



City of Oregon City

625 Center Street
Oregon City, OR 97045
503-657-0891

Meeting Agenda - Final Planning Commission

Monday, December 10, 2012

7:00 PM

Commission Chambers

1. Call to Order

2. Approval of the Minutes

- a [12-271](#) Adoption of Minutes of the July 9, 2012 Planning Commission meeting.

Staff: Planning Commission and Community Development Director Tony Konkol

Attachments: [Draft PC Minutes 07.09.2012](#)

- b [12-272](#) Adoption of Minutes for the July 23, 2012 Planning Commission meeting.

Staff: Planning Commission and Community Development Director Tony Konkol

Attachments: [Draft PC Minutes 07.23.2012](#)

3. Public Comments

4. Public Hearing

- a [PC 12-039](#) VR 12-03, MD12-01, and MD12-02.
Request for a continuance of the public hearing and a 60-day extension of the 120-day deadline for land use application VR 12-03, MD12-01, and MD12-02.

Staff: Planning Commission, Community Development Director Tony Konkol and Pete Walter

Attachments: [Commission Report](#)
[Applicant's Request for Continuance](#)

b [CP 12-01](#) CP 12-01 Master Plan

Staff: Community Development Director Tony Konkol

Attachments: [Commission Report](#)

[CP 12-01 Staff Report](#)

[1. Vicinity Map](#)

[2.a. Land Use Application](#)

[2.b. Applicant's Narrative](#)

[2.c. Master Plan](#)

[2.d. Transportation Study](#)

[3. Staff Report for SP 03-08](#)

[4. Staff Report for CP 05-01, WR 05-36 & CU 05-03](#)

[5. Staff Report for DP 06-02](#)

[6. Staff Report for CP 07-02 and DP 07-01](#)

[7. Staff Report for CP 08-03](#)

[8. Staff Report for CP 09-03, DP 09-02 and WR 09-07](#)

[9. Comments from John Replinger, Replinger and Associates](#)

[10. Comments from William Gifford, Land Use Chair of the Hillendale Neighborh](#)

[11. Engineering Policy 00-01](#)

[12. Additionl Information Provided by the Applicant](#)

c [12-269](#) LE 12-01 Hearings Officer Amendment

Staff: Community Development Director Tony Konkol

Attachments: [Commission Report](#)

[LE 12-01 Staff Report](#)

[Ordinance](#)

5. Communications**6. Adjournment**

Public Comments: The following guidelines are given for citizens presenting information or raising issues relevant to the City but not listed on the agenda.

- *Complete a Comment Card prior to the meeting and submit it to the staff member.*
- *When the Chair calls your name, proceed to the speaker table and state your name and city of residence into the microphone.*
- *Each speaker is given 3 minutes to speak. To assist in tracking your speaking time, refer to the timer at the dais.*
- *As a general practice, Oregon City Officers do not engage in discussion with those making comments.*

Agenda Posted at City Hall, Pioneer Community Center, Library, and City Web site(oregon-city.legistar.com).

Video Streaming & Broadcasts: The meeting is streamed live on Oregon City's Web site at www.orcity.org and is available on demand following the meeting.

ADA: City Hall is wheelchair accessible with entry ramps and handicapped parking located on the east side of the building. Hearing devices may be requested from the City staff member prior to the meeting. Disabled individuals requiring other assistance must make their request known 48 hours preceding the meeting by contacting the City Recorder's Office at 503-657-0891.



City of Oregon City

625 Center Street
Oregon City, OR 97045
503-657-0891

Staff Report

File Number: 12-271

Agenda Date: 12/10/2012

Status: Agenda Ready

To: Planning Commission

Agenda #: a

From: Planning Commission and Community Development

File Type: Minutes

Adoption of Minutes of the July 9, 2012 Planning Commission meeting.

RECOMMENDED ACTION (Motion):

BACKGROUND:

Please see attached draft minutes.

BUDGET IMPACT:

Amount:

FY(s):

Funding Source:



City of Oregon City

625 Center Street
Oregon City, OR 97045
503-657-0891

Staff Report

File Number: 12-272

Agenda Date: 12/10/2012

Status: Agenda Ready

To: Planning Commission

Agenda #: b

From: Planning Commission and Community Development

File Type: Minutes

Adoption of Minutes for the July 23, 2012 Planning Commission meeting.

RECOMMENDED ACTION (Motion):

BACKGROUND:

See attached draft minutes.

BUDGET IMPACT:

Amount:

FY(s):

Funding Source:



City of Oregon City

625 Center Street
Oregon City, OR 97045
503-657-0891

Staff Report

File Number: PC 12-039

Agenda Date: 12/10/2012

Status: Public Hearing

To: Planning Commission

Agenda #: a

From: Planning Commission, Community Development Director

File Type: Planning

SUBJECT:

VR 12-03, MD12-01, and MD12-02.

Request for a continuance of the public hearing and a 60-day extension of the 120-day deadline for land use application VR 12-03, MD12-01, and MD12-02.

RECOMMENDED ACTION (Motion):

Staff recommends that the Planning Commission take testimony from any member of the public present who wishes to testify regarding this item, then continue the public hearing for files VR 12-03, MD 12-01, and MD 12-02 to the regular Planning Commission meeting of February 11th, 2013.

BACKGROUND:

As part of this project, Benchmade has engaged a traffic engineer to evaluate their proposal for direct access to Beaver Creek Road, and to provide possible alternatives that would bring the proposal closer to compliance with city regulations and achieve a favorable result for all parties. The inclusions of a traffic engineer and analysis in the project, and project management changes within Benchmade have necessitated the need for this extension.

With this continuance request the applicant has granted a 60-day extension of the decision deadline for this application to March 26th, 2013.

BUDGET IMPACT:

Amount: NA

FY(s): NA

Funding Source: NA



City of Oregon City

625 Center Street
Oregon City, OR 97045
503-657-0891

Staff Report

File Number: PC 12-039

Agenda Date: 12/10/2012

Status: Public Hearing

To: Planning Commission

Agenda #: 4a

From: Planning Commission, Community Development Director

File Type: Planning

SUBJECT:

VR 12-03, MD12-01, and MD12-02.

Request for a continuance of the public hearing and a 60-day extension of the 120-day deadline for land use application VR 12-03, MD12-01, and MD12-02.

RECOMMENDED ACTION (Motion):

Staff recommends that the Planning Commission take testimony from any member of the public present who wishes to testify regarding this item, then continue the public hearing for files VR 12-03, MD 12-01, and MD 12-02 to the regular Planning Commission meeting of February 11th, 2013.

BACKGROUND:

As part of this project, Benchmade has engaged a traffic engineer to evaluate their proposal for direct access to Beaver Creek Road, and to provide possible alternatives that would bring the proposal closer to compliance with city regulations and achieve a favorable result for all parties. The inclusions of a traffic engineer and analysis in the project, and project management changes within Benchmade have necessitated the need for this extension.

With this continuance request the applicant has granted a 60-day extension of the decision deadline for this application to March 26th, 2013.

BUDGET IMPACT:

Amount: NA

FY(s): NA

Funding Source: NA

3 December 2012

Pete Walter, AICP, Associate Planner
Community Development Department
Planning Division, City of Oregon City
221 Molalla Avenue, Ste. 200
Oregon City, Oregon 97045
503-496-1568

Subject: Request for a public hearing continuance and 60 day extension of the 120-day deadline for land use application VR 12-03, MD12-01, and MD12-02.

Greetings Mr. Walter,

This document is to request that the Planning Commission continue the public hearing for VR 12-03, MD 12-01, and MD 12-02 to the regular Planning Commission meeting of February 11th, 2013. Additionally, this is a formal request for a 60-day extension of the 120-day decision deadline for the application to March 26th, 2013.

As part of this project, Benchmade has engaged a traffic engineer to evaluate our proposal, and to provide possible alternatives that would bring us closer to compliance with city regulations and achieve a favorable result for all parties. The inclusions of a traffic engineer and analysis in the project, and project management changes within Benchmade have necessitated the need for this extension.

If there are any questions, please feel free to contact me at any time.

Best Regards,

Nate Juttelstad
Facilities and Maintenance Manager
Benchmade Knife Company
300 Beavercreek Rd.
Oregon City, OR 97045
503-655-6004 x185
njuttelstad@benchmade.com



City of Oregon City

625 Center Street
Oregon City, OR 97045
503-657-0891

Staff Report

File Number: CP 12-01

Agenda Date: 12/10/2012

Status: Agenda Ready

To: Planning Commission

Agenda #: b

From: Community Development Director Tony Konkol

File Type: Planning

SUBJECT:

CP 12-01 Master Plan

RECOMMENDED ACTION (Motion):

Staff recommends approval with conditions of CP 12-01 Master Plan amendment and DP 12-01 Detailed Development Plan.

BACKGROUND:

The applicant submitted a Concept (General) Development Plan and Detailed Development Plan to incorporate the Silver Oak building at 1810 Red Soils Court unto the Red Soils Master Plan, change the use of the building from light industrial to storage and office use, obtain adjustments to development standards for fence height and building material and construct a fence and install landscaping at the Silver Oaks facility.

BUDGET IMPACT:

Amount:

FY(s):

Funding Source:



City of Oregon City

625 Center Street
Oregon City, OR 97045
503-657-0891

Staff Report

File Number: CP 12-01

Agenda Date: 12/10/2012

Status: Agenda Ready

To: Planning Commission

Agenda #: 4b

From: Community Development Director Tony Konkol

File Type: Planning
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SUBJECT:

CP 12-01 Master Plan

RECOMMENDED ACTION (Motion):

Staff recommends approval with conditions of CP 12-01 Master Plan amendment and DP 12-01 Detailed Development Plan.

BACKGROUND:

The applicant submitted a Concept (General) Development Plan and Detailed Development Plan to incorporate the Silver Oak building at 1810 Red Soils Court unto the Red Soils Master Plan, change the use of the building from light industrial to storage and office use, obtain adjustments to development standards for fence height and building material and construct a fence and install landscaping at the Silver Oaks facility.

BUDGET IMPACT:

Amount:

FY(s):

Funding Source:

TYPE III LAND USE STAFF REPORT & RECOMMENDATION

FILE NO.: CP 12-01: Master Plan and DP 12-01: Detailed Development Plan

APPLICATION TYPE: Type III

APPLICANT/ PROPERTY OWNER: Clackamas County, c/o Marc Gonzales, 2051 Kaen Road, Oregon City, Oregon 97045

REPRESENTATIVE: Sera Architects, c/o Rebecca Epstein, 338 NW 5th Ave., Portland, Oregon 97209

REQUEST: The applicant submitted a Concept (General) Development Plan and Detailed Development Plan to incorporate the Silver Oak building at 1810 Red Soils Court into the Red Soils Master Plan, change the use of the building from light industrial to storage and office use and construct a fence and install landscaping onsite. In addition, the applicant proposed to obtain adjustments to development standards for fence height and building material.

LOCATION:

1810 Red Soils Court, Oregon City, OR 97045, Clackamas County Map 3-2E205C TL 00806

1710 Red Soils Ct. Oregon City, OR 97045, Clackamas County Map 3-2E205C TL 00807

2051 Kaen Road. Oregon City, OR 97045, Clackamas County Map 3-2E205C TL 00812

ZONING: “MUE” Mixed Use Employment District

REVIEWERS: Laura Terway, AICP, Planner and Kelly Moosbrugger, Assistant Planner

RECOMMENDATION: Planning Commission Approval with Conditions.

PROCESS: *Type III decisions involve the greatest amount of discretion and evaluation of subjective approval standards, yet are not required to be heard by the City Commission, except upon appeal. Applications evaluated through this process include conditional use permits and Master Plans for which discretion is provided. In the event that any decision is not classified, it shall be treated as a Type III decision. The process for these land use decisions is controlled by ORS 197.763. Notice of the application and the planning commission is published and mailed to the applicant, recognized neighborhood association and property owners within three hundred feet. Notice must be issued at least twenty days pre-hearing, and the staff report must be available at least seven days pre-hearing. At the evidentiary hearing held before the planning commission all issues are addressed. The decision of the planning commission is appealable to the city commission, on the record. A city-recognized neighborhood association requesting an appeal fee waiver pursuant to 17.50.290(c) must officially approve the request through a vote of its general membership or board at a duly announced meeting prior to the filing of an appeal. The city commission decision on appeal from the planning commission is the city's final decision and is appealable to LUBA within twenty-one days of when it becomes final.*

A city-recognized neighborhood association requesting an appeal fee waiver pursuant to 17.50.290(C) must officially approve the request through a vote of its general membership or board at a duly announced meeting prior to the filing of an appeal.

IF YOU HAVE ANY QUESTIONS ABOUT THIS APPLICATION, PLEASE CONTACT THE PLANNING DIVISION OFFICE AT (503) 722-3789.

DECISION CRITERIA:

The development proposal will be analyzed for compliance with the following Chapters of the Oregon City Municipal Code:

Streets, Sidewalks and Public Places in Chapter 12.04,
Public and Street Trees in Chapter 12.08,
Pedestrian/Bicycle Accessways in Chapter 12.24,
“MUE” Mixed Use Employment District in Chapter 17.31,
Tree Protection Standards in Chapter 17.41,
Natural Resource Overlay District in Chapter 17.49,
Administration and Procedures are set forth in Chapter 17.50,
Off-Street Parking and Loading in Chapter 17.52,
Supplemental Zoning Regulations and Exception in Chapter 17.54,
Lawful Nonconforming Uses, Structures and Lots in Chapter 17.58,
Site Plan and Design Review in Chapter 17.62 and
Master Plans in Chapter 17.65.

CONCEPT (GENERAL) DEVELOPMENT PLAN:

The proposed Concept (General/Master) Development Plan identifies the layout, maximum intensity, phasing and public improvements associated with the Clackamas County Red Soils Campus over a 20 year period. Approval of the General (Concept) Plan is followed by a series of Detailed Development Plan applications with refined building details including building design, landscaping, etc. which comply with the Oregon City Municipal Code and the approved Concept (General) Plan.

EXISTING USE:

The subject site will be utilized by Clackamas County as part of the Red Soils Campus, a campus of government services and functions for Clackamas County. The property located at 2051 Kaen Road is utilized as administrative offices for Clackamas County, while 1710 Red Soils Ct. is utilized as a utility plant. The property located directly south of the existing southern boundary of the Red Soils Master Plan, at 1810 Red Soils Ct. (Silver Oak Building) is currently utilized as a warehouse and is proposed to be incorporated into the Red Soils Master Plan as an office and warehouse for the Sheriff’s evidentiary material.

PROPOSED DEVELOPMENT:

Clackamas County submitted this application for the following:

- Amend the Red Soils Master Plan to include the Silver Oak Building, a 68,419 square foot facility.
- Review the change in use of the Silver Oak Building from light industrial to storage and office to house the Sheriff’s evidentiary material.
- Adjust the fence height and materials requirement of the Oregon City Municipal Code as shown on page 61 of the Master Plan to allow fences taller than the maximum fence height and chain link material.

- Minor alterations to the parking lot at the Silver Oak Building including installation of landscaping and a fence.

The existing Master Plan was updated to reflect changes relating to the aforementioned amendments and adjustments on the following pages:

- Page 2 (last paragraph): Introduces above mentioned amendments and adjustment requests.
- Page 3 (Context Map): Updated to include the Silver Oak Building on the Campus.
- Page 11 (Red Soils Campus Phasing): Updated to include Silver Oak Building on Campus.
- Page 12 (Red Soils Campus Program by Phase): Updated to include the Silver Oak gross square footage for Phase 2 and Full Build-Out.
- Page 13 (Enlarged Full Build-Out): Updated to include Silver Oak Building on Campus, no change from Page 11.
- Page 22 (Existing Conditions, Introduction): Revised to identify the past use of chain link at the 'Back Room' areas where public safety is a concern.
- Page 28 (Existing Conditions, Bicycle and Pedestrian Access & Parking): Note added to see Appendix E for Bicycle Parking Counts and Appendix G for Proposed Future parking per City requirements
- Page 29 (Existing Conditions, Existing Fencing and Screening): Revised to codify the use of unpainted chain link above the code required height (8-foot, 12-foot and 22-foot with barbed wire or razor wire) at the County Jail/Adult Detention Facility (ADF). The existing chain link at this facility falls into two mitigation categories where public access abuts the fencing:
 - Hidden by an existing berm and mature trees at the border with Hillendale Park.
 - Visual appearance reduced by mature trees, and meandering wetland landscaping as shown on Page 28, top picture.
- Page 61-62 (Master Plan, Fencing Guidelines): Section added to codify existing fencing around the County Jail/Adult Detention Facility and amend fencing material use and height at other areas on Campus per Proposed Fencing Types diagram on Page 63.
- Page 63 (Master Plan, Proposed Fencing Types diagram): Added to identify areas of existing and proposed fencing for the Full Build-Out.
- Appendix A Site Plan: New sheet showing utility and topographic survey of the Silver Oak Building.
- Appendix B Engineering Site Plans: Revised to include Silver Oak Building on Campus.
- Appendix C Adopted Zoning Changes: updated to reflect 2012 Oregon City Municipal Code.
- Appendix E Bicycle Parking Requirements: New sheet reflecting existing and proposed bicycle parking.
- Appendix F: Proposed On-Site Parking reflecting the addition of the Silver Oak Building into the Campus parking counts.
- Appendix G: Proposed Parking Layout for Silver Oak Building to meet current parking lot landscaping code.

SURROUNDING LAND USES:

Surrounding land uses to the larger campus are Multi-Family Dwelling (R-2) and Mixed-Use Commercial (MUC-1) to the north; Mixed-Use Employment (MUE) to the east; Single-Family Residential (R-10) and Hillendale Park to the south and, Single-Family Residential (R-6 and R-10) and Mixed-Use Corridor (MUC-1) to the west.

OREGON CITY MUNICIPAL CODE CRITERIA:

CHAPTER 17.50 – ADMINISTRATION AND PROCEDURES

Finding: Complies. The Concept (General) Development Plan and Detailed Development Plan applications were processed as Type III applications. A neighborhood association meeting was held and a pre-application conference took place on July 13, 2011 with Oregon City staff. The application was submitted to the City on April 30, 2012 and deemed incomplete on May 30, 2012. The applicant submitted additional information and the application was complete on October 18, 2012. Notice of the development was mailed to property owners within 300 feet of the site, the Hillendale Neighborhood Association, Citizen Involvement Committee and affected agencies on October 30th, 2012. The property was posted with a land use action sign providing details and requesting comments about the development from November 1st, 2012 to after the Planning Commission hearing(s). Comments were submitted by:

William Gifford, Land Use Chair of the Hillendale Neighborhood Association. The comments confirmed the meeting between the neighborhood association and the applicant. The neighborhood association does not have any objections to the incorporation of the Silver Oak building into the Master Plan, but is concerned about the proposed adjustments for fence height and building material. *“While sensitive to the issue of security, the HNA a) does not feel that the proposed fence height and materials would afford the additional security the project indicates and b) would consider such devices to be esthetically detrimental to the adjoining Hillendale City Park. Consequently, the HNA is opposed to granting this variance and requests the applicant to find an alternate method of obscuring the proposed usage of the property. One method suggested was merely doing nothing to draw attention to its use by means of signs, barriers, etc. It was felt that the installation of the proposed fence would do more to attract attention to the property than actually deterring trespassing or other criminal acts. Another suggestion was the implementation of deterrent vegetation – thorny bushes or trees. It was felt that if individuals were determined to enter the premises unlawfully, the proposed fence would only slow their activity, not stop it. Dissuading the public from entering the premises could be accomplished without an unsightly and oversized fence, requiring a code variance”* (Exhibit 4). The comments have been incorporated into the analysis of this report.

Staff Response: A response to neighborhood association’s concern regarding the fence adjustments is provided below.

- Comment: Allowing tall fences and chain link fences does not add additional security onsite.
Staff Response: The applicant indicated that the fencing is recommended from the Department of Homeland Security, State and local law enforcement agencies.
- Comment: Allowing tall and chain link fences are aesthetically detrimental to Hillendale Park.
Staff Response: The site is currently constructed with a significant amount of chain link and fences which exceed the existing height limit which were constructed prior to adoption of the current Oregon City Municipal Code. Allowing the proposed adjustments in the back room of the site would not significantly alter the aesthetics of the site. In addition, page 13 of the Master Plan displays the full build out of the site. A majority of the development is concentrated adjacent to Beaver Creek Road with none of the buildings located directly adjacent to the side property lines. Trees and vegetation line a majority of the property lines. Hillendale Park contains a large amount of vegetation adjacent to the Master Plan site and the applicant proposed to install additional vegetation with this proposed development at the Silver Oaks facility. Staff suggested a condition of approval requiring the applicant to locate the proposed fence within 2 feet of the face of the existing curb line adjacent to the drive aisle, so that there is a landscape buffer between the park and the proposed fence. Where the fence abuts the existing pedestrian accessway to Hillendale Park, staff suggested a condition that the applicant shall not remove any of the existing trees adjacent to the pedestrian accessway to construct the fence. In addition, the applicant shall plant additional hedges and groundcover as required in OCMC Chapter 12.24.040(1-2).

- **Comment:** The applicant is encouraged to find an alternate method to obscure the use of the property, such as doing nothing to attract attention to the site with signs or barriers or implement deterrent vegetation.

Staff Response: The applicant indicated that the fencing is recommended from the Department of Homeland Security, State and local law enforcement agencies. Staff did not identify a requirement to obscure the use of the Master Plan site. Installation of additional landscaping is required within the future Detailed Development Plan process and staff suggested a condition of approval requiring the applicant to locate the proposed fence within 2 feet of the face of the existing curb line adjacent to the drive aisle. Where the fence abuts the existing pedestrian accessway to Hillendale Park, staff suggested a condition that the applicant has proposed a 12 foot fence along the south side of the Silver Oak facility which is adjacent to an existing pedestrian accessway. The applicant shall not remove any of the existing trees adjacent to the pedestrian accessway to construct the fence. In addition, the applicant shall plant additional hedges and groundcover as required in OCMC Chapter 12.24.040(1-2).

No additional comments were submitted to the City prior to December 3, 2012. Comments received after December 3, 2012 will be forwarded to the Planning Commission at the December 10th, 2012 public hearing. The public record will remain open until the Planning Commission closes the public hearing.

CHAPTER 17.31 “MUE” MIXED USE EMPLOYMENT DISTRICT

17.31.020 Permitted Uses

Finding: Complies as Proposed. The applicant proposed to expand the Master Plan boundary by adding an additional property which will be utilized as office and warehouse use, uses permitted in OCMC 17.31.020.J.D.

17.31.030 Limited Uses

Finding: Not Applicable. The proposed development did not include an alteration to an existing conditional use.

17.31.040 Conditional Uses

Finding: Complies as Proposed. The applicant proposed to expand the Master Plan boundary by adding the Silver Oak facility which will be utilized as office and warehouse (uses permitted in OCMC 17.31.020.J.D). The applicant has previously received approval of a Conditional Use, identified as Planning file CU 05-03 for the site. As the applicant has not proposed to expand the Conditional Use and the amount of development proposed is exempt from Conditional Use review per OCMC 17.56.025, additional review of the Conditional Use is not required.

17.31.050 Prohibited Uses

Finding: Not Applicable. The application did not include a prohibited use.

17.31.060.A Minimum lot areas: None.

Finding: Complies as Proposed. The applicant proposed to add additional land to the Clackamas County Master Plan area without changing the property lines. The lots exceed the minimum lot area of zero.

17.31.060.B Minimum Floor Area Ratio: 0.25.

Finding: Not Applicable. Per the original Master Plan approval (file CP 05-01) the minimum floor area ratio does not apply to the subject site.

