

BEFORE THE BOARD OF COMMISSIONERS OF THE STATE OF OREGON

FOR THE COUNTY OF YAMHILL

SITTING FOR THE TRANSACTION OF COUNTY BUSINESS

In the matter of upholding the Planning)
Commission’s decision to approve Planning)
Docket S-02-24, a subdivision application for) Board Order 25- 240
Tax Lots 4411-01300 & 4411-01301)
Applicant: Town Investments, LLC)

THE BOARD OF COMMISSIONERS OF YAMHILL COUNTY, OREGON (the Board) sat for the transaction of county business on July 31, 2025, Commissioners Kit Johnson, Mary Starrett and David “Bubba” King being present.

IT APPEARING TO THE BOARD as follows:

WHEREAS, Town Investments, LLC (Applicant) requested a subdivision application to create eight (8) lots and one (1) tract (“Tract A”) for shared wastewater management on an approximately 13-acre tract zoned LI, the Light Industrial District, on Tax Lots 4411-01300 & 4411-01301. The proposed eight (8) lots range in size from approximately 1.13-acres to 1.73-acres, with an average lot size of approximately 1.40-acres. The proposed Tract A is approximately 1.51 acres in size. Access to the proposed new lots will be provided by Lone Oak Road and two (2) shared access drives to provide ingress/egress to the lots and tract (“Tract A”) that do not have direct access to Lone Oak Road.

WHEREAS, This matter came before the Planning Commission for public hearing on June 5, 2025, and the Planning Commission voted unanimously to approve the application, subject to Staff Recommendations with 10 conditions of approval; and

WHEREAS, On June 11, 2025, Corey Rich (Appellant) requested appeal of the Planning Commission’s decision to the Board, citing concerns of disturbance to natural drainage patterns, resulting in drainage water from the subdivision flowing into the westerly adjacent Evergreen Memorial Park Cemetery and flooding the abutting portion of the cemetery; and

WHEREAS, The Board held an on-the-record hearing to consider the appeal on June 26, 2025; The hearing commenced with a staff report presented by Lance Woods, Senior Planner. After that, AKS Engineering & Forestry, LLC, presented for Applicant, provided a summary of the subdivision application and stormwater infrastructure, and highlighted the expert testimony in the record from a registered professional engineer regarding compliance with State and County stormwater management requirements. Next, the Board accepted rebuttal from Appellant. At the conclusion of the testimony, the Board asked questions pertaining to the issues and arguments on

appeal, followed by surrebuttal from Applicant. The Board documented the main issue on appeal relates to potential water run-off from unnatural fill, and as is required in the Staff Recommendation, stormwater management is conditioned to be addressed with the submittal of a drainage plan prepared by a registered professional engineer to be reviewed by County Public Works Director prior to final plat approval. Based on the forgoing analysis and the expert testimony in the record, the Board found the subdivision application met all applicable provisions and approval criteria of the Yamhill County Land Division Ordinance.

WHEREAS, Following deliberation, the Board voted unanimously to deny the appeal, uphold the Planning Commission's decision, and approve the application; AND NOW, THEREFORE,

IT IS HEREBY ORDERED BY THE BOARD AS FOLLOWS:

Section 1. Planning Docket S-02-24 is hereby approved, subject to the following conditions:

1. A final subdivision plat pursuant to the requirements of the *Yamhill County Land Division Ordinance* shall be prepared and submitted to the Planning Director. All existing and proposed easements shall be shown on the face of the plat. The Yamhill County Planning Docket Number "S-02-24" shall appear on the face of the plat. The name of the subdivision, "Lone Oak Road Subdivision", shall appear on the face of the plat. The subdivision lines shall substantially conform to those shown on the preliminary map.
2. Prior to final subdivision approval, a survey of all lots shall be completed by a registered land surveyor pursuant to Section 6.120 of the *Yamhill County Land Division Ordinance*.
3. Prior to final plat approval, the Applicant shall submit a drainage plan showing that no natural drainage is disturbed by any development taking place on any of the proposed lots. The plan shall be prepared by a registered engineer. The drainage plan shall be submitted to and approved by the County Public Works Director prior to final approval.
4. Prior to final plat approval, the Applicant shall obtain approval for individual on-site subsurface sewage disposal for all parcels pursuant to Section 6.100 of the *Land Division Ordinance*.
5. Prior to final plat approval, the easements providing access to all of the subdivision lots shall be constructed to county specifications and inspected by a private engineer, or a road construction agreement shall be completed and recorded.
6. Prior to final plat approval, a private access and utility easement maintenance agreement shall be completed and recorded.
7. Prior to final plat approval, a road plan and profile drawings for all proposed easements shall be submitted to and approved by the Public Works Department.
8. Prior to final plat approval, the Applicant shall receive confirmation from the Planning Director and the Public Works Department that the requirements of Ordinance 787 have been satisfied.

