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PLANNING & ZONING

DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT

DEVELOPMENT SERVICES BUILDING
150 BEAVERCREEK ROAD OREGON CITY, OR 97045

CLACKAMAS COUNTY BOARD OF COMMISSIONERS
2051 Kaen Road, Oregon City
BCC Hearing Room - 4th Floor

LAND USE HEARING
March 27, 2019
9:30 AM

The item will not begin before time noted. Interested parties may appear and be heard during the testimony phase of any hearing at the above address. If a hearing is set for decision only, the evidence phase has been completed, so interested parties may no longer be heard. Applications or comments may be inspected, and calls or correspondence directed to: Planning & Zoning Division, 150 Beaver Creek Road, Oregon City, OR 97045, (503) 742-4500.

HEARING

File No.: Z0375-18-CP/Z0376-18-ZAP: Washman, LLC. Comprehensive Plan Map Amendment & Zone Change

Applicants: Washman, LLC

Proposal: Planning files # Z0375-18-CP and Z0376-18-ZAP contain a proposed Comprehensive Plan Map Amendment from Low Density Residential (LDR) to Corridor Commercial (COR) with a corresponding Zone Change from Low Density Residential (R-5) to Corridor Commercial (CC) for a 10,000 square-foot parcel located at 8220 SE Cornwell Avenue. If approved, this amendment would enable Washman LLC to develop the subject property in conjunction with neighboring properties (already zoned CC) with a car wash facility.

Staff Contact: Martha Fritzie, Senior Planner, 503-742-4529;
mfritzie@clackamas.us



Land Use Hearing Item
Staff Summary to the Board of County Commissioners

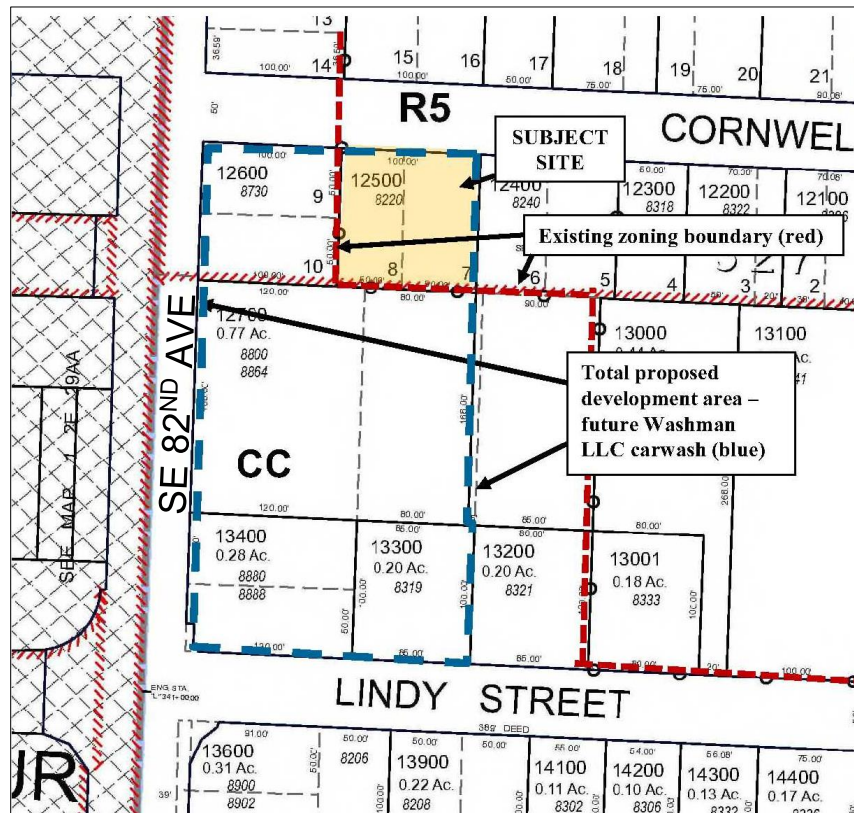
File Number: Z0375-18-CP & Z0376-18-ZAP, Washman LLC Comprehensive Plan and Zoning Designation Amendment

Staff Contact: Martha Fritzie, Planning and Zoning Division, 503-742-4529

Board of County Commissioners Hearing Date: March 27, 2019

PROPOSAL:

Z0375-18-CP and Z0376-18-ZAP contain a proposed Comprehensive Plan Map Amendment from Low Density Residential (LDR) to Corridor Commercial (COR) with a corresponding Zone Change from Low Density Residential (R-5) to Corridor Commercial (CC) for a 10,000 square-foot parcel located at 8220 SE Cornwell Avenue. If approved, this amendment would enable Washman LLC to develop the subject property in conjunction with neighboring properties (already zoned CC) with a car wash facility.



The existing zoning district boundary between the CC and R-5 zones follows the western and southern boundary of the subject site, then continues east through the adjacent parcel and then south along the eastern boundary of that parcel. The lot abutting the subject site to the east is developed with six (6) units of multifamily housing.

Immediately south and west of the subject site are parcels currently being leased by or purchased by Washman LLC for eventual development; these parcels are already zoned Corridor Commercial (CC). Based on information presented at the public hearing, Washman LLC can and will develop a carwash facility only on the adjacent parcels that abut SE 82nd Ave. and Lindy Street (meaning without the subject site), but the shape/configuration of that parcel limits the design of the facility and potentially creates more difficult access. If the subject site were included and zoned for commercial use, the development site becomes more rectangular in shape, which the applicant asserts allows for a more efficient design and safer ingress/egress to the development.

Under either scenario, the development of the car wash facility would still need to go through a Design Review Permit with the County, which is a development permit that assesses the specific development proposal against the required development standards, including consideration of such elements as buffering residential areas, providing parking and landscaping, ingress and egress safety, and mitigating potential traffic impacts from the specific development.

RELATED PRIOR BCC ACTION:

None.

PLANNING COMMISSION ACTION:

On January 28, 2019, a public hearing was held before the Planning Commission to consider files Z0375-18-CP and Z0376-18-ZAP. During the public testimony period of that hearing, a member of the public requested the record be left open to provide more time for the Planning Commission to receive testimony. Subsequent to that request, the written record was left open for a total of three weeks for submission of additional written testimony and the public hearing was continued to February 25, 2019 for deliberation and decision only.

At the February 25, 2019 hearing, the Planning Commission engaged in deliberations and ultimately voted 5 to 3 to recommend denial of the proposal in Z0375-18-CP and Z0376-18-ZAP, primarily for reasons discussed below in the “significant issues” section.

CPO AND HAMLET RECOMMENDATIONS:

The subject site is within the boundaries of the Southgate Community Planning Organization (CPO), which is inactive.

SIGNIFICANT ISSUES:

Staff and the Planning Commission have both recommended denial based on issues related to two specific sets of policies in the Clackamas Regional Center Design Area section of Chapter 10 of the Comprehensive Plan.

1. The first policy at issue is Housing Policy 3.0: *Limit expansion of commercial zoning into residential neighborhoods along the 82nd Avenue corridor*. The applicant has not provided evidence or findings to adequately address this policy. It is important to keep in mind that this policy does not *prohibit* the expansion of commercial zoning into residential areas, rather it requires a finding that demonstrates how this proposal is consistent with this policy to *limit* such encroachment.

To that end, some of the Planning Commission members expressed concern that approval of this zone change could “open the door” to more properties in the area seeking a similar change. Respectfully, Staff (and a few Planning Commissioners) do not think that there is really a high likelihood of that happening. The subject property is in a fairly unique situation in that it is surrounded on two sides by commercial zoning and uses; on one side by a 6-unit apartment development; and on one side (across the street) by single-family development. Often multifamily development is intentionally placed between commercial and single-family housing areas to serve as a transition or buffer area.

Regardless, the applicant has not provided sufficient evidence or findings for Staff to make a determination about whether this proposal is consistent or inconsistent with said policy.

2. The second set of policies are a bit more complicated. These policies are specific to the Clackamas Regional Center Design Area (an area that includes, roughly, the Clackamas Town Center area, the Fuller Rd light rail station area and the 82nd Ave corridor from the Town Center, north to the county line). These policies are very directive; they not only require that a proposal for a zone change *not cause a decrease in housing capacity in the County* (Corridor Commercial Policy 3.1.b), but go even further (in Housing Policies 5.0-5.5) to require an applicant proposing a zone change to:

5.0 *Replace housing capacity lost in the study area by future Comprehensive Plan amendments or zone changes. Any application for a change in land use plan designation within the Clackamas Regional Center Area will be accompanied by a demonstration of how an equal amount of housing capacity is replaced on another site, or constructed on the site as part of a mixed-use development.*

5.1 *The purpose of this policy is to maintain the potential for the amount of housing identified in the Clackamas Regional Center Area Design Plan.*

5.2 *This policy would apply to Comprehensive Plan amendments or zone changes made subsequent to adoption of the Clackamas Regional Center Area Design Plan.*

5.3 *This policy would apply to quasi-judicial changes from residential to a non-residential use.*

5.4 *Replacement housing capacity could be located anywhere within unincorporated Clackamas County located within the Urban Growth Boundary.*

5.5 Approval of a design review application and any other applicable land use permit for the required amount of replacement housing on a site in a commercial or office district, not including PMU sites, will meet the requirements of policy 5.0. [emphasis added]

This issue was the topic of the majority of the discussion at second the Planning Commission hearings and the Commissioners were divided between:

- Interpreting this to allow for an argument that the change to the CC would result in no loss in housing capacity because the CC zone allows for (but does not require) multi-family housing development, so, in other words, there is no loss in “theoretical capacity”; and
- Interpreting this in a literal way to mean that the two housing units of capacity that would be lost if this site were rezoned from residential use, have to actually be replaced through up-zoning another site or as part of a development in a commercial or mixed-use zone that has already obtained Design Review approval.

Staff agrees with the second interpretation of these Plan policies. The language is indeed very directive and seems to only allow for consideration of replacement housing on commercial or mixed-use zoned if the land use approvals (Design Review, etc.) have been obtained. Otherwise the housing capacity needs to be replaced by increasing capacity in another residential zone.

Since the Planning Commission hearing, the applicant has indicated that, to meet this criteria, they are willing to construct two housing units on the property as part of a mixed-use development. In a letter dated March 8, 2019 (Exhibit 16) the applicant requests the BCC give the zone change “tentative” approval while they proceed through Design Review; however an application for site Design Review for the carwash cannot be approved in anticipation of the zone change if the site design includes the R5-zoned portion because the County is required to apply the standards that exist at the time of the application.

The applicant has been advised by Staff that running a "mixed-use" development site Design Review concurrent with the zone change may be able to work, but it would require withdrawal of this application and the submittal of an entirely new application.

STAFF RECOMMENDATION:

Staff recommends denial of Z0375-18-CP and Z0376-18-ZAP, as also recommended by the Planning Commission. Staff and the Planning Commission found that this application does not satisfy all the applicable state, regional and county criteria for the proposed change in the Comprehensive Plan and zoning designation for the subject property.

Z0375-18-CP & Z0376-18-ZAP

WASHMAN LLC COMP PLAN/ZONE CHANGE



Board of County Commissioners Public Hearing
March 27, 2019 9:30AM

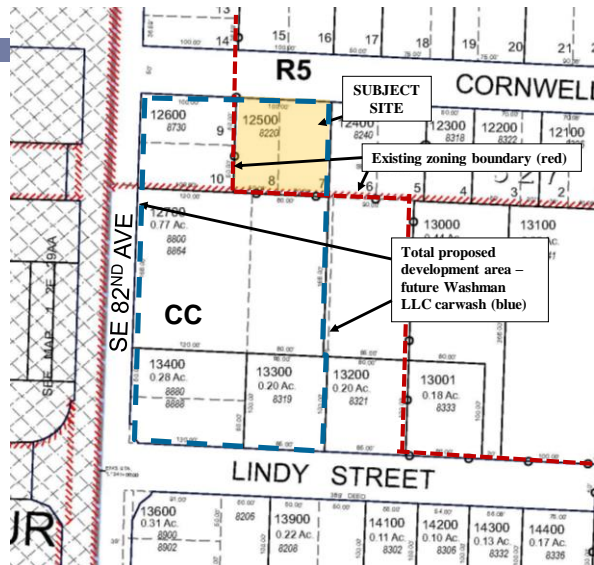
PROPOSAL

- Comprehensive Plan designation change from Low Density Residential (LDR) to Corridor Commercial (COR)
- Zone change from Low Density Residential (R-5) to Corridor Commercial (CC)
- Enable Washman LLC to develop subject property in conjunction with neighboring properties (zoned CC) with a car wash facility

Z0375-18-CP & Z0376-18-ZAP [2]

SITE LOCATION

- 8220 SE Cornwell Ave
- 12E028BB 12500
- ≈10,018 sq.ft.
- Proposed to be developed with neighboring properties, already zoned CC



AERIAL VIEW



- Currently developed with 1 single-family dwelling
- Commercial uses to west and south
- Residential uses to north and east

Z0375-18-CP & Z0376-18-ZAP [4]

RELEVANT PLANNING POLICIES AND REGULATIONS

Zoning & Development Ordinance (ZDO)

- Section 1202 (Zone Change)
- Section 1307 (Procedures)

County Comprehensive Plan Goals & Policies

- Chapter 4 (Land Use)
- Chapter 5 (Transportation)
- Chapter 10 (Community Plans and Design Plans)
- Chapter 11 (The Planning Process)

Metro Urban Growth Functional Plan

Statewide Planning Goals

Z0375-18-CP & Z0376-18-ZAP [5]

FINDINGS

Section 1202 of the ZDO lists four criteria for zone change:

- 1) **Must be consistent with Comprehensive Plan**
 - Subject site located with a “Corridor design type area” as identified on Map 4-8 and Map X-CRC-1
 - Proposal consistent with many policies in Ch. 10
 - Historic commitment/adjacent to corridor street (SE 82nd Ave); development site as a whole
 - No significant traffic increase/minimal adverse effect on adjacent neighborhoods
 - Not substantially increase existing commercial strip/create new strip
 - Proposal not consistent with several policies, Housing Section of Ch. 10
 - Limit expansion of commercial zoning into residential areas
 - No loss in housing capacity

Z0375-18-CP & Z0376-18-ZAP [6]

FINDINGS (CONT.)

- 2) Must demonstrate that public services are available and sufficient for development under new zoning designation
- 3) Must demonstrate the transportation system is adequate and will remain adequate with approval of the proposed zone change
 - Requirement is to compare “reasonable worst case” under proposed zone to current zone
- 4) Must demonstrate safety of the transportation system is adequate to serve the level of development anticipated by the zone change

Z0375-18-CP & Z0376-18-ZAP [7]

ISSUES

- 1) Limit expansion of commercial zoning into residential neighborhoods (Housing Policy 3.0, Ch 10, CRC)
 - Applicant has not provided sufficient evidence or findings to adequately address policy
 - Limit versus prohibit
 - Some concern that allowing this change would “open the door”
 - Subject is however in a fairly unique situation
 - Commercial on two sides
 - Multi-family on one side
 - Single-family on one side

Z0375-18-CP & Z0376-18-ZAP [8]

ISSUES

- 2) No decrease in housing capacity (Housing Policies 5.0-5.5, Corridor Commercial Policy 3.1.b, Ch. 10, CRC)
 - Theoretical capacity interpretation
 - Housing can be built in CC zone
 - Literal interpretation
 - Proposal to replace lost housing must accompany Plan/zone change request
 - Lists acceptable methods in which to identify replacement housing
 - Proposal will result in loss of 2 housing unit (capacity)
 - Applicant recently proposed to build two housing units as part of mixed-use development
 - Requires new application for Design Review concurrent with Comp Plan/Zone Change

Z0375-18-CP & Z0376-18-ZAP [9]

PLANNING COMMISSION RECOMMENDATION

- Planning Commission (PC) held public hearings on 01/28/2019 and 02/25/2019
- Testimony received from several nearby residents in opposition to the zone change, but mainly due to the fact that it was to be developed with a car wash
- PC voted 5 to 3 to recommend denial of Z0375-18-CP and Z0376-18-ZAP

Z0375-18-CP & Z0376-18-ZAP [10]

STAFF RECOMMENDATION

- Proposal does not meet all applicable state, regional & county criteria
 - Chapter 10, Comprehensive Plan (CRC Design Area Plan)
 - No loss of housing capacity/replacement housing
 - Limiting commercial expansion into residential areas

- Staff also recommends denial of Z0375-18-CP and Z0376-18-ZAP

Z0375-18-CP & Z0376-18-ZAP [11]

QUESTIONS?



MIKE McCALLISTER
PLANNING AND ZONING DIRECTOR

DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT

DEVELOPMENT SERVICES BUILDING
150 BEAVERCREEK ROAD OREGON CITY, OR 97045

NAME: Mark Hanna & David Tarlow / Washman LLC
FILE NO: Z0375-18-CP, Z0376-18-ZAP
REPORT AUTHOR: Martha Fritzie, Sr. Planner/ Planning & Zoning Division, DTD
HEARING DATE: Planning Commission – January 28, 2019
REPORT DATE: January 18, 2019

**PLANNING STAFF REPORT AND RECOMMENDATION
TO THE PLANNING COMMISSION**

SECTION 1- GENERAL INFORMATION

Applicant(s): Mark Hanna & David Tarlow/Washman LLC, PO Box 4124, Portland, OR 97028

Owner(s): Washman LLC, 3208 SE 13th Ave., Portland, OR 97202

Proposal: Comprehensive Plan Map Amendment from Low Density Residential (LDR) to Corridor Commercial (COR) with a corresponding Zone Change from Low Density Residential (R-5) to Corridor Commercial (CC) for a 10,000 square-foot parcel located at 8220 SE Cornwell,

The primary uses allowed in the proposed CC zoning district are identified in Section 510 of the Clackamas County Zoning and Development Ordinance and include service commercial uses; professional offices and outpatient offices; recreational facilities; retail uses; restaurants; hotels and motels; and multifamily dwellings. If approved, the subject parcel is proposed to be developed with a car wash, in conjunction with adjacent parcels along SE 82nd Avenue that are currently zoned Corridor Commercial (CC).

Property Location: Approximately 100 feet east of SE 82nd Avenue, along SE Cornwell Ave.

Legal Description: T1S, R2E, Section 28BB, Tax Lot(s) 12500, W.M.

Site Address: 8220 SE Cornwell Ave.

Comprehensive Plan Designation: Low Density Residential (LDR)

Zone: Urban Low Density Residential (R-5)

Total Area Involved: 0.23 acres/ ≈10,018 sq.ft.

SECTION 2 – DECISION

Staff finds that this application does not satisfy all the applicable state, regional and county criteria for the proposed change in the Comprehensive Plan and zoning designation for the subject property. Specifically, the proposal fails to meet all the applicable policies in Chapter 10 of the county's Comprehensive Plan.

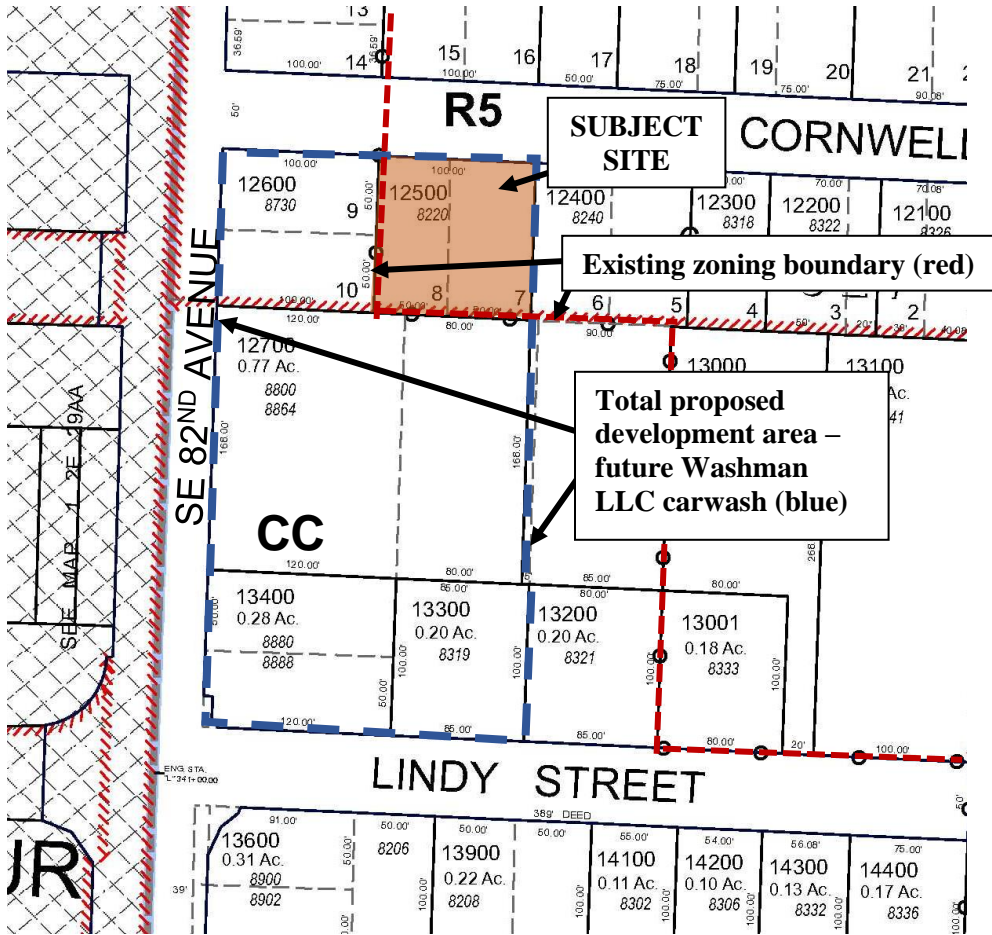
Therefore, Staff recommends denial of the Plan designation change from Low Density Residential (LDR) to Corridor Commercial (COR) and corresponding zone change from Urban Low Density Residential (R-5) to Corridor Commercial (CC), as proposed in Planning files Z0375-18-CP and Z0375-18-ZAP.

SECTION 3 – BACKGROUND INFORMATION

1. Site Description: The subject site includes approximately 10,000 square feet of land and contains two legal lots record that have been combined into one development parcel. This parcel is nearly square shape, measuring approximately 100 feet by 100 feet. The parcel has 100 linear feet of frontage on SE Cornwell Ave.

The site currently contains one (1) single family dwelling built in 1925, according to the tax assessor. This dwelling has reportedly been vacant for a number of years and is in very poor condition. There are no wetlands, streams, creeks or other significant natural features on the subject property and the site is relatively flat, with no discernable slope.

This property has a Comprehensive Plan ("Plan") designation of Low Density Residential (HDR), with a zoning designation of Urban Low Density Residential (R-5). As such, the site has the potential to contain two (2) dwellings, one on each underlying ≈5,000 square feet.



2. **Surrounding Conditions:** The subject site is bordered on the north by SE Cornwell Avenue (a local street) and is surrounded by lots of various sizes, ranging in size from 0.20 acres to 0.77 acres. The existing zoning district boundary between the CC and R-5 zones follows the western and southern boundary of the subject site, then continues east through the adjacent parcel and continues south along the eastern boundary of that parcel.

The lot abutting the subject site to the east is developed with six (6) units of multifamily housing on a site that is partially zoned R-5 (northern portion) and partially zoned CC (southern portion).

Immediately south and west of the subject site are parcels that are currently being leased by or purchased by Washman LLC for eventual development of a carwash (see Exhibit 6). These parcels are all zoned Corridor Commercial (CC). The parcel that abuts Lindy St contains a single-family dwelling, built in 1945; the parcels with frontage on SE 82nd Avenue appear to have most recently been used for automobile and/or recreational vehicle sales. There are three small commercial structures on this property but it is predominantly a paved parking area.

Further west of the site, across SE 82nd Avenue, are properties zoned CC and developed with

commercial uses, including a large Fred Meyer shopping center development. To the north, across SE Cornwell Ave are properties zoned CC along SE 82nd Avenue, also used for automobile sales, and properties zoned R-5 along SE Cornwell, which primarily contain single-family dwellings built in the 1920s through the 1950s.



3. Soils: The subject property has one soil type: Multnomah Silt Loam (61A)*

Soil Type *	Rating *	Slopes *	Location on Site	Native Vegetation *	General Elevations *
61A – Multnomah Silt Loam	Class III	0 to 3 percent slopes	Entire site	Native grasses, bigleaf maple, western hazel, Douglas fir, and Oregon white oak.	150 to 400 feet

*The Soils Survey of Clackamas County Area, published by the United States Department of Agriculture.

As noted in the Soils Survey document, the soils on the subject site are well-suited for development: *Permeability of this Multnomah soil is moderate to a depth of 38 inches and rapid below this depth...This unit is suited to homesite development. It has few limitations... Removal of gravel and cobbles in disturbed areas is needed for best results when*

landscaping, particularly in areas uses for lawn. In summer, irrigation is needed for lawn grasses, shrubs, vines, shade trees and ornamental trees.

4. Future Development of Site: As noted in the applicants' submitted materials (attached to this Staff Report), the subject site is planned for development in conjunction with adjacent properties being leased and/or purchased by Washman LLC and that about SE 82nd Ave and Lindy Ave. This development would include a car wash and associated vacuum stations.

It is Staff's understanding, based on information discussed in the pre-application conference, that Washman LLC could develop a carwash facility only on the adjacent parcels that about SE 82nd Ave. and Lindy Street (meaning without the subject site), but the shape/configuration of that parcel limits the design of the facility and potentially creates more difficult access. If the subject site were included and zoned for commercial use, the development site becomes more rectangular in shape, which the applicant asserts allows for a more efficient design and safer ingress/egress to the development.

As the applicant states, the purpose of this proposal is to even out the west side commercial zone line. The small residential zone lot is an encroachment into the commercial area creating a difficult to develop commercial site as the site would not be a rectangle (ie the northwest side would have a large area removed from a commercial site). The commercial site not has size edges as opposed to four if it were a rectangle. A commercial use would need to buffer three edges from residential uses as opposed to one. The existing residential lot is surrounded on two sides by commercial uses.

For example; a proposed car wash facility (8880 SE 82nd) could be developed on the full rectangle to allow better and safe access on the site's north and south side. A rectangular site plan would allow for the Tri-Met pull out on SE 82nd and provide room for more substantial landscaping on the east side. The car wash provided important entry level employment opportunities. The car wash allows people to have their car washed in a completely environmentally sound facility and avoid washing cars on public streets and driveways.

Also states in the application that the *requested map amendments will allow the development of a car wash facility in the most efficient site design.*

5. Service Providers:
 - a. Sewer: Clackamas County Service District #1
 - b. Water: Clackamas River Water
 - c. Surface Water: Clackamas County Service District #1
 - d. Fire Protection: Clackamas County Fire District #1
6. Responses Requested:
 - a. City of Milwaukie
 - b. Clackamas County Service District #1
 - c. Clackamas River Water
 - d. Clackamas County Fire District #1

- e. Oregon Dept. of Transportation (ODOT), Region 1
 - f. DTD, Traffic Engineering
 - g. Dept. of Land Conservation and Development
 - h. Metro
 - i. Property Owners within 300'
7. CPO Recommendation: The subject property is located within the Southgate (CPO), which is currently inactive.
8. Attachments and Exhibits: The submitted application, including the applicant's narrative, is attached to this Staff Report. See Exhibit List following the last page of this report for additional information and any comments received.

SECTION 4 – ANALYSIS AND FINDINGS

This proposal is subject to the relevant Statewide Planning Goals; Oregon Revised Statutes (ORS); Oregon Administrative Rules (OARs); Metro's Urban Growth Management Functional Plan; County Comprehensive Plan (Plan) policies, and the County's Zoning and Development Ordinance (ZDO). In an effort to be efficient and concise, only the applicable sections, regulations, and/or policies are noted below and discussed in this Staff Report.

1. Statewide Planning Goals and Guidelines

- a. Goal 1: Citizen Involvement. The zone change and map amendment does not propose to change the structure of the county's citizen involvement program. Section 1307 of the Zoning and Development Ordinance (ZDO) contains adopted and acknowledged procedures for citizen involvement and public notification for legislative actions. This application has been processed consistent with the notification requirements in Subsection 1307.11, including public notice to local media sources and newspapers. Notice of the proposed amendment was provided to the relevant Community Planning Organization, all property owners within 300 feet of the subject property and a list of interested parties and agencies. Also, notice of the Planning Commission and Board of County Commissioners hearings was published in the newspaper and posted on the county's website. The Department of Land Conservation and Development (DLCD) and Metro were notified of this proposal, but neither has provided a response.

The relevant requirements of Statewide Planning Goal 1 and related provisions of the ZDO have been satisfied.

- b. Goal 2: Land Use Planning. The zone change and map amendment does not propose to change the county's land use planning process. The county will continue to have a comprehensive land use plan and implementing regulations that are consistent with the plan. No exceptions from the Goals are required.

Goal 2 requires coordination with affected governments and agencies. Notice of this application has been provided to potentially affected agencies and governments.

Goal 2 also requires that all land use actions be consistent with the acknowledged Comprehensive Plan. As noted above and again in Section 4, Subsection 3 of this document, this proposal is not consistent with all the applicable criteria in the county's Comprehensive Plan found in Chapter 10, including policies relating to the replacement of lost housing due to the rezone and limiting the expansion of commercial zoning into residential areas

The relevant requirements of Statewide Planning Goal 2 have not been satisfied.

- c. Goal 9: Economy of the State: This Goal is intended to ensure the Comprehensive Plan contributes to a stable and healthy economy in all regions of the state. Goal 9 also requires jurisdictions to provide for an adequate supply of sites of suitable sizes, types, locations and services for a variety of industrial and commercial uses consistent with Plan policies. This proposal does not propose to change the county's Plan or implementing regulations regarding employment lands and, in fact, would add a very small amount of employment land to the county's inventory. OAR 660-009, which implement Goal 9 does contain requirements for changes to Plan designations concerning employment land but these requirement do not apply to a site smaller than two (2) acres in size and contemplate reductions of employment land supply rather than increases, as would be the case in this proposal.

This proposal is in compliance with Statewide Planning Goal 9.

- d. Goal 10: Housing: This goal requires local jurisdictions to provide for an adequate number of housing units and to encourage the efficient use of buildable land within urban growth boundaries. OAR 660-007 and 660-008 define the standards for determining compliance with Goal 10.

This proposal does not propose to change any of the implementing regulations regarding residential lands, but does propose to change the designation of and subsequently the overall density of the county's land zoned for housing.

OAR 660-007 (Metropolitan Housing) contains the administrative rules for compliance with Goal 10 within the Portland Metropolitan urban area. Specifically, at OAR 660-0007-0060, this Rule states that:

(2) For plan and land use regulation amendments which are subject to OAR 660, Division 18, the local jurisdiction shall either:

(a) Demonstrate through findings that the mix and density standards in this Division are met by the amendment; or

(b) Make a commitment through the findings associated with the amendment that the jurisdiction will comply with provisions of this Division for mix or density through subsequent plan amendments.

The result of the proposed change would result in the decrease of two (2) dwelling units in the overall housing stock of the county, which the applicant notes and Staff agrees represents a negligible loss in the overall supply of housing in the county. As noted by the applicant, *the loss of the potential of two dwelling units is not significant of material in the context of the housing potential that exists in Clackamas County.* (p.4 application narrative) and in the 1/16/19 Johnson Economics LLC memorandum (Exhibit 7), *the impact on theoretical residential capacity [due to this proposed zone change] is extremely limited, and more than offset by recent changes in entitlements, development patterns, and existing residential development on commercially-zoned properties.*

Furthermore, Staff finds the information summarized below and included in the Exhibit 8 demonstrate that indeed the *mix and density standards in this Division are met by the amendment.*

1. The most recent complete housing analysis the county has undertaken and adopted was in 2000. At that time it was found to have a sufficient mix and density to meet the Metropolitan Housing Rule and Goal 10. The county is no longer required to go through Periodic Review - the process under state law during which a jurisdiction would be required to update its housing and employment land inventory. However, as evidenced in the attached documents, zone changes involving residential-zoned property in the unincorporated area that have been approved by the county since that time, have resulted in a nominal change in the county's overall housing mix.
2. In 2004, WRG Design Inc. completed an assessment for a proposed zone change and development, in which the change in dwelling unit capacity since the completion of the 2000 housing inventory was calculated. Based on that analysis, the urban area contained a surplus of approximately 48 single family dwelling units and 69 multi-family units.
3. An analysis completed by Staff of the net change in single-family and multi-family housing units due to zone changes that have occurred from 2005 to 2017¹, indicates that there was a net increase of 24 single family units and two (2) multi-family units due to zone changes during that period. The majority of the zone changes that occurred from 2005 to 2017 were from lower to higher density single-family residential districts on relatively small parcels; a few changes from residential to commercial districts balanced out the increases on those properties.

This result is not surprising, given the regulations both in Goal 10 and Metro's Urban Growth Management Functional Plan that are intended to ensure housing stock remains sufficient. If approved, the proposal under Z0375-18-CP and Z0376-18-ZAP would decrease the capacity for single-family dwellings by two (2) units, resulting in not only a negligible effect on the overall housing capacity in the county's urban area, but also allowing the county to maintaining a small surplus of dwelling unit capacity in the urban area.

¹ Note: This assessment does not account for new units in the market that resulted from annexations into cities and changes from rural or future urban zones to urban zones.

Based on the information summarized above, Staff finds there is sufficient evidence to reasonably conclude that the Comprehensive Plan amendment and zone change proposed in Z0375-18-CP and Z0376-18-ZAP would allow the County to remain in compliance with the mix and density standards found in the Metropolitan Housing Rule (OAR 660-007).

This proposal is in compliance with Statewide Planning Goal 10.

- k. Goal 12: Transportation: Goal 12 is implemented by Oregon Administrative Rules Chapter 660, Division 12, the Transportation Planning Rule (TPR). Regulations described in the TPR are largely directed at the development of a jurisdiction's Transportation System Plan (TSP) as a whole or at a land use regulation and land use changes that affect the transportation system.

However, OAR 660-012-0060 outlines the TPR requirements that are applicable in consideration of a proposed change in Comprehensive Plan and zoning designations. This section requires that a proposed change not significantly affect an existing or planned transportation facility unless mitigation measures are put into place.

As discussed in more detail in Section 4, Subsection 3 (Comprehensive Plan Policies) of this document and in comments provided by ODOT, the traffic analysis provided by the applicant demonstrates that the proposed zone change will not have a significant effect on the transportation system and that the safety of the transportation system is adequate to serve the level of development anticipated by the proposed zone change.

The relevant requirements of Statewide Planning Goal 12 have been satisfied.

Summary:

Staff finds that this application is not consistent with all applicable Statewide Planning Goals.

2. Metro Urban Growth Management Functional Plan:

- a. Title 1. Housing Capacity. Title 1 contains regulations related to housing density in the urban area, design type boundaries, permitted densities or accessory dwelling units. Section 3.07.120 Housing Capacity, outlines circumstances under *which a city of county may reduce the minimum zoned capacity in a Central City or a Regional Center, Town Center, Corridor, Station Community or Main Street* and clearly allows for such under subsection (e) *A city of county may reduce the minimum zoned capacity of a single lot or parcel so long as the reduction has a negligible effect on the city's or county's overall minimum zoned residential capacity.*

As discussed in Section 1, Subsection 1 (Statewide Planning Goal 10) and as noted in the application and in the memorandum provided by Johnson Economics LLC, dated January 16, 2019, the loss of two potential dwelling units in the broader context of the county's

overall housing stock, and particularly in light of recent development in the Clackamas Regional Center area, can reasonably be considered negligible.

This proposal is consistent with the relevant requirements in Title 1.

Summary:

Staff finds that this application is consistent with all applicable regulation in Metro's Urban Growth Management Functional Plan.

3. County Comprehensive Plan Policies

- a. **Chapter 11 (The Planning Process):** This section of the Comprehensive Plan (Plan) contains a section titled *City, Special District and Agency Coordination*. The Oregon Department of Transportation (ODOT), the Oregon Department of Land Conservation and Development (DLCD), several special service districts and other identified interested parties are on a standing list to receive notice of all proposed amendments. This level of notification furthers the goals and policies of this section of the Plan.

Chapter 11 of the Plan also contains a section entitled *Amendments and Implementation*. This section contains procedural standards for Plan amendments, requires the Plan and the ZDO to be consistent with Statewide Planning Goals and Guidelines and Metro's Urban Growth Management Functional Plan, and requires the ZDO to be consistent with the Plan. Policy 3.0 establishes the procedural standards. The process followed for Z0375-18-CP and Z0376-18-ZAP is in compliance with these standards. Specifically, notice was mailed to Department of potentially affected agencies and interested parties at least 35 days before the scheduled public hearing, and DLCD and ODOT were provided with an opportunity to review and comment on the proposed amendments. The subject is within the boundaries of an inactive Community Planning Organization (CPO) so no CPO was sent notice. Advertised public hearings are scheduled before the Planning Commission and the Board of County Commissioners to consider the proposed amendments.

The relevant policies in Chapter 11 are met.

- b. **Chapter 4 (Land Use) and Chapter 10 (Community Plans and Design Plans):** Chapter 4 of the Plan includes the definitions of urban and rural land use categories and outlines policies for determining the appropriated Comprehensive Plan land use designations for all lands within the County. These policies are further refined by those in Chapter 10 if a property is located within the boundaries of an area with an adopted Community Plan or Design Plan. The subject site is located within the boundaries of the Clackamas Regional Center (CRC) Area Design Plan, and more specifically, is located within the boundaries of the SE 82nd Avenue "Corridor".

Chapters 4 and 10 of the Plan contains several policies that address the designation of land for urban uses, and specifically for corridor commercial uses. Policies 4.I.1 and

4.I.2 in the Land Use Section of Chapter 4 of the Comprehensive Plan identify the policies applicable to Corridor design type areas and Policies 1 through 3 of the Corridor Land Use Policies section of Chapter 10 identify the policies applicable to the Corridor Commercial Plan designation and Policies 1 through 5 in the Housing section of Chapter 10 identify the policies applicable to potential comp plan/zone changes that involve the loss of housing in the CRC.

Chapter 4 (Land Use)

Policy 4.H. Corridor Policies

The Corridor design type designation is applied to sites adjoining the Corridor streets shown on Map 4-8. Corridor design type areas may be either continuous or development nodes. The areas of application for the Corridor design type are specified in Chapter 10 for all of the Corridor streets.

This policy is informational. The subject site is located within an area identified on Map 4-8 and on Map X-CRC-1 as a Corridor. The specific policies applicable to the SE 82nd Corridor are found in the Clackamas Regional Center Design Area Section of Chapter 10.

Policy 4.I.1 Policies that apply to all Corridor design type areas include:

- 4.I.1.1 Provide for both employment and housing, including mixed use.*
- 4.I.1.2 Provide for a high level of bus usage, with land uses and transportation facilities to support bus use.*
- 4.I.1.3 Encourage and support pedestrian travel with supportive land uses, frequent street connections, and sidewalks and pedestrian-ways.*
- 4.I.1.4 Provide for vehicular traffic and auto-oriented uses, while expanding the share of trips via transit and other modes.*
- 4.I.1.5 Enhance connectivity between neighborhoods adjacent to the Corridor Design Type Area and the Corridor Street.*

Generally, these policies are broad and apply to the Corridor area as a whole and many are implemented by the planned transportation system and by the uses allowed under specific zoning districts allowed within the Corridor. However, the applicant has noted that *the configuration of the rectangular site allows for a Tri-Met pull out bus stop. The configuration also allows egress and ingress to occur away from SE 82nd on Lindy (at a controlled intersection directly north of a setback from 82nd access on SE Cromwell. (p.5 application narrative), which would further these policies.*

In fact, the applicant asserts several times in the application narrative that the more rectangular configuration of the development site that would result from approval of this Comprehensive Plan/zone change would benefit the transit system, and specifically a Tri-Met bus stop. Although Staff has no reason to not believe these assertions, no evidence appears to have been provided to demonstrate that the existing configuration somehow prevents a bus stop, while the configuration after a zone change would allow for the bus

stop. That said, to the extent that approval of this proposed zone change would allow a more efficient and safe development for both the transit and the overall street system, as asserted by the applicant, then this proposal would indeed further the policies listed under Policy 4.I.1. **This policy is met.**

Policy 4.I.2. *Specific policies for the SE 82nd Ave, SE Johnson Creek Boulevard and SE Sunnyside Road (from 82nd Ave to approximately SE 117th Ave.) Corridor design type areas are located in Chapter 10: Clackamas Regional Center Area Design Plan.*

This policy is also informational. The subject site is located within the SE 82nd Ave Corridor design type area, and is therefore subject to the policies found in Chapter 10.

Summary:

The relevant policies in Chapter 4 are met.

CHAPTER 10 (Community and Design Plans); Clackamas Regional Center Design Area Plan Section

I. GENERAL LAND USE POLICIES

Policy 2.0. Commercial

The following Commercial land use plan designations shall be provided in the Clackamas Regional Center Area: Regional Center Commercial, Retail Commercial, Corridor Commercial, Regional Center Office, and Office Commercial.

