

PLANNING COMMISSION AGENDA MARCH 12, 2020



MEDFORD
OREGON

Commission Members

David Culbertson
Joe Foley
David Jordan
Bill Mansfield
David McFadden
Mark McKechnie
E. J. McManus
Jared Pulver
Jeff Thomas

Regular Planning Commission
meetings are held on the second and
fourth Thursdays of every month

Meetings begin at 5:30 PM

City of Medford

City Council Chambers
411 W. Eighth Street, Third Floor
Medford, OR 97501
541-774-2380

PLANNING COMMISSION AGENDA



MEDFORD
OREGON

March 12, 2020

5:30 P.M.

Medford City Hall, Council Chambers
411 West 8th Street, Medford, Oregon

10. Roll Call

20. Consent Calendar / Written Communications (voice vote).

20.1 LDS-19-070 Final Order of tentative plat approval for Stewart Meadows Village – Phases 1-6, a proposed 39-lot subdivision on a 110-acre site bounded generally by Stewart Meadows to the north, Highway 99 to the east, Myers Lane to the west, and Garfield Avenue to the south; and an approximate 30-acre tract on the south side of Garfield. The site is zoned Community Commercial (C-C), General Industrial (I-G), Light Industrial (I-L), and SFR-10 (Single-Family residential, ten dwelling units per gross acre). (371W31A TL 2802, 2000, 2190, 2200, 2300, 4000, 3900; 371W31D TL 200, 1001, 2500, 1000, 2501, 2800, 900, 2900, 3000; 371W32C TL 5503, 5400); Applicant, KOGAP Enterprises, Inc.; Agent, Maize & Associates Inc.; Planner, Dustin Severs.

30. Approval or Correction of the Minutes from February 27, 2020 hearing.

40. Oral Requests and Communications from the Audience

COMMENTS WILL BE LIMITED TO 3 MINUTES PER INDIVIDUAL OR 5 MINUTES IF REPRESENTING A GROUP OR ORGANIZATION. **PLEASE SIGN IN.**

50. Public Hearings

COMMENTS ARE LIMITED TO A TOTAL OF 10 MINUTES FOR APPLICANTS AND/OR THEIR REPRESENTATIVES. YOU MAY REQUEST A 5-MINUTE REBUTTAL TIME. ALL OTHERS WILL BE LIMITED TO 3 MINUTES PER INDIVIDUAL OR 5 MINUTES IF REPRESENTING A GROUP OR ORGANIZATION. **PLEASE SIGN IN.**

60. Reports

- 60.1 Site Plan and Architectural Commission
- 60.2 Transportation Commission
- 60.3 Planning Department

70. Messages and Papers from the Chair

80. City Attorney Remarks

90. Propositions and Remarks from the Commission

100. Adjournment



MEDFORD PLANNING

PLANNING COMMISSION REPORT

for a type-III quasi-judicial decision: Land Division

Project Stewart Meadows Village Subdivision – Phases 1-6
Applicant: KOGAP Enterprises, Inc.
Agent: Maize & Associates Inc.

File no. LDS-19-070

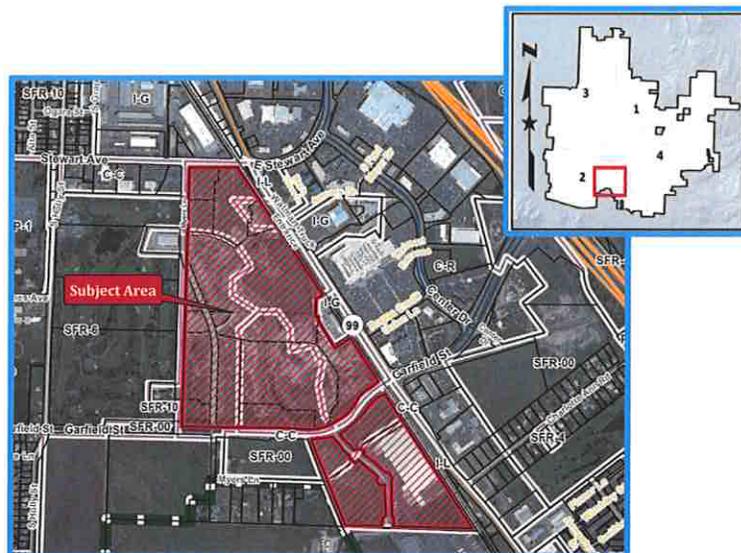
Date February 27, 2020

BACKGROUND

Proposal

Consideration of tentative plat approval for Stewart Meadows Village – Phases 1-6, a proposed 39-lot subdivision on a 110-acre site bounded generally by Stewart Meadows to the north, Highway 99 to the east, Myers Lane to the west, and Garfield Avenue to the south; and an approximate 30-acre tract on the south side of Garfield. The site is zoned Community Commercial (C-C), General Industrial (I-G), Light Industrial (I-L), and SFR-10 (Single-Family residential, ten dwelling units per gross acre), and MFR-30 (Multiple Family Residential – 30 dwelling units per gross acre).

Vicinity Map



Subject Site Characteristics

Zoning	SFR-10	Single Family Residential – 10 dwelling units per gross acre
	MFR-30	Multiple Family Residential – 30 dwelling units per gross acre
	C-C	Community Commercial
	I-L	Light Industrial
	I-G	General Industrial
GLUP	UR	Urban Residential
	UH	Urban High Density Residential
	CM	Commercial
	GI	General Industrial
	HI	Heavy Industrial
Overlay	P/D	Planned Development
	I/00	Limited Industrial
Use(s)	Vacant land / Harry & David building	

Surrounding Site Characteristics

<i>North</i>	Zone: I-G & C-R Uses: Southern Oregon Sales Packing Company.
<i>South</i>	Zone: SFR-00 & Jackson County Exclusive Farm Use (EFU) Use: Harry & David
<i>East</i>	Zone: C-R & I-G Uses: Walmart Supercenter, National Guard Armory, Veterans Memorial Park, Holiday Inn Express, Rogue Credit Union, Hayes Oil Company, Central Oregon and Pacific Railroad.
<i>West</i>	Zone: SFR-6, SFR-00, SFR-10, C-C, & Jackson County EFU Uses: Stewart Meadows Golf Course

Applicable Criteria

MLDC 10.202(E): Land Division Criteria

The approving authority (Planning Commission) shall not approve any tentative plat unless it first finds that, the proposed land division together with the provisions for its design and improvement:

- (1) Is consistent with the Comprehensive Plan, any other applicable specific plans thereto, including Neighborhood Circulation Plans, and all applicable design standards set forth in Article IV and V;*
- (2) Will not prevent development of the remainder of the property under the same ownership, if any, or of adjoining land or of access thereto, in accordance with this chapter;*
- (3) Bears a name that has been approved by the approving authority and does not use a word which is the same as, similar to, or pronounced the same as a word in the name of any other subdivision in the City of Medford; except for the words "town", "city", "place", "court", "addition", or similar words; unless the land platted is contiguous to and platted by the same applicant that platted the land division bearing that name; or unless the applicant files and records the consent of the party who platted the land division bearing that name and the block numbers continue those of the plat of the same name last filed;*
- (4) If it includes the creation of streets or alleys, that such streets or alleys are laid out to be consistent with existing and planned streets and alleys and with the plats of land divisions already approved for adjoining property unless the approving authority determines it is in the public interest to modify the street pattern;*
- (5) If it has streets or alleys that are proposed to be held for private use, that they are distinguished from the public streets or alleys on the tentative plat, and reservations or restrictions relating to the private streets or alleys are set forth;*
- (6) Will not cause an unmitigated land use conflict between the land division and adjoining agricultural lands within the EFU (Exclusive Farm Use) zoning district.*

Issues and Analysis

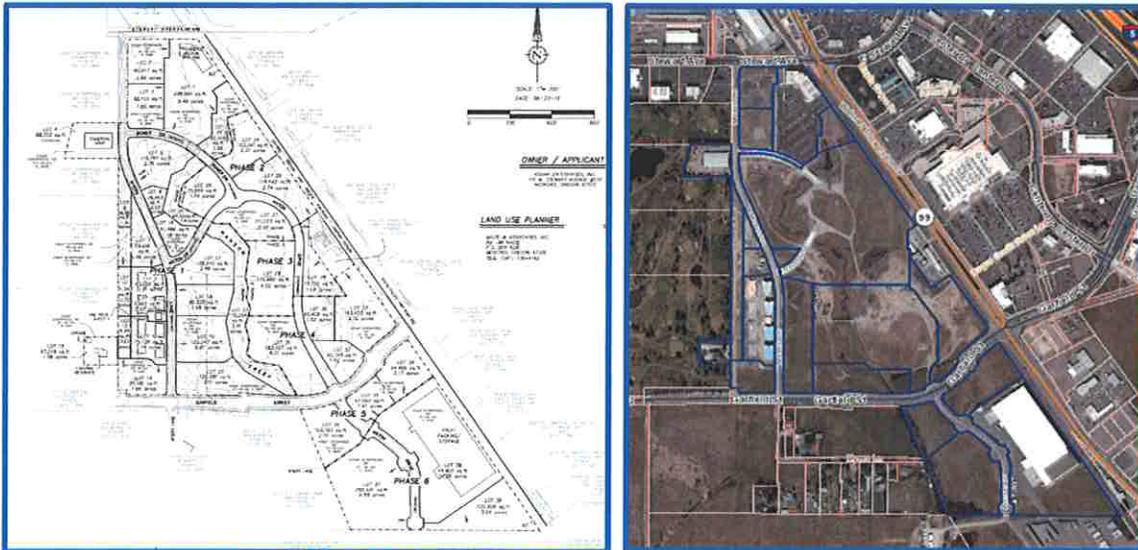
Project Summary

Project history

FILE #	DATE	DESCRIPTION
PUD-06-141 ZC-06-347 LDS-06-348	November 2007	Approval of original preliminary approval of Stewart Meadows Village PUD, including a zone change and a 21-lot tentative subdivision Plat
PUD-06-141 ZC-09-005 LDS-08-161	March 2009	Approval of first PUD revision, including a zone change and a revised tentative plat reducing total lots from the 21 lots approved in 2006 tentative plat to 18 lots
AC-12-012	May 2012	Landscaping approval of Hansen Creek restoration
PUD-06-141	August 2013	Approval of second PUD revision amending design of commercial streets within the project
AC-14-009	April 2014	SPAC approval of design elements of PUD
PUD-16-037	June 2016	Approval of third PUD revision including the incorporation of additional property into the PUD
AC-16-044	June 2016	SPAC approval of 68,000 S.F. medical office building, and approval of revised design guidelines of the PUD
ZC-16-066	August 2016	Zone Change
PUD-17-003 ZC-17-004	April 2017	Approval of fourth PUD revision, including the addition of property, and several changes of zone
AC-17-066	August 2017	SPAC approval for 134 multi-family units
SV-17-069	October 2017	Vacation of Myers Lane
PUD-17-003	July 2018	Final PUD Plan approval for phases 1C, 1D, and 1E

Current Proposal

With the subject request, the applicant is proposing to subdivide the approximate 110-acre Stewart Meadows Village PUD site into 39 individual lots, including three tracts which comprise the Hansen Creek common area. The applicant is seeking to develop the subdivision in six phases, and is requesting the maximum timetable of five years to acquire final plat approval for all phases, as permitted per MLDC 10.202(D)(2).



The tentative plat shows all lots either conforming to the design standards of the underlying zoning district, or with modifications which have been previously approved by the Planning Commission in accordance with MLDC 10.192.

In March of 2009, an earlier tentative plat for the same general development areas approved was approved by the Planning Commission (LDS-08-167), but has since expired.

