

**WALDPOR CITY COUNCIL  
FEBRUARY 22, 2018  
SPECIAL MEETING NOTICE AND AGENDA**

The Waldport City Council will meet in a special meeting at 2:30 p.m. on Thursday, February 22, 2018 in the City Council Meeting Room, 125 Alsea Highway to take up the following agenda:

1. CALL TO ORDER AND ROLL CALL
2. PUBLIC HEARING: Appeal on Planning Commission Preliminary Approval of Case File #1-PD-PC-17, Vista View Planned Development
3. GOOD OF THE ORDER
4. ADJOURNMENT

The City Council Meeting Room is accessible to all individuals. If you will need special accommodations to attend this meeting, please call City Hall, (541)264-7417, during normal office hours.

\* Denotes no material in packet

Notice given this 16<sup>TH</sup> day of February, 2018 - Reda Q. Eckerman, City Recorder

**CITY OF WALDPORT**  
**MEETING AGENDA COVER SHEET FOR**  
**DISCUSSION / ACTION ITEMS**

**TITLE OF ISSUE**

Vista View Planned Development Appeal

**REQUESTED BY**

City Planner

**FOR MEETING DATE**

February 22, 2018

**SUMMARY OF ISSUE**

The City Council will hold a public hearing to consider an appeal of a Planning Commission decision. On December 18, 2017, the Planning Commission granted preliminary plan approval with conditions of a 34-lot planned development (Vista View PD). The preliminary plan approval has been appealed by Hollis Lundeen. Ms. Lundeen identifies seven appeal items.

At the February 22, 2018 public hearing, the appellant, applicant, and other attendees may provide testimony. At the conclusion of the public hearing, the City Council will deliberate and make a decision.

The following material is enclosed to assist the City Council's review and decision:

- Findings and Conclusions (Planning Commission's preliminary plan approval)
- Appeal of Planning Commission Decision (Hollis Lundeen)
- Applicant Response to Appeal (Dennis L. Bartoldus, Attorney)
- Written Testimony (four written responses received by the City regarding the appeal)

**STAFF RECOMMENDATION or ACTION REQUESTED:**

The City Council may affirm, modify or reverse all or part of the action of the Commission or may remand the matter for additional review or information to the Planning Commission.

**BEFORE THE PLANNING COMMISSION  
OF  
WALDPOR, OREGON**

**Request for Planned Development**

**Case File #1-PD-PC-17**

**Applicant: Tidewater Development LLC**

**Agent: Dennis L. Bartoldus, Attorney**

**FINDINGS AND CONCLUSIONS**

**Nature of the Application**

The proposed Vista View Planned Development is a planned 34 single family lot development on 7.75 acres. Lot sizes are proposed to range between 4,810 and 9,041 square feet.

Access to the development is proposed at the south end of Norwood Drive. This is the only current legal access to the site. A second access is planned at the south end of the site. Within the property, a circular street system is proposed to access the lots/homes.

A tract of land along the north and east side of the property is proposed as open space. The applicant proposes the establishment of an easement and construction of a public nature trail through the open space, along the south edge of Lots 11-13, and south to Kelsie Lane.

**Relevant Facts**

The following is a summary of the facts and testimony found to be relevant to this decision.

- A. **Property Location:** The subject property is located at the south end of Norwood Drive; and further described on Lincoln County Tax Assessor's Map 13-11-19CC as tax lot 120.



**#1-PD-PC-17 Vista View Planned Development  
Findings & Conclusions**

**B. Zoning:** Residential Zone R-1

**C. Plan Designation:** Residential Single

**D. Lot Size:** 7.75 acres

**E. Existing Structures:** None

**F. Topography:** The majority of the property is gently sloped to the west. The highest point on the property is in the southeasterly portion of the property. The steepest slopes are on the north end and the northeasterly portion of the property. Most of the property that has steeper slopes is proposed for open space.

**G. Surrounding Land Use:** Single family residential development is generally located to the north and east (Norwood Heights Subdivision) with some undeveloped residential zoned property. Undeveloped residential zoned land and single family residential development (Forest Hills Subdivision) are south of the site. The U.S Forest Service Station and limited single family development is west of the site.

**H. Utilities:** The following utilities currently serve the subject property:

- a. Water: City of Waldport
- b. Sewer: City of Waldport
- c. Electricity: Central Lincoln P.U.D.

**I. Development Constraints:** There is a steep ravine and drainage way along the north and a portion of the east boundaries.

**J. Public Testimony.** Prior to the October 23, 2017 Planning Commission meeting, written testimony included eleven (11) letters from nearby property owners. A summary of concerns is provided below. All letters are herein incorporated into the record

- Is Norwood Drive capable of accommodating increased traffic? (2 letters).
- Norwood Drive is narrow (4 letters).
- Norwood Drive lacks pedestrian facilities, i.e. sidewalks (4 letters).
- Concern for appropriate roadway engineering and construction.
- Concern that drainage way and ravine improvements are according to city and state standards (2 letters).
- Proposed nature trail needs to be shown and have an appropriate route (2 letters).
- Who will pay for infrastructure?
- Opinion that a south access to Kelsie Ln. is more appropriate than a north access to Norwood Dr.
- Concern that this is a burden to taxpayers of Waldport.
- Is the land stable? Have geological studies been prepared?
- How will the watershed be protected and not impact fishing and commerce directly below in the bay?
- Are there ecological surveys on the water ways and impacts of runoff and rainfall?
- Request to expand the notification of the application and hearing to surrounding property owners.

At the October 23, 2017 Planning Commission meeting, the applicant's agent, Dennis L. Bartoldus, presented information, provided rebuttal to opposition, and answered questions. Oral testimony was provided by eight people including seven people in opposition and one in favor of the application.

**#1-PD-PC-17 Vista View Planned Development  
Findings & Conclusions**

Concerns cited included potential drainage issues, the proposed trail access, impact of increased traffic on the existing Norwood Drive with regard to truck traffic during construction as well as property owner traffic upon completion, surrounding property notification requirements, street width and pedestrian access, fire/like safety, school bus and emergency vehicle access, geological hazards and erosion, affordable housing, and the timeline for the street extension to Kelsie Lane.

At the conclusion of the hearing, the Planning Commission kept the record open for a period of 14 days, to November 6, 2017 for the submission of additional information. The Planning Commission continued deliberations on the matter until December 4, 2017. Additional written testimony included additional applicant material, three letters by area residents, and the City Attorney's opinion on exactions related to questions regarding improvements to Norwood Drive.

Additional submittals on behalf of the applicant included a narrative addressing 1) The Issue of Commissioner Barham Hearing This Case, 2) Issues Raised by Opponents, 3) Addressing the Issue of Exactions; Maps and Photos; and Proposed Findings and Conclusions.

In summary, the three letters addressed concerns about geology, affordable housing, access, Norwood Drive traffic, impacts on existing streets and intersections, street width, pedestrians, fire safety and on-street parking, plans for growth and housing prices, impacts to existing undeveloped lots in the area, impacts to property and wildlife, density, infrastructure costs, burden on taxpayers, disruption during construction, impact to the watershed, ecological surveys, public trail, access to the south, emergency access, lot sizes, and lot width.

Regarding the City Attorney's opinion on exactions related to questions regarding improvements to Norwood Drive, the City Attorney stated, in part, that the planned development and related conditions (as currently drafted) appear to be roughly proportionate based upon the information provided. He states, in part, that to go beyond the specific conditions imposed upon the builder and demand additional public improvements is inadvisable.

At the December 4, 2017 Planning Commission meeting, the Commission continued deliberations including consideration of the additional material submitted by the November 6, 2017 deadline.

All written and oral testimony is herein incorporated into the record.

**Relevant Criteria**

Relevant Waldport Development Code criteria is identified below by title only. Full descriptions of relevant criteria were included as an attachment to the staff report and are herein incorporated into the record.

Chapter 16.12 Residential Zone R-1

Chapter 16.60 Planned Development Zone P-D (relevant sections)

Chapter 16.72.020 Off-street Parking and Off-Street Loading Requirements

Chapter 16.96 Development Guidelines

Chapter 16.100 Land Division

Waldport Comprehensive Plan – Yaquina John Point Land Use & Transportation Plan

**#1-PD-PC-17 Vista View Planned Development  
Findings & Conclusions**

**Applicant's Proposal**

The applicant originally submitted the application form and fee, a narrative describing the general nature of the request and addressing the information required for a land division/replat, Declaration of Conditions, Covenants and Restriction of Vista View, and a site plan showing the proposed street and lot layout, topography, water and sewer, open space, and public access easement for a nature trail. Following the October 23, 2017 Planning Commission, the applicant submitted the additional material identified above. All material submitted by the applicant is herein incorporated into the record.

**Public Agency Comment:**

The Waldport Public Works Department and the Central Oregon Coast Fire & Rescue District (COCFRD) provided the following comments related to water service and the proposed private street.

- The 20' street width within a 30' right-of-way is good as long as "No Parking" signs are posted. If the street width is a minimum 26' then parking would be allowed on one side of the street. (The applicant prefers the 20' width and no parking.)
- The City recommends construction of sidewalks at the time the street is constructed versus the request for sidewalks to be installed as each house is built.
- The Public Works Department and COCFRD request review and approval of engineering plans prior to construction. The developer shall be responsible for all costs the City incurs for review and approval of plans.

Following the December 4, 2017 Planning Commission meeting, COCFRD confirmed that a 26 foot pavement is adequate to allow for two travel lanes and parking on one side of the street.

**Findings**

The following is a summary of the Planning Commission findings:

**1. Planned Development Request**

The proposed Vista View Planned Development is a planned 34 single family lot development on 7.75 acres. Lot sizes are proposed to range between 4,810 and 9,041 square feet.

Access to the development is proposed at the south end of Norwood Drive. This is the only current legal access to the site. A second access is planned at the south end of the site. Within the property, a circular street system is proposed to access the lots/homes.

A tract of land along the north and east side of the property is proposed as open space. The applicant proposes the establishment of an easement and construction of a public nature trail through the open space, along the south edge of Lots 11-13, and south to Kelsie Lane.

#1-PD-PC-17 Vista View Planned Development  
Findings & Conclusions



2. **Density**

Based on code criteria, the allow density based on the size of the property is 56 lots. The applicant is requesting 34 lots and requesting that the property be designated as a Planned Development.

3. **R-1 Residential Standards and Requested Planned Development Modifications**

R-1 residential standards address lot size and dimensions, yards (building setbacks), lot coverage, building height, and other standards. In a Planned Development modifications to the required standards may be requested. Modifications are requested for the minimum lot size and lot width.

In the R-1 zone the ordinance calls for 6,000 square foot lots. While the overall development exceeds this standard, twenty-three (23) of the lots being proposed are less than 6,000 square feet because of the amount of area created for open space. Of the twenty-three lots under 6,000 square feet, four are under 5,000 square feet (the smallest being 4,810). The remaining 19 lots under 6,000 square feet average 5,588 square feet. The standard R-1 lot width is a minimum 60 feet and 65 feet for corner lots. Modifications to the lot width are proposed per the submitted preliminary site layout. Some lots are less than 60 feet wide however all lots exceed a 50 foot width. In exchange for having some lots under 6,000 square feet and some less with less than a 60 foot lot width, the applicant is creating a large open space and creating an easement for a nature trail. The easement will be available for public use.

**4. Proposed Streets and Extension of Norwood Drive**

The Vista View PD proposes to provide vehicular access from Norwood Drive near the northwest corner of the property. This is the only current legal access to the property. The street is proposed to extend south into the property, then a circular street will provide access to the lots.

The applicant proposed a 30' right-of-way width and a 20' pavement width. The standard per Waldport Development Code standard for a local street is a 56' right-of-way and minimum 28' pavement width. The standard street section for local streets is two 14' travel lanes, 2' curb and gutter, 5' sidewalk and 7' utility strip. This may be altered upon approval by the Waldport Public Works Department, utility companies, and the Planning Commission.

The Waldport Public Works Department and the Central Oregon Coast Fire & Rescue District (COCFRD) approve of the reduced right-of-way width and pavement width provided 'No Parking' signs are posted. The applicant would be required to improve Norwood Drive from the property to the existing Norwood Drive pavement (approximately 330 feet). If the development is approved for a sidewalk on one side versus both sides, the applicant will need to work with the City to determine the best side for a sidewalk. City staff recommended the sidewalk be installed when the street is constructed versus the applicant's request to install the sidewalk as each house is built.

The Planning Commission determined that there is a need for on-street parking on at least one side of the streets. The Commission determined an appropriate street section for the Vista View streets would be a minimum 26 foot wide pavement that would include one travel lane in each direction and parallel parking on one side of the street, a minimum 1 foot wide standard curb and gutter on each side, and a 4 foot wide sidewalk on one side for a minimum right-of-way width of 32 feet. The Planning Commission finds that the sidewalk shall be constructed when the street is constructed. The Planning Commission also determined that two on-site parking spaces would be required for each lot.

**5. Proposed Street Extension to South Property Line**

The street is proposed to extend to the south property line. This is consistent with the Waldport Comprehensive Plan – Yaquina John Point Land Use & Transportation Plan which calls for a Norwood Drive Extension (Project #S4) to "provide a new north-south connection from the south terminus of Norwood Drive to the new Forestry Way-Kelsie Way extension."

The adjacent property to the south is undeveloped private property. The street would be extended south beyond the Vista View PD when the property to the south is developed unless the property owner agrees to have the street extended prior to development.

