

**WILSONVILLE CITY HALL  
DEVELOPMENT REVIEW BOARD PANEL A**

**MONDAY, JANUARY 12, 2015 - 6:30 P.M.**

***Please Note: The January 12, 2015 DRB Panel A meeting  
has been re-scheduled to Tuesday, January 13, 2015.***

**I. Call To Order:**

**II. Chairman's Remarks:**

**III. Roll Call:**

Mary Fierros Bower Kristin Akervall  
Lenka Keith James Frinell  
Ronald Heberlein Council Liaison Julie Fitzgerald

**IV. Citizen's Input:**

**V. City Council Liaison's Report:**

**VI. Election Of 2015 Chair And Vice-Chair**  
Chair Vice-Chair

**VII. Consent Agenda:**

**A. Approval of minutes of December 8, 2014 DRB Panel A meeting**

Documents: [Dec 8 2014 Minutes.pdf](#)

**VIII. Public Hearing:**

**A. Resolution No. 294.**

**Ridder House Offices Conditional Use Permit: KJD Properties - Owner.** The applicant is requesting approval of a conditional use permit for a home business. The subject property is located on at 10050 SW Wilsonville Road on Tax Lot 1100 of Section 23B, T3S, R1W, Clackamas County, Oregon. Staff: Blaise Edmonds

Case Files: DB14-0066 - Conditional Use Permit

***This item was continued to this date and time certain at the December 8, 2014 DRB Panel A meeting.***

Documents: [Ridder House CUP SR.Exhibits 1.12.2015.pdf](#)

**IX. Board Member Communications:**

**X. Staff Communications**

**XI. Adjournment**

Assistive Listening Devices (ALD) are available for persons with impaired hearing and can be scheduled for this meeting. The City will also endeavor to provide the following services, without cost, if requested at least 48 hours prior to the meeting.

- Qualified sign language interpreters for persons with speech or hearing impairments.
- Qualified bilingual interpreters.
- To obtain such services, please call the Planning Assistant at 503 682-4960

**DEVELOPMENT REVIEW BOARD MEETING**

**MONDAY, JANUARY 12, 2015**

**6:30 PM**

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**VII. Consent Agenda:**

- A. Approval of minutes from December 8, 2014 DRB  
Panel A meeting**

**Wilsonville City Hall  
29799 SW Town Center Loop East  
Wilsonville, Oregon**

**Development Review Board – Panel A  
Minutes–December 8, 2014 6:30 PM**

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**I. Call to Order**

Chair Mary Fierros Bower called the meeting to order at 6:30 p.m.

**II. Chair’s Remarks**

The Conduct of Hearing and Statement of Public Notice were read into the record.

**III. Roll Call**

Present for roll call were: Mary Fierros Bower, Lenka Keith, Simon Springall, Ken Ruud, Kristin Akervall and City Council Liaison Julie Fitzgerald.

Staff present: Blaise Edmonds, Barbara Jacobson, and Daniel Pauly

**VI. Citizens’ Input** This is an opportunity for visitors to address the Development Review Board on items not on the agenda. There were no comments.

**V. City Council Liaison Report**

Councilor Fitzgerald reported on the following City Council actions as follows:

- On December 1, 2014, Council:
  - Approved annexing a zone change in Villebois for two small parcels that had been left as islands in the section off the corner of Grahams Ferry Road and Tooze Road.
  - Heard a presentation by PGE regarding GreenPower Communities and a proposal by PGE to ask cities to encourage their residents to voluntarily sign up for buying GreenPower.
  - Approved the intergovernmental agreement (IGA) regarding the French Prairie Bicycle Pedestrian Bridge after Engineering Staff’s presentation and discussion.
- On December 2, Council held a Joint Council meeting with Tualatin City Council to discuss the Basalt Creek Planning Area. Many ideas were discussed and there was still much work to be done to strike a balance between strong interests from several Tualatin Councilors to have more residential and some industrial development of that area.

**VI. Consent Agenda:**

A. Approval of minutes of November 10, 2014 DRB Panel A meeting

**Simon Springall moved to approve the November 10, 2014 DRB Panel A meeting minutes as presented. Kristin Akervall seconded the motion, which passed 3 to 0 to 2 with Ken Ruud and Lenka Keith abstaining.**

**VII. Public Hearing:**

**A. Resolution No. 294. Ridder House Offices conditional use permit: KJD Properties - Owner.** The applicant is requesting approval of a conditional use permit for a home business. The subject property is located on at 10050 SW Wilsonville Road on Tax Lot 1100 of Section 23B, T3S, R1W, Clackamas County, Oregon. Staff: Blaise Edmonds

Case Files: DB14-0066 – conditional use permit

**Chair Fierros Bower** called the public hearing to order at 6:38 p.m. and read the conduct of hearing format into the record. All Board members declared for the record that they had visited the site. No board member, however, declared a conflict of interest, bias, or conclusion from a site visit. No board member participation was challenged by any member of the audience.

**Blaise Edmonds, Manager of Current Planning**, announced that the criteria applicable to the application were stated on page 2 of the Staff report, which was entered into the record. Copies of the report were made available to the side of the room.

**Mr. Edmonds** presented the Staff report via PowerPoint, briefly reviewing the site's history and noting the project's location and surrounding features, with these key comments:

- The Board did not usually review conditional use permits. KJD Properties had hoped to occupy the former Montessori school building through a home business use as defined under Code 4.001.122. The use did not qualify as a home occupation, where the owner resides in the house with a small business, so the application was for a home business, which is reviewed as a conditional use at a public hearing to ensure the proposal was consistent with the provisions of the Comprehensive Plan and requirements of the Zoning Code.
  - The .66-acre site was suitable for the proposed use considering its size, shape, design, location, topography, existence of improvements and natural features, and that all required public facilities exist. And, the proposal would not alter the character in a manner that would substantially limit or preclude the use of surrounding properties or the uses listed as permitted in the zone.
- Surrounding businesses and property owners included Bernert Towing, David Young, a nursery business, and Wilsonville Concrete.
  - The Applicant would like to have a small group of managers and estimators along with some administrative support under one roof as a home business or low impact office use in the old Montessori school building, which was more conveniently located closer to Wilsonville Rd.
- The old house belonged to the Ritter Family dating back to around 1906. Some additions had been added to the house over the years including improvements by the Montessori school to meet the Building Code to have a preschool-type use within the building.
  - The Applicant did not plan to tear down the house, which Staff considered a win. Planning Staff were concerned the house would be demolished and replaced with some other industrial use as the site was zoned Residential/Agricultural-Holding and designated industrial in the Comprehensive Plan
- The application was a good effort to save the house and bring in a compatible industrial use, which was a criterion under the conditional use permit; that the use be in character with the surrounding uses. Driving down Wilsonville Rd, no one would notice an office use was in the house. The Applicant had removed Montessori school side and was not proposing a new sign.
- A proposed condition of approval from the City Engineering Division asked that the main driveway off Wilsonville Rd be closed because it was too close given the distance separation of 600 ft to 1,000 ft, and this was an opportunity to close that driveway. The Applicant supported closing the driveway because they preferred having a proposed new driveway come south and to the east and connect to Industrial Way, the private street they own. The new driveway, used for both fire and business access, would go through a filbert orchard and no tree permit was required to construct the road because filbert trees were not regulated trees.
  - Another Engineering condition required a curb be constructed to make it look like the rest of the street with curb and gutter construction and not like a driveway.
- Building Code conditions required that the second floor could not be occupied as it could not support the floor loads of an office use, or even storage use. Therefore, the only part of the house the office workers could use was the main floor.
  - Improvements would be made to the bathroom to better suit the new use, as well as other minor tenant improvements.

- The Building Division also conditioned that the Applicant to get an occupancy permit before occupying the building.
- Because the project was being treated as a commercial/industrial use, the Code criteria for trash enclosures and screening applied. The Applicant would provide sufficient parking on the parking lot, but Staff's one concern regarded potential issues with Republic Services being able to access the trash enclosure. Slide 8 showed a parking space directly in front of the enclosure. Mitigating this potential problem was not really a City issue, but rather a matter for the Applicant and Republic Services.
- The Staff report listed many references regarding Special Area of Concern Area G and how to keep Wilsonville Concrete moving forward even with future expansion.
- Staff strongly recommended approval as this was a very low impact conditional use that was very compatible to the surrounding area.

**Simon Springall** corrected a minor typo in Condition PF3 to state, "Applicant shall ~~with~~ *either*". He asked if the requirement was to build a curb at the existing driveway or was the Applicant being given the choice of building a gate.

**Mr. Edmonds** clarified the condition provided a choice of a having gate or a standard curb and gutter driveway.

**Mr. Springall** recalled reading somewhere that the existing driveway was intended to be used for emergency access only.

**Steve Adams, Development Engineering Manager**, agreed that there was a choice. The Applicant originally expressed a desire to have emergency access there, so he worded the PF Conditions that the Applicant could have the far access gate so they could have access, but he did not want it open so that anyone could just turn in, and then realize they turned the wrong way. Essentially, it would be a non-usable driveway. He believed the Applicant would use the access gate option. He did not believe there was any reason to require that it be an emergency gate. He told the Applicant they could put in a full curb and build the sidewalk as a driveway access as fire trucks have no problem mounting the curb and driving over. Although it looks like a sidewalk, structurally, it would be built as a driveway. He understood the Applicant believed that was too much money and would likely use the gate option, but how the access was cut off was the Applicant's choice.

**Kristin Akervall** inquired whether the new driveway accessing Industrial Way would be paved considering emergency vehicles could use it as an access.

**Mr. Edmonds** replied the Applicant had not specified and deferred the question to the Applicant. If emergency vehicles access the site from Wilsonville Rd at the gate, they would not need to come from the south end of the site. The new driveway would be a private drive and the City did not regulate whether it needed to be paved. If the Applicant went with the emergency gate option for fire access, that would be the access for the emergency services.

**Ms. Akervall** added that the existing access seemed narrow and inquired about the parking shown along the old driveway on Slide 7.

**Mr. Edmonds** confirmed the Applicant was proposing parking along the old driveway. Condition PD3 required eight parking spaces, so the parking spaces in the old driveway were bonus parking. The Applicant could confirm that their personnel, such as management and estimators, were in and out throughout the day. The Applicant also had a wholesale nursery business. He suggested David Bernert, the Applicant, could give the Board a better picture of the actual operation of the office use.

**Lenka Keith** understood the old driveway would be used as an emergency entrance as well as parking.

**Mr. Edmonds** replied he was not the fire marshal, but certain distances would be required for hose lay fashion to the fire hydrant on Wilsonville Road. A fire would not be fought from Wilsonville Rd, he believed the fire department would have to get on the site, but the key was to access the fire hydrant and access around the building to fight a fire, similar to any other residence.

**Ms. Keith** inquired how emergency vehicles would get on the site if there was parking in the driveway. She also asked about any requirements to leave the access gate unlocked.

**Mr. Edmonds** replied that he did not have that information. He clarified that the fire district typically requires a Knox box, which enabled them to enter a locked gate.

**Chair Fierros Bower** asked what the time frame was for a conditional use permit.

**Mr. Edmonds** replied no time limits exist on conditional use permits. The Montessori school was there for 35 or 40 years under a conditional use permit. While other cities set a time limit, Wilsonville's Code did not. Conditional use permits were rare in the city.

- He clarified that Grace Chapel operated under a five-year temporary use permit. Conditional use permits protect the Applicant more than temporary use permits, which could be revoked if the terms of the permit were violated. It was more difficult to close a business under a conditional use permit, which would require an extreme violation.

**Mr. Springall** asked if a fire marshal's report was required.

**Mr. Edmonds** replied there was no fire marshal's report. He brought the application to the attention of the Building Division, which coordinates with the fire department, and noted Condition BD1 covered practically everything, including that the Applicant must demonstrate that they meet the fire code, building code, structural code, mechanical plumbing code, etc. He noted the Board could attach something to the condition that Applicant obtains a fire marshal report before they occupy.

**Mr. Springall** noted the questions asked about the driveway access from Wilsonville Rd and whether cars parking in the old driveway would be a problem.

**Mr. Edmonds** suggested that language about including a fire marshal's report could be added to Condition BD 1.

**Mr. Springall** agreed that language was acceptable. He was also uneasy about the Applicant having a choice to gate or completely block the driveway due to fire safety concerns. For example, if emergency access was from the new driveway from the south, perhaps the road would need to be improved more than proposed to accommodate emergency vehicles; whereas, if the access was from Wilsonville Rd, then the concern would be about access not being blocked. He was concerned about the choice in Condition PF3. He wanted to know which option the Applicant intended and suggested the Board could then phrase the condition language accordingly.

**Mr. Edmonds** suggested the Board could get more information from the Applicant, who had been very thorough with Staff regarding the operation of the building.

**Chair Fierros Bower** asked if the fire department would review the plans and make necessary comments on that phase of the project when the Applicant went in for the building permit.

**Mr. Edmonds** replied he had not sent a notice to the fire marshal since the Building Division typically coordinates with and submits plans to the fire department. In this instance, he believed the Montessori school had adequate fire access off of Wilsonville Rd, as typically, the fire department and Building Division were much more concerned about children and school safety and providing emergency services. In his mind, it met the test for fire and emergency access previously for the preschool for 40 years, so in changing to an office use, it did not occur to him to send a letter directly to the fire marshal. He relied on the Building Division to point out any major flaws they saw.

**Ms. Akervall** understood Mr. Edmonds' reasoning, but in her opinion, the difference was the access road change, which was not in place with the Montessori school. She was curious about what the Applicant planned and suggested further discussion following the Applicant's presentation.

**Chair Fierros Bower** called for the Applicant's presentation.

**Dave Bernert, Owner, Wilsonville Concrete, PO Box 37, Wilsonville, OR**, clarified that the driveway was not designated for parking in the application, and therefore it would be left open for access.

- He noted that Marine Industrials was a heavy construction company owned by the Applicant, and a complete Grading Plan for carrying a full load capacity on the new entry road was included in the application, so the Applicant was increasing access for fire and safety by having two egress and access routes.
- Although open for input, the Applicant's tentative plan was a gate because that was what the fire department was accustomed to in terms of rapid access. In addition to the gate, the Applicant would also provide a little lift so the fire department would have to jump the curb.
- No road currently existed today, only dirt. The Applicant had already designed the Grading Plan and load capacity for the new road to accommodate a full truck, so it would be a full function access route off Industrial Way.
- He thanked Mr. Edmonds and Mr. Adams for their assistance in putting together and reviewing the options the Applicant needed to meet for the conditional use permit.

**Mr. Springall** confirmed the Applicant was comfortable with the Board making the condition more specific to include, "The Applicant shall construct a fire utility access gate at the existing driveway onto Wilsonville Rd" since that was the Applicant's plan.

**Mr. Bernert** confirmed the gate seemed like the best option in terms of the Applicant still allowing rapid access from Wilsonville Rd, but also having access from the additional driveway, which would be built to load capacity for trucks.

**Ms. Akervall** noted that in several places, the application listed there would be six to eight administrative management staff working in the facility. Page 8 of the application included a mockup of the different rooms and it looked like there were six desk spaces plus an additional six cubicles, which was twelve work spaces. She noted previous statements that people would be coming and going throughout the day. She asked how many people were expected to be in the building due to the parking issues that might be created as people might want to park in the old driveway.

**Mr. Bernert** replied there was probably enough parking for 14 considering the full driveway back. In heavy construction, personnel were flexed because the company was currently working in two to three states. Flex personnel included project managers who were on jobs and might not return to this site for years. Currently, six to eight personnel were expected, but primarily there would be only four active managers, two estimators, a general manager, and a controller. There was extra capacity in the building, but the Applicant would probably not use it. He reiterated his appreciation for the City's support.



**Chair Fierros Bower** called for public testimony in favor or, opposed, and neutral to the application.

**Sheri Young, Silver Leaf Farms**, which was part of the Young partnership, stated that while Silver Leaf Farms would not have personnel in the proposed offices, they were part of the ownership on the property between the subject offices and Industrial Way. They supported the use for the building, so far as it met the requirements, but did have a concern about the driveway being closed. That driveway has served both the Montessori school and the property to the east, which was currently not built but had been built before and had requests from purchasers. She expected the property to be sold for an office or other use.