Development Standards

Site Development Table (MLDC 10.710)

SFR-10 MFR standards	Lot Area	Minimum Lot Width (Interior)	Minimum Lot Width (Corner)	Minimum Lot Depth	Minimum Lot Frontage
Required	15,000 min.	80 feet	90 feet	120 feet	30 feet
Shown	Lot 4: 88,303 Lot 5: 119,787	Lot 4: 250 Lot 5: 325	Lot 4: NA Lot 5: 325	Lot 4: 350 Lot 5: 395	Lot 4: 250 Lot 5: 952

Lot 6: 26,863	Lot 6: 217	Lot 6: NA	Lot 6: 127	Lot 6: 212
Lot 7: 63,486	Lot 7: 438	Lot 7: NA	Lot 7: 145	Lot 7: 462
Lot 8: 58,560	Lot 8: 90	Lot 8: NA	Lot 8: 652	Lot 8: 241
Lot 9: 83,029	Lot 9: 312	Lot 9: NA	Lot 9: 253	Lot 9: 335
Lot 10: 75,738	Lot 10: 266	Lot 10: NA	Lot 10: 258	Lot 10: 306
Lot 11: 31,343	Lot 11: 348	Lot 11: NA	Lot 11: 90 *	Lot 11: 0 *
Lot 14: 81,181	Lot 14: 252	Lot 14: 252	Lot 14: 345	Lot 14: 473
Lot 16: 51,466	Lot 16: 165	Lot 16: 165	Lot 16: 296	Lot 16: 592

Community Commercial	Lot Area	Minimum Lot Width (Interior)	Minimum Lot Depth	Minimum Lot Frontage
Required	15,000 min.	70 feet	100 feet	70 feet
Shown	Lot 19: 122,247	Lot 19: 327	Lot 19: 376	Lot 19: 327
	Lot 20: 135,681	Lot 20: 230	Lot 20: 589	Lot 20: 1023
	Lot 30: 66,409	Lot 30: 312	Lot 30: 220	Lot 30: 324
	Lot 31: 183,497	Lot 31: 625	Lot 31: 220	Lot 31: 793
	Lot 32: 66,343	Lot 32: 282	Lot 32: 245	Lot 32: 667
	Lot 33: 163,433	Lot 33: 345	Lot 33: 545	Lot 33: 313
	Lot 34: 94,486	Lot 34: 325	Lot 34: 300	Lot 34: 350
	Lot 35: 61,583	Lot 35: 230	Lot 35: 270	Lot 35: 513
Lot 36: 109,183	Lot 36: 380	Lot 36: 280	Lot 36: 538	

Light Industrial	Lot Area	Minimum Lot Width (Interior)	Minimum Lot Depth	Minimum Lot Frontage
Required	20,000 min.	70 feet	100 feet	70 feet
Shown	Lot 1: 238,595	Lot 1: 355	Lot 1: 685	Lot 1: 460
	Lot 2: 86,617	Lot 2: 270	Lot 2: 315	Lot 2: 600

Lot 3: 82,153	Lot 3: 260	Lot 3: 315	Lot 3: 560
Lot 17: 108,641	Lot 17: 292	Lot 17: 465	Lot 17: 460
Lot 18: 86,338	Lot 18: 220	Lot 18: 390	Lot 18: 221
Lot 24: 103,341	Lot 24: 257	Lot 24: 375	Lot 24: 178
Lot 25: 75,664	Lot 25: 355	Lot 25: 310	Lot 25: 480
Lot 26: 119,442	Lot 26: 365	Lot 26: 285	Lot 26: 622
Lot 27: 111,023	Lot 27: 530	Lot 27: 280	Lot 27: 899
Lot 28: 73,702	Lot 28: 535	Lot 28: 100	Lot 28: 514
Lot 29: 174,995	Lot 29: 528	Lot 29: 344	Lot 29: 489
Lot 37: 285,431	Lot 37: 635	Lot 37: 525	Lot 37: 869
Lot 38: 446,900	Lot 38: 818	Lot 38: 416	Lot 38: 814
Lot 39: 150,908	Lot 39: 258	Lot 39: 700	Lot 39: 97

MFR-30	Lot Area	Minimum Lot Width (Interior)	Minimum Lot Width (Corner)	Minimum Lot Depth	Minimum Lot Frontage
Required	8,000 min.	80 feet	90 feet	100 feet	30 feet
Shown	Lot 12: 26,944	Lot 12: 299	Lot 12: NA	<i>Lot 12: 90 *</i>	<i>Lot 12: 0 *</i>

SFR-10 SFR standards	Lot Area	Minimum Lot Width (Interior)	Minimum Lot Width (Corner)	Minimum Lot Depth	Minimum Lot Frontage
Required	3,600 to 8,125	40 feet	50 feet	90 feet	30 feet
Shown	Lot 13: 47,248	Lot 13: 196	Lot 13: NA	Lot 13: 241	Lot 13: <i>0 *</i>

SFR-10 Duplex standards	Lot Area	Minimum Lot Width (Interior)	Minimum Lot Width (Corner)	Minimum Lot Depth	Minimum Lot Frontage
Required	5,400 to 18,200	60 feet	70 feet	90 feet	30 feet
Shown	Lot 15: 9,662	Lot 15: 71	Lot 15: 137	Lot 15: NA	Lot 15: 71

As shown in the Site Development Tables above, it can be found that the 39 proposed lots as identified on the submitted plat meet all the dimensional standards for lots within their applicable zoning district, as per MLDC 10.721, or were approved for modified standards pursuant to MLDC 10.192(B) of the PUD ordinance (Identified by *).

Modified Standards

Lots 11, 12, 13, 21, 22, and 23, as identified on the tentative plat, were all approved for modified standards pursuant to MLDC 10.192(B) of the PUD ordinance.

In 2009, the Planning Commission approved a modification to the Code standard to allow a lot adjacent to the Stewart Meadows Golf Course—now identified as lot 13, and currently containing an existing residence—to be created without street frontage. A de minimus PUD revision was approved by the Planning Director on April 2019, to allow two additional lots—identified as lots 11 and 12—to be included under the previously approved modifications to the Code standards related to street frontage.

In 2016, a revised Preliminary PUD Plan approval included a modification to the design of the PUD to allow a common open space—identified as lots 21, 22, and 23, located along the corridor of Hanson Creek—to also not include street frontage.

Development Standards

Lot #	Zone	Lot coverage	Front yard setback	Side yard setback	Rear yard setback
		Required/shown	Required/shown	Required/shown	Required/shown
Lot 1	I-L	50% / 9.2%	10 ft. / 20 ft.	13.5 ft. / 70 ft.	13.5 ft. / 475 ft.
Lot 4	SFR-10	50% / 23.6%	15 ft. / 46 ft.	10 ft. / 70 ft.	10 ft. / 100 ft.
Lot 9	SFR-10	50% / 30.4%	15 ft. / 17 ft.	10 ft. / 10 ft.	20 ft. / 47 ft.

Lot 10	SFR-10	50% / 30.0%	15 ft. / 17 ft.	10 ft. / 13 ft.	20 ft. / 47 ft.
Lot 13	SFR-10	50% / 10.6%	15 ft. / 81 ft.	4 ft. / 9 ft.	4 ft. / 10 ft.
Lot 15	SFR-10	50% / 29.5%	15 ft. / 36 ft.	4 ft. / 10 ft.	4 ft. / 55 ft.
Lot 38	I-L	50% / 50%	10 ft. / 22 ft.	13.5 ft./ 81 ft.	13.5 ft./ 65 ft.

As shown in the Site Development Table above, it can be found that the existing buildings identified on the submitted site plan meet the bulk standards for the their applicable zoning district as found in Article V of the Medford Land Development Code.

Myers Lane/Anton Drive Street Connection

On August 28, 2019, Public Works submitted a staff report (Exhibit K), which included a condition requiring the applicant to extend Myers Lane—currently stubbed at the site’s westerly property line—to the existing Anton Drive public right-of-way, identified in Phases 5 & 6 of the Tentative Plat. The extension of Myers lane will complete the connection of Myers Lane from Garfield Street south to Anton Drive.

The extension of Myers Lane would require the applicant to submit a revised tentative plat showing a dedication of public right-of-way—conforming to Commercial Street standards—connecting Anton Drive to Myers Lane. In the staff report, Public Works additionally required that the street section be completed, or a security be provided, prior to the approval of the final plat or the issuance of a building permit for vertical construction, whichever comes first, for any respective phase.



On February 4, 2020, the applicant submitted supplemental findings (Exhibit P) addressing Public Works aforementioned requirements to dedicate and improve Myers Lane. As outlined in their supplemental findings (Exhibit P), the applicant

objects to both the dedication and improvement of said Myers Lane extension, based on four separate findings, summarized below:

- 1.) MLDC 10.426(B)(2) and 10.426(C)(2) do not apply to this application as no streets or blocks are being proposed.
- 2.) Block length and perimeter standards outlined in MLDC 10.462(B)(2) do not apply to this application because of the environmental constraints that exist, including the presence of water—specifically Hansen Creek.
- 3.) The subject Tentative Plat application is an improper application to apply a condition for a new street right-of-way dedication and improvement.
- 4.) The two proposed exactions are a violation of both MLDC 10.668 and of the “taking clause,” pursuant to the Fifth Amendment of the United States Constitution.

On February 20, 2020, Public Works submitted a revised staff report in response to the applicant's supplemental findings (Exhibit Q). As stated in the report, Public Works is supportive of the applicant improving the subject Myers Lane section as a public street constructed to commercial street standards; or constructing a private street built to city standards; or constructing an interior access road in accordance with MLDC 10.426(A). The revised report also states that the applicant will be required to contribute a proportional share towards the future construction of a bridge to span Hansen Creek, and that this contribution will be in the form of a deferred improvement agreement as outlined in MLDC 10.432.

In addition to the revised staff report, Public Works submitted a memo providing itemized responses to each of the applicant's supplemental findings (Exhibit R).

Facility Adequacy

Per the agency comments submitted to staff, including the Rogue Valley Sewer Services, it can be found that, with the imposition of the conditions of approval contained in Exhibit A, there are adequate facilities to serve the future development of the site.

Other Agency Comments

Rogue Valley Sewer Services (Exhibit P)

The site is located within the RVSS service area, and currently has a public 18-inch sewer main flowing west to east across the development, as well as various 10 & 8 inch sewer mains which have been accepted by RVSS or are currently under construction.

As a condition of approval, the applicant will be required to comply with all requirements of RVSS.

Parks Department (Exhibit O)

The Parks Department memo provided comments regarding the future shared-use pathway along Hansen Creek, encouraging the applicant to coordinate their improvements with the Parks Department staff.

Committee Comments

No comments were received from a committee, such as BPAC.

DECISION

At the public hearing held on February 27, 2020, the Commission voted unanimously to approve the request, while striking Condition #5, which required the applicant to submit a revised plat showing a street connection between Anton Drive and Myers Lane. The Commission's motion also included that Public Works submit a revised staff report removing the aforementioned requirement of a future connection between Anton Drive and Myers Lane.

Two new exhibits were also added into the record at the public hearing: A memo submitted by the applicant's attorney (Exhibit S), and a memo submitted by the City Attorney's Office (Exhibit T). Both are included in this Commission Report.

FINDINGS AND CONCLUSIONS

Tentative Plat

Staff finds the subdivision plat consistent with the Comprehensive Plan and all applicable design standards set forth in Articles IV and V. Furthermore, the subdivision will not prevent development of the remainder of the property under the same ownership or of adjoining land; bears a name (Stewart Meadows Village), which has been reviewed and approved by the City's Address Technician; the plat includes the creation of public streets, which have been laid out to be consistent with existing and planned streets; and criteria 5 and 6 are inapplicable.

ACTION TAKEN

Adopted the findings as recommended by staff and directed staff to prepare a Final Order for approval of LDS-19-070 per the Planning Commission report dated February 27, 2020, including:

- Exhibits A-1 through T.
- Approval for maximum timetable of five years for platting.

EXHIBITS

- A-1 Conditions of Approval (Revised), drafted March 5, 2020.**
- B Tentative Plat (4 of 4), received July 12, 2019.
- C Applicant's tentative plat area, received July 12, 2019.
- D Applicant's Findings of Fact & Conclusions of Law, received July 12, 2019.
- E Applicant's spreadsheet showing lot standards, and notes, received July 12, 2019.
- F Approved PUD plan, received July 12, 2019.
- G Applicant's zoning map, received July 12, 2019.
- H Applicant's GLUP map, received July 12, 2019.
- I Applicant correspondence with ODOT, received July 12, 2019.
- J Final PUD Plan for Phases 1C, 1D, and IE, received July 12, 2019.
- K Public Works Staff Report, received August 28, 2019.
- L Medford Water Commission memo & associated map, received August 28, 2019.
- M Medford Fire Department Report, received August 28, 2019.
- N Medford Parks Department report, received August 28, 2019.
- O Rogue Valley Sewer Services (RVSS), received August 20, 2019.
- P Applicant's supplemental Findings and associated exhibits, received February 4, 2020.
- Q-1 Public Works revised staff report (Revised), received March 5, 2020.**
- R Public Works memo, received February 20, 2020.
- S Applicant's attorney memo, received February 25, 2020.**
- T City Attorney's Office memo, received February 25, 2020.**
Vicinity map

MEDFORD PLANNING COMMISSION

Mark McKechnie, Chair

PLANNING COMMISSION AGENDA:

**FEBRUARY 27, 2020
MARCH 12, 2020**

EXHIBIT A-1

Stewart Meadows Village Subdivision
LDS-19-070
Conditions of Approval
March 5, 2020

CODE REQUIRED CONDITIONS

Prior to the approval of the final plat, or as specifically required per each respective department/agency report, the applicant shall:

1. **Comply with all conditions stipulated by the Medford Public Works Department (Exhibit Q-1)**
2. Comply with all conditions stipulated by the Medford Water Commission (Exhibit L).
3. Comply with all conditions stipulated by the Medford Fire Department (Exhibit M).
4. Comply with all requirements of the Rogue Valley Sewer Services (Exhibit O).

