

**Woodburn Planning Commission  
Meeting Minutes  
November 10, 2022**

**CONVENED:** The Planning Commission met at 7:00 p.m. both an in-person & virtual public meeting session via GoToMeeting video conferencing,

**ROLL CALL:**

Chair	Piper	Present
Vice-Chair	Ellsworth	Present
Commissioner	Hernandez-Mejia	Present
Commissioner	Berlin	Present
Commissioner	Corning	Present
Commissioner	Bartel	Present
Commissioner	Lassen	Absent

**Staff Present:**

Colin Cortes, AICP, CNU-A, Senior Planner  
Dan Handel, AICP, Planner  
Bob Shields, City Attorney

**Introduction:** Chair Piper stated the meeting at 7:01 pm. He asked staff to begin roll-call. Chair Piper led everyone through the Pledge of Allegiance.

**Minutes:** Chair Piper began to talk about the minutes of October 13 & 27, 2022. He asked the Commission if there are any additions, corrections, and deletions needed for these sets of minutes, and there were none. Chair Piper asked for a motion to approve. Vice-Chair Ellsworth motions to approve the minutes October 13 & 27, 2022 and Commissioner Corning seconded. The vote was unanimous and both October 13 & 27, 2022 minutes were approved.

**Business from the Audience:** None.

**Communications:** None.

**Public Hearings:**

VAR 22-10

Chair Piper opened the public hearing for VAR 22-10 “AWARE Foodbank Variance” 152 Arthur St. Chair Piper asked the Commission if there are any declarations, potential conflicts of interests, *ex-parte* contacts, or site visits. There were none and he asked if anyone wanted to challenge the Commission, which there were none.

Chair Piper asked for the public hearing statement, and Planner Dan Handel read the statement.

After the statement, Planner Handel moved on to the staff report presentation of VAR 22-10 “AWARE Foodbank Variance.” He gave a background synopsis to why the food bank needed to be rebuilt and that it was a Type II Design Review. Planner Handel explained the layout of the property, such as the power lines’ locations and PGE’s involvement of how to improve it. He moved on to the staff recommendation and what the commission would be approving for this portion of the project. He concluded the presentation and asked the commission if there are any questions.

**Commissioner Corning** asked if there is a plan for the underground utilities, more so that it's a City plan. **Planner Handel** explained that it's a City Comprehensive Plan goal and there is no other plan. **Commissioner Berlin** asked why the city didn't put in underground utilities before and **Vice-Chair Ellsworth** explained that the expensive cost and how it would possibly disturb the building structures. **Chair Piper** moved on to testimony of the applicant.

**Testimony by the Applicant: Ian Dixon-McDonald, Vice President of Programs for Marion & Polk Food Shares, 1660 Salem Industrial DR, Salem OR 97301.** **Mr. Dixon-McDonald** thanked everyone for considering the variance for Aware Foodbank. He talked about how this project began unexpectedly, due to the arson, how much the project would cost the non-profit, and how much support that their non-profit received from the community. He is here tonight to answer any of the questions that the **Commission** has tonight.

**Commissioner Corning** asked about the overall project cost and **Mr. Dixon-McDonald** stated that it's a \$5.2 million project. He stated that they have insurance and they did their best to apply all the insurance claims to the project. **Mr. Dixon-McDonald** mentioned that the non-profit was able to receive decent amount of grants, both state and federal level, in order to help pay the cost and even help remodel the inside of the building then how it was before. The commission asked what the building footprint is and **Mr. Dixon-McDonald** said the building footprint is the same as before. He explained that the building will have a two-story look to it, with the backside of the building being a warehouse.

**Testimony of Proponents: None.**

**Testimony of Opponents: None.**

**Chair Piper** closed the public hearing and moved onto the deliberation. **Commissioner Bartel** mentioned that the date of the arson is labeled incorrectly, as the date of the arson was in August 2021 and not on September 2021. She is asking this question because she is curious if it would affect the decision on approving the project. **City Attorney Bob Shields** stated that it shouldn't affect the decision, but it should be accurate and as long as the commissioners provided an accurate date, then it should be added to the record. **Applicant Dixon-McDonald** and **Commissioner Bartel** discussed the timeframe of when the fire actually happened and staff will do research to confirm the proper date. **Chair Piper** stated to **Planner Handel** that if the **Commission** approved the application, that staff will add the accurate date of the arson to the final decision. The **Commission** believed it's a wonderful concept, but the main issue is the cost.

