The Record

Lundeen v. City of Waldport
1-PD-PC-17

LUBA No. 2019-046

Submitted by

City of Waldport
May 5, 2019

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Lundeen v City of Waldport
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Meeting Recordings:

January 28, 2019 Planning Commission Meeting

March 14, 2019 City Council Meeting

Electronic Record:

LUBA #2018-030

The Record

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WALDPORT PLANNING COMMISSION
JANUARY 28, 2019
MEETING MINUTES

1. CALL TO ORDER AND ROLL CALL: Chair Woodruff called the meeting to order at 2:00 p.m. Commissioners Stole, Phillips, Woodruff, Kelleher, Schlosser and Barham answered the roll. A quorum was present.

2. MINUTES: The Commission considered the minutes from the December 3, 2018 meeting. Commissioner Barham moved to approve the minutes as presented. Commissioner Phillips seconded, and the motion carried with Commissioner Woodruff abstaining due to not being in attendance.

3. CITIZEN COMMENTS: Hollis Lundeen asked if the public hearing portion of the Code amendments under consideration on the agenda was closed, the response was affirmative. The Commission would be engaging in deliberations from the public hearing held in December.

4. CORRESPONDENCE: City Planner Lewis noted correspondence was included in the packet regarding concerns about a recent administrative approval for a partition (Case File #2-PAR-18). Commissioner Barham indicated he had asked that this be on the agenda. There had been two partitions done in two consecutive years, and the contention was that this had been done to avoid the requirement for a subdivision. Commissioner Barham felt that this had been done according to the Development Code, but that the language could bear reviewing to avoid future issues. Commissioner Stole asked if the time frame was the issue, and Commissioner Barham responded that he had considered this, and also the possibility of a change of ownership, and felt more that it had to do with the size of the property involved. Commissioner Stole noted that bottom line was that the Code was correctly followed, and Commissioner Barham agreed.

5. PUBLIC HEARING: #1-PD-PC-17 Vista View Planned Development (LUBA Remand Hearing). Commissioner Barham requested that the record reflect his comments at the initial hearing on October 23, 2017. There were no additional declarations, and no objections to any member of the Commission participating in the hearing..

City Planner Lewis reviewed the staff report, providing an overview of the process leading to the present hearing. He indicated he had received an email from ODOT which stated that the proposed development should not increase drainage in the right of way. A suggested condition of approval could state that if storm drainage improvements increase drainage in the right of way, the applicant should seek approval from ODOT. He also noted that the appellant had distributed additional written comments at this meeting. The suggested action by the Planning Commission should be to take testimony, then deliberate whether the proposed drainage plan is adequate. If so, then condition 11 of the conclusion should be revised for new time limits due to the hearings delays.

Dennis Bartoldus, representing Vista View, addressed the Commission, noting that

he had just received the opponent's written presentation. He reminded the Commission that the only issue under consideration was with regard to storm water drainage. LUBA had upheld all the other decisions on this land use application but had determined that storm water needed to be addressed in the findings. A stormwater analysis had been included in the Commission's packet to satisfy that requirement. ODOT had been under the impression that the property was adjacent to Highway 101, and though it is not, a finding had been added to address any of ODOT's concerns in that regard. According to the stormwater analysis, as long as the proposed retention pond was included, drainage would not be increased beyond pre-development standards. Mr. Bartoldus indicated that the property is located within a developed area of the City, and the standards for this property owner will be more stringent than those of the surrounding properties. Water will be collected by the stormwater system and directed in the containment area and culverts will control the flow off the property. Riprap and other necessary slope stabilization will be utilized, along with any required filters. He requested that, by reference, all information from the previous public hearings be incorporated into the record.

Hollis Lundeen addressed the Commission, requesting that the Commissioners take some time to review her written testimony, and explaining that she had some publishing issues which delayed the submittal. She explained her background in both forest and civil engineering, noting that she had served as the local zone engineer with the USDA Forest Service, and the facilities operations engineer with NOAA at the Hatfield Marine Science Center. She indicated that she felt there was an existing conflict of interest with the stormwater analysis as the engineer, Brant Thissell, was related to the applicant. She stated that the stormwater considerations were vital, citing potential slope failures and sedimentation issues, and noting that the sewer line was proposed to follow the same channel. There would be substantial removal of vegetation during the road construction, which could speed up erosion and sedimentation, and there was no documentation included to show soil protection, testing, or verification that the ground was stable enough to withstand construction of structures, roads and utilities. Ms. Lundeen stated that she felt the proposed plan did not meet the required goal of proving that the drainage will not have negative impact. Commissioner Woodruff explained that this was only a preliminary plan, and Ms. Lundeen responded that it was unclear whether public input would be allowed anywhere else in the process, and asked if the public would be involved in the final review. Commissioner Barham noted that all of the designs would need to be reviewed and approved by the City's Public Works Director and the City's engineer, and there was nothing to prohibit the applicant from utilizing a family member in a professional capacity.

Mr. Bartoldus pointed out that the remand from LUBA stated that it was not required that the City address every factor in its findings to approve a preliminary plan, but that it had to be reasonably feasible. If the proposed plan didn't work, the plan would of course have to be amended and re-engineered before actual work is done and final approval can be given. He also noted that Mr. Thissell, as a registered engineer, was not being unethical, as it would not behoove him to risk his professional career by providing inadequate calculations or misinformation. He felt that the questions being raised were beyond the scope of review required by LUBA in this preliminary plan approval, and noted that final approval would be given only after the Public Works department and the City's engineer reviewed the actual work and signed off on it.

Chair Woodruff closed the public hearing and opened deliberations. Commissioner Barham noted that the question was whether to deliberate now, or take time to consider the written submittal and then either deliberate at the end of the meeting or reschedule for a later date. Commissioner Woodruff responded that he felt it was important to conclude the issue. Discussion ensued. Commissioner Stole noted that she felt the Commission had met the terms of the LUBA remand by receiving the stormwater report and finding it feasible. Commissioner Barham indicated he felt the report was sufficient for the preliminary approval of the plan. He moved to approve the findings of fact as revised, including the new finding regarding ODOT notification if stormwater impacted the right of way. Commissioner Stole seconded, and the motion carried unanimously. Consensus was to have Mr. Lewis prepare the findings with the revisions for the Chair's signature.

At 3:43 p.m., the Commission took a brief recess. The meeting resumed at 3:57 p.m.

Citizen Comments and Concerns (Continued): Pam Corey addressed the Commission regarding concerns on Fernwood Lane, and thanked Mr. Lewis for answering their questions. She asked about the public comment process and indicated that she felt a 10-day response time for public comments on administrative decisions may be too short.

6. ELECTION OF PLANNING COMMISSION CHAIR AND VICE-CHAIR: Commissioner Woodruff noted that he had chaired the meeting during the public hearing on the LUBA remand, but he now wished to open nominations on a new Chair and Vice-Chair. He then nominated Commissioner Barham for Chair. There were no additional nominations, and the vote for Commissioner Barham was unanimous. Commissioner Kelleher nominated Commissioner Stole for Vice-Chair. There were no additional nominations, and the vote for Commissioner Stole was unanimous.

Commissioner Barham stated that, as Commissioner Woodruff had chaired the previous public hearing, it was appropriate for him to also sign the findings of fact resulting from that hearing. There were no objections.

7. DELIBERATIONS ON PROPOSED AMENDMENTS TO WALDPORT DEVELOPMENT CODE:

Chair Barham opened the deliberations, noting that the options before the Commission were to move the issues to the Council for considerations, make revisions to the language and then move them to the Council, or, if the changes to the language were substantial, to renotice the issue for another public hearing before the Commission.

Mobile Vending: There were no additional changes proposed. Commissioner Phillips moved to forward to the Council. Commissioner Kelleher seconded, and the motion carried unanimously.

Conex and Other Metal Containers: Commissioner Kelleher stated she had visited Grampa's Feed and they do have a number of conex's and some good reasons for having them. She felt that they should be allowed in commercial zones for fire prevention and also

for temporary use on construction sites, as had been noted at the public hearing. Commissioner Barham noted the presence of these storage containers in the Public Facilities zone, such as the school and the Fire Hall. Discussion ensued regarding possible uses, whether they should be allowed in additional zones, and a process for temporary permitting. Consensus of the Commission was that there could be substantial enough changes to the language to merit an additional public hearing.

Appeal Timing and Proceedings: City Planner Lewis clarified that the reason for the proposed extension has to do with the fact that the City does not have a full-time Planner. This is completely unrelated to the appeal process in general, as it has to do with notification to the Council that an appeal has been filed. Commissioner Barham noted that extending the timeframe for appeals of a decision could have an impact on the required 120-day time limit for a land use application. He also asked if it would be possible to reduce the requested extension from 21 days to 15, and City Planner Lewis confirmed that this would be acceptable. Commissioner Stole moved to forward the recommendation to the Council for a 15-day time period. Commissioner Kelleher seconded, and the motion carried unanimously.

Livestock: Commissioner Barham noted that there had been testimony regarding pygmy goats and bottle-fed sheep. A brief discussion ensued. Commissioner Woodruff moved to leave the language as is and forward to the Council for consideration. Commissioner Kelleher seconded. Commissioner Stole noted that under the standards for the keeping of livestock, paragraph D should state "livestock" rather than "birds" at the end of the second sentence. She also questioned whether it was necessary to have two sentences in Section E regarding food and containers. The motion then passed, with Commissioner Schlosser voting "Nay", all others voting "Aye". It was noted that the Council would also have the ability to reword the section to include other requested animals if they so desired.

Planned Development and Subdivision Time Limits: Commissioner Kelleher moved to forward the recommended changes to the Council for consideration. Commissioner Stole seconded, and the motion carried unanimously.

Downtown District, and Notification of Land Use Applications: It was noted that both of these topics had been deferred to the next public hearing process.

8. DISCUSSION/ACTION ITEMS:

A. Planning Report: City Planner Lewis reviewed his written report. Commissioner Woodruff noted rumors had been circulating about the business at 140 Highway 101. Mr. Lewis responded that the City had received a building permit for an ADA compliant bathroom and a business license application for an antique store. The County had issued plumbing and electrical permits. When the building is open for business, any potential code compliance issues can be addressed at that time

B. Other Issues: None.

9. COMMISSION COMMENTS AND CONCERNS: Commissioner Phillips mentioned that he was concerned about the street lights in the downtown area, noting that it appeared there were several not working. City Recorder Eckerman responded that Public Works Director Andry had reviewed the situation and determined that the sensors may be responding to the presence of the new high-powered headlights on some vehicles. He is currently researching methods of dealing with the problem.

10. ADJOURNMENT: At 4:57 p.m., there being no further business to come before the Commission, the meeting was adjourned.

Respectfully submitted,

Reda Q Eckerman, City Recorder

APPROVED by the Planning Commission this 25th day of February, 2019.

SIGNED by the Chair this 25th day of February, 2019.

Chair

City of Waldport

P.O. Box 1120
Waldport, OR 97394
Phone: (541) 264-7417
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TTY: (800) 735-2900

March 18, 2019

Hollis Lundeen
P.O. Box 1392
Waldport, OR 97394

Re: Case File #1-PD-PC-17 (Appeal of Planning Commission Decision)
Vista View Planned Development
Tax Map 13-11-19CC, Tax Lot 120
Applicant: Tidewater Development LLC

Dear Ms. Lundeen:

On Thursday, March 14, 2019 the Waldport City Council conducted a public hearing on your appeal of the Planning Commission decision to grant preliminary plan approval of Case File #1-PD-PC-17 Vista View Planned Development. The City Council upheld the preliminary plan approval of Case File #1-PD-PC-17. On March 18, 2019, the Mayor signed the Findings and Conclusions (attached).

This decision will become effective on Monday, April 8, 2019, 5:00 p.m. unless an appeal is filed with the Oregon Land Use Board of Appeals (Board) at 550 Capitol Street NE, Suite 235, Salem, OR 97301-2552. An application for an appeal shall include the specific rationale for the appeal with sufficient clarity to allow public agencies and respondents an adequate opportunity to respond to or resolve each issue. Requirements for appealing the decision are described in Oregon Revised Statute (ORS) 197.830 to 197.845 and include filing a Notice of Intent to Appeal with the Land Use Board of Appeals, and a filing fee and deposit for costs to be established by the Board.

Sincerely,

Larry Lewis
City Planner

cc: Dennis L. Bartoldus, Attorney for Tidewater Development, LLC
Brandt Thissell

BEFORE THE CITY COUNCIL
OF
WALDPORT, OREGON

Appeal of Planning Commission Preliminary Plan Approval **Case File #1-PD-PC-17**
Vista View Planned Development

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 future 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 and along the south edge of Lots 11-13.

HISTORY OF VISTA VIEW PLANNED DEVELOPMENT APPROVALS AND APPEALS

A. On December 18, 2017, the Planning Commission granted preliminary plan approval of a 34-lot planned development (Vista View PD). The preliminary plan approval was appealed to the City Council.

B. On February 22, 2018, the City Council upheld the decision of the Planning Commission decision of approval with one modification to a condition of approval. The Findings and Conclusions were issued on March 8, 2018. The City Council's decision was appealed to the Oregon Land Use Board of Appeals (LUBA).

C. On August 20, 2018, LUBA issued a Final Opinion and Order. In its decision LUBA generally upheld the decision of the City but remanded the case back to the City on one issue, that being to further address the issue of storm drainage.

D. On January 28, 2019, the Planning Commission held a hearing on the remanded issue of storm drainage. Based upon the testimony and information presented, the Planning Commission concluded that the development will not create a drainage or pollution problem outside the planned area and reapproved the Vista View Planned Development. The Planning Commission approval was appealed to the City Council.

E. On March 14, 2019, the City Council upheld the decision of the Planning Commission decision of re-approval. The Findings and Conclusions of the City Council are provided below.

RELEVANT FACTS

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

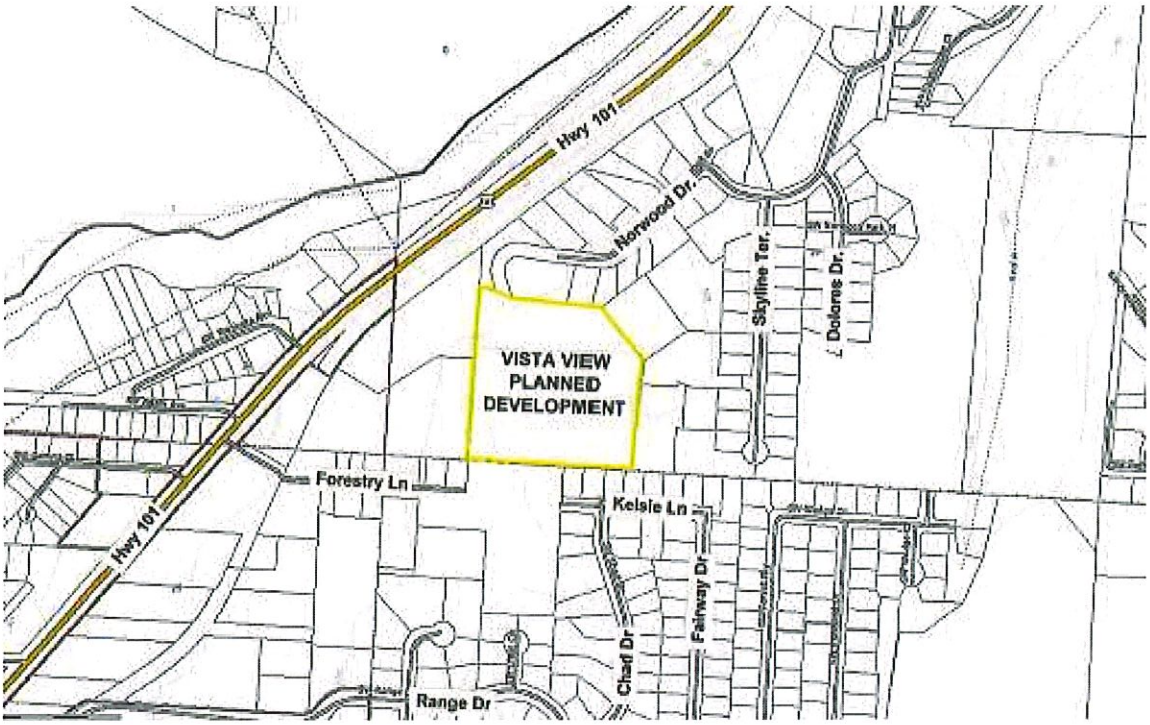
A. **Property Location:** The subject property is located at the south end of Norwood Drive; and further described on Lincoln County Tax Assessor's Map 13-11-19CC as tax lot 120.

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 or are available to 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. **Submittals**

All material submitted by the applicant and the appellant prior to the January 28, 2019 Planning Commission meeting are herein incorporated into the record as is the record that was previously submitted to LUBA.

The FINAL OPINION AND ORDER for LUBA No. 2018-030 Hollis Lundeen, Petitioner vs. City of Waldport, Respondent and Tidewater Development, LL, Intervenor-Respondent is herein incorporated into the record.

For the March 2019 City Council appeal hearing, the Appellant submitted the following material:

- Appeal Form and 17-page written narrative identifying 17 Arguments related to the Planning Commission's approval of the storm drainage remand issue,
- Photo Exhibits (60 pages),
- Exhibits (54 pages).

For the March 2019 City Council appeal hearing, the Applicant submitted a 13-page *Response of Tidewater Development, LLC to Hollis Lundeen Appeal to Waldport City Council, Case File #1-PD-PC-17.*

All material submitted by the Appellant and the Applicant are herein incorporated into the record.

K. **Public Testimony**. Public testimony provided at the two Planning Commission hearings and the March 2018 City Council hearing are herein incorporated into the record.

For the March 14, 2019 City Council appeal hearing, the Appellant provided written testimony including an 11-page *Appellant Response to the March 5, 2019 Response of Tidewater Development, LLC* and a 5-page *Appeal Testimony to the Waldport City Council* that are herein incorporated into the record.

At the March 14, 2019 City Council appeal hearing, the Applicant's Agent and Engineer provided oral testimony. The Applicant's Agent also submitted written testimony including:

- Oregon State Board of Examiners for Engineering and Land Surveying (OSBEELS) License Record for the Applicant's Engineer – Cert. No. 84843PE and 84843PLA.
- Oregon State Board of Examiners for Engineering and Land Surveying (OSBEELS) License Record for the Appellant – No Cert. No. on record.
- Oregon Administrative Rules, Board of Examiners for Engineering and Land Surveying, Chapter 820, Division 20 Rules of Professional Conduct.

All material submitted by the Appellant and the Applicant as well as all staff reports and notices prepared by the City are 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 Planning Commission 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

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 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 Findings provided below are divided into the following three sections:

- March 8, 2018 Waldport City Council Findings
- January 29, 2019 Waldport Planning Commission Findings
- March 18, 2019 Waldport City Council Findings

March 8, 2018 Waldport City Council Findings

Following public testimony presented at the February 22, 2018 City Council meeting, the City Council deliberated and addressed each of the seven appellant allegations. The seven allegations are identified in *italics* below and followed by the City Council findings. (Please note the full descriptions of the appellant's allegations and the applicant's responses are available for review as part of the record.)

Appeal Item #1. *The Findings and Conclusion of the Planning Commission were signed prior to the Planning Commission's approval.*

City Council Findings: This appeal item is irrelevant because the land use decision for this application is now before the City Council. The Findings and Conclusions of the City Council will be the final document of which the decision is based on.

Additionally, the City Council finds the Planning Commission Findings & Conclusions could not have been signed prior to the Planning Commission's decision because the Findings & Conclusions include deliberation and findings that occurred at the December 18, 2017 Planning Commission meeting.

Appeal Item #2. *Relevant Waldport Development Code criteria in Section 16.60.030 C3 & C4 were not addressed. Subsection C3 states that the proposed development will provide amenities or protections at a higher level than would otherwise be provided under conventional land development procedures.*

Subsection C4 states that the Planning Commission shall seek to determine that the development will not overload streets outside the planned development area, nor will the proposed development create drainage or pollution problems outside the planned area.

City Council Findings: The Planned Development ordinance allows exceptions and the Planning Commission followed procedures in hearing and making a decision on this application. The Planned Development ordinance allows a design that is tailored to the property. Exceptions to residential and land division standards are allowed in exchange for tradeoffs, which are typically the establishment of open spaces, natural resources and public benefits, e.g. dedication of open space, preservation of natural drainage ways, public pedestrian facilities such as trail connections.

The drainage way located along the northern portion of the subject property is not subject to restrictions and setbacks stated by the appellant because those cited restrictions and setbacks apply to properties along the Pacific Ocean and Alsea River. The drainage way on the subject property is not designated as a wetland or riparian area.

The alleged bald eagle habitat disturbance is not a relevant criteria in making a decision on this case.

Appeal Item #3. *The Preliminary Plan approval was made without relative, current, and accurate traffic data.*

City Council Findings: Traffic data used in the evaluation of the application included reliable and substantiated data. For example, the Institute of Traffic Engineers (ITE) Trip Generation Report, 8th Edition was researched to obtain average daily traffic data, i.e. a single family house generates approximately 10 trips per day. The City Council finds the proposed extension of Norwood Drive for the development of the Vista View PD is well within the development rights of the property owner. The City Council affirmed that the future extension of Norwood Drive was in place at the time Norwood Drive residence purchased and developed lots along Norwood Drive.

Appeal Item #4. *The Preliminary Plan approval is in conflict with the Waldport Yaquina John Point Land Use & Transportation Plan because the Preliminary Plan will result in inadequate utility facilities.*

City Council Findings: The City Council finds the Waldport Development Code and Planning Commission Findings & Conclusions have measures in place to ensure that adequate utilities facilities will be design, approved, and constructed. The Planning Commission's condition of approval #8 requires the applicant to submit final engineering plans for water, sewer, storm drainage, and streets to the City of Waldport and other applicable agencies for review and approval prior to construction.

Appeal Item #5. *Requirements regarding lot size, lot width, road right-of-way and road width were not observed and required, nor was a site plan provided reflecting the Preliminary Plan approval.*

City Council Findings: Section 16.60 Planned Development Zone P-D of the Waldport Development Code allows modifications to standards when it is determined there are benefits to both the city and the property owner, e.g. dedication of open space, preservation of natural drainage ways, and public pedestrian facilities such as trail connections as proposed in the Vista View PD.

Appeal Item #6. *The Preliminary Plan was approved without verification of ownership regarding the plat that borders the applicant's property.*

City Council Findings: The City Council finds the developer has the right to develop a street and associated infrastructure within public right-of-way. City review and approval of final engineering plans include verification that proposed new streets are being constructed within a public way or on private property with property owner consent.

Appeal Item #7. *Except for the October 23, 2017 meeting, no additional verbal testimony was allowed.*

City Council Findings: This appeal item is irrelevant because the land use decision for this application is now before the City Council. The Findings and Conclusions of the City Council will be the final document of which the decision is based on. The February 22, 2018 public hearing before the City Council allowed for public testimony from any resident or citizen.

Public Trail. The City Council raised questions about when the public trail would be constructed. There was discussion and confirmation from the applicant's agent that the public trail would be constructed in Phase 1. The City Council passed a motion to include the condition of approval that the trail be constructed in Phase 1. This requirement is added to Condition of Approval #7 Public Nature Trail.

FINDINGS MADE AFTER REMAND

January 29, 2019 Waldport Planning Commission Findings

1. This case previously was heard by the Waldport Planning Commission. The Planning Commission approved the application with conditions on December 18, 2017.

2. The decision of the Planning Commission was appealed to the Waldport City Council by Hollis Lundeen. The City Council held a hearing on the appeal on February 22, 2018.

   The City Council essentially upheld the decision of the Planning Commission, slightly modifying one of the conditions to provide the easement trail would be constructed as part of Phase 1 of the project. The Final Order of Findings and Conclusions was issued on March 8, 2018.

3. Hollis Lundeen appealed the decision of the City Council to the Oregon Land Use Board of Appeals (LUBA). In its decision LUBA generally upheld the decision of the City but remanded the case back to the City on one issue, that being to further address the issue of storm drainage.

4. The Waldport Planning Commission held a hearing on the remanded issue of storm drainage on January 28, 2019. The hearing was duly noticed as required by the ordinance. All interested parties were given the opportunity to provide written testimony or to testify in person.

5. Those providing written testimony and testifying at the January 28, 2019 Planning Commission hearing were Dennis L. Bartoldus, Attorney and Agent for the applicant, Tidewater Development LLC; and Hollis Lundeen, Appellant. Additionally, the Oregon Department of Transportation (ODOT) provided written testimony.

6. After considering the testimony and submittals of the parties, the Planning Commission determined that storm water can be adequately managed without an adverse impact on other properties and the current off-site system in place is adequate to handle the runoff.

7. The engineer for the applicant has completed and submitted a Storm Water Drainage and Downstream Analysis.

8. The analysis describes how storm water collected from the site via roof drains and catch basins in the street into the existing storm drainage on the east and north sides of the property. From there the storm water will follow the same path as it historically has, down the vegetated channel and out to Alsea Bay. The drainage way on the applicant's property will remain vegetated.

9. The engineer did a Hydro CAD analysis which shows the existing 30 inch in diameter culvert running beneath Highway 101 is sufficiently sized to accommodate the storm water runoff of the past developed condition of the entire contributing storm water basis during a 10 year 24 hour rain event which is 5 inches of rainfall in 24 hours per the NOAA isoplurvial maps. In the event the culvert

ever became blocked, the storm water would flow north and be channeled by one of several other ditch inlets and culverts beneath Highway 101 that drain to the bay.

10. By a visual inspection of the property downstream the engineer concluded there were no downstream structures or property at risk of being impacted by storm water quality due to the proposed development. All existing structures sit well above the existing drainage channel.
11. All storm water discharge outlet pipes will have, at a minimum, rip rap rock pads to prevent erosion and prevent sediment from washing downstream.
12. All site catch basins will have sumps, to help prevent sediment and debris from migrating downstream. The existing on-site drainage way will remain vegetated which will also help control sediment migration, erosion, and filter potential pollutants from discharged storm water. Much of the existing drainage on-site has a gentle gradient, which is favorable for settling out any sediment and particulates in the discharged storm water. The drainage way downstream is also heavily vegetated.
13. As shown on the preliminary plan, Vista View has set aside the area shown as a "storm water facility area" as an area reserved for meeting any additional storm water quality and/or retention requirements or criteria. The area would allow an appropriately engineered storm water detention area to control off site drainage.
14. The applicant's engineer advised that the calculations were made using very conservative estimations meaning that he erred on the side of caution in making the calculations.
15. ODOT stated that the proposed development should not increase drainage to ODOT highway right-of-way. If it will propose to increase drainage to the ODOT highway right-of-way, the applicant should contact ODOT to seek ODOT's review and approval.

March 18, 2019 Waldport City Council Findings

Following public testimony presented at the March 14, 2019 City Council meeting, the City Council deliberated and adopts the following Findings regarding pollution:

1. The land proposed for development is bare ground. It has not previously been developed or used for any residential, commercial or industrial development. Timber was previously harvested from the property. There are no known pollution hazards on the property.
2. Prior to construction or roads and other infrastructure the applicant will be required to submit engineered plans to the City showing and the City's engineers will need to review and approve of these plans.
3. During construction the applicant will need to comply with applicable construction standards that require protection of onsite and offsite property. Any special protections can be established during the engineer's review of the plans.
4. All water and sewer lines will need to be built to applicable state and federal standards governing their construction and function so they will function appropriately. If additional sizing of pumps or lines is necessary they will be installed as part of the process, as has been previously addressed.
5. The residential use of the property is consistent with the zoning of the property and uses on adjoining property. There is residential development on three sides of the property.

   Since there is no commercial or industrial use of the property, there will be no pollution from those sources. The homes will be connected to City sewer and water as previously noted and there will be

no septic systems. There is nothing in the proposal presented by the applicant that suggests there will be any activity that will cause pollution that would violate any provision of local, state or federal law.

6. The report from the applicant's engineer demonstrates that there will be adequate natural drainage to eliminate or control any sediment and if the engineer's determine that any additional filtering is necessary it can be accomplished as part of the engineering review.
7. The planned development has been designed to avoid development on steep slopes. The housing units will be situated on the gently sloping portion of the property. This reduces soil disturbance and will retain a large portion of the property in a natural state thereby reducing the possibility of pollution.
8. The traffic associated with the development will be consistent with a single family residential subdivision that was not developed as a plan development. The same is true with other aspects of the development such as street design and lighting and other infrastructure.
9. Phasing and Time Limits of a Preliminary Planned Development Approval. Upon a preliminary plan approval, the City Council finds the phasing plan with time limits shall be updated so that Phase 1 begins March 2019.
10. The applicant provided testimony that no pollution occurred on the property during logging activities and that fuel tanks would not be stored on the property during the construction of the property.
11. Storm drainage and pollution would not need to be addressed if this was a regular subdivision, even if the subdivision contained more lots than the proposed planned development. The City Council finds that off site drainage is reduced because there are less lots, less street footage and less impervious surface than in a traditional subdivision that could be developed on the property. The same is true of the pollution analysis.

CONCLUSIONS

Based on the above facts and findings:

A. The City Council finds the Planning Commission based their decision on relevant criteria and procedures described in the Waldport Development Code and Comprehensive Plan.

B. The City Council affirms the Planning Commission findings that the proposed development adheres to the purpose and 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 City Council that the Planning Commission decision is upheld, and the Preliminary Plan for the Vista View Planned Development be and is hereby approved. Said approval is subject to the following conditions:

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. The public nature trail shall be constructed prior to final approval of Phase 1.

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.

   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: March 2019 – March 2021
    Phase 2: March 2021 – March 2023
    Phase 3: March 2023 – March 2025
    Phase 4: March 2025 – March 2027

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.

13. If storm drainage will be increased to the ODOT highway right of way in an amount to require review and approval by ODOT, the applicant shall contact ODOT to seek ODOT's review and approval or the applicant may construct an appropriately engineered retention pond or facility as identified in the preliminary plan to reduce flows to levels that do not require ODOT's review and approval.

This ORDER was presented to and approved by the Waldport City Council on March 14, 2018.

Dann Cutter, Mayor

3/18/2019
Date

Attachments: Preliminary PUD Layout

SW NORWOOD DRIVE

WALDPORT

OREGON

TAX MAP 13S 11 19CC

PRELIMINARY PUD LAYOUT

DESIGNED BY:

DRAWN BY: EDT

CHECKED BY:

SCALE: AS NOTED

DATE: 12/7/10

PLANNING

REVISIONS

JOB NUMBER

SHEET

Larry Lewis

From: dennis@bartolduslaw.com
Sent: Monday, March 18, 2019 10:54 AM
To: Larry Lewis
Subject: RE: Vista View Findings

Hi Larry,

Thanks for providing a copy of the proposed draft findings. I have reviewed and have the following suggestions.

1. Under J. Submittals on page 3. Add an additional phrase to the first paragraph that ends "...into the record" The addition would read "...into the record as is the record that was previously submitted to LUBA."

2. Under K on page 3 revise the last sentence to read: "All material submitted by the Appellant and the Applicant as well as all staff reports and notices prepared by the City are herein incorporated into the record."

3. On page 6 after the paragraph on Public Trail, add the following heading above the January 29, 2019 Waldport Planning Commission Findings: FINDINGS MADE AFTER REMAND

4. I would suggest 2 additional findings under the March 18, 2019 Waldport City Council Findings on page 7/8. They are as follows:

"The applicant provided testimony that no pollution occurred on the property during logging activities and that fuel tanks would not be stored on the property during the construction of the property."

"Storm drainage and pollution would not need to be addressed if this was a regular subdivision, even if the subdivision contained more lots that the proposed planned development. The City Council finds that off site drainage is reduced because there are less lots, less street footage and less impervious surface than in a traditional subdivision that could be developed on the property. The same is true of the pollution analysis."

If you have any questions, please let me know.

Dennis

> -------- Original Message --------
> Subject: Vista View Findings
> From: Larry Lewis <larry.lewis@waldport.org>
> Date: Sat, March 16, 2019 10:24 am
> To: "dennis@bartolduslaw.com" <dennis@bartolduslaw.com>
>
> Hi Dennis –
>
> The Findings for Vista View are attached. If you have time I'd appreciate your review and comment. I hope to finalize the Findings this Monday by 2 p.m. so the Mayor can sign and we can mail the decision/appeal letter with Findings.

(http://www.oregon.gov)

Contact Us

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fax: 503-362-5454
email: osbeels.info@oregon.gov (mailto:osbeels.info@oregon.gov)

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You must submit a written request in which you can demonstrate to the satisfaction of OSBEELS that your personal safety or the personal safety of your family is in danger if the information remains available for public inspection. For additional details, refer to ORS 192.445. If you fit the conditions described in the law, OSBEELS will remove your information from public access.

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Board of Examiners for Engineering and Land Surveying

Chapter 820

Division 20
RULES OF PROFESSIONAL CONDUCT

820-020-0005
Preamble

(1) In order to safeguard life, health and property, to promote the public welfare, and to establish and maintain a high standard of integrity and practice, the following Rules of Professional Conduct shall be binding on:

(a) Any individual holding a certificate of registration or enrolled as an intern.

(b) Any individual submitting an application to the Board for a certificate of registration or for enrollment as an intern.

(2) All persons registered or applying for registration or enrollment under ORS 672.002 to 672.325 are charged with having knowledge of these Rules of Professional Conduct, and are deemed to be familiar with their provisions and to understand them. Such knowledge encompasses the understanding that the practice of engineering, land surveying, and photogrammetric mapping is a privilege and not a right.

(3) In these Rules of Professional Conduct, the word "registrant" means any person holding a license or certificate issued by this Board.

Statutory/Other Authority: ORS 670.310 & 672.255
Statutes/Other Implemented: ORS 672.002 - 672.325
History:
BEELS 7-2015, f. & cert. ef. 9-16-15
BEELS 2-2006, f. & cert. ef. 11-21-06
BEELS 3-2002, f. & cert. ef. 11-13-02
EE 2-1981, f. 5-19-81, ef. 6-1-81
EE 20, f. & ef. 12-15-77
EE 14, f. 4-26-72, ef. 5-15-72

820-020-0015
Registrants or Applicants for Registration or Certification Shall Hold Paramount the Safety, Health and Welfare of the Public in the Performance of their Professional Duties

(1) Registrants shall at all times recognize that their primary obligation is to protect the safety, health, property and welfare of the public. If their professional judgment is overruled under circumstances where the safety, health, property or welfare of the public are endangered, they shall notify their employer or client and such other authority as may be appropriate.

(2) Registrants shall approve and seal only those design documents and surveys which are safe for public health, property and welfare in conformity with accepted engineering and land surveying standards.

(3) Registrants shall not reveal facts, data or information obtained in a professional capacity without the prior consent of the client, or employer except as authorized or required by law.

(4) Registrants shall not permit the use of their name or firm name nor associate in business ventures with any person or firm which they have reason to believe is engaging in fraudulent or dishonest business or professional practices.

(5) Registrants or applicants for registration or certification having knowledge of any alleged violation of any of these Rules of Professional Conduct, shall cooperate with the Board in furnishing such information or assistance as may be required.

(6) Conviction of a felony without restoration of civil rights, or the revocation or suspension of the license of a registrant in another jurisdiction, if for a cause which in the State of Oregon would constitute a violation of ORS 672.020 to 672.310 or of these rules, shall be grounds for a charge of violation of these rules.

(7) Registrants shall continue their professional development throughout their careers; and they shall provide opportunities for the professional development of individuals under their supervision. The Board may require, as a condition for license renewal, that registrants provide documentation to support actions taken to maintain their professional competency.

(8) Registrants or applicants for registration or certification shall cooperate with the Board on all matter subject to the Board's jurisdiction.

(9) Registrants must apply a seal of the type, kind, size and wording, and affix their signature as required by OAR 820-025-0005.

(10) Registrants must affix a seal and sign any final document prepared under their supervision and control. Any document not clearly marked as a preliminary document under OAR 820-025-0015(2) is a final document that must bear the seal and signature of the registrant under whose supervision and control the document was prepared.

Statutory/Other Authority: ORS 670.310 & 672.255
Statutes/Other Implemented: ORS 672.002 - 672.325
History:
BEELS 7-2017, minor correction filed 12/11/2017, effective 12/11/2017
BEELS 3-2016, f. & cert. ef. 2-16-16
BEELS 2-2007, f. & cert. ef. 4-5-07
BEELS 3-2001, f. & cert. ef. 11-26-01
EE 1-1995, f. 8-15-95, cert. ef. 9-1-95
EE 2-1981, f. 5-19-81, ef. 6-1-81

820-020-0020
Registrants Shall Perform Services Only in the Areas of Their Competence

(1) Registrants shall undertake assignments only when qualified by education or experience in the specific technical fields of engineering or land surveying involved.

(2) Registrants shall not affix their signatures or seals to any plans or documents dealing with subject matter in which they lack competence, nor to any such plan or document not prepared under their direction and control.

Statutory/Other Authority: ORS 670.310 & 672.255
Statutes/Other Implemented: ORS 672.255
History:
EE 2-1995, f. 12-15-95, cert. ef. 1-1-96
EE 1-1995, f. 8-15-95, cert. ef. 9-1-95
EE 2-1981, f. 5-19-81, ef. 6-1-81

820-020-0025
Obligation of Registrants and Applicants to Issue Statements only in an Objective and Truthful Manner

(1) Registrants and applicants must be objective and truthful and include all relevant and pertinent information in all professional reports, statements or testimony, applications for registration and enrollment as an intern, and references on applications for registration and enrollment.

(2) Registrants may express a professional opinion on technical subjects only when that opinion is founded upon adequate knowledge of the facts and the registrant is competent in the subject matter.

Statutory/Other Authority: ORS 670.310 & 672.255
Statutes/Other Implemented: ORS 672.002 - 672.325
History:
BEELS 3-2016, f. & cert. ef. 2-16-16
BEELS 2-2006, f. & cert. ef. 11-21-06
EE 2-1981, f. 5-19-81, ef. 6-1-81

820-020-0030
Obligation of Registrants and Applicants to Act in Professional Matters for Each Employer or Client as Faithful Agents or Trustees, and to Avoid Conflicts of Interest

(1) For purposes of this section, "applicant" means an applicant who is registered in another jurisdiction.

(2) Registrants and applicants for registration or certification must disclose all known or potential conflicts of interest to their employers or clients by promptly informing them, in writing, of any business association, interest, or other circumstances that could influence their judgment or the quality of their services. For purposes of this rule, a "conflict of interest" includes, but is not limited to, an interest in any property or any other thing of value that is related in any way to or potentially affected by the services that the registrant provides.

(3) A registrant or applicant for registration or certification may not accept any item of value, including any forgiveness of debt, directly or indirectly, from a person other than the individual's employer or client for services offered or performed for the employer or client, unless the individual makes full written disclosure and the individual employer or client consents in writing.

(4) A registrant or applicant for registration or certification who is a member, advisor or employee of a governmental body shall not participate in decisions made by that governmental body with respect to professional services solicited from or provided by that individual or a business or firm that employs the individual or in which the individual holds an ownership interest and through which the individual offers or provides professional services.

(5) A registrant or applicant for registration or certification may not solicit or accept employment or a contract for professional services from a governmental body for which that individual's associate is a member or officer unless the individual discloses all pertinent facts and circumstances of the individual's relationship to the individual's associate and the governmental body provides written consent. For purposes of this rule, an "individual's associate" refers to an individual's employer or an owner or officer of a business or firm that employs the individual or in which the individual holds an ownership interest and through which the individual offers or provides professional services.

Statutory/Other Authority: ORS 670.310 & 672.255
Statutes/Other Implemented: ORS 672.002 - 672.325
History:
BEELS 3-2016, f. & cert. ef. 2-16-16
BEELS 2-2006, f. & cert. ef. 11-21-06
BEELS 1-1998, f. & cert. ef. 2-10-98
EE 2-1981, f. 5-19-81, ef. 6-1-81

820-020-0035
Obligation of Applicants or Registrants to Avoid Improper Solicitation of Professional Employment

(1) An applicant or registrant may not misrepresent or permit misrepresentation of the academic or professional qualifications of the applicant or registrant, another registrant, or a registrant's associate. For purposes of this rule, a "registrant's associate" refers to a registrant's employer or an owner or officer of a business or firm that employs the registrant or in which the registrant holds an ownership interest and through which the registrant offers or provides professional services.

(2) An applicant or registrant may not misrepresent or exaggerate the responsibility for performance of prior assignments by the applicant or registrant, by any other registrant, or by a registrant's associate.

(3) An applicant who is registered in another jurisdiction or a registrant may not offer, give, solicit or receive, either directly or indirectly, any commission or gift or other valuable consideration in order to secure work.

(4) An applicant who is registered in another jurisdiction or a registrant may not make any political contribution intended to influence the award of a contract by a governmental body.

Statutory/Other Authority: ORS 670.310 & 672.255
Statutes/Other Implemented: ORS 672.002 - 672.325
History:
BEELS 1-2017, f. & cert. ef. 5-12-17
BEELS 3-2016, f. & cert. ef. 2-16-16
BEELS 2-2006, f. & cert. ef. 11-21-06
EE 2-1981, f. 5-19-81, ef. 6-1-81

820-020-0040
Oregon Specific Examination Subversion: Grounds for Invalidation of Examination Results

(1) Examination subversion is the use of any means to alter the results of an examination to cause the results to inaccurately represent the competency of an examinee.

(2) The Board may invalidate the examination results of an examinee who engages in examination subversion. Examination subversion may include, but is not limited to:

(a) Communication between examinees inside of the examination room.

(b) Giving or receiving any unauthorized assistance on the examination while an examination is in process.

(c) Having any unauthorized printed, written, or digital material in the examinee's possession used to, or that might serve to aid the examinee on the examination.

(d) Having any unauthorized mechanical, digital, electronic or other device or mechanism in the examinee's possession used to, or that might serve to, aid the examinee on the examination.

(e) Obtaining, using, buying, selling, distributing, having possession of, or having unauthorized access to examination questions or other secured examination material prior to, during or after the administration of the examination.

(f) Copying another examinee's answers or looking at another examinee's materials while an examination is in progress.

(g) Permitting anyone to copy answers to the examination.

(h) Removing any secured examination materials from the examination facility.

(i) Allowing another person to take the examination in the examinee's place.

(j) Placing any identifying mark upon the examinee's examination papers other than the examinee's identification number or other identifiers as directed by the examination administrator.

(k) Writing on anything other than designated examination material.

(l) Writing or erasing anything after time is called.

(m) Having a cell phone in the examinee's possession.

(n) Having a device with copying, recording, or communication capabilities in the examinee's possession. These include but are not limited to cameras, pagers, PDAs, radios, headsets, tape players, calculator watches, electronic dictionaries, electronic translators, transmitting devices, and digital media players.

(o) Having a calculator in the examinee's possession that is not approved by the examination proctor.

(p) Removing pages from an exam booklet.

(q) Leaving the exam room without authorization.

(r) Engaging in any other act of examination subversion identified by the Board or proctor but not listed above.

(3) In addition to subsections (1) and (2) of this rule, the Board may invalidate the examination results for any examinee who violates any other terms contained in testing regulations provided by the examination's administrator or proctor that are cause for dismissal or exam invalidation by the examination's administrator or proctor.

(4) At the discretion of the Board or its designee, if there is evidence of examination subversion by an examinee prior to, during, or after the administration of the examination, one or more of the following may occur:

(a) The examinee may be denied the privilege of taking the examination if examination subversion is detected before the administration of the examination.

(b) If the examination subversion detected has not yet compromised the integrity of the examination, such steps as are necessary to prevent further examination subversion shall be taken, and the examinee may be permitted to continue with the examination.

(c) The examinee may be requested to leave the examination facility if examination subversion is detected during the examination. If the examinee does not leave the facility, the examinee will be deemed a trespasser.

(d) The examinee's examination results may be voided and the application fee forfeited.

(e) The examinee may not be allowed to sit for an examination for up to three years.

(5) If examination subversion is detected after the administration of the examination, the Board or its designee shall make appropriate inquiry to determine the facts concerning the examination subversion and the Board or its designee may take either or both of the actions described in paragraphs (d) and (e) of subsection (4) above, and may also discipline the examinee under the Board's rules of professional conduct.

(6) Notwithstanding any other rule, the Board or its designee may choose not to release or make available the examination results to examinee or any other person pending the outcome of an investigation into examination subversion.

(7) Voiding any part of an examinee's examination for subversion shall constitute voiding the examinee's entire examination.

(8) Applicants are required to sign statements regarding examination subversion in order to take an examination. Applicants who refuse to sign statements regarding examination subversion will be denied the privilege of taking the examination and the application fees for the examination paid to the Board are forfeited.

Statutory/Other Authority: ORS 670.310 & 672.255
Statutes/Other Implemented: ORS 672.002 - 672.325
History:
BEELS 1-2016, f. & cert. ef. 1-14-16
BEELS 1-2013, f. & cert. ef. 3-13-13
BEELS 4-2012, f. & cert. ef. 9-14-12
BEELS 3-2008, f. & cert. ef. 11-14-08
BEELS 1-2005, f. & cert. ef. 3-16-05

820-020-0045
Obligation Not to Engage in Unprofessional Behavior

(1) An applicant or registrant will not, by word or conduct, act in a manner intended to place a client, another registrant, a board member, a board employee, or an examination proctor in fear of imminent serious physical injury.

(2) An applicant or registrant will not engage in reckless, knowing or willful conduct that causes serious physical injury to a client, another registrant, a board member, a board employee or an examination proctor.

(3) An applicant or registrant must make timely and full payment to the Board of all Board assessed fees, fines and penalties.

(4) An applicant or registrant must give written notification to the Board of any disciplinary action or sanction related to the practice of engineering, land surveying, or photogrammetric mapping imposed by any licensing agency immediately upon receiving notice of the action or sanction.

(5) An applicant or registrant will not assist or aid the unsupervised or unlawful practice of engineering, land surveying, or photogrammetric mapping.

Statutory/Other Authority: ORS 670.310 & 672.255
Statutes/Other Implemented: ORS 672.002 - 672.325
History:
BEELS 2-2006, f. & cert. ef. 11-21-06
BEELS 1-2005, f. & cert. ef. 3-16-05

820-020-0050
Address Changes; Service of Notice; and Name Changes

(1) It is the registrant's responsibility to inform the Board in writing, within 30-days, of any address change.

(2) As of November 13, 2015, notice by registered or certified mail to the registrant's last address on file with the Board shall constitute legal service.

(3) It is the registrant's responsibility to inform the Board in writing, within 60-days, of any name change. A certified copy of documentation showing current legal name must be submitted.

(4) The Board shall provide an acknowledgement of any address or name change.

Statutory/Other Authority: ORS 670.310 & 672.255
Statutes/Other Implemented: ORS 672.002 - 372.325
History:
BEELS 12-2018, amend filed 11/15/2018, effective 11/15/2018
BEELS 10-2018, temporary amend filed 09/20/2018, effective 09/20/2018 through 03/18/2019
BEELS 8-2015, f. & cert. ef. 11-13-15
BEELS 5-2015(Temp), f. & cert. ef. 8-19-15 thru 2-12-16

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Phone: 503-373-0701 • Fax: 503-378-4118 • reference.archives@oregon.gov

APPELLANT RESPONSE to the MARCH 5, 2019 RESPONSE of
TIDEWATER DEVELOPMENT, LLC
Lincoln County, Oregon
Appellant: Hollis Lundeen
Along with this submittal, City Council is requested to include and reference testimony, oral and written and evidence shared at the previous Planning Commissioners Meetings regarding Vista View Development, including the appeal submitted on February 13, 2019 and all written and verbal correspondence.
Case File #1-PD-PC-17 Tidewater Development LLC - Vista View Planned Development
State of Oregon Land Use Board of Appeals Case No. 2018-030
March 14, 2019

This response is submitted on behalf of the appellant, Hollis Lundeen regarding the March 5, 2019 submittal made by Dennis Bartoldus, whose interpretation of the appellant's appeal requires this response to clarify the misinterpretation of the applicant's attorney. This appeal is with merit, please reference the appeal points submitted in the February 13, 2019 submittal.

INTRODUCTION

The issues addressed in the timely submitted (February 13, 2019) appeal submitted by Hollis Lundeen concerning drainage and pollution as stated in the LUBA REMAND:

The Final Opinion and Order Remand Conclusion from the State Land Use Board of Appeals (LUBA) states as per WDC 16.60.030 (C)(4), requires the City of Waldport to determine, that "the proposed facilities are adequate for the population densities and type of development proposed and... (Emphasis added,)... will not create a drainage or pollution problem outside the planned area. [Order Page 11 Lines 13-19]

As stated, these issues are not speculative, irrelevant, and have NOT been addressed and affirmed by LUBA.

The numbered responses below address the applicant's headings as shown in the March 5, 2019 submittal. The words in ***BOLD*** are edits made by the appellant.

1. The submittal by the applicant is ***NOT*** sufficient *(adequate or feasible)* to address the remanded issue.

2. The findings and conclusions adopted by the planning commission ***DO NOT*** address the issue remanded by LUBA.

Again, to restate the issue of **POLLUTION** was not addressed as directed by LUBA within the findings made by the City of Waldport or within the submittals of the developer, Tidewater. Drainage facilities include more than just storm water. The applicant fails to address drainage and pollution issues, therefore, fails to adequately and appropriately interpret the LUBA direction.

The issue of failing to address **POLLUTION** alone, stands to rebut the response statement made by Tidewater. It shows that the City must request further investigation and submittal by the applicant which is required to meet the standard as required by LUBA.

There is none other than a statement from Tidewater that it will keep off site drainage at levels existing before development, however, it shows no measurement or definition of existing drainage stream flow, estimates of additional storm water flows and pollutants such as sewer waste water which will be placed in the identical LIVE stream channel on the steepest slope within and out of the property boundary. This is inadequate and non-substantial evidence.

3. The findings and record demonstrate that there ***WILL BE*** negative ***ON AND*** off site effect of ***POLLUTION*** upon the development of the property.

There are NO adequate facts or proactive proof there will not be adverse effects of ***POLLUTION*** on or off the property.

As the appeal states, Tidewater has ***NOT*** addressed the issue of **CURRENT** (right now, today) plans of how to address ***POLLUTION*** on and off site.

The requirements of the remand state that ***POLLUTION*** must be addressed, and **not** by simply adding the word to the title in the findings.

Please note that within the City Council Hearing advertisement, **POLLUTION** was not addressed or included in the advertisement as well.

It is quite obvious, by default, that Tidewater is fearful that the soils are contaminated, otherwise, they would not be so defensive in their denial.

Request the City require within the Findings and Conclusions that the soils are pollution free, and uncontaminated, especially considering the past logging operations.

Tidewaters statement of "the appellant fails to note her property and the development of which she resides, Norwood Heights is closer to Highway 101 and it's drainage system and Alsea Bay" is completely **FALSE and INACCURATE** in its comparative measurement and inapplicability to the appeal, as, there is no comparison to the established residences relative to space density, or in comparison to the amount of earthwork disturbance that will result from road building along with the 34 foundations constructed for homes and garages, within less than 7.75 acres.

4. Tidewater has ***NOT*** provided adequate and sufficient information to address pollution.

It is a FALSE ASSUMPTION that Tidewater has adequately and sufficiently addressed ***POLLUTION.***

NOTE: Tidewater utilized the word "information" in this statement of finding and conclusion, as opposed to showing examples, because there is complete insufficiency and inadequacy to their proof that they have considered or addressed ***POLLUTION*** per LUBA Direction.

Again, with the location of both sewer and water utilities in and out of the development including questionable shared locations of storm water, potable water, and waste water, it is in the best interest of the City to require Tidewater to secure easements and locations of where and how these designated utilities will be dispersed prior to the preliminary plans as part of the feasibility of the development.

As per WDC 16.60.020 General Requirements:
I. The City may require easements necessary for orderly extension of public utility for future adjacent development. I encourage the City Councilors to review previous recorded dialogue and discussions to which there was an expectation for the City to require utility easements from Tidewater on the east end of the property prior to Preliminary Plan approval.

The appellants' statement is well within the scope of the remand since sewer waste water is considered a pollutant, especially with the Alsea Bay in the line of the unstable slope of the pump station required for the sewage to be pumped for treatment.

The Engineers analysis FAILS to even consider sewage as a pollutant, as well as light, noise and traffic as pollutants. This is a separate issue from the previous appeal to which, light, noise, and traffic were not addressed as pollutants. The definition of pollution states: **Definition of *POLLUTION:* The contamination of air, water, or soil by substances that are harmful to living organisms. *POLLUTION* can result from human activity, or in some instances, from spilling or disposal of industrial or human man made waste. Light and noise are considered pollutants. They are direct results from increased traffic, including many types of construction equipment which will be on and off site.**

PLEASE NOTE: Within the March 5, 2019 response, Tidewater, the applicant does state, agree, and contend that "additional flow requires both ODOT and DEQ permitting, which, without documentation that this has been initiated and secured, negates the findings claim and is inadequate in meeting the LUBA direction. The applicant states they do not understand the land use process, and that they fail and refuse to understand that the City's preliminary approval is the first step in the process. I would not interpret this as a typographical error, I would interpret this as the applicant admitting and agreeing with the appellant that there will be additional flow, therefore calling for and meeting DEQ requirements!!!
Prior to the appellant even mentioning it, DEQ and ODOT permitting was not even considered or addressed by the applicant, or the City, in its Findings, therefore revealing they are not understanding land use process and proactive environmental practices. It was added by the City Planner only after the appellant brought it to the attention of the Planning Commissioners at the hearing on January 28, 2019.

5. <u>In order to address the concern raised by the appellant regarding pollution, the City can adopt more specific findings of fact showing that ordinance requirement has been met.</u>

Of course! This is the purpose of the appeal, and the appellant's urgent and earnest request and petition to you as the City of Waldport's City Councilor's and representatives!

Again, please consider this request to the City to require Tidewater to provide an <u>adequate</u> sampling of on and off site soil samples to provide proof to their claim that there is no contamination or ***<u>POLLUTANTS</u>*** resulting from previous logging activity, and that the soils are stable enough to withstand 34 homes on less than 7.75 acres. The applicant states the land proposed for development is *"bare ground"*, which is susceptible to again triggering a slope failure, that has higher impact probability than the previous recorded failure.
The submittals so far do not substantiate that there are no pollutants and that the soils and slopes are stable enough to withstand the proposed Planned Development, with additional storm water created by those additional homes, transportation and environmental impacts to the local neighboring property owners.

Tidewater states there are no known pollution hazards on the property but cannot substantially prove it. Therefore, the development is not feasible until it can be proven, especially considering the previous logging activity and slope failure into neighboring Federal USDA Forest Service property.

There has been no proactive plan to prevent pollutants from entering into Alsea Bay, which would result in a permanent impact to the local commercial and recreational fishery. No assessed fine to the City of Waldport from Department of Environmental Quality could replace the damage resulting from such a simple proactive investigation.

The demonstrated lackadaisical attitude of Tidewater negates the feasibility of the development. Example: No proactive slope failure prevention planning or addressing the impacts to the land after the slope and soil failure.

As a citizen of Waldport, representing other concerned citizens who have participated in both written and verbal testimony, the requests for consideration made in the appeal is a right of local citizens to petition the City to consider and act on incorporating into the findings and conclusions and is the foundation to this hearing, especially considering this is the only public input stage during the Planned Development process.

Tidewater assumes that pollution only comes from commercial or industrial use.
The previous slope failure after commercial logging activity supports that claim.
The March 5 submittal by Tidewater addresses the possibility of pollution, therefore validates the appeal request to the City.

Yes, there is reason to gather soil samples on and off site, and no, the appellant is not asking Tidewater for final engineered plans at preliminary approval stage.
Soil Sampling is an initial investigation directly related to feasibility and provides an adequate preliminary analysis of what a geotechnical report consists of. Prior to the Preliminary Plan approval, the appellant is not requesting an all-encompassing geotechnical report at this stage. The appellant is stating that proof of stable slopes and soils will contribute to meeting feasibility requirements. If properly conducted, it will indicate if there are existing pollutants and also if the soils are indicative of the Engineers THEORETICAL analysis.
As of this moment, the submittal does not meet feasibility and adequate requirements relating directly to drainage and pollution.

6. The Planning Commission ***IMPROPERLY AND INADEQUATELY*** determined that storm water can be managed without adverse impact on other properties and the current-off site system in place is adequate to handle the runoff.

The description that Tidewater described as house of horror's scenario is not based on speculation. It is based on actual slope failure that occurred after harvest and logging activities took place within and out of the designated 7.75 acres.

The City Public Works Department and COCFRD have requested review and approval of engineering plans submitted by Tidewater, prior to construction, however there is no allowance for public participation in the review or comments considered by the Public, therefore this is the reasoning behind the requests being made to the City for consideration. It also states that the developer shall be responsible for all costs incur for review and approval of plans.
The City does not have a Registered Engineer on staff and has guaranteed that a review of plans will be made. Appellant again requests the City require an independent non biased non family member conduct all reviews including review of the required geotechnical submittals.

Regarding the road building extension to Norwood Drive, the specified location is UNIQUE, while Tidewater has never addressed any ***DRAINAGE*** or ***POLLUTION*** in and out of this road building site surrounded by large undisturbed timber, which is on PUBLIC LAND. These steep side slopes have not been addressed in the analysis submitted by Tidewater. In addition to the previous slope failure, this PUBLIC LAND has a high slope failure probability, since removal of the timber now holding the slopes in place will be removed. By Tidewater's choice not to include this PUBLIC Land in their analysis negates the feasibility and the adequacy of the submittals made for only the property of Tidewater, referenced as Tax Lot 120.
The appellant has lived in Waldport for nearly 25 years and has never witnessed any Public Roads built on slopes such as this location, let alone ones that the fill failure of the slope has a greater risk of flowing into the Alsea Bay, a local commercial and residential fishery.

7. The engineer for the applicant has completed and submitted a Storm Water Drainage and Downstream Analysis.

The appellant in no way is attacking the Engineer or the Engineers work. Tidewater's inference is purely assumed and opinioned with no substantiation of fact. It is an professional insult to the appellant, who is a Civil Engineer, with many years of experience as stated in verbal testimony at the Planning Commissioners Hearing on January 28, 2019. Please reference hearing record to validate. To clarify: The appellant is questioning the adequacy and feasibility of the submittal as per LUBA's Final Opinion and Order. The Engineers submittal is predominately theoretical and not indicative of on site features that were not considered within the analysis.

8. The engineers analysis does ***NOT*** describe how the current open area is sufficient to collect storm water after the property is developed without impact on other property and makes a further provision for a retention pond to collect water and release it downstream at predevelopment levels.

Again, please note the Tidewaters negligence to address how a failure to the one single collection point of storm water will be addressed. There is an existing year round stream flow that enters and exits the designated retention pond area. The analysis made by the Engineer does not address failure or increased flows, which will require meeting Department of Environmental Quality standards that have not been identified within the preliminary plan stage.

9. The planning commissions finding number 9 is ***IN***sufficient.

The appellant is not requesting a complete set of Engineering drawings, that, is another assumption on the part of Tidewaters insufficient interpretation of the appeal statements.

The inference that the appellant does not want the property owners to use their property for residential purposes is preposterous and a complete conjecture, and a return attack on the appellant.

10. The applicant's engineer visited the site and made a visual inspection and included those observations in his report.

Tidewater fails to address the neighboring properties that have been impacted due to their negligence to initiating proactive protections towards their property and those neighboring them. Previous slope failures from their improper land management practices are a substantial claim.

11. All storm water discharge outlets pipes will have at a minimum, rip rap pads to prevent erosion and prevent sediment from washing downstream.

12. The site catch basins will have sump pumps, the existing on-site drainage will remain vegetated, the area of development has gentle slopes and downstream drainage is vegetated.

Again, the infeasibility and inadequacy of this development is substantiated by the failure to properly present basic engineering specifications and standards that voluntarily been provided and included by previous Planned Development applicants.

13. Vista View has set aside an area for a "storm water facility".

The statements made in the appeal clearly show the inadequacy and assumption that the designation of a "storm water facility" does not validate its purpose without addressing IN PLACE alternate facilities in case of failure. With the location being within the steepest section of the 7.75 acres, and the large fill over questionable stable ground warrants alternative site designation by Tidewater at preliminary plan stage.

The questionable location shown on the drawings of incorporating sewer waste water combined with storm water within the same channel can be addressed here as they are both considered pollutants, and have not been addressed as so.

14.The applicant's engineer advised that the calculations were made using conservative estimations meaning that he erred on the side of caution when making the calculations.

Regardless to the above statement, the engineer's calculations are inadequate by failure to address ***POLLUTION*** as directed by LUBA.

15. No ODOT permit is needed for preliminary approval.

Clearly, as stated, there WILL be additional flows that warrant permitting.

16. The phasing and time limits of the preliminary planned development approval were changed because of the length of time that has passed since initial approval by the planning commission.

If Tidewater had made conditions to address the concerns made by local citizens at the initial hearing, there would be no reason for the public local citizens to submit an appeal, therefore, Tidewater would meet the code requirement, and not require extra time.

Tidewater's request for revised timelines is unwarranted.

17. Any conditions imposed by ODOT will be addressed prior to final approval.

The issue of requesting the City to develop a land use compatibility statement to determine whether the submittals from the applicant are consistent with local government comprehensive plan and land use regulations is warranted due to the choices made by Tidewater not to address the issue of ***POLLUTION*** per LUBA direction.

Just because the proposed road location is shown in the maps which were drawn as a part of transportation planning does not validate that the road can be built without environmental impact. There will be increased flows therefore requiring ODOT permitting. At a minimum, the City of Waldport should require Tidewater to demonstrate they have initiated contact with ODOT regarding increased flows, and incorporate that into the Preliminary Plan Timeline. By the City of Waldport taking the initiative to secure permitting procedures of Tidewater from ODOT and DEQ, future fines could be avoided.

IN CONCLUSION

Past slope failure, due to inadequate drainage protection, resulting from removal of timber on sensitive soils resulting in damage to neighboring properties is a substantial indicator in the 7.75 acres of the proposed Vista View planned development, and outside the area as well. This is a clear indicator regarding the proposed road building on even steeper, unstable slopes located on PUBLIC land connecting the dead end of Norwood Drive. An existing alternate access route south of the Tax Lot 120 was utilized to haul timber out of the property. This route is feasible, safe, and would serve the same purpose other than the proposed new construction with far less environment impact. It is also the designated easement to bring water and sewer utilities into the 7.75 acres and could serve as a safe outflow for these utilities with the right design. By this, the challenges of steep slopes to carry both sewer and storm water could be avoided. This consideration within the Findings and Conclusions of the City of Waldport is requested.

Tidewaters submittals require additional specifications and clarity in order to qualify Preliminary Plan criteria.

As the City of Waldport's City Councilors and elected Mayor Cutter, you have the responsibility to ensure that Tidewater complies with the Waldport Development Code and the Remand Final Opinion and Order made from the State of Oregon Land Use Board of Appeals. You carry with your title, a great responsibility to serve our community of Waldport with this decision, to those who have submitted verbal and written concerns regarding this preliminary plan, while considering the circumstances, and situation surrounding the Proposed Vista View Development.

On August 20, 2019, the Oregon State Board of Land Use Appeals, (LUBA), directed the City of Waldport to respond to *WDC 16.60.030 (C)(4),* which states:

The Final Opinion and Order Remand Conclusion from the State Land Use Board of Appeals (LUBA) states as per WDC 16.60.030 (C)(4), requires the City of Waldport to determine, that "the proposed facilities are adequate for the population densities and type of development proposed and... (Emphasis added,)... will not create a drainage or pollution problem outside the planned area. [Order Page 11 Lines 13-19]

The State Land Use Board of Appeals states that the City's findings fail to explain whether the storm drainage facilities are adequate to serve the proposed development and that the proposed development will not create a drainage or pollution problem outside the planned area.

Clearly, and undeniably, the submittals by Tidewater, LLC., are not acceptable, feasible or adequate as is to serve as is for Preliminary Plan approval. There are many points to consider in making your findings and conclusions regarding Tidewaters Proposed Vista View Planned Development. Please be reminded of those local citizens who have taken time to come before you to testify and express their concerns. May these be reflected in your conclusions, future decisions and deliberations.

Again, I apologize for not being able to verbally present this response to you verbally on March 14, 2019.

Thank you for listening to this response through written word.

Sincerely, Hollis Lundeen

Appellant, submitted prior to March 14, 2019 Hearing Opening @ 2:00PM

APPEAL TESTIMONY to the WALDPORT CITY COUNCIL
Lincoln County, Oregon
Appellant: Hollis Lundeen
Along with this submittal, City Council is requested to include and reference testimony, oral and written and evidence shared at the previous Planning Commissioners Meetings regarding Vista View Development.
Case File #1-PD-PC-17 Tidewater Development LLC - Vista View Planned Development
State of Oregon Land Use Board of Appeals Case No. 2018-030
March 14, 2019

Please understand and forgive my absence from being present to verbally, in person, testify this appeal to you, our Waldport City Councilors. May my not being physically present, influence your consideration of all of my points made within the appeal I submitted on February 13, 2019, within the designated timelines and with this testimony.

You carry with your title, a great responsibility to serve our community of Waldport with this decision, while considering the circumstances, and situation surrounding the Proposed Vista View Development.

On August 20, 2019, the Oregon State Board of Land Use Appeals, (LUBA), directed the City of Waldport to respond to *WDC 16.60.030 (C)(4),* which states:

The Final Opinion and Order Remand Conclusion from the State Land Use Board of Appeals (LUBA) states as per WDC 16.60.030 (C)(4), requires the City of Waldport to determine, that "the proposed facilities are adequate for the population densities and type of development proposed and... (Emphasis added,)... will not create a drainage or pollution problem outside the planned area. [Order Page 11 Lines 13-19]

The State Land Use Board of Appeals states that the City's findings fail to explain whether the storm drainage facilities are adequate to serve the proposed development and that the proposed development will not create a drainage or pollution problem outside the planned area.

Therefore, until the City of Waldport can adequately determine if the applicant for Vista View Planned Development can meet the Final Opinion and Order of the State Board of Appeals, the Tidewater LLC., application for Preliminary Plan approval is inadequate and in error.

In addition, the submittals responding to LUBA's direction, made to the City of Waldport by the Developer, Tidewater, LLC. and Ironmark, failed to follow that direction, to which, the City of Waldport's Findings and Conclusions have failed to address this direction as well.

The submittals made by both Tidewater and Ironmark to the City of Waldport never addressed pollution and the effects that it has on the neighboring community. It does not address the redirection of flow levels in the event of a failure occurring to the "storm water facility area" on site drainage or pollution. It is directing flows to one singular designated site called a "storm water facility area", but does not identify an alternative solution should that "storm water facility area" fail.

As per LUBA Final Opinion and Order, the *feasibility* of the Planned Development MUST be shown at the Preliminary Plan Stage. Currently, the submittals made by both Tidewater and Ironmark, to the City of Waldport regarding Storm Water AND Pollution, are inadequate and in error due to not proactively addressing pollution at all, and..., regarding storm water, nonspecific in providing substantial evidence that addresses the environmental impacts pointed out in the appeal, within and outside the development as stated in the appeal.

Per LUBA Final Opinion and Order, the City of Waldport is in error by deferring the conclusion as to whether WDC 16.60.030 (C)(4) is met to a later stage, that does not allow public participation, because the development does not feasibly comply with the Order. The submittals by Tidewater do not mention how they will connect to and provide required upgrades to the pump station to accommodate increased flows. As, currently described, this increased flow will contain both storm water and sewage, and, it is not shown how storm water and sewage will be separated within the same channel, which, as is shown, is discharged off site on the steepest slope within the development.

PLEASE NOTE: The developer does infer there will be increased flows, therefore, requiring permitting as described within the details of the appeal, and as described in the Conclusion of the Findings per (New) 13.

With the City utilizing Condition 8 as defined in the Final Opinion and Order, in order to comply, the City must allow public participation.

Without the confirmation from the City of Waldport as to whether public participation is permitted during final plan review per the Waldport Development Code, along with the confirmation of measured flow, it is of utmost importance that the Developer provide the information required by law, including, as an example, Department of Environmental Quality, (DEQ) and Oregon Department of Transportation, (ODOT) requirements for permitting PRIOR to Preliminary Plan approval. Substantial evidence indicates and development activities have proven, there will be additional storm water drainage and pollution resulting from soil conditions changing from pervious to impervious as described, [PLEASE NOTE: this is also referenced within the Engineers submittal], therefore, requires permitting be in place prior to preliminary plan approval. This example, along with many others addressed within the appeal, reveal the inadequacy and error in the submittals made by Tidewater.

The submittals do not address HOW these channels will be improved or HOW the storm water will serve the development, and how it will be separated from sewage, let alone address how both will be safely channeled OUTSIDE the development.

Also, there is no defined timeline of how these solutions and permitting will be addressed and in what manner.

With additional storm water resulting from impervious soils created from compaction of local soils, which were not tested, the retention pond where the developer states will be "channeled downhill in a controlled pattern" does not address the measurement size of the pond, or how volume of the additional storm water will be channeled.

In the Engineers submittal, regarding the Hydrological Soil Groups, please note that Thissell states, soil groups are based on estimates of runoff potential and not actual on site soil samples.

Additional unmeasured flows will have increased velocity, on the steepest slope within the development, and in addition, is designated along the same channel as the sewer utility to carry in a manner undescribed or designated by Tidewater.

By the developer, Tidewater, not addressing these critical environmental issues, and again, the findings by the City of Waldport do not address the direction or adequacy of the Final Opinion and Order regarding the remand made by LUBA.

The hydro CAD analysis submitted by Ironmark does not address current existing on and off site storm water patterns or pollution protection. Also, it only addressed ONE channel within the many existing on site that will carry both storm water and pollution flowing from within the development offsite to the neighboring community.

For the record to his hearing, I want to bring to the attention of our public citizens of this community and to you, our City Councilors.... that the attorney for the developer proactively submitted a listing of findings and conclusions, prior to the Planning Commissioners Public Hearing held on January, 28, 2019. After which, these suggested Findings and Conclusions, word for word were adapted by the City in their final decision statement. Is it common practice for the City of Waldport to adapt a developers pre hearing submittal of findings and conclusions?

Regarding the revised Finding #11, as stated in the appeal, this is not a change to reflect market conditions, it is a manner to which the developer is making a desired fabrication to the sole benefit of the developer, Tidewater, from the original submittal of phasing, directly related to timing, and favors the developer's application, should it not meet preliminary plan approval within the time constraints of the original application. This amendment is in error since it has not been approved by you, our City Councilors, prior to the date of the Planning Commissioners signature on 1 29 2019.

I must question you, as our City Councilors, how you can accept this plan without knowing how the developer can proactively provide confirmation on how they plan to obtain utility easements for water and sewer into and outside this 7.75 acres of timber harvested land?

It is unconceivable that the City of Waldport would ever consider approving these inadequate submittals that are obviously in error of a LUBA Final Opinion and Order which requires the City of Waldport to find and conclude that "the proposed facilities are adequate for the population densities and type of development proposed and...
(Emphasis added,)... will not create a drainage or pollution problem outside the planned area. [Order Page 11 Lines 13-19],
while also deciding to give Tidewater a Preliminary Plan approval without knowing where and how these utilities will come into and go out of this development knowing this decision will affect the immediate and surrounding landowners and community.

Regarding the hearing statement and announcement, it too is in error, as stated: *In its decision LUBA generally upheld the decision of the City but remanded the case back to the City on one issue, that being to further address the issue of storm drainage.*

The remand clearly states and includes the words drainage and pollution, which should have been included in the hearing announcement statement along with the submittals made by the developer, Tidewater. Therefore, this too, is in error of the Final Opinion and Order made by the Land Use Board of Appeals to the City of Waldport.

TESTIMONY: Testimony can be submitted in written or oral form. Written testimony must be submitted prior to the public hearing. Written testimony needs to be submitted to the City by March 4, 2019 in order to be included in the staff report. Written testimony may be mailed to the City of Waldport Planning Commission, PO Box 1120, Waldport, OR 97394 or emailed to City Planner, Larry Lewis. Oral testimony will be taken during the course of the public hearing. Failure to raise an issue in a hearing, in person or by letter, or failure to provide sufficient specificity to afford the ***Planning Commission*** an opportunity to respond to the issue precludes an appeal to the Land Use Board of Appeals on that issue.

In addition, there is inconsistency and error in the above advertisement of the hearing.

Where the word ***Planning Commission*** is stated, it should read ***City Council,*** since the scheduled public hearing on March 14, is in front of the City Council, not Planning Commission.

In closing..... as of this moment, Tidewater's submittal has failed the Final Opinion and Order made by LUBA to the City of Waldport by its inadequacy and errors stated. It does not address the many issues enumerated and specified within the appeal regarding *the proposed facilities are adequate for the population densities and type of development proposed and... (Emphasis added,)... will not create a drainage or pollution problem outside the planned area.* There are measures by which you, as our elected officials, can request of Tidewater to meet LUBA's Final Opinion and Order and this verbal statement calls for you to request Tidewater to address them to prior to your consideration to approve this Preliminary Plan.

As The City of Waldport's Counsel, your integrity and attention to listen to the heartbeat of the citizens of this community us at stake.... Please take this moment in time to consider the lens of the land and to be mindful of it's healthy sustainable future, before it is forever disturbed and the landscape of our community is affected by the decision you make here today. These considerations of drainage and pollution are not beyond the scope of review required by LUBA.

It is quite unfortunate that I am not able to be present to verbally address you. I is grateful for your understanding of these circumstances and consideration of these taking points along with the previously submitted appeal. You carry a hugh prodigious responsibility to yourselves and the community in how you decide on this appeal.

Thank you in advance for your time and service.

Sincerely,

Hollis Lundeen

PUBLIC HEARING NOTICES

(City Council/Planning Commission/Budget Committee)

NOTICE OF PUBLIC HEARING (CITY COUNCIL)

APPLICANT: Tidewater Development LLC
REQUEST: The applicant is requesting approval of a Planned Development (Vista View) for 34 single family homes/lots on 7.75 acres. The City's Preliminary Plan approval was appealed to the Oregon Land Use Board of Appeals (LUBA). In its decision LUBA generally upheld the decision of the City but remanded the case back to the City on one issue, that being to further address the issue of storm drainage. The Planning Commission held a public hearing January 28, 2019 and concluded that the development would not create a drainage or pollution problem outside the planned area and reapproved the Vista View Planned Development. The appellant has now appealed the recent Planning Commission decision of approval to the City Council.
APPLICABLE CRITERIA: Waldport Municipal Code, Title 16 - Chapter 16.12, Residential Zone R-1; Chapter 16.60, Planned Development Zone P-D; Chapter 16.72.020 Off-Street Parking and Off-Street Loading Requirements; Chapter 16.96, Development Guidelines; and Chapter 16.100, Land Division.
LOCATION: The subject property is located at the south end of Norwood Drive, and further identified on Lincoln County Tax Assessor's Map 13-11-19CC as tax lot 120.
REPORTS: Copies of the staff report for this case may be reviewed without charge or may be purchased at Waldport City Hall, 125 Alsea Highway, seven (7) days prior to the hearing. Appellant materials may be reviewed or purchased at the above address twenty (20) days prior to the hearing.
TESTIMONY: Testimony can be submitted in written or oral form. Written testimony must be submitted prior to the public hearing. Written testimony needs to be submitted to the City by March 4, 2019 in order to be included in the staff report. Written testimony may be mailed to the City of Waldport Planning Commission, PO Box 1120, Waldport, OR 97394 or emailed to City Planner, Larry Lewis. Oral testimony will be taken during the course of the public hearing. Failure to raise an issue in a hearing, in person or by letter, or failure to provide sufficient specificity to afford the Planning Commission an opportunity to respond to the issue precludes an appeal to the Land Use Board of Appeals on that issue.
CONTACT: City Planner, Larry Lewis, 541-264-7417 X 103.
DATE/PLACE OF HEARING: Thursday, March 14, 2019 at 2:00 p.m. at the Waldport Council Meeting Room, 125 Alsea Highway. Any person having interest in this matter may attend and be heard, or they may submit testimony in writing to be entered into the record.

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February 19, 2019

↑ resent 2/21/19

AMENDED NOTICE OF PUBLIC HEARING
WALDPORT CITY COUNCIL
March 14, 2019, 2:00 p.m.

APPLICANT: Tidewater Development LLC

REQUEST: The applicant requested approval of a Planned Development (Vista View) for 34 single family homes/lots on 7.75 acres. The City's Preliminary Plan approval was appealed to the Oregon Land Use Board of Appeals (LUBA). In its decision LUBA generally upheld the decision of the City but remanded the case back to the City on one issue, that being to further address the issue of storm drainage. The Planning Commission held a public hearing January 28, 2019 and concluded that the development will not create a drainage or pollution problem outside the planned area and reapproved the Vista View Planned Development. The appellant has now appealed the recent Planning Commission decision of approval to the City Council.

APPLICABLE CRITERIA: Waldport Municipal Code

16.12	Residential Zone R-1	16.72.020	Off-Street Parking and Off-Street Loading Requirements
16.60	Planned Development Zone P-D	16.96	Development Guidelines
		16.100	Land Division

LOCATION: The subject site 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.

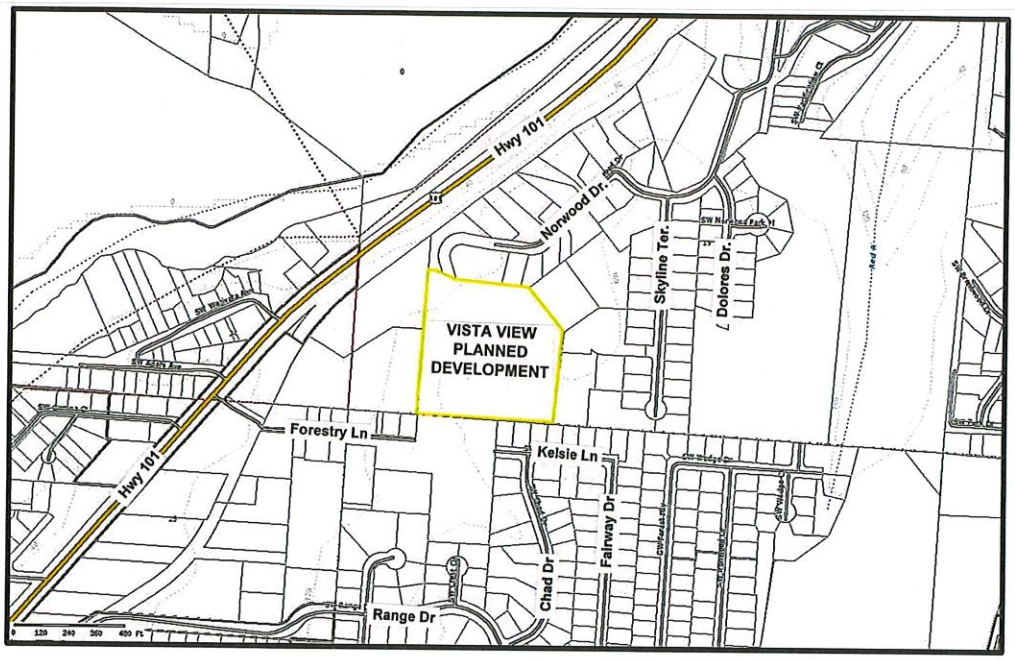
REPORTS: Copies of the staff report for this case may be reviewed without charge or may be purchased at Waldport City Hall, 125 Alsea Highway seven (7) days prior to the hearing. Appellant materials may be reviewed or purchased at the above address twenty (20) days prior to the hearing.

TESTIMONY: Testimony can be submitted in written or oral form. Written testimony must be submitted prior to the public hearing. Written testimony needs to be submitted to the City by March 4, 2019 in order to be included in the staff report. Written testimony may be mailed to the City of Waldport Planning Commission, P.O. Box 1120, Waldport, OR 97394 or emailed to larry.lewis@waldport.org. Oral testimony will be taken during the course of the public hearing. Failure to raise an issue in a hearing, in person or by letter, or failure to provide sufficient specificity to afford the Planning Commission an opportunity to respond to the issue precludes an appeal to the Land Use Board of Appeals on that issue.

CONTACT: Larry Lewis, City Planner at 541-264-7417 ext. 3 or larry.lewis@waldport.org.

February 19, 2019

DATE/PLACE OF HEARING: **Thursday, March 14, 2019, at 2:00 p.m.** at the Waldport Council Meeting Room, 125 Alsea Highway. Any person having interest in this matter may attend and be heard, or they may submit testimony in writing to be entered into the record.



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1180 SW NORWOOD DR
WALPDORT, OR 97394

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City of Waldport

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January 29, 2019

Tidewater Development LLC
PO Box 1510
Newport, OR 97365

Re: Case File #1-PD-PC-17 Vista View Planned Development
Planning Commission Remand Hearing

Dear Tidewater Development LLC:

On Monday, January 28, 2019 the Waldport Planning Commission reapproved the Preliminary Plan for the Vista View Planned Development. This decision will become effective Wednesday, February 13, 2019 at 5:00 p.m. unless an appeal is filed at Waldport City Hall. Where it is alleged that there is an error in any procedure or decision made by the Planning Commission, an appeal may be made to the City Council. An application for an appeal shall include the specific rationale for the appeal with sufficient clarity to allow the City and respondents an adequate opportunity to respond to or resolve each issue. In order to appeal the decision of the Planning Commission, it is necessary to submit a fee of $580 along with a written statement explaining the reason for the appeal.

Please contact me if you have any questions.

Sincerely,

Larry Lewis
City Planner

cc: Dennis L. Bartoldus
Hollis Lundeen
Oregon Dept. of Transportation

Enclosure: Findings and Conclusions

BEFORE THE PLANNING COMMISSION
OF
WALDPORT, OREGON

Request for Planned Development **Case File #1-PD-PC-17**
Applicant: Tidewater Development LLC **Agent: Dennis L. Bartoldus, Attorney**

FINDINGS OF FACT ON STORM DRAINAGE

1. This case previously was heard by the Waldport Planning Commission. The Planning Commission approved the application with conditions on December 18, 2017.

2. The decision of the Planning Commission was appealed to the Waldport City Council by Hollis Lundeen. The City Council held a hearing on the appeal on February 22, 2018.

   The City Council essentially upheld the decision of the Planning Commission, slightly modifying one of the conditions to provide the easement trail would be constructed as part of Phase 1 of the project. The Final Order of Findings and Conclusions was issued on March 8, 2018.

3. Hollis Lundeen appealed the decision of the City Council to the Oregon Land Use Board of Appeals (LUBA). In its decision LUBA generally upheld the decision of the City but remanded the case back to the City on one issue, that being to further address the issue of storm drainage.

4. The Waldport Planning Commission held a hearing on the remanded issue of storm drainage on January 28, 2019. The hearing was duly noticed as required by the ordinance. All interested parties were given the opportunity to provide written testimony or to testify in person.

5. Those providing written testimony and testifying at the January 28, 2019 Planning Commission hearing were Dennis L. Bartoldus, Attorney and Agent for the applicant, Tidewater Development LLC; and Hollis Lundeen, Appellant. Additionally, the Oregon Department of Transportation (ODOT) provided written testimony.

6. After considering the testimony and submittals of the parties, the Planning Commission determined that storm water can be adequately managed without an adverse impact on other properties and the current off-site system in place is adequate to handle the runoff.

7. The engineer for the applicant has completed and submitted s Storm Water Drainage and Downstream Analysis.

8. The analysis describes how storm water collected from the site via roof drains and catch basins in the street into the existing storm drainage on the east and north sides of the property. From there the storm water will follow the same path as it historically has, down the vegetated channel and out to Alsea Bay. The drainage way on the applicant's property will remain vegetated.

9. The engineer did a Hydro CAD analysis which shows the existing 30 inch in diameter culvert running beneath Highway 101 is sufficiently sized to accommodate the storm water runoff of the past developed condition of the entire contributing storm water basis during a 10 year 24 hour rain event which is 5 inches of rainfall in 24 hours per the NOAA isoplurvial maps. In the event the culvert ever became blocked, the storm water would flow north and be channeled by one of several other ditch inlets and culverts beneath Highway 101 that drain to the bay.

10. By a visual inspection of the property downstream the engineer concluded there were no downstream structures or property at risk of being impacted by storm water quality due to the proposed development. All existing structures sit well above the existing drainage channel.

11. All storm water discharge outlet pipes will have, at a minimum, rip rap rock pads to prevent erosion and prevent sediment from washing downstream.

12. All site catch basins will have sumps, to help prevent sediment and debris from migrating downstream. The existing on-site drainage way will remain vegetated which will also help control sediment migration, erosion, and filter potential pollutants from discharged storm water. Much of the existing drainage on-site has a gentle gradient, which is favorable for settling out any sediment and particulates in the discharged storm water. The drainage way downstream is also heavily vegetated.

13. As shown on the preliminary plan, Vista View has set aside the area shown as a "storm water facility area" as an area reserved for meeting any additional storm water quality and/or retention requirements or criteria. The area would allow an appropriately engineered storm water detention area to control off site drainage.

14. The applicant's engineer advised that the calculations were made using very conservative estimations meaning that he erred on the side of caution in making the calculations.

15. ODOT stated that the proposed development should not increase drainage to ODOT highway right-of-way. If it will propose to increase drainage to the ODOT highway right-of-way, the applicant should contact ODOT to seek ODOT's review and approval.

CONCLUSION

Based upon the testimony and information presented, the Planning Commission concludes that the development will not create a drainage or pollution problem outside the planned area and reapproves the VISTA VIEW Planned Development pursuant to the terms of the City Council on March 8, 2018 with these additional findings incorporated to support the decision, and with one modified condition of approval and one new condition of approval as stated below.

(Revised) 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 2019 – January 2021
Phase 2:	January 2021 – January 2023
Phase 3:	January 2023 – January 2025
Phase 4:	January 2025 – January 2027

(New) 13. If storm drainage will be increased to the ODOT highway right of way in an amount to require review and approval by ODOT, the applicant shall contact ODOT to seek ODOT's review and approval or the applicant may construct an appropriately engineered retention pond or facility as identified in the preliminary plan to reduce flows to levels that do not require ODOT's review and approval.

Chair 1-29-2019

Ray Woodruff, Waldport Planning Commission Chair — Date

APPEAL OF PLANNING COMMISSION DECISION

On this date FEBRUARY 13, (WED), 2019, I the undersigned hereby appeal to the Waldport City Council the decision of the Waldport Planning Commission to: ON 1.29.19 to APPROVE THE PROPOSED PRELIMINARY PLAN FOR THE VISTA VIEW PLANNED DEVELOPMENT APPLICATION CASE FILE #1-PD PC 17 WITH LUBA FINAL OPINION & ORDER REMAND CASE NO 2018-030 DATED AUGUST 20, 2018 11:06 AM.

****

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 + SEE: ATTACHED DOCUMENTS, PHOTOS + EXHIBITS ATTACHED AND INCORPORATED BY REFERENCE.

Signature of Appellant APPEAL PG 1-16A PHOTOS PG P1-60 EXHIBITS PG E1-54

Name: HOLLIS LUNDEEN

Address: P.O. BOX 1392 WALDPORT, OREGON 97394

Phone: 541. 961. 2825

EMAIL FOR ALL CORRESPONDENCE: DROIDERIC@GMAIL.COM

****

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: _____, 2_____.

Appeal fee: $ 580.00 Date of Hearing: _____, 2_____.

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APPEAL to the WALDPORT CITY COUNCIL
Lincoln County, Oregon
Appellant: Hollis Lundeen
City Council is requested to include and reference testimony, oral and written and evidence shared at the previous Planning Commissioners Meetings regarding Vista View Development.
Case File #1-PD-PC-17 Tidewater Development LLC - Vista View Planned Development
State of Oregon Land Use Board of Appeals Case No. 2018-030
February 13, 2019

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

1 **<u>APPEAL</u> the inadequacy of the submitted documents to the City of Waldport from the developer, Tidewater LLC:(December 17, 2018), Ironmark LLC:(October 30, 2018) and the findings and conclusions of the City of Waldport Planning Commissioners: (January 29, 2018). These three documents fail to adequately and fully address the remand below made by the State Land Use Board of Appeals (LUBA), FINAL OPINION AND ORDER August 20, 2018. 11:06 am**

The Final Opinion and Order Remand Conclusion from the State Land Use Board of Appeals (LUBA) states as per WDC 16.60.030 (C)(4), requires the City of Waldport to determine, that "the proposed facilities are adequate for the population densities and type of development proposed and... (Emphasis added,)... will not create a <u>drainage</u> or <u>pollution</u> problem outside the planned area. [Order Page 11 Lines 13-19]

The State Land Use Board of Appeals Remand states that the City's findings fail to explain whether the storm drainage facilities are adequate to serve the proposed development and that the proposed development will not create a <u>drainage</u> or <u>pollution</u> problem outside the planned area.

Therefore, until the City of Waldport can adequately determine if the applicant for Vista View Planned Development can meet the Final Opinion and Order of the State Board of Appeals , the Tidewater LLC., application for Preliminary Plan approval is in error.

2 **<u>APPEAL</u> the City of Waldport Findings (including, specifically APPEALING Items: 3, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, as well as APPEALING both conclusion statements.)**

City of Waldport fails to show compliance to the LUBA remand in the following:
Findings: (3, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, including both conclusion statements) since the developers submitted documents are inadequate: " to show prior to preliminary plan stage, that "the proposed facilities are adequate for the population densities and type of development proposed *and... (Emphasis added,)... will not create a <u>drainage</u> or <u>pollution</u> problem outside the planned area."*

3 **<u>APPEAL</u> the failure and inadequacy of mentioning, or even addressing *<u>POLLUTION PROBLEMS</u>* in any of the submittals from Tidewater, Ironmark, or within the Findings of the City of Waldport Planning Commissioners, as documented per February 29, 2019.**

Prior to considering the Decision of the Planning Commissioners, request for the City Counselors to please review ALL written and ***RECORDED*** verbal testimony made on January 28, 2019 to the City of Waldport Planning Commissioners. In addition to incompletely addressing the Waldport Municipal Code, Tidewater failed to mention or address *<u>POLLUTION PROBLEMS</u>* inside or outside the Planned Development as required in the Remand made by LUBA, therefore please consider these appeal points regarding the City of Waldport Planning Commissioners Findings as per February 29, 2019 documentation.

PLEASE NOTE: In the heading statement:

FINDINGS OF FACT ON STORM DRAINAGE
(No Findings of POLLUTION)

The submittals from the developer, Tidewater, LLC., fails to determine, address, or include written documentation that the planned development submittals are adequately addressing *<u>pollution</u>* and will not create a *<u>pollution</u>* problem outside the planned area in ANY of their submittals.

Also, the City of Waldport has not determined, made mention, or addressed *<u>pollution</u>* in the Final Decision Notice, January 29, 2019, therefore, the findings of the City of Waldport Planning Commissioners is non-compliant and fails to meet Municipal Code: WDC 16.600.030 (C)(4), and requirement stated in the LUBA Final Decision and Order.

WDC 16.600.030 (C)(4):

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

LUBA Remand Conclusion: August 20, 2018 Page 18, Lines 7-11.

Our conclusion is different with respect to storm water drainage and <u>POLLUTION</u>. WDC 16.600.030 (C)(4) requires the City of Waldport to determine, prior to preliminary plan stage, that "the proposed facilities are adequate for the population densities and type of development proposed and will not create a drainage or <u>POLLUTION</u> problem outside the planned area. (Emphasis added.)

Definition of *POLLUTION:* The contamination of air, water, or soil by substances that are harmful to living organisms. *POLLUTION* can result from human activity, or in some instances, from spilling or disposal of industrial or human man made waste. Light and noise are considered pollutants.

As far as pollutants, there is no mention of how Tidewater intends to protect inside and outside areas of potential hazards, or protection from contaminated soils resulting from the previous logging activity.

The probability of a storm event prior, during, or after preliminary plan approval affecting this 7.75 acres is HIGH. The probability of sediment pollution into Alsea Bay is HIGH. The submittal does not address this.

This Appeal requests the City of Waldport to require the developer to document how pollutants and hazardous materials will be prohibited from getting into the storm water flow.

This Appeal requests the City of Waldport to require developer to confirm, by documentation, a Plan of Action of how the developer will proactively prohibit pollution from flow failure of combined sewage and storm water from impacting the established groundwater flows through the existing land mass and infrastructures, destroying valuable commercial and recreational fisheries in the Alsea Bay. This includes locations of easements for these utilities have been obtained, including, a emergency failure plan for pollutants combining with storm water since they are drawn on the application typical within the same drainage channel.

Please Note: Previous submittals by past Planned Developments have included verification that easements have been obtained Prior to Preliminary Plan Approval.
By Tidewater not obtaining or securing easements prior to preliminary plan approval would reflect an inconsistency in Planning Commissioners Decisions.

This Appeal requests the City of Waldport to require developer to submit a pollution plan including what bio retention filter specification will be used for stream bed erosion within the designated channeled storm water areas.

4 **APPEAL the submittals from Tidewater and Ironmark have provided adequate, sufficient evidence that the address *POLLUTION* in any place in their submittals made to the City in documents [Tidewater LLC:(December 17, 2018), Ironmark LLC:(October 30, 2018)]**

The City of Waldport states that the City Water and Sewer is available to the subject property, however:
PLEASE NOTE: There is no confirmation that the Tidewater has obtained easements through neighboring private property to obtain these utilities, to bring water and sewer to the currently inaccessible 7.75 acres. The Developer has shown on the preliminary drawings that the sewer will be discharged along the same path as their storm water drainage. There is no defined plan of how Tidewater will address failures to channeling both storm water and sewer POLLUTION from flowing into neighboring property and into the existing infrastructures from the established CLPUD and ODOT Right of Way.
This flow failure of polluting of combined sewage and storm water would impact the established land mass and infrastructures and end up in destroying valuable commercial and recreational fisheries in the Alsea Bay.

Regarding storm water and pollution flows from the Vista View Planned Development, there is no documentation of the affected square feet of existing soils that are currently displaying permeability, that, with development, will be permanently changed into a impervious surface from pavement of road, ditch, sidewalk, building foundation, garage, turnarounds, structure, & trails, thus increasing storm water flows. This additional flow requires both ODOT and DEQ permitting, which, without documentation that this has been initiated and secured negates the findings claim and is inadequate in meeting the LUBA direction. (See documentation of correspondence from ODOT dated January 23, 2019, from ODOT Development Review Coordinator, Duane James Liner, PE.)

With construction activity occurring, Tidewater has failed to address fuel and hazardous material storage and protection of those materials not to enter into designated storm water drainage. Tidewater failed to designate safe areas for storage of these hazardous materials such as gasoline or diesel fuel, oil, lubricants, fluids, all related to construction activity.

Previous unmonitored logging construction activity could expose contamination to the soils and water sources. Methyl Tertiary Butyl Ether (MTBF) is a common polluting additive in gasoline. The potential for this to pollute Alsea Bay from construction activity refueling without establishing a protection plan is high. Providing actual soil analysis should be required.

Tidewater has failed to address pollution impacts of noise, light, and traffic within and outside the development.
For example: Noise pollution from the increased traffic on Norwood Drive, on-site construction activity, light pollution from vehicle headlights shining into neighborhood residences with this increased traffic. This noise and light pollution has an effect on local wildlife and protected species as well.

Local Businesses Bistro 101 and Tech 34, the USDA Forest Service and neighboring residences will be affected by noise pollution and in the event of slope failure blocking State Highway 101, be economically affected.

There has been no traffic data collected showing the existing traffic patterns or alternative routing for traffic should there be a slope failure resulting in a slide across State Highway 101. This has a definite relationship to the storm water flow and pollution impact.

5 **<u>APPEAL</u> THE INADEQUACY OF THE BELOW SPECIFIC FINDING #3:**
3. Hollis Lundeen appealed the decision of the City Council to the Oregon Land Use Board of Appeals (LUBA). In its decision LUBA generally upheld the decision of the City but remanded the case back to the City on one issue, that being to further address the issue of storm drainage.

APPEAL the above 3.) FINDING : On the grounds that the remand addresses not just *one issue of storm drainage* but ALSO the issue of *<u>POLLUTION</u>*.

Request the City of Waldport require Tidewater to comply with the following recommendations, which will conform with the remand made by LUBA regarding POLLUTION CONTROL.

Regarding storm water and pollution impacts that have not been identified regarding flows initiating from the Planned Development into State Highway 101 and ODOT, request that the City of Waldport require Tidewater to establish a storm water plan with their responsibility redefined in how they plan to address and keep the existing infrastructure protected and or improved to facilitate for the additional water flows addressing potential flow and fill failures which will result from land being changed from a natural previous state to gradual graded paved surface. This plan shall include the percentage of impervious surface (PIMP) recorded measurements with calculations of the TIA (total impervious area) quantity, such as, square foot surface areas, and it's relation to the Planned Development. This calculation defines the impact from pervious to impervious resulting from the timber harvest, and construction activities and areas affected by land development requiring surface change due to asphalt pavement of roads, ditch, driveway, parking areas and turnarounds, concrete foundation, brick, stone or rooftop, in order to channel the increases in storm water flow resulting from this surface change from pervious to impervious areas.

In order to document there is no probability for future slope or sedimentation failure , which would result in pollution to the Proposed Development, and surrounding areas, request the City of Waldport require Tidewater to apply for a permit to to gather soil samples within the proposed designated road right of way locations from PUBLIC LAND, with results showing the stability or instability within the area of new road construction. This includes defining how storm water and pollutants from this proposed road construction will meet the remand requirements set forth by the State Land Board of Appeals.

Require Tidewater to submit a plan with quantity of the amount of square feet of road, ditch ,sidewalk building surfaces, that will cover existing natural ground surface that prior to construction was at a natural drainage state. There will be impacts to natural ground that has been disturbed a from a differing site condition of natural ground to man made impervious surfacing whether it be in a roadway, ditch, sidewalk. This will affect the estimated collected and direction of storm water quantities: IE: cubic feet per second (cfs) of storm water. Require Tidewater to establish a monitoring plan, to comply with the requirements of the remand.
Again, this additional storm water flow will impact ODOT's infrastructure and requires permitting.

Request City of Waldport require Tidewater to confirm by documentation, that easements for these utilities have been obtained, including, a emergency failure Plan of Action of how the developer will proactively prohibit pollution from flow failure of combined sewage and storm water from impacting the established groundwater flows through the existing land mass and infrastructures, destroying valuable commercial and recreational fisheries in the Alsea Bay.

Request City of Waldport require Tidewater to provide Flash Flood Protection and Emergency Access Plan for State Highway 101.

Request City of Waldport require Tidewater to define how hazardous materials be prohibited from getting into the storm water flow.

Request City of Waldport require Tidewater to provide a plan, including what bio retention filter specification will be used for stream bed erosion within the designated channeled storm water areas.

By the City requiring these actions PRIOR to Preliminary Plan approval, may, at a minimum, meet the remand and FINAL OPINION AND ORDER of the State land Use Board of Appeals.

This required action is compliant with past submittals and Preliminary Plan approvals from the Waldport Planning Commissioners. (See documentation on previously submitted Planned Developments.)

4 **APPEAL THE INADEQUACY OF THE BELOW SPECIFIC FINDING #6:**
6. After considering the testimony and submittals of the parties, the Planning Commission determined that storm water can be adequately managed without adverse impact on other properties and the current off-site system in place is adequate to handle the runoff.

The submittal states by visual inspection that there will be no properties affected, however, documented past storm water failure negates that claim. Example: Slope stability failure into existing structure, that being the USDA FS bunkhouse. With increased storm water flows, both CLPUD and ODOT infrastructure will be impacted.
NOTE: Private property landowner below 7.75 acres: Would be impacted with noise and light pollution, also drastically, and also future fill or slope failure similar to the USDA Forest Service bunkhouse.

While in the Tidewater ownership of the Tax Lot 120, after mature merchantable timber was harvested from the 7.75 acres, an on site slope failure occurred carrying soils, sedimentation, with logging debris, eroding down slope on what is questionably defined by Ironmark as *gentle gradient soils (?)*. This removal of overhead canopy, well established root culture with native ground cover, and mature timber has a definite effect on water quality, and increases to storm water flow.

This slope failure affected the neighboring Public Property owned by the USDA Forest Service, and flooded the newly constructed bunkhouse with this sedimentation and debris. The USDA Forest Service bunkhouse is located quite close to the property boundary between neighboring landowners. Since that event, Tidewater has not proactively addressed or discussed steps to prevent this event from reoccurring, or addressed it in their storm water and pollution remand response to the City of Waldport.

The submittals only address storm water for future development within the 7.75 acres. As directed by the LUBA remand, it does not in anyway identify how the developer plans to address storm water or pollution OUTSIDE the 7.75 acres, and specifically, the storm water and pollution that will take place resulting from removal of mature timber, compacting soils, and retaining/drainage structures that will be required, regarding road construction activities on the PUBLIC LAND within the City of Waldport Right of Way. This construction activity on the proposed 300 feet of new construction, is located at the dead end of Norwood Drive on what is stated to be PUBLIC LAND.

This proposed road construction is located just above State Highway 101 and Alsea Bay. Uneven side slopes measure 63-87%. The submittal has not addressed the severe environmental impact to the existing storm water infrastructure below to State Highway 101 of the State of Oregon's Department of Transportation, including traffic flow interruption and emergency response plans to those interruptions, should another storm water event occur, bringing additional soil sedimentation and erosion west of the proposed Planned Development bordering State Highway 101 and Alsea Bay.

There has been no contact of the Planned Development from the City of Waldport, or the Developer, Tidewater, LLC, with the USDA Forest Service or local businesses such as Bistro 101 , or Tech 34, LLC., which if there was slope stability failure there would be definite financial impact to their business. A typical example is what happened to Hwy 101 just south of the tunnel at Heceta Head Lighthouse. The Highway there was closed for months, affecting the economics if the entire Oregon Coast Community and businesses.

Tidewater has not addressed the relationship of house to house placement with storm water challenges such as what was discussed at the City Council meeting. [REFERENCE:City Council minutes for January 10, 2019]

There has been no documentation of soil samples taken in order to determine soil content, or slope stability, to which, current or increased storm water contributes to a potential slope failure. All data utilized in the Hydro CAD analysis is based from estimates, and theory hypothesis from data that is not reflective of the local soils.

NOTE: *Soil Description (D) states high run off potential* which with increased flow and gradient posed faster turbidity sediment discharge.

There is no estimate of the surface area that will be affected due to construction of roads, ditches, sidewalks and structures such as houses, garages, turnarounds, and all other construction activities related to creating a impervious surface, creating a faster cfs storm water flow into existing infrastructure outside the development.

With the Planned Development located just above State Highway 101, developer has not submitted Emergency Plans for traffic flow should a storm or construction event block north south State Highway 101 and their emergency plans for traffic control should this take place, prior, during, or after preliminary plan approval.

Request City of Waldport require Tidewater to provide Flash Flood Protection and Emergency Access Plan for State Highway 101.

Request City of Waldport require Tidewater to provide that measurement and designated location of that *gentle gradient (?).*

Request City of Waldport require Tidewater to obtain soil samples to prove that the analysis by hypothesis is adequate and an actual representation of the soils in the area.

Request City of Waldport require Ironmark to actually test on site soil samples, and to apply to the City of Waldport to sample areas to test from the PUBLIC LAND Right of Way to back up the theoretical Hydro CAD analysis.

Request City of Waldport require Tidewater to show by typical drawing of how collection of storm water will drain without impact to the development or neighboring outside areas such as State Highway 101, and neighboring private landowners.

Demonstrate how the Planning Commissioners were able to adequately interpret and make a decision from these submittals.

<u>APPEAL</u> THE INADEQUACY OF THE BELOW SPECIFIC FINDING #7:
7. The Engineer for the applicant has completed and submitted Storm Water Drainage and Downstream Analysis.

There is a existing conflict of interest, with the incompatibility of the personal and professional submittals made to the City of Waldport for consideration of approval of the Vista View Preliminary Plan. It is a clear example of exploitation, and ethical breach that cannot be justified, therefore prohibits acceptance of the submittals made by Brandt Thissell, of Ironmark, LLC., who is a direct relation to Terry Thissell, a member of Tidewater Development, LLC., the primary applicant of this Planned Development called Vista View. As per Department of Environmental Quality, requirements, this disqualifies Brandt Thissell as a legally authorized representative for Vista View Planned Development.

There has already been an event that occurred to validate this instability and fragility of the soils affected after the removal of timber which previously was holding the soil in place.
During the verbal testimony on February 28, 2019, the close proximity of State Highway 101 to the proposed Road Construction area was noted in the photos and plans referenced.

There are areas currently inside and outside the development that have compacted soils due to removal of overhead timber canopy. The soil surfaces have been sealed, eliminating natural ground water penetration from storm events. Photos were noted during verbal testimony.

Ironmark, representing the developer, states that it follows what the City requirement is but does not state exactly how they meet them.

Prior to Preliminary Plan Approval, request the City obtain a unbiased review of the submittals made by Iron mark to comply with the Municipal code and the LUBA Remand. Currently it does not adequately address the Code or Remand or reflect the continuity and requirement of past submittals to the Planning Commission by Planned Development Preliminary Plan approval requests.

8. **<u>APPEAL</u> THE INADEQUACY OF THE BELOW SPECIFIC FINDING #8:**
8. The analysis describes how storm water collected from the site via roof drains and catch basins in the street into existing storm drainage on the east and north sides of the property. From there the storm water will follow the same path as it historically has, down the vegetated channel out to the Alsea Bay. The drainage way on the applicant's property will remain vegetated.

There is no diagram or typical of how current and future storm water flow will be channeled as described. The submittal states *that storm water will follow the same path is has historically has down into the Alsea Bay.* It does not address the estimated TOTAL quantity or increased volume of storm water and sediment pollution resulting from current or future development and construction activity, which requires permits.

9. **<u>APPEAL</u> THE INADEQUACY OF THE BELOW SPECIFIC FINDING #9:**
9. The engineer did a Hydro CAD analysis which shows the existing 30 inch in diameter culvert running beneath Highway 101 is sufficiently sized to accommodate the storm water runoff of the past developed condition of the entire contributing storm water basis during a 10 year 24 hour main event which is 5 inches of rainfall in 24 hours per the NOAA isoplurial maps. In the event the culvert became blocked, the storm water would flow north and be channeled by one of several ditch inlets and culverts beneath Highway 101 that drain into the bay.

Ironmark's Hydro CAD analysis fails to reflect any on site <u>existing</u> storm water or pollution protection currently.

There has not been any proactive stewardship on the acreage owned by Tidewater LLC., since the slope and sedimentation failure occurred on the 7.75 acres resulting from the previous timber logging and harvesting activities of mature merchantable timber by Tidewater Development, LLC.

In personal investigation of the traveled way and ditches along both sides of Hwy 101, the existing culverts are currently at capacity of age and ability to facilitate additional storm water now.
This is contrary to the claim made by Thissell in the submittals statement, that the ONE culvert with Hydro CAD analysis is sufficiently sized to accommodate ALL storm water run-off, and in the unlikely event that this ditch or culvert would be blocked that the storm water would flow northerly and be picked up by ditch inlets and culverts that drain into the Alsea Bay.
NOTE: There were photos presented to the Planning Commissioners showing this.

NOTE: Engineer addresses that a blockage could occur and that this would flow into the bay. This blockage would result in high turbidity POLLUTION, which would affect the fisheries in the bay. There is not any mention of what PREVENTATIVE measures are in place NOW in order for this POLLUTION to be prevented, therefore the submittal is inadequate since it did not address this.

IMMEDIATE observation of this submittal shows no confirmation of approved permitting as per State of Oregon Requirements. (ODOT & DEQ)

Ironmark Hydro CAD analysis addresses only ONE- (1) 30 inch concrete culvert.
It does not address how that culvert will handle additional flows and the consequences to State Highway 101 and Alsea Bay if it fails.
Tidewater has not submitted required ODOT or DEQ permit approvals.

The submittal directly states that *Inlet and outlet conditions of the analysis were not evaluated.(?)* WHY not?
In the basin map: *The contours and tax lot lines shown are based on GIS data and are APPROXIMATE. (?)*
In the soil map: *WARNING: Soil map may not be valid at this scale. (?)*
The photos submitted do not reflect the entire 7.75 acre steep contour.

This analysis is inadequate and cannot correctly determine that the culvert can handle the flow if the inlet and outlet conditions, basin and soil maps were were not evaluated and field verified.

Ironmark did not actually take soils samples to back up the Hydro CAD analysis.

The Hydro CAD analysis only addresses past water conditions it does not address future impacts of ground that is now pervious that will become impervious due to development construction, increases in CFS flow, and increased grade flows, resulting from a differing site condition.

Request City of Waldport require Tidewater to provide evidence and testing of local soil samples to prove that the analysis by hypothesis is adequate and an actual representation of the soils in the area.

10 **<u>APPEAL</u> THE INADEQUACY OF THE BELOW SPECIFIC FINDING #10:**
10. By a visual inspection of the property downstream, the engineer concluded there were no downstream structures or property risk of being impacted by storm water quality due to the proposed development. All existing structures sit well above the existing drainage channel.

There is a residence just south of the designated storm water channel, including neighboring businesses, Bistro 101, Tech 34, and a Federal USDA Forest Service Compound all downstream and below the Planned Development.
Central Lincoln Public Utility (CLPUD) and State Highway 101 Right of Way Infrastructure and the Alsea Bay . All these downstream facilities are at a high risk of becoming impacted by storm water and pollution from the Vista View PD.

11 **<u>APPEAL</u> THE INADEQUACY OF THE BELOW SPECIFIC FINDING #11:**
11. All storm water discharge outlet pipes will have, at a minimum, rip rap pads to prevent erosion and prevent sediment from washing downstream.

Finding #11, along with Tidewaters submittal does not specify what the minimum size rip rap pads will be utilized. Rip Rap specifications range in differences in materials and size.

The finding and submittals do not adequately show how the storm water outlet pipes will prohibit prevent erosion and prevent sediment from washing downstream.

Request the City of Waldport require Tidewater to submit a typical with proposed locations with the specification of rip rap rock basins, including type and size of rock along with quantity. Inlet and outlet, locations and specifications.

This request is reflective of the requirements from past Planned Development submittals made prior to Preliminary Plan approval.

<u>APPEAL</u> THE INADEQUACY OF THE BELOW SPECIFIC FINDING #12:
12. All site catch basins will have sumps, to help prevent sediment and debris from migrating downstream. The existing on-site drainage way will remain vegetated which will also help control sediment migration, erosion, and filter potential pollutants from discharged storm water. Much of the existing drainage on-site has a gentle gradient, which is favorable for settling out any sediment and particulates in the discharged storm water. The drainage downstream is also heavily vegetated.

The Engineer does not adequately show by typical how this sediment pollution will be addressed prior to preliminary plan approval.

After mature merchantable timber was harvested from the 7.75 acres, an on site slope failure occurred carrying soils, sedimentation, with logging debris, eroding down slope on what is questionably defined by Ironmark as gentle gradient soils. This removal of overhead canopy, well established root culture with native ground cover, and mature timber has a definite effect on water quality, and increases to storm water flow.

Ironmarks analysis states that the 7.75 acres are on gentle gradient soils. Mr. Thissell fails to address the measurement of what that actual gentle gradient calculates to, and how he measured it. (REFERENCE: Contour map in original application submittals to the City of Waldport.) This is inadequate theoretical measurement.

Since a on-site slope failure has previously occurred, there have been no submittals of soil samples taken and tested for compaction, stability and compatibility with the proposed building of 34 homes on what has previously demonstrated, failed "*gentle gradient soils*", per Thissell's submittal. With the proposal of 34 homes on 7.75 acres, there has not even mention of a simple Standard Penetration Test, (SPT) which measures resistance and friction in determining future foundation capacity of placing 34 homes on 7.75 acres. An alternative, more definitive soils test is a Cone Penetration Test, (CPT).

Finding #12, along with Tidewaters submittal does not specify what type of sump will be utilized.

The finding and submittals do not adequately show how the sump will prohibit prevent erosion and prevent sediment from washing downstream.

Request the City of Waldport require Tidewater to submit a sump pump typical drawing specifying measurement dimensions and volume capability, prior to Preliminary Plan approval.

This request is reflective of the requirements from past Planned Development submittals made prior to Preliminary Plan approval.

<u>APPEAL</u> THE INADEQUACY OF THE BELOW SPECIFIC FINDING #13:
13. As shown on the preliminary plan, Vista View has set aside the area shown as a "storm water facility area" as an area reserved for meeting any additional storm water quality and or retention requirements or criteria. The area would allow an appropriately engineered storm water detention area to control off site drainage.

As per LUBA's Final Opinion and Order, *"the city's findings fail to explain whether the storm drain facilities are adequate to serve the proposed development and that the proposed development will not create a drainage of pollution problem outside the planned area."*

The existing conditional state of the 7.75 acres has not been addressed in this submittal. It does not discuss or address the condition of the existing structure that is across the drainage identified below the designated holding pond.[PHOTO] The condition of that existing structure has not been addressed. Storm water at a higher volume of cubic feet per second, will result in the development and differing site condition resulting from construction activities changing surfaces from pervious to impervious, thus increases gravity flow along documented steep side slopes.
(FYI: CFS is utilized for measurement of water in motion.)
[PHOTO]

The submittal does not address the drawing designation of the sewer line running downstream directly along side of the development's largest stream channel into State Highway 101. There is no mention of how this channel will be protected from contaminating the surrounding landowners and State Hwy 101 with the potential sewer pollution ending up in Alsea Bay which is both a commercial and recreational fishing and crabbing resource area.

NOTE PHOTO: There is no apparent function to this relief cmp of the shot gun culvert. Note directional uninterrupted flow into "the storm water facility area."
There is no mention of type or location of filters to address sedimentation into and out of "the storm water facility area."

The designated "storm water facility area" is located just above a large fill covering a stream channel carrying a significant year round flow.
Submittal does not address action plan should this "storm water facility area" become filled with sedimentation therefore overflowing into the proposed road fill over the existing channel, which would flood the ODOT infrastructures below and eventually end up polluting Alsea Bay. Again there is no specification or mention of types and locations of filters in order to explain whether the storm drain facilities are adequate to serve the proposed development and that the proposed development will not create a drainage of pollution problem outside the planned area.

There is no mention of the condition of the structure this stream is being channeled through and no plan of action for pond or fill failure resulting from a breach of that holding pond storm water. Submittal does not address additional flow or in the event of a failure which will affect the road and fill and culvert below, and possibly not only prohibit entry into the development but below the development as well, flowing into Hwy 101 and Alsea Bay.

Note that the finding states it will control off site drainage.
It does not adequately show how this off site drainage will be controlled, currently now, during, or after the Preliminary Plan submittal.

IMMEDIATE observation of this submittal shows no confirmation of approved permitting as per State of Oregon Requirements. (ODOT & DEQ)

14. **<u>APPEAL</u> THE INADEQUACY OF THE BELOW SPECIFIC FINDING #14:**
14. The applicant's engineer advised that the calculations were made using very conservative estimations meaning that he erred on the side of caution in making the calculations.

Regarding storm water and pollution impacts that have not been identified regarding flows initiating from the Planned Development into State Highway 101 and ODOT, request that the City of Waldport require Tidewater to establish a storm water plan with their responsibility redefined in how they plan to address and keep the existing infrastructure protected and or improved [WDC: (16.60.030(C)(3)] to facilitate for the additional water flows addressing potential flow and fill failures which will result from land being changed from a natural pervious state to gradual graded paved surface. This plan shall include the percentage of impervious surface (PIMP) recorded measurements with calculations of the TIA (total impervious area) quantity, such as, square foot surface areas, and it's relation to the Planned Development. This calculation defines the impact from pervious to impervious resulting from the timber harvest, and construction activities and areas affected by land development requiring surface change due to asphalt pavement of roads, ditch, driveway, parking areas and turnarounds, concrete foundation, brick, stone or rooftop, in order to channel the increases in storm water flow resulting from this surface change from pervious to impervious areas.

Impervious soils collect solar heat, thus increasing water temperature, warm runoff from impervious surfaces, reduces dissolved oxygen in stream and channel water, making life difficult for aquatic ecosystems.
NOTE: This storm water is flowing into the Alsea Bay Fisheries Ecosystem.

Request the developer to provide that measurement and designated location of that gentle gradient.

Note that the calculations are theoretical and there is no evidence of local on site samplings to confirm that the calculations are reflective of actual and adequate means of providing an real example of explanation of whether the storm drain facilities are adequate to serve the proposed development and that the proposed development will not create a drainage of pollution problem outside the planned area.

Request the City of Waldport require Tidewater to provide actual examples, such as on and off site soil samples, which would reveal the calculations are within the remand direction.

15 **<u>APPEAL</u> THE INADEQUACY OF THE BELOW SPECIFIC FINDING #15:**
15. ODOT stated that the proposed development should not increase drainage to ODOT highway right of way. If it will propose to increase drainage to the ODOT highway right-of-way, the applicant should contact ODOT to seek ODOT's review and approval.

Observation of this finding shows no confirmation of approved permitting as per State of Oregon Requirements. (ODOT & DEQ)

The submitted storm water and pollution plan submittals made by both Tidewater and Ironmark are inadequate since there will be additional increases in drainage from the development.

The letter dated January 23, 2019, addressed to the City of Waldport, from ODOT Development Review Coordinator, Duane James Liner, PE., states that the applicant should contact ODOT to seek ODOT's review and approval if there is an increase drainage to ODOT highway right of way.

Request the City of Waldport require Tidewater to provide documentation that they have contacted ODOT, that permitting is in place and compliant for the additional storm water and pollution impact, prior to Preliminary Plan approval.

Regarding the CONCLUSION of Page 3 of 3 in the FINDINGS: (1-29-19)

16 **<u>APPEAL</u> THE INADEQUACY OF THE BELOW SPECIFIC FINDING (Revised) 11. :**
(Revised) 11. Phasing and Time Limits of a Preliminary PD Approval.

Appeal this revision as it has not passed City Council Approval, therefore it is inapplicable.
Please consider this as a request to appeal the DRAFT AMENDMENT of New Phase Limits, and request to return to the existing code, as per Waldport Development Code Sections 16.60 and 16.60.030 D., as this clearly shows preference to the time limits of Vista View.

During verbal testimony on January 28, 2019, the Planning Commissioners were asked where this change was generated from, there was no clear reference as to why this change of phase limits was being considered and that the Planning Commissioners did not take into account the previous testimony as to leave the limits as is.

17 **<u>APPEAL</u> THE INADEQUACY OF THE BELOW SPECIFIC FINDING New (13).**
New (13)

On Wednesday, January, 23, 2019, ODOT issued a statement to both Kerry Kemp, Waldport City Manager, and Larry Lewis, Waldport City Planner that a permit is required for any additional storm water drainage to the existing infrastructures maintained by Oregon Department of Transportation.

Without a doubt, there will be impacts from this Planned Development to the existing infrastructure maintained by Oregon Department of Transportation. Permits are required for storm water and pollutants entering into and impacting existing ODOT infrastructures. This includes meeting Department of Environmental Quality (DEQ) Specifications as well, which were not addressed or mentioned in any of the submittals from Tidewater, Ironmark, or within the City of Waldport's Findings.

PRIOR to Preliminary Plan approval for Case File #1-PD-PC-17, Vista View Planned Development Applicant Tidewater Development LLC., is required to coordinate with the City of Waldport and Oregon Department of Transportation (ODOT) and Department of Environmental Quality (DEQ) to establish, with documented approval, the correct permitted procedures, including documentation and permitting as per National Pollutant Discharge Elimination System [NPDES].
By law, request the City of Waldport to develop a Land Use Compatibility Statement (LUCS) to determine whether the submittals from the developers future, Department of Environmental Quality (DEQ) permit is consistent with local government comprehensive plans and land use regulations. This request for permitting prior to preliminary plan approval, is directly related to LUBA Case. No. 2018-030, Final Opinion and Order Remand Conclusion from the State Land Use Board of Appeals (LUBA) states as per WDC 16.60.030 (C)(4), requiring the City of Waldport to determine, prior to preliminary plan stage, that "the proposed facilities are adequate for the population densities and type of development proposed *and...(Emphasis added,)... will not create a drainage or pollution problem outside the planned area.*

Along with future submittals, prior to Preliminary Plan approval, request clarification from the City of Waldport regarding LUBA Final Opinion and Order regarding WDC 16.60.040 that public participation is permitted during final plan review.

<u>IN CLOSING THIS APPEAL TESTIMONY:</u>

In the Final Opinion and Order of the State Land Use Board of Appeals, states that the City's findings failed to explain whether the storm drainage facilities are adequate to serve the proposed development and that the proposed development will not create a drainage or pollution problem outside the planned area. This written appeal testimony of the findings and conclusions presented today, to the City of Waldport, do not address the adequacy and magnitude of the described storm drainage and pollution problems and their adverse impacts, which, if not addressed, will result in catastrophic consequences that will permanently affect the Waldport Community and those who are visiting to witness and experience the beauty of the Oregon Coast.

It is of clear definition by the past verbal and written testimony, based on those who presented by attending the public hearing on January 28,2019, and those not able to attend, choosing to address the Waldport Planning Commissioners, that the Preliminary Plan as presented, does not meet the Final Opinion and Order described in in the documentation requirements regarding LUBA Case. No. 2018-030.,
and it does not address how the developer's plan is adequate to serve the proposed development and will not create a drainage or pollution problem outside the planned area. [WDC 16.60.030 (C)(4)]

Therefore, the Preliminary Plan should not be supported or approved by the Waldport Community Public Representatives: Planning Commissioners or City Counselors, if they take the time by referencing the recording of the public hearing testimony describing and defining the numerous adverse impacts to the area, until the terms of the LUBA Final Order and Opinion are thoroughly and completely addressed.

Hollis Lundeen
February 13, 2019

From: LINER Duane J [mailto:Duane.J.LINER@odot.state.or.us]

Sent: Wednesday, January 23, 2019 2:11 PM

To: Larry Lewis <larry.lewis@waldport.org>

Cc: Kerry Kemp <kerry.kemp@waldport.org>; MOREY Brian T <Brian.T.MOREY@odot.state.or.us>

Subject: Proposed Development 34 homes Tax Lot 120 south of SW Norwood Dr ODOT US101 Hwy 009 MP 156.6

Larry,

ODOT received a call, which in message form was passed on to me, regarding a proposed development in Waldport. Described as proposing to build 34 homes on 7 acres on the corner of US 101 and Starr Street above the highway. Concerns with the development included: it is on a steep slope, storm water, sea wall is just below,... etc.

I do not recall having received notice of this proposed development. The caller indicated there is a public meeting January 28th at 2 PM at City Hall.

I phoned the caller back to verify the location – I was told it is Tax Lot 120. Which appears to be at the end of SW Norwood Dr not Starr Street. The caller indicated the case was remanded and a remand response was something to the effect of: Existing infrastructure along Highway 101 would be adequate to handle any additional storm water.

Although I have not seen or reviewed the specific proposal – and I told the caller I likely did not see it as it did not directly abut ODOT highway right of way, please accept the following general comment:

- The proposed development should not increase drainage to ODOT highway right of way. If it will propose to increase drainage to the ODOT highway right of way, the applicant should contact ODOT to seek ODOT's review and approval.

PS – You may already have this email address, but in case you do not here it is – this is a general email address to email notices to ODOT:

ODOTR2PLANMGR@ODOT.STATE.OR.US

You can still hard copy mail them but electronic submittal is preferred and appreciated – as that logs them in and distributes them to staff (especially good if I am not around)

PSS – feel free to include or cc' me when you email notices in that way I will see it at the same time as it goes to our Region 2 distribution email address.

Thank you

- duane

Duane James Liner, P.E.

Development Review Coordinator

ODOT - Region 2

541-757-4140

16A

13 FEBRUARY 2019

PLEASE E-MAIL ME ☺

DROIDERIC @ GMAIL.COM

WHEN THIS PACKAGE IS OPENED.

THANK-YOU!

HOLLIS LONDEEN

Rec'vd @ 1/28/19 PC Mtg

PLEASE NOTE:

Due to publishing conflicts the following written testimony may not reflect the original format of this document.

Please accept it as is, recognizing an original printing is available at the request of the reader.

Thank you in advance for your understanding.

Hollis Lundeen

BEFORE THE PLANNING COMMISSION OF THE CITY OF WALDPORT
STATE OF OREGON
January 28, 2019

In the matter of a request for DENIAL of) PRELIMINARY PLAN as per LUBA REMAND) Case. No. 2018-030 of Vista View Planned) Development: Applicant Tidewater) Development LLC .)	Case File #1-PD-PC-17 City of Waldport, Oregon REQUESTED CONSIDERATIONS OF FACTS AND CONCLUSIONS

Prior to approval of this Planned Development Preliminary Plan Application, called Vista View, concerned citizens request Waldport City Planning Commissioners carefully consider the below facts and conclusions, along with the awareness of the impact and results of such an unprecedented application.

On August 20, 2018, the findings and conclusions of the State Board of Appeals remanded the City of Waldport in the following areas presented by Petitioner, representing the concerned citizen community, Hollis Anne Lundeen, of the Appeal of the Vista View Preliminary Plan Decision made by the City of Waldport on March 8, 2018. This Final Opinion and Order Remand Response from the State Land Use Board of Appeals addresses both the City of Waldport's Planning Commission and City Council's decision's regarding the Preliminary Plan approval of the Vista View Planned Development.
LUBA Case No. 2018-030, Case File #1-PD-PC-17: City of Waldport, Oregon

The Final Opinion and Order Remand Conclusion from the State Land Use Board of Appeals (LUBA) states as per WDC 16.60.030 (C)(4), requires the City of Waldport to determine, prior to preliminary plan stage, that "the proposed facilities are adequate for the population densities and type of development proposed *and...(Emphasis added,)... will not create a drainage or pollution problem outside the planned area.*

/

The State Land Use Board of Appeals states that the City's findings fail to explain whether the storm drainage facilities are adequate to serve the proposed development and that the proposed development will not create a drainage or pollution problem outside the planned area. The findings of the City of Waldport, did not address storm drainage or any pollution problems, in any of their documentation at all, and, also did not address how the developer's plan is adequate to serve the proposed development without creating a drainage or pollution problem off site. [WDC 16.60.030 (C)(4)]

To all those present at this Public Hearing, I would like to explain and share my Professional Forest and Civil Engineering Field and Management experience, which qualifies me to question and object in part to the submittals from the developer, Tidewater LLC:(December 17, 2018), Ironmark LLC:(October 30, 2018) and the findings and conclusions of the City of Waldport:(March 8, 2018).

Please know, this is not a solo testimony. I am also representing many here attending, and many who are not able to attend this hearing, representing them inabsentia. I will ask for a show of hands at the end of this oral/written presentation with those comfortable with showing support of this testimony.

I am a college graduate with degrees in both Forest and Civil Engineering, along with professionally serving as the local Zone Engineer with the USDA Forest Service, here at Waldport, and the Facilities Operations Engineer with National Oceanic Atmospheric Administration at Hatfield Marine Science Center located in Newport, 18 miles north of Waldport.
All combined, including on-going current Engineering Consulting, my experience spreads over 44 years of Engineering Expertise, with particular specialty in Environmental Issues, Field Assessments, and Soil Mechanics.

As an on the ground, site, field going, Transportation Road Engineer, I am very familiar and experienced in design and on-the-ground road construction specifications required to access and address the local soil and land mass instabilities here on the Oregon Coast. This includes administration of building and construction of facilities within fragile liquefaction zones. As an Consulting Engineer, I have served on numerous Inter-Disciplinary Teams regarding Environmental Impact Statements and Assessments, (EIS & EA) including Value Engineering Analysis. (VEA)
I have initiated and completed field compliance inspections by verifying documented mapping of those soils and designating areas with potential for slope failure by field inspection and investigation of fragile local land masses and addressed construction specifications necessary for construction of public buildings and facilities within liquefaction zones.

In submittals on behalf of the developer to the City of Waldport on October 30, 2018, and December 17, 2018, the additional information presented to the City by those representing the Developer's response, again fails to address the remand response from the State Land Use Board of Appeals in the following areas:

Initially, I want to point out a existing conflict of interest, with the incompatibility of the personal and professional submittals made to the City of Waldport for consideration of approval of the Vista View Preliminary Plan. It is a clear example of exploitation, and ethical breach that cannot be justified, therefore prohibits acceptance of the submittals made by Brandt Thissell, of Ironmark, LLC., who is a direct relation to Terry Thissell, a member of Tidewater Development, LLC., the primary applicant of this Planned Development called Vista View. As per Department of Environmental Quality, requirements, this disqualifies Brandt Thissell as a legally authorized representative for Vista View Planned Development.