CITY OF MEDFORD
EXHIBIT # A-1
FILE # LDS-19-070



PUBLIC WORKS DEPARTMENT STAFF REPORT

Stewart Meadows Village (Phases 1 – 6) 39- Lot Subdivision

Project: Consideration of tentative plat approval for Stewart Meadows Village – Phases 1-6, a proposed 39-lot subdivision on a 110-acre site.

Location: Bounded generally by Stewart Meadows to the north, Highway 99 to the east, Myers Lane to the west, and Garfield Avenue to the south; and an approximate 30-acre tract on the south side of Garfield. The site is zoned Community Commercial (C-C), General Industrial (I-G), Light Industrial (I-L), and SFR-10 (Single-Family residential, ten dwelling units per gross acre). (371W31A TL 2802, 2000, 2190, 2200, 2300, 4000, 3900; 371W31D TL 200, 1001, 2500, 1000, 2501, 2800, 900, 2900, 3000; 371W32C TL 5503, 5400).

Applicant: Applicant, KOGAP Enterprises, Inc.; Agent, Maize & Associates Inc.; Planner, Dustin Severs.

Applicability: The Medford Public Works Department’s conditions of Preliminary Plan Approval for Stewart Meadows Village Planned Unit Development (PUD) were adopted by Order of the Medford Planning Commission on November 29, 2007 (PUD-06-141) and received a minor revision on March 26, 2009 by the Planning Commission, to include two new tax lots into the development and reconfigured the internal public street system. A Final PUD Plan for the development and landscaping of the realigned Hansen Creek restoration work, running through the PUD was approved by the Planning Director in May 2012 (Phase 1A). In 2013 the Planning Commission approved a revision to allow for modifications to the public rights-of-ways within the project. In 2014, the Planning Director approved the Final PUD Plan for Phase 1 that included essentially all of the proposed development west of Hansen Creek, which also included the architectural and landscape guidelines for the project. On June 2nd, 2016 the Planning Commission approved a revision to the previously approved Preliminary PUD Plan for Stewart Meadows Village (PUD-16-037) to incorporate additional property into the PUD boundary. The Medford Site Plan and Architectural Commission approved plans (AC-16-044) for a 66,837 square foot Medical Office Building (AC-16-044) on 5.7 acres located in Stewart Meadows Village PUD on July 1st, 2016. Then on April 13th, 2017 the Planning Commission approved a revision to the approved Preliminary PUD Plan for Stewart Meadows Village Planned Unit Development, including the addition of property, located on a

resulting approximate 121-acres. **The adopted conditions by each of these actions shall remain in full force as originally adopted except as previously amended and/or added to below.** The following items shall be completed and accepted prior to the respective events under which they are listed:

- Approval of Final Plat:
Right-of-way, construction and/or assurance of the public improvements in accordance with Medford Land Development Code (MLDC), Section 10.666 & 10.667 (Items A, B & C)
- Issuance of first building permit for residential construction:
Construction of public improvements (Items A through E)
- Issuance of Certificates of Occupancy for individual units:
Sidewalks (Items A2)

A. STREETS

1. Dedications

Garfield Street is classified as a Major Arterial street, and in accordance with Medford Land Development Code (MLDC) Section 10.428, requires a total right-of-way width of 100-feet. **No additional right-of-way is required.**

Stewart Avenue is classified as a Major Arterial street, and in accordance with MLDC Section 10.428, requires a total right-of-way width of 100-feet. **No additional right-of-way is required.**

Anton Drive (*from Garfield Street south approx. 1,150 feet, within Phase 5-6*) is classified as a Commercial street, and in accordance with MLDC Section 10.429, it requires a total right-of-way width of 63-feet. **No additional right-of-way is required.**

Anton Drive (*from Garfield Street north to the connection with Myers Lane, within Phase 1-4*) is classified as a Commercial Street within the MLDC, Section 10.429. The Developer shall dedicate for public right-of-way, sufficient width of land along the frontage of this development to comply with the full width of right-of-way, which is 63-feet.

Myers Lane (*from Stewart Avenue south to Garfield Street, within Phase 1*) is classified as a Commercial Street within the MLDC, Section 10.429. **No additional right-of-way is required.**

Myers Lane (*from Anton Drive west to the project boundary, within Phase 5-6*) is classified as a Commercial Street within the MLDC, Section 10.429. The Developer shall dedicate for

public right-of-way, sufficient width of land along the frontage of this development to comply with the full width of right-of-way, which is 63-feet or shall dedicate a public access easement for a private street built to city standards or an interior access road in accordance with MLDC 10.426.

Commission Update: This condition has been removed by the Planning Commission for this application.

Bower Drive (*south from right-of-way dedication #2016-037519 to intersection with Anton Drive, within Phase 2*) is classified as a Commercial Street within the MLDC, Section 10.429. The Developer shall dedicate for public right-of-way, sufficient width of land along the frontage of this development to comply with the full width of right-of-way, which is 63-feet.

South Pacific Highway (Highway 99) is under the jurisdiction of the Oregon Department of Transportation (ODOT). The Developer shall contact ODOT to see if additional right-of-way is required.

Corner radii shall be provided at the right-of-way lines of all intersecting streets per MLDC 10.445.

Streets, as shown on the Tentative Plat, in which any portion terminates to a boundary line of the Development shall be dedicated to within one foot of the boundary line, and the remaining one foot shall be granted in fee simple, as a non-access reserve strip to the City of Medford. Upon approved dedication of the extension of said streets, the one-foot reserve strip shall automatically be dedicated to the public use as part of said street without any further action by the City of Medford (MLDC 10.439).

Public Utility Easements (PUE), 10-feet in width, shall be dedicated along the street frontage of all the Lots within this development (MLDC 10.471).

The right-of-way and easement dedications shall be submitted directly to the Engineering Division of the Public Works Department. The submittal shall include: the right-of-way and easement dedication, including an exhibit map; a copy of a current Lot Book Report, Preliminary Title Report, or Title Policy; a mathematical closure report (if applicable), and the Planning Department File Number; for review and City Engineer acceptance signature prior to recordation by the applicant. Releases of interest shall be obtained by holders of trust deeds or mortgages on the right-of-way and PUE area.

2. Public Improvements

a. Public Streets

Garfield Street – All street section improvements have been completed in close

City of Medford | 200 S. Ivy Street, Medford, OR 97501 | (541) 774-2100 | cityofmedford.org

conformance with current standards (P1213D), including pavement, curb and gutter, street lights, and sidewalks. Public improvements are required as noted below under Section A(2)(f), Transportation System and as identified on P1813D and P1857D. **The improvements for Phase 1, 2, 3 & 4 shall be completed or security provided prior to approval of the final plat or issuance of a vertical building permit, whichever comes first for any respective phase.**

Stewart Avenue – All street section improvements have been completed in close conformance with current standards (P985D & P1813D), including pavement, curb and gutter, street lights, and sidewalks. **No additional public improvements are required.**

Anton Drive (*from Garfield Street south approx. 1,150 feet, within Phase 5-6*)– All street section improvements have been completed in close conformance with current standards (P1251D), including pavement, curb and gutter, street lights, and sidewalks. **No additional public improvements are required.**

Anton Drive (*from Garfield Street north to the connection with Myers Lane, within Phase 1-4*) shall be constructed to Commercial street standards, in accordance with Medford Land Development Code (MLDC) 10.429. Street section improvements for Phase 1 (refer to Public Improvement Plans P1813D), including pavement, curb and gutter and sidewalk are near completion. Street section improvements for Phase 2, 3 & 4 (refer to Public Improvement Plans P1857D) are in the early stages of construction. **The improvements for Phase 1, 2, 3 & 4 shall be completed or security provided prior to approval of the final plat or issuance of a vertical building permit, whichever comes first for any respective phase.**

Myers Lane (*from Stewart Avenue south to Garfield Street, within Phase 1*) is classified as a Commercial Street within the MLDC, Section 10.429. Street section improvements near completion (refer to Public Improvement Plans P1813D), including pavement, curb and gutter and sidewalk. **The improvements for Phase 1 shall be completed or security provided prior to approval of the final plat or issuance of a vertical building permit, whichever comes first.**

Myers Lane (*from Anton Drive west to the project boundary, within Phase 5-6*) is classified as a Commercial Street within the MLDC, Section 10.429. The Developer shall improve this portion of Myers Lane to commercial street standards or may construct a private street built to city standards or an interior access road in accordance with MLDC 10.426. The Developer shall also contribute a proportional share towards the future construction of a bridge to span Hansen Creek. This contribution will be in the form of a deferred improvement agreement as outlined in MLDC 10.432. The improvements for Phase 5 & 6

shall be completed or security provided prior to approval of the final plat or issuance of a vertical building permit, whichever comes first for either respective phase.

Commission Update: This condition has been removed by the Planning Commission for this application.

Bower Drive is classified as a Commercial Street within the MLDC, Section 10.429. Street section improvements for Phase 1 (refer to Public Improvement Plans P1813D), including pavement, curb and gutter and sidewalk are near completion. Street section improvements for Phase 2 (refer to Public Improvement Plans P1857D) are in the early stages of construction. **The improvements for Phase 1 & 2 shall be completed or security provided prior to approval of the final plat or issuance of a vertical building permit, whichever comes first.**

Highway 99 is under the jurisdiction of the ODOT. The Developer shall contact ODOT to see if any additional improvements are required.

b. Street Lights and Signing

The Developer shall provide and install in compliance with Section 10.495 of the Medford Municipal Code (MMC).

Any modifications to the already approved Lighting Plan Set will require resubmittal of new plans for review and approval. The Applicant shall consult with ODOT for lighting requirements along Highway 99.

Based on the preliminary plan submitted, the following number of street lights and signage will be required for the improvements to Myers Lane from Anton Drive west to the project boundary, within Phase 5-6:

Street Lighting – Developer Provided & Installed:

- A. 2 – Type R-150 LED

Traffic Signs and Devices – City Installed, paid by the Developer:

- A. 1 – Street Name Signs

Numbers are subject to change if changes are made to the plans. All street lights shall be installed per City standards and be shown on the public improvement plans. Public Works will provide preliminary street light locations upon request. All street lights shall be operating and turned on at the time of the final “walk through” inspection by the Public Works Department.

The Developer shall pay for City installed signage required by the development. City installed signs include, but are not limited to, street name signs, stop signs, speed signs,

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school signs, dead end signs, and dead end barricades. Sign design and placement shall be per the Manual on Uniform Traffic Control Devices (MUTCD). All signs shall be shown on the public improvement plans and labeled as City installed.

The Developer shall be responsible for the preservation and re-installation of all signs removed during demolition and site preparation work. The Developer's contractor shall coordinate with the City of Medford Public Works, Maintenance and Operations Division to remove any existing signs and place new signs provided by Medford Public Works Department.

c. Pavement Moratoriums

There are pavement cutting moratoriums currently in effect along:

- Stewart Avenue, which is set to expire July 31st, 2023,
- Myers Lane, which is set to expire October 11th, 2020,
- Garfield Street, which is set to expire July 30th, 2020,
- Bower Drive, which is set to expire October 11th, 2020,
- Anton Drive, which is set to expire October 11th, 2020

The Applicant shall contact ODOT regarding any street cutting moratoriums along Highway 99.

The Developer shall be responsible for notifying by certified letter all utility companies, as well as all current property owners of parcels which are adjacent to any Public Street being constructed or paved as part of this project. The letter shall inform the utility companies and property owners of the City's street moratorium policy with respect to pavement cutting for future utility services. The utility companies and property owners shall be given the opportunity to install utility services within the right-of-way prior to paving and the subsequent moratorium. Notifications shall be mailed by the Developer at least 6 months before a street is resurfaced or rebuilt per Medford Municipal Code (MMC), Section 3.070. Copies of the certifications shall be submitted to the City Engineer with the submittal of the preliminary construction drawings.

d. Soils Report

The Developer's Engineer shall obtain a soils report to determine if there is shrink-swell potential in the underlying soils in this development. If they are present, they shall be accounted for in the roadway and sidewalk design within this Development. The soils report shall be completed by a licensed Geotechnical Engineer in the state of Oregon.

e. Access and Circulation

Driveway access and circulation to and through the proposed development shall comply with MLDC 10.550 and 10.426. In accordance with MLDC 10.426, the applicant shall extend the portion of Myers Lane that is south of Garfield Street to Anton Drive as a public street or shall dedicate a public access easement for a private street built to city standards or an interior access road in accordance with MLDC 10.426.

Commission Update: The condition to extend Myers Lane to Anton Drive has been removed by the Planning Commission for this application.

There shall be no additional driveway access directly onto Garfield Street or Stewart Avenue from this development.

f. Transportation System

The Developer shall be solely responsible for traffic signal loop detection and any other signal modifications required to make Anton Drive a four-way intersection.