9. The subdivision shall be shown to have adequate quality and quantity of water to support the proposed use. Prior to final plat approval, the applicant shall demonstrate conformance with standard 1, 2, 3 or 4 of Subsection 6.090 of the *Land Division Ordinance*. Either domestic water shall be provided to each lot by a community water system or an on-site well or wells, with the location of the well(s) indicated on the face of the plat, or the following disclosure shall be placed on the plat:

No municipal, public utility, community water supply or private system will be provided to the purchaser of those lots noted hereon.

Each lot not provided with a well or community service shall be so identified.

10. Pursuant to OAR 340-071-0220(1)(j), the new property line(s) shall be a minimum of 10 feet from any part of an existing drainfield or drainfield replacement area.

Section 2. The Board hereby adopts the findings set forth in Exhibit A, attached hereto and incorporated herein, in support of this approval.

DATED this 31 day of July, 2025, and McMinnville, Oregon.

ATTEST

KERI HINTON
County Clerk

By: Carolina Rook
Deputy CAROLINA ROOK

Christian Boenisch

CHRISTIAN BOENISCH
Yamhill County Council



YAMHILL COUNTY BOARD OF
COMMISSIONERS

KIT JOHNSON
Chair KIT JOHNSON

MARY STARRETT
Commissioner MARY STARRETT

DAVID KING
Commissioner DAVID "BUBBA" KING

Approved by the Yamhill County Board of
Commissioners on 07/31/2025
via Board Order 25-240

EXHIBIT B
FINDINGS IN SUPPORT OF APPROVAL
(Board Order 25-__)

HEARING DATE: June 26, 2025

DOCKET NO.: S-02-24

REQUEST: For an eight (8) lot subdivision and one (1) tract (“Tract A”) for wastewater management, identified as “Lone Oak Road”, on an approximately 13-acre tract zoned LI, the Light Industrial District. The proposed lots range in size from approximately 1.13-acre to 1.73-acres, with an average lot size of 1.40-acres. The proposed Tract A is approximately 1.51 acres in size. Access to the proposed new lots will be provided by Lone Oak Road and two (2) shared access drives to provide ingress/egress to the lots and tract (“Tract A”) that do not have direct access to Lone Oak Road.

APPLICANT: Town Investments, LLC

OWNER(S): Town Investments, LLC

TAX LOT: 4411-01300 & 4411-01301

LOCATION: The subject parcel is located northwest of the junction of Highway 99W and NE Lone Oak Road North; also, west and south of the parcel with a situs address of 3225 Lone Oak Road North.

ZONE: LI, Light Industrial District

CRITERIA: Section 702.07 of the *Yamhill County Zoning Ordinance*, the *Yamhill County Land Division Ordinance*, and Comprehensive Plan policies may also be applicable.

FINDINGS:

A. Background Facts

1. *Parcel Size:* A total of 13-acres. Tax Lot 4411-01300 measures approximately 3-acres and Tax Lot 4411-01301 measures approximately 10-acres.
2. *Access:* Access to five (5) of the eight (8) proposed lots and tract (Lot #2, #3, #4, #5, #8, and “Tract A”) will be served by two separate access easement roads, while Lot #1, Lot #6, and Lot #7 have direct access to Lone Oak Road North. Lot #7 is a flag lot, with a frontage length of 30-feet along Lone Oak Road North.

3. *On-site Land Use:* Aside from a roughed-in driveway the parcel is undeveloped. There are a few scattered trees on the property, however the majority of the lot consists of grasses, shrubbery, and bare earth.
4. *Surrounding Land Use and Zoning:* The surrounding area is a nexus of various zoning designations and land use patterns. Neighboring parcels to the north and east are zoned for Very Low Density Residential (VLDR-2.5) use. These VLDR-zoned lots are all dedicated to rural residential use, with single-family dwellings and accessory buildings (e.g., garages, shops, etc.) commonly found on these properties. One of these VLDR-zoned parcels, Tax Lot 4411-00905, received approval for the operation of a mini-storage facility as a home occupation. The VLDR-zoned land in the surrounding area ranges in size from 0.25-acre to 14-acres in size, with the majority of the VLDR-2.5 zoned land north of Highway 99W being below the minimum lot size of 2.5-acres. There are several VLDR-2.5 zoned lots located south of Highway 99W that could be further developed, including the aforementioned 14-acre lot, as well as two 10-acre parcels, and two lots that are around 5-acres in size.

There are two Light Industrial (LI) parcels east of the applicant's tract, Tax Lots 4411-01000 (1.9-acres) and 4411-01001 (2.2-acres). These parcels do not currently have land use approval for any light industrial uses, and any future light industrial use on these properties would require land use approval prior to development.

The tract to the west and north of the subject property hosts Evergreen Memorial Park, is composed of two tax lots, 4410-00200 (54.8-acres) and 4410-00600 (54.2-acres), which are zoned for Public Assembly and Institutional (PAI) use. A portion of this tract is used as a cemetery while the remainder of the property is farmed for grass seed and hay production.

