



Washington County
Department of Land Use and Transportation
Current Planning Services
155 N First Ave, Suite 350
Hillsboro, OR 97124

RECOMMENDATION & STAFF REPORT

PROCEDURE TYPE III

CPO: 7 COMMUNITY PLAN:
Sunset West

LAND USE DISTRICT:
Neighborhood Commercial (NC)

PROPERTY DESCRIPTION:
ASSESSOR MAP#: 1N1 19BC
LOT#'S: 500 and 600
SITE SIZE: 1.21 acres
ADDRESS: 18450 NW West Union Road

CASEFILE: L2100244-SU/SU/D/V/V/AMP/M

APPLICANT & OWNER:

CJRW LLC / Mr. Bob Barman
P.O. Box 2092
Lake Oswego, OR 97035

APPLICANT'S REPRESENTATIVE:

3J Consulting
Attn: Mercedes Serra
9600 SW Nimbus Avenue, Suite 100
Beaverton, OR 97008

LOCATION: At the southeast corner of the intersection
of NW West Union Road and NW 185th Avenue.

PROPOSED DEVELOPMENT ACTION: Special Use and Development Review approval for a two story, 4,983 square foot commercial development, "Chevron Market," (Super Convenience Market/Gas Station) served by 5 fueling islands (10 pumps), an Access Management Plan for access to NW West Union Road, Variances to reduce: 1) the front yard setback (from NW 185th Avenue) from 20 feet to 2 foot, and 2) the street side yard setback (from NW West Union Road) from 20 feet to 10 feet for the main structure and from 20 feet to 15 feet for the canopy, and a Half-Street Exception for improvements to NW West Union Road. (A Property Line Adjustment consolidating Tax Lots 1N119BC00600 and 1N119BC00500 was approved through Casefile L1900411-PLA.)

November 18, 2021

RECOMMENDATION:

The required findings have been made for the applicable Code sections. When implemented in accordance with the Recommended Conditions of Approval and the approved final plans, staff believes that the project will be in compliance with the Washington County Community Development Code (CDC) and the Transportation System Plan (TSP).

Staff recommends the Hearing's Officer approve the applicant's request, except for the half-street exception, subject to the Recommended Conditions of Approval set forth in Attachment "B" of this report

Staff Planner: Paul Schaefer, 503-846-3832

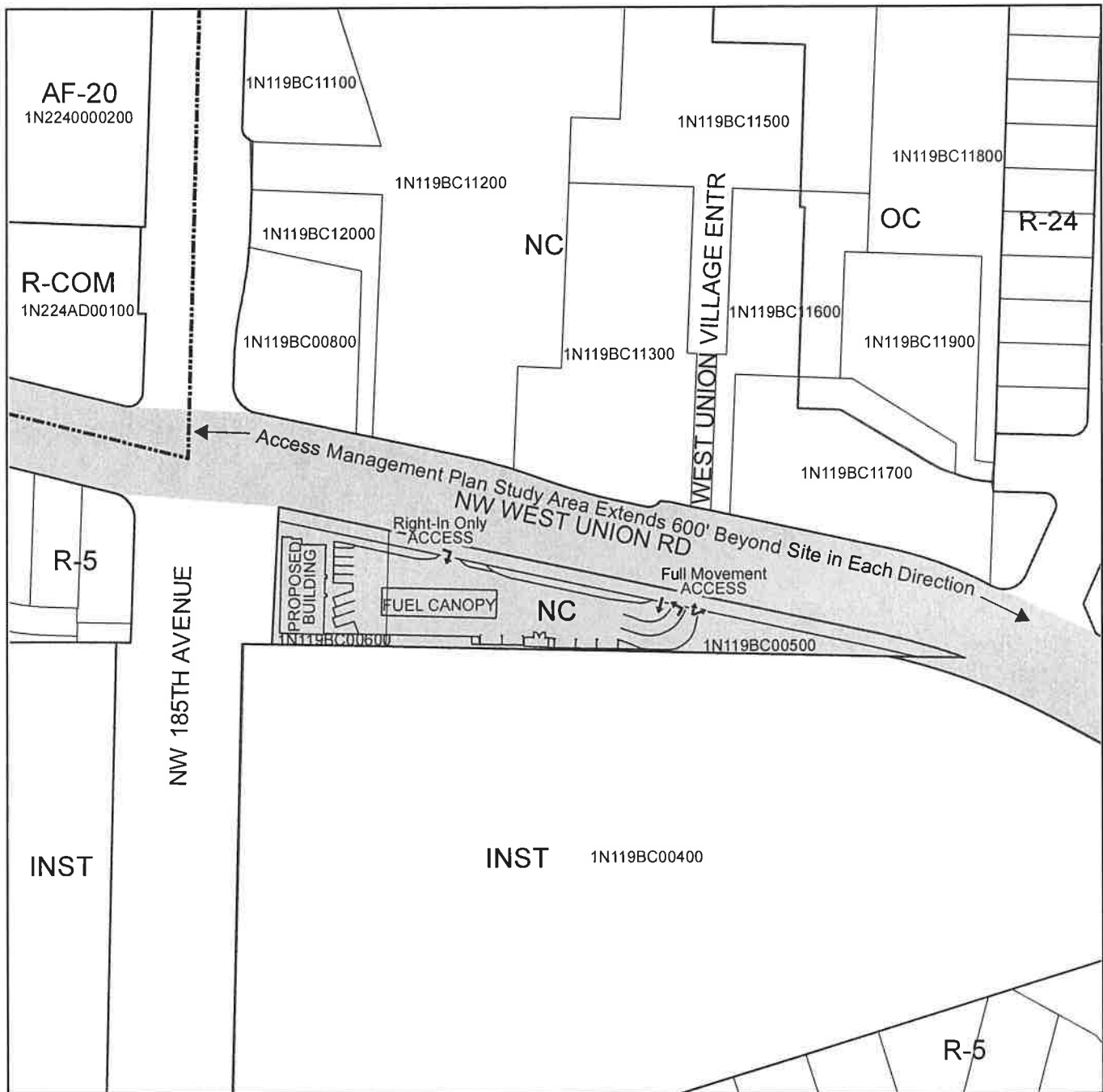
Attachments

- A. -- Vicinity Map
- B. -- **RECOMMENDED CONDITIONS OF APPROVAL**
- C. -- Staff Report
- D. -- Transportation Report with Attachment D1
- E. -- Street Trees

ATTACHMENT A VICINITY MAP

TAX MAP/LOT NO. 1N1 19 BC 00500 & 00600

CASEFILE / PROJECT #: L2100244-SU/SU/D/V/V/AMP/M



↑ NORTH
NOT TO SCALE

AREA OF CONSIDERATION

SITE & SURROUNDING LAND USE DISTRICTS:

Neighborhood Commercial District (NC)
Institutional District (INST)
Office Commercial District (OC)
R-5 District (Residential 5 units/acre)
R-9 District (Residential 9 units/acre)
R-24 District (Residential 24 units/acre)

REVIEW STANDARDS FROM CURRENT OR APPLICABLE ORDINANCE OR PLAN

- A. Washington County Comprehensive Plan
- B. Applicable Community Plan (See Front of Notice)
- C. Transportation System Plan
- D. Washington County Community Development Code:
 - ARTICLE I, Introduction & General Provisions
 - ARTICLE II, Procedures
 - ARTICLE III, Land Use Districts
 - ARTICLE IV, Development Standards
 - ARTICLE V, Public Facilities and Services
 - ARTICLE VI, Land Divisions & Lot Line Adjustments
 - ARTICLE VII, Public Transportation Facilities
- E. R & O 86-95 Traffic Safety Improvements
- F. ORD. NO. 738, Road Design and Construction Standards
- G. ORD.691-A, 729, 741, 746, 751, 793-A Transp. Development Tax

RECOMMENDED CONDITIONS OF APPROVAL

I. PRIOR TO COMMENCING ANY ON-SITE IMPROVEMENTS, INCLUDING GRADING, EXCAVATION AND/OR FILL ACTIVITIES THE APPLICANT SHALL:

A. Submit to Building Services Division (503-846-3470) for review and approval:

1. A Grading Permit application. The application shall include detailed plans as required under CDC Section 410-1.2, as well as submittal requirements noted under CDC Section 410-2.1 and 410-2.2 of the Community Development Code.
2. A site utility permit may be required for all private work.
3. Site specific geotechnical engineering report with recommendations for the development of the site is required. The report should be stamped and signed (electronic signature accepted) by an Oregon registered engineer.
4. Provide driveway/drive aisles/parking lot structural details on the plans per site specific geotechnical engineering recommendations.
5. Provide drainage analysis report stamped by a civil engineer that shows that the additional impervious areas as a result of this proposed work will not impact the surrounding properties negatively per **WCC 14.12.310**.

B. A Clean Water Services (CWS) Site Development Permit must be obtained. Application for CWS Site Development Permit must be in accordance with the requirements of the Design and Construction Standards, Resolution and Order No. 19-5 as amended by R&O 19-22 (CWS Standards), or prior standards as meeting the implementation policy of R&O 18-28, and is to include:

1. Compliance with all CWS Standards.
2. Detailed grading and erosion control plan. An Erosion Control Permit will be required. Area of Disturbance must be clearly identified on submitted construction plans. If site area and any offsite improvements required for this development exceed one-acre of disturbance; project will require a 1200-CN Erosion Control Permit.
3. A drainage report including a downstream drainage analysis meeting the requirements of R&O 19-5, Section 2.04.2.m will be required. If downstream storm conveyance does not have the capacity to convey the volume during a 25-year, 24-hour storm event, the applicant is responsible for mitigating the flow as provided in the above named design standards.
4. Detailed plans showing the development having direct access by gravity to public storm and sanitary sewer.
5. Plans showing storm service requirements to each lot. If private lot LIDA systems proposed, must comply with the current CWS Standards and Washington County Plumbing Standards.
6. Any offsite sanitary or storm sewer improvements identified as part of this development may require additional offsite street improvements/restorations. All transportation-related infrastructure, (including but not limited to roadway surfaces and base material) influenced by sanitary or storm sewer improvements, shall be restored to original or better condition.
7. Provisions for water quality in accordance with the requirements of the above named design standards. Water Quality is required for all new development and redevelopment areas per R&O 19-5 Section 4.04. Access shall be provided for maintenance of facility per R&O 19-5, Section 4.07.6.

8. Show all existing and proposed easements on plans. Any required storm sewer, sanitary sewer, and water quality related easements must be granted to Clean Water Services.
9. Application may require additional permitting and plan review from CWS Source Control Program. For any questions or additional information, please contact Source Control at (503) 681-5175.
10. Applicant shall comply with the conditions as set forth in the Service Provider Letter No. 21-000384, dated July 28, 2021.
11. Clean Water Services shall require an easement over the Vegetated Corridor conveying storm and surface water management to Clean Water Services that would prevent the owner of the Vegetated Corridor from activities and uses inconsistent with the purpose of the corridor and any easements therein.
12. Detailed plans showing the sensitive area and corridor delineated, along with restoration and enhancement of the corridor.
13. If there is any activity within the sensitive area, the applicant shall gain authorization for the project from the Oregon Department of State Lands (DSL) and US Army Corps of Engineers (USACE). The applicant shall provide Clean Water Services or its designee (appropriate city) with copies of all DSL and USACE project authorization permits.
14. Any proposed offsite construction activities will require an update to the current Service
15. Provider Letter for this project.

PRIOR TO SEWER CONNECTION PERMIT ISSUANCE

1. **The above noted improvements must be completed to CWS satisfaction.**
 2. **The as-constructed drawings (as-builts), or a bond guaranteeing the as-builts, shall be submitted and accepted by CWS.**
- C. Submit to Land Development Services (Project Planner Paul Schaefer, 503-846-3832):**
1. Submit a completed FEMA-issued Elevation Certificate certified by a professional land surveyor documenting the 100-year flood elevation and evidence of field marks of this elevation provided on site **(prior to any right-of-way disturbances or construction)** if any portion of the proposed project is found to be within the FEMA Special Flood Hazard Area (100-Year Floodplain / Base Flood Elevation 175.9 feet [1988 NAV]),
 2. Copies of all applicable Underground Storage Tank Permits and Certifications issued by Oregon DEQ.
 3. Documentation from the Fire Marshal demonstrating compliance with TVF&R Permit 2021-0056.

II. PRIOR TO FINAL APPROVAL (WITHIN FOUR YEARS OF OBTAINING PRELIMINARY APPROVAL):

- A. The following documents shall be executed (Contact John Kidd, Survey Division, 503-846-7932):**
1. Dedication of right-of-way for **NW 185th Avenue** to a County Arterial standard designation to provide adequate corner radius and pedestrian/utility easements, as approved by the County Engineer.
 2. Dedication of right-of-way for **NW West Union Road** to a County Arterial standard designation to provide a total of 18 feet of right-of-way from legal centerline, including adequate corner radius and pedestrian/utility easements, as

approved by the County Engineer as applicable to provide 48 feet from centerline. At minimum a ten (10) public utility easement shall be provided along West Union Road per Portland General Electric (PGE) discussions with the applicant.

3. Vehicular access restrictions along the entire frontage of NW 185th Avenue.
4. Vehicular access restrictions along the entire frontage of NW West Union Road, except at the approved location(s). *Noting that the western-most access is limited to right-in only – the design of which shall be approved by Traffic Engineering prior to issuance of the Facility Permit.*

B. Submit to Current Planning Services, Public Assurance Staff (503-846-3842):

1. Completed "Design Option" form.
2. \$11,500.00 Administration Deposit.

NOTE: *The Administration Deposit is a cost-recovery account used to pay for County services provided to the developer, including plan review and approval, field inspections, as-built approval, and project administration. The Administration Deposit amount noted above is an estimate of what it will cost to provide these services. If, during the course of the project, the Administration Deposit account is running low, additional funds will be requested to cover the estimated time left on the project (at then-current rates per the adopted Washington County Fee Schedule). If there are any unspent funds at project close out, they will be refunded to the applicant. **PLEASE NOTE:** Any point of contact with County staff can be a chargeable cost. If project plans are not complete or do not comply with County standards and codes, costs will be higher. There is a charge to cover the cost of every field inspection. Costs for enforcement actions will also be charged to the applicant.*

3. Once items (1) and (2) above have been received and processed, you will receive an invitation to our Electronic Plan Review (EPR) system, ProjectDox. Please follow the instructions in the e-mail regarding uploading plans and documents properly. In short: (a) Upload plans into the "Plans" folder, and (b) Upload documents into the "Document" folder; reference Washington County Road Engineering Plan Submittal Checklist, preliminary completeness verification matrix, for a complete list of required documents.

Upload documents into the "Document" folder; reference Washington County Road Engineering Plan Submittal Checklist, preliminary completeness verification matrix, for a complete list of required documents.

Upon final compliance review you will receive an e-mail with final instructions; i.e. download, print and sign the engineers seal for final plan approval.

The engineering plans will need to address the following public improvements:

- a. Complete **NW West Union Road** half-street improvements to a county Arterial standard with the Enhanced Major Street Bikeway designation to include but not limited to the following: paving, sidewalk, planter strip, curb and gutter, street trees, signing, illumination, utility re-location, bike lane, and drainage and two commercial driveways. Improvements required for the two accesses are further described below:

- i. Construct the right-in only access to restrict the access as right-in only. *Noting the current design does not provide enough of a design constraint to prevent west-bound traffic from turning left into the site from the right-turn only access. Traffic Engineering will need to approve the right-in only access design prior to issuance of the Facility Permit or other access permit authorizing construction of the right-in only access.*
- ii. Construct the south leg of the existing West Union Road/Albertsons signal with two outbound lanes (one left turn lane and one shared through/right turn lane) and one inbound lane. Coordinate with Washington County, design and construct the new added traffic signal for the proposed access and modify the existing traffic signal as needed.
- iii. Install protected-plus-permitted left turn phasing capacity for the EB-to-NB left turn movement at the West Union Village Drive/West Union Road intersection prior to the issuance of certificate of the building occupancy.
- b. Provide adequate illumination at the proposed right-in access on NW West Union Road. Direct technical questions concerning this condition or the current Roadway Illumination Standards to Traffic Engineering, at (503) 846-7950.
- c. All other existing accesses shall be closed.
- d. Repair/replacement of any damaged/broken sidewalk panels on NW 185th Avenue and on NW West Union, if applicable.
- e. Construct sidewalks to connect sidewalks constructed on NW West Union Road to the existing sidewalks located east of the site fronting Tax Lot 1N119BC00400. Noting that the application materials stated that the applicant agreed to complete the off-site sidewalk section to fill the sidewalk gap.

NOTE: *These improvements shall be constructed in accordance with the requirements of the Washington County Uniform Road Improvement Design Standards and Roadway Illumination Standards.*

Direct technical questions concerning street lighting or the current Roadway Illumination Standards to the Traffic Engineering Division at 503-846-7950.

These improvements shall be completed and accepted by the County prior to final building inspection approval or occupancy, unless otherwise specified in the Public Improvement Contract.

4. Engineer's construction cost estimate (to be submitted with final set of approved plans for public facility improvements).
5. Geotech/Pavement report prepared and signed by a licensed Oregon engineer supporting the roadway sections.
6. Relocate utilities that are in conflict with street improvements.
7. Provide a Pavement Report prepared by a Professional Engineer. The report will include recommendations for new full depth pavement and/or pavement repair for existing roadway sections affected by the project. The report shall include but is not limited to the following recommendations: Existing pavement condition

analysis, Grind and Inlay/Overlay, pavement repair, "Wet Weather" pavement construction, ESAL calculations, AASHTO pavement design calculations, soil classification, modulus and laboratory test results.

- C. Obtain Departmental approval, provide financial assurance and obtain a Facility Permit for construction of the public improvements listed in Conditions II.B.**

NOTE: The Public Assurances staff of Current Planning Services will send the required forms to the applicant's representative after submittal and approval of the public improvement plans.

- D. As applicable, ensure the maintenance and power costs of streetlight facilities through the petition for service and formation of a Service District for Lighting (SDL) assessment area or other funding method approved by the County. This requirement must be satisfied prior to plat recordation or acceptance of the public improvements.**

NOTE: Contact Stacia Sheelar, 503-846-3679. The formation process takes approximately 4 to 6 weeks.

- E. Submit to Land Development Services (Project Planner Paul Schaefer, 503-846-3832), for review and approval:**

1. Final Approval form (Type I procedure).

NOTE: The final approval application shall contain complete evidence that all Conditions of Approval to occur prior to final approval have been met.

2. Final Approval fee.

3. Final plans and project details showing:

- a. Substantial conformance with plans stamped "preliminary approval" in the casefile. Including locating the Convenience Grocery with the following setbacks (of **no less than**): **1)** Twenty (20 feet from the NW West Union property line (ROW) after 18 feet of additional ROW dedication, **2)** Five (5) feet from the west property line the NW 185th Avenue property line (ROW); and **3)** The canopy shall maintain setbacks of no less than twenty (20) feet from the NW West Union property line after 18 feet of additional ROW dedication. *See also f. below as additional setbacks may be required by PGE concerning the relocated poles and transmission lines (radial setbacks from the lines from the building, canopy and the 4th signal pole).*

NOTE: Pursuant to Section 418-2.1., the future structures, including signage, shall maintain setbacks from the future right-of-way dedication of 18 feet along NW West Union Road.

Final site plans shall continue to reflect the following: Building plans and elevations providing a maximum of 5,000 square feet of gross floor area. This includes the total of the ground/main floor and the second floor mezzanine floor area.

- b. Fueling station designs calling for fueling hoses & nozzles with the capability of reaching both sides of the fuel pump; thereby allowing vehicles to refuel on either side of the fuel island. *Noting that such design measures have been utilized at other local gas stations to help facilitate vehicle circulation which is critical given the proximity of fueling islands to the western-most site access.*
- c. Revise the 16 foot – 3 inch northern two-way access drive aisle to maintain a two-way aisle width of 24 feet.
- d. Revise the southern fence and retaining wall combined heights to comply with Section 419-4 (i.e., max 4 foot retaining wall and max 6 foot fence).

- e. Revised building facades for the north, south and west building faces to include additional architectural façade treatments, including windows, use of different building materials and colors, and/or an expansion of the green wall concept to other walls, should be incorporated into the final plans and elevations.
 - f. Revised landscaped areas to provide at least 120 square feet of interior parking area landscaping (i.e., landscape islands) and that all landscape islands used to comply with parking area landscaping contain a minimum of 120 square feet.
 - g. Written documentation from PGE approving the building and canopy locations and heights in relationship with the powerlines and poles in order to assure that adequate radial separation will be maintained between the overhead transmission lines and all structures and the new 4th signal. Contact PGE Services Coordination Department at 503-323-6700.
 - h. Final plans that shall ensure that none of the foundations, underground tanks, including any physical containment barriers, are located within the PUE. (Noting that there shall also be no restrictions or barriers to where new poles will be relocated [in the event that the applicant pays fee in lieu rather than construct the half-street improvements]. The new signal pole shall also be designed to accommodate the relocated overhead power lines.)
- 4. Copies of the new recorded deed and survey demonstrating that the approved Property line Adjustment (L1900411-PLA) has been recorded and all taxes have been paid implementing the approved Property Line Adjustment and provide evidence that the lots have been consolidated.
 - 5. A delineation of the Flood Plain to include the engineer's original signature and wet stamp prior to issuance of the Facility Permit to the applicant for construction of the public improvements. Noting, that the applicant shall obtain approval of a Flood Plain Alteration permit if improvements encroach with the delineated Flood Plain. See *Condition of Approval I.C. above.*

III. PRIOR TO SUBMITTAL OF A BUILDING PERMIT(S):

- A. Obtain Final Approval, as required above.**

IV. PRIOR TO THE ISSUANCE OF A BUILDING PERMIT(S):

- A. Pay System Development Charges as applicable.**

NOTE: Transportation Development Tax shall be required as determined by Ordinance #793-A.

- B. Submit with building plans and elevations to Building Services (503) 846-3470, site development plans consistent with the final plans approved by Land Development Staff.**

V. PRIOR TO BUILDING OCCUPANCY AND/OR FINAL BUILDING INSPECTION APPROVAL:

- A. All public improvements shall be completed and accepted by the County (Conditions of Approval II.B.3.)**
- B. All facilities and improvements required by Clean Water Services shall be completed and approved by the District, including implementation of the Vegetated Corridor enhancement and mitigation plan prepared by PHS, Inc. Applicant shall submit to Project Planner written verification from PHS, Inc. demonstrating that the revised plan has been implemented and accepted by CWS.**
- C. Install all landscaping, including street trees, in accordance with the approved final plans approved by Land Development Staff. Street trees shall meet the 35 foot spacing standard of Section 407-7.**

VI. ADDITIONAL CONDITIONS:

- A. Adequate sight distance shall be continuously maintained by the property owner(s) at any access to a public road serving the subject site. This may require the property owner(s) to periodically remove obstructing vegetation from the road right of way (and on site).**
- B. This development shall be constructed in accordance with the conditions of this decision, the approved final plans and the standards of the Community Development Code (Section 207-5).**
- C. All conditions of approval shall be binding upon all heirs, successors and assigns (Section 207 5).**
- D. Transferability of this Development Permit shall be in accordance with Section 201-8.**
- E. No display of merchandise outside the building except small items such as oil, windshield wiper blades and tires (limited to one rack of 20).**
- F. No outside storage or sale of vehicles is permitted for more than 24 hours per vehicle.**
- G. Maintain current permits and certifications issued by Oregon DEQ for the underground fuel storage tanks.**
- H. Approval by PGE shall be included in the sign permit application for the freestanding pole to be located within the PUE along West Union Road.**
- I. This approval shall automatically expire four years from the date of this approval, unless development has commenced, an application for an extension is filed, or this approval is revoked or invalidated (Section 201-4).**

Attachment C

STAFF REPORT

I. APPLICABLE STANDARDS

- A. Washington County Comprehensive Plan
- B. Sunset West Community Plan
- C. Washington County Community Development Code:
 - 1. Article II, Procedures:
 - Section 202-2 Type II Procedure
 - Section 202-3 Type III Procedure
 - Section 207-5 Conditions of Approval
 - 2. Article III, Land Use Districts:
 - Section 311 Neighborhood Commercial District (NC)
 - 3. Article IV, Development Standards:
 - Section 404 Master Planning
 - Section 405 Open Space
 - Section 406 Building Siting and Architectural Design
 - Section 407 Landscape Design
 - Section 408 Neighborhood Circulation
 - Section 410 Grading and Drainage
 - Section 411 Screening and Buffering
 - Section 413 Parking and Loading
 - Section 414 Signs
 - Section 415 Lighting
 - Section 416 Utilities
 - Section 417 Irrigation
 - Section 418 Setbacks
 - Section 419 Height
 - Section 421 Flood Plain and Drainage Hazard Area Development
 - Section 422 Significant Natural Resources
 - Section 423 Environmental Performance Standards
 - Section 426 Erosion Control
 - Section 429 Bicycle Parking
 - Section 430 Special Uses
 - 430-35 Convenience Groceries
 - 430-123 Service Stations
 - Section 435 Variances and Hardship Relief
 - 4. Article V, Public Facilities and Services:
 - Section 501 Public Facility and Service Requirements
 - Section 502 Sidewalk Standards
- D. Ordinance No. 768-A, 783-A, 799-A – Washington County Transportation System Plan
- E. Ordinance No. 793-A - Washington County Transportation Development Tax Ordinance
- F. Ordinance No. 738- Road Design and Construction Standards Uniform Road Improvement Standards
- G. Resolution & Order 86-95 - Determining Traffic Safety Improvements
- H. Resolution and Order No. 19-05 - Erosion Control, Water Quality and Water Quantity, as amended by Resolution and Order No. 19-22

II. AFFECTED JURISDICTIONS

| | |
|-----------------------------|--|
| State Highways: | Oregon Department of Transportation |
| Sewer: | Clean Water Services |
| Streets: | Washington County Dept. of Land Use and Transportation |
| Drainage: | Washington County Dept. of Land Use and Transportation |
| Water Quality and Quantity: | Clean Water Services |
| Erosion Control: | Clean Water Services |
| Water: | Tualatin Valley Water District |
| Fire Protection: | Tualatin Valley Fire & Rescue |

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|--------------------|---|
| Police Protection: | Washington County Sheriff |
| Schools: | Beaverton School District |
| Transit: | Tri-Met |
| Parks: | Tualatin Hills Park & Recreation District |

III. FINDINGS

Background Information:

1. The request is for Special Use and Development Review approval for a two story 4,983 square foot square commercial development¹, "Chevron Market", (**Super Convenience Market / Gas Station**) served by 5 fueling islands (2 pumps per fueling island for a total of 10 pumps), 22 parking spaces (10 at the pumps and 12 surface parking spaces) and associated site landscaping. *See Section 311 of the Staff Report for findings addressing the size of the proposed Convenience Grocery.*

Other project elements include: An Access Management Plan (AMP) to allow two accesses to NW West Union Road, and Variances to reduce: **1)** the front yard setback (from NW 185th Avenue) from 20 feet to 2 foot², and **2)** the street side yard setback (from NW West Union Road) from 20 feet to 10 feet for the main structure and also from 20 feet to 15 feet for the canopy.
2. The subject property is located at 18450 NW West Union Road (Tax Lots 1N119BC00500 and 600). The subject site is 1.21 acres and is designated Neighborhood Commercial (NC) on the Sunset West Community Plan. The applicant obtained approval of a Property Line Adjustment (Casefile L1900411-PLA) to consolidate the two tax lots. The approved PLA will need to be recorded and taxes paid (if any) prior to issuance of Final Approval.
3. Access will occur from two driveways on NW West Union, for which the applicant requested approval of an Access Management Plan. The first and western-most driveway is proposed as right-in only and is located approximately 210 feet east of NW 185th Avenue. The second driveway is aligned with the commercial driveway serving the Albertson's shopping center on the north side of NW West Union Road. The second driveway is located about 440 feet east of NW 185th Avenue and will be improved to comprise the 4th leg of the signalized intersection. Applicable access standards are described in Attachment, D, Transportation Report, and D1, Traffic Engineering AMP Report (Jinde Zhu).
4. The requested Variances are largely in response to the narrow north/south dimension of the site and the rather long but narrowing east-west dimension (noting that the site is generally configured as very short but wide triangular corner lot). Staff generally support the idea of reducing setbacks from West Union Road and from NW 185th Avenue, just not to 2 foot. Staff support a 5 foot setback from NW 185th Avenue. Staff finds that a minimum of 5 feet is needed to perform routine building and landscaping maintenance. Staff further opines that minimal adjustments will be needed and can be feasibly made to maintain these adjusted reduced setbacks). *See findings in Section 435 and in Attachment D. pertaining to needed right-of-way dedication.*
5. Lastly, the applicant requests approval an Exception to the Half-Street Improvements required for NW West Union Road pursuant to Section 501-8.2 G. *(noting that the existing improvements completed on the site's NW West Union Road frontage were constructed as interim improvements.)* As documented in Attachment D, staff find

¹ 4,983 gross square would generate based on ITE Category 960 about 4,174 new trips (837.58 trips / 1000 square feet of gross floor area = 837.58 x 4,983 = 4,174 new trips).

