIL REGULAR MEETING
NOVEMBER 26, 2007 – 7:00 P.M.
COMMUNITY AUDITORIUM
PAGE 4**

No one wished to testify and no written comments were received.

Opponents:

No one wished to testify and no written comments were received.

Public Hearing Closed:

Mayor Kidd closed the Public Hearing.

Council Discussion:

Mayor Kidd opened the floor and roundtable discussion ensued pertaining to issuing Water SDC credits, assessing Water SDC based on geographic areas or districts, future development activity, prioritizing future capital improvement projects, assessing Water SDC based on other cities Water SDC, and adopting the FCS Group methodology study used to calculate the Water SDC in order to implement a project phased approach cost increase over a period of time.

In the conclusion of the above discussion, Council collectively agreed supporting staff's recommendation to increase Water SDC to \$4,000 (3/4" or smaller) and implementing a Water SDC project phased approach cost increase over a period of time.

Upon consulting with Beery and staff, Council asked staff to amend Resolution No. 2007-64 to add language to adopt the FCS Group methodology study; review assessing a special district Water SDC for properties over the hilltop water supply; and prioritize/identify capital improvement projects based on the proposed fee.

Robbins advised that staff would amend Resolution No. 2007-64 as requested by Council and bring back for Council consideration at the next Council meeting of December 10, 2007.

6. SECOND READING OF ORDINANCE NO. 2007-19 TO ADOPT PROVISIONS TO ALLOW FOR RAINWATER HARVESTING IN PLUMBING IMPROVEMENTS, AMENDING FOREST GROVE CODE BY ADDING SECTION 8.700 RELATING TO RAINWATER HARVESTING SYSTEMS

The first reading of Ordinance No. 2007-19 by title and motion to adopt

**FOREST GROVE CITY COUNCIL REGULAR MEETING
NOVEMBER 26, 2007 – 7:00 P.M.
COMMUNITY AUDITORIUM
PAGE 5**

occurred at the meeting of November 13, 2007.

Staff Report:

Holan had nothing further to report.

Council Discussion:

Hearing no discussion from the Council, Mayor Kidd asked for a roll call vote on the motion made at the meeting of November 13, 2007.

Beery read Ordinance No. 2007-19 by title for second reading.

ROLL CALL VOTE: AYES: Councilors Johnston, Lowe, Miller, Thompson, Truax, Uhing, and Mayor Kidd. NOES: None. MOTION CARRIED 7-0.

7. SECOND READING OF ORDINANCE NO. 2007-20 RENAMING ELM LOOP TO ELM DRIVE AND GREEN COURT (CHANTEL HAMLET DEVELOPMENT)

The first reading of Ordinance No. 2007-20 by title and motion to adopt occurred at the meeting of November 13, 2007.

Staff Report:

Holan had nothing further to report.

Council Discussion:

Hearing no discussion from the Council, Mayor Kidd asked for a roll call vote on the motion made at the meeting of November 13, 2007.

Beery read Ordinance No. 2007-20 by title for second reading.

ROLL CALL VOTE: AYES: Councilors Johnston, Lowe, Miller, Thompson, Truax, Uhing, and Mayor Kidd. NOES: None. MOTION CARRIED 7-0.

8. SECOND READING OF ORDINANCE NO. 2007-15 ADOPTING TEXT AMENDMENTS TO THE COMPREHENSIVE PLAN, MUNICIPAL CODE, AND ZONE AND LAND DIVISION ORDINANCES TO COMPLY WITH METRO'S NATURE IN NEIGHBORHOOD FUNCTIONAL PLAN REQUIREMENTS (OTHERWISE REFERRED TO AS GOAL 5). FILE NO. CPA-06-03, FILE NO. ZA-06-03; AND FILE NO. LDO-06-02

**FOREST GROVE CITY COUNCIL REGULAR MEETING
NOVEMBER 26, 2007 – 7:00 P.M.
COMMUNITY AUDITORIUM
PAGE 6**

The first reading of Ordinance No. 2007-15 by title and motion to adopt occurred at the meeting of November 13, 2007.

Staff Report:

Holan reported at the last Council meeting of November 13, 2007, Council requested that the proposed amendments allow for certain residential subdivisions to be reviewed by the Planning Commission and asked staff to provide the number of parcels located within a Natural Resource Area (NRA). Holan presented a map showing the NRA, a spreadsheet listing the Goal 5 property analysis, and a list of subdivisions since 2004. Holan presented a revised Exhibit A to Ordinance No. 2007-15 adding language to the proposed amendment requiring referral to the Planning Commission. Holan advised that the amendments recommend that subdivisions of more than 20 lots with 20 percent (20%) NRA coverage or subdivisions between four and 20 lots with a NRA coverage of 30 percent (30%) or greater be reviewed by the Planning Commission, noting this proposed threshold captures 11 parcels identified in staff's analysis.

Council Discussion:

Mayor Kidd opened the floor and roundtable discussion ensued pertaining to properties located within a NRA and the size and percentage of the projects warranting Planning Commission review.

In conclusion of the above discussion, Council collectively agreed they needed additional review time before considering adopting the revised Exhibit A and agreed postponing the second reading of Ordinance No. 2007-15 until the next Council meeting of December 10, 2007.

Johnston indicated he had concerns with the roadway widths outlined on Page 8 of Exhibit A, noting he would pose his concerns at the next Council meeting of December 10, 2007.

9. QUARTERLY FINANCIAL REPORT FOR PERIOD ENDING SEPTEMBER 30, 2007

Downey presented the quarterly financial report ending September 30, 2007. Downey reported most revenues and expenditures are being received and/or spent as expected, noting the audit for Fiscal Year 2006-07 has not been finalized so the Fund Balance Available for Appropriation revenue line item

**FOREST GROVE CITY COUNCIL REGULAR MEETING
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COMMUNITY AUDITORIUM
PAGE 7**

in each fund could change as a result of audit adjustments. Downey noted the new accounting software provides detailed summary reports by department showing line item revenues and expenditures. In addition, Downey responded to inquiries pertaining to Workers' Compensation, fuel/oil expenditures, vehicle purchases, and personnel uniforms.

10. CITY MANAGER'S REPORT:

Sykes reported on upcoming events as noted in the Council calendar and reported on other various upcoming local meetings and events. Sykes advised Council that the Public Safety Advisory Commission (PSAC) would like to host a joint work session with Council on January 23, 2007. In response, Council welcomed the invitation; however, Council asked Sykes to try to schedule a later time than 7:30 am.

Requesting to Amend Intergovernmental Agreement Between Forest Grove School District and City of Forest Grove to Collect and Remit Construction Excise Tax:

Sykes reported the Forest Grove School District is requesting to amend the current Intergovernmental Agreement (IGA) between the District and City to collect and remit a Construction Excise Tax (CET), noting the District would like to add a clause to the IGA so the City will not issue a building permit if the CET is not paid at the time the permit is issued and a clause holding the City harmless against any legal actions.

Council Discussion:

Mayor Kidd opened the floor and roundtable discussion ensued pertaining to School District's request and if the City had authority to deny a building permit for failure to pay the CET. In response to Council inquiries, Beery advised that the City does not have Code authority to deny a building permit for failure to pay the CET and the City would still need to defend itself against any legal actions. In conclusion of the above discussion, Council collectively agreed to deny the District's request at this time and asked Beery to review the current IGA to ensure the City is comply with State law.

11. COUNCIL COMMUNICATIONS:

Johnston reported he plans to attend the upcoming Public Safety Advisory Commission meeting. Johnston suggested holding a joint meeting with Washington County and City Planning Commissioners and Washington County

**FOREST GROVE CITY COUNCIL REGULAR MEETING
NOVEMBER 26, 2007 – 7:00 P.M.
COMMUNITY AUDITORIUM
PAGE 8**

and City elected officials to discuss matters relating to western Washington County. In response to Johnston's inquiry pertaining to status of installing a crosswalk at Pacific Avenue at the location of the new Charter School, Sykes advised he has referred the matter to staff and the Traffic Review Board for consideration.

Lowe reported on various upcoming meetings she was planning to attend.

Miller reported on a Community Development Block Grant sidewalk project.

Thompson reported on the Community Forestry Commission meeting, noting the Commission is asking Washington County to comply with the vegetation specifications cited in the Sunset Drive contract.

Truax provided a status report on the Library Department survey and reported the Library plans to resume hours of operation after the Library's hiring process is completed.

Uhing reported on the Economic Development Commission meeting, noting the Commission reviewed a draft copy of its bylaws and mission.

Mayor Kidd reported on various Metro and Washington County meetings and tours he attended and upcoming meetings and events he was planning to attend. Mayor Kidd suggested the City sponsor a "Community-wide Shred Day" in effort to help stop identity theft and help citizens and business owners dispose of documents. In conclusion, Mayor Kidd recognized State Representative Chuck Riley who was present in the audience and spoke on various legislative matters.

12. ADJOURNMENT:

Mayor Kidd adjourned the meeting at 9:25 p.m.

Respectfully submitted,

Anna D. Ruggles, CMC, City Recorder

30
APPROVED

Members Present: George Cushing, Cindy Kistler, Neil Poulsen Jon Stagnitti, Margie Waltz-Actor
Members Excused: Claude Romig
Members Absent: Kevin Kamberg
Staff Present: James Reitz
Council Liaison: Elena Uhing
Citizens Present: -0-

1. **Call to Order:** The meeting was called to order at 7:04 pm. **The September 25, 2007 meeting minutes were approved as submitted.**

2. **Citizen Communication:** None.

3. **Action Items/Discussion:**

- **Southside District:** Reitz reported that Kim Fitzgerald could not attend the meeting, but would be at the November meeting.
- **Newsletter:** Cushing had already submitted his article about shingle and shake roofs. Stagnitti discussed an idea he has for an article on the effect of the depression on Forest Grove housing. Reitz will check with Romig to see if he had enough articles for this issue. Stagnitti said if not he could possibly come up with something.
- **Clark District Design Guidelines:** Poulsen discussed his efforts to revamp the guidelines to take out some of the redundancy. The various categories of guidelines were discussed including issues of colors. Again we tried to get a good understanding of the differences between design review and guidelines. We also discussed issues relating to whether the guidelines should ever become rules and what the steps involved would be. A decision was made to have Poulsen send out a final revised document and that we would discuss a portion at the next meeting.
- **Farmers Market:** The consensus was that success wasn't as great as desired in that not many people stopped by the booth. Still, the decision was made to try again next year, but we need a hook to get people to stop and talk to us. Uhing suggested we get a grant to acquire a banner and possibly even have a professional make a picture board for us of some of the renovation grant projects.

4. **Old Business/New Business:**

- **Council Liaison Update:** Uhing presented a new brochure promoting Forest Grove to businesses interested in moving here. At a recent seminar she attended she learned about clustering business to promote locating related businesses in the same area and the advantages of doing so. She also advised that door knockers for the City levy were noticing a real difference of involvement with Forest Grove depending on areas of town: residents in newer neighborhoods were generally not as aware of the levy's importance. She also noted that the Rau property was approved for construction of a new subdivision (Gales Creek Terrace), as was the infill project proposed on Gales Way (Smith's Orchard).
- **A. T. Smith House:** Kistler and Waltz-Actor had no new information to share.
- **Holbrook Lodge:** Reitz reported that Don Anderson had met with the building official and community development director to discuss options, but as yet no decision had been made.

- **Staff Update:** Reitz advised the Khoury (Fortner House) porch project had been completed. Stagnitti added that the project was more extensive than planned and felt that the Khourys had an easier decision to proceed with the extra work because of the help provided by the renovation grant.
- **Holiday Meeting Schedule:** It was decided to have the December meeting on the 18th instead of the 25th. Waltz-Actor offered to host with delicious cookies.

5. Adjournment: The meeting adjourned at 8:26 pm.

These minutes respectfully submitted by George Cushing, Secretary

MONTHLY BUILDING ACTIVITY REPORT

3D

NOVEMBER
2007 - 2008

	November Zero-Six		November Zero-Seven	
	# Of Permits	Value	# Of Permits	Value
Man. Home Setup		N/A		N/A
Single-Family-New			2	633,283.21
SFR Addition & Alt/Repair	4	107,449.60	3	13,600.00
Multiple-Family-New/Alt				
Group Care Facility				
Commercial New	1	50,000.00	1	10,000,000.00 (P/U new student housing)
Commercial Addition	2	4,430.00		
Commercial Alt/Repair			1	16,000.00
Industrial New				
Industrial Addition				
Industrial Alt/Repair	1	1,625.00	2	22,250.00
Gov/Pub./Inst. (new/add)				
Signs & Grading	1	500.00 (sign)	1	950.00 (sign)
Demolitions	1	SFR		
Total	10	\$164,004.60	10	\$10,686,083.21

FISCAL YEAR, TOTAL TO DATE

2006-2007		2007-2008	
Permits:	106	Permits:	104
Value:	\$9,342,243.45	Value:	\$20,926,464.56



WASHINGTON COUNTY
OREGON

3E

November 21, 2007

Administrative Office
City of Forest Grove
PO Box 326
Forest Grove OR 97116

Enclosed you will find a copy of the Abstract of Votes for City of Forest Grove relating to the election held on November 6, 2007. In accordance with ORS 255.295, please canvass the votes and notify the Washington County Elections Division within thirty (30) days of receipt by signing and returning the bottom portion of this letter to:

Washington County Elections Division
3700 SW Murray Blvd. Suite 101
Beaverton OR 97005

Thank you very much.

Sincerely,

Mickie Kawai
Elections Manager

MK/jd

I have canvassed the votes for City of Forest Grove, relating to the election on November 6, 2007. By signing this canvass letter, I concur with the final results.

AUTHORIZING SIGNATURE

DATE

SUMMARY REPORT

Washington County
 Special Election
 November 6, 2007

Run Date: 11/20/07 02:25 PM

VOTES PERCENT

PRECINCTS COUNTED (OF 157)	157	100.00
REGISTERED VOTERS - TOTAL	242,891	
BALLOTS CAST - TOTAL	139,147	
BALLOTS CAST - BLANK	52	.04
VOTER TURNOUT - TOTAL		57.29
VOTER TURNOUT - BLANK		.02

City of Tigard Councilor

Vote For 1		
Roger Potthoff	3,502	34.89
Nicholas Wilson	6,246	62.24
WRITE-IN	288	2.87
Over Votes	6	
Under Votes	3,686	

State of Oregon Measure 49

Vote For 1		
Yes	93,603	67.69
No.	44,686	32.31
Over Votes	14	
Under Votes	844	

State of Oregon Measure 50

Vote For 1		
Yes	64,081	46.29
No.	74,352	53.71
Over Votes	23	
Under Votes	691	

City of Lake Oswego Measure 3-269

Vote For 1		
Yes	0	
No.	2	100.00
Over Votes	0	
Under Votes	0	

City of Lake Oswego Measure 3-273

Vote For 1		
Yes	0	
No.	2	100.00
Over Votes	0	
Under Votes	0	

City of Portland Measure 26-93

Vote For 1		
Yes	275	69.97
No.	118	30.03
Over Votes	0	
Under Votes	18	

VOTES PERCENT

City of Hillsboro Measure 34-145

Vote For 1		
Yes	13,462	76.88
No.	4,048	23.12
Over Votes	3	
Under Votes	1,240	

City of North Plains Measure 34-146

Vote For 1		
Yes	354	60.51
No.	231	39.49
Over Votes	0	
Under Votes	38	

City of Forest Grove Measure 34-147

Vote For 1		
Yes	3,422	62.80
No.	2,027	37.20
Over Votes	0	
Under Votes	71	

Double majority participation requirement statistics:

City of Forest Grove measure 34-147

Eligible Voters: 8649

Returned Ballots: 5520

Percentage returned: 63.82%

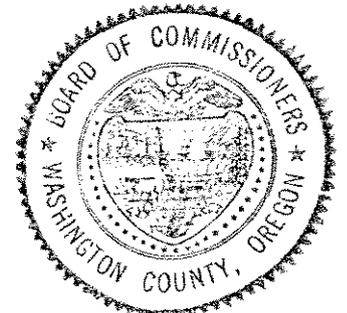
Double majority participation requirement was met, measure passes.

CERTIFIED TO BE A TRUE AND
 CORRECT COPY OF THE ORIGINAL

Date November 20, 2007

WASHINGTON COUNTY
 ELECTIONS DIVISION

BY [Signature]



RUN DATE:11/20/07 02:15 PM

	VOTES		PERCENT			VOTES		PERCENT	
City of Forest Grove Measure 34-147									
Vote For 1									
01 = Yes	3,422	62.80	03 = OVER VOTES					0	
02 = No	2,027	37.20	04 = UNDER VOTES					71	
	01	02	03	04					
0339 339 FOREST GROVE-EAST	1543	867	0	41					
0340 340 FOREST GROVE-WEST	1856	1158	0	30					
0456 456 NORTH FOREST GROVE	23	2	0	0					

Double majority participation requirement statistics:

City of Forest Grove measure 34-147

Eligible Voters: 8649

Returned Ballots: 5520

Percentage returned: 63.82%

Double majority participation requirement was met, measure passes.

CERTIFIED TO BE A TRUE AND
CORRECT COPY OF THE ORIGINAL

Date November 20, 2007

WASHINGTON COUNTY
ELECTIONS DIVISION

BY [Signature]





3F

FOR CITY USE ONLY
(Please return to City Recorder)

The Forest Grove City Council
 Recommends that license be

Granted Denied

\$25.00 Liquor License Fee: Paid: _____
 Acct No. 100-21-10-415035 Receipt#: _____

FOREST GROVE POLICE DEPARTMENT
LIQUOR LICENSE RECOMMENDATION

NAME OF APPLICANT KugJoo Kim

NAME OF BUSINESS: Cost Mart

PREMISES ADDRESS: 1905 Birch Street , Forest Grove

TYPE OF LICENSE REQUESTED:

Application is being made for

ACTION:

- | | | |
|---|--|---|
| <input checked="" type="checkbox"/> Change in Application | <input checked="" type="checkbox"/> FULL ON-PREMISES SALES: | <input checked="" type="checkbox"/> LIMITED ON-PREMISES SALES: |
| <input type="checkbox"/> New Application | <input type="checkbox"/> Caterer | <input type="checkbox"/> OFF-PREMISES SALES: |
| <input type="checkbox"/> Renewal | <input type="checkbox"/> Commercial Establishment | <input type="checkbox"/> with Fuel Pumps |
| <input type="checkbox"/> Temporary | <input type="checkbox"/> Passenger Carrier | <input type="checkbox"/> Brewery Public House |
| <input type="checkbox"/> Other: _____ | <input type="checkbox"/> Private Club | <input type="checkbox"/> Grower |
| | <input type="checkbox"/> Special Event | <input type="checkbox"/> Winery |
| | <input type="checkbox"/> Other Public Location | <input type="checkbox"/> Other: _____ |

APPLICABLE CRIMINAL/DRIVING RECORD:

- NONE SUPPORTING DOCUMENTATION ATTACHED

RECOMMENDED ACTION:

- FORWARD WITH APPROVAL REJECT APPLICATION
 (Memorandum Required)

Glenn VanBlarcom
 Glenn VanBlarcom, Chief of Police
 - or Designee

11/28/07
 Date

Police Department Recommendation Revised 01/06



FOR CITY USE ONLY
 (Please return to City Recorder)

The Forest Grove City Council
 Recommends that license be

Granted Denied

\$25.00 Liquor License Fee: Paid: _____
 Acct No.100-21-10-415035 Receipt#: _____

**FOREST GROVE POLICE DEPARTMENT
 LIQUOR LICENSE RECOMMENDATION**

NAME OF APPLICANT _____ Jiah Pack _____

NAME OF BUSINESS: _____ Forest Grove Food Market, LLC (DBA: David Ok Market) _____

PREMISES ADDRESS: _____ 2248 Main Street , Forest Grove _____

TYPE OF LICENSE REQUESTED:
Application is being made for

ACTION:

- Change in Application
- New Application
- Renewal
- Temporary
- Other: _____

FULL ON-PREMISES SALES:

- Caterer
- Commercial Establishment
- Passenger Carrier
- Private Club
- Special Event
- Other Public Location

LIMITED ON-PREMISES SALES:

OFF-PREMISES SALES:

- with Fuel Pumps
- Brewery Public House
- Grower
- Winery
- Other: _____

APPLICABLE CRIMINAL/DRIVING RECORD:

- NONE SUPPORTING DOCUMENTATION ATTACHED

RECOMMENDED ACTION:

- FORWARD WITH APPROVAL REJECT APPLICATION
 (Memorandum Required)

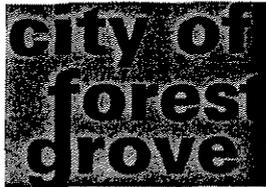


 Glenn VanBlarcom, Chief of Police
 - or Designee

12/3/07

 Date

Police Department Recommendation Revised 01/06



FOR CITY USE ONLY

(Please return to City Recorder)

The Forest Grove City Council
Recommends that license be

Granted Denied

\$25.00 Liquor License Fee: Paid: _____
Acct No. 100-21-10-415035 Receipt#: _____

**FOREST GROVE POLICE DEPARTMENT
LIQUOR LICENSE RECOMMENDATION**

NAME OF APPLICANT Ming Yu Chen

NAME OF BUSINESS: Half Moon Sports Bar

PREMISES ADDRESS: 1924 Main Street, Forest Grove

TYPE OF LICENSE REQUESTED:

Application is being made for

ACTION:

- Change in Application
- New Application
- Renewal
- Temporary
- Other: _____

FULL ON-PREMISES SALES:

- Caterer
- Commercial Establishment
- Passenger Carrier
- Private Club
- Special Event
- Other Public Location

LIMITED ON-PREMISES SALES:

OFF-PREMISES SALES:

- with Fuel Pumps
- Brewery Public House
- Grower
- Winery
- Other: _____

APPLICABLE CRIMINAL/DRIVING RECORD:

- NONE SUPPORTING DOCUMENTATION ATTACHED

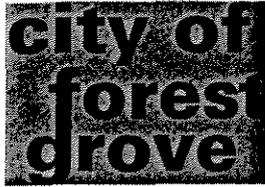
RECOMMENDED ACTION:

- FORWARD WITH APPROVAL REJECT APPLICATION
(Memorandum Required)

Glenn VanBlarcom, Chief of Police
- or Designee

11/28/07
Date

Police Department Recommendation Revised 01/06



FOR CITY USE ONLY
(Please return to City Recorder)

The Forest Grove City Council
Recommends that license be

Granted Denied

\$25.00 Liquor License Fee: Paid: _____

Acct No. 100-21-10-415035 Receipt#: _____

FOREST GROVE POLICE DEPARTMENT
LIQUOR LICENSE RECOMMENDATION

NAME OF APPLICANT _____ Denny's Guzman _____

NAME OF BUSINESS: _____ Latinos Forest Grove Mini Mart _____

PREMISES ADDRESS: _____ 1916 21st Avenue , Forest Grove _____

TYPE OF LICENSE REQUESTED:

Application is being made for

ACTION:

- Change in Application
- New Application
- Renewal
- Temporary
- Other: _____

FULL ON-PREMISES SALES:

- Caterer
- Commercial Establishment
- Passenger Carrier
- Private Club
- Special Event
- Other Public Location

LIMITED ON-PREMISES SALES:

OFF-PREMISES SALES:

- with Fuel Pumps
- Brewery Public House
- Grower
- Winery
- Other: _____

APPLICABLE CRIMINAL/DRIVING RECORD:

NONE

SUPPORTING DOCUMENTATION ATTACHED

RECOMMENDED ACTION:

FORWARD WITH APPROVAL

REJECT APPLICATION
(Memorandum Required)

Glenn VanBlarcom, Chief of Police
- or Designee

Date 11/25/07

Police Department Recommendation Revised 01/06

5B



**FOREST GROVE POLICE
DEPARTMENT**

MEMORANDUM

To: Michael Sykes (City Manager)
From: Glenn VanBlarcom (Chief of Police)
Date: November 26, 2007
Re: Reducing Youth Access to Alcohol (A funded program)

On November 20, 2007 we met with the Oregon Research Institute representative, Anne Kraft, and the program associate/law enforcement coordinator, Garvin March. Also at this meeting was Mary Nunnenkamp with Washington County Commission on Children and Families, along with OLCC representatives Jesse Enright and area supervisor Janice Kindrick.

This meeting was to review resources (\$15,000.00) made available to us for training, equipment, and enforcement to reduce youth alcohol access. Part of this program is also reporting our activities so they may be compared with other control groups.

I would request that time be given, possibly about fifteen (15) minutes, for the Intervention Coordinator from the Oregon Research Institute to give a brief overview of this program to the Council.

I have included with this memorandum the Institute's summary and training/activity schedule, the Law Enforcement coordinator overview, and an example contract with the Pacific Institute for research and evaluation. The actual contract will be forwarded electronically to be completed and signed.



Reducing Youth Access to Alcohol

Oregon Research Institute (ORI) and Pacific Institute for Research and Evaluation (PIRE) are collaborating with Oregon Liquor Control Commission and Oregon Department of Human Services to evaluate five combined intervention strategies to reduce youth access to alcohol and underage drinking. The five-year study is sponsored by the National Institute on Alcohol Abuse and Alcoholism and is being conducted in 36 Oregon communities, 18 of which will serve as intervention sites while 18 serve as comparison communities. In Washington County, Forest Grove has been randomly selected to receive the intervention. Banks is a comparison community. The project will begin in Fall 2007 and run through April 2010.

The five intervention strategies are:

- *Reward and Reminder Program* for off-premise alcohol retail outlets. Young-looking 21 year old volunteers attempt to purchase alcohol and provide clerks with a complimentary “thank you” certificate if they ask for identification, or a “reminder” letter if they fail to ask for proof of age;
- *Compliance Checks or Minor Decoy Operations* to reduce commercial alcohol sales to youth;
- *Shoulder Tap or Third-Party Surveillance Operations* to reduce youth purchasing alcohol via third parties;
- *Underage Party Dispersal or Party Patrols* to reduce alcohol provision to underage youth and high-risk drinking and related problems that often occur at parties; and
- *Strategic Media Advocacy* to increase public awareness of the problems associated with underage drinking and to increase public support for the interventions.

Although these strategies are recommended in the recent report by the National Research Council and Institute of Medicine (“Reducing Underage Drinking: A Collective Responsibility”) and by the Office of Juvenile Justice and Delinquency Prevention, no rigorous evaluation has demonstrated their effectiveness on youth access to alcohol and underage drinking. Findings of this study will therefore be of great importance and interest to Oregon and other states.

For questions please contact:

Anne Kraft
Intervention Coordinator
Oregon Research Institute
1715 Franklin Blvd.
Eugene, OR 97402
541-484-2123 ext. 2261
annek@ori.org

2007-2008

REDUCING YOUTH ACCESS TO ALCOHOL- FOREST GROVE

	Sep-07	Oct-07	Nov-07	Dec-07	Jan-08	Feb-08	Mar-08	Apr-08	May-08	Jun-08	Jul-08	Aug-08
<u>Community Mobilization</u>	Meet With Co Prev Coord <i>MS</i>											
		Community Presentations and Proclamation Endorsement										
<u>Reward & Reminder</u>						Recruit and Train Volunteers						
					Merchant Ed visits							
						R&R Round 1				R&R Round 2		
								Feedback to outlets			Feedback to outlets	
<u>Minor Decoy Operations</u>												
								OLCC to begin MDOs				
<u>Law Enforcement</u>												
								Training				
									Ongoing activities- CPD, Shoulder Taps, Traffic Emphasis			
<u>Media</u>												
				Project Overview		Alcohol and the Teen Brain		Endorsed Proclamation		Prom and Grad		R&R results

File: H:\Anne K\Reducing Access project\Timelines\Commu

RYAA Project

(Reducing Youth Access to Alcohol)

- A study of which the Police Department is one component
 - Retail, community, schools, OLCC are others
 - Now bringing the 3rd cohort on board (6 agencies)
 - Cohort 1 + 2 in place (also 6 agencies each)
 - Cohort 1 will complete project April '08
 - Cohort 2 in April '09
 - 2 year project in each community

- PD Contract (see example)
 - \$15,000 for overtime or additional activity
 - Also allowing approximately \$500 equipment purchase during first year
 - Items have to be used to further project goals
 - Approval must be given before purchase
 - Also providing each agency with either one or two PBT's depending upon supply. (not associated with contract funds...just a "welcome aboard" gift)
 - Activity has to take place within the school district boundaries
 - Will pay for;
 - Training
 - 1 day, likely in March/April '08
 - Overtime activity
 - And associated report or travel time
 - Court

 - Monthly data collection + submission

- Completed data sheet attached and emailed to the Law Enforcement Coordinator by agency coordinator (see example)
- Clerks time submitting monthly invoice
 - Invoice sent to PIRE (Pacific Institute for research and evaluation) monthly by agency

➤ Activities;

- Minor Decoy (with or without OLCC)
- Shoulder Tap
- Party Dispersal
- Traffic Emphasis
- School function's
 - Games
 - Dances
 - Rallies
- Presentations;
 - Community
 - Schools
- “Other” You have an idea about an activity that will impact the problem?
-

One person to contact for anything + everything related to the contract/Project;

Garvin (Gar) March (360) 687-9804
gmarch@prev.org



SUBCONTRACT AGREEMENT BY
AND BETWEEN

PACIFIC INSTITUTE FOR RESEARCH AND EVALUATION
AND
"ENTER POLICE AGENCY NAME HERE"

This agreement is entered into by and between Pacific Institute for Research and Evaluation (hereinafter, Pacific Institute), a California non-profit corporation, and "ENTER POLICE AGENCY NAME HERE"

1. **Funding Source.** Both parties acknowledge and agree that all funding shall come from the prime grant #R01-AA014958, CFDA #93.273 held by Pacific Institute, awarded by the National Institute on Alcoholism and Alcohol Abuse, hereinafter, the Fundor, in support of work entitled "Reducing Youth Access to Alcohol: A Randomized Trial" and detailed in the attached Scope of Work.
2. **Time Period.** This agreement shall be for the period of "CORRECT PERIOD OF CONTRACT", and may be extended without competition pending agreement by both parties.
3. **Cost.** For said services, the Subcontractor will be reimbursed, on submission of monthly invoices, a total not to exceed **\$15,000**.

The Subcontractor agrees that this contract shall **not** exceed the total amount of funds per this agreement and that best efforts be given to meet the requirements of the project with the funds available. Should requested services cause the Subcontractor to expend funds greater than those available to this contract, the subcontractor will contact the Principal Investigator immediately.

4. **Payment.** "NAME OF POLICE AGENCY" agrees to submit a monthly invoice reflecting incurred expenses. All invoices should be sent to the attention of:

Anita C. Martin
Site Administrator
Prevention Research Center
1995 University Avenue, Suite 450
Berkeley, CA 94704

Subcontractor's invoices must reference PIRE project #0113.01.01 and should provide the period or tasks covered by the current invoice amount. Also, for verification purposes, the invoices should maintain a cumulative total of expenditures to date.

Pacific Institute agrees to contact the Subcontractor if the amounts on record of Expenditures to Date or Unexpended Funds differ from that of the Subcontractor's invoices.

The Subcontractor has 60 days from the completion of the project to submit all final reports and invoices. The Subcontractor should expect to receive payment no later than 30 days after PIRE's Accounting Department has received an approved invoice.

5. Contact person(s) and address(es) for the Subcontractor.

Technical

"CONTACT INFORMATION"

(Title, name, address, email, direct phone number)

Contractual:

"CONTACT INFORMATION"

(Title, name, address, email, direct phone number)

6. Project Coordinator for Pacific Institute.

MJ Paschall, Ph.D.
Pacific Institute for Research and Evaluation
Prevention Research Center
1995 University Avenue, Suite 450
Berkeley, CA 94704
Phone: (510) 883-5753 Fax: (510) 644-0594
Email: mpaschall@prev.org

7. Contractual contact for Pacific Institute

Diane McKnight, Director
Contracts and Grants Department
Pacific Institute for Research and Evaluation
11720 Beltsville Drive, Suite 900
Beltsville, MD 20705
Phone: (301) 755-2721 Fax: (301) 755-2799
E-mail: dmcknight@pire.org

8. **Title to Information and Data.** It is understood that all materials, manuscripts and products developed under the subcontract may not be published or distributed without the verbal or written permission of Pacific Institute and that Pacific Institute shall have equal rights for the publication of materials delivered to Pacific Institute as part of this subcontract. Neither party shall unreasonably withhold permission for such publication, nor shall standard practices of confidentiality be breached by either party.
6. **Funding Restrictions/Cancellation.** Both parties acknowledge and agree that should funding under the prime grant be limited or restricted, it may affect funding for the subcontractor. It is agreed that in the event funding is reduced or restricted, Pacific Institute shall immediately notify the Subcontractor. In this event, Pacific Institute will only be obligated to reimburse Subcontractor for costs already incurred and obligated for payment up to the date of termination by the government. In the event that funds are reduced during the term of the grant, Pacific Institute shall be obligated for only 60-days (pro-rated) of regular payments, and shall negotiate a new scope of work or services should "NAME OF POLICE AGENCY" desire to perform the services required by the reduced level of effort.

Notwithstanding the above paragraph, either party shall have the right to terminate this contract without cause with sixty (60) days' written notice (notice received by entity terminated). In such case, deliverables due during those sixty days shall be honored as well as expenses incurred or committed by Subcontractor for those sixty days.

7. **Indemnification.** The Subcontractor agrees to abide by all Federal, State, local government, or other applicable funding rules and regulations. The Subcontractor shall indemnify and hold harmless the Pacific Institute, its members, employees, officers, and Board of Directors against all claims, actions, proceedings, damages, and liabilities, including attorneys' fees, arising from, connected to, or caused in whole or in part by any negligent act, or omission of the Subcontractor.
8. **Compliance.** All policies and procedures required by the Fundor shall be applicable to this agreement and the parties hereto agree to be bound by those terms and conditions.

The Subcontractor shall assume responsibility for complying with laws governing provision of compensation and/or liability insurance, and will, upon request, provide Pacific Institute with Certificate of Insurance evidencing a minimum of the coverage and limits as shown here:

- Commercial General Liability - \$1,000,000 per occurrence
- Hired and Non-owned Automobile Liability - \$1,000,000 per occurrence
- Employers Liability —
\$100,000 per accident

\$500,000 for disease, policy limit, and \$100,000 for disease, each person.

- Workers compensation - Statutory Coverage
- Professional Liability - \$1,000,000 (this coverage is needed only if direct counseling services are a part of this Subcontractor's agreement.

9. **Certifications and Assurances.** Subcontractor assures that it has in place an effective and enforced Conflict of Interest policy which complies with 42 CFR 50 Subpart F. In addition, vendors and subcontractors are notified that they may be subject to the provisions of 41CFR Section 60-1.4, 41CFR Section 60-250.4 and Section 60-741.4 with respect to Affirmative Action program and plan requirements.

If required by the Fundor, pursuant to federal regulations, the Subcontractor will confirm, by signing, various Certifications and Representations regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion, Lower Tier Covered Transactions and other such Certifications and Representations required by the Federal department or agency with jurisdiction over the prime cooperative agreement.

10. **Modifications/Amendments.** Any modification or amendment to this agreement shall require a written agreement accepted by both parties hereto.

Signed for	Signed for:
Name of Police Agency	Pacific Institute
<hr/>	<hr/>
<i>Signature</i>	<i>Signature</i>
Title:	Diane McKnight, Director
	Contracts and Grants Department
Date:	Date:
	Pacific Institute for Research & Evaluation
	11710 Beltsville Drive, Suite 900
	Beltsville, MD 20705
	Project # : 0113.01.01
FEIN:	FEIN: 94-2243283
Phone:	Phone: 301-755-2721
Fax:	Fax: 301-755-2799

**Certification Regarding
Debarment, Suspension, Ineligibility and Voluntary Exclusion
Lower Tier Covered Transactions**

This certification is required by the regulations implementing Executive Order 12549, Debarment and Suspension, 34 CFR Part 85, Section 85510, Participants' responsibilities. The regulations were published as Part VII of the May 26, 1988 Federal Register (pages 19160-19211).

(BEFORE COMPLETING CERTIFICATION, READ INSTRUCTIONS ON REVERSE)

- (1) The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

- (2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Name and Title of Authorized Representative

Signature

Date

Instructions for Certification

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.
2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
3. The prospective lower tier participant shall provide immediate written notice to the person to whom this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
4. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing executive Order 12549.
5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared Ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.
6. The prospective lower tier participant further agrees by submitting the proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may check the Non-procurement List.

8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

9. Except for transactions authorized under paragraph 5 of these instructions, if participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntary excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which the transaction originated may pursue available remedies, including suspension and/or debarment.

Attachment A - Scope of Work

Per the subcontract agreement between Pacific Institute for Research and Evaluation and **"NAME OF POLICE AGENCY"**, the following activities will be completed between **"ENTER CORRECT DATES HERE"**

Responsibilities of Pacific Institute for Research and Evaluation

- A. PIRE will provide or coordinate training regarding the relevant study protocols that pertain to the RYAA enforcement operations that will be conducted (see details below). PIRE will provide the data collection instrument to be used for recording the results of the enforcement operations.
- B. PIRE will provide the list of communities in which the RYAA enforcement operations will be conducted by local police and/or county law enforcement agencies.
- C. PIRE will provide the results of the RYAA study to collaborators in Oregon and will assist with any related media activities to publicize the results of the study as they become available.

Responsibilities of (Name of police agency here)

- A. Officers from *(Name of police agency here)* will participate in a one- or two-day training related to the RYAA project.
- B. Officers will devote up to **20** hours per month to RYAA enforcement and reporting activities for the 12-month subcontract period, including:
 - a. shoulder tap operations
 - b. controlled party dispersal
 - c. minor decoy operations
 - d. traffic emphasis operations
 - e. monthly reporting of all underage drinking enforcement activities (~2 hours/month).

Funds available through this subcontract will only be used for RYAA enforcement activities in (*enter names of intervention communities*). Time devoted to each type of RYAA enforcement activity may vary, depending on specific needs of each intervention community.

A designated person in (*Name of police agency here*) will record the number of underage drinking enforcement activities and contacts specified on the data collection form (provided by PIRE) in the designated intervention communities (*enter names of intervention communities*) in (*enter name of city/county here*), and will submit the completed form to the PIRE Law Enforcement Coordinator on a monthly basis.

Attachment B - Budget

The *Name of police agency* anticipates the following hourly rates to be associated with executing this subcontract agreement:

[To be filled in.]

- Regular hourly wage rates/range for expected enforcement activities = \$XX.xx
- Overtime hourly wage rates/range for expected enforcement activities = \$XX.xx
- Regular hourly wage rates/range for monthly report preparation = \$XX.xx

Example

- Regular hourly wage rates/range for expected enforcement activities =
\$16.68 - \$25.56
- Overtime hourly wage rates/range for expected enforcement activities =
\$25.02 - \$38.34
- Regular hourly wage rates/range for monthly report preparation =
\$14.22 - \$18.16

The *Name of police agency* has a yearly budget of \$15,000 to cover the cost of:

- A. Initial RYAA Project training
- B. 20 hours RYAA enforcement per month
- C. 2 hours report completion per month

RESOLUTION NO. 2007-65

**RESOLUTION ADOPTING NEW LIGHT AND POWER DEPARTMENT
ELECTRIC RATES AND REPEALING RESOLUTION NO. 2005-58**

WHEREAS, the City, through the Light and Power Department, provides electric service to customers within the City and some surrounding areas; and

WHEREAS, the operating costs to provide electric service has exceeded the Light and Power Department revenues; and

WHEREAS, revenue from the present Light and Power electric rates, adopted in 2005, can no longer be supported through contingency and reserve levels; and

WHEREAS, revised Light and Power electric rates are necessary to ensure appropriate department revenues.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY OF
FOREST GROVE AS FOLLOWS:**

Section 1. The City Council adopts the revised Light and Power Electric Rate Schedules, definitions, and conditions of service marked Exhibit A.

Section 2. The new Light and Power Electric Rate Schedules shall be effective for services rendered on or after January 1, 2008.

Section 3. Resolution No. 2005-58 is hereby repealed upon the effective implementation date of the foregoing Light and Power electric rates.

PRESENTED AND PASSED this 10th day of December, 2007.

Anna D. Ruggles, City Recorder

APPROVED by the Mayor this 10th day of December, 2007.

Richard G. Kidd, Mayor

ELECTRIC SERVICE
DEFINITIONS AND DESCRIPTIONS

RESIDENTIAL SERVICE:

Service furnished to customers using energy for domestic purposes in single family dwellings, apartments where each dwelling unit is separately metered, mobile homes being utilized as a family dwelling, and farms.

Where a portion of the electric energy in a residential premise is used regularly for the conduct of a business or profession, electric service used in such portion must be metered separately and billed under a nonresidential schedule; otherwise, the entire premises will be classified as nonresidential.

Service through one meter to two dwelling units will be classified as residential where an existing dwelling unit is or has been divided into two dwelling units. However, in the case where service is supplied through one meter to two or more new dwelling units, or to three or more existing dwelling units, service will be classified as nonresidential.

Additional meters on residential premises will be classified as residential, provided energy is used for domestic purposes and each such meter is on a separate building or structure separated from the other meters by such distance that service through the same point of delivery is impractical. Should any portion of the energy used on an additional meter on a residential premises be used for the conduct of a business or profession, the service will be classified as nonresidential. Service through additional meters will be supplied only when additional facilities can be installed under the Department's line extension rules. All residential customers are billed according to the terms and rates as stated in Schedule 1.

SWIMMING POOL SERVICE:

Existing service furnished to residential swimming pools which is a separate service in addition to the service to the dwelling. This service is limited to providing electrical energy to equipment directly related to the operation and maintenance of domestic swimming pools and only to those having had the service previously installed. All Swimming Pool Service customers are billed according to the terms and rates as stated in Schedule 6.

GENERAL SERVICE:

Nonresidential service furnished to businesses and professions whose electrical energy requirements are limited to less than 50 KW demand for any month during the prior 12-month period. This service is further limited to exclude irrigation customers. General Service customers are billed according to the terms and rates as stated in Schedule 2.