There are four parcels to the south and southwest of the subject tract, and these lots are zoned for Neighborhood Commercial (NC) use. One of these lots is "Bunn's Village", and land use on this property runs the gamut of uses permitted in the Neighborhood Commercial zone. Another one of these NC-zoned lots, Tax Lot 4411-02300, hosts a furniture retail business with five structures located on the property. The remaining two parcels zoned for Neighborhood Commercial use are used as a car dealership.

Further to the north of the subject tract, towards the end of NE Lone Oak Road North, the land is zoned for Exclusive Farm use (EF-80 and EF-40) and the predominant land use is farming. Farm uses in the surrounding area include grass seed and hay production, hazelnut orchards, and nursery stock.

5. *Water:* To be provided by either private wells, shared wells, or some combination thereof.
6. *Sewage Disposal:* To be provided by on-site septic systems.
7. *Fire Protection:* McMinnville Fire Department.

8. *Overlay Zones:* The parcel is not located within an identified 100-year floodplain or floodway, per FIRM Panel #41071C0400D. There are no identified historic sites nor is the property located in an airport overlay district.
9. *Previous Actions:* A Comprehensive Plan amendment from Very Low Density Residential to Industrial and a zone change from VLDR-2.5, Very Low Density Residential to LI, Light Industrial was approved for both lots in 2022, Docket PAZ-04-21.
10. *Explanation of Request:* The Applicant is proposing to establish a subdivision to create eight (8) lots and a tract (“Tract A”) for wastewater management, comprising the Lone Oak Road Subdivision. The proposed eight (8) lots range in size from approximately 1.13-acres to 1.73-acres, with an average lot size of approximately 1.40-acres. The proposed Tract A is approximately 1.51 acres in size. Access to the proposed new lots will be provided by Lone Oak Road and two (2) shared access drives to provide ingress/egress to the lots and tract (“Tract A”) that do not have direct access to Lone Oak Road. An existing Limited Use Overlay on the subject tract limits the type of uses permitted to agricultural businesses which include farm supply and retail stores, farm office spaces, and farm crop storage warehouses. The Applicant plans for future development of Lots #1 through #8 with the type of business allowed under the Limited Use Overlay.

B. Background Zoning Consideration

1. Section 702.07(A)(1) of the *Yamhill County Zoning Ordinance* (YCZO) indicates that the minimum size of any newly-created parcel in the Light Industrial zone shall be 20,000-square feet or a little less than ½-acre. The preliminary plat submitted with the application was updated during the public review process from twelve (12) lots to eight (8) lots, and indicates that the proposed lots range in size from approximately 1.13-acres to 1.73-acres. The proposed Tract A is approximately 1.51-acres in size. All of the proposed lots exceed the minimum lot size standard for the Light Industrial zone; therefore, the Applicant’s request is consistent with the minimum parcel size requirements provided in subsection 702.07(A)(1) of the YCZO.
2. Section 702.07(A)(2) of the YCZO states that the maximum depth to width ratio for any newly-created parcel shall be 3:1. Staff finds that the lots proposed do not exceed the 3:1 depth to width ratio, and satisfy subsection 702.07(A)(2) of the YCZO.
3. Section 702.07(D) of the YCZO requires that a parcel abut at least 20-feet of a public road or be served by an easement at least 30-feet in width. As noted in Section A.2. of this staff report, three (3) of the eight (8) proposed new lots will abut at least 20-feet of a public road, Lone Oak Road North. The remaining five (5) lots and tract will be served by two (2) easement roads with widths of 30-feet identified as “Private Access A” and “Private Access B”. All of the easement roads will provide ingress/egress to Lone Oak Road North, a public road. Lone Oak Road North is accessed by Highway 99W.

C. Subdivision Ordinance Provisions and Analysis

1. The *Yamhill County Land Division Ordinance* (LDO) Chapter 6 contains general design standards for subdivisions. Applicable standards will be addressed in the following findings.
2. Section 6.000(1) of the LDO requires subdivisions to conform to the requirements of the Comprehensive Plan and other ordinances. As this pertains to the subject tract, the property received approval of a Comprehensive Plan amendment and zone change from VLDR, Very Low Density Residential, to LI, Light Industrial, in 2022. The Applicant has stated that the subdivision was designed to be in accordance with the County's Comprehensive Plan and zoning ordinance. The request is to divide the subject tract, consisting of Tax Lots 4411-01300 & 4411-01301, into a wastewater management tract ("Tract A") and eight (8) new lots that are intended to provide Light Industrial business opportunities in the form of agricultural businesses that may include a farm supply store which may include retail space, farm office space, and storage warehousing for agricultural products or supplies.

The County has found the following applicable goals and policies within the County Comprehensive Plan that provide guidance regarding development occurring in the county's rural areas, below.