17.31.060.C *Maximum building height: except as otherwise provided in subsection C.1. of this section building height shall not exceed sixty feet.*

1. *In that area bounded by Leland Road, Warner Milne Road and Molalla Avenue, and located in this zoning district, the maximum building height shall not exceed eighty-five feet in height.*

Finding: Not Applicable. The applicant has not proposed to construct a building with the proposed development. All future construction shall demonstrate compliance with this standard.

17.31.060.D *Minimum required interior and rear yard setbacks if abutting a residential zone: twenty feet, plus one foot additional yard setback for every one foot of building height over thirty-five feet.*

Finding: Not Applicable. The applicant has not proposed to construct a building with the proposed development. All future construction shall demonstrate compliance with this standard.

17.31.060.E *Maximum allowed setbacks: No maximum limit provided the Site Plan and Design Review requirements of Section [17.62.055](#) are met. Development of a campus with an approved Master Plan in the MUE zone is exempt from Section [17.62.055D.1](#) of Site Plan and Design Review. All other standards are applicable.*

Finding: Complies as Proposed. The development is a campus with an approved Master Plan in the MUE zone and is exempt from this requirement.

17.31.060.F *Maximum site coverage of the building and parking lot: Eighty percent.*

Finding: Not Applicable. Per the original Master Plan approval (file CP 05-01) the minimum site coverage does not apply to the subject site.

17.31.060.G *Minimum landscape requirement (including the parking lot): Twenty Percent.*

The design and development of the landscaping in this district shall:

1. *Enhance the appearance of the site internally and from a distance;*
2. *Include street trees and street side landscaping;*
3. *Provide an integrated open space and pedestrian way system within the development with appropriate connections to surrounding properties;*
4. *Include, as appropriate, a bikeway walkway or jogging trail;*
5. *Provide buffering or transitions between uses;*
6. *Encourage outdoor eating areas appropriate to serve all the uses within the development;*
7. *Encourage outdoor recreation areas appropriate to serve all the uses within the development.*

Finding: Complies as Proposed. The applicant indicated that 22% of the site is landscaped, exceeding the minimum landscape requirement of 20%.

Chapter 17.65 – MASTER PLANS

17.65.050.A Existing Conditions Submittal Requirements

17.65.050.A.1.a *Current uses of and development on the site, including programs or services.*

Findings: Complies as Proposed. The subject site is utilized by Clackamas County as offices, a jail and various other uses. The applicant has proposed to add the Silver Oak building to the site which will be used for office and warehouse use (Exhibit 2).

17.65.050.A.1.b *History or background information about the mission and operational characteristics of the institution that may be helpful in the evaluation of the concept development plan.*

Findings: Complies as Proposed. The applicant submitted a narrative with a variety of information about the subject site (Exhibit 2).

17.65.050.A.1.c *A vicinity map showing the location of the Concept Development Plan boundary relative to the larger community, along with affected major transportation routes, transit, and parking facilities.*

Findings: Complies as Proposed. The applicant submitted a vicinity map displaying the subject site relative to the larger community (Exhibit 2).

17.65.050.A.1.d *Non-institutional uses that surround the development site. May also reference submitted maps, diagrams or photographs.*

Findings: Complies as Proposed. The applicant submitted a map displaying the adjacent buildings and zoning designations. Though primarily adjacent to the “MUE” Mixed Use Employment District, a portion of the site borders residential zoning designations (Exhibit 2).

17.65.050.A.1.e *Previous land use approvals within the Concept Development Plan boundary and related conditions of approval.*

Findings: Complies as Proposed. The subject site has received approval of multiple land use applications. The applicant, Clackamas County, has received a series of prior land use approvals on the subject site. A summary of the recent approvals is provided below.

SP 03-08

A Site Plan and Design Review application was approved by the Planning Division for the construction of a 109,000 square foot Public Services Building and parking lot, with pedestrian amenities and landscape improvements. The four-story office building houses offices for County health services, family services, community development and administration. In addition to office spaces, the structure includes a Council Chamber, a training room, lunchroom and lockers. Review of this application included an analysis of the stream onsite (Mud Creek) and associated wetlands and delineated the Water Quality Area Resource Overlay (Exhibit 3).

CP 05-01, WR 05-36 & CU 05-03

A General Master Plan (Planning file CP 05-01) and two Conditional Use permits were approved for the subject site to construct a Juvenile Facility, bring a pre-existing Detention Facility into compliance and expand the facility (Planning file CU 50-03). A Water Resource Exemption was approved for the development (Planning file WR 05-36).

The Master Plan included three phases of development. The first phase of construction to occur within 5 years of approval includes the construction of the Development Services Building (DSB), the Central Plaza in front of the DSB, the central utility plant and a new Facilities Building to replace the existing building. Phase two is between 5 and 10 years and includes the construction of the Courthouse, Human Services Building and three retail buildings. Phase three is between 10 and 20 years and will include the construction of the Sheriff Building, Juvenile Building, expansion of the existing detention facility and a possible expansion of the central utility plant to include a waste water treatment facility or similar component. An expansion of the central utility plant as a waste water treatment facility would require a separate conditional use permit at the time of development.

The approval identified four principles that serve as the foundation for the Master Plan:

1. Create an enduring image for the campus;
2. Create a great place for county employees to work;
3. Create a plan that makes both short term and long term fiscal sense; and
4. Create a place that employs environmentally sustainable practices.

From these four principles, the county has identified several design features that have been incorporated into the design of the campus, including a central plaza that will serve as a community gathering space, pedestrian connections through the site and to the surrounding community, clustering buildings and locating entrances in a manner that supports the pedestrian circulation system and requiring that all new buildings on the campus meet at a minimum USGBC LEED Silver Certification criteria (Exhibit 4).

DP 06-02

A Detailed Master Plan (Planning file DP 06-02) was approved to construct a Development Services Building and associated parking lot. The 4-story municipal building included offices for County Assessment and Taxation, Transportation and Development, County Surveyor and Water Environment Services Departments. The offices are located above a 53,000 square foot basement parking garage and storage area (Exhibit 5).

CP 07-02 and DP 07-01

A General Plan Amendment (Planning file CP 07-02) to add a Central Utility Plant and a Detailed Development Plan (Planning file DP 07-01) for the exterior improvements to the Central Utility Plant was approved by the Planning Division (Exhibit 6).

CP 08-03

A second General Plan Amendment was approved to construct an Adult Detention Facility and visitor parking lot, capable of accommodating up to 800 beds, in phase 2 of the development of the campus rather than in phase 3. The original phase 2 projects, including the County Office Buildings, parking garage, retail/office buildings and Court House, would subsequently be constructed in phase 3 developments. The amended Master Plan additionally relocated the interior loop road from north of the proposed Adult Detention Facility to south of the facility as part of the phase 3 construction and relocated the Juvenile Facility from the north side to the south side of Mud Creek (Exhibit 7).

CP 09-03, DP 09-02 and WR 09-07

The proposal includes an amendment to the Master Plan to accommodate the expansion of the jail footprint with the addition of a sally port. The medical wing will be located within the existing facility. The expansion of the driveway / stormwater facility will be reviewed under the Natural Resource section of the Oregon City Municipal Code. The application includes:

- The addition of a roof to the existing outdoor recreation area;
- A new free standing steel framed roof structure with standing seam metal roofing over existing entranceways on the east and south sides of the jail as well as over a new entranceway adjacent to the vehicle sallyport;
- The addition of a new 1,668 square foot sally port to the existing jail facility;
- The addition of a new 2,680 square foot medical wing to the existing jail facility;
- An exit from the south façade of the jail;
- Changes to the entranceway of the south building; and
- A Natural Resource Review updating the Red Soils Site / Mud Creek Wetland Delineation (Exhibit 8)

Staff has relied on the previous approvals in reviewing this amendment (Exhibits 3, 4, 5, 6, 7 and 8).



17.65.050.A.1.f *Existing utilization of the site. May also reference submitted maps, diagrams or photographs.*

Findings: Complies as Proposed. The applicant provided a narrative statement describing the existing uses of the site and a series of maps (Exhibit 2). The site is currently utilized by Clackamas County as offices, a jail and various other uses. The applicant has proposed to add the Silver Oak building to the site which will be used for office and warehouse use (Exhibit 2).

17.65.050.A.1.g *Site description, including the following items. May also reference submitted maps, diagrams or photographs.*

- (1) *Physical characteristics,*
- (2) *Ownership patterns,*
- (3) *Building inventory,*
- (4) *Vehicle/bicycle parking,*
- (5) *Landscaping/usable open space,*
- (6) *FAR/lot coverage,*
- (7) *Natural resources that appear on the City's adopted Goal 5 inventory,*
- (8) *Cultural/historic resources that appear on the City's adopted Goal 5 inventory, and,*
- (9) *Location of existing trees 6" in diameter or greater when measured 4' above the ground. The location of single trees shall be shown. Trees within groves may be clustered together rather than shown individually.*

Findings: Complies as Proposed. The applicant provided a narrative including a description of the site and a series of maps displaying the above existing conditions (Exhibit 2). As discussed in Chapter 17.65.050.C.4 of this report, no City-designated cultural or historic resources are located on the subject site. A small portion of the subject site is within the Natural Resource Overlay District (NROD).

17.65.050.A.1.h *Existing transportation analysis, including the following items. May also reference submitted maps, diagrams or photographs.*

- (1) *Existing transportation facilities, including highways, local streets and street classifications, and pedestrian and bicycle access points and ways;*
- (2) *Transit routes, facilities and availability;*
- (3) *Alternative modes utilization, including shuttle buses and carpool programs; and*
- (4) *Baseline parking demand and supply study (may be appended to application or waived if not applicable).*

Findings: Complies as Proposed. The applicant submitted a transportation impact letter prepared by Kittleson and Associates (Exhibit 2) identifying that there are no impacts of the proposed development. The transportation study was reviewed by John Replinger, transportation consultant for the City from Replinger and Associates (Exhibit 9) who concurred with the transportation analysis and determined that the County's use will be no higher than the prior use and no changes to site access were proposed requiring transportation related improvements.

Bicycle Facilities and Connectivity. In addition to the existing bicycle facilities and accessways identified in the Master Plan, the applicant identified 10 existing bicycle parking stalls at the Silver Oak building and an existing bicycle accessway within the parking lot of the Silver Oak building from the end of Red Soils Court along the eastern portion of the Silver Oak site to the adjacent park.

Pedestrian Facilities and Connectivity. In addition to the existing pedestrian accessways identified in the Master Plan, the applicant identified an existing pedestrian accessway within the parking lot of the Silver Oak building extending from the end of Red Soils Court along the eastern portion of the Silver Oak site to the adjacent park.

Transit Routes, Facilities and Availability. The existing transit facilities are identified in the Master Plan. No changes to transit routes are proposed or required with this development.

Baseline Parking Demand and Supply. The Master Plan amendment would add the Silver Oak site to the Red Soils campus. Page 82 of the Master Plan identified the uses of the site and the minimum and maximum parking stall requirements. A summation of the existing and proposed parking stalls demonstrated that the proposed development exceeds the minimum automobile parking stall requirement and is less than the maximum requirement.

Maximum Campus Automobile Parking	2,996
Minimum Campus Automobile Parking	2,053
Campus Automobile Parking Provided in Master Plan	2,541

17.65.050.A.1.i *Infrastructure facilities and capacity, including the following items.*

- (1) *Water,*
- (2) *Sanitary sewer,*
- (3) *Stormwater management, and*
- (4) *Easements.*

Findings: Complies with Condition. There is existing water, sanitary sewer and stormwater management facilities onsite. The site is surrounded by adequate City water mains on all four sides including through the interior of the main property. There is sanitary sewer service from the existing main in Red Soils Court. Storm water systems have already been constructed for the site, and there will be minor alternations to the impervious area. The changes include the addition of landscaping which would decrease the impervious area. No new facilities are proposed, and no new easements for public facilities are required. The development proposal includes the construction of a 12 foot tall chain link fence extending along the southern and eastern property lines of the Silver Oak facility. An existing 10 pedestrian access easement and abutting 15 foot pedestrian access and utility easement are located along the southern property of the Silver Oak site for a total of a 25 foot easement. A 5 foot utility easement is present on the western side of the Silver Oak site. In order to minimize the encroachment within the easement and minimize the impact of installing an extensive structure within the easements, the proposed fence along the south side of the Silver Oak facility shall be located no more than 2 feet south of the existing curb adjacent to the drive aisle on the south side of the parking lot. The proposed fence along the west side of the Silver Oak facility shall be located no more than 2 feet west of the existing curb adjacent to the drive aisle on the west side of the parking lot. All existing landscaping removed to construct the fence shall be replaced along the fence. **Staff has determined it is possible, likely and reasonable the applicant can meet this standard by complying with condition of approval 13.**

17.65.050.A.2.a *Existing conditions site plan.*

Findings: Complies as Proposed. The applicant submitted a site plan of the existing conditions of the site (Exhibit 2).

17.65.050.A.2.b. *Vicinity map.*

Findings: Complies as Proposed. The applicant submitted a vicinity map of the development site (Exhibit 2).

17.65.050.A.2.c. *Aerial photo.*

Findings: Complies as Proposed. The applicant submitted an aerial photo depicting the subject site and adjacent property (Exhibit 2).

17.65.050.B. *Proposed Development Submittal Requirements*

17.65.050.B.1.a *The proposed duration of the concept development plan.*

Findings: Complies as Proposed. The General (Master) Plan will be implemented over a period of 20 years from initial adoption.

17.65.050.B.1.b *The proposed development boundary. May also reference submitted maps or diagrams.*

Findings: Complies as Proposed. The project boundaries include the following properties: 1810 Red Soils Court, Oregon City, OR 97045, Clackamas County Map 3-2E205C TL 00806, 1710 Red Soils Ct. Oregon City, OR 97045, Clackamas County Map 3-2E205C TL 00807 and 2051 Kaen Road. Oregon City, OR 97045, Clackamas County Map 3-2E205C TL 00812.

17.65.050.B.1.c *A description, approximate location, and timing of each proposed phase of development, and a statement specifying the phase or phases for which approval is sought under the current application. May also reference submitted maps or diagrams.*

Findings: Complies with Condition. The applicant has not proposed to alter the phasing of the existing Master Plan. The proposed alterations to the parking lot adjacent to the Silver Oak Building with the construction of a fence and landscaping, but did not propose a timeline for construction. The applicant shall complete all proposed development associated with this application prior to occupying the Silver Oak building for office or evidentiary storage use. **Staff has determined it is possible, likely and reasonable the applicant can meet this standard by complying with condition of approval 1.**

17.65.050.B.1.d *An explanation of how the proposed development is consistent with the purposes of Section 17.65, the institutional zone, and any applicable overlay district.*

Findings: Please refer to the findings within this report.

17.65.050.B.1.e *A statement describing the impacts of the proposed development on inventoried Goal 5 natural, historic or cultural resources within the development boundary or within 250 feet of the proposed development boundary.*

Findings: Complies as Proposed. Though the Master Plan boundary includes the Natural Resource Overlay District, the proposed development area is not within any Goal 5 resource areas.

17.65.050.B.1.f *An analysis of the impacts of the proposed development on the surrounding community and neighborhood, including:*

- (1) Transportation impacts as prescribed in Subsection "g" below;*
- (2) Internal parking and circulation impacts and connectivity to sites adjacent to the development boundary and public right-of-ways within 250 feet of the development boundary;*
- (3) Public facilities impacts (sanitary sewer, water and stormwater management) both within the development boundary and on city-wide systems;*
- (4) Neighborhood livability impacts;*
- (5) Natural, cultural and historical resource impacts within the development boundary and within 250 feet of the development boundary.*

Findings: The applicant submitted documentation on the impacts of the proposed development. Please refer to the analysis within this report.

17.65.050.B.1.g *A summary statement describing the anticipated transportation impacts of the proposed development. This summary shall include a general description of the impact of the entire development on the local street and road network, and shall specify the maximum projected average daily trips, projected AM and PM peak hour traffic and the maximum parking demand associated with build-out each phase of the master plan.*

Findings: Please refer to the analysis in OCMC Chapter 17.65.050.B.1.i of this report.

17.65.050.B.1.h *In addition to the summary statement of anticipated transportation impacts, an applicant shall provide a traffic impact study as specified by City requirements. The transportation impact study shall either:*

- (1) address the impacts of the development of the site consistent with all phases of the concept development plan; or*
- (2) address the impacts of specific phases if the City Engineer determines that the traffic impacts of the full development can be adequately evaluated without specifically addressing subsequent phases.*

Findings: Complies as Proposed. The applicant submitted a traffic impact analysis prepared by Kittleson and Associates (Exhibit 2) discussing the transportation impacts of the proposed development. The transportation study was reviewed by John Replinger, transportation consultant for the City from Replinger and Associates (Exhibit 9) who agreed with the analysis that the proposed County's use would not create more traffic impacts than the prior use. No changes to site access or transportation related mitigation is required.

17.65.050.B.1.i *If an applicant chooses to pursue option h(1), the applicant may choose among three options for implementing required transportation capacity and safety improvements:*

- (1) The concept development plan may include a phasing plan for the proposed interior circulation system and for all on-site and off-site transportation capacity and safety improvements required on the existing street system as a result of fully implementing the plan. If this option is selected, the transportation phasing plan shall be binding on the applicant.*
- (2) The applicant may choose to immediately implement all required transportation safety and capacity improvements associated with the fully executed concept development plan. If this option is selected, no further transportation improvements will be required from the applicant. However, if a concept development plan is later amended in a manner so as to cause the projected average daily trips, the projected AM or PM peak hour trips, or the peak parking demand of the development to increase over original projections, an additional transportation impact report shall be required to be submitted during the detailed development plan review process for all future phases of the development project and additional improvements may be required.*
- (3) The applicant may defer implementation of any and all capacity and safety improvements required for any phase until that phase of the development reaches the detailed development plan stage. If this option is selected, the applicant shall submit a table linking required transportation improvements to vehicle trip thresholds for each development phase.*

Findings: Complies as Proposed. The applicant submitted a traffic impact analysis prepared by Kittleson and Associates (Exhibit 2) discussing the transportation impacts of the proposed development. The transportation study was reviewed by John Replinger, transportation consultant for the City from Replinger and Associates (Exhibit 9) who agreed with the analysis that the proposed County's use would not create more traffic impacts than the prior use. No changes to site access or transportation related mitigation is required.

17.65.050.B.1.j *The applicant or city staff may propose objective development standards to address identified impacts that will apply within the proposed development on land that is controlled by the institution. Upon approval of the concept development plan, these standards will supersede corresponding development standards found in this code. Development standards shall address at least the following:*

- (1) Pedestrian, bicycle and vehicle circulation and connectivity;*
- (2) Internal vehicle and bicycle parking;*
- (3) Building setbacks, landscaping and buffering;*

- (4) *Building design, including pedestrian orientation, height, bulk, materials, ground floor windows and other standards of Chapter 17.62; and*
- (5) *Other standards that address identified development impacts.*

Findings: Not Applicable. The applicant has not proposed alternative objective development standards.

17.65.050.B.2.a. *A preliminary site circulation plan showing the approximate location of proposed vehicular, bicycle, and pedestrian access points and circulation patterns, parking and loading areas or, in the alternative, proposed criteria for the location of such facilities to be determined during detailed development plan review.*

Findings: Complies as Proposed. The applicant submitted a site plan for the proposed development displaying the approximate location of proposed vehicular, bicycle, and pedestrian access points and circulation patterns, parking and loading areas. The applicant identified an accessway within the parking lot of the Silver Oak building from the end of Red Soils Court along the eastern portion of the Silver Oak site to the adjacent park.

17.65.050.B.2.b *The approximate location of all proposed streets, alleys, other public ways, sidewalks, bicycle and pedestrian access ways and other bicycle and pedestrian ways, transit streets and facilities, neighborhood activity centers and easements on and within 250 feet of the site. The map shall identify existing subdivisions and development and un-subdivided or unpartitioned land ownerships adjacent to the proposed development site and show how existing streets, alleys, sidewalks, bike routes, pedestrian/bicycle access ways and utilities within 250 feet may be extended to and/or through the proposed development.*

Findings: Complies as Proposed. The applicant submitted a map displaying the approximate location of all easements as well as pedestrian, bicycle and automobile facilities within 250 feet of the site.

17.65.050.B.2.c *The approximate location of all public facilities to serve the proposed development, including water, sanitary sewer, stormwater management facilities.*

Findings: Please refer to the analysis within this report.

17.65.050.B.2.d *The approximate projected location, footprint and building square footage of each phase of proposed development.*

Findings: Complies as Proposed. The applicant submitted a map displaying the location and footprint of the existing and proposed structures. No changes to the phasing were proposed. The final sizes and locations are subject to minor changes in the Detailed Development Plan review. Major changes to the size or location of the structures will require an adjustment to the Concept (General/Master) Development Plan.

17.65.050.B.2.e *The approximate locations of proposed parks, playgrounds or other outdoor play areas; outdoor common areas and usable open spaces; and natural, historic and cultural resource areas or features proposed for preservation. This information shall include identification of areas proposed to be dedicated or otherwise preserved for public use and those open areas to be maintained and controlled by the owners of the property and their successors in interest for private use.*

Findings: Complies as Proposed. The applicant submitted an aerial photo in Exhibit 2. The applicant did not propose a park, playground or other outdoor play area or open space for the subject site.

17.65.050.C. *Approval Criteria for a Concept Development Plan.*

17.65.050.C.1 *The proposed Concept Development plan is consistent with the purposes of Section 17.65.*

Findings: Complies as Proposed. Chapter 17.65.010 of the Oregon City Municipal Code states:

"It is the intent of this Chapter to foster the growth of major institutions and other large-scale development, while identifying and mitigating the impacts of such growth on surrounding properties and public infrastructure. The City recognizes the valuable services and employment opportunities that these

developments bring to Oregon City residents. The master plan process is intended to facilitate an efficient and flexible review process for major developments and to provide them with the assurance they need over the long term so that they can plan for and execute their developments in a phased manner. To facilitate this, the master plan process is structured to allow an applicant to address the larger development issues, such as adequacy of infrastructure and transportation capacity, and reserve capacity of the infrastructure and transportation system before expenditure of final design costs.”

The Master Plan is consistent with the purpose and intent statement in OCMC Chapter 17.65.010 as it identifies the growth expected on the Red Soils campus over the next twenty years.

17.65.050.C.2 *The transportation system has sufficient capacity based on the City’s level of service standards and is capable of safely supporting the development proposed in addition to the existing and planned uses in the area, or will be made adequate by the time each phase of the development is completed.*

Findings: Complies as Proposed. The applicant submitted a traffic impact analysis prepared by Kittleson and Associates (Exhibit 2) discussing the transportation impacts of the proposed development. The transportation study was reviewed by John Replinger, transportation consultant for the City from Replinger and Associates (Exhibit 9) who agreed with the analysis that the proposed County's use would not create more traffic impacts than the prior use. No changes to site access or transportation related mitigation is required.

17.65.050.C.3 *Public services for water supply, police, fire, sanitary waste disposal, and storm-water disposal are capable of serving the proposed development, or will be made capable by the time each phase of the development is completed.*

Findings: Complies with Condition. An analysis of the proposed impacts is provided below.

Domestic Water. There are existing water mains in the streets bounding the site as well as several on-site. New fire hydrants would be placed according to fire department code at the time of individual Detailed Development Plan review. The change in use would likely decrease the average demand from the building, so the existing facilities are adequate. The service line size will be reviewed by the applicant during the Detailed Development Plan reviews.

Police Protection. No significant police issues were identified during this Master Plan review.

Fire Protection. No significant fire protection issues were identified during this Master Plan review.

Sanitary Sewer. Adequate sanitary sewer mains exist within the public right-of-way, and there is an existing service line. During the Detailed Development Plan reviews, the applicant shall review the sanitary sewer service line size to existing sanitary sewer for new future facilities as required by plumbing code.