Mitigation, consisting of the signalization, of the intersection of Myers Lane and Garfield Street will be required when trips from the site exceed 940 PM peak hour trips, if the connection of Anton Drive to the internal circulation roads is not made. If all the internal circulation roads are constructed and connected to Anton Drive at Garfield Street, no mitigation will be required.

The Traffic Section requests the following modifications be implemented and/or addressed:

- The existing driveway on the north side of Garfield Street, east of Anton Drive, which is not being used in the revised site plan, shall be removed and replaced with continuous curb, gutter, and sidewalk.
- The existing concrete median in Garfield Street shall be extended to the west so it ends at least 50-feet, preferably 100-feet, from the western curb line of the driveway approach shown on the south side of Garfield Street. The 100-foot criteria shall be used unless the queueing and blocking report in the final TIA shows that this would conflict with westbound left turn queues to Anton Drive.
- The driveways to the grocery store and residential parking lots along Meyers Lane have been offset in the revised site plan. These driveways should be directly opposite each other to increase vehicle and pedestrian safety.

g. Easements

All public sanitary sewer or storm drain mains shall be located in paved public streets or within easements. A 12-foot wide paved access shall be provided to any public manholes or other structures which are not constructed within the street section, in these locations the paved access shall be located within a 15-foot easement.

Easements shall be shown on the final plat and the public improvement plans for all sanitary sewer and storm drain mains or laterals which cross lots, including any common area, other than those being served by said lateral. The City requires that easement(s) do not run down the middle of two tax lot lines, but rather are fully contained within one tax lot.

3. Section 10.668 Analysis

To support a condition of development that an applicant dedicate land for public use or provide a public improvement, the Medford Code requires a nexus and rough proportionality analysis which is essentially a codification of the constitutional provisions in Nollan and Dolan cases.

10.668 Limitation of Exactions

Notwithstanding any other provisions of this Chapter 10, an applicant for a development permit shall not be required, as a condition of granting the application, to dedicate land for public use or provide public improvements unless:

(1) the record shows that there is an essential nexus between the exaction and a legitimate government purpose and that there is a rough proportionality between the burden of the exaction on the developer and the burden of the development on public facilities and services so that the exaction will not result in a taking of private property for public use, or

(2) a mechanism exists and funds are available to fairly compensate the applicant for the excess burden of the exaction to the extent that it would be a taking.

1. Nexus to a legitimate government purpose

The purposes for these dedications and improvements are found throughout the Medford Code, the Medford Transportation System Plan, and the Statewide Planning Rule, and supported by sound public policy. Those purposes and policies include, but are not limited to: development of a balanced transportation system addressing all modes of travel, including motor vehicles, transit, bicycles, emergency services and pedestrians. Further, these rights-of-way are used to provide essential services such as sanitary sewer, domestic water and storm drains to serve the developed parcels. It can be found that the listed right-of-way dedications and improvements have a nexus to these purposes and policies.

2. Rough proportionality between the dedications and improvements, and the impacts of development.

No mathematical formula is required to support the rough proportionality analysis. Furthermore, benefits to the development resulting from the dedication and improvements when determining “rough proportionality” have been considered, including but not limited to: increased property values, intensification of use, as well as connections to municipal services and the transportation network.

As set forth below, the dedication recommended herein can be found to be roughly proportional to the impacts reasonably anticipated to be imposed by this development.

In determining rough proportionality, the City compared the expected square footage of right-of-way dedications and street improvements to developed area in acres. This development is conditioned to dedicate approximately 480,375 of right-of-way and construct approximately 274,500sf of street improvements. This equates to 4,593 of right-of-way per acre and 2,624sf of street improvements per acre.

The study area used to determine proportionality contained 54 properties that are part of 3 different industrial developments and an additional 2 individual properties. The properties studied includes Bierson Industrial Park, Triangle Industrial Park, Crater Lake Business Center, Lewellyn Office/Warehouse Complex at 5594-5596 Table Rock Rd., which is adjacent the proposed development and Living Opportunities located at 857 Valley View Dr. All of these developments were either required to dedicate public right-of-way for lower order streets or construct public street improvements or both. The following table (5-1) summarizes the results of the study. In addition, this development was also divided between the portion north of Garfield Street and the portion south of Garfield Street.

Table 5-1

Development	Acres	Dedications Sf/Acre	Improvements Sf/Acre
Bierson Industrial Park	17.4	7,044	2,644
Triangle Industrial park	12.7	7,739	6,291
Crater Lake Business Center	15.72	9,162	5,248
Lewellyn Office/Warehouse Complex	4.5 (Lot)	4,801	NA
Living Opportunities	2.1 (Developed)	NA	3,274

Stewart Meadows Village (All)	105	4,593	2,624
Stewart Meadows Village (North)	77	5,011	2,864
Stewart Meadows Village (South)	28	3,453	1,973

Local street right-of-way dedication and construction requirements identified by the Public Works Department and required by the City are the minimum required to protect the public interest and are necessary for additional or densification of development in the City without detracting from the common good enjoyed by existing properties. Developments are required to provide all internal local streets and half-street improvements to abutting streets, including associated right-of-way dedications, to ensure that new development and density intensification provides the current level of urban services and adequate street circulation is maintained.

The additional dedication of either right-of-way, public access easement or a private street for Myers Lane within Phases 5 and 6 will provide the needed width for improvements including curb and gutter and at minimum a sidewalk on one side. Myers Lane exists as a public right-of-way that is stubbed up to the applicant's western property line. It is a very logical connection to make. The Myers Lane right-of-way aligns with the property line between two of the applicant's proposed lots, is wholly within the Urban Growth Boundary, and provides an east-west local street connection to the Stewart Meadows development south of Garfield Street. Garfield Street is an east-west Major Arterial roadway. Local street connections help preserve the capacity of the higher order street network and there is not another location for an east-west local street connection south of Garfield Street within the Urban Growth Boundary. There is also a significant amount of developable land within the Urban Growth Boundary, south and west of the Stewart Meadows Village PUD that is expected to use this local street connection to access the PUD in the future. These are the reasons for Public Works including the conditions in the staff report.

Commission Update: This condition has been removed by the Planning Commission for this application.

Dedication of the Public Utility Easements (PUE) will benefit development by providing public utility services, which are out of the roadway and more readily available to each lot or building being served.

The additional traffic of all modes of travel generated by this proposed development supports the dedication and improvements for all modes of travel and utilities. As indicated above, the area required to be dedicated for this development is necessary and

roughly proportional to that required in similar developments to provide a transportation system that meets the needs for urban level services.

B. SANITARY SEWERS

This site lies within the Rogue Valley Sewer Service (RVSS) area. Contact RVSS for sanitary sewer connections.

C. STORM DRAINAGE

1. Hydrology

The Design Engineer shall provide an investigative report of the off-site drainage on the subdivision perimeter, a distance not less than 100 feet in all directions. All off-site drainage affecting the subdivision shall be addressed on the subdivision drainage plan. A hydrology map depicting the amount of area the subdivision will be draining shall be submitted with hydrology and hydraulic calculations. The opening of each curb inlet shall be sized in accordance with ODOT design standards. These calculations and maps shall be submitted with the public improvement plans for approval by the Engineering Division.

2. Stormwater Detention and Water Quality Treatment

This development shall provide stormwater detention in accordance with MLDC, Section 10.486, and water quality treatment in accordance with the Rogue Valley Stormwater Quality Manual per MLDC, Section 10.481. For developments over five acres, Section 10.486 requires that the development set a minimum of 2% of the gross area as open space to be developed as open ponds for stormwater detention and treatment.

Each phase will be required to have its own stormwater detention and water quality treatment. If the Developer desires to do so, a Stormdrain Masterplan may be submitted in lieu of requiring each phase to have separate stormwater detention and water quality treatment. The Stormdrain Masterplan shall be submitted and reviewed with each phase's construction plans and shall be constructed with any phase to be served by the facility.

Upon completion of the project, the Developer's design engineer shall provide written verification to the Engineering Division that construction of the water quality and detention facilities were constructed per plan. This letter shall be received by the City of Medford Public Works Engineering Department prior to acceptance of the subdivision.

The City is responsible for operational maintenance of the public detention facility. Irrigation and maintenance of landscape components shall be the responsibility of the Developer or a Home Owners Association (HOA). The Developers engineer shall provide an operations and maintenance manual for the facility that addresses responsibility for landscape maintenance prior to subdivision acceptance. Regarding

water quality maintenance, the Rogue Valley Stormwater Quality Design Manual states: "Vegetation shall be irrigated and mulched as needed to maintain healthy plants with a density that prevents soil erosion."

3. Grading

A comprehensive grading plan showing the relationship between adjacent property and the proposed subdivision will be submitted with the public improvement plans for approval. Grading on this development shall not block drainage from an adjacent property or concentrate drainage onto an adjacent property without an easement. The Developer shall be responsible that the final grading of the development shall be in compliance with the approved grading plan.

4. Mains and Laterals

The Developer shall show all existing and proposed Storm Drain mains, channels, culverts, outfalls and easements on the Conceptual Grading and Drainage Plan and the final Construction Plans.

In the event the lot drainage should drain to the back of the lot, the Developer shall be responsible for constructing a private drain line, including a tee at the low point of each lot to provide a storm drain connection. All roof drains and foundation drains shall be connected directly to a storm drain system.

A storm drain lateral shall be constructed to each tax lot prior to approval of the Final Plat. Easements shall be shown on the Final Plat for storm drain laterals crossing lots other than the one being served by the lateral.

5. Erosion Control

Subdivisions of one acre and greater require a run-off and erosion control permit from DEQ. The approved permit must be submitted to the Engineering Division prior to public improvement plan approval. The erosion prevention and sediment control plan shall be included as part of the plan set. All disturbed areas shall have vegetation cover prior to final inspection/"walk-through" for this subdivision.

6. Easements

Developer shall provide the following easements:

- A Creek easement to be a minimum of 20-feet from centerline of the Creek.

D. SURVEY MONUMENTATION

All survey monumentation shall be in place, field-checked, and approved by the City Surveyor prior to approval of the final plat.

There are several existing easements on the subject properties that may need to be addressed during the creation of new public right-of-way.

E. GENERAL CONDITIONS

1. Design Requirements and Construction Drawings

All public improvements shall be constructed in accordance with the "Engineering Design Standards for Public Improvements", adopted by the Medford City Council. Copies of this document are available in the Public Works Engineering office.

2. Construction Plans

Construction drawings for any public improvements for this project shall be prepared by a professional engineer currently licensed in the State of Oregon, and submitted to the Engineering Division of Medford Public Works Department for approval. Construction drawings for public improvements shall be submitted only for the improvements to be constructed with each phase. Approval shall be obtained prior to beginning construction. Only a complete set of construction drawings (3 copies) shall be accepted for review, including plans and profiles for all streets, minimum access drives, sanitary sewers, storm drains, and street lights as required by the governing commission's Final Order, together with all pertinent details and calculations. A checklist for public improvement plan submittal can be found on the City of Medford, Public Works web site (<http://www.ci.medford.or.us/Page.asp?NavID=3103>). The Developer shall pay a deposit for plan review and construction inspection prior to final plan approval. Public Works will keep track of all costs associated with the project and, upon our acceptance of the completed project, will reconcile the accounting and either reimburse the Developer any excess deposit or bill the Developer for any additional amount not covered by the deposit. The Developer shall pay Public Works within 60 days of the billing date or will be automatically turned over for collections.

In order to properly maintain an updated infrastructure data base, the Surveyor of Record shall submit an as-built survey prior to the Final Inspection and, the Engineer of Record shall submit mylar "as-constructed" drawings to the Engineering Division within sixty (60) calendar days of the Final Inspection (walk through). Also, the engineer shall coordinate with the utility companies, and show all final utility locations on the "as built" drawings.

3. Phasing

The Tentative Plat shows that this subdivision will be developed in phases. Any public improvements needed to serve a particular phase shall be improved at the time each corresponding phase is being developed. Public improvements not necessarily included within the geometric boundaries of any given phase, but are needed to serve that phase shall be constructed at the same time. Construction drawings for public improvements shall be submitted only for the improvements to be constructed with each phase.

4. Draft of Final Plat

The Developer shall submit 2 copies of the preliminary draft of the final plat at the same time the public improvement plans (3 copies) are submitted. Neither lot number nor lot line changes shall be allowed on the plat after that time, unless approved by the City and all utility companies.

5. Permits

Building Permit applications for vertical construction shall not be accepted by the Building Department until the Final Plat has been recorded, and a "walk through" inspection has been conducted and approval of all public improvements as required by the Planning Commission has been obtained for this development.

Concrete or block walls built within a PUE, or within sanitary sewer or storm drain easements require review and approval from the Engineering Division of Public Works. Walls shall require a separate permit from the Building Department and may also require certification by a professional engineer.

