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SALEM, OREGON

February 13, 2023

Mary Bjork
Oregon Water Resources Department
725 Summer Street NE, Suite A
Salem, OR 97301

Dear Mary:

GSI Water Solutions, Inc. (GSI) is submitting the enclosed application for a limited water use license on behalf of Falls City (Applicant). The Applicant is seeking a limited water use license to fill two new waste water treatment lagoons using surface water from the Little Luckiamute River for leakage testing and synthetic liner integrity verification. Leakage testing and liner verification will take approximately two to four weeks to complete. The Applicant intends to use water for this leakage testing and integrity verification between December 1, 2023 and April 30, 2024, however the Applicant is seeking a limited license until April 30, 2025 in case the project is delayed. The applicant is requesting a rate of 3.0 cfs and a maximum volume of up to 70 acre-feet.

Also enclosed is a check for the required processing fee of \$280.

Please contact me if you have any questions or concerns. My phone number is 541-753-0933.

Sincerely,

A handwritten signature in blue ink that reads "Zach Pike-Urlacher".

Zach Pike-Urlacher
Water Resources Consultant

Enclosures: Application for a Limited Water Use License
Check for processing fee in the amount of \$280

LL-1946



Oregon Water Resources Department
 725 Summer Street NE, Suite A
 Salem Oregon 97301-1271
 (503) 986-0900
 www.wrd.state.or.us

Application for Limited Water Use License

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License No.: LL-1946

Applicant Information

| | | | |
|---|-------------|--------------|---|
| NAME Falls City ATTN: AJ Foscoli, City Manager | | | PHONE (HM) |
| PHONE (WK) 503-787-3631 | CELL | | FAX |
| ADDRESS 299 Mill Street | | | |
| CITY Falls City | STATE OR | ZIP 97344 | E-MAIL * manager@fallscityoregon.gov |

Agent Information

| | | | | |
|--|-------------|--------------|-------------------------------------|-----|
| NAME GSI Water Solutions, Inc. ATTN: Zach Pike-Urlacher | | | PHONE 541-753-0933 | FAX |
| ADDRESS 1600 SW Western Boulevard, Suite 240 | | | CELL | |
| CITY Corvallis | STATE OR | ZIP 97333 | E-MAIL * zpikeurlacher@gsiws.com | |

I (We) make application for a Limited License to use or store the following described surface waters or groundwater – not otherwise exempt, or to use stored water of for a use of a short-term or fixed-duration:

- SOURCE(S) OF WATER:** Little Luckiamute River a tributary of Luckiamute River
- AMOUNT OF WATER** to be diverted;
 Maximum and instantaneous rate (cubic feet or gallons per minute): 3.0 CFS
 Total volume (gallons or acre-feet): Up to 70.0 AF. If water is to be used from more than one source, give the quantity from each: _____

- INTENDED USE(S) OF WATER:** (check all that apply)
 - Road construction or maintenance
 - General construction
 - Forestland and rangeland management; or
 - Other: Filling two new waste water treatment lagoons for leakage testing and synthetic liner integrity verification.

- DESCRIPTION OF PROPOSED PROJECT:** Include a description of the place of use as shown on the accompanying site map, the method of water diversion, the type of equipment to be used (including pump horsepower, if applicable), length and dimensions of supply ditches and pipelines:
 Water will be diverted using a portable diesel powered pump (approximately 50hp). Water will be conveyed approximately 2,000 feet in an 8-10 inch pipe or hose from the point of diversion to the place of use (treatment lagoons).

- PROJECT SCHEDULE:** (List day, month, and year)
 Date water use will begin: December 1, 2023 or 2024
 Date water use will be completed: April 30, 2024 or 2025

Months of the year water would be diverted and used: _____
Water will be used sometime between December 1 and April 30. The project should be completed in 2023/2024, but the applicant is seeking the limited license for two seasons as a contingency.

If for other than irrigation from stored water, how and where will water be discharged after use:

Once the test is completed, water will be discharged back into the Little Luckiamute River through the City's wastewater outfall pipe in accordance with the City's NPDES permit for the wastewater treatment plant

AJ Foscoli
 Applicant Signature

AJ Foscoli, City Manager
 Print Name and title if applicable

2/9/2023
 Date

PLEASE READ CAREFULLY

NOTE: A completed water availability statement from the local watermaster, Land Use Information Form completed by the local Planning Department, fees and site map meeting the requirements of OAR 690-340-030 must accompany this request. The fee for this request is **\$280** for the first point of diversion plus **\$30** for each additional point of diversion. Please review the Department's fee schedule to view fees required to request a limited license for Aquifer Storage and Recovery testing purposes or for Artificial Groundwater Recharge testing purposes.

Failure to provide any of the required information will result in return of your application. The license, if granted, will not be issued or replaced by a new license for a period of more than five consecutive years. The license, if granted, will be subordinate to all other authorized uses that rely upon the same source, or water affected by the source, and may be revoked at any time it is determined the use causes injury to any other water right or minimum perennial streamflow.

If water source is well, well logs or adequate information for the Department to determine aquifer, well depth, well seal and open interval, etc. are required. The licensee shall indicate the intended aquifer. If for multiple wells, each map location shall be clearly tied to a well log.

If a limited license is approved, the licensee shall give notice to the Department (Watermaster) at least 15 days in advance of using the water under the Limited License and shall maintain a record of use. The record of use shall include, but need not be limited to, an estimate of the amount of water used, the period of use and the categories of beneficial use to which the water is applied. During the period of the Limited License, the record of use shall be available for review by the Department upon request.

**A summary of review criteria and procedures that are generally applicable to these applications is available at: <http://www.oregon.gov/owrd/pages/pubs/forms.aspx>*

Mapping Requirements (OAR 690-340-0030):

- (1) A request for a limited license shall be submitted on a form provided by the Water Resources Department, and shall be accompanied by the following:
 - a. A site map of reproducible quality, drawn to a standard, even scale of not less than 2 inches = 1 mile, showing:
 - i. The locations of all proposed points of diversion referenced by coordinates or by bearing and distance to the nearest established or projected public land survey corner;
 - ii. The general course of the source for the proposed use, if applicable;
 - iii. Other topographical features such as roads, streams, railroads, etc., which may be helpful in locating the diversion points in the field.

REMARKS:

| |
|------------------|
| For WRD Use Only |
|------------------|

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Attachment A

Water Availability Statement

Application for a Limited Water Use License

Falls City

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This page to be completed by the local Watermaster.

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WATER AVAILABILITY STATEMENT

Name of Applicant: Falls City ATTN: AJ Foscoli Limited License Number: LL-1946

1. To your knowledge, has the stream or basin that is the source for this application ever been regulated for prior rights?

Yes No

If yes, please explain: Luckiamute River Basin has been regulated during the summer months for senior water right holders. Regulation has occurred during months of August and September

2. Based on your observations, would there be water available in the quantity and at the times needed to supply the use proposed by this application?

Yes No

Applicant is requesting water December 1 through April 30 only. Water is available per Water Availability Analysis

3. Do you observe this stream system during regular fieldwork?

Yes No

If yes, what are your observations for the stream?


4. If the source is a well and if WRD were to determine that there is the potential for substantial interference with nearby surface water sources, would there still be ground water and surface water available during the time requested and in the amount requested without injury to existing water rights?

Yes No N/A

What would you recommend for conditions on a limited license that may be issued approving this application?

5. Any other recommendations you would like to make?

no

Signature Joel Plahn  2023.02.09 WM District #: 22 Date: 2/9/2023
P 07:42:42-08'00'

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Attachment B

Land Use Information Form

Application for a Limited Water Use License

Falls City

AL-1946

Land Use Information Form



Oregon Water Resources Department
725 Summer Street NE, Suite A
Salem, Oregon 97301-1266
(503) 986-0900
www.oregon.gov/OWRD

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NOTE TO APPLICANTS

In order for your application to be processed by the Water Resources Department (WRD), this Land Use Information Form must be completed by a local government planning official in the jurisdiction(s) where your water right will be used and developed. The planning official may choose to complete the form while you wait, or return the receipt stub to you. Applications received by WRD without the Land Use Form or the receipt stub will be returned to you. Please be aware that your application will not be approved without land use approval.

This form is NOT required if:

- 1) Water is to be diverted, conveyed, and/or used only on federal lands; **OR**
- 2) The application is for a water right transfer, allocation of conserved water, exchange, permit amendment, or ground water registration modification, and all of the following apply:
 - a) The existing and proposed water use is located entirely within lands zoned for exclusive farm-use or within an irrigation district;
 - b) The application involves a change in place of use only;
 - c) The change does not involve the placement or modification of structures, including but not limited to water diversion, impoundment, distribution facilities, water wells and well houses; and
 - d) The application involves irrigation water uses only.

NOTE TO LOCAL GOVERNMENTS

The person presenting the attached Land Use Information Form is applying for or modifying a water right. The Water Resources Department (WRD) requires its applicants to obtain land-use information to be sure the water rights do not result in land uses that are incompatible with your comprehensive plan. Please complete the form or detach the receipt stub and return it to the applicant for inclusion in their water right application. You will receive notice once the applicant formally submits his or her request to the WRD. The notice will give more information about WRD's water rights process and provide additional comment opportunities. You will have 30 days from the date of the notice to complete the land-use form and return it to the WRD. If no land-use information is received from you within that 30-day period, the WRD may presume the land use associated with the proposed water right is compatible with your comprehensive plan. Your attention to this request for information is greatly appreciated by the Water Resources Department. If you have any questions concerning this form, please contact the WRD's Customer Service Group at 503-986-0801.

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Land Use Information Form

Applicant(s): Falls City ATTN: AJ Foscoli

Mailing Address: 299 Mill Street

City: Falls City

State: OR

Zip Code: 97344

Daytime Phone: 503-787-3631

A. Land and Location

Please include the following information for all tax lots where water will be diverted (taken from its source), conveyed (transported), and/or used or developed. Applicants for municipal use, or irrigation uses within irrigation districts may substitute existing and proposed service-area boundaries for the tax-lot information requested below.

| Township | Range | Section | ¼ ¼ | Tax Lot # | Plan Designation (e.g., Rural Residential/RR-5) | Water to be: | | | Proposed Land Use: |
|----------|-------|---------|------|--------------|---|--|--|--|---------------------|
| 8S | 6W | 21 | NESE | ROW | MFF40 | <input checked="" type="checkbox"/> Diverted | <input checked="" type="checkbox"/> Conveyed | <input type="checkbox"/> Used | WWTP Lagoon Testing |
| 8S | 6W | 22 | NWSW | ROW | MFF40 | <input type="checkbox"/> Diverted | <input checked="" type="checkbox"/> Conveyed | <input type="checkbox"/> Used | |
| 8S | 6W | 22 | SWNW | ROW & TL 901 | MFF40 | <input type="checkbox"/> Diverted | <input checked="" type="checkbox"/> Conveyed | <input checked="" type="checkbox"/> Used | |
| 8S | 6W | 22 | NWNW | TL 901 | MFF40 | <input type="checkbox"/> Diverted | <input type="checkbox"/> Conveyed | <input checked="" type="checkbox"/> Used | |

List all counties and cities where water is proposed to be diverted, conveyed, and/or used or developed:

Polk County

B. Description of Proposed Use

Type of application to be filed with the Water Resources Department:

- Permit to Use or Store Water
 Water Right Transfer
 Permit Amendment or Ground Water Registration Modification
 Limited Water Use License
 Allocation of Conserved Water
 Exchange of Water

Source of water: Reservoir/Pond Ground Water Surface Water (name) **Little Luckiamute River**

Estimated quantity of water needed: **3.0** cubic feet per second gallons per minute acre-feet

Intended use of water: Irrigation Commercial Industrial Domestic for _____ household(s)
 Municipal Quasi-Municipal Instream Other **WWTP Lagoon Testing**

Briefly describe:

The applicant is applying for a limited water use license to divert water from the Little Luckiamute River between December and April for waste water treatment lagoon leakage testing and synthetic liner integrity verification.

Note to applicant: If the Land Use Information Form cannot be completed while you wait, please have a local government representative sign the receipt at the bottom of the next page and include it with the application filed with the Water Resources Department.

See bottom of Page 3. →

For Local Government Use Only

The following section must be completed by a planning official from each county and city listed unless the project will be located entirely within the city limits. In that case, only the city planning agency must complete this form. This deals only with the local land-use plan. Do not include approval for activities such as building or grading permits.

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Please check the appropriate box below and provide the requested information

Land uses to be served by the proposed water uses (including proposed construction) are allowed outright or are not regulated by your comprehensive plan. Cite applicable ordinance section(s):

Land uses to be served by the proposed water uses (including proposed construction) involve discretionary land-use approvals as listed in the table below. (Please attach documentation of applicable land-use approvals which have already been obtained. Record of Action/land-use decision and accompanying findings are sufficient.) **If approvals have been obtained but all appeal periods have not ended, check "Being pursued."** *Planning Files LUD 21-14 and LUD 21-30*

| Type of Land-Use Approval Needed (e.g., plan amendments, rezones, conditional-use permits, etc.) | Cite Most Significant, Applicable Plan Policies & Ordinance Section References | Land-Use Approval: | |
|---|--|---|--|
| <i>Administrative Review</i> | <i>See Attached</i> | <input checked="" type="checkbox"/> Obtained <input type="checkbox"/> Denied | <input type="checkbox"/> Being Pursued <input type="checkbox"/> Not Being Pursued |
| | | <input type="checkbox"/> Obtained <input type="checkbox"/> Denied | <input type="checkbox"/> Being Pursued <input type="checkbox"/> Not Being Pursued |
| | | <input type="checkbox"/> Obtained <input type="checkbox"/> Denied | <input type="checkbox"/> Being Pursued <input type="checkbox"/> Not Being Pursued |
| | | <input type="checkbox"/> Obtained <input type="checkbox"/> Denied | <input type="checkbox"/> Being Pursued <input type="checkbox"/> Not Being Pursued |
| | | <input type="checkbox"/> Obtained <input type="checkbox"/> Denied | <input type="checkbox"/> Being Pursued <input type="checkbox"/> Not Being Pursued |

Local governments are invited to express special land-use concerns or make recommendations to the Water Resources Department regarding this proposed use of water below, or on a separate sheet.

Name: *Eric Knudson* Title: *Associate Planner*

Signature: *[Signature]* Phone: *503-623-9237* Date: *2/10/23*

Government Entity: *Polk County Community Development*

Note to local government representative: Please complete this form or sign the receipt below and return it to the applicant. If you sign the receipt, you will have 30 days from the Water Resources Department's notice date to return the completed Land Use Information Form or WRD may presume the land use associated with the proposed use of water is compatible with local comprehensive plans.



Receipt for Request for Land Use Information

Applicant name: _____

City or County: _____ Staff contact: _____

Signature: _____ Phone: _____ Date: _____

22-1946

**LOCAL
GOVERNMENT
LAW GROUP**

An Oregon Professional Corporation

Carolyn H. Connelly
Ross M. Williamson*
Mark A. Wolf
Diana Moffat
Emily B. Guilmont
Lori J. Cooper
Rebekah L. Dohrman**
*Also Admitted in Washington
**Member of American Institute of
Certified Planners

August 22, 2022

Sent Via Email To: mcguigan.austin@co.polk.or.us

Austin McGuigan, Director
Polk County Community Development
Polk County Courthouse
Dallas, Oregon 97338

Re: Written Request for Extension
Related Applications: LLA 21-12, LUD 21-14 and LUD 21-30
Applicant: The City of Falls City

On August 25, 2021, the Polk County Planning Director conditionally approved the above-referenced applications which are necessary for the City of Falls City's (Applicant's) wastewater treatment facility improvement project (the Decision). The Decision conditionally approved a property line adjustment and the construction of a wastewater treatment facility, including, excavation activities within the regulated 100-year floodplain and a Significant Resource Management Plan. The effective date of the Decision is September 7, 2021. Per the terms of the Decision, the approvals are set to expire on September 7, 2022, if Applicant is unable to exercise the applications and approvals by that date.

Applicant entered into an agreement to purchase the 17-acre parcel which is part of reconfigured Parcel 1 in the approved property line adjustment application (LLA 21-12) (the Purchase Agreement). Evidence of the Purchase Agreement has been recorded.

In July 2022, Applicant learned of scheduling complications, out of Applicant's control, which would result in a delayed award of needed Community Development Block Grant (CDBG) funds. Applicant's receipt of the CDBG funds is necessary, not only to close on the purchase of Parcel 1, but also to begin to exercise the approvals under LUD 21-14, LUD 21-30, and the related Significant Resource Management Plan. The parties to the Purchase Agreement have extended the terms of the Purchase Agreement in order to accommodate Applicant's receipt of the necessary CDBG funds.

LOCAL GOVERNMENT LAW GROUP P.C.

975 Oak Street, Suite 700 Eugene, Oregon 97401 P (541) 485-5151 F (541) 485-5168

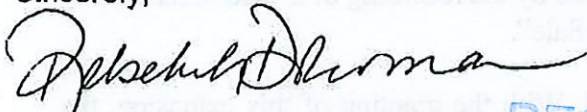
LL-1946

Based on the above, Applicant asserts that it has exercised LLA 21-12 by taking steps such as entering into, recording, and extending the term of the Purchase Agreement for Parcel 1. As such, Applicant believes that an extension to LLA 21-12 is not necessary for Applicant to continue to work towards satisfying the conditions of that application approval even if that work extends beyond September 7, 2022.

This written request is for a one-year extension to the other applications and approvals related to the City's wastewater treatment facility improvement project (LUD 21-14, LUD 21-30, and Significant Resource Management Plan). Applicant requests this extension to allow time for Applicant to receive the CDBG funds, close on the transaction to purchase reconfigured Parcel 1, and exercise the applications and approvals for construction of a wastewater treatment facility, non-structural floodplain development, and Significant Resource Management Plan.

Thank you for considering this request. Please feel free to contact me or the City of Falls City's City Manager, AJ Foscoli, at the contact number provided on the application form.

Sincerely,



Rebekah L. Dohrman
rebekah@localgovtlaw.com

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POLK COUNTY

POLK COUNTY COURTHOUSE * DALLAS, OREGON 97338
(503) 623-9237 * FAX (503) 623-6009

COMMUNITY DEVELOPMENT

AUSTIN M'GUIGAN
Director

August 26, 2022

The City of Falls City
Attn: AJ Foscoli
299 Mill Street
Falls City, OR 97344

Subject: Request for Extension -- file #EXT 22-15
T8S, R6W, Section 21, Tax Lots 300, 301 and 1900; T8S, R6W, Section 22, Tax
Lots 900 and 901

Dear Mr. Foscoli:

We have reviewed your request for a one-year extension for the Planning Applications LUD 21-14 and LUD 21-30. An extension for Planning Application LLA 21-12 is not requested or necessary, as this approval has already been exercised by the recording of a "Memorandum of Option Agreement and Agreement to Purchase and Sale".

Your request for an extension is hereby approved. With the granting of this extension, the approvals for Planning Applications LUD 21-14 and LUD 21-30 must now be exercised by September 7, 2023. This will be the only extension allowed to exercise your approvals.

If you have any further questions regarding this application, please feel free to contact me at the Community Development Department at 503-623-9237.

Sincerely,

Austin McGuigan, Planning Director
Polk County Community Development

AM/sm

C: LLA 21-12, LUD 21-14, and LUD21-30

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POLK COUNTY

COMMUNITY DEVELOPMENT

POLK COUNTY COURTHOUSE * DALLAS, OREGON 97338
(503) 623-9237 * FAX (503) 623-6009

AUSTIN M'GUIGAN
Director

NOTICE OF LAND USE APPLICATION

APPLICATIONS FOR: The applicant (City of Falls City) is proposing a property line adjustment to transfer approximately 17.0 acres from Parcel 2 to Parcel 1. Parcel 1 currently contains approximately 2.5 acres and is located entirely within the Public and Private Cemeteries (PC) zone. Parcel 2 currently contains approximately 62.5 acres and is located entirely within the Farm/Forest (FF) zone. After the proposed property line adjustment, Parcel 1 would contain approximately 19.5 acres and would become a split-zoned parcel. After the proposed property line adjustment Parcel 2 would contain approximately 45.5 acres and would remain entirely within the FF zone.

In addition, the applicant is proposing to construct a wastewater treatment facility on reconfigured Parcel 1, which is being evaluated as a "utility facility necessary for public service". The proposed outfall location and a portion of the pipeline would be within the regulated 100-year floodplain; therefore, the applicant has also applied for an application for "non-structural floodplain development". The proposed outfall and pipeline construction would require some vegetation removal within the required riparian management area of the Little Luckiamute River. Vegetation removal is considered a conflicting use within the riparian management area; therefore, the applicant has submitted a Significant Resource Management Plan to limit conflicting uses, which is being reviewed with these applications.

APPLICANT: City of Falls City
OWNERS: City of Falls City; D Franco Contracting Inc.; Joseph and Michele Todd; and Victoria Avery

LOCATION: Parcel 1: One property northwest of 19240 Falls City Road, Falls City, Oregon (T8S, R6W, Section 21, Tax Lot 301)
Parcel 2: 18685 Falls City Road, Falls City, Oregon (T8S, R6W, Section 22, Tax Lots 900 and 901)
Pipeline/outfall location: 19240 Falls City Road, Falls City, Oregon (T8S, R6W, Section 21, Tax Lot 300); and T8S, R6W, Section 21, Tax Lot 1900

FILE NUMBERS: LLA 21-12, LUD 21-14, and LUD 21-30

APPLICABLE REVIEW & DECISION CRITERIA: 1. Polk County Subdivision and Partition Ordinance 91.960(2), (3), and (5).
2. Polk County Zoning Ordinance (PCZO) 138.050(G), 138.110, 138.120, 178.060, 178.070(A)(3), 182.040(E), 182.050(B), 182.070(A)(1)(a).
3. Oregon Administrative Review (OAR) 660-011-0060(3) and 660-006-0035(3).

STAFF CONTACT: Sidney Mulder; Phone (503) 623-9237; Email mulder.sidney@co.polk.or.us

DECISION

Based on the Review and Decision Criteria above, the applications are **approved** for a property line adjustment, construction of a wastewater treatment facility, non-structural floodplain development, and a Significant Resource Management Plan, as reviewed in these applications. The applications shall be subject to compliance with the conditions listed below, as required by the findings in the Review and

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Decision Criteria (Sections III, IV and V). Any modifications to conditions shall be approved in accordance with provisions of law (e.g., variance, subsequent land use application, etc.).

Conditions of Approval LLA 21-12:

1. Proposed Parcel 1 shall contain approximately 19.5 acres. Proposed Parcel 2 shall contain approximately 45.5 acres. The resulting properties shall be substantially configured as presented in the application (Attachment A-1 and A-3).
2. No additional parcels shall be created as a result of this property line adjustment.
3. The adjusted property line shall be established in a location that ensures that all existing buildings and structures on Parcel 2 comply with the setback requirements of the Farm Forest (FF) Zoning District. Setbacks for the FF zone, found in PCZO 112.430(B), are as follows: front – 30 feet, rear – 20 feet, side 20 feet.
4. Parcels 1 and 2 shall each retain frontage along a public road, or access to a public road via an easement. Any new access easements shall be at least 40 feet wide, unless an exception of the easement width is granted pursuant to PCSO 91.800.
5. Reconfigured Parcels 1 and 2 shall retain any on-site septic system and associated repair area on the parcel it serves. The adjusted property lines shall be established in a location that ensures a setback of at least 10 feet from any part of an existing septic system drainfield.
6. The property owners of reconfigured Parcel 1 shall sign a restrictive covenant prohibiting Parcel 1 from being partitioned along the zoning boundary until such time as each parcel would comply with the minimum standards for the creation of a parcel in each zone (Attachment F). The signed restrictive covenant shall be recorded at the Polk County Clerk's Office and included in the deed records. The property owner shall pay the applicable recording fees and shall submit a copy of this recorded restrictive covenant to the Planning Division to be included in the record for planning application LLA 21-12.
7. The property owners shall complete the property line adjustment and survey of the adjusted property lines as required by State and County law. The property owners shall submit to the Polk County Clerk's Office for recording in the deed history of the subject properties the original documents transferring the subject area. The property owners shall pay the applicable recording fees. The property owners shall submit copies of the recorded documents that complete the property line adjustment to the Planning Division for inclusion in file LLA 21-12 upon recording the documents.

Conditions of Approval LUD 21-14:

1. This approval is for the development of a wastewater treatment facility on reconfigured Parcel 1 (LLA 21-12), and shall be dependent on first exercising property line adjustment LLA 21-12.
2. This approval is limited to the development proposed and evaluated in this application. The proposed lagoon cells shall be designed as aerobic lagoons. Any future expansions would first require a subsequent land use application and approval.
3. The proposed development shall be constructed substantially within the locations evaluated in this application (Attachments B-1, B-2, B-3, and B-5). Prior to installing the proposed pipeline/outfall, the applicant shall first obtain any applicable easements from all affected property owners. This land use decision does not obligate any property owners to grant any additional easements to the applicant, and does not specify the terms of any easements that may be granted.
4. Road access to the wastewater treatment facility shall comply with Polk County road design standards, which are included as Attachment D. The applicant shall obtain any necessary permits from the Polk County Public Works Department. Such permits may include, but not are limited to a work within the right-of-way permit and a new or amended access permit.
5. The applicant shall be responsible for ensuring that any Federal, State, or local permits are obtained prior to development. Nothing in this land use approval overrides the regulations administered by any other government entity.

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- 6. Fuel breaks shall be constructed and maintained on the subject property in compliance with OAR 660-006-0035(3) and "Recommended Fire Siting Standards for Dwellings and Structures and Fire Safety Design Standards for Roads" dated March 1, 1991, and published by ODF, Section B "Fuel Break Standards" (Attachment E).

Conditions of Approval LUD 21-30:

- 1. The non-structural floodplain development proposed in LUD 20-30 shall be contingent on the approval of LUD 21-14.
- 2. The applicant shall obtain any necessary local, State or Federal permits before beginning the project, and shall comply with all conditions in those permits. Additional permits may be required by from State agencies, including but not limited to: the Oregon Department of State Lands (DSL), the Oregon Department of Environmental Quality (DEQ), the Oregon Department of Infrastructure Finance Authority (IFA), Oregon Water Resources Department (OWRD), and the Oregon Department of Fish and Wildlife (ODFW). Nothing in this land use approval overrides any regulations administered by another government entity.
- 3. The proposed non-structural floodplain development shall be conducted using substantially the same methods and mitigation strategies proposed and reviewed in this application. Any excess topsoil or vegetation removed shall be distributed and/or disposed of outside of the SFHA.
- 4. The property owner shall implement the Significant Resource Management Plan that was evaluated in this application (Attachment C). The applicant shall also continue coordination with all applicable State and/or Federal agencies and obtain any necessary State or Federal permits. This review is specific to the activities proposed and evaluated in this application. Any vegetation removal or other conflicting uses identified in PCZO 182.070(A)(1) that were not evaluated as part of this application may require a subsequent Management Plan to be reviewed and approved by the Planning Division.
- 5. Development which may disturb species (plant or animal) listed by the State of Oregon or the U.S. Fish and Wildlife Service as threatened or endangered shall comply with appropriate State and Federal Laws and regulations.