**Chair Piper** entertained a motion. **Commissioner Corning** motioned to the **Planning Commission** to approve **VAR 22-10 "AWARE Foodbank Variance,"** subject to the conditions to the staff report and the amended date of the accident, in order for preparation of the final decision for the signature of the **Chair**. **Commissioner Bartel** seconded. The vote was unanimous and **VAR 22-10 "AWARE Foodbank Variance"** was approved.

*DR 22-05, EXCP 22-07, & VAR 22-06*

**Chair Piper** began the next public hearing for **DR 22-05, EXCP 22-07, & VAR 22-06 "Woodburn Apartments" 119 N. Pacific Hwy.** **Chair Piper** asked the **Commission** if there are any declarations, potential conflicts of interests, *ex-parte* contacts, or site visits. There are none and he asked if anyone wanted to challenge the **Commission**, which there were none.

**Chair Piper** asked for the public hearing statement, and **Planner Handel** read the statement.

After the statement, **Planner Handel** moved on to the staff report presentation of **DR 22-05, EXCP 22-07, & VAR 22-06 "Woodburn Apartments" 119 N. Pacific Hwy.** He gave a background synopsis, such as that this project is a Type III Design Review, along with an Exception to Street Right-of-Way and Variance. **Planner Handel** noted that there is written testimony that was submitted and it's been added to record. He showed a site map to where the proposed project is located and gave information about this proposed development, such as it being a multi-family residential building of 35 apartments with 75 parking spaces.

There will be a centralized driveway that will be shared access and a bicycle/pedestrian path following the railroad along the south property line. **Planner Handel** talked about the fire access, which it will be a 20-foot wide access driveway, located at the south side of the building. He talked about the provided traffic analysis from **ODOT** and how traffic would be conducted in that area. **Planner Handel** discussed the street exception; the applicant requested to maintain existing curb-to-curb improvements and constructing an 8-foot wide sidewalk as a shared bike/pedestrian path. Next, **Planner Handel** talked about the variance request, which the applicant request not to add garage or carports, due to the fact of the space constraints on the property. Lastly, **Planner Handel** talked about the staff recommendations of which the **Planning Commission** would be approving if they accept this project.

After he concluded the presentation, **Planner Handel** asked if the **Planning Commission** had any questions for him. **Chair Piper** asked about the sidewalk that would go along N. Pacific Hwy and how does that sidewalk negotiate the railroad crossing arms (or gates) in that area. **Planner Handel** stated that **Staff** and **ODOT** had discussions about that area. He pointed out the language used in the conditions of approval help clarify the frontage improvements, specifics that the final design is going to be one that **City Staff** and **ODOT** will agree on. Therefore, that's how the applicant will maintain the final design of the sidewalk, also following ADA compliance. **Planner Handel** pointed out that there will be a lot of work to be done in that area.

**Chair Piper** asked about the parking lot on the north side, more referring to a right-of-way (ROW) and what is the long-term plan for it, directing to the small cutout area on the site map. **Planner Handel** showed the **Planning Commission** a map that would highlight the long-term access management for this particular block, is to provide a driveway that would navigate through the property. He noted that there is an active project in review on the neighboring property [1030 Young St], that'll be presented in a future Planning Commission meeting. He continued to say that this proposed driveway would make its way back up and be connected to Young Street. **Planner Handel** said that the little cutout that **Chair Piper** pointed out is split 12 feet (ft) for the rear of 1072 Young St and 12 ft for 203 N. Pacific Hwy addresses, giving 12 ft on each side and provide these property owners with legal access.