Storm Water. Stormwater facilities exist serving the public street in front of the site and the site. As there will be no increase in impervious area additional detention and treatment are not required. During the Detailed Development Plan reviews, the applicant shall address any storm water modifications required due to minor changes to the on-site parking.

Prior to disturbance of soil associated with the proposed development, the applicant shall sign a Non-Remonstrance Agreement for the purpose of making sanitary sewer, storm sewer, water or street improvements in the future that benefit the property and assessing the cost to benefited properties pursuant to the City’s capital improvement regulations in effect at the time of such improvement.

The applicant is responsible for this project's compliance with Engineering Policy 00-01 found at <http://www.orcity.org/sites/default/files/EP00-01v6.pdf>. The policy pertains to any land use decision requiring the applicant to provide any public improvements. **Staff has determined it is possible, likely and reasonable the applicant can meet this standard by complying with condition of approval 2.**

17.65.050.C.4 *The proposed Concept Development plan protects any inventoried Goal 5 natural, historic or cultural resources within the proposed development boundary consistent with the provisions of applicable overlay districts.*

Findings: Please refer to the analysis in Chapter 17.49 for compliance with the Natural Resource Overlay District. There are no inventoried other Goal 5 historic or cultural resources within the development area.

17.65.050.C.5 *The proposed Concept Development plan, including development standards and impact mitigation thresholds and improvements adequately mitigates identified impacts from each phase of development. For needed housing, as defined in ORS 197.303(1), the development standards and mitigation thresholds shall contain clear and objective standards.*

Findings: Please refer to the findings in 17.65.050.B.1.i of this analysis.

17.65.050.C.6 *The proposed Concept Development Plan is consistent with the Oregon City Comprehensive Plan and its ancillary documents.*

Findings: Complies as Proposed. Prior approvals demonstrated compliance with the Comprehensive Plan for: Citizen Involvement, Land Use, Open Spaces, Scenic and Historic Areas and Natural Resources, Quality of Air, Water and Land Resources, Public Facilities, Civic Facilities, Transportation, Energy Conservation, and Urbanization. The addition of the Silver Oak building does not substantially change the Concept as it relates to the Comprehensive Plan. The policies identified below support the addition of the Silver Oak facility:

Policy 9.3.3- Encourage the retention and expansion of Clackamas County as a major employer inside the city.

Policy 9.3.4- Work cooperatively with Clackamas Community College, Clackamas County (for Red Soils Facility), and Willamette Falls Hospital to help facilitate their expansion and encourage master planning for future expansions.

An analysis of the proposed adjustments to the Oregon City Municipal Code is provided within this report.

17.65.050.D *Duration of Concept Development Plan. A Concept Development plan shall involve a planning period of at least five years and up to twenty years. An approved Concept Development plan shall remain in effect until development allowed by the plan has been completed through the detailed development plan process, the plan is amended or superseded, or the plan expires under its stated expiration date.*

Findings: Complies as Proposed. The General (Concept) Plan proposed envisions a 20 year view of the site from original adoption.

17.65.060.A *Submittal Requirements*

Findings: Complies as Proposed. The application was reviewed and determined to be complete.

17.65.060.B.1 *All development standards and impact mitigation meet the requirements of the approved general development plan, including conditions of approval.*

Findings: Please refer to the analysis within this report.

17.65.060.B.2 Any other applicable zoning regulations that are not addressed in the general development plan are met, unless an adjustment to those regulations has been applied for and is approved. The approval standards applicable to adjustments required as part of a master plan are contained in Section [17.65.070](#)

Findings: Please refer to the analysis within this report.

17.65.060.B.3 The detailed development plan conforms with the standards contained in [Chapter 17.62](#), unless adjusted as provided in Section [17.65.070](#)

Findings: Please refer to the analysis within this report.

17.65.060.C. Duration of Detailed Development Plan. Unless substantial expenditures have been made to implement the approved detailed development plan, defined as the submittal to the city of engineered plans for approval, a detailed development plan shall expire twenty-four months from the notice of decision date. The date of final approval includes the resolution of all appeals. Upon the receipt from the applicant of a written request and payment of the required fee prior to the expiration dated of the detailed development plan, the community development director may, on a one-time basis, grant a twelve-month extension.

Findings: Complies with Condition. The applicant proposed alterations to the parking lot adjacent to the Silver Oak Building. The applicant shall complete all proposed development associated with this application prior to occupying the Silver Oak building for office or evidentiary storage use. **Staff has determined it is possible, likely and reasonable the applicant can meet this standard by complying with condition of approval 1.**

17.65.070 - Adjustments to development standards.

17.65.070.A Purpose. In order to implement the purpose of the City's master plan process, which is to foster the growth of major institutions and other large-scale development, while identifying and mitigating their impacts on surrounding properties and public infrastructure, an applicant may request one or more adjustments to the applicable development regulations as part of the master planning process. These include, but are not limited to, items such as: dimensional standards of the underlying zone, site plan and design review criteria, residential design standards, and standards for land division approval.

Findings: Applicable. The applicant submitted a request for two adjustments to the Oregon City Municipal Code. An analysis of the adjustments is provided below. No other adjustments to the Oregon City Municipal Code have been requested.

17.65.070.B Procedure. Requests for adjustments shall be processed concurrently with a general development plan. An adjustment request at the detailed development plan review shall cause the detailed development plan to be reviewed as a Type III application.

Findings: Complies as Proposed. The proposed adjustments are being processed concurrent with the general development plan as a Type III application.

17.65.070.C Regulations That May Not be Adjusted. Adjustments are prohibited for the following items:

1. To allow a primary or accessory use that is not allowed by the regulations;
2. To any regulation that contains the word "prohibited";
3. As an exception to a threshold review, such as a Type III review process; and
4. Any exception to allow a use not identified as a permitted or conditional use in the underlying zone.

Findings: Complies as Proposed. The applicant has not proposed an adjustment for the use of the site or review process.

Oregon City Municipal Code Adjustment #1: Fence Height

Chapter 17.54.100.A limits the height of fences to the following:

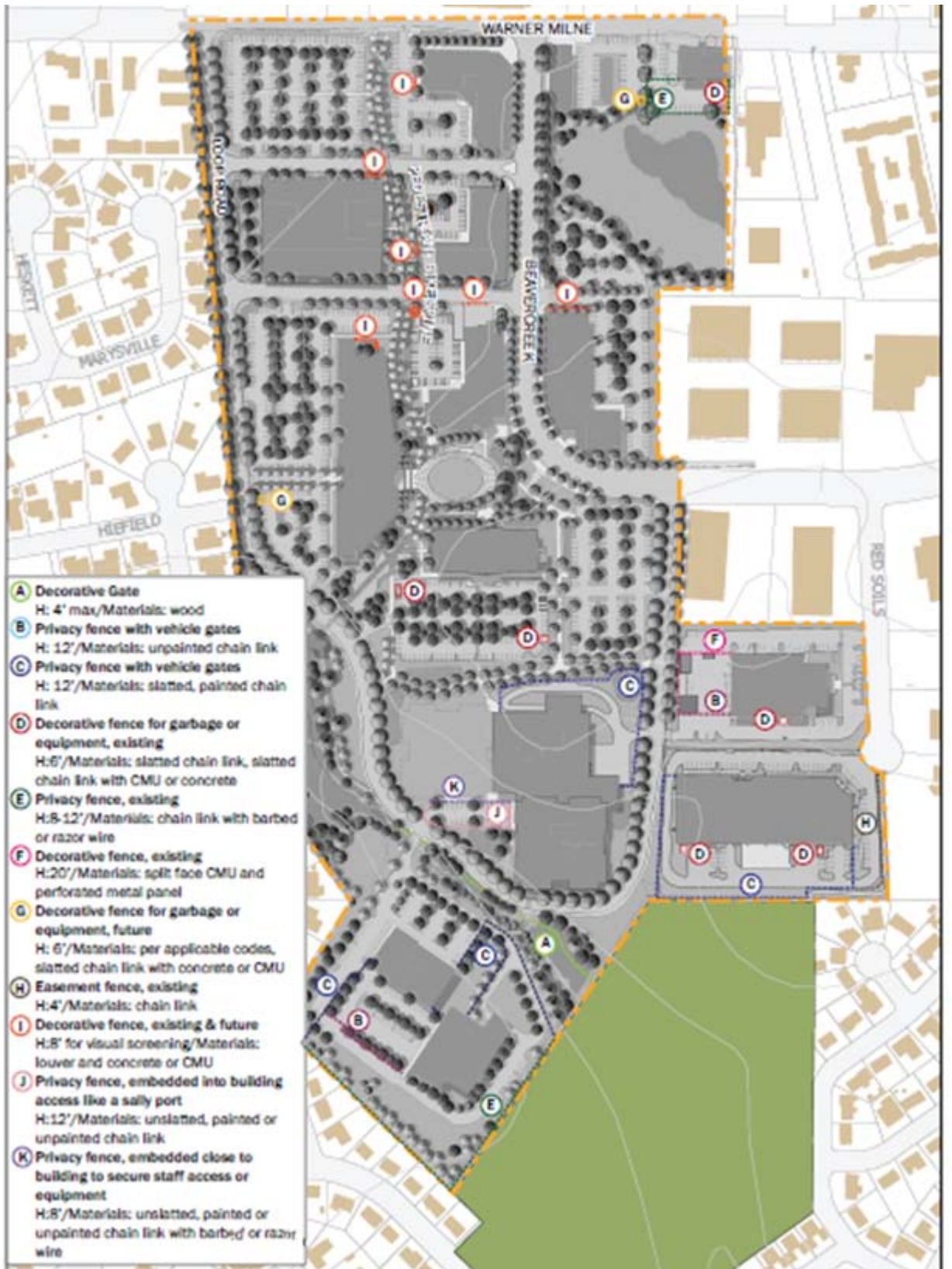
A. Generally. Fence, hedge, or wall.

- 1. Fences and walls—Fences and walls over forty-two inches shall not be located in front of the front faced or within forty feet of the public right-of-way, whichever is less. All other fences (including fences along the side and rear of a property) shall not exceed six feet in total height unless as permitted Section 17.54.100B.*
- 2. Hedges shall not be more than forty-two inches in the underlying front yard setback.*
- 3. Property owners shall ensure compliance with the Traffic Sight Obstruction requirements in Chapter 10.32 of the Oregon City Municipal Code.*
- 4. It is unlawful for any person to erect any electric fence or any fence constructed in whole or in part of barbed wire or to use barbed wire, except as erected in connection with security installations at a minimum height of six feet, providing further that prior written approval has been granted by the City Manager.*

B. Exception. Fence, hedge, wall, or other obstructing vegetation on retaining wall. When a fence, hedge, wall, or other obstructing vegetation is built on a retaining wall or an artificial berm that is not adjacent to or abutting a public right-of-way, the following standards shall apply:

- 1. When the retaining wall or artificial berm is 30 inches or less in height from the finished grade, the maximum fence or wall height on top of the retaining wall shall be six feet.*
- 2. When the retaining wall or earth berm is greater than thirty inches in height, the combined height of the retaining wall and fence or, wall from finished grade shall not exceed eight and one-half feet.*
- 3. Fences, hedges or walls located on top of retaining walls or earth berms in excess of eight and one-half feet in height shall be setback a minimum of two feet from the edge of the retaining wall or earth berm below and shall not exceed a combined height of eight and one-half feet.*
- 4. An alternative height or location requirement may be approved within a land use process for all non-single-family and two-family residential properties. The fence, hedge or wall shall be compatible with the adjacent neighborhood and achieve the same intent of the zoning designation and applicable site plan and design review process. In no case may the fence, hedge or wall exceed eight feet in height without approval of a variance.*

The existing fence code was adopted within the past few years, before a majority of the fencing onsite was constructed. The applicant requested an adjustment to this requirement which would allow a variety of fence heights as identified on pages 61-63 of the Master Plan (provided below).



Front Room:

G- Future decorative fence for garbage or equipment, 6 foot slatted chain link or CMU

E- Existing privacy fence, 8-12 foot chain link with barbed or razor wire

- D- Existing decorative fence for garbage or equipment, 6 foot slatted chain link or CMU
- I – Existing and future decorative fence for visual screening, 8 feet louver and concrete or CMU

Living Room:

- G- Future decorative fence for garbage or equipment, 6 foot slatted chain link or CMU
- D- Existing decorative fence for garbage or equipment, 6 foot slatted chain link or CMU
- I – Existing and future decorative fence for visual screening, 8 feet louver and concrete or CMU

Back Room:

- A- Decorative gate, 4' tall, wood
- B- Privacy fence with vehicle gates, 12' tall, unpainted chain link
- C- Privacy fence with vehicle gates, 12' tall, slatted, painted chain link
- D- Existing decorative fence for garbage or equipment, 6 foot slatted chain link or CMU
- H- Existing easement fence, 4' tall chain link
- J- Privacy fence, embedded into building access like a sally port, 12' tall unslatted, painted or unpainted chain link
- K- Privacy fence, embedded close to building to secure staff access or equipment, 8' tall unslatted painted or unpainted chain link with barbed or razor wire

A majority of the fencing onsite was installed prior to adoption of the existing code. If the applicant provides documentation that any nonconforming fence was constructed legally, the nonconforming fence may be repaired or replaced in accordance with OCMC 17.58. The applicant will not have to pursue a determination that the fence is legally nonconforming if this adjustment is approved.

17.65.71.D.1. *Granting the adjustment will equally or better meet the purpose of the regulation to be modified;*

Finding: Complies with Condition. The purpose of limiting fence height is to provide a visual connection between development and the street, enhancing Oregon City through the creation of attractively designed streetscapes, improving public safety by providing "eyes on the street" and promoting community interaction. The applicant indicated that "providing a safe environment for public and staff safety is the most important consideration for the County." In addition the county stated there is a vast array of threats and Clackamas County must incorporate recommendations from the Department of Homeland Security, State and local law enforcement agencies, such as construction of fences around the law enforcement facilities.

The previous Master Plan and Conditional Use approvals divided the property into three areas: the front room, living room and back room. Though the previous approvals did not specifically discuss fences throughout the site, it did identify the areas closer to Warner Milne for public interaction while those on the southern portion of the property limit public access to facilitate an Adult Detention Facility and other law enforcement related activities.



- **Front and Living Rooms** –As shown above, the applicant has constructed fences up to 8 feet in height in the front and living room portions of the site, exceeding the current fence height limitation of 6 feet. Though a majority of the fences were constructed prior to adoption of the existing fence height limitations, the applicant would like to continue to construct fences up to 8 feet in height. Eight foot fences limit the ability of the public and the development to interact and create a space which is not inviting to the public, conflicting with the purpose of limiting the fence height and the approved Master Plan. As a nonconforming analysis may be cumbersome and the City has not received any complaints about the existing fences onsite, staff recommends the Planning Commission waive the fence height requirement for all existing fences. Existing fences may be replaced with the same height fence while installation of new fences in the front and living room portion of the site would comply with OCMC 17.54.100.
- **Back Room** - The back room of the site contains fences extending up to 22 feet in height in areas associated with the Adult Detention Facility (such as along the perimeter of the sallyport, kitchen delivery and loading area, inmate exiting path, and near the outdoor exercising area). It is reasonable to assume the applicant would construct fences which exceed the 6 foot maximum fence height in association with the law enforcement related uses in the back room such as a jail and

evidence storage. The Master Plan demonstrated that the back room is not meant to facilitate the public and that the taller fencing is required to implement the recommendations from the Department of Homeland Security, State and local law enforcement agencies. The applicant indicated that landscaping was used to mitigate the fencing where practical.

In order to comply with the previously approved Master Plans and the purpose of limiting fence heights, staff recommends:

- The Planning Commission waives the fence height requirement for all existing fences. Existing fences may be replaced with the same height fence.
- Installation of new fences in the front and living room portion of the site shall comply with the Oregon City Municipal Code.
- The height of future fences in the back room portion of the site shall be limited to that proposed on page 63 of the Master Plan (shown above).

Staff has determined it is possible, likely and reasonable the applicant can meet this standard by complying with condition of approval 3.

17.65.71.D.2. *If more than one adjustment is being requested, the cumulative effect of the adjustments results in a project that is still consistent with the overall purpose of the zone;*

Finding: Complies with Condition. The applicant proposed multiple adjustments to the site including:

- Adjusting the fence height to allow fences which exceed the maximum fence height requirement; and
- Adjusting materials standards to allow a chain link fencing throughout the site.

The subject site is within the “MUE” Mixed Use Employment District. The purpose of the zoning designation is “for employment-intensive uses such as large offices and research and development complexes or similar” with “some commercial uses”. The design requirements within the zoning designation force development to orient toward the street for an active streetscape and provide high quality building materials. The previously approved Master Plan separated the site into three distinct areas: the front, living and back rooms. The front and living rooms front Beaver Creek Road and have design elements which promote public interaction while the back room contains more private areas such as law enforcement related areas.

As a whole, the adjustments would allow new fencing throughout the subject site which limits connections between the buildings and the street by installing large barriers of a lesser quality of design which are visible to the public. Approval of all of the adjustments would allow future development to be inconsistent with the current Oregon City Municipal Code and the approved Master Plan.

The applicant has not demonstrated compliance with this criteria, thus staff recommends only a portion of the adjustments are approved. Staff recommends:

- The Planning Commission waives the fence height requirement for all existing fences. Existing fences may be replaced with the same height fence.
- Installation of new fences in the front and living room portion of the site shall comply with the Oregon City Municipal Code.
- The height and material of future fences in the back room portion of the site shall be limited to that proposed on page 63 of the Master Plan (shown above).
- The Planning Commission waives the fence material requirement for all existing fences. Existing fences may be replaced with the same material fence, while installation of new fences in the front and living room portion of the site would comply with the Oregon City Municipal Code.
- All future chain link fences proposed in the back room of the site on page 63 of the Master Plan (shown above) are allowed.

Staff has determined it is possible, likely and reasonable the applicant can meet this standard by complying with conditions of approval 3 and 4.

17.65.71.D.3. *City-designated Goal 5 resources are protected to the extent otherwise required by Title 17;*

Finding: Not Applicable. The site is not within a historic district nor designated as an individually designated historic structure. A portion of the site is within the Natural Resource Overlay District; however fence height will not affect a goal 5 resources onsite.

17.65.71.D.4. *Any impacts resulting from the adjustment are mitigated;*

Finding: Complies with Condition. The purpose of limiting fence height is to provide a visual connection between development and the street, enhancing Oregon City through the creation of attractively designed streetscapes, improving public safety by providing "eyes on the street" and promoting community interaction. The fence height adjustment would be mitigated with the following:

- **Landscaping.** The applicant indicated that landscaping is or will be placed to disguise the fencing as needed, however a map of existing or proposed landscaping was not submitted. As indicated in the Master Plan approval, the site will have a variety of landscaping once it is fully constructed. The applicant proposed a 12 foot fence along the south side of the Silver Oak facility which is adjacent to an existing pedestrian accessway. The applicant shall not remove any of the existing trees adjacent to the pedestrian accessway to construct the fence. In addition, the applicant shall plant additional hedges and groundcover as required in OCMC Chapter 12.24.040(1-2).
- **Materials.** The applicant indicated that some of the fences exceeding the height requirement in the Oregon City Municipal Code would be constructed of quality materials. The applicant proposed to install fencing in a variety of materials including, wood, chain link and power coated chain link. Because the applicant has proposed material which is currently not permitted in the Oregon City Municipal Code (chain link), the impact of the fence height is not mitigated.
- **Location.** Much of the fencing which exceeds the maximum fence height requirement is located in the back room of the site and is thus not visible from the public right-of-way. The back room of the site was designated in the Master Plan for law enforcement related activities including a jail, which tall fences are assumed to be constructed for public safety and are not as visible from the public right-of-way. However, the development proposal includes the construction of a 12 foot tall chain link fence extending along the southern and eastern property lines of the Silver Oak facility which creates a barrier adjacent to the property line and a nearby pedestrian accessway and may potentially require the removal of a significant amount of vegetation. In order to minimize the encroachment within the easement and minimize the impact of installing an extensive structure within the easements, the proposed fence along the south side of the Silver Oak facility shall be located no more than 2 feet south of the existing curb adjacent to the drive aisle on the south side of the parking lot. The proposed fence along the west side of the Silver Oak facility shall be located no more than 2 feet west of the existing curb adjacent to the drive aisle on the west side of the parking lot. All existing landscaping removed to construct the fence shall be replaced along the fence.
- **Pre-Existing Nonconforming.** The applicant asked that the fence height requirement be waived for all existing fences onsite. An analysis may be performed for all existing fencing onsite to determine if it was constructed legally. This may be a cumbersome process and there have not been any complaints previously received by the Planning Division regarding the existing fencing. As it is likely a majority of the existing fencing was approved by the Planning Division, an adjustment for the existing fencing is reasonable.

In order to comply with the previously approved Master Plans and the purpose of limiting fence heights, staff recommends:

- The Planning Commission waives the fence height requirement for all existing fences. Existing fences may be replaced with the same height fence.

- Installation of new fences in the front and living room portion of the site shall comply with the Oregon City Municipal Code.
- The height of future fences in the back room portion of the site shall be limited to that proposed on page 63 of the Master Plan (shown above).
- The proposed fence along the south side of the Silver Oak facility shall be located no more than 2 feet south of the existing curb adjacent to the drive aisle on the south side of the parking lot. The proposed fence along the west side of the Silver Oak facility shall be located no more than 2 feet west of the existing curb adjacent to the drive aisle on the west side of the parking lot. All existing landscaping removed to construct the fence shall be replaced along the fence.
- The applicant has proposed a 12 foot fence along the south side of the Silver Oak facility which is adjacent to an existing pedestrian accessway. The applicant shall not remove any of the existing trees adjacent to the pedestrian accessway to construct the fence. In addition, the applicant shall plant additional hedges and groundcover as required in OCMC Chapter 12.24.040(1-2).

Staff has determined it is possible, likely and reasonable the applicant can meet this standard by complying with condition of approval 3, 13 and 14.

17.65.71.D.5. *If an environmental zone, the proposal has as few significant detrimental environmental impacts on the resource and resource values as is practicable.*

Finding: Complies as Proposed. A portion of the Master Plan property is within the Natural Resource Overlay District and Geologic Hazards Overlay District. It is not anticipated that the proposed adjustment would negatively affect the overlays, as the applicant has not requested an adjustment to an overlay standard.

17.65.71.D.6. *The proposed adjustment is consistent with the Oregon City Comprehensive Plan and ancillary documents.*

Finding: Complies with Condition. An adjustment allowing a fence height in excess of the requirements identified within the Oregon City Municipal Code is inconsistent with the goals and policies of the Comprehensive Plan. The goals and policies of Chapter 14 of the Comprehensive Plan are intended to ensure that the city grows in ways that result in high-quality development, and at the same time protect and enhance the livability of the city. The excessive height of the fences limits public interaction, thereby reducing the quality of development and conflicting with the purpose of limiting the fence height and the approved Master Plan. In order to comply with the previously approved Master Plans and the purpose of limiting fence heights, staff recommends:

- The Planning Commission waives the fence height requirement for all existing fences. Existing fences may be replaced with the same height fence while installation.
- Installation of new fences in the front and living room portion of the site shall comply with the Oregon City Municipal Code.
- The height of future fences in the back room portion of the site shall be limited to that proposed on page 63 of the Master Plan (shown above).

Staff has determined it is possible, likely and reasonable the applicant can meet this standard by complying with condition of approval 3.

Oregon City Municipal Code Adjustment #2: Fence Materials

On July 31, 2009, Oregon City Municipal Code Chapter 17.62.055.A.21.b.iv prohibited chain link fencing in visible locations unless an exception is granted by the Community Development Director based on the integration of the material into the overall design of the structure. The applicant proposed to allow chain link fencing onsite.