EFFECTIVE DATE: September 7, 2021 at 5:00 P.M. These applications and approvals must be exercised within one (1) year from its effective date or it shall be null and void. If additional time is required, the applicant shall file a written request for extension, with the appropriate fee, addressed to the Polk County Planning Director, at least 30 days prior to the expiration which could extend the validity period for one (1) additional year.


Austin McGuigan, Planning Director

8/25/21
Date

Decisions of the Polk County Planning Director may be appealed to the Polk County Board of Commissioners by any person whose interests are adversely affected or who is aggrieved by the decision. Such appeals must be filed within 12 days of the mailing of the decision, with the Polk County Community Development Department, Courthouse, Dallas, Oregon, on the form supplied by that department and the appropriate fee paid at the time of filing. Failure of an issue to be raised in person or by letter, or failure to provide sufficient specificity to afford the decision maker an opportunity to respond to the issue, precludes an appeal to the Land Use Board of Appeals (LUBA) based on that issue. Appeals to the Land Use Board of Appeals (LUBA) may only be based on Review and Decision Criteria contained in Section III, below. This decision becomes effective only if a written appeal is not filed within the appeal period. If an appeal is filed, this decision is stayed until a determination is made by the governing body.

A copy of the application, all documents and evidence relied upon by the applicant, and the applicable criteria are available for inspection at no cost and will be provided at the Community Development Department for the cost of copying. Polk County Community Development, Polk County Courthouse, 850 Main Street, Dallas, OR 97338; (503) 623-9237

NOTICE TO MORTGAGEE, LIENHOLDER, VENDOR OR SELLER: ORS Chapter 215 requires that if you receive this Notice of Decision, it must promptly be forwarded to the purchaser.

cc: Area property owners

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**POLK COUNTY COMMUNITY DEVELOPMENT DEPARTMENT
PLANNING DIVISION STAFF REPORT**

APPLICATIONS FOR: The applicant (City of Falls City) is proposing a property line adjustment to transfer approximately 17.0 acres from Parcel 2 to Parcel 1. Parcel 1 currently contains approximately 2.5 acres and is located entirely within the Public and Private Cemeteries (PC) zone. Parcel 2 currently contains approximately 62.5 acres and is located entirely within the Farm/Forest (FF) zone. After the proposed property line adjustment, Parcel 1 would contain approximately 19.5 acres and would become a split-zoned parcel. After the proposed property line adjustment Parcel 2 would contain approximately 45.5 acres and would remain entirely within the FF zone.

In addition, the applicant is proposing to construct a wastewater treatment facility on reconfigured Parcel 1, which is being evaluated as a "utility facility necessary for public service". The proposed outfall location and a portion of the pipeline would be within the regulated 100-year floodplain; therefore, the applicant has also applied for an application for "non-structural floodplain development". The proposed outfall and pipeline construction would require some vegetation removal within the required riparian management area of the Little Luckiamute River. Vegetation removal is considered a conflicting use within the riparian management area; therefore, the applicant has submitted a Significant Resource Management Plan to limit conflicting uses, which is being reviewed with these applications.

APPLICANT: City of Falls City

OWNERS: City of Falls City; D Franco Contracting Inc.; Joseph and Michele Todd; and Victoria Avery

LOCATION: Parcel 1: One property northwest of 19240 Falls City Road, Falls City, Oregon (T8S, R6W, Section 21, Tax Lot 301)
Parcel 2: 18685 Falls City Road, Falls City, Oregon (T8S, R6W, Section 22, Tax Lots 900 and 901)
Pipeline/outfall location: 19240 Falls City Road, Falls City, Oregon (T8S, R6W, Section 21, Tax Lot 300); and T8S, R6W, Section 21, Tax Lot 1900

FILE NUMBERS: LLA 21-12, LUD 21-14, and LUD 21-30

**APPLICABLE REVIEW &
DECISION CRITERIA:**

1. Polk County Subdivision and Partition Ordinance 91.960(2), (3), and (5).
2. Polk County Zoning Ordinance (PCZO) 138.050(G), 138.110, 138.120, 178.060, 178.070(A)(3), 182.040(E), 182.050(B), 182.070(A)(1)(a).
3. Oregon Administrative Review (OAR) 660-011-0060(3) and 660-006-0035(3).

STAFF CONTACT: Sidney Mulder: Phone (503) 623-9237; Email mulder.sidney@co.polk.or.us

I. PROJECT AND PROPERTY DESCRIPTION

REQUEST: The applicant (City of Falls City) is proposing a property line adjustment to transfer approximately 17.0 acres from Parcel 2 to Parcel 1. Parcel 1 currently contains approximately 2.5 acres and is located entirely within the Public and Private Cemeteries (PC) zone. Parcel 2 currently contains approximately 62.5 acres and is located entirely within the Farm/Forest (FF) zone. After the proposed property line adjustment, Parcel 1 would contain approximately 19.5 acres and would become a split-zoned parcel and Parcel 2 would contain approximately 45.5 acres and would remain entirely within the FF zone. The applicant's tentative survey map depicting the area proposed to be transferred from Parcel 2 to Parcel 1 is included as Attachment A-1. Attachments A-2 and A-3 are maps created by staff

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intended to depict the subject properties and surrounding areas. The applicable criteria and staff's findings for planning file LLA 21-12 can be found in Section III below.

In addition, the applicant is proposing to construct a wastewater treatment facility on reconfigured Parcel 1, which is being evaluated as a "utility facility necessary for public service". The wastewater treatment facility would include the following development: a new pump station (inside City limits); a forcemain that would be located within the public right-of-way along Falls City Road; a headworks; two lagoon cells; a transfer structure; an outlet structure; a chemical feed building; a chlorine contact chamber; and gravity pipeline and outfall that leads to the Little Luckiamute River. The scope of this review is only for the proposed development that is located within Polk County's jurisdiction, outside of City limits. The applicant provided a copy of the Preliminary Design Report, dated February 2019, which describes the design of the system and concluded it would be adequate to serve new connections for the next 20 years when excluding Falls City's population that is currently served by individual on-site septic systems. The applicant's plot plans are included as Attachments B-1 and B-5. Attachments B-2 and B-3 are survey maps showing the easement area for the proposed pipeline and outfall that leads to the Little Luckiamute River. Attachment B-4 is a map created by staff depicting the subject properties. The applicable criteria and staff's findings for planning file LUD 21-14 can be found in Section IV below.

The proposed outfall location and a portion of the pipeline would be within the regulated 100-year floodplain; therefore, the applicant has also applied for a "non-structural floodplain development" authorization. The proposed outfall and pipeline construction would require some vegetation removal within the required riparian management area of the Little Luckiamute River. Vegetation removal is considered a conflicting use within the riparian management area; therefore, the applicant has submitted a Significant Resource Management Plan to limit conflicting uses, which is being reviewed with these applications. The applicant's Management Plan is included as Attachment C. The applicable criteria and staff's findings for planning file LUD 21-30 can be found in Section V below.

Planning applications LLA 21-12 and LUD 21-12 were received on March 30, 2021. Planning application LUD 21-30 was received on June 3, 2021. The applications were deemed complete on June 21, 2021.

PROPERTY COMPREHENSIVE PLAN AND ZONING DESIGNATION:

| Zoning: | Comprehensive Plan Designation | Zoning Designation |
|--------------------|--------------------------------------|--|
| Subject Properties | Public and Farm Forest | Public Cemetery and Farm Forest |
| Property North | Farm/Forest and Rural Lands | Farm/Forest, and Acreage Residential-Five Acre Minimum |
| Property South | Agriculture | Exclusive Farm Use |
| Property East | Agriculture and Farm/Forest | Exclusive Farm Use and Farm Forest |
| Property West | Public, Agriculture, and Farm/Forest | Public and Private Cemeteries, Exclusive Farm Use, and Farm Forest |

PROPERTY DESCRIPTION: Parcel 1 is located one property northeast of 19240 Falls City Road, Falls City, Oregon (T8S, R6W, Section 21, Tax Lot 301). Parcel 1 contains approximately 2.5 acres and is located entirely within the PC zone. Parcel 1 was lawfully create pursuant to Polk County Subdivision and Partition Ordinance (PCSO) 91.950(1)(a), as evidenced by a Deed recorded in Polk County Deed Volume 37, Page 42, dated December 19, 1902. Parcel 1 is currently described in a Warranty Deed, recorded in Polk County Book of Record 106, Page 170, dated June 30, 1977.

Parcel 2 is located at 18685 Falls City Road, Falls City, Oregon (T8S, R6W, Section 22, Tax Lot 900 and 901). Parcel 2 contains approximately 62.5 acres and is located entirely within the FF zone. Parcel 2 was lawfully created pursuant to PCSO 91.950(1)(a), as evidenced by a Warranty Deed recorded in Polk County Book of Record 5, Page 279, dated May 21, 1970. Parcel 2 is currently described in a Personal Representative's Deed, recorded in Polk County Clerk Document 2016-004698, dated May 5, 2016.

Portions of the pipeline and outfall would be located on the properties identified as T8S, R6W, Section 21, Tax Lots 300 and 301. Attachments B-2 and B-3 depict a proposed 25 foot wide easement and a 15 foot

wide temporary construction easement proposed for these properties. Attachment B-5 depicts that forcemain pipeline route that would be constructed within the public ROW. The applications for a utility facility necessary for public service, non-structural floodplain development, and a Significant Resource Management Plan do not require a legal parcel determination. Therefore, staff has not verified the legal status of these additional properties associated with this project.

Based on staff's review of the National Wetlands Inventory (NWI), Falls City Quadrangle, Waymire Creek is located on Parcel 2 (LLA 21-12) and the proposed outfall would lead to the Little Luckiamute River. The banks of Waymire Creek and the Little Luckiamute River are both identified as a Freshwater Forested/Shrub and Riverine Wetlands. The applicant is not proposing any development within or near Waymire Creek as part of these applications. The Little Luckiamute River is identified on the Polk County Significant Resources Area (SRA) Map as being a fish bearing stream. Construction of the outfall would require some vegetation removal within the required riparian setback area, which is listed as a "conflicting use" pursuant to PCZO 182.070((A)(1)(a). Therefore, the applicant has submitted a Significant Resource Management Plan to limit conflicting uses. This Plan has been coordinated with the Oregon Department of Fish and Wildlife (ODFW) and the Oregon Department of State Lands (DSL). The applicant's Management Plan is evaluated in Section V, Subsections 3-4, below.

According to the Federal Emergency Management Agency (FEMA) Federal Insurance Rate Map (FIRM) panel number 41053C0360F, dated December 19, 2006, portions of Parcel 2 and the proposed outfall location are within the Special Flood Hazard Area (SFHA). The applicant has submitted an application for non-structural floodplain development for the proposed pipeline and outfall development. This application is identified as planning file LUD 21-30, and findings to address the applicable criteria are in Section V, Subsection 1-3, below.

The subject properties are not located within the Willamette River Greenway area and do not contain inventoried historic structures. The subject properties are not located within an inventoried archeological resources area.

SERVICES:

- Access: Parcels 1 and 2 both have frontage along Falls City Road. Parcel 2 also has frontage along Oakdale Road. Falls City Road is a Major Collector and Oakdale is a Minor Collector, as defined in the Polk County Transportation Systems Plan (TSP), Figure 3.
- Services: The subject properties are located within an area served by Luckiamute Domestic Water Cooperative. The proposed wastewater treatment facility is not a use that requires potable water or on-site waste disposal.
- School: Falls City School District #57
- Fire: Southwest Polk RFPD
- Police: Polk County Sheriff

II. COMMENTS RECEIVED

Environmental Health: No septic records. No comments.

Building Division: Any buildings over 120 square feet may require a building permit and would be subject to compliance with the Oregon Structural Specialty Code. In addition, compliance with Oregon Electrical, Plumbing, and Mechanical Specialty Codes would also be required.

Oregon Structural Specialty Code requirements may require ADA parking and a public restroom depending on the activities taking place within the building(s) and if there are any employees. Review and approval of the project may be required by the Deputy State Fire Marshal, including any required

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inspections for compliance with the Oregon Fire Code. Please contact the Building Division with any permitting questions.

Public Works:

A new access permit from Public Works will be required.

Daniel Evans, Oregon
Department of State Lands:

The Falls City Wastewater System Improvement Project route was evaluated for wetlands and waters as part of WD2020-0518. The submitted Resource Management Plan only includes a portion of this route and appears to include impacts in delineated Wetlands A and B and the ESH Little Luckiamute River (per WD 2020-0518). The applicant is recommended to contact Resource Coordinator Carrie Landrum to discuss permitting requirements (503-986-5285). Wetland Removal/fill permitting should be for the entirety of the project route. The Resource Management Plan only covered the geographic area between the Stormwater Cells 1 and 2 and the outfall at the Little Luckiamute River. Jurisdictional wetlands were also delineated within portions of the infrastructure route identified in Falls City.

Elise Kelley, Oregon
Department Of Fish and Wildlife:

I do not have significant concerns with this project. My comments are:

Since the Little Luckiamute River is home to multiple species of native migratory fish, fish salvage will need to be conducted in the isolated work area in the river. The consultant hired to do the salvage should reach out to ODFW's Mid-Willamette Fish District Biologist, Elise Kelley, to discuss appropriate salvage techniques including those for lamprey. The consultant will also need to obtain a no-cost fish salvage permit from ODFW.

Since the work will occur only along one bank of the river ODFW does not have fish passage concerns. Fish in the river should be able to move past the project, while the work is being conducted, without delay or harassment.

As noted in the engineering plans, the work will occur during the in-water work period for the Luckiamute River (and tributaries).

Carrol Stine:

Comments were submitted by a neighboring property owner in opposition to the wastewater treatment facility. Concerns were raised regarding impacts on nearby property values, the facility's appearance and smell, damage to the floodplain, maintaining the Farm/Forest zone designation, decreased property tax values, and neighboring property's inability to be served by the City's sewer system. Comments also imply that there are other, more appropriate sites that are further away from people.

Anonymous Comments:

Comments were submitted in opposition to the wastewater treatment facility. Concerns were raised regarding decreased property values, odor, overflow spills, safety of children, visual impacts, and increased traffic.

No other comments were received at the writing of this staff report. Full comments are included in the record.

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III. REVIEW AND DECISION CRITERIA (LLA 21-12)

1. The adjustment shall be consistent with the Comprehensive Plan and meet the intent and purpose of the zone; [PCSO 91.960(2)(a)]

(A) It is the intent of the Farm/Forest designation to provide an opportunity for the continuance and the creation of large and small scale commercial farm and forestry operations. It is also intended that the addition and location of new structures and improvements will not pose limitations upon the existing farm and forest practices in the area or surrounding area and that additional density will not adversely affect the agricultural or forestry operations of the area through the increased use of roads, demands for ground water during the growing season, or demands for increased levels of public facilities and services.

It is the specific intent of the Farm/Forest Plan designation to ensure that land use actions are consistent with definitions of agricultural and forest lands contained within the Polk County Comprehensive Plan. The Farm/Forest Plan designation will be implemented through the use of the Farm/Forest (F/F) Zone which includes areas designated as Farm/Forest Overlay on the zoning map. [PCCP, Section 4]

(B) The Farm/Forest (F/F) Zone is designed to provide for the full range of agricultural and forest uses for such lands, while providing for the maximum property tax benefits available (e.g. farm use assessment, timber tax treatment, open space deferral, wildlife habitat, etc.) and conformity with the Farm/Forest objectives and policies of the Polk County Comprehensive Plan.

Upon periodic revision of the Polk County Comprehensive Plan, the lands within the F/F designation shall be reviewed by the County Commissioners as to their continued appropriateness in such a designation or, alternatively rezoning to a more appropriate category.

As with other natural resource zones, there are isolated lands within the F/F Zone which have no actual or potential use for agricultural or forest purposes. In those cases, other non-natural resource uses may be permitted only as provided in this Chapter and in the Polk County Comprehensive Plan. Such uses must not be adverse to accepted agricultural or forest practices. Further, consistent with the diverse character of this zone and recognizing that the actual and potential land use conditions vary from intensive to extensive cultivation and use, the Board of County Commissioners has adopted this zone to deal with myriad potential uses, while recognizing the primary orientation of this zone towards farm and forest uses. [PCZO 138.010]

(C) The purpose of the Public Plan designation is to recognize those areas and improvements which accommodate or provide various government services to the people of Polk County. These include schools, parks fire stations, hospitals, cemeteries and other public buildings. Adequate public facilities are essential to well ordered community life, sustaining and enhancing the health, safety, educational and recreational aspects of rural living. [PCCP, Section 4]

Staff Findings: As stated in Section 4 of the Polk County Comprehensive Plan (PCCP), the intent of the Farm Forest Plan designation is to provide an opportunity for the continuance and the creation of large and small scale commercial farm and forestry operations. The Farm/Forest Plan designation is implemented through the Farm/Forest (F/F) and Farm/Forest Overlay (FFO) Zoning Districts. The intent of the Public Plan designation is to accommodate or provide various government services to the people of Polk County. The Public Plan designation is implemented in part through the Public Cemeteries (PC) Zoning District. When evaluating a property line adjustment under these criteria, the analysis is focused on whether the size and configuration of the subject properties would permit the properties to be used in a manner that is consistent with the Comprehensive Plan and the intent and purpose of the zone.

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Parcel 1 is currently located entirely within the PC zone and is the site of a cemetery. Parcel 2 is currently located entirely within the FF zone and is primarily used for residential purposes with grassy areas, vegetation associated with a wetland area, and some tree coverage. The area proposed to be transferred from Parcel 2 to Parcel 1 (approximately 17.0 acres) is located entirely within the FF zone, which would result in Parcel 1 becoming a split-zoned parcel.

If this application is approved and exercised, reconfigured Parcel 1 is intended to continue to be used as an existing cemetery, but would also be developed with a wastewater treatment facility for the City of Falls City (the City). A wastewater treatment facility is a permitted use in the FF zone, but is subject to an administrative review land use application and approval. The City has concurrently applied for an application for a "utility facility necessary for public service", which is addressed in Section IV below. Reconfigured Parcel 2 would continue to be used for residential purposes and would continue to exceed the minimum parcel size for the FF zone, thereby remaining large enough (approximately 45.5 acres) to be managed for agricultural or forestry purposes in the future.

Staff recommends a condition of approval that proposed Parcel 1 shall contain approximately 19.5 acres. Proposed Parcel 2 shall contain approximately 45.5 acres. The resulting properties shall be substantially configured as presented in the application (Attachment A-1 and A-3). The property owners shall complete the property line adjustment and survey of the adjusted property lines as required by State and County law. The property owners shall submit to the Polk County Clerk's Office for recording in the deed history of the subject properties the original documents transferring the subject area. The property owners shall pay the applicable recording fees. The property owners shall submit copies of the recorded documents that complete the property line adjustment to the Planning Division for inclusion in planning file LLA 21-12.

With the above recommended conditions of approval, the application complies with this criterion.

2. The adjustment shall not decrease required setbacks, access, yard areas, lot widths or other standards of the zone; [PCSO 91.960(2)(b)]

(A) Farm Forest Zoning District (FF)

(1) YARDS

(a) There shall be front, side and rear yards of the following depths for lots in the Farm Forest Zoning District:

All buildings and structures

| Front | Side | Rear |
|---------|---------|---------|
| 30 feet | 20 feet | 20 feet |

- (b) Any side or rear yard adjacent to a street shall meet the yard requirement for a front yard.**
- (c) When by this ordinance or any other ordinance, a greater setback or front yard of greater depth is required than is required by this section, the greater setback line or front yard depth shall apply. If a lesser setback or yard is required, the provisions of this ordinance shall apply.**
- (d) All structures are subject to any special setback lines, where specified on designated arterials or collectors, in addition to the above setbacks.**

(2) HEIGHT. There shall be a height limitation of 100 feet in the F/F zone, except for those lands subject to the Airport Overlay zone or any structure which has received a conditional use approval which limits the height of said structure. [PCZO 112.430(B)(1)-(2)]

(B) PUBLIC ZONE DEVELOPMENT STANDARDS

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- (1) **LOT AREA.** The minimum requirements in PC, PE and PP Zones for dwellings shall be the same lot area prescribed for dwellings in the RM Zone, and in PA, PH and PS Zones, the same lot area prescribed for dwellings in the PH Zone. No main building, including dwellings, shall occupy more than 30 percent of the lot area in the PC, PE and PP Zones.
- (B) **FRONT YARD.** There shall be a front yard on every lot in all Public Zones, which front yard shall have a minimum depth of 20 feet, except the front yard for signs shall be three (3) feet. Signs may be placed within the three (3) foot setback subject to Section 112.125. No parking shall be permitted within the minimum front yard area.
- (C) **SIDE YARDS.** Where the side of a lot in any Public Zone abuts upon the side of a lot in the SR, AR-5, AR-10, or AF-10 Zones, there shall be a minimum side yard of five (5) feet. There shall be added to these minimum requirements, one (1) foot for each multiple of 15 feet or portion thereof, that the length of that side of the building measures over 30 feet; in addition, any side yard adjacent to a street shall be a minimum of 20 feet and no parking shall be permitted within 10 feet of the street property line. [Amended by Ordinance 04-01]
- (D) **REAR YARD.** In any Public Zone, there shall be a rear yard which shall have a minimum depth of 20 feet, which depth shall be increased by four (4) feet for each additional story above the first.
- (E) **HEIGHT.** No building or structure in a PC Zone shall exceed two and one-half stories or 35 feet. No building or structure in all other Public Zones shall exceed six (6) stories or seventy feet, provided that in PE and PP Zones the buildings or structures shall set back from every street and lot line one (1) foot for each foot of height of the building in excess of 35 feet in addition to all other yard and setback requirements herein specified. [PCZO 112.420(A)-(E)]

Staff Findings: The proposed property line adjustment would transfer approximately 17.0 acres from Parcel 2 to Parcel 1, as shown on the applicant's tentative survey map (Attachment A-1). According to the 2021 Polk County Assessor's Report, Parcel 1 is currently vacant of any structures. Parcel 2 currently contains one (1) single-family dwelling and one (1) accessory farm structure. The proposed area to be transferred from Parcel 2 to Parcel 1 does not contain any structures. Based on the applicant's plot plan and staff's review of the 2018 Polk County aerial photograph, using measurement tools accessed through Polk County's Geographic Information System (GIS), the closest structure on Parcel 2 from the proposed new property line would exceed 500 feet. Staff finds that the proposed property line adjustment would allow all existing structures on Parcel 2 to continue to exceed the minimum setback standards for the FF zone. Nevertheless, to ensure compliance, staff recommends a condition of approval that the adjusted property line shall be established in a location that ensures that all existing buildings and structures on Parcel 2 comply with the setback requirements of the FF Zoning District, found in PCZO 112.430(B).

Parcel 1 currently has frontage along Falls City Road. Parcel 2 currently has frontage along Falls City Road and Oakdale Road, access is not proposed to change as a result of this property line adjustment. Nevertheless, staff recommends a condition of approval that both parcels shall have frontage along a public road, or access to a public road via an easement. Any new access easements shall be at least 40 feet wide, unless an exception of the easement width is granted pursuant to PCSO 91.800.

With these conditions, the application complies with these criteria.

- 3. All parcels will retain any on-site septic system and associated repair area on the parcel it serves; [PCSO 91.960(2)(c)]

Staff Findings: Based on the 2021 Polk County Assessor's records, Parcel 1 is currently vacant and Parcel 2 contains a single-family dwelling that was constructed in 1930, prior to zoning regulations. Polk County's Environmental Health Division provided comments indicating that no septic records

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were found. The applicant states that an existing septic system is located on the north side of Falls City Road (Tax Lot 900). The proposed property line adjustment would transfer a portion of Parcel 2 located on the south side of Falls City Road (Tax Lot 901) to an adjacent parcel on the same side of the road. The reconfigured property line would be at least 500 feet away from the existing dwelling located on Parcel 2. For these reasons, staff finds that Parcel 2 would retain the existing septic system and repair area on reconfigured Parcel 1. Nevertheless, to ensure compliance, staff recommends a condition of approval that all parcels shall retain any on-site septic system and associated repair area on the parcel it serves.

Oregon Administrative Rule 340-071-0220(1)(j) requires property owners to maintain a setback of 10 feet from any part of an existing drainfield when establishing new property lines. Staff recommends that this criterion be listed as a condition of approval to ensure compliance.

With these conditions, the application complies with this criterion.

4. The adjustment will create no additional parcel(s); [PCSO 91.960(2)(d)]

Staff Findings: As discussed above, the subject properties consist of two (2) separate lawfully created parcels and the proposed adjustment would not create any additional parcels. A condition of approval should include the requirements of this criterion.

With this condition, the application complies with this criterion.

5. The adjustment will not create a split-zoned parcel(s) that does not comply with the standards for creation of a parcel in each zone unless the property owner provides for the recording of a restrictive covenant in the deed records for the subject property that prohibit the property from being partitioned along the zoning boundary until such time as each parcel would comply with the minimum standards for the creation of a parcel in each zone; [PCSO 91.960(2)(e)]

Staff Findings: Parcel 1 is currently located entirely within the PC Zoning District and Parcel 2 is currently located entirely within the FF Zoning District. The proposed property line adjustment would result in Parcel 1 becoming a split-zoned parcel; partially within the PC zone and partially within the FF zone. Parcel 2 would remain entirely within the FF zone. The FF zoned portion of split-zoned Parcel 1 would contain approximately 17 acres, which is below the minimum parcel size for the FF zone. As a result, staff recommends a condition of approval that the property owner of reconfigured Parcel 1 shall sign a restrictive covenant prohibiting Parcel 1 from being partitioned along the zoning boundary until such time as each parcel would comply with the minimum standards for the creation of a parcel in each zone (Attachment F). The signed restrictive covenant shall be recorded at the Polk County Clerk's Office and included in the deed records. The property owner shall pay the applicable recording fees and shall submit a copy of this recorded restrictive covenant to the Planning Division to be included in the record for planning application LLA 21-12.