² A water quality facility is located between the west property line (and the proposed structure) and the existing sidewalk on NW 185th Avenue. The facility is about 35 feet wide.

that half-street improvements are roughly proportional to the impacts from the proposed development. In brief, there are 4,174 new daily vehicle trips per ITE Trip Generation Manual (Category 960), which equate to significant increase as a percentage of the number of trips on West Union (based on 2019 traffic counts). See *Attachment D*.

6. Several letters/e-mails were received for this project at time of this report; one from CPO 7 and the several from concerned area residents. Key concerns expressed in these comments are provided below. A staff response to the key concerns follows. Any new comments will be provided to the Hearings Officer and placed into the Casefile.

Mary Manseau (CPO 7 Comments) expressed the following key concerns: 1) inadequate Section 411 Screening and Buffering to the south, 2) too large of a development to be considered "small to medium sized" for the neighborhood, 3) justification of the requested variances, and 4) the adequacy of on-site circulation.

Nisha George (16822 NW Vetter Drive) expressed the following key concerns: 1) an environmental threat to the wetlands and Bethany Lake to the south, 2) potentially hazardous waste site, and 3) unproven long term business viability.

George Cabaniss (5045 NW 118th Terrace) expressed the following key concerns: 1) an environmental threat to Rock Creek located off-site to the south, 2) increased traffic and impacts to traffic safety, and 3) potentially hazardous waste site from tanks that could potentially leak.

Alex Bailey (17878 NW Deerfield Drive) expressed the following key concerns: 1) an environmental threat to Rock Creek located off-site to the south, 2) increased traffic, and 3) potentially hazardous waste site from tanks if there potentially leak.

Maria Fernandez-Dias (17878 NW Deerfield Drive) expressed concerns that any spills on site would contaminate Bethany Lake, located south of the site and predominately west of NW 185th Avenue.

Audrey Farrell (5528 NW Burning Tree Court) expressed the following key concerns: 1) environmental impacts could result from a gas station built too close to the wetlands and Bethany Lake. 2) increased traffic and safety concern for pedestrians & children, and 3) illumination of the development at night.

Monica Lin-Meyer (15942 NW Wismer Drive) expressed the following key concerns: 1) significant increase in traffic at the already busy intersection, 2) increase in noise and light pollution, and 3) potential fuel leaks from the tanks.

Noah Gonzalez (16152 NW Spartan Way) expressed the following key concerns: 1) environmental impacts could result from a gas station if the tanks were to leak, and 2) increased traffic and resulting congestion from traffic turning onto West Union from 185th Avenue.

Brandon Philips (16822 NW Vetter Drive) question why ITE Category 945 and not 960 was used in the previous staff report for the convenience store and gas station.

Dave Burdick (6638 NW 163rd Avenue) expressed a concern that the gas station will potentially harm the resource area and wildlife.

Molly Burdick (6638 NW 163rd Avenue) expressed the following key concerns: 1) the gas station will harm the environment and wildlife who live in the area, and 2) the likelihood is high of fuel spills.

Elise Lebeau (15221 NW Marie Way) expressed a concern that the gas station will leak fuel into the offsite stream and cause environmental harm.

Jeremy Rear (16846 NW Oakridge Drive) expressed concerns that the gas station is an environmental threat to the natural areas near the site, whether from potential tank leaks or contaminates reaching the resource area through stormwater runoff.

Shelley Signett (18900 NW Lapine Street) expressed the following key concerns: 1) variances should not be approved rather the setbacks should be upheld, 2) an environmental threat as the tanks could leak and/or future generations could be burdened with decommissioning the tanks, and 3) the site should be preserved as the natural wildlife habitat that it is.

John Signett (18900 NW Lapine Street) expressed the following key concerns: 1) the variance requests for reduced setbacks should be denied, 2) the installation of underground tanks should not be approved, and 3) the proximity to the natural resource area make this a very poor location for this business.

Pat Sandquist (18925 NW Lapine Street) expressed the concerns with the potential environmental impacts from spillage (of fuel) that are inevitable and that this area needs to be protected from development due the area's purpose for recreation and wildlife habitat. Mr. Sandquist also questioned why Variances should be granted.

Wendy Woo (17720 NW Elk Run Drive) expressed the concerns with the size of the proposed development and commented that the proposed 10 pump gas station is not conducive to the land use intent especially in the quiet residential area with wetlands and trails near the site.

Frieda Rusert (4865 NW 187th Avenue) expressed concerns that the development will increase traffic congestion and that rain runoff from the station would directly pollute the surrounding wetlands and harm the resources and wildlife.

Kerstin Oberwagner (17317 NW Blacktail Drive) expressed concerns with pedestrian safety as there are lots of children who walk to school in this area and also that gas leaks would harm the resources and wildlife.

Nicole Bender (20800 NW Rock Creek Blvd.) expressed concerns that the gas station will increase traffic congestion in this area and that the environmental threat to the natural areas and wildlife near the site is high.

Robert Satchell (4645 NW 176th Avenue) expressed concerns that the gas station poses several hazards as it is too close to wetlands and natural resource areas. The proposed use will cause noise and light pollution and potentially pollute the nearby water areas and impact wildlife and people recreating in the park and on the trails and fishing in Bethany Lake. Increased traffic will also result.

Peggy Erick (18895 NW LaPine Street) expressed concerns that the gas station site is too small and there are other gas stations in the area and the tanks could leak and impact the environment.

Sarah Orem (16933 NW Swiss Lane) expressed concerns that the gas station is proposed in area with increasing use of electric vehicles and should not be built at this location which is close to wetlands and the Rock Creek Greenway.

Colleen Adler (17486 NW Reindeer Drive) expressed concerns that the gas station is should not be built at this location which is close to wetlands and for impacts to student safety who walk this route to Westview High School and Rock Creek Elementary.

Steve and Deann DuFrene (4960 NW Kahneeta Court) expressed key concerns that the gas station is should not be built this close to wetlands due to potential leaks and that the existing setbacks should be upheld.

Joe Lopez (4356NW Palmbrook Drive) expressed key concerns that the gas station poses several hazards as it is too close nearby natural resource areas which would be impacted if there were tank leaks and that setbacks in the Code should be applied to keep the building from being too close to the streets.

Dan Grilli (5579 NW Deerfield Way) expressed key concerns that the gas station poses as a source for pollution and environmental impacts, cause traffic congestion and be neighborhood blight and be susceptible to failure in the event of natural disasters.

Tomas Jankovsky (5188 NW 177th Avenue) expressed key concerns that the gas station could result in environmental impacts from leaks and other pollutants and will not enhance the quality of life of residents in the area who enjoy the nearby natural areas.

Felicia Kilger (5390 NW 169 Place) expressed concerns that fuel could leak into the wetlands and impact the environment.

Robert Satchell (4645 NW 176th Avenue) expressed concerns that the gas station poses several hazards as it is too close to wetlands and natural resource areas. The proposed use will cause noise and light pollution and potentially pollute the nearby water areas and impact wildlife and people recreating in the park and on the trails and fishing in Bethany Lake. Increased traffic will also result.

Brandon Philips (16822 NW Vetter Drive) expressed key concerns that the reduced setbacks enables the gas station to become an environmental hazard and results in a development that is not consistent with the purpose of the Neighborhood Commercial (NC) District.

Robin Pope (18021 NW Anastasia Drive) expressed key concerns that the gas station site is at a flood risk due to the area flood plain and that the increased traffic will cause problems in the already heavily trafficked area.

Jijay Bhat (5370 NW 169th Place) expressed key concerns that the gas station is too close to wetlands and natural resource areas, and poses an environmental hazard and will cause too much traffic at an already busy intersection.

Alan John (4475 NW Kahneeta Drive) expressed concerns that the gas station poses several hazards as it is too close natural resource areas.

Carmen Steen (4600 NW Columbia Avenue) expressed concerns that the gas station poses hazards to the wetlands and natural resource areas. The gas station will cause increased traffic and become a hazard to area wildlife and the community.

Shareef Hakim (5453 NW 169th Place) expressed concerns that the gas station poses potential hazards as it is too close natural resource areas if the tanks were to leak.

Nicola Robertson (5453 NW 169th Place) expressed concerns that the gas station poses potential hazards as it is too close natural resource areas if the tanks were to leak.

Virginia Bruce (3270 NW Kinsley Terrace) expressed concerns that the gas station poses hazards to the wildlife from lighting emanating from the site, including vehicles.

Manan Goel (6995 NW 170th Avenue) expressed concerns that the gas station poses hazards to the natural resource areas and nearby water body. The gas station will cause increased traffic which will impact the intersection and be hindrance to the neighborhood.

Rafael and Toni Sierra (5437 NW 169th Place) expressed concerns that the gas station could harm the natural resource areas if there were and that the variances should not be approved if reduced setbacks are needed to be profitable There are other gas stations in the area for local residents.

Fan Chen (6048 NW 165th Terrace) expressed concerns that the gas station poses potential hazards to Bethany Lake and area wetlands.

Rafael and Toni Sierra (5437 NW 169th Place) expressed concerns that the gas station could harm the natural resource areas if there were and that the variances should not be approved if reduced setbacks are needed to be profitable. There are other gas stations in the area for local residents.

Bruce Goya (5437 NW 169th Place) expressed concerns that the gas station could harm the natural resource areas if there were gas leaks from the tanks and that there is need for a gas station is not needed at this location.

Masako Jankovsky (5188 NW 177th Avenue) expressed key concerns that the gas station will impact the safety of the community from increased traffic, potential damage from natural disasters to the gas station on nearby natural resources and that any financial burden should not be the reason to reduce the setbacks.

Julie Sutton (18972 NW Northshore Court) expressed concerns of the risks of building a gas station at this location. The surrounding natural resource areas are very important to the community and the intersection cannot handle the increased traffic.

John Blyler (4115 NW Columbia Avenue) expressed key concerns that the gas station will add increased traffic and is poor use of the land. The gas station's tanks will eventually leak and harm the environment. The gas station is not needed.

Anirudh Venkataramanan (18985 NW Northshore Court) expressed concerns of environmental impacts and traffic and safety concerns. The gas station is not needed with other stations in the area and increase in the use of electric vehicles in this area.

Joshua McLindsay (10495 NW Flotoma Drive) expressed support for the addition of electric charging stations.

Anna Mohnen (18943 NW Northshore Court) expressed concerns that the gas station will impact the environmental and health for the immediate residents and wildlife with the threat of pollution, ecological damage and health hazards for residents and other people. The risk of leaks and clean up is too high for this gas station.

Kaye Gardner-O'Kearny (16883 NW Waterford Way) expressed concerns that the gas station will impact the natural areas that are home to many varieties of wildlife and will cause light and air pollution from the increase in traffic. Potential tank leaks are likely to happen which would impact the nearby wetlands.

Tammy Jones (19033 NW Northshore Court) expressed concerns that the gas station will impact the environment, cause more traffic congestion to an already congested area, and impact wildlife.

Monica Spisla (3876 NW Mortensen Terrace) expressed concerns that the gas station will impact livability and traffic in the area and is too close to Bethany Lake.

Jijay Bhat (5370 NW 169th Place) expressed key concerns that the gas station is too close to wetlands and natural resource areas, and poses an environmental hazard and will cause too much traffic at an already busy intersection and increase the risk of accidents of people frequently entering and exiting the site near the intersection.

Nathaniel Silver (18715 NW Tolovana Street) expressed concerns that the gas station will impact the environmental with the risk of tank leaks located close to existing wetlands.

Elizabeth Silver (18715 NW Tolovana Street) expressed concerns that the gas station will impact walkability as there are lots of high school students who walk to and from school in this area. The environmental impacts from potential leaks and increased traffic and pollution are too great to approve the gas station. There are numerous accidents that occur in the area which could be made worse with the increase in traffic from this project.

Fengua Liu (5210 NW Shoreline Way) expressed key concerns that the gas station will impact the environmental resources from waste in stormwater runoff and that there is no need for a gas station on this site as there are gas stations within 1.5 miles from the site. There is also no reason to reduce the setbacks.

Nisha George (16822 NW Vetter Drive) expressed the concerns with granting approval of the variances and that the applicant should design the project within the setbacks.

William Gardner-O'Kearny (16883 NW Waterford Way) expressed concerns that the gas station will impact the natural areas and nearby wetlands and that an adequate buffer is not provided and that the gas station will cause environmental and health hazards to the community.

Susan Nolte and Lee Grunes (17055 NW Springville Road) expressed key concerns that the gas station is too close to wetlands and natural resource areas, and will cause too much traffic at the very busy intersection. The applicant is requesting several exceptions to make this project economically feasible without any perceptible community benefit. The gas station and convenience store is not appropriate nor does it serve community needs.

Alan Bennett expressed the concerns with proposal to construct gas station on this site as there are several large commercially-zoned properties with vacant stations around the incorporated limits of Hillsboro and Beaverton.

Staff: The development site is designated NC and the property to the south is designated Institutional. According to Section 411-5, the screening and buffering required between the development site and the park land to the south (designated Institutional District) is to be determined by the Review Authority.³ The lands to the south consist of Goal 5 resources and developed park lands, including a regional trail and open lawn areas. Staff finds that the existing Goal 5 resources provide a substantial buffer between the proposed development, such that screening and buffering elements otherwise required by Section 411 are not necessary. An 8-foot solid masonry block wall, as suggested, would in staff's mind, be too extreme when the creek is about 55 feet to the south of the site and the closest home to the south is more than 300 feet from the development site. The applicant proposes to construct a 6-foot privacy fence along the top of the short retaining wall along the south property to provide screening and buffering. See Section 411 of the Staff Report.

The development site is 1.21 acres in size; while the minimum lot size of the NC District is 8,500 square feet. The size of convenience stores in the NC District is limited to no more than 5,000 square feet of gross floor area (Section 311-3.3) while service stations (gas stations) are not yet limited in size in the NC District.

Development compliant with these standards would be presumed to satisfy the purpose of the NC District as cited in Section 311-1. See Sections 311 and 435 of the Staff Report.

Sheet C224 illustrates the fuel truck turning movement (for the double tank trucks). The illustrated turning movements are very similar to those shown on Sheet C824, which reflects the completion of the full half-street improvements to NW West Union Road. The plan is based on and anticipates all fueling trucks to access the site from the west; thus utilizing the proposed right-in only access from NW West Union Road located about 210 feet from NW 185th Avenue. Consequently, staff find that the applicant will need to ensure that all fueling truck drivers access the site from the west. See also Section 413 as it relates to the internal vehicular access drives (noting that the site plan provides what amounts to a 16 ft – 3 inch wide two-way drive aisle

³ Footnote 1: When adjacent to the Urban Growth Boundary, City Limits or the Institutional District, the Screening and Buffering shall be determined by the Review Authority.

near the right-in only access). In order to provide adequate on-site circulation in this area, the two-way drive aisle shall be revised to provide at least 24 feet of paved drive aisle. Two way drive aisle are required to have a width of at least 24 feet (Section 413-3.2).

Service Stations (fueling pumps) are subject to permitting requirements from the Oregon Department of Environmental Quality (DEQ). The Oregon Department of Environmental Quality issues an annual operating certificate with the understanding that the underground storage tank (UST) permittee (applicant) will operate in accordance with the conditions and requirements outlined in Oregon Administrative Rule (OAR) 340-150-0163. DEQ approvals/permits are required in addition to county land use approval. Further, Oregon's Underground Storage Tank (UST) Program, which is under DEQ's Land Quality Division, deals with matters related to *"tank registration and operating certificates; installation, operation and removal of UST's; cleanup of soil and groundwater contamination from petroleum leaks; training of system operators; financial liability protection for future leaks, licensing of contractors working on UST's and enforcement of state UST rules."* And as it pertains to environmental quality involving underground tanks, Oregon tank owners and permittees as well as the public, benefit by having a single set of state requirements enforced, thus eliminating duplicative state and federal requirements. Clean Water Services also ensures that the proposed development will comply with the District's design and construction standards concerning storm water management & treatment and sanitary sewer conveyance. DEQ and CWS requirements, in particular, are designed and anticipated to protect against adverse environmental impacts from the service station at this location. Lastly, the possibility that the tanks may leak in the future does not constitute a denial criteria for the proposed Type II land use.

The Special Use standards of Section 430-123 do not regulate service stations based on the long term business viability. Staff anticipate that the owner will operate the proposed service station and convenience grocery for many, many years. Ultimately it is the property owner/operator of the development who determines the financial viability of the proposed use in much the same as owners/operators of retail establishments.

The applicant proposes pole lights located along the boundaries of the parking/drive aisles to illuminate the drive aisles for drivers, lighting underneath the canopy and a few wall lighting sconces on the west side of the building. The proposed commercial development is not subject to CDC Section 415. Yet the applicant provided lighting details and photometrics that satisfy Section 415 with respect to minimizing spill over of lighting onto adjacent parcels. And the proposed sight obscuring fence along the southern property line will further block vehicle light from spilling off site.

The proposed commercial development will generate additional vehicle trips. Traffic Engineering has reviewed the proposed access report and Access Management Plan for the proposed development and has concluded that the proposed accesses will be safe provided certain improvements are completed (See Attachment D. and D1 and the Recommended Conditions of Approval in Attachment B of this report).

Staff responses to other concerns are presented in this Staff Report and in the Transportation Report (Attachment D and D.1) as they address compliance with applicable Code compliance and address concerns with the reduced setbacks and increase in trips.

7. Letters were received from Clean Water Services, and the Washington County Building Division and Washington County Engineering, (see Casefile). Copies of all agency letters were provided to the Hearings Officer and placed in the Casefile and hearing record.

Where appropriate, the recommendations proposed in these letters are included as Recommended Conditions of Approval in Attachment B of this report.

8. Application Submitted: March 30, 2021
Application Deemed Complete: September 8, 2021
Public Hearing Date: November 18, 2021
120 Day Clock: January 6, 2022

A. Washington County Comprehensive Framework Plan:

There are no specific Plan policies or goals that affect this request that are not implemented by the Code or the Community Plan. The Framework Plan requires development applications to be in compliance with the Community Development Code and the applicable Community Plan. By demonstrating in this report that the request complies with the standards of the Code and the Community Plan, this Plan requirement will be satisfied.

B. Sunset West Community Plan:

The site is located in the Rock Creek subarea.

The site is not located in an Area of Special Concern.

The site is designated as a Significant Natural Resource (a narrow portion of the southern property is designated with Title 13 Riparian areas). *None of the treed area of the site are identified as Wildlife Habitat nor are any of the trees required to be retained.*

The site does not contain a Historic Resource.

The project has been reviewed for conformance with the applicable Community Plan General Design Elements. The Community Plan is implemented by the Community Development Code. When built in conformance with the Conditions of Approval, the project will be in compliance with the Community Plan.

C. Washington County Community Development Code:

1. Article II, Procedures:

202-2 Type II Procedures

- 202-2.1 *Type II land use actions are presumed to be appropriate in the District. They generally involve uses or development for which review criteria are reasonably objective, requiring only limited discretion. Impacts on nearby properties may be associated with these uses which may necessitate imposition of specific conditions of approval to minimize those impacts or ensure compliance with this Code.*

STAFF:

The site is being developed as a two-use commercial development with a **convenience market** (311-3.3) and **service station** (311-3.15), which are listed as Type II uses in Section 311-3. The "Chevron Market" will consist of a **Super Convenience Market / Gas Station** (as classified by ITE Code 960) as it includes a two story 4,983 square foot building served by 5 fueling islands (2 pumps per fueling island for a total of 10 pumps).⁴

202-3 Type III Procedures

- 202-3.1 *Type III actions involve development or uses which may be approved or denied, thus requiring the exercise of discretion and judgment when applying the development criteria contained in this Code or the applicable Community Plan. Impacts may be significant and the development issues complex. Extensive conditions of approval may be imposed to mitigate impacts or ensure compliance with this Code and the Comprehensive Plan.*

- 202-3.2 *The following are Type III actions:*

- A. *Those identified in this Code as Type III;*

⁴ In the NC District, Convenience Groceries are limited to a **maximum** of 5,000 square feet of gross floor area, regardless of how the floor area is used. Hence, the floor area of the second floor mezzanine counts towards the maximum gross floor area allowed of 5,000 square feet.

STAFF: Variances are identified in the CDC as being subject to the Type III Procedure. Therefore, the Hearings Officer will consider the Variance requests at a public hearing. Further, if not for the Variance requests, the land use application would be processed through the Type II Procedure (no public hearing). The Hearings Officer's decision will also address all other elements of the proposed development as part of the land use proceedings. Notwithstanding, the proposed Convenience Grocery and Service Station as Type II uses are **not** subject to the Type III Denial Criteria, set forth in Section 403-3.1. See Section 435 of the Staff Report.

207-5 Conditions of Approval

- 207-5.1 *The Review Authority may impose conditions on any Type II or III development approval. Such conditions shall be designed to protect the public from potential adverse impacts of the proposed use or development or to fulfill an identified need for public services within the impact area of the proposed development. Conditions shall not restrict densities to less than that authorized by the development standards of this Code.*
- 207-5.2 *In addition to conditions imposed pursuant to Section 207-5.1, a condition is valid and enforceable when the applicant has:*
- A. Requested the condition;*
 - B. Consented to the condition in writing or on the record; or*
 - C. Established or commenced the development or use (other than a valid nonconforming use) prior to approval; or*
 - D. Submitted graphics or other application materials that were reviewed and approved by the Review Authority; the application must substantially comply with the application materials except as modified by the Review Authority.*

STAFF: Conditions of approval are recommended to be imposed to ensure compliance with the standards of the Code and other County regulations and to mitigate certain adverse development-related impacts to the surrounding area. Recommended Conditions of Approval, listed in Attachment B, are intended to ensure the project is in conformance with applicable code standards and comments from other departments and agencies.

2. Article III, Land Use Districts:

Section 311 Neighborhood Commercial District (NC)

311-3 Uses Permitted Through a Type II Procedure

The following uses are permitted subject to the specific standards for the use set forth below and in applicable Special Use Sections of Section 430, as well as the general standards for the District, the Development Standards of Article IV and all other applicable standards of the Code. Approval may be further conditioned by the Review Authority pursuant to Section 207-5.

311-3.3 *Convenience Groceries, with a maximum gross floor area of five thousand (5000) square feet - **Section 430-35.***

311-3.15 *Service Station - **Section 430-123.***

STAFF: The proposed development includes a 4,983 square foot building containing a convenience grocery store (market) and service station served by 5 fueling islands (10 pumps) and 12 off-street parking spaces, plus associated vehicular maneuvering areas and site landscaping. The Convenience Grocery is proposed to consist of two floors with the first floor containing 4,296 square feet of Convenience Grocery; while the proposed second floor mezzanine

containing 687 square feet. The second floor, which provides useable [gross] floor area for storage and equipment counts towards the cap of 5,000 square feet of gross floor area.

The preliminary plans and building elevations provide a Convenience Grocery with a **maximum** gross floor area of less than 5,000 square feet (Noting that Convenience Groceries located in the GC and CBD Districts are not subject to size limits). Staff has included a recommended condition of approval in Attachment B of this report requiring that the final building plans and site plans showing a structure with a maximum floor area of 5,000 square feet. It is worth noting that even at a smaller size of 4,983 square feet, the use is in line with the first of the two special characteristics of the Super Convenience Market and Gas Station. See Section 430 of the Staff Report.

311-6 Dimensional Requirements

311-6.1 Lot Area:

The minimum lot area shall be eight thousand five hundred (8500) square feet.