This proposal requests a designation to Corridor Commercial (COR). **This policy is met.**

III. CORRIDOR LAND USE POLICIES

Policy 1.0. *Land uses in Corridors shall be planned to:*

- 1.1 Provide for both employment and housing, including mixed use.*
- 1.2 Emphasize providing for a high level of bus usage, with land uses and transportation facilities to support bus use.*
- 1.3 Encourage and support pedestrian travel with supportive land uses, frequent street connections, and sidewalks and pedestrian-ways.*
- 1.4 Provide for vehicular traffic and auto-oriented uses, while expanding the share of trips via transit and other modes.*

As noted above (with respect to the nearly identical Policy 4.I.1), these policies are broad and apply to the Corridor area as a whole and many are implemented by the planned transportation system and by the uses allowed under specific zoning districts allowed within the Corridor. That said, to the extent that approval of this proposed zone change would allow a more efficient and safe development for both the transit and the general

street system, as asserted by the applicant, then this proposal would indeed further the policies listed under Policy 1. **This policy can be met.**

Policy 2.0 Corridor Land Use Plan Designations

A range of land use plan designations may be applied within a designated Corridor identified on Map X-CRC-1. Each corridor shall include within its area designations that provide primarily for employment and shopping, and designations that provide primarily for dwellings.

2.1 Commercial land use plan designations that may be applied include: *Corridor Commercial, Retail Commercial, and Office Commercial. Any site designated for a commercial use shall be located adjacent to the Corridor street.*

This proposal requests the designation of Corridor Commercial (COR) for a parcel located within the corridor designation on Map X-CRC-1. The applicant provides no discussion or justification that the site is adjacent to the Corridor street to meet this policy. If viewed in isolation, the approximately 10,000 SF subject site is clearly not adjacent to the Corridor street, which is SE 82nd Avenue, because it contains frontage only of SE Cornwell Ave. However, as discussed in the applicant's supplemental materials and below in relation to Policy 3.1, it may be possible and indeed may even be more appropriate to view the entire proposed development site as a whole, when considering compliance with the applicable policies. When viewed as a whole the larger development "site" is bound by SE Cornwell to the north, SE Lindy St to the south and SE 82nd Ave to the west.

If decision makers can reasonably conclude that the entire proposed development site is the appropriate locale for assessment then it is clear that this "site" clearly is adjacent to the corridor street, which is SE 82nd Avenue.

This policy can be met.

Policy 3.0. Corridor Commercial

3.1.*The following areas may be designated Corridor Commercial when located within a Corridor as identified on Map X-CRC-1 and when all of the following criteria have been met:*

a. The site has an historical commitment to commercial uses;

The applicant's supplemental materials contain an October 1, 2018 memorandum from Dunn Carney Allen Higgins & Tongue LLP. In this memorandum, there is some discussion about the area to which this policy is applicable. As noted in that discussion, there is not a definition of "site" in the county's Plan or its Zoning and Development Ordinance (ZDO) and the county may rely on the dictionary definition to interpret a specific term. As noted in that memorandum, *Miriam-Webster defines "site" as "the special location of an actual or planned structure of set of*

structures....” and therefore “the reference to a planned structure of “set of structures” in this definition makes clear a “site” refers to the development as a whole rather than to an individual parcel situate therein”. Staff agrees that including all the parcels in the development site is a reasonable interpretation of “site” in this particular instance.

In that memorandum, it is further stated, *when evaluating the site as a whole, it has an established historical commitment to commercial use.* Again, this last assertion is not accompanied by any evidence; however, in this case, it is easy for Staff to view past aerial photography and permit history, which indicates that the portion of the larger development site (the portion that is currently planned and zoned Corridor Commercial) has clearly housed a number of commercial businesses for several decades, including most recently automobile and recreational vehicle (RV) sales. There is one single-family dwelling on that portion of the site, which, according to the tax assessor was built in 1945.

It is equally as obvious that the approximately 10,000SF subject site has historically been developed with a single-family dwelling; according to the tax assessor, the dwelling was built in 1925 and appears to continue to be assessed as a dwelling.

Again, to the extent that decision makers are comfortable with assessing the larger development site as the “site” for the purposes of this policy, then the conclusion is simple, given that the vast majority of the development site has been both zoned for and developed with commercial uses for at least several decades, and therefore it can be reasonably concluded that the “site” has an historical commitment to commercial uses. **This policy is met.**

b. The designation will not cause a decrease in housing capacity in the County;

The October 1, 2018 memorandum from Dunn Carney Allen Higgins & Tongue LLP also discusses the decrease in housing capacity issue and appears to reach the conclusion that a negligible reduction in housing capacity is allowed through Metro rules and therefore that is how the county’s policy should be interpreted. Similarly, a memorandum provided by Johnson Economics LLC, dated January 16, 2019 (Exhibit 7) also reaches the conclusion that the loss of two housing units is negligible.

Indeed, Metro does allow for a negligible decrease in housing potential and indeed it does require each city and county to maintain its housing capacity and indeed each county must comply with these regulations. Staff does not disagree that the removal of two housing units from the overall housing capacity in the county can reasonably be considered negligible; however that conclusion is not directly on point in this particular case.

There is nothing in state law or Metro code that prevents a city of county from being more restrictive than the regulations of either of those jurisdictions, rather a jurisdiction cannot be *less* restrictive. The county’s Comprehensive Plan has been

determined to be in compliance both with state law and the Metro Urban Growth Management Functional Plan. As such, any land use proposal must be in compliance with all applicable plans at all jurisdictional levels. Indeed, this proposal may be and has been found by Staff to be compliant with the Metro' code but that does not exempt it from having to also comply with the county's Comprehensive Plan.

To date, the applicant has not provided any evidence to demonstrate that the proposal does indeed meet the county policies for no loss of housing in the Clackamas Regional Center or any discussion about why these policies should not be interpreted to mean anything other than a simple literal interpretation of no loss of housing in the county.

This policy is not met.

- c. *The designation will not cause a significant traffic increase on local streets serving residential areas;*

As discussed in Section 4, Subsection 1 (Statewide Planning Goal 12), the Transportation Impact Study (TIS) provided by the applicant, demonstrates that this proposed zone change would have no significant effect on the transportations system.

This policy is met.

- d. *Adverse effects, including, but not limited to, traffic and noise, will have a minimal effect on adjacent neighborhoods, or can be minimized through on-site improvements; and*

Any specific development impacts will be evaluated at the time of design review, which is required for any new development in a commercial zone. **This policy can be met.**

- e. *The designation will not substantially increase an existing commercial strip or create new strips.*

This policy was not address in the application; however Staff finds that an increase of approximately 10,000 square feet of a commercial strip is not likely to ever be considered a "substantial increase", especially in the context of the rather large Corridor Commercial zoned area along the norther portion of SE 82nd Avenue. **This policy is met.**

- 3.2 *Provide commercial areas located in transportation corridors to meet at local and regional needs for a wide range of goods and services.*

SE 82nd Avenue has been designated as a corridor in Chapters 4 and 10 of the Comprehensive Plan because it is a major transportation corridor in the county. **This policy is met.**

XVII. HOUSING POLICIES

3.0 *Limit expansion of commercial zoning into residential neighborhoods along the 82nd Avenue corridor.*

The applicant provided no findings or discussion regarding how policy could be met by this proposal. **This policy is not met.**

5.0 *Replace housing capacity lost in the study area by future Comprehensive Plan amendments or zone changes. Any application for a change in land use plan designation within the Clackamas Regional Center Area will be accompanied by a demonstration of how an equal amount of housing capacity is replaced on another site, or constructed on the site as part of a mixed-use development.*

5.1 The purpose of this policy is to maintain the potential for the amount of housing identified in the Clackamas Regional Center Area Design Plan.

5.2 This policy would apply to Comprehensive Plan amendments or zone changes made subsequent to adoption of the Clackamas Regional Center Area Design Plan.

5.3 This policy would apply to quasi-judicial changes from residential to a non-residential use.

5.4 Replacement housing capacity could be located anywhere within unincorporated Clackamas County located within the Urban Growth Boundary.

5.5 Approval of a design review application and any other applicable land use permit for the required amount of replacement housing on a site in a commercial or office district, not including PMU sites, will meet the requirements of policy 5.0.

The applicant provided no findings or discussion regarding how this policy is met by this proposal. Again, findings related to the loss of the two housing units were provided but both memorandums discussing this issue found the loss to be “negligible.” **This policy is not met.**

- c. **Chapter 5 (Transportation):** This section of the Plan identifies transportation needs and priorities to guide the development and maintenance of a multi-modal transportation system in the county.

Integration of Land Use and Transportation Policies: Policies 5.F.1-5.F.7 in Chapter 5 (Transportation) of the Comprehensive Plan identify policies related to the ensuring a strong relationship between land use and transportation planning in the county.

Policy 5.F.6 – Require changes in land use plan designation and zoning designation to comply with the Transportation Planning Rule (Oregon Administrative Rules (OAR) 660-012-0060).

The applicant has submitted a Transportation Impact Study (TIS) completed by Clemow Associates LLC, dated July 9, 2018. The TIS concluded, and ODOT concurs (Exhibit 3) that the proposed Comprehensive Plan/Zone change is not anticipated to significantly affect a transportation facility and no further TPR analysis is necessary to address the Transportation Planning Rule (TPR) criteria outlined in OAR 660-012-0060. Therefore this application complies with the requirements in the Transportation Planning Rule.

This policy is met.

Summary:

Staff finds that the proposed Corridor Commercial (COR) Plan designation and corresponding zoning designation (CC) is not consistent all applicable goals and policies in the Comprehensive Plan.

4. County Zoning & Development Ordinance (ZDO) Criteria

This application is subject to the zone change criteria in Section 1202 of the Clackamas County Zoning and Development Ordinance (ZDO). ZDO Section 1202.03 states that a zone change shall be subject to the following standards and criteria:

- a. **Section 1202.03(A)**: *The proposed zone change is consistent with the applicable goals and policies of the Comprehensive Plan.*

As discussed in detail in Section 4, Subsection 3 (Comprehensive Plan Policies), the proposal is not consistent with all the applicable criteria in the county's Comprehensive Plan found in Chapter 10, including policies relating to the replacement of lost housing due to the rezone and limiting the expansion of commercial zoning into residential areas.

This criterion is not met.

- b. **Section 1202.03(B)**: *“If development under the proposed zoning district designation has a need for any of the following public services, the need can be accommodated with the implementation of the applicable service provider’s existing capital improvement plan: sanitary sewer, surface water management, and water. The cumulative impact of the proposed zone change and development of other properties under existing zoning designations shall be considered.”*

The subject property is located in the CCSD#1 sewer district and Clackamas River Water District which provide sewer, water, and surface water facilities and services in the area. The applicant has submitted a Preliminary Statement of Feasibility signed by these agencies indicating that adequate sewer, water, and surface water facilities are available or can be made available through improvements completed by the district or developer (see attached application).

This criterion is met.

- c. **Section 1202.03(C):** *“The transportation system is adequate and will remain adequate with approval of the proposed zone change. For the purpose of this criterion:”*
1. *Adequate means a maximum volume-to-capacity ratio (v/c), or a minimum level of service (LOS), as established by Comprehensive Plan Tables 5-2a, Motor Vehicle Capacity Evaluation Standards for the Urban Area, and 5-2b, Motor Vehicle Capacity Evaluation Standards for the Rural Area.*
 2. *The evaluation of transportation system adequacy shall be conducted pursuant to the Transportation Planning Rule (Oregon Administrative Rules 660-012-0060).*
 3. *It shall be assumed that the subject property is developed with the primary use, allowed in the proposed zoning district, with the highest motor vehicle trip generation rate.*
 4. *The methods of calculating v/c and LOS are established by the Clackamas County Roadway Standards.*
 5. *The adequacy standards shall apply to all roadways and intersections within the impact area of the proposed zone change. The impact area shall be identified pursuant to the Clackamas County Roadway Standards.*
 6. *A determination regarding whether submittal of a transportation impact study is required shall be made based on the Clackamas County Roadway Standards, which also establish the minimum standards to which a transportation impact study shall adhere.*
 7. *Notwithstanding Subsections 1202.03(C)(4) through (6), motor vehicle capacity calculation methodology, impact area identification, and transportation impact study requirements are established by the ODOT Transportation Analysis Procedures Manual for roadways and intersections under the jurisdiction of the State of Oregon.*

A Transportation Impact Study (TIS) was completed for the subject property by Clemow Associates LLC and dated July 9, 2018. This study concluded that the proposed zone change is not anticipated to significantly affect the transportation facility. Based on comments received from ODOT (see Exhibit 3) that agency concurs with the conclusions of the TIS. Staff finds no reason to dispute these findings.

This criterion is met.

- d. **Section 1202.03(D):** *“Safety of the transportation system is adequate to serve the level of development anticipated by the zone change.”*

The Transportation Impact Study (TIS) also found that the safety of the transportation system is adequate for the proposed zone change.

This criterion is met.

**PLANNING COMMISSION
MINUTES**

January 28, 2019

6:30 p.m., DSB Auditorium

Commissioners present: Brian Pasko, Gerald Murphy, Louise Lopes, Tom Peterson, Michael Wilson, Steven Schroedl, Mark Fitz

Commissioners absent: Christine Drazan, Mary Phillips

Staff present: Jennifer Hughes, Martha Fritzie, Darcy Renhard

1. Commission Chair Pasko called the meeting to order at 6:31 pm.

General public testimony not related to agenda items: none.

Commissioner Pasko opened the public hearing for Z0375-18-CP and Z0376-18-ZAP, a comprehensive plan amendment and corresponding zone change for Washman LLC.

Martha Fritzie presented the staff report, explaining that the proposal is to consider a comp plan change from Low Density Residential (LDR) to Corridor Commercial (COR) and a zone change from Low Density Residential (R-5) to Corridor Commercial (CC) at 8220 SE Cornwell. The parcel is approximately 10,018 square feet. The applicant is proposing to develop a car wash on the adjacent property and is hoping to incorporate this additional property into their plans for the car wash. The adjacent properties are also zoned CC.

The application is subject to Section 1202 of the County Zoning Ordinance and Chapters 4, 10, and 11 of the Comprehensive Plan. It is also subject to Statewide Planning Goals 1, 2, 9, 10, and 12 as well as the Metro Urban Growth Management Functional Plan (UGMFP).

The subject site is located within a corridor design type area as identified on Map 4-8 and Map X-CRC-1. The specific policies for the SE 82nd Avenue Corridor Plan are found in Chapter 10 of the Comp Plan. Chapter 10 addresses community design plans, which means that the CRC design area applies in this instance. Policies that must be met for COR designation are historic commitment to a commercial use and being adjacent to a corridor street. There must be no significant traffic increase and minimal adverse effect on adjacent neighborhoods. It must not substantially increase an existing commercial strip or create a new strip, and it cannot reduce housing capacity. For the purpose of this application, staff is comfortable with looking at the entire site as a whole for historic commitment to commercial use. The property has been used as a commercial car lot. Staff finds that it can reasonably meet the historic commitment policy. The thing that needs to be considered here is that even if the zone change is approved, any development would still have to go through the design review process and meet design standards, which includes traffic impacts and adverse effects on adjacent neighborhoods. The applicant's traffic study found there to be no significant impact regarding traffic. Thirdly, this is not creating a new commercial strip and is not substantially increasing the existing strip. The housing policy is more specifically outline within the housing policies of Comp Plan Chapter 10, CRC. The thing to consider is that the proposal would result in the loss of two potential housing units. The Comp Plan is very specific in this regard, and this application does not meet this policy. There is also a policy to limit expansion of commercial zoning into residential neighborhoods, which staff does not find to have been addressed by the applicant. The applicant states that there is a negligible reduction rather than no reduction in housing capacity.

There was a traffic impact study provided that was consistent with the Transportation Planning Rule. The specific requirement is to compare the reasonable worst case under the proposed zone to the current zone. It is not a specific analysis of the proposed development. The proposed zone change is not expected to significantly affect the transportation facility, which ODOT has concurred with.

Staff found that all Metro UGMFP regulations are met, but that Statewide Planning Goal #2 is not met (all changes must be in compliance with local comprehensive plans).

To reiterate, staff finds that the proposal does not meet all applicable State, regional, and County criteria. Therefore, staff is recommending denial of the application.

Commissioner Fitz asked about a comment in the exhibits where someone states that the application contains factual errors. Has the house on the subject property been habited or is it vacant? Can the applicant provide other housing to meet the criteria? And wouldn't the new zoning actually allow for more housing? Martha answered that multi-family dwellings are, in fact, allowed in corridor commercial zones. Commissioner Schroedl asked how many houses would be allowed under the current zoning. Martha replied that the lot could be split in two and there could be a house on each under current zoning. Commissioner Lopes asked where the nearby car wash is that is referenced in the public comments. It is immediately south of the property on Lindy. Commissioner Pasko asked if the Planning Commission is required to recommend approval if the criteria has been met. Martha explained that there is really no justification for recommending denial if all the criteria is met. Commissioner Wilson pointed out that on the aerial view, there appears to be a house that is already within the commercial zone. Martha answered that it is a non-conforming use. Jennifer Hughes said that the zoning has been pretty much as it is now for the last 20 years. The last significant change was in 1998 when the CRC was implemented.

Peter Fry (Consultant for Washman LLC)-The CC zone adjacent to the subject site is only 100 feet deep, so it is very difficult to do any type of development. Corridor Commercial is not General Commercial.

Dan Simmons (Engineer for Washman LLC)-The applicant has tried to do a site plan without the zone change, but car accessibility and flow was an issue. What is currently proposed allows for better staging of cars and prevents backup into the street. It also allows for better water management.

Jerry Johnson (Economist for Washman LLC)-They have taken a look at what the impacts are. The change would actually reduce the border between commercial and residential. The other issue is that the capacity analysis within the County has only increased because of mixed use. There were 470 acres that were commercial and were converted to mixed use. The County is essentially accommodating higher capacity per parcel. On page 5 of his memo, you can see the availability of 5 residential units on this block. Those residential uses would not likely ever convert to commercial as they have no frontage on 82nd Ave. It is hard to see how any theoretical losses of housing actually have an impact.

Applicant's consultant argues that they are working with a 10,018 sf lot with no sidewalks or improvements on the street. The required improvements for this proposal may drop the actual usable square feet down quite a bit. Based on other new development around them, they will actually be creating 7.6 new units of housing. He feels that the policies have been addressed. Commissioner Wilson asked where the entrances and exits will be placed. Applicant's engineer responded that ODOT will not allow access via 82nd Ave., so access would have to be from the north and south ends of the property. Commissioner Wilson asked how many cars would be going through per hour. Applicants answered that that on a dry day you could max out

at 100 cars per hour. If the car wash is built, then there would no longer be access to this property from SE 82nd Ave.

Nadine Hanihan (local resident) – Ms. Hanihan is speaking on behalf of the Cornwell neighbors. Only the neighbors within 300 feet of the subject property are required to receive notice. As far as she knows, there was only one neighbor who was notified. She stated in her letter that there were factual errors in the application. She would like more time to analyze the impacts to the neighborhood. One point of concern is traffic, another is the noise from the dryer. She requests that the BCC hearing be postponed. She is also concerned about the impact of multi-use zoning. This would not maintain the character of a low density neighborhood.

Doug Theisen (local resident) – During peak traffic hours, it takes 2-7 minutes to make the left turn to get home. Even if you put in speed bumps there is still going to be traffic. They get a lot of people racing cars through and around their neighborhood already. And there are no sidewalks from Garden Lane on Lindy. Commissioner Pasko asked if there are policies that allow protection for LDR areas. Martha answered that there are polices.

Tracy Steele (local resident) – She lives on Cornwell and the traffic is horrible. Her side view mirrors have been knocked off of the cars because the road is so narrow. There is a serious problem with people racing on Garden Lane and Cornwell. The road is simply not wide enough to accommodate the traffic volume.

Crystal Gardner (local resident) – Lindy is a dead end street, so there is no flow through. Cornwell would be the only other thoroughfare. She is concerned that she won't be able to get out of her street.

Peter Fry would argue that they will be able to build a better car wash if this zone change is approved than they would otherwise build. They are going to build a car wash either way. David Tarlow explained that the blowers at the end of the car wash will be enclosed to mitigate sound, and the vacuums are central vacs and not the individual motors that you typically see at car washes. According to the traffic impact study, the actual impacts are negligible. Peter Fry argues that they are neither encroaching or expanding the strip. Secondly, he argues that they are actually increasing housing potential because they are changing the zoning to corridor commercial, which allows for more housing.

Commissioner Pakso pointed out that whatever the applicant decides to move forward with is not being approved tonight. It would still have to go through design review. Martha agreed and said that there will absolutely be another opportunity to provide input during the design review process that will be site specific and address any impacts. Anything that is allowed in a corridor commercial zone could be allowed on this property. It is not specifically zoned for a car wash, even though that is what the applicant wants to do. Arguing theoretical losses or gains in housing are not the intent of the rule, which she would be happy to discuss further with the applicant. There may be a way to look at what has actually been rezoned within the CRC which might help address actual losses to housing capacity.

Jennifer explained that the Planning Commission has the option of extending the record to allow one week for new testimony, one week for response to new testimony, and one week for applicant rebuttal. The Planning Commission would reconvene for deliberations only, and this would put the continued hearing on February 25th. Commissioner Murphy moved to extend the record as described by Jennifer Hughes. Commissioner Peterson said that what we are focusing on is whether or not to go with staff's recommendation and allow a zone change on the property. All the other issues are addressed through a different process. He is not sure a delay would make a meaningful difference. Commissioner Lopes seconds

Commissioner Murphy's motion to extend the record. *Ayes=Fitz, Murphy, Lopes; Nays=Schroedl, Wilson; Abstain-Peterson. Motion passes.*

There being no further business, the meeting was adjourned at 9:14 p.m.

**PLANNING COMMISSION
DRAFT MINUTES**

February 25, 2019

6:30 p.m., DSB Auditorium

Commissioners present: Brian Pasko, Mary Phillips, Louise Lopes, Gerald Murphy, Thomas Peterson, Steven Schroedl, Mark Fitz, Michael Wilson

Commissioners absent: Christine Drazan

Staff present: Jennifer Hughes, Martha Fritzie, Darcy Renhard, Karen Buehrig

1. Commission Chair Pasko called the meeting to order at 6:30 pm.

General public testimony not related to agenda items: none.

The public comment period for Z0375-18/Z0376-18 has already closed. The purpose of hearing this agenda item tonight is only for Planning Commission deliberations and recommendation.

Commissioner Pasko asked if staff has any additional changes or recommendations since the January 28th hearing. Martha answered that the hearing was continued for deliberations by the Planning Commission, all testimony that was received within the 3-week comment period is in front of the Commission. They are marked Exhibits 12 through 15.

Commissioner Phillips said that even though she was not in attendance on January 28th, she has read all of the material and watched the video from that hearing. She is comfortable in participating in the deliberations and making an informed recommendation. Commissioner Lopes asked if staff still had the position of not recommending approval, or has anything changed? Martha answered that based on what has been submitted by the applicant and by those in opposition, the needle has not swung either way. She feels that even though the material submitted by the applicant does not win the argument, there may be a route to meeting the standards. The policy does not prohibit expansion of commercial into residential neighborhood zones. The concerns specifically raised by the neighborhood members are more appropriately addressed during the design review process. The way specific policies are written in the Comprehensive Plan, it is interpreted to mean that theoretical housing that could be built does not count toward the actual housing replacement requirement. Jennifer said that recommendations need to be based on criteria in the Comp Plan or ZDO. Commissioner Wilson asked what the outcome of the design review process could be—is it possible that some of the concerns of the community could be addressed? Martha replied that during the design review process, things such as traffic impacts, water runoff, sidewalk improvements, frontage improvements, access, etc. are all looked at. The application goes before our Design Review Committee in a public hearing format. Jennifer pointed out that even though the applicant has chosen to tell us that they have a particular plan for the site, there is nothing that says they can't do something else. They can do anything allowed within the commercial corridor zone. A car wash, among 250 other things, is allowed outright in a commercial zone. During the design review process there are design standards and impacts that are looked at. It isn't about whether or not they can put a car wash in. Commissioner Murphy is concerned about the traffic impacts with the property having frontage on SE 82nd, but access from the side streets. Martha answered that traffic impacts, as well as other potential impacts, will all be determined in the design review process. Commissioner Lopes wanted to know if there was any concern with setting a precedent of recommending approval of something that staff does not feel meets the criteria. Martha explained that the

application moves forward to the BCC either way. It is presented to the Board with an explanation of why the PC made the recommendation that they did.

Commissioner Pasko asked for a straw poll. Commissioner Schroedl has no *ex parte* or conflict, even though the house in question was his grandmothers house. Commissioner Murphy is concerned that these roads were designed for residential use, and we would be turning it into commercial use. Commissioner Peterson pointed out that the County has identified a commercial corridor along SE 82nd, even though there is housing within the corridor. The plan envisions this area as eventually being a commercial corridor, including areas that right now are residential. If the County hadn't already designated it as a commercial corridor, then you wouldn't even be seeing this application. Jennifer explained that this property meets the basic threshold to be corridor commercial, but there are a number of other zones that can be within a corridor. Commissioner Peterson thinks that it is more likely that people will invest to make properties commercial if they have already been designated as corridor commercial. Commissioner Phillips doesn't have a problem with this becoming part of the corridor commercial, except that the findings don't support what the applicant is asking for. They seem to be sort of on the right track, but they haven't completely addressed housing and does not address at all the issue of encroaching into a residential zone. This doesn't mean that it couldn't be shown, but the applicant has not shown it. The findings for housing capacity could be stronger, and there is nothing in there to support the argument that they are not encroaching into a residential zone. Commissioner Pasko thinks that we are getting hung up on Section 5. He thinks that it is clear that there is an intent to replace other housing in a contemporaneous exchange. He does not think that it passes the straight face test, and if the applicant wants to move forward then they are really going to have to convince the Board. There needs to be a clear demonstration of replacing housing capacity. Commissioner Schroedl said that there is no winning argument-do we allow improvements to the neighborhood or not allow them and leave the property the way it is now? Commissioner Lopes has a problem with recommending approval on something that does not meet all of the criteria. Commissioner Pasko pointed out that if the applicant's intent was to preserve residential housing units, then there needs to be a meaningful showing of that. Commissioner Fitz said that the applicant is going to do their project anyway, it is just a matter of whether or not they use the property in question as part of the project. Jennifer explained that you cannot really condition a zone change. It could have been done if they had packaged a design review with a zone change, but the applicant did not do that in this case.

Commissioner Fitz moved to recommend approval of Z0375-18/Z0376-18 predicated on the County's acceptance of conditions. Commissioner Peterson seconds. *Ayes=2: Fitz, Schroedl. Nays=6: Phillips, Pasko, Lopes, Murphy, Peterson, Wilson. Motion fails.*

Commissioner Phillips moved to recommend denial based on staff findings in the January 18th staff report. Commissioner Wilson seconds. *Ayes=5: Phillips, Wilson, Lopes, Murphy, Pasko. Nays=3: Fitz, Schroedl, Peterson. Motion passes.*

Commissioner Pasko opened the second portion of the meeting, a study session for the 2019-2020 Long Range Planning Work Program. Karen Buehrig provided an update to some new items on the second page of Attachment A. For the past 6 or 7 years, the Planning group has brought a work program to the PC. A couple years ago we incorporated transportation planning. There has been significant outreach to different parties, CPOs, etc. looking at some process updates. One of these is developing a multi-year plan. Another is to implement an issue paper concept to address what issues might be for different projects. Lorraine Gonzales explained how outreach has grown over the last 6 years to include media, CPOs, interested parties, as well as internal parties. We received about 16 submittals this year. The proposals vary from infrastructure to UGMAs. Staff identifies who the appropriate entity is to handle some of these projects. There is a public

hearing scheduled for the Work Program on April 8th. Tonight is a discussion of what has been submitted for consideration. We have to balance what we have as far as available staff time, and not all of the projects submitted are part of a planning process. Those projects are referred to the appropriate division. We do refer back to the list from prior years and review what can be added from this year. Commissioner Fitz said that we need to take another look at the street alignment in Carver to better allow truck flow that is going through for food services. We should also address the issue of kennels in the unincorporated areas that have to regulations or oversight.

How can we address these groups who come back to us every year because we haven't accomplished their project within a year? We also need to look at and update the Comp Plan. Some projects may work well if we bundle them together, which is what we would want to look at in a multi-year work plan. We could capture a variety of things by doing it this way. Issue papers might help provide more information to PC members and give staff the chance to dig a little deeper on some of these issues. It also allows us to consider the implications of implementation. We must also acknowledge that there are state and regional requirements that come at us and need to be implemented in a short amount of time. How can we make this an effective process and balance staff availability?

Commissioner Pasko thinks that this is a great way to manage the work we have ahead of us. We should be asking where the PC wants to go, what are our goals, how can we help the County accomplish their goals? We want X amount of housing available by such a year. This is work that would involve the BCC. Jennifer answered that the BCC has already done some of the work in building and adopting the MFR program, which is the vision statement for the County. Some things in the MFR program are definitely related to what we do, but probably not at the level of detail that Commissioner Pasko is talking about. Commissioner Pasko would really like to see the two connect. Commissioner Peterson thought that it may actually help us vet projects that do not actually meet County goals if we apply the MFR goals. How do these projects help us move forward with our overarching goals?

Commissioner Schroedl moved to approve the minutes from the January 28th meeting as submitted. Commissioner Fitz seconded. *Ayes=7: Pasko, Peterson, Fitz, Schroedl, Wilson, Lopes, Murphy. Nays=0. Abstain=1: Phillips. Motion passes.*

The March 11th meeting is cancelled, we will send confirmation or cancellation for the March 25th meeting shortly. Commissioner Peterson will be absent at the April 8th meeting.

There being no further business, the meeting was adjourned at 8:48 p.m.



Land Use Application

ZPAC 6052-18

For Staff Use Only	
Date received:	8/2/2018
Application type:	zone change/complan
Zone:	RS
Violation #:	
File number:	20375-18-CP/zap
Fee:	6510
CPO/Hamlet:	Southgate (inactive)

Applicant Information:

What is proposed? Comprehensive Plan Amendment
Zone change

Name of applicant: Mark Hanna / David Tarlow
 Mailing address: P.O. Box 4124 Washman LLC.
 City Portland State Oregon Zip 97208

Applicant is (select one): Property owner Contract purchaser Agent of the property owner or contract purchaser

Name of contact person (if other than applicant): Peter F Fry
 Mailing address of contact person: 303 NW Uptown Terrace #1B
Portland, Oregon 97210

Applicant #s: Wk: Cell: Email:

Contact person #s: Wk: Cell: 503 703-8033 Email: peter@finleyfry.com

Other persons (if any) to be mailed notices regarding this application:

DAN SYMONS Symons Engineering 12805 Foster Rd Portland 97236

Name	Address	Zip	Relationship

SITE ADDRESS: 8220 SE Cornwell

TAX LOT #: T 12 R E 28 Section BB Tax Lot(s) 12500

Adjacent properties under same ownership: Total land area: 10,018.8

T	R	Section	Tax lot(s)

I hereby certify that the statements contained herein, along with the evidence submitted, are in all respects true and correct to the best of my knowledge.

David B. Tarlow 8/1/18 [Signature]
 Property owner or contract purchaser's name (print) Date Owner or contract purchaser's signature

David B. Tarlow 8/1/18 [Signature]
 Applicant's name (print) Date Applicant's signature

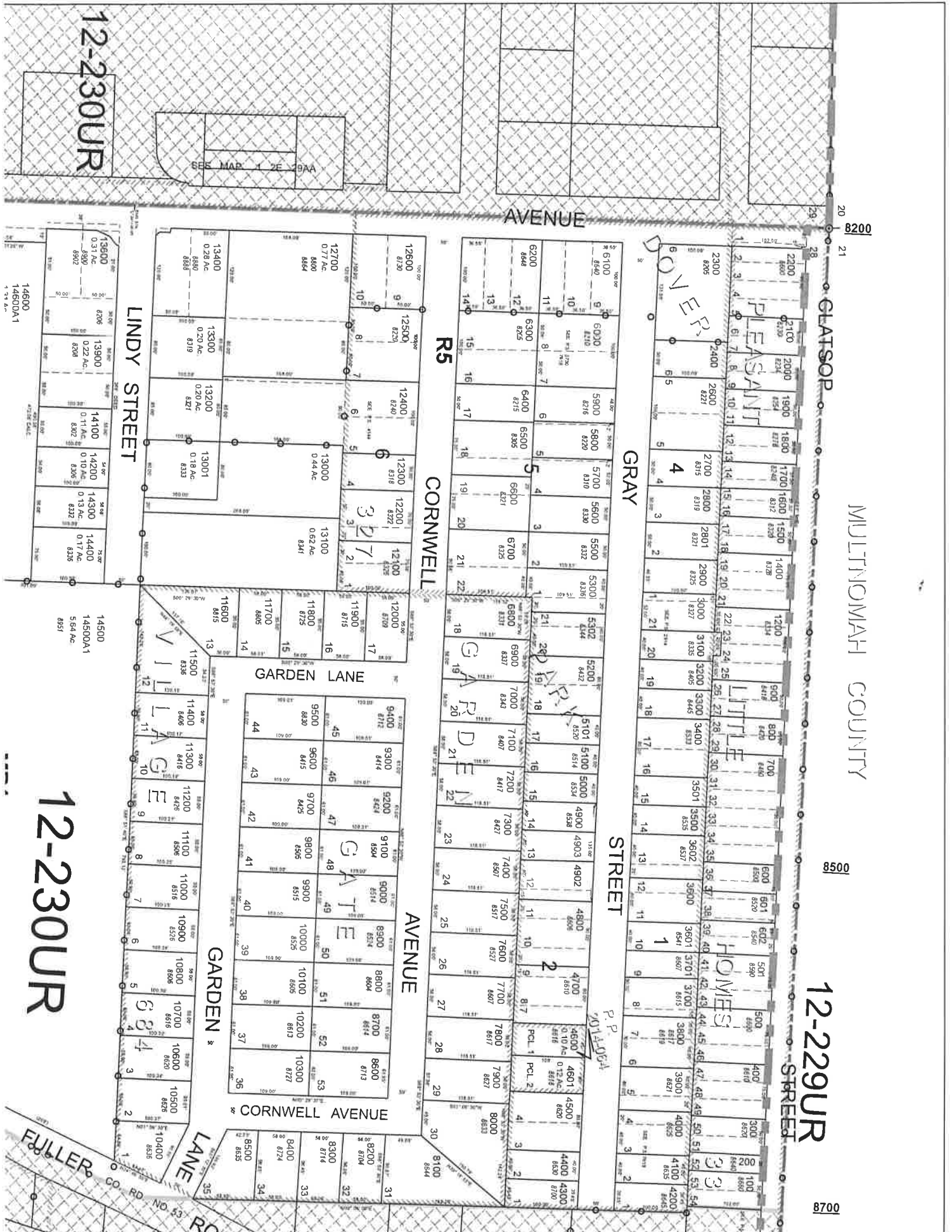
MULTNOMAH COUNTY

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SEE MAP 1 2E 19AA

AVENUE

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R5

CORNWELL

GARDEN

AVENUE

CORNWELL AVENUE

GRAY

STREET

P.P. 101405A

LINDY STREET

GARDEN LANE

GARDEN

CORNWELL AVENUE

LANE

12-230UR

FULLER CO RD NO 53

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July 31, 2018

GENERAL INFORMATION

Applicants: Owner

Mark Hanna
David B. Tarlow, CFO
Washman Car Washes
P.O. Box 4124
Portland, Oregon 97208

Engineer

Dan Symons
Larry Shirts
Symons Engineering
12805 SE Foster Road
Portland, Oregon 97236

Planning Consultant:

Peter Finley Fry AICP
303 NW Uptown Terrace, 1B
Portland, Oregon 97210
peter@finleyfry.com

Phone: 503-703-8033

Location: 8220 SE Cornwell

Tax Lots: SID 12E28BB 12500

Size: 10,018.80 square foot lot.

Comprehensive Plan Designation/Zoning:

Current:	R-5	Urban Low Density Residential	LDR
Proposed:	CC	Corridor Commercial	COR

PROPOSAL

We request a comprehensive plan amendment and zone change from residential to commercial for this 10,018.80 square foot lot under the same ownership as the lot abutting SE 82nd. The proposed zone change would even out the west side commercial zone line. The small residential zone lot is an encroachment into the commercial area creating a difficult to develop commercial site as the site would not be a rectangle (ie the northwest side would have a large area removed from a commercial site). The commercial site now has six edges as opposed to four if it were a rectangle. A commercial use would need to buffer three edges from residential uses as opposed to one. The existing residential lot is surrounded on two sides by commercial uses.

**303 NW Uptown Terrace #1B
Portland, Oregon USA 97210
peter@finleyfry.com**

For example; a proposed car wash facility (8880 SE 82nd) could be developed on the full rectangle to allow better and safer access on the site's north and south side. A rectangular site plan would allow for the Tri-Met pull out on SE 82nd and provide room for more substantial landscaping on the east side. The car wash provides important entry level employment opportunities. The car wash allows people to have their car washed in a completely environmentally sound facility and avoid washing cars on public streets and drive ways.

CRITERIA

I. Proposed Amendment of the Comprehensive Plan

3.0 Amend the Comprehensive Plan pursuant to the following procedures and guidelines.

3.1 Allow initiation of a map amendment only by the Board of County Commissioners, the Planning Commission, the Planning Director, or the owner of the property for which a change is requested.

3.2 Allow initiation of a text amendment only by the Board of County Commissioners, the Planning Commission, or the Planning Director.

3.3 Consider all proposed Comprehensive Plan amendments at advertised public hearings before the Planning Commission and the Board of County Commissioners, in accordance with state law and County requirements.

3.4 For quasi-judicial amendments, provide notice of application and public hearing to nearby property owners and the applicable Community Planning Organization a minimum of 20 days prior to the first scheduled public hearing. Provide a copy of the application to the applicable Community Planning Organization a minimum of 35 days prior to the first scheduled public hearing. For legislative amendments, provide notice of proposal and public hearing to all active and recognized Community Planning Organizations, and ensure that the proposal is available for review, a minimum of 35 days prior to the first scheduled public hearing.

3.5 Provide the opportunity for the Department of Land Conservation and Development and Metro to review and comment on proposed legislative amendments, pursuant to the applicable provisions of state law and the Metro Code .

3.6 Recognize the Board of County Commissioners as the decision making body for quasi- judicial and legislative Plan amendments, but provide for the Planning Commission to make recommendations to the Board on these amendments, except in the case of a Plan amendment to designate an historic resource, in which case the Historic Review Board shall be the recommending body.

FINDING

The request is made by the property owner and is an amendment to the map and not the Comprehensive Plan text. The request shall be noticed and heard before the Clackamas county planning commission for recommendation and the Clackamas County Board of County Commissioners for the local decision. The site is not a designated historic resource. The following findings support the request as equal to/or improved upon the existing Comprehensive Plan map.

Clackamas County Comprehensive Plan Chapter 1 - Introduction

GOALS

The overall goals of the Plan are:

- Balance public and private interests and adopt a coordinated set of goals and policies to guide future development in Clackamas County.
- Identify the most appropriate land uses for individual sites by evaluating site characteristics in light of market demand, human needs, technology, and state, regional, and County goals.
- Provide for growth in areas where public facilities can economically be provided to support growth.
- Create development opportunities most compatible with the fiscal and financial capacity of the County and its residents.
- Implement the policies of this Plan by adopting a zoning map and set of regulations, and by guiding public investments to support anticipated growth.
- Establish a system whereby individual interests may be compared to stated County policy, and provide a process for review and amendment of those policies as expressed in this Comprehensive Plan.

FINDING

The proposed change creates a straight line between SE 82nd and the adjacent residential that provides for a rectangular commercial site that can be developed consistent with Clackamas County's Comprehensive Plan.

Chapter 2 – Citizen Involvement

FINDING

The application for an amendment of Clackamas County's Comprehensive Plan requires public notice and two public hearings. The first public hearing is before the Clackamas County Planning Commission who will make a recommendation. The second hearing is before the Clackamas County Board of county Commissioners who will make the final local land use decision.

Chapter 3 – Natural Resources & Energy

WATER RESOURCES

GOALS

- Maintain or improve the quality and quantity of groundwater.

FINDING

The requested map amendments will allow the development of a car wash facility in a most efficient site design. The facility reuses the water and treats all waste water. The facility allows the public to avoid using water to wash their vehicles and polluting the surface or ground waters with untreated water disposed in the drainage system. A car wash is a critical utility for the adjacent residential uses.

The site is not on a river or stream corridor and stream and does not have wetland or water features.

The site will be developed through Clackamas County's permitting process to ensure that any storm water is treated and disposed of appropriately.

AGRICULTURE

FINDING

The site is not in or near an agricultural area. The site is located in a fully urbanized area.

FORESTS

FINDING

The site is not in or near a forested area. The site is located in a fully urbanized area.

MINERAL AND AGGREGATE RESOURCES

FINDING

The site is not in or near mineral or aggregate resources. The site is located in a fully urbanized area.

WILDLIFE HABITATS AND DISTINCTIVE RESOURCE AREAS

FINDING

The site is not in or near a wildlife habitat or distinctive resource area. The site is located in a fully urbanized area.