The site contains a variety of fencing material as shown previously within this report. Though the chain link is located throughout the site, a majority is concentrated in the back room with the law enforcement related activities. The Adult Detention Facility (ADF) has 8-foot, 12-foot and 22-foot high chain link fencing with barbed or razor wire at the top for public safety. Other Public Safety Facilities have slatted chain link, and/or 12-foot high chain link with barbed or razor wire at the top to protect fleet vehicles, Court evidence and maintain the Chain of Custody required by State Laws. Pedestrian and bicycle paths that are adjacent to these fences are proposed with landscape screening elements to reduce the visual impact of fences and screens.

A majority of the fencing was constructed prior to July 31, 2009 and the material would be legally nonconforming. If the applicant provides documentation that the fence was constructed legally, the chain link fence could be repaired, replaced or expanded in accordance with OCMC 17.58. The applicant would not have to pursue a determination that the fence is legally nonconforming if this adjustment is approved allowing the existing chain link fencing to remain, be repaired or replaced.

17.65.71.D.1. *Granting the adjustment will equally or better meet the purpose of the regulation to be modified;*

Finding: Complies with Condition. Per OCMC 17.62.010, the purpose of Site Plan and Design Review is to “protect lives and property from potential adverse impacts of development; conserve the City’s natural beauty and visual character and ensure that structures and other improvements are properly related to their sites and to surrounding sites and structure”. The prohibition of chain link eliminates a low quality fencing material for properties subject to Site Plan and Design Review process and requires a more quality material such as wood, wrought iron or brick. The applicant proposed to mitigate the allowance of chain link fencing by requiring a small portion of the future chain link be painted in areas identified as “C” on the above map. The applicant indicated that landscaping was used to mitigate the fencing where practical but did not identify where landscaping is or would be located to mitigate the fence material.

The previous Master Plan and Conditional Use approvals divided the property into three areas: the front room, living room and back room. Though the previous approvals did not specifically discuss fences throughout the site, it did identify the areas closer to Warner Milne for public interaction while those on the southern portion of the property limit public access to facilitate an Adult Detention Facility and other law enforcement related activities.

- **Front and Living Rooms:** The site currently contains one chain link fence in the front room portion of the site (behind a building on Warner Milne) and two chain link fences in the living room portion of the site (behind the public services building). No new chain link is proposed in the front or living room portions of the site. The installation of new chain link lowers the quality of development in areas such as the front room and living room which are designed to interact with the public and are visible from the public right-of-way. Staff does not support installation of chain link fencing in the front or living room of the site.
- **Back Room:** The site is currently constructed with a plethora chain link fences in the back room of the site, primarily associated with the law enforcement activities (such as the jail). The applicant has proposed to construct additional chain link fencing in this location. Chain link is a material commonly found around law enforcement related activities, such as these approved and constructed with the Master Plan. In this application, the ability to see through the material avoids the construction of a large visual barrier, such as a wall. The existing fencing was likely constructed prior to adoption of

this standard and is legally nonconforming and would be allowed to remain. The relatively small amount of new fencing proposed in the back room of the site would not change the overall look or character of the site, as it is not likely visible from the public right-of-way. The back room of the site contains a variety of landscaping to disguise the fence material.

In order to comply with the previously approved Master Plans and the purpose of limiting fence heights, staff recommends:

- The Planning Commission waives the fence material requirement for all existing fences. Existing fences may be replaced with the same material fence.
- Installation of new fences in the front and living room portion of the site shall comply with the Oregon City Municipal Code.
- All future chain link fences proposed in the back room of the site on page 63 of the Master Plan (shown above) are allowed.

Staff has determined it is possible, likely and reasonable the applicant can meet this standard by complying with condition of approval 4.

17.65.71.D.2. *If more than one adjustment is being requested, the cumulative effect of the adjustments results in a project that is still consistent with the overall purpose of the zone;*

Finding: Please refer to the analysis in 17.65.71.D.2 above.

17.65.71.D.3. *City-designated Goal 5 resources are protected to the extent otherwise required by Title 17;*

Finding: Not Applicable. The site is not within a historic district nor designated as an individually designated historic structure. A portion of the site is within the Natural Resource Overlay District; however fence material will not affect the quality of the goal 5 resources onsite.

17.65.71.D.4. *Any impacts resulting from the adjustment are mitigated;*

Finding: Complies with Conditions. The purpose of limiting chain link fencing is to “protect lives and property from potential adverse impacts of development; conserve the City's natural beauty and visual character and ensure that structures and other improvements are properly related to their sites and to surrounding sites and structure”. The prohibition of chain link eliminates a low quality fencing material for properties subject to Site Plan and Design Review process and requires a more quality material such as wood, wrought iron or brick. The proposed adjustment to fence material would be mitigated with the following:

- **Landscaping.** The applicant indicated that landscaping is or will be placed to disguise the fencing as needed, however a map of the existing and proposed landscaping was not provided. A majority of the chain link fencing proposed is located in the back room of the site, which currently contains landscaping and will contain additional landscaping upon full build out of the site. The applicant has proposed a 12 foot fence along the south side of the Silver Oak facility which is adjacent to an existing pedestrian accessway. The applicant shall not remove any of the existing trees adjacent to the pedestrian accessway to construct the fence. In addition, the applicant shall plant additional hedges and groundcover as required in OCMC Chapter 12.24.040(1-2).
- **Paint.** The proposal required only a small portion of the future chain link be painted in areas identified as “C” on the above map. Not all of the new chain link fencing is proposed to be painted and thus paint alone will not mitigate the chain link material.
- **Location.** The site currently contains one chain link fence in the front room portion of the site (behind a building on Warner Milne) and two chain link fences in the living room portion of the site (behind the public services building) with the remaining fences in the back room of the site. No new chain link is proposed in the front or living room portions of the site. Much of the chain link fencing

proposed is located in the back room of the site and is thus not visible from the public right-of-way and within an area designated as the back room of the site.

- Pre-Existing Nonconforming. The applicant asked that the limitation of chain link be waived for all existing fences onsite. An analysis may be performed for all existing fencing onsite to determine if it was constructed legally, allowing the existing fencing to remain and be repaired in the future. As this may be a cumbersome process and it is likely a majority of the existing fencing was approved by the Planning Division, an adjustment for the existing fencing is reasonable. There have not been any complaints previously received by the Planning Division regarding the existing fencing.
- Existing Conditions. The site currently contains a large amount of chain link fencing which was likely constructed prior to adoption of this standard and is thus allowed to be replaced per chapter 17.58 of the Oregon City Municipal Code. The relatively small amount of chain link proposed in the back room of the site would not dramatically alter the aesthetic of the site.

In order to comply with the previously approved Master Plans and maintain quality development, staff recommends:

- The Planning Commission waives the fence material requirement for all existing fences.
- Installation of new fences in the front and living room portion of the site shall comply with the Oregon City Municipal Code.
- All future chain link fences proposed in the back room of the site on page 63 of the Master Plan (shown above) are allowed.
- The applicant has proposed a 12 foot fence along the south side of the Silver Oak facility which is adjacent to an existing pedestrian accessway. The applicant shall not remove any of the existing trees adjacent to the pedestrian accessway to construct the fence. In addition, the applicant shall plant additional hedges and groundcover as required in OCMC Chapter 12.24.040(1-2).

Staff has determined it is possible, likely and reasonable the applicant can meet this standard by complying with condition of approval 4 and 14.

17.65.71.D.5. *If an environmental zone, the proposal has as few significant detrimental environmental impacts on the resource and resource values as is practicable.*

Finding: Not Applicable. Fence material itself would not affect an environmental overlay.

17.65.71.D.6. *The proposed adjustment is consistent with the Oregon City Comprehensive Plan and ancillary documents.*

Finding: Complies with Condition. An adjustment allowing low quality fencing material in locations designed to be seen from and interact with the public is inconsistent with the goals and policies of the Comprehensive Plan. The goals and policies of Chapter 14 of the Comprehensive Plan are intended to ensure that the city grows in ways that result in high-quality Development, and at the same time protect and enhance the livability of the city. The low quality material in a location which is visible to the public such as the front room or the living room of the site reduces the quality of development and conflicts with the purpose of Site Plan and Design Review and the goals of the Master Plan. In order to comply with the previously approved Master Plans and maintain quality development, staff recommends:

- The Planning Commission waives the fence material requirement for all existing fences.
- Installation of new fences in the front and living room portion of the site shall comply with the Oregon City Municipal Code.
- All future chain link fences proposed in the back room of the site on page 63 of the Master Plan (shown above) are allowed.

Staff has determined it is possible, likely and reasonable the applicant can meet this standard by complying with condition of approval 4.

CHAPTER 17.49 NATURAL RESOURCE OVERLAY DISTRICT

Findings: Not Applicable. A portion of the Master Plan site is mapped within the City of Oregon City Natural Resource Overlay District. The proposed development is not within the NROD boundary and is not subject to compliance with Chapter 17.49 of the Oregon City Municipal Code.

CHAPTER 17.41 TREE PROTECTION STANDARDS

The applicant proposed to change the use of the Silver Oaks facility, as well as install fencing and landscaping. The following analysis for the Detailed Development Plan is limited to the aforementioned construction.

17.41.020 Tree Protection – Applicability.

Finding: Complies. The proposed development within the “MUE” Mixed Use Employment District and is subject to this standard.

17.41.040 – Tree Protection – Exemptions.

These regulations are not intended to regulate normal cutting, pruning and maintenance of trees on private property except where trees are located on lots that are undergoing development review or are otherwise protected within the Natural Resource Overlay District (NROD) of section 17.49. Additionally, these standards are not intended to regulate farm and forest practices as those practices,

Finding: Not Applicable. The applicant has not proposed to alter any trees within the Natural Resource Overlay District boundary.

17.41.050 Tree Protection – Compliance Options.

Finding: Not Applicable. The development proposal did not include any tree removal.

17.41.060 - Tree Removal and Replanting - Mitigation (Option 1).

Finding: Not Applicable. The development proposal did not include any tree removal.

17.41.070 – Planting Area Priority for Mitigation (Option 1).

Development applications which opt for removal or trees with subsequent replanting pursuant to section 17.41.050(A) and shall be required to mitigate for tree cutting by complying with the following priority for replanting standards 1-4.

Finding: Not Applicable. The development proposal did not include any tree removal.

17.41.075. Alternative Mitigation Plan.

Finding: Not Applicable. The applicant has not proposed an alternative mitigation plan.

17.41.080. Tree Preservation within Subdivisions and Partitions – Dedicated Tract (Option 2).

Finding: Not Applicable. The development proposal did not include any tree removal.

17.41.090. Density transfers incentive for Tree Protection Tracts (Option 2).

Finding: Not Applicable. The development proposal did not include any tree removal.

17.41.100. Permitted Modifications to Dimensional Standards (Option 2 Only).

Finding: Not Applicable. The development proposal did not include any tree removal.

17.41.110. Tree Protection by Restrictive Covenant (Option 3).

Finding: Not Applicable. The development proposal did not include any tree removal.

17.41.120. Permitted Adjustments (Option 3 Only).

Finding: Not Applicable. The development proposal did not include any tree removal.

17.41.130. Regulated Tree Protection Procedures During Construction.

Finding: Complies with Condition. The applicant proposed to employ an arborist during the fence installation at the Silver Oak building to recommend any necessary pruning or excavating procedures for locations where the fence is within the canopy of existing trees. The extent to which the trees and shrubs onsite would need to be altered is unknown. Once an arborist reviews the proposed development, it is likely a detailed analysis of the vegetation disturbance onsite can be created. Prior to disturbance of soil associated with the proposed development at the Silver Oak Building, the applicant shall submit documentation displaying compliance with the tree protection standards in OCMC Chapter 17.41.130 of the Oregon City Municipal Code. **Staff has determined it is possible, likely and reasonable the applicant can meet this standard by complying with condition of approval 5.**

CHAPTER 17.52 OFF –STREET PARKING AND LOADING

The applicant proposed to change the use of the Silver Oaks facility, as well as install landscaping within the parking lot. The following analysis for the Detailed Development Plan is limited to the aforementioned construction.

17.52.020.A – Number of Spaces Required

The construction of a new structure or at the time of enlargement or change in use of an existing structure within any district in the city, off-street parking spaces shall be provided in accordance with this section.

	<u>Minimum</u>	<u>Maximum</u>
Red Soils Campus Parking	2,053 stalls	2,996 stalls

Finding: Complies as Proposed. The applicant submitted an itemized list of the uses within the Master Plan and associated parking requirements in Appendix F of the Master Plan (Exhibit 2). The existing Silver Oak site contains 109 parking stalls, which the applicant proposes to reduce to 90 stalls through the installation of additional parking lot landscaping and turn-around areas. Of the 90 parking stalls, 28 will be located behind the proposed fencing and are thus not available to the public per OCMC 17.52.020.A.4, leaving 62 available parking stalls for the public. The inclusion of the Silver Oak facility would result in 2,541 parking stalls, exceeding the minimum requirement of 2,053 and less than the maximum of 2,996 parking stalls.

17.52.020.A.1 Multiple Uses. *In the event several uses occupy a single structure or parcel of land, the total requirements for off-street parking shall be the sum of the requirements of the several uses computed separately.*

Finding: Complies as Proposed. The applicant submitted an itemized list of the multiple uses within the Master Plan and associated parking requirements in Appendix F of the Master Plan (Exhibit 2).

17.52.020.A.2.

Requirements for types of buildings and uses not specifically listed herein shall be determined by the community development director, based upon the requirements of comparable uses listed.

Finding: Complies as Proposed. The applicant submitted an itemized list of the uses within the Master Plan and associated parking requirements in Appendix F of the Master Plan (Exhibit 2).

17.52.020.A.3.

Where calculation in accordance with the following list results in a fractional space, any fraction less than one-half shall be disregarded and any fraction of one-half or more shall require one space.

Finding: Complies as Proposed. The applicant utilized the rounding techniques identified in this Chapter.

17.52.020.A.4.

The minimum required parking spaces shall be available for the parking of operable passenger automobiles of residents, customers, patrons and employees only, and shall not be used for storage of vehicles or materials or for the parking of trucks used in conducting the business or use.

Finding: Complies with Condition. The applicant did not respond to this section. The applicant submitted a site plan with parking counts and demands for the subject site in Appendix F of the Master Plan (Exhibit 2). The applicant identified 2,541 parking stalls, but did not identify if the minimum required parking spaces shall be available for the parking of operable passenger automobiles of residents, customers, patrons and employees only, and shall not be used for storage of vehicles or materials or for the parking of trucks used in conducting the business or use. Prior to disturbance of soil associated with the proposed development, the applicant shall submit documentation for the Red Soils campus indicating the minimum required parking spaces shall be available for the parking of operable passenger automobiles of residents, customers, patrons and employees only, and shall not be used for storage of vehicles or materials or for the parking of trucks used in conducting the business or use. **Staff has determined it is possible, likely and reasonable the applicant can meet this standard by complying with condition of approval 6.**

17.52.020.A.5.

A Change in use within an existing building located in the MUD Design District is exempt from additional parking requirements. Additions to an existing building or new construction in the district are required to meet the minimum parking requirements in Table 17.52.020.

Finding: Not Applicable. The proposed development does not include a change in use within the Mixed Use Downtown District.

17.52.020.B. Reduction of the Number of Automobile Spaces Required.

Reduction of the Number of Automobile Spaces Required. The required number of parking stalls may be reduced if one or more of the following is met:

1. Transit Oriented Development. The community development director may reduce the required number of parking stalls up to ten percent when it is determined that a commercial business center or multi-family project is adjacent to or within one thousand feet of an existing or planned public transit. Also, if a commercial center is within one thousand feet of a multi-family project, with over eighty units and pedestrian access, the parking requirements may be reduced by ten percent.

Finding: Complies as Proposed. The applicant previously received a parking reduction in the parking stalls due to transit oriented development.

2. Transportation Demand Management.

Finding: Not Applicable. The applicant did not request a reduction in the parking stalls due to transportation demand management. The analysis did not discuss a reduced parking demand due to alternative modes of transportation or a strategy to reduce parking onsite.

3. Shared Parking.

Finding: Not Applicable. The applicant did not request a reduction in the parking stalls due to shared parking.

4. Reduction in Parking for Tree Preservation.

Finding: Not Applicable. The applicant did not request a reduction in the parking stalls for tree preservation.

5. On-Street Parking.

Finding: Not Applicable. The applicant did not request a reduction in the parking stalls for on-street parking.

17.52.030 - Design review.

17.52.030.A. Access. *Ingress and egress locations on public thoroughfares shall be located in the interests of public traffic safety. Groups of more than four parking spaces shall be so located and served by driveways so that their use will require no backing movements or other maneuvering within a street right-of-way other than an alley. No driveway with a slope of greater than fifteen percent shall be permitted without approval of the city engineer.*

Finding: Not Applicable. The applicant has not proposed an alteration to ingress or egress onsite.

17.52.030.B. Surfacing. *Required off street parking spaces and access aisles shall have paved surfaces adequately maintained. The use of pervious asphalt/concrete and alternative designs that reduce storm water runoff and improve water quality pursuant to the city's storm water and low impact development design standards are encouraged.*

Finding: Not Applicable. The applicant has not proposed to alter any parking lot surface with this application.

17.52.030.C. Drainage. *Drainage shall be designed in accordance with the requirements of Chapter 13.12 and the city public works storm water and grading design standards.*

Finding: Not Applicable. There are existing stormwater facilities and no new facilities are proposed.

17.52.030.D. Dimensional Requirements.

Finding: Not Applicable. The development proposal does not include creating a new parking stall or altering the configuration of an existing parking stall.

17.52.030.E Carpool and vanpool parking.

New office and industrial developments with seventy-five or more parking spaces, and new hospitals, government offices, nursing and retirement homes, schools and transit park-and-ride facilities with fifty or more parking spaces, shall identify the spaces available for employee, student and commuter parking and designate at least five percent, but not fewer than two, of those spaces for exclusive carpool and vanpool parking. Carpool and vanpool parking spaces shall be located closer to the main employee, student or commuter entrance than all other employee, student or commuter parking spaces with the exception of handicapped parking spaces. The carpool/vanpool spaces shall be clearly marked "Reserved - Carpool/Vanpool Only."

Finding: Complies as Proposed. The applicant indicated that 5 of the 90 parking stalls (5/90= 5.5%) adjacent to the building entrance on the Silver Oak site would be designated for carpools and vanpools adjacent to the building entrance.

17.52.040 Bicycle parking

17.52.040.A Purpose-Applicability. *To encourage bicycle transportation to help reduce principal reliance on the automobile, and to ensure bicycle safety and security, bicycle parking shall be provided in conjunction with all uses other than single-family dwellings or duplexes.*

Finding: Applicable. The proposed development is subject to the bicycle parking standards in OCMC 17.52.040.

17.52.040.B. Number of Bicycle Spaces Required. *For any use not specifically mentioned in Table A, the bicycle parking requirements shall be the same as the use which, as determined by the community development director is most similar to the use not specifically mentioned. Calculation of the number of bicycle parking spaces required shall be determined in the manner established in Section 17.52.020 for determining automobile parking space requirements.*

Finding: Complies as Proposed. The applicant provided an analysis of the bicycle parking requirements in Appendix E of the applicant's submittal. The campus contains 89 bicycle parking spaces including those within the Silver Oak site, exceeding the minimum requirement of 75 spaces.

17.52.040.C.

Finding: Not Applicable. The applicant displayed the location of the bicycle parking at the Silver Oak Building adjacent to the main entranceway on the northeastern corner of the facility and on the north side of the building. The applicant has not proposed to alter the bicycle parking with the proposed development.

D. Bicycle parking facilities shall offer security in the form of either a lockable enclosure in which the bicycle can be stored or a stationary rack to which the bicycle can be locked. All bicycle racks and lockers shall be securely anchored to the ground or to a structure. Bicycle racks shall be designed so that bicycles may be securely locked to them without undue convenience.

Finding: Not Applicable. The applicant has not proposed to alter the bicycle parking with the proposed development.

17.52.060 Parking lot landscaping.

17.52.060.A.1 *The landscaping shall be located in defined landscaped areas that are uniformly distributed throughout the parking or loading area.*

Finding: Complies as Proposed. The applicant submitted a landscaping plan prepared by a landscape architect displaying additional interior and perimeter parking lot landscaping for the Silver Oak building.

17.52.060.A.2. *All areas in a parking lot not used for parking, maneuvering, or circulation shall be landscaped.*

Finding: Complies as Proposed. The applicant proposed to install additional landscaping onsite within the interior of the parking lot. All areas not used for parking, maneuvering, and circulation are landscaped.

17.52.060.A.3. *Parking lot trees shall be a mix of deciduous shade trees and coniferous trees. The trees shall be evenly distributed throughout the parking lot as both interior and perimeter landscaping to provide shade.*

Finding: Complies as Proposed. The applicant submitted a site plan showing a mix of existing deciduous and coniferous trees throughout the site.

17.52.060.A.4. *Required landscaping trees shall be of a minimum two-inch minimum caliper size (though it may not be standard for some tree types to be distinguished by caliper), planted according to American Nurseryman Standards, and selected from the Oregon City Street Tree List;*

Finding: Complies as Proposed. The applicant proposed to plant 2" caliper trees within the parking lot. The tree species have been approved by a landscape architect.

17.52.060.A.5. *Landscaped areas shall include irrigation systems unless an alternate plan is submitted, and approved by the community development director, that can demonstrate adequate maintenance;*

Finding: Complies as Proposed. There is an existing irrigation system on site.

17.52.060.A.6. *All plant materials, including trees, shrubbery and ground cover should be selected for their appropriateness to the site, drought tolerance, year-round greenery and coverage and staggered flowering periods. Species found on the Oregon City Native Plant List are strongly encouraged and species found on the Oregon City Nuisance Plant List are prohibited.*

Finding: Complies with Condition. The applicant submitted a landscape plan prepared by a landscape architect. Otto Luykens Laurel was identified on the plan and is also listed on the Oregon City Nuisance plant list. No other plants proposed are identified on the native or nuisance plant list, but have been approved by a

landscape architect and are thus approved. Prior to disturbance of soil associated with the proposed development, the applicant shall submit documentation replacing the Otto Luykens Laurel with a plant that is not listed on the Oregon City Nuisance plant list or provide documentation as to why the plant should not be identified on the Oregon City Nuisance plant list. **Staff has determined it is possible, likely and reasonable the applicant can meet this standard by complying with condition of approval 7.**

17.52.060.A.7. *The landscaping in parking areas shall not obstruct lines of sight for safe traffic operation and shall comply with all requirements of Chapter 10.32, Traffic Sight Obstructions.*

Finding: Complies as Proposed. The applicant proposed to install additional landscaping within the interior and perimeter of the parking lot associated with the Silver Oak building. The location of the plantings and the context of the site at the end of the cul-de-sac precludes landscaping from obstructing traffic views.

