



CITY OF OREGON CITY PLANNING COMMISSION AGENDA

**Commission Chambers, Libke Public Safety Building 1234 Linn Ave, Oregon City
Monday, September 12, 2022 at 7:00 PM**

**This meeting will be held in person and online via Zoom; please contact
ocplanning@orcify.org for the meeting link.**

CALL TO ORDER

PUBLIC COMMENT

Citizens are allowed up to 3 minutes to present information relevant to the Planning Commission but not listed as an item on the agenda. Prior to speaking, citizens shall complete a comment form and deliver it to the Chair/City Staff. The Commission does not generally engage in dialog with those making comments but may refer the issue to the City Staff. Complaints shall first be addressed at the department level prior to addressing the Commission.

PUBLIC HEARING

1. GLUA-21-00045 / MAS-21-00006 / VAR-22-00001 Park Place Crossing General Development Plan.
2. GLUA-22-00015, SP-22-00050, VAR-22-0002, FP 22-00002-Planning Commission Variance request to the rear yard abutting a residential zone to allow for the relocation of existing non-transitory mobile food units and a minor site plan for a 250 square foot rear addition to the main building onsite on property located at 504 14th Street.

COMMUNICATIONS

ADJOURNMENT

PUBLIC COMMENT GUIDELINES

Complete a Comment Card prior to the meeting and submit it to the City Recorder. When the Mayor/Chair calls your name, proceed to the speaker table, and state your name and city of residence into the microphone. Each speaker is given three (3) minutes to speak. To assist in tracking your speaking time, refer to the timer on the table.

As a general practice, the City Commission does not engage in discussion with those making comments. Electronic presentations are permitted but shall be delivered to the City Recorder 48 hours in advance of the meeting.

ADA NOTICE

The location is ADA accessible. Hearing devices may be requested from the City Recorder prior to the meeting. 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.

Agenda Posted at City Hall, Pioneer Community Center, Library, City Website.

Video Streaming & Broadcasts: The meeting is streamed live on the Oregon City's website at www.orcity.org and available on demand following the meeting. The meeting can be viewed on Willamette Falls Television channel 28 for Oregon City area residents as a rebroadcast. Please contact WFMC at 503-650-0275 for a programming schedule.



CITY OF OREGON CITY

Staff Report

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

To: Planning Commission **Agenda Date:** 09/12/2022
From: Pete Walter, Planning Manager
Aquilla Hurd-Ravich, Community Development Director

SUBJECT:

GLUA-21-00045 / MAS-21-00006 / VAR-22-00001 Park Place Crossing General Development Plan.

STAFF RECOMMENDATION:

Staff recommends that the Planning Commission review and adopt the attached final findings for Approval with Conditions for GLUA-21-00045 / MAS-21-00006 / VAR-22-00001.

EXECUTIVE SUMMARY:

On 8/22/2022 the Planning Commission voted 5-2 to tentatively approve GLUA-21-00045 / MAS-21-00006 / VAR-22-00001 with revised findings and conditions of approval.

The Planning Commission's revised conditions of approval and applicable findings are indicated in red underlined font in the staff report. These include:

Condition #1: Changed timeline of approval to 12 years from initial adoption of the GDP. Applicable revised findings are on page 52.

Condition #5c: Added additional clause that no more front-loaded lots shall be permitted on Holly Lane for any subsequent phases. Applicable revised findings are on page 123.

Condition #9. Reorder condition to implement phased barrier system as proposed.

Condition #21. Clarify the review threshold for a Type III Natural Resource Overlay District review per code section OCMC 17.49.

Condition #33. New condition added to ensure public notice of future GDP or DDP applications shall be provided to properties and occupants within 300 feet of the Park Place Crossing master plan boundary. Applicable revised findings are on page 198.

Condition #34. New condition added to specify the Planning Commission's preferred alignment for Holly Lane includes residential lots abutting the existing Trailview subdivision as proposed in applicant's Exhibit 1 – Park Place Crossing Layout Revision dated 8/10/2022.

Condition #55. Revised condition to replace wording so that it matches code regarding infiltration rates pre and post development. Applicable revised findings on page 174

Summary of Revised Proposal

With the revisions submitted on August 11 through August 18, 2022, the applicant proposed several changes from the original proposal that reduced the overall density of the Park Place Crossing project from the original proposal of 476 units.

Revisions include:

- A new exhibit submitted 8/17/2022 indicating locations of alley loaded vs. topographically constrained lots
- 440 total housing units.
 - 287 single-family detached dwelling - 65%
 - 139 single-family attached dwellings – 32%
 - 14 units of Mixed Use – Apartments – 3%.
- With this revision the applicant is no longer requesting a density increase permitted through General Development Plans per OCMC 17.65.070.C.4. The density of the project was adjusted by making the following considerations:
 - Larger lots at least 10,000 square feet in area where the development abuts existing residential subdivisions and open space.
 - The number of lots in phase 1 has been reduced from 59 to 49 units.
 - Paired townhomes have been added to phase 1. To adjacent properties, these units would appear similar to a single family detached residence. This also brings diversity in housing types and the opportunity for more affordable homes to be provided in Phase 1.
- Alleys. Where feasible, the applicant has added alleys to allow additional homes to provide rear access. Perimeter lots, because they abut either natural areas or existing homes, and lots in areas with topographic constraints have not been planned with alley access. The addition of these alleys will reduce the number of driveways accessing local streets.
- The Mixed Use/Civic/Village Green area has been revised to three parcels of 0.51 acres, 0.56 acres and 1.26 acres (total 2.43 acres), bisected by an additional local street to provide a continuous corridor for the Livesay Main Street area, to provide additional transportation connectivity that better integrates this area with the Park Place Crossing neighborhood and future Park Place North Village areas.
- The opportunity for additional affordable attached single- family housing and other residential use types (e.g., those within Neighborhood Commercial areas).
- A future public park site of 4.3 acres. The park site has been reconfigured and although 0.1 acres smaller than originally proposed, provide sufficient land in proportion with the number of units proposed within the development.

The public hearing for this application first opened on April 25, 2022. Subsequently the applicant requested continuances and was granted by Planning Commission to May 9, 2022, May 23, 2022, July 11, 2022, July 25, 2022, and now to August 22, 2022.

Additional time was requested by the applicant to address the concerns outlined below, and for staff to provide a revised staff report analyzing the revised proposal, and the new issues raised at the July 11 hearing, with revised conditions of approval.

The applicant has granted a thirty-day extension of the decision deadline, which is currently September 23, 2022, to October 23, 2022.

At the July 11 hearing, additional questions and concerns were raised by the Planning Commission. These concerns included:

- How the proposed General Development Plan complies with the density requirements of the Park Place Concept Plan and the minimum and maximum density requirement of the zoning code.
- The phasing and mechanism for when and how the Redland Road connection will be made
- How the proposed park realignment and new layout for Neighborhood Commercial areas complies with the Park Place Concept Plan.
- The timing for the requirement for a new local road connection east of Holly Lane.
- The design of the cross section of Holly Lane at the pinch point and concerns regarding noise, grading and buffering from adjacent Trailview Estates residents.
- Engineering staff input regarding the geologic hazard slope stability and conditions and differences between in the North and South Village areas of the concept plan.
- Discussion of how lots will be sized to better blend with adjacent development and protect existing surrounding residents
- Sight distance concerns for the Holly Lane extension to the north realignment and concerns over steep slopes and impeded vision along the “S” curve.
- An explanation from the City Attorney concerning *Baker v. City of Milwaukie* and the relevance to this land use review.
- Revised conditions of approval.

At the July 11, 2022, the applicant presented a revised proposal to address concerns expressed in prior hearings by members of the public, staff, and the Planning Commission. The applicant submitted a revised proposal that addresses four areas:

1. An extension of Holly Lane to Holcomb Blvd
2. Reconfiguration of the proposed portion of the Community Park located at the southwest corner of the Master Plan area.
3. A second street connection to provide additional connectivity to Livesay Rd.

4. A plan that would prevent 2,000 average daily trips (ADT) on Winston Drive, Cattle Drive, Shartner Drive, and Street A.

The Park Place Crossing Master Plan consists of 92 acres that will eventually provide 440 residential units planned over six phases, a community park, open space, regional stormwater management facility, a retail/civic site, and trail components. The Park Place Crossing Master Plan area is within the northernmost portion of the larger Park Place Concept Area established in 2008 through the Park Place Concept Plan. The 92-acres was annexed into the City limits through AN-17-04.

The 92-acre site includes properties zoned Medium Density Residential (R-5), Low Density Residential (R-10), and Neighborhood Commercial (NC).

BACKGROUND:

The 92-acre subject property was annexed and assigned zoning in 2018 through AN-17-04 and ZC 17-05; this application for a General Development Plan is the next step in the development of this site. One of the conditions of approval imposed by the City on the approved annexation request was that the applicant obtain General Development Plan approval for the 92-acre area prior to any urban development on the site.

This application includes requests for the following approvals:

- **General Development Plan (GDP):** The overall long-term approach to development through 2030 for up to 440 residential lots, including supporting parks, trails, and neighborhood commercial and civic spaces. Included in the request for GDP approval is:
 - A modification to street width standards for a limited segment of Holly Lane
 - Adjustments to the following development standards:
 - OCMC Chapter 17.08.040 and 17.10.040 Dimensional Standards, including up to 20% reduction of lot sizes, widths, depths, and setbacks
 - OCMC Chapter 17.21.090.A for garage placement and design
- **Variance:** Request to reduce the minimum lot size for attached single family lots to 1800 square feet.

The originally submitted General Development Plan included the following uses:

- 476 total housing units, including 126 attached dwellings and 350 detached dwellings
- Construction of a segment of Holly Lane, a planned collector street
- A future public park site of 4.4 acres
- Approximately 1.3 acres of commercial/civic space provided in two parcels
- An off-street trail system within protected natural areas

Phase 1 is anticipated to be constructed in 2023, with completion of Phases 2 through 6 accomplished by 2030. Detailed Development Plan applications for each Phase are anticipated to be submitted at a future date following approval of the General Development Plan. The provision of the OCMC 17.65, Master Plans, allow for detailed development plans to be reviewed through a Type II process following the Type III approval of a General Development Plan.

This approach allows staff, the applicant, and the public a clear road map for what is required for future detailed development plans, and clearly specifies the range of development that may be authorized and the levels of public improvements necessary to serve that development.

OPTIONS:

The public hearing and record were closed on August 22, 2022 and no further testimony is allowed. The Planning Commission made a tentative decision on August 22, 2022 to approve with conditions, including conditions added by the Planning Commission, the revised application. The Planning Commission has two options:

1. Adoption: Adopt the attached final findings for Approval with Conditions for GLUA-21-00045 / MAS-21-00006 / VAR-22-00001;
2. Denial: Deny the application and make findings for denial for GLUA-21-00045 / MAS-21-00006 / VAR-22-00001;



TYPE III PLANNING COMMISSION DECISION FINAL FINDINGS

Staff Report Published: September 1, 2022

Note: this report reflects the final findings and conditions of approval tentatively approved by the Planning Commission on 8/22/2022. The Public Hearing is closed.

FILE NUMBER: GLUA-21-00045 / MAS-21-00006 / VAR-22-00001
Park Place Crossing General Development Plan

DATE OF ADOPTION: September 12, 2022

HEARING DATE: *Planning Commission*
Continued from Public Hearing continued from August 22, 2022
Monday, August 22, 2022 - 7:00 p.m., Oregon City Commission Chambers
1234 Linn Avenue, Oregon City, OR 97045

REPRESENTATIVE: AKS Engineering & Forestry, LLC
12965 SW Herman Road, Suite 100
Tualatin, OR 97062

APPLICANT: ICON Construction & Development, LLC
1969 Willamette Falls Drive, Suite 260
West Linn, Oregon 97068

Submitted: 7/20/21
Complete: 1/4/22
120 Day Deadline: 7/25/22
Extension: 10/23/2022
NOD:

OWNERS:

Address:	Tax Lot:	Owner
NO SITUS ADDRESS	2-2E-27BC -01000	Redland Rd LLC
15110 S HOLCOMB BLVD	2-2E-27BC -02000	Redland Rd LLC
NO SITUS ADDRESS	2-2E-28D -00100	Hidden Falls LLC
NO SITUS ADDRESS	2-2E-28D -00190	Hidden Falls LLC
16530 S LIVESAY RD	2-2E-28D -00200	Kirk and Michelle Tolstrup
16644 S LIVESAY RD	2-2E-28D -00300	George Thomas
NO SITUS ADDRESS	2-2E-28D -00301	George Thomas
NO SITUS ADDRESS	2-2E-28D -00302	Hidden Falls LLC
NO SITUS ADDRESS	2-2E-28D -00303	George Thomas
16582 S LIVESAY RD	2-2E-28D -00400	Hidden Falls LLC
14631 S LIVESAY RD	2-2E-28D -00500	Hidden Falls LLC
14631 S LIVESAY RD	2-2E-28D -00502	Robert Tershel
16472 S LIVESAY RD	2-2E-28D -03700	Hidden Falls LLC
NO SITUS ADDRESS	2-2E-28D -03701	Redland Rd LLC

REQUEST: The Park Place Crossing (PPC) Master Plan consists of ±440 residential units planned to be provided in six residential phases on 91.7 acres of land. The

project also includes a community park, open space, regional stormwater management facility, retail/civic, and trails components. The Park Place Crossing Master Plan area is within the northernmost portion of the Park Place Concept Area (PPCA) established in 2008 through the Park Place Concept Plan (PPCP). The applicant also requested approval of a variance to lot size for single-family attached residential units (townhomes).

LOCATION: North and East of S Livesay Road, South of S Holcomb Road, Oregon City, Oregon
 Map 2 2E 28D: Tax Lots 100, 190, 200, 300, 301, 302, 303, 400, 500, 502, 3700, 3701
 Map 2 2E 27BC: Tax Lots 1000, 2000

REVIEWER: Pete Walter, Planning Manager
 Erik Nichols, Public Works Engineering Development Services, Project Manager
 Aquilla Hurd-Ravich, AICP, Community Development Director

RECOMMENDATION: 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 master plan approvals. The process for these land use decisions is controlled by ORS 197.763. Notice of the application and the planning commission hearing is published and mailed to the applicant, recognized neighborhood association and property owners within three hundred feet of the subject property. 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 is final unless appealed and description of the requirements for perfecting an appeal is set forth in OCMC 17.50.190. The decision of the planning commission is appealable to the city commission within fourteen days of the issuance of the final decision. The city commission hearing on appeal is on the record and no new evidence shall be allowed. Only those persons or a city-recognized neighborhood association who have participated either orally or in writing have standing to appeal the decision of the planning commission. Grounds for appeal are limited to those issues raised either orally or in writing before the close of the public record. A city-recognized neighborhood association requesting an appeal fee waiver pursuant to OCMC 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 the Land Use Board of Appeals (LUBA) within twenty-one days of when it becomes final.

The Master Plan / PUD process allows for an initial discretionary (Type III) General Development Plan approval by the Planning Commission, which provides for more detailed implementation of the submitted plan through subsequent staff level (Type II) review of Detailed Development Plan applications over multiple phases as directed by the applicant. Each development will be reviewed for compliance against the adopted General Development Plan and the July 20, 2021 Municipal Code over the life of the General Development Plan, unless amended, or unless the applicant prefers to comply with the Municipal Code standards in place when the Detailed Development Permit is filed.

Type II applications require public notice and comment, however, they are not required to be reviewed by the Planning Commission and are subject to clear and objective standards in the code.

This approach allows staff, the applicant, and the public a clear road map for what is required, and more importantly, clearly specifies the range of development that may be authorized and the levels of public improvements necessary to serve that development. All permitted uses in the site's three zones: R-10, R-5, and NC, are allowed within the zoned areas subject to any limitation set forth in the Park Place Concept Plan, and based on the code in place when the General Development Plan was filed.

Illustrations, renderings, and demonstration photos found in the submitted General Development Plan application are considered background documentation and are not to become applicable approval criteria for the evaluation of a Detailed Development Plan review in the future. Future additions to or removal of permitted uses listed in the Applicant's submittal shall not in themselves constitute a need for an amendment to the General Development Plan unless the addition or revision makes changes to the master plan that triggers a need for an amendment as provided in OCMC 17.65.080 *Amendments to Plans*.



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RECOMMENDED CONDITIONS OF APPROVAL

Planning File GLUA-21-00045

(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.

(B) = Verify that condition of approval has been met with the Building Division.

(F) = Verify that condition of approval has been met with Clackamas Fire Department.

Note :

DDP means “Detailed Development Plan.”

GDP means “General Development Plan.”

The terms “Master Plan” and “General Development Plan” are used interchangeably and are synonymous.

Planning Division - Conditions of Approval:

1. Unless subsequently amended by the Planning Commission, this Master Plan shall control development on the site for 12 years from the date of the initial adoption of this General Development Plan. All land within the Master Plan boundaries is subject to compliance despite any future lot line adjustments or land divisions.
2. For each Detailed Development Plan application, the applicant may choose to utilize the July 20, 2021 Oregon City Municipal Code, as adopted at the time of the Master Plan submittal or the Development Code that is applicable at the time a Detailed Development Plan (DDP) is applied for.
3. Detailed development plan phase boundaries are understood to be approximate and are subject to change in the future. Thus, mitigation shall be defined by the number of residential units proposed, coupled with those developed in previously approved phases, rather than by master plan phase boundary.
4. Unless otherwise specified in these conditions of approval, all permitted uses in each of the three zones (R-10, R-5, and NC) are allowed within the area subject to the Master Plan. Additions to or removal of uses listed in the Applicant’s submittal shall not in themselves constitute a need for an amendment to the Master Plan unless the addition or revision triggers a need for an amendment through a Condition of Approval or OCMC 17.65.080 Amendments to Plans.
5. The following adjustments to the Municipal Code are approved and subject to the conditions found in the Notice of Decision.

- a. OCMC 17.08.040 and 17.10.040 Dimensional Standards, including up to 20% reduction of lot sizes, widths, depths, and setbacks.
 - b. The requested adjustment to the garage orientation standards in OCMC 17.21.090.A is only approved for the lots indicated as topographically constrained on Exhibit 7, "Revised Alley-loaded and Topo Constrained Lot Exhibit" dated 8/17/2022. Corner lots shall use sideloaded garages wherever feasible. Since lot layouts and garage locations will be subject to further refinement with subsequent DDP submittals, the applicant shall provide narrative justification for granting the exception to the garage orientation standard to be reviewed with each DDP submittal.
 - c. Item (b) above notwithstanding, no more front-loaded lots shall be permitted on Holly Lane for any subsequent phases.
6. The recommended proportional share amounts in Exhibit 4 for Phase 1 shall be required at the time of final plat for Phase 1, unless amended by an updated transportation study provided by the applicant and reviewed by the City as part of the Phase I DDP review.

TSP Project	Estimated TSP Project Cost (\$000)	Total PM Peak Entering Volume (2035)	\$/trip	Phase 1 Trips	Phase 1 Share \$
Redland/Holly D36	\$1,040	688	\$545	1	\$545
Holcomb/Holly D43	\$1,040	1899	\$1512	61	\$92,232
I-205 SB Ramps/ OR 99E D75	\$2,990	5690	\$525	5	\$2,625
I-205 NB Ramps/ OR 99E D76	\$1,970	6155	\$320	5	\$1,600
Hwy213/Redland D97	\$10,105	6540	\$1545	22	\$33,990
Redland/ Holcomb/ Abernethy	na	2273	na	35	na
Hwy213/Beavercreek D94	\$2,800	6935	\$404	5	\$2,020
Holcomb Blvd Sidewalk Infill W11, W12, W13	\$3,035	1135*	\$2674	50	\$133,700
Holcomb Blvd Bike Lanes B12	\$560	1135*	\$493	50	\$24,650
Holcomb Blvd Pedestrian Crossings C3, C4, C5, C6	\$140	1135*	\$123	50	\$6,150
* Two-way PM peak volume on Holcomb Boulevard east of Redland Road/Holcomb Blvd/Abernethy Road intersection					

7. Any proposed development beyond Phase 1 or 60 units, whichever occurs first, shall provide an updated transportation study that measures impacts at HWY 213 and Redland Road as well as any other affected intersections as defined by the City's adopted Guidelines for Traffic Impact Analysis. New traffic studies shall be provided with each subsequent Detailed Development Plan and shall provide new counts for existing traffic volumes, and not rely on old data.
8. Detailed development plans for any phase beyond Phase 1, or 60 residential units, will require additional analysis and implementation of mitigation measures that demonstrate that the

transportation system is “capable of serving the proposed development, or will be made capable by the time each phase of the development is completed” in accordance with OCMC 17.65.050.C.3. Specifically, the applicant shall show that improvements have been made to OR-213 and Redland Road and at the intersection of Redland Road/Abernethy Road/Holcomb Boulevard such that v/c standards are met and adequate queue storage is provided before building permits are approved for half the units in Phase 2.

9. Mitigation for livability impacts to existing residential streets (Cattle Drive, Winston Drive, etc) and proposed Street A shall be as follows:
 - a. Implement the proposed phased barrier system to ensure that ADT on existing local streets Winston Drive, Cattle Drive and Shartner Drive and proposed Street A does not exceed 2,000 vehicles per day;
 - b. At the time street connections are made to Cattle Drive and Shartner Drive, the applicant shall add traffic calming elements within the new streets near the connecting points to Cattle Drive, Shartner Drive, Journey Drive, Smithfield Drive and Winston Drive including speed humps, traffic circles, or chicanes, to promote safe speeds. The applicant shall also provide traffic volume and speed data at up to three selected locations to the City to enable the City to evaluate the potential for a traffic calming and/or a speed limit change to 20 mph on the existing local streets. The data shall be provided with any DDP application that includes street connections to Cattle Drive, Shartner Drive, or Journey Drive.
 - c. In addition to implementation of the proposed phased barrier system in (a) above, the applicant shall measure average daily trip volume on Winston Drive, Cattle Drive and Shartner Drive and proposed Street A at the time of each DDP application that would route trips on these streets. If trips (total existing plus new) are projected to exceed 2,000 per day on any of these streets, the applicant shall implement one or more of the following transportation improvements:
 - i. Ensure a secondary street connection is provided to the south connecting to Redland Road, reducing northbound congestion and so that drivers have multiple route choices. The street connection to Redland Road shall be open and available before the units that would increase local street volumes beyond 2000 trips per day are occupied.
 - ii. Provide a full street connection to Livesay Road pursuant to Clackamas County standards outlined in Condition 49.
10. The applicant shall provide a timeline and plan to complete the Holly Lane to Redland Road connection with the submittal of Detailed Development Plans for phases 4-6, or concurrent with Clackamas County’s planned Transportation System Plan Projects 1109 and 1120 for improvements to Holly Lane Bridge and the Holly Lane / Redland Road intersection, whichever occurs first.
11. The applicant shall contribute a fee-in-lieu for parks to be calculated based on \$4,783.80 per unit for park land cost plus \$3,664 per unit for park improvement costs increased at 18% per annum, to be paid at the time of final plat recording of Phase I of the project. This amount shall be held by the City in the form of a surety until at least 4.3 acres of parkland in the location identified in the GDP exhibit is dedicated to the City. The 4.3 acres of park land shall be dedicated to the City at the time of final plat recording of Phase 2.

12. The open space provided in Tract C of the Phase 1 development area shall be sized at a minimum of 100 square feet per unit proposed in the Phase 1 DDP.
13. The applicant shall provide at least two of the following amenities or features in Open Space Tract C of Phase 1 as part of the detailed development plan: benches, picnic tables, playgrounds, nature play elements, wildlife habitat installations, or other similar elements approved by the Community Development Director. For future phases, the applicant shall provide amenities consistent with this condition in the proposed open space tracts if the public park remains undeveloped. Once the public park is developed, the open space amenities for the entire development will be considered met, and additional amenities on private land will be optional.
14. At the time a Detailed Development Plan is proposed that includes the properties designated as open space, the applicant shall submit, for city review and approval, all proposed deed restrictions or other legal instruments used to reserve open space and maintenance of open space and any related landscaping and facilities. The deed restrictions or other legal mechanisms shall provide for adequate maintenance of the facilities as well as public access easements for trails.
15. With submittal of each DDP, the applicant shall identify any existing eligible historic structures and cultural resources within 250 feet of the development boundary. Further refinement and review for potential impacts to natural, cultural and historical resources within the development boundary and within two hundred and fifty feet of the development boundary will occur at the time of DDP submittal.
16. Any development phases that include mapped Natural Resources Overlay District areas shall be reviewed for compliance with criteria in OCMC 17.49 either before or at the time of first DDP application. Development within areas not included in the applicant's preliminary NROD report are required to be delineated in accordance with standards in OCMC 17.49 and reviewed as part of DDP review.
17. Formal NROD verification of Charman Creek shall be required before or as part of the Phase 1 DDP, with third party review required. The NROD study should include field analysis along the entire shared property line with tax lot 400 near the mapped Charman Creek headwaters, as depicted in Exhibit 8.
18. For each individual DDP application, the applicant shall submit documentation demonstrating the following:
 - a. Overall density consistent with the proposal for 440 units;
 - b. how the overall development will achieve a ratio that provides for a mix of residential types such that no single residential use exceeds 75 percent of the total proposed units;
 - c. how the development is achieving a variety of dwelling types and sizes that are integrated throughout the site, rather than isolated from one another, with compatible transitions between residential types, including appropriate setbacks, landscaping and

screening as necessary, while maintaining street and pedestrian connectivity between all residential uses;

- d. If the proposal cannot achieve a density of 9.1 units per acre and/or result in a total of 426 units through provision of single-family detached and single family-attached housing for the R-10 and R-5 zoned areas, the applicant and any subsequent owners shall be permitted to provide additional units through one of more of the following alternatives permitted under existing zoning or as permitted through subsequent master plan amendments;
 - i. Multi-family residential and 3—4 plex residential in the NC zone;
 - ii. One or two dwelling units in conjunction with a nonresidential use, provided that the residential use occupies no more than fifty percent of the total square footage of the development in the NC zone;
 - iii. Live-work dwellings in the NC zone;
 - iv. Middle housing permitted under state law and pursuant to the City's adopted Housing Choices Code Updates (LEG-22-00001).
 - e. None of the options above precludes the applicant from applying for additional zone changes or Master Plan amendments.
19. The applicant shall ensure that lots in the R-10 zone are 5,000 square feet or more in area for future detailed development plan applications that show compliance with OCMC 17.49.240 for NROD density transfer. If density transfer standards cannot be met in future detailed development plan applications, the minimum size for lots within the R-10 zone will be 8,000 square feet (assuming the requested 20% adjustment is approved).
 20. The applicant may include additional areas in the NROD to be counted in the density transfer calculations if future DDP applications can demonstrate in a professional report that the land consists of one or more of the following:
 - NROD overlay as verified through 17.49.250
 - Upland habitat directly adjacent to the NROD boundary
 - Other land that provides ecological benefits or wildlife habitats and is directly adjacent to the NROD boundary
 21. All NROD Verifications required for detailed development plan review shall be reviewed through the Type II process described in OCMC 17.49.250 unless a Type III review is otherwise required by OCMC 17.49. Third party NROD verification review shall be required for all NROD areas, at the applicant's expense. The Planning Division will manage the third-party review from an outside consultant during NROD application review.
 22. Future development proposals for the commercial parcels in the GDP area may be reviewed through Type II DDP process unless a Type III review is otherwise required.
 23. Flag lots will be reviewed against the criteria in OCMC 16.08.050 for each detailed development plan proposal and will not be permitted if the criteria are not met.
 24. The proposed commercial/civic sites within the Neighborhood Commercial Zone shall be identified as parcels and not as "Tracts," in future DDP proposals and applications for development.

25. The applicant shall ensure that future detailed development plans maintain the residential lots outside of the NC-zoned area, unless the residential use is part of a mix of uses that are authorized within the NC zone.
26. Public infrastructure including, water, sewer, storm, and street improvements shall be brought to and through the public right-of-way frontage of the proposed public park and the proposed commercial/civic tracts before or as part of the detailed development plan phase application that represents 60% of the total proposed units and shall be constructed as part of public improvements for that phase.
27. To provide street connectivity and walkability to meet the intent of the Park Place Concept Plan, the applicant shall provide for the following in future DDP applications:
 - a. Wherever feasible, utilize traffic calming measures, low speed limits, and tight curb radii to promote slow vehicle speeds.
 - b. Marked crosswalks with curb extensions shall be provided at all Holly Lane intersections.
 - c. Meet the maximum block spacing of 530 feet throughout the development, except where topographic constraints prevent practicability.
 - d. If the maximum block length is exceeded, pedestrian accessways shall be provided no further than 330 feet from the nearest street intersection.
28. In order to ensure connectivity is provided at a reasonable stage in the development, the Tour Creek pedestrian bridge connection shall be included in the detailed development plan phase application that represents 60% of the total proposed units and shall be constructed as part of public improvements for that phase.
29. In future detailed development plan applications, the applicant shall include adequate space within the public right of way for a transit stop along Holly Lane near the park and commercial parcels.
30. The applicant shall annex taxlot 2-2E-28D -00190 to the Metro boundary prior to a final plat involving all or part of that taxlot.
31. Driveways shall be limited to provide for the following on all local streets:
 - a. No driveway approach, including wings, shall be more than 50% of the width of the lot.
 - b. Shared driveways may be utilized to meet these conditions
 - c. Alleys may be utilized as an alternative to driveways to meet these conditions
 - d. Alley width may be reduced to 12-foot one-way circulation, to reduce amount of impervious surface needed, if approved by the City Engineer.
32. At the time of DDP submittal for phase 1 the applicant shall propose landscape screening, retaining wall design, and sound buffering and / or sound walls to address vehicular light pollution and noise from proximity to Holly Lane for any existing lots in the Trailview subdivision within 50 feet of the new right-of-way of Holly Lane. For new lots in the proposed

development, such measures may also include larger setbacks or reverse frontage lots and building designs.

33. To ensure public participation, public notice of future GDP or DDP applications shall be provided to properties and occupants within 300 feet of the Park Place Crossing master plan boundary. (P)
34. The Holly Lane alignment shall follow the alignment indicated in applicant's Exhibit 1 – Park Place Crossing Layout Revision dated 8/10/2022 that includes residential lots abutting the existing Trailview subdivision. (P)

Public Works Engineering Development Services Conditions of Approval:

35. The development plans shall comply with all current Oregon City Public Works design standards, specifications, codes, and policies prior to receiving a permit and beginning construction for each DDP. (DS)
36. Each DDP will further refine the stormwater management plans and reports of each phase and can be met by meeting approval criteria outlined in section 13.12.090 of this report. (DS)
37. The development plans shall comply with all Oregon City Public Works design standards, specifications, codes, and policies prior to receiving a permit and beginning construction. (DS)
38. At such time, a phase of development envelops the stream area (e.g. Phases 2, 4, and 5), the applicant shall obtain an appropriate DSL or USACE permit or provide evidence that one is not required. (DS)
39. With each phase of development, the applicant shall obtain an appropriate ODFW permit or provide evidence that one is not required. (DS)
40. The City of Oregon City has jurisdiction over Holcomb Boulevard where this development ties in as well as the proposed new streets within this development; however, Livesay Road and future connections to neighboring properties outside of the Urban Growth Boundary are under the jurisdiction of Clackamas County. Coordination and approval with Clackamas County for connections to Livesay Road and properties under their jurisdiction shall be evaluated as part of each DDP review.
41. The developer shall provide an engineered grading plan prepared by a professional engineer in compliance with the submittal requirements of the Public Works Stormwater and Grading Design Standards with each DDP. (DS)
42. Street layouts and public improvements shall be re-reviewed with each phase of development during DDP review and shall follow the standards of OCMC 16.12 and 17.44 avoiding Geologic Hazard areas where necessary, creating a grid system, provide future connection points to neighboring properties, and providing a street layout acceptable to the City Engineer. (DS)
43. All public improvements along the Holcomb Boulevard frontage (e.g. right of way dedication, sidewalk construction, street trees, etc.) shall be designed and constructed in Phase 1 and reviewed as part of that DDP (DS)
44. The street proposed to serve development within Phase 6 is proposed to be a private street. It shall be further reviewed as part of the corresponding DDP review to determine construction feasibility, ownership and potential future connectivity to neighboring properties. (DS)

45. Any temporary (or permanent) dead-end streets created as part of the phased development approval shall include sufficient space and improvements necessary to accommodate a vehicular turnaround. (DS)
46. The City and Clackamas Fire District No. 1 shall review each DDP proposal to ensure that life safety requirements, including pavement widths, slope and grading requirements for the proposed streets, are met.
47. With Holly Lane designated as collector street, new driveways there are to be avoided as much as possible and instead driveway access should be from local streets or alleys. Holcomb Boulevard as a minor arterial will have no new driveways. Instead access to properties shall be from rear alleys. Each phase shall identify proposed driveway locations for review of each DDP.
48. Where block lengths exceed 530 feet, each DDP shall provide updated plans for pedestrian accessway locations spaced at intervals not exceeding 330 feet from the nearest street intersection. (DS)
49. With the street layouts and number of buildable lots subject to change, the locations of the pedestrian crossing points shall be further reviewed with each DDP per OCMC 16.12.032. (DS)
50. If it is determined through individual DDP review that additional transit improvements are needed, accommodation for such transit or alternative transportation facilities within each phase shall be proposed. (DS)
51. Clackamas County has provided conditions of approval to be implemented with different phases of the development. Because the proposed layout is preliminary and subject to change with future DDPs, the applicant shall coordinate these conditions with the City and County with each DDP. The public improvements on Livesay Road shall be further reviewed in more detail with each DDP but at a minimum, the Applicant shall address the following:
 - A. All frontage improvements in, or adjacent to Clackamas County right-of-way, shall be in compliance with *Clackamas County Roadway Standards*.
 - B. The applicant shall dedicate an additional approximately 15 feet of right-of-way along the entire site frontage of S Livesay Road and shall verify by survey that a 35-foot wide, one-half right-of-way width exists, or shall dedicate additional right-of-way as necessary to provide it.
 - C. The following improvements will be required along the entire site frontage of S Livesay Road at the time of development of Phase 2, in accordance with Clackamas County Roadway Standards:
 - (a) A 25-foot wide half-street improvement is required, constructed from centerline of the right-of-way. The structural section for S Livesay Road improvements shall be constructed per Clackamas County Roadway Standards Standard Drawing C100 for a collector roadway. Where widening is required, saw-cut and grind and inlay may be needed based on road condition, per Roadway Standards Section 225.5.
 - (b) Standard curb, or curb and gutter if curblane slope is less than one percent, and pavement with the face of the new curb located 25 feet from the centerline of the right-of-way. Centerline of the right-of-way shall be established by a registered survey.
 - (c) A minimum 7-foot wide unobstructed setback sidewalk shall be constructed along the frontage of the commercial sites on Tracts L and K. The remainder of the frontage a minimum 5-foot wide sidewalk shall be constructed.
 - (d) A 5-foot wide landscape strip, including street trees shall be constructed along the entire site frontage.

- (e) Drainage facilities in conformance Tri-City regulations and Clackamas Roadway Standards, Chapter 4.
 - (f) For the proposed public street intersection with S Livesay Road, construct dual curb ramps, per Oregon Standard Drawings.
 - (g) The intersection of Holly Lane with S Livesay Road shall be limited to gated emergency vehicle access only, with the gate approve by the Clackamas Fire District.
- D. If full access to S Livesay Road from the Master Plan site is proposed at any one of the proposed phases, a supplemental TIS will be required evaluating the adequacy of the off-site portion of S Livesay Road and the intersection with S Redland Road. At a minimum, a paved road width of 20 feet will be required from the project site to Redland Road, and the roadway deemed adequate, or a determination that it can be made adequate through improvements to support traffic from the masterplan site. Approval of a Development Permit from Clackamas County Engineering will be required for access to S Livesay Road.
52. The applicant shall provide updated downstream capacity calculations with system capacity upgrades (if needed) at each DDP to confirm that the City's sanitary sewer system can safely handle each phase of the development.
 53. Like the sewer system, the water system will be built overtime. Each DDP will confirm that the existing water systems (City and CRW) have capacity and sufficient available fire flows for each phase of development. Coordination with CRW will be required when elevations exist at or above elevation 434.(DS)
 54. All new franchise utilities shall be placed underground and all existing overhead utilities adjacent to the property frontage, including the existing service lines crossing Holcomb Boulevard for 15110 S. Holcomb Blvd, shall be relocated underground unless deemed infeasible by the City and franchise utility provider(s) prior to platting for each DDP. (DS)
 55. The applicant shall provide a hydrology report that addresses the effect of the stormwater outfall upon the local watershed with each DDP. The hydrology report must address the discharges, erosion and landslide effect on the downhill slope, the stabilization of the uphill slope, and the environmental impact on the downhill slope, as well as how the infiltration rates before and after development would affect the groundwater supply.(DS)
 56. The final alignment of the proposed streets and the number of buildable lots located in the geological hazard areas shall be further reviewed as part each phase's DDP to ensure minimal impact to the geological hazard areas. (DS)
 57. As part the DDP review, the applicant shall further refine the number of lots proposed within the geologic hazard areas to meet the City's density requirements. This may include identifying lots as unbuildable as green space or modifying the size of the lots to reduce the density. (DS)
 58. Further traffic analysis shall be provided for the intersection of Holly Lane and Holcomb Boulevard to determine the appropriate amount of right-of-way at that intersection and its approach south into the site along Holly Lane. This shall be reviewed as part of the Phase 1 DDP. (DS)
 59. The applicant shall provide one of the following options as additional mitigation for the proposed density variance and dimensional adjustments:
 - a. Preserve one or more of the wetlands as open space (sized at least 7,000 square feet)
 - b. Expand the dedicated land for the public park site to at least 5 acres, from the currently-proposed 4.3 acres, and include wildlife habitat features such as ponds or native plant zones within that additional acreage

- c. Design the proposed stormwater detention facility(ies) as a wetland, rather than a traditional fenced storm pond. At least half of the proposed water quantity proposed to be detained shall be detained in a wetland-style facility. (P)

60. Although vehicular access to Livesay Road will be blocked by an emergency access gate, paved bike and pedestrian access from Holly Lane to Livesay Road shall be provided. (P)

PROCESS TO DATE:

The public hearing for this application first opened on April 25, 2022, with continuances to May 9, 2022, May 23, 2022, July 11, 2022, July 25, 2022 and August 22, 2022.

The applicant has granted a thirty-day extension of the decision deadline, which is currently September 23, 2022, to October 23, 2022.

At the each of the hearings listed above, additional questions and concerns were raised, many of which were voiced repeatedly. These concerns included:

- How the proposed General Development Plan complies with the density requirements of the Park Place Concept Plan and the minimum and maximum density requirement of the zoning code.
- The phasing and mechanism for when and how the Redland Road connection will be made.
- How the proposed park realignment and new layout for Neighborhood Commercial areas complies with the Park Place Concept Plan.
- The timing for the requirement for a new local road connection east of Holly Lane.
- The design of the cross section of Holly Lane at the pinch point and concerns regarding noise, grading and buffering from adjacent Trailview Estates residents.
- Engineering staff input regarding the geologic hazard slope stability and conditions and differences between in the North and South Village areas of the concept plan.
- Discussion of how lots will be sized to better blend with adjacent development and protect existing surrounding residents.
- Sight distance concerns for the Holly Lane extension to the north realignment and concerns over steep slopes and impeded vision along the “S” curve.
- An explanation from the City Attorney concerning *Baker v. City of Milwaukie* and the relevance to this land use review.
- Revised conditions of approval.

At the July 11, 2022, the applicant presented a revised proposal to address concerns expressed in prior hearings by members of the public, staff, and the Planning Commission. The applicant submitted a revised proposal that addresses four areas:

1. An extension of Holly Lane to Holcomb Blvd
2. Reconfiguration of the proposed portion of the Community Park located at the southwest corner of the Master Plan area.
3. A second street connection to provide additional connectivity to Livesay Rd.

4. A plan that would prevent 2,000 average daily trips (ADT) on Winston Drive, Cattle Drive, Shartner Drive, and Street A.

Summary of Revisions submitted 8/11/2022

With the revisions submitted on 8/11/2022, the applicant proposed several changes from the original proposal. This reduces the overall density of the Park Place Crossing project from the original proposal of 476 units:

- 426 total housing units.
 - 287 single-family detached dwelling - 65 %
 - 139 single-family attached dwellings – 32%
 - 14 units of Mixed Use – Apartments – 3%.
- The revision no longer includes a density increase permitted through General Development Plans per OCMC 17.65.070.C.4. The density of the project was adjusted by making the following considerations:
- Larger lots at least 10,000 square feet in area where the development abuts existing residential subdivisions and open space.
- The number of lots in phase 1 has been reduced from 59 to 49 units.
- Paired townhomes have been added to phase 1. To adjacent properties, these units would appear similar to a single family detached residence. This also brings diversity in housing types and the opportunity for more affordable homes to be provided in Phase 1.
- Alleys. Where feasible, the applicant has added alleys to allow additional homes to provide rear access. Perimeter lots, because they abut either natural areas or existing homes, and lots in areas with topographic constraints have not been planned with alley access. The addition of these alleys will reduce the number of driveways accessing local streets.
- The Mixed Use/Civic/Village Green area has been revised to three parcels of 0.51 acres, 0.56 acres and 1.26 acres (total 2.43 acres), bisected by an additional local street to provide a continuous corridor for the Livesay Main Street area, to provide additional transportation connectivity that better integrates this area with the Park Place Crossing neighborhood and future Park Place North Village areas.
- The opportunity for additional affordable attached single- family housing and other residential use types (e.g., those within Neighborhood Commercial areas).
- A future public park site of 4.3 acres. The park site has been reconfigured and although .1 acres smaller than originally proposed, provide sufficient land in proportion with the number of units proposed within the development.

I. BACKGROUND:

The subject site includes 92 acres of land identified as the “north village” in the Park Place Concept Plan. The property was annexed and assigned zoning in 2018 through AN-17-04 and ZC 17-05; this application for a General Development Plan is the next step in the development of this site. One of the conditions of approval imposed by the city on the approved annexation request was that the applicant obtain General Development Plan approval for the 92-acre area prior to any urban development on the site.

This land-use application is a request to approve the General Development Plan (GDP). The GDP will be subsequently implemented through future detailed developed plans that will be guided by this GDP. Once approved, the GDP guides future development within the master plan area to assure long-term regulatory certainty and a high level of predictability for future tenants and developers within the master plan area as well as the community. The GDP provides a framework for development within the master plan area over the next 20 years, although the applicant anticipates completion by 2030.

This application includes requests for the following approvals:

- **General Development Plan:** The overall long-term approach to development over 20 years for up to 426 residential units.
- Parks, trails, and neighborhood commercial and civic spaces. Included in the request for GDP approval is:
 - A modification to street width standards for a limited segment of Holly Lane
 - Adjustments to the following development standards:
 - OCMC Chapter 17.08.040 and 17.10.040 Dimensional Standards
 - OCMC Chapter 17.21.090.A for garage placement and design
 - OCMC Chapter 17.08.050 and 17.20.050 Density Standards
- **Variance:** Request to reduce the minimum lot size for attached single family lots to 1800 square feet.

REGIONAL PLANNING

The Park Place Concept Plan was adopted to comply with Title 11 of the Metro Urban Growth Functional Management Plan (Sections 3.07.1105 – 3.07.1140) – *Planning for New Urban Areas*. Oregon City is part of the Metro Urban Growth Boundary. Title 11 guides planning of areas brought into the urban growth boundary for conversion from rural to urban use. This is a principal component of Oregon’s Land Use Planning system, which protects rural land, farm and forest uses from development by requiring that land uses within urban growth boundaries develop at urban densities, rather than allowing growth to “Sprawl” into unincorporated areas.

The Park Place Concept Plan “PPCP” (Adopted March 12, 2008) integrates a multi-modal transportation system with a mixed-use development pattern to achieve a highly efficient and sustainable design. The PPCP identifies a network of internal and external pedestrian, bicycle, transit and street connections that serve the study area and connect it to the surrounding community and the broader region. The Concept Plan was developed through an extensive interactive public process, guided by a Project Advisory Committee comprised of neighbors, stakeholders, business owners and City residents. An extensive public hearing process before the Oregon City Planning Commission and City Commission occurred prior to final adoption of the Park Place Concept Plan.

The Park Place Concept Plan’s Figure 3-2 “North Village Neighborhood”, bears a note stating, “This map is for concept planning purposes only. The specific locations of natural resource boundaries, open space,

parks, land uses, roads, trail, infrastructure and related improvements may change and is subject to on-site verification and design at the time of development.” The Park Place Concept Plan is an ancillary document to the City’s Comprehensive Plan.

1. Existing Conditions

The project site is within the northeast portion of Oregon City. The site is generally situated south of Holcomb Boulevard and north of S Livesay Road between the Park Place neighborhood and the City’s eastern edge as well as the Metro Urban Growth Boundary (UGB). The site is currently made up of 14 properties that are expected to be included part of the Park Place Crossing development in the future. The fourteen properties included in this application comprise a total area of ±91.7 acres.

Properties within Park Place Crossing are zoned Medium Density Residential (R-5), Low Density Residential (R-10), and Neighborhood Commercial (NC). The site, summarized below, contains six existing Single-Family Residences, some of which may be removed as their respective phases of the project are completed.

Properties to the south, but outside the Park Place Crossing Master Plan proposal, are located within the UGB as well as the Park Place Concept Plan. These properties have not yet been annexed but would be expected to annex and develop over time in accordance with the Park Place Concept Plan. These lands are designated with future land uses of Mixed Use Corridor (MUC) and Low Density Residential (LR). Properties to the southeast of the site are located within the Holcomb Urban Reserve outside of the UGB.

Existing uses within this area generally consist of rural single-family residences. Properties to the north of the project site are generally zoned Low Density Residential (LR) and are located within the Park Place Neighborhood Association.

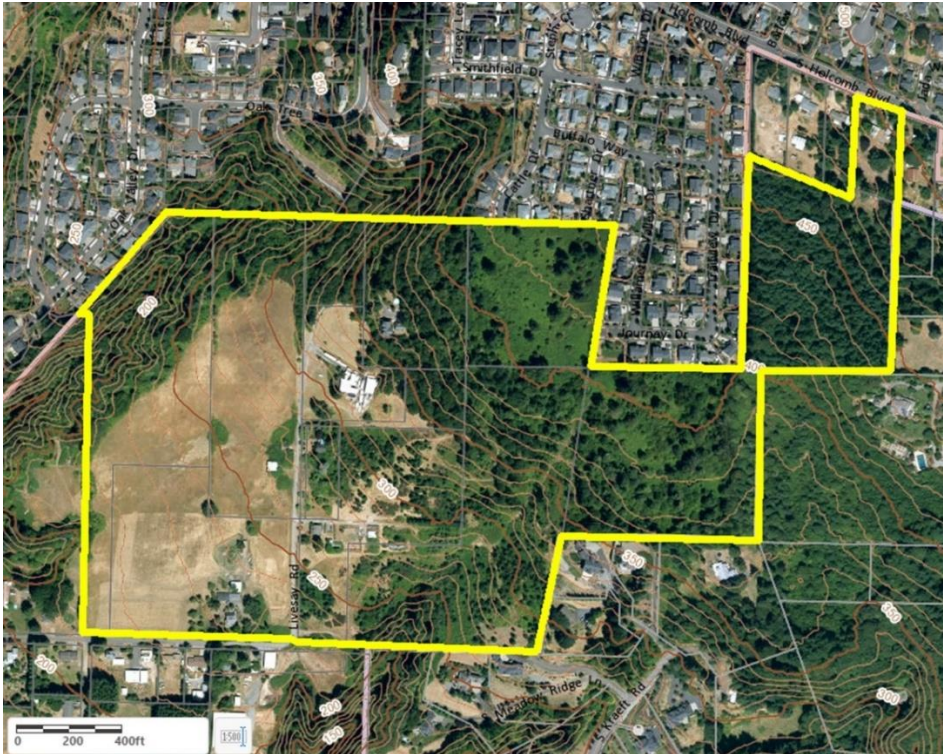


Figure 1. Vicinity Map

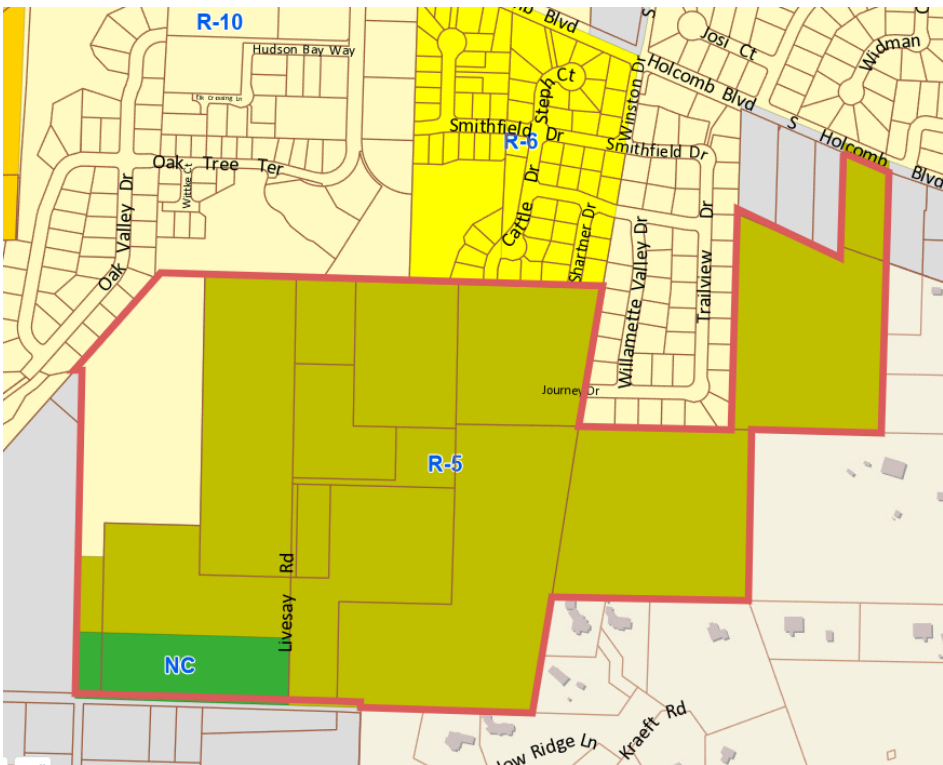


Figure 2: Zoning Map

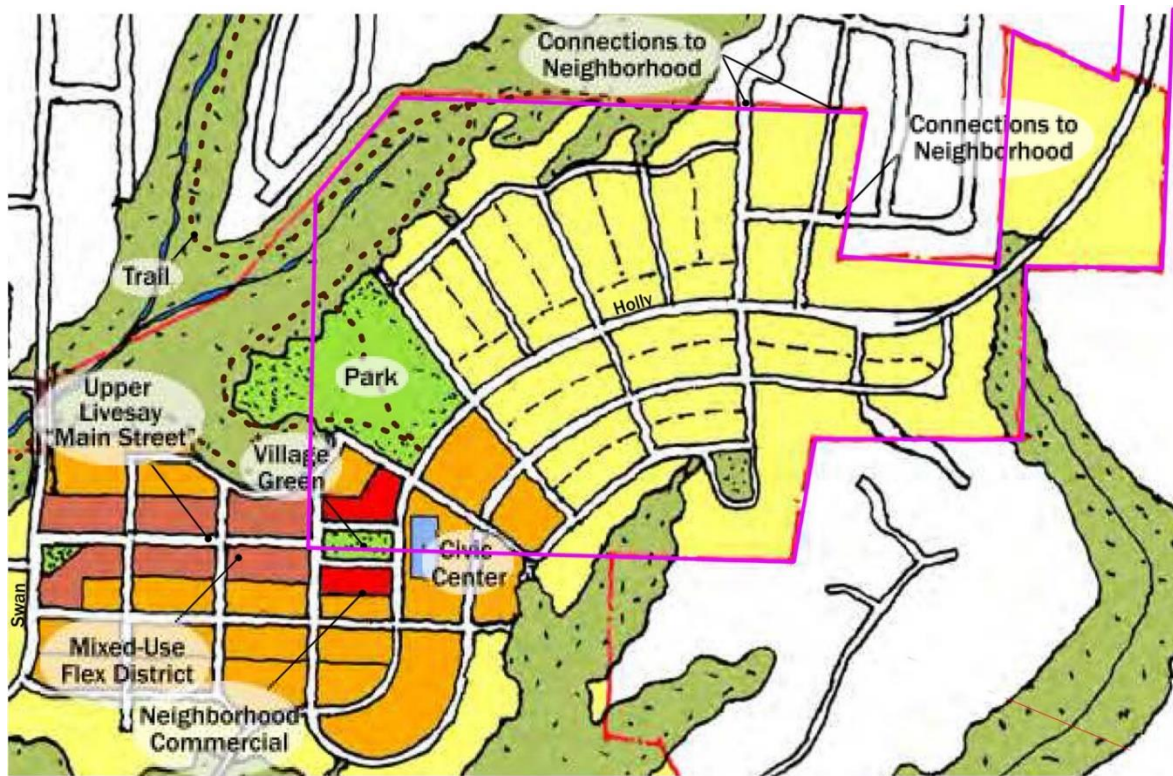


Figure 3. Park Place Concept Plan excerpt

2. Project Description

Summary of Revisions submitted 8/11/2022

- With the revisions submitted on 8/11/2022, the applicant has proposed a General Development Plan for 92 acres of the Park Place Concept Plan area with the changes from the original proposal. 426 total housing units. Of these, single-family detached dwelling units represent 65 percent of homes within Park Place Crossing and 32 percent of homes are planned to be provided as single-family attached dwelling units. Because attached dwellings are considered with different density standards than single-family detached dwellings, the addition of paired townhomes and the consolidation of lots (described below) reduces the overall density of the Park Place Crossing project from the original proposal of 476 units.
- The remaining 3 percent of homes (14 multi-family units) have been shown as provided within the Neighborhood Commercial zoning area for a total of 440 residential dwelling units.
- Larger lots where the development abuts existing residential subdivision. The number of lots in phase 1 has been reduced to 59 units.
- Paired townhomes have been added to phase 1. These units have the added benefit of adding only one residential building with two units rather than two individual homes. To adjacent properties, these units would appear similar to a single residence. This also brings diversity in housing types and the opportunity for more affordable homes to be provided in Phase 1.
- Addition of Alleys. Where feasible, the applicant has added alleys to allow additional homes to provide rear access. Perimeter lots, because they abut either natural areas or existing homes, and lots in areas with topographic constraints have not been planned with alley access. The addition of these alleys will reduce the number of driveways accessing local streets, providing greater

opportunities for planter strips and on-street parking while reducing the number of pedestrian/vehicle conflicts, meeting the intent of the Park Place Concept Plan.

Other Layout Changes with 8/11/2022 Revisions:

- The Mixed Use/Civic/Village Green area has been revised to three parcels of 0.51 acres, 0.56 acres and 1.26 acres (total 2.43 acres), bisected by an additional local street to provide a continuous corridor for the Livesay Main Street area, updated to include only uses permitted within the Neighborhood Commercial zone, and provide additional transportation connectivity that better integrates this area with the Park Place Crossing neighborhood and future Park Place North Village areas.
- The opportunity for additional affordable attached single- family housing and other residential use types (e.g., those within Neighborhood Commercial areas).
- A future public park site of 4.3 acres. The park site has been reconfigured and although .1 acres smaller than originally proposed, provide sufficient land in proportion with the number of units proposed within the development.

Items included with the original proposal:

- Construction of a segment of Holly Lane, a planned collector street
- Approximately 1.3 acres of commercial/civic space provided in two parcels
- An off-street trail system within protected natural areas
- A variance to 17.10.040.D for lot size for single family attached lots



Phasing Summary

The applicant's original phasing summary has not been revised to reflect the latest revision. The original submittal provided the following phasing summary:

Table 2: Park Place Crossing Anticipated Phasing

Phase	Dwelling Units / Anticipated Uses	Open Space (acres)	Amenities
1	±59 single-family detached homes	±0.14	Open Space and street connections to areas of future development
2	±133 single-family detached homes ±126 single-family attached homes Civic area Retail area Regional stormwater facility	±6.52	Park, civic space, retail area, trails & connection to existing neighborhoods, pedestrian pathways, Open Space Tracts
3	±59 single-family detached homes	±0.00	Street connections to existing neighborhoods
4	±53 single-family detached homes	±7.58	Pedestrian pathways, trails, Open Space
5	±35 single-family detached homes	±1.49	Pedestrian pathways, trails, Open Space
6	±11 single-family detached homes	±0.00	Trail connections & street connections to future UGB expansion area

Phase 1 is anticipated to be constructed in 2023, with completion of Phases 2 through 6 accomplished by 2030. Detailed Development Plan applications are anticipated to be submitted at a future date following approval of the General Development Plan.

The applicant's original project description is as follows:

"The Park Place Crossing Master Plan (PPCMP) sets up a framework consistent with the PPCP and builds on the following planned and natural elements:

• **Community Park:** The southwestern portion of the site is part of an envisioned Park Place North Village Community Park. This community park would provide ± 4.4 acres for the provision of potential sport fields/courts, open lawn areas, and trails. The park will connect to natural preservation areas to the north and to other neighborhoods through its proximity to Holly Lane and S Livesay Road and pedestrian connections to adjacent on and off-street trails. The land reserved for the Community Park is located on one of the flattest and most suitable portions of the site for a park. It is also located near other properties which can feasibly connect to and provide additional park area needed for the Park Place Concept Area. Per discussions with the City, the Park Place Crossing project is expected to provide a proportional percentage of park land envisioned in the Concept Plan for its residents. Approximately 51 percent of the planned dwelling units for the Park Place Concept Area North Village are included in this master plan (± 476 planned PPC units/937 total North Village units). The Community Park represents ± 8 acres; therefore, Park Place Crossing would be expected to contribute ± 51 percent of the needed area or ± 4.0 acres. This application for General Development Plan anticipates that ± 4.4 acres will be contributed for park land. Technical details for how the park land will be acquired/transferred are being coordinated with the City of Oregon City Parks Department.

• **Village Green:** A village green, with no specified size, was envisioned by the PPCP at the terminus of S Livesay Road and Holly Lane. This area is intended to anchor the intersection of Holly Lane and the future Livesay Road Main Street, providing the Park Place neighborhood with pedestrian scale lighting, street trees, and benches for the enjoyment of visitors. It is infeasible, however, to achieve the full intent of the PPCP Village Green due to the existing extension of S Livesay Road to serve existing, offsite properties to the southeast of the planned intersection between S Livesay Road and Holly Lane. Until such time those properties develop and S Livesay is vacated east of its intersection of Holly, the envisioned Village Green cannot be achieved. In the interim, Park Place Crossing will meet the amenity need that the Village Green is intended to provide by utilizing the existing terminus of S Livesay Road to serve as a trailhead for City trailways through the natural areas adjacent to the Tract G stormwater facility.

• **Mixed-Use/Neighborhood Commercial/Civic Areas:** The Park Place Concept Plan envisions retail areas to support both the North and South Villages. Within Park Place Crossing, these areas are anticipated to be needed for small-scale commercial businesses such as coffee shops, bookstores, dry cleaners, or cafés. These areas could also be used for services serving the immediate community such as local offices for medical offices, insurance brokerages, and realty companies.

The Mixed-Use Commercial (MUC)/Neighborhood Commercial (NC) Area is anticipated to provide an upper-story residential component as outlined within the Oregon City Municipal Code. The location of Park Place Crossing's commercial area was determined by the conceptual location of the Livesay Road Main Street Area within the Park Place Concept Plan. The Park Place Concept Plan imagines this area to be near the intersection of Holly Lane and S Livesay Road. The Civic area was envisioned to serve as the location of a library, community center, environmental interpretive center, or post office. The proximity of the area to the Village Green, local trailhead, regional stormwater facility, and natural areas, lends to this area being created as a plaza or interpretive center.

Open Space Preserving Natural Areas and Drainageways: *The site is located between Tour Creek to the north and west of the site and Charman/Abernethy Creek to the south. These areas include sloped and vegetated areas associated with these drainage features. By incorporating progressive planning concepts such as flexible standards and varying lot sizes into the project design, a significant amount of land is being set aside as open space for resource protection, greater than the quantity shown and required by the Park Place Concept Plan.*

Other internal open space areas provide for active and passive recreation for residents and visitors through pedestrian pathways, open areas, seating, and other similar amenities.

- **Trails Network:** *The Applicant and PPCP seek to recognize these natural resources and the opportunity to connect residents, visitors, and new and existing neighborhoods to these resources through the inclusion of an interconnected network of trails within the open space areas. These trails, including local and community trails, are consistent with the City's adopted Trails Master Plan and help provide opportunities for residents and visitors to engage in active and passive recreational pursuits, surround homes with areas of green space, and preserve habitat for native flora and fauna.*

- **Interconnected Transportation Network:** *Consistent with the City of Oregon City's Transportation System Plan (TSP), Park Place Crossing will be served by a comprehensive transportation network connected to Holly Lane, which serves as the Park Place Crossing community backbone. The transportation system features a new City Collector Street (Holly Lane), a grid of Local Streets, and off-street trails and pedestrian pathways. Pedestrian pathways, off-, and on-street trails include both hard and soft-surfaced linkages within Park Place Crossing and between the community and those surrounding. Many of the homes along Holly Lane are anticipated to be served by alleys to aid in circulation and minimize vehicle conflicts. Holly Lane will eventually connect to S Holcomb Road via a roundabout, with temporary connection provided by "Street A."*

Per the City's Transportation System Plan (TSP) and the attached Transportation Impact Study (TIS) (Exhibit E), the project will provide public improvements including the dedication and construction of a new Collector Street with interconnected Local Streets that, upon their extension, are able to enhance neighborhood circulation; provide needed/secondary access to the project and surrounding neighborhoods; and proportionate share payments to be directed towards future intersection improvements identified by the City's TSP. The system is designed to welcome pedestrians, bicyclists, motorists, and public/emergency services and provide safe and efficient connections to surrounding areas.

Regional Stormwater Management and Green Streets: *The Park Place Concept Plan envisions stormwater infrastructure that mimics existing hydrology, provides innovative and green on-site stormwater treatment, and implements techniques to attenuate flow rates and provide for pollution control/reduction. Together with these features, a regional stormwater facility is planned for Park Place Crossing in order to manage stormwater.*

Housing: *The Park Place Crossing Master Plan area includes ±476 lots intended for future single family homes. This represents ±51 percent (±476 GDP-planned units of the 936 intended units) of the units anticipated for the North Village by the PCCP. An additional lot may be possible following the connection of Holly Lane to S Holcomb Boulevard. A diverse range of lot sizes are planned that can accommodate a mix of home sizes and styles, as well as detached and attached housing types, appealing to a broad variety of people.*

Note: with the proposed 8/11/2022 revision, the proposal has been reduced to 426 units.

Approximately 4.3 additional acres, for a total of ±15.7 acres, of Park Place Crossing are planned to be reserved as open space for the conservation of sloped and vegetated areas, greater than the ±11.4 acres of open space envisioned by the Park Place Concept Plan. Space for a regional stormwater facility will be reserved as well, totaling almost two acres of area. Retail and Civic areas are generally consistent with what was originally envisioned, with opportunities for other properties south of S Livesay Road to contribute to the Livesay Road Main Street area. The planned Village Green contained within the bounds of the project site is also consistent with the area imagined with the Concept Plan.

This application for a General Development Plan, required by the City Commission as a condition of approval of the site's annexation, does not involve any physical site alterations. Information provided as part of this application is preliminary in nature and will be further refined as part of future Detailed Development Plan applications, where changes or improvements may occur. The Master Plan is consistent with the Park Place Concept Plan and Oregon City Municipal Code (OCMC). This application includes the City forms, written materials, and Preliminary Plans necessary for City staff to review and determine compliance with the applicable approval criteria. The evidence is substantial and supports the City's approval of the application."



Figure 4: Proposed General Development Plan as submitted.

Note: With the proposed 8/11/2022 revision, this layout has changed. See "Summary of Revisions submitted 8/11/2022" on pages 15 and "Project Description" on page 19.

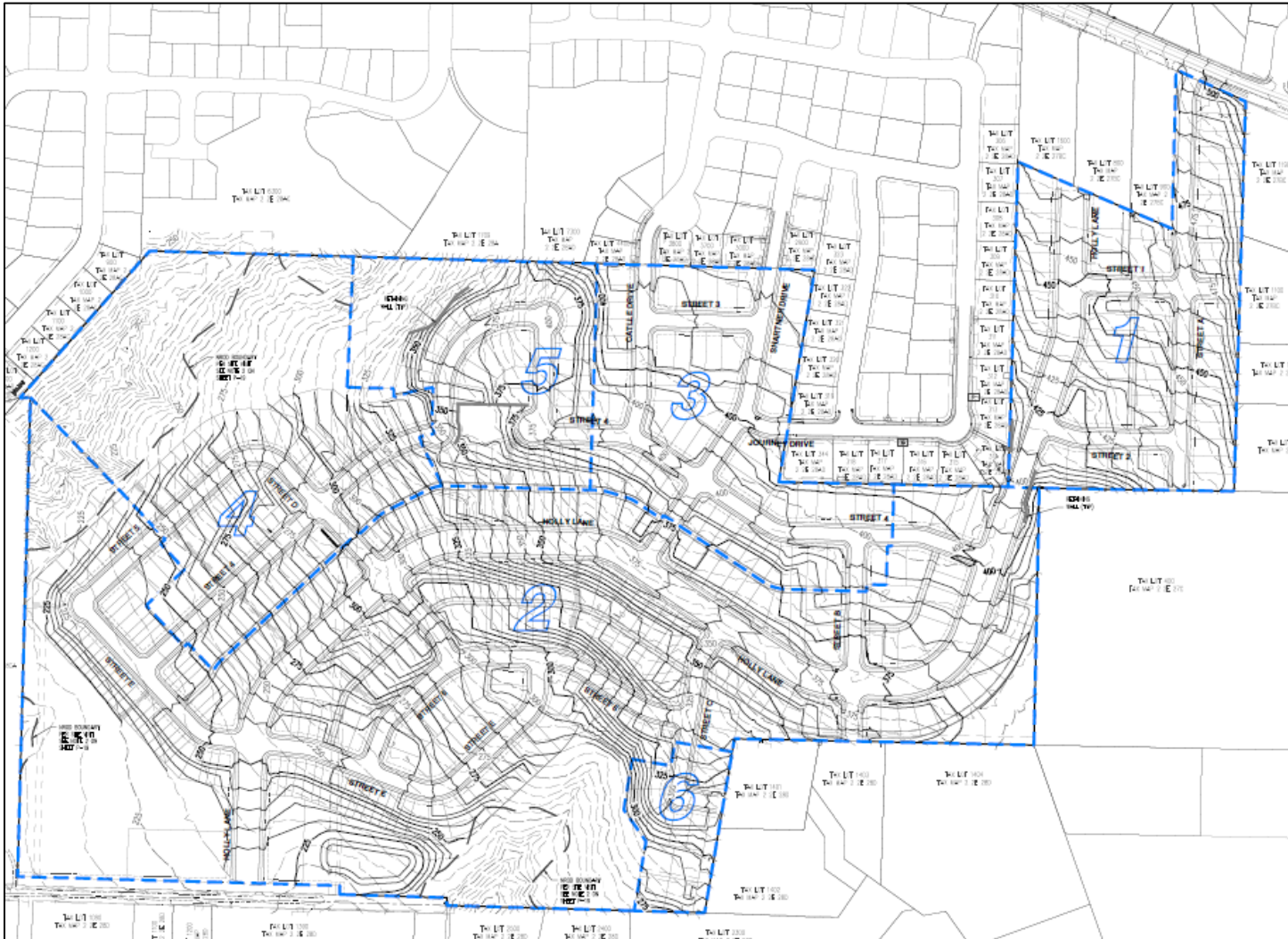


Figure 5. Proposed Phasing Plan as submitted

Note: With the proposed 8/11/2022 revision, this layout has changed. See "Summary of Revisions submitted 8/11/2022" on pages 15 and "Project Description" on page 19.