STAFF:

The development site encompasses 1.21 acres, which is significantly larger than the Code minimum. Noting that a separate property line adjustment was processed to consolidate the two tax lots into a single development site (one tax lot); Casefile L1900411-PLA approved the lot consolidation.

311-6.2 Yard Requirements:

The minimum yard requirements shall be as follows:

A. Twenty (20) foot front yard;

STAFF:

As a corner lot, staff finds that the NW 185th Avenue frontage to be the front lot line, for it is the shortest of the two street frontage dimensions pursuant to Section 106-113.1.⁵ The applicant's site plans show a 2-foot street front setback from NW 185th Avenue, but with the existing stormwater facility west of the site, the building would be more than 40 feet from the sidewalk on NW 185th Avenue. The water quality facility effectively functions as the front yard setback and due to the exiting constraints, including frontage on two Arterials and the short and wide triangular shaped corner lot development site, the applicant requests approval of a Variance to reduce the front yard setback from 20 feet to 2 foot. However, staff does not support a 2 foot setback from the west property line which would also be 2 foot from the chain fenced-lined water quality facility.

A 2 foot setback does not provide any room to access this side of the building to perform repairs or maintenance, such as wall lighting repairs/maintenance, painting, landscape maintenance. Staff finds that at least 5 feet is needed to provide adequate access in which to stand a ladder and to have workable space. It is worth noting that the County Engineer has concluded that dedication of an additional 18 feet of right-of-way along NW West Union Road is sufficient. Further, no additional right-of-way dedication is anticipated along NW 185th Avenue, except as may be needed to provide adequate corner radius with the widening of NW West Union Road. See Section 435 of the Staff Report.

B. Side Yards:

- (1) Abutting a Residential or Office Commercial District, the side and rear yard shall be no less than that required by the abutting district;*
- (2) Except on corner lots and as in one (1) above, there are no required side or rear yards;*
- (3) On a corner lot, the side or rear yard abutting the street shall be twenty (20) feet; and*

⁵ 106-113.1 **Front Lot Line.** For interior lots, a line separating the lot from the street right-of-way. For corner lots, the line separating the narrowest frontage from the street right-of-way.

STAFF: The property, a corner lot, has 20 foot street side (NW West Union Road) yard setback requirements but no interior side yard (south property line) setbacks. As with the front yard setbacks, due to the exiting constraints, including frontage on two Arterials and the triangular shaped development site, the applicant requests approval of a Variance to reduce the street side yard setback from 20 feet to 10 feet for the two-story structure **and** from 20 feet to 15 feet for the proposed canopy. It is worth noting that additional right-of-way dedication is required along NW West Union Road to accommodate the build-out of the planned five (5) lane Arterial, also designated as an Enhanced Major Street Bikeway.

As discussed in Section 435 of the Staff Report, staff does not support the reduced setback to NW West Union Road. The findings do not adequately demonstrate why a setback-compliant building design cannot be utilized (e.g., a larger second floor accommodating more storage and/or office area, slightly smaller building footprint, etc.). The additional 10 feet of setback will help PGE when it comes to relocating the existing transmission lines to ensure adequate setback from the building. A slightly smaller Convenience Store would continue to be comparable to the 4,700 square feet of a typical convenience store according to the National Association of Convenience Stores (NASC) and significantly larger than the two closest convenience stores (one on Cornelius Pass Road south of West Union Road and the other on the west side of 185th Avenue, south of Evergreen Parkway) and the applicant's other convenience store and gas station located at Murray Blvd. and Allen Blvd.

See Section 435 of the Staff Report and Attachment D. for findings on the amount of right-of-way dedication required.

C. Twenty (20) foot rear yard; and

STAFF: The proposed structure (canopy) greatly exceeds the 20 foot rear yard (from the east property line) setback, in part, due to the wide triangular shaped parcel and the narrowing of the lot at the east property line. In fact, the structure will maintain a rear yard setback (from the east corner of the property) of more than 500 feet due to the very wide lot dimension.

D. Additional setbacks may be required as specified in Sections 411 and 418.

STAFF: At this time, staff has not identified any other setbacks that are needed to be imposed on the proposed development. *See Sections 416 and 435 of the Staff Report.*

311-6.3 *Height:*

- A. The maximum height for structures shall be thirty-five (35) feet except as modified by other Sections of this Code.*
- B. Normal building appurtenances and projections such as spires, belfries, cupolas, chimneys, ventilators, elevator housings or other structures placed on or extending above roof level may exceed the thirty-five (35) foot building height limit to a maximum height of sixty-five (65) feet.*
- C. The height of telecommunication facilities are regulated by the Permitted Use sections of this Land Use District, Sections 201, 430-1, 430-109 and other applicable provisions of this Code.*

STAFF: The proposed building and covered awning/canopy (over the fueling islands) are both less than 35 feet in height. The building elevation indicates that the two story structure is less than 28 feet in height and the canopy measures 20 feet – 6 inches in height. Verification will occur prior to issuance of the building permits.

3. **Article IV, Development Standards:**

Section 404 Master Planning

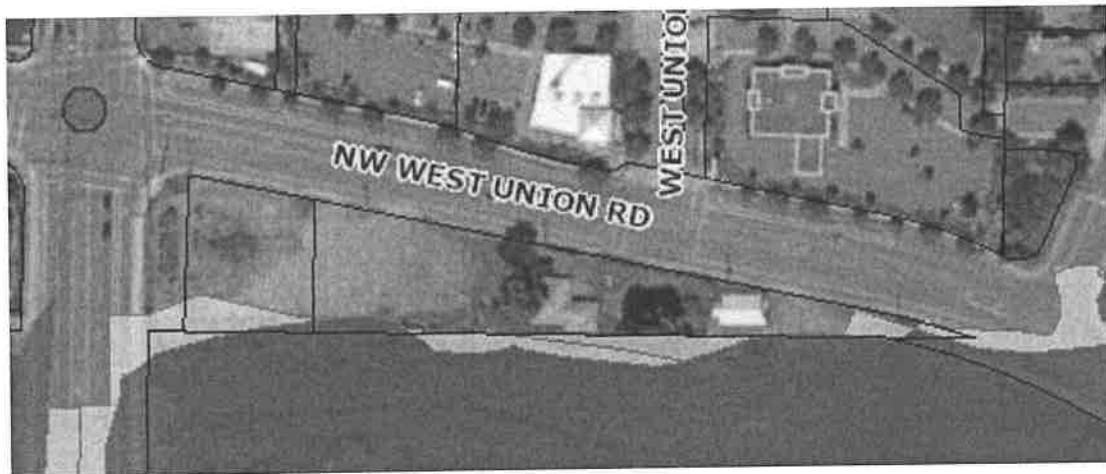
STAFF: The applicant has submitted materials showing on-site and off-site topography and tax lot lines, as well as roadways in proximity to the site. This information adequately represents the Master Planning requirements of CDC Section 404. See Section 405 and findings under the

Sunset West Community Plan regarding the mapped Open Space area on the site. The aforementioned materials are included in the Casefile.

Section 405 Open Space

STAFF: Small areas of Title 13 (Riparian areas) are present on the development site along the south property line. Mapped Title 13 riparian lands encompass 10,508 square feet (0.24 acres). The riparian areas are associated with the off-site natural resources (Rock Creek and associated wetlands/riparian areas located in the Rock Creek Greenway (THPRD park land). The majority of the Title 13 lands are located off-site on the property to the south; while the riparian areas present on the development site have been largely impacted from past development activities which predated the mapping of Title 13 lands by Metro and subsequent mapping by the County as part of the Tualatin Basin Goal 5 Approach update.

The application included a delineation of the boundaries of the resource as part of an environmental assessment required under Section 422 of the CDC. The applicant proposes to retain a section of the existing Vegetated Corridor along the south property line. This section extends east from the west property line and measures approximately 11 feet wide by 200 feet long and then tapers down to approximately 80 feet by 2 ft – 6 inches; in total, encompassing approximately 2,400 square feet). This area will be fenced off and enhanced per CWS standards.



According to the Natural Resource Assessment in Appendix D, permanent encroachment of 6,673 square feet of the Vegetated Corridor will result from the proposed development. The applicant proposes to mitigate impacts to the on-site degraded Title 13 lands and has prepared a mitigation plan consistent with Clean Water Services (CWS) standards (see Appendix D), which regulate Vegetated Corridor buffers around wetlands and creek/stream channels, such as those bordering Rock Creek on the THPRD property to the south). Additional mitigation will be focused in the eastern portion of the site, located east of the eastern-most access (noting that the mitigation area will encompass 10,566 square feet). Of the approximate 10,566 square feet of on-site Vegetated Corridor mitigation, 6,713 square feet will consist of new Vegetated Corridor, while 3,853 square feet enhancements of existing on-site Vegetated Corridor. CWS will oversee the complete implementation of the riparian mitigation plan. And as stated previously, the applicant will be required to obtain approval by CWS of a Vegetated Corridor mitigation plan meeting the District standards.

Lastly, aside from the few small areas of Title 13 lands on the site along the southern property line, there are no other Goal 5 resources, such as Wildlife Habitat. Consequently, none of the trees are protected against removal. Their removal can occur as part of the

development. Notwithstanding, staff would encourage that trees larger than 6 inches DBH be retained if possible, in particular in the riparian mitigation area in the eastern part of the site.

See Section 422 of the Staff Report and the Natural Resource Assessment dated October 7, 2019 prepared by Pacific Habitat Services, Inc.

Section 406 Building, Siting and Architectural Design

406-1 Review Standards

The Review Authority shall evaluate all building and site plans, including detached dwelling units, for conformance to the following standards:

- 406-1.1 The development is permitted within the primary district;*
- 406-1.2 The development is sited to maintain all minimum setback and lot coverage requirements; and*
- 406-1.3 The development meets the maximum height requirements of the primary district.*

STAFF: Compliance with these requirements is addressed in the responses to Section 311, above.

406-2 Additional Requirements for Type II and Type III Development

In addition to the requirements of Section 406-1, all Type II and Type III structures and site plans shall:

- 406-2.1 When required by the Uniform Building Code, provide facilities for the disabled pursuant to the Uniform Building Code, edition in effect at this time;*

STAFF: This development's compliance with the Americans with Disabilities Act will be evaluated by the Building Services Section's review of development permits for the site. This includes the quantity and location of handicapped parking, of which one is proposed near the building entrance.

- 406-2.2 Incorporate design features which reflect or complement the surrounding structural and architectural character through building style and materials. Use, in open space or park settings, lines and materials (including plant materials) which blend with the natural features of the site or site background;*

STAFF: The site and surrounding properties have been developed at different times and reflect a variety of land uses: commercial to the north, residential to the east, and parks & open space to the south. There are no notable natural features on the site or in the vicinity. Staff finds that there are no specific design features or natural features that the proposed development should complement or reflect. However, the architectural designs of the structure are generally comparable to the commercial shopping center buildings across NW West Union Road to the north. With the notable exception being that the facades other than the front (main entrance side) are largely blank walls, void of architectural articulation, changes of materials, and windows.

The shopping center buildings have more variation in façade treatments to help reduce the scale and massing of large blank walls, such as are proposed on the west and south side of the building, and to a lesser extent the north side. For this reason, staff finds that additional architectural façade treatments, including windows, use of different building materials and colors, expanding the green wall concept to other walls, should be incorporated into the final plans and elevations.

- 406-2.3 Renovate or revitalize existing structures identified within the Community Plan;*

STAFF: An existing, sit down restaurant was previously removed from the development site and a detached dwelling unit will be removed to facilitate the development. Neither structures were/are identified on the Community Plan map as a historic resource. And neither structure

could practicably be remodeled to serve as the proposed Convenience Grocery and service station.

406-2.4 *Arrange structures and use areas for compatibility with adjacent developments and surrounding land uses, using the following design and siting techniques:*

A. *Locate and design structures and uses not to obscure or degrade identified scenic views or vistas from adjacent properties and public thoroughfares, considering setbacks, building height, bulk and landscaping;*

STAFF: There are no identified scenic views or vistas that would be obscured or degraded by the proposed development. Whereas, the Convenience Grocery is proposed to be located as close to the west property line as possible, aided by the requested Variance to the front yard from 20 feet to 2 feet. Thus, views across the site (from the north/NW West Union Road) are possible through the site to the south towards Rock Creek Greenway. See Section 435 of the Staff Report.

B. *Orient major service activity areas (e.g., loading and delivery areas) of the proposed development away from existing dwellings;*

STAFF: There are no existing dwellings on surrounding properties, except for a small subdivision to the west – across NW 185th Avenue – and a residential subdivision to the south – across wide-expanse of Rock Creek Greenway. The subdivision to the west, across NW 185th Avenue is located about 145 feet from the development and also screened from the site by block sound wall; whereas the subdivision to the south is located more than 440 feet from the development site (as measured at about the middle of the site). It is worth noting that a large number of the dwellings to the south across the greenway are further buffered by large mature trees and vegetation along the rear property lines of the lots. The applicant also proposes to construct a 6 foot sight obscuring fence along the south property line to provide additional screening and buffering the development from residential uses farther to the south. For these reasons, staff finds that the proposed development will be adequately screened from nearby residences. Loading and delivery activities, will be screened as in the case to the west by the building and the block sound wall (on the west side of NW 185th Avenue) and as in the case to the south by the large distance (440 feet plus) and mature landscaping.

C. *“Street furniture” such as bus shelters, streetlights, drinking fountains, benches and mailboxes shall be similar in design and materials to the buildings of the development.*

STAFF: None of these features are proposed with this development. Noting that the closest existing bus stop is located on the east side of NW 185th Avenue, just north of the intersection with NW West Union Road; and there are no existing bus stops on the site’s NW West Union Road frontage.

406-3 Energy Conservation Guidelines

Type II and Type III Developments:

406-3.1 *Where possible, lay out streets and building lots for multi-family, commercial, industrial and institutional developments to allow buildings maximum solar access, using techniques such as:*

A. *East-west street direction so that principal building facades will face south;*

B. *Make configuration of lots to allow orientation of the front or rear of buildings within twenty (20) degrees of true south in order to maximize potential solar access.*

STAFF: The narrow north/south dimension of the site constrains the orientation and configuration of the building. Locating the building in the far western portion of the site is necessary in order to

site the 5 fueling islands and the fuel tanks as proposed. Additionally, no lots are being created. Application of this standard is not appropriate.

406-3.2 *Where possible, design multi-family, commercial, industrial and institutional buildings conducive to energy efficiency and conservation.*

STAFF: This development's compliance with applicable energy conservation standards will be evaluated by the Building Services Section's review of development permits for the site. It is worth noting that the proposal includes solar panels on top of the canopy to help with the proposed development being "green". According to the applicant this is the same approach that he took with the Chevron Market located at the southeast corner of the intersection of Murray Blvd. and Allen Blvd. in Beaverton (e.g., solar panels and green roofs).

406-3.3 *Where possible, subject to compliance with applicable review standards, design multi-family developments so structures will not shade the buildable area of urban residential property to the north that is or will be developed with a single family dwelling or a manufactured dwelling in order to protect solar access to these properties.*

STAFF: This is not applicable because the proposed development is not multi-family residential.

406-3.4 *Where applicable, compliance with the standards of Section 427-3.*

STAFF: The standards of Section 427-3 are for creation of residential lots and are not applicable to the proposed development.

406-4 Privacy Guidelines

Type II and Type III Developments, where possible shall:

406-4.1 *Design entry areas in residential developments to act as an outdoor extension of each dwelling or transition between semi-public and private areas, using such techniques as:*

- A. *Changing the level, color, scale, texture or direction of a path; and*
- B. *The use of gates, fences, doors and landscaping.*

406-4.2 *Design and cluster units to maximize privacy, using such techniques as:*

- A. *Facing main housing areas toward garden areas, open space and exposure to sun; and*
- B. *Placement of buildings to minimize the potential of windows facing directly toward primary living areas of other units/homes.*

STAFF: These are not applicable because the proposed development is not residential.

406-5 Storage

Provide for storage of articles such as bicycles, barbecues, luggage, outdoor furniture, etc. These areas shall be completely enclosed and easily accessible to dwelling units.

STAFF: This is not applicable because the proposed development is not residential.

406-6 Mixed Solid Waste and Recyclables Storage Facilities

406-6.1 Minimum Standards Method

The Minimum Standards Method identifies dimensional standards for storage area facilities that are based upon the size and general use category of new or remodeled construction. This method is most appropriate when the specific use of a new or remodeled building is unknown.

The size and location of the storage area(s) shall be indicated on the site plan of any construction subject to this section. Compliance with the general and specific requirements set forth below is verified during the site plan review process.

A. General Requirements:

- (1) The storage area is based on the predominant use(s) of the building (e.g., residential, office, retail, wholesale/warehouse/manufacturing, educational/institutional, or other). If a building has more than one of the uses listed herein and that use occupies twenty (20) percent or less of the floor area of the building, the floor area occupied by that use shall be counted toward the floor area of the predominant use(s). If a building has more than one of the uses listed herein and that use occupies more than twenty (20) percent of the floor area of the building, then the storage area requirement for the entire building shall be the sum of the requirement for the area of each use.*
- (2) Storage areas for multiple uses on a single site and single family attached or multi-family buildings may be combined and shared.*
- (3) The specific requirements are based on an assumed storage height of four feet for solid waste/recyclables. Vertical storage higher than four (4) feet but no higher than seven (7) feet may be used to accommodate the same volume of storage in a reduced floor space (potential reduction of forty-three (43) percent of specific requirements). Where vertical or stacked storage is proposed, the site plan shall include drawings to illustrate the layout of the storage area and dimensions of containers.*

B. Specific Requirements

- (2) Non-residential buildings shall provide a minimum storage area of ten (10) square feet plus:*

Retail: Ten (10) square feet/one thousand (1000) feet GFA;

STAFF: The development is for 4,983 square feet of gross floor area for the convenience store plus the 10 fueling pumps. The applicant proposes an enclosure encompassing approximately **129** square feet to serve the proposed commercial development consisting of a 4,983 square feet "Chevron Market". Pursuant to B. (2) above, a minimum of **60** square feet of storage area (10 square feet plus **50** [4.98 x 10 square feet per 1,000 GFA] = **49.83** = **50** square feet). The proposed enclosure facilities will adequately serve the proposed commercial use. It is worth noting that the site design, according to the applicant, allows hauler vehicles to exit the site moving forward (i.e., not backing onto the street in reverse).

The applicant has a Service Provider Letter from Washington County Health & Human Services / Solid Waste & Recycling Program approving the proposed location, design, and sizes of the waste and recycling collection for the proposed development. The applicant included a plan showing the turning movements of garbage and recycling haulers once they access the site from the right-in only access. (see Sheet C825)

Section 407 Landscape Design

407-1 Minimum Landscape Standards

407-1.1 *The minimum landscaping area requirements may include landscaping around buildings and in parking and loading areas, outdoor recreational use areas, screening and buffering as required under Section 411, and vegetated stormwater facilities as defined by Section 106-198.1.*

407-1.4 *Commercial, Industrial and Institutional Districts:*

A. *For new development, the minimum area required for landscaping shall be fifteen (15) percent of the land area.*

STAFF:

The site is 1.21 acres, which requires 7,907 square feet of landscaping per Section 407-1.4 A. The applicant's landscape plan shows that about 17,500 square feet (or 33 %) of the site will have landscaping. The plans for the applicant's final approval are required to maintain conformance with this standard.

407-1.7 *The following interior landscaping requirements shall apply to all parking areas for ten (10) or more vehicles:*

A. *Ten (10) square feet of landscaping per parking space, excluding perimeter landscaping;*

B. *Landscaped islands shall be a minimum of one hundred twenty (120) square feet.*

STAFF:

Twelve parking spaces are proposed, exclusive of the 10 parking spaces located at the fueling islands, thus requiring 120 square feet of interior landscaping. The applicant's site plan does not include a landscaped island. The landscape plan does, however, provide adequate perimeter landscaping. The plans for the applicant's final approval should be revised to provide a minimum of 120 square feet of interior parking area landscaping in an island(s) that contains at least 120 square feet.

407-4 Landscape Plan

407-5 General Provisions and Guidelines

STAFF:

The applicant's site plan demonstrates compliance with the required application materials and standards of these sections. Detailed landscaping plans will be reviewed as part of the development permits for the project.

407-6 Parking Area Landscaping

407-6.1 *The landscaping located within and adjacent to access roads and parking areas shall consist of a mixture of ground covers, shrubs and trees.*

407-6.2 *Landscaped areas shall be located to provide shade for parking lots and to create small clusters of parking.*

407-6.3 *In addition to pedestrian ways, parking areas and access roads shall be separated from the exterior wall of a structure with landscaping except where loading and access ways exist.*

407-6.4 *A minimum five (5) foot landscape strip shall be created along any parking lot boundary, including access roads, except where the use of joint parking or a zero (0) setback is approved.*

407-6.5 *Landscape "islands" located within parking areas shall maintain a minimum width and length dimension of five (5) feet (see Section 407-1.6).*

- 407-6.6 *Entryways into parking lots shall be bordered by a minimum five (5) foot wide landscape strip.*
- 407-6.7 *Landscape plans that do not meet the minimum area standard through requirements intended to provide landscaping around buildings and in parking and loading areas, and screening and buffering as required under Section 411, are required to focus landscaping along pedestrian walkways linking on-site building(s) to the street in order to meet the minimum area standard.*

STAFF:

The applicant's site plan demonstrates compliance with the requirements of Sections 406-6.1 through 6.7. This includes appropriate landscaping buffers adjacent to the development's access roads (driveways) and parking areas. Noting that staff recommends approval of a reduced (0 feet) – in accord with Section 407-6.4 – landscape strip on a small section of the landscape strip along the south property line. The rest of the landscaping will be comprised of enhanced Vegetative Corridor. The reduction is needed due to the narrowness of the development site and any impacts would be mitigated by the landscaping proposed as well as the fact that the entire property to the south consists of natural open space. Further, there are no interior side yard setbacks (along the south property line) so a zero setback is allowed (approved) along the south interior property line.

Staff does not find that there are any screening and buffering issues between the proposed use and the park land to the south. It is worth noting that the development site is located at least about 320 feet from the existing regional trail located to the south, which is more than a football field in length. Staff find that it is not necessary to provide any onsite screening and buffering (between the development site and the regional trail to the south). Notwithstanding, the applicant proposes to construct a 6 foot sight obscuring fence along the south property line. Lastly, in the event that relocated utility poles will be within the parking area, plans shall be revised to ensure that the poles are located, at minimum, within curb-protected landscape areas – but landscaped areas that do not impact parking or drive aisles.

407-7 Urban Street Tree Standards

Inside an urban growth boundary, all new structures or land divisions fronting on public or private roadways or access drives, except the construction of a detached dwelling unit on an existing lot, shall be required to plant street trees in accordance with the following standards:

- 407-7.1 *The species of street trees to be planted shall be chosen from the approved list of street trees unless approval of another species is given by the Director through a Type I procedure. Trees shall be selected and appropriately spaced to maximize canopy coverage and provide canopy overlap for shade. Trees shall be installed at an average of one tree per thirty-five (35) feet of lineal road frontage unless the selected species has a wide canopy. In those instances, the spacing of trees may be greater than thirty-five (35) feet provided the spacing will result in canopy overlap.*
- 407-7.2 *Exemption from the street tree requirements may be granted by the Director if existing trees can be used as a substitute. This exemption may be granted through a Type I procedure;*
- 407-7.3 *Street trees shall be installed on public or private property no more than five (5) feet from the designated right-of-way; and*
- 407-7.4 *Street trees shall be a minimum of one and one-half (1 1/2) inches in diameter.*

STAFF:

The applicant stated that the proposed development will include sidewalk improvements along NW West Union Road but that final [street] improvements, including the planting of street trees, will be provided by the county as part of the county's Capital Improvement Project for NW West Union Road. However, according to county staff, the current West Union Road project is only for design of future road improvements to West Union and that the

designs call for not extending east of 185th Avenue. The future improvements will stop short of the intersection with SW 185th Avenue. Currently, the county does not have any plans to revise West Union Road east of SW 185th Avenue and it is not known when construction on West Union (west of 185th Avenue) will begin. Lastly, according to engineering staff, the capitol project for West Union Road (west of 185th Avenue) is currently slated in the future to construct a 3-lane street section. However, the design features to accommodate a future 5 lane Arterial street cross-section build out to the north side of the road. Street trees shall be planted so that they do not interfere with intersection clear vision requirement.

407-8 Installation and Maintenance

STAFF: Installation and maintenance of landscaping shall be in conformance with the standards of this section. Ongoing compliance is noted in Attachment B, Conditions of Approval.

Section 408 Neighborhood Circulation

408-5 Review Standards for Development on Lands Not Designated on the Community Plan Local Street Connectivity Maps or on Lands Not Designated as a Pedestrian/Bicycle District

STAFF: The development site is a corner lot, with the entire south property line abutting Rock Creek Greenway (natural open space / Rock Creek and a regional recreational trail). There are no other properties abutting the site that do not already have frontage on the nearest Arterial Street or local streets (and provided access). Given that the site is bordered by park land and Goal 5 resources on its south and all portions of abutting properties abut either NW West Union Road or NW 185th Avenue rights-of-way, there is no reason to evaluate further street or accessway connections through the property.

408-10 Internal Pedestrian Circulation

408-10.1 Number of Pedestrian Connections

- A. All developments that generate fourteen (14) or more additional ADT shall provide a pedestrian connection between the street and the main entrance of the primary structure on the lot. For lots with more than one street frontage, a connection shall be provided to each street. As an alternate for new development on lots with multiple buildings, a pedestrian connection shall be provided between the street and the center of the internal pedestrian network. These requirements do not apply to single family or duplex residential development.
- B. All developments that generate five hundred (500) or more ADT shall provide:
 - (1) A connection from the main entrance of the primary structure to within twenty (20) feet of any transit stop located along the frontage of the subject property;
 - (2) A connection to within twenty (20) feet of any mid-block pedestrian crossing; and
 - (3) A connection for every two hundred (200) feet of street frontage including connections provided per (1) and (2) above. Connections shall be generally spaced to ensure direct access to buildings on the lot for pedestrians accessing the lot from any direction.
- C. As an alternative to 408-10.1 A. and B. (1-3) above, pedestrian connections shall be provided for new development as part of campus development which connect each building within the campus area and directly connect the building complex to the most appropriate street(s) or pedestrian route(s). More than one (1) pedestrian connection may be required to a particular street or pedestrian route in order to decrease out of direction travel.

