



Washington County
 Department of Land Use and Transportation
 Current Planning Services
 155 N First Ave, Suite 350
 Hillsboro, OR 97124

RECOMMENDATION & STAFF REPORT

PROCEDURE TYPE: III

CPO: 5 COMMUNITY PLAN:
Washington County Comprehensive Framework
 Plan for the Urban Area

LAND USE DISTRICT:
Future Development 20-acre (FD-20)

PROPERTY DESCRIPTION:
 ASSESSOR MAP#: 3S102B
 TAX LOT#: 000302, 000303, 000309, 000310,
 000311
 SITE SIZE: 10.78 acres
 ADDRESS: 9675, 9775, 9779 and 9805 SW Day
 Road

CASEFILE: L2400001-D(IND)

APPLICANT:
Emrick Investments LLC
Attn: Sean Emrick
PO Box 26439
Eugene, OR 972402

APPLICANT'S REPRESENTATIVE:
AKS Engineering
Attn: Chris Goodell & Marie Holladay
12695 SW Herman Road, #100
Tualatin, OR 97062

OWNER:
Emrick Investments LLC
Attn: Sean Emrick
PO Box 26439
Eugene, OR 972402

LOCATION:
On the north side of SW Day Road,
 approximately 625 feet west of the intersection
 with SW Boones Ferry Road.

PROPOSED DEVELOPMENT ACTION: Development Review for the expansion of an existing Contractor's Establishment in the FD-20 District approved through Casefile L1400431-D(IND).

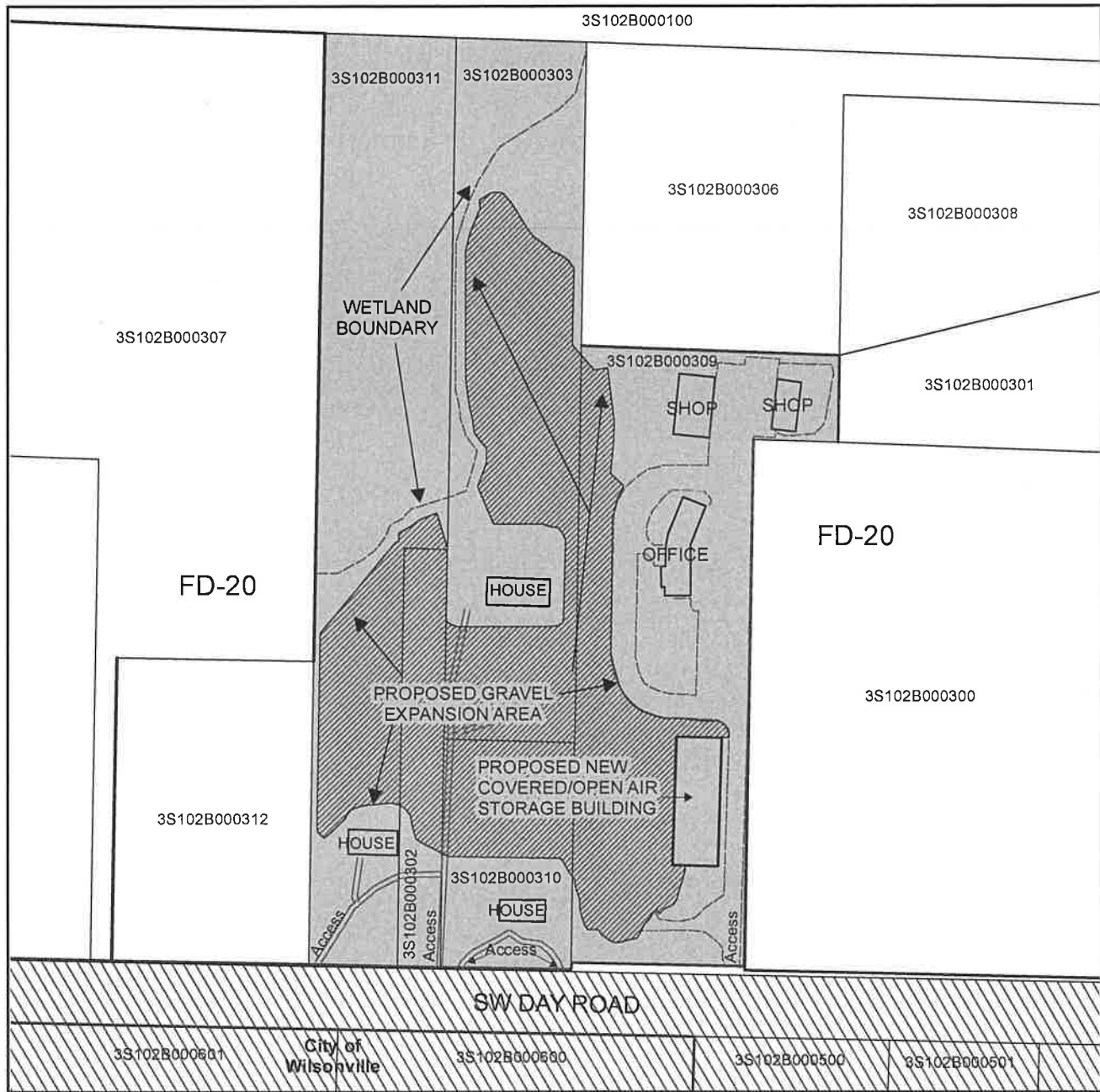
CONTINUED HEARING DATE:
May 16, 2024

RECOMMENDATION:

The required findings have been made for the applicable Code sections. When implemented in accordance with the Recommended Conditions of Approval and the approved final plans, staff believes that the project will be in compliance with the Washington County Comprehensive Framework Plan for the Urban Area and the Washington County Community Development Code.

Staff recommends the Hearing's Officer approve the applicant's request, subject to the Conditions of Approval set forth in Attachment "B" of this report. The city of Wilsonville is the road authority for Day Rd, and County staff expect that the City will provide additional comments and may request additional conditions at the hearing which the hearings officer may consider including with the decision.

- Attachments:**
- A. -- Vicinity Map
 - B. -- **RECOMMENDED CONDITIONS OF APPROVAL**
 - C. -- Staff Report
 - D. -- Transportation Report



↑ NORTH

 AREA OF CONSIDERATION

NOT TO SCALE

SITE & SURROUNDING LAND USE DISTRICTS:

Future Development 20-Acre District (FD-20)
City of Wilsonville

REVIEW STANDARDS FROM CURRENT OR APPLICABLE ORDINANCE OR PLAN

- A. Washington County Comprehensive Plan
- B. Applicable Community Plan (See Front of Notice)
- C. Transportation System Plan
- D. Washington County Community Development Code:
 - ARTICLE I, Introduction & General Provisions
 - ARTICLE II, Procedures
 - ARTICLE III, Land Use Districts
 - ARTICLE IV, Development Standards
 - ARTICLE V, Public Facilities and Services
 - ARTICLE VI, Land Divisions & Lot Line Adjustments
 - ARTICLE VII, Public Transportation Facilities
- E. R & O 86-95 Traffic Safety Improvements
- F. ORD. NO. 738, Road Design and Construction Standards
- G. ORD.691-A, 729, 741, 746, 751, 793-A Transp. Development Tax

RECOMMENDED CONDITIONS OF APPROVAL

I. THIS APPROVAL SHALL AUTOMATICALLY EXPIRE FOUR YEARS FROM THE DATE OF THIS APPROVAL, UNLESS DEVELOPMENT HAS COMMENCED, AN APPLICATION FOR AN EXTENSION IS FILED, OR THIS APPROVAL IS REVOKED OR INVALIDATED (SECTION 201-4).

II. PRIOR TO COMMENCING ANY ON-SITE IMPROVEMENTS, INCLUDING GRADING, EXCAVATION AND/OR FILL ACTIVITIES:

A. Obtain a Grading Permit from the Washington County Building Services Division.

NOTE: *The Grading Permit application must follow the grading submittal package checklist from the Building Services Division.*

Revise the grading plans to reflect no disturbance through either grading or fill in the area of Tax lot 303 north of the east-west lot line between Tax Lots 306 and 309. Additionally, revise the grading plans to reflect no encroachment on Tax Lot 311 west of the west facade of the existing dwelling.

B. Obtain approval from the City of Wilsonville to utilize the existing access on Tax Lots 302 and 310 for construction vehicle access. Noting that some of the existing accesses may need to be closed or restricted due to access spacing restrictions on SW Day Road, a city Arterial. City approval will identify which accesses need to be closed and/or combined to provide a shared access.

C. Site-specific geotechnical engineering report with recommendations for the development of the site is required. The report should be stamped and signed by an Oregon registered engineer.

D. Provide driveway structural details on the plans per site-specific geotechnical engineering recommendations.

E. Provide a drainage analysis report stamped by a registered engineer that shows that any additional impervious areas as a result of this proposed work will not negatively impact surrounding properties or the public right of way.

F. The applicant shall provide written evidence from the State Department of Environmental Quality (DEQ) that a 1200-C permit has been obtained or is not required.