A traffic issue to consider is the capacity of Norwood Drive to adequately accommodate increased traffic from the Vista View development. Per the ITE Trip Generation Report, 8<sup>th</sup> Edition, a single family house generates 10 trips per day. The daily capacity of a two lane local street is 1,000 vehicles per day. There are 72 lots within the Norwood Heights subdivision including lots on Norwood Drive, Skyline Terrace, and Dolores Drive/Norwood Park Place. The Vista View PD plans for 34 lots which would result in 106 lots accessing Norwood Drive. Given this exceeds the recommended capacity, a consideration is to require the street extension to the south property line in Phase 2 of the Vista View Development. Phase 1 is proposed to have 19 lots which results in 91 homes accessing Norwood Drive if all lots in the Norwood Heights Subdivision and Vista View PD Phase 1 are developed. The Planning Commission finds the

street extension to the south property line will be required in Phase 2, following development of the Phase 1 19 lots.

The Planning Commission finds that each phase of development will be required to include an emergency vehicle turnaround. The turnaround will require approval of dimensions and materials by the Central Oregon Coast Fire & Rescue District prior to construction.

**6. Open Space and Drainage Way**

The drainage way and ravine along the northern and portion of the eastern edge of the property is proposed to be open space. This totals roughly 1.93 acres which is 25% of the property. The drainage way is identified in the Waldport Local Wetlands Inventory as a drainage way with no significant wetlands or riparian area. The developer or homeowners association would be responsible for maintenance of the open space.

In subdivisions or planned developments the city shall require the subdivider to pay a park assessment fee based on the size of the subdivision. The current park assessment fee to be charged to the developer, per Resolution No. 875, sets the fee at \$1 per square foot of 5% of the total acreage. Specifically stated: "The park assessment fee shall be assessed based upon gross acreage of the parcel to be subdivided, without deductions for rights of way or other easements, and the formula for calculating the fee is as follows: Gross parcel size (in sq. ft.) x .05 x rate per sq. ft. (\$1.00)." 5% of 7.75 acres is 0.3875 acres or 16,879.5 square feet. Therefore the total park assessment fee is \$16,879.50. The park assessment fee may be paid by phase.

**7. Public Nature Trail**

The applicant agrees to establish an easement and construct a public nature trail through the open space that would connect the east edge of the property to the west edge, and along the south edge of Lots 11-13. This trail would connect to a planned trail identified in the Yaquina John Point Land Use & Transportation Plan (Project #P12), i.e. from the Norwood Drive extension to Kelsie Lane/Forestry Lane, and to Hwy 101. The applicant and the City will need to work together to determine the best trail route given topographic constraints and future trail extensions.

**8. Water, Sewer, Storm Drainage, and Other Utilities**

Water and sewer are proposed to be placed within the street right-of-way. Sewer is proposed to extend west to an existing sewer pump station near Hwy 101. The applicant will need to coordinate with the City Public Works Department regarding sewer line routing and improvements. If the sewer connects to the existing pump station near Hwy 101, the applicant will need to provide upgrades to the pump station to accommodate increased flows. Water is proposed to connect to the existing city water system to the south in Kelsie Lane. Utility easements will be provided to the City as requested by the Public Works Director. All utilities shall be placed underground.

Final engineering plans for water, sewer, storm drainage, and streets must be reviewed and approved by the City Public Works Director. The developer shall be responsible for any costs incurred by the City to have a professional registered engineer review and approve development plans. Final engineering plans for water and the street shall also be reviewed and approved by COCRFD.

**9. Off-Street Parking**

WDC requires one parking space per single family dwelling. New single family homes are required to have one covered parking space, i.e. garage or carport. The Planning Commission

**#1-PD-PC-17 Vista View Planned Development  
Findings & Conclusions**

finds that it is appropriate for each lot to have two on-site parking spaces in combination with parking on one side of the streets.

10. **Geotechnical Analyses.** The Planning Commission finds that, per WDC 16.96, site specified geotechnical analyses shall be required where development of both roads and lots are proposed on slopes greater than twenty (20) percent.

11. **Conditions, Covenants and Restrictions (CC&Rs)**

The applicant provided the Declaration of Conditions, Covenants and Restrictions of Vista View (CC&Rs) (attached to this staff report). The CC&Rs include Architectural Control and Use Restrictions. The CC&Rs recognize and are in conformance with City of Waldport provisions and provide additional restrictions, e.g. size of homes, color and materials of homes, view protection, landscaping, etc.

12. **Phasing and Time Limits of a Preliminary PD Approval**

The applicant provides the following narrative regarding phasing and timing of development:

The applicant is planning on developing the property in up to 4 phases. The first phase would consist of what are shown as lot 11-24 and 25, 34, 33, 32 and 31 (19 lots). The additional phases would all consist of a series of additional lots. The exact number of lots developed in each phase would be determined by market conditions and the rate of sale of developed lots. The applicant is requesting 20 years to complete the four phases. In the event there is demand for lots, then phases may be combined for development and the 20 year period may be shortened. However, the applicant wants to be reasonable in its expectations of how quickly the lots will sell.

Currently, WDC 16.60.030 allows a preliminary plan approval per phase for 2 years with the possibility of three one-year extensions. The City has discussed amending this time limit to better reflect typical market conditions however that amendment has not yet occurred. The timing would begin upon approval of the preliminary plan. Therefore, assuming a January 2018 preliminary plan approval, the phasing plan would be as follows with the possibility of three 1-year extensions:

- Phase 1: January 2018 – January 2020
- Phase 2: January 2020 – January 2022
- Phase 3: January 2022 – January 2024
- Phase 4: January 2024 – January 2026



**13. Final Plan Review Procedure**

Requests for final plan approval of a planned development shall be accompanied by the following certifications:

- a. A certified copy of all covenants and restrictions;
- b. Certified copies of legal documents required for dedication of public facilities or for the creation of a homeowner's association;
- c. The certification, performance agreement or statement regarding the availability of water and sewerage services;
- d. As-built certifications for all required roads and utilities unless otherwise guaranteed by a performance agreement;
- e. A plat and one exact copy meeting the requirements of Section 16.100.060 of this chapter and ORS 92.050-92.100.
- f. A preliminary title report, lot book report, subdivision guaranty report or equivalent documentation of the ownership of the subject property, issued not more than thirty (30) days prior to the date the final plat is submitted for final approval. Such a report shall also identify all easements of record.

Final plan approval criteria. The Commission shall approve a final plan of a planned development, provided that the submitted final plan is in substantial conformance with the approved preliminary plan; and all of the certifications required above have been submitted in proper form.

**Conclusions**

Based on the above facts and findings, the Waldport Planning Commission finds:

- A. The Planning Commission finds the proposed development adheres to the purpose of a planned development.
- B. The Planning Commission finds the proposed development adheres to the general requirements of a planned development.
- C. This application and conceptual plan satisfy the provisions of the Waldport Municipal Code and Comprehensive Plan.

**Order**

It is ORDERED by the Waldport Planning Commission that the requested Planned Development be and is hereby approved. Said approval is subject to the following conditions:

This ORDER was presented to and approved by the Waldport Planning Commission on December 18, 2017.

1. **Planned Development.** Development shall occur in accordance with the approved plan including a maximum 34 single family lots on 7.75 acres. Access to the development shall be from the south end of Norwood Drive. A second access shall be provided for a future extension at the south end of the site. Within the property, a circular street system shall provide access the lots/homes. Streets shall have a minimum 26 foot pavement width within a minimum 32 foot right-of-way width. A tract of land along the north and east side of the property shall be maintained as open space. The applicant shall authorize an easement and construct a public nature trail through the open space that will connect the east edge of the property to the west edge, and continue along the south edge of Lots 11-13, and south to Kelsie Lane. Any substantial change in the plan shall require a new application to be reviewed and approved by the Planning Commission.

2. **R-1 Residential Standards and Modifications.** Development shall occur in accordance with R-1 standards and the following modifications:
  - 2a. **Lot Area.** Twenty-three (23) lots may be less than 6,000 square feet including four (4) lots under 5,000 square feet. The smallest lot shall be not less than 4,810 square feet.
  - 2b. **Lot Width.** Lots shown on the proposed plat with an average lot width of less than 60 feet may be developed with lot widths less than 60 feet.
3. **Proposed Street and Extension of Norwood Drive.** The Vista View PD shall be accessed from Norwood Drive near the northwest corner of the property as shown on the submitted plan. Streets within the property shall be within public right-of-way. The street shall extend south into the property, then a circular street will provide access to the lots. The Vista View streets shall have a minimum 26 foot wide pavement with one travel lane in each direction and parallel parking on one side of the street, a minimum 1 foot wide standard curb and gutter on each side, and a 4 foot wide sidewalk on one side for a minimum right-of-way width of 32 feet. The sidewalk shall be constructed when the street is constructed. Two on-site parking spaces shall be provided for each lot.

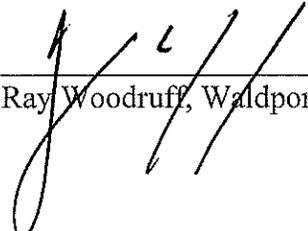
Each phase of development shall include an emergency vehicle turnaround. The turnaround requires approval of dimensions and materials by the Central Oregon Coast Fire & Rescue District prior to construction.

Norwood Drive shall be improved from the property to the existing Norwood Drive pavement (approximately 330 feet) and include a minimum 26 foot wide pavement with curb and gutter, and 4 foot wide sidewalk on one side. The applicant shall work with the City to determine the best side for a sidewalk. The sidewalk shall be constructed when the street is constructed.
4. **Proposed Street Extension to South Property Line.** The street shall extend to the south property line to allow for future street extension to the south. The street extension to the south property line shall be constructed when the Vista View development exceeds 19 lots (Phase 2).
5. **Open Space and Drainage Way.** The drainage way and ravine along the northern and portion of the eastern edge of the property shall be dedicated as open space in accordance with the approved plan. The developer or homeowners association shall be responsible for maintenance of the open space.
6. **Park Assessment Fee.** A park assessment fee totaling \$16,879.50 shall be paid to the City. The park assessment fee may be paid by phase. The fee per phase shall be calculated as follows: Gross area of the phase x 5% x \$1 per square foot. The park assessment fee shall be paid prior to final approval of each phase.
7. **Public Nature Trail.** The applicant shall authorize an easement for a public nature trail through the open space that will connect the east edge of the property to the west edge, and continue along the south edge of Lots 11-13. The applicant shall coordinate with the City to determine the best trail route given topographic constraints and future trail extensions.
8. **Water, Sewer, Storm Drainage, and Other Utilities.** The applicant shall coordinate with the City Public Works Department on the design and construction of water, sewer, and storm drain facilities. If the sewer connects to the existing pump station near Hwy 101, the applicant shall provide required upgrades to the pump station to accommodate increased flows. Utility easements shall be provided to the City as requested by the Public Works Director. All utilities shall be placed underground.

**#1-PD-PC-17 Vista View Planned Development  
Findings & Conclusions**

Final engineering plans for water, sewer, storm drainage, and streets shall be reviewed and approved by the City Public Works Director. The developer shall be responsible for any costs incurred by the City to have a professional registered engineer review and approve development plans. Final engineering plans for water and the street shall also be reviewed and approved by COCFRD.

- 9. **Geotechnical Analyses.** Geotechnical analyses shall be required where development of both roads and lots are proposed on slopes greater than twenty (20) percent.
- 10. **Off-Street Parking.** New single family homes are required to have a minimum of two on-site parking spaces including at least one covered parking space, i.e. garage or carport.
- 11. **Phasing and Time Limits of a Preliminary PD Approval.** Phase 1 shall consist of 19 lots including lot numbers 11-24 and 25, 34, 33, 32 and 31 as shown on the submitted plan. The number of lots in additional phases shall be determined by market conditions and the rate of sale of developed lots. The street extension to the south property line shall occur in Phase 2. The phasing plan shall be as follows:
  - Phase 1: January 2018 – January 2020
  - Phase 2: January 2020 – January 2022
  - Phase 3: January 2022 – January 2024
  - Phase 4: January 2024 – January 2026
- 12. **Final Plan Review Procedure.** When the city planner determines that all of the certifications set forth below have been met and that the plat conforms in all respects to the tentative plan as approved, consideration of the plat will be placed on the next practical scheduled meeting of the Planning Commission for determination that all requirements have been met. The Commission shall then approve, disapprove or, when further information is required, postpone a decision on the plat. Requests for final plan approval of a planned development shall be accompanied by the following certifications:
  - a. A certified copy of all covenants and restrictions;
  - b. Certified copies of legal documents required for dedication of public facilities or for the creation of a homeowner's association;
  - c. The certification, performance agreement or statement regarding the availability of water and sewerage services;
  - d. As-built certifications for all required roads and utilities unless otherwise guaranteed by a performance agreement;
  - e. A plat and one exact copy meeting the requirements of Section 16.100.060 of this chapter and ORS 92.050-92.100.
  - f. A preliminary title report, lot book report, subdivision guaranty report or equivalent documentation of the ownership of the subject property, issued not more than thirty (30) days prior to the date the final plat is submitted for final approval. Such a report shall also identify all easements of record.

  
\_\_\_\_\_  
Ray Woodruff, Waldport Planning Commission Chair

12-16-2018  
Date

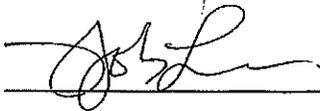
APPEAL OF PLANNING COMMISSION DECISION

On this date JANUARY 2, 2018, I the undersigned hereby appeal to the Waldport City Council the decision of the Waldport Planning Commission to:

APPROVE AND SIGN THE PROPOSED PRELIMINARY PLAN FOR THE VISTA VIEW PLANNED DEVELOPMENT APPLICATION, CASE FILE #1-PD-PC-17 FILED BY TIDEWATER DEVELOPMENT L.L.C. BOX 1516 NEWPORT, OREGON 97565

In filing this appeal, I the undersigned, hereby acknowledge the requirements for an appeal as established in the Waldport Development Code, Chapter 16.108 (Administrative Provisions), and have submitted the materials as specified therein to accompany this appeal.