NATURAL HAZARDS

FINDING

The site is not in or near an area of natural hazards. The site is located in a fully urbanized area.

ENERGY SOURCES AND CONSERVATION

FINDING

The requested map amendments allow the development of a car wash facility in a most efficient site design. The facility reuses the water and treats all waste water. The car wash facility is a significant energy conservation facility through allow people to wash their cars in a single efficient facility that reuses and treats all water. The amendment allows the car wash development to accommodate a relocated Transit stop adjacent to the site that enables buses to pull out of traffic and maintain an energy efficient flow of traffic.

NOISE AND AIR QUALITY

FINDING

Any development of the requested amendment site will conform with Clackamas County and Oregon State laws in regards to noise and air quality.

Chapter 4 – Land Use

URBANIZATION

FINDING

The site is in an urbanized area. The request is from an urban residential designation to an urban commercial designation. The loss of the potential of two dwelling units is not significant or material in the context of the housing potential that exists in Clackamas County. The proposed change creates a clear delineation between residential uses to the west and the commercial uses to the east on SE 82nd with a straight line between the two forming a definitive urban pattern.

URBAN GROWTH CONCEPT

FINDING

The request is for an approximately 10,000 square foot urban lot that is not on an edge of an urban growth concept feature and has no effect on the urban growth concept pattern.

4.1. Corridor Policies

- 4.1.1. Policies that apply to all Corridor design type areas include:
 - 4.1.1.1 Provide for both employment and housing, including mixed use.
 - 4.1.1.2 Provide for a high level of bus usage, with land uses and transportation facilities to support bus use.
 - 4.1.1.3 Encourage and support pedestrian travel with supportive land uses, frequent street connections, and sidewalks and pedestrian-ways.
 - 4.1.1.4 Provide for vehicular traffic and auto-oriented uses, while expanding the share of trips via transit and other modes.
 - 4.1.1.5 Enhance connectivity between neighborhoods adjacent to the Corridor Design Type Area and the Corridor Street.
- 4.1.2. Specific policies for the SE 82nd Ave, SE Johnson Creek Boulevard and SE Sunnyside Road (from 82nd Ave to approximately SE 117th Ave.) Corridor design type areas are located in Chapter 10: Clackamas Regional Center Area Design Plan.

FINDING

Specific findings relating to corridor policies are found in the section dedicated to Chapter 10: Clackamas Regional Center Area Design Plan. The configuration of the rectangular site allows for a Tri-Met pull out bus stop. The configuration also allows egress and ingress to occur away from SE 82nd on Lindy (at a controlled intersection) directly north of a setback from 82nd access on SE Cornwell.

RESIDENTIAL

GOALS

- **Protect the character of existing low-density neighborhoods.**
- **Provide a variety of living environments.**
- **Provide for development within the carrying capacity of hillsides and environmentally sensitive areas.**
- **Provide opportunities for those who want alternatives to the single-family house and yard.**
- **Provide for lower-cost, energy-efficient housing.**
- **Provide for efficient use of land and public facilities, including greater use of public transit.**

FINDING

The current designation allows for two housing units. The proposal would result in the loss of two housing units. The loss of two housing units is negligible. The impact would be less than the error factor inherent in any analysis of housing capacity. The proposed commercial zone allows multi-family and attached housing increasing the amount and diversity of housing available in Clackamas County.

The change would a rectangular site and not precipitate any additional changes. The benefit of the proposal is to create a straight line for the site. Currently, the line jogs to the west which causes commercial impact on the subject site on three planes as opposed to one.

The proposed car wash is a service to the adjacent residential neighborhood providing a way to wash their car in an efficient and environmentally correct manner. The new car wash development will include a central vacuum system that eliminates noise from individual vacuums.

COMMERCIAL

GOALS

- Provide opportunities for a wide range of commercial activity ranging from convenience establishments close to neighborhoods to major regional shopping centers.
- Ensure that access, siting, and design of commercial developments are suitable for the type of commercial activity.
- Provide for the efficient utilization of commercial areas while protecting adjacent properties and surrounding neighborhoods.
- Ensure that the minimum operational requirements of development are provided onsite.
- Encourage attractive, compact shopping areas offering a wide range of goods and services.
- Ensure that traffic attracted to commercial development will not adversely affect neighborhoods.
- Limit expansion of commercial strips and encourage better design of existing strips to make them more functional and attractive.

FINDING

The request creates a rectangular commercial lot adjacent to SE 82nd avenue. The additional parcel requested for change adds to the depth of the commercial zoning and creates a more efficient commercial development site. The new designation requires for any development on the subject property to be reviewed through site/design review. 82nd Avenues is dedicated and historically committed to commercial uses.

The change allows for an efficient car wash to be placed in a commercial area in close proximity to the residential neighborhood. The car wash allows cars to be washed in an efficient and environmentally sound manner and avoid contamination of the surface streets and storm water/sewer system in the residential neighborhoods. The carwash also provides an environmentally friendly, energy efficient option for the many used car lots in the SE 82nd Avenue corridor that presently either manually wash cars or must drive a longer distance to an automated carwash facility.

INDUSTRIAL

FINDING

The site is not located in an industrial area.

OPEN SPACE AND FLOODPLAINS

FINDING

The site is not located in an open space or floodplain.

UNINCORPORATED COMMUNITIES

FINDING

The site is not located in an unincorporated community.

RURAL COMMERCIAL

FINDING

The site is not located in a rural commercial area.

RURAL INDUSTRIAL

FINDING

The site is not located in a rural industrial area.

RURAL

FINDING

The site is not located in a rural area.

AGRICULTURE

FINDING

The site is not located in an agricultural area.

FOREST

FINDING

The site is not located in a forest area.

Chapter 5 – Transportation System Plan

Building on the foundation of our existing assets, we envision a well-maintained and designed transportation system that provides safety, flexibility, mobility, accessibility and connectivity for people, goods and services; is tailored to our diverse geographies; and supports future needs and land use plans.

TSP GOALS

- Goal 1: Provide a transportation system that optimizes benefits to the environment, the economy and the community
- Goal 2: Plan the transportation system to create a prosperous and adaptable economy and further the economic well-being of businesses and residents of the County.
- Goal 3: Tailor transportation solutions to suit the diversity of local communities.
- Goal 4: Promote a transportation system that maintains or improves our safety, health, and security.
- Goal 5: Provide an equitable transportation system.
- Goal 6: Promote a fiscally responsible approach to protect and improve the existing transportation system and implement a cost-effective system to meet future needs.

FINDING

The subject site would be consolidated into a site that fronts 82nd Avenue. 82nd Avenue is designated as a “Principal arterial” and “Tri-Met frequent service”. The addition of this specific subject sites allows benefits to the arterial road system and transit service.

A Traffic Study was conducted by a certified Transportation Engineer that concluded:

“Based on materials contained in this analysis, the proposed Comprehensive Plan Amendment and Zone Change is not anticipated to significantly affect a transportation facility and no further TPR analysis is necessary to address Transportation Planning Rule (TPR) criteria outlined in Oregon Administrative Rule (OAR) 660 012-0060 or Clackamas County Zoning and Development Ordinance (ZDO) criteria.”

SE 82nd is a state highway with access restriction to improve the flow of traffic. A rectangular site allows access to by organized away from SE 82nd on Lindy and Cornwell in a manner that efficiently utilizes the signalized intersection at SE 82nd and Lindy.

Chapter 6 – Housing

Meeting the future housing needs and desires of residents will require a variety of housing types and densities. For example, the desire for home ownership can be partially met with manufactured dwellings and condominiums in large or small complexes or owner-occupied duplexes. A range of housing prices can be encouraged by providing a greater variety of lot sizes for single-family housing. More multifamily dwellings and other alternative housing forms are needed to house the young, the elderly, and lower-income households which are priced out of the single-family housing market, or households which may prefer other than single-family homes.

FINDING

The approval of the Comprehensive Plan amendment and zone change results in the loss of the potential of two housing units. Two housing units in the context of the housing opportunities allowed in Clackamas County is a negligible loss that cannot be measured or quantified.

6.C Neighborhood Quality Policies

6.C.3 Discourage the demolition of housing which can be economically renovated in residential areas.

FINDING

The approval on the amendment would result in a single family structure being demolished. The structure has been vacant since 2007 and is not habitable. The remodeling or reconstruction of the house exceeds the houses value. The house would be demolished even if the designation/zone did not change.

Chapter 7 – Public Facilities & Services

The provision of public facilities and services is a key ingredient in the development of Clackamas County and the implementation of this Plan. All development requires a certain level of public facilities and services. The objective of this Plan element is to provide the level of public facilities and services to support the land use designations in this Plan, and to provide those facilities and services at the proper time to serve development in the most cost effective way.

FINDING

WES (Clackamas County) reports that there is adequate sanitary sewer capacity to accommodate the requested change. The agency also finds that any surface water can be accommodated. The site is located in an area with the complete array of urban services.

Chapter 8 – Economics

If any community is to thrive and prosper, jobs must be available to provide income for its residents. The type, quality, wage rates, and variety of jobs available in the community determine, to a large extent, the lifestyle and well-being of its residents.

The economy of Clackamas County is not separable from that of surrounding urban areas, nor is it uniform throughout. The northwest urban portion of the County clearly is part of the highly diversified urban economy of the Portland metropolitan area, with similar industries, and many retail and service businesses to serve the large urban population. The rural parts of the County and the cities lying outside the northwest urban area have traditionally been timber- or agriculture-based economies; however, residents are increasingly commuting to jobs in the Portland and Salem urban areas.

FINDING

The proposed change creates a rectangular site well suited, along 82nd (a transit corridor), to be developed businesses that create entre level and professional employment. The creation of a developable rectangle allows for the development of uses that could utilize a site without having a portion carved out creating inefficient placement of buildings and uses.

Chapter 9 – Open Space, Parks & Historic Sites

The conservation of land, water, and historic resources, and the related provision of recreation opportunities, is one of the most important factors in maintaining the quality of life which has made Clackamas County an attractive place to live. Recently, however, the urban area in particular has experienced a sharp jump in population, with substantial changes in the physical environment. Population growth is inevitable, at least for the foreseeable future, but the degradation of our communities is not.

FINDING

The requested amendment does not affect open space, parks, or historic sites.

Chapter 10 - Community Plans & Design Plans

The following Community Plans and Design Plans are included in Chapter 10:

5. Clackamas Regional Center Area Design Plan

CLACKAMAS REGIONAL CENTER AREA DESIGN PLAN

REGION 2040 GROWTH CONCEPT PLAN DESIGN TYPES

The Clackamas Regional Center Area Design Plan focuses on three design types identified in the Region 2040 Growth Concept Plan and Urban Growth Management Functional Plan: a regional center, segments of three corridors and a station community.

Regional Center

An area with the Clackamas Town Center as its focus point is designated a regional center. The boundary is shown on Map X-CRC-1. The Clackamas Regional Center is intended to be the focus of the most intense development and highest densities of employment and housing in unincorporated, urban Clackamas County, with high quality transit service and a multimodal street network.

Corridors

Corridors are less dense than regional centers and are intended to feature a high-quality pedestrian environment and convenient access to transit, while continuing to meet the needs of

the automobile. The Corridors in the Clackamas Regional Center Area are designated as Regional Streets in the Region 2040 Functional Plan, and as such are expected to continue to support high levels of through and local vehicular traffic. The Corridor areas are expected to transition to higher densities through infill and redevelopment. Designated Corridors are 82nd Avenue, Johnson Creek Boulevard, and Sunnyside Road.

Goals

To achieve this vision, the Clackamas Regional Center Area Design Plan describes policies to guide decisions on land use, transportation, housing and urban design that:

- Allow and promote compact development as a means to encourage efficient use of land, promote non-auto trips, and protect air quality.
- Promote development patterns which use land efficiently and support transportation investments.
- Transition towards more intensive use of land through infill and redevelopment, and phased development of infrastructure and urban design improvements.
- Accommodate and encourage appropriate land uses in the Regional Center, along Corridors, and in the Station Community.
- Balance growth with the preservation of existing neighborhoods and affordable housing.
- Create districts and neighborhoods
- Provide a range of housing types and density.
- Provide for more efficient parking.
- Provide or enhance public amenities such as open space, neighborhood parks, and public gathering places.
- Preserve and enhance natural features.
- Increase community attractions.
- Provide attractive streetscapes.
- Create civic spaces.
- Create a safe and pleasant environment.
- Incorporate design standards and guidelines that promote urban character.
- Increase visual identity.
- Provide a transportation network that provides for all modes of transportation.
- Improve circulation and connections for all modes of transportation.
- Maintain excellent regional access.

FINDING

The request will create a rectangular site on SE 82nd avenue between SE Lindy Street and SE Cornwell. A large rectangular site is available to meet the goals defined. The existing site has an approximately 10,000 square foot residential encroachment.

CLACKAMAS REGIONAL CENTER AREA DESIGN PLAN POLICIES

LAND USE POLICIES

I. GENERAL LAND USE POLICIES

The following uses are allowed within the Clackamas Regional Center Area:

2.0 Commercial

The following Commercial land use plan designations shall be provided in the Clackamas Regional Center Area: Regional Center Commercial, Retail Commercial, Corridor Commercial, Regional Center Office, and Office Commercial. Commercial areas within the Clackamas Regional Center Area shall:

- 2.1 Allow a mix of land uses on the development site;

- 2.2 Create a district accessible by all modes of transportation;
- 2.3 Create walkable districts by providing improvements and urban design features that encourage and support pedestrian use;
- 2.4 Allow land uses that generate pedestrian activity and transit ridership;
- 2.5 Require public or private street layouts that allow for future development of sites with redevelopment potential;
- 2.6 Maintain and improve pedestrian connections between commercial uses, transit corridors, recreation areas, open space, and adjacent residential areas;
- 2.7 Locate all buildings to maximize access by emergency vehicles;
- 2.8 Require design review for all development;
- 2.9 Implement dimensional and development standards to address compatibility, function, and aesthetics;
- 2.10 Provide for the efficient utilization of commercial areas while protecting adjacent properties and surrounding neighborhoods; and
- 2.11 Ensure that the minimum operational requirements of development are provided on-site.

FINDING

The proposed amendment creates a rectangular block between two streets abutting SE 82nd with a single straight lot line between the commercial and residential uses. A single lot line can maintain a more effective buffer (as opposed to a jagged three lot lines) and provide sufficient physical capacity to accommodate uses that meet these goals.

III. CORRIDOR LAND USE

POLICIES

- 1.0 Land uses in Corridors shall be planned to:
 - 1.1 Provide for both employment and housing, including mixed use.
 - 1.2 Emphasize providing for a high level of bus usage, with land uses and transportation facilities to support bus use.
 - 1.3 Encourage and support pedestrian travel with supportive land uses, frequent street connections, and sidewalks and pedestrian-ways.
 - 1.4 Provide for vehicular traffic and auto-oriented uses, while expanding the share of trips via transit and other modes.
- 2.0 Corridor Land Use Plan Designations
 - A range of land use plan designations may be applied within a designated Corridor identified on Map X-CRC-1. Each corridor shall include within its area designations that provide primarily for employment and shopping, and designations that provide primarily for dwellings.
 - 2.1 Commercial land use plan designations that may be applied include: Corridor Commercial, Retail Commercial, and Office Commercial. Any site designated for a commercial use shall be located adjacent to the Corridor street.
 - 2.2 Residential land use plan designations that may be applied include: High Density Residential and Medium High Density Residential. These Residential designations should generally be located so as to form a buffer between commercial uses adjacent to the Corridor street and low density residential areas located outside the Corridor.
 - 2.3 Industrial land use plan designations that may be applied include: Light Industrial and Business Park.
 - 2.4 Existing single-family neighborhoods and manufactured dwelling parks should be zoned to discourage redevelopment to other uses.
- 3.0 Corridor Commercial
 - 3.1 The following areas may be designated Corridor Commercial when located within a Corridor as identified on Map X-CRC-1 and when all of the following criteria have been met:

- a. The site has an historical commitment to commercial uses;
- b. The designation will not cause a decrease in housing capacity in the County;
- c. The designation will not cause a significant traffic increase on local streets serving residential areas;
- d. Adverse effects, including, but not limited to, traffic and noise, will have a minimal effect on adjacent neighborhoods, or can be minimized through on-site improvements; and
- e. The designation will not substantially increase an existing commercial strip or create new strips.

3.2 Provide commercial areas located in transportation corridors to meet local and regional needs for a wide range of goods and services.

3.3 Provide for the sale of large-scale items in areas with good transportation access and minimal conflict with other uses.

3.4 Allow mixed uses in the same building(s) or in a separate building(s) in the development.

3.5 Establish design and dimensional standards that encourage and support pedestrian use.

FINDING

The site is located in the Clackamas Regional Center on a corridor. An approval will result in a developable rectangular lot.

3.0 Corridor Commercial, 3.1 specifies "criteria" that must be met to allow for an amendment to the plan and zone map. "Criteria" in a Comprehensive Plan is very rare as a Comprehensive Plan is implemented by a zoning code where the plan's goals and objective become proscriptive in the zoning code and map and can be applied to discrete lots. The placement of this "criteria" is an attempt to prevent commercial encroachment into residential areas. This particular case represents a residential encroachment into a commercial area creating a jaggging line where impacts occur on three lot lines as opposed to one.

The proposal does not decrease housing capacity in a material way. The amendment creates a rectangular site that allows necessary flexibility to reduce traffic impacts on the neighborhood and allow the state highway (82nd) to function well. Any adverse impacts can be mitigated through the development review process. A single lot line makes mitigation possible. The current situation creates corners where a uses occupies two sides of the abutting uses site. The proposal creates a commercial node and provides depth for the intensification of commercial activity as opposed to focusing commercial uses to a thin strip on SE 82nd. The full block on SE 82nd to the south of Lindy is completely corridor commercial. The site and structure have been vacant since 2007. Residential uses on the subject site are dominated by the abutting commercial uses that that dominate the vacant parcel.

Chapter 11 – The Planning Process

The purpose of Clackamas County's comprehensive planning process is to establish a framework for land use decisions that will meet the needs of County residents; recognize the County's interrelationships with its cities, surrounding counties, the region, and the state; and ensure that

changing priorities and circumstances can be met. Coordination with other governmental agencies and refinement of this Plan and County ordinances is essential to achieve this end.

FINDING

The requested amendment is processed through a quasi-judicial land use process that requires public hearings before Clackamas County Planning Commission and Clackamas County Board of County Commissioners. The Board of County Commissioners is empowered to approve or deny the application.

1202.03 GENERAL APPROVAL CRITERIA A zone change requires review as a Type III or IV application pursuant to Section 1307, Procedures, and shall be subject to the following standards and criteria:

A. The proposed zone change is consistent with the applicable goals and policies of the Comprehensive Plan.

FINDING

A comprehensive plan amendment to Corridors (COR) is requested concurrent with the request for a zone change.

B. If development under the proposed zoning district designation has a need for any of the following public services, the need can be accommodated with the implementation of the applicable service provider's existing capital improvement plan:

Sanitary sewer,

FINDING

Clackamas County Service District No. 1 has an existing 6" sanitary sewer main in SE Cornwell that currently serves the subject parcel. The rectangular commercial block that will be created by this zone change will also front SE Lindy Street which has an existing 8" sanitary sewer main. Water Environment Services has provided a Preliminary Statement of Feasibility that indicates: "Sanitary sewer capacity in the wastewater treatment system and the sanitary sewage collection system is available to serve the development or can be made available through improvements completed by the developer or the system owner".

Surface water management, and

FINDING

The soils underlying the subject parcel consist of Hydrologic Group "B" soils which are conducive to onsite stormwater infiltration systems and reduce the need for new public stormwater infrastructure. The applicant has performed onsite infiltration testing, prepared preliminary stormwater designs, and obtained from Water Environment Services a Preliminary Statement of Feasibility that indicates: "Adequate surface water treatment and conveyance is available to serve the development or can be made available through improvements completed by the developer or the system owner".

The redevelopment of the full rectangular block that would be facilitated by this zone change request would allow the rest of the rectangle that is currently impervious

pavement and producing uncontrolled runoff to adjacent properties and rights of-way to be able manage all runoff onsite. New infiltration facilities will further the Water Resources Goal to: "Maintain or improve the quality and quantity of groundwater. " Rainfall that currently runs off the existing impervious areas from the subject parcel and the remainder of the rectangle, approximately 51,000 square feet, would be treated in vegetated facilities and infiltrated into the ground thereby improving the quality and the quantity of groundwater.

**Water.
FINDING**

Clackamas River Water District maintains a 10" water main in SE 82nd Avenue, a 4" water main in SE Cornwell, and will require an 8" water main extension along the frontage of SE Lindy Street as part of the redevelopment of the rectangular block. The 8" water main extension will improve service to neighboring properties. Clackamas River Water District has provided a Preliminary Statement of Feasibility that indicates: "Water service is available in levels appropriate for the development and adequate water system capacity is available in source, supply, treatment, transmission, storage and distribution or such levels and capacity can be made available through improvements completed by the developer or system owner".

The redevelopment of the full rectangular block into an automated carwash puts into place an opportunity to preserve local water resources and improve local stream water quality. Carwash equipment recycles water and prevents polluted water from entering surface waters as runoff when compared to current private or commercial hand washing procedures.

The cumulative impact of the proposed zone change and development of other properties under CLACKAMAS COUNTY ZONING AND DEVELOPMENT ORDINANCE 1202-2 Last Amended 1/18/17 existing zoning designations shall be considered.

C. The transportation system is adequate and will remain adequate with approval of the proposed zone change. For the purpose of this criterion:

1. Adequate means a maximum volume-to-capacity ratio (v/c), or a minimum level of service (LOS), as established by Comprehensive Plan Tables 5-2a, Motor Vehicle Capacity Evaluation Standards for the Urban Area, and 5-2b, Motor Vehicle Capacity Evaluation Standards for the Rural Area.

2. The evaluation of transportation system adequacy shall be conducted pursuant to the Transportation Planning Rule (Oregon Administrative Rules 660-012- 0060).

3. It shall be assumed that the subject property is developed with the primary use, allowed in the proposed zoning district, with the highest motor vehicle trip generation rate.

4. The methods of calculating v/c and LOS are established by the Clackamas County Roadway Standards.

5. The adequacy standards shall apply to all roadways and intersections within the impact area of the proposed zone change. The impact area shall be identified pursuant to the Clackamas County Roadway Standards.

6. A determination regarding whether submittal of a transportation impact study is required shall be made based on the Clackamas County Roadway Standards, which also establish the minimum standards to which a transportation impact study shall adhere.

7. Notwithstanding Subsections 1202.03(C)(4) through (6), motor vehicle capacity calculation methodology, impact area identification, and transportation impact study requirements are established by the ODOT Transportation Analysis Procedures Manual for roadways and intersections under the jurisdiction of the State of Oregon.

FINDING

A Transportation Impact Study (TIS) has been prepared addressing Transportation Planning Rule (TPR) criteria outlined in Oregon Administrative Rule (OAR) 660 012-0060 and Clackamas County Zoning and Development Ordinance (ZDO) criteria. TIS findings indicate the proposed Comprehensive Plan Amendment and Zone Change is not anticipated to significantly affect a transportation facility, no further TPR analysis is necessary, and the transportation system is adequate and will remain adequate with approval of the proposed zone change.

D. Safety of the transportation system is adequate to serve the level of development anticipated by the proposed zone change.

FINDING

The Transportation Impact Study (TIS) prepared addressing Transportation Planning Rule (TPR) criteria outlined in Oregon Administrative Rule (OAR) 660 012-0060 and Clackamas County Zoning and Development Ordinance (ZDO) criteria found the safety of the transportation system is adequate to serve the level of development anticipated by the proposed zone change.



COMP PLAN/ZONE CHANGE - PRE-APPLICATION INFORMATION SHEET

File Number: ZPAC0052-18

Conference Date: May 8, 2018

Time: 3:00pm **Rm:** 209

Planner: Martha Fritzie

Phone No.: 503-742-4529

E-mail: mfritzie@clackamas.us

Applicant(s): Dan Symons/ Washman LLC

Phone No.: 503-760-1353

Applicant(s) E-mail Address: dan_sec@qwestoffice.net; markh@washmanusa.com

Site Address: 8220 SE Cornwell Ave

Legal Description: T 1S, R 2E, Section 28BB, Tax Lot(s) 12500, 12600, 12700, 13400, 13300

Zone(s): R-5, Urban Low Density Residential **Comp Plan:** LDR
CC, Corridor Commercial COR

UGB: inside **Total Land Area:** approximately 0.23 acres (R-5)

Description of Proposed Use: Zone change from R-5 to CC for 0.23 acre parcel, to enable the development of a car wash facility on this and the adjacent properties listed above (already zoned CC)

Type of Application(s) Required / Filing Fee / Application Process:

Conditional Plan Map Amendment (\$4,000)	Requires Public Hearing	6,510
Zone Change (\$2,510)	Requires Public Hearing	

Other(s) Design Review would be required prior to commencement of development of the commercial use

***Note: Fees may change between your pre-application conference and application submittal.**

Previous Land Use Actions:

Past Approvals: (History Files, Accela, Rolodex, Fiche, Permits Plus, App. Extender, Old Building Records, Replacement Dwelling Agreements, Tax Assessors, Old Aerial Photos, etc.):

None

Background Research, Review of Resource Inventories, etc.

River Resources:

Flood Hazard Development: NO Section 703, NO
PreApp Information Sheet ZPAC0052-18 (MF)

use to qualify for the CC designation. Please note also that there is a requirement that the designation not cause a decrease in housing capacity in the county (Policy 3.1.b). All other applicable policies elsewhere in the Comprehensive Plan need to be addressed.

Other Requirements:

Traffic Study Required: YES, Please contact **Christian Snuffin (503) 742-4716, csnuffin@clackamas.us** or **Rick Nys (503) 742-4702, richardnys@clackamas.us** to work with your consultant to scope required traffic study. Comp Plan/Zone change must meet requirement of Transportation Planning Rule ((OAR 660-012-0060).

Design Review: Design review will need to be completed after adoption of Comp Plan/Zone change, if approved

Service Providers and CPO:

Water District: Clackamas River Water

Sewer District: CCSD#1/WES

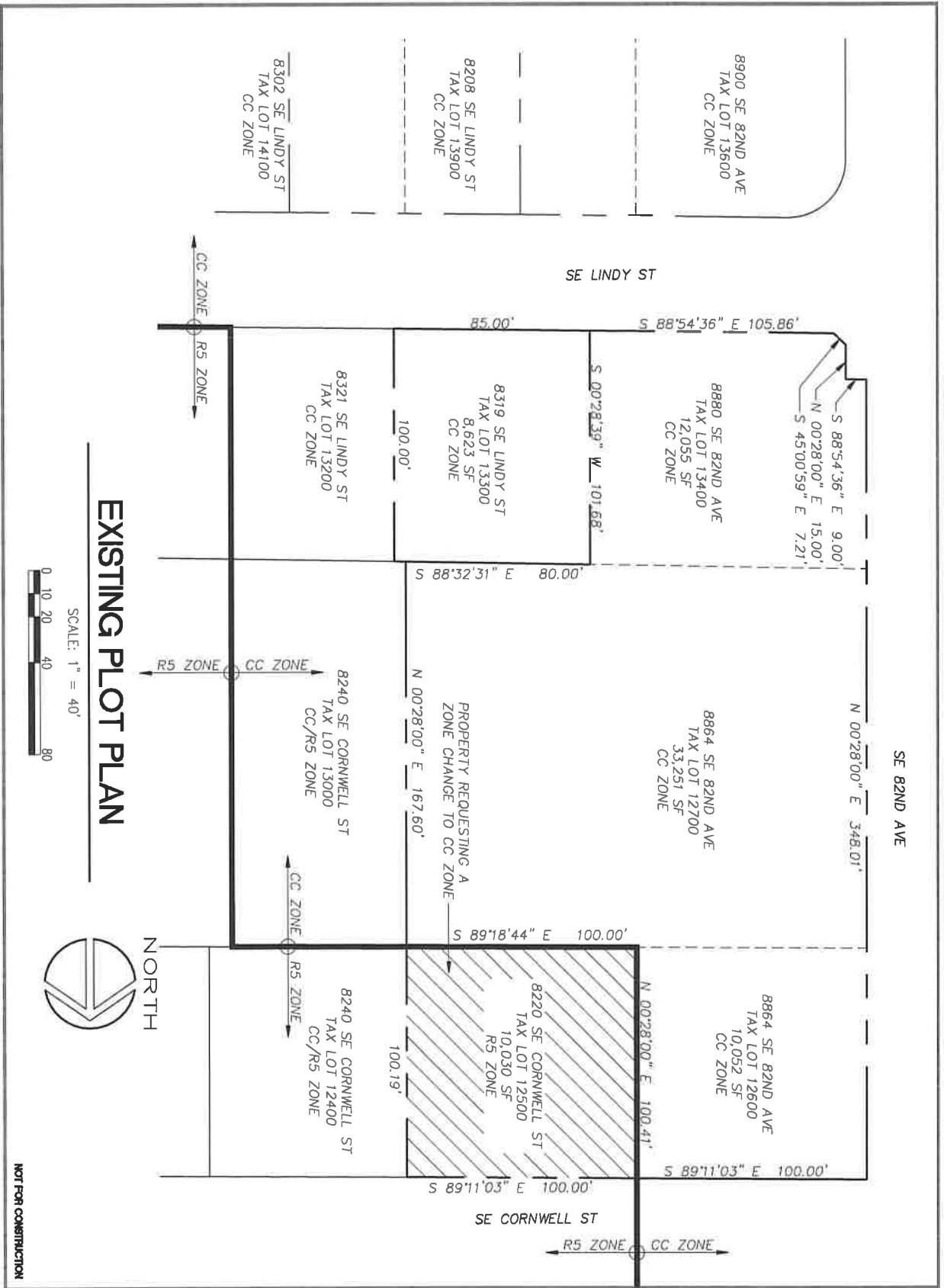
Fire District: CC RFPD#1

CPO: Southgate CPO

Hamlet/Village: none

Transportation and Park System Development Charges; Contact Lori Phillips, Development Agency, 503-742-4331, loriphi@co.clackamas.or.us

Clackamas County Planning webpage: <http://www.clackamas.us/planning/>; links to Comprehensive Plan and Zoning & Development Ordinance are found on left side of the webpage



SYMONS ENGINEERING CONSULTANTS, INC.

12805 a.e. boelter road
 portland, oregon 97286
 phone 503 750 3353
 facsimile 503 752 1992

CLIENT

WASHINGTON, LLC
 PO BOX 484
 PORTLAND, OR 97218
 503-948-4582

PROJECT

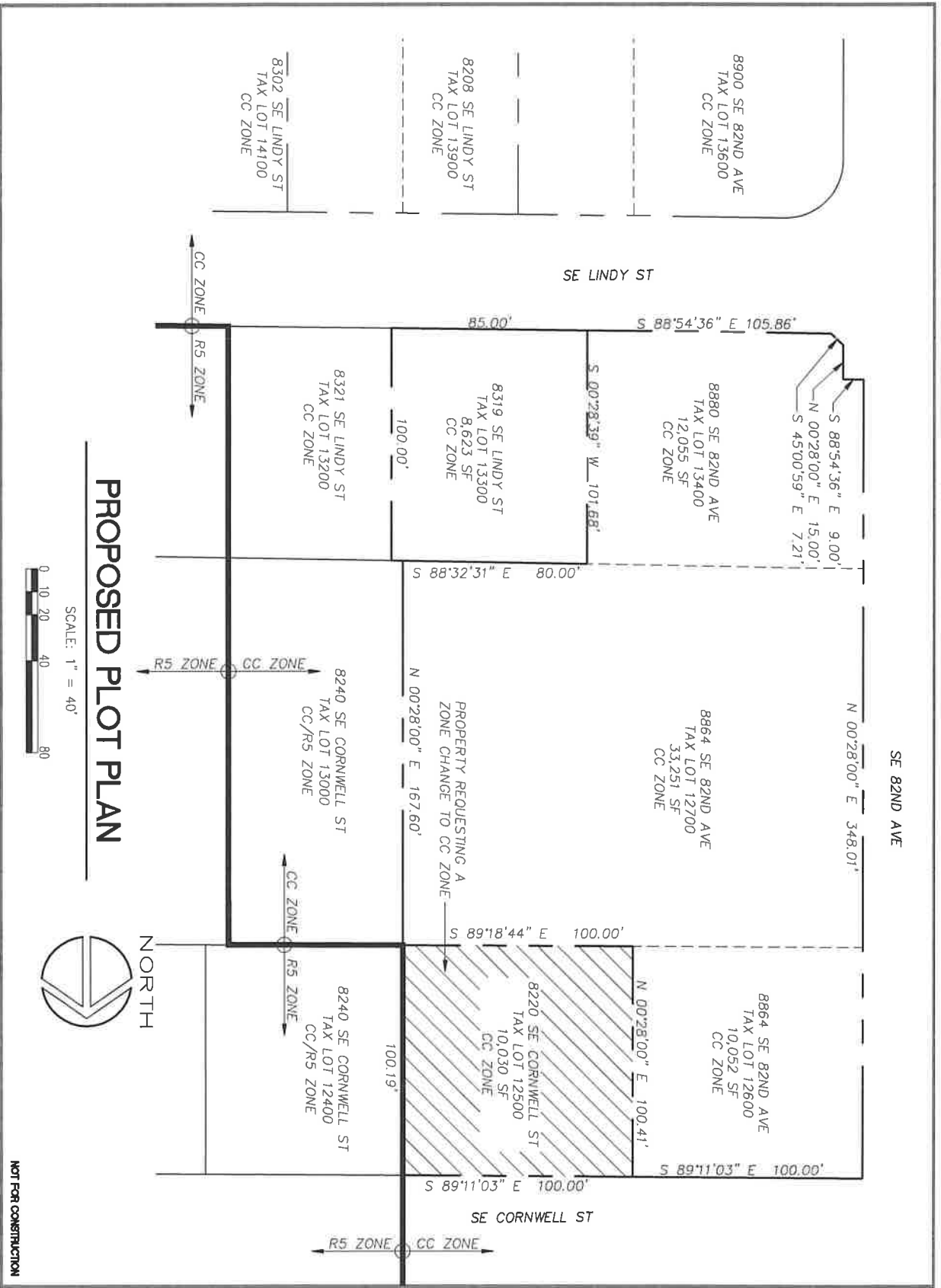
**WASHMAN
 82ND & LINDY**

SITE ADDRESS
 8220 SE CORNWELL ST
 HAPPY VALLEY, OR 97086

SHEET NAME
 EXISTING PLOT PLAN

ISSUE DATE AUGUST 1, 2008
DRAWING FILE D-44CDWG
PROJECT NUMBER D-44
SHEET 1
OF 2 SHEETS

C1



**SYMONS ENGINEERING
CONSULTANTS, INC.**

12805 a.e. foeller road
portland, oregon, 97236
phone 503 760 3553
facsimile 503 762 9982

CLIENT
WASHMAN LLC
PO BOX 4824
PORTLAND, OR 97218
503-949-4582

PROJECT
**WASHMAN
82ND & LINDY**

SITE ADDRESS
8220 SE CORNWELL ST
HAPPY VALLEY, OR 97086

SHEET NAME
PROPOSED PLOT PLAN

ISSUE DATE AUGUST 1, 2008
DRAWING FILE D-44.DWG
PROJECT NUMBER D-44
SHEET 2

OF 2 SHEETS

C2



July 9, 2018

Clackamas County
Attention: Christian Snuffin and Rick Nys
380 A Avenue 3rd Floor
Lake Oswego, Oregon 97034

**Re: Comprehensive Plan Amendment and Zone Change – SE 82nd Avenue/SE Cornwell Street
Clackamas County, Oregon**

Transportation Impact Study (TIS)

Clackamas County File Number ZPAC0052-18
C&A Project Number 20180601.00

Dear Messrs. Snuffin and Nys,

This Transportation Impact Study (TIS) supports the proposed property rezoning contemplated during the May 8, 2018 Clackamas County Pre-Application conference for File Number ZPAC0052-18. Materials contained in this TIS are based on preliminary County staff comments on the applicant's July 9, 2018 TIS Preliminary Analysis and Proposed Scope of Work prepared by Clemow & Associates. The following items are specifically addressed in this TIS:

1. Property Description and Proposed Land Use Actions
2. Trip Generation
3. Summary

1. PROPERTY DESCRIPTION AND PROPOSED LAND USE ACTIONS

The subject property is located east of SE 82nd Avenue and south of SE Cornwell Avenue as shown in the attached Figure 1. The property is 9,998 square feet in size and is described as tax lot 12500 on Clackamas County Assessor's Map 1S2E28BB.

Tax lot 12500 is zoned Clackamas County Urban Low-Density Residential 4,000-square foot minimum lot size (R-5) and the proposed land use action is for a Comprehensive Plan Amendment and Zone Change to Corridor Commercial (CC). As such, a TIS is necessary to address Transportation Planning Rule (TPR) criteria outlined in Oregon Administrative Rule (OAR) 660 012-0060 in addition to Clackamas County Zoning and Development Ordinance (ZDO) criteria.

2. TRIP GENERATION

Transportation Planning Rule Analysis

The Comprehensive Plan Amendment and Zone Change land use action requires a TIS to address TPR requirements, including a comparison of reasonable worst case development scenarios in both the current and proposed zone designations. Scenario assumptions are as follows:

TABLE 1 – REASONABLE WORST-CASE DEVELOPMENT ASSUMPTIONS			
Zone Designation	Property Size	Reasonable Worst-Case Development	
		Assumption	Size
Current			
Clackamas County Urban Low-Density Residential (R-5)	9,988 SF	Per Clackamas County ZDO Section 315, Table 315-2, the minimum R-5 lot size is 4,000 SF. Therefore, assume 2 single-family residences.	2 DU
Proposed			
Clackamas County Corridor Commercial (CC)	9,988 SF	Per Clackamas County ZDO Section 510, the CC zone allows numerous commercial uses. Given the small property size, assume a coffee kiosk.	2,000 SF ¹

¹ Average development size based on Institute of Transportation Engineers (ITE) *Trip Generation Manual*, 10th Edition data for Land Use 937 - Coffee/Donut Shop with Drive-Through Window.

Trip generation estimates for the reasonable worst-case development scenarios in the current and proposed zone designations are estimated using data from the Institute of Transportation Engineers (ITE) *Trip Generation Manual*, 10th Edition and are summarized in the following table.

TABLE 2 – REASONABLE WORST- CASE DEVELOPMENT TRIP GENERATION					
Land Use	ITE Code	Size	PM Peak Hour Trip Generation ¹		
			Enter	Exit	Total
Current R-5 Zone Designation					
Single-Family Detached Housing	210	2 DU	2	0	2
Proposed CC Zone Designation					
Coffee/Donut Shop with Drive-Thru	937	2,000 SF	43	44	87
Pass-By/Diverted-Link Trips²			38 (89%)	38 (89%)	76
Primary (Net New) Trips			5	6	11
Increase in Primary Trip Generation with Zone Change			3	6	9

¹ Trip generation estimated using the rate for ITE Codes 210 and 937 per recommended practice in the ITE *Trip Generation Handbook*, 3rd Edition.

² Pass-By trip percentages based on data contained in the ITE *Trip Generation Handbook*, 3rd Edition for a similar use - ITE Code 938 Coffee/Donut Shop with Drive-Through Window and No Indoor Seating.

As identified in the table above, reasonable worst-case development generates 2 new PM peak hour trips in the current R-5 zone designation and 11 in the proposed CC zone designation. It should be noted that while a coffee/donut shop with a drive-thru generates a total 87 PM peak hour trips, the majority of these are pass-by/diverted-link trips from SE 82nd Avenue and very few are new trips added to the transportation system. As a result, the proposed rezoning only adds 9 primary (net new) PM peak hour trips to the transportation system.

For TPR evaluation purposes, this increase is considered *de minimus*, primarily because the small turning movement increases (even when considering *total* trip generation – versus *primary*) at the SE 82nd Avenue/SE Cornwall Avenue intersection will have a negligible effect on the intersection (critical movement) volume-to-capacity (v/c) ratio. As such, the proposed property rezoning is not anticipated to significantly affect a transportation facility and no further TPR analysis is necessary.

3. SUMMARY

Based on materials contained in this analysis, the proposed Comprehensive Plan Amendment and Zone Change is not anticipated to significantly affect a transportation facility and no further TPR analysis is necessary to address Transportation Planning Rule (TPR) criteria outlined in Oregon Administrative Rule (OAR) 660 012-0060 or Clackamas County Zoning and Development Ordinance (ZDO) criteria.