- She noted that in closing the driveway, the Young partnership was not informed that this driveway would be closed until reading the application.
- She believed it was kind of negligent that the City would close a driveway being used by two parties as a result of the neighbor changing the use on their property. In this case, they were concerned that the triangle between the two properties, amounting to close to an acre, which matters if one plans to sell property, whether the replacement access road would be designated, not just private with serving the development in question, but also the Young property.
  - She noted the family had recently settled with the City regarding a City acquisition where the family previously had an access across a private property that then developed, and the City made that part of the development and then later closed that access. When the back parcel was evaluated, it had less evaluation capacity because of the loss of access. Real estate is location, location, and access.
  - If the subject driveway was closed and then someone decided that Industrial Way could not be used, she noted for 30 years the City has also talked about closing that part of Industrial Way and having another alternative out, subsequently the Youngs would lose value on that piece of property.
- The Young ownership wanted a condition of approval to clarify that the access driveway to the south would serve both properties and provide some assurance that the remainder of the property would be developable in the future.
  - Referencing Slide 4 of Staff's PowerPoint, she noted the two tax lots that did not extend to the proposed access road as indicated by the red line running from the bottom of the office property east to Industrial Way. The Youngs concerned that the subject project would lose the rights of the narrow parcel to develop in the future.
  - She also noted concerns about the parking plan, which showed cars backing out from parking spaces into the narrow area that would be a shared area by adjacent properties. If that narrow parcel, which was partly owned by both the Youngs and Bernerts, was developed, there would be no room for cars to back out, so there could be a problem with both of them using the same road.
- She expected to work further with Mr. Bernert on the exact location of the proposed access road because the access of the property to the east had not been considered; it was losing access and needed a clear access to the south to allow for development of both properties to the south being that they were different ownerships. She clarified there was no plan to divorce the Bernerts, but one never knew what was coming in terms of ownership and the ownership between the two properties was not the same.
- She clarified the location of the two tax lots, the narrow tax lot adjacent to the subject property and the triangular-shaped tax lot to the east bordering Industrial Way.
  - She reiterated her concern that if the City either acquired Industrial Way or cut it off, one could have a hard time access Industrial Way. She noted former City Engineer Mike Stone had wanted a 300-ft backup space, but she was unsure about the depth.
- She reiterated that this plan did not address the issue of adjacent properties and that technically, they were different ownerships, so in planning for one, closing a driveway to one property, and looking at a replacement driveway, the potential development of the adjacent property should have been addressed and whatever was decided about the replacement access road should be recorded.

**Mr. Ruud** asked if a current easement agreement existed between the parties.

**Ms. Young** believed the existing roadway was across both properties. She had only seen the application last week and had not yet run a title report. She indicated where the Montessori school had a second house, the location of the existing driveway, as well as the other way to come out onto Industrial Way. Other than that, she believed it was a great plan.

**Ms. Keith** asked about the ownership of the tax lots to the south.

**Mr. Bernert** explained that the ownership of the tax lots noted by Ms. Young, as well as the two tax lots to the south of the two lots were in 50 percent ownership with the Youngs with an easement to the south and the City of Wilsonville owned the small four-tenths of an acre at the corner of Industrial Way and the proposed driveway. The Bernerts owned the properties to the east and south at 100 percent, as well as the road, Industrial Way. He assured that the Bernert and Young families had a very good working relationship.

**Ms. Young** suggested that the tax lots and percentage of ownership for be identified in the application to clarify what was impacted.

**Barbara Jacobson, Assistant City Attorney**, asked if Ms. Young was requesting assurances from the Applicant that the Youngs would be able to use Industrial Way, the Applicant's road.

**Ms. Young** stated that assumed the parcel already had the right to use Industrial Way. She agreed the Young ownership needed to know they had access one way or the other to retain full development potential.

**Ms. Jacobson** explained that the City did not control who gives access to who between neighbors unless there was an easement. If there was an easement of record, then that would be retained. She suggested that the Applicant discuss how that would be handled.

**Ms. Young** noted the City was closing the existing driveway.

**Chair Fierros Bower** called for the Applicant's rebuttal.

**Mr. Bernert** clarified it was not really rebuttal. He noted the Applicant owned 50 percent of the two parcels as well, so if put up for sale, they would obviously be interested in making sure the easement would enable the sale of the property and the Bernerts were more than willing to work on all of their multiple easements of the 27 parcels they owned in Section G.

**Mr. Ruud** asked if the current driveway proposed for closure was strictly on one parcel or was it shared between a couple parcels.

**Mr. Bernert** believed the access was on the parcel that the Applicant just purchased.

**Ms. Keith** said it seemed that the Board needed to know if there was an easement.

**Chair Fierros Bower** asked if the Applicant knew whether an easement existed on the property where the offices were being proposed.

**Mr. Bernert** replied he did not know.

**Ken Ruud** asked if Staff was certain—

**Mr. Edmonds** stated the information was all new to him as he was using the Applicant's record that the driveway was on the Applicant's property. He had no information that the driveway was shared with the adjacent property, so the Board would have to work through the Applicant and Ms. Young to get the information about who controls the accesses. The Montessori school used the access for all those years and it was never closed off by the adjacent property owner. The information seemed convoluted, but was something the Bernerts and Young family could explain. Mr. Bernert stated that there were several ownerships and access involving the 80 acres, but that information was not disclosed to Staff.

**Mr. Springall** understood the Applicant had full ownership of the pink shaded area shown in the application. He asked if the Applicant was now saying that they had partial ownership of some of those lots.

**Mr. Bernert** replied there were various ownerships of the 27 parcels and 101 acres. The back 31 acres was owned outright by the Bernerts, as well as the front 27 acres. He referenced some small parcels to the south that had joint ownership, adding that the back portion was typically 50/50 partnerships.

**Ms. Jacobson** suggested it might be a moot point because there were certain requirements for development and access, so whether or not the driveway was closed might not matter. She proposed that the City Engineer testify as this was his condition and area of expertise.

**Mr. Adams** did not believe anyone had knowledge that the undeveloped parcels owned by Ms. Young were being accessed by the existing driveway. As far as her concern about continuing access to it, if those parcels were to develop, Engineering would not want access onto Wilsonville Road as it would be a more intense use of the access, which was nonconforming. The access did not meet the safety standards to have a left turn and a driveway located so close together on Wilsonville Road.

- With regard to continuing access to the undeveloped parcels, the fire access gates could have dual locks, one for the fire department that opened the whole gate, and a private lock to open the gate to get to the front property. The gate would not forbid the use of an owner to get in; they just had to stop and unlock the lock to open the gate to drive in.
- He did not believe vehicles would access that driveway very often, but if someone wanted to have access by that driveway they could with a shared lock on the gate, so the City would not be closing the access the Youngs claim to have and use right now.
- He was uncertain how the access to Industrial Way was regulated, but knew the City had some access rights to access the City's water treatment plant. He was unsure whether Dave Bernert or his company would forbid access to Ms. Young's property from Industrial Way, but suggested Mr. Bernert could provide that answer.

**Mr. Springall** understood access would be required to develop the property and presumed that access would need to come off Industrial Way.

**Mr. Adams** replied he would need to talk with Ms. Jacobson to confirm what rights the City had. He knew the City could not make a property undevelopable by cutting off access, but was unsure what could or could not be done in this case. The City would not want an intensified use on Wilsonville Road from that driveway because it had nonconforming spacing. If Ms. Young had a development application, Engineering would look through the ramifications and the legal rights for both parties before making a decision about the two undeveloped parcels.

**Mr. Ruud** understood that with Industrial Way being a private drive, the City could not require access off of Industrial Way for the currently undeveloped property.

**Mr. Adams** replied Industrial Way was private, but the City had an easement and actually owned part of the street due to agreements made years ago when the water treatment was being built. The City owned parcels that cut across the road. He believed easements were also granted to OrePac to use Industrial Way. Although private, OrePac got its access from there, too. It was not a sole use driveway.

**Mr. Springall** inquired whether the new information made it appropriate to hold the proposal over to the next meeting in order to clarify these questions.

**Ms. Jacobson** replied certainly, the Board could defer making a decision in order to give the Applicant a chance to speak with Ms. Young. It appeared that the driveway was solely on the Applicant's property, but if an easement was in place, express or implied, then that ought to be worked through. Staff could also look at what the City's rights were regarding the access on Industrial Way. She believed the City had an easement, but it was still the Applicant's property, so even though the Applicant had given the City an easement, whether or not the Applicant had given or was willing to give anyone else an easement was the Applicant's right. Even without Staff's recommendation, if the Applicant wanted to close that driveway off and no easement existed for the adjoining property owner that was the Applicant's right. The parties had a good working relationship, so perhaps they could figure that out before the next meeting.

**Mr. Edmonds** noted that this was Mr. Ruud's last meeting and any other reappointments were uncertain, so at least three Board members would need to be at the next meeting to have a quorum.

**Ms. Jacobson** suggested the Applicant provide any thoughts about what he knew or wanted to do.

**Ms. Keith** asked if the Board could require that an easement be in place prior to development.

**Ms. Jacobson** replied not if there was not an easement there now.

**Chair Fierros Bower** called for the Applicant's rebuttal.

**Mr. Bernert** reiterated the Applicant owned 50 percent of the parcels that they would be granting an easement on. They would be granting an easement to themselves so it was a moot point. If there was a opportunity and desire to move some of those parcels, it would be in the Applicant's best interest to substantiate an easement off of their own private road, as well as the proposed access route to the building. Logically, it seemed straightforward as the Applicant would be the beneficiary if there was a desire with the Youngs to sell either of those properties.

**Mr. Ruud** agreed that made sense, but the Board had to make sure it lived beyond the Applicant. For instance, if Applicant sold their 50 percent interest in the property, could whatever was agreed to at this meeting live beyond that.

**Ms. Keith** added good relationships could go bad, and there would be no guarantee that the 50 percent owner would be able to sell their percent ownership without legal access.

**Mr. Bernert** clarified the partnership was more than 50 years old, so there were lots of opportunities for it to go bad, and the parties had sustained this partnership before the city was a city.

**Chair Fierros Bower** understood the Board wanted to request additional information and have the Applicant return with that information.

**Mr. Springall** confirmed there could be a motion along those lines as one way to resolve the issue. Another way would be to approve the application as presented. He questioned whether the hearing should be closed or remain open.

**Ms. Jacobson** suggested the Board keep the hearing open to keep the dialogue going with the Applicant and Ms. Young. The issue was whether there was some existing right being deprived of the Young property owner to use the driveway that the Applicant and the City wanted to have closed. It did not sound like there was an easement, but no testimony had been heard specifically to that effect. She suggested having the Applicant clarify that, and perhaps the property owners could come to an agreement whereby it was not the City's issue to worry about and the application could be approved.

**Chair Fierros Bower** called for the Applicant and Ms. Young to come forward.

**Mr. Ruud** asked if there was an existing access easement between the parties.

**Ms. Young** suggested obtaining a title report. She noted that in looking at map there was too much green to where the existing road was located. The left hand turn from Wilsonville Road indicated that the road comes across both property lines. She knew tax maps were not very accurate and suggested determining where the road went, because if it was shared, then closing it would require a replacement access and getting that on the record in case the friendly partners die and the heirs and assigns get into problems.

- She was uncomfortable with the City closing an existing driveway where it was not clear that both properties had been notified, and that the remainder of access for a property was dependent upon Industrial Way, which everyone assumed was usable, but that was actually unknown. Unfortunately, she had seen things go bad when she was told, "Oh, it will be fine." She stated if the Board was fine with that, the Youngs and Bernerts could work that out amongst themselves.

**Mr. Bernert** said he was not sure what there was to work out. He did not bring the title to definitively answer the question about whether an easement existed.

**Ms. Jacobson** believed the title needed to be examined to determine if the closed driveway encroached on both properties, which would be an issue. If the driveway was solely on the Applicant's property, then the Applicant could do what they wanted with their property. In the meantime, perhaps the Youngs and Bernerts could figure out a solution before the next Board meeting.

**Mr. Ruud** asked about the lead time on the application.

**Mr. Edmonds** replied there was plenty of time, noting the 120-day rule, including appeals, was by March 9, 2015. He was concerned about having a quorum for a continuance due to term limits and people moving, but added that perhaps a member from Panel B could sit in.

**Mr. Springall** agreed to attend one more meeting even if he was appointed to the Planning Commission.

The remaining Board members confirmed their availability for next month's hearing.

**Mr. Edmonds** suggested a continuance, adding he believed more evidence was needed.

**Mr. Ruud** stated he could attend the January 12<sup>th</sup> meeting, if necessary.

**Chair Fierros Bower** confirmed there was no further public testimony and closed the public hearing at 7:43 pm.

**Lenka Keith moved to continue the public hearing for Resolution No. 294 to January 12, 2015 to clarify the location of the current access driveway and for Staff to obtain additional information from the fire marshal. Ken Ruud seconded the motion, which passed unanimously.**

**Chair Fierros Bower** called for a brief recess at 7:44 pm and reconvened the meeting at 7:48 pm.

**B. Resolution No. 295. Chateau Villebois: Stacy Connery, AICP, Pacific Community Design – Representative for J. Patrick Lucas, Chateau Villebois LLC – Applicant.**

The applicant in requesting approval of SAP Central Refinements, PDP 2 Central Modifications, Variances for front setbacks and building height for Chateau Villebois, a Final Development Plan for Chateau Villebois and Tract 'R' Pocket Park and a Final Development Plan for Lot 74 Carriage Homes. The site is located on Tax Lots 1900, 2200 and 2500 of Section 15AC, T3S, R1W, Clackamas County, Oregon. Staff: Daniel Pauly

Case Files: DB14-0057 – SAP Central Refinements  
DB14-0058 – PDP 2 Central Modification  
DB14-0059 – Variance: Front Setback for Chateau Villebois  
DB14-0060 – Variance: Building Height for Chateau Villebois  
DB14-0061 – Final Development Plan for Chateau Villebois and Tract 'R' Pocket Park  
DB14-0062 – Final Development Plan for Lot 74 Carriage Homes

**Chair Fierros Bower** called the public hearing to order at 7:48 p.m. and read the conduct of hearing format into the record. All Board members declared for the record that they had visited the site. No board member, however, declared a conflict of interest, bias, or conclusion from a site visit. No board member participation was challenged by any member of the audience.

**Daniel Pauly, Associate Planner**, announced that the criteria applicable to the application were stated on page 2 of the Staff report, which was entered into the record. Copies of the report were made available to the side of the room.

**Mr. Pauly** presented the Staff report via PowerPoint, noting the projects' locations and surrounding features, and describing the proposed applications with these key comments:

- The proposal involved two projects, one for a 49-unit apartment building, and three carriage home units, similar to the units reviewed by this Board a couple months ago.
- He noted that in previous applications, the Final Development Plan (FDP) dealt primarily with parks and open spaces; but in this case, since the property was in the Village Center, the FDP actually dealt with all the architecture details as well.
- SAP-Central Refinements. (DB14-0057)
  - Density. Reducing the number of condos and increasing the number of urban apartments was proposed for a total increase of 10 units, which was about a 1 percent change; well within the 10 percent allowed in the Development Code through the refinement process.
  - Rainwater Features. The previous approval included onsite rain gardens to treat about 3600 sq ft, but with the development taking up essentially the whole lot including landscape buffers, the Applicant proposed placing the bioretention cell in the Barber St right-of-way, which would actually treat more impervious area. Staff also supported this refinement.
- PDP 2 Central Modifications (DB14-0058)
  - The shape and size of buildings were different in the previous PDP approved for Chateau Villebois on Lot 71. Now, an apartment building essentially spanned the whole lot. He noted the adjacent parking, circulation area, exterior trash enclosure. Other elements still included the

pocket park, a midblock pedestrian path going from Toulouse St to Barber St, and the three Carriage Homes fronting the alley off Toulouse St.

