PUBLIC MEETING NOTICE
FOR THE
WASHINGTON COUNTY PLANNING COMMISSION
HILLSBORO CIVIC CENTER - SHIRLEY HUFFMAN AUDITORIUM
150 EAST MAIN STREET, HILLSBORO, OR 97124

WEDNESDAY, JUNE 21, 2017  PUBLIC MEETING  6:30 PM

Prior to scheduled public hearing items, the Planning Commission schedules time to receive briefings from county staff as work session items. These briefings provide the Planning Commission an opportunity to conduct informal communications with each other, review the agenda, and identify questions they may ask before taking action on the agenda items during the public meeting. No public testimony is taken on work session items.

Following work session briefings, the Planning Commission considers items published in their agenda, including scheduled public hearing items and consideration of minutes. The public is welcome to speak during the public hearing portions of the meeting. The public may also speak on any item not on the agenda during the Oral Communications section of the agenda.

Upon request, the county will endeavor to arrange provision of the following services:
- Qualified sign language interpreters for persons with speech or hearing impairments; and
- Qualified bilingual interpreters

Since these services must be scheduled with outside service providers, it is important to allow as much lead time as possible. If you need a sign language interpreter, assistive listening device, or a language interpreter, please call 503-846-3519 (or 7-1-1 for Telecommunications Relay Service) by 5:00 p.m. on the Monday preceding the meeting date.

Andy Back
Planning and Development Services Division Manager
The Planning Commission welcomes your attendance at the Public Meeting. If you wish to speak on a public hearing agenda item or during Oral Communications, please feel free to do so. Time is generally limited to five minutes for individuals and 10 minutes for an authorized representative of a Citizen Participation Organization (CPO). The Chair may adjust the actual time limits. However, in fairness to others, we respectfully ask your cooperation on the following:

Please follow sign-in procedures located on the table by the entrance to the auditorium.

- When your name is announced, please be seated at the table in front and state your name and home or business address for the record.
- Groups or organizations wishing to make a presentation are asked to designate one spokesperson in the interest of time and to avoid repetition.
- When more than one citizen is heard on any matter, please avoid repetition in your comments. Careful attention to the previous speakers’ remarks will be helpful in this regard.
- If you plan to present written testimony at the hearing, please bring 15 copies for distribution to Commission members and staff.

PUBLIC MEETING DATES

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<th>BOARD OF COMMISSIONERS WORK SESSIONS</th>
<th>PLANNING COMMISSION MEETINGS</th>
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<tr>
<td>8:30 a.m.  1st and 3rd Tuesdays</td>
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<td>10 a.m.  1st and 3rd Tuesdays</td>
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*Note: Occasionally it may be necessary to cancel or add a meeting date.*
AGENDA

1. CALL TO ORDER

2. ROLL CALL

3. DIRECTOR'S REPORT

4. WORK SESSION

5. ORAL COMMUNICATIONS (Limited to items not on the agenda)

6. PUBLIC HEARING

   a. Quasi-Judicial Plan Amendment Application hearing:

   | Casefile No: 17-143-PA                  | Community Plan and CPO:                     |
   | Applicant: A Recess, LLC                  | Aloha-Reedville-Cooper Mountain             |
   | Community Plan /CPO6                      | Community Plan and CPO:                     |
   | Location: 19730 SW Shaw St                | Aloha-Reedville-Cooper Mountain             |
   | Description: A Plan Amendment from Neighborhood Commercial to Industrial | Community Plan /CPO6 |
   | Request: A Plan Amendment from Neighborhood Commercial to Industrial |

   b. Ordinance No. 820: An Ordinance Amending the Community Development Code Relating to Infill Development in R-5 and R-6 Land Use Districts
7. CONSIDERATION OF MINUTES
   a. May 17, 2017

8. ADJOURN
WASHINGTON COUNTY PLANNING COMMISSION
MINUTES OF WEDNESDAY, MAY 17, 2017

ALL PUBLIC MEETINGS ARE RECORDED

1. CALL TO ORDER: 6:30 P.M. Shirley Huffman Auditorium

The meeting was called to order by Chair A. Richard Vial.

2. DIRECTOR’S REPORT (this agenda item was moved from no. 3 to 2)

Andy Back, Manager for Planning and Development Services, provided the PC with updates:

- Commissioners Beaty and Lockwood will be attending the OAPA training in Eugene on May 20.
- The Intel at Shaw Street plan amendment is scheduled for June 7, 2017.
- There is a hearing for Ordinance No. 820-Infill on June 21, 2017 and another hearing on July 5 regarding the Sherwood Urban Planning Area Agreement (UPAA).

PC discussion included a request by Chair Vial to reschedule the Intel at Shaw Street Plan Amendment, as he could not attend the June 7 meeting. Planning Staff will investigate the possibility and report back to the chair.

3. ROLL CALL (this agenda item was moved from no. 2 to 3)


Staff present: Andy Back, Theresa Cherniak, Erin Wardell, Dyami Valentine, John Floyd, and Susan Aguilar, Long Range Planning (LRP); Jacquilyn Saito-Moore, County Counsel.
4. WORK SESSION

a. PC Training – Quasi Judicial Hearings (this agenda item was moved from b to a)
   Jacquelyn Saito-Moore, County Counsel, facilitated the training. The training included the following topics and areas of discussion:
   - Definition of quasi-judicial decisions and proceedings.
   - Procedural requirements under ORS 197.763 (Conduct of local quasi-judicial land use hearings; notice requirements; hearing procedures.)
   - Ensuring that decisions are based on objective facts and applicable approval standards, as set forth in written findings adopted by the Planning Commission.
   - The need to avoid spot zoning and the need to establish nexus and proportionality to avoid takings.
   - How to respond to actual and potential conflicts of interest.
   - The importance of demonstrating the decision-making thought process in the record.

b. Long Range Planning Issue Paper/Reports – Right Sizing the Parking Code -2nd meeting (this agenda item was moved from a to b)
   Dyami Valentine, senior planner for the Transportation Planning group provided a PowerPoint presentation on Right Sizing the Parking Code. Staff was asked at the April 19 PC meeting to do further analysis regarding this issue. The analysis requested by the PC was presented at this meeting. Staff shared the timeline, proposed context-based approach, potential code and policy changes regarding affordable housing, parking minimums, parking reductions, and staff recommendations.
   
   PC member discussion included the following:
   - Concern that a strict market based solution for parking may not be a good idea.
   - The need to be careful regarding restricting parking regulations.
   - Comment regarding definition of affordable housing.
   - Questions about the concept of reducing parking for affordable housing.
   - Comment regard having the County do a base study on affordable housing parking needs.
   - Concern for building a system that cannot handle what actual users are doing and then there is no place to put cars.
   - Public right away and parking spill over concerns.

5. ORAL COMMUNICATIONS

None
6. CONSIDERATION OF MINUTES

a. March 15, 2017
   Commissioner Mills moved to approve the March 15, 2017 PC minutes. **Vote: 6-2-1. Motion passed.**

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b. April 19, 2017
   Commissioner Mills moved to approve the April 19, 2017 PC minutes. **Vote: 6-2-1. Motion passed.**

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7. ADJOURN: 8:35 P.M.

   There being no further business to come before the Planning Commission, the meeting was adjourned.
A. Richard Vial  
Chairman, Washington County Planning Commission

Andrew Singelakis  
Secretary, Washington County Planning Commission

Minutes approved this __________ day of ______________________________, 2016

Submitted by Long Range Planning Staff
Casefile No. 17-143-PA Intel at Shaw Street Plan Amendment

Staff Report and Recommendation
For the Planning Commission Hearing on:

June 7, 2017

PROCEDURE TYPE: III
COMMUNITY
CPO: 6  PLAN: Aloha-Reedville-Cooper Mountain

LAND USE DISTRICTS:
Existing: Neighborhood Commercial (NC)
Proposed: Industrial (IND)

REQUEST:
The applicant requests a Plan Amendment to change one parcel from Neighborhood Commercial (NC) to Industrial (IND).

RECOMMENDATION:
Based upon the facts and findings provided in this report, staff finds that the applicant has adequately demonstrated compliance with applicable LCDC Statewide Planning Goals, the State Transportation Planning Rule (OAR 660-012-0060), the Metropolitan Housing Rule (OAR 660-007), the Urban Growth Management Functional Plan, Washington County Comprehensive Framework Plan for the Urban Area (CFP) Policies and Implementing Strategies, Washington County Transportation System Plan Goals, the Cedar Hills - Cedar Mill Community Plan, and the Washington County Community Development Code (CDC) as these apply to quasi-judicial Plan Amendments.

Additionally, the applicant has provided necessary evidence of feasibility for provision of adequate services from Tualatin Valley Fire and Rescue, Tualatin Valley Water District, Clean Water Services, the Washington County Sheriff, Beaverton School District, Tualatin Hills Park & Recreation District (THPRD), and TriMet, subject to compliance with related requirements determined through any future development application.

Staff recommends that the Planning Commission **approve** this Plan Amendment request.
I. **APPLICABLE REGULATIONS:**

A. LCDC Statewide Planning Goals 1, 2, 6, 8, 9, 10, 11, 12 and 14

B. Transportation Planning Rule (OAR 660-012-0060)

C. Metropolitan Housing Rule (OAR 660-007)

D. Metro Urban Growth Management Functional Plan: Titles 1, 4 and 7

E. Washington County Comprehensive Framework Plan Policies (and Implementing Strategies):
   1, 2, 13, 14, 15, 18, 21, 22, 30, 32, 33, 37, 39, and 40

F. Washington County Transportation System Plan Goals: 1, 2, 3, 5, 6, 7, 8, 9 and 10

G. Aloha-Reedville-Cooper Mountain Community Plan, Overview, General Design Elements 1, 2, 3, 5, 7, 8, 10, 12, 13, 15 and 16. Tualatin Valley Highway Corridor Subarea

H. Washington County Community Development Code:
   Section 311 Neighborhood Commercial District (NC)
   Section 320 Industrial District (IND)

II. **AFFECTED JURISDICTIONS AND AGENCIES:**

   Washington County Department of Land Use & Transportation
   Tualatin Valley Fire and Rescue (TVF&R)
   Tualatin Valley Water District
   Clean Water Services (CWS)
   Washington County Sheriff
   Beaverton School District
   Metro
   TriMet
   Department of Land Conservation and Development

III. **FINDINGS**

A. General

   **Applicant:** See page 4 of the applicant’s narrative.

   **Staff:** The applicant requests a Plan Amendment to change the current Neighborhood Commercial (NC) land use designation of the subject site to Industrial (IND). The applicant proposes to develop a three-story self-storage facility approximately 120,000 square feet in size. This use is not allowed in the NC district but is allowed in the IND district. This plan amendment application does not include review of the applicant’s proposed development. A separate development application is required if the proposed amendment is approved. It should be noted that if the plan amendment is approved, any use allowed in the IND district
could be proposed on this site. The following is an analysis of the subject parcel, including the current uses and land use history of the proposal on the subject site and the surrounding area.

**Property Description**
The subject parcel is located on the east side of SW 198th Avenue, north of its intersection with SW Shaw Street. SW Shaw Street outlines the southern and eastern property lines of the subject parcel. The Southern Pacific Railroad abuts the north end of the property. The subject parcel is located in the County’s urban unincorporated area. The site is approximately 3.5 acres in size and was approved as a parking area for use by contractors supporting the Intel campus west of SW 198th Avenue. The site is paved, with landscaping provided in the parking islands and around the perimeter of the parcel. Current access to the parcel is from SW Shaw Street. The applicant states the parcel is currently unused and has been listed for sale by the owner since February 2015. Figure 1 shows the location of the subject parcel.

The site is within the Tualatin Valley (TV) Highway Corridor Subarea of the Aloha-Reedville-Cooper Mountain (ARCM) Community Plan.

**Land Use History**
A 1960 tax map (Figure 2) shows past zoning of the site as R-7 (Residential) and the surrounding area as R-7 and C-3 (Commercial). The R-7 zoning was intended “to provide for and protect residential land properly located for families who desire to live in a single family dwelling environment...” The principal permitted use in this district was single family detached dwellings. The tax map shows SW Shaw Street, before its realignment, running parallel to both TV Highway and the railroad.
In 1983, when the ARCM Community Plan was adopted, the subject parcel was designated NC as shown in Figure 3. The parcels surrounding the subject properties were IND to the east and west, OC (Office Commercial) to the north and Residential (R-9 and R-5) to the south.

In 1996 a Plan Amendment to modify SW Shaw Street was approved (Casefile No. 95-722-PA), realigning the street along the eastern and southern property line of the subject parcel as shown on Figure 1. In 1996, Intel obtained approval to build a parking lot on the site (Casefile No. 96-174-D(C)). It was designed to be a supplemental parking lot primarily for use by contractors supporting development of the Intel Campus, not Intel employees. The lot is now unused and the applicant states that the subject site has been for sale since 2015.

**Neighboring Land & Vicinity**

Figure 4 shows the current land use designations for the subject parcel and vicinity. The subject parcel is only one of two parcels designated NC in the area. Both parcels are owned by Intel, but are separated by SW Shaw Street. Parcels to the east and west of the two NC properties are designated IND, to the north Community Business District (CBD), and to the south R-9 and R-5. The Intel site west of the subject parcel across SW 198th Avenue functions as a manufacturing plant. Other uses consistent with the IND district, located east of subject parcel include automotive repair, industrial park, and storage facility. To the north of the subject parcel are businesses such as restaurants and retail stores consistent with the CBD designation. While the eastern and southern property lines abut...
SW Shaw Street, the second NC parcel in this area buffers the subject parcel from the residential parcels to the south.

Testimony
At the time of writing this staff report, no comments were received. Should any written testimony be submitted after the completion of this report and preparation of the Planning Commission (PC) packet, it will be presented to the PC for review and inclusion in the record at the public hearing.

B. Compliance with Statewide Planning Goals

Washington County’s Comprehensive Plan includes the Comprehensive Framework Plan for the Urban Area (CFP), which complies with the policies of the Statewide Planning Goals. Goals applicable to this proposal are identified under Section 1.A of this report and within the findings for related CFP policies (Section III.F).

C. Transportation Planning Rule (OAR 660-012-0060)

Applicant: See page 21 and Appendix D of the application packet. Appendix D includes the Traffic Impact Statement prepared by the County (TIS #02029612, dated February 17, 2017) and a letter from the Kittelson & Associates dated March 1, 2017.

Staff: Based on the findings in the County’s Transportation Report dated May 4, 2017, the proposed Plan Amendment is consistent with the Transportation Planning Rule and Goals 1, 2, 3, 5, 6, 7, 8, 9 and 10 of the Transportation System Plan, and would not significantly affect the capacity or levels of traffic on the nearby transportation network defined in OAR 660, Division 12. The Transportation Report is included as Attachment A.