With this condition, the application complies with this criterion.

6. A property line adjustment where one or both of the properties involved are smaller than the minimum lot or parcel size for the applicable zone may be approved where:

(A) Both properties are located entirely outside the corporate limits of a city; and

(B) One or both of the abutting properties are smaller than the minimum lot or parcel size for the applicable zone before the property line adjustment and, after the adjustment, one is as large as or larger than the minimum lot or parcel size for the applicable zone; or

(C) Both abutting properties are smaller than the minimum lot or parcel size for the applicable zone before and after the property line adjustment. [PCSO 91.960(2)(f)(i-iii)]

7. A property line adjustment between two parcels that exceed the minimum parcel size for the applicable zone before the property line adjustment shall result in two parcels that exceed the

minimum parcel size for the applicable zone after the property line adjustment. [PCSO 91.960(2)(g)]

Staff Findings: Staff confirmed that both properties are located entirely outside the corporate limits of a city. Parcel 1 is currently located entirely within the PC zone and would be partially located in the FF and PC zones as a result of this property line adjustment. Parcel 2 is located entirely within the FF zone and would remain entirely within the FF zone after the proposed property line adjustment. The FF zone has a 40.0 acre minimum parcel size. The PC zone does not have a minimum parcel size. However, the parcel area must remain an adequate size to provide for an approved on-site septic system, a potable water source, parking and other applicable development standards. Pursuant to PCZO 112.420(A), the PC zone also requires a total parcel area coverage standard that no main buildings shall occupy more than 30 percent of the parcel area.

The Land Use Board of Appeals (LUBA) has provided guidance for how to interpret this criteria when applying it to a property line adjustment that results in a split-zoned parcel. In LUBA case number 2009-024, it was determined that there is nothing in the law that prohibits a property line adjustment that results in a split-zoned parcel, as a property line adjustment does not create a new parcel, but rather relocates a common property line between two abutting properties. In this instance, Parcel 2 is currently larger than the minimum parcel size for the FF zone and would remain larger than the minimum parcel size for the FF zone. Because the PC zone does not have a minimum parcel size, the parcel cannot currently be above or below a minimum parcel size and, therefore cannot result in being above or below a minimum parcel size. This fact should not preclude the ability to perform a property line adjustment that involves a lawfully established unit of land. As discussed above, the purpose of this property line adjustment would be to increase the size of Parcel 1 in order to construct a wastewater treatment facility for the City of Falls City, which would be constructed on the FF portion of reconfigured Parcel 1. Parcel 1 is currently used as a cemetery and is vacant of any structures. No changes to the existing cemetery use are proposed on the PC zoned portion of Parcel 1 as a result of this property line adjustment. The applicant is not proposing any new uses within the PC zone and the parcel area requirements would continue to be met after the proposed property line adjustment.

The application complies with these criteria.

8. ADJUSTMENTS IN RESOURCE ZONES. Except for those exclusions noted in Section (1) above, property line adjustments must meet the General Standards listed in (2) above. In addition, on land in a farm or forest zone (EFU, TC, FF and FFO), a property line adjustment under Section (2), subsection (f) may not be used to: [PCSO 91.960(3)]

- (A) Decrease the size of a lot or parcel that, before the relocation or elimination of the common property line, is smaller than the minimum lot or parcel size for the applicable zone and contains an existing dwelling or is approved for the construction of a dwelling, if the abutting vacant tract would be increased to a size as large as or larger than the minimum tract size required to qualify the vacant tract for a dwelling based on an acreage standard (Sections 136.040(D), 138.080(A)(3), 138.080(B)(2), or 177.070(B));
- (B) Decrease the size of a lot or parcel that contains an existing dwelling or is approved for construction of a dwelling to a size smaller than the minimum lot or parcel size, if the abutting vacant tract would be increased to a size as large as or larger than the minimum tract size required to qualify the vacant tract for a dwelling based on an acreage standard (Sections 136.040(D), 138.080(A)(3), 138.080(B)(2), or 177.070(B));
- (C) Allow an area of land used to qualify a tract for a dwelling based on an acreage standard to be used to qualify another tract for a dwelling if the land use approval would be based on an acreage standard (Sections 136.040(D), 138.080(A)(3), 138.080(B)(2), or 177.070(B)); or
- (D) Adjust a property line that resulted from a subdivision or partition authorized by a waiver so that any lawfully established unit of land affected by the property line adjustment is larger than:

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- (1) Two acres if the lawfully established unit of land is, before the adjustment, two acres in size or smaller and is high-value farmland, high-value forestland or within a ground water restricted area; or
- (2) Five acres in size if the lawfully established unit of land is, before the adjustment, five acres in size or smaller and is not high-value farmland, high-value forestland, or within a ground water restricted area. [PCSO 91.960(3)(a-d)]

Staff Findings: These standards for resource zones are intended to evaluate whether a property line adjustment would result in a size that allows an additional dwelling based on an acreage standard. Dwellings are not outright permitted in resource zones. However, the FF zone includes criteria for a dwelling based on an acreage standard. This standard permits a dwelling on vacant tracts that are greater than 160 acres in size and are predominantly composed of not high-value farmland soils. When evaluating the criteria above, staff verifies that the resultant configuration of the tract would not qualify for a dwelling based on the acreage standard if the tract did not qualify for a dwelling based on the acreage standard prior to the adjustment.

Parcel 1 currently contains approximately 2.5 acres and is not part of a larger tract. As a result of this property line adjustment, Parcel 1 would be increased in size to approximately 19.5 acres, which is smaller than the minimum tract size to qualify for a dwelling based on the acreage standard. Parcel 2 would be decreased in size and currently contains a single-family dwelling. After the proposed property line adjustment, Parcel 2 would continue to contain a dwelling and would remain under 160 acres in size. For these reasons, staff finds that the result of this property line adjustment would not allow a vacant tract to qualify for a dwelling based on the acreage standard in the FF zone.

Staff verified that neither parcel was created by a subdivision or partition authorized by a waiver. Therefore, the subject properties are not limited to a 2.0 or 5.0 maximum acreage restriction.

The application complies with these criteria.

9. **ADJUSTMENTS IN COMMERCIAL, INDUSTRIAL, AND PUBLIC ZONES.** Except for those exclusions in Section (1) above, a property line adjustment between parcels in a commercial, industrial, or public zone must meet the General Standards listed in (2) above. In addition, the applicant(s) must demonstrate that the adjustment would retain all parcels of adequate size, as detailed by the applicant and determined by the Planning Director, to provide adequate area for the intended or existing structures and uses, setbacks, parking, access, landscaping, and spacing required for water supply and on-site sewage disposal (including repair area). [PCSO 91.960(5)]

Staff Findings: As stated above, Parcel 1 is currently located entirely within the PC zone and is the site of a cemetery. After the proposed property line adjustment, Parcel 1 would become a split-zoned property and would be increased in size to be approximately 19.5 acres in order to continue the existing cemetery use and construct a new wastewater treatment facility. Staff finds that the application complies with this criteria because the size, configuration, and uses currently in existence on the PC zoned portion of Parcel 1 are not proposed to change as a result of this property line adjustment.

The application complies with this criterion.

IV. REVIEW AND DECISION CRITERIA (LUD 21-14)

An application for a Utility Facility Necessary for Public Service within the Farm/Forest Zoning District is subject to an administrative review based upon the criteria listed in Polk County Zoning Ordinance (PCZO) Section 138.050(G), 138.110, and 138.120. Sections 111.240 and 111.250 of the PCZO authorize the Planning Director to conduct such review and render a decision on this matter. Staff findings and analysis are as follows:

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1. **Utility Facilities Necessary for Public Service [OAR 660-033-0130(16)], including wetland waste treatment systems, except commercial facilities for the purpose of generating power for public use by sale and transmission towers over 200 feet in height. [PCZO 138.050(G)]**
 - A. **A utility facility is necessary for public service if the facility must be sited in an exclusive farm use zone in order to provide the service. To demonstrate that a utility facility is necessary, an applicant must show that reasonable alternatives have been considered and that the facility must be sited in an Exclusive Farm Use zone due to one or more of the following factors:**
 - i. **Technical and engineering feasibility;**
 - ii. **The proposed facility is locationally dependent. A utility facility is locationally dependent if it must cross land in one or more areas zoned for exclusive farm use in order to achieve a reasonably direct route or to meet unique geographical needs that cannot be satisfied on other lands;**
 - iii. **Lack of available urban and nonresource lands;**
 - iv. **Availability of existing rights of way;**
 - v. **Public health and safety; and**
 - vi. **Other requirements of state and federal agencies. [PCZO 138.050(G)(1)]**
 - B. **Costs associated with any of the factors listed in subsection (E)(1) of this section may be considered, but cost alone may not be the only consideration in determining that a utility facility is necessary for public service. Land costs shall not be included when considering alternative locations for substantially similar utility facilities and the siting of utility facilities that are not substantially similar. [PCZO 138.050(G)(2)]**

Staff Findings: The applicant is proposing to construct a wastewater treatment facility on reconfigured Parcel 1, which is being evaluated as a "utility facility necessary for public service". The wastewater treatment facility would include the following development: a new pump station (inside City limits); a forcemain that would be located within the public right-of-way (ROW) along Falls City Road; a headworks; two lagoon cells; a transfer structure; an outlet structure; a chemical feed building; a chlorine contact chamber; and gravity pipeline and outfall that leads to the Little Luckiamute River. The scope of this review is only for the proposed development that is located within Polk County's jurisdiction, outside of City limits. The system is designed to serve new connections for the next 20 years, excluding the City's population that are currently served by individual on-site septic systems. The applicant's plot plan depicting the proposed development is included as Attachments B-1 and B-5. Attachments B-2 and B-3 are survey maps showing the easement area for the proposed pipeline and outfall locations. Attachment B-4 is a map created by staff depicting the subject properties associated with the proposed development.

The criteria above requires the applicant to demonstrate that the proposed utility facility is necessary for public service. The applicant provided the Preliminary Design Report, dated February 2019, that was completed by Christopher J. Brugato, P.E., who is a Project Manager for Westech Engineering, Inc. The Preliminary Design Report identified the following shortcomings to the City's existing public wastewater system, including the following:

- The existing recirculation tank is difficult to maintain and the recirculation pump discharge piping is in poor condition.
- The control system is inadequate.
- The recirculating gravel filter is operating above its design capacity of 5 gallons per minute, per square foot.
- The recirculating gravel filter is difficult to maintain.

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- The drain field is undersized and overworked.

The purpose of the new wastewater treatment facility is intended to replace the City's existing treatment facility, which would provide sanitary waste services to Falls City residents, businesses, etc. For these reasons, staff finds that the wastewater treatment facility described above constitutes a utility facility necessary for public service.

Comments from a neighboring property owner imply that there are alternative, more appropriate sites for the proposed development, which are further away from people who reside in the area. However, the commenter did not identify any specific locations and did not provide any evidence to demonstrate which other site(s) would be more appropriate for the proposed development. The above criteria requires the applicant to demonstrate that reasonable alternative non-resource zoned locations have been considered. The applicant states that the proposed lagoon cells must be constructed on a relatively large and flat area due to the required amount of water volume storage, and because the lagoon cells must be relatively shallow to function properly. These are reasonable technical and engineering requirements for properly functioning on-site lagoon cells. The applicant states that a site selection analysis was completed during the preliminary design review, which concluded that there were no properties within City limits that were large enough, flat enough, and free of streams and other critical habitat for siting the lagoon cells. However, the applicant did not provide that analysis into the record. Therefore, in order to verify these statements, staff reviewed Polk County's Tax Map, accessed through Polk County's GIS, to identify any potential properties within Falls City's city limits that have similar size and topography as the subject property (approximately 17 acres with slopes averaging less than 2%). Staff identified a four (4) separate tracts within city limit that range in size from approximately 80.7 acres to approximately 16.3 acres. Staff used GIS elevation profiles tools and found that although these property may be large enough, they contain steeper slopes that range between 5-37% and did not meet the engineering design requirements identified by the applicant. In addition, the slopes were found to not be uniform across these tracts, meaning areas that contained slopes of 5% or less only account for a few acres and would not be large enough to meet the engineering requirements for the lagoon cell's size, as identified by the applicant. Similarly, staff identified several nearby properties located near City limits that are within the Acreage Residential-Five Acre (AR-5) Zoning District (T8S, R6W, Sections 15, 21, and 22). The applicant states that these properties were considered, but were ultimately determined to be too steep from a design perspective. Staff confirmed these statements and identified one (1) tract within the AR-5 zone, which was approximately 24.7 acres in size, but contained slopes averaging approximately 10%. Slope calculations, details about tract sizes, and maps identifying these properties within Falls City's city limits and other surrounding non-resource zoned properties are included in the record.

The applicant states that having a willing seller and being located close to City limits were also variables during the site selection process, which ultimately resulted in the subject property being selected over other alternative properties that were considered. The applicant states that cost was a factor, but it was not the only factor considered during the site selection process.

For these reasons, staff finds that the proposed wastewater treatment facility must be sited within the Farm/Forest zone due to technical and engineering requirements, and that there is a lack of available urban and non-resource lands that meet the site selection requirements, such as size and slope, to accommodate the engineering requirements for the lagoon cells.

A neighboring property owner submitted comments with concerns regarding potential impacts on surrounding properties due to the facility's appearance and smell. The applicant addressed these concern by describing the lagoon cell's functions as follows:

There are two (2) different types of lagoon treatment systems that exist. These include *anaerobic* lagoons and *aerobic* lagoons. In anaerobic systems, the organic loading to the system exceeds the natural dissolved oxygen supply processes, the dissolved oxygen concentrations drop to zero, and the organic material is treated under anaerobic conditions. These anaerobic conditions generate offensive odors. In Polk County, there are anaerobic lagoons serving the dairy near Rickreall and the odors from this facility are easy to detect. In aerobic lagoon systems, the organic loading does not exceed the natural dissolved oxygen supply processes, the dissolved oxygen concentrations are above zero, and

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the organic material is treated under aerobic conditions. Treatment of organic matter under aerobic conditions does not generate offensive odors. The proposed Falls City lagoon cells are aerobic lagoons and should not generate offensive odors. There are several examples of similar facilities in Polk County. Aerobic lagoon systems are used to treat wastewater for the Cities of Independence and Monmouth, which are located near large residential areas in close proximity to the lagoon cells, and odor complaints from the nearby homes are rare. The lagoon cells proposed as part of this application would be very comparable to the lagoons serving Independence and Monmouth and offensive odors are not anticipated to be a problem.

Staff finds that based on the design and functions of the treatment facility, offensive odors and the appearance of the lagoon cells are not anticipated to impact surrounding residences beyond what would reasonably be expected within the Farm/Forest zone. To ensure that the proposed development is consistent with the facts evaluated in this application, staff recommends a condition of approval that the proposed lagoon cells shall be designed as aerobic lagoons.

A neighboring property owner submitted comments with concerns regarding potential impacts on nearby property values, decreased property tax values, and maintaining the Farm/Forest zone designation. The applicant's proposal does not include a Zone Change and/or Comprehensive Plan Amendment. A utility facility necessary for public service is a permitted use within the FF zone, subject to an administrative review. Impacts on property values and tax values are not part of the applicable review and decision criteria. There is also no evidence in the record to demonstrate that the proposed development would impact surrounding property values or surrounding property tax values. As discussed above, the proposed use is permitted in the zone, and therefore, is a use that should reasonably be expected to occur on the subject property.

A neighboring property owner submitted comments with concerns about the safety of children. As depicted on the applicant's plot plan, the lagoon cells would be surrounded by a perimeter woven wire fence. The proposed lagoon cells would be located within a resource zone, where agricultural and forestry operations typically occur, such as operating heavy equipment, plowing, harvesting, etc. The subject property would be owned by the City, however, the property is not proposed to contain any amenities to attract children on-site, such as a park, trail system, etc. Staff has no reason to believe that the lagoon cells pose a risk to children or that children would be on-site at any time.

Comments were also submitted with concerns about overflow spills. The proposed treatment facility would include a headworks, which monitors and controls the flow of water entering the lagoon cells. Water levels would also have the ability to be adjusted by transferring water from lagoon cell 1 to lagoon cell 2. The sizes of the lagoon cells are designed based on the storage volumes needed during the dry weather storage season (May 1 - Oct. 31), which is when treated wastewater would not be permitted to be discharged into the Little Luckimute River. The maximum water depth would be 8 feet. The lagoon cell dikes would be constructed with 3:1 slopes and 3 feet of freeboard. To minimize seepage, the lagoon cells would be lined with a synthetic liner. Various alarms would also be used to detect malfunctions such as pump failure, high water levels, power loss, etc. The Preliminary Design Report that contains these design details was stamped and signed by Christopher J. Brugato, P.E. Because the facility is designed by a Professional Engineer, staff finds that the risk of overflow spills or faulty design elements is not likely.

Concerns were also raised about increased traffic generated from the wastewater treatment facility. Staff finds that increased traffic would mostly be attributable to construction, but after construction is completed, a wastewater treatment facility is not a use that generates very much traffic. Additional vehicle trips would likely be limited to regular maintenance activities. Staff finds that additional vehicle trips created by the wastewater treatment facility would not exceed the number of vehicle trips that would be reasonably expected for uses allowed within the FF zone. For example, other outright permitted uses, such as a commercial farm operation or farm stand, would generate a much higher traffic volume than the proposed use.

Because this evaluation is based on the facility's location proposed in this application, staff recommends a condition of approval that the proposed wastewater treatment facility, including the new forcemain, pipeline and outfall locations, shall be constructed substantially within the locations

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evaluated in this application (Attachments B-1, B-2, B-3, and B-5). This decision shall be dependent on first exercising property line adjustment LLA 21-12. Prior to installing the proposed pipeline/outfall, the applicant shall first obtain any applicable easements from all affected property owners. This land use decision does not obligate any property owners to grant any easements to the applicant, and does not specify the terms of any easements that may be granted. Any affected property owners are advised to seek their own legal counsel regarding easement terms.

As mentioned above, a portion of the forcemain would be located within the public ROW of Falls City Road. Therefore, staff recommends a condition of approval that the applicant shall obtain any necessary permits from the Polk County Public Works Department. Such permits may include, but are not limited to: a work within the right-of-way permit and a new or amended access permit.

With the above conditions of approval, the application complies with these criteria.

- C. **The owner of a utility facility approved under this section shall be responsible for restoring, as nearly as possible, to its former condition any agriculture land and associated improvements that are damaged or otherwise disturbed by the siting, maintenance, repair or reconstruction of the facility. Nothing in this subsection shall prevent the owner of the utility from requiring a bond or other security from a contractor or otherwise imposing on a contractor the responsibility for restoration. [PCZO 138.050(G)(3)]**
- D. **The governing body of the county or its designee shall impose clear and objective conditions on an application for utility siting to migrate and minimize the impacts of the proposed facility, if any, on surrounding lands devoted to farm use in order to prevent a significant change in accepted farm practices or a significant increase in the cost of farm practices on surrounding farmlands. [PCZO 138.050(G)(4)]**

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Staff Findings: As proposed, the portions of the wastewater treatment facility located outside of City limits and within the FF zone include the new forcemain, headworks, two lagoon cells, a transfer structure, an outlet structure, a chemical feed building, a chlorine contact chamber, and gravity pipeline and outfall that leads to the Little Luckiamute River. The scope of this review is only for the proposed development that is located within Polk County’s jurisdiction, outside of City limits.

According to the Polk County Zoning Map, surrounding properties towards the northeast, south, east and west are zoned FF and/or Exclusive Farm Use (EFU), and range in size from approximately 11.9 to approximately 133.3 acres. Surrounding properties towards the northwest (across Falls City Road) are zoned Acreage Residential – Five Acre (AR-5). Neighboring properties are managed as a combination of farm use (such as livestock and graze land), small-scaled forestry operations, and residential use. Common agricultural practices may include, but are not limited to: plowing, spaying, tilling, and operating farm equipment. Common forestry practices may include, but are not limited to: spraying, harvesting, planting, road construction, and transporting logs.

The proposed two (2) lagoon cells would be established near the western portion of the subject property. This location would cluster the lagoon cells with other non-farm and non-forestry uses, including the cemetery towards the west and AR-5 zoned properties towards the northwest. Based on staff’s review of the 2011, 2016 and 2018 Polk County aerial photographs, the proposed location for the lagoon cells does not appear to be actively managed for farm or forestry purposes. The proposed mainline would follow the Falls City Road ROW, and the proposed outfall structure and pipeline would follow property lines within an easement area, rather than traversing across areas that are currently managed for agriculture. Staff sent notice of the applicant’s proposal with a request for comments to all surrounding property owners. As of the writing of this staff report, no comments were received related to potential impacts on surrounding farm and/or forest operations. Staff finds that the proposed development would not force a significant change in accepted farm or forest practices or significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use because the lagoon cells would be clustered as far away as possible from surrounding FF and EFU zoned properties, the focemain would be constructed within the public ROW

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of Falls City Road, and the outfall location and pipeline would follow property lines rather than traversing across neighboring farm fields or forestry operations.

The applicant states, and staff confirmed, that additional permitting from the Oregon Department of State Lands (DSL) would be required, but those permits cannot be obtained from DSL until the wastewater treatment facility has first been authorized by Polk County. The Preliminary Design Report that was included with this application identifies the following additional permits that are either in the process of being obtained, or would be required prior to constructing the proposed facility: Design approval from DEQ and the Oregon Department of Infrastructure Finance Authority (IFA); Renewal of a National Pollutant Discharge Elimination System (NPDES) discharge permit and erosion control permits from DEQ; Joint Section 404/Removal Fill permit from DSL; and a temporary water right from the Oregon Water Resources Department (OWRD). In addition, comments from the Oregon Department of Fish and Wildlife (ODFW) indicate that a no-cost fish salvage permit would be required for the outfall construction. Staff recommends a condition of approval that the applicant shall be responsible for ensuring that any Federal, State, or local permits are obtained prior to development. Nothing in this land use approval overrides the regulations administered by any other government entity.

The applicant's plot plan (Attachment B-1) has a note that says, "Future Cell 3 Limits". Staff sent a letter on April 29, 2021 notifying the applicant that any future expansions would require a separate land use application and approval, and the scope of this review is only for the proposed development identified above. Because staff is not reviewing a future "Cell 3" at this time, staff recommends a condition of approval that this Decision is limited to the development proposed and evaluated in this application. Any future expansion would first require a subsequent land use application and approval.

Based on the facts presented and evaluated in this application, staff finds that with the above recommended conditions of approval, the proposed wastewater treatment facility would not damage any land that is currently used for agricultural purposes, and would not force a significant change in or significantly increase the cost of accepted farm or forest practices on surrounding farmlands.

With the conditions of approval above, the application complies with these criteria.

- E. Utility facilities necessary for public service may include on-site and off-site facilities for temporary workforce housing for workers constructing a utility facility. Such facilities must be removed or converted to an allowed use under OAR 660-033-0130(19) or other statute or rule when project construction is complete. Off-site facilities allowed under this paragraph are subject to OAR 660-033-0130(5). Temporary workforce housing facilities not included in the initial approval may be considered through a subsequent application. Such a request shall have no effect on the original approval. [PCZO 138.050(G)(5)]**

Staff Findings: The applicant is not proposing temporary workforce housing as part of the proposed development. Therefore, this criterion is not applicable to this application.

- F. In addition to the provisions of subsections (E)(1) to (4) of this section, the establishment or extension of a sewer system as defined by OAR 660-011-0060(1)(f) in an exclusive farm use zone shall be subject to the provisions of OAR 660-011-0060. [PCZO 138.050(G)(6)]**
- i. "Sewer system" means a system that serves more than one lot or parcel, or more than one condominium unit or more than one unit within a planned unit development, and includes pipelines or conduits, pump stations, force mains, and all other structures, devices, appurtenances and facilities used for treating or disposing of sewage or for collecting or conducting sewage to an ultimate point for treatment and disposal. The following are not considered a "sewer system" for purposes of this rule:**
- (A) A system provided solely for the collection, transfer and/or disposal of storm water runoff;**

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(B) A system provided solely for the collection, transfer and/or disposal of animal waste from a farm use as defined in ORS 215.303. [OAR 660-011-0060(1)(f)]

- ii. "Establishment of a sewer system" means the creation of a new sewage system, including systems provided by public or private entities; [OAR 660-011-0060(1)(a)]
- iii. "Extension of a sewer system" means the extension of a pipe, conduit, pipeline, main, or other physical component from or to an existing sewer system in order to provide service to a use, regardless of whether the use is inside the service boundaries of the public or private service provider. The sewer service authorized in section (8) of this rule is not an extension of a sewer; [OAR 660-011-0060(1)(b)]
- iv. Components of a sewer system that serve lands inside an urban growth boundary (UGB) may be placed on lands outside the boundary provided that the conditions in subsections (a) and (b) of this section are met, as follows:
 - a. Such placement is necessary to:
 - (A) Serve lands inside the UGB more efficiently by traversing lands outside the boundary;
 - (B) Serve lands inside a nearby UGB or unincorporated community;
 - (C) Connect to components of the sewer system lawfully located on rural lands, such as outfall or treatment facilities; or
 - (D) Transport leachate from a landfill on rural land to a sewer system inside a UGB; [OAR 660-011-0060(3)(a)]
 - b. The local government:
 - (A) Adopts land use regulations to ensure the sewer system shall not serve land outside urban growth boundaries or unincorporated community boundaries, except as authorized under section (4) of this rule; and
 - (B) Determines that the system satisfies ORS 215.296(1) or (2) to protect farm and forest practices, except for systems located in the subsurface of public roads and highways along the public right of way. [OAR 660-011-0060(3)(b)]

Staff Findings: After reviewing the above definitions and criteria found in OAR 660-011-0060, staff finds that the applicant's proposal is considered a "component of a sewer system", which is subject to the additional criteria found in OAR 660-011-0060(3)(a) and (b).

To address OAR 660-011-0060(3)(a), the applicant states that there are no properties within the UGB or surrounding non-resource zoned properties that are large enough, flat enough, and free of streams and other critical habitat for the lagoon cells. As discussed above, staff confirmed these statements by reviewing Polk County's GIS data and elevation profile tools to determine tract sizes and slopes. The proposed lagoon cells would be located approximately 1,750 feet east of the Urban Growth Boundary (UGB). The applicant states that the proposed site would be close to the proposed outfall location, which minimizes the amount of resource land needed for utility easements. For these reasons, staff finds that the proposed location is necessary to serve lands inside the nearby UGB.