- Parking. Chateau Villebois was meeting the parking requirement with a mixture of parking spaces: 42 spaces were in the parking structure under the building; 14 spaces were along the back property line; six parking spaces on Barber St; and two adjacent parking spaces on Costa Circle.
  - The Village Code clearly allowed parking requirements to be met on adjacent rights-of-way. For example, a lot of the parking for The Domain, the larger, multi-building apartment complex in the Village Center, was on the adjacent streets.
  - With a total of 64 parking spaces, 93 percent of the parking requirement was met on site, but not in structures that would likely be used for purposes other than parking. Staff expected that all the parking spaces would be available for tenant parking.
  - Each carriage home unit had a two-car garage underneath, providing plenty of parking for the three, 600 sq ft units. Even if all the garages were used for storage, the parking standard would still be met for the Carriage Homes.
  - Bicycle parking would be accommodated by a bike rack located at the main entrance on Barber St, as well as an interior bike room to provide long-term parking for the residents.
- Traffic. Proposed for PDP 2 Central were 32 new trips, a 10 trip peak hour difference from the 22 trips originally approved, but this did not raise any concerns from the City's traffic engineers.
- He addressed clarifying questions from the Board as follows:
  - He clarified that the on street parking was in the existing right-of-way of Barber St and the bioretention cell would be in the planting strip between the sidewalk and curb. He confirmed landscaping would be placed at the end of the Carriage Homes facing Toulouse St (Slide 34). There was no parking adjacent to the street there, only landscaping.
  - The Villebois Village Master Plan included a variety of different types of units, including urban apartments, stacked flats, and condos: The main difference was ownership style. Originally, the project was going to be of a modular construction, though he did not have all the details on the previous approval. The aggregate land use category of attached urban housing included a variety of specialty housing, which was expected to flex one way or another, depending on the market at the time.
  - He confirmed that the previously approved condos were intended for ownership and now rental units were proposed.
  - He did not know how many parking spaces would be assigned.
  - Regarding concerns about subleasing larger units and the potential of having additional vehicles, he deferred to the Applicant. He noted the majority of the units were one bedroom, so a majority of parking would be assigned to one-bedroom units.
- He continued with the Staff report by reviewing the variance criteria in the City's Code (Slide 15), noting the basic premise of a variance was that Code compliance was "impractical" and created "unnecessary hardship" because some issues existed that need to be resolved.
  - The two criteria the Board would be considering regarded the notion of unique circumstances and that the variance requested was the minimum necessary.
- Variance: Front Setback for Chateau Villebois (DB14-0059) The Village Zoning Code required a 5-ft front setback for a multi-family building in the Village Center and the Applicant was requesting a 1.5-ft or 18-inch setback.
  - In the 2009 approval, which had since expired, the design and front articulation of the building was different, but a variance was granted for 1.5 ft, but while this had been done before, the Board should consider the current variance request based on the current merits.
  - One key argument made in the Applicant's application had to do with the uniqueness of the site and where it was set in the transect of the Village Center. In the Development Standards, no front setback was required for mixed-use buildings in the Village Center, such as the building right next to the Piazza. The building could go essentially right to the property line; however, a 5-ft setback was required for multi-family dwellings.

- Additionally, the mixed-use building adjacent to the Chateau Villebois could potentially be built right to the property line, so having this building also right to the property line would create a more consistent setback and a more consistent feel of an edge of an urban room along Barber St.
- Also discussed was the nature of the trees. There were three preserved trees along Barber St in the landscape strip between the sidewalk and street, and there were preserved trees in the pocket park, so the building needed to fit between those trees, which was a unique circumstance.
- He clarified that an intervening sidewalk would run between the proposed building and the adjacent, future mixed-use building with trees and greenery planted along that pedestrian path.
- He noted that both variance requests were being driven by putting a building on top of a parking lot due to the dimensions involving the length of the parking stalls and the practical width of a drive aisle.
  - With or without the added units, the size of the lot and not having any surface parking planned anywhere nearby, drove this to be a project with a parking structure, which was related to the variance request.
- He reviewed the dimensions of the site's features, including the parking stall lengths for two rows of parking and the drive aisle, resulting in 1.5 ft remaining, which was the Applicant's request. (Slide 20)
- He clarified that the hardship was not being able to program a building over parking on the subject property with a 5-ft setback.

**Mr. Ruud** asked if that was due to the increase from 39 to 49 units.

**Mr. Pauly** replied not necessarily. There were 42 parking spaces underneath and parking would still be needed for 10 units, most of which were smaller units, but he had not done the calculation. Without the 10 units, some of the parking could be removed and on street parking used so the building could be moved back. However, for years there has also been the notion of having a consistent setback along Barber St, especially considering some of the issues related to the height variance, where the non-residential use was on the ground floor, similar to a mixed-use building right at the street, so the variance made sense from an urban design standpoint as well.

- The Applicant's primary argument was having that the inconsistent setback between two similar buildings that in the end could be about a 9 ft difference. It would be a more consistent look along the street to have them similarly setback. However, the minimum necessary was hard to calculate for consistency in urban design. If that room was needed for the required parking, then the calculation on Slide 20 was really the argument for the minimum necessary criterion.

**Chair Fierros Bower** asked if the Applicant was proposing something that went beyond what zoning regulations required as far as design; some kind of a give and take.

**Mr. Pauly** replied that the Development Code did define the minimum depth for a parking stall. At least 60 percent of the parking spaces needed to be standard parking spaces, which have a minimum length of 18 ft. Compact spaces could be 15 ft long, but the spaces adjacent to the narrow planting strip toward the back had to be 16 ft long due to requirements to have a wheel stops to prevent vehicles from going into the landscaping and buffer area. That extra foot was needed to keep the car from overhanging into the landscaping and other property.

**Ms. Keith** understood having three units more or less did not matter, as long as there were two rows of parking this spacing was required.

**Mr. Pauly** confirmed as long as three rows of parking were required, this was the minimum given that parking structure. He reiterated no specific drive aisle width was required in the Development Code. He



suggested the city engineer could talk more to what was practical and functional. The Board had had previous discussions about functional parking and functional drive aisles; that 24.5 ft seemed fairly standard and when moving cars in a short structure, more of that space would be wanted to move around.

**Ms. Akervall** agreed with Mr. Pauly's comments about the 24.5 ft, adding she always gets a little claustrophobic in parking garage spaces. She asked if someone could speak to the standard and soothe any concerns that enough space would exist to back cars out of the four compact spaces on the end inside, specifically, without incident. The space shown in the diagram looked small to her.

**Steve Adams, Development Engineering Manager**, stated guidelines in parking and traffic books exist for private parking areas, but he did not know what the standard width was as he dealt more with right-of-way. He knew the standard width for fire access was 20 ft, and offered to research the appropriate width between two aisles of parked cars.

**Mr. Pauly** suggested the Applicant's design team could explain why 24.5 ft made sense from their calculations.

**Chair Fierros Bower** noted in other jurisdictions where she had worked, 24 ft was typical in double-loaded parking areas, and 12 ft behind a single aisle of parking stalls.

**Mr. Pauly** clarified the single row of parking was intended to have two direction traffic, so even 18 ft would be fairly narrow.

**Ms. Keith** noted the interior columns and did not believe it should be any narrower.

**Mr. Pauly** agreed, noting the columns combined with the narrow drive aisle at Red Robin made maneuvering worse. He proceeded with the Staff report and PowerPoint as follows:

- Variance: Building Height for Chateau Villebois (DB14-0060)
  - In the Village Center, multi-family dwellings were 45 ft and mixed-use buildings were allowed to go up to 60 ft. That 15-ft difference essentially accommodated the commercial tenant space with four stories above to equal 60 ft. The commercial space included a 10-ft clear ceiling, a couple feet of mechanical space, and essentially a 1-ft floor between levels.
  - The Applicant was requesting that a 51 ft high building be allowed. Although a single building, multiple components would be discussed further in the FDP. The proposed building's four-story 51-ft high portion was closer to where the 60-ft building would be permitted. The building then transitioned down to 40-ft high, which was below the maximum, as it got closer to the park and the single-family to the west.
    - He noted that due to the way the parking was designed and to provide ventilation, the parking structure itself rose about 8 ft above grade, resulting in the building being 6 ft over the maximum building height.
    - The middle of the structure was obviously even higher, but the Village Center Architectural Standards (VCAS) allowed elevator shafts, towers, etc. to go above the maximum height by right; therefore, the middle structure was acceptable regardless of whether the variance was granted or not.
  - At 51 ft, the eastern portion of the building was 6 ft over the maximum height required. Similar to the mixed-use commercial building with 40 ft to 45 ft of residential structure, one could argue that in lieu of the 15 ft for mixed use, there was 8 ft of parking underneath that required increasing the height beyond 45 ft to get the four stories and allow for ventilation of the understructure parking.

**Mr. Ruud** noted the previously approved four-story Portera at the Grove building, which he thought was unique for a four-story, and asked if the Code had a height or a story requirement.

**Mr. Pauly** explained an optional requirement in the VCAS did encourage meeting maximum building heights in this area given the desire to make the Village Center a true urban core.

**Ms. Keith** noted in the picture that the average height appeared to be just a bit over the current maximum.

**Mr. Pauly** answered yes, if the two sides of the building were averaged; specifically, the east side would be 6 ft over.

**Ms. Keith** said she would argue that it was better perhaps to have different heights; otherwise there would be one big mass that was all the same height.

**Mr. Pauly** added especially if one envisioned a 60-ft building just to the east and the stepping that would occur transitioning from the denser urban core down to the park and single-family row home areas.

**Mr. Ruud** recalled seeing that the four-story and height variance allowed for the roof terrace, but that could still exist with a three-story building.

**Mr. Pauly** agreed it could, but deferred to the Applicant to address any financial implications. He cited arguments made for the Portera at the Grove, that it was an elevator building with structured parking, both of which were very expensive to construct and would often drive the unit count to make the project pencil. He noted the Applicant had not presented any information on that to Staff thus far.

**Mr. Ruud** asked if there were other existing four-story apartments in Wilsonville.

**Mr. Pauly** replied the proposed Chateau Villebois was adjacent to The Charleston, a four-story building that was 41-ft tall. There would likely be tall buildings across the street as well. He noted Chateau Villebois would be noticeable in that location until other buildings are built, which was why architecture would be discussed as well.

**Mr. Springall** asked about the height of the mixed-use building across the street around the Piazza, which he believed was four floors above retail.

**Mr. Pauly** was unsure, but believed it was about 60 ft high, assuming 10 ft per residential floor and 12 ft to 15 ft for the retail floor. He continued with the Staff report as follows:

- Final Development Plan for Chateau Villebois and Tract “R” Pocket Park (DB14-0061)
  - He displayed several slides showing the four elevations Chateau Villebois, as well as several street views of the building and highlighted the proposed architecture, color, and materials in light of Staff’s review the VCAS with these key additional comments:
  - Each elevation reflected the same design and featured full design improvements.
  - The changes in materials, colors, vertical façade planes, bays and recesses, as well as breaks in the roof elevation helped articulate the façade to break up what otherwise would be a very large expanse of building. Other elements like offsets at different projections and balconies at different levels also helped break up the building. In Staff’s opinion, the Applicant did a good job of making a large building look like a smaller scale.
  - The VCAS discussed using heavier materials at the base to define the bottom and top of the buildings. The Applicant did a good job using brick on the Normandy style, three-story portion, which gave way to stucco panels higher up and then a clear roof. Natural stone-looking, porcelain tiles used on the Parisian-urban style gave way to the stucco panels with a clear parapet at the top.

- Using natural stone veneer all the way up the central element broke up the two buildings and provided a transition on the front elevation.
- The proposed building maintained a consistent French architectural standard.
- The parking structure would be screened by decorative grill work, as discussed in the VCAS.
- The use of either square or vertical windows is consistent. Although the wider windows looked horizontal all together, they were separate, vertical window elements that provided a vertical look.
- The balcony windows were large enough to allow light and air into the apartments, as well as providing some outdoor living space or access for each of the units.
- On Slide 27, he noted a row house had been constructed in the area shown behind the runner.
- He reviewed the floor plans for each of the four floor levels, noting the units were predominantly one-bedroom units with three-bedroom units on the ends and two-bedroom units scattered throughout.
  - The first floor included a bike room, which was required for long-term bicycle parking.
  - The fourth floor had a roof terrace and six units.
  - He noted that even if the six units were removed, three rows of parking would probably still be needed.
- All of the landscaping was consistent with the Community Elements Book, was professionally designed, and used approved species. The furniture in the pocket park followed the Community Elements Book as well.
- Final Development Plan for Lot 74 Carriage Homes (DB14-0062)
  - The proposed Carriage Homes were the same design and used the same type of materials as the others previously approved.
  - Buffering landscaping was proposed along the street and around the site, which was consistent with the Community Elements Book.

**Ms. Keith** noted Page 6 of 78 of the Staff report discussed street trees. She asked where the tulip tree would be located, and specifically, how close they would be to the building.

**Mr. Pauly** replied the tulip tree was the preferred species on Costa Circle. The trees would be planted in the planting strip with a 5-ft wide sidewalk and 5-ft setback before reaching the building.

**Ms. Keith** said she was concerned because the trees could grow gigantic, as high as 90 ft to 100 ft, and sometimes twice as much; they also tended to be a little messy. She understood that was the suggested species, but she questioned if having such large trees so close to the building was a wise choice.

**Mr. Pauly** replied the tulip tree would be about 10 ft away and pruning should be sufficient to make sure it did not interfere with the building. From Staff's perspective, providing a consistent look along the street was a big consideration as well.

**Ms. Akervall** asked if the trees along Barber St, which had very little setback, were tall and skinny and why some proposed street trees on Page 6 were not the preferred species.

**Mr. Pauly** agreed it was a valid point. He explained that when the master planner was developing the plan, they wanted a consistency of street tree to provide the desired urban design, especially on the main boulevard. Staff could look at the list of approved street trees to see if more columnar trees could be found that would be more appropriate. Staff could also work with the Applicant and the master planner to suggest more columnar trees when dealing with zero to 1.5 ft setbacks rather than a broader tree.

**Ms. Keith** believed the canopy of a tulip tree could be 40 ft across, and the trees drop a lot of sap, so this did not seem like a wise choice for this particular spot.

**Mr. Pauly** advised modifying the condition to allow Staff to work with the Applicant for one of the other approved types of street tree to make sure a species was chosen that would work long term.

**Chair Fierros Bower** inquired about the proposed plantings in the bio swale.

**Mr. Pauly** replied it would have native plantings. Staff did not have the specific plant palate but Natural Resources was working with the Applicant, who might know the design. On other projects, Staff did not often have the full plant palate for rainwater gardens. Specific plant palates were in the Community Elements Book, as well as the rainwater programs that needed to be followed. Staff has had success following those and letting the engineers and Natural Resources Manager Kerry Rappold work together to come up with a plant palate that made that function the way the City wanted. Oftentimes the black tupelo was used if a tree was required because it handled the wet conditions better.

**Chair Fierros Bower** liked the idea of having vegetation along the Barber St frontage to provide screening for the 8-ft area where there was just wall and the grating.

**Mr. Pauly** added providing that it was set in different levels in terms of design as well.

**Mr. Springall** noted the distributed letter from Tualatin Valley Fire & Rescue (TVF&R) and the concern about the three trees in the pocket park noted at the bottom of the first page in bold.

**Mr. Pauly** believed TVF&R was referring to the preserved trees on Barber St, which he did discuss with Building Plans Examiner Don Walters, who said it would be worked out and had not flagged it as a big concern. The Applicant would have to do some design considerations to compensate for any lack of fire access in certain locations. Tradeoffs were often done in building design, such as sprinklering every home in Villebois to allow for the skinnier streets.

- He entered a letter received from Tualatin Valley Fire & Rescue dated December 1, 2014 supporting the application predicated on the listed criteria and conditions of approval into the record as Exhibit C6.

**Mr. Edmonds** responded to Chair Fierros Bower's earlier question by reading Condition NR4, which stated, "Plantings in rainwater management components located in the public area shall comply with the Public Works Standards." He noted Public Works Standards would have a preferred list of rainwater plantings.

**Mr. Pauly** agreed, adding that adopted plant lists exist all over that really drove that.

**Mr. Springall** confirmed the midblock trail was a hard concrete surface and asked what type of traffic would be allowed on it.

**Mr. Pauly** confirmed it was hard surface and that as with other midblock crossings, it would not be restricted to pedestrians. It would be a private path with public access, which meant it would be open to the public, but the rules established by the homeowners association (HOA) had to be followed. For example, if the HOA did not allow skateboarding, that might be restricted. He noted it was an older easement, so he was unsure of the exact language for the access easement on the recorded plat.

**Mr. Springall** suggested that given the urban nature and intent, it would seem appropriate to allow all sorts of vehicles as long as they were not dangerous, including skateboards.

**Mr. Pauly** said he was not aware of any HOAs that had restricted skateboarding. He would expect bicycles would be allowed at least.

**Chair Fierros Bower** called for the Applicant's presentation.

**Stacey Connery, Costa Pacific Communities**, representing the Applicant, said she appreciated Mr. Pauly's thorough Staff report and offered to respond to any questions.

**Chair Fierros Bower** recalled a question about assigned parking spaces and how that would be handled.

**Patrick Lucas, Chateau Villebois, LLC**, stated he had not thought about it, but the parking spaces should be assigned. This was the first time subleasing had come up, but he did not think it would be allowed; the management company would handle that. The three-bedroom units would most likely be families, not people subleasing the spaces, but he was aware subleasing did happen.