Policies C.2. and C.3. of Section I.B. of the County's Comprehensive Plan notes that:

C. All proposed rural development and facilities: ...

- ... 2. *Shall not be located in any hazard area, such as a floodplain or area of geologic hazard, steep slope, severe drainage problems or soil limitations for building or sub-surface sewage disposal [emphasis added], if relevant;*
3. *Shall be furnished with adequate access and an adequate individual or community water supply [emphasis added], if required; and shall not be justified solely or even primarily on the argument that the land is less costly than alternative better sites or that federal or state aid is available in the form of subsidized water supply or sewerage extensions from nearby urban centers."*

This guidance from the County's Comprehensive Plan appears to be relevant in this circumstance following a review of the County Sanitarian's feedback regarding the Applicant's proposed plan for managing wastewater within the subdivision, dated December 13, 2024. The County Sanitarian noted that, "*The area of proposed Lot A was evaluated in 2021 to serve a proposed commercial development of 3 buildings with up to 50 employees with break room kitchen and showers available. That type of development would produce a peak calculated wastewater flow of 1224 gallons per day. The area of Lot A was evaluated for that peak flow rate and was determined to be suitable IF AND ONLY IF pre-treatment was done to reduce the linear footage of drain field requirement to 50' of drain field per 150 gallons per day.*"

The minimum proposed peak wastewater flow of 12 parcels that are used ONLY for low water use businesses (warehouse, office workers, etc.) is 1800 gallons per day. That is greater than the flow rate proposed in 2021. Therefore, it is unlikely that the proposed Lot A could accommodate septic systems for the entire development.”

The County Sanitarian goes on to note that because there is no shared well proposed that individual wells would be required for each individual lot, and that there is a 100-foot radius setback—or approximately 0.72-acre—for septic drain fields from any wells. The Sanitarian noted that these limitations may render any such lot unbuildable for any structure that contains plumbing. The Sanitarian’s feedback indicates that co-locating an individual well and approved septic system on each of the proposed lots appears to be an insurmountable challenge as the subdivision is currently proposed and based on the information currently in the record. The Applicant’s proposed plan for creating a collective wastewater management likely requires a Goal 11¹ Exception, as the proposal may implicitly represent the creation of a rural sewer service district if approved. Goal 11 rules are provided by Chapter 660, Division 11 of the Oregon Administrative Rules (OAR), and OAR 660-011-0060(2)(a) notes that local governments shall not allow the establishment of new sewer systems outside urban growth boundaries or unincorporated community boundaries, although a new rural community sewer system may be approved by local government if the lots being served by the system have also received a Goal 14² Exception, per OAR 660-011-0060(3)(a)(C).

The Applicant further engaged the Sanitarian and County Planning Staff regarding the subdivision and infrastructure design. The County Sanitarian then submitted a revised public comment, dated February 20, 2025, indicating that: *“if each parcel is to have its own system, the septic system must be either within the limits of the parcel or within a legal easement for the benefit of that parcel only. These easements would have to be within the limits of areas where soil conditions and setbacks are approved for septic drain field installation.”*

The County Sanitarian goes on to note that *“the minimum sizing allowed for any septic system is 150 gallons per day. If all 12 lots are sized for the smallest wastewater flow rate allowed, the total will be 1800 gallons per day (12 parcels x 150 gallons per day per facility). This may exceed the capacity for the area approved for septic drain field installation.*

The Applicant then submitted a revised preliminary plat into the record, proposing that the twelve (12) lot subdivision be reduced to (8) lots, in consideration of the capacity for a wastewater management system. In turn, Tract A was proposed to be increased to 1.51-acres to ensure capacity for the approval area for septic drain field installations.

¹ Goal 11 provides guidance to municipalities regarding the planning and development of orderly, timely, and efficient public facilities and services for either urban or rural developments.

² Goal 14 provides guidance to municipalities regarding Urbanization and provides rules and standards regarding the orderly and efficient transition of rural land to urban land use.

Staff find that the subdivision, as proposed, appears to currently conform with Policies C.2. and C.3. of Section I.B. of the County's Comprehensive Plan.

Additional Comprehensive Plan policies that staff feel are applicable in the review of this subdivision request include Policies C., D., and E. of Section I.H. of the County's Comprehensive Plan which state that:

- ... C. *Industrial uses which are incompatible with surrounding residential or commercial development and cannot bear the cost of abating their incompatible characteristics, whether related to performance or appearance, will be encouraged to locate or relocate only within urban centers, where contact with residential development is, or will be at a minimum, and where all required services are immediately available.*
- D. *Industrial uses which are compatible with surrounding residential development and are willing to bear the cost of maintaining high performance characteristics and attractive site and building layout and design, will be encouraged to locate and relocate in designated industrial parks and that such parks and their staged development will be subject to planned unit development agreements.*
- E. *Industrial uses will be located so that adequate buffer space is provided between incompatible land uses.*

Staff find that these Comprehensive Plan policies provide guidance regarding the development of an industrial park and the industrial uses that may follow if the subdivision request is approved. The proposed subdivision is found to be compatible with the surrounding residential lots and future land use approvals for Site Design Review for each individual lot will ensure that the subdivision of Light Industrial land maintains an attractive site and adequate and approved potable water and wastewater services.