To address OAR 660-011-0060(3)(b), the applicant provided a copy of Polk County Ordinance 95-2 and the Intergovernmental Agreement (IGA) between Polk County and the City of Falls City, which prohibits the extension of municipal water and sewer services outside of City limits. Staff finds that

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Polk County Ordinance 95-2 ensures that the sewer system would not serve land outside of the UGB, except as permitted in State law.

A neighboring property owner provided comments expressing concerns that surrounding property owners would not have the benefit of being connected to the City's sewer services, but would have the treatment facility located right next to them. As discussed above, the applicable criteria requires the applicant to demonstrate that alternative locations were considered and the components of the sewer system must be sited outside of the UGB. The applicant states that this site was ultimately selected due to the required size, topography, and proximity to City limits and proximity to the Little Luckiamute River. After conducting a site selection analysis, it was determined that there were no other properties with the UGB or non-resource zoned properties that would meet the engineering requirements for the facility. As discussed above, these statements were verified by staff by reviewing Polk County's GIS data and elevation profile tools. Staff finds that State and local law prohibit the City from providing sewer connections to properties outside of the UGB, unless it is necessary to mitigate a public health hazard, as specified in OAR 660-011-0060(4).

The applicable criteria found in ORS 215.296(1) and (2) requires the applicant to demonstrate that the use would not force a significant change in accepted farm or forest practices or significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use. These criteria are substantially similar to the criteria found in PCZO 138.050(G)(4), which is addressed in Section IV, Subsection (1)(D), above. Staff determined that the proposed development would not force a significant change in accepted farm or forest practices or significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use because the lagoon cells would be clustered as far away as possible from surrounding FF and EFU zoned properties, the forcemain would be constructed within the public ROW of Falls City Road, and the outfall location and pipeline would follow property lines rather than traversing across neighboring farm fields or forestry operations.

Staff finds that the application complies with these criteria.

G. The provisions of subsections (E)(1) to (4) of this section do not apply to interstate natural gas pipelines and associated facilities authorized by and subject to regulations by the Federal Energy Regulatory Commission.

H. Communication towers authorized under this section shall comply with the standards listed in Section 112.135. [PCZO 138.050(G)(7) and (8)]

Staff Findings: The applicant is not proposing natural gas pipelines or a communication tower; therefore, these criteria are not applicable.

7. GENERAL SITING STANDARDS FOR DWELLINGS AND STRUCTURES [OAR 660-006-0029]. The following standards apply to all new dwellings and structures: [PCZO 138.110]

- a. All new dwellings and structures authorized under the provisions of this Ordinance are subject to the siting standards in this Section. Relevant physical and locational factors including, but not limited to, topography, prevailing winds, access, surrounding land use and source of domestic water shall be used to identify the building site which:
- (1) Has the least impact on nearby or adjacent lands zoned for forest or agricultural use;
 - (2) Ensures that forest operations and accepted farming practices will not be curtailed or impeded;
 - (3) Minimizes the amount of forest lands used for the building sites, road access and service corridors; and
 - (4) Consistent with the provisions of Section 138.120 minimizes the risk associated with wildfire.
 - (5) Is consistent with other requirements contained in the Comprehensive Plan or implementing ordinances, including but not limited to regulations which apply to flood

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hazard areas, development within the Willamette River Greenway, development in forested areas or development in significant resource areas, such as riparian or big game habitat. [PCZO 138.110(A)(1-5)]

Staff Findings: The standards listed above are general standards intended help determine an appropriate location for approved structures. Upon exercising LLA 21-12, the subject property would contain approximately 19.5 acres. The proposed wastewater treatment facility would be located near the western portion of the subject property, but would be constructed within the FF zoned portion of the subject property. The proposed development within the public ROW and the pipeline/outfall location are also within the FF zone.

As discussed above, according to the Polk County Zoning Map, surrounding properties towards the northeast, south, east and west are zoned FF and/or EFU and range in size from approximately 11.9 to approximately 133.3 acres. Surrounding properties towards the northwest (across Falls City Road) are zoned AR-5. Neighboring properties are managed for a combination of farm use (such as livestock and graze land), small-scale forestry operations, and residential use. Common agricultural practices may include, but are not limited to: plowing, spaying, tilling, and operating farm equipment. Common forestry practices may include, but are not limited to: spraying, harvesting, planting, road construction, and transporting logs.

Access to the proposed wastewater treatment facility would be from Falls City Road via an existing gravel road. Based on staff's review of the 2018 Polk County aerial photograph, the wastewater treatment facility location contains sparse vegetation and does not appear to be currently managed for agriculture or forestry purposes. For these reasons, staff finds that the proposed location would minimize the amount of forest lands used for the building site, road access, and service corridors. In addition, staff finds that because the proposed facility would be situated near the western portion of the subject property, the development would be clustered with other non-farm and non-forestry uses, including the cemetery towards the west, and residential AR-5 zoned properties towards the north. The wastewater treatment facility would be limited to the development proposed and evaluated in this application and would be required to be established substantially in the locations identified on the applicant's plot plans. As discussed above, the facility is designed to not create offensive odors, and would generate few additional vehicle trips after construction. For these reasons, staff finds that the proposed lagoon cells and ancillary development would not curtail or impede forest operations or accepted farming practices.

The proposed development is subject to some of the provisions found PCZO Section 138.120. Those criterion are listed in Section IV, Subsection 8 of this report below. Compliance with those standards would minimize the risk associated with wildfire.

Based on a review of the applicable FEMA FIRM map, the proposed outfall location and a portion of the pipeline would be within the regulated 100-year floodplain; therefore, the applicant has applied for a "non-structural floodplain development" land use authorization. The applicable criteria and staff's findings addressing the Special Flood Hazard Area (SFHA) can be found in Section V below.

The proposed outfall and pipeline construction would require some vegetation removal within the required riparian management area of the Little Luckiamute River. Vegetation removal is considered a conflicting use within the riparian management area; therefore, the applicant has submitted a Significant Resource Management Plan to limit conflicting uses, which is being reviewed with these applications. The applicant's Management Plan is included as Attachment C. The applicable criteria and staff's findings addressing significant resources can be found in Section V below.

The subject property is not located within the Willamette River Greenway area and does not contain inventoried historic structures. The subject property is not located within an inventoried archeological resources area.

With the above listed condition of approval, the application complies with these criteria.

- b. The applicant shall provide evidence consistent with OAR 660-006-0029(A), that the domestic water supply, if any, is from a source authorized in accordance with the

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Department of Water Resources Oregon Administrative Rules for the appropriation of ground water (OAR 690, Division 10) or surface water (OAR 690, Division 20) and not from a Class F stream as defined in the Forest Practices Rule (OAR 629-24-101(3)). If the water supply is unavailable from public sources or sources located entirely on the subject property, then the applicant shall provide evidence that a legal easement has been obtained permitting domestic water lines to cross the properties of affected owners. [PCZO 138.110(B)]

Staff Findings: The applicant is not proposing a dwelling or structure designed for residential use. Therefore, staff finds that this criteria is not applicable.

- c. As a condition of approval, if road access to the dwelling is by a road owned and maintained by a private party or by the Oregon Department of Forestry, the U.S. Bureau of Land Management or the U.S. Forest Service, then the applicant shall provide proof of a long-term road access use permit or agreement. The road use permit may require the applicant to agree to accept responsibility for road maintenance. [PCZO 138.110(C)]

Staff Findings: The applicant is not proposing a dwelling or structure designed for occupancy, therefore, staff finds that this criteria is not applicable to the application. Nevertheless, staff finds that after exercising LLA 21-12, the subject property would have frontage along Falls City Road. Polk County's Public Works Department provided comments that a new access permit would be required, which is recommended to be a condition of approval.

The application complies with this criteria.

- d. Approval of a dwelling on a parcel or tract which is larger than 10 acres in size shall be subject to the following requirements:
 - (1) Approval of a dwelling requires the owner of the tract to plant a sufficient number of trees on the tract to demonstrate that the tract is reasonably expected to meet Department of Forestry stocking requirements at the time specified in the Department of Forestry administrative rules.
 - (2) The Planning Department shall notify the Polk County Assessor of the above condition at the time the dwelling is approved.
 - (3) The property owner shall submit a stocking survey report to the Polk County Assessor and the Assessor shall verify that the minimum stocking requirements have been met by the time required by the Department of Forestry Rules. The Assessor shall inform the Department of Forestry in cases where the property owner has not submitted a stocking survey or where the survey report indicates that minimum stocking requirements have not been met.
 - (4) Upon notification by the Assessor, the Department of Forestry shall determine whether the tract meets minimum stocking requirements of the Forest Practices Act. If the Department determines that the tract does not meet those requirements, the department shall notify the owner and the Assessor that the land is not being managed as forest land. The Assessor shall then remove the forest land designation pursuant to ORS 321.359 and impose additional tax pursuant to ORS 321.372. [PCZO 138.110(D)(1-4)]

Staff Findings: The applicant is not proposing a dwelling or structure designed for occupancy as part of this application. Therefore, the criteria listed in PCZO 138.120(E-H) are not applicable to this application.

The application complies with this criteria.

8. FIRE SITING STANDARDS FOR DWELLINGS AND STRUCTURES [OAR 660-006-0035].
The following standards apply to all new dwellings and structures: [PCZO 138.120]

- a. If a water supply is available and suitable for fire protection, such as a swimming pool, pond, stream, or lake, then road access to within 15 feet of the water's edge shall be provided for

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pumping units. The road access shall accommodate the turnaround of fire fighting equipment during the fire season. Permanent signs shall be posted along the access route to indicate the location of the emergency water source. [PCZO 138.120(A)]

Staff Findings: The applicant is not proposing a dwelling or structure designed for occupancy as part of this application. Therefore, this criterion listed in PCZO 138.120(A) is not applicable to this application.

The application complies with this criterion.

- b. Road access to the structure shall meet the County road design standards. [PCZO 138.120(B)]**

Staff Findings: The applicant states that the site would be accessed from an existing access road that leads to Falls City Road, which is a 12 foot wide gravel road. The entrance at the lagoon site would be approximately 20 feet wide. The applicant states the any required improvements would be constructed to County road standards. Staff recommends a condition of approval that road access to the wastewater treatment facility shall comply with Polk County road design standards, which are included as Attachment D.

With this condition, staff finds the application complies with this criterion.

- c. A primary fuel break shall be constructed on land surrounding the dwelling that is owned and controlled by the owner, no less than 30 feet wide. The primary fuel break could include a lawn, ornamental shrubbery or individual or groups of trees separated by a distance equal to the diameter of the crowns adjacent to each other, or 15 feet, whichever is greater. All trees shall be pruned to at least eight feet in height. Dead fuels shall also be removed. [PCZO 138.120(C)]**
- d. A secondary fuel break shall also be constructed, on land surrounding the dwelling that is owned or controlled by the owner, of not less than 50 feet outside the primary fuel break. Dead fuels shall be removed from the fuel break area. It may be advisable to increase the secondary fuel break if the dwelling is located on a slope. [PCZO 138.120(D)]**
- e. The owners of the dwellings and structures shall maintain a primary fuel-free break area surrounding all structures and clear and maintain a secondary fuel-free break area on land surrounding the dwelling that is owned or controlled by the owner in accordance with the provisions in "Recommended Fire Siting Standards for Dwellings and Structures and Fire Safety Design Standards for Roads" dated March 1, 1991, and published by the Oregon Department of Forestry. [OAR 660-006-0035(3)]**

Staff Findings: Updated fuel break standards in OAR 660-006-0035(3) are more restrictive than those of PCZO 138.120(C) and (D); therefore, staff must apply the current OAR. As stated by the Oregon Department of Forestry (ODF), the purpose of the primary safety zone is to remove fuels that would produce flame lengths in excess of one foot. The secondary fuel break is intended to reduce fuels so that the overall intensity of any wildfire would be lessened, and the likelihood of crown fires and crowning is reduced.

According to the provisions of OAR 660-006-0035 and "Recommended Fire Siting Standards for Dwellings and Structures and Fire Safety Design Standards for Roads" dated March 1, 1991, published by the ODF (Attachment F), a minimum 30 foot primary safety zone (fuel break) and an additional secondary fuel break of at least 100 feet in all directions around the primary fuel break would be required. A larger fuel break may be required for structures located on a slope. Based on the applicant's plot plan, the lagoon cells would be constructed near the western portion of the subject property, adjacent to Falls City Road. The setbacks from the northern, eastern, and southern property lines would vary, but all structural development would be setback at least 30 feet in order to comply with the primary fuel break standards. Staff used elevation profile tools, accessed through Polk County's GIS, and finds that the proposed facility site is relatively flat with slopes of less than 2%, trending downhill towards the south and east. As a result, no additional safety zone is required. The secondary fuel break would need to total a minimum of 100 feet around the required primary fuel break. The total fuel break required would be 130 feet surrounding the

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structural components of the wastewater treatment facility. Based on the applicant's plot plan, staff finds that the entire primary fuel break and a portion of the secondary fuel break would be located on the subject property.

Staff recommends a condition of approval that the required fuel breaks shall be constructed and maintained on the subject property in compliance with OAR 660-006-0035(3) and "Recommended Fire Siting Standards for Dwellings and Structures and Fire Safety Design Standards for Roads" dated March 1, 1991, and published by ODF, Section B "Fuel Break Standards" (Attachment E).

Based on review of the applicant's plot plan, the proposed wastewater treatment facility location could comply with these criteria.

- f. **No portion of a tree or any other vegetation shall extend to within 15 feet of the outlet of a stovepipe or chimney. [PCZO 138.120(E)]**
- g. **The applicant shall obtain an address from the County, and shall display that number in a location on the property that is clearly visible from the road used as the basis for numbering. The numbers shall not be less than three inches in height, in a contrasting or visible color and shall comply with all other applicable standards for signs. [PCZO 138.120 (F)]**
- h. **The dwelling shall meet the following requirements:**
 - (1) **The dwelling has a fire retardant roof.**
 - (2) **The dwelling will not be sited on a slope of greater than 40 percent.**
 - (3) **Evidence is provided that the domestic water supply is from a source authorized by the Water Resources Department and not from a Class F stream as designated by the State Board of Forestry.**
 - (4) **The dwelling is located upon a parcel within a fire protection district or is provided with residential fire protection by contract.**
 - (5) **If the dwelling is not within a fire protection district, the applicant provides evidence that the applicant has asked to be included in the nearest such district.**
 - (6) **If the dwelling has a chimney or chimneys, each chimney has a spark arrester. [PCZO 138.120(G)(1-6)]**
- i. **If meeting the requirements of Section 138.120(G) would be impracticable, alternative means for protecting the dwelling from fire hazards may be considered. The means selected may include a fire sprinkling system, on-site equipment and water storage or other methods that are reasonable, given the site conditions. [PCZO 138.120(H)]**

Staff Findings: The applicant is not proposing a dwelling or structure designed for occupancy as part of this application. Therefore, the criteria listed in PCZO 138.120(E-H) are not applicable to this application.

With the above condition, staff finds the application complies with these criteria.

V. REVIEW AND DECISION CRITERIA (LUD 21-30)

An application for a non-structural floodplain development is subject to review based upon the criteria listed in Polk County Zoning Ordinance (PCZO) Section 178.060 and 178.070(A)(3). An application for a Significant Resource Management Plan is subject to review based upon the criteria listed in PCZO 182.040(E), 182.050(B) and 182.070(A)(1)(a). Sections 111.240 and 111.250 of the PCZO authorize the Planning Director to conduct such review and render a decision on this matter. Staff findings and analysis are as follows:

- 1. **A landuse permit shall be obtained from the Polk County Community Development Department prior to commencement of the following types of development:**

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A. Non-structural development within any floodplain identified on the Polk County Flood Insurance Rate Map requires a landuse permit. Non-structural development includes mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials. [PCZO 178.060(A)(2)]

Staff Findings: The proposed development associated with the wastewater treatment facility, in part, would include open trench excavation activities within the regulated 100-year floodplain. This application is for non-structural development within the regulated 100-year floodplain, Zone A. As a result, a land use permit is required. The applicable review and decision criteria are addressed below.

2. The Planning Director is responsible for review and approval of all landuse permit applications submitted for development and uses described in this section. The Planning Director shall determine that such development and uses meet the following requirements:

A. The necessary permits for the proposed development have been obtained from those federal, state or local governmental agencies from which prior approval is required. [PCZO 178.060(B)(1)]

Staff Findings: The applicant states that an Oregon Department of Environmental Quality (DEQ) National Pollution Discharge Elimination System (NPDES) permit was approved in April 2020. The applicant states that additional permitting from the DSL would be required, but those permits cannot be obtained from DSL until the lagoon site has first been authorized by Polk County. The Preliminary Design Report that was included with this application identifies the following additional permits that are either in the process of being obtained, or would be required prior to constructing the proposed facility: Design approval from DEQ and IFA; Renewal of a NPDES discharge permit and erosion control permits from DEQ; Joint Section 404/Removal Fill permit from DSL; and a temporary water right from the Oregon Water Resources Department (OWRD).

Staff received comments from Elise Kelley, who is a Biologist with the Oregon Department of Fish and Wildlife (ODFW), stating that the Little Luckiamute River contains multiple species of native migratory fish and fish salvage would need to be conducted in the isolated work area of the river. A consultant hired by the applicant to do the salvage should contact Elise Kelley to discuss appropriate salvage techniques, including those for lamprey. The consultant would also need to obtain a no-cost fish salvage permit from ODFW.

Staff also received comments from Daniel Evans, Jurisdictional Coordinator with DSL, stating that the Falls City Wastewater System Improvement Project route was evaluated for wetlands and waters as part of WD2020-0518. The applicant is recommended to contact DSL Resource Coordinator, Carrie Landrum, to discuss permitting requirements (she can be reached at 503-986-5285). Wetland Removal/fill permitting is required for the entirety of the project route, not just the outfall location at the Little Luckiamute River. Jurisdictional wetlands were also delineated within portions of the infrastructure route identified within city limits of Falls City.

Staff recommends a condition of approval that the applicant shall obtain any necessary local, State or Federal permits before beginning the project, and shall comply with all conditions in those permits. Additional permits from State agencies may be required, including but not limited to: DSL, DEQ, IFA, OWRD, and ODFW. Nothing in this land use approval overrides any regulations administered by another government entity.

Additionally, since the excavation activities being reviewed under the non-structural floodplain development criteria are to accommodate the outfall/piping for the above described "utility facilities necessary for public service criteria, staff recommends a condition of approval that the non-structural floodplain development proposed in LUD 21-30 shall be contingent on the approval of LUD 21-30.

With the above conditions, the application complies with this criterion.

B. The proposed development will not adversely affect the flood carrying capacity of the floodplain. For purposes of this ordinance "adversely affect" means that the cumulative effects of the proposed development when combined with all other existing and anticipated

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development will not increase the water surface elevation of the base flood more than one (1) foot at any point. [PCZO 178.060(B)(2)]

Staff Findings: As discussed above, the applicant is proposing to construct an underground pipe that leads to an outfall along the Little Luckiamute River. The entirety of the pipeline leading to the outfall would be approximately 1,700 feet in length; however, based on staff's review of the LIDAR and the FEMA Map, FIRM panel number 41053C0360F, dated December 19, 2006, only the outfall location and approximately 115 feet of the pipeline would be within the SFHA. The proposed pipeline and outfall would be installed through an open trench that would be backfilled with the excavated material. The applicant states that any excess excavated material would be disposed of outside of the floodplain and the final ground surface over the trench would match the existing ground surface, resulting in zero alteration to the existing grade and floodplain after construction.

Staff finds that the proposed construction methods would ensure that the proposed development would not adversely affect the flood carrying capacity of the floodplain because the pre-development conditions would match the post-development conditions after construction. To ensure compliance, staff recommends a condition of approval that the proposed non-structural floodplain development shall be conducted using substantially the same methods and mitigation strategies proposed and reviewed in this application. Any excess topsoil or vegetation removed shall be distributed and/or disposed of outside of the SFHA.

With the above recommended conditions of approval, the application complies with this criterion.

C. Non-structural development within any floodplain identified on the Polk County Flood Insurance Rate Map. Non-structural development includes mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials. Approval of the landuse permit shall be based on the following provisions:

- i. Such development shall be consistent with the need to minimize flood damage;**
- ii. Such development shall have adequate drainage provided to reduce exposure to flood damage; and,**
- iii. The cumulative effect of any proposed development, when combined with all other existing and anticipated development, shall not increase the water surface elevation of the base flood more than one (1) foot at any point.**
- iv. If located in the floodway, non-structural development shall meet the requirements of 178.060 (B)(3). [PCZO 178.060(B)(4)(a) through (d)]**

Staff Findings: The proposed non-structural floodplain development includes excavation associated with installing a pipeline and outfall for the wastewater treatment facility evaluated in planning file LUD 20-14. The applicant states that pipeline and outfall materials would be concrete and stainless steel, which would not be damaged during a flood event. As discussed above, construction methods would include an open trench that would be backfilled after installation. All excess backfill material would be disposed of outside of the SFHA, resulting in no change to the existing grade or drainage patterns after construction. Based on these facts, staff finds that the proposed development is consistent with the need to minimize flood damage, would have adequate drainage, and would not increase the water surface elevation of the base flood.

Based on a review of the applicable FEMA, FIRM, panel number 41053C0045F, dated December 19, 2006, the proposed development would be located within the regulated floodplain, but not the regulated floodway. As a result, the development standards listed in PCZO 178.060(B)(3) are not applicable to this application.

A neighboring property owner submitted comments expressing concerns about the proposed development damaging the floodplain. Staff finds that, as proposed, the pre-development grade would match the post development grade and the applicant has submitted a Significant Resource Management Plan that has been coordinated with ODFW and DSL to mitigate any temporary impacts associated with vegetation removal during construction. Additional findings to address the Management Plan criteria are found in Section V, Subsection 5, below.

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Based on the findings discussed above, the application complies with this criteria.

3. PROVISIONS FOR FLOOD HAZARD REDUCTION.

A. **GENERAL STANDARDS.** In all floodplains the following standards are required:

(3) Utilities.

- (a) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the systems.
- (b) All new and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters; and
- (c) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding. As used in this subsection the term "contamination" has the meaning given to it in the administrative rules for on-site waste disposal systems adopted by the Oregon Environmental Quality Commission and Department of Environmental Quality. [PCZO 178.070(A)(3)]

Staff Findings: The applicant states that the pipeline and outfall structure would be constructed underground. The construction material would be concrete and stainless steel, both of which are materials that are resistant to flood damage. Staff finds that because the pipeline is intended to transport treated wastewater, it would be designed to eliminate infiltrated flood waters. Also, the purpose of the outfall is to discharge treated effluent into the river, therefore, there is not a risk of contamination, as the water would have already been treated prior to discharge.

The application complies with this criteria.

4. SPECIFIC PROPERTY DEVELOPMENT STANDARDS. Riparian and Wetland Setbacks - In order to protect, maintain and enhance the water quality and biological productivity of waterways and wetlands indicated on the Significant Resources Areas map, the following setback requirements shall apply:

A. Development, along streams and rivers with significant (1-C) riparian habitat as depicted on the Significant Resource Areas Map, shall be subject to a riparian setback. Within the riparian area, all structural development shall be prohibited. In addition, all trees and at least 50 percent of the understory shall be retained, with the following exceptions:

- i. Removal of dead, diseased or dying trees, or leaning trees which pose an erosion or safety hazard;
- ii. The mowing, planting or maintenance of lawn and farm use, as defined in Section 110.223, existing on the effective date of this Ordinance, including the control of noxious weeds (this provision is not intended to restrict the selection of crop/commodity types in those existing farm use areas within the riparian setback);
- iii. Vegetation removal necessary to provide direct access for water dependent use, or an otherwise approved use;
- iv. Structural shoreline stabilization; and,
- v. Vegetation removal necessary in conjunction with an approved in-water project, such as a bridge. [PCZO 182.050(B)(1)]

B. Determining the Setback Area: The riparian setback shall be measured from the bank top on a straight line perpendicular to the flow of the waterway. The following requirements apply to determining the width of various types of riparian management

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areas:

Streams identified on the SRA Map: The width of the riparian management area shall average three times the stream width, but shall not average less than 25 feet or more than 100 feet. Stream width is the average of the main channel width of the stream during its high water level flow.

Lakes and significant wetlands identified on the SRA Map: The width of the riparian management area for lakes and significant wetlands less than 1 acre in size shall average 25 feet; for lakes and wetlands between 1 and 5 acres in size, the width shall average 50 feet; for lakes and wetlands between 5 and 10 acres in size shall average 75 feet in width; and, for lakes and wetlands over 10 acres in size, the width shall average 100 feet. [PCZO 182.050(B)(2)]

Staff Findings: As discussed above, the applicant is proposing to construct a pipeline and outfall that leads to the Little Luckiamute River. According to the NWI Map, Falls City Quadrangle, the banks of the Little Luckiamute River are inventoried as riverine and freshwater forested/shrub wetland. According to the Polk County SRA map, it is inventoried as a significant fish bearing stream. Therefore, development within the riparian setback area is subject to the requirements listed in PCZO 182.050(B), which requires all trees and at least 50 percent of the understory to be retained. PCZO 182.050(B)(1)(a)-(e) provide certain exceptions to this standard, including vegetation removal necessary to provide direct access for a water dependent use, or an otherwise approved use. In this case, the water dependent use is construction of a pipeline and outfall within the 100 foot setback, as proposed in Section IV, above (LUD 21-14).

Pursuant to Polk County Zoning Ordinance (PCZO) 182.050, the riparian setback area shall be measured from the bank top perpendicular to the stream, shall average three times the stream width, and shall be a minimum of 25 feet, but not more than 100 feet. Based on the average stream width of the Little Luckiamute River, staff finds that the required riparian setback is 100 feet, when measured from bank top to bank top. Although the proposed vegetation removal is permitted through the exceptions described above, "loss of streamside vegetation" is listed as a conflicting use within the riparian setback area. Therefore, a Significant Resource Management Plan that has been coordinated with DSL and ODFW is required in order to demonstrate compliance with PCZO 182.040(e). The applicant submitted a Management Plan intended to limit this conflicting use, which is reviewed in Section 5, below.

The application complies with this criteria.