**Ms. Akervall** asked for more information regarding the street trees on Barber St, including their shape.

**Ms. Connery** replied the landscape architect was not present, but she knew the landscape architect had reviewed the list and selected the trees from the list she believed would work best in this environment. She requested that the condition be modified to allow a choice of trees that would work well next to this type of building and to allow the Applicant to work back and forth with Staff.

**Mr. Lucas** addressed the height issue and setback, noting the original approval was for two buildings called Trafalgar Condominiums. It was more efficient to make one building, but the Applicant did not want one giant box. He decided to make the side closest to the residential units shorter and then taller toward the Village Center because the next building over was planned to be 60 ft tall. The buildings heights would be 42 ft, 51 ft, and then 60 ft high, which he believed was the original intent of the design to have more of a metropolitan type of Village Center.

- He attended the HOA meeting at Villebois about a month ago and a main concern of the residents was the traffic and speed on Barber St. He understood that taller buildings closer to the street had what was called a "calming effect," where people naturally slowed down.
- Regarding the setback, he noted that getting the parking and drive aisles in the plan was really tight. He suggested the thing to keep in a mind was that a 1.5 ft setback was not 1.5 ft off the street, but more like 10 ft from the curb, approximately.

**Ms. Connery** noted it would be pretty close. There was a 5-ft sidewalk and a 7 ft to 8 ft planter.

**Ms. Akervall** inquired about the space between the Carriage Homes and future mixed-use building and what was planned for that edge of the Carriage Home building adjacent to that future mixed-use building.

**Ms. Connery** replied most likely there would be some parking maneuvering and parking spaces back in that area because parking needed to be behind the building that would front onto Barber St. The alley would likely continue on.

**Mr. Pauly** believed an Important Oak north of the Carriage Homes was likely to be preserved.

**Mr. Springall** recalled asking about the tree two months ago. The right side of the Slide 10 stated, "Future Detached Row Homes," which the Board approved quite recently. The smaller tree was an oak marked Important. He asked about that tree and the discussion was it would need to go to have turning space.

**Mr. Pauly** responded that was not considered under this application.

**Mr. Springall** agreed it was a previous application.

**Ms. Connery** explained that the tree directly north of the Carriage Homes was also marked as being retained. She did not recall the species or classification. Most likely, there would be some landscaping, as well as parking maneuvering within that vicinity. She had not seen the site design, but if the tree was retained, there would be more space between the buildings.

**Mr. Ruud** asked if the variances were required for the previous 39 units versus moving to 49 units.

**Ms. Connery** stated the front setback variance was part of the previous approval, but not the height variance.

**Mr. Ruud** asked if the increase from 39 to 49 units caused the height variance.

**Mr. Lucas** answered yes. He added two issues existed with the parking. It was better to have one elevator than two, but the building ended up with one and a quarter elevators as a little elevator provided ADA access for people to get out of the parking garage to the enclosed trash enclosure. He also believed the rooftop terrace needed to be serviced by the elevators. Therefore, one side was four stories and the elevator came up so people could go down the hall or out to the terrace. He acknowledged they did not need to do the rooftop terrace, but believed it was a good addition.

**Ms. Connery** commented in the context to the request for the height variance, there were some implementing measures and design standards in the Villebois Master Plan that were carried through the Code and VCAS that encouraged building massing when approaching the Village Center. While the Applicant was asking for a variance to the Code, she believed the building design better achieved the intent of that standard of increasing the building massing as one got closer to the Village Center.

**Mr. Ruud** asked if it would be more desirable economically to have 49 units.

**Mr. Lucas** answered absolutely.

**Mr. Edmonds** commented that he was glad the original Trafalgar project expired as it was a very monolithic building with very straight lines. It was a modular, prefabricated building kind of like Legos, and in his opinion, this proposal was a far superior design.

**Chair Fierros Bower** believed the Applicant had done a great job creating relief on the façade as well the roofline. The Trafalgar project was a rectangular building with no relief whatsoever. There was a lot of excitement and elements and different materials being used by the Applicant to create that relief and interest.

**Mr. Lucas** offered his thanks, noting it took a lot of work and the first five tries did not look good.

**Ms. Akervall** said she also liked the rooftop terrace and asked if there would be any greenery on the rooftop terrace as well.

**Mr. Lucas** replied yes, and that should be in the plans.

**Ms. Akervall** appreciated the preservation of the trees in the pocket park as well.

**Mr. Springall** appreciated how tight the project was but asked if there should be any concern about preserving those trees with the construction of the parking garage so close, especially to the northern most of the three trees. All the major plans showed the tree canopy slightly overlapping the parking structure.

**Ms. Connery** clarified that the floor where the parking garage would be had an outdoor space or patio on top, so the building wall would actually be farther from the canopy.

**Mr. Springall** confirmed the canopy could overlap because of the balcony.

**Mr. Lucas** noted that both of his general contractors were present and both currently live in Villebois.

**Chair Fierros Bower** called for public testimony in favor of, opposed and neutral to the application.

**Max Gordichuk, Costa Pacific Communities**, stated he worked with Villebois Master Planner Rudy Kadlub, who was unable to attend, but Costa Pacific was very excited about the prospect of Chateau Villebois and believed it was a great addition to the Village Center of the community. They strongly supported the proposed project.

**Chair Fierros Bower** confirmed that the Applicant had no rebuttal.

**Ms. Keith** preferred giving the Applicant some flexibility regarding the street trees along Barber St.

**Mr. Pauly** agreed and suggested striking the condition and modifying the finding.

**Ms. Akervall** understood that in striking the condition, it was assumed the Applicant would work with the City.

**Mr. Pauly** answered yes, noting the Applicant still had a proposed street tree. He suggested the Board modify the wording to state that all street trees would match the Community Elements Book.

**Chair Fierros Bower** closed the public hearing at 9:04 p.m.

**Mr. Springall** believed this was a very attractive proposal and design. The Board had heard discussion about how allowing the height to increase toward the center helped contribute to the urban center desired in Villebois, and previous applications close to this particular area of Barber St had increasing building heights toward the center. Clearly, there was an economic benefit for allowing for the increased height, but the benefit was not just to this apartment building but to the entire Village Center, where clearly some economic benefit was needed. There were existing retail building that really needed to be enabled, and retail was proposed adjacent to the subject site that would hopefully be able to be built, though clearly not until there were sufficient people in this location to justify the economy of those retail buildings. Therefore, he fully supported the setback and height variances to enable a slightly higher density at this particular location.

**Chair Fierros Bower** believed the Applicant had done a really good job as far as the articulation of materials, which went beyond the setback and height variances being requested.

**Mr. Ruud** understood the arguments. He believed it was a beautiful design, but he was not supportive of granting variances to build apartments in Wilsonville.

**Ms. Akervall** liked the inclusion of an elevator in the building, which allowed for some single level living spaces, which was important as not a lot of single-level living options existed in Villebois. She

believed this was an important addition to the community. The original plan had condos that would have been owned, and she was sad to see that go, but it sounded as if the Applicant could not build those buildings now given the economy. In her ideal world, condos would be proposed. She did like the single-floor living which would bring stability and a diversity of population into the neighborhood, which was needed.

**Lenka Keith moved to amend the Staff report by adding Exhibit C6 and modifying Condition PDE5 to include language that the street trees will match the Community Elements Book. Simon Springall seconded the motion, which passed unanimously.**

**Simon Springall moved to adopt Resolution No. 295. The motion was seconded by Lenka Keith and passed 4 to 1 with Ken Ruud opposing.**

**Chair Fierros Bower** read the rules of appeal into the record.

#### **VIII. Board Member Communications**

##### **A. Results of the November 24, 2014 DRB Panel B meeting**

#### **IX. Staff Communications**

**Blaise Edmonds, Manager of Current Planning**, noted this would potentially be Mr. Ruud's last DRB meeting. He thanked Mr. Ruud on behalf of Staff and the City Council for his efforts, volunteering, great questions, standing out and making everyone think about projects; he would be missed on the Board.

**Ken Ruud** appreciated the comments. He said it was a pleasure getting to know everyone and to serve. It was not what he expected going in, but that was a good thing.

The Board commended Mr. Ruud's participation and valuable input.

**Mr. Springall** noted Mr. Ruud had a good, though different, perspective that was very valuable. He hoped future Board members would offer mixed opinions. Having like minds was not beneficial; the benefit came when many people from different perspectives served on the Board.

#### **X. Adjournment**

The meeting adjourned at 9:16 p.m.

Respectfully submitted,

Paula Pinyerd, ABC Transcription Services, Inc. for  
Shelley White, Planning Administrative Assistant



**DEVELOPMENT REVIEW BOARD MEETING**

**MONDAY, JANUARY 12, 2015**

**6:30 PM**

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**VIII. Public Hearing:**

- A. Resolution No. 294. Ridder House Offices Conditional Use Permit: KJD Properties - Owner.** The applicant is requesting approval of a conditional use permit for a home business. The subject property is located on at 10050 SW Wilsonville Road on Tax Lot 1100 of Section 23B, T3S, R1W, Clackamas County, Oregon. Staff: Blaise Edmonds

Case Files: DB14-0066 – Conditional Use Permit

*This item was continued to this date and time certain at the December 8, 2014 DRB Panel A meeting.*

**DEVELOPMENT REVIEW BOARD  
RESOLUTION NO. 294**

**A RESOLUTION ADOPTING FINDINGS AND CONDITIONS APPROVING A CONDITIONAL USE PERMIT FOR A HOME BUSINESS (RIDDER HOUSE OFFICES). THE SUBJECT PROPERTY IS LOCATED AT 10050 SW WILSONVILLE ROAD. THE PROPERTY IS DESCRIBED AS TAX LOT 1100 OF SECTION 23B, T3S, R1W, CLACKAMAS COUNTY, OREGON. KJD PROPERTIES, OWNER.**

**RECITALS**

WHEREAS, an application, together with planning exhibits for the above-captioned development, has been submitted in accordance with the procedures set forth in Section 4.008 of the Wilsonville Code, and

WHEREAS, the Planning Staff has prepared reports on the above-captioned subject dated December 1, 2014 and January 5, 2015, and

WHEREAS, said planning exhibits and staff report were duly considered by the Development Review Board at regularly scheduled meetings conducted on December 8, 2014 and January 12, 2015, at which time exhibits, together with findings and public testimony were entered into the public record, and

WHEREAS, the Development Review Board considered the Conditional Use Permit and the recommendations contained in the staff report, and

WHEREAS, interested parties, if any, have had an opportunity to be heard on the subject.

NOW, THEREFORE, BE IT RESOLVED that the Development Review Board of the City of Wilsonville does hereby approve the following application:

DB14-0066: Conditional Use Permit

The Board also adopts the staff report attached hereto as Exhibit A1, as amended, with findings, conditions and recommendations contained therein, and approves applications consistent with said recommendations.

ADOPTED by the Development Review Board Panel A of the City of Wilsonville at a regular meeting thereof this 12<sup>th</sup> day of January, 2015, and filed with the Planning Administrative Assistant on \_\_\_\_\_, 2015. This resolution is final on the 15th calendar day after the postmarked date of the written notice of decision unless appealed or called up for review by the council in accordance with *WC Sec 4.022(.09)*

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Mary Fierros Bower, Chair  
Development Review Board, Panel A

Attest:

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Shelley White, Planning Administrative Assistant

**Exhibit A1**

**REVISED STAFF REPORT  
WILSONVILLE PLANNING DIVISION  
Conditional Use Permit  
Ridder House Offices  
DEVELOPMENT REVIEW BOARD PANEL 'A'  
QUASI-JUDICIAL PUBLIC HEARING**

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**HEARING DATES:** December 8, 2014  
January 12, 2015  
**DATE OF REVISED  
REPORT:** January 5, 2015

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Changes are in ***bold italic underline text***:

**APPLICATION NO.:** DB14-0066

**APPLICANT/OWNER:** KJD Properties

**REQUEST:** Conditional Use Permit to use an existing house as a “Home Business” including light duty offices associated with:

*Wilsonville Concrete Products, Bernert Nursery, Marine Industrial Construction and KJD Properties.*

**LOCATION:** The subject house is located at 10050 SW Wilsonville Road.

**LEGAL DESCRIPTION:** Tax Lot 1100 of Section 23B, T3S, R1W, Willamette Meridian, Clackamas County, Wilsonville, Oregon.

**LAND USE  
DESIGNATION:** Comprehensive Plan Map Designation: Industrial

**ZONING  
DESIGNATION:** Residential Agricultural - Holding (RA-H)

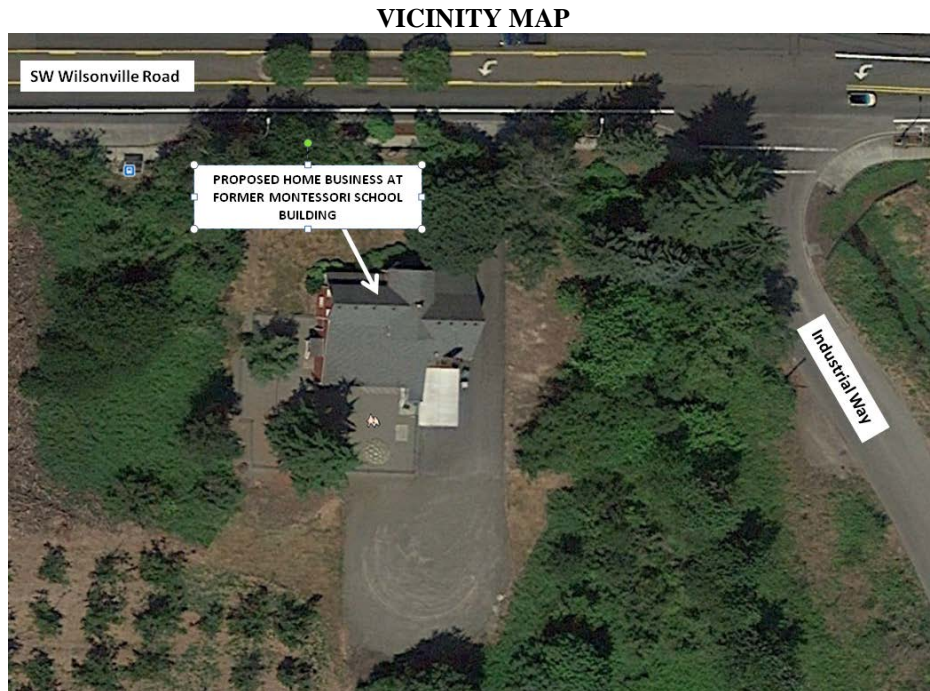
**STAFF REVIEWERS:** Blaise Edmonds, Manager of Current Planning; Don Walters, Plans Examiner and Steve Adams, Development Engineering Manager.

**Applicable Review Criteria: Planning and Land Development Ordinance:**

Sections 4.008 - 4.015	Administration Sections
Section 4.001 203	Parking Space
Section 4.001 122	<u>Home Business</u> definition
Section 4.120	Residential Agricultural – Holding Zone (RA-H)
Section 4.155	Parking (Table 5 for office parking, 2.7 per 1000 SF of office space, minimum)
Section 4.155(.02)K	Parking Lot Surface
Section 4.001(202)	Standard Parking Space
Section 4.167	Access, Ingress, and Egress
Section 4.179	Mixed Solid Waste and Recyclables Storage
Sections 4.184(.01)A(1 - 4)	Conditional Use Permit
Sections 4.430	Location, Design and Access Standards for mixed Solid Waste and Recycling Areas.

**Other:** Comprehensive Plan, Special Area of Concern ‘G’.

**STAFF RECOMMENDATION:** Approve the ‘Home Business’ Conditional Use Permit with Conditions of Approval beginning on page 4.



**BACKGROUND:**

The proposal is a Conditional Use Permit to use an existing house as office space for a “Home Business”. The previous tenant for over 30 years was Northwest Montessori School. The Montessori monument sign has been recently removed and the applicant does not intend to install a new sign.



**Ridder House, ca. 1906.** In Section II Background, page 3 of the project narrative (Exhibit B1) the applicant has provided detailed history about the house.

#### **SUMMARY:**

The proposed Conditional Use Permit is consistent with the provisions of the Comprehensive Plan and the requirements of Chapter 4 of the Wilsonville Code and other applicable policies of the City.