PLEASE NOTE AND SEE THE ATTACHED DOCUMENTS, EXHIBITS AND CONCURRENCE SIGNATURES OF WALDPART RESIDENTS ATTACHED AND INCORPORATED BY REFERENCE, 39 PAGES  
Signature of Appellant



Name: HOLLIS LURSTEN  
Address: P.O. BOX 1392 WALDPART OR. 97594  
Phone: 541.961.2825

\*\*\*\*\*

This request was heard at the City Council meeting dated \_\_\_\_\_, 2\_\_\_\_\_.  
Vote of the City Council members on this request was as follows:

Voting to Approve Motion

Voting to Deny Motion

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\*\*\*\*\*

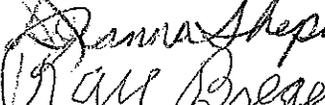
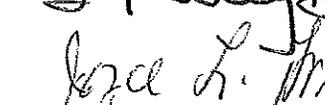
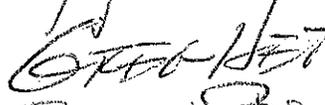
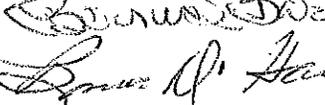
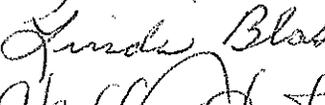
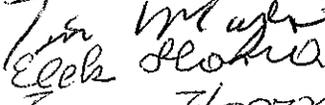
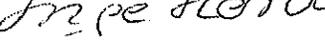
Date on which appeal was filed: Jan. 2, 2018, 2\_\_\_\_\_.

Appeal fee: \$ 560<sup>00</sup> Date of Hearing: 2/22, 2018.

**APPEAL to the WALDPOR CITY COUNCIL  
Lincoln County, Oregon**

Appellant: Hollis Lundeen with Concurring Signatures of Waldport Residents  
Case File #1-PD-PC-17 Tidewater Development LLC - Vista View Planned Development  
January 2, 2018

Those signatures below are residents and citizens of Waldport, Oregon who concur with this appeal and agree to include their signatures with the Appellant, Hollis Lundeen's enclosed appeal of the Preliminary Proposed Plan.

<u>SIGNATURE</u>	<u>PRINTED NAME</u>	<u>ADDRESS</u>
	Hollis Lundeen	P.O. Box 1392 WPT, 97394
	PAUL A VIRTUE	465 SW Pacific View Dr Waldport OR 97394
	Shari A. Virtue	1020 SW Norwood Dr.
	James V. Shepherd	1125 SW Norwood Dr
	PAUL E. BLASKO	1020 SW Norwood Dr.
	Deanna Shepherd	
	RAY BREGENZLER	1080 SW NORWOOD DRIVE
	Jean Johnson	1060 SW Norwood Drive
	Shelley Dillon	1085 Norwood drive
	Joyce L. Wilson	725 SW Skyline Terrace
	GREG HEITMAN	825 SW SKYLINE TERRACE
	Bernice Barnett	1065 SW Norwood Drive
	BRUCE D. GAINER	1065 SW Norwood Dr., Waldport
	LINDA BLASKO	1125 SW NORWOOD DR
	Shelly Orendorff	1160 SW NORWOOD DR AL
	Barbara B. Davis	1235 SW Fairway Dr.
	Pamela Mugleston	1120 SW Norwood Dr.
	Tim Mugleston	1120 SW Norwood Dr.
	Elek Horvath	1025 SW Norwood Dr
	INGE HORVATH	1025 SW Norwood Dr 2-39

**APPEAL to the WALDPORT CITY COUNCIL**

**Lincoln County, Oregon**

Appellant: Hollis Lundeen

With Attached Concurring Signatures of Waldport Residents

City Council is requested to include and reference testimony, oral and written as well as material and evidence presented at all Planning Commissioners Meetings, and the City Council Meeting held on December 14, 2017 concerning:

**Case File #1-PD-PC-17 Tidewater Development LLC - Vista View Planned Development**  
January 2, 2018

**Bullets in Bold are Appellants Notation of alleged error in procedures or decisions made by the Planning Commission. Italics are noting actual Title, City of Waldport Code, or Ordinance, or quotes from actual recorded testimony.** They are followed by written testimony and evidence to support the statement.

**APPEAL the decision of Planning Commissioners Preliminary Plan Approval in its entirety due to Commissioner Chairman Woodruff's signing the document on record, prior to the actual December 18, 2017 Planning Commissioners meeting and prior to a vote by the other Planning Commissioners. See Appeal Exhibit Documentation.**

City of Waldport, Oregon Planning Commission Chairman Ray Woodruff signed to approve the Preliminary Plan on December 16 which was prior to the hearing held on December 18, and prior to deliberation and vote by the Planning Commission. Investigation reveals this is not a typographical error, as the record on file with the City Planner Package reflects the same error, as do the additional letters send out to residents. In addition, Chairman Woodruff signed the year in error as 2018. Arguably, signing the Preliminary Plan prior to vote renders the documents invalid. The incorrect date and year in the Preliminary Plan Approval creates an official record which reflects the decision to approve the Preliminary Plan prior to a vote including the Commissioners.

**APPEAL the Planning Commissioners decision, which is in error, as they failed to address code requirements, as per *Waldport Development Code 16.60.030 C3 & C4*, and as requested by the verbal and written testimony of the many concerned citizens and residents of Waldport. See Appeal Exhibit Documentation.**

**C3:**

*The proposed development will provide the following amenities or protections at a higher level than would otherwise be provided under conventional land development procedures: Protection of significant natural and cultural features and resources, such as historical scientific and cultural resources, stream corridors, riparian areas, and wetlands; maintenance enhancement or establishment of natural vegetation, especially indigenous plant communities; protection of scenic and aesthetic qualities; and creation of a high quality built environment which harmonizes with the natural and physical features of the site and includes design features such as suitably open space, recreational facilities, and other public and common facilities, and also includes pedestrian oriented development which reduces reliance on automotive travel, provision of solar access or similar measures to promote energy conservation, or avoidance of risks and costs associated with environmental hazards.*

**<stream corridors, riparian areas, and wetlands; maintenance enhancement or establishment of natural vegetation, especially indigenous plant communities; >**

Riparian study for this 7.75 acres, Tax Lot 120, last occurred in 1999 with complete differing site conditions from what exist currently. In 1999, when survey was conducted the entire 7.75 acres was forested with a large spruce, and douglas fir forest. *Development is restricted within the zone of riparian vegetation and 25 feet landward from the top of bluff.* Proposed site plan does not reflect this.

I have received confirmation from the USDA Forest Service, that silt and sedimentation from the above timber harvest penetrated their newly constructed bunkhouse which borders the proposed development. This demonstrates past performance of non compliance of Waldport Development Code 16.60.030 C3 & C4, by the applicant, prior to even initiating any permitted certification or construction activity, and is a demonstrated confirmation of negligence, which warrants this appeal to the City to deny the application as is, until the existing site is proactively planned for protection from future sedimentation and slope failure into the existing water sources and riparian areas within and surrounding the entire proposed development. Along with this appeal, appellant recommends a Plan of Action will be submitted in writing to the City of Waldport prior to approval of access.

Appeal declared on grounds of no example of proactive protection, enhancement or establishment of natural vegetation prior to proposed development.

**<fish and wildlife habitats>**

Bald Eagles, exist and have a paired nest in the immediate vicinity, of the proposed development. As per attachment photographed on November 20, 2017 @ 14:21. Eagles regularly roost on a large tall tree snag directly next to the proposed development. The Bald and Golden Eagle Protection Act prohibits anyone without a permit from disturbing their parts, nests, eggs, and habitat. In addition, Great Blue Heron's flight paths are directly related to the location of these proposed 34 lots on 7.75 acres. The Great Blue Heron are a Migratory Protected Species in Oregon. The applicant cannot guarantee they will not violate the habitat by noise and construction activities prior to, during, and after development.

Disturbance of Bald Eagle habitat is a Federal Violation of our National Symbol. This is in error with decisions made by the Planning Commission.

**<Protection of significant natural and cultural features and resources>**

There was no discussion, identification, or plan of protection of existing cultural resources. Construction of new road not in applicant's ownership is in violation of Road Dedication Protection: As recorded in the dedication of land by E.F. and Lily Norwood on May 22, 1966, it is written and recorded as land that is dedicated to the public, as a forever public way. This new construction would disturb the natural state of the public way as currently exists.

**<provision of solar access or similar measures to promote energy conservation>**

There was no discussion or effort to promote energy conservation documented by the applicant or by the Planning Commission.

All issues listed above are non addressed errors or errors in procedural decisions made by the Planning Commission and serve as grounds for appeal as per *Waldport Development Code 16.60.030 C3*.

**C4:**

*In considering a development proposal, the Planning Commission shall seek to determine that the development will not overload the streets outside the planning development area; and that the proposed utility and drainage facilities are adequate for the population densities and type of development proposed and will not create a drainage or pollution problem outside the planned area.*

**NOTE:** The City of Waldport should include consideration INSIDE the planned area as well, since it is within the applicants proposal, that, if all certifications have been met and approved, the City of Waldport will have the designation, responsibility, and maintenance of the ADDITIONAL transportation system access to and throughout the entire planned development.

**APPEAL the decision of the Commissioners approval of the Planned Development was made without relative, current, and accurate traffic data that shows that the streets outside the development WILL be overloaded due to the additional traffic from the development. Substantiated by the following, of which the Planning Commission based their decision on: See Appeal Exhibit Documentation.**

The applicant purchased the subject property described as tax lot 120 knowingly without any existing on site road transportation system, or utility: water, sewer, & power access. As recorded in the dedication of land within Norwood Heights by E.F. and Lily Norwood on May 22, 1966, it is *written and recorded as land that is dedicated to the public, as a forever public way.* I, and all those concurring with this document, along with all those who have responded for denial of this application, request to the City of Waldport and those elected Officials on the City Council, including the appointed City Planning Commissioners to INCLUDE the PUBLIC in the right to decide the future of Norwood Drive as opposed to one single solo applicant benefiting from environmentally altering its currently existing natural state. (C3)

As per unanimous City Council adoption: *Amended Section 16.100.100(A) November 8, 2007* by Mayor Welch , Street Widths are amended as follows:

*Collector Street ROW MIMIMUM Width: 60-80 Feet+                      MINIMUM Surface Width 36-48 Feet+  
Local Streets in Residential Areas ROW MINIMUM Width: 56 Feet MINIMUM Surface Width 28 Feet*

It is not clearly stated by the Commission, as to what classification these roads will be designated as either collector or minor local, especially with the inconsistency of their designation meeting the amended code. Either way, the *MINIMUM* has not been designated correctly as per amended ordinance.

If designated as a proposed *local* the amended code states:

*MINIMUM ROW 56 and 28 width, not 32 and 26 as proposed which does not comply MINIMUM .* It does state it can be altered by the Planning Commission, however, must meet the minimum amended standards.

If designated as a proposed *collector* the amended code states:

*MINIMUM ROW 60-80 and 36-48 width, not 32 and 26 as proposed which does not comply MINIMUM* It does state it can be altered by the Planning Commission, however, must meet the minimum amended standards.

The WYJPLU&TFPP, states that traffic is expected to increase by 60%.

The applicant will be constructing roads to a higher standard than that of Norwood Drive. Therein laymen terms the PD will have roads at a higher standard than the proposed loop that is eventually proposed. There is inconsistency in the utilization standards of existing roads to access this PD.

Within the Preliminary Plan, the decision of the Planning Commission does not require the applicant to upgrade the existing dead end minor neighborhood street which will be dramatically impacted by the Preliminary Plan approval. The Preliminary Plan approval will increase the traffic from a low use dead end minor street to a high density collector road. According to the applicants proposal, Norwood Drive will be the only access to and fro the Proposed Preliminary Plan Phase 1. This is a major safety and high traffic fatality risk. With the additional traffic increase resulting from the additional 34 homes, if this Preliminary Plan is approved without at least a proportional upgrade requirement assignment to the applicant, the future necessary upgrades will be expected to be funded by the City, with the high probability of local residents and taxpayers having to subsidize the additional high cost to a street which now, currently meets the needs of the neighborhood.

The traffic count data utilized by the City Planner and Director of Public Works is not valid to demonstrate current traffic patterns. The only known recorded traffic count figures referenced by the City Planner and the Director of Public Works are from a 2 day sampling at the top of Norwood Drive, serving only 17 homes, of which, one is a lot for sale, and aware with the knowledge, there were several residents out of the areas of that time period of only 2 days. Survey was conducted during a Winter Holiday Week, (November 15-17, 2017) of which several homeowners who normally use the road were not home at the time of sampling. The traffic sampling at the junction of Pacific View and Norwood was for only 2 days. (November 29-30, 2017), another holiday time period. These, insufficient, one time samplings in 18+ years of residing on Norwood are not indicative or significant of actual current traffic patterns. It also indicated 30% driving between 16 & 25 MPH, a undetermined percentage of that 30% were exceeding the posted speed limit of 20 MPH. This causes high risk for a fatality considering the unrecorded but unusually HIGH pedestrian traffic use. None of this traffic information was shared with the Public at the Planning Commissioners Meeting in order to make a sound and safe decision.

The City Planner utilized a questionable source of determining the traffic count assessment, which is not valid or related to Norwood Drive traffic flow. ([www.mikeontraffic.com](http://www.mikeontraffic.com)) upon which the Commissioners made their decision to approve the Preliminary Plan. If the City Planner submits information to be included in the findings and conclusions for a Planning Commission decision to be accurate, the City of Waldport should utilize Best Management Practices (BMP) with a complete, credible, and current accurate study.