- 5. REVIEW AND PROCEDURE AND MANAGEMENT PLAN REQUIREMENTS. Permitted Uses Identified As Conflicting Uses.** If a permitted use in the underlying zone is listed as a conflicting use in Section 182.070, the applicant shall comply with the applicable review procedure and management plan requirements outlined in Section 182.040. This type of review is ministerial and shall be decided by the Planning Director. Appeals are made to the Board of County Commissioners. [PCZO 182.040(A)]
- A. LIMIT CONFLICTING USES (3-C) The Management Plan:** When a "3-C" decision has been made for a particular resource, as indicated on the Goal 5 inventory sheets, the applicant, in coordination with the County and State or federal managing agency (s), shall develop a Management Plan which comprises the following elements:
- i. A description of the type and extent of resources involved;
 - ii. A map showing the exact location of the resource;
 - iii. A print-out from the County Assessor's Office indicating ownership within designated buffer strips; and
 - iv. A written statement detailing a proposed strategy to protect the identified significant resources. Such strategy may include, but shall not be limited to the following:

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1. Restriction of conflicting activities during critical periods (e.g., sensitive nesting periods);
2. Protecting the resource with buffer strips
3. A Monitoring plan for the site, i.e., determine the long-range affects;
4. Permanent or seasonal road closures to protect the resource site; and
5. Conservation easements, tax incentives or land donations.

If the County and applicant concur on provisions of the management plan, and other applicable criteria are satisfied, approval of the administrative action or conditional use request shall be subject to fulfillment of the management plan objectives. [PCZO 182.040(E)(1)]

Staff Findings: Within the 100 foot riparian setback area, the applicant is proposing vegetation removal associated with constructing an open trench pipeline that would be covered with backfill material, and an outlet for the treatment facility at the Little Luckiamute River. Vegetation removal is listed as a conflicting use within the riparian setback area and is subject to the County's ministerial review and approval of a Significant Resource Management Plan which has been coordinated with ODFW and DSL.

On June 9, 2021, the applicant provided a Management Plan (Attachment C), which includes a description of the type and extent of the resource involved (salmonid fish species and wetlands); includes a map showing the exact location of the resource; identifies the owners within the riparian buffer area; and includes a list of strategies proposed to protect the significant resource. The strategies proposed includes limiting the work window from July 1st to October 15th, per ODFW guidelines for projects that require in-water work; and replanting the disturbed area with willow cuttings and a wetland seed mix. Additionally, the Management Plan states that erosion control measures will be used if necessary.

Staff provided notice of the applicant's proposal and a copy of the applicant's Management Plan to DSL on June 10, 2021. On July 8, 2021, staff received comments from Daniel Evans, Jurisdiction Coordinator for DSL, stating that the project's route was evaluated for wetlands and waters as part of WD2020-0518. The submitted Management Plan only includes a portion of this route and appears to include impacts in delineated Wetlands A and B and the essential salmonid habitat (ESH) Little Luckiamute River (per WD 2020-0518). Comments recommended to contact DSL Resource Coordinator Carrie Landrum to discuss DSL's permitting requirements (she can be reached at 503-986-5285). Wetland Removal/fill permitting is required for the entirety of the project route. The Management Plan only covered the geographic area between the Stormwater Cells 1 and 2 and the outfall at the Little Luckiamute River. Jurisdictional wetlands were also delineated within portions of the infrastructure route identified in Falls City.

Staff provided notice of the applicant's proposal and a copy of the applicant's Management Plan to ODFW on June 10, 2021. On June 25, 2021, staff received comments from Elise Kelley, District Fish Biologist for ODFW's Mid-Willamette, stating that she does not have any specific concerns with this project, but included the following comments:

1. Since the Little Luckiamute River is home to multiple species of native migratory fish, fish salvage will need to be conducted in the isolated work area in the river. The consultant hired to do the salvage should reach out to ODFW's Mid-Willamette Fish District Biologist, Elise Kelley, to discuss appropriate salvage techniques including those for lamprey. The consultant will also need to obtain a no-cost fish salvage permit from ODFW.
2. Since the work will occur only along one bank of the river ODFW does not have fish passage concerns. Fish in the river should be able to move past the project, while the work is being conducted, without delay or harassment.

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3. As noted in the engineering plans, the work will occur during the in-water work period for the Luckiamute River (and tributaries).

Staff finds that the applicant's Management Plan complies with the criteria listed in PCZO 182.040(E) and has been coordinated with the DSL and ODFW. Staff recommends, a condition of approval that the applicant shall implement their Management Plan as evaluated in this application. The applicant shall also continue coordination with all applicable State and/or Federal agencies and obtain any necessary State or Federal permits. This review is specific to the activities proposed and evaluated in this application. Any vegetation removal or other conflicting uses identified in PCZO 182.070(A)(1), that were not evaluated as part of this application may require a subsequent Management Plan to be reviewed and approved by the Planning Division.

Development which may disturb plant or animal species listed by the State of Oregon or the U.S. Fish and Wildlife Service as threatened or endangered shall comply with appropriate State and Federal Laws and regulations.

With this condition, staff finds that the applicant's Management Plan complies with these criteria.

VI. CONCLUSIONS

Based on the Review and Decision Criteria above, the applications are **approved** for a property line adjustment and the construction of a wastewater treatment facility, including excavation activities within the regulated 100-year floodplain and a significant resource area Management Plan, as reviewed in these applications. The applications shall be subject to compliance with the conditions listed below, as required by the findings in the Review and Decision Criteria (Sections III, IV, and IV). Any modifications to the conditions listed below would require approval in accordance with provisions of law (e.g., variance, subsequent land use application, etc.).

Conditions of Approval LLA 21-12:

1. Proposed Parcel 1 shall contain approximately 19.5 acres. Proposed Parcel 2 shall contain approximately 45.5 acres. The resulting properties shall be substantially configured as presented in the application (Attachment A-1 and A-3).
2. No additional parcels shall be created as a result of this property line adjustment.
3. The adjusted property line shall be established in a location that ensures that all existing buildings and structures on Parcel 2 comply with the setback requirements of the Farm Forest (FF) Zoning District. Setbacks for the FF zone, found in PCZO 112.430(B), are as follows: front – 30 feet, rear – 20 feet, side 20 feet.
4. Parcels 1 and 2 shall each retain frontage along a public road, or access to a public road via an easement. Any new access easements shall be at least 40 feet wide, unless an exception of the easement width is granted pursuant to PCSO 91.800.
5. Reconfigured Parcels 1 and 2 shall retain any on-site septic system and associated repair area on the parcel it serves. The adjusted property lines shall be established in a location that ensures a setback of at least 10 feet from any part of an existing septic system drainfield.
6. The property owners of reconfigured Parcel 1 shall sign a restrictive covenant prohibiting Parcel 1 from being partitioned along the zoning boundary until such time as each parcel would comply with the minimum standards for the creation of a parcel in each zone (Attachment F). The signed restrictive covenant shall be recorded at the Polk County Clerk's Office and included in the deed records. The property owner shall pay the applicable recording fees and shall submit a copy of this recorded restrictive covenant to the Planning Division to be included in the record for planning application LLA 21-12.
7. The property owners shall complete the property line adjustment and survey of the adjusted property lines as required by State and County law. The property owners shall submit to the Polk County Clerk's Office for recording in the deed history of the subject properties the original

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documents transferring the subject area. The property owners shall pay the applicable recording fees. The property owners shall submit copies of the recorded documents that complete the property line adjustment to the Planning Division for inclusion in file LLA 21-12 upon recording the documents.

Conditions of Approval LUD 21-14:

1. This approval is for the development of a wastewater treatment facility on reconfigured Parcel 1 (LLA 21-12), and shall be dependent on first exercising property line adjustment LLA 21-12.
2. This approval is limited to the development proposed and evaluated in this application. The proposed lagoon cells shall be designed as aerobic lagoons. Any future expansions would first require a subsequent land use application and approval.
3. The proposed development shall be constructed substantially within the locations evaluated in this application (Attachments B-1, B-2, B-3, and B-5). Prior to installing the proposed pipeline/outfall, the applicant shall first obtain any applicable easements from all affected property owners. This land use decision does not obligate any property owners to grant any additional easements to the applicant, and does not specify the terms of any easements that may be granted.
4. Road access to the wastewater treatment facility shall comply with Polk County road design standards, which are included as Attachment D. The applicant shall obtain any necessary permits from the Polk County Public Works Department. Such permits may include, but not are limited to a work within the right-of-way permit and a new or amended access permit.
5. The applicant shall be responsible for ensuring that any Federal, State, or local permits are obtained prior to development. Nothing in this land use approval overrides the regulations administered by any other government entity.
6. Fuel breaks shall be constructed and maintained on the subject property in compliance with OAR 660-006-0035(3) and "Recommended Fire Siting Standards for Dwellings and Structures and Fire Safety Design Standards for Roads" dated March 1, 1991, and published by ODF, Section B "Fuel Break Standards" (Attachment E).

Conditions of Approval LUD 21-30:

1. The non-structural floodplain development proposed in LUD 20-30 shall be contingent on the approval of LUD 21-14.
2. The applicant shall obtain any necessary local, State or Federal permits before beginning the project, and shall comply with all conditions in those permits. Additional permits may be required by from State agencies, including but not limited to: the Oregon Department of State Lands (DSL), the Oregon Department of Environmental Quality (DEQ), the Oregon Department of Infrastructure Finance Authority (IFA), Oregon Water Resources Department (OWRD), and the Oregon Department of Fish and Wildlife (ODFW). Nothing in this land use approval overrides any regulations administered by another government entity.
3. The proposed non-structural floodplain development shall be conducted using substantially the same methods and mitigation strategies proposed and reviewed in this application. Any excess topsoil or vegetation removed shall be distributed and/or disposed of outside of the SFHA.
4. The property owner shall implement the Significant Resource Management Plan that was evaluated in this application (Attachment C). The applicant shall also continue coordination with all applicable State and/or Federal agencies and obtain any necessary State or Federal permits. This review is specific to the activities proposed and evaluated in this application. Any vegetation removal or other conflicting uses identified in PCZO 182.070(A)(1) that were not evaluated as part of this application may require a subsequent Management Plan to be reviewed and approved by the Planning Division.

LL-1946

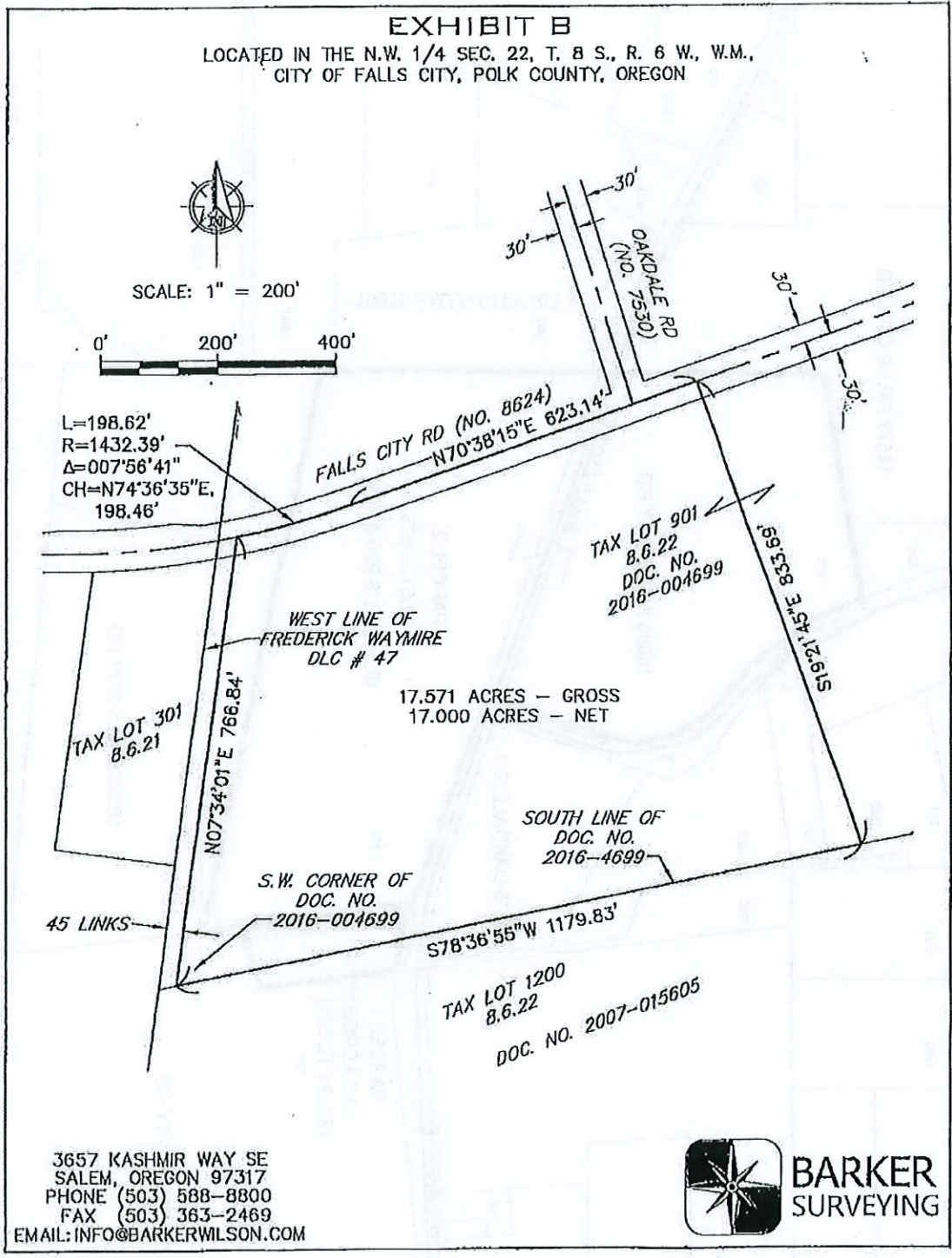
5. Development which may disturb species (plant or animal) listed by the State of Oregon or the U.S. Fish and Wildlife Service as threatened or endangered shall comply with appropriate State and Federal Laws and regulations.

LL-6946

SHPI-LL

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SALEM, OREGON

ATTACHMENT A-1

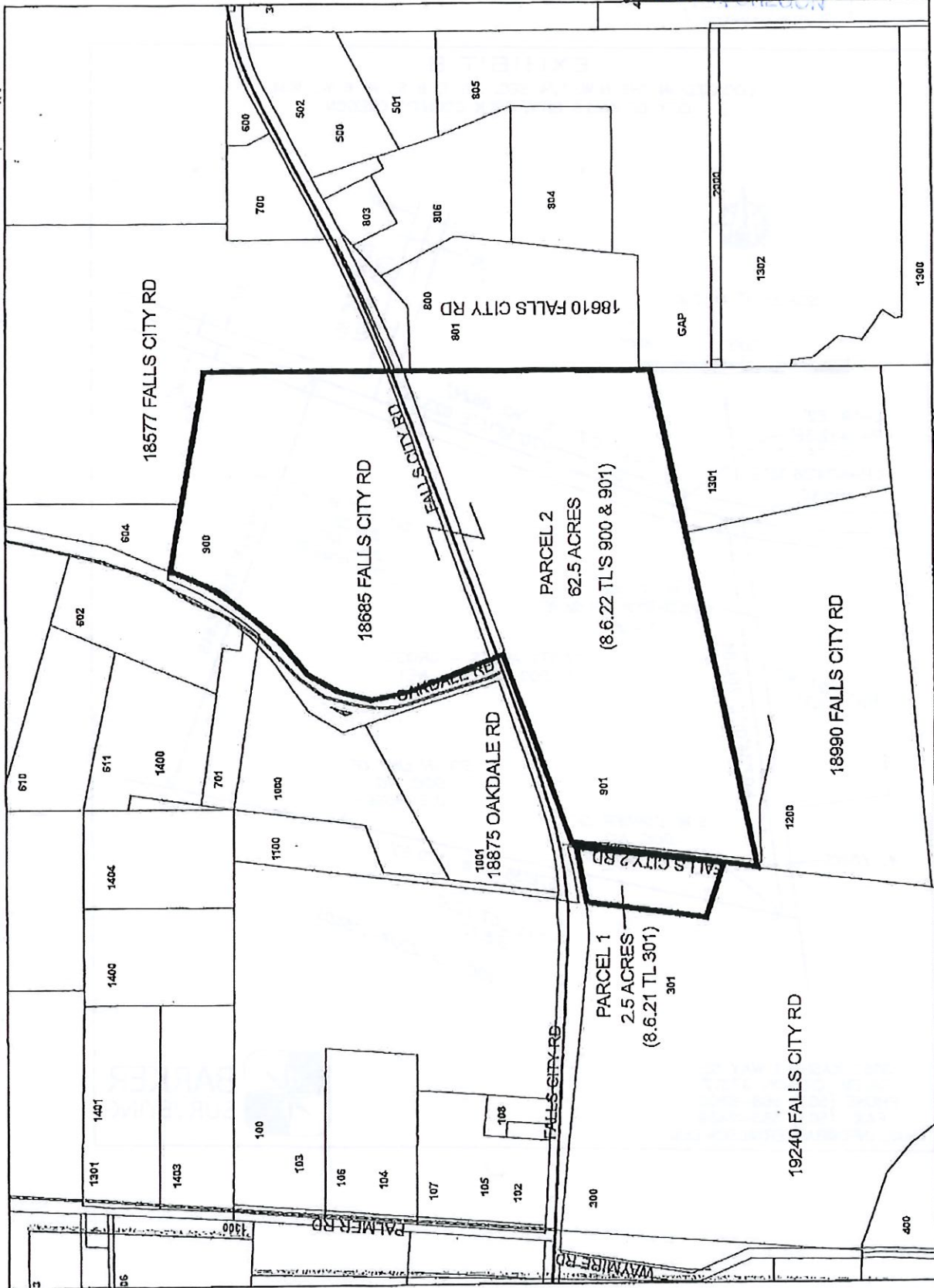


LH-1946

3001-22

CURRENT CONFIGURATION (LLA 21-12)

ATTACHMENT A-2



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 OWRD
 SALEM, OREGON

Date: 6/9/2021
 This map was produced from the Polk County geographic databases to support its governmental activities. This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. The county is not responsible for any map errors, possible misuse, or misinterpretation. To report a map error, please call (503)623-0713.



7561-77

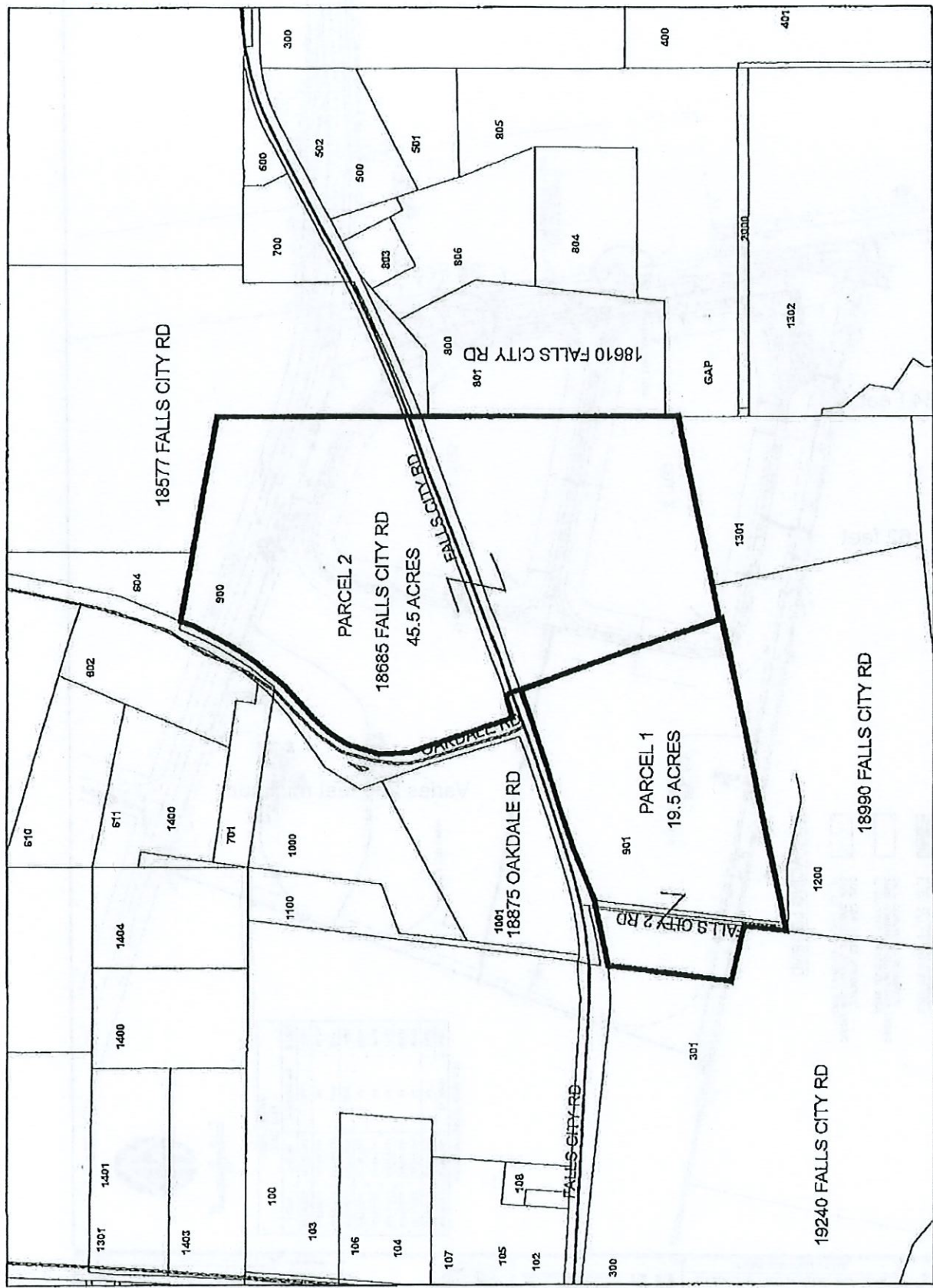
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FEB 15 2021

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SALEM, OREGON

ATTACHMENT A-3

PROPOSED CONFIGURATION MAP (LLA 21-12)



Date: 6/10/2021

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22-1946

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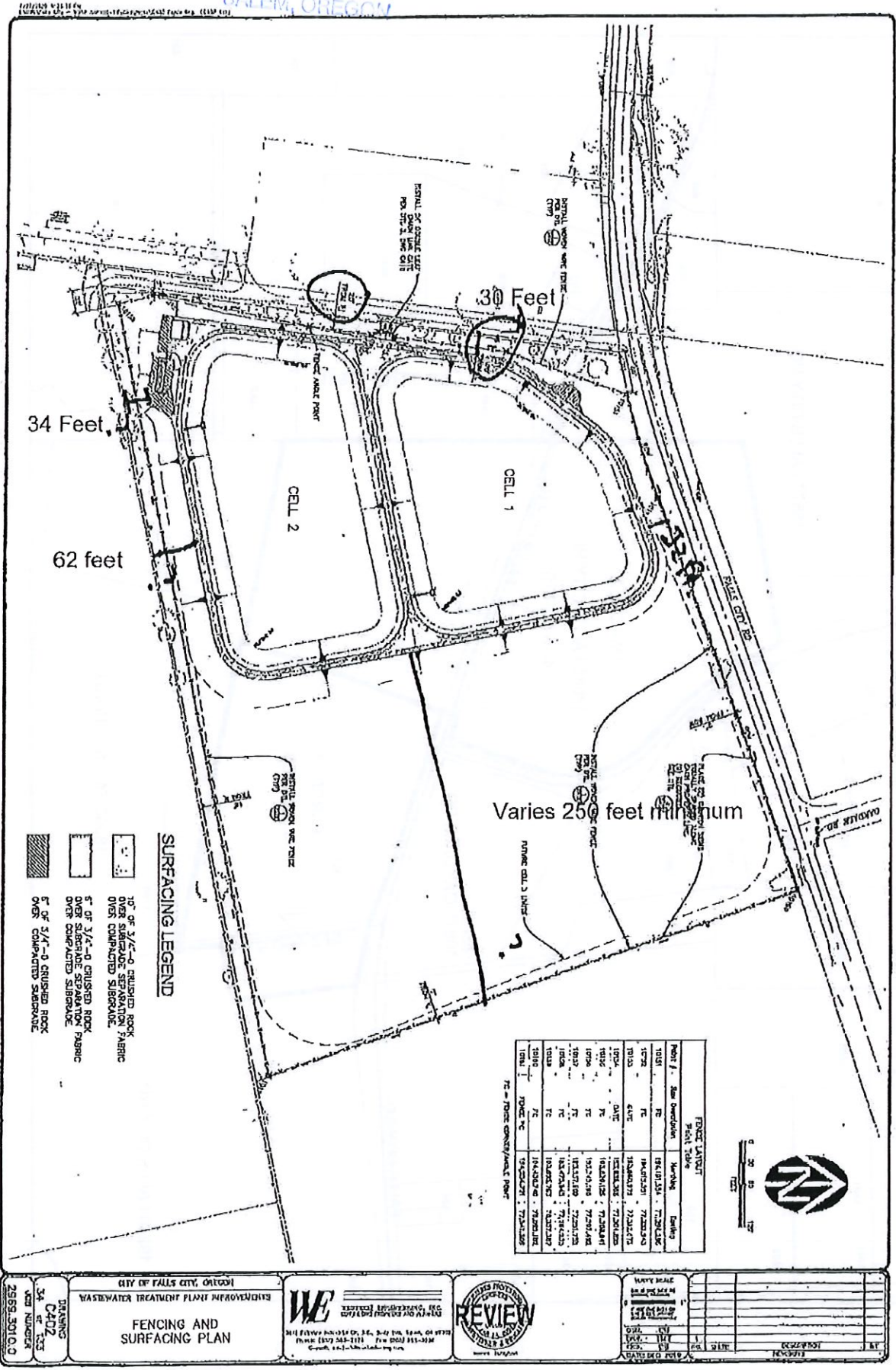
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FEB 25 2008

OWRD
SALEM, OREGON

Exhibit D

ATTACHMENT B-1



SURFACING LEGEND

-
-
-
-
-

| NO. | DESCRIPTION | DATE | BY | REVISION |
|------|--------------|------|----|----------|
| 1001 | 10' OF 3/4\" | | | |
| 1002 | 10' OF 3/4\" | | | |
| 1003 | 10' OF 3/4\" | | | |
| 1004 | 10' OF 3/4\" | | | |
| 1005 | 10' OF 3/4\" | | | |
| 1006 | 10' OF 3/4\" | | | |
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| 1096 | 10' OF 3/4\" | | | |
| 1097 | 10' OF 3/4\" | | | |
| 1098 | 10' OF 3/4\" | | | |
| 1099 | 10' OF 3/4\" | | | |
| 1100 | 10' OF 3/4\" | | | |

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0402-22

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FEB 25 2020

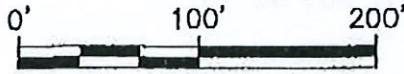
ATTACHMENT B-2



EXHIBIT B

LOCATED IN THE N.E. AND S.E. 1/4 SEC. 21 AND N.W. AND S.W. 1/4 SEC. 22,
T. 8 S., R. 6 W., W.M., POLK COUNTY, OREGON



SCALE: 1" = 100'



-  PIPELINE EASEMENT
47024 SQ. FT.
-  TEMPORARY CONSTRUCTION
EASEMENT 23175 SQ. FT.