LARGE COMMERCIAL AND INDUSTRIAL SERVICE:

Nonresidential service furnished to businesses and professions whose electrical energy requirements are poly-phase and with a demand of over 50 KW for any month during the previous 12-month period. This service is further limited to exclude irrigation service, and any electrical service having a demand of 5000 KW or greater. Large Commercial and Industrial Service customers are billed according to the terms and rates as stated in Schedule 3.

IRRIGATION SERVICE:

Nonresidential service provided only for agricultural irrigation and drainage pumping. This service is totally limited to the described usage and, therefore, absolutely no portion of this electrical service may be used for any other function or process. Irrigation Service customers are billed according to the terms and rates as stated in Schedule 8.

STREET LIGHTING SERVICE:

Service provided to City and publicly owned streets, highways, roadways, bikeways, walkways, parking lots, parks and traffic control lights. Street Lighting Service customers are billed according to the terms and rates of Schedule 4.

NONMETERED GENERAL SERVICE:

Nonresidential service provided to loads utilizing relatively small amounts of electrical energy and demand and, which remain constant from day to day. Typical loads are telephone booths, cable television in-line amplifiers, etc. This service is provided only at the option of the Light and Power Department. Monthly billing is a fixed amount computed from equipment design load data furnished by the customer or from tests performed by the Light and Power Department. Nonmetered General Service customers are billed according to the terms and rates of Schedule 5.

OUTDOOR AREA LIGHTING SERVICE:

Outdoor rental light service is available and provided upon request to all Light and Power Department customers. The type and size of lighting fixtures, poles, and related equipment that can be provided is limited to the Department's normal inventory items. Outdoor Area Lighting Service customers are billed according to the terms and rates of Schedule 7.

CONTRACTED SERVICE:

Any special services not covered by the aforewritten definitions (i.e., services at transmission voltages, services having a demand of 5000 KW or greater, and alternate service) are provided in accordance with a negotiated service contract.

ALTERNATE SERVICE:

Service provided to a customer from a second, electrically independent primary voltage circuit. This service is available to 3 phase large commercial and industrial customers only who have a higher than normal degree of need for service continuity. The design and arrangement of both the preferred and alternate services will be the option of the Light and Power Department. Customers receiving alternate service will be billed an additional amount on their normal monthly demand charge.

DISCONNECT/RECONNECT CHARGES AND METER TAMPERING:

The Reconnection Service fee shall apply during normal business hours, and the After-Hours Reconnection Service fee shall apply during the hours of 5:01 pm – 8:00 pm, Monday through Friday, for reconnection service resulting from failure to pay. An Electric Meter Tamper/Damage Fee shall be imposed where applicable. Referenced fees are published in the Forest Grove Fee Schedule as adopted by City Council.

SURGE SUPPRESSION SERVICE:

Utility-provided whole-house surge suppression service is available through a utility installed, meter mounted device. This service is available to residential customers and small commercial customers with single phase, self-contained meters only.

TIME OF USE SERVICE

All large commercial and industrial customers with demand metered service will be billed for energy usage on a time of use basis. Time of use service will be available to all general service customers at their option. This service will feature a separate kilowatt hour rate for heavy load hours and light load hours. Heavy load hours are from 6:00am to 10:00pm Monday through Saturday. Light load hours are all other times.

NET METERING

The City will enter into an agreement with customer-generators that own a net metering facility. A net metering facility is an electric generation facility that uses solar, wind, fuel cell, or hydroelectric power to generate electricity. The rated generating capacity of any customer-generator facility cannot exceed 25 kilowatts. The net metering facility must be located on the customer's property, must comply with all applicable safety provisions, and must be compatible with the City's distribution system. The primary intent of the net metering facility will be to offset part or all of the customer's own electric power requirements. The Customer will be required to enter into a net metering agreement with the City, and all customer-generation facilities must be inspected by the City prior to inter-connection.

GREEN POWER SERVICE

Voluntary program to support green power resources. Green power may be purchased in 200 kWh units. This program is available to all electric customers of the City of Forest Grove.

ENERGY ANALYSIS SOFTWARE

Voluntary service offered to large commercial and industrial customers. The Energy Analysis Software is a web-based energy management/analysis service that provides customers with interval usage data depicted in charts and graphs for the purpose of comparing current and historic load data, identifying anomalies in usage, tracking savings from efficiency projects, and understanding usage.

SCHEDULE 1
RESIDENTIAL SERVICE

Page 1 of 1

AVAILABILITY:

Available in all territory served by the City Light and Power Department.

APPLICABILITY:

Applicable to domestic use of all residential and farm customers.

Service under the residential rate shall apply only to electrical service in a single private dwelling and its appurtenances, for general farm service or for heating or pumping water in a private swimming pool, and not for resale to others.

Electricity consumed in that portion at a private dwelling regularly used for the conduct of a business will be separately metered and billed under the General Service Rate. If separate circuits are not provided by the customer, the entire premises shall be classified as non-residential and billed accordingly.

The residential rate shall not apply to service institutions such as clubs, fraternities, orphanages or homes, to recognized rooming or boarding houses, or to the spaces in an apartment or other residential building primarily devoted to use as an office or studio for professional or other gainful purposes or to general use by tenants.

CHARACTER OF SERVICE:

Single phase, sixty hertz alternating current at 120/240 volts, or at the City Light and Power Department's option, 120/208 volts.

MONTHLY RATE:

Customer Charge:	\$12.00
Energy Charge:	0-1000 KWh at 4.60 cents/KWh 1001+ KWh at 5.40 cents/KWh

SURGE SUPPRESSION SERVICE:

At the customer's option, whole house surge suppression service is available at a monthly rate of \$4.50.

DELIVERY POINT:

The above rates are based on the supply of service at a single voltage through a single delivery and metering point. Separate supply for the same customer at a different voltage or at other points of consumption shall be separately metered and billed.

RULES AND REGULATIONS:

Service under this classification is subject to the rules and regulations of the City, as set out in Sections 4-200 through 4-215 of the Code and elsewhere.

SCHEDULE 2
GENERAL SERVICE

Page 1 of 1

AVAILABILITY:

Available in all territory served by the City Light and Power Department.

APPLICABILITY:

Applicable to commercial, non-agricultural pumping and other non-residential electrical service. Not applicable to agricultural irrigation or pumping, or services with a demand of 50 KW or more for any month during the previous 12-month period..

Energy supplied under this schedule shall not be resold to others.

CHARACTER OF SERVICE:

Single phase or three phase, sixty hertz alternating current at such voltage as the Light and Power Department may have available.

MONTHLY RATE:

Customer Charge:	\$13.60 - Single-phase service \$21.25 - Three-phase service
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Energy Charge:	5.15 cents/KWh
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OPTIONAL TIME OF USE RATE:

Customer Charge:	\$13.60 - Single-phase service \$21.25 - Three-phase service
------------------	---

Energy Charge:	
Heavy Load hours	5.37 cents/KWh
Light Load hours	4.78 cents/KWh

SURGE SUPPRESSION SERVICE:

For qualified customers, surge suppression service is available at a monthly rate of \$4.50.

DELIVERY POINT:

The above rates are based on the supply of service at a single voltage through a single delivery and metering point. Separate supply for the same customer at a different voltage or at other points of consumption shall be separately metered and billed.

RULES AND REGULATIONS:

Service under this classification is subject to the rules and regulations of the City as set out in Code Sections 4-200 through 4-215 and elsewhere.

NOTE: Customers opting for time of use service will be charged a one-time meter conversion fee of \$100.00.

SCHEDULE 3
LARGE COMMERCIAL AND INDUSTRIAL SERVICE
Page 1 of 2

AVAILABILITY:

Available in all territory served by the City Light and Power Department.

APPLICABILITY:

Applicable to commercial, industrial, non-agricultural pumping, and other non-residential electrical service with a minimum electrical demand of 50 KW for any month during the previous 12-month period. Not applicable to agricultural irrigation or pumping.

Energy supplied under this schedule shall not be resold to others.

CHARACTER OF SERVICE:

Three Phase, sixty hertz alternating current of such voltage as the City Light and Power Department may have available.

MONTHLY RATE:

Customer Charge:	\$45.60
Energy Charge:	
Heavy Load hours	3.62 cents/KWh
Light Load hours	3.00 cents/KWh
Demand Charge:	\$5.50/KW

DEMAND CHARGE:

Based on the highest 15 minute average demand recorded during the billing period measured in kilowatts (kW).

REACTIVE DEMAND:

In addition to the energy and demand charges, the customer shall pay \$2.00 for each kilovolt ampere of reactive demand in excess of 40 percent of the kilowatt billing demand.

ENERGY ANALYSIS SOFTWARE:

Energy analysis software is available as an optional service at a monthly rate of \$50.00 per meter. Customer is responsible for installation costs.

SCHEDULE 3
LARGE COMMERCIAL AND INDUSTRIAL SERVICE

Page 2 of 2

DELIVERY POINT:

The above rates are based on the supply of service at a single voltage through a single delivery and metering point. Separate supply to the same customer at a different voltage or at other points of consumption shall be separately metered and billed.

ALTERNATE SERVICE:

Customers receiving alternate service under this rate schedule shall pay an additional \$0.71 per kilowatt of demand per month.

SPECIAL CONDITIONS:

If the Department's transformers are used exclusively for service to the customer, the Department may, at its option, permit installation of metering equipment on the primary voltage side of the transformers. In this case, billing will be based on meter registration less a deduction of 2.0 percent to compensate for transformer losses. Metering equipment will be installed at customer expense and all distribution and service facilities on the load side of the meter, except for transformers, will be owned and maintained by the customer.

RULES AND REGULATIONS:

Service under this classification is subject to the rules and regulations of the City as set out in Code Sections 4-200 through 4-215 and elsewhere.

SCHEDULE 4
STREET LIGHTING SERVICE
Page 1 of 1

AVAILABILITY:

Available within the corporate city limits of the City of Forest Grove.

APPLICABILITY:

Applicable for lighting of City owned streets, roadways, bikeways, walkways, parking lots, parks and traffic control lights.

CHARACTER OF SERVICE:

From dusk to dawn daily, controlled by photo-electric control or time switch.

MONTHLY RATE:

Energy Charge: 5.39 cents/KWh

ANNUAL INVESTMENT CHARGE:

The investment in property and equipment used as a basis for the investment charge shall consist of the installed cost of the property and equipment used solely for lighting purposes such as fixtures, brackets, mast-arms, conductors, poles, posts, standards, control equipment, switches, transformers, etc. computed on June 30 of each year. The annual investment charge shall be 10.5 percent of such investment.

LIGHT SYSTEM MAINTENANCE:

All maintenance expenses shall be borne by the City Light and Power Department.

METERING:

For billing purposes, the total energy consumed by the street lighting system shall be computed by application of a meter multiplier to the meter reading of a selected part of the system which is metered. The meter multiplier shall represent the ratio of the entire system load to the load being metered. Accuracy of the meter multiplier will be verified at least annually by the Light and Power Department and any changes reported to the City Management and Finance Department.

If more than one part of the street lighting system is metered, the meter multiplier shall be applied to only one selected meter and the other metered loads shall not be included in the multiplier calculation. In the event of multiple meters, the readings shall be consolidated for billing purposes.

RULES AND REGULATIONS:

Service under this classification is subject to the rules and regulations of the City, as set out in Code Sections 4-200 through 4-215 and elsewhere.

SCHEDULE 5
NONMETERED GENERAL SERVICE

Page 1 of 1

AVAILABILITY:

Available in all territory served by the City Light and Power Department.

APPLICABILITY:

Applicable to commercial service where both electric demand and energy usage are small and constant such as telephone booths, traffic signals, cable television, in-line amplifiers, etc. Under such circumstances, and at the Light and Power Department's option, service may be provided without metering. A monthly billing amount will be computed from equipment design load data furnished by the customer or from tests performed by the Light and Power Department and thereafter will be a fixed charge.

CHARACTER OF SERVICE:

Single phase, sixty hertz alternating current of such voltage as the City Light and Power Department may have available.

MONTHLY RATE:

Customer Charge:	\$7.00
Energy Charge:	4.95 cents/KWh

DELIVERY POINT:

The above rates are based on the supply of service at a single voltage through a single delivery point. Charges for a separate supply for the same customer at other points of consumption shall be computed on the same rate basis but may be consolidated on a common monthly bill.

RULES AND REGULATIONS:

Service under this classification is subject to the rules and regulations of the City as set out in Code Sections 4-200 through 4-215 and elsewhere.

SCHEDULE 6
SWIMMING POOL SERVICE

Page 1 of 1

AVAILABILITY:

Available only to those customers and for those loads presently served under this rate schedule.

APPLICABILITY:

Applicable to residential customers for heating water for private swimming pools and for other electrical loads directly related to swimming pool operation.

CHARACTER OF SERVICE:

Single phase, sixty hertz alternating current at 120/240 volts, or at the City Light and Power Department's option, 120/208 volts.

MONTHLY RATE:

Customer Charge:	\$5.00
Energy Charge:	5.00 cents/KWh (for all KWhs)

DELIVERY POINT:

The above rates are based on the supply of service at a single voltage through a single delivery and metering point. Separate supply for the same customer at a different voltage or at other points of consumption shall be separately metered and billed.

SPECIAL CONDITIONS:

A customer being served under this rate schedule may continue to be served only so long as no increase in capacity is made in this service equipment. If such changes are needed by the customer, the entire service load will be reclassified as Residential Service, Schedule 1. The customer may, at his option and expense, combine this load with his existing Residential Service.

RULES AND REGULATIONS:

Service under this classification is subject to the rules and regulations of the City as set out in Code Sections 4-200 through 4-215 and elsewhere.

SCHEDULE 7
OUTDOOR AREA LIGHTING SERVICE

Page 1 of 2

AVAILABILITY:

Available in all territory served by the City Light and Power Department.

APPLICABILITY:

Applicable to outdoor area lighting.

CHARACTER OF SERVICE:

Outdoor area lighting from dusk to dawn daily, by means of Department-owned luminaries mounted on Department-owned poles, in accordance with Department specifications as to equipment, installation, maintenance and operations.

Maintenance by the Department includes lamp replacement on a scheduled basis. Individual lamps will be replaced on burnout as soon as reasonably possible after notification by the customer and subject to the Department's operating schedules and requirements. Current standard lamps will be used for replacement purposes.

MONTHLY RATE:

LAMP TYPE AND WATTAGE		<u>FIXTURE STYLE</u>	<u>RATE PER MONTH</u>
<u>HPS</u>	<u>MH</u>		
100	---	Security	6.95
100*	---	Post Top and Pole	11.70
100*	---	Post Top w/o Pole	7.15
100	---	Projection Flood	7.75
200	---	Projection Flood	11.45
250*	---	Projection Flood	11.70
400	400	Projection Flood	17.80
---	1000	Projection Flood	37.35
100	---	Cobra Head Type	6.35
200	---	Cobra Head Type	9.05
400	---	Cobra Head Type	13.95

HPS - High Pressure Sodium MH - Metal Halide

* No new service offered.

SCHEDULE 7
OUTDOOR AREA LIGHTING SERVICE

Page 2 of 2

All rates, except that for the post top light and pole, are based on mounting the light fixture on an existing pole. Special poles required for service hereunder will be billed according to the following schedule:

<u>POLE TYPE</u>	<u>LENGTH</u>	<u>FIXTURE HEIGHT</u>	<u>RATE PER MONTH</u>
Pressure Treated Wood	30'	25 ft.	\$2.30
Pressure Treated Wood	45'	39 ft.	4.30
Galvanized Steel with Arm*	25'	26 ft.	4.25
Aluminum with Arm*	25'	26 ft.	4.25
Fiberglass with Arm	30'	25 ft.	4.95

INSTALLATION CHARGES:

Installation charges will be calculated and billed to the customer for lighting systems not mounted on existing power poles, for those systems employing underground electrical feed, and for temporary installations. Such charges will be paid upon completion of the lighting system installation.

RULES AND REGULATIONS:

Service under this classification is subject to the rules and regulations of the City as set out in Code Sections 4-200 through 4-215 and elsewhere.

* No new service offered.

SCHEDULE 8
IRRIGATION SERVICE

Page 1 of 2

AVAILABILITY:

Available in all territory served by the City Light and Power Department.

APPLICABILITY:

Applicable only to agricultural irrigation and drainage pumping electrical service.

Energy supplied under this schedule shall not be resold to others.

CHARACTER OF SERVICE:

Single or three phase, sixty hertz alternating current of such voltage as the City Light and Power Department may have available.

MONTHLY RATE:

Customer Charge:

March 16-October 15	\$12.50
October 16-March 15	none

Energy Charge:	4.30 cents/KWh
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SEASONAL DEFINITION AND BILLING:

Irrigation season is defined as starting on March 16 and ending on October 15. All irrigation services will be available for use during this period. Use outside of this period must be specifically requested by the customer. Meters will be read on March 15 and again on October 16 and will be the basis for the seasonal energy billings. Customers will receive monthly service charge bills only during the irrigation season. No disconnect/reconnect charges will be assessed.

SCHEDULE 8
IRRIGATION SERVICE

Page 2 of 2

CONNECTION CHARGE:

Line Extension charges will be calculated and billed to the customer for all electrical services provided under the Irrigation Service Schedule. Connection charges must be paid upon completion of service installation. At the City Light and Power Department's option, all or part of the connection charge may be in the form of facilities provided by the customer for the Department's use. Such facilities must be inspected by the Department and must meet all applicable City, County, State, and National Electrical Codes.

DELIVERY POINT:

The above rates are based on the supply of service at a single voltage through a single delivery and metering point. Separate supply for the same customer at a different voltage or at other points of consumption shall be separately metered and billed.

RULES AND REGULATIONS:

Service under this classification is subject to the rules and regulations of the City as set out in Code Sections 4-200 through 4-215 and elsewhere.

SCHEDULE 9
GREEN POWER SERVICE

Page 1 of 1

AVAILABILITY:

Available in all territory served by the City Light and Power Department.

APPLICABILITY:

Applicable to all customers who sign up for the voluntary program to help support the production of green power.

CHARACTER OF SERVICE:

Funds collected in this program will be transferred to the Bonneville Environmental Foundation, which will in turn use the funds to support the production of new green power sources throughout the region.

MONTHLY RATE:

Customer Charge: \$4.00 /200kWh unit

SPECIAL CONDITIONS:

Customers may sign up voluntarily for the program. A minimum six-month commitment to the program is required.

RULES AND REGULATIONS:

Service under this classification is subject to the rules and regulations of the City as set out in Code Sections 3-200 through 4-215 and elsewhere.

December 10, 2007

**Report and Resolution Adopting New
Light and Power Rate Schedules**

Project Team: Janet Lonneker, Light and Power Director
Paul Downey, Finance Director
Jeff King, Economic Development Coordinator
Michael Sykes, City Manager

Issue Statement: Revenue from the sale of electricity is not meeting current operating expenses. Current electric rates for Forest Grove were approved by Council Resolution in 2005. Rising costs in labor, materials, and fuel are the primary reason for the increase in expenditures.

Background: In 2005, electricity rates were set to meet the substantial increase in BPA wholesale rates that occurred in 2001. Rates were set to meet all current expenditures at that time, as well as maintain the minimum contingency levels set by City Charter. Since 2005, labor costs increased an average of 3.0% per year in keeping with inflation. Material costs increased 20% due to the heavy surge in commodity prices like aluminum and copper. Fuel costs have doubled, with future prices trending upward. In addition, as the system ages, there will be a need to replace major electrical equipment and it would be prudent to build up reserves for those future expenses.

Discussion: An average target revenue increase of 4% would cover current operating expenses, including labor, materials and fuel costs. An average is discussed because the revenue increase necessary will vary between classes of service. The impact of the rate increase on each customer class is provided in the attached sheets. This rate increase will cover increased costs of operation, continue to provide for major equipment replacement reserves, and meet minimum contingency levels.

In addition to the rate increase, a modification to the existing rate schedules has been provided for consideration by the City Council. This modification includes:

Increased monthly rate to Irrigation Service : The current monthly rate for irrigation will be increased by 9% to cover the expenses associated with this customer class. This rate has not been increased since 2003 and needs to reflect its proportional share of costs to the Department.

These changes are provided in the rate schedules attached, and may be included for adoption through resolution by City Council.

Recommendation: Staff recommends that City Council adopt the attached resolution approving electric rates with a 4% overall increase, effective January 1, 2008, including modifications to the Irrigation Service rate schedule.

Customer Cost Comparisons

The electric rates shown below are intended to increase Light and Power revenue by the percentage indicated. That is not exactly the same as increasing the amount of each customers' bill by that same percentage. Some customers will have more of an increase, some less, however the total increase across all customer classes will equal the required revenue.

Utilizing multi-component stepped rates, combined with highly variable customer usage patterns makes ensuring the exact percentage increase for every customer impractical.

Customer Class:	Residential	General Service Single – Phase	General Service Three – Phase	Large Commercial and Industrial
Current Avg. Monthly Electric Bill	\$62.70	\$79.06	\$226.43	\$2344.84
Added Monthly \$ Cost with proposed 4% rate increase				
4%	\$3.55	\$3.29	\$8.39	\$103.24

November 29, 2007

NewsTimes

Legal Ads/Public Notice:

To be published: Wednesday, December 5, 2007

**NOTICE OF PUBLIC HEARING
ELECTRIC UTILITY RATE INCREASE
FOR THE CITY OF FOREST GROVE**

NOTICE IS HEREBY GIVEN that the Forest Grove City Council will hold a public hearing on **Monday, December 10, 2007, at 7:00 p.m. or thereafter**, in the Community Auditorium, 1915 Main Street, Forest Grove, to consider adopting a resolution that would increase electric utility rates by four percent (4%) for all Forest Grove customers. The proposed new electric utility rates would be effective upon approval by the City Council and shall become effective for services rendered on or after January 1, 2008.

This hearing is open to the public and interested parties are encouraged to attend. A copy of the report and resolution listing the proposed rate schedules are available for inspection before the hearing at the City Recorder's Office or by visiting the City's website at www.forestgrove-or.gov. Written comments or testimony may be submitted at the hearing or sent to the attention of the City Recorder's Office, P. O. Box 326, 1924 Council Street, Forest Grove, OR 97116, prior to the hearing. For further information, please call the City Recorder's Office at 503.992.3235.

Anna D. Ruggles, CMC, City Recorder
City of Forest Grove

To be published December 5, 2007

RESOLUTION NO. 2007-66

**RESOLUTION OF THE CITY OF FOREST GROVE, OREGON,
AUTHORIZING THE ISSUANCE AND SALE OF EDUCATION FACILITY
REVENUE BONDS FOR THE EXPANSION OF THE PACIFIC
UNIVERSITY COLLEGE OF HEALTH PROFESSIONALS**

**THE CITY COUNCIL OF THE CITY OF FOREST GROVE, OREGON (THE
"CITY") DOES RESOLVE AS FOLLOWS:**

Section 1: Findings.

1. The City has received a request from Pacific University (the "University") to issue education facility revenue bonds (the "Bonds") on behalf of the University to finance the acquisition of property, the demolition of existing structures on acquired sites, the construction of a new approximately 60,000 square foot instructional facility, and the construction of a parking structure (the "Project").

2. The City Council previously enacted Ordinance No. 2007-18 (the "Authorizing Ordinance") on November 13, 2007, authorizing the issuance of bonds in an aggregate principal amount not to exceed \$35,000,000 pursuant to ORS 352.790 to 352.820 and ORS 288.805 to 288.945 (collectively, the "Act") to finance the Project. The Authorizing Ordinance is a nonemergency ordinance and will become effective either (a) upon thirty days from the date of its enactment if no petitions are filed to refer the Authorizing Ordinance to the City's voters; or (b) if a petition is filed to refer the Authorizing Ordinance to the City's voters, upon the approval of the City's voters. The City will be authorized to issue the Bonds upon the effective date of the Authorizing Ordinance.

3. Section 147 of the Internal Revenue Code of 1986, as amended (the "Code") requires that tax-exempt bonds for 501(c)(3) organizations be approved (1) by the applicable elected representatives of the governmental unit having jurisdiction over the area in which the Project is located; and (2) by the applicable elected representatives of the governmental unit issuing such bonds, after publication of notice and a public hearing. The Project will be located within the City of Hillsboro and the Bonds will be issued by the City. The City Council of the City of Hillsboro is comprised of the elected representatives of the governmental unit having jurisdiction over the area in which the Project is located and the City Council of the City is comprised of the elected representatives of the governmental unit issuing the Bonds. On November 20, 2007, the City of Hillsboro held a public hearing for the Bonds after publication of notice in accordance with the requirements of Section 147 of the Code. On November 13, 2007, the City held a public hearing for the Bonds after publication of notice in accordance with the requirements of Section 147 of the Code. There were no written comments received and no members of the public, other than those representing the University or associated with the financing, appeared at either hearing to object to the proposed, tax-exempt education facility revenue bonds for the Project.

4. The City adopts this resolution to authorize the issuance of the Bonds on behalf of the University for the financing of the Project upon the effective date of the Authorizing Ordinance.

Section 2: Authorization.

The City hereby authorizes the sale and delivery of the Bonds in accordance with this Resolution to finance the Project and to pay related costs. The aggregate principal amount of the Bonds shall not exceed Thirty-Five Million Dollars (\$35,000,000).

Section 3: Security for Bonds.

The Bonds shall be special, limited obligations of the City payable solely from the revenues and resources provided by the University. The Bonds will not constitute a debt of the City nor shall the Bonds be payable from any funds of the City or any tax levied upon any property within the City nor any other political subdivision of the State of Oregon.

Section 4. Delegation.

The Director of Administrative Services, the City Manager, or the designee of the Director of Administrative Services or the City Manager (the "City Official") is hereby authorized on behalf of the City and without further action by the City Council, to:

1. Select one or more underwriters or placement agents, negotiate the terms of the sale of each series of Bonds, execute a bond purchase agreement, and sell that series to those underwriters or placement agents.
2. Issue the Bonds in one or more series.
3. Determine the final principal amount of the Bonds, the interest rate or rates, fixed or variable, which the Bonds shall bear, mandatory and optional redemption terms, maturity schedules, payment terms and dates, record dates, and other terms of the Bonds.
4. Engage the services of paying agents, remarketing agents, trustees, and any other professionals whose services are desirable for the financing.
5. Prepare, execute, deliver one or more indentures, supplemental indentures, bond declarations, or loan agreements, which shall specify the security for each series of the Bonds, and the terms and administrative provisions under which each series of the Bonds are issued, and contain the terms and conditions under which the City shall lend the proceeds of each series of the Bonds to the University. These documents may allow for conversion of the Bonds into other interest rate modes and may contain additional covenants for the benefit of the owners of the Bonds, providers of credit enhancement for the Bonds, and providers of reserve sureties.
6. Provide that one or more series of Bonds may bear interest which is includable in gross income under the Internal Revenue Code of 1986, as amended (the "Code"), and that one or more series of Bonds may be tax-exempt, "qualified 501(c)(3)" bonds, and enter into covenants to maintain the tax-exemption for any series of Bonds which bears interest which is excludable from gross income under the Code.

7. Deem final and authorize the distribution of a preliminary official statement for the Bonds, authorize the preparation and distribution of a final official statement or other disclosure document for the Bonds, and enter into agreements to provide continuing disclosure for owners of the Bonds.
8. Apply for ratings for the Bonds, determine whether to purchase municipal bond insurance, reserve sureties, or obtain other forms of credit enhancement and liquidity enhancement for the Bonds, enter into agreements with the providers of credit enhancement and liquidity enhancement, and execute, deliver and acquire related documents, if applicable.
9. Execute and deliver any related certificates or documents and take any other action in connection with the Bonds which the City Official finds are reasonably required to issue the Bonds or will be advantageous to the City.

Section 5: Effective Date of Resolution. This Resolution shall take effect immediately upon the effective date of the Authorizing Ordinance.

PRESENTED AND PASSED this 10th day of December, 2007.

Anna D. Ruggles, City Recorder

APPROVED by the Mayor this 10th day of December, 2007.

Richard G. Kidd, Mayor

December 3, 2007

**REPORT ON A RESOLUTION AUTHORIZING THE ISSUANCE AND SALE OF
EDUCATION FACILITY REVENUE BONDS FOR THE EXPANSION OF THE
PACIFIC UNIVERSITY COLLEGE OF HEALTH PROFESSIONALS**

Project Team: Paul Downey, Director of Administrative Services
Michael Sykes, City Manager

ISSUE STATEMENT Pacific University (PU) is planning on constructing an expansion of the College of Health Professions campus in Hillsboro. The City has passed an ordinance authorizing issuance of the bonds and no petitions have been filed to refer that ordinance to the voters. The City held the TEFRA hearing required by the IRS and there was no objection to issuing the bonds at that hearing. The City now needs to consider a final resolution which will authorize the bonds to be issued and delegate authority to staff to complete the transaction. Staff requests that the Council adopt the attached resolution so that the bonds can be sold.

BACKGROUND ORS 352.790 through 352.820 authorizes municipalities to issue revenue bonds to finance education facilities and to loan proceeds to educational institutions. ORS 288.805 to 288.945 (the "Uniform Revenue Bond Act") authorizes municipalities to issue revenue bonds for any public purpose and sets forth the procedure by which a municipality can issue such revenue bonds. Under these statutes, the bonds will not constitute a debt of the City nor shall the bonds be payable from any funds of the City or any tax levied upon property within the City.

The City previously adopted Ordinance No. 2007-18 on November 13, 2007, which authorized the issuance of revenue bonds in an aggregate principal amount not to exceed \$35,000,000 to finance the construction of the project. The City would act as a conduit issuer of the bonds for the University. Ordinance No. 2007-18 is a non-emergency ordinance so citizens have thirty days after its adoption to file a petition to have the ordinance referred to the City's voters before the bonds can be sold.

Pursuant to Section 147 of the Internal Revenue Code of 1986, as amended (the "Code"), on November 13, 2007, the City conducted a public hearing to provide a reasonable opportunity for members of the public to express their views, orally or in writing, regarding the issuance of the bonds and the uses and purposes of the proceeds of the bonds. There were no written comments received and no members of the public appeared at the public hearing to express their views on the proposed issuance of the bonds. At that meeting, the City Council adopted a resolution approving the issuance of the bonds for the purposes of Section 147 of the Code.

DISCUSSION As stated in Section I of Ordinance No. 2007-18, prior to selling the bonds, the City Council shall adopt a resolution or ordinance establishing the terms and conditions of the bonds, or delegating the authority to establish those terms and conditions. The proposed resolution authorizes the bonds to be issued in order to finance the student housing project and delegates the ability to determine final terms and conditions of the bonds to the City's Director of Administrative Services or the City Manager.

PU and its underwriter are in the process of finalizing the structure of the bond transaction. The bonds will be issued with bond insurance. The final terms of the bond sale are not known yet since the transaction is still being developed.

As discussed in the background section, the bond sale cannot be completed until 30 days have passed since the ordinance authorizing the issuance was passed. The thirty days will be up on December 13, 2007. If the resolution is passed tonight, the bond sale cannot close until then.

In all likelihood, the bond sale will not occur until January 2008. The university is still going through the land use process in Hillsboro. The Hillsboro Planning Commission has denied PU's request for a height variance for the building. The university is examining its options on how to proceed. The bonds will not be sold until the construction of the building is approved by the City of Hillsboro. There are several safeguards to prevent the sale including the bond counsel not being able to issue its bond opinion until the land use process in Hillsboro is completed. Without that opinion, the bonds cannot be sold on a tax-exempt basis.

RECOMMENDATION Staff is recommending that the City Council adopt the proposed resolution.

ORDINANCE NO. 2007- 21**ORDINANCE VACATING WRIGLEY STREET AND SEGMENTS
OF 36TH AVENUE, 36TH PLACE, AND 37TH AVENUE**

WHEREAS, petitions have been filed with the City of Forest Grove to initiate the vacation of Wrigley Avenue and segments of 36th Avenue, 36th Place, and 37th Avenue; and

WHEREAS, the City Council held public hearings concerning this vacation on December 10, 2007, and January 14, 2008, and has made a determination pursuant to ORS 271.120 on the basis of the findings contained in Section 1 below;

NOW, THEREFORE, THE CITY OF FOREST GROVE ORDAINS AS FOLLOWS:

Section 1. The following findings are hereby adopted:

- (1) Notice of the proposed vacation was published in the *Forest Grove News-Times* on November 28 and December 5, 2007, as required by ORS 271.110(1).
- (2) Notice of the proposed vacation was posted on and adjacent to the site proposed for vacation on November 26, 2007, as required by ORS 271.110(2).
- (3) Notice of this proposal was mailed on November 20, 2007, to property owners and residents within 300 feet of the site, as required by Zoning Ordinance Section 9.915.
- (4) Vacation of these rights-of-way is required in order to allow for the assemblage of a larger development site. The existing platted lots will be consolidated into a single parcel with access to Brooke Street, rendering these rights-of-way unnecessary for public access.
- (5) Based upon the above findings, and the reservation of utility easements in Section 2 below, the public interest will not be prejudiced by the vacation of Wrigley Avenue and segments of 36th Avenue, 36th Place, and 37th Avenue as described herein.

Section 2. On the basis of the above findings, those segments of Wrigley Street, 36th Avenue, 36th Place, and 37th Avenue rights-of-way as described in Exhibit "A" are hereby vacated, subject to the retention of a public utility easement over all existing public utilities in said rights-of-way. This easement shall be to the City of Forest Grove and shall extend a minimum of 10 feet on either side of the centerline and terminus of each utility.

Section 3. This ordinance shall be effective 30 days following its enactment by the City Council.

PRESENTED AND PASSED the first reading the 10th day of December, 2007.

PASSED the second reading the 14th day of January, 2008.

Anna D. Ruggles, City Recorder

APPROVED by the Mayor this 14th day of January, 2008.

Richard G. Kidd, Mayor

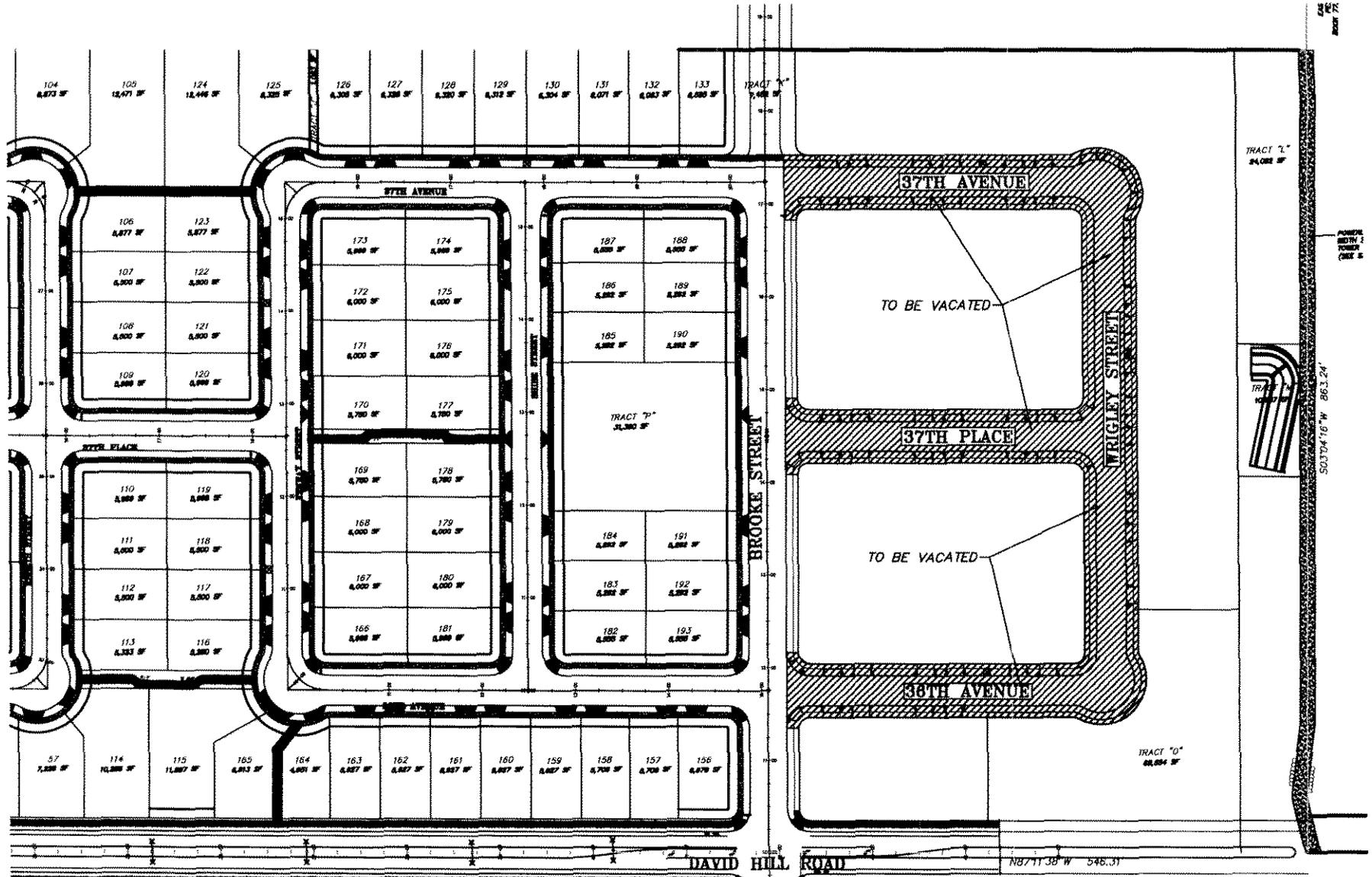


EXHIBIT A

A

PROJECT # 585-7605

DATE: NOV. 29, 2007

BY: [Signature]

CHECKED: [Signature]

SCALE: AS SHOWN

SHEET TITLE:
STREET VACATION PLAN
EXHIBIT A

ARCHITECTS and PLANNERS

800 N. BAYSHORE DR. COOS BAY, OREGON
541.868.0818 FAX 541.867.4826 Email map@mcswain-woods.com

PROJECT TITLE:
FOREST GROVE LDS CHURCH
DAVID HILL ROAD SITE

REPORT ON THE REQUEST TO VACATE SEVERAL STREET SEGMENTS IN THE PARKS @ FOREST GROVE SUBDIVISION

PROJECT TEAM: Jon Holan, Community Development Director
Michael Sykes, City Manager
James Reitz, AICP, Senior Planner

ISSUE STATEMENT: The applicant has purchased all the property abutting the street segments proposed to be vacated. The applicant intends to consolidate 36 of the abutting lots into a single parcel, which, when combined with the vacated rights-of-way, would be used to construct a new church and related facilities. Because the area would no longer be developed with single-family homes, these rights-of-way are no longer necessary for public access. The conditional use permit for the church is scheduled to be heard by the Planning Commission at their January 7, 2008 meeting. Staff will provide an update on the Commission's decision at the January 14, 2008 City Council meeting, prior to the second reading of the vacation ordinance.

RECOMMENDATION: Subject to approval of the conditional use permit, staff recommends approval of the vacation request, with conditions.

BACKGROUND: The street segments in question were deeded to the public when The Parks @ Forest Grove subdivision was platted in April 2007. The applicant subsequently purchased the area east of Brooke Street. Most of the area is intended to be developed with a new church building and related facilities. Thirty-six of the existing platted lots would be consolidated into a single lot.

In addition, a portion of the site (generally along 36th Avenue) is proposed to be replatted as a cul-de-sac. This would allow ten lots to be replatted. Replatting of the lots and dedication of the reconfigured right-of-way would occur after this vacation process is complete. Replatting is necessary because the lots would be reconfigured (i.e., the lot lines would change along with the area within each lot).

The streets and all public utilities have been constructed. Staff is recommending that an easement be retained over all public utilities. The expense to remove the street improvements would remain with the applicant. Further, the right-of-way was dedicated to the public and there is no fee ownership of land by the City. As a result, there is no consideration of any payment to the City for the vacation of the right-of-way.

All relevant utility companies were notified of the vacation request. As of the date of this report, no objections or concerns have been received.

Oregon Revised Statute Chapter 271.120 allows the city governing body (the City Council) to hear a vacation request. The proceedings can be initiated upon receipt of a petition from 100% of the adjoining property owners, and of the owners of 2/3 in area of the "affected property" (defined by statute as an area 200 feet on either side of the proposed vacation area, for a distance of 400 feet from either end). These petitions were filed with the Community Development Department, and the application was deemed complete on October 26, 2007.

The vacation procedure is as follows:

- (A) A hearing date must be set. *The hearing date was set for December 10, 2007.*
- (B) Notice of the hearing must be published in the local paper at least once a week for two consecutive weeks prior to the hearing; and notice must be posted at or near each end of the proposed vacation.

Notice was published in the Forest Grove News Times on November 28 and December 5, 2007. Notice was posted at or near the proposed vacation site on November 26, 2007. Notice was mailed to property owners and residents within 300 feet of the site and within the affected area defined above, on November 20, 2007.

Notice was also provided to area utility providers including Verizon, Northwest Natural Gas, and AT&T. No objections to the proposed vacation have been received from any utility provider. In addition, as of the writing of this report, no objections (written or verbal) have been received from any property owners or residents within the notification area.

- (C) At the hearing, the Council must determine if a majority of the owners of the area affected have objected in writing to the vacation. Affected property is defined as that land lying on either side of the street for a distance of 200 feet, and the land beyond each terminus for a distance of 400 feet, of the part of the street proposed for vacation. The calculation of affected property does not include public right-of-way.

Petitions in support of the vacation have been received from 100% of the abutting property owners (the applicant). In addition, statute requires that the owner(s) of at least 2/3 of the affected area supports the vacation. A petition in support of the vacation has been received from the developer of The Parks @ Forest Grove, who retains ownership of most of the lots in the vicinity of the application (37 of the 44 lots in the affected area). The total affected area equals 289,109 square feet. The petition covers 215,853 square feet, or 74.66% of the affected area. As the minimum 2/3 threshold is exceeded, this criterion is met.

- (C) Rights-of-way may not be vacated without the consent of the owners of the abutting property if the vacation will substantially affect the market value of such property, unless the city governing body provides for paying damages.

The abutting property owner is requesting the vacation to allow the further development of the property. As a result, it is found that the City has received consent from the abutting property owner and that the proposed vacation would not have an adverse impact on the market value of the property.