IMMEDIATE observation of this submittal shows no confirmation of approved permitting as per State of Oregon Requirements. (ODOT & DEQ) Ironmark's hydroCAD analysis fails to reflect any on site existing storm water or pollution protection currently. There has not been any proactive stewardship on the acreage owned by Tidewater LLC., since the slope and sedimentation failure occurred on the 7.75 acres resulting from the previous timber logging and harvesting activities of mature merchantable timber by Tidewater Development, LLC.

After mature merchantable timber was harvested from the 7.75 acres, an on site slope failure occurred carrying soils, sedimentation, with logging debris, eroding down slope on what is questionably defined by Ironmark as gentle gradient soils. This removal of overhead canopy, well established root culture with native ground cover, and mature timber has a definite effect on water quality, and increases to storm water flow.

I professionally question Ironmarks analysis that the 7.75 acres are on gentle gradient soils. Mr. Thissell fails to address the measurement of what that actual gentle gradient calculates to, and how he measured it. (REFERENCE: Contour map in original application submittals to the City of Waldport.)

Since that slope failure occurred, there have been no submittals of soil samples taken and tested for compaction, stability and compatibility with the proposed building of 34 homes on what has previously demonstrated, failed *"gentle gradient soils"*, per Thissell's submittal. With the proposal of 34 homes on 7.75 acres, there has not even mention of a simple Standard Penetration Test, (SPT) which measures resistance and friction in determining future foundation capacity of placing 34 homes on 7.75 acres. An alternative, more definitive soils test is a Cone Penetration Test, (CPT). As far as pollutants, there is no mention of how the developer intends to protect inside and outside areas of potential hazards, or possibly contaminated soils resulting from the previous logging activity.

This slope failure affected the neighboring Public Property owned by the USDA Forest Service, and flooded the newly constructed bunkhouse with this sedimentation and debris. The USDA Forest Service bunkhouse is located quite close to the property boundary between neighboring landowners. Since that event, Tidewater has not proactively addressed or discussed steps to prevent this event from reoccurring, or addressed it in their storm water, pollution plan remand response to the City of Waldport.

The proposal only addresses storm water for future development within the 7.75 acres. As directed by the LUBA remand, it does not in anyway identify how the developer plans to address storm water or pollution OUTSIDE the 7.75 acres, and specifically, the storm water and pollution that will take place resulting from removal of mature timber, compacting soils, and retaining/drainage structures that will be required, regarding road construction activities on the PUBLIC LAND within the City of Waldport Right of Way. This construction activity on the proposed 300 feet of new construction, is located at the dead end of Norwood Drive on what is stated to be PUBLIC LAND.
(PLEASE NOTE: This ownership has never been confirmed by the City of Waldport.)
This proposed road construction is located just above State Highway 101 and Alsea Bay. Uneven side slopes measure 63-87%. The submittal has not addressed the severe environmental impact to the existing storm water infrastructure of the State of Oregon's Department of Transportation, including traffic flow interruption and emergency response plans to those interruptions, should another storm water event occur, bringing additional soil sedimentation and erosion west of the proposed Planned Development bordering State Highway 101 and Alsea Bay.

With construction activity occurring, developer has failed to address fuel and hazardous material storage and protection of those materials not to enter into designated storm water drainage. Developer failed to designate safe areas for storage of these hazardous materials such as gasoline or diesel fuel, oil, lubricants, fluids, all related to construction activity.

Previous unmonitored logging construction activity could expose contamination to the soils and water sources. Methyl Tertiary Butyl Ether (MTBF) is a common polluting additive in gasoline. The potential for this to pollute Alsea Bay from construction activity refueling without establishing a protection plan is high. Providing actual soil analysis should be required.

Developer has failed to address pollution impacts of noise, light, and traffic within and outside the development.
For example: Noise pollution from the increased traffic on Norwood Drive, on-site construction activity, light pollution from vehicle headlights shining into neighborhood residences with this increased traffic. This noise and light pollution has an effect on local wildlife and protected species as well.

There has been no traffic data collected showing the existing traffic patterns or alternative routing for traffic should there be a slope failure resulting in a slide across State Highway 101. This has a definite relationship to the stormwater flow and pollution impact.

In my personal investigation of the traveled way and ditches along both sides of Hwy 101, the existing culverts are currently at capacity of age and ability to facilitate additional storm water now.
This is contrary to the claim made by Thissell in the submittals statement, that the *ONE culvert with hydroCAD analysis is sufficiently sized to accommodate storm water run-off, and in the unlikely event that this ditch or culvert would be blocked that the storm water would flow northerly and be picked up by ditch inlets and culverts that drain into the Alsea Bay.*
PLEASE NOTE: Photo Documentation.

In conversation with Oregon Department of Transportation, Duane James Line, ODOT Development Review Coordinator, Duane kindly shared that he had not been contacted and was not aware of this Preliminary Plan or the Planned Development of Vista View at all.
He had not been contacted or advised of this activity by the City of Waldport, Tidewater, or Ironmark.

The submittals by Brandt Thissell , Ironmark proposes (without contacting ODOT,) *to discharge the storm water collected from site via roof drains and catch basins in the street, into the existing drainage on the east and north sides of the property.*
PLEASE NOTE: On the vicinity map submitted by the developer, contours reveal that there is no east drainage to the 7.75 acres. The drainage is west and north. Thissell states that the storm water will follow the same path that it historically has, down the vegetated channel and out to the Alsea Bay. This direction for storm water to travel is WEST not east of the Vista View 7.75 acre property and will impact other bordering property owners along with the CLPUD and ODOT Rights of Way.

It is a questionable assumed statement from Brandt Thissell, that the local State Highway 101 infrastructure that he inspected, would be able to handle any additional storm water and or pollution placed in the drainage flowing into the channel and the MANY drainage infrastructures maintained by ODOT along Highway 101. Polluted water resulting from storm events or a hazardous waste from construction activity will have an a negative effect on fish, animals, plants and the community.

Thissell Hydro CAD analysis addresses only ONE- (1) 30 inch concrete culvert.
He does not address how that culvert will handle additional flows and the consequences to State Highway 101 and Alsea Bay if it fails.
He has not submitted required ODOT or DEQ permit approvals.
[SEE PHOTOS].

On Wednesday, January, 23, 2019, ODOT issued a statement to both Kerry Kemp, Waldport City Manager, and Larry Lewis, Waldport City Planner that a permit is required for any additional storm water drainage to the existing infrastructures maintained by Oregon Department of Transportation. Without a doubt, there will be impacts from this Planned Development to the existing infrastructure maintained by Oregon Department of Transportation. Permits are required for storm water and pollutants

entering into and impacting existing ODOT infrastructures.

Regarding storm water and pollution flows from the Planned Development, there is no documentation of the affected square feet of existing soils that are currently displaying permeability, that, with development, will be permanently changed into a impervious surface from pavement of road, ditch, sidewalk, building foundation, garage, turnarounds, structure, & trails.

There is no diagram or typical of how storm water will be channeled as described. The submittal states *that storm water will follow the same path is has historically has down into the Alsea Bay.* It does not address the estimated TOTAL quantity or increased volume of storm water and sediment pollution resulting from current or future development and construction activity.

There is no estimate of the surface area that will be affected due to construction of roads, ditches, sidewalks and structures such as houses, garages, turnarounds, and all other construction activities related to creating a impervious surface.

With the Planned Development located just above State Highway 101, developer has not submitted Emergency Plans for traffic flow should a storm or construction event block north south State Highway 101 and their emergency plans for traffic control should this take place, prior, during or after preliminary plan approval.

The probability of a storm event prior, during or after preliminary plan approval affecting this 7.75 acres is HIGH. The probability of sediment pollution into Alsea Bay is HIGH. The submittal does not address this.

There has already been an event that occurred to validate this instability and fragility of the soils affected after the removal of timber which previously was holding the soil in place.

NOTE PHOTOS: Please note the close proximity of State Highway 101 to the proposed Road Construction area.

There are areas currently inside and outside the development that have compacted soils due to removal of overhead timber canopy. The soil surfaces have been sealed, eliminating natural ground water penetration from storm events. NOTE PHOTOS.

There has been no contact of the Planned Development from the City of Waldport, or the Developer, Tidewater, LLC, with the USDA Forest Service or local businesses such as Bistro 101 , or Tech 34, LLC., which if there was slope stability failure there would be definite financial impact to their business. A typical example is what happened to Hwy 101 just south of the tunnel at Heceta Head Lighthouse. The Highway there was closed for months, affecting the economics if the entire Oregon Coast Community and businesses.

There has been no documentation of soil samples taken in order to determine soil content, or slope stability, to which, current or increased storm water contributes to a potential slope failure. All data utilized in the HydroCAD analysis is based from estimates, and theory hypothesis from data that is not reflective of the local soils.

The submittal directly states that *Inlet and outlet conditions of the analysis were not evaluated.(?)* WHY not?
In the basin map: *The contours and tax lot lines shown are based on GIS data and are APPROXIMATE. (?)*
In the soil map: *WARNING: Soil map may not be valid at this scale. (?)*
The photos submitted do not reflect the entire 7.75 acre steep contour.

This analysis cannot correcly determine that the culvert can handle the flow if the inlet and outlet conditions, basin and soil maps were were not evaluated and field verified.

NOTE: *Soil Description (D) states high run off potential* which with increased flow and gradient posed faster turbidity sediment discharge.

The conditional state of the 7.7.5 acres has not been addressed in this submittal, it does not discuss or address the condition of the existing structure that is across the drainage identified below the designated holding pond.[PHOTO] The condition of that existing structure has not been addressed. Storm water at a higher volume of cubic feet per second, will result in the development and differing site condition resulting from construction activities changing surfaces from pervious to impervious, thus increases gravity flow along documented steep side slopes.
(FYI: CFS is utilized for measurement of water in motion.)
[PHOTO]

Developer has not addressed the relationship of house to house placement with storm water challenges such as what was discussed at the City Council meeting. [REFERENCE:City Council minutes for January 10, 2019]

Ironmark, representing the developer, states that it follows what the City requirement is but does not state exactly how they meet them.

The submittal does not address the drawing designation of the sewer line running downstream directly along side of the development's largest stream channel into State Highway 101. There is no mention of how this channel will be protected from contaminating the surrounding landowners and State Hwy 101 with the potential sewer pollution ending up in Alsea Bay which is both a commercial and recreational fishing and crabbing resource area.

NOTE PHOTO: There is no apparent function to this relief cmp of the shot gun culvert. Note directional uninterrupted flow into *"the storm water facility area."*

The HydroCAD analysis only addresses past water conditions it does not address future impacts of ground that is now pervious that will become impervious due to development construction, increases in CFS flow, and increased grade flows, resulting from a differing site condition.

Impervious soils collect solar heat, thus increasing water temperature, warm runoff from impervious surfaces, reduces dissolved oxygen in stream and channel water, making life difficult for aquatic ecosystems.
NOTE: This storm water is flowing into the Alsea Bay Fisheries Ecosystem.

The designated "storm water facility area" is located just above a large fill covering a stream channel carrying a significant year round flow.
Submittal does not address action plan should this "storm water facility area" become filled with sedimentation therefore overflowing into the proposed road fill over the existing channel, which would flood the ODOT infrastructures below and eventually end up polluting Alsea Bay.

There is no mention of the condition of the structure this stream is being channeled through and no plan of action for pond or fill failure resulting from a breach of that holding pond storm water. Submittal does not address additional flow or in the event of a failure which will affect the road and fill and culvert below, and possibly not only prohibit entry into the development but below the development as well, flowing into Hwy 101 and Alsea Bay.

The submittals states by visual inspection that there will be no properties affected, however, documented past storm water failure negates that claim.(Example: Slope stability failure into existing structure, that being the USDA FS bunkhouse. With increased storm water flows, both CLPUD and ODOT infrastructure will be impacted.
NOTE; Private property landowner below 7.75 acres: Would be impacted with noise and light pollution, also drastically, if there was fill or slope failure similar to the USDA Forest Service bunkhouse.

Local Businesses Bistro 101 and Tech 34 will be affected by noise pollution and in the event of slope failure blocking State Highway 101, be economically affected.

The City of Waldport states that the City Water and Sewer is available to the subject property, however:
PLEASE NOTE: There is no confirmation that the developer has obtained easements through neighboring private property to obtain these utilities, to bring water and sewer to the currently inaccessible 7.75 acres. The Developer has shown on the preliminary drawings that the sewer will be discharged along the same path as their storm water drainage. There is no defined plan of how the developer will address failures to channeling both storm water and sewer POLLUTION from flowing into neighboring property and into the established infrastructures from the established CLPUD and ODOT Right of Way.
This flow failure of polluting of combined sewage and storm water would impact the established land mass and infrastructures and end up in destroying valuable commercial and recreational fisheries in the Alsea Bay.

AS PER THE STATE LAND USE BOARD OF APPEALS FINAL OPINION AND ORDER:

PRIOR TO PRELIMINARY PLANNED DEVELOPMENT APPROVAL: REQUIREMENT REQUESTS FOR CONDITIONS FOR THE CITY OF WALDPORT TO DETERMINE WHETHER THE PROPOSED FACILITIES ARE ADEQUATE FOR THE POPULATION DENSITIES AND TYPE OF DEVELOPMENT PROPOSED AND (EMPHASIS ADDED,) ... WILL NOT CREATE A DRAINAGE OR POLUTION PROBLEM OUTSIDE THE PLANNED AREA.

PRIOR to Preliminary Plan approval for Case File #1-PD-PC-17, Vista View Planned Development Applicant Tidewater Development LLC., is required to coordinate with the City of Waldport and Oregon Department of Transportation (ODOT) and Department of Environmental Quality (DEQ) to establish, with documented approval, the correct permitted procedures, including documentation and permitting as per National Pollutant Discharge Elimination System [NPDES].

By law, request the City of Waldport to develop a Land Use Compatibility Statement (LUCS) to determine whether the submittals from the developers future, Department of Environmental Quality (DEQ) permit is consistent with local government comprehensive plans and land use regulations.
This request for permitting prior to preliminary plan approval, is directly related to LUBA Case. No. 2018-030, Final Opinion and Order Remand Conclusion from the State Land Use Board of Appeals (LUBA) states as per WDC 16.60.030 (C)(4), requiring the City of Waldport to determine, prior to preliminary plan stage, that "the proposed facilities are adequate for the population densities and type of development proposed *and...*
(Emphasis added,)... will not create a drainage or pollution problem outside the planned area.

Regarding storm water and pollution impacts that have not been identified regarding flows initiating from the Planned Development into State Highway 101 and ODOT, request that the City of Waldport require the developer to establish a storm water plan with their responsibility redefined in how they plan to address and keep the existing infrastructure protected and or improved to facilitate for the additional water flows addressing potential flow and fill failures which will result from land being changed from a natural pervious state to gradual graded paved surface. This plan shall include the percentage of impervious surface (PIMP) recorded measurements with calculations of the TIA (total impervious area) quantity, such as, square foot surface areas, and it's relation to the Planned Development. This calculation defines the impact from pervious to impervious resulting from the timber harvest, and construction activities and areas affected by land development requiring surface change due to asphalt pavement of roads, ditch, driveway, parking areas and turnarounds, concrete foundation, brick, stone or rooftop, in order to channel the increases in storm water flow resulting from this surface change from pervious to impervious areas.

In order to document there is no probability for future slope or sedimentation failure , which would result in pollution to the Proposed Development, and surrounding areas, the City of Waldport requires the developer to apply for a permit to to gather soil samples within the proposed designated road right of way locations from PUBLIC LAND, with results showing the stability or instability within the area of new road construction. This includes defining how storm water and pollutants from this proposed road construction will meet the remand requirements set forth by the State Land Board of Appeals.

Require developer to submit a typical with proposed locations with specification of rip rap rock basins, including type and size of rock along with quantity. Inlet and outlet, locations and specifications.

Require sump pump typical with drawings.

Require developer to show by typical drawing of how collection of storm water will drain without impact to the development or neighboring outside areas such as State Highway 101, and neighboring private landowners.

Require the developer to submit a plan with quantity of the amount of square feet of road, ditch ,sidewalk building surfaces, that will cover existing natural ground surface that prior to construction was at a natural drainage state. There will be impacts to natural ground that has been disturbed a from a differing site condition of natural ground to man made impervious surfacing whether it be in a roadway, ditch, sidewalk. This will affect the estimated collected and direction of storm water quantities: IE: cubic feet per second (cfs) of storm water. Establish a monitoring plan.

Request City of Waldport require developer to confirm by documentation, that easements for these utilities have been obtained, including, a emergency failure Plan of Action of how the developer will proactively prohibit pollution from flow failure of combined sewage and storm water from impacting the established groundwater flows through the existing land mass and infrastructures, destroying valuable commercial and recreational fisheries in the Alsea Bay.

Request City of Waldport to document what the City Requirements are and require the developer to demonstrate and confirm compliance to those requirements.

Flash Flood Protection and Emergency Access Plan for State Highway 101.

Require developer to define how hazardous materials be prohibited from getting into the storm water flow.

Request developer to provide a plan, including what bio retention filter specification will be used for stream bed erosion within the designated channeled storm water areas.

Request the developer to provide that measurement and designated location of that gentle gradient.

Require soil samples to prove that the analysis by hypothesis is adequate and an actual representation of the soils in the area.

Demonstrate how the Planning Commissioners are able to interpret and make a decision of these submittals, especially when the engineer did not actually take soils samples to back up his hydroCAD analysis.

Along with future submittals, prior to Preliminary Plan approval, request clarification from the City of Waldport regarding LUBA Final Opinion and Order regarding WDC 16.60.040 that public participation is permitted during final plan review.

PLEASE NOTE:
There is a defined Conflict of Interest as the submittals were not from a unbiased engineer.
This is a conflict of interest as the registered engineer is a relative of the developer.
This submittal does not reflect the professional precedence of presenting a non biased review.
Therefore, the submittals shall be considered non applicable due to this relationship.

IN CLOSING THIS TESTIMONY:

The State Land Use Board of Appeals states that the City's findings fail to explain whether the storm drainage facilities are adequate to serve the proposed development and that the proposed development will not create a drainage or pollution problem outside the planned area. The findings presented today, to the City of Waldport, do not address the adequacy and magnitude of the described storm drainage and pollution problems and

their adverse impacts, which, if not addressed, will result in catastrophic consequences that will permanently affect the Waldport Community and those who are visiting to witness and experience the beauty of the Oregon Coast.

It is of clear definition by the verbal and written testimony, based on those who presented by attending and those not able to be here today, choosing to address the Waldport Planning Commissioners, that the Preliminary Plan as presented, does not meet the Final Opinion and Order described in in the documentation requirements regarding LUBA Case. No. 2018-030., and did not address how the developer's plan is adequate to serve the proposed development and will not create a drainage or pollution problem outside the planned area. [WDC 16.60.030 (C)(4)]

Therefore, the Preliminary Plan should not be supported or approved by the Waldport Community Public Representatives: Planning Commissioners, referencing today's testimony describing and defining the numerous adverse impacts to the area, until the terms of the LUBA Final Order and Opinion are thoroughly and completely addressed.

Hollis Lundeen

January 18, 2019

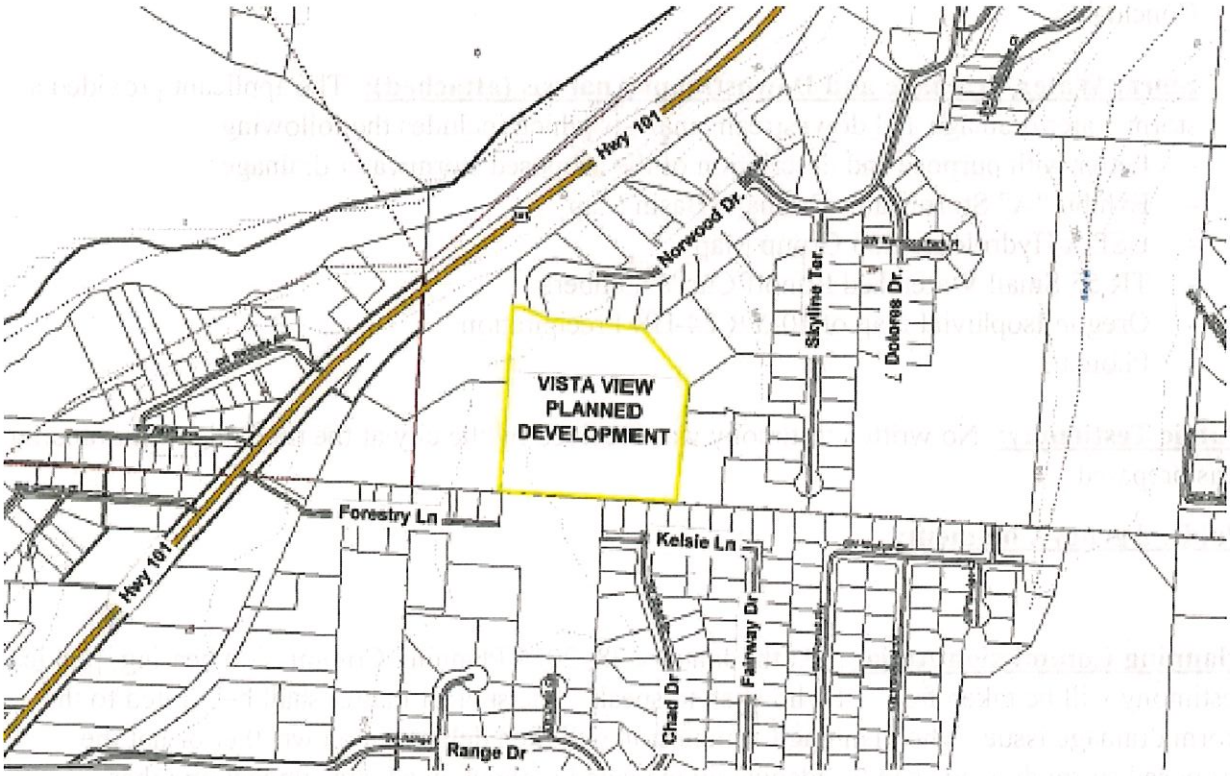
To: Waldport Planning Commission

From: Larry Lewis, City Planner

Re: Remand Hearing for Case File #1-PD-pc-17 Vista View Planned Development

The applicant, Tidewater Development LLC, is requesting approval of a Planned Development (Vista View) for 34 single family homes/lots on 7.75 acres. The City's Preliminary Plan approval was appealed to the Oregon Land Use Board of Appeals (LUBA). In its decision LUBA generally upheld the decision of the City but remanded the case back to the City on one issue, that being to further address the issue of storm drainage.

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.



Summary of LUBA Final Order and Opinion: A summary of LUBA's conclusion regarding storm water drainage and pollution is provided below. The complete conclusion is available for review in the attached LUBA Final Opinion and Order, pages 18-19.

Waldport Development Code (WDC) requires the city to determine during the preliminary plan stage that "the proposed 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.*" LUBA agreed with the petitioner that the city's findings failed to explain whether the storm drainage facilities are adequate to serve the proposed development and that the proposed

Development pursuant to the terms of the City Council on xxxxxxxxxx with the 14 additional Findings of Fact prepared by the applicant.

Staff will amend the Findings, Conclusions, and Final Order to include the 14 additional Findings and the added condition of approval.

Enclosures:
- Applicant Findings of Fact on Storm Drainage
- Vista View Preliminary Plan – Stormwater Drainage and Downstream Analysis with attachments, Ironmark LLC Surveying & Engineering

BEFORE THE PLANNING COMISSION
OF
WALDPORT, OREGON

Request for Planning Development **Case File #1-PD-PC-17**
Applicant: Tidewater Development LLC **Agent: Dennis L. Bartoldus, Attorney**

FINDINGS OF FACT ON STORM DRAINAGE

1. This case previously was heard by the Waldport Planning Commission. The Planning Commission approved the application with conditions on December 18, 2017.

2. The decision of the Planning Commission was appealed to the Waldport City Council. By Hollis Lundeen. The City Council held a hearing on the appeal on February 22, 2018.

The City Council Essentially upheld the decision of the Planning Commission, slightly modifying one of the conditions to provide the easement trail would be constructed as part of Phase 1 of the project. The Final Order of Findings and Conclusions was issued on March 8, 2018.

3. Hollis Lundeen appealed the decision of the City Council to the Oregon Land Use Board of Appeals (LUBA). In its decision LUBA generally upheld the decision of the City but remanded the case back to the City on one issue, that being to further address the issue of storm drainage.

4. The Waldport Planning Commission held a hearing on the remanded issue of storm drainage on _____. The hearing was duly noticed as required by the ordinance. All interested parties were given the opportunity to provide written testimony or to testify in person.

5. Those testifying were:

6. After considering the testimony and submittals of the parties, the Planning Commission determines that storm water can be adequately managed without an adverse impact on other properties and the current off site system in place by the City is adequate to handle the runoff.

7. The engineer for the applicant has completed and submitted a Storm water Drainage and Downstream Analysis.

8. The analysis describes how storm water collected from the site via roof drains and catch basins in the street into the existing storm drainage on the east and north sides of the property. From there the storm water will follow the same path as it historically has, down the vegetated

channel and out to Alsea Bay. The drainage way on the applicants property will remain vegetated.

9. The engineer did a Hydro CAD analysis which shows the existing 30 inch in diameter culvert running beneath Highway 101 is sufficiently sized to accommodate the storm water run-off of the past developed condition of the entire contributing stormwtaer basis during a 10 year 24 hour rain event which is 5 inches of rainfall in 24 hours per the NOAA isoplurvial maps. In the event the culvert ever became blocked, the storm water would flow north and be channeled by one of several other ditch inlets and culverts beneath Highway 101 that drain to the bay.

10. By a visual inspection of the property downstream the engineer concluded there were no downstream structures or property at risk of being impacted by storm water quality due to the proposed development. All existing structures sit well above the existing drainage channel.

11. All storm water discharge outlet pipes will have, at a minimu, rip rap rock pads to prevent erosion and prevent sediment from washing downstream.

12. All site catch basins will have sumps, to help prevent sediment and debris from migrating downstream. The existing on site drainage way will remain vegetated which will also help control sediment migration, erosion and filter potential pollutants from discharged storm water. Much of the existing drainage on-site has a gentle gradient, which is favorable for settling out any sediment and particulates in the discharged storm water. The drainage way downstream is also heavily vegetated.

13. As shown on the preliminary plan, Vista View has set aside the area shown as a "storm water facility area" as an area reserved for meeting any additional storm water quality requirements or criteria.

14. The applicants engineer advised that the calculations were made using very conservative estimations meaning that he erred on the side of caution in making the calculation.

CONCLUSION

1. Based upon the testimony presented, the Planning Commission concludes that storm drainage will cause no adverse impacts to the area and reapproves the VISTA VIEW Planned Development pursuant to the terms of the City Council on _____ with these additional findings incorporated to support the decision.

Dated this ____ day of _____, 2019.

_____

Planning Commission Chair

IRONMARK
SURVEYING & ENGINEERING

IRONMARK LLC
P.O. BOX 38
SAINT PAUL, OR 97137
PH: (503)-765-8755

October 30, 2018

Larry Lewis
Waldport City Planner
P.O. Box 1120
Waldport, OR 97394

RE: Vista View Preliminary Plan – Stormwater Drainage and Downstream Analysis

Mr. Lewis,

The purpose of this letter is to provide additional information regarding stormwater drainage of the Vista View Planned Development (Vista View). The subject property is approximately 7.75 acres of gently sloping, vacant land with an existing drainage channel on the east and north side of the property. The existing channel continues westerly and is heavily vegetated down to where it is captured by an existing ditch inlet on the east side of Highway 101 and flows beneath Highway 101 through a 30-inch inside diameter concrete pipe culvert, and then discharges into the Alsea Bay. See the attached Exhibit "A" Stormwater Basin Map, and photos of the existing drainage course for reference.

The Vista View development proposes to discharge the stormwater collected from the site via roof drains and catch basins in the street, into the existing drainage on the east and north sides of the property. From there the stormwater will follow the same path as it historically has, down the vegetated channel and out to the Alsea Bay. The attached HydroCAD analysis shows that the existing 30-inch concrete culvert beneath Highway 101 is sufficiently sized to accommodate the stormwater run-off of the post-developed condition of the entire contributing stormwater basin during a 10-year 24-hr rain event (5-inches of rainfall in 24 hours per NOAA isopluvial map, also attached). In the unlikely event that this ditch inlet or culvert were to become blocked from a lack of maintenance, the stormwater would flow northerly in the existing ditch along Highway 101 and be picked up by one of several other ditch inlets and culverts beneath Highway 101 that also drain to the Alsea Bay. I have visually inspected the downstream stormwater flow path and there are no downstream structures or property at risk of being impacted by stormwater quantity due to the proposed development, the only nearby structures sit well above the existing drainage channel.

Stormwater quality goals may be achieved for the discharged stormwater from Vista View as required by the City of Waldport Public works department. At a minimum, all stormwater discharge outlet pipes will have rip-rap rock pads to prevent erosion and prevent sediment from washing downstream. All site catch basins will have sumps, to help prevent sediment and debris from migrating downstream. The existing on-site, drainage way will remain vegetated which also helps to control sediment migration,

erosion, and filter any potential pollutants from discharged stormwater. Much of the existing drainage on-site has a gentle gradient, which is favorable for settling out any sediment and particulates in the discharged storm water. The drainage way downstream of the subject property is also heavily vegetated. As shown on the preliminary plan, Vista View has set aside the area shown as a "storm water facility area" as an area reserved for meeting any additional stormwater quality requirements or criteria, if required by the City of Waldport Public Works, during the final design review process.

Please feel free to contact me with any questions regarding this stormwater drainage and downstream analysis, or about the Vista View development with regard to meeting the desired stormwater management goals of the City of Waldport.

Sincerely,

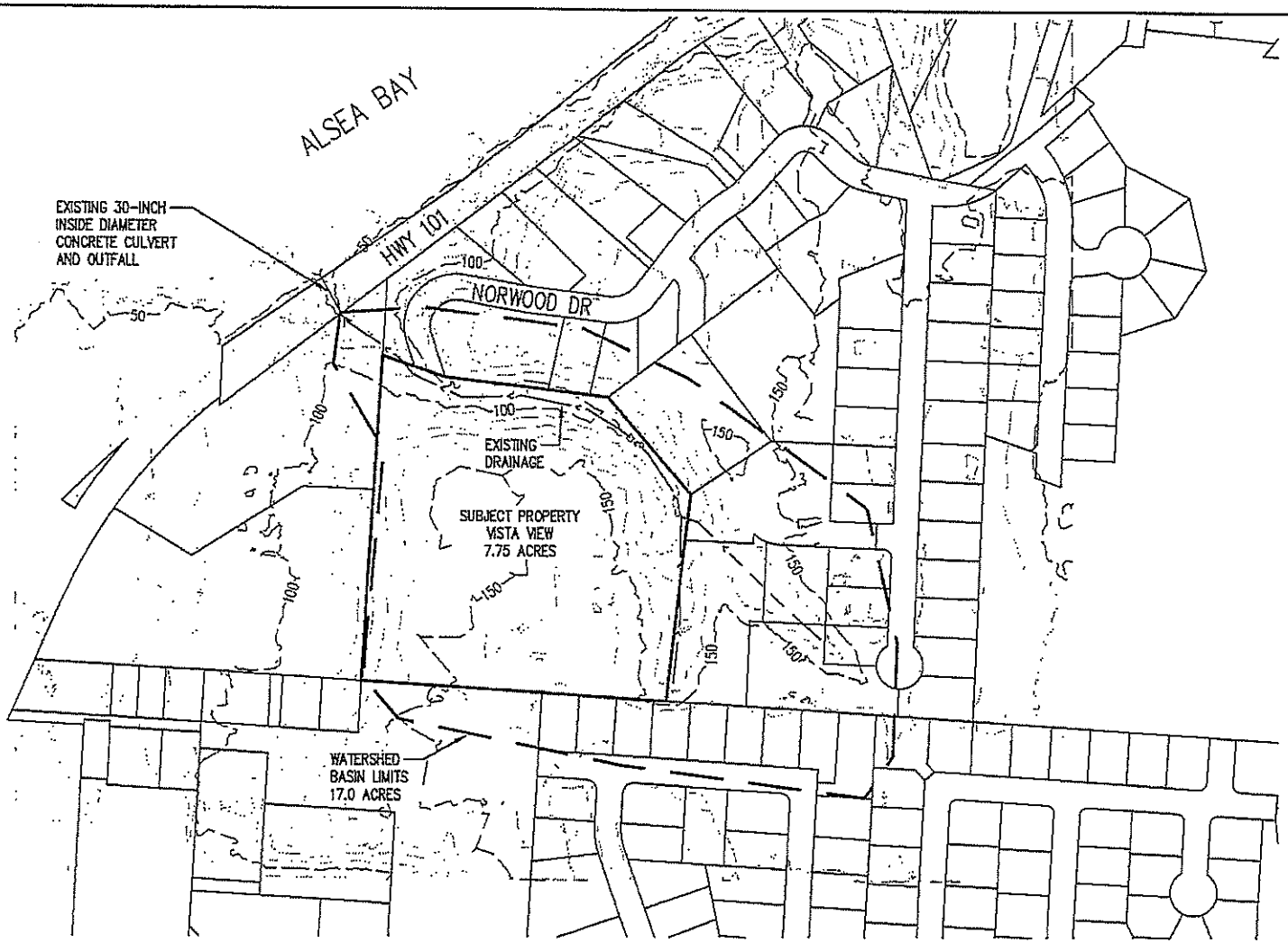
Brandt Thissell, PE

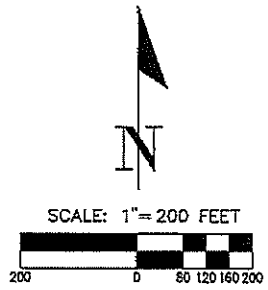
Attachments
-Exhibit "A" Stormwater Drainage Basin Map
-HydroCAD Analysis Report 10-yr 24-Hr Storm
-USDA Hydrologic Soil Group Map
-TR 55 Small Watershed Runoff Curve numbers
-Oregon Isopluvial map of 10-YR 24-HR Precipitation
-Photos

10-30-18

REGISTERED PROFESSIONAL ENGINEER
84843PE
OREGON
MAY 22, 2015
BRANDT D. THISSELL

RENEWAL DATE: 6-30-20





NOTES:

1. THE PURPOSE OF THIS EXHIBIT MAP IS TO SHOW THE LIMITS OF THE DRAINAGE BASIN, EXISTING DRAINAGE CHANNELS, CULVERT AND OUTFALL.

2. THE CONTOURS AND TAXLOT LINES SHOWN ARE BASED ON GIS DATA AND ARE APPROXIMATE.

DATE: 10/21/2018

STORMWATER DRAINAGE BASIN MAP	EXHIBIT
VISTA VIEW PLANNED DEVELOPMENT	A
IRONMARK, LLC P.O. BOX 38 SAINT PAUL, OR 97137 P:503.765.8755 ironmarkllc.com	IRONMARK SURVEYING & ENGINEERING
	DRWN: BDT CHKD: JOB: 1029

Larry Lewis

From: LINER Duane J <Duane.J.LINER@odot.state.or.us>
Sent: Wednesday, January 23, 2019 2:11 PM
To: Larry Lewis
Cc: Kerry Kemp; MOREY Brian T
Subject: Proposed Development 34 homes Tax Lot 120 south of SW Norwood Dr ODOT US101 Hwy 009 MP 156.6

Larry,

ODOT received a call, which in message form was passed on to me, regarding a proposed development in Waldport. Described as proposing to build 34 homes on 7 acres on the corner of US 101 and Starr Street above the highway. Concerns with the development included: it is on a steep slope, storm water, sea wall is just below,... etc.

I do not recall having received notice of this proposed development. The caller indicated there is a public meeting January 28th at 2 PM at City Hall.

I phoned the caller back to verify the location – I was told it is Tax Lot 120. Which appears to be at the end of SW Norwood Dr not Starr Street. The caller indicated the case was remanded and a remand response was something to the effect of: Existing infrastructure along Highway 101 would be adequate to handle any additional storm water.

Although I have not seen or reviewed the specific proposal – and I told the caller I likely did not see it as it did not directly abut ODOT highway right of way, please accept the following general comment:

- The proposed development should not increase drainage to ODOT highway right of way. If it will propose to increase drainage to the ODOT highway right of way, the applicant should contact ODOT to seek ODOT's review and approval.

PS – You may already have this email address, but in case you do not here it is – this is a general email address to email notices to ODOT:
ODOTR2PLANMGR@ODOT.STATE.OR.US
You can still hard copy mail them but electronic submittal is preferred and appreciated – as that logs them in and distributes them to staff (especially good if I am not around)
PSS – feel free to include or cc' me when you email notices in that way I will see it at the same time as it goes to our Region 2 distribution email address.

Thank you
- duane

Duane James Liner, P.E.
Development Review Coordinator
ODOT - Region 2
541-757-4140

Total Control Panel Login

To: larry.lewis@waldport.org Remove this sender from my allow list

City of Waldport

P.O. Box 1120
Waldport, OR 97394
Phone: (541) 264-7417
Fax: (541) 264-7418
TTY: (800) 735-2900

January 7, 2019

NOTICE OF PUBLIC HEARING
WALDPORT PLANNING COMMISSION

APPLICANT: Tidewater Development LLC

REQUEST: The applicant is requesting approval of a Planned Development (Vista View) for 34 single family homes/lots on 7.75 acres. The City's Preliminary Plan approval was appealed to the Oregon Land Use Board of Appeals (LUBA). In its decision LUBA generally upheld the decision of the City but remanded the case back to the City on one issue, that being to further address the issue of storm drainage.

APPLICABLE CRITERIA: Waldport Municipal Code

16.12	Residential Zone R-1	16.72.020	Off-Street Parking and Off-Street Loading Requirements
16.60	Planned Development Zone P-D	16.96	Development Guidelines
		16.100	Land Division

LOCATION: The subject site 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.

REPORTS: Copies of the staff report for this case may be reviewed without charge or may be purchased at Waldport City Hall, 125 Alsea Highway seven (7) days prior to the hearing. Application materials may be reviewed or purchased at the above address twenty (20) days prior to the hearing. Any documents or evidence submitted by the applicant after twenty (20) days prior to the hearing constitutes grounds for a continuance of the hearing if any party requests such a continuance.

TESTIMONY: Testimony can be submitted in written or oral form. Written testimony should be submitted to the City by January 18, 2019 in order to be included in the staff report. Written testimony may be accepted through January 28, 2019, 2:00 pm. Written testimony may be mailed to the City of Waldport Planning Commission, P.O. Box 1120, Waldport, OR 97394 or emailed to larry.lewis@waldport.org. Oral testimony will be taken during the course of the public hearing. Failure to raise an issue in a hearing, in person or by letter, or failure to provide sufficient specificity to afford the Planning Commission an opportunity to respond to the issue precludes an appeal to the Land Use Board of Appeals on that issue.

CONTACT: Larry Lewis, City Planner at 541-264-7417 ext. 3 or larry.lewis@waldport.org.

DATE/PLACE OF HEARING: **Monday, January 28, 2019, at 2:00 p.m.** at the Waldport Council Meeting Room, 125 Alsea Highway. Any person having interest in this matter may attend and be heard, or they may submit testimony in writing to be entered into the record.

City of Waldport

P.O. Box 1120
Waldport, OR 97394
Phone: (541) 264-7417
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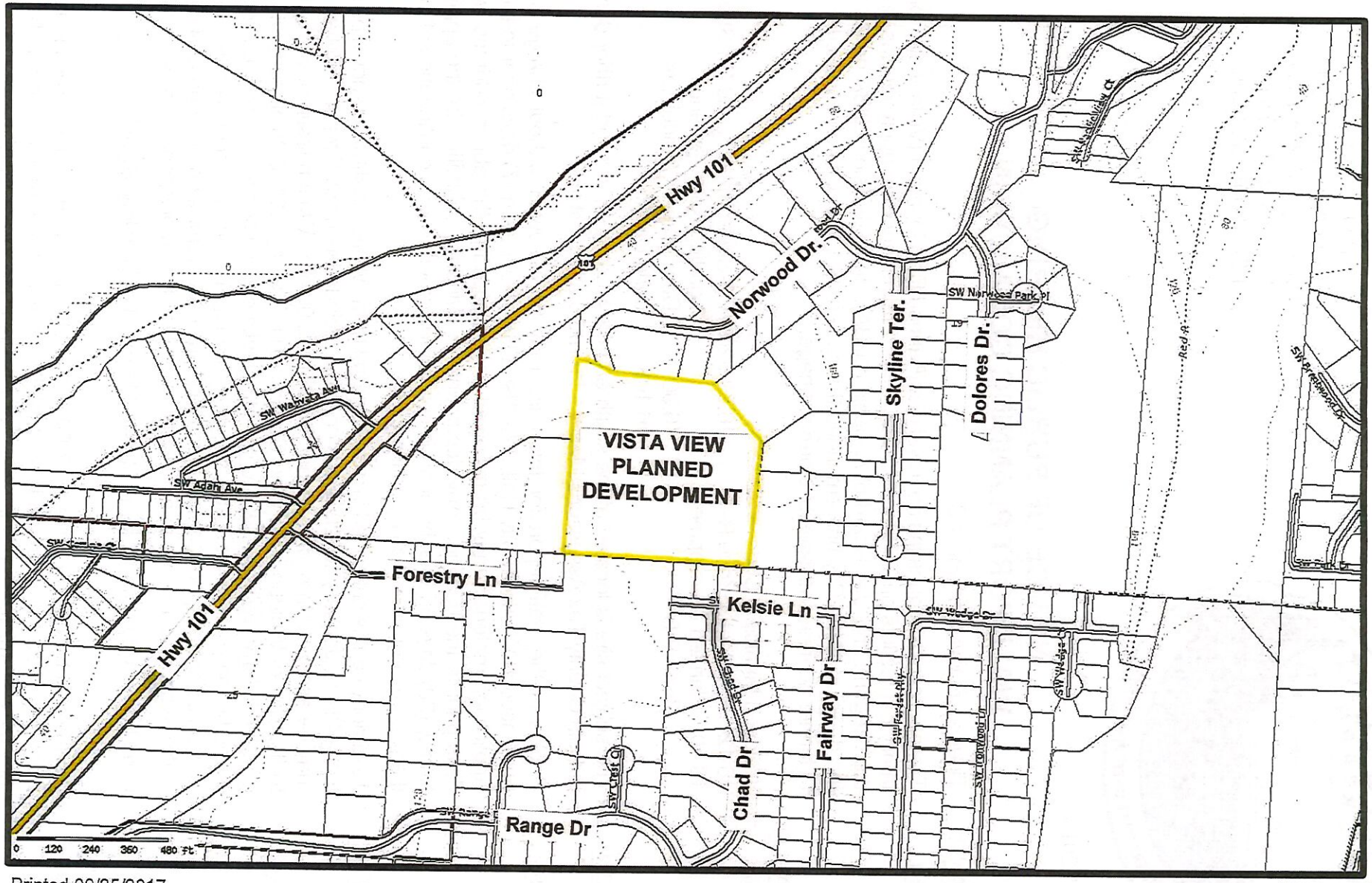

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BRADFORD RATTEREE LEIGH
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WALPDORT, OR 97394

RANSON ROBERT D &
RUSSELL PENNY M
1110 KENNETH DR
CAMBRIA, CA 93428

BLASKO PAUL FRANK TSTEE &
BLASKO LINDA BERNA TSTEE
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WALDPORT, OR 97394

SUMERAU MIKELL P &
SUMERAU ANDREA BONGEN
PO BOX 1893
WALDPORT, OR 97394

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TRYON GARY E &
TRYON PATRICIA N
PO BOX 111
TIDEWATER, OR 97390

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TAHOE CITY, CA 96145

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FRESNO, CA 93730

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MEREDITH LAURIE
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HAGEL CHARLES C &
HAGEL JOYCE M
17100 SW PARROTT MTN RD
SHERWOOD, OR 97140

UNITED STATES OF AMERICA
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SUPERVISORS OFFICE
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CORVALLIS, OR 97331

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CLAUSSEN ANN K &
CAROTHERS JAMES L ETAL
2820 SW SCENIC DR
ALBANY, OR 97321

SMITH STEPHANIE ANNETTE
33 THIRD AVE
WHITE RIVER JUNCTION, VT 05001

PERSON IN POSSESSION
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CLOUGH ALBERT G
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AUBORN JAMIE M
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MAMER MARY C
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BECK THERESA K TRUSTEE
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SALEM, OR 97306

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ADAMS AUDREY I
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KLEIN CHERRYL M TRUSTEE
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WALDPORT, OR 97394

BARRY KEITH B &
BARRY VERYL B
PO BOX 1353
WALDPORT, OR 97394

HILL BETTY JO &
NESS DENNIS L, ETAL
ATTN LISA PARGETER
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UNDERWOOD, WA 98651

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DEFAZIO JOSEPH R JR
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MASON PHYLLIS
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PHILOMATH, OR 97370

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PAUL & SHARI VIRTUE
465 PACIFIC VIEW DRIVE
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BERNICE BARNETT
BRUCE GAINER
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JOAN JOHNSON
PO BOX 1675
WALDPORT, OR 97394

BARBARA DAVIS
PO BOX 2170
WALDPORT, OR 97394

City of Waldport
PO Box 1120
Waldport OR 97394

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City of Waldport
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Waldport, OR 97394

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JIM & DEANNA SHEPHERD
PO BOX 394
WALDPORT, OR 97394

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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	**March 14, 2019**

SUMMARY OF ISSUE

The City Council will hold a public hearing to consider an appeal of a Planning Commission decision.

History of Vista View Planned Development Approvals and Appeals

A. On December 18, 2017, the Planning Commission granted preliminary plan approval of a 34-lot planned development (Vista View PD). The preliminary plan approval was appealed to the City Council by Hollis Lundeen.

B. On February 22, 2018, the City Council upheld the decision of the Planning Commission decision of approval with one modification to a condition of approval. The Findings and Conclusions were issued on March 8, 2018. The City Council's decision was appealed to the Oregon Land Use Board of Appeals (LUBA) by Hollis Lundeen.

C. On August 20, 2018, LUBA issued a Final Opinion and Order. In its decision LUBA generally upheld the decision of the City but remanded the case back to the City on one issue, that being to further address the issue of storm drainage.

D. On January 28, 2019, the Planning Commission held a hearing on the remanded issue of storm drainage. Based upon the testimony and information presented, the Planning Commission concluded that the development will not create a drainage or pollution problem outside the planned area and reapproved the Vista View Planned Development. The Planning Commission approval has now been appealed to the City Council by Hollis Lundeen.

Appellant Submittal

In this current appeal, the appellant identifies 17 Arguments related to the Planning Commission's approval of the storm drainage remand issue. The appellant submitted materials include the following items (attached to this memorandum):

- Appeal Form and 17-page written material,
- Photo Exhibits (60 pages)
- Exhibits (54 pages)

Applicant Submittal

The applicant submitted a 13-page narrative (attached) that includes an Introduction, Response to Appellant's Appeal, and Conclusion.

Attachments

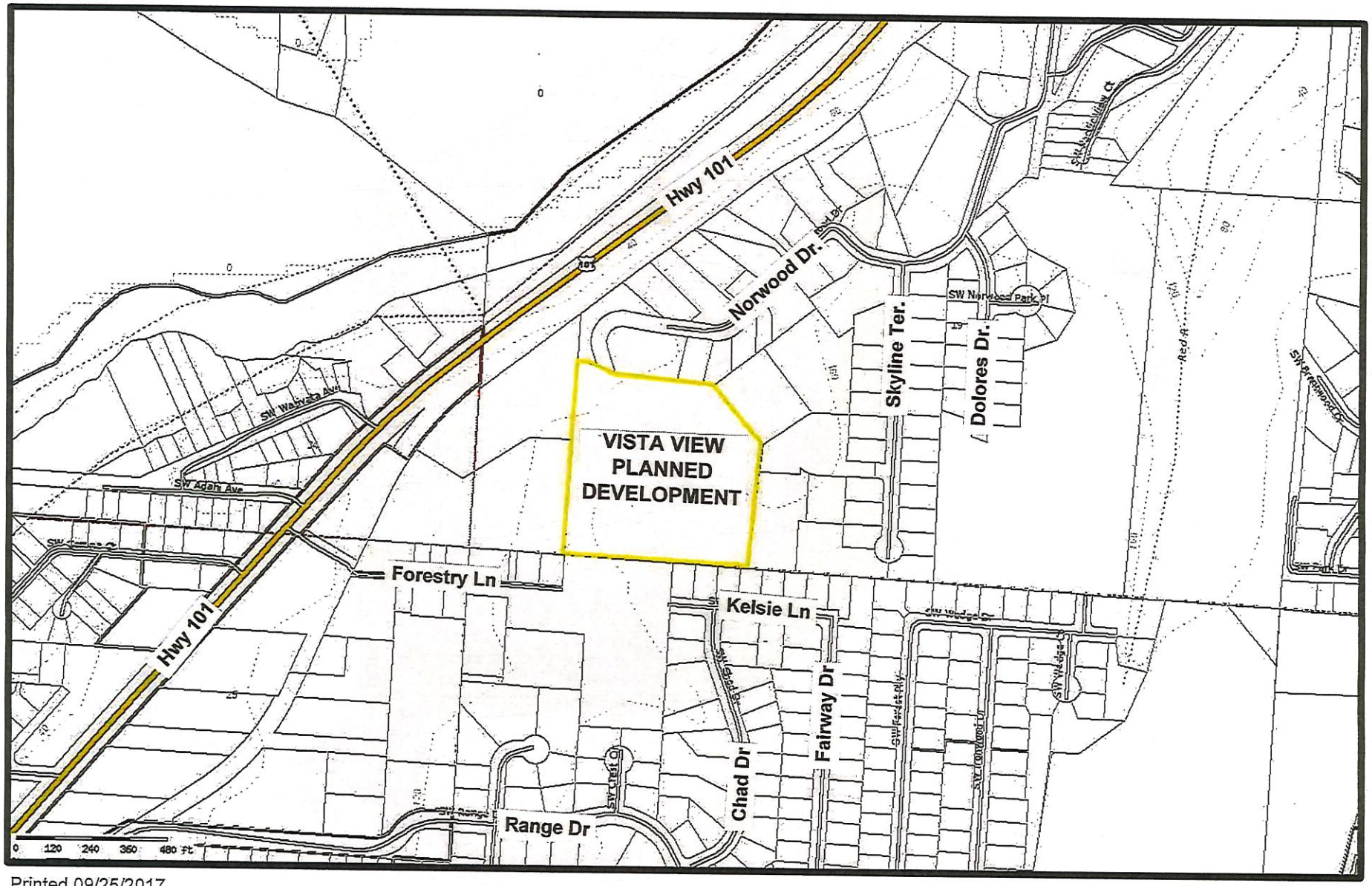
The following material is attached to this cover sheet:

- Vicinity Map
- Preliminary Vista View Planned Development Layout
- Appellant Submittal (Appeal form, 17-page narrative, 60 photos, 54-page exhibit)
- Applicant 13-page narrative
- Planning Commission Finding of Fact on Storm Drainage, January 29, 2019
- Vista View Preliminary Plan – Stormwater Drainage and Downstream Analysis
- Land Use Board of Appeals (LUBA) Final Opinion and Order
- City Council Findings and Conclusions, March 8, 2018

March 14, 2019 City Council Public Hearing
At the March 14, 2019 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.

STAFF RECOMMENDATION or ACTION REQUESTED:

The City Council may affirm, modify or reverse all or part of the action of the Planning Commission.



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Lincoln County OREGON

SW NORWOOD DRIVE

WALDPORT

OREGON

TAX MAP 13S 11 19CC

TAXLOT 100

PRELIMINARY PUD LAYOUT

DESIGNED BY:

DRAWN BY: BDT

CHECKED BY:

SCALE: AS NOTED

DATE: 12/7/19

PLANNING

REVISIONS

JOB NUMBER

SHEET

APPEAL OF PLANNING COMMISSION DECISION

On this date FEBRUARY 13, (WED), 2019, I the undersigned hereby appeal to the Waldport City Council the decision of the Waldport Planning Commission to: DN 1.29.19 to APPROVE THE PROPOSED PRELIMINARY PLANS FOR THE VISTA VIEW PLANNED DEVELOPMENT APPLICATION CASE FILE #1-PD PC 17 WITH LUBA FINAL OPINION + ORDER REMAND CASE NO 2018-030 DATED AUGUST 20, 2018 11:06 AM.

****

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 + SEE: ATTACHED DOCUMENTS, PHOTOS + EXHIBITS ATTACHED AND INCORPORATED BY REFERENCE.

Signature of Appellant APPEAL PG 1-16A PHOTOS PG P1-60 EXHIBITS PG E1-54

Name: HOLLIS LONDEEN
Address: P.O. BOX 1392 WALDPORT, OREGON 97394
Phone: 541.961.2825
EMAIL FOR ALL CORRESPONDENCE: DRDIDERIC@GMAIL.COM

****

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: _____, 2_____.

Appeal fee: $ 580.00 Date of Hearing: _____, 2_____.

#601564

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APPEAL to the WALDPORT CITY COUNCIL
Lincoln County, Oregon
Appellant: Hollis Lundeen
City Council is requested to include and reference testimony, oral and written and evidence shared at the previous Planning Commissioners Meetings regarding Vista View Development.
Case File #1-PD-PC-17 Tidewater Development LLC - Vista View Planned Development
State of Oregon Land Use Board of Appeals Case No. 2018-030
February 13, 2019

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

<u>APPEAL</u> the inadequacy of the submitted documents to the City of Waldport from the developer, Tidewater LLC:(December 17, 2018), Ironmark LLC:(October 30, 2018) and the findings and conclusions of the City of Waldport Planning Commissioners: (January 29, 2018). These three documents fail to adequately and fully address the remand below made by the State Land Use Board of Appeals (LUBA), FINAL OPINION AND ORDER August 20, 2018. 11:06 am

The Final Opinion and Order Remand Conclusion from the State Land Use Board of Appeals (LUBA) states as per WDC 16.60.030 (C)(4), requires the City of Waldport to determine, that "the proposed facilities are adequate for the population densities and type of development proposed and... (Emphasis added,)... will not create a <u>drainage</u> or <u>pollution</u> problem outside the planned area. [Order Page 11 Lines 13-19]

The State Land Use Board of Appeals Remand states that the City's findings fail to explain whether the storm drainage facilities are adequate to serve the proposed development and that the proposed development will not create a <u>drainage</u> or <u>pollution</u> problem outside the planned area.

Therefore, until the City of Waldport can adequately determine if the applicant for Vista View Planned Development can meet the Final Opinion and Order of the State Board of Appeals , the Tidewater LLC., application for Preliminary Plan approval is in error.

<u>APPEAL</u> the City of Waldport Findings (including, specifically APPEALING Items: 3, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, as well as APPEALING both conclusion statements.)

City of Waldport fails to show compliance to the LUBA remand in the following:
Findings: (3, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, including both conclusion statements) since the developers submitted documents are inadequate: " to show prior to preliminary plan stage, that "the proposed facilities are adequate for the population densities and type of development proposed *and... (Emphasis added,)... will not create a <u>drainage</u> or <u>pollution</u> problem outside the planned area."*

<u>APPEAL</u> the failure and inadequacy of mentioning, or even addressing *<u>POLLUTION PROBLEMS</u>* in any of the submittals from Tidewater, Ironmark, or within the Findings of the City of Waldport Planning Commissioners, as documented per February 29, 2019.

Prior to considering the Decision of the Planning Commissioners, request for the City Counselors to please review ALL written and ***RECORDED*** verbal testimony made on January 28, 2019 to the City of Waldport Planning Commissioners. In addition to incompletely addressing the Waldport Municipal Code, Tidewater failed to mention or address *<u>POLLUTION PROBLEMS</u>* inside or outside the Planned Development as required in the Remand made by LUBA, therefore please consider these appeal points regarding the City of Waldport Planning Commissioners Findings as per February 29, 2019 documentation.

PLEASE NOTE: In the heading statement:

FINDINGS OF FACT ON STORM DRAINAGE
(No Findings of POLLUTION)

The submittals from the developer, Tidewater, LLC., fails to determine, address, or include written documentation that the planned development submittals are adequately addressing *<u>pollution</u>* and will not create a *<u>pollution</u>* problem outside the planned area in ANY of their submittals.

Also, the City of Waldport has not determined, made mention, or addressed *<u>pollution</u>* in the Final Decision Notice, January 29, 2019, therefore, the findings of the City of Waldport Planning Commissioners is non-compliant and fails to meet Municipal Code: WDC 16.600.030 (C)(4), and requirement stated in the LUBA Final Decision and Order.

WDC 16.600.030 (C)(4):

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

LUBA Remand Conclusion: August 20, 2018 Page 18, Lines 7-11.

Our conclusion is different with respect to storm water drainage and <u>POLLUTION</u>. WDC 16.600.030 (C)(4) requires the City of Waldport to determine, prior to preliminary plan stage, that "the proposed facilities are adequate for the population densities and type of development proposed and will not create a drainage or <u>POLLUTION</u> problem outside the planned area. (Emphasis added.)

Definition of *POLLUTION:* The contamination of air, water, or soil by substances that are harmful to living organisms. *POLLUTION* can result from human activity, or in some instances, from spilling or disposal of industrial or human man made waste. Light and noise are considered pollutants.

As far as pollutants, there is no mention of how Tidewater intends to protect inside and outside areas of potential hazards, or protection from contaminated soils resulting from the previous logging activity.

The probability of a storm event prior, during, or after preliminary plan approval affecting this 7.75 acres is HIGH. The probability of sediment pollution into Alsea Bay is HIGH. The submittal does not address this.

This Appeal requests the City of Waldport to require the developer to document how pollutants and hazardous materials will be prohibited from getting into the storm water flow.

This Appeal requests the City of Waldport to require developer to confirm, by documentation, a Plan of Action of how the developer will proactively prohibit pollution from flow failure of combined sewage and storm water from impacting the established groundwater flows through the existing land mass and infrastructures, destroying valuable commercial and recreational fisheries in the Alsea Bay. This includes locations of easements for these utilities have been obtained, including, a emergency failure plan for pollutants combining with storm water since they are drawn on the application typical within the same drainage channel.

Please Note: Previous submittals by past Planned Developments have included verification that easements have been obtained Prior to Preliminary Plan Approval.
By Tidewater not obtaining or securing easements prior to preliminary plan approval would reflect an inconsistency in Planning Commissioners Decisions.

This Appeal requests the City of Waldport to require developer to submit a pollution plan including what bio retention filter specification will be used for stream bed erosion within the designated channeled storm water areas.

APPEAL the submittals from Tidewater and Ironmark have provided adequate, sufficient evidence that the address *POLLUTION* in any place in their submittals made to the City in documents [Tidewater LLC:(December 17, 2018), Ironmark LLC:(October 30, 2018)]

The City of Waldport states that the City Water and Sewer is available to the subject property, however:
PLEASE NOTE: There is no confirmation that the Tidewater has obtained easements through neighboring private property to obtain these utilities, to bring water and sewer to the currently inaccessible 7.75 acres. The Developer has shown on the preliminary drawings that the sewer will be discharged along the same path as their storm water drainage. There is no defined plan of how Tidewater will address failures to channeling both storm water and sewer POLLUTION from flowing into neighboring property and into the existing infrastructures from the established CLPUD and ODOT Right of Way.
This flow failure of polluting of combined sewage and storm water would impact the established land mass and infrastructures and end up in destroying valuable commercial and recreational fisheries in the Alsea Bay.

Regarding storm water and pollution flows from the Vista View Planned Development, there is no documentation of the affected square feet of existing soils that are currently displaying permeability, that, with development, will be permanently changed into a impervious surface from pavement of road, ditch, sidewalk, building foundation, garage, turnarounds, structure, & trails, thus increasing storm water flows. This additional flow requires both ODOT and DEQ permitting, which, without documentation that this has been initiated and secured negates the findings claim and is inadequate in meeting the LUBA direction. (See documentation of correspondence from ODOT dated January 23, 2019, from ODOT Development Review Coordinator, Duane James Liner, PE.)

With construction activity occurring, Tidewater has failed to address fuel and hazardous material storage and protection of those materials not to enter into designated storm water drainage. Tidewater failed to designate safe areas for storage of these hazardous materials such as gasoline or diesel fuel, oil, lubricants, fluids, all related to construction activity.

Previous unmonitored logging construction activity could expose contamination to the soils and water sources. Methyl Tertiary Butyl Ether (MTBF) is a common polluting additive in gasoline. The potential for this to pollute Alsea Bay from construction activity refueling without establishing a protection plan is high. Providing actual soil analysis should be required.

Tidewater has failed to address pollution impacts of noise, light, and traffic within and outside the development.
For example: Noise pollution from the increased traffic on Norwood Drive, on-site construction activity, light pollution from vehicle headlights shining into neighborhood residences with this increased traffic. This noise and light pollution has an effect on local wildlife and protected species as well.

Local Businesses Bistro 101 and Tech 34, the USDA Forest Service and neighboring residences will be affected by noise pollution and in the event of slope failure blocking State Highway 101, be economically affected.

There has been no traffic data collected showing the existing traffic patterns or alternative routing for traffic should there be a slope failure resulting in a slide across State Highway 101. This has a definite relationship to the storm water flow and pollution impact.

<u>APPEAL</u> THE INADEQUACY OF THE BELOW SPECIFIC FINDING #3:
3. Hollis Lundeen appealed the decision of the City Council to the Oregon Land Use Board of Appeals (LUBA). In its decision LUBA generally upheld the decision of the City but remanded the case back to the City on one issue, that being to further address the issue of storm drainage.

APPEAL the above 3.) FINDING : On the grounds that the remand addresses not just *one issue of storm drainage* but ALSO the issue of *<u>POLLUTION</u>*.

Request the City of Waldport require Tidewater to comply with the following recommendations, which will conform with the remand made by LUBA regarding POLLUTION CONTROL.

Regarding storm water and pollution impacts that have not been identified regarding flows initiating from the Planned Development into State Highway 101 and ODOT, request that the City of Waldport require Tidewater to establish a storm water plan with their responsibility redefined in how they plan to address and keep the existing infrastructure protected and or improved to facilitate for the additional water flows addressing potential flow and fill failures which will result from land being changed from a natural previous state to gradual graded paved surface. This plan shall include the percentage of impervious surface (PIMP) recorded measurements with calculations of the TIA (total impervious area) quantity, such as, square foot surface areas, and it's relation to the Planned Development. This calculation defines the impact from pervious to impervious resulting from the timber harvest, and construction activities and areas affected by land development requiring surface change due to asphalt pavement of roads, ditch, driveway, parking areas and turnarounds, concrete foundation, brick, stone or rooftop, in order to channel the increases in storm water flow resulting from this surface change from pervious to impervious areas.

In order to document there is no probability for future slope or sedimentation failure , which would result in pollution to the Proposed Development, and surrounding areas, request the City of Waldport require Tidewater to apply for a permit to to gather soil samples within the proposed designated road right of way locations from PUBLIC LAND, with results showing the stability or instability within the area of new road construction. This includes defining how storm water and pollutants from this proposed road construction will meet the remand requirements set forth by the State Land Board of Appeals.

Require Tidewater to submit a plan with quantity of the amount of square feet of road, ditch ,sidewalk building surfaces, that will cover existing natural ground surface that prior to construction was at a natural drainage state. There will be impacts to natural ground that has been disturbed a from a differing site condition of natural ground to man made impervious surfacing whether it be in a roadway, ditch, sidewalk. This will affect the estimated collected and direction of storm water quantities: IE: cubic feet per second (cfs) of storm water. Require Tidewater to establish a monitoring plan, to comply with the requirements of the remand.
Again, this additional storm water flow will impact ODOT's infrastructure and requires permitting.

Request City of Waldport require Tidewater to confirm by documentation, that easements for these utilities have been obtained, including, a emergency failure Plan of Action of how the developer will proactively prohibit pollution from flow failure of combined sewage and storm water from impacting the established groundwater flows through the existing land mass and infrastructures, destroying valuable commercial and recreational fisheries in the Alsea Bay.

Request City of Waldport require Tidewater to provide Flash Flood Protection and Emergency Access Plan for State Highway 101.

Request City of Waldport require Tidewater to define how hazardous materials be prohibited from getting into the storm water flow.

Request City of Waldport require Tidewater to provide a plan, including what bio retention filter specification will be used for stream bed erosion within the designated channeled storm water areas.

By the City requiring these actions PRIOR to Preliminary Plan approval, may, at a minimum, meet the remand and FINAL OPINION AND ORDER of the State land Use Board of Appeals.

This required action is compliant with past submittals and Preliminary Plan approvals from the Waldport Planning Commissioners. (See documentation on previously submitted Planned Developments.)

APPEAL THE INADEQUACY OF THE BELOW SPECIFIC FINDING #6:
6. After considering the testimony and submittals of the parties, the Planning Commission determined that storm water can be adequately managed without adverse impact on other properties and the current off-site system in place is adequate to handle the runoff.

The submittal states by visual inspection that there will be no properties affected, however, documented past storm water failure negates that claim. Example: Slope stability failure into existing structure, that being the USDA FS bunkhouse. With increased storm water flows, both CLPUD and ODOT infrastructure will be impacted.
NOTE: Private property landowner below 7.75 acres: Would be impacted with noise and light pollution, also drastically, and also future fill or slope failure similar to the USDA Forest Service bunkhouse.

While in the Tidewater ownership of the Tax Lot 120, after mature merchantable timber was harvested from the 7.75 acres, an on site slope failure occurred carrying soils, sedimentation, with logging debris, eroding down slope on what is questionably defined by Ironmark as *gentle gradient soils (?)*. This removal of overhead canopy, well established root culture with native ground cover, and mature timber has a definite effect on water quality, and increases to storm water flow.

This slope failure affected the neighboring Public Property owned by the USDA Forest Service, and flooded the newly constructed bunkhouse with this sedimentation and debris. The USDA Forest Service bunkhouse is located quite close to the property boundary between neighboring landowners. Since that event, Tidewater has not proactively addressed or discussed steps to prevent this event from reoccurring, or addressed it in their storm water and pollution remand response to the City of Waldport.

The submittals only address storm water for future development within the 7.75 acres. As directed by the LUBA remand, it does not in anyway identify how the developer plans to address storm water or pollution OUTSIDE the 7.75 acres, and specifically, the storm water and pollution that will take place resulting from removal of mature timber, compacting soils, and retaining/drainage structures that will be required, regarding road construction activities on the PUBLIC LAND within the City of Waldport Right of Way. This construction activity on the proposed 300 feet of new construction, is located at the dead end of Norwood Drive on what is stated to be PUBLIC LAND.

This proposed road construction is located just above State Highway 101 and Alsea Bay. Uneven side slopes measure 63-87%. The submittal has not addressed the severe environmental impact to the existing storm water infrastructure below to State Highway 101 of the State of Oregon's Department of Transportation, including traffic flow interruption and emergency response plans to those interruptions, should another storm water event occur, bringing additional soil sedimentation and erosion west of the proposed Planned Development bordering State Highway 101 and Alsea Bay.

There has been no contact of the Planned Development from the City of Waldport, or the Developer, Tidewater, LLC, with the USDA Forest Service or local businesses such as Bistro 101 , or Tech 34, LLC., which if there was slope stability failure there would be definite financial impact to their business. A typical example is what happened to Hwy 101 just south of the tunnel at Heceta Head Lighthouse. The Highway there was closed for months, affecting the economics if the entire Oregon Coast Community and businesses.

Tidewater has not addressed the relationship of house to house placement with storm water challenges such as what was discussed at the City Council meeting. [REFERENCE:City Council minutes for January 10, 2019]

There has been no documentation of soil samples taken in order to determine soil content, or slope stability, to which, current or increased storm water contributes to a potential slope failure. All data utilized in the Hydro CAD analysis is based from estimates, and theory hypothesis from data that is not reflective of the local soils.

NOTE: *Soil Description (D) states high run off potential* which with increased flow and gradient posed faster turbidity sediment discharge.

There is no estimate of the surface area that will be affected due to construction of roads, ditches, sidewalks and structures such as houses, garages, turnarounds, and all other construction activities related to creating a impervious surface, creating a faster cfs storm water flow into existing infrastructure outside the development.

With the Planned Development located just above State Highway 101, developer has not submitted Emergency Plans for traffic flow should a storm or construction event block north south State Highway 101 and their emergency plans for traffic control should this take place, prior, during, or after preliminary plan approval.

Request City of Waldport require Tidewater to provide Flash Flood Protection and Emergency Access Plan for State Highway 101.

Request City of Waldport require Tidewater to provide that measurement and designated location of that *gentle gradient (?)*.

Request City of Waldport require Tidewater to obtain soil samples to prove that the analysis by hypothesis is adequate and an actual representation of the soils in the area.

Request City of Waldport require Ironmark to actually test on site soil samples, and to apply to the City of Waldport to sample areas to test from the PUBLIC LAND Right of Way to back up the theoretical Hydro CAD analysis.

Request City of Waldport require Tidewater to show by typical drawing of how collection of storm water will drain without impact to the development or neighboring outside areas such as State Highway 101, and neighboring private landowners.

Demonstrate how the Planning Commissioners were able to adequately interpret and make a decision from these submittals.

<u>APPEAL</u> THE INADEQUACY OF THE BELOW SPECIFIC FINDING #7:
7. The Engineer for the applicant has completed and submitted Storm Water Drainage and Downstream Analysis.

There is a existing conflict of interest, with the incompatibility of the personal and professional submittals made to the City of Waldport for consideration of approval of the Vista View Preliminary Plan. It is a clear example of exploitation, and ethical breach that cannot be justified, therefore prohibits acceptance of the submittals made by Brandt Thissell, of Ironmark, LLC., who is a direct relation to Terry Thissell, a member of Tidewater Development, LLC., the primary applicant of this Planned Development called Vista View. As per Department of Environmental Quality, requirements, this disqualifies Brandt Thissell as a legally authorized representative for Vista View Planned Development.

There has already been an event that occurred to validate this instability and fragility of the soils affected after the removal of timber which previously was holding the soil in place.
During the verbal testimony on February 28, 2019, the close proximity of State Highway 101 to the proposed Road Construction area was noted in the photos and plans referenced.

There are areas currently inside and outside the development that have compacted soils due to removal of overhead timber canopy. The soil surfaces have been sealed, eliminating natural ground water penetration from storm events. Photos were noted during verbal testimony.

Ironmark, representing the developer, states that it follows what the City requirement is but does not state exactly how they meet them.

Prior to Preliminary Plan Approval, request the City obtain a unbiased review of the submittals made by Iron mark to comply with the Municipal code and the LUBA Remand. Currently it does not adequately address the Code or Remand or reflect the continuity and requirement of past submittals to the Planning Commission by Planned Development Preliminary Plan approval requests.

<u>APPEAL</u> THE INADEQUACY OF THE BELOW SPECIFIC FINDING #8:
8. The analysis describes how storm water collected from the site via roof drains and catch basins in the street into existing storm drainage on the east and north sides of the property. From there the storm water will follow the same path as it historically has, down the vegetated channel out to the Alsea Bay. The drainage way on the applicant's property will remain vegetated.

There is no diagram or typical of how current and future storm water flow will be channeled as described. The submittal states *that storm water will follow the same path is has historically has down into the Alsea Bay.* It does not address the estimated TOTAL quantity or increased volume of storm water and sediment pollution resulting from current or future development and construction activity, which requires permits.

<u>APPEAL</u> THE INADEQUACY OF THE BELOW SPECIFIC FINDING #9:
9. The engineer did a Hydro CAD analysis which shows the existing 30 inch in diameter culvert running beneath Highway 101 is sufficiently sized to accommodate the storm water runoff of the past developed condition of the entire contributing storm water basis during a 10 year 24 hour main event which is 5 inches of rainfall in 24 hours per the NOAA isoplurial maps. In the event the culvert became blocked, the storm water would flow north and be channeled by one of several ditch inlets and culverts beneath Highway 101 that drain into the bay.

Ironmark's Hydro CAD analysis fails to reflect any on site <u>existing</u> storm water or pollution protection currently.

There has not been any proactive stewardship on the acreage owned by Tidewater LLC., since the slope and sedimentation failure occurred on the 7.75 acres resulting from the previous timber logging and harvesting activities of mature merchantable timber by Tidewater Development, LLC.

In personal investigation of the traveled way and ditches along both sides of Hwy 101, the existing culverts are currently at capacity of age and ability to facilitate additional storm water now.
This is contrary to the claim made by Thissell in the submittals statement, that the ONE culvert with Hydro CAD analysis is sufficiently sized to accommodate ALL storm water run-off, and in the unlikely event that this ditch or culvert would be blocked that the storm water would flow northerly and be picked up by ditch inlets and culverts that drain into the Alsea Bay.
NOTE: There were photos presented to the Planning Commissioners showing this.

NOTE: Engineer addresses that a blockage could occur and that this would flow into the bay. This blockage would result in high turbidity POLLUTION, which would affect the fisheries in the bay. There is not any mention of what PREVENTATIVE measures are in place NOW in order for this POLLUTION to be prevented, therefore the submittal is inadequate since it did not address this.

IMMEDIATE observation of this submittal shows no confirmation of approved permitting as per State of Oregon Requirements. (ODOT & DEQ)

Ironmark Hydro CAD analysis addresses only ONE- (1) 30 inch concrete culvert.
It does not address how that culvert will handle additional flows and the consequences to State Highway 101 and Alsea Bay if it fails.
Tidewater has not submitted required ODOT or DEQ permit approvals.

The submittal directly states that *Inlet and outlet conditions of the analysis were not evaluated.(?)* WHY not?
In the basin map: *The contours and tax lot lines shown are based on GIS data and are APPROXIMATE. (?)*
In the soil map: *WARNING: Soil map may not be valid at this scale. (?)*
The photos submitted do not reflect the entire 7.75 acre steep contour.

This analysis is inadequate and cannot correctly determine that the culvert can handle the flow if the inlet and outlet conditions, basin and soil maps were were not evaluated and field verified.

Ironmark did not actually take soils samples to back up the Hydro CAD analysis.

The Hydro CAD analysis only addresses past water conditions it does not address future impacts of ground that is now pervious that will become impervious due to development construction, increases in CFS flow, and increased grade flows, resulting from a differing site condition.

Request City of Waldport require Tidewater to provide evidence and testing of local soil samples to prove that the analysis by hypothesis is adequate and an actual representation of the soils in the area.

<u>APPEAL</u> THE INADEQUACY OF THE BELOW SPECIFIC FINDING #10:
10. By a visual inspection of the property downstream, the engineer concluded there were no downstream structures or property risk of being impacted by storm water quality due to the proposed development. All existing structures sit well above the existing drainage channel.

There is a residence just south of the designated storm water channel, including neighboring businesses, Bistro 101, Tech 34, and a Federal USDA Forest Service Compound all downstream and below the Planned Development.
Central Lincoln Public Utility (CLPUD) and State Highway 101 Right of Way Infrastructure and the Alsea Bay . All these downstream facilities are at a high risk of becoming impacted by storm water and pollution from the Vista View PD.

<u>APPEAL</u> THE INADEQUACY OF THE BELOW SPECIFIC FINDING #11:
11. All storm water discharge outlet pipes will have, at a minimum, rip rap pads to prevent erosion and prevent sediment from washing downstream.

Finding #11, along with Tidewaters submittal does not specify what the minimum size rip rap pads will be utilized. Rip Rap specifications range in differences in materials and size.

The finding and submittals do not adequately show how the storm water outlet pipes will prohibit prevent erosion and prevent sediment from washing downstream.

Request the City of Waldport require Tidewater to submit a typical with proposed locations with the specification of rip rap rock basins, including type and size of rock along with quantity. Inlet and outlet, locations and specifications.

This request is reflective of the requirements from past Planned Development submittals made prior to Preliminary Plan approval.

<u>APPEAL</u> THE INADEQUACY OF THE BELOW SPECIFIC FINDING #12:
12. All site catch basins will have sumps, to help prevent sediment and debris from migrating downstream. The existing on-site drainage way will remain vegetated which will also help control sediment migration, erosion, and filter potential pollutants from discharged storm water. Much of the existing drainage on-site has a gentle gradient, which is favorable for settling out any sediment and particulates in the discharged storm water. The drainage downstream is also heavily vegetated.

The Engineer does not adequately show by typical how this sediment pollution will be addressed prior to preliminary plan approval.

After mature merchantable timber was harvested from the 7.75 acres, an on site slope failure occurred carrying soils, sedimentation, with logging debris, eroding down slope on what is questionably defined by Ironmark as gentle gradient soils. This removal of overhead canopy, well established root culture with native ground cover, and mature timber has a definite effect on water quality, and increases to storm water flow.

Ironmarks analysis states that the 7.75 acres are on gentle gradient soils. Mr. Thissell fails to address the measurement of what that actual gentle gradient calculates to, and how he measured it. (REFERENCE: Contour map in original application submittals to the City of Waldport.) This is inadequate theoretical measurement.

Since a on-site slope failure has previously occurred, there have been no submittals of soil samples taken and tested for compaction, stability and compatibility with the proposed building of 34 homes on what has previously demonstrated, failed "*gentle gradient soils*", per Thissell's submittal. With the proposal of 34 homes on 7.75 acres, there has not even mention of a simple Standard Penetration Test, (SPT) which measures resistance and friction in determining future foundation capacity of placing 34 homes on 7.75 acres. An alternative, more definitive soils test is a Cone Penetration Test, (CPT).

Finding #12, along with Tidewaters submittal does not specify what type of sump will be utilized.

The finding and submittals do not adequately show how the sump will prohibit prevent erosion and prevent sediment from washing downstream.

Request the City of Waldport require Tidewater to submit a sump pump typical drawing specifying measurement dimensions and volume capability, prior to Preliminary Plan approval.

This request is reflective of the requirements from past Planned Development submittals made prior to Preliminary Plan approval.

<u>APPEAL</u> THE INADEQUACY OF THE BELOW SPECIFIC FINDING #13:
13. As shown on the preliminary plan, Vista View has set aside the area shown as a "storm water facility area" as an area reserved for meeting any additional storm water quality and or retention requirements or criteria. The area would allow an appropriately engineered storm water detention area to control off site drainage.

As per LUBA's Final Opinion and Order, *"the city's findings fail to explain whether the storm drain facilities are adequate to serve the proposed development and that the proposed development will not create a drainage of pollution problem outside the planned area."*

The existing conditional state of the 7.75 acres has not been addressed in this submittal. It does not discuss or address the condition of the existing structure that is across the drainage identified below the designated holding pond.[PHOTO] The condition of that existing structure has not been addressed. Storm water at a higher volume of cubic feet per second, will result in the development and differing site condition resulting from construction activities changing surfaces from pervious to impervious, thus increases gravity flow along documented steep side slopes.
(FYI: CFS is utilized for measurement of water in motion.)
[PHOTO]

The submittal does not address the drawing designation of the sewer line running downstream directly along side of the development's largest stream channel into State Highway 101. There is no mention of how this channel will be protected from contaminating the surrounding landowners and State Hwy 101 with the potential sewer pollution ending up in Alsea Bay which is both a commercial and recreational fishing and crabbing resource area.

NOTE PHOTO: There is no apparent function to this relief cmp of the shot gun culvert. Note directional uninterrupted flow into "the storm water facility area."
There is no mention of type or location of filters to address sedimentation into and out of "the storm water facility area."

The designated "storm water facility area" is located just above a large fill covering a stream channel carrying a significant year round flow.
Submittal does not address action plan should this "storm water facility area" become filled with sedimentation therefore overflowing into the proposed road fill over the existing channel, which would flood the ODOT infrastructures below and eventually end up polluting Alsea Bay. Again there is no specification or mention of types and locations of filters in order to explain whether the storm drain facilities are adequate to serve the proposed development and that the proposed development will not create a drainage of pollution problem outside the planned area.

There is no mention of the condition of the structure this stream is being channeled through and no plan of action for pond or fill failure resulting from a breach of that holding pond storm water. Submittal does not address additional flow or in the event of a failure which will affect the road and fill and culvert below, and possibly not only prohibit entry into the development but below the development as well, flowing into Hwy 101 and Alsea Bay.

Note that the finding states it will control off site drainage.
It does not adequately show how this off site drainage will be controlled, currently now, during, or after the Preliminary Plan submittal.

IMMEDIATE observation of this submittal shows no confirmation of approved permitting as per State of Oregon Requirements. (ODOT & DEQ)

<u>APPEAL</u> THE INADEQUACY OF THE BELOW SPECIFIC FINDING #14:
14. The applicant's engineer advised that the calculations were made using very conservative estimations meaning that he erred on the side of caution in making the calculations.

Regarding storm water and pollution impacts that have not been identified regarding flows initiating from the Planned Development into State Highway 101 and ODOT, request that the City of Waldport require Tidewater to establish a storm water plan with their responsibility redefined in how they plan to address and keep the existing infrastructure protected and or improved [WDC: (16.60.030(C)(3)] to facilitate for the additional water flows addressing potential flow and fill failures which will result from land being changed from a natural pervious state to gradual graded paved surface. This plan shall include the percentage of impervious surface (PIMP) recorded measurements with calculations of the TIA (total impervious area) quantity, such as, square foot surface areas, and it's relation to the Planned Development. This calculation defines the impact from pervious to impervious resulting from the timber harvest, and construction activities and areas affected by land development requiring surface change due to asphalt pavement of roads, ditch, driveway, parking areas and turnarounds, concrete foundation, brick, stone or rooftop, in order to channel the increases in storm water flow resulting from this surface change from pervious to impervious areas.

Impervious soils collect solar heat, thus increasing water temperature, warm runoff from impervious surfaces, reduces dissolved oxygen in stream and channel water, making life difficult for aquatic ecosystems.
NOTE: This storm water is flowing into the Alsea Bay Fisheries Ecosystem.

Request the developer to provide that measurement and designated location of that gentle gradient.

Note that the calculations are theoretical and there is no evidence of local on site samplings to confirm that the calculations are reflective of actual and adequate means of providing an real example of explanation of whether the storm drain facilities are adequate to serve the proposed development and that the proposed development will not create a drainage of pollution problem outside the planned area.

Request the City of Waldport require Tidewater to provide actual examples, such as on and off site soil samples, which would reveal the calculations are within the remand direction.

APPEAL THE INADEQUACY OF THE BELOW SPECIFIC FINDING #15:
15. ODOT stated that the proposed development should not increase drainage to ODOT highway right of way. If it will propose to increase drainage to the ODOT highway right-of-way, the applicant should contact ODOT to seek ODOT's review and approval.

Observation of this finding shows no confirmation of approved permitting as per State of Oregon Requirements. (ODOT & DEQ)

The submitted storm water and pollution plan submittals made by both Tidewater and Ironmark are inadequate since there will be additional increases in drainage from the development.

The letter dated January 23, 2019, addressed to the City of Waldport, from ODOT Development Review Coordinator, Duane James Liner, PE., states that the applicant should contact ODOT to seek ODOT's review and approval if there is an increase drainage to ODOT highway right of way.

Request the City of Waldport require Tidewater to provide documentation that they have contacted ODOT, that permitting is in place and compliant for the additional storm water and pollution impact, prior to Preliminary Plan approval.

Regarding the CONCLUSION of Page 3 of 3 in the FINDINGS: (1-29-19)

APPEAL THE INADEQUACY OF THE BELOW SPECIFIC FINDING (Revised) 11. :
(Revised) 11. Phasing and Time Limits of a Preliminary PD Approval.

Appeal this revision as it has not passed City Council Approval, therefore it is inapplicable.
Please consider this as a request to appeal the DRAFT AMENDMENT of New Phase Limits, and request to return to the existing code, as per Waldport Development Code Sections 16.60 and 16.60.030 D., as this clearly shows preference to the time limits of Vista View.

During verbal testimony on January 28, 2019, the Planning Commissioners were asked where this change was generated from, there was no clear reference as to why this change of phase limits was being considered and that the Planning Commissioners did not take into account the previous testimony as to leave the limits as is.

APPEAL THE INADEQUACY OF THE BELOW SPECIFIC FINDING New (13).
New (13)

On Wednesday, January, 23, 2019, ODOT issued a statement to both Kerry Kemp, Waldport City Manager, and Larry Lewis, Waldport City Planner that a permit is required for any additional storm water drainage to the existing infrastructures maintained by Oregon Department of Transportation.

Without a doubt, there will be impacts from this Planned Development to the existing infrastructure maintained by Oregon Department of Transportation. Permits are required for storm water and pollutants entering into and impacting existing ODOT infrastructures. This includes meeting Department of Environmental Quality (DEQ) Specifications as well, which were not addressed or mentioned in any of the submittals from Tidewater, Ironmark, or within the City of Waldport's Findings.

PRIOR to Preliminary Plan approval for Case File #1-PD-PC-17, Vista View Planned Development Applicant Tidewater Development LLC., is required to coordinate with the City of Waldport and Oregon Department of Transportation (ODOT) and Department of Environmental Quality (DEQ) to establish, with documented approval, the correct permitted procedures, including documentation and permitting as per National Pollutant Discharge Elimination System [NPDES].
By law, request the City of Waldport to develop a Land Use Compatibility Statement (LUCS) to determine whether the submittals from the developers future, Department of Environmental Quality (DEQ) permit is consistent with local government comprehensive plans and land use regulations. This request for permitting prior to preliminary plan approval, is directly related to LUBA Case. No. 2018-030, Final Opinion and Order Remand Conclusion from the State Land Use Board of Appeals (LUBA) states as per WDC 16.60.030 (C)(4), requiring the City of Waldport to determine, prior to preliminary plan stage, that "the proposed facilities are adequate for the population densities and type of development proposed *and...(Emphasis added,)... will not create a drainage or pollution problem outside the planned area.*

Along with future submittals, prior to Preliminary Plan approval, request clarification from the City of Waldport regarding LUBA Final Opinion and Order regarding WDC 16.60.040 that public participation is permitted during final plan review.

<u>IN CLOSING THIS APPEAL TESTIMONY:</u>

In the Final Opinion and Order of the State Land Use Board of Appeals, states that the City's findings failed to explain whether the storm drainage facilities are adequate to serve the proposed development and that the proposed development will not create a drainage or pollution problem outside the planned area. This written appeal testimony of the findings and conclusions presented today, to the City of Waldport, do not address the adequacy and magnitude of the described storm drainage and pollution problems and their adverse impacts, which, if not addressed, will result in catastrophic consequences that will permanently affect the Waldport Community and those who are visiting to witness and experience the beauty of the Oregon Coast.

It is of clear definition by the past verbal and written testimony, based on those who presented by attending the public hearing on January 28,2019, and those not able to attend, choosing to address the Waldport Planning Commissioners, that the Preliminary Plan as presented, does not meet the Final Opinion and Order described in in the documentation requirements regarding LUBA Case. No. 2018-030.,
and it does not address how the developer's plan is adequate to serve the proposed development and will not create a drainage or pollution problem outside the planned area. [WDC 16.60.030 (C)(4)]

Therefore, the Preliminary Plan should not be supported or approved by the Waldport Community Public Representatives: Planning Commissioners or City Counselors, if they take the time by referencing the recording of the public hearing testimony describing and defining the numerous adverse impacts to the area, until the terms of the LUBA Final Order and Opinion are thoroughly and completely addressed.

Hollis Lundeen
February 13, 2019

From: LINER Duane J [mailto:Duane.J.LINER@odot.state.or.us]

Sent: Wednesday, January 23, 2019 2:11 PM

To: Larry Lewis <larry.lewis@waldport.org>

Cc: Kerry Kemp <kerry.kemp@waldport.org>; MOREY Brian T <Brian.T.MOREY@odot.state.or.us>

Subject: Proposed Development 34 homes Tax Lot 120 south of SW Norwood Dr ODOT US101 Hwy 009 MP 156.6

Larry,

ODOT received a call, which in message form was passed on to me, regarding a proposed development in Waldport. Described as proposing to build 34 homes on 7 acres on the corner of US 101 and Starr Street above the highway. Concerns with the development included: it is on a steep slope, storm water, sea wall is just below,... etc.

I do not recall having received notice of this proposed development. The caller indicated there is a public meeting January 28th at 2 PM at City Hall.

I phoned the caller back to verify the location – I was told it is Tax Lot 120. Which appears to be at the end of SW Norwood Dr not Starr Street. The caller indicated the case was remanded and a remand response was something to the effect of: Existing infrastructure along Highway 101 would be adequate to handle any additional storm water.

Although I have not seen or reviewed the specific proposal – and I told the caller I likely did not see it as it did not directly abut ODOT highway right of way, please accept the following general comment:

- The proposed development should not increase drainage to ODOT highway right of way. If it will propose to increase drainage to the ODOT highway right of way, the applicant should contact ODOT to seek ODOT's review and approval.

PS – You may already have this email address, but in case you do not here it is – this is a general email address to email notices to ODOT:

ODOTR2PLANMGR@ODOT.STATE.OR.US

You can still hard copy mail them but electronic submittal is preferred and appreciated – as that logs them in and distributes them to staff (especially good if I am not around)

PSS – feel free to include or cc' me when you email notices in that way I will see it at the same time as it goes to our Region 2 distribution email address.

Thank you

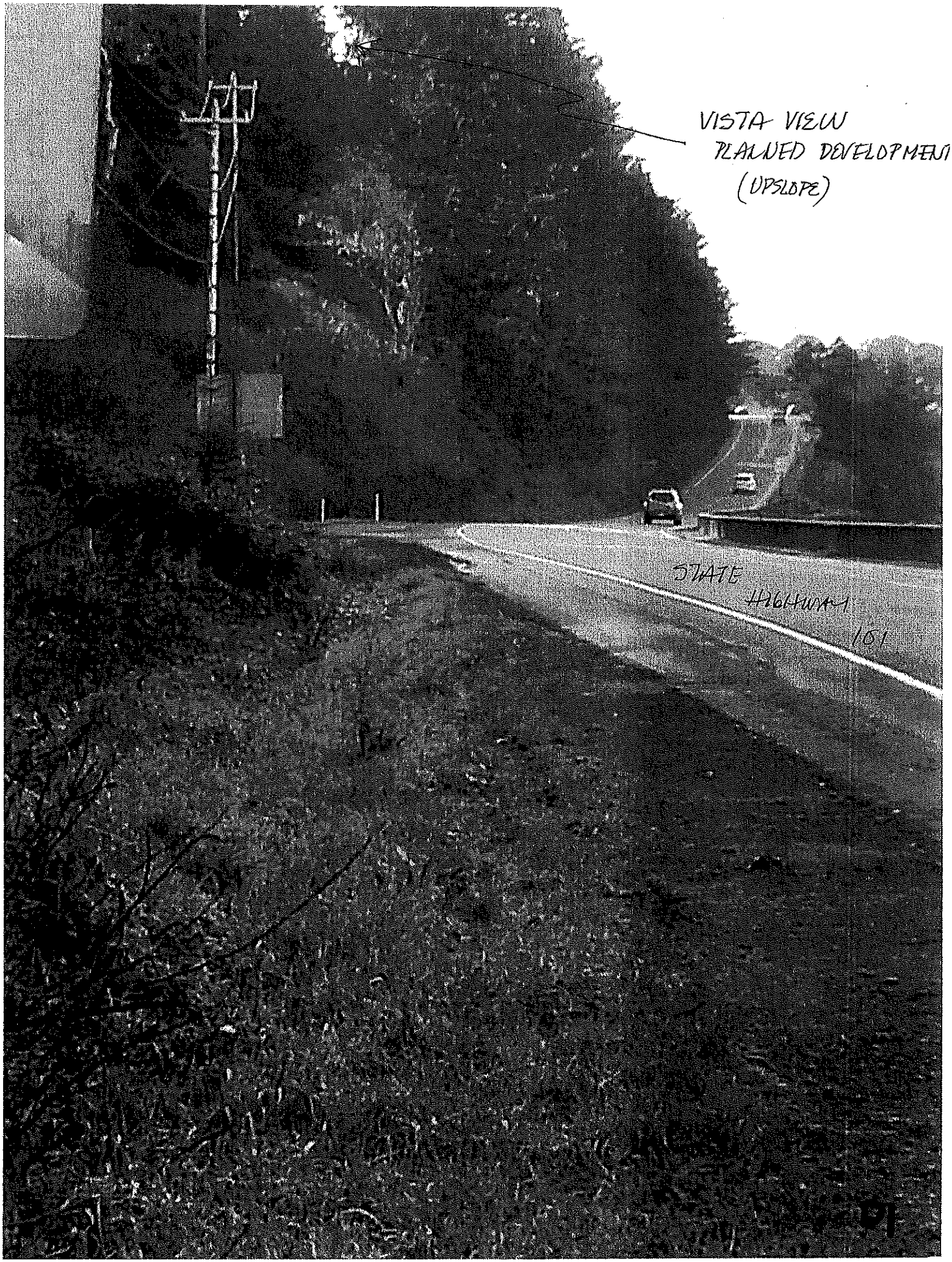
- duane

Duane James Liner, P.E.

Development Review Coordinator

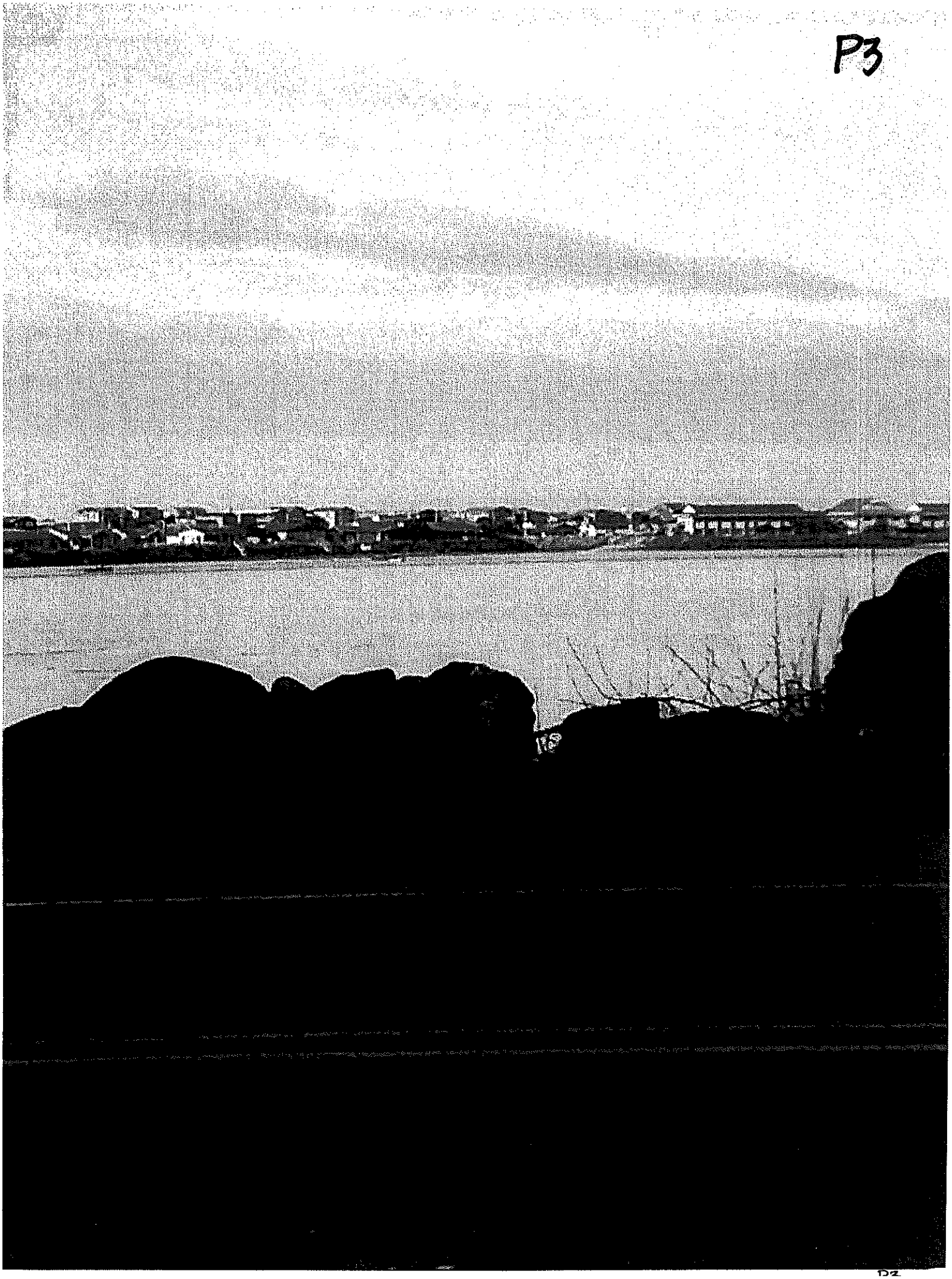
ODOT - Region 2

541-757-4140


VISTA VIEW
PLANNED DEVELOPMENT
(UPSLOPE)
STATE
HIGHWAY
101

P2

P3



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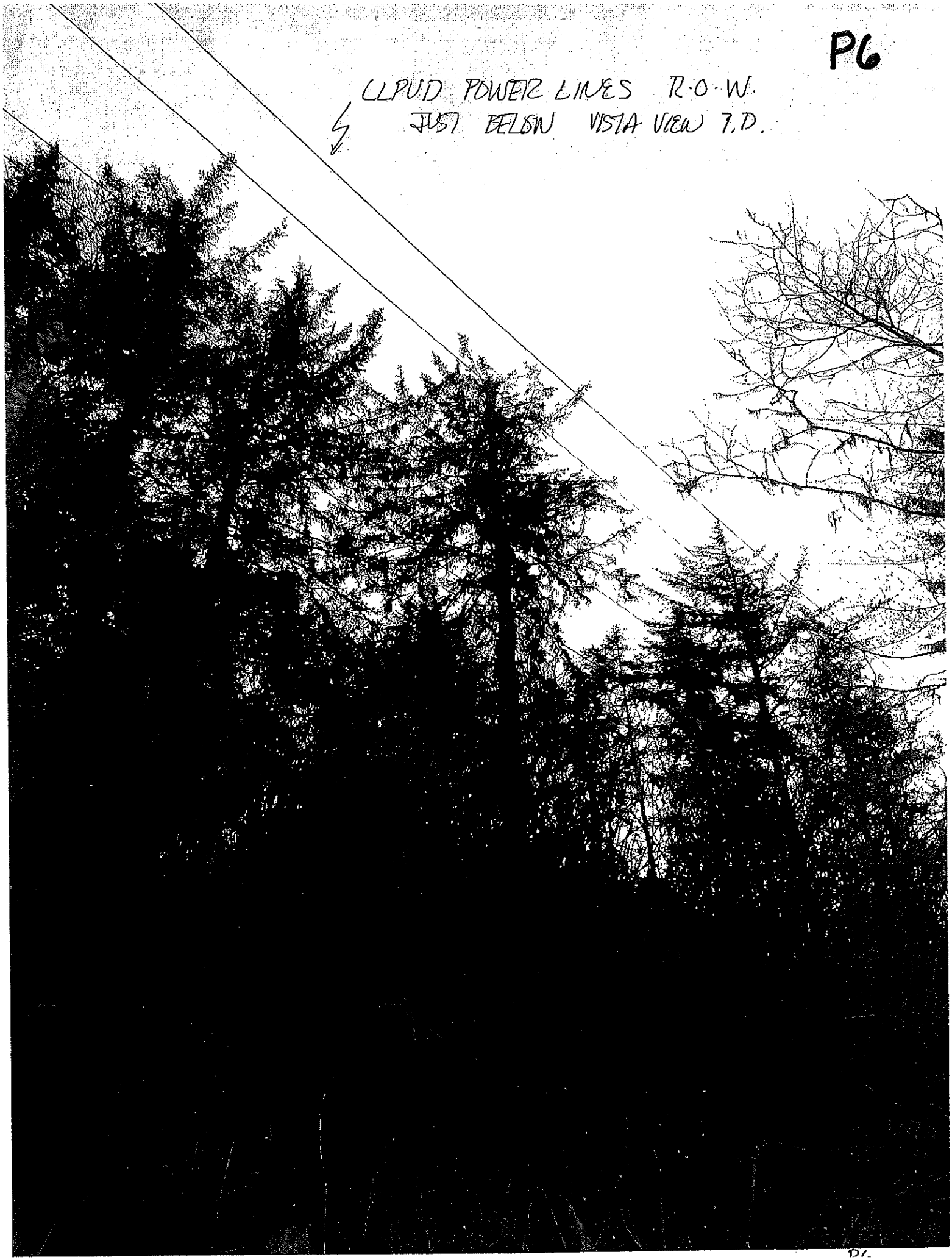

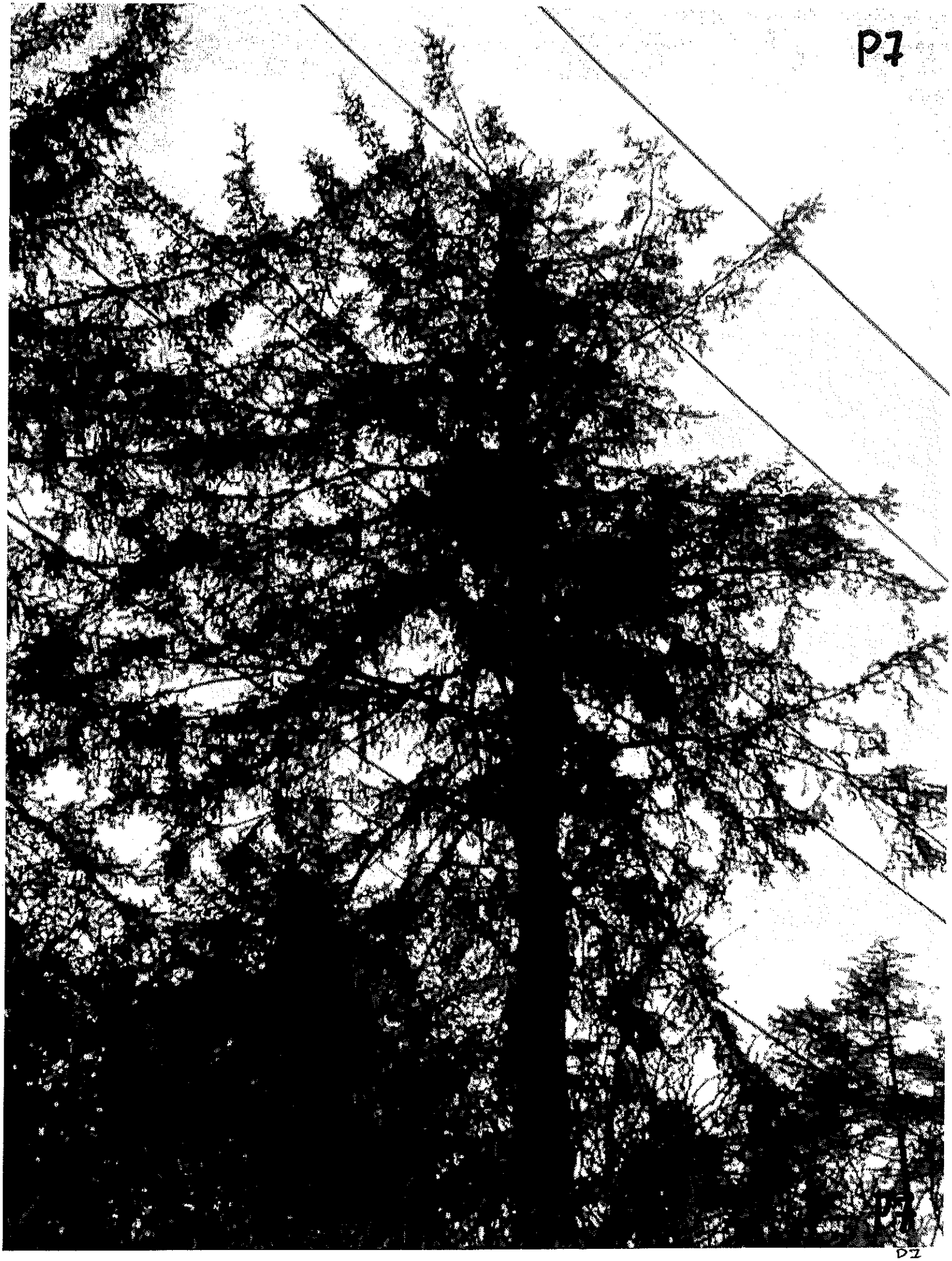
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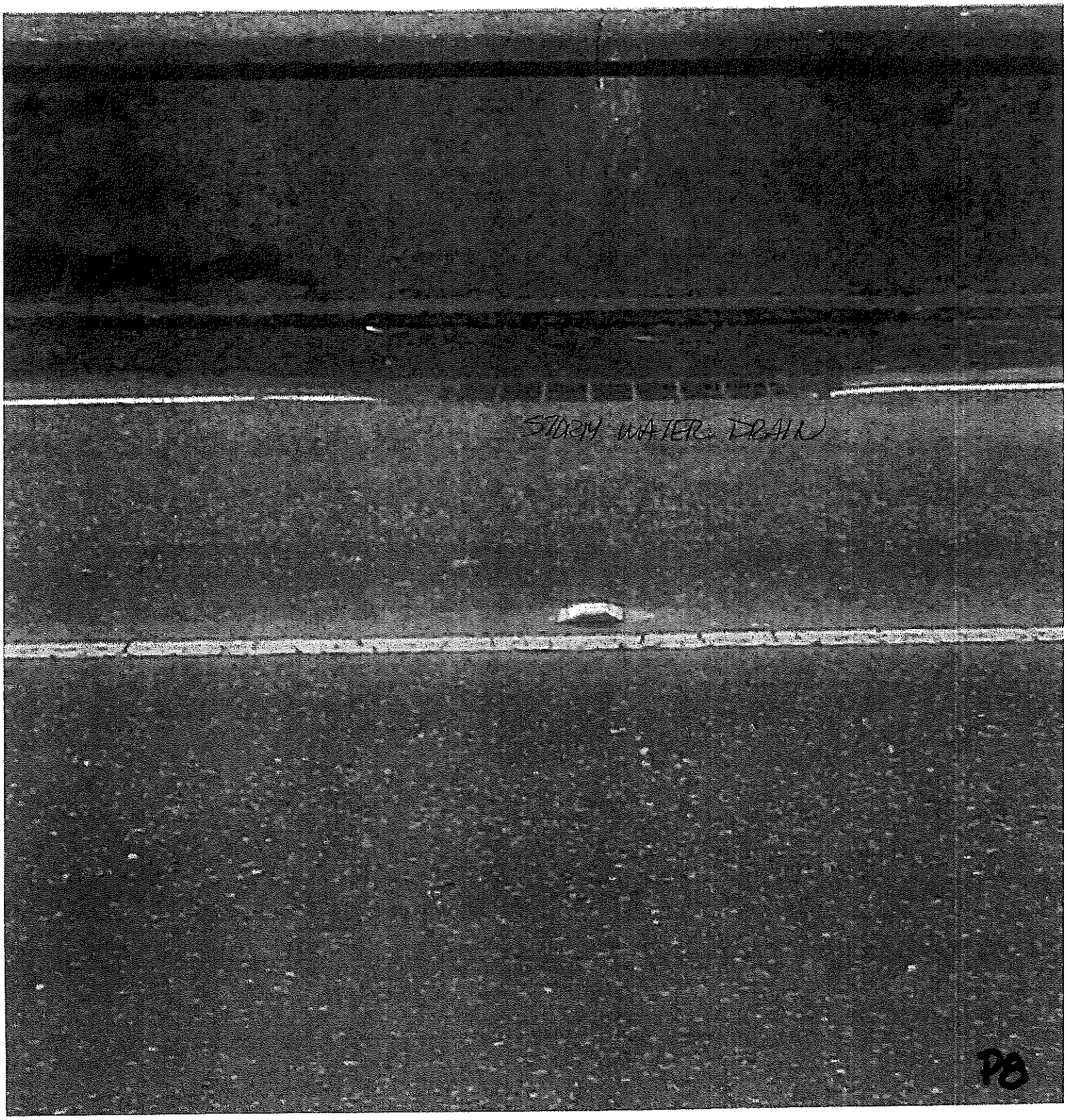
ALSEA BAY
FISHERIES

SEAWALL



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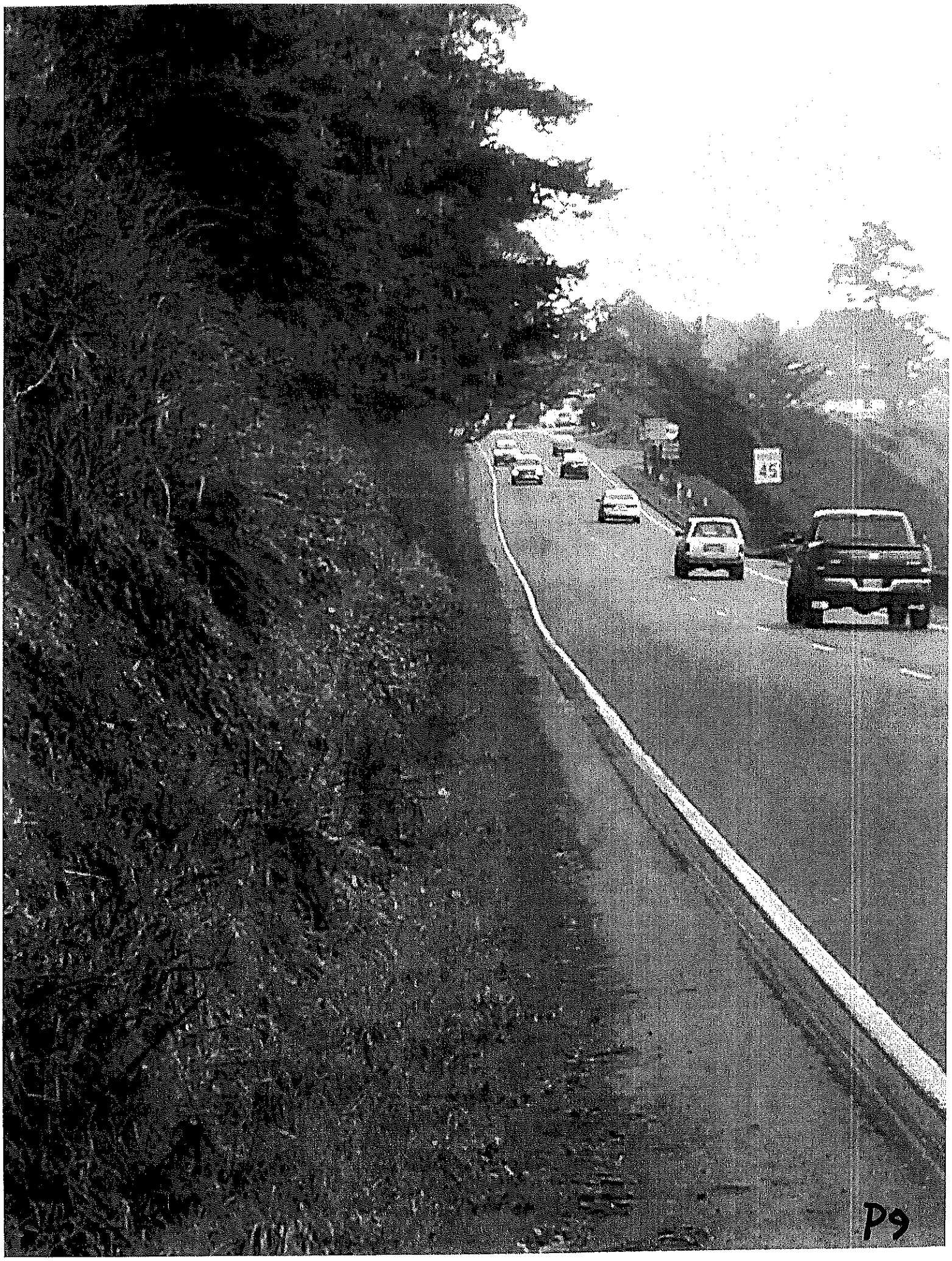

P9

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P19

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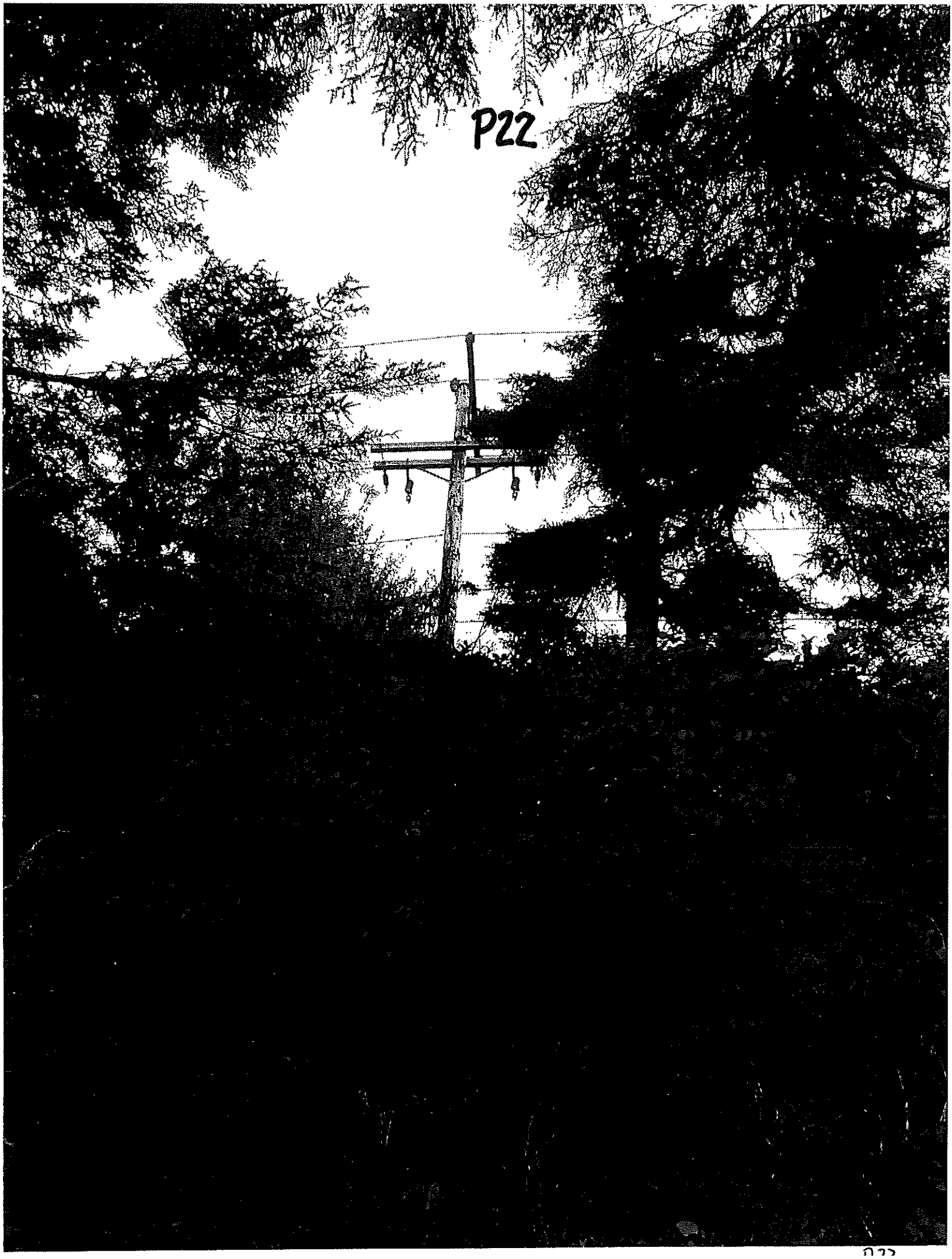
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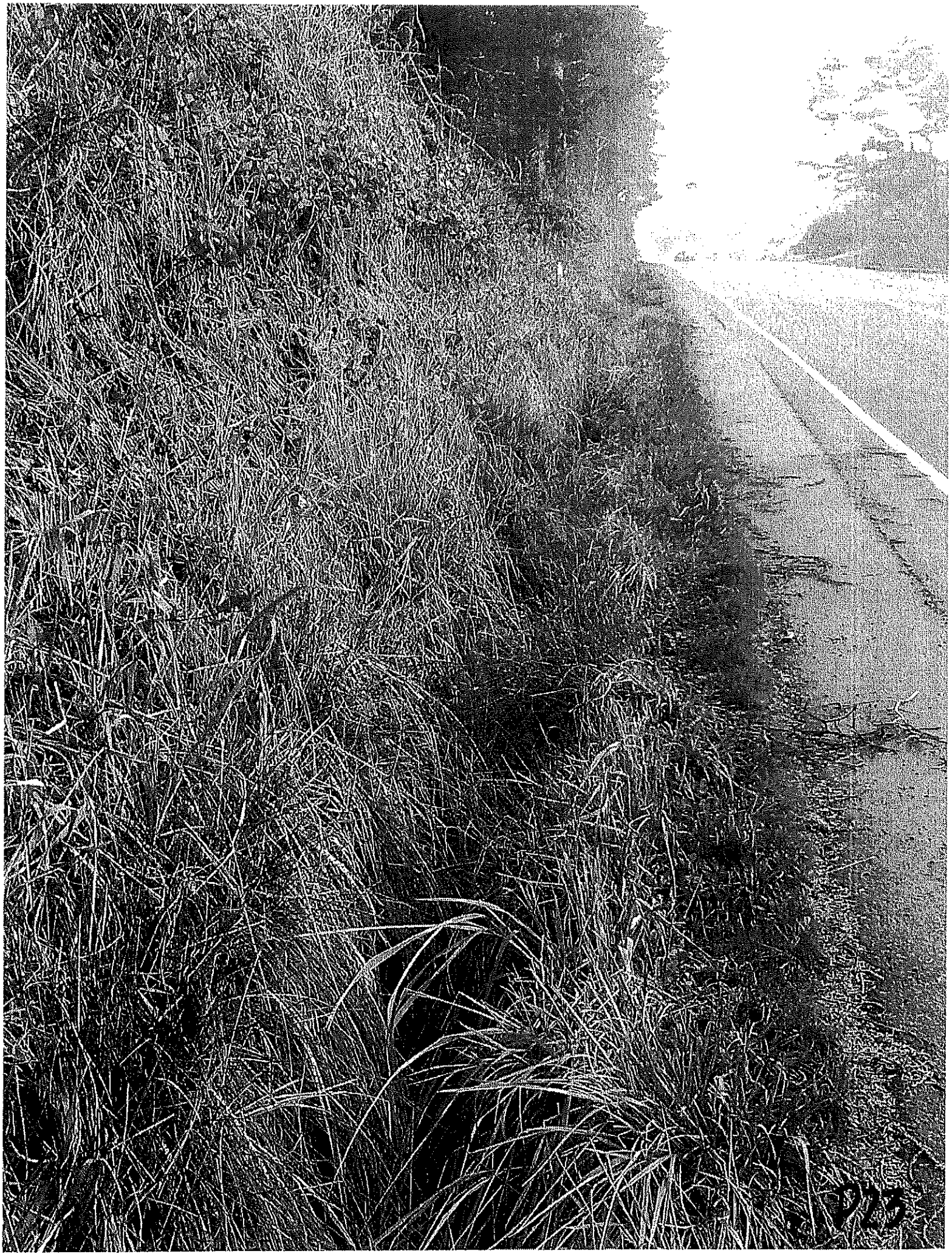

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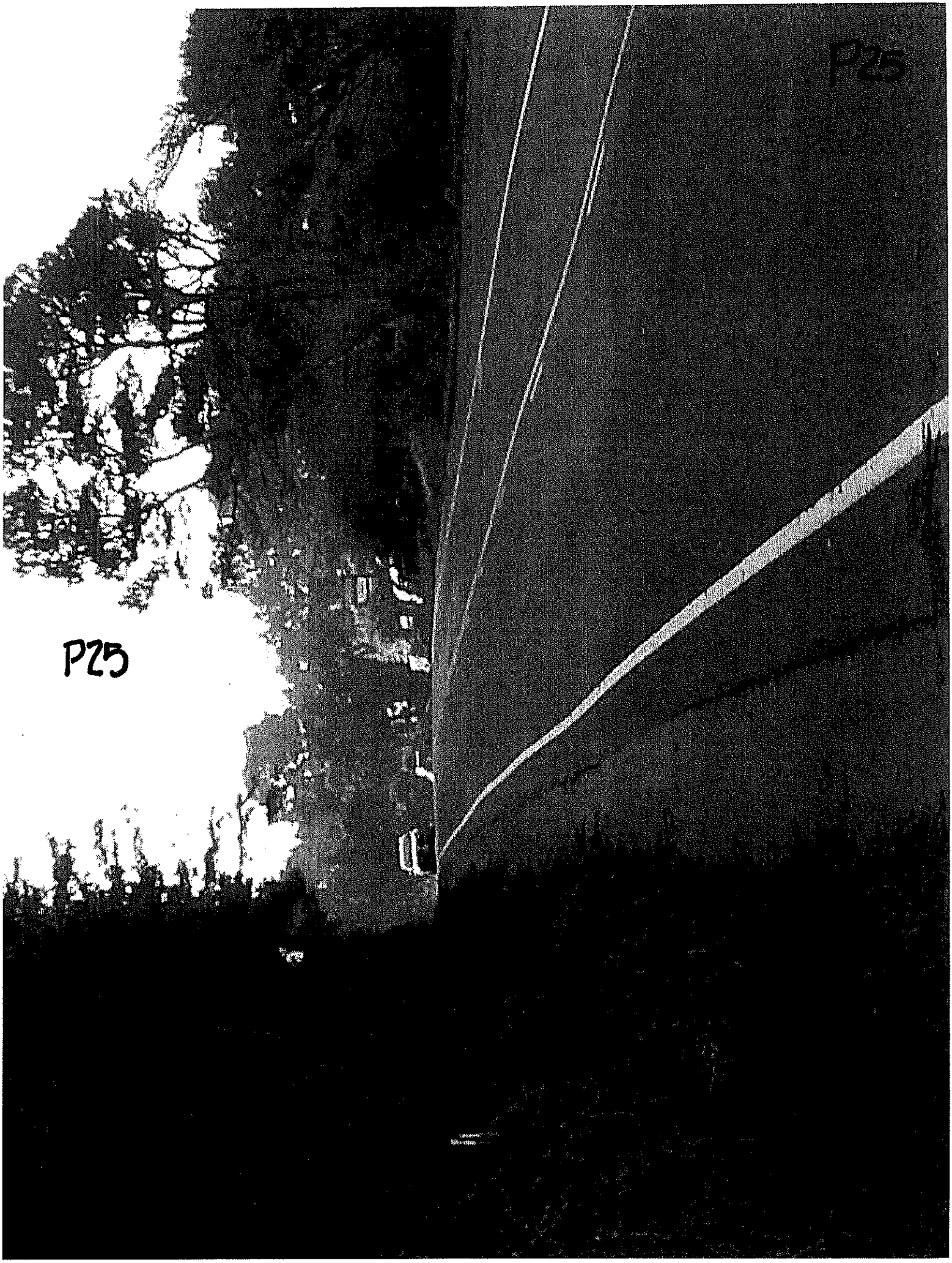