V. 37, P. 492

POINT OF BEGINNING
(N7°E 45.14
CHAINS FROM
S.E. COR DLC
NO. 48)

S82°25'59"E 25.00'

25' PIPELINE EASEMENT

INST. NO.
2016-004699

60' WIDE FORMER
UNION PACIFIC RAILROAD

INST. NO. 2012-012750

INST. NO.
2007-015605

REGISTERED
PROFESSIONAL
LAND SURVEYOR

INST. NO. 2017-006955

EAST LINE
SAMUEL GOTHARD
DLC NO. 48

Gregory L. Wilson

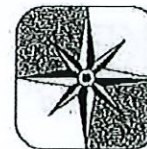
OREGON
JULY 19, 1994
GREGORY L. WILSON
2887

EXPIRATION DATE: 6/30/2020

15' TEMPORARY
CONSTRUCTION
EASEMENT

APPROXIMATE CENTERLINE
LITTLE LUCKIAMUTE RIVER

N35°53'19"W 36.35'



BARKER SURVEYING

3657 KASHMIR WAY SE
SALEM, OREGON 97317
PHONE (503) 588-8800
FAX (503) 363-2469
EMAIL: INFO@BARKERWILSON.COM

LL-1946

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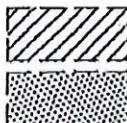
FEB 15 2023

OWRD
SALEM, OREGON

EXHIBIT B

LOCATED IN THE S.E. 1/4 SEC. 21,
T. 8 S., R. 6 W., W.M., POLK COUNTY, OREGON

ATTACHMENT B-3



PIPELINE EASEMENT
1502 SQ. FT.

TEMPORARY CONSTRUCTION
EASEMENT 901 SQ. FT.

60' WIDE FORMER
UNION PACIFIC RAILROAD

INST. NO. 2012-012750

25' PIPELINE
EASEMENT

CENTERLINE STATION
433+85 (SC)

15' TEMPORARY
CONSTRUCTION
EASEMENT

INST. NO. 2017-006955

INST. NO.
2007-015605

EAST LINE
SAMUEL GOTHARD
DLC NO. 48



BARKER
SURVEYING

REGISTERED
PROFESSIONAL
LAND SURVEYOR

Gregory L. Wilson

OREGON
JULY 19, 1994
GREGORY L. WILSON
2887

SCALE: 1" = 40'



EXPIRATION DATE: 6/30/2020

3657 KASHMIR WAY SE
SALEM, OREGON 97317
PHONE (503) 588-8800
FAX (503) 363-2469
EMAIL: INFO@BARKERWILSON.COM

LL-1946

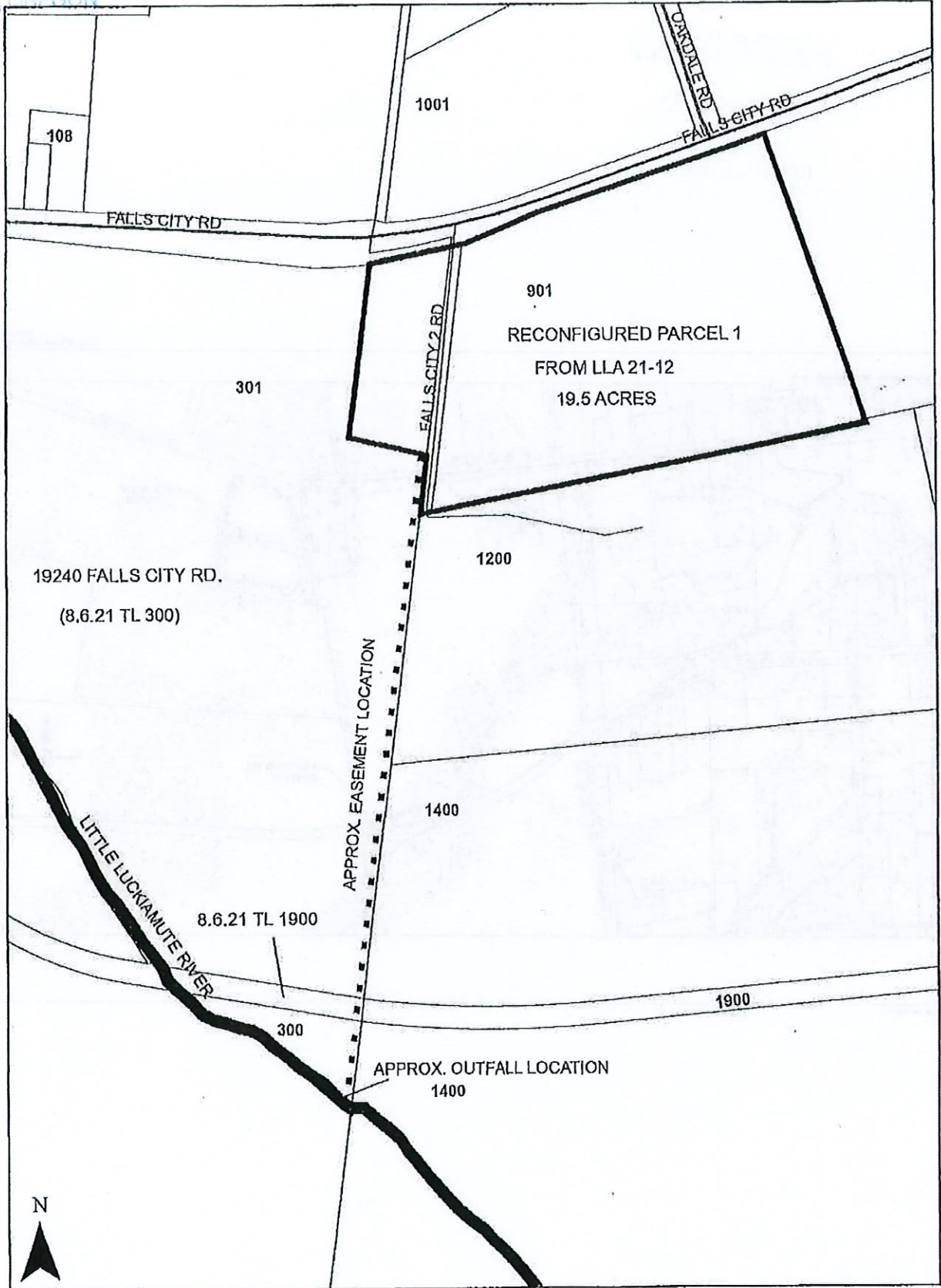
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SALEM, OREGON

STAFF MAP (LUD 21-14)

ATTACHMENT B-4



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JMP-21

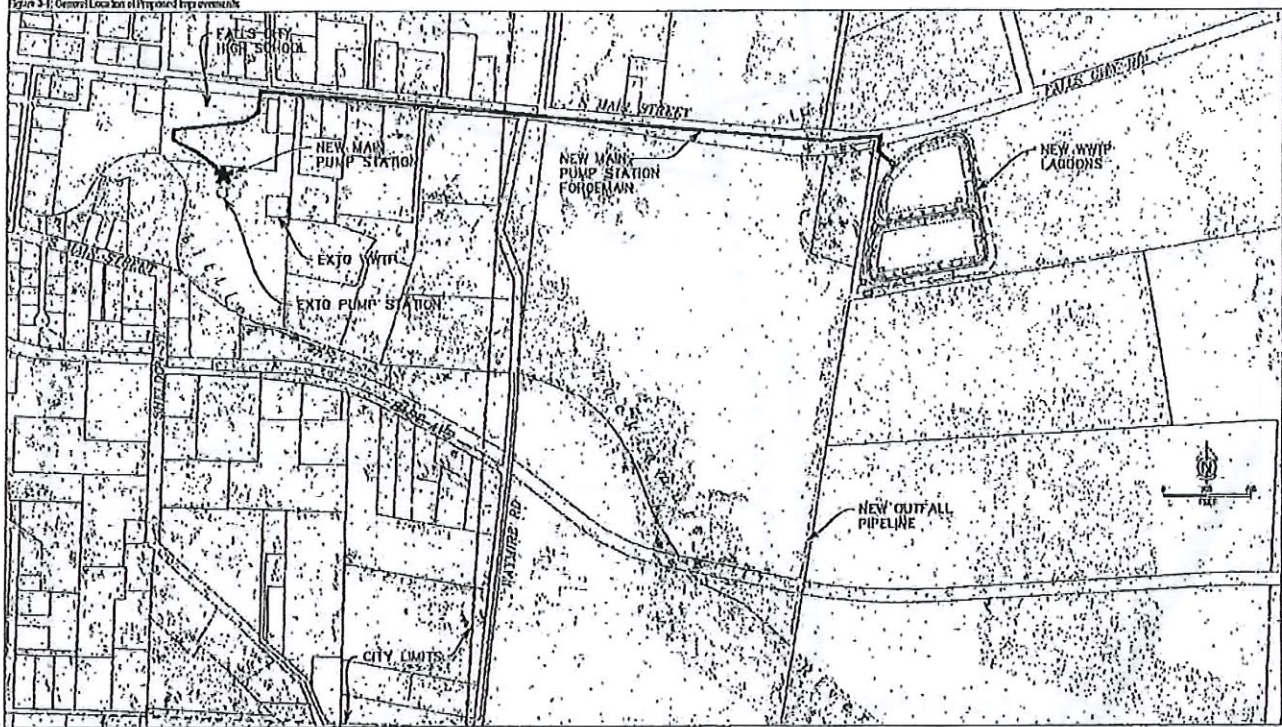
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SALEM, OREGON

STYLIAN LARRY DESIGN REPORT
FALLS CITY WASTEWATER SYSTEM IMPROVEMENTS

Figure 3-1: General Location of Proposed Improvements



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SALEM, OREGON

ATTACHMENT C



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POLK COUNTY
COMMUNITY DEVELOPMENT

Resource Management Plan

(1) *The Management Plan: When a "3-A" decision has been made for a particular resource, as indicated on the Goal 5 inventory sheets, the applicant, in coordination with the County and State or federal managing agency (s), shall develop a management plan which comprises the following elements:*

a) A description of the type and extent of resources involved;

Findings: The proposed outfall structure will be located on the edge of the Little Luckiamute river, identified as a significant resource by the Polk County SRA map. The proposed outfall construction will include minor ground vegetation removal along the riverbank.

(b) A map showing the exact location of the resource;

Findings: The location of the resource is indicated on Exhibit B.

(c) A print-out indicating ownership within designated buffer strips; and

Findings: Exhibit C shows that the property bordering the Little Luckiamute River is owned by Joseph and Michelle Todd.

(d) A written statement detailing a proposed strategy to protect the identified significant resources. Such strategy may include, but shall not be limited to the following:

(1) Restriction of conflicting activities during critical periods (e.g., sensitive nesting periods);

(2) Protecting the resource with buffer strips;

(3) A Monitoring Plan for the site, i.e., determine the long-range effects;

(4) Permanent or seasonal road closures to protect the resource site; and

(5) Conservation easements, tax incentives or land donations.

Findings:

1) No conflicting activities will be completed outside of the allowed work window from July 1st to October 15th per page 5 of ODFW's guidelines for timing of in-water work to protect fish and wildlife resources and as indicated on the attached Exhibit C.

2) Staff finds that no buffer strips are necessary to protect the resource. No additional construction or human or mechanical presence will be located at the site unless maintenance to the water pipe is required.

22-1946

2021-22



3) The proposed outfall structure is not anticipated to have any long-range effects on the Little Luckiamute river or the riparian area along the riverbank. As indicated on the attached Exhibit E under subsection 5 of the construction notes located in the upper left corner, the disturbed area will be restored with willow cuttings and wetland seed mix. The restoration will also include erosion control measures if necessary.

4) There are no existing or proposed roads accessing the resource area.

5) The construction area is limited to the location of the proposed outfall pipe. No conservation easements or land donations are proposed. The proposed water pipe will be located in an easement acquired from the property owner located between the outfall and the lagoon site as indicated on page 2 of Exhibit G.

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SALEM, OREGON

EXHIBIT B

SEARCH

Popup Panel

(1 of 1) Clear

Account #: 174093

Assessor's Report: [Report](#)

Appraisal Report: [Report](#)

Map: [8.6.21](#)

Historic Maps: [Historic Map Images](#)

Taxlot: 300

Owner: TODD JOSEPH & MICHELE

Agent:

Mailing: 1884 ELK VIEW RD
LARKSPUR, CO 80118

SITUS: 19240 FALLS CITY RD
DALLAS, OR 97338

Acreage: 48.50 ac

Zoom to

Location of Resource

LL-1946

0201-22

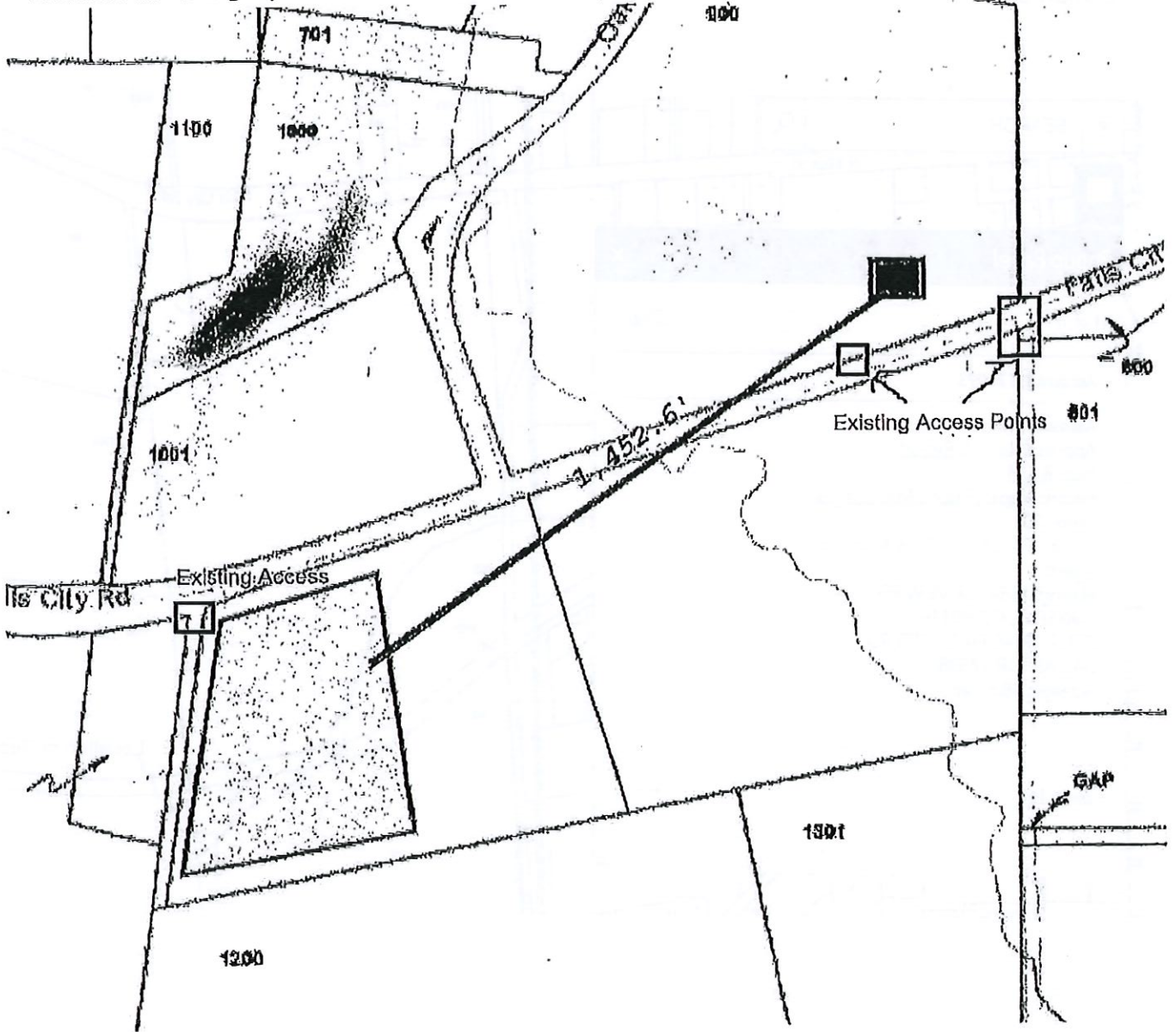
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OWRO
SALEM, OREGON

EXHIBIT A

Distance from existing septic on lot 900 to closest border of proposed lagoon structure.



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OWRO-22

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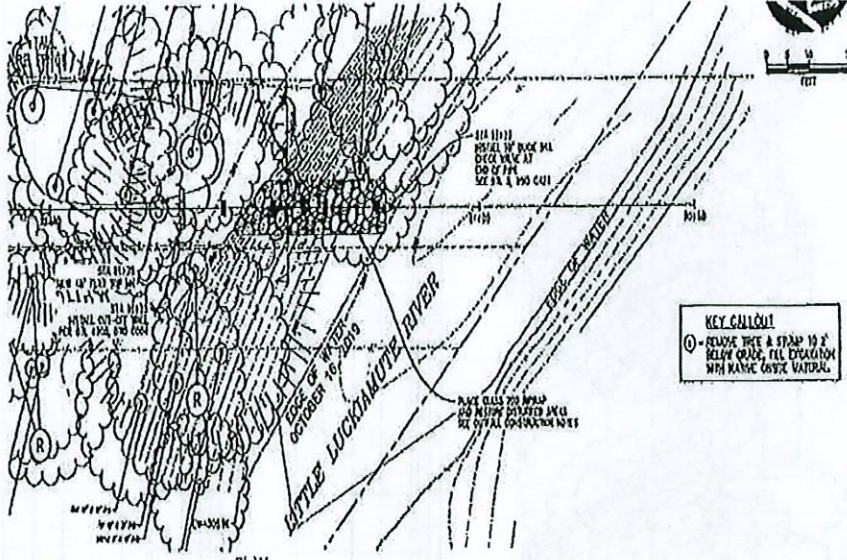
FEB 15 2023

OWWTD
SALM, OREGON

EXHIBIT C

GENERAL CONSTRUCTION NOTES

1. CONTRACTOR TO MAINTAIN AND PROTECT ALL EXISTING UTILITIES AND STRUCTURES WITHIN THE PROJECT AREA.
2. ALL WORK SHALL BE COMPLETED WITHIN THE 30-DAY WORK PERIOD UNLESS OTHERWISE SPECIFIED.
3. CONTRACTOR SHALL MAINTAIN ACCESS TO ALL ADJACENT PROPERTIES AND PUBLIC AREAS AT ALL TIMES.
4. CONTRACTOR SHALL MAINTAIN A CLEAN WORK AREA AND SHALL BE RESPONSIBLE FOR THE PROTECTION OF ALL EXISTING UTILITIES AND STRUCTURES.
5. CONTRACTOR SHALL MAINTAIN THE PROPOSED ELEVATION OF THE RIVER CHANNEL AND SHALL BE RESPONSIBLE FOR THE PROTECTION OF ALL EXISTING UTILITIES AND STRUCTURES.

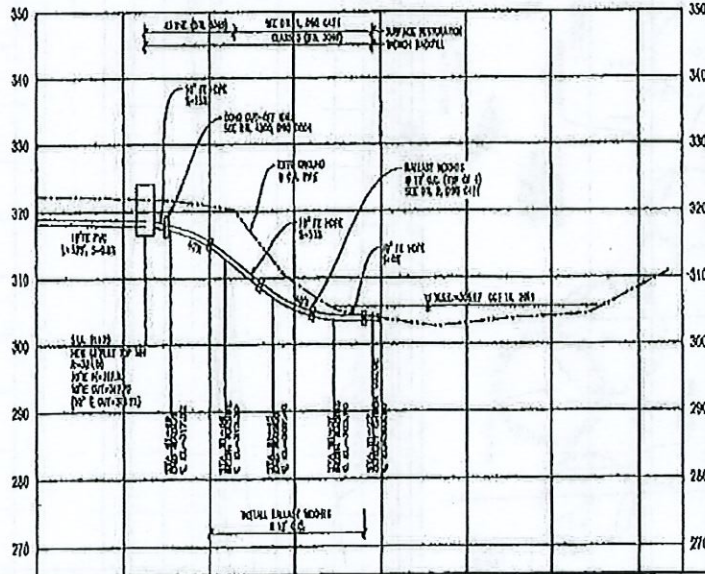


PLAN
SCALE 1"=10'

MANHOLES TO BE AS FOLLOWS

| CONCRETE MANHOLE | STEEL MANHOLE | SIZE (DIA) | DEPTH (FT) |
|------------------|---------------|------------|------------|
| 1 | 2 | 36" | 10' |
| 3 | 4 | 36" | 10' |
| 5 | 6 | 36" | 10' |
| 7 | 8 | 36" | 10' |
| 9 | 10 | 36" | 10' |

Notes: All manholes shall be constructed in accordance with the specifications and standards of the City of Falls, Oregon.



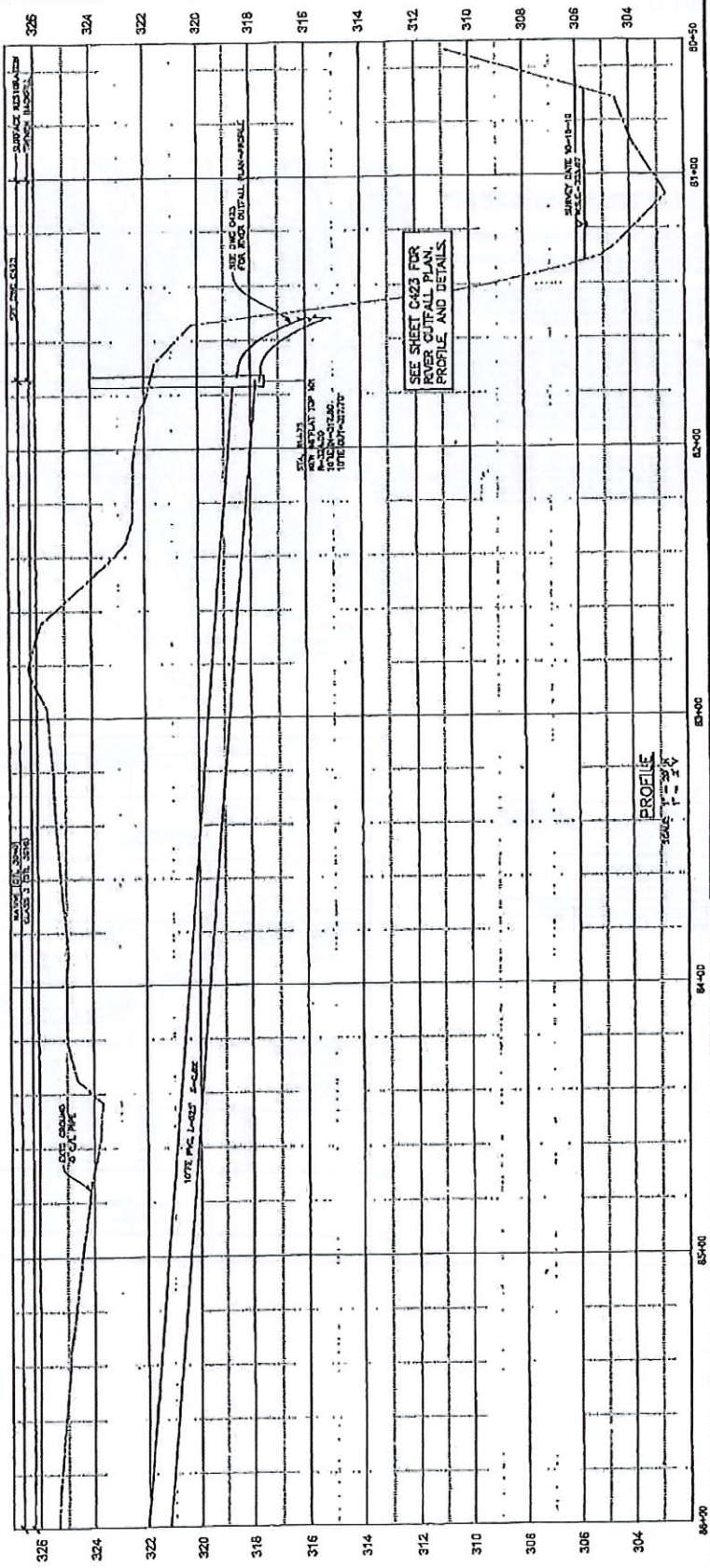
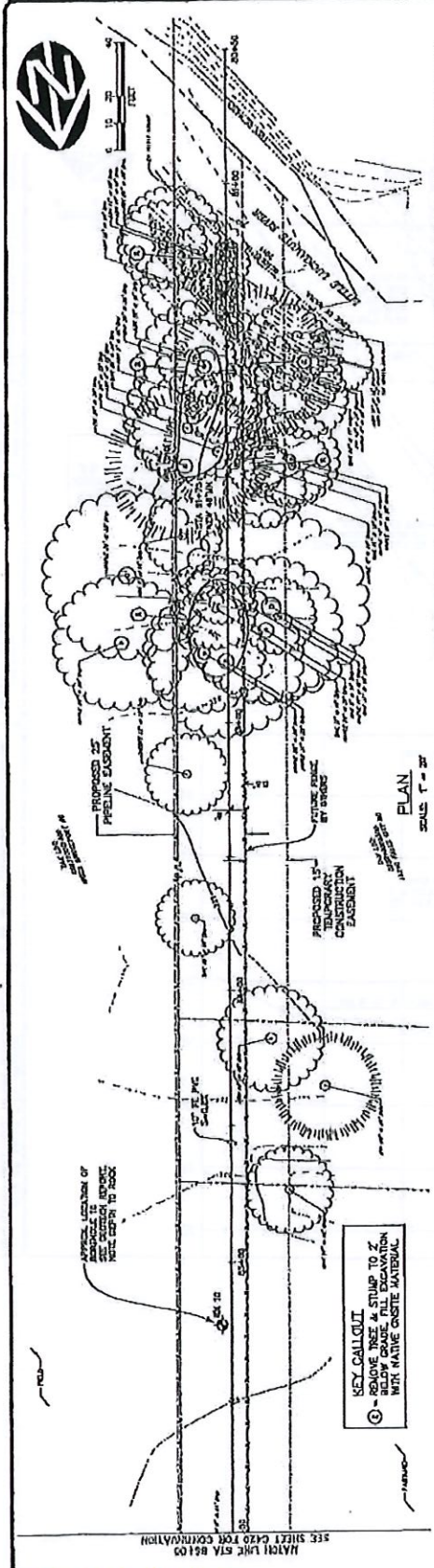
REVIEW