- (D) If matters are determined in favor of the vacation, the City shall by ordinance make such determination a matter of record and vacate the right-of-way. *An ordinance to vacate the requested area is attached.*
- (E) The City may, upon hearing, make such reservations (conditions) as appear to be for the public interest. *Public utilities are present in these rights-of-way, and easements are necessary to preserve maintenance access to them.*



NOTICE OF STREET VACATION

A Public Hearing will be held before the Forest Grove City Council to review the following:

PROPOSAL: Vacation of the public rights-of-way for Wrigley Street, and 36th Avenue, 36th Place, and 37th Avenue east of Brooke Street.

Applicant: Church of Jesus Christ of Latter Day Saints (Mark Cottle)

File Number: VAC-07-01

CRITERIA: Applicable criteria for review and approval of this request are contained in Oregon Revised Statutes Chapter 271.005 through 271.170.

This Public Hearing before the City Council will take place on **Monday, December 10, 2007 at 7:00 p.m.** The hearing will be held in the Community Auditorium, 1915 Main Street, in Forest Grove. At such time and place all persons will be given a reasonable opportunity to give testimony for or against this proposal. If an issue is not raised in the hearing (in person or by letter) or if the issue is not explained in sufficient detail to allow the City Council to respond to that issue, then that issue cannot be used as the basis for an appeal to the Land Use Board of Appeals.

If additional documents or evidence is provided in support of the application, any party shall be entitled to a continuance of the hearing. Unless there is a continuance, if a participant so requests before the conclusion of the initial evidentiary hearing, the record shall remain open for at least seven (7) days after the hearing.

Information pertaining to this proposal may be obtained from Senior Planner James Reitz at the Community Development Department, 1924 Council Street, (503) 992-3233, between 8 a.m. and 5 p.m. (jreitz@forestgrove-or.gov). The staff report will be available seven days prior to the hearing; copies will be available at cost. This notice is sent by the authority of the Forest Grove City Council.

Anna Ruggles, CMC, City Recorder **To be Published November 28 and December 5, 2007**

ORDINANCE NO. 2007-22

ORDINANCE AMENDING FOREST GROVE CODE SECTIONS 5.310 THROUGH 5.360 RELATING TO MITIGATING PUBLIC HEALTH AND WELFARE IMPACTS OF FORCED EVICTIONS ASSOCIATED WITH CLOSURE OF MANUFACTURED DWELLING PARKS, DECLARING AN EMERGENCY, AND AMENDING ORDINANCE NO. 2007-09

WHEREAS, the City of Forest Grove has manufactured dwelling parks;

WHEREAS, manufactured dwelling parks closure notices may occur at anytime;
and

WHEREAS, manufactured dwelling parks closures, evictions, displacements are upsetting to residents and to the larger community; and

WHEREAS, the City of Forest Grove needs to be informed of such closures in order to respond to the needs of its manufactured dwelling residents in a timely manner; and

WHEREAS, recent Oregon legislation authorizes local governments to adopt or amend manufactured dwelling parks closures ordinances;

WHEREAS, Council declares that it is in the public health, safety and welfare interests of the City to provide that closure of an existing manufactured dwelling parks is preceded by adequate notice, that the social and economic impacts of the proposed closure are adequately defined and mitigated prior to a such closure and that relocation and other assistance is provided to park residents; and

WHEREAS, modifications to the City's adopted manufactured dwelling parks closure ordinance must be completed by December 25, 2007, pursuant to House Bill 2735 (2007), and therefore an emergency exists and this ordinance should take effect immediately upon its adoption.

NOW, THEREFORE, THE CITY OF FOREST GROVE ORDAINS AS FOLLOWS:

Section 1. Forest Grove Code Section 5 is amended by adding the following language shown in **bold** text in the sections of the code identified below:

Manufactured Dwelling Park Closures

5.310. Purpose and Intent.

(1) The purpose of these provisions is to restrict activities for the protection of public health and safety. The provisions are intended to mitigate the adverse impacts of manufactured dwelling closures on park residents by ensuring that the closure is preceded by adequate notice, that the social and economic impacts of the involuntary relocation of tenants associated with the closure are adequately defined, and that relocation and other assistance is provided to park residents.

5.315. Definitions.

(1) The following words, terms and phrases have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning:

"Closure of a manufactured dwelling park" means to stop or cease leasing spaces in a manufactured dwelling park, to terminate manufactured dwelling space rental agreements for all or a portion of the park spaces, or to otherwise engage in activity to effect termination of rental agreements or leases or to evict tenants. Termination of tenancy under ORS 90.400, or actions required by the exercise of eminent domain or by order of State or local agencies shall not constitute closure of a manufactured dwelling park.

"Comparable manufactured dwelling park space" means any space, lot, or parcel of land within ~~100~~ **[25]** miles of the park that is (1) decent, safe, and sanitary; (2) adequate in size to accommodate the manufactured dwelling; (3) within the financial means of the displaced tenant; (4) functionally equivalent; (5) in an area not subject to unreasonable adverse environmental conditions; and (6) in a location generally not less desirable than the location of the displaced tenant's space with respect to public utilities, facilities, services, and the displaced tenant's place of employment.

"Manufactured dwelling" means a residential trailer, mobile home, or a manufactured home as those terms are defined in ORS 446.003(26).

"Manufactured dwelling park" means a place where four or more manufactured dwellings are located, the primary purpose of which is to rent space or keep space for rent to any person for a fee.

"Owner" means a mortgagee in possession and means one or more persons, jointly or severally, in whom is vested all or part of the legal title to a manufactured dwelling park; or all or part of the beneficial ownership and a right to present use and enjoyment of the manufactured dwelling park. Owner includes an authorized representative of the Owner.

"Relocation costs" means and includes actual reasonable expenses in moving the tenant's manufactured dwelling and possessions to a comparable replacement space. Such expenses include:

1. Removal and reinstallation of skirting;
2. Disconnecting utilities;
3. Disconnecting and removing awning(s) and deck(s) from the manufactured dwelling;
4. Trip permit and public inspection fees;
5. Transportation costs;
6. Set up charges;
7. Utility connection expenses and fees;
8. Unit improvements to meet destination facility space standards;
9. Costs for packing and unpacking manufactured dwelling or residential vehicle contents as necessary for unit relocation for elderly and disabled persons, as defined in OAR 813-005-0005 and 813-060-0010, respectively;
10. Temporary housing and meals for the tenant and permanent occupants during unit relocation and set up; and
11. Landlord expenses to secure the relocation space acceptable to the tenant from the time of tenant acceptance until the date the relocated manufactured dwelling or residential vehicle is approved for occupancy.

Notwithstanding the above, relocation costs shall not include, and shall be off set by, relocation assistance received, including, but not limited to financial incentives to move into a new park, from a person or entity other than the owner.

"Tenant" means a person who owns and occupies a manufactured dwelling in a manufactured dwelling park. For the purpose of this Ordinance, a tenant does not include a tenant who has accepted an earlier termination date or contracted with the landlord as provided in ORS 90.630(6)(a) or (b).

5.320. Manufactured Dwelling Park Closure Permit.

(1) Permit Required. No person may close a manufactured dwelling park unless a manufactured dwelling park closure permit has been obtained. Provided, however, that nothing in this section is intended to limit a person's ability 1) to apply for and obtain a plan amendment, zone change, or other land use decision pursuant to the City's Comprehensive Plan or Zoning Ordinance; 2) sell, convey or transfer a manufactured dwelling park; or 3) provide notification under ORS 90.630(5).

(2) Scope of Permit Requirement, Construction. These provisions shall apply to all closures commenced by provision of statutory closure notice on or after June 29, 2007, the effective date of this Ordinance. These provisions shall be

construed as not to conflict with state law, and shall be applied in a manner such that the provisions and state law operate concurrently.

(3) Application Filing. Applications for closure permits shall **[be filed and approved by the City at least 180 days before the termination of tenant leases and]** include the following and any additional relevant information as may be necessarily required by this Ordinance and the City Manager or City Manager's designee:

- (a) A detailed narrative description of and timetable for the proposed closure.
- (b) A report on the impact of the closure of the manufactured dwelling park on its residents pursuant to section 5.325.
- (c) The Relocation Plan pursuant to section 5.330.
- (d) Notice pursuant to 5.335.
- (e) The application filing fee in an amount established by the City Council.

(4) Application processing. Upon receipt of a complete application, the City Manager or Designee shall review the application and forward a recommendation in the permit to City Council for final action. The Permit shall require a public hearing in accordance with Council rules for conduct of administrative and quasi-judicial hearings.

5.325. Closure Impact Report.

(1) Any person filing an application for a Closure Permit shall file a Closure Impact Report on the impact of the closure change of use, or cessation of use upon the residents of the manufactured dwelling park. At a minimum, the Closure Impact Report shall include the following, as well as any other information deemed necessary and appropriate by the City Manager or Designee.

- (a) A detailed description of the manufactured dwelling spaces within the manufactured dwelling park, including but not limited to
 - 1) The total number of manufactured dwelling spaces in the park and the number of spaces occupied,
 - 2) The length of time each space has been occupied by the present resident(s) thereof,
 - 3) The age, size, and type of manufactured dwelling occupying each space,
 - 4) The monthly rent currently charged for each space, including any utilities or other costs paid by the present resident(s) thereof,
 - 5) Name and mailing address of the primary resident(s) and owner if different than occupant of each manufactured dwelling within the manufactured dwelling park.
- [6) List of all units under mortgages and the percentage of the mortgage amount owed.]**

- (b) A list of all comparable manufactured dwelling parks spaces within the City of Forest Grove and within at least three parks that are within up to 25 miles of the City. This list shall include the age of the manufactured dwelling park and the manufactured dwellings therein, a schedule of rents for each park listed, a listing of the vacancies in the parks and the criteria of the management of each park for acceptance of new tenants and used manufactured dwellings.
- (c) A detailed analysis of the economic impact of the relocation on the tenants including comparisons of current rents paid and rents to be paid at comparable manufactured dwelling parks within the relocation area, the estimated costs of moving a manufactured dwelling and personal property and any direct or indirect costs associated with a relocation to another manufactured dwelling park.
- (d) A list of the names, addresses, and telephone numbers of one or more housing specialists, with an explanation of the services the specialists will perform at the applicant's expense for the residents to be displaced. These services shall include but not be limited to assistance in locating a suitable replacement manufactured dwelling park, coordination of moving the manufactured dwelling and personal property, and any other tasks necessary to facilitate the relocation to another comparable manufactured dwelling park.

5.330. Relocation Plan.

(1) A Relocation Plan for tenants of the manufactured dwelling park shall be submitted for review and approval as part of the application for a Closure Permit. The Relocation Plan shall provide, at a minimum, for the following:

- (a) The Relocation Plan shall provide for the owner to pay all reasonable relocation costs to a comparable manufactured dwelling park space within 25 miles to any tenant who relocates from the park after City approval of the closure Permit. When any tenant has given notice of their intent to move prior to City approval of the Use Permit, eligibility to receive moving expenses shall be forfeited.
- (b) The relocation plan shall identify those manufactured dwellings that cannot be relocated to a comparable manufactured dwelling park space within 25 miles. The owner shall be required to offer to purchase any manufactured dwelling that cannot be relocated in conformance with this Ordinance. The offer to purchase the manufactured dwelling will be made at the real market value of the home as reported on the most recent property tax assessment roll.

- (c) In order to facilitate a proposed closure, the tenants and owner(s) may agree to mutually satisfactory conditions. To be valid, however, such an agreement shall be in writing, shall include a provision stating that the tenant is aware of the provisions of this Ordinance, shall include a copy of this Ordinance as an attachment, shall include a provision in at least twelve-point type which clearly informs the tenants that they have the right to seek the advice of an attorney of their choice prior to signing the agreement with regard to their rights under such agreement and shall be drafted in the form and content otherwise required by applicable state law.

Should the owner provide evidence demonstrating to the City that two-thirds of the tenants have executed such agreements, and that the balance of tenants have been offered comparable agreement terms, the provisions of this Ordinance shall not apply to the closure involving all tenants. Such evidence may include an agreement with or a sale to a tenant association or tenant non-profit corporation representing two-thirds or more of the tenants.

5.335 Required Notifications.

- (1) In the event the owner intends to sell the manufactured dwelling park, the owner shall notify, in writing, the tenants and the City of Forest Grove within 10 days of receipt of any written offer received by the owner or agent of the owner to purchase the park which the owner intends to consider or any listing agreement entered into by the owner to effect the sale of the manufactured dwelling park.
- (a) The notice shall contain the name, address, and phone number of the owner and the owner's representative, if any, who is authorized to negotiate the sale of the manufactured dwelling park.
- (b) Within 90 days of the delivery by or on behalf of the owner of the notice required herein, a tenant may notify the owner by certified mail or personal service at the address disclosed in the notice that the tenant or a tenant supported nonprofit organization is interested in purchasing the manufactured dwelling park.
- (c) Upon delivery of the notice required herein, the owner shall negotiate in good faith with the tenant or organization and provide the tenant or organization an opportunity to purchase the facility as the owner would any bona fide third party potential purchaser.
- (d) The section does not apply to those sales and transfers described in ORS 90.820(4) or to any offer or listing agreement made before this section was adopted.

5.340. Required Findings.

- (1) In approving a Permit for a manufactured dwelling park closure, the City Council shall find that the proposed closure meets the following requirements in addition to the other requirements of this Ordinance.
 - (a) That the tenants of the manufactured dwelling park have been adequately notified of the proposed closure, including information pertaining to the anticipated timing of the proposed closure.
 - (b) That the age, type size, and style of manufactured dwelling to be displaced as a result of the closure will be able to be relocated into other comparable manufactured dwelling park within a **[25]** mile radius of the City of Forest Grove, or that the owner has agreed to purchase any manufactured dwelling that cannot be relocated at its in-place value as provided for in this Ordinance.
 - (c) That any manufactured dwelling tenants displaced as a result of the closure shall be compensated by the owner for all reasonable relocation costs, excluding the value of tax credits owing the tenant under state law.
 - (d) That if the owner files a tentative plat or plan for a land division to be created from the closure of a rental manufactured dwelling park, the owner provides tenants such offers and other information required by law.

5.345. Conditions of Approval.

(1) The City Council may impose any necessary and appropriate conditions of approval to satisfy and implement the intent, purpose, and content of this Ordinance. In addition, any other necessary and appropriate conditions of approval to protect the health, safety and welfare of the residents of the City of Forest Grove may be imposed. The Council shall not deny, but may approve or conditionally approve, the permit involving the closure of the park or cessation of the use of the land as a manufactured dwelling park, provided the applicant has properly complied with the requirements of this Ordinance and there is no evidence that the applicant or prior owners have attempted to evict or otherwise cause the removal of residents for the purpose of avoiding the requirements of this Ordinance.

5.350. Owner Relief.

The owner of a manufactured dwelling park may apply for relief from the requirements of this Ordinance. Compliance with the terms of this Ordinance shall not be a precondition to such application. Upon receipt of an owners application for relief setting forth facts demonstrating how application of the Ordinance is unduly oppressive under the circumstances then and there existing, together with an application filing fee in an amount established by City Council, the City Manager shall make a recommendation to the City Council, and based upon the record of a public hearing in accordance with Council rules for conduct of administrative and quasi-judicial hearings, the City Council shall determine the

extent to which application of this Ordinance, or portions thereof, is unduly oppressive. In making that determination, the Council shall consider the amount and percentage of value loss, the extent of remaining uses, past, present and future, the seriousness of the public problem caused by the owner's acts of closure, the degree to which these provisions mitigate the problem and the feasibility of less oppressive solutions. The Council shall consider other factors as may be relevant or necessary to achieve a lawful application of these provisions. The Council shall make written findings, supported by substantial evidence, of the extent to which application of these provisions are unduly oppressive, and articulate those requirements or payments that the owner need not bear to avoid such oppression. As to these requirements or payments, the owner shall be relieved. As to the remaining owner obligations, the Council shall, considering the record of the proceedings, the unmitigated impacts upon the tenants, and the intent and purpose of this Ordinance, declare the manner in which such obligations shall appear in the Relocation Plan or other conditions of the manufactured dwelling park closure Permit.

Appeal of Council action under this Section shall be by Writ of Review.

5.355. Enforcement.

(1) Violations. Any person who closes a manufactured dwelling park without a permit, who fails to comply with the requirements of this Ordinance or the conditions of the permit, or who willfully makes an untrue or misleading statement of material fact or willfully omits to provide required information in the process of application or whose actions, through the raising of rent or otherwise, objectively manifests a intent or effort to avoid the requirements to this Ordinance, shall be guilty of a violation. Notwithstanding any other provision of this Code, the penalty for any such violation shall be \$1,000. Each day of non compliance shall constitute a separate violation.

(2) Private Right of Action. Except with respect to relief granted by the City Council under the provisions of 5.350 or 5.330(1)(C) any tenant of a manufactured dwelling park, or any owner of a manufactured dwelling in a park subject to closure shall have a right of action in a court of competent jurisdiction for such equitable and legal remedies as the court may grant, and shall be entitled to recover reasonable attorney fees, expenses, costs and other disbursements reasonably incurred.

(3) Cumulative Remedies. The foregoing is in addition to any other remedies that may exist at law or in equity.

5.360 Rulemaking Authority.

(1) The City Manager or Designee is authorized to promulgate any rules necessary for the implementation of this Ordinance.

Section 2. Severability.

If any section, subdivision, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions of this Ordinance shall remain in force and effect.

Section 3. Emergency Clause.

There is an immediate need to enact the foregoing provisions to address imminent park closures, so as to protect the public health, safety and welfare. Therefore, an emergency is declared to exist, and this Ordinance shall be effective immediately upon passage by the City Council and approval by the Mayor.

Section 4. That Ordinance No. 2007-09 is hereby amended upon the effective date of this ordinance.

PRESENTED AND PASSED the first reading the 10th day of December, 2007.

PASSED the second reading the 10th day of December, 2007, to become effective immediately.

Anna D. Ruggles, City Recorder

APPROVED by the Mayor this 10th day of December, 2007.

Richard G. Kidd, Mayor

To: City Council

From: Kerstin Cathcart, Senior Planner
Jon Holan, Community Development Director
Michael Sykes, City Manager

Subject: Revisions to an Ordinance pertaining to Manufactured Dwelling Park Closures

Date: November 30, 2007

Issue: The City adopted Ordinance No. 2007-09 concerning Manufactured Dwelling Parks Closures on June 29, 2007, under an emergency ordinance procedure. At this time, recommended changes to the ordinance are being proposed.

Background and Analysis: House Bill 2735 was passed by the Legislature on June 23, 2007. The bill allows local jurisdictions to adopt mobile home park closure ordinances prior to July 1, 2007. The City adopted Ordinance No. 2007-09 on June 29, 2007. Based on discussion with legal staff, the City has 90 days after the effective date of the law to make changes to its ordinance, if those changes are deemed to increase the benefits to manufactured dwelling park tenants (Section 5(1), HB 2735). The law went into effect on September 26, 2007. The City has until December 25, 2007, to make any amendments to our local code. Thus, staff is requesting that this ordinance be adopted as an emergency ordinance as there is only one Council meeting scheduled in December.

There are three items that need to be addressed in the City's ordinance.

(1) Timing of application: The City's ordinance specifies that a manufactured dwelling park cannot close (i.e. terminate leases) unless it has first obtained a Closure Permit from the City.

It is not clear in the ordinance when a closure permit must be filed. State legislation requires written notification to the tenant 365 days prior to termination (unless the conversion is for a subdivision where the notice is reduced to 180 days.) The ordinance requires the property owner to send a notice to the tenant and City within 10 days of receipt of any written offer.

In order to obtain a closure permit, a park owner must file an application with the City that includes a detailed Closure Impact Report and a Relocation Plan. Preparation of both reports requires extensive research and negotiation with park tenants.

If all state and local procedures have been properly followed tenants would have been given notice 365 days in advance of lease termination. At this time, it would be appropriate for the owner to begin collecting information for the Closure Impact Report and Relocation Plan. It therefore seems appropriate to specify that the application for closure should be filed *and approved* by the City at least six months before termination of tenant leases.

The following hypothetical schedule would apply:

January 1 st	Park owner sends notice to tenants that their leases will be terminated within one year
By June 30th	Park owner has applied for and received approval for a City Closure Permit
December 31 st	Park is closed

If at any time during this process, a written offer on the property is received the park owner must notify the City and all tenants within 10 days of the offer.

(2) Relocation Distances: The ordinance established the responsibility of Manufactured Dwelling Park owners to find “comparable spaces” for their tenants if the park is to be redeveloped. The ordinance determined that new spaces should be within 25 miles of the existing park in two places - Section 5.325(b) and Section 5.330(a) however under Section 5.315 the definition of “comparable mobile home park space” is any space within 100 miles of the park and Section 5.340(b) also refers to the 100 mile mark. In order to maintain internal consistency, it is recommended that all distances be 25 miles.

(3) Closure Impact Report Specification: During the June 29, 2007, public hearing on the ordinance, it was noted that 30% of the tenants of Rose Grove Mobile Home Park carry mortgages on their homes. It was recommended that the Closure Impact Report include an accounting of units with mortgages, including the percentage owed. This specific information would be clarified under Section 5.325(a).

Recommendation: Staff is requesting the City Council adopt the amendments as presented in the attached Ordinance and declare an emergency.

November 29, 2007

NewsTimes

Legal Ads/Public Notice:

To be published: Wednesday, December 5, 2007

NOTICE OF PUBLIC HEARING
PROPOSED ORDINANCE OF THE CITY OF FOREST GROVE
AMENDING REGULATION OF MANUFACTURED DWELLING PARKS

NOTICE IS HEREBY GIVEN that the Forest Grove City Council will hold a public hearing on **Monday, December 10, 2007, at 7:00 p.m. or thereafter**, in the Community Auditorium, 1915 Main Street, Forest Grove, to consider adopting an emergency ordinance amending regulation of manufactured dwelling parks. The proposed ordinance would be effective immediately upon approval by the City Council.

This hearing is open to the public and interested parties are encouraged to attend. A copy of the report and proposed ordinance are available for inspection before the hearing at the City Recorder's Office or by visiting the City's website at www.forestgrove-or.gov. Written comments or testimony may be submitted at the hearing or sent to the attention of the City Recorder's Office, P. O. Box 326, 1924 Council Street, Forest Grove, OR 97116, prior to the hearing. For further information, please call the City Recorder's Office at 503.992.3235.

Anna D. Ruggles, CMC, City Recorder
City of Forest Grove

To be published December 5, 2007

ORDINANCE NO. 2007-23

**ORDINANCE ANNEXING CERTAIN TRACTS OF LAND INTO THE CITY
LIMITS OF FOREST GROVE AND WITHDRAWING THE TRACTS FROM
WASHINGTON COUNTY ENHANCED LAW ENFORCEMENT DISTRICT,
WASHINGTON COUNTY URBAN ROADS MAINTENANCE DISTRICT AND
THE FOREST GROVE RURAL FIRE PROTECTION DISTRICT**

FOREST GROVE MAKES THE FOLLOWING FINDINGS:

WHEREAS, the City received a complete petition from the property owner of a certain tract of land depicted on the attached map (Exhibit B) and described in Exhibit A of this ordinance, requesting that their property be annexed to the city limits of Forest Grove; and

WHEREAS, the City received written consent from a majority of the electors in the territory proposed to be annexed and the owner of more than half the land in the territory proposed to be annexed, before the date of the public hearing, as required by ORS 222.170(2); and

WHEREAS, the tract of land is contiguous to the City and can be served by City services; and

WHEREAS, the City Council dispenses with submitting the question of the proposed annexation to the electors of the City for their approval or rejection; and

WHEREAS, the tract of land lies within the boundary of the Washington County Enhanced Law Enforcement District; and

WHEREAS, the tract of land lies within the boundary of the Washington County Urban Roads Maintenance District; and

WHEREAS, the tract of land lies within the boundary of the Forest Grove Rural Fire Protection District; and

WHEREAS, the City conducted a public hearing and mailed, published and posted notice of the public hearing as required by law; and

WHEREAS, a report was prepared as required by law, and the City Council having considered the report and the testimony at the public hearing, does hereby favor the annexation of the subject tracts of land and withdrawal from the districts based on findings and conclusions attached hereto as Exhibit C; and

WHEREAS, the annexation and withdrawals are not contested by any necessary party.

**NOW, THEREFORE, THE CITY OF FOREST GROVE ORDAINS AS
FOLLOWS:**

Section 1. The tract of land, described in Exhibit A and depicted on the attached map (Exhibit B), is declared to be annexed to the City of Forest Grove, Oregon.

Section 2. The tract of land annexed by this ordinance and described in Section 1 are withdrawn from Washington County Enhanced Law Enforcement District, Washington County Urban Roads Maintenance District and the Forest Grove Rural Fire Protection District.

Section 3. The findings and conclusions attached as Exhibit C are adopted. The City Recorder shall immediately file a certified copy of this ordinance with Metro and other agencies required by Metro Code Chapter 3.09.050(g) and ORS 222.005. The annexation and withdrawals shall become effective upon filing of the annexation records with the Secretary of State as provided by ORS 222.180.

Section 4. This ordinance shall be effective 30 days following its enactment by the City Council.

PRESENTED AND PASSED the first reading the 10th day of December, 2007.

PASSED the second reading the 14th day of January, 2008.

Anna D. Ruggles, City Recorder

APPROVED by the Mayor this 14th day of January, 2008.

Richard G. Kidd, Mayor

EXHIBIT A
Proposal ANX 07-02

Legal Description

A tract of land in Section 31 and 32, Township 1 North, Range 3 West, Willamette Meridian, Washington County, Oregon, described as follows:

Beginning at the Northeast corner of the that tract of land conveyed to Walter Haney, et al, by deed recorded in Deed Book 473, Page 239 on October 8, 1962; thence South 0°04' East 200 feet along the East line of said Haney tract, thence West 614.13 feet parallel with the North line of said Haney tract to a point on the West line thereof; thence North 200 feet along said West line to the Northwest corner thereof; thence East 614.13 feet along the North line of said Haney tract to the place of beginning.

EXHIBIT B

Proposal No. ANX-07-02

Map 1N3 3100 Tax Lot 1005 Annexation to the City of Forest Grove Washington County, Oregon

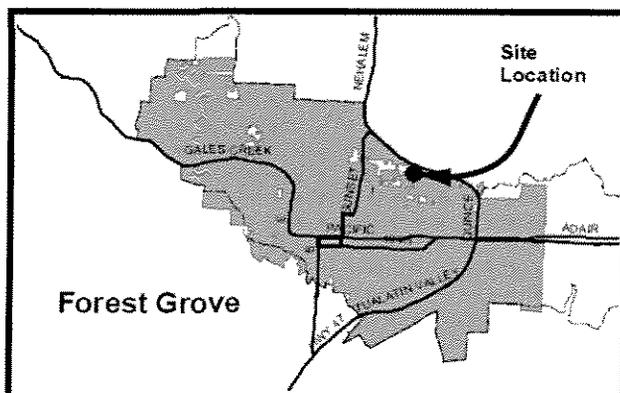
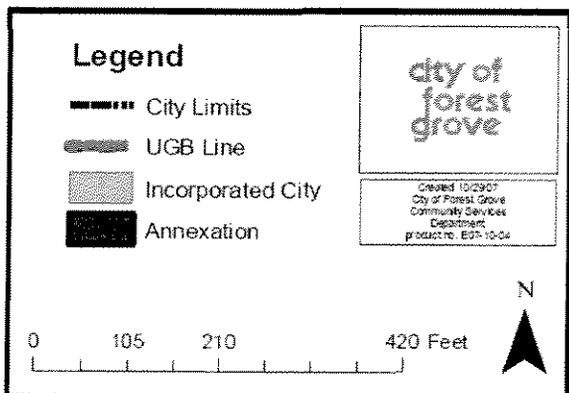
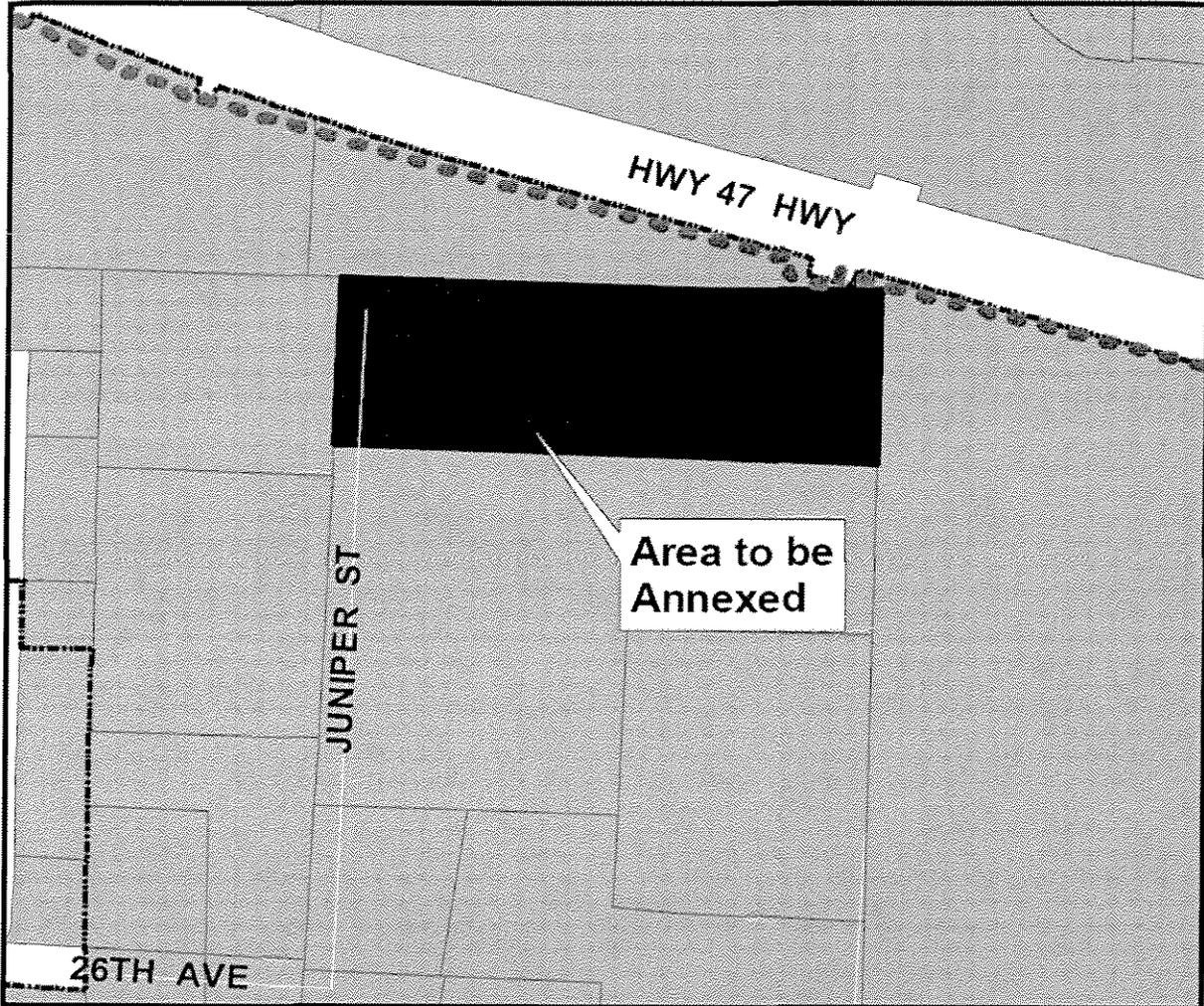


EXHIBIT C
Proposal ANX-07-02

FINDINGS

Based on the staff study and the public hearing the City Council found:

1. Proposal No. ANX 07-02 was initiated by a consent petition of the property owners. Both residents are also registered voters. The petition meets the requirement for initiation set forth in ORS 222.170 (2) (double majority annexation law) and Metro Code 3.09.040 (a) (Metro's minimum requirements for a petition).
2. The territory to be annexed consists of one parcel totaling 2.82 acres, with the street address of 2741 Juniper Street. More specifically the territory includes Washington County map 1N331, tax lot 1005. It has an assessed real market value of \$548,950 and a measure 50 value of \$151,990.
3. The annexation is necessary for the parcel to access public utilities.
4. The annexation is consistent with the Metro criteria for annexations. The Legislature has directed Metro to establish criteria for annexations, which must be used by all cities within the Metro boundary. The Metro Code states that a final decision shall be based on substantial evidence in the record of the hearing and that the written decision must include findings of fact and conclusions from those findings. The Code requires these findings and conclusions to address the following minimum criteria:
 - 1) Consistency with directly applicable provisions in ORS 195 agreements or ORS 195 annexation plans. [ORS 195 agreements are agreements between various service providers about who will provide which services where. The agreements are mandated by ORS 195 but none are currently in place for this area. Annexation plans are timelines for annexations that may only be done after all required 195 agreements are in place and that must have been voted on by the City residents and the residents of the area to be annexed.]
 - 2) Consistency with directly applicable provisions of urban planning area agreements between the annexing entity and a necessary party.
 - 3) Consistency with directly applicable standards for boundary changes contained in Comprehensive land use plans and public facility plans.
 - 4) Consistency with directly applicable standards for boundary changes contained in the Regional Framework Plan or any functional plans.
 - 5) Whether the proposed boundary change will promote or not interfere with the timely, orderly and economic provision of public facilities and services.

- 6) If the boundary change is to Metro, determination by Metro Council that territory should be inside the UGB shall be the primary criteria.
 - 7) Consistency with other applicable criteria for the boundary change in question under state and local law.
5. The annexation is consistent with State and regional planning requirements. These include: State Land Use Goal 14: Urbanization; Metro Regional Framework Plan:

State Land Use Goal 14. Goal 14 requires communities, "To provide for an orderly and efficient transition from rural to urban land use. The goal specifies that conversion of urbanizable land to urban uses be based on: orderly, economic provision of public facilities; availability of sufficient land for various uses; LCDC goals or the acknowledged comprehensive plan; and encouragement of development within urban areas before conversion of urbanizable areas.

Regional Framework Plan. This territory is inside Metro's jurisdictional boundary and inside the regional Urban Growth Boundary (UGB). The law that requires Metro to adopt criteria for boundary changes specifically states that those criteria shall include ". . . compliance with adopted regional urban growth goals and objectives, functional plans . . . and the regional framework plan of the district [Metro]." The Regional Framework Plan, which includes the regional urban growth goals and objectives, the Growth Management Functional Plan and the Regional Transportation Plan were examined and found not to contain specific criteria applicable to boundary changes.

6. The annexation is consistent with Washington County planning policies. The Metro Code states that the Council's decision on this boundary change should be ". . . consistent with specific directly applicable standards or criteria for boundary changes contained in comprehensive land use plans, public facility plans . . ." Thus the applicable plans must be examined for "specific directly applicable standards or criteria."

The territory is designated and zoned FD-10 (Future Development – 10 acre district).

Washington County's Urban Growth Management policies require urban development to be accompanied by adequate urban services. The growth management policies define both urban development and necessary urban services. Public sewer, public water and a balanced urban level transportation system are the primary urban services considered.

The subject territory is within the area covered by an Urban Planning Area Agreement (UPAA), jointly prepared and adopted by Washington County and the City of Forest Grove. The annexation is consistent with the UPAA and its purpose is to coordinate land use actions within the City's planning area.

7. The City of Forest Grove has active planning responsibility for the entire area within the regional urban growth boundary surrounding the City. This territory is within the boundary.

The City Comprehensive Plan covers the territory to be annexed. The current Comprehensive Plan designation for the territory is split between **Medium Density Residential B-Standard** (12 units per net acre) along Juniper Street and **High Density Residential** (20.28 units per net acre) in the eastern portion of the lot. The zoning of the property will change upon annexation from the current County zone (FD-10) to the City designation of **A-1 Two Family and A-2 Multi-Family** according to standards outlined in City Zoning Code 9.614, which requires the appropriate zone district upon annexation according to the underlying comprehensive plan designation.

The City's Comprehensive Plan policies were reviewed for policies related to annexation. The following policies are pertinent:

Local Urbanization Goals

1. Land shall be made available within the urban growth boundary to meet all urban land use needs.
2. Utility services shall be provided incrementally without bypassing large parcels of vacant land to serve peripheral parcels.

Local Urbanization Policies

2. All lands within the Urban Growth Boundary shall be assigned priorities for urban development. Priorities shall be based on the City's ability to provide urban services and the orderly and efficient timing of service extensions. These priorities shall be the basis for making decisions on all development proposals and requests for annexation.
3. Provide for an Urban Growth Management Strategy to set forth policies on the urbanization of vacant and agricultural land. The policies should cover the extension of water and sewer service, land partitioning requirements, zoning, and annexations within the Urban Growth Boundary. The strategy shall provide for the orderly and cost-efficient accommodation of anticipated urban growth for the next ten years.
4. Trunk lines for utilities shall be extended only to service areas which are adjacent to existing development.
5. Sewer and water utilities shall not be extended beyond the City's corporate limits and shall be provided only after annexation.

Urbanization Policy 2 calls for the City to designate priority areas for urban development. The City has not established a prioritization system for urban

development. Similarly, Urbanization Policy 3 calls for the City to develop urban growth management policies. The City's growth management strategy is represented by the Comprehensive Plan. This territory will develop in conjunction with other properties and is adjacent to existing development. The property has the necessary urban services available with adequate capacity and is thus consistent with the intent of Policies 2 and 3. Policies 4 and 5 prohibit extension of utility outside the City and only to areas which are adjacent to existing development.

8. The site falls within the Northeast service area of the City's Sewer Master Plan. The applicant expects to hook up to the new trunk sewer and lateral line which will cross the property. Further, the implementation of the Sewer Master Plan for this territory represents a logical extension of sewer service where a nearby service line would be extended to provide service to the site.
9. The property is currently on a ground well that is being impacted by the adjacent development. The property will be served with city water upon annexation by a proposed 8" water line in Juniper Street that will be installed as part of the Casey Meadows development. The City of Forest Grove has two sources of water supply.
10. There is no existing storm water facility adjacent to or within the territory. The territory is within Clean Water Service's (CWS) service boundary. CWS is responsible for storm water management in Washington County. Any development will be contingent upon obtaining annexation to CWS service district. Due to the City's Intergovernmental Agreement with CWS, adequate storm water facilities meeting CWS standards will be required as part of any development approval
11. The territory to be annexed is within the Washington County Enhanced Sheriff's Patrol District which, in addition to the basic County-wide level of protection, provides .94 officers per 1000 population. The City may withdraw the territory from the District upon annexation. If the City declares the territory withdrawn from the District on the effective date of the annexation the District's tax levy will no longer apply. Upon annexation the City of Forest Grove Police Department would assume responsibility for the property.
12. The territory is within the boundary of the Forest Grove Rural Fire Protection District, The City may withdraw the territory from the District upon annexation. If the City declares the territory withdrawn from the District on the effective date of the annexation the District's tax levy will no longer apply.
13. The territory to be annexed is within the boundary of the Washington County Urban Road Maintenance District. The City can withdraw the territory from the District upon annexation to the City.

14. The city parks nearest to the subject property are Lincoln Park and the future Stites Park. Lincoln Park is undergoing a major renovation while Stites Park is still undeveloped.
15. The City of Forest Grove provides a municipal utility for electric power through its City Light and Power Department. Forest Grove provides library services, land use planning, zoning, building and general administration services.

REASONS FOR DECISION

Based on the Findings, City Council Determined:

1. The Metro Code at 3.09.050(d)(3) calls for consistency between the City's decision and any "specific directly applicable standards or criteria for boundary changes contained in comprehensive plans, public facilities plans. . . ." The Council has reviewed both the County comprehensive plan which currently applies to these parcels and the City Comprehensive Plan which will apply upon annexation.

The County Plan does not contain any criteria directly applicable to annexations. The County 2000 program suggests that the County supports all urban lands annexing to cities.

The City's Comprehensive Plan provides in Urbanization Policy 5 that sewer and water utilities may not be extended to lands outside the City limits and may only be provided after annexation. Thus, the plan anticipates that all lands within the City's urban planning area will be urbanized by first annexing to the City and then extending urban services to annexed areas.

Certain policies within the City's Comprehensive Plan contain criteria indirectly applicable to annexation decisions. Local Urbanization Goals 1 and 2 and Policies 2 through 4 suggest that lands should only be annexed if the City can provide adequate urban services in an orderly and efficient manner; that anticipated growth should be accommodated in an orderly and cost-efficient manner; and should be adjacent to existing development. Thus, the annexation is consistent with the intent of Policies 2 and 3.

The Council concludes that the annexation is consistent with the applicable plans.

2. Metro Code 3.09.050(d)(1) requires the Council's findings to address consistency with applicable provisions of urban service agreements or annexation plans adopted pursuant to ORS 195. There are no such plans or agreements in place. Therefore the Council finds that there are no inconsistencies between these plans/agreements and this annexation.

3. The Council notes that the Metro Code also calls for consistency of the annexation with urban planning area agreements. As stated in Finding No. 7, the Forest Grove-Washington County UPAA specifically says that the County assumes this area will be served by the City. Therefore, the Council finds the annexation to be consistent with the UPAA.
4. The Metro Code calls for consistency of the annexation with the Regional Framework Plan or any functional plan. Because there were no directly applicable criteria for boundary changes found in the Regional Framework Plan or the Urban Growth Management Function Plan or the Regional Transportation Plan the Council concludes the annexation is not inconsistent with this criterion.
5. Metro Code 3.09.050(e)(3) states that another criterion to be addressed is that the annexation will not interfere with the timely, orderly and economic provision of public services and facilities. The Council finds the City's services will be adequate to serve the proposal before development is allowed and that the timely provision of services will not be negatively affected by the annexation. Therefore, the proposed boundary change promotes the timely, orderly and economic provision of services.
6. The City may specify in its annexation Ordinance that the territory will be simultaneously withdrawn from the Washington County Enhanced Law Enforcement District, Washington County Urban Roads Maintenance District and the Forest Grove Rural Fire Protection District. The City is not part of any of these districts. The services provided by these districts are provided by the City from City resources. To prevent the property from being taxed by both the Districts and the City, the territory should be simultaneously withdrawn from these Districts.

