



LINN COUNTY PLANNING AND BUILDING DEPARTMENT

Robert Wheeldon, Director

Room 114, Linn County Courthouse
PO Box 100, Albany, Oregon 97321
Phone 541-967-3816 Fax 541-926-2060
www.co.linn.or.us

JAN 8 2020

NOTICE OF PENDING LAND USE ACTION

The following request has been submitted for review by this Department. Any comments you wish to provide must be received by 5:00 p.m. January 23, 2020. All comments will be appreciated; however, Oregon law requires that written comments specify which application criteria apply to submitted testimony.

APPLICANT NAME: Progressive Design Builders, Inc.

LANDOWNER: Same

FILE NUMBER/ TYPE OF REQUEST: PD19-0316; application for a conditional use permit for a utility facility necessary for public service, pursuant to Linn County Code Section 928.320(B)(5).

LOCATION OF PROPERTY: The 9.76-acre portion of the property is located on the south side of Henshaw Drive, approximately 0.11 miles west of the intersection of Henshaw Drive and Linn Way, and adjacent to the city limits of Brownsville. (T10S, R03W, Section 23, Tax Lot 815)

PLAN DESIGNATION/ZONE DESIGNATION: Agricultural Resource/Exclusive Farm Use (EFU)

URBAN GROWTH AREA/PLANNING AREA: City of Brownsville Planning Area

SUMMARY OF REQUEST: A conditional use permit application for a utility facility necessary for public service to establish storm drainage for an approved planned unit development located within the city limits of Brownsville. The storm drainage system would include associated piping, grassy swales, rain gardens and storm planters. 9.76 acres of the property is zoned Exclusive Farm Use (EFU) and the remaining 17.97 acres are located within the city limits of Brownsville. The purpose of this notice is to solicit comments and input from surrounding property owners and affected agencies regarding the applicable decision criteria (attached) so that the Department may make a final land use decision.

COMMENTS:

BY AGENCY (IF ANY) DATE

STAFF CONTACT PERSON: Alyssa Boles; (541)967-3816, ext.2360 or aboles@co.linn.or.us

Table with 3 main columns: Linn County, State of Oregon, and Other. Rows include various departments like EHP, Parks, Assessor, GIS, Flood Official, DEQ, DOGAMI, DSL, Water, ODFW, ODOT/OSHD, ODSF, DLCD, Parks, State Fire Marshal, School, Landowners, City Of: Brownsville, and RFD: Brownsville RFD.

NOTICE TO MORTGAGEE, LIENHOLDER, VENDOR, OR SELLER: ORS 215 requires that if you receive this notice, it must be promptly forwarded to the purchaser.

1. Oregon law [ORS 215.416(5)] requires that local governments make copies of applicable decision criteria available to any participant in a land use hearing. This application will be reviewed, and a decision made, using the decision criteria listed below.

Section 933.330 of the Linn County Land Development Code contains the decision criteria specified for use with this application.

933.330 RRZ conditional use for utility facility necessary for public service decision criteria

(A) Conditional uses permitted in LCC 928.320(B)(5), may be permitted in the Rural Resource Zone, provided the decision criteria in subsection (B), any additional criteria that may be specified in this section, and other requirements of law are met.