**Commissioner Corning** asked if it would become a street and **Planner Handel** said that it would be privately owned and maintained, just with easements over it to allow property owners and their tenants to navigate it as a shared driveway. **Vice-Chair Ellsworth** mentioned the fence that would go along the railroad tracks and asked if there would be any fencing along the path along the west side and **Planner Handel** said it's not proposed and what's up right know is just a construction fence. **Vice-Chair Ellsworth** asked if that was allowed or needed a perimeter screening. **Planner Handel** stated that the layout is what the applicant purposed and development ordinance does not required a perimeter screening for this zone, but the **Planning Commission** is welcome to add it as a condition for approval, labeled as a fencing/landscaping/architectural wall. **Commissioner Corning** pointed out number 14 on the staff report, labeled retaining wall. **Planner Handel** explained the retaining wall labeling in the staff report is for the location near the end of the project, at the southwest corner. The retaining wall is used to navigate the grade change. **Planner Handel** explained that the wording of the condition for approval [Condition 8c] for this easement, this public access easement, is such that it would allow temporary construction access, to remove the portion of the retaining wall that would prevent the trail from continuing to the West. It would provide a way for it to be extended in the future, but for the time being there would be that retaining wall as part of the design, based on the grade of the property.

**Vice-Chair Ellsworth** asked if staff has worked with ODOT with the traffic impact analysis (TIA). She asked due to accidents that are happening on Cleveland St, and wants to know more information from **Staff** if they've learned something from **ODOT**. **Planner Handel** stated that city staff worked with two **ODOT** representatives, one from the Rail Safety Section and one being the usual [Region 2] Development Review Coordinator. He mentioned that the applicant provided the memo that was attached to the staff report for the **Planning Commission** (Attachment 104). **Planner Handel** explained the summary that **ODOT staff** and the City **Public Works Department** reviewed the peak hour of travel on their trip generation, which concluded of roughly 34 trips in the morning and 36 trips in the evening. Due to this, it was determined that those numbers don't cross the WDO 3.04.05 thresholds for a traffic study, and that's why it's the short 2-3 page traffic memo instead. **City** and **ODOT Staff** were comfortable and found it acceptable with the existing

network of streets. **Commissioner Coning** asked if the reason why it's acceptable is because of the project being a small development, compared to others and **Planner Handel** said that is correct. The **Commission** discussed about N. Pacific Hwy / OR 99E and its traffic problem.

**Testimony by the Applicant: Jim Toporek, Studio 3 Architecture, 275 Court St NE, Salem, OR 97301.** **Applicant Toporek** explained that this proposed project is focusing on more family-oriented housing. While the owner couldn't be there tonight, he wanted **Applicant Toporek** to let the **Commission** know that the owner reached out to community members to ask what he can bring into Woodburn and went with more family-oriented housing. Most of the units would be 3-bedroom and there would be a large play area for the residents who have kids. Along with an outdoor common area, bike parking, a community fitness room, and among other things. **Applicant Toporek** prefers open-space parking, rather than covered roof parking. The main reason is that if there was a covered roof parking, it would block out solar lighting for residents and the cost would be too great, as the value of rent would go up. **Applicant Toporek** made it clear that they want residents to be able to afford these units and shouldn't have to pay so much. The open entrance was an **ODOT** decision and the applicant had to follow that decision, as it's the only access that the property would have off Hwy 99. **Applicant Toporek** mentioned the portion of the resubmittal about adding the access point for the center of the building, which was a **Fire Department** requirement for getting the fire hose through there. **Applicant Toporek** concluded his testimony and asked if anyone had questions for him. The **Commission** asked a few clarifying questions to **Applicant Toporek**, such as the walkway and carport's location.