(The findings in Attachment A also pertain to Statewide Planning Goal 11, Public Facilities and Services and Goal 12, Transportation).

D. Metropolitan Housing Rule (OAR 660-007)

“The purpose of this division is to ensure opportunity for the provision of adequate numbers of needed housing units and the efficient use of land within the Metropolitan Portland (Metro) urban growth boundary, to provide greater certainty in the development process and so to reduce housing costs. OAR 660-007-0030 through 660-007-0037 are intended to establish by rule regional residential density and mix standards to measure Goal 10 Housing compliance for cities and counties within the Metro urban growth boundary, and to ensure the efficient use of residential land within the regional UGB consistent with Goal 14 Urbanization.

OAR 660-007-0035 implements the Commission's determination in the Metro UGB acknowledgment proceedings that region wide, planned residential densities must be considerably in excess of the residential density assumed in Metro’s ‘UGB Findings’. The new construction density and mix standards and the criteria for varying from them in this rule take into consideration and also satisfy the price range and rent level criteria for needed housing as set forth in ORS 197.303.”
Applicant: See page 21 of the applicant’s narrative.

Staff: The Metropolitan Housing Rule (MHR) requires, in OAR 660-007-030, new construction of housing at an overall average of eight units per acre in urban unincorporated Washington County to encourage the development of needed housing. This is to be accommodated via a mix of land use designations that provide opportunity for 50% of total new housing as attached units. The MHR defines buildable land as that “likely to be redeveloped that is suitable, available and necessary for residential uses...” The NC land use district allows but does not require, residential uses as part of a mixed use development with commercial at ground level, nor does it have a minimum density requirement. There is no guarantee that a developer would choose to provide a residential component. The applicant suggests that the likelihood for residential development appears low, given the site’s location adjacent to a railroad line and between various industrial uses. Further, Metro’s Buildable Lands Inventory (BLI) for potential residential dwellings in Washington County does not include the subject parcel in its inventory.

Since neither the existing nor the proposed district requires residential development, the proposed Plan Amendment to IND would not impact the number of dwellings required on the subject parcel.

Staff finds the proposed Plan Amendment complies with the Metropolitan Housing Rule.

(These findings also pertain to Statewide Planning Goal 10, Housing)

E. Urban Growth Management Functional Plan

Section 3.07.810.C. of Title 8 of Urban Growth Management Functional Plan (UGMFP) requires that “After one year following acknowledgement of a Functional Plan requirement, cities and counties that amend their comprehensive plans and land use regulations shall make such amendments in compliance with the new Functional Plan requirement.” The following are findings for the applicable UGMFP Titles:

1. Title 1, Housing Capacity, states:

   The Regional Framework Plan calls for a compact urban form and a “fair-share” approach to meeting regional housing needs. It is the purpose of Title 1 to accomplish these policies by requiring each city and county to maintain or increase its housing capacity except as provided in section 3.07.120.

Applicant: See pages 19-20 of the applicant’s narrative.

Staff: Staff cites the findings in Section III.D as applicable to the findings for Metro’s UGMFP Title 1. The proposed Plan Amendment to IND would not impact the number of dwellings required on the subject parcel since neither the existing nor the proposed district requires residential development and the subject parcel was not factored into Metro’s BLI for housing.

Staff finds the proposed Plan Amendment does not adversely impact the site’s compliance with Title 1.
2. **Title 4: Industrial and other Employment Area**

   *The Regional Framework Plan calls for a strong regional economy. To improve the economy, Title 4 seeks to provide and protect a supply of sites for employment by limiting the types and scale of non-industrial uses in Regionally Significant Industrial Areas (RSIAs), Industrial and Employment Areas. Title 4 also seeks to provide the benefits of “clustering” to those industries that operate more productively and efficiently in proximity to one another than in dispersed locations. Title 4 further seeks to protect the capacity and efficiency of the region’s transportation system for the movement of goods and services and to encourage the location of other types of employment in Centers, Corridors, Main Streets and Station Communities. The Metro Council will evaluate the effectiveness of Title 4 in achieving these purposes as part of its periodic analysis of the capacity of the urban growth boundary.*

   **Applicant:** See page 20 of the applicant’s narrative.

   **Staff:** The main goal of Title 4 is to provide and protect industrial site supply. Designation of the site as IND helps to provide for and protect industrial sites in the County consistent with this goal. Title 4 also encourages clustering of industries for productivity and efficient use of the land. The properties to the east and west of the site contain industrial uses such as Intel’s manufacturing plant, automotive repairs, an industrial park, and a storage facility. The applicant’s proposal to amend the current land use district on the site from NC to IND to accommodate a storage facility would be consistent with other industrial uses along SW Shaw Street. Further, proximity of the proposed storage facility to an existing one located east of the site would address clustering of related industrial uses along SW Shaw Street consistent with Title 4.

   In 1996 the property owner, Intel, constructed a parking lot to provide construction parking for contractors supporting the manufacturing plant across SW 198th Avenue. Currently the site is unused and the applicant has stated the site has been up for sale since 2015 (see Figure 5). The applicant’s goal is to develop the subject parcel as a storage facility; an industrial use that is compatible with other uses found on SW Shaw Street and could provide supportive services to the surrounding industrial uses as well as to the commercial and residential uses to the north and south of the site.

   **Staff** finds the proposed Plan amendment complies with Title 4.

![Figure 5 Photo from the northwest corner of the subject property facing southeast.](image-url)
3. **Title 7, Housing Choice:**

   **Applicant:** See pages 20 of the applicant’s narrative.

   **Staff:** Title 7 encourages the availability of housing for all levels of income. Staff cites the findings in Section III.D as applicable to the findings for Metro’s UGMFP Title 7. While the NC designation would allow residential units as part of a mixed use development, the potential housing provided with this land use designation is not calculated as part of required housing in this region. A designation change to IND from NC would not adversely impact the availability of housing in the area.

   Staff finds the proposed Plan Amendment complies with Title 7.

F. **Washington County Comprehensive Framework Plan for the Urban Area (CFP)**

1. **Policy 1, the Planning Process, states:**

   *It is the policy of Washington County to establish an ongoing Planning Program which is a responsive legal framework for comprehensive planning and community development and accommodates changes and growth in the physical, economic and social environment, in response to the needs of the County’s citizens.*

   *It is the policy of Washington County to provide the opportunity for a landowner or his/her agent to initiate quasi-judicial amendments to the Comprehensive Plan on a semi-annual basis. In addition, the Board of Commissioners, the Planning Director or the Planning Commission may initiate the consideration of quasi-judicial map amendments at any time deemed necessary and a landowner or his/her agent may initiate a quasi-judicial map amendment in a New Urban Area at any time during the year.*

   Applicable Implementing Strategy:

   **f.** Approve a quasi-judicial plan amendment for properties outside of New Urban Areas to the Primary Districts on the Community Plan Maps and/or the Future Development Areas Map, including the implementing tax maps, only if the Review Authority determines that the proponent has demonstrated that the proposed designation conforms to the locational criteria of the Comprehensive Framework Plan. Where applicable, the proponent must also establish with the Review Authority compliance and conformance with the following:

   - The provisions of Policies 40 and 41;
   - The Community Plan Overview and sub-area description and design elements;
   - The policies, strategies and systems maps of the Transportation Plan; and
   - The regional functional planning requirements established by Metro.

   The proponent may also be required to demonstrate to the Review Authority that the potential service impacts of the designation will not impact the built or planned service delivery system in the community. This is a generalized analysis that in no
way precludes full application of the Growth Management Policies to development permits as provided in the Code.

***

In addition, the proponent shall demonstrate one of the following:

***

2. A lack of appropriately designated suitable alternative sites within the vicinity for a proposed use. Factors in determining the suitability of the alternative sites are limited to one of the following:
   a) **Size**: suitability of the size of the alternative sites to accommodate the proposed use; or
   b) **Location**: suitability of the location of the alternative sites to permit the proposed use.

**Applicant**: See pages 4-5 and Appendix F of the applicant’s narrative.

**Staff**: To qualify for plan amendments from one plan designation to another, quasi-judicial plan amendment applicants must successfully demonstrate that the request complies with, satisfies, or otherwise implements each applicable plan policy as noted under Implementing Strategy 1.f.

Policy 1 identifies other agency and County requirements that are applicable to this policy that have been addressed in other parts of this report. Policy 41, Urban Growth Boundary Expansions, is not applicable because the subject properties are already located within the Urban Growth Boundary.

The subject parcel is located within an established urban area with access to urban services and is part of the following urban services districts:

- Tualatin Valley Fire & Rescue (TVF&R)
- Clean Water Services (CWS)
- Tualatin Valley Water District (TVWD)
- Hillsboro School District (HSD)
- Urban Road Maintenance District (URMD)
- Enhanced Sheriff Patrol District (ESPD).

Service Provider Letters were provided showing that no adverse impacts on service provision are expected with the proposed Plan Amendment. While the site is currently developed, the applicant’s intent to redevelop the site will require additional coordination with these districts at the time of redevelopment to ensure compliance with applicable standards.
The applicant plans to propose a three-story self-storage facility approximately 120,000 square feet in size as shown in Figure 6. This use is not permitted in the NC district but is permitted in the IND district. Staff cites the findings from Policy 18 showing the subject property is consistent with the locational criteria for the IND district. Staff notes that while the applicant has identified a potential use for the site, the plan amendment approves the change to the land use designation on the site and not the applicant’s proposal. If the plan amendment is approved, any use allowed in the IND district could be proposed on the site. See CDC Section 320 for a list of allowed uses in the IND.

The applicant has indicated there is a lack of appropriately designated suitable alternative sites in this area to allow for the development of a self-storage facility. The applicant in their e-mail to staff (Appendix F) states:

“Of the properties within the site’s vicinity, aerial photographs indicate that each of the industrially zoned parcels to the east have been fully developed. Of the properties to the west, the majority of these parcels have been fully developed. ...Under-developed [Intel] properties near the intersection of SW 209th and TV Highway... appear to be improved as parking areas and stormwater management facilities. Of the industrially zoned properties located to the east and west of the site, the Portland brokerage website, “Loop-Net”, indicates that none of these properties are currently listed for sale. Self-storage facilities are also permitted within the County’s General Commercial zones and there are a handful of under developed commercial parcels located on the north side of TV Highway and on the south side, approximately ½ mile east of the site. Of the commercially zoned property[ies] within the site’s vicinity, none... are listed for sale. The nearest comparable property which is listed for sale is a commercial site listed near the airport at NE Belknap Court. This parcel is located more than 2 miles away from the project site. After reviewing the County and City’s zoning maps, the available commercial and industrial properties for sale, and the development patterns within the area, it is reasonable to conclude that there is a distinct lack of alternative sites within the site’s vicinity which permit the proposed use.”
The proposed amendment would provide a parcel with an appropriate land use designation that would allow a storage facility and would allow other land uses consistent with current uses found in the area.

Staff cites applicable findings elsewhere in the report as providing support that the proposed Plan Amendment complies with Policy 1. Based upon these findings and the findings in this section of the report, the requirements of Policy 1 have been met.

(These findings also pertain to Statewide Planning Goal 11, Public Facilities and Services)

2. Policy 2, Citizen Involvement, states:

It is the policy of Washington County to encourage citizen participation in all phases of the planning process and to provide opportunities for continuing involvement and effective communication between citizens and their county government.

Applicant: See page 5 the applicant’s narrative.

Staff: A quasi-judicial plan amendment such as this must be considered through a Type III procedure requiring a noticed public hearing of the Planning Commission. In accordance with CDC Section 204-4, the County placed a legal notice of the hearing in The Oregonian at least ten days prior to the June 21, 2017 Planning Commission hearing date (published June 9, 2017), and sent a notice of the public hearing to all owners (of record) of property within 500 feet of the subject site at least 20 days prior to the hearing (mailed May 31, 2017).

Notice of the original June 7 hearing was sent on May 17. Subsequent to the notice being sent, the hearing date was moved to June 21. A revised notice with this new date was sent on May 31.

A copy of the plan amendment application was also mailed to the representative for the local Citizen Participation Organization (CPO 1) on May 2, 2017. Finally, the staff report will be made available to all interested parties at least seven days prior to the hearing as required by CDC Section 203-6.2.

Based upon the actions listed above, the requirements of Policy 2 have been met.

(These findings also pertain to Statewide Planning Goal 1, Citizen Involvement).

3. Policy 13, Reasons for Growth, states:

It is the policy of Washington County to establish a growth management system for the unincorporated areas within the UGB which promotes:

(1) Efficient, economic provision of public facilities and services;
(2) Infill development in established areas while preserving existing neighborhood character;
(3) Development near or contiguous to existing urban development where services are available;
(4) Parcelization of land such that future development at urban densities can take place;
(5) Development which is compatible with existing land uses;
(6) Agriculture use of agricultural land until services are available to allow development;
(7) Development in concert with adopted community plans; and
(8) Utilization of the existing capital infrastructure.

Applicant: See page 6 of the applicant’s narrative.

Staff: The applicant plans to develop the subject parcel as a self-storage facility that could support the commercial, residential and industrial uses in the area. The applicant states the 3.4 acre site is an appropriate size to redevelop for many potential industrial uses, including a self-storage facility, shown in the applicant’s site plan in Figure 7. As noted in Policy 1 of this report, approval of this plan amendment would allow the applicant to pursue their proposal, but it does not guarantee the development of this proposal. If the plan amendment is approved, any use allowed in the IND district could be proposed on the site.

Access to public facilities is available or can be made available to the subject parcel due to its proximity to other developed properties in the area. The subject parcel’s location in an established urban area with existing industrial uses east and west of the site, makes it suitable for the intended self-storage facility according to the applicant.

The residential uses south of the area are oriented away from the subject parcel with some parcels along SW 198th facing the Intel campus. The subject parcel was developed as a private parking lot to support the Intel campus. The parking lot design incorporated the realignment of SW Shaw Street allowing the roadway to separate most of the new parking
area from the southern parcels and included a landscape buffer between the roadway and these residential dwellings shown in Figure 8.

![Figure 8 Photo of residential dwellings separated by SW Shaw Street and landscaping from the parking area (photo taken from southern property line of the subject parcel).](image)

The applicant has provided a potential design for this development, shown in Figure 6. The design provided by the applicant is an example of a potential development and is not being considered with this Plan Amendment application. Future redevelopment of the site will require land use review to address a new building. The applicant’s proposal shows how redevelopment of an underutilized site can preserve the existing neighborhood character by proposing a use consistent with other industrial uses found along SW Shaw Street. Staff finds the proposed Plan Amendment would not preclude future development from complying with Plan Policy 13.