(B) Decision Criteria

- (1) A utility facility that is necessary for public service.
 - (a) The approval criterion for this use is limited to a finding that the utility is necessary for public service and the approval is not subject to LCC 933.310.
 - (b) "Necessary for public service," as that term is used in this paragraph, means that a utility facility must be situated in the EFU zoning district in order to provide the public service. To demonstrate that a utility facility is necessary, an applicant must show that reasonable alternatives have been considered and that the facility must be sited in an exclusive farm use zone due to one or more of the following factors:
 - (i) Technical and engineering feasibility;
 - (ii) The proposed facility is locationally dependent. A utility facility is locationally dependent if it must cross land in one or more areas zoned for exclusive farm use in order to achieve a reasonably direct route or to meet unique geographical needs that cannot be satisfied on other lands;
 - (iii) Lack of available urban and nonresource lands;
 - (iv) Availability of existing rights of way;
 - (v) Public health and safety; and
 - (vi) Other requirements of state and federal agencies.
 - (c) Costs associated with any of the factors listed in subparagraph (b) of this paragraph may be considered, but cost alone may not be the only consideration in determining that a utility facility is necessary for public service. Land costs shall not be included when considering alternative locations for substantially similar utility facilities and the siting of utility facilities that are not substantially similar.
 - (d) The owner of a utility facility approved under this section shall be responsible for restoring, as nearly as possible, to its former condition any agricultural land and associated improvements that are damaged or otherwise disturbed by the siting, maintenance, repair or reconstruction of the facility. Nothing in this subsection shall prevent the owner of the utility facility from requiring a bond or other security from a contractor or otherwise imposing on a contractor the responsibility for restoration.
 - (e) The director shall impose clear and objective conditions on an application for utility facility siting to mitigate and minimize the impacts of the proposed facility, if any, on surrounding lands devoted to farm use in order to prevent a significant change in accepted farm practices or a significant increase in the cost of farm practices on surrounding farmlands.
 - (f) Utility facilities necessary for public service may include on-site and off-site facilities for temporary workforce housing for workers constructing a utility facility. Such facilities must be removed or converted to an allowed use under OAR the EFU zone or other statute or rule when project construction is complete. Off-site facilities allowed under this paragraph are subject to 660-033-0130(5). Temporary workforce housing facilities not included in the initial approval may be considered through a minor amendment request. A minor amendment request shall have no effect on the original approval.
 - (g) In addition to the provisions in subparagraphs (b) through (f) of this paragraph, the establishment or extension of a sewer system as defined by OAR 660-011-0060 (1) (f) in an exclusive farm use zone shall be subject to the provisions of OAR 660-011-0060.
 - (h) The provisions of subparagraphs (b) through (f) of this paragraph do not apply to interstate natural gas pipelines and associated facilities authorized by and subject to regulation by the Federal Energy Regulatory Commission.

- (2) An associated transmission line is necessary for public service upon demonstration that the associated transmission line meets either the following requirements of Subsection (a) or Subsection (b) of this Subsection.
- (a) An applicant demonstrates that the entire route of the associated transmission line meets at least one of the following requirements:
- (i) The associated transmission line is not located on high-value farmland, as defined in ORS 195.300, or on arable land;
 - (ii) The associated transmission line is co-located with an existing transmission line;
 - (iii) The associated transmission line parallels an existing transmission line corridor with the minimum separation necessary for safety; or
 - (iv) The associated transmission line is located within an existing right of way for a linear facility, such as a transmission line, road or railroad, that is located above the surface of the ground.
- (b) After an evaluation of reasonable alternatives, an applicant demonstrates that the entire route of the associated transmission line meets, subject to Subsections X.07 O(2)(c) and (d), two or more of the following criteria:
- (i) Technical and engineering feasibility;
 - (ii) The associated transmission line is locationally-dependent because the associated transmission line must cross high-value farmland, as defined in ORS 195.300, or arable land to achieve a reasonably direct route or to meet unique geographical needs that cannot be satisfied on other lands;
 - (iii) Lack of an available existing right of way for a linear facility, such as a transmission line, road or railroad, that is located above the surface of the ground;
 - (iv) Public health and safety; or
 - (v) Other requirements of state or federal agencies.
- (c) As pertains to Subsection (b), the applicant shall demonstrate how the applicant will mitigate and minimize the impacts, if any, of the associated transmission line on surrounding lands devoted to farm use in order to prevent a significant change in accepted farm practices or a significant increase in the cost of farm practices on the surrounding farmland.
- (d) The county may consider costs associated with any of the factors listed in Subsection (b), but consideration of cost may not be the only consideration in determining whether the associated transmission line is necessary for public service.