**Testimony of Proponents: None.**

**Testimony of Opponents: Tim Vermeire & Carol Callahan, 1072 Young St, Woodburn, OR 97071.** **Mr. Vermeire** wanted to address the driveway of the proposed project, which is close to their fence on Ms. Callahan's and his property. He wanted to know if the developers were going to touch the fence or leave it alone. **Chair Piper** answered the question by stating that it won't be affected and that **Mr. Vermeire** would be able to have access to the road, if he wanted to get to Young St. or back out to Hwy 99, he would have a place to do that. **Planner Handel** clarified that the driveway would only be and limited to the property of the proposed project and won't be encroaching onto 1072 Young St. This includes all improvements for the project. **Mr. Vermeire** asked how close this project would get to their property of 1072 Young St. **Planner Handel** stated that the requirement would be to go up to the property boundary, but not over it. **Mr. Vermeire** asked if the developers are going to put a retaining wall next to their fence. **Planner Handel** stated that developers won't impact **Mr. Vermeire's** fence. More discussion on the fence between **Mr. Vermeire, Applicant Toporek, Staff** and the **Commission**. **Mr. Vermeire** brought up a concern that **Ms. Callahan** had of random people trying to cut their fence and get into their property, as it happened before. **Chair Piper** stated that once the project is built and having people living in the property, it would discourage random people from stepping onto either property to cause damage. **Commissioner Hernandez-Mejia** agreed with **Chair Piper's** statement. **Mr. Vermeire** asked about the excavation and whether or not if it would flood into their backyard. **Planner Handel** explained that part of the process, including that it's one of the first conditions of approval recommended, is to apply for a grading permit. It's a standard permit that is part of the development process and that's before anyone does work to move dirt around, they would need to apply for it first. The **Oregon Department of Environmental Quality (DEQ), ODOT, and City Staff** would review the grading plan, in order to make sure certain qualifications are met before work can be done. **Mr. Vermeire** asked about the water and sewage, on whether or not it would affect the neighboring properties. **Chair Piper** said it shouldn't and it would be taken care of in proper constructed methods.

**Chair Piper** asked the applicant if he would like to rebuttal and **Applicant Toporek** said no, as everything was taken care of by **Staff** and **Planning Commission**. **Chair Piper** closed the public hearing and move on to deliberation. **Commissioner Corning** agreed with **Staff** on the parking lots having trees instead of carport covers, since it's a small area.

**Chair Piper** entertained a motion. **Commissioner Corning** motioned to the **Planning Commission** to approve for **DR 22-05, EXCP 22-07, & VAR 22-06 “Woodburn Apartments” 119 N. Pacific Hwy**, subject to the conditions of staff report and in preparation of the final decision for the signature of the **Chair**. **Commissioner Hernandez-Mejia** seconded. The vote was unanimous and **DR 22-05, EXCP 22-07, & VAR 22-06 “Woodburn Apartments” 119 N. Pacific Hwy** was approved.

#### *PUD 22-01 & SUB 22-01*

**Chair Piper** began the final public hearing for **PUD 22-01 & SUB 22-01 Mill Creek Meadows at 1490, 1550, & 1636 Brown St**. **Chair Piper** asked the **Commission** if there are any declarations, potential conflicts of interests, *ex-parte* contacts, or site visits. **Vice-Chair Ellsworth** stated that it's not a conflict of interest, she just happens to live close by to the site. She informed the **Commission** that she hasn't spoken to anybody about the project and is only coincidentally living in the same neighboring area. **Chair Piper** asked **Vice-Chair Ellsworth** if it would impact her decision and she stated no it would not. **Chair Piper** asked if anyone wanted to challenge the **Commission**, and there were none.

**Chair Piper** asked for the public hearing statement; **City Attorney Shields** read the statement.

After the statement, **Chair Piper** asked **Senior Planner Colin Cortes** to present the public hearing presentation of **PUD 22-01 & SUB 22-01 Mill Creek Meadows at 1490, 1550, & 1636 Brown St**. **Senior Planner Cortes** added staff reports and attachments on record, including testimony of the applicant. **Senior Planner Cortes** gave background information of the project. He moved on to a site plan maps that highlighted the location of the project, including aerial and vicinity maps. The property is about 18 or so acres. **Senior Planner Cortes** moved on to existing conditions, he showed an image looking north along Brown St, which is a gravel road including a little dip where it crosses a drainage way, along with an aerial view of that area. **Senior Planner Cortes** showed a view west from Brown St, towards the Boones Crossing development, of a gravel driveway atop an existing easement for public infrastructure. He pointed out that the site has Significant Trees and that the conditions recommend the applicant preserve a few of them. **Senior Planner Cortes** talked about the amount of trees that the conditions would require the developer to preserve and the plan to ensure their preservation, a tree being located along the south side of Spring Blvd and one towards the south end of the site. He continued to list the on-site improvements, such as street improvements and pathway improvements. **Senior Planner Cortes** then explained the analyses & findings for the project and the WDO regulations and code for a planned unit development (PUD). He moved on to talk about the Mill Creek Greenway Trail that would be created for the property and provided maps on how it would look like.