(These findings also pertain to Statewide Planning Goal 2, Land Use Planning).

4. Policy 14, Managing Growth, states:

   *It is the policy of Washington County to Manage Growth in Unincorporated Lands within the UGB such that public facilities and services are available to support orderly urban development. This policy applies to urban unincorporated lands, except in New Urban Areas which are subject to Policy 44.*

5. Policy 15, Roles and Responsibility for Serving Growth, states:

   *It is the policy of Washington County to work with service providers, including cities and special service districts, and Metro to ensure that facilities and services required for growth will be provided when needed by the agency or agencies best able to do so in a cost effective and efficient manner.*

   **Applicant:** See pages 6-7 of the applicant’s narrative and Services Provider Letters submitted with the application in Appendix C.
Staff: The applicant proposes to redevelop the existing parking lot into a storage facility. Addressed within the findings for Urban Growth Management Functional Plan compliance, Title 12, Service Provider Letters have been received from the following agencies:

- Tualatin Valley Water District (water),
- CWS (sanitary sewer & drainage),
- TVF&R (fire),
- Hillsboro School District (schools),
- Washington County Sheriff (police), and
- THPRD (parks).

The applicant also submitted a Transit Availability Statement indicating nearest provision of public transit. The Service Provider Letters provided by the applicant show the proposed Plan Amendment does not affect availability of public facilities and services. Any future development application will require new Service Provider Letters to ensure that mitigation needed to address a specific development proposal is adequately provided.

Staff finds the proposed Plan Amendment would not preclude future development from complying with Plan Policies 14 and 15.

(These findings also pertain to Statewide Planning Goal 6 Air, Water, and Land Resources Quality and Goal 11, Public Facilities and Services).

6. Policy 18, Plan Designations and Location Criteria for Development, states:

*It is the policy of Washington County to prepare community plans and development regulations in accordance with land use categories and location criteria contained in the Comprehensive Framework Plan.*

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**Neighborhood Commercial (NC)**

Characterization: This district provides for small to medium-sized shopping facilities, including food markets, up to 35,000 square feet in gross floor area, and limited office use. Food markets with between 35,000 and 50,000 square feet in gross floor area may be allowed in the district consistent with quasi-judicial public review procedures and criteria established in the Community Development Code.

The intent is to provide for the shopping and service needs of the immediate urban neighborhood and as such should be readily accessible by car and foot from the surrounding neighborhoods. The scale, operation and types of uses permitted in this district are in keeping with the neighborhood character and the capacity of public facilities and services. The principal tenant is likely to be a food market.
Location Criteria: The precise location of these uses should be jointly determined by market factors and the community planning process. Generally, they should be located at Collector and or Arterial intersections and at intervals a mile apart. These uses may be grouped on sites of up to 10 acres.

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**Industrial**

Characterization: The intent of this district is to provide sites for all types of industrial uses, to recognize and regulate existing industrial sites, and to provide the regulatory framework for future industrial development. Low impact, light manufacturing uses are permitted outright while those with hazardous, noxious, unsightly or other potential negative impacts may be permitted with more extensive review and conditions to minimize potential conflicts with surrounding uses.

While the main intent of this district is to provide for industrial uses with minimal commercial use of industrially designated lands, a mix of office, retail commercial, and light industrial uses may be permitted through an industrial park procedure.

Location Criteria: Generally the industrial district should be applied to relatively flat areas, with few different ownerships (and full urban services). Adequate access to a major highway, public transportation facilities and, in some cases, rail should be considered, as well as proximity to the labor market. The location should allow integration of the facility into the community while minimizing land use conflicts. Special light industrial uses have more particular needs, which can be met through industrial park type development.

**Applicant:** See pages 7-8 of the applicant’s narrative.

**Staff:** The CFP addresses designation of land under the IND and NC classifications by providing “location criteria” as described above. The subject parcel is consistent with the locational criteria for the IND designation since the site is relatively flat, has adequate access to the major roadways such as TV Highway and can access urban services existing in the area. The subject parcel is connected to the other industrial parcels to the east and west. The site is less than four acres in size and the applicant proposes to develop the site as a self-storage facility. The proposed use would be consistent in size and scale to other industrial uses on SW Shaw Street. The plan amendment would allow redevelopment of the site with limited impacts to the community since the site is in close proximity to other parcels designated IND that contain various industrial uses. The nearest residential properties to the south are oriented away from the subject parcel and separated by SW Shaw Street and an offsite NC parcel. Staff notes that if the plan amendment is approved, any use allowed in the IND district could be proposed on the site, including a self-storage facility.
The ARCM Community Plan encourages NC parcels to provide a neighborhood focus and to provide access to convenience shopping. While the site is readily accessible by car and could provide shopping and service needs to the area, the site was developed as a private parking lot providing neither a neighborhood focus nor supportive uses to the residential areas to the south (See Figure 9). Separation of the site from residential uses by rail lines, major roadways and nearby industrial uses makes the site less accessible to residents especially on foot. Commercial uses are provided on parcels north of the subject site designated CBD, another commercial land use designation. Further, since other NC properties exist along SW 185th Avenue and SW Kinnaman Road less than one mile from the site, alternative NC parcels exist that serve the residential neighborhood in the area and meet the location criteria for this district.

Staff finds the proposed Plan Amendment complies with Policy 18 and the ARCM Community Plan.

(These findings also pertain to Statewide Planning Goal 2, Land Use Planning).

7. Policy 21, Housing Affordability, states:
   *It is the policy of Washington County to encourage the housing industry to provide an adequate supply of affordable housing for all households in the unincorporated urban county area.*

8. Policy 22, Housing Choice and Availability, states:
   *It is the policy of Washington County to encourage the housing industry to make a variety of housing types available, in sufficient quantities, to the housing consumer.*

**Applicant:** See pages 8-9 of the applicant’s narrative.

**Staff:** The current NC land use designation allows, but does not require, residential development as part of a mixed-use development with ground floor commercial. The residential potential on the site is low given its location adjacent to a railroad line and between various industrial uses. Further the subject parcel was not included in Metro’s BLI for housing.
The requested IND designation is consistent with the land use plans for the subject site as a storage facility similar to other industrial uses located along Shaw Street.

Staff finds that this Plan Amendment complies with Policies 21 and 22.

(These findings also apply to Statewide Planning Goal 10, Housing).

9. Policy 30, Schools, states:

It is the policy of Washington County to coordinate with school districts and other educational institutions in planning future school facilities to ensure proper location and safe access for students.

Applicant: See page 24 of the applicant’s narrative.

Staff: The applicant has submitted a Service Provider Letter for the proposed Plan Amendment from the Hillsboro School District. The letter states “Service level is adequate to serve the proposed project.” Student enrollment is not expected to be impacted on the site since neither district would likely create residential dwellings.

Staff finds that the proposed Plan Amendment complies with Policy 30.

(These findings also pertain to Statewide Planning Goal 11, Public Facilities and Services).

10. Policy 32, Transportation, states:

It is the policy of Washington County to regulate the existing transportation system and to provide for the future transportation needs of the county through the development of a transportation plan as an element of the Comprehensive Plan.

Applicant: See page 10 of the applicant’s narrative.

Staff: Policy 32 directs the development of a Transportation Plan as an element of the overall County Comprehensive Plan. The County has developed a Transportation System Plan (TSP) that meets both the intent of Policy 32 and more recent Regional, State and Federal transportation planning requirements. This TSP is updated as needed to maintain compliance with such requirements. Conformance with applicable standards and requirements of the TSP is discussed within the Transportation Report for this Plan Amendment (Attachment A).

Staff finds that the proposed Plan Amendment complies with Policy 32.

11. Policy 33, Quantity and Quality of Recreation Facilities and Services, states:

It is the policy of Washington County to work to provide residents and businesses in the urban unincorporated area with adequate park and recreation facilities and services and open space.

Applicant: See page 11 of the applicant’s narrative.
Staff: The applicant does not propose to develop the site as a park or open space facility. THPRD has indicated the subject parcel is outside their service district boundary. The site is less than four acres, located on the fringe of a residential area and is adjacent to a railroad line and TV Highway making the site a less desirable location for a park to serve neighboring residential areas. The proposed Plan Amendment does not result in adverse impacts to the development of adequate park and recreational facilities and services in the area.

Staff finds that the proposed Plan Amendment complies with Policy 33.

(These findings also pertain to Statewide Planning Goal 8, Recreation Needs).

12. Policy 39, Land Use Conservation, states:

*It is the policy of Washington County to develop land use strategies which take advantage of density and location to reduce the need to travel, increase access to transit, increase the use of alternate modes of transportation, including transit, and permit building configurations which increase the efficiency of heating and cooling residences.*

**Implementing Strategies**

*The County will:*

- Limit low-density sprawl development, and create a multi-centered land use pattern in the preparation of Community Plans to decrease travel needs.
- Encourage infilling of passed-over vacant land and revitalization of older areas, especially where a major transportation corridor is close by.
- Support planning for alternative modes of transportation as a means of conserving energy.

Applicant: See pages 11-12 of the applicant’s narrative.

Staff: The proposed Plan Amendment to IND would allow the applicant to redevelop the existing parking lot site as a storage facility, providing a supportive use to the surrounding residential area. The proposed IND district would be more compatible with adjacent industrial parcels to the east and west of the subject parcel. Development of the site under the IND district would allow a use that is consistent with other industrial uses adjacent to the site.

Staff finds that the proposed Plan Amendment complies with Policy 39.

(These findings also pertain to Statewide Planning Goal 12, Transportation and Goal 14, Urbanization).

13. Policy 40, Regional Planning Implementation, states:

*It is the policy of Washington County to help formulate and locally implement Metro’s Regional Growth Management Requirements in a manner that best serves existing and future residents and businesses.*
Applicant: See pages 12 of the applicant’s narrative.

Staff: Policy 40 was adopted through Ordinance No. 561, which applied Metro’s 2040 Growth Concept Design Types to all of the unincorporated urban areas of Washington County. Metro identified ten urban design components: Central City, Regional Centers, Town Centers, Station Communities, Main Streets, Corridors, Employment Land, Parks & Natural Areas, Neighborhoods and Urban Reserves.

The subject parcel is identified as “Corridor” on Metro’s 2040 Growth Concept Plan map since the parcel is in proximity to TV Highway, a major corridor in the region. It is not identified in the Title 6, Centers, Corridors, Station Communities, and Main Streets, Adopted Boundaries map; however Title 4, Industrial and Other Employment Areas, identifies SW Shaw Street as an industrial area. The current uses along SW Shaw Street include automotive repair and services, landscaping services, storage facilities and an industrial park. The Intel Campus is located east of the subject site, which is also industrial in nature as pictured in Figure 10. The uses in the area are industrial in nature and the proposed Plan Amendment would be consistent with these uses. Staff finds that designation of the site as IND would be consistent with surrounding industrial properties found along SW Shaw Street.

Staff finds the proposed Plan Amendment complies with Policy 40.

(These findings also pertain to Statewide Planning Goal 2, Land Use Planning).

G. Transportation Planning Rule (OAR 660-012-0060) and Washington County Transportation System Plan

Applicant: See pages 21 and Appendix D of the applicant’s narrative.

Staff: A Transportation Report (Attachment A), incorporated into this staff report by reference, contains discussion on Plan Amendment compliance with the Transportation System Plan (TSP) and the Transportation Planning Rule. Based on the applicant's written materials and the findings in this report, staff concludes when analyzing a reasonable worse-case scenario, as compared to the existing zoning, this proposed Plan Amendment will not significantly affect the capacity or levels of travel on the nearby transportation network as defined in OAR 660-012-0060. Based on the findings in the Transportation Report, staff finds the proposed Plan Amendment complies with OAR 660-012-0060.

(These findings also pertain to Statewide Planning Goals 11, Public Facilities and Services and 12, Transportation).
H. Aloha-Reedville-Cooper Mountain Community Plan

**Applicant:** See pages 15-18 of the applicant’s narrative.

**Staff:** The ARCM Community Plan does not specifically address this area or the existing institutional uses in this area. The Overview states:

**COMMUNITY PLAN OVERVIEW**

*The application of Plan designations to the Aloha-Reedville-Cooper Mountain Community Plan Map was guided by locational criteria in the Comprehensive Framework Plan. These criteria essentially say that the appropriate use for a property is determined by (1) its proximity to major traffic routes, street intersections and transit service; and (2) compatibility with adjacent land uses. The locational criteria also address the appropriate size for and distance between the various kinds of commercial centers.*

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*Neighborhood Commercial areas are dispersed throughout the community to allow for ease of access to convenience shopping for area residents. These neighborhood shopping facilities also serve as a neighborhood focus in some cases. They are generally located more than a mile apart, to reduce overlap in market areas.*

The ARCM Community Plan overview identifies NC designations as areas that land use provide access to convenience shopping and may in some cases serve as a neighborhood focus. The subject parcel is located adjacent to the residential neighborhood to the south and TV Highway and a railroad line to the north, with industrial businesses to the east and west making the site less of a focus for the neighborhood. Further the subject parcel was designed as a private parking lot for the Intel Campus, providing neither a neighborhood focus nor supportive uses to the residential areas to the south. Commercial uses are provided on parcels north of the subject site designated CBD, another commercial land use designation. Other NC sites are located nearby along SW 185th and SW Kinnaman Road as well. The ARCM Community Plan overview discusses locational criteria that address the most appropriate land use designation. One pertinent criterion is compatibility with adjacent land uses. The adjacent parcels to the east and west of the subject parcel are designated IND and contain industrial uses. The proposed IND plan designation for the subject site would be more consistent with these adjacent land uses than the existing NC designation. Staff finds the proposed Plan Amendment complies with the ARCM Community Plan overview.

**GENERAL DESIGN ELEMENTS**

1. *In the design of new development, flood plains, drainage hazard areas, streams and their tributaries, riparian and wooded areas, steep slopes, scenic features, and powerline easements and rights-of-way shall be:*
   a. Used to accent, define, or separate areas of differing residential densities and differing planned land uses;
   b. Preserved and protected to enhance the economic, social, wildlife, open space, scenic, recreation qualities of the community; and
   c. Where appropriate, interconnected as part of a park and open space system.*
Staff: The site does not appear to include flood plains, drainage hazard areas, streams or other natural resources. However, the two NC parcels located in the area are both owned by Intel and are separated by SW Shaw Street. Both parcels are on the market to be sold, but the applicant is only interested in purchasing the parcel on the north side of SW Shaw Street. The applicant is requesting the Plan Amendment change the plan designation only on this parcel. The proposed Plan Amendment would be consistent with the other industrial designations and uses along SW Shaw Street, while the parcel south of SW Shaw Street would remain NC. The right-of-way and the parcel to remain NC would separate the industrial and residential uses.