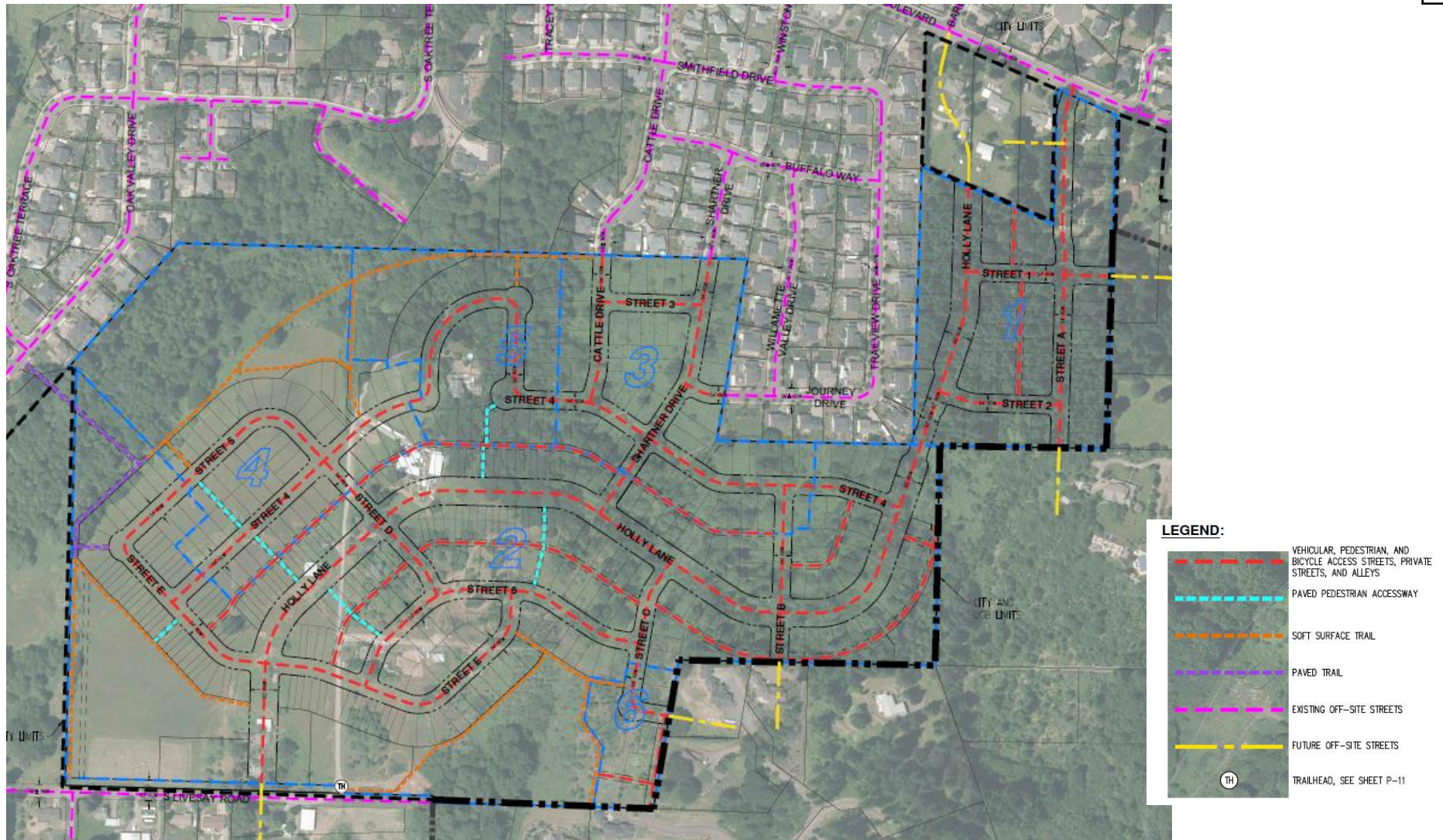
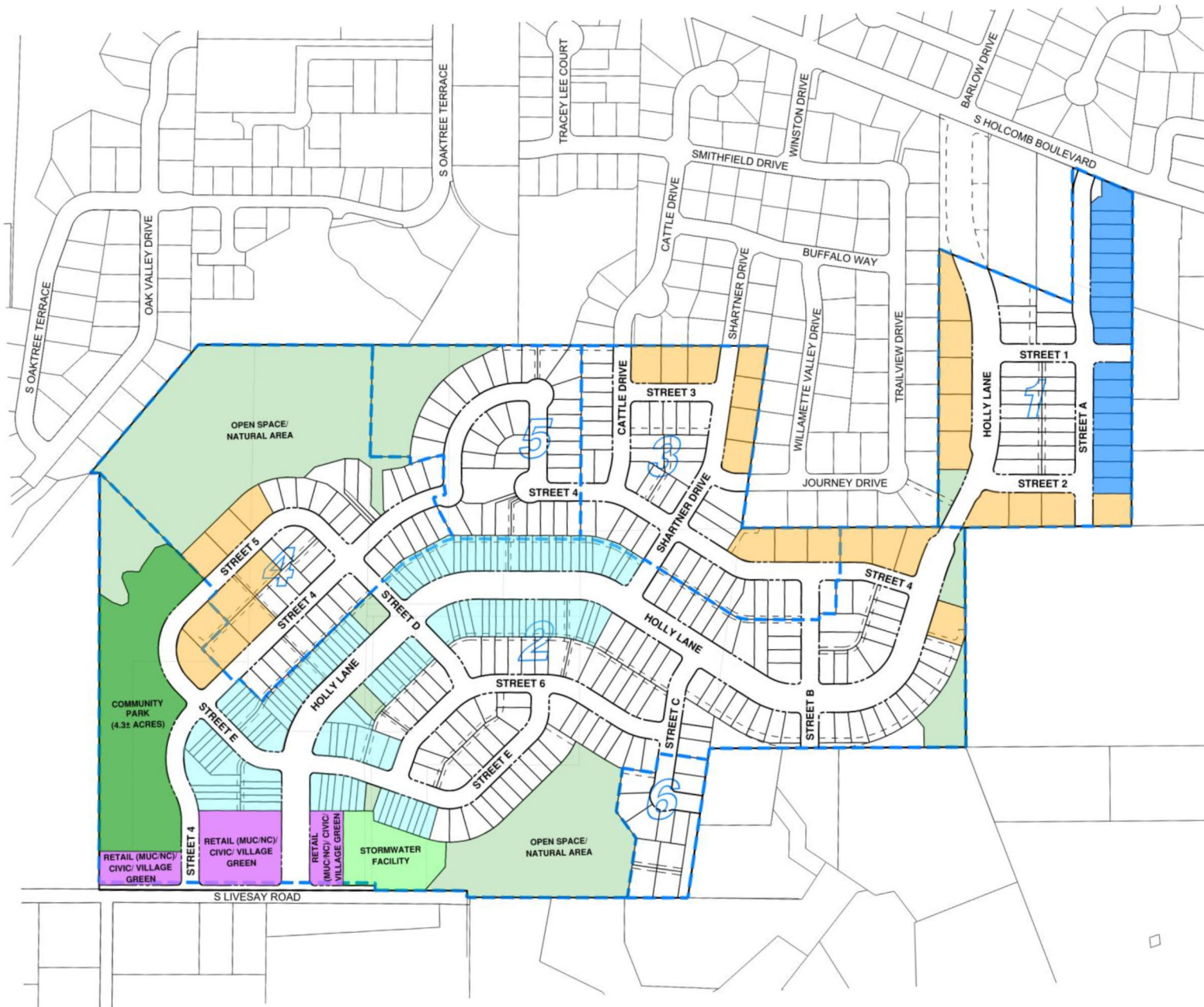


Figure 6. Proposed Circulation Plan as submitted

Note: With the proposed 8/11/2022 revision, this layout has changed. See "Summary of Revisions submitted 8/11/2022" on pages 15 and "Project Description" on page 19.



UNIT TYPE LEGEND:

[Orange Box]	LOTS CONSOLIDATED AND INCREASED IN SIZE TO MATCH EXISTING ADJACENT PROPERTY LINES, INCREASE TO 10,000 SQ FT WITHIN R-10 ZONE, AND LIMIT NEW LOTS ON PERIMETER OF DEVELOPMENT
[Light Blue Box]	TOWNHOME LOTS
[Dark Blue Box]	PAIRED TOWNHOMES LOTS

PARK PLACE CROSSING RESIDENTIAL UNITS

UNIT TYPE	UNITS
PAIRED TOWNHOMES	18
TOWNHOMES	121
4-5K SQ FT DETACHED	255
>5K SQ FT DETACHED	32
MIXED-USE (APARTMENT)	14
TOTAL	440

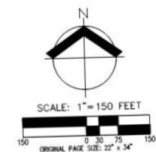
PARK PLACE CROSSING PROPORTIONALITY TO PARK PLACE CONCEPT PLAN NORTH VILLAGE

PPCP NORTH VILLAGE TOTAL UNITS	937
PPC TOTAL UNITS	440
PERCENTAGE OF PPCP NORTH VILLAGE	47.0%
TOTAL PPCP NORTH VILLAGE PARK (ACRES)	8
PPC PROPORTIONAL PARK REQUIRED (ACRES)	3.8
*PPC DEDICATED PARK (ACRES)	4.3
REMBURSED PARK (ACRES)	0.5

* IN ADDITION TO 15.3 ACRES OF OPEN SPACE

PHASED UNIT TYPE AND OPEN SPACE SUMMARY:

PHASE 1:	
• SINGLE FAMILY DETACHED:	31
• SINGLE FAMILY ATTACHED:	18
• MIXED-USE (APARTMENTS):	0
• OPEN SPACE:	0.2± ACRE
PHASE 2:	
• SINGLE FAMILY DETACHED:	114
• SINGLE FAMILY ATTACHED:	121
• MIXED-USE (APARTMENTS):	14
• OPEN SPACE:	6.1± ACRE
PHASE 3:	
• SINGLE FAMILY DETACHED:	52
• SINGLE FAMILY ATTACHED:	0
• MIXED-USE (APARTMENTS):	0
• OPEN SPACE:	0.0± ACRE
PHASE 4:	
• SINGLE FAMILY DETACHED:	44
• SINGLE FAMILY ATTACHED:	0
• MIXED-USE (APARTMENTS):	0
• OPEN SPACE:	7.6± ACRE
PHASE 5:	
• SINGLE FAMILY DETACHED:	35
• SINGLE FAMILY ATTACHED:	0
• MIXED-USE (APARTMENTS):	0
• OPEN SPACE:	1.5± ACRE
PHASE 6:	
• SINGLE FAMILY DETACHED:	11
• SINGLE FAMILY ATTACHED:	0
• MIXED-USE (APARTMENTS):	0
• OPEN SPACE:	0.0± ACRE
TOTAL:	
SINGLE FAMILY LOTS:	426
RESIDENTIAL UNITS:	440
SINGLE FAMILY DETACHED UNITS:	287 (65%)
SINGLE FAMILY ATTACHED UNITS:	139 (32%)
MIXED-USE (APARTMENT) UNITS:	14 (3%)
OPEN SPACE:	15.3± ACRE



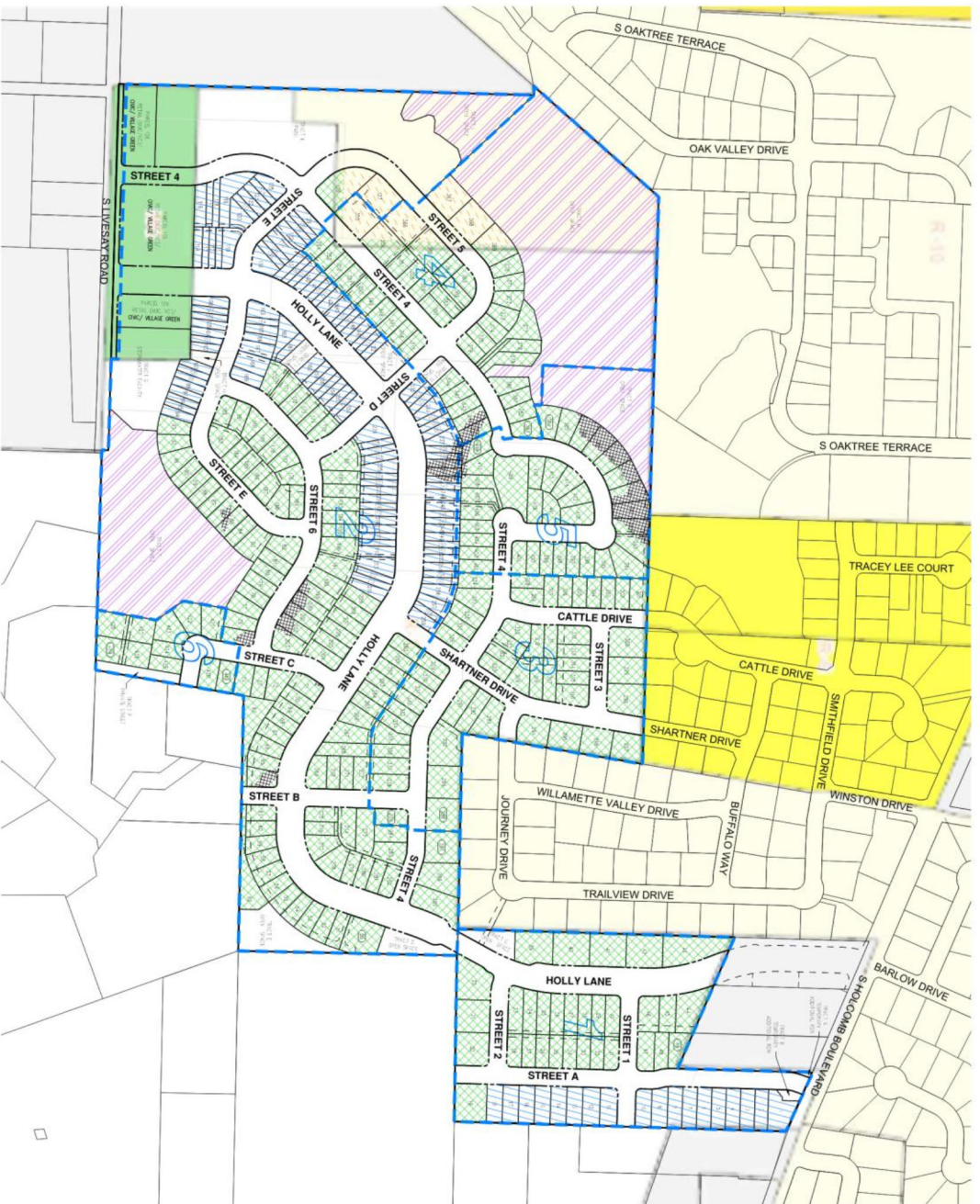
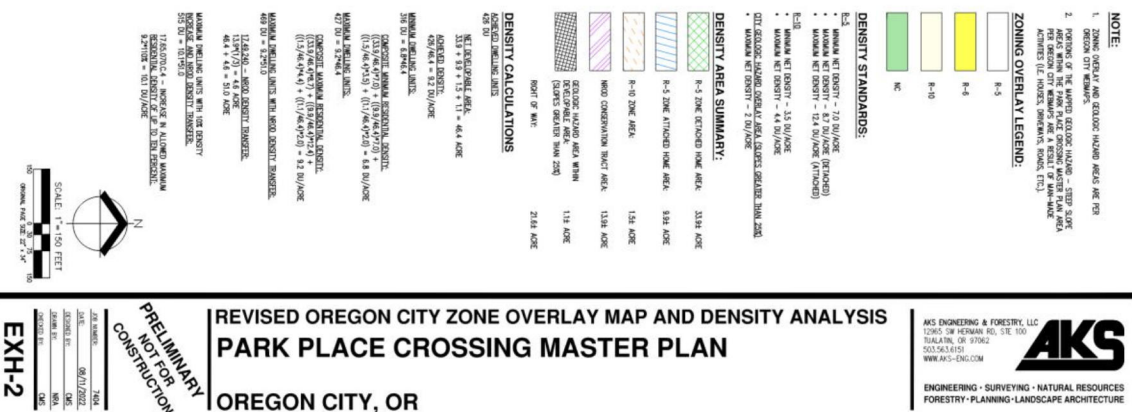


Figure 9. EXH-2. Revised Zone Overlay Map and Density Analysis. Submitted 8/11/2022

GLUA-21-00045 / MAS-21-00006 / VAR-22-00001
Park Place Crossing General Development Plan



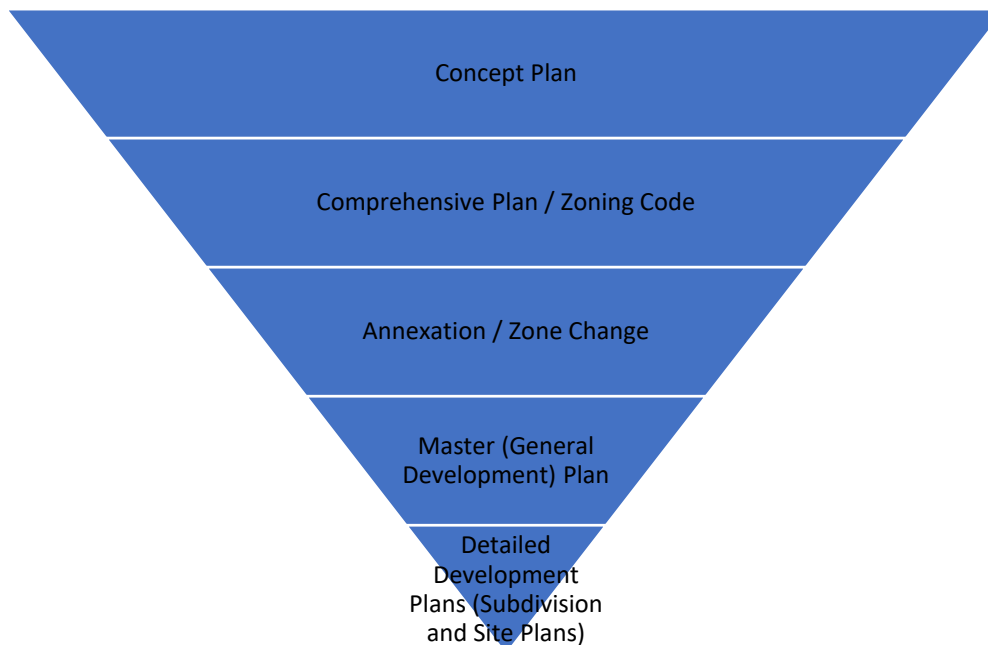
Staff Overview of Major Project Topics, Decisions

The applicant has submitted for a General Development Plan that will govern the development of the site over time through the approval and development of future Detailed Development Plans (DDP) onsite. No development is authorized as part of this application.

The applicant has submitted a proposal that generally meets the intent of the Park Place Concept Plan and the Oregon City Municipal Code. The applicant has requested three Master Plan adjustments onsite and variance review for attached housing lot sizes within the R-5 zone. Staff has reviewed the proposal for compliance with the applicable standards, goals and policies and has identified proportional mitigation and phasing conditions that enable the project to meet or exceed those standards and goals.

PROCESS

The development application reflects the efforts, policy, and zoning requirements of previous legislative decisions and in order talk about the current proposal it is necessary to start with the high-level planning and filter down to the specific code requirements. The order of planning efforts and decisions is as follows: Concept Plan, Comprehensive Plan, Annexation / Zoning designation, followed by Master Plan (aka General Development Plan), and Detailed Development Plans.



This approval sets a framework approach to implementation of the plan through future development applications at the Type II Detailed Development Plan (DDP) level through the use of clear and objective conditions of approval and the ability to use the July 20, 2021 Municipal Code at time future DDP land use submittal. This approach allows staff, the applicant, and the public a clear road map for what is required, and clearly specifies the level of review needed for design revisions.

The Master Plan approval is a land-use action that approves the General Development Plan uses and development approach based on the requirements set forth in OCMC 17.65 Master Plans and implemented through conditions of approval that are proportional to the proposal.

All permitted uses in each of the three zones (R-10, R-5, and NC) are allowed within the area subject to the Master Plan. Additions to or removal of uses listed in the Applicant's submittal shall not in themselves constitute a need for an amendment to the Master Plan unless the addition or revision triggers a need for an amendment through a Condition of Approval or OCMC 17.65.080 Amendments to Plans.

Detailed development plan phase boundaries are understood to be approximate and are subject to change in the future.

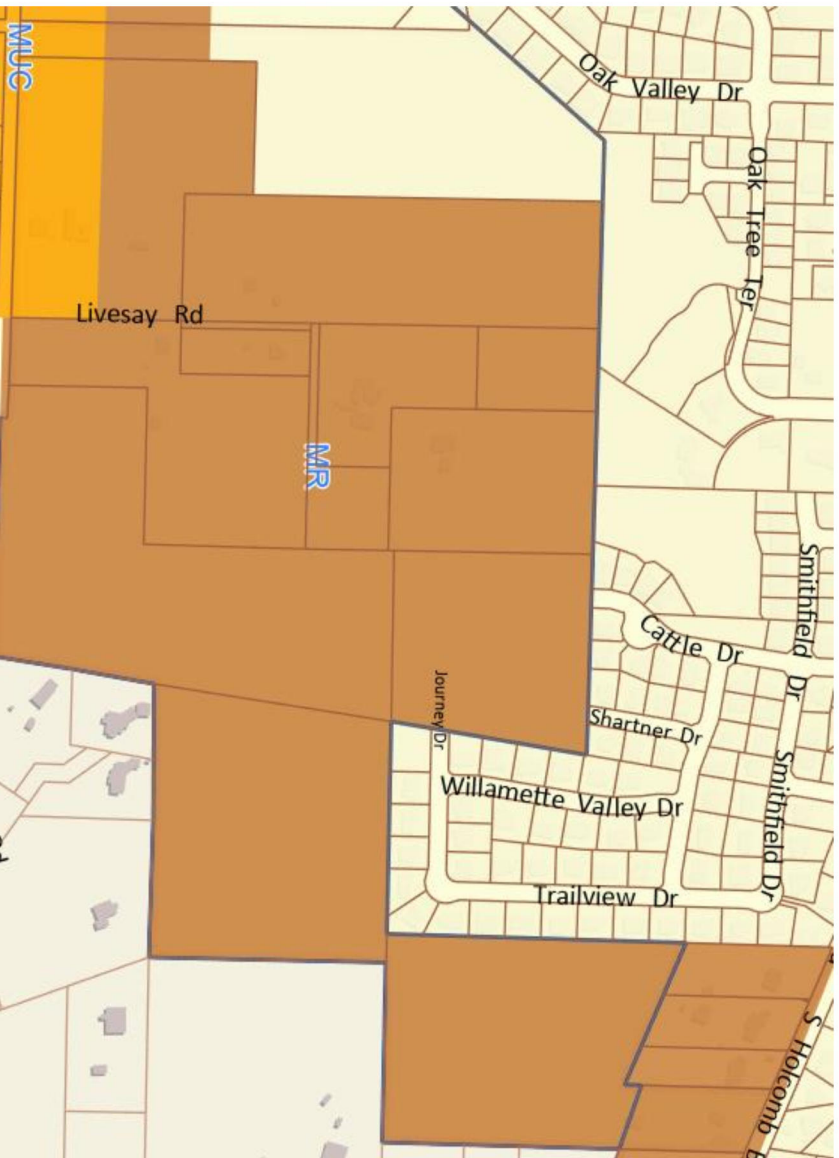
DENSITY

Comprehensive Plan

When the Park Place Concept Plan was adopted in 2008, comprehensive planning land use designations were applied to all properties within the concept plan study area. In the 92-acres comprising the applicant's proposal, this included a small amount of Low Density Residential (approximately 9.5 acres), Medium Density Residential (approximately 78 acres), and Mixed-Use Corridor (approximately 4.4 acres). The designations guided the subsequent rezoning of the property when it was annexed in 2016.

The designations are described in the 2004 Oregon City Comprehensive Plan as follows:

- Low Density Residential (LR) — primarily single-family detached homes.
- Medium Density Residential (MR) — residential developments with dwelling unit types such as attached single-family units, rowhouses, and townhouses... , and new single-family homes on existing lots. More intensive new and redeveloped residential construction can be built at medium densities under certain circumstances.
- Mixed Use Corridor (MUC) — higher density mixed uses that are supportive of transit and conducive to pedestrian traffic. Urban density residential and commercial goods and services are typical uses.



Comprehensive Plan Designations

Park Place Concept Plan

Essentially, the Park Place Concept Plan requires higher residential densities than the minimum densities required in the underlying zone districts. The reasons for this are explained below.

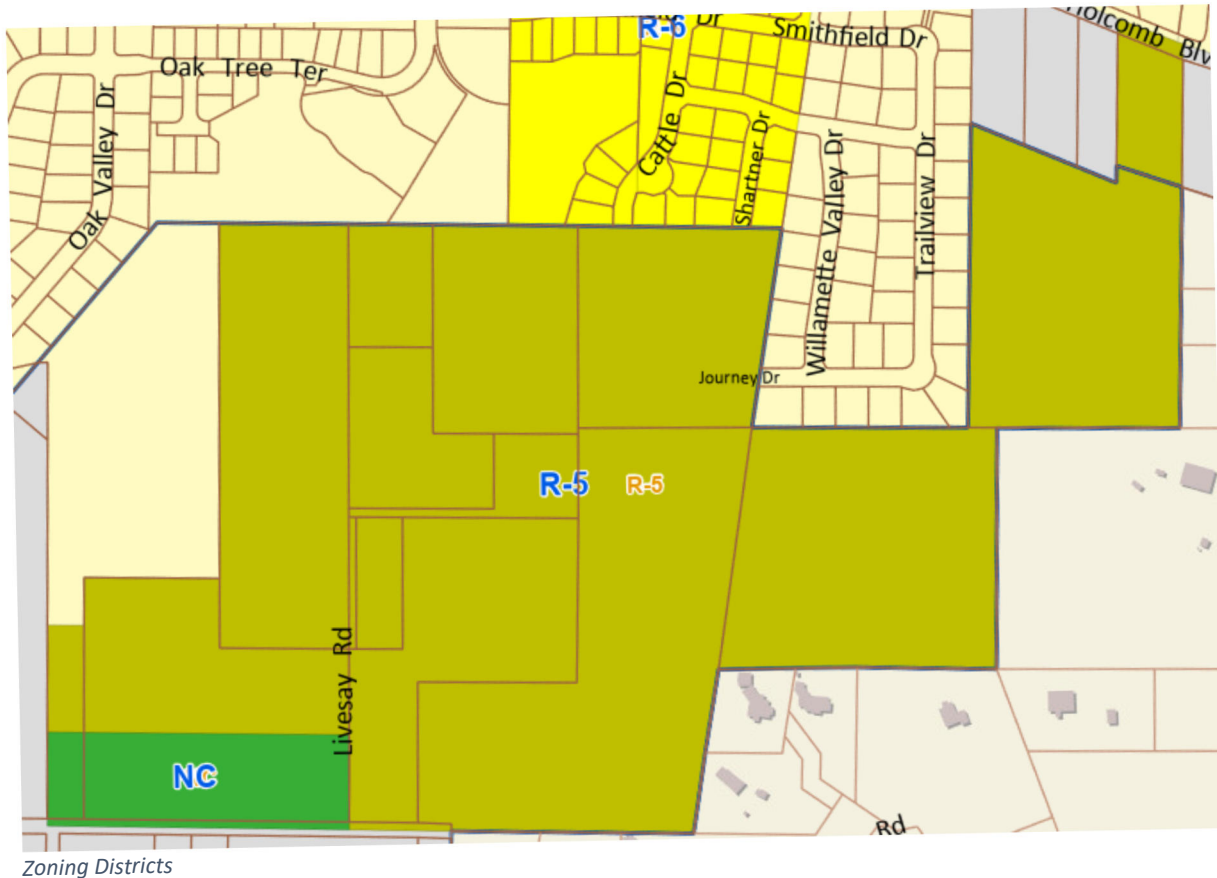
The Park Place Concept Plan was adopted as the Comprehensive Plan for this area and sets the framework for how the area will develop over time. The plan was required in order to comply with regional planning requirements for new urban growth areas (Metro Urban Growth Functional Management Plan – Title 11). Generally, concept plans identify the location and intensity of land uses, the provision of infrastructure such as transportation, utilities, and stormwater, and how environmental resources and sensitive habitats will be protected. The Park Place Concept Plan identifies a mix of residential, commercial, park and open space and civic land uses, and residential land accounting for approximately 52% of the gross acreage, with the remaining half of the land in the concept plan constrained by slopes and natural resources and not developable. Of the developable acreage, the concept plan identified 1,458 total units for development within the South and North Villages.

Metro Title 11 also requires that Cities within the Metro Urban Growth Boundary provide zoned capacity to support net densities of 10 units per acre to ensure efficient use of urban land and provide walkable communities with access to amenities. Oregon City “substantially complied” with this requirement through the adoption of the R-5 zone and NC zone districts to implement the concept plan at the time of annexation and zoning.

Zoning

GLUA-21-00045 / MAS-21-00006 / VAR-22-00001
Park Place Crossing General Development Plan

Zoning designations were applied when the subject site was annexed in 2018. The three zoning designations that make up the site are R-10 (Low Density residential), R-5 (Medium Density residential) and NC (Neighborhood Commercial)



The concept plan anticipated a mix of low density (R-10) and medium density development and in fact, recommended adopting a new R-5 zone to achieve the desired density. The concept plan also anticipated the North Village would accommodate approximately **936 dwelling units**.¹ The North Village is bounded by Redland Road to the south and Holcomb to the North.

The residential zoning designations have minimum and maximum density requirements.

¹ The following language from the concept plan supports a finding that the number of dwelling units is conceptual:

“North Village

The majority of new growth (approximately 936 units) is proposed to be accommodated in the North Village neighborhood, north of Redland Road (Figure 3-2).” P 24.

“Table 3-2 identifies the potential number of housing units of different types that could be developed within the concept planning area based on proposed zoning. The low/medium-density zone is more likely to be the site of manufactured homes and ADUs than the medium/high-density zone. The distribution of housing types in Table 3-2 however, represents only one scenario for accommodating needed housing within zones proposed for Park Place. It is possible that housing types may develop in different ratios, including development of attached single-family housing in the low/medium density residential zone.” P 28.

Zone	Minimum density	Maximum density
R-10	3.5 du/acre	4.4 du/acre
R-5	7.0 du/acre	8.7 du/acre (detached)
	7.0 du/ acre	12.4 du/acre (attached)

The Applicant's Proposed Density Relative to other Concept Plan Factors

The applicant determined that 46.4 acres of land are developable, and with a permitted density transfer from areas impacted by the Natural Resources Overlay District (NROD), there is an additional 4.6 acres of land resulting in 51 buildable acres.

Area	Acreage
Net Developable Area	46.4
NROD Density Transfer (1/3 of NROD Area 14.3 acres)	4.6
Total Developable area for Density	51

Using the acreage and base zoning density requirements, the calculated composite minimum density of is 6.8 dwelling units per acre and a composite maximum density of 9.2 dwelling units per acre.

Minimum density of 6.8 du/acre results in 316 dwelling units and maximum density of 9.2 du/acres results in 427 dwelling units.

With the updated layout, the residentially zoned portion of Park Place Crossing GDP plans to provide 426 residential dwelling units, not including any future mixed-use residential dwelling units in commercially zoned areas. The minimum composite density (calculated based on the net developable area and base zone density standards) permitted by the base zoning for the area is 6.8 dwelling units per acre (347 dwelling units with the NROD density transfer). The maximum composite density permitted by the base zoning for the area is 9.2 dwelling units an acre. Park Place Crossing is within the minimum/maximum density range established by the base zoning for the area, not including permitted density transfers and bonus density processes described below.

Previous plans utilized permitted NROD density transfer and a portion of the allowable GDP density increase. The NROD density transfer permits up to 469 dwelling units (9.2 dwelling units/acre over ±51.0 acres). The maximum number of dwelling units for the area with the allowed GDP density increase (10%) is 515 units or 10.1 dwelling units per acre. Therefore, the Park Place Crossing project is well within the established and accepted range of density.

In addition to falling within the minimum and maximum zoned density limits, any decisions on housing density must be driven by the language of the concept plan as well as any other applicable comprehensive plan policies. For example, Comprehensive Plan Goal 14.3, Orderly Provision of Services to Growth Areas, provides:

“Plan for public services to lands within the Urban Growth Boundary through adoption of a concept plan and related Capital Improvement Program, as amendments to the Comprehensive Plan.

Policy 14.3.1 Maximize new public facilities and services by encouraging new development within the Urban Growth Boundary at maximum densities allowed by the Comprehensive Plan.”

Development occurring at the mid-range or low point of the zoned density, could create additional pressures on future annexations and developments to have a higher density than what is proposed in this portion of the North Village. While the policies of the Park Place Concept Plan support a diversity of lot sizes and housing types, more intense development in the North Village and even in the South Village, could result in incompatible transitions from residential types instead of gradual transitions. Additionally, land use applicants are tasked with identifying specifically how much land is developable through more detailed analysis or “ground-truthing” versus the higher-level analysis done during concept planning. This “ground-truthing,” when coupled with an existing shortfall, could only exacerbate the need for more intense density to achieve the number of units identified in the concept plan.

Further, development at the higher end of the density range provides the City with an opportunity to acquire more park space because the extent of the City’s ask is constrained by the number of dwelling units proposed. Higher densities support the provision of infrastructure and amenities for existing and future residents. There may be more opportunities for flexibility with future annexations and zoning assignments because more units of the needed housing will be built.

On the other hand, the Concept Plan explains:

“Provide a gradual transition in zoning and allowed densities between existing residential development and new or future residential development and/or require larger setbacks between existing and new residential development.” P 63.

Development on the lower end of density could mean more compatible transitions between the existing neighborhoods zoned R-10 and R-6 with more similar lot sizes. The minimum lot size for single family detached units in the R-5 zone is 5,000 square feet which provides a gradual transition between R-6 lots (6,000 square feet). The applicant has requested a reduction of minimum lot size for single family detached lots as well as the attached lots. The applicant has proposed detached lots in the R-10 zone as small as 4,000 square feet through the Master Plan adjustment process in OCMC 17.65.070.

The intent of OCMC 17.65.070 is to allow for a 20% adjustment to the base zone dimensional standards, which means, an R-10 lot could be reduced from 10,000 square feet to 8,000 square feet. The adjustment cannot be applied to allow the 5,000 square foot lot to be reduced to 4,000 square feet. Thus, the applicant shall ensure that lots in the R-10 zone are 5,000 square feet or more in area for future detailed development plan applications that show compliance with OCMC 17.49.240 for NROD density transfer. If density transfer standards cannot be met in future detailed development plan applications, the minimum size for lots within the R-10 zone will be 8,000 square feet, (assuming the requested 20% adjustment is approved).

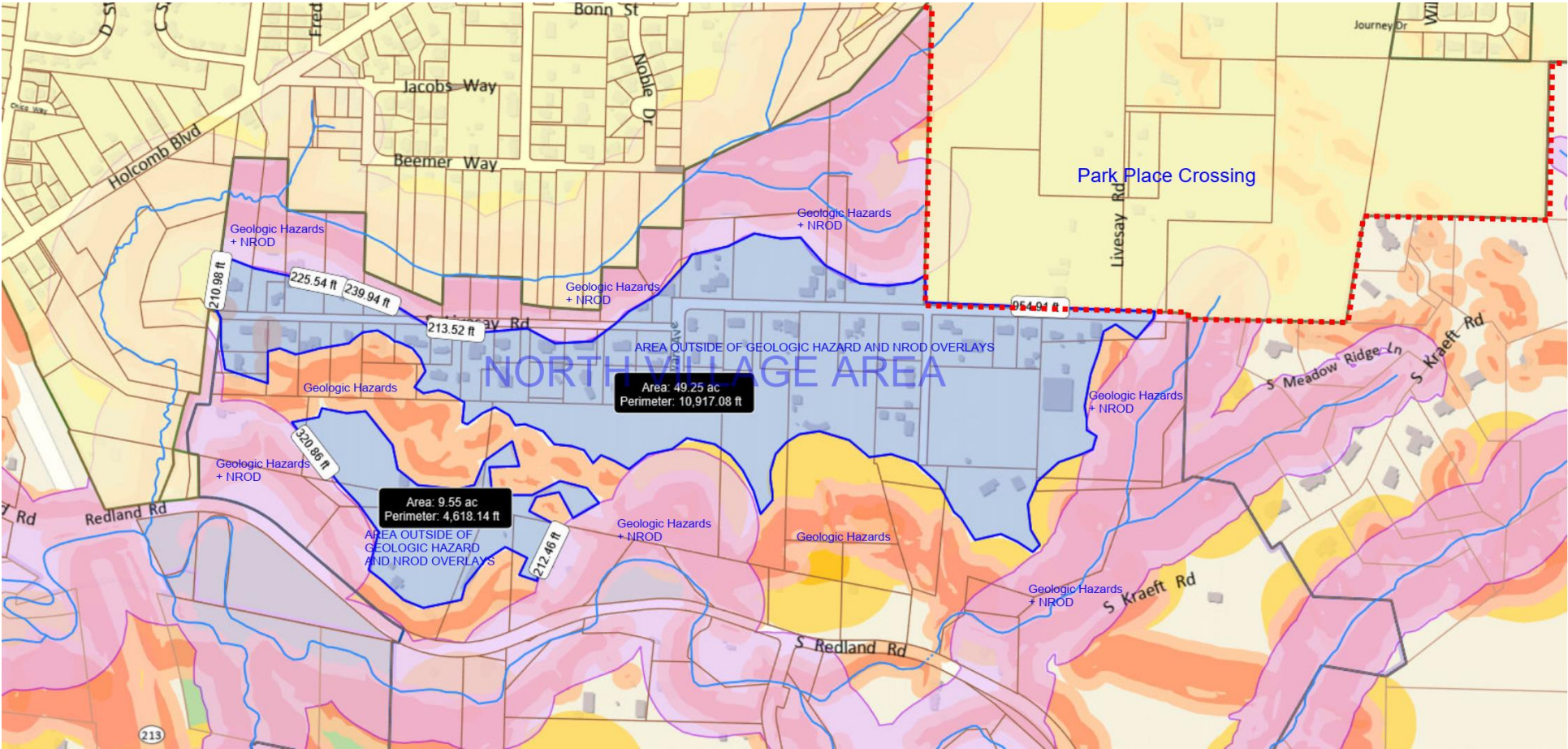
Transition of Lot Sizes

To promote a smoother transition between lot sizes the development, with the proposed 8/11/2022 revision, the applicant has provided larger lots abutting open space and existing R-10 zoned residential subdivisions such as Trail View Estates. This would reduce the overall lot count somewhat where the transition occurs, but the shortfall in the immediate single-family detached residential units may be made up for through the provision of attached single-family units, middle housing permitted under new

statewide housing laws, in the form of ADUs, or through mixed-use development and multi-family development within the Neighborhood Commercial-zoned area of the proposal.

Staff has recommended a condition of approval to assure the transition between lot sizes is provided as proposed.

Using the City's GIS mapping, staff estimates that there are approximately 60 acres of land remaining in the North Village area that are located outside of the Geologic Hazard Overlay and Natural Resources Overlay Districts (see figure below). As stated above, the concept plan anticipated 936 dwelling units in the North Village. The Park Place Crossing Master Plan is approximately 50% of the North Village leaving the remainder of the area for future annexation, zoning, and planned development. If the applicant builds 426 units as proposed with 14 units of multi-family making a total of 440 units, approximately 496 units would be required to be built on the remaining 60 acres. Note that additional property would be required for streets, roads and easements outside of the existing overlay districts. Assuming an additional 20% of land is required for streets, roads and easements, this would leave approximately 48 acres of "buildable land" remaining. At a maximum density of 9.1 units per acre, this sums to 436.8 units. Future applicants would be permitted to use NROD density transfer provisions and other provisions to make up the difference, however, this rough calculation helps illustrate the challenge of meeting the density needs and housing unit targets of the Park Place Concept Plan when more than half the land in the concept plan area is protected from development due to slopes, landslides, streams, wetlands and habitat areas. This fact was known and clearly stated when the Concept Plan was adopted in 2010 and is fundamental to understanding process of evaluating allowable density in this urbanizing area now that the General Development Plan is under review..



Planning Commission discretion regarding Density

There are several ways to design the development of the residential portion of the North Village and strike the appropriate balance necessary to find compliance with all of the applicable approval criteria, including the Park Plan Concept Plan policies. The Planning Commission will need to balance the need to provide a minimum number of housing units in this portion of the concept plan (440 units) with what is reasonably proportional for the applicant to dedicate for parkland and open space, taking into account the revised road layout, which provides greater connectivity and street frontage for the park, and the increase in Neighborhood Commercial land on Livesay Road. If density is going to be reduced, there needs to be some explanation about how this reduction is necessary to further other Concept Plan objectives such as providing smooth transitions to existing development or variation in lot size, which in turn, affects affordability. If the density is reduced, the Planning Commission should make some finding about how the shortfall in overall units will be made up in the future.

TRANSPORTATION

Transportation Impact Analysis of this area was initially conducted during the Park Place Concept Plan planning process in 2007-2010, and upon review of the annexation and rezoning of the property in 2016, planning files AN-17-04 and ZC 17-05. The approval of those applications required that the applicant submit a General Development Plan for the site and attached several conditions of approval for transportation improvements, as well as the requirement to submit updated Transportation Impact Analyses at the time of General Development Plan and with each subsequent Detailed Development Plan. See section entitled "COMPLIANCE WITH CONDITIONS OF APPROVAL ASSOCIATED WITH ANNEXATION AND ZONE CHANGE AN-17-04 and ZC 17-05.", under section II Analysis and Findings.

The applicant has proposed to provide additional traffic studies at the time of Detailed Development Plan application for each Phase. The traffic study submitted for this General Development Plan review identifies where the transportation system is expected to have adequate capacity, and where improvements will be needed to provide adequate capacity for the new development. The study identified that the intersection of HWY 213 and Redland Rd, an intersection providing connectivity for this development, is a key intersection will be over capacity at some point between proposed Phase 1 and Phase 2. This means that the applicant will likely not be able to demonstrate compliance with transportation mobility standards for Phase 2, as proposed, and beyond.

If and when the applicant or the City is able to fund and construct an improvement to this intersection to add the requisite capacity necessary to serve subsequent development phases, additional development may occur. The City's planned improvement for the intersection of HWY 213 and Redland Road is known as the Jughandle Phase II project, which has been designed but is not currently scheduled for construction due to a lack of funding.

The applicant's traffic study indicates that an extension of Holly Lane to Redland Road is not needed to comply with transportation mobility standards in OCMC 16.12.033. Thus, the proposal does not propose to construct this street connection within phases 1-3 and instead relies on Holcomb Blvd to provide access to the development.

While the mobility standards might technically be met, the proposal is not consistent with Goals and Policies of the Comprehensive Plan and Master Plan standards, which require mitigation of neighborhood livability impacts. The applicant's proposal directs all of the new development traffic onto local streets at levels that greatly exceed typical local street volumes.

The added traffic on existing local streets including Cattle Drive and Winston Drive and other streets within the subdivisions that use Winston Drive to reach Holcomb Blvd, which is currently the only road into the area, as well as the new proposed Street A, will create impacts on livability. While the City does not have standards for levels of traffic on local streets, it is clear that the levels of traffic are likely to add a substantial number of daily trips on these streets that would greatly exceed levels associated with local residential streets.

To mitigate these impacts, the applicant submitted a revised proposal on June 29, 2022 which was presented to the Planning Commission on July 11, 2022, that addresses four areas:

1. An extension of Holly Lane to Holcomb Blvd
2. Reconfiguration of the proposed portion of the Community Park located at the southwest corner of the Master Plan area.
3. A second street connection to provide additional connectivity to Livesay Rd.
4. A plan that would prevent 2,000 average daily trips (ADT) on Winston Drive, Cattle Drive, Shartner Drive, and Street A.

The applicant presented the transportation mitigation approach as a supplementary memorandum entitled "Park Place Crossing General Development Plan: Trip Generation & Daily Traffic Volume Analysis" prepared by Lancaster Mobley transportation engineers and dated June 29, 2022.

The analysis seeks to identify development scenarios that demonstrate how the site could build out without placing a significant traffic burden on local streets, keeping the average daily traffic volume (ADT) on local residential streets at or below 2,000 vehicles per day.

Proposal to limit traffic on existing local streets

The applicant submitted a rather elaborate proposal to temporarily block vehicle traffic from the development from using existing local streets in abutting subdivisions until greater connectivity can be achieved via the connection of Holly Lane to Holcomb and eventually down to Redland Road, as envisioned in the Park Place Concept Plan and the City's adopted Transportation System Plan. This approach would employ barriers curtailing access onto abutting existing streets and confine the majority of new vehicle trips to new roads and reduce traffic on existing local streets. The trip generation and local street traffic associated with this approach is detailed in the following table from the applicant's transportation engineer's memorandum.

Staff has recommended a Condition of Approval to assure the applicant's proposal is implemented.

Trip Generation & Local Street ADT

As with the original Transportation Impact Study¹, trip generation is calculated based on data available in the Trip Generation Manual². Table 1 below summarizes the findings of each phase.

Table 1: Trip Generation & Local Street ADT Summary

Scenario	Housing Type		ADT at Holcomb Boulevard		
	Detached Single-Family	Attached Single-Family	Street A	Winston Drive	Holly Lane (Collector)
Phase 1	59	0	622	878 ¹	-
Phases 1 & 2	182	36	1,974	878 ¹	-
Phases 1, 2, & 3	253	36	1,974	1,498 ²	-
Build Out	351	126	0 ³	1,509 ⁴	3,483

¹ Existing ADT on Winston Drive is 878 vehicles per day

² 620 new trips + 878 existing trips = 1,498 trips total

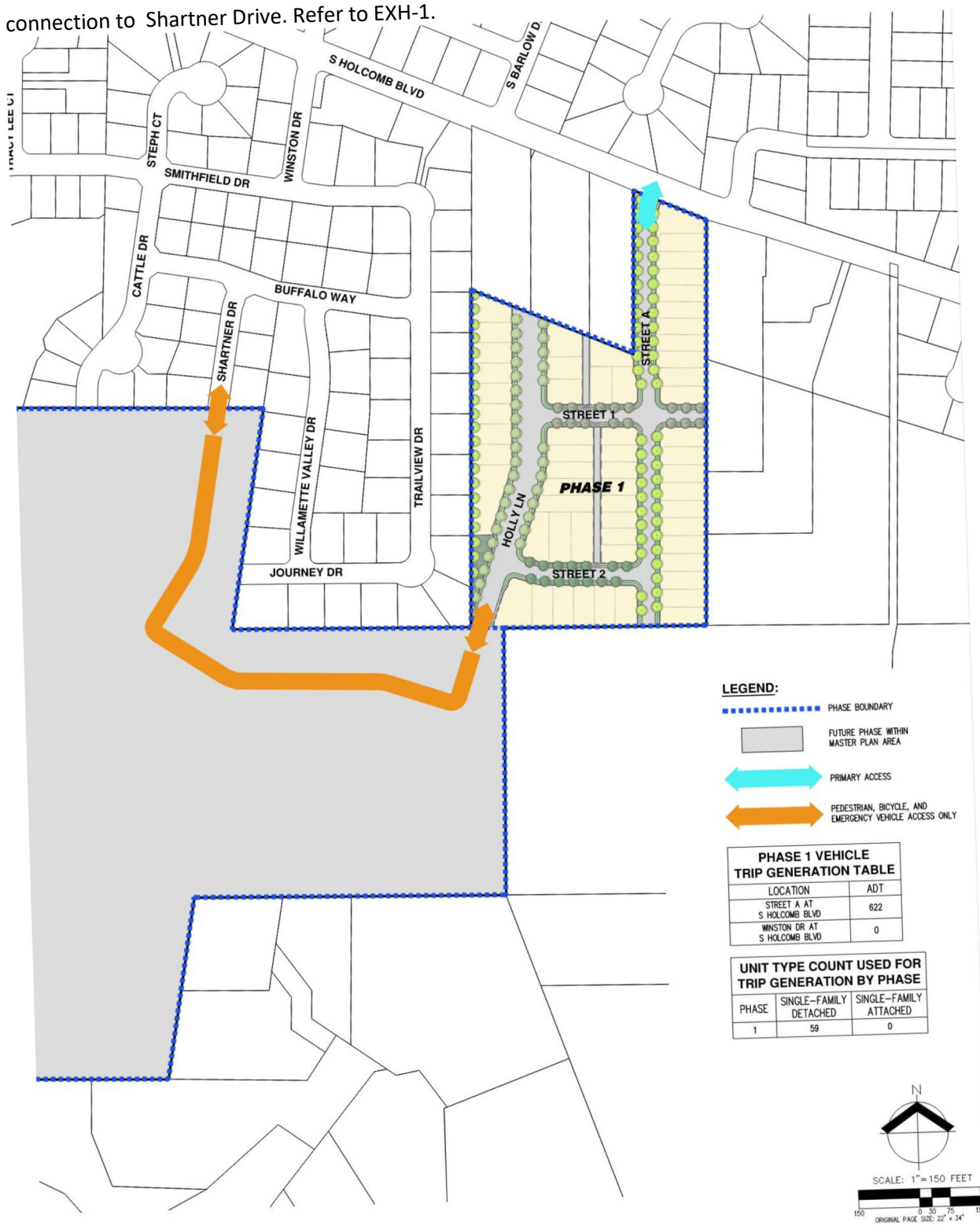
³ Street A at Holcomb Boulevard restricted to emergency vehicle access with connection of Holly Lane

⁴ 631 new trips + 878 existing trips = 1,509 trips total

Phase 1

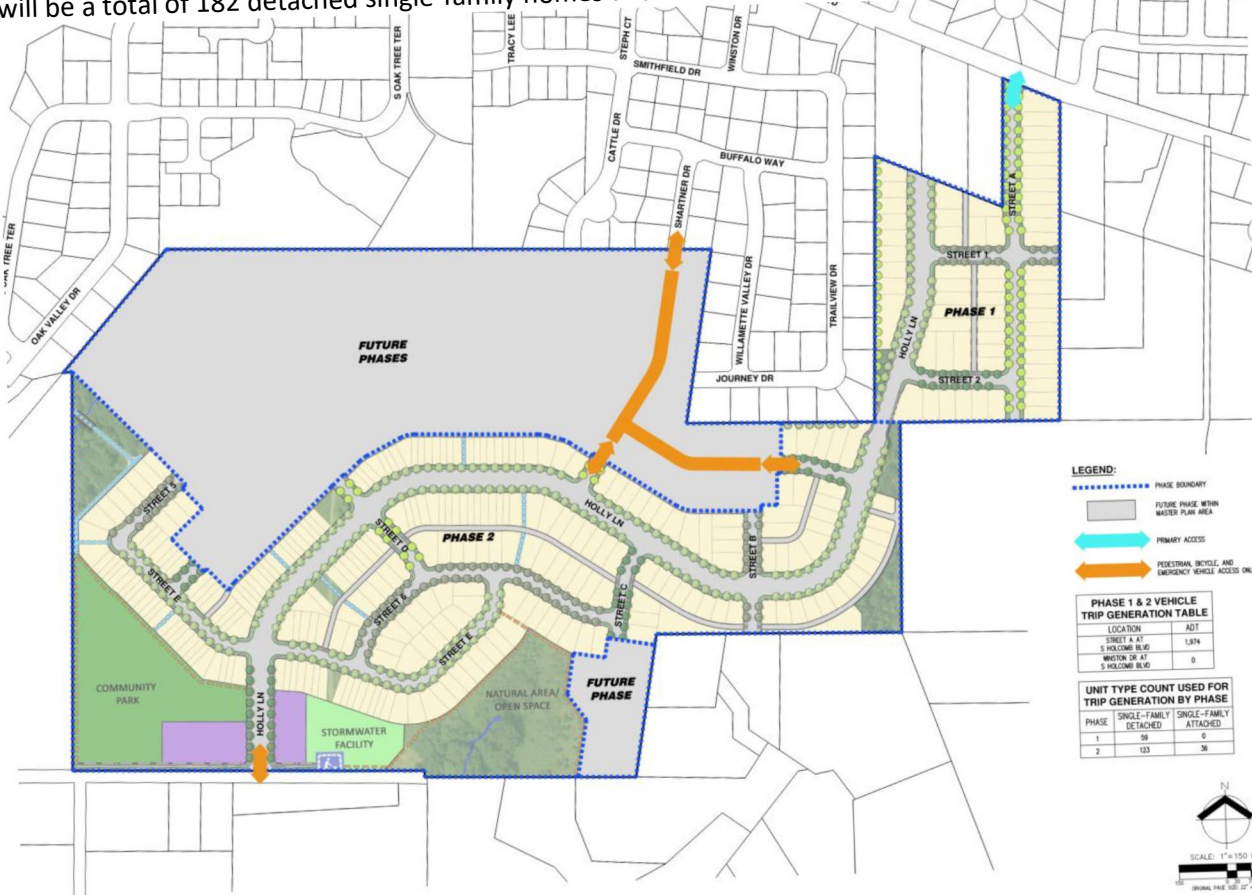
This is simply the first phase of development, consisting of a total of 59 detached single-family homes, all with access to Holcomb Boulevard via Street A. Emergency vehicle access will be available via a new street

connection to Shartner Drive. Refer to EXH-1.



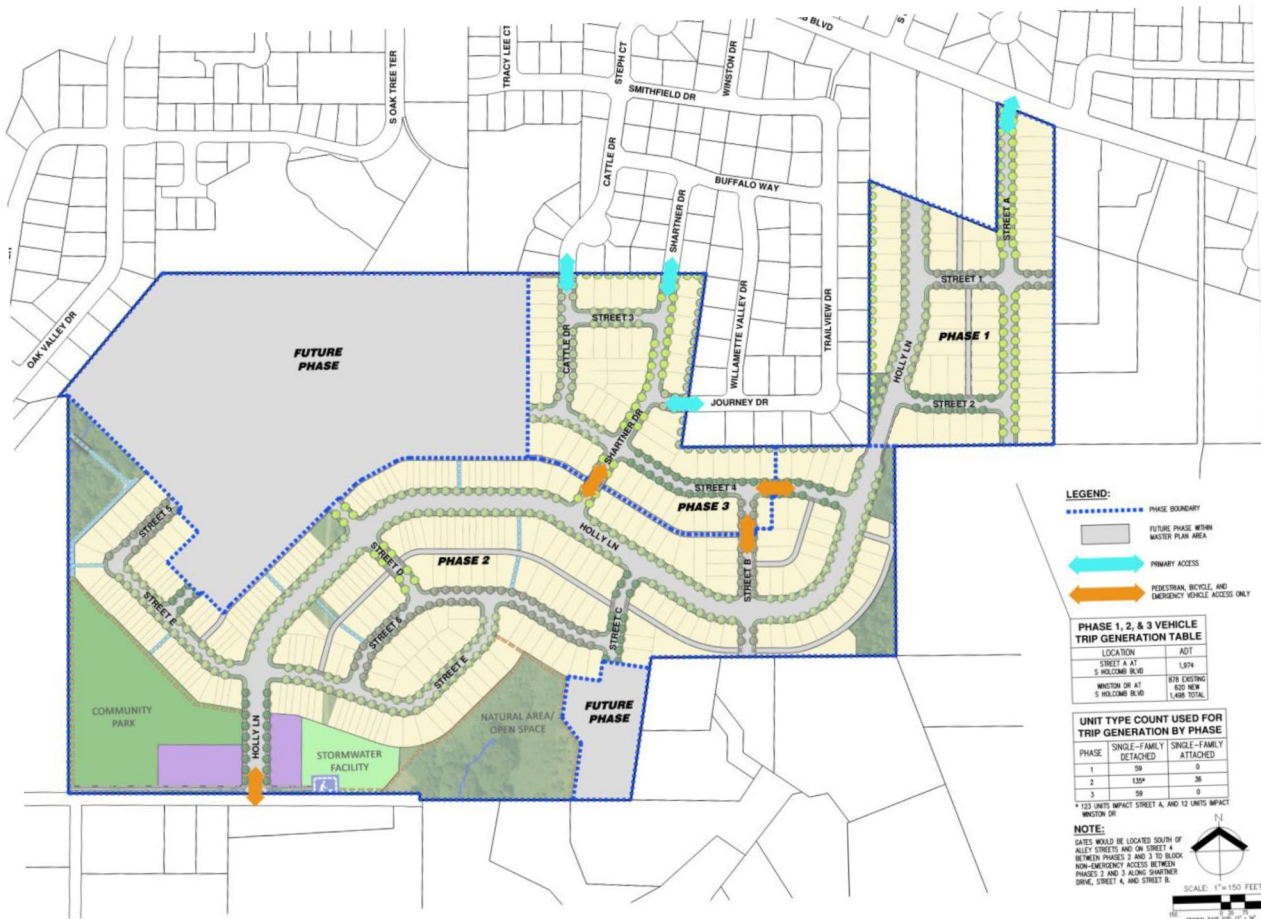
Phases 1 & 2

For this scenario, all vehicular access continues to occur along Street A to Holcomb Boulevard with emergency vehicle access available via Shartner Drive. With full buildout of Phase 1 and partial buildout of Phase 2, there will be a total of 182 detached single-family homes and 36 attached single-family homes. Refer to EXH-2.



Phases 1, 2, & 3

With three phases of development, additional street connections will be made to Cattle Drive, Shartner Drive, and Journey Drive. For this scenario, the ADT on Winston Drive is examined, since this is the single point of access to Holcomb Boulevard for the neighborhood and therefore has the highest traffic volume of any of the connecting local streets. It is important to note that volumes on Cattle Drive, Shartner Drive, and Journey Drive will be lower than what is shown here. The three phases, with partial buildout of Phase 2, have a total of 253 detached single-family homes and 36 attached single-family homes. It is important to note that in this scenario, all Phase 3 trips will utilize Winston Drive since connections to Phase 2 streets (Street 4, Street B, and Shartner Drive) will be limited to pedestrians, bicycles, and emergency vehicles. Refer to EXH-3.



The applicant anticipates that any additional development beyond Phase 3 would rely on the construction of the Holly Lane connection to Holcomb Boulevard, estimating conservatively that half of the trips from phases 3-5 would utilize the existing neighborhood to reach Holcomb Boulevard (via Winston Drive).

The applicant stated:

Under build-out conditions with Holly Lane connected to Holcomb Boulevard, the conservative worst-case assumption was made that half of the trips from phases 3-5 would utilize the existing neighborhood north of the site to reach Holcomb Boulevard. Drivers are better served by Holly Lane, which provides a more direct and higher-speed route. In practice, only the northern lots of phases 3 and 5 would be better served by the existing street network, particularly with traffic calming measures installed on existing streets, which the applicant will be conditioned to provide. However, to provide a worst-case analysis, more conservative assumptions regarding trip routing were made.

As demonstrated in this analysis, all local residential streets in the area including Winston Drive and all streets within the existing neighborhood north of the site will have under 2,000 vehicles per day with the phasing pattern shown and with the connection of Holly Lane to Holcomb Boulevard.

The applicant's memorandum describing the proposed phased barrier system was reviewed by the City's transportation consultant, Replinger and Associates, who concluded that the analysis performed by the engineer, and documented in their June 29 memorandum used appropriate calculations for trip generation and

logical traffic patterns. His calculations showed that Phases 1, 2, and 3 can be implemented, with access restrictions in Phases 2 and 3, that will assure that traffic volumes on local streets remain within allowable limits.

GEOLOGIC HAZARDS

The proposed development contains areas of Geologic Hazards, and the Applicant has provided a preliminary geotechnical report and geologic hazard overlay memo as part of the GDP. Below is a figure with geologic hazard areas and the locations of the proposed development:

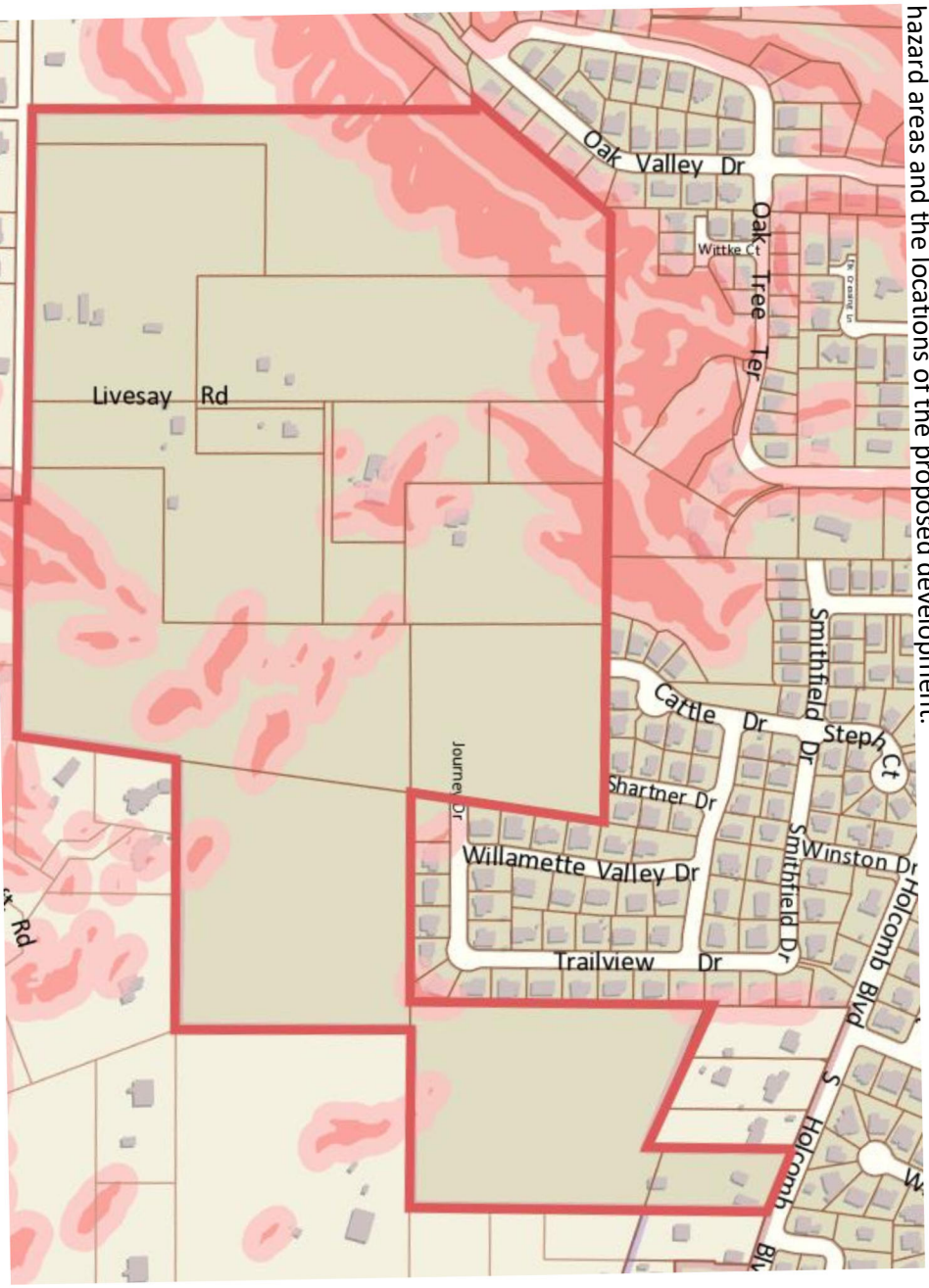


Figure 7. Geologic Hazard Areas of Slopes over 25% and buffer areas

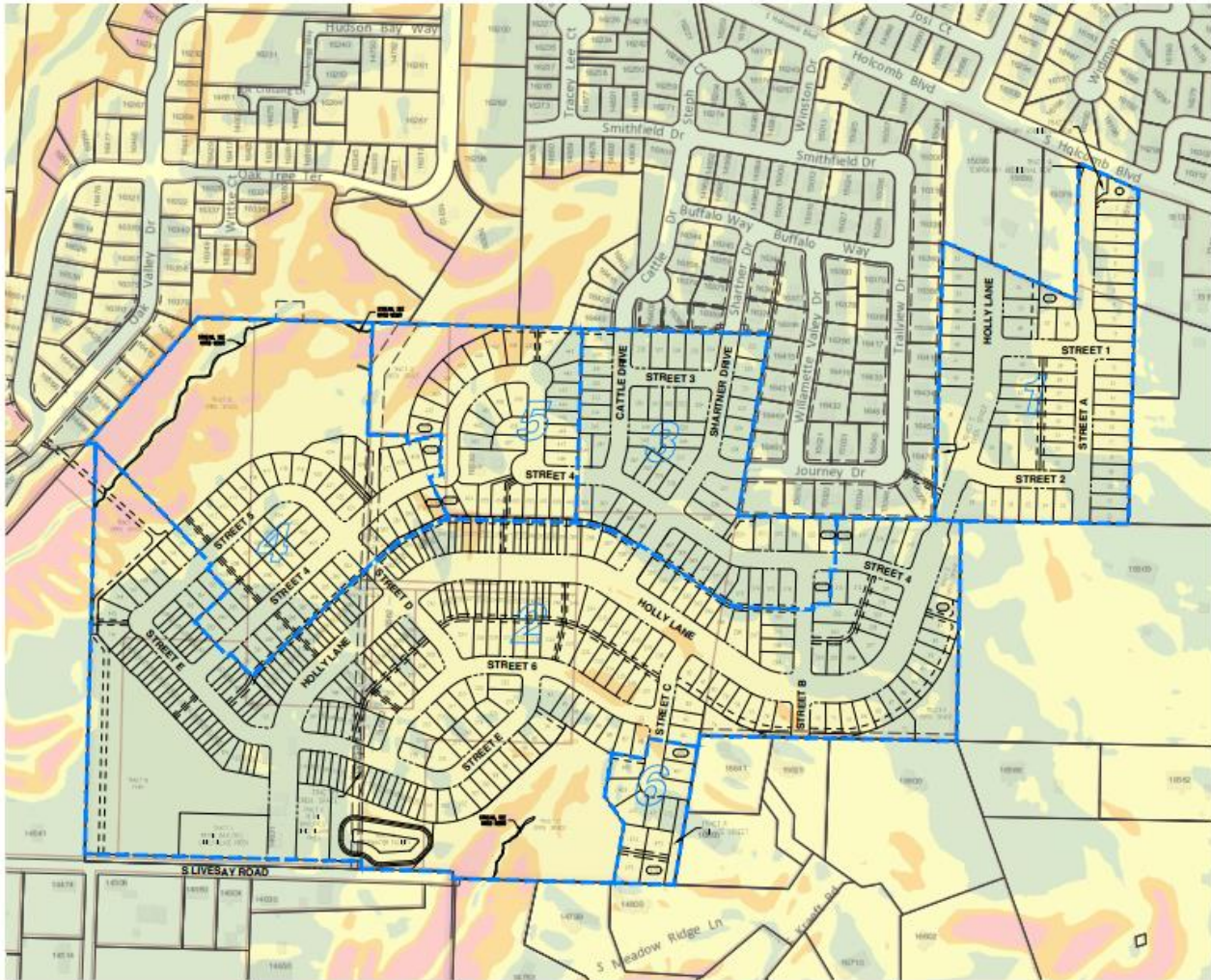
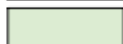
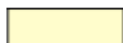




Figure 8. Geologic Hazard Areas with Steep Slopes and Proposed Development

SLOPE CATEGORIES LEGEND:

	SLOPES 0-10%
	SLOPES 10-25%
	SLOPES 25-35%
	SLOPES >35%

Portions in the northwest corner of the property contain both steep slopes and landslide deposits. Most of the northwest area is not proposed for development but instead for greenspace to avoid the geohazards and landslide materials. No other existing landslide deposit areas are currently identified in the City's mapping system.

The proposed preliminary layout has streets (Holly Lane, Street C, Street 6 and Street 4) running through geologic hazard areas within the site (steep slopes).

Per the City's code (OCMC 17.44) these geological hazard areas are to be avoided. The applicant has provided preliminary alternatives for shifting the alignment of Holly Lane away from the geohazard areas, but they state that these alternatives would create view tunnels, streetscapes inconsistent with the Park Place Master Plan, walkability, aesthetic, and cost concerns.

The applicant has submitted a preliminary geologic assessment for the General Development Plan per OCMC 17.4. A Detailed Development Plan has not been submitted yet. When the applicant applies for a DDP, additional review for compliance with OCMC 17.44 shall be required that includes a detailed description of the impacts of

the proposed street layout, any traffic safety concerns and conflicts regarding view tunnels, alternative road locations, street design modifications and other concerns associated with the specific road designs shall be identified.

The applicant will need to show that constructing streets within Geologic Hazard areas is unavoidable and that the design of the roads will comply with OCMC 17.44. The street layouts and alternatives shall be further reviewed with each DDP as more detailed plans and geotechnical analyses are provided and plans are revised to comply with the City's steep slope requirements.

The GDP has also identified several lots within geological hazard areas that could exceed the City's density requirements within the hazard areas. As a result, the total number of buildable lots may need to be reduced. See City's comments on OCMC 17.44.060.H later in this staff report.

This concludes the Project Description

3. Permits and Approvals: The applicant is responsible for obtaining approval and permits from each applicable governmental agency and department at Oregon City including but not limited to the Engineering and Building Divisions.

4. Public Comment

Public comments submitted include (Exhibit 3):

A public comment summary table has been used to track public comment for this application. See Exhibit 3 for the table listing all comments and staff responses. Public comments have generally covered the topics of traffic, stormwater runoff impacts due to increased impervious surface, concerns with modifications to lot dimensions and density standards not in keeping with existing neighborhoods, potential noise and light pollution, concerns with the public notification process, concerns with potential impacts to well water, and several others.

None of the comments provided indicate that an approval criterion has not been met or cannot be met through the Conditions of Approval attached to this Staff Report.

II. ANALYSIS AND FINDINGS:

COMPLIANCE WITH CONDITIONS OF APPROVAL ASSOCIATED WITH ANNEXATION AND ZONE CHANGE AN-17-04 and ZC 17-05

Several conditions of approval were part of the City's decision for AN-17-04 and ZC 17-05. Findings are added beneath each of the conditions below:

1. Highway 213 at Beavercreek Road intersection (an Oregon Highway intersection) is forecasted to fall below adopted mobility standards prior to year 2035. As a result, the City has adopted a new Refinement Plan and amendments to OCMC Chapter 12.04 implementing the new Refinement Plan, that is not yet acknowledged. This re-zoning shall not be effective until the new Refinement Plan including alternative mobility measures is adopted and acknowledged.

Finding: Complies as Proposed. A final “Highway 213 Corridor Alternative Mobility Targets” report and associated code amendments (File No. L 17-03) for the Highway 213/Beavercreek Road intersection were adopted by the City Commission in March 2018. The attached Transportation Impact Study reviews the effects of the project in relation to the standards set by the adopted report. This Condition of Approval has been completed.

2. *Prior to the effective date of this zone change, the property will remain zoned FU-10. No new structures or additions to existing structures or site grading that triggers erosion control permits or overlay district review, other than what otherwise would be allowed under the County’s applicable FU-10 zoning, will be allowed. In addition the property shall be subject to the City’s overlay districts, fence regulations in OCMC 17.54.100 as well as the City’s nuisance, business licensing and animal regulations.*

Finding: Complies as Proposed. The properties were zoned FU-10 prior to the effective date of the zone change and were changed to City zoning following the completion and adoption of the “Highway 21 Corridor Alternative Mobility Targets” report. The project site is now zoned R-10, R-5, and Neighborhood Commercial. This Condition of Approval has been completed.