17.52.060.A.8. *Landscaping shall incorporate design standards in accordance with Chapter 13.12, Stormwater Management.*

Finding: Complies with Condition. The applicant indicated that the proposed plan complies with this criterion but did not provide additional information. Prior to installation of landscaping, the applicant shall provide documentation demonstrating that new landscaping complies with OCMC Chapter 13.12. **Staff has determined it is possible, likely and reasonable the applicant can meet this standard by complying with condition of approval 8.**

17.52.060.B *Perimeter Parking Lot Landscaping and Parking Lot Entryway/Right-of-Way Screening. Parking lots shall include a five-foot wide landscaped buffer where the parking lot abuts the right-of-way and/or adjoining properties. In order to provide connectivity between non-single-family sites, the community development director may approve an interruption in the perimeter parking lot landscaping for a single driveway where the parking lot abuts property designated as multi-family, commercial or industrial. Shared driveways and parking aisles that straddle a lot line do not need to meet perimeter landscaping requirements.*

1. The perimeter parking lot are[a] shall include:

a. Trees spaced a maximum of thirty-five feet apart (minimum of one tree on either side of the entryway is required). When the parking lot is adjacent to a public right-of-way, the parking lot trees shall be offset from the street trees;

b. Ground cover, such as wild flowers, spaced a maximum of 16-inches on center covering one hundred percent of the exposed ground within three years. No bark mulch shall be allowed except under the canopy of shrubs and within two feet of the base of trees; and

c. An evergreen hedge screen of thirty to forty-two inches high or shrubs spaced no more than four feet apart on average. The hedge/shrubs shall be parallel to and not nearer than two feet from the right-of-way line. The required screening shall be designed to allow for free access to the site and sidewalk by pedestrians. Visual breaks, no more than five feet in width, shall be provided every thirty feet within evergreen hedges abutting public right-of-ways.

Finding: Complies with Condition. The perimeter parking lot landscaping does not comply with the standards identified in this criterion. The applicant proposed to install additional landscaping to upgrade the perimeter of the parking lot with additional trees, shrubs and groundcover at the spacing requirements identified to bring the site in greater compliance to this standard. The applicant proposed to install a fence around the Silver Oak facility. In order to maintain vegetation between the pedestrian accessway and the fence and minimize vegetation removal adjacent to the pedestrian accessway, the proposed fence along the south side of the Silver Oak facility shall be located no more than 2 feet south of the existing curb adjacent to the drive aisle on the south side of the parking lot. The proposed fence along the west side of the Silver Oak facility shall be located no more than 2 feet west of the existing curb adjacent to the drive aisle on the west side of the parking lot. All existing landscaping removed to construct the fence shall be replaced along the fence. **Staff has determined it**

is possible, likely and reasonable the applicant can meet this standard by complying with condition of approval 13.

17.52.060.C *Parking Area/Building Buffer.* Parking areas shall be separated from the exterior wall of a structure, exclusive of pedestrian entranceways or loading areas, by one of the following:

1. Minimum five-foot wide landscaped planter strip (excluding areas for pedestrian connection) abutting either side of a parking lot sidewalk with:

a. Trees spaced a maximum of thirty-five feet apart;

b. Ground cover such as wild flowers, spaced a maximum of sixteen-inches on center covering one hundred percent of the exposed ground within three years. No bark mulch shall be allowed except under the canopy of shrubs and within two feet of the base of trees; and

c. An evergreen hedge of thirty to forty-two inches or shrubs placed no more than four feet apart on average; or

2. Seven-foot sidewalks with shade trees spaced a maximum of thirty-five feet apart in three-foot by five-foot tree wells.

Finding: Complies with Conditions. The applicant proposed to install groundcover between the building and the parking lot. The plan does not comply with this criterion which requires installation of shrubs and trees as well. Prior to installation of landscaping, the applicant shall provide documentation demonstrating the locations where alterations to the parking area/building buffer landscaping are proposed comply with OCMC 17.52.060.C.

The applicant proposed to install a fence around the Silver Oak facility. In order to maintain vegetation between the pedestrian accessway and the fence and minimize vegetation removal adjacent to the pedestrian accessway, The proposed fence along the south side of the Silver Oak facility shall be located no more than 2 feet south of the existing curb adjacent to the drive aisle on the south side of the parking lot. The proposed fence along the west side of the Silver Oak facility shall be located no more than 2 feet west of the existing curb adjacent to the drive aisle on the west side of the parking lot. All existing landscaping removed to construct the fence shall be replaced along the fence. **Staff has determined it is possible, likely and reasonable the applicant can meet this standard by complying with condition of approval 9 and 13.**

17.52.060.D *Interior Parking Lot Landscaping.* Surface parking lots shall have a minimum ten percent of the interior of the gross area of the parking lot devoted to landscaping to improve the water quality, reduce storm water runoff, and provide pavement shade. Interior parking lot landscaping shall not be counted toward the fifteen percent minimum total site landscaping required by Section 17.62.050(1) unless otherwise permitted by the dimensional standards of the underlying zone district. Pedestrian walkways or any impervious surface in the landscaped areas are not to be counted in the percentage. Interior parking lot landscaping shall include:

a. A minimum of one tree per six parking spaces.

b. Ground cover, such as wild flowers, spaced a maximum of sixteen-inches on center covering one hundred percent of the exposed ground within three years. No bark mulch shall be allowed except under the canopy of shrubs and within two feet of the base of trees.

c. Shrubs spaced no more than four feet apart on average.

d. No more than eight contiguous parking spaces shall be created without providing an interior landscape strip between them. Landscape strips shall be provided between rows of parking shall be a minimum of six feet in width and a minimum of ten feet in length.

e. Pedestrian walkways shall have shade trees spaced a maximum of every thirty-five feet in a minimum three-foot by five-foot tree wells; or

Trees spaced every thirty-five feet, shrubs spaced no more than four feet apart on average, and ground cover covering one hundred percent of the exposed ground. No bark mulch shall be allowed except under the canopy of shrubs and within two feet of the base of trees.

Finding: Complies with Condition. The applicant proposed to install new interior parking lot landscaping islands, but has only proposed to install groundcover within the islands. The plan does not comply with this criterion which requires shrubs and trees to be installed within the interior parking lot landscaping. Prior to installation of landscaping, the applicant shall provide documentation demonstrating the locations where alterations to the interior parking lot landscaping are proposed comply with OCMC 17.52.060.D.

The applicant proposed to install a fence around the Silver Oak facility. In order to maintain vegetation between the pedestrian accessway and the fence and minimize vegetation removal adjacent to the pedestrian accessway, the proposed fence along the south side of the Silver Oak facility shall be located no more than 2 feet south of the existing curb adjacent to the drive aisle on the south side of the parking lot. The proposed fence along the west side of the Silver Oak facility shall be located no more than 2 feet west of the existing curb adjacent to the drive aisle on the west side of the parking lot. All existing landscaping removed to construct the fence shall be replaced along the fence. **Staff has determined it is possible, likely and reasonable the applicant can meet this standard by complying with condition of approval 10 and 13.**

17.52.070 Alternative landscaping plan.

Finding: Not Applicable. The applicant has not proposed an alternative landscaping plan.

17.52.080 Maintenance *The owner, tenant and their agent, if any, shall be jointly and severally responsible for the maintenance of the site including but not limited to the off-street parking and loading spaces, bicycle parking and all landscaping which shall be maintained in good condition so as to present a healthy, neat and orderly appearance and shall be kept free from refuse and debris.*

All plant growth in interior landscaped areas shall be controlled by pruning, trimming, or otherwise so that:

- a. It will not interfere with the maintenance or repair of any public utility;*
- b. It will not restrict pedestrian or vehicular access; and*
- c. It will not constitute a traffic hazard due to reduced visibility.*

Finding: Complies as Proposed. Clackamas County will maintain the site.

CHAPTER 17.62 SITE PLAN AND DESIGN REVIEW

The applicant proposed to change the use of the Silver Oaks facility, as well as install fencing and landscaping. The following analysis for the Detailed Development Plan is limited to the aforementioned construction.

17.62.050 Standards.

17.62.050.A.1. *All development shall comply with the following standards:*

Landscaping, A minimum of fifteen percent of the lot shall be landscaped. Existing native vegetation shall be retained to the maximum extent practicable. All plants listed on the Oregon City Nuisance Plant List shall be removed from the site prior to issuance of a final occupancy permit for the building.

Finding: Complies with Condition. The applicant submitted a landscape plan indicating that 22% of the site is landscaped. The plan included planting new vegetation and retaining the existing vegetation onsite. The applicant proposed to install a fence around the Silver Oak facility. In order to maintain vegetation between the pedestrian accessway and the fence and minimize vegetation removal adjacent to the pedestrian accessway, the proposed fence along the south side of the Silver Oak facility shall be located no more than 2 feet south of the existing curb adjacent to the drive aisle on the south side of the parking lot. The proposed fence along the west side of the Silver Oak facility shall be located no more than 2 feet west of the existing curb adjacent to the drive aisle on the west side of the parking lot. All existing landscaping removed to construct the fence shall be replaced along the fence. **Staff has determined it is possible, likely and reasonable the applicant can meet this standard by complying with condition of approval 13.**

17.62.050.A.1.a. *Except as allowed elsewhere in the zoning and land division Chapters of this Code, all areas to be credited towards landscaping must be installed with growing plant materials. A reduction of up to twenty-five percent of the overall required landscaping may be approved by the community development director if the same or greater amount of pervious material is incorporated in the non-parking lot portion of the site plan (pervious material within parking lots are regulated in OCMC 17.52.070).*

Finding: Not Applicable. The applicant did not request a reduction in landscaping.

17.62.050.A.1.b. *Pursuant to Chapter 17.49, landscaping requirements within the Natural Resource Overlay District, other than landscaping required for parking lots, may be met by preserving, restoring and permanently protecting native vegetation and habitat on development sites.*

Finding: Please refer to the analysis in OCMC 17.49 of this report.

17.62.050.A.1.c. *The landscaping plan shall be prepared by a registered landscape architect and include a mix of vertical (trees and shrubs) and horizontal elements (grass, groundcover, etc.) that within three years will cover one hundred percent of the Landscape area. No mulch, bark chips, or similar materials shall be allowed at the time of landscape installation except under the canopy of shrubs and within two feet of the base of trees. The community development department shall maintain a list of trees, shrubs and vegetation acceptable for landscaping.*

Finding: Complies with Condition. The applicant submitted a landscape plan prepared by a landscape architect for the Silver Oak Building. The plan included a mix of trees, shrubs and groundcover which would cover 100% of the landscape area within 3 years.

The applicant indicated that no mulch, bark chips, or similar materials shall be allowed at the time of landscape installation except under the canopy of shrubs and within two feet of the base of trees but did not identify the proposed landscaping complies with this criterion. Prior to installation of landscaping, the applicant shall provide documentation demonstrating that for the proposed landscaping, no mulch, bark chips, or similar materials shall be allowed at the time of landscape installation except under the canopy of shrubs and within two feet of the base of trees. **Staff has determined it is possible, likely and reasonable the applicant can meet this standard by complying with condition of approval 11.**

17.62.050.A.1.d. *For properties within the Downtown Design District, or for major remodeling in all zones subject to this Chapter, landscaping shall be required to the extent practicable up to the ten percent requirement.*

Finding: Not Applicable. The site is not within the Downtown Design District.

17.62.050.A.1.e. *Landscaping shall be visible from public thoroughfares to the extent practicable.*

Finding: Complies as Proposed. The existing and proposed landscaping is distributed throughout the site and is visible from the right-of-way.

17.62.050.A.1.f. *Interior parking lot landscaping shall not be counted toward the fifteen percent minimum, unless otherwise permitted by the dimensional standards of the underlying zone district.*

Finding: Complies as Proposed. The applicant indicated that the interior parking lot landscaping is not counted toward the 15% minimum site landscaping.

17.62.050.A.2. *Vehicular Access and Connectivity.*

17.62.050.A.2.a. *Parking areas shall be located behind buildings, below buildings, or on one or both sides of buildings.*

Finding: Not Applicable. The applicant did not propose to alter the location of the parking stalls onsite. The configuration of the existing parking lot includes parking stalls located all around the building. The site is thus

nonconforming and subject to compliance with the requirements of OCMC 17.58 of the Oregon City Municipal Code.

17.62.050.A.2.b. *Ingress and egress locations on public thoroughfares shall be located in the interest of public safety. Access for emergency services (fire and police) shall be provided.*

Finding: Not Applicable. The applicant has not proposed to alter the ingress/egress for the parking lot from Red Soils Court.

17.62.050.A.2.c. *Alleys or vehicular access easements shall be provided in the following Districts: R-2, MUC-1, MUC-2, MUD and NC zones unless other permanent provisions for access to off-street parking and loading facilities are approved by the decision-maker. The corners of alley intersections shall have a radius of not less than ten feet.*

Finding: Not Applicable. The subject site is within the “MUE” Mixed Use Employment District.

17.62.050.A.2.d. *On corner lots, the driveway(s) shall be located off of the side street (unless the side street is an arterial) and away from the street intersection.*

Finding: Not Applicable. The site is not a corner lot.

17.62.050.A.2.e. *Sites abutting an alley shall be required to gain vehicular access from the alley.*

Finding: Not Applicable. The subject site does not abut an alley.

17.62.050.A.2.f. *Where no alley access is available, the development shall be configured to allow only one driveway per frontage. Shared driveways shall be required as needed to accomplish the requirements of this section. The driveway shall be located to one side of the lot and away from the center of the site. The location and design of pedestrian access from the public sidewalk shall be emphasized so as to be clearly visible and distinguishable from the vehicular access to the site. Special landscaping, paving, lighting, and architectural treatments may be required to accomplish this requirement.*

Finding: Complies as Proposed. No changes are proposed to pedestrian and vehicular access.

17.62.050.A.2.g. *Development of large sites (more than two acres) shall be required to provide existing or future connections to adjacent sites through the use of a vehicular and pedestrian access easements where applicable.*

Finding: Complies as Proposed. The Master Plan identified a system of vehicular and pedestrian connections throughout the site.

17.62.050.A.2.h. *Parking garage entries (both individual, private and shared parking garages) shall not dominate the streetscape. They shall be designed and situated to be ancillary to the use and architecture of the ground floor. This standard applies to both public garages and any individual private garages, whether they front on a street or private interior access road.*

Finding: Not Applicable. The applicant has not proposed to construct a parking garage in this application.

17.62.050.A.2.i. *Buildings containing above-grade structured parking shall screen such parking areas with landscaping or landscaped berms, or incorporate contextual architectural elements that complement adjacent buildings or buildings in the area. Upper level parking garages shall use articulation or fenestration treatments that break up the massing of the garage and/or add visual interest.*

Finding: Not Applicable. The applicant has not proposed to construct a structured parking lot with this application.

17.62.050.A.3. *Building structures shall be complimentary to the surrounding area. All exterior surfaces shall present a finished appearance. All sides of the building shall include materials and design characteristics consistent with those on the front. Use of inferior or lesser quality materials for side or rear facades or decking shall be prohibited.*

Finding: Not Applicable. The applicant has not proposed any exterior alterations to the buildings within the Master Plan boundary.

17.62.050.A.4. *This standard requires that grading shall be in accordance with the requirements of Chapter 15.48 and the public works stormwater and grading design standards.*

Finding: Not Applicable. The existing site is already fully developed, and no additional grading is required.

17.62.050.A.5. *This section requires that development subject to the requirements of the Geologic Hazard overlay district shall comply with the requirements of that district.*

Finding: Not Applicable. The subject site is not within the Geologic Hazards Overlay District.

17.62.050.A.6. *Drainage shall be provided in accordance with city's drainage master plan, Chapter 13.12, and the public works stormwater and grading design standards.*

Finding: Not Applicable. There are existing stormwater facilities that adequately serve the site. No new facilities are proposed with this application.

17.62.050.A.7. *This standard requires the development shall comply with City's parking standards as provided in Chapter 17.52.*

Finding: Please refer to the analysis in Chapter 17.52 of this report.

17.62.050.A.8. *This section requires that sidewalks and curbs shall be provided in accordance with the city's standards.*

Finding: Complies as Proposed. There are existing sidewalks and curbs onsite. No new sidewalks or curbs are proposed with this application.

17.62.050.A.9.

Finding: Complies as Proposed. The applicant did not propose any changes to the pedestrian circulation onsite. The pedestrian circulation system for the Red Soils campus provides a connection between all building entrances and each other as well as the street.

17.62.050.A.10. *This standard requires adequate means to ensure continued maintenance and necessary normal replacement of common facilities and areas, drainage ditches, streets and other ways, structures, recreational facilities, landscaping, fill and excavation areas, screening and fencing, groundcover, garbage storage areas and other facilities not subject to periodic maintenance by the city or other public agencies.*

Finding: Complies as Proposed. Clackamas County will maintain the site.

17.62.050.A.11. *This standard requires that site planning shall conform to the requirements of Oregon City Municipal Code Chapter 17.41—Tree Protection.*

Finding: Please refer to the analysis in Chapter 17.41 of this report.

17.62.050.A.12. *This standard requires compliance with the Natural Resource Overlay District when applicable.*

Finding: Please refer to the analysis in Chapter 17.49 of this report.

17.62.050.A.13. *This standard requires that all development shall maintain compliance with applicable Federal, State, and City standards pertaining to air, water, odor, heat, glare, noise and vibration, outdoor storage, and toxic material.*

Finding: Complies as Proposed. The applicant indicated compliance with this standard.

17.62.050.A.14. *Adequate public water and sanitary sewer facilities sufficient to serve the proposed or permitted level of development shall be provided. The applicant shall demonstrate that adequate facilities and services are presently available or can be made available concurrent with development. Service providers shall be presumed correct in the evidence, which they submit. All facilities shall be designated to city standards as set out in the city's facility master plans and public works design standards. A development may be required to modify or replace existing off-site systems if necessary to provide adequate public facilities. The city may require over sizing of facilities where necessary to meet standards in the city's facility master plan or to allow for the orderly and efficient provision of public facilities and services. Where over sizing is required, the developer may request reimbursement from the city for over sizing based on the city's reimbursement policy and fund availability, or provide for recovery of costs from intervening properties as they develop.*

Finding: Complies as Proposed. The site is currently adequately served by public water and sanitary facilities.

17.62.050.A.15. *This standard requires that all traffic related impacts should be mitigated. The traffic mitigation elements may include adequate right-of-way improvements, pedestrian ways, and bike routes. The proposal shall demonstrate consistency with the Oregon City Transportation System Plan (TSP).*

Finding: Please refer to the analysis in OCMC Chapter 17.65.050.B.1.i of this report.

17.62.050.A.16. *If Tri-Met, upon review of an application for an industrial, institutional, retail or office development, recommends that a bus stop, bus turnout lane, bus shelter, bus landing pad or transit stop connection be constructed at the time of development, the review authority shall require such improvement, using designs supportive of transit use.*

Finding: Complies as Proposed. Transit operates on nearby Beaver Creek Road, which is served by Tri-Met. No transit related improvements were proposed or required.

17.62.050.A.17. *This standard requires that all utilities shall be placed underground.*

Finding: Not Applicable. No changes to the utilities are proposed or required. The existing utilities are underground.

17.62.050.A.18. *Access and facilities for physically handicapped people shall be incorporated into the site and building design consistent with applicable federal and state requirements, with particular attention to providing continuous, uninterrupted access routes.*

Finding: Complies as Proposed. The Building Division will review the proposal for compliance with applicable building codes upon submission of a building permit application.

17.62.050.A.19. *This standard requires minimum densities for residential developments.*

Finding: Not Applicable. This project is not a residential development.

17.62.050.A.20. *Screening of Mechanical Equipment:*

Finding: Not Applicable. The applicant did not propose to install mechanical equipment with the proposed development.

17.62.050.A.21. *Building Materials.*

Finding: Please refer to the findings for proposed adjustment #2. The applicant has not proposed any exterior alterations to a building, but has proposed to construct a chain link fence, a prohibited building material.

17.62.050.A.22. Conditions of Approval. *The review authority may impose such conditions as it deems necessary to ensure compliance with these standards and other applicable review criteria.*

Finding: Complies with Condition. As demonstrated within this report, the proposal will comply with the standards of the Oregon City Municipal Code with conditions. The applicant shall construct this development as proposed in this application and as required by the attached conditions of approval. **Staff has determined it is possible, likely and reasonable the applicant can meet this standard by complying with condition of approval 12.**

17.62.055 - Institutional and commercial building standards.

17.62.055.B. Applicability. *In addition to Section 17.62.050 requirements, institutional and commercial buildings shall comply with design standards contained in this section.*

Finding: Applicable. The subject site is developed as a campus for Clackamas County within the Mixed Use Employment District.

17.62.055.C. Relationship between zoning district design standards and requirements of this section.

Finding: Complies with Condition. The Silver Oak building was constructed prior to adoption of this standard and does not comply with this criterion. Although the applicant has not proposed to construct a building or addition with the proposed development, the site is nonconforming and is thus subject to compliance with OCMC chapter 17.58 Nonconforming Uses, Structures and Lots. The applicant proposed to install additional parking lot landscaping which would bring the nonconforming site into greater conformity. The analysis is provided in OCMC 17.58 of this report.

17.62.055.D.1 Relationship of Buildings to Streets and Parking.

Finding: Complies with Condition. The Silver Oak building was constructed prior to adoption of this standard and does not comply with this criterion. Although the applicant has not proposed to construct a building or addition with the proposed development, the site is nonconforming and is thus subject to compliance with OCMC chapter 17.58 Nonconforming Uses, Structures and Lots. The applicant proposed to install additional parking lot landscaping which would bring the nonconforming site into greater conformity. The analysis is provided in OCMC 17.58 of this report.

17.62.055.E Corner Lots.

Finding: Not Applicable. The applicant has not proposed to construct a building with this development.

17.62.055.F Commercial First Floor Frontage.

In order to ensure that the ground floor of structures have adequate height to function efficiently for retail uses, the first floor height to finished ceiling of new infill buildings in the mixed use and neighborhood commercial districts shall be no lower than fourteen feet floor to floor. Where appropriate, the exterior facade at the ceiling level of new structures shall include banding, a change of materials or relief which responds to the cornice lines and window location of existing buildings that abut new structures.

Finding: Complies with Condition. The Silver Oak building was constructed prior to adoption of this standard and does not comply with this criterion. Although the applicant has not proposed to construct a building or addition with the proposed development, the site is nonconforming and is thus subject to compliance with OCMC chapter 17.58 Nonconforming Uses, Structures and Lots. The applicant proposed to install additional parking lot landscaping which would bring the nonconforming site into greater conformity. The analysis is provided in OCMC 17.58 of this report.

17.62.055.G. Variation in Massing.

A single, large, dominant building mass shall be avoided in new buildings and, to the extent reasonably feasible, in development projects involving changes to the mass of existing buildings.

Finding: Complies with Condition. The Silver Oak building was constructed prior to adoption of this standard and does not comply with this criterion. Although the applicant has not proposed to construct a building or addition with the proposed development, the site is nonconforming and is thus subject to compliance with OCMC chapter 17.58 Nonconforming Uses, Structures and Lots. The applicant proposed to install additional parking lot landscaping which would bring the nonconforming site into greater conformity. The analysis is provided in OCMC 17.58 of this report.

17.62.055.H Minimum Wall Articulation.

Finding: Complies with Condition. The Silver Oak building was constructed prior to adoption of this standard and does not comply with this criterion. Although the applicant has not proposed to construct a building or addition with the proposed development, the site is nonconforming and is thus subject to compliance with OCMC chapter 17.58 Nonconforming Uses, Structures and Lots. The applicant proposed to install additional parking lot landscaping which would bring the nonconforming site into greater conformity. The analysis is provided in OCMC 17.58 of this report.

17.62.055.I. Facade Transparency.

Finding: Complies with Condition. The Silver Oak building was constructed prior to adoption of this standard and does not comply with this criterion. Although the applicant has not proposed to construct a building or addition with the proposed development, the site is nonconforming and is thus subject to compliance with OCMC chapter 17.58 Nonconforming Uses, Structures and Lots. The applicant proposed to install additional parking lot landscaping which would bring the nonconforming site into greater conformity. The analysis is provided in OCMC 17.58 of this report.

17.62.055.J Roof Treatments.

Finding: Complies with Condition. The Silver Oak building was constructed prior to adoption of this standard and does not comply with this criterion. Although the applicant has not proposed to construct a building or addition with the proposed development, the site is nonconforming and is thus subject to compliance with OCMC chapter 17.58 Nonconforming Uses, Structures and Lots. The applicant proposed to install additional parking lot landscaping which would bring the nonconforming site into greater conformity. The analysis is provided in OCMC 17.58 of this report.