G. Obtain an updated Service Provider Letter and Fire Department Access and Water Supply Permit Checklist from TVF&R that considers the existing fire hydrant on SW Day Road located opposite the existing access to Tax Lot 309 and provide documentation that all applicable requirements identified by the Fire Marshal in the updated Fire Department Access and Water Supply Permit Checklist have been satisfied.

- H. **Abatement of ENFPDS 23-00024 and resolution of any appeals for Casefile L2400019 TREE shall be completed prior to issuance of the grading permit and prior to issuance of Final Approval for Casefile L2400001-D(IND). Expansion of the existing Contractor's Establishment into Tax Lots 302, 303, 310 and 311 shall not occur until ENFPDS 23-00024 is abated.**

III. **PRIOR TO FINAL APPROVAL:**

A. **Complete the following items through the City of Wilsonville:**

1. Any construction work done within the existing and proposed additional right-of-way shall need to be constructed in conformance with the City's Public Works Standards and done under a City of Wilsonville Public Works Permit, available through the City Engineering Division. Please submit plans of proposed construction within the right-of-way for review by engineering staff; plan review fee is 2% of the engineer's estimate and Public Works Permit fee is an additional 5% of the engineer's estimate.
2. Dedicate an additional eight (8) feet of right-of-way along the SW Day Road frontages of Tax Lots 3S102B000310, 3S102B000302, and 3S102B000311 required to provide 45 feet from centerline.
3. Record a 15-foot pedestrian and bicycle easement to the City of Wilsonville on its dedication forms.
4. Record a 10-foot public utility easement, extending from the edge of the right-of-way to the City of Wilsonville using City of Wilsonville dedication forms.
5. Presently SW Day Road does not have sidewalks constructed along the north side. Applicant shall pay a fee of 130% of the engineers estimate for construction of sidewalk for tax lots 3S102B000310, 3S102B000302, and 3S102B000311 frontages on SW Day Road to the City of Wilsonville.

B. **Submit Final Approval Application to Land Development Services, Project Planner (Paul Schaefer, 503-846-3832), including the following:**

1. Final Approval form (Type I procedure; two copies).

NOTE: *The final approval application shall contain a written statement and complete evidence/documentation that all Conditions of Approval have been met.*

2. Final Approval fee.
3. Final plans illustrating the following:
 - a. Plans and elevations of the proposed structure demonstrating compliance with setback and height standards of the FD-20 District.
 - b. Landscape plans that provide at least 15% of the site in landscaping.
 - c. Closure of one of the two driveways serving Tax Lot 310.

4. Plans and details for a six-foot site obscuring fence (an S-2 fence) per Section 411-7 to be installed along the west property line of Tax Lot 311 in a manner that does not interfere with intersection sight distance standards for nearby driveways and shall otherwise extend from the right-of-way north to the wetland boundary.
5. Written certification from an engineer that the truck parking area has been constructed in accordance with the requirements of Section 413-4.4. **NOTE:** Plans in the future to pave any of the graveled parking and storage areas is subject to land use review (Type I Procedure).
6. Documentation that ENFPDS22-00004 has been abated and that any appeals for Casefile L2400019 TREE have been resolved.
7. Evidence from the State DEQ that a 1200-C permit has been obtained for the expanded site development or that it is not required.
8. Completed Service Provider Letter from the City of Wilsonville for transportation.
9. Written inventory of the construction vehicles and heavy machinery kept on site during non-business hours.

IV. PRIOR TO THE SUBMITTAL OF A BUILDING PERMIT THE APPLICANT SHALL:

- A. Obtain Final Approval in accordance with Condition III.B.**

V. PRIOR TO THE ISSUANCE OF A BUILDING PERMIT THE APPLICANT SHALL:

- A. Submit to Building Services (503-846-3470) site plans showing:**
 1. Final site plans and details, including setbacks.
- B. Pay the Transportation Development Tax and any other applicable System Development Charges conditioned in Casefile 14-431-D(IND) or provide documentation that payments have been made. Payments shall be based on the rates in effect when the applicant submitted Casefile 14-431-D(IND).**

VI. PRIOR TO FINAL BUILDING INSPECTION:

- A. Evidence that any public improvements as required by Condition III.A. and as shown on the final approved plans have been completed and accepted by the City of Wilsonville.**
- B. Evidence that the dedications and easements as required by Condition III.A. have been recorded and accepted by the City of Wilsonville.**
- C. Complete all required on-site improvements, including but not limited to installation of the S-2 fence along the west property line of Tax Lot 311 in a manner that does not interfere with intersection sight distance standards**

for nearby driveways extending from the right-of-way north to the wetland boundary. and obtain final sign-off by Project Planner, Paul Schaefer. Please contact staff a minimum of 48 hours in advance of the requested final Current Planning inspection.

- D. Provide documentation that all remaining applicable requirements identified by the Fire Marshal in the updated Fire Department Access and Water Supply Permit Checklist have been satisfied.**

VII. OPERATIONAL LIMITATIONS FOR THE CONTRACTOR'S ESTABLISHMENT:

This approval is limited to the vehicles, equipment, and operation as outlined in the Staff Report. The addition of other uses, features, vehicles, or heavy equipment to this operation at this site may require subsequent approval through the land use application process. Noting that an increase in the total number of employees (currently 30 employees), construction vehicles and/or heavy equipment of 25% or more and paving any of the expanded gravel parking and storage areas shall be subject to a Type III expansion of the Contractor's Establishment. (Section 207-5)

VIII. ADDITIONAL CONDITIONS:

- A. The existing and expanded development shall comply with the state Department of Environmental Quality standards pertaining to the emission of toxic or noxious matter and such compliance shall be demonstrated.**
- B. Only construction-related materials and materials that are not toxic or noxious may be stored on the property and located no closer than twenty-five (25) feet of Tax Lots 3S102B000306 and 00312.**
- C. No idling of construction vehicles or revving of engines shall occur north of the office building located on Tax Lot 309 or north of the existing dwelling units on Tax Lot 311 and 303. No parking of vehicles or construction machinery north of the main office building on Tax Lot 309.**
- D. Adequate sight distance shall be continuously maintained by the property owner(s). This may require the property owner(s) to periodically remove obstructing vegetation from the road right-of-way (and on site).**
- E. This development shall be constructed in accordance with the conditions of this decision, the approved final plans and the standards of the Community Development Code (Section 207-5).**
- F. All conditions of approval shall be binding upon all heirs, successors and assigns (Section 207-5).**
- G. Transferability of this Development Permit shall be in accordance with Section 201-8.**

Attachment C STAFF REPORT

I. APPLICABLE STANDARDS

- A. Washington County Comprehensive Plan
- B. Washington County Community Development Code:
 - 1. Article II, Procedures:
 - Section 202-3 Type III Procedure
 - Section 207-5 Conditions of Approval
 - 2. Article III, Land Use Districts:
 - Section 308 FD-20 District
 - 3. Article IV, Development Standards:
 - Section 403 Applicability
 - Section 406 Building, Siting and Architectural Design
 - Section 407 Landscape Design
 - Section 408 Neighborhood Circulation
 - Section 410 Grading and Drainage
 - Section 411 Screening and Buffering
 - Section 413 Parking and Loading
 - Section 414 Signs
 - Section 418 Setbacks
 - Section 419 Height
 - Section 421 Flood Plain and Drainage Hazard Area Development
 - Section 422 Significant Natural Resources
 - Section 423 Environmental Performance Standards
 - Section 426 Erosion Control
 - 4. Article V, Public Facilities and Services:
 - Section 501 Public Facility and Service Requirements
- C. Ordinance No. 793-A - Washington County Transportation Development Tax Ordinance

II. AFFECTED JURISDICTIONS

Streets:	City of Wilsonville
Fire Protection:	Tualatin Valley Fire & Rescue
Police Protection:	Washington County Sheriff

III. FINDINGS

Background Information:

1. The applicant is requesting development review approval for the expansion of an existing contractor's establishment (Brown Contracting, Inc.) in the FD-20 District approved through Casefile L1400431-D(IND). The purpose of this application, according to the applicant, is to include adjacent land owned by the applicant into the approved contractor's establishment for use as outdoor storage, and the construction of a new, covered, open-air structure designed to protect equipment and materials from the elements. Additionally, the

applicant plans for the site to *“continue to be used to store and maintain contractor’s equipment, including machinery, excavators, vehicles (e.g. trucks, trailers, and vans), tools, and materials (e.g. rock, gravel, soil, piping, concrete blocks, etc.)”*