3. *A trip cap for the approximate 92-acre annexation shall be imposed on all development as follows: 538 AM peak hour trips; 679 PM peak hour trips; and 7406 total weekday trips. Any proposal involving development exceeding this trip cap will require additional analysis showing compliance with the Transportation Planning Rule, OAR 660-12-0060 subject to review by the Planning Commission and City Commission as a modification.*

Finding: Complies as Proposed. With the proposed 8/11/2022 revision, the trip generation will be reduced. As originally proposed, the planned residential component of the Park Place Crossing General Development Plan is anticipated to generate 290 morning peak hour trips, 390 evening peak hour trips, and 4,064 average weekday trips, representing only ±54 percent of the trip cap established by Condition of Approval #3. A Transportation Impact Study reviewing these requirements and detailing the trip generation for the project is included in the applicant’s proposal. The City’s transportation consultant, John Replinger, reviewed the Transportation Study and concluded:

“It is also important to recognize that the trip generation for the residential development proposed under this GDP is less than the total trip generation presented in the TIS for the annexation and rezoning approved in the prior land use action. The trip cap established with the annexation and rezoning was 538 AM peak hour trips; 679 PM peak hour trips; and 7,406 total weekday trips. The number of trips generated by the proposed residential development is comfortably below the adopted trip cap and leaves substantial trips available for commercial development on the remaining portions of the property subject to the annexation and rezoning.”

This Condition of Approval has been completed.

4. *Prior to issuing any development approval authorized by this annexation and zone change, the applicant shall obtain General and Detailed Development Plan approval, that includes the approximate 92-acre property, pursuant to OCMC 17.65. Until such time, all development shall be conform to requirements of the County’s FU-10 zoning. The General Development Plan and all phases of development authorized by it, must implement the Park Place Concept Plan and Oregon City’s adopted Public Facilities Plans with regard to the provision of open space, park and trails, sewer, water, stormwater and transportation improvements. These include, but are not limited to, addressing the timing of parkland acquisitions and development, proposed phasing of*

major roads to ensure a timely connection to Holly Lane and an analysis of utility phasing that can foster redevelopment of the entire concept plan area. All land division and site plan and design review applications shall be in conformance with the approved Master Plan, although the normal provisions for Amendments to Master Plans apply.

Finding: Complies with conditions. Development of the site has not occurred since annexation of the property and approval of Ordinance No. 18-1007. The applicant has submitted this application for a General Development Plan to comply with this condition of approval. Detailed Development Plans will be required that provide more detailed and site specific analysis of the proposed subdivision phases, compliance with the Natural Resources Overlay District and Geologic Hazard Overlay District, and site specific engineering requirements.

This condition of approval requires that the applicant propose phasing of major roads “To ensure a timely connection to Holly Lane and an analysis of utility phasing that can foster redevelopment of the entire concept plan area.”

While the applicant has not proposed specific timing of parkland acquisitions and major roads, the recommended conditions of approval address these items.

5. *As a result of future transportation analyses associated with specific development plans for any of the properties subject to this annexation, the applicant may be obligated in subsequent conditions of approval to mitigate for development impacts by participating in funding of both TSP and non-TSP projects regardless of whether those project are listed in the conditions of approval for this annexation and zone change pursuant to the applicable approval criteria for a Master Plan.*

Finding: Complies as proposed. The applicant indicated acknowledgement of this condition.

6. *At such time as a Master Plan is reviewed, the applicant shall submit additional materials to address specific requirements outlined in the city’s Guidelines for Transportation Impact Analyses and calculate the proportionate share of transportation impacts of the proposed development including proportional mitigation of the application’s impacts on that intersection, or such other mitigation measure(s) as may be approved which assure(s) that the intersection will either meet, or perform no worse than, the then-applicable performance standards. More intense development than identified in this report is likely to increase the applicant’s share of project differently than calculated below. The applicant’s final share may be modified as necessary when a Master Plan is approved to reflect any a modification of the development’s trip generation or a change in project costs resulting from revisions to project costs associated with updates to the City’s Transportation System Plan or Capital Improvement program that will be paid on a schedule determined as part of the Master Plan.*

Finding: Complies as Proposed. The project Transportation Impact Study addresses the City’s Guidelines for Transportation Impact Analyses (July 2021) and reviews the proportional mitigation of the project’s impacts on the studied intersections. The Park Place Crossing Master Plan anticipate significantly fewer vehicle trips, approximately 54 percent of those projected as part of the annexation TIS; therefore, the final share of proportional mitigation will be modified. Transportation Impact Study updates will be submitted with each Detailed Development Plan, as necessary.

- a. *Redland Road at Holcomb Boulevard/Abernethy Road (a non-Oregon Highway intersection) is forecasted to fall below adopted performance standards prior to year 2035. The applicant shall demonstrate either of the following:*
1. *That the City has adopted amendments to the City's Transportation System Plan to include projects that satisfy the applicable mobility standards as specified in OCMC 12.04.205 at this location; or*
 2. *Accept a condition of approval for a development application that obligates the applicant to implement a project that satisfies applicable mobility standards at that intersection.*

Finding: Complies with conditions. The applicant mentions the City's adopted Alternative Mobility Targets in response to this condition. However, the alternative mobility targets were adopted only for HWY 213 and Beavercreek, and not HWY 213 and Redland Road. See findings and conditions in 17.65.050.C.3 for a discussion of HWY 213 and Redland Road.

b. *The developer shall participate in the funding of improvements for the I-205/OR99E ramp terminal projects (TSP Projects D75 and D76) in proportion to the development's traffic volumes as a percentage of total year 2035 intersection volumes from the TSP. The project cost for D75 is \$2,990,000. Based on this methodology and the preliminary PM peak hour trip generation from the proposed development, the development accounts for 0.96 percent of the 2035 volume and the development's share of the project is \$28,700. The project cost of D76 is \$1,990,000. The development accounts for 0.87 percent of the 2035 volume and the development's share is \$17,300.*

c. *The developer shall participate in the funding of improvements for the Main Street/14th Street improvements (TSP Projects D7 and D8) in proportion to the development's traffic volume as a percentage of the predicted 2035 traffic volume at the intersection calculated in the TSP. The cost of these projects as listed in the 2017 TSDC Project List is \$845,000 and \$960,000, respectively. Based on this methodology and the preliminary PM peak hour trip generation from the proposed development, the development accounts for 3.63 percent of the 2035 volume and the development's share of the project is \$65,500.*

d. *The developer shall participate in the funding of improvements for the Abernethy/Holcomb/Redland intersection in proportion to the development's traffic volume as a percentage of the predicted 2035 traffic volume. No project is currently identified in the TSP. The project concept is to provide an additional lane on the eastbound approach; it may involve restriping or widening and signal modifications. No project cost is available at this time. Based on this methodology and the preliminary PM peak hour trip generation from the proposed development, the development accounts for 19.7 percent of the 2035 volume.*

e. *The developer shall participate in the funding of improvements for the intersection of OR213/Redland Road (TSP Project D79) in proportion to the development's traffic volume as a percentage of the predicted 2035 traffic volume at the intersection calculated in the TSP. The 2017 TSDC project list shows a project cost of \$10,105,000. Based on this methodology and the preliminary PM peak hour trip generation from the proposed development, the development accounts for 4.77 percent of the 2035 volume and the development's share of the project is \$482,000.*

f. The developer shall participate in the funding of improvements for the Holly Lane/Holcomb Boulevard intersection (TSP Project D43) in proportion to the development's traffic volume as a percentage of the predicted 2035 traffic volume. Project D43 is a roundabout with an estimated project cost in the TSP of \$1,040,000 according to the 2017 TSDC Project List. Based on this methodology and the preliminary PM peak hour trip generation from the proposed development, the development accounts for 38.1 percent of the 2035 volume and the development's share of the project is \$396,000.

g. The developer shall participate in the funding of improvements for the Holly Lane/Redland Road intersection (TSP Project D36) in proportion to the development's traffic volume as a percentage of the predicted 2035 traffic volume. Project D36 is a roundabout with an estimated project cost \$1,040,000 according to the 2017 TSDC Project List. Based on this methodology and the preliminary PM peak hour trip generation from the proposed development, the development accounts for 28.3 percent of the 2035 volume and the development's share of the project is \$294,000.

h. The developer shall participate in the funding of improvements for the Highway 213/Beavercreek Road intersection in proportion to the development's traffic volume as a percentage of the predicted 2035 traffic volume. A project to add a right-turn lane on westbound Beavercreek Road and a merge lane on northbound Highway 213 was identified in the July 2017 Highway 213 Corridor Alternative Mobility Study and was adopted as Project D95 as an amendment to the TSP. The project's cost listed in the TSP amendment is \$2.7 million. Based on this methodology and the preliminary PM peak hour trip generation from the proposed development, the development accounts for 0.35 percent of the 2035 volume and the development's share of the project is \$9,400.

i. The developer shall participate in the funding of improvements for pedestrian and bicycle projects on Holcomb Boulevard that implement the Holcomb Boulevard Pedestrian Enhancement Concept Plan (HBPECP, adopted by Ord. 05-1003) in accordance with the Transportation System Plan sidewalk Infill projects W11, W12, W13, bike lane project B12, and crossing projects C3, C4, C5 and C6 in proportion to the development's motor vehicle traffic volume using Holcomb Boulevard as a percentage of the total motor vehicle traffic volume on Holcomb Boulevard. Based on this methodology and the preliminary PM peak hour trip generation from the proposed development, the development accounts for 11.5 percent of the 2035 volume. The combined cost of these seven projects is \$3,735,000. The development's share of the projects' cost is calculated to be \$429,500. The developer is entitled to System Development Charge credits pursuant to OCMC 13.12.040 for qualified public improvement as part of development.

j. The developer shall participate in the funding of improvements for the Redland Road/Anchor Way intersection in proportion of the development's traffic as a development's traffic volume as a percentage of the predicted 2035 traffic volume. Project D35 specifies operational improvements at the intersection with an estimated project cost of \$425,000 according to the 2017 TSDC Project List. Based on this methodology and the preliminary PM peak hour trip generation from the proposed development, the development

accounts for 25.0 percent of the 2035 volume and the development's share of the project is \$106,000.

k. The applicant's preliminary proportionate share for project listed above as conditions of approval are based on the total trip generation for the annexation property using the proposed trip cap of 538 AM peak hour trips; 679 PM peak hour trips; and 7,406 total weekday trips. A less intense development is likely to decrease the applicant's share of projects as calculated above. A more intense development, in addition to requiring analysis showing compliance with the Transportation Planning Rule, is likely to increase the applicant's share of projects as calculated above.

Finding: Complies with conditions. The Park Place Crossing Master Plan Transportation Impact Study anticipates a net additional 290 AM peak hour trips, 390 PM peak hour trips, and 4,064 total weekday trips. These expected trips are equal to ± 54.6 percent of the trip cap established by Ordinance No. 18-1007 (AN-17-0004/ZC-17-0005). Because the full build-out planned for Park Place Crossing is significantly less than the trip caps listed above, the result is a decrease in the Applicant's share of the listed projects. A more intense development is not planned; therefore, additional analyses showing compliance with the Transportation Planning Rule is not required. The total of AM peak hour, PM peak hour, and total weekday trips will be determined and updated at each phase of Detailed Development Plan. For Phase 1, the proportional share calculations have been made and are included as a condition of approval. See additional findings in 17.65.050.C.3.

CHAPTER 17.65 MASTER PLANS AND PLANNED UNIT DEVELOPMENT

17.65.030 - Applicability of the Master Plan or Planned Unit Development Regulations.

- A. Required for Large Institutional Uses. If the boundaries of an institutional development exceed ten acres in size, the proposed development shall be master planned using the regulations of this chapter. No land use review other than a Type I or II Minor Site Plan and Design Review shall be issued for any institutional development in excess of ten acres in total acreage unless it is accompanied by or preceded by a master plan approval under this chapter. This requirement does not apply to modifications to existing institutional developments unless the modification results in a cumulative square footage increase of over ten thousand total building square feet in an existing institutional development over ten acres.*
- B. When Required as Part of Previous Land Use Review. The master plan or planned unit development regulations may be used to fulfill a condition of approval from a previous land use decision-requiring master planning for a development.*
- C. When identified in the Oregon City Comprehensive Plan. The master plan regulations are required for all properties identified for master planning in the Land Use section of the Oregon City Comprehensive Plan.*
- D. Voluntarily. An applicant may voluntarily submit a master plan or planned unit development as part of a land use review, including for residential projects.*

Finding: Applicable. Per Condition of Approval No. 4 of Ordinance No. 18-1007 (AN-17-0004/ZC-17-0005) for the Park Place Annexation and Zone Change, a General Development Plan (Master Plan) was required for the 92 acres of property.

17.65.040 - Procedure.

- A. Preapplication Review. Prior to filing for either general development plan or detailed development plan approval, the applicant shall file a pre-application conference pursuant to OCMC 17.50.030.*

Finding: Complies as Proposed. Pre-application conferences were held on April 7, 2020, and May 5, 2021.

- B. General Development Plan. An application for a general development plan describing the long-term buildout of the site shall be reviewed through a Type III procedure. An applicant shall have an approved general development plan before any*

detailed development plan may be approved, unless both are approved or amended concurrently. Amendments to an approved general development plan shall be reviewed under a Type III procedure pursuant to OCMC 17.65.080.

Finding: Applicable. This application includes a General Development Plan (GDP) for Park Place Crossing meeting the requirements of OCMC 17.65.050.

C. Detailed Development Plan. An application for a detailed development plan, is processed through a Type II procedure, as long as it is in conformance with the approved general development plan. Amendments to an approved detailed development plan shall be processed pursuant to OCMC 17.65.080. Once a development has an approved detailed development plan, OCMC 17.62 Site Plan and Design Review is not required.

Finding: Not applicable. This application does not include a Detailed Development Plan at this time. Future applications for Detailed Development Plans are planned for each phase of the project outlined through the submitted General Development Plan.

D. Concurrent Review. An applicant may concurrently apply for a general development plan and a detailed development plan. Such a concurrent application is reviewed through the highest procedure that applies to any element of the combined application.

Finding: Not applicable. This application does not include a Detailed Development Plan at this time and therefore does not require a concurrent review.

E. Relationship to Other Reviews. It is the express policy of the City that development review not be segmented into discrete parts in a manner that precludes a comprehensive review of the entire development and its cumulative impacts.

Finding: Complies as Proposed. The applicant has submitted a General Development Plan which allows for a Comprehensive review of an entire development prior to phasing of development. Subsequent phases of the development will be reviewed as more refined detailed development plans are submitted for review.

F. Duration of General Development Plan. A general development plan shall involve a planning period of up to twenty years. An approved general 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 either as stated in the approved master plan or planned unit development application or decision of approval.

Finding: Complies with Condition. The applicant acknowledged this standard. The Planning Commission determined that the period of approval for all phases shall not exceed twelve (12 years).

17.65.050 - General Development Plan.

A. Existing Conditions Submittal Requirements.

1. Narrative statement. An applicant shall submit a narrative statement that describes the following:

- a. Current uses of and development on the site;
- b. For institutions, history or background information about the mission and operational characteristics of the institution that may be helpful in the evaluation of the general development plan, and information about current programs or services;
- c. A vicinity map showing the location of the General Development Plan boundary relative to the larger community, along with affected major transportation routes, transit, and parking facilities. At least one copy of the vicinity map shall be eight and one-half inches x eleven inches in size, and black and white reproducible;
- d. Land uses that surround the development site. This may also reference submitted maps, diagrams or photographs;
- e. Previous land use approvals within the General Development Plan boundary and related conditions of approval, if applicable;
- f. Existing utilization of the site;
- 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;*
9. *Location of existing trees six inches in diameter or greater when measured four feet above the ground. The location of single trees shall be shown. Trees within groves may be clustered together rather than shown individually; and*
10. *Geologic hazards pursuant to OCMC 17.44.*
- 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).*
- i. *Infrastructure facilities and capacity, including the following items:*
 1. *Water;*
 2. *Sanitary sewer;*
 3. *Stormwater management; and*
 4. *Easements.*
2. *Maps and Plans.*
 - a. *Existing conditions site plan. Drawn at a minimum scale of one-inch equals one hundred feet (one inch=one hundred feet) that shows the following items. At least one copy shall be eight and one-half inches × eleven inches in size, and black and white reproducible.*
 1. *Date, north point, and scale of drawing.*
 2. *Identification of the drawing as an existing conditions site plan.*
 3. *Proposed development boundary.*
 4. *All parking, circulation, loading and service areas, including locations of all carpool, vanpool and bicycle parking spaces as required in Chapter 52 of this title.*
 5. *Contour lines at two-foot contour intervals for grades zero to ten percent, and five-foot intervals for grades over ten percent.*
 6. *A site plan or plans, to scale, for the General Development Plan site and surrounding properties containing the required information identified in OCMC 17.62.040.*
 - b. *Vicinity map. Depicting the location of the site sufficient to define its location, including identification of nearest cross streets. At least one copy of the vicinity map shall be eight and one-half inches × eleven inches in size, and black and white reproducible.*
 - c. *Aerial photo. Depicting the subject site and property within two hundred fifty feet of the proposed development boundaries. At least one copy of the aerial photo shall be eight and one-half inches × eleven inches in size, and black and white reproducible.*

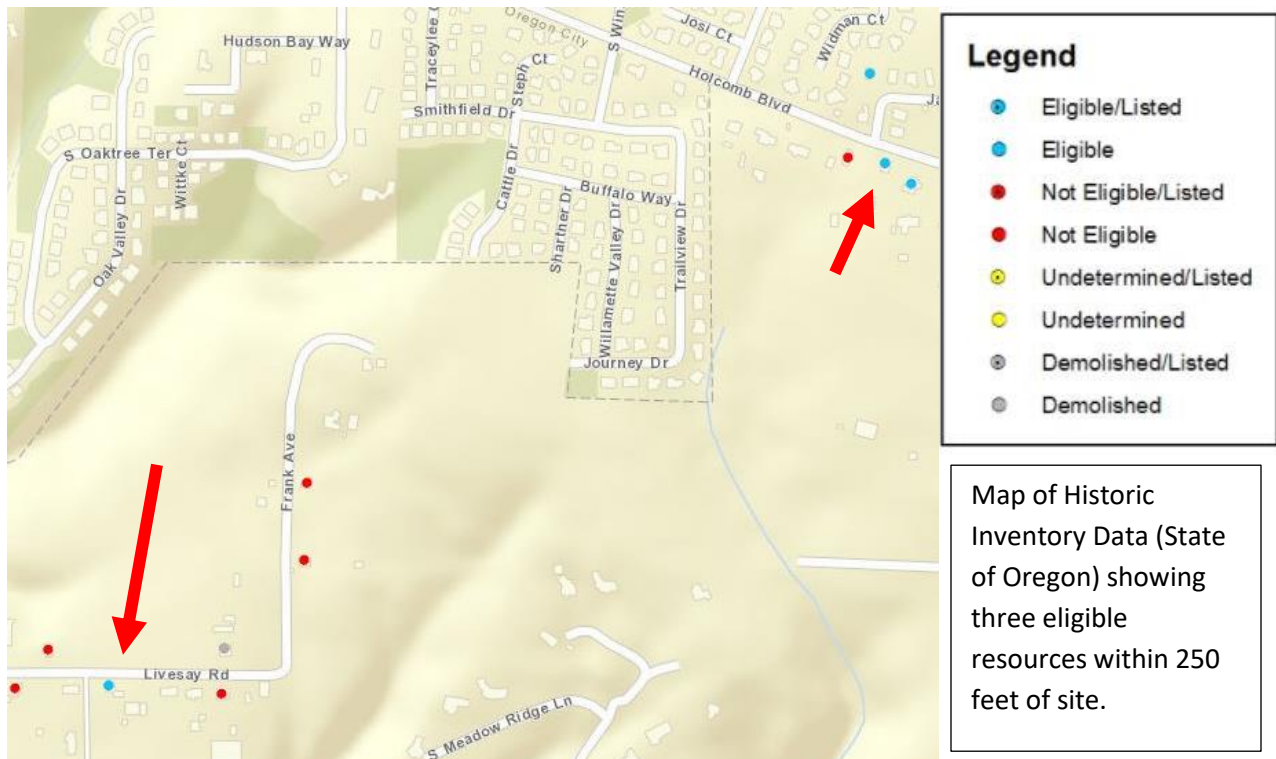
Finding: Complies as Proposed. All the materials required to illustrate the existing conditions for the property were included in the submitted application, in addition to the required plans and drawings. A Transportation Impact Study for the project describing existing transportation facilities was prepared by Lancaster Mobley.

B. Proposed Development Submittal Requirements.

1. *Narrative statement. An applicant shall submit a narrative statement that describes the following:*
 - a. *The proposed duration of the general development plan.*
 - b. *The proposed development boundary. May also reference submitted maps or diagrams.*

- 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.
- d. An explanation of how the proposed development is consistent with the purposes of Section 17.65, the applicable zone district or districts, and any applicable overlay district.
- 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 two hundred fifty feet of the proposed development boundary.

Finding: Complies as Proposed. The applicant provided explanations for subsections (a) through (e) in their narrative and other application materials. The applicant submitted a preliminary NROD study to describe Goal 5 resources. The applicant did not identify historic and cultural resources within 250 feet of the development boundary; while no resources are present on site, there are resources within 250 feet of the site. Three existing



eligible structures are within 250 feet of the site. Historic inventory forms for these structures are found in the Exhibits of this staff report. Two structures are on Holcomb Boulevard to the east of the subject property, and one structure is on Livesay Road to the south and west of the subject property. The proposed development will not impact the historic character or eligibility of these structures; no changes are proposed to the structures and they may remain in use before, during, and after development of this site.

- 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 two hundred fifty 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; including a phasing plan for all on-site and off-site public improvements, including but not limited to transportation, schools, parks, open space, trails, sewer, water and stormwater, with an analysis of the capacity and improvements required as a result of fully

implementing the plan. This analysis shall reference any adopted parks and recreation, public facilities plans and concept plans and identify specific funding mechanisms to address the adequacy of public facilities.

4. Neighborhood livability impacts;

5. Natural, cultural and historical resource impacts within the development boundary and within two hundred fifty feet of the development boundary.

Finding: Complies with Condition. The applicant provided a Transportation Impact Analysis that describes transportation impacts. Public facility impacts are described in the narrative. The applicant describes neighborhood livability impacts with the following statement:

“The Park Place Crossing project abuts existing homes and neighborhoods only in a few areas. The Master Plan accommodates these areas by providing lots meeting the zoning standards, vegetative screening, and open spaces adjacent to some existing homes and neighborhoods. Where existing homes abut planned lots, those lots have been designed to be larger to provide a transition in density.”

Staff finding and recommendations regarding neighborhood livability are found in section 17.65.050.C.5 and C.7.

The applicant did not identify historic and cultural resources within 250 feet of the development boundary; while no resources are present on site, there are resources within 250 feet. Three existing eligible structures are within 250 feet of the site. Historic inventory forms for these structures are found in the Exhibits of this staff report. Two structures are on Holcomb Boulevard to the east of the subject property, and one structure is on Livesay Road to the south and west of the subject property. The proposed development will not impact the historic character or eligibility of these structures; no changes are proposed to the structures and they may remain in use before, during, and after development of this site. Further refinement and review for potential impacts to natural, cultural and historical resources within the development boundary and within two hundred and fifty feet of the development boundary will occur at the time of DDP submittal.

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 or planned unit development.

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 general 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.*

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 General 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 general development plan. If this option is selected, no further transportation improvements will be required from the applicant. However,*

if a general 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.

Finding: Complies with Conditions: The submitted General Development Plan includes a Transportation Impact Study completed by Lancaster Mobley Engineering. The report discusses the uncertainty related to when the Holly Lane extension will be constructed and the changes to trip generation that would result from the street connection being made.

The report states:

“Prior Annexation & Future Connectivity

Regarding the analyzed mitigation at the intersections of Redland Road at OR-213 and Redland Road at Holcomb Boulevard/Abernethy Road, as well as the proportionate share fee contributions being collected at other transportation facilities in Oregon City (refer to the Off-site Trip Impacts section), the impact analysis detailed in this TIS for the Park Place Crossing Master Plan project may be overestimating trip impacts to some of these facilities.

The subject property was annexed into the City of Oregon City in 2018. At that time, a comprehensive transportation impact analysis was conducted that examined build out of the master plan area. Conditions of approval for the annexation require the contribution of proportional share payments for traffic impacts at offsite intersections. However, the annexation TIS assumed the S Holly Lane connection between S Holcomb Boulevard and S Redland Road would have been constructed prior to or concurrent with full buildout of the Park Place Crossing Master Plan project.

Because this application precedes the construction of the S Holly Lane connection, this TIS assumes all site-generated traffic uses S Holcomb Boulevard and the intersections of Redland Road at OR-213 and Redland Road at Holcomb Boulevard/Abernethy Road. Once the S Holly Lane connection is available, which is very likely to occur before the Park Place Crossing Master Plan site reaches full build out, some of the proportionate share fees, and particularly additional mitigation at these two off site intersections, may be reduced or possibly become unnecessary.”

The report concludes:

“To address this uncertainty, it is recommended that a trip accounting letter, and if necessary, an updated traffic analysis, be prepared as each phase of the project is constructed. Appropriate mitigation and proportionate share fee contributions will be evaluated on a phase-by-phase basis and collected at the time of each phase’s final plat application. This will enable accurate tracking of projected impacts to the two Redland Road intersections and other transportation projects as well as provide the flexibility to allocate fee contributions based on the re-evaluated traffic analysis by phase.”

The applicant, therefore, has deferred capacity and safety improvements until each phase is developed, in accordance with 17.65.050.B.i.3. Due to lack of certainty on what transportation system changes will be in place at the time of each phase, the applicant has not provided a table linking transportation improvements to vehicle trip thresholds. Instead, the applicant has proposed to provide either a trip accounting letter or an updated transportation study with each Detailed Development Plan (DDP) application. Staff finds that the trip accounting letter is acceptable for Phase 1, or up to 60 units. Any proposed development beyond phase 1 or 60 units shall provide an updated transportation study that measures impacts at HWY 213 and Redland Road as well as any other affected intersections as defined by the City's adopted Guidelines for Traffic Impact Analysis. Transportation impacts and improvements are discussed in 17.65.050.C.3.

The connection to Redland Road is necessary to comply with the Comprehensive Plan, the Park Place Concept Plan, and the street connectivity requirements of the city code. Discussions between city and county engineering and planning staff on July 12, 2022 regarding the timing of the Redland Road provided the following information relevant to making the connection.

The following projects are currently planned for in the Clackamas County Transportation System Plan:

- Holly Lane Bridge (TSP Number 1109): Bridge upgrades will be implemented at the bridge located about 120 feet south of the Holly Lane and Redland Rd intersection along Holly Lane. This project has funding and is planned to happen approximately 2027
- Redland Rd/Holly Ln Intersection (TSP Number 1120): CIP Intersection upgrade at Holly Lane and Redland is on the 20-year plan for the County – not currently funded
- The Intersection of Holly Lane and Redland will need to be signalized or converted to a roundabout because of sight distance concerns to be evaluated.
- The county will conduct a traffic control feasibility study for the intersection to determine what type of traffic control will function best – roundabout or traffic signal. We would most likely conduct the study in the fall/winter of 2022.
- A Development Permit will be required
- A land use permit from Clackamas County will not be needed if the proposal includes only the roadway. If other development is proposed, it may be subject to a land use permit. This conclusion is based on the conceptual alignment you provided during our meeting. Should the location of the road shift such that it passes through regulatory overlay zones (flood management district, habitat conservation area district, etc.), land use review may be required.

The timing of the improvements described above indicate that the earliest a connection to Redland Road could be made is 2027, since the connection cannot be made until the Holly Lane Bridge upgrades and intersection improvements are completed. Furthermore, the applicant is in the process of acquiring properties abutting the future alignment of the Holly Lane connection in order to accommodate the needed capacity and connectivity for the buildout of Phases 4-6 of the master plan area. It is reasonable to expect that the Holly Lane Connection will occur before the Phases 4-6 are completed. Therefore, the applicant shall provide a timeline and plan to complete the Holly Lane to Redland Road connection with the submittal of Detailed Development Plans for phases 4-6, or concurrent with the County's planned TSP Projects 1109 and 1120, whichever occurs first.

Staff has determined that it is possible, likely and reasonable that the applicant shall meet this standard through the Conditions of Approval.

- j. *For residential and mixed-use projects:*
 - a. *Proposed minimum lot area, width, frontage and yard requirements.*
 - b. *Proposed project density in number of units per acre.*

Finding: Complies as Proposed. Proposed minimum lot area and density are discussed in Chapter 17.08 and 17.10 of this report and in the discussion of density on Page 26 of this report.

2. *Maps and diagrams. The applicant shall submit, in the form of scaled maps or diagrams, as appropriate, the following information:*

- 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.*
- 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 two hundred fifty 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 two hundred fifty feet may be extended to and/or through the proposed development.*
- c. *The approximate location of all public facilities to serve the proposed development, including water, sanitary sewer, stormwater management facilities.*
- d. *The approximate location, footprint and building square footage of buildings within of each phase of proposed development, and/or proposed lot patterns for each phase of future development.*
- 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.*

Finding: Complies as Proposed. All the of required maps and drawings for a General Development Plan were included in the submitted application.

C. *Approval Criteria for a General Development Plan. The Planning Commission may approve an application for general development plan only upon finding that the following approval criteria are met.*

1. *The proposed General Development Plan is consistent with the purposes of OCMC 17.65.*

Finding: Complies with Conditions. The purpose of 17.65 is to “foster the growth of major institutions, phased residential, commercial or mixed-use development, and other large-scale development, while identifying and mitigating the impacts of such growth on surrounding properties and public infrastructure.”

Applicant’s response:

“The Park Place Crossing GDP provides valuable housing options within a phased residential Master Plan. The master plan facilitates the efficiency and flexible use of the project site to provide infrastructure, transportation systems, and utility networks while providing site layouts that include useable open space, site circulation, and general wellbeing.”

Staff concurs that the applicant meets this standard with the recommended conditions of approval. **Staff has determined that it is possible, likely and reasonable that the applicant shall meet this standard through the Conditions of Approval.**

2. *Development shall demonstrate compliance with OCMC 12.04 16.12, 17.62, if applicable, and 16.08, if applicable.*

Finding: See findings from sections 16.12, and 16.08 of this report.

Chapter 12.04 is not applicable at this time; it will apply upon review of Detailed Development Plans.

Chapter 16.12 is applicable because public infrastructure improvements will be required for this development and staff has reviewed the GDP for general overall consistency with the standards for public improvements.

Chapter 16.08 is applicable because the applicant has proposed a general layout of residential land divisions. While most standards in the Chapter apply directly to future DDP applications, staff has reviewed the GDP for compliance with respect to general feasibility.

Section 17.62, Site plan and design review, is not applicable at this time. Although the applicant has proposed parcels for future commercial development in the NC zone, no specific development is proposed at this time. Future DDP applications within the NC zone may be subject to OCMC 17.62 when development is proposed.

3. *Public services for transportation, water supply, police, fire, sanitary waste disposal, storm-water disposal, and any other needed public services and facilities including schools and parks for proposed residential uses, are capable of serving the proposed development, or will be made capable by the time each phase of the development is completed.*

Finding: Complies with Conditions. Each public service is evaluated in the findings below for compliance with this standard. For the purposes of this review, the term “capable” means that services have the ability to or are able to be extended or expanded to the degree necessary to serve the proposed development. Thus, while the necessary service does not have to be in place at the time of GDP or DDP review, the applicant must show that compliance is feasible; that these improvements can and will be in place at time that development occurs (i.e. when a housing unit is constructed and occupied).

WATER

Applicant response:

“Within the project area, water is provided by the City and Clackamas River Water (CRW) (above 450 feet elevation). Service has been deemed sufficient by the City and CRW. These providers have an Intergovernmental Agreement (IGA) to provide these services. Water supply systems are shown on the Preliminary Plans (Exhibit A). The water infrastructure shown as part of the Park Place Crossing Master Plan is consistent with the Park Place Concept Plan and the City’s Water Capital Improvement Projects Master Plan, including the January 2021 Water Distribution System Master Plan Amendment. The improvements shown are consistent with the approved concept plan for Park Place and the Water Master Plan. Further details will be submitted with future Detailed Development Plan applications.”

Finding: Complies with Condition. The proposed water system for the development is a preliminary design but is consistent with the Park Place Concept Plan. A 12-inch transmission main will be installed within Holly Lane for a future Park Place connection to the 16 inch transmission main south of Livesay Road. An additional 12-inch main will connect Cattle Drive creating system looping which is ideal for water quality and for emergencies. Portions of the development (elevations greater than 450’) will be served by Clackamas River Water (CRW), as confirmed by Betty Johnson of CRW through a public comment. Water mains on local streets will serve individual lots. No specific designs have been provided with this GDP however, further refined details will be provided and reviewed with each DDP. Like the sewer system, the water system will be built overtime and other developments may be built before subsequent phases. Each DDP will confirm that the existing water systems (City and CRW) have capacity and sufficient available fire flows for each phase of development. Coordination with CRW will also be required. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

SANITARY SEWER

Applicant response:

“Sanitary service for the project area will be provided by the Tri-City Sewer District. Annexation to the sewer district is required in the future prior to subdividing the land. A sanitary sewer modeling analysis has been completed and submitted to the City for review. The project area is planned to be served by several phases of sewer, illustrated on the Preliminary Plans (Exhibit A). Sanitary sewer is planned to be routed across Tour Creek adjacent to Oak Valley Drive until such time that gravity sewer becomes available as a permanent option through the improvement of abutting properties to the south and east. Due to grade issues in the southeast corner of the site (Phase 6), sanitary sewer will require pumping to gravity systems within an adjacent Phase of Park Place Crossing. The improvements shown are consistent with the approved concept plan and Sanitary Sewer Master Plan. Further details will be submitted with future Detailed Development Plan applications.”

Finding: Complies with Condition. Conceptual plans for the sanitary sewer system have been provided to the City showing the routing for each phase of the development. The proposed sanitary sewer system will be built and routed initially through Holcomb Boulevard before it eventually is rerouted to Redland Road when Holly Lane is extended in the future. Interim sewer connections are proposed for Phase 1 at Trail View Drive and Journey Drive. A final interim connection during Phase 2 will reroute Phase 1’s sewer through Phase 2 and connect via a pedestrian bridge to Oak Valley Drive to bring the flows to Holcomb Boulevard. Conceptual capacity calculations have been provided to the City. Specific details on the design and construction shall be provided with the detailed development plans for each phase. The City’s sanitary sewer consultant has noted that sections of the existing sewer system, downstream of the development, are nearing capacity. The applicant shall provide updated downstream capacity calculations with system capacity upgrades (if needed) at each DDP to confirm that the City’s sanitary sewer system can safely handle each phase of the development.

Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.

STORMWATER

Applicant response:

The planned improvements are consistent with the Park Place Concept Plan and the City’s Stormwater and Grading Design Standards. Stormwater facilities for the overall project are shown within the Preliminary Plans (Exhibit A). Temporary stormwater facilities for Phase 1 will be decommissioned and routed to regional facilities as part of Phase 2. This area will then be reclaimed for residential lots. Further analysis of the site’s stormwater needs, and the prescribed management facilities are included within the Preliminary Stormwater Report (Exhibit F). Phase 6 stormwater, due to the aforementioned grading issues, are not planned to be routed to the regional facility. Phase 6 stormwater is anticipated to be treated and managed within private stormwater planters and directed to the natural area. The planned stormwater management methods and facilities are appropriate and consistent with City requirements. Further details will be submitted with future Detailed Development Plan applications.

Finding: Complies with Condition. The applicant has provided a preliminary stormwater report showing conceptually how the development will manage its stormwater. The proposal includes a temporary stormwater pond for Phase 1, proposed to be replaced with a larger regional public stormwater pond that will serve all Phases, to be constructed during proposed Phase 2.

The city received a number of public comments regarding stormwater runoff concerns. The applicant’s proposal addresses stormwater impacts from the greater impervious surface, by accommodating all stormwater into a system to manage and detain stormwater through planters and detention ponds on site. Stormwater

management will be required to meet City Standards for treatment and flow control. Each subsequent DDP will submit detailed stormwater management plans for each phase. The Stormwater and Grading Design Standards will require hydrology to be studied as part of the analysis.

Access has been proposed for maintenance. Each DDP will be reviewed to verify that a tract for public stormwater facilities continues to be provided. With each DDP, the developer shall provide updated engineered drainage plan(s), drainage report(s), and design flow calculation report(s) stamped and signed by a licensed engineer addressing all items from Section 9.3 & 9.4 of the Public Works Stormwater and Grading Design Standards prior to receiving a permit and beginning construction. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

TRANSPORTATION/STREETS

Applicant response: “Streets, as illustrated within the Preliminary Plans, are designed to serve the project site and connect it to the surrounding street network. Holly Lane, a planned Collector Street, will ultimately serve as the main thoroughfare through the project site and the “North Village” outlined within the Park Place Concept Plan. Holly Lane is anticipated to connect S Holcomb Boulevard with S Livesay Road within the project site and the portions of the Park Place Concept Area beyond. The planned streets comply with those envisioned within the Park Place Concept Plan and City standards. Further details will be submitted with future Detailed Development Plan applications. This criterion is met.”

Finding: Complies with Conditions. The applicant submitted a Transportation Impact Analysis report completed by Lancaster Mobley Engineering. The report was reviewed by the city’s Transportation Consultant, John Replinger. It is important to note that the data was adjusted to account for variability resulting from pandemic-related traffic patterns. According to Mr. Replinger,

“The TIS included extensive discussions about the traffic volumes that included adjustments to account for the COVID-19 pandemic. The engineer used traffic counts conducted in 2017 on Holcomb Boulevard near the site; 2019 counts from Highway 213; and new counts from April 2021. The engineer also used mid-week traffic volumes on Highway 213 for each July from 2017 through 2021 to assess the impact of the pandemic on traffic volumes. The engineer used appropriate methods and documented his conclusions. The adjustments appear adequate to account for base year 2021 conditions at the intersections in #1, above.

The applicant provided total trip generation data for the AM and PM peak hours, as well as daily trips. As Mr. Replinger points out,

“It is also important to recognize that the trip generation for the residential development proposed under this GDP is less than the total trip generation presented in the TIS for the annexation and rezoning approved in the prior land use action. The trip cap established with the annexation and rezoning was 538 AM peak hour trips; 679 PM peak hour trips; and 7,406 total weekday trips. The number of trips generated by the proposed residential development is comfortably below the adopted trip cap and leaves substantial trips available for commercial development on the remaining portions of the property subject to the annexation and rezoning.”

The proposed GDP assumes there will not be a connection of Holly Lane to Redland Road (a project identified in the TSP) to accommodate traffic from this residential development. For the purposes of this residential development all traffic connects with Holcomb Boulevard utilizing either new or existing streets.

The engineer evaluated traffic patterns and traffic volumes and evaluated five locations. The key intersections were:

1. Holcomb Boulevard and Winston Drive
2. Holcomb Boulevard and Barlow Drive(existing)/Holly Lane (future)
3. Holcomb Boulevard and Street A
4. Oregon Highway 213 and Redland Road
5. Redland Road and Abernethy Road/S Holcomb Boulevard

All intersections are shown to meet applicable mobility standards over the proposed Master Plan development period except for #4: OR Highway 213 and Redland Rd. The engineer concludes in the TIS: “Based on the results of the operational analysis, the intersection of Redland Road at OR-213 is projected to operate in excess of acceptable per jurisdictional standards during the 2nd evening peak hour under 2026 buildout conditions (Phase 1) and for all succeeding analysis scenarios through year 2030.” During second highest hour of the PM peak, the calculated v/c is predicted to degrade from 0.982 under existing conditions to 1.032 in 2030 with the development. The standard for this intersection for the second peak hour found in OCMC 16.12.033.A.2 is “During the second hour, a maximum v/c ratio of 0.99 shall be maintained at signalized intersections. For signalized intersections, this standard applies to the intersection as a whole.”

Mr. Replinger concludes that,

“The TIS provides sufficient information and documentation to satisfy the requirements of OCMC 17.65.050 C 3 with respect to adequacy of the transportation system for Phase 1 of the proposed development. For Phase 1, all intersections operate acceptably. However, the TIS indicates that the intersection of OR-213 and Redland Road fails to meet the applicable v/c standard for the second hour of the PM peak hour. In addition, queues that exceed available storage distance are predicted at the intersection of OR-213 and Redland Road and at the intersection of Redland Road/Abernethy Road/Holcomb Boulevard.

A detailed development plan for Phase 1 will not need additional transportation analysis beyond that provided in this TIS.

Detailed development plans for any phase beyond Phase 1 will require additional analysis and implementation of mitigation measures that demonstrate that the transportation system is “capable of serving the proposed development, or will be made capable by the time each phase of the development is completed” in accordance with OCMC 17.65.050 C 3. Specifically, the applicant will need to implement improvements at the intersection of OR-213 and Redland Road and at the intersection of Redland Road/Abernethy Road/Holcomb Boulevard such that v/c standards are met and adequate queue storage is provided. The burden is on the applicant to coordinate with and meet the requirements of the agencies with jurisdiction over the subject intersections and roadways (i.e. the Oregon Department of Transportation, Clackamas County and the City of Oregon City).”

Although Mr. Replinger found that no additional transportation analysis was necessary as part of the DDP review for Phase I, he did identify the following proportional share payments to mitigate for transportation impacts resulting from Phase I development:

TSP Project	Estimated TSP Project Cost (\$000)	Total PM Peak Entering Volume (2035)	\$/trip	Phase 1 Trips	Phase 1 Share \$
Redland/Holly D36	\$1,040	688	\$545	1	\$545
Holcomb/Holly D43	\$1,040	1899	\$1512	61	\$92,232
I-205 SB Ramps/ OR 99E D75	\$2,990	5690	\$525	5	\$2,625
I-205 NB Ramps/ OR 99E D76	\$1,970	6155	\$320	5	\$1,600
Hwy213/Redland D97	\$10,105	6540	\$1545	22	\$33,990
Redland/ Holcomb/ Abernethy	na	2273	na	35	na
Hwy213/Beavercreek D94	\$2,800	6935	\$404	5	\$2,020
Holcomb Blvd Sidewalk Infill W11, W12, W13	\$3,035	1135*	\$2674	50	\$133,700
Holcomb Blvd Bike Lanes B12	\$560	1135*	\$493	50	\$24,650
Holcomb Blvd Pedestrian Crossings C3, C4, C5, C6	\$140	1135*	\$123	50	\$6,150
* Two-way PM peak volume on Holcomb Boulevard east of Redland Road/Holcomb Blvd/Abernethy Road intersection					

The calculated proportional share amounts for Phase 1 shall be required at the time of final plat for Phase 1 unless amended by an updated transportation study provided by the applicant as part of the DDP review.

Detailed development plans for any phase beyond Phase 1, or 60 units, will require additional analysis and implementation of mitigation measures that demonstrate that the transportation system is “capable of serving the proposed development, or will be made capable by the time each phase of the development is completed” in accordance with OCMC 17.65.050 C 3. Specifically, the applicant shall show that improvements have been made to OR-213 and Redland Road and at the intersection of Redland Road/Abernethy Road/Holcomb Boulevard such that v/c standards are met and adequate queue storage is provided before building permits are approved for half the units in Phase 2.

Staff has determined that it is possible, likely and reasonable that the applicant shall meet this standard through the Conditions of Approval.

PRIVATE UTILITIES

Applicant response:

“Electric, Gas, and other telecommunications utilities are planned to be routed and arranged as needed and appropriate within right-of-way and adjacent Public Utility Easements (PUEs). The provision of these services is anticipated to be consistent with City requirements. Further details will be submitted with future Detailed Development Plan applications.”

Finding: Complies as Proposed. No comments were received from private utility providers and it is the applicant's responsibility to coordinate private utility provisions.

EMERGENCY SERVICES

Applicant response:

"Police service to the project site will be provided by the Oregon City Police Department (OCPD). OCPD previously submitted a response to Ordinance No. 18-1007 (AN-17-0004/ZC-17-0005) indicating that the resources to serve this area were available.

Park Place Crossing is within Clackamas Fire District #1, which provides fire protection for Oregon City and surrounding areas. Clackamas Fire District #1 provided pre-application conference comments requesting further information about the project, which have been provided within the Preliminary Plans (Exhibit A).

Emergency Medical Services for the area are provided by Clackamas Fire District #1 and American Medical Response (AMR) through contract with Clackamas County."

Emergency services to the planned project are satisfactory and consistent with applicable requirements. Temporary emergency access will be available to Phase 1 from Shartner Drive, as depicted within Sheet P-08 (Exhibit A). Temporary emergency access to Park Place Crossing will be available via the Holly Lane/S Livesay Road connection. At each of these locations, during their appropriate phases, removable barriers will allow emergency traffic to travel to and through Park Place Crossing. Further details will be submitted with future Detailed Development Plan applications.

Finding: Complies as Proposed. Conceptual plans have been provided with this GDP identifying general street dimensions, turning radii and slopes. No comments were received from Clackamas Fire District. At this point, staff finds that compliance with all of these obligations are feasible and will be reviewed with subsequent DDP applications.

SCHOOLS

Applicant response:

"The project site is served by the Oregon City School District. The School District provided comments for the annexation and zone assignment applications for this property. In those comments, the School District voiced no major concerns regarding school capacity or serving the new homes as build-out of the project aligned with the School District's stated timeline to provide additional school capacity and several other methods of providing or shifting capacity are available."

Finding: Complies as Proposed. The City has not received comments from the Oregon City School District at this time. The findings at the time of annexation in AN-17-04 stated:

"The subject property is served by Oregon City Public Schools. The schools serving this site are Redland Elementary School, Ogden Middle School, and Oregon City High School. Although there will be no immediate development of this site that would impact the school system, discussions with School District staff indicate that there are no immediate capacity problems with these schools.

A letter dated March 13, 2017 from Mr. Wes Rogers, Director of Operations for Oregon City Public Schools, regarding school capacity associated with the Serres property annexation (File AN-16-0004, ZC 16-0001) makes the following comments regarding the subject annexation of approximately 92 acres:

"As to the larger 92 acre Park Place/Holcomb annexation mentioned by Mr. Givens but is not a direct part of this file, the District has always known that as the Park Place Concept Plan was significantly developed, additional elementary and middle school capacity would have to be constructed. Currently the elementary school of attendance for this area would be Redland Elementary.

Forecasted enrollment growth is not new to the District and the Oregon City School Board and administration have been studying facility needs for the past several years. Although well maintained, District facilities do not support current educational practice and all District facilities are in need of serious renovation or replacement and in some cases minor expansion. Preliminary plans to ask for a school construction bond have not been finalized but the current draft scenario shows that the District (with voter support) would have additional middle school capacity within 5 years and additional elementary school capacity within 5-10 years. In the meantime the District has several other tools to help with over capacities by installing semi-permanent buildings and/or redrawing attendance boundaries."

Staff coordinates with the Oregon City School District during the development review process in accordance with adopted Comprehensive Plan Goals and Policies. Standard procedures for the Planning Division includes notice of all land use actions, both long range and current proposals, to the School District, the School District actively participates at pre-application conferences in anticipation of development. The School District, not the City, is responsible for long range planning of needed school facilities."

Since the time of the annexation, voters approved a bond measure for the Oregon City School District to fund capacity increases for two middle schools, including Ogden Middle School, which is within the South Village area of the Park Place Concept Plan boundaries, near Holly Lane.

PARKS

Note: with the proposed 8/11/2022 revision, the amount and layout of the original park has changed. See "Summary of Revisions submitted 8/11/2022" on pages 15 and "Project Description" on page 19.

Applicant response:

"Per the Park Place Concept Plan, a park is provided at the southwest corner of the subject site. Approximately 4.4 acres of public park have been anticipated to be provided to the City. Future expansion of the park, as needed to fulfill the Park Place Concept Plan's envisioned final 8–10-acre requirement for the community park and as shown within Exhibit N, is possible through provision by neighboring properties. Park lands are planned to be provided to the City of Oregon City with Phase 2 of Park Place Crossing (approximately 2024/2025 planned construction date). It is expected that timing will allow inclusion of the park facility within an update of the City's Parks Capital Improvement Projects list. The details of park construction and SDC-creditable projects are anticipated to be determined at a later date. Coordination is needed with the Park Department in order to amend the City's Parks Master Plan/Capital Improvement Projects list and outline the process and details for the transfer of ownership as part of Phase 2."

Finding: Complies with Conditions. The Park Place Concept Plan says the following about the community park in the North Village:

"The parks are intended to provide basic recreational opportunities for residents and may include amenities such as play equipment, athletic fields, picnic tables or shelters, walking trails, and other features. The neighborhood park in the North Village is approximately eight to ten acres and within walking distance of the Livesay Main Street." (Final Concept Plan, Page 31)

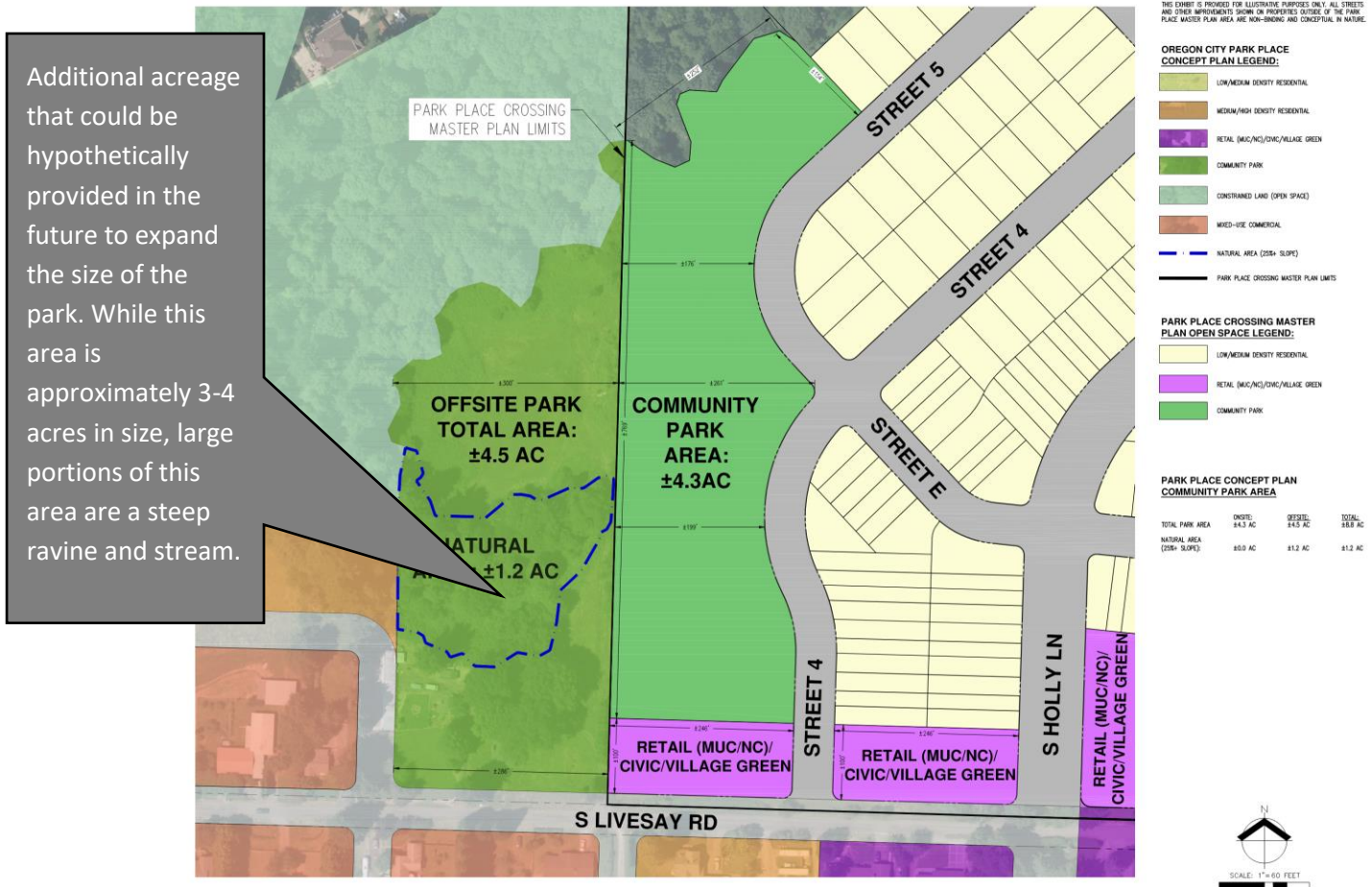
With the 8/11/2022 revisions, the applicant proposed to dedicate 4.3 acres of land within the project site for a public park. This land is in the southwest corner of the site and is slightly different from the location of the park envisioned in the Park Place Concept Plan. The location is a relatively flat area of the project site and is adjacent to the village center retail/civic parcels as well as the proposed attached housing areas. The location is generally consistent with the Concept Plan. The amount of acreage proposed to be dedicated is proportional to the number of housing units proposed, as discussed in the applicant's narrative. The park in the North Village is planned to be at least 8 acres in size, and the applicant has provided a shadow plat demonstrating where additional acreage could be included in the park on neighboring properties outside of the project area.

During the public hearing process, concerns were raised that the proposed location of the park was not consistent with the North Village area for several reasons:

- The location as proposed did not have sufficient public street frontage and was inaccessible
- Additional local street connections were important to the west of Holly Lane
- The amount of land zoned Neighborhood Commercial fronting on Livesay Road was insufficient.

In response to these and other concerns, the applicant proposed revisions which were presented to the Planning Commission on July 11 and July 25, with staff providing analysis in the current staff report for the September 25, 2022 hearing.

An excerpt of the applicant's revisions is provided below.



Commenting on the original proposal, the City's Parks Director Kendall Reid submitted a comment indicating that the proposed location and size of the park dedication is suitable and would be accepted by the City and developed as a park in the future. Mr. Reid also indicated:

"We would request that streets and utilities be extended to the park frontage, but we would not request that the applicant build any improvements within the park itself; the City will also utilize its own funding for the development of the park with recreational amenities. The dedication of the land should occur at Phase 1 to give the public certainty that park land will be provided within the project area if the full 92-acre development is not implemented in a timely manner."

The applicant included the park area within the boundaries of proposed Phase 2 of the development, but did not indicate when the land would be dedicated to the City. Because the phasing plan is tentative and subject to change, and because the conditions of approval on this Master Plan will require significant transportation improvements in order to make Phases 2 through 6 feasible, the City cannot reasonably rely on the applicant's ability to complete any development beyond Phase 1 in a timely manner. Thus, the applicant shall contribute a fee-in-lieu for parks to be calculated based on \$4,783.80 per unit for park land cost plus \$3,664 per unit for park improvement costs increased at 18% per annum, to be paid at the time of final plat recording of Phase I of the project. This amount shall be held by the City in the form of a surety until at least 4.3 acres of parkland in the location identified in the GDP exhibit is dedicated to the City. The 4.3 acres of park land shall be dedicated to the City at the time of final plat recording of Phase 2. See memorandum explaining these calculations in Exhibit 7.

Regarding the shadow plat, Mr. Reid indicated the following:

"The Parks Department would also accept a larger dedicated park space, especially given that the Park Place Concept Plan calls for an 8–10-acre park in this location. While the shadow plat map shows how additional land could be incorporated into the park in the future to create a larger park, the additional land shown is constrained by steep slopes and a stream, which would limit usable park space and would preclude various recreational uses such as athletic fields and playgrounds. It is not clear how 8 to 10 acres of open, relatively flat public park land would be fully accommodated under this plan."

It is apparent that a larger park space dedicated within the subject property would be more consistent with the Concept Plan than the current proposal, because it would allow for more park acreage to be usable, flat land rather than constrained areas in overlay zones. The 4.3 acres should be seen as a floor, with flexibility for the applicant to revise the plans and provide more park space through a future detailed development plan.

The applicant did not explicitly discuss the timing of actual development of the park. While the City plans to take on development of the amenities within the park, the applicant's contribution should be significant; given that the park will serve as the required open space for a majority of the proposed units and for the larger Park Place community, which is underserved by parks. Public infrastructure including, water, sewer, storm, and street improvements shall be brought to and through the public right-of-way frontage of the park before or during the development phase that includes 60% of the approved residential units.

The Planning Commission will need to balance the need to provide a minimum number of housing units in this portion of the concept plan (see density discussion earlier in this report) with what is reasonably proportional for the applicant to dedicate for parkland, taking into account the revised road layout, which provides greater connectivity and street frontage for the park, and the amount of Civic and Neighborhood Commercial land on Livesay Road.

The North Village area, of which this proposal comprises about half, centers around community needs such as parks, civic and open spaces, shopping, and higher density residential areas. The area of the site that is zoned NC is approximately 4.5 acres. The applicant has proposed two parcels of 0.5 acres and 0.8 acres for future commercial or civic development, which is less than half the NC zoned acreage. is consistent with the Park Place Concept Plan, which was supported by a market analysis to determine how much land could be reasonably expected to develop with neighborhood-scale commercial uses.

Staff has determined that it is possible, likely and reasonable that the applicant shall meet this standard through the Conditions of Approval.

4. The proposed General 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.

Finding: Complies with Condition: The applicant states:

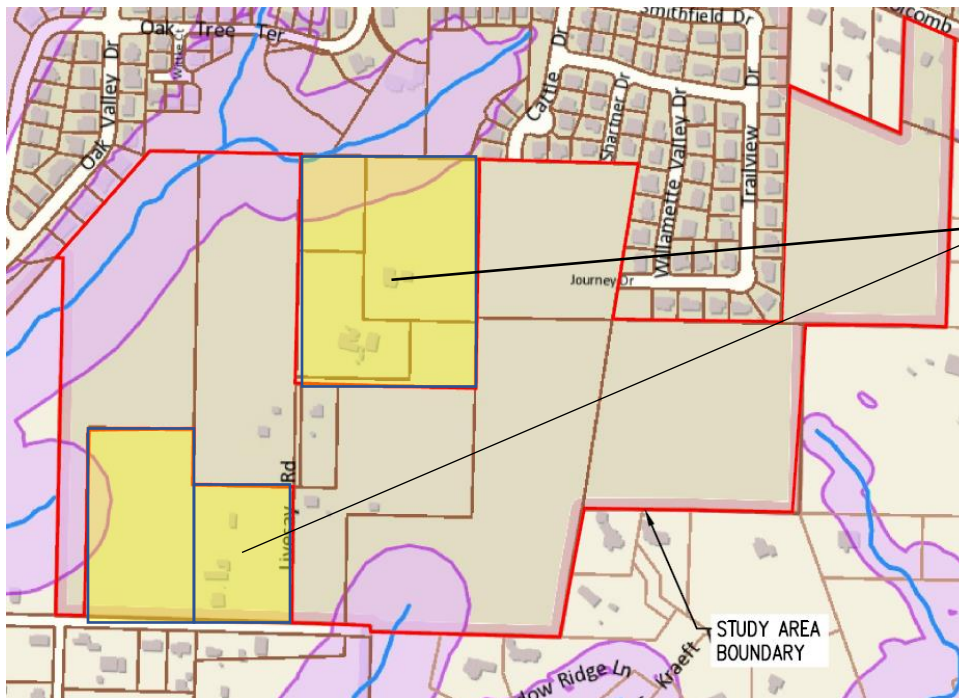
“The General Development Plan included as part of this application lays the foundations for the protection of inventoried Goal 5 natural resources such as those within the Natural Resources Overlay District (NROD). These areas are preserved within open space areas on the outskirts of the site and are addressed within the NROD Memorandum (Exhibit G) prepared as part of this application for General Development Plan. Future Detailed Development Plans will provide further details regarding these areas. Historic or cultural resources are not known to be present within the site boundaries. Physical alterations are not planned with this application for General Development Plan. Further details will be submitted with future Detailed Development Plan applications.”

No known historic or cultural resources are present in the project boundaries. Following the pre-application conference for the proposed development, the city sent notice of potential ground disturbance to five tribal entities: the Confederated Tribes of the Grand Ronde, Confederated Tribes of the Siletz, Confederated Tribes of the Umatilla, Confederated Tribes of the Warm Springs and the Confederated Tribes of the Yakama Nation. The Confederated Tribes of the Umatilla Indian Reservation responded with the following statement:

“Confederated Tribes of the Umatilla Indian Reservation (CTUIR) Cultural Resources Protection Program (CRPP) has reviewed the proposed projects in your letter dated July 23. As PA 21-04, PA 21-14, and PA 21-15 are within one of our areas of concern, the CRPP recommends conducting archaeological surveys with subsurface testing prior to development. Please let me know if you have any questions or concerns.”

The city does not have any standards that require archaeological surveys beyond those that have been inventoried and subject to overlay protections as required by the Comprehensive Plan; however, the applicant is subject to statutory requirements regarding cultural and archeological resources.

Significant portions of the site are within the City's mapped Natural Resources Overlay District (NROD) to protect Goal 5 resources on site, including streams and wetlands.

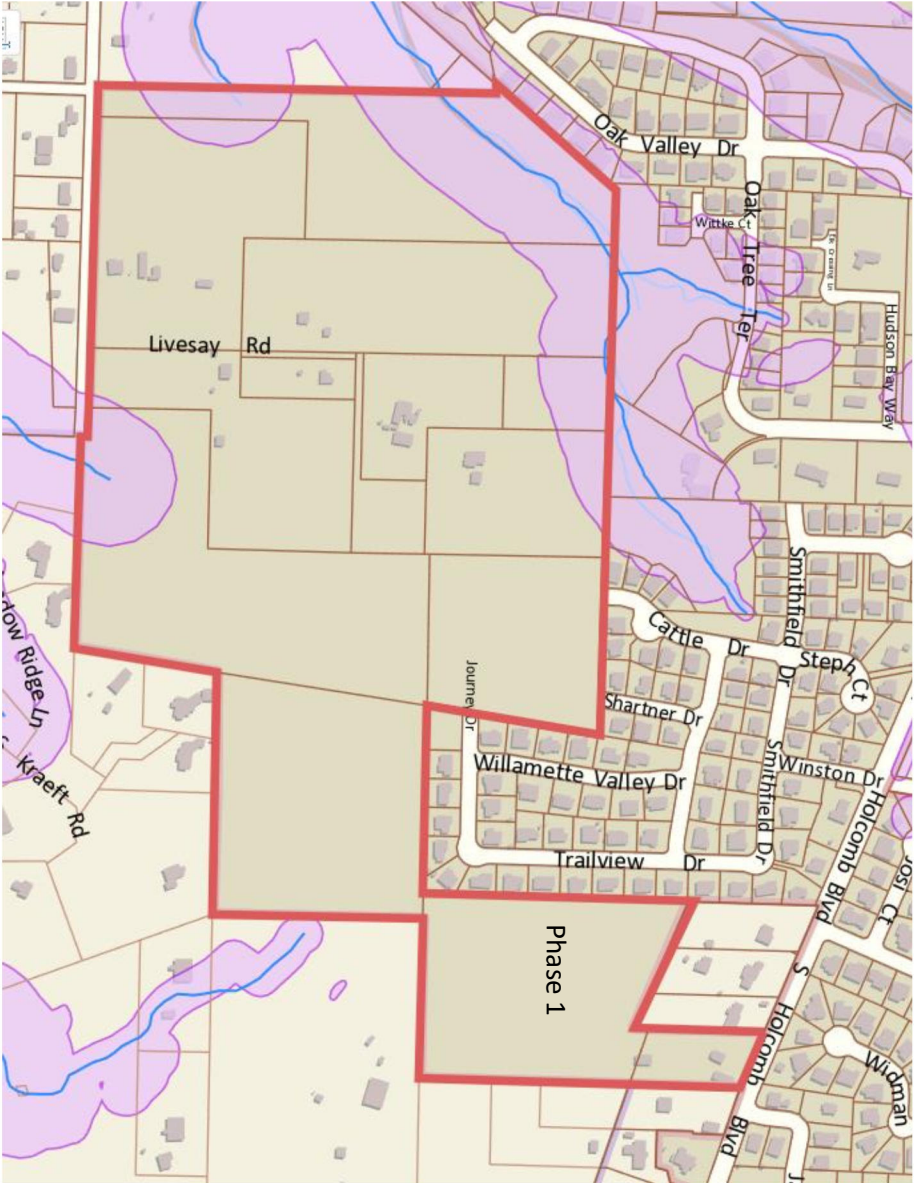


Applicant's Preliminary NROD Study area map

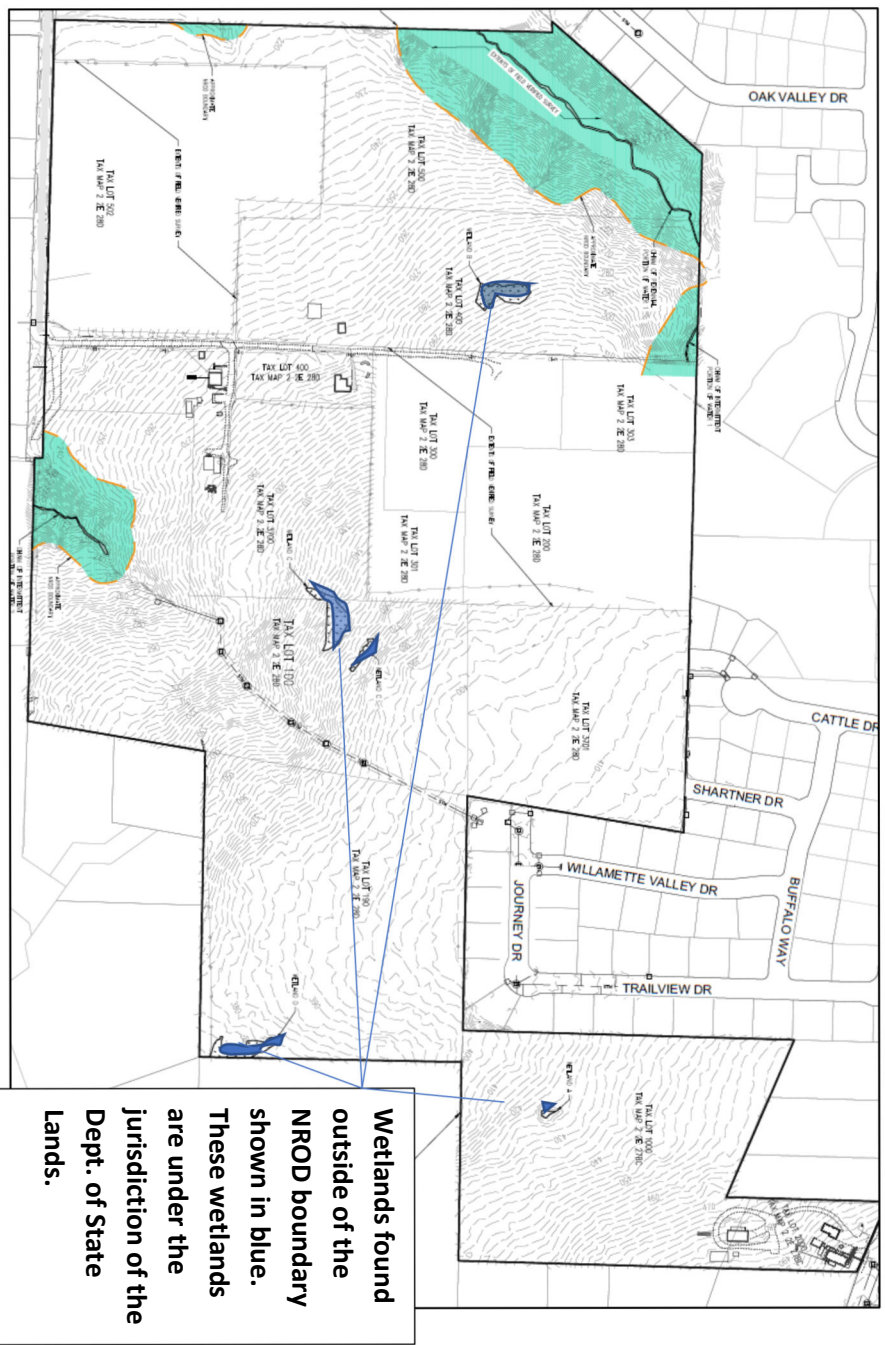
The applicant did not request Natural Resource Overlay District verification through OCMC 17.49 as part of this application. Thus, NROD areas shown on the applicant's maps have not been formally verified and may change as more site-specific development analysis as part of the DDP review occurs. A preliminary NROD study was submitted with this application, which includes the following information:

- A few parts of the overall site were not included in the NROD study area. The resources in these areas could affect the subdivision layout and overall development intensity in those portions of the site. Master Plan amendments may be required with future detailed development plans to ensure the level of "protection" required by this criterion.
- Two streams and one ephemeral stream were delineated by the applicant.
- The identified streams are proposed to be protected by a 50+ foot vegetated corridor as required in OCMC 17.49. No parts of the NROD overlap with any proposed residential development except for three residential lots in the SE corner of the site that have partial NROD in their backyard areas. Again, since the NROD is not formally verified, the overlay boundaries are subject to change and the preliminary findings of the NROD report may be modified.
- The proposal includes some limited disturbance in the NROD for a pedestrian path and pedestrian bridge over the stream.
- Stream delineations will be submitted with detailed development plan applications to verify the exact location of the NROD boundary
- Four wetlands outside of the City's NROD boundary were found. These are not protected by NROD because they are outside of the mapped NROD boundary. The applicant will obtain any required permits from the Department of State Lands, who regulates these wetlands.

See findings in OCMC 17.49. Any Natural Resources Overlay District areas impacted by development will be reviewed for compliance with this section either before or at the time of first DDP application. Since Phase 1 area does not contain any mapped resources, an NROD review is not required for the proposed Phase 1 area.



Mapped NROD Boundary



Applicant's NROD Study Results

The wetlands are outside of the adopted NROD overlay and thus are not subject to NROD review. However, they are subject to protection under Comprehensive Plan Policies in Goal 5; see findings in OCMC 17.65.050.C.6.