These findings warrant a complete review INDEPENDENT of the proposed development and PRIOR to approval of ANY Preliminary Plan Approval of Vista View to gather traffic count, flow and specific traffic data for a BASELINE study of Norwood Drive. The additional 34 homes present safety and potential traffic fatality risks voiced from the City of Waldport, City Planning Commissioners, the applicant, appellant, as well as the public citizens and residents of Norwood Drive and its users. This supports my request for a delay to this Preliminary Proposed Development to the City of Waldport, City Council, and Planning Commissioners to arrive at a consensus and designation of a CONSISTENT designation of what TYPE of roads will exist within this Planned Development.

**APPEAL the decision of the Planning Commissioners to approve the Preliminary Plan is in conflict with the Waldport Yaquina John Point Land Use and Transportation Final Preferred Plan. The Preliminary Plan will result in utility facilities that are not adequate from the additional 34 homes created population densities and will create drainage and pollution impacts outside the planned development to the already aging infrastructure. See Appeal Exhibit Documentation.**

*<The proposed utility and drainage facilities are adequate for the population densities and type of development proposed and will not create a drainage or pollution problem outside the planned area.>*

A recommendation by the City Planner is to require the applicant to complete a street extension to the south property line. This is in the same exact location to where all timber harvest was safely, without incident, transported out of the proposed development area. A proposal by the Planning Commission was to request the City work with the local landowner that owns that section of land, to secure easement rights for eventual access. This is the exact same location shown on Planned Development proposed drawings to access water and sewer. This location, where the water and sewer is proposed over the route, is the same location that the applicant states they have no easement access to. If they are proposing water and sewer in the exact location, the City needs to consider that location as Transportation Access as well, especially if it is indicated in the Waldport Yaquina John Point Land Use and Transportation Final Preferred Plan, which from now on will be referenced as WYJPLU&TFPP in this appeal request and documentation.

The proposed sewer design is designated for discharge within the drainage that the storm-water/and detention pond are located. This also is designated for discharge on private land ownership outside that of the applicant.

Relocation of the main power source from CLPUD to Norwood Drive Residents will impact the entire Norwood Heights Development. There has been no discussion or questions answered on the time lines of this from the applicant to the Planning Commissioners in their decision to approve the Preliminary Plan.

Note: The location below this power source is on ground exceeding 20%, which will require a geological assessment that was never discussed by the applicant to the Commissioners in order to make a sound decision.

I appeal the proposed access to the Lot 120 by way of Norwood Drive until this road and utility (water, sewer and power) easement is secured as recommended to the City by the Planning Commission, and the City Water, Sewer and Waste Water systems can guarantee the additional impact and load to the infrastructure.

One of many impacts to the surrounding community is that the proposed development is 5 times as dense as the surrounding lot configuration, therefore proportionally there will be 5 times as much traffic, which exceeds the WYJPLU&TFPP. This includes water, sewer and power increases as well.

Mathematically, utilizing the figures which cannot be substantiated from the City Planner and the applicant, there are 72 homes within the designated area, with a proposed additional 34, which computes to 106 homes. The City Planner states this in the staff analysis (October 23, 2017), that the proposed development lots **"EXCEEDS THE RECOMMENDED CAPACITY"** .

The Developmental potential in the WYJPLU&TFPP states the projected new development over the next 25 years includes 36 new single family homes. That computes to 94% of the development potential being absorbed by this SINGLE PD proposal, which prevents and excludes other proposed future development. If the Planning Commission and the City expect eventual development of homes in the remaining lots this would be unacceptable according to the WYJPLU&TFP Plan therefore non compliant in the WYJPLU&TFP plan if the Preliminary Proposed Plan is approved.

The proposed easement acquisition discussed by the Chairman, Commissioners, and the Chairmen to the City Counsel on December 11, needs to be developed BEFORE granting permission to extend Norwood Drive.

**APPEAL the decision of the Planning Commission to not observe and require the applicant to Code Requirements of Lot Size, Lot Width, Road Right of Way and Road Width, including the decision to approve the Preliminary Plan without a site plan diagram reflecting the Commissions decision.**

*The variance modifications are in error to Code Requirements for R1 Zoning 16.12., 16.60 and as designated within the study area of Waldport Yaquina John Point Land Use and Transportation Final Preferred Plan. Amended Section 16.100.100(A) November 8, 2007*

Lot size shall be 6,000ft<sup>2</sup>.

Lot size shall have a width of 60 feet.

Road ROW and Width.

The applicants proposal of establishing a public nature trail through designated open space which is relatively marginal to economically construct a residential home does not justify utilization of this dedicated public space and does not justify modification of required lot size, IE; ft<sup>2</sup>, and width.

The Planning Commission approved the Preliminary Plan without requiring the applicant to provide an accurate and current site plan of the proposal. The site plan on record is wrong.

**APPEAL the decision of the Planning Commissioners approving the Preliminary Plan without verification of ownership regarding the plat that borders the applicants property. Until this can be investigated and verified, appeal the proposed construction of the extension estimate of 300 feet designated for new road construction on land that is not owned by the applicant. This includes the error of road right of way and road width designation.**

**See Appeal Exhibit Documentation.**

*<Amended Section 16.100.100(A) November 8, 2007 , Waldport Development Code 16.60.030 C3 >*

The ownership of the road dedication outside the applicant's ownership, is incomplete, including changing it from a natural state as dedicated. The Preliminary Plan as approved does not reflect the correct code ROW and Road Width specifications, not only for the new construction of the applicants property but including the designation within the applicants property.

**APPEAL the Decision of the Planning Commissioners not allowing any additional verbal testimony from any resident or citizen, except for only on October 23, 2017.**

**See Appeal Exhibit Documentation.**

**<Title 16.108 Administrative Procedures ,Title 16.108 .020 Review Procedures>**

**5. Continuances:** *An opportunity shall be provided at the continued hearing for persons to present and rebut new evidence and testimony.*

The Planning Commission Chairman and Commissioners disregarded and denied the Appellant 's request to verbally present testimony regarding the applicant's intention, along with questions from the Appellant but also including additional OTHER residents and concerned citizens from Waldport.

As per listening to the recording October 23, 2017 made at the first and only hearing which allowed verbal testimony: After rebuttal from the applicants attorney, Chairman Woodruff verbally stated "The Hearing is closed". There was **NO MOTION MADE** or **SECONDED MOTION**, by any other Commissioner to close the hearing.

**NOTE:** During the City Council Meeting held on December 11, 2017, Mayor Susan Woodruff references that it sounded like it was a confusing situation and City Council Member Dann Cutter stated that it was "unusual" that a hearing should be continued without allowing additional verbal testimony along with the submitted written testimony by a citizen. At the Planning Commission Meeting on December 4, 2017 Commissioners Stole and Yorks respectfully inferred that a citizen should be allowed to testify,

"Why are we not allowing a citizen to testify? I believe this is a big deal, and we want to be open and transparent."

Deliberation is defined as an act of consideration and discussion. There was no consideration by the Commission to hear my presentation with verbal testimony which included visual confirmation from my letter dated November 7, 2017.

Also please note that I had personally notified the City Planner of my interest in presenting my verbal testimony on December 4, by way of Electronic Power Point Presentation. He later emailed me "sorry to squelch your idea but I did find out the City's policy is not to allow electronic presentations by audience members at a land use hearing." There was NO MENTION of not being able to verbally present. There is no code or ordinance that states that electronic presentations from the audience cannot be made at a land use hearing.

This is in violation according to according to Title 16.108 Administrative Procedures: Appellants Notation of alleged error and procedural decisions made by the Planning Commission.

**IN CONCLUSION:**

There are many, many impacts that have not been considered by the applicant, therefore I appeal this Preliminary Plan and request a moratorium of the Planned Development Vista View until a feasible traffic study can be conducted of which I would like to volunteer and be included in the assessment. I appeal to the City Council to place a moratorium on this PD until questions and concerns can be addressed in a Long Term Transportation Assessment of the road impacts to the current and future infrastructure of the roads, and utilities:water, sewer and power.

This unprecedented Proposed Development can have a positive outcome to the City of Waldport, the citizens and to the residents in the surrounding areas if this moratorium is placed and questions and concerns are completely addressed prior to the applicant reapplying with modification to their application to legally conform with the City of Waldport Code Ordinances, Amendments to that Code, including adherence to the Waldport Yaquina John Point Land Use and Transportation Final Preferred Plan.

**IMMEDIATE CONCERN RELATED TO THIS APPEAL:**

**What is the status as discussed by the Planning Commission Chairman in the CC Mtg on December 14, 2017 requesting the City to require from the applicant, easements necessary for orderly extension of public utilities to future adjacent developments?**

Respectively Submitted,

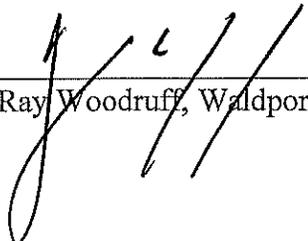
A handwritten signature in black ink, appearing to read 'Hollis Lundeen', with a horizontal line extending to the right.

Hollis Lundeen

#1-PD-PC-17 Vista View Planned Development  
Findings & Conclusions

Final engineering plans for water, sewer, storm drainage, and streets shall be reviewed and approved by the City Public Works Director. The developer shall be responsible for any costs incurred by the City to have a professional registered engineer review and approve development plans. Final engineering plans for water and the street shall also be reviewed and approved by COCFRD.

9. **Geotechnical Analyses.** Geotechnical analyses shall be required where development of both roads and lots are proposed on slopes greater than twenty (20) percent.
10. **Off-Street Parking.** New single family homes are required to have a minimum of two on-site parking spaces including at least one covered parking space, i.e. garage or carport.
11. **Phasing and Time Limits of a Preliminary PD Approval.** Phase 1 shall consist of 19 lots including lot numbers 11-24 and 25, 34, 33, 32 and 31 as shown on the submitted plan. The number of lots in additional phases shall be determined by market conditions and the rate of sale of developed lots. The street extension to the south property line shall occur in Phase 2. The phasing plan shall be as follows:
  - Phase 1: January 2018 – January 2020
  - Phase 2: January 2020 – January 2022
  - Phase 3: January 2022 – January 2024
  - Phase 4: January 2024 – January 2026
12. **Final Plan Review Procedure.** When the city planner determines that all of the certifications set forth below have been met and that the plat conforms in all respects to the tentative plan as approved, consideration of the plat will be placed on the next practical scheduled meeting of the Planning Commission for determination that all requirements have been met. The Commission shall then approve, disapprove or, when further information is required, postpone a decision on the plat. Requests for final plan approval of a planned development shall be accompanied by the following certifications:
  - a. A certified copy of all covenants and restrictions;
  - b. Certified copies of legal documents required for dedication of public facilities or for the creation of a homeowner's association;
  - c. The certification, performance agreement or statement regarding the availability of water and sewerage services;
  - d. As-built certifications for all required roads and utilities unless otherwise guaranteed by a performance agreement;
  - e. A plat and one exact copy meeting the requirements of Section 16.100.060 of this chapter and ORS 92.050-92.100.
  - f. A preliminary title report, lot book report, subdivision guaranty report or equivalent documentation of the ownership of the subject property, issued not more than thirty (30) days prior to the date the final plat is submitted for final approval. Such a report shall also identify all easements of record.

  
Ray Woodruff, Waldport Planning Commission Chair

12-16-2018  
Date

**Statewide Planning  
Goal 5 and Goal 17**

**City of Waldport Periodic Review**

**Prepared for:**

**City of Waldport  
Waldport, Oregon**

**Prepared by:**

**Pacific Habitat Services, Inc.  
Wilsonville, Oregon  
(503) 570-0800**

**June 30, 1999**





D-39



## DEDICATION

KNOW ALL MEN BY THESE PRESENTS:—That E. F. Norwood and Lily Norwood, husband and wife, owners, do hereby make, establish and declare the annexed map a true and correct map and plat of Warwood Heights as described in the accompanying surveyors certificate, all tracts being of the dimensions shown on said map and all Streets of the widths set forth and said E. F. Norwood and Lily Norwood, husband and wife, do hereby dedicate to the use of the Public as public ways forever all Streets shown on said map and all utility easements to the City of Waldport, Oregon.

IN WITNESS WHEREOF said E. F. Norwood and Lily Norwood, husband and wife, have hereunto set their hands

and seals this 16<sup>th</sup> day of May 1963

*[Signature]*  
Witnessed by

*E. F. Norwood*  
*Lily T. Norwood*



# Oregon

Theodore R. Kulongoski, Governor

## Department of Land Conservation and Development

635 Capitol Street NE, Suite 150

Salem, Oregon 97301-2524

Phone: (503) 373-0050

First Floor/Costal Fax: (503) 378-6033

Second Floor/Director's Office: (503) 378-5518

Web Address: <http://www.oregon.gov/LCD>

### NOTICE OF ADOPTED AMENDMENT

December 6, 2007



TO: Subscribers to Notice of Adopted Plan  
or Land Use Regulation Amendments

FROM: Mara Ulloa, Plan Amendment Program Specialist *297 12-6-07*

SUBJECT: Waldport Plan Amendment  
DLCD File Number 001-07

The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. A copy of the adopted plan amendment is available for review at the DLCD office in Salem and the local government office. This adoption was adopted by the City on November 8, 2007, and passed the 21-day appeal period from the date of the adoption.

#### Appeal Procedures\*

#### **DLCD DEADLINE TO APPEAL: Acknowledged under ORS 197.625 and ORS 197.830 (9)**

This amendment was submitted to DLCD for review 45 days prior to adoption. Pursuant to ORS 197.625 if no notice of intent to appeal is filed within the 21-day period set out in ORS 197.830 (9), the amendment to the acknowledged comprehensive plan or land use regulation or the new land use regulation shall be considered acknowledged upon the expiration of the 21-day period.