P25
P25

P27

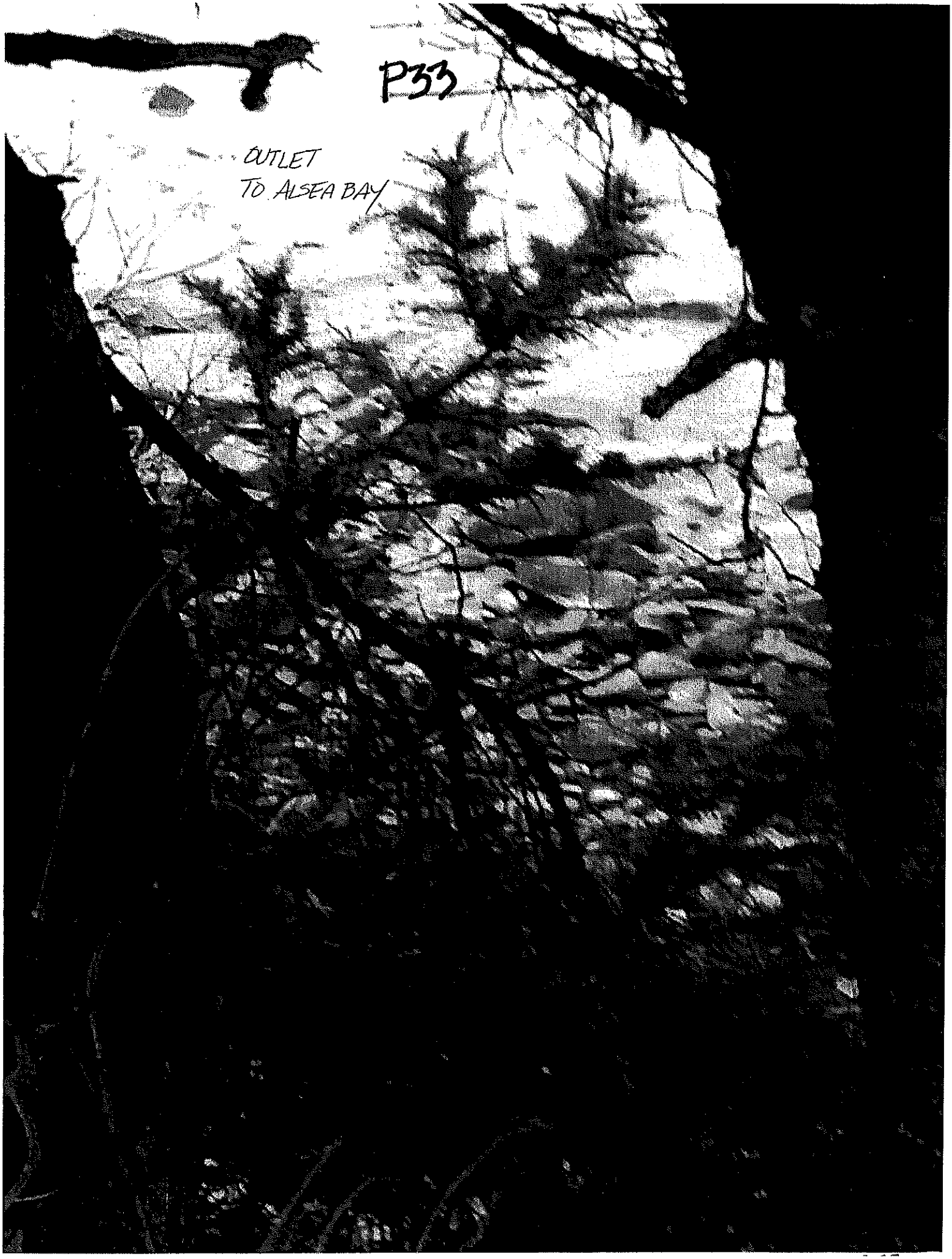
P28

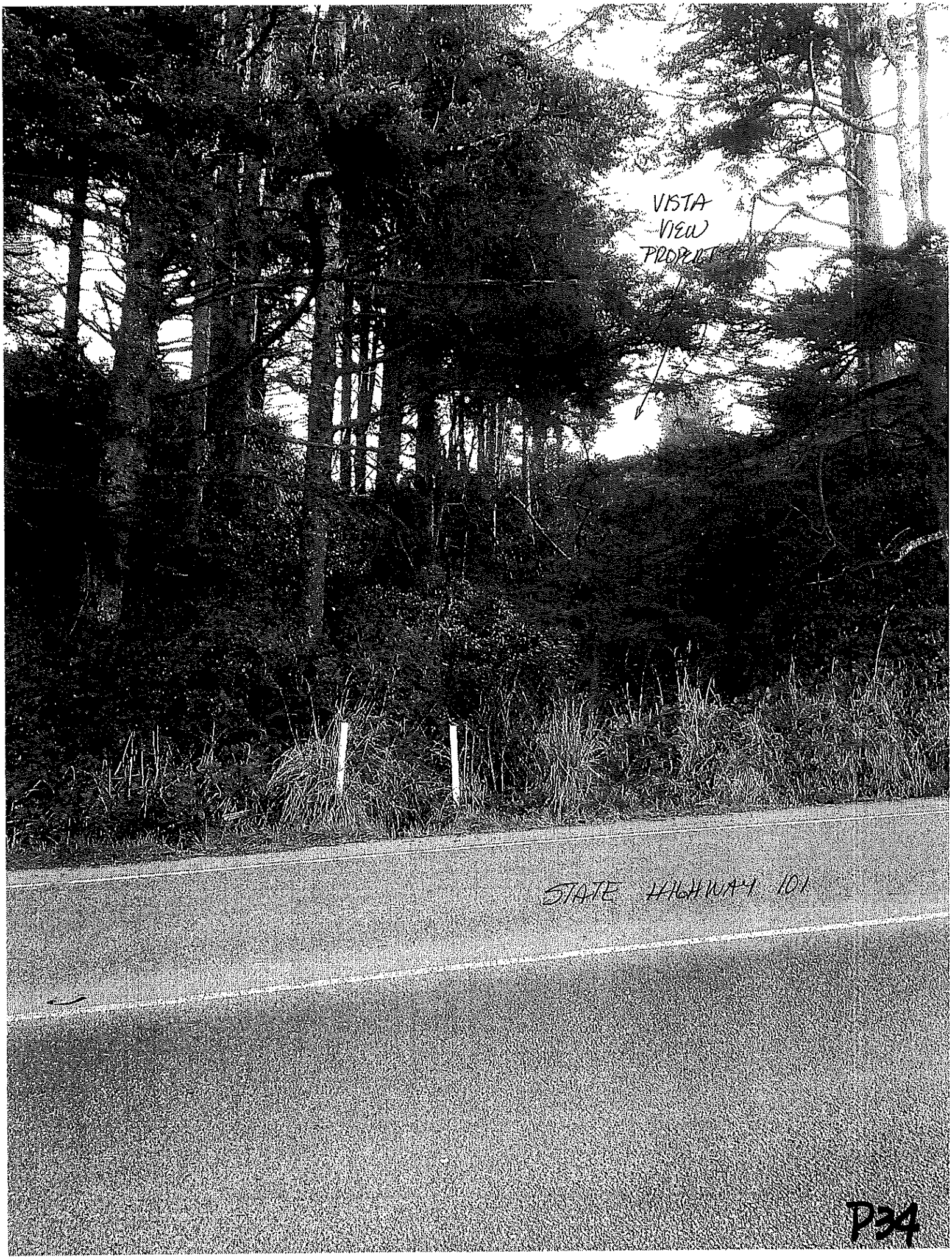
P29

P30

ALSEA
BAY
P32

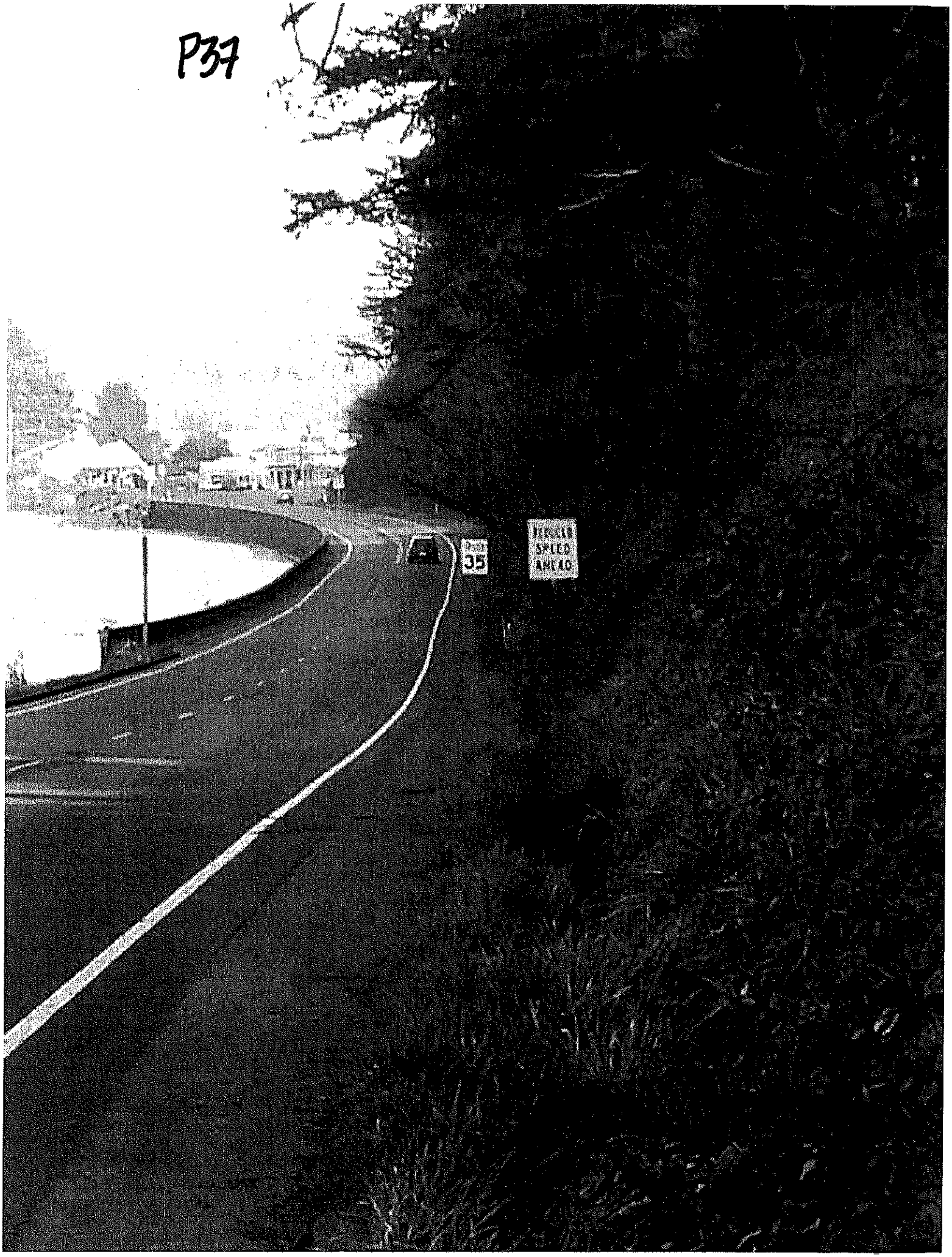
P33




VISTA
VIEW
PROPERTY
STATE HIGHWAY 101

P35

P37



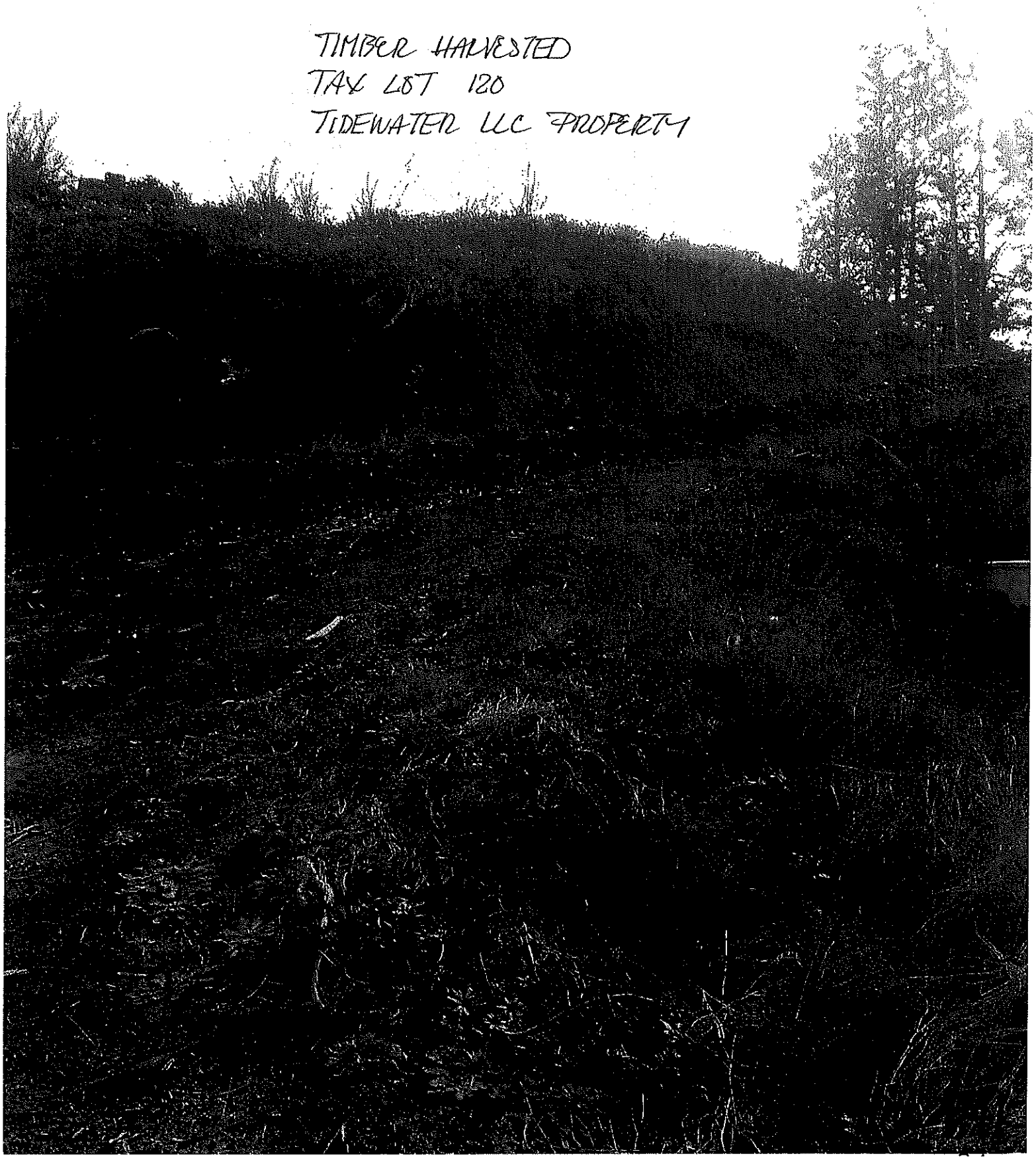
P 38

COMPACTED SOILS OVER
FILL BELOW
"STORM WATER FACILITY AREA"

P40

P41

TIMBER HARVESTED
TAX LOT 120
TIDEWATER LLC PROPERTY



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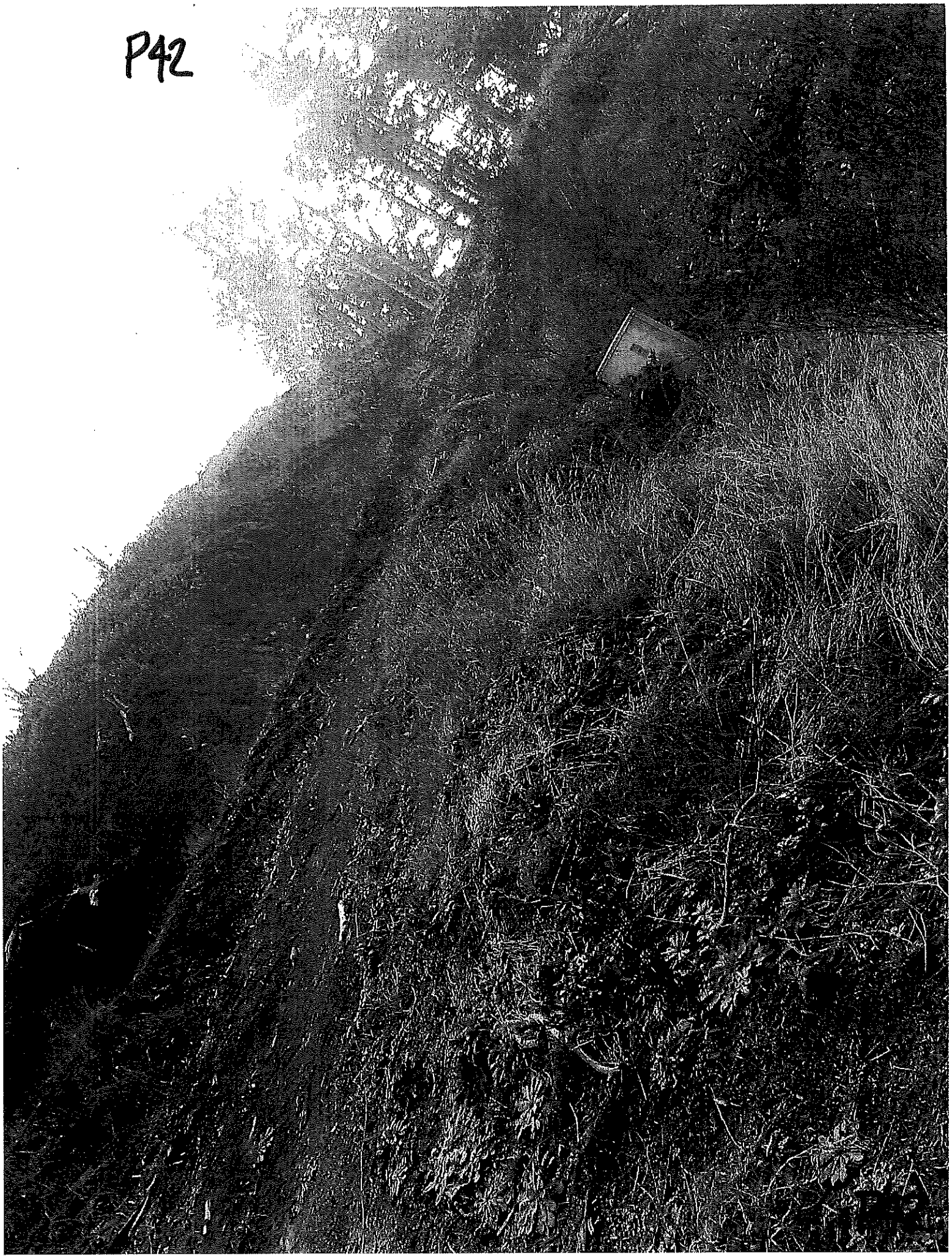

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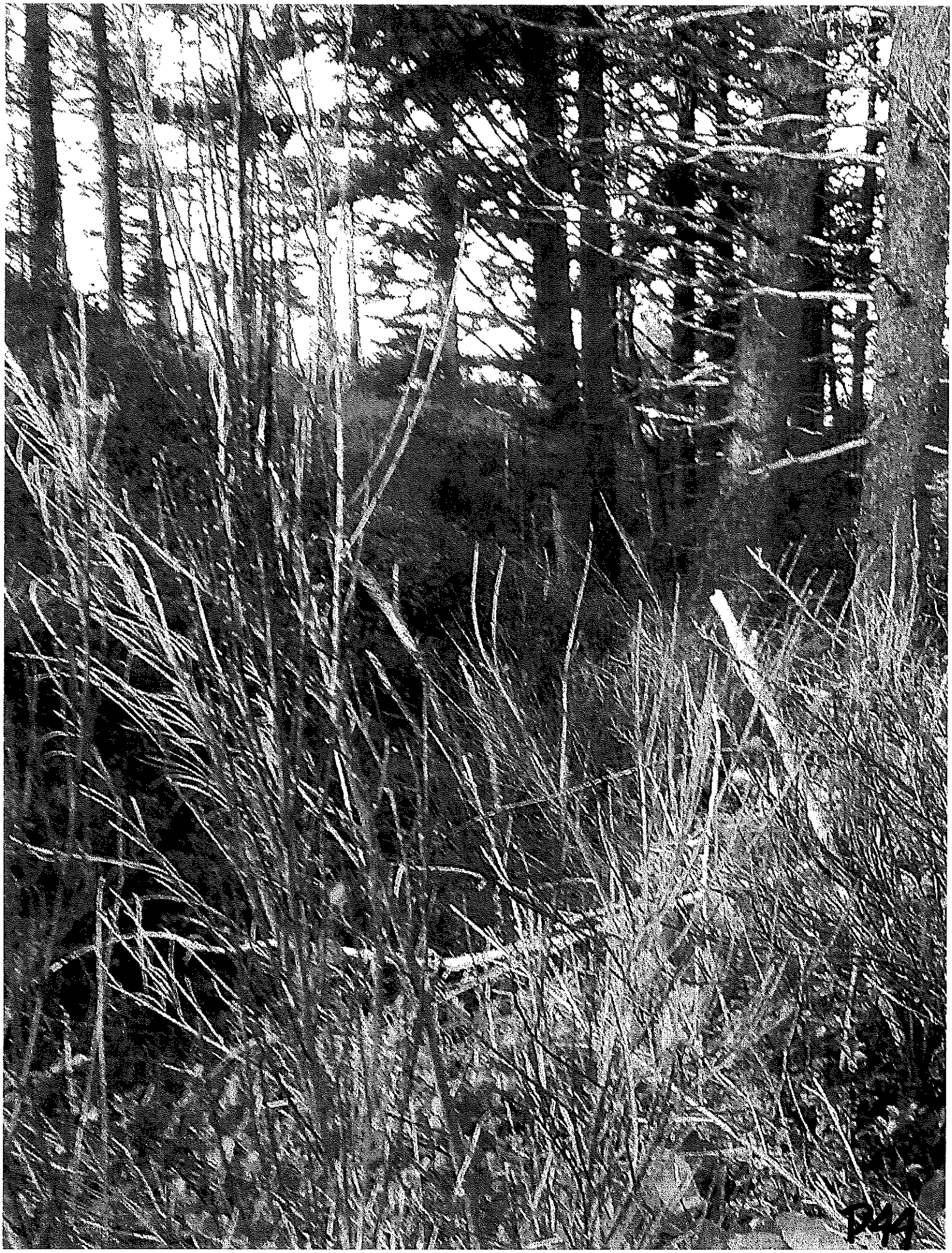
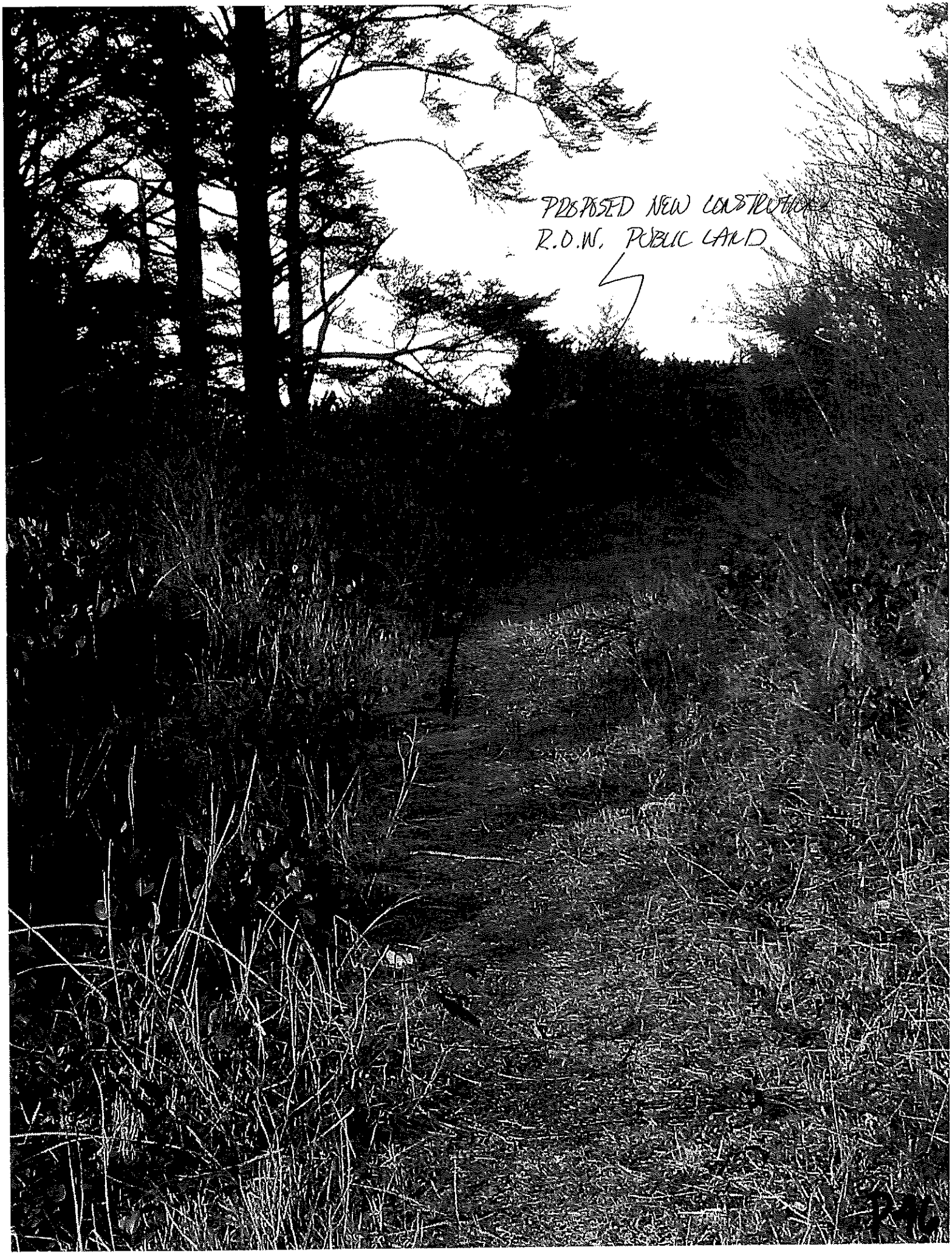
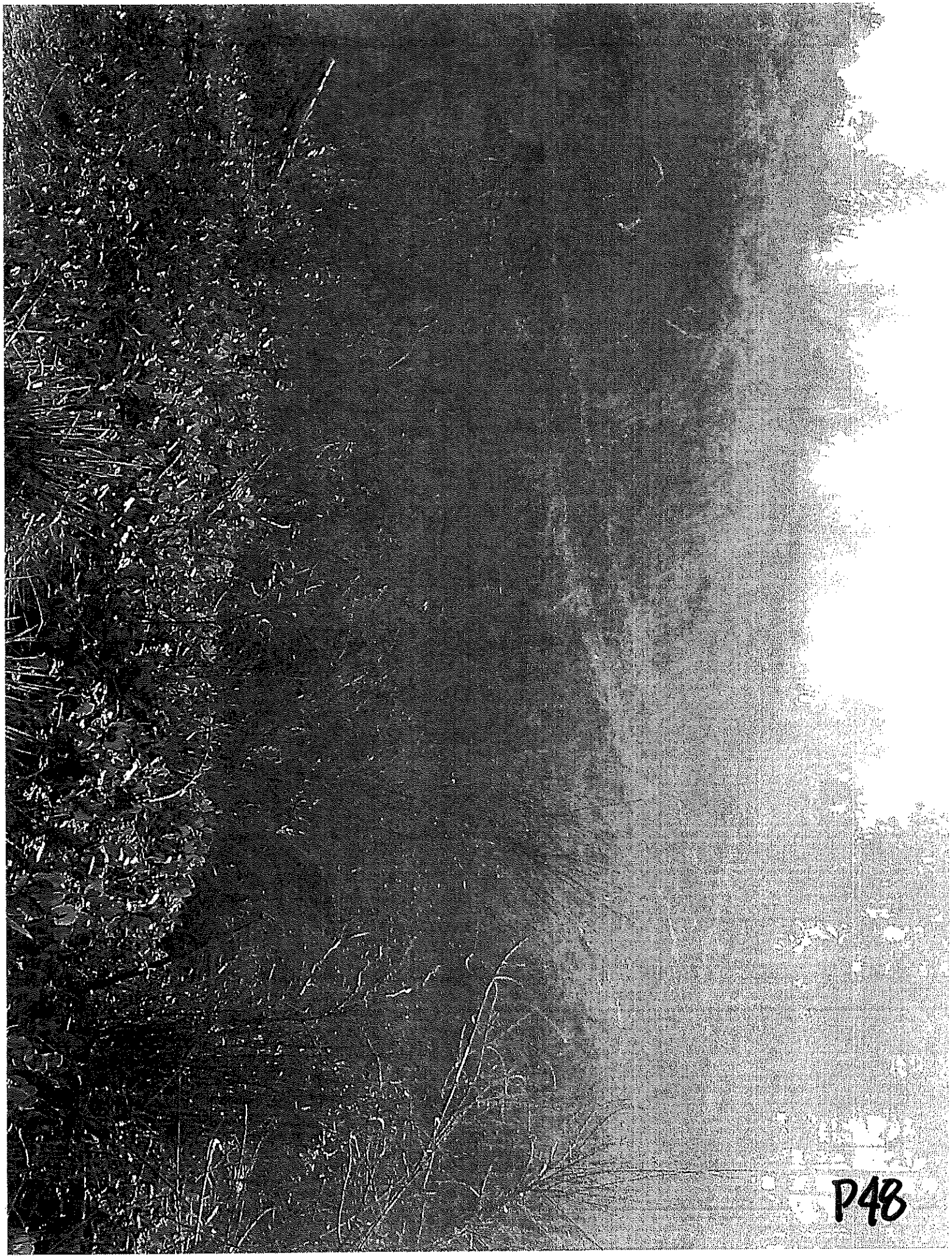



PROPOSED NEW CONSTRUCTION
R.O.W. PUBLIC LAND



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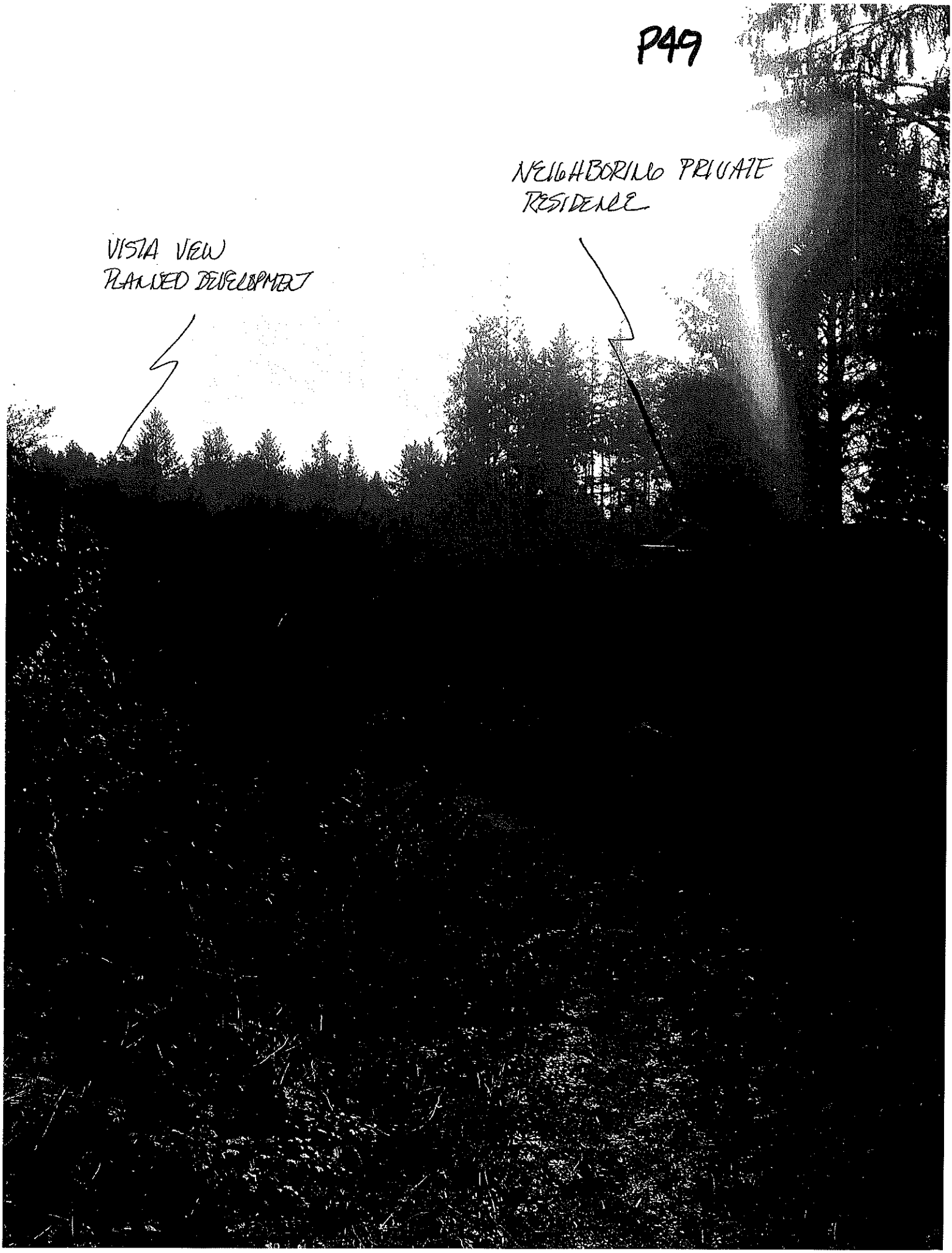
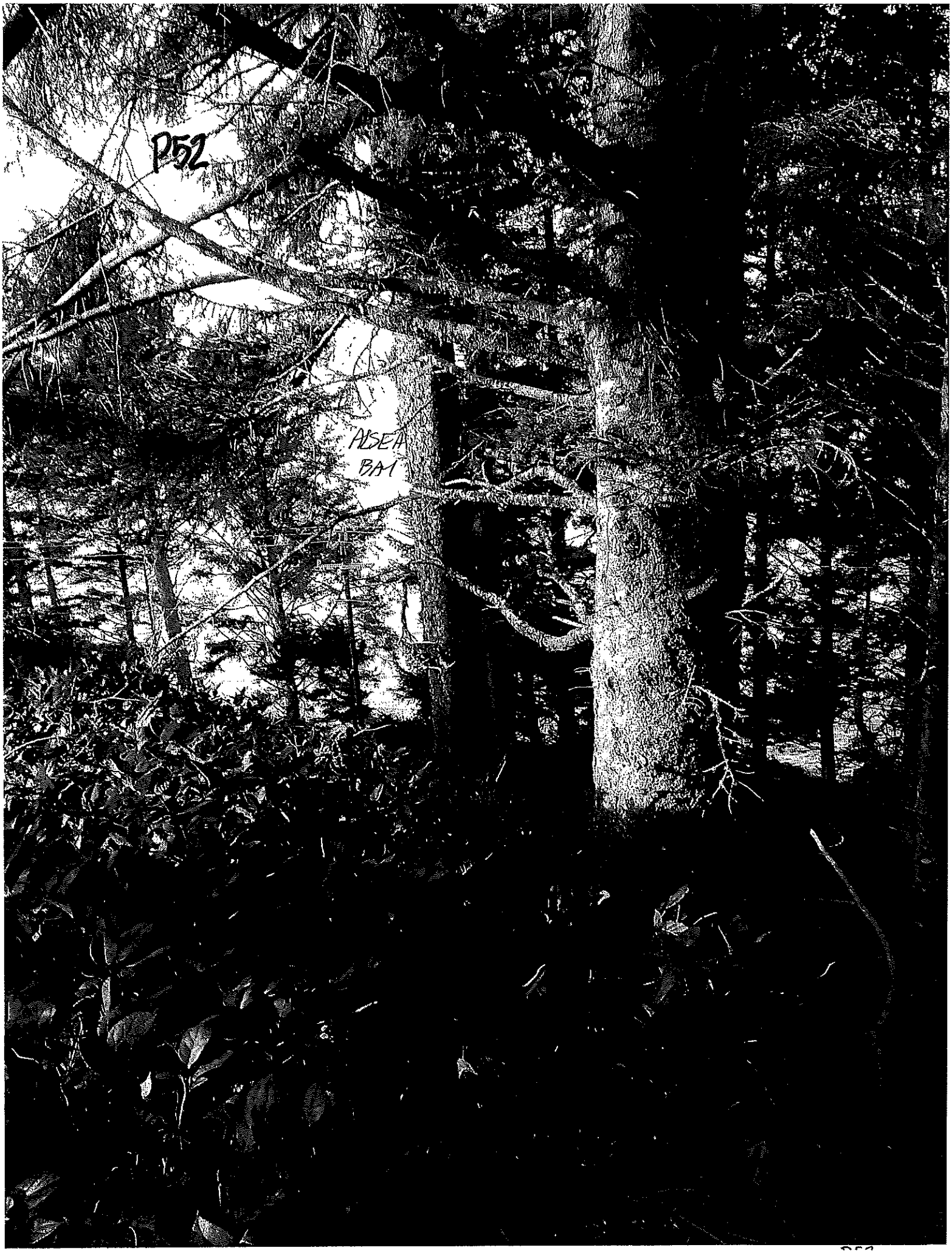
P49


NEIGHBORING PRIVATE
RESIDENCE
VISTA VIEW
PLANNED DEVELOPMENT

P50

P51


P52
ALSEA
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P53
LIFTED
POWER
ROW

P54
AISEA
BAY
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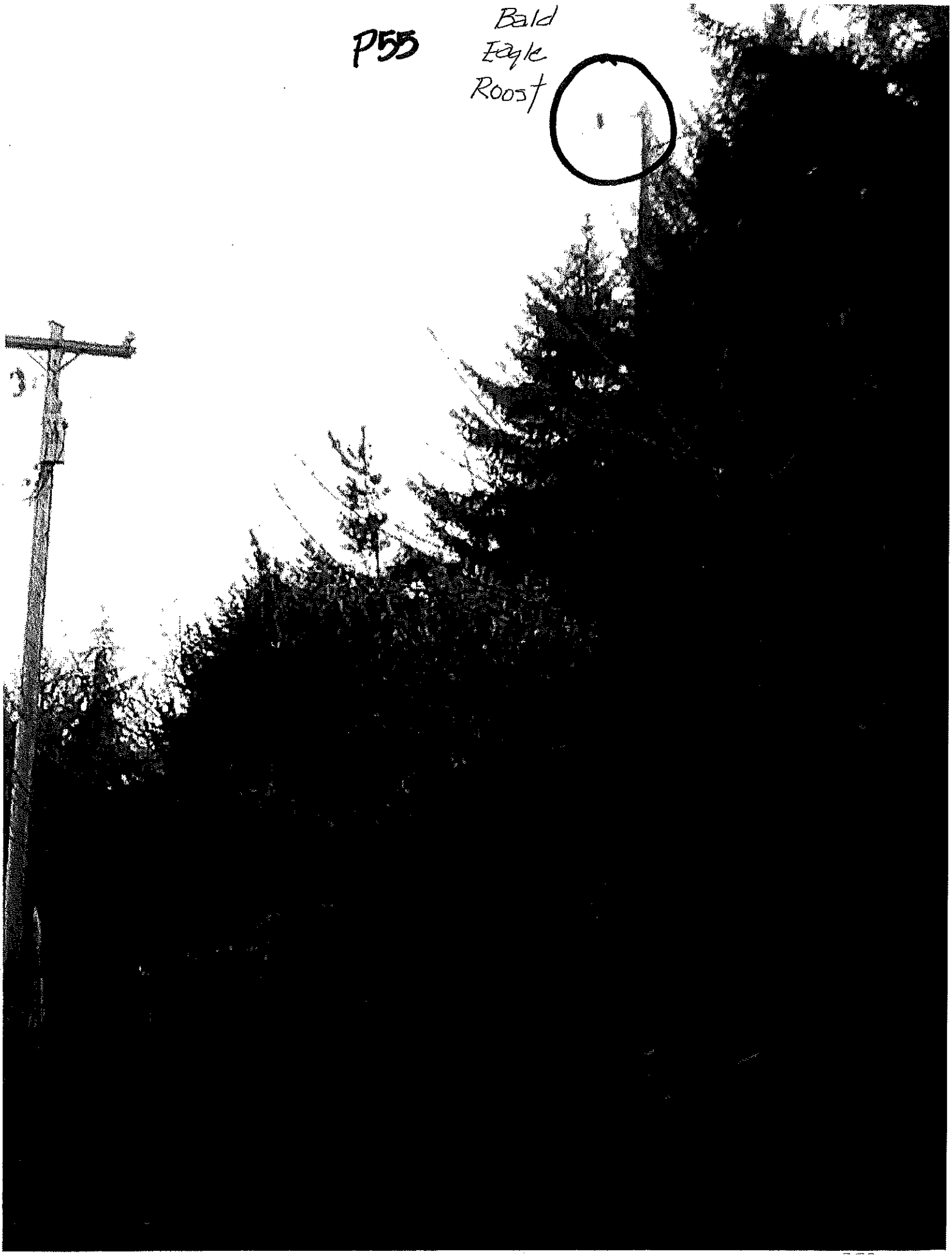

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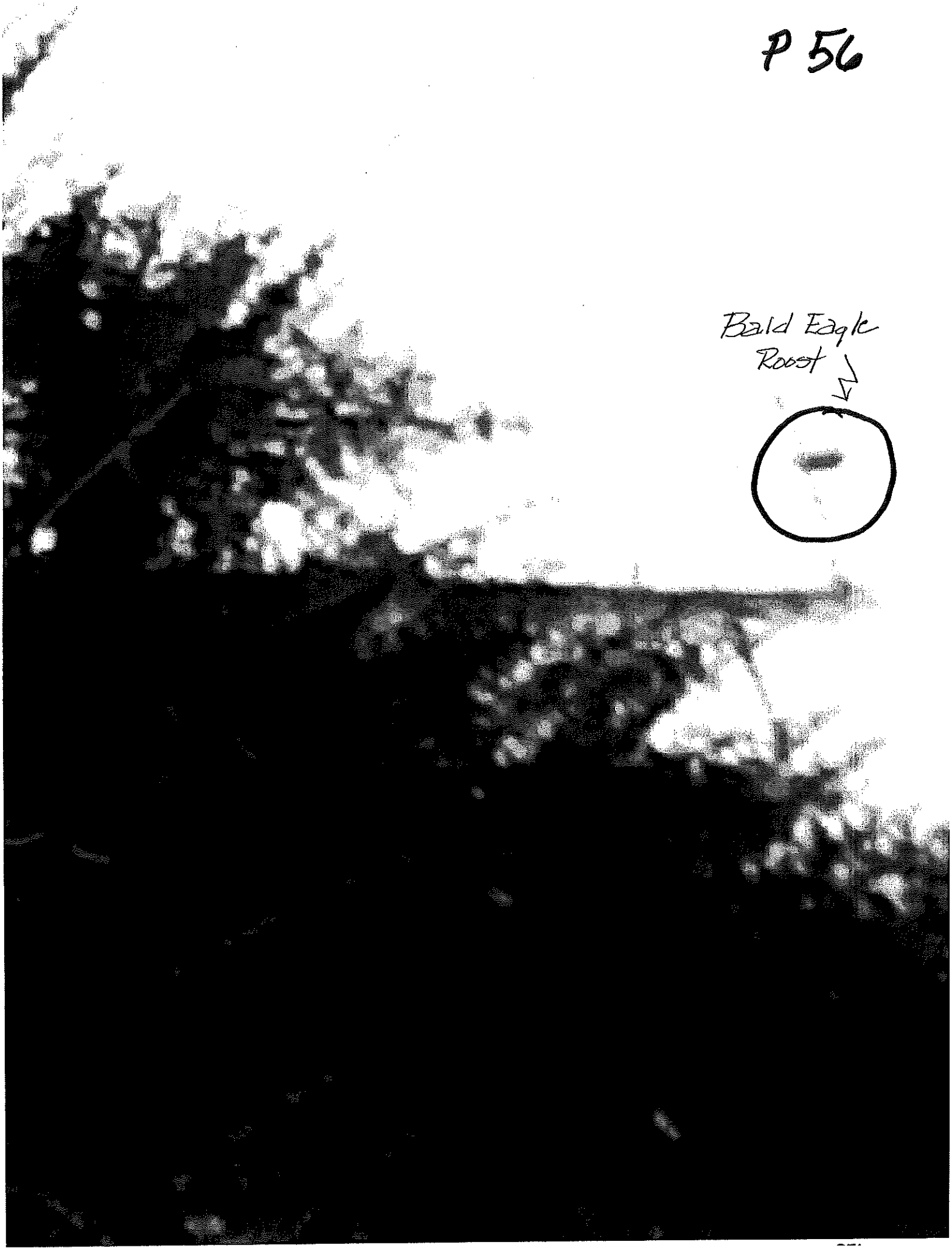

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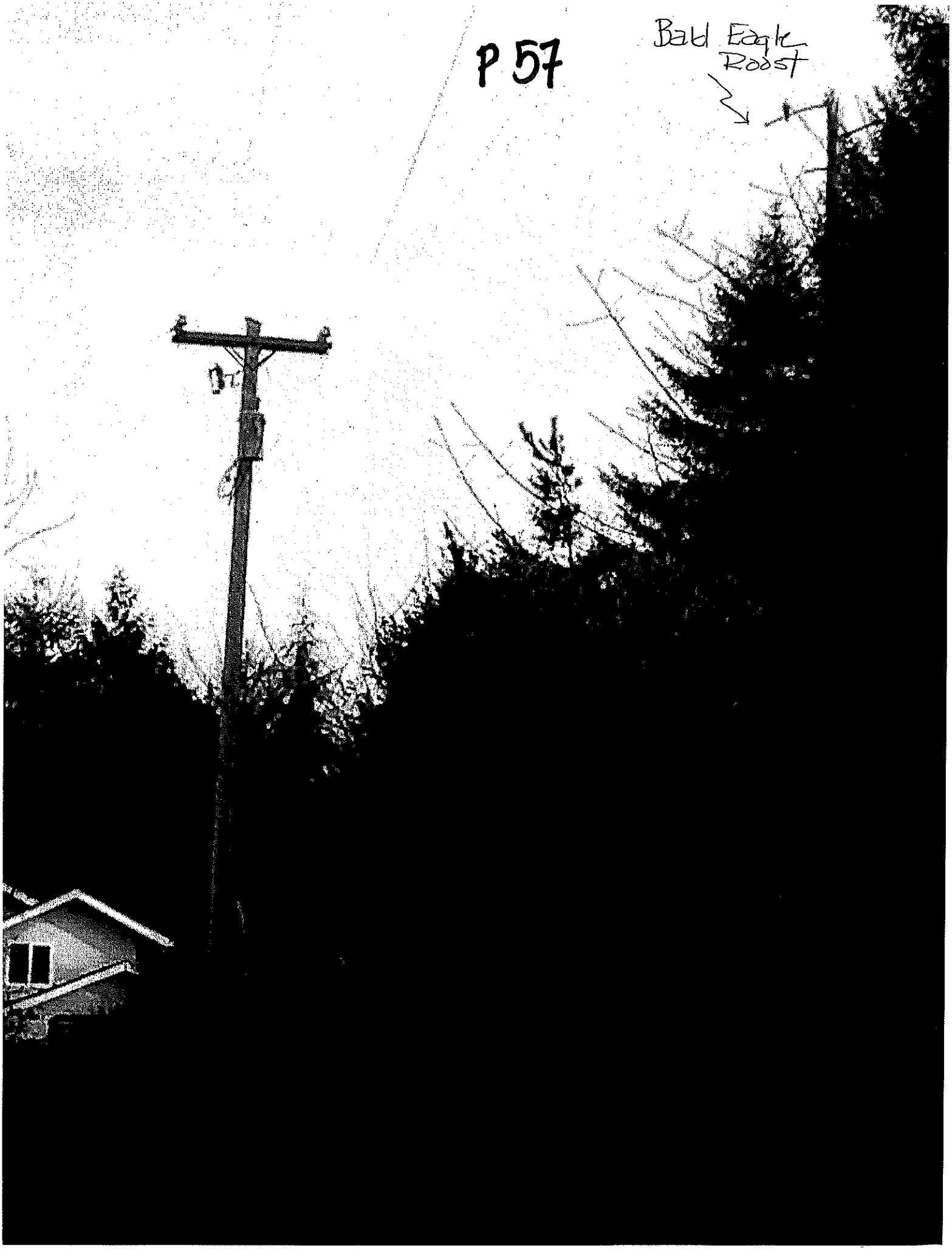

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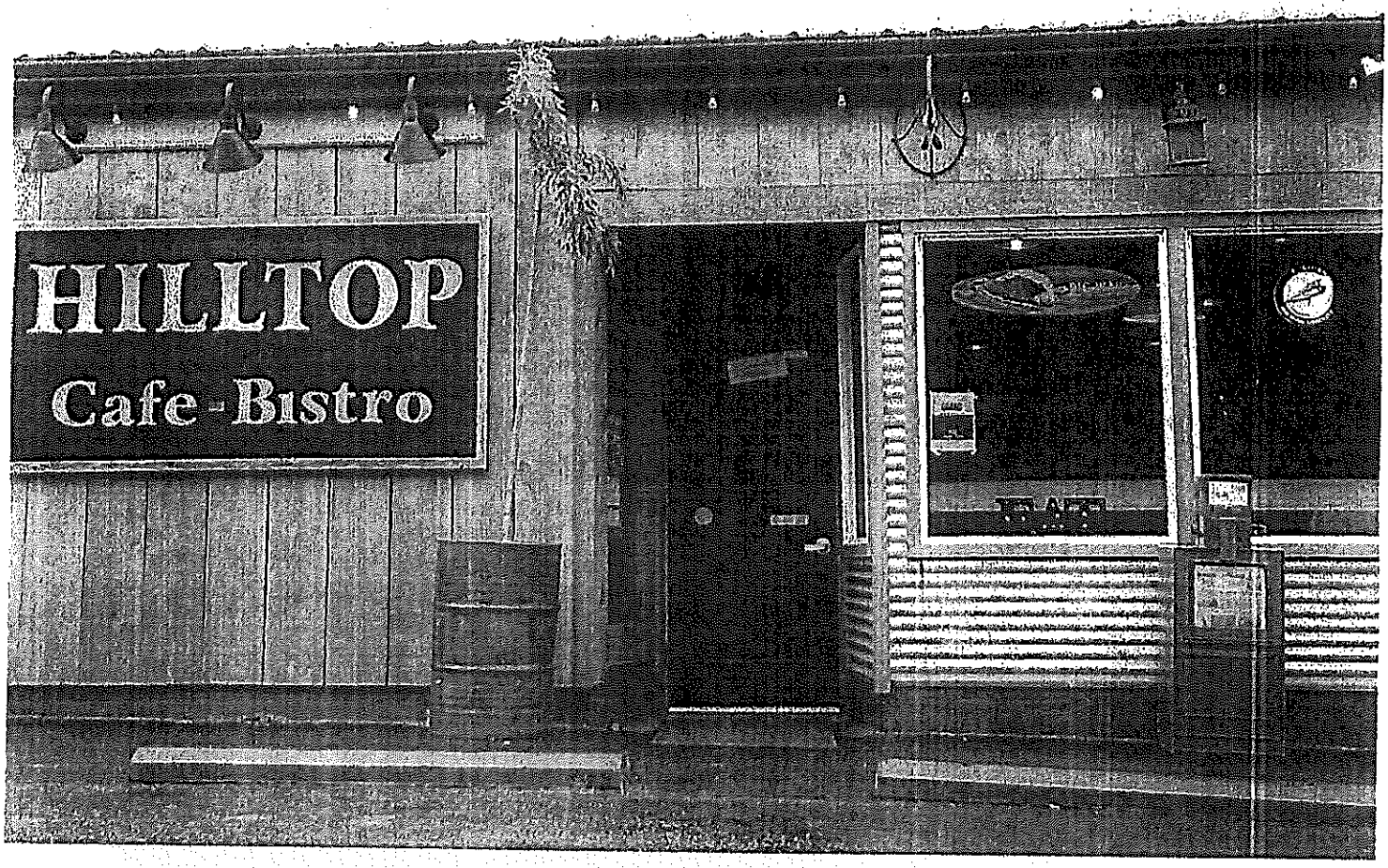
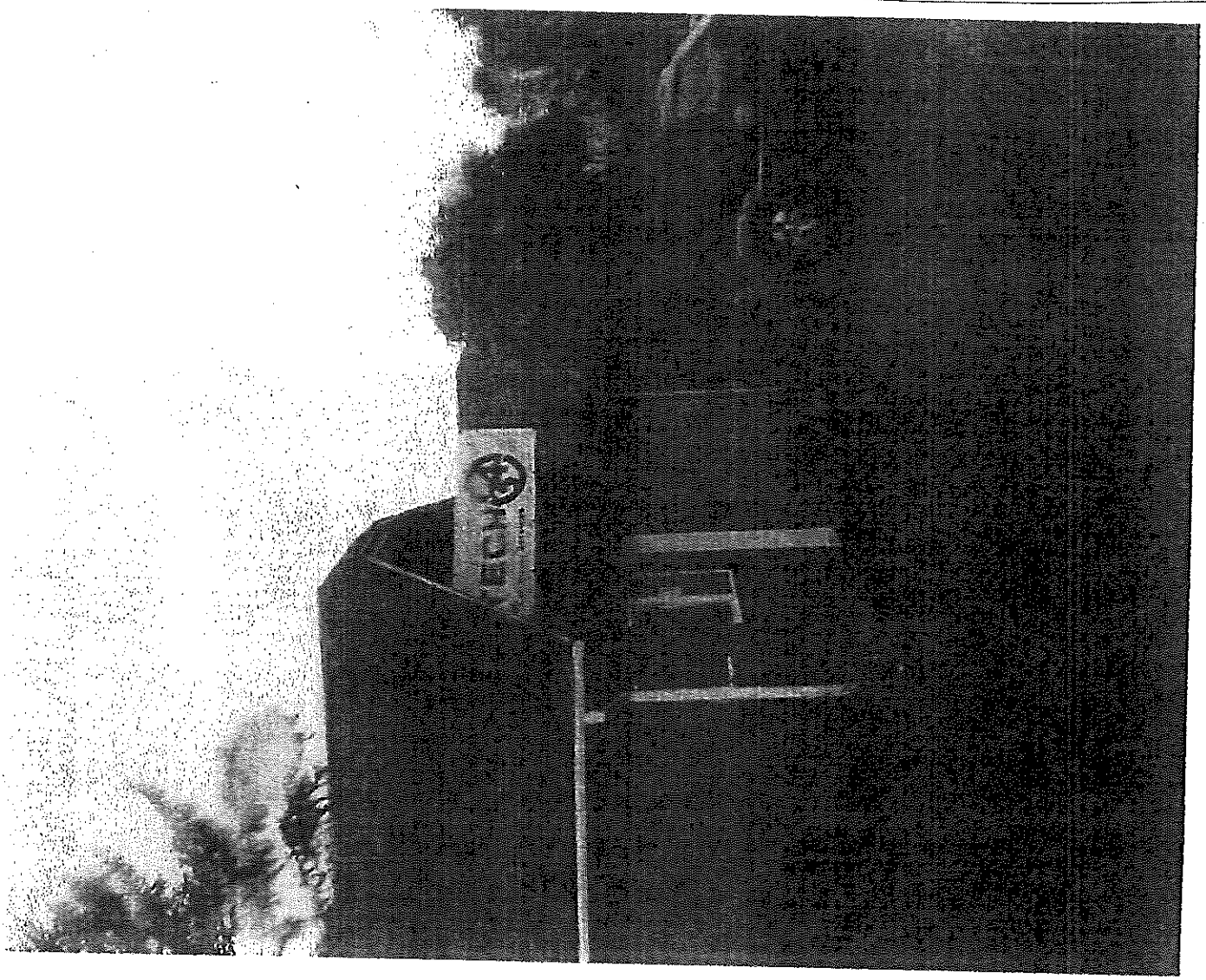

HILLTOP
Cafe-Bistro



P60

Norwood Heights II & III Planned Development Owner's Association is not opposed to development. As citizens of Waldport we are aware of the financial and economical need for growth and therefore we encourage and support developments that do not present substantial issues or problems.

As proposed the Summit at Waldport Planned Development is not appropriate. Therefore we are appealing to the City Council to rescind the current conditional approval. The Waldport Planning Commission rendered a conditional approval of the Summit at Waldport Planned Development based in part on information submitted by City Planner Larry Lewis. The Staff Report Mr. Lewis provided did not include certain relevant information and other communication contained information from the applicant that was incorrect.

Examples include: The Staff Report omitted the fact that over 1/3 of the property in the proposed Summit at Waldport Development is already part of the City approved Norwood Heights II & III Planned Development. Norwood Heights II & III Planned Development was approved by the City of Waldport November 10, 1994. (Attachments A, B, C, D)

The Staff Report mentions the hammerhead turn-around need to conform to the guidelines for application of the Oregon Fire Code in Lincoln County. When a citizen requested from Mr. Lewis a copy of the Waldport Fire Department's input/recommendations, he could not provide this information.

The June 22, 2015 Planning Commission hearing was continued in order to obtain additional information from the applicant of the Summit at Waldport Planned Development. Larry Lewis, City Planner included in his July 20, 2015 communication to the Planning Commission a summary of additional information provided by the applicant. He reported that "The applicant states that the Summit PD CC&Rs are the same as Norwood Heights II Subdivision CC&Rs in order to ensure the two CC&Rs are compatible." This information from the applicant is incorrect. (Attachment E)

E1

Appeal Issue Number 1

The Planning Commission should not have approved a new planned development when that Planned Development included a large parcel of land that was already part of Norwood Heights Planned Development. The land was encumbered. Tax Lot 143 belonging to Norwood Heights II & III is .82 acres. It is just over 1/3 of the proposed Summit at Waldport. As purchasers of property, owners become part of Norwood Heights II & III Planned Development. Construction and improvements are subject to its CC&Rs. Plans must be submitted to the Norwood Heights Design Committee for approval. Mr. Weber, owner of Tax Lot 143 has not submitted plans to the Design Committee. His proposed plans, as submitted to the City of Waldport conflict with the Norwood Heights II & III CC&Rs. Mr. Lewis noted in the Staff Report, the Summit at Waldport Planned Development CC&Rs need to be approved by the City. Members of the City Planning Commission have stated that the City does not enforce CC&Rs after approval. Further, the City does not address the overlap of the two developments and has placed the burden of cost of enforcing its CC&Rs on the Norwood Heights Association. The overlap will create issues to be litigated by including Tax Lot 143 in two Planned Developments. The two Planned Developments have conflicting CC&Rs. (Attachments A, B, C, D)

If the City approves the Summit At Waldport Planned Development, the Norwood Heights II & III Planned Development requests the City remove Tax Lot 143 from the Summit at Waldport Planned Development. Mr. Weber's remaining two lots meet the required size to qualify to be a planned development. This would stop the creation of serious legal problems for Norwood Heights II & III Planned Development.

E2

Appeal Issue Number 2

The Waldport Planning Commission gave conditional approval to the Summit at Waldport Planned Development despite the present proposal's inability to meet Oregon State Fire Safety Codes minimal standards. The requirements include an appropriate water source and adequate access to the Planned Development. Citizens presented testimony to the Commission that the then Fire Chief Dennis Cannon's observation, that having walked the property, he could not envision any change in the design which would provide the accessibility required under Oregon Fire Code. (Attachment F)

Waldport does not have an experienced Fire Chief due to the recent stepping down of Dennis Cannon.

Mr. Woodruff is Chairman of both the Central Oregon Coast Fire & Rescue Board and the Waldport City Planning Commission. Commissioner Woodruff voted yes to the conditional approval of the Summit at Waldport Planned Development. The absence of a Fire Chief and the fact that Mr. Woodruff should not be placed in a position to have an appearance of a conflict of interest presents a valid concern. We therefore request that through the Central Oregon Coast Fire & Rescue, Deputy State Fire Marshall Shannon Miller be invited to review fire safety modifications to this plan.

Appeal Issue Number 3

The proposed Summit at Waldport Planned Development requires a private road variance. The variance should be disallowed in that it does not comply with Waldport Municipal Code 16.100.040 #5 and 6 regarding Private Roads. Nor is there compliance with Waldport Municipal Code 16.100.100 which states specific criteria for private roads accessing 3+ dwellings. The developer is proposing to place six (6) houses on three lots accessed via a narrow road. In

considering a private road variance the City should also weigh the impact of garbage trucks, delivery vans and other commercial vehicles using the same narrow roadway as the inhabitants of the 6 residences. There is space available in this planned development to provide standard street widths and thus comply with the Waldport Municipal Code. (Attachment G)

In conclusion, the Norwood Heights Association does not object to Mr. Weber developing his property. Our issues involve the Summit at Waldport Planned Development compliance with current City codes. Norwood Heights property owners ask that the City honor the commitment it made to the Norwood Heights Planned Development II & III when it approved the Development in 1994. (Attachment H)

We are requesting that all documents given to the Planning Commission be incorporated into the City Council review of this appeal.

Lincoln County Property Report

Account # & Prop. Info

Account #:	R508613
Map Taxlot:	13-11-19-CC-00143-00
Tax Map:	13s11w19CC
Web Map:	View Map
Info:	NORWOOD HEIGHTS 3, BLOCK 6, LOT 5 & ADJ TRACT, ACRES 0.82, DOC201404886
Tax Code:	317
Acres:	0.82

Account Details

Neighborhood:	WWNB
Property Class:	100

Owner & Address

Owner and Mailing Address:	WEBER INVESTMENTS LLC 10168 N PRICE AVE FRESNO, CA 93730
Site Address(es):	

Improvements

No Inventory

Value History

Year	Imp.	Land	Total Market	Total Assessed
2014	0	61,300	61,300	61,300
2013	0	78,200	78,200	62,470
2012	0	88,990	88,990	60,660
2011	0	114,090	114,090	58,900
2010	0	121,380	121,380	57,190
2009	0	128,580	128,580	50,090

Sales History

Sale Date	Price	Document	Type	Code
06/09/2014	$88,500	201404886	30	WD
02/24/1997	$75,000	MF333-0379-0382	33	WD

Land

Description	Acres	Market Value	Special Use Value
UNDEV RES LOT	0.82	61,300	

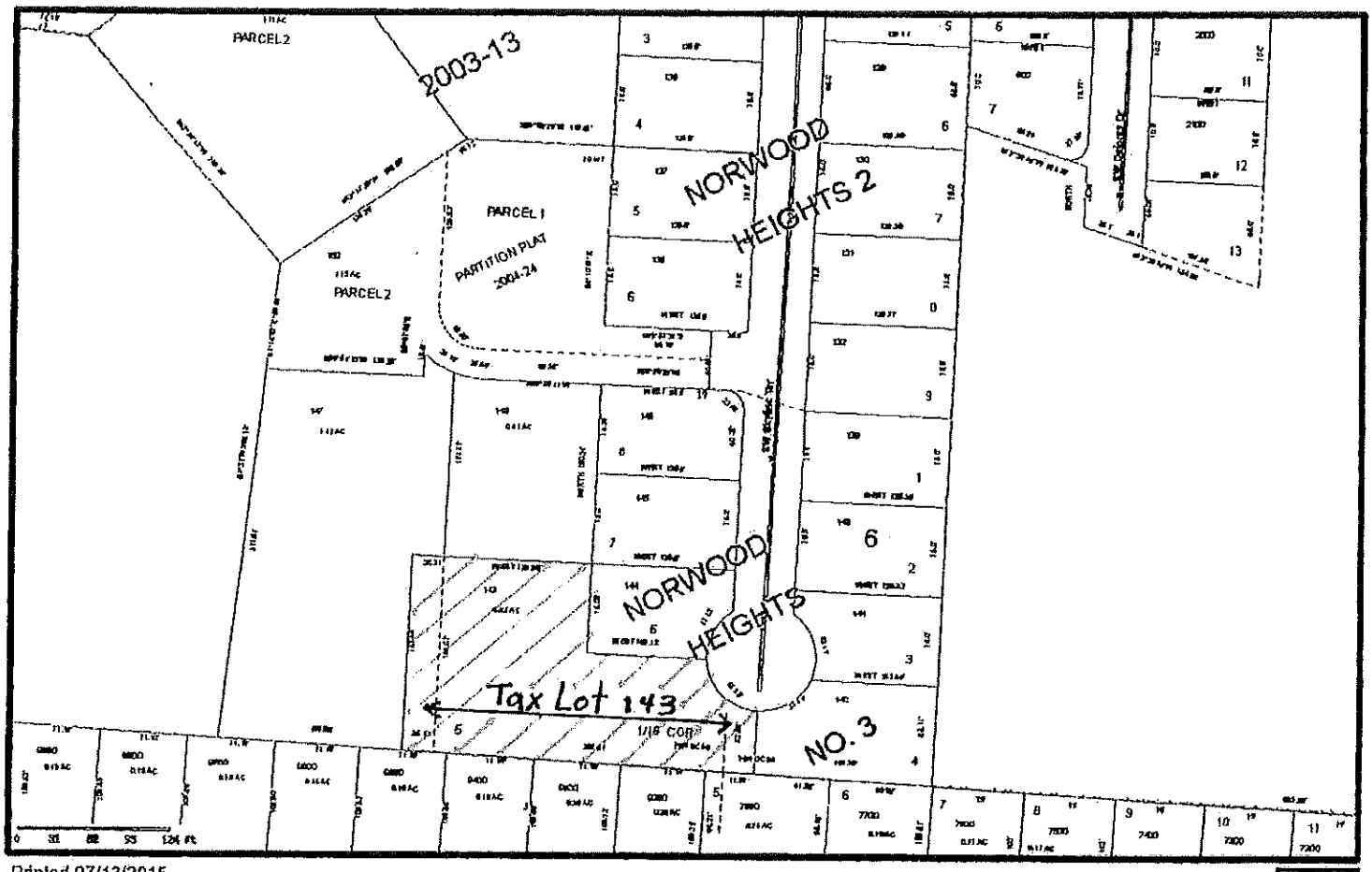
Related Accounts

Disclaimer

This report was produced using the Lincoln County assessment information. This information is maintained by the county to support its governmental activities. The County is not responsible for errors, omissions, misuse or

Attachment A

Norwood Heights



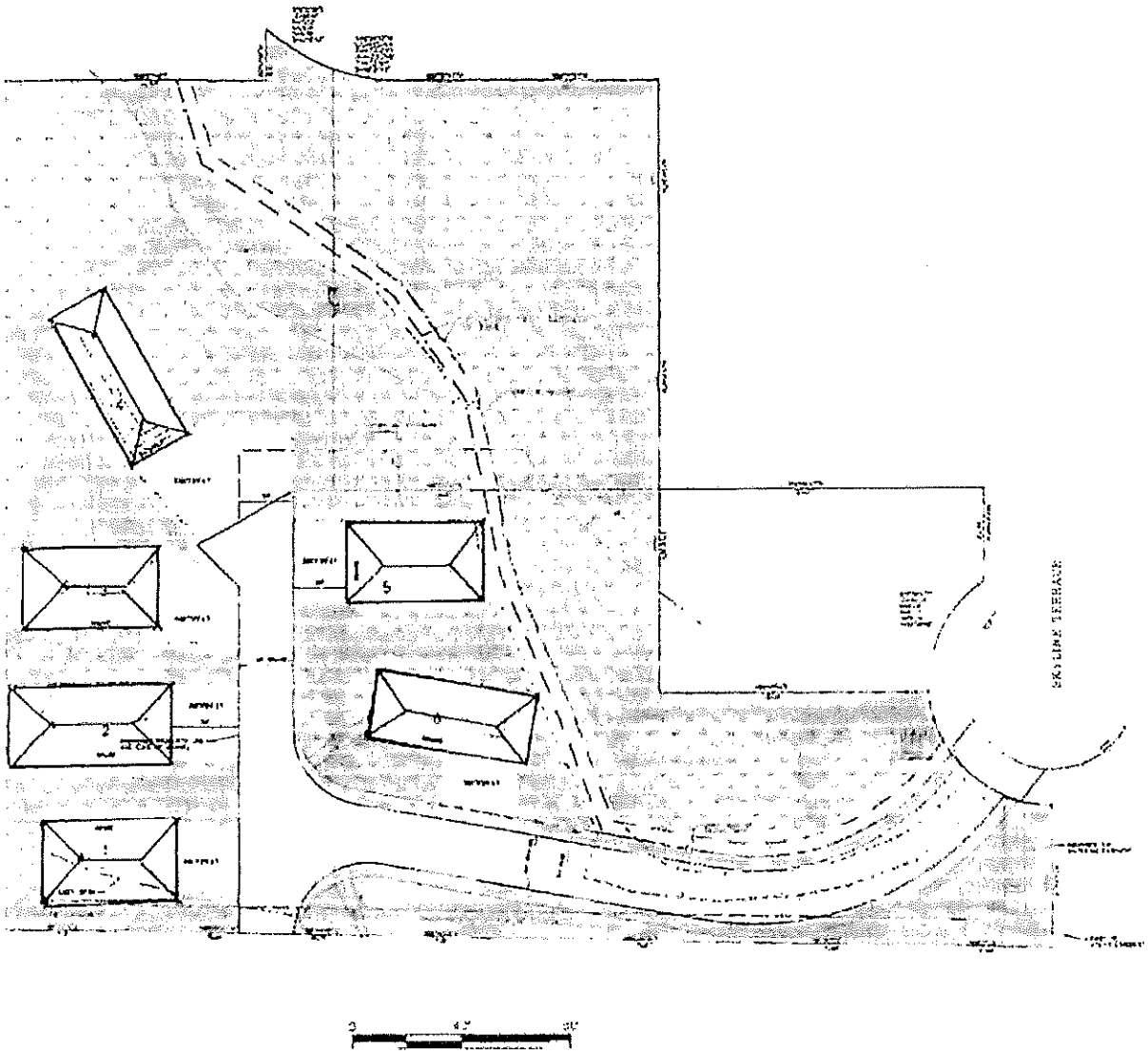
Printed 07/13/2015

Lincoln County government use only. Use for any other purpose is entirely at the risk of the user.
This product is for informational purposes and may not have been prepared for, or be suitable for legal,

E6

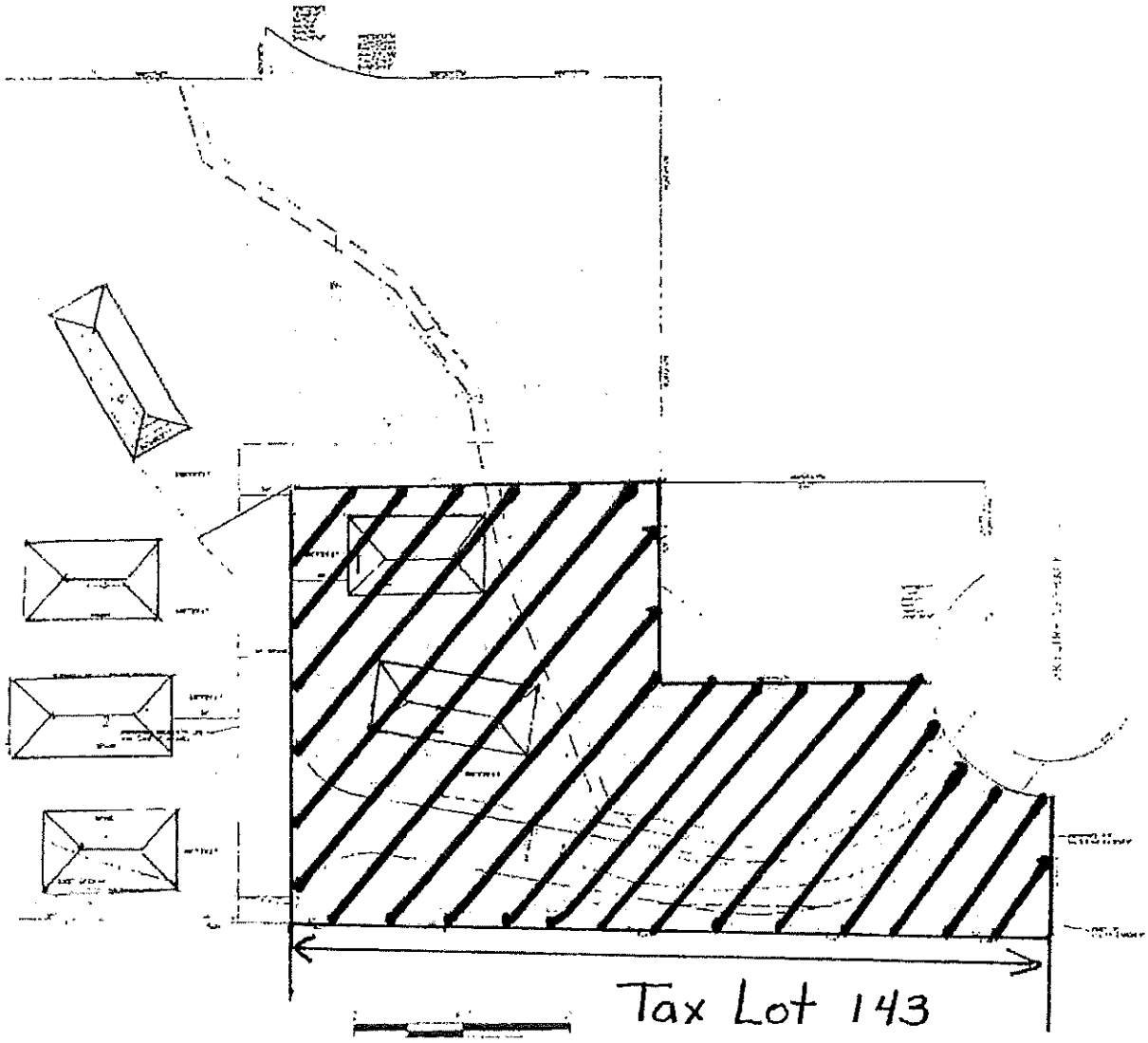
Attachment B

Summit at Waldport Planned Development



E7

Attachment C



Shaded area indicates where Norwood Heights II and III and Summit at Waldport Planned Developments overlap

E8

Attachment D

City of Waldport

P.O. Box 1120
Waldport, OR 97394
Phone: (541) 264-7417
Fax: (541) 264-7418
TTY: (800) 735-2900

July 20, 2015

To: **Waldport Planning Commission**

From: **Larry Lewis, City Planner**

Re: **Case File #1-PD-PC-15**
Weber Investments, LLC
The Summit at Waldport Planned Development

At the June 22, 2015 Planning Commission meeting, the Commission continued the public hearing for Case File #1-PD-PC-15. The Planning Commission requested additional information from the applicant, i.e. confirmation regarding whether or not the property is part of Norwood Heights CC&Rs, provide draft CC&Rs, and provide draft HOA documents. A summary of additional information provided by the applicant is provided below.

Norwood Heights CC&Rs
The original Lot #5 (tax lot 143) was included as part of the Norwood Heights II Subdivision and therefore may be subject to existing CC&Rs. Lot #5 has been modified (expanded) with a property line adjustment. Tax lots 147 and 148 (also part of the proposed Summit PD) do not appear to be included in the Norwood Height II Subdivision. The Norwood Height CC&Rs do not place any restrictions on subdividing lots. As described below, the draft Summit PD CC&Rs are the same as the Norwood Heights II Subdivision CC&Rs.

Draft Establishment of a Homeowners Association (HOA)
The applicant provided the enclosed "Establishment of a Homeowners Association and Initial Declaration of Homeowners Association Annual Fee applicable to the THE SUMMIT AT WALDPORT including THE SUMMIT AT WALDPORT (lots 1 through 6)."

Draft Covenants, Conditions and Restrictions (CC&Rs)
The HOA document includes draft CC&Rs, i.e. "Architectural and Construction Standards, Residential Covenants". The applicant states that the Summit PD CC&Rs are the same as Norwood Heights II Subdivision CC&Rs in order to ensure the two CC&Rs are compatible. City staff reviewed the Norwood Heights II Subdivision CC&Rs and do not find any restrictions on subdividing the property.

Gmail

Joan Quill <jnkquill@gmail.com>

Fire Codes

4 messages

Joan Quill <jnkquill@gmail.com> Wed, Aug 5, 2015 at 5:58 PM
To: oregon.sfm@state.or.us

Dear State Fire Marshall,

I live in Waldport, Oregon and have a concern about the enforcement of our local fire codes.

Briefly stated this is the situation. A developer purchased a piece of property at the end of our street which is a cul-de-sac. Access to the planned development would be via a lot located in this cul-de-sac. As presented the plan does not meet the Lincoln County Fire Codes according to our local Fire Chief, Dennis Cannon. I know this as my husband and I personally met with Chief Cannon to discuss the development. He said as presented, the proposed hammer head did not provide sufficient room to maneuver his fire trucks. When I asked could the plans be modified to comply with the fire standards he said he did not see how this could be done given the terrain. Chief Cannon said this information was given to the City Planning Committee and agreed with the statement at this point the proposed development was "dead in the water".

Several concerned neighbors attended the Planning Committee Meeting. When I reminded them of the Fire Chief's evaluation, the City Planner, Larry Lewis said it wasn't a big deal that the development did not meet the standards and that the plans could be modified. The Committee voted to accept the plans with modifications.

I have emailed Chief Cannon to find out how this can happen but to date have not had any response. However in all fairness to him, he was appointed by the Chairman of the Fire Board who also happens to be the Chairman of the Planning Committee. A sticky situation at best.

My questions are: How can the acceptance of the development even proceed without the Planning Committee reviewing the modifications and getting reevaluations? Who reviews and accepts the modifications? Does the State, County or City Fire Departments have any recourse when the codes are not being met?
If the development is allowed to proceed without meeting the standards can the proposed homes qualify for fire insurance?

The fact that this is a very dry season and we are surrounded by wooded area it is very worrisome that this development may slip through without meeting the fire codes. If the fire department were unable to access the area in the event of a fire, it could jeopardize all of our homes.

We appreciate your input into this situation.

E10

Attachment F

1 of 6

Joan & C. Kevin Quill

SFM, Oregon <oregon.sfm@state.or.us> Thu, Aug 6, 2015 at 8:13 AM
To: Joan Quill <jnkquill@gmail.com>, "SFM, Oregon" <oregon.sfm@state.or.us>

Joan and Kevin,

Thank you for your email. I am forwarding it to the individual who can best answer this. You will receive a response at their earliest opportunity. If you need any further assistance please do not hesitate to contact us.

Sharon Dunn
Receptionist
Oregon Office of State Fire Marshal
Oregon State Police
Phone 503-934-8200
Fax 503-373-1825
sharon.dunn@state.or.us
www.oregon.gov/osp/sfm
"Premier Public Safety Services"
[Quoted text hidden]

Miller, Shannon <shannon.miller@state.or.us> Thu, Aug 6, 2015 at 8:42 AM
To: "jnkquill@gmail.com" <jnkquill@gmail.com>

Good morning,

My name is Shannon Miller. I am the Deputy State Fire Marshal where Waldport is part of my assigned area. I will be looking into this to see what is going on. The fire code is a minimum code but there are alternative solutions to get to the same goal in this case would be to have a roadway that a fire truck can turn around if the dead-end fire apparatus access road is in excess of 150 feet in length, the road shall be provided with an approved area for turning around. (Oregon Fire Code 503.2.4) in appendix D, there are some alternatives and styles for those turn arounds.

Here is a link to the Oregon Fire Code which can be viewed for free on line : http://codes.iccsafe.org/Oregon.html Basically what the Fire Chief is discussing comes out of Chapter 5 and appendix D. The Fire Chief is very aware and knowledgeable of these codes so I will give him a call to see what we can do to assist in this matter.

Again, Thank you for your email, concern and follow up.

Shannon Miller
Deputy State Fire Marshal
3975 SE Cirrus Ave.
McMinnville, Or 97128
503-428-4535
Shannon.Miller@State.Or.US
[Quoted text hidden]

Miller, Shannon <shannon.miller@state.or.us> Thu, Aug 6, 2015 at 10:29 AM
To: "jnkquill@gmail.com" <jnkquill@gmail.com>
Cc: "Rayw@peak.org" <Rayw@peak.org>, "n.weikel@centralcoastfire.net" <n.weikel@centralcoastfire.net>

Hello,

I spoke with Ray Woodruff who is the Board Chair for the Central Coast Fire. Per Mr. Woodruff, the meeting that

E11

2 of 6

you are discussing was the planning meeting for the project itself.

The next step is submittal of the engineer plans to the Building Official. Upon submittal of the plans to the Building Department, the project will be compliant with current Oregon structural and fire code as required by state and national code. Mr. Woodruff also added that access and water supply will be compliant with the current Oregon Fire Code and the project will not be signed off unless it is.

I hope this helps you with the questions you may have had for understanding. We strive for protecting citizens, property and the community from fires and hazardous materials.

I appreciate the information. Please let me know if there is anything else I can assist with.

Shannon Miller
Deputy State Fire Marshal
3975 SE Cirrus Ave.
McMinnville, Or 97128
503-428-4535
Shannon.Miller@State.Or.US

Gmail

Joan Quill <jnkquill@gmail.com>

Update of Fire Code Email

1 message

Joan Quill <jnkquill@gmail.com> Sat, Aug 8, 2015 at 2:13 PM
To: oregon.sfm@state.or.us, shannon.miller@state.or.us

Fire Marshall and Deputy,

We are sending you this email because we are very distressed.

In our previous communication we mentioned the somewhat "sticky situation" our Fire Chief, Dennis Cannon may have found himself in. When my husband and I inquired, he had made comments to us regarding the proposed Summit at Waldport Development and how it did not meet state fire codes. (Please reference our previous email, August 5, 2015.)

Chief Cannon was appointed in 2014 by the Fire Department Board, Ray Woodruff, Chairman who is also the Chairman of the Planning Committee. The Committee recently voted to approve the Summit at Waldport Development with modifications.

We have just learned that Chief Cannon has stepped down as Fire Chief. It seems more than coincidental that this occurred so soon after we contacted your office with our concerns. I would hope that Chief Cannon's honest and candid remarks to us did not consequently cost him his position within the fire department. Fire Chief Cannon is a very dedicated and well respected firefighter. It is a devastating blow to this community if he was forced to vacate because he did not conform to the wishes of the local politicians. We have to ask ourselves, do we want a "puppet" for a fire chief or someone with integrity?

In conclusion, we are terribly disturbed that our actions may have cost Waldport a valuable leader in our fire department.

Considering this latest turn of events, we would appreciate your continued interest in assuring compliance to state fire standards with regards to the Summit at Waldport Development.

Joan & Kevin Quill

On Aug 10, 2015, at 10:24 AM, Miller, Shannon
< shannon.miller@state.or.us> wrote:

Hello,

We received this email which involves your department. Would you mind assisting Mrs. Quill with her concerns?

Thank you,

Shannon Miller
Deputy State Fire Marshal
3975 SE Cirrus Ave.
McMinnville, Or 97128
503-428-4535
Shannon.Miller@State.Or.US

From: Ray Woodruff <rayw@peak.org>
Date: Mon, Aug 10, 2015 at 5:36 PM
Subject: Update of Fire Code Email
To: "jnkquill@gmail.com" <jnkquill@gmail.com>
Cc: Dustin Joll <d.joll@centralcoastfire.net>,
"n.weikel@centralcoastfire.net" <n.weikel@centralcoastfire.net>,
"Miller, Shannon" <shannon.miller@state.or.us>, Kerry Kemp
< kerry.kemp@waldport.org>, Dennis Cannon
< d.cannon@centralcoastfire.net>

Dear Mr. and Mrs. Quill,

Thank you for your continued interest in and concern regarding Central Oregon Coast Fire & Rescue's oversight of the Summit at Waldport Development with regard to insuring that state fire codes and requirements are met. Please be assured that we will continue to see that these are met throughout the development's permitting process

Dennis Cannon is also writing you to assure you that his stepping down as chief had nothing to do with this development or your comments about it. He remains an integral part of our fire department with skills that are much appreciated.

At the recent hearing, we attempted to make clear to you and others attending in opposition to this development that we are bound by law to approve applications such as this unless there are very specific code-based reasons why not to approve it. None of those reasons includes "because we don't like it" or any other subjective reasons. The same laws prevent COCF&R from refusing to sign off on the request unless state fire requirements are not being met. These laws and codes make these decisions the very opposite of "political" as you suggest. And you will see by Mr. Cannon's reply that the developer has agreed to meet those requirements

If you have further questions or concerns, please feel free to contact us directly.

Sincerely,

Ray Woodruff
710 NW Highland Circle Box 1631
Waldport, Oregon 97394-1631
541-961-3799

16.100.040 General requirements and minimum standards of design development.
The following are the minimum requirements and standards to which subdivisions and partitions must conform:

A. Conformity to the comprehensive plan. All subdivisions and partitions shall conform with all applicable portions of the comprehensive plan and development regulations for the city.

B. Performance agreement. If all improvements required by the city and this code are not completed according to specifications as required herein prior to the time the plat or map is duly submitted for consideration and approval, the City may accept in lieu of said completion of improvements a performance agreement bond, or other assurance equal to the value of the cost of the improvements, plus administrative costs and inflation amounts not to exceed the amount of twenty (20) percent of the value of the cost of the improvements, executed by the subdivider/partitioner and any surety company, conditioned upon faithful performance and completion of all such improvements within a period of time stated in such performance agreement, pursuant to Section 16.100.010 of this chapter.

. . .

5. Private Roads.

a. Private roads shall provide access only to abutting lots. No road providing access to other roads or to areas not abutting such streets shall be approved as a private road.

b. The establishment of a private road shall not be allowed if it will deny the public access to public areas such as beaches or parks.

c. No private road shall be approved unless the Planning Commission is satisfied that such road is not presently needed as a public street nor will it ever be extended through to adjacent property or is necessary for public street purposes in the normal growth of the area.

d. Yard setbacks shall be determined from the road right-of-way or access easement line in instances where private roads are considered.

e. Private road rights-of-way may be approved of less than fifty (50) feet in width but in no instance shall the road right-of-way be less than thirty (30) feet except that a private road to two lots may be twenty (20) feet in width. In instances where the road access to more than three lots is less than fifty (50) feet in width utility/slope easements may be required.

f. Private road improvement standards shall be the same as those for public streets. In residential zones, roads providing access to no more than three lots shall be exempt from standards for improvements and shall be regarded as private driveways.

g. An approved turn-a-round shall be provided on all dead-end streets as required by the fire department.

6. Public Street Standards.

a. Street Widths: The right-of-way and surface widths shall conform to the widths as specified in Section 16.100.100 of this chapter unless a modification is granted pursuant to Section 16.100.090 of this chapter.

b. Street Design and Improvements.

1) The layout of streets shall give suitable recognition to surrounding topographical conditions in accordance with the purpose of this code.

c. Street Intersections.

1) Streets shall intersect one another at an angle as near to a right angle as is practical considering the topography of the area and previous adjacent layout.

2) Intersections shall be designed so that no danger to the traveling public is created as a result of staggered intersections and in no case shall intersections be offset less than one hundred (100) feet.

3) Any intersection that accesses an arterial street shall provide an additional turn lane access.

d. Cul-de-Sacs and Turn-a-Rounds.

E16
Attachment
1 of 2

1) In general, dead end (cul-de-sac) streets in partitions or subdivisions should not exceed four hundred (400) feet in length and must terminate in a turn-a-round with a minimum property line radius of forty-five (45) feet or other type of turn-a-round approved by the planning commission.

2) Approved turn-a-rounds shall be provided on all dead end streets.

7. Public Access Ways: When necessary for public convenience and safety, the City may require a subdivider to dedicate to the public access ways ten (10) to twenty (20) feet in width to connect cul-de-sacs, to pass through oddly shaped or unusually long blocks, to provide for networks of public paths according to adopted plans or to provide access to schools, parks, beaches or other public areas, and be of such design and location as reasonably required to facilitate public use.

. . .

16.100.090 Modifications.

A. If the planning commission finds that a hardship to the developer will result from strict compliance with these regulations, it may modify them provided that the following exists:

1. The city's purposes of this code and comprehensive plan will be fulfilled without a strict application of these regulations; and

2. The modification will not be detrimental to property in the surrounding area.

B. No modifications may be granted to the procedural requirements of this article.

C. In granting modifications, the planning commission may recommend such conditions as will, in its judgment, secure substantially the objectives of the standards or requirements so modified.

D. Requests for modifications shall be made in writing at the time of application for tentative approval.

16.100.100 Street width and improvement standards.

A. Street Widths.

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:	++++	++++

Notes:

+ 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.

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

++++ Hammerheads will be of such width and length as to allow for adequate turn-a-round of all emergency vehicles as determined by the Public Works Director and the Central Oregon Coast Fire and Rescue District.

2: Amendment: Any amendment to this declaration of conditions, restrictions, covenants, and regulations may be amended in whole or in part only by written amendment duly executed and recordable in the Lincoln County Deed Records by the fee title interest holders and contract purchasers then of record of a majority of the lots in the subdivision.

IN WITNESS WHEREOF the Declarant have executed this document to be effective the day and year first above written.

Tim Hugleston Pamela L. Hugleston

Gordon Flaming Shirley Flaming

Notary:

STATE OF OREGON, County of Lincoln } ss.

BE IT REMEMBERED, That on this 14 day of November 14, 19 94 before me, the undersigned, a Notary Public in and for said County and State, personally appeared the within named Tim Hugleston, Pamela L Hugleston, Gordon Flaming, Shirley Flaming known to me to be the identical individuals described in and who executed the within instrument and acknowledged to me that they executed the same freely and voluntarily.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal the day and year last above written.

OFFICIAL SEAL
SHELLY DAVIDSON
NOTARY PUBLIC - OREGON
COMMISSION NO. 002118
MY COMMISSION EXPIRES APR 22 1998

Shelly Davidson
Notary Public for Oregon
My Commission expires 4-22-98

STATE OF OREGON } ss.
County of Lincoln
I, Dana W. Jenkins, County Clerk, in and for said county, do hereby certify that the within instrument was received for record, and recorded in the Book of Records of said County of Lincoln, Oregon.
Book 291 Page 690
WITNESS my hand and seal of said office affixed.
Dana W. Jenkins, Lincoln County Clerk
Doc # 6127254 50.00
Rect# 52267
11/15/1994 02:54:01pm

E18
Attachment H

City of Waldport

P.O. Box 1120
Waldport, OR 97394
Phone: (541) 264-7417
Fax: (541) 264-7418
TTY: (800) 735-2900

August 3, 2015

Weber Investments LLC
10168 N. Price Avenue
Fresno, CA 93730

Re: Case File #1-PD-PC-15
The Summit a Waldport Planned Development

Dear Weber Investments LLC:

On Tuesday, July 27, 2015 the Waldport Planning Commission granted Preliminary Plan approval with conditions for the above referenced Planned Development application. The Planning Commission Chairman signed the Findings and Conclusions on August 3, 2015 (enclosed). This decision will become effective Tuesday, August 18, 2015 at 5:00 p.m. unless an appeal is filed at Waldport City Hall. Where it is alleged that there is an error in any procedure or decision made by the Planning Commission, an appeal may be made to the City Council. An application for an appeal shall include the specific rationale for the appeal with sufficient clarity to allow the City and respondents an adequate opportunity to respond to or resolve each issue. In order to appeal the decision of the Planning Commission, it is necessary to submit a fee of $540 along with a written statement explaining the reason for the appeal.

Please contact me if you have any questions.

Sincerely,

Larry Lewis
City Planner

cc: Those providing testimony.

Enclosure: Findings and Conclusions

BEFORE THE PLANNING COMMISSION
OF
WALDPORT, OREGON

Request for Planned Development **Case File #1-PD-PC-15**

Applicant: Weber Investments, LLC

FINDINGS AND CONCLUSIONS

Nature of the Application

The applicant requests approval of a Planned Development (The Summit at Waldport) for 6 single family homes/lots on 2.36 acres.

A private street is proposed to be constructed off of the Skyline Terrace cul-de-sac. The private street is proposed to have a 30' wide right-of-way and 20' pavement width. The street will provide access to the six lots and have a hammerhead turn-around at the western terminus.

The six lots are proposed to range between approximately 1,500 and 2,000 square feet. Zero lot line building setbacks are proposed. Each lot is surrounded by common open space. Approximately 90% of the 2.36 acre site including is proposed to remain as open space/common property. A public trail is proposed to extend from Skyline Terrace through the property to the west property line.

Relevant Facts

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

A. **Property Location:** The subject properties are located at the south end of Skyline Terrace on the west side of the street; and further described on Lincoln County Tax Assessor's Map 13-11-19CC as tax lots 143, 147, and 148.

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

C. **Plan Designation:** Residential Single

D. **Lot Size:** 2.36 acres

E. **Existing Structures:** None

F. **Topography and Vegetation:** The southern edge of the site where the street is proposed has a moderate slope. The northern portion of the site has significant slope. The majority of the site is forested.

G. **Surrounding Land Use:**
Single family dwellings are located on Skyline Terrace to the north and east, and on Kelsie Lane to the south. Adjacent property to the west is undeveloped Residential R-1 land.

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.

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I. **Development Constraints:** Portions of the site have significant slope.

J. **Public Testimony**. Prior to the June 22, 2015 Planning Commission meeting, written testimony included two letters from nearby property owners. One neighbor states that while they have no issue with the proposed homes, they do have concerns about the development's impact on the ravine that runs on the east and north sides of their property. They hope the ravine remains undisturbed in order to continue to route storm water runoff. The other neighbor states they believe the applicant addressed the Code criteria for Planned Developments and features of the plan qualify it for a Planned Development however they are somewhat disappointed there are no street connections to adjoining properties.

At the June 22, 2015 Planning Commission meeting, Applicant Phil Weber presented information and answered questions throughout the hearing via telephone. Oral testimony was provided by ten people. In summary, questions and concerns about the proposed planned development included the following:

- The nearby property was clear cut. How will drainage be handled?
- The density is too high.
- Public notification of the hearing should be expanded.
- Concern about multiple units.
- Prefer a paved street versus a gravel street.
- The property is included in Norwood Heights Subdivision #2 and #3.
- The Planned Development will change the character of the existing neighborhoods.
- The large number of homes on the street will create traffic problems.
- The dead-end street exceeds a 400 foot length when combined with Skyline Terrace.
- CC&Rs are important. CC&R details are needed. This proposed development essentially changes the Norwood Heights HOA and CC&Rs.
- Who will enforce private street regulations, e.g. 'No Parking'?
- The street width is inadequate.
- The proposed street is very close to houses on Kelsie Lane.
- Review of planned developments throughout the county show that proposed plans tend to diminish between the plan and the eventual reality. How will that be avoided here?
- Will the applicant be living on this property?
- Will there be parking for trail users?
- Topography/slope concerns where houses are proposed.
- Wildlife will be displaced.
- The City should buy the property for open space.
- Having only one road in and out creates evacuation problems.
- Concern about adequate emergency vehicle turnaround at proposed hammerhead.
- Proposed development is out of character with existing neighborhood.
- Substantial increase in traffic.
- Opposed to short-term and long-term rentals.
- Concern about impacts that the street would have to trees on adjacent properties.
- There are safety concerns with the public trail.

The public hearing was continued to the July 27, 2015 Planning Commission meeting. Following the June 22, 2015 meeting additional written testimony included a letter signed by 21 people, and 9 additional letters. In summary, written testimony addressed drainage, density, street surface and width, the proposed public trail, topography concerns, emergency vehicle turnaround, traffic,

E21

impacts to trees, parking, setbacks and distance between houses,, an existing bridge, Norwood Height II subdivision, planned development design, applicant's proposed location of residence, wildlife displacement, City should purchase property, character of existing neighborhood, rentals, property values, cost of homes, and zone change.

At the July 27, 2015 Planning Commission meeting, the applicant presented information and answered questions, and five people provided oral testimony. In summary, oral testimony addressed the hammerhead-turnaround design and emergency vehicle access, questions how a previously approved subdivision or planned development could be changed, Norwood Heights II CC&Rs versus the proposed Summit at Waldport CC&Rs, and water service.

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
Chapter 16.72.020	Off-street parking and off-street loading requirements
Chapter 16.96	Development Guidelines
Chapter 16.100	Land Division

Applicant's Proposal

The applicant originally submitted the application form and fee, narrative describing the proposed development and the following exhibits:

- Site plan showing the existing lots and proposed street, lots, and trail
- Topography map with proposed street, lots and trail
- Proposed common open space plan
- Proposed street sections and profile
- Typical architectural style photographs

The applicant provided the following narrative:

> **The Summit at Waldport**
> This project is designed to be in a "cluster style" to minimize the coverage of the site by roads and buildings and allow building on easily sited locations, and the balance of the land in open space in a natural undisturbed condition that can be enjoyed by all...see topo... the goal is to have less than 30% impervious surface coverage by homes and driveways, but allowing fire and safety easy access.
>
> The open space concept, very secluded and rural, in nature also lends itself to allowing a 10 foot utility easement for the city's future waterline connections, and a Floating Easement of access for the City Trail that will tie into a planned trail system that is planned for beach access.

E22

The original plan called for delivery of sewer, water other utility services...the site plan calls for easy access due to the cluster design allowing for much less disruption of the site...see attached.

Each lot and access will be owned and maintained privately, fee simple... a domain, if you will... The common area (no buildings) will be maintained by a HOA, or as a suggested alternative the city will maintain the site by contract and funded by a tax assessment on the common area, paid the HOA, or by direct pro rata property tax to the homeowners.

There will be no phased development, and the owners anticipate moving forward with the off sites and personal residence, on the site as soon as permitted.

The CCRs will allow a rural residential, flexible lifestyle... not overburdened by detail. NO livestock or chickens, mobile home, or manufactured housing...the CCRs to be approved by the City, of course.

The HOA will be part of the architectural committee...the style calls for Timber or Log style homes as depicted by the photos attached...However, much latitude will be given to the MATERIALS used to cope with the local conditions of salt air, winds, etc...The LOOK, AND THE FEEL is the primary issue, to enhance this beautiful site!

Following the June 22, 2015 Planning Commission and prior to the July 27, 2015 Planning Commission meeting the applicant submitted draft Homeowners Association documents, draft Architectural and Construction Standards Residential Covenants, and existing Norwood Height II Subdivision CC&Rs.

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 hammerhead turn-around needs to conform to the Guidelines for Application of the Oregon Fire Code in Lincoln County.
- A fire hydrant is required. The fire hydrant will likely be located near Skyline Terrace. The fire hydrant must be within 500 feet of all homes.
- Initially the Public Works Department was considering the need for a waterline from Skyline Terrace to the west property line along the southern boundary. However Public Works now has an alternative route for extending the water system therefore the waterline along the southern boundary is not needed.
- Water and sewer will be extended within the private street right-of-way from Skyline Terrace to serve the six homes. The developer shall provide a water and sewer easement to the City.

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.

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Findings

The following is a summary of the Planning Commission findings:

1. **Planned Development**
   The applicant requested approval of a Planned Development (The Summit at Waldport) for 6 single family homes/lots on 2.36 acres. The six lots/homes are proposed to be accessed off a private street to be constructed off Skyline Terrace. Over 90% of the 2.36 acre site is proposed be remain as open space/common area. A public trail is proposed through the property from Skyline Terrace to the western property line.

   The Planning Commission finds the proposed development adheres to the purpose of a planned development (WMC Section 16.060.010) in that the design considers the topographic, natural features, and constraints of the particular site. The proposed street and housing sites are located on moderate slopes while the area with steep slopes and the majority of trees will remain undeveloped.

   The Planning Commission finds the proposed development adheres to the general requirements of a planned development (WMC Section 16.060.020). The proposed development is consistent with the comprehensive plan provisions and zoning objectives, i.e. development of single family residential uses. The 2.36 acre site exceeds the minimum 0.5 acre size, the residential density is significantly less than the maximum density allowed in the R-1 zone, and building heights are in accordance with the R-1 zone. Yards, setbacks, lot area, lot coverage and similar dimensional requirements are reduced and modified in order to meet the design objectives of the proposed development, i.e. to maintain the majority of the site in its natural condition and preserve the majority of trees. A homeowners association is proposed to be formed and continued for the purpose of maintaining the common areas.

2. **Private Street.** A private street is proposed to be constructed off of the Skyline Terrace cul-de-sac and provide access to the six lots. The private street is allowed because it will not provide access to other roads or areas in the future. The private street is proposed to have a 30' wide right-of-way and 20' pavement width. The street will provide access to the six lots and have a hammerhead turn-around at the western terminus. The Planning Commission finds that streets outside the proposed development will not be overloaded wit traffic with the development of six single family dwellings. The Waldport Public Works Department and COCFRD approve of the 20' wide paved street within a 30' wide right-of-way as long as 'No Parking" signs are posted. The hammerhead turn-around must conform to the Guidelines for Application of the Oregon Fire Code in Lincoln County. Prior to construction, the Waldport Public Works Department and COCFRD requests review and approval of final engineering plans for the street.

3. **Lot Area, Lot Coverage and Building Setbacks.** In a Planned Development standards of the underlying zone may be reduced. The six lots are proposed to range between approximately 1,500 and 2,000 square feet. Zero lot line building setbacks are proposed. Each lot is surrounded by common open space. Each lot is located a minimum 20 feet from the private street to provide driveways between the street and the homes. The Planning Commission finds the requested modifications to minimum lot size, lot coverage, lot width and depth, and building setbacks are appropriate in order to meet the design objectives of the proposed development, i.e. to maintain the majority of the site in its natural condition and preserve the majority of trees.

4. **Density.** The R-1 zone allows a maximum density of 6,000 square feet on land that is served by both public water and sewer. The 2.36 acre property allows a maximum of 17 dwellings. Six (6)

E24

dwellings are proposed. This is a density of 1 dwelling per 0.39 acres. In comparison, the adjacent Skyline Terrace and frontage properties have a higher density, i.e. approximately 1 dwelling per 0.27 acres.

5. **Building Height.** In a Planned Development no building shall exceed a height 50% greater than that of the applicable zone. The R-1 zone allows a maximum building height of 30 feet. No building is proposed to exceed a height of 30 feet.

6. **Off-Street Parking.** One covered parking space is required per dwelling. Each dwelling unit is proposed to have, at minimum, a single car garage and driveway.

7. **Water, Sewer and Storm Drainage Improvements.** Water and sewer are proposed to be placed within the private street right-of-way. A fire hydrant is required and will likely be located near Skyline Terrace. The fire hydrant must be within 500 feet of all homes. Utility easements will be provided to the City as requested by the Public Works Director.

   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 COCFRD.

8. **Open Space and Public Trail.** Chapter 16.60 Planned Developments states that 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, fish and wildlife habitats, 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 located open space, recreation facilities, and other public and common facilities, and also includes pedestrian oriented development which reduces reliance on automobile travel, provision of solar access or similar measures to promote energy conservation, or avoidance of risks and costs associated with environmental hazards.

   Approximately 90% of the 2.36 acre site is proposed to remain as open space/common area. The open space is proposed to remain in its natural undisturbed condition. A public trail is proposed to extend through the open space from Skyline Terrace through the property to the west property line. The trail is proposed to eventually extend through two other private properties and connect to the future Bridgeview Trail. The public trail is consistent with the comprehensive plan adopted Yaquina John Point Land Use & Transportation Plan.

   A park assessment fee based on the size of the planned development is required. 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)." Five percent of the gross parcel size (102,802 square feet) equals 5,140.08 square feet therefore the park assessment fee for the proposed planned development totals

E75

$5,140.08. The applicant shall pay the park assessment fee at the time the final plat is submitted for approval.

9. **Slope and Geologic Hazard Reports.** Waldport Development Code Chapter 16.96 requires a geologic hazard report when development occurs on property having a 20% slope or greater. Proposed construction of the Planned Development, i.e. streets and utilities is proposed to occur on land with a slope less than 20% therefore a geologic hazard report is not required.

   A geologic hazard report will be required in the future in conjunction with a building permit application for any lot/home that has a 20% slope or greater as defined by Chapter 16.96.

10. **Homeowners Association (HOA) and Covenants & Restrictions.** The open space/common area (no buildings) will be maintained by an HOA, or as a suggested alternative the city will maintain the site by contract and funded by a tax assessment on the common area, paid the HOA, or by direct pro rata property tax to the homeowners. (This alternative would require a request by the applicant and review by the City Council.) The applicant submitted draft HOA documents. At the time the final plat is submitted for final plan approval, the applicant shall provide documents creating the HOA.

    The applicant submitted draft Architectural and Construction Standards, Residential Covenants. The style calls for Timber or Log style homes. However, much latitude will be given to the material used to cope with the local conditions of salt air, winds, etc...The look and the feel is the primary issue, to enhance this beautiful site! The applicant states that the HOA will be part of the architectural committee. At the time the final plat is submitted for final plan approval, the applicant shall provide a copy of covenants and restrictions.

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:

1. **Planned Development.** Development shall occur in accordance with the approved plan including six single family homes/lots on 2.36 acres. The six lots/homes are proposed to be accessed off a private street to be constructed off Skyline Terrace. Over 90% of the lot is proposed be remain as natural open space/common area. A public trail shall be constructed through the property from Skyline Terrace to the western property line. Any substantial change in the plan shall require a new application to be reviewed and approved by the Planning Commission.

2. **Private Street.** The private street shall have a minimum 30' wide right-of-way and 20' pavement width. The hammerhead turn-around shall conform to the Guidelines for Application of the

Oregon Fire Code in Lincoln County. Prior to construction the Waldport Public Works Department and COCFRD shall review and approve final engineering plans for the street.

3. **Lot Size, Setbacks, Building Height, and Parking.** The six lots shall range between approximately 1,500 and 2,000 square feet with zero lot line building setbacks. Each lot shall be surrounded by common open space. Each lot shall be located a minimum 20 feet from the private street in order to provide driveways between the street and the homes. Each home shall have at least one covered parking space, e.g. a garage. Building heights shall not exceed 30 feet.

4. **Water, Sewer and Storm Drainage Improvements.** Water and sewer shall be placed within the private street right-of-way. A fire hydrant shall be installed near Skyline Terrace and must be within 500 feet of all homes. Utility easements shall be provided to the City as requested by the Public Works Director.

   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 COCFRD.

   All utilities shall be located underground.

5. **Open Space and Public Trail.** Approximately 90% of the 2.36 acre site shall remain as open space/common area. The open space shall remain in its natural undisturbed condition. A public trail shall extend through the open space from Skyline Terrace through the property to the west property line. The developer shall coordinate with city staff on determination of the trail alignment.

   Prior to final approval, the developer shall pay a park assessment fee of $5,140.08 to the City of Waldport.

6. **Geologic Hazard Report(s).** Geologic hazard reports will be required in the future in conjunction with a building permit application for any lot/home that has a 20% slope or greater as defined by Chapter 16.96.

7. **Homeowners Association (HOA).** An HOA shall be established and maintain the common open space.

8. **Time Limits of Preliminary Approval**. Approval of the preliminary plan is valid for a period of two (2) years from Planning Commission approval of Findings and Conclusion.

9. **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;

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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.

This ORDER was presented to and approved by the Waldport Planning Commission on July 27, 2015.

Ray Woodruff, Waldport Planning Commission Chair

8-3-2015
Date

E28

City of Waldport

P.O. Box 1120
Waldport, OR 97394
Phone: (541) 563-3561
Fax: (541) 563-5810
TTY: (800) 735-2900

October 12, 2015

Norwood Heights Subdivision II and III
c/o Bernice Barnett
1065 Norwood Drive
Waldport, OR 97394

Re: Case File #1-PD-PC-15 (Appeal of Planning Commission Decision)
The Summit at Waldport Planned Development
Tax Map 13-11-19CC, Tax Lots 143, 147 and 148

Dear Norwood Height Subdivision II and III:

On Thursday, October 8, 2015, the Waldport City Council heard the appeal of the Planning Commission decision and upheld the preliminary plan approval of Case File #4-PAR-06 with revised conditions. On October 12, 2015, the Findings and Conclusion were signed by the Waldport Mayor.

Land use regulations, including the Waldport Municipal Code, and the Findings and Conclusion for Case File #1-PD-PC-15 (Appeal of Planning Commission Decision) may be reviewed Monday through Friday, 8:00 a.m. – 12:30 p.m. and 1:30-5:00 p.m. at Waldport City Hall, 125 Alsea Highway, Waldport, Oregon.

This decision will become effective on Monday, November 2, 2015, 5:00 p.m. unless an appeal is filed with the Oregon Land Use Board of Appeals (Board) at 550 Capitol Street NE, Suite 235, Salem, OR 97301-2552. An application for an appeal shall include the specific rationale for the appeal with sufficient clarity to allow public agencies and respondents an adequate opportunity to respond to or resolve each issue. Requirements for appealing the decision are described in Oregon Revised Statute (ORS) 197.830 to 197.845 and include filing a Notice of Intent to Appeal with the Land Use Board of Appeals, and a filing fee and deposit for costs to be established by the Board.

Sincerely,

Larry Lewis
City Planner

cc: Weber Investments, LLC (applicant)
All people who provided testimony

BEFORE THE CITY COUNCIL
OF
WALDPORT, OREGON

Request for Planned Development | **Case File #1-PD-PC-15**

Applicant: Weber Investments, LLC | **Appeal of Planning Commission Decision**

FINDINGS AND CONCLUSIONS

The Planning Commission preliminary plan approval of a Planned Development was appealed to the City Council. The City Council held a public hearing to either affirm, modify or reverse all or part of the action of the Planning Commission or remand the matter for additional review or information.

APPELLANT: Norwood Heights Subdivision II & III

I. PRELIMINARY PLAN APPROVAL: The Planning Commission granted preliminary plan approval for Case File #1-PD-PC-15, The Summit at Waldport Planned Development.

The Planned Development consists of six (6) single family homes/lots on 2.36 acres. A private street is proposed to be constructed off of the Skyline Terrace cul-de-sac. The private street is proposed to have a 30' wide right-of-way and 20' pavement width. The street will provide access to the six lots and have a hammerhead turn-around at the western terminus. The six lots are proposed to range between approximately 1,500 and 2,000 square feet. Zero lot line building setbacks are proposed. Each lot is surrounded by common open space. Approximately 90% of the 2.36 acre site is proposed to remain as open space. A public trail easement is proposed to extend from Skyline Terrace through the common open space to the west property line.

The Planning Commission Findings and Conclusion address the relevant criteria and granted preliminary plan approval subject to Conditions. The Planning Commission Findings and Conclusion are incorporated into the record.

II. RELEVANT FACTS

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

A. Property Location: The subject properties are located at the south end of Skyline Terrace on the west side of the street; and further described on Lincoln County Tax Assessor's Map 13-11-19CC as tax lots 143, 147, and 148.

B. Zoning: Residential Zone R-1

C. Plan Designation: Residential Single

D. Lot Size: 2.36 acres

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E. **Existing Structures:** None

F. **Topography and Vegetation:** The southern edge of the site where the street is proposed has a moderate slope. The northern portion of the site has significant slope. The majority of the site is forested.

G. **Surrounding Land Use:**
Single family dwellings are located on Skyline Terrace to the north and east, and on Kelsie Lane to the south. Adjacent property to the west is undeveloped Residential R-1 land.

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:** Portions of the site have significant slope.

J. **Public Testimony**. The Planning Commission received written and oral testimony which is incorporated into the record. The City Council received one letter prior to the October 8, 2015, City Council meeting. The letter expressed concerns similar to those stated in the appellants narrative. At the October 8, 2015 City Council meeting three people provided oral and written testimony in support of the appeal (in opposition to the Planning Commission's preliminary plan approval of the proposed Planned Development). All written and oral testimony is herein incorporated into the record.

III. RELEVANT CRITERIA

Per Oregon Revised Statutes, testimony, arguments and evidence must be directed toward the applicable 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
Chapter 16.72.020	Off-street parking and off-street loading requirements
Chapter 16.96	Development Guidelines
Chapter 16.100	Land Division

IV. **APPELLANT SUBMITTAL:** The Appellants (Norwood Heights Subdivision II & III) submitted the form and fee and the following information (attached):
Narrative – one page description and
   Appeal Issue Number 1
   Appeal Issue Number 2
   Appeal Issue Number 3
Attachment A – Lincoln County Property Report
Attachment B – Map titled Norwood Heights with Tax Lot 143 highlighted
Attachment C – Summit at Waldport Planned Development (Site Plan)
Attachment D – Site map with Tax Lot 143 highlighted

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Attachment E – July 20, 2015 Memorandum to Waldport Planning Commission from Larry Lewis, City Planner

Attachment F - Emails regarding 'Fire Codes' between Joan & Kevin Quill (Norwood Heights Subdivision property owners), Sharon Dunn (Oregon Office of State Fire Marshal), Shannon Miller (Deputy State Fire Marshal), Ray Woodruff.

Attachment G - Waldport Development Code:
Section 16.100.040 General requirements and minimum standards of design development (partial section – conformity to the comprehensive plan, performance agreement, private roads, public street standards);
Section 16.100.090 Modifications;
Section 16.100.100 Street width and improvement standards, Subsection A. Street Widths.

Attachment H - Section 2: Amendment to the Covenants, Conditions, Restrictions, Norwood Heights II Subdivision

Addendum - Petition to the Planning Commission
Norwood Heights II/III Architectural Committee Memoranda to Mr. Weber
Letters from Individuals Submitted to the Planning Commission

V. APPLICANT STATEMENT:

The applicant provided the following statement in response to the appeal.

"The purpose of this email is to make sure that the City Council does not mistake our not attending the meeting on the 8th for nonchalance, or lack of desire to do a small, first class project!

It appears that the Appeal is based upon criteria that we as applicant have no control over at this time. Therefore , it does not appear that we can add any value to the meeting...

We gladly accepted the 9 conditions, and the dedication of the hiking trail approved on 7/27/15....And felt we met all the General Requirements and the Provisions of the Waldport Municipal Code and Comprehensive Plan...We want a project to be proud of, not some fly by night deal, that was suggested by some.

We be happy to answer any questions that may be asked by the Council or Planning members.....(phone #)."

VI. APPEAL ISSUES, ANALYSIS & CITY COUNCIL FINDINGS:

This section identifies the appeal issues, analysis and City Council Findings. Please refer to the enclosures for the Appellants Submittal and Planning Commission Findings & Conclusions for additional information.

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APPEAL ISSUE NUMBER 1

Appellants Statement

The Planning Commission should not have approved a new planned development when that Planned Development included a large parcel of land that was already part of Norwood Heights Planned Development. The land was encumbered. Tax Lot 143 belonging to Norwood Heights II & III is .82 acres. It is just over 1/3 of the proposed Summit at Waldport. As purchasers of property, owners become part of Norwood Heights II & III Planned Development. Construction and improvements are subject to its CC&Rs. Plans must be submitted to the Norwood Heights Design Committee for approval. Mr. Weber, owner of Tax Lot 143 has not submitted plans to the Design Committee. His proposed plans, as submitted to the City of Waldport conflict with the Norwood Heights II & III CC&Rs. Mr. Lewis noted in the Staff Report, the Summit at Waldport Planned Development CC&Rs need to be approved by the City. Members of the City Planning Commission have stated that the City does not enforce CC&Rs after approval. Further, the City does not address the overlap of the two developments and has placed the burden of cost of enforcing its CC&Rs on the Norwood Heights Association. The overlap will create issues to be litigated by including Tax Lot 143 in two Planned Developments. The two Planned Developments have conflicting CC&Rs. (Attachments A, B, C, D)

If the City approves the Summit At Waldport Planned Development, the Norwood Heights II & III Planned Development requests the City remove Tax Lot 143 from the Summit at Waldport Planned Development. Mr. Weber's remaining two lots meet the required size to qualify to be a planned development. This would stop the creation of serious legal problems for Norwood Heights II & III Planned Development.

Analysis

The existence of Covenants, Conditions & Restrictions (CC&Rs) on a parcel are not a matter for consideration by the Planning Commission.

The inclusion of property in a subdivision that is subject to CC&Rs is not a relevant criteria for the Planning Commission to consider in making a land use decision. The City of Waldport does not and cannot enforce CC&Rs. A primary reason for this is that, once established, CC&Rs can be modified by a homeowners association without review and approval by the City.

Relevant Waldport Development Code criteria pertaining to CC&Rs include 1) the submittal of draft covenants and restrictions as part of a Planned Development submittal, and 2) that a certified

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copy of covenants and restrictions be provided to the City as part of the Final Plan Review Procedure. Specifically:

Section 16.60 Planned Development Zone P-D
16.60.030 Preliminary Plan (application submittal)
Subsection 2 states, in part, that a written narrative shall include "proposed covenants, restrictions and bylaws of any homeowners association."

16.60.040 Final Plan
Subsection B.1 requires "A certified copy of all covenants and restrictions."

Planning Commission Findings:
The applicant submitted proposed "Declaration of Protective Covenants, Conditions and Restrictions, Establishment of a Homeowners Associations, Declaration of Initial Fees (for) The Summit At Waldport".

The Preliminary Plan approval is subject to the following condition (See page 8, #9a of Findings & Conclusions):

"9. Final Plan Review Procedure.
   a. A certified copy of all covenants and restrictions;"

The Planning Commission finds that relevant criteria pertaining to CC&Rs has been satisfied. Proposed CC&Rs were provided and a condition of final plan approval includes a certified copy of all CC&Rs.

City Council Findings
The City Council concurs with the Planning Commission and finds that relevant criteria pertaining to CC&Rs has been satisfied. Proposed CC&Rs were provided and a condition of final plan approval includes providing a certified copy of all CC&Rs to the City at the time final approval is requested. Additionally, the City Council recognizes that Norwood Heights is a Subdivision, not a Planned Development.

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APPEAL ISSUE NUMBER 2

Appellants Statement

The Waldport Planning Commission gave conditional approval to the Summit at Waldport Planned Development despite the present proposal's inability to meet Oregon State Fire Safety Codes minimal standards. The requirements include an appropriate water source and adequate access to the Planned Development. Citizens presented testimony to the Commission that the then Fire Chief Dennis Cannon's observation, that having walked the property, he could not envision any change in the design which would provide the accessibility required under Oregon Fire Code. (Attachment I[f])

Waldport does not have an experienced Fire Chief due to the recent stepping down of Dennis Cannon.

Mr. Woodruff is Chairman of both the Central Oregon Coast Fire & Rescue Board and the Waldport City Planning Commission. Commissioner Woodruff voted yes to the conditional approval of the Summit at Waldport Planned Development. The absence of a Fire Chief and the fact that Mr. Woodruff should not be placed in a position to have an appearance of a conflict of interest presents a valid concern. We therefore request that through the Central Oregon Coast Fire & Rescue, Deputy State Fire Marshall Shannon Miller be invited to review fire safety modifications to this plan.

Analysis

Relevant Waldport Development Code criteria pertaining to fire safety requirements include:

Waldport Development Code Section 16.100 Land Division
Section 16.100.040 General requirements and minimum standards of design development.

5. Private Roads
   g. An approved turn-a-round shall be provided on all dead-end streets as required by the fire department.

10. Fire Protection. All proposals for a partition or subdivision shall be sent to the Central Oregon Coast Fire and Rescue District ("COCFRD" or "fire district") for review and comment. If, in the opinion of the fire district, a fire hydrant(s) is necessary for the protection of life and property on the new parcel(s) or lot(s) created by a subdivision or partition, the subdivider/partitioner shall provide the same together with the required water line at its sole expense to the location requested on the subject property by the fire district.

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Planning Commission Findings:

The proposed Planned Development included a 20 foot wide paved road within a 30 foot wide right-of-way. On January 12, 2015 (prior to the submittal of the Planned Development application) a conceptual plan of the proposed Summit at Waldport Planned Development was submitted to COCFRD for review and comment. On February 9, 2015 the COCFRD and City Planner met, and the Fire Chief provided the following comments:

- The hammerhead turn-around needs to conform to the Guidelines for Application of the Oregon Fire Code in Lincoln County.
- A fire hydrant is required. The fire hydrant will likely be located near Skyline Terrace. The fire hydrant must be within 500 feet of all homes.
- The proposed 20' street width within a 30' right-of-way is acceptable 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.

On June 1, 2015 (4 days after submittal of the Planned Development application) a second request for comments was submitted to COCFRD. The request for comments identified the previous COCFRD comments and asked for any additional comments. No additional comments were received.

The Planning Commission Findings included the following:

2. **Private Street.** A private street is proposed to be constructed off of the Skyline Terrace cul-de-sac and provide access to the six lots. The private street is allowed because it will not provide access to other roads or areas in the future. The private street is proposed to have a 30' wide right-of-way and 20' pavement width. The street will provide access to the six lots and have a hammerhead turn-around at the western terminus. The Planning Commission finds that streets outside the proposed development will not be overloaded with traffic with the development of six single family dwellings. The Waldport Public Works Department and COCFRD approve of the 20' wide paved street within a 30' wide right-of-way as long as 'No Parking" signs are posted. The hammerhead turn-around must conform to the Guidelines for Application of the Oregon Fire Code in Lincoln County. Prior to construction, the Waldport Public Works Department and COCFRD requests review and approval of final engineering plans for the street.

Planning Commission Conditions of Approval included the following:

2. **Private Street.** The private street shall have a minimum 30' wide right-of-way and 20' pavement width. The hammerhead turn-around shall conform to the Guidelines for Application of the Oregon Fire Code in Lincoln County. Prior to construction the Waldport Public Works Department and COCFRD shall review and approve final engineering plans for the street.

4. **Water, Sewer and Storm Drainage Improvements.** Water and sewer shall be placed within the private street right-of-way. A fire hydrant shall be installed near Skyline Terrace and must be within 500 feet of all homes. Utility easements shall be provided to the City as requested by the Public Works Director.

   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

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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.

All utilities shall be located underground.

City Council Findings

The City Council concurs with the Planning Commission and finds that the proposed Planned Development adheres to relevant criteria pertaining to street standards and fire safety. The preliminary plan approval includes conditions that final engineering plans for the street and water service shall be reviewed and approved by COCFRD and the City of Waldport Public Works Department. This includes but is not limited to street width, hammerhead turn-around design, water line, water pressure, and fire hydrant requirements.

APPEAL ISSUE NUMBER 3

Appellants Statement

The proposed Summit at Waldport Planned Development requires a private road variance The variance should be disallowed in that it does not comply with Waldport Municipal Code 16.100.040 #5 and 6 regarding Private Roads. Nor is there compliance with Waldport Municipal Code 16.100.100 which states specific criteria for private roads accessing 3+ dwellings. The developer is proposing to place six (6) houses on three lots accessed via a narrow road. In considering a private road variance the City should also weigh the impact of garbage trucks, delivery vans and other commercial vehicles using the same narrow roadway as the inhabitants of the 6 residences. There is space available in this planned development to provide standard street widths and thus comply with the Waldport Municipal Code. (Attachment G)

Analysis and Findings

Although the appellant fails to state why the proposed development does not comply with private road standards, **relevant Waldport Development Code criteria** pertaining to 16.100.040 #5 and #6, and 16.100.100 are described below and followed by (The Summit at Waldport PD) Findings.

Chapter 16.100 Land Division
16.100.040 General requirements and minimum standards of design development.

5. Private Roads.
   a. Private road shall provide access only to abutting lots. No road providing access to other roads or to areas not abutting such streets shall be approved as a private road.

      FINDING: The proposed private street only provides access to abutting lots, and does not provide access to other roads or areas.

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b. The establishment of a private road shall not be allowed if it will deny the public access to public areas such as beaches or parks.

FINDING: The proposed private road does not deny the public access to public areas such as beaches or parks. A public trail is proposed through the property from Skyline Terrace to the west edge of the property.

c. No private road shall be approved unless the Planning Commission is satisfied that such road is not presently needed as a public street nor will it ever be extended through to adjacent property or is necessary for public street purposes in the normal growth of the area.

FINDING: The proposed private road will not be extended through to adjacent property nor is it necessary for public street purposes.

d. Yard setbacks shall be determined from the road right-of-way or access easement line in instances where private roads are considered.

FINDING: Zero lot lines are approved for building sites pursuant to WDC Section 16.60.030.H. However, front lot lines are proposed to be a minimum 20 feet from the private road right-of-way. Therefore buildings are proposed to be setback a minimum of 20 feet from the proposed private road right-of-way which adheres to the R-1 front yard setback standard.

e. Private road rights-of-way may be approved of less than fifty (50) feet in width but in no instance shall the road right-of-way be less than thirty (30) feet except that a private road to two lots may be twenty (20) feet in width. In instances where the road access to more than three lots is less than fifty (50) feet in width utility/slope easements may be required.

FINDING: A 30 foot wide right-of-way is requested. Utility/slope easements shall be provided if needed.

f. Private road improvement standards shall be the same as those for public streets. In residential zones, roads providing access to no more than three lots shall be exempt from standards for improvements and shall be regarded as private driveways.

FINDING: Condition of Approval #2 requires that "The private street shall have a minimum 30' wide right-of-way and 20' pavement width. The hammerhead turn-around shall conform to the Guidelines for Application of the Oregon Fire Code in Lincoln County. Prior to construction the Waldport Public Works Department and COCFRD shall review and approve final engineering plans for the street."

g. An approved turn-around shall be provided on all dead-end streets as required by the fire department.

FINDING: Per COCFRD request, Condition of Approval #2 states in part that "The hammerhead turn-around shall conform to the Guidelines for Application of the Oregon Fire Code in Lincoln County. Prior to construction the Waldport Public Works Department and COCFRD shall review and approve final engineering plans for the street."

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The appellants state that the proposed private road does not comply with WMC 16.100.040 #6. Public Streets. No public street is proposed therefore this section of the code is not applicable to the proposed development. However, public street standards are identified below with findings for The Summit at Waldport Planned Development.

a. Street Widths: The right-of-way and surface widths shall conform to the widths as specified in Section 16.100.100 of this chapter unless a modification is granted pursuant to Section 16.100.090 of this chapter.

FINDING: The street is proposed to be a Private Street, not a Public Street. Private streets are permitted to have a minimum 30 foot right-of-way (see 16.100.040.5). The Planning Commission may grant modifications pursuant to Section 16.60.020.H (Planned Development – dimensional requirements may be reduced, adjusted or otherwise modified consistent with the design objectives of the proposed development), Section 16.100.090 (Land Divisions – Modifications), and Section 16.100.100 (note: ++). The Planning Commission finds the proposed private street adheres to the minimum right-of-way standard for a private street and requires a minimum 20 foot surface width in accordance with approval from the City of Waldport Public Works and COCFRD.

b. Street Design and Improvements.
   1) The layout of streets shall give suitable recognition to surrounding topographical conditions in accordance with the purpose of this code.

FINDING: The layout of the proposed private street was based on the topographical conditions. The street is proposed to be located on the gentle sloping area of the site and avoid the steep areas of the site.

c. Street Intersections.
   1) Streets shall intersect one another at an angle as near to a right angle as is practical considering the topography of the area and previous adjacent layout.
   2) Intersections shall be designed so that no danger to the traveling public is created as a result of staggered intersections and in no case shall intersections be offset less than one hundred (100) feet.
   3) Any intersection that accesses an arterial street shall provide an additional turn lane access.

FINDING: The proposed street intersects the Skyline Terrace cul-de-sac at a right angle and is not within 100 feet of another intersection.

d. Cul-de-Sacs and Turn-a-Rounds.
   1) In general, dead end (cul-de-sac) streets in partitions or subdivisions should not exceed four hundred (400) feet in length and must terminate in a turn-a-round with a minimum property line radius of forty-five (45) feet or other type of turn-a-round approved by the planning commission.
   2) Approved turn-a-rounds shall be provided on all dead end streets.

FINDING: The proposed private street is approximately 400 feet long. The Planning Commission finds the proposed private dead end street provides adequate access into the site given the topographic constraints, and is in accordance with COCFRD approval including

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street pavement width, turn-a-round requirements, and the ability for emergency vehicles to access the site.

The proposed street is accessed off Skyline Terrace which is a dead end street with a length of approximately 900 feet. The 900 foot long Skyline Terrace was approved as part of the Norwood Heights Subdivision. The original approval of the Norwood Heights Subdivision included a road that would connect the south end of Skyline Terrace to Norwood Drive to the west (Lily Lane). The phase of development that would have provided that road connection was never developed therefore Skyline Terrace is a dead-end street.

Planning Commission Findings

A private street is proposed to be constructed off of the Skyline Terrace cul-de-sac and provide access to the six lots. The Planning Commission finds the proposed private street adheres to private road standards, City of Waldport Public Works approval, and COCFRD approval. The private street is allowed because it will not provide access to other roads or areas in the future. The private street is proposed to have a 30' wide right-of-way and 20' pavement width. The street will provide access to the six lots and have a hammerhead turn-around at the western terminus. The Planning Commission finds that streets outside the proposed development will not be overloaded with traffic with the development of six single family dwellings. The Waldport Public Works Department and COCFRD approve of the 20' wide paved street within a 30' wide right-of-way as long as 'No Parking" signs are posted. The hammerhead turn-around must conform to the Guidelines for Application of the Oregon Fire Code in Lincoln County. Per condition of Approval #2, "prior to construction the Waldport Public Works Department and COCFRD shall review and approval final engineering plans for the street." Please note that Section 16.100.100 states that street widths may be altered upon approval by the Waldport Public Works Department, utility companies, and the Planning Commission.

City Council Findings

The City Council concurs with the Planning Commission and finds that the proposed Planned Development adheres to relevant criteria pertaining to WDC 16.100.040.5 Private Roads.

- The proposed private road only provides access to abutting lots, and does not provide access to other roads or areas.
- The proposed private road does not deny the public access to public areas such as beaches or parks. A public trail is proposed through the property from Skyline Terrace to the west edge of the property.
- The proposed private road will not be extended through to adjacent property nor is it necessary for public street purposes.
- Lot lines are proposed to be a minimum 20 feet from the private road right-of-way. Therefore buildings are proposed to be setback a minimum of 20 feet from the proposed private road right-of-way which adheres to the R-1 front yard setback standard. Utility/slope easements shall be provided if needed.
- Condition of Approval #2 requires that "The private street shall have a minimum 30' wide right-of-way and 20' pavement width. The hammerhead turn-around shall conform to the Guidelines for Application of the Oregon Fire Code in Lincoln County. Prior to construction the Waldport Public Works Department and COCFRD shall review and

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approve final engineering plans for the street." Per COCFRD request, Condition of Approval #2 states in part that "The hammerhead turn-around shall conform to the Guidelines for Application of the Oregon Fire Code in Lincoln County. Prior to construction the Waldport Public Works Department and COCFRD shall review and approve final engineering plans for the street." This includes both street cross section approval, i.e. travel lane width, parking, and pedestrian path, and also includes street structural design, i.e. base material and depth, pavement material and depth, etc.

The City Council finds that pursuant to WDC Planned Development Section 16.60.020.H dimensional requirements may be reduced, adjusted or otherwise modified consistent with the design objectives of the proposed development. The City Council also finds that pursuant to WDC Land Division Section 16.100.100 standard street sections for local streets may be altered upon approval by the Waldport Public Works Department, utility companies, and the Planning Commission. The City Council acknowledged that the proposed 20 foot paved width within a 30 foot right-of-way adheres to WDC Planned Development and Land Division standards. However, the City Council determined that the development would be better served if the private road included an 8 foot wide paved parking area on the south side of the street plus 3' shoulder and a 5 foot wide paved pedestrian path on the north side of the street to the end of the hammerhead turn-around.

Remaining Relevant Criteria
Aside from the Appeal issues, the Planning Commission determined that the proposed development adheres to additional relevant criteria. The City Council concurs with the Planning Commission Findings and Conditions of Approval, with a modification to the private street section.

Conclusions
Based on the above facts and findings, the Waldport City Council:

A. Concurs with the Planning Commission Findings that the proposed development adheres to the purpose of a planned development.

B. Concurs with the Planning Commission Findings that the proposed development adheres to the general requirements of a planned development.

C. Concurs with the Planning Commission Findings that the proposed development adheres to applicable criteria of a land division.

D. Concurs with the Planning Commission that the application and conceptual plan satisfy the provisions of the Waldport Municipal Code and Comprehensive Plan.

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

1. **Planned Development.** Development shall occur in accordance with the approved plan including six single family homes/lots on 2.36 acres. The six lots/homes are proposed to be accessed off a private street to be constructed off Skyline Terrace. Over 90% of the lot is proposed be remain as natural open space/common area. A public trail shall be constructed through the property from Skyline Terrace to the western property line. Any substantial change in the plan shall require a new application to be reviewed and approved by the Planning Commission.

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2. **Private Street.** The private street shall have a minimum 36' wide right-of-way with a 20' wide travel lane width, 8' wide paved parallel parking on the south side of the street plus a 3' shoulder, and 5' wide paved pedestrian path on the north side of the street from Skyline Terrace to the end of the hammerhead turn-around. The hammerhead turn-around shall conform to the Guidelines for Application of the Oregon Fire Code in Lincoln County. Prior to construction the Waldport Public Works Department and COCFRD shall review and approve final engineering plans for the street.

3. **Lot Size, Setbacks, Building Height, and Parking.** The six lots shall range between approximately 1,500 and 2,000 square feet with zero lot line building setbacks. Each lot shall be surrounded by common open space. Each lot shall be located a minimum 20 feet from the private street in order to provide driveways between the street and the homes. Each home shall have at least one covered parking space, e.g. a garage. Building heights shall not exceed 30 feet.

4. **Water, Sewer and Storm Drainage Improvements.** Water and sewer shall be placed within the private street right-of-way. A fire hydrant shall be installed near Skyline Terrace and must be within 500 feet of all homes. Utility easements shall be provided to the City as requested by the Public Works Director and utility companies.

   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 COCFRD.

   All utilities shall be located underground.