Staff has determined that it is possible, likely and reasonable that the applicant shall meet this standard through the Conditions of Approval.

5. *The proposed General 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.*

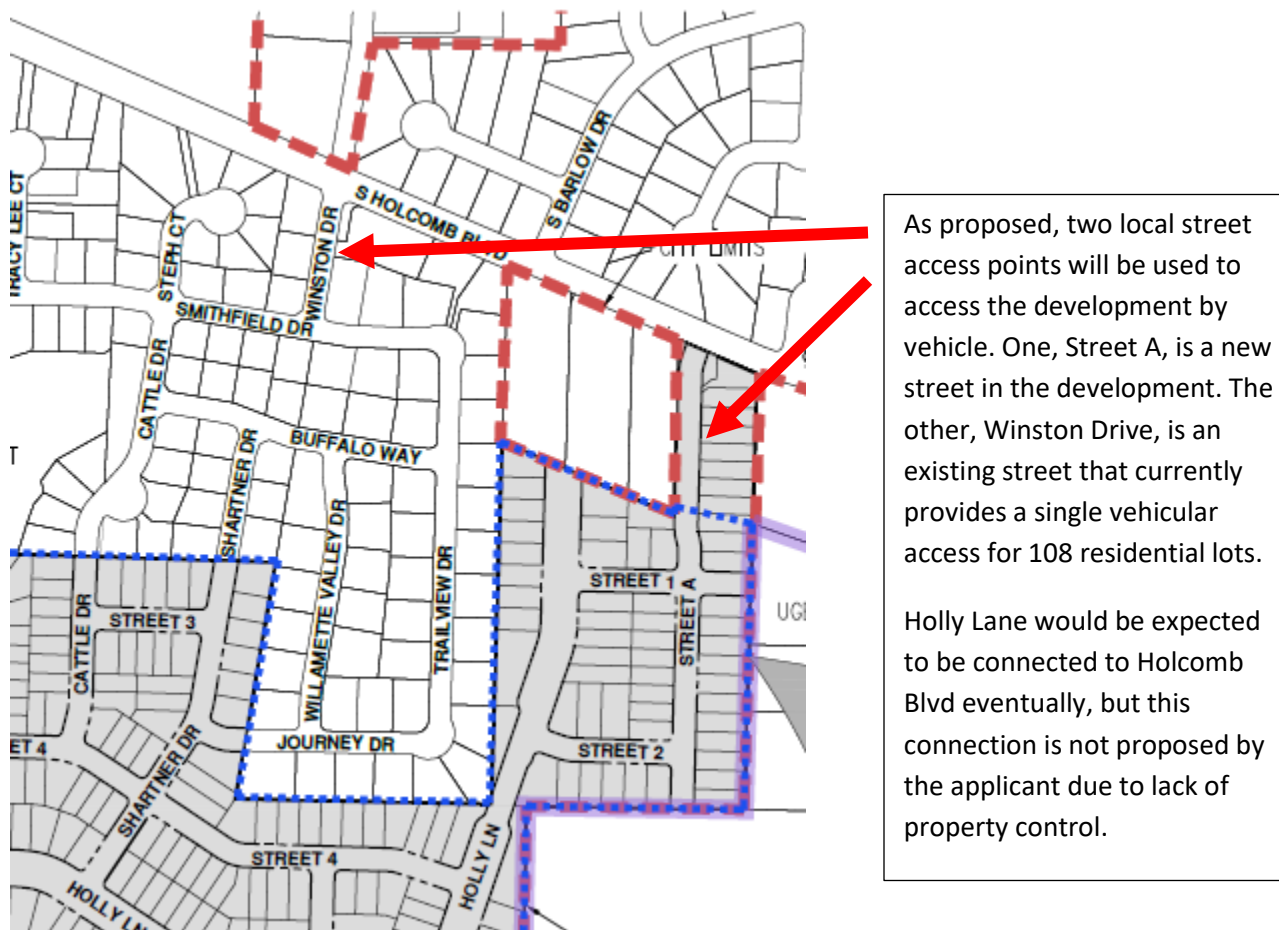
Finding: Complies with Conditions. The applicant's response to this criterion is

"Phasing of the General Development Plans allows for the orderly provision of transportation facilities and utilities to new areas and eventual connection as planned within the City's Transportation System Plan and Utility Master Plans. Further details are available within the Transportation Impact Study (Exhibit E) and will be submitted with future Detailed Development Plan applications. This criterion is met."

The applicant has not sufficiently acknowledged the obligation to not only identify, but also to "mitigate identified impacts from each phase of development." In addition to the public utility adequacy obligations discussed above, the applicant fails to acknowledge any neighborhood livability impacts of the development and therefore has not proposed adequate mitigation.

The applicant's traffic studies show that an extension of Holly Lane to Redland Road is not needed to comply with transportation mobility standards. Thus, the proposal does not propose to construct this street connection and instead relies on Holcomb Blvd to provide access to the development. While the mobility standards are satisfied, the proposal is not consistent with the criterion, as well as a number of Goals and Policies of the Comprehensive Plan, when it comes to substantial increase in vehicular pass-through traffic on local streets impacting neighborhood livability.

While the City does not have standards for levels of traffic on local streets, the applicant's transportation study projects daily trip generation that would greatly exceed levels typically associated with local residential streets. To mitigate these impacts, staff recommends conditions of approval for traffic calming elements, and ultimately, a street connection to Redland Road to provide another access point to distribute traffic.



The trip generation calculations in the applicant's original Transportation Impact Analysis show that the proposed project will create an additional 290 morning peak hour trips, 390 evening peak hour trips, and 4,064 average weekday trips.

AVERAGE WEEKDAY TRIPS BY PHASE (through Phase 3):

Phase 1: 622

Phase 2: 2,750 total (2128 from Phase 2 itself)

Phase 3: 3,230 weekday total (480 from Phase 3 itself)

The applicant proposes to make the street connections to Cattle Drive, Shartner Drive, and Journey Drive as part of phase 3. For these three phases, site trips are expected to be distributed between the Street A connection and S Winston Drive as follows:

- Phase 1: All site trips will utilize Street A.
- Phase 2: All site trips will utilize Street A.
- Phase 3: All site trips will utilize S Winston Drive. Additionally, approximately 75 percent of site trips generated by Phase 2 will reroute from Street A to S Winston Drive.

TOTAL: 480 Phase 3 trips plus 1596 (75% of phase 2 trips) = 2076 daily trips using S Winston Dr after Phase 3 (in addition to existing trips from the 108 existing residential lots)

Therefore, by the time Phase 3 is developed and the local street connections are made to Cattle Drive, Shartner Drive, and Journey Drive, an additional estimated 2,076 daily trips will be directed onto Winston Drive. In total, at the time of completion of all Phases of the GDP (full buildout), trips from an additional 341 homes are expected to use Winston Drive to access Holcomb Blvd, further adding to the volume of traffic on these local streets.

For comparison purposes, Average Daily traffic (ADT) on other local city streets based on 2021 volume studies are as follows:

- 16th St – West of Division ADT: 517 trips
- Front Street (in Park Place) near Forsythe ADT: 449 trips
- Apperson north of Holcomb ADT: 692 trips

According to Metro's 2018 Regional Transportation Plan, "Local streets primarily provide direct access to adjacent land uses, and usually between 200- 2,000 vehicles per day, with volumes varying by jurisdiction." The City does not have an adopted standard for traffic volume on local streets. However, a street with 2,000 or more trips per day will feel, to the adjacent resident, more like a collector street. The level of traffic would have noise impacts as well as effects on the ability of children to play in or near the street. Local streets in Park Place are generally quiet and conducive to activities like walking, bicycling, sports, and other non-automotive uses. With the traffic levels at 2,000 trips per day or more, the livability of the neighborhood and enjoyment of these activities, as well as overall safety, would be significantly affected.

The completion of the Holly Lane segment to Holcomb Blvd is not proposed by the applicant due to lack of property control, but the applicant indicates that they expect this segment to be constructed before full buildout. The Holly Lane/Holcomb connection would alleviate some traffic from the Winston Drive route - the applicant's traffic analysis estimates how the traffic patterns would change once the Holly Lane connection is made to Holcomb Blvd:

"Provided the S Holly Lane connection to S Holcomb Boulevard is constructed following full buildout of the Master Plan and development of tax lots 800 and 1600, the interim Street A connection will be closed, and a majority of trips projected to utilize S Winston Drive are expected to reroute to S Holly Lane. Trips are expected to be redistributed as follows:

- *Phase 1: All site trips will utilize S Holly Lane.*
- *Phase 2: All site trips will utilize S Holly Lane.*
- *Phase 3: Approximately 50 percent of site trips will utilize S Holly Lane and the other 50 percent will utilize S Winston Drive.*

- Phase 4: Approximately 50 percent of site trips will utilize S Holly Lane and the other 50 percent will utilize S Winston Drive.
- Phase 5: Approximately 50 percent of site trips will utilize S Holly Lane and the other 50 percent will utilize S Winston Drive.
- Phase 6: All site trips will utilize S Holly Lane.”

This analysis demonstrates that the volume of traffic on Winston Drive and the streets leading to it could be reduced; however, there is no guarantee if or when that the connection of Holly Lane and Holcomb Blvd will be made. A street connection from the project site down to Redland Road would be expected to carry at least half of the trips from this development, and would therefore provide significant reduction in traffic through the Winston Drive area. As described in the Traffic Impact Analysis for the annexation, the extension of Holly Lane to the south to intersect with Redland Road will have a significant impact on the trip distribution. That connection would be expected to significantly reduce the traffic on Winston Drive. Note that some traffic from Phase 2 would still be expected to use Winston Drive to get to Holcomb Blvd even if Holly Lane were constructed completely (all the way from Redland Road to Holcomb Blvd.)

Recommended conditions that would ensure adequate mitigation through the Redland Road connection include:

- At the time street connections are made to Cattle Drive and Shartner Drive, the applicant shall add traffic calming elements within the new streets that lead to Cattle Drive, Shartner Drive, Journey Drive, Smithfield Drive and Winston Drive including speed humps, traffic circles, or chicanes, to promote safe speeds. The applicant shall also provide traffic volume and speed data at three selected locations to the City to enable the City to evaluate the potential for a traffic calming and/or a speed limit change to 20 mph on the existing local streets.
- The applicant shall measure average daily trip volume on Winston Drive, Cattle Drive and Shartner Drive at the time of each DDP application that would route trips on these streets. If trips (total existing plus new) will exceed 2,000 per day on any of these streets, the applicant shall ensure a secondary street connection is provided to the south connecting to Redland Road, so that drivers have multiple route choices.

Public comments raised concerns about existing pedestrian and bike safety on Holcomb Blvd, which will be exacerbated by added traffic volumes from this development. The conditions of approval from AN 17-04 require the applicant to pay proportional share for related TSP projects including several TSP projects for sidewalks and bike lanes on Holcomb Blvd. The applicant will be required by a condition of approval to pay proportional share at each phase; for phase 1 the amount is approximately \$160,000. The City will use the funds to supplement other funding sources to implement sidewalk infill and other safety improvements along Holcomb Blvd. See findings in 17.65.050.C.3.

6. *The proposed general development plan is consistent with the Oregon City Comprehensive Plan.*

Finding: Complies with Conditions.

ANALYSIS OF PROPOSAL’S CONSISTENCY WITH PARK PLACE CONCEPT PLAN

The Park Place Concept Plan is an ancillary document to the Comprehensive Plan and as such, the applicant is required to demonstrate compliance with it. It is important to note that the plan is conceptual, designed at a high-level and allows variability based on actual topographic and health and safety overlay limitations. General

findings for compliance are included here, with more detail provided within the Comprehensive Plan Policies and throughout this staff report.

The applicant submitted an analysis (See “Park Place Concept Plan Analysis from Applicant”) noting how the proposal is consistent with the plan. The applicant also submitted a shadow plat drawing to demonstrate how future street extensions and amenities could be provided to be consistent with the plan. The applicant’s overall proposal is consistent with the Park Place Concept Plan except where noted below:

LAND USES, DENSITY AND LOT SIZE

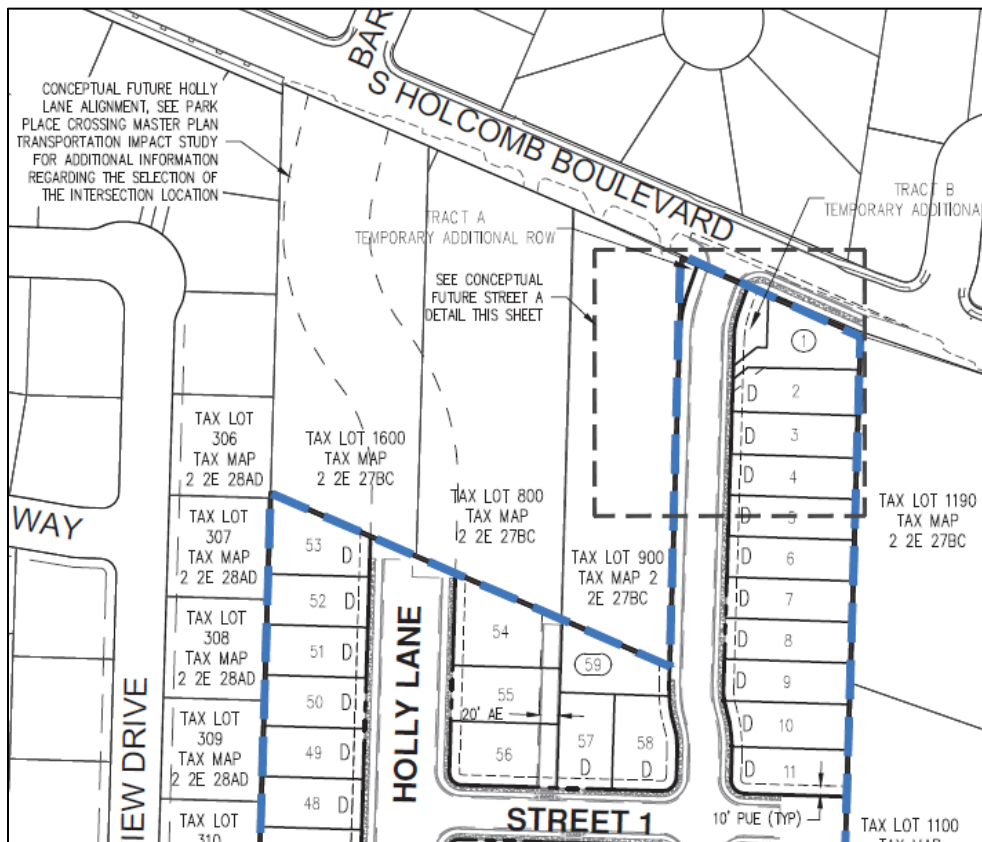
The applicant’s proposal is generally consistent with the land uses, density and lot sizes envisioned in the Park Place Concept Plan. Please refer to the Density Discussion on page 26.

TRANSPORTATION

The Park Place Concept Plan envisions the main access to the Concept Plan area from Holcomb Blvd will be through a connection of Holly Lane. The applicant proposes a future Holly Lane connection to line up with Barlow Drive on the north side of Holcomb Blvd, rather than the location shown in the Park Place Concept Plan. The applicant worked with City staff on this change, which is beneficial in that it allows the Holly Lane intersection to eventually line up with Barlow Drive rather than be placed farther east, which is less safe due to its proximity with the Jada Way intersection. The property where the future connection is proposed (Taxlot 2-2E-27BC-01600) is not one of the 14 properties included in the General Development Plan and has not yet been annexed into the City limits. The applicant indicates that future Holly Lane extension to Holcomb Blvd could be made before full buildout of the GDP, and has addressed the trip distribution changes that would result from that in their Transportation Impact Analysis. In the interim, the applicant has proposed the access from Holcomb Blvd to be through a new local street “A.”



Park Place Concept Plan (left) versus applicant's proposal (right)



Street A shown connecting to Holcomb Blvd to provide access to the proposed development

The Holly Lane connection to Redland Road is a major element of the Park Place Concept Plan and a critical link in the City's long-term Transportation System Plan. The applicant's traffic study indicates that an extension of Holly Lane to Redland Road is not needed to comply with transportation mobility standards. Thus, the proposal does not propose to construct this street connection and instead relies on Holcomb Blvd to provide access to the development. While the mobility standards might technically be met, the proposal is not consistent with Goals and Policies of the Comprehensive Plan and Master Plan standards, which require mitigation of neighborhood livability impacts. This proposal directs all of the new development traffic onto local streets at levels that greatly exceed typical local street volumes.

The proposal provides local street connections to existing neighborhood street stubs, which is consistent with the Concept Plan. The connectivity within the development and to future urban areas to the south and east has not been adequately provided. See findings and conditions in Comprehensive Plan Goal 12.

URBAN DESIGN

All residential development will be subject to design standards in OCMC 17.21, which was adopted in 2008 to fulfill the urban design goals of the Concept Plan. The purpose statement in OCMC 17.21 is "The intent of this chapter is to ensure new residential development implements the goals and policies of the Park Place Concept Plan area and the historic architectural styles of Oregon City. Appropriate architectural residential styles include: Western Farmhouse/Vernacular, Bungalow, Queen Anne Vernacular and Foursquare."

The applicant has requested an adjustment to the garage placement standard in OCMC 17.21 Findings for the adjustment request are provided in 17.65.070 of this staff report. Staff recommends denial of the adjustment on the basis of its lack of consistency with the Park Place Concept Plan.

The applicant has addressed the plan elements of neighborhood commercial amenities, trail connections, and public parks by providing a proportional amount of space for these uses. However, the applicant has not indicated the timing of these elements. Recommended conditions of approval for timing of park and commercial/civic development, and trail connections are included in the Comprehensive Plan findings.

ANALYSIS OF PROPOSAL'S CONSISTENCY WITH COMPREHENSIVE PLAN GOALS AND POLICIES

Analysis of the proposal's consistency with the 15 Comprehensive Plan sections is below:

Section 1: Citizen Involvement

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.

Finding: Complies as Proposed. The Applicant participated in a regularly scheduled Park Place Neighborhood Association meeting in accordance with OCMC 17.50. Notice was provided in accordance with this section. The City mailed notices to properties within 300 feet of the site, including properties outside of the Urban Growth Boundary, on March 29, 2022, more than 20 days prior to the first hearing.

Prior citizen involvement efforts in the planning for the development area and the larger Park Place Concept Plan has been extensive, including:

- The public engagement process for the development of the Park Place Concept Plan from early 2006 to mid-June 2007
- The legislative hearing process for adoption of the plan (File L-07-01), from July 2007 to April 2008;
- The legislative hearing process for adoption of zoning code to implement the plan (File L08-01), from August 2008 to July 2010
- Several annexation petitions for portions of the current development area which were approved, but rejected by the voters of Oregon City:
 - AN 07-08
 - AN 07-05
 - AN 09-01
 - AN 11-01
- The annexation and zoning for the current development (AN 17-04 / ZC 17-05).

Policy 1.1.1

Utilize neighborhood associations as the vehicle for neighborhood-based input to meet the requirements of the Land Conservation and Development Commission (LCDC) Statewide Planning Goal 1, Citizen Involvement. The Citizen Involvement Committee (CIC) shall serve as the officially recognized citizen committee needed to meet LCDC Statewide Planning Goal 1.

Finding: Complies as Proposed. The applicant held a meeting with the Park Place Neighborhood Association on May 17, 2021.

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.

Goal 1.3 Community Education

Provide education for individuals, groups, and communities to ensure effective participation in decision-making processes that affect the livability of neighborhoods.

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.

Goal 1.6 CIC Continuous Development

Support the CIC's team spirit and dedication to community involvement to ensure continuous improvement.

Goal 1.7 Neighborhood Plans

Adopt neighborhood plans that encompass a broad range of concerns for each neighborhood over a five-to ten-year period as refinements of the Oregon City Comprehensive Plan.

Finding: Not Applicable. These Goals and Policies within Section 1 pertain to actions that are to be taken by the City to implement its land use planning program through regulation and do not impose any substantive requirements in the evaluation of quasi-judicial proposals. As such, the applicant is not required to demonstrate compliance with these policies.

Section 2: Land Use

Goal 2.1 Efficient Use of Land

Ensure that property planned for residential, commercial, office, and industrial uses is used efficiently and that land is developed following principles of sustainable development.

Finding: Complies as Proposed. The planned single-family detached and attached residential project utilizes existing code provisions for adjustments to allow for more efficient use of the subject site. These adjustments, allowed through the master plan process include lot size reductions and density adjustments. Adjustments to density standards of the R-5 zoning district allow for the establishment of residential areas to implement the projected Park Place Concept Plan and support the envisioned Park Place commercial areas while preserving open spaces and natural areas. Reduced lot sizes support the needed densities and housing unit counts anticipated by the City.

Policy 2.1.1

Create incentives for new development to use land more efficiently, such as by having minimum floor area ratios and maximums for parking and setbacks.

Finding: Not Applicable. This policy pertains to actions that are to be taken by the City to implement this objective through zoning regulations. As such, the applicant is not required to demonstrate compliance with this Policy.

Policy 2.1.2

Encourage the vertical and horizontal mixing of different land-use types in selected areas of the city where compatible uses can be designed to reduce the overall need for parking, create vibrant urban areas, reduce reliance on private automobiles, create more business opportunities and achieve better places to live.

Finding: Not Applicable. This policy pertains to actions that are to be taken by the City to implement this objective through zoning regulations. As such, the applicant is not required to demonstrate compliance with this Policy.

Policy 2.1.3

Encourage sub-area master planning for larger developments or parcels, including re-development, where it may be feasible to develop more mixed uses, or campus-style industrial parks, with shared parking and landscaping areas. Allow developments to vary from prescriptive standards if planned and approved under this provision.

Finding: Complies as Proposed. As an approximately nine-two acre area with planned mixed uses, the project is a larger development. A master plan is also required per Condition of Approval of the project area's annexation Ordinance No. 18-1007 (AN-17-0004/ZC-17-0005). The applicant has submitted this General development plan to fulfill this condition. The application also proposes adjustments to standards consistent with this policy that encourages flexibility in master planned developments.

Policy 2.1.4

Use redevelopment programs such as urban renewal to help redevelop underutilized commercial and industrial land.

Finding: Not Applicable. This policy pertains to actions that are to be taken by the City to implement this objective through zoning regulations. The applicant is not required to demonstrate compliance with this Policy. The City does not have an urban renewal district in the Park Place area.

Goal 2.2 Downtown Oregon City

Finding: Not applicable. This goal pertains to actions that are to be taken by the City in the downtown area. The applicant is not required to demonstrate compliance with these policies.

Goal 2.3 Corridors

Finding: Not applicable. This goal pertains to transit corridors, but no transit corridors are present within or adjacent to the development. The applicant is not required to demonstrate compliance with these policies.

Goal 2.4 Neighborhood Livability

Provide a sense of place and identity for residents and visitors by protecting and maintaining neighborhoods as the basic unit of community life in Oregon City while implementing the goals and policies of the other sections of the Comprehensive Plan.

Finding: Complies with Conditions. Park Place Crossing is planned to be a complete and vibrant neighborhood that provides a unique selection of active open spaces and trails, a city park, and mixed-use commercial areas to support local commerce opportunities. Adjustments to lot size and density requirements allow for the conservation of steep slope and drainageway areas envisioned by the Park Place Concept Plan.

The planned street, pathway, and trail layout allows for connectivity between the project and existing and future neighborhoods using a variety of transportation methods. The planned trail crossing of Tour Creek will allow for connectivity between Park Place Crossing and existing neighborhoods to the northwest of the project. The ease of travel within Park Place Crossing will allow neighborhood residents to stay within the nearby area for recreation, outdoor enjoyment, and shopping within the Park Place North Village.

The Park Place Concept Plan envisions an extension of a collector street, Holly Lane, south to Redland Road to serve this development without impacting local neighborhoods with unusual volumes of traffic.

The applicant has not proposed to construct the Holly Lane connection to Redland Road with this proposal. The proposal would have significant impacts on existing neighborhood local streets related to traffic volumes. By adding high volumes of vehicle traffic on existing local streets, the proposal would impact the sense of place and neighborhood identity within the subdivisions that utilize Winston Drive. These impacts are discussed within OCMC 17.65.050.C.5 with recommended conditions of approval.

Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.

Policy 2.4.1

Develop local neighborhood plans to strengthen and protect residential neighborhoods and historic areas from infill development; such as development along linear commercial corridors.

Policy 2.4.2

Strive to establish facilities and land uses in every neighborhood that help give vibrancy, a sense of place, and a feeling of uniqueness; such as activity centers and points of interest.

Finding: Complies as Proposed. The applicant has provided uses and a layout that is generally consistent with the Park Place Concept Plan. Park Place Crossing is planned to be a complete and vibrant neighborhood that provides a unique selection of active open spaces and trails, a City park, and commercial areas to support local commerce opportunities. Adjustments to lot size and density requirements allow for the conservation of steep slope and drainageway areas envisioned by the Park Place Concept Plan. The commercial and civic spaces will provide opportunities for points of interest and activity centers. The applicant has not proposed specific uses for these parcels.

Policy 2.4.3

Promote connectivity between neighborhoods and neighborhood commercial centers through a variety of transportation modes.

Finding: Complies with Conditions. The proposal includes a small commercial node that is connected to the residential areas to the north via a public street and trail system. The applicant has also proposed connections to existing residential neighborhoods to the north and west where feasible. The Park Place Concept Plan envisions an extension of a collector street, Holly Lane, south to Redland Road to provide connectivity to the south. However, the applicant has not proposed to construct the Holly Lane connection to Redland Road, instead

proposing that all local traffic will be directed to Holcomb Boulevard. The resulting impacts of due to this lack of connectivity are discussed within OCMC 17.65.050.C.5 with recommended conditions of approval. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

Policy 2.4.4

Where environmental constraints reduce the amount of buildable land, and/or where adjacent land differs in uses or density, implement Comprehensive Plan and zoning designations that encourage compatible transitional uses.

Finding: Complies as Proposed. The applicant has provided uses and a layout that is generally consistent with the Park Place Concept Plan. The denser development is proposed on the flatter portions of the site where no environmental constraints are present. The zoning in place provides a transitional use on the western edge where the R-10 zone transitions into the NROD overlay.

Policy 2.4.5

Ensure a process is developed to prevent barriers in the development of neighborhood schools, senior and childcare facilities, parks, and other uses that serve the needs of the immediate area and the residents of Oregon City.

Finding: Not applicable. This goal pertains to actions that are to be taken by the City to implement this objective through zoning regulations. Land uses listed in this policy would be reviewed through subsequent site plan and design review applications and if applicable, conditional use permits reviewed by the Planning Commission. The applicant is not required to demonstrate compliance with these policies.

Goal 2.5 Retail and Neighborhood Commercial

Encourage the provision of appropriately scaled services to neighborhoods.

Finding: Complies as Proposed. The Park Place Crossing Master Plan proposes to implement the Park Place Concept Plan, which organizes the area into a North and South Village. The North Village, of which this proposal comprises about half, centers around community needs such as parks, civic and open spaces, shopping, and higher density residential areas. The applicant has proposed two parcels of 0.5 acres and 0.8 acres for future commercial or civic development. The acreage devoted to such uses is consistent with the Park Place Concept Plan, which was supported by a market analysis to determine how much land could be reasonably expected to develop with neighborhood-scale commercial uses.

Policy 2.5.1

Encourage the redevelopment of linear commercial corridors in ways that encourage expansion of existing businesses and infill development, and at the same time reduces conflicting traffic movements, improves the aesthetic character of these commercial areas, and encourages trips by transit, bicycling and walking.

Finding: Not applicable. This goal pertains to linear commercial corridors, which are not present within the project area. The applicant is not required to demonstrate compliance with these policies.

Policy 2.5.2

Allow and encourage the development of small retail centers in residential neighborhoods that provide goods and services for local residents and workers. Generally, these centers should be located at the intersections of two or more streets that are classified as neighborhood collectors or higher.

Finding: Complies with Condition. The Park Place Crossing Master Plan implements the Park Place Concept Plan, which organizes the area into a North and South Village. The North Village, of which this is a part, centers around community needs such as parks, civic and open spaces, shopping, and higher density residential areas.

The Mixed Use/Civic/Village Green area has been revised to three parcels of 0.51 acres, 0.56 acres and 1.26 acres (total 2.43 acres), bisected by an additional local street to provide a continuous corridor for the Livesay Main Street area, updated to include only uses permitted within the Neighborhood Commercial zone, and

provide additional transportation connectivity that better integrates this area with the Park Place Crossing neighborhood and future Park Place North Village areas.

The acreage of the Mixed Use/Civic/Village Green area within the proposed development is consistent with the Park Place Concept Plan, which was supported by a market analysis to determine how much land could be reasonably expected to develop at full build-out of the area with neighborhood-scale commercial uses. The market assessment prepared for the PPCP² concluded:

“The study area is expected to support between 20,000 and 40,000 square feet of retail space when fully developed. The area has limited access points, making it an unlikely candidate for more regional serving retail services. From a market perspective, a commercial center that can capitalize on through traffic from existing arterials will increase the viability of retail space, particularly during the study area’s build-out period.

Office space demand within the study area will respond to community needs, supported by the area’s population base and industrial activity. Likely tenant types would include medical office, insurance brokerages, realty companies, title companies, and other professional office users. These types of office tenants will often utilize ground floor commercial space, as they have a significant amount of customer traffic, but could be located in more traditional office configurations.

Commercial development in the planning area is not seen as necessary for the success of the area, which is expected to be developed largely as residential. The commercial needs of the planning area could be met outside of the concept planning area by existing and planned developments. Commercial development can serve in the role of organizing the concept plan, providing a community center. In addition, commercial development can meet some of the needs of the community, providing a marketable amenity for the residential development while reducing trips out of the neighborhood.”

The 2.43 acres of NC zoned development proposed in the most recent revisions is consistent with the PPCP, with an expectation that additional NC zoning will occur along Livesay Road as additional properties develop. The comprehensive plan designation of MUC for the North Village area measures approximately 14 acres, which is easily sufficient to support further neighborhood commercial development for the buildout of the area, as well as providing additional opportunities for mixed-use residential development, smaller multifamily units, three-plexes and four-plexes.

The Park Place Concept Plan, which is an ancillary document to the Comprehensive Plan, envisions small-scale retail uses to serve the neighborhood, saying “Small-scale commercial businesses, like a coffee shop, bookstore, dry cleaners, or café, are proposed to anchor the intersection of Holly Lane Extension and Livesay Main Street and surround the Village Green.” Commercial development can meet some of the needs of the community, providing a marketable amenity for the residential development while reducing trips out of the neighborhood.

The City’s Economic Development Manager James Graham submitted a letter supporting the commercial parcels as important for community amenities and for the city’s tax base, and expressing concern that there is no proposal for development or uses on these parcels. He points out that they may sit vacant if action is not taken to encourage their development. Mr. Graham requests that the applicant install public infrastructure to make the sites shovel-ready at or before the overall development for the GDP reaches 60% completion, and that the applicant offer the City a right of first refusal to purchase the two parcels in the future.

² Market Assessment prepared by the firm Johnson Gardner, See Pages 47-58 of Appendix B to the Park Place Concept Plan.

Notwithstanding the Economic Development Manager's desire to obtain a right of first refusal on the commercial parcels, at the very least, in order to encourage the development of these parcels in a timely manner, the applicant shall ensure that public infrastructure including, water, sewer, storm, and street improvements are brought to and through the frontage of the commercial parcels before or during the development phase that includes 60% of the approved residential units. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

Policy 2.5.3

Review design standards and the sign code to ensure compatibility with existing neighborhoods.

Finding: Not applicable. This goal pertains to actions that are to be taken by the City to implement this objective through zoning regulations. The applicant is not required to demonstrate compliance with these policies.

Policy 2.5.4

Encourage the development of successful commercial areas organized as centers surrounded by higher density housing and office uses, rather than as commercial strips adjacent to low-density housing.

Finding: Complies as Proposed. The Park Place Crossing Master Plan implements the Park Place Concept Plan, which organizes the area into a North and South Village. The North Village, of which this is a part, centers around community needs such as parks, civic and open spaces, shopping, and higher density residential areas. The applicant has proposed the higher density uses (attached housing) adjacent to the commercial areas, with the lower density residential uses farther removed from the commercial zones that will encourage the success of the commercial area.

Policy 2.5.5

Encourage commercial and industrial development that enhances livability of neighborhoods through the design of attractive LEEDTM-certified buildings and environmentally responsible landscaping that uses native vegetation wherever possible, and by ensuring that development is screened and buffered from adjoining residential neighborhoods and access is provided by a variety of transportation modes.

Finding: Complies as Proposed. The Park Place Crossing GDP reserves space for commercial space in line with the Park Place Concept Plan and provides pedestrian and vehicular connectivity to the future North Village Town center. The City has not adopted standards for LEED buildings and the applicant has not indicated what types of buildings would be developed on the commercial parcels or how they would be designed. Compliance with landscaping standards would be reviewed if and when site specific plans for any commercial development within the NC zones are proposed.

Policy 2.5.6

Develop a concept plan for South End that includes commercial designations in an amount sufficient to serve the needs of the South End neighborhood. The area designated as "Future Urban Holding" on South End Road lacks sufficient commercial services.

Finding: Not applicable. This goal pertains to actions that are to be taken by the City in the South End area. The applicant is not required to demonstrate compliance with these policies.

Goal 2.6 Industrial Land Development

Ensure an adequate supply of land for major industrial employers with family wage jobs.

Finding: Not applicable. This goal pertains to actions that are to be taken by the City for industrial land. No industrial zoning or uses are proposed within the Park Place Concept Plan area. The applicant is not required to demonstrate compliance with these policies.

Goal 2.7 Oregon City Comprehensive Plan Land-Use Map

Maintain the Oregon City Comprehensive Plan Land-Use Map as the official long-range planning guide for land-use development of the city by type, density and location.

Finding: Complies as Proposed. The Park Place Crossing Master Plan is designated as Medium Density Residential (MR), Mixed Use Corridor (MUC), and Low Density Residential (LR). The General Development Plan is consistent with the applicable requirements of the Oregon City Municipal Code that implement these Comprehensive Plan designations.

Section 5: Open Spaces, Scenic and Historic Areas, and Natural Resources

Goal 5.1 Open Space

Establish an open space system that conserves fish and wildlife habitat and provides recreational opportunities, scenic vistas, access to nature and other community benefits.

Finding: Complies as Proposed. Open spaces along creeks, drainageways, and steep hillsides are set aside for conservation in accordance with the Park Place Concept Plan.

Policy 5.1.1

Conserve open space along creeks, urban drainage ways, steep hillsides, and throughout Newell Creek Canyon.

Finding: Complies as Proposed. Open spaces along creeks, drainageways, and steep hillsides are set aside for conservation in accordance with the Park Place Concept Plan. The site is not within the Newell Creek Canyon.

Policy 5.1.2

Manage open space areas for their value in linking citizens and visitors with the natural environment, providing solace, exercise, scenic views and outdoor education. Built features in open space sites should harmonize with natural surroundings.

Finding: Complies as Proposed. Open spaces are planned to provide conservation areas for streams, wetland, riparian areas, recreational trails, scenic views and outdoor education. Built features, such as the planned bridge connection across Tour Creek, will be reviewed with an upcoming Detailed Development Plan application and is planned to harmonize with the natural surroundings.

Goal 5.2 Scenic Views and Scenic Sites

Protect the scenic qualities of Oregon City and scenic views of the surrounding landscape.

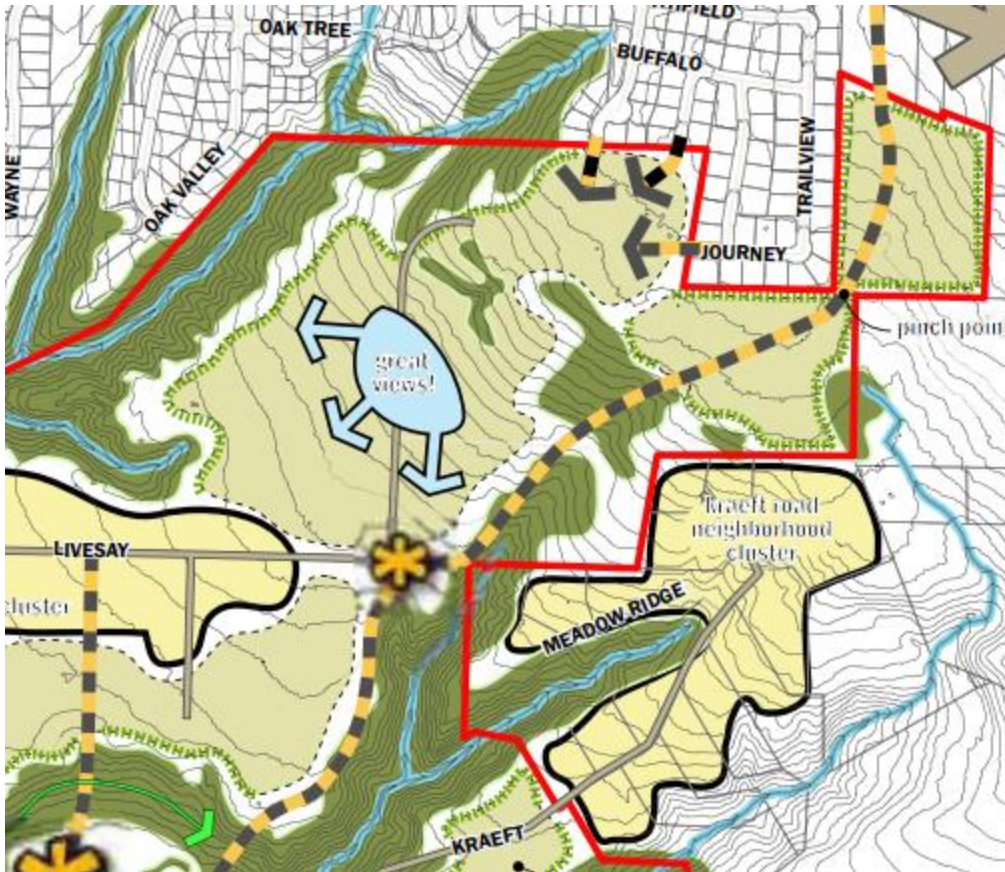
Policy 5.2.1

Identify and protect significant views of local and distant features such as Mt. Hood, the Cascade Mountains, the Clackamas River Valley, the Willamette River, Willamette Falls, the Tualatin Mountains, Newell Creek Canyon, and the skyline of the city of Portland, as viewed from within the city.

Policy 5.2.2

Maximize the visual compatibility and minimize the visual distraction of new structures or development within important viewsheds by establishing standards for landscaping, placement, height, mass, color, and window reflectivity.

Finding: Complies as Proposed. The Park Place Concept Plan identified a scenic view area within the boundaries of the project site. The area shown in the figure below is where the applicant has proposed various residential lots and public streets in accordance with the concept plan for the area indicated. There is no specific direction in the Concept Plan about how scenic views should be protected for the general public. As the applicant is bound by height standards in the base zoning dimensional standards, it is unlikely that development will have any significant effects on views. The revisions presented to the Planning Commission on July 11, 2022 include a re-aligned park area bounded by a local street, which will provide better access and views into the park and adjacent open space area for all residents. The city has adopted standards for landscaping, placement, height, mass, color, and window reflectivity.



Goal 5.3 Historic Resources

Encourage the preservation and rehabilitation of homes and other buildings of historic or architectural significance in Oregon City.

Finding: Complies as Proposed. There are no existing historic designated or eligible structures on the site. There are a few eligible structures just outside the project boundary. These structures are not expected to be impacted by the proposal.

Policy 5.3.1

Encourage architectural design of new structures in local Historic Districts, and the central Downtown area to be compatible with the historic character of the surrounding area.

Finding: Not applicable. This goal pertains to actions that are to be taken by the City in historic districts; this area is not within a historic district. The applicant is not required to demonstrate compliance with these policies.

Policy 5.3.2

Evaluate the establishment of Historic and Conservation Districts to preserve neighborhoods with significant examples of historic architecture in residential and business structures.

Finding: Not applicable. This goal pertains to actions that are to be taken by the City in historic areas; this area is not identified as a potential district and while there are some eligible resources present outside the project boundary, the project site is not a neighborhood with significant examples of historic architecture. The applicant is not required to demonstrate compliance with these policies.

Policy 5.3.3

Promote the designation of qualifying properties outside Historic and Conservation Districts as historic.

Finding: Not applicable. There are no existing historic designated or eligible structures on the site. There are a few eligible structures just outside the project boundary. These structures are not expected to be impacted by the proposal and could be designated in the future.

Policy 5.3.4

Support the preservation of Oregon City's historic resources through public information, advocacy and leadership within the community, and the use of regulatory tools and incentive programs.

Finding: Not applicable. This goal pertains to actions that are to be taken by the City. The applicant is not required to demonstrate compliance with these policies.

Policy 5.3.5

Support efforts to obtain historic designation at the city, state and national levels for public and private historic sites and districts. Natural and cultural landscapes should also be considered.

Finding: Not applicable. There are no existing historic designated or eligible structures on the site. There are a few eligible structures just outside the project boundary. These structures are not expected to be impacted by the proposal and could be designated in the future.

Policy 5.3.6

Maintain Oregon City's status as a Certified Local Government in the National Historic Preservation Program.

Finding: Not applicable. This goal pertains to actions that are to be taken by the City. The applicant is not required to demonstrate compliance with these policies.

Policy 5.3.7

Encourage property owners to preserve historic structures in a state as close to their original construction as possible while allowing the structure to be used in an economically viable manner.

Finding: Not applicable. There are no existing historic designated or eligible structures on the site. There are a few eligible structures just outside the project boundary. These structures are not expected to be impacted by the proposal and could be designated in the future.

Policy 5.3.8

Preserve and accentuate historic resources as part of an urban environment that is being reshaped by new development projects.

Finding: Not applicable. There are no existing historic designated or eligible structures on the site. There are a few eligible structures just outside the project boundary. These structures are not expected to be impacted by the proposal and could be designated in the future.

Goal 5.4 Natural Resources

Identify and seek strategies to conserve and restore Oregon City's natural resources, including air, surface and subsurface water, geologic features, soils, vegetation, and fish and wildlife, in order to sustain quality of life for current and future citizens and visitors, and the long-term viability of the ecological systems.

Policy 5.4.1

Conserve and restore ecological structure, processes and functions within the city to closely approximate natural ecosystem structure, processes, and functions.

Policy 5.4.2

Cooperate with Clackamas County, Metro and other agencies to identify and protect wildlife habitat, distinctive natural areas, corridors and linkages and other ecological resources within the Urban Growth Boundary and incorporate the information into the Urban Growth Management Agreement with Clackamas County.

Policy 5.4.3

Identify, initiate and cooperate in partnerships with other jurisdictions, businesses, neighborhoods, schools and organizations to conserve and restore natural resources within and adjacent to Oregon City.

Finding: Complies as Proposed. Portions of the site are within the Natural Resources Overlay District (NROD), which serves to protect the water resources and adjacent habitat through regulation of development within the vicinity of streams and wetlands. The applicant has provided a preliminary NROD report and will be required to comply with overlay district standards for future DDP applications.

Policy 5.4.4

Consider natural resources and their contribution to quality of life as a key community value when planning, evaluating and assessing costs of City actions.

Finding: Not applicable. This goal pertains to actions that are to be taken by the City. The applicant is not required to demonstrate compliance with these policies. The City's adoption of the Park Place Concept Plan in 2008 was done with protection of natural resources in mind.

Policy 5.4.5

Ensure that riparian corridors along streams and rivers are conserved and restored to provide maximum ecological value to aquatic and terrestrial species. This could include an aggressive tree and vegetation planting program to stabilize slopes, reduce erosion, and mitigate against invasive species and stream impacts where appropriate.

Finding: Complies as Proposed. Portions of the site are within the Natural Resources Overlay District, which serves to protect water resources and adjacent habitat through regulation of development within the vicinity of streams and wetlands. The proposal demonstrates that riparian corridors are protected and conserved, although no verification of the NROD boundary is proposed at this time. The applicant has provided a preliminary NROD report and will be required to comply with overlay district standards for future DDP applications, including verification of the NROD boundary.

Policy 5.4.6

Support and promote public education, interpretation, and awareness of the city's ecological resources.

Finding: Complies as Proposed. Portions of the site are within the Natural Resources Overlay District, which serves to protect water resources and adjacent habitat through regulation of development within the vicinity of streams and wetlands. The proposal includes public trails through the natural areas, which will increase awareness of the city's natural resources by providing public access.

Policy 5.4.7

The City shall encourage preservation over mitigation when making decisions that affect wetlands and a "no net loss" approach to wetland protection.

Finding: Complies as Proposed. The applicant's NROD study identified a few wetlands outside of the mapped NROD boundary. These wetlands are in areas proposed with residential development and are not proposed to be protected. While the City does not have jurisdiction over these wetlands because they are not within the mapped NROD (the Department of State Lands has jurisdictions over the actual wetland), the City does require that Goal 5 criteria are met. The applicant indicates that wetlands are "planned for preservation where possible." Because the plan language is permissive - to "encourage" preservation rather than to mandate it, this plan can be found to be consistent with this policy.



Applicant's NROD Study Results

Policy 5.4.8

Conserve natural resources that have significant functions and values related to flood protection, sediment and erosion control, water quality, groundwater recharge and discharge, education, vegetation and fish, and wildlife habitat.

Policy 5.4.9

Protect and enhance riparian corridors along streams in Oregon City to increase shade, reduce streambank erosion and intrusion of sediments, and provide habitat for a variety of plants, animals, and fish.

Finding: Complies as Proposed. Portions of the site are within the Natural Resources Overlay District, which serve to protect the resources through regulation of development within the vicinity of streams and wetlands. The proposal demonstrates that riparian corridors are protected and conserved, although no verification of the NROD boundary is proposed at this time. The applicant has provided a preliminary NROD report and will be required to comply with overlay district standards for future DDP applications, including verification of the NROD boundary.

Policy 5.4.10

Encourage and promote the restoration of the hydrologic and ecological character and function of streams and wetlands that have been degraded by channeling or eliminated from the landscape by routing into culverts.

Finding: Not applicable. There is no evidence of streams or wetlands on site that have been channeled or eliminated from the landscape.

Policy 5.4.11

Maintain and enhance the function and quality of natural wetlands and create, where appropriate, wetlands or swales to moderate the quantity and velocity of water runoff entering streams during storm events and to reduce the amount of pollutants carried into streams.

Policy 5.4.12

Use a watershed-scale assessment when reviewing and planning for the potential effects from development, whether private or public, on water quality and quantity entering streams.

Policy 5.4.13

Adopt and/or establish standards for all new development that promote the use of pervious surfaces and prevent negative ecological effects of urban stormwater runoff on streams, creeks and rivers.

Finding: Complies as Proposed. The City has an adopted stormwater standards and design requirements for stormwater facilities in the code and engineering standards in a manual that fulfills these policies. the applicant will be required to show compliance with the stormwater standards and the manual at the time of future DDP review.

Policy 5.4.14

Comply with federal and state regulations for protecting, conserving and restoring threatened and endangered species and critical habitat.

Finding: Complies as Proposed. The applicant is subject to compliance with DSL and Army Corps of Engineers standards for wetland impacts. No known endangered species are present on site.

Policy 5.4.15

Partner with Metro, Clackamas County, the Oregon Department of Transportation (ODOT) and other agencies to establish an invasive weeds management strategy.

Finding: Not applicable. This goal pertains to actions that are to be taken by the City. The applicant is not required to demonstrate compliance with these policies.

Policy 5.4.16

Protect surfacewater quality by:

- *providing a vegetated corridor to separate protected water features from development*
- *maintaining or reducing stream temperatures with vegetative shading*
- *minimizing erosion and nutrient and pollutant loading into water*
- *providing infiltration and natural water purification by percolation through soil and vegetation*

Finding: Complies as Proposed. Portions of the site are within the Natural Resources Overlay District, which serves to protect the resources through regulation of development within the vicinity of streams and wetlands. Surface water quality is planned for protection through vegetated corridors, vegetative shading, and prevention of erosion and pollution. Stormwater facilities will be designed for management, detention, and treatment of stormwater to remove sediment and other pollutants in accordance with the City's standards. The City has an adopted stormwater manual that fulfills these policies. the applicant will be required to show compliance with the stormwater standards and the manual at the time of future DDP review.

Policy 5.4.17

Protect and maintain groundwater recharge through conservation and enhancement of wetlands and open space.

Finding: Complies as Proposed. The applicant has proposed a significant amount of open space adjacent to streams on the site. The applicant's NROD study identified a few wetlands outside of the mapped NROD boundary. These wetlands are in areas proposed with residential development and are not proposed to be protected. While the City does not have jurisdiction over these wetlands (the Department of State Lands has jurisdictions over the actual wetland), the City does require that Goal 5 criteria are met. The applicant indicates that wetlands are planned for preservation where possible.

Policy 5.4.18

Encourage use of native and hardy plants such as trees, shrubs and groundcovers to maintain ecological function and reduce maintenance costs and chemical use.

Finding: Not applicable. This goal pertains to actions that are to be taken by the City. The applicant is not required to demonstrate compliance with these policies.

Section 6: Quality of Air, Water, and Land Resources

Goal 6.1 Air Quality

Promote the conservation, protection and improvement of the quality of the air in Oregon City.

Policy 6.1.1

Promote land-use patterns that reduce the need for distance travel by single occupancy vehicles and increase opportunities for walking, biking and/or transit to destinations such as places of employment, shopping and education.

Finding: Complies as Proposed. The Park Place Crossing Master Plan will create a portion of the conceived North Village of the Park Place Concept Plan Area, which includes a variety of housing types as well as supportive amenities such as commercial retail, civic spaces, parks, and open spaces.

Policy 6.1.2

Ensure that development practices comply with or exceed regional, state, and federal standards for air quality.

Finding: Complies as Proposed. Residential development proposed is typical of the region and no abnormal impacts to air quality are expected. The applicant will be required meet any applicable county, state, or federal requirements.

Policy 6.1.3

Set an example through City operations by using and demonstrating practices and technologies that reduce air pollution and protect air quality.

Finding: Not applicable. This goal pertains to actions that are to be taken by the City. The applicant is not required to demonstrate compliance with these policies.

Policy 6.1.4

Encourage the maintenance and improvement of the city's tree canopy to improve air quality.

Finding: Complies as Proposed. The applicant provided an existing conditions plan that identifies all trees over 6" diameter. These trees will be regulated through OCMC 17.41, which discourages tree removal through robust mitigation and replanting standards. The applicant's future DDP application will be required to show compliance with these standards.

Goal 6.2 Water Quality

Control erosion and sedimentation associated with construction and development activities to protect water quality.

Policy 6.2.1

Prevent erosion and restrict the discharge of sediments into surface- and groundwater by requiring erosion prevention measures and sediment control practices.

Finding: Complies as Proposed. The applicant provided an existing conditions plan that identifies all trees over 6" diameter. These trees will be regulated through OCMC 17.41, which discourages tree removal through robust mitigation and replanting standards. The applicant's future DDP application will be required to show compliance with these standards.

Policy 6.2.2

Where feasible, use open, naturally vegetated drainage ways to reduce stormwater and improve water quality.

Finding: Complies as Proposed. The applicant has proposed to use roadside planters for stormwater management on most of the streets in the development. The City has an adopted stormwater manual that

fulfills these policies. the applicant will be required to show compliance with the stormwater standards and the manual at the time of future DDP review.

Goal 6.3 Nightlighting

Protect the night skies above Oregon City and facilities that utilize the night sky, such as the Haggart Astronomical Observatory, while providing for nightlighting at appropriate levels to ensure safety for residents, businesses, and users of transportation facilities, to reduce light trespass onto neighboring properties, to conserve energy, and to reduce light pollution via use of night-friendly lighting.

Policy 6.3.1

Minimize light pollution and reduce glare from reaching the sky and trespassing onto adjacent properties.

Policy 6.3.2

Encourage new developments to provide even and energy-efficient lighting that ensures safety and discourages vandalism. Encourage existing developments to retrofit when feasible.

Finding: Complies as Proposed. Street lighting is coordinated between the City and PGE and is energy efficient. The City's site plan and design review standards for lighting on private property do not apply to residential uses, but do apply to mixed-use and multifamily development. The city has a nuisance code to provide protection to residential areas from lighting impacts.

Policy 6.3.3

Employ practices in City operations and facilities, including street lighting, which increases safety and reduces unnecessary glare, light trespass, and light pollution.

Finding: Not applicable. This goal pertains to actions that are to be taken by the City. The applicant is not required to demonstrate compliance with these policies.

Goal 6.4 Noise

Prevent excessive noise that may jeopardize the health, welfare, and safety of the citizens or degrade the quality of life.

Policy 6.4.1

Provide for noise abatement features such as sound-walls, soil berms, vegetation, and setbacks, to buffer neighborhoods from vehicular noise and industrial uses.

Policy 6.4.2

Encourage land-use patterns along high-traffic corridors that minimize noise impacts from motorized traffic through building location, design, size and scale.

Finding: Complies with Condition. Residential development proposed is typical of the region and no abnormal impacts to air quality are expected. The street alignment for Holly Lane is preliminary in nature and the reduced cross section and alignment will be further reviewed with the Phase 1 DDP, but on preliminary review it meets the intent of the code by allowing safe vehicular, bicycle, and pedestrian travel through the constrained area between the lots. Additional landscaping, sound mitigation and retaining wall design will be required to buffer the road section from certain adjacent lots in the Trailview Subdivision. The proposed cross section for the constrained area meets the City's travel lane dimensions, bike lane dimensions and cross walk dimensions for a collector as noted in OCMC 16.12.016 below. No high-traffic corridors are part of the development or adjacent to the development.

Goal 6.5 Mineral and Aggregate Operations

Protect the livability and environment of Oregon City by prohibiting commercial aggregate extraction operations within the city and Urban Growth Boundary.

Policy 6.5.1

Prohibit new commercial aggregate removal operations and encourage relocation of existing operations. Aggregate removal for habitat improvement or for public recreational needs is not considered a commercial operation.

Finding: Not applicable. This proposal does not involve mineral and aggregate operations.

Section 7: Natural Hazards

Goal 7.1 Natural Hazards

Protect life and reduce property loss from the destruction associated with natural hazards.

Policy 7.1.1

Limit loss of life and damage to property from natural hazards by regulating or prohibiting development in areas of known or potential hazards.

Finding: Not applicable. This goal pertains to actions that are to be taken by the City. The applicant is not required to demonstrate compliance with these policies. The City's development code regulates and limits development in hazardous areas.

Policy 7.1.2

Protect existing development from natural hazards through mitigation measures identified in the Oregon City Hazard Mitigation Plan.

Finding: Complies as Proposed. Parts of the site are within the City's Geologic Hazard overlay, including landslide areas and steep slope areas. The landslide area are not proposed to be developed. The proposal includes preliminary geological hazard memos describing the general feasibility of the proposed Master Plan to meet the City's Municipal Code and engineering standards for the Geological Hazard Overlay Area. At the time the detailed development plans are submitted for each phase, the applicant will provide a full, more detailed geotechnical memorandum with the required supplemental information noted above.

Policy 7.1.3

Reduce risk to residents and businesses by maintaining accurate information on the existence and potential of hazards.

Policy 7.1.4

Ensure that key public facilities (emergency service) are located outside recognized hazard areas.

Finding: Not applicable. These policies pertain to actions that are to be taken by the City. The applicant is not required to demonstrate compliance with these policies.

Policy 7.1.5

Minimize the risk of loss of life and damage to property from flooding by limiting development in the 100-year floodplain and by ensuring that accepted methods of flood proofing are used.

Policy 7.1.6

Encourage the use of land and design of structures that are relatively unaffected by the periodic effects of flooding, such as parking and other uses not normally occupied by humans.

Policy 7.1.7

Prohibit uses in areas subject to flooding that would exacerbate or contribute to hazards posed by flooding by introducing hazardous materials, filling or obstructing floodways, modifying drainage channels, and other detrimental actions.

Finding: Not applicable. The area is not in a flood overlay or floodplain.

Policy 7.1.8

Provide standards in City Codes for planning, reviewing, and approving development in areas of potential landslides that will prevent or minimize potential landslides while allowing appropriate development.

Finding: Not applicable. This goal pertains to actions that are to be taken by the City. The applicant is not required to demonstrate compliance with these policies.

Policy 7.1.9

Locate, design, and construct structures in conformance with current building codes and standards for seismic-resistant design.

Policy 7.1.10

Evaluate the need to retrofit existing public facilities such as water reservoirs, bridges, pipelines, and hospitals to better withstand earthquakes.

Finding: Not applicable. This goal pertains to actions that are to be taken by the City. The applicant is not required to demonstrate compliance with these policies.

Policy 7.1.11

Prioritize roadways needed for public service, medical, and emergency vehicles during emergencies.

Finding: Complies as Proposed. This is a City-directed policy that is implemented by the Transportation System Plan. The applicant's traffic study has demonstrated that preliminary road design and capacity is adequate for emergency access, as confirmed by the City transportation experts and the location and design of all roads within the development area will be further reviewed at the time of DDP review.

Policy 7.1.12

Ensure that key public services, such as water and sewer; and key public facilities such as police, fire, and hospital structures have the capability to back-up electricity during emergencies.

Finding: Not applicable. This goal pertains to actions that are to be taken by the City. The applicant is not required to demonstrate compliance with these policies. The City's development code (OCMC 17.44) regulates and limits development in hazardous areas and was recently updated in 2021.

Policy 7.1.13

Minimize the risk of loss of life and damage to property from wildfires within the city and the Urban Growth Boundary.

Finding: Complies as Proposed. This policy pertains to wildfires within the City limits or UGB. The applicant has proposed emergency access from two locations in coordination with emergency service providers. Future detailed development plans will require compliance with fire access standards from Clackamas County Fire District. A separate memorandum addressing concerns raised about wildfire evacuations is included as an attachment to this staff report.

Section 8: Parks and Recreation

Goal 8.1 Developing Oregon City's Park and Recreation System

Maintain and enhance the existing park and recreation system while planning for future expansion to meet residential growth.

Policy 8.1.1

Provide an active neighborhood park-type facility and community park-type facility within a reasonable distance from residences, as defined by the Oregon City Park and Recreation Master Plan, to residents of Oregon City.

Finding: Complies as Proposed. With the 8/11/2022 revision, the applicant has proposed to dedicate 4.3 acres of land within the project site for a public park. This land is in the southwest corner of the site and is slightly different from the location of the park envisioned in the Park Place Concept Plan. The location is a relatively flat area of the project site and is adjacent to the village center retail/civic parcels as well as the proposed attached housing areas. The location is generally consistent with the Concept Plan. The amount of acreage proposed to be dedicated is proportional to the number of housing units proposed, as discussed in the applicant's narrative. See findings in 17.65.050.C.3.

Policy 8.1.2

When property adjacent to an existing neighborhood or community park becomes available, consider adding property to the park and developing it to meet the current needs of existing neighborhoods.

Finding: Not applicable. This goal pertains to actions that are to be taken by the City. The applicant is not required to demonstrate compliance with these policies.

Policy 8.1.3

Develop regional and community parks in such a way that revenue-producing amenities are included to bring in a revenue stream to partially fund maintenance of the parks system.

Finding: Not applicable. This goal pertains to actions that are to be taken by the City. The applicant is not required to demonstrate compliance with these policies.

Policy 8.1.4

Create either an endowment fund or a steady revenue stream to offset adding maintenance responsibilities to an already overburdened system.

Finding: Not applicable. This goal pertains to actions that are to be taken by the City. The applicant is not required to demonstrate compliance with these policies.

Policy 8.1.5

Identify and construct a network of off-street trails throughout the city for walking and jogging.

Finding: Complies with Condition. The applicant has proposed a network of trails within open spaces of the site. The proposal is generally consistent with the City's trails master plan and with the Park Place Concept Plan. It includes a bridge over Tour Creek to connect to Oak Valley Drive. The applicant does not propose specific timing for this connection. In order to ensure connectivity is provided at a reasonable stage in the development, the Tour Creek pedestrian bridge connection shall be included in the detailed development plan application that includes the 319th dwelling unit in the development (the last unit of proposed Phase 2) and shall be constructed as part of public improvements for that phase. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

Policy 8.1.6

Provide land for specialized facilities such as sports fields and indoor recreational facilities.

Finding: Not applicable. This goal pertains to actions that are to be taken by the City. The applicant is not required to demonstrate compliance with these policies.

Policy 8.1.7

Seek out opportunities to coordinate and partner with other departments, agencies, and jurisdictions to fulfill the aims of the Oregon City Park and Recreation Master Plan.

Finding: Not applicable. This goal pertains to actions that are to be taken by the City. The applicant is not required to demonstrate compliance with these policies.

Policy 8.1.8

Explore the possibility of developing a full-service community recreation center that has an aquatics facility and that focuses on providing programming and activities for the youth and families of Oregon City.

Finding: Not applicable. This goal pertains to actions that are to be taken by the City. The applicant is not required to demonstrate compliance with these policies.

Policy 8.1.9

Emphasize retaining natural conditions and the natural environment in proposed passive recreation areas.

Finding: Complies as Proposed. The applicant has proposed a network of trails through the protected open spaces on site. The ravines and stream areas are proposed to remain in natural condition. Public access easement for the entire trail system will be required at the time of detailed development plan review.

Policy 8.1.10

Identify revenue-producing opportunities for inclusion in existing and future parks to offset operational costs.

Finding: Not applicable. This goal pertains to actions that are to be taken by the City. The applicant is not required to demonstrate compliance with these policies.

Policy 8.1.11

Explore opportunities for the school district and the City to share recreational facilities such as athletic fields and meeting space.

Finding: Not applicable. This policy pertains to actions that are to be taken by the City. The applicant is not required to demonstrate compliance with these policies.

Policy 8.1.12

Identify and protect land for parks and recreation within the Urban Growth Boundary.

Finding: Complies as Proposed. The applicant has proposed to dedicate 4.3 acres of land within the project site for a public park. This land is in the southwest corner of the site and is slightly different from the location of the park envisioned in the Park Place Concept Plan. The location is a relatively flat area of the project site and is adjacent to the village center retail/civic parcels as well as the proposed attached housing areas. The location is generally consistent with the Concept Plan. The City's Parks Director Kendall Reid submitted a comment indicating that the proposed location and size of the park dedication is suitable and would be accepted by the City and developed as a park in the future. See additional findings in 17.65.050.C.3.

Policy 8.1.13

Explore the development of a riverfront promenade along the Willamette River from River View Plaza at 5th Street to Clackamette Park.

Policy 8.1.14

Require or encourage developers to dedicate park sites as part of the subdivision review process. When possible, require or encourage developers to build parks to City standards and give them to the City to operate and maintain.

Policy 8.1.15

Investigate the possibility of forming a regional parks and recreational district to replace City-provided services.

Policy 8.1.16

Investigate partnerships with existing and new heritage organizations for joint programming and/or management of historic buildings such as the Ermatinger House and the Buena Vista Club House.

Finding: Not applicable. These policies pertain to actions that are to be taken by the City. The applicant is not required to demonstrate compliance with these policies.

Section 9: Economic Development

Goal 9.1 Improve Oregon City's Economic Health

Provide a vital, diversified, innovative economy including an adequate supply of goods and services and employment opportunities to work toward an economically reasonable, ecologically sound and socially equitable economy.

Policy 9.1.1

Attract high-quality commercial and industrial development that provides stable, high-paying jobs in safe and healthy work environments, that contributes to a broad and sufficient tax base, and that does not compromise the quality of the environment.

Finding: Not applicable. This policy pertains to actions that are to be taken by the City. The applicant is not required to demonstrate compliance with these policies.

Policy 9.1.2

Contribute to the health of the regional and state economy by supporting efforts to attract "traded sector industries" such as high technology and production of metals, machinery, and transportation equipment. (Traded sector industries compete in multi-state, national, and international markets and bolster the state's economy by bringing money in from sales of goods and services outside of the state.)

Finding: Not applicable. This policy pertains to actions that are to be taken by the City. The applicant is not required to demonstrate compliance with these policies.

Goal 9.2 Cooperative Partnerships

Create and maintain cooperative partnerships with other public agencies and business groups interested in promoting economic development.

Policy 9.2.1

Seek input from local businesses when making decisions that will have a significant economic impact on them.

Policy 9.2.2

Carefully consider the economic impacts of proposed programs and regulations in the process of implementing the City's Comprehensive Plan.

Policy 9.2.3

Simplify, streamline, and continuously improve the permitting and development review process.

Policy 9.2.4

Use financial tools available to the City, including its Urban Renewal Program and Capital Improvement Program, to support its economic development efforts.

Finding: Not applicable. This policy pertains to actions that are to be taken by the City. The applicant is not required to demonstrate compliance with these policies.

Policy 9.2.5

Use public-private partnerships as a means to leverage private investment when appropriate.

Finding: Not applicable. This policy pertains to actions that are to be taken by the City. The applicant is not required to demonstrate compliance with these policies.

Goal 9.3 Retention of Existing Employers

Retain existing employers, both public and private, and encourage them to expand their operations within the City.

Policy 9.3.1

Protect existing industries from encroachment by incompatible land uses, and ensure that expansion options are available to them wherever possible.

Finding: Not applicable. No existing industries are present in or near the area.

Policy 9.3.2

Support programs of Clackamas County, the Oregon Department of Economic and Community Development, the Small Business Administration and other agencies that provide business-related services such as low-interest loans, job training, and business counseling.

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.

Finding: Not applicable. This policy pertains to actions that are to be taken by the City. The applicant is not required to demonstrate compliance with these policies.

Goal 9.4 Education, Skills And Workforce Training

Ensure that the major employers in Oregon City are able to find qualified and skilled workers to meet their needs.

Policy 9.4.1

Encourage Clackamas Community College and the Oregon City High School to continue providing job training. Support partnerships between Clackamas Community College and potential employees such as Willamette Falls Hospital and other private businesses and new employers on the City's industrial lands, especially near the college.

Policy 9.4.2

Promote the development of ongoing partnerships between Clackamas Community College, the Oregon City School District, the Workforce Investment Council of Clackamas County, local and regional businesses, the Oregon Employment Department, and other agencies to train new workers.

Finding: Not applicable. This policy pertains to actions that are to be taken by the City. The applicant is not required to demonstrate compliance with these policies.

Goal 9.5 Retail Service

Allow a variety of retail outlets and shopping areas to meet the needs of the community and nearby rural areas.

Finding: Complies as Proposed. The proposed commercial/civic parcels in the project will allow a variety of retail uses allowed within the NC zone.

Policy 9.5.1

Develop local neighborhood or specific plans, when appropriate, to blend infill development along linear commercial areas into existing neighborhoods.

Finding: Not applicable. This policy pertains to actions that are to be taken by the City. The applicant is not required to demonstrate compliance with these policies.

Policy 9.5.2

Develop plans to provide necessary public services to surrounding rural industrial lands for future development.

Finding: Not applicable. This policy pertains to actions that are to be taken by the City. The applicant is not required to demonstrate compliance with these policies.

Goal 9.6 Tourism

Promote Oregon City as a destination for tourism.

Policy 9.6.1

Protect historic, recreational, and natural resources as the basis for tourism, such as the Historic Downtown Area.

Policy 9.6.2

Ensure land uses and transportation connections that support tourism as an important aspect of the City's economic development strategy. This could include connections to the End of the Oregon Trail Interpretive Center and the train depot.

Policy 9.6.3

Provide land uses in the Downtown Historic Area, 7th Street corridor, and the End of the Oregon Trail Interpretive Center that support tourism and visitor services.

Policy 9.6.4

Encourage and support citywide events that would attract visitors and tie to the historic attractions of the city. Preserve tourism-related transportation services like the Oregon City Elevator and trolley.

Policy 9.6.5

Encourage river-related tourism facilities and services, such as docking facilities, river transit and river tours.

Policy 9.6.6

Encourage private development of hotel, bed and breakfast, restaurant facilities and other visitor services.

Finding: Not applicable. This policy pertains to actions that are to be taken by the City or are outside of the project area. The applicant is not required to demonstrate compliance with these policies.

Goal 9.7 Home-Based Businesses

Provide a supportive climate for home-based businesses.

Policy 9.7.1

Encourage home-based businesses that are low impact and do not disrupt the residential character of the neighborhoods in which they are located.

Policy 9.7.2

Encourage the support services that home-based businesses need.

Finding: Not applicable. This policy pertains to actions that are to be taken by the City. Home occupations are permitted within the R-5 and R-10 zones. The applicant is not required to demonstrate compliance with these policies.

Goal 9.8 Transportation System

Recognize the importance of the land use-transportation link and encourage businesses to locate in areas already served by the type of transportation system they need.

Policy 9.8.1

Through coordination with TriMet and local employers, encourage and promote the use of mass transit to travel between residential areas and employment areas.

Policy 9.8.2

Participate in regional efforts to encourage employers to promote telecommuting and other flexible work arrangements.

Policy 9.8.3

Assess the feasibility of implementing Transportation Management Associations in the city.

Policy 9.8.4

Promote “shared parking” and transportation demand management techniques such as transit vouchers, car or van pooling, and flexible schedules and telecommuting options to reduce peak hour trips.

Policy 9.8.5

Work with the Oregon Department of Transportation to preserve and improve the capacity of Highway 213 and its intersection with I-205.

Policy 9.8.6

Encourage the provision of multi-modal transportation to support major existing employers.

Policy 9.8.7

Assess methods to integrate the pedestrian, bicycle and elevator transportation modes into the mass transit system.

Finding: Not applicable. These policies pertain to actions that are to be taken by the City. The applicant is not required to demonstrate compliance with these policies.

Section 10: Housing

Goal 10.1 Diverse Housing Opportunities

Provide for the planning, development and preservation of a variety of housing types and lot sizes.

Policy 10.1.1

Maintain the existing residential housing stock in established older neighborhoods by maintaining existing Comprehensive Plan and zoning designations where appropriate.

