

Memorandum

Date: March 14, 2014

To: John Kovash, Mayor
Members, West Linn City Council

From: Chris Jordan, City Manager *CJ*

Subject: March 17 Council Meeting and Other Items

The West Linn City Council will hold both a regular meeting and work session on Monday, March 14 beginning at 6:00 p.m. There will not be a pre-meeting work session.

Some of the items on the agenda include:

- A presentation from Tualatin Valley Fire and Rescue Chief Dustin Morrow on the State of the Fire District.
- A discussion of the current status of the Stafford area with regards to both the Court of Appeals decision and the actions of the state legislature. Jeff Condit and Tom Coffee will be in attendance for this discussion.
- Presentation from the Sustainability Advisory Board
- Termination of the Bland Pump Station Contract. During the course of accepting the bid and approving the contract, there was a miscommunication between City staff and some of the contractors. This led to confusion in the project's specifications. Staff believes the fairest and most transparent way to proceed is to terminate the existing contract – awarded by the Council on February 27 – and re-bid the project.
- A work session on the regulatory streamlining project. A table discussing the various proposed amendments is attached. The two main purposes for this work session are:
 - 1) To educate the Council on the Planning Commission's recommendation and how they differ from the Council's guidance to staff in July 2013; and
 - 2) To discuss those specific items that may require Measure 56 noticing. Staff would like the Council to provide direction on these items so that we can start that process if it is necessary.

We understand that a citizen may approach the Council during Community Comments to request Council support of a grant proposal from Oregon Parks and Recreation Department. Typically, and in accordance with the Council Rules, the Council does not engage in discussion regarding community comments, but may ask for further staff analysis. In this case, staff has not done significant analysis, but we did prepare a resolution if the Council wishes to consider this item. The individual proposing this item has also proposed a resolution of support. Both resolutions are attached and the Council will note one significant difference: the staff draft does not include

any commitment of City financial support while the other draft commits the City to spending \$250,000 toward the acquisition of this property. (I have also attached a map of the property.)

I would suggest to the Council that you try to expeditiously move through the agenda as the most time-consuming item is the final work session discussing the regulatory streamlining project.

Medical Marijuana Dispensaries

Under a new Oregon law, cities can opt to invoke a moratorium of one year for siting medical marijuana dispensaries. Such an ordinance must be adopted by May 1. Would the Council like to consider such an ordinance providing the City with one year to review our Community Development Code and other options for limiting this type of business in the community?

Please note that currently marijuana dispensaries can be located in a commercial zone, but not within 1,500 feet of a school. Attached is a West Linn map showing those areas where such a business could legally locate.

Outstanding Grant Management by Parks and Recreation Staff

Two years ago, due to the efforts of our Parks and Recreation staff, the City was awarded with a Community Development Block grant of \$175,000 to assist in expanding the Adult Community Center. (We have since added over \$190,000 to the available resources for this project from the sale of the house on Dodge Way). Our staff also agreed to receive the CDBG funds until late in the three year funding cycle in case there was the opportunity to receive more grant funds due to projects that come in under budget or were cancelled.

This week we learned that an additional \$65,000 will be granted to the City for our project! This is a testament to our Parks staff and their ability to understand grants and how to apply for and manage these resources.

This brings the total amount of funds available to approximately \$430,000, plus any fundraising efforts by the Friends of the Adult Community Center.

Attachment

Memorandum

Date: March 14, 2014
To: West Linn City Council
From: Chris Kerr, Community Development Director
Subject: CDC-13-01 – Regulatory code streamlining project

As you will recall, the purpose of this project is to modify our codes and processes to remove inefficient and unnecessary regulatory barriers on businesses and developers and to create greater opportunities for positive economic development in the City.

At the March 14, 2014 Council work session, Staff will provide an overview and explanation for each of the proposed amendments. To help expedite this discussion and to better understand the areas of agreement and disagreement between the Planning Commission's recommendation and Staff's, please find attached a summary table of the amendments being proposed. This table is organized into 28 individual CDC amendments to be discussed and is organized to provide:

- the purpose for the amendment ("*Proposed Amendment*");
- a description of staff's and the Planning Commission's stance on a given issue ("*General description/Comments*");
- a confirmation of whether or not the proposal was approved by the City Council for consideration ("*Approved for Consideration by CC*"); and,
- the initiating body of the amendment ("*Initiated by*").