5. **Open Space and Public Trail.** Approximately 90% of the 2.36 acre site shall remain as open space/common area. The open space shall remain in its natural undisturbed condition. A public trail shall extend through the development from Skyline Terrace through the property to the west property line. The developer shall coordinate with city staff on determination of the trail alignment.

   Prior to final approval, the developer shall pay a park assessment fee of $5,140.08 to the City of Waldport.

6. **Geologic Hazard Report(s).** Geologic hazard reports will be required in the future in conjunction with a building permit application for any lot/home that has a 20% slope or greater as defined by Chapter 16.96.

7. **Homeowners Association (HOA).** An HOA shall be established and maintain the common open space.

8. **Time Limits of Preliminary Approval.** Approval of the preliminary plan is valid for a period of two (2) years from Planning Commission approval of Findings and Conclusion.

9. **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:

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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.

This ORDER was presented to and approved by the Waldport City Council on October 8, 2015.

Susan Woodruff, Mayor

10-12-15
Date

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BEFORE THE PLANNING COMMISSION
OF
WALDPORT, OREGON

Request for Planned Development **Case File #2-PD-PC-15**

Applicant: Kevin Kass, dba Ocean Quest Homes

Owner: Crestview Golf Club LLC

FINDINGS AND CONCLUSIONS

Nature of the Application

The applicant is seeking approval of a Planned Development for thirty-eight (38) single family homes/lots. Eleven (11) lots are proposed on the north side of Green Drive. Twenty-seven (27) lots are proposed on Green Lane. The project development will be completed in multiple phases. Phases 1 and 2 are proposed to consist of single level homes on the 11 lots on the north side of Green Drive. Phases 3-15 include development of the 27 lots on Green Lane.

A Planned Development was approved in 2008. All streets and utilities were constructed however the Planned Development was vacated prior to construction of any homes.

Relevant Facts

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

A. **Property Location:** The subject site is located south of Range Drive, west of Crestline Drive, and north of Green Drive; and further described on Lincoln County Tax Assessor's Map 13-11-30BD as tax lot 1200, and on Map 13-11-30CA as tax lots 1400 and 1401.

B. **Zoning:** Public Facilities P-F

C. **Plan Designation:** Open and Public

D. **Lot Size:** 45.88 acres

E. **Existing Structures:** The existing 9-hole Crestview Golf Course is located on the subject site.

F. **Topography and Vegetation:** The subject site currently has a 9-hole golf course that primarily has gently sloping land and some trees located between fairways.

G. **Surrounding Land Use:**

North: Single family residential homes and attached condominiums are located adjacent to Range Drive.

East: Single family residential homes are located on the east side of the golf course.

South: Land to the south has single family residential uses along Green Drive and Fairway Circle. The Waldport Elementary, Middle, and High Schools are located further south.

West: Land to the west is undeveloped.

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

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

I. Development Constraints: Wetlands are located along the western portion of the site in two locations.

J. Public Testimony. One nearby property owner submitted a letter with attachments that was signed by 15 additional people. The letter expresses opposition to the planned development application citing concerns about housing congestion and fire safety, visual clutter, parking congestion, and traffic.

At the December 14, 2015 Planning Commission hearing, the applicant and owner provided testimony and answered questions.

At the December 14, 2015 Planning Commission meeting, two people provided oral testimony, expressing concerns regarding small side yard setbacks, maintaining the rural feel of Waldport, increased traffic, and the lack of sidewalks.

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

Relevant Criteria

Waldport Municipal Code

16.52 Public Facilities Zone P-F
16.60 Planned Development Zone P-D
16.70 Significant Natural Resources Overlay Zone
16.72 Supplementary Regulations
16.100 Land Division

Excerpts of relevant sections are described in the Staff Report. Complete descriptions of the relevant Code criteria are found in Waldport Municipal Code Title 16 and are herein incorporated into the record.

Applicant's Proposal

The applicant submitted the following information:

- Application forms and fees
- Narrative providing required information and addressing relevant sections of the Waldport Development and Comprehensive Plan
- Preliminary Plan
- Phasing Plan
- Exhibit 1. Boundary Survey of existing lots fronting Green Drive and southern portion of Green Lane
- Exhibit 2. Proposed Lot alignment for lots fronting Green Drive
- Exhibit 2A. Phase 1 Typical Lot Site Plan
- Exhibit 3. Phase 1 Proposed Lot Site Plan
- Exhibit 4. Phase 1 and 2 Proposed Lot Alignment
- Exhibit 5. Floor Plan of Phase 1 and 2 Homes
- Exhibit 6. Building Elevations of Phase 1 and 2 Homes
- Exhibit 7. Building Elevations of Phase 1 and 2 Homes
- Numerous photographs of Phase 1 and 2 Home (Photographs are of a new home recently constructed by the applicant. The site plan is identical to the homes proposed in Phase 1 and 2.)

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- Application forms and fees
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- Exhibit 7. Building Elevations of Phase 1 and 2 Homes
- Numerous photographs of Phase 1 and 2 Home (Photographs are of a new home recently constructed by the applicant. The site plan is identical to the homes proposed in Phase 1 and 2.)

Applicant's Request: The applicant provided the following narrative:

The applicant is seeking to develop the P-F zoned property with a planned development which clusters thirty-eight single-family lots, providing each with its own view of the golf course and leaving the golf course area as open recreation space. This will provide an aesthetically pleasing design.

The existing pond areas will not be disturbed. The ponds will serve three purposes. They will be used for golf course water features, retention for storm drainage and for irrigation purposes.

The planned development is designed as a traditional neighborhood. The proposed lots will be located to have minimal impact on the existing neighborhood. There will be no signs or streetlights. The street and utilities were designed and constructed in accordance with public standards and publicly dedicated.

The single-family lots will be generally consistent with the other single-family lots in the neighborhood while the clustering allows for more families to share the beautiful property. These thirty-eight lots and buildings should fit well with the scale and bulk of other buildings in the Crestview area.

Public Agency Comment:

Both the Waldport Public Works Department and Central Oregon Coast Fire and Rescue District (COCFRD) stated that Green Lane and utilities were completed in accordance with Public Works and COCFRD approvals.

The Lincoln County Building Official stated that the 3'-1" side setbacks for lots fronting Green Drive would allow standard construction, i.e. no fire walls. Any part of the building, including overhangs that are closer than 3 feet to the property line will require 1-hour construction.

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Findings

The following is a summary of the Planning Commission findings:

1. **Purpose of a Planned Development.** Waldport Municipal Code (WMC) Section 16.60.010 states that the purpose of the planned development procedure is to encourage and promote creativity and innovation in site planning, design and development through the application of flexible land development standards. Application of the planned development procedure is intended to:
   A. Allow for and encourage development designs which provide suitable recognition of the physical, topographic, cultural, historical and natural resource values and constraints present on a particular site;
   B. Permit greater flexibility in the siting of buildings and other physical improvements and in the mixing of housing types and other compatible non-residential uses in order to accomplish desirable design objectives; and
   C. Ensure that development occurs in a manner consistent with the intent and purpose of the goals and policies of the Comprehensive Plan.

   The Planning Commission determines if the proposed planned development satisfies the above stated intentions.

2. **General Requirements of a Planned Development.** WMC Section 16.60.020 identifies requirements that govern planned developments. Key requirements are identified below with an analysis of the proposed Crestview Golf Club development.
   a. **Permitted Land Uses.** A golf course is a conditional use permitted in the Public Facilities (P-F) zone. Although residential uses are not permitted outright or conditionally in the P-F zone, residential uses may be permitted in a planned development. A planned development may include any uses permitted outright or conditionally in any zone, except that uses permitted only in an I-P or M-P zone shall not be permitted in an R-1, R-2, R-3, R-4, C-1 or C-2 zone.

      Proposed land uses within the Crestview Golf Club planned development include single family residential dwellings and golf course with accessory golf uses. These uses are permitted in a planned development.

   b. The **minimum size required for a planned development** shall be one-half acre.

      The subject site totals 45.88 acres.

   c. **Density.** In a Planned Development, overall residential density shall be as provided for in the applicable use zone or zones. Density shall be computed based on the total gross land area of the subject property, excluding area devoted to commercial or other nonresidential uses.

      The Planned Development (P-D) zone allows residential uses within the P-F zoned property with no specified residential density requirements. It is reasonable to look at how the proposed P-D compares to density allowed in the R-1 Residential zone since R-1 zoning is on the south, east and west sides of the subject site. Maximum density is calculated by dividing the gross square footage of the site by the minimum lot size. The gross square footage of the site (1,998,533 square feet) divided by the minimum 6,000 square foot R-1 lot size would allow for 333 single family dwellings. 38 single family dwellings are proposed. The residential development (lot area) covers approximately 10.6% (4.88 acres) of the total site. The remaining 89.4% (41 acres) is the golf course and open space.

d. **Building Height.** Within a Planned Development, no building shall exceed a height which is fifty (50) percent greater than that of the maximum building height limitation of the zone in which the planned development is proposed.

For the 11 lots on the north side of Green Drive, the single family dwellings are proposed to be a single level with an approximate height of 17 feet.

The 27 lots on Green Lane, the single family dwellings are proposed to be one or two level homes with a maximum height of 30 feet. The maximum 30' building height is the maximum height allow in the R-1 Residential zone.

e. **Standards.** Within Planned Developments, yards, setbacks, lot area, lot coverage and similar dimensional requirements may be reduced, adjusted or otherwise modified consistent with the design objectives of the proposed development.

The P-F zone does not have standards related to yards, setbacks, lot area, or lot coverage therefore no modifications are requested.

For the 11 lots on the north side of Green Drive, the typical lot is proposed to have approximately 3,345 square feet with dimensions of 90' x 37'-2". The single family dwellings are proposed to total approximately 1,683 square feet, with a 15' front yard, 8' rear yard, and 3'-1" side yards.

For the 27 lots on Green Lane, lot sizes are proposed to range between 5,200 and 8,934 square feet. The 27 lots on Green Lane are proposed to have minimum setbacks of 15' for the front yard, a 10' rear yard, and 5' side yards or 1' for every 3' of height, whichever is greater. These are standard residential setbacks except for the front yard where a 15' versus 20' setback is requested. The existing sidewalk is 8' from the front property line therefore the driveways will be a minimum 23' long, which exceeds the standard length needed for parking. The applicant states that the 15' front yard will allow for greater setbacks from the golf course on the rear side of the lots.

f. **Easements.** The City may require easements necessary for orderly extension of public utilities to future adjacent developments.

The City secured required utility easements when street and infrastructure improvements were constructed in 2008.

g. **Association of Owners or Tenants.** The Planned Development ordinance states that lands and structures not dedicated to the public but reserved for use by owners or tenants and their guests must be subject to an association of owners or tenants created to form a non-profit corporation under the laws of the State of Oregon. Said association shall be formed and continued for the purpose of maintaining such common areas and structures.

Green Lane has been accepted by the City of Waldport and dedicated to the public (as public right-of-way). All land within the Planned Development exclusive of the 38 lots and streets is maintained by Crestview Golf Club. There is an existing Homeowners Association with established rules and regulations.

3. **Preliminary (PD) Plan Approval Criteria.** WMC Section 16.60.030.C states that approval by the Planning Commission of a preliminary plan of a planned development shall be based on findings that the following criteria are satisfied:

a. **General Requirements.** All of the applicable general requirements (summarized above in item #2) are met.

b. **Consistency with Comprehensive Plan and Zoning Objectives.** The applicant's addresses conformance with the comprehensive plan and zoning objectives. City staff does not identify any inconsistencies with the comprehensive plan or zoning objectives.

c. **Providing Amenities or Protection at Higher Levels.** The Planned Development ordinance states that proposed developments 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, fish and wildlife habitats, 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 located open space, recreation facilities, and other public and common facilities, and also includes pedestrian oriented development which reduces reliance on automobile travel, provision of solar access or similar measures to promote energy conservation, or avoidance of risks and costs associated with environmental hazards.

The applicant provided the following narrative:

> The natural features and resources in the golf course/open space area have been avoided in this residential layout design to best protect the existing ponds and drainage way. Lots have been created to a somewhat smaller depth than neighboring lots to allow more open area.
>
> The ponds were reviewed by Oregon DSL in 1999. They will continue to be used for drainage retention, irrigation and as water features.
>
> Additional landscaping will be minimal since the golf course is already landscaped and that is the bulk of the open area. Home sites will have residential landscaping.
>
> A non-profit homeowners association will manage the CC&Rs and protect both scenic and aesthetic qualities. The golf course provides some very nice open views which should be protected.
>
> The City of Waldport does not have design review and does not restrict or have standards for the uses of colors or materials. However, the CC&Rs will require building design to include a natural color scheme and a cohesive set of colors and materials in order to present an organized planned development. The design allows single family ownership and individual lot development which should be developed in a pleasing, aesthetic manner.
>
> The low-key planned development design (no sign and no street lights) will help provide protection and enjoyment of viewing and walking as the primary recreation in this residential area. The golf course, sidewalks and pathway will provide ample recreation opportunities.
>
> The project encourages pedestrian oriented use of the sidewalks and pathway by both the private home owners and the public. Improvements will be public and very

accessible. The spacing design of the proposed lots allows for solar access for both the existing homes in the neighborhood and proposed homes.

City staff adds that in evaluating whether or not the proposed development provides amenities or protections at a higher level than would otherwise be provided under conventional land development, that 41 acres of the total 45.88 acres (89.4%) is proposed to be open space, i.e. the 9-hole golf course and associated open space with the remaining 10.6% of the site being the single family residential development.

d. **Street Capacities.** In considering a development proposal, the Planning Commission shall seek to determine that the development will not overload the streets outside the planned 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.

The applicant provided the following narrative:

Transportation Planning -
The proposed lots are located in an established urban area with existing improvements. The zoning in this surrounding area is R-1 and R-2. The subject property is zoned P-F. The area is generally quiet with traffic primarily at peak times. Both nearby Range Drive and Crestline Drive are designated collectors in Waldport's Transportation System Plan and given the surrounding residential zoning, were designed to handle more traffic than is proposed in this request.

There is a minimal amount of increased traffic expected from this proposal of 38 single family homes. The new local residential road is a cul-de-sac with emergency secondary exit that was built to public road standards including sidewalks. Research of traffic counts and Level of Service were compared to the traffic counts provided by a neighbor. The traffic counts on Crestview Drive and Green Drive indicate the traffic flow operates at a Level of Service 'A' and will continue to operate at acceptable levels with the proposed addition of 38 lots.

Drainage –
The subject parcels are generally level. The property will be graded so that storm water drainage will flow to the existing ponds in the golf course. These ponds will serve to provide an area for irrigation, drainage retention and a golf course amenity. The ponds have been evaluated by Oregon DSL (see exhibit).

This proposed residential density is consistent with the adjoining R-1 and R-2 zones and should be easily handled by the established storm water systems. The 11 new lots on Green Drive will have drainage flowing to the existing storm drain on that road.

e. **Other Conditions Determined Necessary.** In acting to approve a preliminary plan, the Planning Commission may impose any conditions or limitation it finds necessary to achieve compliance with any provisions of the Planned Development ordinance.

4. **Planned Development Time Limit, Extensions, and Phasing.** Approval of a preliminary plan is valid for a period of two (2) years, unless a longer period of time is specifically authorized by the Planning Commission. Approval of a preliminary plan of a planned development may be extended beyond the two (2) year or other approved period upon request. Requests for time

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extensions shall be made on a form prescribed by the city. Requests for time extensions shall be considered and acted upon in accordance with WMC Section 16.108.020(A) or may be submitted to the Planning Commission for their decision. In considering a request for a time extension, the city planner or the Commission may consider to what extent any required improvements have been constructed or completed, whether there have been any changes in circumstances or in applicable code or statutory requirements which could have affected the original approval, and whether additional conditions or requirements could be imposed on the preliminary plan approval which would satisfactorily address any deficiencies resulting from changed circumstances or code or statutory requirements. In granting a request for a time extension, the city planner or the Planning Commission may impose such additional conditions or requirements as are considered appropriate. A time extension shall be for a period of one year. Not more than three time extensions of a preliminary plan approval may be granted.

The applicant is requesting multiple phases so that the platting (creation of lots) is commensurate with the construction of homes. Once platting occurs, taxation begins on each individual lot. The applicant and owners want to avoid the creation of lots that remain vacant but are taxed at the higher rate. Therefore, each proposed phase consists of 1 to 5 lots which is projected to be in accordance with market demand.

Phase 1 will include the development of lots 1 – 5 on the north side of Green Drive. Each phase is proposed to be completed within two years. Phase 2 is the development of lots 6-11, the remaining lots fronting Green Drive. The remaining 27 lots on Green Lane are divided into 13 subsequent phases with each phase having one to three lots. The phasing plan is provided below.

Phase	Lot Number	Year
1	1-5	2016-2017
2	6-11	2018-2019
3	15, 16, 31	2020-2021
4	17, 32, 33	2022-2023
5	12, 13	2024-2025
6	18, 30	2026-2027
7	19, 29	2028-2029
8	20, 27, 28	2030-2031
9	14, 37, 38	2032-2033
10	34, 35, 36	2034-2035
11	21, 26	2036-2037
12	22	2038-2039
13	23	2040-2041
14	24	2042-2043
15	25	2044-2045

The applicant requests the phasing order remain flexible to accommodate market demand. For example, if there is an early demand for the Phase 10 lots, then Phase 10 may be platted and developed as Phase 4. Phasing, i.e. construction of phases, may occur earlier than identified in the above table. For example, market demand may enable full build-out to occur in 20 years versus 40 years.

5. **Significant Natural Resources – General Development Standards**
The two existing ponds located in the western portion of the site are proposed to be maintained with no development within 50 feet of the ponds. The applicant submitted a 1999 letter from the Oregon Department of State Lands that states that the two ponds do not qualify as local significant wetlands. The wetland areas below the two pond dams were considered locally significant. The letter states that these findings should allow current practices to be continued and that a DSL permit would only be needed if there are plans to increase work in the wetlands areas. No work is proposed in the wetland areas.

6. **Land Division – General Requirements and Minimum Standards of Design Development**
WMC Section 16.100 Land Division identifies several requirements and minimum standards of design development. Those requirements and minimum standards of design development that need to be addressed for consideration of preliminary plan approval are addressed below.

   a. **Street Access and Circulation System.** WMC Section 16.100 states that development shall provide for the continuation of existing and projected streets. If physical conditions make such continuation impractical, exceptions may be made.

   Each lot or parcel shall have access by means of a public street or private road, satisfactory vehicular access to an existing street. Development shall consider vehicular access to parcels off existing or proposed streets that addresses traffic congestion, speed, stop signs and turn lanes for the orderly development of traffic accessing the area.

   Eleven (11) lots are proposed to be served directly off existing Green Drive. Twenty-seven (27) lots are proposed to be served off Green Lane.

   b. **Street Standards, Design, and Specifications.** No new streets will be constructed. Green Lane was constructed in accordance with City standards and COCFRD requirements in 2008. The City accepted maintenance responsibilities of Green Lane and it is dedicated as public right-of-way.

   c. **Public Access Way.** When necessary for public convenience and safety, the City may require the dedication of public access ways 10-to-20 feet in width to connect cul-de-sacs, to pass through oddly shaped or unusually long blocks, to provide for networks of public paths according to adopted plans or to provide access to schools, parks, beaches or other public areas, and be of such design and location as reasonable required to facilitate public use.

   Existing sidewalks and trails are accessible to the public.

   d. **Utilities.** All proposed lots are served by utilities. No new utility work is required.

7. **Parks and Open Space.** In subdivisions or planned developments the city requires the subdivider to pay a park assessment fee based on the size of the subdivision. The purpose for the park assessment fee is to ensure that adequate park and recreation facilities are provided to serve the development's residents and to provide a funding source for maintenance of park and recreation facilities. The park assessment fee is based on the size of the planned development. The current park assessment fee to be charged to the developer, per Resolution No. 875, sets the fee at $1 per square foot for 5% of the total acreage.

   Crestview Golf Club paid a park assessment fee in 2008 when the original Planned Development was approved and platted. Therefore, no park assessment fee is required.

8. **Underground Utilities.** WMC Section 16.100 states, in part, that underground utilities shall be provided with the construction of new public or private streets.

9. **Fire Protection.** Green Lane and water service were constructed in 2008 in accordance with COCFRD provisions.

Conclusions

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

A. The site under consideration is suitable for the proposed planned development considering the location, conceptual design and description.

B. The proposed use and site plan are compatible with existing and projected uses on surrounding lands.

C. The use does not create a public nuisance or an unreasonable hazard to health or property because of excessive noise, smoke, odor or dust, and does not constitute an unusual fire, explosion or other physical hazard.

D. 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:

1. **Preliminary Plan Approval.** Preliminary plan approval of the Planned Development for the Crestview Golf Club shall occur in accordance with the approved plan. There shall be a maximum of 38 lots for single family residential development. Any substantial change in the plan shall require a modification to be reviewed and approved by the Planning Commission through a public hearing process.

2. **Preliminary Plan Approval Time Limits.** Time limits for the preliminary plan approval is in accordance with the following phasing schedule:

Phase	Lot Number	Year
1	1-5	2016-2017
2	6-11	2018-2019
3	15, 16, 31	2020-2021
4	17, 32, 33	2022-2023
5	12, 13	2024-2025
6	18, 30	2026-2027
7	19, 29	2028-2029
8	20, 27, 28	2030-2031
9	14, 37, 38	2032-2033
10	34, 35, 36	2034-2035
11	21, 26	2036-2037
12	22	2038-2039
13	23	2040-2041
14	24	2042-2043
15	25	2044-2045

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The phasing order is flexible to accommodate market demand. For example, if there is an early demand for the Phase 10 lots, then Phase 10 may be platted and developed as Phase 4. Phasing, i.e. construction of phases, may occur earlier than identified in the above table. For example, market demand may enable full build-out to occur in 20 years versus 40 years.

3. **Building Height.** Buildings on the north side of Green Drive shall have maximum building heights of 17 feet.

   Buildings fronting Green Lane shall have maximum building heights of 30 feet.

4. **Lot Sizes, Dimensions and Building Setbacks.** Lot sizes and dimensions will be in general conformance with the preliminary plan, i.e.:

   For the 11 lots on the north side of Green Drive, the typical lot is proposed to have approximately 3,345 square feet with dimensions of 90' x 37'-2". The single family dwellings are proposed to total approximately 1,683 square feet, with a 15' front yard, 8' rear yard, and 3'-1" side yards.

   For the 27 lots on Green Lane, one and/or two-level homes are proposed with a maximum 30' building height. Lot sizes are proposed to range between 5,200 and 8,934 square feet. Minimum setbacks for the 27 lots on Green Lane are proposed to be 15' front yard, 10' rear yard, and 5' side yards or 1' for every 3' of height, whichever is greater.

5. **Underground Utilities.** All utilities shall be located underground. Easements for all utilities shall be provided and shown on the plats as required by the City and utility agencies including extension of public utilities to adjacent properties.

6. **Natural resources.** Wetlands and riparian areas shall be maintained as proposed. Any plan changes that would result in disturbance to wetlands shall require review and approval by the City and applicable agencies, i.e. Oregon Department of State Lands.

This ORDER was presented to and approved by the Waldport Planning Commission on December 14, 2015.

Ray Woodruff, Waldport Planning Commission Chair

12-15-2015
Date

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RESPONSE OF TIDEWATER DEVELOPMENT, LLC TO HOLLIS LUNDEEN APPEAL TO WALDPORT CITY COUNCIL
Case File #1-PD-PC-17

This response is submitted on behalf of Tidewater Development, LLC to the appeal filed by Hollis Lundeen on the Vista View Planned Development. The appeal is without merit and should be denied.

Introduction

This is the second time the applicant's request for a 34 unit planned development has come before the City Council. Hollis Lundeen appealed the Council's initial approval of the request to the Land Use Board of Appeals (LUBA). LUBA substantially upheld the decision of City and held the appeal was without merit except for one limited issue. LUBA remanded the issue to the City to review and provide findings on that issue alone. That issue is to show that the proposed development will not create a drainage or pollution problem outside the planned area. (LUBA opinion page 18 lines 9-11). The decision said that the city's findings fail to explain whether the storm drainage facilities are adequate to serve the proposed development and that the proposed development will not create a drainage or pollution problem outside the planned area. (LUBA opinion page 18 lines 12-15).

Upon remand the matter was sent to the Waldport Planning Commission for an additional hearing. The Planning Commission held a public hearing and after the hearing approved findings addressing the remanded issue. The appellant appeals from the Planning Commission approval.

While the appeal filed by the appellant is lengthy, much of its content is not a proper basis for appeal as appellant attempts to address issues that are speculative, irrelevant or which

have already been addressed and affirmed by LUBA. Therefore, the applicant will not attempt a paragraph by paragraph rebuttal of appellant's submittal.

The numbered responses below address the appellant's headings that are in bold in her submittal.

Response to Appellant's Appeal

1. The submittal by the applicants was sufficient to address the remanded issue.

The information submitted by the engineer for Tidewater Development analyzes the drainage issues on the property resulting from the planned development of the property for 34 single family housing units. The engineer indicated that his calculations erred on the side of being conservative and that even using that approach the property was suitable for the development. His findings are summarized in his report that is submitted and are also summarized in the planning commission findings and will not be repeated here.

The planning commission found that the drainage offsite will not be significant and included a provision that if necessary a storm water detention facility is to be constructed that will keep off site drainage at levels existing before development.

The planning commission made findings and conclusions based on substantial evidence in the record.

2. The findings and conclusions adopted by the planning commission address the issue remanded by LUBA.

The information submitted by Tidewater's engineer contemplated development of the property for a 34 unit single family development as is proposed. His report clearly shows the drainage system will be adequate to handle drainage from the development without negative effects on other properties.

If the City Council determines that further findings are necessary, it has the ability to adopt further findings as the hearing before the Council is de novo and new evidence can be presented and additional findings adopted. In light of the appellant's appeal, the applicant is submitting additional proposed findings that further address the concerns raised by the appellant. (See additional findings under response 5 below.)

3. The findings and record demonstrate that there will be no negative off site effect of pollution upon the development of the property.

Since the record provides adequate facts to show that there will not be off site pollution the appellant's concerns can be addressed by adopting additional findings of fact and changing the heading on the "Findings and Conclusions" to provide that pollution issues are addressed as well. The heading can read "Findings of Fact on Storm Drainage and Pollution".

One of the primary fallacies of the appeal is that the appellant seems to think that development occurs in a vacuum and that the approval must address every possible condition. That thinking is in error. The applicant must abide by other rules and regulations of the City of Waldport, and state and federal agencies. These rules provide that when a property is being developed the developer must comply with applicable rules. For example water lines and sewer lines must comply with the applicable standards for public lines. The standard is not established on a case by case basis.

The appellant relies on conclusory statements that have no basis in fact. She makes the inaccurate and unwarranted assumption that soils on the property were contaminated from logging activity. This is simply an inflammatory statement that has no basis in fact. There is no need to protect against contamination that does not exist.

Likewise she makes the unwarranted assumption that the probability of sediment pollution into Alsea Bay is high, another unsupported and incorrect assumption. The appellant

fails to note the her property and the development in which she resides, Norwood Heights is closer to Highway 101 and its drainage system and Alsea Bay than the proposed Vista View.

The requests made by the appellant are not required by the Waldport development code or other provisions of law.

As to the easements she references, there is no requirement that all easements be finalized by the preliminary approval. If the easements cannot be obtained, then the project will not move forward. It is totally logical and reasonable that the applicant obtain the preliminary approval before going to the time, expense and effort to obtain the easements if the City is not comfortable with the overall layout and concept of the planned development.

4. Tidewater has provided adequate and sufficient information to address pollution.

As noted above, there is no requirement to have all the easements in place. If the easements cannot be made or other arrangements made, then the project cannot be finalized.

Appellant's argument regarding sewer and utility lines is not appropriate because the City already determined that utilities could be adequately provided to the property. That decision was upheld by LUBA. Therefore, appellant's argument is outside the scope of the remand.

The sewer lines and water lines will be engineered and built according to all applicable standards. At this stage of the proceeding what needs to be shown is that the plans are feasible. That standard has been met.

The engineer's report submitted by the applicant does analyze the drainage from the property and shows the property can adequately handle the 34 single family homes in the design that has been presented. The applicant's contention that"...additional flow requires both ODOT and DEQ permitting, which, without documentation that this has been initiated and secured negates the findings claim and is inadequate in meeting the LUBA direction" clearly

demonstrates that the applicant does not understand the land use process. Even if ODOT and DEQ permitting are required to some degree, there is no requirement that the permitting take place before the City grants a preliminary approval. The applicant fails or refuses to understand that the City's preliminary approval is the first step in the process.

Appellant's contentions regarding hazardous materials storage and soil contamination are purely speculative and do not need to be addressed as part of a preliminary approval.

Noise, light and traffic were previously addressed and are not the subject of remand. The traffic and access were previously appealed by the applicant to LUBA and LUBA affirmed the City's addressment of the issue. It is inappropriate for the appellant to even be raising this issue.

5. <u>In order to address the concern raised by the appellant regarding pollution, the City can adopt more specific findings of fact showing that the ordinance requirement has been met.</u>

While the City may choose to adopt more specific findings to affirm that there will be no on site or off site impacts of pollution, the City is not required to address the issues in the manner suggested by the appellant.

The applicant's engineer has already presented a report that shows that there will be minimal or no impact on offsite properties. He presented graphics and an analysis. This is sufficient to meet the standard that storm water drainage will not cause harm to other property.

There is no reason to gather soil samples off site as appellant suggests. First, the City already determined and LUBA agreed that the geotechnical work does not need to be done as part of the preliminary approval since the ordinance does not specify a time. Additional engineering and geotechnical reports will be done after the preliminary approval is received.

This matter was previously discussed and affirmed by LUBA. Again, appellant is trying to assert an issue that has already been decided and that is not appropriate.

The appellant then proceeds to request that the City require the applicant to submit a volume of information, none of which is required by the ordinance at this stage of the proceeding. Essentially, the appellant is asking for final engineered plans at the preliminary approval stage. It is not reasonable to undertake that work before the applicant knows the City is satisfied with the general conceptual layout and proposal. The applicant simply must show that it is feasible to do the project and that any issues can be appropriately addressed. This the applicant has done.

If the City may adopt additional findings regarding pollution and address the issue as follows:

a. The land proposed for development is bare ground. It has not previously been developed or used for any residential, commercial or industrial development. Timber was previously harvested from the property. There are no known pollution hazards on the property.

b. Prior to construction or roads and other infrastructure the applicant will be required to submit engineered plans to the City showing and the City's engineers will need to review and approve of these plans.

c. During construction the applicant will need to comply with applicable construction standards that require protection of onsite and offsite property. Any special protections can be established during the engineer's review of the plans.

d. All water and sewer lines will need to be built to applicable state and federal standards governing their construction and function so they will function appropriately. If additional sizing of pumps or lines is necessary they will be installed as part of the process, as has been previously addressed.

e. The residential use of the property is consistent with the zoning of the property and uses on adjoining property. There is residential development on three sides of the property.

Since there is no commercial or industrial use of the property, there will be no pollution from those sources. The homes will be connected to City sewer and water as previously noted and there will be no septic systems. There is nothing in the proposal presented by the applicant that suggests there will be any activity that will cause pollution that would violate any provision of local, state or federal law.

f. The report from the applicant's engineer demonstrates that there will be adequate natural drainage to eliminate or control any sediment and if the engineer's determine that any additional filtering is necessary it can be accomplished as part of the engineering review.

g. The planned development has been designed to avoid development on steep slopes. The housing units will be situated on the gently sloping portion of the property. This reduces soil disturbance and will retain a large portion of the property in a natural state thereby reducing the possibility of pollution.

h. The traffic associated with the development will be consistent with a single family residential subdivision that was not developed as a plan development. The same is true with other aspects of the development such as street design and lighting and other infrastructure.

Contrary to what the appellant asserts, the actions she is requesting based on past submittals on other developments are not required. The standard to be met is the ordinance standard, not what other developments may or may not have done.

6. <u>The planning commission properly determined that storm water can be adequately managed without adverse impact on other properties and the current-off site system in place is adequate to handle the runoff.</u>

The appellant again presents her house of horror's scenario which is based on speculation. Logging of property is based on one set of standards and development of the

property is based a separate set of standards. It has already been well established that the development will be subject to engineering design and review by the applicant and by the City.

It has been established by the engineer's report that there will be no adverse effect of storm water drainage. It can be managed through the extensive open area the applicant has proposed and will maintain as part of the planned development. There has also been provision made for a retention pond that can be built if engineering deems it appropriate. The retention pond will collect water and allow its release at levels as occurred before the development of the property.

There will be no offsite pollution as the activities proposed are residential and consistent with the surrounding land uses.

The extension of Norwood Drive will be engineered and then built according to the engineered specifications. Building on slopes is certainly not unique on the coast. There are a number of roads built in Waldport on slopes that have withstood the test of time. It is important to remember that the road is part of the Waldport Transportation Plan that was previously adopted. As was discussed at the first set of hearings, the road over the hill is important for Waldport because it provides a road through town that is not in the tsunami zone.

7. <u>The engineer for the applicant has completed and submitted a Storm Water Drainage and Downstream Analysis.</u>

Since the appellant cannot attack the engineer's work, she attacks the engineer. Brandt Thissell is a licensed and registered professional engineer in the State of Oregon. He is fully qualified and competent to submit the report he submitted. There is nothing in the Engineer's Code of Professional Conduct that prohibits him from doing the work. The appellant has not shown there are any errors in his work. She simply uses a relation as a convenient way to attack

the engineer. It suggests that her vitriol to the applicant's proposal has no bounds. She is now resorting to a personal attack.

To point out just a few flaws in her reasoning, she argues there was a slide during logging but she presents no evidence to even suggest that Mr. Thissell did any engineering work on the property at that time or was in any way involved in the logging. She references DEQ standards for engineers which she does not cite and which are not even applicable here.

8. The engineer's analysis describes how the current open area is sufficient to collect storm water after the property is developed without impact on other property an makes further provision for a retention pond to collect water and release it down slope at predevelopment levels.

The appellant is requesting engineering work that is not necessary for the preliminary approval. As has previously been discussed, at this stage it must be shown that the project is feasible and that standard has clearly been met.

9. The planning commission's finding number 9 is sufficient.

The engineering work regarding storm water analysis presented by the applicant's engineer is satisfactory for the preliminary approval. The engineer's report clearly shows the project is feasible. That is the requirement at preliminary approval. Approved permits form ODOT and DEQ are not necessary at this stage of the approval (and it is questionable whether they will be needed in the future.)

Once again, the appellant is requesting information that the applicant is not required to provide, at least at this stage in the process. The appellant's arguments demonstrate that she either fails or refuses to understand that complete engineering drawings are not required at this stage of the process. She also wants the City to believe unsubstantiated assertions that have no

basis in fact. Her attack clearly shows she simply does not want the property owners to use their property for residential purposes as clearly allowed by the zoning ordinance.

10. The applicant's engineer visited the site and made a visual inspection and included those observations in his report.

Again, the appellant makes unsubstantiated statements.

11. All storm water discharge outlet pipes will have, at a minimum, rip rap pads to prevent erosion and prevent sediment from washing downstream.

The information requested by the appellant does not need to be presented at the preliminary approval stage. Furthermore, the appellant is not entitled to engineer the project.

12. The site catch basins will have sump pumps, the existing on-site drainage will remain vegetated, the area of development has gentle slopes and the downstream drainage is vegetated.

There was sufficient evidence in the record for the planning commission to make finding number 12. The evidence clearly shows the project is feasible and that offsite drainage and pollution will not be a problem.

13. Vista View has set aside an area for a "storm water facility".

Simply stated, the engineer's report addresses the concern expressed by LUBA. The engineer's report was not part of the record of the first set of hearings. The report shows that managing storm water is feasible and will not cause a problem.

The adequacy of utilities to the property was addressed in the first round of hearings and LUBA agreed the issue was adequately addressed (LUBA opinion 17-18) and it cannot be raised again here. Additionally, as was previously noted, the sewer and water lines will all be engineered and the plans will be reviewed and approved by the City engineer.

14. The applicant's engineer advised that the calculations were made using very conservative estimations meaning that he erred on the side of caution in making the calculations.

Not only does the appellant want final engineered drawings at the preliminary stage, it is also apparent that no amount of engineering will satisfy the standard which the appellant wants the applicant and the City to meet. The report of the applicant's engineer adequately addresses the issue LUBA requested to have addressed.

15. No ODOT permit is needed for preliminary approval.

There is nothing in the communication from ODOT that requires a permit for preliminary approval of Vista View Plan Development. If there is no increase in drainage then no permit will be required. The requirement of the condition is that if drainage will be increased to the ODOT right of way in an amount that will require a permit then the applicant will need an ODOT sign off or permit. It is not required at the preliminary approval stage.

16. The phasing and time limits of the preliminary planned development approval were changed because of the length of time that has passed since initial approval by the planning commission.

The City Council is not required to approval planned developments. Approval by the planning commission is sufficient. The code allows phasing. However, since the appellant has appealed this matter, the City Council can approve the time lines approved by the planning commission.

The reason for the revised times is because the appeals of the appellant have delayed the final approval for a number of months. The applicant's time to achieve final approval runs from the time the preliminary approval becomes final.

17. Any conditions imposed by ODOT will be addressed prior to final approval.

If there is an increase in drainage to ODOT's right of way, then the applicant will obtain any necessary approvals from ODOT. Those will be obtained as part of the development process. However, the approval also provides the option of constructing a retention pond which

will collect water and limit runoff to predevelopment levels, in which case no ODOT approval or review would be necessary.

Although not labeled as a separate appeal issue the appellant asserts that the City of Waldport develop a land use compatibility statement to determine whether the submittals from the applicant is consistent with the local government comprehensive plan and land use regulations. She also request clarification from the City of Waldport regarding whether public participation is permitted during final plan review. Neither of these issues is appropriately raised at this time. These were not items of remand and therefore because the appellant failed to raise or pursue them earlier, she cannot raise and pursue them at this time.

Furthermore, the City has already made this determination by virtue of the property having a comprehensive plan designation of residential and a zoning designation of R-1, single family residential. As was seen previously, the development is also in compliance with the Waldport Transportation Plan. The proposed road location is where it is shown in the maps which were drawn as part of transportation planning.

Conclusion

The remand from LUBA was on a very limited issue. The appellant has attempted to use a second bite at the apple as an opportunity to reassert positions she previously asserted and which were rejected by LUBA. The City must confine its review to addressing findings on storm drainage and pollution. The supplemental information provided by the applicant adequately addresses the issues and provides the necessary findings and conclusions on the issue that LUBA remanded to the City for further review.

The LUBA opinion makes clear that the City must show the development is feasible considering the issues of storm drainage and pollution. That has been accomplished and the City

Council should adopt findings and conclusions consistent with those adopted by the planning commission and deny the appellant's appeal.

Dated this 5th day of March, 2019.

Respectfully submitted,

Dennis L. Bartoldus
Attorney for Tidewater Development, LLC
PO BOX 1510
Newport, OR 97365

BEFORE THE PLANNING COMMISSION
OF
WALDPORT, OREGON

Request for Planned Development | **Case File #1-PD-PC-17**
Applicant: Tidewater Development LLC | **Agent: Dennis L. Bartoldus, Attorney**

FINDINGS OF FACT ON STORM DRAINAGE

1. This case previously was heard by the Waldport Planning Commission. The Planning Commission approved the application with conditions on December 18, 2017.

2. The decision of the Planning Commission was appealed to the Waldport City Council by Hollis Lundeen. The City Council held a hearing on the appeal on February 22, 2018.

   The City Council essentially upheld the decision of the Planning Commission, slightly modifying one of the conditions to provide the easement trail would be constructed as part of Phase 1 of the project. The Final Order of Findings and Conclusions was issued on March 8, 2018.

3. Hollis Lundeen appealed the decision of the City Council to the Oregon Land Use Board of Appeals (LUBA). In its decision LUBA generally upheld the decision of the City but remanded the case back to the City on one issue, that being to further address the issue of storm drainage.

4. The Waldport Planning Commission held a hearing on the remanded issue of storm drainage on January 28, 2019. The hearing was duly noticed as required by the ordinance. All interested parties were given the opportunity to provide written testimony or to testify in person.

5. Those providing written testimony and testifying at the January 28, 2019 Planning Commission hearing were Dennis L. Bartoldus, Attorney and Agent for the applicant, Tidewater Development LLC; and Hollis Lundeen, Appellant. Additionally, the Oregon Department of Transportation (ODOT) provided written testimony.

6. After considering the testimony and submittals of the parties, the Planning Commission determined that storm water can be adequately managed without an adverse impact on other properties and the current off-site system in place is adequate to handle the runoff.

7. The engineer for the applicant has completed and submitted s Storm Water Drainage and Downstream Analysis.

8. The analysis describes how storm water collected from the site via roof drains and catch basins in the street into the existing storm drainage on the east and north sides of the property. From there the storm water will follow the same path as it historically has, down the vegetated channel and out to Alsea Bay. The drainage way on the applicant's property will remain vegetated.

9. The engineer did a Hydro CAD analysis which shows the existing 30 inch in diameter culvert running beneath Highway 101 is sufficiently sized to accommodate the storm water runoff of the past developed condition of the entire contributing storm water basis during a 10 year 24 hour rain event which is 5 inches of rainfall in 24 hours per the NOAA isoplurvial maps. In the event the culvert ever became blocked, the storm water would flow north and be channeled by one of several other ditch inlets and culverts beneath Highway 101 that drain to the bay.

10. By a visual inspection of the property downstream the engineer concluded there were no downstream structures or property at risk of being impacted by storm water quality due to the proposed development. All existing structures sit well above the existing drainage channel.

11. All storm water discharge outlet pipes will have, at a minimum, rip rap rock pads to prevent erosion and prevent sediment from washing downstream.

12. All site catch basins will have sumps, to help prevent sediment and debris from migrating downstream. The existing on-site drainage way will remain vegetated which will also help control sediment migration, erosion, and filter potential pollutants from discharged storm water. Much of the existing drainage on-site has a gentle gradient, which is favorable for settling out any sediment and particulates in the discharged storm water. The drainage way downstream is also heavily vegetated.

13. As shown on the preliminary plan, Vista View has set aside the area shown as a "storm water facility area" as an area reserved for meeting any additional storm water quality and/or retention requirements or criteria. The area would allow an appropriately engineered storm water detention area to control off site drainage.

14. The applicant's engineer advised that the calculations were made using very conservative estimations meaning that he erred on the side of caution in making the calculations.

15. ODOT stated that the proposed development should not increase drainage to ODOT highway right-of-way. If it will propose to increase drainage to the ODOT highway right-of-way, the applicant should contact ODOT to seek ODOT's review and approval.

CONCLUSION

Based upon the testimony and information presented, the Planning Commission concludes that the development will not create a drainage or pollution problem outside the planned area and reapproves the VISTA VIEW Planned Development pursuant to the terms of the City Council on March 8, 2018 with these additional findings incorporated to support the decision, and with one modified condition of approval and one new condition of approval as stated below.

(Revised) 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 2019 – January 2021
Phase 2:	January 2021 – January 2023
Phase 3:	January 2023 – January 2025
Phase 4:	January 2025 – January 2027

(New) 13. If storm drainage will be increased to the ODOT highway right of way in an amount to require review and approval by ODOT, the applicant shall contact ODOT to seek ODOT's review and approval or the applicant may construct an appropriately engineered retention pond or facility as identified in the preliminary plan to reduce flows to levels that do not require ODOT's review and approval.

Ray Woodruff, Waldport Planning Commission Chair

1-29-2019
Date

BEFORE THE LAND USE BOARD OF APPEALS

OF THE STATE OF OREGON

08/20/18 AM11:06 LUBA

HOLLIS LUNDEEN,
Petitioner,

vs.

CITY OF WALDPORT,
Respondent,

and

TIDEWATER DEVELOPMENT, LLC,
Intervenor-Respondent.

LUBA No. 2018-030

FINAL OPINION
AND ORDER

Appeal from City of Waldport.

Hollis Lundeen, Waldport, filed a petition for review and argued on her own behalf.

No appearance by City of Waldport.

Dennis L. Bartoldus, Newport, filed a response brief and argued on behalf of intervenor-respondent.

ZAMUDIO Board Member; RYAN, Board Chair, participated in the decision.

BASSHAM, Board Member, did not participate in the decision.

REMANDED 08/20/2018

1 You are entitled to judicial review of this Order. Judicial review is
2 governed by the provisions of ORS 197.850.

Opinion by Zamudio.

NATURE OF THE DECISION

Petitioner appeals a city council decision that approves a preliminary plan for a planned development.

FACTS

The subject property is 7.75 acres, vacant, located within the City of Waldport (city), and is zoned Residential R-1 for single-family dwellings. Surrounding land uses include single-family residential development and some undeveloped, residential-zoned property. Access to the subject property is via an extension of Norwood Drive, an existing public right of way that currently dead-ends before it reaches the property. Norwood Drive serves multiple existing residences. The proposed development would extend Norwood Drive onto the subject property and into a circular street system that would provide access to the new lots. A future second access point is planned at the south end of the subject property and the proposed development includes a street stub to provide access to Kelsey Lane when the property to the south of the subject property is developed. Record 350.

A steep ravine runs along the north and a portion of the east boundaries. Some of the property is comprised of steep slopes but much of the property slopes gently to the west. The proposed extension of Norwood Drive onto the property travels across the ravine. The proposed lots are primarily located on the more gently sloping areas of the subject property. Record 359.

1 The city planning commission granted preliminary plan approval to
2 intervenor-respondent Tidewater Development, LLC (intervenor) for a 34-lot
3 single-family residential planned development on the subject property called
4 Vista View Planned Development (Vista View). Petitioner appealed the
5 planning commission's decision to the city council, which approved the
6 application with conditions. The city council found that the subject property
7 can be served by city water and sewer, and with electricity. Record 4. The city
8 council imposed a condition of approval that requires intervenor to coordinate
9 with the city public works department on the design and construction of water,
10 sewer, and storm drainage facilities and submit final engineering plans for
11 review and approval prior to construction. Record 8, 10. The city council found
12 that the proposed development satisfies applicable Waldport Development
13 Code (WDC) provisions. Record 9. This appeal followed. Petitioner argues that
14 the decision is not supported by adequate findings, the findings failed to
15 address all issues raised by opponents, and the city improperly deferred
16 discretionary decision making to the final plan process.[1]

17 Planned development approval is a two-stage process under the WDC. A
18 preliminary plan outlines the proposed development and is subject to a public
19 hearing before the planning commission, which may reject the plan, approve it
20 as submitted, or approve it with conditions. WDC 16.60.030; WDC

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[1] Petitioner failed to expressly set out the applicable standard of review for each assignment of error as required by OAR 661-010-0030(4)(d).

16.108.020(C). The planning commission's decision may be appealed to the city council. WDC 16.108.020(C)(5); WDC 16.108.020(H). After preliminary plan approval, the applicant proceeds with more detailed planning and must submit a final plan to the city planner with certifications and proof of compliance with conditions imposed by the preliminary plan approval. If the city planner is satisfied that the certification requirements and conditions are met, then the final plan

> "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." WDC 16.60.040(A).

We proceed to petitioner's assignments of error, and address them slightly out of order, beginning with the second assignment of error.

SECOND ASSIGNMENT OF ERROR

WDC 16.96.020 provides:

> "Development guidelines shall apply to those areas of concern delineated on the City of Waldport zoning map and in its comprehensive plan and plan inventories or any area determined potentially hazardous by the Planning Commission and shall also apply to any property that has a 20% slope or greater."

WDC 16.96.030(D)(4) requires a site-specific geotechnical analysis for development on slopes greater than 20 percent:

> "D. Standards. The following shall be required in identified hazard areas:
>
> "* * * * *

> "4. Slopes greater than twenty (20) percent. A site specified geotechnical analysis by an Oregon certified engineering geologist is required. The analysis, which shall be stamped by the Oregon certified engineering geologist, shall determine the suitability of the site for development and shall recommend specific measures which may be required to safeguard life and property."

In its decision, the city listed WDC 16.96 as relevant criteria, and intervenor does not dispute that it applies to the planned development. Record 5. Intervenor does, however, dispute that WDC 16.96 must be satisfied at the preliminary planning stage. The city council did not determine whether WDC 16.96 was met but instead imposed a condition of approval to ensure future compliance with that provision: "Geotechnical analyses shall be required where development of both roads and lots are proposed on slopes greater than twenty (20) percent." Record 10.

In the second assignment of error petitioner argues that the city's decision violates applicable law by deferring geotechnical review to the final plan process where no public testimony is allowed. See n 3. We understand the second assignment of error to allege that the city improperly construed WDC 16.96 in failing to apply that provision and require a geotechnical analysis at the preliminary plan stage.

By its terms, WDC 16.96.030(D)(4) requires a geotechnical analysis for development on slopes greater than 20 percent. However, nothing in WDC 16.60, the chapter that governs planned developments, refers to WDC 16.96.

WDC 16.96 is in a separate chapter entitled "Development Guidelines." WDC 16.96.030(D)(4) requires the geotechnical analysis be performed and stamped by an Oregon certified engineering geologist, and the geologist's analysis "shall determine the suitability of the site for development and shall recommend specific measures which may be required to safeguard life and property." As far as we can tell, WDC 16.96 requires no decision by the city except for a decision that an Oregon certified engineering geologist has "determine[d] the suitability of the site for development" and "recommend[ed] specific measures * * * to safeguard life and property." Petitioner has not identified anything in the WDC that requires that determination to be made in the preliminary plan stage. Therefore, we agree with intervenor that the city did not err in imposing a condition of approval that requires WDC 16.96 to be met prior to final plan approval.

The second assignment of error is denied.

THIRD ASSIGNMENT OF ERROR

As pertinent to petitioner's third assignment of error, pursuant to WDC 16.60.030(C)(3), the city is required to make the following inquiries and findings before approving a preliminary plan:

> "C. Preliminary plan approval criteria. Approval by the Planning Commission of a preliminary plan of a planned development shall be based on findings that the following criteria are satisfied:
>
> " * * * * *

"3. 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, fish and wildlife habitats, 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 located open space, recreation facilities, and other public and common facilities, and also includes pedestrian oriented development which reduces reliance on automobile travel, provision of solar access or similar measures to promote energy conservation, or avoidance of risks and costs associated with environmental hazards."

The city found:

"The Planned Development ordinance allows a design that is tailored to the property. Exceptions to residential and land division standards are allowed in exchange for tradeoffs, which are typically the establishment of open spaces, natural resources and public benefits, *e.g.*, dedication of open space, preservation of natural drainage ways, [and] public pedestrian facilities such as trail connections." Record 7.

Petitioner argues that the city's findings do not explain how the proposed planned development provides a "higher level" of amenities or protections. Petition for Review 25. Petitioner asserts that the following issues were raised but not addressed by the city's findings: traffic impacts, cost burden, fisheries

1 protection, road improvement impacts, pedestrian impacts and safety, bald
2 eagle protection, greenspace "tradeoff," and adequacy of park assessment fee.[2]
3 Intervenor responds that WDC 16.60.030(C)(3) provides examples of
4 consideration and that the code does not require that the city address every
5 factor in its findings approving a preliminary plan. Instead, in intervenor's
6 view, the code requires a balancing of interests between the proposed planned
7 development and development under the traditional subdivision provisions of
8 the WDC. Intervenor's Response Brief 15. For example, intervenor asserts that
9 the WDC allows subdivision of the property that could result in 56 buildable
10 lots, whereas based on constraints and concessions, the proposed planned
11 development includes only 34 buildable lots, along with open space and trails.
12 Intervenor argues that WDC 16.60.030 requires the city to balance interests,
13 such as those amenities and protections listed in WDC 16.60.030(C)(3), to
14 determine whether the proposed development provides an overall greater good
15 to the city than a conventional layout for the development under the WDC
16 subdivision regulations. Intervenor's Response Brief 15. In intervenor's view,

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[2] Petitioner argues that bald eagle habitat is present near the subject property. The city found that any bald eagle habitat on or near the property is not relevant in applying WDC 16.60. Record 8. Petitioner does not assign error to that finding or identify any relevant criteria related to bald eagle habitat. Thus, that argument provides no basis for reversal or remand and we do not address it.

1 the list in WDC 16.60.030(C)(3) is a list of considerations and the city has
2 considerable flexibility in reviewing and approving a preliminary plan.

3 We agree with intervenor that WDC 16.60.030(C)(3) affords the
4 planning commission and the city council significant flexibility in approving a
5 planned development. WDC 16.60.010 provides, in part, that "[t]he purpose of
6 the planned development procedure is to encourage and promote creativity and
7 innovation in site planning, design and development through the application of
8 flexible land development standards," and that "[a]pplication of the planned
9 development procedure is intended to [a]llow for and encourage development
10 designs which provide suitable recognition of the physical, topographic,
11 cultural, historical and natural resource values and constraints present on a
12 particular site." *See also* WDC 16.60.020(H) ("Yards, setbacks, lot area, lot
13 coverage and similar dimensional requirements may be reduced, adjusted or
14 otherwise modified consistent with the design objectives of the proposed
15 development."). The considerations in WDC 16.60.030(C)(3) are not
16 independent approval criteria, but a list of factors the city should consider.

17 The city did not expressly find that the proposed development will
18 provide the "amenities or protections at a higher level than would otherwise be
19 provided under conventional land development procedures." WDC
20 16.60.030(C)(3). However, the findings in the decision are sufficient to explain
21 that the city weighed the considerations in WDC 16.60.030(C)(3) and found
22 that the preliminary plan satisfies that provision. For example, the approval

requires the drainage way and ravine along the northern portion of the eastern boundary of the property be dedicated as open space with an easement for a public nature trail. That condition protects open space and natural features and enhances pedestrian access as well as scenic and aesthetic qualities. The proposed design of the lots conforms to natural topographic constraints, which minimizes risks associated with natural hazards. The city's findings are adequate to explain why it concluded that WDC 16.60.030(C)(3) is met.

The third assignment of error is denied.

FIRST AND FOURTH ASSIGNMENTS OF ERROR

We address petitioner's first and fourth assignments of error together. Petitioner challenges the city's conclusion that the preliminary plan complies with WDC 16.60.030(C)(4), which provides:

> "In considering a development proposal, the Planning Commission shall seek to determine that the development will not overload the streets outside the planned 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."

Petitioner challenges the city's decision that WDC 16.60.030(C)(4) is satisfied with respect to streets, utilities, and storm drainage. The city council found that water, sewer, and electricity "currently serve or are available to the subject property" and that those utilities are adequate to serve the proposed development. Record 4.

> "The City Council finds the [WDC] and Planning Commission Findings & Conclusions have measures in place to ensure that adequate facilities will be design[ed], approved, and constructed. The Planning Commission's condition of approval #8 [Condition 8] requires the applicant to submit final engineering plans for water, sewer, storm drainage, and streets to the City of Waldport and other applicable agencies for review and approval prior to construction." Record 8.

Condition 8 provides:

> "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 Highway 101, [then] the applicant shall provide required upgrades to the pump station to accommodate the increased flows. Utility easements shall be provided to the City as required by the Public Works Director. All utilities shall be placed underground.
>
> "Final engineering plans for water, sewer, and 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 the development plans. Final engineering plans for water and the street shall also be reviewed by [Central Oregon Coast Fire & Rescue District]." Record 10.

Petitioner argues that the city erred in imposing Condition 8 because, according to petitioner, Condition 8 defers a conclusion as to whether WDC 16.60.030(C)(4) is met to a later stage that does not allow public participation. We understand petitioner to argue that the city may defer that conclusion only if it first finds that the proposed development could feasibly comply with WDC 16.60.030(C)(4). Petitioner cites *Meyer v. City of Portland*, 7 Or LUBA 184, 196 (1983), *aff'd*, 67 Or App 274, 678 P2 741, *rev den*, 297 Or 82 (1984) in

1 support of that position. Petition for Review 10–11. Petitioner further argues
2 that the city may not rely on future city staff and engineer review prior to final
3 plan approval because that process does not allow public participation.[3]

4 The Court of Appeals addressed both the feasibility and public
5 participation issues in *Meyer*, 67 Or App 274. Like this case, *Meyer* was
6 concerned with a city approval of a planned development and, like the subject
7 property in this case, the property in *Meyer* contained steep slopes. *Id.* at 276.
8 In rezoning the property to allow planned development, the city imposed
9 conditions of approval requiring the applicant to submit satisfactory evidence
10 that the development would not create geological hazards and that satisfactory
11 drainage would be provided. *Id.* at 278–79. In approving a conditional use
12 permit to construct the planned development, the city included a condition of
13 approval requiring geotechnical studies to verify that roads, drainage ways, and
14 building sites could be safely developed, including specified methods for storm
15 and groundwater disposal. *Id.* The approval required all storm and sanitary
16 sewers be constructed in accordance with the requirements of the city engineer.
17 *Id.* The petitioners challenged the city's approval with respect to storm water
18 control and geotechnical review. *Id.* at 279–80. LUBA affirmed the approval,
19 reasoning that while the feasibility of the planned development must be shown

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[3] It is not clear to us whether public participation is permitted during the final plan review under WDC 16.60.040.

at the preliminary plan stage, technical matters that require expert evaluation may be deferred to administrative review and approval. *Id.* at 280.

With respect to the required geotechnical information, LUBA held that the city properly concluded, based on information in the record, including geotechnical studies, that the project was geotechnically feasible and that detailed geotechnical information for individual building sites was not required at the preliminary plan stage. *Meyer*, 7 Or LUBA 184, 197. With respect to storm water, we observed that it seemed probable that the developer would need to improve the open channels or closed storm sewers to serve the development. *Id.* at 197–99. The applicant relied on an engineering study in the record that described existing inadequacies and provided a drainage control plan. The expert testified that an effective storm drainage system was feasible and a city engineer testified that applicant's engineers had adequately addressed drainage concerns. *Id.* at 199. We concluded that the evidence cited was sufficient to show that it was feasible to control the storm water and that detailed plans and precise solutions could be deferred to final plan approval. *Id.*

The Court of Appeals affirmed our decision and clarified the applicable feasibility inquiry.

> "[B]y 'feasibility' LUBA means more than feasibility from a technical engineering perspective. It means that substantial evidence supports findings that solutions to certain problems (for example, landslide potential) posed by a project are possible, likely and reasonably certain to succeed."

Meyer, 67 Or App at 280 n 5 (internal citations omitted). With respect to deferred review, the court explained that while the city council "must find that solutions are available, detailed technical matters involved in selecting a particular solution to each problem are left to be worked out between the applicant and city's experts during the second stage approval process for the final plan." *Id.* at 282 n 6. The court explained that the city is not required to provide public hearing and participation in technical discussion and review after the preliminary plan approval process. *Id.*

With that context, we turn to petitioner's specific challenges regarding streets, utilities, and storm drainage.

With respect to street loading, *i.e.*, traffic impacts, "[i]n considering a development proposal, the Planning Commission shall seek to determine that the development will not overload the streets outside the planned development area[.]" WDC 16.60.030(C)(4). The city council found:

> "Traffic data used in the evaluation of the application included reliable and substantiated data. For example, the Institute of Traffic Engineers (ITE) Trip Generation Report, 8th Edition was researched to obtain average daily traffic data, *i.e.*, a single-family house generates approximately 10 trips per day. The City Council finds the proposed extension of Norwood Drive for the development of the Vista View [planned development] is well within the development rights of the property owner. The City Council affirmed that the future extension of Norwood Drive was in place at the time the Norwood Drive residence [*sic*] purchased and developed lots along Norwood Drive." Record 8.

Petitioner argues that those findings are inadequate to explain why the city council determined that the proposed development will not "overload the

1 streets outside the planned development area," specifically, Norwood Drive.
2 Petition for Review 30. Intervenor responds that the city's findings are
3 adequate to explain why the city found that the development will not overload
4 Norwood Drive, based on the city's calculation that Norwood Drive can
5 accommodate 1,000 trips per day. Intervenor's Response Brief 20. Petitioner
6 acknowledges that a city staff report explained that the national standard for the
7 maximum daily capacity of a local street is 1,000 vehicles per day. However,
8 petitioner argues that the staff report cannot be treated as city council findings
9 because the city council did not adopt the staff report into its findings. Petition
10 for Review 32.

11 While petitioner is correct that the city council did not expressly adopt
12 the staff report into its findings, the city's findings are adequate to explain why
13 the city concluded that WDC 16.60.030(C)(4) was met with regard to streets:
14 Norwood Drive has a capacity of 1,000 vehicle trips per day and the projected
15 trips are less than that. *See Sunnyside Neighborhood v. Clackamas County*, 280
16 Or 3, 21, 569 P2d 1063 (1977) (findings need not be perfect and do not require
17 "magic words"). The city council found that "[t]raffic data used in the
18 evaluation of the application included reliable and substantiated data." Record
19 8. Petitioner does not challenge that finding. That finding, combined with
20 evidence in the record regarding traffic counts, is sufficient to support the city
21 council's conclusion that the development will not overload the streets outside
22 the planned development area.

1 Petitioner next argues that Norwood Drive is not identified in the record
2 as a "local" street. Petition for Review 35. Petitioner further argues that
3 existing Norwood Drive is not built to current city standards for local streets
4 and, therefore, Norwood Drive cannot support 1,000 trips per day as the ITE
5 Manual suggests. "[A]ny assumption that Norwood can support 1,000 trips per
6 day is not supported by substantial evidence in the record." Petition for Review
7 33.

8 The short answer is that the staff report identifies Norwood Drive as a
9 local street, and evidence in the record is that a local street can support 1,000
10 trips per day. That evidence does not distinguish between streets that are built
11 to current standards and streets that are not. Petitioner points to nothing in the
12 record (or the city's adopted Transportation System Plan) that calls that
13 evidence into question. Absent any basis for calling that identification into
14 question, we reject petitioner's argument.

15 In approving the preliminary plan, the city determined that streets within
16 the property would meet city street standards. The city determined that the
17 required street improvements, including the extension of Norwood Drive, will
18 result in a traffic situation that will not overload the streets outside the planned
19 development area. That determination is supported by substantial evidence in
20 the record.

21 With respect to utilities, we disagree with petitioner that the city deferred
22 determining whether the proposed sewer, water, and electricity are adequate to

1 serve the proposed development. The city decided that the development can be
2 served by existing electrical, water, and sewage facilities, as quoted above. The
3 city imposed Condition 8 in order to ensure that the final technical details of
4 the proposed water, sewer, and electricity services are reviewed by city
5 employees with expertise in those areas. The city's decision includes adequate
6 feasibility findings with respect to utilities.

7 Our conclusion is different with respect to storm water drainage and
8 pollution. WDC 16.60.030(C)(4) requires the city to determine during the
9 preliminary plan stage that "the proposed facilities are adequate for the
10 population densities and type of development proposed *and will not create a*
11 *drainage or pollution problem outside the planned area.*" (Emphasis added.)

12 We agree with petitioner that the city's findings fail to explain whether
13 the storm drainage facilities are adequate to serve the proposed development
14 and that the proposed development will not create a drainage or pollution
15 problem outside the planned area. Intervenor responds that the preliminary plan
16 shows a retention pond, and the storm water will be "channeled downhill in a
17 controlled pattern." Intervenor's Response Brief 9–10.[4] However, the decision
18 does not contain any findings that the proposed development will not create a
19 drainage or pollution problem "outside the planned area." WDC
20 16.60.030(C)(4). The findings do not address storm drainage at all or explain

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[4] The proposed plan map shows what is marked as a "Stormwater Facility Detention Pond" on the northern portion of the property.

1 how intervenor's proposed storm drainage plan is adequate to serve the
2 proposed development without creating a drainage or pollution problem off-
3 site. Accordingly, remand is required to allow the city to determine whether the
4 proposed storm drainage facilities are adequate to serve the proposed
5 development.

6 The first and fourth assignments of error are sustained in part and denied
7 in part.

8 The decision is remanded.

BEFORE THE CITY COUNCIL
OF
WALDPORT, OREGON

Appeal of Planning Commission Preliminary Plan Approval **Case File #1-PD-PC-17**
Vista View Planned Development

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 future 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 and along the south edge of Lots 11-13.

Appeal of the Planning Commission's Preliminary Plan Approval

The Planning Commission granted Preliminary Plan approval of the Vista View Planned Development on December 18, 2017. The approval was appealed by Hollis Lundeen on January 2, 2018. The City Council held a public hearing on February 22, 2018 to consider the appeal. Following public testimony and deliberations, the City Council upheld the Planning Commission's Preliminary Plan approval with modification to one condition of approval.

Relevant Facts

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

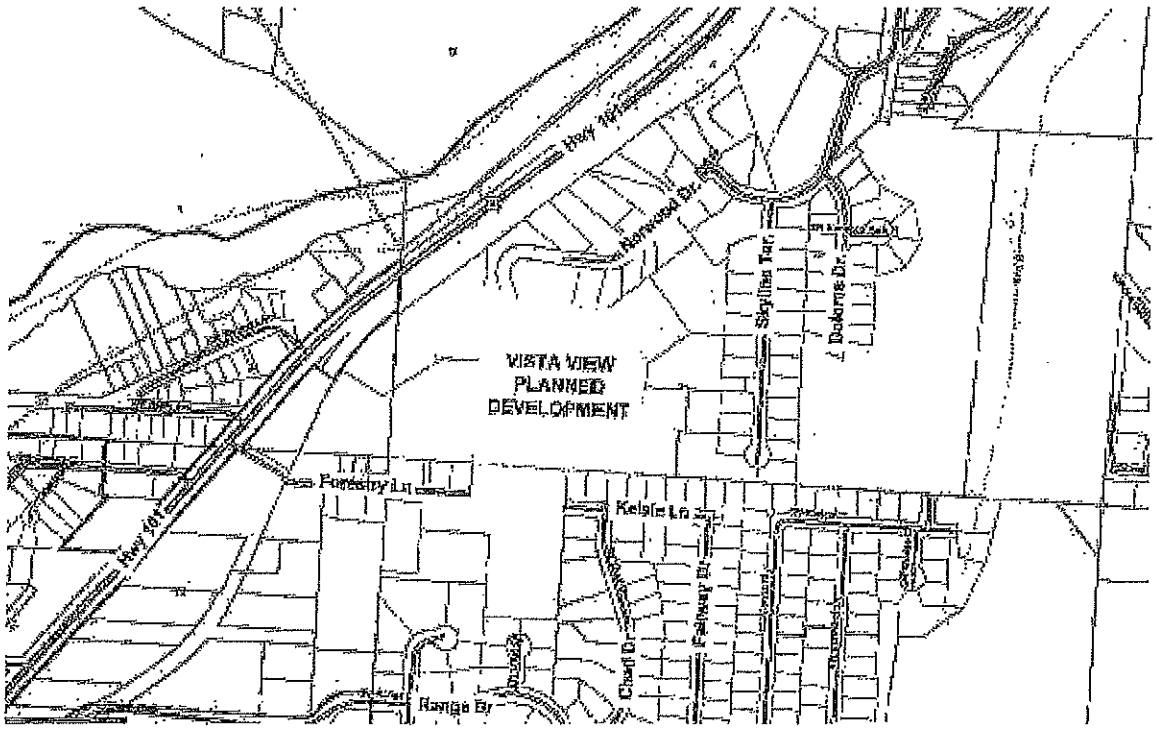
A. **Property Location:** The subject property is located at the south end of Norwood Drive; and further described on Lincoln County Tax Assessor's Map 13-11-19CC as tax lot 120.

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 or are available to 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**. The Planning Commission received written and oral testimony that is summarized in the Planning Commission's Findings and Conclusions and herein incorporated into the record.

For the appeal, written testimony included seven emails/letters with six people expressing opposition to or concerns with approval of the Vista View Planned Development (PD) and one person in favor of the Vista View PD approval. In summary, opposition or concerns expressed included:
- the need to improve area infrastructure or have an agreement for traffic flow to the south,
- increased traffic and safety on Norwood Drive,
- future cost to existing property owners to improve Norwood Drive,

- steep terrain,
- density,
- lot sizes,
- 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?
- Proof of ownership.

At the February 22, 2018 City Council meeting, the appellant, the applicant's agent, and five citizens provided oral testimony. In summary, the appellant addressed items included in her written submittals including, but not limited to, the seven appeal items, concern that the Waldport Development Code does not cover concerns, proof of land ownership, existing power pole obstruction, unstable ground, questioning the right for someone to develop a public way, drainage, erosion, the need for a wetlands inventory update, bald eagle habitat disturbance, the need for a cultural resource inventory, water and sewer capacity, additional traffic, lot sizes, request for copy of geotechnical report, and the proposed road surface is not specified.

In summary, citizens expressed concerns about traffic, the need for direct access to Hwy 101, ground stability, and code violations.

The applicant's agent addressed how the application and Planning Commission's preliminary plan approval was in accordance with relevant Waldport Development Code and Comprehensive Plan criteria; addressed the seven appeal items, and addressed additional concerns expressed at the February 22, 2018 City Council meeting.

The appellant provided a rebuttal and, in summary, addressed the final plan review procedure, cultural resources, property ownership, and Norwood Drive alignment issues.

The minutes of the February 22, 2018 City Council meeting, and all written and oral testimony are 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 Planning Commission 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

Applicant's Original Proposal

The applicant originally submitted the Planned Development 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 meeting, the applicant submitted additional material. 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 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.

Appellant Submittal

The Appellant (Hollis Lundeen) submitted the form and fee and the following information:

- Signature Page including 20 signatures of residents and citizens who concur with this appeal
- Narrative with identification and description of seven appeal items, a conclusion, and an immediate concern related to this appeal. In summary, the seven appeal items include:
  - The Findings and Conclusion of the Planning Commission were signed prior to the Planning Commission's approval.
  - Relevant Waldport Development Code criteria in Section 16.60.030 C3 & C4 were not addressed. Subsection C3 states that the proposed development will provide amenities or protections at a higher level than would otherwise be provided under conventional land development procedures. Subsection C4 states that the Planning Commission shall seek to determine that the development will not overload streets outside the planned development area, nor will the proposed development create drainage or pollution problems outside the planned area.
  - The Preliminary Plan approval was made without relative, current, and accurate traffic data.
  - The Preliminary Plan approval is in conflict with the Waldport Yaquina John Point Land Use & Transportation Plan because the Preliminary Plan will result in inadequate utility facilities.
  - Requirements regarding lot size, lot width, road right-of-way and road width were not observed and required, nor was a site plan provided reflecting the Preliminary Plan approval.
  - The Preliminary Plan was approved without verification of ownership regarding the plat that borders the applicant's property.
  - Except for the October 23, 2017 meeting, no additional verbal testimony was allowed.
- Appeal Exhibits
  - Final signed and dated page of Planning Commission Findings and Conclusions

- Title page of Statewide Planning Goal 5 and Goal 17, city of Waldport Periodic Review, June 30, 1999
- Photographs (3)
- Copy of Norwood Height Dedication of streets and utilities
- Oregon Department of Land Conservation & Development Notice of Adopted Amendment, December 6, 2007
- City of Waldport Ordinance No. 716 (Revised several sections of the Waldport Development Code)
- Photographs (15) of Norwood Drive, utilities, etc.
- Portion of tax map showing south end of Norwood Drive
- Nov. 28, 2017 email from City Planner

The appellant's submittal is herein incorporated into the record.

Applicant Submittal

Dennis L. Bartoldus, Attorney for the Applicant, Tidewater Development LLC, submitted a written response to the appeal filed by Hollis Lundeen. The submittal provides a response for each of the appellant's seven allegations.

The applicant's submittal is herein incorporated into the record.

Findings

Following public testimony presented at the February 22, 2018 City Council meeting, the City Council deliberated and addressed each of the seven appellant allegations. The seven allegations are identified in *italics* below and followed by the City Council findings. (Please note the full descriptions of the appellant's allegations and the applicant's responses are available for review as part of the record.)

Appeal Item #1. *The Findings and Conclusion of the Planning Commission were signed prior to the Planning Commission's approval.*

City Council Findings: This appeal item is irrelevant because the land use decision for this application is now before the City Council. The Findings and Conclusions of the City Council will be the final document of which the decision is based on.

Additionally, the City Council finds the Planning Commission Findings & Conclusions could not have been signed prior to the Planning Commission's decision because the Findings & Conclusions include deliberation and findings that occurred at the December 18, 2017 Planning Commission meeting.

Appeal Item #2. *Relevant Waldport Development Code criteria in Section 16.60.030 C3 & C4 were not addressed. Subsection C3 states that the proposed development will provide amenities or protections at a higher level than would otherwise be provided under conventional land development procedures. Subsection C4 states that the Planning Commission shall seek to determine that the development will not overload streets outside the planned development area, nor will the proposed development create drainage or pollution problems outside the planned area.*

City Council Findings: The Planned Development ordinance allows exceptions and the Planning Commission followed procedures in hearing and making a decision on this application. The Planned Development ordinance allows a design that is tailored to the property. Exceptions to residential and land division standards are allowed in exchange for tradeoffs, which are typically the establishment of open spaces, natural resources and public benefits, e.g. dedication of open space, preservation of natural drainage ways, public pedestrian facilities such as trail connections.

The drainage way located along the northern portion of the subject property is not subject to restrictions and setbacks stated by the appellant because those cited restrictions and setbacks apply to properties along the Pacific Ocean and Alsea River. The drainage way on the subject property is not designated as a wetland or riparian area.

The alleged bald eagle habitat disturbance is not a relevant criteria in making a decision on this case.

Appeal Item #3. *The Preliminary Plan approval was made without relative, current, and accurate traffic data.*

City Council Findings: Traffic data used in the evaluation of the application included reliable and substantiated data. For example, the Institute of Traffic Engineers (ITE) Trip Generation Report, 8th Edition was researched to obtain average daily traffic data, i.e. a single family house generates approximately 10 trips per day. The City Council finds the proposed extension of Norwood Drive for the development of the Vista View PD is well within the development rights of the property owner. The City Council affirmed that the future extension of Norwood Drive was in place at the time Norwood Drive residence purchased and developed lots along Norwood Drive.

Appeal Item #4. *The Preliminary Plan approval is in conflict with the Waldport Yaquina John Point Land Use & Transportation Plan because the Preliminary Plan will result in inadequate utility facilities.*

City Council Findings: The City Council finds the Waldport Development Code and Planning Commission Findings & Conclusions have measures in place to ensure that adequate utilities facilities will be design, approved, and constructed. The Planning Commission's condition of approval #8 requires the applicant to submit final engineering plans for water, sewer, storm drainage, and streets to the City of Waldport and other applicable agencies for review and approval prior to construction.

Appeal Item #5. *Requirements regarding lot size, lot width, road right-of-way and road width were not observed and required, nor was a site plan provided reflecting the Preliminary Plan approval.*

City Council Findings: Section 16.60 Planned Development Zone P-D of the Waldport Development Code allows modifications to standards when it is determined there are benefits to both the city and the property owner, e.g. dedication of open space, preservation of natural drainage ways, and public pedestrian facilities such as trail connections as proposed in the Vista View PD.

Appeal Item #6. *The Preliminary Plan was approved without verification of ownership regarding the plat that borders the applicant's property.*

City Council Findings: The City Council finds the developer has the right to develop a street and associated infrastructure within public right-of-way. City review and approval of final engineering plans include verification that proposed new streets are being constructed within a public way or on private property with property owner consent.

Appeal Item #7. *Except for the October 23, 2017 meeting, no additional verbal testimony was allowed.*

City Council Findings: This appeal item is irrelevant because the land use decision for this application is now before the City Council. The Findings and Conclusions of the City Council will be the final document of which the decision is based on. The February 22, 2018 public hearing before the City Council allowed for public testimony from any resident or citizen.

Public Trail. The City Council raised questions about when the public trail would be constructed. There was discussion and confirmation from the applicant's agent that the public trail would be constructed in

Phase 1. The City Council passed a motion to include the condition of approval that the trail be constructed in Phase 1. This requirement is added to Condition of Approval #7 Public Nature Trail.

Conclusions

Based on the above facts and findings:

A. The City Council finds the Planning Commission based their decision on relevant criteria and procedures described in the Waldport Development Code and Comprehensive Plan.

B. The City Council affirms the Planning Commission findings that the proposed development adheres to the purpose and 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 City Council that the Planning Commission decision is upheld, and the Preliminary Plan for the Vista View Planned Development be and is hereby approved. Said approval is subject to the following conditions:

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. The public nature trail shall be constructed prior to final approval of Phase 1.

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.

   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:

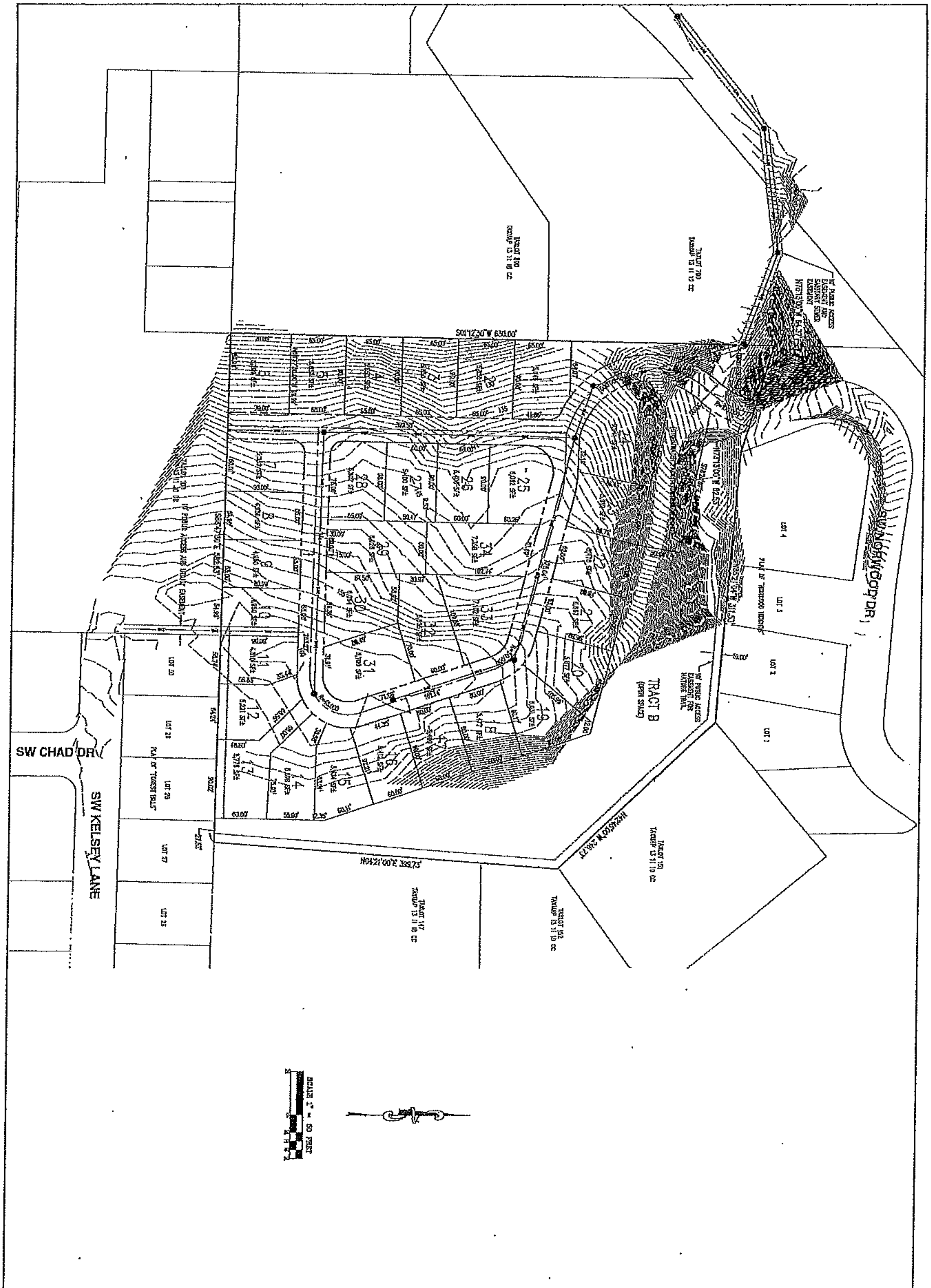
    a. A certified copy of all covenants and restrictions;
    b. Certified copies of legal documents required for dedication of public facilities or for the creation of a homeowner's association;
    c. The certification, performance agreement or statement regarding the availability of water and sewerage 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.

This ORDER was presented to and approved by the Waldport City Council on March 8, 2018.

Susan Woodruff, Mayor

3-8-18
Date

Attachments: Planning Commission Findings & Conclusions
Preliminary PUD Layout



PLANNING

PRELIMINARY PUD LAYOUT

SW NORWOOD DRIVE

WALDPORT
TAXLOT 123

OREGON

IRONMARK
SURVEYING & ENGINEERING

IRONMARK LLC
P.O. BOX 38
SAINT PAUL, OR 97137
PH: (503)-765-8755

October 30, 2018

Larry Lewis
Waldport City Planner
P.O. Box 1120
Waldport, OR 97394

RE: Vista View Preliminary Plan – Stormwater Drainage and Downstream Analysis

Mr. Lewis,

The purpose of this letter is to provide additional information regarding stormwater drainage of the Vista View Planned Development (Vista View). The subject property is approximately 7.75 acres of gently sloping, vacant land with an existing drainage channel on the east and north side of the property. The existing channel continues westerly and is heavily vegetated down to where it is captured by an existing ditch inlet on the east side of Highway 101 and flows beneath Highway 101 through a 30-inch inside diameter concrete pipe culvert, and then discharges into the Alsea Bay. See the attached Exhibit "A" Stormwater Basin Map, and photos of the existing drainage course for reference.

The Vista View development proposes to discharge the stormwater collected from the site via roof drains and catch basins in the street, into the existing drainage on the east and north sides of the property. From there the stormwater will follow the same path as it historically has, down the vegetated channel and out to the Alsea Bay. The attached HydroCAD analysis shows that the existing 30-inch concrete culvert beneath Highway 101 is sufficiently sized to accommodate the stormwater run-off of the post-developed condition of the entire contributing stormwater basin during a 10-year 24-hr rain event (5-inches of rainfall in 24 hours per NOAA isopluvial map, also attached). In the unlikely event that this ditch inlet or culvert were to become blocked from a lack of maintenance, the stormwater would flow northerly in the existing ditch along Highway 101 and be picked up by one of several other ditch inlets and culverts beneath Highway 101 that also drain to the Alsea Bay. I have visually inspected the downstream stormwater flow path and there are no downstream structures or property at risk of being impacted by stormwater quantity due to the proposed development, the only nearby structures sit well above the existing drainage channel.

Stormwater quality goals may be achieved for the discharged stormwater from Vista View as required by the City of Waldport Public works department. At a minimum, all stormwater discharge outlet pipes will have rip-rap rock pads to prevent erosion and prevent sediment from washing downstream. All site catch basins will have sumps, to help prevent sediment and debris from migrating downstream. The existing on-site, drainage way will remain vegetated which also helps to control sediment migration,

erosion, and filter any potential pollutants from discharged stormwater. Much of the existing drainage on-site has a gentle gradient, which is favorable for settling out any sediment and particulates in the discharged storm water. The drainage way downstream of the subject property is also heavily vegetated. As shown on the preliminary plan, Vista View has set aside the area shown as a "storm water facility area" as an area reserved for meeting any additional stormwater quality requirements or criteria, if required by the City of Waldport Public Works, during the final design review process.

Please feel free to contact me with any questions regarding this stormwater drainage and downstream analysis, or about the Vista View development with regard to meeting the desired stormwater management goals of the City of Waldport.

Sincerely,

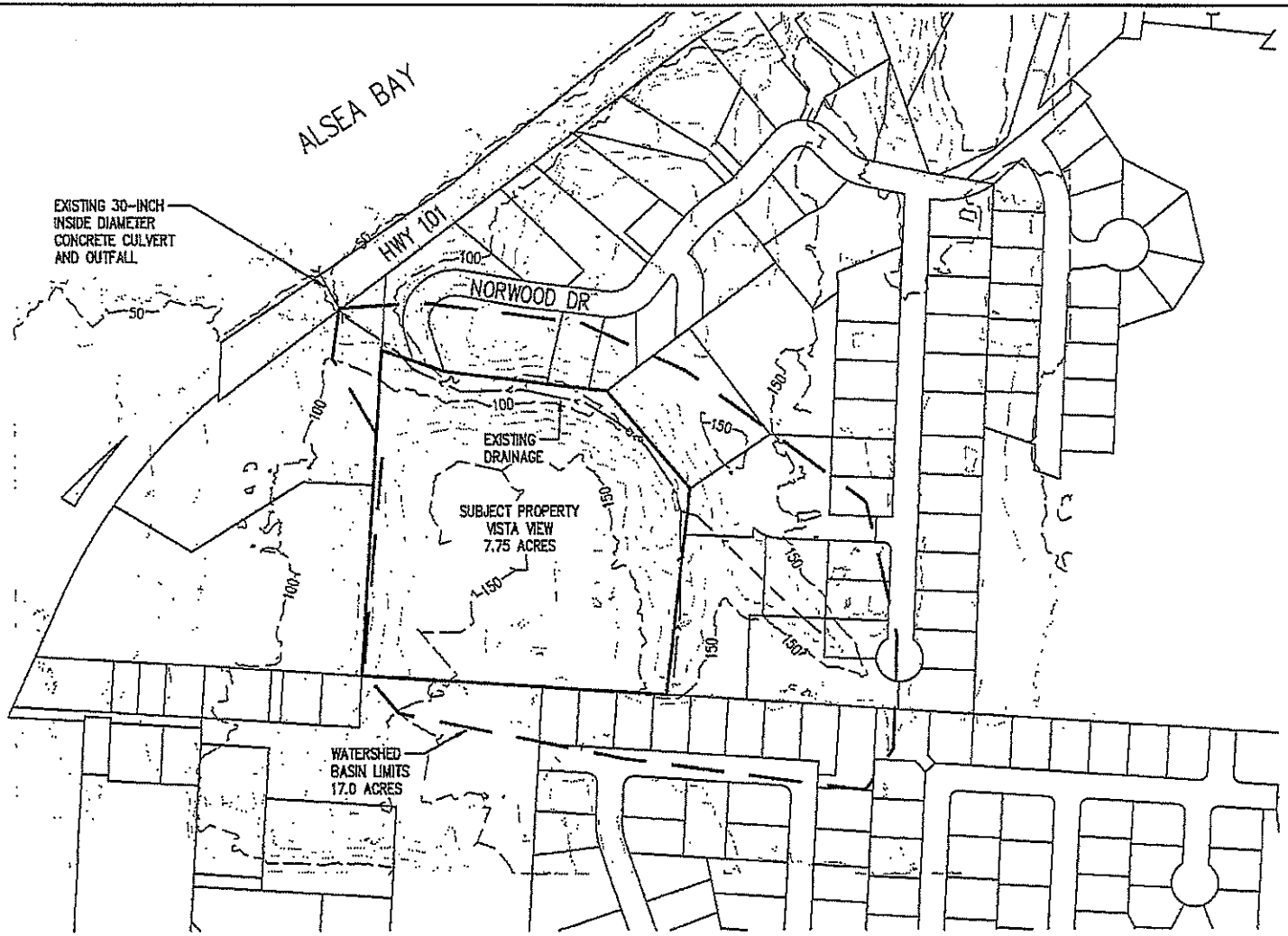
Brandt Thissell, PE

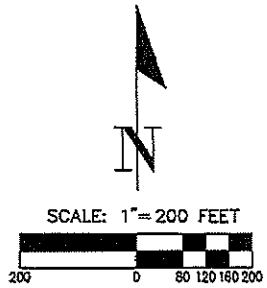
Attachments
-Exhibit "A" Stormwater Drainage Basin Map
-HydroCAD Analysis Report 10-yr 24-Hr Storm
-USDA Hydrologic Soil Group Map
-TR 55 Small Watershed Runoff Curve numbers
-Oregon Isopluvial map of 10-YR 24-HR Precipitation
-Photos

10-30-18

REGISTERED PROFESSIONAL ENGINEER
84843PE
OREGON
MAY 22, 2015
BRANDT D. THISSELL

RENEWAL DATE: 6-30-20





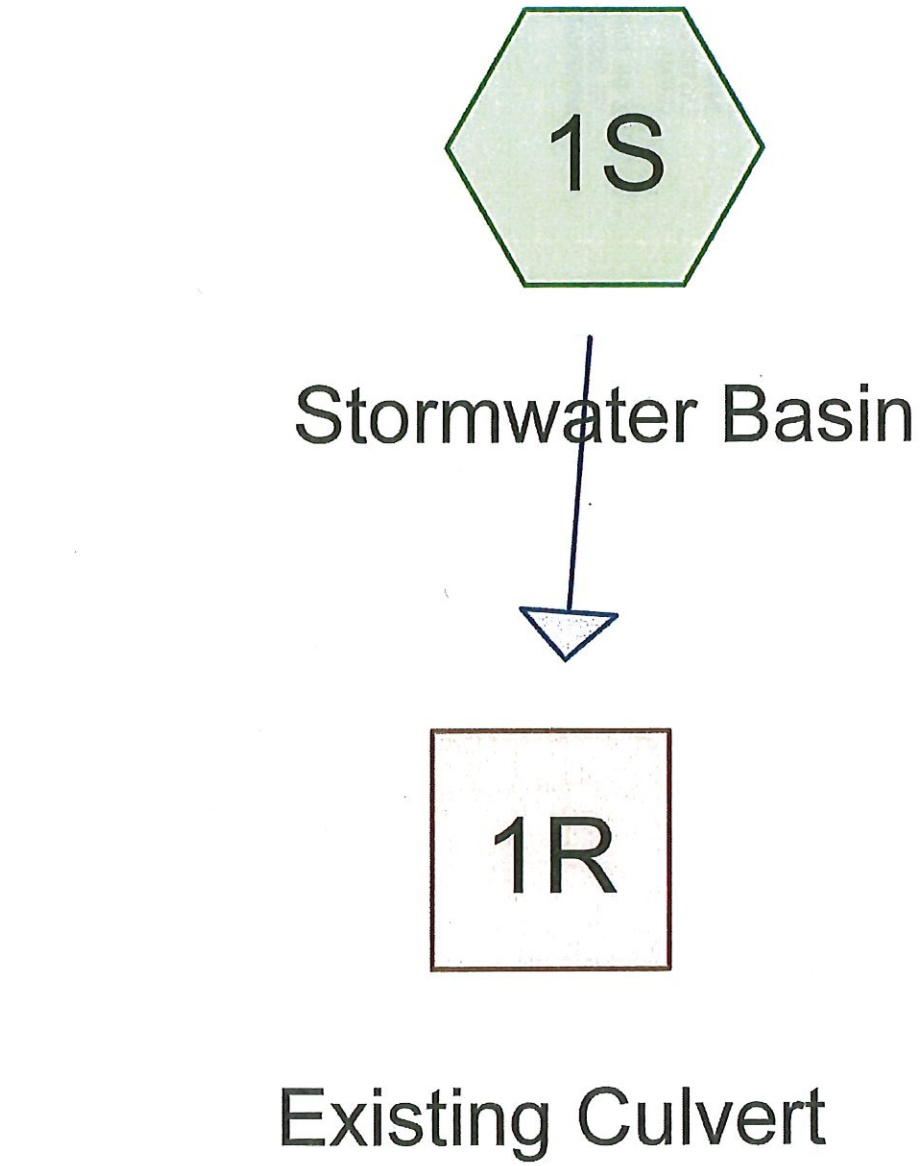
NOTES:

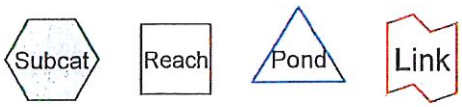
1. THE PURPOSE OF THIS EXHIBIT MAP IS TO SHOW THE LIMITS OF THE DRAINAGE BASIN, EXISTING DRAINAGE CHANNELS, CULVERT AND OUTFALL.

2. THE CONTOURS AND TAXLOT LINES SHOWN ARE BASED ON GIS DATA AND ARE APPROXIMATE.

DATE: 10/21/2018

STORMWATER DRAINAGE BASIN MAP	EXHIBIT
VISTA VIEW PLANNED DEVELOPMENT	A
IRONMARK, LLC P.O. BOX 38 SAINT PAUL, OR 97137 P:503.765.8755 ironmarkllc.com IRONMARK SURVEYING & ENGINEERING	DRWN: BDT CHKD: JOB: 1029





Routing Diagram for 1029 STMWTR
Prepared by Ironmark, LLC, Printed 10/31/2018
HydroCAD® 10.00-22 s/n 10666 © 2018 HydroCAD Software Solutions LLC

Area Listing (all nodes)

Area (acres)	CN	Description (subcatchment-numbers)
17.000	87	1/4 acre lots, 38% imp, HSG D (1S)
17.000	**87**	**TOTAL AREA**

Soil Listing (all nodes)

Area (acres)	Soil Group	Subcatchment Numbers
0.000	HSG A	
0.000	HSG B	
0.000	HSG C	
17.000	HSG D	1S
0.000	Other	
17.000		**TOTAL AREA**

Ground Covers (all nodes)

HSG-A (acres)	HSG-B (acres)	HSG-C (acres)	HSG-D (acres)	Other (acres)	Total (acres)	Ground Cover	Subcatchment Numbers
0.000	0.000	0.000	17.000	0.000	17.000	1/4 acre lots, 38% imp	1S
0.000	**0.000**	**0.000**	**17.000**	**0.000**	**17.000**	**TOTAL AREA**	

Pipe Listing (all nodes)

Line#	Node Number	In-Invert (feet)	Out-Invert (feet)	Length (feet)	Slope (ft/ft)	n	Diam/Width (inches)	Height (inches)	Inside-Fill (inches)
1	1R	50.00	48.00	100.0	0.0200	0.017	30.0	0.0	0.0

Time span=0.00-24.00 hrs, dt=0.01 hrs, 2401 points
Runoff by SBUH method, Weighted-CN
Reach routing by Stor-Ind+Trans method - Pond routing by Stor-Ind method

Subcatchment1S: Stormwater Basin Runoff Area=740,520 sf 38.00% Impervious Runoff Depth>3.55"
Flow Length=1,000' Slope=0.1000 '/' Tc=9.6 min CN=87 Runoff=14.85 cfs 5.033 af

Reach 1R: Existing Culvert Avg. Flow Depth=1.00' Max Vel=8.14 fps Inflow=14.85 cfs 5.033 af
30.0" Round Pipe n=0.017 L=100.0' S=0.0200 '/' Capacity=44.36 cfs Outflow=14.85 cfs 5.032 af

Total Runoff Area = 17.000 ac Runoff Volume = 5.033 af Average Runoff Depth = 3.55"
62.00% Pervious = 10.540 ac 38.00% Impervious = 6.460 ac

Summary for Subcatchment 1S: Stormwater Basin

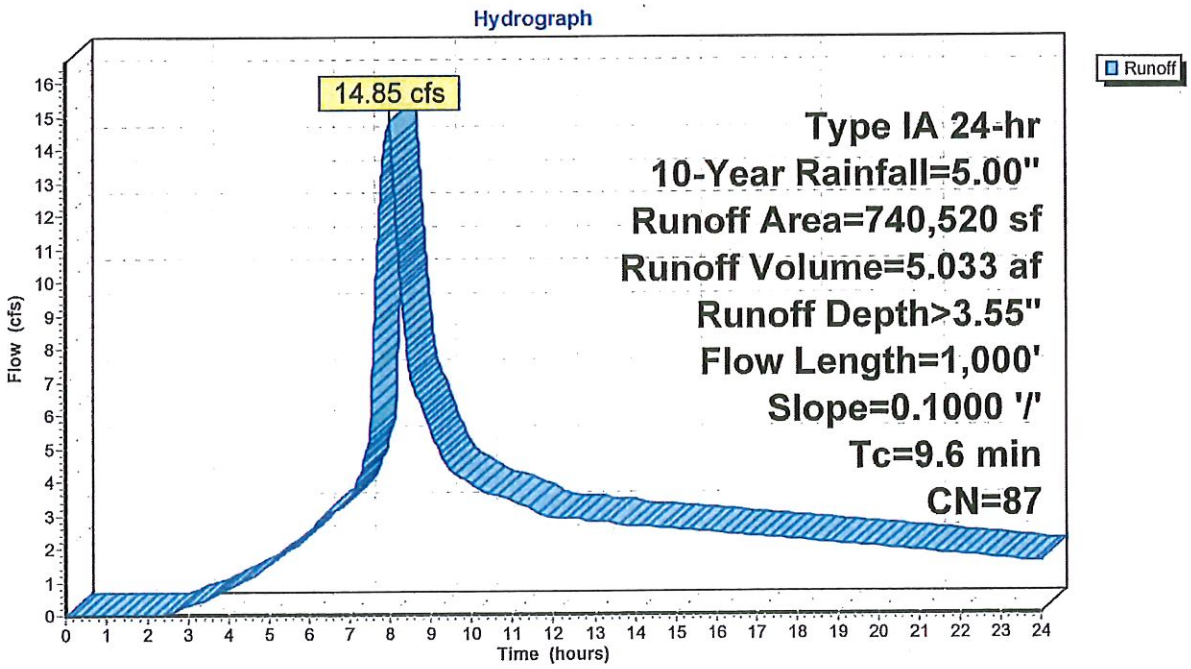
Runoff = 14.85 cfs @ 7.99 hrs, Volume= 5.033 af, Depth> 3.55"

Runoff by SBUH method, Weighted-CN, Time Span= 0.00-24.00 hrs, dt= 0.01 hrs
Type IA 24-hr 10-Year Rainfall=5.00"

Area (sf)	CN	Description
740,520	87	1/4 acre lots, 38% imp, HSG D
459,122		62.00% Pervious Area
281,398		38.00% Impervious Area

Tc (min)	Length (feet)	Slope (ft/ft)	Velocity (ft/sec)	Capacity (cfs)	Description
5.0					**Direct Entry, Outfall into channel**
4.6	1,000	0.1000	3.59	14.34	**Channel Flow,** Area= 4.0 sf Perim= 6.0' r= 0.67' n= 0.100 Earth, dense brush, high stage
9.6	1,000	Total			

Subcatchment 1S: Stormwater Basin



Summary for Reach 1R: Existing Culvert

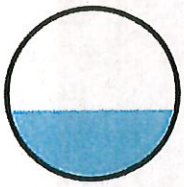
[52] Hint: Inlet/Outlet conditions not evaluated

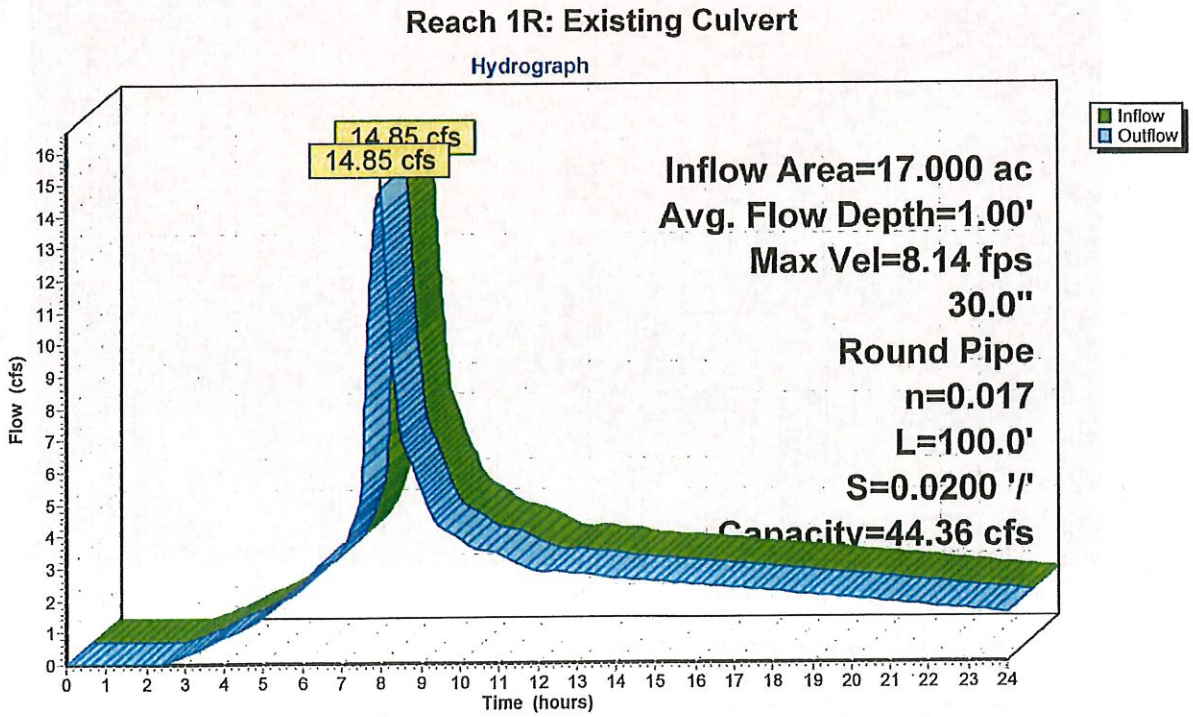
Inflow Area =	17.000 ac,	38.00% Impervious,	Inflow Depth >	3.55"	for 10-Year event
Inflow =	14.85 cfs @	7.99 hrs,	Volume=	5.033 af	
Outflow =	14.85 cfs @	8.00 hrs,	Volume=	5.032 af,	Atten= 0%, Lag= 0.6 min

Routing by Stor-Ind+Trans method, Time Span= 0.00-24.00 hrs, dt= 0.01 hrs
Max. Velocity= 8.14 fps, Min. Travel Time= 0.2 min
Avg. Velocity = 4.80 fps, Avg. Travel Time= 0.3 min

Peak Storage= 183 cf @ 7.99 hrs
Average Depth at Peak Storage= 1.00'
Bank-Full Depth= 2.50' Flow Area= 4.9 sf, Capacity= 44.36 cfs

30.0" Round Pipe
n= 0.017 Concrete, unfinished
Length= 100.0' Slope= 0.0200 '/'
Inlet Invert= 50.00', Outlet Invert= 48.00'





Map Scale: 1:1,310 if printed on A portrait (8.5" x 11") sheet.

Meters: 0 15 30 60 90

Feet: 0 50 100 200 300

N

Map projection: Web Mercator Corner coordinates: WGS84 Edge tics: UTM Zone 10N WGS84

MAP LEGEND

Area of Interest (AOI)

Area of Interest (AOI)

Soils

Soil Rating Polygons

- A
- A/D
- B
- B/D
- C
- C/D
- D
- Not rated or not available

Soil Rating Lines

- A
- A/D
- B
- B/D
- C
- C/D
- D
- Not rated or not available

Soil Rating Points

- A
- A/D
- B
- B/D
- C
- C/D
- D
- Not rated or not available

Water Features

Streams and Canals

Transportation

- Rails
- Interstate Highways
- US Routes
- Major Roads
- Local Roads

Background

Aerial Photography

MAP INFORMATION

The soil surveys that comprise your AOI were mapped at 1:20,000.

Warning: Soil Map may not be valid at this scale.

Enlargement of maps beyond the scale of mapping can cause misunderstanding of the detail of mapping and accuracy of soil line placement. The maps do not show the small areas of contrasting soils that could have been shown at a more detailed scale.

Please rely on the bar scale on each map sheet for map measurements.

Source of Map: Natural Resources Conservation Service
Web Soil Survey URL:
Coordinate System: Web Mercator (EPSG:3857)

Maps from the Web Soil Survey are based on the Web Mercator projection, which preserves direction and shape but distorts distance and area. A projection that preserves area, such as the Albers equal-area conic projection, should be used if more accurate calculations of distance or area are required.

This product is generated from the USDA-NRCS certified data as of the version date(s) listed below.

Soil Survey Area: Alsea Area, Oregon
Survey Area Data: Version 14, Sep 17, 2018

Soil Survey Area: Lincoln County Area, Oregon
Survey Area Data: Version 15, Sep 17, 2018

Your area of interest (AOI) includes more than one soil survey area. These survey areas may have been mapped at different scales, with a different land use in mind, at different times, or at different levels of detail. This may result in map unit symbols, soil properties, and interpretations that do not completely agree across soil survey area boundaries.

Soil map units are labeled (as space allows) for map scales 1:50,000 or larger.

Date(s) aerial images were photographed: Aug 27, 2007—Feb 12, 2017

MAP LEGEND

MAP INFORMATION

The orthophoto or other base map on which the soil lines were compiled and digitized probably differs from the background imagery displayed on these maps. As a result, some minor shifting of map unit boundaries may be evident.

Hydrologic Soil Group

Map unit symbol	Map unit name	Rating	Acres in AOI	Percent of AOI
De	Depoe silt loam	D	4.6	65.6%
FeD	Ferrelo loam, 5 to 30 percent slopes	B	1.8	25.8%
Subtotals for Soil Survey Area			6.5	91.4%
Totals for Area of Interest			7.1	100.0%

Map unit symbol	Map unit name	Rating	Acres in AOI	Percent of AOI
42C	Nelscott loam, 3 to 12 percent slopes	C	0.6	8.6%
Subtotals for Soil Survey Area			0.6	8.6%
Totals for Area of Interest			7.1	100.0%

Description

Hydrologic soil groups are based on estimates of runoff potential. Soils are assigned to one of four groups according to the rate of water infiltration when the soils are not protected by vegetation, are thoroughly wet, and receive precipitation from long-duration storms.

The soils in the United States are assigned to four groups (A, B, C, and D) and three dual classes (A/D, B/D, and C/D). The groups are defined as follows:

Group A. Soils having a high infiltration rate (low runoff potential) when thoroughly wet. These consist mainly of deep, well drained to excessively drained sands or gravelly sands. These soils have a high rate of water transmission.

Group B. Soils having a moderate infiltration rate when thoroughly wet. These consist chiefly of moderately deep or deep, moderately well drained or well drained soils that have moderately fine texture to moderately coarse texture. These soils have a moderate rate of water transmission.

Group C. Soils having a slow infiltration rate when thoroughly wet. These consist chiefly of soils having a layer that impedes the downward movement of water or soils of moderately fine texture or fine texture. These soils have a slow rate of water transmission.

Group D. Soils having a very slow infiltration rate (high runoff potential) when thoroughly wet. These consist chiefly of clays that have a high shrink-swell potential, soils that have a high water table, soils that have a claypan or clay layer at or near the surface, and soils that are shallow over nearly impervious material. These soils have a very slow rate of water transmission.

If a soil is assigned to a dual hydrologic group (A/D, B/D, or C/D), the first letter is for drained areas and the second is for undrained areas. Only the soils that in their natural condition are in group D are assigned to dual classes.

Rating Options

Aggregation Method: Dominant Condition

Component Percent Cutoff: None Specified

Tie-break Rule: Higher

TR55 RUNOFF CURVE NUMBERS

Table 2-2a Runoff curve numbers for urban areas [1]

Cover description: Cover type and hydrologic condition	Average percent impervious area [2]	Curve numbers for hydrologic soil group: A	B	C	D
Fully developed urban areas (vegetation established)					
Open space (lawns, parks, golf courses, cemeteries, etc.) [3]:					
Poor condition (grass cover < 50%)		68	79	86	89
Fair condition (grass cover 50% to 75%)		49	69	79	84
Good condition (grass cover > 75%)		39	61	74	80
Impervious areas:					
Paved parking lots, roofs, driveways, etc. (excluding right-of-way)		98	98	98	98
Streets and roads:					
Paved; curbs and storm sewers (excluding right-of-way)		98	98	98	98
Paved; open ditches (including right-of-way)		83	89	92	93
Gravel (including right-of-way)		76	85	89	91
Dirt (including right-of-way)		72	82	87	89
Western desert urban areas:					
Natural desert landscaping (pervious areas only) [4]		63	77	85	88
Artificial desert landscaping (impervious weed barrier, desert shrub with 1- to 2-inch sand or gravel mulch and basin borders)		96	96	96	96
Urban districts:					
Commercial and business	85	89	92	94	95
Industrial	72	81	88	91	93
Residential districts by average lot size:					
1/8 acre or less (town houses)	65	77	85	90	92
1/4 acre	38	61	75	83	87
1/3 acre	30	57	72	81	86
1/2 acre	25	54	70	80	85
1 acre	20	51	68	79	84
2 acres	12	46	65	77	82
Developing urban areas					
Newly graded areas (pervious areas only, no vegetation) [5]		77	86	91	94
Idle lands (CN's are determined using cover types similar to those in table 2-2c).					

1 Average runoff condition, and $I_a = 0.2S$.

2 The average percent impervious area shown was used to develop the composite CN's. Other assumptions are as follows: impervious areas are directly connected to the drainage system, impervious areas have a CN of 98, and pervious areas are considered equivalent to open space in good hydrologic condition. CN's for other combinations of conditions may be computed using figure 2-3 or 2-4.

3 CN's shown are equivalent to those of pasture. Composite CN's may be computed for other combinations of open space cover type.

4 Composite CN's for natural desert landscaping should be computed using figures 2-3 or 2-4 based on the impervious area percentage (CN = 98) and the pervious area CN. The pervious area CN's are assumed equivalent to desert shrub in poor hydrologic condition.

5 Composite CN's to use for the design of temporary measures during grading and construction should be computed using figure 2-3 or 2-4 based on the degree of development (impervious area percentage) and the CN's for the newly graded pervious areas.

Table 2-2c Runoff curve numbers for other agricultural lands [1]

Cover description		Curve numbers for hydrologic soil group			
Cover type	Hydrologic condition	A	B	C	D
Pasture, grassland, or range—continuous forage for grazing. [2]	Poor	68	79	86	89
	Fair	49	69	79	84
	Good	39	61	74	80
Meadow—continuous grass, protected from grazing and generally mowed for hay.	—	30	58	71	78
Brush—brush-weed-grass mixture with brush the major element. [3]	Poor	48	67	77	83
	Fair	35	56	70	77
	Good	30 [4]	48	65	73
Woods—grass combination (orchard or tree farm). [5]	Poor	57	73	82	86
	Fair	43	65	76	82
	Good	32	58	72	79
Woods. [6]	Poor	45	66	77	83
	Fair	36	60	73	79
	Good	30 [4]	55	70	77
Farmsteads—buildings, lanes, driveways, and surrounding lots.	—	59	74	82	86

1 Average runoff condition, and $I_a = 0.2S$.
2 *Poor:* <50%) ground cover or heavily grazed with no mulch.
Fair: 50 to 75% ground cover and not heavily grazed.
Good: > 75% ground cover and lightly or only occasionally grazed.
3 *Poor:* <50% ground cover.
Fair: 50 to 75% ground cover.
Good: >75% ground cover.
4 Actual curve number is less than 30; use CN = 30 for runoff computations.
5 CN's shown were computed for areas with 50% woods and 50% grass (pasture) cover. Other combinations of conditions may be computed from the CN's for woods and pasture.
6 *Poor:* Forest litter, small trees, and brush are destroyed by heavy grazing or regular burning.
Fair: Woods are grazed but not burned, and some forest litter covers the soil.
Good: Woods are protected from grazing, and litter and brush adequately cover the soil.

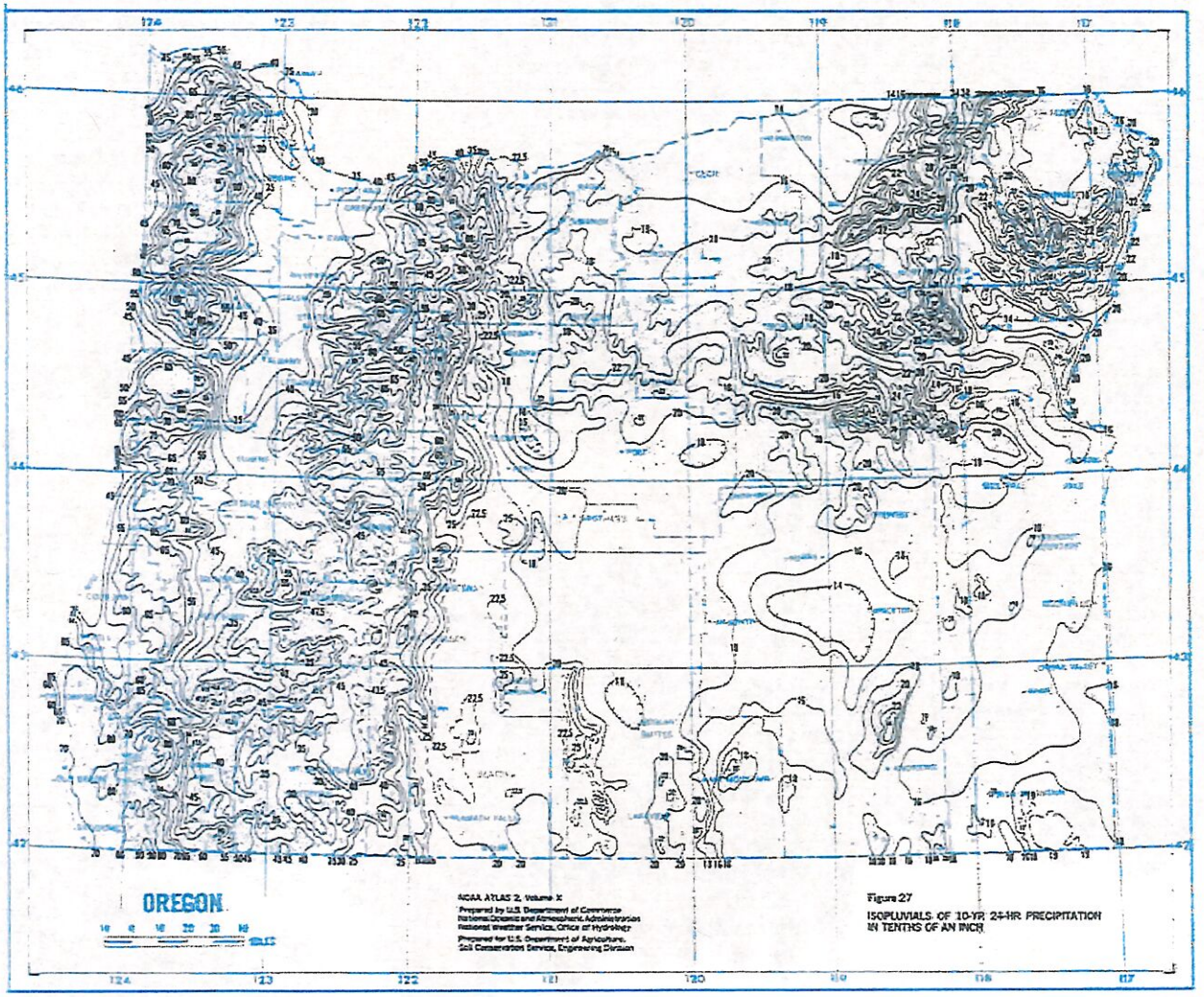
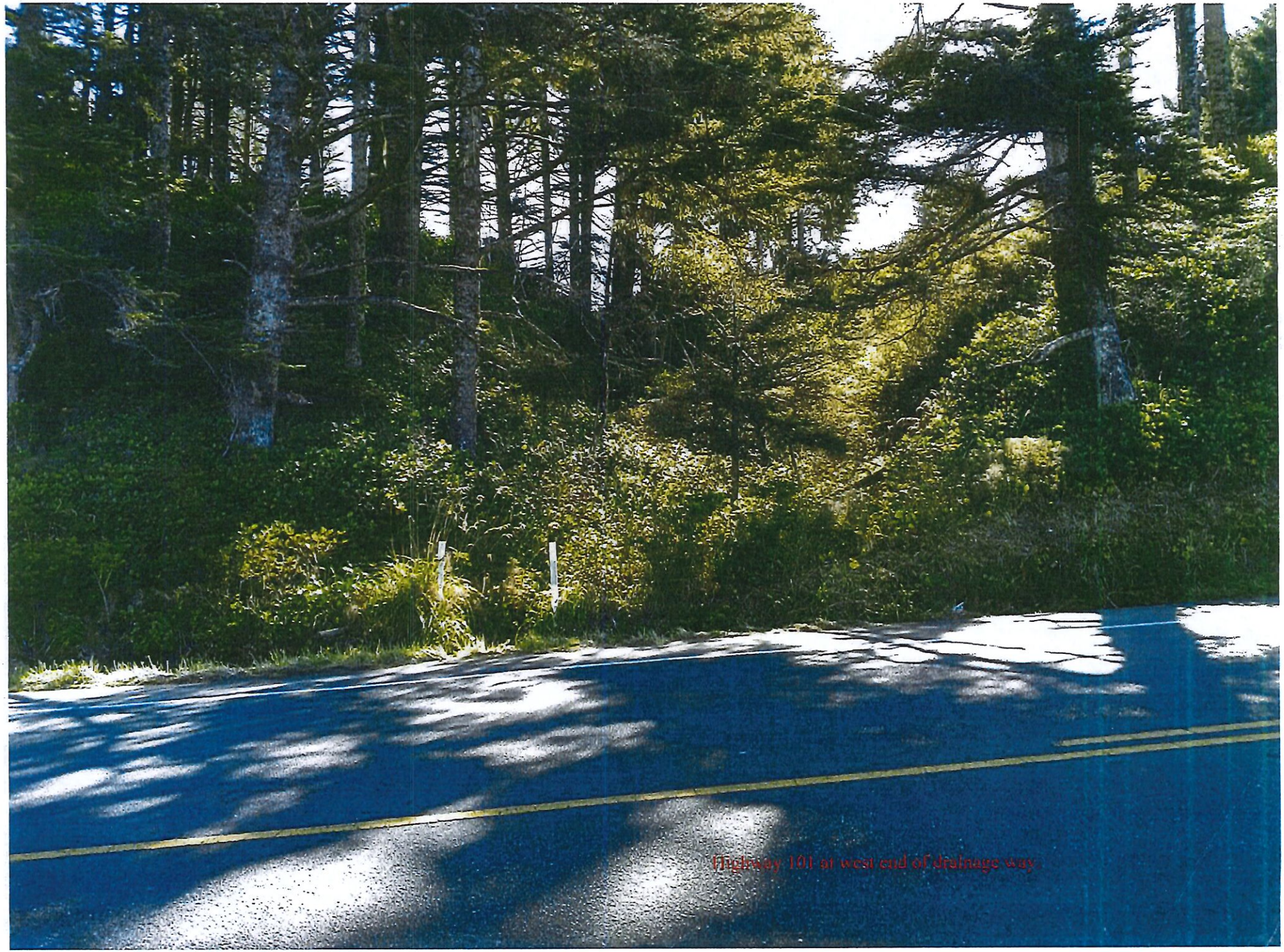


Figure 27

ISOPLUVIALS OF 10-YR 24-HR PRECIPITATION IN TENTHS OF AN INCH

West end of drainage on subject property, looking east.

West end of drainage on subject property looking west



Highway 101 at west end of drainage way.

Supplemental Record

Lundeen v. City of Waldport
1-PD-PC-17

LUBA No. 2018-030

Submitted by

City of Waldport
May 17, 2018

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Lundeen v City of Waldport
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SUPPLEMENTAL RECORD SUBMISSION OF MAY 17, 2018

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True & Accurate Copy of Waldport Development Code 16.108 - Administrative Provisions	387
Two Oversized Poster Boards Submitted by Petitioner During 02/22/18 Public Hearing	
RETAINED EXHIBIT: Two Oversized Poster Boards Submitted by Petitioner During 02/22/18 Public Hearing	Exhibit A
Optical Disc Containing Meeting Recordings from the Following Meetings:	Exhibit B

October 23, 2017 Planning Commission (102317pc.mp3) 61.0 MB
December 4, 2017 Planning Commission (120417pc.mp3) 45.7 MB
December 14, 2017 City Council (121417cc.mp3) 29.5 MB
December 18, 2017 Planning Commission (121817pc.mp3) 13.8 MB
January 11, 2018 City Council (011118cc.mp3) 38.5 MB
January 22, 2018 Planning Commission (122218pc.mp3) 31.4 MB
February 8, 2018 City Council (020818cc.mp3) 64.9 MB
February 22, 2018 City Council (022218cc.mp3) 152.0 MB
February 26, 2018 Planning Commission (022618pc.mp3) 78.8 MB
March 3, 2018 Council Workshop (030328wk.mp3) 69.1 MB
March 8, 2018 City Council (030828cc.mp3) 56.6 MB
March 26, 2018 Planning Commission (032618pc.mp3) 52.1 MB

EXHIBITS RETAINED BY CITY UNTIL TIME OF ORAL ARGUMENT UNDER OAR 661-010-0025(2)

Exhibit A -Two Oversized Poster Boards Submitted by Petitioner During 02/22/18 Public Hearing

City of Waldport

P.O. Box 1120
Waldport, Oregon 97394
Phone: (541) 264-7417 Fax: (541) 264-7418
TTY: (800)735-2900

May 15, 2018

To Whom It May Concern,

I hereby verify that the attached is a true and accurate copy of the original minutes from the March 8, 2018 City Council meeting, approved as presented at the April 12, 2018 regular City Council meeting by unanimous vote of a duly convened quorum of the Waldport City Council.

.

Witness my signature this 15th day of May, 2018.

Reda Q Eckerman, City Recorder

ATT

WALDPORT CITY COUNCIL
MARCH 8, 2018
MEETING MINUTES

1. CALL TO ORDER: Mayor Woodruff called the meeting to order at 2:00 p.m.

2. ROLL CALL: Mayor Woodruff and Councilors Dennis, Swan, Cutter, and Holland answered the roll. Councilor Dunn was excused. A quorum was present.

3. MINUTES: The Council considered the minutes from the February 8, 2018 regular meeting, which had been included in the packet, and the minutes from the February 22, 2018 special meeting, which were separately distributed. Councilor Holland **moved** to approve the minutes as presented. Councilor Swan **seconded**, and the motion **carried** unanimously.

4. PUBLIC COMMENTS & PRESENTATIONS: Rebecca Austen, Interim Director of Lincoln County's Health and Human Services, and Jessica Palma addressed the Council with a request for an allocation of marijuana tax monies to be utilized for drug prevention and education services. The Council noted that this could be considered at budget time. Mayor Woodruff indicated it would be good to know what apportionment of monies would be coming from the State and Lincoln County as well. Councilor Cutter noted that the program should focus on other drugs as well as marijuana.

Zack Dahl and Chuck Lerwick from Dahl's Disposal addressed the Council regarding necessary changes to the recycling services they provide. Due to increased regulations and decreased demand for materials, they will be adding most plastic containers and all shredded paper to the list of non-recyclables in their curbside services, effective April 1. Glass will still be recyclable at the transfer station. They also noted that they are considering charges for non-customer recycling at the transfer station.

5. DISCUSSION/ACTION ITEMS:

A. Consideration of Findings for Appeal of Planning Commission Preliminary Plan Approval - Vista View Planned Development: Councilor Holland **moved** to accept the findings as presented. Councilor Cutter **seconded**. Councilor Cutter noted that this was a preliminary plan for a rather challenging project, and he was looking forward to seeing the engineering reports as the project proceeds. The motion to approve the findings **carried** unanimously on a voice vote.

B. Consideration of Bid Award for McKinney Slough Bridge Waterline Improvements: Following a brief discussion, Councilor Cutter **moved** to award the bid to Pacific Excavation, Inc., as per the engineer's recommendation. Councilor Holland **seconded**, and the motion **carried** unanimously on a voice vote.

C. Other Issues: None.

6. COUNCIL COMMENTS AND CONCERNS: Mayor Woodruff noted that the memorial service for former Councilor Christenson would be held March 24 in Minnesota. Councilor Cutter asked if there would be any interest from the Council in being a representative on the Solid Waste Advisory Committee, as former Councilor O'Brien had been the City's

representative. Mayor Woodruff has been attending the meetings, and Councilor Swan indicated she would consider it. Councilor Holland is still the alternative representative. Councilor Cutter noted that he would not be attending the next Council of Governments meeting as it conflicted with the groundbreaking ceremony for the new building at the Hatfield Marine Science Center. He also reported on the preliminary discussions held by the League of Oregon Cities' Telecommunications Committee. Mayor Woodruff mentioned that the recent tsunami presentation had been well-attended, and there would be another one held on March 15th from 10:30 to noon.

7. REPORTS: The report from the City Librarian was included in the packet, and the report from the Code Compliance officer was separately distributed. City Manager Kemp distributed a memo from the Hatfield Marine Science Center regarding its proposal for wetlands restoration on a portion of the 12-acre Open Space. He noted that there had been a wetlands study performed on the property about three years ago, along with the public charrette process for the potential uses of the property. The Division of State Lands and Oregon Department of Fish and Wildlife have both given the green light to the proposed use. He would also be discussing the proposal with the Federal Emergency Management Agency. Following a brief discussion, **consensus** of the Council was favorable to proceeding. Mr. Kemp distributed the financial report and a handout from Central Lincoln PUD regarding proposed banners. They were asking permission from the Council to install some anniversary banners along Highway 101 and 34. The banners would have the City's name on them. Discussion ensued. It was suggested that the City's name be more prominent, and that green would be an attractive color if there is a choice. Mr. Kemp gave a brief update on negotiations with ODOT with regard to the Interpretive Center. They would like the City to take on the role formerly performed by State Parks, managing the facility through an intergovernmental agreement, with staffing provided by the Chamber of Commerce. He will be reviewing the contract, and noted that the City would like to ensure that there is no net cost involved. The Beachcomber Committee has asked to utilize the Community Center for little or no fee during the upcoming celebration. **Consensus** of the Council was that this could be the City's contribution to the celebration, and Mr. Kemp will make a determination of the value. A brief discussion regarding code enforcement ensued. Mr. Kemp noted that he would provide another report at an upcoming Council meeting, regarding potential revisions and enforcement practices. Mayor Woodruff noted that one issue that had not been discussed at the recent goal-setting workshop was the second access to the proposed Vista View planned development. Following discussion, it was determined that this could be included in the goals under the transportation system plan and connectivity.

8. EXECUTIVE SESSION(S): At 3:25 the Council recessed into Executive Session, pursuant to ORS 192.660(2)(h), to consult with counsel concerning the legal rights and duties of a public body with regard to current litigation or litigation likely to be filed; and ORS 192.660(2)(I), to review and evaluate, pursuant to standards criteria and policy directives adopted by the governing body, the employment-related performance of the chief executive officer. The topics of discussion were the Mercantile building, and City Manager Kemp's annual performance evaluation.

9. ACTIONS, IF ANY, FROM EXECUTIVE SESSIONS: At 5:22 p.m., the Council reconvened in Open Session. Mayor Woodruff **moved** to have the City's attorney proceed to execute the foreclosure process on the Mercantile. Councilor Swan **seconded**, and the motion **carried** unanimously on a voice vote. Councilor Cutter **moved** to grant a 3% increase in wage for the City Manager, plus the annual cost of living increase. Councilor Dennis **seconded**. The motion **carried** unanimously on a voice vote.

10. GOOD OF THE ORDER: Nothing further.

11. ADJOURNMENT: At 5:24 p.m., there being no further business to come before the Council, the meeting was adjourned.

Respectfully submitted,

Reda Q Eckerman, City Recorder

APPROVED by the Waldport City Council this 12th day of April, 2018.

SIGNED by the Mayor this 12th day of April, 2018.

Susan Woodruff, Mayor

City of Waldport

P.O. Box 1120
Waldport, Oregon 97394
Phone: (541) 264-7417 Fax: (541) 264-7418
TTY: (800)735-2900

May 15, 2018

To Whom It May Concern,

I hereby verify that the attached is a true and accurate copy of Section 16.108 (Administrative Provisions) of the Waldport Development Code.

Witness my signature this 15th day of May, 2018.

Reda Q Eckerman, City Recorder

ATT

Chapter 16.108

ADMINISTRATIVE PROVISIONS

Sections:

16.108.010 Application forms required.
16.108.020 Review procedures.
16.108.030 Fees.
16.108.040 One hundred twenty day limit of final action.
16.108.050 Ex-Parte contact.

16.108.010 Application forms required.

All requests for action under this code shall be on forms as prescribed by the City. Applications shall be accompanied by plans, specifications and such other information as specified on the application form. An application shall be deemed complete thirty (30) days after receipt by the City, unless the applicant receives prior written notice from the City that the application is incomplete. The application shall be deemed complete upon receipt by the City of the missing information. If the applicant refuses to submit the missing information, the application shall be deemed complete for this section on the thirty-first day after the City received the application. An applicant may apply at one time for all approvals and amendments required by this chapter. City action on a consolidated application is subject to the time limitations provided in ORS 227.178 and Section 16.108.040 of this chapter. If an applicant for an action is not the property owner, the application shall be accompanied by a notarized letter from the property owner which authorizes action.