STAFF: The applicant has included an on-site walkway connecting to the front of the building and the public sidewalk on NW West Union Road. Due to the narrowness of the site, the sidewalk along NW West Union Road effectively serves as an east/west pedestrian connection that provides access to all uses on the site and provides neighborhood connectivity, including the Rock Creek Greenway trail.

Staff finds that one connection will be adequate. However, staff recommends that – unless site constraints dictate otherwise – that the pedestrian accessway extend due north from the building to provide a shorter and more direct route to the sidewalk on NW West Union Road and ultimately to the intersection of NW 185th Avenue and NW West Union Road.

D. In addition to pedestrian connections required by 408-10.1 A. and 408-10.1 B., connections shall be provided between the proposed development and all off-site pedestrian connections on adjacent properties or streets as required by Sections 408-5 or 408-6.

STAFF: There are no off-site pedestrian connections that need to be made to adjacent properties. Further staff finds that it is not practicable or feasible to require a pedestrian to the south. One reason is that the Rock Creek Greenway trail (a regional trail) is located more than a football field's length feet to the south and also located south of Rock Creek. The sidewalks on NW 185th Avenue and NW West Union Road provide for adequate circulation, providing access to the Rock Creek Greenway trailheads (to the south and the east).

Section 410 Grading and Drainage

STAFF: The applicant submitted preliminary details as required by this section, including preliminary grading and drainage plans. Washington County Building Engineers have reviewed the preliminary details and determined the plans meet the requirements of Section 410-1.1. A Grading Permit meeting the requirements of Section 410 shall be obtained prior to any on-site work and shall comply with the Conditions of Approval of this Casefile.

Pursuant to Resolution and Order No. 19-05, Clean Water Services (the District) has the responsibility for review and approval of storm drainage plans as well as erosion control plans. The District has provided service provider letters affirming that storm sewer service is available to the site. The applicant will be required to obtain approval from the District for the proposed drainage plan prior to any on-site work.

Section 411 SCREENING AND BUFFERING

411-1 Applicability

411-1.1 Screening and Buffering requirements are in addition to the setback requirements in residential and institutional districts and inclusive of the setback requirements in the commercial and industrial districts, as well as the setback requirements and design standards of the transit oriented districts, and shall be provided on the subject site at the time of development.

411-1.2 Screening and Buffering shall apply to all Development permits as determined in Section 411-3 or as determined by the Review Authority.

STAFF: The development site is designated NC and the property to the south is designated Institutional. However, the lands to the south consist of Goal 5 resources and developed park lands, including a regional trail and open lawn areas. The existing Goal 5 resources provide a substantial buffer between the proposed development and residential lands to the south and east, so much so that staff find that screening and buffering elements required by Section 411 are not necessary. To this point, the trail is more than 300 feet from the development site and the abutting open space is heavily vegetated but also contains two major groupings of overhead power transmission lines. Further, Section 411 has not been used to provide block

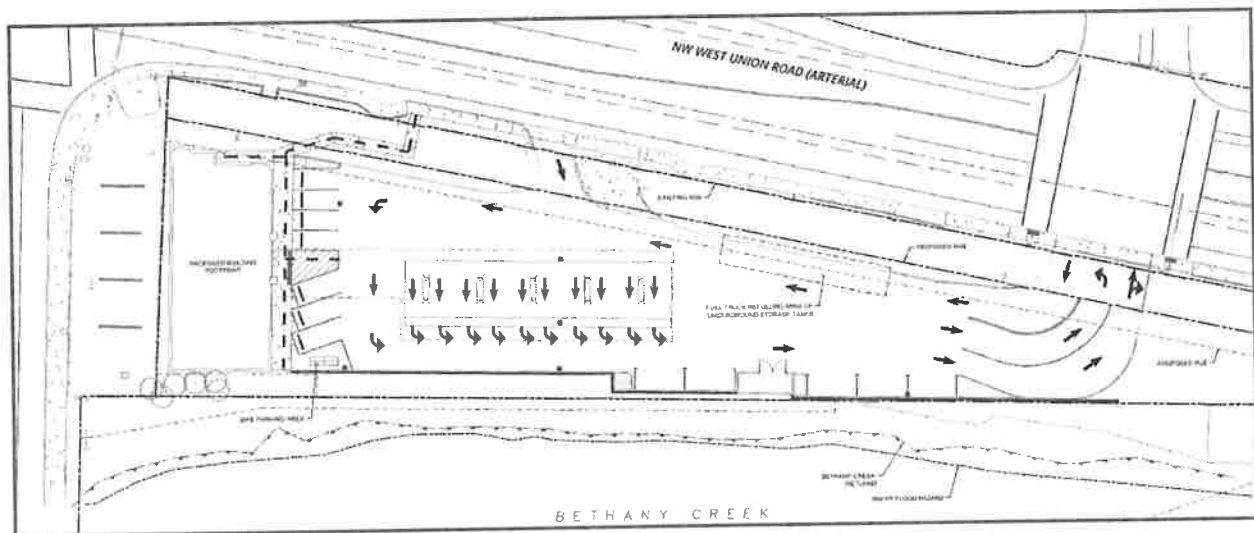
walls or other screening between a development and wetlands and significant natural resources. Vegetated Corridor buffers required by CWS are generally considered adequate wetland and riparian area buffers. A block wall, as suggested, would in staff's mind, be too extreme when the creek is about 55 feet to the south of the site and CWS Vegetated Corridors are designed to adequately buffer these resources. The length of a block wall along the south property line would also be an unnecessary expense. The applicant proposes to construct 6 foot sight obscuring fence along the south property line and north of the Vegetated Corridor areas.

Lastly, the intent of Section 411 measures is to provide screening and buffering between different land uses and intensities, such as between different residential densities and between residential and commercial or industrial land uses. The intention rather is not to provide screening and buffering measures between a particular land use (or particular development) and open space and natural resource areas. And the off-site regional park trail is more than 300 feet from the development site and so staff does not believe it is warranted to provide a solid block wall along the south property. The trail is too far for any block wall to be practical or warranted. Notwithstanding, as noted above, the applicant will construct a sight obscuring fence along the south property line between the building and the eastern access (noting that the fencing will be located on the north boundaries of the onsite Vegetated Corridor).

Section 413 Parking and Loading

STAFF:

The site design includes both two-way and one-way circulation patterns. Sheet C222 provides the basic on-site circulation pattern for the development complete with traffic arrows indicating the direction of traffic. Vehicles can access the site from one of two accesses: the western right-in only access and the eastern signalized access.



However, the traffic flow from the eastern access is limited to the northern access drive aisle as the southern drive aisle will be used by drivers exiting the fueling stations and the convenience store. The southern drive aisle is also a one-way east-bound direction only because it is less than 24 feet wide; it measures 19 ft – 6 inches (413-3.2).

413-3.2 *The minimum aisle width for two-way traffic and for emergency vehicle operations area is 24 feet. The minimum aisle width for emergency vehicle (one-way traffic) is 15 feet.*

The northern drive aisle with the shared use by fueling trucks (traveling east) and customers accessing the fueling stations and the convenience store from the eastern site access (traveling west). Yet this two-way drive aisle is not 24 feet wide; it only measures about 16 feet in width. The northern access serves as the access for fueling tanker trucks as well as garbage and recycling trucks and customers, which provides two-way traffic flow, is not 24 feet wide. The drive aisle at its narrowest is a little over 16 feet. The western north-south drive aisle measures 29 ft – 6 inches and the southern one-way drive aisle measures 19 ft – 5 inches. Both the western and southern access drive aisles can be revised (made slightly narrower) in order to provide a two-way aisle width of 24 feet for the northern access drive aisle. Staff finds that as proposed, the narrow 16 foot northern access drive aisle will not provide adequate paved width for two-way circulation which it will do (fueling trucks and garbage and recycling trucks entering the site and traveling through the site to the east and drivers accessing the fueling stations and convenience market from the eastern access. Less than 24 feet will, staff fear, become a narrow choke point, and one that is very close to the right-in only access.

Off-street parking: The applicant's site plan includes 12 off-street parking spaces. The minimum amount of required parking is based on the following:

413-6.1

| USE | | MINIMUM NUMBER OF STANDARD OFF-STREET PARKING SPACES PER UNIT OF MEASURE |
|------------------------------------|---|---|
| C. Business and Commercial: | | |
| (2). | Automobile Service Stations | Two for each lubrication, stall rack or pit; and one for each gasoline pump |
| (14) | Retail stores, except as otherwise specified herein | 2.5 for each thousand (1000) square feet of gross area |

Proposed Uses:

Convenience Market (4,983 square feet): 12 spaces (2.5 spaces x 4.98 sq. ft. ratio)

Service Station (5 islands & two pumps each): 10 spaces (provided at the pumps)

Total Required: 22 off-street parking spaces.

This results in a requirement for 22 off-street parking spaces for 4,983 square feet of convenience grocery and service station with 5 fueling islands (and 5 fueling pumps / 2 per fueling island). The site plan provides 12 surface parking spaces and 10 parking spaces (for the service station) located at the fueling islands. Staff finds that adequate off-street parking will be provided.

Section 414 Signs

STAFF: The applicant has not proposed specific signage with this development – for permitting purposes. However, the site plans show the location of a pole sign right next to the right-way (after dedication). Future signage shall be processed under a separate permit and will be based on the consolidated lot and dedicated right-of-way. Future sign placement is proposed to be within the 10 foot wide PUE. The sign permit application to the county shall include written documentation of support/approval from PGE.

Section 415 Lighting

STAFF: The proposed development is commercial, and lighting is **not** required per Sections 413 or 415. However, staff has reviewed the proposed lighting plan and photometrics and finds that the proposed lighting meets the intent of the requirements of Section 415-4.

The applicant proposes only 5, 16 foot pole lights located along the boundaries of the parking/drive aisles to illuminate the drive aisles for drivers (all but one are located along the

northern drive aisle boundary), lighting underneath the canopy needed to illuminate the fueling area and 3 wall lighting sconces on the west side of the building.

The applicant provided lighting details and photometrics that satisfy Section 415 with respect to minimizing spillover of lighting onto adjacent parcels. According to the application materials, the lighting has been designed to conform to the maximum permitted illumination per Section 415 and also to minimize glare onto adjacent areas. Also no flickering or flashing lights are proposed. Lastly, the proposed sight obscuring fence along the southern property line will further block vehicle light from spilling off site.

To this end, staff finds that the proposed lighting should not adversely affect residential uses located approximately 145 feet to the west (across NW 185th Avenue) or much farther to the south or east.

Section 416 Utility Design

- 416-1.1 *All utility distribution facilities supplying electric, communication, or similar or associated service, installed in and for the purpose of supplying such service to any development shall be placed underground.*
- 416-1.3 *Easements necessary for sewers, water mains, electric lines, or other public utilities shall be provided. The easements will vary according to the need of various utilities. When possible, the easement shall be located on one side of a lot line.*
- 416-1.4 *The location, design, installation and maintenance of all utility lines and facilities shall be carried out with minimum, feasible disturbance of soil and site.*

STAFF:

Consistent with CDC Section 416, new utilities must be located underground and associated utility easements provided (noting that an existing 10 foot wide sewer easement is located along the south property line and the proposed Convenience Grocery is located outside of the easement). Further, in accordance with 416-1.4, disturbance of soil shall be kept to a minimum when installing utilities.

The applicant proposes a 10 foot wider Public Utility Easement (PUE) along West Union. The width of the PUE and the location of the electrical transmission lines (on West Union) and poles and in particular the height (elevation) of the transmissions lines with respect to the location/height of the building and canopy. To this end, according to conversations last year between County Engineering and PGE during the review of the previous Chevron development application (L2000057-SU/D(C)/AMP/V/M), PGE indicated that they had plans to install new poles on West Union, though staff did not know if this included the east side of NW 185th Avenue. According to these previous communications, PGE indicated that there is a "Flying Tap" at the intersection of 185th and West Union (southwest corner) that is required to run the transmission lines to the North (along 185th Avenue). The Flying Tap needs to be retained as it is integral to the transmission system, which includes a new substation under construction on the north side of Germantown Road, east of 185th Avenue. Further, according to PGE, these lines need at least 10' to 15' clear from the outermost powerline, which means for this development, that there should be no overhangs (roof, signal poles, etc.) within this area.

For this reason, prior to Final Approval, the applicant shall provide written documentation from PGE approving the building and canopy locations and heights in relationship with the powerlines and poles. Further, the final plans shall ensure that none of the foundations, underground tanks, including any physical containment barriers, are located within the PUE. There shall also be no restrictions or barriers to where new poles will be relocated (in the event that the applicant pays fee in lieu rather than construct the half-street improvements). The future signal pole shall also be designed to accommodate the relocated overhead power lines.

Section 417 Irrigation

STAFF: The minimum required landscape area for the site exceeds 1,000 square feet. Irrigation is required for the site, and compliance with Section 417 will be verified through the final approval process.

Section 418 Setbacks

418-1 Obstruction in Required Yards

Required yards shall be horizontally unobstructed except as follows:

- 418-1.1 *Cornices, eaves, belt courses, sills, canopies, or other similar architectural features (not including bay windows or vertical projections) may extend, or project into a required side yard not more than two (2) inches for each (1) foot of width of such side yard and may extend or project into a required front or rear yard not more than thirty (30) inches. Chimneys may not project into a front or rear yard more than twenty-four (24) inches. Chimneys may project up to twenty-four (24) inches into a side yard setback, but no closer than three (3) feet to a property line.*
- 418-1.2 *Open balconies and unenclosed stairways more than thirty (30) inches in height and not covered by a roof or canopy, may extend or project into a required rear yard not more than four (4) feet and such porches may extend into a required front yard not more than thirty (30) inches.*
- 418-1.3 *A ground level deck not more than thirty (30) inches in height and not covered by a roof or canopy may be allowed in any yard regardless of the setback requirements.*
- 418-1.4 *A deck more than thirty (30) inches in height, not covered by a roof or canopy, may be allowed in a required rear yard not closer than five (5) feet to the rear property line when the rear yard abuts a designated open space or public non-buildable tract. Such tracts may include flood plains, power line easements, or drainage courses.*

STAFF: See Sections 311 and 435 of the Staff Report concerning setbacks.

418-2 Additional Setbacks Required for Future Right-of-Way

- 418-2.1 *Where a yard or setback abuts a street having insufficient right-of-way width, the minimum yard or setback requirement shall be increased to accommodate the future right-of-way. The yard or setbacks shall be measured from the centerline of the existing right-of-way. The yard or setback shall be measured from the future edge of right-of-way and allow for half the maximum right-of-way as shown in the following diagram. The maximum right-of-way width shall be determined by the Transportation System Plan, including the Functional Classification Map, the Functional Classification Design Parameters Table and the Lane Numbers Map. The County Engineer may designate an alternative future right-of-way for streets where the area of the right-of-way is not balanced with respect to the current right-of-way centerline.*

STAFF: The TSP calls for 21 feet of additional right-of-way dedication from centerline of NW West Union Road. In the previous Chevron land use application (L2000057-SU/D(C)/AMP/V/M), the applicant expressed concern with the width of the required dedication and agreed to dedicate 18 feet. The applicant opined that according to their consultants a dedication of 18

feet and not 21 feet was adequate to accommodate the required street improvements. The applicant also proposed at that time a 10 foot wide Public Utility Easement after discussions with Portland General Electric (PGE) as it involves the overhead powerlines along the West Union frontage. The applicant continues to propose a 10 foot wide Public Utility Easement and a dedication of 18 feet on West Union Road.

In Casefile, L2000057-SU/D(C)/AMP/V/M, the County Engineer agreed to accept the applicant's proposal to dedicate 18 feet and believed that 18 feet would be adequate to accommodate the required street improvements. The County Engineer continues to accept a dedication of 18 feet along West Union Road, plus any additional corner radius at the intersection with SW 185th Avenue.

418-4 Fences and Retaining Walls

The setback requirements of this Code are not applicable to the following fence or retaining wall structures (or any combination thereof) except as required by Section 418-3:

- 418-4.1 *A fence, wall (includes retaining wall), screen or lattice work not more than seven (7) feet in height.*
- 418-4.2 *A fence, wall (includes retaining wall), screen or lattice work not more than eight (8) feet in height along a rear, side or front yard which abuts an arterial or limited-access highway.*
- 418-4.3 *A combination fence (not more than six [6] feet in height) and retaining wall structure (not more than four [4] feet in height) located in a side or rear yard (for design standards see Section 419-4).*
- 418-4.4 *Tiered retaining wall structures not exceeding seven (7) feet in height in any required yard. The maximum height measurement includes all tiers located within the yard or setback area. All non-tiered retaining walls located within the yard or setback area shall not exceed a combined total of seven (7) feet in height.*
- 418-4.5 *All retaining wall structures, exceeding seven (7) feet in height, not within a required yard or setback area, on two or more contiguous properties, are exempt from the side yard setback requirement.*
- 418-4.6 *A wall not more than eight (8) feet in height along a side or rear property line as required by Section 411.*
- 418-4.7 *Residential lots or parcels shall maintain a clear vision area with no sight obscuring fence or wall (does not include retaining wall) more than three (3) feet in height, measured from finished grade, within a fifteen (15) by fifteen (15) foot triangle along a driveway. A clear vision area shall be measured from the property line, sidewalk, or easement for public travel, whichever is closest to the fence line (for design standards see Figure 2 and Figure 3).*

STAFF: Section 311 establishes setback requirements for the NC District (See Sections 311 and 435 of the Staff Report). The applicant's site plan shows the requested front and street side setback variances described in Section 311 of the Staff Report.

A retaining wall is also proposed along the south property line, ranging from 2.5 to 5 feet. The retaining wall is less than seven (7) feet in height. The applicant proposes to build a 6 foot sight obscuring fence along the south property line to provide screening from the properties to the south. However, pursuant to Section 418-4.3 the combined total of the fence and

retaining wall shall not exceed 6 feet for the fence and 4 feet for the retaining wall – if a combined structural system. Notwithstanding, there are no interior side yard setbacks (i.e., from the south property line) in the NC District.

Section 419 Height

In addition to the height restrictions in the primary districts, the following limitations shall apply:

- 419-1 *Within twenty (20) feet of another primary district with a lower height restriction, the height restriction of the adjacent district shall apply.*
- 419-2 *Beyond the twenty (20) foot area in Section 419-1 above, the height may increase on the subject property at a ratio of one (1) foot of height to one (1) foot of horizontal distance from the adjacent primary district with a lower height limitation, to the maximum height permitted in the primary district.*
- 419-3 *A fence, lattice work, screen or wall (includes retaining wall) not more than seven (7) feet in height may be located in any required side, front or rear yard, except as required by Section 418-3 (corner vision). Where a rear, side or front yard abuts an arterial or limited access highway, fence height along the yard may be increased to eight (8) feet. Any fence over six (6) feet in height requires a building permit. Any retaining wall over four (4) feet in height requires a building permit (the height measurement of a retaining wall is from the bottom of footing to the top of the retaining wall).*
- 419-4 *A combination fence and retaining wall structure may be located in a side or rear yard. This structure shall consist of a retaining wall [not more than four (4) feet in height] and a fence [not more than six (6) feet in height]. The fence portion shall be measured from the back-filled or highest side of this structure and may not exceed six (6) feet in height. The non-back-filled or lowest side measurement may not exceed a combined total of ten (10) feet in height. This provision may only be used when there is an existing or proposed grade difference between properties and a retaining wall is required by the Building Official (see Figure 1). This structure is exempt from a structural building permit only when the backfill is level for a proportional horizontal distance to the height of the retaining wall or as approved by the Building Official.*
- 419-5 *Tiered retaining wall structures shall not exceed seven (7) feet in height in any required yard. The maximum height measurement includes all tiers located within the yard or setback area. All non-tiered retaining walls located within the yard or setback area shall not exceed a combined total of seven (7) feet in height.*

STAFF: Pursuant to above Section 419 any retaining wall over four feet in height requires a building permit. Also, the retaining wall shown on the submitted plans is not a tiered wall system. See also Section 418 above.

Section 421 Flood Plain and Drainage Hazard Area Development

The county administers and enforces the State of Oregon Specialty Codes pursuant to the requirement established in ORS 455. The Oregon Specialty Codes contain certain provisions that apply to the design and construction of buildings and structures located in Special Flood Hazard Areas. Therefore, this Section is intended to be administered and enforced in conjunction with the Oregon Specialty Codes.

421-1 Lands Subject to Flood Plain and Drainage Hazard Area Standards

421-1.1 Flood Plain:

The following data sources shall be referenced for purposes of determining lands subject to flood plain standards. In any event, the most restrictive flood boundary information shall be utilized. The maps referenced herein are on file at the offices of the Washington County Department of Land Use & Transportation.

A. *The following maps are adopted by reference:*

- (1) "Flood Insurance Rate Map, Washington County, Oregon," effective date October 19, 2018 with amendments; and*
- (2) "Flood Insurance Study for Washington County, Oregon and Incorporated Areas," dated October 19, 2018 with amendments.*

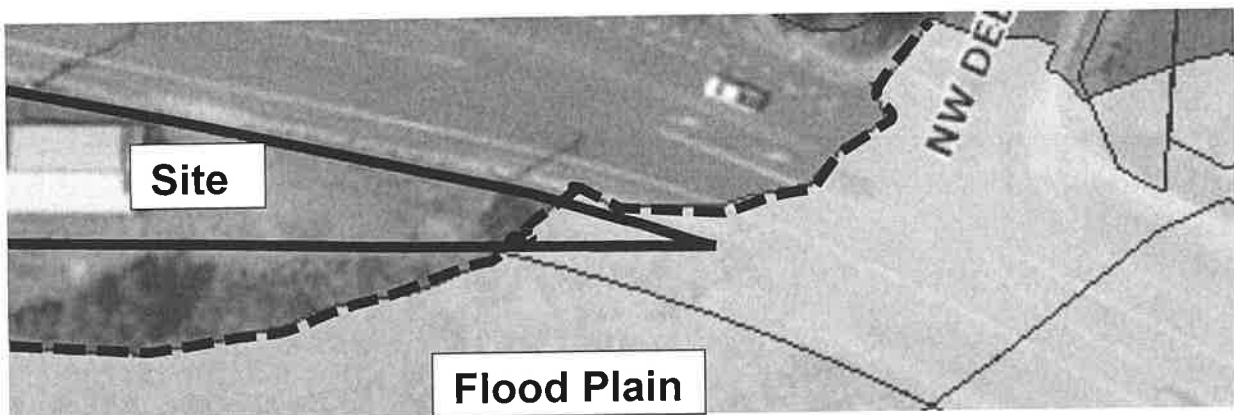
B. *Where base flood elevation data has not been provided (approximate A Zone):*

- (1) "Flood Plain Series, Washington County, Oregon, revision 5/01/1974, 1/03/1978, 1/1981, 5/25/1983 and 12/12/1983" based upon data from the U.S. Army Corps of Engineers.*
- (2) In addition, the Director shall obtain, review and reasonably utilize any base flood elevation data available from a federal or state source, or hydrologic and hydraulic analysis performed in accordance with standard engineering practice by a licensed professional engineer, in order to administer this Section.*

C. *In addition to the information sources identified in A. and B. above, the Director may also utilize any other available authoritative flood data, including but not limited to high water marks, photographs of past flooding or historical flood data.*

STAFF:

The Flood Plain (1% chance of a flood event) is located largely off-site to the south on Tax Lot 1N119BC00400, which comprises Rock Creek Greenway owned & maintained by the Park District, with the nominal exception of a narrow portion in the eastern-most quadrant of the site. Noting that most of NW West Union Road along the frontage of tax lot 1N119BC00500 is not within the FEMA Special Flood Hazard Area (SFHA). See aerial on below.



Therefore, none of the proposed development activities are anticipated to occur within the mapped Flood Plain. See the application materials (site plan set) and Attachment D. concerning additional right-of-way dedication. However, in the event that construction activities (i.e., half-street improvements) encroach within the Flood Plain, then a Flood Plain alteration permit will be required.

Lastly, according to the county's Flood Plain Manager, the flood plain elevation at the eastern corner of the site is 175.9 feet (1988 NAVD / Zone AE). Delineation of the Flood Plain by a registered licensed engineer, including the original wet stamp, shall be included with the half-street improvement plans. In the event that the improvements encroach the Flood Plain, then the applicant shall obtain approval of a Flood Plain alteration prior to issuance of the Facility Permit. Additionally, if any portion of the proposed project is found to be within the FEMA Special Flood Hazard Area (100-Year Floodplain), then a FEMA-issued Elevation Certificate completed and certified by a professional land surveyor documenting the 100-year flood elevation and evidence of field marks of this elevation provided on site shall be submitted to Current Planning prior to any right-of-way disturbances or construction.

421-1.3 Persons seeking to develop within a flood plain or drainage hazard area must do so with the understanding that they and their successors assume the risks and that the risks cannot be eliminated, even with strict compliance with the standards adopted herein. This Section does not imply that lands outside of flood plain or drainage hazard areas, or development permitted within, will be free from flooding or flood damage.

STAFF:

CWS has approved the Vegetated Corridor enhancement and mitigation resulting in the creation of additional Vegetated Corridor and enhancement of existing Vegetated Corridor to good condition. The new Vegetated Corridor is located east of the eastern access. There are three areas of the existing degraded Vegetated Corridor that will be enhanced (See Figure 5 of the applicant's Vegetated Corridor Enhancement and Wetland Enhancement as contained in the Natural Resource Assessment in Appendix D of the application). The Vegetated Corridors are located largely within the Flood Plain and along the south property line.

421-3 Submittal Requirements

In addition to the requirements of Sections 203-4 and 410, an application for a flood plain or drainage hazard area alteration shall contain the following information for the area proposed to be disturbed. This information shall be prepared by a licensed professional engineer and may be submitted with or be made part of a site plan or grading plan for the proposed development.

421-3.1 Recognizing that the scale may be such that the true and accurate flood plain or drainage hazard area boundaries cannot be determined from the maps referenced in Section 421-1.1 and 1.2 alone, all persons seeking a development permit for lands within said areas and within 250 feet of the map boundary of a flood plain or drainage hazard area identified in Section 421-1.1 and 1.2, except as noted below for land divisions and property line adjustments, shall submit with the development permit application:

- A. A delineation of the flood plain and the floodway boundaries, established by a registered engineer or a registered surveyor from the surface elevations for the flood plain based upon maps or other data sources referenced in Section 421-1.1; and*
- B. A delineation of the drainage hazard area and the drainageway, established by a registered engineer or a registered surveyor from*

surface elevations for the drainage hazard area based upon maps or other data sources referenced in Section 421-1.2. Such delineation shall be based on mean sea level datum and be field located from recognized landmarks.