December 3, 2007

**REPORT ON BOUNDARY CHANGE PROPOSAL NO. ANX 07-02
ANNEXATION TO FOREST GROVE
SCHEDULED FOR HEARING DATE OF DECEMBER 10, 2007**

PROJECT TEAM: Kerstin Cathcart, Senior Planner
Jon Holan, Community Development Director
Michael Sykes, City Manager

ISSUE STATEMENT: Consideration of a petition to annex to the City of Forest Grove initiated by the property owner. The territory to be annexed consists of a parcel totaling 2.82 acres. It is located at 2741 Juniper Street. More specifically the territory includes Washington County tax map 1N331, lot 1005 as shown on Figure 1 attached to this staff report. The annexation is being proposed at this time to bring city services to the property.

STAFF RECOMMENDATION: The staff recommends that the annexation be approved by the Council and, if so, that the territory be withdrawn from Forest Grove R.F.P.D., Washington County Service District for Enhanced Law Enforcement and the Washington County Service District for Urban Road Maintenance. The staff has prepared an ordinance with draft findings and conclusions which would support the approval and the withdrawals.

BACKGROUND: The legal framework for review of boundary changes in the Portland metropolitan area consists of ORS 222, Metro Code Chapter 3.09 and ORS 197.763. Additional background on the annexation process is contained in attached report.

PROPOSAL NO. ANX-07-02 CITY OF FOREST GROVE – Annexation

Petitioners: Darren and Patty Pang, Property Owners
Pam Danzer, Applicant

Proposal No. ANX 07-02 was initiated by a consent petition of the property owners. The petition meets the requirement for initiation set forth in ORS 222.170 (2) - double majority annexation law, and Metro Code 3.09.040 (a) - Metro's minimum requirements for a petition. The Council must review the proposal and determine whether it is in compliance with the applicable criteria.

The territory to be annexed consists of a parcel totaling 2.82 acres, with the street address of 2741 Juniper Street. More specifically the territory includes Washington County Map 1N331, tax lot 1005. It has an assessed real market value of \$548,950 and a Measure 50 value of \$151,990.

The property contains one single family residence with accessory buildings. The land gently slopes to the east. The slope is bisected by an unnamed ditch flowing north to Council Creek. There are some identified wetland areas on this property. All surrounding properties are vacant and/or under development except for the property to the south which is occupied by a single family residence.

No development is proposed at this time for this property.

REASONS FOR ANNEXATION

The annexation is necessary to provide city services to the property.

CRITERIA FOR DECISION-MAKING

The Legislature has directed Metro to establish criteria for annexations, which must be used by all cities within the Metro boundary. The Metro Code states that a final decision shall be based on substantial evidence in the record of the hearing and that the written decision must include findings of fact and conclusions from those findings. The Code requires these findings and conclusions to address the following minimum criteria:

- 1) Consistency with directly applicable provisions in ORS 195 agreements or ORS 195 annexation plans. [ORS 195 agreements are agreements between various service providers about who will provide which services where. The agreements are mandated by ORS 195 but none are currently in place for this area. Annexation plans are timelines for annexations that may only be done after all required 195 agreements are in place and that must have been voted on by the City residents and the residents of the area to be annexed.]
- 2) Consistency with directly applicable provisions of urban planning area agreements between the annexing entity and a necessary party.
- 3) Consistency with directly applicable standards for boundary changes contained in Comprehensive land use plans and public facility plans.
- 4) Consistency with directly applicable standards for boundary changes contained in the Regional Framework Plan or any functional plans.

- 5) Whether the proposed boundary change will promote or not interfere with the timely, orderly and economic provision of public facilities and services.
- 6) If the boundary change is to Metro, determination by Metro Council that territory should be inside the UGB shall be the primary criteria.
- 7) Consistency with other applicable criteria for the boundary change in question under state and local law.

The Metro Code also contains a second set of ten factors which are to be considered where: 1) no ORS 195 agreements have been adopted, and 2) a necessary party is contesting the boundary change. Those ten factors are not applicable at this time because no necessary party has contested the proposed annexation.

LAND USE PLANNING

The annexation of territory into Forest Grove is subject to state, regional and local planning requirements. These include: State Land Use Goal 14: Urbanization; Metro Regional Framework Plan; Urban Growth Management Agreement between Washington County and Forest Grove; and the Forest Grove Comprehensive Plan and various public facility plans.

State Land Use Goal 14

The annexation is consistent with Goal 14, which requires communities, "to provide for an orderly and efficient transition from rural to urban land use." The goal specifies that conversion of urbanizable land to urban uses be based on: orderly, economic provision of public facilities; availability of sufficient land for various uses; LCDC goals or the acknowledged comprehensive plan; and encouragement of development within urban areas before conversion of urbanizable areas.

Regional Framework Plan

The annexation is consistent with regional plans. This territory is inside Metro's jurisdictional boundary and inside the regional Urban Growth Boundary (UGB). The law that requires Metro to adopt criteria for boundary changes specifically states that those criteria shall include ". . . compliance with adopted regional urban growth goals and objectives, functional plans . . . and the regional framework plan of the district [Metro]." The Regional Framework Plan, which includes the regional urban growth goals and objectives, the Growth Management Functional Plan and the Regional Transportation Plan were examined and found not to contain specific criteria applicable to boundary changes.

The Metro Code states that decisions on boundary changes should be ". . . consistent with specific directly applicable standards or criteria for boundary changes contained in comprehensive land use plans, public facility plans . . ." Thus the applicable plans must be examined for "specific directly applicable standards or criteria."

Washington County Planning

The annexation is consistent with Washington County planning policies. Washington County reviewed its role in service provision in its County 2000 program, the County's financial management plan. The County established a policy of supporting a service delivery system that

distinguishes between municipal and countywide services. To achieve tax fairness and expenditure equity in the provision of public services the County's policy is to provide only countywide services with general fund revenues. The County policy favors municipal services being provided either by cities or special districts.

The territory is designated and zoned FD-10 (Future Development – 10 acre district).

309 Intent and Purposes

This zoning applies to the unincorporated portions of some city active planning areas where these cities are the only available source of urban services. . . The FD-10 District provides recognition of the desirability of encouraging and retaining limited interim uses until a need for more intensive urban land use activities develops and such lands are annexed to a city.

Washington County's Urban Growth Management policies require urban development to be accompanied by adequate urban services. The growth management policies define both urban development and necessary urban services. Public sewer, public water and a balanced urban level transportation system are the primary urban services considered.

Urban Growth Management Agreement.

Washington County and the City of Forest Grove jointly prepared and adopted an Urban Planning Area Agreement (UPAA) to coordinate land use actions within the City's planning area. The subject territory is within the area covered by the UPAA. Pertinent portions of the UPAA are as follows:

* * *

III. Planning Responsibilities

A. The following policies are intended to further clarify the respective planning interests and duties of the CITY and the COUNTY as they relate to the Forest Grove Urban Planning Area:

2. The CITY shall be responsible for comprehensive planning in the incorporated and unincorporated portions of the CITY's urban planning area, and shall implement the planning process outlined in the CITY's comprehensive plan. The COUNTY shall support the planning process and participate as necessary.

* * *

9. Urban development in the urban planning area shall be served with adequate urban services including sewer, water, storm drainage, streets, and police and fire protection. The CITY shall be responsible for the preparation, adoption and amendment of the public facility plan required by OAR 660-11 within the urban planning area.

10. As required by OAR 660-11-010, the CITY is identified as the appropriate provider of local water, sanitary sewer, storm sewer and transportation facilities within the urban planning area. Exceptions include facilities provided by other service providers subject to the terms of any intergovernmental agreement the CITY may have with other service providers not covered by an intergovernmental agreement; and future facilities that are more appropriately provided by an agency other than the CITY. The CITY shall provide urban services consistent with annexation and fiscal policies.

11. The CITY has developed a transportation plan which addresses the existing and future traffic needs of the urban planning area. The CITY shall coordinate local transportation plans, proposals and improvements with the COUNTY.

* * *

13. The CITY shall monitor and regulate the conversion of vacant and agricultural land to urban

uses through the extension of water and sewer service, land partitioning requirements and annexations within the urban planning area. Unincorporated urbanizable land shall not be converted to urban development prior to annexation to the CITY.

City Planning

The City of Forest Grove has active planning responsibility for the entire area within the regional urban growth boundary surrounding the City. This territory is within the boundary.

The City Comprehensive Plan covers the territory to be annexed. The current Comprehensive Plan designation for the territory is split between **Medium Density Residential B-Standard** (12 units per net acre) along Juniper Street and **High Density Residential** (20.28 units per net acre) in the eastern portion of the lot. The zoning of the property will change upon annexation from the current County zone (FD-10) to the City designation of **A-1 Two Family and A-2 Multi-Family** according to standards outlined in City Zoning Code 9.614, which requires the appropriate zone district upon annexation according to the underlying comprehensive plan designation.

The City's comprehensive plan policies were reviewed for policies related to annexation. The proposal was found to be consistent with the following:

Local Urbanization Goals:

1. Land shall be made available within the urban growth boundary to meet all urban land use needs.
2. Utility services shall be provided incrementally without bypassing large parcels of vacant land to serve peripheral parcels.

Local Urbanization Policies:

2. All lands within the Urban Growth Boundary shall be assigned priorities for urban development. Priorities shall be based on the City's ability to provide urban services and the orderly and efficient timing of service extensions. These priorities shall be the basis for making decisions on all development proposals and requests for annexation.
3. Provide for an Urban Growth Management Strategy to set forth policies on the urbanization of vacant and agricultural land. The policies should cover the extension of water and sewer service, land partitioning requirements, zoning, and annexations within the Urban Growth Boundary. The strategy shall provide for the orderly and cost-efficient accommodation of anticipated urban growth for the next 10 years.
4. Trunk lines for utilities shall be extended only to service areas which are adjacent to existing development.
5. Sewer and water utilities shall not be extended beyond the City's corporate limits and shall be provided only after annexation.

CONSISTENCY OF PROPOSAL WITH LAND USE PLANNING REQUIREMENTS

The proposal is consistent with State, regional and local planning requirements listed in the preceding pages. The proposal meets the requirements of State Land Use Goal 14: Urbanization by providing for an orderly transition from rural to urban land use; allowing the efficient provision of public facilities; allowing for the future construction of needed housing; and implementing the City's acknowledged comprehensive plan. The proposal promotes the development of residential development as an "Inner Neighborhood" design type as defined by the Metro 2040 Concept Plan and is consistent with Title 1 of the Metro Functional Plan by providing for the expansion of housing.

The City's growth management strategy is represented by the Comprehensive Plan and the proposal is consistent with the goal and policies presented in this document. The property, when developed, will extend urban services from areas immediately adjacent to the property or to areas immediately adjacent to the property. These services have capacity to serve the site. Thus, the annexation of this area appears to be consistent with the intent of Policies 2 and 3. Policy 4 and 5 prohibits extension of utility outside the City and only to area which are adjacent to existing development. The following section will discuss the availability of municipal facilities and services to the territory in more detail.

FACILITIES AND SERVICES

Sewer. The site falls within the Northeast service area of the City's Sewer Master Plan. The applicant expects to hook up to the new trunk sewer and lateral line which will cross the property. Further, the implementation of the Sewer Master Plan for this territory represents a logical extension of sewer service where a nearby service line would be extended to provide service to the site.

Forest Grove lies within the service district of Clean Water Services (CWS). CWS is the NPDES permit holder and operates and maintains wastewater treatment and collection facilities within its boundary. Through intergovernmental agreement between the City and CWS, the City performs some of the operation, maintenance, and administrative functions on portion of the collection system within city limits. If a property is not already within CWS's service district, the applicant must go through an additional annexation process with CWS.

The City is responsible for billing its customers after service is installed and for collecting sanitary and storm sewer connection fees. If the City imposes the same connection fees and use charges as Clean Water Services, it simply passes these monies on to Clean Water Services to pay for the costs of treatment and transmission of the sewage or storm water. The City may impose higher costs than Clean Water Services charges and keep the difference to offset City costs. Forest Grove does not charge a higher fee. The City assesses system development charges (SDCs) upon development of the property.

Water. The property is currently on a ground well that is being impacted by the adjacent development. The property will be served with city water upon annexation by a proposed 8" water line in Juniper Street that will be installed as part of the Casey Meadows development.

The City of Forest Grove has two sources of water supply. The primary source is the Forest Grove watershed, consisting of 4,300 acres of the Clear Creek drainage basin. The City also has water rights from Gales Creek. Water from the Forest Grove watershed is treated at the City's treatment plant located in the northwest section of the City. The treatment plant has a capacity of about 3.0 million gallons per day (mgd). Another other major source is the joint Hillsboro/Forest Grove/Beaverton water treatment plant, which is supplied from the Trask and Scoggins impoundments via the Tualatin River. The joint water supply system has a nominal capacity of 60 mgd. Forest Grove owns 13.3 percent (8 mgd) of the system's capacity.

The City's main storage reservoir is located adjacent to the Forest Grove Water Treatment Plant. It has a storage capacity of 5 million gallons (mg). This is adequate for the existing system. An additional reservoir provides 1 mg of storage for the Forest Gale Heights area.

Storm Water Management. Clean Water Services (CWS) County Service District is responsible for storm water management in Washington County. Due to the City's Intergovernmental Agreement with CWS, adequate storm water facilities meeting CWS standards will be required as part of any re-development approval.

The City is responsible for billing and collecting sanitary and storm sewer connection fees from its customers after the services are installed. Clean Water Services (CWS) establishes the rates for sanitary and storm sewer services which the City bills to its customers. The City keeps a portion of these fees to pay for the transmission services performed by the City and passes the other portion on to CWS to pay for the treatment and transmission services performed by CWS. The division of the fees is determined by CWS.

If the City needs additional revenue to fund its operating costs, the City may impose a surcharge and retain that surcharge to cover its costs. Forest Grove currently imposes a surcharge on sanitary sewer. CWS assesses system development charges (SDCs) which the City collects when building permits are issued. The City retains a portion of the SDCs and CWS receives the remainder. CWS sets the division of the SDCs between the City and CWS.

Police. The territory to be annexed is within the Washington County Enhanced Sheriff's Patrol District which, in addition to the basic County-wide level of protection, provides 0.94 officers per 1,000 people. The City may withdraw the territory from the District upon annexation. If the City declares the territory withdrawn from the District on the effective date of the annexation the District's tax levy will no longer apply.

Upon annexation the City of Forest Grove Police Department would assume responsibility for the property. The City employs 26 officers, equating to 1.46 officers per 1,000 people. The department operates on three ten-hour shifts, 7 days a week. Staffing for each shift is determined by calls for service.

The Police Department has expressed concerns about access to the area and moving in and out of the City limits to respond to calls in this North-Central area. Regarding access, they are concerned about the road condition of 26th and Willamina Avenues in terms of police response. The irregular city boundary in this part of the city makes it difficult for the police to determine

whether they or the Sheriff's Department have primary jurisdiction when responding to a call. While this situation was improved by the city-sponsored annexation in 2006, the irregular boundary exists primarily in this part of Forest Grove. This annexation proposal will help resolve this problem.

Fire. The territory is within the boundary of the Forest Grove Rural Fire Protection District, the City may withdraw the territory from the District upon annexation. If the City declares the territory withdrawn from the District on the effective date of the annexation the District's tax levy will no longer apply.

The City Fire Department Operates through an intergovernmental agreement between the City of Forest Grove and the Forest Grove Rural Fire Protection District. The City and District share all capital costs equally. Fire service is provided from two fire stations. The main station (constructed in 1995) is located in the center of the City on Ash Street. The second station is located in the Gales Creek area. The City and District co-own property near the intersection of David Hill Road and Thatcher Road for a possible fire station if development in that area warrants a third station.

The Fire Department operates with 1 Fire Chief, 1 Administrative Assistant, 2 Division Chiefs in charge of Fire Prevention and Training, 1 Fire Inspector 15 career Firefighters and 42 Volunteer Firefighters. The Department provides 4 to 5 career firefighters on duty at all times at the Ash Street Station. On certain alarms, the volunteers respond to the station along with off duty career firefighters. All personnel are provided with pagers for alerting them. Night responses are augmented by the resident volunteers that live at the Ash Street Station. The Fire Department is equipped with 5-Pumpers, 2-Water Tenders, 1-104' Aerial Platform Truck, 1- Rescue, 1-Support Unit 5-Pick-ups, 1- Command Vehicle.

Transportation. The territory to be annexed is within the boundary of the Washington County Urban Road Maintenance District. The City can withdraw the territory from the District upon annexation to the City. It is worth noting that access to Juniper Street is from Willamina Avenue which is still within Washington County's jurisdiction and therefore is only maintained to county road standards.

Parks. The city parks nearest to the subject property are Lincoln Park and the future Stites Park. Lincoln Park is undergoing a major renovation while Stites Park is still undeveloped.

Other Services. The City of Forest Grove provides a municipal utility for electric power through its City Light and Power Department. Forest Grove provides library services, land use planning, zoning, building and general administration services.

MEASURE 37

The Measure 37 waiver has been signed and filed with the City.

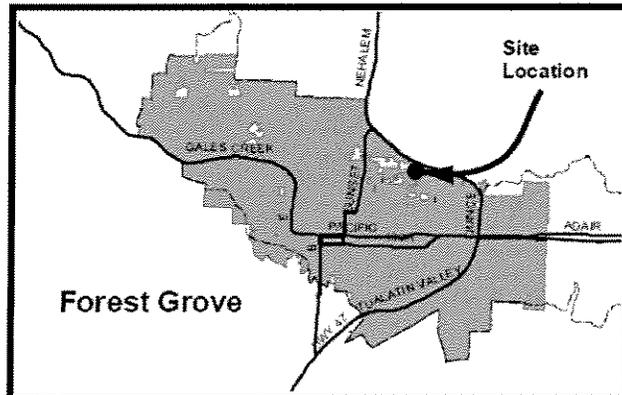
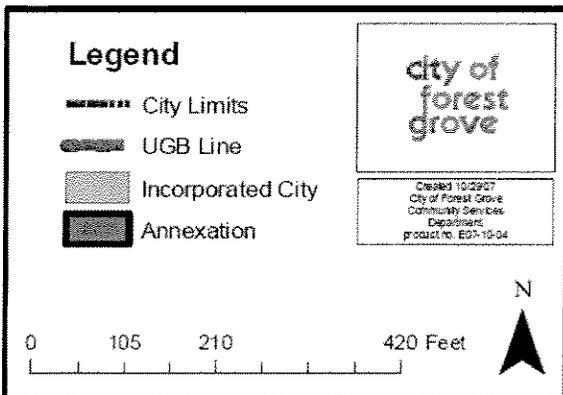
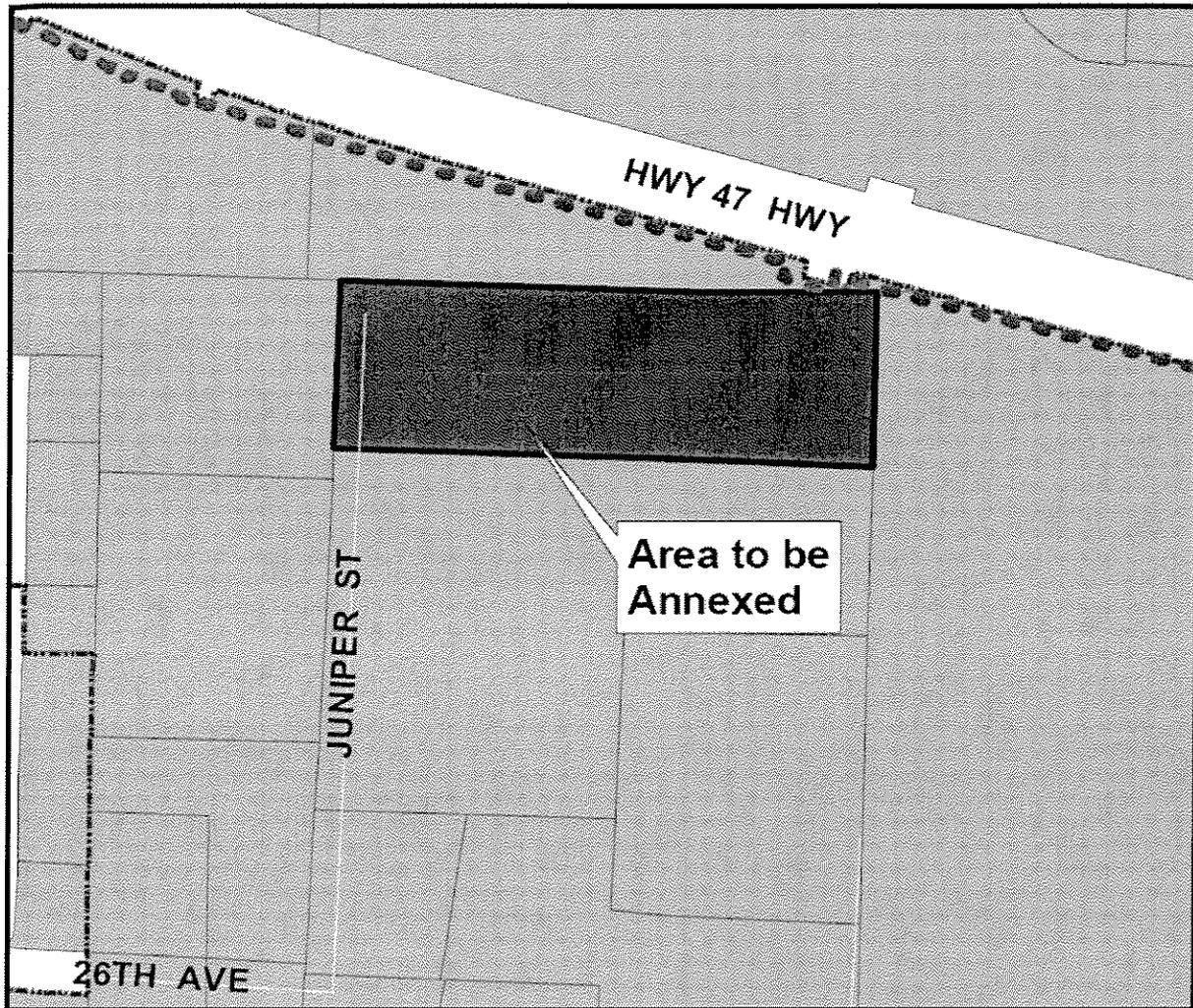
RECOMMENDATION

Staff recommends approval of proposed annexation number ANX 07-02 based on the study and the proposed findings and reason for decision included in the attached ordinance. The staff recommends that the City withdraw the territory from the Forest Grove Rural Fire Protection District, the Washington County Enhanced Law Enforcement District and the Urban Roads Maintenance District as allowed by state statute.

FIGURE 1

Proposal No. ANX-07-02

Map 1N3 3100 Tax Lot 1005 Annexation to the City of Forest Grove Washington County, Oregon



NOTICE OF PUBLIC HEARING
PROPOSED ANNEXATION TO THE CITY OF FOREST GROVE

NOTICE IS HEREBY GIVEN THAT ON **MONDAY, DECEMBER 10, 2007**, AT 7:00 P.M. OF THEREAFTER, IN THE COMMUNITY AUDITORIUM, 1915 MAIN STREET, FOREST GROVE, OREGON, THERE SHALL BE A PUBLIC HEARING BY AND BEFORE THE FOREST GROVE CITY COUNCIL ON A BOUNDARY CHANGE PROPOSAL. INTERESTED PERSONS MAY APPEAR AND WILL BE GIVEN REASONABLE OPPORTUNITY TO BE HEARD.

PROPOSAL NO. ANX-07-02 – ANNEXATION TO THE CITY OF FOREST GROVE of a total 2.82 acre territory located at 2741 Juniper Street, more particularly:

Map IN3 31 tax lot 1500 in Washington County, Oregon

The purpose of this annexation is to make city services available to facilitate future development. Upon annexation the territory will be rezoned from FD-10 (County) to A-1 Two-Family & A-2 Multi-Family.

Applicable criteria for annexations may be found in the Metro Code 3.09.050 and the City's growth policies can be found in the Comprehensive Plan.

To speak at the hearing please fill out a speakers card prior to the beginning of the hearing.

Failure of an issue to be raised in the hearing, in person or by letter, or failure to provide statements or evidence sufficient to afford the City Council an opportunity to respond to the issue precludes appeal to the Oregon Land Use Board of Appeals on that issue.

A copy of the application, all documents and evidence submitted by or on behalf of the applicant and applicable criteria are available for inspection at no cost and will be provided at reasonable cost.

The staff report will be available for inspection at no cost 15 days before the hearing and a copy will be provided at reasonable cost.

To review the information in the application, acquire copies of these items or for other general information contact Kerstin Cathcart at (503) 992-3226.

Anna D. Ruggles, CMC, City Recorder

To be published: October 24, 2007

ORDINANCE NO. 2007-15

11.
Second
Reading

**ORDINANCE ADOPTING TEXT AMENDMENTS TO THE
COMPREHENSIVE PLAN, MUNICIPAL CODE, AND ZONING AND
LAND DIVISION ORDINANCES TO COMPLY WITH METRO'S NATURE IN
NEIGHBORHOODS FUNCTIONAL PLAN REQUIREMENTS**

WHEREAS, Metro proceeded with the development of a program for the protection and conservation of fish and wildlife habitat; and

WHEREAS, in response to the Metro efforts, communities in Washington County formed the Tualatin Basin program; and

WHEREAS, Metro Council on September 29, 2005, adopted Ordinance Number 05-1077C to establish the Nature in Neighborhoods program pertaining to preservation and enhancement of riparian and upland habitat areas; and

WHEREAS, a community could comply with the Nature in Neighborhoods program by adopting the Metro Model Code and Habitat Conservation Areas or by making the appropriate code amendments to implement the Tualatin Basin program; and

WHEREAS, the City of Forest Grove initiated Comprehensive Plan Amendment CPA-06-03, Zone Map Amendment ZC-06-03, Land Division Ordinance Amendment LDO-06-02 and Municipal Code Amendment in order to achieve compliance with the Nature in Neighborhoods program requirements; and

WHEREAS, the Planning Commission and City Council held several work sessions on the matter. Work sessions and updates were held with the Commission on June 18, 2001, September 30, 2002, March 17, 2003, November 17, 2003, May 17, 2004, March 7, 2005, October 2, 2006, November 20, 2006, and January 29, 2007. It should be noted that City Councilors were invited to the last two Commission meetings and several Councilors were in attendance. Meetings with Council included June 11, 2001, November 13, 2001, April 22, 2002, July 8, 2002, May 27, 2003, May 27, 2004, and July 26, 2005. In addition, three joint work sessions were held with both the Planning Commission and Council on July 12, 2004, October 17, 2006, and September 5, 2006; and

WHEREAS, a Measure 56 notice was mailed to affected property owners on March 13, 2007, and reminder cards on April 9, 2007, and June 12, 2007; and published in the *News Times* on March 23, 2007, as required by Zoning Ordinance Section 9.915, and republished on May 1, 2007; and

WHEREAS, pursuant to the Zoning Ordinance Section 9.902 and Land Division Ordinance Section 9.117 the Planning Commission conducted a duly noticed public hearing on the proposed text amendments on May 21 and July 16, 2007; and

WHEREAS, the Planning Commission adopted Planning Commission Decision Number 07-08 recommending approval of the proposed amendments to the City Council; and

WHEREAS, the City Council held a duly noticed public hearing on September 24, November 13, November 26 and December 10, 2007.

NOW, THEREFORE, THE CITY OF FOREST GROVE ORDAINS AS FOLLOWS:

SECTION 1. The City Council does hereby approve Comprehensive Plan Amendment CPA-06-03, Zone Map Amendment ZC-06-03, Land Division Ordinance Amendment LDO-06-02 and Municipal Code Amendment as provided in Exhibit A as amended based on the Planning Department staff report dated November 26, 2007, making the following specific findings in support of this recommendation:

A. Comprehensive Plan Map Amendment Criteria (Comprehensive Plan, Ordinance 83-15, Section II, Amendments to the Comprehensive Plan):

1. Justification of the proposed amendment and an explanation of how it fulfills applicable comprehensive plan goals and policies and LCDC statewide planning goals.

Analysis and Findings: Based on the analysis and findings contained in the staff report, the proposed amendment fulfills applicable comprehensive plan goals and LCDC statewide planning goals.

2. Identification of alternative locations within the City or Urban Planning Area which could be used without amending the plan, and an explanation as to why they are considered unsuitable.

Analysis and Findings: The amendments are intended to apply to those areas containing natural resources and in areas subject to either flood plain or steep slope hazards. Thus, there are no alternative locations that would be appropriate since other areas would not contain these resources or hazards.

3. Identification of the short and long-term environmental, social, economic and energy consequences of the proposed change on the city, region, and state, with particular attention to the impacts on public facilities and services such as streets, traffic control, mass transit, sewer, water, drainage, parks, schools, public safety, and public utilities.

Analysis and Findings: ESEE analysis has been performed by Metro and the Tualatin Basin. The Tualatin Basin ESEE contains analysis from the City of Forest Grove. Those ESEE analyses are adopted here by reference.

4. Demonstration that the proposed new land uses will be compatible with existing adjacent land uses and with future adjacent land uses as proposed in the comprehensive plan.

Analysis and Findings: Not applicable. The amendment proposes no new land uses.

B. Zoning Ordinance Amendment Criteria (Zoning Ordinance Section 9.902):

1. The proposed change is consistent with and promotes the goals and policies of the Comprehensive Plan and Zoning Ordinance of the City; and

Analysis and Findings: As discussed in the findings, the proposal promotes the goals of the Comprehensive Plan and the purpose of the Zoning Ordinance.

2. There is a public need for a change of the kind in question.

Analysis and Findings: The public need is based on Metro Functional Plan requirements for local jurisdictions to amend their ordinances to implement the Nature in Neighborhoods program either by the regional program requirements or the requirements adopted for the Tualatin Basin program.

C. Land Division Ordinance Amendment Criteria (Land Division Ordinance 9.118 (7):

In that the Comprehensive Plan for Forest Grove may be amended from time to time to keep it consistent with the changing needs and desires of the community, it may be necessary to amend these regulations to implement the goals and policies of the Comprehensive Plan.

Analysis and Findings: As discussed in the findings, the proposal promotes the goals of the Comprehensive Plan as proposed to be amended and the purpose of the Land Division Ordinance as proposed to be amended.

D. The proposed amendments meet or exceed the Metro Functional Plan requirements as follows:

Tualatin Basin Program Requirements:

The proposed amendments exceed the Tualatin Basin program requirements by extending regulations beyond CWS Sensitive Lands and Vegetative Corridor requirements and are consistent with the Metro approach. This is consistent with the intent of the Tualatin Basin approach to establish a common baseline approach for all communities in the Basin. Further, there is nothing in the Tualatin Basin approach or Metro's requirements to prevent a community from going beyond the Basin approach.

- o Comply with the six steps identified in Section B of Chapter 7 of the Tualatin Basin program;

Comment: Of the six steps, the only one that pertains to this action is the adoption of Low Impact Development Guidelines. This is accomplished in proposed new Section 9.971.

- CWS approves and implements its Healthy Streams Plan;

Comment: Not applicable as this is a requirement for Clean Water Services.

- Tualatin Basin members renew and extend their partnership to implement Healthy Streams project list and cooperate with Metro to develop regional public information;

Comment: Not applicable as this item is outside the scope of the ordinance amendment. However, Forest Grove remains part of the Tualatin Basin effort and will assist in supporting the project list and cooperation with public information program to the extent that the city can.

- Cities adopt provisions to facilitate and encourage use of habitat-friendly development practices, where feasible, in Class I and II riparian habitat;

Comment: Based on the review of other cities programs submitted to Metro, it is staff's understanding that "encourage" means some type of incentive to developers to use habitat-friendly development practices. Generally, those incentives could be in the form of increased densities or other type of regulatory flexibilities, or financial incentives by reducing water quantity and water quality SDCs.

Financial incentives are not feasible for Forest Grove since water quality and water quantity SDCs are collected for an outside agency (CWS). Thus, the use of Metro's Model Ordinance is proposed to be used to address this requirement. The amendment proposes flexible densities and development standards for development within or avoiding NRA's. Further, it requires the use of habitat-friendly practices to the extent that Metro has deemed appropriate through its Model Ordinance. It should be noted that the proposed amendments exceeds the Metro requirements in that it establishes requirements near habitat areas (Section 9.971 (5)) and offers the developer the flexibility to use habitat-friendly approaches throughout the city.

- Cities adopt provisions to allow for density reduction consistent with other portions of Section 3 (see below)

Comment: This is achieved in Sections 9.944 (F) (1) (d) (iii) and 9.971 (4) of the proposed amendments.

- Cities adopt either the Model Ordinance or alternative ordinances to apply to upland wildlife habitat in territory added to the UGB after the effective January, 2006 date.

Comment: This is accomplished by integrating the Model Ordinance into Section 9.944.

In addition to the above, Section 3 of the Functional Plan also requires:

- The implementing ordinances must establish clear and objective standards, and may include an alternative, discretionary approval process.

Comment: This is accomplished by proposed Subsections 9.944 (F) and (G) which are taken from the Metro Model Ordinance.

- Allow the use of habitat-friendly development practices in regionally significant fish and wildlife habitat areas by:
 - Identifying provisions in Comprehensive Plans and implementing ordinances that prevent or limit the use of habitat-friendly practices; and

Comment: This is accomplished by the conducted barrier analysis.

- Adopt amendments to remove the barriers so that habitat-friendly practices may be used where practical, in regionally significant fish and wildlife habitat.

Comment: This is being accomplished by several proposed amendments including Items 6, 16, 17, 18, 20 and 25.

- Local jurisdictions must provide a reasonable, timely and verifiable process to locate habitat areas on a specific piece of land.

Comment: This is accomplished through Subsection 9.944 (H) which is taken from the Metro Model Ordinance.

- Densities may be reduced on subdivisions if the property was within the UGB on January 1, 2002, the area of the property to be developed has been identified as a regionally significant fish and wildlife habitat and such a decision will directly result in protection of the remaining habitat either through dedication or restrictive covenant.

Comment: As noted above, densities can be reduced per Subsection 9.944 (F) and requirements through dedication or restrictive covenant in Subsections (F) and (G).

Metro Functional Plan Requirements:

While the City can exceed the Tualatin Basin requirements, it cannot exceed the Metro requirements due to the background and ESEE analysis that was performed for the Metro program. As will be seen below, there are two aspects of the proposal that do exceed the program requirements. Barriers and allowance to use low impact development techniques extend beyond habitat area. However, this is a permissive "regulation" that developers are encouraged to use rather than being required to use outside the habitat areas.

There are two requirements under Subsection 9.971 (5) that also exceed the Metro requirements. These requirements relate to landscape placement and outdoor lighting. These requirements are proposed to comply with the Issue Papers 1 and 2 produced for the Tualatin Basin agencies to assess their local requirements. Further,

the lighting requirement was also supported to be included in the most recent Planning Commission work session.

The Functional Plan requirements for non-Tualatin Basin communities and staff comment are as follows:

- Adopt the Metro Model Ordinance and Metro Habitat Conservation Areas;
- An alternative ordinance that substantially meets specified performance standards and best management practices identified in Section 4 of the Functional Plan;
- Implement a program based on alternative approaches that will achieve protection and enhancement of Class I and II riparian habitat and Class A and B upland wildlife habitat areas in territory added after the effective date of Metro's adopting ordinance (Ordinance No. 05-1077 which was January 5, 2006); or
- Develop a district plan with other jurisdictions.

Comment: The proposed amendments are adopting the Metro Model Ordinance. As discussed above, the Metro Habitat Conservation Areas are not being adopted. In its place, the Regionally Significant Fish and Wildlife Habitat Inventory Map is being adopted and linking standards to city zone districts and parks are being proposed.

In addition to the above, Section 3 of the Functional Plan also requires:

- The implementing ordinances must establish clear and objective standards, and may include an alternative, discretionary approval process;
- Allow the use of habitat-friendly development practices in regionally significant fish and wildlife habitat areas by identifying provisions in Comprehensive Plans and implementing ordinances that prevent or limit the use of habitat-friendly practices; and adopt amendments to remove the barriers so that habitat-friendly practices may be used where practical, in regionally significant fish and wildlife habitat.
- Local jurisdictions must provide a reasonable, timely and verifiable process to locate habitat areas on a specific piece of land.
- Densities may be reduced on subdivisions if the property was within the UGB on January 1, 2002, the area of the property to be developed has been identified as a regionally significant fish and wildlife habitat and such a decision will directly result in protection of the remaining habitat either through dedication or restrictive covenant.

Comment: These were addressed under the Tualatin Basin analysis.

E. CONFORMANCE TO LAND USE POLICY

1. Physical Environment Goal 1:

ALL DEVELOPMENT SHALL CONSIDER, TAKE INTO ACCOUNT AND DEMONSTRATE SUITABILITY RELATIVE TO THE NATURAL HAZARD LIMITATIONS OF THE AREA.

Analysis and Finding: Complies. The proposed amendment Item 2 is intended to update the City's flood plain standards to use the most up-to-date information in making determinations as to the location of the 100 year flood elevations. Further, other proposed amendments will make current requirements related to flood plain management more effective by including references into the City's Zoning and Land Division ordinances. In addition, requirements for steep sloping areas and flood management areas are addressed in a more consistent manner by establishing performance requirements rather than relying on the provisions of the ER District. Also, the requirements under the proposed amendments for both steep areas and flood plain areas will be more specific than under the ER District requirements.

2. Residential Land Use Goal 1:

RESIDENTIAL AREAS SHALL BE DEVELOPED IN A SAFE, AESTHETICALLY PLEASING, AND EFFICIENT MANNER.

Analysis and Finding: The amendments would contribute to this goal by retaining habitat area to the extent feasible and mitigating where removed. Preservation and enhancement of habitat adjacent to residential areas increases the aesthetic value of the area. In addition, allowances for clustered housing increases the efficiency of housing by using less land for a given number of units. It is also more efficient by reducing road and other paving requirements, and reducing the amount of utility extensions since the housing will be in closer proximity to each other.

3. Commercial Land Use Goals 1 and 2:

STRENGTHEN FOREST GROVE'S POSITION AS A COMMERCE CENTER OF WESTERN WASHINGTON COUNTY, AND ENCOURAGE SHOPPING BY RESIDENTS OF THAT AREA.

ENCOURAGE THE OPPORTUNITY FOR REVITALIZATION OF THE CENTRAL BUSINESS DISTRICT

Analysis and Finding: None of the commercial areas are near steep slopes, flood management areas or natural resource areas. Thus, the proposal would not have any impact on the City's ability to achieve these commercial goals.

4. Industrial Land Use Goal 3:

THE CITY SHALL COOPERATE IN PROVIDING THE PUBLIC SERVICES AND FACILITIES NEEDED BY EXISTING AND FUTURE BUSINESSES AND INDUSTRIES.

Analysis and Finding: The proposed Natural Resource Area provisions would allow the installation of utilities through these areas. Thus, the proposed amendments would not have an impact on meeting this Goal.

5. Natural Resource Land Use Goal 1 and Open Space Goal 2:

PRESERVE AND MAINTAIN THE QUALITY OF EXISTING AGRICULTURAL, FORESTRY, WILDLIFE AND OTHER NATURAL RESOURCE AREAS.

Analysis and Finding: The proposed amendments would help achieve this goal for wildlife and other natural resource areas by adding a new policy to the Comprehensive Plan to implement the regional Nature in Neighborhoods program and establishing standards and requirements for preserving, minimize intrusions or mitigate intrusions into these areas.

6. Natural Resource Land Use Goal 2:

OPEN SPACE VALUABLE TO FISH AND WILDLIFE RESOURCES SHALL BE PROTECTED.

Analysis and Finding: The amendment is intended to preserve open space valuable to fish and wildlife resources in riparian areas and in upland areas brought into the UGB in the future. This is accomplished through adding a new policy to the Comprehensive Plan to implement the regional Nature in Neighborhoods program and establishing standards and requirements for preserving, minimize intrusions or mitigate intrusions into these areas. Further, areas preserved as open space must be placed into tracts which cannot be developed.

7. Natural Resource Land Use Goal 3:

THE PRESERVATION OF EXISTING TREES SHALL BE ENCOURAGED.

Analysis and Finding: Through the adoption of a new natural resource policy and implementing the Nature in Neighborhood program, this goal will be achieved by encouraging limiting removal of trees in riparian areas through proposed objective standards.

8. Agricultural and Forest Land Use Goals 2 and 3:

FORESTRY LANDS SHALL BE PRESERVED FOR FOREST USES.

PRESERVE AND MAINTAIN THE QUALITY OF EXISTING AGRICULTURAL, FORESTRY WILDLIFE AND OTHER NATURAL RESOURCE AREAS.

Analysis and Finding: Natural resource preservation was addressed above. Regarding forestry, the amendments would not affect properties in forest production within the current UGB since the Natural Resource Area designation does not apply to upland resource areas identified by Metro. However, it may affect properties in forest practices that are brought into the UGB in the future.

9. Open Space Goal 3:

PRESERVE AND IMPROVE SPECIFIC OPEN SPACE AREAS TO PROVIDE RECREATION, EDUCATION, CONTACT WITH NATURE AND SCENIC AMENITIES.

Analysis and Finding: Open space intended for active recreational use will not be limited by the proposed natural resource amendments since the natural resource designation will not be applied to these areas. Open space intended for natural preservation will be limited to vegetation removal only for trail development.

10. Open Space Goal 4:

MAINTAIN DESIRABLE EXISTING OPEN SPACE AND ENHANCE THE ENVIRONMENT WITHIN THE CITY THROUGH PRESERVATION AND LANDSCAPING.

Analysis and Finding: This goal will be promoted through the natural resource provisions included in the proposed amendments. The amendments encourage the preservation of existing open space in natural resource areas where possible. Where not possible, it provides measures to minimize intrusion into these areas and to mitigate any intrusion.

11. Zoning Ordinance Purpose Statement:

This ordinance has been designed in accordance with the adopted goals, and policies of the Forest Grove Comprehensive Plan. It is the general purpose of this ordinance, therefore, to provide one of the principal means for the implementation of the Forest Grove Comprehensive Plan as well as: encourage the most appropriate use of the land; conserve and stabilize the value of property; promote a variety of housing opportunities; aid in the rendering of fire and police protection; provide adequate open space for light and air; lessen the congestion on streets; promote orderly growth in the city; prevent undue concentrations of population; facilitate adequate provisions for community utilities and facilities such as water, sewerage, electrical distribution systems, transportation, schools, parks and other public facilities; and in general promote public health, safety, convenience and general welfare.