Under ORS 197.830 (9) a notice of intent to appeal a land use decision or limited land use decision shall be filed not later than 21 days after the date the decision sought to be reviewed becomes final. If you have questions, check with the local government to determine the appeal deadline. Copies of the notice of intent to appeal must be served upon the local government and others who received written notice of the final decision from the local government. The notice of intent to appeal must be served and filed in the form and manner prescribed by LUBA, (OAR Chapter 661, Division 10). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

**\*NOTE: THE APPEAL DEADLINE IS BASED UPON THE DATE THE DECISION WAS ADOPTED BY LOCAL GOVERNMENT. A DECISION MAY HAVE BEEN MAILED TO YOU ON A DIFFERENT DATE THAN IT WAS MAILED TO DLCD.**

Cc: Doug White, DLCD Community Services Specialist  
Dave Perry, DLCD Regional Representative  
Larry Lewis, City of Waldport

<paa> ya

2

# DLCD

## Notice of Adoption

**THIS FORM MUST BE MAILED TO DLCD  
WITHIN 5 WORKING DAYS AFTER THE FINAL DECISION  
PER ORS 197.610, OAR CHAPTER 660 - DIVISION 18**

In person  electronic  mailed

DEPT OF

NOV 28 2007

LAND CONSERVATION  
AND DEVELOPMENT

For DLCD Use Only

Jurisdiction: **City of Waldport**

Local file number: **NA**

Date of Adoption: **11/8/2007**

Date Mailed: **11/26/2007**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? **Yes** Date: **5/15/2007**

Comprehensive Plan Text Amendment

Comprehensive Plan Map Amendment

Land Use Regulation Amendment

Zoning Map Amendment

New Land Use Regulation

Other:

Summarize the adopted amendment. Do not use technical terms. Do not write "See Attached".

1. The lot area and density calculations for ocean and bay front properties are revised; 2. Development is restricted within the zone of riparian vegetation and 25 feet landward from the top of bluff; 3. Siting standards for manufactured homes are updated; 4. Land partition approval process is clarified; 5. Street width standards are modified.

Does the Adoption differ from proposal? **Yes**, Please explain below:

For street width standards the location of sidewalks and utility/landscape strips was reversed.

Plan Map Changed from: **NA**

to: **NA**

Zone Map Changed from: **NA**

to: **NA**

Location: **Citywide**

Acres Involved: **0**

Specify Density: Previous: **NA**

New: **NA**

Applicable statewide planning goals:

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19

Was an Exception Adopted?  YES  NO

Did DLCD receive a Notice of Proposed Amendment...

45-days prior to first evidentiary hearing?

Yes  No

If no, do the statewide planning goals apply?

Yes  No

If no, did Emergency Circumstances require immediate adoption?

Yes  No

DLCD # 001-07 (16108)

H-39

---

**DLCD file No.** \_\_\_\_\_

Please list all affected State or Federal Agencies, Local Governments or Special Districts:

DLCD and City of Waldport

---

Local Contact: **Larry Lewis, City Planner**

Phone: (541) 563-3561 Extension: 103

Address: **PO Box 1120**

Fax Number: 541-563-5810

City: **Waldport**

Zip: **97394**

E-mail Address: **[larry.lewis@waldport.org](mailto:larry.lewis@waldport.org)**

---

## **ADOPTION SUBMITTAL REQUIREMENTS**

This form **must be mailed** to DLCD **within 5 working days after the final decision**  
per ORS 197.610, OAR Chapter 660 - Division 18.

1. **Send this Form and TWO Complete Copies (documents and maps) of the Adopted Amendment to:**

**ATTENTION: PLAN AMENDMENT SPECIALIST  
DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT  
635 CAPITOL STREET NE, SUITE 150  
SALEM, OREGON 97301-2540**

2. **Electronic Submittals:** At least one hard copy must be sent by mail or in person, but you may also submit an electronic copy, by either email or FTP. You may connect to this address to FTP proposals and adoptions: [webserver.lcd.state.or.us](http://webserver.lcd.state.or.us). To obtain our Username and password for FTP, call Mara Ulloa at 503-373-0050 extension 238, or by emailing [mara.ulloa@state.or.us](mailto:mara.ulloa@state.or.us).
3. **Please Note:** Adopted materials must be sent to DLCD not later than **FIVE (5) working days** following the date of the final decision on the amendment.
4. Submittal of this Notice of Adoption must include the text of the amendment plus adopted findings and supplementary information.
5. The deadline to appeal will not be extended if you submit this notice of adoption within five working days of the final decision. Appeals to LUBA may be filed within **TWENTY-ONE (21) days** of the date, the Notice of Adoption is sent to DLCD.
6. In addition to sending the Notice of Adoption to DLCD, you must notify persons who participated in the local hearing and requested notice of the final decision.
7. **Need More Copies?** You can now access these forms online at <http://www.lcd.state.or.us/>. Please print on **8-1/2x11 green paper only**. You may also call the DLCD Office at (503) 373-0050; or Fax your request to: (503) 378-5518; or Email your request to [mara.ulloa@state.or.us](mailto:mara.ulloa@state.or.us) - **ATTENTION: PLAN AMENDMENT SPECIALIST.**

**ORDINANCE NO. 716**

AN ORDINANCE OF THE CITY OF WALDPOROT REVISING TITLE 16 OF THE WALDPOROT MUNICIPAL CODE BY AMENDING CHAPTER 16.04, SECTION 16.04.030; CHAPTER 16.12, SECTION 16.12.030(A)(5); CHAPTER 16.16, SECTION 16.16.030(A)(4); CHAPTER 16.20, SECTION 16.20.030(A)(4); CHAPTER 16.24, SECTION 16.24.030(A)(4); CHAPTER 16.64, SECTION 16.64.050, SUBSECTIONS (2) AND (4); CHAPTER 16.72, SECTION 16.72.120 AND SECTION 16.72.120(C); CHAPTER 16.96, SECTION 16.96.030; AND CHAPTER 16.100 SECTIONS 16.100.020 AND 16.100.100, AND DECLARING AN EMERGENCY.

WHEREAS, the Waldport Planning Commission has worked for many months on the above-noted code amendments, conducting numerous work sessions to refine the language and produce the proposed ordinance language; and

WHEREAS, duly noticed public hearings were held and testimony received in July of 2007 by the Waldport Planning Commission and in October of 2007 by the Waldport City Council,

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

Section 1. Section 16.04.030 "Definitions" is hereby amended to add the following definition: "Top of bank" for oceanfront/bayfront lots means the uppermost break in slope."

Section 2. Section 16.12.030(A)(5), 16.16.030(A)(4), 16.20.030(A)(4) and 16.24.030(A)(4) are all hereby amended to read as follows: "Lot area, for ocean and bay front lots or lots with intervening ownership which does not prevent coastal erosion from progressive deterioration of the property shall be determined by the amount of area from the landward boundary of the riparian vegetation zone to the landward extent of the property".

Section 3. Section 16.64.050 (A), Subsection (2) is hereby amended to read as follows: "Except as provided in subsection: (A)(1) of this section, no development shall be located within the zone of riparian vegetation as defined below or 25 feet landward from the top of bluff, whichever is greater.

The top of bluff is the uppermost break in slope. Where there is no coastal bluff or no clear break in slope, for example on a smoothly sloping lot, no development shall be located less than 50 feet landward (measured on the horizontal) from the line of mean higher high water."

Section 4. Section 16.64.050(A), Subsection (4) (a) is hereby amended to read as follows: "Ocean and Estuary. The area between the point of mean higher high water and fifty (50) feet landward measured horizontal."

Section 5. Section 16.72.120 is hereby amended to read as follows: "Manufactured

homes must be permitted and installed in accordance with the current edition of the Oregon Manufactured Dwelling Specialty Code (OMDSC) and the following standards. Where the OMDSC and the following standards conflict, the more restrictive standard shall apply.

Section 6. Section 16.72.120(C) is hereby amended to read as follows: "The manufactured home shall have a pitched roof of at least three (3) feet in height for each twelve (12) feet in width."

Section 7. Section 16.96.030(D)(1) is hereby amended to read as follows: "Oceanfront/Bayfront lots. A site specific geotechnical analysis by a qualified registered professional geologist or engineering geologist (will be required) except when 1) the only known or suspected hazard is coastal recession and minor slope sloughing which can be compensated for by using the established minimum setbacks as set forth in the Environmental Hazard Inventory: RNKR (page 35); 2) no development is proposed within 50 feet landward (measured on the horizontal) from the line of mean higher high water; and 3) no development is proposed within 35 feet from the top of bank. Rates of coastal erosion are identified on the comprehensive plan hazard maps. Deviations from required shore front setbacks may be permitted upon submission of a site specific geotechnical analysis prepared and stamped by a professional geologist or certified engineering geologist which specifies adequate safeguards to compensate for the reduced setback.

Section 8. Section 16.100.020 is amended to remove subsection A and to renumber subsections B, C and D as A, B and C.

Section 9. Section 16.100.100(A), "Street Widths" is amended to read as follows:

Type of street	Min. Right-of-Way Width	Min. Surface Width
1. Collector streets and all business streets other than arterials:	60' - 80'+	36' - 48'+
2. Local streets in residential areas:	56'++	28'++
3. Circular ends of cul-de-sacs:	90'+++	70'+++
4. Hammerheads	++++	++++

+ The City may require a width within the limits shown based upon adjacent physical conditions, safety of the public and the traffic needs of the community. The standard street section for collector and business streets is two 16-22' travel lanes, 2' curb and gutter, 5' sidewalk and 7' utility strip. This may be altered upon approval by the Waldport Public Works Department, utility companies, and the Planning Commission.

++ The standard street section for local streets is two 14' travel lanes, 2' curb and gutter, 5' sidewalk and 7' utility strip. This may be altered upon approval by the Waldport Public Works Department, utility companies, and the Planning Commission.

+++ Measured by diameter of circle constituting circular end.

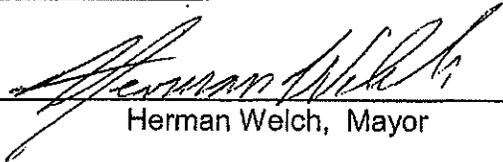
++++ Hammerheads will be of such width and length as to allow for adequate turn-around of all emergency vehicles as determined by the Public Works Department.

Section 10. Emergency clause. Inasmuch as it is the duty of the City Council to maintain the public health, safety and welfare, and because it is important to implement this change in the Code as soon as practicable to avoid confusion and to resolve any issues of which language applies, now, therefore, an emergency is declared to exist and this Ordinance shall go into full force and effect immediately upon its passage and approval.

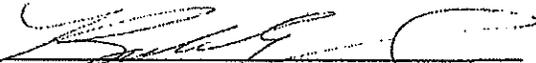
ADOPTED by the Common Council of the City of Waldport this 8<sup>th</sup> day of November, 2007 by the following vote:

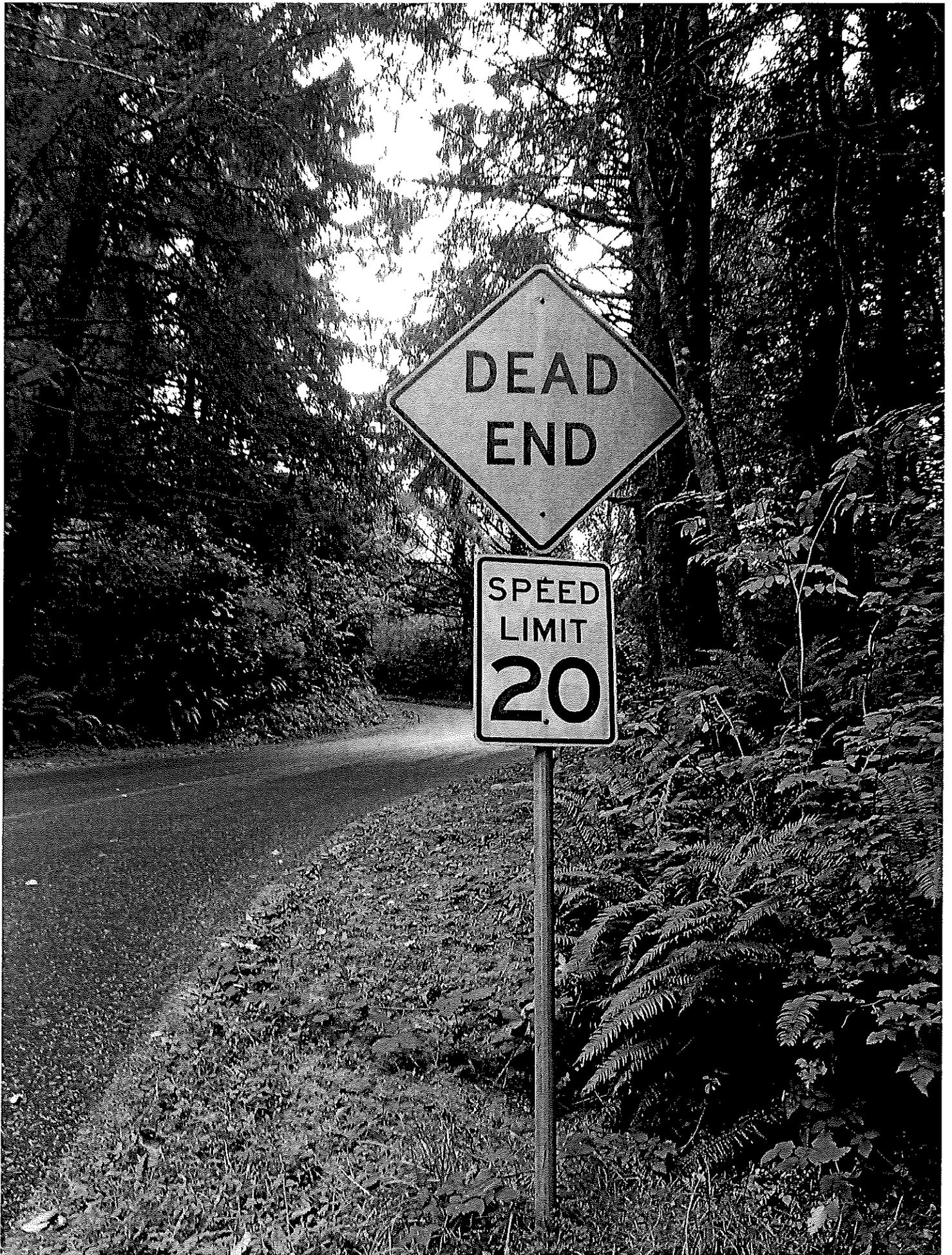
AYES 6      NAYS 0      ABSENT 0      ABSTAIN 0

SIGNED by the Mayor this 8<sup>th</sup> day of November, 2007.