16.108.020 Review procedures.

The review of applications received under the provisions of this title shall be conducted according to the following procedures:

A. Procedure for action by the City Planner on applications not subject to notification requirements :

1. The property owner or authorized agent shall submit an application to the City Planner.

2. Upon determination that the application is complete, the City Planner may refer the application to affected districts, local, State or Federal agencies for comments.

3. Within ten (10) days of determining an application complete, or such longer period mutually agreed to by the City Planner and the applicant, the City Planner shall approve, disapprove or, at the City Planner's discretion, refer the application to the Planning Commission for consideration.

4. The applicant shall be notified in writing of the City Planner's action.

5. All actions of the City Planner may be appealed to the Commission pursuant to subsection E of this section.

B. Procedure for City Planner action on applications subject to property owner notification requirements:

1. The property owner or authorized agent shall submit an application to the City Planner.

2. Upon determination that the application is complete, the City Planner may refer the application to affected districts, local, State or Federal agencies for comments.

3. Within thirty (30) days of determining an application complete, or such longer period mutually agreed to by the Planner and the applicant, the Planner shall approve, disapprove or, at the planner's discretion, refer the application to the Planning Commission for consideration at a public hearing.

4. The applicant and the owners of record of property on the most recent tax assessment roll of Lincoln County within two hundred and fifty (250) feet of the boundaries of the subject property shall be notified in writing of the City Planner's action. The notification requirement shall be deemed met when the City can provide an affidavit or other certification that such notice was given. Said notice shall also be provided to any neighborhood or community organization recognized by the City Council and whose boundaries include the subject property. Such notification shall:

a. Explain the nature of the decision and the use or uses which could be authorized;

b. List the applicable criteria from this code that apply to the subject decision;

c. Set forth the street address or other easily understood information identifying the location of the subject property;

d. State that a copy of the application, all documents relied upon by the applicant, and the applicable criteria are available for inspection at the City office at no cost and can be provided at a reasonable cost;

e. State that a copy of the City Planner's staff report and record of decision is available for inspection at no cost and can be provided at a reasonable cost;

f. Provide the name and telephone number of the City Planner to contact for additional information;

g. Provide an explanation of the procedure and deadline for appealing the decision to the Planning Commission or designated hearings body for a public hearing.

C. Procedure for Commission action on applications or appeals subject to public hearing requirements:

1. The property owner, agent or other party shall submit an application or appeal to the City Planner.

2. Within five (5) working days of determining the application or appeal complete, the City Planner shall schedule the matter for public hearing before the Commission or designated hearing body.

3. Upon determination that the application or appeal is complete, the City Planner may refer the application to affected districts, and local, State or Federal agencies for comments.

4. Notice for, and conduct of, public hearings provided for in this section shall be in accordance with subsections D and E of this section.

5. Decisions of the Planning Commission or designated hearing body may be appealed to the City Council pursuant to subsection H of this section.

D. Notice of Public Hearing.

1. Legislative Hearing. Each notice of a public hearing on a legislative item

shall be published at least two (2) times in a newspaper of general circulation in the City during the three (3) weeks prior to the hearing. In addition, notice shall be provided in accordance with ORS 197.610 and ORS 227.186.

2. Quasi-Judicial Hearing. Notice of a public hearing shall be published in a newspaper of general circulation in the City at least ten (10) days prior to the date of the hearing. In addition, at least twenty (20) days prior to the hearing date, the applicant and the owners of record of property on the most recent tax assessment roll of Lincoln County within two hundred and fifty (250) feet of the subject property shall be notified in writing of the City Planner's action. Said notice shall also be provided to any neighborhood or community organization recognized by the City Council and whose boundaries include the subject property. Such notification shall:

a. Explain the nature of the decision and the use or uses which could be authorized;

b. List the applicable criteria from this code that apply to the subject application;

c. Set forth the street address or other easily understood information identifying the location of the subject property;

d. State the date, time and location of the hearing;

e. State that a copy of the application, all documents and evidence submitted by or on behalf of the applicant, and the applicable criteria are available for inspection at the City office at no cost and can be provided at a reasonable cost;

f. State that a copy of the City Planner's staff report is available for inspection at no cost and can be provided at a reasonable cost seven (7) days prior to the hearing;

g. Provide the name and telephone number of the City Planner to contact for additional information; and

h. Include a general explanation of the requirements for submission of testimony and the conduct of hearings; and

i. State that failure to raise an issue in the hearing, either in person or in writing, or failure to provide statements or evidence sufficient to afford the hearings body an opportunity to respond to the issue precludes appeal to the State Land Use Board of Appeals on that issue.

3. The failure of a property owner to receive notice as provided for in this section shall not invalidate the subject hearing proceeding provided that the City can demonstrate by affidavit that such notice was given.

4. Notice of Exception to Statewide Planning Goals. Action involving the consideration of exceptions to the Statewide Planning Goals shall be subject to the notice and hearing requirements of this section and subsection E of this section. In addition, the required notice of public hearing shall specifically note the exceptions to be considered and shall summarize the issues in an understandable manner.

5. Notice to Mobile Home Parks. If an application changes the zone of property which includes all or part of a mobile home park, the City shall give written notice by first class mail to each existing mailing address for occupants of the mobile home park at least twenty(20) days but not more than forty (40) days before the date of the first hearing on the application. For the purposes of this section, the occupant's name and address as listed by the owner or manager of the park shall be used for notification.

E. Conduct of Quasi-Judicial Public Hearings. Any quasi-judicial public hearing required by or provided for in this code shall be conducted in accordance with the following requirements:

1. Staff Report. At least seven (7) days prior to the hearing, the City Planner shall provide to the hearings body and make available to the public for inspection or purchase a report detailing the nature of the request and the applicable criteria of this code.

2. Application Materials. All application materials, documents or other evidence submitted by or on behalf of the applicant or any land use approval shall be provided to the City Planner and made available to the public. If additional documents or evidence are provided by any party following the receipt of an application determined to be complete, the City may allow a continuance or leave the record open to allow the parties a reasonable opportunity to respond. Any continuance or extension of the record requested by an applicant shall result in a corresponding extension of the time limitations of ORS 227.178 and Section 16.108.040 of this title.

3. Pre-Hearing Statement. At the commencement of the hearing, a statement shall be made by the hearing body or staff to those in attendance that:

a. Lists the applicable substantive criteria;

b. States that testimony and evidence must be directed toward the criteria described in paragraph (1) of this subsection or other criteria in this code the party believes to apply to the subject request; and

c. States that failure to raise an issue accompanied by statements or evidence sufficient to afford the hearings body and the parties an opportunity to respond to the issue precludes appeal to the State Land Use Board of Appeals on that issue.

4. Presentation of Testimony. Unless otherwise provided for by the hearings body, the order of presentation of testimony shall be as follows:

a. Staff report;

b. Presentation by the applicant or, in the case of an appeal of a prior decision, the appellant;

c. Additional testimony by other parties in support of the application or appeal;

d. Testimony by opponents or, in the case of an appeal, the respondent;

e. Applicant's or, in the case of an appeal, appellant's rebuttal.

5. Continuances. The hearing body may continue any hearing as deemed necessary to receive additional arguments or testimony or for further consideration of any evidence or testimony. A continuance may be provided for by the hearing body on its own motion or may be requested by a party. If the hearings body grants a continuance, the hearing shall be continued to a date, time and place certain at least seven days from the date of the initial evidentiary hearing. An opportunity shall be provided at the continued hearing for persons to present and rebut new evidence and testimony. If new written evidence is presented at the continued hearing, any person may request, prior to the conclusion of the continued hearing, that the record be left open for at least seven days to submit additional written evidence or testimony for the purpose of responding to the new written evidence. No additional notice need be given of the continued hearing.

6. Holding Open the Hearing Record. Prior to the conclusion of the initial evidentiary hearing, any participant may request an opportunity to present additional

evidence or testimony regarding the application. The hearings body shall grant such a request by continuing the hearing pursuant to subsection (E)(5) of this section or leaving the record open for additional written evidence or testimony. If the record is left open for additional written evidence or testimony, the record shall be left open for at least seven days. any participant may file a written request with the City Planner for an opportunity to respond to new evidence or testimony submitted during the period the record was left open. If such a request is filed, the hearings body shall reopen the record pursuant to subsection (E)(7) of this section.

7. Reopening the Hearing Record. The hearings body may, on its own motion, or upon request of a party, reopen the record of any hearing previously concluded. When a hearing record is reopened to admit new evidence or testimony, any person may raise new issues which relate to the new evidence, testimony, or criteria for decision-making which apply to the subject application or appeal.

8. Time Limitations of ORS 227.178 and Section 16.108.040. Any continuance or extension of the record shall be subject to the time limitations of ORS 227.178 and Section 16.108.040 of this title, unless the continuance or extension is requested or agreed to by the applicant.

9. Final Arguments. Unless waived by the applicant, the hearings body shall allow the applicant at least seven days after the record is closed to all other parties to submit final written arguments in support of the application. The applicant's final submittal shall be considered part of the record, but shall not include any new evidence.

10. Definitions. For purposes of this section:

"Argument" means assertions and analysis regarding the satisfaction or violation of legal standards or policy believed relevant by the proponent to a decision. "Argument" does not include facts.

"Evidence" means facts, documents, data or other information offered to demonstrate compliance or noncompliance with the standards believed by the proponent to be relevant to a decision by the hearings body.

F. Appeals. The hearing body may retain authority to dismiss an appeal for failure to follow the requirements of this chapter.

G. Appeals of Decisions of the City Planner. Where it is alleged that there is an error in any procedure or decision of the City Planner, an appeal may be made therefrom to the Commission or such other hearings body as may be designated by order of the City Council. an appeal of a ministerial decision of the City Planner made pursuant to subsection (A) of this section shall be filed within ten (10) days of the effective date of the decision. An appeal of a decision of the City Planner on a permit made pursuant to subsection (B) of this section shall be filed within fifteen (15) days of the effective date of the decision. In the event that the final day for the filing of an appeal falls on a Saturday, Sunday or legal holiday, the period for the filing of an appeal shall be extended through the next working day. An appeal of a City Planner decision shall be filed with the City Recorder and shall be accompanied by a written statement of the grounds for the appeal and any required filing fee. In the event that the party filing the appeal prevails at the initial hearing or upon subsequent appeal, the fee for the initial appeal of the City Planner decision shall be refunded. Fees required for the filing of appeals of decisions of the City Planner shall not apply to the Department of Land Conservation and Development nor to

neighborhood or community groups recognized by the City Council and whose boundaries include the property subject to the decision. Upon receipt of an appeal, the City Planner shall schedule a public hearing before the Commission or other hearings body as designated by order of the City Council. Public notice of the hearing shall be in accordance with subsection (D) of this section.

H. Appeals of Commission or Hearing Body Decision. Where it is alleged that there is an error in any procedure or decision made by the Commission or hearings body, an appeal therefrom may be made to the City Council. Such an appeal shall be filed with the City Recorder within fifteen (15) days of the subject decision of the Commission or hearings body. In the event that the subject decision falls on a Saturday, Sunday or legal holiday, the period for the filing of an appeal shall be extended through the next working day. An appeal of a Commission or hearings body decision subject to review by the City Council pursuant to this section shall be filed on a form prescribed by the City and shall be accompanied by any required filing fee. When an appeal is filed, within ten (10) days of such filing, the City Planner shall provide to the City Council the record of the proceedings and a decision of the Commission or hearings body. The City Council shall hold a public hearing on the appeal.

I. City Council Review. Review by the City Council at a public hearing shall be accomplished in accordance with its own adopted rules of procedure and the requirements of this chapter. The City Council may continue its hearing to gather additional evidence or to consider the application more completely pursuant to this chapter. Appeals will be heard *de novo* by the City Council and allow the introduction of new evidence and testimony. The presentation of such testimony and evidence shall be governed by the procedures applicable to the presentation of such matters as provided in the City Council's rules of procedure. The decision of the City Council on an appeal shall be recorded within forty-five (45) days of receiving the record of the subject decision, unless a longer period of time is stipulated to by the parties.

J. City Council Action.

1. 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.

2. The City Council may, on its own motion, review any decision of the City Planner or the Commission pursuant to the review procedures in subsections (I) to (K) of this section. Such motion shall be made within fifteen (15) days of the effective date of the decision to be reviewed.

3. An appeal of the City Council's decision to the State Land Use Board of Appeals shall be pursuant to ORS 197.830-845.

K. Effective Date of Decision. The effective date of a decision of the City Planner is the date of the letter notifying the applicant of the City Planner's decision. The effective date of a decision of the Planning Commission is the date of adoption of findings of fact. The effective date of a decision of the City Council is the date of the entering or signing of the final order and findings of fact.

L. Notification of Decision.

1. Legislative Hearing Decisions. Not later than five (5) working days after the final decision, the City shall mail or otherwise submit notice to persons who participated in the proceedings leading to the adoption of the amendment to the comprehensive plan,

the land use regulation, or the new land use regulations, and that requested of the City in writing that they be given such notice. The notice shall describe briefly the action taken by the City; state the date of the decision; state the place where and time when the amendment to the plan or regulation, and the findings, may be reviewed; and, explain the requirements for appealing the action of the City under ORS 197.830 to 197.845.

2. Quasi-Judicial Hearing Decisions. Within seven (7) working days after a decision has been rendered by the Planning Commission or City Council following the completion of a public hearing process, the City shall provide the applicant and any person who submitted written comments during the proceedings with written notice of the approval or denial of the request. The notice of decision shall include an explanation of appeal rights.

16.108.030 Fees.

Fees for land use actions shall be established by the City Council from time to time by resolution.

16.108.040 One hundred twenty day limit of final action.

A. The City shall take final action on an application for permits or zone changes, including resolution of all appeals under Section 16.108.020(B) of this chapter within one hundred twenty (120) days after the application has been determined to be complete.

B. The application is determined to be complete if all items specified in Section 16.108.010 of this chapter or on the application form as provided at the time of application are accomplished and/or provided.

C. If the application is incomplete, it shall be processed as provided for in Section 16.108.010 of this chapter.

D. The one hundred twenty (120) day period set in subsection (A) of this section may be extended for a reasonable period as requested or agreed to by the applicant.

E. The one hundred twenty (120) day period set forth in this section shall only apply to decisions wholly within the authority and jurisdiction of the City.

F. Notwithstanding subsection (E) above, the one hundred twenty (120) day period set in subsection (A) of this section does not apply to an amendment to an acknowledged comprehensive plan or land use regulation or adoption of a new land use regulation that was forwarded to the Director of the Department of Land Conservation and Development under ORS 197.610(1).

16.108.050 Ex-Parte Contact.

A. No decision or action by the Planning Commission or City Council shall be invalid due to *ex-parte* contact or bias resulting from *ex-parte* contact with a member of the Planning Commission or City Council if the member of the decision-making body receiving the contact:

1. Places on record the substance of any written or oral *ex-parte* communications concerning the decision or action; and

2. Makes an announcement of the content of the contact or communications, and of the parties' right to rebut the substance of the contact, is made at the first hearing following the communication where action will be considered or taken on the subject to which the communication pertains.

B. A communication between City staff (including consultants for legal, engineering, planning and other services) and the Planning Commission or City Council shall not be considered an *ex-parte* contact.

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RETAINED EXHIBIT: Two Oversized Poster Boards Submitted by Petitioner During 02/22/18 Public Hearing	Exhibit A
Optical Disc Containing Meeting Recordings from the Following Meetings:	Exhibit B

October 23, 2017 Planning Commission (102317pc.mp3) 61.0 MB
December 4, 2017 Planning Commission (120417pc.mp3) 45.7 MB
December 14, 2017 City Council (121417cc.mp3) 29.5 MB
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March 3, 2018 Council Workshop (030328wk.mp3) 69.1 MB
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March 26, 2018 Planning Commission (032618pc.mp3) 52.1 MB

EXHIBITS RETAINED BY CITY UNTIL TIME OF ORAL ARGUMENT UNDER OAR 661-010-0025(2)

Exhibit A -Two Oversized Poster Boards Submitted by Petitioner During 02/22/18 Public Hearing

The Record

Lundeen v. City of Waldport
LUBA No. 2018-030

Submitted by

City of Waldport
April 12, 2018

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Lundeen v City of Waldport
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City of Waldport

P.O. Box 1120
Waldport, OR 97394
Phone: (541) 264-7417
Fax: (541) 264-7418
TTY: (800) 735-2900

March 9, 2018

Hollis Lundeen
P.O. Box 1392
Waldport, OR 97394

Re: Case File #1-PD-PC-17 (Appeal of Planning Commission Decision)
Vista View Planned Development
Tax Map 13-11-19CC, Tax Lot 120
Applicant: Tidewater Development LLC

Dear Ms. Lundeen:

On Thursday, February 22, 2018 the Waldport City Council conducted a public hearing on your appeal of the Planning Commission decision to grant preliminary plan approval of Case File #1-PD-PC-17 Vista View Planned Development. The City Council upheld the preliminary plan approval of Case File #1-PD-PC-17 with one revised condition of approval. On March 8, 2018, the City Council approved the Findings and Conclusions (attached).

This decision will become effective on Thursday, March 29, 2018, 5:00 p.m. unless an appeal is filed with the Oregon Land Use Board of Appeals (Board) at 550 Capitol Street NE, Suite 235, Salem, OR 97301-2552. An application for an appeal shall include the specific rationale for the appeal with sufficient clarity to allow public agencies and respondents an adequate opportunity to respond to or resolve each issue. Requirements for appealing the decision are described in Oregon Revised Statute (ORS) 197.830 to 197.845 and include filing a Notice of Intent to Appeal with the Land Use Board of Appeals, and a filing fee and deposit for costs to be established by the Board.

Sincerely,

Larry Lewis
City Planner

cc: Dennis L. Bartoldus, Attorney for Tidewater Development, LLC
All people who provided testimony

BEFORE THE CITY COUNCIL
OF
WALDPORT, OREGON

Appeal of Planning Commission Preliminary Plan Approval **Case File #1-PD-PC-17**
Vista View Planned Development

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 future 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 and along the south edge of Lots 11-13.

Appeal of the Planning Commission's Preliminary Plan Approval

The Planning Commission granted Preliminary Plan approval of the Vista View Planned Development on December 18, 2017. The approval was appealed by Hollis Lundeen on January 2, 2018. The City Council held a public hearing on February 22, 2018 to consider the appeal. Following public testimony and deliberations, the City Council upheld the Planning Commission's Preliminary Plan approval with modification to one condition of approval.

Relevant Facts

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

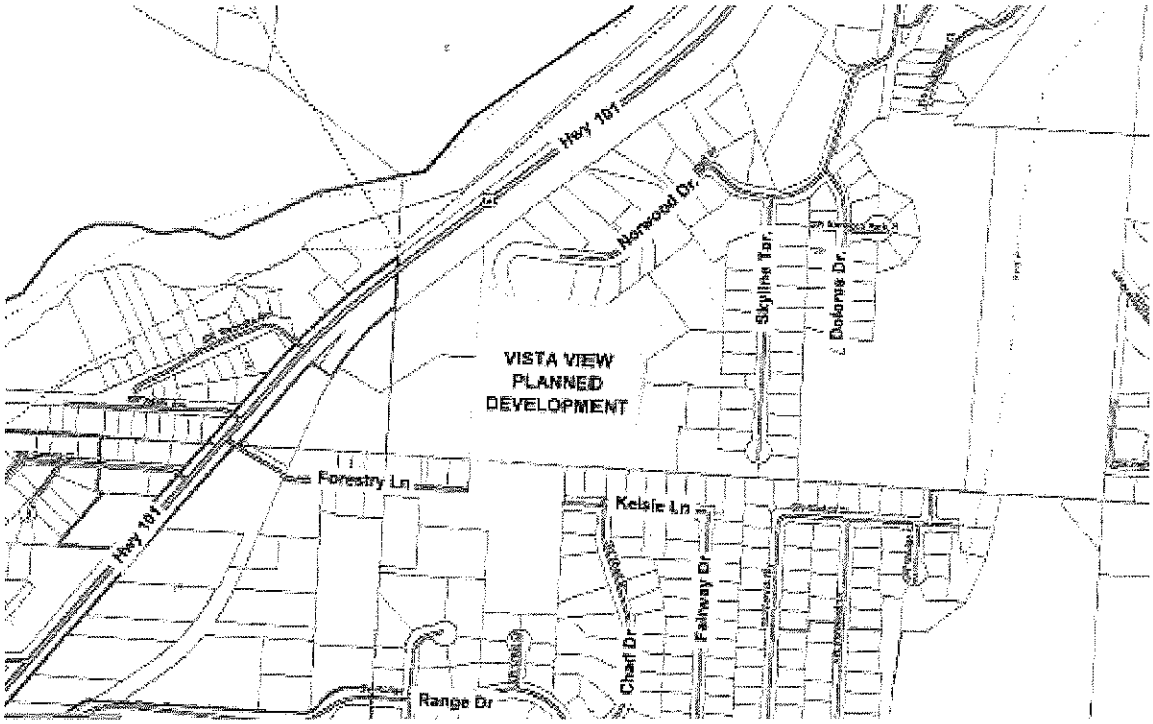
A. **Property Location:** The subject property is located at the south end of Norwood Drive; and further described on Lincoln County Tax Assessor's Map 13-11-19CC as tax lot 120.

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 or are available to 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. The Planning Commission received written and oral testimony that is summarized in the Planning Commission's Findings and Conclusions and herein incorporated into the record.

For the appeal, written testimony included seven emails/letters with six people expressing opposition to or concerns with approval of the Vista View Planned Development (PD) and one person in favor of the Vista View PD approval. In summary, opposition or concerns expressed included:

- the need to improve area infrastructure or have an agreement for traffic flow to the south,
- increased traffic and safety on Norwood Drive,
- future cost to existing property owners to improve Norwood Drive,

- steep terrain,
- density,
- lot sizes,
- 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?
- Proof of ownership.

At the February 22, 2018 City Council meeting, the appellant, the applicant's agent, and five citizens provided oral testimony. In summary, the appellant addressed items included in her written submittals including, but not limited to, the seven appeal items, concern that the Waldport Development Code does not cover concerns, proof of land ownership, existing power pole obstruction, unstable ground, questioning the right for someone to develop a public way, drainage, erosion, the need for a wetlands inventory update, bald eagle habitat disturbance, the need for a cultural resource inventory, water and sewer capacity, additional traffic, lot sizes, request for copy of geotechnical report, and the proposed road surface is not specified.

In summary, citizens expressed concerns about traffic, the need for direct access to Hwy 101, ground stability, and code violations.

The applicant's agent addressed how the application and Planning Commission's preliminary plan approval was in accordance with relevant Waldport Development Code and Comprehensive Plan criteria; addressed the seven appeal items, and addressed additional concerns expressed at the February 22, 2018 City Council meeting.

The appellant provided a rebuttal and, in summary, addressed the final plan review procedure, cultural resources, property ownership, and Norwood Drive alignment issues.

The minutes of the February 22, 2018 City Council meeting, and all written and oral testimony are 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 Planning Commission 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

Applicant's Original Proposal

The applicant originally submitted the Planned Development 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 meeting, the applicant submitted additional material. 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 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.

Appellant Submittal

The Appellant (Hollis Lundeen) submitted the form and fee and the following information:

- Signature Page including 20 signatures of residents and citizens who concur with this appeal
- Narrative with identification and description of seven appeal items, a conclusion, and an immediate concern related to this appeal. In summary, the seven appeal items include:
  - The Findings and Conclusion of the Planning Commission were signed prior to the Planning Commission's approval.
  - Relevant Waldport Development Code criteria in Section 16.60.030 C3 & C4 were not addressed. Subsection C3 states that the proposed development will provide amenities or protections at a higher level than would otherwise be provided under conventional land development procedures. Subsection C4 states that the Planning Commission shall seek to determine that the development will not overload streets outside the planned development area, nor will the proposed development create drainage or pollution problems outside the planned area.
  - The Preliminary Plan approval was made without relative, current, and accurate traffic data.
  - The Preliminary Plan approval is in conflict with the Waldport Yaquina John Point Land Use & Transportation Plan because the Preliminary Plan will result in inadequate utility facilities.
  - Requirements regarding lot size, lot width, road right-of-way and road width were not observed and required, nor was a site plan provided reflecting the Preliminary Plan approval.
  - The Preliminary Plan was approved without verification of ownership regarding the plat that borders the applicant's property.
  - Except for the October 23, 2017 meeting, no additional verbal testimony was allowed.
- Appeal Exhibits
  - Final signed and dated page of Planning Commission Findings and Conclusions

- Title page of Statewide Planning Goal 5 and Goal 17, city of Waldport Periodic Review, June 30, 1999
- Photographs (3)
- Copy of Norwood Height Dedication of streets and utilities
- Oregon Department of Land Conservation & Development Notice of Adopted Amendment, December 6, 2007
- City of Waldport Ordinance No. 716 (Revised several sections of the Waldport Development Code)
- Photographs (15) of Norwood Drive, utilities, etc.
- Portion of tax map showing south end of Norwood Drive
- Nov. 28, 2017 email from City Planner

The appellant's submittal is herein incorporated into the record.

Applicant Submittal

Dennis L. Bartoldus, Attorney for the Applicant, Tidewater Development LLC, submitted a written response to the appeal filed by Hollis Lundeen. The submittal provides a response for each of the appellant's seven allegations.

The applicant's submittal is herein incorporated into the record.

Findings

Following public testimony presented at the February 22, 2018 City Council meeting, the City Council deliberated and addressed each of the seven appellant allegations. The seven allegations are identified in *italics* below and followed by the City Council findings. (Please note the full descriptions of the appellant's allegations and the applicant's responses are available for review as part of the record.)

Appeal Item #1. *The Findings and Conclusion of the Planning Commission were signed prior to the Planning Commission's approval.*

City Council Findings: This appeal item is irrelevant because the land use decision for this application is now before the City Council. The Findings and Conclusions of the City Council will be the final document of which the decision is based on.

Additionally, the City Council finds the Planning Commission Findings & Conclusions could not have been signed prior to the Planning Commission's decision because the Findings & Conclusions include deliberation and findings that occurred at the December 18, 2017 Planning Commission meeting.

Appeal Item #2. *Relevant Waldport Development Code criteria in Section 16.60.030 C3 & C4 were not addressed. Subsection C3 states that the proposed development will provide amenities or protections at a higher level than would otherwise be provided under conventional land development procedures. Subsection C4 states that the Planning Commission shall seek to determine that the development will not overload streets outside the planned development area, nor will the proposed development create drainage or pollution problems outside the planned area.*

City Council Findings: The Planned Development ordinance allows exceptions and the Planning Commission followed procedures in hearing and making a decision on this application. The Planned Development ordinance allows a design that is tailored to the property. Exceptions to residential and land division standards are allowed in exchange for tradeoffs, which are typically the establishment of open spaces, natural resources and public benefits, e.g. dedication of open space, preservation of natural drainage ways, public pedestrian facilities such as trail connections.

The drainage way located along the northern portion of the subject property is not subject to restrictions and setbacks stated by the appellant because those cited restrictions and setbacks apply to properties along the Pacific Ocean and Alsea River. The drainage way on the subject property is not designated as a wetland or riparian area.

The alleged bald eagle habitat disturbance is not a relevant criteria in making a decision on this case.

Appeal Item #3. *The Preliminary Plan approval was made without relative, current, and accurate traffic data.*

City Council Findings: Traffic data used in the evaluation of the application included reliable and substantiated data. For example, the Institute of Traffic Engineers (ITE) Trip Generation Report, 8th Edition was researched to obtain average daily traffic data, i.e. a single family house generates approximately 10 trips per day. The City Council finds the proposed extension of Norwood Drive for the development of the Vista View PD is well within the development rights of the property owner. The City Council affirmed that the future extension of Norwood Drive was in place at the time Norwood Drive residence purchased and developed lots along Norwood Drive.

Appeal Item #4. *The Preliminary Plan approval is in conflict with the Waldport Yaquina John Point Land Use & Transportation Plan because the Preliminary Plan will result in inadequate utility facilities.*

City Council Findings: The City Council finds the Waldport Development Code and Planning Commission Findings & Conclusions have measures in place to ensure that adequate utilities facilities will be design, approved, and constructed. The Planning Commission's condition of approval #8 requires the applicant to submit final engineering plans for water, sewer, storm drainage, and streets to the City of Waldport and other applicable agencies for review and approval prior to construction.

Appeal Item #5. *Requirements regarding lot size, lot width, road right-of-way and road width were not observed and required, nor was a site plan provided reflecting the Preliminary Plan approval.*

City Council Findings: Section 16.60 Planned Development Zone P-D of the Waldport Development Code allows modifications to standards when it is determined there are benefits to both the city and the property owner, e.g. dedication of open space, preservation of natural drainage ways, and public pedestrian facilities such as trail connections as proposed in the Vista View PD.

Appeal Item #6. *The Preliminary Plan was approved without verification of ownership regarding the plat that borders the applicant's property.*

City Council Findings: The City Council finds the developer has the right to develop a street and associated infrastructure within public right-of-way. City review and approval of final engineering plans include verification that proposed new streets are being constructed within a public way or on private property with property owner consent.

Appeal Item #7. *Except for the October 23, 2017 meeting, no additional verbal testimony was allowed.*

City Council Findings: This appeal item is irrelevant because the land use decision for this application is now before the City Council. The Findings and Conclusions of the City Council will be the final document of which the decision is based on. The February 22, 2018 public hearing before the City Council allowed for public testimony from any resident or citizen.

Public Trail. The City Council raised questions about when the public trail would be constructed. There was discussion and confirmation from the applicant's agent that the public trail would be constructed in

Phase 1. The City Council passed a motion to include the condition of approval that the trail be constructed in Phase 1. This requirement is added to Condition of Approval #7 Public Nature Trail.

Conclusions

Based on the above facts and findings:

A. The City Council finds the Planning Commission based their decision on relevant criteria and procedures described in the Waldport Development Code and Comprehensive Plan.

B. The City Council affirms the Planning Commission findings that the proposed development adheres to the purpose and 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 City Council that the Planning Commission decision is upheld, and the Preliminary Plan for the Vista View Planned Development be and is hereby approved. Said approval is subject to the following conditions:

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. The public nature trail shall be constructed prior to final approval of Phase 1.

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.

   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.

This ORDER was presented to and approved by the Waldport City Council on March 8, 2018.

Susan Woodruff, Mayor

3-8-18
Date

Attachments: Planning Commission Findings & Conclusions
Preliminary PUD Layout

BEFORE THE PLANNING COMMISSION
OF
WALDPORT, 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.

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.

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 Exactments; 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

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.

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, 8th 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

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.

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:

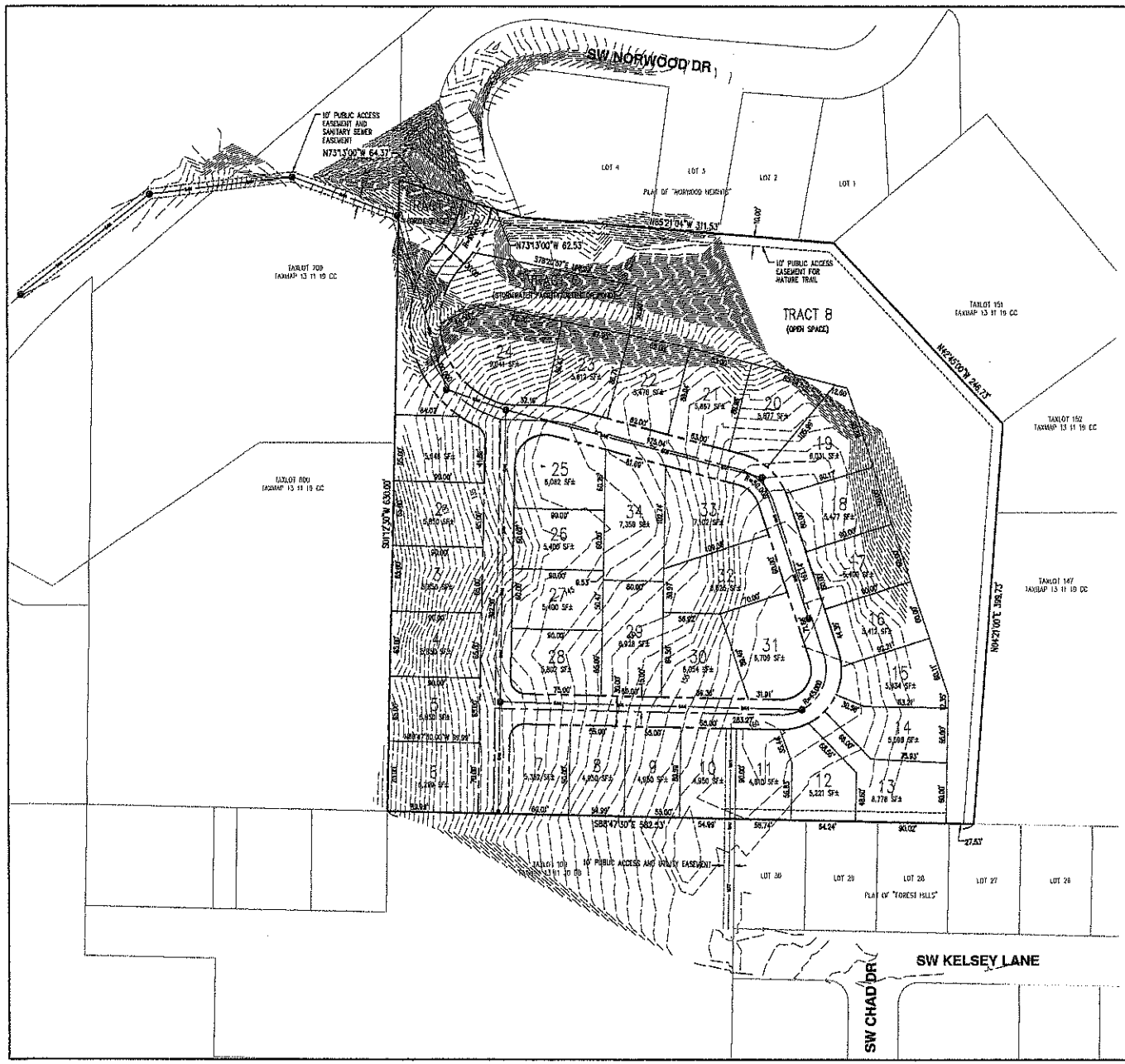
    Phase 1: January 2018 – January 2020
    Phase 2: January 2020 – January 2022
    Phase 3: January 2022 – January 2024
    Phase 4: January 2024 – January 2026

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



OREGON
TAX MAP 13S 1E 19CC
TAXLOT 100

SW NORWOOD DRIVE

WALDPORT

PRELIMINARY PUD LAYOUT

DESIGNED BY:
DRAWN BY: BDT
CHECKED BY:
SCALE: AS NOTED
DATE: 12/1/16

PLANNING

REVISIONS

JOB NUMBER

SHEET

WALDPORT CITY COUNCIL
FEBRUARY 22, 2018
SPECIAL MEETING MINUTES

1. Call to Order and Roll Call: Mayor Woodruff called the meeting to order at 2:30 p.m. Mayor Woodruff and Councilors Swan, Dunn, Dennis, Cutter and Holland answered the roll. A quorum was present.

2. Public Hearing: Appeal on Planning Commission Preliminary Approval of Case File #1-PD-PC-17, Vista View Planned Development: Mayor Woodruff opened the public hearing, stating that the evidence and testimony must be directed to the applicable criteria or criteria that the person believes to be applied, must raise issues accompanied by statements or evidence sufficient to afford the parties an opportunity to respond, and that failure to do so would preclude an appeal to the State Land Use Board of Appeals on that issue. She then called for declarations of bias, conflicts of interest, and *ex parte* contact. She noted that she is the wife of the Planning Commission Chair, was familiar with the area in question, and had spoken with Councilor Dennis in general terms regarding the appeal and the process. Councilor Dennis stated he had spoken similarly with Councilor Swan. Councilor Cutter stated that the appellant was a former workplace colleague. Mayor Woodruff added that she was familiar with the applicants for Vista View.

No objections were raised to any Council member's participation in the hearing process.

Staff Report: City Planner Larry Lewis stated that this hearing was to appeal the preliminary approval granted by the Planning Commission to the Vista View Planned Development. He reviewed the relevant criteria used in the Planning Commission decision, noting that this was a Planned Development for 34 lots located at the south end of Norwood Drive, located in an R-1 (Residential) zone. Variances to the requirements of the R-1 zone for maximum density, minimum lot widths and depths could be granted by a developer proposing a planned unit development as opposed to a standard subdivision. The intent of a planned development is provide flexibility to standard requirements in exchange for amenities such as open space, preservation of drainage ways or other natural resources, public pedestrian access, and so forth. Mr. Lewis indicated that three additional letters had been received and distributed at the meeting, in addition to the testimony in the packet materials. He also stated that if the Council determined that it had obtained all necessary information it could close the record, close public testimony, deliberate and make a decision at this meeting. Otherwise it had the option to keep the record open for additional information. The Council's decision could be to affirm, modify or reverse all or part of the Planning Commission's action, or it could choose to remand the matter to the Planning Commission for additional review or information.

Appellant's Presentation: Hollis Lundeen addressed the Council. She began by commending Public Works for the quick response to the previous day's waterline break, noting that they managed to repair the problem with no loss of service to the residences. She asked if any Council members had traveled Norwood Drive since the application for the planned development had been filed. Mayor Woodruff, and Councilors Cutter and

Swan noted that they had.

Ms. Lundeen stated that her objective in appealing this decision was that she and others did not feel that the City's existing code adequately covers this situation. She then read an additional statement into the record. The concerns were as follows:

1) Proof that the property at the end of Norwood Drive could be legally utilized by the developer to access their property. She stated that it is currently an existing steep trail, with unstable soil and a power pole which would need to be relocated. She encouraged the Council to visit the site and view the area in question. Mayor Woodruff explained that the Council had been advised by their legal counsel to not actually visit the property. City Attorney Gintner confirmed the assertion, noting that this advice had been provided in Executive Session.

2) Concern that proposed development of the property would significantly disturb an environmentally sensitive area, with potential impacts to wildlife habitat and soil stability. Ms. Lundeen suggested that the Council require an updated riparian study, and that removal of wildife habitat could be construed as a violation of existing federal protection laws.

Mayor Woodruff noted that the argument should be addressed to the extent that the Planning Commission failed to follow what was in the existing Code, rather than perceived omissions in the Code itself.

3) Requiring a cultural resource survey prior to any exploratory excavation. Ms. Lundeen noted that if development was allowed without such a survey, and evidence uncovered, it could be too late to preserve the existing scenic and aesthetic quality of the undisturbed space.

4) Potential slope stability failure, which could directly impact Highway 101 and the Alsea Bay. Ms. Lundeen stated that removal of the existing ground cover could result in additional uncontrolled sedimentation and potential loss of neighboring trees, as had already occurred as a result of logging.

5) Concern about adequacy of existing utility infrastructure to serve the proposed development. Ms. Lundeen noted that an upgrade of the Forest Service pump station would be required of the developer, and expressed concern that the City did not have adequate capacity to serve the needs of the proposed development. Mayor Woodruff responded that her understanding was that the capacity of the current utility system was adequate to serve the additional homes, and the properties would also be paying individual systems development charges to "buy in" to the existing system.

6) Location of proposed utility infrastructure. Ms. Lundeen wondered how the developer could propose utilizing an access for utilities through property that they had no control over. Councilor Cutter noted that this was a preliminary plan, and it would be incumbent on the developer to negotiate any required easements or relocate the utilities accordingly.

7) Concerns about additional traffic. Ms. Lundeen asked that the Council consider the impact of the additional traffic on the existing street.

8) Concerns about lot sizes. Ms. Lundeen noted that although a variance could be granted, the Council needed to realize that over fifty percent of the lots did not meet the City's standard lot size requirement.

9) Necessity for a geological survey. Ms. Lundeen asked to be notified when any

of the required geological assessments are submitted to the City.

10) Lack of verification of type of surfacing to be used in the required onsite parking. Ms. Lundeen noted that the Planning Commission had discussed this, but no requirement had been included in the findings.

11) Determination of the designation and design of the proposed road within and adjacent to the proposed development. Ms. Lundeen felt that the Council and Planning Commission together should determine whether the street would be a collector street or a local street, and require that the design adhere to the street width and improvement standards contained in the City's code.

Proponents Presentation:

Paul Virtue stated that the Council should also take into consideration applicable state and federal laws.

Wayne Smith noted he was a resident in Township 13 which is an existing planned development, and had a contractor who refused to perform concrete work because of concerns about the ground stability. He also felt that access to Norwood Drive was already inadequate and further growth would exacerbate the problem, citing as an example issues with emergency vehicles and their inability to negotiate within his area.

Barbara Davis noted that Ms. Lundeen had verbalized her concerns and wondered why the City Code set standards but also allowed for variances to those standards.

Tom Cropper indicated that his concern was the stability of the hill above Highway 101, and suggested that the properties be rezoned to prevent construction altogether.

Opponents Presentation:

Phil Spulnik indicated that he had been in local real estate as well as on the Lincoln County Planning Commission for a number of years, and noted that planned developments are usually proposed when there's a large property with topographical constraints. He felt that the developers proposal was conservative, and observed that it may be appropriate for the current residents to consider working with the City to resolve the issues with Norwood Drive. He also noted that development would more than likely be gradual.

Dennis Bartoldus, Attorney for Tidewater Development, addressed the Council, noting that his understanding was that the record for the meeting included not only what was received at this meeting but all materials from the original application. He distributed copies of the applicant's materials from the November meeting, noting that the plat included the road dedication from the Norwood Heights subdivision. He stated that his clients had presented their proposal with considerable forethought and input from City staff, and that this was a preliminary plan. The Planning Commission had proposed some changes, with which his clients had agreed, including increasing the width of the proposed street and right-of-way, and the inclusion of concrete curbs, gutters and sidewalk. The lots were not substandard, but in conformance with the criteria for a planned development. They could be extended to the property line, but that would result in the loss of the proposed green space. With regard to the proposed utility access, this was a preliminary design and they would have to engineer it to see if it would work or come up with an alternative. His clients would be paying for the sewer upgrades and additional utility infrastructure, as well as the parks assessment and other applicable fees. They would be

providing turnarounds for emergency vehicles in each phase, which was an improvement on the existing condition of the street. Each step would need to be engineered, and approved by City staff. He noted that the application was submitted under the existing Code requirements, and there are also state and federal requirements that would need to be observed if cultural resources or potential environmental concerns are discovered. He noted concern regarding exactments, and indicated that when a street abuts a property there is an inherent entitlement to use it, citing several examples of Oregon case law as well as ORS 192.010. Engineering and any requisite geotechnical surveys would be done for issues such as the relocation of the power pole, the location of utilities, and the proposed access. The proposed location was not a designated natural site, and his clients had logged the property as they were entitled to. The property was not in a documented riparian zone, and drainage issues will be addressed through engineering. He stated that this was not a large development, and time extensions had been requested to allow for gradual development. The proposed development would preserve significant open space and allow for improved connectivity for future traffic flow. He asked that the Council affirm the Planning Commission decision, noting that his clients were fully aware they would have to meet all of the conditions in order to obtain final approval.

At 4:25 p.m, Mayor Woodruff proposed a recess. The meeting resumed at 4:35 p.m.

Rebuttal: Ms. Lundeen noted that, as the attorney had observed, this was only a preliminary approval. She asked that the Council consider review of components such as the geological surveys as they are completed, rather than waiting until everything is done. Mayor Woodruff inquired about the process and City Planner Lewis responded that any necessary geotechnical surveys would be submitted along with the engineering designs and reviewed by staff, including Public Works, the Fire District, and the City Engineer, before construction. Then as-builts are submitted, which become part of the final approval. He confirmed that these plans could be reviewed by the public during this process. Ms. Lundeen noted that she just wanted to ensure that if a preliminary plan is approved, it is approved according to the Code. She thanked the Council for hearing her concerns, and indicated that she felt that had not been done in the Planning Commission meeting and that the public hearing process could use some clarification. She asked the Council to consider the magnitude of the development, and the written and verbal concerns expressed by herself and others, before making their decision.

Mayor Woodruff closed the public hearing and opened deliberations.

The Council discussed the following items of appeal as submitted by the applicant:

- Signing the findings with the incorrect date. Mayor Woodruff observed that there had been changes proposed to the findings at the December 18 meeting, and the findings had been amended to incorporate those changes. Therefore, the findings could not have been signed prior to that meeting, as the appellant asserted.

- The lack of relative, current and accurate traffic data: Mayor Woodruff asked about

the 10-trip a day standard, asking if that was an accepted standard for a residential street. City Planner Lewis confirmed, noting that it was cited in numerous traffic impact reports. Councilor Cutter indicated that this had been one of his initial concerns as well, and that the Council should look at future improvements to Norwood, especially as further development of the area occurs. However, he felt that this did not rise to the level of prohibiting the developer from exploring engineering options.

- Conflict with the Yaquina John Point Transportation Master Plan: Councilor Cutter noted that this was a preliminary plan, and felt that the developers understood that it would not be in their best interest to create lots with a lack of access to adequate utilities and other inherent issues.

- Conflict with established Code requirements: It was noted that this was a planned development, which allowed for variance to lot sizes and other standards. Councilor Cutter noted that the developer could have adjusted the lot configurations to include additional non-utilizable land, but felt that would be unnecessary. Councilor Dennis added that in some developments, "patio homes" with minimal lot sizes were allowed with no apparent negative impact..

- Lack of verification of ownership of plat that borders property. Councilor Cutter noted that he felt that, before spending money to develop the road, the applicant would certainly verify the ownership and the feasibility of utilizing the property for completion of the access.

- Decision of the Planning Commission to disallow further verbal testimony. Councilor Cutter indicated it may be useful to design a one-page handout specific to the public hearing process for the public, and that the Commission could possibly have made the closure of the hearing and the segue into deliberation more clear, but felt that following the rules of a public hearing process without additional explanation did not rise to the level of an appealable error.

Councilor Swan asked about the timeline for the trail completion. Mr. Bartoldus responded that if the Council desired, it could be done in the first phase. Councilor Dennis asked whether maintenance of the trail would be included in the CC&Rs. Mr. Bartoldus indicate that it could be, but that they would certainly work with City staff to ensure that the conditions would be agreeable. It was noted that if the trail was dedicated to the City as part of the Transportation Plan, then it would most likely be maintained as other such trails in the system. Councilor Swan **moved** to add the completion of the trail in Phase One as an additional condition of approval in the findings. Councilor Dennis **seconded**, and the motion **carried** unanimously.

Councilor Cutter indicated that the Council had discussed each of the criteria cited in the appeal, and felt that none of them came to the level of requiring a reversal or modification of the Planning Commission decision. He **moved** to deny the appeal. Councilor Dunn **seconded**, and the motion **carried** unanimously.

City Planner Lewis proposed to bring the findings to the March 8th meeting for final

approval. **Consensus** of the Council was favorable.

4. GOOD OF THE ORDER: Nothing further.

5. ADJOURNMENT: At 5:30 p.m., there being no further business to come before the Council, the meeting was adjourned.

Respectfully submitted,

Reda Q Eckerman, City Recorder

APPROVED by the Waldport City Council this 8th day of March, 2018.

SIGNED by the Mayor this 8th day of March, 2018.

Susan Woodruff, Mayor

APPEAL
WRITTEN TESTIMONY

2.8.18 Paul Virtue (email)
2.9.18 Bernice Barnett (email-Ltr)
2.13.18 Phil Weber (email)
2.15.18 Pam/Tim Mugleston (email)
2.21.18 Hollis Lundeen
2.21.18 Bernice Barnett
2.21.18 Louis Ornoff

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PHIL WEBER
10168 N PRICE AVE
FRESNO, CA 93730

#1-PD-PC-17 Vista View PD Appeal - Testifier Mailing Labels

Easy Peel® Labels
Utilisez le gabarit® Template 5160®
Feed Paper
Bend along line to expose Pop-up Edge™
AVERY® 5160®

WALDPORT 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 16TH day of February, 2018 - Reda Q. Eckerman, City Recorder

The City of Waldport is an equal opportunity provider and employer

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
WALDPORT, 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.

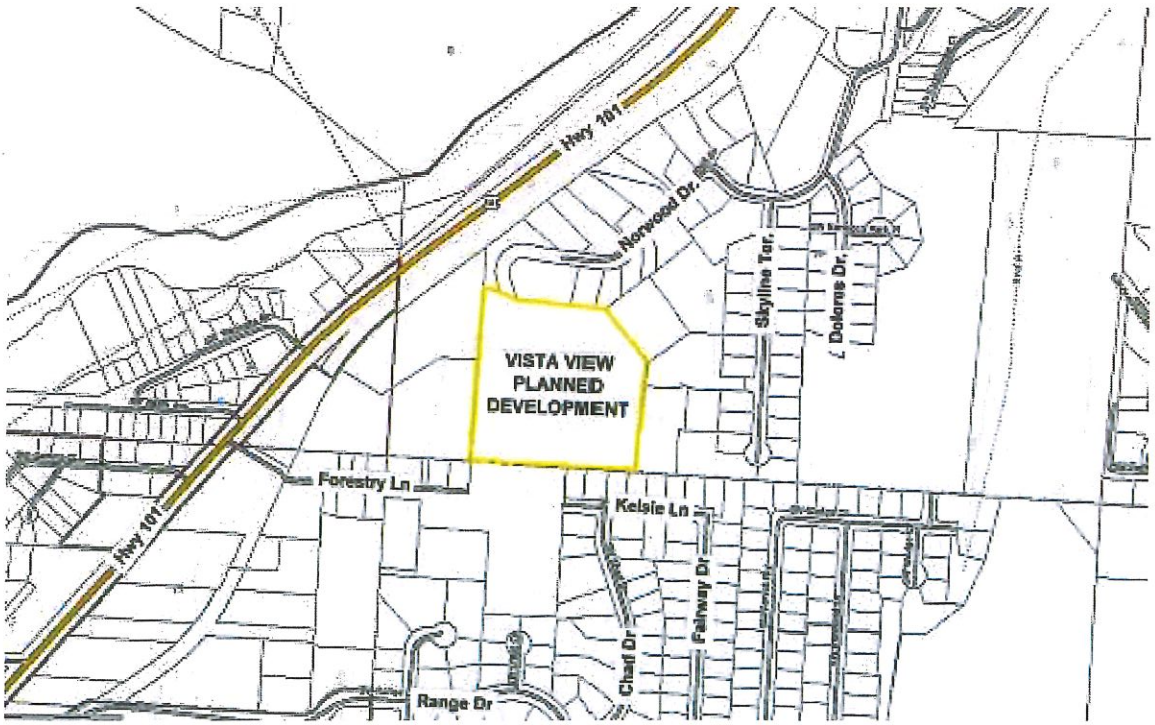
Access to the development is proposed at the south end of Norwood Drive. This is the only current legal access to the site. A second access is planned at the south end of the site. Within the property, a circular street system is proposed to access the lots/homes.

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.



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.

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 Exactments; 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

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.

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, 8th 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

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.

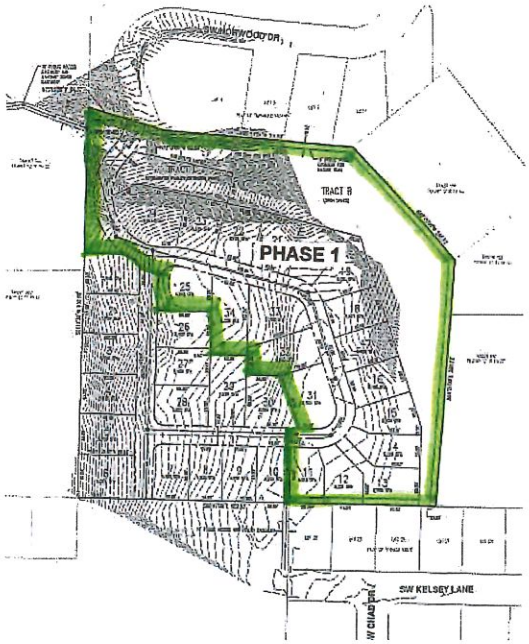
Currently, WDC 16.60.030 allows a preliminary plan approval per phase for 2 years with the possibility of three one-year extensions. The City has discussed amending this time limit to better reflect typical market conditions however that amendment has not yet occurred. The timing would begin upon approval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

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 97365

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 CONCURRING SIGNATURES OF WALDPORT RESIDENTS ATTACHED AND INCORPORATED BY REFERENCE. 39 PAGES

Signature of Appellant

Name: HOLLIS LUNSDEEN
Address: P.O. BOX 1392 WALDPORT OR. 97394
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: $ 560.00 Date of Hearing: 2/22, 2018.

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APPEAL to the WALDPORT 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.

SIGNATURE	PRINTED NAME	ADDRESS
	Hollis Lundeen	P.O. Box 1392 Wpt. 97394
	PAUL A VIRTUE	465 SW Pacific View Dr Waldport OR 97394
	Shari A. Virtue	
	James V. Shepherd	1020 SW Norwood Dr
	PAUL E. BLASKO	1125 SW Norwood Dr
	Deanna Shepherd	1020 SW Norwood Dr.
	RAY BREGENZER	1080 SW NORWOOD DRIVE
	Joan Johnson	1060 SW Norwood Drive
	Shelley Dillon	1085 Norwood drive
	Joyce L. Wilson	725 SW Skyline Terrace
	GREG HEITZEN	825 SW SKYLINE TERR
	Bernice Barnett	1065 SW Norwood Drive
	BRUCE D. GAINER	1065 SW Norwood Dr, Waldport
	LINDA BLASKO	1125 SW NORWOOD DR
	Shelly Orndorff	1160 SW NORWOOD DR
	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

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.

<u>APPEAL</u> 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. <u>See Appeal Exhibit Documentation.</u>

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.

<u>APPEAL</u> 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. <u>See Appeal Exhibit Documentation.</u>

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 regularity 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.*

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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%.

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The applicant will be constructing roads to a higher standard that 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 <u>only 2 days.</u> 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 <u>2 days.</u> (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) 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.

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<u>APPEAL</u> 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. <u>See Appeal Exhibit Documentation.</u>

<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. <u>The City Planner states</u> this in the staff analysis (October 23, 2017), that the proposed development lots ***<u>"EXCEEDS THE RECOMMENDED CAPACITY"</u>*** .

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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 6,000ft2.
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; ft2, 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.

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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.

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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,

Hollis Lundeen

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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

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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

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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 Norwood 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 16th day of May 1963

Witnessed by

E. F. Norwood

Lily T. Norwood

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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 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

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FORM 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)

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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**

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**. 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**.

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** - ATTENTION: PLAN AMENDMENT SPECIALIST.

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ORDINANCE NO. 716

AN ORDINANCE OF THE CITY OF WALDPORT REVISING TITLE 16 OF THE WALDPORT 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 WALDPORT 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

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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.

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++ 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-a-round 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 8th day of November, 2007 by the following vote:

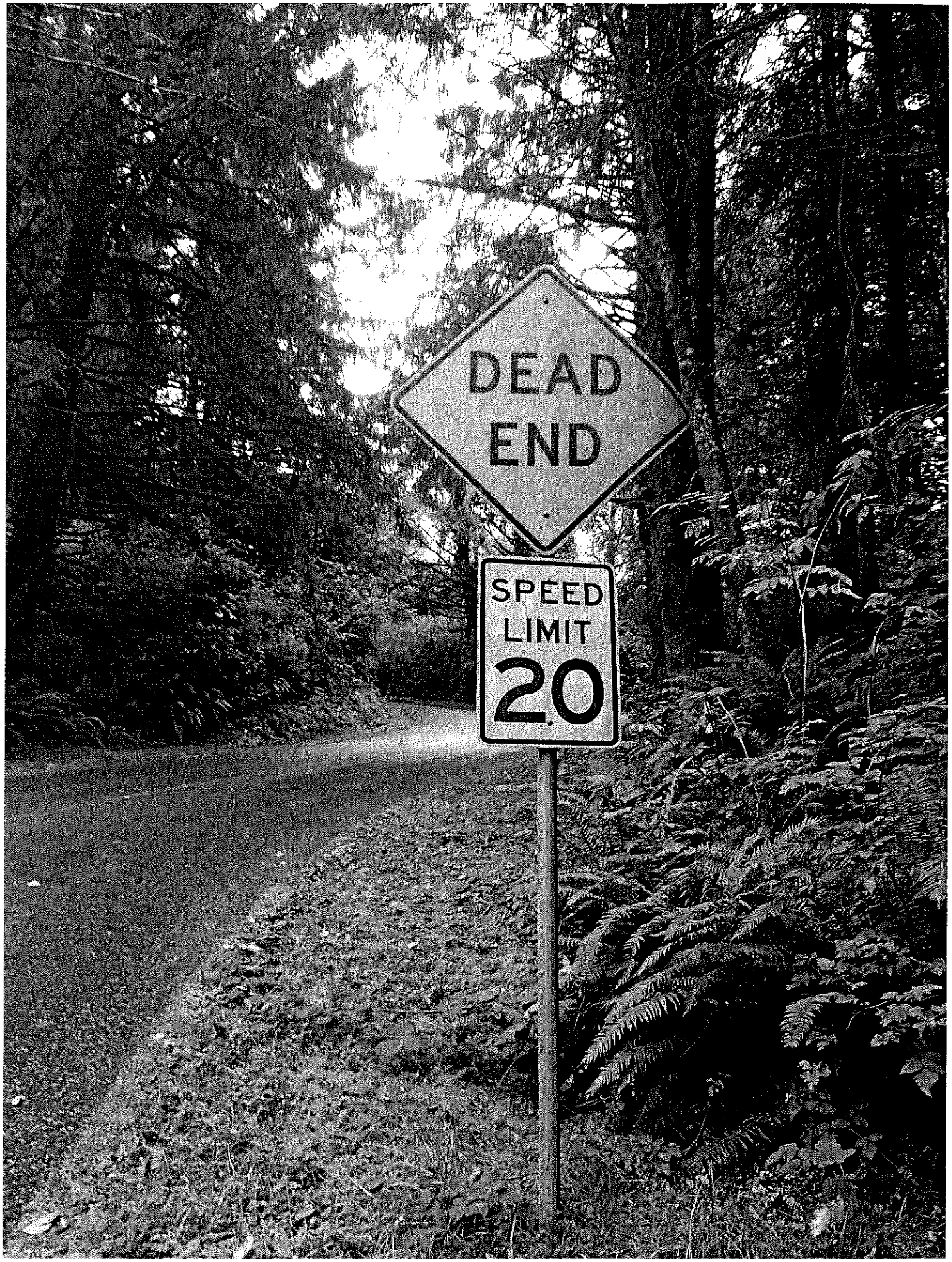
AYES 6 NAYS 0 ABSENT 0 ABSTAIN 0

SIGNED by the Mayor this 8th day of November, 2007.

Herman Welch, Mayor

ATTEST:

Reda A. Quinlan, City Clerk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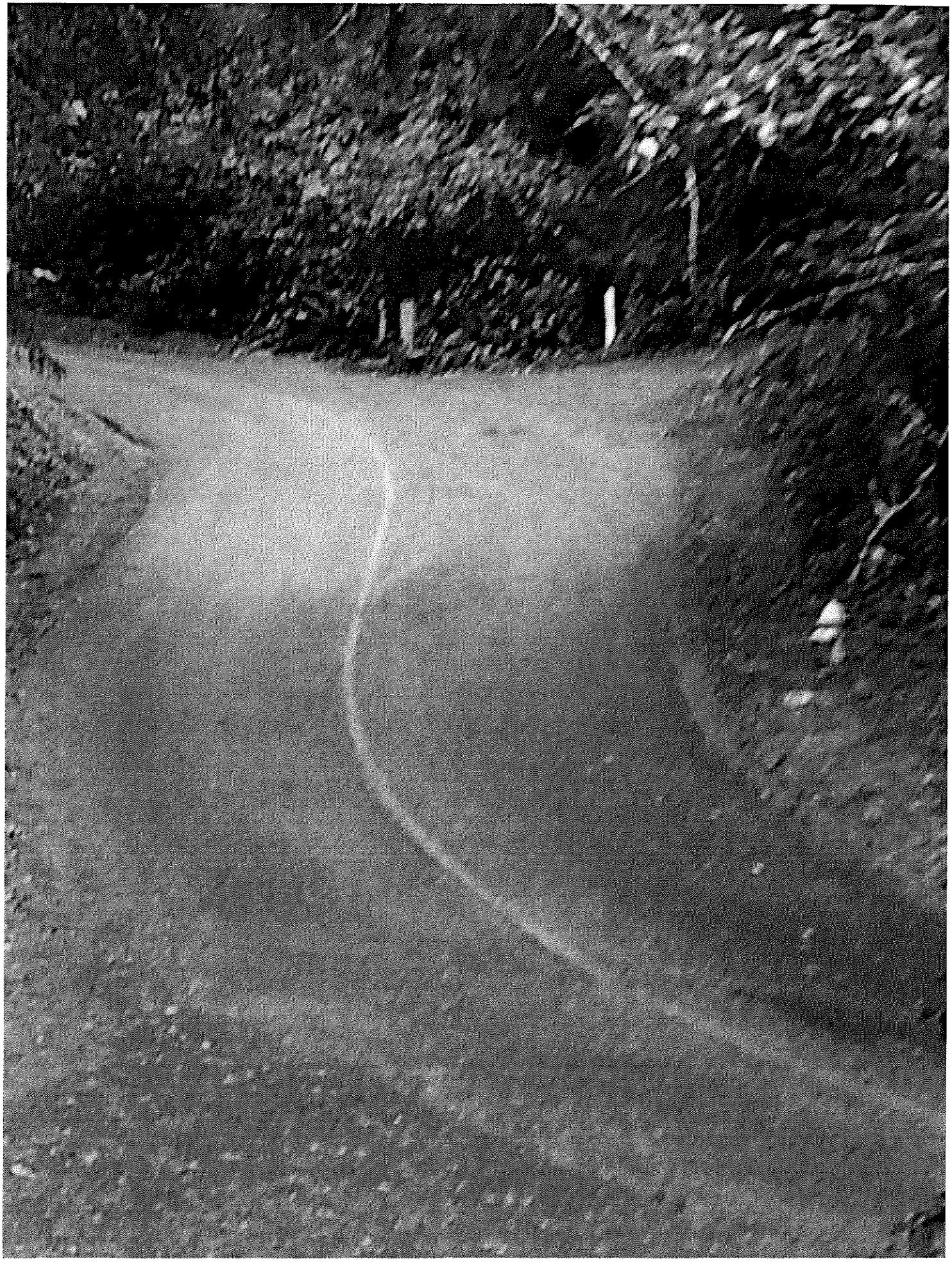
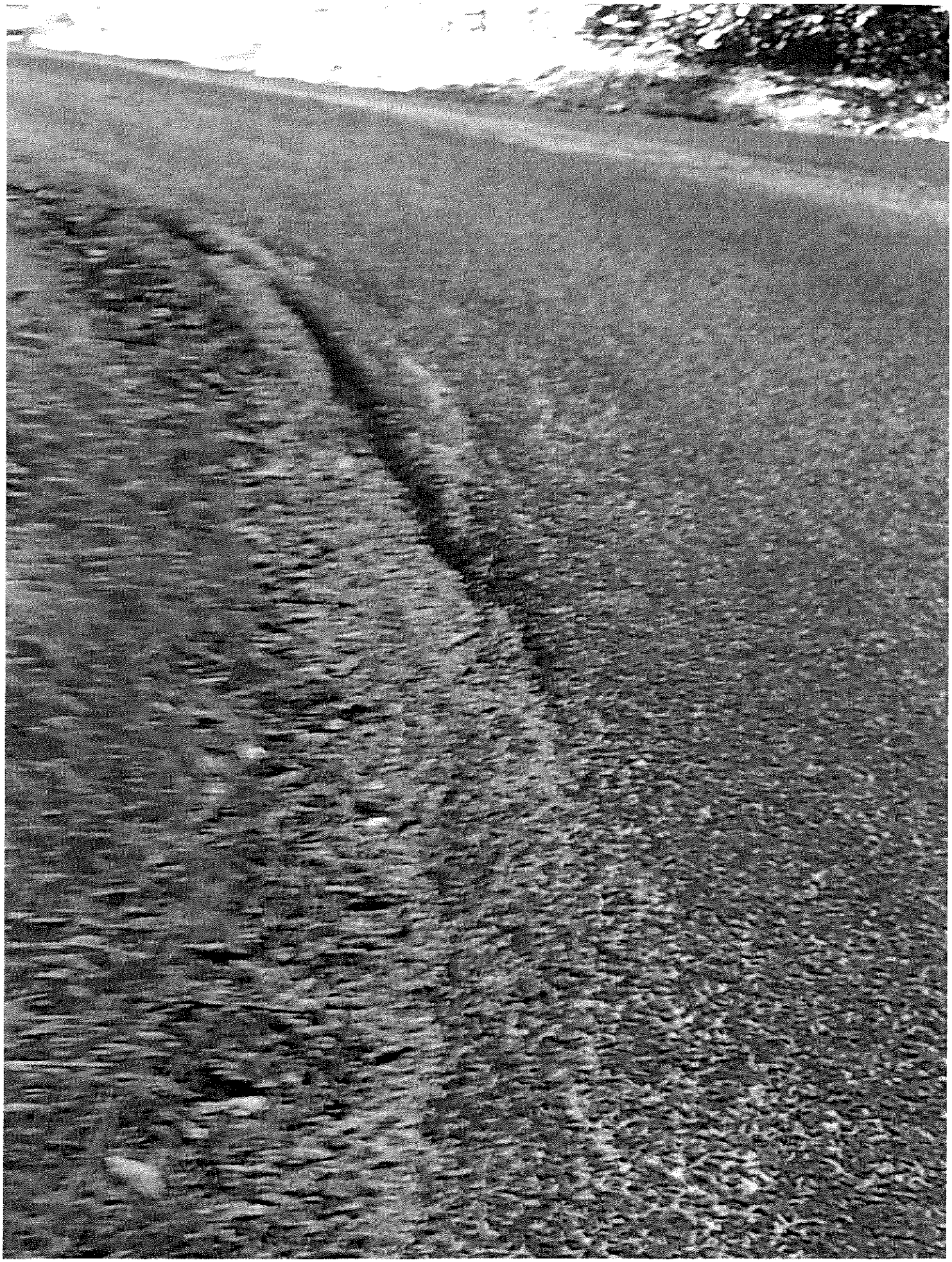
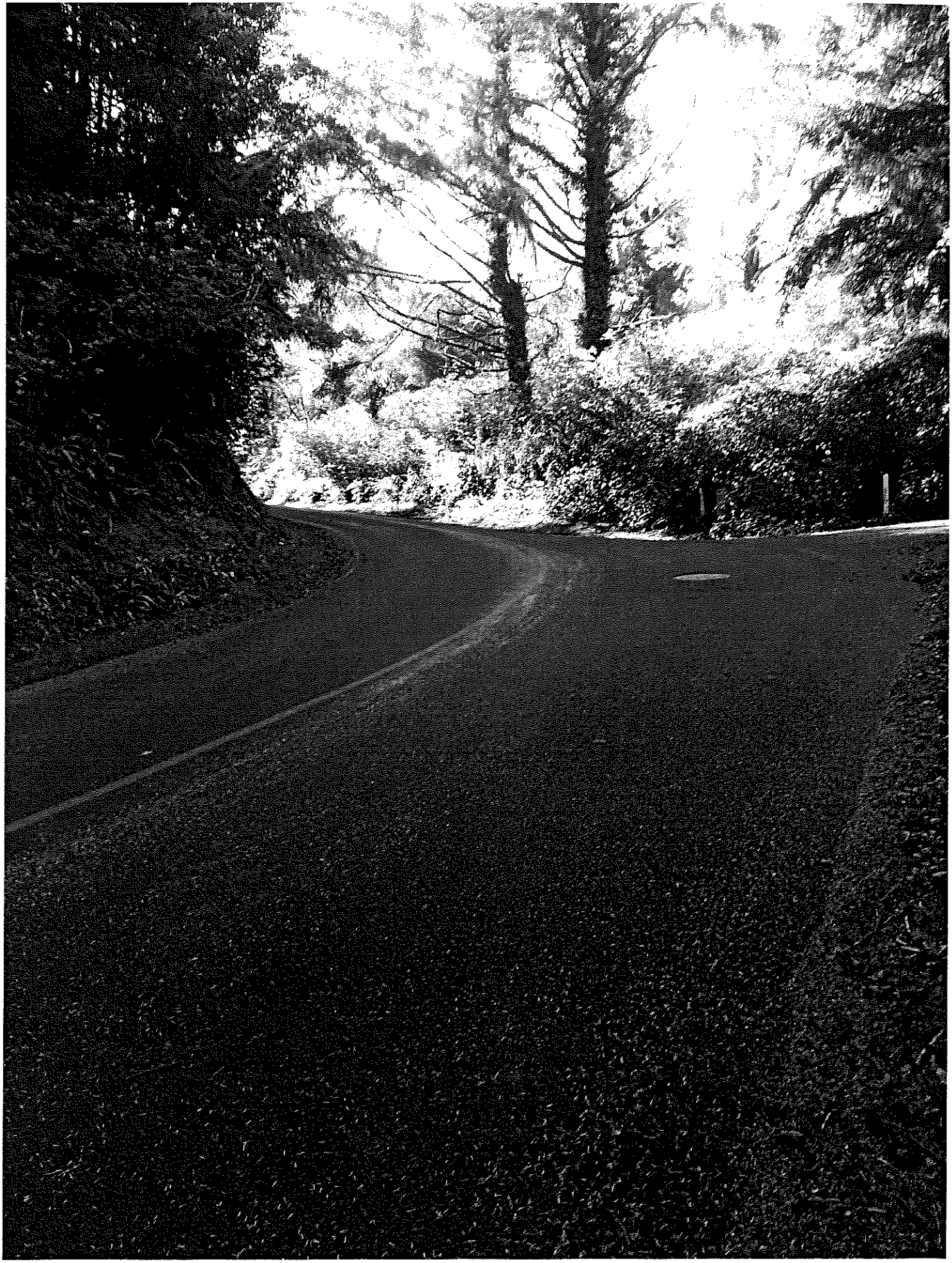
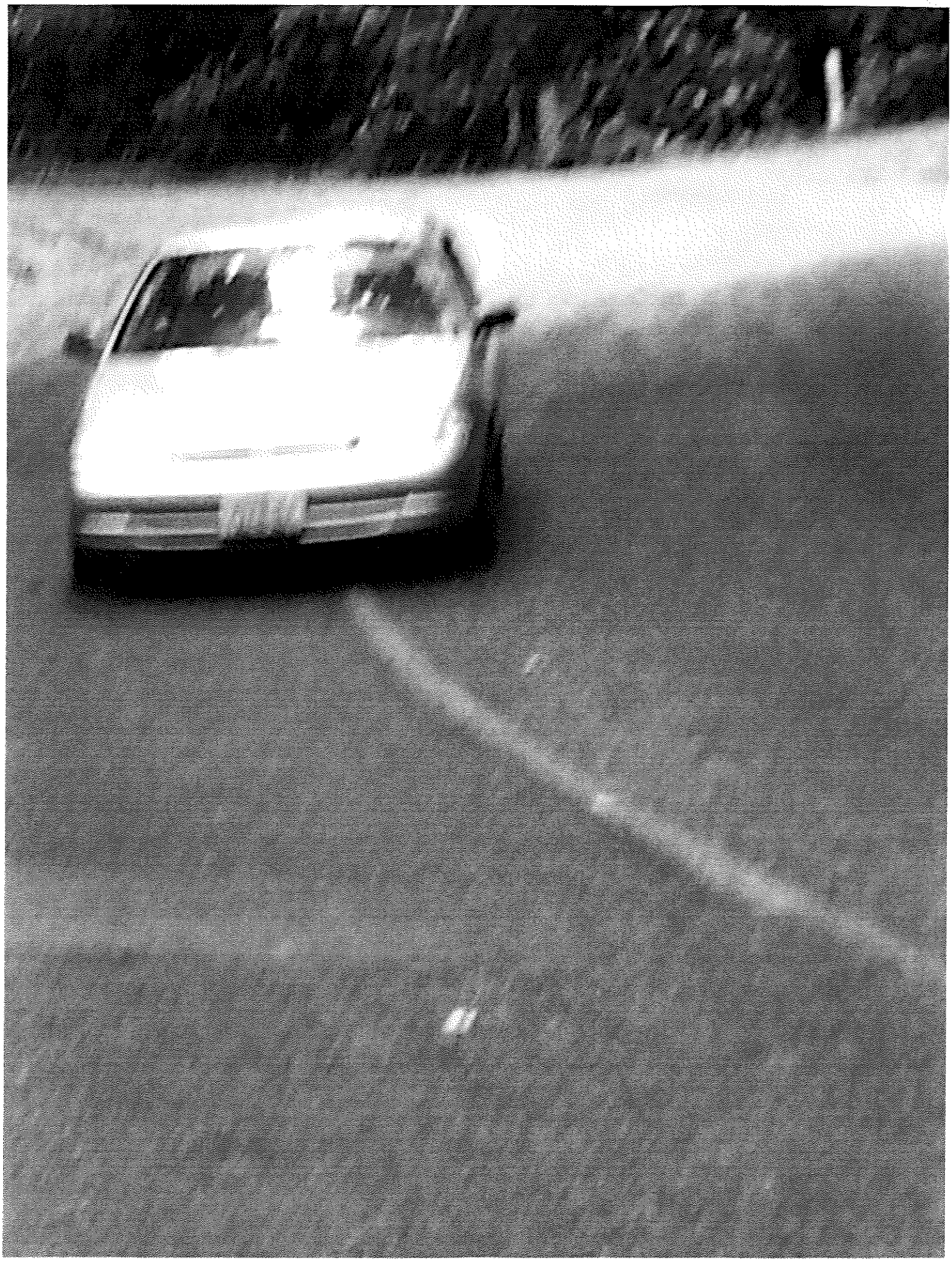
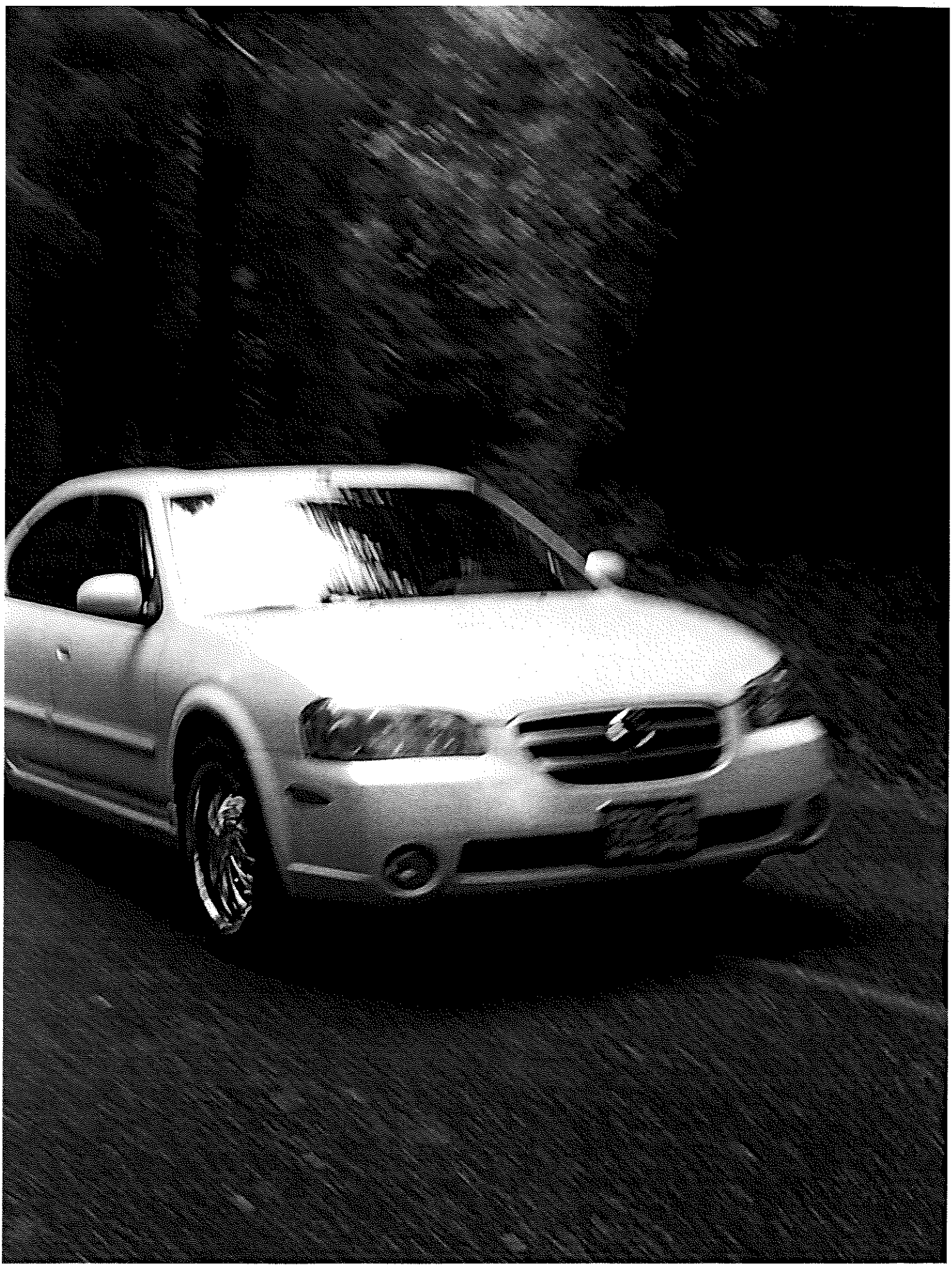




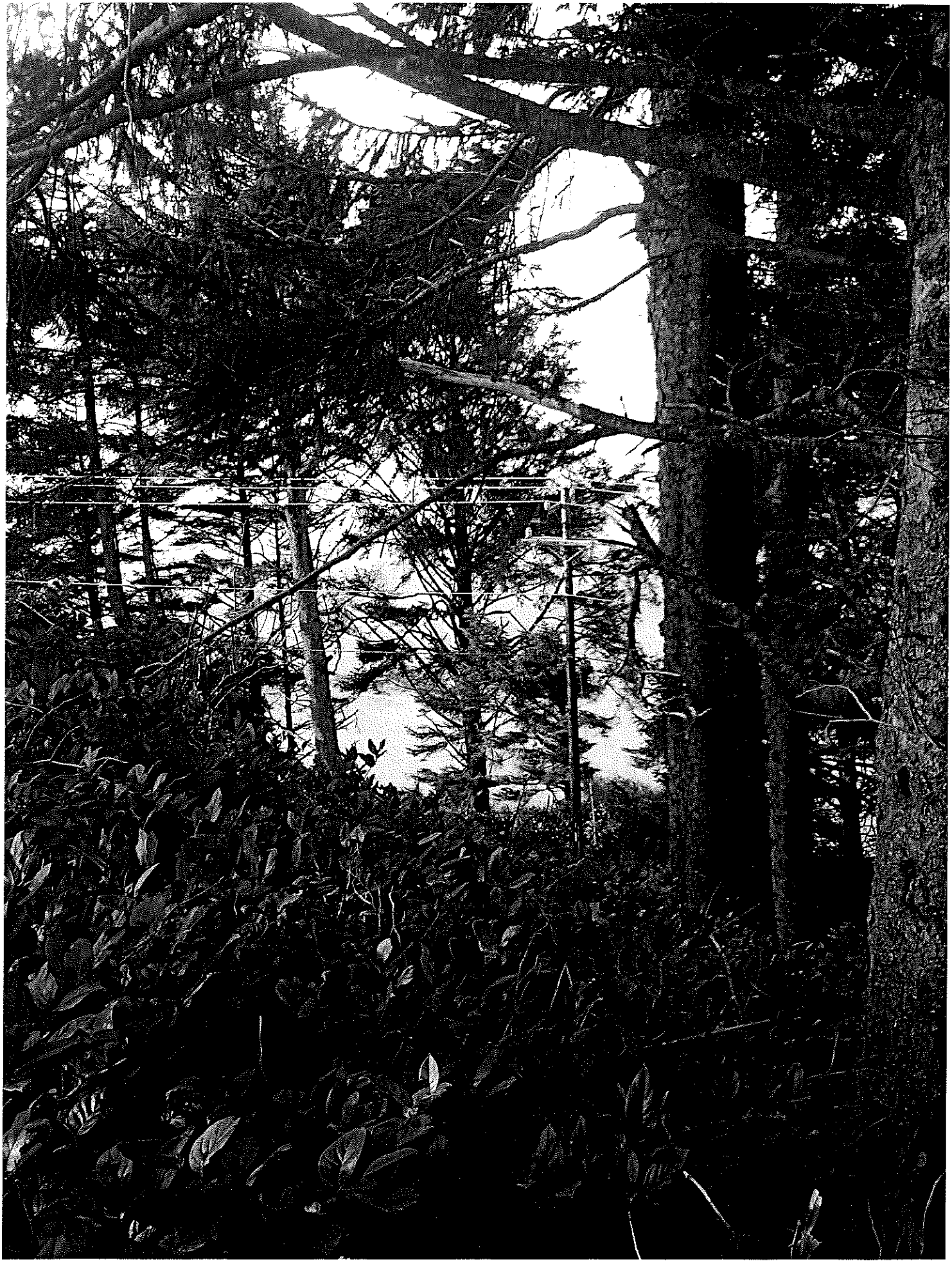






T-39

V-39



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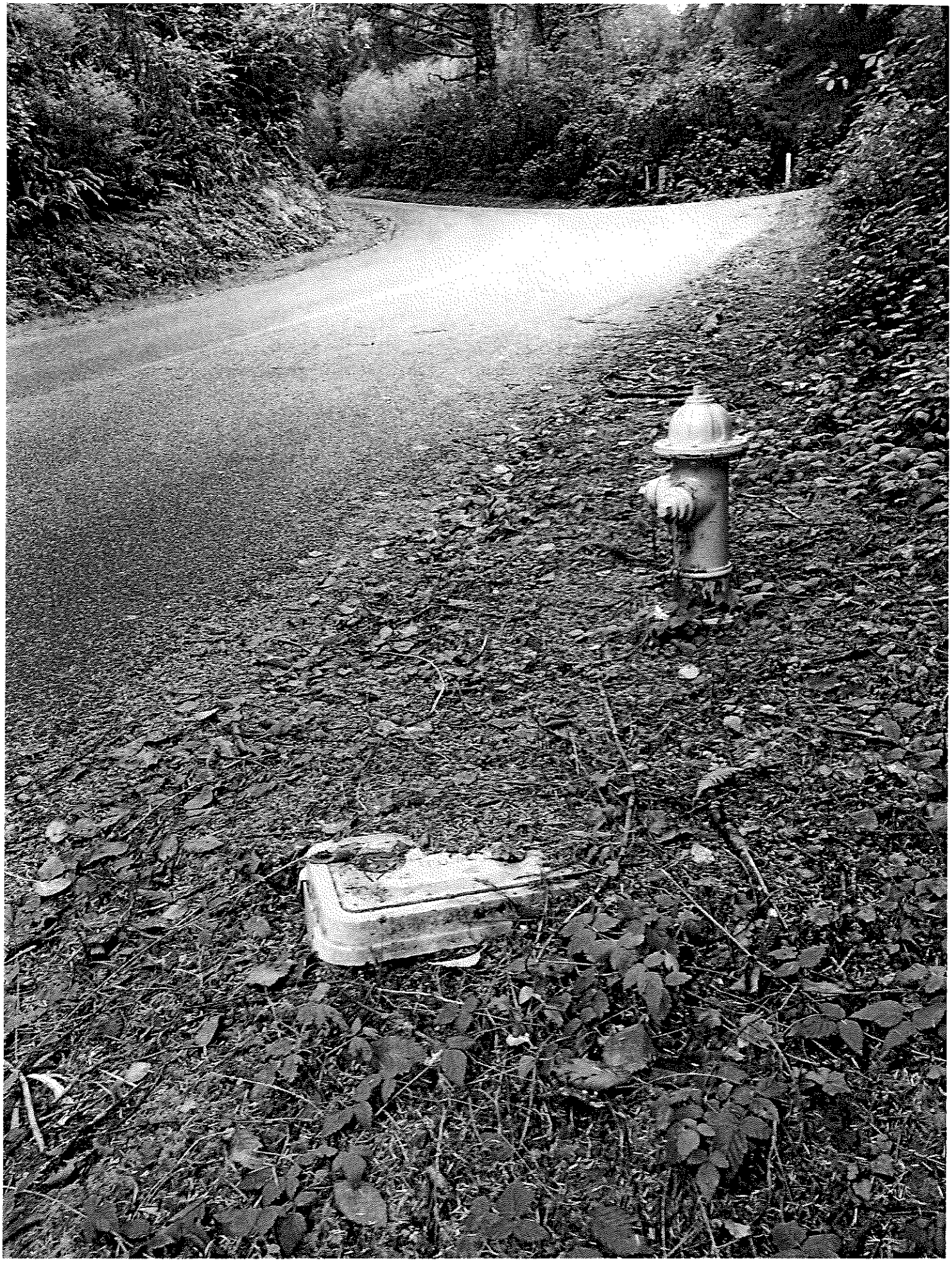
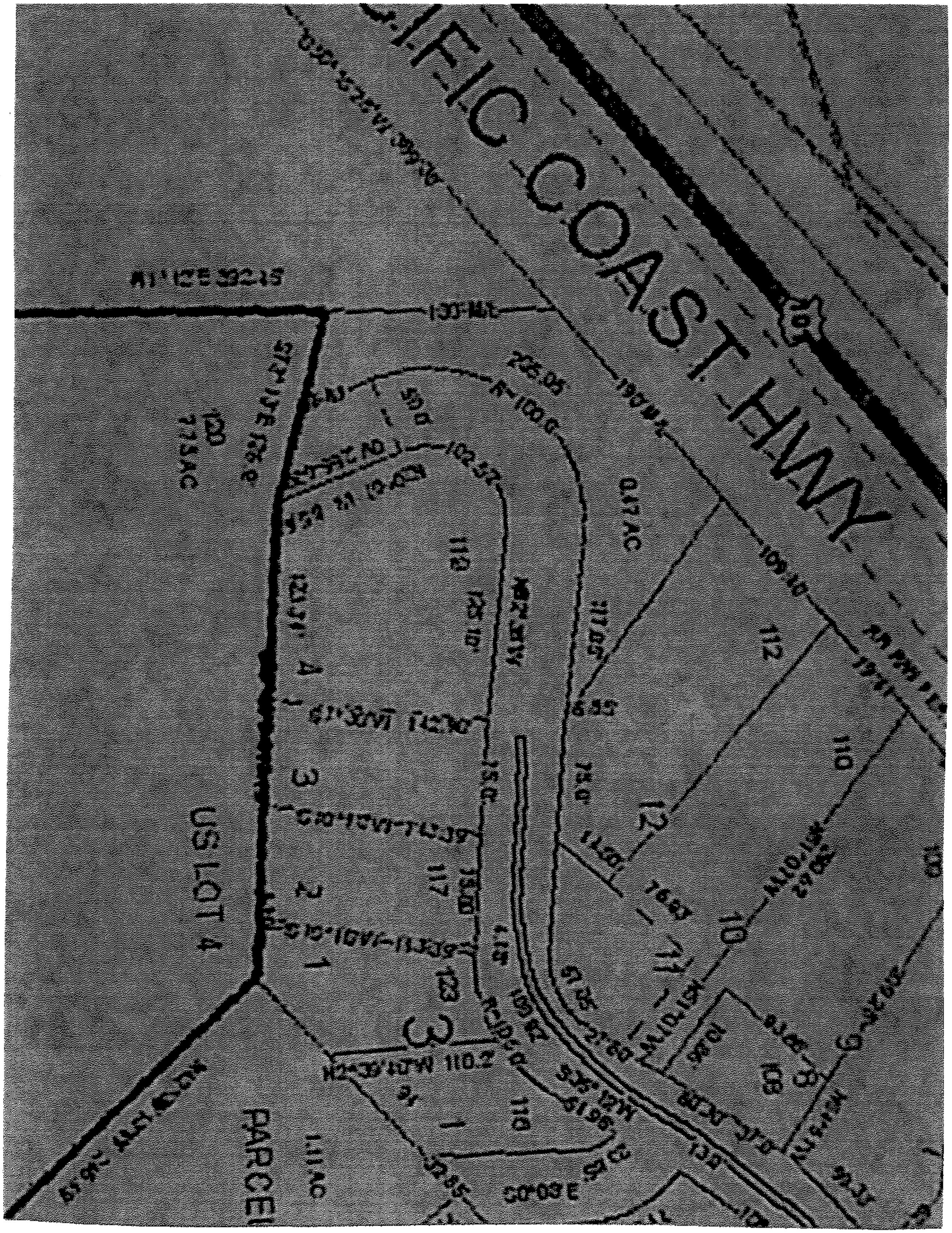


Y-39

AA-39



BB-39

Larry Lewis <Larry@mailyachatsoregon.org> Tue, Nov 28, 2017 at 4:48 PM
To: "droideric@gmail.com" <droideric@gmail.com>
Cc: "larry.lewis@waldport.org" <larry.lewis@waldport.org>

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 WALDPORT
STATE OF OREGON

In the matter of a request for Approval of a 34 lot Planned Development by Tidewater Development LLC known as Vista View	))))))	Case File #1-PD-PC-17 TIDEWATER DEVELOPMENT LLC'S 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 metting.

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 of 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 <u>WILL</u> 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 ever 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 Commissions 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 14th day of February, 2018.

Respectfully submitted,

Dennis L. Bartoldus

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
From: bigpaulvirtue@gmail.com

Message Score: 1
My Spam Blocking Level: Low

Block this sender
Block gmail.com

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

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
web site: www.thesummitatmanzanita.com

Virus-free. www.avast.com

Total Control Panel Login

To: larry.lewis@waldport.org Remove this sender from my allow list
From: 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
From: pammugleston@gmail.com

Message Score: 1
My Spam Blocking Level: Low

Block this sender
Block gmail.com

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

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

Distributed to City Council prior to 2/22/18 mtg.

Date: February 21, 2018
To: The Waldport City Council
Re: Vista View Development Appeal Written Testimony
Fr: Bernice Barnett, Owner of home at 1065 SW Norwood Drive Waldport, Oregon 97394

Dear Mayor and City Council Members:
I am submitting additional testimony regarding the Vista Development appeal scheduled to be heard February 22, 2018. I have been told that written testimony sent today will be included as part of the record for the City's review of the appeal.

I reviewed the emotional LLC's response as well as a histrionic email from a California developer, Mr. Weber. In each case they submitted information which is factually not true. And many of their emotional assertions are misleading. I must correct assertions I know to be false. When a person is a lawyer, upon occasion, people accept assertions as fact when the assertions are simply arguments.

Mr. Bartoldus's completes his written response by declaring that Norwood Drive owners do not want his clients to develop their property. This is not true. I have talked to many of my neighbors and not one of them wants to block development of the property. Like me, they agree that the owners should be able to develop their property. We simply want their development to take responsibility for the important changes they are creating.

We do not want our City to allow Vista View to create a situation that requires our street to be upgraded for their benefit and profit and then they walk away expecting the City to shift the cost of the upgrade to home owners. The owners many of whom are retired should not bear the burden of street upgrades that will only be needed because of the change of Norwood Drive from dead end neighborhood street to a high density connecting street.

Mr. Bartodus asserts that Vista View is only planning 34 residences rather than 54 residences because of their altruistic concern for Waldport City. The land they are developing contains steep terrain. Some of it cannot be developed. The proposed trail is an example of land that contains a creek. Mr. Bartoldus admitted, at a previous hearing, that this trail property could only be built on for an unreasonable cost.

Vista View is asking that the city waive lot size for several of their proposed lots. Those lots have property too steep to build on. The terrain, not concern for others, is the reason Vista View's plan includes the number of residences it does. While they could ask the city to allow some sort of configuration that would fit more residences with even smaller lot sizes they already have limited parking and access for emergency and fire trucks to reach the houses if needed. The proposed plan utilizes the property much of which is view property in a way to enhance the value of the residences.

We are not contesting the number of residences Vista View proposed. The assertion that Vista View could have chosen to build more residences is not relevant

I understand Mr. Bartoldus's job is to be a zealous advocate for his clients, Vista View Developers. He has had my respect. But in this case his advocacy in the form of his response to Mrs. Lundeen's appeal includes assertions that are factually incorrect as well as personal insults.

On February 13, 2018 Mr. Weber, a California developer wrote an email to Larry Lewis in support of the proposed development plan submitted by Vista View developers. It was my understanding from City staff that the City

Council would hear from people who had previously given testimony at the Planning Commission hearing(s) for Vista View Development. Mr. Weber is not in that category.

Mr. Weber states he has had discussions with Mr. Lewis. Why is Mr. Weber writing a support email at this late date? I am for the Council having more rather than less information when making decisions. But should this email be considered?

In 2015 Mr. Weber's proposal for The Summit at Waldport development was approved by the City of Waldport. Up until today Mr. Weber has not broken ground at the site of his development. And up until his February 13th email to the Mr. Lewis he has not testified or as far as the public knows been involved in the Vista View Development proposed plan.

Mr. Weber's email isn't informative. In reviewing his cryptic note, it appears he has not read the information given to the City regarding the proposed Vista View Development carefully or fully. His assertion that Vista View is building 34 residences rather than 54 does not address the steep terrain. He, like Mr. Bartoldus, attempts to make the city think the Vista View reduced the number of lots for an altruistic reason rather than noting that even with 34 lots the proposal had to request a waiver of some of the required lot sizes. He is hoping to mislead the City to think it would be practical to build 54 high quality view residences on the property. It is not.

He ignores Mr. Lewis's acknowledgement that the dead-end neighborhood street would be converted to a high density connecting road by the development of Vista View and argues there is no need for an "exotic" traffic study. Again, he is trying to generate emotion rather than have the city look at the simple study suggested in the appeal. Mr. Lewis has already stated that he agrees Vista View development would change the dead end neighborhood street to a high density connecting street. The study would tell us how heavy the high-density traffic would be.

Most importantly, Mr. Weber appears to be threatening the city with a suit if they do their duty and use their statutory powers and their public obligation to seriously review Vista View's proposed plan. He uses the term "taking" to imply that City has no legal right to require Vista View to modify any part of the submitted plan. Is he going to sue? I think not. Throwing in legal jargon is at attempt to coerce the City using fear.

Please consider changes and studies that will allow Vista View to develop their property. Please review the proposed plan by considering Vista View's responsibility to modify their plan in a manner that complies with the spirit and the City's Planned Development code. The Planning Commission's increase of Vista View's street width made the future residents safer.

Please consider both the desirability of new development AND the issues for which the City has oversight. Citizens need the careful review to prevent developers from zealously cutting corners to the point where they damage established and previously City approved communities. Thank you.

6 November 2017

City of Waldport
Waldport Planning Commission
P.O. Box 1120
Waldport, OR 97394
(541) 264-7417

REFERENCE: Tidewater Development LLC; Lincoln Tax Assessor Map 13-11-19CC; tax lot 120

Dear City of Waldport Planning Commission (Mr. Larry Lewis),

I am submitting an additional response to the request from Tidewater Development LLC for approval of a planned development (Vista View) for 34 single family homes/lots at the end of SW Norwood Drive. As a homeowner and a concerned citizen of Waldport, I am against this request and ask that it be denied by the Waldport Planning Commission.

I have carefully reviewed and studied the Tidewater Development LLC proposal. I find it irresponsible and lacking consideration for the community of Waldport. Waldport has a steady population of approximately 2,000 people with roughly 1,080 houses according to city-data.com. The city is responsible for growth and development and should be able to share a long term vision of the Waldport community, which I respectfully request the City Planning Commission do at the next hearing. Please let us know if this development fits with the current long range plan of Waldport. Who will set the prices for the homes, the Median income in Waldport is $45K and the median house value is $213K, who is the target audience for sales? Does that fit the long range plan for the City of Waldport?

The Waldport Land Usage and Zone Map for Residential planning includes the area in question and more land for lots and development, in reviewing the Lincoln County Assessor data, there are currently over 60 homes and at least additional 8 parcels that may be further subdivided on Norwood and the side streets, I would ask the planning commission to carefully review the plans of other land owners using the Norwood access road. Will the planned Tidewater housing development prevent any current land owners from developing their properties? For example, there are two new lots under development on Delores Dr. There are several significant unanswered questions about road capacity, what is the cost to the city and what will 34 new properties generate in income to offset that long term cost?

Tidewater Development LLC has already shown amazing disregard and irresponsible development activity and tactics. I would ask the Planning Commission to survey the surrounding property owners and assess the damages from runoff, cutting down trees that are not on their property, the vast number of trees that died from the clearcutting of the property, and even request the Forest Service provide assessments on Eagle habitat and other ecological impacts. I expect you will find a number of facts to substantiate that the developer has been

reckless and irresponsible. What else will the developer disregard if given the approval to proceed?

The Waldport Development Code section 16.12.030.A defines required Lot Size and Dimensions at 6,000 Sq Ft and specifically states "No lot area, yard, off-street parking or loading area, or other required open space for one use shall be used as the required lot area, yard, off street parking or loading area, or other required open space for another use." I would ask the Planning Commission at a very minimum to require Tidewater Development LLC to resubmit a plan which adheres to the minimum requirements, the code does not relieve the standard for density. In addition, I believe any such deviation from the code would require an amendment to the code as described in 16.104.020 and I do not believe this request will meet any of the required findings in order to be approved. In the event this development is approved, what legal liability will the City of Waldport risk?

There are still several factors that contribute to my concerns that I ask the Planning Commission to insist on complete analysis and insist on adequate resolution:

- HAS NOT BEEN ANSWERED: Who will pay for the infrastructure for this request, if a full utility and infrastructure plan is required, will the citizens of Waldport benefit at least equal to the cost of providing adequate access and support or will the developer pay for the infrastructure? What is the cost?

- HAS NOT BEEN ANSWERED: Who benefits from this request, especially to complete access from SW Norwood Drive, reviewing a plan of the city shows that if this is an appropriate subdivision, the appropriate approach to the area is from SW Kelsie Ln vice SW Norwood Dr. I submit that the cost to connect SW Norwood is an unreasonable burden on the taxpayers of Waldport, especially when SW Kelsie Ln provides adequate approach, road clearance and other logistical benefits, or even SW Forestry Ln. How will the cost to the city to prepare access, develop access and secure access as well as maintain access for considerable construction activity to include large commercial vehicles be resolved? This question has not been addressed! How long will I be blocked from accessing my property, how will my power and utilities be impacted and how will the residents of SW Norwood have their lives disrupted by commercial vehicles and construction activities?

- The Waldport Development Codes REQUIRES a geotechnical analysis to ensure the land is stable for development and the risk of a geologic hazard has been adequately researched and studied. Has an analysis been conducted on the entire building site as well as the passage requested from the existing end of SW Norwood Dr. to ensure the land will support a road safely in that location? (reference landslide on Cedar Rd)

- The Waldport Development Code section 16.12.030 section J. states "Any property identified as a geological natural hazard area as listed in Section 16.96.020 of this title or any property that has a twenty (20) percent slope or greater, as defined by Section 16.96.020 **shall require a geotechnical analysis** of the property in accordance with Section 16.96.030(D)(4) of this title.
- 16.96.030 Natural hazard areas. B. Areas of Concern. The primary areas of concern are those with active and potential landslides, high groundwater, weak foundation soils, coastal recession, and steep slopes.
- 16.96.020 Scope.
  Development guidelines shall apply to those areas of concern delineated on the City of Waldport zoning map and in its comprehensive plan and plan inventories or any area determined potentially hazardous by the Planning Commission and shall also apply to any property that has a 20% slope or greater.
  A. A property has a 20% slope or greater if:
  1. The average slope from the highest to lowest point of the property has a slope of 20% or greater or;
  2. The average slope of the building footprint or area to be disturbed is 20% or greater.
  B. Development guidelines shall also apply to those properties where a 30% or greater slope is within 100 feet of the property.

- HAS NOT BEEN ADDRESSED: No information has been provided to assess the impact to the water shed from the subject site. What is the impact to impact the fishing and commerce activities directly below in the bay, what is the impact to the maritime assets of Waldport? How do we know the facts of this issue when we are considering such a vital part of the overall community?

- HAS NOT BEEN ADDRESSED: No ecological surveys on the water ways that run through the area, what is the actual impact if the runoff and rainfall egress is disrupted, what is the risk of a road washout if the area is blocked by a road?

- HAS NOT BEEN ANSWERED: The conversation offered by Tidewater Development LLC has a "public" trail that ends at a private lot, how does that work? What is the impact on the existing trail from SW Norwood to Hwy 101 which is one of the treasured features of the Norwood Heights neighborhood?

- HAS NOT BEEN ADDRESSED: The developer has stated they will continue access through to Kelsey Ln, however, there is no evidence that the land has been purchased to do this. If a tsunami or other disaster impacts Waldport, the evacuation area at the intersection of SW Norwood Dr and SW Skyline Terrance will already be congested with

people that cannot connect with the East side of Waldport, increasing the population constrained by the lack of an exit route is fundamentally unwise, how will this be mitigated? Does the developer own the required property to provide a through access; the city **should require proof of ownership prior** to approving any plans.

I am a homeowner on SW Norwood Dr, I have concerns about the propriety of the applicants request. I have additional strong concerns about the responsibility and the ability of the applicant to act in the best interest of the public based on actions to date. Most importantly I want to ensure my tax dollars are not used for personal gain for the applicant! This application has already generated a considerable burden on the community even discussing a disruptive and unnecessary housing development. Many homeowners along SW Norwood have worked very hard to establish a wonderful living environment and amazing quality of life. Any reasonable person can determine that appropriate considerations and due diligence is lacking in this request, there are so many substantial unanswered questions, and for what motivation? I ask the Planning Commission again to deny this request and preserve what so many have worked so hard to create along SW Norwood Dr. and in the city of Waldport.

Please let me know if there are any questions or if you need any additional information at this time. I can be reached at 971-275-5007; by email at louiso100@earthlink.net; or by correspondence at 1160 SW Norwood Dr, Waldport OR 97394.

Sincerely

//Signed//

Louis Orndorff

Case File #1-PD-PC-17 Tidewater Development LLC - Vista View Planned Development
Authored by Hollis Lundeen
February 22, 2018

The following conditions are documented statements with requested recommendations as verbally shared at the Public Hearing held at City Hall on February 22, 2018 by Hollis Lundeen to both the City Council and the Planning Commissioners for the City of Waldport in regards to Case File #1-PD-PC-17 Tidewater Development LLC - Vista View Planned Development. I request them to be incorporated in the record since they have been submitted prior to the time line of 1:00 PM on February 22, 2018, as defined in the public announcement of hearing.

As Appellant and a long time Citizen of Waldport, I request both the Waldport Mayor & City Councilors with the City Planning Commissioners, including all those elected and non elected official who are considered a part of the decision of approving this application to review the following factors, which have considerable effect and affect to the Community and Citizens of Waldport.

This documentation is written as this Proposed Planned Development is an unprecedented application from Tidewater Development LLC to the City of Waldport. In my inquiry to both the Commission and City Council it includes development of debatable ownership of land status, development of new road construction on ground that confirms visually, if excavated, it would be located on unstable ground, with existing steep side slopes measured at over 75%. It is high risk to overloading existing infrastructure of roads, water, sewer, and power. There are other access options which pose a considerable less impact to the community and environment.

It is questionable if this proposal will withhold to the required standards as per municipal code as written, as, the existing code has so many variables it is difficult to assure the Community and it's Citizens who have continually attempted to voice their concerns, if the code is written well enough to facilitate this magnitude of a planned development. It presents uniqueness to accessing the site, in location, and size, of the Vista View propose 34 lot development.
It is a legal obligation to request a moratorium with suspension of approval of this preliminary plan until the many questions previously defined can be answered.

I request the City Council to consider the following conditions and facts along with those identified in the appeal of Case File #1-PD-PC-17 Tidewater Development LLC - Vista View Planned Development. For simplicity of format, these are listed in the proposed finds, conclusions, and order of the proposed preliminary plan.

There has been no proof or discussion provided to the public that the new construction addition proposed by the applicant on Norwood Drive is under the jurisdiction of the City of Waldport to grant the applicant sole utilization to alter the the natural state of the deemed public way for their proprietary use in order to access their property, Tax Lot 120.

Excavation within this designated natural site will significantly disturb the existing natural state, violate the immediate vicinity and habitat of nesting bald eagles (which is a Federal Offense without permit), and the migratory area of Great Blue Herons.

Construction will disturb existing stream corridors which have not been assessed since June of 1999. Even the applicant agrees, there has been a complete differing site condition resulting from the total timber harvest conducted on the entire 7.75 acres.

My ongoing investigation questions if proper State Forestry Practices were observed, and if fish and wildlife protection were proactively addressed during logging activities of the applicant.

Without a new current riparian reassessment of the proposed 34 building lot site, including the undisturbed and well established natural vegetation on the proposed road construction outside the applicant's property boundary, riparian and potential wetland designation resulting from the differing site condition, along with existing indigenous plant communities will be disturbed and irreplaceable removed should this preliminary plan be approved.

If habitat trees along the right of way of new construction, located outside the applicant's property boundary on Norwood are removed without a permit, to clear to excavate new road, this is a direct violation of existing Federal Protection Law.

A cultural resource investigation has not been conducted to investigate this area which will be forever disturbed should this preliminary plan be approved without requirements of the code.

A cultural resource survey is required to be conducted **PRIOR** to any exploratory excavation taking place. If not, the existing scenic and aesthetic quality of this undisturbed space will forever be lost, along with a high risk potential of slope stability failure resulting in a possible fill slope failure.

A slope failure risks blocking State Highway 101 below and bordering Alsea Bay along the seawall. Removing this well established ground cover could result in what did occur, and the applicant admitted to, resulting in failing sediment flowing into the neighboring USDA Forest Service brand new constructed bunkhouse.

This is a perfect example of the applicant's negligent management practices and reactive management practice of clearing and harvesting the land completely without taking any initiative to protect the natural state of the land. This negligence resulted in a still existing scar which remains to this day along with recent documentation that there has been sedimentation failure, and neighboring tree loss outside the applicant's cutting boundary. See exhibits. This is in direct violation of Waldport Development Code (WDC) 16.60.030 C3 & C4.

With such a large unprecedented planned development application the existing code does not facilitate an order of precedence to address in this unique application.

A partial preliminary plan can be granted if the City considers the consequences of impact, and establishes a sequence system of plan submittals with approval in advance of a final request of acceptance to the Planning Commissioners. The preliminary plan as written does not allow for this.

The City Code states the applicant shall demonstrate that their request for transportation access will not impact the existing infrastructures of the city. This includes the existing water, sewer, and electrical power demands which will be gravely affected should the City grant approval of this preliminary plan.

This appeal questions the load capacity of utilities to an already challenged infrastructure. The City of Waldport has had to continually address challenges to both the water and waste water systems often, without this proposed additional demand. The applicant states "If the sewer connects to the existing pump station near Hwy 101, the applicant will provide required upgrades to the pump station to accommodate increased flows," <u>however</u>, be advised they do not address or offer to cover any of the additional maintenance or long term costs resulting from the additional 34 home development demand. Should the City approve this plan as is, the City will forfeit valuable funds due to reactive emergency management practices resulting from not investigating if the existing infrastructures of road, water, sewer and power can facilitate this proposal as is.

At the last City Council meeting held February 8, 2018, the Newport City Director of Public Works expressed concerns about water use and sources on the Central Oregon Coast. He discussed water quality issues and water accessibility issues.

Until the City secures a firm and clear answer to the question asked by the Planning Commissioner Chairman to secure the utility easement to the east, the applicant cannot continue development.

This has been an at length discussion with no plan of action. Securing this easement can serve as a dual purpose to both the City and the applicant. It is a access route designated in the TP. By providing the utilities easement, this would provide transportation access since the applicant proposed below ground buried utilities. The applicant's plat shows the location of sewer and water access. It is quite ironic that the applicant's plans and drawings locate water and sewer in the same exact location that they stated they have no access to for transportation. I request a Plan of Action to investigate this easement proposal by the applicant to access water and sewer as designated on their plat proposal.

In addition to the concerns addressed in the new construction proposed on Norwood Drive, there are also voiced neighborhood concerns with the impact of the additional traffic which will be generated from the utilizing of the existing roadway on Norwood, which, now stands at capacity for ADT count.(Average Daily Traffic). There is clear evidence to initiate and investigate what the impacts of this additional use will be.

There is unanimous agreement, along with lengthy discussion between the applicant, City Planning Commissioners, and Council, with City Representatives in Planning and Management, including many Waldport Citizens that there WILL be additional traffic impact to Norwood Drive contingent upon approval of this preliminary plan in regards to Case File #1-PD-PC-17 Tidewater Development LLC - Vista View Planned Development.

The undeniable challenge is what are those impacts, how will they be assessed and addressed and who will pay for the assessment and implementation of findings.
As an appellant to this preliminary plan, it is an implored priority that I request that the city identify and address these potential impacts, risks, and hazards, which will result from granting approval of this preliminary plan. In addition, it is imperative that this be addressed prior to granting applicant access to Norwood Drive to access their property.

The lot size should be conditional on listing the lots meeting the code compliance. As per poster exhibit:

WALDPORT DEVELOPMENT CODE 16.12 RESIDENTIAL ZONE R-1 16.12.030 Standards.
For Phase 1 there are 19 lots proposed. Only 8 lots (42%) meet the minimum 6,000 square foot requirement. 11 lots (58%) are less than 6,000 square feet.

Out of the proposed total 34 lots, 11 lots (32%) meet the minimum 6,000 square foot requirement. 23 lots (68%) are less than 6,000 square feet.
The lots outlined in blue designate the 19 lots proposed for Phase 1.
The green highlighted lines are compliance lots over 6,000 square feet.
The pink highlighted lines designate non compliance with minimum lot width, (60 feet on interior, 65 for corner lot depth) and designates non compliance of the code requirement for 80 foot lot depth. Based on code criteria, how did the applicant calculate designing 56 lots?

Case File #1-PD-PC-17 Tidewater Development LLC - Vista View Planned Development
Lot Statistics

Authored by Hollis Lundeen February 22, 2018

1	5646*
2	5850*
3	5850*
4	5850*
5	5850*
6	6299
7	5352*
8	4950*
9	4950*
10	4950*
11	4810*
12	5221*
13	6778
14	5598*
15	5434*
16	5412*
17	5400*
18	5477*
19	6031
20	5877*
21	5667*
22	5476*
23	5612*
24	9041
25	6062
26	5400*
27	5400*
28	5882*
29	6928
30	6054
31	6709
32	6625
33	7102
34	7358

*= NON COMPLIANT WITH CITY DEVELOPMENT 16.12.030 STD.

Please note by referencing the poster exhibit presented at the hearing on February 22, it also reveals NON COMPLIANCE in regards to minimum depth and width of lots.

On any ground over 20%, the order of precedence should have the applicant submit the required geological report prior, for City review, before granting continuation of pursuing any road design. Should this occur, for the record, I request a copy upon submittal to the City.

On site parking does not address surfacing options as discussed at length by planning commission.

Prior to the preliminary plan approval, the Waldport City Council and Planning Commissioners, together, have to determine the designation of the new road construction within the proposal. This includes new road construction both inside and outside the stated ownership from the proposal.

As written in the Preliminary Order, as it is described, the record does not state what type, collector or local or a road it is . Regardless of that designation, which needs to be corrected and recorded, width and right of way stated does not meet the standard as per Section 16.100.100 (A).

A decision must be made in relation to Ordinance No. 716, (amendment) that I included in the appeal signed by Mayor Welch in 2007. The commission may have the ability to grant variance, however, by code, not the right to grant a variance less than a minimum standard.

Since this is such an unprecedented challenging development proposal, I encourage the council to investigate the impact of this proposed development to the existing infrastructure of sewer, water, electrical and transportation prior to approval of the preliminary plan.

Request to add the following standard : Applicable to the new road construction;
16.96.030 4.Natural Hazard areas.

If necessary, I request this hearing be continued in order that all interested can voice their testimony.

January 29, 2018

NOTICE OF PUBLIC HEARING
WALDPORT CITY COUNCIL
Appeal of Planning Commission Decision

Case File #1-PD-PC-17

APPELLANT: Hollis Lundeen

APPLICANT: Tidewater Development, LLC

APPEAL: The appellant is appealing the Waldport Planning Commission's Preliminary Plan approval of the proposed 34-lot Vista View Planned Development. The appellant contends that:

- The Findings and Conclusion of the Planning Commission were signed prior to the Planning Commission's approval.
- Relevant Waldport Development Code criteria in Section 16.60.030 C3 & C4 were not addressed. Subsection C3 states that the proposed development will provide amenities or protections at a higher level than would otherwise be provided under conventional land development procedures. Subsection C4 states that the Planning Commission shall seek to determine that the development will not overload streets outside the planned development area, nor will the proposed development create drainage or pollution problems outside the planned area.
- The Preliminary Plan approval was made without relative, current, and accurate traffic data.
- The Preliminary Plan approval is in conflict with the Waldport Yaquina John Point Land Use & Transportation Plan.
- Requirements regarding lot size, lot width, road right-of-way and road width were not observed and required, nor was a site plan provided reflecting the Preliminary Plan approval.
- The Preliminary Plan was approved without verification of ownership regarding the plat that borders the applicant's property.
- Except for the October 23, 2017 meeting, no additional verbal testimony was allowed.

APPLICABLE CRITERIA:

Waldport Municipal Code

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

January 29, 2018

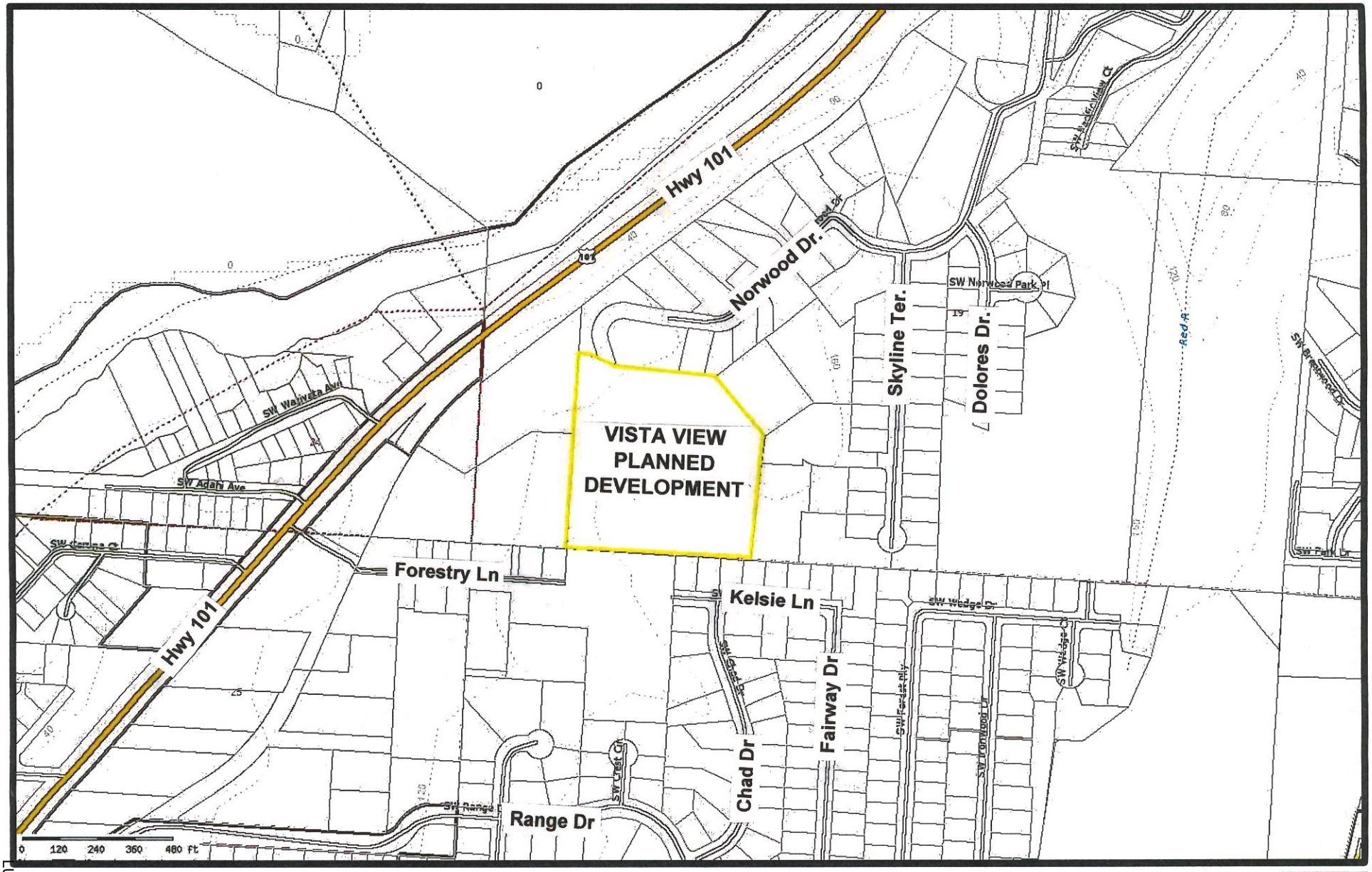
LOCATION: The subject property is located at the south end of Norwood Drive; and further described on Lincoln County Tax Assessor's Map 13-11-19CC as tax lot 120.

REPORTS: Application materials, documents and evidence submitted by or on behalf of the applicant, and applicable criteria may be reviewed or purchased at a reasonable cost at Waldport City Hall, 125 Alsea Highway twenty (20) days prior to the hearing. Any documents or evidence submitted by the applicant after twenty (20) days prior to the hearing constitutes grounds for a continuance of the hearing if any party requests such a continuance. Copies of the staff report for this case may be reviewed without charge or may be purchased at the above address seven (7) days prior to the hearing.

TESTIMONY: Testimony can be submitted in written or oral form. Letters should be sent to City of Waldport, P.O. Box 1120, Waldport, OR 97394, Attn: City Planner. Emails should be sent to larry.lewis@waldport.org. Letters and emails must be received by February 22, 2018, 1:00 p.m. Oral testimony will be taken during the course of the public hearing. Failure to raise an issue in a hearing, in person or by letter, or failure to provide sufficient specificity to afford the City Council an opportunity to respond to the issue precludes an appeal to the Land Use Board of Appeals on that issue.

CONTACT: Larry Lewis, City Planner (available Mondays and Fridays at larry.lewis@waldport.org or 541-264-7417).

DATE/PLACE OF HEARING: Thursday, February 22, 2018, at 2:30 p.m. at the Waldport Council Meeting Room, 125 Alsea Highway. Any person having interest in this matter may attend and be heard, or they may submit testimony in writing to be entered into the record.



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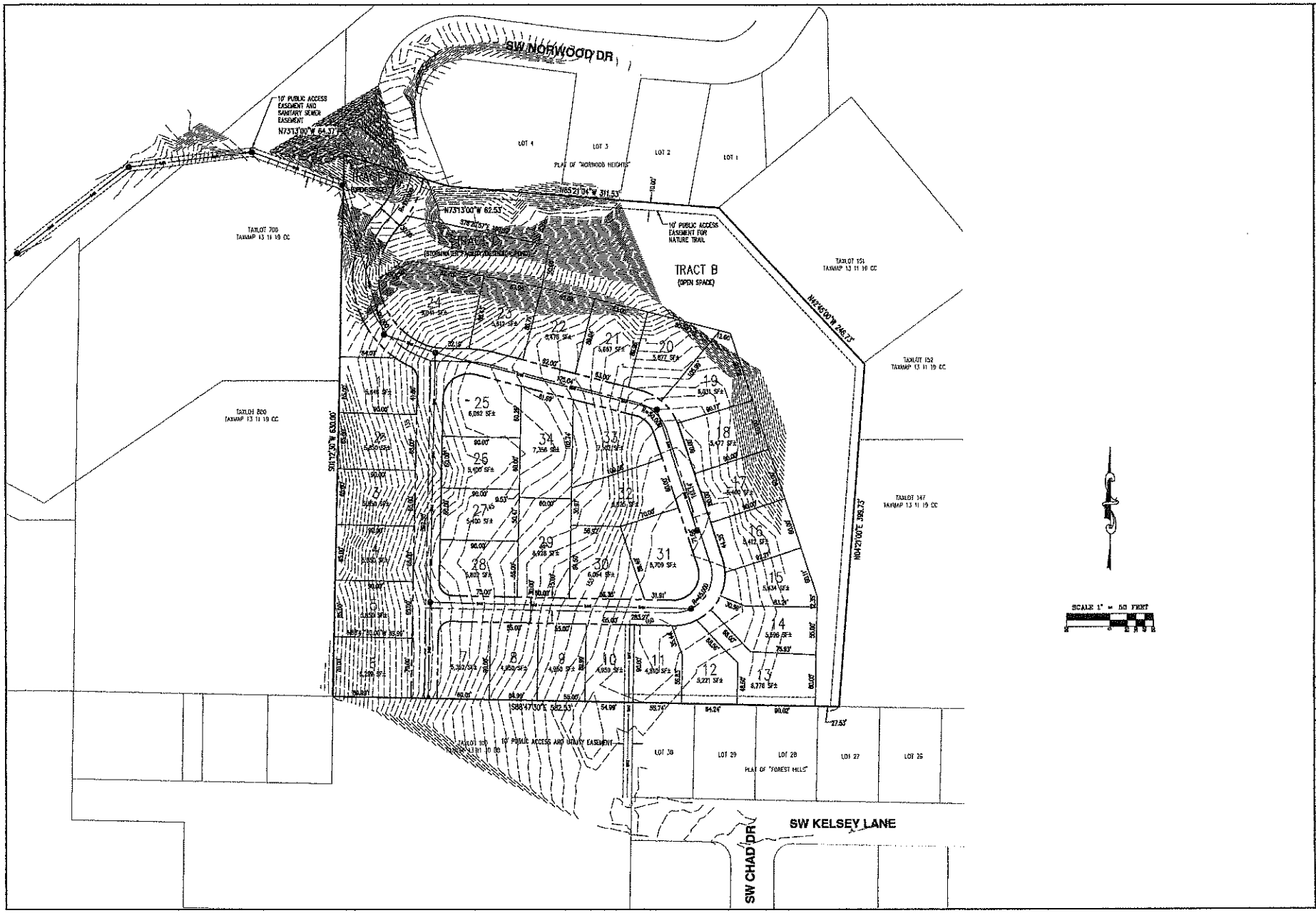

SW NORWOOD DRIVE

WALDPORT

OREGON

PRELIMINARY PUD LAYOUT

DESIGNED BY:
DRAWN BY: BGT
CHECKED BY:
SCALE: AS NOTED
DATE: 12/7/15

PLANNING

REVISIONS

JOB NUMBER

SHEET

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WALDPORT, OR 97394

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NESS DENNIS L, ETAL
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RAY BREGENZER
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WALDPORT, OR 97394

APPEAL to the WALDPORT 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.

SIGNATURE	PRINTED NAME	ADDRESS
	Hollis Lundeen Testifier	P.O. Box 1392 Wpt. 97394
	PAUL A VIRTUE Test.	465 SW Pacific View Dr Waldport OR 97394
	Shari A. Virtue Test.	
	James V. Shepherd Test	1020 SW Norwood Dr.
	PAUL E. BLASKO (w/in 250')	1125 SW Norwood Dr
	Deanna Shepherd Test	1020 SW Norwood Dr.
	RAY BREGENZER Test	1080 SW NORWOOD DRIVE
	* Joan Johnson	1060 SW Norwood Drive
	* Shelley Dillon	1085 Norwood Driv. POB 898
	Joyce L. Wilson Test	725 SW Skyline Terrace
	* GREG HEITZEN	8255 SW SKYLINE TERR
	Bernice Barnett Test	1065 SW Norwood Drive
	* BRUCE D. GAINER	1065 SW Norwood Dr, Waldport
	LINDA BLASKO (w/in 250')	1125 SW NORWOOD DR
	Shelly Orndorff Test	1160 SW NORWOOD DR
	* Barbara B. Davis	1235 SW Fairway Dr.
	Pamela Mugleston	1120 SW Norwood Dr.
	Tim Mugleston (w/in 250')	1120 SW Norwood Dr.
	* Elek Horvath	1025 SW Norwood Dr
	INGE HORVATH	1025 SW Norwood Dr

January 29, 2018

NOTICE OF PUBLIC HEARING
WALDPORT CITY COUNCIL
Appeal of Planning Commission Decision

Case File #1-PD-PC-17

APPELLANT: Hollis Lundeen

APPLICANT: Tidewater Development, LLC

APPEAL: The appellant is appealing the Waldport Planning Commission's Preliminary Plan approval of the proposed 34-lot Vista View Planned Development. The appellant contends that:

- The Findings and Conclusion of the Planning Commission were signed prior to the Planning Commission's approval.
- Relevant Waldport Development Code criteria in Section 16.60.030 C3 & C4 were not addressed. Subsection C3 states that the proposed development will provide amenities or protections at a higher level than would otherwise be provided under conventional land development procedures. Subsection C4 states that the Planning Commission shall seek to determine that the development will not overload streets outside the planned development area, nor will the proposed development create drainage or pollution problems outside the planned area.
- The Preliminary Plan approval was made without relative, current, and accurate traffic data.
- The Preliminary Plan approval is in conflict with the Waldport Yaquina John Point Land Use & Transportation Plan.
- Requirements regarding lot size, lot width, road right-of-way and road width were not observed and required, nor was a site plan provided reflecting the Preliminary Plan approval.
- The Preliminary Plan was approved without verification of ownership regarding the plat that borders the applicant's property.
- Except for the October 23, 2017 meeting, no additional verbal testimony was allowed.

APPLICABLE CRITERIA:

Waldport Municipal Code

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

January 29, 2018

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.

REPORTS: Application materials, documents and evidence submitted by or on behalf of the applicant, and applicable criteria may be reviewed or purchased at a reasonable cost at Waldport City Hall, 125 Alsea Highway twenty (20) days prior to the hearing. Any documents or evidence submitted by the applicant after twenty (20) days prior to the hearing constitutes grounds for a continuance of the hearing if any party requests such a continuance. Copies of the staff report for this case may be reviewed without charge or may be purchased at the above address seven (7) days prior to the hearing.

TESTIMONY: Testimony can be submitted in written or oral form. Letters should be sent to City of Waldport, P.O. Box 1120, Waldport, OR 97394, Attn: City Planner. Emails should be sent to larry.lewis@waldport.org. Letters and emails must be received by February 22, 2018, 1:00 p.m. Oral testimony will be taken during the course of the public hearing. Failure to raise an issue in a hearing, in person or by letter, or failure to provide sufficient specificity to afford the City Council an opportunity to respond to the issue precludes an appeal to the Land Use Board of Appeals on that issue.

CONTACT: Larry Lewis, City Planner (available Mondays and Fridays at larry.lewis@waldport.org or 541-264-7417).

DATE/PLACE OF HEARING: Thursday, February 22, 2018, at 2:30 p.m. at the Waldport Council Meeting Room, 125 Alsea Highway. Any person having interest in this matter may attend and be heard, or they may submit testimony in writing to be entered into the record.

Larry Lewis

From: Larry Lewis
Sent: Friday, January 05, 2018 10:18 AM
To: 'Eric Lundeen'
Subject: Vista View PD Appeal

Hi Hollis –

Your appeal was received by the January 2, 2018 deadline. The City Council appeal hearing will likely be scheduled by the end of next week. I anticipate the hearing will be in late February or in March.

Larry

Larry Lewis, City Planner
City of Waldport
541-264-7417, ext. 3

2 JANUARY 2018

PLEASE E-MAIL ME @

DROIDERIC@GMAIL.COM

WHEN THIS PACKAGE IS OPENED.

THANK YOU!

(see reverse side - email)

LAW OFFICE OF DENNIS L. BARTOLDUS

380 SW 2nd Street/ PO Box 1510
Newport, OR 97365
Phone: (541)265-5400/ Fax (541)265-7633
www.bartolduslaw.com

Dennis L. Bartoldus
dennis@bartolduslaw.com

January 17, 2018

Via Email and U.S.P.S. First Class Mail

Larry Lewis
Waldport City Planner
125 NW Alsea Hwy.
Waldport, OR 97394

RE: Extension on Tidewater Development LLC
Case File #1-PD-PC-17
Vista View Planned Development

Dear Mr. Lewis:

This letter will confirm that the applicant, Tidewater Development LLC, agrees to an extension until March 12, 2018 to allow the City of Waldport to make a final decision on the Tidewater Development LLC application for a planned development.