Analysis and Finding: The proposed amendments to the Zoning Ordinance, as discussed above, forward the applicable goals of the Forest Grove Comprehensive

Plan. Thus, the proposed amendments meet the purpose of the Zoning Ordinance. Further, this section of the ordinance is proposed to be changed to include conservation of natural resource areas to better reflect the Comprehensive Plan Goals and policies as amended. Amendments to the Zoning Ordinance as approved by the City Council further this purpose by requiring sites with more than 20 lots and more than 20 percent of the site in the Natural Resource Area to be reviewed by the Planning Commission for compliance with Section 9.944 of the Zoning Ordinance, containing special new standards applicable to these areas. Staff's analysis dated November 26, 2007 is adopted as additional findings in support of the Amendment's compliance with this requirement.

12. Land Division Purpose Statement:

This ordinance has been formulated in accordance with the adopted goals and policies of the Forest Grove Comprehensive Plan. It is the general purpose of this ordinance, therefore, to provide one of the principal means for the implementation of the Comprehensive Plan. It is also the intent of this ordinance to accomplish the orderly development of land within the City through rules, regulations and standards governing the approval of subdivisions and partitions, taking into consideration all of the applicable goals and policies and the locations of proposed subdivisions and partitions, as well as their impact on the surrounding area and the entire City. These rules, regulations and standards are intended to provide for lessening congestion in the streets, for securing safety from fire, flood, slides, pollution or other dangers, for providing adequate light and air, including solar energy access, for preventing overcrowding of land, for facilitating drainage, education, recreation and other needs, and in general to promote the public health, safety, convenience and general welfare.

Analysis and Finding: The proposed amendments to the Land Division Ordinance, as discussed above, forward the applicable goals of the Forest Grove Comprehensive Plan. Thus, the proposed amendments meet the purpose of the Zoning Ordinance. Further, this section of the ordinance is proposed to be changed to include conservation of natural resource areas to better reflect the Comprehensive Plan Goals and policies as amended.

13. Oregon State Land Use Goal 5, Natural Resources, Scenic and Historic Areas, and Open Spaces

To protect natural resources and conserve scenic and historic areas and open spaces.

Analysis and Finding: The proposed amendment is consistent with this Goal. It includes new policies, standards and requirements for the protection of natural resources consistent with the Metro Nature in Neighborhoods program that has been acknowledged by Land Conservation and Development Commission.

14. Oregon State Land Use Goal 7, Areas Subject To Natural Hazards

To protect people and property from natural hazards.

Analysis and Finding: The proposed amendments would assure more consistent protection from natural hazards since the current Environmental Review Overlay District, intended to address natural hazard conditions, only applies to portion of areas subject to steep slopes and flood management hazards. Further, the protection is being brought up-to-date by allowing more recent information than current FEMA studies completed in 1981 to determine the location of the 100 year flood plain. In addition, more specific requirements than that specified by the ER district would be implemented by the amendment.

F. All other findings contained in the staff report are hereby incorporated by reference.

SECTION 2. This ordinance shall be effective 30 days following its enactment by the Forest Grove City Council.

PRESENTED AND PASSED the first reading the 13th day of November, 2007.

PASSED the second reading the 10th day of December, 2007.

Anna D. Ruggles, City Recorder

APPROVED by the Mayor this 10th day of December, 2007.

Richard G. Kidd, Mayor

EXHIBIT A

Proposed Text Amendments

COMPREHENSIVE PLAN AMENDMENT

1. *New Natural Resource Policy 3:* The City shall implement and exceed the Tualatin Basin Goal 5 program consistent with Metro Title 13 requirements through a strategy of preserve, minimize and mitigate intrusions into Class I and Class II Riparian Wildlife Habitat and Class A and B Upland Habitat as identified by Metro and adopted by reference in this Comprehensive Plan. Implementation shall be achieved through amendments in the Zoning and Land Division ordinances, and through education and other public information efforts.

MUNICIPAL CODE TEXT AMENDMENT

2. *Amend Section 5.815 to redefine the basis to determine the areas of Special Flood Hazard:*

5.815 Basis for Establishing the Areas of Special Flood Hazard. The areas of special flood hazard are determined by:

- (1) ~~identified by~~ The Federal Insurance Administration in a scientific and engineering report entitled "The Flood Insurance Study for the City of Forest Grove," dated September 15, 1981, with accompanying Flood Insurance Rate Maps, is hereby adopted by reference and declared to be a part of this code. The Flood Insurance Study is on file at the Administrative offices of the city; or
- (2) Updated flood studies or any other authoritative data documenting flood elevations as approved by the City Engineer or as a result of complying with the requirements of Clean Water Services' Design and Construction Standards.

LAND DIVISION ORDINANCE TEXT AMENDMENTS:

3. *Amend Section 9.101 of the Land Division Ordinance as follows:*

9.101 PURPOSE. This ordinance has been formulated in accordance with the adopted goals and policies of the Forest Grove Comprehensive Plan. It is the general purpose of this ordinance, therefore, to provide one of the principal means for the implementation of the Comprehensive Plan. It is also the intent of this ordinance to accomplish the orderly development of land within the City through rules, regulations and standards governing the approval of subdivisions and partitions, taking into consideration all of the applicable goals and policies and the locations of proposed subdivisions and partitions, as well as their impact on the surrounding area and the entire City. These rules, regulations and standards are intended to provide for lessening congestion in the streets, for securing safety from fire, flood, slides, pollution or other dangers, for providing adequate light and air, including solar energy access, for preventing overcrowding of land, for facilitating drainage,

education, recreation and other needs, for conserving natural resource lands and in general to promote the public health, safety, convenience and general welfare.

4. Amend Section 9.102 to add new definition 27 and renumber accordingly:

- (27) Natural Resource Area. The area defined by Metro as Riparian Wildlife Habitat Class I and II and Upland Wildlife Habitat Area A and B as shown on the Regionally Significant Fish and Wildlife Habitat Inventory Map dated at the time of adoption of this section or as amended in the future excluding those portions within Sensitive Areas and Vegetated Corridors as determined by the Chapter 3 of Clean Water Services Design and Construction Standards.

4a. Amend Section 9.104 (2)c. to refer certain subdivisions with Natural Resource Areas to be reviewed by the Planning Commission:

Within five working days after completion of review of the tentative plat by affected agencies and departments, the Community Development Director shall approve, deny, or approve with conditions or modifications the tentative plan application. If the Community Development Director finds that additional information is necessary, a decision on the proposal may be postponed. Conditions may be attached to approval of a tentative plan when such conditions are consistent with the purposes and intents of this and other ordinances, and when necessary to carry out the provisions of such ordinances. If a tentative plan has been submitted as a planned development or if it involves a residential subdivision with more than 20 lots and 20 percent or more of the site is within a Natural Resource Area, a residential subdivision with 4 to 20 lots and 30 percent or more of the site is within a Natural Resource Area or is a request for a variance from the provisions of this or any other applicable ordinance, the Community Development Director shall not approve or deny the tentative plan, but shall transmit his findings and recommendations to the Planning Commission in accordance with Section 9.114, and Section 9.115 and, where applicable, Section 9.944 of the Zoning Ordinance. In such case, approval or disapproval shall follow the completion of all proceedings before the Planning Commission and/or City Council. When the Community Development Director does approve a tentative plan, the following affirmative findings shall accompany such approval:

- i. The tentative plat application complies with all applicable requirements for submittal;
- ii. The tentative plat is consistent with all policies, standards and provisions of the Forest Grove Comprehensive Plan, the Zoning Ordinance, and this ordinance;
- iii. There will exist an adequate quantity and quality of water and an adequate sewerage disposal system, as determined on the basis of preliminary utility plans, to support the proposed use of the land described on the plat.
- iv. Approval will not impede the future best use of the remainder of the property under the same ownership or adversely affect the safe and healthful development of such remainder or any adjoining land or access thereto.

5. *Amend Section 9.108 to add reference to Natural Resource Area review:*

9.108 SUPPLEMENTAL MATERIALS WITH TENTATIVE PLAN

- (1) In addition to those submittal materials to be provided in connection with an application for a proposed land division, as contained in Section 9.107, the Community Development Director may require that any of the following be submitted to supplement a tentative plan application:
 - a. Approximate centerline profiles with extensions for a reasonable distance beyond the limits of the proposed land division, showing the finished grade of streets and sidewalks and the nature and extent of street construction.
 - b. Proposal for other utilities and improvements such as electric facilities.
- (2) Where the subject site is within 100 feet of a Natural Resource Area, the applicable informational requirements of Section 9.944 of the Zoning Ordinance shall be met.

6. *Amend Section 9.109 to provide habitat-friendly provisions and reference Natural Resource Area requirements:*

9.109 REQUIRED IMPROVEMENTS

- (1) For any subdivision approved in the City, the subdivider or partitioner shall have the responsibility of providing the following improvements pursuant to plans and specifications as approved by the City Engineer and in conformance with the design standards as contained in this ordinance. In instances where improvements are within or cross natural resource areas, the requirements of Section 9.944 of the Zoning Ordinance shall apply:
 - a. Streets: All streets and alleys within the development and those adjacent streets which directly serve the development shall be fully improved, including grading, base grade, paving, and installation of curbs, all constructed to design specifications as approved by the City Engineer. All streets to be constructed and/or improved shall comply with the minimum street improvement standards contained in this ordinance. Where traffic is anticipated to be less than 500 average daily trips, pervious paving may be used for roadway and/or parking areas as approved by the City Engineer. In cases where physical conditions warrant it, special soils analyses or engineering designs may be required by the City Engineer. In addition, where a proposed subdivision or partition abuts a substandard arterial or collector street, the developer shall provide to the Community Development Department prior to final plat or map approval, adequate guarantees that within one year from the issuance of a building permit for construction within the development, such abutting arterial or collector street or streets shall be improved adjacent to the land division site in a manner which is compatible with the standards for streets as contained in this ordinance. Adequate guarantee shall consist of formation of a local improvement district, or provision of a bond or cash deposit in an amount sufficient to cover the estimated actual improvement cost, plus 15%. (Ord. 92-04; 1/27/92)

b. Storm Sewers and Erosion Control Facilities: Public storm sewer lines and facilities shall be constructed in compliance with the City's Master Storm Sewer Plan, and shall connect with existing storm sewer facilities which conform with the Master Storm Sewer Plan, or to lines which can be shown to be adequate for the development proposed. Drainage swales and other open drainage facilities may be used with the approval of the City Engineer. On-site storm water retention and disposal systems shall be provided in accordance with the provisions of Section 9.111 and as approved by the City Engineer.

c. Sanitary Sewer Facilities: Public sanitary sewer facilities shall be constructed in compliance with the City's Master Sewer Plan, and shall connect with existing sanitary sewers which conform with the Master Sewer Plan, or to lines which can be shown to be adequate for the development proposed. All sanitary sewers shall be constructed according to plans and specifications as approved by the City Engineer.

d. Water Facilities: Public water lines shall be constructed in compliance with the City's Master Water Plan, and shall connect with existing public water lines which conform with the Master Water Plan, or which can be shown to be adequate for the development proposed. All water systems shall be designed to provide domestic water to each lot or parcel and to provide adequate fire protection facilities, and shall be constructed according to plans and specifications as approved by the City Engineer.

e. Sidewalks: Public sidewalks shall be constructed in all street right-of-ways, on both sides of the street roadway, according to plans and specifications as approved by the City Engineer. Where other designated walkways or pedestrian accesses are shown on the plat, such walkways shall be constructed of hard-surface material in conformance with the approved tentative plan. Where approved by the City Engineer, pervious materials may be used for sidewalk construction.

Sidewalks shall be property-line sidewalks. These may be modified by the City Engineer for:

- a) Cul-de-sac bulbs; or
- b) Slopes of over 20% at right angles to the sidewalk; or
- c) To curve around existing or future trees.

f. If existing storm sewer, sanitary sewer, and/or water facilities which will serve the subdivision are not brought into immediate conformance with the appropriate public facilities master plan elements of the Comprehensive Plan prior to development of the subdivision, but where such elements of the Comprehensive Plan indicate a future need for additional public facilities capacities which would directly serve or benefit such proposed subdivision, the subdivider shall be required to participate in the future construction of the facilities indicated, through the provision of a waiver of the right to remonstrate against future formation of a local improvement district.

g. Public and Private Utilities: Public electric, data communication and telecommunication conduits as well as conduits for franchise utilities including, but not limited to, telephone, natural gas and cable television shall be installed to serve all newly created lots and developments.

Where necessary to provide for orderly development of adjacent properties, public and franchise utilities shall be extended through the site to the edge of adjacent property(ies).

Installation of utilities shall be provided in public utility easements and shall be sized, constructed, located and installed consistent with the following:

- a) Public telecommunication and data communication conduits, electrical conduits and appurtenances shall be installed per the City of Forest Grove Light and Power Department design standards.
- b) Franchise utility conduits shall be installed per the utility design and specification standards of the utility agency (Ord. 2006-18; 09/25/2006)

h. Street Trees:

i. At the time of submittal of a tentative plat application for a subdivision, a Street Tree Plan may be submitted to accompany such application. If submitted, the Street Tree Plan shall be provided on a copy of the tentative plat map, and shall include the following items:

- Quantities and species of all proposed street trees.
- The proposed locations of street trees and common area trees with dimensions given for spacing between trees.
- Locations, species, and sizes of all existing trees which will remain within street rights-of-way following construction of the street roadway, curbs, and sidewalks. Where existing trees larger than 6 inches d.b.h. are located within the anticipated parkway of a proposed street right-of-way, such trees shall be identified and preserved wherever possible, and, if of an appropriate species, shall be considered as meeting the requirements for street trees, as contained in this subsection. (Ord. 97-05; 3/24/97. Ord. 97-17; 11/3/97)

ii. No Street Tree Plan shall be approved unless it complies with the following standards:

- The total number of street trees and open space trees provided shall be based on the total linear curb frontage in feet divided by 30 plus the total area of any common area(s) in square feet divided by 2,000, except the total number of trees can be adjusted based on optimum tree spacing and/or the design of the open space for the particular tree species. Spacing between street trees may be variable. (Ord. 97-17; 11/3/97)
- Species of street trees selected shall be those which are suited to the environment of Western Oregon.
- Species of street trees bearing fruit, nuts or berries which fall on an annual basis shall be prohibited. In addition, those tree species prohibited by City Code Section 9.415 shall not be allowed as street trees.

- Street trees shall have a minimum caliper size of one and one-half (1 ½) inches as measured one (1) foot above ground level, and a minimum branch height of six (6) feet.
 - The species of trees selected shall be the largest possible after considering above-ground constraints (such as overhead wires or adjacent buildings), and the available planting area. (Ord. 97-17; 11/3/97)
 - After determining the largest size appropriate for the site, the particular species is determined after considering at a minimum any Master Street Plan, other street trees on streets entering the subdivision, the need for street tree diversity in Forest Grove, and the importance of replacing the Oregon White Oak. (Ord. 97-17; 11/3/97)
- iii. Street trees shall be planted in substantial conformance with the approved Street Tree Plan. If no Street Tree Plan is approved, the City shall be responsible for determining trees species and locations, using (ii) above as guidelines. (Ord. 97 17; 11/3/97)
- iv. Street trees shall be funded and installed based on the following steps:
- Funding and installation (as set forth below) goes into effect for all areas which have not received Engineering Department approval and acceptance of required public improvements, even when the tentative plat was submitted prior to adoption of this ordinance.
 - Payment shall be made at the time of dwelling unit building permit request equal to the parcel's total lineal street frontage divided by 30 feet, and that number multiplied times a "Street Tree Cost", except 50 feet shall be used if the street frontage is 50 feet or less (for example, a flag lot).
 - Street Tree Cost shall include the cost of the tree, installation, and one year maintenance. The fee shall be updated by the City Council as part of the City Fee Schedule.
 - Money collected and interest earned shall be deposited into a Street Tree account, and used to plant trees on the specified lots. Any extra revenues received through interest earnings, volume discounts, etc. shall be used for other trees in public rights-of-way. The City, interested citizens, and other parties may also contribute to this program for the planting and maintenance of public trees, with private parties eligible for a tax deductible contribution.
 - The City shall prepare a Request for Proposal (RFP) on an annual (or semi-annual) basis and contract for the purchase, planting, and one year maintenance of the street trees, including appropriate watering throughout the summer. The same contractor shall be responsible for the full length of the planting maintenance period of street trees in specific developments, and replacement and subsequent maintenance of any dead or dying trees. The City, using standard accounting practices as referenced in ORS 279, has the option of bidding on this contract.

- Trees shall be planted during late winter/early spring after occupancy permits are issued, or as otherwise determined by the contractor.
- The City shall inspect the trees prior to installation to ensure compliance with the American Standard for Nursery Stock, and after installation for correct species and number. At the end of the maintenance period the City shall inspect the trees for health and determine what trees (if any) need to be replaced.
- When the trees pass approval at the end of the maintenance period, homeowners shall become responsible for maintaining the trees. Such transfer of responsibility to homeowners shall include City notice to the homeowners and pamphlets on their street tree responsibility, and the care, maintenance, pruning, and the process for removal and replacement of street trees. (Ord. 97-17; 11/3/97)

h i. Joint Mailboxes: Joint mailbox facilities shall be provided in all residential subdivisions, with each joint mailbox serving at least two, but no more than eight, dwelling units. Joint mailbox structures shall be placed in the street right-of-way adjacent to roadway curbs. Proposed locations of joint mailboxes shall be designated on a copy of the tentative plan of the subdivision, and shall be approved by the City Engineer prior to tentative plan approval. In addition, sketch plans for the joint mailbox structures to be used shall be submitted and approved by the City Engineer prior to final plat approval.

(2) The City shall not issue any building permit and shall withhold all public services of any nature, including the maintenance of streets and the furnishing of sewer, water and electrical facilities in all subdivisions and partitions until the above improvements have been fully constructed and/or installed as approved by the City Engineer, and in full conformance with the design standards of this ordinance, provided that public sidewalks adjacent to any lot or parcel need not be constructed prior to issuance of a building permit, but shall be provided prior to occupancy of any structure built on such lot or parcel. (Ord. 92-04; 1/27/92. Ord. 97-17; 11/3/97)

7. *Amend Section 9.110 (1) to allow minimal street widths through Natural Resource Areas.*

(1) Streets: Adequate street right-of-way shall be dedicated to provide for the safe and efficient movement of vehicular traffic within and adjacent to the subdivision, in accordance with the standards of this Section and with construction specifications as approved by the City Engineer. In general, the design of local streets shall be such that through traffic is discouraged. Where a proposed arterial or collector street is projected within the land division as shown on the Functional Classification Map of the Comprehensive Plan, street rights-of-way shall be provided in those locations and to those standards for arterial and collector streets as contained in this ordinance. (Ord. 99-16; 11/22/99)

a. Minimum Right-of-Way and Roadway Width: Widths of street right-of-way and paving design shall be not less than those set forth in the following table. Where an existing street is located adjacent to any boundary of the subdivision or partition, the applicant shall dedicate additional right-of-way to allow for street construction in accordance with the following table for

any such adjacent street where the existing width of right-of-way for such street is less than the minimum in said table. Bike paths on arterial and collector streets shall be at least 5 feet wide. (Ord. 92-04; 1/27/92; Ord. 98-04; 3/23/98; Ord. 99-16, 11/22/99)

<u>Street Type</u>	<u>Minimum R.O.W. Width</u>	<u>Minimum Roadway Width</u>
Major Arterial	90-96 feet	52-64 feet
Minor Arterial	66 feet	40 feet
Residential Collector	66 feet	40 feet
Neighborhood Route	54 feet	28 feet (7)
Local Industrial	66 feet	40 feet
Local	58 feet	32 feet
Local	54 feet	28 feet (1)
Local	50 feet	24 feet (2)
Local	50 feet (3)	15 feet (4)
Cul-de-sac (street)	58 feet	32 feet
Circular End of Cul-de-sac	55 feet (radius)	42 feet (radius)
Cul-de-sac	50 feet	24 feet (5)
Circular End of Cul-de-sac	40 feet (radius)	34 feet (radius) (6)
Alley	15 feet	12 feet

(1) These streets shall serve not more than 16 single-family or duplex dwelling units, nor more than 20 multi-family dwelling units. For streets with two accesses, (a loop or grid system), these standards shall double. (Ord. 97-05; 3/24/97)

(2) These streets shall serve not more than 12 single-family or duplex dwelling units, nor more than 16 multi-family dwelling units. For streets with two accesses, (a loop or grid system), these standards shall double. On-street parking permitted on one side only. This street width shall be used where local streets are going through a Natural Resource Area and no parking allowed on either side. (Ord. 97-05; 3/24/97)

(3) Street right-of-way may be reduced if approved by the City Engineer, to preserve natural features or where construction of a full-width street would result in excessive cut-and-fill due to existing topography. (Ord. 97-05; 3/24/97)

(4) One-way traffic only; no on-street parking permitted. One-way streets may be permitted only to preserve natural features or where the construction of a full-width street would result in excessive cut-and-fill due to existing topography, as determined by the City Engineer. (Ord. 97-05; 3/24/97)

- (5) No on-street parking permitted.
- (6) Sidewalks permitted adjacent to curb. The City Engineer may require slope easements due to topography, the size and shape of the tract, or other conditions.
- (7) On-street parking permitted on one side only. (Ord. 99-16; 11/22/99)

8. **Amend Subsection 9.110(2)b.iv. to allow sidewalks narrower than city standards where ADA requirements do not apply.**

- i. Sidewalks and/or walkway connections shall be designed according to City standards or specifications on file at the City. Where not required to meet ADA requirements, sidewalks may be less than the city standard where approved by the City Engineer. (Ord. 98-04; 3/23/98)

9. **Amend Section 9.113 to remove reference to Environmental Review Zones and replace with natural resource, flood management and steep slope areas with requirements to allow appropriate review for each area type:**

9.113 LAND DIVISIONS IN ENVIRONMENTAL REVIEW ZONES NATURAL RESOURCE, FLOOD MANAGEMENT AND STEEP SLOPE AREAS

- (1) The provisions of this section shall apply to proposed land divisions located entirely or in part within an ER zone as designated in a natural resource area as defined by the Zoning Ordinance, flood management area as defined by the Municipal Code, or locations with slopes of 20 percent or greater. The requirements of this section shall be applied in addition to all other general requirements of the Land Division Ordinance. The purposes of this section are to:
 - a. Encourage the planning, design, and development of safe and enjoyable building sites, while maintaining the integrity of the natural terrain and local ecosystem.
 - b. Use good building design, landscape design, and engineering to preserve and enhance the appearance and resources of hillsides and floodplains;
 - c. Prevent additional water runoff, soil erosion, sedimentation, and flooding which may otherwise occur through development of environmentally sensitive lands;
 - d. Achieve land use densities that are consistent with the Comprehensive Plan; and
 - e. Encourage alternative approaches to conventional development where necessary to reduce the impact of urban development on environmentally sensitive areas.
- (2) Environmental Report Required: The applicant for approval of a land division proposal in the ER zone natural resource, flood management or steep slope areas shall file with the Community Development Department an environmental a report as specified in the Zoning Ordinance. For natural resource areas, the report shall address the requirements of Section 9.944 of the Zoning Ordinance. For flood management areas, the information necessary to meet the applicable requirements of Section 5.800 et. seq. of the Municipal Code. For steep slopes, the information and assessment required by Section 9.855 (1) of the Zoning Ordinance.

- (3) Development Standards. These standards shall apply to all developments where improvements or grading are made in the ER zone any of the areas subject to this section and shall be incorporated into the ~~environmental~~ report and the design of the proposed land division:
- a. General Standards:
- i. No grading, filling, clearing or excavating of any kind shall be initiated on the land division site until the final plat or map for the land division has been approved as required by this ordinance.
 - ii. Fill areas shall be prepared by removing organic material, such as vegetation and rubbish, and other material which is determined by the soils analysis to be detrimental to proper compaction or otherwise not conducive to stability; no rock or similar irreducible material with a maximum diameter greater than eight inches shall be used as fill material in fills that are intended to provide structural strength.
 - iii. All retaining walls or facings with a total vertical projection in excess of three feet and associated with cut or fill surfaces shall be designed as structural members keyed into stable foundations and capable of sustaining the design loads.
 - iv. If the developer can demonstrate conclusively to the City Engineer that any of the requirements contained in items (v) through (ix) below are not necessary in the proposed land division and that the omission of such requirements would not result in hazard to life or limb, hazard to property, adverse effects on the safety, use, or stability of a public way or drainage channel, or adverse impact on the natural environment, those particular requirements may be waived.
 - v. Fills shall be compacted to at least 95% of maximum density, as determined by AASHTO T99 and/or ASTM D698.
 - vi. Cut slopes shall be no steeper than two horizontal to one vertical; subsurface drainage shall be provided as necessary for stability.
 - vii. Fill slopes shall be no steeper than two horizontal to one vertical; fill slopes shall not be located on natural slopes 2:1 or steeper or, where fill slope toes out, within 12 feet horizontally of the top of an existing or planned cut slope.
 - viii. Top and toes of cut and fill slopes shall be set back from property boundaries a distance of three feet plus one-fifth of the height of the cut or fill, but need not exceed a horizontal distance of 10 feet; tops and toes of cut and fill slopes shall be setback from structures a distance of six feet plus one-fifth the height of the cut or fill, but not exceeding 10 feet.
 - ix. Borrowing for fill shall be prohibited unless the material is obtained from a cut permitted under an approved grading plan obtained for some purpose other than to produce fill material, or imported from outside ~~the ER zone~~ natural resource, flood management or steep slope area.
- b. Roadway Standards:

- i. No grading, filling, clearing or excavation of any kind shall be initiated for the land division site until the final plat or map of the land division has been approved as required by this ordinance.
- ii. Fill areas shall be prepared by removing organic material, such as vegetation and rubbish, and any other material which is determined by the soils engineer to be detrimental to proper compaction or otherwise not conducive to stability.
- iii. All retaining walls or facings with a total vertical projection in excess of three feet and associated with cut or fill surfaces shall be designed as structural members keyed into stable foundations and capable of sustaining the design loads.
- iv. Borrowing for fill shall be prohibited unless the material is obtained from a cut permitted under an approved grading plan, or imported from outside the land division site.
- v. Streets shall be designed to create the minimum feasible amount of land coverage and the minimum feasible disturbance to the soil.
- vi. Existing vegetation of the deep-rooted perennial variety shall be preserved to the greatest extent possible in the location of streets. Street alignment should follow natural terrain and no unnecessary cuts or fills shall be allowed in order to create additional lots or building sites.
- vii. Where sufficient justification is provided in the required environmental reports, the City Engineer may allow limited variations from the street design standards of the ordinance in order to keep grading and cut-fill slopes to a minimum.
- viii. The width of a graded section shall extend at least three feet beyond the outside edge of the sidewalk.
- ix. Standard vertical curb (six inches) and gutter shall be installed along both sides of all street roadways.
- x. If the developer can demonstrate conclusively to the City Engineer that any of the requirements contained in items (xi) through (xvi) below are not necessary in the proposed land division and that the omission of such requirements would not result in hazard to life or limb, hazard to property, adverse affects on the safety, use, or stability of a public way or drainage channel, or adverse impact on the natural environment, those particular requirements may be waived.
- xi. Cut slopes shall be no steeper than 1-1/2 horizontal to one vertical; subsurface drainage shall be provided according to the approved storm drainage, erosion and sedimentation control plan required in Section 9.108(4), and as necessary for stability.
- xii. The maximum horizontal distance of disturbed soil surface shall not exceed 75 feet.
- xiii. Fill slopes shall be no steeper than 1-1/2 horizontal to one vertical; fill slopes shall not be located on natural slopes steeper than 2:1 or, where fill slope toes out, within 12 feet horizontally of the top of an existing or planned cut slope.
- xiv. Tops and toes of cut and fill slopes shall be set back from buildings a horizontal distance of six feet plus one-fifth the height of the cut or fill, but need not exceed ten feet.
- xv. Fills shall be compacted to at least 95% of maximum density, as determined to AASHTO T99 or ASTM D698.
- xvi. All slopes which are stabilized by mechanical or chemical restraints shall be adapted to conform to the surrounding terrain and shall be given proper aesthetic treatment.

- c. Slope Stabilization and Re-vegetation: The developer shall submit a slope stabilization and re-vegetation plan which shall include a complete description of existing vegetation, the vegetation to be removed and the method of disposal, the vegetation to be planted, and slope stabilization measures to be installed. The plan shall include an analysis of the effects of such operations on slope stability, soil erosion and water quality. The re-vegetation and slope stabilization plan shall be submitted with the other environmental reports required by this section. The following standards shall be applied in preparation of the slope stabilization and re-vegetation plan:
- i. Vegetation shall be removed only when absolutely necessary, e.g. for buildings, filled areas, roads.
 - ii. Every effort shall be made to conserve topsoil which is removed during construction for later use on areas requiring vegetation or landscaping, e.g. cut and fill slopes.
 - iii. New plantings shall be protected with organic cover.
 - iv. All disturbed soil surfaces shall be stabilized or covered within 15 days of disturbance. If the planned impervious surfaces (i.e. streets) cannot be provided within 15 days, a temporary treatment adequate to prevent erosion shall be installed on those surfaces.
 - v. Between the first day of November and the fifteenth day of April, construction shall be scheduled to minimize soil disturbance.
 - vi. The developer shall be fully responsible for any destruction of native vegetation designated to be retained. He shall carry the responsibility both for his own employees and for all subcontractors from the first day of construction until the completion of all required improvements. The developer shall be responsible for replacing such destroyed vegetation.
 - vii. The use of qualified personnel experienced and knowledgeable in the practice of re-vegetation shall be required in all areas where re-vegetation is designated on the plan.
- d. Floodplain Fill Standards: Proposed excavation and filling within the 100-year floodplain is subject to the standards established in the Zoning Ordinance Municipal Code and Clean Water Services Design and Construction Standards. (Ord. 82-15, 9/27/82)

ZONING ORDINANCE TEXT AMENDMENTS:

10. Amend Section 9.601 of the Zoning Ordinance:

9.601 PURPOSE. This ordinance has been designed in accordance with the adopted goals, and policies of the Forest Grove Comprehensive Plan. It is the general purpose of this ordinance, therefore, to provide one of the principal means for the implementation of the Forest Grove Comprehensive Plan as well as: encourage the most appropriate use of the land; conserve natural resource areas, conserve and stabilize the value of property; promote a variety of housing opportunities; aid in the rendering of fire and police protection; provide adequate open space for light and air; lessen the congestion on streets; promote orderly growth in the city; prevent undue concentrations of population; facilitate adequate provisions for community utilities and facilities such as water, sewerage, electrical distribution systems, transportation, schools, parks and other public facilities; and in general promote public health, safety, convenience and general welfare.

11. Amend definition of "Density, net" (Section 9.603 42.) as follows:

"42. Density, net. The actual number of dwelling units per unit of land including the area for dwelling unit development and natural resource areas which but does not include land in streets, and other public/private institutional and other uses. Density is expressed as the number of dwelling units per acre.

12. Add new definitions Numbers 27 and 96 to Section 9.603 and renumber existing definitions accordingly.

"27. Bio-swale. One type of a stormwater management technique that uses chemical, biological and physical properties of plants, microbes and soils to remove, or retain, pollutants from stormwater runoff. It is distinguished from other types of bioretention techniques in that it is designed as part of a stormwater conveyance system that has relatively gentle side slopes and flow depths that are generally less than 12 inches."

"96. Natural Resource Area. The area defined by Metro as Riparian Wildlife Habitat Class I and II and Upland Wildlife Habitat Area A and B as shown on the Regionally Significant Fish and Wildlife Habitat Inventory Map dated at the time of adoption of this section or as amended in the future excluding those portions within Sensitive Areas and Vegetated Corridors as determined by Chapter 3 of Clean Water Services Design and Construction Standards."

13. Amend Section 9.810, Intent, for establishment of a Planned Development as follows:

9.810 INTENT. The intent of the Planned Development designation is to provide greater flexibility in the development of land for residential, commercial, or industrial development, or a mixture thereof. The Planned Development provides flexibility in the administration of certain Code standards to encourage:

- (1) Creative site development design.
- (2) Efficient use of land with more economical arrangement of building, circulation system, and utilities than conventional development regulated in other sections of this code.
- (3) Mitigation of unfavorable visual and other environmental impacts of development on adjacent land.
- (4) Provision of variety in the location of improvements, lot size, lot coverage, density, building bulk, structure type, etc.
- (5) Conservation of natural land features including but not necessarily limited to natural resource areas.
- (6) Creation of open space and the best use of open space.

However, a PD shall comply with the provisions of Section 9.810 through 9.819.5 for review of the proposal, and with the appropriate provisions dealing with Planned Residential Developments, Commercial Planned Development, and Planned Industrial Developments.

14. Add new subsection (3) to Section 9.813, Preliminary Development Plan, as follows:

- (3) Where there is a natural resource area on the site, information as required by Section 9.944.

15. Add criteria for planned developments to take into consideration natural resource areas:

9.814 CRITERIA FOR PRELIMINARY PLAN APPROVAL. A Preliminary Plan for a PD shall be approved if findings are made that each of the following criteria is satisfied:

- (1) Public facilities serving the proposed development, including but not limited to, sanitary sewers, water, streets, storm sewers, electrical power facilities, parks, public safety and schools shall be adequate and meet current City standards; or it is guaranteed that inadequate or nonexistent public facilities will be upgraded or constructed by the applicant prior to occupancy of the project.
- (2) The impact of the proposed development on public facilities shall not exceed the impact anticipated for the site in the formulation of the public facilities master plans contained in the Comprehensive Plan.
- (3) Any uses proposed for the development which are not listed as uses permitted outright in the zone in which the proposed PD is located shall be designed to achieve compatibility with both the remainder of the PD and properties adjacent to the PD site.
- (4) The proposal shall provide adequate open space, landscaping, and design features to minimize significant adverse effects on natural resource areas consistent with the requirements of Section 9.944, adjacent properties and uses.

(5) The location, shape, size and character of common open space areas shall be suitable and appropriate to the scale and character of the project, considering its size, density, expected population, topography, and the number, type and location of buildings to be provided.

(6) The proposed development shall not result in creation of any nuisance, including but not limited to air, land, or water degradation, noise, glare, heat, vibration or other conditions which may be injurious to public health, safety, and welfare.

(7) The proposal shall meet the intent and objectives for a PD as expressed in Sections 9.680 (PRD), or 9.730 (CPD), or 9.760 (PID), or 9.770 Manufactured Home Subdivisions or 9.780 Manufactured Home Parks (MHP), as appropriate.

16. **Amend Subsection 9.826(2)(a) to encourage use of native vegetation.**

(a) Installation—Native vegetation is encouraged to be used for all parking area landscaping except within 100 feet of a natural resource area. In such situations, native vegetation is required. All landscaping shall be installed in a sound workmanship like manner and according to ~~accepted good~~ best practice planting procedures with the quality of plant materials as hereinafter described. All elements of landscaping exclusive of plant material except hedges shall be installed so as to meet all other applicable ordinances and code requirements. Landscaped areas shall require protection from vehicular encroachment as herein provided in Section 9.825. A qualified representative of the agency charged with the issuance of building permits shall inspect all landscaping and no Certificates of Occupancy or similar authorization will be issued unless the landscaping meets the requirements herein provided.

17. **Amend Subsection 9.826(3)(a) and (b) to allow bio-retention facilities on the perimeter of parking lots.**

- (a) Required Landscaping Adjacent to Public Rights-Of-Way--A strip of land at least 5 feet in width located between the abutting right-of-way and the off-street parking area or vehicle use area which is exposed to an abutting right-of-way, except in required vision clearance areas as provided in Section 9.826(3)(d). Landscaped areas may include water quality features such as bio-swales or wetlands, trees, grass, shrubs, and other plant material so as to cover the landscape area.
- (b) Perimeter Landscaping Relating to Abutting Properties--On the site of a building or structure or open lot use providing an off-street parking area or other vehicular use area, where such areas will not be entirely screened visually by an intervening building or structure from abutting property, a 5-foot landscaped strip shall be between the common lot line and the off-street parking area or other vehicular use area exposed to abutting property. Landscaped areas may include water quality

features such as bio-swales or wetlands, trees, grass, shrubs, and other plant material so as to cover the landscape area.

18. **Amend Subsection 9.830(7) to allow walkways be constructed with pervious paving:**

- (7) Walkways shall be paved with hard-surfaced materials such as pervious or standard concrete or asphalt, stone, brick, etc. Walkways may be required to be lighted and/or signed as needed for safety purposes. (Ord. 98-05; 3/23/98)

19. **Amend Subsection 9.855 (1) to acknowledge the need for other approvals with or prior to site plan review:**

- (1) To ensure compliance with the provisions of this ordinance, prior to the issuance of a building permit for the construction of any new building within the city, and prior to any grading, excavation or filling or other site modification within an ER zone flood management or within 100 feet of a natural resource area or areas having a slope of 20 percent or greater, there shall be submitted to the Community Development Department for review and approval, or approval with modifications, a site plan (showing any grading, excavating or filling) drawn to scale of the entire property developed and of the proposed construction. For flood management areas, information required by Section 5.800 et. seq. of the Municipal Code. For natural resource areas, compliance with applicable requirements of Section 9.944 and 9.971. For areas with slopes of 20 percent or greater, the submission of a geological assessment and geotechnical report prepared and stamped by a Certified Engineering Geologist who is a registered geologist certified in the specialty of Engineering Geology under provisions of ORS 672.505 to 672.705. The assessment and report shall address the entire site and meet the following requirements:
- (a) The geological assessment shall include information and data regarding the nature, distribution of underlying geology, and the physical and chemical properties of existing soils; an opinion as to stability of the site, and conclusions regarding the effect of geologic conditions on the proposed development.
- (b) The geotechnical report shall include a comprehensive description of the site topography and geology; an opinion as to the adequacy of the proposed development from an engineering standpoint; and opinion as to the extent that instability on adjacent properties may adversely affect the project; a description of the field investigation and findings; conclusions regarding the effect of geologic conditions on the proposed development; and specific requirements for plan modification, corrective grading and special techniques and systems to facilitate a safe and stable development. The report shall provide other recommendations as necessary, commensurate with the project grading and development.

Where applicable, applications for other approvals shall be submitted prior to or concurrent with the site plan application. Said site plan may be submitted simultaneously or prior to application for a building permit. The site plan submittal shall include the items listed in Section 9.855(2) of this ordinance, except that the Community Development Director or his designee, may waive certain of these submittal items in the case of applications for single and two-family dwellings. Notice of application shall be provided pursuant to Section 9.915 of this ordinance. Upon review and approval by the Community Development Director or his designee, the site plan shall act as the official plan of development for that parcel, and any grading, excavating, filling, construction of the building(s), or use(s) to occur on that site shall be in strict compliance with the approved site plan. Should, at a later date, it be deemed necessary by the property owner to vary from the approved site plan, an application shall be filed with the Community Development Department requesting an amendment to the approved site plan. Any amendment to the site plan shall follow the same procedure as set forth in this Section. (Ord. 92-01, 1/13/92)

20. **Amend Subsection 9.855(4)(e) to eliminate the restriction of piped storm water lines to allow for open swales:**

- (e) Storm Sewer Lines and Facilities--Private storm drain lines shall be required to connect with public storm sewer lines that comply with the City's Master Storm Sewer Plan or to existing lines that can be shown to be adequate for the development proposed. ~~In no case shall storm drainage be permitted in open ditches.~~ An alternate storm water retention and disposal system may be approved by the City Engineer including the use of open swales. The provision of public storm drain lines that comply with the Master Storm Sewer Plan or an alternate system meeting the City Engineer's approval shall be guaranteed prior to the issuance of a building permit, as provided in Section 9.855(3).

21. **Amend Subsection 9.858(3)(b) to specify native vegetation to be used in buffer areas.**

- (b) At least 75% of the required landscaped area shall be planted with any suitable combination of native trees, shrubs, or ~~evergreen~~ ground cover. The required 75% coverage shall be accomplished and shall be based on the size of the plant material within a specified time as follows:
- (i) Trees--Within 5 years from the date of final inspection by the Building Official.
 - (ii) Shrubs--Within 2 years from the date of final inspection by the Building Official.
 - (iii) Ground Covers--At the time of final inspection by the Building Official.

22. **Amend Section 9.940, Intent Statement of the Tree Protection Ordinance, as follows:**

9.940 **INTENT.** The trees of Forest Grove, a reminder of the City's namesake, offer historic, aesthetic, spiritual, social, environmental, and monetary values to the community. To ensure the success of the urban forestry program, the tree management ordinance establishes governing guidelines, a legal framework, and authority for the community forestry program. This ordinance seeks to enhance the quality of life in Forest Grove by promoting good stewardship that will ensure the continued health and well-being of the community forest. This ordinance creates a protected status for trees as listed below:

- (1) Street Trees: Any woody perennial plant permitted by the City to be planted in the public right-of-way. Typically a 1 3/4-inch caliper or larger nursery stock tree.
- (2) Natural Resource Vegetation: Trees and vegetation within ~~wetlands or wetland buffer areas, flood plains, within 30 feet of center line of mapped drainage ways, and open space areas~~ Natural Resource Areas the Comprehensive Plan.
- (3) Trees on Developable Land: Trees which have a diameter of 6 inches or larger, measured at 4.5 feet above natural grade, and are on land subject to or undergoing development review. Development review includes site review, subdivision review, partition review, building permit review and design review.
- (4) Trees on Approved Site Plan: These trees were existing and/or shown on site plans, and are part of an approved development.
- (5) Register Trees: Trees placed on a register list (includes tree groves) as defined in this ordinance. Register Trees may include trees from any of the above categories as well as on private property.

Where any tree falls into more than one category, the most restrictive criteria apply.

23. **Amend Section 9.941 to add the following definitions:**

Building site - The area on a lot or parcel that is designated to contain a structure, impervious surface, or non-native landscaping.

Building footprint - The area that is covered by buildings or other roofed structures. A roofed structure includes any structure more than 6 feet above grade at any point, and that provides an impervious cover over what is below. Building footprint also includes uncovered horizontal structures such as decks, stairways and entry bridges that are more than 6 feet above grade. Eaves are not included in building coverage. Underground facilities and structures are defined based on the foundation line.

Developed areas not providing vegetative cover - are areas that lack sufficient vegetative cover to meet the one-acre minimum mapping units of any other type of vegetative cover.