Also, several of the amendments would trigger a requirement to send out "Measure 56" notices prior to any Council hearings. This process can take considerable time and add expense to the hearing; therefore, as part of the discussion on Monday night, Staff will identify which amendments would require a Measure 56 notice and will be asking the Council to provide direction on whether or not to proceed with these or not.

Table 1 Summary of proposed CDC and Municipal Code amendments and arguments in support and/or opposition

No.	Proposed amendment	General description/comments	Approved for consideration by CC	Initiated by
Comprehensive Plan				
1	Remove 2003 City Council Goals from the Comprehensive Plan.	City Council Goals should not be construed as decision making criteria in the context of the City’s Comprehensive Plan. They were not written for that purpose. Their inclusion provides for opportunities for legal challenges due to potential for inconsistent interpretations of the CDC.	Yes	Staff
		Planning Commission disagrees and has rewritten and proposed new “Citizen Vision Goals”. The Planning Commission believes there are elements in the 2003 Goals, such as the City’s opposition to growth in the Stafford Basin, that are not codified elsewhere and that these goals should be retained to ensure these desires are maintained throughout future land-use related decisions.		
2	Modify the definition of “conditional use” to match the CDC definition.	The CDC and Comprehensive Plan have different definitions for “conditional use”. This change makes those definitions consistent and avoids confusion and legal challenge.	Yes	Staff
		The Planning Commission agrees with making the definition consistent between documents, however, recommends moving some of the existing terms used in the Comprehensive Plan definition, as new conditional use approval criteria.		
3	Modify portions of Goal 9 of the Comp Plan to emphasize the City’s commitment to economic development.	These changes emphasize the City’s commitment to promoting economic development.	Yes	Staff
		The Planning Commission generally agrees, but has minor disagreements on some of the specific “Background” language.		

Staff and Planning Commission not in agreement on this item
 Item not approved by Council for consideration at July 10 meeting

No.	Proposed amendment	General description/comments	Approved for consideration by CC	Initiated by
Land Use Appeals				
4	Amend quasi-judicial appeals to be heard as “on the record” rather than “de novo.”	Requires applicants to submit their “best” application during the initial hearing. Reduces the cost and risk associated with appeal hearings and is expected to provide for better quasi-judicial decisions.	Yes	Staff
		The Planning Commission disagrees with this recommendation and suggests the existing de novo process be preserved in its entirety. The Planning Commission believes opportunities for input and testimony from residents should never be reduced.		
5	Amend appeal language to no longer exclude neighborhood associations from paying for appeals	Aside from being inequitable, Staff believes that no-charge appeals encourage frivolous appeals and unnecessarily drives up costs for the City and the applicant.	Yes	Staff
		Planning Commission does not support changes to any of the existing neighborhood association procedures or practices including their free appeals.		
6	Modify Chapter 99 (Procedures for Quasi-judicial Decision-making) to require decisions by a lower approval body to be called up by at least a majority of Planning Commission or City Council members.	Currently, a decision by a lower approval body may be called up, outside of a hearing, by two members of the Planning Commission or City Council. Staff believes that the City Charter and Oregon Public Meetings Law require that the decision to call up a lower decision must be made by a majority of members in a public meeting.	Yes	Staff
		The Planning Commission disagrees and proposes to retain the existing language, allowing two members of the Planning Commission or City Council to call up a decision.		