2. The site is within unincorporated Washington County and abuts SW Day Road, which is within the boundary of the City of Wilsonville. The City of Wilsonville is also the road authority for SW Day Road. The approved operation is located on Tax Lot 3S102B000309. Access to the existing operation was approved through Casefile L1400431-D(IND). The proposed expansion includes four lots to the west: 3S102B000302, 303, 310 and 311.
3. The business operation is that of a concrete contractor. According to the applicant, components of the contractor’s establishment include an industrial office building, accessory structures, looped site circulation, and natural vegetation & landscaping. Each of three of the four lots (Lots 303, 310, and 311) west of the site contain an existing single-family dwelling that will be retained. These homes are owned by the applicant and are currently rented out to employees of the company. Lastly, Tax Lot 302 is approximately 0.55 acres and has driveway access through easement to SW Day Road. This access is planned to serve the existing and expanded contractor’s establishment.
4. The current contractor’s establishment involves the storage of contractor’s equipment including trucks, trailers, heavy machinery and construction equipment. On-site storage such as rock, gravel, piping, and concrete blocks was also approved in Casefile L1400431-D(IND). The site plan does not indicate that rock or gravel stockpiles are present on Tax Lot 309. The approved site is open only to employees of the contractor and not the general public (i.e., no retail use or sales).
5. Casefile L1400431-D(IND) approved an exception to the critical and essential service standards of Section 501-8 of the Community Development Code, as urban water, sanitary sewer, and surface water management services were not presently available at the site. Staff found that granting the exception for these services would not interfere with the ability to later provide these services to anticipated uses in the vicinity of the subject property, nor would granting the exception cause a danger to the public or residents in the vicinity of the subject property (Section 501-6.1).
6. The county received two separate land use complaints (violations) involving the four additional parcels involved in the proposed expansion, for grading and tree removal. Casefile overview about each violation is noted below. Further detail on compliance history can be found in the casefiles noted below :

ENFPDS22-00004 and 23-00024: Unpermitted Tree Removal in SNR & DHA

In April 2022, the county was informed of on-going tree removal occurring on several tax lots in the vicinity of SW Day Road. Once confirmed, county staff opened a land use violation (ENFDS 22-0004) on the west tax lots noted above for failure to submit a land use application to remove trees located in county-designated Significant Natural Resource areas.

A violation (ENFPDS 22-00004) was opened 04/25/22 specific to the tree removal complaint and closed 02/06/23. The case was abated upon receiving an arborist report indicating the trees were removed due to disease and being in a hazardous condition. Tree removal did not require a permit pursuant to Section 407-3.2 C. However, on May 2, 2023, staff reopened the violation for tree removal (ENFPDS23-00024) upon learning that the arborist who signed the second letter was not employed by the tree removal company represented on the letterhead ('Mr. Tree, Inc.').

Subsequent to reopening the violation, staff engaged with AKS Engineering, the current applicant, in trying to resolve both the tree issue and to address the proposed expansion of the Contractor's Establishment that is the subject of this review. The violation remains open and is addressed under Casefile L2400019-TREE. The Notice of Decision is anticipated to be issued by the April 18, 2024, hearing. Abatement must be obtained prior to issuance of the grading permit and prior to issuance of Final Approval. Staff recommends the following Condition of Approval to address this violation:

Abatement of ENFPDS 23-00024 and resolution of any appeals for Casefile L2400019 TREE shall be obtained prior to issuance of the grading permit and prior to issuance of Final Approval for Casefile L2400001-D(IND). Expansion of the existing Contractor's Establishment into Tax Lots 302, 303, 310 and 311 shall not occur until ENFPDS 23-00024 is abated.

ENFPDS22-00044: Grading Permit Violation

On November 2, 2022, the county's Code Enforcement officer was e-mailed notification from Building Services (grading) that a violation should be opened based on submitted photos that indicated unpermitted grading had occurred on the property. Grading staff subsequently met the owner of the property on-site and determined that a grading violation had not occurred, based on the County Grading Engineer's determination that the site had been cleared but neither grading nor fill placement had occurred. The violation was closed on 02/13/23.

The current land development application requests approval to expand the Contractor's Establishment onto the parcels subject to the closed grading violation. The plans provide for grading of portions of these parcels. Approval of the current land use application and subsequent grading permit is expected to ensure compliance with all applicable grading requirements. Additional discussion of compliance violations on the above lots can be found under staff findings for Section 215 – Code Compliance in the L2400019-TREE report.

6. The county received other complaints involving the current Contractor's Establishment from the owner of Tax Lot 3S102B000306, which abuts the original development site (Tax Lot 309). The property owner raised concerns largely with increased levels of noise generated early in the morning to sometimes late at night. Noise complaints are handled by Health and Human Services (during regular business hours) and by the Sheriff's department (after regular business hours and on weekends). Sources of increased noise were cited as idling cement trucks, revving of engines, constant beeping from the backing up of construction vehicles, power washing, servicing of vehicles and operation of heavy equipment, including excavators and forklifts.

The property owner also expressed concerns with the amount of activity being conducted on the property (Tax Lot 309). According to the property owner *"Brown seems to be operating well outside of their land use approval from 2015. The approval specifically states they must abide by Washington County's noise ordinance. They are also exceeding the daily trips listed in the approval, the amount of workers on site, and the type of activities permitted. This is a full on industrial site now, not just a "contractor's establishment." Up to 40-50 vehicles enter and exit on any given day prior to 7:00am, most days starting around 5:00am. This alone exceeds their daily trip estimate from their site approval. These trips continue throughout the day and into the evening. I estimate at least 100-150 trips easy on an average day. They have at least 2-3 cement trucks, 2-3 dump trucks, 2 excavators, forklifts, side-by-sides, and other heavy machinery on site working throughout the day. They back up and idle the cement trucks directly to our fence for servicing/cleaning every day. They have a full-time mechanic on site servicing semi-trucks and tractors by our fence making tons of noise. They pressure wash vehicles, construct materials, and use an excavator to move objects around throughout the day."*

In Casefile L1400431-D(IND), according to the applicant the proposed contractor's establishment involves the storage of contractor's equipment including trucks, trailers, heavy machinery and construction equipment. Noting that the staff report did not identify a specific number of each type of construction vehicles or heavy machinery.

In addition, the ITE Trip Generation Manual did not include trip generation data for contractor's establishments. For this reason, in Casefile L1400431-

D(IND), staff developed a conservative estimate of trip generation for the proposed operation of the business, based on information provided by the applicant in a letter to the City of Wilsonville. Using this information, the minimum trip generation from the proposed contractor's establishment use can be assumed as approximately 52 trips per day:

Number of anticipated minimum trips/day	ADT
Arrival of employees (4 office workers, 3 yard laborers on site, up to 6 construction workers during busy times)	13
Site visitors, deliveries (4 per day) (arrival & departure)	8
Trips to job sites (3 per day) (arrival & departure)	6
Errands by yard laborers (6 per day) (arrival & departure)	12
Departure of employees (4 office workers, 3 yard laborers on site, up to 6 construction workers during busy times)	13
Total anticipated minimum trips/day	52

This estimate, which excluded additional trips by material suppliers, office employees, and other potential additional trips to/from the site, exceeds 14 additional vehicle trips per day above the current 9.57 trips generated by the existing residence (which has been converted to office use). Therefore, the original proposed use was subject to Article V, Public Facilities and Services.

In Casefile L1400431-D(IND), the Hearings Officer imposed the following Condition of Approval, which is typical of Contractor's Establishments:

IX. OPERATIONAL LIMITATIONS FOR THE CONTRACTORS ESTABLISHMENT:

*This approval is limited to the vehicles, equipment, and operation as outlined in the Staff Report. The addition of other uses, features, vehicles, or heavy equipment to this operation at this site may require subsequent approval through the land use application process.
(Section 207-5)*

The Condition of Approval states that addition of other uses, features, vehicles, or heavy equipment to this operation at this site may require subsequent approval through the land use application process. The current expansion proposal constitutes the conditioned "subsequent" review and approval of the current Contractor's Establishment to address the changes to the business post-2014, including the expansion on the four tax lots abutting the original property (Tax Lot 309).

7. Staff notes that if the Hearings Officer approves this application, the approval will be based on evidence in the record for this use. Transfer of the property or business to another owner could result in changes to the use that are not consistent with the use as described in this application. Therefore, staff has included a recommended condition of approval in Attachment B, limiting approval to the vehicles, equipment, and operation of the contractor's establishment as described in this application. The addition of other uses, features, vehicles, or heavy equipment may require subsequent approval through the land use application process. However, staff recommends that the large expansion area could accommodate a significant increase in the size of the current operation (e.g., large increase in construction vehicles and employees) which would translate to an increase in the number of trips generated by the expanded business operation. As a result, staff recommends that the Hearings Officer add as a Condition of Approval that an increase in the total number of construction vehicles and/or heavy equipment of 25% or more would be subject to a Type III Procedure. (Section 207-5)
8. The public hearing notice was mailed for this project in accordance with County requirements. No letters were received in response to the public notice prior to completion of this report.
9. Comments were received from the Washington County Building Division (see Casefile). Where appropriate, the recommendations proposed in these letters are included as Conditions of Approval in Attachment B of this report.
10. Application Submitted: August 14, 2023
Application Deemed Complete: December 28, 2023
Public Hearing Date: April 18, 2024
Continued Hearing Date: May 16, 2024
120 Day Clock: April 26, 2024 (*extended to July 10, 2024*)
11. The applicant requested that the hearing be continued to May 16 and also agreed to extend the 120 day clock to accommodate a continued hearing. On April 18, the Hearings Officer approved the applicant's request and continued the public hearing to May 16 at 9:00 am. Public testimony was also deferred to May 16.