Developed floodplain - Any man-made change to improved or unimproved lands within a FEMA defined floodplain, including but not limited to buildings or other structures, dredging, filling, grading, paving, excavation, or storage of equipment and materials.

Development - Any man-made change defined as buildings or other structures, mining, dredging, paving, filling, or grading in amounts greater than ten (10) cubic yards on any lot or excavation. In addition, any other activity that results in the removal of more than: either 10 percent or 20,000 square feet of the vegetation in the Habitat Conservation Areas on the lot is defined as development. When individual trees are removed, the area contained within the tree's drip line shall be the basis for calculating the square footage of vegetation removed.

Development does not include the following: a) Stream enhancement or restoration projects approved by cities and counties; b) Farming practices as defined in ORS 30.930 and farm use as defined in ORS 215.203, except that buildings associated with farm practices and farm uses are subject to the requirements of Titles 3 and 13.

Disturb - Man-made changes to the existing physical status of the land, which are made in connection with development. The following uses are excluded from the definition:

- enhancement or restoration of the Water Quality Resource Area;
- planting native cover identified in the Metro Native Plant List.

Disturbance Area - An area that contains all temporary and permanent development, exterior improvements, and staging and storage areas on the site. For new development the disturbance area must be contiguous. The disturbance area does not include agricultural and pasture lands or naturalized areas.

Dripline - The outermost edge of a tree's canopy; when delineating the drip line on the ground, it will appear as an irregularly shaped circle defining the canopy's perimeter.

Ecological functions - The primary biological and hydrologic characteristics of healthy fish and wildlife habitat. Riparian ecological functions include microclimate and shade, streamflow moderation and water storage, bank stabilization and sediment/pollution control, sources of large woody debris and natural channel dynamics, and organic material sources. Upland wildlife ecological functions include size of habitat area, amount of habitat with interior conditions, connectivity of habitat to water resources, connectivity to other habitat areas, and presence of unique habitat types.

Effective Impervious Area - A subset of total impervious area that is hydrologically connected via sheet flow or discrete conveyance to a drainage system or receiving body of water

Emergency - Any man-made or natural event or circumstance causing or threatening loss of life, injury to person or property, and includes, but is not limited to, fire, explosion, flood, severe weather, drought earthquake, volcanic activity, spills or releases of oil or hazardous material, contamination, utility or transportation disruptions, and disease.

Engineer - A registered professional engineer licensed by the State of Oregon.

Enhancement - The process of improving upon the natural functions and/or values of an area or feature that has been degraded by human activity. Enhancement activities may or may not return the site to a pre-disturbance condition, but create/recreate beneficial processes and features that occur naturally.

Erosion - Erosion is the movement of soil particles resulting from actions of water or wind.

Fill - Any material such as, but not limited to, sand, gravel, soil, rock or gravel that is placed in a Title 3 wetland or floodplain for the purposes of development or redevelopment.

Floodplain - The land area identified and designated by the United States Army Corps of Engineers, the Oregon Division of State Lands, FEMA, or (identify name) county/city that has been or may be covered temporarily by water as a result of a storm event of identified frequency. It is usually the flat area of land adjacent to a stream or river formed by floods.

Floodway - The portion of a watercourse required for the passage or conveyance of a given storm event as identified and designated by the (identify name) city/county pursuant to this Ordinance. The floodway shall include the channel of the watercourse and the adjacent floodplain that must be reserved in an unobstructed condition in order to discharge the base flood without flood levels by more than one foot.

Forest canopy - Areas that are part of a contiguous grove of trees of one acre or larger in area with approximately 60% or greater crown closure, irrespective of whether the entire grove is within 200 feet of the relevant water feature.

Habitat-friendly development - A method of developing property that has less detrimental impact on fish and wildlife habitat than does traditional development methods. Examples include clustering development to avoid habitat, using alternative materials and designs such as pier, post, or piling foundations designed to minimize tree root disturbance, managing storm water on-site to help filter rainwater and recharge groundwater sources, collecting rooftop water in rain barrels for reuse in site landscaping and gardening, and reducing the amount of effective impervious surface created by development.

Invasive non-native or noxious vegetation - Plant species that are listed as nuisance plants or prohibited plants on the Metro Native Plant List as adopted by Metro Council resolution because they are plant species that have been introduced and, due to aggressive growth patterns and lack of natural enemies in the area where introduced, spread rapidly into native plant communities.

Lot - Lot means a single unit of land that is created by a subdivision of land. (ORS 92.010).

Low structure vegetation or open soils - Areas that are part of a contiguous area one acre or larger of grass, meadow, crop-lands, or areas of open soils located within 300 feet of a surface stream (low structure vegetation areas may include areas of shrub vegetation less than one acre in size if they are contiguous with areas of grass, meadow, crop-lands,

orchards, Christmas tree farms, holly farms, or areas of open soils located within 300 feet of a surface stream and together form an area of one acre in size or larger).

Mitigation - The reduction of adverse effects of a proposed project by considering, in the order: a) avoiding the impact all together by not taking a certain action or parts of an action; b) minimizing impacts by limiting the degree or magnitude of the action and its implementation; c) rectifying the impact by repairing, rehabilitating or restoring the affected environment; d) reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action by monitoring and taking appropriate measures; and e) compensating for the impact by replacing or providing comparable substitute water quality resource areas or habitat conservation areas.

Native vegetation or native plant - Vegetation listed as a native plant on the Metro Native Plant List as adopted by Metro Council resolution and any other vegetation native to the Portland metropolitan area provided that it is not listed as a nuisance plant or a prohibited plant on the Metro Native Plant List.

Open space - Land that is undeveloped and that is planned to remain so indefinitely. The term encompasses parks, forests and farmland. It may also refer only to land zoned as being available to the public, including playgrounds, watershed preserves and parks.

Owner or property owner - The person who is the legal record owner of the land, or where there is a recorded land sale contract, the purchaser thereunder.

Partition - Partition means to divide land into two or three parcels of land within a calendar year. (ORS 92.010)

Phased development project - A phased development plan includes the following:

- A site plan showing the proposed final development of the site and phases, including the initial and interim phases.
- A written statement describing each phase, including the potential uses, and the approximate timeline for each phase of development.

Practicable - means available and capable of being done after taking into consideration cost, existing technology, and logistics in light of overall project purpose and probable impact on ecological functions.

Redevelopment – Development that occurs on sites that have previously been developed.

Restoration - The process of returning a disturbed or altered area or feature to a previously existing natural condition. Restoration activities reestablish the structure, function, and/or diversity to that which occurred prior to impacts caused by human activity.

Riparian - Those areas associated with streams, lakes and wetlands where vegetation communities are predominately influenced by their association with water.

Routine repair and maintenance - Activities directed at preserving an existing allowed use or facility, without expanding the development footprint or site use.

Set-back adjustment - The placement of a building a specified distance away from a road, property line or protected resource.

Significant negative impact - An impact that affects the natural environment, considered individually or cumulatively with other impacts on the HCA, to the point where existing fish and wildlife habitat functional values are degraded.

Statewide Land Use Planning Goal 5 - Oregon's statewide planning goal that addresses open space, scenic and historic areas, and natural resources. The purpose of the goal is to conserve open space and protect natural and scenic resources.

Steep slopes - Steep slopes are those slopes that are equal to or greater than 25%. Steep slopes have been removed from the "buildable lands" inventory and have not been used in calculations to determine the number of acres within the urban growth boundary that are available for development.

Stormwater pre-treatment facility - Any structure or drainage way that is designed, constructed, and maintained to collect and filter, retain, or detain surface water run-off during and after a storm event for the purpose of water quality improvement.

Stream - A body of running water moving over the earth's surface in a channel or bed, such as a creek, rivulet or river. It flows at least part of the year, including perennial and intermittent streams. Streams are dynamic in nature and their structure is maintained through build-up and loss of sediment.

Structure - A building or other major improvement that is built, constructed or installed, not including minor improvements, such as fences, utility poles, flagpoles or irrigation system components, that are not customarily regulated through zoning codes.

Subdivision - A Subdivision of land means to divide land into four or more lots within a calendar year. (ORS 92.010).

Top of Bank - The same as "bankful stage" defined in OAR 141-85-010.

Urban Growth Boundary or UGB - means an urban growth boundary adopted pursuant to ORS chapter 197.

Utility facilities - Buildings, structures or any constructed portion of a system which provides for the production, transmission, conveyance, delivery or furnishing of services including, but not limited to, heat, light, water, power, natural gas, sanitary sewer, stormwater, telephone and cable television. Utility facilities do not include stormwater pre-treatment facilities.

Variance - means a discretionary decision to permit modification of the terms of an implementing ordinance based on a demonstration of unusual hardship or exceptional circumstances unique to a specific property.

Water-dependent - A use which can be carried out only on, in, or adjacent to water because it requires access to the water for waterborne transportation or recreation. Water-dependent also includes development, which by its nature, can be built only on, in, or over water. Bridges supported by piers or pillars, as opposed to fill, are water-dependent development.

Water feature - All rivers, streams (regardless of whether they carry year-round flow, i.e., including intermittent streams), springs which feed streams and wetlands and have year-round flow, Flood Management Areas, wetlands, and all other bodies of open water.

Watershed - A watershed is a geographic unit defined by the flows of rainwater or snowmelt. All land in a watershed drains to a common outlet, such as a stream, lake or wetland.

Wetlands - Wetlands are those areas inundated or saturated by surface or ground water at a frequency and duration sufficient to support and under normal circumstances do support a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs and similar areas. Wetlands are those areas identified and delineated by a qualified wetland specialist as set forth in the 1987 Corps of Engineers Wetland Delineation Manual.

Woody vegetation - Areas that are part of a contiguous area one acre or larger of shrub or open or scattered forest canopy (less than 60% crown closure) located within 300 feet of a surface stream.

24. **Amend Section 9.944, Trees in Natural Resource Areas, as follows:**

9.944 **TREES IN NATURAL RESOURCE AREAS.**

(A) Additional Information Requirements. An applicant who wishes to remove vegetation or do work within a Natural Resource Area (NRA) shall submit for a tree permit. It shall include the information required by this subsection. The information shall be submitted either prior to or concurrent with a site development or conditional use permit or planned development application required by the Zoning Ordinance or a preliminary subdivision or partition application required by Land Division Ordinance. Applications for a residential subdivision with more than 20 lots and 20 percent or more of the site is within a Natural Resource Area or a residential subdivision with 4 to 20 lots and 30 percent or more of the site is within a Natural Resource Area shall be reviewed by the Planning Commission. Where no land use permit is required, the tree permit shall be submitted and approved prior to any physical modification of the subject site. :

(1) Applicants must verify the natural resource area on their property as described in Section 9.944 (H).

- (2) Information indicating the area being affected; and For the entire subject property (natural resource area and non-natural resource area), applicants must submit a scale map of the property that includes:
- (a) Location of all natural resource areas on the property;
 - (b) Outline of any existing disturbance area, including the location of existing adjacent streets and paved areas, utilities, culverts, stormwater management facilities, or bridges;
 - (c) Location of any wetlands or water bodies on the property, including a delineation of the sensitive lands and vegetative corridors consistent with Clean Water Services Design and Construction Standards;
 - (d) Location of 100 year floodplain and floodway boundary as defined by Section 5.805 and determined by Section 5.815 of the Municipal Code; and
 - (e) Topography shown by contour lines of 2-ft. intervals for slopes less than 15% and by 10 ft. intervals for slopes 15% or greater. On properties that are two acres or larger, such a contour map is required only for the portion of the property to be developed.
- (3) The nature of the work proposed, and/or the reasons for removal of vegetation. If applicable, this shall include detailed site plan of proposed development outlining total disturbance area, including, proposed building footprints, site property improvements, utilities and landscaping.
- (4) The following additional information shall be provided about the natural resource area:
- (a) For properties containing less than one acre of natural resource area, the location of all trees within the natural resource area that are greater than six inches diameter at breast height (DBH), shall be identified by size and species. For properties containing one acre or more of natural resource area, the applicant may approximate the number of trees and the diameter range, and provide a listing of the dominant species;
 - (b) For proposed disturbance areas containing less than one acre of natural resource area, all trees with a diameter of six inches or greater that will be removed shall be specifically identified as to diameter at breast height (DBH) and species. For proposed disturbance areas containing one acre or more of natural resource area an approximate of the number of trees, their diameters and the dominant species; and

- (c) If grading will occur within the natural resource area, a grading plan showing the proposed alteration of the ground at 1-ft. vertical contours in areas of slopes less than 5%, and 2-ft. vertical contours in areas of slopes 6-15%, and at 5-ft. vertical contours of slopes 15% or greater.
- (5) A plan for mitigation or re-vegetation consistent with the applicable mitigation requirements of Section 9.944 (F) or (G); and
- (6) Evidence of submittal of appropriate applications to local, state and/or federal agencies as required.
- (B) Exempt Uses and Conditioned Activities. The following uses and activities are exempt from the requirements of this Section:
- (1) Change of ownership.
- (2) Where construction of a residence was completed before January 1, 2006, the owners or residents shall not be restricted from engaging in any development that was allowed prior to September 22, 2005; unless such development required obtaining a land use decision, or a building, erosion control, or grading permit.
- (3) A building permit for a phased development project for which the applicant has previously met the application requirements, so long as the site for new construction was identified on the original permit and no new portion of the natural resource areas will be disturbed.
- (4) Where a property has been subdivided under section (F)(5) of this ordinance, and the mitigation requirements of (F)(4) have been completed for the subdivision, development on the individual lots may proceed without further review under this ordinance.
- (5) Limited types of development, redevelopment, operations, and improvements, including the following:
- (a) Maintenance, alteration, expansion, repair and replacement of existing structures, provided that:
- (i) The rebuilding of existing residential and non-residential structures damaged by fire or other natural hazards occurs within the same foundation lines ("building footprint"); and
- (ii) The alteration, expansion, or replacement of a structure will not intrude more than 500 sq. ft. into the natural resource areas, and so long as the new intrusion is no closer to the protected water feature than the pre-existing structure or improvement.

- (b) Minor encroachments not to exceed 120 sq. ft. of impervious surface such as accessory buildings, eave overhangs, exterior building improvements for access and exiting requirements or other similar features.
- (c) Temporary and minor clearing not to exceed 200 square feet for the purpose of site investigations and pits for preparing soil profiles, provided that such areas are restored to their original condition when the investigation is complete.
- (d) Up to 10% of vegetative cover within the original mapped natural resource areas on a lot or parcel may be removed, provided that no more than 20,000 square feet is removed; and provided that if more than 10% has been removed at the time of a development application, the review process shall use the original mapped natural resource areas, subject to map verification, as the basis for determining the Maximum Disturbance Area in Subsection (F)(2) and Mitigation standards in Sections (F)(4) and (G)(2), (G)(3), (G)(4)(a)(ii) and (G)(4)(b)(iv).
- (e) Maintenance of existing gardens, pastures, lawns and landscape perimeters, including the installation of new irrigation systems within existing gardens, pastures, lawns, and landscape perimeters.
- (f) Removal of plants identified as nuisance or prohibited plants on the *Metro Native Plant List* and the planting or propagation of plants identified as native plants on the *Metro Native Plant List*. Handheld tools must be used to remove nuisance or prohibited plants, and after such removal all open soil areas greater than 25 square feet must be replanted.
- (g) Maintenance, alteration, repair, and replacement of roads and utilities when no additional incursion into the natural resource areas is proposed.
- (h) Maintenance and repair of existing streets, railroads, shipping terminals, and utilities within rights-of-way, easements, and access roads.
- (i) Existing water-dependent uses that can only be carried out on, in, or adjacent to water because they require access to the water for waterborne transportation or recreation.
- (j) Operation, maintenance, and repair of manmade water control facilities such as irrigation and drainage ditches, constructed ponds or lakes, wastewater facilities, and stormwater pretreatment facilities.
- (k) Projects with the sole purpose of restoring or enhancing wetlands, streams, or fish and wildlife habitat areas, provided that the project is part of an approved local, state, or federal restoration or enhancement plan.

(l) Low-impact outdoor recreation facilities for public use, outside of Water Quality Resource Areas, including, but not limited to, multi-use paths, access ways, trails, picnic areas, or interpretive and educational displays and overlooks that include benches and outdoor furniture, provided that the facility meets the following requirements:

(i) It contains less than 500 sq. ft. of new impervious surface; and,

(ii) Its trails shall be constructed using non-hazardous, pervious materials, with a maximum width of four feet.

(6) Emergency procedures or activities undertaken which are necessary to remove or abate hazards and nuisances or for the protection of public health, safety and welfare; provided that such remedial or preventative action must take place within a timeframe too short to allow for compliance with the requirements of this ordinance. After the emergency, the person or agency undertaking the action shall fully restore any impacts to the natural resource areas resulting from the emergency action. Hazards that may be removed or abated include those required to maintain aircraft safety.

(C) Prohibitions

(1) The planting of any invasive non-native or noxious vegetation is prohibited within the NRA.

(2) Outside storage of materials is prohibited within the NRA, unless such storage began before the effective date of this ordinance; or, unless such storage is approved during development review under either Subsection (F) or (G).

(D) Criteria. The request for vegetation removal shall be approved based on the criteria below:

(1) The permanent impact will be negligible or minor and mitigation meets the requirements of this subsection, subsection (F)(4) or that allowed by Subsection (G).

(2) The removal is necessary to prevent the spread of disease or insects declared to be a nuisance by a government agency or qualified arborist, or to correct or eliminate a natural hazard (as identified by the City or qualified arborist) to the property owner, surrounding properties, or community at large.

(3) The loss of value will be of temporary duration of two years or less until new vegetation can be established, or the mitigation plan provides satisfactory replacement of the lost vegetation and establishment of a new resource area of equal value to be completed within two planting seasons. Mitigation for lost vegetation is preferred on-site, or within the immediate vicinity of the subject site.

Off-site mitigation may be approved if there is no reasonable alternative and a method of guaranteeing permanent use of the area off-site is found, such as dedication of the area to a public entity, easement or deed restriction.

- (4) Timetables for the work shall be established which minimize the impact on wildlife.
 - (5) Notwithstanding the above criteria, intrusion into the natural resource area is allowed provided the requirements in Subsection (F) or (G) are met.
- (E) Construction Management Plans: In order to ensure that trees and vegetation within NRAs are not damaged during construction, all applicants, even those not developing within an NRA, shall provide a construction management plan that includes the following information:
- (1) Location of site access and egress that construction equipment will use;
 - (2) Equipment and material staging and stockpile areas;
 - (3) Erosion and sediment control measures; and
 - (4) Measures to protect trees and other vegetation located within the NRA, but outside of the disturbance area approved under the provisions of Subsection (F) or (G).
- (F) Standards. The following standards are to be met when the subject site contains natural resource areas. In order of preference, these natural resource areas are to be avoided when development as allowed by the underlying zone district can be achieved outside the area or through alternative site design allowed by a planned development; minimize intrusion into the area to the extent feasible; or mitigate impacts from intrusions where no feasible alternatives exists. The following standards shall apply to achieve these avoid, minimize or mitigate objectives. As an alternative, the applicant may submit for discretionary approval pursuant to Section 9.944 (G):
- (1) Methods for avoiding or minimizing disturbance in Natural Resource Areas. The following habitat-friendly development practices may be used to avoid or minimize development within NRAs by allowing flexible site design:
 - (a) Building setback flexibility to avoid, or minimize, development within NRAs. The minimum building setback of the base zone may be reduced to any distance between the base zone minimum and zero, unless this reduction conflicts with applicable fire or life safety requirements.
 - (b) Flexible landscaping requirements to avoid, or minimize, development within NRAs.
 - (i) Landscaping requirements, apart from those required for parking lots or street berms, may be met by preserving the NRA.

- (ii) Facilities that infiltrate stormwater onsite, including the associated piping, may be placed within the NRA so long as the forest canopy and the areas within the driplines of the trees are not disturbed. Such facilities may include, but are not limited to, vegetated swales, rain gardens, vegetated filter strip, and vegetated infiltration basins. Only native vegetation may be planted in these facilities.

- (c) Flexible Site Design (On-site Density Transfer) to avoid or minimize development within NRAs.
 - (i) Residential. For residential development, up to 100 percent of the development that could be allowed on lands within a natural resource area can be transferred other portions of the property outside the resources area.
 - (ii) In order to accommodate the transferred density, dimensional standards and lot sizes may be adjusted by no more than 20 percent. (30% reduction can be used)
 - (iii) Commercial and Industrial developments shall avoid natural resource areas unless no other practicable alternative is available.
 - (iv) Mixed-Use Zones. Within mixed-use zones the density transfer credit can be factored using either (i) or (ii) above, depending on the type of development proposed.

- (d) Site Capacity Incentives. The following site capacity standards provide flexibility in the design of land divisions in order to allow ways to better protect NRAs.
 - (i) Density bonus if NRA is protected. In the Multi-Family (A-2) Residential Zone District, a 25 percent density bonus over the based density may be allowed for any development of four (4) or more dwelling units if 75 percent or more of the NRA on a site is permanently preserved.
 - (ii) All area within a NRA, or any portion of it, may be subtracted from the calculations of net size for purposes of determining minimum density provided that such area is protected. This provision may only be applied to properties that were inside the Metro UGB on January 1, 2002.
 - (iii) Projects can be developed below minimum density allowed by the zone district if the natural resource area is protected. This

provision may only be applied to properties that were inside the Metro UGB on January 1, 2002.

- (e) All natural resource areas that are preserved shall be permanently restricted from development and maintained for habitat functions, such as by making a public dedication or executing a restrictive covenant.

- (2) Development within NRA. The following development standards apply to all development that occurs within the NRA except for exempt uses and conditioned activities addressed in Subsection (B) and utility facilities addressed in subsection (F)(3). If all development occurs outside of an NRA on a property, these standards do not apply. These standards also do not apply to development that occurs pursuant to the standards established by the alternative discretionary development standards in Subsection (G).
 - (a) Disturbance area limitations to minimize impact to NRA.
 - (i) Single-family residential. The maximum disturbance area (MDA) allowed within NRAs HCAs is determined by subtracting the area of the lot or parcel outside of Habitat Conservation Area (HCA) from the total disturbance area (TDA) calculated as described in Table I below.
(TDA – Area outside the HCA = MDA)
 - I Moderate and Low HCAs are subject to the same disturbance area limitations.

 - II Calculation of maximum disturbance area. If a lot or parcel includes both High and Moderate/Low HCAs then:
 - (A) If there is more High HCA than Moderate/Low HCA on the lot or parcel, then the MDA shall be calculated as if all of the Moderate/Low and High HCA were High, per Table I below; or

 - (B) If there is more Moderate/Low HCA than High HCA on the lot or parcel, then the MDA shall be calculated as if all of the Moderate/Low and High HCA were Moderate/Low, per Table I below.

 - III Location of MDA. If a lot or parcel includes different types of HCAs, then:
 - (A) The amount of development that may occur within the High HCA is equal to the total disturbance area minus the area of the lot or parcel outside of the

High HCA (TDA – non-High HCA = MDA). If the area of the lot or parcel outside the High HCA is greater than the total disturbance area, then development shall not occur within the High HCA:

(Area outside High HCA > TDA = no development in High HCA);

- (B) The amount of development that may occur within the Moderate HCA is equal to the total disturbance area minus the area of the lot or parcel outside of the High and Moderate HCA (TDA – (Low HCA + non-HCA) = MDA). If the area of the lot or parcel outside the Moderate HCA is greater than the total disturbance area, then development shall not occur within the Moderate HCA:

(Area outside Moderate HCA > TDA = no development in Moderate HCA); and

- (C) The amount of development that may occur within the Low HCA is equal to the total disturbance area minus the area of the lot or parcel outside of the High, Moderate and Low HCA (TDA – non-HCA = MDA). If the area of the lot or parcel outside the Low HCA is greater than the total disturbance area, then development shall not occur within the Low HCA:

(Area outside Low HCA > TDA = no development in Low HCA).

Table 1. Total Disturbance Area Limitations for Single Family Residential Zone Districts.

<u>HCA Type</u>	<u>Habitat type</u>	<u>Total Disturbance Area (TDA)</u>
<u>High</u>	<u>Class I</u>	<u>50 percent of the lot area, up to maximum of 5,000 sq. ft.</u>
<u>Moderate/Low</u>	<u>Class II</u>	<u>65 percent of the lot area, up to maximum of 6,000 sq. ft.</u>
<u>Moderate/Low</u>	<u>Uplands Class A and B for properties brought into the UGB after January 5, 2006</u>	<u>65 percent of the lot area, up to maximum of 6,000 sq. ft.</u>
<u>No HCA or NRA</u>	<u>Uplands Class A and B within the UGB as of January 5, 2006</u>	<u>N/A</u>

(ii) All other zones. The maximum disturbance area (MDA) allowed by right within Natural Resource Areas in these zones is found in Tables 2 and 3 below; this MDA is subject to the mitigation requirements described in subsection (F)(4).

Table 2. NRA Disturbance Area Limitations for Riparian Areas for all zones other than SFR.

<u>Riparian Class and Zone District</u>	<u>Maximum Disturbance Area (MDA)</u>
<u>Class I – A-1, A-2, CC, CN, CH, LI, GI</u>	<u>10 percent of NRA on site</u>
<u>Class I – CBD, A-2 Class II – A-1, A-2</u>	<u>15 percent of NRA on site</u>
<u>Class II - CC, CN, CH, LI, GI</u>	<u>50 percent of NRA on site</u>

Table 3. NRA Disturbance Area Limitations for Upland Areas for all zones other than SFR

<u>Upland Class and Zone District for property brought into UGB after January 5, 2006¹</u>	<u>Maximum Disturbance Area</u>
<u>Class A: CC, CN, CH, LI, GI; Class B: A-1, A-2</u>	<u>15 percent of NRA on site</u>
<u>Class A: CBD; Class B: CC, CN, CH, LI, GI</u>	<u>50 percent of NRA on site</u>

¹There is no uplands classification for lands within the UGB as of January 5, 2006.

(iii) Parks and Open Space

- I. Publicly owned property designated for open space or for habitat on the City's Park, Recreation and Open Space Master Plan shall be limited to vegetation removal for trail development. Any other vegetation removal shall be mitigated by replanting consistent with this Section.
- II. Parks intended for active recreational purposes as designated on the City's Park, Recreation and Open Space Master Plan shall not be considered in an NRA.

(iv) Development within an NRA in accordance with the provisions of this ordinance shall not result in a change of the NRA status of such developed areas on a property. In the case of a later development request seeking to develop within previously undisturbed NRAs on a property where a prior development request was subject to the provisions of this ordinance, the calculation of the MDA allowed on the property shall be based on the location of the NRA, notwithstanding the location of any authorized development within the NRA.

(b) Protection of habitat during site development. During development of any site containing a NRA, the following standards apply:

- (i) Work areas shall be marked to reduce potential damage to the NRA.
- (ii) Trees in NRAs shall not be used as anchors for stabilizing construction equipment.
- (iii) Native soils disturbed during development shall be conserved on the property.

- (i) Mitigation Option 1. In this option, the mitigation requirement is calculated based on the number and size of trees that are removed from the site. Trees that are removed from the site must be replaced as shown in Table 2. Conifers must be replaced with conifers. Bare ground must be planted or seeded with native grasses or herbs. Non-native sterile wheat grass may also be planted or seeded, in equal or lesser proportion to the native grasses or herbs.

Table 2. Tree Replacement

<u>Size of tree to be removed (inches in diameter)</u>	<u>Number of trees and shrubs to be planted</u>
6 to 12	2 trees and 3 shrubs
13 to 18	3 trees and 6 shrubs
19 to 24	5 trees and 12 shrubs
25 to 30	7 trees and 18 shrubs
over 30	10 trees and 30 shrubs

- (ii) Mitigation Option 2. In this option, the mitigation requirement is calculated based on the size of the disturbance area within a NRA. Native trees and shrubs are required to be planted at a rate of five (5) trees and twenty-five (25) shrubs per every 500 square feet of disturbance area. Bare ground must be planted or seeded with native grasses or herbs. Non-native sterile wheat grass may also be planted or seeded, in equal or lesser proportion to the native grasses or herbs.
- (b) Plant size. Replacement trees must be at least one-half inch in caliper, measured at 6 inches above the ground level for field grown trees or above the soil line for container grown trees (the one-half inch minimum size may be an average caliper measure, recognizing that trees are not uniformly round), unless they are oak or madrone which may be one gallon size. Shrubs must be in at least a 1-gallon container or the equivalent in ball and burlap and must be at least 12 inches in height.
- (c) Plant spacing. Trees shall be planted between 8 and 12 feet on-center and shrubs shall be planted between 4 and 5 feet on center, or clustered in single species groups of no more than four (4) plants, with each cluster planted between 8 and 10 feet on center. When planting near existing trees, the dripline of the existing tree shall be the starting point for plant spacing measurements.

- (d) Plant diversity. Shrubs must consist of at least two (2) different species. If 10 trees or more are planted, then no more than 50% of the trees may be of the same genus.
- (e) Location of mitigation area. All vegetation must be planted on the applicant's site within the NRA or in an area contiguous to the NRA; provided, however, that if the vegetation is planted outside of the NRA then the applicant shall preserve the contiguous area by executing a deed restriction, such as a restrictive covenant.
- (f) Invasive vegetation. Invasive non-native or noxious vegetation must be removed within the mitigation area prior to planting.
- (g) Tree and shrub survival. A minimum of 80% of the trees and shrubs planted shall remain alive on the fifth anniversary of the date that the mitigation is completed.
- (h) Monitoring and reporting. Monitoring of the mitigation site is the ongoing responsibility of the property owner. Plants that die must be replaced in kind. For a period of five years, the property owner must submit an annual report to (list appropriate city or county department) documenting the survival of the trees and shrubs on the mitigation site. *[Optional: the city or county may require the property owner to post a performance bond in the amount sufficient to cover costs of plant material and labor associated with site preparation, planting, and maintenance in lieu of the monitoring and reporting requirement.]*
- (i) To enhance survival of the mitigation plantings, the following practices are required:
 - (i) Mulching. Mulch new plantings a minimum of three inches in depth and 18 inches in diameter to retain moisture and discourage weed growth.
 - (ii) Irrigation. Water new plantings one inch per week between June 15th to October 15th, for the three years following planting.
 - (iii) Weed control. Remove, or control, non-native or noxious vegetation throughout maintenance period.
- (j) To enhance survival of tree replacement and vegetation plantings, the following practices are recommended:
 - (i) Planting season. Plant bare root trees between December 1st and February 28th, and potted plants between October 15th and April 30th.

- (ii) Wildlife protection. Use plant sleeves or fencing to protect trees and shrubs against wildlife browsing and resulting damage to plants.
- (5) Standards for Partitions and Subdivisions standards. The purpose of this section is to allow for partitions in a manner that limits the total amount of allowable development within NRAs on the partitioned parcels; and to require that new subdivision plats delineate and show the Moderate and High NRAs as a separate unbuildable tract.
 - (a) Standards for Partitions containing NRAs:
 - (i) When partitioning a property into parcels, an applicant shall verify the boundaries of the NRA on the property according to Subsection (H).
 - (ii) Applicants who are partitioning, but are not simultaneously developing their property, do not need to comply with Subsection (E).
 - (iii) When partitioning a property into parcels there shall be no more than a 30% percentage point difference in the percentage of NRA on the parcels; for example, a partition that produces two parcels, one that is 55% NRA and the other that is 35% NRA is permissible; whereas a partition that produces two parcels, one that is 75% NRA and the other that is 30% NRA is not permissible. However, an applicant may partition a property such that at least 90% of the original property's High NRA and 80% of its moderate NRA is on a separate unbuildable parcel, protected by a restrictive covenant or a public dedication.
 - (iv) Subsequent development on any parcels containing NRAs shall comply with Subsection (E), and the development standards of either Subsection (F) or (G).
 - (b) Standards for Subdivisions:
 - (i) Applicants who are sub-dividing, but not developing, must verify the location of the NRA boundary according to Subsection (H) of this ordinance, and comply with this subsection (F)(5); such applicants do not need to comply with Subsection (E). Applicants who are sub-dividing, but not developing, property may:
 - I Complete the mitigation requirements of section (F)(4) and thereby exempt all subsequent development on lots

containing NRA from further review under this ordinance;
or

II Not complete the mitigation requirements of section (F)(4), thus requiring that any subsequent development within an NRA be subject to this ordinance.

(ii) Applicants who are sub-dividing and developing properties must comply with Subsections (E), (F), or (G) and (H).

(iii) When a property containing any NRA is subdivided, this ordinance requires that new subdivision plats delineate and show 80 percent of the NRA as a separate unbuildable tract according to the following process:

(iv) If the tract is adjacent to the backyard for residences, the minimum backyard requirement is reduced to 10 ft.

(v) The standards for land divisions in Moderate and High NRAs shall apply in addition to the requirements of the city/county land division ordinance and zoning ordinance.

(vi) Prior to preliminary plat approval, the NRA shall be shown as a separate tract, which shall not be a part of any lot used for construction of a dwelling unit.

(vii) Prior to final plat approval, ownership of the NRA tract shall be identified to distinguish it from lots intended for sale. The tract may be identified as any one of the following:

I Private natural area held by the owner or homeowners association by a restrictive covenant; or

II For residential land divisions, private natural area subject to an easement conveying storm and surface water management rights to the city and preventing the owner of the tract from activities and uses inconsistent with the purpose of this ordinance; or

III At the owner's option, public natural area where the tract has been dedicated to the city or other governmental unit, or a private non-profit with the mission of land conservation.

(G) Alternative Discretionary Development Standards. Applicants may choose to use the alternative discretionary development standards provided in this section rather than the

development standards provided in Subsection (F). There are four discretionary review processes provided in this section: subsection (1) provides discretionary review for an applicant seeking only to partition a property; subsection (2) provides discretionary review for an applicant who will comply with the development standards in Subsection (F) of this ordinance, except that the applicant seeks to meet the mitigation requirements of that section on a different property from the property on which a NRA will be disturbed; subsection (3) provides discretionary review for an applicant who will comply with the development standards in Subsection (F), except that the applicant seeks to meet the mitigation requirements of that section by proportionally varying the number and size of plants required to be planted; and subsection (4) provides general discretionary review standards applicable to an applicant seeking some other type of discretionary approval of development that will disturb an NRA.

(1) Discretionary Review for Partitions. An applicant seeking to partition land in ways that do not accord with the standards established in Subsection (F)(5)(a) may seek review under this subsection (G)(1)).

(a) The applicant shall verify the boundaries of the NRAs on the property according to Subsection (H).

(b) The applicant shall submit the following application materials:

(i) A scale map of the entire property that includes:

I Location of all NRA on the property;

II Location of any wetlands or water bodies on the property, including a delineation of the Water Quality Resource Area;

III Location of 100 year floodplain and floodway boundary as defined by the Federal Emergency Management Agency (FEMA) and the area of the 1996 flood inundation; and

IV A delineation of the proposed partition.

(ii) A written and documented explanation of how and why the proposed partition satisfies the approval criteria in subsection (G)(1)(c). Such written documentation shall include an alternatives analysis of different possible partition plans, based on the characteristics and zoning of the property.

(c) Approval Criteria. A partition shall be approved under this subsection (G)(1) provided that the applicant demonstrates that it is not practicable to comply with the partition standards in Section (F)(5)(a), and that the applicant's partition plan will result in the smallest practicable percentage

point difference in the percentage of NRA on the parcels created by the partition (this will minimize the amount of allowable disturbance areas within NRAs on the parcels, assuming that the development standards in this Section 6 were applied to future development on such parcels).

(d) Subsequent development on any parcels created by the partition and containing NRAs shall comply with all provisions of this ordinance, except that the map verification completed and approved as part of the partition may be used to satisfy the requirements of Subsection (H) for any such development.

(2) Discretionary Review To Approve Off-Site Mitigation. An applicant seeking discretionary approval only for off-site mitigation within the same subwatershed (6th Field Hydrologic Unit Code), but who will comply with all other provisions of Section F, may seek review under this subsection (G)(2). (An applicant who seeks to conduct the mitigation in a different subwatershed may apply for such approval under subsection (G)(4).)

(a) The applicant shall submit:

(i) A calculation of the number of trees and shrubs the applicant is required to plant under Section (F)(4) of this ordinance; and

(ii) A map and accompanying narrative that details the following:

I The number of trees and shrubs that can be planted on-site;

II The on-site location where those trees and shrubs can be planted;

III An explanation of why it is not practicable for the remainder of the mitigation to occur on-site; and

IV The proposed location for off-site mitigation and documentation that the applicant can carry out and ensure the success of the mitigation, including documentation that the applicant possesses legal authority to conduct and maintain the mitigation, such as having a sufficient ownership interest in the mitigation site, and, if the mitigation is not within a NRA, documentation that the mitigation site will be protected after the monitoring period expires, such as through the use of a restrictive covenant.

(b) Approval Criteria. Off-site mitigation shall be approved under this subsection (G)(2) provided that the applicant has demonstrated that it is not practicable to complete the mitigation on-site and that the applicant

has documented that it can carry out and ensure the success of the off-site mitigation on a property within the same subwatershed (6th Field Hydrologic Unit Code) as the related disturbed NRA.

(c) Mitigation approved under this subsection (G)(2) shall be subject to all of the requirements of subsection (F)(4), except for the requirements of subsection (F)(4)(e).

(3) Discretionary Review To Approve Mitigation That Varies the Number and Size of Trees and Shrubs. An applicant seeking discretionary approval only to proportionally vary the number and size of trees and shrubs required to be planted under subsection (F)(4), for example to plant fewer larger trees and shrubs or to plant more smaller trees and shrubs, but who will comply with all other provisions of Subsection (F), may seek review under this subsection (G)(3).

(a) The applicant shall submit:

(i) A calculation of the number of trees and shrubs the applicant would be required to plant under Subsection (F)(4);

(ii) The numbers and sizes of trees and shrubs that the applicant proposes to plant;

(iii) An explanation of why the numbers and sizes of trees and shrubs that the applicant proposes to plant will achieve, at the end of the fifth year after initial planting, comparable or better mitigation results as the results that would be achieved if the applicant complied with all of the requirements of subsection (F)(4). Such explanation shall be prepared and signed by a knowledgeable and qualified natural resources professional or a certified landscape architect and shall include discussion of plant diversity, plant spacing, site preparation including removal of invasive and noxious vegetation and soil additives, planting season, and immediate post-planting care including mulching, irrigation, wildlife protection, and weed control; and

(iv) The applicant's mitigation site monitoring and reporting plan.

(b) Approval Criteria. A request to vary the numbers and sizes of trees and shrubs to be planted shall be approved if the applicant demonstrates that its planting will achieve, at the end of the fifth year after initial planting, comparable or better mitigation results as the results that would be achieved if the applicant complied with all of the requirements of subsection (F)(4) of this ordinance. Such determination shall take into consideration all of the information required to be submitted under subsection (G)(3)(a).

- (c) Mitigation approved under this subsection (G)(3) shall be subject to the requirements of subsections (F)(4)(d) through (F)(4)(i), and it is recommended that such mitigation also follow the practices recommended in subsection (F)(4)(j).
- (4) Discretionary Review. An applicant seeking discretionary approval to undertake any development activity within a NRA that does not comply with subsection (F) and is not described in subsections (G)(1), (2), or (3) may file an application under this Subsection (G)(4).
- (a) Application Requirements. The applicant shall provide all items described in subsection (A) and the following, except that for utility projects undertaken by public utilities across property that is not owned by the utility, the utility shall not be required to map or provide any information about the property except for the area within 300 feet of the location of the proposed disturbance area of the utility's project:
- (i) Impact Evaluation and Alternatives Analysis. An impact evaluation and alternatives analysis is required to determine compliance with the approval criteria and to evaluate development alternatives for a particular property. The alternatives must be evaluated on the basis of their impact on the NRA, the ecological functions provided by the NRA on the property, and off-site impacts within the subwatershed (6th Field Hydrologic Unit Code) where the property is located. The impact evaluation shall include all of the following items:
- I Identification of the ecological functions of riparian habitat found on the property as described in Table 3 of this section and the habitat connectivity ecological functions described in subsection (G)(4)(a)(i)II(C) and (D).
- II For upland habitat in areas to be added to the Metro urban growth boundary areas after October 1, 2005, identification of the impact the proposed development would have on the following ecological functions provided by upland wildlife habitat:
- (A) Habitat patch size;
- (B) Interior habitat;
- (C) Connectivity of the habitat to water; and
- (D) Connectivity of the habitat to other habitat areas.

III Evaluation of alternative locations, design modifications, or alternative methods of development to determine which options reduce the significant detrimental impacts on the NRAs and the ecological functions provided on the property. At a minimum, the following approaches must be considered:

(A) The techniques described in subsection (F)(1);

(B) Multi-story construction;

(C) Minimizing building and development footprint;

(D) Maximizing the use of native landscaping materials;
and

(E) Minimal excavation foundation systems (e.g., pier, post or piling foundation).

IV Determination of the alternative that best meets the applicable approval criteria and identification of significant detrimental impacts that are unavoidable.

Table 3. Ecological functional values of riparian corridors.

<u>Ecological function</u>	<u>Landscape features providing functional values</u>
<u>Microclimate and shade</u>	<u>Forest canopy or woody vegetation within 100 feet of a stream; a wetland¹; or a flood area².</u>
<u>Streamflow moderation and water storage</u>	<u>A wetland or other water body³ with a hydrologic connection to a stream; or a flood area².</u>
<u>Bank stabilization, sediment and pollution control</u>	<u>All sites within 50 feet of a surface stream;</u> <u>Forest canopy, woody vegetation, or low structure vegetation/open soils within 100 feet of a stream or a wetland; or forest canopy, woody vegetation, or low structure vegetation/open soils within a flood area; and,</u> <u>Forest canopy, woody vegetation, or low structure vegetation/open soils within 100-200 feet of a stream if the slope is greater than 25%.</u>
<u>Large wood and channel dynamics</u>	<u>Forest canopy within 150 feet of a stream or wetland; or within a flood area; and</u> <u>The channel migration zone is defined by the floodplain, but where there is no mapped floodplain a default of 50 feet is established to allow for the channel migration zone.</u>
<u>Organic material sources</u>	<u>Forest canopy or woody vegetation within 100 feet of a stream or wetland; or within a flood area.</u>

¹ Refers to “hydrologically-connected wetlands,” which are located partially or wholly within ¼ mile of a surface stream or flood area.