- Staff and Planning Commission not in agreement on this item
- Item not approved by Council for consideration at July 10 meeting

No.	Proposed amendment	General description/comments	Approved for consideration by CC	Initiated by
Variances and Special Waivers				
7	Revise variance criteria regarding topography and takings.	<p>The variance criteria are being rewritten to be clearer and more legally defensible. One of the changes includes removing the requirement to apply Comprehensive plan policies to variance applications.</p> <p>The Planning Commission agrees with most of the changes to this section, but wants to keep criteria relating the policies in the Comprehensive Plan.</p>	Yes	Staff
8	Revise variance criteria to allow dimensional adjustments and minor variances to be approved under less rigorous criteria.	Generally codifies historical interpretation of CDC in these situations and reduces legal liability. This should make it easier for minor deviations from the code to be utilized by applicants, while still requiring approval criteria to be met.	Yes	Staff
9	Create a new type of variance classification (Special Waiver) for projects that would like to propose a superior design/project that does not meet the letter of the regulations.	This approach would permit more flexibility and creativity in the design and development of commercial sites while ensuring consistency with the purpose and intent of the City's commercial base zones. It would be voluntary but will require greater subjectivity of review. The PC made the initial suggestion for this change prior the Council meeting in July	Yes	PC
Procedural Amendments				

- Staff and Planning Commission not in agreement on this item
- Item not approved by Council for consideration at July 10 meeting

No.	Proposed amendment	General description/comments	Approved for consideration by CC	Initiated by
10	Reduce the number of paper copies submitted by the applicant from three to one.	Electronic copies are more convenient and save paper and printing costs.	Yes	Staff
11	Exempt certain minor activities (sidewalks, transit shelters, bike racks) in the public right-of-way and fences on non-residential properties and exterior artwork/statuary from Class I Design Review.	Unnecessary burden for minor public projects. Acts as a disincentive for desirable amenities that benefit the community	Yes	Staff
12	Permit amendments to “approved conditional uses” to be reviewed similarly to amendments to “uses permitted outright.”	Currently, any proposed modification to a previously approved conditional use is reviewed as a new conditional use and subject to the same standards and submittal requirements as new conditional uses. This amendment would allow minor CUP modifications to be addressed the same way as all other development amendments in the City.	Yes	Staff
13	Eliminate the permit process for A-frame signs.	Proposal would add language specifying the size, location and appearance of A-frame signs, but a separate permit would not be required.	Yes	Staff
14	Change “hotels” from a Conditional Use to a Use Permitted Outright in the General Commercial and OBC Zones.	This would make approval process for a desired use (hotel) easier to navigate and predict. The impacts associated with hotels are similar to impacts of other uses permitted outright in the GC and OBC zones.	Yes	Staff

-  Staff and Planning Commission not in agreement on this item
-  Item not approved by Council for consideration at July 10 meeting

No.	Proposed amendment	General description/comments	Approved for consideration by CC	Initiated by
Greater Flexibility				
<u>15</u>	Eliminate lot dimensional requirements except for lot frontage and width.	The current provision have proven to be ineffectual over the years. This change will provide greater flexibility in designing lots and, maintains existing lot size and separation between adjacent residences.	Yes	Staff
<u>16</u>	Allow adjacent on-street parking to count toward the required minimum parking total. Also, revise parking standards for consistency with the Regional Transportation Plan.	Allows more land to be used for productive, commercial purposes, and reduces development costs; which encourages redevelopment.	Yes	Staff
		Planning Commission proposes to not allow on street parking to count toward the minimum requirement as it will reduce the total number of parking spaces available.		
<u>17</u>	Permit residents to own and maintain egg-laying chickens at their place of residence.	Staff is proposing regulations that would permit household chickens in the City, subject to new nuisance standards proposed in the Municipal Code. This would be consistent with the Planning Department’s policy and practice over the past five years.	Yes	Staff
		The Planning Commission disagrees with this proposal.		
<u>18</u>	Permit outdoor seating for commercial uses to extend beyond the storefront with permission from the adjacent property owner.	Would permit restaurants to have more outdoor seating.	Yes	Staff
Remove Ineffectual and Redundant Language				