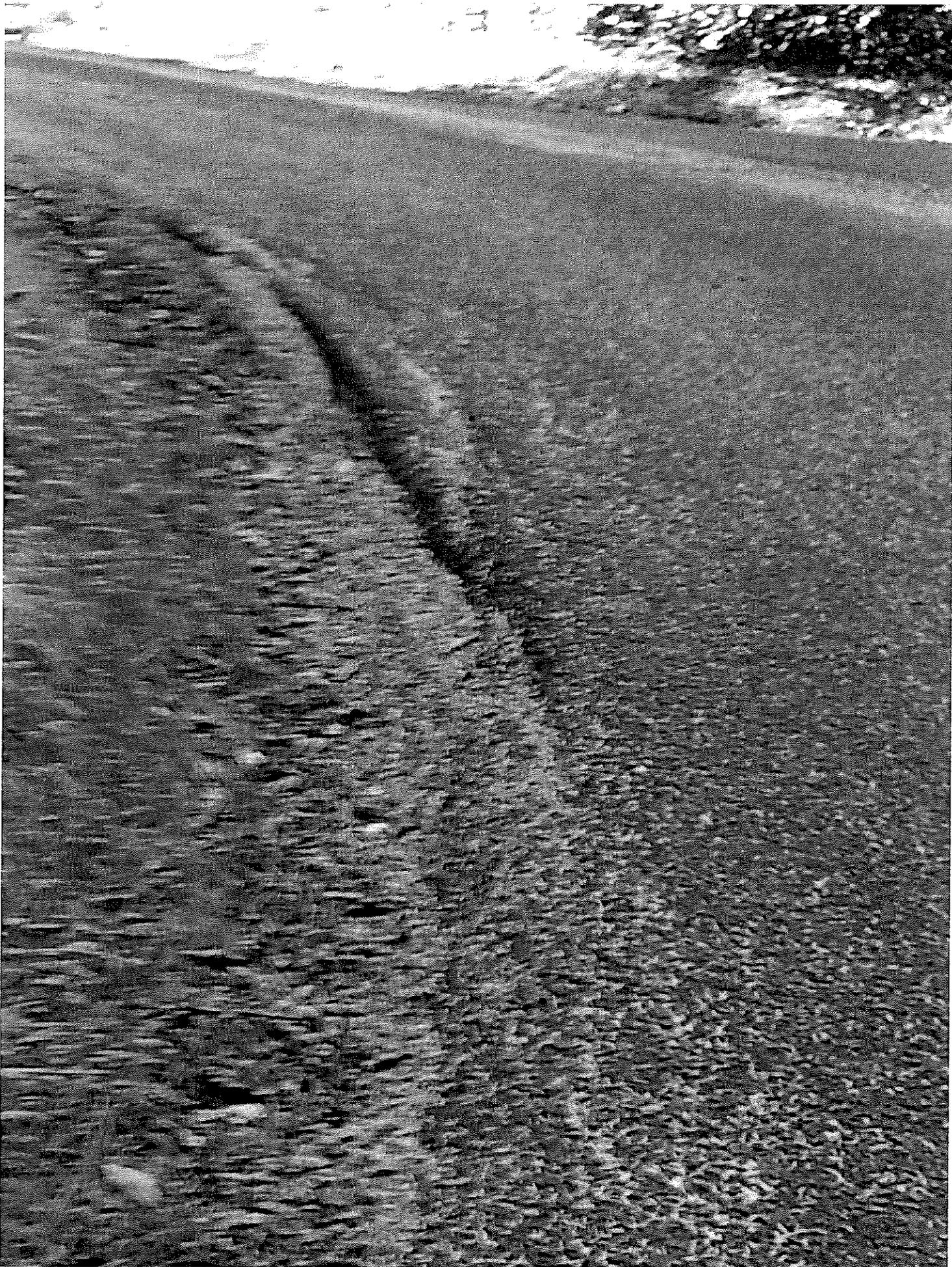
  
Herman Welch, Mayor

ATTEST:

  
Reda A. Quinlan, City Clerk

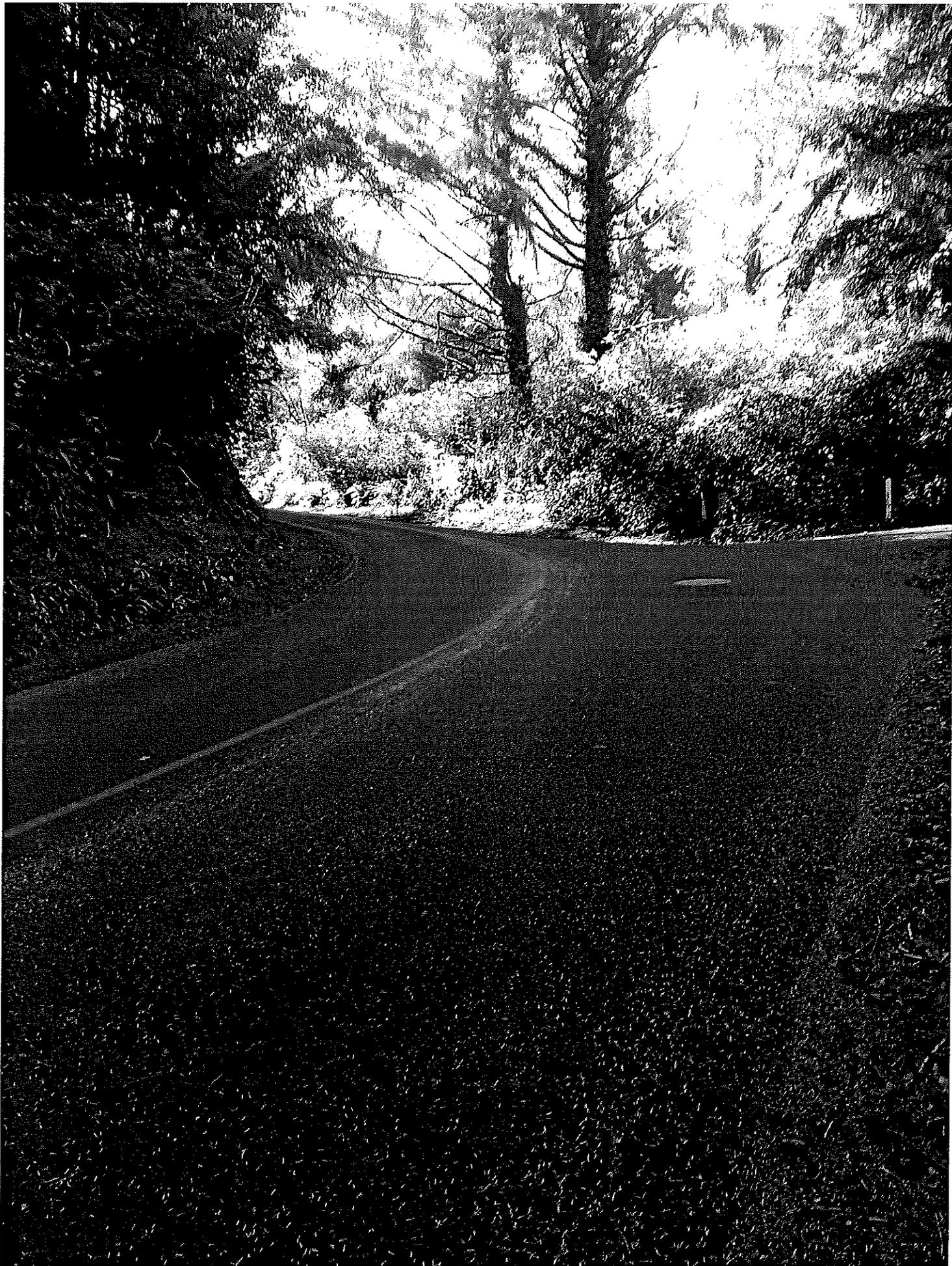




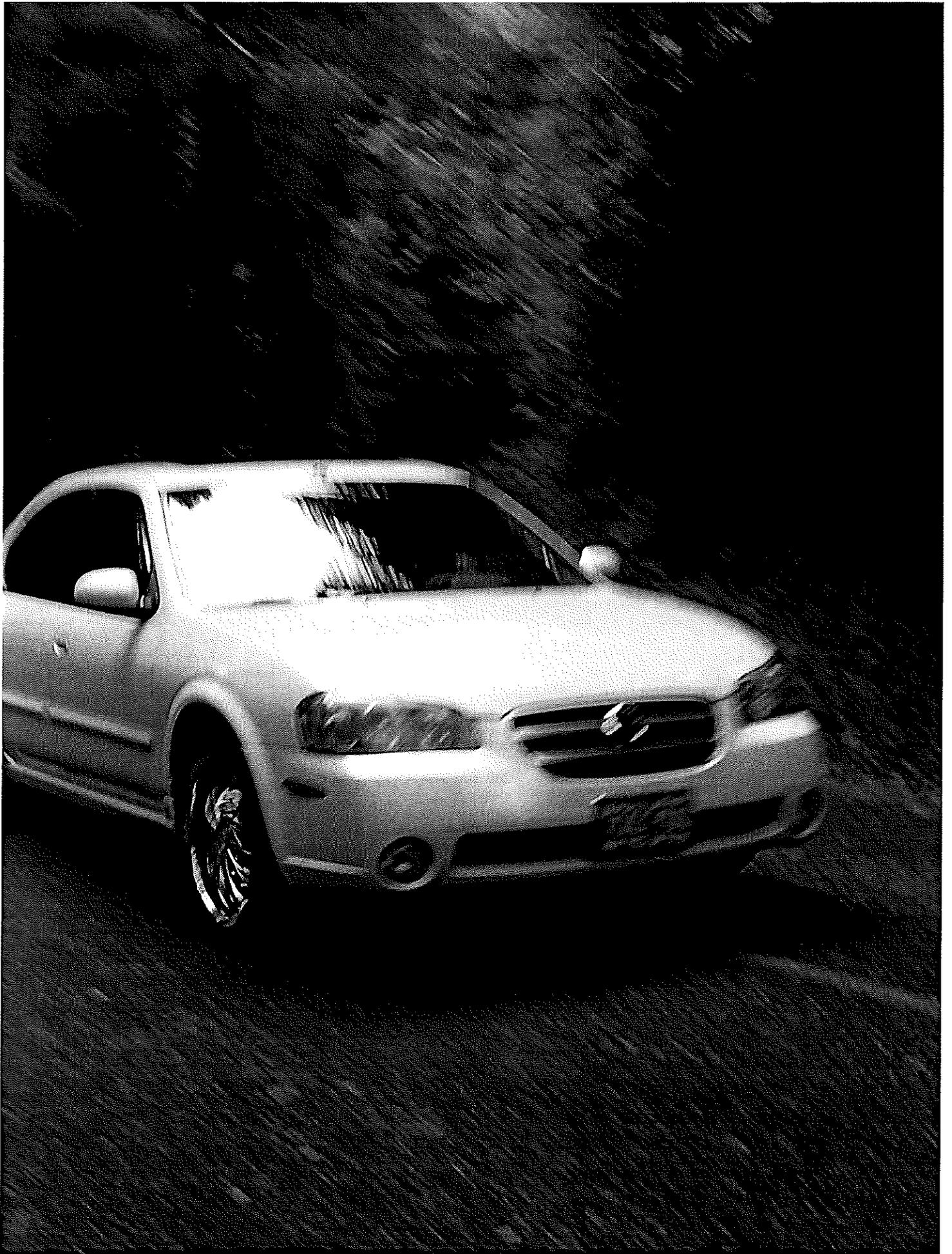


0-39













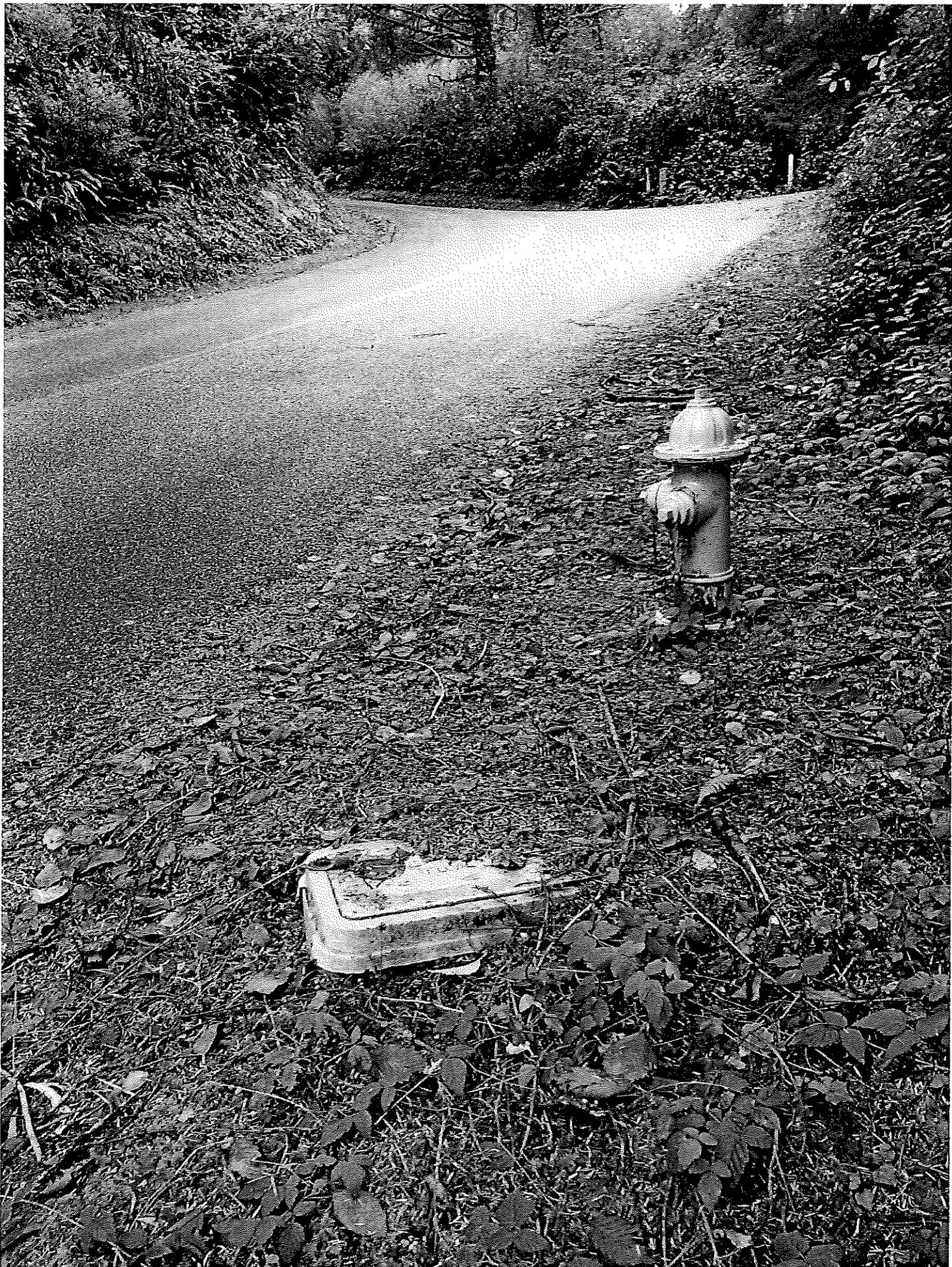
U-39







X-39



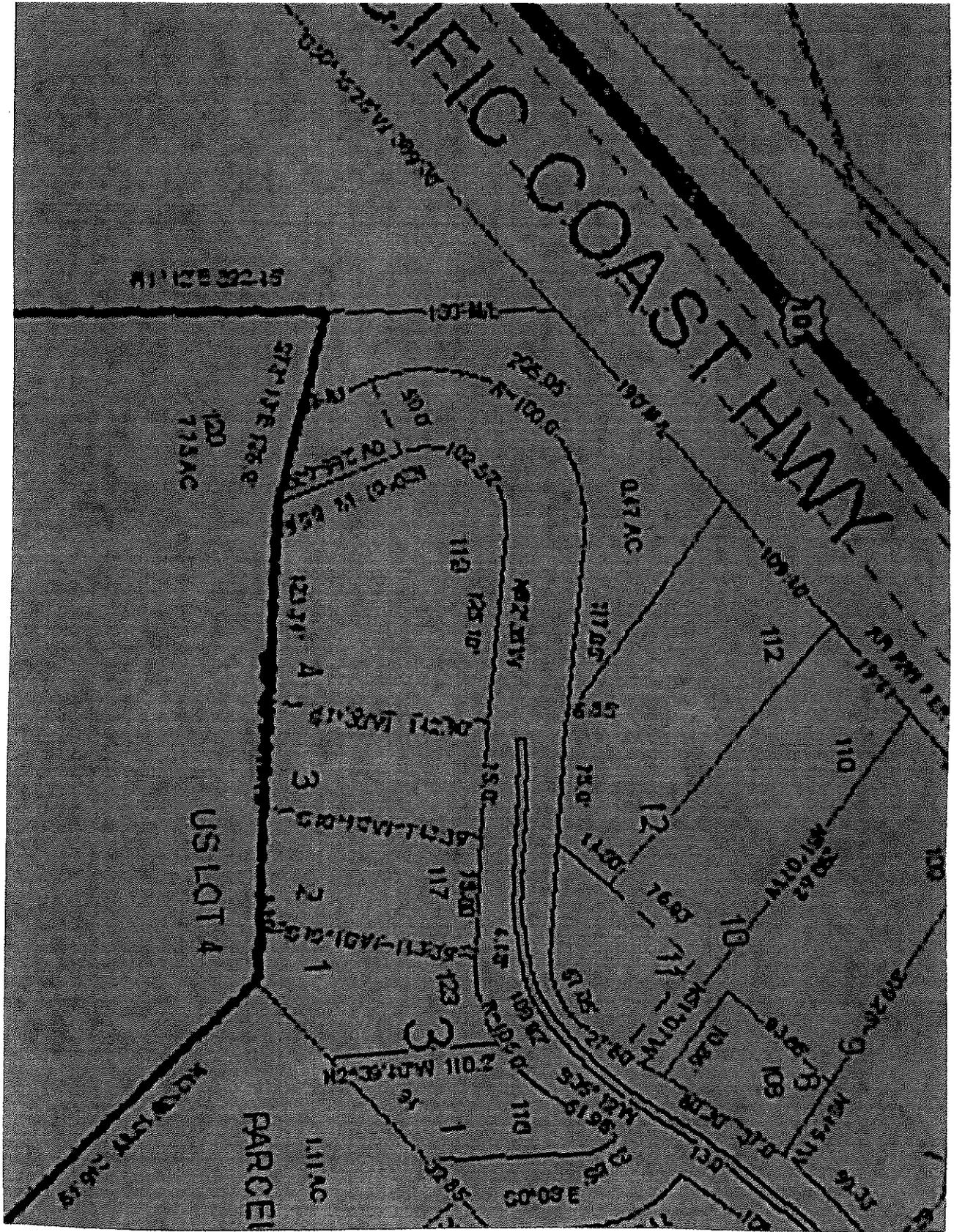
Y-39



Z-39



AA-39



BB-39

---

Larry Lewis <Larry@mailachatsoregon.org>  
To: "droideric@gmail.com" <droideric@gmail.com>  
Cc: "larry.lewis@waldport.org" <larry.lewis@waldport.org>

Tue, Nov 28, 2017 at 4:48 PM

Hi Hollis –

Sorry to squelch your idea but I did find out the City's policy is not to allow electronic presentations by audience members at a land use hearing.

Larry

Larry Lewis, City Planner

City of Waldport

541-264-7417, ext. 3

---

CC-39

BEFORE THE PLANNING COMMISSION OF THE CITY OF WALDPOROT  
STATE OF OREGON

In the matter of a request for Approval of a )	Case File #1-PD-PC-17
34 lot Planned Development by )	
Tidewater Development LLC known )	TIDEWATER DEVELOPMENT LLC'S
as Vista View )	RESPONSE TO APPEAL FILED BY
)	HOLLIS LUNDEEN
)	

The Waldport Planning Commission, by a unanimous vote of all the commission members present, approved the preliminary plan of Vista View Planned Development. Hollis Lundeen has filed an appeal of the Planning Commission decision to the Waldport City Council. This memorandum is submitted to respond to the appeal and in support of the Planning Commission's well-reasoned decision. This memorandum is submitted primarily to address the points raised in the appeal. The applicant previously submitted extensive material in support of the application and in rebuttal to the concerns raised by the opponents. That material is incorporated in the record being provided to the City Council and we would certainly encourage the Council to review that material.

The appellant asserts seven grounds for appeal which she asks the City Council to consider. Upon analysis, it is clear that none of the assertions provide a basis to overturn the Planning Commission decision. The decision of the Planning Commission should be affirmed.

**Appellant's Allegation #1:** Appeal the decision of Planning Commissioners Preliminary Plan Approval in its entirety due to Commissioner Chairman Woodruff's signing the document on record, prior to the actual December 18, 2017 Planning Commissioners meeting.

**Response:** The findings and order signed by Planning Commission Chair Ray Woodruff clearly contained an incorrect date. The document shows a signature date of 12-16-2018. It appears there is a scrivener's error in the date. However, because the appellant has filed an appeal and this matter is being heard by the City Council, any alleged error is easily correctable. Since the City Council will be making a decision in this matter, any incorrect date on the Planning Commission order is moot.

**Appellant's Allegation #2:** Appeal the Planning Commissioners decision, which is in error, as they failed to address code requirements, as per *Waldport Development Code* 16.60.030 C3 & C4, and as requested by the verbal and written testimony of the many concerned citizens and residents of Waldport.

**Response:** It must be understood that just because the opponents raise an issue does not mean it is valid or relevant. Many of the issues raised by the opponents were simply not valid. It is obvious that the opponents do not want additional residences in their area, even though the property has been zoned single family residential for decades. While it is understandable that the opponents desire the status quo, that is not a basis to deny the application for the planned development. The property owned by the applicant is zoned R-1 and they are entitled to develop

the property in accordance with the applicable criteria under the Waldport Development Code. The Waldport Development Code has specific provisions allowing planned developments. The provisions of that code provide that certain criteria may be varied if the Planning Commission determines there is reason to vary standards in exchange for the city receiving something it would not otherwise receive. The Planning Commission made a reasonable and rational determination that the applicant's proposal met the criteria in the ordinance.

The appellant's argument is not logical. It flies in the face of the ordinance. She argues that development is restricted with the zone of riparian vegetation and 25 feet landward from the top of the bluff. However, the restriction she references applies to properties lying along the Pacific Ocean and the Alsea River. It does not apply to this property.

The property did previously contain timber. The timber was logged. The logging was legally performed. After a period of very heavy rain, there was silt that entered an adjoining property. The situation was addressed and resolved. The development code does not contain a requirement of proactive protection, enhancement or establishment of natural vegetation prior to the proposed development. In fact, the appellant lives on property that has been developed. She has a residence on her property. The applicant is asking nothing more or less than what she and the other appellants already have. The criteria of the development code address requirements for development. The applicant must comply with the requirements of the code, which includes geologic reports where development occurs on slopes that exceed 20%. Roads, sewer lines, water lines and other infrastructure will need to be engineered according to applicable standards and approved by the City. In fact, the applicant will need to pay the City for having the plans reviewed by the City.

Whether bald eagles are in the area and have nests in the vicinity is not an impediment to the development. If the standard set forth in the appellant's appeal were to be followed, it would certainly be a basis for removing all of the houses in the area and not allowing any activity to occur. Please keep in mind that as people do things on their property, there is also the risk of disturbance. Such things as lawn mowers and other machinery and construction on surrounding properties impose the same burden that the appellant is asserting the applicant will impose. The appellant makes certain assertions regarding noise and construction activities and disturbance being a violation of federal law, but she does not cite any authority for her position. Simply stated, she is mistaken.

The appellant asserts that there was no discussion, identification or plan of protection of existing cultural resources, however, the simple fact is there are no cultural resources on the site and therefore there needs to be no plan of protection. Just because a particular criteria may be listed in the development codes does not mean it is applicable to every parcel. If there was something shown to be a cultural resource then the issue would need to be addressed, but there is simply no cultural resource on the property.

The assertions by the appellant regarding the extension of Norwood Drive simply show that she does not understand the concept of public roads and the use of public right of ways. The road was dedicated on the original plat of Norwood Heights. The plat of Norwood Heights created a road. Previously there was no road that existed and a road was built to serve the lots that were to

be created in the area. The developer of Norwood Heights was no doubt required to plat the road to adjoining property, as is common in developments. The platted road that is not yet built is a public road which is under the jurisdiction of the City. It is not under the jurisdiction of any particular group of neighbors. It is common in development to develop right of ways which already exist. In this particular case the developer of Vista View is the one that will be responsible for developing the extension of Norwood Drive. It will need to be done in accordance with sound engineering practices, in accordance with the Planning Commission approval and will be reviewed by the City public works and the City engineers. This is typical of road construction within the city.

The appellant asserts there was no provision of solar access or similar measures to promote energy conservation. This is simply one of the criteria that can be considered. In fact, by not developing the entire property, the developer is protecting vegetation and providing for a greater green area than would otherwise be required by the development code. Furthermore, the fact that streets will not need to be extended as far if the entire property is not developed promotes the preservation of resources and energy conservation.

One of the purposes of Oregon's land use planning process is to channel development into cities. If there are fewer lots within cities, it puts more pressure to develop rural areas. One of the goals of Oregon's land use planning system is to preserve agriculture and timber lands. Although the applicant's property was previously forested, it was not designated forest land and was not planned or zoned for that purpose. The long time planning and zoning for the property has been single family residential development which is precisely what is being proposed by the applicant.

The City staff provided information to the Planning Commission to show that the streets can accommodate the 34 lots that will be created. It is to be noted that the applicant, according to the density requirements of the code could develop 56 lots. The applicant is limiting the development to 34 lots. The transportation plan for south Waldport and Yaquina John Point anticipated that there would be 40 lots on this property. The applicant is proposing even fewer lots than even that plan contemplated. In short, the developer has made a conscious effort to limit the number of lots.

The Planning Commission approval requires that the applicant extend Norwood Drive from its present termination to the developer's property. It further provides that the developer must construct all roads within the planned development in accordance with the standards set forth in the approval of the Planning Commission and must extend the roadway to the south line of the applicant's property. In addition to the road requirements, the applicant is required to create an easement for a public pedestrian trail through the property and construct the trail. The trail will be constructed through property that will not be developed but that has been set aside for open space by the developer.

**Appellant's Allegation #3:** Appeal the decision of the Commissioners approval of the Planned Development was made without relative, current, and accurate traffic data that shows that the streets outside the development WILL be overloaded due to the additional traffic from the development.