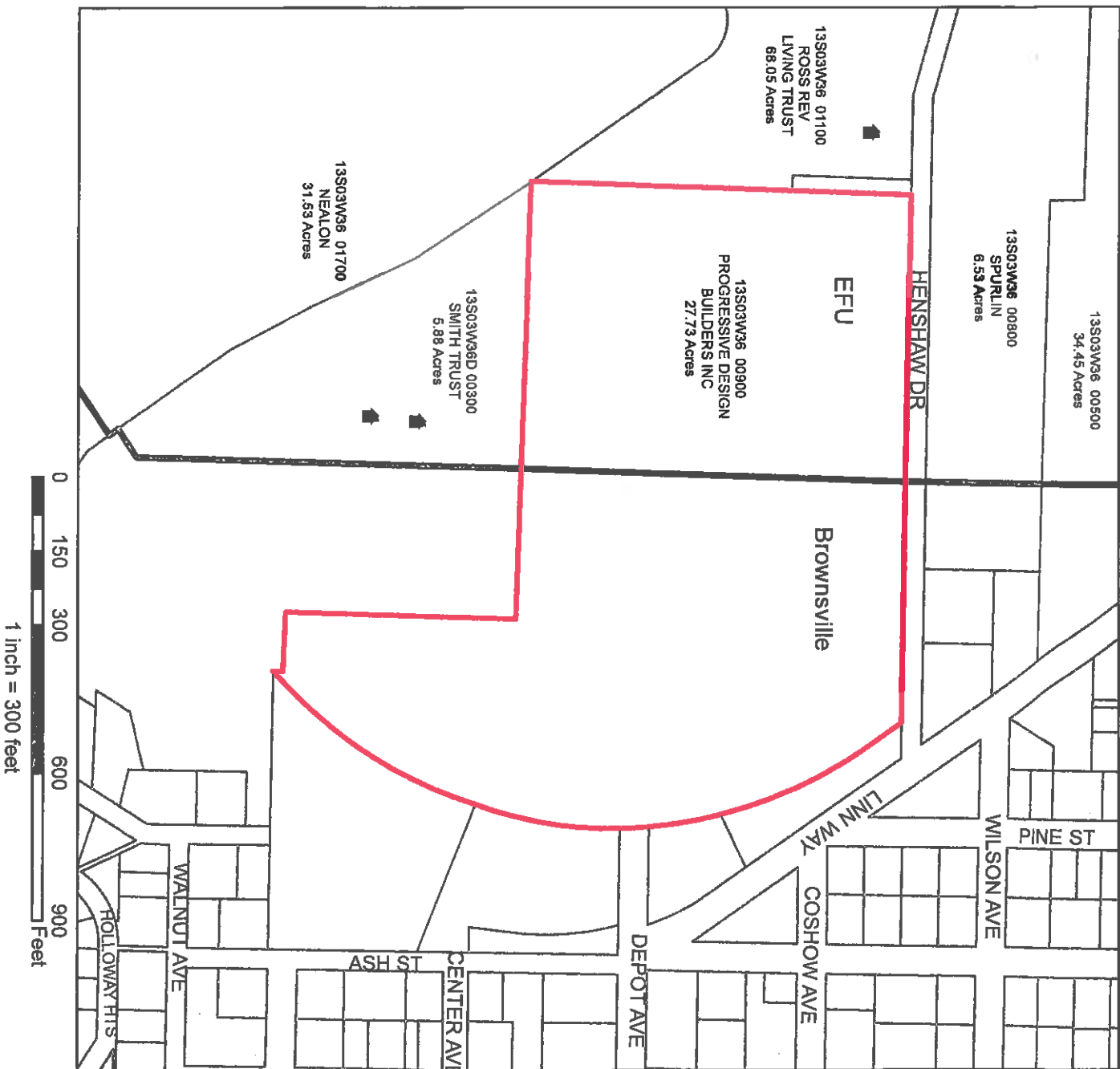
2. All testimony and evidence must be directed toward the criteria described above or other criteria in the plan or land use regulations, which you believe, apply to the decision. Failure to raise an issue before the close of the record during the comment period/final evidentiary hearing, by letter or in person, or failure to provide statements or evidence sufficient to afford the decision maker(s) and the parties an adequate opportunity to respond to each issue raised precludes an appeal based on that issue.
3. Please note the deadline stated in the accompanying notice for submitting your written comments for decisions to be made by the Planning and Building Department.
4. If a public hearing is scheduled before either the Planning Commission or the Board of County Commissioners, written and/or oral comments may be submitted either before and/or during that hearing. Please note the time and date of the hearing in the accompanying notice.
5. A map(s) depicting the parcel under review and surrounding lands is attached to the notice.
6. A copy of the application, all documents and evidence submitted by or on behalf of the applicant and the applicable criteria are available for inspection at no cost and will be provided at reasonable cost. For applications scheduled for public hearing, a staff report will be available for inspection at the Department at least seven days prior to the hearing. A copy of the staff report will be provided at reasonable cost.
7. If additional documents or evidence are provided by any party, the local government may allow a continuance or leave the record open to allow the parties a reasonable opportunity to respond. Any continuance or extension of the record requested by the applicant shall result in a corresponding extension of the 150-day time limitations of ORS 215.428.