A. Washington County Comprehensive Framework Plan:

STAFF: The goals and policies which relate to the development of land are implemented by the Washington County Community Development Code (the Code). The applicant is not required to address, consider or implement any goal, policy or strategy of the Plan except where required by the Code. In accordance with Section 308-3 of the Code, the proposed use is subject to Policy 41 of the Comprehensive Framework Plan for the Urban Area.

The subject site is located within Area of Special Concern No. 5, as designated on Map C of Policy 41. Area of Special Concern No. 5 is subject to the following:

5. *Area of Special Concern 5 is comprised of approximately 645 acres of land located generally between Tualatin and Wilsonville and between I-5 and the Burlington Northern railroad alignment. The boundary of ASC 5 is shown on Map C (Future Development Areas Detailed Areas) of Policy 41. The properties included in this Area of Special Concern are designated Future Development 20-Acre (FD-20) District on the Future Development Areas Map (Map A). These properties were added to the UGB by Metro Ordinance 04-1040B (adopted on June 24, 2004) and designated as Industrial land on Metro's 2040 Growth Concept Plan.*

Title 11 planning and FD-20 development applications within this Area of Special Concern are subject to the following criteria:

- b) *Until the effective date of new regulations adopted pursuant to Title 11, development applications within this Area of Special Concern shall be subject to Community Development Code Section 308, except as otherwise provided below:*
 - 1) *Day care facilities, cemeteries, churches and schools are prohibited due to the area's designation as an Industrial Area.*

The development site is located on the north side of SW Day Road, between SW Grahams Ferry and SW Boones Ferry Roads and within the boundary of the City of Wilsonville's Basalt Creek Concept Plan. The proposed development does not include any of these uses.

In 2004, the Basalt Creek Planning Area was added to the UGB by Metro in order to accommodate growth in industrial employment. The planning area consists of approximately 847 acres, located west of I-5 between the cities of Tualatin and Wilsonville, and comprising the Basalt Creek and West Railroad Areas. The concept plan provides a guide for the industrial and technology development of the planning area. The Wilsonville City Council approved the Basalt Creek Concept Plan on August 6, 2018, with the adoption of R&O 2697.

The site is designated as Employment Transition (eastern portion) and Basalt Creek Canyon (western portion) once it is annexed to the City of Wilsonville. Until such time, the application remains subject to the requirements of Section 308. No land division is proposed. The application also does not involve development review for commercial retail uses. For further information, see Section 308 of this report.

According to the Rural/Natural Resource Plan Map, there are designated significant natural resources on the subject property. See Section 422 regarding these resources.

C. Washington County Community Development Code:

1. Article II, Procedures:

Section 202 Procedure Types and Determination of Proper Procedure

202-3 Type III Procedures

202-3.1 Type III actions involve development or uses which may be approved or denied, thus requiring the exercise of discretion and judgment when applying the development criteria contained in this Code or the applicable Community Plan. Impacts may be significant and the development issues complex. Extensive conditions of approval may be imposed to mitigate impacts or ensure compliance with this Code and the Comprehensive Plan.

STAFF: This request is being processed through the Type III procedure of the Community Development Code, pursuant to Section 308-4.5 of the Code. In accordance with the Type III procedural requirements, public notice was sent to surrounding property owners within 20 days of the scheduled April 18, 2024, hearing.

203-3 Neighborhood Meeting

STAFF: The proposed use is a Type III use in the FD-20 District but is not a type of application for which a neighborhood meeting is required, per Section 203-3.2.A. The site is not within 125 feet of a residential land use district or zone. Staff notes that the applicant may hold such a meeting but is not required to do so by the Community Development Code.

207-5 Conditions of Approval

207-5.1 The Review Authority may impose conditions on any Type II or III development approval. Such conditions shall be designed to protect the public from potential adverse impacts of the proposed use or development or to fulfill an identified need for public services within the impact area of the proposed development. Conditions shall not restrict densities to less than that authorized by the development standards of this Code.

STAFF: The applicant shall comply with all applicable Code regulations, conditions of approval, and agency requirements upon any approval by the Hearings Officer.

2. Article III, Land Use Districts:

Section 308 FD-20 District:

308-4 Uses Which May Be Permitted Through a Type III Procedure

The following uses may be permitted unless specified otherwise by the applicable Community Plan or Policy 41 of the Comprehensive Framework Plan for the Urban Area. These uses may be permitted subject to the specific standards for the use set forth below and in applicable Special Use Sections of Section 430, as well as the general standards for the District, the Development Standards of Article IV and all other applicable standards of the Code. Approval may be further conditioned by the Review Authority pursuant to Section 207-5.

308-4.5 Contractor's Establishment.

STAFF: The applicant proposes an expansion of an existing contractor's establishment onto four adjacent parcels to the west of the current site. The approved uses were described as involving storage and maintenance of contractor's equipment including trucks, trailers, heavy machinery, and construction equipment. On-site storage of materials such as rock, gravel, piping, and concrete blocks was also planned. Two existing outbuildings are utilized for the planned use as a shop (eastern outbuilding) and an office/shop (western outbuilding), and the existing dwelling unit was converted to office space. The site will not be open to customers or the public.

The existing approximate 3.5-acre site is currently used for storage, maintenance, and on-site circulation of contractor's equipment, noted below. Approval of this application will allow the current operations to continue in accordance with the Conditions of Approval imposed through Casefile L1400431-D(IND). A break-down of the current business operations listed in the current application include the following:

- Park, store, load/unload, and operate heavy equipment, machinery, excavators, dump trucks, utility rigs, and vehicles (e.g. trucks, trailers, vans);
- Inspect, maintain, and repair equipment;
- Truck washout facilities;
- Office and field staff parking;
- Materials stockpile (e.g. aggregate, sand, gravel, sediment, rock, soil, piping, concrete blocks, etc.);
- Temporarily stockpile excavation spoils from offsite operations for subsequent reloading and transfer to available legal landfills;

- *Storage for construction-related materials and supplies for subsequent off-site/infield use;*
- *Deliveries to the contractor's establishment of such materials, etc.*

As stated previously, the application includes four additional tax lots on which to expand the existing contracting business. The expansion also includes a large new open-air pole building located between the office building and SW Day Road. The proposed expansion area will enable the applicant "to store and maintain contractor's equipment, including machinery, excavators, vehicles (e.g. trucks, trailers, and vans), tools, and materials (e.g. rock, gravel, soil, piping, concrete blocks, etc.)."

The applicant has adequately described the proposed new outbuilding, which will meet all dimensional requirements of the proposed expansion. Any future conversion of the three existing dwelling units to include operations of the business shall be processed as an expansion of the contractor's establishment.

No letters of comment have been received requesting specific hours of operation. It should be noted, however, that the Washington County Noise ordinance requires the applicant to limit the hours of operation of the site to between 7am and 7pm, Monday through Saturday, in order to ensure compliance with the ordinance.

Notwithstanding, staff recommends the following Condition of Approval to ensure that adjacent residences (to the west and north) are not impacted from noise generated by idling construction vehicles and revving of vehicle engines, notably in the early morning hours:

No idling of construction vehicles and engine revving shall occur north of the office building located on Tax Lot 309 or north of the dwelling unit on Tax Lot 311.

308-5 Prohibited Uses

308-5.9 *Any parking or storage of tractor-trailers, semi-trucks, or heavy equipment, except in conjunction with an approved development or with a farm or forest use.*

STAFF: As part of the proposed contractor's establishment, the applicant continues to have some of the equipment listed in this section on the site. Approval of this request constitutes development approval, thereby permitting the storage of the above heavy equipment on the site, as specified in this application.

308-6 Dimensional Requirements

308-6.2 *Yard Requirements:*

The minimum yard requirements shall be:

A. *Thirty (30) foot front yard;*

- B. *Ten (10) foot side yard;*
- C. *Thirty (30) foot street side yard;*
- D. *Twenty-five (25) foot rear yard;*
- E. *Additional setbacks may be required as specified in Sections 411 and 418; and*
- F. *Required yards shall be horizontally unobstructed except as provided by Section 418.*

STAFF: The applicant's plans show that existing structures meet the requirements of this section. The only new structure proposed (a new open-air pole building located between the office and SW Day Road) will also comply with these setbacks. The new structure will be located approximately 35 feet from the east property line and 140 feet from the south property line (front). Any new structures or any structures relocated on the site shall comply with the setback standards of the FD-20 District. Additional land use approvals and/or permits may be required for demolition, relocation, reconstruction, or modification of structures on site.

308-6.3 *Height:*

- A. *The maximum height for structures shall be thirty-five (35) feet, except as modified by other Sections of this Code.*
- B. *The maximum height for accessory structures shall be fifteen (15) feet except as modified by other Sections of this Code.*
- C. *Normal building appurtenances and projections such as spires, belfries, cupolas, chimneys, ventilators, elevator housings or other structures placed on or extending above roof level may exceed the thirty-five (35) foot building height limit to a maximum height of sixty (60) feet.*

STAFF: All existing structures are required to meet the height limitations of the District. The applicant stated that the new open-air covered structure "is not planned to exceed the maximum height of 35 feet, and is not planned to have walls, enclosed area, or indoor occupiable space." Verification of compliance with the maximum structure height of 35 feet will be made prior to issuance of the building permit.