*Exhibit B3. Applicant: “The following is the list of items that we discussed. Attached is the title report and there is no easement to the adjacent property but the original owners owned both parcels and it was before the city was a city with access. We have the second draft of the easement entitling Sheri parties and to ourselves completed and I have the draft attached. Sheri and myself have recommend several changes to this agreement to my attorney that clarify some concerns that Sheri and I have together. Also attached is the gate design which meets the specific being requested in the discussion.”*

*“Sheri is representing all of the Young’s interests so she is discussing the easement with the family to isolate any other issues there may be and we have agreed to get them all addressed together. In our original application we submitted, we did NOT request parking in the driveway so that was a raised issue by the board that was not present in our application. In addition remember, we will design and build an entry road that will also be able to handle emergency vehicles so the access to the site is not a real issue as we are increase the access significantly not limiting it.”*

*“This should cover all outstanding concerns and issues that were raised and we hope to get this moved forward in a timely manner. I hope we can meet the required time line.”*

**PROPOSED CONDITIONS OF APPROVAL**

Based on the Findings of Fact and information included in this staff report, and information received from a duly advertised public hearing, staff recommends that the Development Review Board **approve** the application for a Conditional Use Permit subject to the conditions of approval below.

- PD = Planning Division Conditions**
- PF = City Engineering Division Conditions**
- BD = Building Division Conditions**
- FD – TVFR Conditions**

<b><u>Planning Division Conditions, Conditional Use Permit</u></b>
<b>PD1.</b> On the basis of findings 1 through 19, this action <u>approves</u> a Conditional Use Permit for a “Home Business” for offices associated with <i>Wilsonville Concrete Products, Bernert Nursery, Marine Industrial Construction and KJD Properties</i> located at 10050 SW Wilsonville Road, approved by the Development Review Board, and stamped “Approved Planning Division”.
<b>PD2.</b> The Applicant/Owner shall develop the minor site improvements in substantial compliance with the plans approved by the DRB, unless altered with Board approval, or minor revisions are approved by the Planning Director under a Class I Administrative Review process.
<b>PD3.</b> The Applicant/Owner shall stripe the proposed eight (8) 9’ x 18’ parking spaces on existing concrete or asphalt surface. The City Building Division regulates ADA parking and location. See finding 12.
<b>PD4.</b> The Applicant/Owner shall install a gate to access the solid waste and recyclables storage area of at least ten feet in width. See finding 18.
<b><u>City Engineering Division Conditions:</u></b>
<b>Standard Condition:</b>
<b>PF1.</b> All construction or improvements to public works facilities shall be in conformance to the City of Wilsonville Public Works Standards – 2014.
<b>Specific Conditions:</b>
<b>PF2.</b> This project was granted a waiver from traffic study by the City due to anticipated reduced impacts on Wilsonville’s transportation system.
<b>PF3.</b> The 2103 Transportation System Plan shows Wilsonville Road classified as a Minor Arterial at this location. The existing driveway access is non-conforming with desired 1,000 foot (minimum 600 foot) access spacing requirement. Applicant shall construct a new access which will connect the site to Industrial Way and shall no use the existing access to Wilsonville Road.  Applicant shall wither construct a fire/utility access gate (Detail RD-1210) at this driveway and construct a standard curb and gutter (Detail RD-1055) and landscape strip.

**Building Division Conditions:**

BD 1. A CERTIFICATE OF OCCUPANCY shall be obtained before the occupancy of the office space.

BD 2. SCOPE. The main floor of this structure will be used as office space. The upstairs will not be used, as it does not meet code requirements for floor loading, access, and possibly other code requirements.

BD 3. A GRADING PERMIT will be required for the construction of the parking lot.

**Tualatin Valley Fire & Rescue Conditions:**

**FD1. FIRE APPARATUS ACCESS ROAD DISTANCE FROM BUILDING AND TURNAROUNDS:** *Access roads shall be within 150 feet of all portions of the exterior wall of the first story of the building as measured by an approved route around the exterior of the building or facility. An approved turnaround is required if the remaining distance to an approved intersecting roadway, as measured along the fire apparatus access road, is greater than 150 feet. (OFC 503.1.1) Tualatin Valley Fire & Rescue recommends maintaining the access off Wilsonville road for emergency fire department access only.*

**FD2. GATES:** *Gates securing fire apparatus roads shall comply with all of the following (OFC D103.5, and 503.6):*

- 1. Minimum unobstructed width shall be not less than 20 feet (or the required roadway surface width), or two 10 foot sections with a center post or island.*
- 2. Gates serving three or less single-family dwellings shall be a minimum of 12 feet in width.*
- 3. Gates shall be set back at minimum of 30 feet from the intersecting roadway or as approved.*
- 4. Electric gates shall be equipped with a means for operation by fire department personnel*
- 5. Electric automatic gates shall comply with ASTM F 2200 and UL 325.*
- 6. Removable bollards are not an approved alternate to a swinging gate.*



## **EXHIBIT LIST**

The following exhibits are hereby entered into the public record by the Development Review Board as confirmation of its consideration of the application as submitted.

### **Staff Report:**

- A1. Findings of Fact, Proposed Conditions of Approval and Conclusionary Findings.
- A2. PowerPoint presentation.

### **Applicant's Written and Graphic Materials:** *(Distributed Separately)*

- B1. Project narrative, response findings, drawings and maps titled Ridder House Offices, dated October 22, 2014.
- B2. **Plan Sheets:**
  - Adjacent Parcels, aerial photograph.
  - Floor Plan of the house
  - Ridder House Site Layout
  - Driveway Locations
- B3. *David Bernert, e-mail and attachments, dated January 2, 2015. Attachments include: WFG National Title Insurance documents (13 pages) and Ridder House Gate Plan(2 sheets)*

### **Development Review Team:**

- C1. City Engineering Division Conditions, dated Nov. 20, 2014.
- C2. Building Division Conditions, dated Nov. 20, 2014
- C3. Community Development Director, letter waiving traffic impact study, dated Nov. 13, 2014.
- C4. *Letter, Jason Arn, Tualatin Valley Fire and Rescue, dated Dec. 11, 2014.*

### **D1. General Correspondence:**

- D1. Letters (neither For nor Against): None submitted
- D2. Letters (In Favor): None submitted
- D3. Letters (Opposed): None submitted

## **FINDINGS OF FACT**

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- 1. 120-Day Rule:** The statutory 120-day time limit applies to this application. The application was submitted on October 24, 2014. The application was deemed complete on November 10, 2014. Thus the City, including appeals, before March 9, 2015, must render a final decision.
- 2.** The applicant's proposal is consistent with Section 4.184. Conditional Use Permits – Authorization.

**DB14-0066: CONDITIONAL USE PERMIT  
CONCLUSIONARY FINDINGS**

**Section 4.009(.01) and 4.140(.07)(A)(1) Ownership: Who may initiate application**

1. The application has been submitted by the property owner KJD Properties meeting the above criteria.

**Sections 4.013-4.031, 4.113, 4.118, 4.124 Review procedures and submittal requirements**

2. The required public notices have been sent and all proper notification procedures have been satisfied. The applicant has complied with these sections of the Code.

**Section 4.120 – Residential Agricultural – Holding Zone (RA-H)**

3. The subject property is designated Industrial on the Comprehensive Plan Map and is zoned Residential Agricultural – Holding Zone (RA-H). The RA-H Zone does not expressly allow commercial office use outright. Per Section 4.001 122 “Home Business” office use is allowed as a conditional use within the RA-H Zone. Proposed is a Conditional Use Permit to use an existing house as a “Home Business” including light duty offices associated with:

*Wilsonville Concrete Products, Bernert Nursery, Marine Industrial Construction and KJD Properties.*

Furthermore, the proposed office use will not conflict with the regulations prescribed for a future rezoning to the Planned Development Industrial Zone (PDI) found in Section 4.135.

**Section 4.001 123. Home Occupation: “Home Occupation” means an occupation, profession, or craft, which is customarily incidental to or carried on in a dwelling place or premises and not one in which the use of the premises as a dwelling place is largely incidental to the business use. A home occupation is carried on by an immediate member of the family residing within the dwelling place. A home occupation shall require no structural alteration or changes to the exterior of the dwelling, and shall include no display of merchandise on the premises which can be seen from the exterior of the dwelling. Any instruction shall be limited to one pupil at a time. Noise, odor, smoke, gases, fallout, vibration, heat or glare resulting from the use shall not be of the intensity as to be detected outside of the containing structure. Traffic and parking are to be such as to give no outward appearance that a business is being conducted on the premises.**

4. The proposed office use does not meet Section 4.001 123 “Home Occupation” because the applicant does not intend to conduct the office use by an immediate member of the family residing within the subject dwelling place. This criterion is not satisfied.

**Section 4.001 122. Home Business: A business operating from a dwelling unit that does not meet the definition of a "Home Occupation" listed below, and for which a conditional use permit has been issued by the City.**

5. This criterion stipulates that if a request does not meet the criteria in Section 4.001 123 to be reviewed as a "Home Occupation" so it can be submitted as a Conditional Use Permit application as a "Home Business". It is therefore being reviewed as a Conditional Use Permit under Section 4.184A(1 through 4). This criterion is satisfied.

**Section 4.184. Conditional Use Permits – Authorization.**

**(.01) Conditional Use of property may be granted by the Development Review Board after concluding a public hearing as provided in Section 4.013. A land use that is "conditional" is one that is generally not compatible with surrounding uses unless mitigating conditions of approval are established. In acting on applications for Conditional Use Permits, the DRB may establish conditions of approval that are found to be necessary to implement the Comprehensive Plan or to assure compliance with the standards of this Code, based on information in the record.**

**A. Authorization to Grant or Deny Conditional Uses: A conditional use listed in this ordinance shall be permitted, altered, or denied in accordance with the standards and procedures of this Section. In judging whether a conditional use permit shall be approved, or determining appropriate conditions of approval, the Development Review Board shall weigh the proposal's positive and negative features that would result from authorizing the particular development at a location proposed, and to approve such use, shall find that the following criteria are either met, can be met by observance of conditions, or are not applicable:**

1. **The proposal will be consistent with the provisions of the Comprehensive Plan and the requirements of Chapter 4 of the Wilsonville Code and other applicable policies of the City.**
6. The subject property and house being considered in this application is identified in the Comprehensive Plan as being in Special Area of Concern 'G'. Special Area of Concern 'G' has several references to the applicant's Wilsonville Concrete Products operation. Underlined words below were emphasized by staff.

**AREA G**

"This area, located west of the railroad tracks and south of Wilsonville Road, contains a mix of planned and existing uses. Existing uses in the area include a concrete plant, building products distribution, and an office building which also houses a church. There are several houses and barns towards the south end of the area. The rest of the area is currently farmed, and includes Coffee Lake Creek, which flows to the Willamette River in this area."

"Wilsonville Concrete has conducted gravel and concrete operations at the south end of this area adjacent to the river since prior to the incorporation of the city. The plant is an aggregate resource-based operation that has relied upon the river for transport of raw materials, such as sand and gravel. Aggregate is not mined at the site, but it is brought there for processing. The continuing operation of the plant is important to meet the needs of the construction industry, which relies on the aggregate and concrete products. For that reason, there need to be provisions made to manage conflicts with neighboring uses and activities, while allowing for appropriate

continued operations. At the same time, there will be a continuing need to provide for appropriate modernization, including environmental protection as the operation continues within an increasingly urbanized setting.”

“The owners of the concrete/gravel operation have taken steps to mitigate the effects of their operation on nearby residential development and to separate the truck traffic from their operation from non-industrial traffic. Operational changes at the site will need to be carefully considered in relation to other long-term uses planned for this area. Future planning will need to balance and mitigate conflicts between potentially non-compatible uses. Continued urbanization of this area creates some inherent potential conflicts for which there is a need for creative and cooperative solutions.”

“The extension of Kinsman Road, south to Industrial Way, and extension of Bailey and/or 5<sup>th</sup> Streets, west at least to Industrial Way/Kinsman, would improve access to and from Old Town. It would also provide a signalized intersection for the industrial truck traffic generated to the south. An extension from Kinsman Road, west to Brown Road, would further enhance access and circulation in this area, providing an alternative to Wilsonville Road, which is congested during rush-hour times.”

“Improved access into and through this area could actually result in conflicts between industrial truck traffic and general commercial and residential vehicles. These conflicts will be exaggerated if pedestrian paths and bikeways are not adequately separated from other street improvements. Such anticipated conflicts could increase resistance to the cooperation necessary in developing streets south of Wilsonville Road and west of the railroad tracks. Therefore, the City will likely need to participate in a cooperative public/private partnership.”

“The West Side Master Plan also acknowledged public desire for more recreational access along the riverfront, and supported commercial and residential mixed-uses along the river frontage, east of Wilsonville Concrete and west of the railroad. This would also bring more non-industrial traffic and use into the area, although the various ravines provide separation between some of those uses. It should also be noted that those ravines provide important natural resource benefits to the area and will necessitate special designs for bridges or other crossings.”

“A portion of Area ‘G’ adjacent to Wilsonville Road was previously designated for commercial use. However, this designation conflicted with the city’s policy to avoid strip-commercial development. Therefore, that area was designated for industrial development in 1980. During the formulation of the West Side Master Plan, commercial and industrial activities were reconsidered. In particular, the frontage south of Wilsonville Road, just west of the railroad, was recommended to be zoned for offices as well as industrial uses.”

#### Design Objectives:

“1. Require master planning (Stage I) of large areas to provide long-term protection of the concrete/gravel operation, accommodate the city’s water treatment plant and associated water feature park, accommodate new compatible residential, industrial, and office development, and provide for continuity of design and coordination of uses. Note that residential

development at moderate densities may be one alternative to other uses that would otherwise generate excessive traffic on Wilsonville Road.

2. Provide coordinated access and circulation that accommodates industrial development, minimizes conflicts with residential neighborhoods, provides an alternate route for Boones Ferry Road and Old Town, and that helps to minimize congestion on Wilsonville Road, particularly where capacity is limited.

3. The city shall work with property owners to identify appropriate street alignments that provide needed access and circulation while serving adjacent properties and Old Town.

4. Provide buffering along the western perimeter of the area for adjacent residential developments. Buffering can be provided by open space, walls, or berms residentially sensitive buildings such as offices or light industrial; by visual barriers and sound control mechanisms and structures; or combinations thereof.

5. Maintain and enhance the aesthetic and environmental quality of Seely Ditch, Coffee Lake Creek, and the Willamette River.

6. Carefully limit incompatible uses in this area, while minimizing noise and air quality impacts on adjacent residential neighborhoods.

7. If possible, without damaging the viability of the railroad, minimize the disruptive and incompatible nature of the railroad, which abuts this area. Pursue appropriate commuter rail service, which ultimately may extend south of Wilsonville.”

7. Regarding Area ‘G’ Comprehensive Plan objectives the proposed Conditional Use Permit for offices are intended to support family business operations including concrete products manufacturing, wholesale nursery, marine industrial construction all of which operate on the applicant’s adjoining 90+ acre property. The applicant indicates that their offices are located in several locations from which they do their accounting. The subject Ridder House would serve as additional office space for their managers and administrative staff. In the professional opinion of staff the proposed light duty offices meets the low impact intent of Area ‘G’ to “manage conflicts with neighboring uses and activities, while allowing for appropriate continued operations.”

**2. The characteristics of the site are suitable for the proposed use considering size, shape, design, location, topography, existence of improvements and natural features.**

8. The subject house was remodeled and including parking lot improvements to accommodate the previous Montessori pre-school. The applicant proposes minor site improvements including a new paved parking stall for the disabled, close off the main driveway at Wilsonville Road and to extend a new driveway at the southerly property line to connect to their private road - Industrial Way. The Community Development Director has waived the requirement for a traffic impact study. See Exhibit C3. The applicant does not propose to remove regulated trees for the proposed driveway. The removal of filebert trees (orchard trees) for the proposed new access drive are exempt from the City tree permit requirements.



Also proposed are minor interior house remodeling. The main floor will become the offices. According to the City Building Official the second floor is not structurally adequate to support offices and/or storage and should not be accessible. The applicant claims that the existing house and site is very accessible and it is more suitable for their employees. This criterion is met.

Description	Usage	Square Feet
Main Floor	Office Space	2796
Second Floor	Not Accessed	858
Covered Front Porch	Access	95
Covered Main Porch	Access	69
Side Porch	Access	30
Rear Porch	Access	50

**3. All required public facilities and services exist, or will be provided, to adequately meet the needs of the proposed development.**

9. Existing sanitary sewer and water services at SW Wilsonville Road adequately meet the needs of the proposed change of use to offices. This criterion is met.