8. Prior to the conclusion of the initial evidentiary hearing, any participant may request an opportunity to present additional evidence or testimony regarding the application. The decision maker shall grant the request by either (a) continuing the public hearing or (b) leaving the record open for additional written evidence or testimony. If the decision maker grants a continuance, the hearing shall be continued to a date, time and place certain at least seven days from the initial hearing.
 - (a) At the continued hearing, persons may present and rebut new evidence and testimony. If new written evidence is submitted, any person may request, prior to the close of the continued hearing that the record be left open for at least seven more days to submit additional written evidence or testimony to respond to the new written evidence.
 - (b) If the record is left open, it shall remain open for at least seven days. During the period the record was left open, any participant may file a written request with the local government for an opportunity to respond to new evidence submitted. If the record has been closed and such a request has been timely filed, the record shall be reopened. Unless waived by the applicant, the applicant shall have at least seven days after the record is closed to all other parties to submit final written arguments in support of the application. The applicant's final submittal shall be considered part of the record, but shall not include any new evidence. **If the record is reopened to admit new evidence or testimony, any person may raise new issues, which relate to the new evidence, testimony or decision criteria for the application.** Except when requested or agreed to by the applicant, the extension shall be subject to the 150-day limitations of ORS 215.428.
9. Appeals from Departmental decisions result in a hearing before the Planning Commission; appeals from Commission decisions result in a new hearing before the Board of County Commissioners.
10. Testimony or evidence previously submitted to the Commission must be **resubmitted** by the parties to the Board for the new hearing.
11. If this case is scheduled for a public hearing, the hearing will begin with a declaration of any ex parte contacts (contacts which occurred outside of the public hearing) or any conflict of interest by the decision makers. This will be followed by the staff report from the planning department. Then the applicant (or appellant if case is an appeal) will testify, followed by testimony by other people in support of the application. After the people who are in favor of the application are finished, testimony from opponents will begin. This will be followed by testimony from people who neither favor nor oppose the application. The applicant will then be given the opportunity for rebuttal. The decision makers are free to ask questions of any person who has testified or of staff at any point during the hearing.

If the hearing is continued or the record is left open, the chairperson will announce the date, time, and place for resumption of the hearing and/or what limitations exist on further testimony or submittal of written materials. If a site visit is warranted, the chairperson will announce the time and date of such a visit. If the hearing and record are closed, the decision makers will begin deliberations and/or will announce the time, date and place when the decision will be made.