Sincerely,



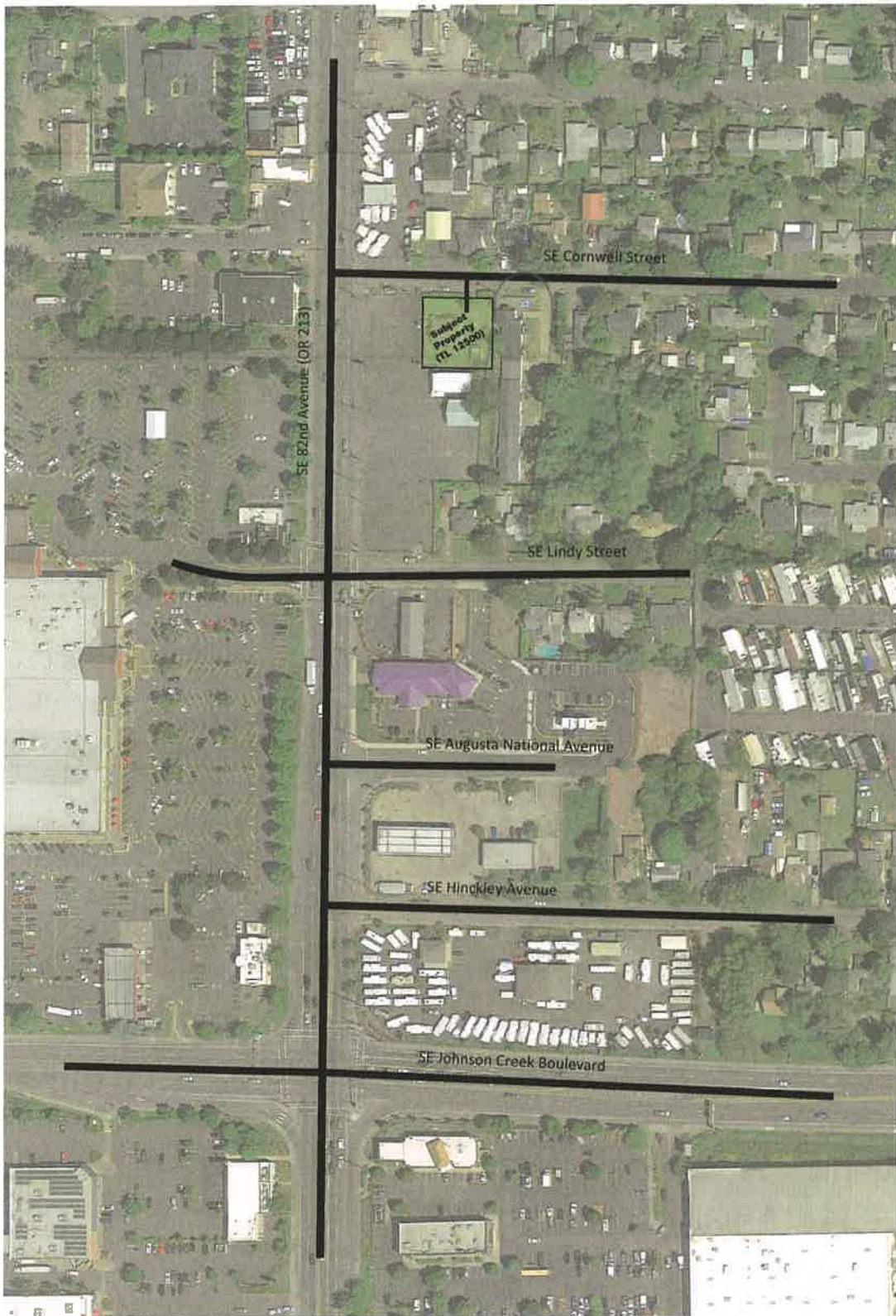
Christopher M. Clemow, PE, PTOE
Transportation Engineer

Attachments: Figure 1 – Site Location

c: Dan Symons, Symons Engineering Consultants



RENEWS 31 DEC 2019



1582 Feters Loop
 Eugene, Oregon 97402
 541-579-8315
 clemow@clemow-associates.com

SITE LOCATION

Comprehensive Plan Amendment and Zone Change
 SE 82nd Avenue/SE Cornwell Street - Clackamas County, Oregon
 C & A Project No. 20180601.00

FIGURE

1



**SYMONS ENGINEERING
CONSULTANTS, INC.**

12805 s.e. foster road
portland, oregon 97236
phone 503 760 1353
facsimile 503 762 1962

CLIENT

WASHMAN, LLC
PO BOX 4124
PORTLAND, OR 97218
503-849-4582

PROJECT

**WASHMAN
82ND & LINDY**

SITE ADDRESS

**8220 SE CORNWELL ST
HAPPY VALLEY, OR 97086**

SHEET NAME

EXISTING PLOT PLAN

ISSUE DATE **AUGUST 1, 2018**

DRAWING FILE **17-44c.DWG**

PROJECT NUMBER **17-44**

SHEET 1

OF 2 SHEETS

C1

NOT FOR CONSTRUCTION

SE 82ND AVE

N 00°28'00" E 348.01'

S 88°54'36" E 9.00'

N 00°28'00" E 15.00'

S 45°00'59" E 7.21'

SE LINDY ST
S 88°54'36" E 105.86'

8880 SE 82ND AVE
TAX LOT 13400
12,055 SF
CC ZONE

8864 SE 82ND AVE
TAX LOT 12700
33,251 SF
CC ZONE

8864 SE 82ND AVE
TAX LOT 12600
10,052 SF
CC ZONE

S 00°28'39" W 101.68'

8319 SE LINDY ST
TAX LOT 13300
8,623 SF
CC ZONE

S 88°32'31" E 80.00'

PROPERTY REQUESTING A
ZONE CHANGE TO CC ZONE

8220 SE CORNWELL ST
TAX LOT 12500
10,030 SF
R5 ZONE

SE LINDY ST

85.00'

8208 SE LINDY ST
TAX LOT 13900
CC ZONE

N 00°28'00" E 167.60'

100.00'

S 89°18'44" E 100.00'

8240 SE CORNWELL ST
TAX LOT 12400
CC/R5 ZONE

S 89°11'03" E 100.00'

SE CORNWELL ST
R5 ZONE

8302 SE LINDY ST
TAX LOT 14100
CC ZONE

CC ZONE R5 ZONE

8321 SE LINDY ST
TAX LOT 13200
CC ZONE

8240 SE CORNWELL ST
TAX LOT 13000
CC/R5 ZONE

8240 SE CORNWELL ST
TAX LOT 12400
CC/R5 ZONE

CC ZONE R5 ZONE

R5 ZONE CC ZONE

NORTH



EXISTING PLOT PLAN

SCALE: 1" = 40'





SYMONS ENGINEERING CONSULTANTS, INC.

12805 s.e. foster road
portland, oregon 97236
phone 503 760 1353
facsimile 503 762 1962

CLIENT

WASHMAN, LLC
PO BOX 4124
PORTLAND, OR 97218
503-849-4582

PROJECT

WASHMAN
82ND & LINDY

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HAPPY VALLEY, OR 97086

SHEET NAME

PROPOSED PLOT PLAN

ISSUE DATE AUGUST 1, 2018

DRAWING FILE 17-44c.DWG

PROJECT NUMBER 17-44

SHEET 2

OF 2 SHEETS

C2

NOT FOR CONSTRUCTION

SE 82ND AVE

N 00°28'00" E 348.01'

S 88°54'36" E 9.00'

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S 88°54'36" E 105.86'

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CC ZONE

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TAX LOT 13300
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ZONE CHANGE TO CC ZONE

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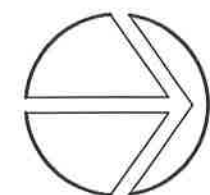
8240 SE CORNWELL ST
TAX LOT 12400
CC/R5 ZONE

R5 ZONE
CC ZONE

CC ZONE R5 ZONE

CC ZONE R5 ZONE

NORTH



PROPOSED PLOT PLAN

SCALE: 1" = 40'



8900 SE 82ND AVE
TAX LOT 13600
CC ZONE

8208 SE LINDY ST
TAX LOT 13900
CC ZONE

8302 SE LINDY ST
TAX LOT 14100
CC ZONE

SE LINDY ST

85.00'

October 1, 2018

Martha Fritzie
Clackamas County Planning and Zoning
150 Beaver Creek Road
Oregon City, OR 97045

RE: Z0375-18-CP and Z0376-18-ZAP
8880 SE 82nd

Please accept this response to your notice of incomplete application dated August 22, 2018 and deem our land use application complete.

1. The Preliminary Statements of Feasibility are attached.
2. A memorandum that addresses the findings related to the notice's identified Comprehensive Plan policies is also attached.

Sincerely,



Peter Finley Fry

attachments

Your application will be deemed complete if the Planning Division receives one of the following:

1. All of the missing information; or
2. Some of the missing information and written notice from you (the applicant) that no other information will be provided; or
3. Written notice from you (the applicant) that none of the missing information will be provided.

Applicant or authorized representative, please check one of the following and return this notice to: Clackamas County Planning Division; 150 Beavercreek Road, Oregon City, Oregon, 97045

- I am submitting the required information (attached); or.
- I am submitting some of the information requested (attached) and no other information will be submitted; or
- I will not be submitting the requested information. Please accept the application as submitted for review and decision.



Signed

10/1/18
Date

Peter F Fry
Print Name



PRELIMINARY STATEMENT OF FEASIBILITY

To be completed by the applicant:

Applicant's Name: Symons Engineering
Property Legal Description: T 1 S, R 2E, Section 2833, Tax Lot(s) 12600, 12700, 13400 + 12500
Site Address: 8220 SE Cornwell St Project Engineer: Dan Symons
Project Title/Description of Proposed Development: Washman Carwash / Comprehensive Plan Change + Zone Change to TL 12500

To be completed by the service provider or surface water management authority:

Check all that apply:

- Sanitary sewer capacity in the wastewater treatment system and the sanitary sewage collection system is available to serve the development or can be made available through improvements completed by the developer or the system owner.
Adequate surface water treatment and conveyance is available to serve the development or can be made available through improvements completed by the developer or the system owner.
Water service is available in levels appropriate for the development, and adequate water system capacity is available in source, supply, treatment, transmission, storage and distribution or such levels and capacity can be made available through improvements completed by the developer or the system owner. This statement applies does not apply to fire flows.*
This statement is issued subject to conditions of approval set forth in the attached.
Adequate sanitary sewer service, surface water management, water service cannot be provided.

Eric Cover
Signature of Authorized Representative

7/6/18
Date

DEVELOPMENT REVIEW SPECIALIST
Title

WES
Name of Service Provider or Surface Water Management Authority

Completion of this statement does not reserve capacity for the development and does not alter an applicant's obligation to comply with the service provider's or surface water management authority's regulations. Completion of this statement does not obligate the service provider or surface water management authority to finance or construct improvements necessary to provide adequate service for the proposed development. Completion of this statement does not guarantee that land use approval for the proposed development will be granted.

150 Beavercreek Road, Oregon City, Oregon, 97045 - Phone: 503-742-4500; Fax 503-742-4550



PRELIMINARY STATEMENT OF FEASIBILITY

To be completed by the applicant:

Applicant's Name: Symons Engineering
Property Legal Description: T 1 S, R 2E, Section 2833, Tax Lot(s) 12600, 12700, 13400 + 12500
Site Address: 8220 SE Cornwell St Project Engineer: Dan Symons
Project Title/Description of Proposed Development: Washman Carwash / Comprehensive Plan Change + Zone Change to TH 12500

To be completed by the service provider or surface water management authority:

Check all that apply:

- Sanitary sewer capacity in the wastewater treatment system and the sanitary sewage collection system is available to serve the development or can be made available through improvements completed by the developer or the system owner.
Adequate surface water treatment and conveyance is available to serve the development or can be made available through improvements completed by the developer or the system owner.
Water service is available in levels appropriate for the development, and adequate water system capacity is available in source, supply, treatment, transmission, storage and distribution or such levels and capacity can be made available through improvements completed by the developer or the system owner. This statement applies does not apply to fire flows.*

*If water service is adequate with the exception of fire flows, the applicant shall submit a statement from the fire district serving the subject property that states that an alternate method of fire protection, such as an on-site water source or a sprinkler system, is acceptable.

- This statement is issued subject to conditions of approval set forth in the attached.
Adequate sanitary sewer service, surface water management, water service cannot be provided.

Erica Cover
Signature of Authorized Representative

7/6/18
Date

DEVELOPMENT REVIEW SPECIALIST
Title

WES
Name of Service Provider or Surface Water Management Authority

Completion of this statement does not reserve capacity for the development and does not alter an applicant's obligation to comply with the service provider's or surface water management authority's regulations. Completion of this statement does not obligate the service provider or surface water management authority to finance or construct improvements necessary to provide adequate service for the proposed development. Completion of this statement does not guarantee that land use approval for the proposed development will be granted.

150 Beaver Creek Road, Oregon City, Oregon, 97045 - Phone: 503-742-4500; Fax 503-742-4550



PRELIMINARY STATEMENT OF FEASIBILITY

To be completed by the applicant:

Applicant's Name: Symons Engineering
Property Legal Description: T 1 S, R 2 E, Section 2833, Tax Lot(s) 12600, 12700, 13400 + 12500
Site Address: 8220 SE Cornwell St Project Engineer: Dan Symons
Project Title/Description of Proposed Development: Washman Carwash / Comprehensive Plan Change + Zone Change to TL 12500

To be completed by the service provider or surface water management authority:

Check all that apply:

- Sanitary sewer capacity in the wastewater treatment system and the sanitary sewage collection system is available to serve the development or can be made available through improvements completed by the developer or the system owner.
Adequate surface water treatment and conveyance is available to serve the development or can be made available through improvements completed by the developer or the system owner.
Water service is available in levels appropriate for the development, and adequate water system capacity is available in source, supply, treatment, transmission, storage and distribution or such levels and capacity can be made available through improvements completed by the developer or the system owner. This statement applies does not apply to fire flows.*

*If water service is adequate with the exception of fire flows, the applicant shall submit a statement from the fire district serving the subject property that states that an alternate method of fire protection, such as an on-site water source or a sprinkler system, is acceptable.

- This statement is issued subject to conditions of approval set forth in the attached.
Adequate sanitary sewer service, surface water management, water service cannot be provided.

Eric Cauer
Signature of Authorized Representative

7/6/18
Date

DEVELOPMENT REVIEW SPECIALIST
Title

WES
Name of Service Provider or Surface Water Management Authority

Completion of this statement does not reserve capacity for the development and does not alter an applicant's obligation to comply with the service provider's or surface water management authority's regulations. Completion of this statement does not obligate the service provider or surface water management authority to finance or construct improvements necessary to provide adequate service for the proposed development. Completion of this statement does not guarantee that land use approval for the proposed development will be granted.

150 Beaver Creek Road, Oregon City, Oregon, 97045 - Phone: 503-742-4500; Fax 503-742-4550



Water Quality Protection
Surface Water Management
Wastewater Collection & Treatment

Gregory Geist
Director

May 29, 2018

Dan Symons, PE
Symons Engineering
12805 SE Foster Road
Portland, OR 97236

Re: Haney 2-lot Partition - WES Log # 216-17
Stormwater Management, Sanitary Sewer, and Erosion Control Plan Review

Water Environment Services, a Department of Clackamas County, has reviewed the storm and sanitary utility and erosion control plans for the above-referenced development. Please address the following comments.

Storm Drainage and Stormwater Management Plan

- ✓ 1. Provide additional infiltration testing at the location of the rain garden and the road shoulder infiltration trenches as required in Appendix E of the Stormwater Standards. Design the facilities based on the results of the additional testing.
- ⊗ 2. Clearly label the top and bottom dimensions of the rain garden infiltration facility and the road shoulder infiltration facilities.
- ✓ 3. Change the 3" AC berm to a trench drain or a gutter section over to the area drain.
- ✓ 4. Check the basin areas on the drainage area map and make sure they match those used in the runoff and design calculations.
- ✓ 5. For the road shoulder infiltration trenches, your calculated length is 107', but I only measure 88' on the plans. Clarify the 2 cf entry on the pond routing summary.
- ✓ 6. Clarify the 27cf entry on the rain garden routing summary. Does it represent the rock lens below the soil media layer?
- ✓ 7. Submit a revised landscape plan for the vegetated facility. Revise the plant numbers and types to match District planting requirements. See Appendix A in the Stormwater Standards for requirements.
- ⊗ 8. Add the growing medium specifications from Appendix A to the plans.
- ✓ 9. Add the length of pipe, type, slope, etc. to the section of private storm line from the leaf trap to the Stormtech infiltrators.
- SEE 10. Submit a complete private storm facilities operations and maintenance plan that covers the onsite facilities. This document will be recorded with the plat.
- " 11. Submit a signed storm sewer engineering agreement. The document can be found on the WES website.
- ⊗ 12. Address all other redlines on the plans and in the drainage study.

Erosion Control Plan Review

1. Add sediment fence or straw wattles to the graded areas above the road rock infiltration facilities to protect them. Add biobags in the graded swale along the side of the proposed house.
2. Add the standard notes from the Erosion Control manual to the plans.

Sanitary Sewer

1. Label the existing manhole and stationing as shown on the redlined plans.
2. The sanitary service lateral to the existing house appears to be in the wrong location on your plan. The tap sheet that was prepared when the service connection was added to the main line shows it located at station 23+35. You will need to accurately locate this service lateral and the sanitary line to the house in order to properly locate the proposed private sanitary easement on the plat.
3. Add the tap note provided on the plan.
4. Show additional private easement for the existing private laterals to the west so that there is a minimum of 5' from the edge of the easement to the private sanitary line.
5. Label the stationing of the proposed service lateral. Show a cleanout on the new service lateral at the edge of the existing public easement.

Fees

Please submit a cost estimate for the onsite and offsite stormwater management systems. The storm plan review fee is 4% of the estimated cost of construction. Make sure you include all landscaping, drain rock, and engineered soil media used in the facilities in your estimate. The following fees are due prior to obtaining plan approval:

Fee Description	Total Fees	Fees Paid	Fees Due
Sanitary Sewer Collection Sewer Charge =	\$750.00	\$0.00	\$750.00
Surface Water Plan Review =	To be determined	\$400.00	To be determined
Erosion Control Plan Review =	\$460.00	\$460.00	\$0.00
Sanitary Plan Review=	\$400.00	\$400.00	\$0.00
Sanitary Sewer Taps =	\$125.00	\$0.00	\$125.00
Plan Review Fees =	To be determined	\$1,260.00	To be determined

Please submit 2 revised copies of the utility plans and stormwater report addressing these comments. If you have any questions, please contact me at 503-742-4582 or you can e-mail me at mikebic@clackamas.us.



Mike Bickerton
Development Review Specialist

cc: File, Deana Mulder - DTD



PRELIMINARY STATEMENT OF FEASIBILITY

To be completed by the applicant:

Applicant's Name: Symons Engineering
Property Legal Description: T 1 S, R 2E, Section 2833, Tax Lot(s) 12600, 12700, 13400 + 12500
Site Address: 8220 SE Cornwell St Project Engineer: Dan Symons
Project Title/Description of Proposed Development: Washman Carwash / Comprehensive Plan Change + Zone Change to TL 12500

To be completed by the service provider or surface water management authority:

Check all that apply:

- Sanitary sewer capacity in the wastewater treatment system and the sanitary sewage collection system is available to serve the development or can be made available through improvements completed by the developer or the system owner.
Adequate surface water treatment and conveyance is available to serve the development or can be made available through improvements completed by the developer or the system owner.
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*If water service is adequate with the exception of fire flows, the applicant shall submit a statement from the fire district serving the subject property that states that an alternate method of fire protection, such as an on-site water source or a sprinkler system, is acceptable.

This statement is issued subject to conditions of approval set forth in the attached.

- Adequate sanitary sewer service, surface water management, water service cannot be provided.

Signature of Authorized Representative: Betty Johnson
Engineering Associate
Title

Date: June 6, 2018
Clackamas River Water
Name of Service Provider or Surface Water Management Authority

Completion of this statement does not reserve capacity for the development and does not alter an applicant's obligation to comply with the service provider's or surface water management authority's regulations. Completion of this statement does not obligate the service provider or surface water management authority to finance or construct improvements necessary to provide adequate service for the proposed development. Completion of this statement does not guarantee that land use approval for the proposed development will be granted.

150 Beavercreek Road, Oregon City, Oregon, 97045 - Phone: 503-742-4500; Fax 503-742-4550



Clackamas River Water

Attachment County Preliminary Statement of Feasibility

To: Dan Symons, Symons Engineering

From: Betty Johnson

Date: June 6, 2018

Re: 8220 SE 82nd Ave, Happy Valley, 97086

● Comments:

- A. CRW reserves the right to require a water main replacement if a development or redevelopment does not meet current water system standards or would demand more capacity for consumption or fire suppression than existing water mains could adequately supply. CRW shall have the sole authority for making the determination of existing mainline capacity and the demand for capacity to the development or redevelopment. The cost of any mainline replacement required to serve the development or redevelopment shall be borne entirely by the Applicant.
- B. *“Water service will be provided only from pipes or mains located within public street, alleys or rights-of-way, or within easements furnished to CRW, and to property or premises with frontage to such mains... Each dwelling or building will be provided with its own water service connection and meter ...No person shall furnish water to other buildings or premises without the written approval of the Board, which may be granted in the sole discretion of the Board, and then only under the specific terms of an agreement approved by CRW”*
- C. Fire hydrant number and distribution shall be in accordance with the Oregon Fire Code C105.1
- D. Placement of fire hydrant systems shall be in accordance with the Oregon Fire Code 507.5.1
- E. Unless Noted on plans or specified otherwise, all construction and backflow devices are to be in accordance with the most recent version of Clackamas River Water standards and the Oregon Administration Rules (OAR), Chapter 333.
- F. All water facilities design, construction, testing and maintenance, where applicable, shall conform to the latest adopted revision of the Oregon state Health Division Administrative Rules chapter 333 on Public water System except where provisions outlined in the Clackamas River Water rules and regulations.
- G. For design of District’s water system improvements, hydraulic system must be analyzed using the worst- case scenario envisioned in the district’s current Water System Facilities Plan. The water system analysis shall be conducted using a simultaneous demand for the

F:\1B County & City Design Review\Pre-App, Design Review & Land Use Applications\8880 SE 82nd Ave\8220 SE 82nd Ave - Statement of Feasibility Conditions(6-6-18).docx

maximum (peak) day demand or peak hour non-fire demand, whichever is greater, and the fire demand.

- H. Any substantial deviation from the approved construction plans must have prior approval of the Water District.
- I. Easements for water facilities shall be provided along property lines and designated on the final plat, as deemed necessary by the Water District.
- J. Resale of water purchased from the Water District will not be permitted. No user shall resell or permit resale of water directly to any person, or for any use.
- K. An approved water system capable of supplying required fire flow for fire protection shall be provided to all premises upon which buildings are to be constructed.
- L. If water service is adequate with the exception of fire flows, the applicant shall submit a statement to Clackamas River Water from the fire district serving the subject property that states that if and /or what alternate method of fire protection is acceptable.
- M. The Engineer of record shall provide a "pressure available" chart on the water system plan sheet of the construction plans; this sheet shall indicate the calculated pressures theoretically available to each lot during static and peak demands.
- N. Upon plan review there may be additional requirements as set forth by the Water District.

individual parcel. When evaluating the site as a whole, it has an established historical commitment to commercial use.

As to the housing capacity issue, I see three reasons that the proposed plan amendment will not cause a decrease in housing capacity in the County.

1. Metro law governs and allows negligible decrease in housing potential.³ The Urban Growth Management Functional Plan (codified as Metro Code Chap. 3.07) governs this plan amendment. It "require[es] each city and county to maintain or increase its housing capacity, except as provided in Section 3.07.120." MC 3.07.110.

MC 3.07.110 thus requires the County to apply MC 3.07.120(e). That provision specifically allows for redesignation of an individual parcel that causes a "negligible" reduction in housing:

A city or county may reduce the minimum zoned capacity of a single lot or parcel so long as the reduction has a negligible effect on the city's or county's overall minimum zoned residential capacity.

The incompleteness letter notes that the County's policy "largely reflects requirements outlined in the UGMFP" I agree, and reasonably assume that the County's policy is intended to carry out the UGMFP provisions.

The only case applying MC 3.07.120(e) supports a conclusion that the County must apply it in this circumstance. In *Housing Land Advocates v. City of Happy Valley*, LUBA No. 2016-031&105, LUBA noted (slip op. at 25-26) that MC 3.07.120(e) requires the local government to demonstrate that the reduction of the minimum zoned capacity of the subject property when compared to the local government's overall minimum zoned residential capacity is negligible.

There, a petitioner challenged the city's comparison of the area of the parcel to the area of the city as a whole and drawing a conclusion that the zone change results in a "negligible effect." LUBA held that MC 3.07.120(e) required the city to compare its overall minimum zoned residential capacity with the reduction of the minimum zoned capacity of the subject property. LUBA demonstrated how this calculation might be done, arriving at a reduction of at least 1.5 percent (the city estimated reductions of .003 and .004 percent), and remanded to the city to include in its findings the city's methodology and math used to calculate the percent reduction in minimum zoned residential capacity resulting from the amendment and to decide whether that percent reduction is "negligible" within

³ The Clackamas County Comprehensive Plan recognizes that with respect to zone changes, "changes must comply with state and regional goals and result in a Plan which is internally consistent." Clackamas County Comprehensive Plan, Ch. 1.

the terms of MC 3.07.120(e). *Housing Land Advocates v. City of Happy Valley*, LUBA No. 2016-031-105 (Mar. 24, 2017). This indicates that the Metro Code standard is not absolute in the way suggested by County staff.

So, the County must determine whether the reduction is "negligible." The County has not compared the overall minimum zoned residential capacity with the reduction of the minimum zoned capacity of the subject property and calculated the percent reduction.⁴

2. Even if we assume that 3.07.120(e) does not apply in the manner just asserted, *Housing Land Advocates v. City of Happy Valley*, the County does not prohibit any plan amendment from reducing housing potential. Rather, the plan at most prohibits reduction of housing stock below the level the county reported to Metro at its last periodic review. Because this proposed amendment would not cause such a reduction, it is not prohibited.
3. If we further assume that (a) Section 3.07.120(e) does not specifically authorize this plan amendment and (b) the county prohibits any plan amendment from reducing housing potential, the subject proposed plan amendment still complies. To this point, I note that the proposed Corridor designation allows housing outright. In fact, it appears to me that, as compared to the existing new designation authorizes more dwellings on the subject parcel than does the existing one.

Thank you for the opportunity to assist and please forward me any comments or questions.

⁴ I further note that the City of Happy Valley

EXHIBIT LIST
IN THE MATTER OF Z0375-18-C & Z0376-18-ZAP
Washman LLC Comprehensive Plan/Zone Change

Ex. No.	Date of Exhibit	Author or Source	Subject
1	12/20/18	DTD, Planning Staff	Notices of public hearings; 08/22/2018 Incomplete Notice
2	1/2/19	Water Environment Services (WES)	Comments. No comments regarding zone change but notes conditions will apply to future development and design review.
3	1/14/19	Oregon Department of Transportation (ODOT)	Comments regarding traffic study. Concludes no significant impact to state highway facilities
4	1/14/19	K. Rueck	1/11/2019 letter. Expresses concern for traffic and neighborhood impacts if carwash were developed; does not support zone change
5	1/14/19	T. Caton & M. Babbitt	Email comments. Expresses concern for traffic and neighborhood impacts if carwash were developed; does not support zone change
6	1/17/19	Applicant, D. Tarlow	Copies of lease/purchase agreements for parcels adjacent to subject site
7	1/21/19	Applicant, D. Tarlow	1/16/19 Memorandum from Johnson Economics, LLC: <i>Assessment of Residential Capacity Impact of a Proposed Zone Change in Unincorporated Clackamas County</i>
8	1/22/19	DTD, Planning Staff	Data to support Goal 10 findings
9	1/28/19	K. Barnett	1/24/2019 email. Expresses concerns about traffic impacts if carwash were developed; does not support zone change
10	1/28/19	N. Hanhan	1/27/19 email & letter. Expresses concern about zone change and impacts to neighborhood, cites inaccuracies in application
11	1/28/19	Applicant, D. Symons/Symons Engineering	Large boards with preliminary site/development plans presented at 1/28/19 public hearing
12	1/31/19	Applicant, P. Fry	1/31/19 Supplemental memorandum from Johnson Economics, LLC: <i>Assessment of Residential Capacity Impact of a Proposed Zone Change in Unincorporated Clackamas County</i>

EXHIBIT LIST
IN THE MATTER OF Z0375-18-C & Z0376-18-ZAP
Washman LLC Comprehensive Plan/Zone Change

13	2/3/19	N. Hanhan	<i>Testimony of the Garden Gate Village Neighbors</i> , dated 2/4/19. Opposes zone change.
14	2/11/19	N. Hanhan	<i>Supplemental Comments of the Garden Gate Village Neighbors</i> , dated 2/11/19. Opposes zone change.
15	2/14/19	D. Tarlow, Washman LLC	2/14/19 letter from applicant. Requests recommendation of approval from Planning Commission.
16	3/8/19	M. Hanna, Washman LLC	3/8/19 letter from applicant. Requests “tentative” approval from BCC until property goes through Design Review to incorporate two housing units in proposed development.
17			
18			
19			
20			



JENNIFER HUGHES, MANAGER
LINDSEY NESBITT, MANAGER
PLANNING & ZONING

DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT

DEVELOPMENT SERVICES BUILDING
150 BEAVERCREEK ROAD OREGON CITY, OR 97045

NOTICE OF PUBLIC HEARINGS BEFORE THE PLANNING COMMISSION AND THE BOARD OF COUNTY COMMISSIONERS ON A PROPOSAL IN YOUR AREA

Date of Mailing of this Notice: December 20, 2018

Notice Sent To: Agencies, Community Planning Organizations and property owners within 300 feet of the subject property.

PLANNING COMMISSION HEARING DATE & TIME: Monday, January 28, 2019; 6:30PM

HEARING LOCATION: Clackamas County Development Services Building Auditorium
150 Beaver Creek Road
Oregon City, OR 97045

BOARD OF COUNTY COMMISSIONERS HEARING DATE & TIME: Wednesday, February 27, 2019; 9:30AM

HEARING LOCATION: Clackamas County Public Services Building, BCC Hearing Room, 4th Floor
2051 Kaen Road
Oregon City, OR 97045

Planning File Number(s): Z0375-18-CP & Z0376-18-ZAP

Applicant(s): Mark Hanna & David Tarlow, Washman LLC

Property Owner(s): Washman LLC

Proposal: Comprehensive Plan Map Amendment from Low Density Residential (LDR) to Corridor Commercial (COR) with a corresponding Zone Change from Low Density Residential (R-5) to Corridor Commercial (CC) for a 10,000 square-foot parcel located on SE Cornwell, approximately 100 feet east of SE 82nd Avenue. The primary uses allowed in the proposed CC zoning district are identified in Section 510 of the Clackamas County Zoning and Development Ordinance and include service commercial uses; professional offices and outpatient offices; recreational facilities; retail uses; restaurants; hotels and motels; and multifamily dwellings. If approved, the subject parcel is proposed to be developed with a car wash, in conjunction with adjacent parcels along SE 82nd Avenue that are currently zoned Corridor Commercial (CC).

Applicable Zoning and Development Ordinance and Comprehensive Plan Criteria: The Comprehensive Plan Map Amendment is subject to compliance with the applicable Statewide Planning Goals, Oregon Administrative Rules (including OAR 660, Division 12) and applicable policies in the Clackamas County Comprehensive Plan, including the Residential Policies in Chapter 4 and policies found in the Clackamas Regional Center Area Design Plan section of Chapter 10 (Community Plans & Design Plans). The zone change application is subject to the criteria in Section 1202 of the Clackamas County Zoning and Development Ordinance. These criteria may be viewed online at <http://www.clackamas.us/planning/zdo.html> and <http://www.clackamas.us/planning/comprehensive.html>

Site Address and/or Location: 8220 SE Cornwell Ave.

Assessor's Map: T1S, R2E, Section 28BB, Tax Lot(s) 12500, W.M.

Property Size: Approx. 10,000 square feet

Zoning: Low Density Residential (R-5)

EXHIBIT 1

Z0375-18-CP & Z0376-18-ZAP

WASHMAN LLC, Comp Plan/Zone Change

Page 1 of 6

NOTICE TO MORTGAGEE, LIENHOLDER, VENDOR OR SELLER: ORS CHAPTER 215 REQUIRES THAT IF YOU RECEIVE THIS NOTICE, IT MUST PROMPTLY BE FORWARDED TO THE PURCHASER.

HOW TO OBTAIN ADDITIONAL INFORMATION

Staff Contact: Martha Fritzie; 503-742-4529; mfritzie@clackamas.us.

A copy of the entire application, all documents and evidence submitted by or on behalf of the applicant, and applicable criteria are available for inspection at no cost at the Planning Division offices. In addition, a staff report on the application will be available for inspection at no cost at least **seven days prior to the hearing**. Hard copies of documents will be provided at reasonable cost. You may inspect or obtain these materials by:

1. Emailing or calling the staff contact;
2. Visiting the Planning & Zoning Division at the address shown at the top of this notice during regular business hours, which are Monday through Thursday, 8AM to 4PM and Friday, 8AM to 3PM; or
3. Going to the Clackamas County website page: <http://www.clackamas.us/planning/zdoproposed.html>

Community Planning Organization for Your Area: The following recognized Community Planning Organization (CPO) has been notified of this application and may develop a recommendation. You are welcome to contact the CPO and attend their meeting on this matter, if one is planned. If this CPO currently is inactive and you are interested in becoming involved in land use planning in your area, please contact the Citizen Involvement Office at 503-655-8552. **CPO: Southgate Planning Association (not active).**

HOW TO SUBMIT TESTIMONY ON THIS APPLICATION

- All interested citizens are invited to attend the hearings and will be provided with an opportunity to testify orally, if they so choose.
 - Written testimony received by January 14, 2019 will be considered by staff prior to the issuance of the staff report and recommendation on this application. However, written testimony will continue to be accepted until the record closes, which may occur as soon as the conclusion of the Board of County Commissioners' hearing.
 - Written testimony may be submitted by email, fax, regular mail, or hand delivery. Please include the case file number on all correspondence and address written testimony to the staff contact who is handling this matter.
 - Testimony, arguments, and evidence must be directed toward the criteria identified above, or other criteria in the Zoning and Development Ordinance or Comprehensive Plan that you believe apply to the decision. Failure to raise an issue in person at the hearing or by letter prior to the close of the record, or failure to provide statements or evidence sufficient to afford the Board of County Commissioners and the parties involved an opportunity to respond to the issue, precludes an appeal to the Oregon Land Use Board of Appeals based on that issue.
 - Written notice of the Board of County Commissioners' decision will be mailed to you if you submit a written request **and provide a valid mailing address.**
-

PROCEDURE FOR THE CONDUCT OF THE HEARING

The following procedural rules have been established to allow an orderly hearing:

1. The length of time given to individuals speaking for or against an item will be determined by the Chair presiding over the hearing prior to the item being considered.
2. A spokesperson representing each side of an issue is encouraged.
3. Prior to the conclusion of the evidentiary hearing, any participant may request an opportunity to present additional evidence, arguments, or testimony regarding the application. The Planning Commission or the Board of County Commissioners may either continue the hearing or leave the record open for additional written evidence, arguments, or testimony.
4. The Planning Commission will make a recommendation to the Board of County Commissioners on the application. The Board of County Commissioners is the final decision maker for Clackamas County on this matter.

Fritzie, Martha

From: DLCD Plan Amendments <plan.amendments@state.or.us>
Sent: Thursday, December 20, 2018 5:35 PM
To: Fritzie, Martha
Subject: Confirmation of PAPA Online submittal to DLCD

Clackamas County

Your notice of a proposed change to a comprehensive plan or land use regulation has been received by the Oregon Department of Land Conservation and Development.

Local File #: Z0375-18-CP & Z0376-18-ZAP

DLCD File #: 007-18

Proposal Received: 12/20/2018

First Evidentiary Hearing: 1/28/2019

Final Hearing Date: 2/27/2019

Submitted by: mfritzie

If you have any questions about this notice, please reply or send an email to plan.amendments@state.or.us.

Spam Email

Phishing Email



MIKE MCCALLISTER
PLANNING AND ZONING DIRECTOR

DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT

DEVELOPMENT SERVICES BUILDING
150 BEAVERCREEK ROAD OREGON CITY, OR 97045

NOTICE OF INCOMPLETE APPLICATION

ORIGINAL DATE SUBMITTED: August 2, 2018
FILE NUMBER: Z0375-18-CP & Z0376-18-ZAP
APPLICATION TYPE: Comprehensive Plan Map Amendment and Zone Change
STAFF CONTACT: Martha Fritzie; mfritzie@clackamas.us; 503 742-4529
DATE OF THIS NOTICE: August 22, 2018

Via Email to:

Peter F. Fry
303 NW Uptown Terrace
#113
Portland, OR 97210
peter@finleyfry.com

Dan Symons
Symons Engineering
12805 Foster Rd
Portland, OR 97236
dans_sec@qwestoffice.net

Mark Hanna/David Tarlow
Washman LLC
PO Box 4124
Portland, OR 97208
davidt@washmanusa.com
markh@washmanusa.com

Staff has reviewed your Comprehensive Plan Map Amendment and Zone Change application and has determined that the application cannot be deemed complete due to the following missing information:

1. Preliminary Statements of Feasibility from the water provider, sanitary sewer provider, and surface water management authority (form attached)
2. Findings related to all applicable Comprehensive Plan policies. Several required policies in Chapter 10 (Community Plans and Design Plans; Clackamas Regional Center Area Design Plan) have not been addressed including:

III. Corridor Land Use Policies.

- 2.1. "...Any site designated for commercial use shall be located adjacent to the Corridor Street" is not addressed for the specific parcel for which the Plan map amendment and zone change is requested.
- 3.1.a. "The site has an historical commitment to commercial use." Meeting this criterion is required for the designation of Corridor Commercial and must be addressed.
- 3.1.b. "The designation will not cause a decrease in housing capacity in the County" This and the related policies listed below in the Housing Policies

EXHIBIT 1

Z0375-18-CP & Z0376-18-ZAP

WASHMAN LLC Comp Plan/Zone Change

Page 4 of 6

section specify that the standard is no reduction in housing capacity at all.

XVIII. Housing Policies.

- 3.0. *“Limit expansion of commercial zoning into residential neighborhoods along the 82nd Avenue corridor”.*
- 5.0. *“Replace housing capacity lost in the study area by future Comprehensive Plan amendments or zone changes. Any application for a change in land use plan designation within the Clackamas Regional Center Area will be accompanied by a demonstration of how an equal amount of housing capacity is replaced on another site, or constructed on the site as part of a mixed-use development.*
 - 5.1 *The purpose of this policy is to maintain the potential for the amount of housing identified in the Clackamas Regional Center Area Design Plan.*
 - 5.2 *This policy would apply to Comprehensive Plan amendments or zone changes made subsequent to adoption of the Clackamas Regional Center Area Design Plan.*
 - 5.3 *This policy would apply to quasi-judicial changes from residential to a non-residential use.*
 - 5.4 *Replacement housing capacity could be located anywhere within unincorporated Clackamas County located within the Urban Growth Boundary...”*

No proposal has been included with this application indicating where the loss of two housing units would be replaced. While Staff understands that this loss is minimal and indeed would be considered negligible when considering the overall supply of housing in the county, the criteria is very clear that the standard is not “minimal or negligible loss” but no loss at all.

These criteria largely reflect requirements outlined in Metro’s Urban Growth Management Functional Plan that the County must abide and provide clear standards that must be applied with this proposed Plan amendment and zone change

EXHIBIT 1

Z0375-18-CP & Z0376-18-ZAP

WASHMAN LLC, Comp Plan/Zone Change

Your application will be deemed complete if the Planning Division receives one of the following:

1. All of the missing information; or
2. Some of the missing information and written notice from you (the applicant) that no other information will be provided; or
3. Written notice from you (the applicant) that none of the missing information will be provided.

Applicant or authorized representative, please check one of the following and return this notice to: Clackamas County Planning Division; 150 Beaver Creek Road, Oregon City, Oregon, 97045

- I am submitting the required information (attached); or.
- I am submitting some of the information requested (attached) and no other information will be submitted; or
- I will not be submitting the requested information. Please accept the application as submitted for review and decision.

Signed

Date

Print Name

EXHIBIT 1

Z0375-18-CP & Z0376-18-ZAP

WASHMAN LLC, Comp Plan/Zone Change

Fritzie, Martha

From: Carr, Erik
Sent: Wednesday, January 2, 2019 2:59 PM
To: Fritzie, Martha
Subject: WES Comments: Z0375-18-CP / Z0376-18-ZAP, Washman LLC

Follow Up Flag: Follow up
Flag Status: Flagged

Martha,

WES has no comments on this comprehensive plan amendment and zone change, however WES conditions of approval will apply with future development and design review.

Thanks,

Erik Carr
Development Review Specialist
Clackamas County - Water Environment Services
150 Beaver Creek Road
Oregon City, OR 97045
(p): 503-742-4571

My office hours are Tuesday – Friday, 7am-5:30pm



Oregon

Kate Brown, Governor

Department of Transportation

Region 1 Headquarters
123 NW Flanders Street
Portland, Oregon 97209
(503) 731.8200
FAX (503) 731.8259

January 14, 2019

ODOT #8045

ODOT Response

Project Name: Washman LLC Carwash - SE 82nd/Lindy	Applicant: David Tarlow
Jurisdiction: Clackamas County	Jurisdiction Case #: Z0375-18-CP, Z0376-18-ZAP
Site Address: 8880 SE 82nd Avenue, 8220 SE Cornwell, Happy Valley, OR	State Highway: OR 213

The site of this proposed land use action is adjacent to 82nd Ave (OR 213). ODOT has permitting authority for this facility and an interest in ensuring that this proposed land use is compatible with its safe and efficient operation. The land use that was assumed as the reasonable worst case scenario for the traffic impact analysis was a coffee kiosk. While ODOT thinks that a car wash would be a more appropriate reasonable worst case for the analysis, we have determined that there will not be a significant effect on the state highway with the proposed zone change.