² Developed floodplains are not identified as NRAs because they do not provide primary ecological functional value.

³ “Other water body” could include lakes, ponds, reservoirs, or manmade water feature that is not a water quality facility or farm pond.

(ii) Mitigation Plan. The purpose of a mitigation plan is to compensate for unavoidable significant detrimental impacts to ecological functions that result from the chosen development alternative as identified in the impact evaluation. However, when development occurs within delineated wetlands, then the mitigation required under subsection (G)(4)(b)(iv) shall not require any additional mitigation than the mitigation required by state and federal law for the fill or removal of such wetlands.

I An applicant may choose to develop a mitigation plan consistent with the requirements of subsection (F)(4). If an

applicant so chooses, then the applicant shall submit a mitigation plan demonstrating such compliance.

II If an applicant chooses to develop an alternative mitigation plan that would not comply with the requirements of subsection (F)(4), including, for example, a proposal to create an alternative plant community type such as an oak savannah or a low-structure plant community, or where an applicant demonstrates that a portion of identified NRA on its property provides only impaired ecological functions, then the applicant shall submit a mitigation plan that includes all of the following:

(A) An explanation of how the proposed mitigation will adequately compensate for the impacts to ecological functions described in the impact evaluation required by subsection (G)(4)(a)(i). The applicant may use the mitigation that would be required under subsection (F)(4) as the baseline mitigation required to compensate for disturbance to a NRA that provides an average level of ecological functions. Such explanation shall include:

(1) If the applicant uses the mitigation that would be required under subsection (F)(4) as the baseline mitigation required to compensate for disturbance to a NRA, then the applicant shall submit a calculation of the number of trees and shrubs the applicant would be required to plant under subsection (F)(4);

(2) A site plan showing where the specific mitigation activities will occur and the numbers and sizes of trees and shrubs that the applicant proposes to plant; and

(3) A discussion of plant diversity, plant spacing, site preparation including removal of invasive and noxious vegetation and soil additives, planting season, and immediate post-planting care including mulching, irrigation, wildlife protection, and weed control.

- (B) Documentation of coordination with appropriate local, regional, special district, state, and federal regulatory agencies.
- (C) A list of all responsible parties.
- (D) The applicant's mitigation site monitoring and reporting plan.
- (E) If the proposed mitigation will not be conducted on-site, the applicant shall submit a map and accompanying narrative that details the following:
 - (1) The number of trees and shrubs that can be planted on-site;
 - (2) The on-site location where those trees and shrubs can be planted;
 - (3) An explanation of why it is not practicable for the remainder of the mitigation to occur on-site; and
 - (4) The proposed location for off-site mitigation and documentation that the applicant can carry out and ensure the success of the mitigation, including documentation that the applicant possesses legal authority to conduct and maintain the mitigation, such as having a sufficient ownership interest in the mitigation site, and, if the mitigation is not within a NRA, documentation that the mitigation site will be protected after the monitoring period expires, such as through the use of a restrictive covenant.
- (F) If the mitigation area is off-site and not within the same subwatershed (6th Field Hydrologic Unit Code) as the related disturbed NRA, the applicant shall submit an explanation of why it is not practicable to conduct the mitigation within the same subwatershed and of why and how, considering the purpose of the mitigation, the mitigation will provide more ecological functional value if implemented outside of the subwatershed.

(G) An implementation schedule, including timeline for construction, mitigation, mitigation maintenance, monitoring, reporting and a contingency plan. If the applicant is proposing any in-stream work in fish-bearing streams as part of the mitigation project, then the applicant shall submit documentation that such work will be done in accordance with the Oregon Department of Fish and Wildlife in-stream work timing schedule.

(iii) The Impact Evaluation and Alternatives Analysis required by subsection (G)(4)(a)(i) and the Mitigation Plan required by subsection (G)(4)(a)(ii) shall be prepared and signed by either (1) a knowledgeable and qualified natural resource professional, such as a wildlife biologist, botanist, or hydrologist, or (2) a civil or environmental engineer registered in Oregon to design public sanitary or storm systems, storm water facilities, or other similar facilities. The application shall include a description of the qualifications and experience of all persons that contributed to the Impact Evaluation and Alternatives Analysis and to the Mitigation Plan, and, for each person that contributed, a description of the elements of such reports to which the person contributed.

(b) Approval Criteria.

(i) All application requirements in subsection (G)(4)(a) shall be met.

(ii) Avoid. An applicant shall first avoid the intrusion of development into the NRA to the extent practicable. The development that is proposed must have less detrimental impact to NRAs than other practicable alternatives, including significantly different practicable alternatives that propose less development within NRAs. If there is more than one type of NRA on a property then the applicant shall first avoid the intrusion of development into the higher-valued NRA, to the extent practicable, and the development that is proposed must have less detrimental impact to the higher-valued NRAs than other practicable alternatives. To avoid development in NRAs, and to the extent practicable, applicants shall use the approaches described in subsection (G)(4)(a)(i)III.

(iii) Minimize. If the applicant demonstrates that there is no practicable alternative that will not avoid disturbance of the NRA, then the development proposed by the applicant within the NRA shall minimize detrimental impacts to the extent practicable. If there is more than one type of NRA on a property then the

development within higher-valued NRAs shall be considered more detrimental than development within lower-valued NRAs.

I Development must minimize detrimental impacts to ecological functions and loss of habitat consistent with uses allowed by right under the base zone, to the extent practicable:

II To the extent practicable within the NRA, the proposed development shall be designed, located, and constructed to:

(A) Minimize grading, removal of native vegetation, and disturbance and removal of native soils by using the approaches described in subsection (F)(2)(b), reducing building footprints, and using minimal excavation foundation systems (e.g., pier, post or piling foundation);

(B) Minimize adverse hydrological impacts on water resources such as by using the techniques described in Part (a) of Table 1 in Section 9.971, unless their use is prohibited by an applicable and required State or Federal permit issued to a unit of local government having jurisdiction in the area, such as a permit required under the federal Clean Water Act, 33 U.S.C. §§1251 et seq., or the federal Safe Drinking Water Act, 42 U.S.C. §§300f et seq., and including conditions or plans required by such permit;

(C) Minimize impacts on wildlife corridors and fish passage such as by using the techniques described in Part (b) of Table 8 of Section 9.971; and

(D) Consider using the techniques described in Part (c) of Table 1 of Section 9.971 to further minimize the impacts of development in the NRA.

(iv) Mitigate. If the applicant demonstrates that there is no practicable alternative that will not avoid disturbance of the NRA, then development must mitigate for adverse impacts to the NRA. All proposed mitigation plans must meet the following standards.

I The mitigation plan shall demonstrate that it compensates for detrimental impacts to ecological functions provided by NRAs, after taking into consideration the applicant's efforts to minimize such detrimental impacts through the use of the techniques described in Table 1 in Section 9.971 and through any additional or innovative techniques. A

mitigation plan that requires the amount of planting that would be required under subsection (F)(4) of this ordinance based on the amount of proposed disturbance area within the NRA, and that otherwise complies with all of the mitigation requirements in subsection (F)(4) of this ordinance, shall be considered to have satisfied the requirements of this subsection (G)(4)(b)(iv).

II Mitigation shall occur on the site of the disturbance, to the extent practicable. Off-site mitigation shall be approved if the applicant has demonstrated that it is not practicable to complete the mitigation on-site and that the applicant has documented that it can carry out and ensure the success of the off-site mitigation, as described in subsection (G)(2)(a)(ii)IV. In addition, if the off-site mitigation area is not within the same subwatershed (6th Field Hydrologic Unit Code) as the related disturbed NRA, the applicant shall demonstrate that it is not practicable to complete the mitigation within the same subwatershed and that, considering the purpose of the mitigation, the mitigation will provide more ecological functional value if implemented outside of the subwatershed. Mitigation shall not be allowed outside of the Metro jurisdictional boundary.

III All re-vegetation plantings shall be with native plants listed on the *Metro Native Plan List*.

IV All in-stream work in fish-bearing streams shall be done in accordance with the Oregon Department of Fish and Wildlife in-stream work-timing schedule.

V A mitigation maintenance plan shall be included and shall be sufficient to ensure the success of the planting, and compliance with the plan shall be a condition of development approval.

(v) Municipal Water Utility Facilities Standards. Except as provided within this subsection, in addition to all other requirements of subsection (G)(4)(b), municipal potable water, storm water (drainage) and wastewater utility facilities may be built, expanded, repaired, maintained, reconfigured, rehabilitated, replaced or upsized if not exempted in Subsection (B). These facilities may include but are not limited to water treatment plants, wastewater treatment plants, raw water intakes, pump stations, transmission

mains, conduits or service lines, terminal storage reservoirs, and outfall devices provided that:

I Such projects shall not have to comply with the requirements of subsection (G)(4)(b)(ii), provided that, where practicable, the project does not encroach closer to a water feature than existing operations and development, or for new projects where there are no existing operations or development, that the project does not encroach closer to a water feature than practicable;

II Best management practices will be employed that accomplish the following:

(A) Account for watershed assessment information in project design;

(B) Minimize the trench area and tree removal within the NRA;

(C) Utilize and maintain erosion controls until other site stabilization measures are established, post-construction;

(D) Replant immediately after backfilling or as soon as effective;

(E) Preserve wetland soils and retain soil profiles;

(F) Minimize compactions and the duration of the work within the NRA;

(G) Complete in-water construction during appropriate seasons, or as approved within requisite Federal or State permits;

(H) Monitor water quality during the construction phases, if applicable; and

(I) Implement a full inspection and monitoring program during and after project completion, if applicable.

(H) Map Administration and NRA Verification

- (1) Exempt development. Development that is outside of any NRA and no closer than 100 feet to the border of an NRA (including all impervious surfaces and landscaping), based on the NRA map, may proceed without having to comply with this section or any other portion of this ordinance except for Subsection (E), Construction Management Plan. [Note: At the time a city or county adopts this model ordinance and its NRA map, such city or county may decrease the 100 feet "safe harbor" distance provided in this section to no fewer than 25 feet provided that it conducts additional analysis to correct any misalignment errors of the type described in section (H)(6)(b) of this ordinance and adopts sufficient findings of fact to justify such corrections.]
- (2) Verification of the location of NRAs as described in this section shall not be considered a comprehensive plan or zoning amendment. [Note: Adjustment of the mapped HCA shall only proceed as provided in this ordinance.]
- (3) Map verification is available to correct for mistakes in the location of NRAs on properties. Map verification shall not be used to dispute whether identified NRAs provide the ecological functions that they are assumed to provide based on the ecological criteria used to identify them. If an applicant believes that a properly identified NRA does not provide the ecological functions that it has been identified as providing, then the applicant may use the discretionary review process to decrease its mitigation responsibilities for disturbing such an area.
- (4) Except for applicants seeking approval to undertake any exempt activities or conditioned uses described in Subsection (B), the map verification requirements described in this Subsection (H) shall be met at the time an applicant requests a building permit, grading permit, tree removal permit, land division approval, or some other land use decision. A property owner, or another person with the property owner's consent, may request to verify the location of NRAs on a real property lot or parcel pursuant to this Subsection (H) at other times, but whether the City processes such request shall be at the Community Development Director's sole discretion, based on staff availability, funding resources, and policy priorities. If a person receives a verification separate from a simultaneous request for a building permit, grading permit, tree removal permit, land division approval, or some other land use decision, then the person may use the verification to satisfy the requirements of this section at any time up until five years after the date the verification was issued.
- (5) Notwithstanding any other provisions of this Subsection (H), for utility projects undertaken by public utilities across property that is not owned by the utility, the utility shall not be required to map or provide any information about the property except for the area within 300 feet of the location of the proposed disturbance area of the utility's project.

(6) Basic Verification Approaches. The basic verification approaches described in subsections (H)(6)(a) through (c) are available for applicants who believe either (1) that the NRA map is accurate, (2) that there is a simple incongruity between the NRA map and the boundary lot lines of a property, or (3) that the property was developed prior to [insert date—either the effective date of this ordinance or two years after acknowledgement of the regional program, whichever is earlier].

(a) Applicant Believes NRA Map is Accurate. An applicant who believes that the NRA map is accurate may comply with this subsection (H)(6)(a). The applicant shall submit the following information regarding the real property lot or parcel:

(i) A detailed property description;

(ii) A copy of the applicable NRA map;

(iii) A summer 2005 aerial photograph of the property, with lot lines shown, at a scale of at least 1 map inch equal to 50 feet for lots of 20,000 or fewer square feet, and a scale of 1 map inch equal to 100 feet for larger lots (available from the Metro Data Resource Center, 600 N.E. Grand Ave., Portland, OR 97232; 503-797-1742);

(iv) The information required to be submitted under Subsection (A) or (G) if the applicant proposes development within any NRA under those provisions; and

(v) Any other information that the applicant wishes to provide to support the assertion that the NRA map is accurate.

(b) Obvious Misalignment Between Mapped Habitat and Property Lot Lines. In some cases, the mapped vegetative cover layer in the GIS database might not align precisely with the tax lot layer that shows property lines, resulting in a NRA map that is also misaligned with tax lot lines. An applicant who believes that the NRA map is inaccurate based on such an obvious misalignment may comply with this subsection (H)(6)(b). The applicant shall submit the following information regarding the real property lot or parcel:

(i) The information described in subsections (H)(6)(a)(i) through (iv); and

(ii) A documented demonstration of the misalignment between the NRA map and the property's tax lot boundary lines. For example, an applicant could compare the boundary lot lines shown for roads within 500 feet of a property with the location of such roads as

viewed on the aerial photograph of the area surrounding a property to provide evidence of the scale and amount of incongruity between the NRA maps and the property lot lines, and the amount of adjustment that would be appropriate to accurately depict habitat on the property.

(c) Property Developed Between Summer 2002 and January 5, 2006. Where a property was developed between the summer of 2002 (when the aerial photo used to determine the regional habitat inventory was taken) and January 5, 2006, the applicant shall submit the following information regarding the real property lot or parcel:

(i) The information described in subsections (H)(6)(a)(i) through (iv);

(ii) A summer 2002 aerial photograph of the property, with lot lines shown, at a scale of at least 1 map inch equal to 50 feet for lots of 20,000 or fewer square feet, and a scale of 1 map inch equal to 100 feet for larger lots (available from the Metro Data Resource Center, 600 N.E. Grand Ave., Portland, OR 97232; 503-797-1742);

(iii) Any approved building permits or other development plans and drawings related to the development of the property that took place between summer 2002 and January 5, 2006; and

(iv) A clear explanation and documentation, such as supporting maps or drawings or an more recent aerial photograph, indicating the new development that has occurred and where previously identified habitat no longer exists because it is now part of a developed area.

(d) Decision Process. The Planning Director's map verification decision made pursuant to this subsection (H)(6) may be an administrative decision. The Planning Director's decision shall be based on consideration of the information submitted by the applicant, any information collected during a site visit to the lot or parcel, any information generated by prior map verifications that have occurred on adjacent properties, and any other objective factual information that has been provided to the Planning Director.

(7) Detailed Verification Approach. All applicants who believe that the NRA map is inaccurate for a reason other than as described in subsections (H)(6)(b) and (c) may file a verification request consistent with this subsection (H)(7) of this ordinance.

(a) Application requirements. The applicant shall submit a report prepared and signed by either (1) a knowledgeable and qualified natural resource

professional, such as a wildlife biologist, botanist, or hydrologist, or (2) a civil or environmental engineer registered in Oregon to design public sanitary or storm systems, storm water facilities, or other similar facilities. Such report shall include:

- (i) A description of the qualifications and experience of all persons that contributed to the report, and, for each person that contributed, a description of the elements of the analysis to which the person contributed;
 - (ii) The information described in subsections (H)(6)(a)(i) through (v);
 - (iii) The information described in subsections (H)(6)(b)(ii) and (H)(6)(c)(ii) through (iv), if the applicant believes such information is relevant to the verification of habitat location on the subject lot or parcel;
 - (iv) Additional aerial photographs if the applicant believes they provide better information regarding the property, including documentation of the date and process used to take the photos and an expert's interpretation of the additional information they provide;
 - (v) A map showing the topography of the property shown by contour lines of 2 foot intervals for slopes less than 15% and by 10 foot intervals for slopes 15% or greater; and
 - (vi) Any additional information necessary to address each of the verification criteria in subsection (H)(7)(d), a description of where any NRAs are located on the property based on the application of the verification criteria in subsection (H)(7)(d), and factual documentation to support the analysis.
- (b) Notice requirements. Upon receipt of a completed application pursuant to this subsection (H)(7), the Planning Director shall provide notice of the map verification application to Metro, to the owners of record of property on the most recent property tax assessment roll where such property is located within 300 feet of the subject property, to any neighborhood or community planning organization recognized by the governing body and whose boundaries include the property, and to any watershed council recognized by the Oregon Watershed Enhancement Board and whose boundaries include the property. The notice provided by the jurisdiction shall comply with the notice requirements of ORS 197.763. The Planning Director shall accept written public comments regarding the matter during a public comment period.
- (c) Decision process. The Planning Director shall apply the verification criteria in subsection (H)(7)(d) to confirm the location of any NRAs based on the NRA map, the information submitted by the applicant, any

information received during the public comment period, and any additional information readily available, including information collected during a site visit to the lot or parcel. The applicant and all persons that submitted written comments shall be provided with a written explanation of the Planning Director's decision.

(d) Verification Criteria. The verification of the location of NRAs shall be according to the four-step process described in this subsection (H)(7)(d). A verification application shall not be considered complete and shall not be granted unless all the information required to be submitted with the verification application has been received.

(i) Step 1. Verifying boundaries of inventoried riparian habitat. Locating habitat and determining its riparian habitat class is a four-step process:

I Locate the Water Feature that is the basis for identifying riparian habitat.

(A) Locate the top of bank of all streams, rivers, and open water within 200 feet of the property.

(B) Locate all flood areas within 100 feet of the property..

(C) Locate all wetlands within 150 feet of the property based on the Local Wetland Inventory map (if completed) and on the Metro 2002 Wetland Inventory Map (available from the Metro Data Resource Center, 600 N.E. Grand Ave., Portland, OR 97232; 503-797-1742). Identified wetlands shall be further delineated consistent with methods currently accepted by the Oregon Division of State Lands and the U.S. Army Corps of Engineers.

II Identify the vegetative cover status of all areas on the property that are within 200 feet of the top of bank of streams, rivers, and open water, are wetlands or are within 150 feet of wetlands, and are flood areas and within 100 feet of flood areas.

(A) Vegetative cover status shall be as identified on the Metro Vegetative Cover Map (available from the Metro Data Resource Center, 600 N.E. Grand Ave., Portland, OR 97232; 503-797-1742).

(B) The vegetative cover status of a property may be adjusted only if (1) the property was developed

prior to the time the regional program was approved (see subsection (H)(6)(c) above), or (2) an error was made at the time the vegetative cover status was determined. To assert the latter type of error, applicants shall submit an analysis of the vegetative cover on their property using summer 2002 aerial photographs and the definitions of the different vegetative cover types provided in Section 9.941.

III Determine whether the degree that the land slopes upward from all streams, rivers, and open water within 200 feet of the property is greater than or less than 25% (using the methodology as described in Chapter 3 of Clean Water Services Design and Construction Standards; and

IV Identify the riparian habitat classes applicable to all areas on the property using Table 4 and the data identified in subsections (H)(7)(d)(i)I through III.

(ii) Step 2. Verifying boundaries of inventoried upland habitat in future urban growth boundary expansion areas. Upland habitat was identified based on the existence of contiguous patches of forest canopy, with limited canopy openings. The “forest canopy” designation is made based on analysis of aerial photographs, as part of determining the vegetative cover status of land within the region. Upland habitat shall be as identified on the NRA map unless corrected as provided in this subsection.

I Except as provided in subsection (H)(7)(d)(i)II, vegetative cover status shall be as identified on the Metro Vegetative Cover Map used to inventory habitat at the time the area was brought within the urban growth boundary (available from the Metro Data Resource Center, 600 N.E. Grand Ave., Portland, OR 97232; 503-797-1742).

II The only allowed corrections to the vegetative cover status of a property are as follows:

(A) To correct errors made when the vegetative status of an area was determined based on analysis of the aerial photographs used to inventory the habitat at the time the area was brought within the urban growth boundary. For example, an area may have been identified as “forest canopy” when it can be shown that such area has less than 60% canopy crown closure, and therefore should not have been identified as “forest canopy.” The perimeter of an

area delineated as “forest canopy” on the Metro Vegetative Cover Map may be adjusted to more precisely indicate the dripline of the trees within the canopied area provided that no areas providing greater than 60% canopy crown closure are de-classified from the “forest canopy” designation. To assert such errors, applicants shall submit an analysis of the vegetative cover on their property using the aerial photographs that were used to inventory the habitat at the time the area was brought within the urban growth boundary and the definitions of the different vegetative cover types provided in Section 9.941; and

(B) To remove tree orchards and Christmas tree farms from inventoried habitat; provided, however, that Christmas tree farms where the trees were planted prior to 1975 and have not been harvested for sale as Christmas trees shall not be removed from the habitat inventory.

III If the vegetative cover status of any area identified as upland habitat is corrected pursuant to subsection (H)(7)(d)(ii)II(A) to change the status of an area originally identified as “forest canopy,” then such area shall not be considered upland habitat unless it remains part of a forest canopy opening less than one acre in area completely surrounding by an area of contiguous forest canopy.

Table 4: Method for Locating Boundaries of Class I and II Riparian Areas

<u>Distance in feet from Water Feature</u>	<u>Development/Vegetation Status¹</u>			
	<u>Developed areas not providing vegetative cover</u>	<u>Low structure vegetation or open soils</u>	<u>Woody vegetation (shrub and scattered forest canopy)</u>	<u>Forest Canopy (closed to open forest canopy)</u>
Surface Streams				
<u>0-50</u>	<u>Class II</u>	<u>Class I</u>	<u>Class I</u>	<u>Class I</u>
<u>50-100</u>		<u>Class II²</u>	<u>Class I</u>	<u>Class I</u>
<u>100-150</u>		<u>Class II² if slope>25%</u>	<u>Class II² if slope>25%</u>	<u>Class II²</u>
<u>150-200</u>		<u>Class II² if slope>25%</u>	<u>Class II² if slope>25%</u>	<u>Class II² if slope>25%</u>
Wetlands (Wetland feature itself is a Class I Riparian Area)				
<u>0-100</u>		<u>Class II²</u>	<u>Class I</u>	<u>Class I</u>
<u>100-150</u>				<u>Class II²</u>
Flood Areas (Undeveloped portion of flood area is a Class I Riparian Area)				
<u>0-100</u>			<u>Class II²</u>	<u>Class II²</u>

¹The vegetative cover type assigned to any particular area was based on two factors: the type of vegetation observed in aerial photographs and the size of the overall contiguous area of vegetative cover to which a particular piece of vegetation belonged. As an example of how the categories were assigned, in order to qualify as “forest canopy” the forested area had to be part of a larger patch of forest of at least one acre in size.

²Areas that have been identified as habitats of concern, as designated on the Metro Habitats of Concern Map (on file in the Metro Council office), shall be treated as Class I riparian habitat areas in all cases, subject to the provision of additional information that establishes that they do not meet the criteria used to identify habitats of concern as described in Metro’s Technical Report for Fish and Wildlife. Examples of habitats of concern include: Oregon white oak woodlands, bottomland hardwood forests, wetlands, native grasslands, riverine islands or deltas, and important wildlife migration corridors.

25. Add New Chapter 9.970 et. seq. regarding Habitat-Friendly Development Techniques and Natural Resource Area Requirements:

HABITAT-FRIENDLY DEVELOPMENT TECHNIQUES AND NATURAL RESOURCE AREA REQUIREMENTS

9.970 INTENT:

The purpose of this ordinance is to comply with Section 4 of Title 13 of Metro's Urban Growth Management Functional Plan.

- (1) To protect and improve the following functions and values that contribute to fish and wildlife habitat in urban streamside areas:
 - (a) Microclimate and shade;
 - (b) Stream-flow moderation and water storage;
 - (c) Bank stabilization, sediment and pollution control;
 - (d) Large wood recruitment and retention and channel dynamics; and
 - (e) Organic material sources.

- (2) To protect and improve the following functions and values that contribute to upland wildlife habitat in new urban growth boundary expansion areas:
 - (a) Large habitat patches
 - (b) Interior habitat
 - (c) Connectivity and proximity to water; and
 - (d) Connectivity and proximity to other upland habitat areas

- (3) To adopt habitat areas determined by Metro to implement the performance standards of Title 13 of the Urban Growth Management Functional Plan.

- (4) To implement performance standards through Natural Resource Areas (NRA) as provided in Section 9.944

- (5) To provide clear and objective standards and a discretionary review process, applicable to development in Natural Resource Areas, in accordance with Statewide Land Use Planning Goal 5.

- (6) To allow and encourage habitat-friendly development, while minimizing the impact on fish and wildlife habitat functions.

- (7) To provide mitigation standards for the replacement of ecological functions and values lost through development in Natural Resource Areas.

9.971 COMPLIANCE WITH NATURAL RESOURCE AREA PROVISIONS

- (1) The City of Forest Grove adopts Metro's Regionally Significant Fish and Wildlife Habitat Inventory Map dated at the time of adoption of this section or as amended in the future.

- (2) All development with Natural Resource Areas shall attempt to design development through avoidance of the resource area. If that cannot be achieved through standard development requirements, then the requirements of Section 9.944 shall apply and shall override any conflicting development requirements established by other portions of the Zoning Ordinance in order to minimize intrusion into the NRA.

- (3) All property owners, developers, or other persons proposing to modify land in the city limits of Forest Grove are encouraged to integrate the habitat-friendly development practices listed in Table 1 as part of any modification of the site. Those practices within road rights-of-way or other public property shall be approved by the City Engineer. Other practices shall be approved by the Community Development Department. Said approvals shall be obtained:
 - (a) Where no land use permit is required, prior to any physical modification of the site;
 - (b) Where any land use permit is required by the Zoning or Land Division ordinances, concurrent with an approval of the permit; or
 - (c) Where there is a Natural Resource Area and alternative discretionary development standards are used pursuant to the requirements of Subsection 9.944 (F)(4)(b).

Table 1. Habitat-friendly development practices.¹

Part (a): Design and Construction Practices to Minimize Hydrologic Impacts

1. Amend disturbed soils to original or higher level of porosity to regain infiltration and stormwater storage capacity.
2. Use pervious paving materials for residential driveways, parking lots, walkways, and within centers of cul-de-sacs.
3. Incorporate stormwater management in road right-of-ways.
4. Landscape with rain gardens to provide on-lot detention, filtering of rainwater, and groundwater recharge.
5. Use green roofs for runoff reduction, energy savings, improved air quality, and enhanced aesthetics.
6. Disconnect downspouts from roofs and direct the flow to vegetated infiltration/filtration areas such as rain gardens.
7. Retain rooftop runoff in a rain barrel for later on-lot use in lawn and garden watering.
8. Use multi-functional open drainage systems in lieu of more conventional curb-and-gutter systems.
9. Use bioretention cells as rain gardens in landscaped parking lot islands to reduce runoff volume and filter pollutants.
10. Apply a treatment train approach to provide multiple opportunities for storm water treatment and reduce the possibility of system failure.
11. Reduce sidewalk width and grade them such that they drain to the front yard of a residential lot or retention area.
12. Reduce impervious impacts of residential driveways by narrowing widths and moving access to the rear of the site.
13. Use shared driveways.
14. Reduce width of residential streets, depending on traffic and parking needs.
15. Reduce street length, primarily in residential areas, by encouraging clustering and using curvilinear designs.
16. Reduce cul-de-sac radii and use pervious vegetated islands in center to minimize impervious effects, and allow them to be utilized for truck maneuvering/loading to reduce need for wide loading areas on site.
17. Eliminate redundant non-ADA sidewalks within a site (i.e., sidewalk to all entryways and/or to truck loading areas may be unnecessary for industrial developments).
18. Minimize car spaces and stall dimensions, reduce parking ratios, and use shared parking facilities and structured parking.
19. Minimize the number of stream crossings and place crossing perpendicular to stream channel if possible.
20. Allow narrow street right-of-ways through stream corridors whenever possible to reduce adverse impacts of transportation corridors.

¹ These development practices represent the state of scientific knowledge at the time of this ordinance's enactment, if more effective habitat-friendly practices become available, they should be used.

Part (b): Design and Construction Practices to Minimize Impacts on Wildlife Corridors and Fish Passage

1. Carefully integrate fencing into the landscape to guide animals toward animal crossings under, over, or around transportation corridors.
2. Use bridge crossings rather than culverts wherever possible.
3. If culverts are utilized, install slab, arch or box type culverts, preferably using bottomless designs that more closely mimic stream bottom habitat.
4. Design stream crossings for fish passage with shelves and other design features to facilitate terrestrial wildlife passage.
5. Extend vegetative cover through the wildlife crossing in the migratory route, along with sheltering areas.

Part (c): Miscellaneous Other Habitat-Friendly Design and Construction Practices

1. Use native plants throughout the development (not just in NRA).
2. Locate landscaping (required by other sections of the code) adjacent to NRA.
3. Reduce light-spill off into NRAs from development.

(4) Section 9.944 allows for the applicant to either increase or decrease densities to provide options to address NRA impacts on their site. Where reduction of densities or employees is chosen, the reduction shall be taken into consideration when determining Metro's Functional Plan Title I density and capacity requirements.

(5) Habitat-friendly design requirements are as follows:

- (a) Landscaping and setback areas for parking lots and buildings shall be located adjacent to protected natural resource areas.
- (b) All landscaping required by this ordinance shall be of native vegetation unless waived by the Community Development Director.
- (c) All street, pedestrian and other outdoor lighting within 100 feet of a natural resource area shall be shielded in a manner to minimize light intrusion into the resource area. Street lights shall be metal halide within 100 feet of a natural resource area.
- (d) Where bio-swales, rain gardens and other open conveyances are to be installed, soil amendments, drainage holes and other techniques shall be used as approved by the City Engineer to allow stormwater to infiltrate into the ground.
- (e) Outside of natural resource areas, all solid walls and fences shall be designed to the satisfaction of the City Engineer to allow stormwater conveyance provided that all state and Clean Water Service requirements pertaining to off-site drainage are met.
- (f) Where approved by the City Engineer, bio-swales shall be allowed as part of an on-site drainage system.
- (g) Roads and driveways shall be designed to be perpendicular across streams and through natural resource area with minimal crossings taking into account adequate circulation and opportunities to reserve open space areas.

Memorandum

To: City Council
From: Jon Holan, Community Development Director
Michael Sykes, City Manager
Date: November 26, 2007
Re: Goal 5 – Project Referral to Planning Commission

The City Council, at their last meeting, requested that the proposed amendments allow for certain residential subdivisions to be reviewed by the Planning Commission. The Council directed that thresholds to determine which projects be reviewed should be based on the percentage of the area within a Natural Resource Area (NRA) and the size of the project.

Attached is a revised Exhibit A to Ordinance 2007-15 adding language to the proposed amendment requiring referral to the Planning Commission. The added language is doubled underlined in two places in Exhibit A. The first change is a new Item 4a which amends Section 9.104 (2) c of the Land Division Ordinance on page 2 of the exhibit. The second change is with Item 24 on page 23 of the exhibit, amending Section 9.944 A.

The proposed amendment includes thresholds recommended by staff based on the following analysis. Based on a review of a map including the City's UGB, staff identified 42 existing parcels in residential zones (or comprehensive plan designations) having Natural Resource Areas (NRA) that have the size to be dividable. However, some of these parcels either may be in permanent open space as part of past development approvals or have only a small fraction of the site in a NRA.

Staff focused on three parts of the community having 27 parcels with NRAs. There is a strong likelihood these parcels would further develop and they provide a variety of NRA situations to analyze. Attachment 1 is a set of three maps depicting these three areas. These maps identify the 27 parcels that were used for analysis. Area 1 includes one parcel located north of Ritchey Road and south of the southerly terminus of Strasburg

Drive. Area 2 includes 16 parcels along David Hill Road and west of Thatcher Road. Area 3 contains 10 parcels in the north central area in the vicinity of Sunset Drive and Willamina Avenue.

Attachment 2 is a spreadsheet summarizing information on the 27 parcels including parcel size, estimated unit yield (based on a net area of 80 percent available for development), estimated habitat area, estimated area within a CWS vegetative corridor, estimated area within a NRA (i.e. the total habitat area minus the CWS area), and the percentage of the property within the NRA. At the bottom of the spreadsheet is summary of the number of parcels, potential total lots and total NRA areas based on three variations of the number of units and percent of the property within a NRA.

Analysis – NRA Size: Parcels containing 10 percent or less of NRAs should not be reviewed by the Planning Commission. The percentage is too small and avoidance of the resource area should be able to be achieved with little impact on design. Parcels 6 and 8 are examples of that situation. Parcel 24 also has a relatively small percentage of a NRA primarily because most of the habitat area will be within CWS vegetative corridor area (the unit yield on the spreadsheet did not consider the impact of CWS requirements). There were very few developments with NRAs between 10+ to 20 percent of the property. Examples of this include parcels 11 and 13 where much of the parcel is outside the NRA and impacts would be relatively small if not avoided. Thus, staff recommends that sites with 20 percent or more NRA would be the appropriate threshold to use for determining Planning Commission review. One observation is that because NRA excludes CWS vegetative corridors, the percentage of sensitive area on a site is "reduced". Thus, a project which may appear to have a high amount of habitat, may not meet the threshold because much of the sensitive area is within CWS jurisdiction (e.g. parcel 9). However, the development potential of the property is reduced since the City's net area determinations would exclude the open space required by CWS.

Analysis – Subdivision Size: Attachment 3 is the list of subdivisions (including planned developments) that have been approved by the City since 2004. The list does not include partitions (three or less lots being created). Twenty-five projects were approved in the time period. Five projects (20%) created 10 or less lots. Three projects (12%) were between 11 and 20 lots while the remaining 17 projects (68%) were over twenty lots.

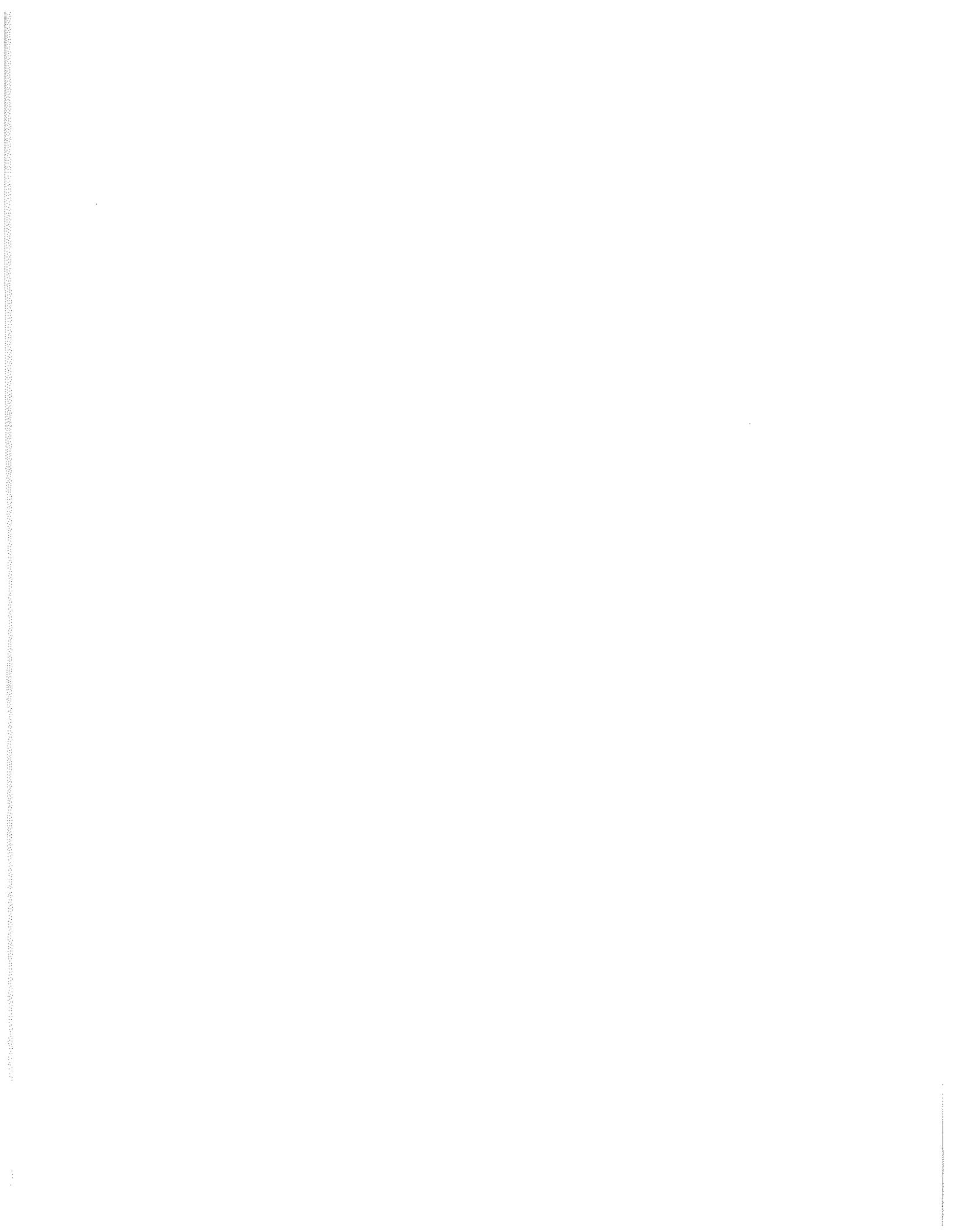
Examining the spreadsheet (Attachment 2), staff estimates that the bulk of the potential lots (73%) would come from parcels having the potential dwelling unit yield of more than 20 lots. This estimate does not consider the potential of two or more parcels (e.g. parcels 20 and 21) being combined to be one project. Three parcels (11%) of the 27 parcels reviewed would have a potential yield of more than 20 lots where the NRA is over 20% of the parcel (parcels 1, 5 and 12). Including projects of 11 or more lots

(parcels 7, 10, 14, 19, 20 and 27 plus the three above) raises that number from 3 to 9 parcels (33%). Overall, there are 18 (67%) of the 27 parcels with a 20% or greater NRA coverage (lots 2, 3, 15, 16, 17, 18, 19, 21 and 25 plus the eight above).

Discussion: The policy question for the Council is at what size of a project would produce sufficient benefit to warrant additional review by the Commission (and additional time for the applicant). This will depend on the *primary* purpose of the Commission review. It may be to focus on design implications from greater intensity development as a result of minimizing intrusions into NRAs and its impact on the surrounding area. Under that approach, larger projects should be forwarded for their review. If the primary purpose is to review for resource preservation, then the percentage of the site within a NRA should be the most significant threshold consideration.

The NRAs are located primarily at the periphery of the community. Thus, development involving NRAs are not going to be located in existing urban neighborhoods. They will be in areas with relatively low development or transitional areas converting from large lots with no urban services to residential areas with services. Thus, design considerations may be secondary but should be considered involving larger projects. Smaller projects (e.g. parcels 14 and 15) having such a large percentage of the site within an NRA should warrant Commission review. **Assuming both objectives are appropriate for Commission review, it is staff's recommendation that subdivisions of more than 20 lots with 20 percent NRA coverage or subdivisions between 4 to 20 lots with a NRA coverage of 30 percent or greater be reviewed by the Commission.** This proposed threshold would capture 11 parcels identified in the analysis (parcels 1, 4, 5, 7, 14, 15, 17, 19, 21, 22 and 27).

Projects of 3 or less lots follow the partition process, which is intended to be a relatively simple process (for example, usually does not involve public improvements) for individual property owners. These projects are not recommended to be included in the threshold for Commission review due to the relatively small number of lots and, typically, the small parcel size that is involved. Keep in mind that any project involving NRA will have to comply with the requirements.