- Staff and Planning Commission not in agreement on this item
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No.	Proposed amendment	General description/comments	Approved for consideration by CC	Initiated by
19	Repeal Chapters 31 (Erosion Control) and 33 (Stormwater Quality and Detention) in their entirety.	These chapters are redundant with construction requirements that are reviewed by the Public Works and Building Departments. Additionally, many of these details are not known at the time of land use approval. These standards are more appropriately reviewed during the construction phase.	Yes	Staff
20	Remove arbitrary standards from Chapter 55 (Design Review).	These changes are proposed in numerous areas of the amendment package and are intended to result in more predictable development.	Yes	Staff
21	Amend Chapter 60: conditional Use criteria in order to reduce ambiguity	<p>Staff initially proposed modifications to the CUP approval criteria to remove ambiguity and provide more objective standards. However, in September, after several meetings with the PC, Staff recommended removing them from this round of amendments to allow for more detailed consideration.</p> <p>The PC recommends making changes to the CUP criteria as part of this package. They are similar to Staff's initial recommendation, but include criteria related to Comprehensive Plan policies and the need to meet the "overall needs" of the community.</p>	Yes	Staff/PC
22	Amend Chapter 28 (Willamette and Tualatin River Protection) to clarify that acquisition and easements will be negotiated with willing sellers in accordance with City policy regarding property acquisition.	<p>The Planning Commission believes this addition gives property owners more comfort in understanding how property easements and dedications will be acquired. There is similar language in the recently approved Trails Master Plan.</p> <p>Staff has not had time to make a recommendation on this item yet. The term 'willing seller' seems ambiguous. The City's policies for property (easement) acquisition are already contained in the Municipal Code.</p>	No	PC

-  Staff and Planning Commission not in agreement on this item
-  Item not approved by Council for consideration at July 10 meeting

No.	Proposed amendment	General description/comments	Approved for consideration by CC	Initiated by
23	Amend Chapter 56 (Parks Design Review) to require all paths and trails greater than 200-feet to be reviewed under the Class II Design Review Criteria and decided by the Planning Commission.	<p>The Planning Commission recommends making paths/trails subject to a public hearing by the Planning Commission with more detailed application requirements and a public hearing. Currently, all trails over 200-feet in length are reviewed and decided by the Planning Director; whereas trails less than 200-feet in length do not require Design Review.</p> <p>Staff has not had time to develop a position on this item yet and would like to better understand the additional impacts that may be associated with the broader review criteria and public hearing requirements for these public paths/trails. This could have a significant impact on the City's park system; input from the City's Parks and Recreation Advisory Board may be of assistance.</p>	No	PC
24	Change Section 55.100(B)(2)(b) to require at least 20 percent of the non-type I and II lands or 20 percent of the significant trees, whichever is greater, to be set aside for tree protection.	<p>The PC wants to modify current ambiguous language that requires applicants to set aside up to 20 percent of non-type I and II lands for tree protection. The City has interpreted the existing code language differently over the years.</p> <p>Staff initially proposed modifications to this section to require the protection of significant trees, rather than applying tree easements over the ground. During the Planning Commission hearings, staff recommended postponing the item from the current amendment package in order to review the issue more carefully.</p>	Yes	Staff/PC
25	Amend Section 99.040 (Quasi-judicial decision-making) to require that staff reports be made available to the public 15 days in advance of the scheduled public hearing.	<p>Currently Staff reports are provided 10 days before the hearing, the PC wants the public to have more time to review staff reports.</p> <p>Staff disagrees with this proposal and believes that decreasing the amount of time that has staff has to review an application and prepare their report and recommendation would jeopardize the quality of staff's analysis of the proposal. (Note: State law requires 7 days.)</p>	No	PC

-  Staff and Planning Commission not in agreement on this item
-  Item not approved by Council for consideration at July 10 meeting