If you have any questions, please contact me.

Very truly yours,

Dennis L. Bartoldus

DENNIS L. BARTOLDUS

DLB/ms
cc: Clients

Kerry Kemp

From: Larry Lewis
Sent: Friday, January 05, 2018 11:47 AM
To: Kerry Kemp
Subject: Vista View PD - CC Hearing Date

Kerry –

I talked to Dennis Bartoldus about the City Council appeal hearing date.

We agreed to have the hearing sometime between February 12th and March 8th. I told Dennis I will call him next Friday, after you have discussed a date with the City Council.

Dennis prefers a February date (2/12 – 2/28) except he's not available 2/15. He is supposed to fly out of Portland the evening of March 8th but said he could change his plans if nothing earlier works.

Once we pick a date, Dennis will prepare a letter granting the extension of the 120-day time limit. We will likely need to come back to the City Council to approve the Findings so that needs to be considered in the scheduling and extension.

Larry

2/22 @ 2:30 pm
Thursday

City of Waldport

P.O. Box 1120
Waldport, OR 97394
Phone: (541) 264-7417
Fax: (541) 264-7418
TTY: (800) 735-2900

January 5, 2018

Dennis Bartoldus
Law Office of Dennis L. Bartoldus
PO Box 1510
Newport, OR 97365

Re: Appeal of Case File #1-PD-PC-17 Vista View Planned Development

Dear Dennis:

The Hollis Lundeen appeal submittal is attached.

We will be in contact with you.

Sincerely,

Larry Lewis,
City Planner

Enclosure

City of Waldport

P.O. Box 1120
Waldport, OR 97394
Phone: (541) 264-7417
Fax: (541) 264-7418
TTY: (800) 735-2900

December 18, 2017

Tidewater Development LLC
PO Box 1510
Newport, OR 97365

Re: Case File #1-PD-PC-17
Vista View Planned Development

Dear Tidewater Development LLC:

On Monday, December 18, 2017 the Waldport Planning Commission granted Preliminary Plan approval with conditions for the above referenced Planned Development application. This decision will become effective Tuesday, January 2, 2018 at 5:00 p.m. unless an appeal is filed at Waldport City Hall. Where it is alleged that there is an error in any procedure or decision made by the Planning Commission, an appeal may be made to the City Council. An application for an appeal shall include the specific rationale for the appeal with sufficient clarity to allow the City and respondents an adequate opportunity to respond to or resolve each issue. In order to appeal the decision of the Planning Commission, it is necessary to submit a fee of $560 along with a written statement explaining the reason for the appeal.

Please contact me if you have any questions.

Sincerely,

Larry Lewis
City Planner

cc: Those providing testimony

Enclosure: Findings and Conclusions

The City of Waldport is an equal opportunity employer and a drug-free workplace

BEFORE THE PLANNING COMMISSION
OF
WALDPORT, 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.

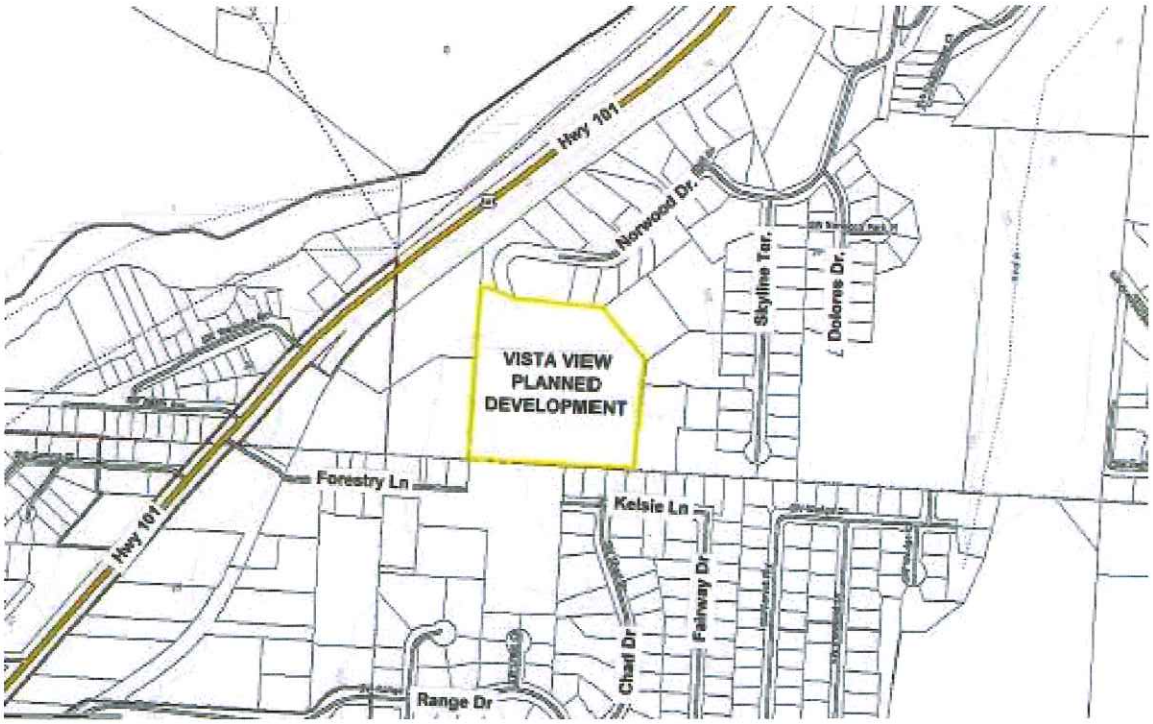
Access to the development is proposed at the south end of Norwood Drive. This is the only current legal access to the site. A second access is planned at the south end of the site. Within the property, a circular street system is proposed to access the lots/homes.

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.



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.

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 Exactments; 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

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.

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, 8th 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

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.

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

DECLARATION OF CONDITIONS, COVENANTS AND RESTRICTIONS
OF VISTA VIEW

THIS DECLARATION, made on the date hereinafter set forth by Tidewater Development LLC, hereinafter referred to as "Declarant".

WITNESSETH:

WHEREAS, Declarant is the owner of certain real property in the City of Waldport, County of Lincoln, State of Oregon, which is more particularly described as:

LEGAL DESCRIPTION TO BE INSERTED

ARTICLE VI
ARCHITECTURAL CONTROL AND USE RESTRICTIONS

Section 1. Architectural Control. No building, fence, wall, home, or other structure shall be commenced, erected or maintained upon the properties, nor shall any exterior addition to or change or alteration therein be made until the plans and specifications showing the nature, kind, shape, height, materials, color and location of the same have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Board of Directors of the Association. In the event said Board, or its designated committee, fails to approve or disapprove such design and location within 30 days after said plans and specifications have been submitted to it, approval will not be required, and this Article will be deemed to have been fully complied with. Once construction of any house, alteration to a house or other improvement is commenced it must be diligently pursued to completion and in any event must be completed within one year.

Section 2. City of Waldport Restrictions. All uses, occupancies, construction and other activities conducted on any lot shall conform with and be subject to applicable zoning, use restrictions, construction and building codes of the City of Waldport, and further to the restrictions of all other applicable public authorities and to the extent the following restrictions may be in conflict therewith, the most restrictive requirement shall control.

Section 3. Affirmative Duty of Maintenance. Each owner shall be responsible for maintaining, painting or staining and generally keeping in good order and repair the exterior of any improvement on any of the properties owned by such owner, and such owner shall be responsible for trimming and maintaining the laws, shrubbery, plantings, trees and other landscaping thereon in a neat and proper condition consistent with good, horticultural practices, it being the intention of this provision that the properties and improvements thereon shall be maintained by the owners thereof to provide for the preservation and enhancement of the property values of said community.

Section 4. Uniformity of Color and Décor. Any paint or stain applied by an owner to the exterior walls of any improvement shall be of the same color and décor as the color and décor applied to such improvement when it was originally constructed or placed on the lot in order to

maintain uniformity of color and décor among all improvements within the planned community, or of a soft color consistent with other colors in the planned community which has been approved by the Board of Directors.

Section 5. Roofs on any improvement or home within the planned community shall be composition or comparable or better material.

Section 6. No improvement on any individual lot shall exceed the height restriction set by the City of Waldport. However, the Board of the Association may impose height restrictions on individual lots. The Board may limit the height of houses or other improvements to preserve the ocean view of other lots and/or houses within the planned community. The view to be preserved shall be within the sound discretion of the Board, it being recognized that the quality of view and the amount of view is subjective.

Section 7. Use Restrictions. The following restrictions shall be applicable to the use of any of the properties subject to this declaration, and each owner is responsible hereunder with respect to any portion of the properties owned by such owner:

(a) All residences shall be built on site and have a minimum living area, exclusive of garages, decks and porches, of at least 1,200 square feet. No mobile homes or manufactured homes are allowed within the planned community. All homes must be constructed on site.

(b) Trees and other vegetation shall be trimmed and maintained to heights that preserve view from other lots as determined by the Board of Directors.

(c) No animals or fowl shall be raised, kept or permitted upon the properties or any part thereof, excepting only domestic dogs and cats, and excepting caged birds kept within the dwelling house, provided said dogs, cats and pet birds are not permitted to run at large, and are not kept, bred or raised for commercial purposes or in unreasonable numbers.

(d) No noxious or offensive activities shall be carried on upon the properties or any part thereof, nor shall anything be done or maintained which may be or become an annoyance or nuisance to the neighborhood.

(e) No trash, garbage, ashes or owner refuse, junk vehicles, underbrush or other unsightly growths or objects, shall be thrown, dumped, or allowed to accumulate on any portion of the property. No outdoor trash burning is allowed.

(f) No fence or screening structures shall be erected on any lot without the prior written approved of the Board of Directors. In no event shall any fence exceed five (5) feet in height from the finished lot grade unless an exception is approved through the Board of Directors. In no event shall rear or side lot fences referred to hereinabove be erected without written approval of the Board of Directors.

(g) No front yard will be allowed to remain without landscaping for a period to exceed nine (9) months from the date of occupancy.

(h) No motor home, recreational vehicle, camper, trailer or boat shall be parked on any lot or common area except the place designated for storage of said units for more than 72 continuous hours within any consecutive 14 day period.

(i) No signs shall be displayed to public view on any lot, except "for sale" signs. Exterior for sale signs shall not be larger than 18" x 24", and shall not extend above the ground higher than four (4) feet.

(j) Nothing shall be done or kept on a lot or on the common property which would increase the rate of insurance relating thereto without the prior written consent of the Association, and no owner shall permit anything to be done or kept on his or her lot or the common property which would result in the cancellation of the insurance on any residence, or on any part of the common property, or which would be in violation of any law.

Section 8. Declarant's Special Rights. Until all lots have been sold, the Declarant shall have the following special rights:

(a) The Declarant may maintain a sales office in the clubhouse/recreation building. The Declarant and prospective purchasers and their agents shall have the right to use and occupy the sales office during reasonable hours any day of the week.

ARTICLE VII
OBLIGATION TO REBUILD

Section 1. Damage and Destruction Affecting Residences; Duty to Rebuild. If all or any portion of any residence is damaged or destroyed by fire or other casualty, it shall be the duty of the owner of said residence to rebuild, repair or reconstruct said residence, in a manner which will restore it substantially to its appearance and condition immediately prior to the casualty.

Section 2. Time Limitation. The owner or owners of any damaged residence shall be obligated to proceed with all due diligence hereunder, and shall commence reconstruction within six (6) months after the damage occurs, and complete reconstruction within twelve (12) months after the damage occurs, unless prevented by causes beyond their reasonable control.

Section 3. Mandatory Insurance. Pursuant to ORS 94.685, an owner must obtain a policy of insurance protecting the improvements on the owner's lot against loss by fire or other casualty, including extended coverage endorsement in the usual form, on a prepaid basis in an amount not less than the then full insurable value of the improvements, and in no event less than the current full replacement value thereof.

ARTICLE VIII
EXTEROR MAINTENANCE

In the event an owner of any lot in the property shall fail to maintain the premises and the improvements situated thereon in a manner consistent with this declaration, the Association, upon approval by a two-thirds (2/3) vote of the Directors, shall have the right, through its agents and employees, to enter upon said parcel and to repair, maintain and restore the lot and the exterior of the buildings and any other improvements erected thereon. The cost of such exterior maintenance shall be added to and become part of the assessment to which said lot is subject.

ARTICLE IX
GENERAL PROVISIONS

Section 1. Enforcement. The Association, or any owner, or any owner of any recorded mortgage on any part of the property shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this declaration. Failure by the Association or by any owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter. In the event any suit or action is commenced to enforce compliance with any of the covenants, instructions, terms, or provisions of this Declaration, or any rule or regulations adopted by the Board of Directors of the Association, the prevailing party shall be entitled to recover reasonable attorney fees and costs in such suit or action, and in the event of an appeal, its reasonable attorney fees and costs on appeal.

Section 2. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect.

Section 3. Amendment. The covenants and restrictions of this declaration shall run with and bind the land from the date this declaration is recorded until amended. This declaration may be amended at a regular meeting of the Association or a special meeting of the Association called for the purpose of amending the declaration, by an affirmative vote of 75% of the lots within the planned community. Each lot is entitled to one (1) vote. If the declaration is passed, the president and secretary shall the amendment and it shall be recorded in the office of the county recording office in the same manner as deeds or other documents affecting title to land.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has hereunto set its hand and seal this _____ day of _____, 2017.

TIDEWATER DEVELOPMENT, LLC

By:_____
Terry Thissell, Member

By: _____
Patricia N. Tryon, Member

By: _____
Christopher A. Tryon, Member

WALDPORT PLANNING COMMISSION
DECEMBER 18, 2017
MEETING NOTICE AND AGENDA

THE WALDPORT PLANNING COMMISSION WILL MEET ON MONDAY, DECEMBER 18, 2017 AT 2:00 P.M. IN THE **CITY COUNCIL MEETING ROOM**, 125 ALSEA HIGHWAY, TO TAKE UP THE FOLLOWING AGENDA:

1. CALL TO ORDER AND ROLL CALL
2. MINUTES: (December 4, 2017)
3. CITIZEN COMMENTS AND CONCERNS – Hollis Lundeen
4. CORRESPONDENCE – ~~None~~ B. Davis Hr.
5. PUBLIC HEARINGS - Planned Development File #1-PD-PC-17 Vista View Planned Development (consideration of Findings and Conclusions)
6. DISCUSSION/ACTION ITEMS:
7. COMMISSION COMMENTS AND CONCERNS - Steve Barham
8. ADJOURNMENT

*Denotes no material in packet

The Council Chambers are accessible to all individuals. If you will need special accommodations to attend this meeting, please call City Hall at (541)264-7417 during normal business hours.

Notice given this 12th day of December 2017

City of Waldport

WALDPORT PLANNING COMMISSION
DECEMBER 4, 2017
MEETING MINUTES

1. CALL TO ORDER: Chair Woodruff called the meeting to order at 2:00 p.m. City Recorder Eckerman administered the oath of office to Kitty Kelleher, who then took her seat at the table. Chair Woodruff and Commissioners Peterson, Stole, Phillips, Kelleher, Yorks and Barham answered the roll. A quorum was present.

2. MINUTES: The Commission considered the minutes from the October 23, 2017 meeting. Commissioner Barham asked whether verbatim minutes were needed for his disclosure of conflict of interest and *ex parte* contact, and Attorney Bartoldus indicated it was not necessary. Chair Woodruff noted that the minutes reflected that the Planning Commission had closed the public hearing and gone into deliberations at the October meeting, and this meeting would be a continuation of the deliberations. Therefore, there would be no opportunity for additional testimony as the public hearing had been closed and the November 6 deadline for additional information had passed. Audience member Hollis Lundeen asked about presenting new information and requested that the Commissioners hear her out. City Attorney Gintner noted that this could cause a delay in the proceedings if the applicant chose, as allowing new information could cause appeals by either party. Commissioner Yorks noted that, in the interest of being open and transparent, people should be allowed to testify. Commissioner Peterson stated that if there were any questions from the Commission to members of the audience, they could ask, but that this was up to the Commission. Following further discussion, Commissioner Peterson **moved** to approve the minutes, Commissioner Barham **seconded**. The motion to approve the minutes **carried**, with Commissioners Woodruff, Peterson, Stole, Phillips, Kelleher and Barham voting "Aye", Commissioner Yorks voting "Nay". Ms. Lundeen asked if that meant she was denied an opportunity to testify, and the answer was affirmative, though Commissioner Peterson reiterated that Commission members could ask for further information if they felt it necessary. Ms. Lundeen asked for clarification that the attorney for the applicant had agreed to have a geological study done, as the minutes did not reflect this. City Planner Lewis indicated that the City's Code required a geological survey for any streets, utilities or buildings constructed on slopes of 20% or more.

3. CITIZEN COMMENTS AND CONCERNS: Ms. Lundeen asked about the status of any work on Norwood Drive, independent of this hearing. Chair Woodruff replied that the condition of the existing street was a City issue, not subject to the Planning Commission's purview.

4. CORRESPONDENCE: None.

5. PUBLIC HEARING - Continuation of Deliberation for Planned Development File #1-PD-PC-17, Vista View Planned Development: Commissioner Stole noted her concern regarding street width, and Commissioner Yorks agreed, indicating he felt that the requirement for no on-street parking could be unenforceable. Commissioner Stole asked

if Norwood Drive was considered a local street or a collector street and Commissioner Barham noted that it was defined as a local residential street in the Yaquina John Point Transportation Master Plan. A lengthy discussion ensued regarding street widths and standards and what would be appropriate for this development. Commissioner Woodruff moved to accept the planned development and to require a 26' street with a 4' sidewalk on one side, allowing parking on one side of the street, standard curb and gutter, and 2 off-street parking spaces per lot. It was confirmed that this would be the requirement for all the streets, not just the Norwood Drive connection. City Planner Lewis noted that if the Commission was asking for a 26' street and a 4' sidewalk, the curbs and gutters would take an additional 1' on either side, so the total right of way would have to be 32'. Commissioner York seconded, and the motion carried unanimously. City Planner Lewis clarified the changes to be made to the proposed findings, and suggested that the Commission meet in two weeks to approve those findings. Following discussion, Commissioner Peterson **moved** to set the meeting for December 18 at 2 p.m., and to continue the meeting to then to consider the findings. Commissioner Stole **seconded**, and the motion **carried** unanimously. It was noted that appeals, if any, could be initiated following the signing of those findings.

6. DISCUSSION/ACTION ITEMS: None.

7. COMMISSION COMMENTS AND CONCERNS: None.

8. ADJOURNMENT: At 3:40 p.m., there being no further business to come before the Commission, the meeting was adjourned.

Respectfully submitted,

Reda Q. Eckerman
City Recorder

APPROVED by the Planning Commission this ___ day of _____, 2017.

SIGNED by the Chair this ___ day of _____, 2017.

_____
Ray Woodruff, Chair

Handwritten notes from 12/18/17 PC mtg.

BEFORE THE PLANNING COMMISSION
OF
WALDPORT, OREGON

Request for Planned Development — **Case File #1-PD-PC-17**

Applicant: Tidewater Development LLC — **Agent: Dennis L. Bartoldus, Attorney**

DRAFT

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 present or 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.

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.

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 Exactments; 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

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 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.

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.

present

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 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, 8th 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, and south to Kelsie Lane. This would connect to a planned trail identified in the Yaquina John Point Land Use & Transportation Plan (Project #P12) that would connect the Norwood Drive extension 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

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 is proposed on slopes greater than twenty (20) percent. (of both lots and roads and

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, ~~and south to Kelsie Lane~~. 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.

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.

- Add geo condition

9. **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.

10. **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

11. **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 Date

WALDPORT PLANNING COMMISSION
DECEMBER 4, 2017
MEETING NOTICE AND AGENDA

THE WALDPORT PLANNING COMMISSION WILL MEET ON MONDAY, DECEMBER 4, 2017 AT 2:00 P.M. IN THE **CITY COUNCIL MEETING ROOM**, 125 ALSEA HIGHWAY, TO TAKE UP THE FOLLOWING AGENDA:

1. CALL TO ORDER AND ROLL CALL

2. MINUTES: (October 23, 2017)

3. CITIZEN COMMENTS AND CONCERNS - Hollis L. requesting status of any planned improvements to Norwood Dr.

4. CORRESPONDENCE – None

5. PUBLIC HEARINGS - Planned Development File #1-PD-PC-17 Vista View Planned Development (continued)

6. DISCUSSION/ACTION ITEMS:
   A. Planning Report
   B. Waldport Development Code Amendments*
   C. Other Issues*

7. COMMISSION COMMENTS AND CONCERNS

8. ADJOURNMENT

*Denotes no material in packet

The Council Chambers are accessible to all individuals. If you will need special accommodations to attend this meeting, please call City Hall at (541)264-7417 during normal business hours.

Notice given this 27th day of November 2017

City of Waldport

WALDPORT PLANNING COMMISSION
OCTOBER 23, 2017
MEETING MINUTES

1. CALL TO ORDER: Chair Woodruff called the meeting to order at 2:00 p.m.
2. OATH OF OFFICE: City Recorder Eckerman administered the oath of office to Jerry Phillips.
3. ROLL CALL: Chair Woodruff and Commissioners Peterson, Stole, Phillips, Yorks and Barham answered the roll. A quorum was present.
4. MINUTES: The Commission considered the minutes from the June 26, 2017 meeting. Commissioner Barham **moved** to approve the minutes as presented. Commissioner Yorks **seconded**, and the motion **carried** unanimously on a voice vote.
5. CITIZEN COMMENTS AND CONCERNS: None.
6. CORRESPONDENCE: None, other than that related to the public hearing.
7. PUBLIC HEARINGS:

A. #1-PD-PC-17 - Vista View Planned Development: Chair Woodruff opened the public hearing, and called for abstentions, bias, conflicts of interest and *ex parte* contact: Commissioner Barham indicated that he owned property in the area, had participated in brief conversations with his neighbors, and also noted that his wife had submitted a letter of testimony which was included in the packet materials. He stated he felt he could make a fair and unbiased decision. There were no objections to his participation in the public hearing.

City Planner Lewis reviewed the written staff report, and noted that the packet also included six letters from the following persons: Paul Virtue, June Barham, Tim Mugleston, Louis Orndorff, Ray Bregenzer, and Bernice Barnett. The primary issues addressed by these letters were identified in the staff report. Subsequently, additional letters have been received from the following: Joyce Wilson, Dennis & Laurie Meredith, Hollis Lundeen (3), Laurance McLamb, and William & Leigh Ratteree. Copies of these letters were distributed at the meeting. The applicant was proposing to access the property via an extension to Norwood Drive and a circular drive to access the individual properties, with an extension to the south to eventually meet up with Kelsie Lane. Comments were also received from Public Works and Central Oregon Coast Fire and Rescue District. The Fire District indicated that the proposed 20' paved street width within the 30' right-of-way was adequate, as long as parking would not be permitted. The City recommended installation of sidewalks at the time of the street construction, and an installation of standard curbs rather than rolled curbs. Mr. Lewis noted that there would actually be five lots that would be less than 60' in width, rather than the one which had been identified in the table in section C-2 of the staff report. Norwood Drive has a 20' pavement width, and Mr. Lewis noted that the City would be improving the radius of the nearly 90° turn partway up the road. The applicant was also proposing a 20' pavement width and both the Public Works Department and the Fire District were amenable, as long as no parking would be allowed. Norwood Drive is identified as a local street which would have a capacity of 1000 trips per day. According to the ITE Trip Generation Report (8th Edition), a single family residence generates 10 trips per day. There are currently 72 lots within the Norwood Heights subdivision, and the proposed subdivision would add an additional 34 lots, so at total buildout between the two subdivisions, the anticipated traffic would exceed the recommended capacity. A possible

solution to alleviate this would be the street extension to the south property line in Phase 2 of the Vista View development, which would then eventually join up to the Kelsie Lane-Forestry Way north-south connection that was identified as the "Norwood Drive Extension (Project #S4) in the City's "Yaquina John Point Land Use & Transportation Plan". Therefore, one of the recommended conditions proposed in the staff report was to require a street extension to the south property line to be constructed when the Vista View development exceeded 19 lots. Mr. Lewis noted that the applicant was proposing to dedicate an open space totaling roughly 25% of the property, along with a public nature trail through that open space which would connect the east edge of the property to the west edge, along the south edge of Lots 11-13 and then south to Kelsie Lane. This would connect to a planned trail that would eventually connect the Norwood Drive extension to Highway 101. Additionally, the applicant would be paying a park assessment fee calculated to be $16,879,50, which may be paid by phase. The infrastructure to provide utilities to the properties would need to be coordinated with and approved by the City, and Mr. Lewis noted that if the applicant proceeded with the proposal to connect to an existing pump station at the Forest Service, upgrades will need to be provided to accommodate the increased flows.

Attorney Dennis Bartoldus addressed the Commission on behalf of the applicant. He distributed photographs of various shots of the property proposed for development, along with GIS photos, and previous plats for Norwood Heights and its various additions. Mr. Bartoldus noted that other developments in that area have not put in additional roads, and the applicant was proposing an extension of Norwood Drive to the current standards in that area. The street at the south end would eventually join Kelsie and then down to Highway 101. He cautioned that requests to improve the existing Norwood Drive to accommodate projected impacts from the new subdivision may be considered an exactment, and cited *Dolan vs Tigard, Nolan vs the California Coastal Commission,* and *Lucas vs. South Carolina* as arguments to not charge one developer for all of the improvements to existing infrastructure. The City would be getting an extension of Norwood Drive, the continuation at the south end to the eventual link with Kelsie Way, and the open space and nature trail as requested. He noted that the City had that day requested to have the developer not only provide the easement, but also build the trail, to which his client had agreed. The proposal for 34 lots was far less than the 56 lots that would be allowed by City standards, and even less than the 40 lots that had been tentatively identified in the Yaquina John Point Land Use Transportation Plan. Mr. Bartoldus explained that a planned unit subdivision was intended to allow for modifications to the standard subdivision requirements, and his client was requesting a reduction in lot size for some lots, a reduction for lot frontage on some lots, and a street width of 20' with no parking allowed on the street. In exchange for these considerations, his client was offering a large open area, a public pedestrian trail, an extension of Norwood Drive and access to the southern extension to Kelsie Way, and five-foot sidewalks on one side of the street, which will meet all standards that Public Works and the Fire District require. One issue was the requirement that the extension to the south be put in after 19 lots, since based on the map and the projected traffic counts it shouldn't need to be done until 100 lots in the area have been developed. Following the presentation, Mr. Bartoldus indicated he was available for questions.

Commissioner Yorks asked if the open area proposed to be dedicated was, in fact, buildable land. Mr. Bartoldus responded affirmatively, noting that current building practices lend themselves to construction on topographically challenged property, and citing his own home as an example of such. Though potentially buildable, his client felt that the open area would provide a buffer to adjoining properties and allow the addition of the trail system.

Opponents Presentation: The following people addressed the Commission: Laurence Klein, Jim Shepherd, Paul Laakso, Bernice Barnett, Ray Bregenzer, Kevin Quill and Bill Ratteree. 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/life safety, school bus and emergency vehicle access, geological hazards and erosion, affordable housing, and the timeline for the street extension to Kelsie Lane.

Proponents Presentation: Phil Splunik addressed the Commission, noting that the purpose for a planned development was to allow for some modifications to accommodate topographical challenges and provide some enhancements in exchange. He urged the Commission to approve the application.

Rebuttal: Mr. Bartoldus noted that none of the issues raised would be a cause to legally deny the application. Currently there are 72 lots either built or available to be built on, but to the best of his knowledge there have been no concerns raised about traffic safety or emergency vehicle access. He noted that the development would be taking place over 20 years, it would not be happening overnight. The first phase will include an adequate cul de sac or hammerhead at the end of the street to accommodate emergency vehicles until the future phases are developed. As for drainage, the entire subdivision drainage will be engineered and will be capable of handling the flow of rain. If the developer was required to install sidewalks on both sides of the street, it could potentially impact the current use of the right of way by eliminating parking areas utilized at present. Mr. Bartoldus noted that the City has long anticipated that Norwood would become a through street, which would also address some access and increased traffic concerns, and asked that the Yaquina John Point Land Use and Transportation Plan be incorporated into the record by reference.

Chair Woodruff closed the public hearing and opened the Commission meeting for deliberations. He noted that there had been additional information submitted by the applicant, and suggested that the deliberations be continued to the next meeting. Discussion ensued. Commissioner Yorks noted that some of the issues are apparently outside of the planned development, and wished to hear from the City Attorney with regard to the case laws cited and the determination of responsibility for necessary street improvements, as well as to allow time for consideration of the additional written testimony and exhibits received that day, and review of the Yaquina John Point Land Use and Transportation Plan. He **moved** to continue the public hearing to the next meeting. Commissioner Stole **seconded**. The motion **carried**, and **consensus** of the Commission was to leave the record open until November 6 for submission of additional information or testimony, and to schedule the continuation of the public hearing to December 4 at 2:00 p.m.

The Commission took a short recess at 4:00 p.m., and resumed the meeting at 4:10

p.m.

B. Subdivision File #1-S-PC-05 - Land and Sea Addition Subdivision Time Extension Request: Chair Woodruff opened the public hearing, and called for abstentions, bias, conflicts of interest, or *ex parte* contact. None were announced.

City Planner Lewis reviewed the staff report, noting that the subdivision had been approved in 2005. 35 lots in Phase 1 have been built. The applicant was asking that the tentative approval for Phases 2 and 3 be extended. There were no changes proposed to the design, but the applicant was asking for consideration to develop Phase 3 prior to Phase 2, and to incorporate 8 undeveloped lots included in Phase 1 into Phase 3. Two letters of testimony had been included in the staff report.

Proponents Presentation: None.

Opponents Presentation: None.

Chair Woodruff closed the public hearing and opened the Commission meeting for deliberations. Commissioner Barham noted that the City's Code did not appear to provide for additional time extensions, and Mr. Lewis explained that this was the reason the public hearing was being held to consider the request, and future modifications of the Code may refine the process for such issues. Commissioner Peterson **moved** to grant the time extensions with the proposed conditions of approval. Commissioner Barham **seconded**, and the motion **carried** unanimously. **Consensus** of the Commission was to have Mr. Lewis prepare the findings and authorize the Chair to sign them.

6. DISCUSSION/ACTION ITEMS:

A. Planning Report: Mr. Lewis noted that this planning report included activities from the end of June through the beginning of October. No action was required.

B. Waldport Development Code Amendments: Mr. Lewis explained that the City Council had authorized the Planning Commission to review proposed Code amendments and make a recommendation to the Council. This process will probably take several months.

C. Other Issues: None.

7. COMMISSION COMMENTS AND CONCERNS: None.

8. ADJOURNMENT: At 4:45 p.m., there being no further business to come before the Commission, the meeting was adjourned.

Respectfully submitted,

Reda Q. Eckerman, City Recorder

APPROVED by the Planning Commission this ___ day of _____, 2017.

SIGNED by the Chair this ___ day of _____, 2017.

_____

Ray Woodruff, Chair

November 27, 2017

To: **Waldport Planning Commission**

From: **Larry Lewis, City Planner**

Re: **Vista View Planned Development**

At the December 4, 2017, 2:00 p.m. Planning Commission meeting, the Commission will continue the hearing on the proposed Vista View Planned Development. At the October 23, 2017 Planning Commission meeting, the Commission continued the public hearing. The Commission requested an opinion from the City Attorney addressing the Norwood Drive nexus or exactions issue, i.e. should the Vista View PD developer assume some or all responsibility for making improvements to existing Norwood Drive. The Commission also raised questions about affordable housing and requested additional information on the Yaquina John Point Land Use & Transportation Plan.

Subsequent to the October 23, 2017 Planning Commission meeting, the City received the following additional information:

City Attorney (memo attached)
Pete Gintner, City Attorney, states 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.

Dennis L. Bartoldus, Attorney on Behalf of the Applicant (Submittals attached – exhibits submitted in hard copy form only)
Additional submittals on behalf of the applicant include:

- Supplemental Submittal of Applicant Tidewater Development LLC. This includes:
  - The Issue of Commissioner Barham Hearing This Case
  - Issues Raised by Opponents
  - Addressing the Issue of Exactments
- Maps and Photos *[Please Note: 36 exhibits were submitted and are attached to the <u>hard copy</u> of this packet. Including the exhibits in electronic format exceeds the file limit for electronically transfer. A hard copy of the exhibits is available for review at city hall and in each Planning Commissioner city hall mail box.]*
- Proposed Findings and Conclusions Submitted by Applicant

Letters Submitted Following the October 23, 2017 Planning Commission Meeting (attached)
The City received letters from Bernice Barnett, Louis Orndorff, and Hollis Anne Lundeen. Letters received prior to the October 23, 2017 meeting were previously distributed to Planning Commissioners.

Additional information addressing affordable housing, the Yaquina John Point Land Use & Transportation Plan, and traffic counts is provided below.

12/4/17 DELIB. CONT

- Street width, enforcement of 'No Parking' ← concern.
- Easement continuing to south
- Parking per lot. - Bartoldus 3 spaces per lot including the garage (garage can be single car or greater). Bartoldus says hard surface parking in CC&'s, i.e. concrete, asphalt, pavers
- Bartoldus says ok to do 26' wide for "straight" section to be continued south, leave 20' paved width to 'horeeshoe' shaped area.
- PC - 32' ROW w/ 26' pavement w/ pkg on 1 side, std. curb on each side, and 4' sidewalk on one side.

1/26/1/5

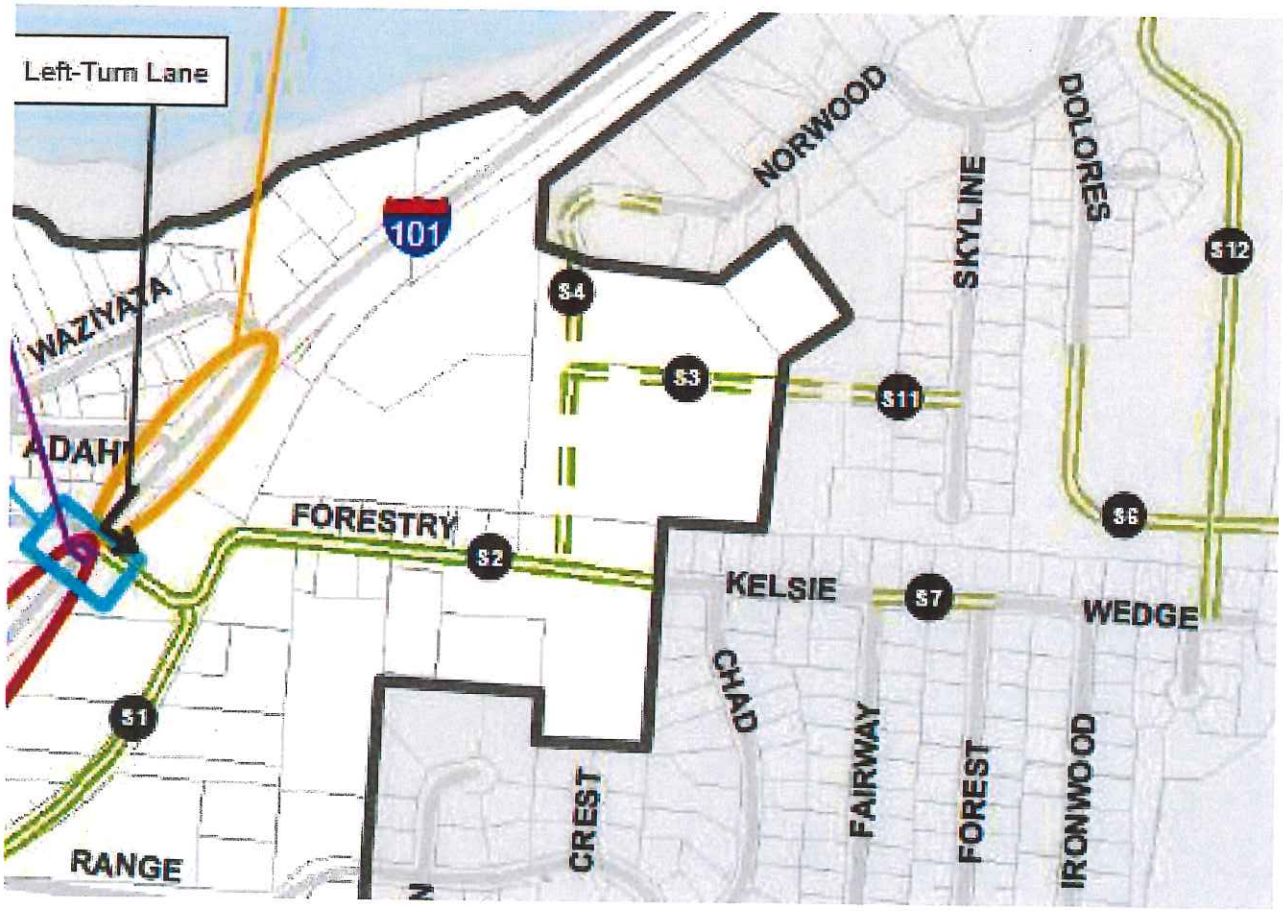
Affordable Housing

During the October 23, 2017 Planning Commission meeting, Commissioners mentioned that affordable housing had not been addressed with this Planned Development application. Please note there is wide recognition of affordable housing needs at the local, state, and national levels. However, at this time there are no regulatory requirements for affordable housing. Therefore affordable housing is not relevant criteria to be considered in this land use decision.

Yaquina John Point Land Use & Transportation Plan

Commissioners requested additional information regarding the Yaquina John Point Land Use & Transportation Plan (YJP). YJP was adopted into the Waldport Comprehensive Plan in 2012. YJP 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 Vista View PD plan provides this connection from the north-to-south ends of the subject property.

YJP also called for an east-west connection between Norwood Drive and Skyline Drive (Project #S3). Just prior to the adoption of YJP a house was constructed preventing this future Norwood-Skyline connection. A modified #S3 connection was evaluated in a 2015 Planned Development that would have realigned this connection to the south however it was determined that topographic constraints made this connection difficult to construct.



Traffic Counts

Waldport Public Works conducted traffic counts on Norwood Drive over a three-day period to get an indication of actual traffic volumes versus the national standard. The traffic counter was placed on Norwood Drive just south of the approximate 90-degree curve. There are 11 occupied homes from this location to the south end of Norwood Drive. The traffic counter recorded traffic in one direction. 149 counts were recorded. Assuming this traffic flowed in both directions there were 298 counts over a 3-day period or approximately 100 counts per day. 100 counts per day divided by 11 homes indicates a single family home generated 9 trips per day. The national standard, per the ITE Trip Generation Report, 8th Edition, states that a single family home generates 10 trips per day. This demonstrates the vehicle trip count at the south end of Norwood Drive is fairly consistent with the national average.

The traffic counts provide additional information for evaluating the capacity of Norwood Drive as a local street. The national standard identifies the maximum daily capacity of a local street at 1,000 vehicles per day. Therefore:

27 existing lots on Norwood Drive would generate 243-270 trips per day if all lots were developed and occupied. Add 34 proposed Vista View lots and 61 lots would generate 549-610 trips per day.

72 existing lots on Norwood Drive, Skyline Terrace, and Dolores Drive/Norwood Park Place would generate 648-720 trips per day if all lots were developed and occupied. Add 34 proposed Vista View lots and 106 lots would generate 954-1,060 trips per day.

RECEIVED
NOV 2 7 2017
BY:

To: Larry Lewis
From: Pete Gintner
Re: Land Use Standards

This memo regards the City's pending decision regarding the building conditions to be imposed upon the Vista View Planned Development. The planned development and related conditions appear to be roughly proportionate based upon the information provided. However, because this is an evolving area of land-use law, care should be taken in drafting the findings and final order.

Neighboring landowners frequently have concerns when new subdivisions are built. As grants for public improvements have waned in recent decades, authorities now increasingly turn to the developer for those costs. Courts have said these costs must share a nexus with the development and be "roughly proportionate" to the impacts of the same. Unfortunately this can leave existing landowners whose homes were built before such exactions were common feeling left out. However, courts have been clear in saying that public need alone is not grounds for additional exactions. Thus, the specific conditions imposed upon the builder must all be tied to the specific impacts of that development. To go beyond that and demand additional public improvements, even when there is a great public need, is inadvisable. As I understand the current proposed conditions, the City appears to be in range of what I would think is defensible.

Care should be taken to include within the findings a rough proportionality analysis that matches impact with condition before concluding their proportionality and sufficiency. One take-away from relevant case law is that a poorly drafted record can threaten an otherwise viable plan of development. Therefore, all relevant data acquired from traffic studies, architects, engineers, and the like should be included. The final conclusions need not be built upon mathematical precision, they must only be roughly proportionate. What is required is an individual analysis for each condition or impact. Should you need guidance when drafting these documents, we stand ready to assist. As always, if you or the Commission have any questions, feel free to contact me for any follow up.

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

In the matter of a request for Approval of a 34 lot Planned Development by Tidewater Development LLC known as Vista View	))))))	Case File #1-PD-PC-17 SUPPLEMENTAL SUBMITTAL OF APPLICANT TIDEWATER DEVELOPMENT LLC

THE ISSUE OF COMMISIONER BARHAM HEARING THIS CASE

At the beginning of the hearing, Commissioner Barham said that while he owned property adjacent to the proposed PUD, he could be fair, impartial and unbiased. He indicated that his wife had submitted a letter regarding the proposed development.

Since the hearing on October 23, we have reviewed the property ownership of the Barham property and carefully reviewed the letter submitted by June Barham.

The deed records show that Mr. and Mrs. Barham own the property as husband and wife, which means they both have an interest in the property. (A copy of the deed is enclosed.) The letter submitted by June Barham uses such phrases as "our property" and "we have suffered over $8,000 worth of property damage for tree removal from storm damage likely due to clear cutting of the land being developed". The use of these pronouns suggest that the letter is written on behalf of both of the Barhams because of the use of the plural pronouns. It also indicates that perhaps Commissioner Barham feels he has been damaged by applicant. While the applicant absolutely denies any suggested liability, the use of these plural pronouns in the letter is troubling. At a minimum, Mr. Barham needs to state on the record whether those feelings express his thoughts and, if not, why the use of the plural pronouns were used. The applicant is entitled to know the extent of any discussions between Mr. and Mrs. Barham both before the hearing and since the hearing. There needs to be a full disclosure of ex parte contacts and, in this situation, any communications between Mr. and Mrs. Barham regarding the applicant's property or the application would need to be disclosed.

ISSUES RAISED BY OPPONENTS

As is often the case when a development is proposed, surrounding land owners become concerned. Rather than simply stating they outright oppose the project because they like their neighborhood the way it is, they seek to raise concerns and paint a tale of perceived horribles. However, the perceived tale of horribles is based on speculation and a desire not to have any changes in the neighborhood.

The applicant's property has been zoned R-1, for residential development for literally decades. People who purchased in the Norwood neighborhood either knew or had the opportunity to know how the property was zoned. In fact, the zoning on the applicant's property is no different than the zoning on the property in Norwood Heights. It is clear from reviewing the plat of Norwood Heights that Norwood Drive was to be continued through the property onto

the adjoining land. This has been a secret to no one since the plat of Norwood was filed in the 1960s.

As was discussed at the hearing, the continuation of Norwood is a very important component in providing access in Waldport across the top of the hill. Access across the top of the hill is currently lacking and the road to be built by the applicant would be a very important component in seeing that the system across the top of the hill is completed so access can be gained around Waldport without having to go down into the tsunami zone along Highway 101 and Highway 34. The applicant has indicated that it will construct a road from the current end of Norwood through its development to the south line of its property. The applicant has no control over the land to the south and therefore it cannot extend the road over that property. However, there is only one parcel of property then between the applicant's property and connecting the road with Kelsie Lane.

The opponents tried to paint Norwood Drive as a narrow road that is inadequate. However, as Mr. Lewis pointed out during his presentation, there are currently 72 lots by his count in the Norwood Heights area. The proposed development will add a maximum of 34 lots and those lots will be added over an extended period of time. By the applicant's count, it could take 10-20 years to build out the development. As was also noted, the applicant's property, based on its size, could accommodate 56 lots under the zoning ordinance. The applicant is only proposing 34.

The applicant is proposing significantly less lots than could be developed on the property. Additionally, there are already subdivided lots in Norwood Heights and its additions that have not yet been built upon and there is other vacant property that could be further divided. Therefore, there is no reason to limit Vista View to fewer than the 34 lots that are proposed. To do so is to punish Vista View in favor of other properties.

Also, it is also the applicant's position that restricting lots below what is proposed is a taking property violation of their 5th amendment rights (and Article I, Section 18 of the Oregon Constitution) and also in essence constitutes a moratorium under ORS 197.505 et seq. which prohibits governmental entities from restricting services without declaring a moratorium and following the procedures set forth in the statutes.

The information provided the City of Waldport staff showed that the width of the pavement on Norwood is 20 feet, not under 20 feet, as several of the opponents contended. The City also advised that the pavement on Norwood was average for the city. It is disingenuous for residents in the area to complain about the road based on a future development when in fact they have not made any moves to improve what they describe as bad road conditions and inadequate turnarounds and pedestrian access.

One concern that was raised by the opponents was fire access. The opponents are concerned about how and where a fire truck would turn around. This argument is also disingenuous. Presently, Norwood dead ends and there is inadequate room for a fire truck to easily turn around. This has been a condition that has existed for many, many years and apparently was not a large concern to the neighbors because they did nothing to address it despite the fact there is a 60 foot right of way. In fact, when the road is extended into the applicant's property, the applicant's will continue to provide a 20 foot paved surface that meets the City

standards and will provide a hammerhead turnaround at the end of each phase of the road as it is completed to assure there is adequate turnaround for fire trucks and other emergency vehicles. In other words, by approving the development, the opponents will receive something that they want, an adequate turnaround for fire trucks and other emergency vehicles.

The opponents also had indicated a concern about street width. However, as was demonstrated through photos and explanation, the pavement on Norwood is 20 feet. If there was any attempt to curb and gutter the property, it would actually change the tenor of the neighborhood and reduce parking. If the street was improved to 26 feet, parking would be allowed and a car parked in the street would have more effect of blocking the street than the current system used in Norwood Heights which is what was described at the hearing as cutout areas in front of each property. If there was a curb, those cutout areas could not exist and people would not be able to park in the area in the right of way in front of their houses as they currently do without adding to the congestion on the paved street. Photos are submitted of cars parked on Kelsie Lane and Chad Street showing now traffic flow is altered on a 26 foot wide street with curbs.

It is also to be noted that the City indicated at the hearing that they will be improving the intersection at the bend at the top of the hill in Norwood. The City saw this as something it needed to do in any event and that work will be done which will help facilitate traffic.

Opponents also expressed concern about engineering of the road and drainage. One of the conditions suggested by the City staff is that the engineering work will be completed to the City's satisfaction. This is typical in any development of this type. The improvements for Vista View will be engineered and meet City engineering standards for the development. Furthermore, it should also be noted that in terms of drainage, the drainage way for the area exists over the applicant's property. The water from Norwood Heights flows into this drainage. Therefore, they are contributing to any a drainage system which they suggest exists. The applicant has provided for a retention pond and will have a drainage system that meets all applicable standards and laws.

It is also to be noted that the applicant is having to pay approximately $17,000 as a park fee. As Mr. Lewis stated at the meeting, that money can be used to improve pedestrian ways so that in the event the City seeks to improve pedestrian access along Norwood, the applicant will have contributed significantly to a fund that would allow those improvements.

In summary, the opponents, while indicating they are concerned about the development because they don't want more houses on residentially zoned property, provided no reason to deny the development as proposed.

ADDRESSING THE ISSUE OF EXACTMENTS

At the hearing on October 23rd, the opponents were seemingly taking the position that the applicant for a 34 unit planned unit development should address and resolve all the issues that have developed in the entire Norwood Heights area over a period of 50 years. To be clear, much of what they are addressing as issues and concerns are really not issues as we have noted above. However, it is not reasonable or legally permissible for the City to require the applicant to make offsite improvements that are not substantially related to the development alone. Generally speaking, when a municipality attempts to require certain improvements of a developer, these are

called "exactments". The exactments must be reasonably related to the project and certainly cannot be arbitrary. The City has already requested a number of things from the applicant which the applicant has agreed to do and some of which are found in the City's ordinance. For example, the sewer pump station down below the property will need to be expanded to serve the development. This is an offsite improvement that will benefit the City but will also allow the developer to construct the project. The developer has not objected to this and it is requirement. The cost of this offsite improvement for sewer are roughly $50,000 to $100,000, possibly more, depending on exactly what upgrades are needed.

The City is also requiring the developer to extend Norwood Drive from its present terminus to the north line of the subject property. This will require engineering, pavement, curbs and a sidewalk. The distance of this extension is approximately 330 feet according to the staff report. According to the applicant's engineer, this will be a cost of approximately $100,000, possibly more. The applicant has agreed to do this. The City should not and cannot require more than the applicant has agreed to do lest the City overstep its bounds on exactments and violate applicant's 5th amendment rights by taking applicant's property. See *Nollan v. California Coastal Commission,* 483 U.S. 825 (1987); *Dolan v. City of Tigard*, 512 U.S. 374 (1994(; *Schultz v. City of Grants Pass*, 131, Or App 220 (1994); *Clark v. City of Albany*, 137 Or App 293; review denied 322 Or 644 (1995); 142 Or App 207 (1996); *Property Group, Inc. v. Planning Zoning Comm'n, 29* Conn App 18; 613 A2d 1364(1992). Article I, Section 18 of the Oregon Constitution also prohibits the taking of private property for public use without just compensation.

The City has also requested that the applicant provide an easement through an open area of the property to provide public access as part of a trail system being developed in Waldport. The applicant agreed to do this. At the hearing, there was a request made for the applicant to not only create an easement for the trail, but to build the trial and place bark chips on it as a covering. The applicant also agreed to do this. Both the requirement to dedicate the trail and to build the trail are exactments that benefit the City much more than the developer. They could be challenged by the property owner because they are exactments that encumber the owner's property and cost money. However, the owner agreed to do these things.

After seeing the initial project layout submitted by the developer, the City requested that it be modified to provide an access to the south so there could be a connecting road system as set forth in the South Waldport/Yaquina John Transportation Plan. The developer agreed to do this. After agreeing to provide the location for the road which reduced the number of lots in planned unit development, the developer also agreed to build the road to the south side of the property, rather than just giving the City an easement for the road for use when the City wanted to build it. These features benefit the City as a whole and are also exactions.

The City, as part of the proposed approval criteria, requires that the applicant's pay a park assessment fee of $16,879.50. This is also an exaction from the applicant as the amount will be used to fund offsite improvements.

As each house is built, the developer will pay systems development charges to the City of Waldport pursuant to the City's charges at the time the homes are built. The property will also be in the Waldport Road District which will levy assessments against the property for road purposes.

Requesting that the developer do more than the developer has already agreed to do at the request of the City, will result in an unreasonable exaction from the developer. Norwood Drive which serves the development is a local street not unlike many other city streets in Waldport in terms of width and slope. As was pointed out at the hearing, even though Range Drive and Crestline Drive are collector streets, they do not have sidewalks. Photos of those main roads are included in this submittal. The $17,000 already being paid by the developer for the park assessment fee could be used for such purposes as improving pedestrian ways, if the City so desires.

As was stated at the hearing, the whole purpose behind looking at essential nexus and rough proportionality and exactments is to make sure the developer is not required to pay expenses that the public at large should be expected to bear. To the extent any improvements beyond what the developer has already agreed to do would be cost which the public should be expected to bear because there are at least 72 other lots on the hill and there is property for others to be developed, not including the applicant's property.

Dated this 6th day of November, 2017.

Respectfully submitted,

Dennis L. Bartoldus

Dennis L. Bartoldus
Attorney for Applicant
Tidewater Development LLC

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

In the matter of a request for Approval of a 34 lot Planned Development by Tidewater Development LLC known as Vista View	))))	Case File #1-PD-PC-17 PROPOSED FINDINGS OF FACT AND CONCLUSIONS

1. Tidewater Development LLC filed an application for 34 lot Planned Development with the City of Waldport on property it owns within the City of Waldport. The property is described as Tax Lot 120 on Lincoln County Assessor's Map 13-11-19-CC. Presently the property is vacant and there are no structures on the property.

2. The property is 7.75 acres in size and is located at the end of Norwood Drive. Norwood is presently the only access to the property.

3. The proposed plat of the PD is attached as Attachment A and by this reference incorporated herein.

4. 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.

5. The subject property is zoned R-1, single family residential. The comprehensive plan designation for the property is residential. The property abutting the subject property on the north, east, and south and a portion of the property adjoining on the west is zoned and planned R-1. Property on the north, east and south is already developed and utilized for single family residences. A 5.66 acre parcel adjoining the property on the south is zoned R-1 but is still vacant. The U.S. Forest Service Station is west of the site.

6. The following utilities are available to the property:
   a. Water: City of Waldport
   b. Sewer: City of Waldport
   c. Electricity: Central Lincoln P.U.D.

7. Relevant Waldport Development Code and Waldport Comprehensive Plan criteria are as follows:

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

Full descriptions of relevant criteria are included as attachment B to these findings.

8. The proposed name of the project is Vista View Planned Development. It will contain 34 units when fully developed. The lots are proposed to range in size from approximately 4,810 square feet to approximately 9,041 square feet. The access to the development is proposed at the south end of Norwood Drive. This is the only legal access to the site. The Plat of Norwood Heights extended Norwood Drive through that Development to the edge of the subject property. Norwood Drive is a City Street that is paved to a width of 20 feet. It presently serves other residential uses.

9. Based on code criteria, the allowed 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. A PD allows certain standards to be varied if other considerations are given. In this case, the developer is proposing to maintain an open space along the northerly and easterly signs of the property to accommodate drainage for area properties and to provide a 10 foot wide easement to the City of Waldport through the area for a walking trail.

10. Pursuant to the flexibility allowed under the PD standards the applicant is requesting that some lots be under 6000 square feet, that some be less than 60 feet wide and that the road right of way be 30 feet with 20 foot wide paved streets.

11. The road proposed through Vista View is a circular road with a stub out to the south line of the property that will allow the road to be connected to the property to the south. This road is a component of the Yaquina John Point Land Use and Transportation Plan which shows Norwood being connected to Kelsie Lane. Kelsie Lane is projected to attach to existing Kelsie Way on the east and then run to Highway 101 on the west.

12. The applicant's proposed road will be paved to a width of 20 feet with curbs and will have a 5 foot wide sidewalk on one side. No parking will be allowed within the streets within the subdivision. The applicant is proposing that each lot will have at least 3 off street parking spaces with at least one of those being a covered space.

13. The applicant is proposing that some lots be less than 6000 square feet to allow for the retention of open space along the northerly and easterly sides of the property, to provide for continued draining of the subject property and the surrounding properties through the drainage way and to grant an easement to the City of Waldport for a 10 foot pedestrian path along the northerly and easterly sides of the property. (The easement will also be extended across the south sides of lots 11, 12 and 13.

14. The drainage way and ravine along the northern and eastern portion of the property is proposed to be open space. This open space totals approximately 1.93 acres which is approximately 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.

15. In addition to retaining open space and providing an easement through the property for a pedestrian trail, pursuant to Resolution No. 875 the applicant will be assessed a park assessment fee in the amount of $16,879.50.

16. The Waldport Public Works Department and the Central Oregon Coast Rural Fire District have reviewed the plans for the proposed development. They provided the following comments related to water service and the proposed streets.

a. The 20 street width within a 30' foot right-of-way is good as long as "No Parking" signs are posted.

b. The City recommends construction of sidewalks at the time the street is constructed.

c. The Public Works Department and Central Oregon Coast Fire 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 the plans.

17. Water and sewer are to be placed within the street right of way. Sewer is proposed to extend west to an existing sewer pump station near Highway 101. Water is proposed to connect to the existing city water system to the south in Kelsie Lane. All utilities shall be placed underground.

18. The Waldport Development Code requires one parking space per single family dwelling. New single family homes are required to have one covered parking space, either a garage or carport. The developer has proposed having at least 3 off street parking spaces per lot with at least one being covered.

19. The applicant has provided a copy of a proposed Declaration of Condition, Covenants and Restrictions of Vista View as they relate to Architectural Control and Use Restrictions. The CC&Rs recognize and are in conformance with the City of Waldport provisions and provide additional restrictions as to the size of home, color and materials of homes, view protection landscaping and other features.

20. The applicant is proposing to develop the PUD in 4 phases. Currently, WDC allows a preliminary plan approval per phase for 2 years with the possibility of three one year extensions.

21. A public hearing on the requested PD was held in front of the Waldport Planning Commission at 2:00 p.m. on October 23, 2017 at the Waldport City Hall. Notice of the hearing was given to all property owners within 250 feet of the property as required by law. At the hearing, all interested parties were given the opportunity to present testimony. The applicant's representative provided testimony on behalf of the applicant. Property owners in the vicinity also submitted letters and some testified. The letters that were submitted are included in the record of the hearing. 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.

22. The applicant's representative described and spoke in favor of the project.

23. Several persons spoke with concerns or in opposition to the proposed PUD. The primary concerns revolved around the width and adequacy of Norwood Drive to handle

increased traffic, the adequacy of pedestrian ways, adequate turn around for fire trucks, the stability of the property, payment of infrastructure, drainage and engineering. The applicant's representative testified in rebuttal to address the concerns and opposition.

24. After considering the concerns raised by opponents and the rebuttal provided by the applicant's representative the Commission determines that some concerns are not related to development criteria but involve the residents of the area not wanting a change in their neighborhood but have nothing to do with the criteria to be considered by granting land use approval. The developer is not required to pay for off-site improvements requested by the opponents. Other concerns expressed can be addressed through conditions imposed on the approval.

25. In addressing the concerns raised by opponents the Commission makes the following findings:

a. Norwood heights was developed in the 1960s. The Plat of Norwood Heights continues the right of way Norwood Drive as a public right of way through the property and the applicant's property connects to the present terminus of Norwood Drive. Norwood Drive provides the only public access to the applicant's property.

b. The applicant's property has been zoned R-1 for decades. It has long been planned for single family residential development.

c. Norwood Drive has a 60 foot right of way and a 20 foot paved asphaltic roadway according to information provided by staff. The staff also indicated that the pavement was in average condition.

d. While there are no curbs on Norwood, owners have created parking areas off the pavement in front of their property. This means the entire 20 foot pavement width is available for vehicle traffic. If the street was widened and curbed parking would be restricted because much of the current area used for parking would be lost and the vehicle parked in front of properties would be parked in the street make the path for vehicle access 20 feet or less. The applicant presented photos of this situation in other areas of the City.

e. The applicant should not be required to fund street improvements on Norwood Drive from its beginning on Highway 101 to its terminus at the end of the developed Norwood Heights. The applicant is extending Norwood Drive by approximately 330 feet to reach its property. The improvements will include the road, curbs and a sidewalk on one side. The applicant is also constructing the road through its development as requested by the City. The applicant is providing a right of way and constructing a road to the south edge of its property so the road can be extended as provided in the Waldport Yaquina John Transportation Plan. The applicant is also being required to dedicate an easement for a public walking trail through its property and build the trail. In addition, the applicant is required to pay $16,879.50 as a park assessment fee. The City staff has advised that money in that fund can be used to pay for pedestrian ways should the City desire to use the park money in that manner. Furthermore, there are already 72 lots that use Norwood Drive according to the City Staff Count and it is not reasonable for the applicant to shoulder the burden of improvements on Norwood as suggested by the opponents. The applicant could have developed the property into 56 lots but is only developing the property into 34 lots.

f. The drainage way on the property is being preserved and that drainage way will still provide drainage for not only the applicant's property but for surrounding property as well.

g. All improvements in the development will be engineered to the appropriate engineering standards and in compliance with applicable laws. The City will review the plans for drainage, roads, sewer, water and other aspects of the development that need to be engineered.

CONCLUSIONS:

Based upon the foregoing findings, the planning commission concludes that the 34 Lot Planned Unit Development know as Vista View meets the criteria of the applicable ordinances and should be approved subject to the following conditions:

1. **Planned Development.** The development shall be in substantial compliance with the approved plan which is attached as Attachment A including a maximum of 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 to the lots. Streets shall have a minimum 20 foot pavement width within a 30 foot right-of-way with curbs and gutters and a sidewalk on one side. The area along the north and east sides of the property shown as open space shall be maintained as open space. The applicant shall grant an easement 10 feet in width to the City of Waldport for a public nature trail through the open space that will run from the south side of the property, along the easterly and northerly portion of the property and exit the property at the northwest corner of the property. The exact location of the easement shall be agreed upon by the City staff and the applicant. The applicant shall construct the path to a reasonable width within the easement and shall cover the path with park chips.

2. **R-A Residential Standards and** Modifications. The development shall occur in accordance with R-1 standards and the following modifications:

a. Twenty three (23) lots may be less than 6000 square feet including four lots under 5,000 square feet. The smallest lot shall be not less than 4,810 square feet.

b. 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 Planned Development shall be accessed from Norwood Drive near the northwest corner of the property as shown on the submitted plan (Attachment A.) 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 street shall have a minimum 30' right-of-way width and minimum 20' pavement width. "No Parking" signs shall be posted.

Norwood Drive shall be improved from the property to the existing Norwood Drive pavement (approximately 330 feet) and include a minimum 20' wide pavement with curb and gutter and a 5 foot sidewalk on one side. The applicant shall work with the City to determine be most appropriate side for a sidewalk taking into account topographical and other features.

As each phase of the development is completed, the developer shall provide a hammerhead turnaround for emergency vehicles that is an all-weather surface, such as gravel.

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 completed lots.

5. **Open Space and Drainage Way.** The drainage way and ravine along the northern and eastern portions of the property shall be dedicated as open space on the plat of Vista View 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 the 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, and south to Kelsie Lane. 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 Directors. All utilities shall be placed underground.

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 COCRFD.

9. **Off-Street Parking**. New single family homes are required to have one on-site parking space, i.e. garage or carport. No parking is allowed on the street therefore each lot shall have a minimum three on-site parking spaces including the garage.

10. **Phasing and Time Limits of a Preliminary PD Approval**. Phase 1 shall consist of 19 lots including lots 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: November 30, 2017 - November 30, 2019
Phase 2: November 30, 2019 - November 30, 2021
Phase 3: November 30, 2021 – November 30, 2023
Phase 4: November 30, 2023 – November 30, 2025

11. **Final Plan Review Procedure**. When the city planner determines that all 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.

Dated this _____ day of December, 2017.

_____
Chair, Waldport Planning Commission

RE: Vista Development Proposal

DT: October 27, 2017

Dear Commissioners,
Thank you for the time you took to hear from Vista Development proponents and those who had concerns about aspects of the proposed Development at the October 23, 2017 Planning Commission meeting. I don't believe any of the citizens who will be directly affected by the Vista Development were opposed to the creation of the Vista Development.

We appreciate that you held open the hearing and are allowing additional input from citizens and from Vista Developers. The Commission identified a short list of items they will review. At this point they include review of letters that the Commission received close in time to the meeting and review of a traffic study.

Commissioner Stole asked if there would be a geological study of the property. . The Vista Developers stated if the Commission requested a study they would complete one. Some neighbors and I discussed this proposition and are asking the Commission to request such a study be done. There have been blow down trees since the clear cut and the steep bare terrain and stream bed on the property present issues that should be addressed in the development plan. Each parcel which is undersized should be reviewed for geological issues. Thank you for considering this request.

In addition there was an assertion at the meeting that Vista Development would provide low cost/affordable housing. When asked this was not confirmed by the Developer's representative. I would suggest it wasn't confirmed because this project will not contain low cost or affordable housing. The name of the development, Vista View, is helpful in determining the type of houses that are intended to be built. These plots are ocean view. They will likely be premium houses sold to people who can afford to buy a house with an ocean view. The developer shouldn't be allowed to modify the planning code because the commission believes this project will provide low cost housing unless the Developer agrees to build low cost/affordable housing and provides appropriate details to support any claim.

As stated in the hearing Norwood Drive is a short dead-end street. There are only 17 houses currently located on Norwood Drive which ends on Hwy 101. Mr. Lewis spoke of the current traffic density. If his statement was intended to inform the Commission of the current traffic density on Norwood Drive his information is incorrect. The increase in traffic from the Vista Development will be huge and will create a safety hazard if Norwood Drive is not brought up to city code.

The current number of trips on this street is nowhere near 150 trips per day. There may be as many as 50 trips on this street each day. This is important because as mentioned we and many others walk the street including up and down the hill. Even if you add traffic from Delores Street and Skyline Terrace there are still nowhere near 150 cars driving on Norwood Drive each day. We frequently walk the entire road without meeting a car. During any walk it would be extremely unlikely to meet as many as 4 cars. There is no shoulder or any ability to step off of the road at all in many places on the Norwood Drive hill. Pictures that show grass on the side frequently don't show the holes and slope that require walkers to stay on the pavement. Considering the projected traffic, from the proposed Vista Development, sidewalks are a necessary safety requirement for Norwood Drive.

Fire safety for a neighborhood that will house 34 families is a vital issue. There was testimony regarding turnaround space for our large fire trucks after they respond. That is not the real problem. The real problem is access to extinguish fires in the Vista Development. The Fire chief states his trucks can get to the houses IF there is no on street parking. If people in this closed off development park on their narrow streets the fire trucks will be blocked the fire. It is virtually guaranteed people will park on their quiet street. The houses proposed to be built would be close together on undersized lots. Fire trucks will be delayed or prevented from responding quickly to fire emergencies.

This is a bigger problem because the City hires one code enforcement officer to work one day each week. Currently it will be difficult if not impossible to enforce the no on street parking rule. Why would the Commission approve a street so narrow that it places a burden on the city to spend resources on daily enforcement? The Commission could allow a modification of the code to provide parking on one side of the street only, requiring only 24 ft paved road surface instead of the 28 ft required by city code.

Thank you for listening to my thoughts regarding the proposal and the issues brought up at the Commission Meeting.

Sincerely,
Bernice Barnett
1065 SW Norwood Drive
Waldport, Oregon 97394

6 November 2017

City of Waldport
Waldport Planning Commission
P.O. Box 1120
Waldport, OR 97394
(541) 264-7417

REFERENCE: Tidewater Development LLC; Lincoln Tax Assessor Map 13-11-19CC; tax lot 120

Dear City of Waldport Planning Commission (Mr. Larry Lewis),

I am submitting an additional response to the request from Tidewater Development LLC for approval of a planned development (Vista View) for 34 single family homes/lots at the end of SW Norwood Drive. As a homeowner and a concerned citizen of Waldport, I am against this request and ask that it be denied by the Waldport Planning Commission.

I have carefully reviewed and studied the Tidewater Development LLC proposal. I find it irresponsible and lacking consideration for the community of Waldport. Waldport has a steady population of approximately 2,000 people with roughly 1,080 houses according to city-data.com. The city is responsible for growth and development and should be able to share a long term vision of the Waldport community, which I respectfully request the City Planning Commission do at the next hearing. Please let us know if this development fits with the current long range plan of Waldport. Who will set the prices for the homes, the Median income in Waldport is $45K and the median house value is $213K, who is the target audience for sales? Does that fit the long range plan for the City of Waldport?

The Waldport Land Usage and Zone Map for Residential planning includes the area in question and more land for lots and development, in reviewing the Lincoln County Assessor data, there are currently over 60 homes and at least additional 8 parcels that may be further subdivided on Norwood and the side streets, I would ask the planning commission to carefully review the plans of other land owners using the Norwood access road. Will the planned Tidewater housing development prevent any current land owners from developing their properties? For example, there are two new lots under development on Delores Dr. There are several significant unanswered questions about road capacity, what is the cost to the city and what will 34 new properties generate in income to offset that long term cost?

Tidewater Development LLC has already shown amazing disregard and irresponsible development activity and tactics. I would ask the Planning Commission to survey the surrounding property owners and assess the damages from runoff, cutting down trees that are not on their property, the vast number of trees that died from the clearcutting of the property, and even request the Forest Service provide assessments on Eagle habitat and other ecological impacts. I expect you will find a number of facts to substantiate that the developer has been

reckless and irresponsible. What else will the developer disregard if given the approval to proceed?

The Waldport Development Code section 16.12.030.A defines required Lot Size and Dimensions at 6,000 Sq Ft and specifically states "No lot area, yard, off-street parking or loading area, or other required open space for one use shall be used as the required lot area, yard, off street parking or loading area, or other required open space for another use." I would ask the Planning Commission at a very minimum to require Tidewater Development LLC to resubmit a plan which adheres to the minimum requirements, the code does not relieve the standard for density. In addition, I believe any such deviation from the code would require an amendment to the code as described in 16.104.020 and I do not believe this request will meet any of the required findings in order to be approved. In the event this development is approved, what legal liability will the City of Waldport risk?

There are still several factors that contribute to my concerns that I ask the Planning Commission to insist on complete analysis and insist on adequate resolution:

- HAS NOT BEEN ANSWERED: Who will pay for the infrastructure for this request, if a full utility and infrastructure plan is required, will the citizens of Waldport benefit at least equal to the cost of providing adequate access and support or will the developer pay for the infrastructure? What is the cost?

- HAS NOT BEEN ANSWERED: Who benefits from this request, especially to complete access from SW Norwood Drive, reviewing a plan of the city shows that if this is an appropriate subdivision, the appropriate approach to the area is from SW Kelsie Ln vice SW Norwood Dr. I submit that the cost to connect SW Norwood is an unreasonable burden on the taxpayers of Waldport, especially when SW Kelsie Ln provides adequate approach, road clearance and other logistical benefits, or even SW Forestry Ln. How will the cost to the city to prepare access, develop access and secure access as well as maintain access for considerable construction activity to include large commercial vehicles be resolved? This question has not been addressed! How long will I be blocked from accessing my property, how will my power and utilities be impacted and how will the residents of SW Norwood have their lives disrupted by commercial vehicles and construction activities?

- The Waldport Development Codes REQUIRES a geotechnical analysis to ensure the land is stable for development and the risk of a geologic hazard has been adequately researched and studied. Has an analysis been conducted on the entire building site as well as the passage requested from the existing end of SW Norwood Dr. to ensure the land will support a road safely in that location? (reference landslide on Cedar Rd)

- The Waldport Development Code section 16.12.030 section J. states "Any property identified as a geological natural hazard area as listed in Section 16.96.020 of this title or any property that has a twenty (20) percent slope or greater, as defined by Section 16.96.020 **shall require a geotechnical analysis** of the property in accordance with Section 16.96.030(D)(4) of this title.
- 16.96.030 Natural hazard areas. B. Areas of Concern. The primary areas of concern are those with active and potential landslides, high groundwater, weak foundation soils, coastal recession, and steep slopes.
- 16.96.020 Scope.
  Development guidelines shall apply to those areas of concern delineated on the City of Waldport zoning map and in its comprehensive plan and plan inventories or any area determined potentially hazardous by the Planning Commission and shall also apply to any property that has a 20% slope or greater.
  A. A property has a 20% slope or greater if:
  1. The average slope from the highest to lowest point of the property has a slope of 20% or greater or;
  2. The average slope of the building footprint or area to be disturbed is 20% or greater.
  B. Development guidelines shall also apply to those properties where a 30% or greater slope is within 100 feet of the property.

- HAS NOT BEEN ADDRESSED: No information has been provided to assess the impact to the water shed from the subject site. What is the impact to impact the fishing and commerce activities directly below in the bay, what is the impact to the maritime assets of Waldport? How do we know the facts of this issue when we are considering such a vital part of the overall community?

- HAS NOT BEEN ADDRESSED: No ecological surveys on the water ways that run through the area, what is the actual impact if the runoff and rainfall egress is disrupted, what is the risk of a road washout if the area is blocked by a road?

- HAS NOT BEEN ANSWERED: The conversation offered by Tidewater Development LLC has a "public" trail that ends at a private lot, how does that work? What is the impact on the existing trail from SW Norwood to Hwy 101 which is one of the treasured features of the Norwood Heights neighborhood?

- HAS NOT BEEN ADDRESSED: The developer has stated they will continue access through to Kelsey Ln, however, there is no evidence that the land has been purchased to do this. If a tsunami or other disaster impacts Waldport, the evacuation area at the intersection of SW Norwood Dr and SW Skyline Terrance will already be congested with

people that cannot connect with the East side of Waldport, increasing the population constrained by the lack of an exit route is fundamentally unwise, how will this be mitigated? Does the developer own the required property to provide a through access; the city **should require proof of ownership prior** to approving any plans.

I am a homeowner on SW Norwood Dr, I have concerns about the propriety of the applicants request. I have additional strong concerns about the responsibility and the ability of the applicant to act in the best interest of the public based on actions to date. Most importantly I want to ensure my tax dollars are not used for personal gain for the applicant! This application has already generated a considerable burden on the community even discussing a disruptive and unnecessary housing development. Many homeowners along SW Norwood have worked very hard to establish a wonderful living environment and amazing quality of life. Any reasonable person can determine that appropriate considerations and due diligence is lacking in this request, there are so many substantial unanswered questions, and for what motivation? I ask the Planning Commission again to deny this request and preserve what so many have worked so hard to create along SW Norwood Dr. and in the city of Waldport.

Please let me know if there are any questions or if you need any additional information at this time. I can be reached at 971-275-5007; by email at louiso100@earthlink.net; or by correspondence at 1160 SW Norwood Dr, Waldport OR 97394.

Sincerely

//Signed//

Louis Orndorff

Hollis Anne Lundeen
P.O. Box 1392
Waldport, Oregon 97394
November 6, 2017

Waldport Planning Commissioners
City of Waldport
P.O. Box 1120
Waldport, Oregon 97394

Greetings Waldport Planning Commissioners: ALSO INCLUDING CITY PLANNER LARRY LEWIS

Thank you for granting the extension for you to receive additional information, inquiry, and concerns in regards to APP PD/#1-PD-PC-17 TIDEWATER DEVELOPMENT LLC/NOTICE, Planned Vista View Development Proposal.

Please consider this as additional appeal testimony, with my previous submittals dated October 16, 22, & 23 2017, along with the request for your denial of any approval or waivers until the developer submits the required and requested drawing, materials, and requirements made in this appeal.

Due to learning of this proposal not until October 16, and being away from the area at the time, I was not able to attend the public hearing on October 23, 2017, and had hoped to have the documented minutes from that hearing to respond to prior discussion and decision, however they have not been publicly posted, therefore I will ask for your understanding if I repeat any prior questions.

The developers request to access the proposed 34 homes on 7.75 acres from Norwood Drive is not an appropriate, reasonable, or practical approach for the primary transportation route to Vista View. I, along with many other concerned neighborhood residents want to make sure you are aware of our concerns prior to considering granting any access on Norwood Drive to the Proposed Vista View Development.

I have thoroughly investigated the existing Norwood Drive, starting from the beginning junction off State Highway 101. The junction of Norwood and the State Highway 101 includes traffic from Starr Street, which is a local short cut connection from State Hwy 34 to the south end of Waldport junction with State Hwy 101. Many locals drive this back way to avoid our one traffic light in Waldport. Currently, this intersection is very confusing and busy with the existing traffic. It is a safety concern for the current traffic of both local and commercial vehicles to head north or south onto 101, from Norwood and Starr, including entering into the junction from 101 North and South. My recent transportation count and study revealed that there are vehicles heading both north and south at higher speeds than posted, along with confusing signage and lane designation. There is backup access to and fro and an undesignated left hand south turning lane from 101 onto Starr just at the point of 2 lane going into one lane on State Hwy 101. Please note: This intersection is an existing traffic challenge and hazard as is, without any additional proposed traffic.

-Has the State Highway Department been contacted to consult in redesign of this intersection with the proposed increased traffic flow?

-If so, will the developer be required to cover the costs of the redesign or new construction additional traffic signs necessary for the increased flow? There will be a definite increase of commercial vehicle use at this intersection, due to the proposed 34 new home construction, such as concrete trucks, semi's carrying trusses and lumber, along with many other delivery trucks. Recommend design to include allowance for curve widening due to construction widths necessary to maneuver the intersection safely along with the current traffic flow.

The existing adverse grade, less than minimum recommended City Ordinance Width, and "S" reverse curve alignment from the bottom of the hill on Norwood to where new construction would start varies from 15-22 %. (FYI: That is an elevation gain of 22 feet for every 100 feet. Very STEEP!) Such a continued sustained grade, along with measured widths of 17-20 feet traveled way, along with documented sub-grade failure and existing road asphalt patching from previous road failures, with minimum depth of asphalt surface, shows that the existing road would require substantial maintenance in curve widening, and realignment to facilitate any additional traffic. This can be confirmed by current residential users who have shared their concerns of safety, impact, and existing narrow road width which in many places cannot be widened due to slope and exist

thru cut road templates. Pedestrian traffic is high and verified by Transpiration Survey Analysis. There is little pedestrian "escape" route available should 2 cars pass uphill and downhill, let alone non existent, when 2 commercial vehicles pass each other.

The traveled way existing half width on the curves measures at 8.5-10 feet, with the average car measuring 8 foot width. Commercial Trucks and Large 4x4 trucks continue to cross over the non existent center lane designation on many curves, since there is not enough existing half width.

-If the Developer chooses to access their Vista View private property from Norwood Drive, have they committed the construction funds for these necessary improvements prior to the City of Waldport granting access to Vista View's proposed 34 lot development?

Request the Commissioners require the developer to submit design for this realignment and curve widening along with allowance for a safe and pedestrian protected sidewalk. Design criteria should include time line and costs of development including timeliness of completion and impact to residents currently using the road, including impacts to existing driveway and property access. This submittal should be required prior to granting developer any access, since, if properly designed, will reveal that this is not a feasible safe traveled route to facilitate additional traffic for the construction development to include 34 new homes, new residents vehicles, including, daily delivery and service vehicles along with visitors to the Vista View Development with this traffic flow increase.

In addition, on the new construction proposal on Norwood, the existing road field investigation, conducted on the proposed public easement, road width measurement in part, is at maximum of 17 feet, with a fill slope of -67% does not qualify for the city ordinance width requirements of 56 feet.

Please note: Request Commissioners to deny the proposed request to modify city ordinance road right of way width, in and outside the proposed road system development from 56 feet to 30 feet and in service paved width from 28 feet to 20 feet due to the inability to monitor and regulate on street parking.

There is an existing Power Pole within the proposed new construction access serving the neighborhood which would have to be moved.

-There is substantial cut and fill failure, including undercutting, and sedimentation along the proposed new construction access, which is just above State Hwy 101 and directly above Alsea Bay. I have received confirmation from the USDA Forest Service, that silt and sedimentation from the above timber harvest penetrated their newly constructed bunkhouse which backs up to the proposed development. With securing this information by investigation, I request the Commissioners to require the Developer to submit a Plan of Action with defined time-lines of removal and replacement of this existing power pole, impact to local power consumers, and written confirmation of absorbing the costs for moving and replacing this Power Pole. This work should be completed by the Developer well before any construction to the extension of Norwood Drive would commence. Highly recommend a Field Verification Transportation System Plan-In- Hand Invitation from the Developer to the many interested local residents to understand how this new construction extending Norwood Drive will occur. This Plan of Action submitted by the developer to the City of Waldport, should include the improvements that the developer will make to the existing Norwood Drive access by providing information and assurance of no environmental impact to and for the safety of current users, and pedestrians. Past performance of slope failure warrants including proactive planned protection of the entire development from future sedimentation and slope failure into the existing water sources and riparian areas within and surrounding Vista View. This Plan of Action will be submitted in writing to the City of Waldport prior to approval of access.

My investigation with the County Assessors Office and Surveyor Office does not show any deemed dedication of the road to the City of Waldport.

-REQUEST Proof of this Ownership be presented at the Public Meeting, with a confirmation that this entire development is within the City of Waldport limits..

The Developer has requested a waiver/modification to the City Ordinance which requires all lots be a minimum of 6,000 ft2. The City Ordinance states that every lot should be at a minimum 6,000 ft2. The developers proposal itself states that 23 lots are less than 6,000 ft,including 4 lots under 5,000 ft2. The smallest lot is listed at 4,810 ft. That alone is justification that the Developer agrees that their proposed lot size is not compliant to city ordinance minimum requirements.

The developers justification of including dedicated open space, which exists on sloped ground, to steep for building, to be included in the calculation for justification of the waiver, which still is below the City Ordinance requirements, is completely unvalidated and unreasonable and should not be considered as justification, and should be revoked and repealed for the waiver.

-Request to Appeal Developers request for waiver modification due to non compliance with city code and unvalidated justification. This appeal includes appeal of Lot 13 width waiver which does not meet the City Ordinance requirements.

-Request an Appeal to granting this waiver/modification request for lot size variance in ft2 and width..

The Developer's justification that the included open space justifies the waiver/modification is not valid. The designated open space is located on steep ground exceeding 20%. As stated in the city ordinances, a Geo technical assessment per requirement that any property that has a 20 % slope or greater, request developer submit a Geo-Technical report on the entire 7.75 acres by a qualified non biased Geo-technical Engineer as stated according to the ordinance requirements. Request the entire development be assessed due to past sedimentation occurring from harvested acreage.

-23 of the proposed 34 lots exceeds the allocation of lots designated within the existing Norwood Heights Transportation System. This alone justifies investigation into alternative routes which include the Kelsie Lane route which was the designated choice transportation route of the developer, and utilized, with no impact to the existing transportation infrastructure, to harvest the timber off of the 7.75 acres. The proposal addresses utilization of Kelsie Way in phase two of the development. If this route was considered initially, as the primary access route, all the preliminary Norwood Drive Intersection and reconstruction costs, upfront investment with commitment to moving the power pole, field review, crossing the live flow drainage, with impact and construction to Norwood Drive would not have to be investigated or invested in preliminary requirements. It would be to the Developer advantage to truly investigate both Forestry Lane and Kelsie Lane as primary access alternatives prior to investigation and commitment use of Norwood Drive, which would require extensive cost and time to the developer let alone the request by many in the neighborhood that there is a pedestrian fact and human impact factor to consider.

Please consider these specific concerns prior to allowing a developer access to a community that is requesting for you to sincerely represent and preserve their neighborhood to remain in the present and existing atmosphere of now.

Sincerely, a Concerned Waldport Citizen, supporting the existing Norwood Drive & Heights Neighborhood & Community,

Hollis Anne Lundeen

Additional material to be copied for Planning Commission (not included in packet).

1. Aerial view of area
2. Aerial view of Norwood Heights
3. Aerial view of Norwood Heights No. 2
4. Aerial View of Norwood Heights No. 3
5. Map of Applicant's property and surrounding area
6. Plat of Norwood Heights
7. Plat of Norwood Heights 2
8. Plat of Norwood Heights 3
9. Partition Plat 2003-13 in Norwood Heights area
10. Partition Plat 2004-24 Norwood Heights area
11. Partition Plat 2005-27 in Norwood Heights area
12. Photo of Norwood Drive heading up hill from 101
13. Norwood Drive looking up hill
14. Norwood Drive looking toward Highway 101
15. Car travelling down Norwood Drive
16. Grass area along pavement on Norwood Drive (looking downhill)
17. Grass area along pavement on Norwood Drive (looking uphill)
18. Norwood Drive near top of hill
19. End of pavement on present Norwood Drive
20. Barham deed showing ownership as husband and wife
21. Barham house at end of Norwood; deck built over ravine; drainage slope to applicant property
22. End of Norwood Drive looking back through development
23. Norwood Drive looking through Norwood Heights subdivision
24. Norwood Drive looking through Norwood Heights subdivision

25. Another photo along Norwood Drive

26. Street off Norwood Drive

27. Property for sale at end of Skyline Terrace in Norwood Heights 3

28. End of Kelsie Lane south of applicant's property

29. Car parked in street on Kelsie Lane

30. Pickup parked on Kelsie Lane

31. Car parked in street on Chad

32. Photo along Range Drive a collector street

33. Photo along Range Drive

34. Photo along Crestline Drive a collector street

35. Photo along Crestline Drive

36. Photo along Crestline Drive

Printed 10/20/2017

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N

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Norwood Heights

2

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Lincoln County OREGON

Norwood Heights 2

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Lincoln County OREGON

Norwood Heights No. 3

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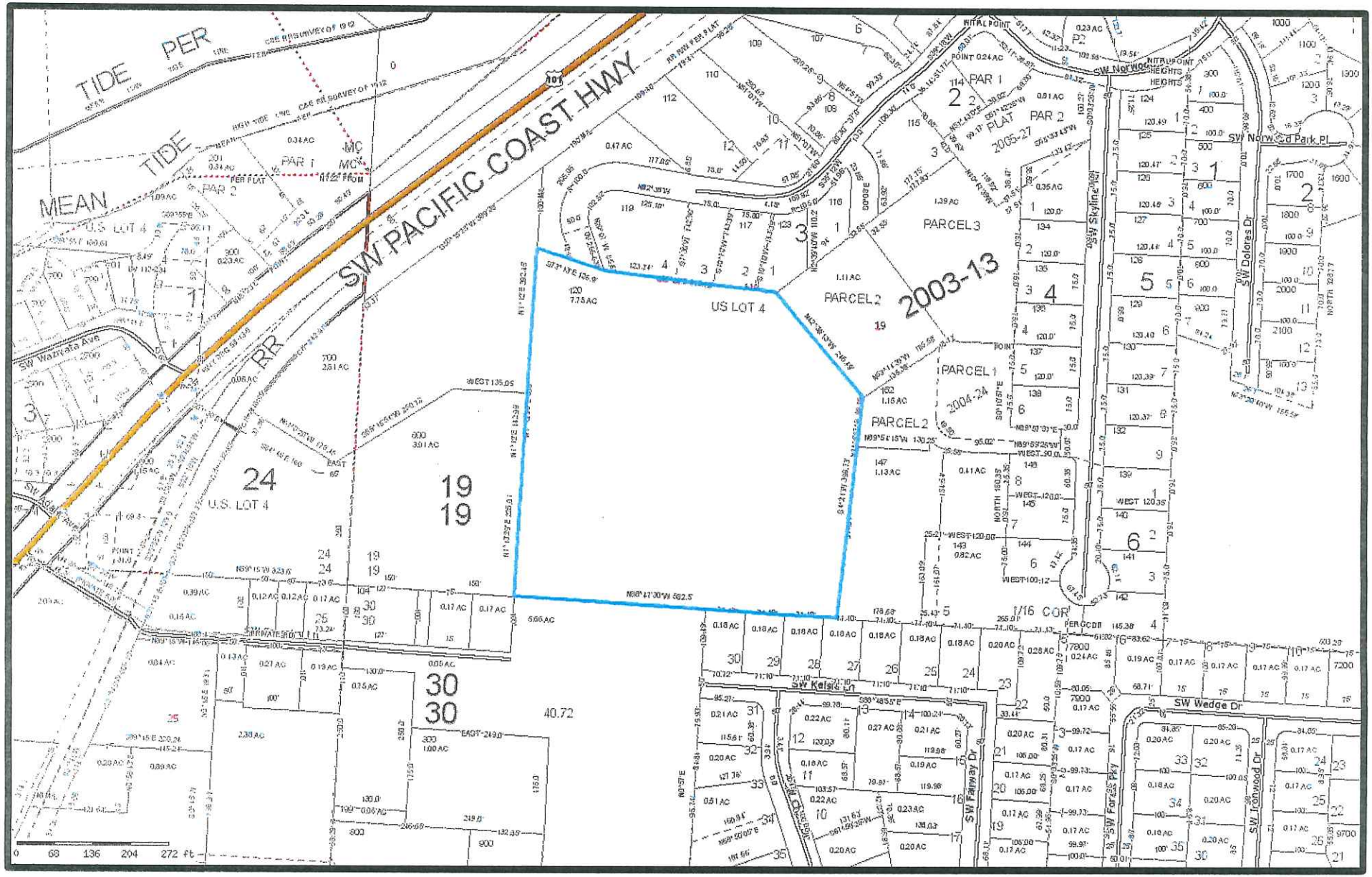

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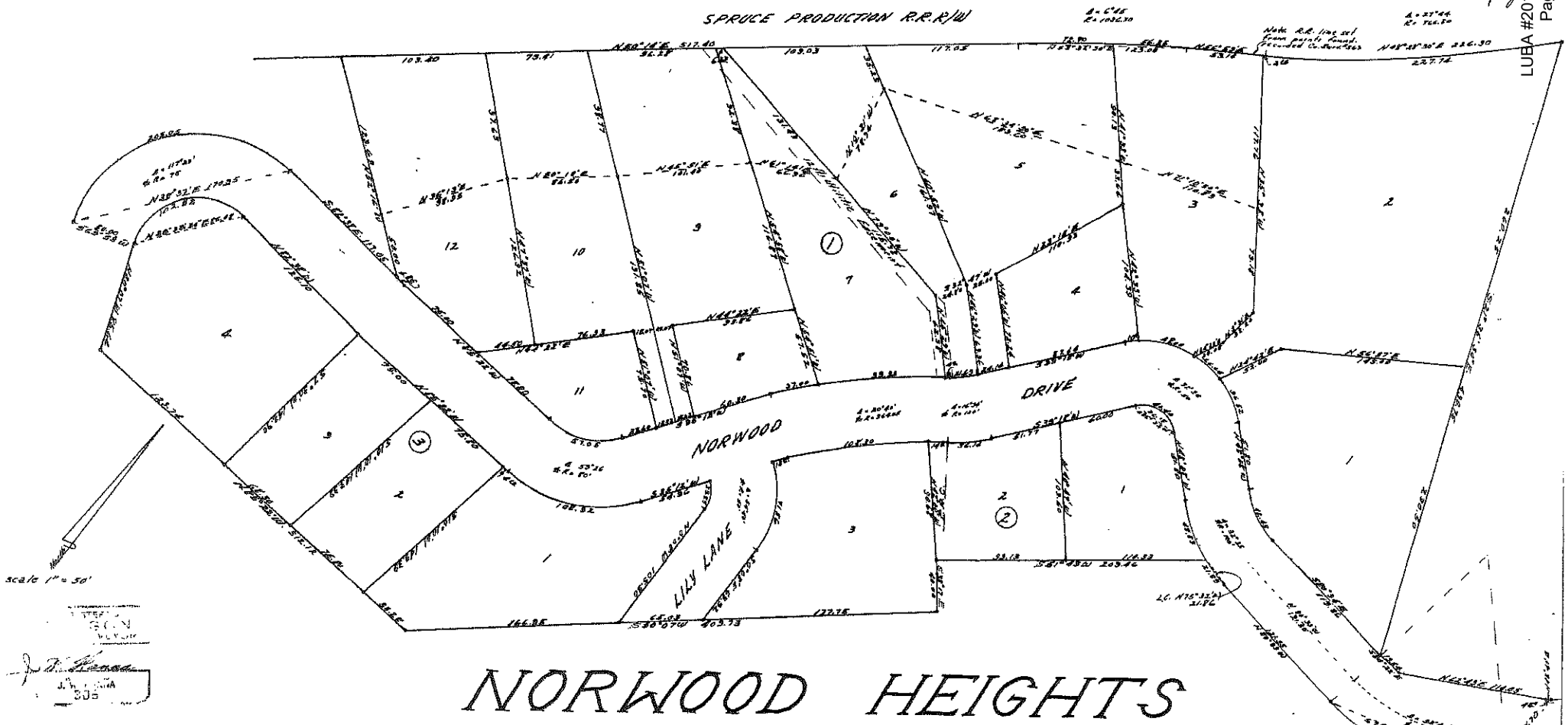

NORWOOD HEIGHTS

CITY OF WALDPORT, ORE.

SURVEYOR'S CERTIFICATE

I, J. W. Hanna, being first duly sworn depose and say that I have correctly surveyed and marked with appropriate monuments the lands represented on the annexed map of Norwood Heights. That the initial point of said plat is a 2" iron pipe 36" long 4" below the surface of the ground, said initial point being North 395.47 ft. and East 1471.77 ft. from the South West Corner of Section 18 T 13 S R 11 W of the Will. Mer. Lincoln County, Oregon; The property platted is described as follows. Beginning at the initial point; Thence along the arc of a 125 ft. radius curve right (the long chord of which bears S 78°10'W 135.19 ft.) A distance of 139.28 ft.; Thence N 89°35'W 111.35 ft.; Thence along the arc of a 135 ft. radius curve Right (the long chord of which bears N 73°21'W 21.99 ft.) a distance of 21.99 ft.; Thence S 31°43'W 208.49 ft.; Thence S 36°17'E 40.80 ft. Thence S 89°07'W 698.73 ft.; Thence N 85°22'W 212.12 ft.; Thence N 29°07'W 88.04 ft.; Thence S 89°53'W 50.00 ft.; Thence along the arc of a 165 ft. radius curve right (the long chord of which bears N 25°37'E 170.69 ft.) a distance of 205.87 ft.; Thence S 62°30'E 117.85 ft.; Thence N 55°18'W 173.63 ft. to the Easterly line of the Old Spruce Production Railroad right of way; Thence N 88°14'E along said Easterly Right of way 517.60 ft.; Thence along the arc of a 1898.30 ft. radius curve right (the long chord of which bears N 57°26'30"E 132.02 ft.) a distance of 132.11 ft.; Thence N 59°38'E 61.30 ft.; Thence along the arc of a 726.20 ft. radius curve left (the long chord of which bears N 60°12'30"E 250.80 ft.) a distance of 257.74 ft. to a ½" iron pipe (the North West Corner of the Burl Gainer Tract as shown in County Survey #863) Thence S 21°38'30"E along said Gainer Tract West line 490.75 ft.; Thence S 84°43'E 18.54 ft.; Thence N 82°40'E 114.85 ft.; Thence N 46°0'E 4.52 ft.; Thence South 52.72 ft. to the point of beginning.

J. W. Hanna

Subscribed and sworn to before me this 13th day of May 1968

Margaret Carstens
Notary Public in and for Oregon
My commission expires June 29, 1968

FILED
Alberta M. Bryant
Della Gieckler
Deputy

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 Norwood 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 16th day of May 1968

Witnessed by Lucy Gainer

E. F. Norwood
Lily T. Norwood

ACKNOWLEDGMENT

STATE OF OREGON
COUNTY OF LINCOLN ss

BE IT REMEMBERED, that on this 16 day of May 1968 before me the undersigned, a notary public in and for said State and County appeared E. F. Norwood and Lily Norwood, personally known by me to be the identical persons described in and who executed the foregoing instrument and acknowledged to me that they executed the said instrument as their free and voluntary act and deed for the uses therein set forth.

IN WITNESS WHEREOF I have hereunto set my hand and affixed my official seal the day and year last written.

Lucy Gainer
Notary Public in and for Oregon
My commission expires Aug 26

APPROVALS

Eric Gille, County Judge	Alberta M. Bryant, County Clerk — Della Gieckler, Deputy
David S. Moffitt, County Commissioner	Lil Kline, County Assessor
Harold A. Byron, County Commissioner	County Surveyor
John H. Wells, Planning Commissioner	Robert T. Washington, City of Waldport Engineer

All Taxes paid to July 1, 1967

Joseph W. Ostermann, Sheriff

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NORWOOD HEIGHTS 2

LOCATED IN THE SOUTHWEST 1/4 - SOUTHWEST 1/4, SECTION 19, T13S, R11W, W.M.
CITY OF WALDPORT, LINCOLN COUNTY, OREGON

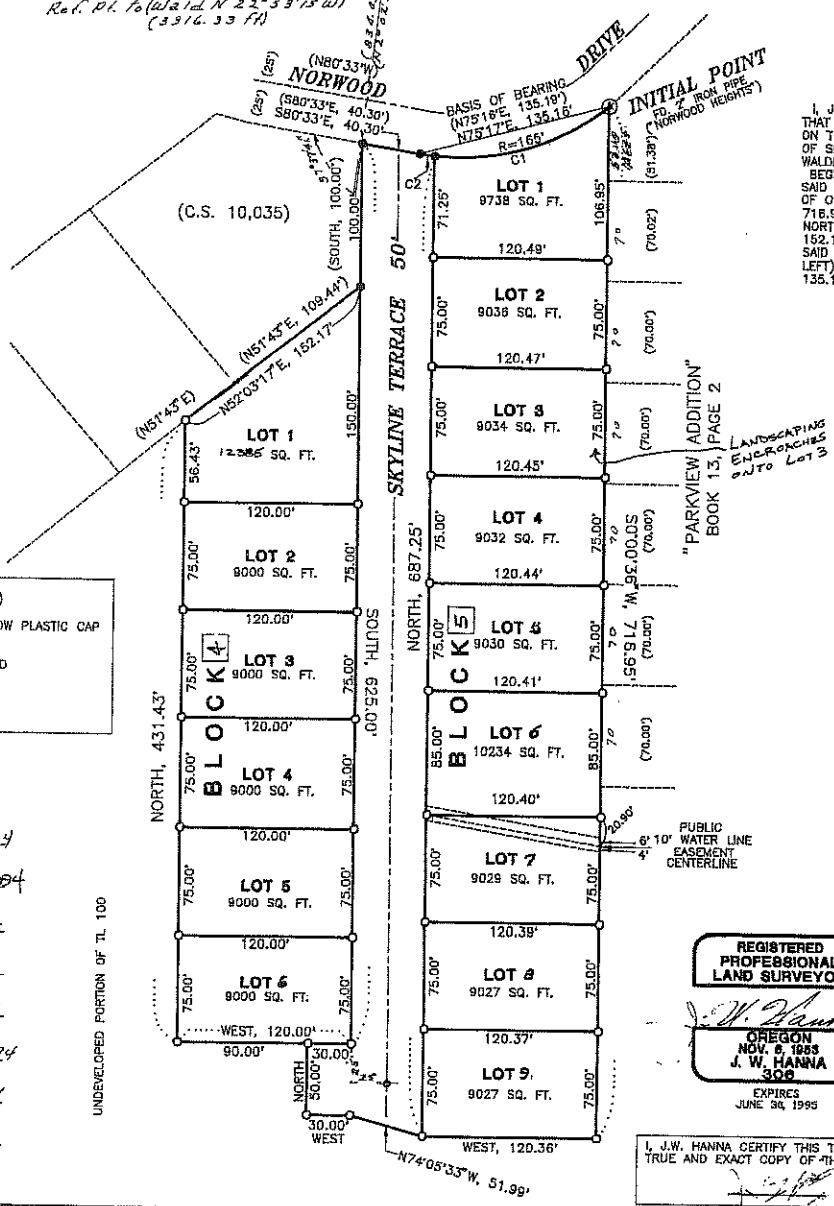
SEPTEMBER 13, 1994 (13-11-19-CC T.L. 100)

FILED
NOV 15 1994
at 02:30 o'clock P.M.
DANA W. JENKS, COUNTY CLERK
BY ____ DEPUTY

INITIAL POINT
(NORTH, 995.47)
(EAST, 1471.77)
FROM THE SOUTHWEST CORNER
SECTION 19, T13S, R11W, W.M.
FOUND: 2 1/2" BRASS CAP
FROM CORNER 9205 TO 9205
(S5°53'20"W, 116.01')

Ref. Pt. To (W2 Id N 22°53'15"W) (3916.33 ft)

4 C.R.S. Pt. To which BC. in See W.11=20.79



CURVE TABLE

C1	
Δ	= 44°46'35"
D	= 34°43'29"
R	= 165.00'
T	= 67.97'
L	= 128.9
CH	= N79°28'16"E
CH L	= 125.69

C2	
Δ	= 3°25'29"
D	= 34°43'29"
R	= 165.00'
T	= 5.17
L	= 10.34'
CH	= S82°21'00"E
CH L	= 10.34'

N

SCALE 1" = 60'

LEGEND

- ● MONUMENT FOUND: 5/8" IRON ROD (C.S. 10,035)
- ○ MONUMENT SET: 5/8" X 30" RE-BAR WITH YELLOW PLASTIC CAP MARKED "JOHN HANNA RLS 306"
- ▲ MONUMENT FOUND, HELD FOR CONTROL AS NOTED
- Ⓐ INDICATES INITIAL POINT
- ( ) RECORD INFORMATION

APPROVALS

CITY OF WALDPORT PLANNER	10-20-94 DATE
COUNTY SURVEYOR / DEPUTY	OCT 27, 1994 DATE
LINCOLN COUNTY TAX COLLECTOR	11-15-94 DATE
LINCOLN COUNTY ASSESSOR	11-9-94 DATE
LINCOLN COUNTY CLERK	11-15-94 DATE
LINCOLN COUNTY COMMISSIONER	11-9-94 DATE
LINCOLN COUNTY COMMISSIONER	11/9/94 DATE
LINCOLN COUNTY COMMISSIONER	11/9/94 DATE

SURVEYOR'S NARRATIVE

THE PURPOSE OF THIS SURVEY IS TO LOCATE AND MONUMENT A PORTION OF THE TRACT OF LAND DESCRIBED IN MF 259-1594 LINCOLN COUNTY MICROFILM RECORDS FOR THE PURPOSE OF SUBDIVIDING SAID PORTION. THE BASIS OF BEARING FOR THIS SURVEY IS THE SOUTHERLY RIGHT-OF-WAY OF NORWOOD DRIVE AS RECORDED IN COUNTY SURVEY 10,035 AND AS DEFINED BY MONUMENTS FOUND AS SHOWN ON THE ACCOMPANYING PLAT.
EQUIPMENT USED: PENTAX (20") TOTAL STATION.

SURVEYOR'S CERTIFICATE

I, JOHN W. HANNA REGISTERED PROFESSIONAL LAND SURVEYOR IN THE STATE OF OREGON, HEREBY CERTIFY THAT I ACCURATELY SURVEYED, SUBDIVIDED AND PLATTED INTO LOTS AND STREETS THE LAND REPRESENTED ON THE ACCOMPANING MAP OF "NORWOOD HEIGHTS 2" WHICH LIES IN THE SOUTHWEST 1/4-SOUTHWEST 1/4 OF SECTION 19, TOWNSHIP 13 SOUTH, RANGE 11 WEST, OF THE WILLAMETTE MERIDIAN, IN THE CITY OF WALDPORT, LINCOLN COUNTY, OREGON; THE BOUNDARY OF WHICH IS DESCRIBED AS FOLLOWS:
BEGINNING AT THE INITIAL POINT A FOUND 2" IRON PIPE OF THE PLAT OF "NORWOOD HEIGHTS" AND SAID INITIAL POINT BEING NORTH 995.47 FEET AND EAST 1471.77 FEET FROM THE SOUTHWEST CORNER OF OF SAID SECTION 19; THENCE SOUTH 00°00'36" WEST ALONG THE WEST LINE OF "PARKVIEW ADDITION" 716.95 FEET; THENCE WEST, 120.36 FEET; THENCE NORTH 74°05'33" WEST, 51.99 FEET; THENCE W & S 30 ft # NORTH, 50.00 FEET; THENCE WEST, 90.00 FEET; THENCE NORTH 431.43 FEET; THENCE NORTH 52°03'17" EAST, 152.17 FEET; THENCE NORTH, 100.00 FEET TO THE SOUTH LINE OF NORWOOD DRIVE; THENCE EASTERLY ALONG SAID NORWOOD DRIVE SOUTH 80°33' EAST, 40.30 FEET TO A POINT OF CURVE OF A (165 FOOT RADIUS CURVE LEFT); THENCE ALONG SAID CURVE A DISTANCE OF 139.29 FEET, THE LONG CHORD BEARS (NORTH 75°17' EAST, 135.16 FEET) TO THE INITIAL POINT AND THE POINT OF BEGINNING.

DECLARATION

KNOW ALL PEOPLE BY THESE PRESENT THAT TIM MUGLESTON AND PAMELA L. MUGLESTON HUSBAND AND WIFE, AND GORDON D. FLAMING AND SHIRLEY FLAMING BEING THE OWNERS, BANK OF NEWPORT, WALDPORT BRANCH BEING THE LEIN HOLDER OF THE PROPERTY DESCRIBED IN THE SURVEYOR'S CERTIFICATE, HAVE CAUSED SAID PROPERTY TO BE SURVEYED AND PLATTED INTO LOTS AND STREETS AS SHOWN ON THE ACCOMPANYING MAP OF "NORWOOD HEIGHTS 2" AND DO HEREBY DEDICATE ALL STREETS AS SHOWN TO THE PUBLIC FOREVER WITHOUT RESERVATION OR RESTRICTION WHATEVER. AND 10 FOOT PUBLIC UTILITY EASEMENT AS SHOWN ON THE ACCOMPANYING PLAT.

TIM MUGLESTON — PAMELA L. MUGLESTON
GORDON D. FLAMING — SHIRLEY FLAMING
BANK OF NEWPORT, WALDPORT BRANCH — OPERATIONS OFFICER

ACKNOWLEDGEMENT

STATE OF Oregon
S.S
COUNTY OF Lincoln

ON THIS 26 DAY OF Sept, IN THE YEAR 94, BEFORE ME Shelly Davidson PERSONALLY APPEARED TIM MUGLESTON, PAMELA L. MUGLESTON, GORDON D. FLAMING, SHIRLEY FLAMING, PERSONALLY KNOWN TO ME OR PROVED TO ME ON THE BASIS OF SATISFACTORY EVIDENCE TO BE THE PERSONS WHOSE NAMES ARE SUBSCRIBED TO THIS INSTRUMENT, AND ACKNOWLEDGED THAT THEY EXECUTED IT.
WITNESS MY HAND AND OFFICIAL SEAL.

MY COMMISSION EXPIRES: 4-22-98

7

ACKNOWLEDGEMENT

STATE OF OREGON
S.S
COUNTY OF LINCOLN

ON THIS 26 DAY OF Sept, IN THE YEAR 94, BEFORE ME Shelly Davidson PERSONALLY APPEARED Mary Williams Pres ON BEHALF OF THE BANK OF NEWPORT WALDPORT BRANCH, PERSONALLY KNOWN TO ME OR PROVED TO ME ON THE BASIS OF SATISFACTORY EVIDENCE TO BE THE PERSON WHO EXECUTED THE WITHIN INSTRUMENT AND ACKNOWLEDGED TO ME THAT THE BANK OF NEWPORT EXECUTED IT.
WITNESS MY HAND AND OFFICIAL SEAL.

MY COMMISSION EXPIRES: 9-22-98

REGISTERED PROFESSIONAL LAND SURVEYOR
OREGON NOV. 6, 1883 J. W. HANNA 306
EXPIRES JUNE 30, 1995

I, J.W. HANNA CERTIFY THIS TO BE A TRUE AND EXACT COPY OF THE ORIGINAL.

DRAWN BY: GAM	HANNA SURVEYING
CHECKED BY: JWH	JOHN W. HANNA
DATE: 9/13/94	PO BOX 1743
SCALE: 1" = 60'	WALDPORT, OREGON 97394
PROJECT: GM 19094	(503) 563-2330

Book 16 Page 14

NORWOOD HEIGHTS No. 3

LOCATED IN THE SW 1/4 OF SECTION 19, T13S, R11W W.M.

CITY OF WALDPORT, LINCOLN COUNTY, OREGON

(13-11-19-CC)

LINE TABLE

LINE	BEARING	DISTANCE
L1	EAST	15.00'
L2	EAST	15.00'
L3	SOUTH	0.35'
L4	S74°05'33"E	51.99'
L5	SOUTH	20.10'

RECORD [PLAT BOOK 15, PAGE 48]

LINE	BEARING	DISTANCE
L4	S74°05'33"E	51.99'

CURVE TABLE

CURVE	DELTA	R	L	T	LONG CHORD	
C1	90°00'00"	15.00'	23.56'	15.00'	S45°00'00"E	21.21'
C2	79°06'58"	45.00'	62.14'	37.17'	S16°41'37"E	57.32'
C3	67°08'09"	45.00'	52.73'	29.86'	S56°25'56"W	49.76'
C4	85°52'38"	45.00'	67.45'	41.87'	N47°03'40"W	61.31'
C5	50°22'26"	45.00'	47.42'	26.18'	N25°03'52"E	46.25'

SCALE 1"=60'

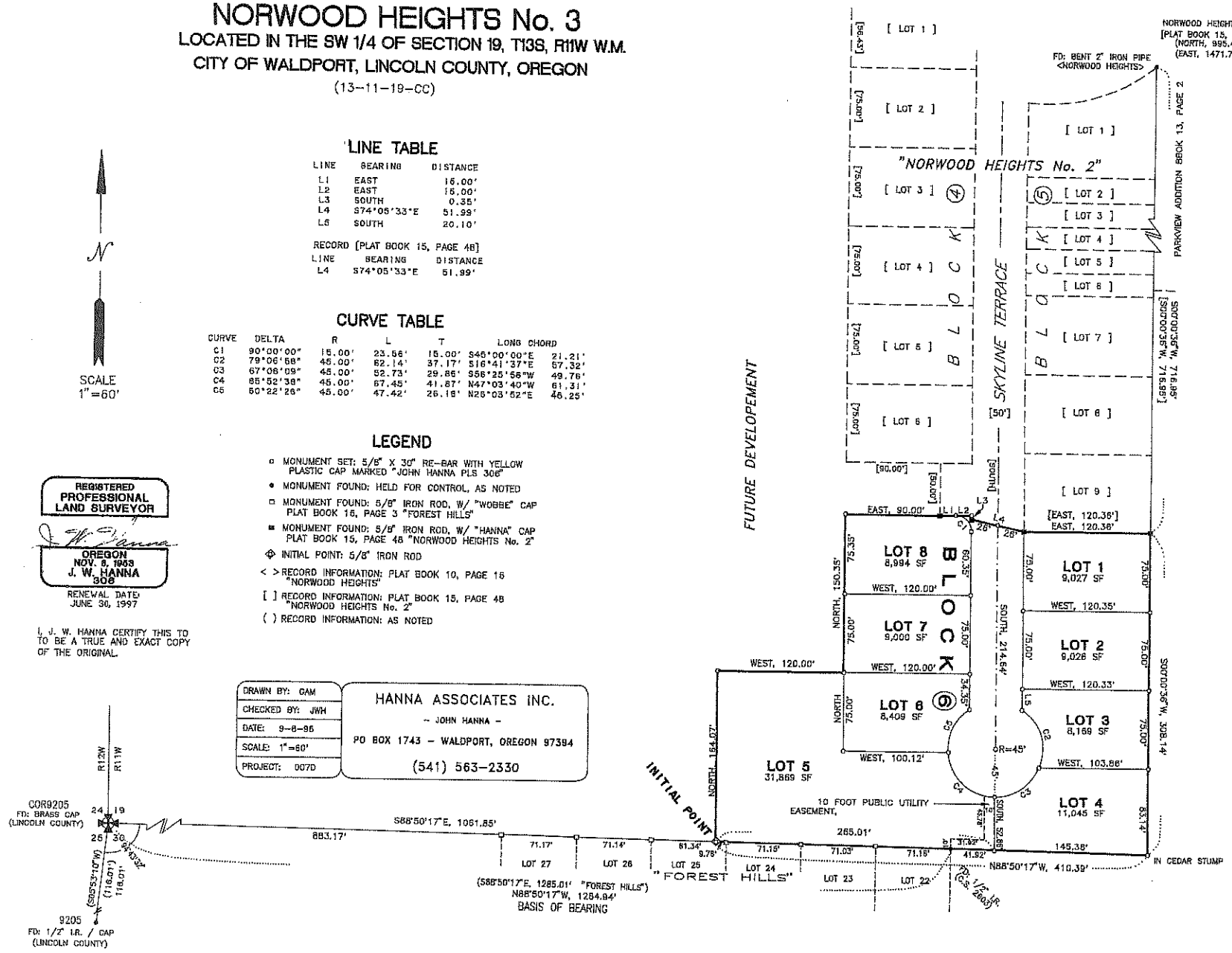
LEGEND

- ▫ MONUMENT SET: 5/8" X 30" RE-BAR WITH YELLOW PLASTIC CAP MARKED "JOHN HANNA PLS 306"
- • MONUMENT FOUND: HELD FOR CONTROL, AS NOTED
- ▫ MONUMENT FOUND: 5/8" IRON ROD, W/ "WOBBE" CAP PLAT BOOK 16, PAGE 3 "FOREST HILLS"
- ▪ MONUMENT FOUND: 5/8" IRON ROD, W/ "HANNA" CAP PLAT BOOK 15, PAGE 48 "NORWOOD HEIGHTS No. 2"
- ⊕ INITIAL POINT: 5/8" IRON ROD
- < > RECORD INFORMATION: PLAT BOOK 10, PAGE 16 "NORWOOD HEIGHTS"
- [ ] RECORD INFORMATION: PLAT BOOK 15, PAGE 48 "NORWOOD HEIGHTS No. 2"
- ( ) RECORD INFORMATION: AS NOTED

REGISTERED PROFESSIONAL LAND SURVEYOR
OREGON NOV. 8, 1983 J. W. HANNA 306
RENEWAL DATE: JUNE 30, 1997

I, J. W. HANNA CERTIFY THIS TO TO BE A TRUE AND EXACT COPY OF THE ORIGINAL.

DRAWN BY: CAM	HANNA ASSOCIATES INC.
CHECKED BY: JWH	~ JOHN HANNA ~
DATE: 9-8-95	PO BOX 1743 - WALDPORT, OREGON 97394
SCALE: 1"=60'	(541) 563-2330
PROJECT: 007D	



8

NORWOOD HEIGHTS No. 3

LOCATED IN THE SW 1/4 OF SECTION 19, T13S, R11W, W.M.
CITY OF WALDPORT, LINCOLN COUNTY, OREGON

(13-11-19-CC)

SURVEYOR'S NARRATIVE

THE PURPOSE OF THIS SURVEY WAS TO DETERMINE THE BOUNDARIES OF A PORTION OF A TRACT DESCRIBED IN LINCOLN COUNTY MICROFILM VOLUME 259, PAGE 1594 AND TO PLAT A SUBDIVISION OF LOTS AND STREETS WITHIN THIS TRACT.

FOUND AND MONUMENTATION ALONG THE WESTERLY AND SOUTHERLY BOUNDARIES OF "NORWOOD HEIGHTS 2" AND NORTHERLY MONUMENTS OF "FOREST HILLS" FOR CONTROL AS SHOWN ON THE ACCOMPANYING PLAT.

BASIS OF BEARING TAKEN FROM PLAT OF "FOREST HILLS" BOOK 16, PAGE 3 THAT ADJOINS A PORTION OF THE SOUTHERLY BOUNDARY OF THIS SUBDIVISION.

THIS SURVEY PERFORMED WITH A PENTAX PCS-1 (10") THEODOLITE TOTAL STATION.

SURVEYOR'S CERTIFICATE

I, J.W. HANNA, A REGISTERED LAND SURVEYOR IN THE STATE OF OREGON ,DO HEREBY SAY THAT I HAVE ACCURATELY SURVEYED AND MARKED WITH PROPER MONUMENTS AS PROVIDED IN O.R.S. 92.060 THE LAND REPRESENTED ON THE ACCOMPANYING PLAT OF NORWOOD HEIGHTS No.3, A SUBDIVISION IN THE SOUTHWEST ONE-QUARTER OF THE SOUTHWEST ONE-QUARTER OF SECTION 19, TOWNSHIP 13 SOUTH, RANGE 11 WEST, WILLAMETTE MERIDIAN, CITY OF WALDPORT, LINCOLN COUNTY, OREGON, SAID PLAT BOUNDARIES OF WHICH ARE DESCRIBED AS FOLLOWS;

BEGINNING AT THE INITIAL POINT A 5/8 INCH IRON ROD BEING SOUTH 88° 50' 17" EAST, 1061.85 FEET FROM THE SOUTHWEST SECTION CORNER OF SECTION 19, TOWNSHIP 13 SOUTH, RANGE 11 WEST, WILLAMETTE MERIDIAN, LINCOLN COUNTY, OREGON; THENCE NORTH, 164.07 FEET TO AN IRON ROD; THENCE EAST, 120.00 FEET TO AN IRON ROD; THENCE NORTH, 150.35 FEET AN IRON ROD; THENCE EAST, 120.00 FEET TO AN IRON ROD; THENCE SOUTH, 0.35 FEET TO AN IRON ROD; THENCE SOUTH 74° 05' 33" EAST, 51.99 FEET TO THE SOUTHWEST CORNER OF LOT 9, BLOCK 5 "NORWOOD HEIGHTS No. 2"; THENCE EAST, 120.36 FEET TO THE SOUTHEAST CORNER OF SAID LOT 9; THENCE SOUTH 00° 00' 36" WEST, 308.14 FEET TO THE EAST-WEST SECTION LINE OF SECTION 19; THENCE NORTH 88° 50 17" WEST, 410.39 FEET ALONG SAID SECTION LINE TO THE INITIAL POINT.

DECLARATION

KNOW ALL PEOPLE BY THESE PRESENT THAT TIM MUGLESTON AND PAMELA L. MUGLESTON HUSBAND AND WIFE, AND GORDON D. FLAMING AND SHIRLEY FLAMING BEING THE OWNERS, BANK OF NEWPORT, WALDPORT BRANCH BEING THE LEIN HOLDER OF THE PROPERTY DESCRIBED IN THE SURVEYOR'S CERTIFICATE, HAVE CAUSED SAID PROPERTY TO BE SURVEYED AND PLATTED INTO LOTS AND STREETS AS SHOWN ON THE ACCOMPANYING MAP OF "NORWOOD HEIGHTS 3" AND DO HEREBY DEDICATE ALL STREETS AS SHOWN TO THE PUBLIC FOREVER WITHOUT RESERVATION OR RESTRICTION WHATEVER AND CREATE A 10 FOOT PUBLIC UTILITY EASEMENT AS SHOWN ON THE ACCOMPANYING PLAT.

TIM MUGLESTON — PAMELA L. MUGLESTON

GORDON D. FLAMING — SHIRLEY FLAMING

BANK OF NEWPORT, WALDPORT BRANCH — OFFICER

ACKNOWLEDGEMENT

STATE OF Oregon
COUNTY OF Lincoln S.S

ON THIS 17 DAY OF December, IN THE YEAR 1996, BEFORE ME Suzanne Whetstone PERSONALLY APPEARED TIM MUGLESTON, PAMELA L. MUGLESTON, GORDON D. FLAMING, SHIRLEY FLAMING, PERSONALLY KNOWN TO ME OR PROVED TO ME ON THE BASIS OF SATISFACTORY EVIDENCE TO BE THE PERSONS WHOSE NAMES ARE SUBSCRIBED TO THIS INSTRUMENT, AND ACKNOWLEDGED THAT THEY EXECUTED IT.
WITNESS MY HAND AND OFFICIAL SEAL.

Suzanne M Whetstone
MY COMMISSION EXPIRES: 10-3-97

APPROVALS

CITY OF WALDPORT, PLANNER — DATE (interim)

COUNTY SURVEYOR / DEPUTY — JANUARY 3, 1997 — DATE

LINCOLN COUNTY TAX COLLECTOR — Linda Pitzer by CD 1-9-97 — DATE

LINCOLN COUNTY ASSESSOR — Ed Todd by LP 1-9-97 — DATE

LINCOLN COUNTY CLERK — 01/09/97 — DATE

LINCOLN COUNTY COMMISSIONER — Nancy E Leonard 1-7-97 — DATE

LINCOLN COUNTY COMMISSIONER — Sean Cowan 1-7-97 — DATE

LINCOLN COUNTY COMMISSIONER — Don Shirley 1-8-97 — DATE

I, J. W. HANNA CERTIFY THIS TO BE A TRUE AND EXACT COPY OF THE ORIGINAL.

REGISTERED PROFESSIONAL LAND SURVEYOR
OREGON NOV. 8, 1983 J. W. HANNA 3006
RENEWAL DATE: JUNE 30, 1997

ACKNOWLEDGEMENT

STATE OF OREGON
COUNTY OF LINCOLN S.S

ON THIS 17 DAY OF December, IN THE YEAR 1996 BEFORE ME Suzanne Whetstone PERSONALLY APPEARED Terry Carrasco ON BEHALF OF THE BANK OF NEWPORT WALDPORT BRANCH, PERSONALLY KNOWN TO ME OR PROVED TO ME ON THE BASIS OF SATISFACTORY EVIDENCE TO BE THE PERSON WHO EXECUTED THE WITHIN INSTRUMENT AND ACKNOWLEDGED TO ME THAT THE BANK OF NEWPORT EXECUTED IT.
WITNESS MY HAND AND OFFICIAL SEAL.

Suzanne M Whetstone
MY COMMISSION EXPIRES: 10-3-97

DRAWN BY:	GAM
CHECKED BY:	JWH
DATE:	12-09-96
SCALE:	1" = 60'
PROJECT:	007D

HANNA SURVEYING INC.
- JOHN W. HANNA -
PO BOX 1743
WALDPORT, OREGON 97394
(541) 563-2330

Book 16 Pages 14 and 14A
Recorded 1-9-97 at 11:45am.
(PL)

2003-13

PARTITION PLAT FOR TIM MUGLESTON

LOCATED IN THE SW 1/4 - SW 1/4 OF SECTION 19, T13S, R11 W.M.
CITY OF WALDPORT, LINCOLN COUNTY, OREGON

(13-11-19-CC)

MAY 14, 2003

SURVEYOR'S NARRATIVE

THE PURPOSE OF THIS SURVEY IS PARTITION THE TRACT OF LAND DESCRIBED IN LINCOLN COUNTY MICROFILM VOLUME 449, PAGE 0563 INTO THREE (3) PARCELS AS SHOWN ON THE ACCOMPANYING PLAT.

THE BOUNDARY OF THIS TRACT WAS SURVEYED IN LINCOLN COUNTY SURVEY 15,463. BEARINGS ARE BASED ON THE "NORWOOD HEIGHTS No. 2" (PLAT BOOK 15, PAGE 48) RECORD BETWEEN THE NORTHWEST CORNER LOT 1 AND THE SOUTHWEST CORNER LOT 6, BLOCK 4 AS SHOWN.

THIS SURVEY WAS PERFORMED WITH A WILD T1610 (1.5") THEODOLITE AND DI 1600 (2mm ± 3ppm) EDM.

STATE OF OREGON
S.S.
COUNTY OF LINCOLN

I HEREBY CERTIFY THAT THIS PARTITION PLAT WAS RECEIVED FOR RECORD ON THIS 31st DAY OF July, 2003 AT 04:36 O'CLOCK P.M.,

AND RECORDED AS PARTITION PLAT NUMBER 2003-13,13A
LINCOLN COUNTY RECORDS.

07/31/2003
COUNTY CLERK / DEPUTY

EASEMENT OF RECORD

EASEMENT FOR DRAINAGE RECORDED OCTOBER 31, 1997
BOOK 346, PAGE 1124, AS SHOWN, NOT LOCATED ON TRACT

SURVEYOR'S CERTIFICATE

I, GARY KEITH NYHUS, CERTIFY THAT I HAVE CORRECTLY SURVEYED AND MARKED WITH PROPER MONUMENTS THE TRACT SHOWN ON THIS PARTITION PLAT, LOCATED IN THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 18, TOWNSHIP 13 SOUTH, RANGE 11 WEST, WILLAMETTE MERIDIAN, CITY OF WALDPORT, LINCOLN COUNTY, OREGON, THE BOUNDARY BEING DESCRIBED AS FOLLOWS;

BEGINNING AT THE INITAL POINT A 5/8 INCH IRON ROD BEING THE NORTHWEST CORNER OF LOT 1, BLOCK 4, "NORWOOD HEIGHTS No. 2" PLAT BOOK 15, PAGE 48); THENCE SOUTH 00° 01' 27" WEST, 56.41 FEET; THENCE SOUTH 00° 02' 07" WEST, 74.96 FEET; THENCE SOUTH 00° 04' 28" WEST, 149.82 FEET; THENCE SOUTH 00° 01' 11" EAST, 75.20 FEET; THENCE SOUTH 00° 10' 57" EAST, 74.99 FEET; THENCE NORTH 89° 57' 37" EAST, 90.10 FEET; THENCE SOUTH 00° 06' 37' WEST, 50.07 FEET; THENCE NORTH 89° 59' 25' WEST, 90.00 FEET; THENCE NORTH 89° 58' 41" WEST, 95.02 FEET; THENCE ALONG THE ARC OF A 75 FOOT RADIUS CURVE RIGHT (CHORD BEARS NORTH 80° 19' 12" WEST, 25.46 FEET) 25.58 FEET; THENCE ALONG A 75 FOOT RADIUS CURVE RIGHT (CHORD BEARS NORTH 59° 40' 31" WEST, 28.92 FEET) 29.10 FEET; THENCE SOUTH 00° 07' 56" EAST, 18.97 FEET; THENCE NORTH 89° 54' 15" WEST, 130.25 FEET; THENCE NORTH 04° 16' 57" EAST, 89.09 FEET; THENCE NORTH 42° 38' 13" WEST, 246.49 FEET; THENCE NORTH 50° 01' 59" EAST, 167.45 FEET; THENCE NORTH 50° 03' 55" EAST, 65.10 FEET; THENCE NORTH 50° 03' 31" EAST, 177.83 FEET; THENCE SOUTH 40° 42' 37" EAST, 116.82 FEET; THENCE NORTH 51° 09' 04" EAST, 57.54 FEET TO THE INITIAL POINT.

DECLARATION

KNOW ALL PEOPLE BY THESE PRESENT THAT TIM MUGLESTON IS THE OWNER OF THE LAND REPRESENTED ON THIS PARTITION PLAT AND MORE PARTICULARLY DESCRIBED IN THE ACCOMPANYING SURVEYOR'S CERTIFICATE AND HAS CAUSED THE SAME TO BE PARTITIONED INTO PARCELS AS SHOWN ON THE ACCOMPANYING PLAT.

TIM MUGLESTON

APPROVALS

7-11-03
CITY OF WALDPORT PLANNING DIRECTOR — DATE

Tom Hamilton — 17 July 2003
LINCOLN COUNTY SURVEYOR/DEPUTY — DATE

Linda Pitzer by cd — 07/30/03
LINCOLN COUNTY TAX COLLECTOR — DATE

Bob Thomas by cd — 7-30-03
LINCOLN COUNTY ASSESSOR — DATE

ACKNOWLEDGEMENT

STATE OF OREGON
COUNTY OF LINCOLN

ON THIS 12 DAY OF JULY, IN THE YEAR 2003,
BEFORE ME TIM MUGLESTON,
PERSONALLY APPEARED, TIM MUGLESTON, PERSONALLY KNOWN TO ME OR HAS PROVED TO ME ON THE BASIS OF SATISFACTORY EVIDENCE TO BE THE PERSON WHOSE NAME IS SUBSCRIBED ON THIS INSTRUMENT AND ACKNOWLEDGED THAT HE EXECUTED IT.
WITNESS MY HAND AND OFFICIAL SEAL.

OFFICIAL SEAL
HENRY A MOORE
NOTARY PUBLIC - OREGON
COMMISSION NO. 347715
MY COMMISSION EXPIRES OCT. 20, 2005

Henry A. Moore
MY COMMISSION EXPIRES: OCT. 20, 2005

REGISTERED PROFESSIONAL LAND SURVEYOR
OREGON
JULY 25, 1991
GARY KEITH NYHUS
2615
RENEWAL DATE: DEC. 31, 2004

I, GARY KEITH NYHUS, CERTIFY THIS TO BE A TRUE AND EXACT COPY OF THE ORIGINAL.