Linn County Planning & Building Department

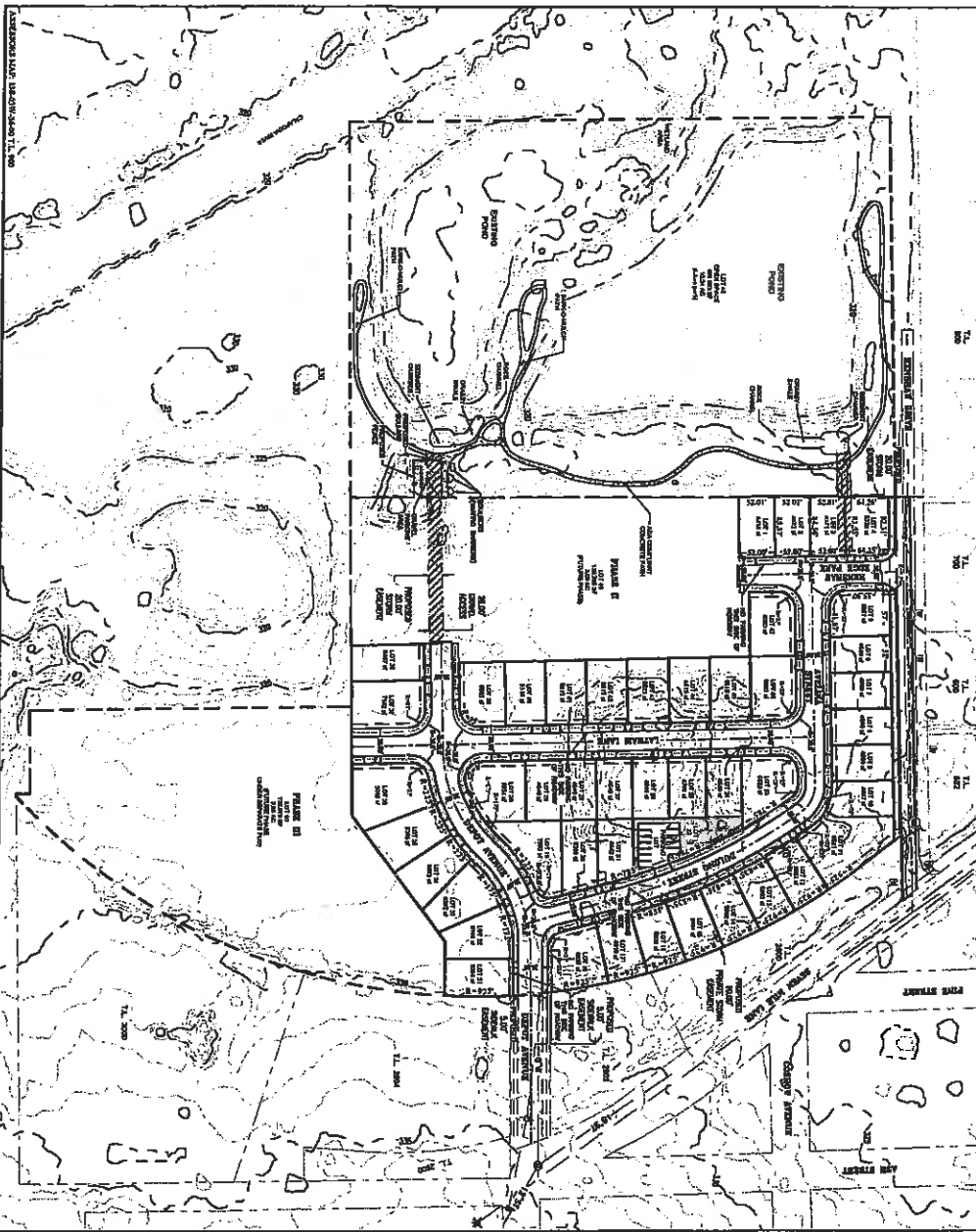
Notice Map



- Subject Property
 - taxlots
 - Zoning
- PD19-0316**
13S03W36 00900
PROGRESSIVE DESIGN BUILDERS INC
27.73 acres