Policy 10.1.2

Ensure active enforcement of the City of Oregon City Municipal Code regulations to ensure maintenance of housing stock in good condition and to protect neighborhood character and livability.

Finding: Not applicable. These policies pertain to actions that are to be taken by the City. The applicant is not required to demonstrate compliance with these policies.

Policy 10.1.3

Designate residential land for a balanced variety of densities and types of housing, such as single-family attached and detached, and a range of multi-family densities and types, including mixed-use development.

Finding: Complies as Proposed. The proposed development in the R-5 and R-10 zones includes a variety of housing types including detached and attached units. The NC zone similarly allows for a variety of residential uses and mixed-use residential as well as commercial development.

Policy 10.1.4

Aim to reduce the isolation of income groups within communities by encouraging diversity in housing types within neighborhoods consistent with the Clackamas County Consolidated Plan, while ensuring that needed affordable housing is provided.

Finding: Complies as Proposed. The proposed development in the R-5 and R-10 zones includes a variety of housing types including detached and attached units.

Policy 10.1.5

Allow Accessory Dwelling Units under specified conditions in single-family residential designations with the purpose of adding affordable units to the housing inventory and providing flexibility for homeowners to supplement income and obtain companionship and security.

Policy 10.1.6

Allow site-built manufactured housing on individual lots in single-family residential zones to meet the requirements of state and federal law. (Pursuant to state law, this policy does not apply to land within designated historic districts or residential land immediately adjacent to a historic landmark.)

Finding: Not applicable. These policies pertain to actions that are to be taken by the City. The applicant is not required to demonstrate compliance with these policies.

Policy 10.1.7

Use a combination of incentives and development standards to promote and encourage well-designed single-family subdivisions and multi-family developments that result in neighborhood livability and stability.

Finding: Complies as Proposed. The proposed development will be subject to design standards in OCMC 17.21 that applies specific design standards for the Park Place Concept Plan. The applicant has requested an adjustment to one of these standards requiring garages to be either accessed from the rear, detached or side-oriented. With the proposed 8/11/2022 revision, the Mixed Use/Civic/Village Green area has been revised to three parcels of 0.51 acres, 0.56 acres and 1.26 acres (total 2.43 acres). This revised layout for the central North Village area includes additional mixed-use commercial land along Livesay Road that will allow denser mixed use and multi-family development, subject to design review standards prior to construction.

Goal 10.2 Supply of Affordable Housing

Provide and maintain an adequate supply of affordable housing.

Policy 10.2.1

Retain affordable housing potential by evaluating and restricting the loss of land reserved or committed to residential use. When considering amendments to the Comprehensive Plan Land-Use Map, ensure that potential loss of affordable housing is replaced.

Policy 10.2.2

Allow increases in residential density (density bonuses) for housing development that would be affordable to Oregon City residents earning less than 50 percent of the median income for Oregon City.

Policy 10.2.3

Support the provision of Metro's Title 7 Voluntary Affordable Housing Production Goals.

Policy 10.2.4

Provide incentives that encourage the location of affordable housing developments near public transportation routes. Incentives could include reduction of development-related fees and/or increases in residential density (density bonuses).

Finding: Not applicable. These policies pertain to actions that are to be taken by the City. The applicant is not required to demonstrate compliance with these policies.

Section 11: Public Facilities

Goal 11.1 Provision of Public Facilities

Serve the health, safety, education, welfare, and recreational needs of all Oregon City residents through the planning and provision of adequate public facilities.

Policy 11.1.1

Ensure adequate public funding for the following public facilities and services, if feasible:

- Transportation infrastructure
- Wastewater collection
- Stormwater management
- Police protection
- Fire protection

- Parks and recreation
- Water distribution
- Planning, zoning and subdivision regulation
- Library services
- Aquatic Center
- Carnegie Center
- Pioneer Community Center
- City Hall
- Buena Vista House
- Ermatinger House

Finding: Not applicable. These policies pertain to actions that are to be taken by the City. The applicant is not required to demonstrate compliance with these policies.

Policy 11.1.2

Provide public facilities and services consistent with the goals, policies and implementing measures of the Comprehensive Plan, if feasible.

Finding: Complies with Conditions. The applicant states:

“Utility services are available within S Holcomb Boulevard for Phase 1, via a connection to existing sewer services at the corner of Journey Drive and Trail View Drive. Phases 2 through 6 will extend and expand public services as needed to support the project and future adjacent developments. Information provided as part of this application is preliminary in nature and will be further refined as part of future Detailed Development Plan applications, where changes or improvements may occur.”

Public facilities are discussed in section 17.65.050.C.3 of this staff report.

Policy 11.1.3

Confine urban public facilities and services to the city limits except where allowed for safety and health reasons in accordance with state land-use planning goals and regulations. Facilities that serve the public will be centrally located and accessible, preferably by multiple modes of transportation.

Finding: Complies as Proposed. The proposal includes extensions of water and sewer services slightly outside the City limits in order to connect with existing lines outside the city limits. The purpose of doing so is to provide looped systems, which is preferred for safety and health reasons.

Policy 11.1.4

Support development on underdeveloped or vacant buildable land within the city where public facilities and services are available or can be provided and where land-use compatibility can be found relative to the environment, zoning, and Comprehensive Plan goals.

Finding: Complies as Proposed. The proposed development is within the Park Place Concept Plan area; the Concept Plan identified this land as suitable for development where services can be made available.

Policy 11.1.5

Design the extension or improvement of any major public facility and service to an area to complement other public facilities and services at uniform levels.

Finding: Complies as Proposed. The proposal will be conditioned to follow the Transportation, Water, Sewer and Stormwater Master Plans adopted by the City.

Policy 11.1.6

Enhance efficient use of existing public facilities and services by encouraging development at maximum levels permitted in the Comprehensive Plan, implementing minimum residential densities, and adopting an Accessory Dwelling Unit Ordinance to infill vacant land.

Finding: Complies as Proposed. The proposed development is within the Park Place Concept Plan area; the Concept Plan requires a minimum of 937 units within the North Village area. The applicant is required to meet the density approved in the Park Place Concept Plan and has proposed adjustments to standards, an NROD density transfer, and a variance for attached single family lot size in order to do so. While the zoning designations are not the maximum density within each Comprehensive Plan designation, the proposal from the applicant can meet the required densities in the Concept Plan.

Proposed minimum lot area and density are discussed in Chapter 17.08 and 17.10 of this report and in the discussion of density on Page 26.

Policy 11.1.7

Develop and maintain a coordinated Capital Improvements Plan that provides a framework, schedule, prioritization, and cost estimate for the provision of public facilities and services within the City of Oregon City and its Urban Growth Boundary.

Goal 11.2 Wastewater

Seek the most efficient and economic means available for constructing, operating, and maintaining the City's wastewater collection system while protecting the environment and meeting state and federal standards for sanitary sewer systems.

Policy 11.2.2

Plan, operate and maintain the wastewater collection system for all current and anticipated city residents within the existing Urban Growth Boundary. Plan strategically for future expansion areas.

Policy 11.2.2

Given the vision for Clackamette Cove, investigate strategies to deal with increased flows, including alternate locations for treatment, from growth in the Damascus area and the potential closure of the Kellogg Creek Water Pollution Control Plant.

Policy 11.2.3

Work with the Tri-City Service District to provide enough collection capacity to meet standards established by the Oregon Department of Environmental Quality (DEQ) to avoid discharging inadequately treated sewage into surfacewater.

Policy 11.2.4

Seek economical means to reduce inflow and infiltration of surface- and groundwater into the wastewater collection system.

As appropriate, plant riparian vegetation to slow stormwater, and to reduce erosion and stream sedimentation.

Policy 11.2.5

Implement the City's wastewater policies through the City of Oregon City Sanitary Sewer Master Plan.

Finding: Not applicable. These policies pertain to actions that are to be taken by the City. The applicant is not required to demonstrate compliance with these policies.

Goal 11.3 Water Distribution

Seek the most efficient and economic means available for constructing, operating, and maintaining the City's water distribution system while protecting the environment and meeting state and federal standards for potable water systems.

Policy 11.3.1

Plan, operate and maintain the water distribution system for all current and anticipated city residents within its existing Urban Growth Boundary and plan strategically for future expansion areas.

Policy 11.3.2

Collaborate with the South Fork Water Board to ensure that an adequate water supply system is maintained for residents.

Coordinate with the South Fork Water Board, the City of West Linn, and Clackamas River Water to ensure that there is adequate regional storage capacity.

Policy 11.3.3

Maintain adequate reservoir capacity to provide all equalization, operational, emergency, and fire flow storage required for the City's distribution system.

Policy 11.3.4

Adopt a progressive water rate structure that will encourage water conservation.

Finding: Not applicable. These policies pertain to actions that are to be taken by the City. The applicant is not required to demonstrate compliance with these policies.

Goal 11.4 Stormwater Management

Seek the most efficient and economical means available for constructing, operating, and maintaining the City's stormwater management system while protecting the environment and meeting regional, state, and federal standards for protection and restoration of water resources and fish and wildlife habitat.

Policy 11.4.1

Plan, operate, and maintain the stormwater management system for all current and anticipated city residents within Oregon City's existing Urban Growth Boundary and plan strategically for future expansion areas.

Policy 11.4.2

Adopt "green streets" standards to reduce the amount of impervious surface and increase the use of bioswales for stormwater retention where practicable.

Finding: Not applicable. These policies pertain to actions that are to be taken by the City. The applicant is not required to demonstrate compliance with these policies.

Policy 11.4.3

Ensure parking lot designs that mitigate stormwater impacts. Take measures to reduce waterflow and increase water absorption through the use of bioswales, vegetated landscaped islands with curb cuts to allow water inflow, and tree planting.

Finding: Not applicable. The applicant has not proposed parking lots. Parking lots may be included with the park and/or commercial parcels, and standards in OCMC 17.52 that require landscaping and drainage in parking lots will apply.

Policy 11.4.4

Maintain existing drainageways in a natural state for maximum water quality, water resource preservation, and aesthetic benefits.

Finding: Not applicable. These policies pertain to actions that are to be taken by the City. The applicant is not required to demonstrate compliance with these policies.

Policy 11.4.5

Design stormwater facilities to discharge surfacewater at pre-development rates and enhance stormwater quality in accordance with criteria in City of Oregon City Public Works Stormwater and Grading Design Standards.

Finding: Complies as Proposed. Stormwater facilities will be designed for management, detention, and treatment of stormwater to remove sediment and other pollutants in accordance with the City's standards. The City has an adopted stormwater manual that fulfills these policies. the applicant will be required to show compliance with the stormwater standards and the manual at the time of future DDP review.

Policy 11.4.6

Regularly review and update the above standards to reflect evolving stormwater management techniques, maintenance practices, and environmental compatibility.

Policy 11.4.7

Provide stormwater management services and monitor, report and evaluate success of the services consistent with the NPDES MS-4 permit requirements.

Finding: Not applicable. These policies pertain to actions that are to be taken by the City. The applicant is not required to demonstrate compliance with these policies.

Goal 11.5 Solid Waste

Seek to ensure that the most cost-effective, integrated solid waste plan is developed and implemented.

Policy 11.5.1

Acknowledge Metro's responsibility for preparing and implementing the Regional Solid Waste Management Plan, 1995-2005 because solid waste disposal is a regional concern requiring regional solutions.

Policy 11.5.2

Coordinate with Metro and Clackamas County as needed to help implement the goals and objectives of the Regional Solid Waste Management Plan, 1995-2005.

Policy 11.5.3

Commit to long-term sustainability and recognize the link between reduction of solid waste, reuse and recycling of materials, and protection of natural resources.

Finding: Not applicable. These policies pertain to actions that are to be taken by the City. The applicant is not required to demonstrate compliance with these policies.

Goal 11.6 Transportation Infrastructure

Optimize the City's investment in transportation infrastructure.

Policy 11.6.1

Make investments to accommodate multi-modal traffic as much as possible to include bike lanes, bus turnouts and shelters, sidewalks, etc., especially on major and minor arterial roads, and in regional and employment centers.

Finding: Complies with condition. The applicant has proposed streets with bike lanes. There is no transit service planned for the area; however, when Holly Lane is fully connected it could become an attractive route for Trimet or local shuttle service if ridership levels are deemed adequate. In future detailed development plan applications, the applicant shall include adequate space within the public right of way for a transit stop along Holly Lane near the park and commercial parcels in a location to be determined through additional planning and coordination with transit agencies. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

Policy 11.6.2

Advocate for local, state, and regional cooperation in achieving an integrated connected system such as for the Amtrak station, light rail, and bus transit.

Finding: Not applicable. These policies pertain to actions that are to be taken by the City. The applicant is not required to demonstrate compliance with these policies.

Goal 11.7 Private Utility Operations

Coordinate with utilities that provide electric, gas, telephone and television cable systems, and high-speed internet connection to Oregon City residents to ensure adequate service levels.

Policy 11.7.1

Require local service lines in new subdivisions be placed underground.

Policy 11.7.2

Coordinate with private utility providers to install infrastructure during street construction and maintenance to reduce the need to repeatedly cut into newly paved streets.

Policy 11.7.3

Adopt lighting practices in streets and other public facilities, and encourage them in private development, that reduce glare, light pollution, light trespass, and energy use, while maintaining even lighting ensuring good visibility and safety for the public.

Policy 11.7.4

Encourage development of broadband networks in street rights-of-way in a coordinated way to provide state-of-the-art technology to residents.

Policy 11.7.5

Maintain and enforce the cell tower ordinance. Adopt, support and encourage innovations in reducing, camouflaging or screening cell towers.

Finding: Not applicable. These policies pertain to actions that are to be taken by the City. The applicant is not required to demonstrate compliance with these policies.

Goal 11.8 Health and Education

Work with healthcare and education providers to optimize the siting and use of provider facilities.

Policy 11.8.1

Work with Clackamas County as needed to ensure that county services are sited appropriately and that citizens of Oregon City continue to have access to County health and human services.

Policy 11.8.2

Coordinate with the master planning efforts by Willamette Falls Hospital to address environmental, neighborhood and health provider concerns about expansion plans, parking, traffic, and circulation.

Policy 11.8.3

Coordinate with the Oregon City School District to ensure that elementary and middle school sites are located centrally within the neighborhoods they serve, to the extent possible.

Finding: Not applicable. These policies pertain to actions that are to be taken by the City. The applicant is not required to demonstrate compliance with these policies.

Goal 11.9 Fire Protection

Maintain a high level of fire protection and emergency medical services.

Policy 11.9.1

Ensure that all areas, including newly annexed areas, receive fire protection and emergency medical services.

Policy 11.9.2

Attempt to maintain the City's Class IV fire insurance rating and work towards achieving a Class III rating, as funds are available.

Policy 11.9.3

Promote public awareness of fire prevention techniques, emergency management, and emergency preparedness education programs as important components of community safety.

Finding: Not applicable. These policies pertain to actions that are to be taken by the City. The applicant is not required to demonstrate compliance with these policies.

Goal 11.10 Police Protection

Preserve the peace and provide for the safety and welfare of the community.

Policy 11.10.1

Maintain continuous liaison with other elements of the criminal justice system.

Policy 11.10.2

Strive to provide rapid response to emergency and non-emergency calls.

Policy 11.10.3

Promote traffic safety to reduce property loss, injuries and fatalities.

Policy 11.10.4

Continually evaluate operations to maximize effectiveness and efficiency.

Policy 11.10.5

Seek to have a department and community committed to the philosophy of community-oriented policing. Develop community partnerships so that both the community and department are empowered to solve problems and seek creative solutions.

Policy 11.10.6

In addition to law enforcement, help deter crime through proactive programs that emphasize education, prevention, and cooperation.

Finding: Not applicable. These policies pertain to actions that are to be taken by the City. The applicant is not required to demonstrate compliance with these policies.

Goal 11.11 Civic Facilities

Strategically locate civic facilities to provide efficient, cost-effective, accessible, and customer friendly service to Oregon City residents.

Policy 11.11.1

Locate City facilities in a way that ensures customer service and provides easy access to the majority of residents. Access should be provided for the physically impaired and for those traveling by transit, bicycle, or foot.

Policy 11.11.2

Investigate options for obtaining or building a new City Hall.

Policy 11.11.3

Implement measures to maximize and leverage resources and increase services to the public.

Policy 11.11.4

Incorporate measures to meet long-term rising demand for services. Provide for future needs of increased staff, space and storage when purchasing or building new city facilities.

Finding: Not applicable. These policies pertain to actions that are to be taken by the City. The applicant is not required to demonstrate compliance with these policies.

Goal 11.12 Library

Ensure that the library has an adequate facility and resources to maintain its vital role in the community and accommodate growth of services, programs and the population of the entire service area.

Policy 11.12.1

Identify and acquire, if possible, an appropriate site for a permanent library that is centrally located to the service area. This could include a mixed-use facility with retail space and Friends of the Library activities, etc.

Policy 11.12.2

Explore partnerships with schools and other community groups in regard to shared programming, public meeting rooms and other community-use spaces.

Policy 11.12.3

Develop, if possible, a means of funding a permanent library facility.

Finding: Not applicable. These policies pertain to actions that are to be taken by the City. The applicant is not required to demonstrate compliance with these policies.

Section 12: Transportation

Goal 12.1 Land Use-Transportation Connection

Ensure that the mutually supportive nature of land use and transportation is recognized in planning for the future of Oregon City.

Policy 12.1.1

Maintain and enhance citywide transportation functionality by emphasizing multi-modal travel options for all types of land uses.

Finding: Complies as Proposed. The proposal includes bike lanes, sidewalks, and trails required in the Oregon City Municipal code.

Policy 12.1.2

Continue to develop corridor plans for the major arterials in Oregon City, and provide for appropriate land uses in and adjacent to those corridors to optimize the land use-transportation connection.

Policy 12.1.3

Support mixed uses with higher residential densities in transportation corridors and include a consideration of financial and regulatory incentives to upgrade existing buildings and transportation systems.

Finding: Not applicable. These policies pertain to actions that are to be taken by the City. The applicant is not required to demonstrate compliance with these policies.

Policy 12.1.4

Provide walkable neighborhoods. They are desirable places to live, work, learn and play, and therefore a key component of smart growth.

Finding: Complies with Conditions. The proposal includes a park, other open spaces, and future commercial uses within walking distance from hundreds of new residential units. It proposes connections to existing

subdivisions to allow existing residents walking routes to these new neighborhood amenities. Walkable neighborhoods contain adequate sidewalk widths, street trees, reasonable block lengths, slow traffic, and minimization of vehicle conflicts. Sidewalks and street trees have been proposed throughout the development, as well as trails within the open space areas. At the time of Detailed Development Plan review, wherever feasible, the applicant shall utilize traffic calming measures, low speed limits, and tight curb radii to promote slow vehicle speeds. Marked crosswalks with curb extensions shall be provided at all Holly Lane intersections. See block length discussion within policy 12.3.1. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

Policy 12.1.5

Investigate the possibility of a new street connection between South End Road and Highway 99E between Downtown and New Era.

Policy 12.1.6

Investigate the possibility of a new east-west connection from Highway 213 to Willamette Falls Hospital.

Finding: Not applicable. These policies pertain to actions that are to be taken by the City. The applicant is not required to demonstrate compliance with these policies.

Goal 12.2 Local and Regional Transit

Promote regional mass transit (South Corridor bus, Bus Rapid Transit, and light rail) that will serve Oregon City.

Policy 12.2.1

Explore local and regional transit opportunities that will increase non-single occupancy vehicle travel to prolong infrastructure capacity.

Policy 12.2.2

Target local transit where it is expected to be particularly effective, such as frequent, reliable links between Hilltop, Downtown, Willamette Falls Hospital, the Beavercreek educational and employment centers, and the adjacent neighborhoods.

Policy 12.2.3

Work with TriMet to locate park-and-ride facilities at convenient neighborhood nodes to facilitate access to regional transit.

Policy 12.2.4

Consider establishing a local Transportation Management Association (TMA) to serve area businesses. The TMA would fund a local trolley or bus transit service along the major and minor arterials to reduce the need for widening right-of-way for additional lanes as well as provide convenient and economical mobility to everyone.

Policy 12.2.5

Advocate for a new regional bus rapid transit and rail transit connections to Oregon City.

Finding: Not applicable. These policies pertain to actions that are to be taken by the City. The applicant is not required to demonstrate compliance with these policies.

Goal 12.3 Multi-Modal Travel Options

Develop and maintain a transportation system that provides and encourages a variety of multi-modal travel options to meet the mobility needs of all Oregon City residents.

Finding: Complies with condition. The applicant has proposed streets with bike lanes and sidewalks, which will be refined and reviewed at the time of DDP. There is currently no transit service planned for the area; however, when Holly Lane is fully connected it could become an attractive route for Trimet or local shuttle service. See findings and conditions in Policy 12.3.5.

Policy 12.3.1

Provide an interconnected and accessible street system that minimizes vehicle miles-traveled and inappropriate neighborhood cut-through traffic.

Finding: Complies with condition. The City's block length standards promote this policy by requiring street connections every 530 feet. However, there are areas within the proposal where blocks exceed this distance.

Future detailed development plan applications shall meet the maximum block spacing of 530 feet throughout the development, except where topographic constraints prevent practicability.

In addition, the Park Place Concept Plan includes local street connections on both sides of Holly Lane. The street network envisioned in the Concept plan provides for an interconnected system. The applicant's original proposal only continued Holly Lane to stub into the properties to the south of the site, but did not include local street connections to the east or west of Holly Lane. A pedestrian trail through the park was proposed on the west side of the park, and another on the east side of the proposed stormwater facility.

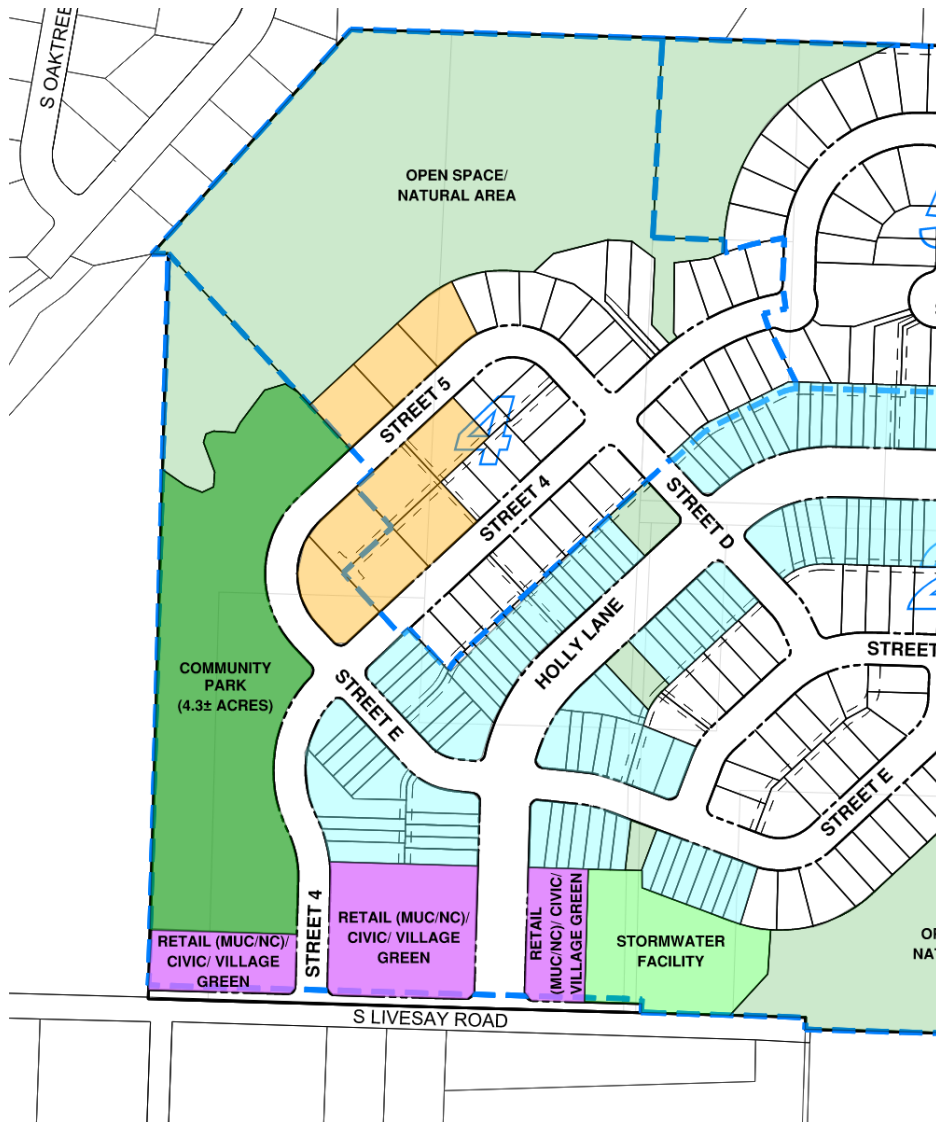


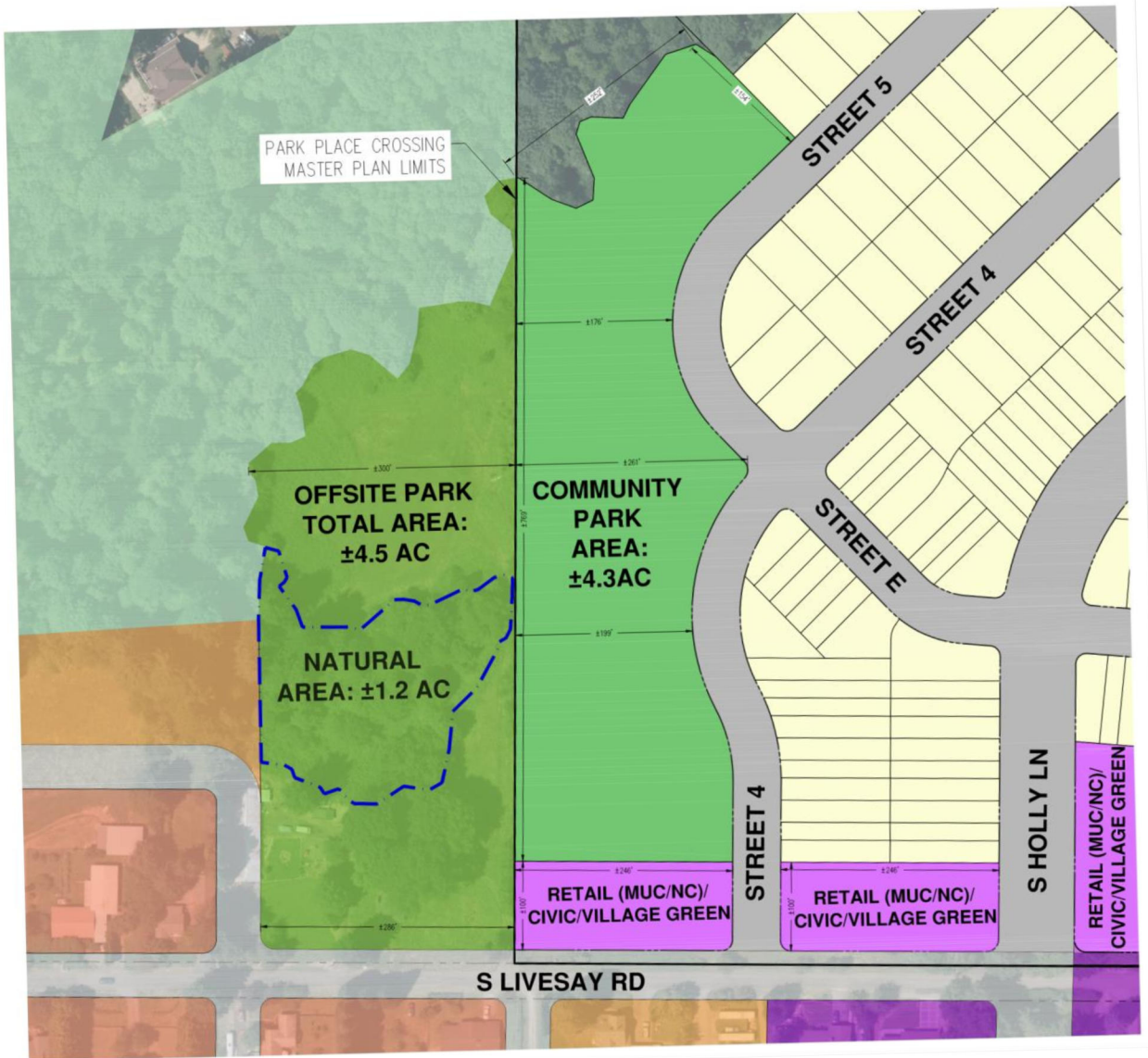
Concept Plan (left) which has local streets running in a north-south direction to the east and west of Holly Lane, and applicant's plan (right) which does not include such local street connections.

At the July 11, 2022, the applicant presented a revised proposal to address concerns expressed in prior hearings by members of the public, staff, and the Planning Commission. The applicant submitted a revised proposal that addresses four areas:

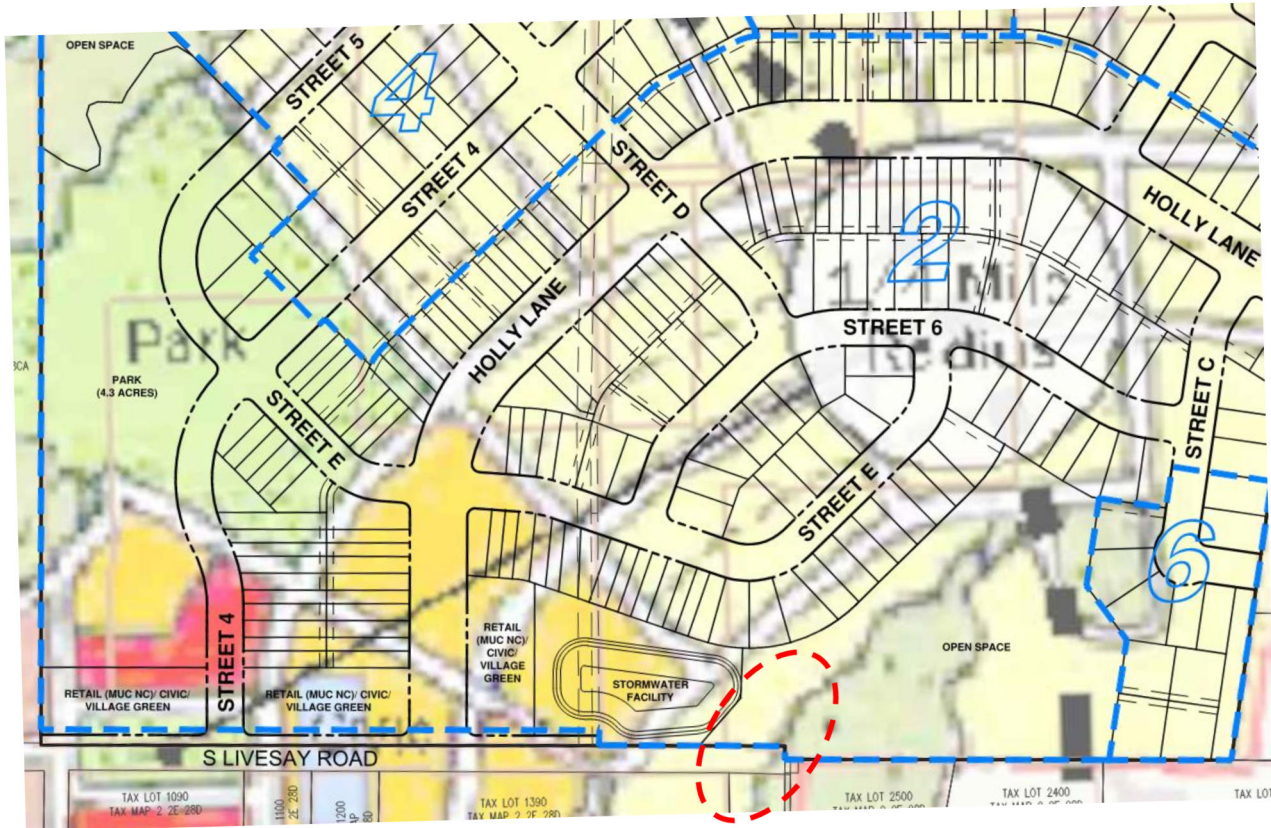
1. An extension of Holly Lane to Holcomb Blvd
2. Reconfiguration of the proposed portion of the Community Park located at the southwest corner of the Master Plan area.
3. A second street connection to provide additional connectivity to Livesay Rd.
4. A plan that would prevent 2,000 average daily trips (ADT) on Winston Drive, Cattle Drive, Shartner Drive, and Street A.

With the proposed 8/11/2022 revision, the street layout has been modified as shown below to provide even greater connectivity. See also "Summary of Revisions submitted 8/11/2022" on pages 15 and "Project Description" on page 19.





The revised proposal adequately addresses the block length standard west of Holly Lane. On the east side of Holly Lane, however, a street or pedestrian accessway could be provided to allow for more multimodal connectivity to the properties south of the subject site.



The applicant has proposed a revised street layout with additional street connections west of Holly Lane which significantly improves the connectivity to the revised park location, the mixed use, civic and village green locations.

The applicant has indicated that the required location of the stormwater facility to the east of Holly Lane, and block constraints due to slopes and protected natural resources, precludes additional street stubs. Where block lengths exceed 530 feet the code requires pedestrians accessway no further than 330 feet from the nearest street intersection. This requirement will be further reviewed at the time of DDP review.

Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.

Policy 12.3.2

Provide an interconnected and accessible pedestrian system that links residential areas with major pedestrian generators such as employment centers, public facilities, and recreational areas.

Finding: Complies as Proposed. The proposal provides several projects identified within the TSP and Trails Master Plan that will improve multimodal travel options within the City. The Tour Creek bridge crossing will allow greater pedestrian and bicycle connectivity and reduce out-of direction travel.

Policy 12.3.3

Provide a well-defined and accessible bicycle network that links residential areas, major bicycle generators, employment centers, recreational areas, and the arterial and collector roadway network.

Finding: Complies as proposed. The applicant has proposed streets with bike lanes that will eventually connect to the larger city network.

Policy 12.3.4

Ensure the adequacy of pedestrian and bicycle connections to local, county, and regional trails.

Finding: Complies as Proposed. The proposal provides several projects identified within the TSP and Trails Master Plan that will improve multimodal travel options within the City. The Tour Creek bridge crossing will allow greater pedestrian and bicycle connectivity and reduce out-of-direction travel.

Policy 12.3.5

Promote and encourage a public transit system that ensures efficient accessibility, mobility, and interconnectivity between travel modes for all residents of Oregon City.

Finding: Complies with condition. There is no transit service planned for the area; however, when Holly Lane is fully connected it could become an attractive route for Trimet or local shuttle service. In future detailed development plan applications, the applicant shall include adequate space within the public right of way for a transit stop along Holly Lane near the park and commercial parcels in a location to be determined through additional planning and coordination with transit agencies.

Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.

Policy 12.3.6

Establish a truck route network that ensures efficient access and mobility to commercial and industrial areas while minimizing adverse residential impacts.

Finding: Not applicable. A truck route is not necessary for the uses proposed in or uses surrounding this development.

Policy 12.3.7

Promote the connection and expansion of rail and river transportation services to and through Oregon City.

Finding: Not applicable. These policies pertain to actions that are to be taken by the City. The applicant is not required to demonstrate compliance with these policies.

Policy 12.3.8

Ensure that the multi-modal transportation system preserves, protects, and supports the environmental integrity of the Oregon City community.

Policy 12.3.9

Ensure that the city's transportation system is coordinated with regional transportation facility plans and policies of partnering and affected agencies.

Policy 12.3.10

Develop, if possible, dock facilities along the Willamette River to support a range of public and private boat and water transportation opportunities.

Finding: Not applicable. These policies pertain to actions that are to be taken by the City. The applicant is not required to demonstrate compliance with these policies.

Goal 12.4 Light Rail

Promote light rail that serves Oregon City and locate park-and-ride facilities at convenient neighborhood nodes to facilitate access to regional transit.

Policy 12.4.1

Support light rail development to Oregon City.

Policy 12.4.2

Explore local service transit opportunities to promote non-single-occupancy vehicle travel and prolong infrastructure capacity.

Policy 12.4.3

Ensure efficient use of local transit by providing frequent, reliable links between the land uses and community associated with the Hilltop, Downtown, the Hospital, the Beavercreek educational and employment centers, and the adjacent neighborhoods.

Finding: Not applicable. These policies pertain to actions that are to be taken by the City. The applicant is not required to demonstrate compliance with these policies.

Goal 12.5 Safety

Develop and maintain a transportation system that is safe.

Policy 12.5.1

Identify improvements that are needed to increase the safety of the transportation system for all users.

Finding: Not applicable. These policies pertain to actions that are to be taken by the City. The applicant is not required to demonstrate compliance with these policies.

Policy 12.5.2

Identify and implement ways to minimize conflict points between different modes of travel.

Finding: Complies with condition. Traffic studies for future phases will address sight distance as well as conflict points as required in the City's Guidelines for Traffic Impact Analyses. See discussion of walkability in Policy 12.1.4. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

Policy 12.5.3

Improve the safety of vehicular, rail, bicycle, and pedestrian crossings.

Finding: Not applicable. These policies pertain to actions that are to be taken by the City. The applicant is not required to demonstrate compliance with these policies.

Goal 12.6 Capacity

Develop and maintain a transportation system that has enough capacity to meet users' needs.

Policy 12.6.1

Provide a transportation system that serves existing and projected travel demand.

Policy 12.6.2

Identify transportation system improvements that mitigate existing and projected areas of congestion.

Policy 12.6.3

Ensure the adequacy of travel mode options and travel routes (parallel systems) in areas of congestion.

Policy 12.6.4

Identify and prioritize improved connectivity throughout the city street system.

Finding: Complies with conditions. The applicant has proposed to provide additional traffic studies at the time of Detailed Development Plan application for each Phase. The traffic study submitted for this General Development Plan Review identifies where the transportation system is expected to have adequate capacity and where improvements will be needed to provide adequate capacity for the new development. The study identified that the intersection of HWY 213 and Redland Rd, an intersection providing connectivity for this development, is a key intersection that will exceed capacity at some point between proposed Phase 1 and Phase 2. This means that the applicant will likely not be able to demonstrate compliance with transportation mobility standards for Phase 2, as proposed, and beyond. See capacity-related findings and conditions in 17.65.050.C.3 and 17.65.050.C.5 of this staff report. For local street connectivity analysis see also Policy 12.3.1. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

Goal 12.7 Sustainable Approach

Promote a transportation system that supports sustainable practices.

Policy 12.7.1

Support “green street” construction practices.

Policy 12.7.2

Encourage the use of materials geared for long life cycles in both public and private transportation facilities.

Policy 12.7.3

Encourage the use of reused and recycled materials.

Policy 12.7.4

Promote multi-modal transportation links and facilities as a means of limiting traffic congestion.

Policy 12.7.5

Treat roadway pollution along transportation routes through the most effective means.

Finding: Not applicable. These policies pertain to actions that are to be taken by the City. The applicant is not required to demonstrate compliance with these policies.

Goal 12.8 Implementation/Funding

Identify and implement needed transportation system improvements using available funding.

Policy 12.8.1

Maximize the efficiency of the Oregon City transportation system, thus minimizing the required financial investment in transportation improvements, without adversely impacting neighboring jurisdictions and facilities.

Policy 12.8.2

Provide transportation system improvements that facilitate the timely implementation of the Oregon City Downtown Community Plan and protect regional and local access to the End of the Oregon Trail Interpretive Center.

Policy 12.8.3

Provide incentives for private sector contributions to multi-modal transportation links and facilities, for example, establishing new standards in the zoning code.

Finding: Not applicable. These policies pertain to actions that are to be taken by the City. The applicant is not required to demonstrate compliance with these policies.

Section 13: Energy Conservation

Goal 13.1 Energy Sources

Conserve energy in all forms through efficient land-use patterns, public transportation, building siting and construction standards, and city programs, facilities, and activities.

Policy 13.1.1

Maintain the historic use of Willamette Falls as an energy source for industrial and commercial development.

Policy 13.1.2

Encourage siting and construction of new development to take advantage of solar energy, minimize energy usage, and maximize opportunities for public transit.

Policy 13.1.3

Enable development to use alternative energy sources such as solar through appropriate design standards and incentives.

Policy 13.1.4

Wherever possible, design and develop public facilities to take advantage of solar energy, develop co-generation, and conserve energy in operations and public access.

Finding: Not applicable. These policies pertain to actions that are to be taken by the City. The applicant is not required to demonstrate compliance with these policies.

Goal 13.2 Energy Conservation

Plan public and private development to conserve energy.

Policy 13.2.1

Promote mixed-use development, increased densities near activity centers, and home-based occupations (where appropriate).

Policy 13.2.2

Create commercial nodes in neighborhoods that are underserved to reduce vehicle miles traveled.

Policy 13.2.3

Plan for complementary mixed uses when considering annexation of new, under- or undeveloped areas so that new urban residential areas have closer access to jobs and services.

Finding: Complies with condition. The applicant's proposal includes space for commercial/civic uses planned in the North Village center in the Park Place Concept Plan. The proposal also concentrates the denser, attached units near the commercial parcels, consistent with this policy. Park Place neighborhood is underserved by retail services. See findings and conditions in Policy 2.5.2. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

Policy 13.2.4

Encourage use of carpools and transit in cooperation with TriMet and other state and regional transportation agencies.

Policy 13.2.5

Construct bikeways and sidewalks, and require connectivity of these facilities to reduce the use of petroleum-fueled transportation.

Policy 13.2.6

Support the concept of sustainability over the long term by:

- *encouraging education efforts such as developing and/or distributing educational materials to the public about energy efficiency and sustainability*
- *encouraging designs that achieve a minimum Leadership in Energy and Environmental Design (LEED) certification*
- *implementing sustainable concepts within the Oregon City government facilities that receive a minimum "Platinum" LEED rating*
- *implementing design guidelines that address sustainability for private sector development*
- *taking advantage of up-to-date technology to reduce energy use*
- *developing incentive programs to apply to private sector development, where feasible*

Finding: Complies with conditions. With respect to Policy 13.2.4, there is currently no transit service planned for the area; however, when Holly Lane is fully connected it could become an attractive route for Trimet or local shuttle service. In future detailed development plan applications, the applicant shall include adequate space within the public right of way for a transit stop along Holly Lane near the park and commercial parcels in a location to be determined through additional planning and coordination with transit agencies.

Policy 13.2.5 will be met through compliance with the street standards in OCMC 16.12 and through the Detailed Development Plan review process when site specific development is proposed.

Policy 13.2.6 will be met through the implementation of current building codes for residential structures and through the site plan and design review process for non-residential structures.

Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval

Section 14: Urbanization

Goal 14.1 Urban Growth Boundary

Establish, and amend when appropriate, the Urban Growth Boundary in the unincorporated area around the city that contains sufficient land to accommodate growth during the planning period for a full range of city land uses, including residential, commercial, industrial, and institutional.

Policy 14.1.1

The Urban Growth Boundary shall conform to Title 11 of the Code of the Metropolitan Service District and will provide sufficient land to accommodate 20-year urban land needs, resulting in efficient urban growth and a distinction between urban uses and surrounding rural lands, and promoting appropriate infill and redevelopment in the city.

Finding: Not applicable. These policies pertain to actions that are to be taken by the City. The applicant is not required to demonstrate compliance with these policies.

Policy 14.1.2

Concept plans that provide more detail than the city's Comprehensive Plan will be required prior to development of lands within the Urban Growth Boundary.

Finding: Complies as Proposed. The subject area is included in the Park Place Concept Plan adopted in 2008.

Goal 14.2 Orderly Redevelopment of Existing City Areas

Reduce the need to develop land within the Urban Growth Boundary by encouraging redevelopment of underdeveloped or blighted areas within the existing city limits.

Policy 14.2.1

Maximize public investment in existing public facilities and services by encouraging redevelopment as appropriate.

Policy 14.2.2

Encourage redevelopment of city areas currently served by public facilities through regulatory and financial incentives.

Finding: Not applicable. These policies pertain to actions that are to be taken by the City. The applicant is not required to demonstrate compliance with these policies.

Goal 14.3 Orderly Provision of Services to Growth Areas

Plan for public services to lands within the Urban Growth Boundary through adoption of a concept plan and related Capital Improvement Program, as amendments to the Comprehensive Plan.

Finding: Complies as Proposed. The subject area is included in the Park Place Concept Plan adopted in 2008.

Policy 14.3.1

Maximize new public facilities and services by encouraging new development within the Urban Growth Boundary at maximum densities allowed by the Comprehensive Plan.

Finding: Complies as Proposed. The proposed development is within the Park Place Concept Plan area; the Concept Plan requires a minimum of 937 units within the North Village area. The applicant is required provide residential density consistent with the Park Place Concept Plan and has proposed adjustments to standards, an NROD density transfer, and a variance for attached single family lot size in order to do so. While the zoning designations are not the maximum density within each Comprehensive Plan designation, the proposal from the applicant can meet the required densities in the Concept Plan.

Proposed minimum lot area and density are discussed in Chapter 17.08 and 17.10 of this report and in the discussion of density on Page 26.

Policy 14.3.2

Ensure that the extension of new services does not diminish the delivery of those same services to existing areas and residents in the city.

Policy 14.3.3

Oppose the formation of new urban services districts and oppose the formation of new utility districts that may conflict with efficient delivery of city utilities within the Urban Growth Boundary.

Policy 14.3.4

Ensure the cost of providing new public services and improvements to existing public services resulting from new development are borne by the entity responsible for the new development to the maximum extent allowed under state law for Systems Development Charges.

Finding: Not applicable. These policies pertain to actions that are to be taken by the City. The applicant is not required to demonstrate compliance with these policies.

Goal 14.4 Annexation of Lands to the City

Annex lands to the city through a process that considers the effects on public services and the benefits to the city as a whole and ensures that development within the annexed area is consistent with the Oregon City Comprehensive Plan, City ordinances, and the City Charter.

Goal 14.5 Partnerships with Other Governments

Create and maintain cooperative, collaborative partnerships with other public agencies responsible for servicing the Oregon City area.

Finding: Complies with condition. Metro has notified the City that one of the tax lots of the 14 included in the development has not been annexed into the Metro district (as opposed to the Urban Growth Boundary, which all 14 tax lots are part of). 20. The applicant shall annex tax lot 2-2E-28D -00190 to the Metro boundary prior to a final plat involving all or part of that tax lot. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

Goal 14.6 Green Corridors and Green Belts

Promote green corridors and green belts in lands beyond Oregon City's Urban Growth Boundary to maintain the rural character of the landscape and unincorporated communities and to protect the agricultural economy of the region.

Finding: Not applicable. These goals pertain to actions that are to be taken by the City. The applicant is not required to demonstrate compliance with these policies.

Section 15: Willamette River Greenway

Goal 15.1 Protect the Willamette River Greenway

Ensure the environmental and economic health of the Willamette River by adopting goals, policies and procedures that meet LCDC Statewide Planning Goal 15, Willamette River Greenway.

Finding: Not applicable. The subject property is not within the Willamette River Greenway overlay district.

---END OF COMPREHENSIVE PLAN ANALYSIS---

Continuance of findings for General Development Plan:

7. *The proposed general development plan is consistent with the underlying zoning district(s) and any applicable overlay zone or concept plans.*

Finding: Complies with Conditions. The proposed plan is consistent with the uses and lot sizes permitted within the R-5 and the NC zone districts. Note that the applicant has applied for a variance to lot sizes within the R-5 zone.

In the R-10 zone, the applicant has shown lots of approximately 4,000 square feet. This lot size is not permitted unless a density transfer for the NROD is approved via OCMC 17.49. Since the applicant has not provided the necessary information to show compliance with OCMC 17.49 the proposed configuration of the R-10 area cannot be approved. The applicant shall revise the plans to maintain lot sizes permitted in the R-10 zone (with any approved adjustments per 17.65.070) or shall demonstrate compliance with OCMC 17.49 through a Type III Master Plan amendment application.

The applicable overlay zones include the Natural Resource Overlay zone and the Geologic Hazard Overlay zone.

The applicant did not submit code responses for Chapter 17.49 nor did the application request verification of the NROD boundary. Any Natural Resources Overlay District areas impacted by development will be reviewed for compliance with this section either before or at the time of first DDP application review. Per OCMC 17.49.210 - *Type II development permit application*; unless otherwise directed by the NROD standards, proposed development within the NROD shall be processed as a Type II development permit application..

The applicant also did not submit code responses to Chapter 17.44 and did not request formal review of Geologic Hazards at this time. Each DDP that includes land within the Geologic Hazard overlay will require a concurrent review of Geologic Hazards. Per OCMC 17.44.030 – Procedures, subsequent DDP applications may be processed through a Type II process unless the application is consolidated with another Type III application.

Staff has determined that it is possible, likely and reasonable that the applicant shall meet this standard through the Conditions of Approval.

8. *For projects with a residential use component, the proposed general development plan includes common open space for the recreational needs of the development's residents.*

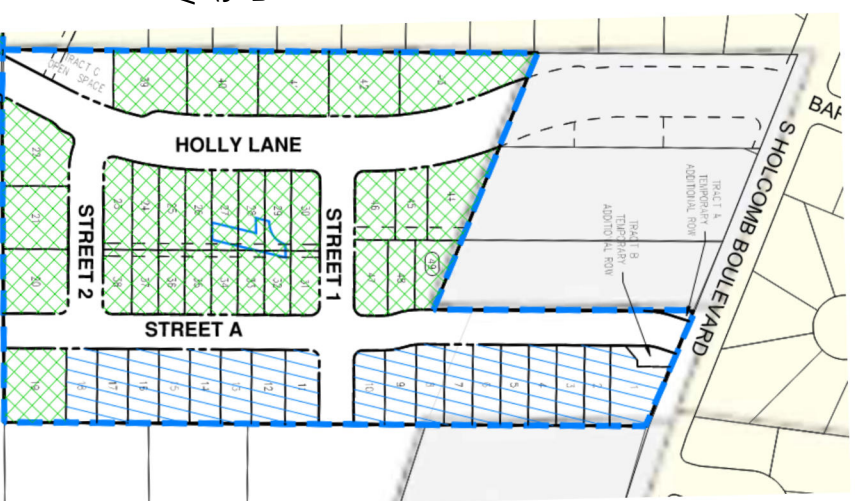
a. *Required open space shall be located either on-site or off-site within one-quarter mile of the development.*

Finding: Complies as Proposed. Open space is proposed in the form of a 4.3-acre public park, and numerous smaller open spaces throughout the site in sensitive lands, powerline easements, and overlay districts. Many of the natural open spaces are proposed to be developed with trails.

b. *Minimum required open space shall be 100 square feet per residential unit in the development.*

Finding: Complies as Proposed With the proposed 8/11/2022 revision, the applicant proposes ±440 residential units, which equates to ±44,000 square feet of open space. Over ±496,500 square feet are provided via open space tracts, public park, and dedicated civic space. In Phase 1 (49 units), approximately 8,800 square feet of open space is proposed in Tract C, which amounts to 179 square feet per unit.

Phase 1 diagram with open space proposed in Tract C near the intersection of Street 2 and Holly Lane.



The 4.3 acre park proposed in Phase 2 is sufficient to meet the requirement for Phase 2 and all subsequent phases. The applicant did not explicitly discuss the timing of actual development of the park. While the City plans to take on development of the amenities within the park, the applicant's contribution should be significant, given that the park will serve as the required open space for a majority of the proposed units. Public infrastructure including, water, sewer, storm, and street improvements shall be brought to and through the public right-of-way frontage of the park before or during the development phase that includes 60% of the approved residential units.

Staff has determined that it is possible, likely and reasonable that the applicant shall meet this standard through the Conditions of Approval.

c. *The open space area may be in private ownership or proposed for public dedication, at the City's discretion whether to accept.*

Finding: Complies with Condition. With the 8/11/2022 revision, approximately 4.3 acres of public park have been anticipated to be dedicated to the City. Approximately 11.4 acres of private open space with public access easements for trails have been planned as well. Per the annexation approval for the project site, Ordinance No. 18-1007 (AN-17-0004/ZC-17-0005), the area was required to incorporate park and trail areas generally consistent with the Park Place Concept Plan and Trails Master Plan. At the time a Detailed Development Plan is

proposed that includes the properties designated as open space, the applicant shall provide documentation regarding the ownership and maintenance of all private open space areas.

d. The open space shall be developed with a unified design to provide for a mix of passive and active uses. Passive uses include, but are not limited to sitting benches, picnicking, reading, bird watching and natural areas. Active uses include, but are not limited to playgrounds, sports fields and courts, running and walking areas.

Finding: Complies with Condition. The applicant proposed open space areas within the Master Plan provide both passive and active use areas. These areas will connect to regional and local trails and provide walking and running trails through natural areas, benches for sitting, opportunities for birdwatching, etc. The City will lead the design and development of the 4.4 acre park land. The applicant has not proposed specific amenities within Tract C for the Phase 1 open space. Since the public park will be dedicated but will not be accessible or developed at the time of Phase 1 development, the open space within Tract C will need to include a mix of passive and active uses. The applicant shall provide at least two of the following amenities or features in Open Space Tract C of Phase 1 as part of the detailed development plan: benches, picnic tables, playgrounds, nature play elements, wildlife habitat installations, or other similar elements approved by the Community Development Director.

For future phases, the applicant shall provide amenities consistent with this condition in the proposed open space tracts if the public park remains undeveloped. Once the public park is developed, the open space amenities for the entire development will be considered met, and additional amenities on private land will be optional.

Staff has determined that it is possible, likely and reasonable that the applicant shall meet this standard through the Conditions of Approval.

e. Land area to be used for the open space area that is required in this section shall not include required setback areas, required landscaping, streets, rights-of-way, driveways, or parking spaces.

Finding: Complies as Proposed. Land designated as open space has not been included if it was required for a setback area, required landscaping, street, right-of-way, driveway, or parking.

f. Unless dedicated to the public, the applicant shall also provide an irrevocable legal mechanism for the maintenance of the open space and any related landscaping and facilities. The applicant shall submit, for city review and approval, all proposed deed restrictions or other legal instruments used to reserve open space and maintenance of open space and any related landscaping and facilities.

Finding: Complies with Condition. Areas that are acceptable for public use are anticipated to be dedicated to the City. Other open spaces are planned to be included under irrevocable legal mechanisms for landscaping and maintenance in the future at the appropriate time. The applicant shall submit, for city review and approval, all proposed deed restrictions or other legal instruments used to reserve open space and maintenance of open space and any related landscaping and facilities. The deed restrictions or other legal mechanisms shall provide for adequate maintenance of the facilities as well as public access easements for trails. **Staff has determined that it is possible, likely and reasonable that the applicant shall meet this standard through the Conditions of Approval.**

9. For projects with a residential use component, the proposed general development plan includes a mix of residential uses such that no single residential use exceeds 75 percent of the total proposed units. The mix of residential uses shall provide variety of dwelling types and sizes that are integrated throughout the site, rather than isolated from one another, with smooth transitions between residential types including appropriate setbacks, landscaping or screening as necessary, while maintaining street and pedestrian connectivity between all residential uses. Tenancy (i.e. ownership versus rental)

shall not be a consideration in determination of the mix of residential use. For the purposes of this section, residential uses include single family detached, single family attached, duplex, 3-4 plex, and multifamily.

Finding: Complies as Proposed. As a requirement of providing a Master Plan/General Development Plan, Park Place Crossing includes a mix of residential uses – single-family detached and single-family attached. Of the planned 440 residential units, 139 single-family attached units, or 31.5% of the total units, are planned. No single residential use is planned to exceed 75% of the total units. For each individual DDP application, the applicant shall demonstrate how the overall development will achieve a ratio that provides for a mix of residential types such that no single residential use exceeds 75 percent of the total proposed units. Additionally, each DDP application shall provide for compatible transitions between residential types including appropriate setbacks, landscaping or screening as necessary, while maintaining street and pedestrian connectivity between all residential uses. **Staff has determined that it is possible, likely and reasonable that the applicant shall meet this standard through the Conditions of Approval.**

17.65.060 - Detailed development plan.

A. Submittal Requirements.

Finding: Not applicable. A detailed development plan is not proposed at this time.

17.65.070 - Adjustments to development standards.

A. Purpose. In order to implement the purpose of the city's master plan or planned unit development process, which is to foster the growth of major institutions, major residential, commercial or mixed-use development, 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 or planned unit development process, and are not required to go through the Variance process pursuant to OCMC Chapter 17.60.

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.

Finding: The following adjustments are requested:

1. Density in 17.08.050 and 17.10.050: Current standard:

Maximum R-10 density: 4.4 units per acre

Maximum R-5 Density: 8.7 units per acre for detached units, 12.4 units per acre for attached units

Applicant's description: "Due to greater steep slope and drainageway areas requiring preservation than originally accounted for as part of the Park Place Concept Plan, ±15.7 acres as part of the Park Place Crossing Master Plan versus ±11.4 acres accounted for as part of the PPCP, greater density is required to meet the intent of the Park Place Concept Plan.

As shown in Table 2, Park Place Crossing offers a developable area of ±47.7 acres, resulting in a density of 9.1 dwelling units per net acre. This is an increase over the maximum residential density allowed within the combined underlying zoning districts of fewer than four percent, less than the ten percent maximum (with the NROD Density Transfer) adjustment permitted."

2. Minimum lot size in 17.08.040 and 17.10.040: Current standard:

Minimum R-10 Lot size: 10,000 square feet

Minimum R-5 Lot size: 5,000 square feet for detached units, 3,500 square feet for attached units

Applicant's description: "Adjustments to the dimensional standards of the underlying zone include reduction in minimum lot size from the underlying requirement of the R-5 zone: 5,000 square feet. A portion of the project lots, except for those along the perimeter of the site, are planned to be slightly smaller than required by the R-5 zone."

3. Garage orientation in OCMC 17.21.090.A: Current Standard:

17.21.090 Garages and accessory structures.

A. Garages must be detached, side entry or rear entry. For side entry garages: The garage area shall not be located in front of the living area. Accessory structures shall be designed consistent with the primary residence. Consistency of design includes the use of similar roofing, siding, and trim. For the purposes of this section, detached garages may be connected by a breezeway but consequently, will be subject to the setbacks of the underlying zone.

B. Exemption: An exemption may be granted by the community development director from the garage requirement of subsection A above if topographic or pre-existing lot layout prevents the construction of detached, rear entry or side entry garages on-site or if the applicant proposes a design that mitigates the impact a front entry attached garage has on the pedestrian environment. Any alternative attached garage design shall not project farther than the living area and shall be limited to garage door widths of ten feet or less.

Applicant's description:

"OCMC 17.21.090.A requires that garages be detached, side entry, or rear entry. The Park Place Crossing Master Plan works best with no limitations on garage type or entry, therefore, an adjustment is required, as provided for by OCMC 17.65.070.C. A mixture of front-entry, attached, side entry, and rear entry, appropriate for the site, is beneficial to the Park Place Crossing neighborhood. The variety of designs allows for site constraints to be best resolved, less paving to be provided, safe accesses to be decided, and appropriate home designs determined to fit the project. Where attached front entry garages are provided, the minimum garage door width required is 16-feet, with a 20-foot width driveway."

Staff findings and recommendations for the requested adjustments are included below.

C. *Regulations That May be Adjusted. Adjustments may be allowed for the following items:*

1. *Dimensional standards of the underlying zone of up to 20 percent, except the perimeter of the development shall meet the underlying zone's setbacks when adjacent to residentially zoned property.*
2. *Site plan and design standards.*
3. *Residential design standards.*
4. *Increase in allowed maximum residential density of up to 10 percent.*
5. *Standards for land division approval.*
6. *Additional uses allowed with residential projects, or residential component of projects:*
 - a. *Notwithstanding the use provisions of the underlying zones, neighborhood commercial uses as defined in Chapter 17.24.020, including restaurants and eating and drinking establishments without a drive-through,*

retail trade, and services, are permitted on up to 10 percent of the net developable area. The neighborhood commercial uses shall be planned and constructed so as to support and be compatible with the entire development and shall not alter the character of the surrounding area so as to substantially preclude, impair or limit the use of surrounding properties for the primary uses listed in the underlying district.

- b. Public or private parks and playgrounds, community buildings and/or outdoor recreational facilities, such as swimming pools and tennis courts;
- c. Indoor recreational facilities, such as racquetball or tennis courts, fitness centers or swimming pools;
- d. Common public and private open space including trails.
- e. Primary or accessory uses that are not identified as a permitted or conditional use in the underlying zone but which are defined in the code.

Finding: Complies as proposed. The applicant requested adjustments to standards through a Type III Master Plan review, including #1, #3, and #4 listed in this standard. The applicant included a discussion of Holly Lane design in this section; however, that request is considered a modification to a public improvement standard and is reviewed in OCMC 16.12.013.

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

- 1. To allow a primary or accessory use that is not identified as a permitted, or conditional use in the underlying zone, with the exception of the additional uses permitted under OCMC 17.65.070.C.6 above; ;
- 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. Minimum density for residential sites may not be reduced.

Finding: Not applicable. No adjustments of the above-listed or prohibited regulations are proposed.

E. Approval Criteria. A request for an adjustment to one or more applicable development regulations under this section shall be approved if the review body finds that the applicant has shown the following criteria to be met.

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

Finding: Complies with Condition.

The applicant requested three separate adjustments; 1. Density in 17.08.050 and 17.10.050, 2. Minimum lot size in 17.08.040 and 17.10.040, and 3. Garage orientation in OCMC 17.21.090.A.

Adjustment #1, Density and Adjustment #2, Minimum Lot Size

The applicant responded to this criterion with the following description:

“The existing conditions on-site show that greater areas than originally planned are needed for the protection of natural resource and geologic hazards areas. Granting the adjustments will allow better use of this highly constrained project site and protection of steep slope and drainageway areas. The Park Place Concept Plan envisions residential areas that can support mixed-use/neighborhood commercial, parks, and other community amenities. These planned factors require that the envisioned density be met to a similar degree.

Due to these constraints, a percentage of smaller lots are necessary in order to balance the minimum density of the underlying zoning and the number of residences envisioned within the Park Place Concept Plan. The purpose of density standards within the Park Place Concept Area is to provide a reasonable transition between existing neighborhoods and future higher density areas near the North and South Village central areas. Zoning densities provide a similar reasoning, establishing a reasonable range of dwelling units per net developable area in order to both provide homes and prevent crowding of existing neighborhoods.

Staff generally concurs with the applicant regarding the adjustments to lot size and density. With the proposed 8/11/2022 revision, the applicant has proposed a 440 total units. The Park Place Concept Plan includes 1,459 total residential units, with 937 in the North Village area. The Park Place Crossing Master Plan area encompasses approximately 50% of the acreage of the North Village area. It is the applicant's responsibility to show that the number of units proposed will be consistent with the Park Place Concept Plan as well as within the minimum and maximum densities of the zone. Based on zoning alone, applying the minimum density standard would result in 318 units in the project area. This would only provide 34% of the total 937 units required in the North Village, and would put a burden on the remaining properties in the North Village to develop at densities that may be infeasible and/or inconsistent with the Concept Plan itself.

It is important to note that the City anticipated further rezoning of at least some of the land to achieve the required Concept Plan densities, expecting that some of the R-5 zone would need to be rezoned to R-3.5. The applicant has not proposed such a zone change, but has instead included attached single family uses in the R-5 zone, which have a higher maximum density standard and allows the applicant to provide the needed density without a zone change. The applicant has further requested an adjustment to maximum density of approximately 4%, which is allowed by through a Master Plan process and further serves to allow the applicant to achieve the density anticipated in the Concept Plan.

In the R-10 zone, the applicant has shown lots of approximately 4,000 square feet. The applicant has proposed an NROD density transfer through 17.49.240 and an 20% adjustment to dimensional standards through 17.65.070. A density transfer is possible for this development, as the applicant has demonstrated in responses to OCMC 17.49.240. However, the density transfer allows for lots to be reduced to a minimum of 5,000 square feet. The applicant has proposed to further reduce the lot size by applying the 20% adjustment to the already-reduced lot size.

The intent of the code in 17.65.070 is to allow for a 20% adjustment to the base zone dimensional standards, which means, an R-10 lot could be reduced from 10,000 sf to 8,000 square feet. The adjustment cannot be applied to allow the 5,000 square foot lot to be reduced to 4,000 square feet. Thus, the applicant shall ensure that lots in the R-10 zone are 5,000 square feet or more in area for future detailed development plan applications that show compliance with OCMC 17.49.240 for NROD density transfer. If density transfer standards cannot be met in future detailed development plan applications, the minimum size for lots within the R-10 zone will be 8,000 square feet, (assuming the requested 20% adjustment is approved).

Staff has determined that it is possible, likely and reasonable that the applicant shall meet this standard through the Conditions of Approval.

Adjustment #3. Garage Orientation

Complies with Conditions. The applicant responded to this criterion with the following description:

“Adjustment of residential design standards allows the smart use of the project site without the establishment of alleys and rear-entry garages in locations that would impede on natural resources areas and create greater areas of impervious surface.”

“OCMC 17.21.090.A requires that garages be detached, side entry, or rear entry. The Park Place Crossing Master Plan works best with no limitations on garage type or entry, therefore, an adjustment is required, as provided for by OCMC 17.65.070.C.”

“A mixture of front-entry, attached, side entry, and rear entry, appropriate for the site, is beneficial to the Park Place Crossing neighborhood. The variety of designs allows for site constraints to be best resolved, less paving to be provided, safe accesses to be decided, and appropriate home designs determined to fit the project. Where attached front entry garages are provided, the minimum garage door width required is 16-feet, with a 20-foot width driveway.”

The applicant submitted a new Exhibit 7 for the revised layout indicating the locations of alley-loaded and topographically constrained lots. With the applicant’s revised submittal, alleys have been added to this General Development Plan application to allow additional homes to provide rear access. Perimeter lots, because they abut either natural areas or existing homes, and lots in areas with topographic constraints have not been planned with alley access. The addition of these alleys will reduce the number of driveways accessing local streets, providing greater opportunities for planter strips and on-street parking while reducing the number of pedestrian/vehicle conflicts, meeting the intent of the Park Place Concept Plan.

This standard provides for a possible Type II exemption during the DDP review process or as a separate Type II review, if the applicant can demonstrate that there are topographic constraints present. The code reads “*An exemption may be granted by the community development director from the garage requirement of subsection A above if topographic or pre-existing lot layout prevents the construction of detached, rear entry or side entry garages on-site or if the applicant proposes a design that mitigates the impact a front entry attached garage has on the pedestrian environment. Any alternative attached garage design shall not project farther than the living area and shall be limited to garage door widths of ten feet or less.*”

The applicant has provided significant revisions to the layout of the subdivision and generally concurs that it is not feasible or practical to provide rear loaded, sideloaded, and alley loaded lots on lots that are topographically constrained. Furthermore, the applicant has increased the number of alley loaded lots and removed a significant number of the front loaded lots that were initially proposed. Since lot layouts and garage locations will be subject to further refinement with subsequent DDP submittals, the applicant shall provide revised justification for granting the exception to the garage orientation standard with each DDP submittal. To assure compliance with this standard, the Planning Commission adopts the following conditions of approval:

b. The requested adjustment to the garage orientation standards in OCMC 17.21.090.A is only approved for the lots indicated as topographically constrained on Exhibit 7, “Revised Alley-loaded and Topo Constrained Lot Exhibit” dated 8/17/2022. Corner lots shall use sideloaded garages wherever feasible. Since lot layouts and garage locations will be subject to further refinement with subsequent DDP submittals, the applicant shall provide justification for granting any further exception to the garage orientation standard to be reviewed with each DDP submittal.

c. Item (b) above notwithstanding, no more front-loaded lots shall be permitted on Holly Lane for any subsequent phases.

Staff has determined that it is possible, likely and reasonable that the applicant shall meet this standard through the Conditions of Approval.

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 as Proposed. The effects of the adjustments are adequately defined in the findings and their cumulative impact is taken into account.

The applicant states “The needed adjustments are complimentary, and the cumulative effect of the adjustments results in a project that is still consistent with the overall purpose of the zone and the Park Place Concept Plan. The adjustments are small, however, because of the differences between the concept plan and existing conditions, together serve to implement the vision of the Park Place Concept Plan and the Low and Medium-Density Residential zoning districts.” Staff agrees except with respect to the garage loading issue as discussed above.

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

Finding: Complies as Proposed.

Granting of these adjustments will have no impact on protection of Goal 5 resources. The requested adjustment to density and lot size is consistent with the applicant’s proposal to protect the NROD areas on-site as well as adjacent lands that provide habitat.

4. *Any impacts resulting from the adjustment are mitigated such that the development does not create significant adverse impacts on adjacent properties;*

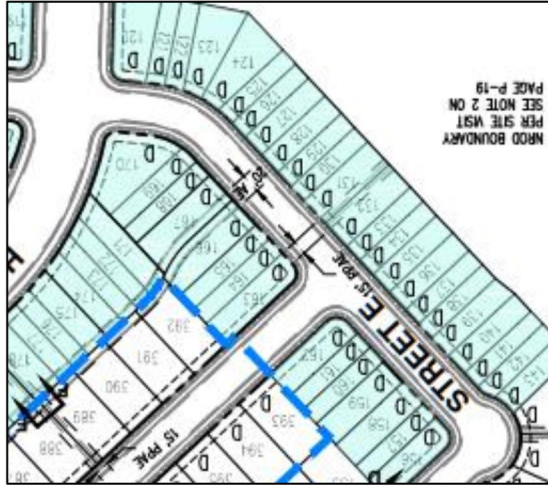
Finding: Complies with condition. The applicant requested three separate adjustments;. Since the original request, the applicant has proposed revisions that include additional alleys and relocation of townhomes units away from the western edge of the development, The applicant responded to this criterion with the following description:

“Negative impacts resulting from these adjustments are not anticipated. The adjustments allow for a master plan project that is consistent with the Park Place Concept Plan and is responsive to the existing surrounding environmental constraints, natural resources preservation, avoidance of natural hazards areas, and the needs of abutting existing and future neighborhoods. Mitigation for the increased density planned includes additional traffic mitigation contributions and open spaces beyond those envisioned within the Park Place Concept Plan. These contributions allow for the preservation of more additional natural areas than previously envisioned as part of the Park Place Concept Plan and allow for the continued enjoyment of Park Place’s natural beauty and important ecosystem functions.