3. Section 6.010(1) of the LDO requires that road improvements be completed, or appropriate financial security be posted, as specified in Section 13.000 of the LDO. The Applicant correctly noted that public road dedication is not currently recognized as a permitted use in the county's Industrial, Commercial, and Residential Districts so establishing public roadways was not an option available to the Applicant. Because of this restriction on how lots may be provided access, the Applicant is proposing that access to five (5) of the eight (8) proposed lots and tract (Lot #2, #3, #4, #5, #8, and "Tract A") will be served by two separate access easement roads, while Lot #1, Lot #6, and Lot #7 have direct access to Lone Oak Road North. Lot #7 is a flag lot, with a frontage length of 30-feet along Lone Oak Road North. A condition of approval will also require that all driveways providing access to the proposed lots must satisfy the McMinnville Fire Department access and other applicable fire safety standards prior to the issuance of building permits.
4. Section 6.010(2) of the LDO requires that the subdivision provides for continuation of the principal streets existing in the area. Access to the proposed subdivision will be from two

(2) separate easement driveways, none of which serve more than three (3) lots and that no platted public road will be developed within the subdivision due to the prohibition on road and transportation developments within the industrial, commercial, and rural residential districts of the county. The proposed easements will be served by Lone Oak Road North. There are no existing principal streets adjacent to the subject parcel that could be continued as part of the proposed subdivision development.

5. Section 6.010(4) of the LDO indicates that the Planning Director may require an arrangement of lots and streets that will permit a later re-division of the properties. The subject tract is not located within an urban growth boundary or Urban Reserve Area; therefore, the proposed lots cannot currently be developed to any greater density.
6. Subsection 6.010(6) and (7) of the LDO outlines specific road standards for public dedication and easements. County standards require a 20-foot wide improved surface. As stated previously, five (5) of the proposed subdivision lots and a tract will be served by two (2) separate easement driveways that are all at least 30-feet in width. The remaining lots have direct frontage to Lone Oak Road North. The Applicant has included a proposed private maintenance agreement for the shared access and utility easements in Applicant's Exhibit F. The maintenance agreement would lead to all parcels equally sharing the cost of maintaining easement unless a party makes excessive use of the easement in connection with the construction or improvement of that party's parcel the guidelines set forth in ORS 105.170³ would apply. If a parcel owner fails to pay their share of the cost for maintaining the easement, then the procedure and remedies provided in ORS 105.180⁴ would apply.

The County recommends the recording of a road maintenance agreement as a condition of any approval which will ensure that the access easement drives are engineered and built in a manner consistent with the county road standards prior to approval of the final subdivision plat and the issuance of building permits.

³ 105.170 Definitions for ORS 105.170 to 105.185; (1) "Easement" means a nonpossessory interest in the land of another which entitles the holders of an interest in the easement to a private right of way, embodying the right to pass across another's land. (2) "Holders of an interest in an easement" means those with a legal right to use the easement, including the owner of the land across which the easement passes if the owner of the land has the legal right to use the easement.

⁴ 105.180 Action for failure to comply with duty of holder; recovery of costs; arbitration. (1) If any holder of an interest in an easement fails to maintain the easement contrary to an agreement or contrary to the maintenance provisions of a recorded instrument creating the easement or, in the absence of an agreement or recorded instrument imposing maintenance obligations, fails after demand in writing to pay the holder's proportion of the cost as indicated in ORS 105.175 (3) and (4), a civil action for money damages or specific performance or contribution may be brought against that person in a court of competent jurisdiction by one or more of the other holders of an interest in the easement, either jointly or severally. In any such civil action, the court may order such equitable relief as may be just in the circumstances. Nothing in ORS 105.170 to 105.185 shall impose a maintenance obligation on the holder of an interest in an easement based on the maintenance provisions in an instrument creating the easement if such holder is not a party to such instrument, whether the instrument is recorded or not, after such holder ceases to use the easement. (2) The prevailing party shall recover all court costs, arbitration fees and attorney fees. (3) Any holder of an interest in the easement may apply to the court of competent jurisdiction where the easement is located and that has jurisdiction over the amount in controversy for the appointment of an impartial arbitrator to apportion the cost, and the matter may be arbitrated in accordance with ORS 36.600 to 36.740. The application may be made before, during or after performance of the maintenance work.