308-6.4 *Lot Dimensions:*

- A. *The minimum lot width at the street shall be forty (40) feet;*
- B. *The minimum lot width at the building line shall be seventy (70) feet; and*
- C. *The minimum lot depth shall be one-hundred (100) feet.*

STAFF: The proposed site meets the applicable requirements of this section.

308-7 Additional Standards

- 308-7.1 *All new permitted uses shall be constructed in a manner which does not interfere with future conversion of the land to planned urban densities and/or uses.*
- 308-7.2 *Lawful nonconforming uses in the FD-20 District may be expanded or rebuilt to the limit of available services, through a Type II procedure when in conformance with the adopted Comprehensive Plan for the area. Expansion or replacement shall be subject to the provisions of development review and shall not include new uses.*
- 308-7.3 *Property in an Area of Special Concern on the Future Development Areas Map in the Comprehensive Framework Plan for the Urban Area is subject to the applicable Area of Special Concern provisions in Plan Policy 41.*

STAFF: The only new construction proposed with this development is for an additional outbuilding to be located between the existing office and SW Day Road. Staff finds that the proposed building would add a minimal amount of structural footprint to the site. The new structure would likely not interfere with future conversion of the larger site to planned urban densities and/or uses and is consistent with the applicable requirements of Policy 41 of the Comprehensive Framework Plan for the Urban Area at such time as the site annexes into the City of Wilsonville. Additionally, staff anticipates the new open-air structure would have a low replacement value making it financially viable to remove if the site were to redevelop in the future with more intense land uses.

308-8 Access

All lots in this District shall either:

- 308-8.1 *Abut a public street; or*
- 308-8.2 *Have an easement of record at least forty (40) feet wide at the street or as approved by the appropriate fire marshal. In cases where no fire marshal has jurisdiction, the easement shall be subject to the standards of Fire District #1.*

STAFF: The subject site abuts and derives access to SW Day Road, an Arterial under the jurisdiction of the City of Wilsonville. Access for Tax Lot 3S102B000309 was approved through Casefile L1400431-D(IND). The current approved operation is located on Tax Lot 3S102B000309. The proposed expansion includes four lots to the west: 3S102B000302, 303, 310 and 311. The existing dwelling units, to be retained, each have access to SW Day Road, with access to Tax Lot 303 facilitated by an access easement over the western ten feet of Tax Lot 310. The applicant proposes to utilize this existing residential access for the expanded contractor's establishment. Utilization of the existing residential driveway for the expanded contractor's

establishment will require approval by the City of Wilsonville. The criteria above are met.

3. **Article IV, Development Standards:**

Section 403 Applicability

STAFF: The applicant has provided a site plan and written information to address the Development Review standards of Article IV.

Section 406 Building, Siting and Architectural Design

STAFF: The site currently contains three single-family dwellings, which, according to the applicant, are not proposed for use associated with the Contractor's Establishment. One new industrial building is proposed at this time. The applicant proposes a large open-air (non-walled) structure to provide covering for materials and equipment protecting items from the elements. The new structure will be primarily accessed from the existing access (on Tax Lot 309) constructed to serve the original Contractor's Establishment. For information regarding compliance with height and setback requirements, see staff findings for Section 308 above.

Section 407 Landscape Design

STAFF: The Code has no specific provisions for landscaping of a contractor's establishment, except subsection 407-1.4 B.(1), which states 15% of the site shall be landscaped for development proposed in industrial districts. The applicant's site plan (plan sheet P6) depicts areas of landscaping. The six existing landscape areas encompass 87,400 square feet or 2 acres. The area of landscaping exceeds the 1.6 acres or 15% of the site required for landscaping in accordance with this section.

The narrative indicates that over 15% of the site will be landscaped. Plan sheet P6 shows that this requirement is met. However, after closer inspection of the current site plan and aerial photograph of the site (Tax Lot 309) and the original landscape plan, staff identified areas in 2014 that were proposed and required to be either landscaped or maintained with native vegetation (e.g., west and south of the western-most shop). This has yet to occur. The proposed new structure would also remove a significant amount of approved landscaping/native vegetation. The final landscape plan needs to ensure that at least 15% of the site will be landscaped.

Existing landscaping around each of the dwellings to be retained will remain. In addition, existing trees will be preserved where possible. Grading and tree removal will not extend into the wetland boundaries or Title 13 Riparian resources to the west nor within landscape areas around each of the existing homes. Additionally, no tree removal is proposed along the west property line of Tax Lots 303 or 311. Tree removal outside of the resource areas are permitted pursuant to Section 407-3.

407-7 Urban Street Tree Standards

Inside an urban growth boundary, all new structures or land divisions fronting on public or private roadways or access drives, except the construction of a detached dwelling unit on an existing lot, shall be required to plant street trees in accordance with the following standards:

STAFF: The proposed development application does not include a land division but does include a new industrial structure subject to Section 407-7. The new structure is located on the original development site (Tax Lot 309). The applicant stated that the existing trees along SW Day Road, as shown on the plans (see sheet P4), will remain. Existing trees on Tax Lot 309 maintain spacing of no less than approximately 20 feet and can be incorporated into the street tree plan for the proposed expansion. No other structures are proposed. No grading activities associated with the proposed expansion will encroach around the dwelling units or between the dwelling units and SW Day Road.

Section 408 Neighborhood Circulation

STAFF: This Section requires the applicant to provide a circulation plan for the area based on the proposed development. The proposed project is not identified as a Local Street Connectivity Area; therefore, this project is subject to the requirements of Section 408-5.

Staff finds that the applicant should be granted a modification to the requirements of Section 408-5.4, based on the existing development patterns in the project vicinity and arterial access restrictions on SW Day Road and the presence of significant natural resources along the western portions of the site. The extension of streets and/or pedestrian and bicycle accessways from SW Day Road through the site are not necessary or conducive to the day- to-day operations of the proposed Contractor's Establishment. Streets and/or pedestrian accessways are also not needed to extend to the abutting property to the north as this property has access to SW Boones Ferry Road. As stated above, the significant natural resources located generally along the west property line preclude any future access to the west while limiting any circulation to the north.

Notwithstanding, opportunities to provide a street and/or pedestrian connection to the north or east in the future upon more intense urbanization of the five lots will be retained upon completion of the proposed expansion. The proposed new accessory structure does not preclude the construction of a street and/or pedestrian and bicycle accessway to the north from SW Day Road to stub to Tax Lot 306.

Section 410 Grading and Drainage

STAFF: As stated previously, the county processed a grading permit violation involving the lots included in the expansion area. On February 13, 2023, the violation was abated, and the case closed. The current land development application requests approval to

expand the current Contractor's Establishment onto the four western parcels noted above, to include some grading of these areas Approval of the land use application and subsequent grading permit will ensure compliance with all applicable grading requirements. See also Section 422 of the staff report.

The applicant submitted preliminary details and grading and drainage plans as required by this section. According to the application, grading will affect approximately four acres of the approximate eleven acre site. Estimated cut and fill numbers listed are for about 1,500 cubic yards of cut and about 12,000 cubic yards of fill.

The Washington County Grading Engineer has reviewed the preliminary details and determined the submitted preliminary plans meet the requirements of Section 410-1.1. A Grading Permit shall be obtained prior to any on-site work and shall comply with conditions of approval of this Casefile. As a Recommended Condition of Approval, the applicant shall obtain a grading permit from the Washington County Building Services Division that meets applicable requirements of Section 410, as determined by the county Grading Engineer.

Section 411 Screening and Buffering

STAFF: The applicant has proposed a contractor's establishment on the site, which has a land use designation of FD-20. The Code includes no specific provisions for screening and buffering in FD-20 areas, with screening and buffering to be determined by the review authority. However, inside the UGB, Code provisions specifically require screening and buffering when commercial and industrial uses adjoin residential uses. In this case, the site is in the FD-20 District and is bordered on the west, north, and east by similarly designated FD-20 District land. Land to the south (across SW Day Road) is zoned by the City of Wilsonville as PDIA-RSIA. The closest residentially zoned land (to the north in the City of Tualatin) is over 1,000 feet from the site.

The original site is bordered on the north with residential use and was bordered on the west by residential uses, also located in the FD-20 District (owned by the applicant). As a result of the proximity of residential uses to this site, in the Recommendation and Staff Report for Casefile L1400431-D(IND) staff determined that screening and buffering was appropriate in this instance and should be required along the north and west property lines of Tax Lot 3S102B000309. Consequently, staff at that time recommended the following Condition of Approval:

Evidence that screening and buffering as indicated on the site plans to a S-2 Standard per Section 411-7 has been installed along the north and west property lines, in a manner that is not highly visible from SW Day Road and positioned such that it does not interfere with intersection sight distance standards.

The Hearings Officer included this Condition of Approval in the Notice of Decision for Casefile L1400431-D(IND). The Condition of Approval required a 6-foot site

obscuring fence. The condition remains binding along the north property line. According to recent site pictures, a 6-foot sight obscuring fence has been installed along the majority of the north property line of Tax Lot 309 screening the existing buildings and storage yard areas from the adjacent property to the north.