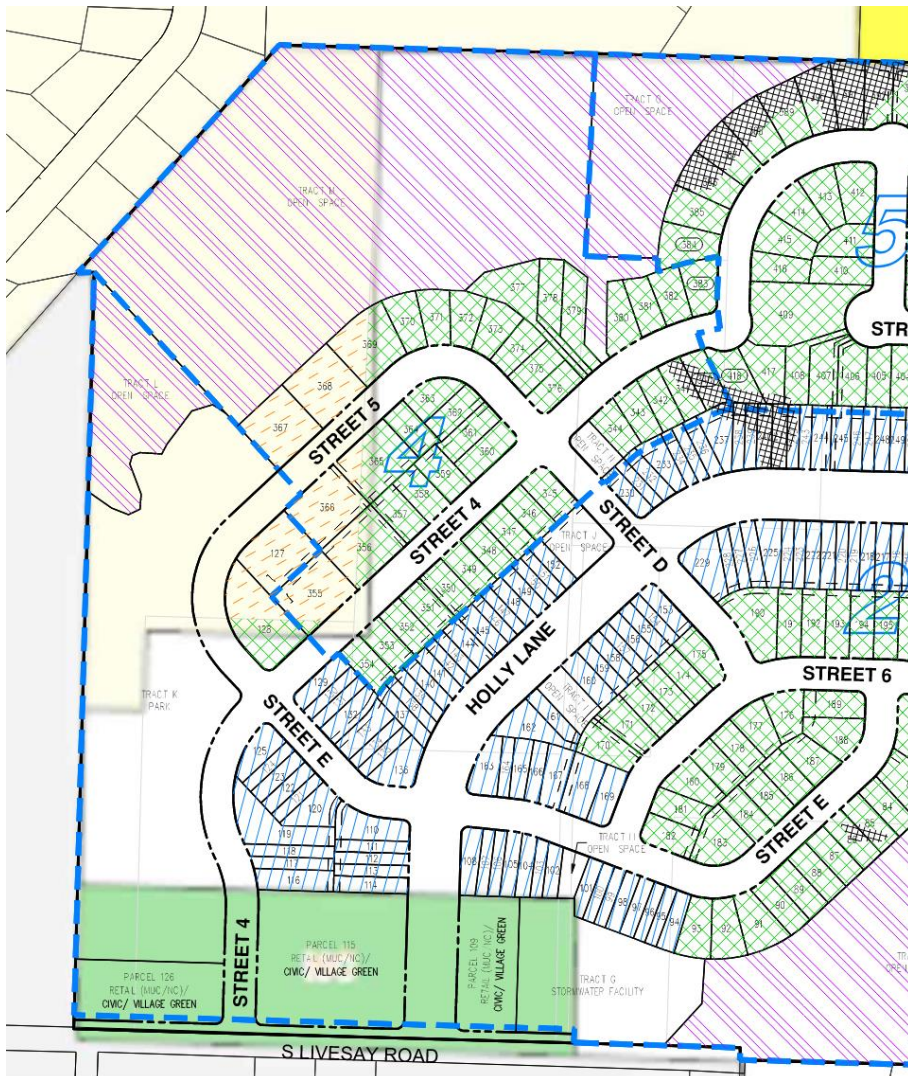
The planned number of units remains below the threshold established by Ordinance No. 18-1007 (AN-17-0004/ZC-17-0005) for the Park Place Crossing annexation area.”

The applicant states that mitigation for the increased density includes additional traffic mitigation contributions. It is not clear what the applicant is referring to here. Regarding open spaces, it is correct that the applicant has proposed more acreage in open space than was shown in the Park Place Concept Plan. Open spaces do provide appropriate mitigation for greater density. With the 8/11/2022 revision, the applicant has proposed 4.3 acres of land to be dedicated for a public park. Staff recommends conditions of approval regarding bringing public infrastructure to the park frontage and ensuring timely dedication of the 4.3 acres. See findings and conditions in 17.65.050.C.3.

The applicant shows driveways for proposed attached units on Street E. With lot widths adjusted to be 20% less than the minimum standard, driveways will create many conflicts, including elimination of curb space for on-street parking, elimination of planter strip space for street trees and other needed infrastructure (hydrants, water and sewer laterals, street lights, etc), and conflicts with walkability. The Park Place Concept plan area design standards call for garages to be rear-loaded, side oriented, or detached for the purpose of providing a pedestrian friendly environment. For attached units, side-oriented garages are unlikely to be feasible. Rear loaded (whether attached or detached) may be the only feasible way to provide garages for attached units on narrow lots. The design standards are silent on front-facing driveways, however.



Attached units on Street E with driveways as originally proposed.



Revised plan with new Street 4, Street E, park location, alleys

With the revisions proposed by the applicant there are very few townhome lots proposed with front loaded garages, and these would only be located in areas where the code allows for exemption from the standard due to topographic constraints. The revisions will significantly increase the available curb length for on-street parking. As mitigation for the adjustment to dimensional standards to allow reduced lot widths and a variance that will allow for denser attached unit development, some restriction on driveways is needed to protect the pedestrian environment.

Therefore, staff recommends that driveways be limited to provide for the following on all local streets:

- No driveway approach, including wings, shall be more than 50% of the width of the lot.
- Shared driveways may be utilized to meet these conditions
- Alleys may be utilized as an alternative to driveways to meet these conditions
- Alley width may be reduced to 12-foot one-way circulation, to reduce amount of impervious surface needed, if approved by the City Engineer.

The requested adjustment to the garage design standard will have impacts on the pedestrian environment and general character of the neighborhood. Front-facing garages and 20-foot wide driveways eliminate the benefits of designs that include garages that are side-oriented, detached, or rear-oriented, which typically achieve a more pedestrian-friendly neighborhood because driveway cuts are narrower, the area between the sidewalk and front of a house is used for landscaping, gardens, or porches rather than storage for cars, and front facades are not dominated by garage doors. Fewer and narrower curb cuts results in more space for street trees and therefore more shade over the sidewalk. Fewer, narrower curb cuts also results in more space for on-street parking. The only mitigation proposed by the applicant is to limit the garage door width to 16 feet and the driveway width to 20 feet. Staff finds that the impacts from front loaded garages are not mitigated and recommends that the adjustment be denied.

To further assure compliance with this standard, the Planning Commission adopts the following conditions of approval:

- b. The requested adjustment to the garage orientation standards in OCMC 17.21.090.A is only approved for the lots indicated as topographically constrained on Exhibit 7, "Revised Alley-loaded and Topo Constrained Lot Exhibit" dated 8/17/2022. Corner lots shall use sideloaded garages wherever feasible. Since lot layouts and garage locations will be subject to further refinement with subsequent DDP submittals, the applicant shall provide justification for granting any further exception to the garage orientation standard to be reviewed with each DDP submittal.
- c. Item (b) above notwithstanding, no more front-loaded lots shall be permitted on Holly Lane for any subsequent phases.

Staff has determined that it is possible, likely and reasonable that the applicant shall meet this standard through the Conditions of Approval.

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

Finding: Complies as Proposed. The applicant provided the following response; staff concurs:

"The area includes Natural Resources Overlay District areas within the northwest and southeast portions of the site but does not anticipate impacts to these areas other than for the establishment of trails. Adjustments to the standards affecting the master plan for Park Place Crossing allows these areas to remain largely unaffected by the project. The specific impacts will be reviewed further with successive Detailed Development Plan applications."

6. *The proposed adjustment is consistent with the Oregon City Comprehensive Plan and a concept plan if applicable .*

Finding: Complies as Proposed. The density and lot size adjustments are consistent with the Oregon City Comprehensive Plan and Park Place Concept Plan. Adjustments to the planned density of the area allow the implementation of the Park Place Concept Plan in creating neighborhoods complete with mixed use/neighborhood commercial centers, civic areas, and parks. The adjustments allow the efficient use of land, which would be of greater difficulty without the adjustments, due to the site's constraints. Staff finds that the request for an adjustment to garage design standards is not consistent with the Park Place Concept Plan. See findings in response to OCMC 17.65.070.E.1.

17.65.80 - Amendments to approved plans.

A. *When Required.* An amendment to an approved General Development Plan or detailed development plan is required for any use or development that is not in conformance with the applicable plan, as provided below. The approval criteria contained in OCMC 17.65.050 will apply to general development plan amendments, the approval criteria contained in OCMC 17.65.060 will apply to detailed development plan amendments. The thresholds and procedures for amendments are stated below.

Finding: Not applicable. This application is for a General Development Plan. Amendments may be proposed in the future but no amendments are included in the current request.

B. *Type III Procedure.* Unless the approved general development plan or detailed development plan specifically provides differently, amendments to either plan that require a Type III procedure are:

1. A proposed expansion of the approved boundary;
2. A proposed reduction in the approved boundary that affects a condition of approval, or takes the site out of conformance, or further out of conformance, with a development standard;
3. Proposals that increase the amount, frequency, or scale of a use over ten percent of what was approved (examples include the number of students, patients or members; the number of helicopter flights; the number or size of special events; transportation impacts);
4. New uses not covered in the plan that will increase vehicle trips to the site greater than 10 percent of the original amount approved;
5. Increases or decreases in overall floor area of development on the site or number of residential units of over ten percent;
6. A increases/decrease greater than ten percent in the amount of approved or required parking; and
7. Proposed uses or development which were reviewed, but were denied because they were found not to be in conformance with an approved plan.

C. *Type II Procedure.* Unless an approved plan specifically provides otherwise, amendments to a general development plan or detailed development plan not specifically stated in Subsection B or D are processed through a Type II procedure.

D. *Type I Procedure.* Unless an approved plan specifically provides otherwise, the following amendments to a general development plan or detailed development plan shall be processed through a Type I procedure:

1. Accessory uses and structures that meet applicable development regulations;
2. Reconfiguration of approved parking or landscape designs that do not alter the points of ingress or egress, and do not change the number of parking spaces required, so long as the reconfiguration meets applicable development regulations; and
3. Structures for approved uses that do not exceed one thousand five hundred square feet in size and that meet applicable development regulations.

Finding: Complies with Condition. The applicant has not proposed any amendments because this is the initial review of a General Development Plan for the site. No uses are proposed on the commercial parcels in the NC zone at this time. The intent of this standard is not to require an amendment when development that meets standards in OCMC 17.62 is proposed on the commercial parcels. Future development proposals for the commercial parcels in the GDP area may be reviewed through Type II DDP process; a Type III Master Plan amendment is not required unless one of the thresholds in B.1-4 are met. **Staff has determined that it is possible, likely and reasonable that the applicant shall meet this standard through the Conditions of Approval.**

17.65.090 - Regulations that apply.

An applicant is entitled to rely on land use regulations in effect on the date its general development plan application was initially submitted, pursuant to ORS 227.178(3), as that statute may be amended from time to time. After a general development plan is approved, and so long as that General Development Plan is in effect, an applicant is entitled to rely on the land use regulations in effect on the date its general development plan application was initially submitted, as provided above, when seeking approval of detailed development plans that implement an approved general development plan. At its option, an applicant may request that a detailed development plan be subject to the land use regulations in effect on the date its detailed development plan is initially submitted.

Finding: Complies. The Applicant has requested and is approved to utilize the 2021 Oregon City Municipal Code as adopted at the time of the Master Plan submittal for the life of the Master Plan. The applicant may also choose

to use the current code year at a future DDP application, though only one code year must be elected for review of the whole of each DDP submittal.

CHAPTER 16.08 – LAND DIVISIONS - PROCESS AND STANDARDS

Staff note: Approval criteria for General Development plans include the following: “Development shall demonstrate compliance with OCMC 12.04 16.12, 17.62, if applicable, and 16.08, if applicable.” The criteria of OCMC 16.08 will be addressed through a future Detailed Development Plan/subdivision application. Those standards that are relevant to this review are discussed in the findings below to establish that compliance with these standards is feasible when particular development is proposed.

16.08.025 - Preliminary plat—Required information.

The preliminary plat shall specifically and clearly show the following features and information on the maps, drawings, application form or attachments. The preliminary plat layout may be prepared by a civil engineer, architect, land use planner or similarly qualified professional. All maps and site drawings shall be at a minimum scale of one inch to fifty feet.

- A. *Site Plan. A detailed site development plan drawn to scale by a licensed professional based on an existing conditions plan drawn by a licensed surveyor. The site plan shall include the location and dimensions of lots, streets, existing and proposed street names, pedestrian ways, transit stops, common areas, parks, trails, open spaces, building envelopes and setbacks, all existing and proposed utilities and improvements including sanitary sewer, stormwater and water facilities, total impervious surface created (including streets, sidewalks, etc.), all areas designated as being within an overlay district and an indication of existing and proposed land uses for the site. If required by staff at the pre-application conference, a connectivity analysis shall be prepared by a transportation engineer licensed by the State of Oregon that describes the existing and future vehicular, bicycle and pedestrian connections between the proposed subdivision and existing or planned land uses on adjacent properties. The connectivity analysis shall include shadow plats of adjacent properties demonstrating how lot and street patterns within the proposed land division will extend to and/or from such adjacent properties and can be developed meeting the existing OCMC design standards and adopted Transportation System Plan, street design standards, and adopted concept plans, corridor and access management studies, engineering standards and infrastructure analyses.*
- B. *Traffic/Transportation Plan. The applicant's traffic/transportation information shall include two elements: (1) A detailed site circulation plan showing proposed vehicular, bicycle, transit and pedestrian access points and connections to the existing system, circulation patterns and connectivity to existing rights-of-way or adjacent tracts, parking and loading areas and any other transportation facilities in relation to the features illustrated on the site plan; and (2) a traffic impact study prepared by a qualified professional transportation engineer, licensed in the State of Oregon, that assesses the traffic impacts of the proposed development on the existing transportation system and analyzes the adequacy of the proposed internal transportation network to handle the anticipated traffic and the adequacy of the existing system to accommodate the traffic from the proposed development. In the preparation of the Traffic/Transportation Plan, the applicant shall reference the adopted Transportation System Plan. The Community Development Director may waive any of the foregoing requirements if determined that the requirement is unnecessary in the particular case.*
- C. *Natural Features Plan and Topography, Preliminary Grading and Drainage Plan. The applicant shall submit a map illustrating all of the natural features and hazards on the subject property and, where practicable, within 250 feet of the property's boundary. The map shall also illustrate the approximate grade of the site before and after development. Illustrated features shall include all proposed streets and cul-de-sacs, the location and estimated volume of all cuts and fills, and all stormwater management features. This plan shall identify the location of drainage patterns and courses on the site and within 250 feet of the property boundaries where practicable. Features that shall be illustrated shall include the following:*
 1. *Proposed and existing street rights-of-way and all other transportation facilities;*
 2. *All proposed lots and tracts;*

3. All trees proposed to be removed prior to final plat with a diameter six inches or greater diameter at breast height (d.b.h);
4. All natural resource areas pursuant to OCMC 17.49, 17.48, 17.44, and 17.42;
5. The location of any known state or federal threatened or endangered species or wildlife habitat or other natural features listed on any of the City's official inventories;
6. All historic areas or cultural features acknowledged as such on any federal, state or city inventory;

D. Archeological Monitoring Recommendation. For all projects that will involve ground disturbance, the applicant shall provide,

1. A letter or email from the Oregon State Historic Preservation Office Archaeological Division indicating the level of recommended archeological monitoring on-site, or demonstrate that the applicant had notified the Oregon State Historic Preservation Office and that the Oregon State Historic Preservation Office had not commented within forty-five days of notification by the applicant; and
2. A letter or email from the applicable tribal cultural resource representative of the Confederated Tribes of the Grand Ronde, Confederated Tribes of the Siletz, Confederated Tribes of the Umatilla, Confederated Tribes of the Warm Springs and the Confederated Tribes of the Yakama Nation indicating the level of recommended archeological monitoring on-site, or other written demonstration that the applicant notified the applicable tribal cultural resource representative and that the applicable tribal cultural resource representative had not commented within forty-five days of notification by the applicant.

If, after forty-five days notice from the applicant, the Oregon State Historic Preservation Office or the applicable tribal cultural resource representative fails to provide comment, the City will not require any responsive letter or email as part of the completeness review. For the purpose of this section, ground disturbance is defined as the movement of native soils.

The Community Development Director may waive any of the foregoing requirements if the Community Development Director determines that the requirement is unnecessary in the particular case and that the intent of this chapter has been met.

16.08.030 - Preliminary plat—Narrative statement.

In addition to the plans required in the previous section, the applicant shall also prepare and submit a narrative statement that addresses the following issues:

- A. *Description. A detailed description of the proposed development, including a description of proposed uses, number and type of residential units, allocation and ownership of all lots, tracts, streets, and public improvements, the structure of any homeowner's association, and each instance where the proposed subdivision will vary from some dimensional or other requirement of the underlying zoning district.*
- B. *Timely Provision of Public Services and Facilities. The applicant shall explain in detail how and when each of the following public services or facilities is, or will be, adequate to serve the proposed development by the time construction begins:*
 1. *Water,*
 2. *Sanitary sewer,*
 3. *Storm sewer and stormwater drainage,*
 4. *Parks, trails and recreation facilities, if determined to be necessary pursuant to the Oregon City adopted Trail Master Plan and / or Parks and Recreation Master Plan*
 5. *Traffic and transportation, and*
 6. *Fire and police services*

Where adequate capacity for any of these public facilities and services is not demonstrated to be currently available, the applicant shall describe how adequate capacity in these services and facilities will be financed and constructed before recording of the plat;
- C. *Drafts of the proposed covenants, conditions and restrictions (CC&Rs), maintenance agreements, homeowner association agreements, dedications, deeds easements, or reservations of public open spaces not dedicated to the City, and related documents for the land division;*
- D. *Overall density of the land division and the density by dwelling type for each.*

Finding: Not applicable. The applicant has not requested approval of a preliminary plat. The proposed General Development Plan will be followed by subsequent detailed development plans, which will be subject to this code section and reviewed for compliance at that time.

16.08.040 – Park and Open Space Requirements.

Additional Public Park and Open Space Requirements in Thimble Creek Concept Plan area- residential development.

Finding: Not applicable. The site is not within the Thimble Creek Concept Plan area.

16.08.045 - Frontage width requirement.

Each lot shall abut upon a street other than an alley for a width of at least twenty feet unless flag lots are provided pursuant to OCMC 16.08.050, except for Cluster Housing development pursuant to OCMC 17.20.020.

Finding: Complies as Proposed. The proposed General Development plan generally meets this standard. Future detailed development plan applications will be required to show compliance with this standard.

16.08.050 - Flag lots.

- A. Flag lots shall not be permitted except where the applicant can show that the existing parcel configuration, topographic constraints or the location of a pre-existing dwelling unit precludes a land division that meets the minimum density, dimensional standards of the underlying zone, and except where street connectivity is not practicable as determined by the City Engineer.*
- B. A shared joint accessway shall be provided unless the existing topography of the site or the pre-existing dwelling unit is located on the property to prevent a joint accessway. A perpetual reciprocal access easement and maintenance agreement shall be recorded for the joint accessway, in a form acceptable to the City Attorney.*
- C. Accessways shall have a pavement width of at least sixteen feet to service one or two units or twenty feet to service three or more units. A fire access corridor of at least twenty feet shall be provided to all parcels with a minimum pavement width of sixteen feet to service two units or twenty feet to service three or more units. At least six inches of shoulder on each side of the fire access corridor shall be provided in order that construction work does not infringe on adjacent properties. A narrower pavement width may be approved by the Fire District and City Engineer. The City Engineer and/or Fire District may require that additional fire suppression devices be provided to assure an adequate level of fire and life safety. The City Engineer and/or Fire District may prohibit vehicular obstruction, including trees, fences, landscaping and structures within the fire access corridor. If the proposed accessway exceeds 150 feet in length the accessway shall conform to Fire District standards and shall be paved to a minimum width of twenty feet unless an alternative is approved by the Planning Division and Fire District. If more than two residences are served, a turnaround for emergency vehicles shall be provided. The turnaround shall be approved by the City Engineer and Fire District.*
- D. The pole portion of the flag lot shall connect to a street.*
- E. The pole shall be at least ten feet wide for the entire length.*
- F. The pole shall be part of the flag lot and shall remain under the same ownership as the flag portion of the lot.*

Finding: Complies with Condition. The applicant has included a small number of flag lots in the development, stating “the planned flag lots meet the accessway and dimensional requirements of this code section.” The applicant has not sufficiently demonstrated that topographic constraints or other factors are present which justify the use of flag lots. Flag lots will be reviewed against the criteria in OCMC 16.08.050 for each detailed development plan and will not be permitted if the criteria are not met. **Staff has determined that it is possible, likely and reasonable that the applicant shall meet this standard through the Conditions of Approval.**

16.08.053 Tracts

Tracts which cannot be developed with a home or office, commercial, residential, institutional, industrial, parking or other uses as determined by the City Engineer or Community Development Director are not subject to compliance with the dimensional standards of the zoning designation, frontage requirements, or flag lot standards.

Finding: Complies with Condition. The proposal includes tracts for stormwater facilities and open spaces are appropriately identified. However, the sites within the Neighborhood Commercial Zone are improperly identified as tracts; these shall be identified in some other way and not as “Tracts,” in future development applications. **Staff has determined that it is possible, likely and reasonable that the applicant shall meet this standard through the Conditions of Approval.**

16.08.060 - Building sites.

A. The size, width, shape and orientation of building sites shall be rectangular or square to the maximum extent practicable.

Finding: Complies as Proposed. The proposed General Development plan generally meets this standard. Future detailed development plan applications will be required to show compliance with this standard.

B. Sites abutting an alley shall gain vehicular access from the alley unless deemed impracticable by the decision maker.

Finding: Complies as Proposed. Alleys are proposed in some portions of the development, consistent with the Park Place Concept Plan. All lots abutting the alley gain access from the alleyway. The proposed General Development Plan indicates that compliance with this standard is feasible. Future detailed development plan applications will be required to show compliance with this standard.

C. Adequate access for emergency services (fire and police) shall be provided.

Finding: Complies as Proposed. The applicant’s plan includes at least two access points for emergency vehicles to enter the neighborhood. The proposed General Development Plan indicates that compliance with this standard is feasible. Future detailed development plan applications will be required to show compliance with this standard.

16.08.063 - Minimum density.

All layouts shall achieve at least the minimum density of the base zone for the net developable area as defined in OCMC 17.04. Alternatively, a site may be partitioned into two lots, though one of the lots shall not contain sufficient lot area to allow further division

Finding: Complies as proposed. The proposed development is within the Park Place Concept Plan area; the Concept Plan requires a minimum of 937 units within the North Village area. The applicant is required to meet the density approved in the Park Place Concept Plan and has proposed adjustments to standards, an NROD density transfer, and a variance for attached single family lot size in order to do so. While the zoning designations are not the maximum density within each Comprehensive Plan designation, the proposal from the applicant can meet the required densities in the Concept Plan.

Proposed minimum lot area and density are discussed in Chapter 17.08 and 17.10 of this report and in the discussion of density on Page 26.

16.08.065 – Lot size reduction.

A subdivision in the R-10, R-8, R-6, R-5, or R-3.5 dwelling district may utilize lot size reduction for up to twenty-five percent of the lots proposed for single-family detached residential use. Fractions resulting from the twenty-five percent calculation shall be rounded down. The reduced-size lots may be up to ten percent less than the required minimum lot area of the applicable zoning designation provided the average lot size of all proposed single-family detached residential lots meet the minimum requirement of the underlying zone. Any area within a powerline easement on a lot shall not count towards the lot area for that lot. Lot size reduction is only permitted through a subdivision or, master plan and planned unit developments processes and may not be used for minor partitions or any other residential uses.

The average lot area is determined by first calculating the total net developable area devoted to single-family detached dwelling units, subtracting the powerline easement areas, open space, tracts, stormwater facilities, roads, right-of-way, or accessways and dividing that figure by the proposed number of single-family detached dwelling lots.

A lot that was created pursuant to this section may not be further divided unless the average lot size requirements are still met for the entire subdivision.

When a lot abuts a public alley, an area equal to the length of the alley frontage along the lot times the width of the alley right-of-way measured from the alley centerline may be added to the area of the abutting lot in order to satisfy the lot area requirement for the abutting lot. It may also be used in calculating the average lot area.

Finding: Not applicable. The applicant has not proposed lot size reduction pursuant to this section. Lot size reductions are proposed pursuant to the adjustment standards in OCMC 17.65 and as permitted for NROD density transfer in OCMC 17.49.

16.08.070 - Through lots.

Through lots and parcels shall be avoided except where they are essential to provide separation of residential development from major arterials or to overcome specific disadvantages of topography of existing development patterns. A reserve strip may be required. A planting screen restrictive covenant may be required to separate residential development from major arterial streets, adjacent nonresidential development, or other incompatible use, where practicable. Where practicable, alleys or shared driveways shall be used for access for lots that have frontage on a collector or minor arterial street, eliminating through lots.

Finding: Not applicable. Future detailed development plan applications will be required to show compliance with this standard if through lots are proposed.

16.08.075 - Building site—Lot and parcel side lines.

The lines of lots and parcels, as far as is practicable, shall run at right angles to the street upon which they face, except that on curved streets they shall be radial to the curve. Lot and parcel side lines for cluster housing projects proposed consistent with the standards in OCMC 17.20.020 are not subject to this standard.

Finding: Complies as Proposed. The proposed General Development Plan indicates that compliance with this standard is feasible. Future detailed development plan applications will be required to show compliance with this standard.

16.08.080 - Setbacks and building location.

This standard ensures that lots are configured in a way that development can be oriented toward streets to provide a safe, convenient and aesthetically pleasing environment for pedestrians and bicyclists. Houses oriented in this manner assure a sense of openness by avoiding the “bowling alley” effect caused by uninterrupted, continuous privacy fences along higher volume streets. The objective is for lots located on a neighborhood collector, collector or minor arterial street to locate the front yard setback on and design the most architecturally significant elevation of the primary structure to face the neighborhood collector, collector or minor arterial street,

- A. *The front setback of all lots located on a neighborhood collector, collector or minor arterial shall be orientated toward the neighborhood collector, collector or minor arterial street.*
- B. *The most architecturally significant elevation of the house shall face the neighborhood collector, collector or minor arterial street.*
- C. *On corner lots located on the corner of two local streets, the main façade of the dwelling may be oriented towards either street.*
- D. *The decision maker may approve an alternative design, consistent with the intent of this section, where the applicant can show that existing development patterns preclude the ability to practically meet this standard.*

Finding: Not applicable for the General Development Plan. Lots that front Holcomb Boulevard and proposed Holly Lane will be subject to these standards. Future detailed development plan applications will be required to show compliance with this standard.

16.08.095 - Prohibition on Additional Private Restrictions on Housing Types.

Private restrictions on the provision of accessory dwelling units, corner duplexes, or internal conversions executed after July 1, 2019 shall be prohibited. Conditions, Covenants, and Restrictions (CC&Rs) or similar legal instrument submitted with residential plats submitted for final plat approval after July 1, 2019 shall not prohibit or impose additional restrictions on accessory dwelling units, corner duplexes, and/or internal conversions to the extent permitted in the OCMC in place at the time of final plat submittal, and shall not impose additional restrictions on Accessory Dwelling Units and internal conversions through any future amendment.

Finding: Not applicable for the General Development Plan. Future detailed development plan applications will be required to show compliance with this standard.

CHAPTER 16.12 – MINIMUM PUBLIC IMPROVEMENTS AND DESIGN STANDARDS FOR DEVELOPMENT

Staff Note: This application is for a General Development Plan and as such review of compliance to specific details of OCMC 16.12 may not be appropriate at this time. Public utilities and street layouts indicated with this application are intended to demonstrate the feasibility of the proposed GDP to meet the City's municipal code and the goals of the Park Place Concept Plan. Additional conditions of approval will follow specific to OCMC 16.12 with the Development's DDP for each phase.

16.12.010 - Purpose and general provisions.

The purpose of this chapter is to identify the standards for development in and adjacent to spaces which benefit the public including right-of-way, access to the right-of-way, public off-street pedestrian and bicycle accessways, and easements. 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 plans 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 shall 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 shall 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: Complies with Condition. The development authorized pursuant to this GDP approval shall comply with all Oregon City Public Works design standards, specifications, codes, and policies prior to receiving a permit and beginning construction. *For each Detailed Development Plan application, the applicant may choose to utilize the July 20, 2021 Oregon City Municipal Development Code as adopted at the time of the Master Plan submittal or the Development Code that is applicable at the time a Detailed Development Plan (DDP) is applied for.* **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

16.12.011 - Applicability.

- A. Compliance with this chapter is required for all development including land divisions, site plan and design review, master plan, detailed development plan and conditional use applications and all public improvements that are required in conjunction with a land use decision.*
- B. Compliance with this chapter is also required for new construction or additions which exceed fifty percent of the existing square footage of all 3-4 plexes, single and two-family dwellings living space. Garages, carports, sheds, and porches may not be included in the calculation if these spaces are not living spaces. Accessory dwelling units are not*

subject to compliance with this chapter. All applicable 3-4 plexes, single and two -family dwellings shall provide any necessary dedications, easements or agreements as identified in the transportation system plan and this chapter, subject to constitutional limitations. In addition, the street frontage shall be improved to include the following priorities for improvements:

1. Improve street pavement, construct curbs, gutters, sidewalks and planter strips; and
2. Plant street trees.

The cost of compliance with the standards identified in 16.12.011.B.1 and 16.12.011.B.2 is calculated based on the square footage valuation from the State of Oregon Building Codes Division and limited to ten percent of the total construction costs. The value of the alterations and improvements is based on the total construction costs for a complete project rather than costs of various project component parts subject to individual building permits. The entire proposed construction project cost includes engineering and consulting fees and construction costs. It does not include permit fees, recording fees, or any work associated with drafting or recording dedications or easements.

C. **Exemptions.** The following are exempt from review by this chapter unless public improvements, driveways, PUEs, or other items regulated by this chapter are proposed.

1. Minor Site Plan and Design Review applications
2. Work within the right-of-way
3. Lot Line Adjustments and Abandonments
4. Public capital improvement projects

Finding: Applicable. The application is a master plan; therefore, the development shall follow the standards set forth in OCMC 16.12.

16.12.012 - Jurisdiction and management of the public rights-of-way.

The City has jurisdiction and exercises regulatory management over all public rights-of-way as defined and outlined within 12.04 of the Oregon City Municipal Code.

Finding: Applicable. The city has exercised its regulatory management authority by providing findings within this staff report with conditions to be met by the applicant prior to working within all public rights-of-way.

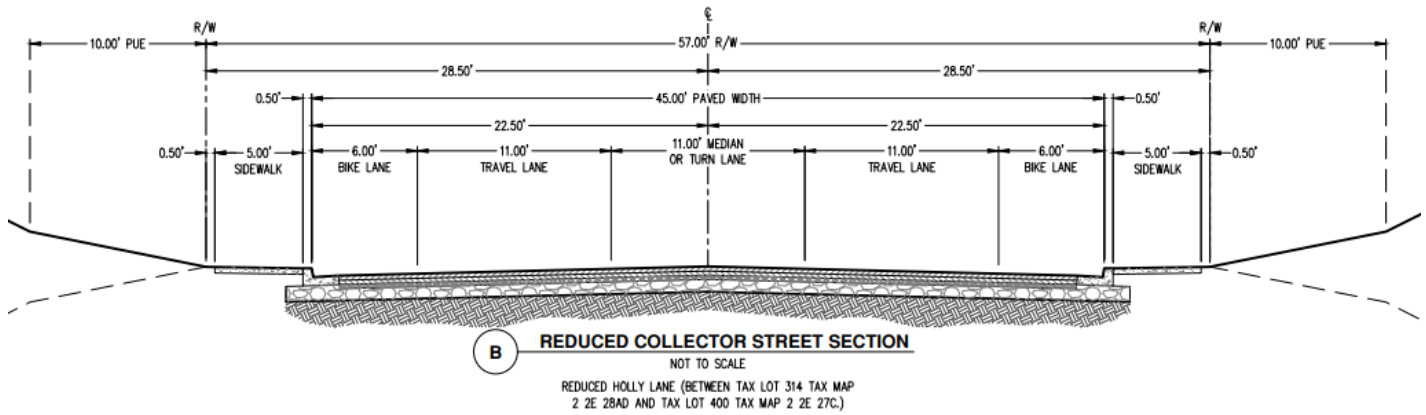
16.12.013 - Modifications.

The applicant may request and the review body may consider modification of the standards in this chapter resulting from constitutional limitations restricting the City's ability to require the dedication of property or for any other reason, based upon the criteria listed below and other criteria identified in the standard to be modified. All modifications, except for adjustments approved by the City Engineer for tree preservation purposes pursuant to 16.12.013.A, shall be processed through a Type II Land Use application and may require additional evidence from a transportation engineer or others to verify compliance. Compliance with the following criteria is required:

A. Compliance with the following criteria is required:

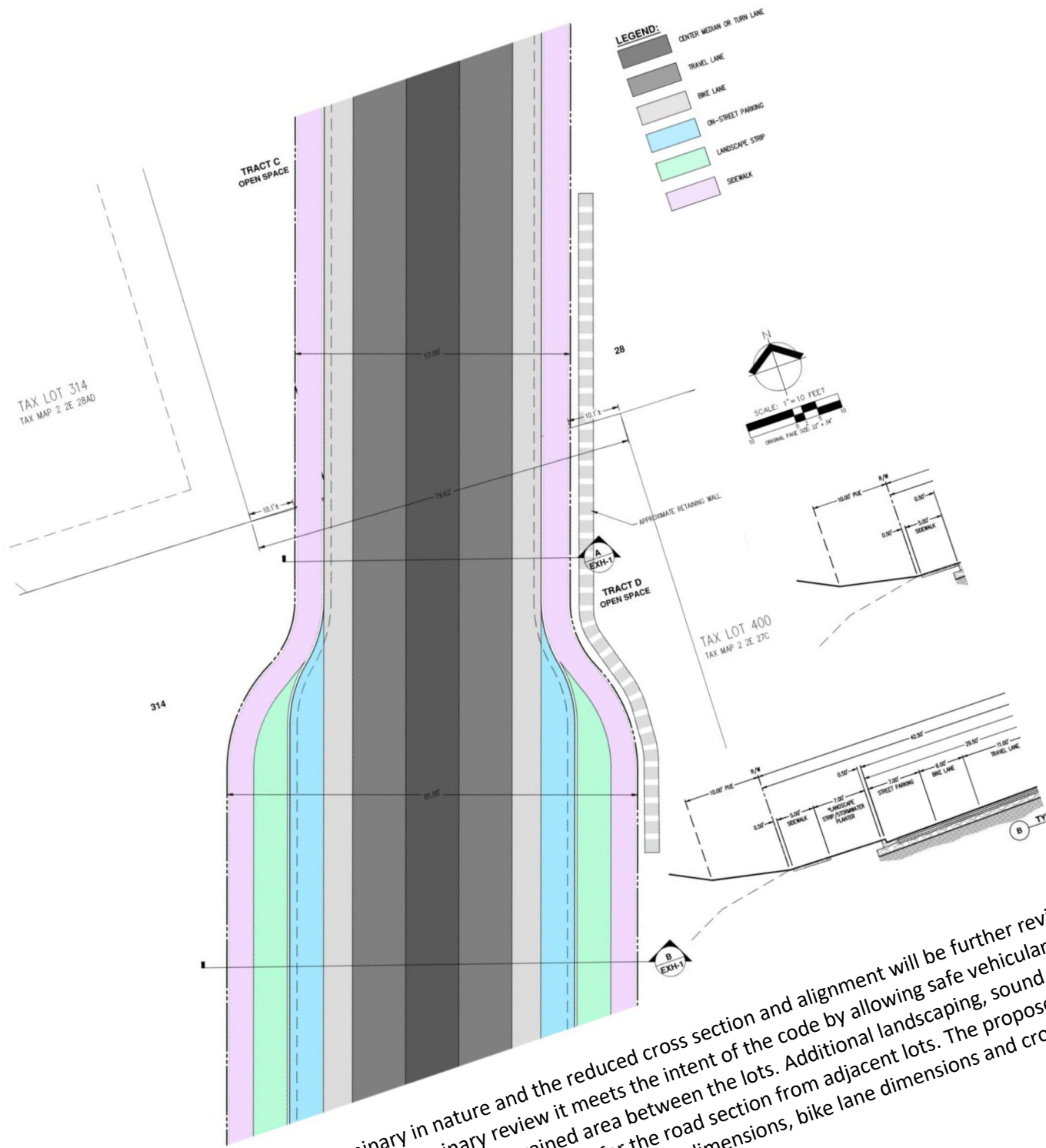
1. The modification meets the intent of the standard;

Finding: Complies as proposed. The Applicant proposes to construct a reduced cross section for the Holly Lane extension from the standard 85 ft. width in order to fit between tax lots 2-2E-28D-00190 and 2-2E-27BC-01000 which is approximately 80 ft. wide. The proposed reduced 57 ft. cross section of Holly Lane is shown below:



The applicant also provided a bird's eye layout of the proposed street section.

Item #1.



The street alignment is preliminary in nature and the reduced cross section and alignment will be further reviewed with the Phase 1 DDP, but on preliminary review it meets the intent of the code by allowing safe vehicular, bicycle, and pedestrian travel through the constrained area between the lots. Additional landscaping, sound mitigation and retaining wall design will be required to buffer the road section from adjacent lots. The proposed cross section for the constrained area meets the City's travel lane dimensions, bike lane dimensions and cross walk dimensions for a collector as noted in OCMC 16.12.016 below.

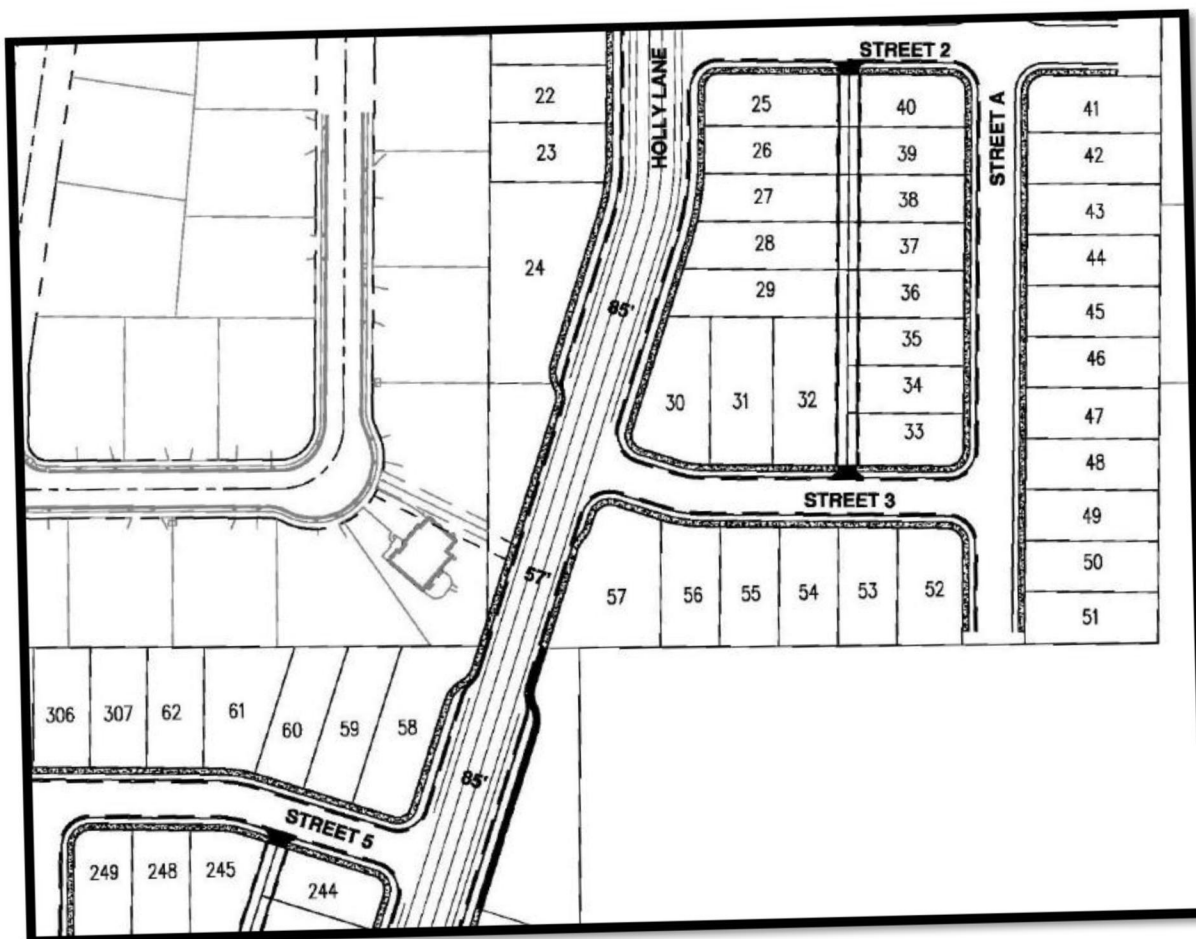


Figure 9: Reduced S Holly Lane Cross-Section

2. *The modification provides safe and efficient movement of pedestrians, motor vehicles, bicyclists and freight;*

Finding: Complies as proposed. The Applicant proposes to construct a reduced cross section for the Holly Lane extension from the standard 85 ft. width in order to fit between tax lots 2-2E-28D-00190 and 2-2E-27BC-01000. This reduced cross section and alignment will be further reviewed with the Phase 1 DDP but on preliminary review it meets the intent of the code to meet safe and efficient movement through the site. The proposed cross section provides the same travel lane width for vehicles and bicycles as well as sidewalks for pedestrians. The constrained cross section has removed street parking and landscape strips within this area in order to fit between the two lots and still provide the needed dimensions for vehicles, bicyclists and pedestrians for a collector as noted in 16.12.016 below. Removal of on-street parking will have no effect on the safe and efficient movement of the travelling public.

3. *The modification is consistent with an adopted transportation or utility plan; and*

Finding: Complies as proposed. The modification meets the intent of the Park Place Concept Plan and TSP which has identified the constrained location of the site as the alignment for Holly Lane as it extends to Holcomb Boulevard.

4. *The modification is complementary with a surrounding street design; or, in the alternative;*

Finding: Complies as proposed. With the exception of the portion of Holly Lane proposed as a constrained cross-section, it appears that the remaining streets within this development can meet the requirement of complementary street design with neighboring properties. The proposed street layout and design are expected to be further refined with each DDP. Complementary street designs will be further reviewed with each DDP.

5. *If a modification is requested for constitutional reasons, the applicant shall demonstrate the constitutional provision or provisions to be avoided by the modification and propose a modification that complies with the state or federal constitution. The City shall be under no obligation to grant a modification in excess of that which is necessary to meet its constitutional obligations.*

Finding: Not Applicable. No constitutional provision is proposed.

B. The following modifications shall be processed as a Type I modification by the City Engineer using the criteria in 16.12.13.A.

1. *Modifications to driveway location, size, and sharing standards in 16.12.035*
2. *Modifications to sidewalk and planter strips widths and location in 16.12.016 that preserve existing street trees or trees on private property to ensure compliance with ADA standards.*

Finding: Not Applicable. These modifications are not proposed with this application but may be applicable if proposed during a future DDP.

16.12.014 - Administrative provisions.

An applicant shall submit the following items to the City and complete the following tasks prior to proceeding with construction of proposed development plans. These items include the following:

- A. *Pre-Design Meeting;*
- B. *Final Engineering Plans, Stamped and Signed by an Oregon Licensed Professional Engineer;*
- C. *Stormwater Report, Stamped and Signed by an Oregon Licensed Professional Engineer;*
- D. *Geotechnical Report, Stamped and Signed by an Oregon Licensed Professional Engineer (if applicable);*
- E. *Engineer's Preliminary and Final Cost Estimates (also may be known as engineer's opinion of probable construction cost);*
- F. *Plan Check and Inspection Fees (as set by City resolution);*
- G. *Certificate of Liability Insurance for City funded public projects contracted by the City (not less than one million dollars single incident and two million dollars aggregate);*
- H. *Preconstruction Meeting;*
- I. *Financial Guarantee(s) per OCMC 17.50.140;*
- J. *Applicable Approvals/Permits from other agencies or entities;*
- K. *Developer/Engineer Agreement for public works improvements.*

An applicant shall submit the following additional items to the City and complete the following tasks prior to completing construction of proposed development plans. These items include the following:

- L. *Project Engineer's Certificate of Completion;*
- M. *Stormwater Operation and Maintenance Easement (if applicable);*
- N. *Deed of Dedication (Bargain and Sale Deed);*
- O. *Recorded Plat and/or Easements (if applicable);*
- P. *Recorded Non-Remonstrance Covenant Agreement;*
- Q. *Land Division Compliance Agreement (if applicable);*
- R. *Permanent Stabilization and/or Restoration of the impact from the development;*
- S. *Fulfillment of all Conditions of Approval;*
- T. *Payment of all Outstanding Fees;*
- U. *Maintenance Guarantee(s). per OCMC 17.50.141;*
- V. *Indemnity Agreement (if applicable);*
- W. *Completed Punchlist;*
- X. *As-Built Drawings;*

Details on individual items required by this subsection can be obtained by contacting Public Works. Many items, such as the engineer's cost estimate and plan check and inspection fee, maybe be submitted in conjunction with documentation for other infrastructure improvements that are done with the development (such as street, sanitary sewer, and water).

Finding: Applicable. These obligations shall be required when development is proposed. At this point, staff finds that compliance with all of these obligations are feasible.

16.12.015 - Street design—Generally.

Development shall be required to provide existing or future connections to adjacent sites through the use of vehicular and pedestrian access easements where applicable. Development shall provide any necessary dedications, easements or agreements as identified in the Transportation System Plan, Trails Master Plan, and/or Parks and Recreation Master Plan and this chapter, subject to constitutional limitations. 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, overlay districts, 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. 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. Notification that the street is planned for future extension shall be posted on the stub street until the street is extended and shall inform the public that the dead-end street may be extended in the future. Access control in accordance with OCMC 16.12.017 shall be required to preserve the objectives of street extensions.

C. Adequate right-of-way and improvements to streets, pedestrian ways, bike routes and bikeways, and transit facilities shall be provided and be consistent with the City's Transportation System Plan. Consideration shall be given to the need for street widening and other improvements in the area of the proposed development impacted by traffic generated by the proposed development. This shall include, but not be limited to, improvements to the right-of-way, such as installation of lighting, signalization, turn lanes, median and parking strips, traffic islands, paving, curbs and gutters, sidewalks, bikeways, street drainage facilities and other facilities needed because of anticipated vehicular and pedestrian traffic generation.

Finding: Complies with Condition. The provided general development plan (GDP) identifies the location, widths, and grades of the proposed street system providing for the continuation or appropriate projection of existing principal streets in the surrounding area and gives access for future development of adjoining land. The development has provided a convenient street system for the safety of all modes of travel, including pedestrian and bicycle to, from, and through the subject site. It is understood that the proposed street layout is preliminary. The City notes the following:

- Mr. Replinger noted that left turn lanes would be needed at the intersection of the future Holly Lane and Holcomb Boulevard. While that intersection is not a part of this GDP, the portion of Holly Lane proposed in Phase 1 should be further reviewed to determine if the appropriate amount of Right of Way is provided for a future left turn lane on Holcomb.
- Portions of the proposed street alignments impact mapped geological hazard areas (steep slopes) on the property and will need further review at the DDP level.
- Some of the street layout does not provide a cleanly gridded street system and proposes offset intersections which are not in the best interest of the transportation system.

Street layouts shall be reviewed with each phase of development during DDP submittal and shall follow the standards of 16.12 and 17.44 to avoid geologic hazard areas, creating a grid system, provide future connection points to neighboring properties, and providing a street layout acceptable to the City Engineer. **Staff has**

determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.

16.12.016 - Street design.

All development regulated by this chapter shall provide street improvements in compliance with the standards in Table 16.12.016 depending on the street classification set forth in the Transportation System Plan and the Comprehensive Plan designation of the adjacent property, unless an alternative plan has been adopted. The table implements the adopted Transportation System Plan and illustrates the maximum design standards. These standards may be reduced with an alternative street design which may be approved based on the modification criteria in OCMC 16.12.013. The steps for reducing the street design are found in the Transportation System Plan.

Table 16.12.016 Street Design

Table 16.12.016 Street Design. To read the table select the road classification as identified in the Transportation System Plan and the Comprehensive Plan designation of the adjacent properties to find the maximum design standards for the road cross section. If the Comprehensive Plan designation for lands on either side of the street differs, the wider right-of-way standard shall apply.

Road Classification	Comprehensive Plan Designation	Right-of-Way Width	Pavement Width	Public Access	Sidewalk	Landscape Strip	Bike Lane	Street Parking	Travel Lanes	Median
Major Arterial	Mixed Use, Commercial or Public/Quasi Public	116 ft.	94 ft.	0.5 ft.	10.5 ft. sidewalk including 5 ft. x 5 ft. tree wells		6 ft.	8 ft.	(5) 12 ft. Lanes	6 ft.
	Industrial	120 ft.	88 ft.	0.5 ft.	5 ft.	10.5 ft.	6 ft.	N/A	(5) 14 ft. Lanes	6 ft.
	Residential	126 ft.	94 ft.	0.5 ft.	5 ft.	10.5 ft.	6 ft.	8 ft.	(5) 12 ft. Lanes	6 ft.

Road Classification	Comprehensive Plan Designation	Right-of-Way Width	Pavement Width	Public Access	Sidewalk	Landscape Strip	Bike Lane	Street Parking	Travel Lanes	Median
Minor Arterial	Mixed Use, Commercial or Public/Quasi Public	116 ft.	94 ft.	0.5 ft.	10.5 ft. sidewalk including 5 ft. x 5 ft. tree wells		6 ft.	8 ft.	(5) 12 ft. Lanes	6 ft.
	Industrial	118 ft.	86 ft.	0.5 ft.	5 ft.	10.5 ft.	6 ft.	7 ft.	(5) 12 ft. Lanes	N/A
	Residential	100 ft.	68 ft.	0.5 ft.	5 ft.	10.5 ft.	6 ft.	7 ft.	(3) 12 ft. Lanes	6 ft.

Road Classification	Comprehensive Plan Designation	Right-of-Way Width	Pavement Width	Public Access	Sidewalk	Landscape Strip	Bike Lane	Street Parking	Travel Lanes	Median
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Collector	Mixed Use, Commercial or Public/Quasi Public	86 ft.	64 ft.	0.5 ft.	10.5 ft. sidewalk including 5 ft. x 5 ft. tree wells		6 ft.	8 ft.	(3) 12 ft. Lanes	N/A
	Industrial	88 ft.	62 ft.	0.5 ft.	5 ft.	7.5 ft.	6 ft.	7 ft.	(3) 12 ft. Lanes	N/A
	Residential	85 ft.	59 ft.	0.5 ft.	5 ft.	7.5 ft.	6 ft.	7 ft.	(3) 11 ft. Lanes	N/A

Road Classification	Comprehensive Plan Designation	Right-of-Way Width	Pavement Width	Public Access	Sidewalk	Landscape Strip	Bike Lane	Street Parking	Travel Lanes	Median
Local	Mixed Use, Commercial or Public/Quasi Public	62 ft.	40 ft.	0.5 ft.	10.5 ft. sidewalk including 5 ft. x 5 ft. tree wells		N/A	8 ft.	(2) 12 ft. Lanes	N/A
	Industrial	60 ft.	38 ft.	0.5 ft.	5 ft.	5.5 ft.	(2) 19 ft. Shared Space		N/A	
	Residential	54 ft.	32 ft.	0.5 ft.	5 ft.	5.5 ft.	(2) 16 ft. Shared Space		N/A	

1. Pavement width includes, bike lane, street parking, travel lanes and median.
2. Public access, sidewalks, landscape strips, bike lanes and on-street parking are required on both sides of the street in all designations. The right-of-way width and pavement widths identified above include the total street section.
3. A 0.5 foot curb is included in landscape strip or sidewalk width.
4. Travel lanes may be through lanes or turn lanes.
5. The 0.5 foot public access provides access to adjacent public improvements.
6. Alleys shall have a minimum right-of-way width of twenty feet and a minimum pavement width of sixteen feet. If alleys are provided, garage access shall be provided from the alley.
7. A raised concrete median or landscape median shall be utilized for roads identified to have access restrictions.
8. A public utility easement (PUE) shall be provided on both sides of the right-of-way or public access easement on private property as identified in 16.12.85.

Finding: Complies with Condition. The submitted plan in general addressed the requirements of OCMC 16.12.016. A portion of Holly Lane includes a narrower cross section than the typical Collector Road. The proposed modification meets the intent of the City's standard as described in OCMC 16.12.013 discussed above. Further review of the proposed street system will be part of each phase's DDP. All public improvements along Holcomb Boulevard shall be a constructed in Phase 1 and reviewed as part of that DDP. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

A. Sidewalks. The applicant shall provide for sidewalks on both sides of all public streets, on any private street if so required by the decision-maker, and in any special pedestrian way within the development. Both sidewalks and curbs are to be constructed to City standards and at widths set forth above, and according to plans and specifications provided by the City Engineer. Exceptions to this requirement may be allowed in order to accommodate topography, trees or some similar site constraint. In the case of major or minor arterials, the decision-maker may approve a development without sidewalks where sidewalks are found to be dangerous or otherwise impractical to construct or are not reasonably related to the applicant's development. The decision-maker may require the applicant to provide sidewalks concurrent with the issuance of the initial building permit within the area that is the subject of the development application. Applicants for partitions may be allowed to meet this requirement by providing the City with a financial guarantee per OCMC 16.12.110.

Finding: Complies as proposed. The applicant has proposed sidewalks along all public streets fronting the development.

B. Pedestrian and Bicycle Accessways Routes. If deemed appropriate to extend pedestrian and bicycle routes, existing or planned, the decision-maker may require the installation of separate pedestrian and bicycle facilities.

Finding: Complies as proposed. The applicant has proposed pedestrian and bicycle paths to shorten block lengths and provide more access between the neighborhood's proposed street system.

C. Street Name Signs and Traffic Control Devices. The applicant shall install street signs and traffic control devices as directed by the City Engineer. Street name signs and traffic control devices shall be in conformance with all applicable City regulations and standards.

Finding: Applicable. These obligations shall be required when development is proposed. At this point, staff finds that compliance with all of these obligations are feasible.

D. Street Lights. The applicant shall install street lights which shall be served from an underground source of supply. Street lights shall be in conformance with all City regulations.

Finding: Applicable These obligations shall be required when development is proposed. At this point, staff finds that compliance with all of these obligations are feasible and will be reviewed at the DDP level.

E. Any new street proposed with a pavement width of less than thirty-two feet shall be processed through OCMC 16.12.013 and meet minimum life safety requirements, which may include fire suppression devices as determined by the Fire Marshall to assure an adequate level of fire and life safety. The modified street shall have no less than a twenty-foot wide unobstructed travel lane.

Finding: Complies with Condition. No new street with pavement less than thirty-two feet is proposed with this development. However, because the street layout is preliminary and may be refined with each DDP to avoid geological hazard areas and to create a more gridded street system. The City and Clackamas Fire District No. 1 shall review each DDP proposal to ensure that life safety requirements, including street width, slope and grading requirements for the proposed streets are met. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

F. All development shall include vegetated planter strips that are five feet in width or larger and located between the sidewalk and curb unless otherwise approved pursuant to this chapter. All development shall utilize the vegetated planter strip for the placement of street trees or place street trees in other acceptable locations, as prescribed by OCMC 12.08. Development proposed along a collector, minor arterial, or major arterial roads may place street trees within tree wells within a wider sidewalk in lieu of a planter strip. In addition to street trees per OCMC 12.08, vegetated planter strips shall include ground cover and/or shrubs spaced four feet apart and appropriate for the location. No invasive or nuisance plant species shall be permitted.

Finding: Applicable. These obligations shall be required when development is proposed. At this point, staff finds that compliance with all of these obligations are feasible and will be reviewed at the DDP level.

G. Vehicle and pedestrian access easements may serve in lieu of streets when approved by the decision maker and only where dedication of a street is deemed impracticable.

Finding: Complies with Condition. A private access easement is proposed with Phase 6 of this development. The Applicant notes that a public street is impractical due to required grade and available widths to serve the lots. However, as noted by the developer, the information provided in this application is preliminary in nature and shall be further reviewed with each phase's DDP. A public street may be required to provide future access to neighboring sites. The street design and ownership for Phase 6 shall be further reviewed with its DDP and whether a public street located would be feasible. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

H. Vehicular and pedestrian easements shall allow for public access and shall comply with all applicable pedestrian access requirements.

Finding: Applicable. See 16.12.016 above.

16.12.017 - 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.

Finding: Applicable. These obligations shall be required when development is proposed. At this point, staff finds that compliance with all of these obligations are feasible and will be reviewed at the DDP level.

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

Finding: Applicable. The information provided in this GDP is preliminary and in nature and will be further refined as part of each phase's DDP.

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)."

Finding: Applicable. These obligations shall be required when development is proposed. At this point, staff finds that compliance with all of these obligations are feasible and will be reviewed at the DDP level.

D. 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 proposes to address this requirement with each detailed design plans for each phase.

16.12.018 - Street design—Alignment.

The centerline of streets shall be:

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

B. Offset from the centerline by no more than five 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.

C. Driveways that are at least twenty-four feet wide shall align with existing or planned streets on adjacent sites.

Finding: Complies with Condition. The Park Place Concept Plan envisions the main access to the Concept Plan area from Holcomb Blvd will be through a connection of Holly Lane. The applicant shows a future Holly Lane connection to line up with Barlow Drive on the north side of Holcomb Blvd. The property where the future connection is proposed (Taxlot 2-2E-27BC-01600) is not one of the 14 properties included in the General Development Plan. In the interim, the applicant has proposed the access from Holcomb Blvd to be through a new local street "A."

The development's interim access (Street A) does not meet this standard due to its distance from Jada Way – Street A does not align with any streets on the opposite side of Holcomb Blvd. Mr. Replinger discusses this in his review letter, describing:

"Following the annexation and rezoning action approved in 2018, the city and the applicant entered into discussions about the appropriate connection of Holly Lane with Holcomb Boulevard. A safety and operation review for Holly Lane connection along Holcomb Boulevard was undertaken to assess two potential locations for the connection were considered: opposite of S

Barlow Drive and opposite of S Jada Way. This analysis is detailed in a technical memorandum from Lancaster Mobley, dated July 24, 2020. Based on the analysis findings and correspondence with Oregon City staff, the location of S Holly Lane opposite of Barlow Drive was determined as the preferred location by City staff. That concept has been carried forward in the current application.”

Both the applicant’s traffic study and Mr. Replinger’s review conclude that the sight distance at Street A is acceptable. The Applicant proposes to align Holly Lane with the existing Barlow Drive when the properties become available, and to then close off Street A from Holcomb Boulevard. The City finds this approach to be acceptable.

Some of the preliminary street alignments within the development do not meet the City’s requirements and are offset greater than 5 feet. For example, In Phase 2 the Shartner Drive extension should align with Steet E or with Street C. Each DDP shall further refine the layout of the proposed streets within the development so that they are aligned more consistently in a grid pattern per the City’s Park Place Concept Plan and to facilitate alignment standards in OCMC 16.12.018. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

16.12.019 - Traffic sight obstructions.

All new streets shall comply with the Traffic Sight Obstructions in Chapter 10.32.

Finding: Complies as Proposed. Applicant acknowledges streets will be designed per this standard.

16.12.020 - Street design—Intersection angles.

Except where topography requires a lesser angle, streets shall be laid out to intersect at angles as near as possible to right angles. In no case shall the acute angles be less than eighty degrees unless there is a special intersection design. An arterial or collector street intersecting with another street shall have at least one hundred feet of tangent adjacent to the intersection unless topography requires a lesser distance. Other streets, except alleys, shall have at least fifty feet of tangent adjacent to the intersection unless topography requires a lesser distance. All street intersections shall be provided with a minimum curb return radius of twenty-five feet for local streets. Larger radii shall be required for higher street classifications as determined by the City Engineer. Additional right-of-way shall be required to accommodate curb returns and sidewalks at intersections. Ordinarily, intersections should not have more than two streets at any one point.

Finding: Complies as Proposed. The proposed intersections appear to meet the City requirements by avoiding acute angles less than 80 degrees. The layout proposed is preliminary and will need to be further reviewed with each phase’s DDP.

16.12.021 - Street design—Grades and curves.

Grades and center line radii shall conform to standards approved by the City Engineer.

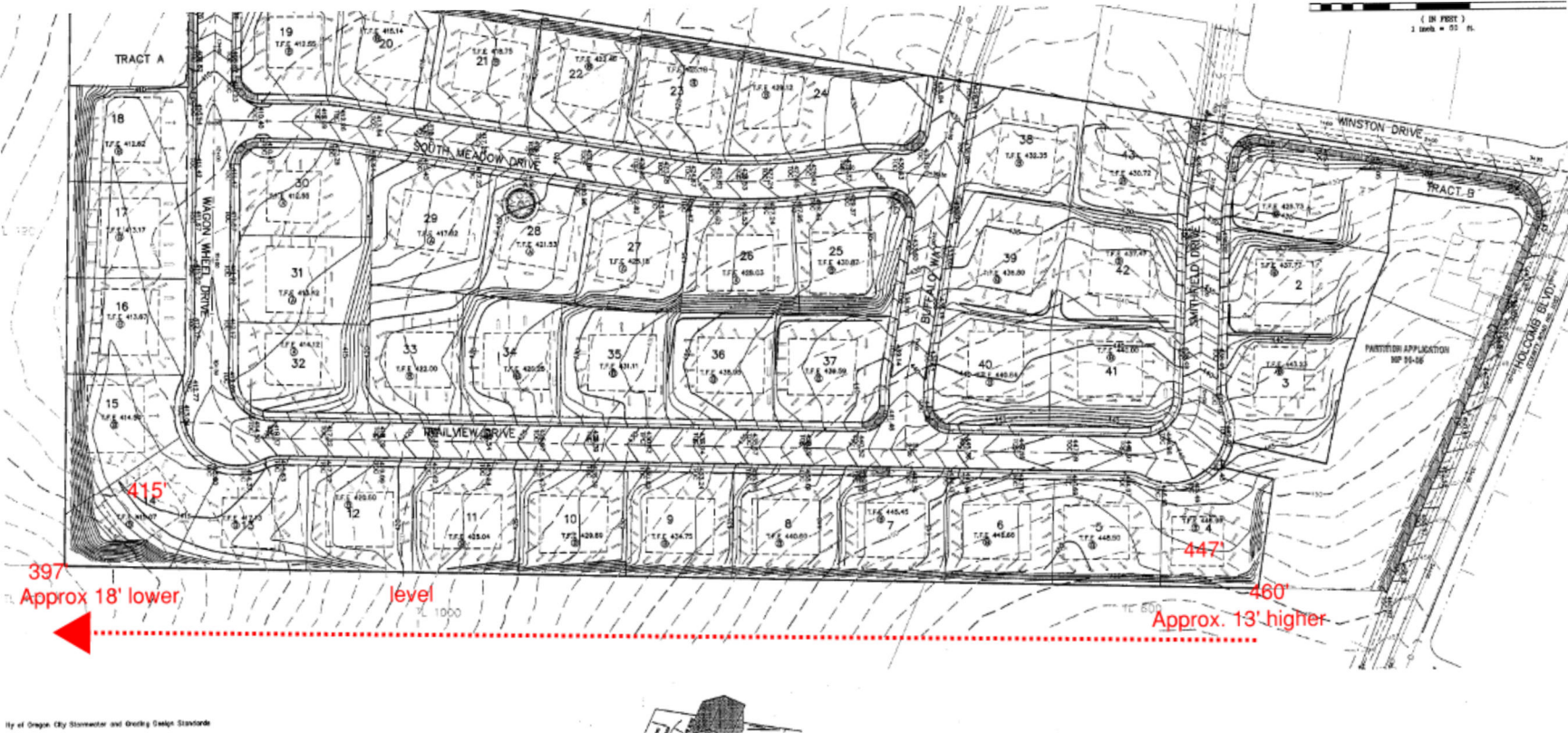
Finding: Complies as Proposed. Applicant acknowledges streets will be designed per this standard. This standard will be further reviewed with each phase’s DDP.

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

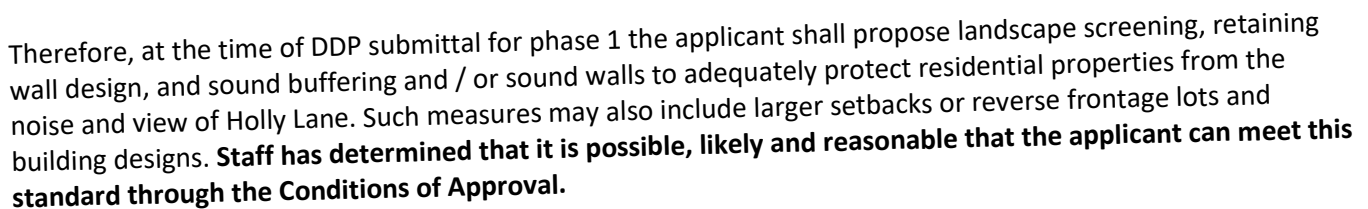
Where development abuts or contains an existing or proposed arterial or collector street, the decision maker may require: access control; screen planting or wall contained in an easement or otherwise protected by a restrictive covenant in a form acceptable to the decision maker along the rear or side 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: Complies with Conditions. The proposed lots abutting arterial and collector streets are planned to provide limited access to said streets. Access to these lots is noted to be primarily provided by rear alleys or

adjacent streets of lesser classification. Final driveway locations will be determined and reviewed with each DDP with access off Holly Lane to be avoided as much as possible. No new driveways will be allowed on Holcomb Boulevard as part of this development. The proposed location of Holly Lane will run very close to the rear of existing homes in the Trailview subdivision, and proposed lots fronting on the new section of Holly Lane. Concerns have been voiced by abutting neighbors concerned with the anticipated grade difference between the existing residential subdivision and the proposed future subdivision. This is illustrated on the diagram of the existing lot grading as-built engineering drawings for Trailview Subdivision below, which shows the variation in elevation as it drops from north to south.



City of Oregon City Stormwater and Grading Design Standards



16.12.023 - 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.

Finding: Complies as Proposed. The developer acknowledges this standard and the General Development Plan discourages cut through traffic and it provides facilities for pedestrian and bicycle use. Further review of these

designs will be a part of each phase's DDP and may include the use of bumpouts or other traffic calming measure where practical.

16.12.024 - 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 shall 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 shall construct a half street with at least twenty feet of pavement width and provide signage prohibiting street parking so as to make the half street safe 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 may be required to preserve the objectives of half streets.

When the remainder of an existing half-street improvement is completed it shall include the following items: dedication of required right-of-way, construction of the remaining portion of the street including pavement, curb and gutter, landscape strip, sidewalk, street trees, lighting and other improvements as required for that particular street. It shall also include at a minimum the pavement replacement to the centerline of the street. Any damage to the existing street shall be repaired in accordance with the City's "Pavement Cut Standards" or as approved by the City Engineer.

Finding: Complies as Proposed. Half street improvements are not planned as part of the general development plan. However, streets in Tract K and L for the retail/MUC/NC/Civic/Village Green Areas may have half streets at a later date outside of this application.

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

The City discourages the use of cul-de-sacs and permanent dead-end streets except where construction of a through street is found by the decision maker to be impracticable due to topography or some significant physical constraint such as geologic hazards, wetland, natural or historic resource areas, pre-existing dedicated open space, pre-existing development patterns, arterial access restrictions or similar situation as determined by the decision maker. This section is not intended to preclude the use of curvilinear eyebrow widening of a street where needed.

A. When permitted, access from new cul-de-sacs and permanent dead-end streets shall be limited to a maximum of twenty-five dwelling units.

Finding: Complies as proposed. No cul-de-sacs are proposed or with this development. Dead end streets shown in this application are intended to be future connections to neighboring properties. This standard will be further reviewed with each DDP as configurations change.

B. Cul-de-sacs and permanent dead-end streets shall include pedestrian/bicycle accessways to meet minimum block width standards as prescribed in OCMC 16.12.030.

Finding: Complies as proposed. No cul-de-sacs or permanent dead-end streets are proposed or required for this development. Additional review will be a part of each DDP.

C. Cul-de-sacs shall have sufficient radius to provide adequate turn-around for emergency vehicles in accordance with fire district and City adopted street standards.

Finding: Complies with Condition. No cul-de-sacs or permanent dead-end streets are proposed or required for this development. However, streets identified for future extension to neighboring properties may not be built out for several years and behave as a dead end. Each DDP shall provide sufficient emergency vehicle turnarounds at the interim "dead ends" (e.g. Street B, Street C, Street A and Street 1).

D. Permanent dead-end streets shall provide public street right-of-way/easements sufficient to provide a sufficient amount of turn-around space complete with appropriate no-parking signs or markings to accommodate waste disposal, sweepers, emergency and other long vehicles in the form of a hammerhead or other design to be approved by the decision maker.