- ODOT has determined there will be no significant impacts to state highway facilities and no additional state review is required.

Please send a copy of the Notice of Decision including conditions of approval to:

ODOT Region 1 Planning
Development Review
123 NW Flanders St
Portland, OR 97209

Region1_DEVREV_Applications@odot.state.or.us

Development Review Planner: Marah Danielson	503.731.8258, marah.b.danielson@odot.state.or.us
Traffic Contact: Avi Tayar, P.E.	503.731.8221

January 11, 2019

JAN 14 2019

Planning & Zoning
150 Beaver Creek Road
Oregon City, OR 97045

RE: Planning file # Z0375-18-CP & Z0376-18-Zap

Mark Hannah & David Tarlow, Washman LLC are asking to rezone two properties, one on SE Cornwell and one on SE Lindy. They are planning for a large drive through carwash for the corner of 82nd and SE Lindy and SE Cornwell.

I am writing on behalf of S.O.N. (Save Our Neighborhood) and one of 52 home owners of Garden Gate Village. We all object to this type of rezoning and an enormous carwash being built in our neighborhood.

We already have a serious traffic problem with an increased number of cars attempting to cut through the neighborhood. These cars passing through race through at speeds in excess of 30 MPH. This is a family neighborhood and there are a lot of children that are being put in danger by this traffic. Allowing the rezoning and construction of this type of carwash will double maybe triple the number of cars passing through the neighborhood. We have requested speed bumps for SE Cornwell but have not heard back on this.

We are already partially locked in with the only way into the neighborhood is off of 82nd Ave. A carwash will intensify the already ridiculous traffic congestion on 82nd Ave. After observing their carwash on 82nd & Glisan it is obvious what will happen to our neighborhood. Traffic on 82nd & Glisan gets backed up and turns into one lane. Tri-Met bus drivers complain that their routes become 45 minutes or more behind schedule. If a TIS (Traffic Impact Study) was performed you would understand why we are so concerned.

Traffic congestion will delay emergency responders getting to the neighborhood during their peak season. Noise will be increased, we already have the freeway, 82nd Ave, and the cars speeding through. The used car lot uses us as their test drive race track as it is. Property values will go down because no one wants to live in a neighborhood with excessive traffic.

EXHIBIT 4

Z0375-18-CP & Z0376-18-ZAP

WASHMAN LLC, Comp Plan/Zone Change

Page 1 of 2

These homes may be old but they are kept up, most have been remodeled and updated. This was a little known neighborhood where families enjoy living and raising their children because it is so quiet and hidden. Many of us grew up here, there are five and six generations of families still living here. We love our neighborhood and hope you will seriously reconsider the re-zoning of residential properties in our neighborhood.

Sincerely,

A handwritten signature in cursive script that reads "Kim Rueck".

Kim Rueck
8725 SE Garden Ln
Happy Valley, OR 97086
(503) 777-9891
Krueck5947@aol.com

Fritzie, Martha

From: ZoningInfo
Sent: Monday, January 14, 2019 9:14 AM
To: Fritzie, Martha
Subject: FW: Written testimony -RE: Planning file # ZO375-18-CP & ZO376-18-Zap

Follow Up Flag: Follow up
Flag Status: Completed

From: Timmy Caton [mailto:49giantsharks@gmail.com]
Sent: Monday, January 14, 2019 8:53 AM
To: ZoningInfo <ZoningInfo@co.clackamas.or.us>; BCCMail <BCCMail@co.clackamas.or.us>
Subject: Written testimony -RE: Planning file # ZO375-18-CP & ZO376-18-Zap

Clackamas County Commissioners
2051 Kaen Rd
Oregon City, OR 97045

RE: Planning file # ZO375-18-CP & ZO376-18-Zap

Mark Hannah & David Tarlow, Washman LLC are asking to rezone two properties, one on SE Cornwell and one on SE Lindy. They are planning for a large drive through car-wash for the corner of 82nd and SE Lindy and SE Cornwell.

I am writing on behalf of S.O.N. (Save Our Neighborhood) and one of 52 home owners of Garden Gate Village. We all object to this type of rezoning and an enormous car-wash being built in our neighborhood. We are first time home buyers who are concerned about what this car wash will do not only to our property value, but to the overall traffic and trouble that will come with the increased traffic flow through this small neighborhood. Our house is 2 addresses away from this proposed car wash. We can't imagine the noise and traffic that would bring. As first time home buyers these are major concerns for us considering the state of the housing market in the Greater Portland Area.

This neighborhood is one of the only thru streets that go from Fuller to 82nd. It is already used as a shortcut for many people trying to get from the highway to 82nd without using Johnson Creek. We already have a serious traffic problem with an increased number of cars attempting to cut through the neighborhood. These cars passing through race through at speeds in excess of 30 MPH. This is a family neighborhood and there are a lot of children that are being put in danger by this traffic. Allowing the rezoning and construction of this type of car-wash will double maybe triple the number of cars passing through the neighborhood. We have requested speed bumps for SE Cornwell but have not heard back on this.

A car-wash will intensify the already ridiculous traffic congestion on 82nd Ave. After observing their car-wash on 82nd & Glisan it is obvious what will happen to our neighborhood. Traffic on 82nd & Glisan gets backed up and turns into one lane. Tri-Met bus drivers complain that their routes become 45 minutes or more behind schedule. If a TIS (Traffic Impact Study) was performed you would understand why we are so concerned.

EXHIBIT 5
ZO375-18-CP & ZO376-18-ZAP

WASHMAN LLC, Comp Plan/Zone Change

Traffic congestion will delay emergency responders getting to the neighborhood during their peak season. Noise will be increased, we already have the freeway, 82nd Ave, and the cars speeding through. The used car lot uses us as their test drive race track as it is. Property values will go down because no one want's to live in a neighborhood with excessive traffic.

These homes may be old but they are kept up, most have been remodeled and updated. This was a little known neighborhood where families enjoy living and raising their children because it is so quiet and hidden. Many of us grew up here, there are five and six generations of families still living here. We love our neighborhood and hope you will seriously reconsider the re-zoning of residential properties in our neighborhood.

Sincerely,

Timothy Caton and Megan Babbitt
8322 Se Cornwell St
Happy Valley, OR 97086
(503) 516-4072
Meganbabbitt23@gmail.com
49giantsharks@gmail.com

Spam Email
Phishing Email

GROUND LEASE

This Ground Lease (this "Lease") is made and entered into as of this first day of December, 2017 (the "Effective Date") by and between Rogers Land Co., L.L.C., an Oregon limited liability company ("Landlord"), and Washman, LLC, an Oregon limited liability company ("Tenant"), in witness of the following:

1. **Premises**

Landlord hereby leases exclusively to Tenant, and Tenant hereby leases from Landlord that certain parcel of land consisting of approximately 55,757 square feet located at 8864 S.E. 82nd Avenue, Happy Valley, Oregon, and more particularly described by the attached Exhibit A (the "Premises"). It is the intent of the Lessee to enter into a purchase and sales agreement to purchase the subject property at the time the Option to Purchase is exercisable.

2. **Term**

The term of this Lease shall be 20 years and shall commence on the Effective Date. Tenant shall have two renewal options of 10 years each, as provided in Section 5 below.

3. **Annual Fixed Rent; Option Rent**

The annual fixed rent shall be as follows, increasing by 15 percent at the end of every five years, including for and during any renewal terms:

<u>Year</u>	<u>Monthly Rent</u>
Effective Date through April 1, 2018	\$13,000.00
May 1, 2018 through June 30, 2018	\$6,500.00
July 1, 2018 through November 30, 2022	\$13,000.00
December 1, 2022 through November 30, 2027	\$14,950.00
December 1, 2027 through November 30, 2032	\$17,192.50
December 1, 2032 through November 30, 2037	\$19,771.38
December 1, 2037 through November 30, 2042	\$22,737.08



December 1, 2042 through November 30, 2047	\$26,147.64
December 1, 2047 through November 30, 2052	\$30,069.78
December 1, 2052 through November 30, 2057	\$34,580.24

The first rent shall be due and payable at the execution of this Lease. The last months' rent shall be payable upon Tenant receiving all necessary governmental licenses and permits to construct the Car Wash Facility with a design, operation and placement of structures approved by Tenant in tenant's sole discretion.

Rent for the Premises shall be payable monthly on or before the first day of each month, without demand or offset. Rent not received by the 10th day of any month shall be delinquent, and shall constitute a default under this Lease. Tenant shall pay a late fee of 5 percent of the current monthly amount owing for any delinquent payment of rent. Imposition of a late fee shall not constitute a waiver of default.

4. Structures and Improvements to Premises

The parties acknowledge that Tenant intends to design and construct a car wash upon the Premises (the "Car Wash Facility"). They agree that Tenant shall have sole discretion in the design and construction of the Car Wash Facility provided it meets applicable codes and specifications of the governing municipalities. The Car Wash Facility construction designs proposed by Tenant shall be subject to the prior approval of Landlord which shall not be unreasonably withheld or delayed. To the extent Landlord fails to approve the construction designs proposed by Tenant, Tenant shall have the right to terminate this Lease and Landlord shall be responsible to reimburse Tenant for all rent paid under this Lease and expenses incurred in completing the construction design.

At its own cost and risk, Tenant shall construct the Car Wash Facility on the Premises in accordance with all approved plans, and in accordance with all applicable laws, ordinances and regulations. Tenant shall have the right to, and Landlord shall cooperate with, place a lien or encumbrance upon the Car Wash Facility only, and not the land on which the Car wash Facility is located. Tenant shall pay, before delinquency, for all work, labor services or materials provided for Tenant's improvements or structures upon the Premises, and shall discharge within 30 days any construction lien filed upon the Premises or any structures or improvements thereupon.

Tenant is not intended to be an agent of Landlord for the construction of improvements or structures upon the Premises, and Landlord shall have the right to post on the Premises and improvements any notices which Landlord deems appropriate for the protection of Landlord and the Premises.

EXHIBIT 6

Z0375-18-CP & Z0376-18-ZAP

WASHMAN LLC, Comp Plan/Zone Change

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5. Option to Renew

Provided Tenant is not in default and this Lease has not been terminated earlier, Tenant shall have an option to renew this Lease for up to two additional terms of 10 years each on all of the same terms and conditions hereof except for the monthly fixed rent which shall increase fifteen percent (15%) every five years as set forth in Section 3 above. The option to renew may be exercised only by written notice delivered to Landlord no sooner than one year, and no later than 120 days prior to, the expiration of the previous term. If Tenant fails to exercise an option to renew, in the manner provided by this paragraph, all provisions of the Lease shall terminate at the end of the initial 20 year term of this Agreement.

6. Use

Tenant shall use the Premises for construction and operation of the Car Wash Facility and for related purposes. Tenant shall use the Premises for no other purpose without Landlord's express written consent, which shall not be unreasonably withheld.

7. Additional Rent

Rent shall consist of the monthly fixed rent described above, and of certain operating expenses attributable to the Premises. Tenant shall pay all personal property taxes attributable to the Car Wash Facility. Landlord agrees to pay \$17,600 per year towards the real property taxes assessed ("Property Taxes" Landlord shall also pay an additional annual 3 percent increase on the Improvement Taxes every year over the Term of this Lease, including any renewal terms. Tenant agrees to pay on an annual basis the remaining balance owing of Property Taxes on the Premises above the total annual amount the Landlord has agreed to pay in this Section 7.

Tenant agrees to provide extended coverage liability and fire insurance on account of the Premises.

8. Compliance with Law/Uses Prohibited

Tenant will not make any unlawful use of the Premises; Tenant will not suffer any strip or waste thereof; Tenant will not permit any objectionable noise or odor to escape or to be emitted from the Premises or do anything or permit anything to be done upon or about the Premises in any way tending to create an unlawful nuisance. Tenant shall keep the Premises free from any liens arising out of work performed, materials furnished or obligations incurred by Tenant.

Tenant will not allow the Premises at any time to fall into such a state of repair or disorder as to invalidate the property damage insurance maintained on account of the Premises. Tenant will not store gasoline or other highly combustible materials on the Premises at any time, except such amounts as may be necessary in the conduct of Tenant's business. Tenant shall store all necessary combustibles safely.

Tenant shall comply at Tenant's own expense with all laws and regulations of any municipal, county, state, federal or other public authority respecting Tenant's use of the Premises. These include, without limitation, all laws, regulations and ordinances pertaining to air and water

EXHIBIT 6

Z0375-18-CP & Z0376-18-ZAP

WASHMAN LLC, Comp Plan/Zone Change

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quality, Hazardous Materials as herein defined, waste disposal, air emissions, and other environmental matters. As used herein, Hazardous Material means any hazardous or toxic substance, material or waste, including, but not limited to those substances, materials and waste listed in the U.S. Department of Transportation Hazardous Materials Table or by the U.S. Environmental Protection Agency as hazardous substances and amendments thereto, petroleum products, or such other substances, materials, and waste that are or become regulated under any applicable local, state, or federal law.

9. Condition and Repairs

The Premises shall be accepted in an "as is, where is" condition. At its own expense, Tenant shall maintain in good condition and repair the Premises and all buildings, structures, and improvements constructed thereupon, together with all elements thereof.

10. Assignment and Subletting

Tenant shall not have the right to assign or pledge this Lease, or to allow any third party to occupy the Premises, whether voluntarily or by operation of law, or permit the use or occupancy of the Premises by anyone other than Tenant, without the prior written consent of Landlord, which consent shall not be unreasonably withheld or delayed.

Any assignee or successor shall be subject to all of the covenants, terms, and conditions of this Lease. Notwithstanding an assignment or sublease, Tenant shall remain liable for the payment of rent, and for compliance with all other obligations of this Lease.

Tenant shall keep the Premises free of all liens or encumbrances of any kind created by Tenant. This provision shall not prohibit Tenant from encumbering its movable personal property or trade fixtures.

11. Insurance/Subrogation

Neither Landlord nor Tenant shall be liable to the other for loss arising out of damage to or destruction of the Premises, or the building or improvement of which the Premises are a part or with which they are connected, or the contents of any thereof, when such loss is caused by any of the perils which are or could be included within or insured against by standard forms of flood and earthquake coverage. All such claims for any and all such flood and/or earthquake loss, however caused, are hereby waived. Such absence of liability shall exist whether or not the damage or destruction is caused by the negligence of either Landlord or Tenant or by any of their respective agents, servants, or employees. It is the intention and agreement of Landlord and Tenant that the rentals reserved by this Lease have been fixed in contemplation that both parties shall fully provide their own flood and earthquake insurance protection at their own expense, and that both parties shall look to their respective insurance carriers for reimbursement of any such loss, and further, that the insurance carriers involved shall not be entitled to subrogation under any circumstances against any party to this Lease. Neither Landlord nor Tenant shall have any interest or claim in the other's flood and earthquake insurance policy or policies, or the proceeds thereof, unless specifically covered therein as a joint assured.

EXHIBIT 6

Z0375-18-CP & Z0376-18-ZAP

WASHMAN LLC, Comp Plan/Zone Change

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Tenant agrees to purchase at its own expense, and to keep in force during the term of this Lease, fire insurance with all-risk coverage, including sprinkler leakage insurance, if any, for all structures and improvements upon the Premises for their full replacement value. The policy shall name Landlord as an additional insured. Tenant shall provide reasonable proof of such insurance to Landlord.

Tenant agrees to purchase at its own expense and to keep in force during the term of this Lease, a commercial general liability insurance policy, on an occurrence basis, insuring Tenant's activities upon, in or about the Premises against claims of bodily injury, or death, or property damage with a combined single limit of not less than \$2,000,000. The policy shall name Landlord as an additional insured. Tenant shall provide reasonable proof of such insurance to Landlord.

12. Utilities, Taxes

Tenant shall provide for and pay for water, sewer, gas, heat, electricity, janitorial service, and other services or utilities supplied to the Premises, together with any taxes thereon. Tenant shall pay before delinquency all personal property taxes assessed against the property of Tenant.

13. Option to Purchase

In the event of (a) the deaths of Frank L. Rogers and his spouse; or (2) such time as Landlord desires to list the Premises for sale, Tenant shall have 30 days to exercise an option to purchase the Premises (the "Option to Purchase"), and an additional 60 days to close the sale of the Premises. The option purchase price (the "Option Price") shall have two components: 1) the average of two separate appraisals of Premises (land only, not improvements) conducted by MAI designed appraisers, one procured by the Landlord and one procured by the Tenant with each party responsible for the cost of their respective appraisals; and 2) the value of the improvements at the commencement of the Lease agreed to be \$275,000.

In exchange for the Option to Purchase, Tenant agrees to deposit \$200,000 (the "Option Deposit") with a mutually agreed escrow agent at the execution of this Lease, at which time a mutually agreed form of notice of option will be recorded against the Premises. Landlord shall be entitled to any interest earned from the Option Deposit placed with the escrow agent. Such Option Deposit shall be applied to the Option Price at such time the Option to Purchase is exercised. In the event Tenant fails to exercise the Option to Purchase when eligible, the Option Deposit shall become nonrefundable. Should Tenant decide not to exercise the Option to Purchase prior to Tenant's eligibility to exercise same, which decision must be provided in writing to Landlord, the Option Deposit shall be immediately refunded by Landlord to Tenant.

14. Default

The following shall constitute default by Tenant:

- a. The abandonment of the Premises by Tenant.
- b. The failure by Tenant to make any payment of rent or any other payment required to be made by Tenant to Landlord within 10 days after written notice of delinquency is provided.

Landlord shall not be required to give more than two notices within any 12-month period, after which Tenant shall be in default without notice if fixed rent or any other payment required of Tenant under this Lease is not paid within 10 days after it is due, until the 12-month period has passed.

c. The failure by Tenant to perform any of the other covenants, conditions, or provisions of this Lease, where such failure shall continue for a period of 30 days after written notice thereof by Landlord to Tenant. If the nature of Tenant's default is such that more than 30 days are reasonably required for the cure of such default, then Tenant shall not be deemed to be in default if Tenant commences such cure within said 30-day period and thereafter diligently prosecutes such cure to completion.

d. The making by Tenant of any general assignment for the benefit of creditors; or the filing by or against Tenant of a petition to have Tenant adjudged a bankrupt, or a petition or reorganization or arrangement under any law relating to bankruptcy (unless, in the case of a petition filed against Tenant, the same is dismissed within 60 days; or the appointment of a trustee or a receiver to take possession of substantially all of Tenant's assets located at the Premises or of Tenant's interest in this Lease, where possession is not restored to Tenant within 30 days; or the attachment, execution, or other judicial seizure of substantially all of Tenant's assets located at the Premises or Tenant's interest in this Lease, where such seizure is not discharged within 30 days.

15. Landlord's Remedies

Upon default by Tenant, Landlord may, without waiver, take any of the following actions:

- a. Declare this Lease terminated by giving notice of the termination to Tenant.
- b. Terminate Tenant's right to possession of the Premises by any lawful means, in which case this Lease shall not terminate, but Tenant shall immediately surrender possession of the Premises to Landlord. In such event Landlord shall be entitled to recover from Tenant all damages incurred by Landlord by reason of Tenant's default or breach including, but not limited to, the cost of recovering possession of the Premises; expenses of reletting, reasonable attorney fees; the worth, at the time of award by the court having jurisdiction thereof, of the amount by which the unpaid rent and other charges and adjustments called for herein for the balance of the term exceeds the amount of such loss for the same period that Tenant proves could be reasonably avoided or mitigated; and that portion of any leasing commission paid by Landlord and applicable to the unexpired term.
- c. Maintain Tenant's right to possession, in which case this Lease shall continue in effect whether or not Tenant shall have abandoned the Premises. In such event Landlord shall be entitled to enforce all of Landlord's rights and remedies under this Lease, including the right to recover rent and any other charges as may become due hereunder.
- d. Pursue any other remedy available to Landlord at law or equity.

EXHIBIT 6

Z0375-18-CP & Z0376-18-ZAP

WASHMAN LLC, Comp Plan/Zone Change

00474984

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16. **Fire/Casualty**

In the event the Premises are damaged as a result of any cause not covered or not fully covered by available insurance proceeds, then Landlord shall have the option: (a) to repair or restore such damage in the manner and with the effect described above, or (b) give notice to Tenant of Landlord's intent to terminate this Lease as of the date specified in such notice. Upon receipt of Landlord's notice to terminate, Tenant shall have the option to give notice within 10 days to Landlord of Tenant's intent to reconstruct the structures upon the Premises, using all available insurance proceeds and at the additional expense of Tenant, and the Lease shall remain in full force and effect subject to Tenant's right of abatement of rent. If neither party elects to reconstruct the Premises, this Lease shall expire and all interest of Tenant in the Premises shall terminate.

If the Premises or any part thereof shall be taken or appropriated by any public or quasi-public authority under the power or threat of eminent domain, either party hereto shall have the right, at its option, to terminate this Lease upon 30 days' written notice.

17. **Surrender**

Upon expiration of the term, or upon earlier termination of this Lease, Tenant shall surrender and deliver up the Premises; however Tenant may remove, at its own cost, all fixtures, improvements and structures located upon the Premises within sixty (60) days after expiration of the term or earlier termination of this Lease.

18. **News Release**

Neither Landlord nor Tenant will issue or approve a news release or other public announcement concerning this Lease without the prior approval of the other as to the contents of the announcement and its release, which approval will not be unreasonably withheld.

19. **General Provisions**

a. Landlord shall have the right to enter the Premises (but not any buildings or improvements) at all reasonable times upon 24 hours' notice, except no notice shall be required in case of emergency or in cases of necessary access to respond to the emergency. Landlord will make every effort not to unreasonably disrupt Tenant's business.

b. Waiver of any term, covenant, or condition of this Lease shall not be deemed to be a waiver of such term, covenant, or condition, or of any subsequent breach of the same or any other term, covenant, or condition of this Lease. The subsequent acceptance of rent by Landlord shall not be deemed to be a waiver of any preceding default by tenant of any term, covenant, or condition of this Lease, other than the failure of Tenant to pay the particular rent so accepted, regardless of Landlord's knowledge of such preceding default at the time of the acceptance of such rent.

c. Time is of the essence of this Lease.

EXHIBIT 6

Z0375-18-CP & Z0376-18-ZAP

WASHMAN LLC, Comp Plan/Zone Change

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d. The covenants and conditions herein contained, subject to the restrictions hereof as to assignment, shall apply to and bind the heirs, successors, executors, administrators, and assigns of the parties hereto.

e. This Lease contains all of the agreements of the parties hereto with respect to any matter covered or mentioned in this Lease and no prior agreements or understanding pertaining to any such matters shall be effective for any purpose. No provision of this Lease may be amended or added to except by an agreement in writing signed by the parties hereto.

f. This Lease shall be governed by and interpreted in accordance with the laws of the state of Oregon.

g. In the event of any action or proceeding brought by either party against the other to enforce or interpret this Lease, or relating thereto, the prevailing party shall be entitled to recover the fees of its attorneys in such action or proceeding, including on appeal, in such amount as the court may adjudge reasonable.

h. Upon request of Landlord, Tenant will in writing subordinate its rights hereunder to the lien of any mortgage or deed of trust, to any bank, insurance company, or other lending institution, now or hereafter in force against the Premises (but not the improvements, fixtures or buildings), and to all advances made or hereafter to be made upon the security thereof, provided the writing shall provide that Tenant shall continue to enjoy quiet enjoyment of the Premises in the absence of default by Tenant.

i. All notices and demands to be given by either party shall be in writing. All notices and demands by Landlord to Tenant may be hand delivered or sent by United States Mail, via certified mail, return receipt requested, postage prepaid, addressed to Tenant at the Premises, or to such other place as Tenant may from time to time designate by written notice to Landlord. All notices and demands by Tenant to Landlord may be hand delivered or sent by United States Mail, via certified mail, return receipt requested, postage prepaid, addressed to Landlord at the address set forth below, or to such other person or place as Landlord may from time to time designate by written notice to Tenant.

To Landlord at:

Rogers Land Co., L.L.C.
Attn.: Frank L. Rogers
8864 SE 82nd Street
Portland, OR 97266

With a copy to:

Steven C. Johnson
21825 SE Stark Street, Suite C
PO Box 1003
Gresham, OR 97030

To Tenant at:

Washman, LLC
Attn.: David B. Tarlow
PO Box 4124
Portland, OR 97208

With a copy to:

Thomas R. Rask, III
Kell, Alterman & Runstein, L.L.P.
520 SW Yamhill St., Suite 600
Portland, OR 97204-1329

EXHIBIT 6

Z0375-18-CP & Z0376-18-ZAP

WASHMAN LLC, Comp Plan/Zone Change

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00474984

j. The parties acknowledge and agree that Tenant may elect to terminate this Lease at any time without any liability to Landlord whatsoever if Tenant is unable to obtain all necessary governmental licenses and permits to construct the Car Wash Facility with a design, operation and placement of structures approved by Tenant in Tenant's sole discretion.

k. If a condemning authority takes all the Premises or a portion sufficient to render the remaining Premises reasonably unsuitable for Tenant's use, Tenant shall have the option to terminate the Lease upon written notice to Landlord given within sixty (60) days of Tenant's receipt of notice of the taking. In such event, the Lease shall terminate as of the date title vests in the condemning authority. Landlord shall be entitled to all the proceeds of condemnation for the land, and Tenant shall be entitled to all of the proceeds of condemnation of the Car Wash Facility and all damages associated with the condemnation of the Car Wash Facility; provided, however, Landlord shall be entitled to a pro-rata share of the proceeds of the condemnation of the Car Wash Facility equal to the percentage \$275,000 is of the total value of the Car Wash Facility. For example, if the Car Wash Facility is valued at \$2,750,000, then the Landlord would receive ten percent (10%) of the damages associated with the condemnation of the Car Wash Facility.

l. Each individual executing this Lease on behalf of Tenant represents and warrants that he or she is duly authorized to execute and deliver this Lease on behalf of Tenant and that this Lease is lawful and binding on Tenant.

IN WITNESS HEREOF, we have signed this Ground Lease effective as of the day and year first mentioned above.

LANDLORD:

ROGERS LAND CO., L.L.C., an Oregon limited liability company

BY Frank L. Rogers
Frank L. Rogers, Managing Member

12-12-17

TENANT:

WASHMAN, LLC, an Oregon limited liability company

BY Mark V. Hanna 12-13-17
Mark V. Hanna, Member

BY Kirk D. Hanna 12-13-17
Kirk D. Hanna, Member

FLR

KA
AA

COMMERCIAL LEASE AGREEMENT
EXHIBIT "A"

Legal description of leased premises at 8864 SE 82nd Avenue, Portland, Oregon

PARCEL I:

Lots 9 and 10, Block 6, DOVER PARK, in the County of Clackamas, State of Oregon.

PARCEL II:

Part of the NW $\frac{1}{4}$ of the NW $\frac{1}{4}$ of S. 28, T. 1 S. R., 2E. of the W.M., in the County of Clackamas, State of Oregon, described as follows:

Beginning at a point 651 feet South and 30 feet East of the Section Corner common to Sections 20, 21, 28 and 29, in Townships 1 S.R. 2E. of the W.M., and on the East line of SE 82nd Avenue; thence East and parallel with the North line of Section 28, 205 feet; thence South, and parallel with the East line of SE 82nd Avenue, 168 feet; thence West and parallel with the North line of Section 28, 95 feet; thence South and parallel with the East line of SE 82nd Avenue, 100 feet; thence West and parallel with the North line of Section 28, 120 feet to the East line of SE 82nd Avenue; thence North along the East line of SE 82nd Avenue, 268 feet to the place of beginning, all in Clackamas County, State of Oregon and also commonly known as 8864 Southeast 82nd Avenue, Portland, Clackamas County, Oregon.

EXHIBIT 6

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FIRST AMENDMENT TO SALE AGREEMENT

THIS FIRST AMENDMENT TO SALE AGREEMENT ("Amendment") is entered into on January 3, 2018, by and between **EVERETT A. TWILLEAGER** and **SHERRI A. TWILLEAGER** (collectively, "Seller") and **WASHMAN, LLC**, an Oregon limited liability company ("Buyer").

RECITALS

A. Buyer and Seller are parties to a certain Sale Agreement dated as of March 7, 2018 (the "Agreement"), with respect to certain real property located at 8319 S.E. Lindy Street, Portland, Oregon, and more particularly described in the Agreement (the "Property"). The capitalized terms used in this Amendment shall have the same definitions as set forth in the Agreement to the extent that such capitalized terms are defined therein and not redefined in this Amendment.

B. The Outside Closing Date was on or before December 31, 2018, subject to the agreement of counsel to Buyer and counsel to Seller to extend said deadline to January 4, 2019. Buyer and Seller wish to extend the Outside Closing Date, all pursuant to the terms contained herein.

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Buyer and Seller agree as follows.

1. **Outside Closing Date.** The Outside Closing Date shall be on a date identified by Seller upon no less than five business days' prior written notice to Buyer, provided however that the Closing shall occur on or before February 28, 2019. Notwithstanding the foregoing, Buyer shall reasonably consider a written request by Seller to further extend the Outside Closing Date depending on Buyer's needs for the Property (including without limitation the redevelopment of the Property) provided that written notice of Seller's request is delivered to Buyer no later than February 21, 2019.

2. **Miscellaneous.**

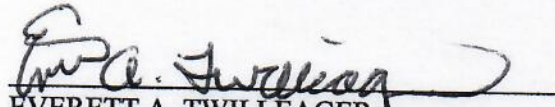
a. **Amendment.** No amendment or modification of this Amendment shall be valid or binding unless reduced to writing and executed by the parties hereto or their assigns. Except as herein modified or amended, the provisions, conditions, and terms of the Agreement shall remain unchanged and in full force and effect. In the case of any inconsistency between the provisions of this Amendment and the Agreement, the provisions of this Amendment shall govern and control.


b. **Counterparts.** This Amendment may be executed in multiple counterparts, which may be by e-mail transmittal, each of which shall constitute an original, but all together shall constitute one and the same agreement.

c. Entire Agreement. This Amendment is made a part of the Agreement. The Agreement, as modified by this Amendment, embodies the entire contract between the parties hereto and supersedes any and all prior agreements and understandings, written or oral, formal or informal.

IN WITNESS WHEREOF, the parties have executed this Amendment effective as of January 3, 2018.

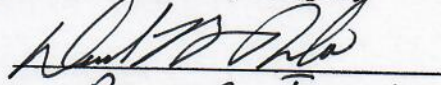
SELLER:


EVERETT A. TWILLEAGER


SHERRI A. TWILLEAGER

BUYER:

WASHMAN, LLC,
an Oregon limited liability company

By: 
Name: David B. Tarran
Its: CFO

SALE AGREEMENT

This Sale Agreement (this "Agreement"), dated March 7, 2018 ("Execution Date"), is between Everett A. Twilleager and Sherri A. Twilleager (collectively, "Seller"), and Washman, LLC, an Oregon limited liability company ("Buyer"), covering real property legally described as follows and commonly known as 8319 S.E. Lindy Street, City of Portland, County of Clackamas, State of Oregon (the "Property"):

Part of the Northwest quarter of the Northwest quarter of Section 28, Township 1 South, Range 2 East of the Willamette Meridian, Clackamas County, Oregon, described as follows: Beginning at a point on the West line of that tract of land conveyed to L. W. Rogers, by deed recorded April 1, 1946, in Book 364, page 140, Records of Clackamas County, Oregon 168 feet South of the Northwest corner thereof, which beginning point is South 819.00 feet and East 150 feet from the Northwest corner of Section 28, running thence East parallel with the North line of said Rogers tract a distance of 85.00 feet; running thence South parallel with the West line of said Section 28 a distance of 100.00 feet to the North line of Lindy Avenue; running thence West along said North line a distance of 85.00 feet; running thence North 100.00 feet to the place of beginning.

SELLER AND BUYER AGREE:

1. Seller will sell the Property to Buyer, and Buyer will buy the Property from Seller, on the terms and conditions of this Agreement.

2. The Purchase Price for the Property is Three Hundred Ninety-Five Thousand Dollars (\$395,000), of which Buyer shall deposit in cash \$390,000 ("Cash Deposit") with Fidelity National Title Insurance Company of Oregon, Attn: Shawnda Reszel ("Escrow Agent") within 30 days after the Execution Date of this Agreement. Buyer shall also deposit with Escrow Agent \$5,000 as earnest money ("Earnest Money") with 5 days of the Execution Date. Buyer shall be entitled to all interest that accrues on the Cash Deposit and Earnest Money deposited with Escrow Agent (the "Interest") unless this transaction fails to close under this Agreement (in which case the Interest shall be released to Seller). In the event this transaction is not closed within 75 days following the Execution Date, the Earnest Money shall become non-refundable (and shall be released by Escrow Agent to the Seller) but applicable to the Purchase Price at the closing. Upon receipt of a building permit to construct a Car Wash on the adjoining property located at 8864 S.E. 82nd Avenue, Happy Valley, Oregon (a "Permit"), Buyer will provide instructions to Escrow Agent to close this transaction as set forth in Section 8 below and release funds to Seller.

3. As soon as commercially reasonable after execution of this Agreement, Seller will provide Buyer with a preliminary title report (the "Preliminary Report") from Escrow Agent. Buyer will have ten days after receipt of a copy of the Preliminary Report within which to give notice in writing to Seller of any objection to such title or to any liens or encumbrances affecting the Property. Within seven days after the date of such notice from Buyer, Seller must give Buyer written notice of whether it is willing and able to remove the objected-to exceptions. Within seven days after the date of such notice from Seller (the "Title Contingency Date"), Buyer must elect whether to: (i) purchase the Property subject to those objected-to exceptions that Seller is not willing or able to remove; or (ii) terminate this Agreement. If Buyer fails to give Seller notice of Buyer's election, then such inaction shall be deemed to be Buyer's election to purchase the Property subject to those objected-to exceptions that Seller is not

Seller's Initials _____
Seller's Initials _____
Buyer's Initials _____

EXHIBIT 6

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WASHMAN LLC, Comp Plan/Zone Change

willing or able to remove. On or before the Closing Date (defined below), Seller shall remove all exceptions to which Buyer objects and which Seller agrees, or is deemed to have agreed, Seller is willing and able to remove. All remaining Exceptions set forth in the Preliminary Report and those Exceptions caused by or agreed to by Buyer shall be deemed "Permitted Exceptions."

4. Buyer's obligation to close is subject to each of the following conditions:

4.1 Buyer may terminate this Agreement if Buyer is unable to obtain a building permit to build a car wash on the Property and the adjoining property commonly known as 8864 S.E. 82nd Avenue, Happy Valley, Oregon (collectively the "Permit Contingency").

4.2 Buyer's acceptance or deemed acceptance of title matters under Section 3.

4.3 Seller's being able to deliver title to the Property at closing, subject only to Permitted Exceptions.

Should Buyer terminate this Agreement under this Section 4, the Cash Deposit, Earnest Money, and Interest shall be released by Escrow Agent pursuant to the relevant provisions of this Agreement.

5. Seller's obligation to close is subject to Buyer's having complied in all material respects with all of Buyer's covenants and agreements to be performed under this Agreement; and the representations and warranties of Buyer under this Agreement being, in all material respects, as of the Effective Date and Closing Date, be true and complete

6. The following shall govern defaults and remedies under this Agreement.

6.1 Notwithstanding anything to the contrary contained in this Agreement, in the event Buyer fails to deposit the Earnest Money in Escrow strictly as and when contemplated under Section 2 above, Seller shall have the right at any time thereafter, but prior to Buyer's deposit of the Earnest Money in Escrow, to terminate this Agreement and all further rights and obligations hereunder by giving written notice thereof to Buyer. If the conditions, if any, to Buyer's obligation to consummate this transaction are satisfied or waived by Buyer and Buyer fails, through no fault of Seller, to close on the purchase of the Property, Seller's sole remedy shall be to retain the Earnest Money paid by Buyer (plus any Interest). Buyer and Seller agree that it would be impractical and extremely difficult to estimate the damages that Seller may suffer. Therefore, Buyer and Seller agree that the Earnest Money is a reasonable estimate of the total net detriment that Seller would suffer in the event that Buyer defaults and fails to complete the purchase of the Property. The payment of this amount as liquidated damages is not intended as a forfeiture or penalty, but is intended to constitute liquidated damages to Seller. Upon default by Buyer, this Agreement shall be terminated and neither party shall have any further rights or obligations under it, each to the other, except for the right of Seller to collect such liquidated damages from Buyer.

6.2 In the event Seller fails, through no fault of Buyer, to close the sale of the Property, Buyer's only remedy shall be (a) the return of the Cash Deposit, Earnest Money, and Interest (with Buyer thereby waiving any other remedy, including specific performance, that Buyer shall have against Seller), or (b) an action for specific performance of this Agreement (with Buyer thereby waiving any other remedy that Buyer may have against Seller at law or in equity), provided that Buyer commences such action for specific performance within 60 days of the date

Seller's Initials _____

Seller's Initials _____

Buyer's Initials _____

Buyer's Initials _____

EXHIBIT 6

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WASHMAN LLC, Comp Plan/Zone Change

on which such default allegedly occurred. Seller shall not be liable to Buyer for any lost profits, special, incidental, punitive, exemplary, or consequential damages including but not limited to frustration of economic or business expectations.

7. At closing, Seller and Buyer will comply with all regulatory and reporting requirements (for example, IRS and FIRPTA), and sign Escrow Agent's customary closing instructions. Buyer and Seller will each pay one-half the escrow fee. All other closing costs will be divided between Seller and Buyer as is customary with residential real estate transactions in Washington County, Oregon.

8. The following shall govern the closing:

8.1 Closing will be at the offices of Escrow Agent within 30 days after the earlier of (a) Buyer's waiver or deemed waiver of the Permit Contingency, or (b) Buyer's receipt of a Permit under Section 4.1 (the "Closing Date"); provided that the Closing Date shall occur no later than October 1, 2018 (the "Outside Closing Date"), subject to Buyer's option to extend the Closing Date under Section 8.2. At closing, Seller will execute, acknowledge, and deliver a statutory warranty deed conveying the Property to Buyer, subject to the Permitted Exceptions. At closing, Buyer will pay for and request Escrow Agent to issue and deliver to Buyer an Owner's title insurance policy in the amount of the purchase price insuring fee simple title to the Property in Buyer subject only to the Permitted Exceptions and the standard preprinted exceptions contained in the title policy.

8.2 Notwithstanding Section 8.1, Buyer may extend the Outside Closing Date to a date no later than December 31, 2018 (the "Extended Permit Deadline"), by written notice to Seller given no later than September 1, 2018, through which notice \$3,000 of the Cash Deposit shall be converted to Earnest Money, which shall be non-refundable (and shall immediately be released by Escrow Agent to Seller) but applicable to the Purchase Price at closing.

9. All prorations of taxes and other fees will be made as of the day after recording of the deed from Seller to Buyer. Seller must deliver possession of the Property to Buyer on the Closing Date (subject to the tenancy discussed in Section 13).

10. Seller represents and warrants that:

10.1 To the best of Seller's knowledge without specific duty of inquiry, Seller knows of no material defects in the Property;

10.2 The dwelling on the Property is connected to a public water system;

10.3 On delivery of possession to Buyer, the electrical, heating, cooling (if any), plumbing, and drainage systems will be in good working order and the balance of the Property (including the yard) will be in substantially its present condition; and

10.4 Seller has received no notice from any governmental agency of any zoning code or building code violation affecting the Property.

These representations and warranties survive closing and Seller's delivery of the deed to Buyer for a period of twelve months.

Except for Seller's representations set forth in this Section 10, (y) Seller has not made any other representations, express or implied, regarding the Property and Buyer has not relied on any, and (z) Seller is selling and Buyer is acquiring the Property AS IS, WHERE IS, with all faults and defects, whether patent or latent. Buyer acknowledges, understands, and agrees that Buyer is a sophisticated purchaser who is familiar with the ownership and operation of real estate projects similar to the Property and that Buyer is purchasing the Property for purposes of redevelopment and with the intent to demolish the improvements located on the Property for said purposes. Buyer recognizes that Seller would not sell the Property except on an AS IS, WHERE IS basis, except for Seller's representations set forth in this Section 10. Buyer expressly waives all claims it may have against Seller in any way relating to the Property or its condition, with the sole exception of Buyer's claims under this Agreement, and the deed or other documents or instruments being delivered by Seller. Neither party shall have any liability after closing for the breach of a representation or warranty hereunder of which the other party hereto had knowledge as of the Closing Date.

11. Buyer represents and warrants that:

11.1 Buyer has the legal power, right, and authority to enter into this Agreement and the instruments referred to herein and to consummate the transactions contemplated herein. The person or persons executing this Agreement and the instruments referred to herein on behalf of Buyer have the legal power, right, and actual authority to bind Buyer to the terms and conditions of this Agreement.