**4. The proposed use will not alter the character of the surrounding area in a manner which substantially limits, or precludes the use of surrounding properties for the uses listed as permitted in the zone.**

10. The existing 108 year old house is not listed on national or state registries of historic sites or structures but it is listed in the 1984 Clackamas County Cultural Resource Survey as the Ridder House. The survey also indicates that there has been additions; end wall chimney and a bay window was added at a later date. For the past 30 years the house was a Montessori pre-school. In staff's professional opinion, it is very encouraging that the applicant intends to preserve and make improvements to the house. The applicant indicates that there will be 6 to 8 administrative/management staff working out of the house during routine operating hours. Thus, the old Wilsonville character of the property would be preserved. This criterion is met.

#### **Sections 4.400-4.450 Site Design Review**

11. These criteria pertain to the purposes and objectives of Site Design Review under which this application is not evaluated. The subject application does not involve a new building or exterior remodel of the existing house. Other than minor parking lot improvements these criterion are not applicable.

#### **Section 4.155 General Regulations-Parking, Loading & Bicycle Parking**

12. Parking standards in Section 4.155 Table 5 requires minimum 2.7 parking spaces per 1000 sq. ft. of floor area for offices. Proposed is 2,796 sq. ft. of offices and associated space which requires 7.5 or 7 parking spaces. On page 13 of Exhibit B1 the applicant indicates that he has: "4 parking spaces designated on the existing concrete pad beside the house (3 regular and one ADA sized and posted space). Three additional parking spots are available in the asphalted area. More parking is available in the graveled area."

These parking spaces are not stripped and must be stripped to delineate 9' x 18' Parking Space required in Section 4.001 203. With proposed condition of approval PD3 this can be accomplished. The resulting total of 8 spaces exceeds the minimum 7 spaces required. The City Building Division regulates ADA parking and location.

#### **Section 4.067 Access, Ingress, and Egress.**

The applicant indicates on page 14 of Exhibit B1; "There are two access ways onto streets or private drives: 1) from Wilsonville Road (To be closed but available for emergency vehicle use [and to be available if property used for {or reverts to} residential {Current Zoning}usages] and 2) the new access from Industrial Way."



13. Condition PF3 requires the closure of the private driveway at SW Wilsonville Road because it is poorly situated for adequate sight vision.

PF3. “The 2103 Transportation System Plan shows Wilsonville Road classified as a Minor Arterial at this location. The existing driveway access is non-conforming with desired 1,000 foot (minimum 600 foot) access spacing requirement. Applicant shall construct a new access which will connect the site to Industrial Way and shall no use the existing access to Wilsonville Road.”

“Applicant shall wither construct a fire/utility access gate (Detail RD-1210) at this driveway and construct a standard curb and gutter (Detail RD-1055) and landscape strip.”

This criterion would be met with condition PF3.

**Subsection 4.179: Location, Design and Access Standards for Mixed Solid Waste and Recycling Areas.**

14. The applicant indicates on page 15 of Exhibit B1: “We will continue to use the existing Mixed Solid Waste and Recyclables Storage On site. We have storage areas inside the fenced area adjacent to the building and the oversized parking area on site, including adequate space for mixed solid waste and source separated recyclables.”

Staff estimates 11.2 Sq. ft. for code compliance:

Use	Sq. Ft.	Calculation	Result (Sq. Ft.)
Office	2796	4/1000 SF of GFA	11.2

**Section 4.430. Location, Design and Access Standards for Mixed Solid Waste and Recycling Areas.**

15. See findings 16 through 19.

**4.430(.01 - .04)Section 4.430 Design of Trash and Recycling Enclosures: The following locations, design and access standards for mixed solid waste and recycling storage areas shall be applicable to the requirements of Section 4.179 of the Wilsonville City Code. Listed (.02) A. through (.04) C.**

16. Subsection .02 requires that solid waste areas be located convenient for users as well as for collection vehicles. The applicant indicates that he has contact with Republic Services through their web-site page. However, the proposed parking plan on page 17 of Exhibit B1 shows one parking space directly in front of the trash enclosure that would restrict access to the hauler on collection days if a vehicle was parked there. In staff’s opinion this potential conflict would be best coordinated between the applicant and the franchise hauler.



**Subsection .03 requires a six-foot high sight obscuring enclosure with a gate at least ten feet in width.**

17. The applicant indicates on page 16 of Exhibit B1: “We intend to plant additional landscaping around of arborvitae around the storage area to visually shield the area with minimum 6 feet in height and well labeled.”

“The waste from the facility is expect to be a small amount of garbage (from lunches and associated activities) and primarily recycling (consisting of paper products). Adequate storage is available on site in the back yard area which will be landscaped and have sufficient access for the franchise hauler and to current city codes. Access will be available (unrestricted) to local haulers and we will install security system (video surveillance) to discourage and monitor vandalism.”

18. There is an existing chain link fence located between a solid waste storage container and the parking lot. The applicant/owner would need to install a gate of at least ten feet in width to provide unrestricted access to the hauler.

## **SUMMARY FINDING**

19. As demonstrated in findings 1 through 18 the proposed conditional use meets, with the conditions of approval referenced therein, the applicable conditional use permit criteria.

## Edmonds, Blaise

---

**From:** Bernert, David J (ACTO Boeing) <dave.bernert@hp.com>  
**Sent:** Friday, January 02, 2015 11:16 AM  
**To:** Edmonds, Blaise  
**Cc:** White, Shelley; doug@wilsonvilleconcrete.com; Michael Harrison; Michael Eakin; Joe Bernert  
**Subject:** RE: Ridder House  
**Attachments:** EASEMENT.RTF; Seller open package.pdf; assessor's Map.pdf; Ridder House Gate Plan.pdf

Hi Blaise

The following is the list of items that we discussed. Attached is the title report and there is no easement to the adjacent property but the original owners owned both parcels and it was before the city was a city with access. We have the second draft of the easement entitling Sheri parties and to ourselves completed and I have the draft attached. Sheri and myself have recommend several changes to this agreement to my attorney that clarify some concerns that Sheri and I have together. Also attached is the gate design which meets the specific being requested in the discussion.

Sheri is representing all of the Young's interests so she is discussing the easement with the family to isolate any other issues there may be and we have agreed to get them all addressed together. In our original application we submitted, we did NOT request parking in the driveway so that was a raised issue by the board that was not present in our application. In addition remember, we will design and build an entry road that will also be able to handle emergency vehicles so the access to the site is not a real issue as we are increase the access significantly not limiting it.

This should cover all outstanding concerns and issues that were raised and we hope to get this moved forward in a timely manner. I hope we can meet the required time line.

Thanks you for all your help in this matter.

Kind regards  
Dave



City of Wilsonville  
EXHIBIT B3 DB14-0066



5885 SW Meadows Road, Suite 130  
Lake Oswego, OR 97035  
Phone (503) 624-4900 Fax (503) 746-6739

July 08, 2014

Jean K. Daiker Family Trust  
278 Sunshine Way  
Turlock, CA 95382

Escrow No. 14007726  
Property: 10050 SW Wilsonville Road  
Wilsonville, OR 97070

We are pleased to have this transaction placed in escrow with us for closing.

Enclosed please find the following:

- **Preliminary Title Report** for your review. Please retain this copy for your records.
- **Seller Information Form.** PLEASE COMPLETE, SIGN AND RETURN TO YOUR ESCROW OFFICER.
- **Important Information for Sellers.**
- **Preliminary Statement Regarding Exempt Status.** PLEASE COMPLETE, SIGN AND RETURN TO YOUR ESCROW OFFICER.
- **WFG Privacy Policy.**

In order to ensure a smooth and efficient closing, please complete the enclosed information form and return it promptly to your Escrow Officer.

Please be advised that we will require a current photo identification (i.e. driver's license or passport) at signing.

If any funds are needed for our closing, please note that the state escrow regulations require such funds to be in either the form of a cashier's check or wire transaction.

Thank you for allowing WFG National Title Insurance Company to assist you. Should you have any questions, please do not hesitate to contact us.

Sincerely,

Mary Ann Hughes  
Escrow Officer  
mahughes@wfgnationaltitle.com



**SELLER INFORMATION FORM**

File No.: 14007726 Escrow Officer: Mary Ann Hughes  
Seller Name: Jean K. Daiker Family Trust Email: mahughes@wfgnationaltitle.com  
Buyer Name: KJD Properties, LLC  
Property Address: 10050 SW Wilsonville Road, Wilsonville, OR 97070

**EXISTING LOANS:**

**Lender Name:** \_\_\_\_\_ **Lender Name:** \_\_\_\_\_  
Account No.: \_\_\_\_\_ Account No.: \_\_\_\_\_  
Address: \_\_\_\_\_ Address: \_\_\_\_\_  
City/State/Zip: \_\_\_\_\_ City/State/Zip: \_\_\_\_\_  
Phone: \_\_\_\_\_ Phone: \_\_\_\_\_

Any Liens/Judgments/Child and/or spousal Support? \_\_\_ Yes or \_\_\_ No If yes, provide information, including contact:

Are there any leased fixtures?  Yes  No

If yes, to whom paid and lease no. \_\_\_\_\_

Are there any homeowners dues?  Yes  No

If yes, Homeowner Association Name: \_\_\_\_\_

Address: \_\_\_\_\_ Phone: \_\_\_\_\_

Amount: \$\_\_\_\_\_ per \_\_\_\_\_ Contact Name: \_\_\_\_\_

Has any work been done or materials supplied to the property in the last 90 days?  Yes  No

If yes, provide information: \_\_\_\_\_

**YOUR CONTACT INFORMATION:**

Contact Phone Number: \_\_\_\_\_

Work Phone Number: \_\_\_\_\_

Email Address: \_\_\_\_\_

**I/we hereby give our consent for the release of any and all payoff figures regarding the encumbrances referenced through the escrow number listed above to WFG National Title Insurance Company and accept the fees associated with the issuance and/or fax of a payoff demand. Should it become necessary to disclose the nature of this transaction to a lienholder in order to procure a payoff demand, you are authorized to do so.**

Executed this \_\_\_\_ day of July, 2014.

Jean K. Daiker Family Trust

\_\_\_\_\_  
By:  
Its Trustee  
**TAX ID NO.:** \_\_\_\_\_



## ***Important Information for Sellers!!!***

### **State Income Tax Withholding on Certain Transfers of Real Property**

Oregon law requires that an escrow agent closing a transaction for the transfer of certain Oregon real property must withhold from the seller's proceeds an amount specified by law. After withholding, your Escrow Officer must remit the withholding to the Oregon Department of Revenue (DOR).

**Withholding does not apply in most circumstances, so it is important that the seller identify whether an exemption to withholding applies. The most frequently applied exemption is the exemption for a seller who is an Oregon resident on the date of closing.**

When no exemption applies, the seller must identify the withholding amount, using the DOR form specified below. Completion of the form may require reference to the seller's records for such facts as tax basis and costs of sale and/or may require the advice of a tax professional for review of applicable State and Federal tax statutes and regulations.

**Failure to make timely delivery to your Escrow Officer of an affirmation of exemption or certificate of withholding amount may delay closing or cause withholding of a greater amount than otherwise would be necessary.**

If the transaction involves more than one seller, the withholding requirements may apply separately.

**If you will not reside in Oregon on the closing date, please inform your Escrow Officer immediately.**

Each seller will be required to provide to your Escrow Officer with the applicable form or forms from the following list at or before closing. You may request a copy of the DOR Form WC at any time.

1. Preliminary Statement regarding Exempt Status (Enclosed). A seller who checks an exempt status on this form need not complete DOR Form WC.

***PLEASE COMPLETE THIS PRELIMINARY FORM AND RETURN TO ESCROW AS SOON AS POSSIBLE.***

2. DOR Form WC: Affirmation for Withholding. A seller who chooses the exemption that the seller received tax advice from a tax professional for a sale other than one exempt as a personal residence, needs to complete DOR Form WC, Part A. A seller who is not exempt under the Preliminary Statement or DOR Form WC, Part A must complete DOR Form WC, Part B. Using Part B of the form, a seller identifies the amount of withholding. Failure to submit this form timely to your Escrow Officer may result in an amount of withholding greater than otherwise would be required.

**You may need to consult with your professional tax advisor in order to complete the Preliminary Statement or DOR Form WC. Escrow can provide a copy of DOR Form WC at any time but will be unable to advise you in the event you have questions.**

When withholding applies, your Escrow Officer will prepare a DOR withholding transmittal form. Escrow will send the form with its remittance of withholding, so that the seller may claim a credit for the withholding on their Oregon income tax return. Escrow will send a copy to the seller to enclose with the seller's Oregon tax return, along with a second copy for the seller's records. Escrow will retain a copy for its records.

When a seller claims an exemption using DOR Form WC, Escrow must send a copy of the form to DOR. In all other circumstances, Escrow must retain the Preliminary Statement and DOR Form WC for possible inspection by DOR.

**AS MENTIONED ABOVE, PLEASE COMPLETE THE ENCLOSED PRELIMINARY STATEMENT AND RETURN TO YOUR ESCROW OFFICER AS SOON AS POSSIBLE.**



**Preliminary Statement regarding Exempt Status  
Tax Withholding for Certain Transfers of Oregon Real Property Interests**

Escrow Agent's Name	WFG National Title Insurance Company
Escrow Number	14007726
Date of Closing	07/31/2014
Seller's Name	Jean K. Daiker Family Trust
Seller's Address	278 Sunshine Way, Turlock, CA 95382
Address of Property Sold	10050 SW Wilsonville Road, Wilsonville, OR 97070

The undersigned seller hereby affirms that, **as of the date of closing and disbursement of funds with respect to the sale of the above described property**, the undersigned seller is (check the space that applies):

- An individual resident of Oregon , as defined in ORS 316.027.
- Sale Price is \$100,000 or less.
- Has received advice from a tax professional that there is no estimated tax due because the sale is of principal residence and the entire gain qualifies for exclusion under IRC Sec. 121.
- An estate, personal representative executor, conservator, bankruptcy trustee, or other person acting under judicial review.
- A transferor in a deed in lieu of foreclosure of a mortgage, trust deed or a land sale contract with no additional consideration.
- A C corporation that is registered to do business in Oregon, S corporation, non-profit corporation, general partnership, limited partnership, limited liability partnership.
- A limited liability company that for federal tax purposes has not elected to be classified as an association taxable as a corporation and is not a disregarded entity per the Oregon Department of Revenue.
- A trust that is not a disregarded entity per the Oregon Department of Revenue.
- A governmental instrumentality (i.e. city, county, state or federal government or agency).

**Not Exempt from State of Oregon DOR Form WC**

- Has received tax advice other than an exclusion based on a sale of a principal residence from a tax professional that there is not estimated tax due.
- None of the above.

(Signature of Transferor/authorized signer)	Title, if applicable: _____	Date: _____
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(Signature of Transferor/authorized signer)	Title, if applicable: _____	Date: _____
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**SUBMIT THIS FORM SIGNED AND DATED TO YOUR ESCROW OFFICER UPON COMPLETION**

**IF YOU CHECKED "NOT EXEMPT TAX ADVICE" OR "NONE OF THE ABOVE" YOU MUST COMPLETE FORM WC, THE FORM MUST BE SUBMITTED TO ESCROW AT OR PRIOR TO YOUR CLOSING APPOINTMENT. CONTACT YOUR ESCROW OFFICER TO OBTAIN THE FORM.**

# Withholding on Real Property Conveyances

## Form OR-18, Form WC, Form TPV, and Instructions

### Introduction

#### Purpose

Beginning January 1, 2008, nonresidents who sell Oregon real property are subject to withholding on gain from the sale. Certain "authorized agents" must withhold tax and send it to the department on behalf of the transferor. Some transactions are not subject to withholding; see next column.

#### Definitions

The following terms are used in these instructions:

"Authorized Agent" is an escrow agent licensed under Oregon Revised Statutes (ORS) 696.505 to 696.590. An attorney is an authorized agent if there is no licensed escrow agent involved and the attorney deposits the proceeds of the sale into a client trust account and disburses funds to the transferor.

"Exempt transferor" is a transferor that is:

- A resident of Oregon;
- An entity registered to do business in Oregon;
- A pass-through entity;
- An agency or instrumentality of the United States or the State of Oregon; or
- A city, county, or other municipal or public corporation.

"FEIN" is the federal employer identification number.

"Non-exempt transferor" is a transferor that is a nonresident of Oregon, including grantor trusts and single-member LLCs, or a C corporation that is not registered to do business in Oregon.

"Pass-through entity" is a partnership, S corporation, limited liability company (LLC) that is not a disregarded entity, limited liability partnership (LLP), certain trusts, or estates. A pass-through entity is an entity whose income and expenses flow through to the owners of the entity.

"Transferee" is a person who acquires ownership of real property located in Oregon.

"Transferor" is a person who transfers, sells, deeds, or otherwise conveys the person's ownership interest in real property to another person.