No.	Proposed amendment	General description/comments	Approved for consideration by CC	Initiated by
26	Remove language authorizing an additional buffer between commercial and residential uses.	Current language is ambiguous/arbitrary. It states that the City may require an additional 50-foot buffer between commercial structures and residential property, but does not specify when this is required.	Yes	Staff
		The Planning Commission agrees the language is ambiguous but disagrees with Staff's approach and proposes to modify the existing language to clarify that the purpose of the additional buffer is to mitigate "adverse impacts."		
27	Add a minimum front yard setback of 20-feet for commercial properties along Highway 43.	The Planning Commission believes the current requirement of no setback in this corridor is inappropriate for uses along this corridor and dangerous, as drivers cannot easily see vehicles and pedestrians approaching from side streets.	No	PC
		Staff disagrees with PC's proposal. There are many reasons to have a zero setback in this area: slows vehicular traffic, improves the appearance of the streetscape, makes it easier to walk along the sidewalks to shop and provides better pedestrian access to stores. Larger setbacks actually reduce safety because they encourage vehicles to travel faster (because drivers perceive a larger field of vision, they are more comfortable travelling faster).		
28	Revise Section 99.030 to not obligate the City to cite applicable federal and state laws and comprehensive plan policies during the pre-application meeting.	Staff is concerned that, Comprehensive plan policies are written too broadly and subjectively to consistently apply as decision-making criteria. In practice, the City has never fully provided this information.	Yes	Staff
		Planning Commission agrees that it is unnecessary to cite applicable state and federal laws but wants to require Staff to cite all applicable comprehensive plan policies at pre-application meeting.		

-  Staff and Planning Commission not in agreement on this item
-  Item not approved by Council for consideration at July 10 meeting

RESOLUTION NO. _____

WEST LINN, OREGON

A RESOLUTION OF THE WEST LINN CITY COUNCIL PROVIDING SUPPORT FOR THE ACQUISITION OF APPROXIMATELY 6 ACRES OF PROPERTY AT THE INTERSECTION OF TANNLER DRIVE AND BLANKENSHIP ROAD JUST BELOW THE 14 ACRES KNOWN AS THE WHITE OAK SAVANNA, AND COMMITTING \$250,000 OF COMMUNITY FUNDS TOWARDS ITS ACQUISITION

WHEREAS, the City of West Linn has been awarded a \$500,000 matching fund grant from Metro for subject property which has been identified as significant to the West Linn Master Plan and

WHEREAS, the City of West Linn will be leveraging its funds in preserving the entire rare White Oak Savanna property, worth \$3.3 million for \$583,000 (or 17.67% of the total cost) which is about one sixth of the total cost of the land and

WHEREAS this resolution will allow our partner, the Trust for Public Land, to write a grant proposal to Oregon State Parks for a matching fund grant of \$250,000 and

WHEREAS the West Linn Economic Development Committee is in support of this 6 acres being added to the 14 acres of the White oak Savanna as park land and voted accordingly at their March 7th 2014 meeting and

WHEREAS the White Oak Savanna is a gateway property into the City of West Linn (as is Wilderness Park at the other entrance) and, as such, defines this city for the hundreds of thousands of people who pass by it on I-205 and

WHEREAS the community has raised over \$357,000 in donations and pledges towards the acquisition of the lower 6 acres of the White Oak Savanna as a natural park and wildlife habitat and

WHEREAS this project has a high level of community support with 6,800 hours of volunteer work donated by the Boy Scouts, Girl Scouts, SOLVE, Willamette Primary School students, N W Youth Corps crews, West Linn High School students, North Clackamas School District Forestry students, church groups, Portland State University students, businesses, neighbors, and others in restoration efforts on the upper 14 acres during the five years since these acres were acquired and designated a West Linn park and

WHEREAS there were once 600,000 acres of this Savanna land and now approximately 2% remains and

WHEREAS there are over 100 vertebrate species identified with this area in field work conducted by Dr. Richard Mishaga and this number is estimated to double when this 6 acres is acquired and Bernert Creek (which was buried 6 feet underground in culverts in 1975 when the street was built) can be daylighted and

WHEREAS over 30 native plant species have reemerged at the White Oak Savanna due to the thousands of hours of restoration work volunteered and

WHEREAS 10 park benches and a trail have been added to the upper acres and numerous invasive species have been removed due primarily to the fundraising efforts of the entire community and the pledge that the lower acres will be cared for in similar fashion and