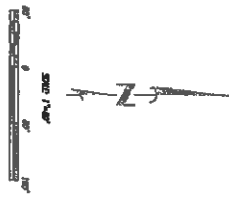
01/02/2020



PHASE I SITE DATA

DATE: 8/19/27
 DRAWN BY: JMM
 CHECKED BY: JMM

- NOTES:**
1. ALL IMPROVEMENTS SHALL BE PERMITTED FOR RESIDENTIAL USE ONLY. ALL IMPROVEMENTS SHALL BE PERMITTED FOR RESIDENTIAL USE ONLY. ALL IMPROVEMENTS SHALL BE PERMITTED FOR RESIDENTIAL USE ONLY.
 2. ALL IMPROVEMENTS SHALL BE PERMITTED FOR RESIDENTIAL USE ONLY. ALL IMPROVEMENTS SHALL BE PERMITTED FOR RESIDENTIAL USE ONLY. ALL IMPROVEMENTS SHALL BE PERMITTED FOR RESIDENTIAL USE ONLY.
 3. ALL IMPROVEMENTS SHALL BE PERMITTED FOR RESIDENTIAL USE ONLY. ALL IMPROVEMENTS SHALL BE PERMITTED FOR RESIDENTIAL USE ONLY. ALL IMPROVEMENTS SHALL BE PERMITTED FOR RESIDENTIAL USE ONLY.
 4. ALL IMPROVEMENTS SHALL BE PERMITTED FOR RESIDENTIAL USE ONLY. ALL IMPROVEMENTS SHALL BE PERMITTED FOR RESIDENTIAL USE ONLY. ALL IMPROVEMENTS SHALL BE PERMITTED FOR RESIDENTIAL USE ONLY.
 5. ALL IMPROVEMENTS SHALL BE PERMITTED FOR RESIDENTIAL USE ONLY. ALL IMPROVEMENTS SHALL BE PERMITTED FOR RESIDENTIAL USE ONLY. ALL IMPROVEMENTS SHALL BE PERMITTED FOR RESIDENTIAL USE ONLY.
 6. ALL IMPROVEMENTS SHALL BE PERMITTED FOR RESIDENTIAL USE ONLY. ALL IMPROVEMENTS SHALL BE PERMITTED FOR RESIDENTIAL USE ONLY. ALL IMPROVEMENTS SHALL BE PERMITTED FOR RESIDENTIAL USE ONLY.
 7. ALL IMPROVEMENTS SHALL BE PERMITTED FOR RESIDENTIAL USE ONLY. ALL IMPROVEMENTS SHALL BE PERMITTED FOR RESIDENTIAL USE ONLY. ALL IMPROVEMENTS SHALL BE PERMITTED FOR RESIDENTIAL USE ONLY.



SHEET
 C-12
 of
 26

REVISIONS
NO. DESCRIPTION

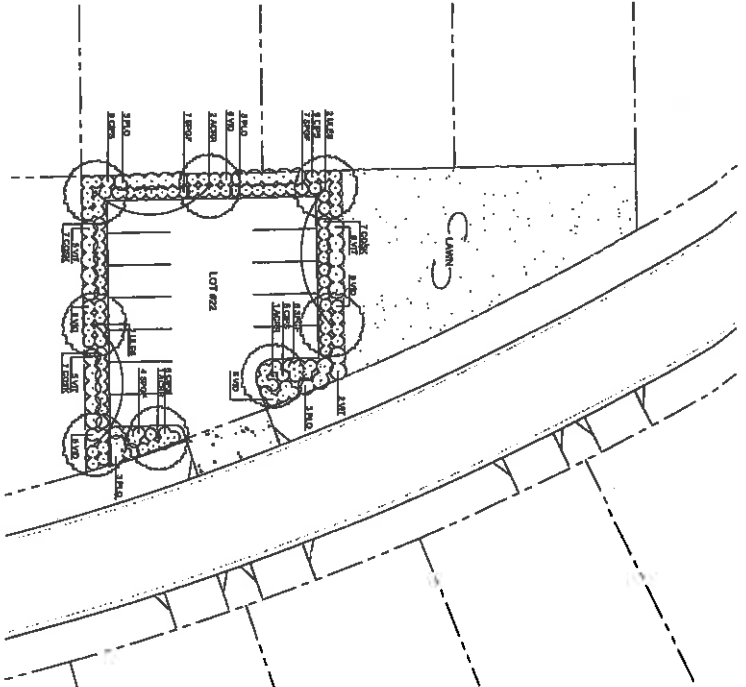
DATE: 8/19/27
PROJECT NO.: 1172
SCALE: 1"=40'
DESIGNED BY: JMM
CHECKED BY: JMM
DATE: 8/19/27
PROJECT NO.: 1172
SCALE: 1"=40'
DESIGNED BY: JMM
CHECKED BY: JMM
DATE: 8/19/27
PROJECT NO.: 1172
SCALE: 1"=40'
DESIGNED BY: JMM
CHECKED BY: JMM