The west property line of Tax Lot 3S102B000309 no longer serves as the western boundary of the development site as it did in Casefile L1400431-D(IND). Based on the addition of four new tax lots located west of Tax Lot 3S102B000309, the new western boundary of the development site is approximately 300 feet west of the current western property line (Tax Lot 3S102B000309). As in the original application, there are existing large lot residential uses to the west of Tax Lot 3S102B000311, the western-most of the lots involved in the proposed expansion.

The proposed expanded Contractor's Establishment should provide the same screening and buffering along the west property line of Tax Lot 3S102B000311. The following Condition of Approval should be imposed on the applicant to ensure that adequate screening and buffering is provided and maintained:

Plans and details for a six foot site obscuring fence (an S-2 fence) per Section 411-7 to be installed along the west property line of Tax Lot 311 in a manner that it does not interfere with intersection sight distance standards for nearby driveways and shall otherwise extend from the right-of-way north to the wetland boundary.

Section 413 Parking and Loading

STAFF: Section 413 does not contain specific parking requirements for a contractor's establishment. The most similar use is an "Industrial Establishment" (Section 413-7.5.A), which requires 1.6 spaces per each 1,000 square feet of gross floor area. The applicant indicates that the main on-site building encompasses 4,400 square feet of floor area. Using this ratio, a total of 9 parking spaces would be required. The applicant has indicated that 23 parking spaces are provided for employee parking. No customers are proposed to visit the site, and the site is closed to the general public. The applicant also stated that the purpose of the proposed 7,500 square foot open-air structure's (e.g., no walls or enclosed occupiable space) is to bring existing outdoor materials out of the elements. Consequently, the storage area does not require additional surface parking. Staff therefore finds no additional parking is required under this section.

The applicant also has industrial trucks that will be parked on site when not in use. In accordance with Section 413-5.4 of the Code and based upon approval of a grading plan pursuant to Section 410, parking areas for the storage of heavy equipment or vehicles in the Industrial District may consist of a gravel surface with a minimum four (4) inches of base rock with two (2) inches of three-quarter (3/4) inch minus leveling course. While the FD-20 district is not generally considered an industrial district, the applicant proposes an industrial use in an area identified in

Policy 41 of the Comprehensive Framework Plan for the Urban Area as a future industrial area.

Accordingly, prior to Final Approval, it is a Recommended Condition of Approval that the applicant provides written certification from an engineer that any new truck parking areas have been constructed in accordance with the requirements of Section 413-4.4. It is also a Recommended Condition of Approval that no vehicle parking occur north of the main office on Tax Lot 309. Minimizing parking and vehicle operations that generate a high level of vehicle noise to areas outside of this area near the residential uses to the north will help reduce noise impacts to the adjoining residential uses (to the north).

Section 414 Signs

STAFF: The applicant has not proposed a sign at this time. If the applicant proposes to erect or otherwise locate any signs on the subject site at a later time, a sign permit shall be required to be obtained from Washington County Current Planning Services.

Section 418 Setbacks

418-4 Fences and Retaining Walls

The setback requirements of this Code are not applicable to the following fence or retaining wall structures (or any combination thereof) except as required by Section 418-3:

- 418-4.1 *A fence, wall (includes retaining wall), screen or lattice work not more than seven (7) feet in height.*
- 418-4.2 *A fence, wall (includes retaining wall), screen or lattice work not more than eight (8) feet in height along a rear, side or front yard which abuts an arterial or limited-access highway.*
- 418-4.3 *A combination fence (not more than six [6] feet in height) and retaining wall structure (not more than four [4] feet in height) located in a side or rear yard (for design standards see Section 419-4).*
- 418-4.4 *Tiered retaining wall structures not exceeding seven (7) feet in height in any required yard. The maximum height measurement includes all tiers located within the yard or setback area. All non-tiered retaining walls located within the yard or setback area shall not exceed a combined total of seven (7) feet in height.*

Section 419 Height

419-3 *A fence, lattice work, screen or wall (includes retaining wall) not more than 7 feet in height may be located in any required side, front or rear yard, except as required by Section 418-3 (corner vision). Where a rear, side or front yard abuts an arterial or limited access highway, fence height along the yard may be increased to 8 feet. Any fence over 7 feet in height requires a building permit. Any retaining wall over 4 feet in height requires a building permit (the height measurement of a retaining wall is from the bottom of footing to the top of the retaining wall).*

STAFF: A retaining wall is proposed to create a level buildable area for the proposed open-air storage building. The wall ranges from about 2 to 13 feet in height. The section of the retaining wall on the east side of the structure maintains about a 30 foot side yard setback, which exceeds the Code minimum side yard setback of 10 feet. The retaining wall meets the height and setback standards of these sections.

Section 421 Flood Plain and Drainage Hazard Area Development

STAFF: Tapman Creek, as shown on sheet P8, is located more than 300 feet from the proposed grading activities associated with the expanded Contractor's Establishment. The creek is mapped as a Drainage Hazard Area. The proposed grading activities do not encroach within or otherwise impact the off-site creek (DHA) or the portion that is located within the northern part of the site (3S102B000311). The county's Flood Plain Manager has confirmed that a Drainage Hazard Area Alteration permit is not required at this time.

Section 422 Significant Natural Resources

STAFF: The Comprehensive Framework Plan for the Urban Area (CFP) indicates the presence of significant natural resources on the subject site. Policy 41 of the CFP describes the area in the vicinity of the site as containing Significant Natural Areas and Natural Resource areas (Water Areas and Wetlands and Fish and Wildlife Habitat) . The Significant Natural Area consists of the Tonquin Scablands. In staff's review of Casefile L1400431-D(IND), which covered the original Contractor's Establishment and tax lot 3S102B000309, staff found that Significant Natural Areas and Natural Resource areas (Water Areas and Wetlands and Fish and Wildlife Habitat) were not present on tax lot 3S102B000309.

The applicant included an assessment of the new lots and found that wetlands and Title 13 Riparian Resources are present generally along the western part of three of the added lots (see Figure 7 of Attachment D of the application). The assessment concluded that none of the proposed site grading or tree removal encroaches within the mapped wetlands and Title 13 Riparian resources (see Figure 8 of Attachment D of the application). At such time as the site is annexed into the City of Wilsonville

subsequent development of the property would be subjected to Wilsonville's significant resource protection regulations (Vegetative Corridors are not currently required since the site is not within the CWS service district boundary). However, in order to ensure adequate protection of the existing wetlands and Title 13 Riparian resources and to minimize impacts on adjacent residential uses to the north and west at this time, staff recommends the following Conditions of Approval:

Revise the grading plans to reflect no disturbance through either grading or fill in the area of Tax lot 303 north of the east-west lot line between Tax Lots 306 and 309. Additionally, revise the grading plans to reflect no encroachment on Tax Lot 311 west of the west facade of the existing dwelling.

Said Recommended Conditions of Approval pursuant to Section 207-5.1 are intended to protect the public from potential adverse impacts of the proposed use or development on the wetlands. Due to the large acreage of the development site, staff does not find that the reduced grading resulting from the above two Recommended Conditions of Approval will adversely impact the ability to develop the site in a manner commensurate with the need for expansion. A large percentage of the site can be grading to support the needed business expansion while at the same time ensuring minimized impacts on the natural environment and nearby residences.

The assessment also concluded that the geologic features characteristic of the designated Significant Natural Area (i.e., Tonquin Scablands Geologic Area) were not present on the development site. The applicant further concluded that the proposed site grading (i.e., surface level site improvements) will not result in impacts to the unique geological characteristics of the area. This is due in large part to the fact that very little removal (cut) of earthen material will be required to develop the site. Rather, fill material will be brought on site to provide a level expansion area. Consequently, staff does not anticipate that the existing geological substrate will be adversely impacted (altered) given that the expanded parking and storage areas shall be leveled with pervious gravel, lessening impacts to the areas geological resource.

Based on this assessment the applicant concluded that the *"planned site improvements shown on the Preliminary Plans (Exhibit A) and the Natural Resource Assessment (Exhibit D) will provide preservation of natural resources in accordance with Section 422."* Staff concurs with the applicant's assessment and find that the proposed development does not impact or otherwise encroach within the wetlands and Title 13 Riparian Resources. However, as stated above, slight modifications to site grading are needed to further protect the natural resources as well to protect the abutting residences from potential impacts of the grading as originally proposed. The standards of Section 422 are met.

Section 423 Environmental Performance Standards

423-4 Air Quality

All development shall comply with the State Department of Environmental Quality Air Quality Standards.

423-5 Odor

All development shall comply with the State Department of Environmental Quality Standards pertaining to odor.

423-6 Noise

All development shall comply with the State Department of Environmental Quality Standards relating to noise. Demonstration of compliance may be required by the Review Authority.

423-7 Vibration

No development shall generate ground vibration which is perceptible by the Director beyond the property line of origin without use of instruments. Ground vibrations caused by motor vehicles, trains, aircraft, or temporary construction work are exempt from strict application of these standards, but good faith efforts to control such vibrations shall be made by the originator.