WHEREAS the Clackamas County Soil and Water Conservation District has committed to giving the city \$10,000 to remove the invasive species in the lower 6 acres once it is acquired by West Linn and

WHEREAS 27 Letters of Support were written by leading conservation groups and elected officials in support of acquiring the lower 6 acres of the Savanna and making it into a park and

WHEREAS the City of West Linn and its funding partners including Metro, Oregon State Parks, Spirit Mountain Community Fund, The Oregon Community Fund, the willing seller, and dozens of private donors have worked together in preserving and restoring the White Oak Savanna over the course of many years and

WHEREAS the willing seller has committed his support for the 6 acres becoming a park which was highlighted in a recent Daily Journal of Commerce article

WHEREAS the Trust for Public Land is committed to completing an application to the Oregon State Parks for \$250,000 which will be matched with community funds;

NOW THEREFORE BE IT RESOLVED, that the Council takes the following actions:

Section 1: states its support for acquiring the property and;

Section 2: commits \$250,000 of community funds toward the acquisition of this property provided grant funds are secured by Oregon State Park

Section 3: this resolution is effective upon passage.

This resolution is adopted on this 17th day of March 2014.

ATTEST:

, City Recorder

John Kovash, Mayor

RESOLUTION NO. 2014 - XX

A RESOLUTION OF THE WEST LINN CITY COUNCIL DEMONSTRATING ITS SUPPORT OF A WEST LINN CITIZEN INITIATED REQUEST TO THE OREGON PARKS AND RECREATION DEPARTMENT GRANT TOWARD THE ACQUISITION OF 5.65 ACRES IN WEST LINN

WHEREAS, the Oregon Parks and Recreation Department is accepting applications for the Local Government Grant Program; and

WHEREAS, the West Linn community members desire to participate in this grant program to the greatest extent possible as a means of providing needed park and recreation acquisitions, improvements and enhancements; and

WHEREAS, the West Linn Parks, Recreation and Open Space Master Plan originally identified the acquisition and protection of the Oregon White Oak trees which was accomplished in 2010 and is now known as the White Oak Savanna Park; and

WHEREAS, members of the community have identified further property acquisition contiguous to The White Oak Savanna Park; and

WHEREAS, these community members have partnered with the Trust for Public Lands to submit this request; and

WHEREAS, the acquisition of approximately 5.65 acres of contiguous property is intended as the "Project"; and

WHEREAS, the Project is not currently specifically identified in the City of West Linn Capital Improvement Plan and funds have not been budgeted or committed for the Project; and

WHEREAS, the City Council understands that Metro has conditionally committed to providing local matching funds through its grant program; and

WHEREAS, the City Council, City citizen advisory boards and City staff have not had the opportunity to review and evaluate the economic, land use, zoning and other issues related to turning commercially zoned land into a park.

NOW, THEREFORE, THE CITY OF WEST LINN RESOLVES AS FOLLOWS:

SECTION 1: The City Council demonstrates its support for the submittal of a West Linn citizen initiated grant application to the Oregon Park and Recreation Department for the Project described above.

SECTION 2: At this time, the City Council is not committing to provide additional financial support for the Project.

SECTION 3: This Resolution shall be effective following its adoption by the City Council.

This resolution was PASSED and ADOPTED this 17 day of March, 2014, and takes effect upon passage.