7. Subsection 6.010(8) of the LDO lists the option of property being served by a private drive or easement. All of the proposed lots will be served either by driveways with direct access to Lone Oak Road North or by access easement driveways that provide access to Lone Oak Road North. The development of public roadways is currently prohibited in the county's industrial, commercial, and rural residential districts due to a 2018 LUBA decision, *Van Dyke v. Yamhill County*, 78 Or LUBA 530 (2018) (*Van Dyke I*). This decision noted that a public roadway or other transportation facility is prohibited in any zone where it is not listed as a permitted or conditional use so because the subject parcel is not abutting any public roadway the Applicant's only option to provide ingress/egress to the lots is via private easement drives. Staff recommends placing a condition of approval that will require all private driveways are constructed to the minimum Private Easement and Driveway Construction standards, as outlined in subsection 6.010(8)(D) of the LDO. The Applicant submitted a sample private access and utility easement maintenance agreement, please see Applicant's Exhibit F. The Applicant contacted the Public Works Department prior to submitting the subdivision application regarding any potential requirement for a traffic impact analysis, please see Applicant's Exhibit E. The Applicant was informed that a Traffic Impact Analysis would not be required by the Public Works Department during the subdivision review process. However, Ordinance 787 requires certain items to be prepared prior to final plat approval, which may include the submittal of a traffic study. Therefore, a condition of approval will require the Applicant satisfy the requirements of Ordinance 787, prior to final plat approval (in particular Sections 4, 5, 6, and 7). In addition, a condition of approval that will require the driveways be built to local Fire Department standards.
8. Subsection 6.030 requires that all lots should form or approximate conventional shapes, with lot side lines running at right angles to the street as far as practical, except for lots on cul-de-sac streets, where side lot lines shall be radial to the curve. All of the proposed lots are conventional in shape.
9. Subsection 6.030(6) of the LDO requires lot drainage to be designed to the specifications adopted by the Board of Commissioners. The Applicant plans to design drainage in a manner that avoids unnecessary concentration of storm drainage water from each lot to other parcels, and to provide positive drainage away from all buildings. The Planning Department received comments and concerns from one of the neighboring property owners, Jennifer & Scott Berry who is represented by Catherine Wright, regarding how stormwater water and drainage will be managed at the proposed industrial park beyond just general statements.

Therefore, a condition of approval will require that the Applicant submit a drainage plan showing that no natural drainage is disturbed by any development taking place on any of the proposed lots. The plan shall be prepared by a registered engineer and the drainage plan shall be submitted to and approved by the County Public Works Director prior to final approval.

On behalf of Evergreen Memorial Park Cemetery, Mr. Corey Rich provided an appeal application regarding concerns of natural drainage disturbance and disagreement with the

sufficiency of the following language of condition of approval 3: *Prior to final plat approval, the Applicant shall submit a drainage plan showing that no natural drainage is disturbed by any development taking place on any of the proposed lots. The plan shall be prepared by a registered engineer. The drainage plan shall be submitted to and approved by the County Public Works Director prior to final approval.*

The Board held an on-the-record hearing to consider the appeal on June 26, 2025; The hearing commenced with a staff report presented by Lance Woods, Senior Planner. After that, AKS Engineering & Forestry, LLC, presented for Applicant, provided a summary of the subdivision application and stormwater infrastructure, and highlighted the expert testimony in the record from a registered professional engineer regarding compliance with State and County stormwater management requirements. Next, the Board accepted rebuttal from Appellant. At the conclusion of the testimony, the Board asked questions pertaining to the issues and arguments on appeal, followed by surrebuttal from Applicant. The Board documented the main issue on appeal relates to potential water run-off from unnatural fill, and as is required in the Staff Recommendation, stormwater management is conditioned to be addressed with the submittal of a drainage plan prepared by a registered professional engineer to be reviewed by County Public Works Director prior to final plat approval. Based on the forgoing analysis and the expert testimony in the record, the Board found the subdivision application met all applicable provisions and approval criteria of the Yamhill County Land Division Ordinance.

10. Subsection 6.070 of the LDO deals with lands subject to hazardous conditions related to flooding, inadequate drainage, steep slopes, rock formations, earthquake activity, landmass instability, pollutants, or other general factors or conditions that are likely to be harmful to the health and safety of future residents or the general public. The property is not in the Flood Hazard Overlay zone and is not designated in any identified hazard area. There are no steep slopes or significant rock formations that could impede the safe and orderly development of the proposed lots. There is a history of dumping concrete and other fill on the subject tract. The County Sanitarian has identified potential challenges with developing septic systems and wells on the lots proposed by the Applicant. Earthquakes are an ever-present risk in Oregon but there is no indication that this particular parcel is at greater risk of earthquake than any other geographic area in the county. The proposed configuration of the parcels appears to take the slope and topography into consideration.
11. Subsection 6.090 of the LDO gives the options for water supply to lots within a subdivision. The ordinance provides the following four options:
 1. *A certification by a municipal, public utility or community water supply system, subject to the regulation by the Public Utility Commission of Oregon, that water will be provided to the parcel line of each and every parcel depicted in the final plat; or*
 2. *A bond, contract or other assurance by the subdivider or partitioner to the county that a domestic water supply system will be installed on behalf of the subdivider or partitioner to the parcel line of each and every parcel depicted on the final plat. The amount of any such bond, contract or other assurance by the subdivider or partitioner*

shall be determined by a registered professional engineer, subject to any change in the amount as determined necessary by the county; or

3. *A water well report filed with the State of Oregon Water Resources Department for each well provided within a subdivision or partition. The location of such wells and an appropriate disclosure shall be placed on the face of the final plat. If the subdivider or partitioner intends that domestic water will be provided to the proposed lot or lots by well(s) and no test wells have been drilled, the Director may require that test wells be drilled prior to final approval. The number and location of such wells shall be determined by the director and watermaster having jurisdiction; or*
4. *In lieu of Subsections (1), (2), and (3) of this Section, when a municipal, public utility, community water supply or private well system is not available, then a statement must be placed on the final plat or map which states:*

"No municipal, public utility, community water supply or private well system will be provided to the purchaser of those lots noted hereon."