While the applicant has indicated plans for future development of the site as a new storage facility, review of this plan amendment application does not provide for approval of development or master plan proposals on the site. Future land use applications will need to consider the existing conditions on the site. Staff finds the proposed Plan Amendment would not preclude future development from complying with these general design elements.

Staff finds the proposed amendment is consistent with this design element.

2. Master Planning—Primary Use or Planned Development procedures and standards shall be required for development on land which includes a Significant Natural Resource as a means of protecting the resource while accommodating new development. A density transfer from the resource area to the buildable portion shall be allowed for any Significant Natural Resource site as specified in the Community Development Code.

Staff: The Plan Amendment application requests a change to the plan designation for the subject parcel to IND on a site that does not appear to contain any Significant Natural Resources. Therefore, staff finds the proposed Plan Amendment would not impact this general design element.

3. Open space shall be utilized for park and recreation facilities or passive recreation and dedicated to the appropriate recreation service provider whenever feasible.

Staff: The Plan Amendment application requests a change to the plan designation for the subject parcel to IND. The applicant has indicated no part of the site is designated open space, but that they are aware that the subject parcel is one of a series of parcels that are part of a planned “Turf to Surf” Regional Trail. The applicant is willing to work with the necessary agencies in siting of the trail and/or related improvements. Future land use applications will need to take into consideration the regional trail, which may incorporate an existing path located between the existing development and the railroad right-of-way as shown in Figure 11. Staff finds the
proposed Plan Amendment would not preclude future development from complying with this general design element.

5. Portions of the Planning Area are currently outside the boundaries of the Tualatin Hills Park and Recreation District. Residents and property owners in these areas should seriously consider annexing to the Tualatin Hills Park and Recreation District in order to assure the acquisition, development, and maintenance of a park and recreation system.

Staff: The Plan Amendment application requests a change to the plan designation for the subject parcel to IND. While the ARCM Community Plan encourages annexation into THPRD, this area is located outside THPRD’s ultimate service boundary. THPRD’s current and future western boundary is located east of the subject site as shown on Figure 12.

The area is part of Hillsboro’s future urban service area. When the site is annexed into the city limits of Hillsboro, park services would be provided by the City of Hillsboro. The applicant is not requesting city annexation at this time. Staff finds this general design element is not applicable.

7. All new subdivisions, attached unit residential developments, and commercial developments shall provide for pedestrian/bicycle pathways which allow public access through or along the development and connect adjacent developments and/or shopping areas, schools, public transit, and park and recreation sites.

8. Pedestrian/bicycle pathways identified in the county's Transportation System Plan and this Community Plan shall be included in the design of road improvements that are required of new developments to meet the county's growth management policies.

10. Noise reduction measures shall be incorporated into all new developments located adjacent to Arterial or Collector streets or rock quarries. Noise reduction alternatives will include vegetative buffers, berms, walls and other design techniques such as insulation, setbacks, and orientation of windows away from the road.

12. New development within the Planning Area shall be connected to public water and sewer service; except as specified in the Community Development Code.

13. New development shall, when determined appropriate through the development review process, dedicate right-of-way for road extensions and alignments indicated on Washington County's Transportation System Plan or the Aloha-Reedville-Cooper Mountain Community Plan. New development shall also be subject to conditions set forth in the county's growth management policies during the development review process.
15. New access onto Arterial and Collector streets shall be limited. Shared or consolidated access shall be required prior to the issuance of a development permit for land divisions or structures located adjacent to these facilities, unless demonstrated to be infeasible. T.V. Highway Corridor subarea design elements shall apply in that subarea (as defined in Design Element 1 of that subarea).

16. Bicycle parking facilities shall be required as a part of all commercial, industrial and institutional developments. Residential developments which have parking lots of 20 or more spaces shall provide bicycle parking facilities.

Staff: The applicant has future plans to develop the site as a storage facility, but the existing NC plan designation does not allow the applicant’s proposal. The proposed Plan Amendment to IND would allow the land use proposed by the applicant through a Type II review. There is an opportunity to require improvements to the transportation system in the area through the land use review for redevelopment of the site. The applicant has submitted a Traffic Impact Statement, prepared by the County (TIS #02029612, dated February 17, 2017), indicating public improvements that will likely be required at the time of development. See also, findings in the County’s Transportation Report (Attachment A).

Prior to approval of any future redevelopment, requirements for public urban services as well as public improvements will be applied as conditions of approval through a land use review application specific to a proposed development. Engineering review of plans required in conjunction with a development application will ensure that public improvements are provided as prescribed by Washington County standards and policies. Once development is proposed, adequate public services, mitigation for impacts such as noise, and adequate parking will be addressed as part of the land use review.

Staff finds the proposed Plan Amendment would not preclude future development from complying with the General Design Elements of the Community Plan.

TUALATIN VALLEY HIGHWAY CORRIDOR SUBAREA

To the immediate south of the CBD, properties fronting on 185th Avenue are designated Office Commercial to buffer nearby residential areas from traffic impacts. Properties along the south side of Tualatin Valley Highway, south of the Southern Pacific right-of-way, are generally designated either high density (25 or more units per acre) residential or industrial, depending on existing development commitments.

Neighborhood Commercial sites are located at the 198th and Shaw intersection and the 219th and Tualatin Valley Highway intersection. Commercial development on these sites, which are over a mile from other neighborhood commercial areas, is designed to serve residences planned on surrounding properties.

Staff: In the ARCM Community Plan, the subject parcel is part of the Tualatin Valley Highway Corridor. The ARCM Community Plan identifies this site as a Neighborhood Commercial area; however the community plan also states commercial development in this area is designed to “serve residences planned on surrounding properties.” The subject parcel is adjacent to a residential neighborhood to the south, with the industrial uses to the east and west of the subject parcel and commercial uses to the north. The location of the parcel does not create a commercial area centrally located to residences. Further, the site was developed as a private
parking lot supporting the Intel Campus located across SW 198th Avenue, but not the surrounding neighborhood. This use appears inconsistent with the description of this subarea. The applicant’s proposal to develop the property as a self-storage facility could serve residences in the surrounding area better than the existing private parking lot; however the NC land use designation does not allow this type of use on the site. Staff would note that while the applicant has identified a potential use for the site, the plan amendment approves the change to the land use designation on the site and not the applicant’s proposal. If the plan amendment is approved, then any use allowed in the IND district could be proposed on the site. The applicant’s proposed Plan Amendment to IND would be compatible with existing industrial uses along SW Shaw Street and the land use description provided by the ARCM Community Plan for areas south of TV Highway and the Southern Pacific railroad right-of-way. Staff finds the proposed Plan Amendment would not preclude future development from being consistent with the uses intended for this area.

I. Washington County Community Development Code

1. Article III, Land Use Districts:

311 NEIGHBORHOOD COMMERCIAL DISTRICT

311-1 Intent and Purpose

The purpose of the Neighborhood Commercial District is to allow small to medium sized shopping and service facilities and limited office use in Neighborhood Commercial Centers. This District is intended to provide for the shopping and service needs of the immediate urban neighborhood. Neighborhood Commercial locations should be easily accessible by car and foot from neighborhoods in the area. Centers should have minimal negative impact on surrounding residential properties.

320 INDUSTRIAL DISTRICT (IND)

320-1 Intent and Purpose

The intent and purpose of this District is to provide sites for all types of industrial uses, to provide for the recognition and regulation of existing industrial sites and to provide the regulatory framework for future industrial development, as well as to allow some commercial, office and service uses as accessory uses through mixed use developments where all uses conform to the environmental performance standards of Section 423.

Applicant: See pages 18-19 of the applicant’s narrative.

Staff: In 1983, the ARCM Community Plan designated the subject parcel as Neighborhood Commercial. The plan states: “Neighborhood Commercial areas are dispersed throughout the community to allow for ease of access to convenience shopping for area residents. These neighborhood shopping facilities also serve as a neighborhood focus in some cases.” The site was constructed as a private parking lot supporting the Intel Campus located west of the subject parcel. The approved use of the site does not appear to address neighborhood shopping or service needs as intended by the ARCM Community Plan. Currently the parking area is not used by the Intel Campus and is standing vacant. The applicant has stated the site has been for sale for more than a year, with no demonstrated interest for new commercial development. The applicant further states that the site is less accessible to residents since the residential areas are separated from the site by rail lines, major roadways and nearby industrial uses.
The parcels east and west of the subject property are designated IND. Uses located on SW Shaw Street include automotive repair, tree service, industrial parks, and a storage facility, as shown in Figure 13.

![Figure 13 Photos of businesses on SW Shaw Street east of site.](image)

The applicant, American Recess, is interested in the subject site for a new storage facility. The NC land use designation does not allow this type of use, but for the IND land use designation, uses allowed through a Type II process includes:

320-3.10 Processing and Storage:

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F. Moving and storage.

The applicant’s future proposal will be allowed in the IND, but other industrial uses identified in Section 320 could be proposed on this site if the plan amendment were approved. When reviewing the range of potential uses based on the character of the site, these allowed uses are compatible with the existing uses located along SW Shaw Street and on the Intel Campus across SW 198th Avenue. Residential parcels south of the subject parcel are buffered by SW Shaw Street and the other Intel parcel with the remaining NC land use designation.

The proposed Plan Amendment to INST is consistent with CDC Section 320 and existing IND designations and development patterns in the immediate vicinity. Staff finds the proposed Plan Amendment would not preclude future development from complying with these CDC requirements.
IV. SUMMARY AND CONCLUSIONS

This report and evidence provided by the applicant demonstrate that the proposed Plan Amendment is consistent with applicable policies and strategies of the CFP.

Per the attached Transportation Report, the proposed Plan Amendment is consistent with the Transportation Planning Rule and Goals 1, 2, 3, 5, 6, 7, 8, 9 and 10 of the Transportation System Plan, and would not significantly affect the capacity or levels of travel on the nearby transportation network as defined in OAR 660, Division 12.

Local service providers can currently provide or have the ability to provide an adequate level of public facilities and services to the property.

V. RECOMMENDATION

Based on the findings in this report, staff recommends that the Plan Amendment be APPROVED.

VI. ATTACHMENTS

Attachment A: Transportation Report
May 4, 2017

TRANSPORTATION REPORT
CASEFILE NO. 17-143-PA

Applicant: American Recess, LLC
Location: 19730 SW Shaw Street
Tax Map/Lot: 1S212CD Tax Lot 5600
Site Size: 3.4 acres

Staff has reviewed this request for compliance with the applicable transportation planning policies and rules and submits the following findings and recommendations.

FINDINGS

A. General:
1. The proposed quasi-judicial plan amendment would change the plan designation on a 3.4 acre site from Neighborhood Commercial (NC) to Industrial (IND).
2. The current access to the subject property is located on the west side of SW Shaw Street, approximately 600 feet north and east of SW 198th Avenue. SW Shaw Street is designated as a Neighborhood Route and planned to remain a two-lane roadway. SW Shaw Street is under Washington County jurisdiction.
3. The following standards are applicable to this request and are addressed in this staff report:
   a. OAR 660, Division 12, Oregon Transportation Planning Rule:
      • Section 060 - Plan and Land Use Regulation Amendments
   b. Washington County Comprehensive Framework Plan (CFP):
      • Policy 1
   c. Washington County Transportation System Plan Goals:
      • Goal 1 - Safety
      • Goal 3 - Livability
      • Goal 5 - Mobility
      • Goal 6 - Accessibility
      • Goal 7 - Connectivity
      • Goal 8 - Active Transportation
      • Goal 10 - Funding

B. Oregon Transportation Planning Rule
1. The Oregon Transportation Planning Rule, OAR 660-012-0060, requires an analysis of the impact of a proposed plan amendment on the planned transportation system to determine whether the proposal will ‘significantly affect’ the planned transportation system in the area.
2. Pursuant to the OAR, the proposed plan amendment would ‘significantly affect’ SW Shaw Street and/or the surrounding transportation network if it does any of the following as measured at the end of the planning period identified in the adopted TSP (year-2040):

Department of Land Use & Transportation
Planning and Development Services • Long Range Planning
155 N First Avenue, Suite 350, MS 14, Hillsboro, OR 97124-3072
phone: 503-846-3519 • fax: 503-846-4412
www.co.washington.or.us/lut • lutplan@co.washington.or.us
• Change the functional classification of an existing or planned transportation facility;
• Change the standards implementing a functional classification system;
• Allow types or levels of travel or access that are inconsistent with the functional classification of an existing or planned transportation facility; or
• Degrade the performance of an existing or planned transportation facility such that it would not meet the performance standards identified in the Transportation System Plan or comprehensive plan; or
• Degrade the performance of an existing or planned transportation facility that is otherwise projected to not meet the performance standards identified in the TSP or comprehensive plan.

3. Considering the criteria above, in order to determine if a plan amendment will result in a ‘significant impact’ on transportation facilities, the County generally requires a comparative analysis of a reasonable worst-case development of a site under current and proposed land use designations. A ‘reasonable worst case’ development would be one with the greatest potential trip generation based on a reasonable build-out of the site over the planning horizon of the adopted TSP.

4. The county evaluates roadway performance based on the volume to capacity ratios (V/C), measured at signalized intersections. Table 3.1 in the Washington County TSP Users’ Guide sets forth the applicable performance criteria for plan amendment requests. For this plan amendment, performance of the signal controlled access was considered.

5. The applicant provided an estimate of peak hour and daily traffic under a reasonable worst-case scenario as compared to existing zoning. The analysis is based on build-out of the subject site as light industrial (ITE code 110) with a 74,270 square foot building as the basis of the reasonable worst case scenario. The existing zoning analysis is based on a 51,989 square foot shopping center (ITE code 820). A total of 948 fewer daily trips and 55 fewer PM peak hour trips are anticipated as a result of the proposed zoning.

6. No changes in functional classification are proposed or required in order to accommodate the proposed plan amendment. Furthermore, the plan amendment will not affect the standards implementing the functional classification system as set forth in Objective 5.3 of the County’s TSP nor will it significantly affect the capacity of the surrounding transportation network. Based upon these facts, staff concludes that the proposal is consistent with the identified function, capacity, and level-of-service for affected transportation facilities, consistent with Section 060 of the Oregon Transportation Planning Rule.