ATTACHMENT 1

NRA MAPS

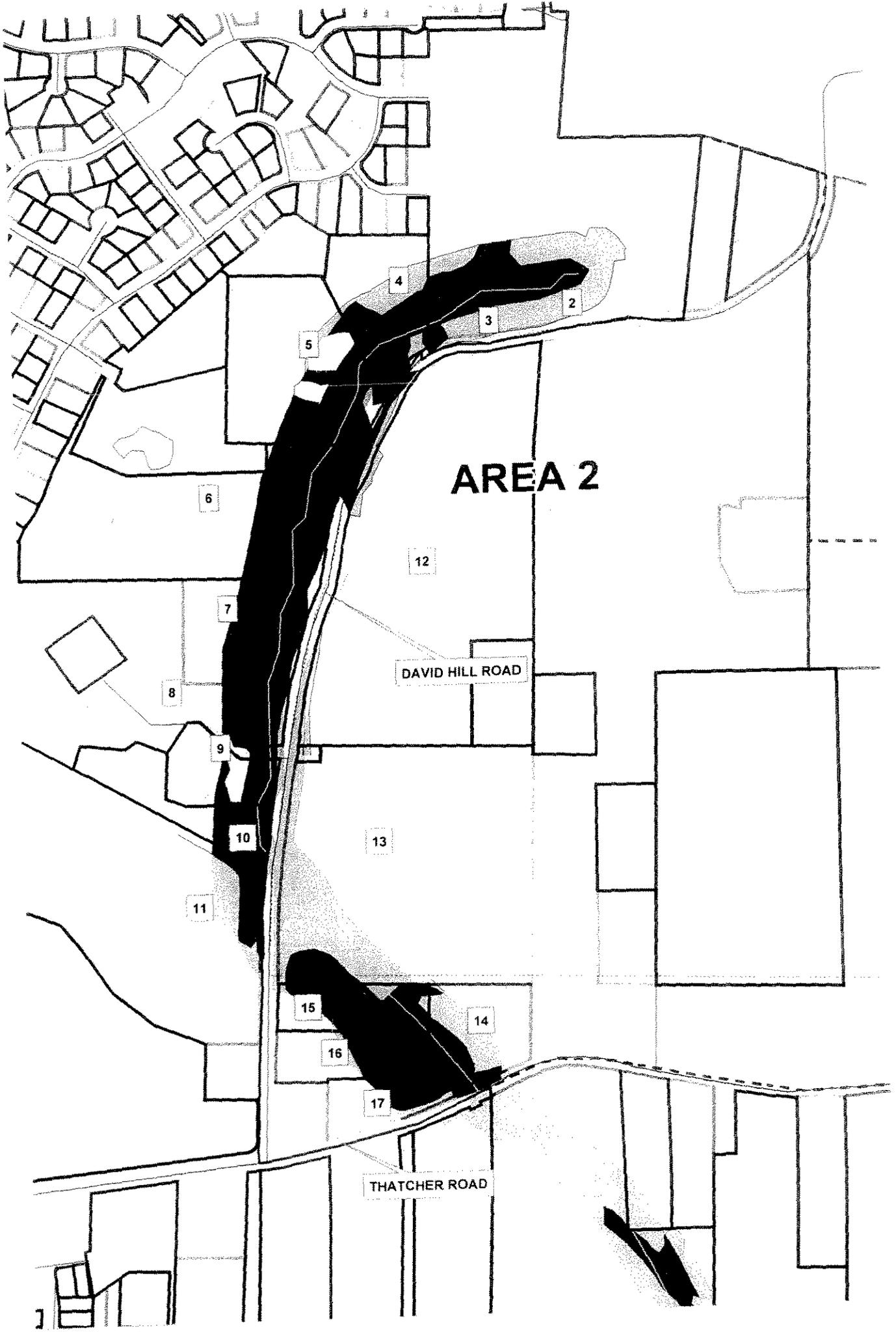
AREA 1

1

STRASBURG DRIVE

GOFF ROAD

CEMETARY



AREA 2

DAVID HILL ROAD

THATCHER ROAD

6

12

7

8

9

10

13

11

15

14

16

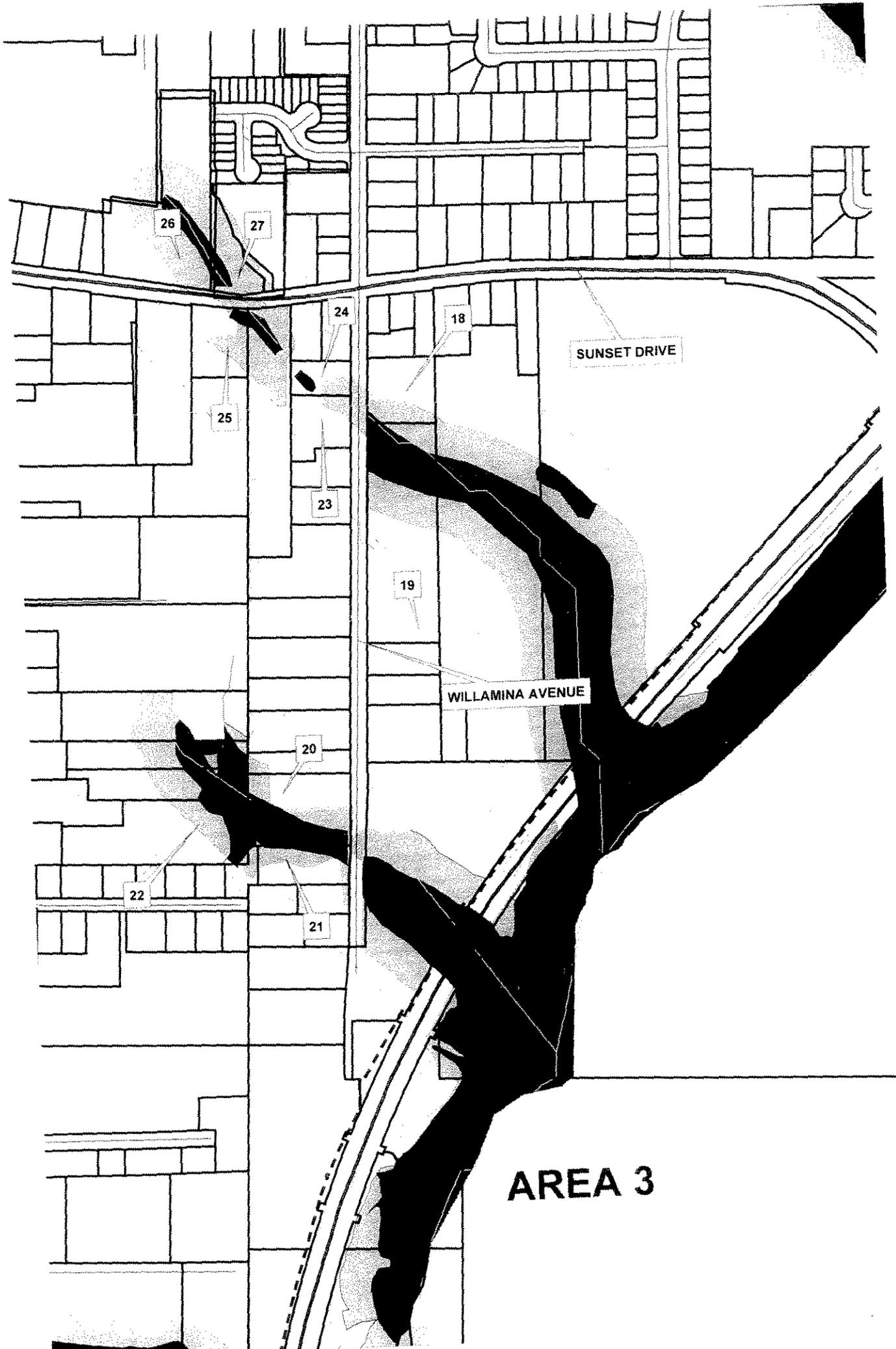
17

4

3

2

5



SUNSET DRIVE

WILLAMINA AVENUE

AREA 3

26

27

24

18

25

23

19

20

22

21

ATTACHMENT 2

GOAL 5 PROPERTY ANALYSIS

Parcel	Allowed Net Density	Acreage	Unit Potential	Habitat Area	CWS Area	NRA Area	NRA % of acreage
AREA 1							
1	6.22	5.00	25	1.00	0.00	1.00	20%
AREA 2							
2	4.36	0.72	3	0.40	0.00	0.40	55%
3	4.36	0.69	2	0.68	0.00	0.68	99%
4	4.36	2.76	10	1.66	0.65	1.00	36%
5	6.22	8.00	40	3.50	0.82	2.68	34%
6	6.22	7.97	40	0.50	0.00	0.50	6%
7	6.22	3.51	17	1.22	0.00	1.22	35%
8	6.22	8.66	43	1.05	0.32	0.73	8%
9	6.22	2.08	10	0.70	0.31	0.39	19%
10	6.22	2.95	15	1.22	0.47	0.75	25%
11	6.22	16.92	84	2.14	0.00	2.14	13%
12	4.36	26.55	93	5.00	2.73	2.27	9%
13	4.36	18.93	66	3.65	1.30	2.35	12%
14	4.36	3.78	13	2.60	0.66	1.94	51%
15	4.36	2.41	8	2.00	0.62	1.38	57%
16	4.36	2.10	7	0.54	0.01	0.53	25%
17	4.36	1.32	5	0.54	0.00	0.54	41%
AREA 3							
18	6.22	0.90	4	0.31	0.06	0.25	28%
19	6.22	2.93	15	1.46	0.55	0.91	31%
20	12	1.68	16	1.11	0.74	0.37	22%
21	12	0.84	8	0.42	0.00	0.42	50%
22	12	2.20	21	0.77	0.05	0.72	33%
23	12	0.78	7	0.18	0.16	0.02	3%
24	12	0.47	5	0.17	0.16	0.01	2%
25	12	0.62	6	0.38	0.11	0.27	44%
26	20.28	2.97	48	1.14	0.62	0.52	18%
27	20.28	0.98	16	0.98	0.25	0.73	74%
		128.72	627	35.31	10.59	24.72	
1 to 10 units		13.61	65	7.27	1.77	5.50	40%
11 to 20 units		15.83	92	8.59	2.67	5.92	37%
Over 20 units		97.20	460	18.75	5.84	12.91	13%

Number of Units	Percent NRA								
	0 to 10%			10+ to 20%			20+%		
	# of properties	# of units	NRA area	# of properties	# of units	NRA area	# of properties	# of units	NRA area
1 to 10	2	12	0.03	1	10	0.39	9	53	5.47
11 to 20	0	0	0.00	0	0	0.00	6	92	5.92
Over 20	3	175	3.50	3	198	5.01	3	86	4.40

ATTACHMENT 3

Subdivisions Since 2004			
Project Name	Location	# of Lots	Zoning
Casey Meadows PRD	2650 Kingwood & 2904 26th Ave.	101	A-1 & A-2
Cook Village	2635 Willamina Avenue	24	R-7
Council Meadows PRD	2637-2780 Willamina Avenue	60	R-7 & A-1
David Hill Estates	West end of Circle Crest	55	R-10
Falcon Ridge	North of Summit Pointe Subdivision	42	R-10/SR
Gales Creek Terrace PRD	West end of 19th Avenue	87	A-2
Giltner Glenn PRD	2818 26th Avenue & 2736 26th Avenue	67	A-2
Glen Meadows	1956 Willamina Avenue	9	R-7
Hawthorne Meadows PRD	2339 Hawthorne St.	28	A-2
Hawthorne Village PRD	2717 26th Avenue	49	A-2
Heritage Park	West end of 32nd Avenue	12	R-7
Holscher Farms	Robinwood & Blue Jay	10	R-7
Holscher Farms 2	Robinwood & Blue Jay	4	R-7
Karen's Glenn PRD	2800 Juniper	63	A-1
Laurkis Townhomes	21st & Main	8	A-2
Main Street Condos	2525 Main Street	7	A-2
Maplewood Estates PRD	26th Ave. & Sunset Dr.	59	A-1
Oak Hill Settlement	Hartford Dr. & Larrabee St.	131	R-7 & R-10
Pacific Crossings PRD	West end of Goff Road	305	R-7 & A-1
The Parks at Forest Grove	NE of David Hill Rd. & Thatcher	217	R-10
Ridge Pointe (David Hill Estates II)	Forest Gale Dr. & Lavina	31	R-10
Silverstone	2465 NW Hwy 47	171	R-5
Smith's Orchard PRD	2332 "B" St. & Gales Way	13	A-1 & R-5
Summit Pointe	Forest Gale Dr. & Summit Pointe Ct.	58	R-10
Williams Meadow	2430 26th Avenue	18	A-2
		1629	
Updated 8-16-07			
H:\CD PERM COORD\Spreadsheets & Tables\Current Subdivisions			
Revised 11-19-07			

RESOLUTION NO. 2007-64

**RESOLUTION FIXING WATER SYSTEM DEVELOPMENT CHARGES
FOR THE CITY OF FOREST GROVE AND ADOPTING THE METHODOLOGY STUDY
AND REPEALING RESOLUTION NO. 2006-38**

WHEREAS, City code Section 4.035 and 3.800 authorizes the City Council to fix system development charges by resolution; and

WHEREAS, Financial Consulting Solutions Group was retained to perform an analysis and report for the City which was completed September 26, 2007, which would satisfy the requirements of ORS 223.297- 223.314 (HB 3224, 64th Oregon Legislative Assembly) and would establish SDC's which would ensure fair and equitable capital financing is available to support needed capital additions. This study set forth the calculations for reimbursement fees and improvement fees. The calculations for reimbursement fees establish a methodology that considers the cost of existing facilities, prior contributions by existing users, the value of unused capacity, rate making principles employed to finance publicly owned capital improvements and other relevant factors identified. The methodology promotes the objective of future systems users contributing no more than an equitable share to the cost of existing facilities. The improvement fees consider the cost of projected capital improvements needed to increase the capacity of the systems to which the fee is related. The study, which includes these methodologies for establishing such fees, is available for public inspection.

WHEREAS, the report found fees being collected are not sufficient to meet future acquisitions and development needs created by new development; and

WHEREAS, the study conducted considered a fully developed, twenty year capital improvement plan for the Forest Grove water system and calculated a system development charge necessary to fund the listed capital improvements; and

WHEREAS, the City Council finds the methodology used in the study to calculate the system development charge to be fair and reasonable; and

WHEREAS, the staff is recommending a lower SDC than the study due to the possible timing of some of the projects over the next five years.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY OF FOREST GROVE AS FOLLOWS:

Section 1. That the FCS Group study, dated September 26, 2007, attached as Exhibit A, and the methodology included therein to calculate Water System Development Charges is hereby adopted.

Section 2: As of January 1, 2008, the Water System Development Charges will be as follows:

<u>Meter Size (inches)</u>	<u>Charge</u>
3/4"	\$ 4,000
1"	\$ 9,999
1.5"	\$ 19,998
2"	\$ 31,995

3"	\$ 63,992
4"	\$ 99,987
6"	\$ 199,972
8"	\$ 319,956
10"	\$ 460,018

Section 3. That the City Council directs staff, for any calendar year, during which the City has not adjusted Water SDC's based upon a revised capital improvement or facilities plan, to adjust Water SDC's, effective January 1st of the ensuing year, as calculated by staff based upon the change, from December of the prior year to December of the current year, in the Engineering News Record Construction Cost Index-Seattle Area.

Section 4. All receipts and expenditures of water system development charges shall be accounted for in the Water SDC Fund.

Section 5. That Resolution No. 2006-38 is hereby repealed and superseded by this resolution, which is effective on January 1, 2008, except that, for customers, who turn in building plans prior to the effective date of this resolution and have the building permits issued no later than March 31, 2008, the rates in effect on December 31, 2007, will apply for those customers.

PRESENTED AND PASSED this 10th day of December, 2007.

Anna D. Ruggles, City Recorder

APPROVED by the Mayor this 10th day of December, 2007.

Richard G. Kidd, Mayor



**Water System Development
Charge Update**

**DRAFT REPORT
September 26, 2007**

**City of Forest Grove
Water System Development Charge Update**

**Draft Report
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D.	Recommended System Development Charge	7
	SDC Technical Analysis	Appendix A
	SDC Methodology Presentation Packet	Appendix B

I. Introduction / Background

In June 2007, the City of Forest Grove contracted with Financial Consulting Solutions Group, Inc. (FCS GROUP) to update its Water System Development Charge (SDC). The City of Forest Grove is a growing city with a population of approximately 20,834 (at the time of study). The City is implementing a major capital improvement program for its water service that will entail significant financial obligations over the next twenty-plus years. With the study, the City wished to update and ensure an equitable, adequate, and defensible water SDC that would generate funding to meet the infrastructure needs of growth without unduly burdening existing residents and business owners.

Consistent with these objectives, the following general approach was used in the update of the City's water SDC:

- **Collect and review data.** In this step, we provided a data needs list to the City and reviewed City documents for information applicable to the study.
- **Complete Technical Analysis.** In this step, we incorporated updated information into the existing SDC spreadsheet model, reviewed initial results with City staff, and incorporated revisions to finalize the analysis. The technical analysis is included as Appendix A.
- **Assemble Documentation and Presentation.** In this step, we wrote the report describing the recommended SDC and presented study findings to the City Council. The SDC presentation packet is included as Appendix B.

II. System Development Charge Methodology

A system development charge is a one-time fee imposed on new development (and some types of re-development) at the time of development. The fee is intended to recover a fair share of the costs of existing and planned facilities that provide capacity to serve new growth.

Oregon Revised Statute (ORS) 223.297 – 223.314 defines SDCs and specifies how they shall be calculated, applied, and accounted for. By statute, an SDC is the sum of two components:

- a **reimbursement fee**, designed to recover costs associated with capital improvements *already constructed or under construction*, and
- an **improvement fee**, designed to recover costs associated with capital improvements *to be constructed in the future*.

The reimbursement fee methodology must be based on “the value of unused capacity available to future system users or the cost of the existing facilities”, and must further account for prior contributions by existing users and gifted and grant-funded facilities. The calculation must also “promote the objective of future system users contributing no more than an equitable share to the cost of existing facilities.” Reimbursement fee proceeds may be spent on any capital improvements related to the systems for which the SDC applied. In this case, water SDCs must be spent on water improvements.

The improvement fee methodology must include only the cost of projected capital improvements or portions of improvements needed to increase system capacity for future users. In other words, the cost(s) of planned projects or portions of projects that correct existing deficiencies, or do not otherwise increase capacity for future users, may not be included in the improvement fee calculation. Improvement fee proceeds may be spent only on capital improvements, or portions thereof, which increase the capacity of the systems for which they were applied.

Calculation Summary

In general, an SDC is calculated by adding the applicable reimbursement fee component to the applicable improvement fee component. Each separate component is calculated by dividing the eligible cost by the appropriate measure of growth in capacity. The unit of capacity used becomes the basis of the charge. A sample calculation is shown below.

Reimbursement Fee		Improvement Fee		SDC
Eligible cost of capacity in existing facilities	+	Eligible cost of planned capacity-increasing capital improvements	=	SDC (\$ per unit)
Growth in system capacity		Growth in system capacity		

SDC (Improvement Fee) Credits

The law also requires that credits be provided against the improvement fee, for the construction of qualified public improvements. Oregon Revised Statute 223.304 states that, at a minimum, credits be provided against the improvement fee for

“the construction of a qualified public improvement. A ‘qualified public improvement’ means a capital improvement that is required as a condition of development approval, identified in the plan and list adopted pursuant to ORS 223.309 and either:

- (a) Not located on or contiguous to property that is the subject of development approval; or
- (b) Located in whole or in part on or contiguous to property that is the subject of development approval and required to be built larger or with greater capacity than is necessary for the particular development project to which the improvement fee is related.”

The law further states that credits

“may be granted only for the cost of that portion of such improvement that exceeds the local government’s minimum standard facility size or capacity needed to serve the particular development project or property.”

Given these legal guidelines, what is a reasonable SDC credit approach that meets statutory requirements *and* the City’s assumed general objectives for cash flow, prioritization of capital projects, and orderly but sustained development?

We recommend that the City codify its existing credit policy that exceeds minimum legal requirements. As a result, credits will continue to be granted for all improvement costs that qualify, including those cases where such credits exceed the water system improvement fee for the development in question.

It must be noted that we believe that it is important for the City to retain as much control as possible over the prioritization and implementation of its capital plan(s). These plans are created to address total system needs – not just the needs of growth. Without control over how and when those needs are addressed, the re-prioritization of projects over time can leave important City needs unmet. To avoid this outcome, credits should:

- be only for the portion of the actual, estimated, or agreed-upon cost of capacity *in excess of that needed to serve the particular development*;
- when possible, include no cash reimbursement;
- be for planned projects only; and
- be provided only upon completion of a “qualified public improvement”.

Indexing Charge for Inflation

Oregon law (ORS 223.304) also allows for the periodic indexing of system development charges for inflation, as long as the index used is

- “(A) A relevant measurement of the average change in prices or costs over an identified time period for materials, labor, real property or a combination of the three;
- (B) Published by a recognized organization or agency that produces the index or data source for reasons that are independent of the system development charge methodology; and
- (C) Incorporated as part of the established methodology or identified and adopted in a separate ordinance, resolution or order.”

We recommend that the City of Forest Grove index its charges to the **Engineering News Record (ENR) Construction Cost Index (CCI)** for the City of Seattle, and adjust the charges annually as

per that index. There is no comparable Oregon-specific index.

III. Water SDC Analysis

The City's existing water SDCs are applied by meter size, and are provided below:

2006 Water SDC Schedule

Meter Size	SDC
¾" and Smaller	\$ 2,919
1"	7,296
1 ½"	14,592
2"	23,345
3"	46,692
4"	72,956
6"	145,912
8"	233,459
10"	335,657

Both the existing and the proposed charges are based on meter flow capacity as expressed by the number of meter equivalents (MEs). Meter flow capacity is directly linked to each customer's potential water demand – not just average use. As meter sizes increase, flow capacity increases substantially. Therefore, associated charges increase significantly from meter size to meter size, with the change in potential demand.

The calculation of the proposed water SDC is summarized below and provided in detail in Appendix A.

A. Capacity Basis

In order to estimate the number of meter equivalents associated with population growth from the current 20,834 to 37,792 (the forecasted population at build-out in 2034) – the denominator in both the reimbursement and improvement fee calculations – the following approach was taken.

- As of July 18, 2007, the City had 5,368 water accounts and 7,315 water meter equivalents.

Customer Meter Size	Current Number of Customers	Flow Factor	Meter Equivalents
3/4" & Smaller	4,910	1	4,910
1" Meter	282	2.5	705
1.5" Meter	63	5	315
2" Meter	76	8	608
3" Meter	22	16	352
4" Meter	13	25	325
6" Meter	2	50	100
Totals	5,368		7,315

- The initial total of meter equivalents was grown proportionately with the forecasted population increase from 20,834 to 37,792, resulting in projected growth of 5,954 meter equivalents. It is important to note that forecasted growth in MEs may not occur proportionally with population. Absent specific projections, however, this is a necessary simplifying assumption.

B. Reimbursement Fee Calculation

In order to estimate the cost of unused capacity in the existing water system – the numerator in the reimbursement fee calculation – the following approach was taken.

- ✓ City staff provided the original cost of plant-in-service as of July 2007, with the total cost of \$27,716,375 being separated into various functional categories – source of supply, storage, pumping stations, treatment plants, transmission, distribution, administrative, and general plant. The resulting figures were adjusted as follows:
 - A pro-rata share of past contributions-in-aid of construction, totaling \$2,576,775, was deducted;
 - Net utility debt principal outstanding, \$6,078,879 at the time of the study, was deducted.
- ✓ City staff provided detailed statistics on existing capacity needs and current system capacity. For each functional category, the unused capacity percentage was determined by the amount of existing capacity that is not utilized by current system demands and requirements. These percentages were applied to the value of each functional category to arrive at the value of unused capacity in the existing system, \$13,681,945. Table 1 shows the percentage of unused capacity by each functional category.

Table 1
Existing Unused Capacity

Functional Category	Original Cost	Unused Capacity	Unused Capacity
Source of Supply	\$ 2,567,398	49.5%	\$ 1,271,134
Storage	720,787	0.0%	0
Pumping Stations	218,540	55.6%	121,411
Treatment Plants	9,665,332	56.2%	5,432,340
Transmission	867,503	55.6%	481,946
Distribution	11,342,735	56.2%	6,375,114
Administrative Office	2,039,475	0.0%	0
General Plant	294,605	0.0%	0
Totals	\$ 27,716,375		\$ 13,681,945

- ✓ The sum of the costs of unused capacity, \$13,681,945, less a pro-rata share of contributions-in-aid of construction of \$1,388,972 and total outstanding debt principal of \$6,078,879 resulted in an applicable value of unused capacity of \$6,214,094. The result became the reimbursement fee cost basis.
- ✓ The reimbursement fee was then calculated as the reimbursement fee cost basis divided by forecasted growth in the system capacity in meter equivalents, 5,954. The result of these calculations was a reimbursement fee of \$1,044 per meter equivalent.

C. Improvement Fee Calculation

The following approach was taken to determine the cost of capacity-increasing capital improvements for inclusion in the improvement fee cost basis.

- ✓ City staff provided a list of needed capital projects for 2007-2020. The sum of this list of project costs was \$35,327,222.
- ✓ For each project, City staff identified the share of each capital improvement that would provide capacity for future users. These capacity-increasing project costs were allocated to the improvement fee cost basis. The sum of this list of capacity-increasing project costs, the improvement fee cost basis, was \$31,346,902.
- ✓ Finally, the current water SDC fund balance of \$390,556 was deducted from the total eligible cost to (1) recognize that the fund balance is available for spending on the project list and (2) prevent new customers from paying for those project costs twice. The resulting improvement fee cost basis was \$30,956,346.
- ✓ Based on forecasted growth of 5,954 MEs, the resulting improvement fee was \$5,199 per meter equivalent.

D. Recommended System Development Charge

The recommended water SDC was the sum of the reimbursement fee and the improvement fee, adjusted by an administrative cost recovery factor of 0.30%. The administrative cost recovery factor was derived by adding the City's 2003 estimate of SDC administration costs to the amortized cost of this SDC study over five years, and then dividing the total by anticipated annual SDC revenue.

The resulting SDC is provided in Table 2 below.

Table 2 – Water System Development Charge

Reimbursement Fee	Improvement Fee	Administrative Cost Recovery	Total Water SDC
\$ 1,044	\$ 5,199	\$ 19	\$ 6,262

Table 3 – Application of Water SDC

Meter Size	Water SDC
3/4" and Smaller	\$ 6,262
1" Meter	\$ 15,655
1.5" Meter	\$ 31,310
2" Meter	\$ 50,095
3" Meter	\$ 100,191
4" Meter	\$ 156,548
6" Meter	\$ 313,096
8" Meter	\$ 500,954
10" Meter	\$ 720,121

Appendix A
Technical Analysis

City of Forest Grove 2007 Water SDC Update System Development Charge Calculation

File: F:\Forest Grove\2007 Water SDC Update\Analysis\2007 Forest Water SDC DRAFT.xls\SDC

Date: 09/26/07

Reimbursement Fee	Cost Basis	Unit Basis MEs
Net Cost Unused Capacity	\$ 6,214,094	
Growth to Buildout		5,954
Reimbursement Fee		\$ 1,044
Improvement Fee		
Capacity Expanding CIP:	\$ 30,956,346	
Growth to Buildout		5,954
Improvement Fee		\$ 5,199
Total System Development Charge		
Reimbursement Fee		\$ 1,044
Improvement Fee		\$ 5,199
SDC Subtotal		\$ 6,243
plus: Administrative Cost Recovery	0.30%	\$ 19
Total Base SDC		\$ 6,262 per ME

(1) Meter Equivalents are based on the City's projected growth to buildout:

Forecasted Population at Build-Out	37,792	<i>for year 2034, from City</i>
Current Meter Equivalents (MEs)	7,315	<i>source: Water service customers by meter size</i>
Current Population	20,834	<i>from City</i>
Meter Equivalents at Build-Out	13,269	
ME Growth	5,954	
Year of Build-Out	2034	<i>from City population forecast</i>
Current Year	2007	

City of Forest Grove 2007 Water SDC Update System Development Charge Calculation

File: F:\Forest Grove\2007 Water SDC Update\Analysis\2007 Forest Water SDC DRAFT.xls\SDC
Date: 09/26/07

Administrative Cost Recovery Calculation

Net Annual Administrative Cost related to SDCs (1)	\$ 2,310
Amortization of SDC Analysis Cost over 5 years (2):	<u>\$ 1,732</u>
Net Annual SDC Administrative Cost:	\$ 4,042

Estimated Annual Proposed SDC Revenues before Admin. Cost:	
Estimated Water SDC Annual Revenue	\$ 1,376,683

Admin. Cost/Total Annual SDC Revenues **0.29%** on all SDCs

NOTES:

(1) Source: City staff.

(2)

Cost of:	\$ 7,930
at:	3.0%
over:	5 years

Customer Statistics (as of July 18, 2007)

Customer Meter Size	Current Number of Customers	Flow Factor	Meter Equivalents
3/4" & Smaller	4,910	1.0	4,910.00
1" Meter	282	2.5	705.00
1.5" Meter	63	5.0	315.00
2" Meter	76	8.0	608.00
3" Meter	22	16.0	352.00
4" Meter	13	25.0	325.00
6" Meter	2	50.0	100.00
Totals	5,368.00		7,315.00

City of Forest Grove 2007 Water SDC Update Existing Plant

File: \Forest Grove\2007 Water SDC Update\Analysis\2007 Forest Water SDC DRAFT.xls\Exist
Date: 09/26/07

Utility Plant-in-Service (1)	Original Cost	Noncapacity Related	Capacity Related	Unused Capacity (2)	Unused Capacity
Source of Supply	\$ 2,567,398		\$ 2,567,398	49.5%	\$ 1,271,134
Storage	720,787		720,787	0.0%	0
Pumping Stations	218,540		218,540	55.6%	121,411
Treatment Plants	9,665,332		9,665,332	56.2%	5,432,340
Transmission	867,503		867,503	55.6%	481,946
Distribution	11,342,735		11,342,735	56.2%	6,375,114
Administrative Office	2,039,475		2,039,475	0.0%	0
General Plant	294,605		294,605	0.0%	0
Construction work in progress			0		0
Totals	\$ 27,716,375		\$ 27,716,375		\$ 13,681,945
less: Net Utility Debt Principal Outstanding (1)					\$ 6,078,879
less: Contributions (1)	\$ 2,576,775		\$ 2,576,775	53.9%	\$ 1,388,972
Allocable Plant-in-Service	\$ 25,139,600		\$ 25,139,600		\$ 6,214,094

NOTES

- (1) Original cost information provided by the City (July 2007).
(2) Unused capacity information (as of July 2007, with City input):

Asset	Value	Classification
Current WTP capacity (millions of gallons per day)	13.70	Treatment Plants
Current peak day water demand (MGD)	6.00	Treatment, Distribution
Current finished water storage capacity (MG)	9.00	Storage
Current finished water storage requirement (MG)	9.00	Storage
Current Annual Stored Water Demand (MG)	516.00	Source of Supply
Estimate of Stored Annual Water Demand at Build out (MG)	1,022.00	Source of Supply
Current Raw Water Transmission Capacity (MGD)	13.50	Transmission
Current Raw Water Transmission Need (MGD)	6.00	Transmission
Estimate of peak day demand at build-out (MGD)	11.90	Treatment, Distribution
Estimate of 180 Day peak season demand at build-out (MGD)	7.60	Supply, Treatment, Distribution

Unused Capacity Percentages

Source of Supply	49.5%	1 - (Current Stored Water Demand / Stored Water Demand at Build out)
Storage	0.0%	1 - (Finished water storage requirement / Finished water storage capacity)
Pumping Stations	55.6%	Equals Unused Transmission Capacity
Treatment Plants	56.2%	1 - (Peak-day water demand / WTP capacity)
Transmission	55.6%	1 - (Raw Water Transmission Need / Raw Water Transmission Capacity)
Distribution	56.2%	Equals Unused Treatment Capacity

City of Forest Grove 2007 Water SDC Update Future Cost Basis - CIP

File: \\Forest Grove\2007 Water SDC Update\Analysis\[2007 Forest Water SDC DRAFT.xls]CIPSDC
Date: 09/26/07

#	Year	Project Description	Capacity Increasing	Repair / Replacement	Project Cost	SDC Eligible Costs
1	2008	Distribution Main Improvements	0%	100%	\$ 296,259	\$0
2	2009	Distribution Main Improvements	0%	100%	311,071	-
3	2010	Distribution Main Improvements	0%	100%	326,625	-
4	2011	Distribution Main Improvements	0%	100%	342,956	-
5	2012	Distribution Main Improvements	0%	100%	360,104	-
6	2008	Line Oversizing	100%	0%	50,000	50,000
7	2009	Line Oversizing	100%	0%	50,000	50,000
8	2010	Line Oversizing	100%	0%	50,000	50,000
9	2011	Line Oversizing	100%	0%	50,000	50,000
10	2012	Line Oversizing	100%	0%	50,000	50,000
11	2008	Watershed Road Improvements	0%	100%	20,000	-
12	2009	Watershed Road Improvements	0%	100%	50,000	-
13	2010	Watershed Road Improvements	0%	100%	50,000	-
14	2011	Watershed Road Improvements	0%	100%	50,000	-
15	2012	Watershed Road Improvements	0%	100%	50,000	-
16	2012	JWC - Barney Reservoir Buy-Back [4]	100%	0%	2,400,000	2,400,000
17	2008	JWC - Fish Screen Improvements	0%	100%	320,000	-
18	2008	JWC - North Trans Line for WTP	100%	0%	13,330	13,330
19	2008	JWC - Fin Water Strge Expan (20 MG) [1]	100%	0%	186,620	186,620
20	2008	JWC - Future Scoggins Reservoir Exp [2]	100%	0%	18,142	18,142
21	2009	JWC - Future Scoggins Reservoir Exp [2]	100%	0%	33,702	33,702
22	2010	JWC - Future Scoggins Reservoir Exp [2]	100%	0%	178,638	178,638
23	2011	JWC - Future Scoggins Reservoir Exp [2]	100%	0%	357,279	357,279
24	2012	JWC - Future Scoggins Reservoir Exp [2]	100%	0%	1,429,110	1,429,110
25	2008	JWC - Raw Water Pipeline [5]	100%	0%	44,287	44,287
26	2009	JWC - Raw Water Pipeline [5]	100%	0%	44,287	44,287
27	2010	JWC - Raw Water Pipeline [5]	100%	0%	752,875	752,875
28	2011	JWC - Raw Water Pipeline [5]	100%	0%	1,594,323	1,594,323
29	2012	JWC - Raw Water Pipeline [5]	100%	0%	1,594,323	1,594,323
30	2008	Misc JWC Projects	0%	100%	182,557	-
31	2009	Misc JWC Projects	0%	100%	250,334	-
32	2010	23rd/24th Avenue (Industrial Area)	100%	0%	129,004	129,004
33	2011	23rd/24th Avenue (Industrial Area)	100%	0%	117,396	117,396
34	2012	Gales Creek Source Development	100%	0%	2,000,000	2,000,000
0	0		0	0%	-	-
31	2009	Storage; in-town tank (prop acquis)	100%	0%	500,000	500,000
32	2008	RWR - Legal Reviews/Rec Actions	100%	0%	30,000	30,000
33	2009	Heather St. PRV - Emergency Intertie	45%	55%	250,000	112,176

#	Year	Project Description	Capacity Increasing	Repair / Replacement	Project Cost	SDC Eligible Costs
34	2020	TP - Unit Upgrades/Improvements	100%	0%	500,000	500,000
35	2013	RWTL - Landslide Area Pipeline	0%	100%	130,000	-
36	2013	JWC - Future Scoggins Reservoir Exp [2]	100%	0%	1,000,000	1,000,000
37	2014	JWC - Future Scoggins Reservoir Exp [2]	100%	0%	1,000,000	1,000,000
38	2015	JWC - Future Scoggins Reservoir Exp [2]	100%	0%	1,000,000	1,000,000
39	2016	JWC - Future Scoggins Reservoir Exp [2]	100%	0%	1,000,000	1,000,000
40	2016	JWC - JWC WTP Expansion [3]	100%	0%	4,000,000	4,000,000
41	2013	ST Distribution Piping	100%	0%	209,075	209,075
42	2014	ST Distribution Piping	100%	0%	209,075	209,075
43	2015	ST Distribution Piping	100%	0%	209,075	209,075
44	2016	ST Distribution Piping	100%	0%	209,075	209,075
45	2013	LT Distribution Piping	100%	0%	427,213	427,213
46	2014	LT Distribution Piping	100%	0%	427,213	427,213
47	2015	LT Distribution Piping	100%	0%	427,213	427,213
48	2016	LT Distribution Piping	100%	0%	427,213	427,213
49	2017	LT Distribution Piping	100%	0%	427,213	427,213
50	2018	LT Distribution Piping	100%	0%	427,213	427,213
51	2019	LT Distribution Piping	100%	0%	427,213	427,213
52	2020	LT Distribution Piping	100%	0%	427,213	427,213
53	2020	Additional Transmission from JWC to FG	45%	55%	2,000,000	897,409
54	2013	Hilltop water supply (tank and pump)	100%	0%	1,500,000	1,500,000
55	Staff	8.82 MG Storage [6]	100%	0%	4,410,000	4,410,000

Total	\$ 31,346,902
plus: SDC Credits Outstanding [7]	\$ -
less: Current Improvement Fee Fund Balance [8]	\$ 390,556
Total Improvement Fee-Eligible Costs	\$ 30,956,346

NOTES

- [1] Forest Grove participation cost in new JWC Fern Hill Reservoir based on 13% of reservoir cost.
- [2] Potential Forest Grove participation cost in potential Scoggins Reservoir Expansion: 1,500 AF 2.3% share of total \$400 million est. total cost, (\$400m est. includes raw water pipeline) per Draft JWC CIP.
- [3] Potential Forest Grove share of future JWC WTP expansion, based on 4 mgd @ \$1 million per mgd per Draft JWC CIP.
- [4] Cost estimates include budget estimate of future costs associated with Forest Grove's additional 800 AF storage right buy-back option in the Barney Reservoir per Forest Grove City Finance Department.
- [5] Potential costs associated with prospective JWC raw water piping improvements from Scoggins Reservoir to JWC WTP, per Draft JWC CIP.
- [6] JWC requires in-town storage of 3 MG for every MGD in average day demand. Cost based on construction estimate of \$0.50 per gallon.
- [7] Provided by the City.
- [8] Ending SDC fund balance for FY 2006-07 (preliminary). Includes reimbursement fees.

December 10, 2007

**REPORT ON FIXING WATER SYSTEM DEVELOPMENT CHARGES FOR THE
CITY OF FOREST GROVE AND ADOPTING THE METHODOLOGY STUDY
AND REPEALING RESOLUTION NO. 2006-38**

Project Team: **Rob Foster, Public Works Director**
 Paul Downey, Administrative Services Director
 Derek Robbins, Civil Engineer
 Susan Cole, Assistant Finance Director
 Michael Sykes, City Manager

ISSUE STATEMENT: City staff has determined that based on an update of capital improvement needs and a review of the water system development charge (SDC), an increase in the water SDC is necessary, based on the methodology outlined in the consultant's study.

BACKGROUND: The resolution proposed for Council approval on November 26, 2007, did not adopt the consultant study or the methodology used to calculate the Water SDC. Staff has revised the resolution to include adopting the study and the methodology.

Council raised the question at the November 26th meeting about establishing geographic zones or areas in order to charge differential water system development charges.

DISCUSSION: The resolution has been revised to adopt the study and methodology developed by Financial Consulting Solutions Group (FCS Group), dated September 26, 2007. The study calculated a full SDC of \$6,262 for a ¾" meter. After evaluating the project list used for the study and the probable timing of some of the projects, staff recommended a \$4,000 fee for a ¾" meter and the Council agreed to the lower fee. The resolution has the \$4,000 fee.

Staff has reviewed Council's question about charging differential SDCs in different areas of the city. The consultant advised staff that, in order to accomplish this, a new study, with a new methodology, would have to be done. The new study would require that the City go through the lengthy public notice process again. Because major infrastructure developments particular to certain geographic areas of the City are not planned for three to four years, staff recommends building this concept into the next SDC study.

RECOMMENDATION: Staff recommends adopting the attached resolution increasing the Water SDC Fee and adopting the consultant's study and SDC calculation methodology.

RESOLUTION NO. 2007-67

**RESOLUTION REINSTATING GENERAL FUND POSITIONS
ELIMINATED IN THE FISCAL YEAR 2007-08 ADOPTED BUDGET**

WHEREAS, the City's Adopted Budget lists positions that are authorized to be filled by departments; and

WHEREAS, several authorized positions were eliminated from the FY 2007-08 General Fund Adopted Budget as a result of the failure of the local option levy renewal in May 2007; and

WHEREAS, the subsequent passage of the local option levy renewal in November 2007 restored the funding necessary to reinstate the positions; and

WHEREAS, City staff is requesting reinstatement of those positions; and

WHEREAS, the Police Department is requesting to restructure its records staff to create a full-time Records Clerk; and

WHEREAS, the eliminated positions need to be reinstated so they can be filled.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY OF FOREST GROVE
AS FOLLOWS:**

Section 1. In the General Fund, the following positions are reinstated into the FY 2007-08 Adopted Budget:

Police Department - Two full-time Police Officers

Fire Department - Two full-time Firefighters

Library Department – Two 0.50 FTE Adult Service Librarians

Parks Department – One full-time Parks Utility Worker I

Aquatics Department – Equivalent of 1.23 FTE in part-time Lifeguards

Section 2. In the Police Department, the 0.50 FTE Evidence/Records Clerk is eliminated and the position of a full-time Records Clerk is established and authorized to be filled.

Section 3. This resolution is effective immediately upon its enactment by the City Council.

PRESENTED AND PASSED this 10th day of December, 2007.

Anna D. Ruggles, City Recorder

APPROVED by the Mayor this 10th day of December, 2007.

Richard G. Kidd, Mayor

December 3, 2007

**REPORT ON RESOLUTION REINSTATING GENERAL FUND POSITIONS
ELIMINATED IN THE FISCAL YEAR 2007-08 BUDGET**

Project Team: Paul Downey, Director of Administrative Services
Michael Sykes, City Manager

ISSUE STATEMENT The FY 2007-08 Adopted Budget eliminated positions in the Police, Fire, Library, and Parks Department due to the failure of the local option levy renewal in May 2007. With the passage of the levy renewal in November 2007, the City is able to restore those positions. The Police Department is also requesting an adjustment of clerical staffing in the records section that would require limited additional funding. Since the positions were eliminated from the authorized staffing in the budget document, the Council needs to approve adding those positions. A resolution to add positions has been prepared for Council approval.

DISCUSSION As a result of the passage of the levy renewal in November 2007, the following positions which were eliminated as part of the FY 2007-08 Budget will be restored:

Police Department - Two full-time Police Officers

Fire Department - Two full-time Firefighters

Library Department – Two 0.50 FTE Adult Service Librarians

Parks Department – One full-time Parks Utility Worker I

Aquatics Department – Equivalent of 1.23 FTE in part-time Lifeguards

Based on current financial projections, the City should be able to retain all of these positions through FY 2012-13 which is when the renewed levy will expire. If revenue or cost assumptions change during that time, the City would have to adjust the financial projections at that time.

The other staffing request is to adjust hours and add some staffing hours in the Police Department to allow for the hiring of a full-time Records Clerk. Currently, the department has a 0.50 FTE of Evidence/Records Clerk authorized. In addition, for the past several years, the department has supplemented that position with 10-12 additional hours per week from its overtime budget to try to keep up with work load requirements. This 0.50 FTE position has been shared by up to three part-time people at a time, making it difficult to keep up with the

work load and having consistency among the part-time staff. The request is to combine the half-time position and the hours being paid out of overtime to create a full-time Records Clerk position. There would be additional costs to the City for the remaining hours per week of staff time and the benefits. The additional costs to the City in FY 2007-08 would be approximately \$10,100.

This position and the restored positions are not in the departments' operating budgets. In addition, Police and Fire will incur uniform and training costs for their new employees and these costs will need to be added to the adopted budget. Prior to the end of the fiscal year, a budget transfer from Contingency will also be needed to keep the departments from overexpending their authorized budgets. The transfer will be made after the positions have been added and the amount of funds needed to be transferred can be determined.

RECOMMENDATION Staff is recommending that the City Council approve the resolution so the positions can be restored and hired.