17.62.055.K Drive-through facilities shall:

1. *Be located at the side or rear of the building.*
2. *Be designed to maximize queue storage on site.*

Finding Not Applicable. The proposed development does not include the installation of a drive through facility.

17.62.065 Outdoor Lighting

17.62.065 .B Applicability.

Finding: Not Applicable. The development proposal does not include alterations to lighting onsite.

17.62.080 Special Development along Transit Streets

17.62.080.B. Applicability. *Except as otherwise provided in this section, the requirements of this section shall apply to the construction of new retail, office and institutional buildings which front on a transit street.*

Finding: Though the abutting right-of-way is not designated as a transit street, Tri-Met route 33 runs along the abutting portion of Beavercreek Road. The applicant has not proposed to construct a new building or exterior alterations to existing buildings onsite. The Silver Oak building was constructed prior to adoption of this standard and does not comply with this criterion. Although the applicant has not proposed to construct a building or addition with the proposed development, the site is nonconforming and is thus subject to compliance with OCMC chapter 17.58 Nonconforming Uses, Structures and Lots. The applicant proposed to install additional parking lot landscaping which would bring the nonconforming site into greater conformity. The analysis is provided in OCMC 17.58 of this report.

17.62.085 Refuse and Recycling Standards for commercial, industrial and multi-family developments

The purpose and intent of these provisions is to provide an efficient, safe and convenient refuse and recycling enclosure for the public as well as the local collection firm. All new development, change in property use, expansions or exterior alterations to uses other than single-family or duplex residences shall include a refuse and recycling enclosure.

Finding: Not Applicable. There is an existing enclosure for refuse and recycling on site. No changes are proposed to this enclosure.

Chapter 12.04 STREETS, SIDEWALKS AND PUBLIC PLACES

12.04.005 Jurisdiction and management of the public rights-of-way

Finding: Complies as Proposed. The adjacent right-of-way is under the jurisdiction of Oregon City.

12.04.010 Construction specifications – improved streets

All sidewalks hereafter constructed in the city on improved streets shall be constructed to city standards and widths required in the Oregon City Transportation System Plan. The curb shall be constructed at the same time as the construction of the sidewalk and shall be located as provided in the ordinance authorizing the improvement of said street next proceeding unless otherwise ordered by the city commission. Both sidewalks and curbs are to be constructed according to plans and specifications provided by the city engineer.

Finding: Not applicable. No new streets are proposed with this development.

12.04.020 Construction specification – unimproved streets

Finding: Not Applicable. The site does not abut an unimproved street.

12.04.025 Street design – Curb cuts

Finding: Not applicable. The applicant has not proposed to alter a curb cut onsite.

12.04.030 – Maintenance and repair

The owner of land abutting the street where a sidewalk has been constructed shall be responsible for maintaining said sidewalk and abutting curb, if any, in good repair.

Finding: Complies. The applicant is subject to compliance with OCMC Chapter 12.04.

12.04.031 Liability for sidewalk injuries

A. *The owner or occupant of real property responsible for maintaining the adjacent sidewalk shall be liable to any person injured because of negligence of such owner or occupant in failing to maintain the sidewalk in good condition.*

B. *If the city is required to pay damages for an injury to persons or property caused by the failure of a person to perform the duty that this ordinance imposes, the person shall compensate the city for the amount of the damages paid. The city may maintain an action in a court of competent jurisdiction to enforce this section.*

Finding: Complies. The applicant is subject to compliance with OCMC Chapter 12.04.

12.04.032 Required sidewalk repair

- A. When the public works director determines that repair of a sidewalk is necessary he or she shall issue a notice to the owner of property adjacent to the sidewalk.
- B. The notice shall require the owner of the property adjacent to the defective sidewalk to complete the repair of the sidewalk within ninety days after the service of notice. The notice shall also state that if the repair is not made by the owner, the City may do the work and the cost of the work shall be assessed against the property adjacent to the sidewalk.
- C. The public works director shall cause a copy of the notice to be served personally upon the owner of the property adjacent to the defective sidewalk, or the notice may be served by registered or certified mail, return receipt requested. If after diligent search the owner is not discovered, the public works director shall cause a copy of the notice to be posted in a conspicuous place on the property, and such posting shall have the same effect as service of notice by mail or by personal service upon the owner of the property.
- D. The person serving the notice shall file with the city recorder a statement stating the time, place and manner of service or notice.

Finding: Not Applicable. The applicant has not proposed and is not required to repair a sidewalk with this development review.

12.04.033 city may do work

If repair of the sidewalk is not completed within ninety days after the service of notice, the public works director shall carry out the needed work on the sidewalk. Upon completion of the work, the public works director shall submit an itemized statement of the cost of the work to the finance director. The city may, at its discretion, construct, repair or maintain sidewalks deemed to be in disrepair by the public works director for the health, safety and general welfare of the residents of the city.

Finding: Not Applicable. The City has not proposed to do sidewalk repairs with this development.

12.04.034 Assessment of costs

Upon receipt of the report, the finance director shall assess the cost of the sidewalk work against the property adjacent to the sidewalk. The assessment shall be a lien against the property and may be collected in the same manner as is provided for in the collection of street improvement assessment.

Finding: Not Applicable. The City has not proposed to do sidewalk repairs with this development.

12.04.040 Streets - Enforcement

Any person whose duty it is to maintain and repair any sidewalk, as provided by this Chapter, and who fails to do so shall be subject to the enforcement procedures of Chapters 1.16, 1.20 and 1.24. Failure to comply with the provisions of this Chapter shall be deemed a nuisance. Violation of any provision of this Chapter is subject to the code enforcement procedures of Chapters 1.16, 1.20 and 1.24.

Finding: Not Applicable. The subject site is not under enforcement action at this time.

12.04.045 Street design – Constrained local streets and/or rights-of-way

Finding: Not Applicable. No constrained streets are proposed or required.

12.04.050 Retaining walls - Required

Every owner of a lot within the city, abutting upon an improved street, where the surface of the lot or tract of land is above the surface of the improved street and where the soil or earth from the lot, or tract of land is liable to, or does slide or fall into the street or upon the sidewalk, or both, shall build a retaining wall, the outer side of which shall be on the line separating the lot, or tract of land from the improved street, and the wall shall be so constructed as to prevent the soil or earth from the lot or tract of land from falling or sliding into the street or upon the sidewalk, or both, and the owner of any such property shall keep the wall in good repair.

Finding: Not Applicable. The applicant did not propose to install a retaining wall in the public right-of-way. Future retaining walls within the right-of-way are subject to compliance with this standard.

12.04.060 Retaining walls- Maintenance

When a retaining wall is necessary to keep the earth from falling or sliding onto the sidewalk or into a public street and the property owner or person in charge of that property fails or refuses to build such a wall, such shall be deemed a nuisance. The violation of any provision of this Chapter is subject to the code enforcement procedures of Chapters 1.16, 1.20 and 1.24.

Finding: Not Applicable. The applicant did not propose to install a retaining wall in the public right-of-way.

12.04.070- Removal of sliding dirt.

It shall be the duty of the owner of any property as mentioned in Section 12.04.050, and in case the owner is a nonresident, then the agent or other person in charge of the same, to remove from the street or sidewalk or both as the case may be, any and all earth or dirt falling on or sliding into or upon the same from the property, and to build and maintain in order at all times, the retaining wall as herein required; and upon the failure, neglect or refusal of the land owner, the agent or person in charge of the same to clean away such earth or dirt, falling or sliding from the property into the street or upon the sidewalk, or both, or to build the retaining wall, shall be deemed guilty of a misdemeanor.

Finding: Not Applicable. The applicant has not proposed and is not required to remove sliding dirt with this application.

12.04.080 - Excavations—Permit required.

It shall be unlawful for any person to dig up, break, excavate, disturb, dig under or undermine any public street or alley, or any part thereof or any macadam, gravel, or other street pavement or improvement without first applying for and obtaining from the engineer a written permit so to do.

Finding: Complies. The applicant is subject to compliance with OCMC Chapter 12.04.

12.04.090 - Excavations—Permit restrictions.

The permit shall designate the portion of the street to be so taken up or disturbed, together with the purpose for making the excavation, the number of days in which the work shall be done, and the trench or excavation to be refilled and such other restrictions as may be deemed of public necessity or benefit.

Finding: Not Applicable. The applicant is subject to compliance with OCMC Chapter 12.04.

12.040.095 - Street Design—Curb Cuts.

To assure public safety, reduce traffic hazards and promote the welfare of pedestrians, bicyclists and residents

Finding: Not Applicable. There is an existing curb cut and no others are anticipated.

12.04.100 - Excavations—Restoration of pavement.

Whenever any excavation shall have been made in any pavement or other street improvement on any street or alley in the city for any purpose whatsoever under the permit granted by the engineer, it shall be the duty of the person making the excavation to put the street or alley in as good condition as it was before it was so broken, dug up or disturbed, and shall remove all surplus dirt, rubbish, or other material from the street or alley.

Finding: Applies. The applicant is subject to this standard but no excavations are proposed.

12.04.110 - Excavations—Nuisance—Penalty.

Any excavation in violation of this Chapter shall be deemed a nuisance. Violation of any provision of this Chapter is subject to the code enforcement procedures of Chapters 1.16, 1.20 and 1.24.

Finding: Not Applicable. The applicant has not proposed an excavation with this development.

12.04.120 - Obstructions—Permit required.

Finding: Not Applicable. The applicant has not proposed an obstruction within the right-of-way.

12.04.130 - Obstructions—Sidewalk sales.

A. *It is unlawful for any person to use the public sidewalks of the city for the purpose of packing, unpacking or storage of goods or merchandise or for the display of goods or merchandise for sale. It is permissible to use the public sidewalks for the process of expeditiously loading and unloading goods and merchandise.*

B. *The city commission may, in its discretion, designate certain areas of the city to permit the display and sale of goods or merchandise on the public sidewalks under such conditions as may be provided.*

Finding: Not Applicable. The applicant has not proposed a sidewalk sale with this development.

12.04.140 - Obstructions—Nuisance—Penalty.

Any act or omission in violation of this Chapter shall be deemed a nuisance. Violation of any provision of this Chapter is subject to the code enforcement procedures of Chapters 1.16, 1.20 and 1.24.

Finding: Complies. The applicant is subject to compliance with OCMC Chapter 12.04.

12.04.150 - Street and alley vacations—Cost.

At the time of filing a petition for vacation of a street, alley or any part thereof, a fee as established by city commission resolution shall be paid to the city.

Finding: Not Applicable. The applicant has not proposed a street or alley vacation with this application.

12.04.160 - Street vacations—Restrictions.

The commission, upon hearing such petition, may grant the same in whole or in part, or may deny the same in whole or in part, or may grant the same with such reservations as would appear to be for the public interest, including reservations pertaining to the maintenance and use of underground public utilities in the portion vacated.

Finding: Not Applicable. The applicant has not proposed a street or alley vacation with this application.

12.04.170 - Street design—Purpose and general provisions.

All development shall be in conformance with the policies and design standards established by this Chapter and with applicable standards in the city's public facility master plan and city design standards and specifications. In reviewing applications for development, the city engineer shall take into consideration any approved development and the remaining development potential of adjacent properties. All street, water, sanitary sewer, storm drainage and utility plans associated with any development must be reviewed and approved by the city engineer prior to construction. All streets, driveways or storm drainage connections to another jurisdiction's facility or right-of-way must be reviewed by the appropriate jurisdiction as a condition of the preliminary plat and when required by law or intergovernmental agreement shall be approved by the appropriate jurisdiction.

Finding: Not Applicable. A new street is not proposed or required.

12.04.175 - Street design—Generally.

The location, width and grade of street shall be considered in relation to: existing and planned streets, topographical conditions, public convenience and safety for all modes of travel, existing and identified future transit routes and pedestrian/bicycle accessways, and the proposed use of land to be served by the streets. The street system shall assure an adequate traffic circulation system with intersection angles, grades, tangents and

curves appropriate for the traffic to be carried considering the terrain. To the extent possible, proposed streets shall connect to all existing or approved stub streets that abut the development site. Where location is not shown in the development plan, the arrangement of streets shall either:

A. Provide for the continuation or appropriate projection of existing principal streets in the surrounding area and on adjacent parcels or conform to a plan for the area approved or adopted by the city to meet a particular situation where topographical or other conditions make continuance or conformance to existing streets impractical;

B. Where necessary to give access to or permit a satisfactory future development of adjoining land, streets shall be extended to the boundary of the development and the resulting dead-end street (stub) may be approved with a temporary turnaround as approved by the city engineer. Access control in accordance with section 12.04.200 shall be required to preserve the objectives of street extensions.

Finding: Not Applicable. A new street is not proposed or required.

12.04.180 - Street design—Minimum right-of-way.

All development shall provide adequate right-of-way and pavement width. Adequate right-of-way and pavement width shall be provided by:

A. Complying with the street design standards contained in the table provided in Chapter 12.04. The street design standards are based on the classification of streets that occurred in the Oregon City Transportation System Plan (TSP), in particular, the following TSP figures provide the appropriate classification for each street in Oregon City: Figure 5-1: Functional Classification System and New Roadway Connections; Figure 5-3: Pedestrian System Plan; Figure 5.6: Bicycle System Plan; and Figure 5.7: Public Transit System Plan. These TSP figures from the Oregon City Transportation System Plan are incorporated herein by reference in order to determine the classification of particular streets.

Table 12.04.020 STREET DESIGN STANDARDS		
Type of Street	Maximum Right-of-Way Width	Pavement Width
Major arterial	124 feet	98 feet
Minor arterial	114 feet	88 feet
Collector street	86 feet	62 feet
Neighborhood Collector street	81 feet	59 feet
Local street	54 feet	32 feet
Alley	20 feet	16 feet

B. The applicant may submit an alternative street design plan that varies from the street design standards identified above. An alternative street design plan may be approved by the city engineer if it is found the alternative allows for adequate and safe traffic, pedestrian and bicycle flows and transportation alternatives and protects and provides adequate multi-modal transportation services for the development as well as the surrounding community.

Finding: Complies as Proposed. The applicant has not proposed to alter the right-of-way with this application.

12.04.185 - Street design—Access control.

A. A street which is dedicated to end at the boundary of the development or in the case of half-streets dedicated along a boundary shall have an access control granted to the city as a city controlled plat restriction for the purposes of controlling ingress and egress to the property adjacent to the end of the dedicated street. The access control restriction shall exist until such time as a public street is created, by dedication and accepted, extending the street to the adjacent property.

B. The city may grant a permit for the adjoining owner to access through the access control.

C. The plat shall contain the following access control language or similar on the face of the map at the end of each street for which access control is required: "Access Control (See plat restrictions)."

A. Said plats shall also contain the following plat restriction note(s): "Access to (name of street or tract) from adjoining tracts (name of deed document number[s]) shall be controlled by the City of Oregon City by the recording of this plat, as shown. These access controls shall be automatically terminated upon the acceptance of a public road dedication or the recording of a plat extending the street to adjacent property that would access through those Access Controls."

Finding: Complies as Proposed. The applicant has not proposed and is not required to alter the access with this development application.

12.04.190 - Street design—Alignment.

The centerline of streets shall be:

A. Aligned with existing streets by continuation of the centerlines; or

A. Offset from the centerline by no more than ten feet, provided appropriate mitigation, in the judgment of the city engineer, is provided to ensure that the offset intersection will not pose a safety hazard.

Finding: Not Applicable. The applicant has not proposed a street alignment with this application.

12.04.195 - Minimum street intersection spacing standards.

Finding: Not Applicable. The applicant has not proposed and is not required to install a new intersection with this development.

12.04.200 - Street design—Constrained local streets and/or rights-of-way.

Finding: Not Applicable. The development proposal does not include a constrained street.

12.04.205 - Intersection level of service standards.

When reviewing new developments, the City of Oregon City requires all relevant intersections to be maintained at the minimum acceptable Level Of Service (LOS) upon full build-out of the proposed development. The minimum acceptable LOS standards are as follows:

A. For signalized intersection areas of the city that are located outside the Regional Center boundaries a LOS of "D" or better for the intersection as a whole and no approach operating at worse than LOS "E" and a v/c ratio not higher than 1.0 for the sum of critical movements.

B. For signalized intersections within the Regional Center boundaries a LOS "D" can be exceeded during the peak hour; however, during the second peak hour, LOS "D" or better will be required as a whole and no approach operating at worse than LOS "E" and a v/c ratio not higher than 1.0.

C. For unsignalized intersection throughout the city a LOS "E" or better for the poorest approach and with no movement serving more than twenty peak hour vehicles operating at worse than LOS "F" will be tolerated for minor movements during a peak hour.

Finding: Complies as Proposed. The applicant submitted a traffic analysis for the proposed change in use which shows that the expected trips per day will decrease. This would provide an increase in level of service for nearby intersections.

12.04.210 - Street design—Intersection angles.

Finding: Not Applicable. The applicant has not proposed and is not required to redesign an intersection.

12.04.215 - Street design—Off-site street improvements.

During consideration of the preliminary plan for a development, the decision maker shall determine whether existing streets impacted by, adjacent to, or abutting the development meet the city's applicable planned minimum design or dimensional requirements. Where such streets fail to meet these requirements, the

decision-maker shall require the applicant to make proportional improvements sufficient to achieve conformance with minimum applicable design standards required to serve the proposed development.

Finding: Not Applicable. The applicant has not proposed and the City is not requiring off-site improvements.

12.04.220 - Street design—Half street.

Half streets, while generally not acceptable, may be approved where essential to the development, when in conformance with all other applicable requirements, and where it will not create a safety hazard. When approving half streets, the decision maker must first determine that it will be practical to require the dedication of the other half of the street when the adjoining property is divided or developed. Where the decision maker approves a half street, the applicant must construct an additional ten feet of pavement width so as to make the half street safe and usable until such time as the other half is constructed. Whenever a half street is adjacent to property capable of being divided or developed, the other half of the street shall be provided and improved when that adjacent property divides or develops. Access control as described in [Section] 12.04.200 may be required to preserve the objectives of half streets.

Finding: Not Applicable. A half street is not proposed or existing adjacent to the site.

12.04.225 - Street design—Cul-de-sacs and dead-end streets.

Finding: Not Applicable. There is an existing cul-de-sac. No additional cul-de-sac or dead end is not proposed or required.

12.04.230 - Street design—Street names.

Finding: Not Applicable. A new street is not proposed or required with the proposed development.

12.04.235 - Street design—Grades and curves.

Grades and center line radii shall conform to the standards in the city's street design standards and specifications.

Finding: Not Applicable. A new street is not proposed with the proposed development.

12.04.240 - Street design—Development abutting arterial or collector street.

Where development abuts or contains an existing or proposed arterial or collector street, the decision maker may require: access control; screen planting or wall contained in an easement or otherwise protected by a restrictive covenant in a form acceptable to the decision maker along the rear or side property line; or such other treatment it deems necessary to adequately protect residential properties or afford separation of through and local traffic. Reverse frontage lots with suitable depth may also be considered an option for residential property that has arterial frontage. Where access for development abuts and connects for vehicular access to another jurisdiction's facility then authorization by that jurisdiction may be required.

Finding: Not Applicable. The abutting portion of Beaver Creek Road is designated as a minor arterial in the Oregon City Transportation System Plan, but the applicant has not proposed a new building or exterior alterations to existing buildings and thus this standard is not applicable.

12.04.245 - Street design—Pedestrian and bicycle safety.

Where deemed necessary to ensure public safety, reduce traffic hazards and promote the welfare of pedestrians, bicyclists and residents of the subject area, the decision maker may require that local streets be so designed as to discourage their use by nonlocal automobile traffic.

All crosswalks shall include a large vegetative or sidewalk area which extends into the street pavement as far as practicable to provide safer pedestrian crossing opportunities. These curb extensions can increase the visibility of pedestrians and provide a shorter crosswalk distance as well as encourage motorists to drive slower. The decision maker may approve an alternative design that achieves the same standard for constrained sites or where deemed unnecessary by the city engineer.

Finding: Not Applicable. A new street is not proposed or required.

12.04.255 - Street design—Alleys.

Finding: Not Applicable. The applicant has not proposed to install a new alley with this application.

12.04.260 - Street design—Transit.

Streets shall be designed and laid out in a manner that promotes pedestrian and bicycle circulation. The applicant shall coordinate with Tri-Met where the application impacts transit streets as identified on Figure 5.7: Public Transit System Plan of the Oregon City Transportation System Plan. Pedestrian/bicycle access ways shall be provided as necessary in conformance with the requirements in Section 17.90.220 of this code and Chapter 12.24 to minimize the travel distance to transit streets and stops and neighborhood activity centers. The decision maker may require provisions, including easements, for transit facilities along transit streets where a need for bus stops, bus pullouts or other transit facilities within or adjacent to the development has been identified.

Finding: Not Applicable. The applicant has not proposed and is not required to install transit improvements.

12.04.265 - Street design—Planter strips.

All development shall include vegetative planter strips that are five feet in width or larger and located adjacent to the curb. This requirement may be waived or modified if the decision maker finds it is not practicable. The decision maker may permit constrained sites to place street trees on the abutting private property within 10 feet of the public right-of-way if a covenant is recorded on the title of the property identifying the tree as a city street tree which is maintained by the property owner. Development proposed along a collector, minor arterial, or major arterial street may use tree wells with root barriers located near the curb within a wider sidewalk in lieu of a planter strip, in which case each tree shall have a protected area to ensure proper root growth and reduce potential damage to sidewalks, curbs and gutters.

To promote and maintain the community tree canopy adjacent to public streets, trees shall be selected and planted in planter strips in accordance with Chapter 12.08, Street Trees. Individual abutting lot owners shall be legally responsible for maintaining healthy and attractive trees and vegetation in the planter strip. If a homeowners' association is created as part of the development, the association may assume the maintenance obligation through a legally binding mechanism, e.g., deed restrictions, maintenance agreement, etc., which shall be reviewed and approved by the city attorney. Failure to properly maintain trees and vegetation in a planter strip shall be a violation of this code and enforceable as a civil infraction.

Finding: Not Applicable. A new street is not proposed or required.

12.04.270 - Standard construction specifications.

The workmanship and materials for any work performed under permits issued per this Chapter shall be in accordance with the edition of the "Standard Specifications for Public Works Construction," as prepared by the Oregon Chapter of American Public Works Association (APWA) and as modified and adopted by the city, in effect at the time of application. The exception to this requirement is where this Chapter and the Public Works Street Design Drawings provide other design details, in which case the requirements of this Chapter and the Public Works Street Design Drawings shall be complied with. In the case of work within ODOT or Clackamas County rights-of-way, work shall be in conformance with their respective construction standards.

Finding: Not Applicable. A new street is not proposed or required.

Chapter 12.24 PEDESTRIAN/BICUCLE ACCESSWAYS

12.24.040 - Development standards.

12.24.040 .F. *The planter strips on either side of the accessway shall be landscaped along adjacent property by:*

1. *An evergreen hedge screen of thirty to forty-two inches high or shrubs spaced no more than four feet apart on average;*
2. *Ground cover covering one hundred percent of the exposed ground. No bark mulch shall be allowed except under the canopy of shrubs and within two feet of the base of trees;*
3. *Two-inch minimum caliper trees shall be planted on both sides of the accessway in an alternating pattern and with a maximum of twenty feet of separation between the tree on the opposite side of the path in order to increase the tree canopy over the accessway;*
4. *In satisfying the requirements of this section, evergreen plant materials that grow over forty-two inches in height shall be avoided. All plant materials shall be selected from the Oregon City Native Plant List.*

Finding: Complies with Condition. The development proposal includes the construction of a 12 foot tall chain link fence extending along the southern and eastern property lines of the Silver Oak facility. A portion of the fence is adjacent to the existing pedestrian accessway leading from Red Soils Court to Hillendale Park. In order to maintain vegetation between the pedestrian accessway and the fence and minimize vegetation removal adjacent to the pedestrian accessway, the proposed fence along the south side of the Silver Oak facility shall be located no more than 2 feet south of the existing curb adjacent to the drive aisle on the south side of the parking lot. The proposed fence along the west side of the Silver Oak facility shall be located no more than 2 feet west of the existing curb adjacent to the drive aisle on the west side of the parking lot. All existing landscaping removed to construct the fence shall be replaced along the fence.