7. Considering the findings above, staff concludes that the proposed amendment will not significantly affect the capacity or levels of travel on the nearby transportation network as defined in the Transportation Planning Rule.
C. Washington County Comprehensive Framework Plan For The Urban Area

This plan amendment request is subject to Policy 1.f. from the County’s Comprehensive Framework Plan (CFP). This policy states the following:

A quasi-judicial plan amendment to the Community Plan Maps, including the implementing tax maps, shall be granted only if the Review Authority determines that the proponent has demonstrated that the proposed designation conforms to the locational criteria of the Comprehensive Framework Plan, the Community Plan Overview and the sub-area description and design elements, complies with the regional plan, and demonstrates that the potential service impacts of the designation will not impact the built or planned service delivery system in the community. This is a generalized analysis that is no way precludes full application of the Growth Management Policies to development permits as provided in the Code.

STAFF: As it pertains to transportation, this policy requires the County to analyze the existing transportation system as well as the planned system. With the proposed plan amendment, the future performance of nearby transportation facilities will comply with the adopted performance thresholds of the TSP, based on the County Traffic Engineer’s review. Based on this, the plan amendment will be consistent with Policy 1.f. of the CFP with regard to transportation.

D. Washington County Transportation System Plan (TSP)

The proposed plan amendment is subject to fourteen objectives from the County’s TSP, which are listed and addressed below.

<table>
<thead>
<tr>
<th>Goal 1: Safety</th>
</tr>
</thead>
<tbody>
<tr>
<td>Provide a safe transportation system for all users.</td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>Objective 1.3</th>
</tr>
</thead>
<tbody>
<tr>
<td>Review all development proposals, including those within incorporated areas, to continue the safe operation of county roads.</td>
</tr>
</tbody>
</table>

STAFF: Significant impacts on capacity or roadway safety are not anticipated under the proposed plan designation. Any traffic safety impacts associated with potential future development on the subject property will be subject to the traffic safety regulations set forth in the Community Development Code and Resolution and Order 86-95 which implement Objective 1.3. As explained above in this report, the proposed plan amendment is not expected to have a detrimental impact on the capacity or level of service on any of the transportation facilities in the impact area. The proposal therefore does not conflict with Goal 1.
Goal 3: Livability
Preserve and enhance Washington County’s quality of life for all residents, workers and visitors.

Objective 3.1
Strive to maintain and enhance the livability of existing and future communities and neighborhoods.

STAFF: Any future development on the subject property will be subject to the regulations set forth in the Community Development Code. The proposal therefore does not conflict with Goal 3.

Goal 5: Mobility
Promote the efficient and cost-effective movement of people, goods and services by all modes.

Objective 5.3
Utilize the Interim Washington County Motor Vehicle Performance Measures to manage congestion.

Objective 5.4
Encourage Travel Demand Management efforts to reduce total vehicle travel, and vehicle travel during peak hours.

STAFF: The proposed plan amendment will not result in significant degradation of the planned motor vehicle system nor will it affect the Functional Classification of any nearby street or highway, nor result in land uses that are inconsistent with those identified in the TSP. Therefore, the amendment will be consistent with the performance measures set forth in the strategies for implementation of Goal 5.

Goal 6: Accessibility
Provide safe and efficient access to destinations within Washington County.

Objective 6.1
Provide an accessible, multi-modal transportation system that meets the needs of the community.

STAFF: Any future development on the subject property will be subject to the regulations for neighborhood circulation set forth in the Community Development Code. The proposal therefore does not conflict with Goal 6.
Goal 7: Connectivity
Provide improved and new transportation connections within and between developed and developing areas.

Objective 7.1
Provide an interconnected transportation network that offers multi-modal travel choices and minimizes out-of-direction travel for all modes.

STAFF: Any future development on the subject property will be subject to the regulations for neighborhood circulation set forth in the Community Development Code. The proposal therefore does not conflict with Goal 7.

Goal 8: Active Transportation
Create a built environment that encourages safe, comfortable and convenient active transportation options that are viable for all users.

Objective 8.1
Provide a network of “complete streets” that safely and comfortably accommodate road users of all ages and abilities, including people walking, cycling, using mobility devices, taking transit and driving.

STAFF: Any future development on the subject property will be subject to the regulations for neighborhood circulation set forth in the Community Development Code. Sidewalks are provided on SW Shaw Street and SW 198th Avenue frontages and a pedestrian connection between SW Shaw Street and SW 198th Avenue is provided on the north side of the site, south of the railroad tracks. The site is included in a Regional Trail Refinement Area. SW 198th Avenue is designated as a Major Street Bikeway. No bike lanes are currently provided, however there is a planned MSTIP 3d project that would construct those facilities (estimated completion in 2019). No impact to existing or future transit service is expected. Functional Classification Design Parameters Table 3.9 in the Washington County TSP Users’ Guide indicates that additional right-of-way and setbacks may be required to accommodate these roadway features. The proposal therefore does not conflict with Goal 8.
Goal 10: Funding
Create a built environment that encourages safe, comfortable and convenient active transportation options that are viable for all users.

Objective 10.2
Promote equitable, sustainable and fiscally responsible transportation system funding.

STAFF: If development occurs on the affected property, it will be subject to payment of the appropriate Transportation Development Tax (TDT) toward future capacity improvements. Payment of the TDT is consistent with the objectives included under Goal 10.

CONCLUSION
Based on the findings in this report, staff concludes that this plan amendment proposal will NOT “significantly affect” a transportation facility as defined in OAR 660, Division 12 and is consistent with the Washington County Comprehensive Framework Plan and Washington County Transportation System Plan.
To: Washington County Planning Commission

From: Andy Back, Manager
Planning and Development Services

Subject: PROPOSED LAND USE ORDINANCE NO. 820 - An Ordinance Amending the
Community Development Code Section 430-72 (Infill), Relating to Infill
Development in R-5 and R-6 Land Use Districts

STAFF REPORT

For the June 21, 2017 Planning Commission Hearing
(The public hearing will begin no sooner than 6:30 p.m.)

I. STAFF RECOMMENDATION

Conduct the public hearing; recommend approval of Ordinance No. 820 to the Board of
Commissioners (Board).

II. OVERVIEW

Ordinance No. 820 proposes to amend Community Development Code (CDC) Section 430-72,
Infill. Section 430-72 applies to subdivisions and partitions, and to development review for
attached units, on properties in the R-5 and R-6 Districts that are 2 acres or less in size. The
proposed amendments remove subjective standards and replace them with clear and objective
privacy enhancement requirements: a landscape buffer or a site-obscuring fence.

Ordinance No. 820 originated from a 2016 Long Range Planning Work Program request
submitted by the Washington County Committee for Community Involvement (CCI). The CCI’s
request arose out of a Hearing Officer’s finding in a 2013 decision that Section 430-72 standards
may not be applied to land use decisions for “needed housing” because the standards are not
“clear and objective,” and are thus prohibited by the state’s needed housing rule requirements
(Oregon Revised Statutes 197.303 – 197.307). The CCI requested an update of Section
430-72 standards to make them clear and objective, based on a concern that the Hearings
Officer’s finding invalidated the standards and prohibited staff from applying them to subsequent
development applications.
III. BACKGROUND

The Infill and Redevelopment Code Handbook, a 1999 publication funded by the Transportation and Growth Management Program, the Oregon Department of Transportation and the Oregon Department of Land Conservation and Development, defines “infill” as the development of vacant or remnant lands passed over by previous development in urban areas. However, the term infill is used in a more specific, circumscribed way in the County’s Comprehensive Framework Plan for the Urban Area (CFP) and the CDC. CFP Policy 19 (Infill) and CDC Section 430-72 (Infill) both describe infill as development on R-5 and R-6 lands that are 2 acres or less in size.

CDC Section 430-72: History and Background

The standards of Section 430-72, Infill, were added to the CDC via C-Engrossed Ordinance No. 279 in 1984. Per the Intent and Purpose statement of Section 430-72, the standards are intended to provide a means of developing vacant, bypassed lands of 2 acres or less in areas designated R-5 and R-6, and to ensure that new development is compatible with existing developed areas, with a particular emphasis on privacy. Several of the development standards within the section make references to “providing maximum privacy” and “maintaining privacy” of surrounding existing dwellings.

Section 430-72 has been modified since its adoption. The most recent modifications were made in 2005, in response to a December 2004 request from the CCI for amendments to “…ensure that infill development is compatible with existing development.” A-Engrossed Ordinance No. 645 (2005) added the following requirements to Section 430-72:

- Submittal of additional information with the infill development application: a site plan showing the locations of setbacks of proposed dwelling units, a screening and buffering plan, and an off-site analysis; and,
- Installation of all required landscaping and fencing between proposed infill units and adjacent dwelling units prior to building occupancy and/or final building inspection approval.

The “Needed Housing” Rule

The state’s needed housing rule, ORS 197.303 - 197.307, is a requirement for jurisdictions to meet the need for housing within the Urban Growth Boundary at particular price ranges and rent levels. The rule was added into state law to enact several policies, including linking a demonstration of need for housing to a requirement to allow the housing in zones with sufficient buildable land.

ORS 197.303(1)(a) defines needed housing as:

“...housing types determined to meet the need shown for housing within an urban growth boundary...including at least the following housing types: Attached and detached single family housing and multiple family housing for both owner and renter occupancy...”
The Department of Land Conservation and Development (DLCD) has interpreted this requirement to include all types of housing, from detached single family homes to government assisted housing, at all price ranges and rent levels.

The needed housing rule requires local governments to apply only clear and objective standards to the development of needed housing. ORS 197.307(4) states that:

“...a local government may adopt and apply only clear and objective standards, conditions and procedures regulating the development of needed housing...The standards, conditions and procedures may not have the effect, either in themselves or cumulatively, of discouraging needed housing through unreasonable cost or delay.”

The meaning of the term clear and objective, as used in ORS 197.307, has been addressed in Oregon land use case law. Generally, standards for approval of needed housing are clear and objective in the meaning of ORS 197.307 if the local government demonstrates that they do not impose “subjective, value-laden analyses that are designed to balance or mitigate impacts.” Rogue Valley Assoc. of Realtors v. City of Ashland, 35 Or LUBA (1998)(“Rogue Valley”).

The Land Use Board of Appeals (LUBA) sees numerical standards as presumptively clear and objective. In addition, words and phrases that may not be clear and objective standards when standing on their own can be found to meet the clear and objective test when read in context. For example, subjective code language requiring buildings on steep slopes to be cut into the hillside “to reduce visual bulk” was clear enough when read in context with a diagram in the code explaining, in sufficient detail, what circumstances require excavation. Rogue Valley, 35 Or LUBA.

On the other hand, provisions that grant a local government discretion to “impose conditions if it is deemed necessary to mitigate any potential negative impact caused by the development” have been found to be unclear or subjective, in violation of ORS 197.307. Home Builders Assoc. of Lane County v. City of Eugene, 41 Or LUBA (2002)(“HBA”). In addition, in a 2015 case before LUBA (Group B LLC v. City of Corvallis), LUBA found that “…if a standard is so ambiguous that it can be interpreted in two ways, then it is not clear and objective.”

2013 Hearing Officer Decision and CCI Work Program Requests

In 2013, the County’s Hearings Officer issued a decision for Casefile 13-082-S, a request for a subdivision approval in the R-5 District.

In his decision for Casefile 13-082-S, the Hearings Officer found that:

- The County may only apply clear and objective standards, conditions and procedures regulating the development on this site, because the single family detached housing proposed on the site constitutes needed housing as defined by ORS 197.303(1)(a).
- The infill development requirements of Section 430-72.3.A are not clear and objective criteria.
- Requirements that a development “consider the orientation, landscaping and buffering of proposed uses…” and “provide maximum privacy to surrounding existing and future residential structures” require the exercise of discretionary judgment and subjective
determinations, and are not clear and objective. Therefore, the infill requirements of Section 430-72.3.A are prohibited by state law.

- Even if the County imposed clear and objective conditions to ensure compliance with these standards, the standards themselves are subjective and are therefore prohibited (35 Or LUBA at 160).

In 2014, the CCI submitted a 2015 Work Program request for the Section 430-72 standards to be updated to be clear and objective, and the Board designated this topic as a Tier 2 task in Long Range Planning’s Work Program. In November 2015, the CCI submitted a 2016 Work Program request in which they again asked for an update to the standards of Section 430-72, and it moved up to a Tier 1 task in Long Range Planning’s 2016 Work Program, with a commitment to complete an issue paper in 2016.

Issue Paper No. 2017-01: Updating the Standards of CDC Section 430-72 (Infill)

This paper, released January 12, 2017 (Attachment A), included feedback from County Counsel on Section 430-72 standards and their compliance with the state’s needed housing rule. Counsel noted that the Hearings Officer’s decision on Casefile 13-082-S relates only to that casefile, and does not make binding law or invalidate Section 430-72. However, Counsel concurred with the Hearings Officer that the Section 430-72 standards are largely subjective and discretionary, rather than clear and objective. ORS 197.307(4) requires a local government to apply only clear and objective standards, conditions and procedures regarding the development of needed housing. Counsel noted that if the Section 430-72 standards were ever appealed based on non-compliance with the needed housing requirements, the standards would be unlikely to withstand the appeal. Based largely on Counsel feedback, the issue paper concluded that an update of Section 430-72 was warranted to replace its subjective requirements with clear and objective requirements.

CCI Code Subcommittee members expressed concerns to staff about the privacy impacts of infill development on existing, surrounding homes at its May 13, 2016 meeting. They requested that the following requirements be added to Section 430-72 as part of its clear and objective update, in order to mitigate for potential privacy impacts:

- Evaluation of window placement on infill dwellings;
- Restrictions on the building height of infill dwellings; and
- Inclusion of building elevations as part of the infill development application submittal.

The CCI Code Subcommittee’s proposals were considered in Issue Paper No. 2017-01, but staff recommended against them because they would make the infill standards more restrictive and could potentially result in one or more of the following adverse impacts:

- An increase in the complexity of the application review process;
- A reduction in the likelihood that infill development will occur and/or reduction in the affordability of infill homes;
- Noncompliance with ORS 197.307(4), a subsection of the state’s needed housing rule, which states that standards, conditions and procedures applied to needed housing may not have the effect of discouraging needed housing through unreasonable cost or delay.
The issue paper noted that residential infill is a development type that the County, region and state want to encourage for the following reasons:

- Regional and state policies are designed to direct new residential infill development to less dense neighborhoods within the Urban Growth Boundary.
- Residential infill development within existing urban Washington County neighborhoods is desirable because it allows for more efficient and economic use of existing public facilities and services.
- Residential infill development on smaller land parcels in the urban area is an important element in helping the County implement the housing and minimum density requirements of Metro’s Urban Growth Management Functional Plan.

The existing Section 430-72 standards state that building orientation, setbacks, landscaping, buffering and fencing will be considered as approaches to provide or maintain privacy. As currently written, these standards are subjective and discretionary, and do not provide clear and objective requirements for the provision of privacy. For example, Section 430-72.3.A reads, “When developed through a subdivision, consider the orientation, landscaping and buffering of proposed uses in order to provide maximum privacy to surrounding existing and future residential structures.”