The application indicates that the owner has no plans to confirm whether any of the lots will have access to an approved water source. Rather, the Applicant has indicated that if approved a disclaimer will be placed on the face of the final plat stating that no water system is to be provided and that it will be incumbent on future owners to secure water service. The County requires a condition on this approval that will require the Applicant to comply with one of the four options listed above.

11. Subsection 6.100 of the LDO contains options and requirements for sewage disposal. No public or city sewer services are available. The Applicant has presented a plan for individual wastewater management systems that would serve all lots and be located on "Tract A" located in the northwestern-most area of the tract. The County Sanitarian stated that the area of Lot A was evaluated in 2021 to serve the three commercial buildings proposed when the Applicant requested the comprehensive plan amendment and zone change to the Light Industrial zone. The development presented to the Sanitarian in 2021 was evaluated to serve up to 50 employees in total, with a single employee breakroom kitchen and shower service and that this was approvable by the Sanitarian if and only if pre-treatment was done in order to reduce the linear footage of drain field to 50-feet per 150 gallons per day. The Sanitarian stated that the minimum proposed peak water flow of 12 parcels that are used only for low water use businesses such as warehousing or office work would still be 1800 gallons per day and may not currently comply with applicable wastewater management standards. The Applicant then submitted a revised preliminary plat into the record, proposing that the twelve (12) lot subdivision be reduced to (8) lots, in consideration of the capacity for wastewater management systems. In turn, Tract A was proposed to be increased to 1.51-acres to ensure capacity for the approval area for septic drain field installations.

The County requires a condition on this approval requiring that either each lot shall be served by a permitted individual on-site subsurface sewage disposal system or other individual on-site wastewater management system approved by the County Sanitarian or

DEQ, depending on the nature of the proposed use and whether the system falls under local or state jurisdiction.

13. Section 6.120 of the LDO contains requirements and standards for surveying subdivisions and requires that any lot less than 10-acres in size shall be surveyed prior to approval of the final plat. Since all lots will be less than 10-acres in size, the County requires a condition on this approval that a survey of the newly created lots be required prior to final plat approval.

D. Surrounding Property Owner Concerns & Comments

The Yamhill County Planning Department sent a notice of pending administrative action to surrounding property owners regarding the proposed subdivision. Staff received feedback from David Hays and Catherine Wright, who represents Jennifer Berry and her husband (Scott). David Hays and the Berry's are both surrounding property owners and reside in the area. Below is a brief summary of the relevant comment raised during the 15-day notice period.

1. **Traffic**

Mr. Hays resides at 3333 Lone Oak Road North, on a lot in the surrounding area (Tax Lot 4410-00202), that is just north of the proposed subdivision. Mr. Hays has noted that Lone Oak Road North is a very narrow road which requires additional caution when two vehicles are passing each other. Mr. Hays notes that because this is a dead-end road which has historically been used by children and families for recreation and travel. Mr. Hays has expressed concern that the development of an industrial park will lead to a substantial change to the character of the neighborhood.

The Applicant addressed a request by Planning staff for a new traffic impact analysis that evaluated the proposed industrial park by submitting correspondence between the Applicant and the Public Works Department from December 7, 2023, which indicated that Public Works would not require a traffic study as part of the subdivision process. The Applicant proposes that the county could evaluate the impact to traffic in the surrounding area as each future lot owner goes through the site design review process.

The Applicant also submitted a traffic impact analysis conducted in 2021 as part of the comprehensive plan amendment and zone change process. The traffic analysis from 2021 evaluated the development of a single large warehouse that would serve the agricultural community and a smaller office and agriculture retail building. For this traffic analysis the Applicant also estimated that 30% of the developable land, or approximately 169,900-square feet, would be used for the farm crop warehousing and farm retail/office space uses and estimated that 702 weekday trips would be generated by these two uses. The Applicant's traffic impact analysis from 2021 found that there were no significant trends or crash patterns at any of the study intersections that were indicative of safety concerns, and that all intersections in the study area are projected to operate acceptably—per ODOT standards—through 2041.

2. **Septic & Wastewater Management**

The Berry's have identified that the Applicant is requesting approval of the subdivision without having an approved wastewater management plan in place to serve the proposed light industrial subdivision. The Berry's have pointed to the feedback from the County Sanitarian that noted the plan to use "Tract A" as a community wastewater management system for all of the proposed parcels is not currently feasible based on the subdivision plan under review.

3. **Drainage & Stormwater Management**

The Berry's have also raised concerns regarding management of storm water to ensure that stormwater drainage does not collect on any of the proposed lots and is directed away from adjacent residential structures. The Applicant noted in the application materials that drainage is expected to be conveyed away from future structures through the use of private drainage ditches. The Berry's note that any drainage plan should take into account existing dwellings located on adjacent lots, especially because many of these structures are occupied homes.