6. System Development Charges (SDCs)

Buildings in this development are subject to SDC fees. These SDC fees shall be paid at the time individual building permits are taken out.

This development is also subject to storm drain system development charges, the Developer is eligible for storm drain system development charge credits for the installation of storm drain pipe which is 24-inches in diameter or larger and is not used for storm drain detention in accordance with Medford Municipal Code (MMC), Section 3.891. The storm drain system development charge shall be collected at the time of the approval of the final plat.

7. Construction and Inspection

Contractors proposing to do work on public streets (including street lights), sewers, or storm drains shall 'prequalify' with the Engineering Division prior to starting work. Contractors shall work off a set of public improvement drawings that have been approved by the City of Medford Engineering Division. Any work within the County right-of-way shall require a separately issued permit from the County.

For City of Medford facilities, the Public Works Maintenance Division requires that public sanitary sewer and storm drain mains be inspected by video camera prior to acceptance of these systems by the City.

Where applicable, the Developer shall bear all expenses resulting from the adjustment of manholes to finish grades as a result of changes in the finish street grade.

Prepared by: Jodi K Cope

Reviewed by: Doug Burroughs

SUMMARY CONDITIONS OF APPROVAL

Stewart Meadows Village (Phases 1 – 6) 39- Lot Subdivision

LDS-19-070

A. Streets

1. Street Dedications to the Public:

- Stewart Avenue, Garfield Street and Myers Lane (Ph.1-4) – No dedications are required for this development.
- Myers Lane (Ph.5-6) – Dedicate full width right-of-way (63'), Commission Update: This condition has been removed by the Planning Commission for this application.
- Anton Drive (south of Garfield Street) – No dedications are required for this development.
- Anton Drive (from Garfield Street north to the connection with Myers Lane) – Dedicate full width right-of-way (63') or a public access easement (20').
- Bower Drive (south from right-of-way dedication #2016-037519 to intersection with Anton Drive) – Dedicate full width right-of-way (63').
- Highway 99 – Contact Oregon Department of Transportation (ODOT).
- Dedicate 10-foot public utility easements (PUE).

2. Improvements:

Public Streets

- Stewart Avenue, Garfield Street and Myers Lane (Ph.1-4) improvements have been nearly completed.
- Construct Myers Lane (Ph.5-6) full width as noted above, Commission Update: This condition has been removed by the Planning Commission for this application.
- Myers Lane, Anton Drive and Bower Drive (Ph. 1) – Complete improvements.
- Anton Drive (south of Garfield Street) – No additional improvements required.
- Construct Anton Drive (from Garfield Street north to the connection with Myers Lane), full width.
- Construct Bower Drive (south from completed improvements P1813D to intersection with Anton Drive), full width.
- Highway 99 – Contact Oregon Department of Transportation (ODOT).

Lighting and Signing

- Developer supplies and installs all street lights at own expense.
- City installs traffic signs and devices at Developer's expense.
- Any modifications to the already approved Lighting Plan Set will require resubmittal of new plans for review and approval.
- The Applicant shall consult with ODOT for lighting requirements along Highway 99.

Access and Circulation

- In accordance with MLDC 10.426, the applicant shall extend the portion (Ph. 5-6) of Myers Lane that is south of Garfield Street to Anton Drive as a public street Commission Update: This condition has been removed by the Planning Commission for this application.
- There shall be no additional driveway access directly onto Garfield Street or Stewart Avenue from this development.

Transportation System

- Comply with Transportation System requirements outlined above.

Other

- Pavement moratorium currently in effect along this developments respective frontages to Stewart Avenue, Garfield Street Bower Drive, Myers Lane and Anton Drive.
- No pavement moratorium currently in effect along Anton Drive (south of Garfield Street).
- Provide pavement moratorium letters.
- Provide soils report.

B. Sanitary Sewer:

- Provide a private lateral to each lot.
- Provide easements as necessary.

C. Storm Drainage:

- Provide an investigative drainage report.
- Provide water quality and detention facilities.
- Provide Engineers verification of stormwater facility construction.
- Provide a comprehensive grading plan.
- Provide storm drain laterals to each tax lot.

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- Provide Erosion Control Permit from DEQ.
- Provide a creek easement.

D. Survey Monumentation

- Provide all survey monumentation.
- Address any issues with existing easement during the creation of new public right-of-way.

E. General Conditions

- Provide public improvement plans and drafts of the final plat.
 - = City Code Requirement
 - = Discretionary recommendations/comments

The above summary is for convenience only and does not supersede or negate the full report in any way. If there is any discrepancy between the above list and the full report, the full report shall govern. Refer to the full report for details on each item as well as miscellaneous requirements for the project, including requirements for public improvement plans (Construction Plans), design requirements, phasing, draft and final plat processes, permits, system development charges, pavement moratoriums and construction inspection.

Memo

TO: Medford Planning Commission
FROM: Mark Bartholomew, Attorney for Applicant Kogap Enterprises, Inc.
DATE: 1/17/2019
RE: Unconstitutional Exaction

Planning Commissioners:

Please review this legal memorandum in opposition to staff's proposed condition of approval. This is intended to supplement Maize & Associates' findings of fact ("Findings"). The Findings provide more detailed background regarding the scope of the application. This memorandum explains why the proposed condition requiring dedication and construction of an extension of Myers Lane to Anton Drive (the "Condition"), which is estimated to cost in excess of \$2,000,00.00, is unconstitutional.¹ It is also important to note that, as explained in the Findings, the proposed condition is inconsistent with the MLDC, so the Planning Commission should not even need to reach the constitutional question in approving the application. In the event the Planning Commission finds code support for the Condition, it is still unlawful and unconstitutional to impose, despite the code, as addressed herein.

I. Subject Application.

The application proposes a 39-lot subdivision within the previously-approved Stewart Meadows PUD. The application does not seek any construction entitlements, and prior to construction, Kogap will have to obtain SPAC approval in another land use application.

II. Proposed Condition.

**CITY OF MEDFORD
EXHIBIT # 5
FILE # LDS-19-070**

The public works staff report proposes a condition that the applicant dedicate and construct a 350-foot long and 63-foot wide street, extending Anton Drive to connect to Myers Lane. The proposed condition is new, and it was never suggested or discussed during the approval process for the PUD.

III. United States Constitution.

The Takings Clause of the Fifth Amendment of the United States Constitution provides: “[N]or shall private property be taken for public use, without just compensation.” One main purpose of the Takings Clause is “to bar government from forcing some people alone to bear public burdens which, in all fairness and justice, should be borne by the public as a whole.” *Armstrong v. United States*, 364 US 40, 49 (1960).

IV. Exaction.

An “exaction is the concession sought by the government, or the condition upon which granting the permit depends.” *Garneau v. City of Seattle*, 147 F3d 802, 809 (5th Cir 1998). The street dedication and construction Condition is an exaction. Exactions may be unlawful violations of the Takings Clause, and are subject to the analysis set forth in *Dolan v. City of Tigard*, 512 US 374 (1994) and its subsequent lineage.

Dolan set forth the test for analyzing whether an exaction is an unlawful violation of the Takings Clause. Under *Dolan*, the first step in the analysis is to determine whether an “essential nexus” exists between a “legitimate state interest” and the condition the government seeks to exact. *Id.* at 386. That is, “the exaction must substantially advance the same government interest that would furnish a valid ground for denial of the development permit.” *Brown v. City of Medford*, 251 Or App 42, 47 (2012).

The next step in the *Dolan* analysis is to determine whether the nature and extent of the exaction is roughly proportional to the impact of the proposed application. *Dolan*, 512 US at 385. “No precise mathematical calculation is required, but the city must make some sort of individualized determination that the required dedication is related both in nature and extent to the impact of the proposed development.” *Id.* at 391.

V. Dolan As Applied To This Application.

It is important to stress once again that in this application, the “development” proposed is merely land division, which does not include any construction approval. The subdivision application creates lines on a map and creates discrete, marketable lots, but has no other impact. It simply has no impact on city infrastructure.

The public works department recommends a condition of approval that requires Kogap to dedicate approximately 480,000 square feet of right of way and construct approximately 274,000 square feet of street improvements. [not sure if this is correct but it is taken from MacNair’s staff report]. The purported reason for the exaction, the essential nexus, appears to be the City’s interest in connectivity and providing infrastructure sufficient to meet traffic needs. We do not dispute that the City has a legitimate interest in ensuring adequate infrastructure, but that is only the first part of the required *Dolan* analysis.

The second part, rough proportionality, is where the City’s analysis fails, and its exaction is an uncompensated taking in violation of the United States Constitution. The exaction must be roughly proportional to the impact of the proposed development, i.e. the subdivision application. Because this application only seeks to create lot lines, and does not add buildings, trips, or other impacts to the street system, the impact is precisely zero. Therefore, any level of exaction is not roughly proportional to the impact of the application.

The Public Works Staff Report dated 2/19/2020 states that the exaction is “roughly proportional to the impacts reasonably anticipated to be imposed by this development.” *Packet* at 134. It also references “intensification of use” and “additional traffic . . . generated by this development.” *Packet* at 134, 136. It appears that the City is, at least in part, evaluating the application in light of development that *could occur* in the future, such as new buildings and trips that will impact the transportation infrastructure. Public Works is incorrect. It must evaluate the application before it, not speculate about what might happen in the future due to subsequent land use applications.

The Oregon Court of Appeals struck down a similar speculative and faulty analysis in *Schultz v. City of Grants Pass*, 131 Or App 220 (1994). In *Schultz*, the applicant sought approval for the partition of a 3.85 acre parcel. The City of Grants Pass conditioned approval on the dedication of approximately 20,000 square feet right of way.ⁱⁱ The Grants Pass findings evaluated the potential impacts of what could be constructed on the site, up to 17 additional homes, and imposed the dedication condition based on that potential. The city also argued that the city code mandated the condition, rendering it a legislative matter immune from constitutional review.

The Court of Appeals found that the application was limited to a land division which did not authorize any construction, and that any traffic impacts were speculative in nature and could not be used to justify the rough proportionality analysis. The Court further stated that even though the condition was code-mandated, the application of the code is still subject to *Dolan*. *Id.* at 227. As a result, the Court struck the dedication condition.

The present case is analogous to *Schultz*, because in both cases, the underlying applications are for land division with no vertical construction and no impact on transportation infrastructure. There is no impact, so no exaction can be roughly proportional.

The Public Works Staff Report also justifies the exaction by stating that applicant will enjoy increased property values. Again, that is a faulty analysis. Any exaction must be roughly proportional to the impact of the application. If an application were to have no impact on surrounding infrastructure, but increase the applicant's property values exponentially, could the City then extract millions of dollars in improvement as a sort of value-added tax? Of course not. The rough proportionality analysis would not allow it. Conversely, if a proposed development had a major impact on infrastructure but did not increase the property value, would Public Works then refrain from any exactions? No, as that would also run afoul of the *Dolan* rough proportionality standard.

The Public Works staff report continues its analysis by comparing exactions that have occurred recently in Table 5-1. The implication is that the required dedication and improvements are comparable in scale to other recent applications. Once again, this is a faulty analysis. The rough proportionality standard relates to the impact of the application before you, not in other applications, because they all have their own unique impacts. If Public Works' reasoning were to stand, it could engage in a serial practice of bloated exactions just because the last few applicants were not in position to challenge the practice. Table 5-1 represents a fundamental misapplication and misunderstanding of takings law.

Of all of the theories Public Works mentions in support of the rough proportionality analysis—increased property values, past exactions of other owners, and increased traffic—only increased traffic is a permissible consideration. However, there is no increased traffic as a result of this application, as it is merely a land division with no construction associated with it. Per *Schultz*, any finding of increased traffic due to this application is mere speculation on what might happen in the future and is incorrect.

Assuming for the sake of argument that the Public Works alleged “impacts” are real and all fair game for consideration and support an exaction, the attempted exaction should still fail. As stated previously, although no precise mathematical calculation is required in the rough proportionality analysis, a city still must make an individualized determination that the required dedication is related both in nature and extent to the impact of the proposed development. The burden of demonstrating rough proportionality is on the government. *Art Piculell Group v. Clackamas County*, 142 Or App 327, 331 (1996).

Public Works’ attempt at the individualized determination is insufficient to uphold the Condition. Public Works has failed to quantify the impact it expects from the application (which is understandable, because the impact is zero). In fact it does not even attempt to quantify the impact of the whole development in terms of numbers of trips (even though the impact of the “whole development” is not at play here, because this is an application only to create lot lines and nothing else). Even though no precise calculation is necessary, *Dolan* “requires *some* quantification.” *Id.* at 338 (emphasis in original).

Although we understand the desire to create connectivity and have developers pay for roads, the greater public need for such items is not a factor that can support an exaction. In evaluating the constitutionality of an exaction, “the determinative factor must be the relationship between the impacts of the development and the approval conditions and not the extent of the public’s need for road or other improvements that happen to exist at the time the particular development is approved.” *Id.* at 340.