Finding: Complies as Conditioned. No permanent dead end is proposed for this site. However, connections are proposed for future streets on adjacent sites. Some of these sites are outside of the City Limits and may not be

annexed or developed for several years. Street B in Phase 2 is shown to connect to the neighboring property to the South and the Street within Phase 6 connects to the property to the east. Each DDP shall provide turnaround space standards for the future street connections to the neighboring sites that will be behaving as dead ends until future development extends the connections. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

E. In the case of dead-end stub streets that will connect to streets on adjacent sites in the future, notification that the street is planned for future extension shall be posted on the stub street until the street is extended and shall inform the public that the dead-end street may be extended in the future. A dead-end street shall include signage or barricade meeting Manual on Uniform Traffic Control Devices (MUTCD).

Finding: Applicable. These obligations shall be required when development is proposed. At this point, staff finds that compliance with all of these obligations are feasible and will be reviewed at the DDP level.

16.12.026 - Street design—Alleys.

Alleys with public access easements on private property shall be provided in the Park Place and South End concept plan areas for the following districts R-5, R-3.5, R-2, MUC-1, MUC-2 and NC zones unless other permanent provisions for private access to off-street parking and loading facilities are approved by the decision maker. All alleys intended to provide access for emergency vehicles shall be a minimum width of twenty feet. The corners of alley intersections shall have a radius of not less than ten feet and shall conform to standards approved by the City Engineer. Access easements and maintenance agreements shall be recorded on affected properties.

Finding: Complies as Proposed. Alleys proposed for this site are a minimum of 20 feet and radius not less than 10 feet. Alley dimensions and designs will be further reviewed with each phase's DDP.

16.12.027 - 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 applicable 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: Complies with Conditions. Proportional shares will be required and reviewed as part of the future Detailed Development Plan Applications. See 16.12.23. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

16.12.028 - Street design—Transit.

Streets shall be designed and laid out in a manner that promotes pedestrian and bicycle circulation. The applicant shall coordinate with transit agencies where the application impacts transit streets as identified in OCMC 17.04.1310. Pedestrian/bicycle access ways shall be provided as necessary 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: Complies with Condition. The General Development Plan has streets designed to encourage pedestrian and bicycle circulation around the development. Accessways have also been provided to shorten the travel distance for pedestrians between streets and to shorten the neighborhood block length. The City's Park Place Concept plan has identified Holly Lane as a transit street for the local area. If it is determined through individual DDP review that additional transit improvements are needed, the Applicant of the DDP shall provide accommodations for transit facilities within each phase proposed. This may include additional bicycle and pedestrian access, bus or shuttle pullouts, etc. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

16.12.029 - 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 restore the pavement in accordance with the City of Oregon City Public Works Pavement Cut Standards in effect at the time the permit is granted. The City Commission may adopt and modify the City of Oregon City Public Works Pavement Cut Standards by resolution as necessary to implement the requirements of this chapter.

Finding: Applicable. These obligations shall be required when development is proposed. At this point, staff finds that compliance with all of these obligations are feasible and will be reviewed at the DDP level.

16.12.030 - Blocks—Width.

The width of blocks shall ordinarily be sufficient to allow for two tiers of lots with depths consistent with the type of land use proposed. The length, width and shape of blocks shall take into account the need for adequate building site size, convenient motor vehicle, pedestrian, bicycle and transit access, control of traffic circulation, and limitations imposed by topography and other natural features.

All new streets shall be designed as local streets unless otherwise designated as arterials and collectors in the current adopted Transportation System Plan. The maximum block spacing between streets is 530 feet and the minimum block spacing between streets is 150 feet as measured between the right-of-way centerlines except in zones GI, CI, MUE, I, and WFDD where determining the appropriate street spacing will be determined by the City Engineer. If the maximum block size is exceeded, pedestrian accessways shall be provided every 330 feet. The spacing standards within this section do not apply to alleys.

Finding: Complies with Condition. The general development plan has provided a preliminary street layout for the Park Place Crossing identifying blocks defined by cross streets and accessways. The plan provided with this application is preliminary in nature. Block lengths, final street locations, internal street connections (see 16.12.018), and available buildable lots shall be further reviewed as more detailed information is provided with each phase's DDP. Where block lengths exceed 530 feet, each DDP shall provide updated plans with pedestrian accessway locations spaced at intervals not exceeding 330 feet from the nearest street intersection.

Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval

16.12.031 - Street design—Street names.

Except for extensions of existing streets, no street name shall be used which will duplicate or be confused with the name of an existing street. Street names shall conform to the established standards in the City and shall be subject to the approval of the City.

Finding: Applicable. These obligations shall be required when development is proposed. At this point, staff finds that compliance with all of these obligations are feasible and will be reviewed at the DDP level.

16.12.032 – Public off-street pedestrian and bicycle accessways.

Pedestrian/bicycle accessways are intended to provide direct, safe and convenient connections between residential areas, retail and office areas, institutional facilities, industrial parks, transit streets, neighborhood activity centers, rights-of-way, and pedestrian/bicycle accessways which minimize out-of-direction travel, and transit-orientated developments where public street connections for automobiles, bicycles and pedestrians are unavailable. Pedestrian/bicycle accessways are appropriate in areas where public street options are unavailable, impractical or inappropriate. Pedestrian and bicycle accessways are required through private property or as right-of-way connecting development to the right-of-way at intervals not exceeding 330 feet of frontage; or where the lack of street continuity creates inconvenient or out of direction travel patterns for local pedestrian or bicycle trips.

Finding: Complies with Conditions. The layout identified within the General Development Plan shows pedestrian and bicycle accessways which are located at intervals exceeding 330 feet of frontage. This layout has been noted to be preliminary in nature. Final street locations, internal street connections, and available buildable lots are to be further refined and reviewed during each phase's DDP. Each DDP shall provide updated

plans with pedestrian/bicycle accessway locations not exceeding 330 feet of frontage for each phase. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval**

A. Entry points shall align with pedestrian crossing points along adjacent streets and with adjacent street intersections.

Finding: Complies with Condition. The layout of the proposed development shows the general locations of where accessways may occur. With the street layouts and number of buildable lots subject to change, the locations of the pedestrian crossing points will be further reviewed with each DDP.

B. Accessways shall be free of horizontal obstructions and have a nine foot six inch high vertical clearance to accommodate bicyclists. To safely accommodate both pedestrians and bicycles, accessway right-of-way widths shall be as follows:

- 1. Accessways shall have a fifteen- foot wide right-of-way with a seven-foot wide paved surface with a minimum four-foot planter strip on either side.*
- 2. If an accessway also provides secondary fire access, the right-of-way width shall be at least twenty- four feet wide with a - sixteen foot paved surface between four-foot planter strips on either side.*

Finding: Complies as Proposed. The layout of the proposed development shows accessways free of horizontal obstructions with geometry meeting the applicable code.

C. Accessways shall be direct with at least one end point of the accessway always visible from any point along the accessway. On-street parking shall be prohibited within fifteen feet of the intersection of the accessway with public streets to preserve safe sight distance and promote safety.

Finding: Complies as Proposed. The layout of the proposed development shows accessways with proper visibility this will be further reviewed during the DDP for sight line distances.

D. To enhance pedestrian and bicycle safety, accessways shall be lighted with pedestrian-scale lighting. Accessway lighting shall be to a minimum level of one-half-foot-candles, a one and one-half foot-candle average, and a maximum to minimum ratio of seven-to-one and shall be oriented not to shine upon adjacent properties. Street lighting shall be provided at both entrances.

Finding: Complies as Proposed. The layout of the proposed development is preliminary in nature and conceptually meets the requirements above. Further design review of the accessways will occur as part of each DDP.

E. Accessways shall comply with Americans with Disabilities Act (ADA).

Finding: Applicable. These obligations shall be required when development is proposed. At this point, staff finds that compliance with all of these obligations are feasible and will be reviewed at the DDP level.

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

- 1. Either an evergreen hedge screen of thirty to forty-two inches high or shrubs spaced no more than four feet apart on average; and*
- 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; and*
- 3. A two-inch minimum caliper tree for every thirty-five -feet along the accessway. Trees may be planted on either side of the accessway, provided they are spaced no more than thirty-five feet apart; and*
- 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.*

G. Accessways shall be designed to prohibit unauthorized motorized traffic. Curbs and removable, lockable bollards are suggested mechanisms to achieve this.

H. Accessway surfaces shall be paved with all-weather materials as approved by the City. Pervious materials are encouraged. Accessway surfaces shall be designed to drain stormwater runoff to the side or sides of the accessway. Minimum cross slope shall be two percent.

I. In parks, greenways or other natural resource areas, accessways may be approved with a five-foot wide gravel path with wooden, brick or concrete edgings.

J. The decision maker may approve an alternative accessway design due to existing site constraints through the modification process set forth in OCMC 16.12.013.

K. Ownership, liability and maintenance of accessways. To ensure that all pedestrian/bicycle accessways will be adequately maintained over time, the City Engineer shall require one of the following:

1. Dedicate the accessways to the public as public right-of-way prior to the final approval of the development; or
2. The developer incorporates the accessway into a recorded easement or tract that specifically requires the property owner and future property owners to provide for the ownership, liability and maintenance of the accessway.

Finding: Complies as Proposed. The GDP acknowledges these requirements, and the designs will be further refined and reviewed as part of each DDP.

16.12.033 - Mobility standards.

Development shall demonstrate compliance with intersection mobility standards. When evaluating the performance of the transportation system, the City of Oregon City requires all intersections, except for the facilities identified in subsection E below, to be maintained at or below the following mobility standards during the two-hour peak operating conditions. The first hour has the highest weekday traffic volumes and the second hour is the next highest hour before or after the first hour. Except as provided otherwise below, this may require the installation of mobility improvements as set forth in the Transportation System Plan (TSP) or as otherwise identified by the City Engineer.

A. For intersections within the regional center, the following mobility standards apply:

1. During the first hour, a maximum v/c ratio of 1.10 shall be maintained. For signalized intersections, this standard applies to the intersection as a whole. For unsignalized intersections, this standard applies to movements on the major street. There is no performance standard for the minor street approaches.
2. During the second hour, a maximum v/c ratio of 0.99 shall be maintained at signalized intersections. For signalized intersections, this standard applies to the intersection as a whole. For unsignalized intersections, this standard applies to movements on the major street. There is no performance standard for the minor street approaches.
3. Intersections located on the Regional Center boundary shall be considered within the Regional Center.

B. For intersections outside of the Regional Center but designated on the Arterial and Throughway Network, as defined in the Regional Transportation Plan, the following mobility standards apply:

1. During the first hour, a maximum v/c ratio of 0.99 shall be maintained. For signalized intersections, this standard applies to the intersection as a whole. For unsignalized intersections, this standard applies to movements on the major street. There is no performance standard for the minor street approaches.
2. During the second hour, a maximum v/c ratio of 0.99 shall be maintained at signalized intersections. For signalized intersections, this standard applies to the intersection as a whole. For unsignalized intersections, this standard applies to movements on the major street. There is no performance standard for the minor street approaches.

C. For intersections outside the boundaries of the Regional Center and not designated on the Arterial and Throughway Network, as defined in the Regional Transportation Plan, the following mobility standards apply:

1. For signalized intersections:

- a. During the first hour, LOS "D" or better will be required 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 the critical movements.
- b. During the second hour, LOS "D" or better will be required 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 the critical movements.

2. For unsignalized intersections outside of the boundaries of the Regional Center:

- a. For unsignalized intersections, during the peak hour, all movements serving more than twenty vehicles shall be maintained at LOS "E" or better. LOS "F" will be tolerated at movements serving no more than twenty vehicles during the peak hour.

D. For the intersection of OR 213 & Beavercreek Road, the following mobility standards apply:

1. During the first, second & third hours, a maximum v/c ratio of 1.00 shall be maintained. Calculation of the maximum v/c ratio will be based on an average annual weekday peak hour.

E. Until the City adopts new performance measures that identify alternative mobility targets, the City shall exempt proposed development that is permitted, either conditionally, outright, or through detailed development master plan approval, from compliance with the above-referenced mobility standards for the following state-owned facilities:

I-205/OR 99E Interchange

State intersections located within or on the Regional Center Boundaries

1. In the case of conceptual development approval for a master plan that impacts the above references intersections:

a. The form of mitigation will be determined at the time of the detailed development plan review for subsequent phases utilizing the Code in place at the time the detailed development plan is submitted; and

b. Only those trips approved by a detailed development plan review are vested.

2. Development which does not comply with the mobility standards for the intersections identified in OCMC 16.12.033 shall provide for the improvements identified in the Transportation System Plan (TSP) in an effort to improve intersection mobility as necessary to offset the impact caused by development. Where required by other provisions of the Code, the applicant shall provide a traffic impact study that includes an assessment of the development's impact on the intersections identified in this exemption and shall construct the intersection improvements listed in the TSP or required by the Code.

See findings in 17.65.050.C.3. The applicant submitted a Transportation Impact Analysis report completed by Lancaster Mobley Engineering. The report was reviewed by the city's Transportation Consultant, John Replinger.

16.12.035 - Driveways.

A. All new development, redevelopment, and capital improvement projects shall meet the minimum driveway spacing standards identified in Table 16.12.035.A. Minor Site Plan and Design Review do not follow these standards unless a request is made to modify the driveway.

Table 16.12.035.A Minimum Driveway Spacing Standards		
Street Functional Classification	Minimum Driveway Spacing Standards	Distance
Major Arterial Streets	Minimum distance from a street corner to a driveway and between driveways for all uses other than detached single and two-family dwellings	175 ft.
Minor Arterial Streets	Minimum distance from a street corner to a driveway and between driveways for all uses other than detached single and two-family dwellings	175 ft.
Collector Streets	Minimum distance from a street corner to a driveway and between driveways for all uses other than detached single and two-family dwellings	100 ft.
Local Streets	Minimum distance from a street corner to a driveway and between driveways	25 ft.

The distance from a street corner to a driveway is measured along the right-of-way from the edge of the intersection (on the same side of the road) right-of-way to the nearest portion of the driveway and the distance between driveways is measured at the nearest portions of the driveway at the right-of-way.

Finding: Complies with Condition. The GDP acknowledges these requirements and the designs will be further refined and reviewed as part of each phase's DDP. With Holly Lane designated as collector street, new driveways there are to be avoided as much as possible and instead driveway access should be off of local streets or alleys. Holcomb Boulevard as a minor arterial will have no new driveways. Instead access to properties shall be from rear alleys. Each phase shall identify proposed driveway locations for review of each DDP. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

B. All detached single and two family dwellings shall have driveways which meet the minimum distance standards except when the lot size is smaller than the minimum distance required. When minimum distance cannot be met due to lot size or due to the location of an overlay district, the driveway shall be located as far away from the intersection as possible as approved by the City Engineer.

Finding: Complies as Proposed. The GDP acknowledges these requirements, and the designs will be further refined and reviewed as part of each DDP.

C. Nonresidential or multi-family residential use driveways that generate high traffic volumes as determined by a traffic analysis shall be treated as intersections and shall adhere to requirements of OCMC 16.12.020.

Finding: Complies as Proposed. The GDP acknowledges these requirements, and the designs will be further refined and reviewed as part of each DDP.

D. Only one driveway is allowed per street frontage classified as a local street and in no case shall more than two driveways (one per frontage) be allowed for any single family attached or detached residential property, duplex, 3- 4 plex, or property developed with an ADU or internal conversion with multiple frontages, unless otherwise approved by the City Engineer.

Finding: Complies as Proposed. The GDP acknowledges these requirements, and they will be further designed and reviewed as part of each DDP.

E. When a property fronts multiple roads, access shall be provided from and limited to the road with the lowest classification in the Transportation System Plan whenever possible to minimize points of access to arterials and collectors. Access shall not be provided on Arterial or Collector roads unless there is no other alternative. At the discretion of the City Engineer, properties fronting a collector or arterial road may be allowed a second driveway, for the creation of a circulation pattern that eliminates reverse maneuvers for vehicles exiting a property if applied for and granted through procedures in OCMC 16.12.013. All lots proposed with a driveway and lot orientation on a collector or minor arterial shall combine driveways into one joint access per two or more lots unless the City Engineer determines that:

- 1. No driveway access may be allowed since the driveway(s) would cause a significant traffic safety hazard; or*
- 2. Allowing a single driveway access per lot will not cause a significant traffic safety hazard.*

Finding: Complies as Proposed. The GDP acknowledges these requirements, and the designs will be further refined and reviewed as part of each DDP.

F. All driveway approaches shall be limited to the dimensions identified in Table 16.12.035.D.

Table 16.12.035.D Driveway Approach Size Standards			
Property Use	Minimum Driveway Approach Width		Maximum Driveway Approach Width
Single-Family	10 feet		24 feet
Duplexes	12 feet		24 feet
3-4 Plexes	12 feet		36 feet
Multi-Family	18 feet		30 feet
Commercial, Industrial, Office, Institutional, Mixed Use, and/or Nonresidential	One-Way 12 feet	Two-Way 20 feet	40 feet

Driveway widths shall match the width of the driveway approach where the driveway meets sidewalk or property line but may be widened onsite (for example between the property line and the entrance to a garage). Groups of more than four parking spaces shall be so located and served by driveways so that their use will not require backing movements or other maneuvering within a street right-of-way other than an alley.

Finding: Complies as Proposed. The GDP acknowledges these requirements, and the designs will be further refined and reviewed as part of each DDP.

G. The City Engineer reserves the right to require a reduction in the number and size of driveway approaches as far as practicable for any of the following purposes:

- 1. To provide adequate space for on-street parking;*
- 2. To facilitate street tree planting requirements;*
- 3. To assure pedestrian and vehicular safety by limiting vehicular access points; and*
- 4. To assure that adequate sight distance requirements are met.*

a. Where the decision maker determines any of these situations exist or may occur due to the approval of a proposed development for non-residential uses or attached or multi-family housing, a shared driveway shall be required and limited to twenty-four feet in width adjacent to the sidewalk or property line.

Finding: Complies as Proposed. The GDP acknowledges these requirements, and the designs will be further refined and reviewed as part of each DDP.

H. For all driveways, the following standards apply.

1. Each new or redeveloped curb cut shall have an approved concrete approach or asphalted street connection where there is no concrete curb and a minimum hard surface for at least ten feet back into the property as measured from the current edge of sidewalk or street pavement to provide for controlling gravel tracking onto the public street. The hard surface may be concrete, asphalt, or other surface approved by the City Engineer.

2. Any driveway approach built within public right-of-way shall be built and permitted per City requirements as approved by the City Engineer.

3. No driveway with a slope of greater than fifteen percent shall be permitted without approval of the City Engineer.

Finding: Complies as Proposed. The GDP acknowledges these requirements, and the designs will be further refined and reviewed as part of each DDP.

I. Exceptions. The City Engineer reserves the right to waive these standards or not allow driveway access, if the driveway(s) would cause a significant traffic safety hazard. Narrower or wider driveway widths may be considered where field conditions preclude use of recommended widths. When larger vehicles and trucks will be the predominant users of a particular driveway, turning templates may be utilized to develop a driveway width that can safely and expeditiously accommodate the prevalent type of ingress and egress traffic.

Finding: Not Applicable. No exemptions are proposed with this GDP.

16.12.065 - Building site—Grading.

Grading of building sites shall conform to the State of Oregon Structural Specialty Code, Title 18, any approved grading plan and any approved residential lot grading plan in accordance with the requirements of OCMC 13.12,15.48, 16.12 and the Public Works Stormwater and Grading Design Standards, and the erosion control requirements of OCMC 17.47.

Finding: Applicable. Please refer to the findings within OCMC 13.12,15.48, 16.12 & 17.47 of this report.

16.12.085 - Easements.

The following shall govern the location, improvement and layout of easements:

A. Utilities. Utility easements shall be required where necessary as determined by the City Engineer. Insofar as practicable, easements shall be continuous and aligned from block-to-block within the development and with adjoining subdivisions or partitions.

1. Specific public utility easements for water, sanitary or storm drainage shall be provided based on approved final engineering plans conforming to the requirements found within the applicable Design Standards.

2. Conveyance of public utility easements for gas, electric, telecommunication, and fiberoptic shall be required where necessary as determined by the City Engineer. The City Engineer will require the easement unless it is found that the utility can be placed in a different location or can be placed in a smaller easement than what is required. The easement shall be located adjacent to all public right of ways or public access easements within private property. In the event that the provision of a public utility easement would create a conflict with achieving compliance with another part of the code, the location and width may be adjusted by the City Engineer.

a. The easement shall be 10 feet in the R-10, R-8, R-6, R-5, R-3.5, R-2, GI, and CI zones

b. The easement shall be a minimum of 5 feet in the NC, HC, I, C, MUC-1, MUC-2, MUE, MUD, and WFDD zones.

a. The applicant shall obtain a written determination from all utilities that the minimum 5 foot PUE coupled with use of a minimum of a 5 foot area under the public sidewalk or parkway area is sufficient to serve the development. Where the minimum width is deemed inadequate, a modification shall be required.

c. An applicant may seek a modification to the public utility easement dedication requirement using 16.12.013.

Finding: Applicable. These obligations shall be required when development is proposed. At this point, staff finds that compliance with all of these obligations are feasible and will be reviewed at the DDP level.

B. Unusual Facilities. Easements for unusual facilities such as high voltage electric transmission lines, drainage channels and stormwater detention facilities shall be adequately sized for their intended purpose, including any necessary maintenance roads. These easements shall be shown to scale on the preliminary and final plats or maps. If the easement is for drainage channels, stormwater detention facilities or related purposes, the easement shall comply with the requirements of the Public Works Stormwater and Grading Design Standards.

Finding: Applicable. These obligations shall be required when development is proposed. At this point, staff finds that compliance with all of these obligations are feasible and will be reviewed at the DDP level.

C. Watercourses. Where a development is traversed or bounded by a watercourse, drainageway, channel or stream, a stormwater easement or drainage right-of-way shall be provided which conforms substantially to the line of such watercourse, drainageway, channel or stream and is of a sufficient width to allow construction, maintenance and control for the purpose as required by the responsible agency. For those subdivisions or partitions which are bounded by a stream of established recreational value, setbacks or easements may be required to prevent impacts to the water resource or to accommodate pedestrian or bicycle paths.

Finding: Complies as Proposed. The GDP acknowledges these requirements, and the designs will be further refined and reviewed as part of each DDP.

D. Access. When easements are used to provide vehicular access to lots within a development, the construction standards, but not necessarily width standards, for the easement shall meet City specifications. The minimum width of the easement shall be 20 feet. The easements shall be improved and recorded by the applicant and inspected by the City Engineer. Access easements may also provide for utility placement.

Finding: Complies as Proposed. The GDP acknowledges these requirements, and the designs will be further refined and reviewed as part of each DDP.

E. Resource Protection. Easements or other protective measures may also be required as the Community Development Director deems necessary to ensure compliance with applicable review criteria protecting any unusual significant natural feature or features of historic significance.

Finding: Complies as Proposed. The GDP acknowledges these requirements, and the designs will be further refined and reviewed as part of each DDP.

16.12.090 - Minimum improvements—Procedures.

In addition to other requirements, improvements installed by the applicant either as a requirement of these or other regulations, or at the applicant's option, shall conform to the requirements of this title and be designed to City specifications and standards as set out in the City's facility master plan and Public Works Stormwater and Grading Design Standards. The improvements shall be installed in accordance with the following procedure:

A. Improvement work shall not commence until construction plans have been reviewed and approved by the City Engineer and to the extent that improvements are located in County or State right-of-way, they shall be approved by the responsible authority. To the extent necessary for evaluation of the proposal, the plans may be required before approval of the preliminary plat of a subdivision or partition. Expenses incurred thereby shall be borne by the applicant and paid for prior to final plan review.

Finding: Applicable. These obligations shall be required when development is proposed. At this point, staff finds that compliance with all of these obligations are feasible and will be reviewed at the DDP level.

B. Improvements shall be constructed under the inspection and approval of the City Engineer. Expenses incurred thereby shall be borne by the applicant and paid prior to final approval. Where required by the City Engineer or other City decision-maker, the applicant's project engineer also shall inspect construction.

Finding: Applicable These obligations shall be required when development is proposed. At this point, staff finds that compliance with all of these obligations are feasible and will be reviewed at the DDP level.

C. Erosion control or resource protection facilities or measures are required to be installed in accordance with the requirements of OCMC 17.47, 17.49 and the Public Works Erosion and Sediment Control Standards.

Finding: Compiles with Condition. See findings from OCMC 17.47, 17.49 of this report.

D. Underground utilities, waterlines, sanitary sewers and storm drains installed in streets shall be constructed prior to the surfacing of the streets. Stubs for service connections for underground utilities, such as, storm, water and sanitary sewer shall be placed beyond the ten-foot-wide public utility easement within private property as defined in OCMC 16.12.85.A.2.

Finding: Complies as Proposed. The GDP acknowledges these requirements, and the designs will be further refined and reviewed as part of each phase's DDP.

E. As-built construction plans and digital copies of as-built drawings shall be filed with the City Engineer upon completion of the improvements.

Finding: Complies as Proposed. The GDP acknowledges these requirements, and they will be further reviewed as part of each phase's DDP.

F. The City Engineer may regulate the hours of construction and access routes for construction equipment to minimize impacts on adjoining residences or neighborhoods.

Finding: Complies as Proposed. The GDP acknowledges these requirements, and the designs will be further refined and reviewed as part of each phase's DDP.

16.12.095 - Minimum improvements—Public facilities and services.

The following minimum improvements shall be required of all applicants for a development, unless the decision-maker determines that any such improvement is not proportional to the impact imposed on the City's public systems and facilities:

A. Transportation System. Applicants and all subsequent lot owners shall be responsible for improving the City's planned level of service on all public streets, including alleys within the development and those portions of public streets adjacent to but only partially within development. Applicants are responsible for designing and providing adequate vehicular, bicycle and pedestrian access to their developments and for accommodating future access to neighboring undeveloped properties that are suitably zoned for future development. Storm drainage facilities shall be installed and connected to off-site natural or man-made drainageways. Upon completion of the street improvement survey, the applicant shall reestablish and protect monuments of the type required by ORS 92.060 in monument boxes with covers at every public street intersection and all points or curvature and points of tangency of their center line, and at such other points as directed by the City Engineer.

Finding: Complies with Condition: The proposed development has frontage along Livesay Road to the south and has proposed that the Holly Lane collector running through the development will terminate at Livesay Road with a gate for emergency access only. The applicant has not provided any public improvements along its frontage to Livesay Road which is under the jurisdiction of Clackamas County. The County has noted concerns for the future traffic onto Livesay Road and the impact to its planned CIP project at the intersection of Redland and Livesay Road. The County has provided conditions of approval to be implemented with different phases of the development. Because the proposed layout is preliminary and subject to change with future DDPs, the applicant shall coordinate these conditions with the City and County with each DDP. The public improvements on Livesay Road shall be further reviewed in more detail with each DDP but at a minimum, the Applicant shall address the following:

- A. All frontage improvements in, or adjacent to Clackamas County right-of-way, shall be in compliance with *Clackamas County Roadway Standards*.
- B. The applicant shall dedicate an additional approximately 15 feet of right-of-way along the entire site frontage of S Livesay Road and shall verify by survey that a 35-foot wide, one-half right-of-way width exists, or shall dedicate additional right-of-way as necessary to provide it.
- C. The following improvements will be required along the entire site frontage of S Livesay Road at the time of development of Phase 2, in accordance with Clackamas County Roadway Standards:

- a. A 25-foot wide half-street improvement is required, constructed from centerline of the right-of-way. The structural section for S Livesay Road improvements shall be constructed per Clackamas County Roadway Standards Standard Drawing C100 for a collector roadway. Where widening is required, saw-cut and grind and inlay may be needed based on road condition, per Roadway Standards Section 225.5.
 - b. Standard curb, or curb and gutter if curblin slope is less than one percent, and pavement with the face of the new curb located 25 feet from the centerline of the right-of-way. Centerline of the right-of-way shall be established by a registered survey.
 - c. A minimum 7-foot wide unobstructed setback sidewalk shall be constructed along the frontage of the commercial sites on Tracts L and K. The remainder of the frontage a minimum 5-foot wide sidewalk shall be constructed.
 - d. A 5-foot wide landscape strip, including street trees shall be constructed along the entire site frontage.
 - e. Drainage facilities in conformance Tri-City regulations and Clackamas Roadway Standards, Chapter 4.
 - f. For the proposed public street intersection with S Livesay Road, construct dual curb ramps, per Oregon Standard Drawings.
 - g. The intersection of Holly Lane with S Livesay Road shall be limited to gated emergency vehicle access only, with the gate approve by the Clackamas Fire District.
- D. If full access to S Livesay Road from the Master Plan site is proposed at any one of the proposed phases, a supplemental TIS will be required evaluating the adequacy of the off-site portion of S Livesay Road and the intersection with S Redland Road. At a minimum, a paved road width of 20 feet will be required from the project site to Redland Road, and the roadway is deemed adequate, or made adequate through improvements to support traffic from the masterplan site. Approval of a Development Permit from Clackamas County Engineering will be required for access to S Livesay Road.

Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval

B. Stormwater Drainage System. Applicants shall design and install drainage facilities within a development and shall connect the development's drainage system to the appropriate downstream storm drainage system as a minimum requirement for providing services to the applicant's development. The applicant shall obtain county or state approval when appropriate. Applicants are responsible for extending the appropriate storm drainage system to the development site and for providing for the connection of upgradient properties to that system. The applicant shall design the drainage facilities in accordance with City drainage master plan requirements, OCMC 13.12 and the Public Works Stormwater and Grading Design Standards.

Finding: Complies as Proposed. The GDP has provided preliminary plans of the phased stormwater management of this development and a preliminary stormwater report. The GDP acknowledges these requirements, and the designs will be further refined and reviewed as part of each phase's DDP.

C. Sanitary Sewer System. The applicant shall design and install a sanitary sewer system to serve all lots or parcels within a development in accordance with the City's sanitary sewer design standards, and shall connect those lots or parcels to the City's sanitary sewer system, except where connection is required to the county sanitary sewer system as approved by the

county. Applicants are responsible for extending the City's sanitary sewer system to the development site and through the applicant's property to allow for the future connection of neighboring undeveloped properties that are suitably zoned for future development. The applicant shall obtain all required permits and approvals from all affected jurisdictions prior to final approval and prior to commencement of construction. Design shall be approved by the City Engineer before construction begins.

Finding: Complies with Condition. Conceptual plans for the sanitary sewer system have been provided to the City showing the routing for each phase of the development. The proposed sanitary sewer system will be built and routed initially through Holcomb Boulevard before it eventually is rerouted to Redland Road when Holly Lane is extended in the future. Interim sewer connections are proposed for Phase 1 at Trail View Drive and Journey Drive. A final interim connection during Phase 2 will reroute Phase 1's sewer through Phase 2 and connect via a pedestrian bridge to Oak Valley Drive to bring the flows to Holcomb Boulevard. Conceptual capacity calculations have been provided to the City. Specific details on the design and construction shall be provided with the detailed development plans for each phase. The City's sanitary sewer consultant has noted that sections of the existing sewer system, downstream of the development, are nearing capacity. The applicant shall provide updated downstream capacity calculations with system capacity upgrades (if needed) at each DDP to confirm that the City's sanitary sewer system can safely handle each phase of the development. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

D. Water System. The applicant shall design and install a water system to serve all lots or parcels within a development in accordance with the City public works water system design standards, and shall connect those lots or parcels to the City's water system. Applicants are responsible for extending the City's water system to the development site and through the applicant's property to allow for the future connection of neighboring undeveloped properties that are suitably zoned for future development.

Finding: Complies with Condition. The proposed water system for the development is a preliminary design but is consistent with the Park Place Concept Plan. A 12 inch transmission main will be installed within Holly Lane for a future Park Place connection to the 16 inch transmission main south of Livesay Road. An Additional 12 inch main will connect Cattle Drive creating system looping which is ideal for water quality and for emergencies. Portions of the development (elevations greater than 450') will be served by Clackamas River Water (CRW). Water mains on local streets will serve individual lots. No specific designs have been provided with this GDP however, further refined details will be provided and reviewed with each DDP. Like the sewer system, the water system will be built overtime. Each DDP will confirm that the existing water systems (City and CRW) have capacity for each phase of development. Coordination with CRW will also be required. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

E. Street Trees. Refer to OCMC 12.08, Street Trees.

Finding: Not applicable. Street trees will be reviewed upon submittal of a DDP.

F. Bench Marks. At least one bench mark shall be located within the subdivision boundaries using datum plane specified by the City Engineer.

Finding: Complies as proposed. The applicant acknowledges this requirement, and it will be a part of each DDP.

G. Other Utilities. The applicant shall make all necessary arrangements with utility companies or other affected parties for the installation of underground lines and facilities. All new utilities shall be placed underground unless the respective franchise agreements allow otherwise or unless it is physically or technically impossible to comply with applicable standards. Existing electrical lines and other wires, including but not limited to telecommunication, street lighting and fiberoptic shall be relocated underground.

1. *Exemptions to relocation of existing overhead utilities to underground for property development as follows (Only one exemption criteria is required to be exempt from this requirement):*
 - a. *No transmission or feeder lines shall be relocated underground unless approved by the City Engineer.*
 - b. *Properties with less than 1.0 acre of ownership and area shall not be required to relocate existing overhead utilities unless required by the franchise utility.*
 - c. *Properties with less than 200 feet of frontage on any individual roadway shall not be required to relocate existing overhead utilities unless required by the franchise utility.*
 - d. *Land divisions Properties which propose with 5 or less fewer subdivided lots shall not be required to relocate existing overhead utilities unless required by the franchise utility.*
2. *The exemptions in G.1. do not apply if properties within the same block were required to relocate the overhead utilities within the past 10 years. In those cases, the existing overhead utilities shall be relocated underground.*
3. *When any franchise utility (electric, gas, telecommunication, fiberoptic, street lighting or similar utility) is installed along an existing or new roadway, the utility shall be installed within the existing or proposed public utility easement unless it is physically or technically impossible.*
4. *These requirements do not apply to work by a franchise utility for improvement, repair, alteration or addition to their existing systems.*

Finding: Complies as proposed. These obligations shall be required when development is proposed. At this point, staff finds that compliance with all of these obligations are feasible and will be reviewed at the DDP level.

H. Oversizing of Facilities. All facilities and improvements shall be designed to City standards as set out in the City's facility master plan, public works design standards, or other City ordinances or regulations. Compliance with facility design standards shall be addressed during final engineering. A development may be required to modify or replace existing offsite systems if necessary to provide adequate public facilities. The City may require oversizing of facilities to meet standards in the City's facility master plan or to allow for orderly and efficient development. Where oversizing is required, the applicant may request reimbursement from the City for oversizing based on the City's reimbursement policy and funds available, or provide for recovery of costs from intervening properties as they develop.

Finding: Complies as Proposed. The GDP acknowledges these requirements, and the designs will be further refined and reviewed as part of each phase's DDP.

I. Erosion Control Plan—Mitigation. The applicant shall be responsible for complying with all applicable provisions of OCMC 17.47 with regard to erosion control.

Finding: See findings from OCMC 17.47 of this report.

16.12.100 - Same—Road standards and requirements.

A. The creation of a public street and the resultant separate land parcels shall be in conformance with requirements for subdivisions or partitions and the applicable street design standards of this Chapter. However, the decision-maker may approve the creation of a public street to be established by deed without full compliance with the regulations applicable to subdivisions or partitions where any of the following conditions exist:

1. *The establishment of the public street is initiated by the City Commission and is declared essential for the purpose of general traffic circulation and the partitioning of land is an incidental effect rather than the primary objective of the street;*
2. *The tract in which the street is to be dedicated is within an isolated ownership either not over one acre or of such size and characteristics as to make it impossible to develop building sites for more than three dwelling units.*

Finding: Applicable. Please refer to the findings in OCMC 16.12.016 within this report for applicable street design standards required for the public street created by the proposed development.

B. For any public street created pursuant to subsection A of this section, a copy of a preliminary plan and the proposed deed shall be submitted to the Community Development Director and City Engineer at least ten days prior to any public hearing scheduled for the matter. The plan, deed and any additional information the applicant may submit shall be reviewed by the decision-maker and, if not in conflict with the standards of Title 16 and Title 17, may be approved with appropriate conditions.

Finding: Complies as Proposed. The GDP acknowledges these requirements, and the designs will be further refined and reviewed as part of each phase's DDP.

C. The design and construction of public streets shall be per the standards found in this chapter and the most recent version of any City Design and Construction Standards.

Finding: Complies as Proposed. The GDP acknowledges these requirements, and the designs will be further refined and reviewed as part of each phase's DDP.

16.12.105 - Same—Timing requirements.

A. Prior to applying for final plat approval, the applicant shall either complete construction of all public improvements required as part of the preliminary plat approval or guarantee the construction of those improvements. Whichever option the applicant elects shall be in accordance with OCMC 17.50.140.

Finding: See findings from OCMC 17.50.140 regarding timing of construction of improvements and guarantee for construction of improvements.

B. Construction. The applicant shall construct the public improvements according to approved final engineering plans and all applicable requirements of this Code, and under the supervision of the City Engineer. Under this option, the improvement shall be complete and accepted by the City Engineer prior to final plat approval.

Finding: Applicable. These obligations shall be required when development is proposed. At this point, staff finds that compliance with all of these obligations are feasible and will be reviewed at the DDP level.

16.12.110 -Public improvements—Financial guarantees.

A. To ensure construction of required public improvements, the applicant shall provide the City with a performance guarantee in accordance with OCMC 17.50.140.

Finding: Please see findings from OCMC 17.50.140 of this report.

B. After satisfactory completion of required public improvements and facilities, all public improvements not constructed by the City, shall be maintained and under warranty provided by the property owner or developer constructing the facilities until the City accepts the improvements at the end of the warranty period as prescribed in OCMC 17.50.141.

Finding: Please see findings from OCMC 17.50.141 of this report.

16.12.120 Waiver of Remonstrance

The review authority may require a property owner to sign a waiver of remonstrance against the formation of and participation in a local improvement district where it deems such a waiver necessary to provide needed improvements reasonably related to the impacts created by the proposed development. To ensure compliance with this chapter, the review authority may require an applicant to sign or accept a legal and enforceable covenant, contract, dedication, easement, performance guarantee, or other document, which shall be approved in form by the City Attorney.

Finding: Applicable. These obligations shall be required when development is proposed. At this point, staff finds that compliance with all of these obligations are feasible and will be reviewed at the DDP level.

CHAPTER 17.08 LOW DENSITY RESIDENTIAL DISTRICTS

17.08.020 - Permitted uses.

Permitted uses in the R-10, R-8 and R-6 districts are:

- A. Single-family detached residential units;*
- B. Accessory uses, buildings and dwellings;*
- C. Internal conversions;*
- D. Corner duplexes;*

- E. Cluster housing;
- F. Residential homes;
- G. Parks, playgrounds, playfields and community or neighborhood centers;
- H. Home occupations;
- I. Family day care providers;
- J. Farms, commercial or truck gardening and horticultural nurseries on a lot not less than twenty thousand square feet in area (retail sales of materials grown on-site is permitted);
- K. Temporary real estate offices in model homes located on and limited to sales of real estate on a single piece of platted property upon which new residential buildings are being constructed;
- L. Transportation facilities.

Finding: Permitted. The applicant proposed to construct single-family detached residential units within the portion of the site in the R-10 zone, allowed in OCMC 17.08.020.A.

17.08.030 - Master plans.

The following are permitted in the R-10, R-8 and R-6 districts when authorized by and in accordance with the standards contained in OCMC 17.65.

- A. Single-family attached residential units.

Finding: Permitted. The applicant's plans include single-family attached residential units; although these are located in the R-5 zone area, some encroachment into the R-10 zone is permitted for this use when part of a Master Plan per OCMC 17.08.030.A.

17.08.040 - Dimensional standards.

Dimensional standards in the R-10, R-8 and R-6 districts are as follows:

Table 17.08.040

Standard	R-10
<i>Minimum lot size¹</i>	<i>10,000 sq. ft.</i>
<i>Maximum height</i>	<i>35 ft.</i>
<i>Maximum building lot coverage With ADU</i>	<i>40%, except 45%</i>
<i>Minimum lot width</i>	<i>65 ft.</i>
<i>Minimum lot depth</i>	<i>80 ft.</i>
<i>Garage setback</i>	<i>20 ft. from ROW, except 5 ft. Alley</i>

Notes:

1. For land divisions, lot sizes may be reduced pursuant to OCMC 16.08.065.
2. Accessory structures may have reduced setbacks pursuant to OCMC 17.54.010.B.

Finding: Complies with condition. In the R-10 zone, the applicant has shown lots of approximately 4,000 square feet. This approach is explained by taking advantage of the NROD density transfer provisions which allow for reduction in the lot size of adjacent lots to a minimum of 5,000 square feet under OCMC 17.49.240 coupled with an additional 20% lot reduction under the master plan adjustment authorization of OCMC 17.65.070.

However, the 20 percent lot reduction adjustment cannot be further applied to allow a lot sized pursuant to the maximum NROD density transfer or 5,000 square foot lot to be further reduced to 4,000 square feet.

The intent and plain language of OCMC 17.65.070 is to allow for a 20% adjustment to the base or “underlying” zone dimensional standards, which means, an R-10 lot could be reduced from 10,000 sf to 8,000 square feet. The adjustment cannot be applied to allow a lot sized pursuant to the maximum NROD density transfer or 5,000 square foot lot to be further reduced to 4,000 square feet. Thus, the applicant shall ensure that lots in the R-10 zone are 5,000 square feet or more in area for future detailed development plan applications that show compliance with OCMC 17.49.240 for NROD density transfer. If density transfer standards cannot be met in future detailed development plan applications, the minimum size for lots within the R-10 zone will be 8,000 square feet, (assuming the requested 20% adjustment is approved).

Staff has determined that it is possible, likely and reasonable that the applicant shall meet this standard through the Conditions of Approval.

17.08.050 - Density standards.

A. *Density standards in the R-10, R-8 and R-6 districts are as follows:*

Table 17.08.050

Standard	R-10
<i>Minimum net density</i>	<i>3.5 du/acre</i>
<i>Maximum net density</i>	<i>4.4 du/acre</i>

B. *Exceptions.*

- Any dwelling units created as accessory dwelling units or internal conversions do not count towards the minimum or maximum density limits in Table 17.08.050.*
- Corner duplexes shall count as a single dwelling unit for the purposes of calculating density.*
- Cluster housing is permitted at higher densities exempt from the standards in Table 17.08.050; see OCMC 17.20.020.*

Finding: Complies as Proposed. The applicant requested an adjustment to density through OCMC 17.65.070 and provided the following density calculations. Complexity is added to this discussion through the need to show compliance with the Park Place Concept Plan as well as the minimum and maximum density of the zone. See

findings in response to OCMC 17.65.

Table 3: NROD Density Transfer

Area Category	Acreage
Net Developable Area	±47.7
NROD Conservation Tract Areas	±14.3
NROD Density Transfer (1/3 of NROD area)	±4.8
Total Developable Area for Density Calculations	±52.5

Table 4: Allowed Density by Zone

Zoning	Net Acreage	Percentage of Total Acres	Units per Net Acre (Minimum)	Units per Net Acre (Maximum)
Low Density Residential (R-10)	±2.8	5.8%	3.5	4.4
Medium Density Residential (R-5) (Detached)	±36.7	76.9%	7.0	8.7
Medium Density Residential (R-5) (Attached)	±6.9	14.5%	7.0	12.4
Geologic Hazard Areas (Slopes >25%)	±1.3	2.7%	-	2.0

Table 5: Planned Density Calculations

Calculated Minimum Density	±47.7 acres	±6.7 units per acre
Calculated Maximum Density	±47.7 acres	±8.8 units per acre
Calculated Area with NROD Transfer	±52.5 acres	-
Maximum Density with 10% GDP Increase	±52.5 acres	±9.7 units per acre
Planned Density	±52.5 acres	±9.1 units per acre

CHAPTER 17.10 MEDIUM DENSITY RESIDENTIAL DISTRICTS

17.10.020 - Permitted uses.

Permitted uses in the R-5 and R-3.5 districts are:

- A. Single-family detached residential units;*
- B. Accessory uses, buildings and dwellings;*
- C. Internal conversions;*
- D. Duplexes;*
- E. Corner duplexes;*
- F. Single-family attached residential units;*
- G. 3-4 plex residential;*
- H. Cluster housing;*
- I. Manufactured home parks or subdivisions in the R-3.5 district only;*
- J. Residential homes;*
- K. Parks, playgrounds, playfields and community or neighborhood centers;*
- L. Home occupations;*
- M. Family day care providers;*
- N. Farms, commercial or truck gardening and horticultural nurseries on a lot not less than twenty thousand square feet in area (retail sales of materials grown on-site is permitted);*

O. Temporary real estate offices in model homes located on and limited to sales of real estate on a single piece of platted property upon which new residential buildings are being constructed;

P. Transportation facilities.

Finding: Permitted. The applicant proposed to construct single-family detached and single-family attached residential units, allowed in OCMC 17.10.020.A and F.

17.10.030 - Master plans.

The following use is permitted in the R-3.5 district when authorized by and in accordance with the standards contained in OCMC 17.65.

A. Multifamily residential.

Finding: Not applicable. The applicant did not propose multifamily uses in the R-3.5 zone.

17.10.040 - Dimensional standards.

Dimensional standards in the R-5 and R-3.5 districts are as follows:

Table 17.10.040

Standard	R-5
Minimum lot size ¹ Single-family detached Duplex Single-family attached 3-4 plex	5,000 sq. ft. 6,000 sq. ft. 3,500 sq. ft. 2,500 sq. ft. per unit
Maximum height	35 ft.
Maximum building lot coverage Single-family detached and all duplexes With ADU Single-family attached and 3-4 plex	50% 60% 70%
Minimum lot width All, except Single-family attached	35 ft., except 25 ft.
Minimum lot depth	70 ft.
Garage setbacks	20 ft. from ROW, except 5 ft. from alley

Finding: The applicant has requested a variance to the minimum lot size for attached single family uses. See findings in response to OCMC Chapter 17.60 of this report. Future detailed development plan applications will be required to show compliance with this standard.

17.10.050 - Density standards.

A. Density standards in the R-5 and R-3.5 districts are as follows:

Table 17.10.050

Standard	R-5	R-3.5
Minimum net density	7.0 du/acre	10 du/acre

Maximum net density		
• Single-family detached	8.7 du/acre	12.4 du/acre
• Single-family attached	12.4 du/acre	17.4 du/acre
• 3-4 plexes	17.4 du/acre	21.8 du/acre

B. Exceptions.

1. Any dwelling units created as accessory dwelling units or internal conversions do not count towards the minimum or maximum density limits in Table 17.10.050.
2. Duplexes and corner duplexes shall count as a single dwelling unit for the purposes of calculating minimum and maximum density standards.
3. Cluster housing is permitted at higher densities exempt from the standards in Table 17.10.050; see OCMC 17.20.020.

Finding: Complies as Proposed. The applicant requested an adjustment to density through 17.65.070 and provided the following density calculations. Complexity is added to this discussion through the need to show compliance with the Park Place Concept Plan as well as the minimum and maximum density of the zone. See findings in 17.65.

Table 3: NROD Density Transfer

Area Category	Acreage
Net Developable Area	±47.7
NROD Conservation Tract Areas	±14.3
NROD Density Transfer (1/3 of NROD area)	±4.8
Total Developable Area for Density Calculations	±52.5

Table 4: Allowed Density by Zone

Zoning	Net Acreage	Percentage of Total Acres	Units per Net Acre (Minimum)	Units per Net Acre (Maximum)
Low Density Residential (R-10)	±2.8	5.8%	3.5	4.4
Medium Density Residential (R-5) (Detached)	±36.7	76.9%	7.0	8.7
Medium Density Residential (R-5) (Attached)	±6.9	14.5%	7.0	12.4
Geologic Hazard Areas (Slopes >25%)	±1.3	2.7%	-	2.0

Table 5: Planned Density Calculations

Calculated Minimum Density	±47.7 acres	±6.7 units per acre
Calculated Maximum Density	±47.7 acres	±8.8 units per acre
Calculated Area with NROD Transfer	±52.5 acres	-
Maximum Density with 10% GDP Increase	±52.5 acres	±9.7 units per acre
Planned Density	±52.5 acres	±9.1 units per acre

17.21 SINGLE-FAMILY RESIDENTIAL STANDARDS—PARK PLACE CONCEPT PLAN AREA

Staff note: This Chapter is applicable at the time of building permit review for new homes within the Park Place Concept Plan area. The applicant has requested an adjustment to one of the standards in this Chapter to allow garage orientation on the front of homes. See findings in response to OCMC 17.65.070 Adjustments to Standards.

CHAPTER 17.24 NC NEIGHBORHOOD COMMERCIAL DISTRICT

17.24.020 - Permitted Uses—NC.

The following uses are permitted within the Neighborhood Commercial District:

- A. *Any use permitted in the Mixed-Use Corridor, provided the maximum footprint for a stand alone building with a single store or multiple buildings with the same business does not exceed ten thousand square feet, unless otherwise restricted in this chapter;*

Permitted uses in the MUC zone include:

- A. Banquet, conference facilities and meeting rooms.
- B. Bed and breakfast/boarding houses, hotels, motels, and other lodging facilities.
- C. Child care centers and/or nursery schools.
- D. Indoor entertainment centers and arcades.
- E. Health and fitness clubs.
- F. Medical and dental clinics, outpatient; infirmary services.
- G. Museums, libraries and cultural facilities.
- H. Offices, including finance, insurance, real estate and government.
- I. Outdoor markets, such as produce stands, craft markets and farmers markets that are operated on the weekends and after six p.m. during the weekday.
- J. Postal services.
- K. Parks, playgrounds, playfields and community or neighborhood centers.
- L. Repair shops, for radio and television, office equipment, bicycles, electronic equipment, shoes and small appliances and equipment.
- M. Multi-family residential, 3—4 plex residential.
- N. One or two dwelling units in conjunction with a nonresidential use, provided that the residential use occupies no more than fifty percent of the total square footage of the development.
- O. Restaurants, eating and drinking establishments without a drive-through.
- P. Services, including personal, professional, educational and financial services; laundry and dry-cleaning.
- Q. Retail trade, including grocery, hardware and gift shops, bakeries, delicatessens, florists, pharmacies, specialty stores, marijuana, and similar, provided the maximum footprint for a stand-alone building with a single store or multiple buildings with the same business does not exceed sixty thousand square feet.
- R. Seasonal sales.
- S. Residential care facilities, assisted living facilities; nursing homes and group homes for over fifteen patients licensed by the state.
- T. Studios and galleries, including dance, art, photography, music and other arts.
- U. Utilities: Basic and linear facilities, such as water, sewer, power, telephone, cable, electrical and natural gas lines, not including major facilities such as sewage and water treatment plants, pump stations, water tanks, telephone exchanges and cell towers.
- V. Veterinary clinics or pet hospitals, pet day care.
- W. Home occupations.
- X. Research and development activities.
- Y. Temporary real estate offices in model dwellings located on and limited to sales of real estate on a single piece of platted property upon which new residential buildings are being constructed.
- Z. Transportation facilities.
- AA. Live/work dwellings.

BB. After-hours public parking.

- B. Grocery stores, provided the maximum footprint for a stand alone building with a single store or multiple buildings with the same business does not exceed forty thousand square feet;
- C. Live/work dwellings;
- D. Outdoor sales that are ancillary to a permitted use on the same or abutting property under the same ownership.

Finding: Complies with Condition. The applicant proposed the following uses within the NC zone: a public park permitted under (K), a stormwater facility, which is considered a basic facility under (U), and two sites for future retail, allowed under (Q). Future detailed development plans may include any permitted uses in the NC zone, subject to review under OCMC 17.62 Site Plan and Design Review. The applicant shall ensure that future detailed development plans maintain the residential lots outside of the NC-zoned area, unless the residential use is considered permitted within the NC zone.



NC area of the property shown in green.

Staff has determined that it is possible, likely and reasonable that the applicant shall meet this standard through the Conditions of Approval.

17.24.025 - Conditional uses.

The following conditional uses may be permitted when approved in accordance with the process and standards contained in OCMC 17.56:

- A. Any use permitted in the Neighborhood Commercial District that has a building footprint in excess of ten thousand square feet;
- B. Emergency and ambulance services;
- C. Drive-through facilities;
- D. Outdoor markets that are operated before six p.m. on weekdays;
- E. Public utilities and services such as pump stations and sub-stations;
- F. Religious institutions;
- G. Public and or private educational or training facilities;
- H. Gas stations;
- I. Hotels and motels, commercial lodging;
- J. Veterinary clinic or pet hospital.

Finding: Complies as Proposed. No conditional uses are proposed in the NC zone. If conditional uses are proposed in the future, it will require conditional use review as well as a Master Plan Amendment.

17.24.035 - Prohibited uses.

The following uses are prohibited in the NC District:

- A. Distributing, wholesaling and warehousing;*
- B. Outdoor storage;*
- C. Outdoor sales that are not ancillary to a permitted use on the same or abutting property under the same ownership;*
- D. Hospitals;*
- E. Kennels;*
- F. Motor vehicle sales and incidental service;*
- G. Motor vehicle repair and service;*
- H. Self-service storage facilities;*
- I. Heavy equipment service, repair, sales, storage or rental (including but not limited to construction equipment and machinery and farming equipment);*
- J. Marijuana production, processing, wholesaling, research, testing, and laboratories;*
- K. Mobile Food Units or Vendors, except with a special event permit.*
- L. Residential use that exceeds fifty percent of the total building square footage on-site.*

Finding: Complies as Proposed. No prohibited uses are proposed in the NC zone.

17.24.040 - Dimensional standards.

Finding: Not applicable for the General Development Plan. No buildings are proposed in the NC zone at this time. Future detailed development plan applications will be required to show compliance with this standard.

F. Standards for residential uses: Residential uses shall meet the minimum net density standards for the R-3.5 district, except that no minimum net density shall apply to residential uses proposed above nonresidential uses in a mixed-use configuration or to live/work dwellings. Any new lots proposed for exclusive residential use shall meet the minimum lot size and setbacks for the R-3.5 zone for the proposed residential use type.

Finding: Not applicable for the General Development Plan. No buildings are proposed in the NC zone at this time. Future detailed development plan applications will be required to show compliance with this standard.

G. Minimum required landscaping (including landscaping within a parking lot): Fifteen percent.

Finding: Not applicable for the General Development Plan. No development is proposed in the NC zone at this time. Future detailed development plan applications will be required to show compliance with this standard.

GEOLOGIC HAZARDS – CHAPTER 17.44

Staff Note: This application is for a General Development Plan and as such review of compliance to specific details of OCMC 17.44 may not be appropriate at this time. This review is to determine the feasibility of the proposed GDP to meet the City's municipal code and the goals of the Park Place Concept Plan. Additional conditions of approval will follow specific to OCMC 17.44 with the Development's DDP for each phase.

17.44.025 - When required; regulated activities; permit and approval requirements.

No person shall develop land, construct, reconstruct, structurally alter, relocate or enlarge any building or structure for which a land development, sign, or building permit is required on a property that contains an area mapped within the adopted Oregon City Geologic Hazards Overlay Zone without first obtaining permits or approvals as required by this chapter.

The requirements of this chapter are in addition to other provisions of the Oregon City Municipal Code. Where the provisions of this chapter conflict with other provisions of the Oregon City Municipal Code, the provisions that are the more restrictive of regulated development activity shall govern.

Finding: Applicable. The development property contains an area mapped within the Oregon City Geologic Hazards Overlay Zone.

17.44.030 - Procedures.

No building or site development permit or other authorization for development shall be issued until the plans and other documents required by this chapter have been reviewed and found by the review authority to comply with the requirements of this chapter.

- A. Where the development is part of an application that otherwise requires a Type III procedure, review shall occur in the manner established in Chapter 17.50 for a consolidated Type III review.
- B. Where the development is part of an application that otherwise requires a Type II procedure, review shall occur in the manner established in Chapter 17.50 for a consolidated Type II review.
- C. For any other proposed development not otherwise subject to review as part of a development proposal that requires land use review, review shall occur in the manner established in Chapter 17.50 for a Type II procedure.

Finding: Applicable The development shall undergo review per the applicable chapters of the Oregon City Municipal Code prior to issuance of building or site development permits.

17.44.035 - Exemptions.

The following activities, and persons engaging in same, are EXEMPT from the provisions of this chapter.

- A. An excavation which is less than two feet in depth, or which involves less than twenty-five cubic yards of volume;
- B. A fill which does not exceed two feet in depth or which includes less than twenty-five cubic yards of volume;
- C. A combined cut and fill that does not involve more than twenty-five cubic yards of volume.
- D. Installation, new construction, addition or structural alteration of any existing structure of less than five hundred square feet in building footprint that does not involve grading as defined in this chapter;
- E. Installation, construction, reconstruction, or replacement of public and private utility lines in the hardscape portion of the city right-of-way, existing utility crossings, existing basalt lined drainage channels, or public easement, not including electric substations;
- F. Tree removal on slopes 25 percent or greater where canopy area removal is less than 25 percent of the portion of the lot which contains 25 percent or greater slopes. For the purpose of this chapter, "tree" shall be as defined in OCMC 17.04.1315.
- G. The removal or control of noxious vegetation;
- H. Emergency actions which must be undertaken immediately to prevent an imminent threat to public health or safety, or prevent imminent danger to public or private property. The person undertaking emergency action shall notify the building official on all regulated activities associated with any building permit or City Engineer/Public Works Director on all others within one working day following the commencement of the emergency activity. If the City Engineer/Public Works Director or building official determine that the action or part of the action taken is beyond the scope of allowed emergency action, enforcement action may be taken.

Finding: Not Applicable. The application does not meet any of the criteria for an exemption to the geologic hazard code, OCMC 17.44.

17.44.050 - Development - Application Requirements and Review Procedures and Approvals.

Except as provided by subsection C. of this section, an application for a geologic hazards overlay review shall include the following:

17.44.050.A.

A geological assessment and geotechnical report that specifically includes, but is not limited to:

1. Comprehensive information and data regarding the nature and distribution of underlying geology, the physical and chemical properties of existing soils and groundwater; an opinion of site geologic stability, and conclusions regarding the effect of geologic conditions on the proposed development. In addition to any field reconnaissance or subsurface investigation performed for the site, the following resources, as a minimum, shall be reviewed to obtain this information and data:

- a. The State of Oregon Department of Geology and Mineral Industries (DOGAMI) in Bulletin 99, *Geology and Geological Hazards of North Clackamas County, Oregon* (1979), or in any subsequent DOGAMI mapping for the Oregon City area;
- b. Portland State University study entitled "Environmental Assessment of Newell Creek Canyon, Oregon City, Oregon" (1992);
- c. Portland State University study, "Landslides in the Portland, Oregon, Metropolitan Area Resulting from the Storm of February 1996: Inventory Map, Database and Evaluation" (Burns and others, 1998);
- d. DOGAMI Open File Report O-06-27, "Map of Landslide Geomorphology of Oregon City, Oregon, and Vicinity Interpreted from LIDAR Imagery and Aerial Photographs" (Madin and Burns, 2006);
- e. "Preliminary Geologic Map of the Oregon City Quadrangle, Clackamas County, Oregon" (Madin, in press);
- f. *Landslide Hazards Land Use Guide for Oregon Communities* (October 2019), prepared by the State of Oregon Department of Geology and Mineral Industries (DOGAMI) and the Oregon Department of Land Conservation and Development (DLCD);
- g. *Landslide hazard and risk study of northwestern Clackamas County, Oregon: Oregon Department of Geology and Mineral Industries, Open-File Report O-13-08, 74 map plates*; Burns, W.J., Mickelson, K.A., Jones, C.B., Pickner, S.G., Hughes, K.L., Sleeter, R., 2013.
- h. Mapped Landslide Data shall be from the City's Maps as a minimum but may be supplemented with maps from items a through f above.

Finding: Complies as proposed. The application has provided preliminary geological hazard memos describing the general feasibility of the proposed Master Plan to meet the City's Municipal Code and engineering standards for the Geological Hazard Overlay Area. At the time the detailed development plans are submitted for each phase, the applicant will provide a full, more detailed geotechnical memorandum with the required supplemental information noted above.

2. Information and recommendations regarding existing local drainage, proposed permit activity impacts on local drainage, and mitigation to address adverse impacts;

Finding: Complies as Proposed. The application has provided general geological hazard memos for the site's masterplan. The applicant has noted that a more detailed geotechnical memorandum with its supporting documents will be submitted with each phase's detailed development plan.

3. Comprehensive information about site topography;

Finding: Complies as Proposed. The application has provided general geological hazard memos for the site's masterplan. The applicant has noted that a more detailed geotechnical memorandum with its supporting documents will be submitted with each phase's detailed development plan.

4. Opinion as to the adequacy of the proposed development from an engineering standpoint;

Finding: Applicable. These obligations shall be required when development is proposed. At this point, staff finds that compliance with all of these obligations are feasible and will be reviewed at the DDP level.

5. Opinion as to the extent that instability on adjacent properties may adversely affect the project;

Finding: Applicable. These obligations shall be required when development is proposed. At this point, staff finds that compliance with all of these obligations are feasible and will be reviewed at the DDP level.

6. Description of the field investigation and findings, including logs of subsurface conditions and laboratory testing results;

Finding: Complies as Proposed. The application has provided a preliminary Geotechnical Report with the information listed in OCMC 17.44.050.A.6. The applicant has noted that a more detailed geotechnical memorandum with its supporting documents will be submitted with each phase's detailed development plan.

7. *Conclusions regarding the effect of geologic conditions on the proposed development, tree removal, or grading activity;*

Finding: Applicable. These obligations shall be required when development is proposed. At this point, staff finds that compliance with all of these obligations are feasible and will be reviewed at the DDP level.

8. *Specific requirements and recommendations for plan modification, corrective grading, and special techniques and systems to facilitate a safe and stable site;*

Finding: Applicable. These obligations shall be required when development is proposed. At this point, staff finds that compliance with all of these obligations are feasible and will be reviewed at the DDP level.

9. *Recommendations and types of considerations as appropriate for the type of proposed development:*

- a. General earthwork considerations, including recommendations for temporary and permanent cut and fill slopes and placement of structural fill,*
- b. Location of residence on lot,*
- c. Building setbacks from slopes,*
- d. Erosion control techniques applicable to the site,*
- e. Surface drainage control to mitigate existing and potential geologic hazards,*
- f. Subsurface drainage and/or management of groundwater seepage,*
- g. Foundations,*
- h. Embedded/retaining walls,*
- i. Management of surface water and irrigation water;*
- j. Impact of the development on the slope stability of the lot and the adjacent properties.*
- k. Construction phasing and implementation schedule as it relates to foundation excavation, allowance for stockpiles, imported backfill, site subsurface drainage or dewatering, provision for offseason site protections;*
- l. Stormwater Management; and*
- m. Construction Methods*

Finding: Applicable. These obligations shall be required when development is proposed. At this point, staff finds that compliance with all of these obligations are feasible and will be reviewed at the DDP level.

10. *Scaled drawings that describe topography and proposed site work, including:*

- a. Natural physical features, topography at two or ten-foot contour intervals locations of all test excavations or borings, watercourses both perennial and intermittent, ravines and all existing and manmade structures or features all fully dimensioned, trees six- inch caliper or greater measured four feet from ground level, rock outcroppings and drainage facilities;*
- b. All of the features and detail required for the site plan above, but reflecting preliminary finished grades and indicating in cubic yards whether and to what extent there will be a net increase or loss of soil.*
- c. A cross-section diagram, indicating depth, extent and approximate volume of all excavation and fills.*

Finding: Complies as Proposed. The application has provided all of the information listed in 17.44.050.A.10

11. *For properties greater than one acre and any property that has any portion of its property existing within a mapped landslide, where the activity is not exempted by 17.44.35, a preliminary hydrology report, prepared by a suitably qualified and experienced hydrology expert, addressing the effect upon the watershed in which the proposed development is located; the effect upon the immediate area's stormwater drainage pattern of flow, the impact of the proposed development upon downstream areas and upon wetlands and water resources; and the effect upon the groundwater supply.*

Finding: Complies with Condition. The site is greater than one acre and contains mapped geologic landslides. The applicant shall provide a hydrology report that addresses the effect of the stormwater outfall upon the local

watershed with each DDP. The hydrology report must address the discharges erosion and landslide effect on the downhill slope, the stabilization of the uphill slope, and the environmental impact on the downhill slope , as well as how the infiltration rates before and after development would affect groundwater supply. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

17.44.050.B. Review Procedures and Approvals require the following:

- 1) Examination to ensure that:
 - a) Required application requirements are completed;
 - b) Geologic assessment and geotechnical report procedures and assumptions are generally accepted; and
 - c) All conclusions and recommendations are supported and reasonable.

Finding: Complies as Proposed. The application has provided all of the information listed in 17.44.050.B.1

17.44.050.B.2 Conclusions and recommendations stated in an approved assessment or report shall then be directly incorporated as permit conditions or provide the basis for conditions of approval for the regulated activity.

Finding: Complies as Proposed. The application has provided all of the information listed in 17.44.050.B.2

17.44.050.B.3 All geologic assessments and geotechnical reports shall be reviewed by an engineer certified for expertise in geology or geologic engineering and geotechnical engineering, respectively, as determined by the City. The City will prepare a list of prequalified consultants for this purpose. The cost of review by independent review shall be paid by the applicant.

Finding: Applicable. These obligations shall be required when development is proposed. At this point, staff finds that compliance with all of these obligations are feasible and will be reviewed at the DDP level.

17.44.050.C. The city engineer may waive one or more requirements of subsections A and B of this section if the city engineer determines that site conditions, size or type or development of grading requirements do not warrant such detailed information. If one or more requirements are waived, the city engineer shall, in the staff report or decision, identify the waived provision(s), explain the reasons for the waiver, and state that the waiver may be challenged on appeal and may be denied by a subsequent review authority.

Finding: Not Applicable. The City Engineer has not waived any of the requirements as all requirements apply to this application.

17.44.060 Development Standards.

Notwithstanding any contrary dimensional or density requirements of the underlying zone, the following standards shall apply to the review of any development proposal subject to this chapter. Requirements of this chapter are in addition to other provision of the Oregon City Municipal Code. Where provision of this chapter conflict with other provision of the Oregon City Municipal Code, the provisions that are more restrictive of regulated development activity shall govern.

17.44.060.A All developments shall be designed to avoid unnecessary disturbance of natural topography, vegetation and soils. To the maximum extent practicable as determined by the review authority, tree and ground cover removal and fill and grading for residential development on individual lots shall be confined to building footprints and driveways, to areas required for utility easements and for slope easements for road construction, and to areas of geotechnical remediation.

Finding: Complies with condition. A majority of the proposed development meets this condition. However further refinement and reduction of the proposed development within the geological hazard areas will be needed with each phase's detailed development plans. This includes the number of buildable lots in the geohazard area (see 17.44.060.H below). The proposed alignments of Holly Lane, Street 6, and Street C do not avoid mapped geological hazards. The final alignment of the proposed streets and the number of buildable lots located in the geological hazard areas shall be further reviewed as part each phase's DDP. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

17.44.060.B All grading, drainage improvements, or other land disturbances shall only occur from May 1 to October 31. "Land disturbance" is defined as any movement of earth, placement of earth, or movement of heavy trucks on earth, not including the right of way. Erosion control measures shall be installed and functional prior to any disturbances. Erosion control measures shall also be functioning and in a winterized stable condition once all land disturbance work has ceased for the year. The City Engineer may allow grading, drainage improvements or other land disturbances to begin before May 1 (but no earlier than March 16) and end after October 31 (but no later than November 30), based upon weather conditions and the recommendation and direction of the project's geotechnical engineer. The City Engineer may use the expertise of a City contracted geotechnical consultant to make the decision to allow any work before May 1 or after October 31. The City Engineer has full authority to not allow any extension of work before May 1 or after October 31. In no case shall the applicant be allowed to begin work before May 1 or complete work after October 31 if the average monthly rainfall in any individual month between September and April is exceeded. When allowed by the City Engineer, the modification of dates shall be the minimum necessary, based upon the evidence provided by the applicant, to accomplish the necessary project goals. Temporary protective fencing shall be established around all trees and vegetation designed for protection prior to the commencement of grading or other soil disturbance.

Finding: Applicable. These obligations shall be required when development is proposed. At this point, staff finds that compliance with all of these obligations are feasible and will be reviewed at the DDP level.

17.44.060.C Designs shall minimize the number and size of cuts and fills.

Finding: Applicable. These obligations shall be required when development is proposed. At this point, staff finds that compliance with all of these obligations are feasible and will be reviewed at the DDP level.

17.44.060.D Cut and fill slopes greater than seven feet in height (as measured vertically) shall be terraced. Faces on a terraced section shall not exceed five feet. Terrace widths shall be a minimum of three feet and shall be vegetated. Total cut and fill slopes shall not exceed a vertical height of fifteen feet. Except in connection with geotechnical remediation plans approved in accordance with the chapter, cuts shall not remove the toe of any slope that contains a known landslide or is greater than twenty-five percent slope. The top of cut or fill slopes not utilizing structural retaining walls shall be located a minimum of one-half the height of the cut slope from the nearest property line.

Finding: Applicable. These obligations shall be required when development is proposed. At this point, staff finds that compliance with all of these obligations are feasible and will be reviewed at the DDP level.

17.44.060.E Any structural fill shall be designed by a suitably qualified and experienced civil or geotechnical engineer licensed in Oregon in accordance with standard engineering practice. The applicant's engineer shall certify that the fill has been constructed as designed in accordance with the provisions of this chapter. The structural fill design must be provided prior to any fill being placed onsite. The structural fill design must contain the stamp and signature of a professional engineer licensed in the State of Oregon.

Finding: Applicable. These obligations shall be required when development is proposed. At this point, staff finds that compliance with all of these obligations are feasible and will be reviewed at the DDP level.

17.44.060.F Retaining walls shall be constructed in accordance with the Oregon Structural Specialty Code adopted by the State of Oregon.