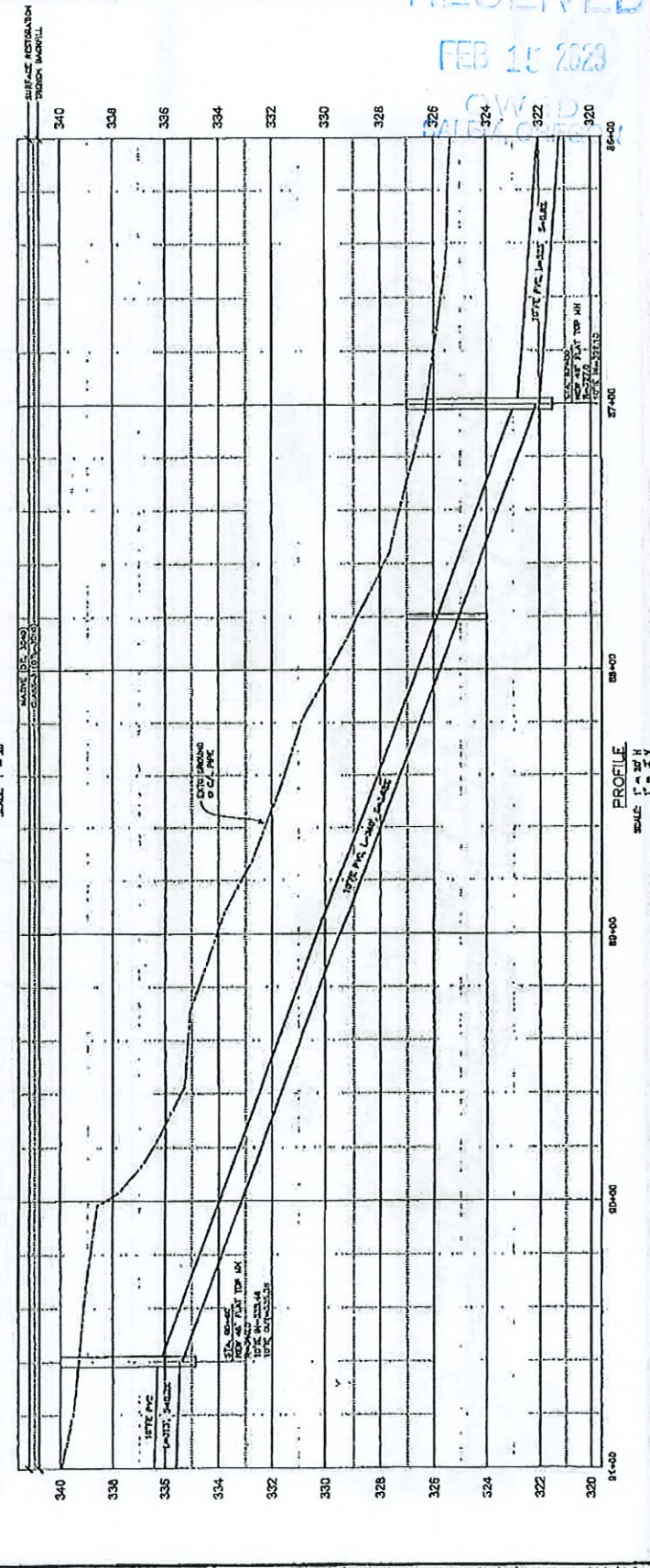
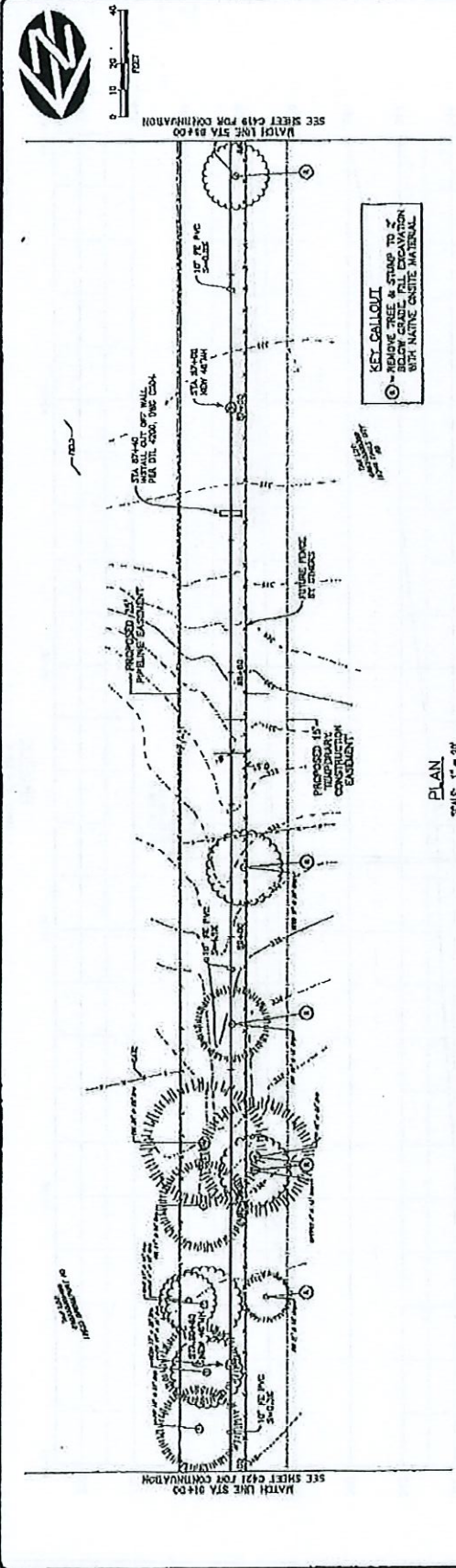
WET

CITY OF FALLS, OREGON
WASTEWATER TREATMENT PLANT IMPROVEMENTS
RIVER OUTFALL
PLAN - PROFILE

44-1946

0441-11





11-1946

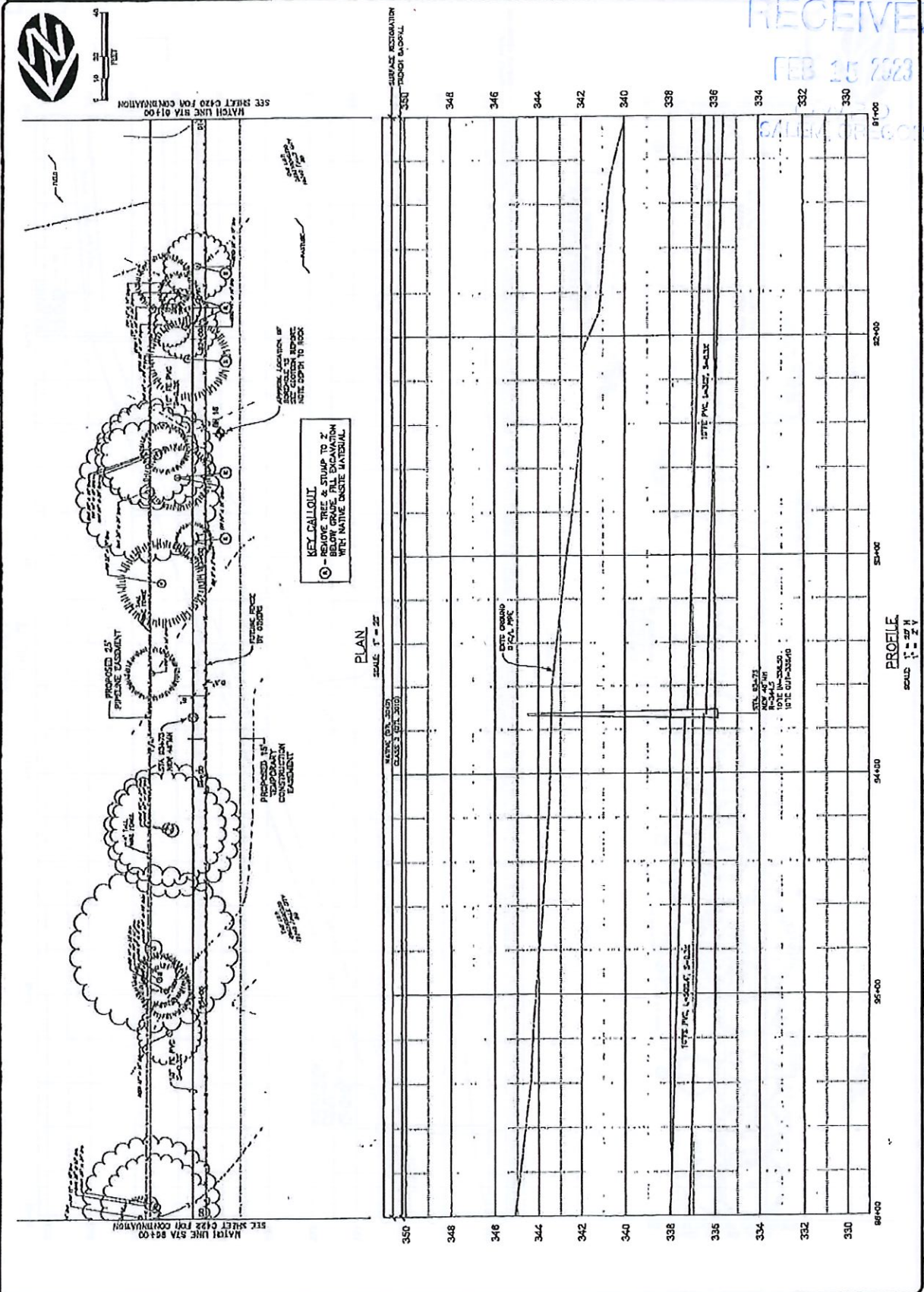
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44-1946

(To be filled in by the drafter)

| | | | | | | | | |
|--|--|------------------------|----------------------------|---------------------------|--------------------------|--|----------------------------|------------------------|
| REVISIONS NO. DATE BY 1 12/1/83 MCM/KRM 2 12/1/83 MCM/KRM 3 12/1/83 MCM/KRM 4 12/1/83 MCM/KRM 5 12/1/83 MCM/KRM 6 12/1/83 MCM/KRM 7 12/1/83 MCM/KRM | PROJECT DATA PROJECT NO. 91-00 SHEET NO. 122 SHEET TOTAL 122 | DATE 12/1/83 | DESIGNER MCM/KRM | CHECKER MCM/KRM | SCALE AS SHOWN | PROJECT NAME WASTEWATER TREATMENT PLANT IMPROVEMENTS STA 91+00 TO 96+00 PLAN-PROFILE | ENGINEER MCM/KRM | DATE 12/1/83 |
|--|--|------------------------|----------------------------|---------------------------|--------------------------|--|----------------------------|------------------------|

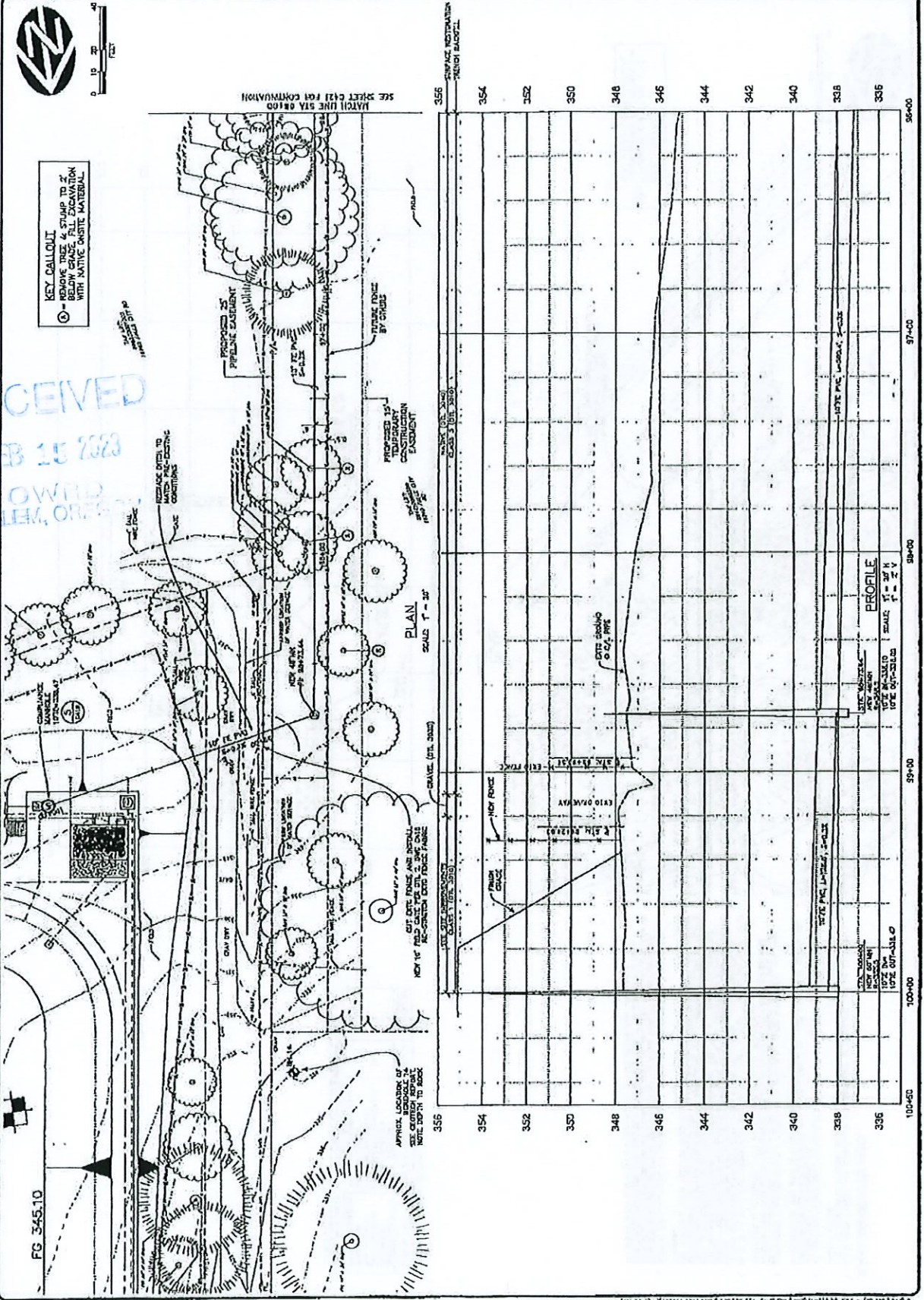
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 REVIEWED BY: MCM/KRM
 DATE: 12/1/83



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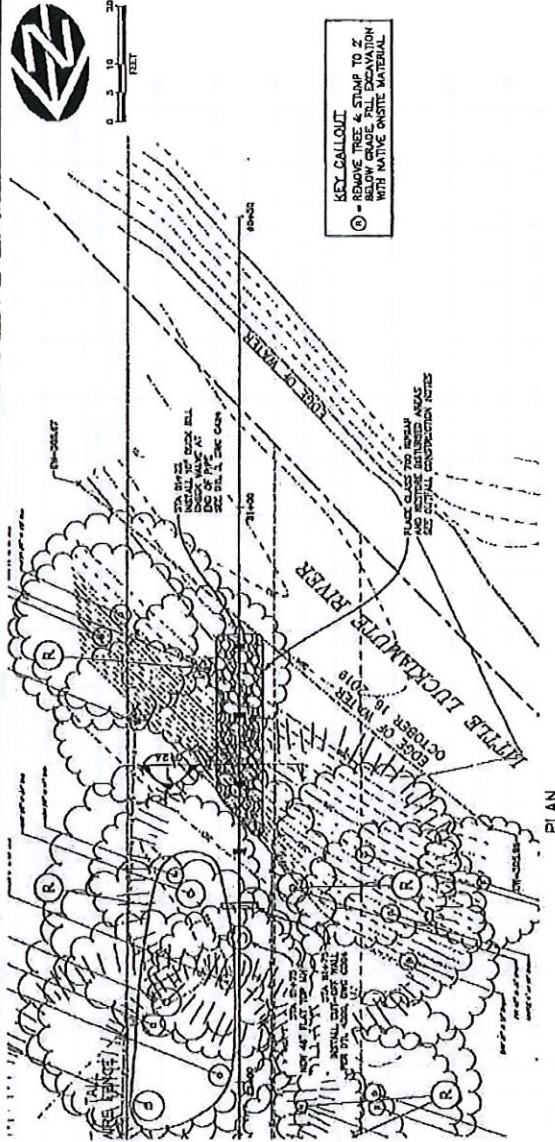
FEB 15 1983

| | | | | |
|--|---|---|---|---|
| | REVIEW CITY OF FALLS, OREGON ENGINEER DATE: _____ BY: _____ | WETTER ENGINEERING 1210 N. W. 10th St. Falls, Oregon 97114 PHONE: (503) 325-1111 FAX: (503) 325-1112 | CITY OF FALLS, OREGON WASTEWATER TREATMENT PLANT IMPROVEMENTS STA 96+00 TO 100+00 OUTFALL PIPELINE PLAN-PROFILE | DRAWING 54 C-122 JOB NUMBER 2968, 3010, D |
| | DATE: _____ BY: _____ CHECKED BY: _____ DATE: _____ BY: _____ CHECKED BY: _____ DATE: _____ BY: _____ CHECKED BY: _____ | PROJECT NO. _____ SHEET NO. _____ OF _____ SHEET TITLE: _____ | PROJECT NO. _____ SHEET NO. _____ OF _____ SHEET TITLE: _____ | PROJECT NO. _____ SHEET NO. _____ OF _____ SHEET TITLE: _____ |

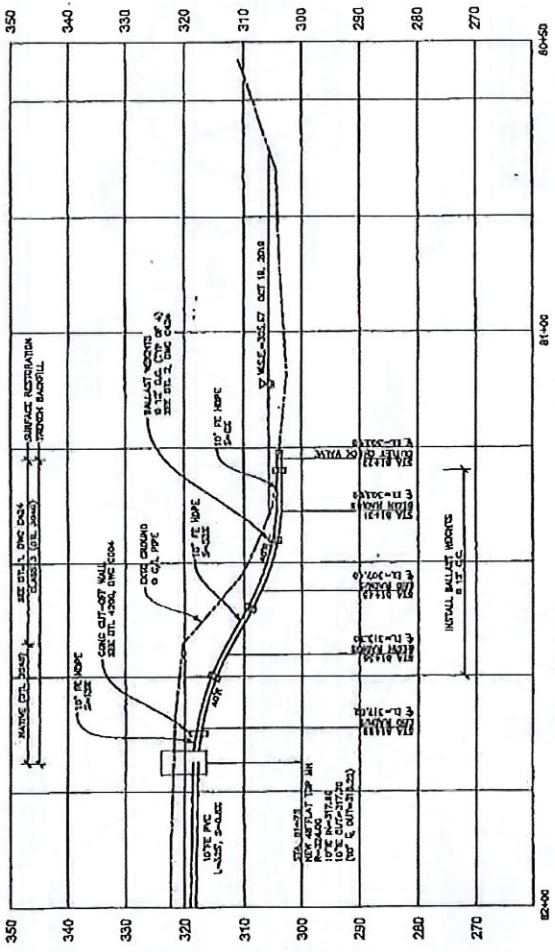


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 OWILD
 SALEM, OREGON

77-1946



PLAN
SCALE: 1" = 10'



PROFILE
SCALE: 1" = 10' x

GENERAL CONSTRUCTION NOTES:

1. CONTRACTOR TO READ AND COMPLY WITH REQUIREMENTS OF MISSOURI, NEBRASKA, ILLINOIS, WISCONSIN, MINNESOTA, AND OTHER STATES AS APPLICABLE TO THE PROJECT AREA.
2. ALL WORK SHALL BE COMPLETED DURING THE NORMAL PERIOD OF THE YEAR. NO WORK SHALL BE PERMITTED DURING THE WINTER MONTHS OF NOVEMBER THROUGH FEBRUARY.
3. CONTRACTOR SHALL MAINTAIN ACCESS TO ALL ADJACENT PROPERTIES AND UTILITIES AT ALL TIMES. THE CONTRACTOR SHALL MAINTAIN ACCESS TO ALL ADJACENT PROPERTIES AND UTILITIES AT ALL TIMES.
4. THE CONTRACTOR SHALL MAINTAIN ACCESS TO ALL ADJACENT PROPERTIES AND UTILITIES AT ALL TIMES. THE CONTRACTOR SHALL MAINTAIN ACCESS TO ALL ADJACENT PROPERTIES AND UTILITIES AT ALL TIMES.
5. RESTORE THE BANK TO MATCH THE PRE-EXISTING DIMENSIONS. RESTORE ALL AREAS IMPACTED BY CONSTRUCTION TO ORIGINAL GRADE. RESTORE ALL AREAS IMPACTED BY CONSTRUCTION TO ORIGINAL GRADE. RESTORE ALL AREAS IMPACTED BY CONSTRUCTION TO ORIGINAL GRADE.

| COMMON NAME | SCIENTIFIC NAME | STEMIC | PRIORITY OF |
|-----------------|----------------------|--------|-------------|
| Blueberry | Vaccinium corymbosum | 10 | 10 |
| Blackberry | Rubus occidentalis | 30 | 10 |
| Strawberry | Fragaria virginiana | 10 | 10 |
| Wild Strawberry | Fragaria virginiana | 10 | 10 |
| Wild Blackberry | Rubus occidentalis | 10 | 10 |

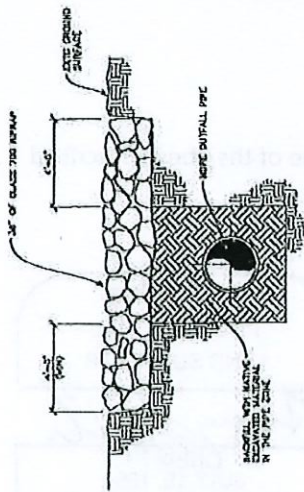
7461-77

| | | | | | | | |
|-----------------------|------------------------|-------------------|-------------|---|-------------|--|-------------|
| | | | | CITY OF FALLS CITY, OREGON WASTEWATER TREATMENT PLANT IMPROVEMENTS | | DRAWING 56 C-274 JOB NUMBER 2969.3010.0 | |
| RIVER OUTFALL DETAILS | | W. E. | | ... | | ... | |
| NO. DATE 1 1/15/13 | REVISIONS 1 1/15/13 | CHECKED BY ... | DATE ... | DESIGNED BY ... | DATE ... | APPROVED BY ... | DATE ... |

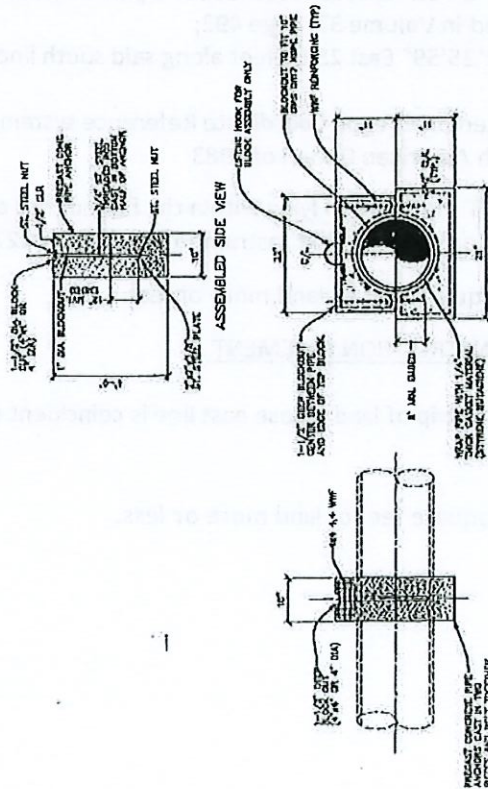
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FEB 15 2013

OWRD
 SALEM, OREGON



RIVER OUTFALL PIPE SECTION
 1/2" DIA.



SECTION

ASSEMBLED SIDE VIEW-SECTION

NOTE: SPACE BALLAST WEIGHTS AT 12\"/>

BALLAST WEIGHTS
 1/2" DIA.

HDPE PIPE CONNECTION DETAIL
 3/4\"/>

2761-77

2761-77

EXHIBIT *KG*

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CLERK
SALIDA, OREGON

Legal Description For:

Pipeline Easement and Temporary Construction Easement

Property vested in:

Joseph Todd and Michele Todd

PIPELINE EASEMENT

A 25.00-foot wide strip of land situated in the northeast and southeast quarters of Section 21 and the northwest and southwest quarters of Section 22 Township 8 South, Range 6 West of the Willamette Meridian, Polk County, Oregon, said strip being more particularly described as follows:

Beginning at the southeast corner of that property described in Volume 37, Page 492 of Polk County Deed Records, said point recorded as being North 7° East 45.14 chains from the southeast corner of the SAMUEL GOTHARD D.L.C. NO. 48 in said Township, said point being on the East line of said D.L.C No. 48; and running thence:

South 07°34'01" West 1954.22 feet more or less along the east line of said D.L.C. to a point in the centerline of the Little Luckiamute River;

thence North 35°53'19" West 36.35 feet along the centerline of said river to a point that is 25 feet westerly of said East line D.L.C. No. 48;

thence North 07°34'01" East 1927.83 feet to a point on the south line of the aforementioned property described in Volume 37, Page 492;

thence South 82°25'59" East 25.00 feet along said south line to the Point of Beginning.

Bearings are based on Oregon Coordinate Reference system, Salem Zone, Transverse Mercator Projection, North American Datum of 1983

SAVE AND EXCEPT that portion lying within the boundaries of that property Quite Claimed by the Union Pacific Railroad Company by that Instrument No. 2012-012750 Polk County Records.

Contains 47024 square feet of land more or less.

TEMPORARY CONSTRUCTION EASEMENT

A 15.00 foot wide strip of land whose east line is coincident with the west line of the above described pipeline easement.