We respectfully request that the application be approved, with the exception of the Condition.

ⁱ It should be noted that, subsequent to the drafting of this memorandum, the public works department offered two alternatives to the street construction—construction of an interior access road or dedication and construction of a private street. We do not have cost estimates of those, but plan to have those at the hearing. Either way, we are confident that those expenditures and dedications do not meet the rough proportionality standard either.

ⁱⁱ Unlike Medford’s public works department, the City of Grants Pass only required dedication, rather than dedication and construction in this case.



MEDFORD
CITY ATTORNEY'S OFFICE

MEMORANDUM

To: Medford Planning Commission
From: Madison Simmons, Senior Assistant City Attorney
Date: February 25, 2020
Subject: LDS-19-070 – Kogap/Stewart Meadows Tentative Plat Application

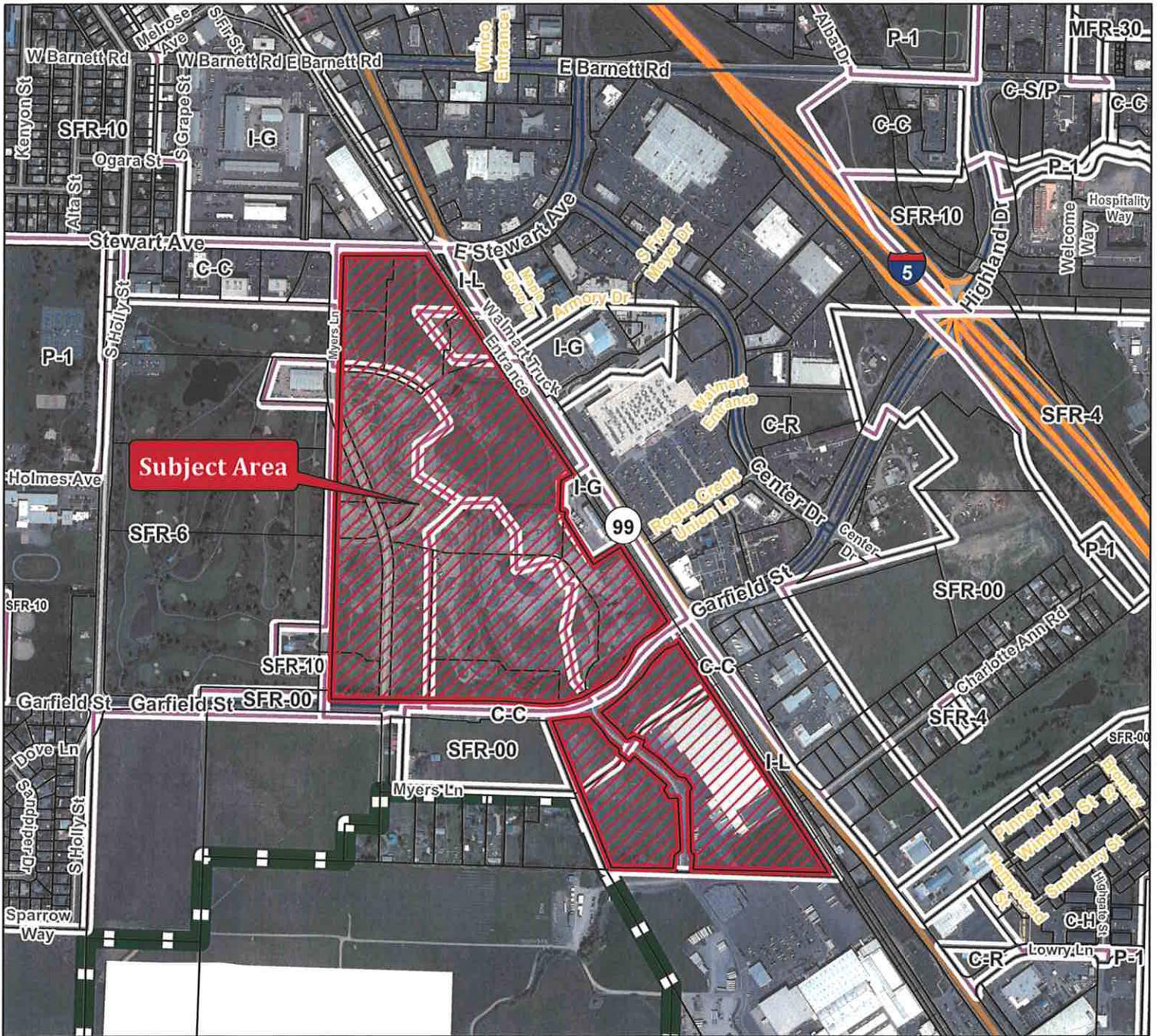
Planning Commissioners,

The City Attorney's Office has carefully reviewed the applicant's initial and supplemental memoranda. In their reports, the applicant primarily asserts that the condition of making a connection with Meyers Lane, as proposed by Public Works staff, constitutes an unlawful "taking" under the Constitution and specifically under a "Nollan/Dolan" analysis.

Although the Public Works staff report and supplemental memo is consistent with our Land Development Code and block length requirements, under the specific and unique facts of this particular application, it is the position of the City Attorney's Office that imposing any condition to connect the applicant's property to the Meyers Lane right-of-way may not survive a Nollan/Dolan challenge. Therefore, pursuant to MLDC 10.668, the City Attorney's Office recommends removing the conditions requiring connection to Meyers Lane, as outlined in the Public Works staff report.

This memo is not meant to adopt or endorse all arguments made in the memo submitted by applicant's attorney. Ultimately, the final decision of whether to impose any conditions recommended by Public Works is within the discretion of the Planning Commission. However, the City Attorney's Office does want to underscore that the imposition of the connectivity conditions required by Public Works would most likely not survive a legal challenge.

CITY OF MEDFORD
EXHIBIT # T
FILE # LDS-19-070

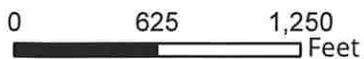


Project Name:

Stewart Meadows Village

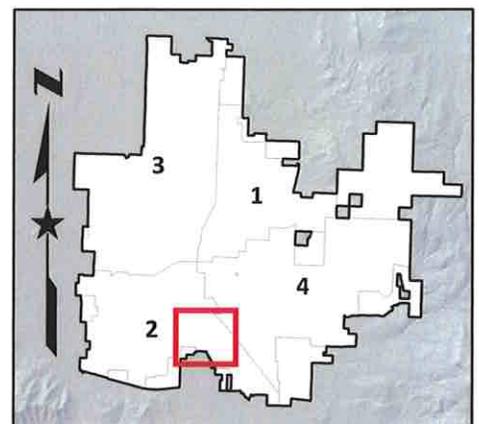
Map/Taxlot:

Various Properties



Legend

-  Subject Area
-  Tax Lots
-  Zoning Districts



PLANNING COMMISSION MINUTES



February 27, 2020

5:30 P.M.

Medford City Hall, Council Chambers
411 West 8th Street, Medford, Oregon

The regular meeting of the Planning Commission was called to order at 5:30 PM in the Medford City Hall, Council Chambers, 411 West 8th Street, Medford, Oregon on the above date with the following members and staff in attendance:

Commissioners Present

Mark McKechnie, Chair
Joe Foley, Vice Chair
David Culbertson
David Jordan
Bill Mansfield
David McFadden
Jeff Thomas

Staff Present

Kelly Evans, Assistant Planning Director
Madison Simmons, Senior Assistant City Attorney
Doug Burroughs, Development Services Manager
Karl MacNair, Transportation Manager
Dennis Hart, Design and Construction Manager
Craig Howe, Engineering Technician IV
Greg Kleinberg, Fire Marshal
Terri Richards, Recording Secretary
Dustin Severs, Planner III
Seth Adams, Planner III
Carla Angeli Paladino, Principal Planner

Commissioners Absent

Jared Pulver, Excused Absence
E.J. McManus, Excused Absence

10. Roll Call

20. Consent Calendar / Written Communications (voice vote).

20.1 LDS-19-076 Final Order of tentative plat approval for the Medford Center, a proposed commercial pad-lot subdivision in order to separate 11 buildings on their own legal tracts of land. The property is located on a single 24.42-acre parcel located east of Biddle Road between Stevens and E Jackson Street in the C-R (Regional Commercial) zoning district (371W19CD 1000); Applicant, LBG Medford, LLC; Agent, Neathamer Surveying, Inc.; Planner, Steffen Roennfeldt.

20.2 Written Communication: City of Medford Planning Commission Rules of Order.

Motion: The Planning Commission adopted the consent calendar as submitted.

Moved by: Vice Chair Foley

Seconded by: Commissioner McFadden

Voice Vote: Motion passed, 7-0-0.

30. Approval or Correction of the Minutes from February 13, 2020 hearing

30.1 The minutes for February 13, 2020, were approved as submitted.

40. Oral Requests and Communications from the Public. None.

Madison Simmons, Senior Assistant City Attorney read the Quasi-Judicial statement.

50. Public Hearings

Old Business

50.1 LDS-19-070 Consideration of tentative plat approval for Stewart Meadows Village – Phases 1-6, a proposed 39-lot subdivision on a 110-acre site bounded generally by Stewart Meadows to the north, Highway 99 to the east, Myers Lane to the west, and Garfield Avenue to the south; and an approximate 30-acre tract on the south side of Garfield. The site is zoned Community Commercial (C-C), General Industrial (I-G), Light Industrial (I-L), and SFR-10 (Single-Family residential, ten dwelling units per gross acre). (371W31A TL 2802, 2000, 2190, 2200, 2300, 4000, 3900; 371W31D TL 200, 1001, 2500, 1000, 2501, 2800, 900, 2900, 3000; 371W32C TL 5503, 5400); Applicant, KOGAP Enterprises, Inc.; Agent, Maize & Associates Inc.; Planner, Dustin Severs.

Chair McKechnie inquired whether any Commissioners have a conflict of interest or ex-parte communication they would like to disclose. None were disclosed.

Chair McKechnie inquired whether anyone in attendance wishes to question the Commission as to conflicts of interest or ex-parte contacts. None were disclosed.

Dustin Severs, Planner III reported that the Land Division approval criteria can be found in the Medford Land Development Code Section 10.202(E). The applicable criteria were addressed in the staff report, included in the property owner notices and hard copies are available at the entrance of Council Chambers for those in attendance. Mr. Severs gave a staff report. Two new memos were presented to staff earlier today that were forwarded to the Planning Commission. Exhibit S is a memo submitted by the applicant's attorney opposing Myers Lane street connection. The applicant's attorney disagrees with the findings submitted by Public Works specifically the Nollan/Dolan that they are insufficient and the required street connection constitute an unlawful "taking". Exhibit T is a memo submitted by the City Attorney's Office stating the Public Works staff report and supplemental memo is consistent with the Medford Land Development Code block length requirements. However, they state it would most likely not survive a legal challenge. The City Attorney's Office recommends removing the conditions requiring connection to Myers Lane, as outlined in the Public Works staff report. Mr. Severs noted that Public Works has not revised their

staff report. They are still asking for the connection. Planning staff has not altered its staff report. The Planning Commission has two options:

- Uphold the requirement of Public Works, requiring the applicant to dedicate for public right-of-way, sufficient width of land in order to make a future connection between Myers Lane and Anton Drive, as outlined in the staff report submitted by Public Works (Exhibit Q), and identified in Conditions #1 and #5 of Exhibit A.
- Remove conditions requiring connection to Myers Lane, as outlined in the Public Works staff report identified in Condition #1 and strike Condition #5 of Exhibit A. That is based on the recommendation of the City Attorney's Office.

Commissioner McFadden asked, could Myers Lane be looped in and around west of Hansen Creek? Mr. Severs deferred the question to Public Works. Mr. Severs pointed out that it is possible the City could require the street to be connected in the future at the time of Site Plan and Architectural Commission review.

The public hearing was opened.

a. Jim Maize, Maize & Associates, Inc., P. O. Box 628, Medford, Oregon, 97501-0042. Mr. Maize reported that present this evening is Mark Bartholomew from Hornecker Cowling attorney representing KOGAP. Also present this evening is Brent Hackwell representative from KOGAP Enterprises, Inc. They are present to answer any questions the Planning Commission may have. The applicant agrees with staff except for the street connection of Myers Lane. The Planning Commission approved the existing Stewart Meadows preliminary PUD plan in 2017. It includes the approximate 30 acres south of Garfield.

Commissioner McFadden asked, was the 30 acres added to the PUD at the 2017 meeting? Mr. Maize replied yes. It was part of the applicant's last revision.