### Information for transferors: Calculating tax withheld

#### Exempt transferors

Withholding is not required if the transferor is an exempt transferor, such as:

- An individual who is a resident of Oregon;
- A C Corporation that registered to do business in Oregon;
- A personal representative, executor, conservator, bankruptcy trustee, or other person acting under judicial review;

- A pass through entity; or
- A governmental instrumentality (i.e. city, county, state or federal agencies).

If the authorized agent has information that indicates the seller is an exempt transferor, the authorized agent is not required to obtain Form WC, *Written Affirmation for Withholding on an Oregon Real Property Conveyance*. See page 2 for more information about determining residency status.

#### Exempt transfers

Generally, an authorized agent is required to withhold and remit tax to the department on behalf of a non-exempt transferor if the transferor is conveying real property located in Oregon. However, withholding is not required if:

- The consideration (total sales price) for the real property is \$100,000 or less;
- The transferee is acquiring the real property through foreclosure;
- The transferor delivers to the authorized agent a written assurance as provided in section 6045(e) of the Internal Revenue Code (IRC) that the sale or exchange qualifies for exclusion of gain as the seller's principal residence under IRC section 121;
- The conveyance is pursuant to a judicial foreclosure proceeding, a writ of execution, a nonjudicial foreclosure of a trust deed, or a nonjudicial forfeiture of a land sale contract; or
- The conveyance is in lieu of foreclosure of a mortgage, trust deed or other security instrument, or a land sale contract with no additional monetary consideration.

Principal residence exemption. If the transferor is selling a personal residence and the entire gain qualifies for exclusion under federal law, the transferor must provide a written assurance to the authorized agent that the entire gain qualifies for exclusion under IRC section 121. The transferor, even though a non-exempt transferor, is engaged in an exempt transfer, thus does not need to complete Form WC. The authorized agent will send a copy of the written assurance to the department within 30 days of the conveyance.

If the transferor is selling a personal residence and the entire gain is not excludable from federal tax, the transferor must complete Form WC. Situations where the entire gain is not excludable include if the taxpayer claimed business use of home deductions in the past, or the gain exceeds the exclusion amount.

### Oregon BINs

Withholding on real estate conveyances is not the same as payroll withholding. Payroll withholding is tax withheld



from an employee's paycheck. The authorized agent remitting the tax on behalf of a transferor does not need to have an Oregon BIN as is required for payroll withholding. If the transferor is a C corporation, the transferor may have an Oregon BIN. Use the Oregon BIN on the forms as required. If the transferor does not know the Oregon BIN, use the federal employer identification number (FEIN) when a tax identification number is required to be used for a C corporation. Otherwise, if the transferor is an individual, enter the transferor's Social Security number as requested on the forms.

## Determining residency status

### Who is an Oregon resident?

A transferor is a full-year resident of Oregon (even if living outside of Oregon) if all of the following are true:

- The transferor thinks of Oregon as his or her permanent home;
- Oregon is the center of the transferor's financial, social, and family life; and
- Oregon is the place the transferor intends to return to when away.

The transferor is still an Oregon resident if he or she moves out of Oregon temporarily or moved back to Oregon after a temporary absence.

### Who is a nonresident?

A nonresident is a transferor that maintains his or her permanent home outside of Oregon all year. Sometimes, Oregon residents are deemed nonresidents if they:

- Maintained a permanent home outside Oregon the entire year; and
- Didn't keep a home in Oregon during any part of the year; and
- Spent less than 31 days in Oregon during the year.

### What if the transferor moves into or out of Oregon during the year?

A transferor who moved into or out of Oregon during the calendar year is a "part-year resident." The individual is a resident for part of the year and a nonresident for part of the year. A part-year resident may only claim exemption from withholding if the conveyance occurs and the proceeds are disbursed during the part of the year that the transferor is a resident of Oregon or an other exemption applies.

Example 1: Anne moved from Oregon to California on March 28, 2008. She sold her Oregon rental property on July 28, 2008. Even though Anne was a resident of Oregon for the first three months of the year, she was not a resident at the time of the conveyance so she may not claim exemption from withholding as a resident of Oregon.

## Determining non-exempt status

### Disregarded entities

If a transferor is a limited liability company (LLC) or a grantor trust, special rules apply for tax purposes. Sometimes these entities are disregarded for tax purposes. To determine if the entity is disregarded for tax purposes use the guidelines below:

Limited Liability Companies (LLCs). An LLC who is owned wholly by a single member is disregarded for tax purposes. If the LLC is wholly owned by spouses or registered domestic partners, the LLC is disregarded for tax purposes if the individuals elect to file a joint tax return. In these situations, treat the members as individuals and follow related instructions.

Grantor Trusts. A grantor trust is not recognized for tax purposes because the grantor retains substantial control. Grantor trusts are sometimes referred to as "revocable trust" or a "living trust." As long as the grantor is living, treat the trust as an individual and follow related instructions. If the grantor is deceased, the trust is irrevocable and withholding is not required.

## Form WC

### General

A non-exempt transferor must complete Form WC, *Written Affirmation for Withholding on an Oregon Real Property Conveyance*. Form WC is retained in the records of the authorized agent for six years from the date the transaction closed. The authorized agent also sends a copy of Form WC and any required attachments to the department. The transferor should keep a copy of the Form WC provided to the authorized agent.

Complete the top section of the form for all non-exempt transferors that must complete Form WC. Use the following guidelines to determine which box to check in the "Type of property conveyed" section:

"Specially assessed" is property that has received a special property tax assessment such as a reduced valuation or deferral.

"Rental property" is any real property that is a rental building or structure (including mobile homes) for which rental income is received (commercial, industrial, or residential).

"Undeveloped land" is a parcel of land that is vacant and has not been improved for accessibility to utilities nor has any structures located upon it.

"Farm use" is land that is employed in the trade or business of farming for a profit. The land may be zoned for exclusive farm use (EFU) but is not required to be.

"Acquired as gift" is property that the seller did not purchase. It could be property that was inherited or simply gifted to the seller.

When the property is owned by more than one transferor

To be exempt from the withholding requirement, both transferors must meet an exemption separately. If one transferor is exempt and the other(s) is not exempt, withholding is required on the portion of the conveyance attributable to the non-exempt transferor(s).

*Transferor is married or is a registered domestic partner*

If both transferors are exempt and the couple intends to file a joint Oregon tax return for the year of the transaction, complete one Form WC explaining why the transferors qualify for exemption. If only one of the transferors is exempt, complete one Form WC for the transferor who qualifies for exemption. Complete a separate Form WC for the transferor who is subject to withholding. See next column for more instructions for Form WC.

Example 2: Dave and Audrey are married and jointly own a rental property in Oregon. Dave is a Washington resident and Audrey is an Oregon resident. They own the conveyed property in equal shares. Because Audrey is a resident of Oregon, she is not required to have tax withheld on the conveyance (although she's still responsible for paying estimated tax on the income). However, tax is required to be withheld on behalf of Dave based on Dave's ownership interest in the property.

*Transferor jointly owns property and is not married nor a registered domestic partner*

Complete a separate Form WC for each transferor who qualifies for exemption. Complete one Form WC for each transferor who is subject to withholding. See next column for more instructions for Form WC.

Example 3: Rae, Camille, Joe, and Lane inherited a piece of property from their parents. The siblings chose to sell the property. Camille and Joe are Oregon residents; Rae and Lane are California residents. Camille and Joe are exempt from the withholding requirements and each must complete a Form WC. Rae and Lane are not exempt and each must complete Form WC.

## Form WC, part A: Exemption from withholding

### General information

If a non-exempt transferor reasonably determines the gain from the sale is unlikely to be subject to Oregon tax, the non-exempt transferor may claim exemption. In making the determination, the transferor may not consider other losses or deductions that may be claimed when the tax return is filed. To claim this exemption, the non-exempt transferor must complete part A of Form WC, explaining why tax is unlikely due and a calculation that explains the estimate. If more space is needed, a separate page may be attached.

For example, a California resident who sells Oregon property may reasonably expect to be eligible to claim the credit for taxes paid to another state on the Oregon nonresident

return based on the amount of gain that California will also tax. In that case, the non-exempt transferor completes the top part of Form WC and part A, explaining the situation and providing a simple calculation of how the credit will offset any Oregon tax due on gain from the sale of the real property.

## Form WC, part B: Calculation of gain and withholding amount

### General information

If a transferor is not exempt from the withholding requirements or does not complete part A of Form WC indicating an exemption, the authorized agent must withhold the least of:

- Four percent of the consideration (sale price);
- Eight percent of the gain that is includable in Oregon taxable income; or
- The net proceeds disbursed to the transferor.

To determine the proper amount of withholding, the transferor must complete part B of Form WC, "Calculation of gain and withholding amount," and provide it to the authorized agent handling the transaction in the time specified by the authorized agent. If the transferor does not provide the completed Form WC to the authorized agent as the authorized agent requires, the authorized agent must withhold and remit 4 percent of the consideration for the conveyance, or, if less, the entire net proceeds.

### Due date for Form WC

The transferor must provide the completed Form WC to the authorized agent on or before the date of the closing.

### Calculating withholding

#### *Consideration*

The consideration for the conveyance is generally the sales price of the property and is the amount given to the transferor in exchange for the transferor's interest in the real property. Consideration includes cash, assumed debt, and the fair market value of any property given to the transferor.

#### *Net proceeds*

This is the amount from the conveyance that is to be disbursed to the transferor. Generally, this is the amount of "cash to seller" shown on the HUD-1 settlement sheet.

Example 4: Katie sold a small commercial building for \$500,000. She purchased it for \$250,000 10 years ago and still owed \$205,000 on it. Her selling expenses from the property were \$20,000 and included typical costs such as commissions, title insurance, appraisal fee, recording fees, etc. The amount on the HUD-1 settlement sheet on the "cash-to-seller" line was \$275,000. The escrow agent is scheduled to disburse \$275,000 from this conveyance. Thus, the "net

proceeds" related to this transaction used to calculate withholding is \$275,000.

Example 5: Same facts as in Example 4, except that Katie entered into a deferred like-kind exchange. The escrow agent forwarded \$200,000 of the amount due to the transferor to a qualified intermediary. The escrow agent is scheduled to disburse \$75,000 to Katie. The "net proceeds" used to calculate withholding is \$75,000.

#### *Gain includable in Oregon taxable income*

This is the amount of consideration received for the conveyance, less the transferor's federal adjusted basis in the property or the Oregon adjusted basis if different than the federal adjusted basis. The result is reduced by the selling costs directly related to the conveyance (if not already taken into account in the basis calculation) and any part of the gain that is excludable under federal law.

Example 6: Matt sold his rental triplex for \$750,000. He purchased the property 15 years ago for \$400,000. He immediately renovated the property spending an additional \$200,000. He has claimed straight-line depreciation on the property over the last 15 years totaling \$327,270 (\$21,818 each year for 15 years). His Oregon and federal adjusted basis in the rental is \$272,730 (\$600,000 – \$327,270). He had ordinary selling costs of \$50,000. His gain includable in Oregon taxable income is \$427,270 (\$750,000 – \$272,730 – \$50,000).

#### *Gain that is partially exempt from taxation*

If a transferor conveys property that is partially exempt from taxation, the transferor may reduce the gain includable in Oregon taxable income by the exempt amount for this purpose.

Example 7: Steve, a single individual, sold his personal residence for \$690,000. He purchased the property eight years ago for \$225,000. The total gain from the sale of his personal residence is \$465,000. Under IRC section 121, Steve may exclude \$250,000 of the gain from the sale of his personal residence from taxation. He may reduce the gain includable in taxable income by the amount excludable on his federal tax return. The withholding is based on the gain of \$215,000 (\$465,000 – \$250,000).

#### *Gain recognized using the installment method*

If a transferor uses the installment method under IRC section 453 to report the gain associated with the conveyance, the transferor may reduce the gain used to calculate withholding. Reduce the gain for the year by the amount that is deferred under IRC section 453.

Example 8: Edward sold a large acreage for \$1 million. His total gain on the sale was \$500,000. He and the transferee entered into a land-sale contract where the transferee pays Edward over five years with 50 percent paid in the first year and the remainder paid evenly each subsequent year. For tax purposes, Edward recognizes \$250,000 of the gain in the year the conveyance. To calculate withholding, he may reduce his "gain includable in Oregon taxable income" by the amount deferred until later years (\$250,000).

## **Information for authorized agents: Reporting tax withheld**

### Form WC and written assurances

An authorized agent must obtain a completed Form WC from the transferor before the transaction closes. If the transferor refuses to provide a completed Form WC, or is unable to return it to the agent by the time the agent requires, the authorized agent must withhold 4 percent of the sales price or, if less, all of the net proceeds.

If a transferor completes a written assurance that the gain qualifies for the principal residence exclusion under IRC section 121, the transferor may also complete Form WC to indicate they do not expect to owe Oregon tax on the conveyance. However, the transferor is not required to complete Form WC in that case and can complete the written assurance in lieu of Form WC. If the transferor signs the written assurance, you must send that form to the department. Use the same method to file the written assurance with the department as you use to file Form WC.

The authorized agent must send the completed Form WC (or written assurance) to the department within 30 days of closing. You have two ways to send the Form WC to us: register for our File Transfer System (FTS) or mail the Form WC to the address on page 5.

File Transfer System (FTS). FTS is a secure website where you can upload the completed forms and transmit them to the department electronically in a PDF or Word document. Call 503-945-8655 to request information about registering for the service. Once you register, detailed instructions on accessing the system will be sent to you.

### Form OR-18 and Form TPV

#### *Purpose of forms*

If you are an authorized agent, use Form OR-18 to report the amount of withholding the transferor may claim on the personal or corporate tax return. Complete Form OR-18 as part of the closing of the conveyance. Give the top portion of the form showing the amount withheld to the transferor and send the bottom section of the form to the department along with the payment of withheld tax. As evidence of the tax paid on the transferor's behalf, you may also wish to keep a copy of the Form OR-18 in your records.

#### *Due date of Form OR-18 and Form TPV*

You must remit withheld tax to the department within 20 days of the date the proceeds from the conveyance are disbursed to the transferor. Send the payment with the payment voucher, Form TPV, *Payment of Tax Withheld for Non-residents*. On the payment voucher, indicate the calendar quarter to which the payment applies and the type of tax being remitted. Be sure to check the box on the voucher title "Real property conveyance" to distinguish it from other nonresident withholding payments. The department will credit the payment to the appropriate tax year as of the date of the payment.

*Calendar quarter*

- First quarter is January 1 to March 31.
- Second quarter is April 1 to May 31.
- Third quarter is June 1 to August 31.
- Fourth quarter is September 1 to December 31.

Example 9: Hanna conveyed her real property on August 15, 2008. The authorized agent completes Form OR-18 and Form TPV, and enters "2008" in the tax year field and enters "3" in the quarter field. The department will credit Hanna's tax account with the payment for the third quarter of 2008 as of the date the payment is made.

## **Important addresses**

Mail Form TPV with payment within 20 days of disbursement to:

Oregon Department of Revenue  
 PO Box 14950  
 Salem, OR 97309-0950

Mail Form WC within 30 days of closing to:

Oregon Department of Revenue  
 PTAC Compliance  
 955 Center Street NE  
 Salem, OR 97301-2555

## **Taxpayer assistance**

General tax information.....[www.oregon.gov/DOR](http://www.oregon.gov/DOR)  
 Salem.....503-378-4988  
 Toll-free from an Oregon prefix.....1-800-356-4222

Asistencia en español:  
 Salem.....503-378-4988  
 Gratis de prefijo de Oregon.....1-800-356-4222

TTY (hearing or speech impaired; machine only):  
 Salem.....503-945-8617  
 Toll-free from an Oregon prefix.....1-800-886-7204

Americans with Disabilities Act (ADA): Call one of the help numbers for information in alternative formats.



## **ABOUT YOUR PRIVACY**

At WFG, we believe it is important to protect the privacy and confidences of our customers. This notice is intended to explain how we collect, use, and protect any information that we may collect. It will explain the choices you may make about the use of that information.

### **What Information Do We Collect About You?**

We collect certain types of information about you. This may consist of:

- \* Your name, address, and telephone number.
- \* Your email address.
- \* Your social security or government ID numbers.
- \* Your financial information.

We collect this information from:

- \* The application or other forms you fill out with us.
- \* The correspondence you and others direct to us.
- \* Our transactions with you.
- \* Others involved in your transaction, including the real estate agent or lender.

In some cases, we collect information from third parties. For instance, we may receive credit reports from credit agencies.