NYHUS SURVEYING INC.
-GARY NYHUS-
PROFESSIONAL LAND SURVEYOR
P.O. BOX 206
740 E. THISSELL RD. TIDEWATER, ORE 97390
(541) 528-3234

CHECKED BY:	GKN
DRAWN BY:	GAM
DATE:	MAY 14, 2003
SCALE:	1" = 40'
PROJECT:	03134

DRAWN BY: GM MAPPING -GREG MURRY- (541) 574-6566

2003-13A

PARTITION PLAT FOR TIM MUGLESTON

LOCATED IN THE SW 1/4 - SW 1/4 OF SECTION 19, T13S, R11 W.M.
CITY OF WALDPORT, LINCOLN COUNTY, OREGON

(13-11-19-CC)

MAY 14, 2003

CURVE TABLE

CURVE	DELTA	R	L	T	LONG CHORD	
C1	19°32'36"	75.00'	25.56'	12.92'	N80°19'12"W	25.46'
C2	22°13'51"	75.00'	29.10'	14.74'	N59°40'31"W	28.92'
RECORD INFORMATION						
((C1))	19°28'16"	75.00'	25.49'	12.87'	N80°15'52"W	25.37'
((C2))	22°20'21"	75.00'	29.24'	14.81'	S59°21'33"E	29.06'

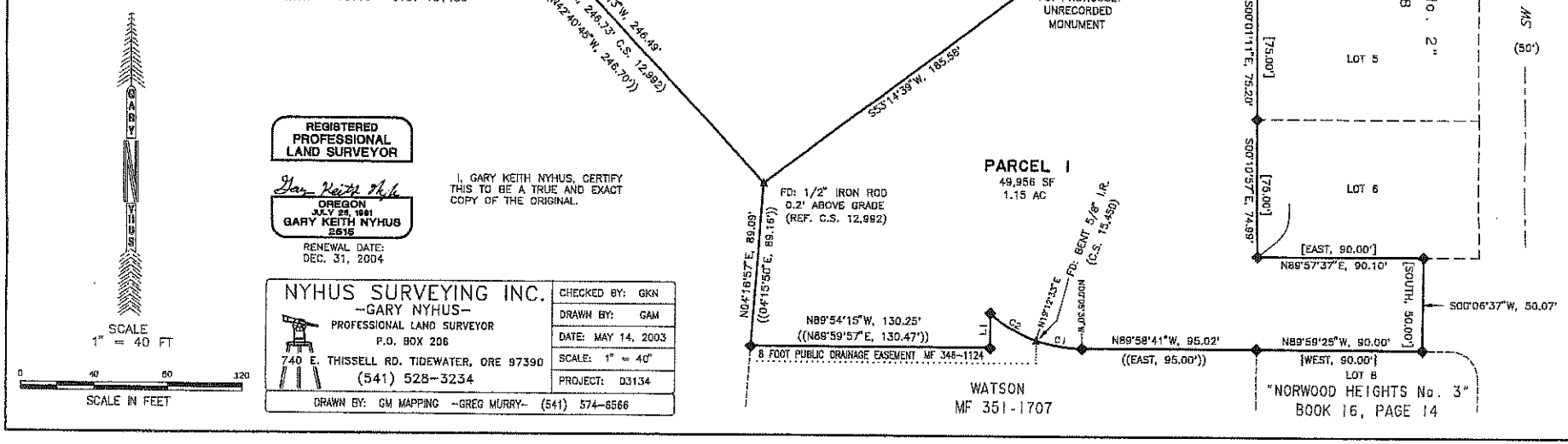
NON-TANGET DO TO DISCREPANCY BETWEEN REOCRD INFORMATION AND FOUND MONUMENTS

LEGEND

- ● MONUMENT SET: 5/8" X 30" RE-BAR WITH YELLOW PLASTIC CAP MARKED "NYHUS LS 2515"
- ▲ MONUMENT FOUND: HELD FOR CONTROL, AS NOTED
- ◆ MONUMENT FOUND: 5/8" IRON ROD WITH YELLOW PLASTIC CAP, MARKED "JOHN HANNA RLS 306"
- [ ] RECORD INFORMATION: PLAT BOOK 16, PAGE 14 "NORWOOD HEIGHTS No. 3"
- < > RECORD INFORMATION: PLAT BOOK 10, PAGE 16 "NORWOOD HEIGHTS"
- [ ] RECORD INFORMATION: PLAT BOOK 15, PAGE 48 "NORWOOD HEIGHTS No. 2"
- ( ) RECORD INFORMATION: AS NOTED
- (( )) RECORD INFORMATION: C.S. 15,463

LINE TABLE

LINE	BEARING	DISTANCE
L1	S00°07'56"E	18.97'
L2	N50°03'55"E	32.55'
L3	N50°03'55"E	32.55'
RECORD		
L1	NORTH	19.10' C.S. 15,450



2004 - 24

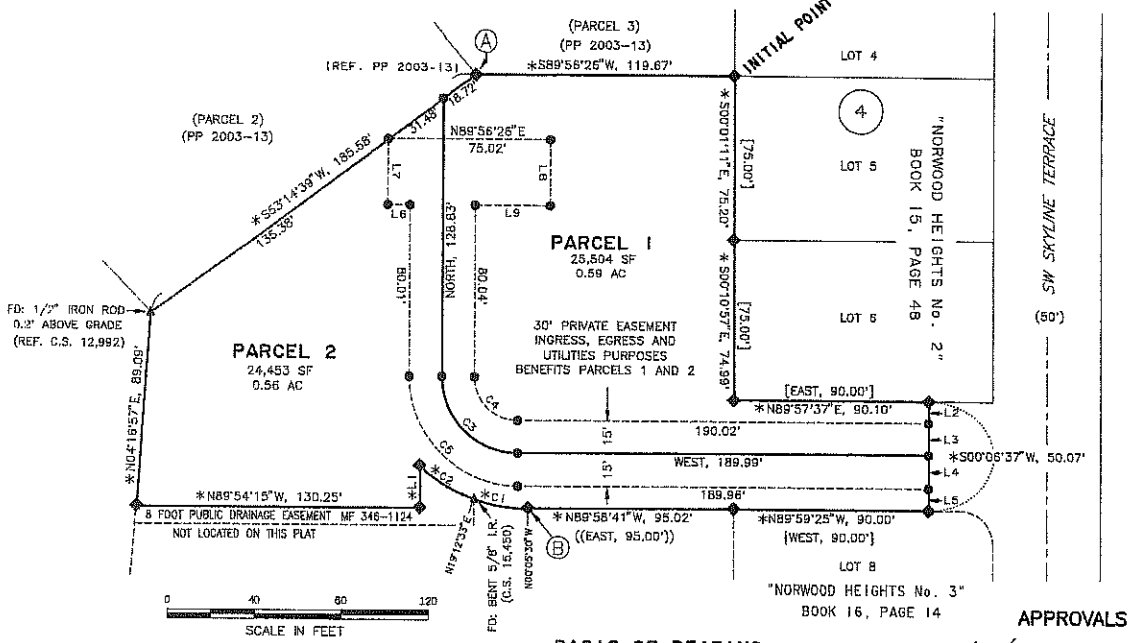
PARTITION PLAT PREPARED FOR VIMA PROPERTIES

(A REPLAT OF PARCEL 1 OF PARTITION PLAT 2003-13)

LOCATED IN THE SW 1/4 - SW 1/4 OF SECTION 19, T13S, R11 W.M.

CITY OF WALDPORT, LINCOLN COUNTY, OREGON

(13-11-19-CC)



SCALE
1" = 40 FT

BASIS OF BEARING

BETWEEN MONUNETS (A) AND (B)
S07°06'11"E, 201.56'
*S07°06'11"E, 201.56'

LINE TABLE

LINE	BEARING	DISTANCE
*L1	S00°07'56"E	18.97'
L2	S00°06'37"W	10.03'
L3	S00°06'37"W	15.00'
L4	S00°06'37"W	15.00'
L5	S00°06'37"W	10.03'
L6	S89°56'26"W	10.22'
L7	NORTH	30.00'
L8	SOUTH	30.00'
L9	S89°56'26"W	34.80'

CURVE TABLE

CURVE	DELTA	R	L	T	LONG CHORD	
*C1	19°32'36"	75.00'	25.58'	12.92'	N80°19'12"W	25.46'
*C2	22°13'51"	75.00'	29.10'	14.74'	N59°40'31"W	28.92'
NON-TANGET DO TO DISCREPANCY BETWEEN RECORD INFORMATION AND FOUND MONUMENTS						
C3	90°00'00"	35.00'	54.98'	35.00'	N45°00'00"W	49.50'
C4	90°00'00"	20.00'	31.42'	20.00'	N45°00'00"W	28.28'
C5	90°00'00"	50.00'	78.54'	50.00'	N45°00'00"W	70.71'

APPROVALS

12-10-04
CITY OF WALDPORT PLANNING DIRECTOR — DATE

14 December 2004
LINCOLN COUNTY SURVEYOR/DEPUTY — DATE

01-05-05
LINCOLN COUNTY TAX COLLECTOR — DATE

01-05-05
LINCOLN COUNTY ASSESSOR — DATE

STATE OF OREGON
S.S.
COUNTY OF LINCOLN

I HEREBY CERTIFY THAT THIS PARTITION PLAT WAS RECEIVED FOR RECORD ON THIS 5th DAY OF January, 2005 AT 3:11 O'CLOCK P.M., AND RECORDED AS PARTITION PLAT NUMBER 2004-24 LINCOLN COUNTY RECORDS.

01/05/2005
COUNTY CLERK / DEPUTY

DECLARATION

KNOW ALL PEOPLE BY THESE PRESENTS, THAT VICTOR WEST AND INEZ WEST DBA VIMA PROPERTIES, OWNERS OF THE PROPERTY DESCRIBED IN THE ACCOMPANYING SURVEYOR'S CERTIFICATE HAS CAUSED SAID PROPERTY TO BE PARTITIONED IN ACCORDANCE WITH THE PROVISIONS O.R.S. CHAPTER 92, AND DO HEREBY DECLARE THIS PLAT TO BE A TRUE AND ACCURATE MAP THEREOF, WITH ALL PARCELS BEING SHOWN HEREON, THE ACCOMPANYING PLAT AND CREATE A 30 FOOT PRIVATE EASEMENT THAT WILL BENEFIT PARCELS 1 AND 2 AS SHOWN.

Victor West dba Vima Properties
VICTOR WEST DBA VIMA PROPERTIES

Inez West dba Vima Properties
INEZ WEST DBA VIMA PROPERTIES

ACKNOWLEDGEMENT

STATE OF Oregon
S.S.
COUNTY OF Lane

ON THIS 7 DAY OF December, IN THE YEAR 2004, BEFORE ME Lori A Gates, THE UNDERSIGNED NOTARY PUBLIC, PERSONALLY APPEARED VICTOR AND INEZ WEST, PERSONALLY KNOWN TO ME OR PROVED TO ME ON THE BASIS OF SATISFACTORY EVIDENCE, TO BE THE PERSONS WHO EXECUTED THE WITHIN INSTRUMENT ON BEHALF OF VIMA PROPERTIES., THE COMPANY THEREIN NAMED, AND ACKNOWLEDGED TO ME THAT THEY EXECUTED IT.

OFFICIAL SEAL
LORI A GATES
NOTARY PUBLIC-OREGON
COMMISSION NO. 379461
MY COMMISSION EXPIRES APR 29, 2008

WITNESS MY HAND AND OFFICIAL SEAL.

MY COMMISSION EXPIRES: 4-29-08

SURVEYOR'S CERTIFICATE

I, NORBERT C. BOE, CERTIFY THAT I HAVE CORRECTLY SURVEYED AND MARKED WITH PROPER MONUMENTS THE TRACT SHOWN ON THIS PARTITION PLAT, LOCATED IN THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 19, TOWNSHIP 13 SOUTH, RANGE 11 WEST, WILLAMETTE MERIDIAN, CITY OF WALDPORT, LINCOLN COUNTY, OREGON, THE BOUNDARY BEING DESCRIBED AS FOLLOWS;

BEGINNING AT THE INITAL POINT A 5/8 INCH IRON ROD BEING THE NORTHWEST CORNER OF LOT 5, BLOCK 4, "NORWOOD HEIGHTS No. 2" PLAT BOOK 15, PAGE 48); THENCE SOUTH 00° 01' 11" EAST, 75.20 FEET; THENCE SOUTH 00° 10' 57" EAST, 74.99 FEET; THENCE NORTH 89° 57' 37" EAST, 90.10 FEET; THENCE SOUTH 00° 06' 37" WEST, 50.07 FEET; THENCE NORTH 89° 59' 25" WEST, 90.00 FEET; THENCE NORTH 89° 58' 41" WEST, 95.02 FEET; THENCE ALONG THE ARC OF A 75 FOOT RADIUS CURVE RIGHT (CHORD BEARS NORTH 80° 19' 12" WEST, 25.46 FEET) 25.58 FEET; THENCE ALONG A 75 FOOT RADIUS CURVE RIGHT (CHORD BEARS NORTH 59° 40' 31" WEST, 28.92 FEET) 29.10 FEET; THENCE SOUTH 00° 07' 56" EAST, 18.97 FEET; THENCE NORTH 89° 54' 15" WEST, 130.25 FEET; THENCE NORTH 04° 16' 57" EAST, 89.09 FEET; THENCE NORTH 53° 14' 39" EAST, 185.58 FEET; THENCE NORTH 89° 56' 26" EAST, 119.67 FEET TO THE INITIAL POINT.

SURVEYOR'S NARRATIVE

THE PURPOSE OF THIS SURVEY IS TO REPLAT PARCEL 1 OF PARTITION PLAT 2003-13 INTO TWO (2) PARCELS AS SHOWN ON THE ACCOMPANYING PLAT.

THE BOUNDARY OF THIS PARCEL WAS SURVEYED IN LINCOLN COUNTY PARTITION PLAT 2003-13. BEARINGS ARE BASED ON PARTITION PLAT 2003-13 RECORD.

I FOUND AND HELD MONUMENTATION FROM PARTITION PLAT 2003-13 AND USED RECORD INFORMATION FOR THE BOUNDARY, UNLESS NOTED.

THIS SURVEY WAS PERFORMED WITH A NIKON A20LG (5") THEODOLITE TOTAL STATION.

Boe Engeneering and Surveying
Nobert C. Boe
5203 Heceta Beach Road
Florence, Oregon 97439
(541) 997-7887

CHECKED BY:	NCB
DRAWN BY:	GAM
DATE:	8-13-04
SCALE:	1" = 40'
PROJECT:	67LPP

DRAWN BY: GM MAPPING GREG MURRY (541) 574-6566

I, NOBERT C. BOE, CERTIFY THIS TO BE A TRUE AND EXACT COPY OF THE ORIGINAL.

REGISTERED PROFESSIONAL LAND SURVEYOR
OREGON
MARCH 7, 1986
NORBERT C. BOE
869

RENEWAL DATE:
DEC. 31, 2005

LEGEND

- ● MONUMENT SET: 5/8" X 30" RE-BAR WITH YELLOW PLASTIC CAP MARKED "BOE LS869"
- ▲ MONUMENT FOUND: HELD FOR CONTROL, AS NOTED
- ◆ MONUMENT FOUND: 5/8" IRON ROD WITH YELLOW PLASTIC CAP, MARKED "JOHN HANNA RLS 306" C.S. 15,463
- [ ] RECORD INFORMATION: PLAT BOOK 16, PAGE 14 "NORWOOD HEIGHTS No. 3"
- < > RECORD INFORMATION: PLAT BOOK 10, PAGE 16 "NORWOOD HEIGHTS"
- [ ] RECORD INFORMATION: PLAT BOOK 15, PAGE 48 "NORWOOD HEIGHTS No. 2"
- ( ) RECORD INFORMATION: AS NOTED
- (( )) RECORD INFORMATION: C.S. 15,463
- * RECORD INFORMATION: PARTITION PLAT 2003-13 MEASURED SAME AS RECORD, UNLESS NOTED

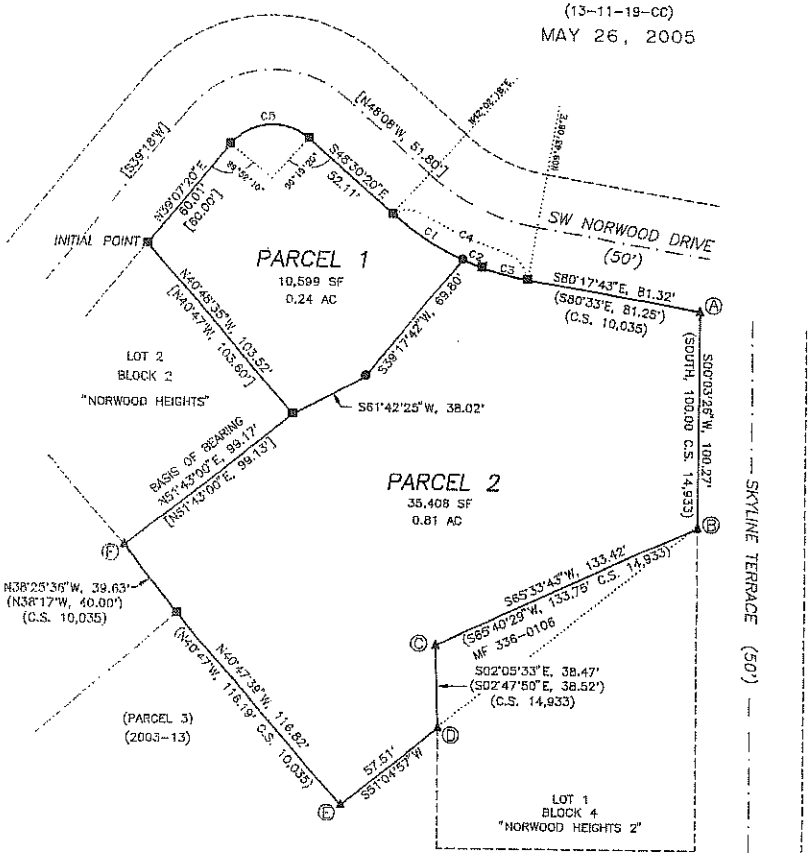
67LPP

2005 - 27

PARTITION PLAT PREPARED FOR

PHILIP E. SMITH and MAY REYNOLDS SMITH

A REPLAT OF LOT 1, BLOCK 2 "NORWOOD HEIGHTS", TOGETHER WITH ADJOINING TRACT
LOCATED IN THE SW 1/4 - SW 1/4 OF SECTION 19, T13S, R11W, W.M.
CITY OF WALDPORT, LINCOLN COUNTY, OREGON
(13-11-19-CC)
MAY 26, 2005



SURVEYOR'S NARRATIVE

THE PURPOSE OF THIS PLAT IS TO PARTITION THE TRACT DESCRIBED IN THE ACCOMPANYING SURVEYOR'S CERTIFICATE INTO TWO (2) PARCELS AS SHOWN.

I HELD MONUMENTATION ESTABLISHED IN LINCOLN COUNTY SURVEYS 2732, 10,035 AND 14,933 AS WELL AS THE PLAT OF "NORWOOD HEIGHTS" (PLAT BOOK 10, PAGE 16) TO CONTROL THE BOUNDARIES OF THIS TRACT. I THEN MONUMENTED THE LINE BETWEEN PARCELS 1 AND 2 AS PER MY CLIENT'S REQUEST.

BEARINGS ARE BASED ON THE "NORWOOD HEIGHTS" PLAT RECORD FOR THE SOUTHEASTERLY BOUNDARY OF LOT 2, BLOCK 2.

THIS SURVEY WAS PERFORMED WITH A WILD T1610 (1.5") THEODOLITE AND DI 1800 (2MM±3PPM) EDM.

SURVEYOR'S CERTIFICATE

I, GARY KEITH NYHUS, DO HEREBY CERTIFY THAT I HAVE CORRECTLY SURVEYED AND MARKED WITH PROPER MONUMENTS THE LAND REPRESENTED ON THIS PARTITION PLAT, THE BOUNDARIES BEING DESCRIBED AS FOLLOWS: BEGINNING AT THE INITIAL POINT A 1/2 INCH IRON ROD BEING THE NORTHERLY CORNER OF LOT 2, BLOCK 2 "NORWOOD HEIGHTS" (PLAT BOOK 10, PAGE 16); THENCE NORTH 39°07'20" EAST, 60.01 FEET; THENCE ALONG A 25.00 FOOT RADIUS CURVE RIGHT 40.39 FEET (CHORD BEARS NORTH 85°32'10" EAST, 36.14 FEET); THENCE SOUTH 48°30'20" EAST, 52.11 FEET; THENCE ALONG A 125.00 FOOT RADIUS CURVE LEFT 70.51 FEET (CHORD BEARS SOUTH 64°07'17" EAST, 69.58 FEET); THENCE SOUTH 80°17'43" EAST, 81.32 FEET TO THE WESTERLY BOUNDARY OF SW SKYLINE TERRACE; THENCE SOUTH 00°03'26" WEST, 100.27 FEET; THENCE SOUTH 65°33'43" WEST, 133.42 FEET; THENCE SOUTH 02°05'33" EAST, 38.47 FEET; THENCE SOUTH 51°04'57" WEST, 57.51 FEET; THENCE NORTH 40°47'39" WEST, 116.82 FEET; THENCE NORTH 38°25'36" WEST, 39.63 FEET; THENCE NORTH 51°43'00" EAST, 99.17 FEET; THENCE NORTH 40°48'35" WEST, 103.52 FEET TO THE INITIAL POINT.

RECORD EASEMENT

UTILITY EASEMENT AS DELINEATED IN PLAT OF "NORWOOD HEIGHTS". NOT LOCATED WITHIN PARTITION PLAT.

LEGEND

- ● MONUMENT SET: 5/8" X 30" RE-BAR WITH YELLOW PLASTIC CAP MARKED "NYHUS LS 2515"
- ▲ MONUMENT FOUND: HELD FOR CONTROL, AS NOTED
- ■ MONUMENT FOUND: 1/2" IRON ROD PLAT OF NORWOOD HEIGHTS OR C.S. 2732
- ( ) RECORD INFORMATION: AS NOTED
- [ ] RECORD INFORMATION: PLAT BOOK 10, PAGE 16 "NORWOOD HEIGHTS"

CURVE TABLE

CURVE	DELTA	R	L	T	LONG CHORD		
C1	17°48'56"	125.00'	38.87'	19.59'	S56°52'10"E	38.71'	
C2	4°26'38"	125.00'	9.69'	4.85'	S67°59'57"E	9.69'	
C3	10°03'37"	125.00'	21.95'	11.00'	S75°15'04"E	21.92'	
C4	32°19'11"	125.00'	70.51'	36.22'	S64°07'17"E	69.58'	
C5	92°34'00"	25.00'	40.39'	26.15'	N85°32'10"E	36.14'	

CURVES NON-TANGENT DUE TO DISCREPANCY BETWEEN FOUND MONUMENTS AND RECORD INFORMATION

RECORD INFORMATION "NORWOOD HEIGHTS"					
[C3]		125.00'	21.95'	S75°32'E	21.86'
[C4]	32°25'	125.00'			
[C5]	92°44'00"	25.00'	40.40'	N85°35'E	36.15'

0 40 80 120

APPROVALS

8-12-05
CITY OF WALDPORT PLANNING — DATE

Tom Hamilton — 16 August 2005
LINCOLN COUNTY SURVEYOR/DEPUTY — DATE

Linda Fitzgerald by L.P. — 09-06-05
LINCOLN COUNTY TAX COLLECTOR — DATE

Bob Thomas by cch — 09-06-05
LINCOLN COUNTY ASSESSOR — DATE

I, GARY KEITH NYHUS CERTIFY THIS TO BE A TRUE AND EXACT COPY OF THE ORIGINAL.

REGISTERED PROFESSIONAL LAND SURVEYOR
OREGON JULY 25, 1991 GARY KEITH NYHUS 2515
RENEWAL DATE: DEC. 31, 2006

SCALE 1" = 40'

STATE OF OREGON
S.S.
COUNTY OF LINCOLN

I HEREBY CERTIFY THAT THIS PARTITION PLAT WAS RECEIVED FOR RECORD ON THIS 6th DAY OF September 2005 AT 10:44 O'CLOCK A.M., AND RECORDED AS PARTITION PLAT NUMBER 2005-27 LINCOLN COUNTY RECORDS.

09/06/2005
COUNTY CLERK / ~~OREGON~~

DECLARATION

KNOW ALL PEOPLE BY THESE PRESENT THAT PHILIP E. SMITH AND MAY REYNOLDS SMITH ARE THE OWNERS OF THE LAND REPRESENTED ON THIS PARTITION PLAT AND MORE PARTICULARLY DESCRIBED IN THE ACCOMPANYING SURVEYOR'S CERTIFICATE AND CAUSED THE SAME TO BE PARTITIONED INTO PARCELS AS SHOWN ON THE ACCOMPANYING PLAT.

PHILIP E. SMITH

MAY REYNOLDS SMITH

ACKNOWLEDGEMENT

STATE OF ~~OREGON~~ TEXAS
S.S.
COUNTY OF ~~LINCOLN~~ Harris

ON THIS 26 DAY OF JULY, IN THE YEAR 2005, BEFORE ME Janet L. Tate, notary public PERSONALLY APPEARED PHILIP E. AND MAY REYNOLDS SMITH PERSONALLY KNOWN TO ME OR HAS PROVED TO ME ON THE BASIS OF SATISFACTORY EVIDENCE TO BE THE PERSONS WHOSE NAMES ARE SUBSCRIBED ON THIS INSTRUMENT AND ACKNOWLEDGED THAT THEY EXECUTED IT.
WITNESS MY HAND AND OFFICIAL SEAL.

MY COMMISSION EXPIRES: March 5, 2007

JANET L. TATE
Notary Public
State of Texas
My Commission Expires
March 5, 2007

MONUMENT DESCRIPTIONS

Ⓐ FOUND: A 5/8" IRON ROD WITH YELLOW PLASTIC CAP MARKED "JOHN HANNA RLS 306", 0.2' BELOW GRADE (C.S. 10,035)

Ⓑ FOUND: A 5/8" IRON ROD WITH YELLOW PLASTIC CAP MARKED "JOHN HANNA RLS 306", 0.7' ABOVE GRADE (C.S. 10,035)

Ⓒ FOUND: A 5/8" IRON ROD WITH YELLOW PLASTIC CAP MARKED "JOHN HANNA RLS 306", 0.2' BELOW GRADE (C.S. 14,933)

Ⓓ FOUND: A 5/8" IRON ROD WITH YELLOW PLASTIC CAP MARKED "JOHN HANNA RLS 306", 0.2' BELOW GRADE (C.S. 14,933)

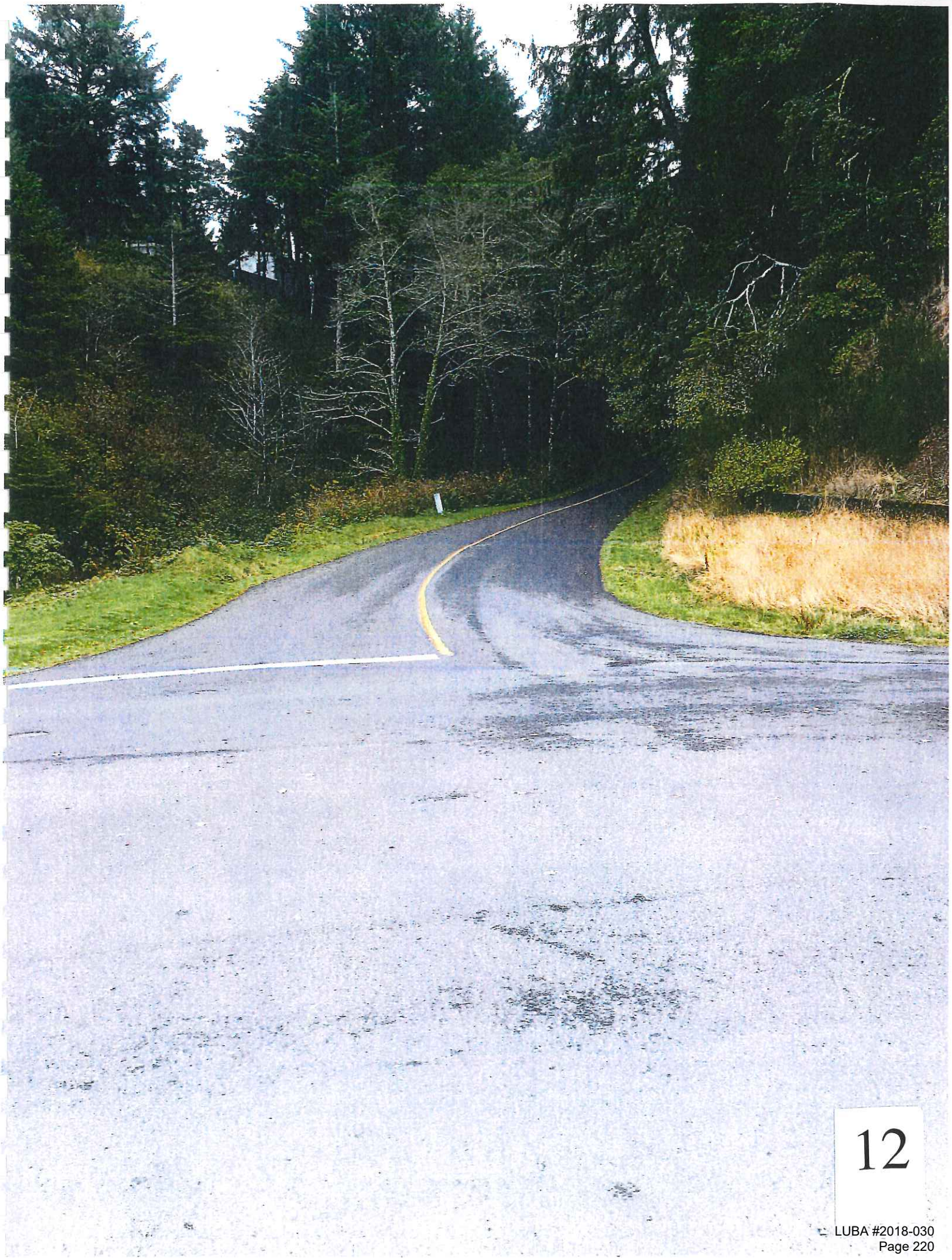
Ⓔ FOUND: A 5/8" IRON ROD WITH ILLEGIBLE PLASTIC CAP, 0.4' ABOVE GRADE (C.S. 10,035)

Ⓕ FOUND: A 3/4" IRON PIPE, 0.2' ABOVE GRADE (NORWOOD HEIGHTS)

NYHUS SURVEYING INC.
-GARY NYHUS-
PROFESSIONAL LAND SURVEYOR
P.O. BOX 206
740 E. THISSELL RD. TIDEWATER, ORE 97390
(541) 528-3234

CHECKED BY:	GKN
DRAWN BY:	GAM
DATE:	5-26-05
SCALE:	1" = 40'
PROJECT:	05118

DRAWN BY: GM MAPPING -GREG MURRY- (541) 574-6566 / 48MPP



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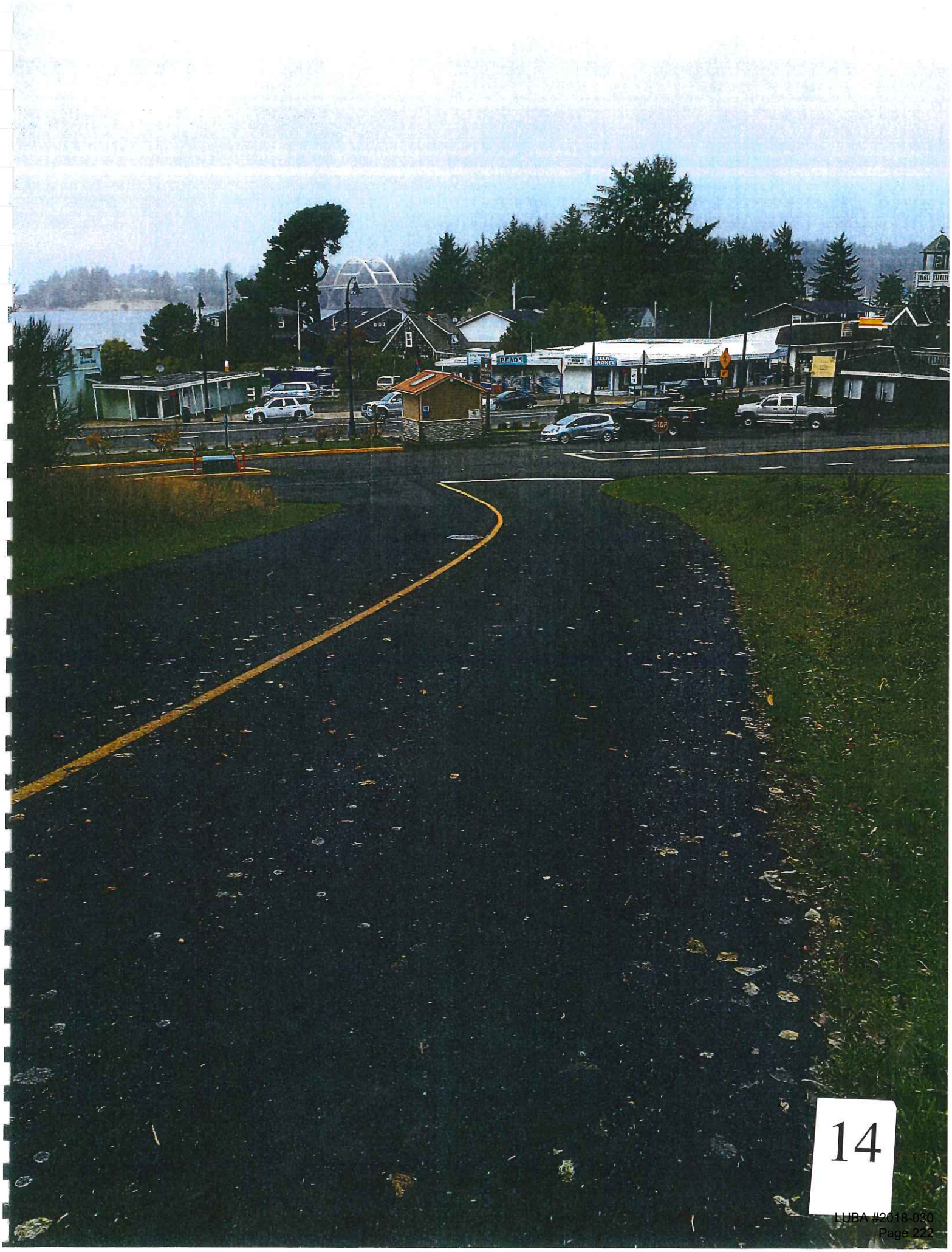

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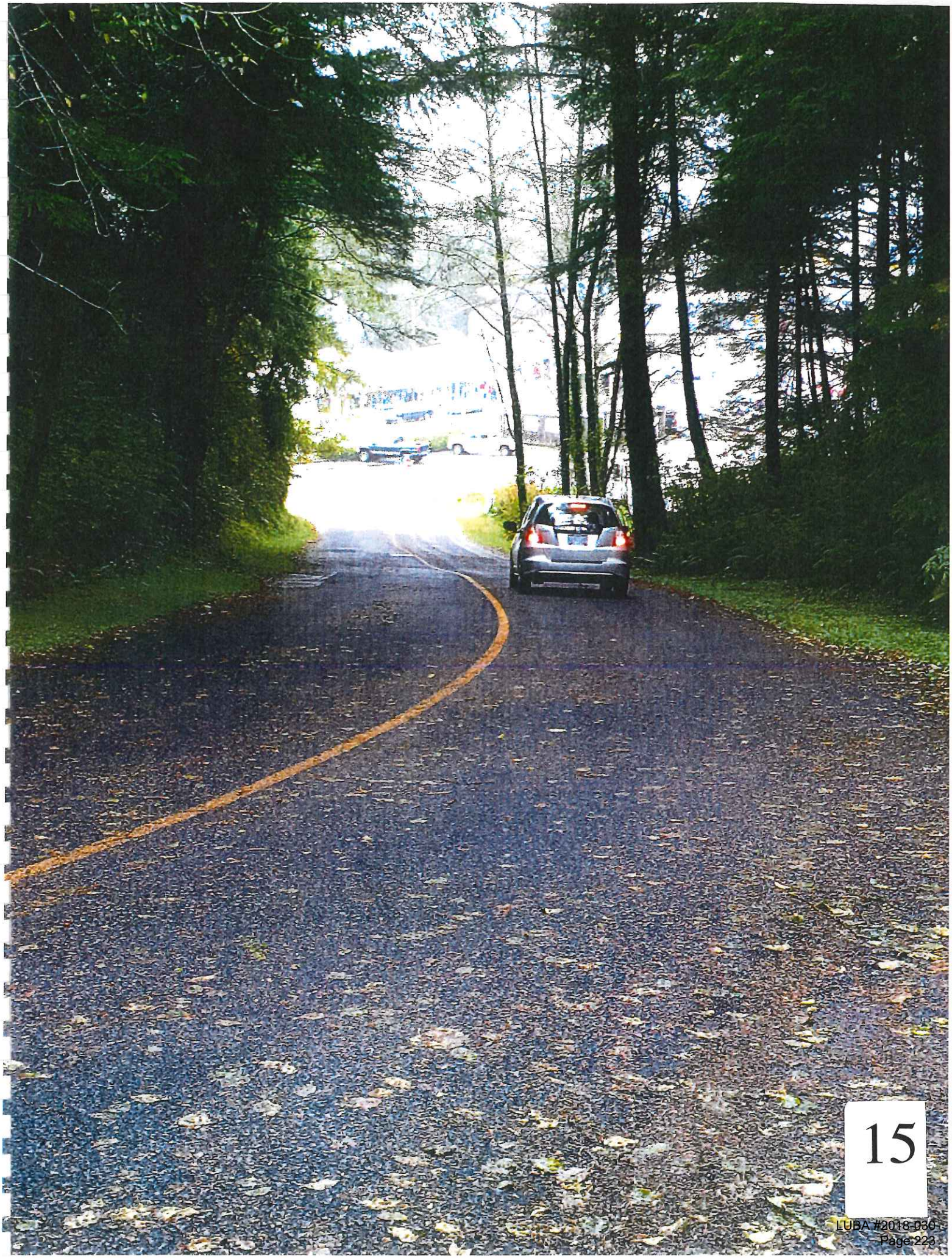

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After recording return to:
Order Number: 69279 Western Title & Escrow 255 SW Coast Hwy., Suite 100 Newport, OR 97365
Grantee Name(s):
Steve W. Barham and June E. Barham PO Box 3563, Tucson AZ 85722
Until a change is requested, all tax statements shall be sent to the following address:
Same as Above

Lincoln County, Oregon
01/31/2013 1:22:50 PM **2013-00895**
DOC-WD Cnt=1 Pgs=1 Stn=20
$5.00 $11.00 $15.00 $10.00 $7.00 - Total =$48.00

00069868201300008950010014

I, Dana W. Jenkins, County Clerk, do hereby certify that the within instrument was recorded in the Lincoln County Book of Records on the above date and time. WITNESS my hand and seal of said office affixed.

Dana W. Jenkins, Lincoln County Clerk

Reserved for Recorder's Use

STATUTORY WARRANTY DEED

Betty Jo Hill and Lisa K. Pargeter, trustee of the Betty Jo Hill Trust
Grantor(s) convey and warrant to
June E. Barham and Steven W. Barham, as tenants by the entirety, Grantees the following described real property free of encumbrances except as specifically set forth herein:

Lots 3 & 4, Block 3, NORWOOD HEIGHTS, Lincoln County, Oregon.

Account: **R10733**
Map & Tax Lot: **13-11-19-CC-00119**

This property is free of encumbrances, EXCEPT: All those items of record, if any, as of the date of this deed, including any real property taxes due, but not yet payable.

The true consideration for this conveyance is **$235,000.00**. (Here comply with requirements of ORS 93.030.)

BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010. THIS INSTRUMENT DOES NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY THAT THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY ESTABLISHED LOT OR PARCEL, AS DEFINED IN ORS 92.010 OR 215.010, TO VERIFY THE APPROVED USES OF THE LOT OR PARCEL, TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES, AS DEFINED IN ORS 30.930, AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009 AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010.

Executed this 26 day of January, 2013
The Betty Jo Hill Trust

Betty Jo Hill Trustee
By: Betty Jo Hill
Its Trustee

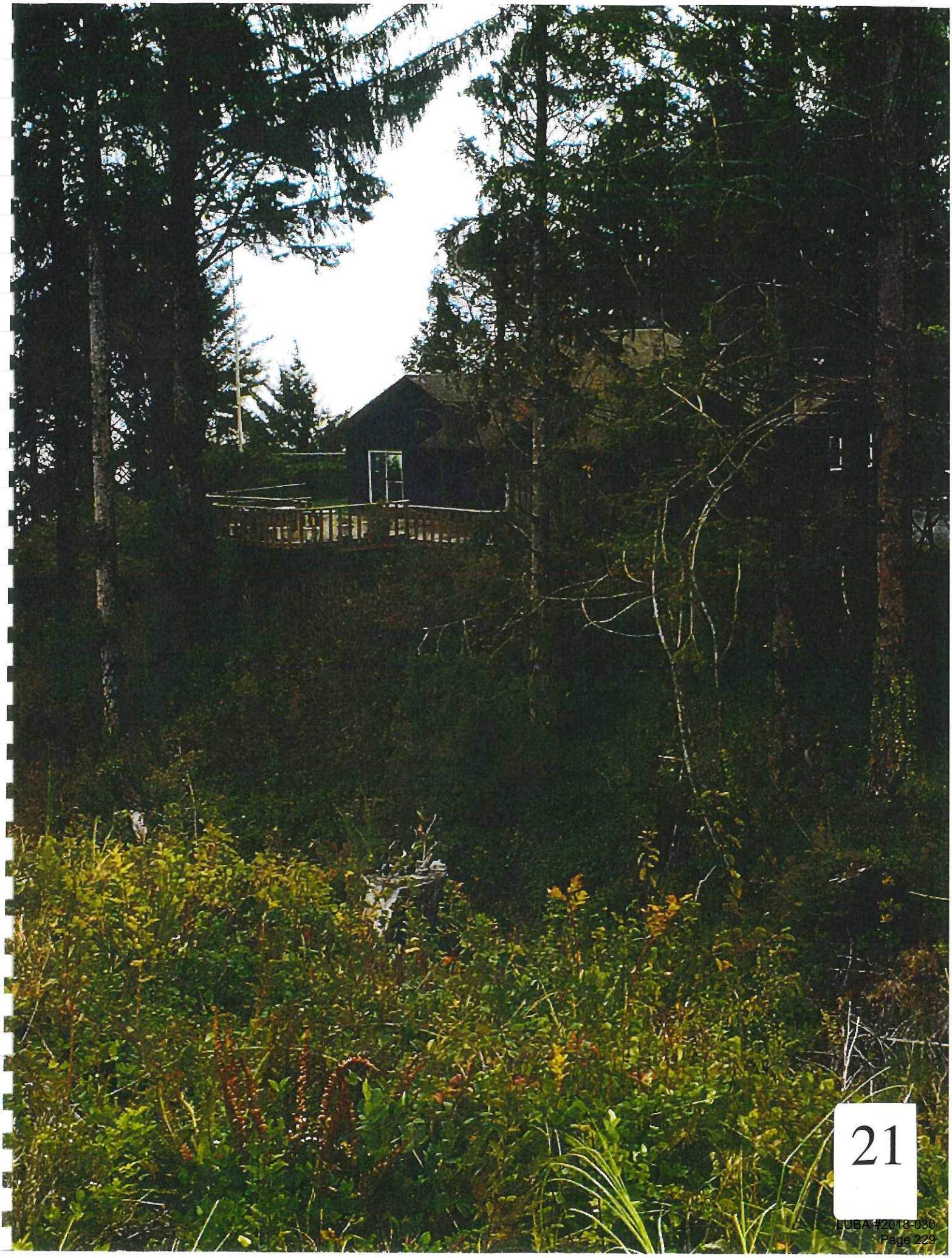
Lisa L. Pargeter Trustee
Lisa L. Pargeter Trustee
By: Lisa K. Pargeter
Its Trustee

State of Oregon, County of Hood River) ss.
This instrument was acknowledged before me on this 26th day of January, 2013 by **Betty Jo Hill**, as Trustee and **Lisa K. Pargeter**, as Trustee of The Betty Jo Hill Trust

Notary Public for Oregon
My commission expires: April 5, 2014

OFFICIAL SEAL
STEVEN J NYBROTEN
NOTARY PUBLIC-OREGON
COMMISSION NO. 447714
MY COMMISSION EXPIRES APRIL 05, 2014

20



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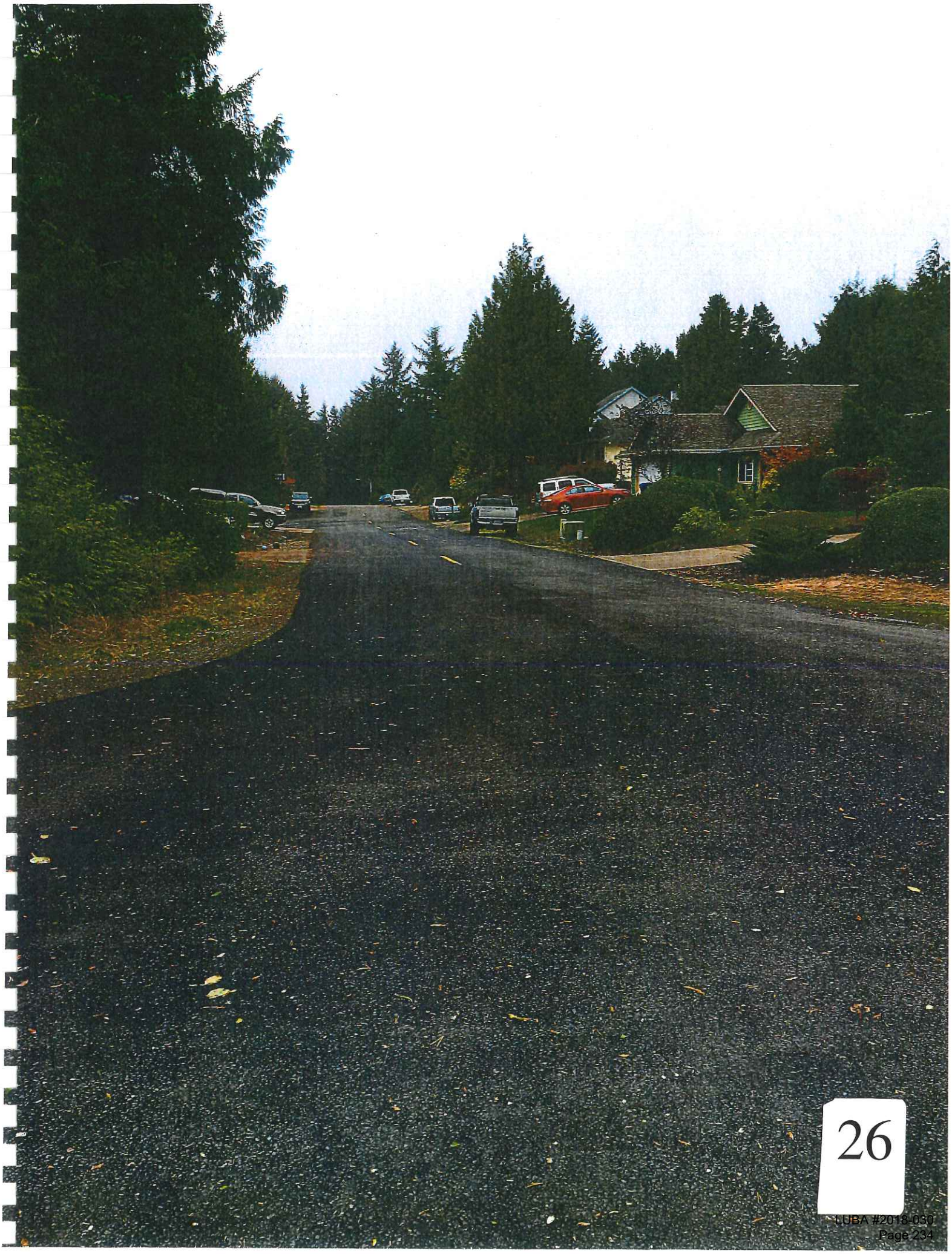

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For Sale: 2.55 Acres

4 Lots or Estate Lot or Sub-Divide !

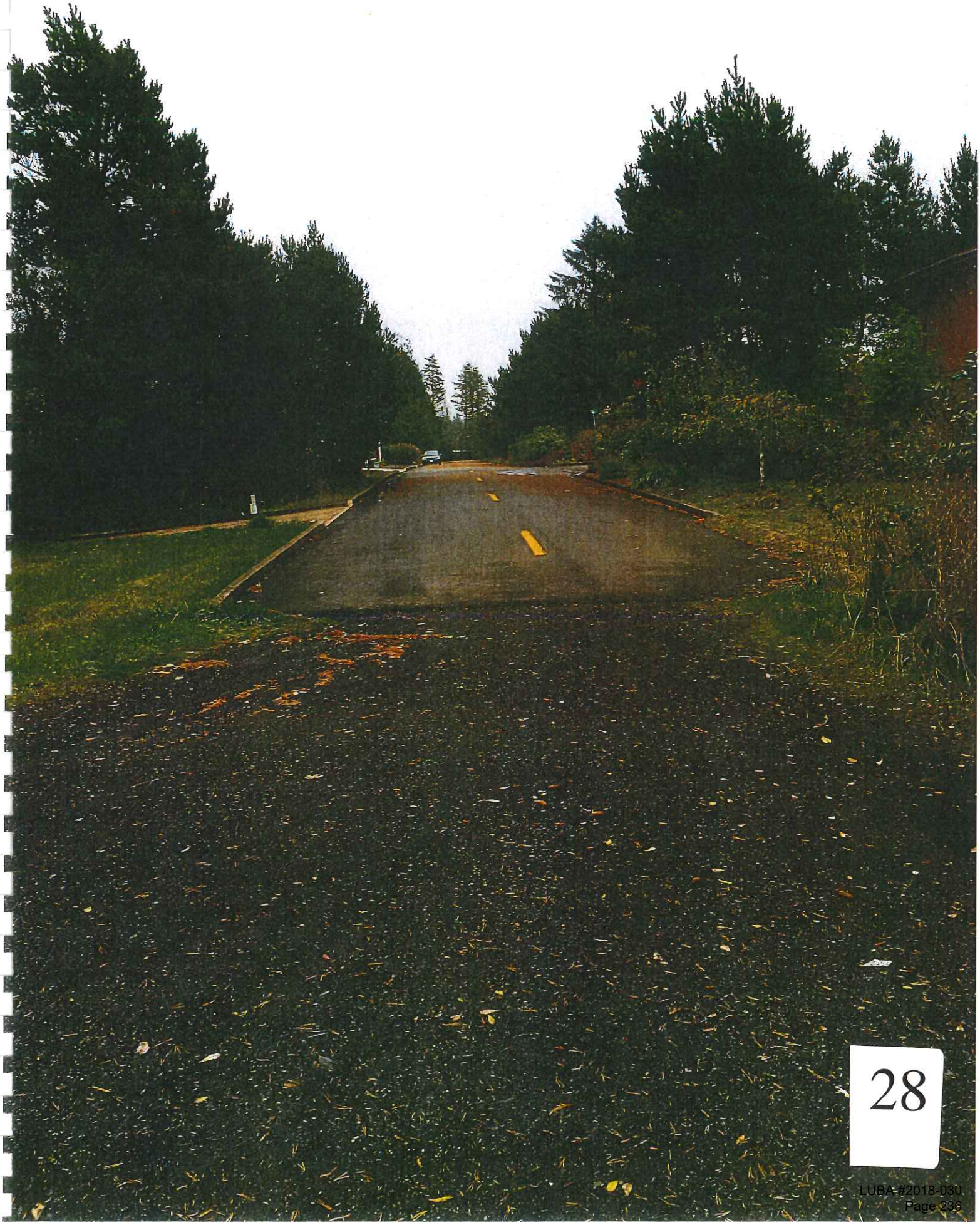
Cascade Sotheby's International Realty

Call 541-921-1090

or

Text 20901 to 46835

27



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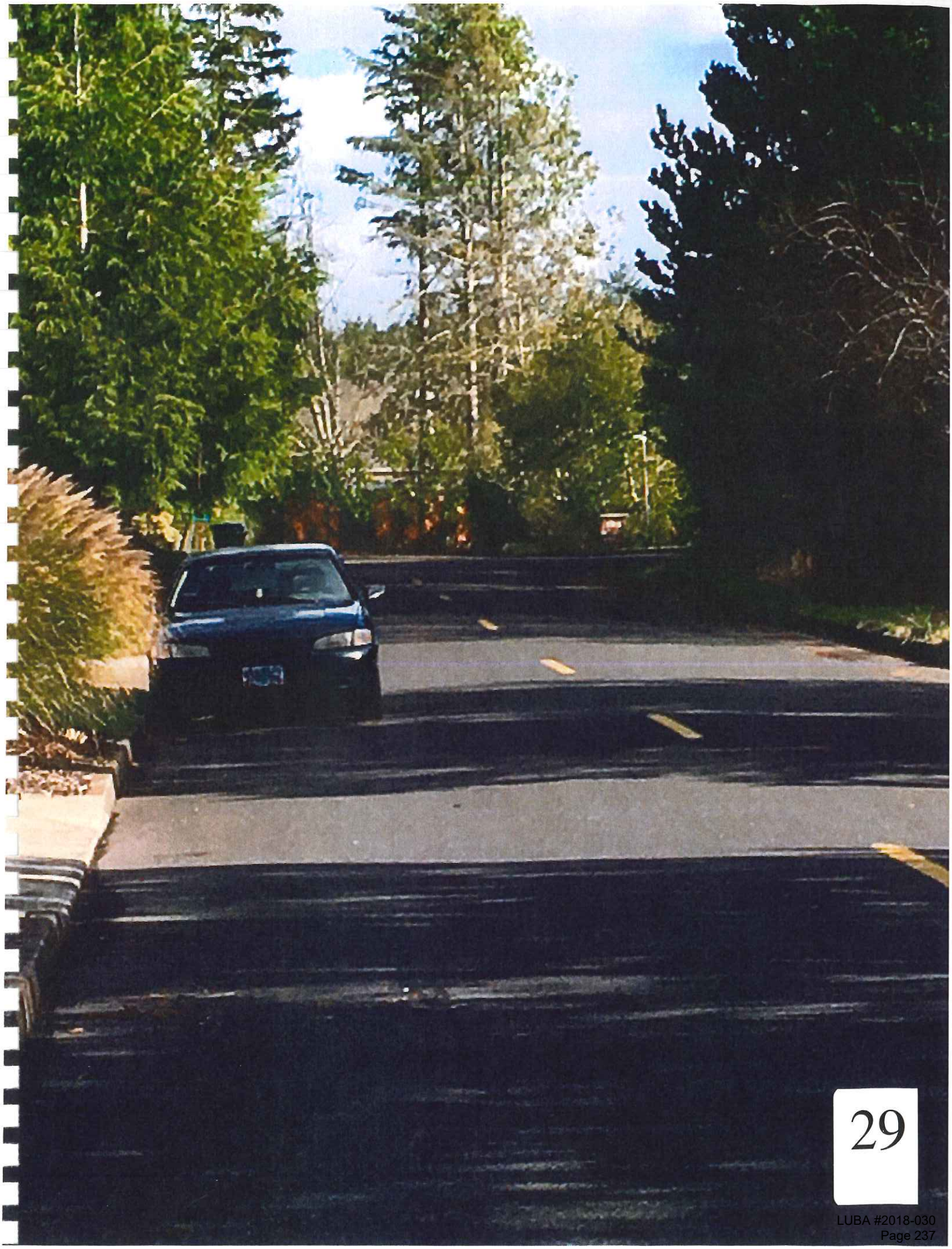

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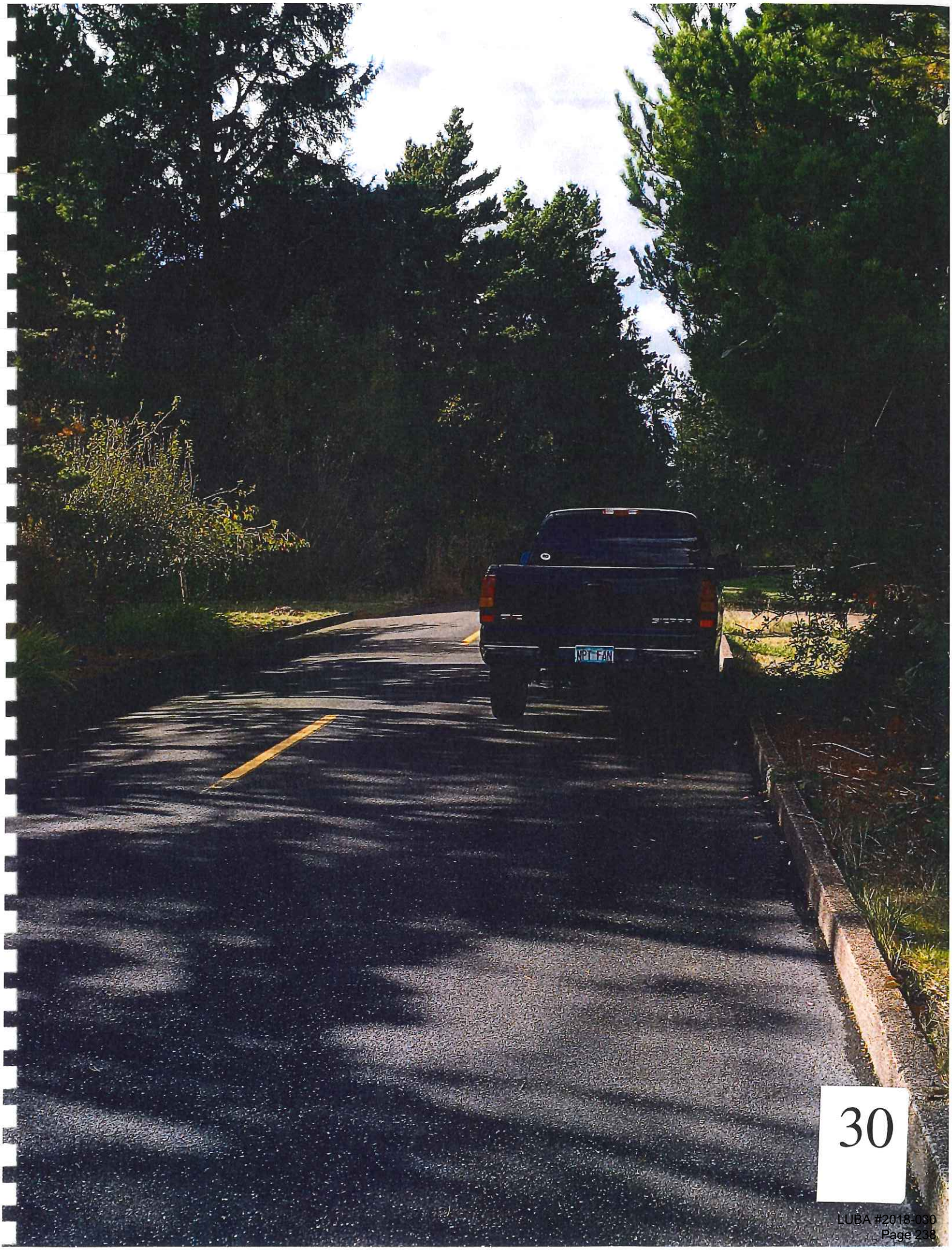

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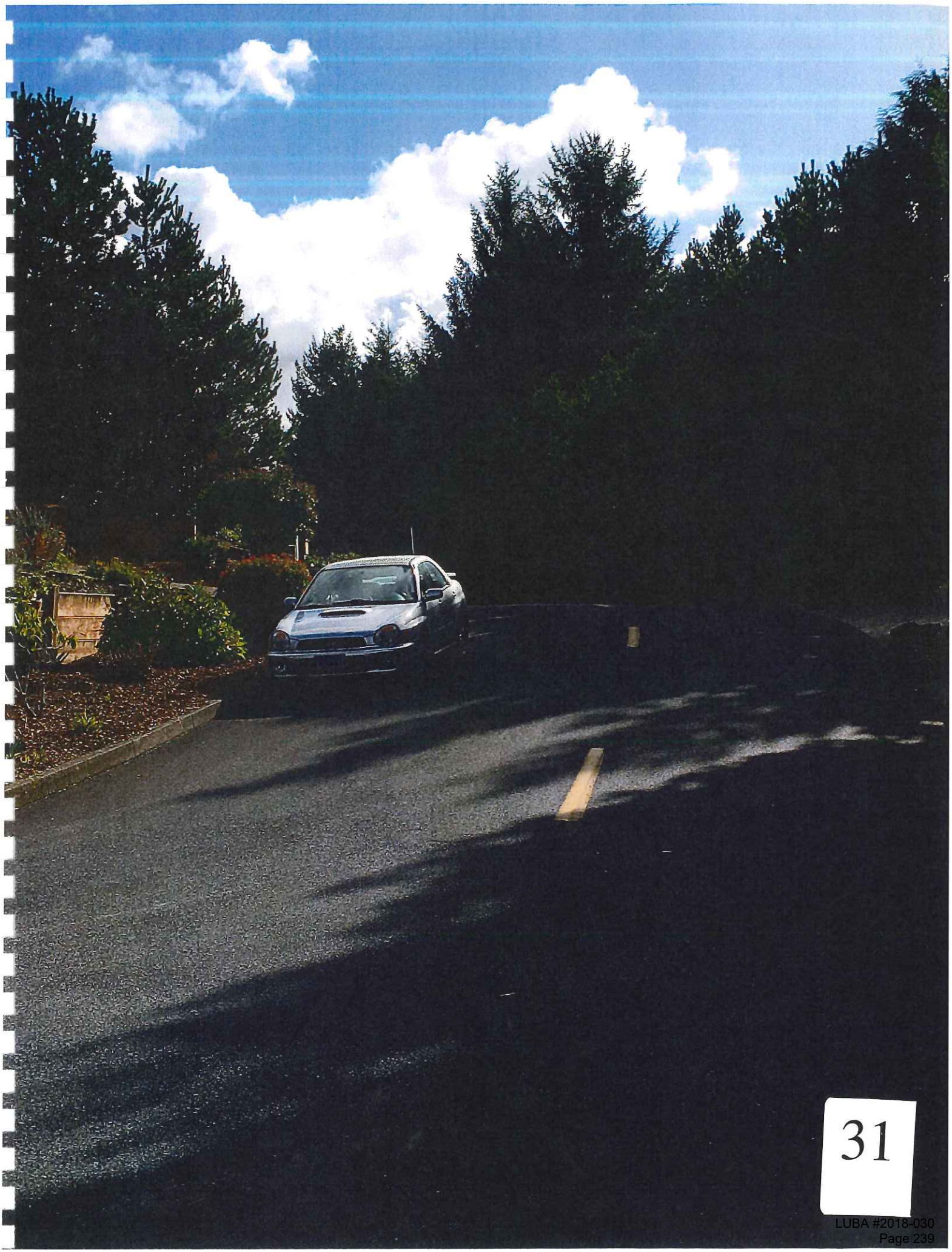

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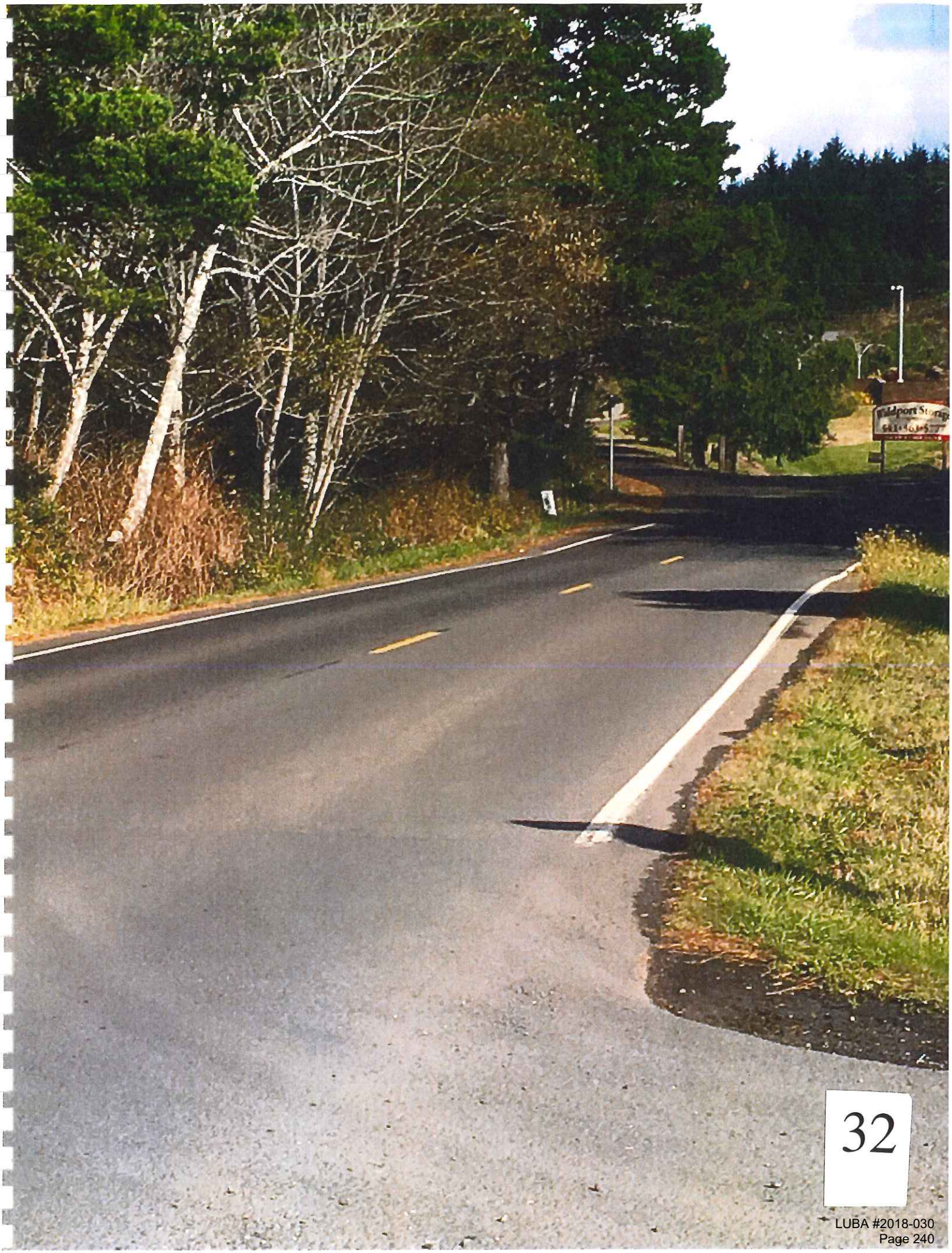

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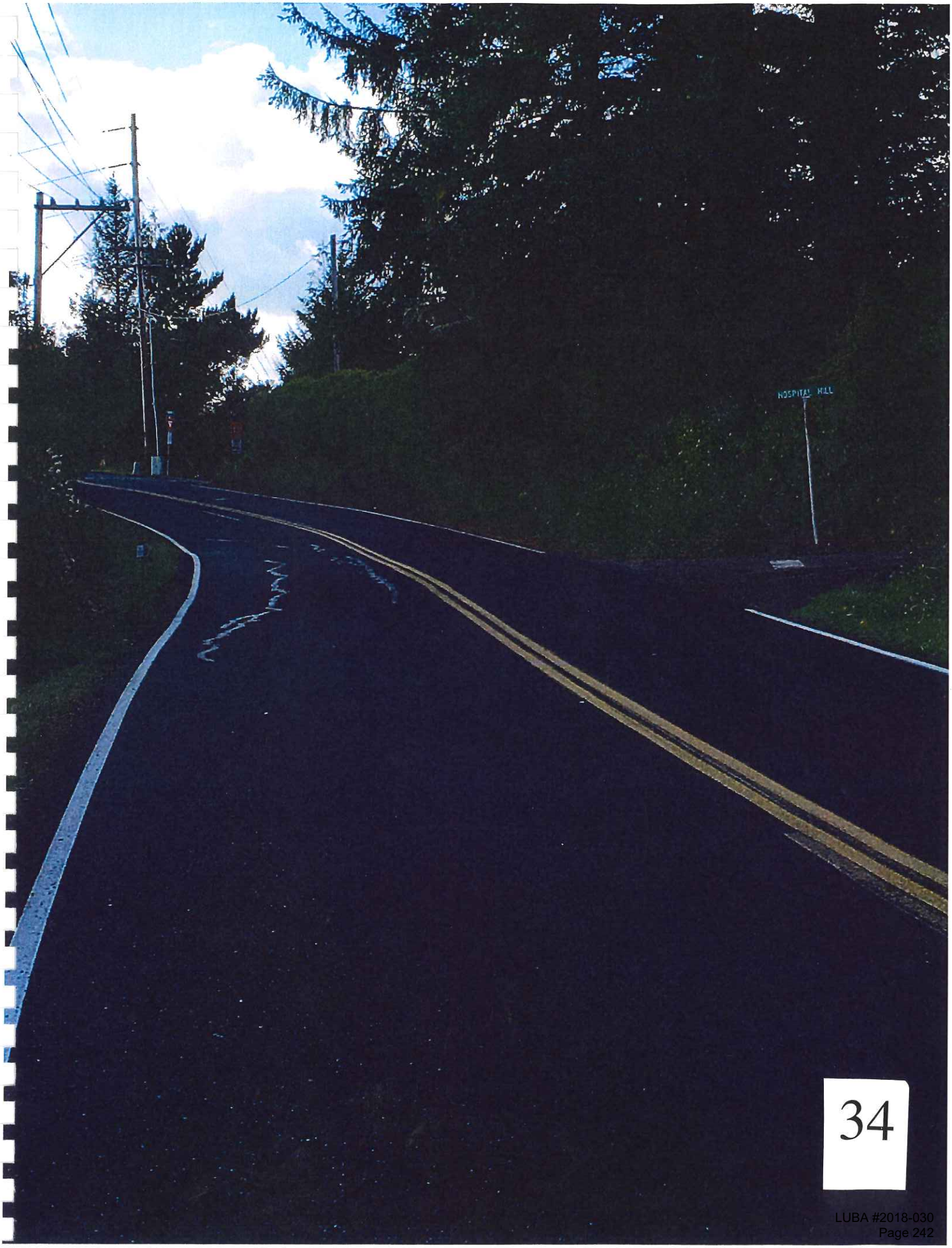

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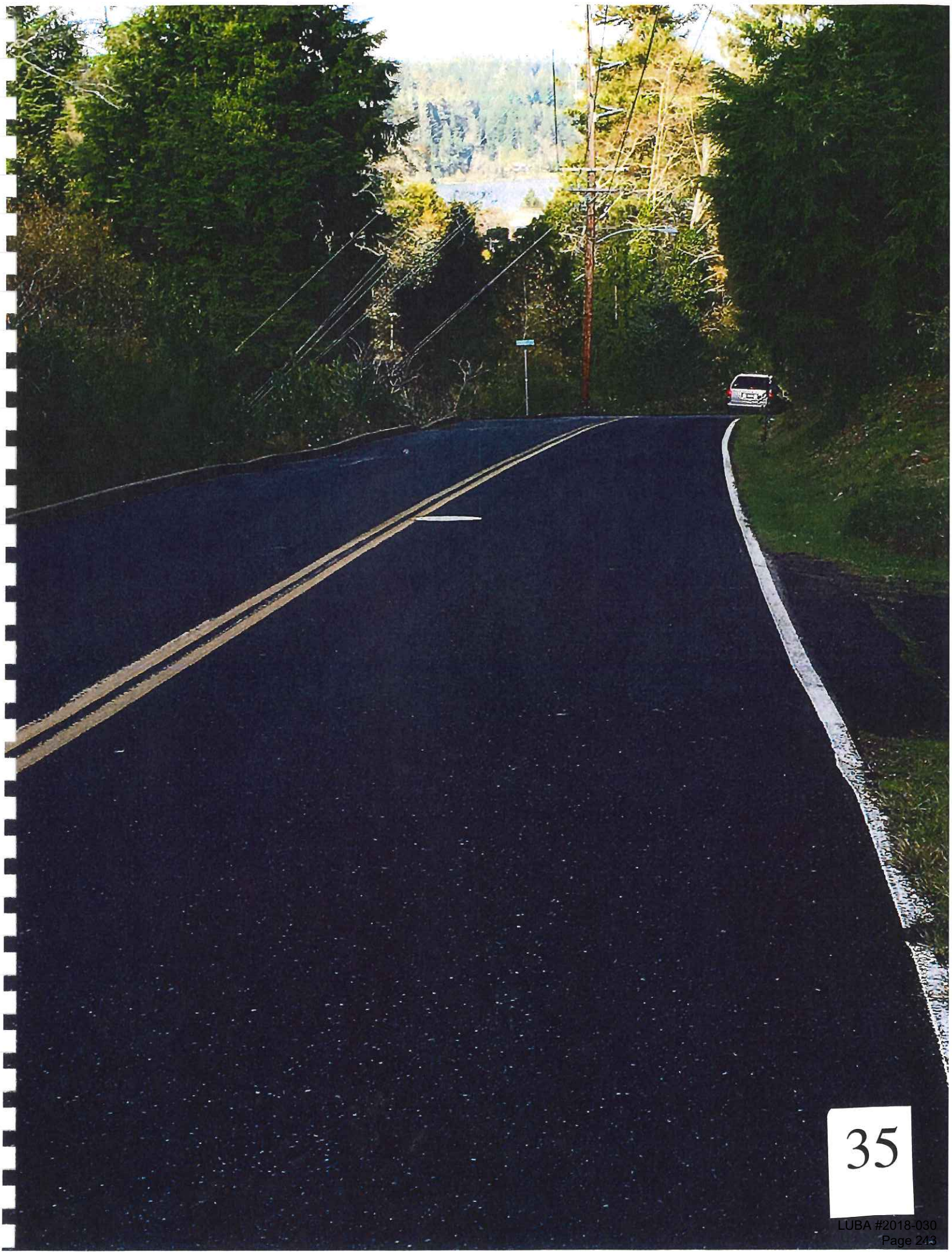

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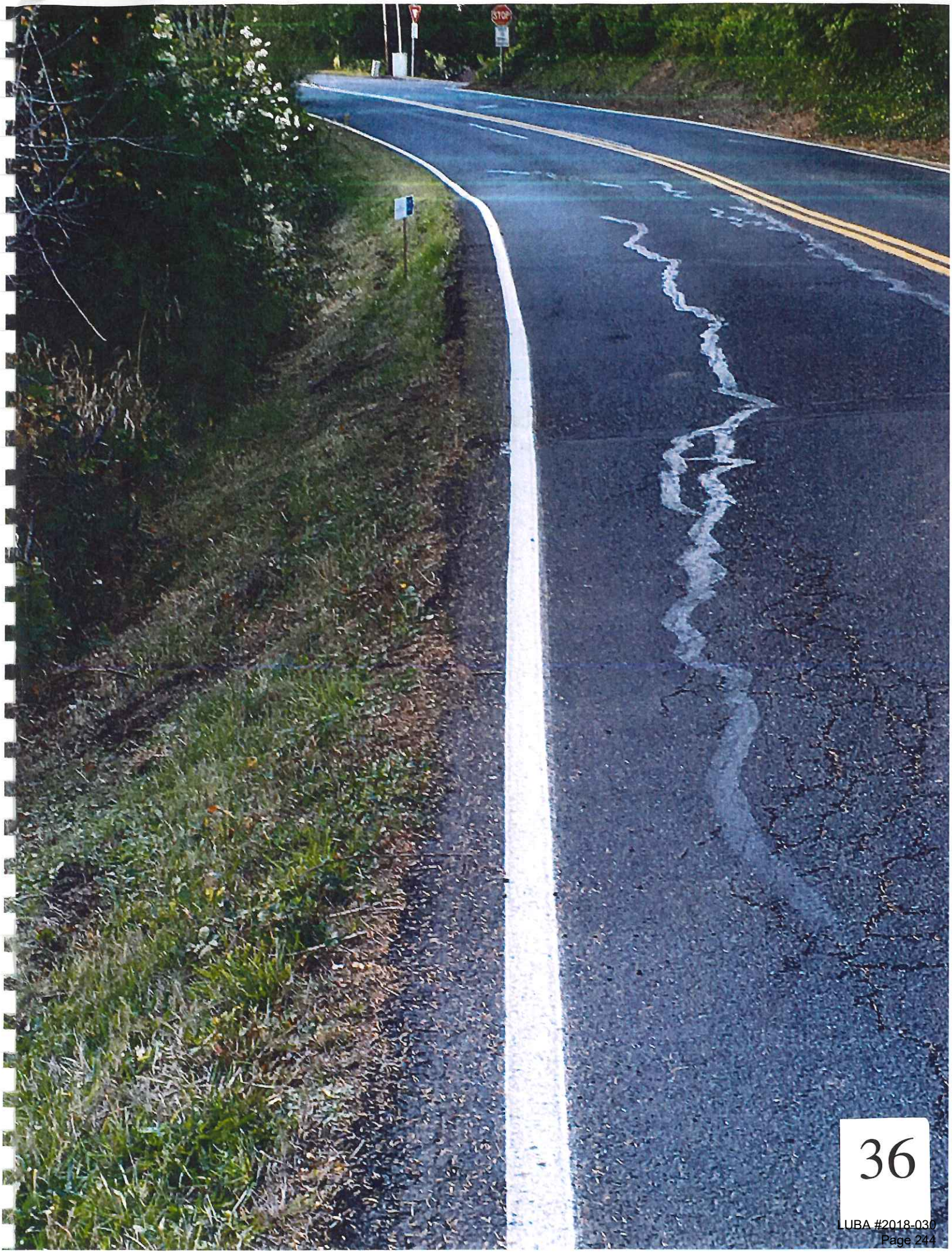

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LAW OFFICE OF DENNIS L. BARTOLDUS
380 SW 2nd Street
PO Box 1510 Newport, OR 97365
541-265-5400/541-265-7633 fax
www.bartolduslaw.com

Dennis L. Bartoldus
dennis@bartolduslaw.com

Clifford G. Collard
of Counsel
cliff@bartolduslaw.com

November 6, 2017

Larry Lewis
Waldport City Planner
125 NW Alsea Hwy.
Waldport, OR 97394

RE: Case File #1-PD-PC-17
Vista View Planned Development

Dear Mr. Lewis:

Please find the following submittals on behalf of the applicant, Tidewater Development LLC:

1. Supplemental Submittal of Applicant Tidewater Development LLC;

2. Maps and photos; and

3. Proposed Findings and Conclusions Submitted by Applicant.

If you have any questions, please let me know.

Very truly yours,

Dennis L. Bartoldus

DENNIS L. BARTOLDUS

DLB/ms
Enclosures
cc: Clients

WALDPORT PLANNING COMMISSION
October 23, 2017
MEETING NOTICE AND AGENDA

THE WALDPORT PLANNING COMMISSION WILL MEET ON MONDAY, OCTOBER 23, 2017 AT 2:00 P.M. IN THE **CITY COUNCIL MEETING ROOM**, 125 ALSEA HIGHWAY, TO TAKE UP THE FOLLOWING AGENDA:

1. CALL TO ORDER AND ROLL CALL

2. MINUTES: (June 26, 2017)

3. CITIZEN COMMENTS AND CONCERNS

4. CORRESPONDENCE – None

5. PUBLIC HEARINGS
   A. Planned Development File #1-PD-PC-17 Vista View Planned Development
   B. Subdivision File #1-S-PC-05 Land & Sea Addition Subdivision (time extension request)

6. DISCUSSION/ACTION ITEMS:
   A. Planning Report
   B. Waldport Development Code Amendments* - noticing req.
   C. Other Issues*

7. COMMISSION COMMENTS AND CONCERNS

8. ADJOURNMENT

*Denotes no material in packet

The Council Chambers are accessible to all individuals. If you will need special accommodations to attend this meeting, please call City Hall at (541)264-7417 during normal business hours.

Notice given this 17th day of October 2017

City of Waldport

Lily Ln - fire access - etc.

WALDPORT PLANNING COMMISSION
JUNE 26, 2017
MEETING MINUTES

1. CALL TO ORDER AND ROLL CALL: Chair Woodruff called the meeting to order at 2:00 p.m. Commissioners Peterson, Woodruff, Barham and Yorks answered the roll. Commissioners Andrew and Stole were absent. A quorum was present.

2. CONSIDERATION OF MINUTES: The Commission considered the minutes from the May 22, 2017 meeting. Commissioner Barham **moved** to approve the minutes as presented. Commissioner Yorks **seconded**, and the motion **carried** unanimously on a voice vote.

3. CITIZEN COMMENTS AND CONCERNS: None.

4. CORRESPONDENCE: None.

5.. PUBLIC HEARING: None.

6. PUBLIC MEETING - Conditional Use #2-CU-PC-17, Request for Extension to Construct Fence: City Planner Lewis explained that the applicant was requesting a 3-month extension to the June 30 deadline for fence installation. The applicant, Steve Brandel, was present to address the Commission. He explained that he has 25 of the required fenceposts, and the front corner fencepost is placed. He is hoping to acquire the fencing at a discounted rate at the end of July, when the supplier will be going out of business. Following a brief discussion, Commissioner Woodruff **moved** to grant a four-month extension, in order to allow the applicant sufficient time to complete the project. Commissioner Peterson **seconded**, and the motion **carried** unanimously.

7. DISCUSSION/ACTION ITEMS: The Commission reviewed the planning report. There were no other action items.

8. COMMISSION COMMENTS AND CONCERNS: Commissioner Peterson expressed concern that the Commission was setting a precedent by specifying the type of fencing materials, when the Code requirement was simply for a fence. Commissioner Barham explained that the fencing type was specified in this instance because that was what the applicant was requesting, and he didn't think that this was in any way setting a precedent for future applications.

9. ADJOURNMENT: At 2:12 p.m., there being no further business to come before the Commission, the meeting was adjourned.

Respectfully submitted,

Reda Q. Eckerman
City Recorder

APPROVED by the Planning Commission this ___ day of _____, 2017.
SIGNED by the Chair this ___ day of _____, 2017.

_____
Ray Woodruff, Chair

CASE FILE: #1-PD-PC-17
DATE FILED: Sep. 19, 2017
DATE APPLICATION DEEMED COMPLETE: Oct. 2, 2017
120-DAY COMPLETION DATE: Jan. 30, 2018
HEARING DATE: Oct. 23, 2017

STAFF REPORT

Planned Development Application

Vista View Planned Development

APPLICANT: Tidewater Development LLC **AGENT:** Dennis L. Bartoldus, Attorney

A. REPORT OF FACTS

1. Applicant's Request: The applicant is requesting approval of a Planned Development (Vista View) for 34 single family homes/lots on 7.75 acres.
2. 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.

3. Summary of Vista View Planned Development, a planned 34 single family lot development on 7.75 acres.

Access: Access to the development is proposed at the south end of Norwood Drive. This is the only legal access to the site.

A second access is planned at the south end of the site. This access is contingent upon agreement and/or development of the property to the south. This second access would provide access to Kelsie Lane.

Circulation: Within the property, a circular street system is proposed to access the lots/homes.

Lot Sizes: Lot sizes are proposed to range between 4,810 and 9,041 square feet.

Street: Streets are proposed to have a 20 pavement width within a 30 foot right-of-way with rolled curbs and gutters, and a sidewalk on one side.

Open Space & Nature Trail: A tract of land along the north and east side of the property is proposed as open space with authorization for development of a public nature trail.

Phased Development: The property is proposed to be developed in four phases over a 20 year period. The first phase is proposed to consist of 19 lots.

4. Zoning: Residential Zone R-1
5. Plan Designation: Residential
6. Lot Size: The subject property totals 7.75 acres.
7. Existing Structures: None.
8. Topography and Vegetation: The applicant provided the following description: The southeastern portion of the property is reasonably flat to gently sloping while the west side has moderate sloping. 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.
9. 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.
10. Utilities: The following utilities are available to serve the subject property:
    a. Water: City of Waldport Water
    b. Sewer: City of Waldport Sewer
    c. Electricity: Central Lincoln P.U.D.
11. Development Constraints: There is a steep ravine and drainage way along the north and a portion of the east boundaries.

B. EVALUATION OF REQUEST

1. Applicant's Proposal:

The applicant 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.

2. Relevant Code Standards:

Relevant Waldport Development Code and Waldport Comprehensive Plan criteria are identified below by title only. Full descriptions of relevant criteria are included as an attachment to this staff report.

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

3. **Public Testimony**

At the time this staff report was prepared, the City had received six letters from neighboring residents expressing concerns about the development. A summary of concerns is provided below. The letters are included in this staff report.

- 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.

4. **Public Agency Comment**

The Waldport Public Works Department and the Central Oregon Coast Rural Fire District (COCRFD) 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 COCRFD 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.

C. STAFF ANALYSIS

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 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. Streets are proposed to have a 20 foot pavement width within a 30 foot right-of-way with rolled curbs and gutters, and a sidewalk on one side.

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 for the City to develop a public nature trail through the open space, along the south edge of Lots 11-13, and south to Kelsie Lane.

The property is proposed to be developed in four phases over a 20 year period. The first phase is proposed to consist of 19 lots.

2. **R-1 Residential Standards and Requested Planned Development Modifications**
R-1 residential standards address density, lot size and dimensions, yards (building setbacks), lot coverage, building height, and other standards. The table below identifies the R-1 standards and the proposed Vista View PD; and is followed by modifications that may be requested through the Planned Development process.

	R-1 Standard	Proposed Vista View PD
Lot Size Dimensions		
Density	Lot size (337,590 sq. ft.) divided by 6,000 sq. ft. per lot allows a maximum of 56 lots	34 lots
Lot Area	Min. 6,000 sq. ft.	4,810 – 9,041 sq. ft.
Average Lot Width	Min. 60' Min. 65' for corner lot	55' (1 lot); 60'+ (33 lots) 65'+
Average Lot Depth	Min. 80'	Min. 83'
Yards (Building Setbacks)		
Front Yard	Min. 20'	20'
Side Yard	Min. 5' or 1' for every 3' of building height, whichever is greater	1' for every 3' of building height
Street Side Yard	Min 20' for lots with width of greater than 50'	20'
Rear Yard	10' Corner lots are same as side yard requirement	10'
Building Height	Max. 30'	30'
Lot Coverage	Max. 45%	45%

5 lots (Not #13)

In a Planned Development modifications to the required standards may be requested. The orange cells in the table above identify modifications are requested for the minimum lot size and one lot with a reduced lot width (Lot #13). The applicant provides the following narrative addressing this request:

> In the R-1 zone the ordinance calls for 6,000 square foot lots. While the overall development easily 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. In exchange for having some lots under 6,000 square feet, the applicant is creating a large open space and creating an easement for a nature trail. The easement will be available for public use.
>
> If the size of 34 lots was calculated over the entire size of the property and the road right of way was dedicated each lot would be approximately 8,775 square feet which is well above 6,000 square feet. Therefore, the house density is well within the allowable number under R-1 provisions in the ordinance.

3. **Proposed Street 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 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 street is proposed to have 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 applicant provides the following narrative addressing this request:

The applicant is requesting a modification in road right of way width from 56 feet to thirty feet and in surface paved width from 28 feet to 20 feet. The reason for the request is to allow more efficient use of the developed area on the property, allow for open areas and the dedication (by easement) of a nature trail for use by the public. In consideration of the twenty foot surface width, the application will prohibit on street parking and require each lot to have at least 3 off street parking spaces not including the garage. The street would have rolled curbs and gutters and a 5 foot wide sidewalk on one side of the street, to be installed as each house was built.

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. The City recommends the sidewalk be installed when the street is constructed versus the applicant's request to install the sidewalk as each house is built.

4. **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, 8th 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.

5. **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.

6. **Public Nature Trail**
The applicant proposes establish an easement that will enable the City to develop 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, and south to Kelsie Lane. This would connect to a planned trail identified in the Yaquina John Point Land Use & Transportation Plan (Project #P12) that would connect the Norwood Drive extension 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.

7. **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.

8. **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 applicant proposes that the Vista View PD have at least three on-site parking spaces including one covered parking spaces in order to offset the lack of on-street parking.

9. **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.

10. **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 November 2017 preliminary plan approval, the phasing plan would be as follows with the possibility of three 1-year extensions:

Phase 1: November 2017 – November 2019 (with 3 one-year extensions: Nov. 2022)
Phase 2: November 2019 – November 2021 (with 3 one-year extensions: Nov. 2024)
Phase 3: November 2021 – November 2023 (with 3 one-year extensions: Nov. 2026)
Phase 4: November 2023 – November 2025 (with 3 one-year extensions: Nov. 2028)

11. **Final Plan Review Procedure**
Requests for final plan approval of a planned development shall be accompanied by the following certifications:
1. A certified copy of all covenants and restrictions;
2. Certified copies of legal documents required for dedication of public facilities or for the creation of a homeowner's association;

3. The certification, performance agreement or statement regarding the availability of water and sewerage services;
4. As-built certifications for all required roads and utilities unless otherwise guaranteed by a performance agreement;
5. If the planned development involves a division of land, the certifications required by Section 16.100.050(H) of this title; and
6. Other certifications required as a condition of the preliminary plan approval.

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.

D. CONCLUSIONS

If the request is denied, the Planning Commission should state the general reasons and facts relied on, and direct staff to prepare findings for adoption at the next meeting. If the request is denied, the action must be based on reasons related to orderly development and best interests of the surrounding area or the city as a whole.

If the request is approved, staff offers recommended conditions, which may be added to or amended at the Commission's discretion:

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 20 foot pavement width within a 30 foot right-of-way with rolled curbs and gutters, and a sidewalk on one side. 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 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, 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 4,810 square feet.

   2b. **Lot Width.** Lot #13 is permitted to have an average lot width of approximately 54 feet vs. the minimum standard of 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 street shall have a minimum 30' right-of-way width and minimum 20' pavement width. "No Parking" signs shall be posted.

independent of application → awareness we will:

- City has eval. existing condition of Norwood. - parent avg. narrow curve
- City identified one corner less than 20' width that creates safety hazard.
- City will widen curve to a min. 20' width

bought land ~~has~~ with access constraint

· Based on the city expt that has left that ~~the~~ rolled curbs are not fable acceptable to the city.

Norwood Drive shall be improved from the property to the existing Norwood Drive pavement (approximately 330 feet) and include a minimum 20 foot side pavement with curb and gutter, and 5 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).

   Prior to dev. exceeding 19 lots, improvements will be needed, i.e. to Norwood ~~or~~ and a south connection. The V.V. app. will need to contribute their fair share for those imps.

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** build the trail -direct result of exceptions.
   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, and south to Kelsie Lane. 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.
   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 COCRFD.

9. **Off-Street Parking**
   New single family homes are required to have one on-site covered parking space, i.e. garage or carport. No parking is allowed on the street therefore each lot shall have a minimum three on-site parking spaces including the garage.

10. **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: November 30, 2017 – November 30, 2019
Phase 2: November 30, 2019 – November 30, 2021
Phase 3: November 30, 2021 – November 30, 2023
Phase 4: November 30, 2023 – November 30, 2025

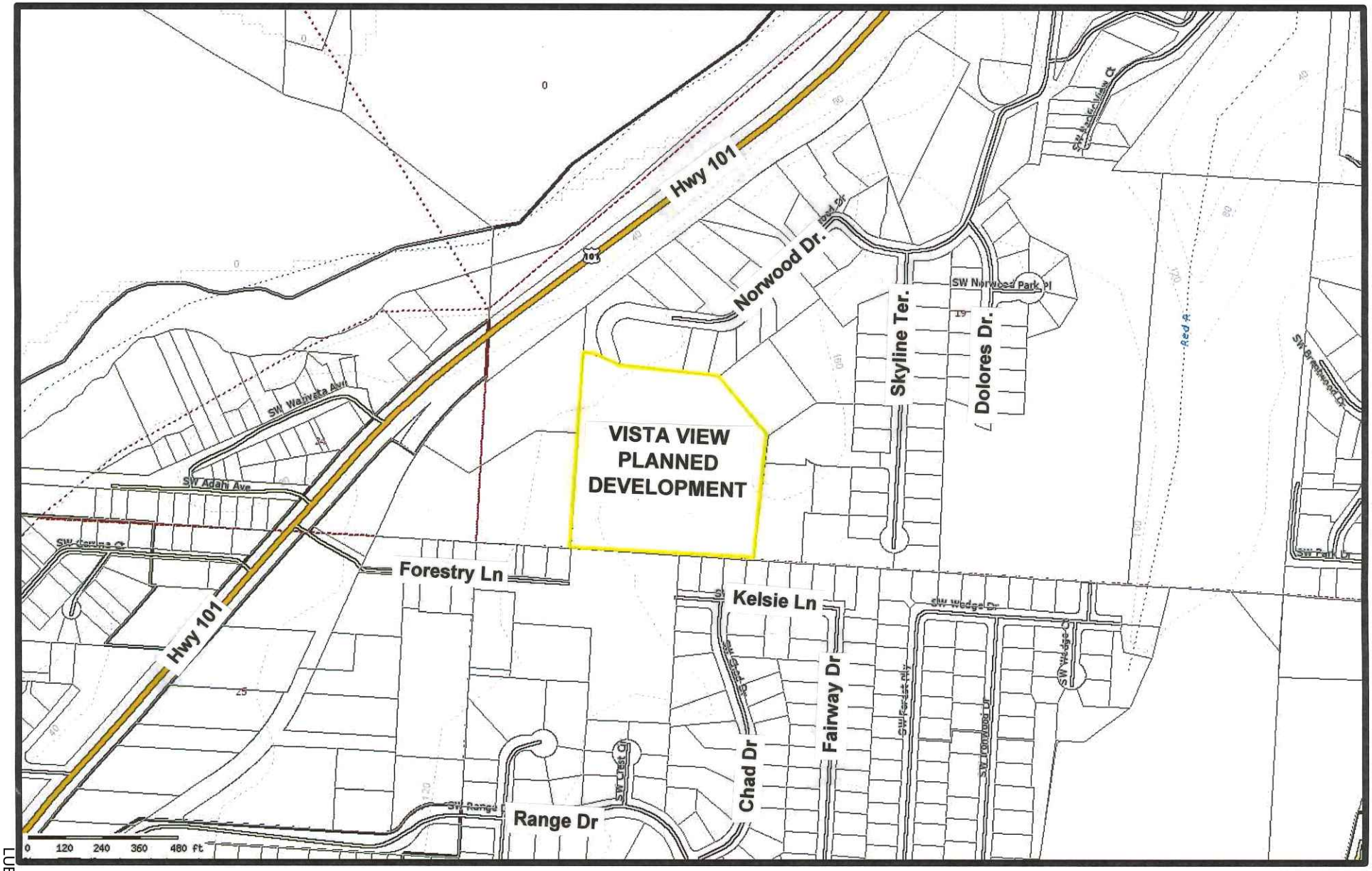
11. **Final Plan Review Procedure.** When the city planner determines that all of the certifications set forth below have been met and that the plat conforms in all respects to the tentative plan as approved, consideration of the plat will be placed on the next practical scheduled meeting of the Planning 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.

Submitted by,

Larry Lewis
City Planner

Enclosures:
- Vicinity Map
- Site Plan
- Applicant Narrative
- Six Letters (Written Testimony) (Virtue, Barham, Mugleston, Orndorff, Bregenzer, Barnett)
- Relevant Waldport Development Code and Waldport Comprehensive Plan Criteria



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TIDEWATER DEVELOPMENT LLC is requesting approval for a Planned Development of 34 lots on 7.75 acres that is zoned R-1. The property is generally identified as Tax Lot 120 on Assessor's Map 13-11-19-CC.

The applicant and their contact information are as follows:

Tidewater Development LLC
PO Box 1510
Newport, OR 97365

The authorized representative of the applicant is:

Dennis L. Bartoldus
Attorney at Law
PO Box 1510
Newport, OR 97365
Phone: 541-265-5400
Email: dennis@bartolduslaw.com

I. **General Nature of the Request**: The applicant is requesting approval for a 34 lot Planned Development on a 7.75 acre parcel off the end of Norwood Drive.

Each lot would contain a single family residence.

The lots range in size from 4,810 to 9,041 square feet. The road right of way is 30 feet with a 20 foot paved surface with curbs and gutters. A 5 foot sidewalk on one side of the street is proposed.

The applicant is also proposing to grant to the City a 10 foot wide easement for a nature trail that the City can connect in with other walkways and trails.

The applicant is proposing to leave a tract of land along the north and east side of the property as open area. The area proposed for open areas is steeper and is not as suitable for development.

II. A right of way will be dedicated to the south line of the development so a street could continue through the development if property to the south is developed.

A. All existing and approximate location and dimensions of all proposed parcels or lot lines.

A diagram of the planned development is submitted with this application that shows the layout and dimensions of the 34 lots, the walking path and the open area. As noted previously, the smallest lot is 4,810 square feet and the largest is 9,041. The average lot size is approximately 5,900 square feet. The total parcel size being developed is 7.75 acres.

B. Size of all proposed parcels or lots in acres and in square feet.

This information is shown on the proposed plat that is submitted.

C. Location of all proposed streets, a street cross-section showing proposed construction standards, profiles showing approximate grades of all streets, and whether they are proposed to be public or private streets.

The location of the street serving the development is shown on the proposed plat. The street to serve the development will be extended from Norwood Drive. The street within the development will be a circular street that has a 30 foot right of way and a 20 foot paved surface with rolled curbs and gutters. The streets will meet City standards regarding base rock and paving. The street is proposed to be public. The applicant will dedicate a right of way for a street to the south line of the property so that a street could be extended to the south if property to the south is developed.

D. Relationship of proposed roads to adjoining existing and proposed streets.

The street serving the subdivision will be an extension of Norwood Drive which is a paved city street. The developer will build the extension to City standards (except as modified for width) using engineered plans.

E. All existing and proposed building and setbacks from all property lines.

There are presently no existing buildings on the property. The proposed buildings will be single family dwellings that will meet the setback requirements of the R-1 zone. However, it should be noted that the houses will be setback 35 feet from the center of the street as a 30 foot street right of way is being requested.

F. The location of water and sewer lines, septic systems, well and all existing easements.

The water lines and sewer lines will be located in the street right of ways. All lots will be on city water and sewer. The sewer lines from the development will connect to an existing city sewer line and easement that is at the northwest corner of the property. The location is shown on the plat.

G. Access to the property and whether it is a state highway, county road, public or private easement.

The access to the property will be via Norwood Drive, a city street. The developer will construct the street from where it presently terminates to serve the planned development. The developer will provide a street right of way off the main circular street to serve property to the south if that property is developed.

H. All wetland areas, areas of geologic hazard, streams and waterways, and areas subject to flood hazard.

There is a creek that runs through the northeasterly portion of the property. The area where the creek runs is common area. There are steep slopes that run down to the creek. However, for the most part this area will remain undeveloped except for a nature trail.

All buildable areas for homes are outside of the floodplain.

I. Description of the topography and vegetation.

A topographical map is submitted with this application that shows the topography of the property. As can be seen, there are variations in topography. The southeastern portion of the property is reasonably flat to gently sloping while the west side has moderate sloping. 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.

Some of the property has been cleared, but the remainder has native coastal vegetation, being a mix of brush and trees.

J. The date, north point and scale of the drawing.

These items are all shown on the drawing.

K. Width, depth and direction of flow of all drainage channels on or directly adjacent to the property, and tentative plans of disposal of additional storm water generated by developing the property.

The highest area of the property is in the southeast corner of the property. From the point the property slopes fairly gradually to the west and more steeply to the northwest. The drainage of the lot is best seen from viewing the topographical map.

L. If there are to be phases of development, the identification and sequence of each phase.

The applicant is planning on developing the property in up to 4 phases. The first phase would consist of what are shown as lots 11-24 and 25, 34, 33, 32 and 31. 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.

M. Adjacent land owned by applicant.

No adjacent land is owned by the applicant.

N. Address any requested modifications to required development standards.

(Note: The applicant is requesting a planned development under the Waldport Development Code. The provisions governing planned developments are found in Section 16.60 of the Code. The property meets the criteria for a planned development because it is zoned R-1, is over one-half acre in size, and the overall density is within the number of units allowed on the property under R-1 zoning. No property will be devoted to commercial purposes. Under the planned development provisions of the Code, certain development standards may be modified.)

1. Lot size. In the R-1 zone the ordinance calls for 6,000 square foot lots. While the overall development easily 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. In exchange for having some lots under 6,000 square feet, the applicant is creating a large open space and creating an easement for a nature trail. The easement will be available for public use.

If the size of 34 lots was calculated over the entire size of the property and the road right of way was dedicated each lot would be approximately 8,775 square feet which is well above 6,000 square feet. Therefore, the house density is well within the allowable number under R-1 provisions in the ordinance.

2. Road width. The applicant is requesting a modification in road right of way width from 56 feet to thirty feet and in surface paved width from 28 feet to 20 feet. The reason for the request is to allow more efficient use of the developed area on the property, allow for open areas and the dedication (by easement) of a nature trail for use by the public. In consideration of the twenty foot surface width, the application will prohibit on street parking and require each lot to have at least 3 off street parking spaces not including the garage. The street would have rolled curbs and gutters and a 5 foot wide sidewalk on one side of the street, to be installed as each house was built.

O. State width to depth rations of each lot.

While there is some variations in the width to depth rations depending on the lot, the general width to depth ratio is approximately 1 ½ to 2 or 1 to 2.

P. Name, address and phone of registered surveyor to be used:

Brandt Thissell, PLS & CE
AKS Engineering
1230 S. Pennington Dr.
Newberg, OR 97132
Phone: 503-563-6151 ext. 233
Email: brandt@aks-eng.com

Paul Virtue

465 SW Pacific View Drive• Waldport, OR 97394• Phone: 541 220 7708
E-Mail: BigPaulVirtue@gmail.com

Date: October 9, 2017

To Waldport City Council:

I am writing in regards to the proposed housing addition on the end of SW Norwood.

I am not opposed to the developer adding these homes, on the condition that they would cover the cost of safety improvements to SW Norwood.

The road is very narrow and already there are dangerous events when pedestrians (especially teens and children) are walking up or down Norwood and are passed by motor vehicles. The restrictive nature of the road makes it a tight fit for cars going either direction and it's worse when a delivery truck, bus, or garbage truck passes a car or pedestrian on this street.

I am advocating for them to cover the costs of adding a pedestrian walk way on Norwood starting at Starr Street and extending to at least Dolores. In addition make the road safer by paying for middle striping.

Sincerely,

Paul Virtue, Waldport Resident

October 11, 2017

City of Waldport Planning Commission
PO Box 1120
Waldport, OR 97394

Dear Sirs:

RE: Vista View Planned Development

With regard to your Notice of Public Hearing dated October 2, 2017 and the proposed development and extension of Norwood Drive, I would like to make the following comments.

I expressed concern to Larry Lewis on two occasions when this area was being clear cut and was told that a person could do whatever they wanted on their property but any development would have to meet current City standards. Now that it has been clear cut, I realize it is inevitable the land will be developed; however, the access by extending Norwood Drive causes me some concerns.

1. Is the existing Norwood Drive capable of meeting the requirements for the increased traffic 34 homes will generate? Is Norwood up to current City standards for the type of roadway it will become? For example, currently there are no curbs and sidewalks.
2. Part of the proposed extension of Norwood runs around the perimeter of the north and west sides of our property, and while we were aware prior to the purchase of the property of a possibility of Norwood being extended, I am concerned that the appropriate engineering and construction of the roadway will not be carried out in such a manner as to prevent erosion and property loss. So far we have suffered over $8,000 worth of property damage for tree removal from storm damage likely due to the clear cutting of the land being developed. I want assurance that we do not continue to suffer property damage because of this development and the roadway construction providing access to it.
3. The Norwood Drive extension will be crossing a stream that may have already been compromised from the clear cutting which was done without leaving a buffer along the stream, and may or may not have been to State standards. I want to be assured this crossing will be engineered and constructed in a manner that meets the environmental and construction standards of both the City and the State of Oregon.
4. The nature trail that is proposed does not appear to be shown on the diagram and while it may be a good idea, I am concerned of its proposed route.

Thank you for your consideration of the above concerns.

Sincerely,

June Barham
1245 SW Norwood Drive

RE: TRYON AND THISSELL ARE TIDEWATER DEVELOPMENT LLC

Vista View Development

I am a neighbor and retired developer in the Norwood Heights Subdivision. I am very concerned with the proposed access for Vista View Subdivision through Norwood Drive. The street is only 18 ½ feet wide x 1 ½ inches thick and as it curves down the hill it can become very dangerous with on- coming cars and pedestrians. The road is already breaking up in sections because of the standards when it was installed.

When Norwood Developer developed the Norwood Heights II Subdivision – Skyline was put in with a much higher standard than Norwood Drive. We limited the number of homes because the entrance from Starr to Norwood could not handle more traffic.

I would hope that if this is approved that Tidewater Development would be required to bring the Norwood Drive up to current specifications, install curb, gutters, and sidewalks.

Sincerely,

Tim Mugleston

10/12/17

12 Oct 2017

City of Waldport
Waldport Planning Commission
P.O. Box 1120
Waldport, OR 97394
(541) 264-7417

REFERENCE: Tidewater Development LLC; Lincoln Tax Assessor Map 13-11-19CC; tax lot 120

Dear City of Waldport Planning Commission (Mr. Larry Lewis),

I am submitting a response to the request from Tidewater Development LLC for approval of a planned development (Vista View) for 34 single family homes/lots at the end of SW Norwood Drive. As a homeowner and a concerned citizen of Waldport, I am against this request and ask that it be denied by the Waldport Planning Commission.

There are several factors that contribute to my concerns that I ask the Planning Commission to carefully assess and insist on adequate resolution:

- Who will pay for the infrastructure for this request, if a full utility and infrastructure plan is required, will the citizens of Waldport benefit at least equal to the cost of providing adequate access and support or will the developer pay for the infrastructure?

- Who benefits from this request, especially to complete access from SW Norwood Drive, reviewing a plan of the city shows that if this is an appropriate effort, the appropriate approach to the area is from SW Kelsie Ln vice SW Norwood Dr. I submit that the cost to connect SW Norwood is an unreasonable burden on the taxpayers of Waldport, especially when SW Kelsie Ln provides adequate approach, road clearance and other logistical benefits, or even SW Forestry Ln. How will the cost to the city to prepare access, develop access and secure access as well as maintain access for considerable construction activity to include large commercial vehicles be resolved?

- Is the land stable for development and has the risk of a geologic hazard been adequately researched and studied, will the passage requested from the existing end of SW Waldport Dr. support a road, what geologic surveys have been conducted to ensure the safety of developing in that location? (reference landslide on Cedar Rd)

- What plans have been developed to ensure that water shed from the subject site will not impact the fishing and commerce activities directly below in the bay, what is the impact to the maritime assets of Waldport? How do we know the facts of this issue when we are considering such a vital part of the overall community?

- Are there ecological surveys on the water ways that run through the area, what is the actual impact if the runoff and rainfall egress is disrupted, what is the risk of a road washout if the area is blocked by a road?

- What is the impact on the Waldport trail system which is becoming one of the treasures and attraction for tourism in Waldport, the trail at the end of SW Norwood connects a number of vacation rental homes with the beach and commerce locations, and is without question a draw for tourism, what is the economic impact to the community?

- If a tsunami or other disaster impacts Waldport, the evacuation area at the intersection of SW Norwood Dr and SW Skyline Terrance will already be congested with people that cannot connect with the East side of Waldport, increasing the population constrained by the lack of an exit route is fundamentally unwise, how will this be mitigated?

I am a homeowner on SW Norwood Dr, I have concerns about the propriety of the applicants request and most importantly I want to ensure my tax dollars are not used for personal gain for the applicant putting a considerable burden on the community with a disruptive and unnecessary housing development which could negate the efforts of many homeowners along SW Norwood to establish a wonderful living environment and amazing quality of life. Any reasonable person can determine that appropriate considerations and due diligence is lacking in this request, there are so many substantial unanswered questions, and for what motivation? I ask the Planning Commission again to deny this request and preserve what so many have worked so hard to create along SW Norwood Dr. and in the city of Waldport.

Please let me know if there are any questions or if you need any additional information at this time. I can be reached at 971-275-5007; by email at louiso100@earthlink.net; or by correspondence at 1160 SW Norwood Dr, Waldport OR 97394.

Sincerely

//Signed//

Louis Orndorff

RAY BREGENZER
1080 SW. NORWOOD DRIVE
WALDPORT, OR 97394-9733
TELEPHONE 541-563-4474

OCTOBER 13, 2017

CITY OF WALDPORT PLANNING COMMISSION
P. O. BOX 1120
WALDPORT, OR 97394

REFERENCE; VISTA VIEW PLANNED DEVELOPMENT HEARING

DEAR COMMISSARS:

MY CONCERN REGARDING THE USE OF NORWOOD DRIVE AS THE MAIN ACCESS TO THE DEVELOPMENT. THIS WILL CAUSE EXCESS VEHICLE TRAFFIC ON NORWOOD DRIVE DURING THE DEVELOPMENT AND CONSTRUCTION OF NEW HOMES. NORWOOD DRIVE IS A WINDING AND CURVING DRIVE WITHOUT CURBS AND SIDEWALKS, THE EXTRA TRAFFIC WILL BE A MORE DANGEROUS CONDITION FOR THE RESIDENTS THAT WALK NORWOOD EVERY DAY. THERE ARE MANY RESIDENTS, YOUNG AND OLDER, WHO WALK TO GO DOWNTOWN OR OTHER PLACES OR JUST FOR WALKING. SOME RESIDENTS HAVE BEEN WALKING "THE HILL" FOR MORE THEN THIRTY YEARS.

ALSO A CONCERN IS THE EXIT IN THE EVENT OF A FIRE OR OTHER EMERGENCY.

VERY TRULY YOURS,

Ray Bregenzer

City of Waldport Planning Commission
PO Box 1120
Waldport, Oregon 97394

October 13, 2017

RE: Tryon and Thissell, Tidewater Development LLC
Vista View Development

Dear Commission Members,

I discovered the Planning Commission will hold a hearing regarding the proposed Vista Planned Development. I live on the street, Norwood Drive. There are 4 houses and one empty lot between my house and the easement which is proposed to be used for all access to the Vista Development.

Despite the fact that I live close and directly on the street going into the development I only discovered this fact because of a news article. I and my neighbors are concerned that something that so directly affects us did not result in notice from the city. Larry Lewis tells me I and a short list of neighbors I provided to him yesterday will receive all future notices regarding Vista Development hearings.

I know that the rule the city has adopted is to only inform owners within 250 feet of any project. Please consider changing this rule. If the intent is to give actual notice of development in a neighborhood the current rule does not do this. While you may be exceeding the statutory requirement, the truth is, the current rule does not provide notice to property that will be directly impacted. The City can change the rule to extend the distance. Please consider doing so.

The Vista Development proposal as drafted will require all access to be from Norwood Drive. The street is currently a dead end. The proposed 34 single family dwellings and all service trucks and emergency vehicles will travel on Norwood Drive.

Norwood Drive is an old street that doesn't meet the current city standards. It is less than 20 feet wide. It has no sidewalks. I am told the pavement is only 1 ½ inches thick. At present there is some damage to the pavement occurring because of the sub standard street. There are many people walking the street and if the traffic is to be increased the cities requirement of sidewalks is important for their safety. Is Vista Development required to bring Norwood Drive up to city standards before being allowed to use it to access its development? If not will the city be responsible for the bringing the street up to its current standards?

I would also request that any proposed nature trail is detailed in the Vista Development proposal. At present I cannot tell where it would be placed or how long it is.

There is a creek which runs in the path of the needed extension of Norwood Drive. When will the Commission require the developer to provide plans that meet environmental standards and engineering standards?

Sincerely,
Bernice Barnett
1065 SW Norwood Drive

VISTA VIEW PLANNED DEVELOPMENT
RELEVANT WALDPORT DEVELOPMENT CODE
AND WALDPORT COMPREHENSIVE PLAN CRITERIA

WALDPORT DEVELOPMENT CODE

Chapter 16.12 Residential Zone R-1 (relevant to this application)

16.12.010 Uses permitted outright.

A. One-family dwelling built on site.

16.12.030 R-1 Standards

A. Lot Size Dimensions. In the R-1 zone the following shall apply:
   1. The minimum lot area shall be six thousand (6,000) square feet for a one-family dwelling with public water and sewer; fifteen thousand (15,000) square feet with public water only.
   2. The minimum average lot width shall be sixty (60) feet for an interior lot and sixty-five (65) feet for a corner lot.
   3. The minimum lot depth shall be eighty (80) feet.
   4. No lot area, yard, off-street parking or loading area, or other required open space for one use shall be used as the required lot area, yard, off-street parking or loading area, or other required open space for another use.
   5. N/A

B. Yards. The minimum yard requirements applicable in the R-1 zone shall be as follows:
   1. The front yard shall be a minimum of twenty (20) feet.
   2. Each side yard shall be a minimum of five (5) feet, but any part of a building exceeding fifteen (15) feet in height must have a setback from a side property line equal to or greater than one-third the height of that part. (Height is measured from grad level adjacent to the wall which is closest to the side property line.)
   3. The street side yard shall be a minimum of twenty (20) feet, except on lots fifty (50) feet wide or less the street side yard shall be ten (10) feet.
   4. The rear yard shall be a minimum ten (10) feet except:
      a. An accessory structure not used for human habitation, not higher than fifteen (15) feet, and separated from the main building may be located no closer than five (5) feet from a rear property line, and
      b. On a corner lot, the setback required from the rear property line shall be the same as required for side yards.
   5. No structure shall be located closer than sixty (60) feet from the centerline of any arterial street nor forty (40) feet from the centerline of any collector street.
   6. All new single-family homes are required to have a garage or carport constructed of like materials.

C. N/A

D. Decks: Unenclosed decks, unroofed landings, porches, and stairs may project into any required yard, providing the following conditions are met:

1. No portion except the guard rails shall extend above the floor level of a habitable room;
2. No such projection shall obstruct a stairway; and
3. No such projection shall extend into the required yard more than one-third the distance of the setback required.

E. Drainage. A plan shall be submitted showing width, depth, and direction of flow of all drainage channels on property. In addition, the location, size and type of conduit used in drainage channels and drive way accesses shall be clearly delineated. Water from roof drains and other nonimpervious surfaces shall not be concentrated and directed so as to cause damage to other properties, and shall be directed towards the street or to an on-site dry well. Pipes draining water from roof drains and other nonimpervious surfaces shall not be allowed to connect to any sanitary sewer facilities.

F. Excavation/Fill. A plan shall be submitted showing cubic yards removed or filled and a final elevation certified by a registered professional engineer for the removal of more than fifty (50) cubic yards.

G. Building Height. No building in the R-1 zone shall exceed a height of thirty (30) feet.

H. Lot Coverage. Buildings including accessory structures and garages shall not occupy more than forty-five (45) percent of the total lot area.

I. Distance Between Buildings. A minimum distance of six (6) feet shall be maintained between a building designed for dwelling purposes and other buildings on the same lot.

J. Any property identified as a geological natural hazard area as listed in Section 16.96.020 of this title or any property that has a twenty (20) percent slope or greater, as defined by Section 16.96.020 shall require a geotechnical analysis of the property in accordance with Section 16.96.030(D)(4) of this title.

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

The purpose of the planned development procedure is to encourage and promote creativity and innovation in site planning, design and development through the application of flexible land development standards. Application of the planned development procedure is intended to:

A. Allow for and encourage development designs which provide suitable recognition of the physical, topographic, cultural, historical and natural resource values and constraints present on a particular site;

B. Permit greater flexibility in the siting of buildings and other physical improvements and in the mixing of housing types and other compatible non-residential uses in order to accomplish desirable design objectives; and

C. Ensure that development occurs in a manner consistent with the intent and purpose of the goals and policies of the Comprehensive Plan.

16.60.020 General Requirements

The following requirements shall govern planned developments:

A. Notwithstanding the provisions of the applicable use zone or zones, on land subject to an approved planned development, only those uses, structures and other forms of development which have been set forth and authorized in a preliminary development plan approved in accordance with the provisions of this section may be established.

B. A planned development may include any uses permitted outright or conditionally in any zone, except that uses permitted only in an I-P or M-P zone shall not be permitted in an R-1, R-2, R-3, R-4, C-1 or C-2 zone.

C. Minimum size required for a planned development shall be one-half acre.

D. Overall residential density shall be as provided for in the applicable use zone or zones. Density shall be computed based on the total gross land area of the subject property, excluding area devoted to commercial or other nonresidential uses.

E. No building shall exceed a height which is fifty (50) percent greater than that of the maximum building height limitation of the zone in which the planned development is proposed.

F. For a planned development in a residential zone, the total land area devoted to commercial uses, including required off-street parking, other than hotels, motels, trailer parks, resorts, and similar accommodations, shall not exceed five (5) percent of the total land area of the development. Any commercial uses shall be directly related in purpose and function to the remainder of the planned development.

G. In a residential zone, where commercial uses are being developed in conjunction with residential uses, construction of the commercial uses shall not be initiated until twenty-five (25) percent of the residential units have been developed.

H. Yards, setbacks, lot area, lot coverage and similar dimensional requirements may be reduced, adjusted or otherwise modified consistent with the design objectives of the proposed development.

I. The City may require easements necessary for orderly extension of public utilities to future adjacent developments.

J. Lands and structures not dedicated to the public but reserved for use by owners or tenants and their guests must be subject to an association of owners or tenants created to form a non-profit corporation under the laws of the State of Oregon. Said association shall be formed and continued for the purpose of maintaining such common areas and structures.

K. In the event of a conflict between any applicable use zone provision and the allowances, limitations or requirements of an approved preliminary plan, the approved preliminary plan shall control.

16.60.030 Preliminary Plan

C. Preliminary plan approval criteria. Approval by the planning commission of a preliminary plan of a planned development shall be based on findings that the following criteria are satisfied:

1. All of the applicable general requirements in Section 16.60.020 of this title are met.

2. The proposed development will not be inconsistent with the comprehensive plan provisions or zoning objectives for the area.

3. 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, fish and wildlife habitats, 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 located open space, recreation facilities, and other public and common facilities, and also includes pedestrian oriented development which reduces reliance on automobile travel,

provision of solar access or similar measures to promote energy conservation, or avoidance of risks and costs associated with environmental hazards.

4. In considering a development proposal, the planning commission shall seek to determine that the development will not overload the streets outside the planned 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.

5. In acting to approve a preliminary plan, the commission may impose any conditions or limitation it finds necessary to achieve compliance with any provisions of this chapter.

D. Time limit on preliminary plan approval. Approval of a preliminary plan in accordance with this section is valid for a period of two (2) years, unless a longer period of time is specifically authorized by the commission.

E. Time extension on preliminary plan approval. Approval of a preliminary plan of a planned development may be extended beyond the two (2) year or other approved period upon request. Requests for time extensions shall be made on a form prescribed by the city. Requests for time extensions shall be considered and acted upon in accordance with Section 16.108.020(A) of this title or may be submitted to the planning commission for their decision. In considering a request for a time extension, the city planner or the commission may consider to what extent any required improvements have been constructed or completed, whether there have been any changes in circumstances or in applicable code or statutory requirements which could have affected the original approval, and whether additional conditions or requirements could be imposed on the preliminary plan approval which would satisfactorily address any deficiencies resulting from changed circumstances or code or statutory requirements. In granting a request for a time extension, the city planner or the planning commission may impose such additional conditions or requirements as are considered appropriate. A time extension shall be for a period of one year. Not more than three time extensions of a preliminary plan approval may be granted.

16.60.040 Final Plan

Upon completion of all conditions and requirements of a preliminary plan of a planned development, application may be made for final plan approval, in accordance with the provisions of this section:

A. 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.

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

1. A certified copy of all covenants and restrictions;

2. Certified copies of legal documents required for dedication of public facilities or for the creation of a homeowner's association;

3. The certification, performance agreement or statement regarding the availability of water and sewerage services;

4. As-built certifications for all required roads and utilities unless otherwise guaranteed by a performance agreement;

5. If the planned development involves a division of land, the certifications required by Section 16100.050(H) of this title; and
6. Other certifications required as a condition of the preliminary plan approval.

C. Final plan approval criteria. The commission shall approve a final plan of a planned development, provided that:

1. The submitted final plan is in substantial conformance with the approved preliminary plan; and
2. All of the certifications required by paragraph (B) of this subsection have been submitted in proper form.

16.72.020 Off-street parking and off-street loading requirements

D. Off-street parking spaces shall be located on the same lot or on an adjoining lot unless otherwise approved by the planning commission.

E. Required parking spaces shall be available for the parking of operable passenger automobiles of residents, customers, patrons and employees only, and shall not be used for storage of vehicles or materials or for the parking of trucks used in conducting the business or use.

F. Areas used for standing and maneuvering of vehicles shall have durable and dustless surfaces improved to minimum public road standards, maintained adequately for all-weather use, and be so drained as to avoid the flow of water across public sidewalks.

I. Required off-street parking shall not be provided in the required front or street side-yard areas in a residential zone.

J. Groups of more than four parking spaces shall be served by a driveway so that no backing movements or other maneuvering within a street, other than an alley, will be required and shall be enclosed or defined by a curb or bumper rail at least four inches high and set back a minimum of four and one-half (4 ½) feet from the property line.

S. Off-street parking requirements

1. Dwelling. One (1) space for each dwelling unit.

16.96 Development Guidelines

16.96.020 Scope.

Development guidelines shall apply to those areas of concern delineated on the City of Waldport zoning map and in its comprehensive plan and plan inventories or any area determined potentially hazardous by the Planning Commission and shall also apply to any property that has a 20% slope or greater.

A. A property has a 20% slope or greater if:
   1. The average slope from the highest to lowest point of the property has a slope of 20% or greater or;
   2. The average slope of the building footprint or area to be disturbed is 20% or greater.

B. Development guidelines shall also apply to those properties where a 30% or greater slope is within 100 feet of the property.

C. Development guidelines shall not apply to a building footprint that is over 100 feet from a 20% slope.

16.96.030 Natural hazard areas.

The following development guidelines are applicable to hazards identified above and in the State Department of Geology and Mineral Industries, Bulletin 81, Environmental Hazard Inventory, Coastal

Lincoln County, Oregon, RNKR Associates, 1978. The above documents and mapping are referenced and adopted as a part of the comprehensive plan and available in the office of the CAO.

A. Purpose. Various geological formations in the city have different characteristics with respect to suitability for development because of landslide potential, high groundwater and other characteristics. The following development guidelines have been prepared in order that geological hazards will be recognized and the losses resulting therefrom will be lessened.

B. Areas of Concern. The primary areas of concern are those with active and potential landslides, high groundwater, weak foundation soils, coastal recession, and steep slopes.

C. Considerations. Most important considerations with respect to natural hazard factors are:
   1. That development approved is not hazardous to buildings, structures or the inhabitants thereof;
   2. That notice to unsuspecting purchasers of property having natural hazards is provided; and
   3. That unjustified expenditure of public funds or losses incurred due to natural hazards resulting in damage to development is prevented.

D. Standards. The following shall be required in identified hazard areas:
   4. Slopes greater than twenty (20) percent. A site specified geotechnical analysis by an Oregon certified engineering geologist is required. The analysis, which shall be stamped by the Oregon certified engineering geologist, shall determine the suitability of the site for development and shall recommend specific measures which may be required to safeguard life and property.

Chapter 16.100 Land Division

16.100.040 General requirements and minimum standards of design development.

The following are the minimum requirements and standards to which subdivisions and partitions must conform:

1. Conformity to the comprehensive plan. All subdivisions and partitions shall conform with all applicable portions of the comprehensive plan and development regulations for the city.

2. Performance agreement. If all improvements required by the city and this code are not completed according to specifications as required herein prior to the time the plat or map is duly submitted for consideration and approval, the City may accept in lieu of said completion of improvements a performance agreement bond, or other assurance equal to the value of the cost of the improvements, plus administrative costs and inflation amounts not to exceed the amount of twenty (20) percent of the value of the cost of the improvements, executed by the subdivider/partitioner and any surety company, conditioned upon faithful performance and completion of all such improvements within a period of time stated in such performance agreement, pursuant to Section 16.100.010 of this chapter.

3. Relation to adjoining street system. A subdivision or partition shall provide for the continuation of existing and projected streets. If physical conditions make such continuation impractical, exceptions may be made. All new subdivisions will be required to construct public streets to city standards.

4. Access.
   a. A subdivision or partition shall provide each lot or parcel, by means of a public street or private road, satisfactory vehicular access to an existing street.
   b. A subdivision or partition shall consider vehicular access to the parcel off existing or proposed streets that addresses traffic congestion, speed, stop signs and turn lanes for the orderly development of traffic accessing the area.

c. The subdivider/partitioner shall be solely responsible for constructing all necessary or required street(s) or road(s), whether public or private, to city requirements as stated herein to serve each and every lot or parcel created by the subdivision or partition.

d. All public or private streets or roads established for the purpose of subdividing, partitioning or replatting land shall be surveyed and monumented.

e. All plans and specifications for street and road improvements, whether public or private, shall be prepared by a civil engineer licensed in the State of Oregon. Street improvements, including grades, paving, drainage and centerline radii on curves, shall at a minimum meet the applicable requirements of this title and standards set forth in the American Association of State Highway and Transportation Officials (AASHTO) manual or other design principles and construction specifications consistent with generally accepted engineering practices which are acceptable to the planning commission.

5. Private Roads. N/A

6. Public Street Standards.

   a. Street Widths: The right-of-way and surface widths shall conform to the widths as specified in Section 16.100.100 of this chapter unless a modification is granted pursuant to Section 16.100.090 of this chapter.

   b. Street Design and Improvements.

      1) The layout of streets shall give suitable recognition to surrounding topographical conditions in accordance with the purpose of this code.

   c. Street Intersections.

      1) Streets shall intersect one another at an angle as near to a right angle as is practical considering the topography of the area and previous adjacent layout.

      2) Intersections shall be designed so that no danger to the traveling public is created as a result of staggered intersections and in no case shall intersections be offset less than one hundred (100) feet.

      3) Any intersection that accesses an arterial street shall provide an additional turn lane access.

   d. Cul-de-Sacs and Turn-a-Rounds.

      1) In general, dead end (cul-de-sac) streets in partitions or subdivisions should not exceed four hundred (400) feet in length and must terminate in a turn-a-round with a minimum property line radius of forty-five (45) feet or other type of turn-a-round approved by the planning commission.

      2) Approved turn-a-rounds shall be provided on all dead end streets.

7. Public Access Ways: When necessary for public convenience and safety, the City may require a subdivider to dedicate to the public access ways ten(10) to twenty (20) feet in width to connect cul-de-sacs, to pass through oddly shaped or unusually long blocks, to provide for networks of public paths according to adopted plans or to provide access to schools, parks, beaches or other public areas, and be of such design and location as reasonable required to facilitate public use.

8. Lots and Parcels.

   a. Every lot/parcel shall abut a public street or private road. A flag lot with the staff that does not comply with the required minimum lot widths for the zone it is located in is permitted but shall not be less than twenty-five (25) feet minimum frontage.

b. Each side line shall be as close to perpendicular to the adjacent street/road or radial to a curved street/road as possible.
c. Lots/parcels with double frontage shall not be permitted unless, in the opinion of the city, it is unavoidable.
d. The staff portion of a flag lot shall not be used in computing lot size for zoning and building purposes.

9. Utility Easements: Where alleys are not provided, easements of not less than ten (10) feet in width may be required on side or rear lines if determined to be necessary for utility lines, wires, conduits, storm and sanitary sewers, gas and water.

   Easements of the same or greater widths may be required along boundary lines or across lots where necessary for the extension of utility lines, waterways, and walkways, and to provide necessary drainage ways or channels.

10. Water Service: All lots/parcels shall be served by water service provided by the City or others unless the City has received and accepted:
    a. Certification that water service has been provided to the boundary line of each lot/parcel, and utility location maps are furnished to the City; or
    b. Certification by the owner or superintendent of a state certified public or privately owned domestic water supply system that water service has been installed to the boundary line of each lot/parcel; or
    c. A performance agreement, bond, contract or other assurance that water service will be provided to the boundary line of each lot/parcel.

11. Sewer: No plat of a subdivision or parcel in a partition shall be approved unless the City has received and accepted:
    a. Certification that city sewer service has been provided to the boundary line of each lot/parcel and utility location maps are furnished to the city; or
    b. Certification by the county sanitarian for septic approval of each lot/parcel; or
    c. A performance agreement, bond, or contract or other assurance that sewer service will be provided to the boundary line of each lot/parcel.

12. Drainage: No plat of a subdivision or parcel in a partition shall be approved unless the City has received and accepted:
    a. Width, depth and direction of flow of all drainage channels on the property;
    b. Names, depth and direction of flow of all drainage and approximate grade of all streets within and abutting the subdivision;
    c. Location, size and type of conduit used in drainage channels and driveway accesses;
    d. Inspection and approval of dry-wells installed on the property by the public works director.
    e. Inspection and approval of drainage disposal by the public works director.

The following shall apply to subdivisions only:

1. Parks and Open Space. In subdivisions <u>or planned developments</u> the city shall require the subdivider to pay a park assessment fee based on the size of the subdivision. The city council shall determine by resolution, from time to time, the amount of the park assessment fee to be charged to the subdivider under this section.

2. Block Length. Blocks shall be no longer than one thousand two hundred (1,200) feet in length between street lines.

3. Partial Development. If a proposed subdivision area includes only part of the tract owned by the subdivider, the city may require a sketch of the tentative layout of streets in the remainder of that tract.