Mr. Maize continued that the tables on the preliminary PUD plan are specific uses for the entire PUD. The street pattern was in existence before the 2017 revision. It has not changed. The section south of Garfield has been in existence since the 2017 revision. The applicant is not asking for anything that creates impacts. The applicant is subdividing the property that has already been through the review process and PUD approval into individual lots.

Commissioner Mansfield commented that the City Attorney agrees with Mr. Bartholomew and does not see why they need to spend time debating the issue. There is no debate to be made. He does not think they need to spend the time for Mr. Bartholomew to urge the Planning Commission on something they already agree with. Chair McKechnie agrees. If Mr. Bartholomew has something new to report the Planning Commission would be glad to hear.

b. Mark Bartholomew, Hornecker Cowling LLP, 14 N. Central Avenue, Suite 104, Medford, Oregon, 97501. Mr. Bartholomew stated that it is uncommon to have two attorneys on opposite sides generally agree with the ultimate conclusion that the condition should not remain. He trusts the Planning Commission would follow the advice of its City Attorney. Ms. Simmons agrees with the ultimate conclusion of not supporting the specific condition and unique circumstance. She is not fully endorsing Mr. Bartholomew's entire memo.

Mr. Maize requested rebuttal time.

Doug Burroughs, Public Works Development Services Manager reported the reason for leaving that condition in their staff report.

Commissioner Mansfield called point of order. Why does the Planning Commission have to hear the history? The Planning Commission has already decided that they agree with the attorneys on both sides. He thinks it is totally irrelevant. Chair McKechnie stated that Public Works expressed a condition and thinks the Planning Commission should allow a brief version of why they want the condition.

Mr. Burroughs continued reciting approval criteria #4. It is in the Planning Commission's authority to suggest it is appropriate to modify the street pattern of that criteria. However, one of the criteria is that the applicant meets the street patterns of existing streets and there is an existing street there.

Mr. Burroughs emphasized the application of Code Section 10.246 that deals with circulation of block length. Mr. Maize indicates it does not apply because they are not proposing a street there. Public Works disagrees with that rationale and is outlined in Public Works memo by Karl MacNair.

Mr. Burroughs pointed out that the Planning Commission has the authority to accept the body of water as an exception to connecting a street. Public Works sees this as an important street connection as the City grows and develops.

Mr. Burroughs stated that Code Section 10.246 block length circulation was a requirement of the PUD approval in 2017. They talked about the applicant needing to conform to that code section. That was a preliminary plan approval that will be followed by a final PUD plan approval that has not happened yet. Also, followed by a Land Development Subdivision being presented tonight. He expected that criterion to be addressed with this application and it was not.

Mr. Burroughs thinks the Planning Commission needs to consider the Nollan/Dolan issue. The applicant states it would cost \$2.5 million to do a public street and bridge similar to the ones they did on the north end. Public Works is not requiring them to build a bridge or street to that extent. On the PUD plan it actually shows a drive aisle going almost all the way to the creek. That is fine with Public Works but they want an easement over it so they can have access to that area. In

addition, Public Works is asking them to contribute half towards future construction of the bridge which Public Works estimates their portion to be approximately \$156,000.

Commissioner McFadden asked, is the City interpreting the driveway entrance at that location to become the start of a street? Mr. Burroughs responded it could be a public street and connect to Myers Lane up to the creek. It could be a private interior access road. That satisfies the conditions of Code Section 10.246. The applicant is already planning on paving back there and creating a drive aisle back to the creek. He does not see that as an additional cost on the applicant's part. The bridge is an additional cost. That is why Public Works changed their report to making a connection with a bridge to just contributing to a Deferred Improvement Agreement to construct the bridge at a future date. They will just pay their proportional share.

Commissioner McFadden asked, are there any roadways on the west side of the creek that prevents Myers Lane to circle around to Garfield? Mr. Burroughs replied there could potentially be a street connection there. Public Works would have to analyze the spacing. It would not provide a connection to this side of the development. This is a great development. It will probably draw a lot of people. The property between Garfield and Myers is in the City limits. It will be ripe for development as well. There are two restaurants proposed off Garfield and Anton that could benefit from a connection at that point. There are additional properties to the west and south in the UGB and urban reserves that could come in. There are not a lot of other east/west connections between those streets that could come in that puts a lot more traffic on Garfield which is what Public Works is trying to prevent and limit. That is the reason Public Works is really in favor of that connection.

Vice Chair Foley commented that Anton Drive does not go anywhere other than Garfield. Mr. Burroughs responded that Anton goes from Garfield terminating at the Harry and David property. Vice Chair Foley does not understand Mr. Burroughs' last statement of how this connection will take some increased traffic off of Garfield. Karl MacNair, Transportation Manager reported that traffic with this connection would relieve Garfield traffic from the southwest of Stewart Meadows going to the development specifically to that corner.

Chair McKechnie asked, isn't Myers Lane currently in the County? Mr. MacNair replied yes.

Commissioner Mansfield asked, is Public Works urging the Planning Commission to vote in favor of a "taking"? Is that right and if so how do they decide the cost? Mr. MacNair responded that Public Works sees this as a code requirement. Mr. Burroughs commented that Public Works does not see it as a "taking". Commissioner Mansfield asked, Public Works does not agree with counsel? Mr. Burroughs replied no they do not.

Ms. Simmons reported that the Planning Commission is the deciding body. Occasionally, internal departments within the City may disagree. The ultimate conclusion of mandating the conditions,

the City Attorney's Office fears even if it does not run afoul of the code it would run afoul of a legal analysis if it is pressure tested.

The public hearing was closed.

Motion: The Planning Commission adopts the findings as recommended by staff and directs staff to prepare a Final Order for approval of LDS-19-070 per the staff report dated February 20, 2020, including Exhibits A through T, approval for maximum timetable of five years for platting and remove conditions requiring connection to Myers Lane, as outlined in the Public Works staff report identified in Condition #1 and strike Condition #5 of Exhibit A.

Moved by: Vice Chair Foley

Seconded by: Commissioner Mansfield

Commissioner Thomas requested clarification on the motion. Vice Chair Foley repeated the last part of his motion. Commissioner Thomas asked counsel if that worked for the public record or should there be an amendment to the motion? Ms. Simmons replied that the original motion was clear that they are revising Condition #1 to remove Condition # 5 from the staff report.

Voice Vote: Motion passed, 7-0-0.

New Business

50.2 TF-19-001 The City proposes to improve Foothill Road between Delta Waters Rd. and McAndrews Rd. to regional arterial standards which include: four travel lanes, bike lanes, sidewalks, medians, and planter strips where feasible. Applicant, City of Medford Public Works; Planner, Seth Adams.

Chair McKechnie inquired whether any Commissioners have a conflict of interest or ex-parte communication they would like to disclose. None were disclosed.

Chair McKechnie inquired whether anyone in attendance wishes to question the Commission as to conflicts of interest or ex-parte contacts. None were disclosed.

Seth Adams, Planner III reported that the Transportation Facility approval criteria can be found in the Medford Land Development Code Section 10.226. The applicable criteria were addressed in the staff report, included in the property owner notices and hard copies are available at the entrance of Council Chambers for those in attendance. Mr. Adams gave a staff report. Mr. Adams reported that yesterday staff received additional citizen comments that were forwarded to the Planning Commission. These exhibits will be entered into the record. Exhibit K is an email from Ms. Victoria Brown. Ms. Brown is a member of the Jackson County Bicycle Advisory Committee. She supports the project and implementing the TSP. Exhibit L is a letter from Ms. Brenda Brannon. She is a property owner on the east side of Foothill Road across from Cedar Links Drive. She wanted to

inform the City that she wants full involvement of any and all changes proposed to her property. Exhibit M is a letter from Mr. Harlan Bittner. Mr. Bittner is the President of Siskiyou Velo. Staff will prepare a formal written response to Mr. Bittner that will be included in the record for the City Council agenda packet. One of his comments was that the Cross Section "F-F" identified in his letter north of Lone Pine Road has an on-street buffered bike lane. This section is actually south of Lone Pine Road where the project's intent is to match up the conditions exactly with the conditions that will be built from Hillcrest. That is why the bike lanes are on-street and buffered, not off road and behind planters like in the TSP. The letter also notes Cross Section "C-C" is a substandard 5 ½ foot wide bike lane with no separation from traffic on the northbound lane. The bike lane is actually off road with no buffer. Mr. Frank Kinney presented a letter at tonight's meeting that will be entered into the record as Exhibit N.

Commissioner Culbertson asked, does Medford Irrigation District (MID) own the piece of property by Eucalyptus that will be used for the bicycle and pedestrian path? What was their proposal? Were they going to have the City purchase the land and give an easement back or just grant an easement? Mr. Adams deferred the question to Mr. Hart. Dennis Hart, Public Works Design and Construction Manager stated that they met with MID and due to the ditch they will probably leave that property alone. They are discussing a location for the multi-use trail on the back of Pacific Power's property that looks favorable.

Vice Chair Foley asked, is it just asphalt in the 3 foot buffer in Cross Section "F-F"? Mr. Hart responded it is striped and open asphalt. There is no physical barrier.

Commissioner McFadden asked, is it an oversight that all the intersections are being designed for traffic signals except for Lone Pine? Mr. Hart stated the only proposed signal will be to modify Cedar Links at this time.

Commissioner Jordan asked, will pedestrians and bicyclists heading east up Lone Pine cross at just a crosswalk? It is a dangerous area for non-motorized traffic. Mr. Hart reported that the pedestrian cross movement west has not been decided. There is a median for right-in / right-out only at Lone Pine for vehicle traffic. It is dangerous in its current configuration. It is being widened and the radii opened. The driving movements will be flattened to see a greater distance. The vehicle turning movement onto that street would have to yield to pedestrians and will be seen.

Commissioner McFadden recommended installing yellow flashing lights for pedestrians like the one on south Riverside by the college. Mr. MacNair responded they can look at additional safety treatments there. This would not be the typical application for a rapid flashing beacon. He would research if it is an allowed use in that location.

Commissioner McFadden asked, when the road comes through the substation, is the elevation staying the same or being cut to see around the corner better? Mr. MacNair stated Public Works is softening that curve so the sight lines will be better.

Vice Chair Foley has concerns with the pedestrian and bicycle crossing at Lone Pine Road. Mr. MacNair reported there are similar behaviors at every intersection. Chair McKechnie commented this one specifically because traffic is going east on Lone Pine to turn south on Foothill. Other ones are up against the roadway where drivers will see. This one is perpendicular to the roadway and a pedestrian or bicyclist appears right where the intersection is. If Public Works pulled the crosswalk south and across Lone Pine, then vehicles will have slowed to go around the corner and will see pedestrians or bicyclists on the roadway.

Chair McKechnie stated it is right-in / right-out on both sides of Lone Pine. Right-in / right-out on Eucalyptus and full movement on the rest of the roads up to Delta Waters. Is that correct? Mr. MacNair replied yes. Chair McKechnie asked, if leaving the commercial area, how does one get out to go the opposite direction? Mr. MacNair stated that the shortest route to head north would be left to Thrasher Lane, come out McAndrews to Foothill where there is a signalized left turn.

Chair McKechnie asked, has Public Works looked at other ways to provide additional movements or is it because of the two substations? Mr. MacNair replied it is due to the substation and because of the requirements of the grant. In order to get this done in the specified timeline Public Works has to move quickly. In order to do that they have to keep the project in a categorical exclusion phase which prohibits them widening the road and dealing with the substation at this time. They can come back in the future and modify those intersections.

Mr. Hart reported that Cross Section "F-F" which has the buffered bike lanes provides more room and movement for a U-turn at the signal on McAndrews. Commissioner McFadden commented that a U-turn at a signal is illegal in the state of Oregon unless noted.

Chair McKechnie noticed that Public Works is proposing to plant trees at 50 foot on center. He assumes along the periphery. Mr. Adams replied yes they are 50 feet on center in the 5 foot planter strip on both sides of the road. Chair McKechnie agrees 50 feet makes sense. However, the standards are 30 feet. If the City is going to get away with something that the people in private practice cannot, he wanted it noted, that is an exception to City standards of 30 feet. Mr. Adams responded that the TF process is the exception and the purpose of a TF. Chair McKechnie wanted it noted that it is a deviation from the standard with justification. Commissioner McFadden has never heard a TF is an exception process. There are plenty of exceptions in it but that is not the reason for a TF application.

Commissioner McFadden asked, will the intersection at Normil Terrace and the new one going down the hill to the new subdivision be a right-in / right-out? Mr. Hart reported that Normil Terrace is full movement. Directly across it is a High Cedars access and to the south is a future right-in / right-out.

Commissioner Jordan asked, is there a proposed signal at Normil Terrace? Mr. Hart replied no. The only intersection current warranted for a signal is at Cedar Links, and it has a signal that Public Works needs to modify to widen the road at that location.

Commissioner McFadden asked, what about Delta Waters? Mr. Hart stated it does not currently meet the signal criteria. In the future when it does a signal would be installed.