11.2 The execution, delivery and performance by Buyer of its obligations under this Agreement do not constitute a default under any of the provisions of any law, governmental rule, regulation, judgment, decree or order by which Buyer is bound, or under any provision of any contract to which Buyer is a party or by which Buyer is bound, or under Buyer's organizational documents.

12. This Agreement is made in Clackamas County, Oregon. The parties agree that any dispute regarding this Agreement will be settled by binding, non-appealable arbitration under the rules of Arbitration Service of Portland, Inc. In the event a suit, action, arbitration, or other proceeding of any nature whatsoever, including without limitation any proceeding under the U.S. Bankruptcy Code, is instituted, or the services of an attorney are retained, to interpret or enforce any provision of this Agreement or with respect to any dispute relating to this Agreement, the prevailing party shall be entitled to recover from the losing party its attorney, paralegal, accountant, and other expert fees and all other fees, costs, and expenses actually incurred and reasonably necessary in connection therewith (the "Fees"). In the event of suit, action, arbitration, or other proceeding, the amount of Fees shall be determined by the judge or arbitrator, shall include all costs and expenses incurred on any appeal or review, and shall be in addition to all other amounts provided by law.

13. After the Closing Date, Buyer agrees to enter into a month-to-month lease with Seller's current tenant for a rental rate at the current rate of rent tenant is paying at time of closing; provided, however, Buyer agrees that it will not provide a 30 day no cause termination of the lease before July 31, 2018. Seller will receive from Buyer two unlimited radio frequency identification car wash tags for a #1 wash with an expiration date 5 years from the Closing Date. Prior to Buyer's demolition of the structures on the Property, Seller can remove any items from the Property with Buyer's written permission.

14. Seller and Buyer, respectively, represent that no broker or finder has been engaged by either party in connection with this transaction. Seller and Buyer each agree to indemnify the other and

the other's agents, representatives, and advisors and hold them harmless from any claims for any such fees or commissions, including all costs and expenses of defending any alleged claim therefor arising out of the acts of the indemnifying party or its agents, representatives, and advisors.

15. **Warning.** The following statement is required by Oregon law: THE PROPERTY DESCRIBED IN THIS INSTRUMENT MAY NOT BE WITHIN A FIRE PROTECTION DISTRICT PROTECTING STRUCTURES. THE PROPERTY IS SUBJECT TO LAND USE LAWS AND REGULATIONS THAT, IN FARM OR FOREST ZONES, MAY NOT AUTHORIZE CONSTRUCTION OR SITING OF A RESIDENCE AND THAT LIMIT LAWSUITS AGAINST FARMING OR FOREST PRACTICES, AS DEFINED IN ORS 30.930, IN ALL ZONES. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY THAT THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY ESTABLISHED LOT OR PARCEL, AS DEFINED IN ORS 92.010 OR 215.010, TO VERIFY THE APPROVED USES OF THE LOT OR PARCEL, TO VERIFY THE EXISTENCE OF FIRE PROTECTION FOR STRUCTURES AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010.

16. This transaction is subject to the Oregon Disclosure/Disclaimer Law and Seller will give Buyer a Statutory Seller's Property Disclosure Statement within three days of execution of this Agreement

17. Buyer is represented by Thomas R. Rask, III of Kell, Alterman & Runstein, L.L.P. Seller has been advised to obtain independent legal counsel. Both parties acknowledge that they are adequately represented by counsel, or have had the right to be so represented for this transaction, and that they each fully understand their rights and liabilities.

18. All notices or other communications required or permitted under this Agreement shall be in writing and shall be (a) personally delivered (including by means of professional messenger service), which notices and communications shall be deemed given on the date of their receipt at the office of the addressee; (b) sent by registered or certified mail, postage prepaid, return receipt requested, which notices and communications shall be deemed given two business days after the date of their deposit in the United States mail; (c) sent by overnight delivery using a nationally recognized overnight courier service, which notices and communications shall be deemed given one business day after the date of their deposit with such courier; or (d) if an e-mail address is shown below, sent by e-mail, which notices and communications shall be deemed received on the delivering party's receipt of a transmission confirmation. Notices shall be sent to the following addresses:

To Seller: Everett A. Twilleager and Sherri A. Twilleager
8302 S.E. Lindy Street
Happy Valley, Oregon 97086
E-mail: etfonehom@comcast.net

With a copy to: Jonathan H. Singer
Barg Singer PC
121 S.W. Morrison Street, Suite 600
Portland, Oregon 97204
E-mail: jsinger@bargsinger.com

To Buyer: Washman, LLC
Attn: David B. Tarlow
426 N.E. 81st Avenue
Portland, Oregon 97213
E-mail: davidt@washmanusa.com

With a copy to: Thomas R. Rask III
Kell, Alterman & Runstein, L.L.P.
520 S.W. Yamhill Street, Suite 600
Portland, Oregon 97204
E-mail: tRask@kelrun.com

Notice of change of address shall be given by written notice in the manner detailed in this Section 18.

19. If either party (the "Exchanging Party") intends to have the Property used as the relinquished or replacement property for an IRC Section 1031 exchange, the other party (the "Other Party") will cooperate in such exchange as long as (a) such cooperation is at the sole expense of the Exchanging Party, (b) the Other Party assumes no additional risk or liability or loses no remedies or rights due to the exchange transaction, (c) the closing is not delayed as a result of the exchange, and (d) the Other Party is not obligated to take title to any additional property. Buyer acknowledges that Seller may plan to use the Property as relinquished property in a tax free exchange.

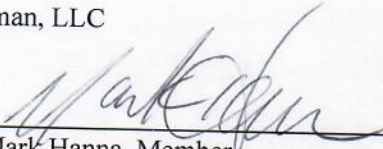
20. Time is of the essence of this Agreement. The electronic mail transmission of any signed document including this Agreement, in accordance with Section 18, shall be the same as delivery of an original. At the request of either party, the party delivering a document by electronic mail will confirm such transmission by signing and delivering to the other party a duplicate original document. This Agreement may be executed in two or more counterparts, each of which shall constitute an original and all of which together shall constitute one and the same Agreement. This Agreement contains the entire agreement and understanding of the parties with respect to the subject matter of this Agreement and supersedes all prior and contemporaneous agreements between them with respect thereto. Without limiting the provisions of Section 21 of this Agreement, this Agreement shall be binding upon and shall inure to the benefit of the parties and their respective successors and assigns.

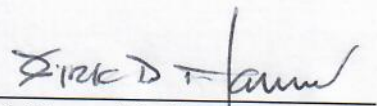
21. If Buyer does not return to Seller a signed and dated version of this Agreement on or before 5:00 PM Pacific Time on March 8, 2018, then neither party shall have any further right or obligation hereunder. Buyer may not assign this Agreement without Seller's consent, which consent may be withheld in Seller's sole and absolute discretion unless Buyer's proposed assignment is to an entity

owned and controlled by Buyer. Buyer has an executed copy of this offer, which Buyer has read and understands.

BUYER:

Washman, LLC

By: 
Mark Hanna, Member
Date: 3-7-18

By: 
Kirk Hanna, Member
Date: 3-7-18

SELLERS:

Everett A. Twilleager
Date: _____

Sherri A. Twilleager
Date: _____

Seller's Initials _____

Seller's Initials _____

Buyer's Initials _____

Buyer's Initials _____

EXHIBIT 6

Z0375-18-CP & Z0376-18-ZAP

FMCLIENT\Twilleager, Everett and Sherri\Sale Agreement5.doc

WASHMAN LLC, Comp Plan/Zone Change



MEMORANDUM

DATE: January 16, 2019

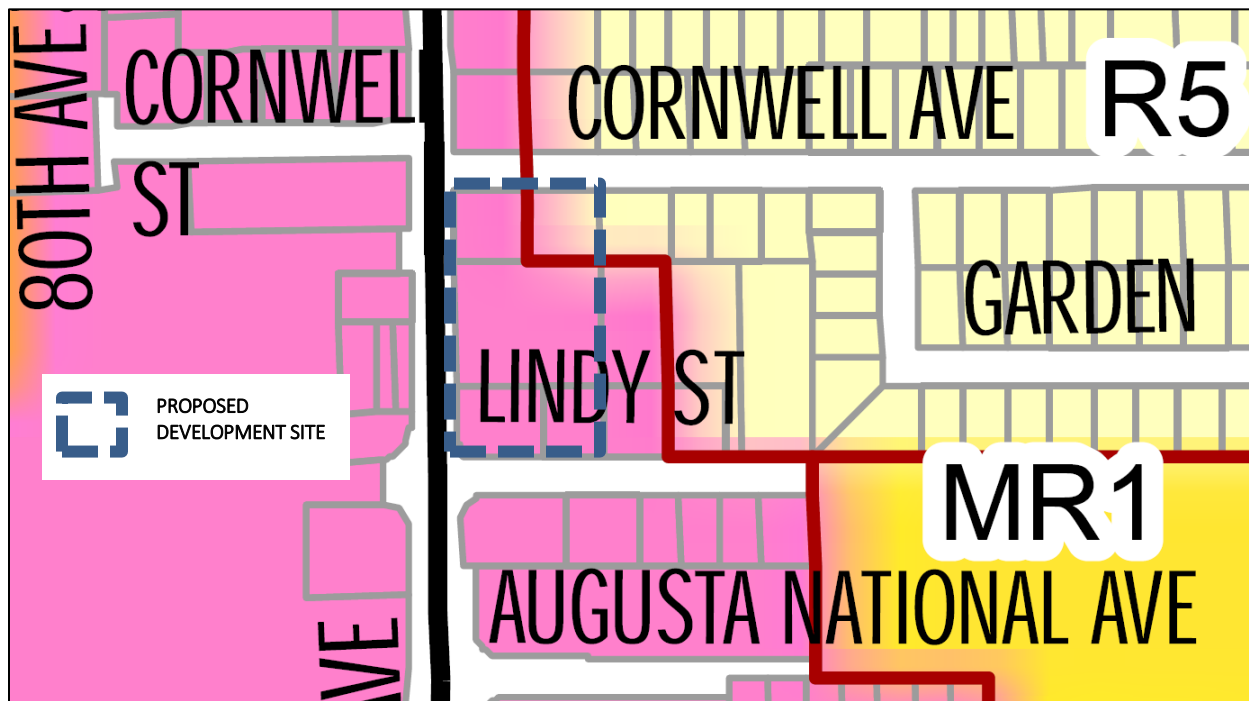
TO: Peter Finley Fry

FROM: Jerry Johnson
JOHNSON ECONOMICS, LLC

SUBJECT: Assessment of Residential Capacity Impact of a Proposed Zone Change in Unincorporated Clackamas County

INTRODUCTION

It is my understanding that you are seeking a change from Urban Low Density Residential (SR-5) to Corridor Commercial (CC) for a small parcel at 8880 SE 82nd Avenue. The change would allow for commercial development of a consolidated site of five parcels. The subject site is at the northeast corner of the proposed development site.



While the current CC zoning extends to the east of the site, these sites are currently in active residential use, with a single family home on the southern parcel and rental apartments on the central parcel.

Policy 3.1b states that “The designation will not cause a decrease in housing capacity in the County” thus, there can be no net loss of housing capacity. While no residential development is likely in the foreseeable future, the site

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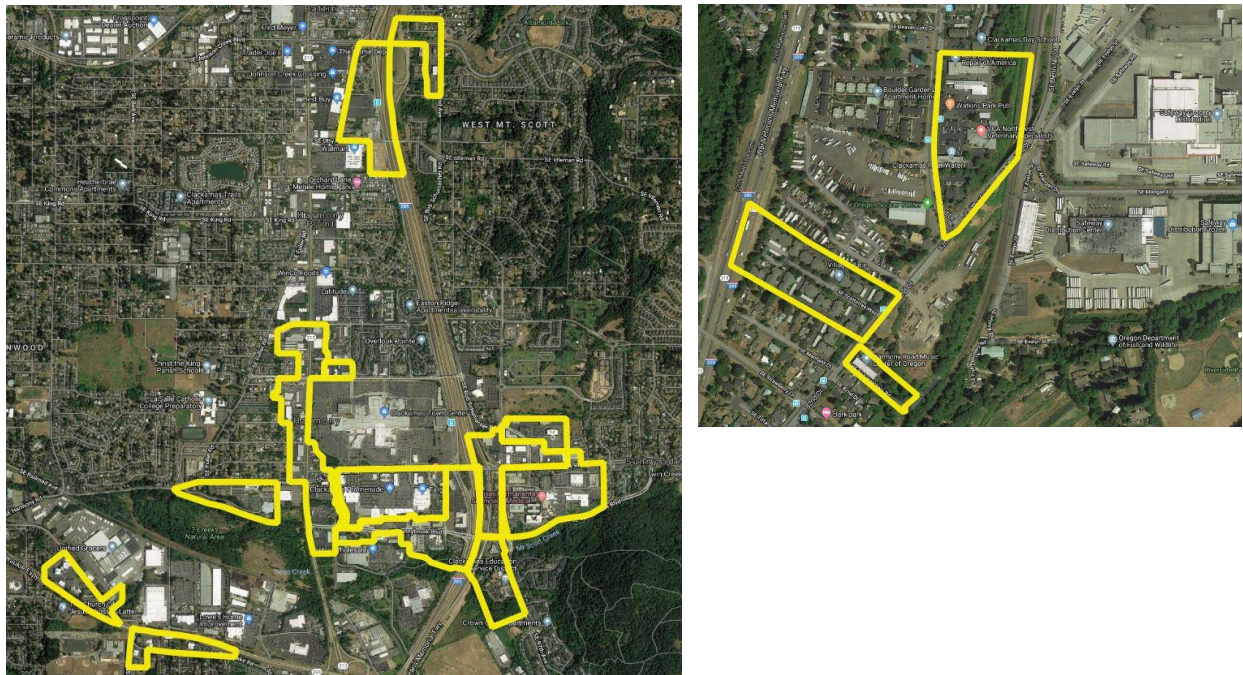


the proposed change would reduce *theoretical* capacity in the area by two residential units at current zoning. This memorandum discusses our findings regarding the likely impact of this change on the local housing market. The analysis looks at marginal changes in residential capacity associated with zone changes in the area over the last decade, changes associated with residential development densities and their impact on residential capacity, and the likely impact on residential yield in the immediate area of the proposed change.

RESIDENTIAL CAPACITY INCREASE ASSOCIATED WITH REZONING

From 2009 to 2018, over 470 acres of land zoned as Commercial in unincorporated Clackamas county was rezoned to Mixed Use.¹ Each of the areas outlined on the two maps are in unincorporated Clackamas County and were zoned Commercial in 2009 but have since been rezoned as Mixed Use. We have Identified 15 areas that meet these criteria. In total, these constitute an increase of over 470 acres of Commercial land rezoned for Mixed Use from 2009 to 2019. While only a proportion of mixed-use designations are expected to develop as residential uses, even a small share of this property would be necessary to offset the negligible loss of two units of residential capacity associated with the proposed rezoning.

COMMERCIAL LAND REZONED TO DESIGNATION THAT ALLOWS RESIDENTIAL DEVELOPMENT



The overall amount of land rezoned from Commercial to Mixed Use in unincorporated Clackamas County from 2009 to 2018 constitutes a significant increase in housing capacity in unincorporated Clackamas County, which more than offsets the negligible reduction in capacity associated with rezoning of this individual parcel.

1 RLIS



RECENT DEVELOPMENT PATTERNS

At least 570 units of housing were built or approved on land in unincorporated Clackamas County from 2009 to 2018. The following table summarizes these developments in terms of units and density.

Residential Development Activity Summary, Unincorporated Clackamas County, 2009-18

	Units	Acres	Units/Acre
Rental Apartments	171	5.6	30.3
Condominiums	298	15.3	19.5
Plexes	15	1.0	14.4
Manufactured Homes	6	0.7	8.6
Accessory Dwelling Units	24	N/A	N/A

The information was derived from RLIS and should be considered to be representative and not exhaustive.

The following are four examples of these developments:

Latitude

210 Units, 405,000 SF (22.5 units per acre)

Year Built: 2014

Address: 11224 SE CAUSEY CIR



Town Center Station

52 Units, 60,000 SF (38 units per acre)

Year Built: 2010

Address: 8719 SE MONTEREY AVE

Town Center Courtyards:

60 Units, 84,400 SF (31 units per acre)

Year Built: 2016



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WASHMAN LLC, Comp Plan/Zone Change

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Town Center Courtyards

60 Units, 84,400 SF (31 units per acre)

Year Built: 2016

Address: 11475 SE 85th Ave.



Acadia Gardens

41 Units, 36,508 SF (49 units per acre)

Year Built: 2012

Address: 8370 SE Causey



Each of these projects is proximate to the subject site, but closer to Clackamas Town Center. Two of the projects are three-story wood frame construction that has typically been the prevailing form in the area, yielding densities topping out at just over 30 units per acre. The Town Center Station project had a more urban form at 38 units per acre, but density was limited due to the utilization of structured parking. Acadia Gardens achieved a density of 49 units per acre using four story construction and a limited parking ratio.

As has been seen in other areas of the metropolitan area, increases in achievable pricing and reduced parking requirements due to transit investments have shifted highest and best use solutions to higher density products such as wood frame over podium projects. These have yet to be realized in unincorporated Clackamas County but projects we have been involved with in the area are now considering this as a potential solution, particularly near transit. Most of the planning in Clackamas County is dated and reflects assumptions of density for multi-family residential product at 25 units per acre and less. With current and anticipated development patterns expected to significantly exceed these assumptions, the carrying capacity of the existing inventory is likely underestimated.

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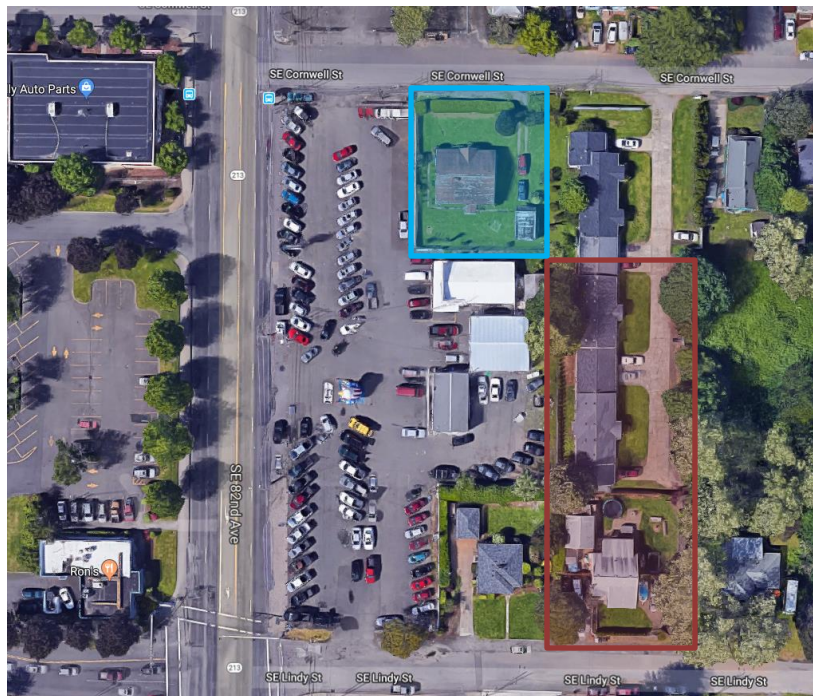
WASHMAN LLC, Comp Plan/Zone Change

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ECONOMICS OF DEVELOPMENT/REDEVELOPMENT ON THE SITE AND SURROUNDING PROPERTIES

The site for the requested zone change is highlighted below in blue.



Current Market Value	
Land	\$137,720
Improvements	\$143,770
Total	\$281,490
Site Size/SF	10,000
RMV/SF	\$28.15

The current estimated Real Market Value for the site and improvements is \$281,490, reflecting a total value of \$28.15 per square foot. Under the current zoning, the site would be highly unlikely to be redeveloped. While the zoning would allow an increase from one to two lots, the value of those lots would be less than the current real market value of the property. As a result, the likely residential loss would be the existing single unit as opposed to two units.

Another factor to recognize is that the area above designated in red is currently zoned commercial and is being utilized for residential uses. Additional homes are located south of Lindy Street on land zoned CC. Neither site is expected to be developed at any future time for commercial use, and as a result those units represent residential density accommodated on commercial zoning.

SUMMARY

Based on our review of available materials and the specific characteristics of the site, rezoning of the property from residential to commercial zoning seems highly appropriate. This action would create a rectangular and contiguous site for commercial development. The impact on *theoretical* residential capacity is extremely limited, and more than offset by recent changes in entitlements, development patterns, and existing residential development on commercially-zoned properties.

EXHIBIT 7

Z0375-18-CP & Z0376-18-ZAP

WASHMAN LLC, Comp Plan/Zone Change

Page 5 of 5

APPROVED RESIDENTIAL ZONE CHANGES - UNINCORPORATED CLACKAMAS COUNTY (2005-2017)

Permit Number	Parcel	Open Date	Decision Date	Zone Change From	Res Density (units/ac)	Zone Change To	Res Density (units/ac)	Description	Area	Units (+/-)	SF (+/-)	MF (+/-)
Z0046-05	12E34CD01500	01/21/2005	05/19/2005	R-10	4	NC	0	ZONE CHANGE FROM R-10 TO NC	1.05	(4)	(4)	
Z0728-05	22E03AA00102	09/15/2005	11/16/2005	R-15	3	R8.5	6	ZONE CHANGE / PARTITION/FROM R-15 TO R-8.5	0.45	1	1	
Z0306-05	22E02BD01000	04/26/2005	01/05/2006	R-10	4	OA	0	ZONE CHANGE FROM R-10 TO OA	1.47	(6)	(6)	
Z0312-05	22E19AC04900	04/27/2005	01/26/2006	MR-1	12	C-3	0	Zone Change from MR-1 to C-3.	1.16	(14)		(14)
Z0094-06	22E16BB03600	02/13/2006	06/05/2006	R-10	4	R8.5	6	ZONE CHANGE	3.64	7	7	
Z0389-06	12E28BD05802	05/18/2006	06/09/2006	MR2	18	OC	0	ZONE CHANGE FROM MR-2 TO OC.	2.99	(54)		(54)
Z0121-06	21E01DD04400	02/22/2006	06/15/2006	R-10	4	R-7	6	SEVEN LOT SUBDIVISION IN CONJUNCTION WITH A ZONE CHANGE.	1.5	3	3	
Z0234-06	21E12CD003300	03/31/2006	08/07/2006	R-10	4	R-7	6	11 LOT SUBDIVISION/ZONE CHANGE FROM R-10 TO R-7	2.23	4	4	
Z0655-06	21E12AD01200	08/14/2006	10/11/2006	R-10/R8.5	4 (5)	R8.5	5	A REZONE FROM THE CURRENT SPLIT, R-8.5 AND R-10 DESIGNATIONS TO R-8.5 FOR THE	0.31	1	1	
Z0279-06	12E28DC01900	04/18/2006	03/09/2007	R-15	3	R-10	4	ZONE CHANGE/27 LOT SUBDIVISION	6.98	7	7	
Z0224-07	12E28DD00200	03/26/2007	07/24/2007	R-15	3	R-10	4	ZONE CHANGE TO R-10 & 3 LOT PARTITION	0.74	1	1	
Z0374-07	21E12CD03600	05/17/2007	08/20/2007	R-10	4	R-8.5	5	EIGHT LOT SUBDIVISION IN CONJUNCTION WITH ZONE CHANGE FROM R-10 TO R-8.5.	2	2	2	
Z0581-07	22E02BD00100	08/01/2007	11/16/2007	R-10	4	OA		Zone Change application from the Urban Low Density Residential (R-10) zoning district to Office	3.74	(15)	(15)	
Z0317-07	21E12CA03300	04/25/2007	12/21/2007	R-10	4	R-7	6	ZONE CHG FROM R-10 TO R-7	4.35	9	9	
Z0266-08	22E08AB07302	04/25/2008	07/30/2008	R-10	4	R-7	6	ZONE CHANGE FROM R-10 - R-7	0.3	1	1	
Z0015-08	12E34D 01700	01/03/2008	10/09/2008	R-10	4	RTL	0	Zone change from R-10 to RTL.	0.22	(1)	(1)	
Z0384-08	21E02AC01500	06/25/2008	10/15/2008	R-10	4	HDR	25	ZONE CHANGE FROM R-10 TO HDR.	2.33	49	(9)	58
Z0066-17	21E02DB003300	02/01/2017	06/14/2017	R-10	4	HDR	25	ZONE CHANGE FROM R-10 TO HDR.	0.46	10	(2)	12
Z0450-14	21E13AD01200	12/23/2014	03/31/2015	R10	4	R-7	6	To change the zoning from R-10 to R-7.	1.12	2	2	
Z0320-15	21E02DA05000	07/21/2015	09/04/2015	R10	4	R-8.5	5	3-PARCEL PARTITION, REZONE FROM R10 TO R8.5, CONDITIONAL USE FOR TWO DUPLEX	0.73	1	1	
Z0319-15	21E02DA05000	07/21/2015	10/13/2015	R10	4	R-8.5	5	A Zone Change from the current R-10 zoning designation to a proposed R-8.5 zoning	0.69	1	1	
Z0388-15	21E01DD04600	09/08/2015	11/12/2015	R10	4	R-7	6	ZONE CHANGE	0.25	1	1	
Z0409-16	21E01BD00100	07/25/2016	10/04/2016	R10	4	R-7	6	A 10-LOT SUBDIVISION INCLUDING EXISTING HOUSE, REZONE FROM R-10 TO R-7,	1.79	4	4	
Z0528-11	multiple	11/23/2011	12/13/2012	RCHDR/HDR	25	PMU6	--	Establishment of PMU6 under ZDO-237 stipulated that the MF density remain at least 395 units per acre	---	0	0	
Z0282-15	21E13DD02100	07/01/2015	05/15/2017	R10	4	R-8.5	5	ZONE CHANGE FROM R-10 to R-8.5	15.82	16	16	
NET INCREASE (DECREASE)										26		

EXHIBIT 8

Z0375-18-CP & Z0376-18-ZAP

WASHMAN LLC, Comp Plan/Zone Change

June 28, 2004

Mike McCallister
Clackamas County
9101 SE Sunnybrook Blvd.
Clackamas, OR 97015

**RE: Windswept Waters
Comprehensive Plan Amendment Request**

Dear Mike,

This letter is provided to clarify dwelling unit capacity numbers addressed in the accompanying application. For your reference, we have attached density calculations that you compiled for the Molt Property Comprehensive Plan Amendment (Z0696-02-CP) approved in 2003. These attached calculations were completed to determine the change in dwelling unit capacity since completion of the housing inventory in June of 2000. As indicated on the attached table, a net capacity increase of 75 dwelling units was determined to have been added to the county since June of 2000. However, the attached table did not include the dwelling unit changes resulting from the Molt application and the Show Timber (Eagle Landing) (Z0802-02-Z) Comprehensive Plan Amendment requests, both of which have since been approved and now in effect. As noted below, approval of the Show Timber and Molt applications has added the capacity for 364 additional dwelling units in the county.

File No.	Map / Tax Lot	Change From	Change To:	Area (+/- ac)	Units / Acre	Net Change
Z0696-02	22E08BA-00300	MDR	R-7	1.58	4.98	-11
Z0696-02	22E08BA-00300	R-10	R-7	10.87	4.98	16
Z0802-02	12E33DA-00200	OS	LDR / R-7	16.9	3.7	63
Z0802-02	12E33DA-00200	R-10	HDR	4.32	25	93
Z0802-02	12E34CC-0400	OS	MHDR / MR-2	11.3	18	203
Total						+364

With the approval of both the Molt and Show Timber applications, the previously-determined surplus of 75 dwelling units increases to 439 dwelling units. For your review we have included a Concept Plan for Windswept Waters that identifies the dwelling unit capacity lost through the proposed Comprehensive Plan Amendment. As identified, the proposal to change 58.27-acres of the 82.73-acre site to Urban Low Density Residential will reduce the site's overall dwelling unit capacity by 391 units. Therefore, the Applicant's proposal will retain a surplus capacity of 48 dwelling units over the amount determined as needed (18,504 units) in the June of 2000 county-wide housing inventory.

We have also attached an updated table identifying approved Comprehensive Plan Amendments that have changed the multi-family housing capacity since periodic review in 1990. As identified on this attached table, the Show Timber and Molt property Comprehensive Plan Amendments have resulted in a county-wide multi-family housing capacity of 14,194 multi-family units. As noted in the attached narrative, the county in its 1989 periodic review identified that 13,426 units of multi-family housing could be developed in the county. Therefore, a surplus of 768 multi-family units exists in the county over the acknowledged multi-family housing number (13,426 units). The Applicant's request will remove 699 units of multi-family dwelling units, but will maintain a surplus of 69 multi-family dwelling units countywide. Therefore, the Applicant's proposal maintains more than enough multi-family housing for compliance with the statewide Metropolitan Housing Rule.

EXHIBIT 8

Please accept these materials as supplemental evidence in support of the Applicant's Comprehensive Plan Amendment request.

WASHMAN LLC, Comp Plan/Zone Change



DEVELOPMENT SERVICES



LAND PLANNING



CIVIL ENGINEERING



LANDSCAPE ARCHITECTURE



LAND SURVEY

5415 SW Westgate Dr.
Suite 100
Portland, OR
97221

PH 503/419-2500
FX 503/419-2600

www.wrgd.com

Multi-Family Housing Table for Clackamas County (9/22/03)

File No.	Map/Tax Lot	Change From	Change To	Area (+/- ac)	Density (units/ac)	Units (+/-)	Total 1989-Current
Multi-Family Unit Subtotal from 1989 Comprehensive Plan							13,426
Z0083-90	22E11B-00501	MR-1	MR-2	4.25	(12)18	26	13,452
Z0129-90	12E32AA-05300	MR-1	MR-2	2.9	(12)18	17	13,469
Z0430-90	22E02BC-04900	C-2	MR-2	1.4	18	25	13,494
Z0579-90	12E34CC-00600	MR-1	OC	-1.42	12	-17	13,477
Z0667-90	21E12BD-00800	MR-1	C-3	-1.08	12	-13	13,464
Z0705-90	22E09DC-00801	C-3	HDR	4.06	25	102	13,566
Z0327-91	22E12-00300	FU-10	MR-1	10	12	120	13,686
Z0765-91	22E10-01000	R-8.5	MR-2	13.93	18	251	13,937
Z0592-93	21E01CA-00500	MR-1	R-10	-0.46	12	-6	13,931
Z0071-94	21E01CD-03000	MR-1	C-3	-0.28	12	-3	13,928
Z0280-95	22E19BA-05300	MR-1	C-3	-21	12	-252	13,676
Z0566-97	21E13AB-00800	R-10	MR-1	0.5	12	6	13,682
Z0153-98	22E03AB-00900	R-8.5/ R-20	MR-2	1.73	18	31	13,713
Z1050-98	21E11AA-05900	MR-1	R-7	-0.27	12	-3	13,710
Z0743-99	12E33AD-01100	R-8.5	MR-1	0.31	12	4	13,714
Z0761-99	52E07B-00601	I-2	MR-2	2.28	18	41	13,755
Z0207-00	22E03B-00200	R-8.5	MR-1	6.77	12	81	13,836
Z0339-00	22E08BA-00700	MR-1	C-2	-0.53	12	-6	13,830
Z0711-00	12E28CD-01300	R-10	HDR	1.51	25	38	13,868
Z0711-00	12E28CD-01300	MR-2	HDR	3.02	(18)25	21	13,889
Z0960-00	22E04D-01407	I-2	MR-2	2.28	18	41	13,930
Z0245-01	22E11D-00700	MR-1	C-2	-1.3	12	-16	13,914
Z0034-02	22E11D-01400	MR-1	I-2	-0.96	12	-12	13,902
Z0696-02	22E08BA-00300	MDR	R-7	1.58	4.98	-19	13,883
Z0802-02	12E33DA-00200	R-10	HDR	4.32	25	108	13,991
Z0802-02	12E34CC-0400	OS	MHDR / MR-2	11.3	18	203	14,194

EXHIBIT 8

Z0375-18-CP & Z0376-18-ZAP

WASHMAN LLC, Comp Plan/Zone Change

Page 3 of 5

File No.	Map/ Tax Lot	Change From	Change To	Area (+/- ac)	Density (units/ac)	Units (units/ac)	Units (+/-)	Total
Z0154-98	98 22E03AB00900	R-8.5	MR-2	1.71			22	
Z0682-98	98 22E08BB03700	R-10	R-8.5 R-7	2.94			2	
Z0992-98	98 21E12CA03200	R-10	R-7	1.24			2	
Z1051-98	98 21E11AA05900	CANT FIND MICROFILM						
Z0017-99	99 12E35D 00600	R-8.5	R-7	0.13			0	
Z0619-99	99 22E19AC04800	R-10	C-2	1.93			-7	
Z0984-99	99 12E26BD00900	R-20	R-7	3.49			13	
Z0988-99	99 22E02CD00100	R-7	R-8.5	2.11			-2	
Z1059-99	99 22E03DD00923	R-8.5	R-7	2.34			-2	
Z0208-00	0 22E03B 01300	R-8.5	MR-2	4.49			58	
Z0339-00	0 22E08BA00700	MR-1	C-2	0.53			-6	
Z0705-00	0 22E18AB01200	R-8.5	R-7	1			1	
Z0960-00	0 22E04D 01407	I-2	MR-2	2.28			27	
Z0983-00	0 22E18AA01000	R-10	R-8.5	1.43			1	
Z0044-01	1 22E02BC00100	R-10	NC	0.37			-1	
Z0246-01	22E11D 00700	MR-1	CC	1.3			-15	
Z0461-00	1 23E11 02200	R-7	C-3	0.56			-3	
Z0491-01	1 21E02DA01700	OSM	R-10	2.26			9	
Z0498-01	1 22E08BB00100	R-10	R-7	0.33			0	
Z0515-01	12E34CD01600	R-10	NC	0.62			-2	
Z0901-01	1 12E29CC01000	R-10	C-2	0.41			-1	
Z0034-02	2 22E11D 01400 & 1500	MR-1	I-2	2.26			-27	
Z0296-02	2 21E12CA01500	R-10	R-8.5	2.06			2	
Z0690-02	2 21E13A 02400	R-10	R-8.5	4.22			4	
TOTAL							75	

Show Timber

Table 13 (note that this table is provided for context, but has not been updated to reflect revised assumptions about Damascus)

UGR MEDIUM Forecast 2014 Buildable Land Inventory (BLI) -- Residential Capacity

Geography Current UGB

Units DU (HH x 1.05)

Output Supply Side

Time Span 20 Years (2015-2025)

Metro Research Center DRAFT 8/19/2014

Scenario #1462

Local Government	BLI Capacity			DU used 2015-2035			DU remaining in 2035			% DU remaining in 2035		
	SF	MF	Total	SF	MF	Total	SF	MF	Total	SF	MF	Total
Clackamas Total	40,326	20,288	60,614	24,634	4,307	28,941	15,692	15,981	31,673	39%	79%	52%
DAMASCUS	15,554	4,003	19,557	9,305	152	9,457	6,249	3,851	10,100	40%	96%	52%
GLADSTONE	236	331	567	201	219	420	35	112	147	15%	34%	26%
HAPPY VALLEY	5,658	4,346	10,004	2,530	561	3,091	3,128	3,785	6,913	55%	87%	69%
JOHNSON CITY	0	0	0	0	0	0	0	0	0	--	--	--
LAKE OSWEGO	1,010	465	1,475	583	324	907	427	141	568	42%	30%	38%
MILWAUKIE	1,177	59	1,236	984	41	1,025	193	18	211	16%	31%	17%
OREGON CITY	2,635	4,695	7,330	1,779	789	2,568	856	3,906	4,762	32%	83%	65%
RIVERGROVE	36	0	36	23	0	23	13	0	13	35%	--	35%
WEST LINN	924	124	1,048	439	37	477	485	87	571	52%	70%	54%
WILSONVILLE	2,760	1,092	3,852	1,912	408	2,320	848	684	1,532	31%	63%	40%
UNINCORP-CLACK	10,336	5,173	15,509	6,877	1,775	8,652	3,459	3,398	6,857	33%	66%	44%
Multnomah Total	24,532	231,302	255,834	15,947	117,562	133,509	8,585	113,740	122,325	35%	49%	48%
FAIRVIEW	421	703	1,124	344	292	636	77	411	488	18%	58%	43%
GRESHAM	4,808	10,514	15,322	2,898	3,019	5,916	1,910	7,495	9,406	40%	71%	61%
MAYWOOD PARK	32	0	32	27	0	27	5	0	5	17%	--	17%
PORTLAND	15,180	213,246	228,426	10,276	113,525	123,801	4,904	99,721	104,625	32%	47%	46%
TROUTDALE	546	969	1,515	345	381	726	201	588	789	37%	61%	52%
WOOD VILLAGE	39	581	620	28	222	250	11	359	370	27%	62%	60%
UNINCORP-MULT	3,506	5,289	8,795	2,028	125	2,153	1,478	5,164	6,642	42%	98%	76%
Washington Total	53,842	22,395	76,237	33,293	10,036	43,329	20,549	12,359	32,908	38%	55%	43%
BEAVERTON	4,747	3,269	8,016	3,478	2,116	5,594	1,269	1,153	2,422	27%	35%	30%
CORNELIUS	88	153	241	9	26	34	79	127	207	90%	83%	86%
DURHAM	42	0	42	15	0	15	27	0	27	65%	--	65%
FOREST GROVE	3,439	1,990	5,429	1,821	433	2,253	1,618	1,557	3,176	47%	78%	58%
HILLSBORO	4,661	5,311	9,972	2,722	2,644	5,366	1,939	2,667	4,606	42%	50%	46%
KING CITY	223	169	392	182	112	294	41	57	98	18%	34%	25%
SHERWOOD	467	524	991	194	161	355	273	363	636	58%	69%	64%
TIGARD	6,243	2,270	8,513	3,615	1,355	4,970	2,628	915	3,543	42%	40%	42%
TUALATIN	351	188	539	172	139	311	179	49	228	51%	26%	42%
UNINCORP-WASH	33,581	8,521	42,102	21,085	3,052	24,137	12,496	5,469	17,965	37%	64%	43%
UGB TOTAL	118,700	273,985	392,685	73,874	131,905	205,780	44,826	142,080	186,905	38%	52%	48%

EXHIBIT 8

2014 Urban Growth Report
20375-18-CP & 20376-18-ZAP

Appendix 4, pg. 47

WASHMAN LLC, Comp Plan/Zone Change

Fritzie, Martha

From: Fritzie, Martha
Sent: Monday, January 28, 2019 8:13 AM
To: Fritzie, Martha
Subject: FW: Planning file # ZO375-18-CP & ZO376-18-Zap

From: Kim Rueck [<mailto:krueck5947@aol.com>]
Sent: Thursday, January 24, 2019 12:57 PM
To: ZoningInfo <ZoningInfo@co.clackamas.or.us>
Subject: Planning file # ZO375-18-CP & ZO376-18-Zap

January 24, 2019

Planning & Zoning
150 Beavercreek Road
Oregon City, OR 97045

RE: Planning file # ZO375-18-CP & ZO376-18-Zap

IN May 1997, the county assumed houses in our area were only good for 50 to 60 years. In 1997, they felt houses would only last 10-12 years to come. They also felt majority of people who lived in the area are elderly. Now the areas has turned around. The average age of residents are 45-50 years old. House have been remodeled. This area now is affordable housing which Clackamas County Lacks. Not only in real estate but rental housing.

We do NOT want rezoning, we want to protect our housing... Our neighborhood.

As it stands, to exit Fuller Rd near 1-205, we have a traffic light at Fuller and Johnson Creek. Once block east bound is another traffic light. Early morning commuters travel East on Johnson Creek. The light on Fuller may be green but the next light near the freeway is Red. This backs up traffic on Johnson Creek. The light at Fuller(South Bound) will turn green but due to the overcrowding if you are trying to turn east from Fuller Rd there is No lane to turn into without blocking the intersection. This happens in the evening as well, except in the evening, traffic is blocked in both directions and we, the residents, are blocked from entering or exiting our area.

As of today, 82nd Ave is over crowded with cars. If anyone from the neighborhood is attempting to get out, it is almost impossible to turn left to travel southbound on 82nd. Due to the traffic lights which are used by the current Car Wash as well as Fred Meyer, Car coming out of Cornwell often have to use the center lane to avoid crashes which back up 82 even more. Adding a large Carwash to the area is only going to add to the traffic thus blocking more residents in the neighborhood and possibly causing more traffic accidents. As it is now, the only ways out of the neighborhood is Cornwell to 82nd or Fuller Rd to Johnson creek. The access from Johnson creek has already been limited from full access to only a left in with NO access if you are traveling east on Johnson creek. Allowing the Car wash to enter the

EXHIBIT 9
ZO375-18-CP & ZO376-18-ZAP

WASHMAN LLC, Comp Plan/Zone Change

area is going to grid lock the residents and cause us to travel way out of the way to either enter or exit safely.