This language is not clear and objective, because it does not state how the building orientation, landscaping and buffering of proposed uses will be considered, how maximum privacy will be provided, or what constitutes “maximum” privacy. The issue paper recommended removing the subjective and discretionary language within Section 430-72 standards, and replacing it with clear and objective standards that comply with the requirements of ORS 197.307, the needed housing rule.

Based on a review of other local jurisdictions’ infill development standards, the issue paper recommended limiting the required privacy measures in Section 430-72 to provision of one of the following clear and objective privacy enhancement measures along the side and/or rear lot lines adjacent to properties developed with existing homes: a landscape buffer (evergreen hedge) with a minimum height of 6 feet, or a site-obscuring fence with a minimum height of 6 feet. These proposed requirements would promote privacy by screening views between the first floors of existing homes and infill homes. They appear unlikely to result in adverse impacts such as discouraging infill development or reducing the affordability of infill homes.

At its April 4, 2017 meeting, the Board adopted the 2017 Long Range Planning Work Program, which authorized staff to file an ordinance to update Section 430-72 standards as recommended in Issue Paper No. 2017-01. Ordinance No. 820, filed on May 12, 2017, contains proposed amendments to update Section 430-72 standards. The proposed amendments are shown in Attachment B, and are described in Section IV below.

**Ordinance Notification**

Ordinance No. 820 and an accompanying summary were mailed May 19, 2017 to Community Participation Organizations (CPOs) and interested parties. A display advertisement regarding the proposed ordinance was published June 2, 2017 in *The Oregonian* newspaper.
Individual Notice 2017-01 describing proposed Ordinance No. 820 was mailed May 19, 2017 to 327 people on the General Notification List. A copy of this notice was also mailed to the Planning Commission at that time.

IV. ANALYSIS

The proposed amendments to Section 430-72 are shown in Attachment B. The amendments remove subjective and discretionary standards from Section 430-72, and add a requirement to provide at least one of the following clear and objective privacy measures along all side and/or rear lot lines of adjacent properties with existing homes: A minimum 6-foot evergreen landscape buffer, or a minimum 6-foot site-obscuring fence.

The rationale for each proposed amendment is described below.

A. Amendments to Section 430-72.1

Section 430-72.1 is the Intent and Purpose statement for the Infill standards. The Intent and Purpose statement does not contain the standards themselves, so it is not required to be clear and objective or to comply with the state’s needed housing rule. However, some amendments to this section are proposed to maintain consistency between the Intent and Purpose statement and proposed amendments to the standards of Section 430-72.3.

- References to “building orientation” and “access and circulation” in the Intent and Purpose statement are proposed to be deleted, because the corresponding references to those terms in the Section 430-72.3 standards are proposed to be deleted. (The reasons for deleting those terms in the Section 430-72.3 standards are described below.)

- The reference to “provides for notification to adjacent property owners” is proposed to be deleted because adjacent property owner notification is already required by another CDC section, and its presence in Section 430-72 is unnecessarily redundant. All Type II and Type III development applications are required to provide adjacent property owner notification per Section 204-3 and 204-4. Applications subject to Section 430-72 (Infill) do not have any additional notification requirements beyond those already required by Section 204-3 and 204-4.

B. Amendments to Section 430-72.2

Text is relocated from Section 430-72.3.A and 430-72.3.B to this section, to clarify that the types of land development that are subject to the infill provisions are subdivisions and partitions, as well as development review for attached units.

C. Amendments to Section 430-72.3.A

The existing language of Section 430-72.3.A describes privacy considerations, and currently reads, “When developed through a subdivision, consider the orientation, landscaping and buffering of proposed uses in order to provide maximum privacy to surrounding existing and future residential structures.”
• This language is proposed to be deleted because it is not clear and objective – it does not state how the building orientation, landscaping and buffering of proposed uses will be considered, or how maximum privacy will be provided.

• These subjective standards are proposed to be replaced by clear and objective landscaping and buffering standards (landscape buffer or site-obscuring fence) as described below under Item I.

• The current language says that orientation will be considered, and staff believes this is a reference to building orientation. Building orientation on proposed lots within a development site may need to vary, based on site-specific conditions and surrounding context, and the configuration of the overall development site. For those reasons, staff’s opinion is that it is not feasible to convert a consideration of building orientation into a clear and objective standard. Therefore, staff proposes its deletion from Section 430-72.

D. Amendments to Section 430-72.3.B(1)
The existing language of Section 430-72.3.B(1) is proposed to be retained and re-numbered as Section 430-72.3.A.

E. Amendments to Section 430-72.3.B(2) and (3)
The existing standards of Section 430-72.3.B(2) and (3) specify information to be submitted in the event that a proposed infill development is for a density below the minimum density required by the R-5 and R-6 land use districts. The standards require a plan of complete parcelization to the density required by the district. They require that parcelization or placement of dwellings not preclude development of the subject site and surrounding properties to the density allowed by the district, including consideration of access, circulation, and building location.

• These standards are proposed to be deleted, because they duplicate requirements found elsewhere in the CDC. Submittal requirements for development below the required minimum density are already covered in more detail in the R-5 and R-6 district standards of Section 302-6 and 303-6.

• Section 302-6 and 303-6 state that development to the required minimum density may be phased over time through future land divisions when specific standards are met. The standards include submittal of a future development plan demonstrating how the site can be developed consistent with the minimum density. The future development plan is required to include vehicular and pedestrian access and circulation necessary to serve the ultimate development on the subject property and adjacent properties.

F. Amendments to Section 430-72.3.B(4)
The existing language of Section 430-72.3.B(4) reads, “Buildings shall be oriented to provide maximum privacy to surrounding existing and future residential structures.”

• This language is proposed to be deleted because it is not clear and objective – it does not define maximum privacy, or specify what types of building orientation would achieve the goal of providing maximum privacy.
• Building orientation on a development site may need to vary, based on development site configuration and site-specific conditions, such as the location of adjacent existing roads and onsite resource areas. For that reason, staff believes that crafting a clear and objective standard for building orientation is not feasible.

G. Amendments to Section 430-72.3.B(5)
The existing language of Section 430-72.3.B(5) states that the setback requirements of the primary district will be maintained unless the Review Authority (County) determines that it is necessary to modify the setbacks to provide more privacy to existing and proposed structures. Presumably, this language allows the Review Authority to require larger setbacks than those of the primary district.
• This language is proposed to be deleted because it is not clear and objective – it does not specify the amount of the setback modification, or identify the specific circumstances that would require a setback modification.
• Requiring all infill dwellings to have a specific larger setback from side or rear property lines than that required by the primary district would be a clear and objective standard. However, staff does not believe it would be appropriate to impose such a requirement for a couple of reasons:
  o Such a requirement would constitute unequal treatment of infill dwellings. The CDC does not require larger setbacks from shared property lines than required by the primary district for additions to existing homes.
  o Requiring an infill dwelling to have a larger setback from a shared property line than required by the primary district would not necessarily enhance the privacy of an adjacent existing dwelling.
  o The effect of such a requirement could be to discourage infill development or make it more difficult.

H. Amendments to Section 430-72.3.B(6)
The existing language of Section 430-72.3.B(6) reads, “Landscaping and fencing may be required to maintain the privacy of existing dwellings on adjacent properties.”
• This standard is not clear and objective, because it does not specify the circumstances in which landscaping and fencing would be required.
• This standard is proposed to be deleted, and replaced by clear and objective landscaping and buffering standards (landscape buffer or site-obscuring fence) as described below under Item I.

I. NEW Section 430-72.3.B: Addition of Clear & Objective Privacy Enhancement Measures
The proposed new language is a requirement for infill development to provide at least one of two privacy enhancement measures along all side and/or rear lot lines of adjacent properties developed with existing homes, as illustrated in new Figure 1:
• A landscape buffer consisting of evergreen shrubs having a minimum height of 6 feet at maturity, planted in a line to form a continuous screen; or
• A site-obscuring fence with a minimum height of 6 feet.
The new text provides some exemptions from the privacy enhancement measure requirements:

- The privacy enhancement measure is not required to extend into an infill lot front yard that abuts an existing public or private street. This exemption is provided because requiring a 6-foot fence or hedge to extend all the way to the front property line could compromise safety and visibility for cars backing out of driveways on the infill site or on adjacent properties.
- If the infill lot is a flag lot, the privacy enhancement measure is not required to extend into the portion of the flag lot access pole that is within 15 feet of an existing public or private street. This exemption is provided to ensure adequate sight distance and visibility for cars entering the street from a flag lot access pole.

J. **Amendment to Section 430-72.3.C**
New text is added, specifying that landscape buffer shrubs shall be a minimum of 5 to 6 feet in height at the time of planting.

K. **NEW Section 430-72.3.D: Privacy Enhancement Measures and Existing CDC Section 411 (Screening & Buffering) Requirements**
This new section clarifies the relationship between the new privacy enhancement measures proposed by Section 430-72.3.B, and the Section 411 standards that require screening and buffering (landscaping and fencing) between new development and existing development in the urban unincorporated land use districts. The clarifications are:

- The privacy enhancement measures of Section 430-72.3.B shall apply in addition to any screening and buffering required per Section 411.
- Where a landscape buffer is used as a privacy enhancement measure, it can also be used to satisfy requirements for understory trees and shrubs per Section 411-6.
- Where a site-obscuring fence is used as a privacy enhancement measure, it can also be used to satisfy requirements for an S-1 fence (wood/cyclone barrier fence) or S-2 fence (site-obscuring fence) per Section 411-7.

**Summary of Proposed Changes**

Ordinance No. 820 proposes to amend CDC Section 430-72 (Infill).

Key Provisions:

- Removes subjective and discretionary standards from Section 430-72.
- Adds a requirement to provide at least one of the following clear and objective privacy measures along all side and/or rear lot lines of adjacent properties with existing homes: A minimum 6-foot evergreen landscape buffer, or a minimum 6-foot site-obscuring fence.

**List of Attachments**
Attachment A: Issue Paper No. 2017-01: Updating the Standards of CDC 430-72 (Infill)
Attachment B: Exhibit 1 of Ordinance No. 820
January 12, 2017

LONG RANGE PLANNING
ISSUE PAPER NO. 2017-01

Updating the Standards of CDC Section 430-72 (Infill)

For Presentation at the January 24, 2017 Board Work Session

Issue
The Washington County Committee for Community Involvement (CCI) submitted a 2016 Long Range Planning Work Program request for an update of Community Development Code (CDC) Section 430-72, Infill.

The request arose out of a Hearings Officer’s decision for Casefile 13-082-S. The Hearings Officer found that the single family detached housing proposed on the development site for Casefile 13-082-S constituted “needed housing” as defined in state law. The Hearings Officer found that, in his opinion, the CDC 430-72 standards may not be applied to land use decisions for “needed housing,” because the standards are not “clear and objective” and are thus prohibited by the “needed housing” requirements of state law. The CCI requested an update of the CDC 430-72 standards to make them “clear and objective,” based on a concern that the Hearings Officer’s finding for Casefile 13-082-S invalidated the standards and prohibited staff from applying them to subsequent applications.

Staff has continued to apply the standards to infill development proposals since the decision was issued for Casefile 13-082-S, and County Counsel has noted that a Hearings Officer’s decision on a specific casefile does not have the effect of invalidating a CDC provision. County Counsel, however, concurs with the Hearings Officer’s finding that the existing CDC 430-72 standards do not appear to be clear and objective. The state’s “needed housing” rule, ORS 197.303 - 197.307, is a requirement for jurisdictions to meet the need for housing within the Urban Growth Boundary at particular price ranges and rent levels. The Department of Land Conservation and Development (DLCD) has interpreted this requirement to include all types of housing, from detached single family homes to government assisted housing, at all price ranges and rent levels. The rule was added into state law to enact several policies, including linking a demonstration of need for housing to a requirement to allow the housing in zones with sufficient buildable land. The “needed housing” rule requires local governments to apply only clear and objective standards to the development of needed housing. County Counsel expressed the opinion that if the CDC 430-72 standards were ever appealed based on non-compliance with the “needed housing” rule, the standards would be unlikely to withstand that appeal.
Staff met with the CCI Code Subcommittee at their regular meeting on May 13, 2016, and asked if the subcommittee had additional concerns about CDC 430-72. The subcommittee members expressed concerns about the privacy impacts of infill development on existing, surrounding homes. The subcommittee members requested that CDC 430-72 be amended to add specific measures to mitigate for potential privacy impacts.

**Recommendation**

Staff recommends that CDC 430-72 be amended to:
- Remove subjective and discretionary language from the standards so they will comply with the state’s “needed housing” rule; and,
- Add a requirement for infill development to provide one of the following clear and objective privacy enhancement measures along the side and/or rear lot lines adjacent to properties developed with existing homes:
  - A landscape buffer (evergreen hedge with a minimum height of 6 feet); or,
  - A sight-obscuring fence with a minimum height of 6 feet.

**Background**

The Infill and Redevelopment Code Handbook, a 1999 publication funded by the Transportation and Growth Management Program, the Oregon Department of Transportation and the Oregon Department of Land Conservation and Development, defines “infill” as the development of vacant or remnant lands passed over by previous development in urban areas.

However, the term “infill” is used in a more specific, circumscribed way in the County’s Comprehensive Framework Plan for the Urban Area (CFP) and the CDC. CFP Policy 19 (Infill) and CDC Section 430-72 (Infill) both describe infill as development on R-5 and R-6 lands that are 2 acres or less in size.

Washington County appears to be one of only three local area jurisdictions that have specific residential infill development standards. The other two jurisdictions are the city of Gresham and the city of Vancouver, Washington. The city of Portland is currently evaluating draft proposals for the development of residential infill standards.

The current text of CDC Section 430-72 is shown in Attachment A.

I. **CDC Section 430-72: History and Background**

The standards of CDC Section 430-72, Infill, were added to the CDC via C-Engrossed Ordinance No. 279 in 1984. Per the “Intent and Purpose” statement of CDC Section 430-72, the standards are intended to provide a means of developing vacant, bypassed lands of 2 acres or less in areas designated R-5 and R-6, and to ensure that new development is compatible with existing developed areas, with a particular emphasis on privacy. Several of the development standards within the section make references to “providing maximum privacy” and “maintaining privacy” of surrounding existing dwellings.

CDC Section 430-72 has been modified since its adoption. The most recent modifications were made in 2005, in response to a December 2004 request from the CCI for amendments to
“...ensure that infill development is compatible with existing development.” A-Engrossed Ordinance No. 645 (2005) added the following requirements to CDC 430-72:

- Submittal of additional information with the infill development application: a site plan showing the locations of setbacks of proposed dwelling units, a screening and buffering plan, and an off-site analysis; and,
- Installation of all required landscaping and fencing between proposed infill units and adjacent dwelling units prior to building occupancy and/or final building inspection approval.