The public hearing was opened.

Mr. Hart requested rebuttal time.

a. Jeanne Grazioli, 2450 N. Foothill Road, Medford, Oregon, 97504. Ms. Grazioli believes the project is excessive and should be less invasive on the residents that live on Foothill Road. Her concerns are noise and safety. Their driveways are on a steep slope. No one from Public Works has spoken to her about her driveway.

b. Brandon Hall, 2615 N. Foothill Road, Medford, Oregon, 97504. Mr. Hall had a misunderstanding of when letters should be submitted and submitted his letter at tonight's meeting. Mr. Hall objects to the section regarding Public Works proposal of an easement over his neighbor's property giving him a right-in / right-out only from his property. He has had contact with Public Works but given the timelines and process he has not been able to keep up and put something together until recently in opposition of the proposal. He noted that he would like to see language put in a Public Works staff report that states they are working together to come up with an alternative solution and all other options be vetted at this point.

Chair McKechnie asked, is it possible to construct a left turn only lane to address Mr. Hall's concern? Mr. MacNair stated Public Works can look at that. They have talked to Mr. Hall about the City owned lot at the corner of Cedar Links and Foothill, and coming out to Cedar Links so they can access the signal.

c. Mark Gustafson, 3111 Westminster Drive, Medford, Oregon, 97504. Mr. Gustafson is the chair of a committee that works with the Church of Jesus Christ of Latter Day Saints welfare farm that borders between Cedar Links and Delta Waters. He is concerned how far the project will go into their property and removing pear trees. Their main concern is the right-in / right-out traffic flow during harvest time.

d. Sharon Wunningham, 3332 Cloie Anne Court, Medford, Oregon, 97504. Her fence is along Foothill Road. Looking at the plans it looks like there is a potential retaining wall that she is in favor of. She is concerned with street light pollution and traffic noise.

Commissioner McFadden asked, are they between Normil Terrace and the substation? Ms. Wunningham stated she is between Normil Terrace and Cedar Links. Chair McKechnie stated that the plans show a retaining wall as required.

e. Clayton Johnson, 3495 View Point, Medford, Oregon, 97504. Mr. Johnson is concerned about a retaining wall.

f. Lowell Krieg, 2450 N. Foothill Road, Medford, Oregon, 97504. Mr. Krieg does not think it is necessary for the addition of bike lanes, planters, turning lanes, and sidewalks between McAndrews and Delta Waters because it is not a neighborhood. He is being asked to give up property that he paid for on a project that is not going to be used.

g. Jennifer Wickland, 2620 Foothill Road, Medford, Oregon, 97504. Ms. Wickland also feels the scope of this project is excessive. She does not understand why it has to be larger than the improvements on North Phoenix. The inability to make a left turn from Lone Pine to go west is a mistake, as well as being unable to leave this businesses heading north on Foothill. She has not been approached by Public Works about her driveway.

h. John Neilsen, 2750 N. Foothill Road, Medford, Oregon, 97504. Mr. Neilson manages the welfare farm for the Church of Jesus Christ of Latter Day Saints. They look forward to working with staff. They were not aware of the open house. He believes there are a number of options that could work.

Mr. Hart addressed Ms. Wickland not being able to make a left turn with the median. Public Works is proposing a U-turn at the intersection at Cedar Links heading southbound.

Commissioner McFadden asked, would Ms. Wickland have to submit an application to make the U-turn legal? Mr. Hart reported that a U-turn is illegal unless it is signed and Public Works would sign it.

Chair McKechnie stated that some people have not been contacted. Public Works stated earlier that the plans were preliminary and that anyone that has a driveway that will be affected by the project will have contact from Public Works. Is that correct? Mr. Hart replied yes. They noticed the same group of people for their open house as for the Planning Commission public hearing. Public Works will work with the people that have not been contacted.

Commissioner Culbertson asked, is the retaining wall against Cloie Anne a wall with a fence on top? Mr. Hart responded it is a fill wall on the Cloie Anne side. A noise study will be performed at peak

times modeled against future traffic volumes. If mitigation is warranted that will be the prescribed method. Commissioner Culbertson asked, will Public Works contact the neighbors that will be affected to get their input? Mr. Hart replied absolutely. A right of entry is needed for this project to analyze eight different metrics. One is a noise study at various locations. Microphones will be placed at a resident's front door and back yard. Notices have been sent out. Public Works is going door to door to get information to people and answer questions. The project was given to Public Works with \$15 million at the end of November. It is a 30 to 36 month normal delivery time but they get 16 to 18 months to do it. They are rushing through the federal process.

Commissioner Thomas stated that it has been mentioned several times that this project is excessive. To get the federal money do they have to deliver the product this way? Mr. Hart stated that the Transportation System Plan established this facility. That is what Public Works is complying with.

Commissioner Thomas asked, if the people in the audience have not been contacted could they contact Public Works to make sure their voices are heard? Mr. Hart replied absolutely. Public Works has made themselves available and will continue to do so until they have worked with every one of them.

Mr. Hart addressed full house takes stating that there are none. That would make the project fail in its entirety. Right-of-way will be acquired. A certified appraiser will appraise the land and then another certified appraiser will review before any offer is made.

Mr. Hart reported that the current section moves the lights inward. The road is 60 feet wide instead of 78 feet with buffered bike lanes. The lights can be shrouded to deflect the lighting to the right direction.

Mr. Hart stated that Public Works will fit the project within much of the subdivided land on the west side of Foothill. They will do their best not to buy right-of-way.

Mr. Hart reported that Public Works has been working with Mr. Brandon Hall and Mr. Kinney regarding their driveway. There is another property owner at Delta Waters with a similar situation. Mr. Hall and Mr. Kinney are trying to work out an option to take access from their property down to Cedar Links. Mr. Hall and Mr. Kinney's situation involves a third party, Mr. Horton, whom Public Works will work with.

The public hearing was closed

Motion: The Planning Commission, based on the findings and conclusions that all of the applicable criteria are satisfied, forwards a favorable recommendation for approval of TF-19-001 to the City Council per the staff report dated February 20, 2020, including Exhibits A through O and recommends moving the crosswalk west down Lone Pine Road.

Moved by: Vice Chair Foley

Seconded by: Commissioner McFadden

Chair McKechnie is encouraged that Public Works has agreed to meet with all the affected property owners and feels comfortable their needs will be addressed as is humanly possible.

Commissioner McFadden commented that City staff will continue to work on this project making improvements as they work it all out. This is a recommendation to the City Council. The audience will have another opportunity to voice their concerns at one of the Council's meetings.

Roll Call Vote: Motion passed, 7-0-0.

50.3 TF-20-015 The City proposes to construct a new segment of South Stage Road from North Phoenix Road to 1,000 feet west. The new segment is proposed to be constructed as a minor arterial with two travel lanes (one each way), separated bike lanes, sidewalks, median, planter strips, landscaping, and street lighting. Applicant, City of Medford Public Works; Planner, Seth Adams.

Chair McKechnie inquired whether any Commissioners have a conflict of interest or ex-parte communication they would like to disclose. None were disclosed.

Chair McKechnie inquired whether anyone in attendance wishes to question the Commission as to conflicts of interest or ex-parte contacts. None were disclosed.

Seth Adams, Planner III reported that the Transportation Facility approval criteria can be found in the Medford Land Development Code Section 10.226. The applicable criteria were addressed in the staff report, included in the property owner notices and hard copies are available at the entrance of Council Chambers for those in attendance. Mr. Adams gave a staff report.

Commissioner McFadden commented that at one time he heard recommendation that this road would not terminate where it is terminating on North Phoenix Road. It would terminate south at the intersection of Campbell Road to form a standard intersection rather than a T-intersection at the top of an elevated rise in North Phoenix Road. What is the reason it was down routed south to Campbell Road? Mr. MacNair responded that the TSP calls for South Stage Road in this alignment. Commissioner McFadden commented that the City appears to be building a road to nowhere. He questions the timing of doing it now when it does not do anything. Mr. MacNair reported it was included in the grant application because of the plan for a future employment campus in the area. The 1,000 feet does not go anywhere now, but the plan is for it to keep going west and eventually connect at South Stage Road which will be an important connection.

Commissioner Thomas commented that in order to get the money the City has to do it. It is a benefit to build the road.

Chair McKechnie asked, how far off the intersection of Campbell is it? Is it creating a problem at some point in the future?

Commissioner McFadden is wondering if this is the southwest corner of the new proposed urban growth boundary. South of Campbell is proposed to be a part of City of Phoenix. Is that field south of that line also proposed to be in the City of Phoenix?

Mr. MacNair stated that the distance between the two roads is approximately 600 feet. Minimum intersection spacing is 200 feet. The City would not signalize both intersections that close.

Chair McKechnie asked, would Public Works consider making Campbell right-in / right-out? Mr. MacNair responded it is undetermined at this time.

Mr. MacNair commented that the area south of Campbell is not within the City or its urban growth boundary, but the area south of the project is within the urban growth boundary. It is planned as commercial and industrial.

Chair McKechnie asked, if and when commercial development comes in, will they be required to share in the cost of the roadway? Mr. MacNair stated that this, 1000 feet will be built and they would not have to pay into that 1,000 feet. They will have to build their frontage improvements unless the City comes in with the full connection project to cross at some point in the future.

The public hearing was opened.

Mr. Burroughs reserved rebuttal time.

a. Mike Montero, 4497 Brownridge Terrace, Suite 101, Medford, Oregon, 97504. Mr. Montero stated that he is in support of this project. He represents the Harry and David Holdings owned by 1-800-Flowers, which is one of the parcels of land that Commissioner McFadden questioned, in addition to Mahar Dukes South Stage Property which is the abutting property owner. In regards to his client's participation on this project, they have letters in the record providing their commitment to donate without reimbursement, all of the right-of-way on their property. One of the discretionary sources of funding that the City will have for funding future sections of this regional corridor will be Systems Development fees. He characterizes this section of 1,000 feet as a critical installment. One of the elements in the build grant application was that it demonstrates that it would provide future freight facilities for users. Among those freight users is Harry & David. Harry & David looks at it as being an alternative freight route once it is completely constructed across Interstate 5 to allow them to have access out of their campus. Members of the City of Medford and City of Phoenix met with the US Department of Economic and Development Administration and the US Department of Agriculture today to look at future funding for portions of this project.

Mr. Hart reported there is no landscaping proposed of this segment. Water is 5000 feet away. Landscaping would come with future development.

Chair McKechnie asked, is water and sewer going under this segment or will we wait until later and rip it up to put it in? Mr. Hart responded storm drain only is proposed. Chair McKechnie asked, where are they going to treat water and sewer? Mr. Hart replied that is what is 5000 feet away and will be put in at the time of development in the future.

The public hearing was closed

Motion: The Planning Commission, based on the findings and conclusions that all of the applicable criteria are satisfied, forwards a favorable recommendation for approval of TF-20-015 to the City Council per the staff report dated February 20, 2020, including Exhibits A through J.

Moved by: Vice Chair Foley

Seconded by: Commissioner McFadden

Roll Call Vote: Motion passed, 7-0-0.

60. Reports

60.1 Site Plan and Architectural Commission.

Commissioner Culbertson reported that the Site Plan and Architectural Commission met on Friday, February 21, 2020. They discussed construction of two multi-family apartment buildings located at the corner of Stewart Avenue and S. Columbus for Columbia Care Services to house veterans. A testifier requested to continue the item to the next meeting.

60.2 Transportation Commission.

Kelly Evans, Assistant Planning Director reported that the Transportation Commission met on Wednesday, February 26, 2020. Staff was not present but they discussed two TF applications.

60.3 Planning Department

Ms. Evans reported there is a Planning Commission study session scheduled for Monday, March 9, 2020. Discussion will be on Flexible Design Standards and the yearly Citizen Involvement report.

There will be a short Planning Commission meeting on Thursday, March 12, 2020. There is business scheduled for Thursday, March 26, 2020 and Thursday, April 9, 2020.

City Council at their last meeting adopted Southeast Plan updates, Annexation code amendments, Residential Administrative Review.

At the next City Council meeting they will consider the vacation for McDonald's on Barnett.

City council is in a study session this evening regarding the Charter Review Committee priorities.

70. Messages and Papers from the Chair. None.

80. City Attorney Remarks.

80.1 Ms. Simmons reported her last meeting with the Planning Commission will be March 12, 2020. She will also be present for the study session on March 9, 2020. Thereafter, Katie Zerkel will be sitting on the Planning Commission meetings.

90. Propositions and Remarks from the Commission. None.

100. Adjournment

101. The meeting was adjourned at approximately 7:45 p.m. The proceedings of this meeting were digitally recorded and are filed in the City Recorder's office.

Submitted by:

Terri L. Richards
Recording Secretary

Mark McKechnie
Planning Commission Chair

Approved: March 12, 2020