Site Development Plan
 for
River's Edge Subdivision
 Brownsville, Linn County, Oregon



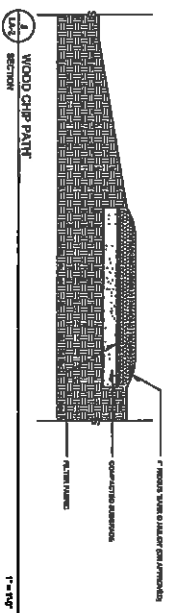
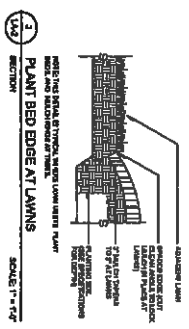
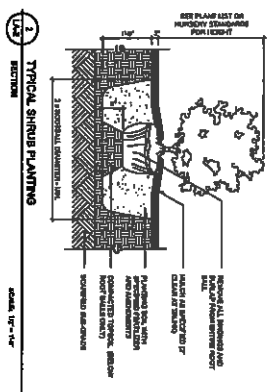
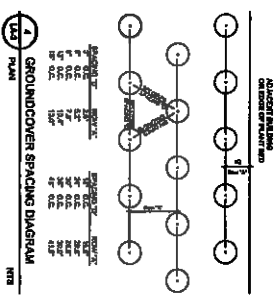
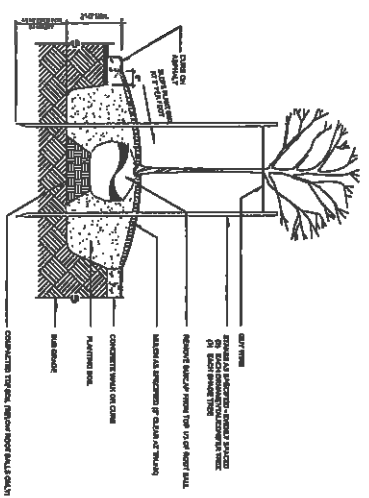
Jason M. Morris
 P.E.
 A & O Engineering LLC
 1800 SE. SUITE 200
 BROWNVILLE, OR 97101
 PHONE: 503.865.4500
 jmm@aoengineering.com

Civil Engineering
 Land Surveying
 & Site Planning



PLANT SCHEDULE - #22 LOT PARKING

SYMBOL	PLANT	PLANTING RATE	PLANTING DATE	PLANTING METHOD	PLANTING NOTES
1	Small Tree	1 per 100 sq ft	Spring	Container	See General Notes
2	Medium Tree	1 per 200 sq ft	Spring	Container	See General Notes
3	Large Tree	1 per 400 sq ft	Spring	Container	See General Notes
4	Shrub	1 per 50 sq ft	Spring	Container	See General Notes
5	Groundcover	1 per 10 sq ft	Spring	Container	See General Notes



GENERAL NOTES

- SEE SHEET 14 FOR LANDSCAPE AND PRODUCTION QUERIES
- SEE CIVIL PLANS AND DETAILS FOR DIMENSIONS AND FINISHES

PLANNING, SCHEMATIC, 2018

LA-2

CLIENT INFO

Progressive Design
P.O. Box 777
Albany, OR
97221
(541) 740-2848

RIVER'S EDGE SUBDIVISION

900 DEPOT AVE. BROWNSVILLE, OR. 97327

LOT #22 PARKING

DOUGHERTY LANDSCAPE ARCHITECTS

147 Westwood Blvd
Salem, OR
503.583.5833
503.583.8183
www.DLAlandscape.com