Another huge concern is the lack of access for Emergency Services. They would not be able to respond quickly due to inadequate neighborhood access and would drastically reduce response time putting lives potentially at risk. For example; take the Washman on 82nd and Glisan. On any sunny day the Car wash is so over crowded it has traffic backed up in all directions. As a former Tri met Bus Driver, I have experienced this myself on many occasions. Many times attempting to get through the intersection and have sat through at least 8 lights taking anywhere from 20-27 mins due to the blocked access.

Clackamas County's Proposal would severely impose livability. More traffic equates to extreme difficulty in accessing our homes. More traffic in our neighborhood means more people/cars traveling down our street trying to avoid the inevitable traffic jam that will be present. These cars will then jeopardize the safety and wellbeing of our children as they will no longer be able to play out side safely without a real threat of increased crime and the great possibility of being ran over by the traffic flow. All of these and many more are going to negatively impact our lives.

Sincerely,

Kathy Barnett

KathyBarnett52@yahoo.com

8406 SE Garden Lane

Happy Valley Or, 97086

Spam Email

Phishing Email

EXHIBIT 9

Z0375-18-CP & Z0376-18-ZAP

WASHMAN LLC, Comp Plan/Zone Change

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Page 2 of 2

Fritzie, Martha

From: Nadine Hanhan <hanhannadi@gmail.com>
Sent: Sunday, January 27, 2019 4:47 PM
To: Renhard, Darcy; ZoningInfo; Fritzie, Martha
Cc: Kim Rueck
Subject: Washman Rezoning - Z0375-18-CP & Z0376-18-ZAP
Attachments: Postpone_Request.pdf

Hello,

My name is Nadine Hanhan, and I would like to submit a letter to the Planning Commissioners on behalf of the Garden Gate Village and Dover Park neighborhoods. The letter pertains to the Washman rezoning application on SE Cornwell Ave. A number of neighbors are very concerned about the rezoning and have discovered factual errors in the Washman application. Many of us only recently found out about the proposal and have thus had limited time to do appropriate analysis on the impacts to our neighborhood.

The letter I have attached is a request to postpone the Board of County Commissioner hearing so that the neighborhood can have additional time to review the application materials. We have read the Staff report and understand that Staff has determined that the application did not satisfy all the applicable state, regional and county criteria.

Could you please forward the letter I have attached to all nine Planning Commissioners? We could not find their e-mail addresses online. Some of us will be at the hearing tomorrow to provide oral comments.

Thank you for your time,
Nadine

Spam Email
Phishing Email

Neighbors of Garden Gate Village and Dover Park
SE Cornwell and SE Garden Lane
Happy Valley, OR 97086

January 28, 2019

Chair Brian Pasko, Vice-Chair Mary Phillips, Commissioner Christine Drazan Commissioner Mark Fitz, Commissioner Louise Lopes, Commissioner Gerald Murphy, Commissioner Thomas Peterson, Commissioner Steven Schroedl, and Commissioner Michael Wilson:

We are a group of individuals who live in the Garden Gate Village and Dover Park neighborhoods. We are writing because we are concerned about a Comprehensive Plan Map Amendment in our neighborhoods. Washman, LLC has submitted an application to the county to rezone an area in our neighborhood from Low Density Residential (LDR) to Corridor Commercial (CC) in order to build a carwash at the end of our street.

As far as we know, only one of us has received notification of the rezoning. We understand that only individuals living within 300 feet of the site in question are required to receive notification of the potential rezoning, but please understand it would impact the entirety of our area. There are well over 50 homes in our neighborhood. As a very limited number of people have been contacted about the rezoning, and because there are no signs posted on the site to inform other neighbors of the change, many of us are just learning about the proposed rezoning. We feel that we have not had sufficient time to investigate the impacts to our neighborhood. As such, we need additional time to review the particulars of the rezoning application.

We have read the Staff report submitted by Ms. Martha Fritzie and have additional evidence to show that there were significant errors and omissions in Washman, LLC's application. For example, the Washman, LLC application states that 8220 Cornwell has been vacant since 2007. This is incorrect. The home was lived-in and maintained until the spring of 2018. The Garden Gate Village and Dover Park neighborhoods believe that we need additional time to review the application materials, analyze the application's consistency with state and planning guidelines, additional omissions and errors, impacts to our neighborhood, and any negative unforeseen consequences as a result of the potential rezoning.

We respectfully request that you make a recommendation to the Board of County Commissioners to postpone the hearing on February 28th so that we can analyze the impacts to our neighborhood.

Respectfully submitted,
Garden Gate Village and Dover Park Neighborhoods

Kim Rucker

Ryan Carl

Martin J. Jahn

Kristen Luoma

Lois Stahl

Debra

Sonja Reed

Sally Carter


BRL


EXHIBIT 10

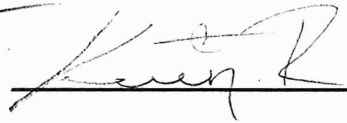
Z0375-18-CP & Z0376-18-ZAP

WASHMAN LLC, Comp Plan/Zone Change

Page 2 of 3


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[unclear]

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[Blank lined area]

SE Augusta National Ave



**SYMONS ENGINEERING
CONSULTANTS, INC.**

12805 s.e. foster road
portland, oregon 97236
phone 503 760 1353
facsimile 503 762 1962

CLIENT

WASHMAN, LLC
PO BOX 4124
PORTLAND, OR 97218
503-849-4582

PROJECT

**WASHMAN
82ND & LINDY**

SITE ADDRESS

8864 SE 82ND AVE
HAPPY VALLEY, OR 97086

SHEET NAME

**EXISTING CONDITIONS
PLAN**

REVISION

- △
- △
- △
- △
- △

ISSUE DATE **JANUARY 25, 2019**
DRAWING FILE **17-44c.DWG**
PROJECT NUMBER **17-44**

SHEET - **EC**

OF - SHEETS

CC

CC

SE 82nd Ave

CC

R5

CC

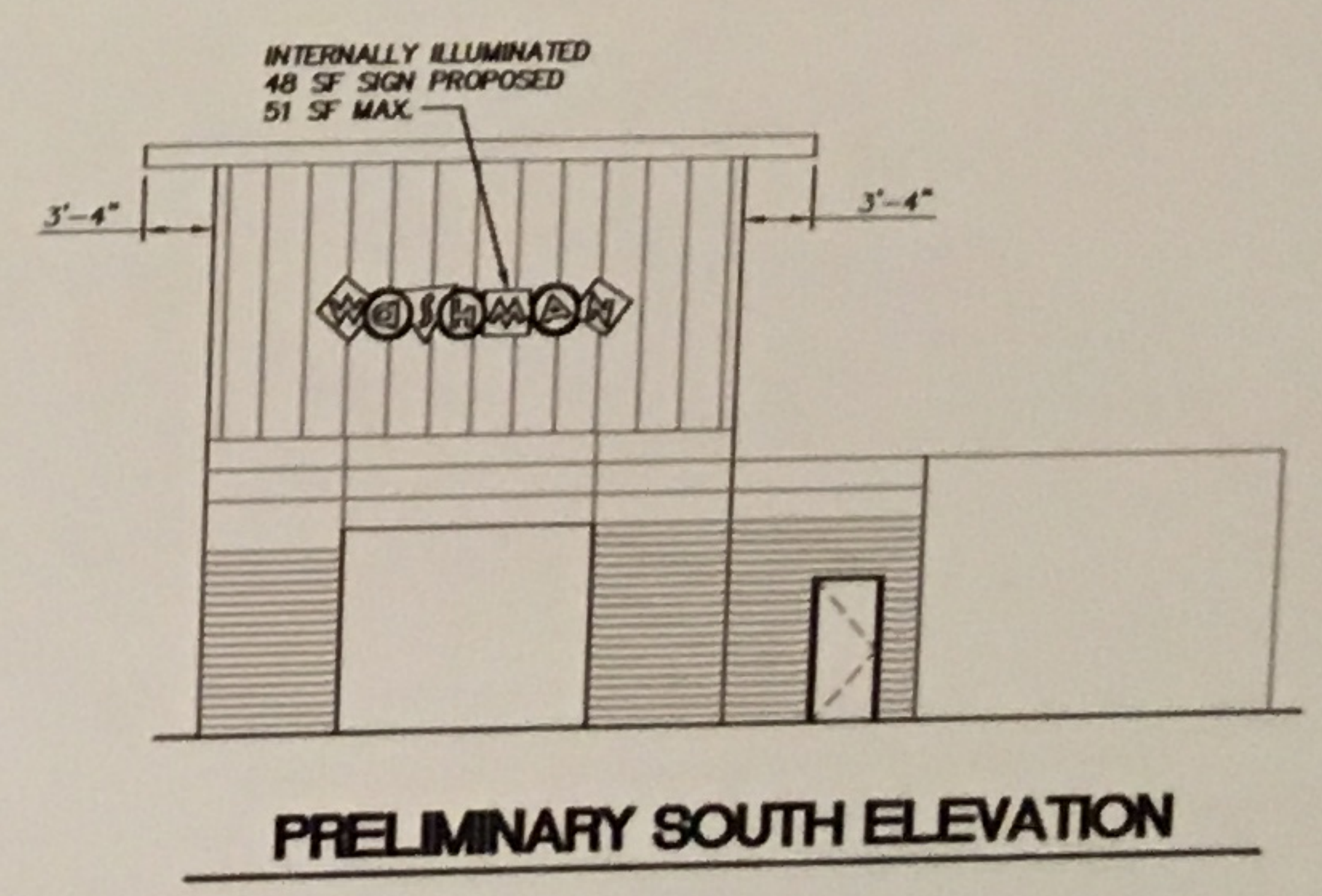
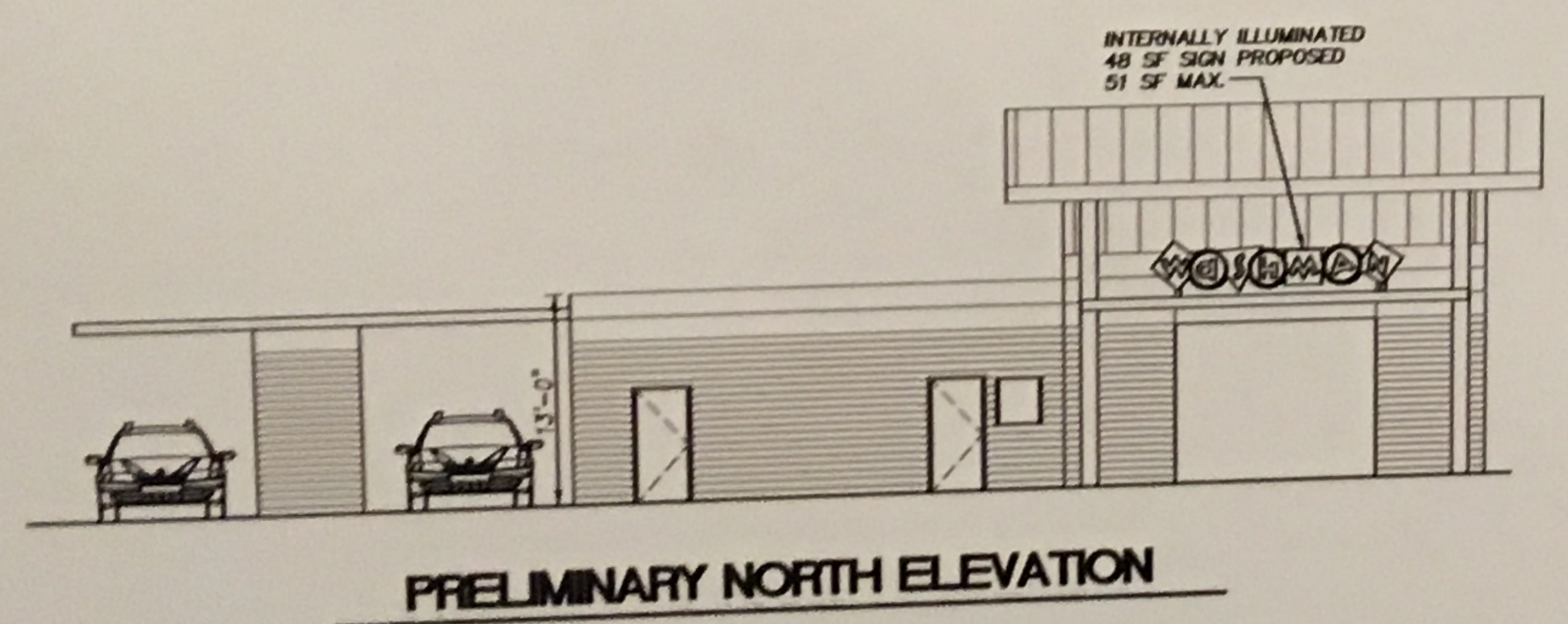
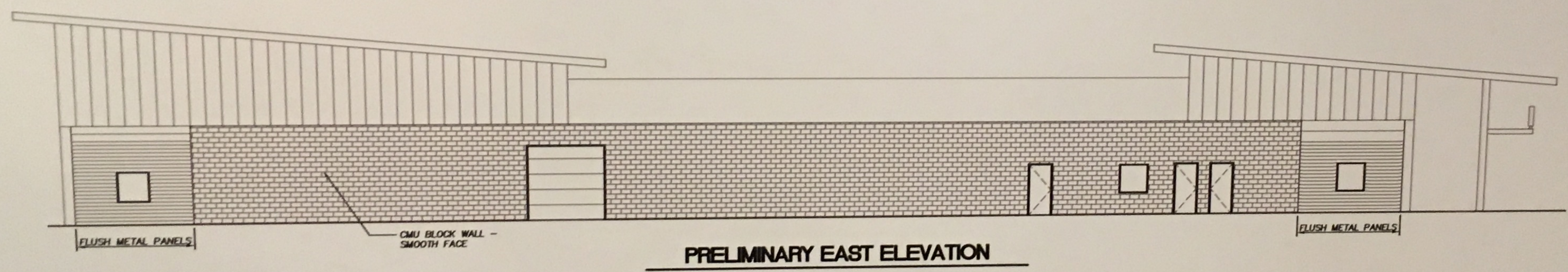
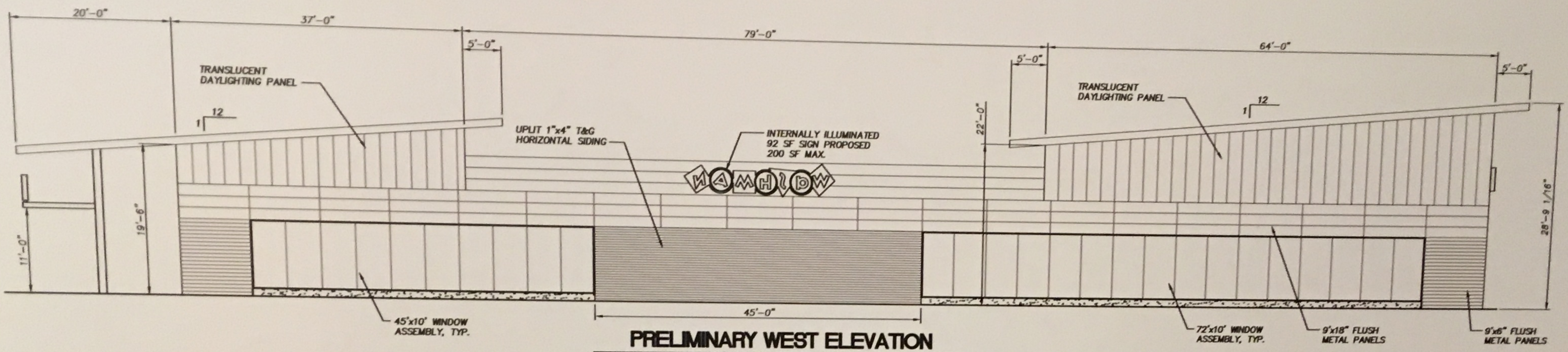
R5

SE Lindy St

SE Cornwell Ave

SE Gray St

MR1



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CLIENT

WASHMAN, LLC
PO BOX 4124
PORTLAND, OR 97218
503-849-4582

PROJECT

**WASHMAN
82ND & LINDY**

SITE ADDRESS

8864 SE 82ND AVE
HAPPY VALLEY, OR 97086

**SHEET NAME
PRELIMINARY
ELEVATIONS**

REVISION

- △
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ISSUE DATE **JANUARY 25, 2010**

DRAWING FILE **17-44_mldwg**

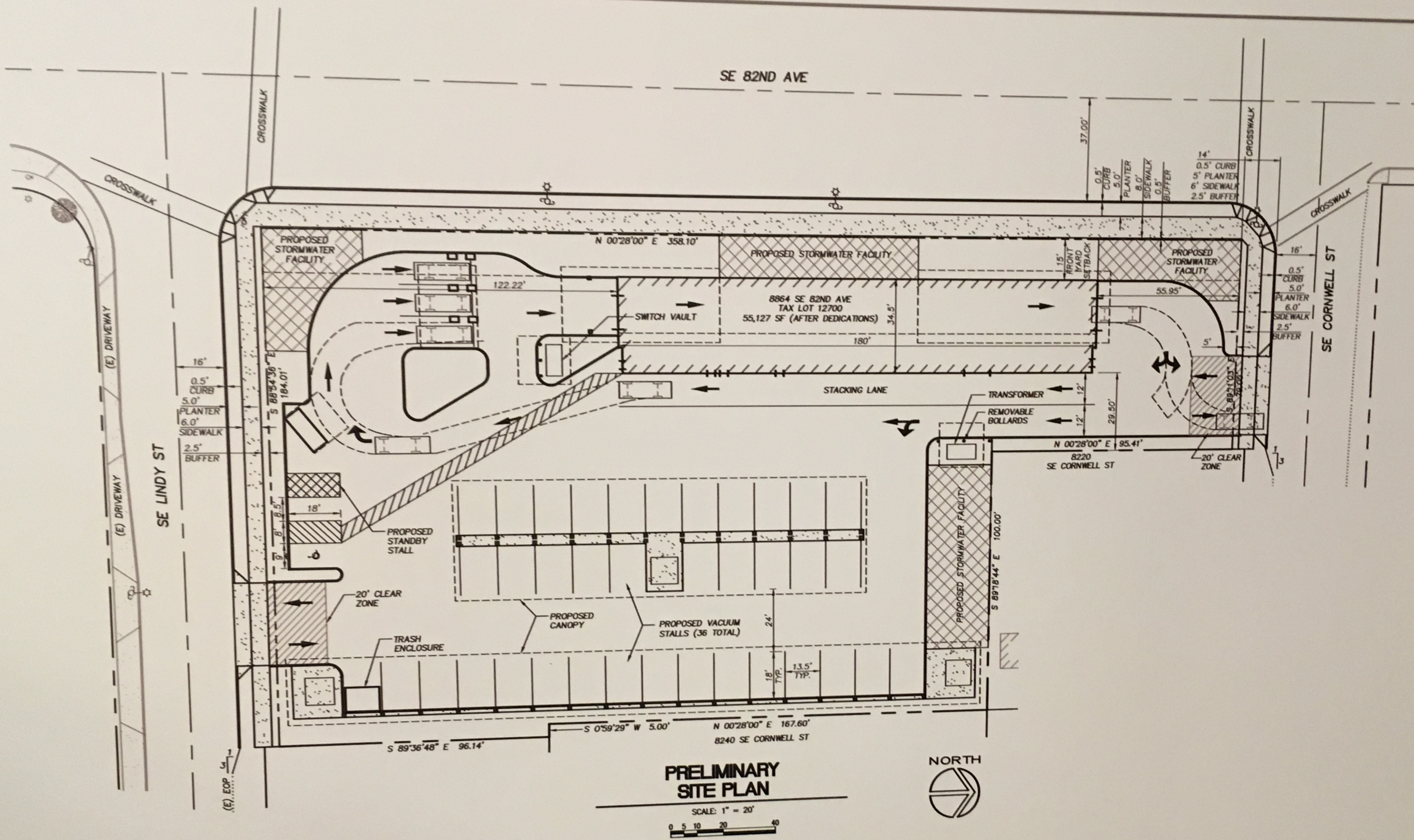
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A1

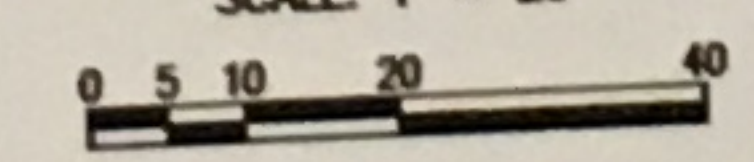
OF - SHEETS

NOT FOR CONSTRUCTION



**PRELIMINARY
SITE PLAN**

SCALE: 1" = 20'



PROPOSED SITE PLAN WITHOUT ZONE CHANGE TO TAX LOT 12500



**SYMONS ENGINEERING
CONSULTANTS, INC.**

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CLIENT
WASHMAN, LLC
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503-849-4582

PROJECT
WASHMAN
82ND & LINDY

SITE ADDRESS
8864 SE 82ND AVE
HAPPY VALLEY, OR 97086

SHEET NAME
**PRELIMINARY
SITE PLAN**

REVISION

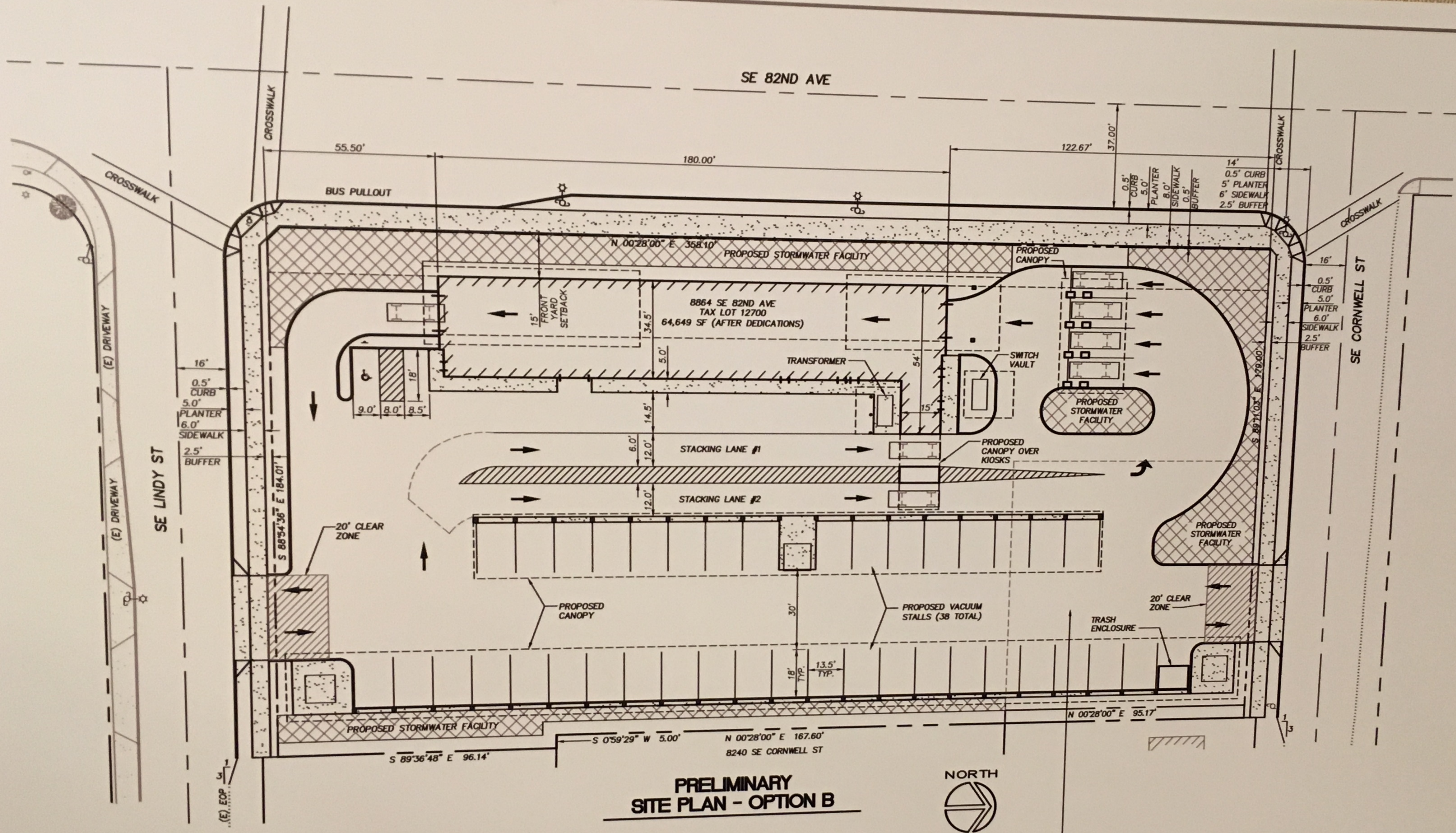
△	10/31/17	ISSUED FOR PRE-APP
△	4/5/18	ISSUED FOR ZONE CHANGE PRE-APP
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ISSUE DATE APRIL 5, 2018
DRAWING FILE D-44c.DWG
PROJECT NUMBER D-44
SHEET 2

C1A

OF 3 SHEETS

NOT FOR CONSTRUCTION



**PRELIMINARY
SITE PLAN - OPTION B**

PROPOSED SITE PLAN WITH ZONE CHANGE TO TAX LOT 12500



**SYMONS ENGINEERING
CONSULTANTS, INC.**

12805 s.e. foeler road
portland, oregon 97236
phone 503 760 1353
facsimile 503 762 1962

CLIENT

WASHMAN, LLC
PO BOX 4124
PORTLAND, OR 97218
503-849-4582

PROJECT

**WASHMAN
82ND & LINDY**

SITE ADDRESS

**8864 SE 82ND AVE
HAPPY VALLEY, OR 97086**

**SHEET NAME
PRELIMINARY
SITE PLAN**

REVISION	
△	4/5/18 ISSUED FOR ZONE CHANGE PRE-APP
△	
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ISSUE DATE	APRIL 5, 2018
DRAWING FILE	D-44c.DWG
PROJECT NUMBER	D-44
SHEET 3	

C1B

OF 3 SHEETS
WASHMAN LLC, Comp Plan/Zone Change
Page 4 of 4

NOT FOR CONSTRUCTION

EXHIBIT 11
Z0375-18-CP & Z0376-18-ZAP

MEMORANDUM

DATE: January 31, 2019

TO: Peter Finley Fry

FROM: Jerry Johnson
JOHNSON ECONOMICS, LLC

SUBJECT: Assessment of Residential Capacity Impact of a Proposed Zone Change in Unincorporated Clackamas County

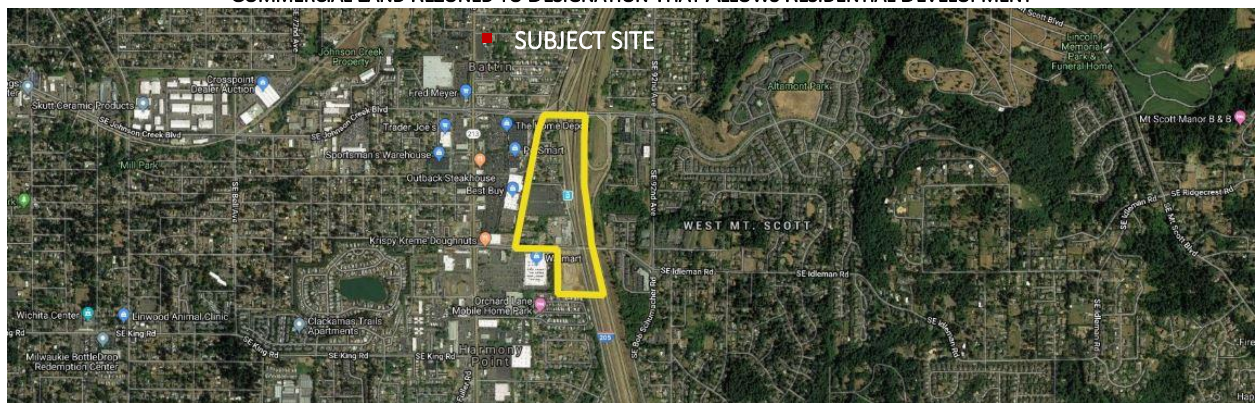
This memorandum summarizes supplemental information pursuant to the requested zone change in unincorporated Clackamas County.

RESIDENTIAL CAPACITY INCREASE ASSOCIATED WITH REZONING

Our January 16th memorandum identified over 470 acres of land zoned as Commercial in unincorporated Clackamas County as having been rezoned to Mixed Use. This information was based on RLIS, and we have subsequently found that the land was reclassified by Metro for their simplified zoning layer as opposed to being rezoned by the County.

While we do not have adequate time to search the approved permits online, we did find an example of a rezoned parcel proximate to the subject site and 48.5 acres in size.

COMMERCIAL LAND REZONED TO DESIGNATION THAT ALLOWS RESIDENTIAL DEVELOPMENT



The property zone south of Johnson Creek and east of Fuller was originally zoned LTIC but was changed to SCMU in 2011. LTIC stands for "Low Traffic Impact Commercial" and was a commercial zoning classification. LTIC prohibited new development of single family and two-family dwellings or the use of manufactured dwellings but did grandfather in the use of preexisting dwellings.

One of the stated primary uses of SCMU land is dwellings including, single-family and multifamily. SCMU zoned land requires a minimum of 20 units per net acre for residential development. There appears to be no maximum density for this zone designation however, there are rules regarding the required setback of buildings based on their height.

EXHIBIT 12

Z0375-18-CP & Z0376-18-ZAP



While the site has not seen residential development yet, I have been working with a private client on an affordable housing solution at a relatively high density on the southern portion of the property. The number of units would be close to 100 as currently envisioned. While not yet a hard project, the rezoned sites clearly represent a significant increase in residential capacity proximate to the subject site.

As noted in our previous memorandum, residential densities for new product in unincorporated Clackamas County has averaged just over 30 units per acre for rental apartments. Assuming only 10% of the rezoned property is developed in this format, the net yield would be 145 units.

EXHIBIT 12

Z0375-18-CP & Z0376-18-ZAP

WASHMAN LLC, Comp Plan/Zone Change

Page 2 of 7



MEMORANDUM

DATE: January 16, 2019

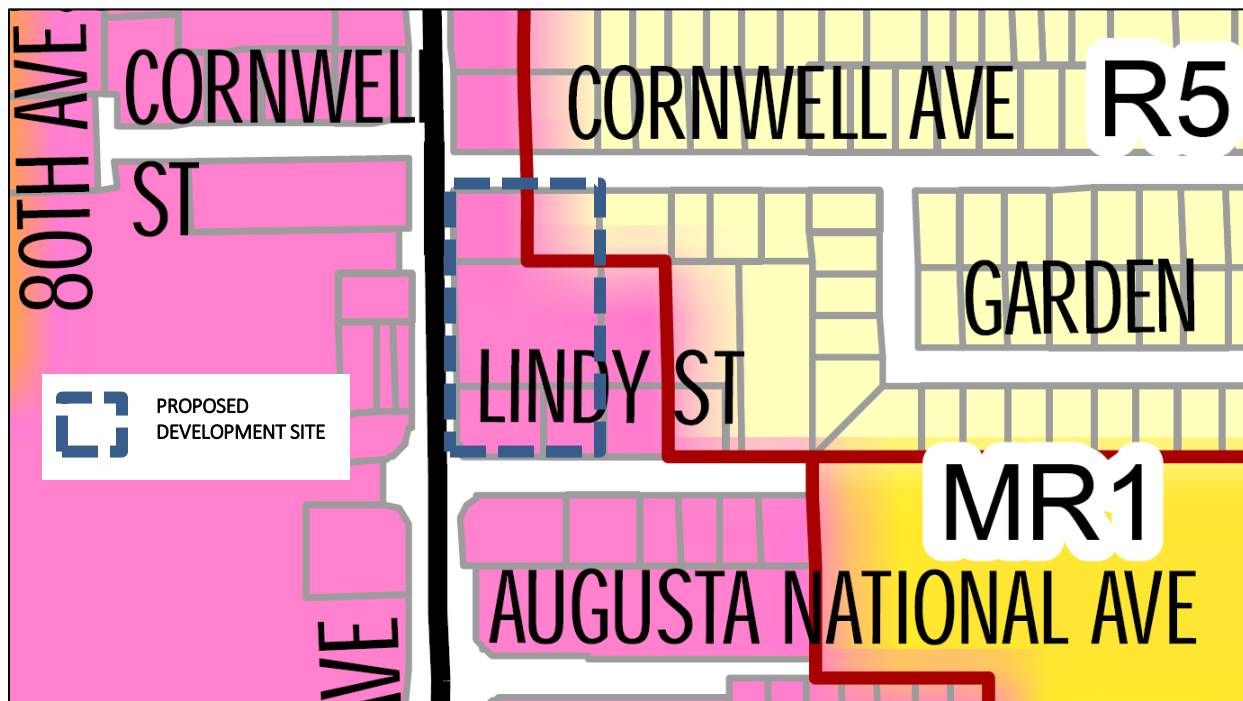
TO: Peter Finley Fry

FROM: Jerry Johnson
JOHNSON ECONOMICS, LLC

SUBJECT: Assessment of Residential Capacity Impact of a Proposed Zone Change in Unincorporated Clackamas County

INTRODUCTION

It is my understanding that you are seeking a change from Urban Low Density Residential (SR-5) to Corridor Commercial (CC) for a small parcel at 8880 SE 82nd Avenue. The change would allow for commercial development of a consolidated site of five parcels. The subject site is at the northeast corner of the proposed development site.



While the current CC zoning extends to the east of the site, these sites are currently in active residential use, with a single family home on the southern parcel and rental apartments on the central parcel.

Policy 3.1b states that “The designation will not cause a decrease in housing capacity in the County” thus, there can be no net loss of housing capacity. While no residential development is likely in the foreseeable future on this site

EXHIBIT 12

Z0375-18-CP & Z0376-18-ZAP

WASHMAN LLC, Comp Plan/Zone Change

Page 3 of 7

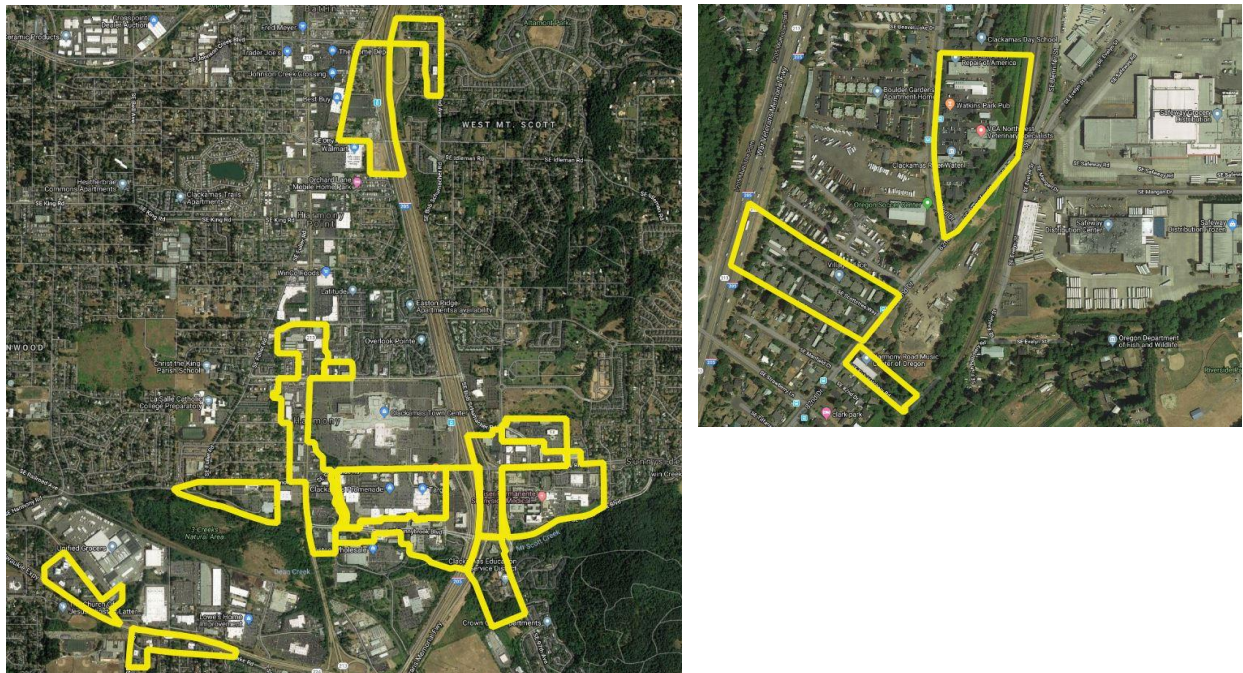


the proposed change would reduce *theoretical* capacity in the area by two residential units at current zoning. This memorandum discusses our findings regarding the likely impact of this change on the local housing market. The analysis looks at marginal changes in residential capacity associated with zone changes in the area over the last decade, changes associated with residential development densities and their impact on residential capacity, and the likely impact on residential yield in the immediate area of the proposed change.

RESIDENTIAL CAPACITY INCREASE ASSOCIATED WITH REZONING

From 2009 to 2018, over 470 acres of land zoned as Commercial in unincorporated Clackamas county was rezoned to Mixed Use.¹ Each of the areas outlined on the two maps are in unincorporated Clackamas County and were zoned Commercial in 2009 but have since been rezoned as Mixed Use. We have Identified 15 areas that meet these criteria. In total, these constitute an increase of over 470 acres of Commercial land rezoned for Mixed Use from 2009 to 2019. While only a proportion of mixed-use designations are expected to develop as residential uses, even a small share of this property would be necessary to offset the negligible loss of two units of residential capacity associated with the proposed rezoning.

COMMERCIAL LAND REZONED TO DESIGNATION THAT ALLOWS RESIDENTIAL DEVELOPMENT



The overall amount of land rezoned from Commercial to Mixed Use in unincorporated Clackamas County from 2009 to 2018 constitutes a significant increase in housing capacity in unincorporated Clackamas County, which more than offsets the negligible reduction in capacity associated with rezoning of this individual parcel.

1 RLIS



RECENT DEVELOPMENT PATTERNS

At least 570 units of housing were built or approved on land in unincorporated Clackamas County from 2009 to 2018. The following table summarizes these developments in terms of units and density.

Residential Development Activity Summary, Unincorporated Clackamas County, 2009-18

	Units	Acres	Units/Acre
Rental Apartments	171	5.6	30.3
Condominiums	298	15.3	19.5
Plexes	15	1.0	14.4
Manufactured Homes	6	0.7	8.6
Accessory Dwelling Units	24	N/A	N/A

The information was derived from RLIS and should be considered to be representative and not exhaustive.

The following are four examples of these developments:

Latitude

210 Units, 405,000 SF (22.5 units per acre)

Year Built: 2014

Address: 11224 SE CAUSEY CIR



Town Center Station

52 Units, 60,000 SF (38 units per acre)

Year Built: 2010

Address: 8719 SE MONTEREY AVE

Town Center Courtyards:

60 Units, 84,400 SF (31 units per acre)

Year Built: 2016



EXHIBIT 12

Z0375-18-CP & Z0376-18-ZAP

WASHMAN LLC, Comp Plan/Zone Change

Page 5 of 7



Town Center Courtyards

60 Units, 84,400 SF (31 units per acre)

Year Built: 2016

Address: 11475 SE 85th Ave.



Acadia Gardens

41 Units, 36,508 SF (49 units per acre)

Year Built: 2012

Address: 8370 SE Causey



Each of these projects is proximate to the subject site, but closer to Clackamas Town Center. Two of the projects are three-story wood frame construction that has typically been the prevailing form in the area, yielding densities topping out at just over 30 units per acre. The Town Center Station project had a more urban form at 38 units per acre, but density was limited due to the utilization of structured parking. Acadia Gardens achieved a density of 49 units per acre using four story construction and a limited parking ratio.

As has been seen in other areas of the metropolitan area, increases in achievable pricing and reduced parking requirements due to transit investments have shifted highest and best use solutions to higher density products such as wood frame over podium projects. These have yet to be realized in unincorporated Clackamas County but projects we have been involved with in the area are now considering this as a potential solution, particularly near transit. Most of the planning in Clackamas County is dated and reflects assumptions of density for multi-family residential product at 25 units per acre and less. With current and anticipated development patterns expected to significantly exceed these assumptions, the carrying capacity of the existing inventory is likely underestimated.