STAFF: The State Department of Environmental Quality (DEQ) standards pertaining to air quality apply to all land uses. No unusual air quality problems as regulated by DEQ are anticipated as a result of the proposed expansion. The proposed Contractor's Establishment expansion is expected to operate in compliance with DEQ standards, which the applicant has acknowledged. The applicant stated that the current operation complies with Department of Environmental Quality (DEQ) standards. The applicant further states the following regarding compliance with Sections 423-6 and 423-7:

"Noise levels typical of contracting businesses occur and are expected to occur. Some amount of noise and vibration are typical of land uses involving outdoor storage of equipment, vehicles, and materials, and these land uses will comply with the applicable local standards and hours of operation. Uses that could generate ground vibration, such as operating dump trucks or diesel-powered equipment, will not cause vibration perceptible beyond the property lines due to topography. The criteria are met."

No unusual problems with noise or vibration are anticipated with the proposed development. The applicant shall be required to comply with the Washington County Noise Ordinance at all times. However, as noted previously, staff has concerns with the relative proximity of existing residential dwelling units and noise impacts from idling construction vehicles based on prior complaints from residents. Several noise complaints have been filed over the last few years with Health and Human Services (2022-0330, 2022-0666 and 2023-0158). The key issue is noise generated by idling

construction vehicles in the very early mornings, revving engines, constant beeping of the backup alarm, loading/unloading of lumber and rebar and power washing of vehicles and equipment close to Tax Lot 309, resulting in a failure to comply with the County's Noise Ordinance. Staff understands that each noise complaint file has been closed but nevertheless recommends the following Condition of Approval:

No idling of construction vehicles or revving of engines shall occur north of the office building centrally located on Tax Lot 309 or north of the existing dwelling unit on Tax Lot 311.

Notwithstanding the above, another positive benefit of reducing the grading areas of the site abutting residential uses is that noise-generating uses will maintain greater setbacks from the existing dwelling units to the north and west.

423-8 Heat and Glare

Heat and glare shall be limited as follows:

- 423-8.1 *Except for exterior lighting, operations producing heat or glare shall be conducted entirely within an enclosed building.*
- 423-8.2 *Exterior lighting shall be directed entirely away from adjacent properties.*

STAFF: According to the applicant, no heat and/or glare causing activities will be undertaken on-site. Also, future lighting is planned to be designed to be shielded from adjacent properties.

423-9 Storage

- 423-9.1 *All materials, including wastes, shall be stored and all grounds maintained in a manner which will not attract or aid the propagation of insects or rodents or create a health hazard.*
- 423-9.2 *No open storage of materials and equipment shall be permitted unless contained by a site obscuring fence or landscaped screening.*
- 423-9.3 *Fencing will be allowed between the required landscaping and use where necessary to protect the property concerned or to protect the public from a dangerous condition subject to the following provisions:*
 - A. *No fence shall be constructed in the required setback from the public road right-of-way.*
 - B. *Fences shall be constructed as required through development review.*
 - C. *Fencing or sight obscuring screening for storage areas must be at least 6 feet, but no more than 10 feet high.*

STAFF: Storage does and will continue to occur on site. None of the materials are expected to attract or aid the propagation of insects or rodents or create a health hazard and no record has been submitted to the county code compliance section alleging health

hazards from animals. The recycling and garbage storage area is located south of the existing office building.

As shown on the submitted plans, the site contains an existing tree buffer along the south property line to screen the proposed structure from public view (from SW Day Road). Further, the north property boundary and much of the western boundary are treed, providing visual relief from these property boundaries. The applicant stated that fencing is not necessary to screen the extent of the perimeter of the storage site but can be provided if required. To this point, staff does not find that fencing is needed to protect the site or the public from dangerous on-site activities. See also Section 411 of the staff report.

423-9.4 Storage of Hazardous Materials

Developments which store hazardous materials must comply with State standards, OAR Chapter 340 Division 63, and the Federal standards, 40 CFR Part 262 and 264 and shall demonstrate such compliance. All hazardous materials must be stored above ground. Transport of and disposal of such materials shall be in conformance with all applicable local, State and Federal regulations with such compliance demonstrated.

STAFF: The contractor's establishment does not involve the storage, transport, or disposal of hazardous materials.

423-10 Drainage and Waste Water

All development shall comply with the State Department of Environmental Quality Water Quality Standards for all runoff, drainage and waste water.

STAFF: The applicant states that stormwater runoff, drainage, and wastewater management will be designed to comply with applicable Department of Environmental Quality (DEQ) water quality standards. Stormwater management is proposed to be met by providing an above-ground stormwater facility, below-ground stormwater facility, or a combination of the two. Compliance with this standard will be evaluated as part of County Grading Permit review. DEQ's website provides the following information regarding if a DEQ permit is required for construction activities:

"Construction activities that disturb one acre or more, including clearing, grading and excavation, are required to have a National Pollutant Discharge Elimination System general permit #1200-C. Projects that disturb one acre or more over a period of time or are part of a common plan are also required to apply for permit. This permit will require that erosion at the construction site be controlled to prevent sediment from entering waters of the state. An Erosion and Sediment Control Plan must be submitted to DEQ for approval prior to beginning construction."

As such, as a Recommended Condition of Approval, the applicant shall be required to provide evidence from the State DEQ that a 1200-C permit (construction stormwater permit) has been obtained or that it is not required.

423-11 Adequate Water Supply.

All development shall be required to have an adequate water supply. Adequacy shall include:

423-11.1 Adequate supply for the use prior to issuance of a building permit (see Section 501-5.1, Critical Services).

STAFF: The applicant proposes to obtain water from sources presently available on site. The existing well is adequate to serve the current operation and proposed expansion. The new open-air building is not proposed to include an enclosed or occupiable space or any plumbing (water) fixtures. The applicant also stated that the existing landscaping incorporates drought-tolerant and/or native plant species. Consequently, the applicant stated that public water is not necessary and further that approval of this application will not preclude the site's ability to obtain public water service from the City of Wilsonville in the future. See findings for Section 501 below.

423-12 Radioactive Materials

The handling and storage of radioactive materials, the discharge of radioactive materials into air or water, and the disposal of radioactive waste in connection with all uses shall be in conformance with all applicable local, State, and Federal regulations with such compliance demonstrated.

423-13 Toxic or Noxious Matter

All development shall comply with the State Department of Environmental Quality standards pertaining to omission of toxic or noxious matter and such compliance shall be demonstrated.

STAFF: No radioactive, toxic or noxious materials are anticipated to be created or disposed of on-site. However, to ensure continued compliance with Section 423-13 the following Recommended Conditions of Approval should be imposed:

The existing and expanded development shall comply with the state Department of Environmental Quality standards pertaining to the emission of toxic or noxious matter and such compliance shall be demonstrated.

Only construction-related materials and materials that are not toxic or noxious may be stored on the property and located no closer than twenty-five (25) feet of Tax Lots 3S102B000306 and 00312.

Section 426 Erosion Control

STAFF: As a Recommended Condition of Approval in Attachment B, the applicant/property owner shall submit sedimentation/erosion control plans prior to any site disturbances

and issuance of a building permit. The applicant shall obtain a grading permit and all grading shall be conducted using erosion control which meets the standards of the Washington County Erosion Control Plans Technical Guidance Book (January 1991).

4. **Article V, Public Facilities and Services:**

Section 501 Public Facility and Service Requirements

501-6 Exceptions for Critical and Essential Services

501-6.1 Development proposals that cannot ensure critical and essential services within the required time frames shall be denied unless all of the following findings can be made:

STAFF: Casefile L1400431-D(IND) approved an exception to the critical and essential service standards of Section 501-8 of the Community Development Code, as urban water, sanitary sewer, and surface water management services were not presently available at the site. The approved exception remains valid for the existing business. A new exception is not required because none of the proposed expansion activities (e.g., open air structure) require water service. Physical alterations proposed on the new parcels included with the application include grading and graveling vehicle and equipment parking/storage areas and the covered open-air structure. New water and sewer service is not required for the proposed expansion.

A. The particular inadequate facility(ies) or service(s) is not necessary for the particular proposal within the time period identified by the service provider;

STAFF: In accordance with Section 501-8.1 of the Code, the following facilities and services are considered critical:

- Water;
- Sewer;
- Fire protection;
- An adequate level of access to the proposed development;
- Adequate drainage and adequate provisions for storm water, surface water and water quality management; and
- No development shall be approved on property that is located outside of the Washington County Urban Road Maintenance District;

The applicant has provided a service provider letter from Tualatin Valley Fire and Rescue indicating that service for fire protection is available to the site. With regard to future water service, the City of Wilsonville can provide water if and when the site annexes into the city.

With regard to sewer and surface water management, the subject site is currently outside of the Clean Water Services service district. However, sanitary and storm

sewer would be provided by the City of Wilsonville if and when the site annexes into the city. Timeframes for the provision of sewer and surface water management services are unknown. Currently the applicant states that the site is served by on-site septic treatment system for sewer service. In Casefile L1400431-D(IND) the applicant was conditioned to provide evidence demonstrating that the applicant held a valid permit from the Washington County Health and Human Services Department for the on-site septic treatment system. In Casefile L1400431-D(IND), the applicant was also conditioned to provide evidence from the State DEQ that a 1200-C permit had been obtained, or that no State DEQ permits were required. The conditions were satisfied and the Contractor Established approved through Casefile L1400431-D(IND) was constructed as approved.