In order to comply with the pedestrian accessway landscaping standards, the applicant shall not remove any of the existing trees adjacent to the pedestrian accessway to construct the fence and shall plant additional hedges and groundcover as required in OCMC Chapter 12.24.040(1-2). **Staff has determined it is possible, likely and reasonable the applicant can meet this standard by complying with condition of approval 13 and 14.**

Chapter 12.08 PUBLIC AND STREET TREES

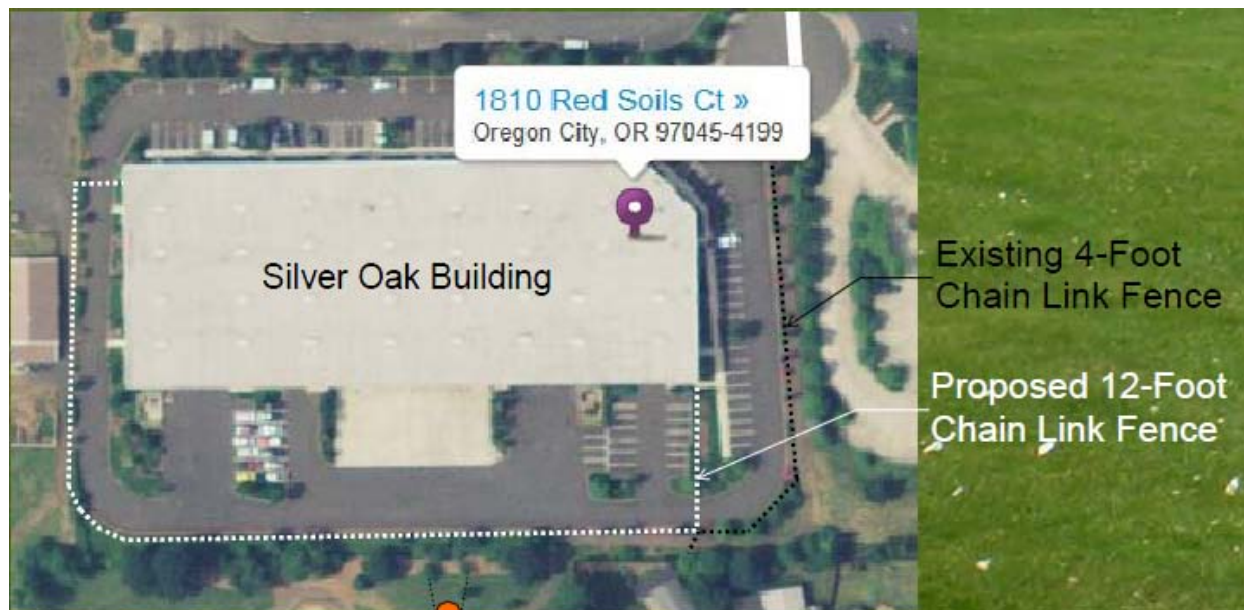
Finding: Not Applicable. The applicant has not proposed and is not required to install any street trees with this application.

CHAPTER 17.54.100 SUPPLEMENTAL ZONING REGULATIONS AND EXCEPTIONS- FENCE, HEDGE & WALLS

Generally. Fence, hedge, or wall.

17.54.100.1 Fences and walls—*Fences and walls over forty-two inches shall not be located in front of the front faced or within forty feet of the public right-of-way, whichever is less. All other fences (including fences along the side and rear of a property) shall not exceed six feet in total height unless as permitted Section 17.54.100B.*

Finding: See the analysis within this report approving this request. The applicant proposed to install a 12 foot tall chain link fence around a portion of the parking lot at the Silver Oak Building in the rear portion of the Red Soils Campus (Exhibit 12, shown below). The fence would provide privacy screening and security for the Sheriff's evidentiary material and fleet vehicles. Please refer to the analysis in Chapter 17.65.070 for the requests to adjust the fence height and material standards.



17.54.100.4 *It is unlawful for any person to erect any electric fence or any fence constructed in whole or in part of barbed wire or to use barbed wire, except as erected in connection with security installations at a minimum height of six feet, providing further that prior written approval has been granted by the city Manager.*

Finding: Complies as Proposed. Clackamas County requested the formal approval of the Oregon City Planning Commission on prior and future installations of chain-link fencing at a height of six-feet, eight-feet, twelve-feet and twenty-feet with barbed or razor wire at the County Jail on the Red Soils Campus. The installations occur at areas off of the public right of way at highly sensitive points where security is a concern. Staff concurs with the need to install barbed or razor wire in order to protect the public onsite.

Chapter 17.58 – NONCONFORMING USES, STRUCTURES AND LOTS

Nonconforming situations are created when the application of zoning district to a site changes or the zoning regulations change. As part of the change, existing uses, density, or development might no longer be allowed or are further restricted. Nonconforming uses, structures and lots are those uses, structures and lots that were lawfully established but do not conform to the provisions of this title or the provisions of the zoning district in which the use, structure or lot is located. The intent of these provisions is not to force all nonconforming situations immediately to be brought into conformance. Instead, the intent is to guide nonconforming situations in a new direction consistent with city policy, and, eventually, bring them into conformance.

Findings: Applicable. The subject site was constructed before the adoption of this zoning code and does not meet a variety of criteria including design, landscaping, etc. The proposed development to the nonconforming site requires compliance with OCMC 17.58.040.C.2.

17.58.040.C.2.a *Thresholds triggering compliance. The standards of Subparagraph C.2.b below shall be met when the value of the proposed exterior alterations or additions to the site, as determined by the Community Development Director, is more than \$75,000. The following alterations and improvements shall not be included in the threshold calculation:*

- (1) *Proposed alterations to meet approved fire and life safety agreements;*
- (2) *Alterations related to the removal of existing architectural barriers, as required by the Americans with Disabilities Act, or as specified in Section 1113 of the Oregon Structural Specialty Code;*
- (3) *Alterations required to meet Seismic Design Requirements; and*
- (4) *Improvements to on-site stormwater management facilities in conformance with Oregon City Stormwater Design Standards.*

Findings: Complies as Proposed. The applicant indicated the proposed fencing at the Silver Oak building would cost approximately \$120,000. Compliance with this section is required.

17.58.040.C.2. *An expansion of a nonconforming structure with alterations that exceed the threshold of Subparagraph C.2.a below shall comply with the development standards listed in Subparagraph C.2.b. The value of the alterations and improvements is based on the entire project and not individual building permits. b. Standards that shall be met. Developments not complying with the development standards listed below shall be brought into conformance.*

1. Pedestrian circulation systems, as set out in the pedestrian standards that apply to the sites;
 2. Minimum perimeter parking lot landscaping;
 3. Minimum interior parking lot landscaping;
 4. Minimum site landscaping requirements;
 5. Bicycle parking by upgrading existing racks and providing additional spaces in order to comply with Chapter 17.52—Off-Street Parking and Loading;
 6. Screening; and
 7. Paving of surface parking and exterior storage and display areas.
- c. Area of required improvements.

1. Generally. Except as provided in C.2.c.2. below, required improvements shall be made for the entire site.

Findings: Complies as Proposed. Compliance with this standard is required per 17.58.040.C.2.a. The site currently complies with the pedestrian circulation required in the Oregon City Municipal Code. The applicant has proposed to install parking lot landscaping to comply with this criterion. Silver Oaks currently does not comply with the landscaping requirements of the Oregon City Municipal Code. The applicant proposed to install additional parking lot landscaping which would bring the nonconforming site into greater conformity.

17.58.040.C.d *Timing and cost of required improvements. The applicant may choose one of the two following options for making the required improvements:*

Findings: Complies as Proposed. The applicant proposed to install approximately \$80,000 worth of additional parking lot landscaping which would bring the nonconforming site into greater conformity. The amount of landscaping proposed exceeds the minimum requirement of \$12,000.

RECOMMENDATION:

Based on the analysis and findings as described above, Staff recommends the Planning Commission approve Planning files CP 12-01: Master Plan and DP 12-01: Detailed Development Plan with conditions for the properties located at Clackamas County Map 3-2E205C, tax lots 00806, 00807, and 00812.

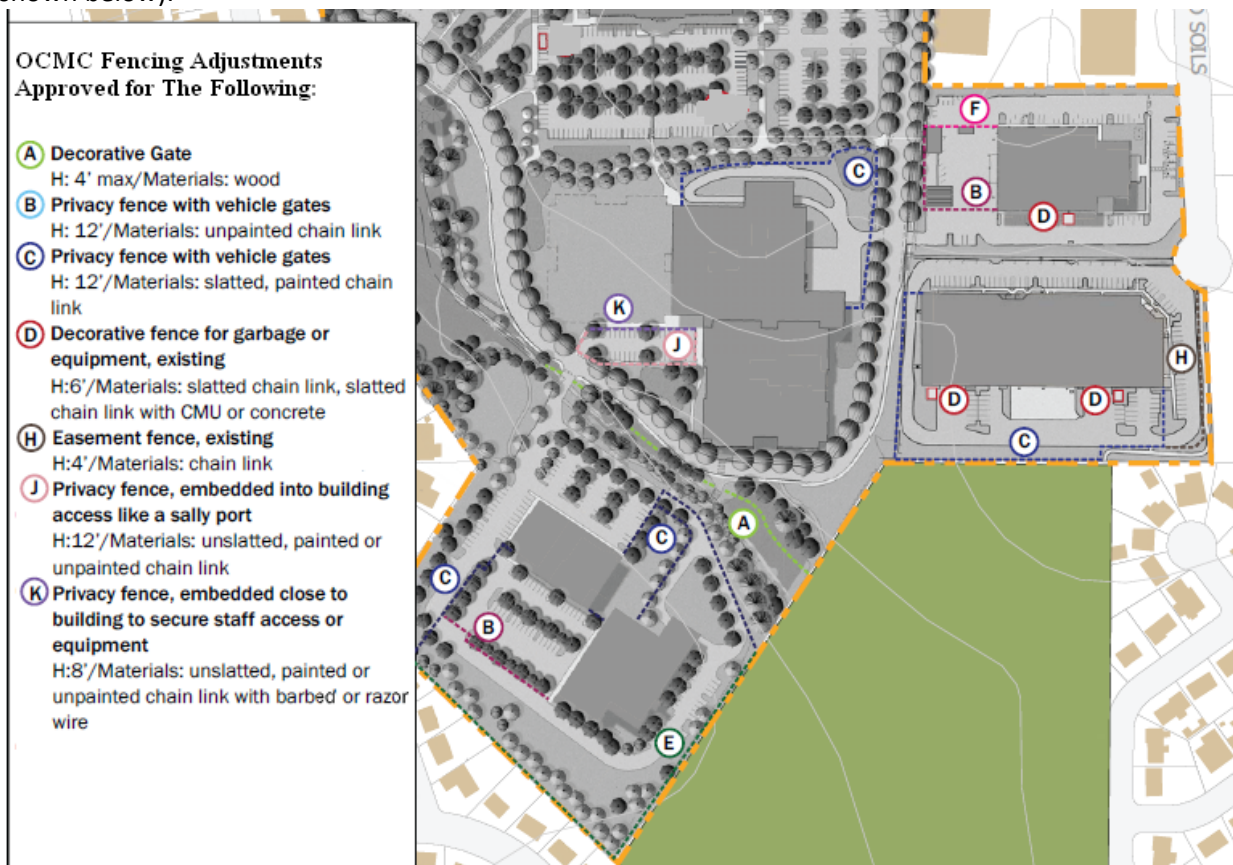
EXHIBITS:

1. Vicinity Map
2. Applicant's Narrative and Site Plan
3. Staff Report for SP 03-08
4. Staff Report for CP 05-01, WR 05-36 & CU 05-03
5. Staff Report for DP 06-02
6. Staff Report for CP 07-02 and DP 07-01
7. Staff Report for CP 08-03
8. Staff Report for CP 09-03, DP 09-02 and WR 09-07
9. Comments from John Replinger, Replinger and Associates
10. Comments from William Gifford, Land Use Chair of the Hillendale Neighborhood Association
11. Engineering Policy 00-01
12. Additional Information Provided by the Applicant

RECOMMENDED CONDITIONS OF APPROVAL

CP 12-01: Master Plan and DP 12-01: Detailed Development Plan

1. The applicant shall complete all proposed development associated with this application prior to occupying the Silver Oak building for office or evidentiary storage use. *(P and DS)*
2. Prior to disturbance of soil associated with the proposed development, the applicant shall sign a Non-Remonstrance Agreement for the purpose of making sanitary sewer, storm sewer, water or street improvements in the future that benefit the Property and assessing the cost to benefited properties pursuant to the City's capital improvement regulations in effect at the time of such improvement. The applicant is responsible for this project's compliance with Engineering Policy 00-01 found at <http://www.orcity.org/sites/default/files/EP00-01v6.pdf>. The policy pertains to any land use decision requiring the applicant to provide any public improvements. *(DS)*
3. The fence height requirement identified in OCMC 17.54.100 is waived for all existing fences. Existing fences may be replaced with the same height fence while installation of new fences in the front and living room portion of the site would comply with OCMC 17.54.100. The height of future fences in the back room portion of the site shall be limited to that proposed on page 63 of the Master Plan (shown below).



4. The fence material requirement for all existing fences is waived. Existing fences may be replaced with the same material fence, while installation of new fences in the front and living room portion of the site would comply with the Oregon City Municipal Code. All future chain link fences proposed in the back room of the site on page 63 of the Master Plan are allowed. *(P)*
5. Prior to disturbance of soil associated with the proposed development at the Silver Oak Building, the applicant shall submit documentation displaying compliance with the tree protection standards in OCMC Chapter 17.41.130 of the Oregon City Municipal Code. *(P)*

6. Prior to disturbance of soil associated with the proposed development, the applicant shall submit documentation for the Red Soils campus indicating the minimum required parking spaces shall be available for the parking of operable passenger automobiles of residents, customers, patrons and employees only, and shall not be used for storage of vehicles or materials or for the parking of trucks used in conducting the business or use. *(P)*
7. Prior to disturbance of soil associated with the proposed development, the applicant shall submit documentation replacing the Otto Luykens Laurel with a plant that is not listed on the Oregon City Nuisance plant list or provide documentation s to why the plant should not be identified on the Oregon City Nuisance plant list. *(P)*
8. Prior to installation of landscaping, the applicant shall provide documentation demonstrating that new landscaping complies with OCMC Chapter 13.12. *(DS)*
9. Prior to installation of landscaping, the applicant shall provide documentation demonstrating the locations where alterations to the parking area/building buffer landscaping are proposed comply with OCMC 17.52.060.C. *(P)*
10. Prior to installation of landscaping, the applicant shall provide documentation demonstrating the locations where alterations to the interior parking lot landscaping are proposed comply with OCMC 17.52.060.D. *(P)*
11. Prior to installation of landscaping, the applicant shall provide documentation demonstrating that for the proposed landscaping, no mulch, bark chips, or similar materials shall be allowed at the time of landscape installation except under the canopy of shrubs and within two feet of the base of trees. *(P)*
12. The applicant shall construct this development as proposed in this application and as required by the attached conditions of approval. *(P and DS)*
13. The proposed fence along the south side of the Silver Oak facility shall be located no more than 2 feet south of the existing curb adjacent to the drive aisle on the south side of the parking lot. The proposed fence along the west side of the Silver Oak facility shall be located no more than 2 feet west of the existing curb adjacent to the drive aisle on the west side of the parking lot. All existing landscaping removed to construct the fence shall be replaced along the fence. *(P)*
14. The applicant has proposed a 12 foot fence along the south side of the Silver Oak facility which is adjacent to an existing pedestrian accessway. The applicant shall not remove any of the existing trees adjacent to the pedestrian accessway to construct the fence. In addition, the applicant shall plant additional hedges and groundcover as required in OCMC Chapter 12.24.040(1-2). *(P)*

(P) = Verify that condition of approval has been met with the Planning Division.

(DS) = Verify that condition of approval has been met with the Development Services Division.



City of Oregon City

625 Center Street
Oregon City, OR 97045
503-657-0891

Staff Report

File Number: 12-269

Agenda Date: 12/10/2012

Status: Public Hearing

To: Planning Commission

Agenda #: c

From: Community Development Director Tony Konkol

File Type: Ordinance

SUBJECT:

LE 12-01 Hearings Officer Amendment

RECOMMENDED ACTION (Motion):

Recommend Approval to City Commission for their consideration at the January 16th, 2013 meeting.

BACKGROUND:

This is a text amendment to Title 17 - Zoning Chapter 17.50 - Administration and Procedures of the OCMC. This proposal amends the appeals process for land use decisions. Under the current code, the City Commission hears all appeals. With the proposed changes, the City Commission will have the option of hearing an appeal itself or instead, directing the appeal to an appointed Hearings Officer.

Many cities and counties use Hearings Officers for quasi-judicial reviews of land use applications, which frees the City Commission from hearing lengthy quasi-judicial cases and allows for prompt decision-making in allowing for greater scheduling flexibility for hearings.

For details, please see the attached staff report.



City of Oregon City

625 Center Street
Oregon City, OR 97045
503-657-0891

Staff Report

File Number: 12-269

Agenda Date: 12/10/2012

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Agenda #: 4c

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For details, please see the attached staff report.



OREGON CITY

Community Development – Planning

221 Molalla Ave. Suite 200 | Oregon City OR 97045

Ph (503) 722-3789 | Fax (503) 722-3880

FILE NO.: LE 12-01 – Appeals Hearings Officer

HEARING DATE: December 10, 2012 - 7:00 p.m., City Hall
625 Center Street
Oregon City, OR 97045

APPLICANT: Community Development Division
City of Oregon City
221 Molalla Avenue, Suite 200
Oregon City, OR 97045

REQUEST: To allow the City Commission to have the option of directing land use decision appeals to an appointed hearings officer.

LOCATION: City of Oregon City

REVIEWER: Kelly Moosbrugger, Assistant Planner

RECOMMENDATION: Staff recommends approval of this application based on satisfaction of all required criteria for a Legislative action.

Legislative actions involve the adoption or amendment of the city's land use regulations, comprehensive plan, maps, inventories and other policy documents that affect the entire city or large portions of it. Legislative actions which affect land use must begin with a public hearing before the planning commission.

B. Planning Commission Review.

1. Hearing Required. The planning commission shall hold at least one public hearing before recommending action on a legislative proposal. Any interested person may appear and provide written or oral testimony on the proposal at or prior to the hearing. The planning manager shall notify the Oregon Department of Land Conservation and Development (DLCD) as required by the post-acknowledgment procedures of ORS 197.610 to 197.625, as applicable.
2. Planning Manager's Report. Once the planning commission hearing has been scheduled and noticed in accordance with Section 17.50.090(C) and any other applicable laws, the planning manager shall prepare and make available a report on the legislative proposal at least seven days prior to the hearing.
3. Planning Commission Recommendation. At the conclusion of the hearing, the planning commission shall adopt a recommendation on the proposal to the city commission. The planning commission shall make a report and recommendation to the city commission on all legislative proposals. If the planning commission recommends adoption of some form of the proposal, the planning commission shall prepare and forward to the city commission a report and recommendation to that effect.

C. City Commission Review.

1. City Commission Action. Upon a recommendation from the planning commission on a legislative action, the city commission shall hold at least one public hearing on the proposal. Any interested person may provide written or oral testimony on the proposal at or prior to the hearing. At the conclusion of the hearing, the city commission may adopt, modify or reject the legislative proposal, or it may remand the matter to the planning commission for further consideration. If the decision is to adopt at least some form of the proposal, and thereby amend the city's land use regulations, comprehensive plan, official zoning maps or some component of any of these documents, the city commission decision shall be enacted as an ordinance.
2. Notice of Final Decision. Not later than five days following the city commission final decision, the planning manager shall mail notice of the decision to DLCD in accordance with ORS 197.615(2). (Ord. 98-1008 §1(part), 1998)

IF YOU HAVE ANY QUESTIONS ABOUT THIS APPLICATION, PLEASE CONTACT KELLY MOOSBRUGGER IN THE PLANNING DIVISION OFFICE AT 722-3789.

I. PROPOSED PROJECT

The Planning Division has applied for a text amendment to the Oregon City Municipal Code Chapter 17.50 – Administration and Procedures. The proposal amends the appeals process for land use decisions. Under the current code, the City Commission hears all appeals. With the proposed changes, the City Commission will have the option of hearing an appeal itself or instead, directing the appeal to an appointed Hearings Officer. A hearings officer can be held on retainer by the City and then the City Commission can decide, either before or after an appeal is filed, whether to hear the matter or to delegate it to the hearings officer.

Many cities and counties use Hearings Officers for quasi-judicial reviews of land use applications, which frees the City Commission from hearing lengthy quasi-judicial cases and allows for prompt decision-making in allowing for greater scheduling flexibility for hearings. Hearings Officers have expertise in applying law and policy to specific situations and in meeting legal requirements for considering and processing such reviews just like the City Commission. The Hearings Officer would hold the same responsibilities as the City Commission does during appeal hearings, including:

- Conducting the public hearing
- Analyzing the merits of a case
- Rendering a decision
- Ensuring the adequacy of the findings and conditions
- Rendering a decision that is free of bias or conflicts of interest

These amendments also alter the standing and appellate review procedures for Type II hearings to make them consistent with state law under ORS 227.175(10)(a)(C) and (D). Under the current code, standing to appeal is limited to those parties who submitted written comments to the planning director within the 14-day comment period. ORS 227.175(10)(a)(C) confers standing on anyone who is “adversely affected or aggrieved” by the decision or is entitled of notice of the decision, which would include those individuals who submitted written comments. As such, staff recommends incorporating the standing rules directly from state law. Further, ORS 227.175(10)(a)(D) requires that appeals of a decision by the Community Development Director be heard *de novo*. Staff has recommended this change as well.

The Planning Division proposes this amendment in order to increase flexibility in its appeal processes and to avoid potential real or perceived conflicts of interest within the City Commission. The revised language will not affect any Planning Commission procedures or alter the scope of work for the Planning Commission.

The proposed amendment to Chapter 17.50 of the Oregon City Municipal Code would impact the following sections of the Oregon City Municipal Code (Exhibit 1).

- 17.50.030 - Summary of the city's decision-making processes.
- 17.50.090 - Public notices.
- 17.50.110 - Assignment of decision-makers.
- 17.50.120 - Quasi-judicial hearing process.
- 17.50.190 - Appeals.

II. FACTS

A. Public Comment

Notice of the Planning Commission and City Commission public hearings for the proposal were published in the Clackamas Review, the Oregonian and emailed to the Citizen Involvement Council and all neighborhood associations. Notices were additionally posted at City Hall and sent to the Library as well. No comments were received.

III. DECISION-MAKING CRITERIA:

A. *The proposal shall be consistent with the goals and policies of the comprehensive plan.*

Findings: Complies as Proposed. The appeals process amendment remains consistent with the following Comprehensive Plan goals and policies.

Goal 1.1 Citizen Involvement Program

Implement a Citizen Involvement Program that will provide an active and systematic process for citizen participation in all phases of the land-use decision making process to enable citizens to consider and act upon a broad range of issues affecting the livability, community sustainability, and quality of neighborhoods and the community as a whole.