- C. *Land divisions and property line adjustments outside the UGB may provide only generalized flood plain information, such as contour maps and aerial photos, which need not be prepared by an engineer. Notwithstanding this provision, for the purpose of implementing the requirements of Section 421-14.7, applicants may be required to submit detailed delineations as specified in 421-3.1 A. and B above.*
- D. *For each of the above, submitted plans shall be accurately drawn and at an appropriate scale that will enable ready identification and understanding of the submitted information. The plans shall include the locations of any existing or proposed property lines, buildings, structures, parking areas, streets, accessways, or other relevant information on the subject property, and within 50 feet of the delineation.*

STAFF: The applicant has addressed the applicable sections. The applicant delineated the Flood Plain. According to the application, the proposed construction will not impact the Flood Plain. There are no encroachments to or within the Flood Plain. Noting that the applicant has requested Half-Street Exceptions for improvements to NW West Union Road. See Section 501-6.3 of the Staff Report and Attachment D.

This information is in the Casefile.

421-3.2 Existing and proposed topography within the boundaries of the flood area using the following contour intervals:

- A. *For slopes of five percent or less, contour intervals not more than one foot;*
- B. *For slopes greater than five percent and up to and including 10 percent, contour intervals not more than two feet; and*
- C. *For slopes greater than 10 percent, contour intervals not more than five feet.*

STAFF: The applicant has addressed the applicable sections. This information is in the Casefile.

421-3.3 For applications for Type II and III flood plain or drainage hazard area alterations, documentation which demonstrates compliance with the applicable review standards of Sections 421-7 through 421-14.

STAFF: The applicant has addressed the applicable sections. As stated previously, no development or encroachments into the Flood Plain are proposed or anticipated at this time. This information is in the Casefile. Notwithstanding, requirement to complete half-street improvements to NW West Union Road would be subject to the applicable Flood Plain alteration requirements of Section 421 – if construction activities encroach within the delineated Flood Plain (Base Flood Elevation of 175.9 feet).

421-3.4 Upon demonstration by the Director of no other alternative, applicants shall obtain a Conditional Letter of Map Revision (CLOMR) from FEMA before an encroachment, including fill, new construction, substantial improvement, fences or other development, in the regulatory floodway is permitted that

will cause any increase in the base flood elevation. The CLOMR shall be submitted prior to the application being deemed complete.

STAFF: This section is not applicable. The regulatory floodway associated with Rock Creek is located entirely offsite to the south.

421-5 Uses and Activities Allowed Through a Type II Procedure

Unless specifically prohibited in the applicable Community Plan, the Rural/Natural Resource Plan Element, Section 422, or the Clean Water Services' "Design and Construction Standards for Regional water line and Surface Water Management" or its successor, a development permit may be approved in a flood area through a Type II procedure for the following:

STAFF: The Flood Plain is located entirely offsite with the noted exception of the small area in the eastern portion of the site, which appears to be located within the future dedicated public right-of way (of 18 feet). However, in the event that construction activities encroach within the Flood Plan, then a Flood Plain alteration permit will be required. See Attachment D.

421-7 Development Standards for all Type II and Type III Flood Plain and Drainage Hazard Area Uses or Activities

The applicant for a proposed flood plain or drainage hazard area development shall demonstrate compliance with the following applicable standards as required by Section 421-3 above:

421-7.1 *Development proposed to encroach into a regulatory floodway adopted and designated pursuant to FEMA regulations shall:*

- A. Demonstrate through hydrologic and hydraulic analysis, performed in accordance with standard engineering practice by a licensed professional engineer, that the cumulative effect of the proposal, when combined with all other existing and anticipated development within the basin based upon full development of the basin as envisioned in the applicable Community Plan or the Rural/Natural Resource Plan, will not result in any increase in flood levels during the occurrence of the base flood discharge; and*
- B. Comply with all applicable flood hazard reduction provisions of Section 421.*

STAFF: The proposed development will not impact the base flood plain elevation because no impacts or encroachments into the Flood Plain are proposed. However, in the event that construction activities encroach within the Flood Plan, then a Flood Plain alteration permit will be required.

421-7.2 *Notwithstanding Section 421-7.1, development that would result in an increase in flood levels may be approved if the County, at the sole expense of the applicant, first obtains FEMA approval in accordance with 44 CFR Ch. 1, Part 65 (October 1, 1990 edition, or its successor).*

STAFF: The proposed development will not impact the flood levels because no impacts or encroachments into the Flood Plain are proposed. However, in the event that construction activities encroach within the Flood Plan, then a Flood Plain alteration permit will be required.

421-7.3 *Development proposed on a flood plain site where the development does not encroach into an adopted FEMA regulatory floodway shall demonstrate through hydrologic and hydraulic analysis, performed in accordance with standard engineering practice by a licensed professional engineer, that the cumulative effect of the proposal, when combined with all other existing and anticipated development within the basin based upon full development of the basin as envisioned in the applicable Community Plan or the Rural/Natural Resource Plan, will not increase flood levels during the occurrence of the base flood discharge more than one foot.*

STAFF: The proposed development will not impact the flood plain because no impacts or encroachments into the Flood Plain are proposed. Further, as noted previously, upon right-of-way dedication, the Flood Plain appears to be located within the right-of-way. However, in the event that construction activities encroach within the Flood Plan, then a Flood Plain alteration permit will be required.

421-7.4 *In areas where a regulatory floodway has not been designated, no new construction, substantial improvements, or other development (including fill) shall be permitted within flood areas on the Flood Insurance Rate Map (FIRM), unless it is demonstrated through hydrologic and hydraulic analysis, performed in accordance with standard engineering practice by a licensed professional engineer, that the cumulative effect of the proposal, when combined with all other existing and anticipated development within the basin based upon full development of the basin as envisioned in the applicable Community Plan or the Rural/Natural Resource Plan, will not increase flood levels during the occurrence of the base flood discharge more than one foot.*

STAFF: A regulatory floodway has been designated (and is off-site to the south). The proposed development will not impact the flood plain because no impacts or encroachments into the Flood Plain are proposed. Further, as noted previously, upon right-of-way dedication, the Flood Plain appears to be located entirely within the right-of-way. However, in the event that construction activities encroach within the Flood Plan, then a Flood Plain alteration permit will be required.

421-7.5 *Notwithstanding Sections 421-7.3 and 421-7.4, an increase in flood levels in excess of one foot may be approved if the County, at the sole expense of the applicant, first obtains FEMA approval in accordance with 44 CFR Ch. 1, Part 65 (October 1, 1990 edition, or its successor).*

STAFF: An increase in flood levels should not occur because no impacts or encroachments into the Flood Plain are proposed. Staff would further opine that even if half-street improvements were constructed within the Flood Plain, an increase in flood levels should not occur.

421-7.6 *Development proposed on a drainage hazard area site shall demonstrate through hydrologic and hydraulic analysis, performed in accordance with standard engineering practice by a licensed professional engineer, that the cumulative effect of the proposal, when combined with all other existing and anticipated development within the basin based upon full development of the basin as envisioned in the applicable Community Plan or the Rural/Natural Resource Plan, will not result in any increase to the drainage hazard area elevation at any point in the community.*

Notwithstanding this provision, an increase may be approved if the area in which the rise will occur contains no structures and the owner of such property signs a written acceptance of any increase in the drainage hazard area elevation.

STAFF: There are no Drainage Hazard Areas within the site boundaries or near the site.

421-7.7 *Encroachments into a floodway allowed under Section 421-7.1 shall be designed so as to minimize the risk that the encroachment will catch substantial debris or otherwise significantly impede floodwater flows. Designs may include, but are not limited to, adequate sizing of openings, secured breakaway bridges, diverters or spacing of supports.*

STAFF: The floodway associated with Rock Creek (to the south) is located entirely off-site to the south. Thus, there are also no elements of the proposed development that would encroach into a floodway.

421-7.8 *The proposal will not increase the existing velocity of flood flows so as to exceed the erosive velocity limits of soils in the flood area. Energy dissipation devices or other measures to control the mean velocity so as not to cause erosion of the flood area may be used to meet this standard. "Open Channel Hydraulics" by V. T. Chow, McGraw-Hill Book Company, Inc., 1988, is presumed to be the best available reference for maximum permissible velocity. "Hydraulic Engineering Circular No. 14," Hydraulic Design of Energy Dissipators for Culverts and Channels, published by the Federal Highway Administration, September 1983, is presumed to be the best available reference for the design of energy dissipators.*

STAFF: The project is not anticipated to result in an increase to the velocity of flood flows since no encroachments into the Flood Plain are proposed or anticipated at this time. Additionally, according to the application, the proposed storm drainage management system will release treated stormwater at predevelopment rates (as required by CWS).

421-7.9 *All cut and fill shall be structurally sound and designed to minimize erosion. All fill below the flood surface elevation shall be accompanied by an equal amount of cut or storage within the boundary of the development site unless:*

STAFF: According to the applicant and as indicated previously, no encroachments (e.g., grading) are proposed within the Flood Plain at this time.

421-7.10 *There is adequate storm drainage behind a dike such as a lift pump or flap gate to drain the flood plain or drainage hazard area behind the dike.*

STAFF: There are no dikes or similar structures proposed.

421-7.11 *That the environmental impact of the disturbance or alteration of riparian wildlife and vegetation has been minimized to the extent practicable as required by Section 422. Enhancement of riparian habitats through planting or other such improvements may be required to mitigate adverse effects. Significant features such as natural ponds, large trees and endangered vegetation within the flood area shall be protected when practicable.*

STAFF: See also Section 422.

421-7.12 *Drainage systems shall be designed and constructed according to the adopted Drainage Master Plan for the area, if one exists.*

STAFF: Clean Water Services is responsible for ensuring adequate storm drainage management. See Recommended Conditions of Approval I.B.

421-7.13 *Proposed partitions and subdivisions shall minimize flooding by complying with the applicable standards of Sections 410, 421, 426, 605-3.2 and 610-3.1, and Clean Water Services Design and Construction Standards for regional water line and surface water management.*

STAFF: The proposed development is not a land division. Thus, this standard is not applicable. Notwithstanding, the proposed development will adhere to all applicable Code standards concerning grading and erosion control.

421-7.14 *Public utilities and facilities in proposed partitions and subdivisions shall be located and constructed in a manner that will minimize flood damage.*

STAFF: The proposed development is not a land division. Thus, this standard is not applicable.

421-7.15 *Proposed partitions and subdivisions shall provide adequate drainage to reduce exposure to flood damage by complying with the standards of Section 410 and applicable standards of Section 605-3.2 or 610-3.2, whichever is applicable.*

STAFF: The proposed development is not a land division. Thus, this standard is not applicable. Notwithstanding, the elements of the development proposal do not include additional impervious surfaces, such as structures or paved parking areas.

421-14 General Requirements and Prohibitions

421-14.1 *Property owners shall maintain the flood area in such a manner as to prevent reduction of the natural carrying capacity. Maintenance outside of the public right-of-way shall be done by means of hand implements unless a development permit for an alteration is first obtained (lawn mowers are considered hand implements).*

STAFF: The proposed development will not impact the carrying capacity of the flood area because no impacts or encroachments into the Flood Plain are proposed or anticipated. In the event that half-street improvements are located with the Flood Plain, project designs will need to ensure that the flood area and capacity is maintained.

421-14.2 *Storage of petroleum products, explosives, herbicides, pesticides, insecticides, poisons, defoliants, fungicides, desiccants, nematocides and rodenticide is prohibited.*

STAFF: The applicant stated that no storage of these items will occur within the Flood Plain. Underground fuel storage tanks will be subject to DEQ regulations and requirements and permitting.

421-14.3 *Dumping of solid waste in the flood area is prohibited.*

STAFF: The applicant stated that no dumping will occur within the Flood Plain.

421-14.4 *Section 421 is in addition to any and all Federal, State or special district laws and regulations in force at the time of approval of the development*

permit. Any permits required from a local, state or federal agency shall be obtained prior to any development within the flood area.

STAFF: The applicant stated that all required permits will be obtained.

421-14.5 The standards and criteria of this Section are cumulative and in addition to any other requirements of this Code. Any more stringent provisions of an applicable Community Plan or the Rural/Natural Resource Plan shall control.

STAFF: All applicable standards will be met.

421-14.6 The Review Authority may condition any Type II or III development permit to the extent necessary to avoid any specifically identified deleterious impacts on the natural integrity of the flood area or to wildlife and vegetation within the flood area.

STAFF: The applicant has submitted a Vegetarian Corridor Enhancement and Mitigation plan prepared in accordance with CWS regulations. Staff has not yet identified any additional conditions needed at this time to mitigate any impacts other than to implement the approved mitigation plan and to ensure that the proposed storm water quality facilities remain in good operating condition and treat storm water as required by CWS.

421-14.7 In the case of the partitioning or subdivision of land for the location of structures for human occupancy, such site shall provide a building site, which includes the ground under the structure plus a 10-foot setback around all sides of the structure, with a ground elevation at least 1 foot above the flood surface elevation. No partition or subdivision shall create a lot whose dimensions do not meet this standard.

STAFF: The proposed development does not include any land division.

421-14.8 There shall be no dumping of fill in a flood area without a flood plain or drainage hazard area alteration permit.

STAFF: No Flood Plain alteration is proposed at this time.

421-14.9 The applicant shall submit to the Director technical data as set forth in Section 421-14.10 prior to any watercourse alteration that will result in the expansion, relocation or elimination of the special flood hazard area.

STAFF: No Flood Plain alteration is proposed at this time.

421-14.10 Within 6 months of project completion, an applicant who obtains a CLOMR from FEMA, or whose development alters a watercourse, modifies floodplain boundaries, or Base Flood Elevations shall obtain from FEMA a Letter of Map Revision (LOMR) reflecting the as-built changes to the Flood Insurance Study (FIS) and/or Flood Insurance Rate Map (FIRM).

STAFF: The proposed development will not impact the Flood Plain elevation because no impacts or encroachments into the Flood Plain are proposed at this time.

Section 422 Significant Natural Resources

STAFF: The applicant has submitted site plan information required by this Section, including a Natural Resource Assessment prepared by Pacific Habitat Services, Inc. There are some areas along the southern property line that are designated with Metro's Title 13 (Riparian Areas) –

noting that these areas are largely impacted from past activities that occurred prior to designating Title 13 resources on the site. The delineation and assessment and proposed enhancement/mitigation of the degraded Vegetated Corridor consistent with Clean Water Services addresses Section 422-3.1. This information is in the Casefile (Appendix D).

According to the Natural Resource Assessment a total of approximately 6,673 square feet of permanent Vegetated Corridor encroachment will result from the construction of the proposed development. Additionally there are two small Vegetated Corridor areas that will experience temporary encroachments. The temporary encroachments are the result of sanitary sewer work and will be restored and replanted to good condition with native herbs and shrubs. Impacts to the permanent encroachment will be mitigated through the creation of 6,713 square feet of new Vegetated Corridor in the eastern portion of the site where there is currently no Vegetated Corridor. The new Vegetated Corridor will be planted with native trees and shrubs. Enhancement of these areas will also include the removal of any non-native species by hand.

Staff finds that the proposed project will not seriously interfere with the preservation of the designated (mapped) Significant Natural Resource Areas (Title 13 Riparian areas). This is due in large part to the fact that so much of the Vegetated Corridor is in a degraded condition, which has been acknowledged by CWS. This is also due in part to the applicant's proposal to enhance 3,853 square feet of degraded Vegetated Corridor and create 6,713 square feet of Vegetated Corridor. In total the project will result in the enhancement and creation of 10,566 square feet of contiguous Vegetated Corridor to good condition, which includes the removal of non-native invasive plant species.

Compliance with and implementation of the CWS-approved Vegetated Corridor enhancement and Vegetated Corridor creation satisfies Section 422 by minimizing impacts to the greatest extent practical and by mitigating impacts to the on-site degraded Vegetated Corridor. For these reasons, staff finds that the project as proposed and as described in the application satisfies Section 422.

Section 423 Environmental Performance Standards

423-2 New Uses

Development after the effective date of this Code shall observe the following requirements:

- 423-2.1 *When federal, state and local standards apply, the most restrictive shall govern.*
- 423-2.2 *Prior to issuance of a development permit or certificate of occupancy, the Director may require:*
- A. *Evidence that mandatory federal, state and local permits have been or will be obtained.*
 - B. *Information demonstrating that the proposed development complies with applicable standards set forth in this Section. This information may be required as a report of findings prepared by qualified engineers or other technical consultants.*

STAFF: All applicable federal, state, and local permits shall be obtained (e.g, CWS, Site Development Permit and Erosion Control Permit, County, Grading Permit, DEQ, Underground Storage Tank Permit (Oregon's Underground Storage Tank Program is part of the DEQ's Land Quality Division.)

423-3 Measurements

Accurate and representative measurements, as necessary, shall be made according to accepted engineering practice. Measurements shall be made at or anywhere outside the property lines of the property from which an emission is generated.

STAFF: All required measurements shall be made according to accepted engineering practices in compliance with the CDC requirements and of those entities/agencies issuing the permits.

423-4 Air Quality

All development shall comply with the State Department of Environmental Quality Air Quality Standards.

STAFF: The State Department of Environmental Quality (DEQ) standards pertaining to air quality apply to all land uses. No unusual air quality problems are anticipated as a result of the proposed development within the Neighborhood Commercial (NC) District.

423-5 Odor

All development shall comply with the State Department of Environmental Quality Standards pertaining to odor.

STAFF: Staff finds that none of the uses proposed for the site are associated with the release of odorous gases past the property line. Fueling pumps are not expected to cause odor impacts beyond the property lines. In addition, the underground fuel storage tanks require approval and maintenance through DEQ's Underground Storage Tank Program. The State regulates the permitting and monitoring of underground storage tanks, such as fuel tanks.

423-6 Noise

All development shall comply with the State Department of Environmental Quality Standards relating to noise. Demonstration of compliance may be required by the Review Authority.

423-7 Vibration

No development shall generate ground vibration which is perceptible by the Director beyond the property line of origin without use of instruments. Ground vibrations caused by motor vehicles, trains, aircraft, or temporary construction work are exempt from strict application of these standards, but good faith efforts to control such vibrations shall be made by the originator.

STAFF: No unusual problems with noise or vibration are anticipated with the proposed development is completed. The development would be subject to the Washington County Noise Ordinance at all times. Noise complaints are processed by Washington County Health and Human Services / Solid Waste and Recycling Program during regular business hours. After hour noise complaints would be handled by the Sheriff's Office.

423-8 Heat and Glare

Heat and glare shall be limited as follows:

423-8.1 *Except for exterior lighting, operations producing heat or glare shall be conducted entirely within an enclosed building.*

423-8.2 *Exterior lighting shall be directed entirely away from adjacent properties.*

STAFF: Staff does not find that heat and/or glare causing activities will be undertaken on-site.

423-9 Storage

423-9.1 *All materials, including wastes, shall be stored and all grounds maintained in a manner which will not attract or aid the propagation of insects or rodents or create a health hazard.*

423-9.2 *No open storage of materials and equipment shall be permitted unless contained by a site obscuring fence or landscaped screening.*

STAFF: Storage of materials (for sale product merchandise) will occur inside the building. None of the merchandise are expected to attract or aid the propagation of insects or rodents or create a health hazard such that appropriate control measures common to retail grocery stores are not able to address.

423-9.4 *Storage of Hazardous Materials*

Developments which store hazardous materials must comply with State standards, OAR Chapter 340 Division 63, and the Federal standards, 40 CFR Part 262 and 264 and shall demonstrate such compliance. All hazardous materials must be stored above ground. Transport of and disposal of such materials shall be in conformance with all applicable local, State and Federal regulations with such compliance demonstrated.

STAFF: Staff does not find that the business will involve the storage, transport, or disposal of hazardous materials – except for the underground fuel storage tanks. And as addressed previously, the tanks require approval and monitoring by DEQ.

423-10 Drainage and Waste Water

All development shall comply with the State Department of Environmental Quality Water Quality Standards for all runoff, drainage and waste water.

STAFF: Compliance with this standard would be evaluated as part of County Grading Permit review. The applicant would be required to provide evidence from the State DEQ that the Underground Storage Tank Permit has been obtained. CWS will also need to approve the final stormwater facility design as part of its Site Development Permitting process before construction of the facility can commence.

423-11 Adequate Water Supply

All development shall be required to have an adequate water supply. Adequacy shall include:

423-11.1 *Adequate supply for the use prior to issuance of a building permit (see Section 501-5.1, Critical Services).*

STAFF: The applicant proposes to install the necessary water line(s) served by the water district.

423-12 Radioactive Materials

The handling and storage of radioactive materials, the discharge of radioactive materials into air or water, and the disposal of radioactive waste in connection with all uses shall be in conformance with all applicable local, State, and Federal regulations with such compliance demonstrated.

423-13 Toxic or Noxious Matter

All development shall comply with the State Department of Environmental Quality standards pertaining to omission of toxic or noxious matter and such compliance shall be demonstrated.

STAFF: Staff does not find that radioactive, toxic or noxious materials will be made or disposed of on-site.

Section 426 Erosion Control

STAFF: Section 426 requires erosion control measures in the Tualatin River and Oswego Lake sub-basins during construction to control and limit soil erosion. Section 426-5.2 allows the erosion control plan submission and review to be deferred until the time of any on-site work or construction. Therefore, the applicant shall be required to submit an erosion control plan

consistent with the requirements of Section 426 prior to any physical change or construction on the site.

On July 1, 1990, the Unified Sewerage Agency (USA) assumed responsibility for erosion control within their district boundaries. The applicant will be required to submit a final erosion control plan to Clean Water Services (formerly USA) for their approval prior to any on-site or off-site work (including work within the right-of-way) or construction.

Section 429 Bicycle Parking

429-6 Number of Bicycle Parking Spaces Required

The minimum number of bicycle parking spaces required for long-term use is specified by land use category and shall be in accordance with Table A. The minimum number of bicycle parking spaces required for short-term use is specified by land use category and shall be in accordance with Table B.

STAFF: The applicant proposes 4 bicycle parking spaces. Whereas pursuant to Section 429-6, Tables A (Long Term) and B (Short Term), a total of 4 bicycle parking spaces are required.

TABLE A

| USE | | MINIMUM NUMBER OF BICYCLE PARKING SPACES PER UNIT OF MEASURE (WHICHEVER IS GREATER) |
|--|---|---|
| 429-6.3 Business and Commercial | | |
| D. | Retail stores, except as otherwise specified herein | Two (2) spaces, or one (1) space for each fifty (50) employees on maximum working shift |

Convenience Grocery: 2 Long Term Bicycle Parking Spaces

TABLE B

MINIMUM REQUIRED SHORT-TERM BICYCLE PARKING SPACES

| USE | | MINIMUM NUMBER OF BICYCLE PARKING SPACES PER UNIT OF MEASURE (WHICHEVER IS GREATER) |
|---|---|---|
| 429-6.8 Business and Commercial: | | |
| G. | Retail stores, except as otherwise specified herein | Two (2) spaces, or one (1) space for each fifty (50) employees on maximum working shift |

Convenience Grocery: 2 Short Term Bicycle Parking Spaces

Total Required: 4 bicycle parking spaces

Staff finds that the proposed bicycle racks will adequately serve the short and long term needs with locations and design that meets the standards of Section 429-7 through 11.

Section 430 Special Uses

430-35 Convenience Grocery

A convenience grocery store is one which sells frequently purchased foods and sundries to residents of an immediate area and/or to the traveling public.

Convenience grocery stores may be permitted subject to the following:

STAFF: The applicant requests Special Use approval for a "Chevron Market," (Super Convenient Market and Gas Station) consisting of a 4,296 square foot building (ground floor/building footprint) and 687 square foot mezzanine (second floor) and served by 5 fueling islands (10 pumps). The proposed total gross floor area complies with the maximum 5,000 square feet of gross floor area permitted in the NC District. Convenience Groceries are limited to a maximum gross floor area of 5,000 square feet pursuant to Section 311-3.3.

As stated above, the second floor mezzanine encompasses 687 square feet of floor area - useable floor area and therefore counts towards the maximum gross floor area limit of 5,000. The term "gross floor area" as used in Section 311-3.3 includes all floor area, including floor area contained in storage rooms, equipment rooms and rooms/areas supporting mechanical/electrical systems, including HVAC systems.

Hence for purposes of Code compliance, the 2nd floor mezzanine floor area contributes towards the maximum gross floor of 5,000 square feet. Whereas, in the CBD and GC Districts Convenience Groceries are not subject to any size limitations. It is worth noting that second floor mezzanines factors into TDT calculations further demonstrating the consideration of this area as useable floor area.

430-35.1 Entrances and Exits:

A. *Access shall be determined based upon a site inspection which considers the following:*

- (1) *Site Size;*
- (2) *Road Classification;*
- (3) *Sight distance and allowed m.p.h.; and*
- (4) *Adjacent development.*

B. *Consolidation of access with adjoining uses shall be encouraged.*

STAFF: Access is limited to NW West Union Road. As a triangular-shaped corner lot bound by two street sides (to the west and north) and park land (comprised mostly with natural resources) there are no other options to provide vehicular access to the site. Further, access to NW 185th Avenue is not allowed due to access spacing restrictions, nor is it feasible due to the presence of the water quality facility. See Section 501-8.5 of the Staff Report below and Attachment D.

430-35.2 *In consideration of possible negative impact on nearby residential uses, lighting, sign illumination, height and hours of operation may be restricted through the development review process.*

STAFF: Staff does not yet find any restrictions listed in this section as being necessary at this time.

430-35.3 *When a convenience grocery is located in the R-25+ District, it shall be pedestrian oriented.*

STAFF: The development site is designated Neighborhood Commercial (NC). Therefore, this standard is not applicable.

430-35.4 *When a convenience grocery is located in the Office Commercial District, hours of operation shall be limited to normal hours of operation in the Office Commercial District. Normal hours of operation are 7:00 a.m. to 6:00 p.m.*

STAFF: The development site is designated Neighborhood Commercial (NC). Therefore, this standard is not applicable. There are no hours of operation limitations in the NC District.