EXHIBIT 12

Z0375-18-CP & Z0376-18-ZAP

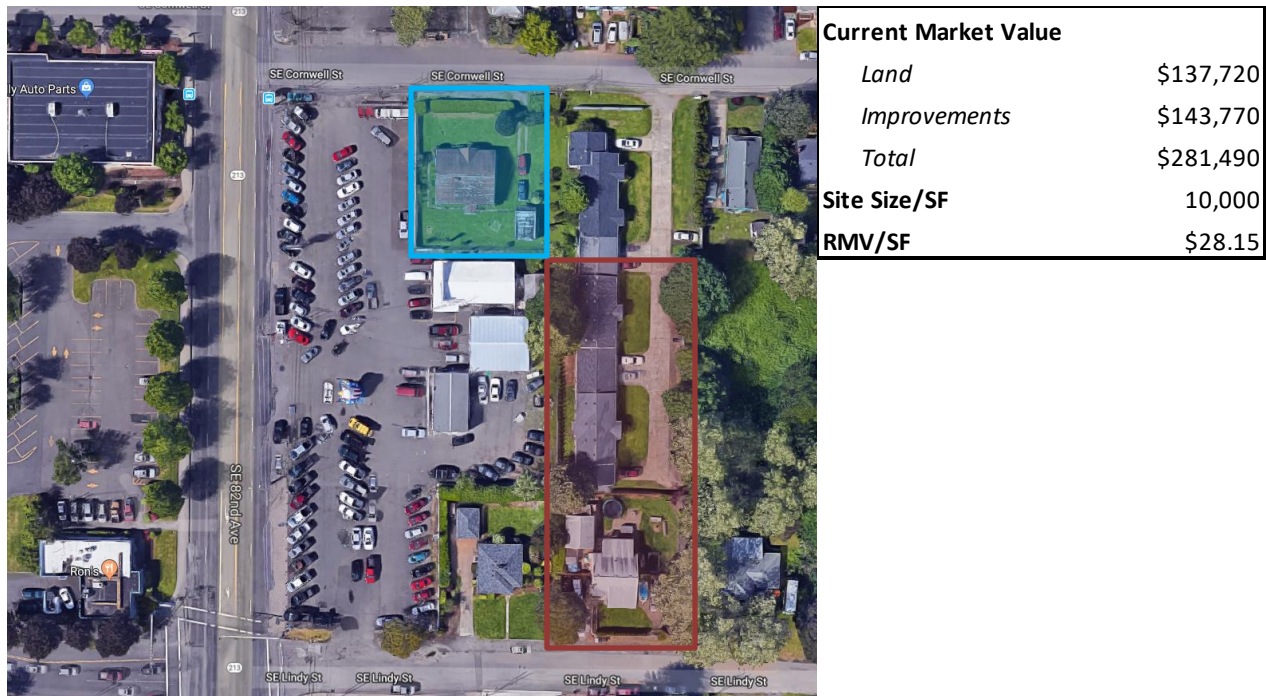
WASHMAN LLC, Comp Plan/Zone Change

Page 6 of 7



ECONOMICS OF DEVELOPMENT/REDEVELOPMENT ON THE SITE AND SURROUNDING PROPERTIES

The site for the requested zone change is highlighted below in blue.



The current estimated Real Market Value for the site and improvements is \$281,490, reflecting a total value of \$28.15 per square foot. Under the current zoning, the site would be highly unlikely to be redeveloped. While the zoning would allow an increase from one to two lots, the value of those lots would be less than the current real market value of the property. As a result, the likely residential loss would be the existing single unit as opposed to two units.

Another factor to recognize is that the area above designated in red is currently zoned commercial and is being utilized for residential uses. Additional homes are located south of Lindy Street on land zoned CC. Neither site is expected to be developed at any future time for commercial use, and as a result those units represent residential density accommodated on commercial zoning.

SUMMARY

Based on our review of available materials and the specific characteristics of the site, rezoning of the property from residential to commercial zoning seems highly appropriate. This action would create a rectangular and contiguous site for commercial development. The impact on *theoretical* residential capacity is extremely limited, and more than offset by recent changes in entitlements, development patterns, and existing residential development on commercially-zoned properties.

BEFORE THE CLACKAMAS COUNTY PLANNING COMMISSION

ZO375-18-C/Z0376-18-ZAP

In the Matter of Washman, LLC., Proposed)	
)	
Amendment to the Comprehensive Plan)	TESTIMONY OF THE
)	GARDEN GATE VILLAGE
)	NEIGHBORHOODS
)	
)	
)	
)	

We are a collective of neighbors who reside on SE Cornwell, SE Garden Lane, and SE Lindy St., or The Garden Gate Village Neighborhoods (“GGVN”).

I. Introduction

On August 8, 2018, Mark Hanna and David Tarlow (“the applicant”) submitted an application to the Planning Commission (“Commission”) for a zone change in our neighborhoods. The proposal is for a Comprehensive Plan Map Amendment from Low Density Residential (LDR) to Corridor Commercial (COR) with a corresponding Zone Change from Low Density Residential (R-5) to Corridor Commercial (CC). In our testimony, GGVN will challenge material facts the applicant has brought into the record and comment on consistency with relevant planning criteria.

First, GGVN does not believe that the applicant has been forthcoming about the site in question. In our testimony, we explain that the applicant has omitted material information from the record. As a result, GGVN believes it would be unwise for the

Commission to approve a zone change for a site with incomplete information. Second, GGVN corrects additional errors in the applicant's exhibits, specifically its application submitted on August 8, 2018. Third, while GGVN understands that the Commission can only speak to consistencies in the planning criteria, GGVN hopes to submit additional concerns to the record so that the Planning Commission can guide the Board of County Commissioner decision and potential site Design Review process.

Based on the analysis in this testimony, we conclude 1) The applicant has failed to provide a robust record in order for the Commission to make a fully informed decision, and 2) the applicant has failed to meet several planning criteria. As a result, the Commission should not approve the zoning changes and amendments.

II. The Burden of Proof is on the Applicant to Show the Adjacent Parcels and the Subject Site can Be Merged; Thus Far, the Applicant Has Not Been Forthcoming About the Subject Site.

GGVN has reviewed the applicant's exhibits, including the application itself, additional exhibits submitted to the Commission, and the Commission Staff ("Staff") Report and challenges various facts and arguments the applicant has presented.

First, the applicant asserts that the subject site has been vacant since 2007¹ and was not habitable. This is very misleading. The applicant's justification for satisfying planning criteria hinges on the idea that the loss in housing capacity is "negligible," but the subject site in fact contains a habitable home. Neighbors of the Garden Gate Village assert that the individuals living at 8220 Cornwell, the subject site, were our neighbors until the applicant bought the home with the intention of developing the land for a

¹ See Applicant's Land Use Application, page 8. Available at <https://dochub.clackamas.us/documents/drupal/4e3641d6-d57a-48e2-b24b-1b3eb07793cf>.

carwash. Below is a photograph of the subject site prior to being purchased by the applicant. This is a photograph from Google maps, dated March 2016. As *Figure 1* reveals, the hedges are well maintained. As a home built in 1925,² it is not difficult to see that the house has been kept up for many years.

Figure 1 – 8220 Cornwell Ave. Prior to Applicant Purchase



The second point GGVN wants to bring to the attention of the Planning Commission is that the applicant has not provided sufficient evidence about the status of the sites adjacent to the subject site. After submitting the application, the applicant filed the following additional exhibits describing the status of the parcels adjacent to and near

² See Planning Staff Report, page 2. Available at <https://dochub.clackamas.us/documents/drupal/e37561bf-1ee9-45d7-a400-dedb8e8ec498>.

the subject site: A Ground Lease for property on 8864 SE 82nd, a Sales Agreement for 8139 SE Lindy St., and an Amendment to the Sales Agreement for the Lindy property.³

As GGVN understands it, the Ground Lease (for 8864 SE 82nd) is an agreement between the applicant and a lessor for land adjacent to the subject site, and also adjacent to SE 82nd Avenue. The applicant has agreed to lease the property until the death of the lessor and his spouse, or until the lessor decides to sell to the applicant. It is therefore unclear whether the applicant will even be able to merge the subject site and the property adjacent to SE 82nd. As Staff correctly points out, if the subject site is not adjacent to the Corridor street, the subject site does not meet appropriate planning criteria. We elaborate on this point further in section III of this testimony.

In addition to the concerns surrounding the Ground Lease property, the Amendment to the Sales Agreement, dated January 3, 2018, addresses a separate parcel on 8139 SE Lindy Street. As GGVN understands it, the applicant and the owner of the parcel on Lindy agreed to close the sale by an ultimate date of February 28, 2019. Thus far, the applicant has not submitted any documentation demonstrating that it has actually purchased the parcel on 8319 SE Lindy Street. Further, there was an additional Sales Agreement dated March 7, 2018, but the Seller appears not to have signed this agreement.

The question of the sale of the property on Lindy is relevant for purposes described in Section III below. At its core, GGVN is unconvinced that the applicant has secured the properties in question to develop the site into a car wash. At the public

³ See Additional Exhibits 8-11, PDF pages 14-32. Accessible at <https://dochub.clackamas.us/documents/drupal/76b82b7d-9c60-44ae-9420-5001fbbb3344>.

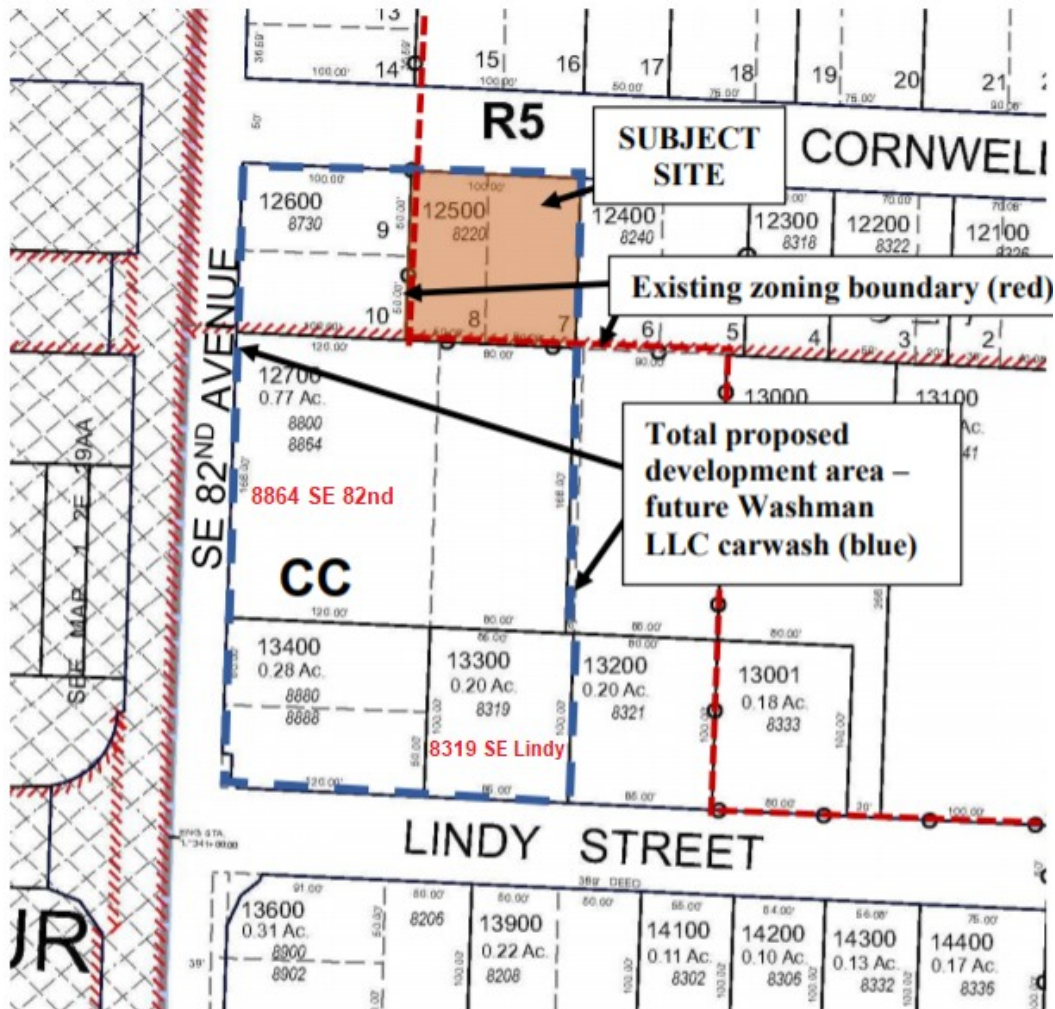
meeting on January 28th, the applicant indicated it was “working with” the owner of the SE Lindy property but produced no documents to demonstrate it had closed the sale.

The applicant has not been forthcoming about the details of the subject site and adjacent properties. The applicant incorrectly stated that the subject site was uninhabitable and has failed to produce documentation that merger of necessary adjacent and surrounding properties is feasible. The burden of proof is on the applicant to provide such documentation to the Commission and adjacent neighborhoods. Otherwise, GGVN sees no reason why the Planning Commission should approve a Comprehensive Plan Map Amendment. So far, the applicant has produced site plans under the assumption that it will 1) obtain the land on 8319 SE Lindy, 2) merge the Lindy property with the 8864 SE 82nd property, and 3) the merge the subject site with the 8864 SE 82nd property. Without evidence to demonstrate that the applicant has secured land for the car wash, there is no reason to approve the rezoning. It makes little sense to rezone a Low Density Residential property to Corridor Commercial for a car wash that cannot proceed without securing adequate room for site development.⁴

For ease of reference, below is a map of the land in question:

⁴ Lastly, the applicant states that the subject site is not in an unincorporated community. This is **EXHIBIT 13** but appears to have been recognized in other exhibits. See page 7 of the application.

Figure 2 – Subject Site and Surrounding Parcels



Conclusion: The Applicant has failed to provide sufficient evidence that the subject site can be merged with adjacent land. The applicant has not demonstrated proof of site development feasibility. Rezoning the site is therefore meaningless, and the Planning Commission should reject the applicant's proposal.

III. The Transportation Impact Study (TIS) Submitted by the Applicant is Inappropriate and Inconsistent with Staff's Recommendation Regarding Viewing the Site as a Whole.

Among the Planning Criteria submitted, Staff highlighted Policy 2.1 in the Clackamas County Comprehensive Plan, which we restate here:

2.1 Commercial land use plan designations that may be applied include: Corridor Commercial, Retail Commercial, and Office Commercial. Any site designated for a commercial use shall be located adjacent to the Corridor street.

Staff noted that because the subject site is not adjacent to 82nd avenue (the Corridor street), the subject site does not technically meet the planning criteria. However, Staff indicated that if the subject site were to be viewed as a combined development “site” (i.e., the subject site, the Ground Lease parcel, and Lindy St. parcel discussed above), then the subject site may be reasonably considered as adjacent to the Corridor street.⁵ Thus, the applicant can only meet Policy 2.1 if the Commission considers the site as a three-in-one.

This is not a reasonable approach. First, as mentioned above, the applicant has not yet demonstrated that it has acquired the necessary land for merging the required parcels to develop the site. Secondly, viewing the site as a “whole” for the purposes of satisfying Policy 2.1 would be inconsistent with the traffic study findings submitted by the applicant. The TIS submitted by the applicant considered a worst-case scenario *only* for the roughly 10,000 ft² subject site parcel. The TIS assumed a small property size and thus conducted a “worst-case scenario” analysis based on the smaller size of the subject site, not the combined sites. Combining the sites would increase the square footage of the property in question, requiring a new TIS considering the combined subject site. The

⁵ See Planning Staff Report, page 13. Available at <https://dochub.clackamas.us/documents/drupal/ca7561c5-1ee9-45d7-a400-dedb8e8ec498>.

worst-case scenario for the subject site was determined to be a coffee kiosk, with a PM peak of 87 cars located on the subject site. Interestingly, the TIS does not discuss an AM peak, which is presumably a more reasonable peak for a coffee kiosk.⁶

Regarding County Comprehensive Policy 4.H. (Corridor Policies), Staff represented that “to the extent that approval of this proposed zone change would allow a more efficient and safe development for both the transit and overall street system, as asserted by the applicant, then [the applicant’s] proposal would indeed further the policies listed under Policy 1.1.1.”

It is GGVN’s understanding that the applicant has allowed for a “carve-out” for Tri-Met once it develops the car wash. GGVN finds this interesting as the applicant has failed to present documentation of Tri-Met approving such a carve-out. Staff also noted in its report that the applicant has not provided evidence to show that failing to rezone would preclude the Tri-Met carve-out. The applicant has also failed to explain whether the carve-out is even possible in the terms of the Ground Lease. As a result, it is uncertain whether Policy 4.1.1 is met.

GGVN has taken photographs at key hours, including what traffic is like when Tri-Met and the school bus stop drops off schoolchildren at the Ground Lease property:

⁶ See applicant’s land use application, PDF page 23. Accessible at <https://dochub.clackamas.us/ documents/drupal/4e3641d6-d57a-48e2-b24b-1b3eb07793cf>.

Figure 3 – Why Another Car Wash on 82nd is a Bad Idea



As of these comments, the applicant has failed to represent how the traffic system will be impacted in a worst-case scenario, let alone how the school bus might be impacted by developing a drive-through service on a state highway. Given that the TIS only considered a worst-case scenario for the subject site, the applicant has failed to make clear the real impacts to the transportation system in a worst-case scenario for the merged sites as a whole.

Should the Commission determine that it will view the subject site as a “whole” for the purposes of meeting Policy 2.1, *a new TIS must be submitted by the applicant* to more appropriately evaluate traffic impacts of the larger, three-in-one subject site. GGVN has limited resources, but we are also in the process of gathering additional studies on transportation impacts for a larger site adjacent to the Corridor.

In additional exhibits submitted by Staff, the Oregon Department of Transportation (ODOT) provided comments that there would be no significant impacts to the

transportation system. A concern of GGVN is that ODOT seemed to have regarded the subject site as adjacent to 82nd Ave (OR 213) but used the TIS provided by the applicant, which assumed a smaller parcel size. Importantly, ODOT stated that a car wash would be a more appropriate reasonable worst case for the analysis in question.⁷ While ODOT concluded that there would be no significant impacts to highway facilities, it is unclear whether ODOT assumed that the subject site was adjacent to 82nd.

It remains that the applicant has failed to provide evidence of adjacency to a corridor, and as a result, submitted a misleading transportation impact analysis. GGVN recommends that the Commission treat the subject site consistently throughout all planning criteria. We also recommend against viewing the subject site as a “three-in-one” as the applicant has not provided evidence of its ability to merge sites.

*Conclusion: The zoning change does **not** meet Policies 2.1 and 4.1.1. of the Clackamas County Comprehensive Plan.⁸ GGVN Recommends that the Planning Commission reject the rezoning proposal.*

IV. Staff is Correct that the Application Fails to Meet Corridor Land Use Policy 3.1.

Staff notes that the applicant has not provided any evidence to demonstrate that the proposal meets county policies regarding no loss of housing in the Clackamas Regional Center. As a result, Staff concluded that the proposal does not meet Policy 3.1.b.⁹ GGVN agrees with this conclusion and will not belabor the point further here.

⁷ See Additional Exhibits 8-11, PDF page 9. Accessible at <https://dochub.clackamas.us/documents/drupal/76b82b7d-9c60-44ae-9420-5001fbbb3344>.

⁸ Not designating all three as the “site” would also preclude the zoning change from complying with 3.1.a. See Staff Report, page 14.

⁹ See Staff Report, page 15.

GGVN would however like to address Policies 3.1.c. and 3.1.d. Respectively, they state, “The designation will not cause a significant traffic increase on local streets serving residential areas,” and “Adverse effects, including, but not limited to, traffic and noise, will have a minimal effect on adjacent neighborhoods, or can be minimized through on-site improvements.” Regarding Policy 3.1.c., Staff refers to ODOT’s comments and the applicant’s TIS discussed above and subsequently concludes that the applicant has met Policy 3.1.c. Regarding Policy 3.1.d., Staff concludes that specific development impacts are to be reviewed during site design review and concludes that the policy “can” be met. GGVN respectfully disagrees with Staff’s conclusions.

While GGVN understands that questions outside of site-specific development may be outside the scope of this process, we are unconvinced that there will be minimal effects to our neighborhood. At the public meeting on January 28th, we learned that potentially 100 cars an hour drive through a Washman car wash on peak days. The self-serve vacuums, noise, traffic, and other problematic components of the car wash are likely to impose severely negative impacts to our neighborhood. We stress that we do not oppose site development in general, however we are very concerned about the nature of the development and wish to protect the character of our neighborhood. We would be equally concerned with a gas station, storage facility, a motel, or other traffic-heavy service such as another drive-through, and we believe it is important to submit these concerns as early on in the process as possible. One of the goals listed in Chapter 4 of the Clackamas County Comprehensive Plan is to preserve the character of existing low residential neighborhoods.¹⁰ GGVN is concerned about what the rezoning, and

¹⁰ See Chapter 4 of Clackamas County Comprehensive Plan, page 4-17. Accessible at <https://dochub.clackamas.us/documents/drupal/7f7f1fb5-e923-4cd1-94bb-e5b473082b70>.

subsequent site development, could mean for our low density residential neighborhood.

Attachment A to this testimony contain additional concerns about site development.

Conclusion: The proposal has failed to meet Policies 3.1.b., 3.1.c., and 3.1.d.

V. Conclusion

We do not believe the applicant has met the appropriate criteria for rezoning.

Summarized here, our conclusions are the following:

- 1) *The Applicant has failed to provide sufficient evidence that the subject site can be merged with adjacent land. The applicant has not demonstrated proof of site development feasibility. Rezoning the site is therefore meaningless, and the Planning Commission should reject the applicant's proposal.*
- 2) *The zoning change does **not** meet Policies 2.1 and 4.1.1. of the Clackamas County Comprehensive Plan. ¹¹ GGVN Recommends that the Planning Commission reject the rezoning proposal.*
- 3) *The proposal has failed to meet Policies 3.1.b., 3.1.c., and 3.1.d.*

The Planning Commission should reject the applicant's proposal for a Comprehensive Plan Map Amendment on 8220 SE Cornwell from LDR to COR with a corresponding Zone Change from R-5 to CC.

Respectfully submitted,

Neighbors of the Garden Gate Village Neighborhoods

¹¹ Not designating all three as the "site" would also preclude the zoning change from complying with 3.1.a.
See Staff Report, page 14.

Letter to Planning and Zoning (only provided by one member of our neighborhood)

1. **Our neighborhood lacks the resources for proper Traffic studies, which should adequately suggest:**
 - a) **Cornwell and Garden Lane simply are not wide enough.** They are 25' 7" from curb to curb. Because our homes are small, many in our neighborhoods use our garages as extensions of our homes or have officially converted our garages into extra rooms. Due to this, we park our second cars along Garden Lane and Cornwell. With one car parked on each side of the road, there is only enough room for one car to drive through at a time. When cars need to pass each other, one has to pull to over to the curb while the other passes.
 - b) A rep from Glisan Washman said that if it's not raining, they easily wash **1000 cars per day.**
 - c) **Studies were performed for 82nd NOT Cornwell.** Page 5 states Washman wants access on Cornwell.
 - d) **Navigating the corner at Cornwell from 82nd is already extremely tight.** There are rarely cars waiting to turn onto 82nd from Cornwell. Currently, when there is a car waiting to turning onto 82nd from Cornwell, and we are pulling onto Cornwell from 82nd, we have to navigate the corner slowly enough that we risk being rear ended from the traffic behind us on 82nd. Given the potential of 1000 cars per day, we are certain to see and/or be personally affected by collisions.
 - e) If there is a **line of cars** waiting to enter the car wash from Cornwell, this will quickly spill out onto 82nd and cause a **backup** there. Cornwell is the only way to enter our neighborhood, especially considering the traffic changes a few years back at Johnson Creek and Fuller which eliminated the option to use Fuller to enter our neighborhood unless coming from 205.
 - f) **EMS**, especially fire trucks will definitely be unable to navigate the turn onto Cornwell, eastbound, from 82nd. Members of our neighborhood have all witnessed fire trucks navigating our narrow streets. They struggle as it is. It was suggested by planners that the **fire department take an alternate route** which would add an additional stop light and distance in order to enter our neighborhood. The safety of our neighborhood is not being taken seriously.
 - g) The car wash's own **delivery service** and other service vehicles will have difficulty negotiating 82nd onto Cornwell eastbound. Previous use of our streets by the used car dealership proved detrimental. Our curbs are damaged from the service trucks driving over the curbs at the corners. We

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had to call police repeatedly when the used car dealerships were present. Test drivers ripping through our neighborhood put our children at play at high risk of injury.

- h) **School bus stop** cannot and should not be moved. Parents wait in their cars along Cornwell at 82nd to pick up children. **Children should NOT have to walk** along a high traffic highway with inadequate sidewalks like 82nd to reach their neighborhood on Cornwell.
- i) If patrons decide to turn right onto Cornwell, eastbound, after having their car washed to avoid the traffic of 82nd, this will decrease our home values and make our streets **unsafe for our children**, and **adults who exercise on our streets**. This will completely change the livability and safety of our neighborhood. In addition, patrons from the car wash may dump their trash or toss the car cleaning cloths on our streets. We are not accustomed to the volume of litter this may bring to our neighborhood.
- j) The changes at the **intersection of Johnson Creek and Fuller** drastically impacted our ability to reach our neighborhood. The car wash would further impact our ability to access our neighborhood.
- k) The **closure of the Foster Fred Meyer on 82nd** has already has increased the traffic to Johnson Creek Fred Meyer which intersects with Lindy. There are no other nearby grocery stores along mass transit lines that serve 82nd avenue in this area. Was the transportation impact study performed before or after this closure?

2. Our neighborhood lacks the resources for proper Environmental studies

- a) **Volatile** organic compounds from car exhaust (average wait time ten minutes x1000 cars daily), soaps, wax, perfumes.
- b) We do not have access to **title information** which would tell us what type of properties were there prior to the two or three used car dealers and motor home sales. Was there a gas station, metal factory, or other company that produced toxic chemicals? Are there gas tanks under the asphalt?
- c) **Noise** pollution from the washer, dryer, self-use vacuums, cars, delivery trucks. Their winter hours are 8am – 6:30 pm. **Summer hours** they are open until 9pm. Not to mention the noise pollution, dust, and other environmental hazards that will arise during construction.
- d) A car wash is more similar to a manufacturing plant as far as environmental pollutants.
- e) Many car washes claim they are environmentally safe. Have there been studies on the effects of **seepage into our soil** where many of us grow our food? What if previous tenants used toxic chemicals that are in the soil under the asphalt? There is the potential for these chemicals to leach into our ground water/soil and be fed to our families.

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- f) The environmental effects from the **removal of the grove** of trees or any trees (increased noise from 82nd traffic, the trees improve our air quality, aesthetics).
- g) We also foresee an increase in litter and dumping on our streets.
- h) **A car wash is atypical use.** A car wash is inherently designed to increase traffic, unlike other commercial uses. They want, for example, 100 cars per hour through their property, versus five cars per hour at a health clinic.
- i) After utilizing two different decibel rating apps, **our neighborhood is already at or above 60 DB** with audible traffic from 205 traffic and the MAX train. **These recordings were done at 9:15 a.m. on a Friday.**

3. Our neighborhood has already experienced significant hardships due to lack of resources

- a) Changes in traffic signal at Johnson Creek and Fuller Rd force us to sit in the ever-increasing traffic on 82nd. We fully understand and appreciate that the traffic change at Johnson Creek and Fuller has substantially decreased the number of serious car accidents and necessity of Live Flight services to that intersection. It was a necessary and positive change, yet we now have limited access to our neighborhood.
- b) We endured years of construction to build the light rail with their construction headquarters located on Fuller Rd. Fuller is how we access 205. For years, we left our homes early to get to work or any destination that required the use of 205.
- c) The construction of a coffee shop and bank on 82nd and Lindy with accompanying traffic.
- d) The addition of the 205 bike path along with its construction
- e) The homeless population utilizing the 205 bike path and our neighborhood as an egress to the Clackamas Service Center.
- f) The addition of sewer and continual construction daily for more than a year. All of our homes were filled with dust. We couldn't access our streets easily, if at all. Vibrations were so loud, pictures fell off walls many times. Our lawns have never recovered.
- g) The closure of Foster Fred Meyer is still a huge hardship. This has brought more traffic, making 82nd even more congested than it was. We experience longer lines at the grocery store because of the Lents and surrounding neighborhoods needing to use the Johnson Creek Fred Meyer. There is now a lack of parking because of this influx. Shopping carts are a scarcity because of the increased patronage. These are just a few of the changes we've endured.

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4. Other factors to consider

- a) **Loss of housing is NOT limited to just two homes** as stated. The impact and diminished **property values** could ultimately result in the devaluation and/or loss of nearly 60 homes. Page 14 of the 1/18/19 staff report states the zoning application is only for the one lot containing the house, but the applicant argues it is applicable to all of the property, exposing all of it to down zoning residential.
- b) We have not had adequate time, nor funds to have **home appraisals** to see how significantly the car wash will decrease the value our homes. Why would you want to risk reducing the value of homes in a low income residence?
- c) Between McBride Street and Liebe Street on 82nd, **there are already four car washes within this 3 ½ miles**. There is Pinky's on McBride, Ray's on Lindy, Jackson on Harold, and Eco on Liebe. From what I've read, it appears Eco is also owned by the Hanna family. This doesn't account for the other nearby car washes located off 82nd. As I was talking with a customer service representative at a local store explaining that a car lot is going to be added, her response was, "Another one? We don't need another car wash here." Which made me realize we have not had time to determine whether there is **even a legitimate need** for a fifth car wash on one street in 3 ½ miles.
- d) Driving north on 82nd from Cornwell to Foster, there are at **least four vacant commercial lots** sitting empty. These are located at Cooper, Duke, Glenwood and Foster, all intersecting with 82nd. I have not had the time to drive south on 82nd to see if there are available lots in that direction. However, at Sunnyside and 82nd, there are another two that have been vacant for a significant amount of time. There is a Toys R Us lot with substantial parking are that would accommodate a car wash, and across the street, there is a vacant Walgreens.

The Garden Gate Village was built in the 1940s. It is rich in history and diversity. Quite a few of our neighbors have lived here their entire lives – more than 60 years. Parents live in one home, while their children and grandchildren live across the street. Garden Gate Village is essentially an island with one entrance and two exits. It's quiet and peaceful in its nature and design. Due to our neighborhood's limited accessibility, there is very little traffic. We feel safe allowing our children to play outside. We feel safe walking and jogging on our streets. Many of us feel safe leaving our doors and windows open.

These homes are not considered starter homes, these are and always have been forever homes. Our quality of life is significantly enriched by the layout of this highly unique neighborhood.

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The green house at 8220 Cornwell is not only a necessary residence for low income families, it is greatly historical. This home was built 20 years before the rest. It is large, beautiful, and should be considered historic in nature. Until it sold last spring, this home was very well maintained. If you view images available on Google maps, you can tell that the most recent owner took special care of his home. It is a perfect home for our neighborhood and our next potential neighbor.

Our neighborhood deserves a say in what type of business, if any, sits at the end of our street. We are not satisfied that a car wash will allow our neighborhood to maintain the lifestyle and community feeling we have always been accustomed to. Please take these things into consideration before allowing the rezoning of 8220 Cornwell.

BEFORE THE CLACKAMAS COUNTY PLANNING COMMISSION

ZO375-18-C/Z0376-18-ZAP

In the Matter of Washman, LLC., Proposed)	
)	
Amendment to the Comprehensive Plan)	SUPPLEMENTAL COMMENTS OF
)	THE GARDEN GATE VILLAGE
)	NEIGHBORHOODS
)	
)	
)	
)	

We are a collective of neighbors who reside on SE Cornwell, SE Garden Lane, and SE Lindy St., or The Garden Gate Village Neighborhoods (“GGVN”). We submitted testimony to the Clackamas County Planning Commission (“Commission”) on February 4, 2019.

I. Introduction

These comments are in response to a supplemental memorandum filed on behalf of Mark Hanna and David Tarlow (“the applicant”) on January 31, 2019. The supplemental filing is an assessment of the residential capacity impact of a proposed zone change in unincorporated Clackamas County.¹ To GGVN’s knowledge, no other individual, company, or organization has submitted testimony opposing or supporting the rezoning change in this case. Thus, these comments are not intended to serve as Rebuttal

Testimony but a response to the applicant’s additional exhibits submitted to the record. In

¹ See Exhibit 12 in File No. Z0375-18-CP, Z0376-18-ZAP. Accessible at <https://dochub.clackamas.us/documents/drupal/cd93d934-32eb-4791-9eba-bfcdacfaa002>.

our comments, we primarily restate the point that the application does not meet relevant planning criteria.

II. Proximate, Unrelated Housing Does Not Suffice to Meet the Planning Criteria.

In the Commission Staff (“Staff”) Report submitted on January 18, 2019, Staff found that the applicant’s application does not satisfy all the applicable state, regional and county criteria for the proposed changes. Staff indicated that the applicant’s proposal fails to meet certain policies in Clackamas County’s Comprehensive Plan, specifically the criteria set forth in Chapter 10, section XVII of the Clackamas Regional Center Area Design Plan. In particular, subsection (XVII)(5.0) of the Design Plan states that housing capacity lost by future Comprehensive Plan Amendments or zone changes must be replaced. Applications for such changes in the Comprehensive Plan must be accompanied by a demonstration of how an equal amount of housing capacity will be replaced on another site or constructed on the site as part of mixed-use development.

The applicant submitted a supplemental memorandum on January 31 to demonstrate that there will be an addition of housing capacity in another part of the Regional Center Area. According to the memorandum, a site in the proximity of the subject site was recently designated to Station Community Mixed Use (“SCMU”) from Low Traffic Impact Commercial (“LTIC”). This redesignation occurred in 2011. The memorandum explains that the SCMU designation has no maximum density, though there are rules around the building setbacks based on height.

The memorandum’s originator, Johnson Economics, indicated that it was in contact with a “private client” regarding development of a site that would potentially

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yield over 100 new units in this development. The implication is that because of this additional housing development in the proximity of the subject site, rezoning the subject site and subsequently demolishing a home for the production of a carwash would be considered a “negligible loss” to the housing capacity in the Regional Center Area.

GGVN does not believe that the memorandum suffices in addressing how the applicant will meet the policy requirements. First, despite the fact that additional apartment units *may* be built in a proximate area, it does not seem appropriate to point to additional units that may have been developed *anyway* as justification for razing a house in a Low Density Residential neighborhood. This is similar to saying that because a new Starbucks is “going” to be built several blocks down the street, I should smash the coffee maker I already have because the production of coffee in my area is expected to increase.

GGVN does not find the memorandum compelling. It does not make sense to point to existing *theoretical* housing capacity as justification for eliminating an existing *actual* home. The fact remains that not only is the increased number of units theoretical, the capacity has been around since 2011 and does not actually “increase” the housing capacity in the area because it has already been around.

At the hearing on January 28th, the applicant mentioned that by rezoning the subject site to CC, this would theoretically increase the housing capacity of the subject site. GGVN does not disagree, however the applicant is proposing a carwash, not additional housing, which leads to the loss of two housing units and also a third home that is already zoned CC.²

Just like there are different flavors of coffee, there are different types of homes. Indeed, the Clackamas County Comprehensive Plan specifically states that the county

² This would be the home on 8319 SE Lindy.

should “Provide for a range and variety of housing types (size and density) and variety of ownership and rental opportunities, in a range of prices.”³ The subject site contains a home built in 1925. This type of housing deserves to be preserved because it provides a diversity of very limited affordable housing that does not exist elsewhere in Clackamas County. Reading the applicant’s additional analysis on housing capacity in the area summarizes an increase in very similar types of housing—rental apartments, condominiums, plexes, and manufactured homes. These are not the same types of homes we are considering for rezoning—a detached, single-family home in a traditional neighborhood.

The Clackamas County Comprehensive plan anticipates that the The Clackamas Regional Center (within which the subject site and our neighborhood are located) will be the focus of the most intense development and highest densities of employment and housing in our area.⁴ This compelled the County to set a goal to “Balance growth with the preservation of existing neighborhoods and affordable housing.”⁵

Demolishing a house and rezoning the land for the purpose of building a car wash does not appear to be consistent with the spirit of the Comprehensive Plan, particularly regarding the preservation of existing neighborhoods and affordable housing. Our opposition to rezoning the subject site is not just about quantity but also about quality. It is about maintaining and promoting a diversity of affordable housing, which is consistent with the policies and planning criteria.

³ Clackamas County Comprehensive Plan Chapter 10(XVII)(1.0).

⁴ Clackamas County Comprehensive Plan Chapter 10. Page 10-CRC-2.

⁵ Clackamas County Comprehensive Plan Chapter 10. Page 10-CRC-3.

III. The Proposal Fails to Meet Additional Criteria.

The rezoning is inconsistent with several Housing Policies in Chapter 6 of the Comprehensive Plan, including:

[6.A.6.] Encourage a diversity of housing types and densities in planned unit developments;

[6.B.2.] Encourage the development of low- and moderate-income housing with good access to employment opportunities; and

[6.C.3.] Discourage the demolition of housing⁶ which can be economically renovated in residential areas;

These are self-explanatory. Overall, the Amendment to the Comprehensive Plan and subsequent rezoning would fail to meet all of these criteria in Chapter 6.

GGVN would also like to remind the Commission that the rezoning would cause commercial zoning to encroach onto a residential zone near 82nd Avenue, which Staff correctly points out does not meet policy (XVII)(3.0) in Chapter 10 of the Comprehensive Plan: “Limit expansion of commercial zoning into residential neighborhoods along the 82nd Avenue corridor.” The applicant has failed to demonstrate how it meets this policy.

Finally, GGVN would be remiss not to mention that a car wash is fundamentally different from other businesses. As we stated in our earlier Testimony on February 4, we believe that site development would have adverse traffic impacts. The profitability of a car wash lies in its ability to generate as much traffic as possible. 82nd Avenue is already congested, and residents on Cornwell and Garden Lane already have a difficult enough time getting in and out of our neighborhood. The way the roads are currently laid out,

⁶ Emphasis added.

exiting onto 82nd, a major artery in the area, can be a major challenge. A business designed to maximize traffic would exacerbate the situation to unknown, and likely adverse levels.

IV. Conclusion

GGVN does not believe that the applicant has met the appropriate criteria for rezoning. In addition to our Testimony submitted on February 4, we reiterate our comments above that we do not find the applicant's supplemental memorandum and subsequent housing analysis compelling. A supplemental report on existing housing capacity fails to explain how Chapters 6 and 10 of the Comprehensive Plan are satisfied.

The Planning Commission should reject the applicant's proposal for a Comprehensive Plan Map Amendment on 8220 SE Cornwell from LDR to COR with a corresponding Zone Change from R-5 to CC.

Respectfully submitted,

Neighbors of the Garden Gate Village Neighborhoods



P.O. Box 4124
Portland, OR 97208
503-255-9111
Fax 503-257-9790
www.washmanusa.com

February 14, 2019

Clackamas County Planning Commission
c/o Department of Transportation and Development
150 Beaver Creek Road
Oregon City, Oregon 97045

RE: Z0375-18-CP, Z0376-18-ZAP

Applicant's Final Statement

We request a small change to the edge between the residential and mixed use areas to create a rectangular mixed use (CC) site. A rectangular site is easier to develop for any mixed use with fewer jagged edges. The existing apartment building provides a clear edge between the single family residential neighborhood and the corridor commercial along SE 82nd.

We provided evidence of an approved comprehensive plan/zone change in 2011 near our site (south of John Creek Boulevard on Fuller) that created a required minimum 20 units per net acre on the 48.5 acre parcel. This results in more than 600 new required housing units at a minimum very close by to our proposal.

An environmentally designed car wash has little neighborhood impact. Site/design review provides us an opportunity to explain technological improvements that eliminate vacuum noise. The review provides us a way to include neighborhood improvements such as speed bumps and accommodate bus and school bus stops in a safe and convenient manner.

Please recommend to the Clackamas County Board of Commissioners, approval of our request for a comprehensive plan and zone change.

Thank you.

Sincerely,

David B. Tarlow, CFO
Washman LLC

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WASHMAN LLC, Comp Plan/Zone Change
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CARWASH • Shell • Autotoystore • detailMAN

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March 8, 2019

Clackamas County Commission
Clackamas County
2051 Kaen Road
Oregon City 97045

RE: 20375-18-CP and Z0376-18-ZAP
8220 SE Cornwell Avenue T1S, R2E, Section 2888; 12500

Mr. Mark Hanna, doing business as Washman LLC, requests your support for a comprehensive plan/zone change for a lot located at 8220 SE Cornwell Avenue from Residential 5 to Corridor Commercial.

Our intention is to build a state-of-the-art car wash facility on this lot and the adjacent corridor commercial lots that constitute our site. The addition of the subject lot creates a rectangle of property that is more efficient to develop than the jagged zoning edges that exist today. The rectangle site will allow for better access, improved circulation within the development, reduced impacts on the neighborhood, and more effectively accommodate Tri-Met, pedestrian safety, and school bus stops.

The only remaining issue is the County's policy (criteria) that requires replacement of the "housing potential" lost by the zone conversion. We believe that the change actually increases the housing potential substantially from two units to whatever a ten thousand square foot lot could bear in a corridor commercial zone that does not limit the number housing units allowed on a site.

Nevertheless, we are prepared to build the two units on the car wash site if the County maintains that it is required for the amendment. Our issue is that there is no clear regulatory path to accommodate the County's desire for two replacement dwelling units.

We propose that we receive an affirmative tentative vote from the commission. The zone change/comprehensive plan amendment process would then be put on hold (comprehensive plan amendments do not have a state mandated time line). We would then process a site/design review for the car wash and the two housing units (if required). When the county is able to approve the site/design review we would then revisit the comprehensive plan/zone change and process them concurrently.

We are willing to take these extraordinary measures because of our deep allegiance to Clackamas County and our commitment to environmentally responsible commerce.

Sincerely,

Mark V. Hanna

Washman LLC, Managing Member

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WASHMAN LLC, Comp Plan/Zone Change

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