The CCI’s 2004 requested amendments were to:

1. Require infill development applications to include preliminary building and site plans;
2. Require infill development applications to provide on-site screening and buffering;
3. Require infill development applications to address building orientation and other attributes, including the location of front, side and back yards, building height, deck height, and window placement;
4. Limit the allowed building height, building footprint size, building square footage, and garage square footage of the proposed infill development, based upon the existing development patterns in the neighborhood in which the infill is planned; and,
5. Require infill development applications to provide on- and off-site traffic calming measures.

In response to the CCI’s request, Long Range Planning staff completed Issue Paper No. 8, Enhancement of Design Standards, in February 2005. The issue paper recommended:

- Making limited changes to the submittal requirements for infill development, consistent with Item 1 in the above list of the CCI’s requested amendments.
- Not making the more prescriptive changes recommended by the CCI in Items 2 through 5 above. Such changes appeared to be too restrictive, given the role that residential infill development plays in the County’s planning program.
  - Infill within the R-5 and R-6 districts is a development type that the County and region want to encourage, because it makes more efficient and economic use of existing public facilities and services, and helps the County implement the housing and minimum density requirements of Metro’s Urban Growth Management Functional Plan.
  - Issues pertaining to traffic calming are more appropriately handled through the review of the transportation impacts of the development, and not through the standards of CDC Section 430-72.

The Board directed staff to file an ordinance addressing staff’s recommended changes in Issue Paper No. 8. A-Engrossed Ordinance No. 645, adopted in October 2005, made those recommended changes. There have been no further changes to CDC Section 430-72.
II. 2013 Hearings Officer Decision and CCI Work Program Requests
In 2013, the County’s Hearings Officer issued a decision for Casefile 13-082-S, a request for a subdivision approval in the R-5 District. In his decision on this case, the Hearings Officer found that single family detached housing proposed on the development site constitutes “needed housing” as defined by ORS 197.303(1)(a).

ORS 197.303(1)(a) defines “needed housing” as:
“…housing types determined to meet the need shown for housing within an urban growth boundary…including at least the following housing types: Attached and detached single family housing and multiple family housing for both owner and renter occupancy…”

Furthermore, ORS 197.307(4) states that:
“…a local government may adopt and apply only clear and objective standards, conditions and procedures regulating the development of needed housing…The standards, conditions and procedures may not have the effect, either in themselves or cumulatively, of discouraging needed housing through unreasonable cost or delay.”

Therefore, in his decision for Casefile 13-082-S, the Hearings Officer found that:
- The County may only apply clear and objective standards, conditions and procedures regulating development on this site.
- The infill development requirements of CDC Section 430-72.3.A are not “clear and objective” criteria.
- Requirements that a development “consider the orientation, landscaping and buffering of proposed uses…” and “provide maximum privacy to surrounding existing and future residential structures” require the exercise of discretionary judgment and subjective determinations. Therefore the infill requirements of CDC Section 430-72.3.A are prohibited by state law.
- Even if the County imposed clear and objective conditions to ensure compliance with these standards, the standards themselves are subjective and are therefore prohibited (35 Or LUBA at 160).

In 2014, the CCI submitted a Work Program request in which they expressed concern that the Hearings Officer’s finding in Casefile 13-082-S invalidated the CDC Section 430-72 standards, and prohibited the County from applying them to infill development proposals. Since the Hearings Officer’s finding stated that the CDC Section 430-72 standards could not be applied because they were not “clear and objective,” the CCI requested that the CDC Section 430-72 standards be updated to be “clear and objective.” The Board designated this topic as a Tier 2 issue in Long Range Planning’s 2015 Work Program. In November 2015, the CCI submitted a 2016 Work Program request in which they again asked for an update to the standards of CDC Section 430-72, and it moved up to a Tier 1 issue in Long Range Planning’s 2016 Work Program, with a commitment to complete an issue paper in 2016 about this topic.
During the development of this issue paper, research revealed that Current Planning staff has continued to apply the standards of CDC 430-72 to infill development proposals since the issuance of the Hearings Officer’s decision on Casefile 13-082-S.

Staff asked County Counsel the following questions about CDC 430-72:

1. Did the Hearings Officer’s findings about CDC 430-72 in Casefile 13-082-S prohibit the County from continuing to apply those standards to subsequent land use applications?

*Counsel Response: The Hearings Officer’s decision on Casefile 13-082-S relates only to that casefile, and does not make binding law or invalidate CDC 430-72. The decision bodies having the ability to invalidate the County’s CDC are limited to the Land Use Board of Appeals (LUBA), the Court of Appeals, and the Supreme Court. Therefore, the Hearings Officer’s decision in Casefile 13-082-S does not prohibit the county from continuing to apply the standards of CDC 430-72 to subsequent applications.*

2. Does CDC 430-72 comply with the “needed housing” requirements of ORS 197.303 and 197.307?

*Counsel Response: The CDC 430-72 standards are largely subjective and discretionary, rather than clear and objective. ORS 197.307(4) requires a local government to apply only clear and objective standards, conditions and procedures regulating the development of needed housing. Therefore, if the CDC 430-72 standards were ever appealed based on non-compliance with the “needed housing” requirements, the standards would be unlikely to withstand the appeal.*

Based on Counsel’s feedback, staff recommends that the CDC 430-72 standards be amended because they do not appear to comply with the “needed housing” requirements of ORS 197.307. Staff’s recommended amendments are discussed in the Analysis section of this issue paper.

III. CCI Code Subcommittee Feedback

On May 13, 2016, staff met with the members of the CCI Code Subcommittee at their regularly scheduled meeting and reported that an issue paper was being developed about the CCI’s work program request for CDC Section 430-72.

Staff asked the subcommittee members if they had additional concerns about the infill standards of CDC 430-72. The subcommittee members expressed concerns about the privacy impacts of infill development on existing, surrounding homes, and requested that the following requirements be added to CDC 430-72 in order to mitigate for potential privacy impacts:

- Evaluation of window placement on infill dwellings;
- Restrictions on the building height of infill dwellings; and,
• Inclusion of building elevations as part of the infill development application submittal.

It is unclear to staff whether existing property owners adjacent to proposed infill development share the privacy concerns expressed by CCI Code Subcommittee members. A review of the approximately 26 infill development applications approved in 2015 found only one application in which an adjacent property owner submitted a comment letter expressing a privacy concern. This sample suggests that adjacent property owner concerns about the privacy impacts of infill development are fairly uncommon.

For reasons explained in more detail below, staff recommends against adding requirements for evaluation of infill dwellings’ window placement, restrictions on infill dwelling height, and inclusion of building elevations as part of the infill development application. These requirements would make the standards more restrictive and could potentially result in one or more of the following adverse impacts:

• An increase in the complexity of the application review process;
• A reduction in the likelihood that infill development will occur;
• A reduction in the affordability of infill homes; and/or,
• Noncompliance with ORS 197.307(4), a subsection of the state’s “needed housing” rule, which states that standards, conditions and procedures applied to needed housing may not have the effect of discouraging needed housing through unreasonable cost or delay.

CCI Code Subcommittee members also expressed an interest in applying the CDC 430-72 standards to R-5 and R-6 properties that are larger than 2 acres in size, and to development sites in higher density residential districts. For reasons explained in more detail below, staff recommends against applying these standards to a broader array of development sites. However, if the Board wishes to take a broader look at infill requirements in the unincorporated urban area, all of the CCI Code Subcommittee’s concerns and requests could be part of that discussion.

Staff notes, however, that infill is a development type that the County, region and state want to encourage for the following reasons:

• Regional and state policies are designed to direct new residential infill development to less dense neighborhoods within the Urban Growth Boundary.
• Residential infill development within existing urban Washington County neighborhoods is desirable because it allows for more efficient and economic use of existing public facilities and services.
• Residential infill development on smaller land parcels in the urban area is an important element in helping the county implement the housing and minimum density requirements of Metro’s Urban Growth Management Functional Plan.
Therefore, staff believes that if any new restrictions on infill development are proposed, they would need to be balanced by the relaxation of other infill standards, so that infill development within the county continues to be encouraged.

The CCI Code Subcommittee’s specific requests and concerns regarding CDC 430-72 are described below, followed by staff responses:

a) Interest in requiring an evaluation of the window placement on new infill homes, to prevent the windows of new homes from having direct views into the windows of adjacent existing homes.

*Staff Response: This request and those in Items b) and c) below, reflect concern about potential privacy impacts of infill development and its compatibility with surrounding, existing homes. While understanding this concern, staff recognizes that imposing requirements for window placement, building height restrictions or submittal of building elevations as part of single family residential infill development applications could result in adverse impacts. These include increasing the complexity of Current Planning’s application review process, reducing the likelihood that infill development will occur, and/or reducing the affordability of infill homes.*

As noted earlier in the Background section, the CCI made a request in December 2004 for changes to the infill standards, including regulation of window placement, limiting the building height of infill homes, and requiring infill development applications to include preliminary building plans. Staff recommended against those proposed changes in a February 2005 issue paper, concluding that they appeared to be too restrictive given the role that residential infill plays in helping the County implement the housing and minimum density requirements of Metro’s Urban Growth Management Functional Plan. The Board concurred and did not move forward with those types of changes. Staff continues to believe that such proposed changes are too restrictive.

*Staff recommends against amending the CDC 430-72 standards to require an evaluation of window placement on new infill homes for the following reasons:*

- Such evaluation would require an applicant to submit information about the window placement of adjacent, existing homes as part of a development application. This could potentially result in a more complex development application submittal, the need for a more expensive house plan, and/or the need for a more customized house, which could potentially increase home construction costs and home prices. Given current housing affordability issues in the region, these are not desired outcomes.

- An evaluation of infill homes’ window placement could result in a more complex staff verification and review process. Given limitations on Current Planning staff resources and the relatively large number of applications subject to CDC Section 430-72 that are processed by Current Planning each year, increasing the
b) Interest in requiring a maximum building height for new infill homes that is less than the maximum building height allowed in the development site’s land use district. The CCI Code Subcommittee was of the opinion that new infill developments do not nestle their homes within the existing site grades, but typically re-grade sites and locate new homes on the highest grade. In their opinion, the first story of the new infill home is often at the same level or higher than the tallest story of the existing homes on adjacent properties, which results in privacy impacts.

Staff Response: Staff recommends against amending the CDC 430-72 standards to limit the building height of new infill homes to less than the maximum height allowed in the R-5 and R-6 districts for the following reason:

- A height restriction on infill homes below the 35-foot maximum allowed in the R-5 and R-6 land use districts could limit infill homes to less than 2 stories, and this could have a negative effect on infill development. A CCI Code Subcommittee member with a real estate background expressed the opinion that the lot sizes required to comply with the CDC’s minimum density requirements in the R-5 and R-6 land use districts are too small to allow for a one-story home that has sufficient floor area to be marketable.

c) Interest in requiring infill development applications to include building elevations of future infill homes.

Staff Response: The majority of development applications subject to the infill standards of CDC 430-72 are land divisions (subdivisions or partitions). Typically, land division applications do not require building elevations or address building design. Building elevations are not required until prior to the approval of a building permit, which occurs after a land division application has been approved and the subdivision plat has been recorded.

Staff believes that the CCI subcommittee’s interest in requiring building elevations as part of infill development applications is to give adjacent property owners information about future infill homes’ height and window placement. With that information, adjacent property owners could decide whether they wished to submit comments about potential privacy impacts during the application’s public comment period.

Staff recommends against amending the CDC 430-72 standards to require submittal of building elevations for the following reasons:

- At the time that an infill application (land division) is submitted, an applicant may not have determined the specific plans or elevations for future homes on the proposed lots. Requiring an applicant to commit to building elevations of future infill homes at that point in the process may not be reasonable.
• If building elevations were included as part of the infill application submittal and adjacent property owners expressed privacy concerns on the basis of infill homes’ building height or window placement, it is not clear what Current Planning could do with that information.
  o As noted in Item D, staff recommends against across-the-board or case-by-case height restrictions on infill homes below the 35-foot maximum allowed in the R-5 and R-6 land use districts, because such height restrictions could have a chilling effect on infill development.
  o As noted in Item C, staff recommends against requiring an evaluation of infill homes’ window placement, because such evaluation could potentially increase home construction costs and home prices, and could increase the complexity of the staff verification and review process for infill development applications.

d) Concern that CDC 430-72 is applicable only to development on sites of 2 acres or less, and interest in expanding its applicability to larger development sites.

Staff Response: The Infill standards’ applicability to sites of 2 acres or less in the R-5 and R-6 districts was part of the standards when they were initially adopted in 1984 via C-Engrossed Ordinance No. 279. Although staff was unable to locate a description of the 1984 legislative intent for the Infill standards, staff’s assumption is that the standards’ applicability was limited to sites of 2 acres or less within the R-5 and R-6 districts for the following reasons:

• A proposed development is considered “infill” if the size of the development site is relatively small, and is surrounded by existing development.
• The R-5 and R-6 districts have the county’s lowest developed urban residential densities. Newer infill development is more likely to differ from the developed character of these lower-density areas than from areas with higher-density urban residential designations.
• The Infill standards were applied to the R-5 and R-6 districts to allow the opportunity to mitigate potential differences in character between new infill development and existing development in these two lower-density residential districts.

Staff recommends against applying the Infill standards to development sites larger than 2 acres for the following reasons:

• The Infill standards’ maximum 2-acre size threshold for “infill development” may be somewhat arbitrary, but staff has no factual basis upon which to conclude that it is unreasonably small.
• As the size of a development site increases, at some point it ceases to be “infill development” and instead becomes simply “new development.”
• As the size of a development site increases, there is more opportunity for subdivision lots to be laid out in a manner that is compatible with the pattern of
adjacent existing development, and less need for regulations, such as the Infill standards, to promote such compatibility.

e) Concern that CDC 430-72 is applicable only to sites in the R-5 and R-6 districts, and interest in expanding its applicability to higher density urban residential districts (R-9 and above).

**Staff Response:** Staff recommends against applying the Infill standards to higher-density residential districts (R-9 and above) for the following reasons:

- The higher-density residential districts have higher minimum densities than the R-5 and R-6 districts, so the size and development potential of individual subdivision lots in these higher-density districts is already more constrained.
- Subjecting the subdivision of land in higher-density residential districts to the additional requirements of the Infill standards would further constrain the development of homes on these lands.