430-123 Service Station and/or Car Wash

A commercial establishment primarily involved with sales and services of motor fuels. In addition, the following may occur: supplying goods and services generally required in the operation and maintenance of automotive vehicles, including sales of petroleum products, sale and servicing of tires, batteries, automotive accessories and replacement items; car washing and lubricating services; the performance of minor automotive maintenance and repair, and the supplying of other incidental customer services and products. No merchandise or incidental items, including prizes or premiums, shall be displayed outside an enclosed building. Major automotive repairs, painting and fender work are excluded. Service Stations and car washes are subject to the following:

STAFF: The applicant requests Special Use approval for a service station ("Chevron Market," Super Convenient Market and Gas Station) served by 5 fueling islands (10 pumps) to be constructed on the development site supported by 22 off-street parking spaces and site landscaping. The service station business element will be integrated with the Convenience Grocery. Customers can pay at the pump or inside the store. Customers can purchase goods while getting gas or diesel or separately from a fuel purchase.

430-123.1 Entrances and Exits

- A. *Access shall be determined based upon a site inspection which considers:*
 - (1) *Site size;*
 - (2) *Road classification;*
 - (3) *Sight distance and allowed m.p.h.; and*
 - (4) *Adjacent development.*
- B. *Consolidation of access with adjoining uses shall be encouraged, particularly when the proposed driveway is within 10 feet of the side property line.*

STAFF: Access is limited to NW West Union Road as access to NW 185th Avenue is not possible, and access to the south is not practicable due to environmental constraints. See also Section 501-8.5 of the Staff Report below and Attachment D.

430-123.2 *Lighting, sign illumination, height and hours of operation may be restricted through the development review process in consideration of possible negative impact on nearby residential uses.*

STAFF: Staff does not yet find any restrictions listed in this section as being necessary at this time.

430-123.3 *No display of merchandise outside the building except small items such as oil, windshield wiper blades and tires (limited to one rack of 20).*

STAFF: A Condition of Approval to this affect has been added to Attachment D.

430-123.4 *No outside storage or sale of vehicles is permitted for more than 24 hours per vehicle.*

STAFF: A Condition of Approval to this affect has been added to Attachment D.

430-123.5 *Hours of operation shall be limited to normal hours of operation in the Office Commercial District. Normal hours of operation are 7:00 a.m. to 6:00 p.m.*

STAFF: The development site is designated Neighborhood Commercial (NC). Therefore, this standard is not applicable. As stated previously, there are no limitations to the hours of operation in the NC District.

Section 435 Variances and Hardship Relief

435-1 Purpose

The purpose of this Section is to provide a remedy from the strict interpretation of this Code where it can be shown that literal interpretation would cause unnecessary hardship.

435-2 Scope

435-2.1 Permitted Variances and Hardship Relief

Under the provisions of this Section, an applicant may propose a variance or hardship relief from a dimensional standard (as defined by Section 106-61) of this Code, and from the minimum required amount of parking of Section 413, except when:

A. The proposed variance or hardship relief would allow a use which is not permitted in the applicable land use district;

STAFF: The proposed Convenience Grocery – with a maximum gross floor area of 5,000 square feet - and Service Station are permitted uses in the NC District.

B. Another procedure is available in this Code for modifying or waiving the particular standard; or

STAFF: There are no other Code procedures available to modify the required front and street side yard setbacks.

C. This Code specifically prohibits a variance or hardship relief from a standard (e.g., Section 430-1.1 B.(8) prohibits a variance or hardship relief change to the distance between an accessory structure and a primary structure).

STAFF: The Code does not prohibit Variances to the required minimum yard areas (setbacks) as requested/proposed by the applicant.

435-2.2 Prohibited Variances and Hardship Relief

Notwithstanding Section 435-2.1, the following standards of this Code may not be varied by the provisions of this Section:

- A. *The minimum and maximum density requirements of a residential land use district;*
- B. *Definitions;*
- C. *A standard that implements a federal, state, regional, or local requirement, except where the language of such requirements allows;*
- D. *A floor area ratio (FAR); or*
- E. *The sight distance standards of Section 501-8.5 F.*

STAFF: The applicant has requested Variances to reduce: 1) the front yard setback (from NW 185th Avenue) from 20 feet to 2 feet, and 2) the street side yard setback (from NW West Union Road) from 20 feet to 10 feet for the Convenience Grocery and from 20 feet to 15 feet for the canopy. The requested Variances are not prohibited under Section 435-2.2.

435-3 *Procedure*

Unless otherwise specified in this Code, variances shall be processed through a Type III procedure.

STAFF: The Variance requests are being processed through the Type III Procedure.

435-4 *Variance Criteria*

A variance may be granted only when the Review Authority makes findings, based upon evidence in the record, that the variance is consistent with all of the following criteria:

435-4.1 *Compliance with the applicable standard of the Code would create an unnecessary hardship due to the following condition:*

- A. *The physical characteristics of the land are not typical of the area, including a jurisdictional wetland, or a significant natural resource or historic feature that is identified by a Community Plan or the Rural Natural Resource Plan, resulting in a hardship unique to the property of the applicant and not applying generally to other property in the same vicinity and the variance is necessary to permit the property to be developed or enjoyed to an extent comparable with other properties in the same district in the area;*

STAFF: The development site is an irregular, triangular shaped corner lot fronting two County Arterials and bordered to the south by natural open space (Rock Creek Greenway) and the existing flood plain and associated wetlands. The site is 1.21 acres or 52,707.6 square feet in size⁶. Before right-of-way dedication of 18 feet on West Union, the property maintains a north-south dimension of about 142 feet (along the west property line) and an east-west dimension (along the south property line) of about 723 feet. Additionally, the applicant is required to dedicate an additional 18 feet of right-of-way (ROW) along the West Union Road frontage reducing the maximum width of the property to almost 124 (123.7 feet).

The physical characteristics of the site are somewhat unique to the site. As a triangular-shaped parcel, the north-south dimensions range from a long of almost 124 after ROW dedication feet to '0' feet at the eastern property corner. The north-south dimension of 124 feet after ROW dedication is the largest lot depth (dimension) such that the north-south dimension gets shorter from the west property line to the east property corner, which effectively is zero.⁷ Notwithstanding, the north-south dimension is almost 1-1/2 times longer than the Code minimum of 85 feet.

⁶ Section 311-6.1, minimum lot size in the NC District is 8,500 square feet.

⁷ Section 311-6.4 A. and B., minimum average lot width and lot depths in the NC District are 85 feet.

The configuration of the site is such that the lot depth tapers down (gets smaller/shorter) from west to east to the point that imposing a 20 foot street side yard along the NW West Union Road street frontage could pose a hardship, which is one reason why the applicant proposes to site the building close to the west property line – and with a Variance to reduce the front setback from 20 feet to 2 feet and a Variance to reduce the street side yard setback from 20 feet to 10 feet for the convenience store.

The applicant opines that the proposed size of the structure is necessary to prove financially sustainable. According to the applicant, a typical convenience [grocery] store contains approximately 2,800 square feet of sales and 1,900 square feet of non-sales area, for a total of 4,700 square feet.⁸ The proposed first floor area of sales and non-sales area of 4,296 square feet is generally consistent with the size of the typical convenience store. The applicant also stated that the two story design “reduces the ground floor building footprint on the site to accommodate the retail space, with storage and mechanical equipment located on the second floor.” Noting that the second floor mezzanine only contains only 687 square feet while the ground floor contains 4,296 square feet.

Noting that the second floor equipment and storage area encompasses only 687 square feet, whereas some of the proposed behind the counter storage area and office on the ground floor it appears could be relocated to an expanded second floor mezzanine, which would reduce the length of the building footprint enough to provide the 10 additional feet of street side yard setback. A slightly reduced gross floor area would still be within the range national standards referenced by the applicant plus would greatly exceed the other existing convenience stores noted in the footnote. Staff estimates that reducing the length of the building by approximately 6 feet would produce a building footprint meeting the 20 foot street side yard setback. And increasing the second floor mezzanine to include the floor area removed from the ground floor would result in no loss of floor area.

And as stated previously, the maximum gross floor area for Convenience Groceries is 5,000 square feet. However, inclusive of the 2nd floor mezzanine, the total gross floor area proposed is 4,983 square feet which is less than the maximum gross floor area allowed of 5,000 square feet. Whereas if the site was designated either CBD or GC, the proposed Convenience Grocery would not be limited in gross floor area. Notwithstanding, the proposed building footprint contains 4,296 square feet, which is generally consistent with the typical convenience [grocery] store according to the applicant. The proposed square footage meets the first specific characteristic of Super Convenient Markets and Gas Stations listed under ITE Code 960. See Attachment D.

The following analysis from the application speaks to the financial viability of a convenience store designed in accordance with the minimum setbacks.

According to the National Association of Convenience Stores (NASC), a typical convenience store contains approximately 2,800 SF of sales space and 1,900 SF of non-sales area for a total of 4,700 SF. These areas are vital to the feasibility of fueling stations, because the greater margins associated with in-stores sales, particularly food and beverage, are necessary to offset the slim and typically volatile margins associated with fuel sales. Therefore, a smaller building footprint would significantly impact the financial feasibility of the project and render the proposed use of the site as a retail market and fueling station unviable.

Staff finds that the existing water quality facility located between the west property line and the sidewalk along 185th Avenue provides a significantly wider front yard setback than would be provided if the facility was not there and the building was setback 20 feet (noting that the west property line is about 40 feet from the back of sidewalk. The width of the water quality facility effectively provides the front yard setback. Consequently implementation of a 20 foot

⁸ The applicant's single story Murray & Allen convenience store of the Chevron gas station contains about 2,600 sq. ft. The Arco convenience store on Cornelius Pass Road, south of West Union Road contains about 3,500 sq. ft., and the Chevron convenience store on 185th Avenue, south of Evergreen Parkway contains about 3,050 sq. ft.

street side yard setback from West Union Road resulting in about a building that is 10 feet shorter. The western building wall measures almost 100 feet in length.

Taking into account a reduced front yard setback and a 20 foot street side setback staff opines would result in closer to the proposed building square footage than to the 2,400 square foot building size calculated by the applicant. Noting that staff recommends that at least a 5 foot front yard setback be maintained at the narrowest point along the west property line in order to ensure adequate area for employees to use to access this part of the development for building maintenance and repairs, etc. Staff believes that the generally a 3 foot shift of the structure to the east can be made without significant changes to the overall site plan.

As noted previously, the two closest convenience stores with gas stations plus the applicant's Murray and Allen store and gas station are significantly smaller than the NASC description of the typical convenience store, yet appear to be financially sustaining business operations. The applicant's findings that "*a smaller building footprint would significantly impact the financial feasibility of the project and render the proposed use of the site as a retail market and fueling station unviable*" are not supported by financial analysis, which should compare other similar businesses in the area, including the Murray and Allen convenience store and gas station.

435-4.2 *The hardship does not result from actions of the applicant, owner(s) or previous owner(s), or from personal circumstances of the applicant, owner(s) or previous owner(s), such as physical condition, age or financial situation;*

STAFF:

The development site is constrained and quite irregularly shaped with frontage on two county Arterials (on the west and north) and park land encumbered with significant natural resources, flood plain and wetlands (on the south). The development site maintains a north-south dimension of about 124 feet along the west property line after ROW dedication and "zero" at the eastern corner/point of the development site for it is essentially triangular in shape.

None of the constraints are the result of actions by the current or previous owner. In part, over time additional right-of-way dedications have occurred further reducing the developable area of the site – with the most recent dedication occurring in response to the County's NW 185th Avenue Project and the need to construct a stormwater quality facility at the southeast corner of the intersection of NW 185th Avenue and NW West Union Road. The width of the water quality facility effectively provides a setback wider than the minimum Code required 20 foot front yard setback (noting that the facility measures about 35 feet wide and the west property line is about 38 feet from the back of sidewalk).

The current development application will require additional right-of-way on NW West Union Road, further reducing the north-south depth of the subject property. However, the length of the new north south dimension along the west property line of 124 feet is much longer than the Code minimum average lot depth of 85 feet. Additionally it could be noted that designing a slightly smaller building and/or increasing the size of the second floor mezzanine would eliminate the reduced street side yard setback of 20 feet from West Union Road. See *Attachment D*.

435-4.3 *The variance is not intended to avoid a standard of this Code to facilitate a particular site design or development when another design or development which meets the standard is available;*

STAFF:

The applicant stated that the size of the building is the minimum necessary to result in a financially viable business. The proposed building floor area of 4,983 square feet is more than the typical gross floor area of Convenience Groceries of 4,700 square feet according to the applicant. The size of the Convenience Grocery (building footprint) is what serves as the basis for the Variance requests.

Secondly, the building needs to be located as far as possible to the west end of the site in order to site the fueling stations and underground tanks and provide vehicular maneuvering

areas for customers and refueling tank trucks. In this case, as close as possible to the west property line. Further, the applicant could probably design a smaller footprint and include sales area on the first floor and more storage and offices on the second floor. Doing so would result in a more compact two story structure with a larger second floor and a smaller building footprint (ground floor).

However, as stated previously, staff supports reducing the front yard setback from 20 feet to 5 feet (applicant requests 2 feet) along the 185th Avenue frontage because of the presence of the wide water quality facility located between the sidewalk and the west property line. Whereas, staff opines that designing with a 20 foot street side yard setback would not result in significantly reducing the gross floor area of the proposed 4,983 square foot convenience store. Revisions could include a combination of relocating more storage and perhaps the office to the second floor to reducing the large open floor area located in the northeast corner of the ground floor. It appears that the worst case scenario could result in the reduction of about 300 square feet in order to incorporate a 20 foot street side yard setback which should not be financially detrimental to the proposed development.

435-4.4 *Strict adherence to the requirement or standard is unnecessary because the proposed variance will reasonably satisfy both of the following objectives:*

- A. *Not adversely affect the function or appearance of the development and use of the subject property and surrounding properties;*

STAFF:

The proposed development site is corner property, with frontage on two arterial streets. The requested Variances will result in the proposed building being located closer to the abutting street frontages. The proposed site plan is the culmination of several attempts to design a development for the site, with this current site plan the only one including a convenience market and service station. Noting that the fueling islands and associated vehicular circulation for customers and refueling trucks is the most land-intensive elements of the proposed project and that the 4,296 square foot building (footprint) occupies a relatively small percentage of the site.

Staff is of the opinion based on other design concepts that setbacks could likely be met with other land use proposals or a smaller building (smaller footprint) but that in the case of the current proposal would likely result in a much smaller building footprint – one that the applicant stated is not financially viable. And as noted above, the location of the building is largely predicated on the location of the fueling islands and fuel tanks as well as the large area needed for vehicular circulation – which itself is constrained by access limitations to NW West Union Road, a county Arterial. The western part of the site contains the largest area (with long north-south and east-west dimensions) considered more suitable/practicable to cite the new Convenience Grocery.

In general, staff does not find that reduced setback variances will adversely affect the function or appearance of the development and use of the subject property and surrounding properties. However, staff has concerns with how much of a reduction is proposed (i.e., a 2 foot setback to NW 185th Avenue. Consequently, staff would support a 5 foot setback to NW 185th Avenue. A 2 foot setback leaves no room to access the back side of the structure for building maintenance and repairs, including painting and landscape installation/upkeep. A setback of at least 5 feet is needed for these purposes. In 5 feet, a ladder or other apparatus can be placed to conduct repairs and maintenance. Also too narrow of a yard area will not afford employees to periodically remove any garbage or debris that likely will end up over time between the building and the existing chain link fence bordering the water quality facility. Staff supports a Variance to 5 feet and as noted previously staff has identified a few possible minor adjustments that can be made to provide the 5 foot setback.

The variances sole purpose is to locate the building as close to NW 185th Avenue and NW West Union Road as possible, resulting in an adequate area to locate the fueling islands and vehicle maneuvering areas, including refueling trucks. The proposed development of just a gas station or a much smaller building could be proposed that does not require a variance. Staff does not find that the proposed building placement should have an environmental

impact on the nearby resources. This in part due to the fact the building is proposed to be located as far to the west property line as possible.

- B. *Not impose limitations on other properties and uses in the area including uses that would be allowed on adjacent properties; and*

STAFF: The proposed development site is a triangular corner property, with street frontage on two sides both of which are Arterials with limited access spacing. The property to the south is natural open space (Rock Creek Greenway).

Staff does not find that the proposed setback variances would impose any limitations on other properties and uses in the area including uses that would be allowed on adjacent properties. For instance, the property to the south is entirely natural open space/park land/trails. In fact the parks and trails are already existing, so the proposed Convenience Grocery and Service Station will not place any limitations on use of the park and trails.

Staff does not find that the proposed building placement should result in limitations on how nearby properties are utilized or on uses that could occur on said area properties.

- 435-4.5 *The variance will allow the property to be used only for purposes authorized by this Code.*

STAFF: The only uses proposed are those allowed in the NC District. Convenience Groceries are Type II permitted uses (Section 311-3.3) and service (gas) stations are Type II permitted uses (Section 311-3.15). Convenience Groceries are, in turn, subject to the standards of Section 430-35, while service stations are, in turn, subject to the standards of Section 430-123.

- 435-4.6 *The Review Authority may impose such conditions as are deemed necessary to mitigate any adverse impacts which may result from granting the relief.*

STAFF: At time of this report, staff has not identified any additional Conditions of Approval deemed necessary to mitigate any potential adverse impacts that may result from approval of the Variance requests as described above.

4. **Article V, Public Facilities and Services:**

Section 501 Public Facility and Service Requirements

501-2 Application of the Public Facility and Service Standards Inside a UGB

Application of the Public Facility and Service Standards (Section 501-1 through 501-12) shall apply to the Urban Unincorporated Area as follows:

- 501-2.2 *To all new construction of structures or expansion of an existing structure, except for construction of a single (one [1] only) detached dwelling unit or duplex on an approved duplex lot (Section 430-13.3), or other structures which meet all of the following:*
- A. *Contains two thousand (2000) square feet or less;*
 - B. *Does not, in itself, generate more than fourteen (14) vehicle trips per day, as defined by the Institute of Traffic Engineers, Trip Generation Information Report;*
 - C. *Contains no plumbing fixtures, or has less than twelve (12) additional fixtures attached to an existing, approved septic system or public sewer; and*
 - D. *Does not pose any unique public health or safety issues.*

STAFF: Article V is applicable to the proposed development per Section 501-2.2 in that it generates more than 14 ADT and will include a 4,983 square foot commercial development, "Chevron Market," (gas station/convenience market) served by 5 fueling islands (10 pumps). The

proposed use will generate a net increase of 2,305.2 ADT to 2,969.22 ADT. See Attachment D.

501-3 Application of the Public Facility and Service Standards for Multiple Actions

STAFF: There are no future or phased development actions for this site that would make it appropriate to delay application of Article V. As such, all requirements of Article V for this site are being evaluated with this subdivision and property line adjustment application.

501-4 Deferral of Public Facility and Service Standards

STAFF: The applicant has not proposed to defer the public facility and service standards that are applicable to this proposal.

501-5 Exemptions from Public Facility and Service Standards of Section 501-2

STAFF: The proposed development is not exempt from Section 501-2. Therefore, the provisions of this section are applicable. Further, the applicant has not requested an exemption in accord with Section 501-2.

501-6 Exceptions for Critical and Essential Services

STAFF: The applicant has requested any exception to Critical or Essential Services for this development for half-street improvements.

Section 501 Public Facility and Service Requirements

501-6 Exceptions for Critical and Essential Services

501-6.1 Development proposals that cannot ensure critical and essential services other than those required by Sections 501-8.1 B. (4) or 501-8.2 G. [Half-street improvements] within the required time frames shall be denied unless all of the following findings can be made:

B. The approval of the development application will not substantially interfere with the ability to later provide the particular inadequate facility(ies) or service(s) to anticipated uses in the vicinity of the subject property;

STAFF: Staff find that approval of the exception request would not interfere with the ability to provide half street improvements in the future, *provided that adequate right-of-way is dedicated and that the building and canopy are located far enough to the south to accommodate the required half-street improvements. See Section 435 of the Staff Report above.*

Staff also find that the applicant has the ability to provide half street improvements at this time and that conditioning the half-street improvements are roughly proportional. According to the Transportation Plan, the required right-of-way – as measured from the legal centerline - is 21 feet. The applicant proposes 18 feet of ROW dedication plus a 10 foot PUE (this reduced right-of-way dedication is acceptable to the County Engineer). See Attachment D. regarding required right-of-way.

C. The approval of the development application without the assurance of the particular inadequate facility(ies) and service(s) will not cause a danger to the public or residents in the vicinity of the subject property; and

STAFF: Staff finds that approval of the half-street improvement exception could pose potential unsafe conditions to the traveling public. The proposed development will generate 4,173.66 new weekday vehicle trips per ITE Category 960 (see Attachment D). Noting that the nearest service stations are a mile away south on NW 185th Avenue and a mile and a half to the west. So it is anticipated that the proposed use at this location will be highly frequented by

motorists in the Bethany area needing to fuel their vehicles. Further, the quickly developing North Bethany area is located northeast of this site and should provide a strong customer base for vehicle fueling. This a significant increase in new trips that would be best served and made safer by the completion of half-street improvements along NW West Union Road.

501-6.3 *Development proposals that cannot ensure improvements required by Sections 501-8.1 B. (4) or 501-8.2 G. [Half-street improvements] within the required time frames shall be denied unless the Review Authority determines that the findings required under Sections 501-6.1 B. and C. plus the findings required by at least one of Sections 501-6.3 A. through C. below can be made.*

A. *Within five hundred (500) feet of the subject site (not including the subject site), measured in each direction along the frontage road, but not beyond the nearest intersecting Collector or Arterial road:*

(1) *No similar frontage improvements exist on the same side of the street as the subject site; and*

STAFF: There are similar frontage improvements on the same side of the street between at the intersection of NW West Union Road and NW Kahneeta Drive. Improvements including sidewalks, curbs and storm drainage exist within 500 feet of the development site. The improvements were completed for the Rock Creek No. 10 residential subdivision in the late 1970's. The improvements extend from the intersection with NW Kahneeta Drive improvements to the Rock Creek Trail mid-block crossing. Outside of these improvements there are no other similar improvements.

(2) *Seventy-five (75) percent or more of the parcels fronting on the same side as the subject site cannot be divided based on the allowed minimum lot size or density requirements of the applicable land use district(s).*

STAFF: There are three properties to the east located within 500 feet of the development site; two are owned by the Park District and are maintained as park and other open space and the other a developed residential lot. The larger of the two properties is encumbered with natural resources and the Flood Plain associated with Rock Creek and designated Institutional. Consequently the Institutional lands possess no residential capacity (no dwelling unit potential). While the smaller parcel is an open space (0.7 acre in size) too small for redevelopment with residential uses but is designated R-5 Residential. The residential lot currently supports a single family dwelling unit. The larger parcel might have the potential after netting out the unbuildable areas (Flood Plain, Goal Resources, including powerline easements) to support some residential development if THPRD sought a plan amendment to change the land use designation from Institutional to residential.

Staff find that the half-street improvement exception may satisfy Section 501-6.1 B. but does not satisfy Section 501-6.1 C. Further, staff find that the half-street improvement exception does not satisfy Section 501-6.3 A.

Additional Information:

- The county does not have a capital road project in the design stage, nor does the county have a funded road project for the section of NW Union Road east of NW 185th Avenue. There is a project scoped to look at the design for future road section of NW West Union Road (from the west of NW 185th Avenue), but the design project stops short of the intersection of NW 185th Avenue. Noting that no design work is planned for West Union Road east of NW 18th Avenue. Therefore, there are no half-street improvements currently planned to be constructed as part of a county-funded road project in the foreseeable future for West Union east of 185th Avenue (**Section 501-6.3 B.**).

B. The subject improvements will be constructed as part of a planned and funded public road improvement project scheduled to begin construction within twelve (12) months of the proposed development's approval date.

- Staff finds the required half-street improvements (of about 723 feet) would be roughly proportional to the impacts resulting from the proposed Convenience Grocery and Service station (with 10 pumps). For comparison, a net increase in 2,969 additional trips would be the equivalent of a 314 lot detached single family residential subdivision. So the new net increase in trips would be comparable to a large residential subdivision but in a much smaller area. The new net increase in trips also represent about a 24% increase in trips on West Union (based on the 2019 traffic count). Whereas the proposed development would generate 4,173.66 gross new trips (Scenario B). See Attachment D.
- The applicant has the ability post land use decision, as is current practice, to request that the County Engineer accept payment of Fee in Lieu when going through design review, which would be considered given, in part, unknown variables concerning this transportation corridor. However, any requests for Fee in Lieu cannot include improvements required by Traffic Engineering as they relate to the completion of the 4th leg of the intersection (eastern access) nor access lighting at the right-in only access.

501-7 Levels of Public Facilities and Services

STAFF: The applicant has provided documentation and service provider letters consistent with the definitions and procedures listed in this section.

501-8 Standards for Development

501-8.1 Critical Services

- A. An applicant for development shall provide documentation from the appropriate non-County service provider that adequate water, sewer and fire protection can be provided to the proposed development prior to occupancy. The documentation shall be no more than ninety (90) days old.*

STAFF: The applicant has provided service provider letters from Clean Water Services, Tualatin Valley Water District, and Tualatin Valley Fire Rescue, all of which were dated within 90 days of the date the application was submitted.

- B. No development shall be approved without an adequate level of access to the proposed development in place or assured at the time of occupancy, with "adequate" defined for critical road services as:*

STAFF: Findings for the requirements under this Section are in Attachment D, Transportation Report, and D1.

- C. No development shall be approved without adequate drainage as prescribed by the County Drainage Master Plan or the adopted Drainage Ordinance or Resolution and Order, and adequate provisions for stormwater, surface water and water quality management as required by the Clean Water Services' "Design and Construction Standards for Sanitary Sewer and Surface Water Management" or its successor.*

STAFF: The applicant has provided documentation from Clean Water Services. As noted in Attachment B, Conditions of Approval, the development will be reviewed by Clean Water Services for compliance with Resolution & Order 19-05 - Erosion Control, Water Quality, and Water Quantity.