Staff recommends as a condition on any approval that the Applicant be required to submit a drainage plan showing that no natural drainage is disturbed by any development taking place on any of the proposed lots. The plan shall be prepared by a registered engineer. The drainage plan shall be submitted to and approved by the County Public Works Director prior to final approval.

4. **Common Ownership & Maintenance**

The Berry's also identified that "Tract A" is proposed for use by all of the proposed new lots and will be under common ownership of all lot owners but does not provide any details regarding this planned common ownership and maintenance responsibilities for "Tract A" and any additional common amenities that may be shared by owners of the proposed subdivision lots. The Berry's assert that this is the time in the land use process when the county can ensure that all shared utilities will be able to adequately serve all of the proposed lots and will be maintained with minimal future

The Berry's also suggest that the Applicant's shared maintenance plan which calls for all of the owners of the lots within the industrial park to contribute to the maintenance of all three access easements driveways because several owners may end up paying to maintain one or more of the easement roads that will not serve their respective lot.

E. Applicant Final Written Statement

The Applicant submitted a final written statement addressing comments made by opponents of the subdivision of Light Industrial zoned land on Lone Oak Road. The letter

was addressed to the Planning Commission to specifically address the objections raised in oral and written testimony. The letter thoroughly addresses the following:

- Response to Mr. Dave Hays’ email (May 7, 2025) including comments regarding sufficiency of pedestrian safety on Lone Oak Road; undocumented fill, structural integrity, and finished lot grading patterns; drainage, including the capacity of the downstream conveyance to the east; the capability of the project to served with water wells; and “visual barriers” between the “Industrial” use and neighboring residential uses.
- Response to Mr. Corey Rich’s letters (dated May 8, 2025, and May 15, 2025) including comments regarding compatibility with the abutting Evergreen Memorial Park Cemetery; stormwater runoff from the project site; the construction and timing of septic and drain field systems; and site debris.
- Response to Berry/Tankersley & Wright letters (dated May 8, 2025, and May 15, 2025) including comments regarding compatibility and adequate buffering with abutting residential uses; and stormwater drainage runoff and impacts to offsite properties.

CONCLUSION:

Based on the above findings, the request by Town Investments, LLC for a subdivision of eight (8) lots and a tract (“Tract A”) for wastewater management systems, identified as “Lone Oak Road”, on an approximately 13-acre tract zoned LI, the Light Industrial District on Tax Lots 4411-01300 & 4411-01301, is approved, subject to the following conditions:

1. A final subdivision plat pursuant to the requirements of the *Yamhill County Land Division Ordinance* shall be prepared and submitted to the Planning Director. All existing and proposed easements shall be shown on the face of the plat. The Yamhill County Planning Docket Number "S-02-24" shall appear on the face of the plat. The name of the subdivision, “Lone Oak Road Subdivision”, shall appear on the face of the plat. The subdivision lines shall substantially conform to those shown on the preliminary map.
2. Prior to final subdivision approval, a survey of all lots shall be completed by a registered land surveyor pursuant to Section 6.120 of the *Yamhill County Land Division Ordinance*.
3. Prior to final plat approval, the Applicant shall submit a drainage plan showing that no natural drainage is disturbed by any development taking place on any of the proposed lots. The plan shall be prepared by a registered engineer. The drainage plan shall be submitted to and approved by the County Public Works Director prior to final approval.
4. Prior to final plat approval, the Applicant shall obtain approval for individual on-site subsurface sewage disposal for all parcels pursuant to Section 6.100 of the *Land Division Ordinance*.
5. Prior to final plat approval, the easements providing access to all of the subdivision lots

shall be constructed to county specifications and inspected by a private engineer, or a road construction agreement shall be completed and recorded.

6. Prior to final plat approval, a private access and utility easement maintenance agreement shall be completed and recorded.
7. Prior to final plat approval, a road plan and profile drawings for all proposed easements shall be submitted to and approved by the Public Works Department.
8. Prior to final plat approval, the Applicant shall receive confirmation from the Planning Director and the Public Works Department that the requirements of Ordinance 787 have been satisfied.
9. The subdivision shall be shown to have adequate quality and quantity of water to support the proposed use. Prior to final plat approval, the applicant shall demonstrate conformance with standard 1, 2, 3 or 4 of Subsection 6.090 of the Land Division Ordinance. Either domestic water shall be provided to each lot by a community water system or an on-site well or wells, with the location of the well(s) indicated on the face of the plat, or the following disclosure shall be placed on the plat:

No municipal, public utility, community water supply or private system will be provided to the purchaser of those lots noted hereon.

Each lot not provided with a well or community service shall be so identified.

10. Pursuant to OAR 340-071-0220(1)(j), the new property line(s) shall be a minimum of 10 feet from any part of an existing drainfield or drainfield replacement area.

END