**Senior Planner Cortes** concluded his staff report presentation and asked if there were questions. **Commissioner Corning** asked about the trail and why it doesn't go on the west side of Brown St and **Senior Planner Cortes** said that the trail is meant to stop at Brown St. It was due to the drainage way open spacing dead-ending west at the Boones Crossing development and that **Staff** didn't feel like the developer needed to extend the trail for it to dead-end.

**Testimony by the Applicant: Darren Gusdorf, General Manager of Icon Construction & Development LLC, 969 Willamette Falls Dr, Ste 260, West Linn, OR 97068-4695**. Applicant **Gusdorf** thanked **Senior Planner Cortes** and the **Planning Commission** for their time and consideration for the proposed project. He mentioned other members of his team that are present tonight to answer questions and he will be available to answer any questions as well. Applicant **Gusdorf** asked his representative, **Mr. Rick Givens**, to speak.

**Rick Givens, Planning Consultant, Rick Givens Consulting, 18680 Sunblaze Dr, Oregon City, OR 97045-8153 or 292 W Sunrise Vista Drive, Green Valley, AR 85614**. **Mr. Givens** started off by explaining the reason for the continuations for this project's hearing [from August 25, 2022 onward] was to allow them more time to work through issues with **Staff** and they wouldn't have to bring so many things to the Planning Commission for review. The project has been difficult, as to there are many components to take care of before it could be presented.

**Mr. Givens** explained that the project is a Planned Unit Development and wanted to make a correction to the staff report on the number of housing units, which the correct count 66 single-family home lots and 29 townhouse lots. The property is about 18 acres in size and **Mr. Givens** stated that they are proposing to dedicate to the city 4.37 acres for parkland, including wetlands and for part of the trail system. **Mr. Givens** said that the only issue the developer's team had was the parks system development charge (SDC) the developer would pay, and the developer's team has been working with **Staff** on this issue. He and his team believe that it should be spent on the local park, paying for the improvements for the park. **Staff** believes that the applicant should pay for both the parks SDC and the conditioned improvements to the public land. **Mr. Givens** mentioned they have their attorney **Mr. Garret Stevenson**, who is with them tonight and **Mr. Givens** asked him to speak on this portion of the testimony.

**Garrett Stephenson, lawyer from Schwabe, Williamson & Wyatt, 1211 SW 5<sup>th</sup> Ave, Ste 1900, Portland, OR 97204.** **Mr. Stephenson** explained that they prepared a letter once they saw the revised staff report and wanted to note that **Staff** has been great to work with on this project. He talked about the public improvements and what they did for the pump station [an existing City one along the south side of the drainage way] and how to make the other improvements work. **Mr. Stephenson** stated as to how they as the applicant could make the improvements work, is by seeking SDC credit from **Staff**. The only remaining issue is about the additional condition in the decision that requires the equivalent of what the developer estimates would be roughly \$260,000 for park improvements. **Mr. Stephenson** wanted to remind everyone that the applicant proposed to dedicate park land to the city and proposed to build that section of greenway trail, among doing a number of other things. **Mr. Stephenson** stated that the applicant did not originally proposed to improve the public land that the developer was dedicating and certainly not to the extent that the conditions required. He explained that park improvements are covered by the City parks department spending the parks SDC on any of those types of improvement, or so the applicant thought. **Mr. Stephenson** mentioned the staff report that **Staff** issued with a condition requiring that the applicant to build improvements, which the applicant is already thinking of doing so. He wanted to let **Staff** and the **Planning Commission** that they don't mind building these improvements when they develop the project, provided that they can seek SDC credit for them. **Mr. Stephenson** explained that the letter they submitted [this hearing date as testimony to the Commission] is to recommend some revisions to two conditions of the approval, which one being PUD-6 and the other is PUD-9. He explained that both PUD 6 & 9 are essentially the same topic, one of them an agreement by staff for the developer to seek sewer SDC credit for the sewage regional trunk line [that does not serve the development itself], and that the applicant seeks parks SDC credit for improvement of the park land. **Mr. Stephenson's** final statement is that he hopes that the **Planning Commission** can review their request and revise those two conditions, as per their request in the letter. He noted that the applicant is accepting of everything else in the staff report and the other conditions of approval, and only requests that the Commission edit those two conditions.