Contains 23175 square feet of land more or less.

| |
|--|
| REGISTERED PROFESSIONAL LAND SURVEYOR |
| <i>Gregory L. Wilson</i> |
| OREGON JULY 19, 1994 GREGORY L. WILSON 2687 |

EXPIRATION DATE: 6-30-20

LL-1946

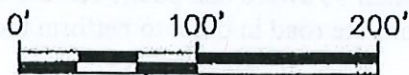
EXHIBIT B

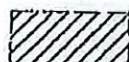

LOCATED IN THE N.E. AND S.E. 1/4 SEC. 21 AND N.W. AND S.W. 1/4 SEC. 22,
T. 8 S., R. 6 W., W.M., POLK COUNTY, OREGON

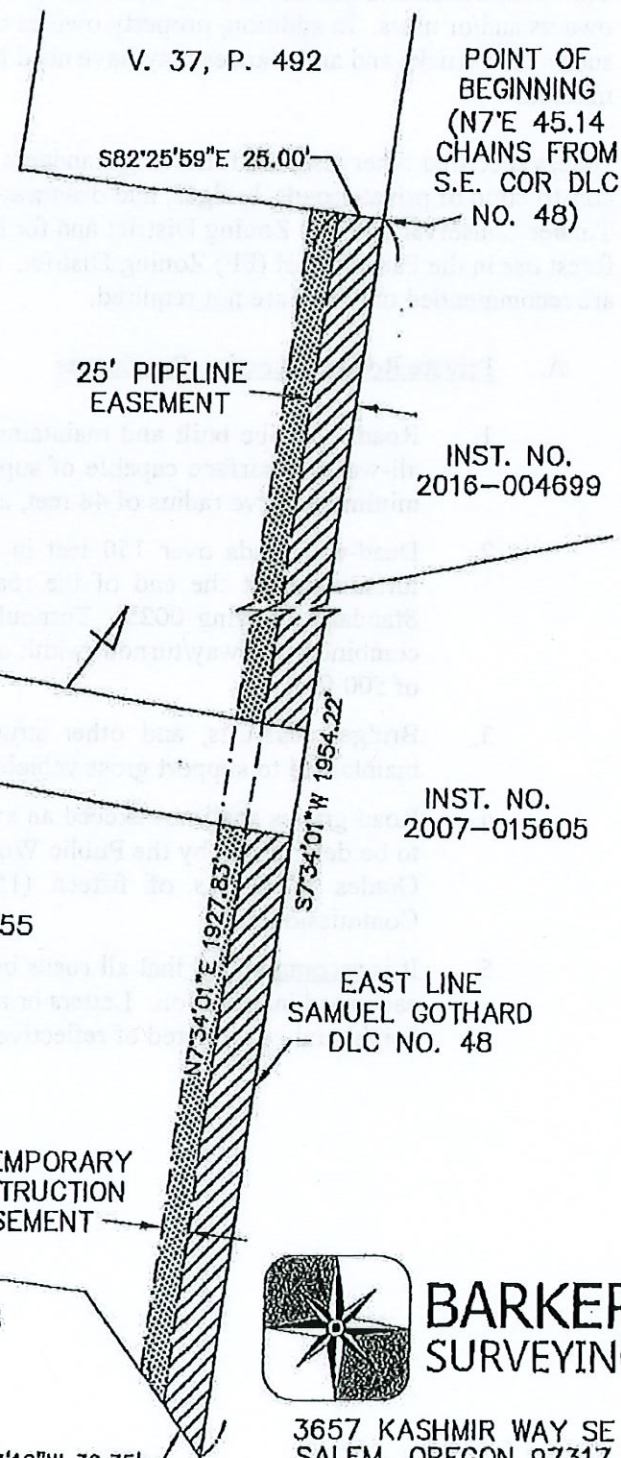
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SCALE: 1" = 100'



-  PIPELINE EASEMENT
47024 SQ. FT.
-  TEMPORARY CONSTRUCTION
EASEMENT 23175 SQ. FT.



60' WIDE FORMER UNION PACIFIC RAILROAD

INST. NO. 2012-012750

INST. NO. 2016-004699

INST. NO. 2007-015605

INST. NO. 2017-006955

EAST LINE SAMUEL GOTHARD DLC NO. 48

REGISTERED PROFESSIONAL LAND SURVEYOR

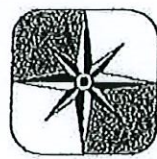
Gregory L. Wilson
OREGON
JULY 19, 1994
GREGORY L. WILSON
2687

EXPIRATION DATE: 6/30/2020

15' TEMPORARY CONSTRUCTION EASEMENT

APPROXIMATE CENTERLINE LITTLE LUCKIAMUTE RIVER

N35°53'19"W 36.35'



BARKER SURVEYING

3657 KASHMIR WAY SE
SALEM, OREGON 97317
PHONE (503) 588-8800
FAX (503) 363-2469
EMAIL: INFO@BARKERWILSON.COM

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Polk County Standards for Private Roads Serving Dwellings in Forest Zones

The construction and maintenance of a private road are the responsibility of the applicable property owners and/or users. In addition, property owners or users shall be aware that public service vehicles such as fire trucks and ambulances may have need to use a private road in order to perform their public mission.

Unless specified otherwise, the following standards for private roads are required for all new construction of private roads, bridges, and driveways serving residences on lots or parcels within the Timber Conservation (TC) Zoning District and for lots or parcels where the predominate use is in forest use in the Farm/Forest (FF) Zoning District. For properties in all other zones, these standards are recommended only and are not required.

A. Private Roads Accessing Residences

1. Roads shall be built and maintained to provide a minimum width of 12 feet with an all-weather surface capable of supporting gross vehicle weights of 50,000 pounds, a minimum curve radius of 48 feet, and a vertical clearance of 13 feet 6 inches.
2. Dead-end roads over 150 feet in length shall have cul-de-sac, L-shape, or T-shape turnarounds at the end of the road with dimensions not less than those shown in Standard Drawing 0025. Turnouts 20 feet wide and 40 feet long (for a maximum combined roadway/turnout width of 20 feet), shall be provided at a maximum spacing of 500 feet
3. Bridges, culverts, and other structures in the road bed shall be constructed and maintained to support gross vehicle weights of 50,000 pounds.
4. Road grades shall not exceed an average of eight (8) percent, with a maximum grade to be determined by the Public Works Director, but not to exceed fifteen (15) percent. Grades in excess of fifteen (15) percent may be approved by the Board of Commissioners.
5. It is recommended that all roads be uniquely named or numbered or visibly signed at each road intersection. Letters or numbers should be a minimum of three (3) inches in height and constructed of reflective material.

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ATTACHMENT E

LAND USE PLANNING NOTES >>>



STEWARDSHIP IN FORESTRY

NUMBER 1 • MARCH 1991

PURPOSE: This technical bulletin has been developed jointly by the Department of Forestry and structural fire protection agencies in Oregon as technical guidance and recommended minimum standards to meet the requirements of new administrative rules, OAR 660-06-035 (fire siting standards for dwellings and structures) and OAR 66006-040 (fire safety design standards for roads) adopted by the Land Conservation and Development Commission for forest land zones (Goal 4 lands). Counties are encouraged to adopt stricter rules in forest zones where these recommendations might not adequately address a particular hazard or risk.

RULE REQUIREMENTS:

OAR 660-06-035 (Fire Siting Standards for Dwellings and Structures) requires that:

"[T]he following fire siting standards or their equivalent apply to new dwelling or structures in a forest or agriculture/forest zone:

"(1) If a water supply is available and suitable for fire protection, such as a swimming pool, pond, stream, or lake, then road access to within 15 feet of the water's edge shall be provided for pumping units. The road access shall accommodate the turnaround of fire fighting equipment during the fire season. Permanent signs shall be posted along the access route to indicate the location of the emergency water source.

"(2) Road access to the dwelling shall meet road design standards described in OAR 660-06-040.

"(3) The owners of the dwellings and structures shall: maintain a primary fuel-free break area surrounding all structures; clear and maintain a secondary fuel-free break area; and maintain adequate access to the dwelling for fire fighting

Recommended Fire Siting Standards for Dwellings and Structures and Fire Safety Design Standards for Roads

Published by:

Oregon Department of Forestry
Resource Planning Office
2600 State Street
Salem, OR 97310

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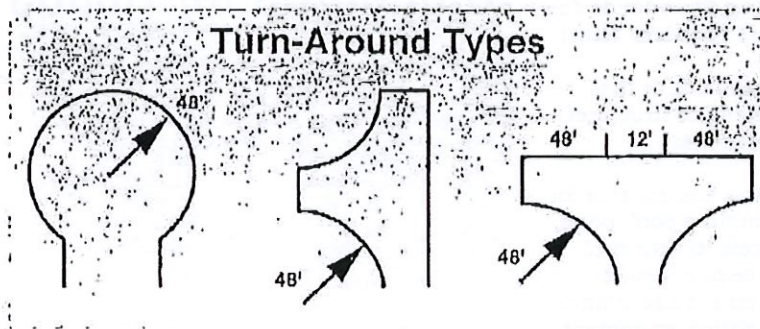
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equipment vehicles in accordance with the provisions in *Protecting Your home from Wildfire* (National Fire Protection Association)."

OAR 660-06-040 (Fire Safety Design Standards for Roads) requires that:

"[T]he governing body shall establish road design standards, except for private roads and bridges accessing only commercial forest uses, which ensure that public roads, bridges, private roads and driveways are constructed so as to provide adequate access for fire fighting equipment. Such standards shall address maximum grade, road width, turning radius, road surface, bridge design, culverts, and road access taking into consideration seasonal weather conditions. The governing body shall consult with the appropriate Rural Fire Protection District and Forest Protection District in establishing these standards."

Though there are no similar rule requirements to be met in rural residential zones in forested areas, the Department of Forestry encourages the adoption by local government of these recommended fire safety standards in these zones as well.



Though some of the recommendations are strictly to accommodate structural fire protection apparatus and needs, it is recommended that the standards be applied to all lands within forest zones, regardless of the presence or absence of a rural (structural) fire protection district. The standards should be applied in anticipation of structural fire protection eventually becoming present.

RECOMMENDED FIRE SITING STANDARDS FOR DWELLINGS AND STRUCTURES:

A. Water Supply Standards:

1. Access— If a water supply—such as a swimming pool, pond, stream, or lake—of 4,000 gallons or more exists within 100 feet of the driveway or road at a reasonable grade (12%) an all-weather approach to a point within 15 feet of the water's edge should be provided. The all-weather approach should provide a turn-around with a 48-foot radius of one of the types shown in the illustration below.

2. Identification— Emergency water supplies should be clearly marked along the access route with a county approved sign.

B. Fuel Break Standards:

1. Primary Safety Zone— The primary safety zone is a fire break extending a minimum of 30 feet in all directions around structures. The goal within the primary safety zone is to remove fuels that will produce flame lengths in excess of one foot. Vegetation within the primary safety zone could include green lawns and low shrubs (less than 24 inches in height). Trees should be spaced with greater than 15 feet between the crowns and pruned to remove dead and low (less than 8 feet) branches. Accumulated leaves, needles, limbs and other dead vegetation should be removed from beneath trees. Nonflammable materials (i.e., rock) instead of flammable materials (i.e., bark mulch) should be placed next to the house.

As slope increases, the primary safety zone should increase away from the house, parallel to the slope and down the slope, as shown in the table and illustration on the next page.

2. Secondary Fuel Break— The secondary fuel break is a fuel break extending a mini-

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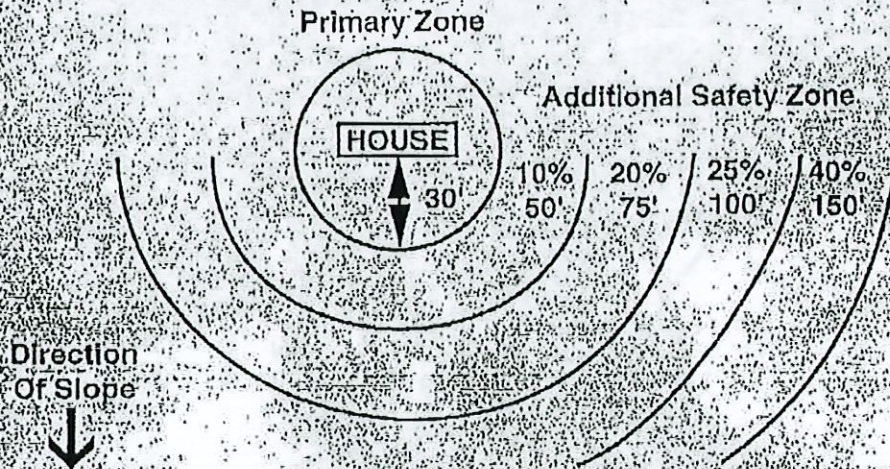
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Size of Primary Safety Zone by Percent Slope

| Slope | Feet of Primary Safety Zone | Feet of Additional Safety Zone Down Slope |
|-------|-----------------------------|---|
| 0% | 30 | 0 |
| 10% | 30 | 50 |
| 20% | 30 | 75 |
| 25% | 30 | 100 |
| 40% | 30 | 150 |

Buildings should be restricted to slopes of less than 40 percent.

EXAMPLE OF SAFETY ZONE SHAPE



mum of 100 feet in all directions around the primary safety zone. The goal of the secondary fuel break should be to reduce fuels so that the overall intensity of any wild fire would be lessened and the likelihood of crown fires and crowning is reduced. Vegetation within the secondary fuel break should be pruned and spaced so that fire will not spread between crowns of trees. Small trees and brush growing underneath larger trees should be removed to prevent spread of fire up into the crowns of the larger trees. Dead fuels should be removed.

RECOMMENDED FIRE SAFETY DESIGN STANDARDS FOR ROADS:

A. Road Standards (public roads and private roads accessing 2 or more residences):

1. Right-of-ways— Roads should be built and maintained to provide a minimum 20 foot width of all-weather surface capable of supporting gross vehicle weights of 50,000 pounds, a minimum curve radius of 48 feet and a vertical clearance of 13'6".

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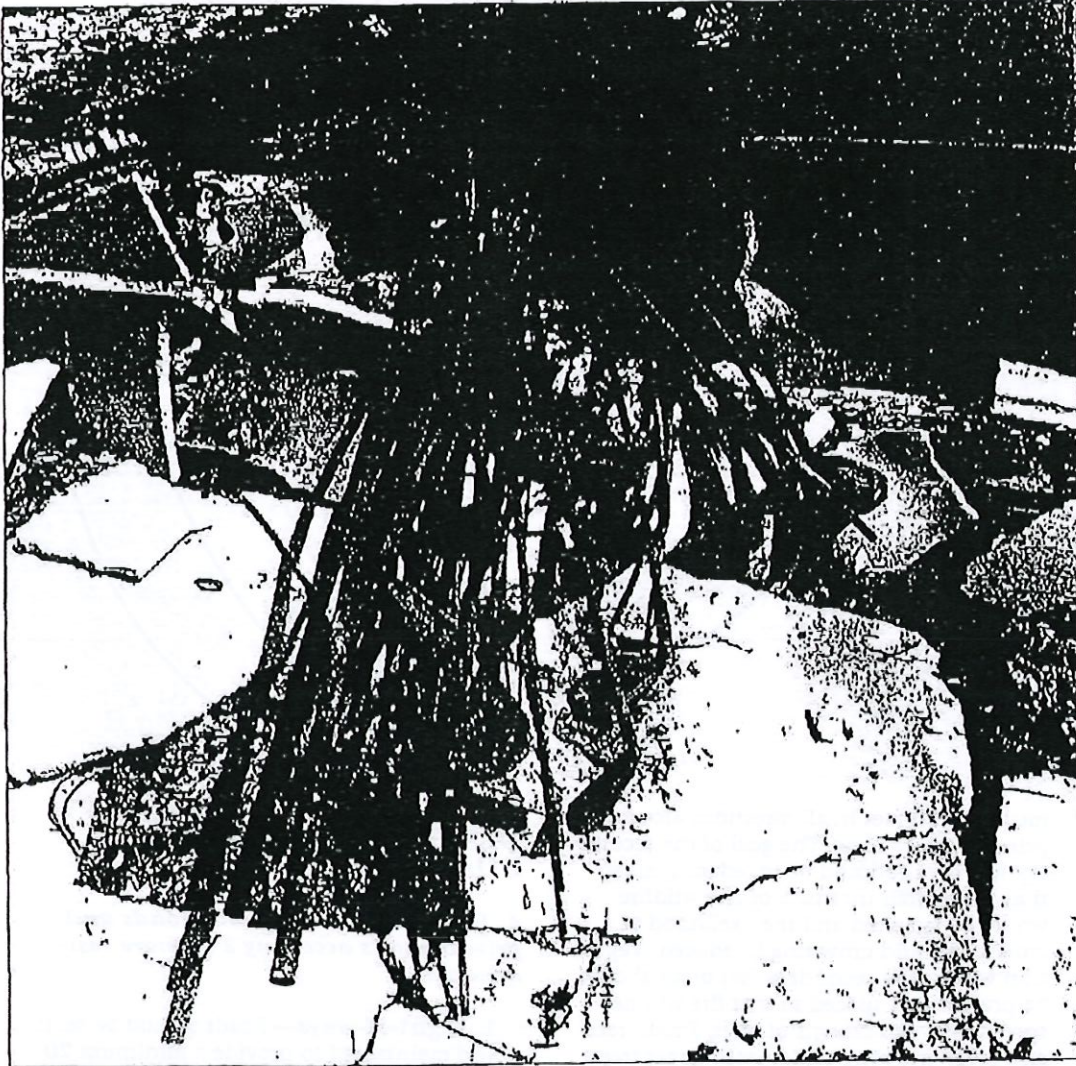
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2. **Cul-de-Sacs**— Cul-de-sacs should be defined as dead-end roads over 150 feet in length. Cul-de-sacs should have turn-arounds of not less than 48 feet radius at a maximum spacing of 500 feet between turn-a-rounds. All turn-a-rounds should be marked and signed as "NO PARKING."

3. **Bridges and Culverts**— Bridges, culverts, and other structures in the road bed should be constructed and maintained to support gross vehicle weights of 50,000 pounds.

4. **Road Grades**— Road grades should not exceed an average of 8 percent, with a maxi-



A set of burned golf clubs lay in the ruin of a home burned by the 1990 Awbrey Hall Fire. Twenty-two homes burned during this fire, which raced along the outskirts of Bend, Oregon. Most of the burned homes had insufficient fuel breaks surrounding them.

Photograph courtesy of The Bulletin, Bend

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mum of 12 percent on short pitches. Variances could be granted by the fire service having responsibility for the area when topographic conditions make these standards impractical.

5. Identification— Roads should be uniquely named or numbered and visibly signed at each road intersection. Letters or numbers should be a minimum of three inches in height and constructed of reflectorized material.

B. Driveway Standards (private roads accessing a single residence):

1. Driveways— Driveways should be built and maintained to provide a minimum 12-foot width of all-weather surface capable of supporting gross vehicle weights of 50,000 pounds, a minimum curve radius of 48 feet and a vertical clearance of 13'6".

2. Vehicle Passage Turnouts— Driveways in excess of 200 feet should provide 20-foot wide by 40-foot long passage space (turnouts) at a maximum spacing of 1/2 the driveway length or 400 feet, whichever is less. Wherever visibility is limited, these distances should be reduced appropriately.

3. Dead-end driveways— Dead-end driveways are defined as dead-end roads over 150 feet in length serving a single residence. Dead-end driveways should have turn-a-rounds of not less than 48-foot radius.

4. Bridges and Culverts— Bridges, culverts, and other structures in the road bed should be constructed and maintained to support gross vehicle weights of 50,000 pounds.

5. Driveway Grades— Driveway grades should not exceed an average of 8 percent, with a maximum of 12 percent on short pitches. Variances could be granted by the fire service having responsibility for the area when topographic conditions make these standards impractical.

6. Identification— Driveways should be marked with the residence's address unless

the residence is visible from the roadway and the address is clearly visible on the residence. Letters or numbers should be a minimum of three inches in height and constructed of reflectorized material.

C. Certification:

1. If bridges or culverts are involved in the construction of a road or driveway, written verification of compliance with the 50,000 gross vehicle weight standard should be provided from an Oregon Registered Professional Engineer. Otherwise, written verification of compliance should be provided by the applicant.

BASIS FOR RECOMMENDATIONS:

A. Water Supply

Water is a critical tool in fire suppression. Hydrants are generally not available in forested areas. Therefore, fire suppression in forested areas is dependent upon the water carried in the responding fire equipment and water sources available for refill or that can be pumped from an engine. Water available for refilling an engine can mean the difference between saving or losing a structure, or preventing a wildfire from escaping initial attack. When a fire engine or tanker runs out of water, turn around time to a refill site may be quite lengthy. A 4,000 gallon water supply is large enough to refill a large tanker or several smaller fire engines. Requiring construction of an all weather approach to within 15 feet of 4,000 gallon or larger water sources within 100 feet or less of a driveway or road will greatly help fire protection agencies.

B. Fuel Breaks

The steeper the slope, the greater the flame length, the hotter the flame front, and the faster the rate of fire spread. This greater fire activity is primarily due to preheating of the vegetation upslope from the fire, increased draft of fresh air to the fire from below, and more flame contact with upslope fuels. On steeper slopes, failure to provide for larger safety zones downslope from a residence will make it more difficult for fire personnel to protect the structure. The

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firefighter is also in a more tenuous safety position.

On the last page are two graphs showing the relationships of flame length and dozer line construction speeds to slope for two fuel types. Flame lengths increase with slope and dozer fire line construction rates decrease. Other fire fighting methods such as water attack and hand line construction are also hampered by steep slopes. Generally, hand lines are useless when flame lengths reach 4 feet; dozer lines fall with 8-foot flame lengths.

C. Road & Driveway Specifications

Fire fighting apparatus (fire engines, tankers, dozer and lowboy, etc.) are much larger and heavier than personal vehicles. These vehicles

require greater road width and clearance for passage, wider road curves for turning, and level or at most moderate road grades for maintaining vehicle engine performance and driver safety.

- The 1988 Oregon Uniform Fire Codes, Chapter 10.207 specifies that all roads shall be all weather surfaced, minimum 20 feet width, and have a vertical clearance of 13' 6".

- A filled, fully equipped 3,000 gallon tanker weighs around 40,000-45,000 pounds. Many rural fire departments utilize this size tanker as a water source for the small fire engines. A minimum road surface load limit of 50,000 pounds provides for this load plus an appropriate safety margin.

- Large, heavy vehicles have difficulty driving up and down steep road grades. Additionally, most rural fire departments are principally staffed by volunteers and most forest fire agency employees are seasonal. While these people are capable drivers, very few are professional truck drivers and they may have a more difficult time maneuvering a truck up a steep winding road than would the professional driver.

- Rural address identification is extremely important. While the local resident may be familiar with the localized road or driveway system, emergency responders generally will not. Proper signing of roads and driveways with 3" or larger reflectorized letters or numbers will assist fire fighters in locating threatened residences, especially when visibility is impaired by darkness or smoky conditions.

- It is very difficult to back up long distances in large fire apparatus, and this difficulty can be compounded if driveway grade is not level. Therefore, turnouts and turnarounds are very important.



The 1989 Dooley Mountain Fire threatened the residents of Baker City.

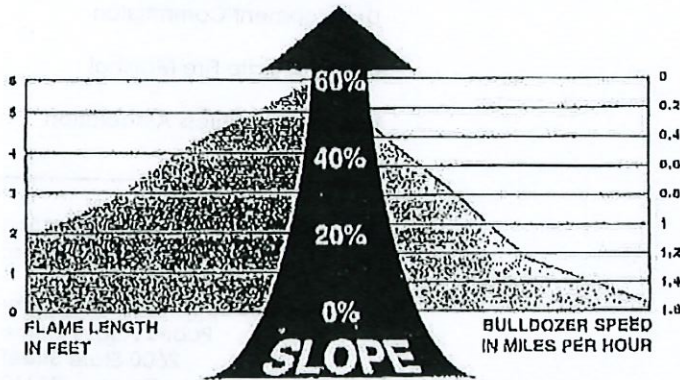
Photograph courtesy of the Democrat-Herald, Albany

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The Relationship of Flame Length to Fuel Type and Slope: Two Situations

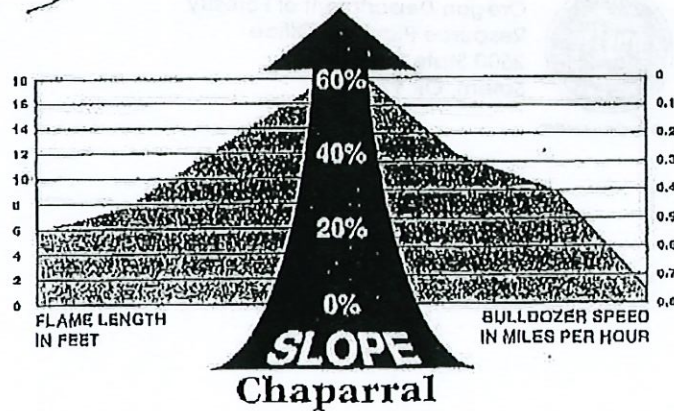
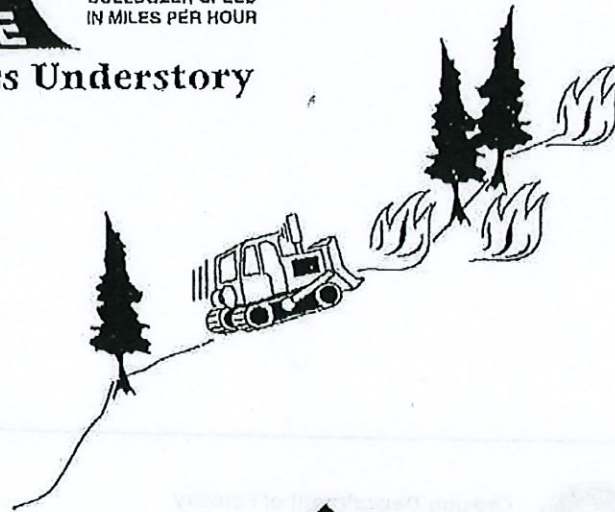


Timber with Grass Understory

These two graphs illustrate the effect of slope on flame length and bulldozer speed in two common fuel types.

In open timber with grass, flames traveling up a 20% slope can reach 3-4 feet in length. Chaparral, on the same slope, will generate flame lengths of 6-8 feet. Hand-constructed fire lines usually fail to stop fires having 4-foot or longer flame lengths. Bulldozer-constructed fire lines usually fail to stop fires having 8-foot or longer flame lengths.

Fire lines become less effective as slope increases and as fuel loads increase.



Chaparral

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Information Provided By:

Oregon Department of Forestry
Resource Planning Office

Land Conservation and
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