- D. No development shall be approved on property that is located outside of the Washington County Urban Road Maintenance District. The subject property shall be annexed into this district prior to being granted final approval of a development application. For applications where both*

preliminary and final approval are not required, the property shall annex into the district prior to being granted preliminary approval.

STAFF: As noted in Attachment D, Transportation Report, the property is in the Urban Road Maintenance District.

- E. For development in a Transit Oriented District, or development outside a Transit Oriented District but adjacent to a designated Special Area street, a nine (9) foot pedestrian/utility easement shall be recorded adjacent to frontage on a Special Area Neighborhood Route or Special Area Commercial street. A ten (10) foot pedestrian/utility easement shall be recorded adjacent to a Special Area Local street. If the required sidewalk width is greater than the sidewalk/utility easement, additional sidewalk easements shall be recorded to the outside edge of the required sidewalk.*

STAFF: The site is not in a Transit Oriented District or adjacent to a Special Area street. The standards of this section are not applicable.

501-8.2 Essential Services

A. Service Provider Documentation

STAFF: The applicant has provided service provider letters from districts and agencies that provide services defined as Essential in Article V. All of the services provider letters indicate that the identified services can be provided for the development.

B. Adequate Level of Arterial and Collector Roads

STAFF: Findings for the requirements under this Section are in Attachment D, Transportation Report, and D1.

C. Street Lighting

For all new Local, Neighborhood Route, Collector and Arterial streets, and half-street improvements an applicant shall provide street lighting consistent with County engineering standards and procedures and the requirements of the electrical utility company providing service to the area. The applicant shall ensure the construction, maintenance and power costs of street light facilities through the annexation and petition for service to an existing County service district for lighting or other funding method approved by the County Engineer.

STAFF: County staff will review street lighting for the proposed development for compliance with the County Road Design and Construction Standards. This review, compliance with the County requirements, and funding for construction, maintenance, and operation of any required street lighting are noted in Attachment B, Conditions of Approval.

- D. Applicants shall be required to dedicate or reserve appropriate right-of-way for the planned transit corridor if it is determined in the development review process that the County has the funds available to pay for the land to be acquired or the applicant chooses to receive the density bonus provided in Section 375-13.2.*

STAFF: The subject site is not in a Transit Oriented district and no right-of-way for a transit corridor is needed.

- E. Gravel roads are unacceptable for development within the Urban Growth Boundary and they shall be improved in accordance with the Washington County Transportation Plan and Road Design and Construction Standards, including the installation of street lights consistent with County engineering standards and procedures and the requirements of the electrical utility company providing service to the area. The applicant shall ensure the construction, maintenance and power costs of street*

light facilities through the annexation and petition for service to an existing County service district for lighting or other funding method approved by the County Engineer.

STAFF: The site does not have gravel roads along its frontage. See Findings in Attachment D, Transportation Report, and D1 for required street improvements.

- F. Future alignments of Collectors or Arterials as designated on the Transportation Plan or an adopted study, lying within or adjacent to the development's boundary shall be constructed in accordance with the Washington County Transportation Plan and Road Design and Construction Standards.*
- G. A half-street improvement shall be constructed along the site's frontage of existing Collector and Arterial roads which abut the site and are not improved in accordance with the Washington County Transportation Plan and Road Design and Construction Standards.*

STAFF: NW 185th Avenue and NW West Union Road are Arterial Streets adjacent to the site. Requirements regarding half-street improvements are described in Attachment D, Transportation Report, and D1.

- H. For development in a Transit Oriented District, a nine (9) foot pedestrian/utility easement shall be recorded adjacent to frontage on a Special Area Collector street. If the required sidewalk width is greater than this sidewalk/utility easement, additional sidewalk easements shall be recorded to the outside edge of the required sidewalk.*

STAFF: The subject site is not in a Transit Oriented District.

- I. Where off-site road improvements are otherwise required as a condition of development approval, they shall include facilities accommodating convenient pedestrian and bicycle travel, including bicycle ways along Arterials and Collectors. The level of pedestrian and bicycle improvement shall be determined by the Review Authority, based upon the impact of the proposed development.*

STAFF: Findings for the requirements under this Section are in Attachment D, Transportation Report, and D1.

- J. When a development site includes frontage on a roadway that is identified as a 'Boulevard' or 'Street' on the Regional Street Design Overlay Map in the Transportation Plan, the Director shall determine if additional right-of-way, set backs, easements or right-of-way reservations are required so that implementation of Regional Street Design Guidelines will not be precluded.*

STAFF: The subject site does not have frontage on a roadway with either of these designations on the Regional Street Design Overlay Map in the Transportation Plan.

K. Law Enforcement Services

No development shall be approved on property that is located outside of the Washington County Enhanced Sheriff's Patrol District. The subject property shall be annexed into the district prior to being granted final approval of a development application. For applications where both preliminary and final approval are not required, the property shall annex into the district prior to being granted preliminary approval.

STAFF: The subject site is in the Washington County Enhanced Sheriff's Patrol District.

501-8.3 Desirable Services

- A. Pedestrian walkways, off-street trails and pathways and bicycle facilities**

STAFF: The subject site does not require any pedestrian walkways, trails, or facilities per Section 408, Tualatin Hills Parks & Recreation District, or the Transportation System Plan – with the noted exception of a pedestrian connection (from the building to NW West Union Road sidewalks) pursuant to Section 408-10.

B. Park and recreation facilities

STAFF: The subject site is currently within the Tualatin Hills Parks & Recreation District.

501-8.4 Dedication of Right-of-Way

STAFF: The Transportation Plan requires a total of 51 feet from legal centerline for NW West Union Road, which is a County Arterial designated as an Enhanced Major Street Bikeway. 30 feet of right-of-way exists along the NW West Union Road frontage. As noted previously and in Attachment D, the County Engineer accepts a reduced setback of 18 feet. See also Attachment D, regarding required right-of-way dedication along NW West Union Road.

501-8.5 Access to County and Public Roads

All developments shall have legal access to a public road. Except for interim access as provided in Section 501-8.5 E. (Interim Access), access onto any public road in the unincorporated or incorporated urban area shall be permitted only upon issuance of an access permit upon demonstration of compliance with the provisions of the county road standards and the standards of Section 501.

STAFF: The proposed development fronts NW 185th Avenue, a county Arterial. No access is proposed or practicable due to the presence of the water quality facility as well as the fact that any access would be too close to the intersection and in conflict with the north-bound dedicated right-turn lane.

The proposed development also fronts NW West Union Road. The applicant requests approval of an Access Management Plan for two accesses: the western-most access as a right-in only access and the eastern-most access as the fourth leg of an existing signalized intersection. An AMP is required due to the arterial access spacing requirements of 600 feet. Findings for the requirements under this Section are in Attachment D, Transportation Report, and D1.

501-8.6 Methods to Assure Facilities and Services

STAFF: Findings for the requirements under these Sections are in Attachment D, Transportation Report.

Section 502 Sidewalk Standards

502-1 Intent, Purpose, Application, Authority, Requirement

502-1.4 Sidewalks shall be required to be constructed prior to occupancy for the following development in the unincorporated areas of Washington County within an urban growth boundary:

A. All development that is subject to the Public Facility and Service Standards as required by Section 501-2, except for:

(1) Private streets for four (4) or fewer dwelling units pursuant to Section 409-3.3 A. (1), (2), and (4 - 7); and

(2) Residential development that meets the exemption criteria in Section 502-14; or

STAFF: The proposal is subject to Section 501, per the applicability standard in Section 501-2. Sidewalks constructed at ultimate location and grade are required. See Attachment D, Transportation Report, for the specific sidewalk requirements for this proposal.

D. Ordinance No. 768-A, 783-A, 799-A – Washington County Transportation System Plan:

STAFF: The findings and recommendations for transportation standards are found in the Transportation Report and are incorporated as findings herein.

E. Ordinance No. 793-A; Washington County Transportation Development Tax Ordinance:

STAFF: The Transportation Development Tax (TDT) is required of all new development and constitutes an assurance to satisfy a development's requirement to provide additional capacity to major collectors and arterial streets needed for development. This fee is based on the number of daily trips a site generates and is due at issuance of a building permit unless deferred to building occupancy.

F. Ordinance No. 738 - Road Design and Construction Standards:

STAFF: The findings and recommendations for transportation standards are found in the Transportation Report and are incorporated as findings herein.

G. Resolution and Order No. 86-95 – Determining Traffic Safety Improvements

STAFF: The findings and recommendations for transportation standards are found in the Transportation Report, Attachments D. and D1, and are hereby incorporated as findings. No off-site improvements are necessary to satisfy R&O 86-95 except as what may be necessary to provide safe site access (e.g., adequate sight distance, adequate sight access illumination at NW West Union Road) as determined by Traffic Engineering to ensure that the approved AMP will provide safe access. *See Attachments D and D1.*

H. R & O No. 19-05 regarding Erosion Control, Water Quality and Water Quantity:

STAFF: Resolution and Order 19-05, as amended by Resolution and Order 19-05, contains adopted standards and regulations for Clean Water Services (The District) review and approval of erosion control measures.

IV. SUMMARY AND CONCLUSION:

The required findings have been made for all of the applicable Code sections. When implemented in accordance with the Recommended Conditions of Approval and the approved final plans, the project will be in compliance with the Community Development Code and the Community Plan.

Therefore, staff recommends that the Hearings Officer **approve** the request for Special Use and Development Review approval for a 4,983 square foot commercial development (a maximum of 5,000 square feet of gross floor area is allowed pursuant to CDC Section 311-3.3), "Chevron Market," (gas station/convenience market) served by 5 fueling islands (10 pumps), an Access Management Plan for access to NW West Union Road, and Variances to reduce the front yard setback (from NW 185th Avenue) from 20 feet to 5 feet. Staff does not support 10 foot street side yard setbacks to NW West Union Road. Approval should be subject to the Recommended Conditions of Approval set forth in Attachment "B" of this report.

Staff also does not recommend that the Hearings Officer approve of the Half-Street Exception because there are other similar half-street improvements within 500 feet of the development site (east on NW West Union Road) and that the recommended half-street improvements are roughly proportional to the impacts of the development (noting that the proposed development will generate a net increase in 2,969 additional trips (Attachment D, Scenario B) and further that a net increase of 2,969 ADTs would be the equivalent of a 314 lot detached single family residential subdivision⁹.) The new additional trips also represent about a 24% increase in trips on West Union (based on the 2019 traffic count). Whereas the proposed development would generate 4,173.66 gross new trips (Attachment D, Scenario B). The required half-street improvements are therefore roughly proportional to the impacts resulting from the proposed development. See also Attachment D and D1.

⁹ Assuming a lot width at the street of 30 feet (R-9 Residential lot), 314 R-9 lots would require about 4,710 linear feet of road improvements and utilities.

Attachment D

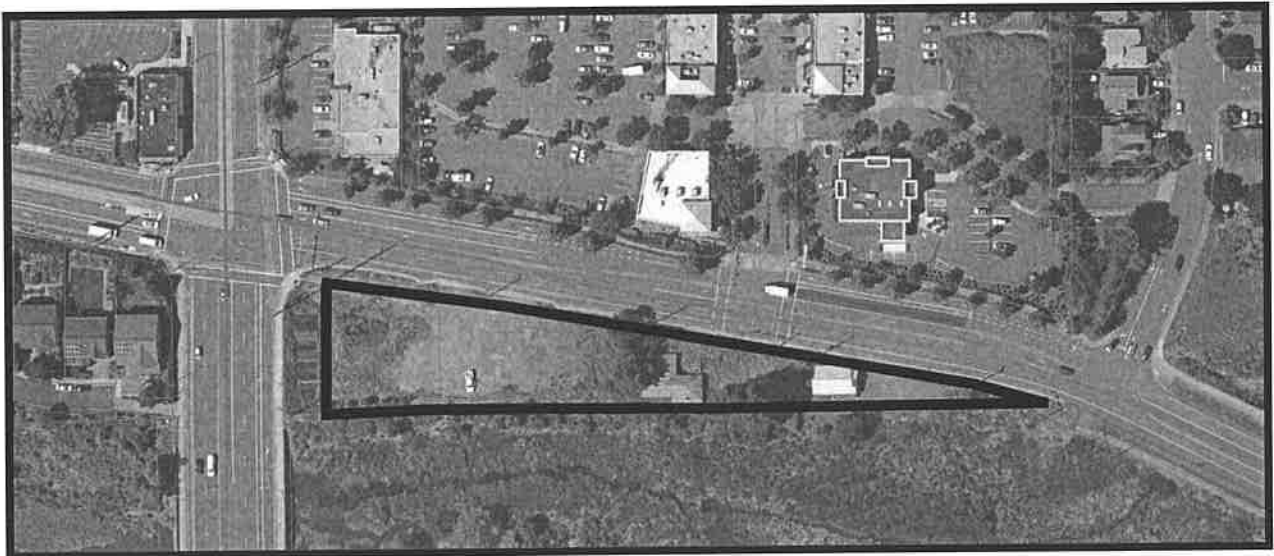
TRANSPORTATION REPORT

Staff reviewed this request for adequacy of transportation facilities and services and submits the following findings. Recommended Conditions of Approval, in Attachment B, are provided to implement the applicable provisions of the Washington County Community Development Code (CDC), Transportation Plan, Road Design and Construction Standards (WCRDCS), and Resolution and Order (R&O) 86-95 "Determining Traffic Safety Improvements under the Traffic Impact Fee Ordinance—Process Documentation."

FINDINGS:

I. PROJECT PROPOSAL AND TRIP GENERATION:

- A. The proposed development is for a two story 4,983 square foot commercial building with a **convenience store¹ & gas station** (a 4,296 square foot ground floor and a 687 square foot second floor mezzanine) served by 5 fueling islands (2 pumps per fueling island for a total of 10 pumps) and 12 parking spaces.
- B. The development site encompasses 1.21 acres and is a consolidation of 2 tax lots. The applicant obtained approval of a Property Line Adjustment (Casefile L1900411-PLA) to consolidate the two tax lots (1N119BC00600 and 1N119BC00500).
- C. The development site has frontage on NW West Union Road, a county Arterial, and NW 185th Avenue, also a county Arterial. *The site is shown below.*



- D. The applicant proposes two points of access: 1) a westerly driveway designed as a restricted right-in only access, and 2) an easterly driveway aligned with the existing signalized intersection of the West Union Village entrance (the signalization is currently only for 3 legs of the intersection and the applicant will be required complete the fourth leg of the intersection).
- E. The west access is approximately 210 feet east of NW 185th Avenue, while the east signalized intersection/access is located approximately 440 feet east of NW 185th Avenue and aligned with the West Union Village Shopping Center entrance. The

¹ Convenience Groceries are limited to a **maximum** of 5,000 sq. ft. of gross floor area pursuant to CDC Section 311-3.3.

development application includes an Access Management Plan for the proposed accesses to NW West Union Road.

- F. Staff find that the proposed use fully matches that of a **Super Convenience Market / Gas Station (ITE Category Code 960)**.

Staff evaluated the proposed trip generation based on the proposed square footage of the Convenience Grocery (4,983 square feet) and number of pumps (10 pumps) using land use category ITE Code 960 in the 10th Edition of the ITE Manual.

- G. **ITE Land Use Category 960** describes a combination gas/service station with convenience market where there is significant business related to the sale of convenience items **and** the fueling of motor vehicles. ITE Code 960 lists the following as commonly sold convenience items: *newspapers, freshly brewed coffee, daily-made donuts, bakery items, hot and cold beverages, breakfast items, dairy items, fresh fruits, soups, light meals, ready-to-go and freshly made sandwiches and wraps, and ready-to-go salads*. Super Convenience Market / Gas Station typically also have ATMs and public restrooms. ITE Code 960 goes on to identify two specific (or key) characteristics of Super Convenience Markets / Gas Stations:

- 1) **The gross floor area of the convenience market is at least 3,000 gross square feet**
- 2) **The number of vehicle fueling positions is at least 10.**

- H. The ground or main floor of the proposed building encompasses **4,296 square feet** in gross square feet and includes the cashier station that processes transactions for both the gas station and the convenience grocery. According to the building plans the proposed use would sell many of the items listed under ITE Code 960. Equally important, the proposed convenient grocery and gas station supports **10 fueling positions** (5 fueling stations with 2 pumps per station for a total of 10 pumps). The second floor mezzanine encompasses 687 square feet for a total square foot area of **4,983 square feet**.

- I. Staff find that the proposed uses or characteristics meet the two specific characteristics of a Super Convenience Market / Gas Station (ITE Code 960). The proposed uses are an identical match to ITE Code 960; whereas ITE Code 945, in staff's opinion, studies significantly smaller convenience grocery store buildings and too fewer fueling stations.

- J. Staff provides two scenarios regarding trip generation for the site. These two scenarios are provided because there are at least two viable methods for estimation of the trip generation of the proposed use.

- K. Information from the applicant indicates that the prior use had some operational characteristics similar to those described in ITE 933, but also some similar to ITE 932.² The applicant's estimate is that the prior restaurant use generated 1,195 weekday ADT.

² In an August 8, 2020 memorandum from Wayne Kittelson, he made some findings regarding the former restaurant use when he wrote that after in-depth conversations with the previous owners, the applicant believes that the former restaurant operated as a "Fast Casual" Restaurant for most of the day (Land Use Code 930) and as a "High-Turnover Sit-Down" Restaurant (Land Use Code 932) in the evening hours. If operating only as a High-turnover (sit down) restaurant, based on a building square footage of 3,868 square feet and on Land Use Code 932, only 438 trips would have been generated – not 1,195 trips according to the applicant's representative. However, according to the memorandum about 7-8 of the 11 business hours were that of a "Fast Casual" Restaurant ITE 930, with the balance evening hours were that of "High-Turnover Sit-Down" Restaurant (ITE 932). Staff conclude that the majority of the day time business hours were that of a "High-Turnover Sit-Down" Restaurant and not that of a "Fast Casual"

Scenario A: Low Net Trip Increase

| Use | Trip Generation Rate (ITE Code) | Units/Square Feet | Trips |
|---|--|-----------------------------|---------------------|
| Existing Uses | | | |
| Fast Casual Restaurant; High-Turnover sit down Restaurant | | | 1,195 ADT |
| Single Family Dwelling | 9.44 weekday ADT/Dwelling Unit (ITE 210) | 1 unit | 9.44 ADT |
| Proposed Uses | | | |
| Super Convenience Market / Gas Station | 230.52 ADT / Vehicle Fueling Station (ITE 960) | 10 vehicle fueling stations | 2,305.2 ADT |
| Net Traffic Generation | | | 1,100.76 ADT |

Scenario B: High Net Trip Increase

| Use | Trip Generation Rate (ITE Code) | Units/Square Feet | Trips |
|---|--|-------------------|---------------------|
| Existing Uses | | | |
| Fast Casual Restaurant; High-Turnover sit down Restaurant | | | 1,195 ADT |
| Single Family Dwelling | 9.44 weekday ADT/Dwelling Unit (ITE 210) | 1 unit | 9.44 ADT |
| Proposed Uses | | | |
| Super Convenience Market / Gas Station | 837.58 ADT / T.S.F.G.F.A. (ITE 960) | 4,983 square feet | 4,173.66 ADT |
| Net Traffic Generation | | | 2,969.22 ADT |

- L. **Scenario A** assumes the method for the proposed use that yields the lower estimate. **Scenario B** assumes the method for the proposed use that yields the higher estimate.

A trip generation for ITE 960 based on the size of the associated convenience store is not necessarily less valid than one based on vehicle fueling positions since both

Restaurant for most of the day. So for purposes of this analysis, ITE 932 is better suited to calculate trips for this analysis.

independent variables are based on the same number of trip generation studies (13). For purposes of this report, however, staff uses the data from Scenario A in order to provide the applicant with the benefit of the doubt where there may be uncertainty as to the prior nature of the sit down restaurant.

- M. The applicant assert that trip generation should be reduced to account for the relatively high percentage of pass-by trips associated with the proposed use. Pass-by trips are not new trips on the overall County roadway system but are instead stops made as part of a trip for another purpose. A stop to get gasoline as part of commuting to or from work is an example of a pass-by trip. Staff does not believe it is appropriate to account for pass-by trips for purpose of this analysis and has historically not done so for purposes of Article V analysis.

Regardless of whether a trip is a pass-by trip or primary trip, the vehicle is still traveling to that site along the site's roadway frontage and on abutting roadways. The County requires developments to ensure that a safe and efficient roadway network is provided on the site frontage through the regulations in Article V. Specifically, the roadway frontage is to be brought to current Washington County Road Design and Construction Standards(CDC Section 501-8.2.G). Providing this improvement creates a street that provides for vehicular, bicycle, and pedestrian travel in safe manner along the affected roadway section as intended by the Washington County TSP. Because this analysis is concerned with frontage improvements for the site, staff believes it is appropriate that the analysis accounts for the trips that will be made to the site as calculated by the average daily trips listed above *without a reduction of pass-by trips*.

Staff concurs with the applicant that pass-by trips should be considered when estimating the total number of trips on the public roadway network from a development. To this point, pass by trips are factored into the methodology for the rates in County's Transportation Development Tax (TDT). In general terms, the County assesses roadway capacity improvements from private development through the TDT. Applicants are not required to study capacity impacts as part of their land use application or construct improvements solely related to capacity for their conditions of approval. For addressing roadway capacity impact for private development, the County's methodology is consistent with the position taken by the applicant.

- N. Staff provides the following analysis for demonstration that the required half-street improvements are roughly proportional to the impacts of the vehicular traffic that would be brought to the site with the proposed development.

The relevant arterial roadway segment that includes the site frontage is NW West Union Road between NW 185th Avenue and NW Laidlaw Road (both intersecting streets are designated as arterial roadways). This roadway segment is approximately 4,125 lineal feet (8,250 lineal feet of half-street improvement frontages). The subject site has approximately 723 lineal feet of frontage on this roadway.

The County has 2 traffic count locations along this segment of NW West Union Road (See Figure 1). One is just east of the intersection with NW 174th Avenue (Station #160) and one is approximately 2,700 feet west of the intersection with NW 185th Avenue (Station #123). Figure 1 also provides traffic counts for two stations on NW 185th Avenue (#121, south of West Union, and #124, north of West Union).

L2100244
Traffic Count Stations

| Station # | Road Name | Distance (Miles) | Direction From | Cross Road | 2017 Combined | 2018 Combined | 2019 Combined | % Trucks |
|-----------|---------------|------------------|----------------|----------------|---------------|---------------|---------------|----------|
| 121 | 185th Ave | 0.5 | N | Rock Creek Rd | 23810 | 25069 | 24467 | 5.8 |
| 123 | West Union Rd | 0.5 | W | 185th Ave | 11969 | 14526 | 12789 | 3.8 |
| 124 | 185th Ave | 0.1 | S | Springville Rd | 18566 | 4769 | 21950 | 4.7 |
| 160 | West Union Rd | 0.2 | W | Laidlaw Rd | 12775 | 13794 | 12267 | 3.5 |

The table above provides a comparison of trip counts from 2017, 2018 and 2019. Station #160, presented in the table below, counted 508 fewer trips in 2017 and 1,527 fewer trips in 2018.

Station #160 trip count is presented to give the applicant the benefit of the doubt in terms of the percentage of vehicle trips attributable to the proposed use.

**Development Site
Proportion of Roadway Frontage and Vehicle Traffic**

| | Lineal Feet of 1/2 street frontage | Average Daily Trips | | |
|---|------------------------------------|------------------------|----------------------|--------------|
| | | Existing | Proposed | % Increase |
| Development Site | 723 | 1,204.44 | 2,305.2 ³ | 91.39% |
| NW West Union (between NW 185th Avenue and NW Laidlaw Road) | 8,250 | 13,471.44 ⁴ | 14,572.2 | 8.17% |
| % (development site / roadway segment) | 8.76% | 8.93% | 15.82% | -- |

The half-street improvements on the site's frontage of NW West Union Road can be found to be proportional based on the information in the table above. The recommended conditions of approval are for the applicant to assure half-street improvements on their site frontage, which constitutes 8.76% of the lineal ½ street frontage of the affected roadway segment. The total traffic for the development site would constitute 15.82% of the traffic on that segment, based on figures from Scenario A and the 2019 traffic count from Station #160. The net traffic generation of the development would result in an increase of 8.17% of vehicle traffic for the roadway segment. Whereas based on figures from Scenario B, the net traffic generation of the development would result in a significantly greater increase in vehicle traffic for the same roadway segment than Scenario A.

³ A trip generation in Scenario B based on a generation of 4173.66 weekday trips would result in a trip increase of 246.5%

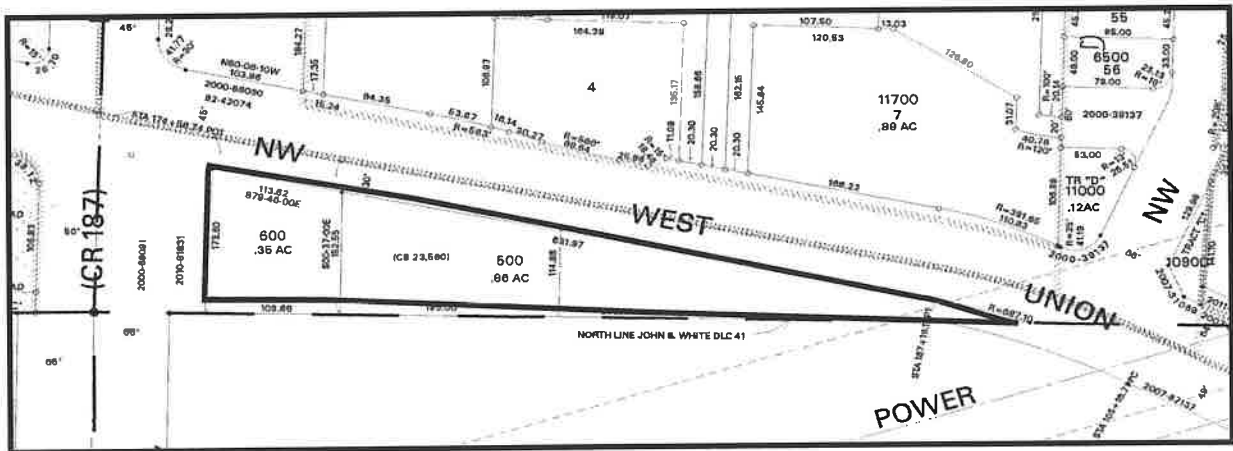
⁴ This figure is based on a 2019 traffic count of 12,267 total daily trips at station #160 plus the applicant's trip generation estimate for the restaurant (1,195) plus the single family dwelling (9.44). These are added to the 2019 count because they were not actually operational as of 2019 and their associated trips would not have been included in the 2019 data.