**Response:** The appellant asserts that the applicant purchased the subject property knowingly without any existing on-site road transportation system or utilities. What the appellant does not understand is that prior to development properties do not have road systems and utilities. They are created and built as part of the development process. By assertions made in her appeal, it is clear that she does not understand the development process and the logistics of how development occurs.

As noted previously, the platted area of Norwood Drive that is not built is a public right of way. No vote is to be taken by those in the area to determine whether the street can be used or not. The way is a public way and is intended to be used as a public way. That is why the city originally required the dedication of that street as part of the approval of Norwood Heights.

The appellant cites certain provisions of the development code regarding the width of streets, however, she neglects to cite one of the key components of the ordinance. The ordinance provides that the standards set forth in the ordinance can be varied by the Planning Commission or the City Council. Section 16.100.100 regarding street width and improvement standards contains the following provisions:

“The City may require a width within the limits shown based upon adjacent physical conditions, safety of the public and the traffic needs of the community. The standard street section for collector and business streets is two 16-22’ travel lanes, including a striped shoulder bikeway with a minimum width of 5’ 2’ curb and gutter, 5’ sidewalk and 7’ utility strip. This may be altered upon approval by the Waldport Public Works Department, utility companies, and the Planning Commission.

The standard street section for local streets is two 14’ travel lanes, 2’ curb and gutter, 5’ sidewalk and 7’ utility strip. This may be altered upon approval by the Waldport Public Works Department, utility companies, and the Planning Commission.”

Here, in exchange for providing an open area, a trail for the public and reserving drainage from other developments onto the applicant’s property, the Planning Commission modified the street width as it is entitled to do under the ordinance. It is also to be noted that the Planning Commission gave this matter due consideration and did not blindly stamp any proposal of the applicant. The applicant had proposed 20 foot streets with no parking on either side. The Planning Commission, after consideration and discussion, determined that the streets should be widened to 26 feet. The applicant is also building curbs and gutters. The applicant is also building a sidewalk. The position taken by the appellant regarding this matter demonstrates that she is only reading the portion of the ordinance that she wants to read and fails to consider the ordinance and its requirements as a whole.

It is ironic that the appellant complains that the applicant will be constructing roads to a higher standard than that of Norwood Drive. Simply stated, she is saying that there is nothing that the developer could ever do that will satisfy her. Her true position is that she does not want any development to occur on residential property located within the city limits that is zoned R-1.

A developer is not required to improve all the streets in the area. This issue was discussed by the Planning Commission. The applicant noted that there cannot be undue exactions on the developer. The City's attorney concurred in the analysis presented by the applicant's attorney. If there are deficiencies that need to be resolved, the City has the option of establishing a local improvement district and assessing all the owners who are using the roads. It truly appears that the opponents are wanting the "new people on the block" to pay for everything they have been concerned about for years, but never addressed.

The appellant is attacking the information used by the City, yet she has not presented any evidence that contradicts the information provided by the City staff.

**Appellant's Allegation #4:** Appeal the decision of the Planning Commissioners to approve the Preliminary Plan is in conflict with the Waldport's Yaquina John Point Land Use and Transportation Final Preferred Plan. The Preliminary Plan will result in utility facilities that are not adequate from the additional 34 homes created population densities and will create drainage and pollution impacts outside the planned development to the already aging infrastructure.

**Response:** The infrastructure of the planned development and how it ties in with existing city and public utilities will be engineered. The developer's engineer will present a plan to the City that will be reviewed and approved by the City's public works department and the City's engineers. If the infrastructure cannot be adequately engineered and built, then the development will not take place. The appellant seems to think that every single detail must be addressed prior to a preliminary approval. That is not the way the system works. The applicant must first obtain preliminary approval to be assured that when they spend enormous amounts of money to create and install the infrastructure that they will receive final approval. In the event the applicant does not adequately address the issues and construct them in accordance with standards acceptable to the City, the applicant will not receive final approval.

**Appellant's Allegation #5:** Appeal the decision of the Planning Commission to not observe and require the applicant to Code Requirements of Lot Size, Lot Width, Road Right of Way and Road Width, including the decision to approve the Preliminary Plan without a site plan diagram reflecting the Commission's decision.

**Response:** Again, this ground for appeal shows that the appellant does not understand the land use system. The purpose of having a planned development section in a code is to allow certain modifications to standards when benefits can result both to the City and the property owner. By presenting a planned development in this situation, the City is gaining important considerations that it would not otherwise receive. The City is retaining a drainage way, an open space that provides vegetation and acts as a buffer from surrounding developments and a public walking trail that is part of the transportation plan in the city. The ordinance clearly allows the modification of certain standards under the planned development ordinance. Again, it is to be emphasized that in fact the developer is underbuilding the property by 22 lots. If the standards requested by the appellant were imposed, the developer could develop 56 lots.

**Appellant's Allegation #6:** Appeal the decision of the Planning Commissioners approving the Preliminary Plan without verification of ownership regarding the plat that borders the applicants property. Until this can be investigated and verified, appeal the proposed construction of the extension estimate of 300 feet designated for new road construction on land that is not owned by the applicant. This includes the error of road right of way and road width designation.

**Response:** There is no requirement that the applicant own the property on which the road is constructed when the road is in fact already dedicated as a public way. The applicant is simply extending a platted roadway. The Assessor's records show the ownership of various properties. The appellant has not submitted any credible evidence that suggests that the property is not owned as listed on the records of the Assessor.

**Appellant's Allegation #7:** Appeal the Decision of the Planning Commissioners not allowing any additional verbal testimony from any resident or citizen, except for only on October 23, 2017.

**Response:** The long and the short of the matter is that the Planning Commission held a public hearing and allowed all interested parties to present testimony. The Planning Commission kept the record open for a period of 14 days after the initial hearing to allow anyone to present any additional evidence they so desired. There was no requirement for the Planning Commission to accept testimony at any additional meetings. The Planning Commission chair graciously allowed the appellant to testify at a later hearing. However, there was no legal requirement to allow that testimony.

By appealing the decision of Planning Commission the claimed error is moot because the appellant has the opportunity to present any testimony she desires to the City Council since the review by the City Council is de novo.

**Conclusion:**

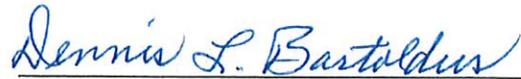
It is apparent that the appellant and those joining in this appeal with her simply do not want any change in the area. Even though they enjoy single family residences in this part of the city, they do not want other citizens to have the opportunity to enjoy single family residences in this area as well. The property owned by the applicant is zoned R-1. It has been zoned and planned for single family residential development for decades. The allowed density under the zoning ordinance is 56 lots. The applicant is only proposing 34 lots. Therefore, they are proposing a density that is well under what would be allowed by the zoning ordinance.

It became clear from hearing the testimony at the Planning Commission that the opponents will simply not be satisfied unless the applicant's property is not developed. That would obviously be a taking of the applicant's property and the City would need to answer for such an action.

The Planning Commission made a well-reasoned decision. The City Council should affirm the decision of the Planning Commission and grant the approval with the conditions set forth in the Planning Commission approval.

Dated this 14<sup>th</sup> day of February, 2018.

Respectfully submitted,



---

Dennis L. Bartoldus  
Attorney for Applicant  
Tidewater Development LLC

## Larry Lewis

---

**From:** Paul Virtue <bigpaulvirtue@gmail.com>  
**Sent:** Thursday, February 08, 2018 10:21 PM  
**To:** Larry Lewis  
**Subject:** Norwood

Just want to reiterate my concern that the proposed plan for the new housing at the end of Norwood is in need of the city or county to improve other infrastructure or have a completed agreement for traffic flow to the south.

Paul Virtue

--

Paul Virtue, Sr.

---

### Total Control Panel

[Login](#)

To: [larry.lewis@waldport.org](mailto:larry.lewis@waldport.org)  
From: [bigpaulvirtue@gmail.com](mailto:bigpaulvirtue@gmail.com)

Message Score: 1  
My Spam Blocking Level: Low

High (60): Pass  
Medium (75): Pass  
Low (90): Pass

[Block](#) this sender  
[Block](#) gmail.com

*This message was delivered because the content filter score did not exceed your filter level.*

Letter in Support of the Appeal from Waldport's Planning Commission's Approval of the Vista View Planned Development Plan

February 9, 2018

Dear Mayor Woodruff and Council Members Dann Cutter, Harry Dennis, Greg Dunn, and Greg Holland:

I am writing in support of the Appeal from the Planning Commission's approval of the proposed Vista Development. As written it doesn't comply with Waldport City ordinances. The Planning Commission's waiver of many relevant ordinances places an unfair burden on the Norwood Drive neighbors while providing an unfair benefit to the Vista developers. Specifically, approval of the Vista Development building 34 houses with the only ingress and made by changing Norwood Drive from a dead end minor neighborhood street to a high-density collector street without requiring the developer to upgrade Norwood Drive not only creates a safety hazard but also unfairly shifts the burden of future development to the owners of homes on Norwood Drive.

Norwood Drive is currently a neighborhood street that handles a small number of homes. The portion of Norwood Drive coming up the hill is narrow and has no sidewalks. In some place because of the terrain it is difficult to walk off the paved road. It is crooked, and some large vehicles must cut across the entire two-way road to make the turn. The neighborhood street at the top of Norwood Drive is narrow less than 20 feet in a couple of places. It is an old street and pavement is thinner than if it were developed today. There are no sidewalks. Today with the very limited traffic and density, the road is adequate. There are many times when I have been in the front yard and a couple of hours have gone by with no vehicles on the street.

Mr. Lewis reviewed the street traffic at its busiest section and agreed that currently Norwood Drive is a minor street. He also stated in writing that the Vista Development would change Norwood Drive to high density street. This issue is an important concern to us owners. It was brought to the attention of the Planning Commission by more than one neighbor. One Commissioner was loud and strident in presenting his opinion that the Vista developers shouldn't have to improve the road because, in his opinion, it wouldn't be fair when the City should have already upgraded Norwood Drive.

If the City agrees with his logic it means the city is willing to shift the burden of upgrading Norwood Drive to the home owners. This is unfair. Norwood Drive functions well for the current traffic needs. The Vista Developers are changing a dead-end minor street to a high-density street with the purpose and likely result of making money. Unless the city has funds in reserve to upgrade Norwood Drive after the Vista Developers create a 34-house neighborhood with only one access using Norwood Drive as that access each home owner will be required to pay for upgrades the Vista Development profits from. The home owners will not only deal with a highly increased traffic flow but will then be made to pay for it. The City Plan places the responsibility on the party who wants to create substantial changes.

Development must come. While Vista Development will provide view lot houses and our city should encourage residential development it is reasonable that the developer be responsible for dramatic changes. If the developer puts in sidewalks and other required upgrades the safety concerns of owners will be addressed. As to the traffic increase, that is simply the reality of growth. We know that.

While this issue is the focus of my letter I would like to clearly state that I support all appeal issues presented by Mrs. Hollis Lundeen in her appeal. There are too many questions of importance left unanswered. I understand there is City review as the plan is implemented but these are done out without easy public review and input. This is the time to require the plan to address and answer the serious concerns in Mrs. Lundeen's appeal.

Thank you for your time and consideration,

Bernice Barnett  
1065 SW Norwood Drive  
Waldport, Oregon 97394

## Larry Lewis

---

**From:** Phil Weber <bigweb.weber584@gmail.com>  
**Sent:** Tuesday, February 13, 2018 11:39 AM  
**To:** Larry Lewis  
**Subject:** Tidewater Development, llc...Case File #1-pd-pc-17

Dear Mr. Lewis

As the owner of 4 parcels of contiguous property to the east of the subject property, I wish to tell you that I SUPPORT THE PROJECT AS APPROVED.....as we discussed , the property is zoned for 54 lots, yet only 34 lots were mapped and approved....common sense dictates that you don't need any exotic traffic studies and further red tape to figure out that this is a low impact use of the land...

The appeal at hand will only add to the costs of development and ultimately add to the cost of housing.....worse, if the project is stopped, it could result in a TAKING..resulting in compensation for damages...from the Tax Payers.....be careful what you wish for !!

Phil Weber

.....

**Phil Weber**

Pacifica Land Conservation LLC.  
cell: 559 999-8955  
email: [bigweb.weber584@gmail.com](mailto:bigweb.weber584@gmail.com)  
web site: [www.thesummitatmanzanita.com](http://www.thesummitatmanzanita.com)



Virus-free. [www.avast.com](http://www.avast.com)

---

**Total Control Panel**

[Login](#)

To: [larry.lewis@waldport.org](mailto:larry.lewis@waldport.org)      [Remove](#) this sender from my allow list  
From: [bigweb.weber584@gmail.com](mailto:bigweb.weber584@gmail.com)

*You received this message because the sender is on your allow list.*

## Larry Lewis

---

**From:** Pamela Mugleston <pammugleston@gmail.com>  
**Sent:** Thursday, February 15, 2018 1:16 PM  
**To:** Larry Lewis  
**Subject:** Vista .View Appeal

Hi Larry,

Tim & I are sorry we are going to miss the appeal of the Vista View proposed project. We are out of the country.

WE are in support of the Lundeen appeal and are opposed of the project going forward with the access on Norwood Drive. We really don't feel the road can handle the extra traffic. If they could access from Kellie that would see better.

Please donate our speaking time to Ms. Lundeen.

Sincerely,

Tim & Pamela Mugleston  
1120 SW Norwood Drive  
Waldport, OR 97394  
541-270-7998

---

### Total Control Panel

[Login](#)

To: [larry.lewis@waldport.org](mailto:larry.lewis@waldport.org)  
From: [pammugleston@gmail.com](mailto:pammugleston@gmail.com)

Message Score: 1  
My Spam Blocking Level: Low

High (60): Pass  
Medium (75): Pass  
Low (90): Pass

[Block](#) this sender  
[Block](#) gmail.com

*This message was delivered because the content filter score did not exceed your filter level.*