4. Phase Development. A developer of a subdivision may file a plat on a portion or phase of the approved tentative plan. If the subdivision is submitted for plat approval in phases, each phase must be able to qualify in all respects to the applicable requirements of approval of the tentative plan as well as any changes or additions to the code which may have occurred subsequent to the approval of the tentative plan. If the subdivision is a planned unit subdivision, each phase must be able to qualify for approval independently from the balance of the approved tentative plan.

5. Duplication of names: The name of a tentative plan of a proposed subdivision must not duplicate the name used in any other legally recorded subdivision in Lincoln County, except for the words "town", "city", "place", "court", "addition", or similar words, unless the land platted is contiguous to and platted by the same party that platted the subdivision bearing that name or unless the party files and records the consent of the party that platted the subdivision bearing that name. All plats must continue the block numbers of the plat of the same name last filed.

6. Planned unit subdivisions. The tentative plan and plat application procedures for planned unit subdivisions are the same as for other subdivisions. A planned unit subdivision is subject to all applicable provisions contained in the Planned Development (P-D) overlay zone section of this title (Chapter 16.60).

7. Underground utilities. In any subdivision which includes the construction of new public or private streets, underground utilities shall be provided to city standards. Where a subdivision is proposed to front on existing streets which contain existing utility construction, underground utilities shall not be required unless the affected utility companies have adopted a schedule for the construction of underground utilities for the area.

8. Other street improvements.
   a. In any subdivision which includes the construction of new private or public streets, concrete curbs, gutters, and sidewalks shall be provided. These improvements shall be of a design and location acceptable to the city for the purpose of pedestrian use and drainage control.
   b. Residential and service driveways shall conform to standards established under city code or any amendments or other standards as established by the city council.

9. Time Extensions. If all phases are not completed within the required two year time period for tentative approval, a time extension must be applied for subject to provisions contained in Section 16.100.050(F) of this chapter.

10. Fire Protection. All proposals for a partition or subdivision shall be sent to the Central Oregon Coast Fire and Rescue District ("COCFRD" or "fire district") for review and comment. If, in the opinion of the fire district, a fire hydrant(s) is necessary for the protection of life and property on the new parcel(s) or lot(s) created by a subdivision or partition, the subdivider/partitioner shall provide the same together with the required water line at its sole expense to the location requested on the subject property by the fire district.

16.100.050 Procedure for subdividing, partitioning or replatting land.

A. Pre-Application Conference. Prior to submitting a tentative plan of a subdivision, partition, or replat, the applicant shall confer with the city planner regarding the requisites of the tentative plan application and the applicable standards and criteria of this chapter.

B. Tentative plan requirements. The submitted tentative plan for a subdivision, partition, or replat shall contain all of the information listed in the applicable City of Waldport application form. If the proposal includes new access from a State highway, the applicant shall submit documentation that the Oregon Department of Transportation is willing to issue the requested road approach permits.

C. Tentative plan application and review for subdivisions and partitions. The procedure for application and review of the tentative plan of a subdivision shall be as set forth in Section 16.108.020(C) of this title. The procedure for application and review of the tentative plan for a partition shall be as set forth in Section 16.108.020(B) of this title.

H. Certifications required for final approval. Requests for final approval of a subdivision, partition or replat shall be accompanied by the following:

1. A copy of all covenants and restrictions;
2. Copies of legal documents required for dedication of public facilities or for the creation of a homeowner's association;
3. The certification, performance agreement or statement regarding the installation of water and sewerage services;
4. As-built certifications for all required roads and/or utilities unless otherwise guaranteed by a performance agreement;
5. A plat and one exact copy meeting the requirements of Section 16.100.060 of this chapter and ORS 92.050-92.100.
6. When access from a State highway or County road is proposed, a copy of the approach road permit issued by the Oregon Department of Transportation or the Lincoln County Road Department.
7. 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.
8. Such other information as is deemed necessary by the city planner or commission to verify conformance with the conditions of tentative approval.

16.100.060 Plat requirements

A. Requirements of survey plat. The surveys and plats of all subdivisions, partitions, and replats shall be made by a registered professional land surveyor and shall conform to the requirements of ORS 92.050-92.100 and ORS 209.250.

WALDPORT COMPREHENSIVE PLAN CRITERIA
YAQUINA JOHN POINT LAND USE & TRANSPORTATION PLAN

Page 66, Project Number S4

Norwood Drive Extension

Provide a new north-south connection from the south terminus of Norwood Drive to the new Forestry Way-Kelsie Way extension.

COMPLETE LIST OF WRITTEN TESTIMONY
~~(some letters in staff report.)~~

WRITTEN TESTIMONY BEFORE

1. 10/9 Virtue X
2. 10/11 Barham X
3. 10/12 Mugleston X
4. 10/13 Orndorff X
5. 10/13 Bregenzer X
6. 10/13 Barnett X
7. 10/19 Meredith X
8. 10/22 Lundeen X
9. 10/23 Wilson X
10. 10/23 McLamb X
11. 10/23 Ratteree X

10/23-10/6 WRITTEN TESTIMONY

1. Barnett email ✓
2. Orndorff " ✓
3. Lundeen hard copy X
4. Lundeen email X

Paul Virtue

465 SW Pacific View Drive • Waldport, OR 97394 • Phone: 541 220 7708
E-Mail: BigPaulVirtue@gmail.com

Date: October 9, 2017

To Waldport City Council:

I am writing in regards to the proposed housing addition on the end of SW Norwood.

I am not opposed to the developer adding these homes, on the condition that they would cover the cost of safety improvements to SW Norwood.

The road is very narrow and already there are dangerous events when pedestrians (especially teens and children) are walking up or down Norwood and are passed by motor vehicles. The restrictive nature of the road makes it a tight fit for cars going either direction and it's worse when a delivery truck, bus, or garbage truck passes a car or pedestrian on this street.

I am advocating for them to cover the costs of adding a pedestrian walk way on Norwood starting at Starr Street and extending to at least Dolores. In addition make the road safer by paying for middle striping.

Sincerely,

Paul Virtue, Waldport Resident

October 11, 2017

City of Waldport Planning Commission
PO Box 1120
Waldport, OR 97394

Dear Sirs:

RE: Vista View Planned Development

With regard to your Notice of Public Hearing dated October 2, 2017 and the proposed development and extension of Norwood Drive, I would like to make the following comments.

I expressed concern to Larry Lewis on two occasions when this area was being clear cut and was told that a person could do whatever they wanted on their property but any development would have to meet current City standards. Now that it has been clear cut, I realize it is inevitable the land will be developed; however, the access by extending Norwood Drive causes me some concerns.

1. Is the existing Norwood Drive capable of meeting the requirements for the increased traffic 34 homes will generate? Is Norwood up to current City standards for the type of roadway it will become? For example, currently there are no curbs and sidewalks.
2. Part of the proposed extension of Norwood runs around the perimeter of the north and west sides of our property, and while we were aware prior to the purchase of the property of a possibility of Norwood being extended, I am concerned that the appropriate engineering and construction of the roadway will not be carried out in such a manner as to prevent erosion and property loss. So far we have suffered over $8,000 worth of property damage for tree removal from storm damage likely due to the clear cutting of the land being developed. I want assurance that we do not continue to suffer property damage because of this development and the roadway construction providing access to it.
3. The Norwood Drive extension will be crossing a stream that may have already been compromised from the clear cutting which was done without leaving a buffer along the stream, and may or may not have been to State standards. I want to be assured this crossing will be engineered and constructed in a manner that meets the environmental and construction standards of both the City and the State of Oregon.
4. The nature trail that is proposed does not appear to be shown on the diagram and while it may be a good idea, I am concerned of its proposed route.

Thank you for your consideration of the above concerns.

Sincerely,

June Barham
1245 SW Norwood Drive

RE: TRYON AND THISSELL ARE TIDEWATER DEVELOPMENT LLC

Vista View Development

I am a neighbor and retired developer in the Norwood Heights Subdivision. I am very concerned with the proposed access for Vista View Subdivision through Norwood Drive. The street is only 18 ½ feet wide x 1 ½ inches thick and as it curves down the hill it can become very dangerous with on- coming cars and pedestrians. The road is already breaking up in sections because of the standards when it was installed.

When Norwood Developer developed the Norwood Heights II Subdivision – Skyline was put in with a much higher standard than Norwood Drive. We limited the number of homes because the entrance from Starr to Norwood could not handle more traffic.

I would hope that if this is approved that Tidewater Development would be required to bring the Norwood Drive up to current specifications, install curb, gutters, and sidewalks.

Sincerely,

Tim Mugleston

10/12/17

12 Oct 2017

City of Waldport
Waldport Planning Commission
P.O. Box 1120
Waldport, OR 97394
(541) 264-7417

REFERENCE: Tidewater Development LLC; Lincoln Tax Assessor Map 13-11-19CC; tax lot 120

Dear City of Waldport Planning Commission (Mr. Larry Lewis),

I am submitting a response to the request from Tidewater Development LLC for approval of a planned development (Vista View) for 34 single family homes/lots at the end of SW Norwood Drive. As a homeowner and a concerned citizen of Waldport, I am against this request and ask that it be denied by the Waldport Planning Commission.

There are several factors that contribute to my concerns that I ask the Planning Commission to carefully assess and insist on adequate resolution:

- Who will pay for the infrastructure for this request, if a full utility and infrastructure plan is required, will the citizens of Waldport benefit at least equal to the cost of providing adequate access and support or will the developer pay for the infrastructure?

- Who benefits from this request, especially to complete access from SW Norwood Drive, reviewing a plan of the city shows that if this is an appropriate effort, the appropriate approach to the area is from SW Kelsie Ln vice SW Norwood Dr. I submit that the cost to connect SW Norwood is an unreasonable burden on the taxpayers of Waldport, especially when SW Kelsie Ln provides adequate approach, road clearance and other logistical benefits, or even SW Forestry Ln. How will the cost to the city to prepare access, develop access and secure access as well as maintain access for considerable construction activity to include large commercial vehicles be resolved?

- Is the land stable for development and has the risk of a geologic hazard been adequately researched and studied, will the passage requested from the existing end of SW Waldport Dr. support a road, what geologic surveys have been conducted to ensure the safety of developing in that location? (reference landslide on Cedar Rd)

- What plans have been developed to ensure that water shed from the subject site will not impact the fishing and commerce activities directly below in the bay, what is the impact to the maritime assets of Waldport? How do we know the facts of this issue when we are considering such a vital part of the overall community?

- Are there ecological surveys on the water ways that run through the area, what is the actual impact if the runoff and rainfall egress is disrupted, what is the risk of a road washout if the area is blocked by a road?

- What is the impact on the Waldport trail system which is becoming one of the treasures and attraction for tourism in Waldport, the trail at the end of SW Norwood connects a number of vacation rental homes with the beach and commerce locations, and is without question a draw for tourism, what is the economic impact to the community?

- If a tsunami or other disaster impacts Waldport, the evacuation area at the intersection of SW Norwood Dr and SW Skyline Terrance will already be congested with people that cannot connect with the East side of Waldport, increasing the population constrained by the lack of an exit route is fundamentally unwise, how will this be mitigated?

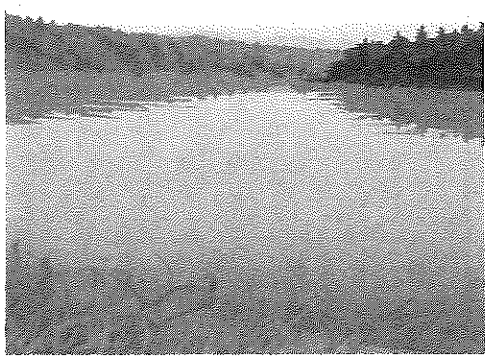
I am a homeowner on SW Norwood Dr, I have concerns about the propriety of the applicants request and most importantly I want to ensure my tax dollars are not used for personal gain for the applicant putting a considerable burden on the community with a disruptive and unnecessary housing development which could negate the efforts of many homeowners along SW Norwood to establish a wonderful living environment and amazing quality of life. Any reasonable person can determine that appropriate considerations and due diligence is lacking in this request, there are so many substantial unanswered questions, and for what motivation? I ask the Planning Commission again to deny this request and preserve what so many have worked so hard to create along SW Norwood Dr. and in the city of Waldport.

Please let me know if there are any questions or if you need any additional information at this time. I can be reached at 971-275-5007; by email at louiso100@earthlink.net; or by correspondence at 1160 SW Norwood Dr, Waldport OR 97394.

Sincerely

//Signed//

Louis Orndorff



RAY BREGENZER
1080 SW. NORWOOD DRIVE
WALDPORT, OR 97394-9733
TELEPHONE 541-563-4474

OCTOBER 13, 2017

CITY OF WALDPORT PLANNING COMMISSION
P. O. BOX 1120
WALDPORT, OR 97394

REFERENCE; VISTA VIEW PLANNED DEVELOPMENT HEARING

DEAR COMMISSARS:

MY CONCERN REGARDING THE USE OF NORWOOD DRIVE AS THE MAIN ACCESS TO THE DEVELOPMENT. THIS WILL CAUSE EXCESS VEHICLE TRAFFIC ON NORWOOD DRIVE DURING THE DEVELOPMENT AND CONSTRUCTION OF NEW HOMES. NORWOOD DRIVE IS A WINDING AND CURVING DRIVE WITHOUT CURBS AND SIDEWALKS, THE EXTRA TRAFFIC WILL BE A MORE DANGEROUS CONDITION FOR THE RESIDENTS THAT WALK NORWOOD EVERY DAY. THERE ARE MANY RESIDENTS, YOUNG AND OLDER, WHO WALK TO GO DOWNTOWN OR OTHER PLACES OR JUST FOR WALKING. SOME RESIDENTS HAVE BEEN WALKING "THE HILL" FOR MORE THEN THIRTY YEARS.

ALSO A CONCERN IS THE EXIT IN THE EVENT OF A FIRE OR OTHER EMERGENCY.

VERY TRULY YOURS,

Ray Bregenzer

City of Waldport Planning Commission
PO Box 1120
Waldport, Oregon 97394

October 13, 2017

RE: Tryon and Thissell, Tidewater Development LLC
Vista View Development

Dear Commission Members,

I discovered the Planning Commission will hold a hearing regarding the proposed Vista Planned Development. I live on the street, Norwood Drive. There are 4 houses and one empty lot between my house and the easement which is proposed to be used for all access to the Vista Development.

Despite the fact that I live close and directly on the street going into the development I only discovered this fact because of a news article. I and my neighbors are concerned that something that so directly affects us did not result in notice from the city. Larry Lewis tells me I and a short list of neighbors I provided to him yesterday will receive all future notices regarding Vista Development hearings.

I know that the rule the city has adopted is to only inform owners within 250 feet of any project. Please consider changing this rule. If the intent is to give actual notice of development in a neighborhood the current rule does not do this. While you may be exceeding the statutory requirement, the truth is, the current rule does not provide notice to property that will be directly impacted. The City can change the rule to extend the distance. Please consider doing so.

The Vista Development proposal as drafted will require all access to be from Norwood Drive. The street is currently a dead end. The proposed 34 single family dwellings and all service trucks and emergency vehicles will travel on Norwood Drive.

Norwood Drive is an old street that doesn't meet the current city standards. It is less than 20 feet wide. It has no sidewalks. I am told the pavement is only 1 ½ inches thick. At present there is some damage to the pavement occurring because of the sub standard street. There are many people walking the street and if the traffic is to be increased the cities requirement of sidewalks is important for their safety. Is Vista Development required to bring Norwood Drive up to city standards before being allowed to use it to access its development? If not will the city be responsible for the bringing the street up to its current standards?

I would also request that any proposed nature trail is detailed in the Vista Development proposal. At present I cannot tell where it would be placed or how long it is.

There is a creek which runs in the path of the needed extension of Norwood Drive. When will the Commission require the developer to provide plans that meet environmental standards and engineering standards?

Sincerely,
Bernice Barnett
1065 SW Norwood Drive

October 19, 2017

Waldport Planning Commission
PO Box 1120
Waldport, OR 97394

RE: Vista View Planned Development

We are requesting that approval for the Vista View Planned Development be denied at this time.

The only legal access to this development, which is Norwood Drive, is not built to handle the increased traffic and weight this project would require. Norwood Drive is much too narrow, and the asphalt is much too thin to accommodate the vehicles this project would require. Until another access to the development is granted, this development should not be allowed to continue.

We are also concerned with the ability of emergency vehicles to access this property. The Norwood extension would have to be built on a narrow piece of property with a very sharp turn. This would be a one lane road at best. We would hope all approvals from CCFR are obtained prior to any approvals being granted.

Another concern is pedestrian safety on Norwood Drive. Many people walk this road daily. Again, Norwood is a narrow, winding road and the increased traffic would put many pedestrians at risk.

Our last concern is the open space and nature trail on the east side of the development. Currently the area designated for this space is a very steep ravine with a small creek at the bottom. This creek is not only fed from a year-round spring, but also handles the water runoff from numerous other neighborhoods. Detailed information of how this area is to be developed should be submitted by the developer prior to any approvals.

Sincerely,

Dennis and Laurie Meredith
942 SW Skyline Terrace

Larry Lewis

From: Eric Lundeen <droideric@gmail.com>
Sent: Sunday, October 22, 2017 8:41 AM
To: Larry Lewis; Steve.W.Barham@gmail.com; familyfabrics7@gmail.com; rayw@peak.org; kpyorks@gmail.com
Subject: Vista View Documentation Norwood Drive October 16, 2017
Attachments: Vista View.docx

Hello City Commissioners:
I am emailing this appeal testimony to you in regards to this afternoon's City Planning Meeting @1400.
I have sent a certified hardcopy to you all as well.
Unfortunately I will not be able to personally attend this afternoons meeting and request you review and include this as my testimony in absentia.
I have requested to be conferenced into the meeting via cell link earlier last week with City Planner Larry Lewis.
Thank you in advance for your efforts in considering and answering all questions and concerns attached, including other local neighbors attending the meeting and living in the immediate area, who may be unaware of future impacts to their quality of life accessing Norwood Drive.
I also request the below additional concerns that have surfaced since sending my attached certified letter.
-Why is Kelsie/Kelsey Lane not considered as access to this proposed development since all timber harvested from the acreage was transported over that route which has proved to withstand additional heavy construction traffic?
-How will the existing subgrade, surfacing, width, curves, and drainage on Norwood Drive facilitate additional construction traffic, with existing residential traffic and pedestrians?
I am remiss in not mentioning the construction traffic and load capacity of heavy equipment such as concrete trucks not being able to facilitate the excessive adverse grades on Norwood.
-Why is there currently realty advertisement when permits have yet to be granted to Vista View Development?
-How will no on street parking be enforced?
-How will Fire & Rescue vehicles access the area if on street parking is not enforced and a violating vehicle blocks access?
-Would the Developers consider less building lots and modify the proposed development?
Thank you.
Sincerely, a Concerned Waldport Citizen,
Hollis Anne Lundeen

Total Control Panel Login

To: larry.lewis@waldport.org Remove this sender from my allow list
From: droideric@gmail.com

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

Hollis Anne Lundeen
P.O. Box 1392
Waldport, Oregon 97394
October 16, 2017

Waldport Planning Commissioners
City of Waldport
P.O. Box 1120
Waldport, Oregon 97394

Greetings Waldport Planning Commissioners:

As a tax paying citizen and resident of Waldport, Oregon, on October 13, 2017, by chance, I came to "hear" of a meeting of Public Hearing for an application request approval for a planned development deemed Vista View, for a 34 single family homes on 7.75 acres.
After several calls on Friday, October 13th to the City of Waldport, this morning, City Planner, Larry Lewis was kind enough to return my inquiry asking for details on this notice, and electronically shared a copy of the notice dated October 2, 2017.

Why were local neighborhood residents not contacted and this notice not posted on the City of Waldport web site?

Later today, I left a message requesting the staff report and application materials mentioned in the proposal, including any other documentation concerning Vista View Planned Development.

Please accept this as testimony documentation regarding APP PD/#1-PD-PC-17 TIDEWATER DEVELOPMENT LLC/NOTICE, as my request to appeal this applicant's request to approve a Planned Development (Vista View) for 34 single family homes/lots on 7.75 acres.

My immediate concerns are listed in the below observations and questions. I request a written response to my concerns prior to any approvals granted by the Waldport Planning Commission.

NORWOOD DRIVE IMPACT TO THE EXISTING TRANSPORTATION SYSTEM, & ENVIRONMENTAL PROXIMITY OF, WATER, SEWER, POWER, & FIRE ACCESS.

-What is the Legal Access stated by the Applicant? Is it within City Limits?
-Has the Applicant proactively addressed the below concerns?

The existing Norwood Drive dead ends at Property Tax Lots 119 & 121.
There is a significant existing LIVE FLOW DRAINAGE that the proposed access would have to cross with excessive adverse grade.

-Has there been an Environmental Access or Impact Statement investigation conducted and completed?
-Has there been a proposed and approved DESIGN of the new road access? Road Plan Typicals?

If so, what were the findings, if not, this needs to be completed and reported prior to Planning Commission approval.

Norwood Drive currently facilitates traffic that can be classified as high for the immediate density of the neighborhood it serves. Many of the residents are pedestrians and additional traffic estimated as 2 to 3 cars per household would calculate out to 68-102 more vehicles 2-3 times a day to 204-306 vehicles per day. The existing asphalt surface cannot tolerate that additional traffic, resulting in breaking down of the existing subgrade and require a higher maintenance. This could result in increased risk of accident, or fatality, considering the pedestrian use.
The radius of curves on Norwood Drive are not currently compliant with the proposed development, addressing increased traffic; specifically, the curve just above Pacific View intersection, and at the current roads end on Norwood Drive.
Norwood Drive would receive this proposed additional traffic as an inferior arterial from a superior spur system, meaning, the roads of the proposed development would be at a higher transportation standard then existing infrastructure. Proposals include curbing, gutters, with sidewalks which do not currently exist on Norwood Drive.

The radius of curves on Norwood Drive are currently non-compliant with the proposed development, and would not facilitate the increased 2-way traffic flow.

-Why have the other listed access roads not been investigated?

The access to the proposed development from Forestry Lane is the preferred option from a minimal impact to land and resident population. If this option was utilized the LIVE FLOW DRAINAGE would not have to be investigated, and the transportation infrastructure impact is minor. Besides low impact, this transporation access is the most cost-effective access option to the applicant.

The second access mentioned as Kelsie on the assessors' map, and as Kelsey on the applicant map, states that access is contingent upon agreement and/or development of the property to the south.
This access would, as previously mentioned omit the required investigation to the LIVE FLOW DRAINAGE, not to mention the preliminary investigation costs and also the high construction and maintenance costs and in stream work timing constraints.

-What are these stated contingencies by the applicant? Request these contingencies be made public prior to Commission approval.

-How will existing infrastructure of Water, Sewer, Power, & Fire be affected to the residents serviced by these utilities in the area?
-How will applicant access water, power, sewer and fire, and from what location?
-Has there been a proposed design plan, with investigating impact to utility infrastructure?
There is a lift station on Norwood Drive. How will that be impacted?
-Phases? Has the applicant recognized less numbered households will impact less?
Lots 1,2,3,4,5,6,17,18,22,23,24 are all on sloped unit designation over 7.75 acres.
-What is the Phase plan over 20 Years?
-How is the designated nature trail accessed? Design of Typical Plans? Surfacing? Slope? Are users restricted to only Vista View Residents?
-Is this a gated community? How will taxes be assessed? Are there building constraints on height? Size?
-Is the designated open space a result of unbuildable land due to riparian restriction?

As you can read, as a concerned resident of Waldport, I request your response to these critical questions of impact to the Norwood Drive Community and immediate nearby neighborhoods who also share similar concerns. Since this has not been posted on the City of Waldport website, or advertised/notified to local impacted residents, many may not even be aware of this planned development from Tidewater Development LLC, and it's impacts to their current quality of life. With sharing that knowledge, I request your appealing this proposal until these questions can be publicly addressed.

I also request in writing, in the future, to be notified, regarding any additional proposals or requests for approvals to the Norwood Drive Community and neighborhoods.

Sincerely,

Hollis Anne Lundeen

Larry Lewis

From: Eric Lundeen <droideric@gmail.com>
Sent: Monday, October 23, 2017 12:54 PM
To: Larry Lewis; Steve.W.Barham@gmail.com; familyfabrics7@gmail.com; rayw@peak.org; kpyorks@gmail.com
Subject: Additional Questions for Comissioners @ October 23 2017

Hello Commissioners..... Additional Questions for Planning Meeting October 23, 2017 @1400 as a result of my learning and reading more about this proposed Development called Vista View:
-Why are other access transporation systems not being considered for accessing Vista View?
->Forestry Lane, Kelsey/Kelsie Lane
-Request appeal to ALL lots not meeting the City R-1 Zone Ordinance of 6000 ft2.
The proposal of creating green space and trail easement does NOT JUSTIFY a waiver since the green space & trail covers an area of unbuildable land.
-There are 23 lots not meeting the R-1 Zone Ordinance. Of the remaining 11 lots, what percent are in Phase 1 and how many are on sloped ground?
-How is drainage being addressed on these sloped lots?
-The proposed street extension exceeds the recommended capacity.
This is stated on page 7 of 12 in the application. This alone, validates Norwood Drive is NOT an access option.
-Where is this second access located as described on Page 10 of 12. D. Conclusions 1. Planned Development?

IN ADDITION:
-How does Vista View PROPOSED Development relate to the extension request for Phase 2 & 3 of Land & Sea taking place today?
Note: Last time extensions are FINAL extensions that the City can grant.
-Why are these extension requests even being considered?
Is that why Phase 3 is being placed in front of Phase 2 because of the City's planned disc golf course is routed through Phase 2 of Land & Sea?

Please publically address these questions, issues, and concerns prior to granting or approving any portion of the applicant's request of development of Vista View Apps PD/#1-PD-PC-17.
Sincerely, Hollis Lundeen

Total Control Panel Login

To: larry.lewis@waldport.org Remove this sender from my allow list
From: droideric@gmail.com

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RE:TYRON AND THISSELL, TIDEWATER DEVELOOPMENT LLC

VISTA VIEW DEVELOPMENT

October 17, 2017

Dear Commission Members:

Like all my wonderful Norwood neighbors, with whom I've spoken during the past few days, I *discovered that there will be a hearing regarding the above named development* because 'one of our other neighbors' who happened to discover it, passed on the information to us. It does not seem that any of the neighbors potentially impacted by this proposed development was given the courtesy of a notification by thecity .

I have lived on the corner of SW Norwood Drive and SW Skyline Terrace for 14 years and have enjoyed my daily walks, currently with my little Yorkie, up and down both Norwood and Skyline Terrace at least once daily since first moving here. I never fail to meet up with one or more of my neighbors enjoying the same pleasure, at any time of day. But, even now, there are times of the day when one must think twice about taking the doggie for a walk...5:00 p.m.is not a good time. Too much traffic!

However, should 34 more houses be constructed (as proposed)---with the likelihood of, on average, at least 2 cars per household---we can expect 68 more vehicles going up and down our little narrow street, impacting our lives. Our safety, as well as our pleasure in living in this quiet, secluded neighborhood---one of the main reasons most of us live here---will be horribly compromised and impacted, if not totally destroyed.

That there will be only one means of access/egress--- Norwood Drive--- at least initially, is untenable, particularly, when the facts that Norwood Drive is narrow and winding, not planned nor built for such heavy traffic, has no designated place for walking, and would be seriously unsafe in the event of the need for evacuation or access of emergency vehicles is taken into consideration. This is not a pretty picture. Without a lot of attention to detail, not a safe one!

I am fully aware, as I'm sure that each of you is, of the financial impact that the clear cutting in that area had on a number of my neighbors---another case where reasonable considerations of the environment and the residual financial damages caused to neighboring properties and the integrity of the neighborhood were ignored and greed rose its ugly head.

I am not against development ... I am a former CA real estate broker ... but I do believe it is paramount that thoughtful, reasoned ,and careful planning always take precedence in the scheme of things

We have recently seen the devastation that has taken place in the Napa area in California. None of us wants to see that duplicated., for whatever reason: fire, earthquake, tsunami . One means of access/egress for more than a half dozen additional houses in this neighborhood is seriously NOT enough.

Joyce L. Wilson

725 SW Skyline Terrace---541/563-3445

Larry Lewis

From: Laurance McLamb <laurance.mclamb@att.net>
Sent: Monday, October 23, 2017 9:42 AM
To: Larry Lewis
Subject: Tidewater Development LLC / Vista View Planned Development

Greetings Larry,

Regarding the Tidewater Development LLC / Vista View Planned Development, the following need planning, approval and funding concurrent with the Vista View Planned Development:

A. Improvements to SW Norwood Drive from SW Starr Street to the northwest end of the Vista View Planned Development:

1. Sidewalk.
2. Speed Bumps.
3. 3-Way Stop Signs at SW Dolores Drive & SW Skyline Terrace.
4. Curbs.
5. Gutters.
6. Resurfacing if needed.

B. Extension of SW Forestry Lane and SW Kelsie Lane to the southwest end of the Vista View Planned Development.

This would give Norwood Drive, Skyline Terrace & Dolores Drive residents an ingress/egress alternative to Norwood Drive.

SW Kelsie Lane, SW Chad Drive and SW Fairway Drive residents would have Norwood Drive and SW Forestry Lane as ingress/egress alternatives to SW Range Drive.

Recall the following:

01/04/17
Waldport: Range Drive Closed from Crestline to 101
Range Drive from Crestline down to 101 is closed. Sheet of snow and ice. Use another route.
http://www.newslincolncounty.com/archives/173570

If I recall correctly, at that time Norwood was useable. Another time it could be vice versa.

Thank you,

Laurance (Larry) McLamb
870 SW Dolores Dr
Waldport, OR 97394-9577

William L. Ratteree and Leigh Bradford Ratteree

1180 SW Norwood Drive
Waldport, OR 97394
Telephone: 541 563-4594

October 23, 2017

City of Waldport
Waldport Planning Commission
P.O. Box 1120
Waldport, OR 97394
Attention: Mr. Larry Lewis, City Planner, larry.lewis@waldport.org

Reference: Vista View Planned Development, Tidewater Development LLC

Dear Sirs,

As homeowners on Norwood Drive, we are submitting comments concerning the notice of public hearing on the request to develop land to the south of Norwood Drive and extension of Norwood Drive to accommodate the development under the title Vista View Planned Development. We have only recently learned of this proposed development via the Waldport City website and are submitting this letter by email to Mr. Lewis, City Planner, in accordance with the notice listed on the website announcing the Planning Commission's hearing.

We have the following concerns and questions related to public safety and environmental impact:

1. The planned development calls for the extension of Norwood Drive. As the Staff Report shows, the planned development will exceed the recommended **maximum** capacity of the street under normal use for single family dwellings. As other residents' letters have pointed out, the street already fails to meet the Waldport Development Code. We do not understand how an increase of more than 25%, which the initial development phase of 19 houses alone represents, can be justified under these conditions.

2. We are seriously concerned about the narrow choke point that will be created by having the proposed extension of the south end of Norwood Drive as the sole point of entrance and exit for the planned development in the first phase. The plan refers to an eventual second entrance and exit point to be created by connecting Norwood Drive to the Forestry Way-Kelsie Way extension. It is our belief that having the single proposed entrance on a relatively steep, ocean-facing slope, even in the first phase, will not provide a reliable and safe avenue of exit in an emergency, notably an earthquake, tsunami, or forest fire. If the development is to be approved, this second point of entrance/exit should be in place from the beginning.

3. We are also very concerned about the possibility of erosion and loss of trees occasioned by the engineering and road construction requirements of the proposed Norwood extension. We have noticed considerable loss of trees on neighbours' property caused by the clear-cutting and erosion of the land in question in 2015. We wonder if the clear cutting did not violate city, county and state environmental standards already and are concerned that the

road construction might further degrade the situation. We are concerned that cutting additional trees on the west side of the proposed street extension would jeopardize trees adjacent to our property, as well as that of our neighbours. We request more information and guarantees from the city that this would not occur.

4. The developer proposes to create open spaces on the north and part of the east side of the proposed development in return for exceptions granted to the lot sizes. While the idea of open space and an easement that the city might use to develop a nature trail is admirable, the proposed open space is not detailed by the developer and the staff report makes only general reference to a future trail. Granting a major exception to the residential standards in return for such generalities is not justified in our opinion, all the more that the open space land in question would be difficult to develop anyway. What is a code good for if not application? We would suggest not granting the exceptions and maintaining the value of the present standards for all Waldport land.

We oppose having approval granted before the above points are adequately addressed. In its current form, the proposed development poses serious threats to the safety, nature and quality of life of our neighbourhood

Yours sincerely,

William L. Ratteree
Leigh Bradford Ratteree

William L. and Leigh B. Ratteree

RE: Vista Development Proposal

DT: October 27, 2017

Dear Commissioners,
Thank you for the time you took to hear from Vista Development proponents and those who had concerns about aspects of the proposed Development at the October 23, 2017 Planning Commission meeting. I don't believe any of the citizens who will be directly affected by the Vista Development were opposed to the creation of the Vista Development.

We appreciate that you held open the hearing and are allowing additional input from citizens and from Vista Developers. The Commission identified a short list of items they will review. At this point they include review of letters that the Commission received close in time to the meeting and review of a traffic study.

Commissioner Stole asked if there would be a geological study of the property. . The Vista Developers stated if the Commission requested a study they would complete one. Some neighbors and I discussed this proposition and are asking the Commission to request such a study be done. There have been blow down trees since the clear cut and the steep bare terrain and stream bed on the property present issues that should be addressed in the development plan. Each parcel which is undersized should be reviewed for geological issues. Thank you for considering this request.

In addition there was an assertion at the meeting that Vista Development would provide low cost/affordable housing. When asked this was not confirmed by the Developer's representative. I would suggest it wasn't confirmed because this project will not contain low cost or affordable housing. The name of the development, Vista View, is helpful in determining the type of houses that are intended to be built. These plots are ocean view. They will likely be premium houses sold to people who can afford to buy a house with an ocean view. The developer shouldn't be allowed to modify the planning code because the commission believes this project will provide low cost housing unless the Developer agrees to build low cost/affordable housing and provides appropriate details to support any claim.

As stated in the hearing Norwood Drive is a short dead-end street. There are only 17 houses currently located on Norwood Drive which ends on Hwy 101. Mr. Lewis spoke of the current traffic density. If his statement was intended to inform the Commission of the current traffic density on Norwood Drive his information is incorrect. The increase in traffic from the Vista Development will be huge and will create a safety hazard if Norwood Drive is not brought up to city code.

The current number of trips on this street is nowhere near 150 trips per day. There may be as many as 50 trips on this street each day. This is important because as mentioned we and many others walk the street including up and down the hill. Even if you add traffic from Delores Street and Skyline Terrace there are still nowhere near 150 cars driving on Norwood Drive each day. We frequently walk the entire road without meeting a car. During any walk it would be extremely unlikely to meet as many as 4 cars. There is no shoulder or any ability to step off of the road at all in many places on the Norwood Drive hill. Pictures that show grass on the side frequently don't show the holes and slope that require walkers to stay on the pavement. Considering the projected traffic, from the proposed Vista Development, sidewalks are a necessary safety requirement for Norwood Drive.

Fire safety for a neighborhood that will house 34 families is a vital issue. There was testimony regarding turnaround space for our large fire trucks after they respond. That is not the real problem. The real problem is access to extinguish fires in the Vista Development. The Fire chief states his trucks can get to the houses IF there is no on street parking. If people in this closed off development park on their narrow streets the fire trucks will be blocked the fire. It is virtually guaranteed people will park on their quiet street. The houses proposed to be built would be close together on undersized lots. Fire trucks will be delayed or prevented from responding quickly to fire emergencies.

This is a bigger problem because the City hires one code enforcement officer to work one day each week. Currently it will be difficult if not impossible to enforce the no on street parking rule. Why would the Commission approve a street so narrow that it places a burden on the city to spend resources on daily enforcement? The Commission could allow a modification of the code to provide parking on one side of the street only, requiring only 24 ft paved road surface instead of the 28 ft required by city code.

Thank you for listening to my thoughts regarding the proposal and the issues brought up at the Commission Meeting.

Sincerely,
Bernice Barnett
1065 SW Norwood Drive
Waldport, Oregon 97394

6 November 2017

City of Waldport
Waldport Planning Commission
P.O. Box 1120
Waldport, OR 97394
(541) 264-7417

REFERENCE: Tidewater Development LLC; Lincoln Tax Assessor Map 13-11-19CC; tax lot 120

Dear City of Waldport Planning Commission (Mr. Larry Lewis),

I am submitting an additional response to the request from Tidewater Development LLC for approval of a planned development (Vista View) for 34 single family homes/lots at the end of SW Norwood Drive. As a homeowner and a concerned citizen of Waldport, I am against this request and ask that it be denied by the Waldport Planning Commission.

I have carefully reviewed and studied the Tidewater Development LLC proposal. I find it irresponsible and lacking consideration for the community of Waldport. Waldport has a steady population of approximately 2,000 people with roughly 1,080 houses according to city-data.com. The city is responsible for growth and development and should be able to share a long term vision of the Waldport community, which I respectfully request the City Planning Commission do at the next hearing. Please let us know if this development fits with the current long range plan of Waldport. Who will set the prices for the homes, the Median income in Waldport is $45K and the median house value is $213K, who is the target audience for sales? Does that fit the long range plan for the City of Waldport?

The Waldport Land Usage and Zone Map for Residential planning includes the area in question and more land for lots and development, in reviewing the Lincoln County Assessor data, there are currently over 60 homes and at least additional 8 parcels that may be further subdivided on Norwood and the side streets, I would ask the planning commission to carefully review the plans of other land owners using the Norwood access road. Will the planned Tidewater housing development prevent any current land owners from developing their properties? For example, there are two new lots under development on Delores Dr. There are several significant unanswered questions about road capacity, what is the cost to the city and what will 34 new properties generate in income to offset that long term cost?

Tidewater Development LLC has already shown amazing disregard and irresponsible development activity and tactics. I would ask the Planning Commission to survey the surrounding property owners and assess the damages from runoff, cutting down trees that are not on their property, the vast number of trees that died from the clearcutting of the property, and even request the Forest Service provide assessments on Eagle habitat and other ecological impacts. I expect you will find a number of facts to substantiate that the developer has been

reckless and irresponsible. What else will the developer disregard if given the approval to proceed?

The Waldport Development Code section 16.12.030.A defines required Lot Size and Dimensions at 6,000 Sq Ft and specifically states "No lot area, yard, off-street parking or loading area, or other required open space for one use shall be used as the required lot area, yard, off street parking or loading area, or other required open space for another use." I would ask the Planning Commission at a very minimum to require Tidewater Development LLC to resubmit a plan which adheres to the minimum requirements, the code does not relieve the standard for density. In addition, I believe any such deviation from the code would require an amendment to the code as described in 16.104.020 and I do not believe this request will meet any of the required findings in order to be approved. In the event this development is approved, what legal liability will the City of Waldport risk?

There are still several factors that contribute to my concerns that I ask the Planning Commission to insist on complete analysis and insist on adequate resolution:

- HAS NOT BEEN ANSWERED: Who will pay for the infrastructure for this request, if a full utility and infrastructure plan is required, will the citizens of Waldport benefit at least equal to the cost of providing adequate access and support or will the developer pay for the infrastructure? What is the cost?

- HAS NOT BEEN ANSWERED: Who benefits from this request, especially to complete access from SW Norwood Drive, reviewing a plan of the city shows that if this is an appropriate subdivision, the appropriate approach to the area is from SW Kelsie Ln vice SW Norwood Dr. I submit that the cost to connect SW Norwood is an unreasonable burden on the taxpayers of Waldport, especially when SW Kelsie Ln provides adequate approach, road clearance and other logistical benefits, or even SW Forestry Ln. How will the cost to the city to prepare access, develop access and secure access as well as maintain access for considerable construction activity to include large commercial vehicles be resolved? This question has not been addressed! How long will I be blocked from accessing my property, how will my power and utilities be impacted and how will the residents of SW Norwood have their lives disrupted by commercial vehicles and construction activities?

- The Waldport Development Codes REQUIRES a geotechnical analysis to ensure the land is stable for development and the risk of a geologic hazard has been adequately researched and studied. Has an analysis been conducted on the entire building site as well as the passage requested from the existing end of SW Norwood Dr. to ensure the land will support a road safely in that location? (reference landslide on Cedar Rd)

- The Waldport Development Code section 16.12.030 section J. states "Any property identified as a geological natural hazard area as listed in Section 16.96.020 of this title or any property that has a twenty (20) percent slope or greater, as defined by Section 16.96.020 **shall require a geotechnical analysis** of the property in accordance with Section 16.96.030(D)(4) of this title.
- 16.96.030 Natural hazard areas. B. Areas of Concern. The primary areas of concern are those with active and potential landslides, high groundwater, weak foundation soils, coastal recession, and steep slopes.
- 16.96.020 Scope.
  Development guidelines shall apply to those areas of concern delineated on the City of Waldport zoning map and in its comprehensive plan and plan inventories or any area determined potentially hazardous by the Planning Commission and shall also apply to any property that has a 20% slope or greater.
  A. A property has a 20% slope or greater if:
  1. The average slope from the highest to lowest point of the property has a slope of 20% or greater or;
  2. The average slope of the building footprint or area to be disturbed is 20% or greater.
  B. Development guidelines shall also apply to those properties where a 30% or greater slope is within 100 feet of the property.

- HAS NOT BEEN ADDRESSED: No information has been provided to assess the impact to the water shed from the subject site. What is the impact to impact the fishing and commerce activities directly below in the bay, what is the impact to the maritime assets of Waldport? How do we know the facts of this issue when we are considering such a vital part of the overall community?

- HAS NOT BEEN ADDRESSED: No ecological surveys on the water ways that run through the area, what is the actual impact if the runoff and rainfall egress is disrupted, what is the risk of a road washout if the area is blocked by a road?

- HAS NOT BEEN ANSWERED: The conversation offered by Tidewater Development LLC has a "public" trail that ends at a private lot, how does that work? What is the impact on the existing trail from SW Norwood to Hwy 101 which is one of the treasured features of the Norwood Heights neighborhood?

- HAS NOT BEEN ADDRESSED: The developer has stated they will continue access through to Kelsey Ln, however, there is no evidence that the land has been purchased to do this. If a tsunami or other disaster impacts Waldport, the evacuation area at the intersection of SW Norwood Dr and SW Skyline Terrance will already be congested with

people that cannot connect with the East side of Waldport, increasing the population constrained by the lack of an exit route is fundamentally unwise, how will this be mitigated? Does the developer own the required property to provide a through access; the city **should require proof of ownership prior** to approving any plans.

I am a homeowner on SW Norwood Dr, I have concerns about the propriety of the applicants request. I have additional strong concerns about the responsibility and the ability of the applicant to act in the best interest of the public based on actions to date. Most importantly I want to ensure my tax dollars are not used for personal gain for the applicant! This application has already generated a considerable burden on the community even discussing a disruptive and unnecessary housing development. Many homeowners along SW Norwood have worked very hard to establish a wonderful living environment and amazing quality of life. Any reasonable person can determine that appropriate considerations and due diligence is lacking in this request, there are so many substantial unanswered questions, and for what motivation? I ask the Planning Commission again to deny this request and preserve what so many have worked so hard to create along SW Norwood Dr. and in the city of Waldport.

Please let me know if there are any questions or if you need any additional information at this time. I can be reached at 971-275-5007; by email at louiso100@earthlink.net; or by correspondence at 1160 SW Norwood Dr, Waldport OR 97394.

Sincerely

//Signed//

Louis Orndorff

Hollis Anne Lundeen
P.O. Box 1392
Waldport, Oregon 97394
November 6, 2017

Waldport Planning Commissioners
City of Waldport
P.O. Box 1120
Waldport, Oregon 97394

Greetings Waldport Planning Commissioners: ALSO INCLUDING CITY PLANNER LARRY LEWIS

Thank you for granting the extension for you to receive additional information, inquiry, and concerns in regards to APP PD/#1-PD-PC-17 TIDEWATER DEVELOPMENT LLC/NOTICE, Planned Vista View Development Proposal.

Please consider this as additional appeal testimony, with my previous submittals dated October 16, 22, & 23 2017, along with the request for your denial of any approval or waivers until the developer submits the required and requested drawing, materials, and requirements made in this appeal.

Due to learning of this proposal not until October 16, and being away from the area at the time, I was not able to attend the public hearing on October 23, 2017, and had hoped to have the documented minutes from that hearing to respond to prior discussion and decision, however they have not been publicly posted, therefore I will ask for your understanding if I repeat any prior questions.

The developers request to access the proposed 34 homes on 7.75 acres from Norwood Drive is not an appropriate, reasonable, or practical approach for the primary transportation route to Vista View. I, along with many other concerned neighborhood residents want to make sure you are aware of our concerns prior to considering granting any access on Norwood Drive to the Proposed Vista View Development.

I have thoroughly investigated the existing Norwood Drive, starting from the beginning junction off State Highway 101. The junction of Norwood and the State Highway 101 includes traffic from Starr Street, which is a local short cut connection from State Hwy 34 to the south end of Waldport junction with State Hwy 101. Many locals drive this back way to avoid our one traffic light in Waldport. Currently, this intersection is very confusing and busy with the existing traffic. It is a safety concern for the current traffic of both local and commercial vehicles to head north or south onto 101, from Norwood and Starr, including entering into the junction from 101 North and South. My recent transportation count and study revealed that there are vehicles heading both north and south at higher speeds than posted, along with confusing signage and lane designation. There is backup access to and fro and an undesignated left hand south turning lane from 101 onto Starr just at the point of 2 lane going into one lane on State Hwy 101. Please note: This intersection is an existing traffic challenge and hazard as is, without any additional proposed traffic.

-Has the State Highway Department been contacted to consult in redesign of this intersection with the proposed increased traffic flow?

-If so, will the developer be required to cover the costs of the redesign or new construction additional traffic signs necessary for the increased flow? There will be a definite increase of commercial vehicle use at this intersection, due to the proposed 34 new home construction, such as concrete trucks, semi's carrying trusses and lumber, along with many other delivery trucks. Recommend design to include allowance for curve widening due to construction widths necessary to maneuver the intersection safely along with the current traffic flow.

The existing adverse grade, less than minimum recommended City Ordinance Width, and "S" reverse curve alignment from the bottom of the hill on Norwood to where new construction would start varies from 15-22 %. (FYI: That is an elevation gain of 22 feet for every 100 feet. Very STEEP!) Such a continued sustained grade, along with measured widths of 17-20 feet traveled way, along with documented sub-grade failure and existing road asphalt patching from previous road failures, with minimum depth of asphalt surface, shows that the existing road would require substantial maintenance in curve widening, and realignment to facilitate any additional traffic. This can be confirmed by current residential users who have shared their concerns of safety, impact, and existing narrow road width which in many places cannot be widened due to slope and

thru cut road templates. Pedestrian traffic is high and verified by Transpiration Survey Analysis. There is little pedestrian "escape" route available should 2 cars pass uphill and downhill, let alone non existent, when 2 commercial vehicles pass each other.

The traveled way existing half width on the curves measures at 8.5-10 feet, with the average car measuring 8 foot width. Commercial Trucks and Large 4x4 trucks continue to cross over the non existent center lane designation on many curves, since there is not enough existing half width.

-If the Developer chooses to access their Vista View private property from Norwood Drive, have they committed the construction funds for these necessary improvements prior to the City of Waldport granting access to Vista View's proposed 34 lot development?

Request the Commissioners require the developer to submit design for this realignment and curve widening along with allowance for a safe and pedestrian protected sidewalk. Design criteria should include time line and costs of development including timeliness of completion and impact to residents currently using the road, including impacts to existing driveway and property access. This submittal should be required prior to granting developer any access, since, if properly designed, will reveal that this is not a feasible safe traveled route to facilitate additional traffic for the construction development to include 34 new homes, new residents vehicles, including, daily delivery and service vehicles along with visitors to the Vista View Development with this traffic flow increase.

In addition, on the new construction proposal on Norwood, the existing road field investigation, conducted on the proposed public easement, road width measurement in part, is at maximum of 17 feet, with a fill slope of -67% does not qualify for the city ordinance width requirements of 56 feet.

Please note: Request Commissioners to deny the proposed request to modify city ordinance road right of way width, in and outside the proposed road system development from 56 feet to 30 feet and in service paved width from 28 feet to 20 feet due to the inability to monitor and regulate on street parking.

There is an existing Power Pole within the proposed new construction access serving the neighborhood which would have to be moved.

-There is substantial cut and fill failure, including undercutting, and sedimentation along the proposed new construction access, which is just above State Hwy 101 and directly above Alsea Bay. I have received confirmation from the USDA Forest Service, that silt and sedimentation from the above timber harvest penetrated their newly constructed bunkhouse which backs up to the proposed development. With securing this information by investigation, I request the Commissioners to require the Developer to submit a Plan of Action with defined time-lines of removal and replacement of this existing power pole, impact to local power consumers, and written confirmation of absorbing the costs for moving and replacing this Power Pole. This work should be completed by the Developer well before any construction to the extension of Norwood Drive would commence. Highly recommend a Field Verification Transportation System Plan-In- Hand Invitation from the Developer to the many interested local residents to understand how this new construction extending Norwood Drive will occur. This Plan of Action submitted by the developer to the City of Waldport, should include the improvements that the developer will make to the existing Norwood Drive access by providing information and assurance of no environmental impact to and for the safety of current users, and pedestrians. Past performance of slope failure warrants including proactive planned protection of the entire development from future sedimentation and slope failure into the existing water sources and riparian areas within and surrounding Vista View. This Plan of Action will be submitted in writing to the City of Waldport prior to approval of access.

My investigation with the County Assessors Office and Surveyor Office does not show any deemed dedication of the road to the City of Waldport.

-REQUEST Proof of this Ownership be presented at the Public Meeting, with a confirmation that this entire development is within the City of Waldport limits..

The Developer has requested a waiver/modification to the City Ordinance which requires all lots be a minimum of 6,000 ft2. The City Ordinance states that every lot should be at a minimum 6,000 ft2. The developers proposal itself states that 23 lots are less than 6,000 ft,including 4 lots under 5,000 ft2. The smallest lot is listed at 4,810 ft. That alone is justification that the Developer agrees that their proposed lot size is not compliant to city ordinance minimum requirements.

The developers justification of including dedicated open space, which exists on sloped ground, to steep for building, to be included in the calculation for justification of the waiver, which still is below the City Ordinance requirements, is completely unvalidated and unreasonable and should not be considered as justification, and should be revoked and repealed for the waiver.

-Request to Appeal Developers request for waiver modification due to non compliance with city code and unvalidated justification. This appeal includes appeal of Lot 13 width waiver which does not meet the City Ordinance requirements.

-Request an Appeal to granting this waiver/modification request for lot size variance in ft2 and width..

The Developer's justification that the included open space justifies the waiver/modification is not valid. The designated open space is located on steep ground exceeding 20%. As stated in the city ordinances, a Geo technical assessment per requirement that any property that has a 20 % slope or greater, request developer submit a Geo-Technical report on the entire 7.75 acres by a qualified non biased Geo-technical Engineer as stated according to the ordinance requirements. Request the entire development be assessed due to past sedimentation occurring from harvested acreage.

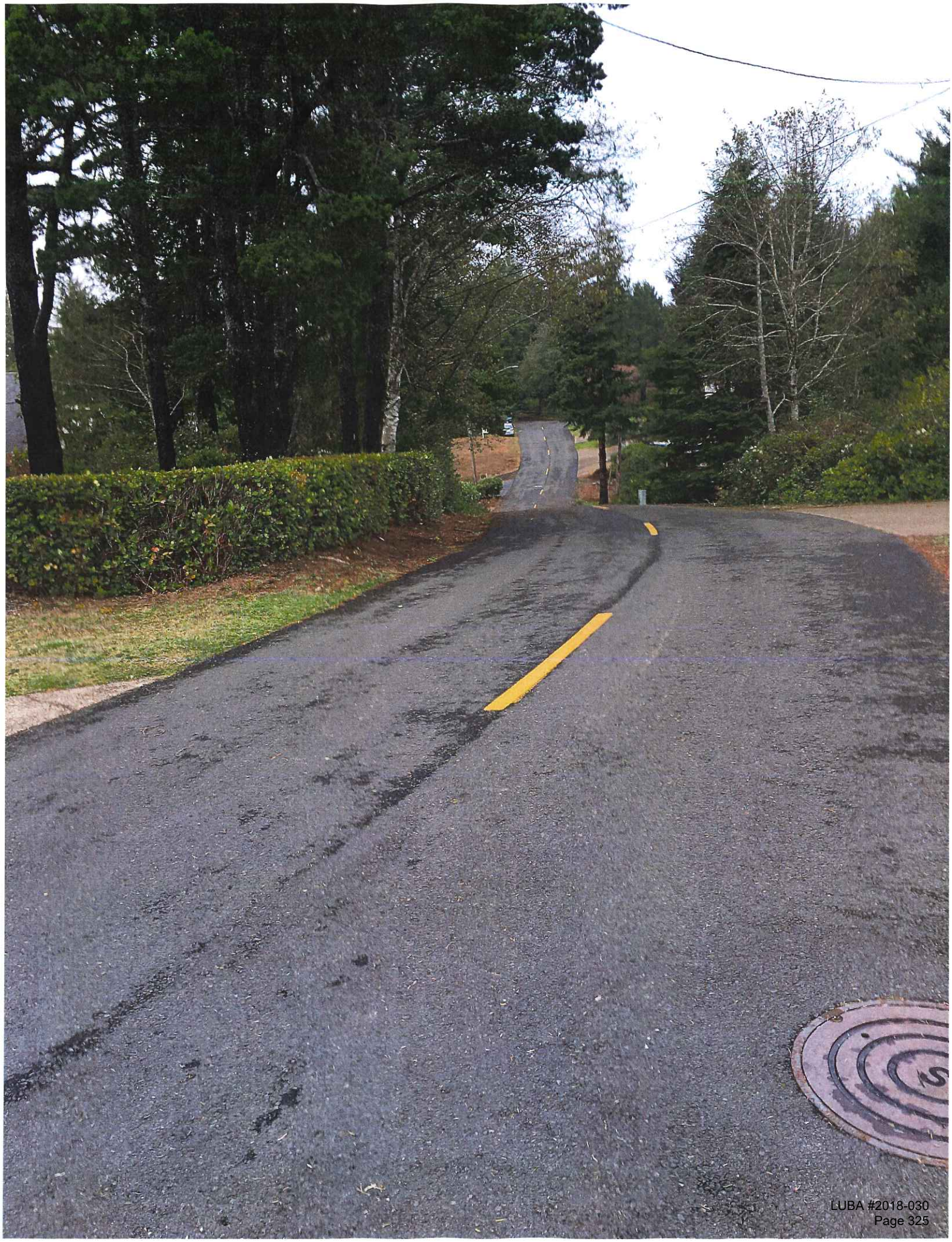
-23 of the proposed 34 lots exceeds the allocation of lots designated within the existing Norwood Heights Transportation System. This alone justifies investigation into alternative routes which include the Kelsie Lane route which was the designated choice transportation route of the developer, and utilized, with no impact to the existing transportation infrastructure, to harvest the timber off of the 7.75 acres. The proposal addresses utilization of Kelsie Way in phase two of the development. If this route was considered initially, as the primary access route, all the preliminary Norwood Drive Intersection and reconstruction costs, upfront investment with commitment to moving the power pole, field review, crossing the live flow drainage, with impact and construction to Norwood Drive would not have to be investigated or invested in preliminary requirements. It would be to the Developer advantage to truly investigate both Forestry Lane and Kelsie Lane as primary access alternatives prior to investigation and commitment use of Norwood Drive, which would require extensive cost and time to the developer let alone the request by many in the neighborhood that there is a pedestrian fact and human impact factor to consider.

Please consider these specific concerns prior to allowing a developer access to a community that is requesting for you to sincerely represent and preserve their neighborhood to remain in the present and existing atmosphere of now.

Sincerely, a Concerned Waldport Citizen, supporting the existing Norwood Drive & Heights Neighborhood & Community,

Hollis Anne Lundeen

BARTOLOMAS SUBMITTED 10/23/17 @ PC MTG



PRIVATE
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NO TURN
AROUND

For Sale: 2.55 Acres
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Sotheby's
Call 541-921-1090
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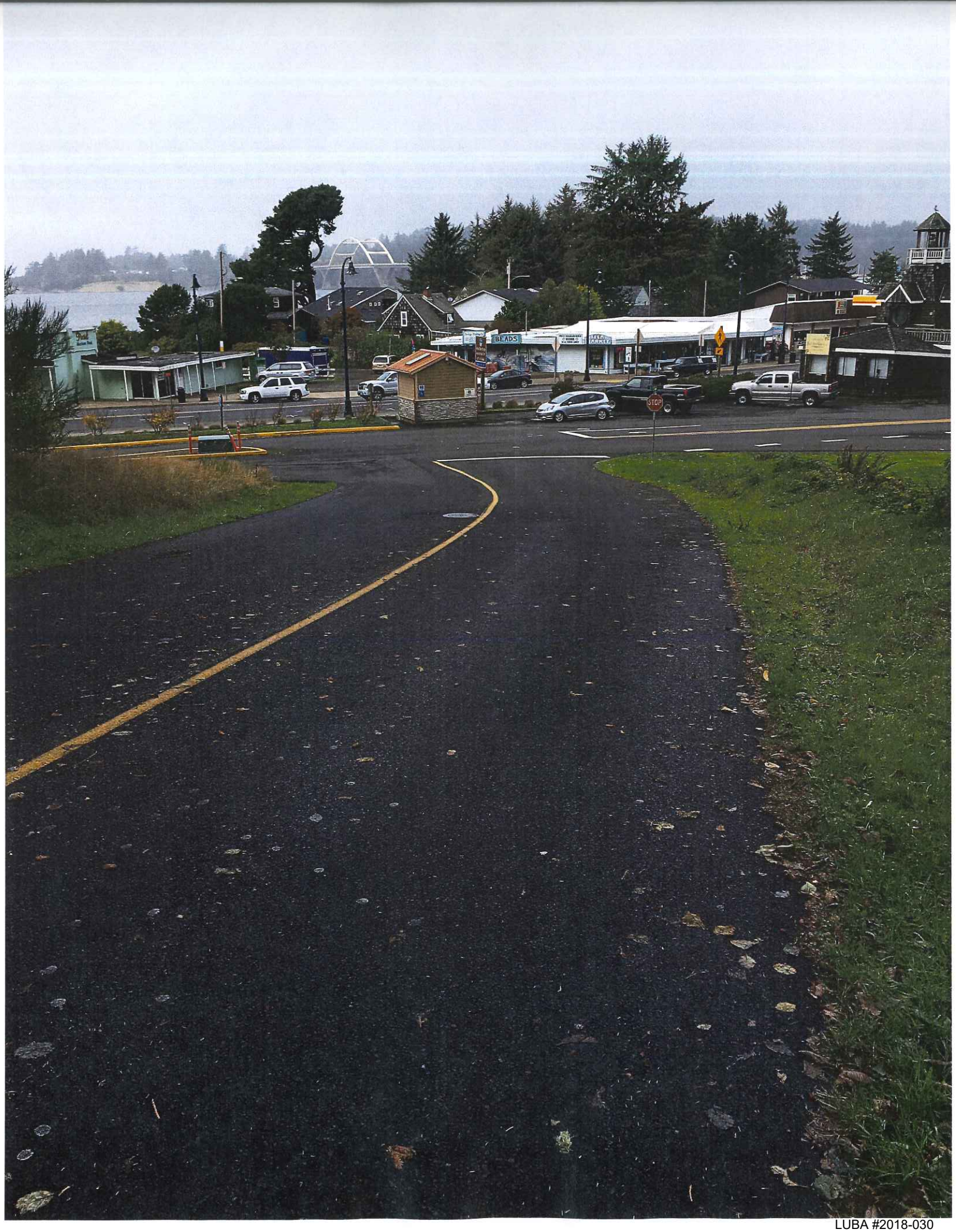
Text 20901 to 46835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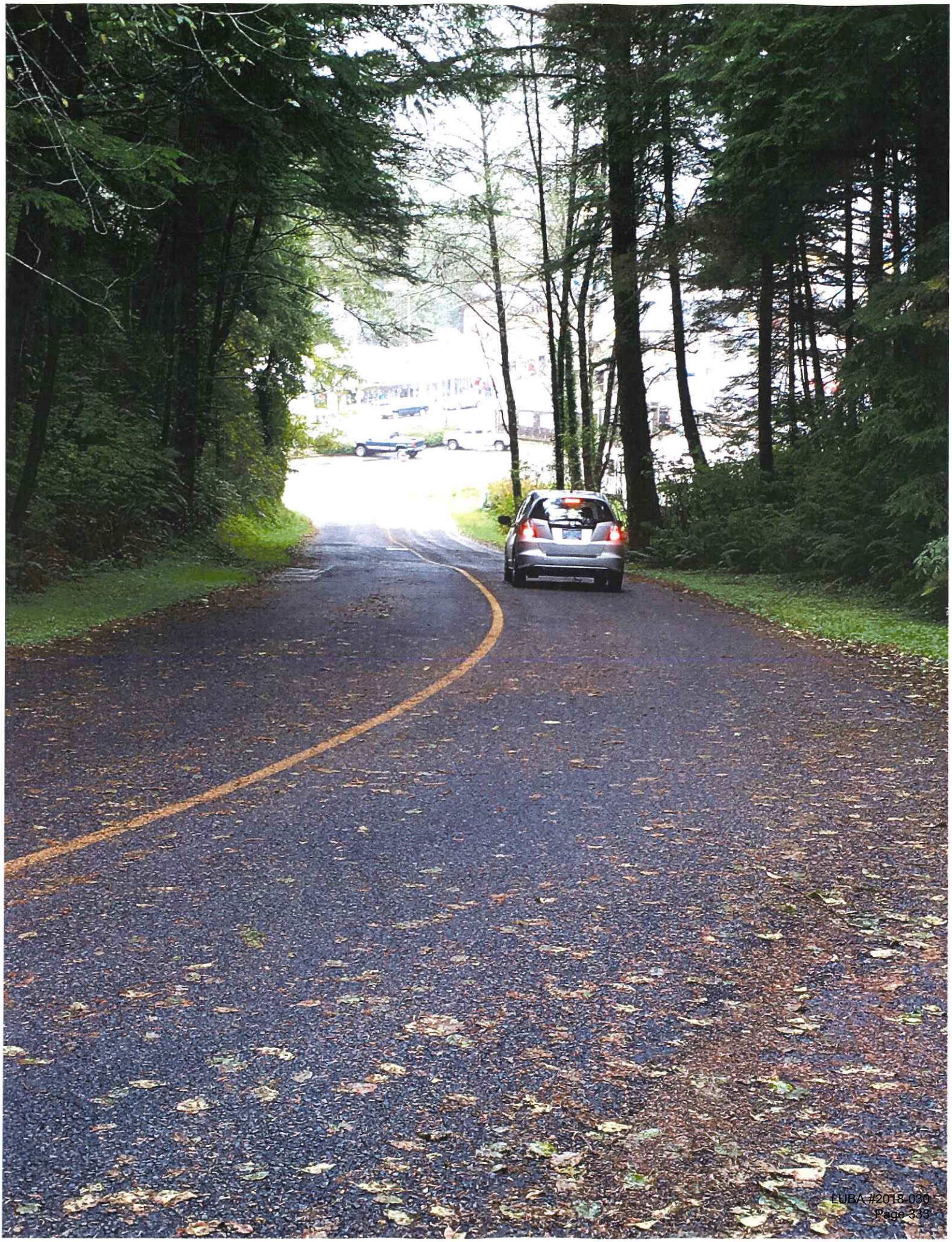

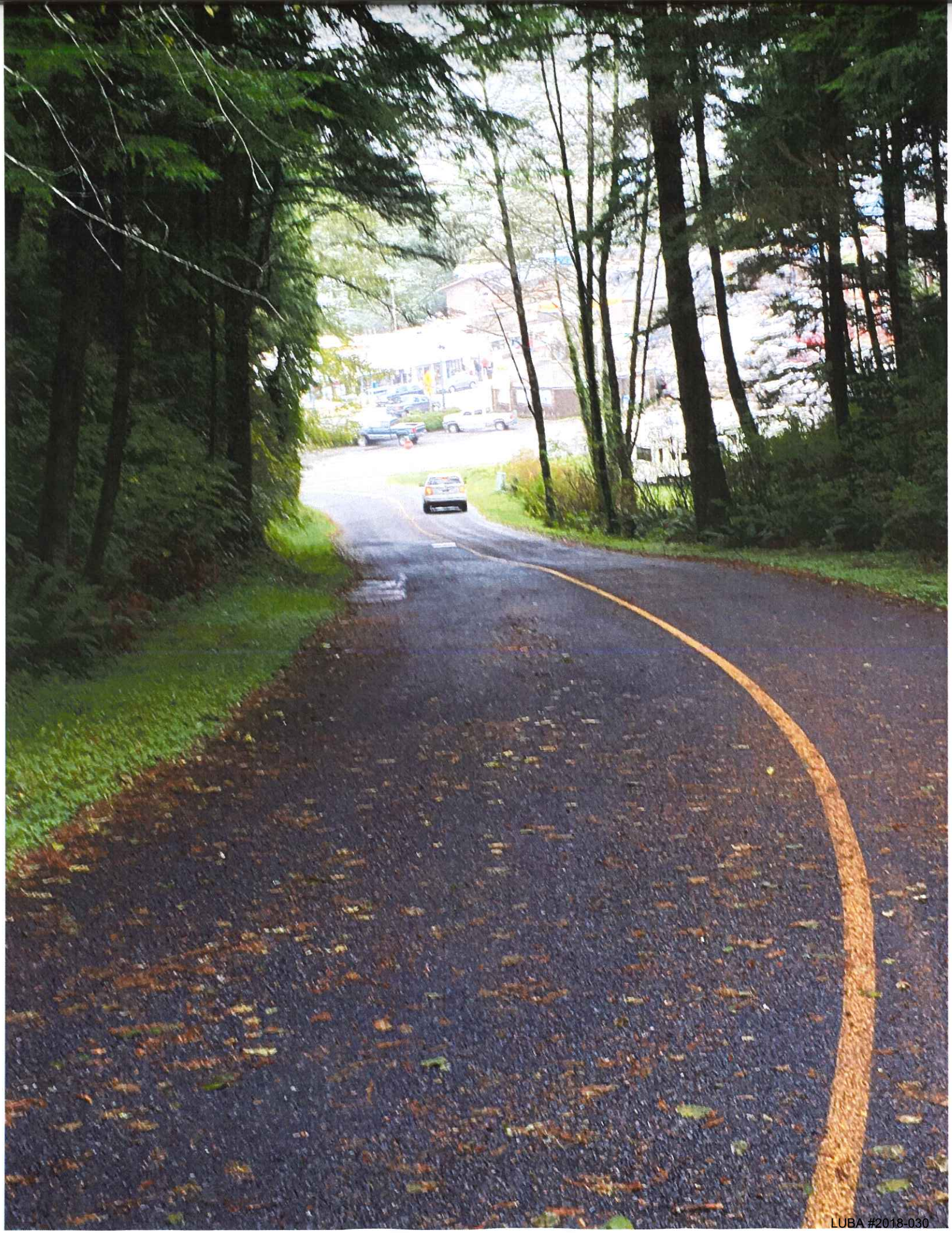

10/23/17 PC MTG - ORAL TESTIMONY

✓ 1) Dennis Bartolomus - rep. applicants
- submitted photos
- YSP
- Legislation that prohibit improvements off-site unless there is nexus
- Dev. will build trail
- Under density
- Connection allows first connection of upland & lowland area w/out having to go to Hwy 101 + 34 lowlands
- Modifications - lot area, lot frontage, lot widths, street width in exchange - open space w/ constructed trail.
- Extension - But no extension to Kelsie until 28 lots which would be the max. capacity standpoint of 100 lots, 1,000 trips per day

✓ 2) Lawrence Kline
1080 Kelsie Ln
- natural drainage on south side of property not shown (concern of changing natural drainage)
- trail on south side goes thru lot.
- Grading of Lots 12+13 will affect storm drainage of adjacent property.
- Who pays for Kelsie-Forest imps?

✓ 3) Jim Shepherd 1020 Norwood Dr.
- increased traffic
- drainage concern
- Traffic light concerns from veh. traveling east

✓ 4) Paul Blasko
1125 Norwood
- has PC looked @ steep property
- concern w/ access on Norwood & Kelsie.
- Questions 1,000 cars per day on local street.
- No school bus access
- Fire access
- Stick to Standards

✓ 5) Ray Bassenzor
1080 Norwood Dr.
- traffic flow - Norwood does not meet stds, street can't take it.
- No sidewalks or gutters on Norwood. - lots of ped traffic, emergency access
- who bldg street, how additional pk'g spaces.

ORAL TEST (continued)

2

✓6) Bernice Barnett
1055 Norwood
- concern about pk'g on street. - enforcement.
- " " emerg. access - width of street.
- Open space - is not benefit.
- Would like wider street w/ pk'g on one side.
- Wants ~~[illegible]~~ each lot to be evaluated individually for reduced lot sizes.
- Norwood - needs to be upgraded.
- Believes there is nexus w/ development & Norwood w/ gabage, school bus, emergency access.
- Utility infrastructure.
- Hearing notices - ~~need~~ change rule

7) Kevin Quill
810 Skylne Tr. / POB 907
- Ph. 1 - dead-end turnaround requirements

✓8) Wm. Ratteree
1180 Norwood.
- Traffic - partic. @ end of Norwood.
  - " in event of emergency. - public safety (scramble to get out/off Norwood)
  - public safety should take precedence over property rights.
  - how road const. will be constructed to prevent erosion.
  - concern south access will not ever happen.
  - Do not need open ended process

✓9) Phil Spulnik
243 E Lakeside Dr
- In favor.
- Modifications very normal in PD's
- Smaller lots mean smaller homes, ∴ more affordable.
- COCRFD agrees w/ access & street width.

Bartoldus Rebuttal
- Additional photos submitted.
- 28 lots

WALDPORT, OR 97394

13-11-30-BB-09800-00
700 SW KELSIE LN
BARRY KEITH B &
BARRY VERYL B
PO BOX 1353
WALDPORT, OR 97394

13-11-30-BB-09900-00
HILL BETTY JO &
NESS DENNIS L, ETAL
ATTN LISA PARGETER
PO BOX 98
UNDERWOOD, WA 98651

13-11-30-BB-10000-00
740 SW KELSIE LN
DEFAZIO PEGGY L &
DEFAZIO JOSEPH R JR
740 SW KELSIE LN
WALDPORT, OR 97394

13-11-30-BB-10100-00
1240 SW CHAD DR
MASON TODD &
MASON PHYLLIS
1240 SW CHAD DR
WALDPORT, OR 97394

13-11-30-BB-10200-00
CHAMBERS MICHAEL
3212 SOUTHWOOD DR
PHILOMATH, OR 97370

DENNIS BARTOLDUS
PO BOX 1510
NEWPORT, OR 97365

Notice also
Emailed To
10/13 Bernice Barnett
10/13 Tim Mugleston
10/16 Hollis Lundeen

Mailed To
10/13 Ray Bergenzer
1080 Northwood Dr.
WL

NOTICE

#1-,PD-PC-17 TIDEWATER DEVELOPMENT LLC 250' MAILING LIST

13-11-19-CC-00100-0
945 SW NORWOOD DR
885 SW NORWOOD DR
13-11-19-CC-00151-00
MUGLESTON TIM
PO BOX 936
WALDPORT, OR 97394

13-11-19-CC-00110-00
1160 SW NORWOOD DR
BURTON RICHARD S TR
PO BOX 447
WALDPORT, OR 97394

13-11-19-CC-00112-00
1180 SW NORWOOD DR
RATTEREE WILLIAM &
BRADFORD RATTEREE LEIGH
2016 RUE DE PITEGNY
01170 GEX
FRANCE

13-11-19-CC-00115-00
1085 SW NORWOOD DR
RANSON ROBERT D &
RUSSELL PENNY M
REV LIVING TRUST
1110 KENNETH DR
CAMBRIA, CA 93428

13-11-19-CC-00116-00
1125 SW NORWOOD DR
BLASKO PAUL FRANK TSTEE &
BLASKO LINDA BERNA TSTEE
PO BOX 692
WALDPORT, OR 97394

13-11-19-CC-00117-00
1185 SW NORWOOD DR
13-11-19-CC-00123-00
1145 SW NORWOOD DR
SUMERAU MIKELL P &
SUMERAU ANDREA BONGEN
PO BOX 1893
WALDPORT, OR 97394

13-11-19-CC-00119-00
1245 SW NORWOOD DR
BARHAM JUNE E &
BARHAM STEVEN W
1245 SW NORWOOD DR
WALDPORT, OR 97394

13-11-19-CC-00120-00
THISSELL TERRY &
TRYON GARY E &
TRYON PATRICIA N
PO BOX 111
TIDEWATER, OR 97390

13-11-19-CC-00121-00
1240 SW NORWOOD DR
WILCOX JAMES W
PO BOX 6895
TAHOE CITY, CA 96145

13-11-19-CC-00143-00
13-11-19-CC-00147-00
13-11-19-CC-00148-00
WEBER INVESTMENTS LLC
10168 N PRICE AVE
FRESNO, CA 93730

13-11-19-CC-00152-00
942 SW SKYLINE TER
MEREDITH DENNIS J &
MEREDITH LAURIE
PO BOX 2235
WALDPORT, OR 97394

13-11-19-CC-00700-00
895 SW PACIFIC COAST HWY
893 SW PACIFIC COAST HWY
897 SW PACIFIC COAST HWY
891 SW PACIFIC COAST HWY
HAGEL CHARLES C &
HAGEL JOYCE M
17100 SW PARROTT MTN RD
SHERWOOD, OR 97140

13-11-19-CC-00800-00
1130 SW FORESTRY LN
UNITED STATES OF AMERICA
% SIUSLAW NATIONAL FOREST
SUPERVISORS OFFICE
3200 SW JEFFERSON WAY
CORVALLIS, OR 97331

13-11-30-BB-00100-00
13-11-30-BB-00101-00
13-11-30-BB-00104-00
13-11-30-BB-00400-00
CLAUSSEN LARRY A &
CLAUSSEN ANN K &
CAROTHERS JAMES L ETAL
2820 SW SCENIC DR
ALBANY, OR 97321

13-11-30-BB-00105-00
860 SW FORESTRY LN
SMITH STEPHANIE ANNETTE
33 THIRD AVE
WHITE RIVER JUNCTION, VT 05001

13-11-30-BB-00106-00
880 SW FORESTRY LN
PERSON IN POSSESSION
HANKINS MARJORIE A &
CLOUGH ALBERT G
PO BOX 1553
WALDPORT, OR 97394

13-11-30-BB-00300-00
WURZBACHER KATHERYN
18324 2ND AVE NE
SHORELINE, WA 98155

13-11-30-BB-08100-00
1265 SW CHAD DR
AUBORN RICHARD G JR &
AUBORN JAMIE M
PO BOX 1577
WALDPORT, OR 97394

13-11-30-BB-08200-00
1255 SW CHAD DR
COX ARTHUR R &
MAMER MARY C
PO BOX 2066
WALDPORT, OR 97394

13-11-30-BB-08300-00
645 SW KELSIE LN
RINDEN MARY L &
RINDEN RONALD L
10755 BIGHORN DR
RENO, NV 89508

13-11-30-BB-08400-00
1240 SW FAIRWAY DR
GREENUP CHRIS
PO BOX 921
YACHATS, OR 97498

13-11-30-BB-09400-00
580 SW KELSIE LN
ABEL DENNIS M &
ABEL LAURA S
PO BOX 1902
WALDPORT, OR 97394

13-11-30-BB-09500-00
600 SW KELSIE LN
BECK RAYMOND M TRUSTEE &
BECK THERESA K TRUSTEE
1106 CAYUSE CIR SE
SALEM, OR 97306

13-11-30-BB-09600-00
640 SW KELSIE LN
ADAMS REED L &
ADAMS AUDREY I
640 SW KELSIE LN
WALDPORT, OR 97394

13-11-30-BB-09700-00
680 SW KELSIE LN
KLEIN LAURENCE R TRUSTEE &
KLEIN CHERRYL M TRUSTEE
PO BOX 673

City of Waldport

P.O. Box 1120
Waldport, OR 97394
Phone: (541) 264-7417
Fax: (541) 264-7418
TTY: (800) 735-2900

October 2, 2017

NOTICE OF PUBLIC HEARING
WALDPORT PLANNING COMMISSION

APPLICANT: Tidewater Development LLC

REQUEST: The applicant is requesting approval of a Planned Development (Vista View) for 34 single family homes/lots on 7.75 acres.

APPLICABLE CRITERIA: Waldport Municipal Code

16.12 Residential Zone R-1
16.60 Planned Development Zone P-D
16.96 Development Guidelines
16.100 Land Division

LOCATION: The subject site 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.

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CONTACT: Larry Lewis, City Planner at 541-264-7417 ext. 3 or larry.lewis@waldport.org.

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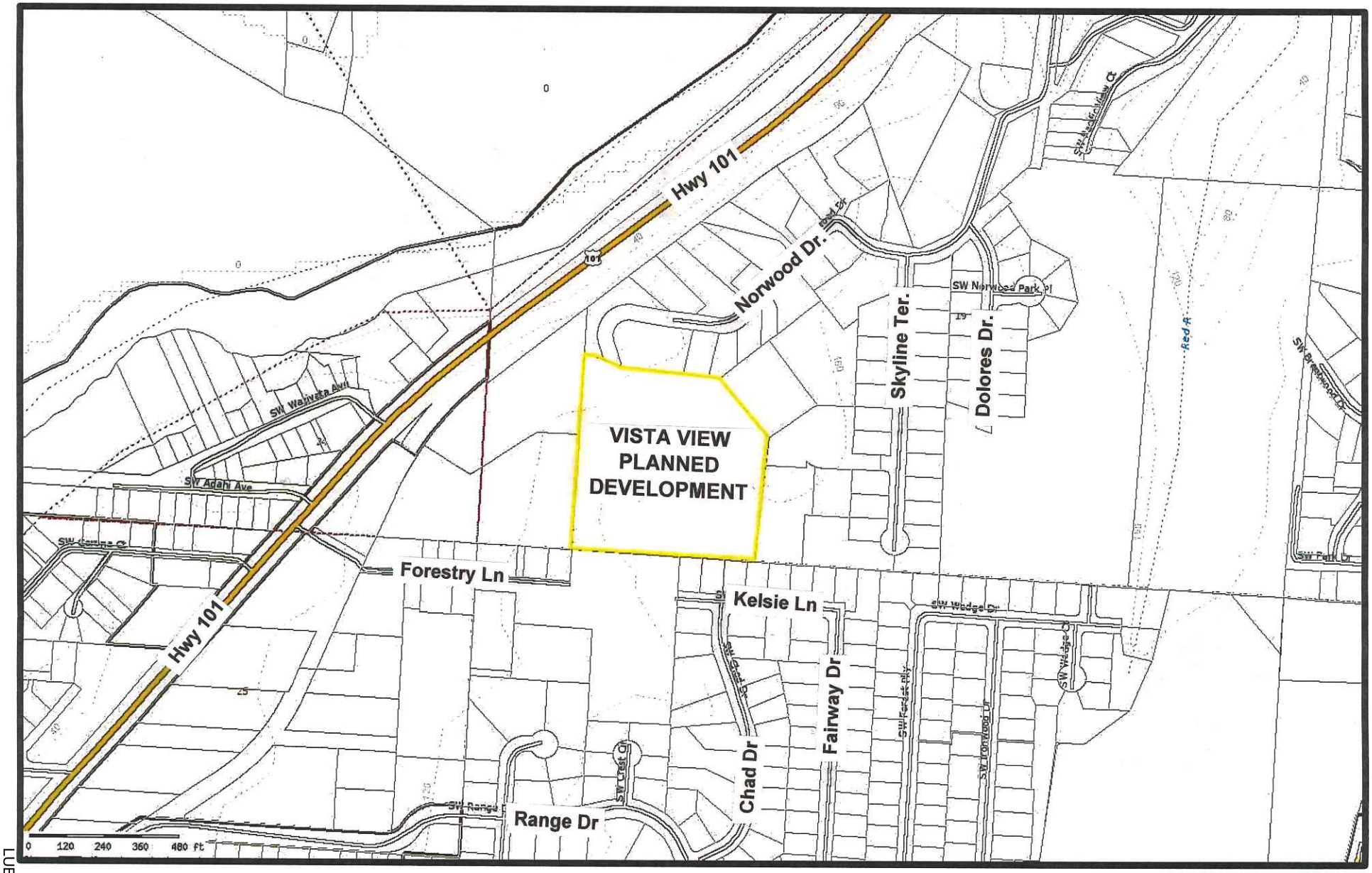

Printed 09/25/2017

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Vista View Planned Development

A Proposed 34-Lot Single Family Residential Development on 7.75 Acres.

Access: Access to the development is proposed at the south end of Norwood Drive. This is the only legal access to the site.

A second access is planned at the south end of the site. This access is contingent upon agreement and/or development of the property to the south. This second access would provide access to Kelsie Lane.

Circulation: Within the property, a circular street system is proposed to access the lots/homes.

Lot Sizes: Lot sizes are proposed to range between 4,810 and 9,041 square feet.

Street: Streets are proposed to have a 20 pavement width within a 30 foot right-of-way with rolled curbs and gutters, and a sidewalk on one side.

Open Space & Nature Trail: A tract of land along the north and east side of the property is proposed as open space with a nature trail.

Phased Development: The property is proposed to be developed in four phases over a 20 year period. The first phase is proposed to consist of 19 lots.

City of Waldport

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Fax: (541) 264-7418
TTY: (800) 735-2900

September 22, 2017

To: **Gary Woodson, Fire Chief**
Central Coast Fire

From: **Larry Lewis, City Planner**

Re: **34-Lot Planned Development (PD) Application**

Gary –

The City of Waldport received an application for a 7.75-acre, 34-lot Planned Development at the end of Norwood Drive. The applicant's narrative and Preliminary PUD Layout are attached.

The City would appreciate any comments you may have regarding the proposed development. A few key points include:

Access: Access to the PD is proposed from the south end of Norwood Drive which is the only current public access to the property.

Future Access: The PD layout includes a street stub out at the south end of the property. The intent of the street stub is to provide public vehicular access to Kelsey Lane when the property to the south is developed.

Street Width: The proposed circular street is proposed to have a 30 foot right-of-way width with a 20 foot wide paved surface. I have not seen any discussion in the narrative but I assume we do not want to allow any on-street parking with a 20 foot wide pavement.

Water Service: Water lines are proposed to be located within the public right-of-ways.

If the Planning Commission grants a preliminary plan approval, a recommended condition will be that final engineering plans for street and water service shall be reviewed and approved by COCRFD. Please add any additional items you would like to sign off on as well.

The public hearing will be scheduled for Monday, October 23, 2017 at 2:00 p.m. I will complete the staff report by October 16th. Any comments I receive by the 16th will be incorporated into the staff report. Please contact me if you would like to discuss anything.

Thank you, Larry

The City of Waldport is an equal opportunity employer and a drug-free workplace

City of Waldport

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~~Central Coast Fire~~ Scott -

From: **Larry Lewis, City Planner**

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~~Gary~~ –

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Street Width: The proposed circular street is proposed to have a 30 foot right-of-way width with a 20 foot wide paved surface. I have not seen any discussion in the narrative but I assume we do not want to allow any on-street parking with a 20 foot wide pavement.

Water +Sewer **Service:** Water +Sewer lines are proposed to be located within the public right-of-ways.

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Thank you, Larry

Sewer proposed to go west.

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October 2, 2017

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WALDPORT PLANNING COMMISSION

APPLICANT: Tidewater Development LLC

REQUEST: The applicant is requesting approval of a Planned Development (Vista View) for 34 single family homes/lots on 7.75 acres.

APPLICABLE CRITERIA: Waldport Municipal Code

16.12 Residential Zone R-1
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16.96 Development Guidelines
16.100 Land Division

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RECEIPT DATE 9/11/17 **No.** 314901

RECEIVED FROM Terry Tussell $ 885 –

DOLLARS

○ FOR RENT
○ FOR PUD Vista View

ACCOUNT	
PAYMENT	
BAL. DUE	

○ CASH
○ CHECK
○ MONEY ORDER
○ CREDIT CARD

FROM TO

BY DAL

RECEIPT DATE 9/11/17 **No.** 314902

RECEIVED FROM Gary Tyson $ 885 –

DOLLARS

○ FOR RENT
○ FOR PUD Vista View

ACCOUNT	
PAYMENT	
BAL. DUE	

○ CASH
○ CHECK
○ MONEY ORDER
○ CREDIT CARD

FROM TO

BY DAL

MISC
APPLICANT
MATERIAL
(Excludes material in
staff reports
for most part)

LAW OFFICE OF DENNIS L. BARTOLDUS
380 SW 2nd Street
PO Box 1510 Newport, OR 97365
541-265-5400/541-265-7633 fax
www.bartolduslaw.com

Dennis L. Bartoldus
dennis@bartolduslaw.com

Clifford G. Collard
of Counsel
cliff@bartolduslaw.com

September 8, 2017

Larry Lewis
Waldport City Planner
125 NW Alsea Hwy.
Waldport, OR 97394

RE: PUD Submitted for Tidewater Development LLC

Dear Larry:

With this letter is the application of Tidewater Development LLC for a 34 lot planned unit development within the City of Waldport.

The application includes the filing fee of $1,770.00, the City's form for land division and a narrative explaining the project and addressing the criteria set forth in the City's application form, and a proposed layout of the PUD with topographical lines shown.

Also included is a draft of that portion of the Declaration of Conditions, Covenants and Restrictions that addresses the architectural control and use restrictions. I understand from our previous conversation that you just needed this portion of the Declaration and did not need the other portions dealing with internal management and non-land use issues.

If you need any additional information or have any questions, please do not hesitate to contact me.

Very truly yours,

Dennis L. Bartoldus

DENNIS L. BARTOLDUS

DLB/ms
Enclosures
cc: Clients

Fee $1770.00
Receipt # 314901 ($885)
314902 ($885)

CITY OF WALDPORT
Application For Land Division/Replat

TO BE COMPLETED BY OFFICE:

1. Date Received 9-13-17 Staff Initials LV
2. Case File Number 1-PD-PC-17 Action: ☐ Administrative ☑ Planning Commission
3. Action Requested: ☐ Partition ☐ Subdivision ☐ Replat ☑ Planned Development
4. Current Zoning R-1 Current Plan Designation Res Lot Size 7.75 ac
5. Previous Planning Actions on Property None
6. Existing Code Violation(s) None

TO BE COMPLETED BY APPLICANT:

Property Description T 13 S, R 11 W, W.M., Section 19-CC Tax Lot(s) 120

Applicant's Name Tidewater Development LLC

Address PO Box 1510 City Newport State OR Zip 97365

Daytime Phone Number 541-265-5400

Relationship to Property Owner

(Owner, Contract Purchaser, etc.)

Agent (if any) Dennis L. Bartoldus, Attorney

Existing Structures None

Number of Proposed Lots 34 If Subdivision, Tentative Name Vista View

Current/Proposed Utilities: Sewage Yes Water Yes Electrical Yes

Anticipated Date of Development Upon approval

Additional Comments:

INFORMATION REQUIRED
FOR A
LAND DIVISION/REPLAT

For all land division or replat applications, the following information must be submitted for the application to be considered complete:

1. Plot plan, drawn to scale, of the subject property showing:
   - A. All existing, and approximate location and dimensions of all proposed parcels or lot lines
   - B. Size of all proposed parcels or lots in acres and in square feet
   - C. Location of all proposed streets, a street cross-section showing proposed construction standards, profiles showing approximate grades of all streets, and whether they are proposed to be public or private streets
   - D. Relationship of proposed roads to adjoining existing and proposed streets
   - E. All existing and proposed buildings and setbacks from all property lines
   - F. The location of water and sewer lines, septic system, well and all existing easements
   - G. Access to the property, and whether it is a state highway, county road, public or private easement. Note: Applicant should check to determine if an access permit is required
   - H. All wetland areas, areas of geological hazard, streams and waterways, and areas subject to flood hazard
   - I. Description of the topography and vegetation. Note: Subdivision plats shall show contours in maximum of 10' intervals
   - J. The date, north point and scale of drawing
   - K. Width, depth and direction of flow of all drainage channels on or directly adjacent to the property, and tentative plans of disposal of additional storm water generated by developing the property
   - L. If there are to be phases of development, the identification and sequence of each phase
   - M. Adjacent land owned by the applicant
   - N. Address any requested modifications to required development standards
   - O. State width to depth ratios of each lot
   - P. Name, address and phone of registered surveyor to be used.
2. Other information as may be required by staff to determine compliance with the provisions of standards and requirements of Chapter 16.100 (Land Division) of the Waldport Development Code.

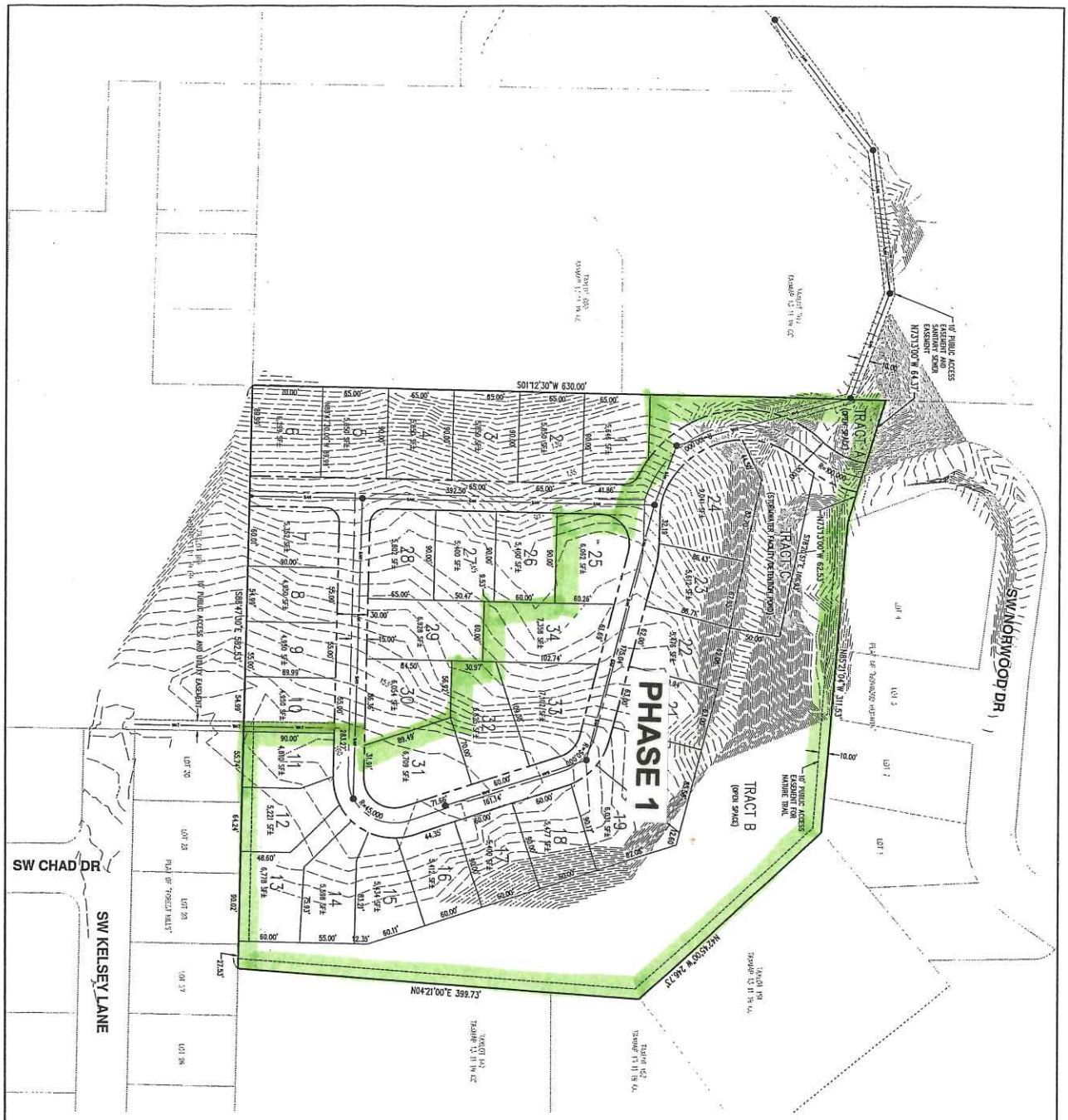
NOTE: ALL APPLICATIONS MUST BE COMPLETE. FAILURE TO SUBMIT A COMPLETE APPLICATION WILL DELAY THE ACCEPTANCE AND PROCESSING OF YOUR APPLICATION.

8/28/17

Signature of Property Owner — Date

Members, Tidewater Development LLC

Signature of Applicant (if other than property owner) — Date

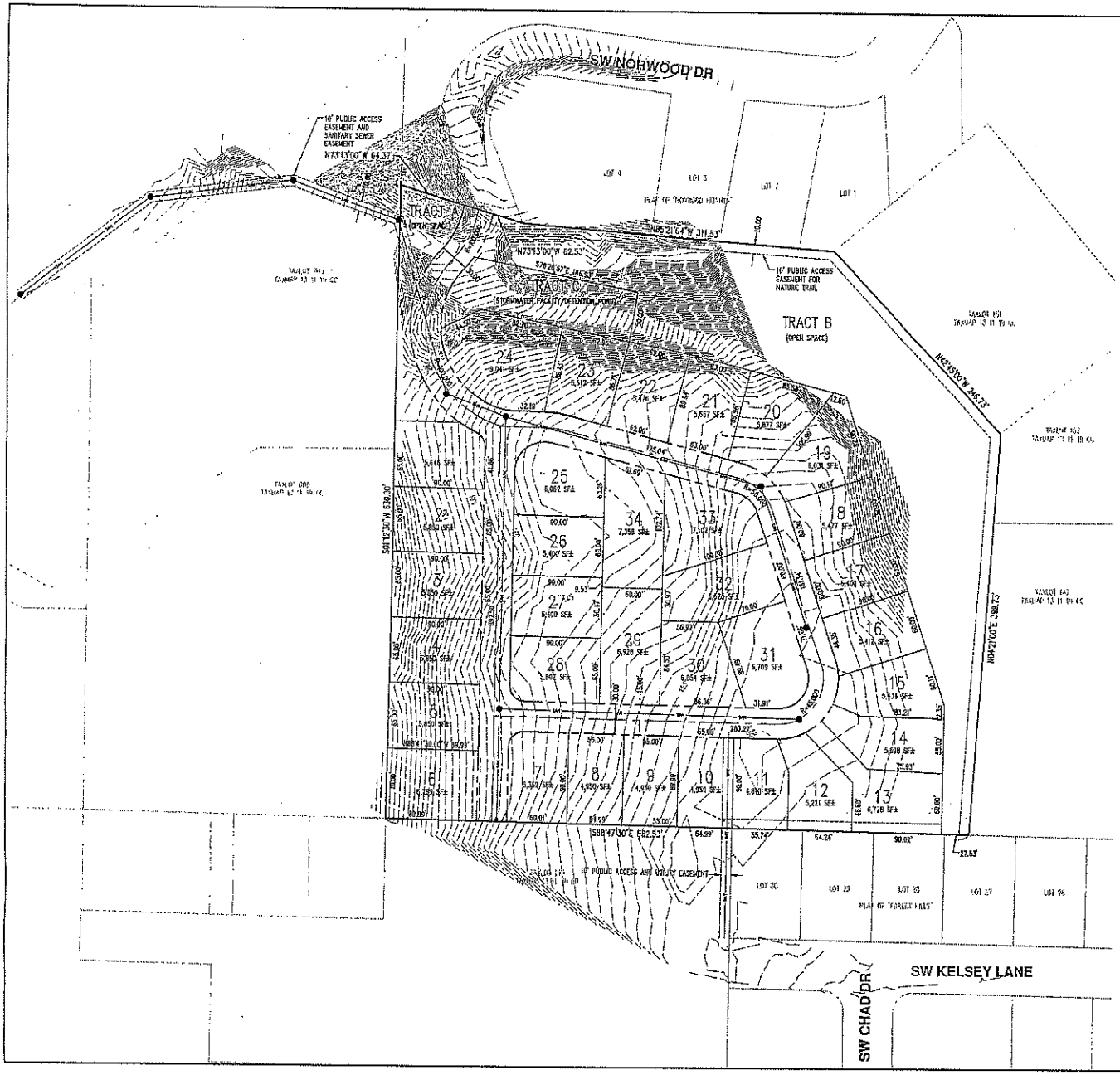


SHEET	JOB NUMBER	REVISIONS	DESIGNED BY:
			DRAWN BY: BDT
			CHECKED BY:
			SCALE: AS NOTED
			DATE: 12/7/16

LAYOUT 10

WALDPORT
TAXLOT 120

OREGON
TAX MAP 135 11 19CC



OREGON
TAX MAP 1S5 11 19CC

WALDPORT
TAXLOT 100

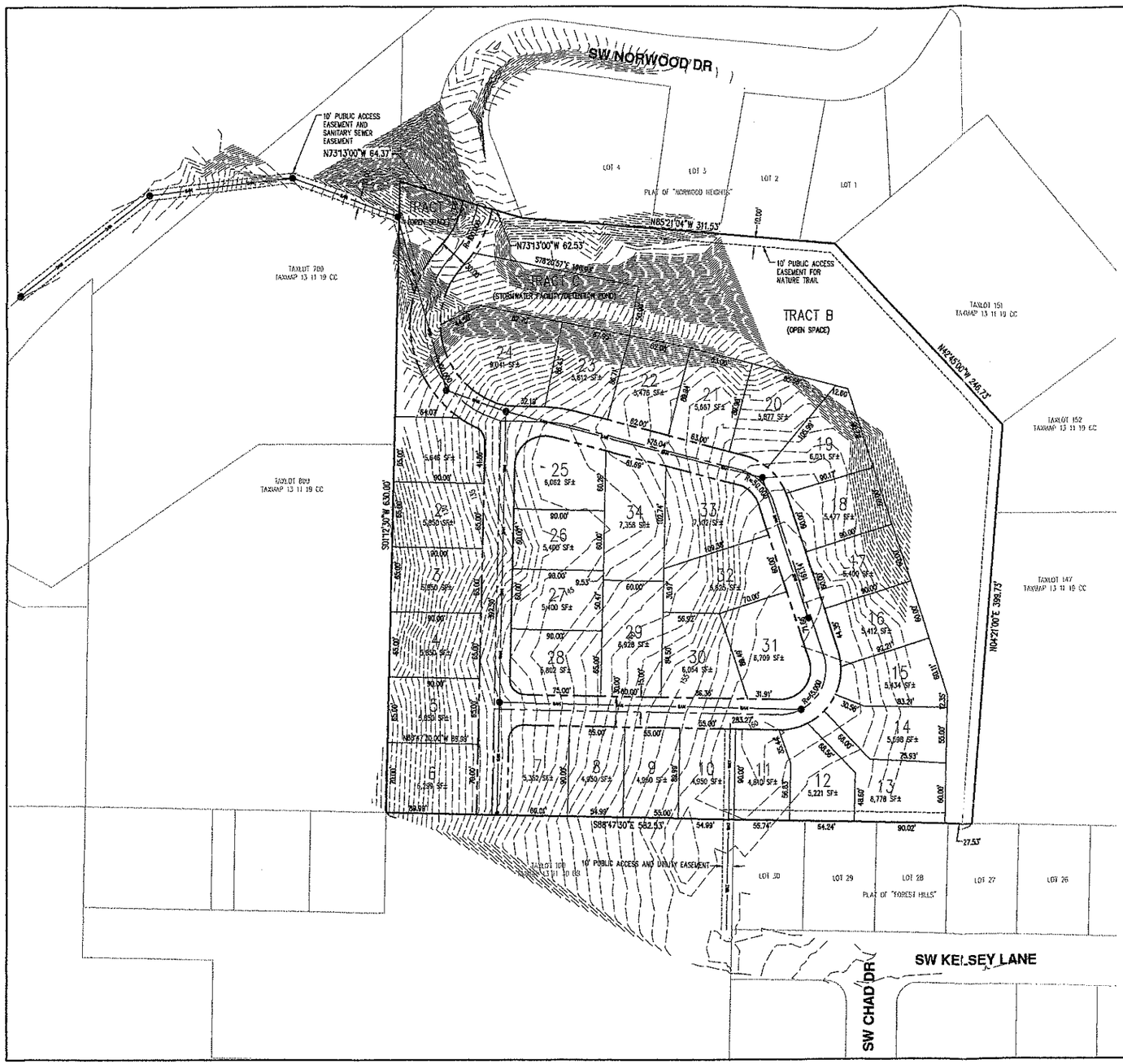
LAYOUT 10

DESIGNED BY:
DRAWN BY: BGT
CHECKED BY:
SCALE: AS NOTED
DATE: 12/7/16

REVISIONS

JOB NUMBER

SHEET



SCALE 1" = 60 FEET

SW NORWOOD DRIVE

WALDPORT
TAXLOT 120

OREGON
TAX MAP 13S 11 19CC

PRELIMINARY PUD LAYOUT

DESIGNED BY:
DRAWN BY: BDT
CHECKED BY:
SCALE: AS NOTED
DATE: 12/7/18

PLANNING

REVISIONS

JOB NUMBER

SHEET

SCALE 1" = 50 FEET
SW NORWOOD DR
SW KELSEY LANE
SW CHAD DR
TRACT B
(OPEN SPACE)
10' PUBLIC ACCESS EASEMENT FOR NATURE TRAIL
TAXLOT 151
TAXMAP 13 11 19 CC
TAXLOT 152
TAXMAP 13 11 19 CC
TAXLOT 147
TAXMAP 13 11 19 CC
N42°45'00"W 246.73'
N04°21'00"E 399.73'
S01°12'30"W 630.00'
N13°13'00"W 62.53'
N82°27'04"W 311.53'
S88°47'30"E 582.53'
PLAT OF "NORWOOD HEIGHTS"
PLAT OF "FOREST HILLS"
LOT 1
LOT 2
LOT 3
LOT 4
LOT 26
LOT 27
LOT 28
LOT 29
LOT 30
LOT 31
LOT 32
LOT 33
LOT 34
LOT 25
LOT 23
LOT 24
LOT 22
LOT 21
LOT 20
LOT 19
LOT 18
LOT 17
LOT 16
LOT 15
LOT 14
LOT 13
LOT 12
LOT 11
LOT 10
LOT 9
LOT 8
LOT 7
LOT 6
LOT 5
LOT 4
LOT 3
LOT 2
LOT 1
10' PUBLIC ACCESS AND UTILITY EASEMENT

City of Waldport

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October 2, 2017

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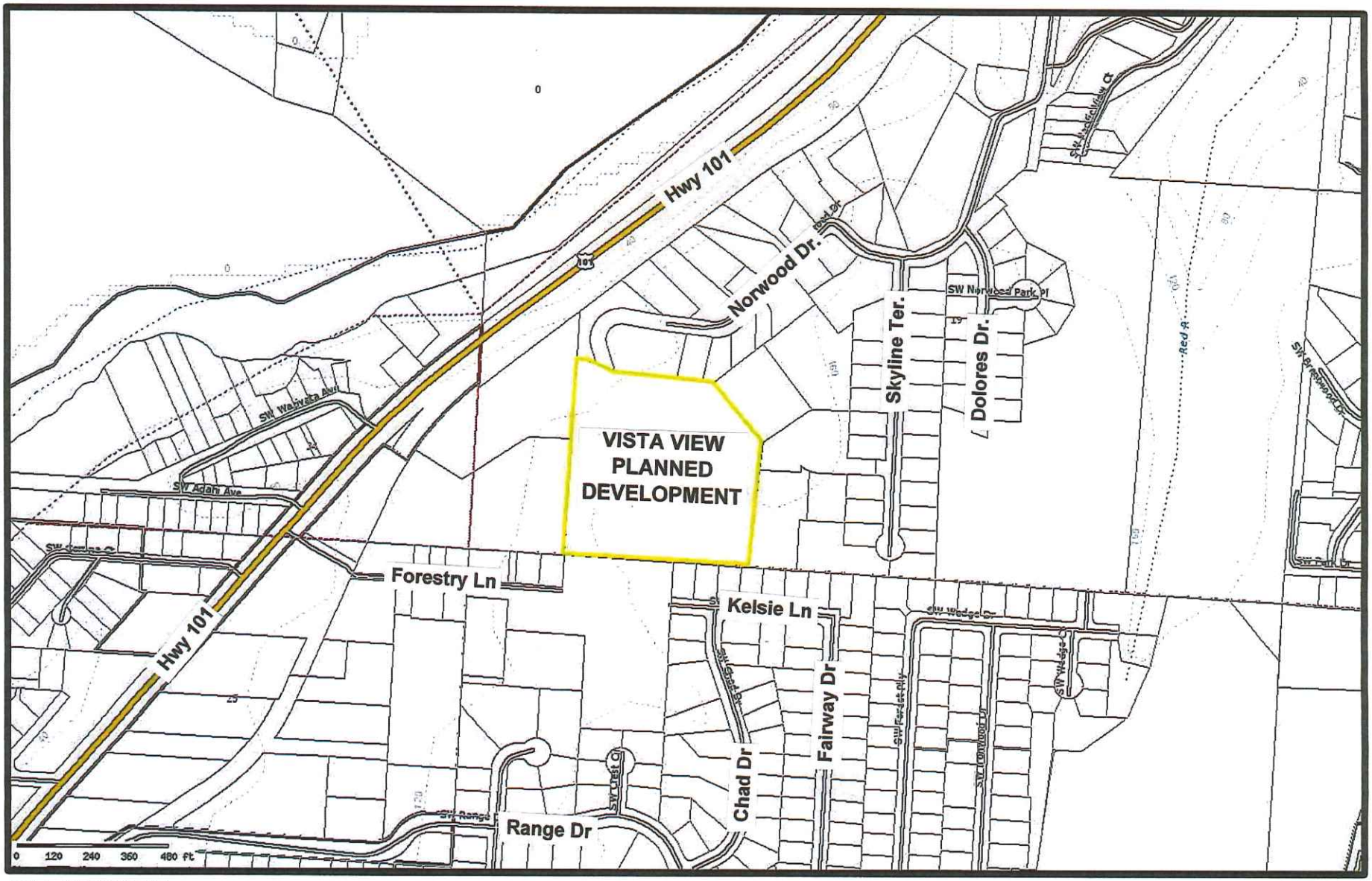

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Open Space & Nature Trail: A tract of land along the north and east side of the property is proposed as open space with a nature trail.

Phased Development: The property is proposed to be developed in four phases over a 20 year period. The first phase is proposed to consist of 19 lots.

#1-,PD-PC-17 TIDEWATER DEVELOPMENT LLC 250' MAILING LIST

13-11-19-CC-00100-0
945 SW NORWOOD DR
885 SW NORWOOD DR
13-11-19-CC-00151-00
MUGLESTON TIM
PO BOX 936
WALDPORT, OR 97394

13-11-19-CC-00110-00
1160 SW NORWOOD DR
BURTON RICHARD S TR
PO BOX 447
WALDPORT, OR 97394

13-11-19-CC-00112-00
1180 SW NORWOOD DR
RATTEREE WILLIAM &
BRADFORD RATTEREE LEIGH
2016 RUE DE PITEGNY
01170 GEX
FRANCE

13-11-19-CC-00115-00
1085 SW NORWOOD DR
RANSON ROBERT D &
RUSSELL PENNY M
REV LIVING TRUST
1110 KENNETH DR
CAMBRIA, CA 93428

13-11-19-CC-00116-00
1125 SW NORWOOD DR
BLASKO PAUL FRANK TSTEE &
BLASKO LINDA BERNA TSTEE
PO BOX 692
WALDPORT, OR 97394

13-11-19-CC-00117-00
1185 SW NORWOOD DR
13-11-19-CC-00123-00
1145 SW NORWOOD DR
SUMERAU MIKELL P &
SUMERAU ANDREA BONGEN
PO BOX 1893
WALDPORT, OR 97394

13-11-19-CC-00119-00
1245 SW NORWOOD DR
BARHAM JUNE E &
BARHAM STEVEN W
1245 SW NORWOOD DR
WALDPORT, OR 97394

13-11-19-CC-00120-00
THISSELL TERRY &
TRYON GARY E &
TRYON PATRICIA N
PO BOX 111
TIDEWATER, OR 97390

13-11-19-CC-00121-00
1240 SW NORWOOD DR
WILCOX JAMES W
PO BOX 6895
TAHOE CITY, CA 96145

13-11-19-CC-00143-00
13-11-19-CC-00147-00
13-11-19-CC-00148-00
WEBER INVESTMENTS LLC
10168 N PRICE AVE
FRESNO, CA 93730

13-11-19-CC-00152-00
942 SW SKYLINE TER
MEREDITH DENNIS J &
MEREDITH LAURIE
PO BOX 2235
WALDPORT, OR 97394

13-11-19-CC-00700-00
895 SW PACIFIC COAST HWY
893 SW PACIFIC COAST HWY
897 SW PACIFIC COAST HWY
891 SW PACIFIC COAST HWY
HAGEL CHARLES C &
HAGEL JOYCE M
17100 SW PARROTT MTN RD
SHERWOOD, OR 97140

13-11-19-CC-00800-00
1130 SW FORESTRY LN
UNITED STATES OF AMERICA
% SIUSLAW NATIONAL FOREST
SUPERVISORS OFFICE
3200 SW JEFFERSON WAY
CORVALLIS, OR 97331

13-11-30-BB-00100-00
13-11-30-BB-00101-00
13-11-30-BB-00104-00
13-11-30-BB-00400-00
CLAUSSEN LARRY A &
CLAUSSEN ANN K &
CAROTHERS JAMES L ETAL
2820 SW SCENIC DR
ALBANY, OR 97321

13-11-30-BB-00105-00
860 SW FORESTRY LN
SMITH STEPHANIE ANNETTE
33 THIRD AVE
WHITE RIVER JUNCTION, VT 05001

13-11-30-BB-00106-00
880 SW FORESTRY LN
PERSON IN POSSESSION
HANKINS MARJORIE A &
CLOUGH ALBERT G
PO BOX 1553
WALDPORT, OR 97394

13-11-30-BB-00300-00
WURZBACHER KATHERYN
18324 2ND AVE NE
SHORELINE, WA 98155

13-11-30-BB-08100-00
1265 SW CHAD DR
AUBORN RICHARD G JR &
AUBORN JAMIE M
PO BOX 1577
WALDPORT, OR 97394

13-11-30-BB-08200-00
1255 SW CHAD DR
COX ARTHUR R &
MAMER MARY C
PO BOX 2066
WALDPORT, OR 97394

13-11-30-BB-08300-00
645 SW KELSIE LN
RINDEN MARY L &
RINDEN RONALD L
10755 BIGHORN DR
RENO, NV 89508

13-11-30-BB-08400-00
1240 SW FAIRWAY DR
GREENUP CHRIS
PO BOX 921
YACHATS, OR 97498

13-11-30-BB-09400-00
580 SW KELSIE LN
ABEL DENNIS M &
ABEL LAURA S
PO BOX 1902
WALDPORT, OR 97394

13-11-30-BB-09500-00
600 SW KELSIE LN
BECK RAYMOND M TRUSTEE &
BECK THERESA K TRUSTEE
1106 CAYUSE CIR SE
SALEM, OR 97306

13-11-30-BB-09600-00
640 SW KELSIE LN
ADAMS REED L &
ADAMS AUDREY I
640 SW KELSIE LN
WALDPORT, OR 97394

13-11-30-BB-09700-00
680 SW KELSIE LN
KLEIN LAURENCE R TRUSTEE &
KLEIN CHERRYL M TRUSTEE
PO BOX 673

WALDPORT, OR 97394

13-11-30-BB-09800-00
700 SW KELSIE LN
BARRY KEITH B &
BARRY VERYL B
PO BOX 1353
WALDPORT, OR 97394

13-11-30-BB-09900-00
HILL BETTY JO &
NESS DENNIS L, ETAL
ATTN LISA PARGETER
PO BOX 98
UNDERWOOD, WA 98651

13-11-30-BB-10000-00
740 SW KELSIE LN
DEFAZIO PEGGY L &
DEFAZIO JOSEPH R JR
740 SW KELSIE LN
WALDPORT, OR 97394

13-11-30-BB-10100-00
1240 SW CHAD DR
MASON TODD &
MASON PHYLLIS
1240 SW CHAD DR
WALDPORT, OR 97394

13-11-30-BB-10200-00
CHAMBERS MICHAEL
3212 SOUTHWOOD DR
PHILOMATH, OR 97370

DENNIS BARTOLDUS
PO BOX 1510
NEWPORT, OR 97365

Numbers Every Traffic Engineer Should Know

(http://mikeontraffic.typepad.com/.a/6a00e54f0e5eb9883401539440 0c2e970b-pi)

I'm in a lot of meetings where I'm seen as the expert on traffic issues (shocking, I know) and I get asked questions related to basic standards and general practice. You can always respond you don't know the answer and you need to look it up, but you look better if you're able to rattle off the numbers from memory. To that end, here's a list of questions and answers every traffic engineer should consider memorizing –

About how much traffic will my development generate? (round numbers based on ITE Trip Generation Report, 8th Edition)

Single Family Houses (per unit): 10 trips per day, 1 per peak hour

Apartments/Condos/Townhouses (per unit): 6 trips per day, 0.6 per peak hour

Office (per 1000 sq ft): 11 trips per day, 1.5 per peak hour

Retail (per 1000 sq ft): 43 trips per day, 3.7 per peak hour

Industrial (per 1000 sq ft): 7 trips per day, 1 per peak hour

What's the daily capacity of a road? (Round numbers based on Level of Service D/E thresholds in HCM 2010)

2 lane local street: 1,000 vehicles per day based on livability

2 lane (w/ left turn lanes): 16,000 vehicles per day

4 lane (w/ left turn lanes): 31,000 vehicles per day

6 lane (w/ left turn lanes): 44,000 vehicles per day

4 lane freeway: 72,000 vehicles per day

6 lane freeway: 108,000 vehicles per day

8 lane freeway: 145,000 vehicles per day

Existing Lots

Norwood	27
Skyline	26
Dolores	19
	72

Proposed Vista View PD

Phase 1	19
Subseq. Phases	15
	34

What's the peak hour capacity of an intersection? (Based on Level of S thresholds in HCM 2010)

Stop sign controlled: 35 seconds/vehicle

Roundabout controlled: 35 seconds/vehicle

Traffic Signal controlled: 55 seconds/vehicle

Theoretical maximum saturation flow rate per lane? (this will allow you to do quick calculations in your head to check reasonableness at big events) – 1900 vehicles per hour per lane

What's the threshold for when you need to add a second (dual) left turn lane at a signalized intersection? 300 left turning vehicles from that leg of the intersection in the peak hour

How wide should a commercial driveway be (based on NCHRP Report 659)?

One lane in only: 14 feet curb to curb

Two lane, bi-directional: 24 feet curb to curb

Three lane, one lane in with median than two lanes out: 40 feet curb to curb

Minimum industrial driveway: 26 feet curb to curb

How big of a footprint does a roundabout take?

Single lane diameter: 132 foot

Double lane diameter: 165 foot

How close can we have driveways/intersections? (these are very rough rules of thumb since this is very situational)

On a local street: 150 feet

On a collector street: 660 feet

On an arterial: 1,320 feet to 2,640 feet (with medians, right-in/right-outs can be 660 feet away)

Related

Retrieve Data | Vehicle Speeds | Vehicle Counts |

Get Data From SPEEDsentry

Save Data To File

Load Data From File

Print Summary Page

SPEEDsentry Display While Datalogging On Off

SPEED sentry

Norwood
Pac-View
Intersection

Done

Progress 100%

Ready

Speed Summary for SPEEDsentry Data NORWOOD

Display On, 11/29/17 - 11/30/17

	0-15	16-25	26-35	36-45	46-55	56-65	66-200 mph
Tota	194	82	3	0	0	0	0
%	69.5	29.4	1.1	0.0	0.0	0.0	0.0

Average Speed, All Vehicles: 12.8 mph

85 % Speed: 18 mph

Exit

Settings Help

rieve Data | Vehicle Speeds | Vehicle Counts

et Data From SPEEDsentry

SPEEDsentry Display While Datalogging: On Off

Save Data To File

Load Data From File

Print Summary Page

Done

Progress: 100%

Ready

Speed Summary for SPEEDsentry Data norwood
Display On, 11/15/17 - 11/17/17

	0-15	16-25	26-35	36-45	46-55	56-65	66-200 mph
Total	141	5	2	0	0	0	1
%	94.6	3.4	1.3	0.0	0.0	0.0	0.7

Average Speed, All Vehicles: 9.1 mph

85 % Speed: 11 mph

Exit

Ray's Letter Rec'd 12/4/17 After 11/6/17 Deadline

Hollis Anne Lundeen
P.O. Box 1392
Waldport, Oregon 97394
November 6, 2017

To:

Waldport Planning Commissioners
City of Waldport
P.O. Box 1120
Waldport, Oregon 97394

I ENDORSE THE CONCERNS IN THIS LETTER.
Ray Bregenzer
1080 SW NORWOOD DRIVE
WALDPORT, OR 97394

Greetings Waldport Planning Commissioners:

Thank you for granting the extension for you to receive additional information, inquiry, and concerns in regards to APP PD/#1-PD-PC-17 TIDEWATER DEVELOPMENT LLC/NOTICE, Planned Vista View Development Proposal.

Please consider this as additional appeal testimony, with my previous submittals dated October 16, 22, & 23 2017, along with the request for your denial of any approval or waivers until the developer submits the required and requested drawing, materials, and requirements made in this appeal.

Due to learning of this proposal not until October 16, and being away from the area at the time, I was not able to attend the public hearing on October 23, 2017, and had hoped to have the documented minutes from that hearing to respond to prior discussion and decision, however they have not been publicly posted, therefore I will ask for your understanding if I repeat any prior questions.

The developers request to access the proposed 34 homes on 7.75 acres from Norwood Drive is not an appropriate, reasonable, or practical approach for the primary transportation route to Vista View. I, along with many other concerned neighborhood residents want to make sure you are aware of our concerns prior to considering granting any access on Norwood Drive to the Proposed Vista View Development.

I have thoroughly investigated the existing Norwood Drive, starting from the beginning junction off State Highway 101. The junction of Norwood and the State Highway 101 includes traffic from Starr Street, which is a local short cut connection from State Hwy 34 to the south end of Waldport junction with State Hwy 101. Many locals drive this back way to avoid our one traffic light in Waldport. Currently, this intersection is very confusing and busy with the existing traffic. It is a safety concern for the current traffic of both local and commercial vehicles to head north or south onto 101, from Norwood and Starr, including entering into the junction from 101 North and South. My recent transportation count and study revealed that there are vehicles heading both north and south at higher speeds than posted, along with confusing signage and lane designation. There is backup access to and fro and an undesignated left hand south turning lane from 101 onto Starr just at the point of 2 lane going into one lane on State Hwy 101. Please note: This intersection is an existing traffic challenge and hazard as is, without any additional proposed traffic.

-Has the State Highway Department been contacted to consult in redesign of this intersection with the proposed increased traffic flow?

-If so, will the developer be required to cover the costs of the redesign or new construction additional traffic signs necessary for the increased flow? There will be a definite increase of commercial vehicle use at this intersection, due to the proposed 34 new home construction, such as concrete trucks, semi's carrying trusses and lumber, along with many other delivery trucks. Recommend design to include allowance for curve widening due to construction widths necessary to maneuver the intersection safely along with the current traffic flow.

The existing adverse grade, less than minimum recommended City Ordinance Width, and "S" reverse curve alignment from the bottom of the hill on Norwood to where new construction would start varies from 15-22 %. (FYI: That is an elevation gain of 22 feet for every 100 feet. Very STEEP!) Such a continued sustained grade, along with measured widths of 17-20 feet traveled way, along with documented sub-grade failure and existing road asphalt patching from previous road failures, with minimum depth of asphalt surface, shows that the existing road would require substantial maintenance in curve widening, and realignment to facilitate any additional traffic. This can be confirmed by current residential users who have shared their concerns of safety, impact, and existing narrow road width which in many places cannot be widened due to slope and existing

thru cut road templates. Pedestrian traffic is high and verified by Transpiration Survey Analysis. There is little pedestrian "escape" route available should 2 cars pass uphill and downhill, let alone non existent, when 2 commercial vehicles pass each other.

The traveled way existing half width on the curves measures at 8.5-10 feet, with the average car measuring 8 foot width. Commercial Trucks and Large 4x4 trucks continue to cross over the non existent center lane designation on many curves, since there is not enough existing half width.

-If the Developer chooses to access their Vista View private property from Norwood Drive, have they committed the construction funds for these necessary improvements prior to the City of Waldport granting access to Vista View's proposed 34 lot development?

Request the Commissioners require the developer to submit design for this realignment and curve widening along with allowance for a safe and pedestrian protected sidewalk. Design criteria should include time line and costs of development including timeliness of completion and impact to residents currently using the road, including impacts to existing driveway and property access. This submittal should be required prior to granting developer any access, since, if properly designed, will reveal that this is not a feasible safe traveled route to facilitate additional traffic for the construction development to include 34 new homes, new residents vehicles, including, daily delivery and service vehicles along with visitors to the Vista View Development with this traffic flow increase.

In addition, on the new construction proposal on Norwood, the existing road field investigation, conducted on the proposed public easement, road width measurement in part, is at maximum of 17 feet, with a fill slope of -67% does not qualify for the city ordinance width requirements of 56 feet.

Please note: Request Commissioners to deny the proposed request to modify city ordinance road right of way width, in and outside the proposed road system development from 56 feet to 30 feet and in service paved width from 28 feet to 20 feet due to the inability to monitor and regulate on street parking.

There is an existing Power Pole within the proposed new construction access serving the neighborhood which would have to be moved.

-There is substantial cut and fill failure, including undercutting, and sedimentation along the proposed new construction access, which is just above State Hwy 101 and directly above Alsea Bay. I have received confirmation from the USDA Forest Service, that silt and sedimentation from the above timber harvest penetrated their newly constructed bunkhouse which backs up to the proposed development. With securing this information by investigation, I request the Commissioners to require the Developer to submit a Plan of Action with defined time-lines of removal and replacement of this existing power pole, impact to local power consumers, and written confirmation of absorbing the costs for moving and replacing this Power Pole. This work should be completed by the Developer well before any construction to the extension of Norwood Drive would commence. Highly recommend a Field Verification Transportation System Plan-In- Hand Invitation from the Developer to the many interested local residents to understand how this new construction extending Norwood Drive will occur. This Plan of Action submitted by the developer to the City of Waldport, should include the improvements that the developer will make to the existing Norwood Drive access by providing information and assurance of no environmental impact to and for the safety of current users, and pedestrians. Past performance of slope failure warrants including proactive planned protection of the entire development from future sedimentation and slope failure into the existing water sources and riparian areas within and surrounding Vista View. This Plan of Action will be submitted in writing to the City of Waldport prior to approval of access.

My investigation with the County Assessors Office and Surveyor Office does not show any deemed dedication of the road to the City of Waldport.

-REQUEST Proof of this Ownership be presented at the Public Meeting, with a confirmation that this entire development is within the City of Waldport limits..

The Developer has requested a waiver/modification to the City Ordinance which requires all lots be a minimum of 6,000 ft2. The City Ordinance states that every lot should be at a minimum 6,000 ft2. The developers proposal itself states that 23 lots are less than 6,000 ft,including 4 lots under 5,000 ft2. The smallest lot is listed at 4,810 ft. That alone is justification that the Developer agrees that their proposed lot size is not compliant to city ordinance minimum requirements.

The developers justification of including dedicated open space, which exists on sloped ground, to steep for building, to be included in the calculation for justification of the waiver, which still is below the City Ordinance requirements, is completely unvalidated and unreasonable and should not be considered as justification, and should be revoked and repealed for the waiver.

-Request to Appeal Developers request for waiver modification due to non compliance with city code and unvalidated justification. This appeal includes appeal of Lot 13 width waiver which does not meet the City Ordinance requirements.

-Request an Appeal to granting this waiver/modification request for lot size variance in ft2 and width..

The Developer's justification that the included open space justifies the waiver/modification is not valid. The designated open space is located on steep ground exceeding 20%. As stated in the city ordinances, a Geo technical assessment per requirement that any property that has a 20 % slope or greater, request developer submit a Geo-Technical report on the entire 7.75 acres by a qualified non biased Geo-technical Engineer as stated according to the ordinance requirements. Request the entire development be assessed due to past sedimentation occurring from harvested acreage.

-23 of the proposed 34 lots exceeds the allocation of lots designated within the existing Norwood Heights Transportation System. This alone justifies investigation into alternative routes which include the Kelsie Lane route which was the designated choice transportation route of the developer, and utilized, with no impact to the existing transportation infrastructure, to harvest the timber off of the 7.75 acres. The proposal addresses utilization of Kelsie Way in phase two of the development. If this route was considered initially, as the primary access route, all the preliminary Norwood Drive Intersection and reconstruction costs, upfront investment with commitment to moving the power pole, field review, crossing the live flow drainage, with impact and construction to Norwood Drive would not have to be investigated or invested in preliminary requirements. It would be to the Developer advantage to truly investigate both Forestry Lane and Kelsie Lane as primary access alternatives prior to investigation and commitment use of Norwood Drive, which would require extensive cost and time to the developer let alone the request by many in the neighborhood that there is a pedestrian fact and human impact factor to consider.

Please consider these specific concerns prior to allowing a developer access to a community that is requesting for you to sincerely represent and preserve their neighborhood to remain in the present and existing atmosphere of now.

Sincerely, a Concerned Waldport Citizen, supporting the existing Norwood Drive & Heights Neighborhood & Community,

Hollis Anne Lundeen

City of Waldport
PO Box 1120
Waldport, OR 97394

PORTLAND OR 970
03 OCT 2017 PM 6 L

CALKINS LAWRENCE
6970 SW PAC COAST HWY
WALDPORT, OR 97394

970 NFE 1 716I0010/03/17
FORWARD TIME EXP RTN TO SEND
CALKINS
PO BOX 756
YACHATS OR 97498-0756

RETURN TO SENDER

97394-9126 70

City of Waldport
PO Box 1120
Waldport, OR 97394

PORTLAND OR 970

03 OCT 2017 PM 1 L

RITCHIE KENNETH R &
EDWARDS ARTA F
5200 SE JENNINGS AVE APT 24
PORTLAND, OR 97267

970 NFE 1 916I0010/03/17
FORWARD TIME EXP RTN TO SEND
RITCHIE KENNETH R
PO BOX 1066
WALDPORT OR 97394-1066

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97267~~97394~~1120

City of Waldport
PO Box 1120
Waldport, OR 97394

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BURTON RICHARD S TR
PO BOX 447
WALDPORT, OR 97394

NIXIE 970 FE 1 0010/10/17
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City of Waldport
PO Box 1120
Waldport, OR 97394

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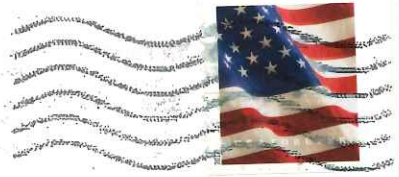

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MAKI AMANDA &
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455 SE VIEWMONT AVE

NIXIE 970 FE 1 0010/11/17

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City of Waldport
PO Box 1120
Waldport, OR 97394

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MASON TODD &
MASON PHYLLIS
1240 SW CHAD DR
WALDPORT, OR 97394

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City of Waldport
PO Box 1120
Waldport, OR 97394

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SUMERAU MIKELL P &
SUMERAU ANDREA BONGEN
PO BOX 1893
WALDPORT, OR 97394

NIXIE 970 DE 1 0010/10/17
RETURN TO SENDER
VACANT
UNABLE TO FORWARD
BC: 97394112020 *1629-04915-02-42

VAC
97394-1120

Ms. Stephanie A. Smith
1291 Kensington Ave.
Astoria, OR 97103-4026

PORTLAND OR 970
26 FEB 2018 PM 1

?

CITY OF WALDPORT
PO BOX 1120
WALDPORT, OR 97394

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97394-112020