With regard to water services, the site is currently located outside an established water district. The City of Wilsonville maintains SW Day Road as a city road and the road currently has a water service line within it, located on the south side of the road. Any extension of service would require annexation into the city. The applicant proposes to continue to use water from sources presently available on site. No new water service is required for this proposal.

Further information relating to transportation standards can be found in the Transportation Report, Attachment D.

In accordance with Section 501-8.2 of the Code, the following facilities and services are considered essential:

- Schools
- Police or Sheriff protection
- Transit agency service
- Adequate Level of Arterial and Collector Roads
- Street Lighting
- Gravel roads are unacceptable for development within the Urban Growth Boundary
- Future alignments of Collectors or Arterials
- Half street improvements

The proposed development application does not include residential land uses (i.e., housing) and therefore will not generate new students. For this reason, an adequate level of school service is not considered applicable to this development application for a contractor's establishment. The applicant has provided a service provider letter from the Washington County Sheriff's Department establishing that police protection is available to the site. The site is not required to annex into the Sheriffs Enhanced Patrol District, as per Policy 41 of the Washington County Comprehensive Framework Plan for the Urban Area.

Further information relating to transportation standards can be found in the Transportation Report, Attachment D.

B. The approval of the development application will not substantially interfere with the ability to later provide the particular inadequate facility(ies) or service(s) to anticipated uses in the vicinity of the subject property;

STAFF: Staff does not consider that anything in this application serves to interfere with the ability to later provide these services to anticipated uses in the vicinity of the subject property. For instance, the proposed placement of the large new open-air pole building located between the office building and SW Day Road will not interfere with the ability to extend city water to the site.

C. The approval of the development application without the assurance of the particular inadequate facility(ies) and service(s) will not cause a danger to the public or residents in the vicinity of the subject property; and

STAFF: The applicant is required to provide evidence relating to compliance with appropriate on-site water usage, septic treatment, and surface water management and drainage. As such, it is considered that use of the site without the provision of urban water, sewer, and surface water management services will not cause a danger to the public or residents in the vicinity of the subject property.

D. It is shown that the applicant has exhausted all practical methods within the ability of the applicant to ensure the provisions of the unacceptable facility(ies) and service(s).

STAFF: As described above, timeframes for the provision of urban water, sewer, and surface water management services to the site are unknown. As such, the applicant is unable to practically ensure the provisions of the unacceptable services. Service is predicated upon annexation into the City of Wilsonville.

501-6.2 All exceptions to the Public Facility and Service Standards identified above will be reviewed through a Type III process.

STAFF: The request for exceptions to the Public Facility and Service Standards identified above was reviewed and approved through the Type III process for Casefile L1400431-D(IND). Further information relating to transportation standards can be found in the Transportation Report, Attachment D.

C. Ordinance No. 793-A; Transportation Development Tax:

STAFF: The Transportation Development Tax (TDT) is required of all new development and constitutes an assurance to satisfy a development's requirement to provide additional capacity to major collectors and arterial streets needed for development. This fee is based on the number of daily trips a site generates and is due at issuance of a building permit.

VI. SUMMARY AND RECOMMENDATION

The applicant has requested Development Review approval for an expansion of an existing Contractor's Establishment approved through Casefile L1400431-D(IND) and expanded to four additional lots under this application. The required findings have been made for the applicable Code sections. When implemented in accordance with the Recommended Conditions of Approval and the approved final plans, staff believes that the project will be in compliance with the Washington County Comprehensive Framework Plan for the Urban Area and the Washington County Community Development Code.

Staff recommends the Hearing's Officer approve the applicant's request, subject to the Recommended Conditions of Approval set forth in Attachment "B" of this report.

Attachment D

TRANSPORTATION REPORT

Staff reviewed this request for adequacy of transportation facilities and services and submits the following findings and recommendations to the Review Authority. Recommended Conditions of Approval are provided to implement the applicable provisions of the Washington County Community Development Code (CDC), Transportation Plan, Uniform Road Improvement Design Standards (WCURIDS), and Resolution and Order (R&O) 86-95 "Determining Traffic Safety Improvements under the Traffic Impact Fee Ordinance—Process Documentation."

FINDINGS:

1. PROJECT PROPOSAL AND TRIP GENERATION:

- a. This request is to expand an existing contractor's establishment approved through Casefile L1400431-D(IND). The application involves five tax lots, all owned by the applicant. There are three existing single-family detached residences on three lots within the project site, which the applicant indicates will remain in use as residences. The existing residences generate 9.43 average daily vehicle trips (ADT), based on ITE Code 210 (Single-Family Detached Housing). The total residential ADT would be 28.29.
- b. Because the ITE does not publish trip generation data for contractor's establishments, in Casefile L1400431-D(IND), staff developed a conservative estimate of trip generation for the proposed operation of the business, based on information provided in the applicant in a letter to the City of Wilsonville. Using this information, the minimum trip generation from the proposed contractor's establishment use was calculated to be approximately 52 trips per day:
- c. The trip generation analysis prepared for the proposed expansion indicates that the expansion will not include any buildings with occupiable space (e.g., office or enclosed warehouse or storage space). The analysis also stated that the applicant does not anticipate hiring additional employees and that the current 30 employees will be the total number of employees for the foreseeable future. The analysis also utilized ITE Category 180, Specialty Trade Contractor, to determine the average daily trips to be generated. Based on ITE Category 180 and 30 employees, the existing and expanded Contractor's Establishment generates 108 ADT.

2. ACCESS:

- a. Casefile L14-004341-D(IND) approved a new access near the southeast corner of Tax Lot 309 (the original development site). Physical access was approved by the City of Wilsonville.
- b. Three of the four lots added to the proposed expansion area each have an existing dwelling unit that will be retained along with the individual accesses for each dwelling unit. Each dwelling unit has a single driveway except for Tax Lot 310, which as a circular access comprised of two driveways. However, the access that currently serves the retained home on Tax Lot 303 is identified as a construction access for the proposed expansion. This scenario represents the only known change concerning this residential access. Alterations to the existing accesses requires approval from the City of Wilsonville. A Recommended Condition of Approval is that the applicant obtain approval from the city that this access can be used for construction. And staff also recommends that one of the two driveways serving Tax Lot 310 be closed in order to minimize accesses to an Arterial road and to increase the safe traffic maneuvering on SW Day Road.

3. ABUTTING ROADWAY DESIGNATIONS, STANDARDS, AND RIGHT-OF-WAY:

- a. The only roadway abutting the site is SW Day Road. This road is within the city limits of the City of Wilsonville. The City of Wilsonville is also the road authority for SW Day Road. As such, standards including, but not limited to, roadway designation, dedication, improvements, access, sight distance, and safety are under the jurisdiction of the City of Wilsonville.
- b. Staff identified the following Conditions of Approval from Casefile L1400431-D(IND) as applicable to the additional lots included in the proposed expanded Contractor's Establishment:
 - (i) Dedicate an additional eight (8) feet of right-of-way along the SW Day Road frontages of Tax Lots 3S102B000310, 3S102B000302, and 3S102B000311 required to provide 45 feet from centerline and for the additional 15-foot pedestrian and bicycle easement. Dedication shall be to the City of Wilsonville on its dedication forms. In addition, a 10-foot public utility easement, extending from the edge of the right-of-way, shall be provided using City of Wilsonville dedication forms. Presently SW Day Road does not have sidewalks constructed along the north side. A fee of 130% of the engineers estimate for construction of sidewalk for tax lot 3S102B000310, 3S102B000302, and 3S102B000311 frontage on SW Day Road shall be provided to the City of Wilsonville.
 - (ii) Any construction work done within the existing and proposed additional right-of-way shall need to be constructed in conformance with the City's Public Works Standards and done under a City of Wilsonville Public Works Permit, available through the City Engineering Division. Please submit plans of proposed construction within the right-of-way for review by engineering staff; plan review fee is 2% of the engineer's estimate and Public Works Permit fee is an additional 5% of the engineer's estimate.

5. MAINTENANCE PROVISIONS:

- a. Local and Neighborhood Route Roads are maintained by the County Urban Road Maintenance District (URMD). CDC Section 501-8.1 D. requires properties to be annexed into URMD prior to approval of development or redevelopment. The subject property is not currently in URMD; however, Policy 41 (Urban Growth Boundary Expansions) of the Comprehensive Framework Plan for the Urban Area provides that properties in the FD-20 district shall not be required to annex into URMD. Therefore, CDC Section 501-8.1 D. does not apply to the subject property, and annexation into URMD shall not be required.

6. PERMITS REQUIRED:

Permitting for right-of-way related work (e.g., changes to existing accesses) is under the jurisdiction of the City of Wilsonville.

RECOMMENDED CONDITIONS OF APPROVAL:

See Attachment B