Goal 1.2 Community and Comprehensive Planning

Ensure that citizens, neighborhood groups, and affected property owners are involved in all phases of the comprehensive planning program.

Policy 1.2.1

Encourage citizens to participate in appropriate government functions and land-use planning.

Goal 1.4 Community Involvement

Provide complete information for individuals, groups, and communities to participate in public policy planning and implementation of policies.

Goal 1.5 Government/Community Relations

Provide a framework for facilitating open, two-way communication between City representatives and individuals, groups, and communities.

Policy 1.5.1

Support the CIC in initiating and planning events in cooperation with the City on issues of mutual interest. Topics may include such things as working with local schools regarding citizen involvement and stakeholders involved with Comprehensive Plan development and Urban Growth Boundary expansion.

The aforementioned policies encourage participation of Oregon City citizens. The proposed amendment to the appeals process does not change the timing or intent of the appeals process available to citizens. Rather, it allows for greater flexibility in scheduling and efficiency when holding hearings. For example, where a continuance is requested, the hearings officer could reconvene the matter within 7 days, whereas the City Commission would either have to wait until its next regularly scheduled meeting, every two weeks, or call a special meeting. The Planning Division will continue to educate the public and encourage involvement of the public in planning-related issues.

B. That public facilities and services (water, sewer, storm drainage, transportation, schools, police and fire protection) are presently capable of supporting the uses allowed by the zone, or can be made available prior to issuing a certificate of occupancy. Service shall be sufficient to support the range of uses and development allowed by the zone.

Findings: Not Applicable. This standard is not applicable to this application. The proposed change to Chapter 17.50 of the Oregon City Municipal Code will not impact the level of service of the existing public facilities and services.

C. The land uses authorized by the proposal are consistent with the existing or planned function, capacity and level of service of the transportation system serving the proposed zoning district.

Findings: Not Applicable. This standard is not applicable. The proposed amendments to Chapter 17.50 of the Oregon City Municipal Code will not change the land uses authorized in the underlying zone and will not change the level of service of the transportation system.

D. Statewide planning goals shall be addressed if the comprehensive plan does not contain specific policies or provisions which control the amendment. (Ord. 91-1007 §1 (part), 1991; prior code §11-12-2)

Findings: Complies as Proposed. The Oregon City Comprehensive Plan was adopted in June of 2004 and is consistent with the Statewide Planning Goals. The proposed amendment would not inhibit the ability of the public to participate in land use decisions.

In addition to the land use planning objectives identified within the City's Comprehensive Plan, Statewide Planning Goal 2, Part I, requires that local governments establish planning processes that are "coordinated" and assure that city decisions are supported by an "adequate factual base."

Findings: Complies as Proposed. Authorizing the City Commission to delegate its quasi-judicial decision-making functions to a hearings officer allows for greater efficiency while still ensuring legally correct decisions are made. A hearings officer will be selected and on retainer before the City Commission makes any delegation decisions allowing for a streamlined and coordinated process of review.

As with decisions by the City Commission, hearings officer's interpretations of ambiguous regulations must be consistent with the text or context of the ordinances at issue. ORS 197.829. However, where there is ambiguity, and after considering the text and context, a particular interpretation is plausible, LUBA must give deference to the City Commission's decision. *Siporen v. City of Medford*, 349 Or 247, 259, 243 P3d 776 (2010). However, there are some cases that say that when LUBA reviews a hearings officer's interpretation to determine whether that interpretation is correct, LUBA is not required to give the hearings officer's interpretation any particular deference, and will instead determine whether the interpretation is correct. *Gage v. City of Portland*, 133 Or App 346, 349-50, 891 P2d 1331 (1995).

Both City Commission and hearings officers findings must be supported by an adequate factual base and must explain how the evidence presented coupled with various interpretations leads to the conclusions drawn. As such, delegation of particular decisions to a hearings officer satisfies Statewide Planning Goal 2.

IV. RECOMMENDATION

Staff recommends that the Planning Commission recommend approval of the amendment to Chapter 17.50 of the Oregon City Municipal Code to the City Commission for their consideration at the January 16, 2013 public hearing.

V. EXHIBITS

1. Amended OCMC Chapter 17.50 Administration and Procedures

ORDINANCE NO. 12-xxxx

**AN ORDINANCE OF THE CITY OF OREGON CITY AMENDING TITLE 17 ZONING,
CHAPTER 17.50 – ADMINISTRATION AND PROCEDURES.**

WHEREAS, the Oregon City Municipal Code has an established process for appeals of land use decisions; and

WHEREAS, the Oregon City Municipal Code states that Type II, Type III, and Type IV land use decisions are appealable to the City Commission; and

WHEREAS, quasi-judicial appeal hearings are time-consuming and the City Commission's bi-monthly, evening meeting schedule often compromises the City's ability to make prompt decisions; and

WHEREAS, the proposed amendment to Chapter 17.50 of the Oregon City Municipal Code would allow the City Commission to appoint a hearings officer to hear appeals; and

WHEREAS, the proposed amendment to Chapter 17.50 of the Oregon City Municipal Code would allow the City Commission to decide to refer an appeal to the hearings officer on a case by case basis; and

WHEREAS, the proposed amendment to Chapter 17.50 of the Oregon City Municipal Code states that the land use hearings officer shall hear and determine appeals in the same manner, and with the same effect, as the city commission; and

WHEREAS, the proposed amendment complies and is consistent with state statutes, Statewide Planning Goals, and the goals and policies of the Oregon City Comprehensive Plan.

NOW, THEREFORE, OREGON CITY ORDAINS AS FOLLOWS:

Section 1. The Oregon City Zoning and Development Code is hereby amended, as provided in Exhibit 1, based on the findings contained in the Staff Report.

Read for the first time at a regular meeting of the City Commission held on the ____ day of _____, and the City Commission finally enacted the foregoing ordinance this ____ day of _____.

DOUG NEELY, Mayor

Attested to this ____ day of _____ 2012:

Approved as to legal sufficiency:

Nancy Ide, City Recorder

City Attorney

Exhibit 1

17.50.030 - Summary of the city's decision-making processes.

The following decision-making processes chart shall control the City's review of the indicated permits:

Table 17.50.030

PERMIT APPROVAL PROCESS

PERMIT TYPE	I	II	III	IV	Expedited Land Division
Compatibility Review	X				
Code Interpretation			X		
General Development Plan			X		
Conditional Use			X		
Detailed Development Plan ¹		X	X		
Extension		X			
Final Plat	X				
Geologic Hazards		X			
Historic Review			X		
Lot Line Adjustment and Abandonment	X				
Major Modification to a Prior Approval ²	X	X	X	X	X
Minor Modification to a prior Approval	X				
Minor Partition		X			
Nonconforming Use, Structure and Lots Review	X	X			
Reconsideration	X				
Revocation				X	
Site Plan and Design Review		X			
Subdivision		X			X
Variance		X	X		
Zone Change & Plan Amendment				X	
Zone Change Upon Annexation with No Discretion	X			X	
Zone Change Upon Annexation with Discretion				X	
Natural Resource Exemption	X				
Natural Resource Review		X			

¹ If any provision or element of the master plan requires a deferred Type III procedure, the detailed development plan shall be processed through a Type III procedure.

² A major modification to a prior approval shall be considered using the same process as would be applicable to the initial approval.

A. Type I decisions do not require interpretation or the exercise of policy or legal judgment in evaluating approval criteria. Because no discretion is involved, Type I decisions do not qualify as a land use, or limited land use, decision. The decision-making process requires no notice to any party other than the applicant. The community development director's decision is final and not appealable by any party through the normal city land use process.

B. Type II decisions involve the exercise of limited interpretation and discretion in evaluating approval criteria, similar to the limited land use decision-making process under state law. Applications evaluated through this process are assumed to be allowable in the underlying zone, and the inquiry typically focuses on what form the use will take or how it will look. Notice of application and an invitation to comment is mailed to the applicant, recognized active neighborhood association(s) and property owners within three hundred feet. The community development director accepts comments for a minimum of fourteen days and renders a decision. The community development director's decision is appealable to the city commission or land use hearings officer pursuant to Section 17.50.190, with notice to the planning commission, by any party with standing (~~i.e., applicant and any party who submitted comments during the comment period~~) under ORS 227.175(10(a)(C)). The ~~city commission~~ decision on appeal is the city's final decision and is ~~appealable to subject to review by~~ the land use board of appeals (LUBA) within twenty-one days of when it becomes final.

C. Type III decisions involve the greatest amount of discretion and evaluation of subjective approval standards, yet are not ~~required to be~~ heard by the city commission, except upon appeal. In the event that any decision is not classified, it shall be treated as a Type III decision. The process for these land use decisions is controlled by ORS 197.763. Notice of the application and the planning commission or the historic review board hearing is published and mailed to the applicant, recognized neighborhood association(s) and property owners within three hundred feet. Notice must be issued at least twenty days pre-hearing, and the staff report must be available at least seven days pre-hearing. At the evidentiary hearing held before the planning commission or the historic review board, all issues are addressed. The decision of the planning commission or historic review board is appealable to the city commission or land use hearings officer on the record pursuant to Section 17.50.190. The ~~city commission~~ decision on appeal ~~from the historic review board or the planning commission~~ is the city's final decision and is ~~appealable to subject to review by~~ LUBA within twenty-one days of when it becomes final, unless otherwise provided by state law.

D. Type IV decisions include only quasi-judicial plan amendments and zone changes. These applications involve the greatest amount of discretion and evaluation of subjective approval standards and must be heard by the city commission for final action. The process for these land use decisions is controlled by ORS 197.763.

~~Notice of the application and planning commission hearing is published and mailed to the applicant, recognized neighborhood association(s) and property owners within three hundred feet. Notice must be issued at least twenty days pre-hearing, and the staff report must be available at least seven days pre-hearing.~~ At the evidentiary

hearing held before the planning commission, all issues are addressed. If the planning commission denies the application, any party with standing (i.e., anyone who appeared before the planning commission either in person or in writing within the comment period) may appeal the planning commission denial to the city commission or land use hearings officer pursuant to Section 17.50.190.

If the planning commission denies the application and no appeal has been received within ~~fourteen~~ ten days of the issuance of the final decision then the action of the planning commission becomes the final decision of the city. If the planning commission votes to approve the application, that decision is forwarded as a recommendation to the city commission for final consideration. In either case, any review by the city commission is on the record and only issues raised before the planning commission may be raised before the city commission. The city commission or land use hearings officer decision is the city's final decision and is ~~appealable to~~ subject to review by the land use board of appeals (LUBA) within twenty-one days of when it becomes final.

E. The expedited land division (ELD) process is set forth in ORS 197.360 to 197.380. To qualify for this type of process, the development must meet the basic criteria in ORS 197.360(1)(a) or (b). While the decision-making process is controlled by state law, the approval criteria are found in this code. The community development director has twenty-one days within which to determine whether an application is complete. Once deemed complete, the community development director has sixty-three days within which to issue a decision. Notice of application and opportunity to comment is mailed to the applicant, recognized neighborhood association and property owners within one hundred feet of the subject site. The community development director will accept written comments on the application for fourteen days and then issues a decision. State law prohibits a hearing. Any party who submitted comments may call for an appeal of the community development director's decision before a hearings referee. The referee need not hold a hearing; the only requirement is that the determination be based on the evidentiary record established by the community development director and that the process be "fair." The referee applies the city's approval standards, and has forty-two days within which to issue a decision on the appeal. The referee is charged with the general objective to identify means by which the application can satisfy the applicable requirements without reducing density. The

referee's decision is appealable only to the court of appeals pursuant to ORS 197.375(8) and 36.355(1).

17.50.090 - Public notices.

All public notices issued by the city with regard to a land use matter, announcing applications or public hearings of quasi-judicial or legislative actions, shall comply with the requirements of this section.

A. Notice of Type II Applications. Once the planning manager has deemed a Type II application complete, the city shall prepare and send notice of the application, by first class mail, to all record owners of property within three hundred feet of the subject property and to any city-recognized neighborhood association whose territory includes the subject property. Pursuant to Section 17.50.080G., the applicant is responsible for providing an accurate and complete set of mailing labels for these property owners and for posting the subject property with the city-prepared notice in accordance with Section 17.50.100. The city's Type II notice shall include the following information:

1. Street address or other easily understood location of the subject property and city-assigned planning file number;
2. A description of the applicant's proposal, along with citations of the approval criteria that the city will use to evaluate the proposal;
3. A statement that any interested party may submit to the city written comments on the application during a fourteen-day comment period prior to the city's deciding the application, along with instructions on where to send the comments and the deadline of the fourteen-day comment period;
4. A statement that any issue which is intended to provide a basis for an appeal must be raised in writing during the fourteen-day comment period with sufficient specificity to enable the city to respond to the issue;
5. A statement that the application and all supporting materials may be inspected, and copied at cost, at city hall during normal business hours;
6. The name and telephone number of the planning staff person assigned to the application or is otherwise available to answer questions about the application.
7. The notice shall state that a city-recognized neighborhood association requesting an appeal fee waiver pursuant to Section 17.50.290C. must officially approve the request through a vote of its general membership or board at a duly announced meeting prior to the filing of an appeal.

B. Notice of Public Hearing on a Type III or IV Quasi-Judicial Application. Notice for all public hearings concerning a quasi-judicial application shall conform to the requirements of this subsection. At least twenty days prior to the hearing, the city shall prepare and send, by first class mail, notice of the hearing to all record owners

of property within three hundred feet of the subject property and to any city-recognized neighborhood association whose territory includes the subject property. The city shall also publish the notice in a newspaper of general circulation within the city at least twenty days prior to the hearing. Pursuant to Section 17.50.080H., the applicant is responsible for providing an accurate and complete set of mailing labels for these property owners and for posting the subject property with the city-prepared notice in accordance with Section 17.50.100. Notice of the application hearing shall include the following information:

1. The time, date and location of the public hearing;
2. Street address or other easily understood location of the subject property and city-assigned planning file number;
3. A description of the applicant's proposal, along with a list of citations of the approval criteria that the city will use to evaluate the proposal;
4. A statement that any interested party may testify at the hearing or submit written comments on the proposal at or prior to the hearing and that a staff report will be prepared and made available to the public at least seven days prior to the hearing;
5. A statement that any issue which is intended to provide a basis for an appeal ~~to the city commission~~ must be raised before the close of the public record. Issues must be raised and accompanied by statements or evidence sufficient to afford the city and all parties to respond to the issue;
6. The notice shall state that a city-recognized neighborhood association requesting an appeal fee waiver pursuant to Section 17.50.290C. must officially approve the request through a vote of its general membership or board at a duly announced meeting prior to the filing of an appeal.
7. A statement that the application and all supporting materials and evidence submitted in support of the application may be inspected at no charge and that copies may be obtained at reasonable cost at city hall during normal business hours; and
8. The name and telephone number of the planning staff person responsible for the application or is otherwise available to answer questions about the application.

C. Notice of Public Hearing on a Legislative Proposal. At least twenty days prior to a public hearing at which a legislative proposal to amend or adopt the city's land use regulations or comprehensive plan is to be considered, the planning manager shall issue a public notice that conforms to the requirements of this subsection. Notice shall be sent to affected governmental entities, special districts, providers of urban services, including Tri-Met, Oregon Department of Transportation and Metro, any affected recognized neighborhood associations and any party who has requested in writing such notice. Notice shall also be published in a newspaper of general

circulation within the city. Notice issued under this subsection shall include the following information:

1. The time, date and location of the public hearing;
2. The city-assigned planning file number and title of the proposal;
3. A description of the proposal in sufficient detail for people to determine the nature of the change being proposed;
4. A statement that any interested party may testify at the hearing or submit written comments on the proposal at or prior to the hearing; and
5. The name and telephone number of the planning staff person responsible for the proposal and who interested people may contact for further information.

17.50.110 - Assignment of decision-makers.

The following city entity or official shall decide the following types of applications:

A. Type I Decisions. The community development director shall render all Type I decisions. The community development director's decision is the city's final decision on a Type I application.

B. Type II Decisions. The community development director shall render the city's decision on all Type II permit applications which are appealable to the city commission with notice to the planning commission. The city commission may, in a particular case, delegate its final decision to the land use hearings officer appointed by it. In that event, the land use hearings officer shall hear and determine that case in the same manner, and with the same effect, as the city commission. The city's ~~final-commission~~ decision is appealable to subject to review by LUBA.

C. Type III Decisions. The planning commission or historic review board, as applicable, shall render all Type III decisions. Such decision is appealable to the city commission, on the record. The city commission may, in a particular case, delegate its final decision to the land use hearings officer appointed by it. In that event, the land use hearings officer shall hear and determine that case in the same manner, and with the same effect, as the city commission. The ~~city commission's decision is~~ the city's final decision and is appealable is subject to review by LUBA within twenty-one days of when it becomes final.

D. Type IV Decisions. The planning commission shall render the initial decision on all Type IV permit applications. If the planning commission denies the Type IV application, that decision is final unless appealed ~~to the city commission~~ in accordance with Section 17.50.190. If the planning commission recommends approval of the application, that recommendation is forwarded to the city commission. The city commission decision is the city's final decision on a Type IV application and is appealable to subject to review by LUBA.

E. ELD. The community development director shall render the initial decision on all ELD applications. The community development director's decision is the city's final decision unless appealed in accordance to ORS 197.375 to a city-appointed hearings referee. The hearings referee decision is the city's final decision which is appealable to the Oregon Court of Appeals.

17.50.120 - Quasi-judicial hearing process.

All public hearings pertaining to quasi-judicial permits, whether before the Planning Commission, Historic Review Board, or City Commission, shall comply with the procedures of this section. In addition, all public hearings held pursuant to this chapter shall comply with the Oregon Public Meetings Law, the applicable provisions of ORS 197.763 and any other applicable law.

A. Once the community development director determines that an application for a Type III or IV decision is complete, the Planning Division shall schedule a hearing before the Planning Commission or Historic Review Board, as applicable. Once the community development director determines that an appeal of a Type II, Type III or Type IV decision has been properly filed under Section 17.50.190, the planning division shall schedule a hearing ~~before the city commission~~ pursuant to [Section 17.50.190](#).

B. Notice of the Type III or IV hearing shall be issued at least twenty days prior to the hearing in accordance with Section 17.50.090B.

C. Written notice of an appeal hearing ~~before the city commission~~ shall be sent by regular mail no later than fourteen days prior to the date of the hearing to the appellant, the applicant if different from the appellant, the property owner(s) of the subject site, all persons who testified either orally or in writing before the hearing body and all persons that requested in writing to be notified.

D. The community development director shall prepare a staff report on the application which lists the applicable approval criteria, describes the application and the applicant's development proposal, summarizes all relevant city department, agency and public comments, describes all other pertinent facts as they relate to the application and the approval criteria and makes a recommendation as to whether each of the approval criteria are met.

E. At the beginning of the initial public hearing at which any quasi-judicial application or appeal is reviewed, a statement describing the following shall be announced to those in attendance:

1. That the hearing will proceed in the following general order: staff report, applicant's presentation, testimony in favor of the application, testimony in opposition to the application, rebuttal, record closes, commission deliberation and decision;

2. That all testimony and evidence submitted, orally or in writing, must be directed toward the applicable approval criteria. If any person believes that other criteria apply in addition to those addressed in the staff report, those criteria must be listed and discussed on the record. The meeting chairperson may reasonably limit oral presentations in length or content depending upon time constraints. Any party may submit written materials of any length while the public record is open;
3. Failure to raise an issue on the record with sufficient specificity and accompanied by statements or evidence sufficient to afford the city and all parties to respond to the issue, will preclude appeal on that issue to the state land use board of appeals;
4. Any party wishing a continuance or to keep open the record must make that request while the record is still open; and
5. That the commission chair shall call for any ex-parte contacts, conflicts of interest or bias before the beginning of each hearing item.
6. For appeal hearings, only those persons who participated either orally or in writing in the decision or review will be allowed to participate either orally or in writing on the appeal.

F. Requests for continuance and to keep open the record: The hearing may be continued to allow the submission of additional information or for deliberation without additional information. New notice of a continued hearing need not be given so long as a time-certain and location is established for the continued hearing. Similarly, hearing may be closed but the record kept open for the submission of additional written material or other documents and exhibits. The chairperson [or hearings officer](#) may limit the factual and legal issues that may be addressed in any continued hearing or open-record period.

17.50.190 - Appeals.

Appeals of any non-final decisions by the city must comply with the requirements of this section.

A. Type I decisions by the planning manager are not appealable to any other decision-maker within the city.

B. A notice of appeal of any Type II, III or IV decision must be received in writing by the planning division within fourteen calendar days from the date notice of the challenged decision is provided to those entitled to notice. Late filing of any appeal shall be deemed a jurisdictional defect and will result in the automatic rejection of any appeal so filed.

C. The following must be included as part of the notice of appeal:

1. The city planning file number and date the decision to be appealed was rendered;

2. The name, mailing address and daytime telephone number for each appellant;
3. A statement of how each appellant has an interest in the matter and standing to appeal;
4. A statement of the specific grounds for the appeal;
5. The appropriate appeal fee. Failure to include the appeal fee within appeal period is deemed to be a jurisdictional defect and will result in the automatic rejection of any appeal so filed. If a city-recognized neighborhood association with standing to appeal has voted to request a fee waiver pursuant to Section 17.50.290C., no appeal fee shall be required for an appeal filed by that association. In lieu of the appeal fee, the neighborhood association shall provide a duly adopted resolution of the general membership or board approving the request for fee waiver.

D. Standing to Appeal. The following rules prescribe who has standing to appeal:

1. For Type II decisions, only those persons or recognized Neighborhood Associations who have ~~who have submitted written comments within the fourteen-day comment period have standing to~~ standing pursuant to ORS 227.175(10)(a)(C) may appeal a planning manager decision. Review of an appeal by the City Commission or the Hearings Officer will be de novo. ~~Grounds for appeal are limited to those issues raised in writing during the fourteen-day comment period in filing an appeal to the city commission.~~
2. For Type III and IV decisions, only those persons or recognized Neighborhood Associations who have participated either orally or in writing have standing to appeal the decision of the planning commission or historic review board, as applicable. Grounds for appeal are limited to those issues raised either orally or in writing before the close of the public record.

E. Referral to Land Use Hearings Officer. At the next city commission meeting after an appeal is filed, the planning division shall provide notice to the city commission of the filing of the appeal and the city commission may, in its discretion, refer the appeal to the land use hearings officer. The city commission may also, during the course of a proceeding before a lower tribunal, assign any appeals to the land use hearings officer prior to an appeal being filed.

FF. Notice of the Appeal Hearing. The planning division shall issue notice of the appeal hearing to all parties who participated either orally or in writing before the close of the public record in accordance with Section 17.50.090B. Notice of the appeal hearing shall contain the following information:

1. The file number and date of the decision being appealed;
2. The time, date and location of the public hearing;
3. The name of the applicant, owner and appellant (if different);
4. The street address or other easily understood location of the subject property;

5. A description of the permit requested and the applicant's development proposal;
6. A brief summary of the decision being appealed and the grounds for appeal listed in the notice of appeal;
7. A statement that the appeal hearing is confined to the issues raised in the notice of appeal;
8. A general explanation of the requirements for participation and the city's hearing procedures.

F. Appeal Hearing—Scope of Review. Appeal hearings shall comply with the procedural requirements of Section 17.50.120. Appeal hearings shall be conducted by the city commission, [land use hearings officer](#), planning commission or historic review board, as applicable. The decision shall be on the record and the issues under consideration shall be limited to those listed in the notice of appeal.

(Ord. No. 08-1014, §§ 1—3(Exhs. 1—3), 7-1-2009; Ord. No. 10-1003, § 1(Exh. 1), 7-7-2010)