Based on this, the recommended condition of approval for the applicant to assure half-street improvements on their site frontage can be found to be proportional to the impacts of the proposed development. Staff empathizes that this analysis is based on metrics that give the applicant the benefit of doubt concerning trip generation estimates and traffic counts. Takings caselaw holds only that exactions be found to be roughly proportional to identified impacts.

- O. As an additional point of reference, based on the net increased number of trips (of 1,100.76), the half-street improvements would be the equivalent of a **116** lot detached single family residential subdivision⁵.
- P. The applicant also requests a Half-Street Exception for NW West Union Road. Staff does not support the request. Staff further find that the half-street improvements are roughly proportional to the impacts from the proposed development and significant increase in daily vehicle trips *See also Article V findings in the Recommendation and Staff Report (Attachment C) and Section IV ACCESS in this report below.*

II. RIGHT-OF-WAY:

- A. **NW 185th Avenue** is 5-lane County Arterial (A-2) as it abuts the west side of the project site. Approximately ninety-eight (98) feet of right-of-way from legal centerline exists. NW 185th Avenue is designated an Enhanced Major Street Bikeway, which requires 51 feet from legal centerline. Existing right-of-way is adequate, except that which may be required to provide adequate corner radius with the widening of NW West Union Road. Noting that right-of-way was obtained in 2010 (Document No. 2010-091831) and in 2000 (Document No. 2000069545) to increase the width from 65 feet to 95 feet. Land obtained via Document No. 2000069545 was acquired to site a water quality facility constructed by the County as part of the NW 185th Avenue Project. Copies are in the Casefile.
- B. **NW West Union** is 5-lane County Arterial (A-2) as it abuts the north side of the project site. NW West Union Road is also designated an Enhanced Major Street Bikeway⁶, which requires 51 feet from legal centerline. Existing right-of-way is thirty (30) feet from centerline. Existing right-of-way is not adequate. The site plans correctly show the 30 foot existing right-of-way.



⁵ Assuming a street lot of 30 feet (R-9 Residential lot), 116 R-9 lots would require about 3,480 linear feet of street improvements.

⁶ Absent the Enhanced Major Street Bikeway designation, required right-of-way designation on West Union would be 18 feet from legal centerline.

Staff have had numerous discussions with the applicant and County Engineering staff as well as numerous internal staff discussions around this very issue when the previous development application was under consideration.⁷ There were also numerous pre-application meetings held involving this site. County staff have concluded up until recently that no less than **21 feet** of additional right-of-way on NW West Union Road needs to be dedicated. **21 feet** of right-of-way was believed to be needed to ensure that adequate right-of-way exists to facilitate the future improvements to the intersection of NW West Union and NW 185th Avenue. Noting that the county does not currently have a funded road project for this section of NW West Union Road.

At the conclusion of these discussions, the County Engineer now believes that a dedication of 18 feet (and not 21 feet) will adequately provide the right-of-way necessary to construct the required improvements. This is due in part to the applicant proposing a ten (10) foot Public Utility Easement (PUE) along the West Union Road frontage. Dedication of 18 feet of additional right-of-way is still required. The applicant will be conditioned to dedicate at least 18 feet from centerline and record a minimum ten (10) foot PUE along West Union Road or as otherwise required to install/place all utilities (e.g., relocated overhead powerlines). The applicant proposes to dedicate 18 feet of additional right-of-way from legal centerline as well as provide a ten foot PUE along West Union Road.

III. TRANSPORTATION SYSTEM DESIGNATIONS AND REQUIREMENTS:

- A. NW West Union Road (CR #1175) is currently designated as a 4-5 lane Arterial per the Washington County Transportation System Plan (TSP). It is also designated as an Enhanced Major Street Bikeway, requiring a maximum of 102 feet of total right-of-way (51 feet of right-of-way from legal centerline) and a maximum of 78 feet of paving for the entire street section (39 feet from legal centerline).
- B. 30 feet of right-of-way exists from centerline along the site's NW West Union Road frontage. Additional right-of-way shall be dedicated providing a total of 48 feet of right-of-way from centerline of NW West Union Road adjacent to the site. The total planned width of right-of-way for NW West Union Road along the site's frontage is 102 feet. The applicant proposes to dedicate 18 feet of right-of-way on NW West Union Road. Lastly, the amount of dedication, as stated previously, has been determined by the County Engineer as the minimum required to accommodate the required public improvements to be 18 feet. It is worth noting that prior to the designation of West Road with the Enhanced Major Street Bikeway overlay, the right-of-way that would have been required was 18 feet. Hence, the adjustment approved by the County Engineer (from 21 feet to 18 feet) is believed to be nominal and one that will not adversely affect the future construction of the West Union half-street improvement.
- C. Section 501-8.2 G. requires the construction a street improvement (as defined in CDC 501-8.8 A.) to county standard along the site's frontage of NW West Union Road. Washington County's Road Designation for the site's frontage is A-2. The County completed *interim* street improvements on NW West Union, including but not limited to sidewalks, curb and gutter, storm drainage (but no planter strip, street trees or street illumination).

⁷ Casefile L2000057 was withdrawn by the applicant prior to commencement of the continued November 19, 2020 public hearing and subsequent issuance of a Notice of Decision by the Hearings Officer.

- D. The Urban Road Maintenance District (URMD) is a special assessment district that collects revenues used to maintain public roads within the Urban Growth Boundary. This site is already in the URMD.
- E. NW 185th Avenue (CR No. 187) is county 5-lane Arterial typically requiring a maximum of 98 feet of right-of-way (49 feet from centerline) and 74 feet of paving (37 feet from legal centerline). 95 feet of right-of-way exists along NW 185th Avenue from legal centerline (Noting that the eastern 30 feet encompasses a county-constructed water quality facility installed as part of the 185th Avenue/Springville Road Capital Improvement Project). No additional right-of-way is anticipated to be required along NW 185th Avenue, except as may be necessary to provide adequate corner radius. And no improvements are required for NW 185th Avenue except for the replacement of any damaged or missing sidewalk panels.

IV. ACCESS:

- A. CDC Section 501 8.5 governs access to County and public roads. NW West Union Road is designated as a county Arterial in the TSP.
 - B. Access to the site is proposed from the following access point(s):
 - 1. A right-in only access to the site from NW West Union Road is located approximately 210 feet east of NW 185th Avenue (noting that the right-in only access may need to be redesigned so as to prevent if not more strongly discourage west bound vehicles from turning left in at this access).
 - 2. A full-access to the site from NW West Union Road located approximately 440 feet east of NW 185th Avenue. This access is aligned with the existing commercial access serving the commercial development on the north side of NW West Union. This access will constitute the 4th leg of this intersection. Thus, improvements will include signaling the 4th intersection leg.
 - C. No access is currently proposed to NW 185th Avenue, a county Arterial (noting that the area between the site and NW 185th Avenue consists of a water quality facility making access impracticable).
 - D. Per CDC Section 501-8.5 B.(4), the minimum access spacing standards for NW West Union Road are:
 - 1. Access to Arterial roads shall be from Collector roads. Exceptions for Local roads or private accesses may be allowed through a Type II process when Collector access is found to be unavailable and impracticable by the Director.
 - 2. Access to Arterials shall also comply with the following standards:
 - a. Arterials
Access will not be permitted within six hundred (600) feet of an intersecting street or existing or approved access, measured on both sides of the road.
- ***
- E. Access Spacing/Access Management Plan findings:
The applicant requested approval of an Access Management Plan to permit access to NW West Union Road just as was requested for the previous application for a Chevron convenience store and gas station on this site. The accesses currently requested are the same as proposed in the previous application. Traffic Engineering staff reviewed the current development application and concluded that original Access Management Plan remained valid for the current proposed right-in only

access and the new south leg at the existing West Union Road/Albertsons entrance signal. The Access Management Plan can be approved subject to the following traffic conditions:

1. Provide adequate illumination at the proposed right-in access on NW West Union Road. Direct technical questions concerning this condition or the current Roadway Illumination Standards to Traffic Engineering, at (503) 846-7950.
 2. Construct the right-in only access to restrict the access as right-in only. *Noting the current design may not provide enough of a design constraint to prevent west-bound traffic from turning left into the site from the right-turn only access. Traffic Engineering will need to review and approve the right-in only access design prior to Final Approval.*
 3. Construct the south leg of the existing West Union Road/Albertsons signal with two outbound lanes (one left turn lane and one shared through/right turn lane) and one inbound lane. Coordinate with Washington County, design and construct the new added traffic signal for the proposed access and modify the existing traffic signal as needed.
 4. Install protected-plus-permitted left turn phasing capacity for the EB-to-NB left turn movement at the West Union Village Drive/West Union Road intersection prior to the issuance of certificate of the building occupancy.
- F. Per CDC Section 501-8.5 G., record a vehicular access restriction along the entire frontage of NW West Union Road, except at any access point(s) approved through the land use application review process and along the entire frontage of NW 185th Avenue.

V. SIGHT DISTANCE:

- A. CDC Section 501 8.5. F. and WCRDCS Section 210.7 require adequate intersection sight distance at a site's access to a County or public road and at all intersections of County or public roads, in accordance with the standards of CDC 501 8.5. F.
- B. **NW West Union Road:** The required sight distance at NW West Union Road is 400 feet based upon the posted speed of 40 m.p.h. Provision of and certification of adequate sight distance is imperative to the safety of the proposed accesses as required by Article V. of the Code. Therefore, the applicant was required to provide Preliminary Certification of Sight Distance to confirm that adequate sight distance can be achieved at the accesses to NW West Union Road. The applicant's traffic analysis states that it is anticipated that sight distance can be achieved in both directions. Final certification of sight distance will be handled through review of Facility Permit. No occupancy permit will be given until final sight distance certification has been provided and accepted by the County.
- C. Periodic trimming of vegetation may be required to maintain adequate sight distance at all intersections.

VI. NEIGHBORHOOD CIRCULATION:

- A. See findings for Section 408 in Attachment C.

VII. TRAFFIC SAFETY REVIEW:

- A. Resolution and Order (R&O) 86 95 sets forth criteria for determining necessary traffic safety improvements due to development proposals that impact County and public roads.

- B. County Traffic Engineering staff reviewed traffic analysis for this development proposal as required by R&O 86 95 as well as analyzed the Access Management Plan as previously described. Traffic Engineering's response is that the proposed accesses are approved provided certain improvements are made. *See Section IV ACCESS above and Attachment D1.*
- C. Per CDC 501-8.2 C., the applicant shall assure the maintenance and power costs of all required illumination on public roads through the annexation and petition for service to an existing County service district for lighting (SDL) or other means of assurance approved by the Operations Division.

VIII. PERMITS REQUIRED:

- A. A Facility Permit will be required from the county for any work within the NW 185th Avenue and NW West Union Road rights-of-way.

IX. ADDITIONAL INFORMATION:

- A. The development application also includes Variance requests to reduce: 1) the **front** yard setback (from NW 185th Avenue) from 20 feet to 2 feet, 2) the **street side** yard setback (from NW West Union Road) from 20 feet to 10 feet (5.1) feet for the main structure and from 20 feet to 15 feet for the canopy. *The applicant proposes an 11.1 foot **interior side** yard setback (per Section 311-6.2 B. (3) there is no interior side yard and thus the interior side yard could be reduced to zero (0) feet). See Section 435 of the Staff Report.*

NOTE: The 185th Avenue yard is the front as defined in CDC Section 106-113.1. The south yard (along the south property line) is an interior side.

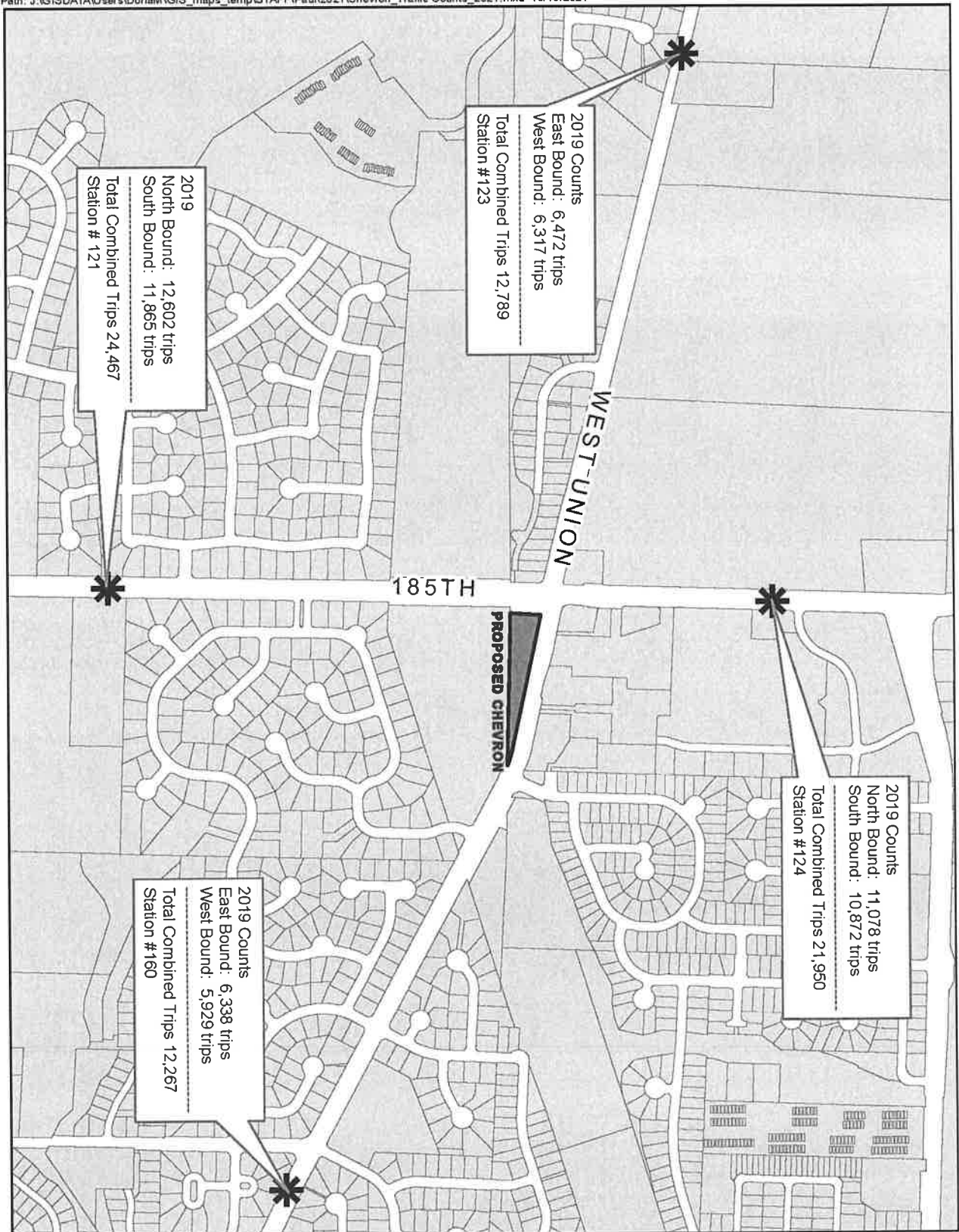
FIGURE 1 (next page)

- Map showing the site and West Union and 185th where each leg is annotated with the most recent traffic counts from Operations (east and west bound and north and south bound. Locations of the traffic counts are also shown on the map.

CONDITIONS OF APPROVAL: See Attachment B

FIGURE 1

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WASHINGTON COUNTY, OREGON

Department of Land Use and Transportation, Engineering/Surveying Division
1400 SW Walnut St., MS 17A, Hillsboro, Oregon 97123
(503) 846-7900 · FAX: (503) 846-7910

DATE: May 4, 2020

TO: Paul Schaefer, Senior Planner

FROM: Jinde Zhu, P.E., Traffic Engineer *JZ*

CC: Traffic Analysis File #1573, C/File

RE: **REVIEW OF PROPOSED ACCESS MANAGEMENT PLAN
WEST UNION GAS STATION
WASHINGTON COUNTY**

This report examines the submitted Access Management Plan conducted for the proposed redevelopment of the property located on the south-east corner of NW West Union Road and NW 185th Avenue in Washington County. The site will be redeveloped into a gas station with a convenience store consisting of 12 fueling positions. Access is proposed via a right-in only access along NW West Union Road and a newly constructed south leg of the existing West Union/Albertsons entrance traffic signal. NW West Union Road is classified as an arterial by Washington County with a required minimum access spacing of 600 feet. The spacing between the proposed right-in only access and nearest street and driveways to both the east and west is less than 600 feet. Therefore, the access spacing on NW West Union Road falls below the county access spacing requirement. This submitted Access Management Plan is intended to fulfill the requirements of Washington County CDC Section 501-8.5C "Exception to Access Criteria".

The Access Management Plan analysis is contained in the report, "Traffic Operations Assessment, West Union Gas Station", Kittelson & Associates, Inc., October 18, 2019. The findings and recommendations given below are based, in part, on information provided in the Access Management Plan.

FINDINGS:

Section 501-8.5C (1) *Alternate points of access may be allowed if an access management plan which maintains the classified function and integrity of the applicable facility is reviewed and approved by the Review Authority after considering the applicant's compliance with this Article.*

The submitted Access Management Plan proposes one right-in access on NW West Union Road and a new south leg at the existing West Union/Albertsons entrance signal to serve the site. The submitted Access Management Plan addressed the traffic impact of the proposed development.

**WEST UNION GAS STATION
WASHINGTON COUNTY**

May 4, 2020

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Section 501-8.5C (2) *An application for an Access Management Plan shall explain the need for the modification and demonstrate that the modification maintains the classified function and integrity of the facility. References to standards or publications used to prepare the Access Management Application shall be included with the application.*

The access spacing standard for NW West Union Road, an arterial, is 600 feet. The access spacing between the proposed right-in access on NW West Union Road and existing street/accesses does not meet the access spacing standard. The submitted plan concludes that the proposed development will not have significant impacts on the surrounding street networks.

Section 501-8.5C (3) *An access management plan shall address the safety and operational problems which would be encountered should a modification to the access spacing standards be granted. An access management plan shall be prepared and certified by a traffic or civil engineer registered in the State of Oregon. An access management plan shall at minimum contain the following:*

(a) The minimum study area shall include the length of the site's frontage plus the distance of the applicable access spacing standard, as set forth in Section 501-8.5B, measured from the property lines or access point(s), whichever is greater. For example, a property with 500 feet of frontage on an arterial (required 600 foot access spacing standard) shall have a minimum study area which is 1700 feet in length.

The proposed Access Management Plan has been certified by a registered engineer in the state of Oregon. The study area in the plan extends from the proposed development to a point approximately 600 feet east and 600 feet west of the proposed development property lines on NW West Union Road.

(b) The access management plan shall address the potential safety and operational problems associated with the proposed access point. The access management plan shall review both existing and future access for all properties within the study area as defined above.

The report calculated that the proposed site will generate 150 and 168 trips during the weekday AM and PM peak hour respectively.

The report determined that all the intersections within the project impact area will operate adequately.

The report determined that within the project impact area there are no traffic safety deficiencies.

The report determined that the intersection sight distance at both the proposed accesses on NW West Union Road meet the county requirements.

**WEST UNION GAS STATION
WASHINGTON COUNTY**

May 4, 2020

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(c) The access management plan shall include a comparison of all alternatives examined. At a minimum, the access management plan shall evaluate the proposed modification to the access spacing standard and the impacts of a plan utilizing the County standard for access spacing. Specifically, the access management plan shall identify any impacts on the operations and/or safety of the various alternatives.

The Access Management Plan did not evaluate other feasible locations to locate the proposed access on other lower classified streets due to the site restrictions.

(d) The access management plan shall include a list of improvements and recommendations necessary to implement the proposed access modification, specifically addressing all safety and operational concerns identified.

The submitted Access Management Plan recommended protected-plus-permitted left turn phasing capacity should be installed for the EB-to-NB left turn movement at West Union Village Drive/West Union Road intersection by October 2020.

RECOMMENDATIONS:

The proposed right-in access and the new south leg at the existing West Union Road/Albertsons entrance signal can be approved subject to the following traffic conditions:

1. Provide adequate illumination at the proposed right-in access on NW West Union Road. Direct technical questions concerning this condition or the current Roadway Illumination Standards to Traffic Engineering, at (503) 846-7950.
2. Construct the right-in access to restrict the access as right-in only.
3. Construct the south leg of the existing West Union Road/Albertsons signal with two outbound lanes (one left turn lane and one shared through/right turn lane) and one inbound lane. Coordinate with Washington County, design and construct the new added traffic signal for the proposed access and modify the existing traffic signal as needed.
4. Install protected-plus-permitted left turn phasing capacity for the EB-to-NB left turn movement at the West Union Village Drive/West Union Road intersection prior to the issuance of certificate of the building occupancy.

JZ:tf



WASHINGTON COUNTY

Dept. of Land Use & Transportation
Development Services Division
Current Planning Section
155 N. 1st Avenue, #350-13
Hillsboro, OR 97124
Ph. (503) 846-8761 Fax (503) 846-2908
<http://www.co.washington.or.us>

Street Trees

APPROVED STREET TREES

Ash

- *Fraxinus americana*—White Ash
- *Fraxinus excelsior*—Globe European Ash
- *Fraxinus ornus*—Flowering Ash
- *Fraxinus oxycarpa*—Golden Desert Ash, Flame Ash, Raywood
- *Fraxinus pennsylvanica*—Marshal Ash, Summit Ash

Beech

- *Fagus sylvatica*—European Tricolor

Blackgum

- *Nyssa sylvatica*—Blackgum

Crabapple

- *Malus*—Flowering Crabapple

Cherry, Flowering

- *Prunus sargentii*—Sargent Cherry
- *Prunus serrulata*—Oriental Cherry

Dogwood

- *Cornus florida*—Eastern Dogwood, Flowering Dogwood
- *Cornus kousa*—Kousa Dogwood, Japanese Dogwood
- *Cornus nuttallii*—Native Pacific Dogwood

Elm

- *Ulmus parvifolia*—Chinese Elm, Lacebark Elm

Ginkgo

- *Ginkgo biloba*—Autumn Gold, Fairmont, Princeton Sentry, Shangri-la

MALE TREES ONLY

Goldenrain Tree

- *Koelreuteria paniculata*—Goldenrain Tree

Goldenchain Tree

- *Laburnum watereri*—Goldenchain Tree

Hackberry

- *Celtis occidentalis*—Common Hackberry

Hawthorn

- *Crataegus lavalleyi*—Lavelle Hawthorn
- *Crataegus phaenopyrum*—Washington Hawthorn

Honey Locust

- *Gleditsia triacanthos*—Skyline

Hophornbeam

- *Ostrya virginiana*—American Hophornbeam

TREES **NOT** APPROVED OR PERMITTED AS STREET TREES:

Agricultural fruit bearing trees (apple, pear, plum, cherry, etc.)

Coniferous evergreen (Fir, Pine, Cedar, etc.)

Acer, *saccharinum* - Silver Maple

Acer, *negundo* - Boxelder

Hornbeam

- *Carpinus betulus*—European Hornbeam

Japanese Snowbell

- *Styrax japonicus*—Japanese Snowbell

Katsura

- *Cercidiphyllum japonicum*—Katsura Tree

Lilac

- *Syringa reticulata*—Japanese Tree Lilac

Linden

- *Tilia americana*—American Linden
- *Tilia cordata*—DeGroot Littleleaf, Glenleven Littleleaf, Greenspire Linden

Maple

- *Acer campestre*—Hedge Maple
- *Acer ginnala*—Amur Maple
- *Acer griseum*—Paperbark Maple
- *Acer nigrum*—Greencolumn Black
- *Acer platanoides*—Norway Maple, Crimson King Norway,
- *Acer rubrum*—Bowhall Maple, Red Sunset Maple
- *Acer saccharum*—Sugar Maple

Oak

- *Quercus acutissima*—Sawtooth Oak
- *Quercus coccinea*—Scarlet Oak
- *Quercus imbricaria*—Shingle Oak
- *Quercus palustris*—Pin Oak
- *Quercus robur*—English Oak
- *Quercus rubra*—Northern Red Oak
- *Quercus shumardii*—Shumard Oak

Pagoda Tree

- *Sophora japonica*—Japanese Regent

Pear, Flowering

- *Pyrus calleryana*—Aristocrat, Autumn Blaze Flowering

Redbud

- *Cercis canadensis*—Eastern Redbud

Tulip Tree

- *Liriodendron tulipifera*—Tulip tree

Zelkova

- *Zelkova serrata*—Village Green, Wireless Zelkova, Green Vase

EXHIBIT E



**WASHINGTON COUNTY**

Dept. of Land Use & Transportation
 Development Services Division
 Current Planning Section
 155 N. 1st Avenue, #350-13
 Hillsboro, OR 97124
 Ph. (503) 846-8761 Fax (503) 846-2908
<http://www.co.washington.or.us>

Street Trees**407-9 Street Trees**

All new structures or land divisions fronting on public or private roadways or access drives, except the construction of a detached dwelling unit on an existing lot within the R-5, R-6, and Agricultural Districts, shall be required to plant street trees in accordance with the following standards:

- 407-7.1 The species of street trees to be planted shall be chosen from the approved list of street trees unless approval of another species is given by the Director through a Type I procedure;
- 407-7.2 Exemption from the street tree requirements may be granted by the Director if existing trees can be used as a substitute. This exemption may be granted through a Type I procedure;
- 407-7.3 Street trees shall be installed at an average of one tree per thirty-five (35) feet of lineal road frontage;
- 407-7.4 Street trees shall be installed on public or private property no more than five (5) feet from the designated right-of-way;
- 407-7.5 Street trees shall be a minimum of one and one-half (1-1/2) inches in diameter.

Please Note: CDC 418-3 states "Lots or parcels on street corners (public and/or private) shall maintain a sight triangle with no sight obstruction between three feet and ten feet in height as measured from street grade.....The sight triangle shall be measured from the street corner (apex) , a distance or twenty feet along each street side....."

For further information regarding Street Trees, contact the Development Services Division of Washington County Land Use and Transportation at 503-846-8761.