IV. **Problematic Infill Application Examples from the CCI**

At the CCI Code Subcommittee’s May 13, 2016 meeting, staff requested examples of development applications that were subject to the standards of CDC Section 430-72 and were problematic when developed.

A CCI Code Subcommittee member provided two 2015 examples of problematic applications at the meeting. One application proposed development on a site larger than 2 acres, so the infill standards of CDC Section 430-72 did not apply. For the reasons discussed previously in the staff response for Item III.d, staff recommends against expanding the applicability of CDC 430-72 to include sites larger than 2 acres. The other application proposed development on a site with an R-24 land use designation, so the infill standards of CDC Section 430-72 did not apply. For the reasons discussed previously in the staff response for Item III.e, staff recommends against expanding the applicability of CDC 430-72 to include sites having higher density residential land use designations.

On May 20, 2016, the CPO 3 Chair submitted two letters to staff that described three approved applications that the Chair considered to be problematic. However, the Chair’s stated concerns with these applications are not related to the standards of CDC 430-72 (Infill), and are instead related to parking and access requirements, which are addressed by other CDC standards.

V. **Background Summary**

The key information covered in the Background section of this paper is summarized below.

The CCI’s Work Program request, and staff’s recommended response:

- The CCI requested an update of the CDC 430-72 standards to make them “clear and objective,” based on a concern that the Hearings Officer’s finding for Casefile 13-082-S invalidated the standards and prohibited staff from applying them to subsequent applications.
Current Planning has continued to apply the standards to infill development proposals since the issuance of the 2013 decision containing the Hearings Officer’s finding.

County Counsel has noted that the Hearings Officer’s decision relates only to that casefile and does not invalidate CDC 430-72, but concurs that several portions of the CDC 430-72 standards are discretionary and subjective.

County Counsel has expressed the opinion that if these standards were ever appealed based on non-compliance with the “needed housing” rule (ORS 197.307), the standards would be unlikely to withstand the appeal.

Based on Counsel’s feedback, staff recommends that the CDC 430-72 standards be amended because they do not appear to comply with the “needed housing” requirements of ORS 197.307.

The CCI Subcommittee’s concerns and requests, and staff’s recommended response:

- Concern about *privacy* impacts of infill development on existing, surrounding homes.
- Request for the addition of the following requirements to CDC 430-72:
  - Evaluation of window placement on infill dwellings;
  - Restrictions on the building height of infill dwellings; and,
  - Inclusion of building elevations as part of the infill development application submittal.
- Staff recommends against making the additions requested by the CCI Subcommittee, because they could result in the following potential adverse impacts:
  - Increase in the complexity of Current Planning’s application review process;
  - Reduction in the likelihood that infill development will occur;
  - Reduction in the affordability of infill homes; and/or,
  - Noncompliance with ORS 197.307(4), a subsection of the state’s “needed housing” rule, which states that standards, conditions and procedures applied to needed housing may not have the effect of discouraging needed housing through unreasonable cost or delay.

Although staff recommends against the CCI Subcommittee’s requested additions, staff agrees that specific privacy promotion measures need to be added to CDC 430-72. Such measures should be clear and objective, and should not result in any of the potential adverse impacts noted above. Staff recommends the addition of two clear and objective measures to promote privacy between infill development and existing homes, and these are discussed in the Analysis section below.

**Analysis**

The existing CDC 430-72 standards are shown in Attachment A. The standards state that building orientation, setbacks, landscaping and fencing will be considered as approaches to provide or maintain privacy. However, these standards are subjective and discretionary, and do not provide clear and objective requirements for the provision of privacy. For example, CDC 430-72.3.A reads,
“When developed through a subdivision, consider the orientation, landscaping and buffering of proposed uses in order to provide maximum privacy to surrounding existing and future residential structures.”

This language is not clear and objective, because it does not state how the building orientation, landscaping and buffering of proposed uses will be considered, or how maximum privacy will be provided.

Staff recommends removing this language and other subjective language within the CDC 430-72 standards, and replacing it with clear and objective standards that will comply with the requirements of ORS 197.307, the “needed housing” rule. Based on a review of other local jurisdictions’ infill development standards, staff recommends limiting the required privacy measures in CDC 430-72 to specific requirements for landscaping and fencing, described further below. These measures can be written as clear and objective requirements, and appear unlikely to result in adverse impacts such as discouraging infill development or reducing the affordability of infill homes.

I. Require landscape buffers between infill development and adjacent existing homes.

The existing standards of CDC 430-72 allow for the consideration of landscape buffers as a privacy measure, but do not require them. CDC Section 411 (Screening and Buffering) contains landscape buffer requirements for new development, but does not require proposed R-5 and R-6 infill development to provide landscape buffering if the development is adjacent to existing developed or vacant R-5 and R-6 lands.

However, staff believes that a landscape buffer requirement for infill development could promote privacy by screening views between infill properties and adjacent existing homes. A landscape buffer requirement has the additional advantage of being a clear and objective standard, thus providing certainty to infill development applicants and adjacent property owners.

The CDC Section 411 buffer types consist of a combination of canopy trees and shrubs. Staff does not recommend these buffer types as a landscape buffer requirement for R-5 and R-6 infill development because:

- The canopy trees required by CDC Section 411 would have insufficient room to thrive in the R-5 and R-6 districts’ 5-foot side yard setbacks.
- Canopy trees placed in side or rear yard setbacks could negatively impact adjacent properties by excessively shading neighbors’ yards.
- Canopy trees are generally deciduous and do not provide visual screening during the winter months after their leaves have dropped.

Instead, staff recommends a buffer of evergreen shrubs with a minimum height at maturity of 6 feet, spaced to form a continuous screen, as the appropriate landscape buffer type to promote privacy between R-5 and R-6 infill development and adjacent properties.
II. Require sight-obscuring fencing between infill development and adjacent existing homes. The existing standards of CDC 430-72 allow for the consideration of fencing as a privacy measure, but do not require it. CDC Section 411 contains fencing requirements for new development, but does not require proposed R-5 and R-6 infill development to provide sight-obscuring fencing along shared property lines if the development is adjacent to existing developed or vacant R-5 and R-6 lands.

However, staff believes that a requirement for a minimum 6-foot tall sight-obscuring fence could promote privacy by screening views between infill properties and adjacent existing homes. A fencing requirement has the additional advantage of being a clear and objective standard, thus providing certainty to infill development applicants and adjacent property owners. Another advantage is that this screening method takes up very little room on an infill development site.

Each of the above measures would promote privacy by screening views between the first floors of existing homes and infill homes, and would be much less onerous for infill developers than other potential privacy enhancement measures such as limiting the height of infill dwellings below the maximum building height for the district.

Summary and Staff Recommendation
Residential infill is a development type that the County, region and state want to encourage. Regional and state policies are designed to direct new residential infill development to less dense neighborhoods within the Urban Growth Boundary. Residential infill development within existing urban Washington County neighborhoods is desirable because it allows for more efficient and economic use of existing public facilities and services. Residential infill development on smaller land parcels in the urban area is an important element in helping the County implement the housing and minimum density requirements of Metro’s Urban Growth Management Functional Plan.

The CDC 430-72 standards apply to the infill development of properties that are 2 acres or less in size within the R-5 and R-6 districts. The standards’ intent is to ensure to the extent practicable that new development is compatible with existing developed areas, with a particular emphasis on privacy. However, the standards do not include specific measures to promote privacy. The CCI Code Subcommittee expressed concerns about the privacy impacts of residential infill on adjacent, existing homes and requested the addition of specific measures to promote privacy.

Several of the CDC 430-72 standards are subjective and discretionary, but the state’s “needed housing” rule, ORS 197.307, states that standards applied to “needed housing” must be clear and objective.

For the above reasons, staff recommends that CDC 430-72 be amended to:
- Remove subjective and discretionary language from the standards so they will comply with the state’s “needed housing” rule; and,
• Add a requirement for infill development to provide one of the following clear and objective privacy enhancement measures along the side and/or rear lot lines adjacent to properties developed with existing homes:
  o A landscape buffer (evergreen hedge with a minimum height of 6 feet); or,
  o A sight-obscuring fence with a minimum height of 6 feet.
430-72 Infill

430-72.1 Intent and Purpose

The intent of this Section is to provide a means of developing vacant or underdeveloped, bypassed lands of two (2) acres or less in areas designated R-5 and R-6 by the applicable Community Plans of the Washington County Comprehensive Plan. This Section is intended to ensure, to the extent practicable, considering the allowed density of each district, that new development is compatible with existing developed areas through Development Review that emphasizes building orientation, privacy, buffering, access and circulation and provides for notification to adjacent property owners. Application of the requirements of this Section shall not preclude development to the density allowed by each district.

430-72.2 Applicability

The requirements of this Section shall apply to all properties designated by the applicable Community Plan as R-5 or R-6 which contain two (2) acres or less (excluding existing rights-of-way).

430-72.3 Development of land required to be processed through the infill provisions shall meet the following:

A. When developed through a subdivision, consider the orientation, landscaping and buffering of proposed uses in order to provide maximum privacy to surrounding existing and future residential structures; or

B. For all other development (i.e., partitions, development review for attached units) the following standards shall apply:

(1) Complies with the intent and purpose of this Section;

(2) The applicant shall provide a plan of complete development of the subject property and potential development of adjacent vacant parcels to the density allowed by the district;

(3) Parcelization or placement of dwellings shall not preclude development of the subject site and surrounding properties to the density allowed by the district. Consideration shall include but not be limited to:

(a) Access;

(b) Circulation; and

(c) Building location;

(4) Buildings shall be oriented to provide maximum privacy to surrounding existing and future residential structures;

(5) Maintain the setback requirements of the primary district unless the Review Authority determines, as part of the initial approval, that it is necessary to modify the setbacks to provide more privacy to existing and proposed structures; and

(6) Landscaping and fencing may be required to maintain the privacy of existing dwellings on adjacent properties.
C. All required landscaping and fencing between the proposed infill dwelling units and adjacent existing dwelling units shall be installed in accordance with the approved development plans prior to building occupancy and/or final building inspection approval.

430-72.4 Submittal Requirements

In addition to all other submittal requirements, applications shall include:

A. Site plans showing locations and setbacks of each dwelling unit and, if applicable, detached garage on each new lot or parcel;

B. A screening and buffering plan showing all existing landscaping and buffering and any additional landscaping and buffering, including fencing, needed to maintain the privacy of existing dwellings on adjacent parcels. The screening and buffering plan may be incorporated into the individual site plans described under Section 430-72.4 A. above; and

C. An Off-Site Analysis as required by Section 404-1 that includes setbacks of the proposed dwelling units on the subject property from existing dwelling units on adjacent parcels.
Section 430-72 (Infill) of the COMMUNITY DEVELOPMENT CODE is amended to reflect the following:

SECTION 430 - SPECIAL USE STANDARDS

In addition to the requirements of Sections 400 through 425, the following special use standards are provided for specific uses. Additional or amended special use standards that are applicable in the North Bethany Subarea of the Bethany Community Plan are located in Section 390, North Bethany Subarea Overlay District.

***

430-72  Infill

430-72.1 Intent and Purpose

The intent of this Section is to provide a means of developing vacant or underdeveloped, bypassed lands of two (2) acres or less in areas designated R-5 and R-6 by the applicable Community Plans of the Washington County Comprehensive Plan. This Section is intended to ensure, to the extent practicable, considering the allowed density of each district, that new development is compatible with existing developed areas through Development Review that emphasizes building orientation, privacy, and buffering, access and circulation and provides for notification to adjacent property owners. Application of the requirements of this Section shall not preclude development to the density allowed by each district.

430-72.2 Applicability

The requirements of this Section shall apply to subdivisions, partitions, and development review for attached units on all properties designated by the applicable Community Plan as R-5 or R-6 which contain two (2) acres or less (excluding existing rights-of-way).

430-72.3 Development of land required to be processed through the infill provisions shall meet the following:

A. When developed through a subdivision, consider the orientation, landscaping and buffering of proposed uses in order to provide maximum privacy to surrounding existing and future residential structures; or

B. For all other development (i.e., partitions, development review for attached units) the following standards shall apply:

   (1) Complies with the intent and purpose of this Section;

   (2) The applicant shall provide a plan of complete development of the subject property and potential development of adjacent vacant parcels to the density allowed by the district;

   (3) Parcelization or placement of dwellings shall not preclude development of the subject site and surrounding properties to the density allowed by the district. Consideration shall include but not be limited to:

       (a) Access;
(b) Circulation; and
(c) Building location;

(4) Buildings shall be oriented to provide maximum privacy to surrounding existing and future residential structures;

(5) Maintain the setback requirements of the primary district unless the Review Authority determines, as part of the initial approval, that it is necessary to modify the setbacks to provide more privacy to existing and proposed structures; and

(6) Landscaping and fencing may be required to maintain the privacy of existing dwellings on adjacent properties.

A. Complies with the intent and purpose of this Section;

B. Provides at least one (1) of the following privacy enhancement measures along all side and/or rear lot lines of adjacent properties developed with existing homes (for illustration, see Figure 1). The privacy enhancement measure is not required to extend into an infill lot front yard that abuts an existing public or private street. If an infill lot is a flag lot, the privacy enhancement measure is not required to extend into the portion of the flag lot access pole that is within fifteen (15) feet of an existing public or private street:

(1) A landscape buffer consisting of evergreen shrubs having a minimum height of six (6) feet at maturity, planted in a line to form a continuous screen; or,

(2) A site-obscuring fence with a minimum height of six (6) feet.

Figure 1.
C. All required landscaping and fencing between the proposed infill dwelling units and adjacent existing dwelling units shall be installed in accordance with the approved development plans prior to building occupancy and/or final building inspection approval. Landscape buffer shrubs shall be a minimum of five (5) to six (6) feet in height at time of planting.

D. The privacy enhancement measures shall be applied in addition to any screening and buffering required per Section 411. Where a landscape buffer is utilized as a privacy enhancement measure, it can also be used to satisfy requirements for understory trees and shrubs per Section 411-6. Where a site-obscuring fence is utilized as a privacy enhancement measure, it can also be used to satisfy requirements for a S-1 or S-2 fence per Section 411-7.

430-72.4 Submittal Requirements

In addition to all other submittal requirements, applications shall include:

A. Site plans showing locations and setbacks of each dwelling unit and, if applicable, detached garage on each new lot or parcel;

B. A screening and buffering plan showing all existing landscaping and buffering and any additional landscaping and buffering, including fencing, needed to maintain the privacy of existing dwellings on adjacent parcels. The screening and buffering plan may be incorporated into the individual site plans described under Section 430-72.4 A. above; and

C. An Off-Site Analysis as required by Section 404-1 that includes setbacks of the proposed dwelling units on the subject property from existing dwelling units on adjacent parcels.