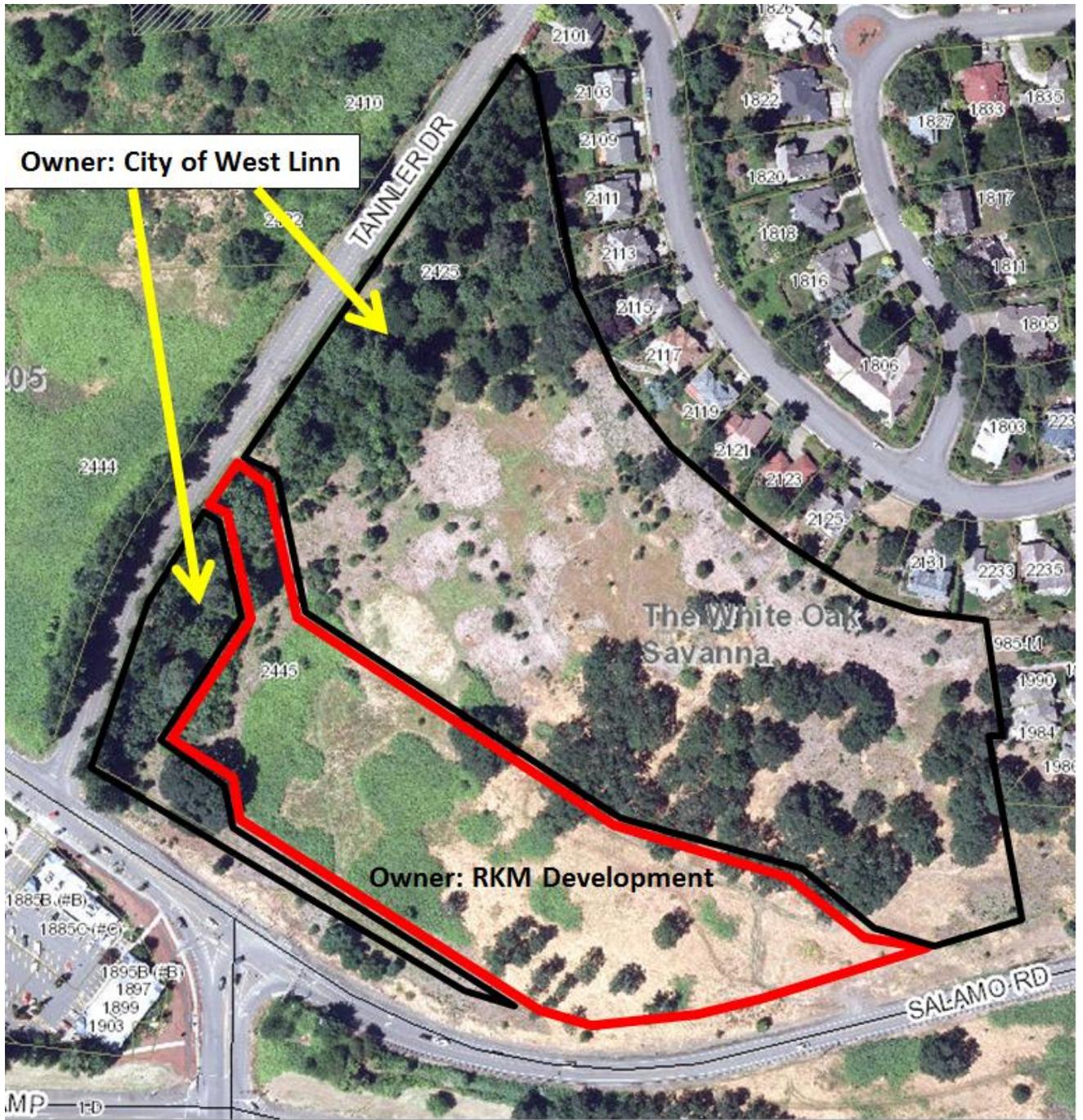
JOHN KOVASH, MAYOR

ATTEST:

KATHY MOLLUSKY, CITY RECORDER

APPROVED AS TO FORM:

CITY ATTORNEY



Owner: City of West Linn

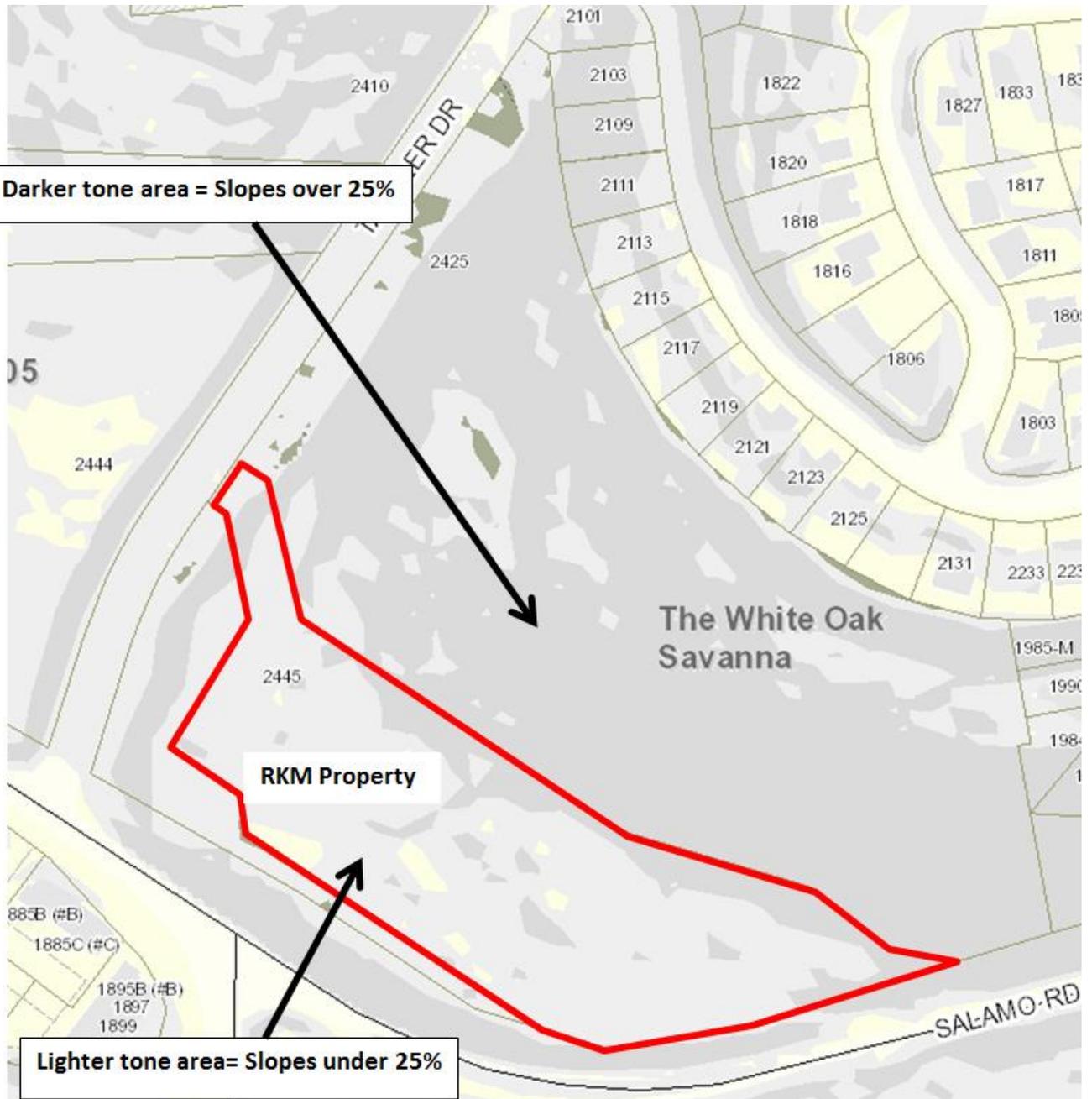
Owner: RKM Development

The White Oak Savanna

TANNER DR

SALAMO RD

MP 1-D





Areas inside the City of West Linn Excluded from Marijuana Facilities

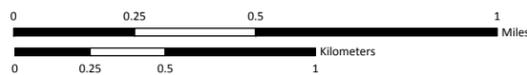
SEPTEMBER 2013

DRAFT



Map & Overlays Provided by West Linn GIS

This product is for informational purposes and may not have been prepared for, or be suitable for, legal, engineering, or surveying purposes. Users of this information should review or consult the primary data and information sources to ascertain the usability of the information.



Map Created: 9/30/2013
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GIS Data Coordinate System: NAD 1983 HARN StatePlane Oregon North FIPS 3601 Feet Int'l

DRAFT