**Testimony of Proponents: None.**

**Testimony of Opponents: None.**

**Chair Piper** closed the public hearing and began deliberation, since there was no rebuttal. **Commissioner Corning** stated that she needs more information about SDCs, before deliberating on a final decision.

**Senior Planner Cortes** wanted to bring up two things, which one being **Commissioner Berlin's** question about tree removal. He answered that across the 18 acres there are 31 significant trees and the proposed conditions of approval are that the applicant must preserve one tree and maintain a good faith effort to preserve a second tree. The other thing on the condition is that the other 29 trees to be removed, there will be fees to pay per tree for removal, at least 15 out of the 29 would be charged. **Commissioner Berlin** asked where the money would go and **Senior Planner Cortes** said it would go into the City tree planting fund.

**Chair Piper** asked **Senior Planner Cortes** to explain the concept of the SDCs, which **Commissioner Corning** wanted to know more about.

**Senior Planner Cortes** explained what an SDC is and depending what type of improvement was needed, it would reflect the fee amount and in this case, it was about parks. **Senior Planner Cortes** explained what the applicant is hoping to have them recognized as a “qualified public improvement”. There is an entirely separate ordinance that governs a system development of charges and there is one specifically for parks [Ordinance No. 2250]. For a developer who wants to get credited, that is, money back, for paying a parks SDC, it must meet the three criteria: that the improvements are conditioned, which they are, that a capital improvement plan (CIP) identifies them, which the Assistant City Administrator [in his role as parks director] had informed staff was not the case, and that the improvements are larger or have excess capacity than necessary for the development, for which the staff position is that they wouldn’t, and so an SDC credit request would fail two of the three criteria. **Senior Planner Cortes** added that SDC credit review is an entirely separate legal process. **Chair Piper** stated that he agrees with **Staff** talked about how the city would maintain the park, after developers build it. He discusses about the potential denial of the project by **City Council** if the **Planning Commission** goes a certain way of a final decision on to accept or pass on the project. The commissioners discussed among themselves on their feelings on the project.

**City Attorney Shields** assured the **Planning Commission** would have to only deal with is the argument made by the legal counsel for the developer and whether or not the exaction of the condition is proportional or not. He provided an example of a case that is similar to what the **Planning Commission** is facing. The main question is whether or not it’s proportional and according to **Staff**, it is. **City Attorney Shields** said that it seems the **Planning Commission** is more agreeing with Staff, but it’s up to commissioners as a **Commission** to decide that the project is roughly proportional. **Planning Commission** talked more about the greenway and what’s considered part of it.

**Chair Piper** entertained a motion. **Commissioner Corning** motioned to the **Planning Commission** recommended approval of **PUD 22-01 & SUB 22-01 Mill Creek Meadows at 1490, 1550, & 1636 Brown St.**, subject to the conditions to the staff report and preparation of the final decision for the signature of the **Chair**. **Vice-Chair Ellsworth** seconded. The vote was unanimous and **PUD 22-01 & SUB 22-01 Mill Creek Meadows at 1490, 1550, & 1636 Brown St.** was approved.

**Chair Piper** concluded the public hearings for the evening and moved on to **Business from the Commission**.

**Business from the Commission: None.**

**Staff Update:** **Senior Planner Cortes** stated that there will be Planning Commission meeting December 8 and that the Commission can expect to meet both dates in January 2023.

**Adjournment:** **Chair Piper** entrained a motion to adjourn. **Vice-Chair Ellsworth** motioned to adjourn for the evening and **Commissioner Hernandez-Mejia** seconded. The vote was unanimous and the meeting was adjourned at 8:53pm.

APPROVED \_\_\_\_\_  
Charlie Piper  
Chair of Planning Commission  
City of Woodburn, Oregon

\_\_\_\_\_  
Date

ATTEST \_\_\_\_\_  
Colin Cortes  
Community Development Senior Planner AICP, CNU-A  
City of Woodburn, Oregon

\_\_\_\_\_  
Date