### **The information We Collect About You On Our Website**

When you enter our website, we automatically collect and store certain information. This consists of:

- \* Your IP Address
- \* (Internet Protocol Address) and domain name.
- \* The type of browser and operating system you use.
- \* The time of your visit.
- \* The pages of our site you visit.

If you register with us or fill out an on online survey, we will collect additional personal information, such as your name, telephone number, email address and mailing address.

### **Cookie Usage**

In order to provide you with customized service, we make use of "cookies." Cookies are essentially files that help us identify your computer and respond to it. You may disable cookies on your own computer, but you may not be able to download online documents unless cookies are enabled.

### **How We Use Information**

The information we collect concerning:

- \* Your browser
- \* The time and date of your visit
- \* The web pages or services you accessed

is used for administrative and technical purposes. For instance, we may use it to count the number of visitors to our site and determine the most popular pages. We may also use it to review types of technology you are using, determine which link brought you here, assess how our advertisements on other sites are working, and to help with maintenance. We use information contained in your emails only for the purpose of responding to those emails. If we ask you to fill out any forms or surveys, we will use the information we receive only for the specific purposes indicated in those forms or surveys.

### **How Do We Use This Information?**

We use the information we collect to respond to your requests. We may also use it to develop our marketing strategy. Sometimes we share information about your preferences, and your name and address, with other companies we believe may have products of interest to you.

### **Your Right to See and Correct Information**

If you wish to see the information we collect about you, please contact the Compliance Department at 12909 SW 68<sup>th</sup> Pkwy, Suite 350, Portland, OR 97223. If you feel the information is incorrect, please send any corrections to us at 12909 SW 68<sup>th</sup> Pkwy, Suite 350, Portland, OR 97223, Attn: Compliance Department. We will update your information.

### **Children's Policy**

We do not knowingly collect information from children under the age of 18. We delete any information that we discover has been provided by children.

### **Security**

#### **--Generally**

We make every effort to protect the integrity of your information. Any personal information you enter into online forms or surveys will be encrypted to ensure it remains private. We limit the right of access to your information to employees that need to use the information to respond to or process your request or transaction. We also take industry standard (IPSEC) measures to protect our sites from malicious intrusions or hacking.

#### **--Phishing and Pretexting**

As you know, consumers are increasingly targeted by unscrupulous persons attempting to acquire sensitive personal or financial information, by impersonating legitimate businesses. We will never send you an unsolicited email or other communication requesting your private information. If you receive a communication directing you to enter your personal information, please disregard the instruction and contact us immediately at [Compliance@wfgnationaltitle.com](mailto:Compliance@wfgnationaltitle.com).

### **Do Not Track**

Because there is not an industry-standard process or defined criteria to permit a user to opt out of tracking their internet access (Do Not Track or DNT), we do not currently respond to the various DNT signals.

### **How Can You "Opt Out?"**

You can always request us not to send you any marketing material and instruct us not to share your non-public information with third parties. We will honor those requests, except to the extent that we are legally required to disclose the information.

You can "opt out" of our marketing by either calling 800-385-1590 (toll free) or emailing us at [Compliance@wfgnationaltitle.com](mailto:Compliance@wfgnationaltitle.com). You may also write to us at 12909 SW 68<sup>th</sup> Pkwy, Suite 350, Portland, OR, 97223 to the attention of Compliance. Alternatively, you may use the opt out form on our website.

### **Opt Out Form**

If you wish to exercise your "opt out" rights, and you prefer not to call our toll-free number, you may fill out and send this form to us at 12909 SW 68<sup>th</sup> Pkwy, Suite 350, Portland, OR 97223. There is no need to use the form if you have opted out over the phone. If you have sent an opt out form to us previously, there's no need to send in another one, unless you want to make a change to your choices.

To exercise your opt out rights, please:

Indicate your opt out choice by checking one or more boxes:

I do not wish to receive any marketing materials or product announcements from WFG

I do not want any information concerning me to be shared with other companies.

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Date: \_\_\_\_\_

Signature: \_\_\_\_\_

### How to Contact Us

If you have any questions about our privacy policy, please contact WFG:

- \* By email: Compliance@wfgnationaltitle.com
- \* By telephone: 800-385-1590
- \* By fax: 503-974-9596
- \* By mail: 12909 SW 68<sup>th</sup> Pkwy, Suite 350, Portland, OR 97223
- \* In person: 12909 SW 68<sup>th</sup> Pkwy, Suite 350, Portland, OR 97223

### Oregon Residents

We may not disclose personal or privileged information about you unless we provide you with a disclosure authorization form that is executed by you or your representative and otherwise complies with certain statutory requirements. Any such authorization is not valid for more than 24 months and may be revoked by you at any time, subject to the rights of anyone who relied on the authorization prior to your notice of revocation.

In addition, if your personal or privileged information was collected or received by us in connection with a title insurance transaction, we cannot disclose such information if the disclosure authorization form that you executed is more than one year old or if the requested disclosure is for a purpose other than a purpose expressly permitted by statute.

You have the right at any time to request in writing access to recorded personal information about you that is reasonably described by you and reasonably available to us. Within 30 days of the date of our receipt of any such written request from you, we will inform you of the nature and substance of any such information, permit you to see and copy that information or obtain a copy by mail, disclose the identity, if recorded, of the persons to whom we have disclosed such information during the previous two years, and provide you with a summary of the procedures by which you may request that such information be corrected, amended or deleted.

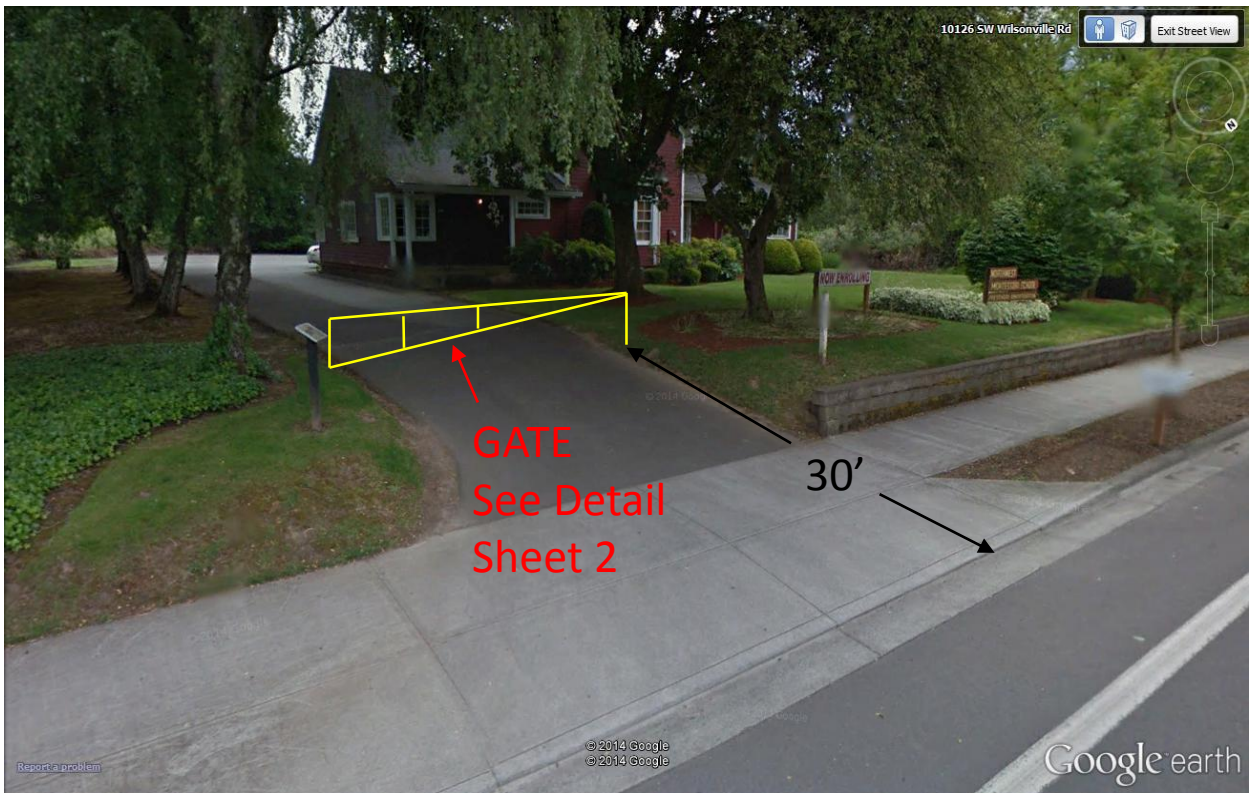
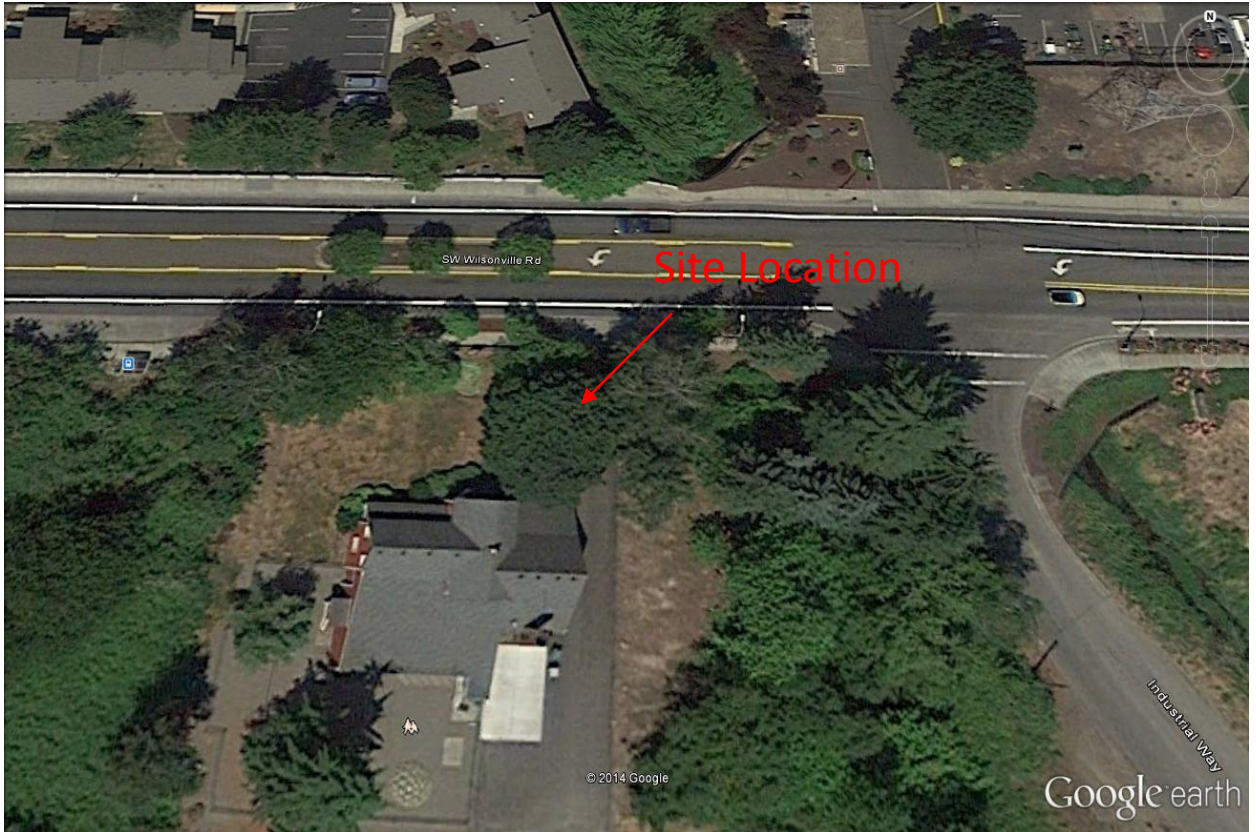
### **WFG FAMILY**

WILLISTON FINANCIAL GROUP LLC  
WFG NATIONAL TITLE INSURANCE COMPANY  
WFG LENDER SERVICES, LLC  
WFGLS TITLE AGENCY OF UTAH, LLC  
WFG NATIONAL TITLE COMPANY OF WASHINGTON, LLC  
WFG TITLE COMPANY OF CALIFORNIA  
WFG NATIONAL TITLE COMPANY OF NEVADA  
WFG NATIONAL TITLE COMPANY OF TEXAS, LLC D/B/A WFG NATIONAL TITLE COMPANY  
UNIVERSAL TITLE PARTNERS, LLC  
VALUTRUST SOLUTIONS, LLC

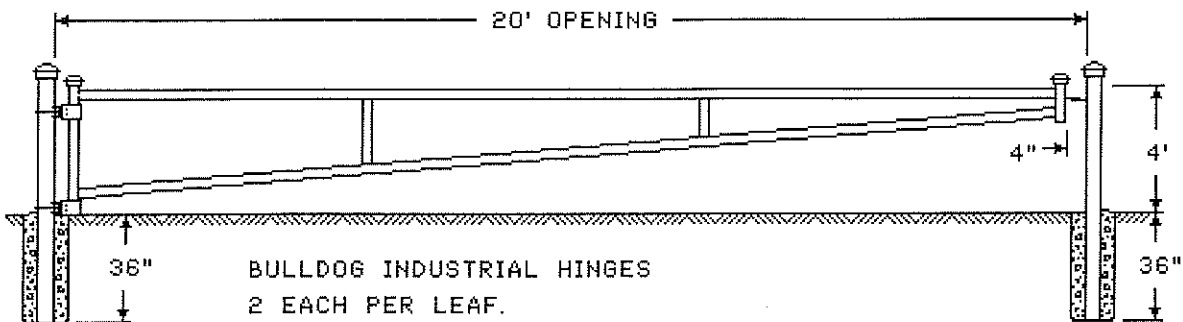




Ridder House Gate Plan  
10050 SW Wilsonville Road  
Wilsonville, Or 97070



DETAIL OF A SINGLE SWING PIPE GATE



LATCH IS 1/4" X 3"  
STEEL PLATE WITH A  
1" HOLE FOR A PAD-  
LOCK. PADLOCK BY OTHER.  
PLATE WELDED TO THE  
GATE, AND ANOTHER TO  
THE POST.

Latch to be modified  
to allow multiple locks  
if needed

HINGE POST: 4" OD 9.11LBS PLF.  
LATCH POST: 2 7/8" OD 5.79LBS PLF.  
GATE FRAME: 1 7/8" OD WELDED. WELDS  
ARE TREATED WITH ZINC RICH PAINT.  
ALL POSTS ARE SCH-40, ASTM F 1083.

**WF WILLAMETTE FENCE CO., INC.**

Willamette Fence Co., Inc.  
11304 NE Marx St.  
Portland, OR 97220  
(503) 285-2761

SINGLE SWING PIPE GATE DETAIL

DRAWN BY: GLJ 01/30/95

SCALE: NONE

PAGE:

REVISED: GLJ 04/02/08

FILE: PIPEGAT4

1 of 1

December 11, 2014

Blaise Edmonds  
City of Wilsonville Planning  
29799 SW Town Center Loop E  
Wilsonville, Oregon  
97070

**Re: Ridder House Conditional Use Permit DB14-0066**

Dear Mr. Edmonds,

Thank you for the opportunity to review the proposed site plan surrounding the above named development project. Tualatin Valley Fire & Rescue endorses this proposal predicated on the following criteria and conditions of approval:

1. **FIRE APPARATUS ACCESS ROAD DISTANCE FROM BUILDING AND TURNAROUNDS:** Access roads shall be within 150 feet of all portions of the exterior wall of the first story of the building as measured by an approved route around the exterior of the building or facility. An approved turnaround is required if the remaining distance to an approved intersecting roadway, as measured along the fire apparatus access road, is greater than 150 feet. (OFC 503.1.1) **Tualatin Valley Fire & Rescue recommends maintaining the access off Wilsonville road for emergency fire department access only.**
2. **GATES:** Gates securing fire apparatus roads shall comply with all of the following (OFC D103.5, and 503.6):
  1. Minimum unobstructed width shall be not less than 20 feet (or the required roadway surface width), or two 10 foot sections with a center post or island.
  2. Gates serving three or less single-family dwellings shall be a minimum of 12 feet in width.
  3. Gates shall be set back at minimum of 30 feet from the intersecting roadway or as approved.
  4. Electric gates shall be equipped with a means for operation by fire department personnel
  5. Electric automatic gates shall comply with ASTM F 2200 and UL 325.
  6. Removable bollards are not an approved alternate to a swinging gate.

If you have questions or need further clarification, please feel free to contact me at (503) 649-8577.

Sincerely,



Jason Arn  
Deputy Fire Marshal II