1. Retaining walls that are four feet or greater in height, tiered walls with a total height four feet or
2. The construction of the wall must be inspected by the professional engineer responsible for the design and must be certified prior to the structure receiving temporary occupancy. The certification must contain the stamp and signature of a professional engineer licensed in the State of Oregon.
3. All retaining walls required to be designed by a professional engineer shall be reviewed by the City, when expertise exists on staff, or by the City's consultant. When reviewed by the City's consultant, the applicant shall reimburse the City for time spent by the City's consultant to review the design.

Finding: Applicable. These obligations shall be required when development is proposed. At this point, staff finds that compliance with all of these obligations are feasible and will be reviewed at the DDP level.

17.44.060.G Roads shall be the minimum width necessary to provide safe vehicle and emergency access, minimize cut and fill and provide positive drainage control. The review authority may grant a variance from the City's required road standards upon findings that the variance would provide safe vehicle and emergency access and is necessary to comply with the purpose and policy of this chapter.

Finding: Applicable. These obligations shall be required when development is proposed. At this point, staff finds that compliance with all of these obligations are feasible and will be reviewed at the DDP level.

17.44.060.H Density shall be determined as follows:

1. Slope

- a. For those areas with slopes less than twenty-five percent between grade breaks, the allowed density shall be that permitted by the underlying zoning district, unless further limited by the following code section;
- b. For those areas with slopes of twenty-five to thirty-five percent between grade breaks, the density shall not exceed two dwelling units per acre except as otherwise provided in subsection I of this section;
- c. For those areas with slopes over thirty-five percent between grade breaks, development shall be prohibited except as otherwise provided in subsection I 4 of this section.

2. Existing landslide (as shown in the Geologic Hazard Overlay Zone)

- a. For those areas with historic landslides where the structure or ground disturbance will be located within any portion of the mapped landslide or buffer zone, the density shall not exceed two dwelling units per acre except as otherwise provided in subsection I of this section;

Finding: Complies with Condition. This code applies to the entirety of the overall land proposed for development and not the newly created individual lots. As such, the number of lots proposed for this site within the geological hazard areas (e.g. Lots 433-440, 464-465, 378-379, 270-274, 233-237, 96-97, and 75) exceed the density requirements above for the overall site. During the detailed design phase, the applicant shall further refine the number of lots proposed within the geologic hazard areas to meet the City's density requirements. This may include identifying lots as unbuildable green space or modifying the size of the lots to reduce the density. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval**

17.44.060.I For properties with slopes of twenty-five to thirty-five percent between grade breaks or are located within any portion of a mapped landslide and buffer zone:

1. For those portions of the property with slopes of twenty-five to thirty-five percent or located within any portion of a mapped landslide and buffer zone, the maximum residential density shall be limited to two dwelling units per acre; provided, however, that where the entire site is less than one-half acre in size, a single dwelling shall be allowed on a lot or parcel existing as of January 1, 1994 and meeting the minimum lot size requirements of the underlying zone;
2. An individual lot or parcel with slopes between twenty-five and thirty-five percent or located within any portion of a mapped landslide and buffer zone, shall have no more than fifty percent or four thousand square feet of the surface area, whichever is smaller, graded or stripped of vegetation or covered with structures or impermeable surfaces.
3. No cut into a slope of twenty-five to thirty-five percent or located within any portion of a mapped landslide and buffer zone, for the placement of a housing unit shall exceed a maximum vertical height of fifteen feet for the individual lot or parcel.
4. For those portions of the property with slopes over thirty-five percent between grade breaks:
 - a. Notwithstanding any other city land use regulation, development other than roads, utilities, public facilities and geotechnical remediation shall be prohibited; provided, however, that the review authority may allow development upon such portions of land upon demonstration by an applicant that failure to permit development would deprive the property owner of all economically beneficial use of the property. This determination shall be made considering the entire parcel in question and contiguous parcels in common ownership on or after January 1, 1994, not just the portion where development is otherwise prohibited by this chapter. Where this showing can be made on residentially zoned land, development shall be allowed and limited

to one single-family residence. Any development approved under this chapter shall be subject to compliance with all other applicable city requirements as well as any applicable state, federal or other requirements;

- b. To the maximum extent practicable as determined by the review authority, the applicant shall avoid locating roads, utilities, and public facilities on or across slopes exceeding thirty-five percent.*

Finding: Complies with Condition. This code applies to the entirety of the overall land proposed for development and not the newly created individual lots. As such, the number of lots proposed for this site within the geological hazard areas (e.g. Lots 433-440, 464-465, 378-379, 270-274, 233-237, 96-97, and 75) exceed the density requirements above for the overall site. During the detailed design phase, the applicant shall further refine the number of lots proposed within the geologic hazard areas to meet the City's density requirements. This may include identifying lots as unbuildable green space or modifying the size of the lots to reduce the density. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval**

17.44.060.J *The geotechnical engineer of record shall review final grading, drainage, and foundation plans and specifications and confirm in writing that they are in conformance with the recommendations provided in their report.*

Finding: Complies as proposed. These obligations shall be required when development is proposed. At this point, staff finds that compliance with all of these obligations are feasible and will be reviewed at the DDP level.

17.44.060.K *At the City's discretion, peer review shall be required for the geotechnical evaluation/investigation report submitted for the development and/or lot plans. The peer reviewer shall be selected by the City. The applicant's geotechnical engineer shall respond to written comments provided by the City's peer reviewer prior to issuance of building permit.*

Finding: Applicable. These obligations shall be required when development is proposed. At this point, staff finds that compliance with all of these obligations are feasible and will be reviewed at the DDP level.

17.44.060.L *The review authority shall determine whether the proposed methods of rendering a known or potential hazard site safe for construction, including proposed geotechnical remediation methods, are feasible and adequate to prevent landslides or damage to property and safety. The review authority shall consult with the City's geotechnical engineer in making this determination. Costs for such consultation shall be paid by the applicant. The review authority may allow development in a known or potential hazard area as provided in this chapter if specific findings are made that the specific provisions in the design of the proposed development will prevent landslides or damage. The review authority may impose any conditions, including limits on type or intensity of land use, which it determines are necessary to assure that landslides or property damage will not occur.*

Finding: Applicable. These obligations shall be required when development is proposed. At this point, staff finds that compliance with all of these obligations are feasible and will be reviewed at the DDP level.

17.44.070 - Access to Property.

- A. Shared private driveways may be required if the city engineer or principal planner determines that their use will result in safer location of the driveway and lesser amounts of land coverage than would result if separate private driveways are used.*
- B. Innovations in driveway design and road construction shall be permitted in order to keep grading and cuts or fills to a minimum and to achieve the purpose and policy of this chapter.*
- C. Points of access to arterials and collectors shall be minimized.*
- D. The city engineer or principal planner shall verify that adequate emergency services can be provided to the site.*

Finding: Complies as Proposed. The proposed access to the site and lots meet the code above and the requirements of the Park Place Concept Plan (i.e. alley driveway access instead of access off of a collector road).

17.44.080 - Utilities.

All new utilities (storm sewer, sanitary sewer, potable water, and gas), both on-site and off-site, shall be placed underground and under roadbeds where practicable. All other service utilities (including, but not limited to, electric, telephone, telecom, cable, fiberoptic) shall be placed above ground on existing poles if poles exist. If no poles exist, the service lines shall be

placed underground. Every effort shall be made to minimize the impact of utility construction. Underground utilities require the geologic hazards permitting and review prescribed herein when applicable.

Finding: Applicable. These obligations shall be required when development is proposed. At this point, staff finds that compliance with all of these obligations are feasible and will be reviewed at the DDP level.

17.44.090 - Stormwater Drainage.

The applicant shall submit a permanent and complete stormwater control plan. The program shall include, but not be limited to the following items as appropriate: curbs, gutters, inlets, catch basins, detention facilities and stabilized outfalls. Detention facilities shall be designed to city standards as set out in the city's drainage master plan and design standards. The review authority may impose conditions to ensure that waters are drained from the development so as to limit degradation of water quality consistent with Oregon City's Title III section of the Oregon City Municipal Code Chapter 17.49 and the Oregon City Stormwater and Grading Design Standards or other adopted standards subsequently adopted by the city commission. The review authority may also impose conditions to limit the volume, velocity, or flow rate of water such that it does not negatively impact the underlying drainageway cross section. Drainage design shall be approved by the City Engineer before construction, including grading or other soil disturbance, has begun.

A geotechnical report must include analysis and solutions for infiltration facilities located in areas where these facilities could impact nearby slopes of greater than 10 percent. Infiltration shall be minimized as practicable for any site located within a Geologic Hazard Overlay. Infiltration is not allowed for any site located in areas greater than 25 percent. The project's civil or geotechnical engineer shall inspect any stormwater management feature and must certify that the stormwater management feature was constructed per plan and with the recommendations of the geotechnical engineer prior to receiving temporary occupancy. The certification must contain the stamp and signature of a professional engineer licensed in the State of Oregon.

Finding: Applicable. These obligations shall be required when development is proposed. At this point, staff finds that compliance with all of these obligations are feasible and will be reviewed at the DDP level.

17.44.100 - Construction Standards.

During construction on land subject to this chapter, the following standards shall be implemented by the developer:

17.44.100.A *All development activity shall minimize vegetation removal and soil disturbance and shall provide positive erosion prevention measures in conformance with OCMC Chapter 17.47 – Erosion and Sediment Control.*

Finding: Applicable. These obligations shall be required when development is proposed. At this point, staff finds that compliance with all of these obligations are feasible and will be reviewed at the DDP level.

17.44.100.B *No grading, clearing or excavation of any land shall be initiated prior to approval of the grading plan, except that the city engineer shall authorize the site access, brush to be cleared and the location of the test pit digging prior to approval of such plan to the extent needed to complete preliminary and final engineering and surveying. The grading plan shall be approved by the city engineer as part of the city's review under this chapter. The developer shall be responsible for the proper execution of the approved grading plan.*

Measures shall be taken to protect against landslides, mudflows, soil slump and erosion. Such measures shall include sediment fences, straw bales, erosion blankets, temporary sedimentation ponds, interceptor dikes and swales, undisturbed buffers, grooving and stair stepping, check dams, etc. The applicant shall comply with the measures described in the Oregon City Public Works Standards for Erosion and Sedimentation Control (Ordinance 99-1013). Erosion control measures shall be in place at all times during construction to the maximum extent practicable.

Finding: Applicable. These obligations shall be required when development is proposed. At this point, staff finds that compliance with all of these obligations are feasible and will be reviewed at the DDP level.

17.44.100.C *All disturbed vegetation shall be replanted with suitable vegetation upon completion of the grading of the steep slope area.*

Finding: Applicable. These obligations shall be required when development is proposed. At this point, staff finds that compliance with all of these obligations are feasible and will be reviewed at the DDP level.

17.44.100.D Existing vegetative cover shall be maintained to the maximum extent practicable. No grading, compaction or change in ground elevation, soil hydrology and/or site drainage shall be permitted within the drip line of trees designated for protection, unless approved by the City.

Finding: Applicable. These obligations shall be required when development is proposed. At this point, staff finds that compliance with all of these obligations are feasible and will be reviewed at the DDP level.

17.44.100.E Existing perennial and intermittent watercourses shall not be disturbed unless specifically authorized by the review authority. This includes physical impacts to the stream course as well as siltation and erosion impacts. The City, at its discretion, is not required to but may request the examination and assessment by other State agencies to determine if impacts are acceptable.

Finding: See findings from OCMC 17.49 of this report

17.44.100.F All soil erosion and sediment control measures shall be maintained during construction and for one year after development is completed, or until soils are stabilized by revegetation or other measures to the satisfaction of the city engineer. Such maintenance shall be the responsibility of the developer. If erosion or sediment control measures are not being properly maintained or are not functioning properly due to faulty installation or neglect, the City may order work to be stopped.

Finding: Applicable. These obligations shall be required when development is proposed. At this point, staff finds that compliance with all of these obligations are feasible and will be reviewed at the DDP level.

17.44.100.G All newly created lots, either by subdivision or partition, shall contain building envelopes with a slope of 35% or less.

Finding: Applicable. These obligations shall be required when development is proposed. At this point, staff finds that compliance with all of these obligations are feasible and will be reviewed at the DDP level.

17.44.100.H The applicant's geotechnical engineer shall provide special inspection during construction to confirm that the subsurface conditions and assumptions made as part of their geotechnical evaluation/investigation are appropriate. This will allow for timely design changes if site conditions are encountered that are different from those anticipated. Inspection is required on a daily basis for any day that earth disturbance is occurring or after any rainfall event of ½ inch or greater.

Finding: Applicable. These obligations shall be required when development is proposed. At this point, staff finds that compliance with all of these obligations are feasible and will be reviewed at the DDP level.

17.44.100.I Prior to issuing an occupancy permit, the geotechnical engineer shall prepare a summary letter stating that the soils- and foundation-related project elements were accomplished in substantial conformance with their recommendations. The summary letter must contain the stamp and signature of a professional engineer licensed in the State of Oregon.

Finding: Applicable. These obligations shall be required when development is proposed. At this point, staff finds that compliance with all of these obligations are feasible and will be reviewed at the DDP level.

17.44.110 - Approval of development.

The City Engineer shall review the application and verify, based on the applicant's materials and the land use record, whether the proposed development constitutes a hazard to life, property, natural resources or public facilities. If, in the City Engineer's opinion, a particular development poses such a hazard, the City Engineer shall recommend to the review authority permit conditions designed to reduce or eliminate the hazard. These conditions may include, but are not limited to, prohibitions on construction activities between November 1st and April 30th.

Finding: Applicable. These obligations shall be required when development is proposed. At this point, staff finds that compliance with all of these obligations are feasible and will be reviewed at the DDP level.

17.44.120 - Liability. Approval of an application for development on land subject to this chapter shall not imply any liability on the part of the city for any subsequent damage due to earth slides. Prior to the issuance of a building permit, a waiver of damages and an indemnity and hold harmless agreement shall be required which releases the city from all liability for any

damages resulting from the development approved by the city's decision. The indemnity and hold harmless agreement shall be recorded on the property and run with the property.

Finding: Applicable. These obligations shall be required when development is proposed. At this point, staff finds that compliance with all of these obligations are feasible and will be reviewed at the DDP level.

17.44.130 - Compliance.

Nothing contained in this chapter shall relieve the developer of the duty to comply with any other provision of law. In the case of a conflict, the more restrictive regulation shall apply.

Finding: Applicable. These obligations shall be required when development is proposed. At this point, staff finds that compliance with all of these obligations are feasible and will be reviewed at the DDP level.

CHAPTER 17.49 NATURAL RESOURCES OVERLAY DISTRICT

17.49.020 NROD identifying documents.

A. *The NROD protects as one connected system the habitats and associated functions of the streams, riparian corridors, wetlands and the regulated upland habitats found in Oregon City. These habitats and functions are described in the following documents upon which the NROD is based:*

1. *The 1999 Oregon City Local Wetland Inventory.*
2. *The Oregon City Water Quality Resource Area Map (Ord. No. 99-1013).*
3. *2004 Oregon City slope data and mapping (LIDAR).*
4. *Metro Regionally Significant Habitat Map (Aerial Photos taken 2002).*
5. *National Wetland Inventory (published 1992).*
6. *Beavercreek Road Concept Plan (adopted September 2008).*
7. *Park Place Concept Plan (adopted April 2008).*
8. *South End Concept Plan (adopted April 2014).*

The NROD provisions apply only to properties within the NROD as shown on the NROD Map, as amended.

The intent of these regulations is to provide applicants the ability to choose a clear and objective review process or a discretionary review process. The NROD provisions do not affect existing uses and development, or the normal maintenance of existing structures, driveways/parking areas, public facilities, farmland and landscaped areas. New public facilities such as recreation trails, planned road and utility line crossings and stormwater facilities, are allowed within the overlay district under prescribed conditions as described in OCMC 17.49.090. In addition, provisions to allow a limited portion of the NROD to be developed on existing lots of record that are entirely or mostly covered by the NROD ("highly constrained") are described in OCMC 17.49.120.

Finding: The applicant has responded to this Chapter to demonstrate that compliance with selected provisions of the NROD is feasible for future development. No development is proposed at this time. Future detailed development plan applications will be required to show compliance with this Chapter.

17.49.030 Map as reference.

1. *This chapter applies to all development within the natural resources overlay district as shown on the NROD Map, which is a regulatory boundary mapped ten feet beyond the required vegetated corridor width specified in OCMC 17.49.110. The mapped NROD boundary is based on a GIS-supported application of the adopted documents, plans and maps listed in OCMC 17.49.020.A.1—17.49.020.A.8, however the adopted map may not indicate the true location of protected features.*
2. *Notwithstanding changing field conditions or updated mapping approved by the city (and processed as a Type I Verification per OCMC 17.49.255), the applicant may choose to either accept the adopted NROD boundary or provide a verifiable delineation of the true location of the natural resource feature pursuant to the Type I or Type II procedure in accordance with this chapter.*
3. *The NROD boundary shall be shown on all development permit applications.*
4. *The official NROD map can only be amended by the city commission.*
5. *Verification of the map shall be processed pursuant to OCMC 17.49.250.*

Finding: The applicant has responded to this Chapter to demonstrate that compliance with selected provisions of the NROD is feasible for future development.

17.49.035 - Addition of wetlands to map following adoption.

The NROD boundary shall be expanded to include a wetland identified during the course of a development permit review if it is within or partially within the mapped NROD boundary and meets the State of Oregon's definition of a "Locally Significant Wetland". In such cases, the entire wetland and its required vegetated corridor as defined in Table 17.49.110 shall be regulated pursuant to the standards of this chapter. The amended NROD boundary may be relied upon by the Community Development Director for the purposes of subsequent development review.

Finding: Applicable. The applicant has shown the mapped NROD on the submitted plans, as well as wetland discovered on parts of the site that were studied. Several of these wetlands are outside of the NROD boundary and are not required to be added to the NROD boundary. Other areas of the site were not studied and it is possible that additional wetlands, potentially partially within the mapped NROD boundary, may be discovered. No verification or development is proposed at this time. Future detailed development plan applications will be required to show compliance with this Chapter.

17.49.040 - NROD permit and review process.

An NROD permit is required for those uses regulated under OCMC 17.49.090, Uses Allowed under Prescribed Conditions. An NROD permit shall be processed under the Type II development permit procedure, unless an adjustment of standards pursuant to OCMC 17.49.200 is requested or the application is being processed in conjunction with a concurrent application or action requiring a Type III or Type IV development permit.

Finding: Not applicable for the General Development Plan. No development is proposed at this time. Future detailed development plan applications will be required to show compliance with this standard.

17.49.050 - Emergencies.

The provisions of this ordinance do not apply to work necessary to protect, repair, maintain, or replace existing structures, utility facilities, roadways, driveways, accessory uses and exterior improvements in response to emergencies. After the emergency has passed, any disturbed native vegetation areas shall be replanted with similar vegetation found in the Oregon City Native Plant List pursuant to the mitigation standards of OCMC 17.49.180. For purposes of this section emergency shall mean any man-made or natural event or circumstance causing or threatening loss of life, injury to person or property, and includes, but is not limited to fire, explosion, flood, severe weather, drought, earthquake, volcanic activity, spills or releases of oil or hazardous material, contamination, utility or transportation disruptions, and disease.

Finding: Not applicable for the General Development Plan. No development is proposed at this time. Future detailed development plan applications will be required to show compliance with this standard.

17.49.060 - Consistency and relationship to other regulations.

A. Where the provisions of the NROD are less restrictive or conflict with comparable provisions of the OCMC, other City requirements, regional, state or federal law, the provisions that provides the greater protection of the resource shall govern.

Finding: Not applicable for the General Development Plan. No development is proposed at this time. Future detailed development plan applications will be required to show compliance with this standard.

B. Compliance with Federal and State Requirements.

1. If the proposed development requires the approval of any other governmental agency, such as the Division of State Lands or the U.S. Army Corps of Engineers, the applicant shall make an application for such approval prior to or simultaneously with the submittal of its development application to the City. The planning division shall coordinate City approvals with those of other agencies to the extent necessary and feasible. Any permit issued by the City pursuant to this chapter shall not become valid until other agency approvals have been obtained or those agencies indicate that such approvals are not required.

Finding: Not applicable for the General Development Plan. No development is proposed at this time. Future detailed development plan applications will be required to show compliance with this standard.

2. *The requirements of this chapter apply only to areas within the NROD and to locally significant wetlands that may be added to the boundary during the course of development review pursuant to OCMC 17.49.035. If, in the course of a development review, evidence suggests that a property outside the NROD may contain a wetland or other protected water resource, the provisions of this chapter shall not be applied to that development review. However, the omission shall not excuse the applicant from satisfying any state and federal wetland requirements which are otherwise applicable. Those requirements apply in addition to, and apart from the requirements of the City's comprehensive plan and this code.*

Finding: Applicable. The applicant has shown the mapped NROD on the submitted plans, as well as wetland discovered on parts of the site that were studied. Several of these wetlands are outside of the NROD boundary and are not required to be added to the NROD boundary. Other areas of the site were not studied and it is possible that additional wetlands, potentially partially within the mapped NROD boundary, may be discovered. No verification or development is proposed at this time. Future detailed development plan applications will be required to show compliance with this Chapter.

17.49.070 - Prohibited uses.

The following development and activities are not allowed within the NROD:

- A. *Any new gardens, lawns, structures, development, other than those allowed outright (exempted) by the NROD or that is part of a regulated use that is approved under prescribed conditions. Note: Gardens and lawns within the NROD that existed prior to the time the overlay district was applied to a subject property are allowed to continue but cannot expand further into the overlay district.*
- B. *New lots that would have their buildable areas for new development within the NROD are prohibited.*
- C. *The dumping of materials of any kind is prohibited except for placement of fill as provided in subsection D. below. The outside storage of materials of any kind is prohibited unless they existed before the overlay district was applied to a subject property. Uncontained areas of hazardous materials as defined by the Oregon Department of Environmental Quality (ORS 466.005) are also prohibited.*
- D. *Grading, the placement of fill in amounts greater than ten cubic yards, or any other activity that results in the removal of more than ten percent of the existing native vegetation on any lot within the NROD is prohibited, unless part of an approved development activity.*

Finding: Not applicable for the General Development Plan. No development is proposed at this time. Future detailed development plan applications will be required to show compliance with this standard.

17.49.080 - Uses allowed outright (exempted).

The following uses are allowed within the NROD and do not require the issuance of an NROD permit:

- A. *Stream, wetland, riparian, and upland restoration or enhancement projects as authorized by the City.*
- B. *Farming practices as defined in ORS 215.203 and farm uses, excluding buildings and structures, as defined in ORS 215.203.*
- C. *Utility service using a single utility pole.*
- D. *Boundary and topographic surveys leaving no cut scars greater than three inches in diameter on live parts of native plants listed in the Oregon City Native Plant List.*
- E. *Soil tests, borings, test pits, monitor well installations, and other minor excavations necessary for geotechnical, geological or environmental investigation, provided that disturbed areas are restored to pre-existing conditions as approved by the Community Development Director.*
- F. *Trails meeting all of the following:*
 - 1. *Construction shall take place between May 1 and October 30 with hand held equipment;*
 - 2. *Widths shall not exceed forty-eight inches and trail grade shall not exceed twenty percent;*
 - 3. *Construction shall leave no scars greater than three inches in diameter on live parts of native plants;*
 - 4. *Located no closer than twenty-five feet to a wetland or the top of banks of a perennial stream, or no closer than ten feet of an intermittent stream;*
 - 5. *No impervious surfaces; and*
 - 6. *No native trees greater than one-inch in diameter may be removed or cut, unless replaced with an equal number of native trees of at least two-inch diameter and planted within ten feet of the trail.*
- G. *Land divisions provided they meet the following standards, and indicate the following on the final plat:*

1. Lots shall have their building sites (or buildable areas) entirely located at least five feet from the NROD boundary shown on the City's adopted NROD map. For the purpose of this subparagraph, "building site" means an area of at least 3,500 square feet with minimum dimensions of forty feet wide by forty feet deep;
 2. All public and private utilities (including water lines, sewer lines or drain fields, and stormwater disposal facilities) are located outside the NROD;
 3. Impervious streets, driveways and parking areas shall be located at least ten feet from the NROD; and
 4. The NROD portions of all lots are protected by:
 - a. A conservation easement; or
 - b. A lot or tract created and dedicated solely for unimproved open space or conservation purposes.
 - H. Site Plan and Design Review applications where all new construction is located outside of the NROD boundary shown on the City's adopted NROD map, and the NROD area is protected by a conservation easement approved in form by the City.
 - I. Routine repair and maintenance of existing structures, roadways, driveways and utilities.
 - J. Replacement, additions, alterations and rehabilitation of existing structures, roadways, utilities, etc., where the ground level impervious surface area is not increased.
 - K. Measures approved by the City of Oregon City to remove or abate nuisances or hazardous conditions.
 - ~~1-~~ L. Tree Removal. The Community Development Director may permit the removal of any tree determined to be a dead, hazardous, or diseased tree as defined in OCMC 17.04. Any tree that is removed in accordance with this Section (L) shall be replaced with a new tree of at least ½-inch caliper or at least six foot overall height. An exception to this requirement may be granted if the applicant demonstrates that a replacement tree has already been planted in anticipation of tree removal, or if the existing site conditions otherwise preclude tree replacement (due to existing dense canopy coverage or other ecological reasons).
 - ~~2-~~ The replacement tree(s) shall be located in the general vicinity of the removed tree(s), somewhere within NROD on the property. The replacement tree(s) shall be identified on the Oregon City Native Plant List or other locally adopted plant list (e.g. Metro or Portland). The property owner shall ensure that the replacement tree(s) survives at least two years beyond the date of its planting.
 - M. Planting of native vegetation and the removal of non-native, invasive vegetation (as identified on the Oregon City Native Plant List or other locally adopted plant list (e.g. Metro or Portland), or as recommended by an environmental professional with experience and academic credentials in one or more natural resource areas such as ecology, arboriculture, horticulture, wildlife biology, botany, hydrology or forestry), and removal of refuse and fill, provided that:
 1. All work is done using hand-held equipment;
 2. No existing native vegetation is disturbed or removed; and
 3. All work occurs outside of wetlands and the top-of-bank of streams.
 - N. Activities in which no more than one hundred square feet of ground surface is disturbed outside of the bankfull stage of water bodies and where the disturbed area is restored to the pre-construction conditions, notwithstanding that disturbed areas that are predominantly covered with invasive species shall be required to remove the invasive species from the disturbance area and plant trees and native plants pursuant to this Chapter.
 - O. New fences meeting all of the following:
 1. No taller than three and a half feet and of split rail or similar open design.;
 2. Two feet width on both sides of fence shall be planted or seeded with native grasses, shrubs, herbs, or trees to cover any bare ground;
 3. Six inches of clearance from ground level;
 4. Fence posts shall be placed outside the top-of-bank of streams and outside of delineated wetlands.
 - P. Gardens, fences and lawns within the NROD that existed prior to the time the overlay district was applied to a subject property are allowed to be maintained but cannot expand further into the overlay district.
- Finding: Not applicable for the General Development Plan.** No development is proposed at this time. Future proposals are expected to include some of the uses on this list. Future detailed development plan applications will be required to show compliance with this standard.

17.49.090 - Uses allowed under prescribed conditions.

The following uses within the NROD are subject to the applicable standards listed in OCMC 17.49.100 through 17.49.190 pursuant to a Type II process:

- A. Alteration to existing structures within the NROD when not exempted by OCMC 17.49.080, subject to OCMC 17.49.130.

- B. A residence on a highly constrained vacant lot of record that has less than three thousand square feet of buildable area, with minimum dimensions of fifty feet by fifty feet, remaining outside the NROD portion of the property, subject to the maximum disturbance allowance prescribed in OCMC 17.49.120.A.
- C. A land division that would create a new lot for an existing residence currently within the NROD, subject to OCMC 17.49.160.
- D. Land divisions when not exempted by OCMC 17.49.080, subject to the applicable standards of OCMC 17.49.160.
- E. Trails/pedestrian paths when not exempted by OCMC 17.49.080, subject to OCMC 17.49.170 (for trails) or OCMC 17.49.150 (for paved pedestrian paths).
- F. New roadways, bridges/creek crossings, utilities or alterations to such facilities when not exempted by OCMC 17.49.080.
- G. Roads, bridges/creek crossings Subject to OCMC 17.49.150.
- H. Utility lines subject to OCMC 17.49.140.
- I. Stormwater detention or pre-treatment facilities subject to OCMC 17.49.155.
- J. Institutional, industrial or commercial development on a vacant lot of record situated in an area designated for such use that has more than seventy-five percent of its area covered by the NROD, subject to OCMC 17.49.120.B.
- K. City, county and state capital improvement projects, including sanitary sewer, water and storm water facilities, water stations, and parks and recreation projects.
- L. Non-hazardous tree removal that is not exempted pursuant to OCMC 17.49.080.K.
- M. Fences that do not meet the standards for exemption pursuant to OCMC 17.49.080.O.4.

Finding: Not applicable for the General Development Plan. No development is proposed at this time. Future proposals are expected to include the some of the uses on this list. Future detailed development plan applications will be required to show compliance with this standard.

17.49.100 - General development standards.

The following standards apply to all Uses Allowed under Prescribed Conditions within the NROD with the exception of rights of ways (subject to OCMC 17.49.150), trails (subject to OCMC 17.49.170), utility lines (subject to OCMC 17.49.140), land divisions (subject to OCMC 17.49.160), and mitigation projects (subject to OCMC 17.49.180 or 17.49.190):

- A. Native trees shall be preserved unless they are located within ten feet of any proposed structures or within five feet of new driveways, or if deemed not wind-safe by a certified arborist. Trees listed on the Oregon City Nuisance Plant List or Prohibited Plant List are exempt from this standard and may be removed. A protective covenant shall be required for any native trees that remain;
- B. The Community Development Director may allow the landscaping requirements of the base zone, other than landscaping required for parking lots, to be met by preserving, restoring and permanently protecting habitat on development sites in the Natural Resource Overlay District.
- C. All vegetation planted in the NROD shall be native and listed on the Oregon City Native Plant List or other locally adopted plant list (e.g. Metro or Portland), or as recommended by an environmental professional with experience and academic credentials in one or more natural resource areas such as ecology, arboriculture, horticulture, wildlife biology, botany, hydrology or forestry);
- D. Grading is subject to installation of erosion control measures required by the City;
- E. The minimum front, street, or garage setbacks of the base zone may be reduced to any distance between the base zone minimum and zero in order to minimize the disturbance area within the NROD portion of the lot;
- F. Any maximum required setback in any zone, such as for multi-family, commercial or institutional development, may be increased to any distance between the maximum and the distance necessary to minimize the disturbance area within the NROD portion of the lot;
- G. Fences in compliance with OCMC 17.49.080.N;
- H. Exterior lighting shall be placed or shielded so that they do not shine directly into resource areas;
- I. If development will occur within the one hundred-year floodplain, the standards of OCMC 17.42 shall be met; and
- J. Mitigation of impacts to the regulated buffer is required, subject to OCMC 17.49.180 or 17.49.190.

Finding: Not applicable for the General Development Plan. No development is proposed at this time. Future detailed development plan applications will be required to show compliance with this standard.

17.49.110 - Width of vegetated corridor.

A. *Calculation of Vegetated Corridor Width within City Limits. The NROD consists of a vegetated corridor measured from the top of bank or edge of a protected habitat or water feature. The minimum required width is the amount of buffer required on each side of a stream, or on all sides of a feature if non-linear. The width of the vegetated corridor necessary to adequately protect the habitat or water feature is specified in Table 17.49.110.*

Table 17.49.110

Protected Water Feature Type (see definitions)	Slope Adjacent to Protected Water Feature	Starting Point for Measurements from Water Feature	Width of Vegetated Corridor (see Note 1)
Anadromous fish-bearing streams	Any slope	• Edge of bankfull flow	200 feet
Intermittent streams with slopes less than 25 percent and which drain less than 100 acres	< 25 percent	• Edge of bankfull flow	15 feet
All other protected water features	< 25 percent	• Edge of bankfull flow • Delineated edge of Title 3 wetland	50 feet
	≥25 percent for 150 feet or more (see Note 2)		200 feet
	≥25 percent for less than 150 feet (see Note 2)		Distance from starting point of measurement to top of ravine (break in ≥25 percent slope) (See Note 3) plus 50 feet.

Notes:

1. Required width (measured horizontally) of vegetated corridor unless reduced pursuant to the provisions of OCMC 17.49.120.
2. Vegetated corridors in excess of fifty feet apply on steep slopes only in the uphill direction from the protected water feature.
3. Where the protected water feature is confined by a ravine or gully, the top of the ravine is the break in the ≥25 percent slope.

Finding: Not applicable for the General Development Plan. No development is proposed at this time. The applicant did not submit a Verification request to establish the required width of the vegetated corridor for each protected water feature. Future detailed development plan applications will be required to show compliance with this standard.

B. *Habitat Areas within City Parks. For habitat and water features identified by Metro as regionally significant which are located within city parks, the NROD Boundary shall correspond to the Metro Regionally Significant Habitat Map.*

Finding: Not applicable for the General Development Plan. No development is proposed at this time. The applicant did not submit a Verification request to establish the required width of the vegetated corridor for each protected water feature. Future detailed development plan applications will be required to show compliance with this standard.

C. *Habitat Areas outside city limit/within UGB. For habitat and water features identified by Metro as regionally significant which are located outside of the city limits as of the date of adoption of this ordinance, the minimum corridor width from any non-anadromous fish bearing stream or wetland shall be fifty feet.*

Finding: Not applicable. The project site is within the City limits and includes mapped NROD areas.

17.49.120 - Maximum disturbance allowance for highly constrained lots of record.

Finding: Not applicable. The project site is not a highly constrained lot of record. Future developments will be reviewed under other sections of OCMC 17.49.

17.49.130 - Existing development standards.

In addition to the General Development Standards of OCMC 17.49.100, the following standards apply to alterations and additions to existing development within the NROD, except for trails, rights of way, utility lines, land divisions and mitigation projects. As of June 1, 2010, applicants for alterations and additions to existing development that are not exempt pursuant to OCMC 17.49.080.J. shall submit a Type II or Type III application pursuant to this section.

Mitigation is required, subject to OCMC 17.49.180 or 17.49.190.

Finding: Not applicable for the General Development Plan. No development is proposed at this time. Future detailed development plan applications will be required to show compliance with this standard.

17.49.140 - Standards for utility lines.

Finding: Not applicable for the General Development Plan. No development is proposed at this time. Future detailed development plan applications will be required to show compliance with this standard.

17.49.150 - Standards for vehicular or pedestrian paths and roads.

Finding: Not applicable for the General Development Plan. No development is proposed at this time. Future detailed development plan applications will be required to show compliance with this standard.

17.49.155 - Standards for stormwater facilities.

Finding: Not applicable for the General Development Plan. No development is proposed at this time. Future detailed development plan applications will be required to show compliance with this standard.

17.49.160 - Standards for land divisions.

Other than those land divisions exempted by OCMC 17.49.070.G., new residential lots created within the NROD shall conform to the following standards.

A. For a lot for an existing residence currently within the NROD. This type of lot is allowed within the NROD for a residence that existed before the NROD was applied to a subject property. A new lot for an existing house may be created through a partition or subdivision process when all of the following are met:

- 1. There is an existing house on the site that is entirely within the NROD area; and*
- 2. The existing house will remain; and*
- 3. The new lot is no larger than required to contain the house, minimum required side setbacks, garage, driveway and a twenty-foot deep rear yard, with the remaining NROD area beyond that point protected by a conservation easement, or by dedicating a conservation tract or public open space.*

Finding: Not applicable for the General Development Plan. No development is proposed at this time. Future detailed development plan applications will be required to show compliance with this standard.

B. Protection and ownership of NROD areas in land divisions:

- 1. New partitions shall delineate the NROD area either as a separate tract or conservation easement that meets the requirements of subsection 2. of this section.*
- 2. Prior to final plat approval, ownership and maintenance of the NROD area shall be identified to distinguish it from the buildable areas of the development site. The NROD area may be identified as any one of the following:*
 - a. A tract of private open space held by the homeowners association;*

- b. For residential land divisions, a tract of private open space held by a homeowner's association subject to an easement conveying stormwater and surface water management rights to the City and preventing the owner of the tract from activities and uses inconsistent with the purpose of this document;
- c. Public open space where the tract has been dedicated to the City or other governmental unit;
- d. Conservation easement area pursuant to OCMC 17.49.180.G. and approved in form by the Community Development Director; or
- e. Any other ownership proposed by the owner and approved by the Community Development Director.
- f. NROD tracts shall be exempt from minimum frontage requirements, dimensional standards of the zoning designation, street frontage requirements, or flag lot standards pursuant to OCMC 16.08.053.

Finding: Not applicable for the General Development Plan. No development is proposed at this time. The applicant has indicated that the NROD areas will be placed in a separate tract. Future detailed development plan applications will be required to show compliance with this standard.

17.49.170 - Standards for trails.

Finding: Not applicable for the General Development Plan. No development is proposed at this time. Future detailed development plan applications will be required to show compliance with this standard.

17.49.180 - Mitigation standards.

Finding: Not applicable for the General Development Plan. No development is proposed at this time. Future detailed development plan applications will be required to show compliance with this standard.

17.49.190 - Alternative mitigation standards.

Finding: Not applicable for the General Development Plan. No development is proposed at this time. Future detailed development plan applications will be required to show compliance with this standard.

17.49.200 - Adjustment from standards.

Finding: Not applicable. The applicant has not requested an adjustment to the standards.

17.49.210 - Type II development permit application.

Unless otherwise directed by the NROD standards, proposed development within the NROD shall be processed as a Type II development permit application. All applications shall include the items required for a complete application by OCMC 17.49.220—17.49.230, and 17.50.080 as well as a discussion of how the proposal meets all of the applicable NROD development standards in OCMC 17.49.100—17.49.170.

Finding: Not applicable for the General Development Plan. No development is proposed at this time. Future detailed development plan applications will be required to show compliance with this standard.

17.49.220 - Required site plans.

Finding: Not applicable for the General Development Plan. No development is proposed at this time. Future detailed development plan applications will be required to show compliance with this standard.

17.49.230 - Mitigation plan report.

Finding: Not applicable for the General Development Plan. No development is proposed at this time. Future detailed development plan applications will be required to show compliance with this standard.

17.49.240 - Density transfer.

The NROD allocates urban densities to the non-NROD portions of properties located partially within the NROD, generally resulting in a substantial increase in net development potential.

For lots of record that are located within the NROD, density transfer is allowed, subject to the following provisions:

- A. Density may be transferred from the NROD to non-NROD portions of the same property or of contiguous properties within the same development site;*
- B. The residential transfer credit shall be as follows: for new residential partitions and subdivisions, one-third of the area of the NROD tract or conservation easement area may be added to the net developable area outside of the tract or conservation easement area within the boundary of the development site in order to calculate the allowable number of lots.*

Finding: Complies with Condition. The applicant states:

“As the GDP includes approximately 14.3 acres of mapped NROD land to be located within open spaces, a density transfer is planned to be utilized. NROD density transfers are regulated by OCMC 17.49.240. The standards included allow for a percentage of the NROD area to be considered towards the project’s net developable area. This standard is provided separate to the density modifications permitted through the General Development Plan process (110% of the base zoning density).”

The proposed area of 14.3 acres includes areas proposed to be conserved as open space; these areas include mapped NROD areas as well as land adjacent to the NROD areas that the applicant proposes as open space. Future detailed development plan applications will include NROD Verifications to determine the actual NROD boundaries. The applicant may include additional areas in the NROD to be counted in the density transfer calculations if future DDP applications can demonstrate in a professional report that the land consists of one or more of the following:

- NROD overlay as verified through 17.49.250
- Upland habitat directly adjacent to the NROD boundary
- Other land that provides ecological benefits or wildlife habitats and is directly adjacent to the NROD boundary

Staff has determined that it is possible, likely and reasonable that the applicant shall meet this standard through the Conditions of Approval.

C. Permitted Modifications to Residential Dimensional Standards. In order to allow for a transfer of density pursuant to subsection B. above, the dimensional standards of the base zone may be modified in order minimize disturbance to the NROD. The permissible reductions are specified in Tables 17.49.240C. — 17.49.240D.

D. The applicant shall demonstrate that the minimum lot size of the underlying zone has been met. The area of the NROD in subsection B. above that is used to transfer density may be included in the calculation of the average minimum lot size.

E. The applicant may choose to make the adjustments over as many lots as required. Table 17.49.240 A: Lot Size Reductions Allowed for NROD Density Transfers

ZONE	Min. Lot Size (%)	Min. Lot Width	Min. Lot Depth
R-10	5,000 sq. feet	50'	65'
R-8	4,000 sq. feet	45'	60'
R-6	3,500 sq. feet	35'	55'
R-5	3,000 sq. feet	30'	50'
R-3.5	1,800 sq. feet	20'	45'

Table 17.49.240 B: Reduced Dimensional Standards for Detached Single-Family Residential Units

Size of Reduced Lot	Front Yard Setback	Rear Yard Setback	Side yard Setback	Corner Side	Lot Coverage
8,000—9,999 square feet	15 feet	20 feet	7/9 feet	15 feet	40%
6,000—7,999 square feet	10 feet	15 feet	5/7 feet	15 feet	40%
4,000—5,999 square feet	10 feet	15 feet	5/5 feet	10 feet	40%
1,800—3,999 square feet	5 feet	15 feet	5/5 feet	10 feet	55%

Table 17.49.240 C: Reduced Dimensional Standards for Single-Family Attached or Two-Family Residential Units

Size of Reduced Lot	Front Yard Setback	Rear Yard Setback	Side yard Setback	Corner Side	Lot Coverage
3,500—7,000 square feet	10 feet	15 feet	5/0* feet	10 feet	40%
1,800—3,499 square feet	5 feet	15 feet	5/0* feet	10 feet	55%

*0 foot setback is only allowed on single-family attached units

F. For density transfers on properties zoned Commercial, Institutional, Industrial or Multi-Family, the transfer credit ratio is ten thousand square feet per acre of land within the NROD;

G. The area of land contained in the NROD area may be excluded from the calculations for determining compliance with minimum density requirements of the land division code.

H. The owner of the transferring property shall execute a covenant that records the transfer of density. The covenant shall be found to meet the requirements of this section and be recorded before building permits are issued; and

I. All other applicable development standards, including setbacks, building heights, and maximum lot coverage shall continue to apply when a density transfer occurs.

Finding: Complies with condition. A density transfer is possible for this development, as the applicant has demonstrated in responses to OCMC 17.49.240. In the R-10 zone, the applicant has shown lots of approximately 4,000 square feet. This approach is explained by taking advantage of the NROD density transfer provisions which allow for reduction in the lots size of adjacent lots to a minimum of 5,000 square feet under OCMC 17.49.240 coupled with an additional 20% lot reduction under the master plan adjustment authorization of OCMC 17.65.070.

The intent and plain language of OCMC 17.65.070 is to allow for a 20% adjustment to the base or “underlying” zone dimensional standards, which means, an R-10 lot could be reduced from 10,000 sf to 8,000 square feet. The adjustment cannot be applied to allow a lot sized pursuant to the maximum density transfer or 5,000 square foot lot to be reduced to 4,000 square feet. Thus, the applicant shall ensure that lots in the R-10 zone are 5,000 square feet or more in area for future detailed development plan applications that show compliance with OCMC 17.49.240 for NROD density transfer. If density transfer standards cannot be met in future detailed development plan applications, the minimum size for lots within the R-10 zone will be 8,000 square feet, (assuming the requested 20% adjustment is approved).

The applicant may utilize the setback reductions in Table 17.49.240 for future detailed development plans; however, any approved adjustments to dimensional standard will not give the applicant permission to go below the minimum setbacks allowed through a density transfer.

Staff has determined that it is possible, likely and reasonable that the applicant shall meet this standard through the Conditions of Approval.

17.49.250 - Verification of NROD boundary.

The NROD boundary may have to be verified occasionally to determine the true location of a resource and its functional values on a site. This may be through a site specific environmental survey or a simple site visit in those cases where existing information demonstrates that the NROD significance rating does not apply to a site-specific area. Applications for development on a site located in the NROD area may request a determination that the subject site is not in an NROD area and therefore is not subject to the standards of OCMC 17.49.100. Verifications shall be processed as either a Type I or Type II process.

17.49.255 - Type I verification.

- A. Applicants for a determination under this section shall submit a site plan meeting the requirements of OCMC 17.49.220, as applicable.
- B. An applicant may request a Type I Verification determination by the Community Development Director. Such requests may be approved provided that there is evidence substantiating that all the requirements of this chapter relative to the proposed use are satisfied and demonstrates that the property also satisfies the following criteria, as applicable:
1. No soil, vegetation, hydrologic features have been disturbed;
 2. No hydrologic features have been changed;
 3. There are no man-made drainage features, water marks, swash lines, drift lines present on trees or shrubs, sediment deposits on plants, or any other evidence of sustained inundation.
 4. The property does not contain a wetland as identified by the City's Local Wetland Inventory or Water Quality and Flood Management Areas map.
 5. There is no evidence of a perennial or intermittent stream system or other protected water feature. This does not include established irrigation ditches currently under active farm use, canals or manmade storm or surface water runoff structures or artificial water collection devices.
 6. Evidence of prior land use approvals that conform to the Natural Resource Overlay District, or which conformed to the Water Quality Resources Area Overlay District that was in effect prior to the current adopted NROD (Ord. 99-1013).
 7. There is an existing physical barrier between the site and a protected water feature, including:
 - a. Streets, driveways, alleys, parking lots or other approved impervious areas wider than fifteen feet and which includes drainage improvements that are connected to the City storm sewer system, as approved by the City.
 - b. Walls, buildings, drainages, culverts, topographic features or other structures which form a physical barrier between the site and the protected water features, as approved by the City.
 - C. If the City is not able to clearly determine, through the Type I verification process that the applicable criteria subsection B.1.—B.7 above are met, the verification application shall be denied. An applicant may then opt to apply for a verification through the Type II process defined below.

17.49.260. - Type II verification.

Verifications of the NROD which cannot be determined pursuant to the standards of OCMC 17.49.255 may be processed under the Type II permit procedure.

- A. Applicants for a determination under this section shall submit a site plan meeting the requirements of OCMC 17.49.220 as applicable.
- B. Such requests may be approved provided that there is evidence that demonstrates in an environmental report prepared by one or more qualified professionals with experience and credentials in natural resource areas, including wildlife biology, ecology, hydrology and forestry, that a resource function(s) and/or land feature(s) does not exist on a site-specific area.
- C. Verification to remove a recently developed area from the NROD shall show that all of the following have been met:
1. All approved development in the NROD has been completed;
 2. All mitigation required for the approved development, located within the NROD, has been successful; and
 3. The previously identified resources and functional values on the developed site no longer exist or have been subject to a significant detrimental impact.

Finding: Complies with condition. The applicant did not request Natural Resource Overlay District Verification Review as part of this application. Thus, NROD areas shown on the maps are not formally verified and are subject to change through the Detailed Development Plan review process. A preliminary NROD study was submitted with this application, which included the following information:

- A few parts of the overall site that are mapped within the NROD Overlay were not included in the NROD study area. The resources in these areas could affect the subdivision layout and overall development

intensity in those portions of the site. Master Plan amendments may be required with future detailed development plans.

- Two streams and one ephemeral stream were delineated by the applicant but are not mapped within the NROD.
- The identified streams are proposed to be protected by a 50+ foot vegetated corridor as required in OCMC 17.49. No parts of the NROD overlap with any proposed residential development except for three residential lots in the SE corner of the site that have partial NROD in their backyard areas.
- The proposal will include some limited disturbance in the NROD for a pedestrian path and pedestrian bridge over the stream.
- Stream delineations will be submitted with detailed development plan applications to verify the exact location of the NROD boundary
- Four wetlands outside of the City's NROD boundary were found. These are not protected by NROD and the applicant will obtain any required permits from the Department of State Lands, who regulates these wetlands.

The applicant proposes future NROD boundary Verifications through a Type I process. Because it is possible that wetlands may be found on sites that have not been studied yet, which would result in an expansion of the NROD boundary, a Type II Verification of the NROD will be needed for all phases after proposed Phase 1 excepting the area included in proposed Phase III which does not contain any mapped NROD and therefore does not require an NROD verification. See Exhibit 9 for additional discussion of Charman Creek NROD and conditions for future NROD reviews.

Any Natural Resources Overlay District areas impacted by development will be reviewed for compliance with this section either before or at the DDP level. This could involve mitigation requirements and/or a public notice of the delineation report. Conditions of approval regarding required future NROD review are found in OCMC 17.65. of this staff report.

Staff has determined that it is possible, likely and reasonable that the applicant shall meet this standard through the Conditions of Approval.

17.49.265 - Corrections to violations.

Finding: Not applicable. No violations are known to have occurred.

CHAPTER 17.60 VARIANCES

17.60.020 - Variances—Procedures.

A. A request for a variance shall be initiated by a property owner or authorized agent by filing an application with the city recorder. The application shall be accompanied by a site plan, drawn to scale, showing the dimensions and arrangement of the proposed development. When relevant to the request, building plans may also be required. The application shall note the zoning requirement and the extent of the variance requested. Procedures shall thereafter be held under Chapter 17.50. In addition, the procedures set forth in subsection D. of this section shall apply when applicable.

B. A nonrefundable filing fee, as listed in OCMC 17.50.080, shall accompany the application for a variance to defray the costs.

Finding: Applies. The applicant has submitted a variance request, with required fees, as follows:

“Oregon City Municipal Code 17.65.050.C.9 of the General Development Plan

code requires that a mix of residential uses be provided for General Development Plan applications, with no single use exceeding 75 percent of the total. The Preliminary Plans provide a mix of attached and detached single-family residential units to meet the criterion. In doing so, the need for a lot size variance to accommodate appropriately sized attached housing was identified.

“The lots, as adjusted (20 percent reduction to dimensional standards) through the Master Plan process, meet the lot width (25 feet \times 0.80 = 20 feet) requirements of the zone. Twenty-foot lot widths are typical of attached single-family housing projects. However, the lot sizes would not meet the single-family attached standards for the R-5 zone (3,500 square feet \times 0.80 = 2,800 square feet); the lots planned would range from 1,800 square feet for those interior lots to 2,500 square feet for end units and single-family attached corner lots. The R5 dimensional standards do not support typical attached housing townhome product types because of the combination of required lot widths and areas.

The resulting lots, if the standard is met, would be excessively long. Lots would be required to be 140 feet deep to meet the 2,500 square foot lot size requirement, an illogical requirement for attached housing.”

In a Master Plan review, the applicant can request adjustments to standards. OCMC 17.65.070 limits adjustments to dimensional standards to just 20% below the standard. The applicant proposes a difference of more than 20%; thus, a variance is required.

In the event that the requested variance is denied, the minimum lot size for attached dwellings in the July 20, 2021 version of the Municipal Code is 3,500 square feet, and with a possible 20% adjustment to 2,800 square feet. Therefore, the number of attached units that could be developed on the same site area would be reduced from the proposed 139 units, as demonstrated in the simplified calculation below:

WITH VARIANCE: 139 lots of 1800 square feet each = 250,200 square feet total site area
WITHOUT A VARIANCE: 250,200 square feet divided by 2,800 square feet per lot = 89 lots

Without a variance, the resulting reduction in the number of lots possible would likely not meet the density requirements for housing in the Park Place Concept Plan. The applicant would need to make major revisions to the plan in order to provide the needed units in the Concept Plan. These revisions could come in many different forms and could be reviewed under a Master Plan amendment or a Detailed Development Plan, depending on how the Planning Commission decision is written. For example, the applicant could take much of the area that is currently proposed for detached lots of 4,000 to 5,000 square feet and convert it to lots for attached dwellings with a lot area of 2,800 to 3,500 square feet. This action would reduce the total number of detached dwellings and increase the total number of attached dwellings in the development. Another option could be to use middle housing development codes, expected to be adopted by the City in June 2022, as discussed in the following paragraphs.

For future detailed development plans and building permits, the applicant may choose to use the code in place at the time of General Development Plan submittal (July 2021) or the code in effect when submission of development applications occurs. The City plans to adopt middle housing code provisions in June of 2022, which is before the applicant would be applying for any detailed development plans. These code amendments are required to comply with House Bill 2001 and will allow for development of middle housing types such as

duplexes, triplexes, quadplexes, townhomes, and cottage clusters in areas currently zoned for detached single dwellings. One of the statutory requirements that is being adopted is for townhomes to be permitted on 1500-square foot lots.

The applicant would have the ability to rely on these new provisions for any individual detailed development plan application, or any individual building permit for a lot created in the development. Thus, it may be possible for the applicant to build townhomes on 1500-square foot lots, or build other middle housing types that would suffice to meet the minimum number of units needed for consistency with the Park Place Concept Plan. The applicant will continue to be held to mobility standards and conditions of approval for transportation review to ensure that the traffic impacts do not go beyond approved levels.

C. Before the planning commission may act on a variance, it shall hold a public hearing thereon following procedures as established in Chapter 17.50. A Variance shall address the criteria identified in OCMC 17.60.030, Variances — Grounds.

Finding: Complies as Proposed. The variance will be reviewed by the Planning Commission at a public hearing.

D. Minor variances, as defined in subsection E. of this section, shall be processed as a Type II decision, shall be reviewed pursuant to the requirements in OCMC 17.50.030B., and shall address the criteria identified in OCMC 17.60.030, Variance — Grounds.

E. For the purposes of this section, minor variances shall be defined as follows:

- 1. Variances to setback and yard requirements to allow additions to existing buildings so that the additions follow existing building lines;*
- 2. Variances to width, depth and frontage requirements of up to twenty percent;*
- 3. Variances to residential yard/setback requirements of up to twenty-five percent;*
- 4. Variances to nonresidential yard/setback requirements of up to ten percent;*
- 5. Variances to lot area requirements of up to five percent;*
- 6. Variance to lot coverage requirements of up to twenty-five percent;*
- 7. Variances to the minimum required parking stalls of up to five percent; and*
- 8. Variances to the floor area requirements and minimum required building height in the mixed-use districts.*
- 9. Variances to design and/or architectural standards for single family dwellings, duplexes, single-family attached dwellings, internal conversions, accessory dwelling units, and 3-4 plexes in OCMC 17.14, 17.16, 17.20, 17.21, and 17.22.*

Finding: Not applicable. The requested variance exceeds the threshold for a minor variance.

17.60.030 - Variance—Grounds.

A variance may be granted only in the event that all of the following conditions exist:

- A. That the variance from the requirements is not likely to cause substantial damage to adjacent properties by reducing light, air, safe access or other desirable or necessary qualities otherwise protected by this title;*

Finding: Complies as Proposed. The applicant points out that the City has proposed to amend its own code in upcoming months to revise the minimum lot size for townhomes, which are synonymous with attached single family homes. The City's plans to change the minimum lot size to 1500 square feet will comply with state law as well as provide a more practical lot size for attached homes. As the applicant points out, a lot depth of 140+ feet would be required to maintain the current minimum lot size. Decreasing the minimum lot size to 1800 square feet, which is the applicant's request, would mean that lot depth would be 90 feet for a 20-foot-wide lot. A 90-foot lot depth is greater than the minimum lot depth in all of Oregon City's residential zones. For example, the minimum lot depth in the R-10 zone is 80 feet.

A typical townhome footprint is 20' x 45', which would mean that the yard space in front would be likely 5-20 feet in depth and in the rear, 20 to 40 feet in depth. These dimensions are in line with the typical medium density development patterns.

With the overall reduction in the lot size, the impacts would include additional impervious surface, less open space, and more shadows (due to the smaller yard areas). However, none of these impacts would be felt by pre-existing development in the area because the attached lots are proposed in internal areas of the GDP area and not on the perimeters.

- The applicant's proposal addresses stormwater impacts from the greater impervious surface, by accommodating all stormwater into a system to manage and detain stormwater through planters and detention ponds on site.
- The applicant's proposal addresses open space impacts by providing ample open space including a public park and numerous natural areas where streams and forested hillsides are maintained.
- The variance does have the chance of reducing the amount of light on adjacent properties, however, with height limits, setbacks, and lot coverage standards in place, there would not be enough impact to be considered "substantial damage."

The lot area change will not substantially or adversely affect the neighboring properties from accessing light, air, safe access, or any other desirable or necessary qualities.

B. That the request is the minimum variance that would alleviate the hardship;

Finding: Complies as Proposed. The applicant states:

"The variance to single-family attached residential lot standards required by the Master Plan is the minimum needed to alleviate the hardship. Single-family detached residential lots will not be affected by the variance, and the reduced standard will not apply to detached lots. The minimum lot requirement of 2,800 square feet per lot (per the adjusted standard established by the General Development Plan) does not make sense when applied to shared-wall fee simple townhomes and other attached residential structures.

City staff is planning to reduce the minimum standard to 1,500 square feet as part of the future House Bill 2001 housing code update in the near future (likely prior to June 2022). Therefore, granting the variance makes sense and will allow for residential lots that do not exceed the standard anticipated to be created in the near future. This criterion is met."

With the revised layout proposed on 8/11/2022, the applicant has proposed a density of 9.2 units per net developable acre, but has no longer proposed an increase in density under the Master Plan provisions of OCMC 17.65, so the overall achieved units resulted in 426 single family units and 14 additional mixed use or multi-family units.

The Park Place Concept Plan includes 1,459 total residential units, with 937 in the North Village area. The Park Place Crossing Master Plan area encompasses approximately 50% of the acreage of the North Village area. The number of units proposed will be consistent with the Park Place Concept Plan as well as within the minimum and maximum densities of the zone.

The applicant has proposed 440 units, which is 47% of the total number of units planned in the North Village. Based on zoning alone, applying the minimum density standard would result in 318 units in the project area. This would only provide 34% of the total 937 units required in the North Village, and would put a burden on the

remaining properties in the North Village to develop at densities that may be infeasible and/or inconsistent with the Concept Plan itself.

It is important to note that the City anticipated further rezoning of at least some of the land to achieve the require Concept Plan densities, expecting that some of the R-5 zone would need to be rezoned to R-3.5. The applicant has not proposed such a zone change, but has instead included attached single family uses in the R-5 zone, which have a higher maximum density standard and allows the applicant to provide the needed density without a zone change. The applicant has further requested an adjustment to maximum density of approximately 4%, which is allowed by through a Master Plan process and further serves to allow the applicant to achieve the density anticipated in the Concept Plan.

The proposed variance allows the applicant to develop additional attached dwellings in the area to meet the density in the Concept Plan while also providing ample open spaces.

C. Granting the variance will equal or exceed the purpose of the regulation to be modified.

Finding: The applicant states:

“Single-family attached residential homes or “Missing Middle” housing, have been identified as an important housing type to provide as part of a City’s needed housing. The variance allows attached residences, required by the General Development Plan, to be constructed to a reasonable standard expected to be allowed in the near future. Without a variance to these standards, lots for single-family attached homes are not reasonably possible due to the topographic constraints, need for alleys, and additional constraints present within Park Place Crossing. With the variance, these homes can be feasibly constructed without making unreasonably long lots (140 feet long at 20 feet in width). The adjustment allows for Park Place Crossing to provide the necessary permitted density and other standards and not create unnecessary unusable space.”

The purpose of the regulation for minimum lot size is to provide usable open spaces, separation between buildings, and to maintain the required density levels in the zone. The applicant is providing additional open space elsewhere in the development and is within the overall minimum and maximum densities for the zoning districts on site, if the Planning Commission approves the density adjustment. The purpose of the R-5 zone and Medium density residential chapter is to provide a zone for a variety of housing types. The requested variance supports the attached housing type by allowing for a reasonably-sized lot depth.

D. Any impacts resulting from the adjustment are mitigated;

Finding: Complies as Proposed. With the overall reduction in the lot size, the impacts would include additional impervious surface, less open space, and more shadows (due to the smaller yard areas).

- The applicant’s proposal addresses stormwater impacts from the greater impervious surface, by accommodating all stormwater into a system to manage and detain stormwater through planters and detention ponds on site.
- The applicant’s proposal addresses open space impacts by providing ample open space including a public park and numerous natural areas where streams and forested hillsides are maintained.

- The variance does have the chance of reducing the amount of light on adjacent properties, however, with height limits, setbacks, and lot coverage standards in place, there would not be significant impact that would require mitigation.

E. No practical alternatives have been identified which would accomplish the same purpose and not require a variance; and

Finding: Complies as Proposed. The applicant states:

“There are no known practical alternatives to meet the minimum lot area requirements of the OCMC without creating lots that are ± 50 feet deeper than currently planned. Meeting the lot area requirements without a variance would either create an excessively deep home or unused space at either the front or rear of the lots. These alternatives take away from the aesthetic quality of the neighborhood, create unnecessarily lengthy yards, taking away from area which could otherwise be used for homes, or create larger homes than necessary, which increases their costs. Without a variance to these standards, lots for single-family attached homes are not reasonably possible due to the topographic constraints, need for alleys, and additional constraints present within Park Place Crossing.”

Staff concurs with the applicant and adds that attached single family units are permitted in groups of up to 6 attached units per OCMC 17.16.030.E. Since standard attached units are 18 to 24 feet in width, the applicant’s analysis of the lot depth is correct in that unusually deep yards would be required.

F. The variance conforms to the comprehensive plan and the intent of the ordinance being varied.

Finding: Complies as Proposed. The applicant points out that the City is planning to amend its own code in upcoming months to revise the minimum lot size for townhomes, which are synonymous with attached single family homes. The City’s plans to change the minimum lot size to 1500 square feet will comply with state law as well as provide a more practical lot size for attached homes.

The Comprehensive Plan supports a variety of housing types as well as housing that is less costly, with the following goals and policies:

- Goal 10.1 Provide for the planning, development and preservation of a variety of housing types and lot sizes.
- Policy 10.1.4 Aim to reduce the isolation of income groups within communities by encouraging diversity in housing types within neighborhoods consistent with the Clackamas County Consolidated Plan, while ensuring that needed affordable housing is provided.

In addition, the location of the attached housing lots within the development does not directly border any existing, established neighborhoods and will thus not have direct impacts on those areas.

CHAPTER 17.50 – ADMINISTRATION AND PROCEDURES

17.50.050 – Pre-application conference.

A Pre-application Conference. Prior to a Type II – IV or Legislative application, excluding Historic Review, being deemed complete, the applicant shall schedule and attend a pre-application conference with City staff to discuss the proposal, unless waived by the Community Development Director. The purpose of the pre-application conference is to provide an opportunity for staff to provide the applicant with information on the likely impacts, limitations, requirements, approval standards, fees and other information that may affect the proposal.

- 1. To schedule a pre-application conference, the applicant shall contact the Planning Division, submit the required materials, and pay the appropriate conference fee.*
- 2. At a minimum, an applicant should submit a short narrative describing the proposal and a proposed site plan, drawn to a scale acceptable to the City, which identifies the proposed land uses, traffic circulation, and public rights-of-way and all other required plans.*
- 3. The Planning Division shall provide the applicant(s) with the identity and contact persons for all affected neighborhood associations as well as a written summary of the pre-application conference.*

B. A pre-application conference shall be valid for a period of six months from the date it is held. If no application is filed within six months of the conference or meeting, the applicant shall schedule and attend another conference before the City will accept a permit application. The Community Development Director may waive the pre-application requirement if, in the Director's opinion, the development has not changed significantly and the applicable municipal code or standards have not been significantly amended. In no case shall a pre-application conference be valid for more than one year.

Finding: Complies as Proposed. A pre-application conference was held with City staff on May 5, 2021, prior to submittal of this application in July 2021.

17.50.055 - Neighborhood association meeting.

Neighborhood Association Meeting. The purpose of the meeting with the recognized neighborhood association is to inform the affected neighborhood association about the proposed development and to receive the preliminary responses and suggestions from the neighborhood association and the member residents.

- A. Applicants applying for annexations, zone change, comprehensive plan amendments, conditional use, Planning Commission variances, subdivision, or site plan and design review (excluding minor site plan and design review), general development master plans or detailed development plans applications shall schedule and attend a meeting with the City-recognized neighborhood association in whose territory the application is proposed no earlier than one year prior to the date of application. Although not required for other projects than those identified above, a meeting with the neighborhood association is highly recommended.*
- B. The applicant shall request via email or regular mail a request to meet with the neighborhood association chair where the proposed development is located. The notice shall describe the proposed project. A copy of this notice shall also be provided to the chair of the Citizen Involvement Committee.*
- C. A meeting shall be scheduled within thirty days of the date that the notice is sent. A meeting may be scheduled later than thirty days if by mutual agreement of the applicant and the neighborhood association. If the neighborhood association does not want to, or cannot meet within thirty days, the applicant shall host a meeting inviting the neighborhood association, Citizen Involvement Committee, and all property owners within three hundred feet to attend. This meeting shall not begin before six p.m. on a weekday or may be held on a weekend and shall occur within the neighborhood association boundaries or at a City facility.*
- D. If the neighborhood association is not currently recognized by the City, is inactive, or does not exist, the applicant shall request a meeting with the Citizen Involvement Committee.*
- E. To show compliance with this section, the applicant shall submit a copy of the email or mail notice to the neighborhood association and CIC chair, a sign-in sheet of meeting attendees, and a summary of issues discussed at the meeting. If the applicant held a separately noticed meeting, the applicant shall submit a copy of the meeting flyer, postcard or other correspondence used, and a summary of issues discussed at the meeting and submittal of these materials shall be required for a complete application.*

Finding: Complies as Proposed. The applicant held a meeting with the Park Place Neighborhood Association on May 17, 2021.

17.50.090 - Public notices.

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

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 on the city website within the city at least twenty days prior to the hearing. Pursuant to OCMC 17.50.080.H, 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 OCMC 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 shall 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 OCMC 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;*
- 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 the planning division offices 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 community development director 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 on the city website. 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.*

Finding: Complies with Conditions. Notice was provided in accordance with this section. The City mailed notices to properties within 300 feet of the site, including properties outside of the Urban Growth Boundary, on March 29, 2022, more than 20 days prior to the first hearing. A land use transmittal notice was provided via email to affected agencies, all City neighborhood associations, County Community Planning Organizations and the chair of the Citizen Involvement Committee on June 16, 2022. A webpage was created for the project on the city website at <https://www.orcity.org/planning/project/glua-21-00045>. To ensure greater public participation in the review process for subsequent phases of the master plan, the Planning Commission added a Condition of Approval that public notice of subsequent DDP phases be provided within 300 feet of the entire GDP boundary and not be limited to the boundaries of the particular DDP submittal.

17.50.100 - Notice posting requirements.

Where this chapter requires notice of a pending or proposed permit application or hearing to be posted on the subject property, the requirements of this section shall apply.

A. *City Guidance and the Applicant's Responsibility.* The City shall supply all of the notices which the applicant is required to post on the subject property and shall specify the dates the notices are to be posted and the earliest date on which they may be removed. The City shall also provide a statement to be signed and returned by the applicant certifying that the notice(s) were posted at the correct time and that if there is any delay in the City's land use process caused by the applicant's failure to correctly post the subject property for the required period of time and in the correct location, the applicant agrees to extend the applicable decision-making time limit in a timely manner.

B. *Number and Location.* The applicant shall place the notices on each frontage of the subject property. If the property's frontage exceeds six hundred feet, the applicant shall post one copy of the notice for each six hundred feet or fraction thereof. Notices do not have to be posted adjacent to alleys or unconstructed right-of-way. Notices shall be posted within ten feet of the street and shall be visible to pedestrians and motorists. Notices shall not be posted within the public right-of-way or on trees. The applicant shall remove all signs within ten days following the event announced in the notice.

Finding: Complies as Proposed. Notice was provided in accordance with this section.

17.50.140 – Financial guarantees.

When conditions of permit approval require a permittee to construct certain public improvements, the City shall require the permittee to provide financial guarantee for construction of the certain public improvements. Financial guarantees shall be governed by this section.

A. *Form of Guarantee.* Guarantees shall be in a form approved by the City Attorney. Approvable forms of guarantee include irrevocable standby letters of credit to the benefit of the City issued by a recognized lending institution, certified checks, dedicated bank accounts or allocations of construction loans held in reserve by the lending institution for the benefit of the City. The form of guarantee shall be specified by the City Engineer and, prior to execution and acceptance by the City shall be reviewed and approved by the City Attorney. The guarantee shall be filed with the City Engineer.

B. *Performance Guarantees.* A permittee shall be required to provide a performance guarantee as follows.

1. *After Final Approved Design by The City:* The City may request the Permittee to submit a Performance Guarantee for construction of certain public improvements. A permittee may request the option of submitting a Performance Guarantee when prepared for temporary/final occupancy. The guarantee shall be one hundred twenty percent of the estimated cost of constructing the public improvements as submitted by the permittee's engineer. The engineer's estimated costs shall be supported by a verified engineering estimate and approved by the City Engineer.

2. *Before Complete Design Approval and Established Engineered Cost Estimate:* The City may request a permittee to submit a Performance Guarantee for construction of certain public improvements. A permittee may request the option of submitting a performance guarantee before public improvements are designed and completed. The guarantee shall be one hundred fifty percent of the estimated cost of constructing the public improvements as submitted by the permittee's engineer and approved by the City Engineer. The engineer's estimated costs shall be supported by a verified engineering estimate and approved by the City Engineer.

C. *Release of Guarantee.* The guarantee shall remain in effect until the improvement is actually constructed and accepted by the City. Once the City has inspected and accepted the improvement, the City shall release the guarantee to the permittee. If the improvement is not completed to the City's satisfaction within the time limits specified in the permit approval, the City Engineer may, at their discretion, draw upon the guarantee and use the proceeds to construct or complete construction of the improvement and for any related administrative and legal costs incurred by the City in completing the construction, including any costs incurred in attempting to have the permittee complete the improvement. Once constructed and approved by the City, any remaining funds shall be refunded to the permittee. The City shall not allow a permittee to defer construction of improvements by using a performance guarantee, unless the permittee agrees to construct those improvements upon written notification by the City, or at some other mutually agreed-to time. If the permittee fails to commence construction of the required improvements within six months of being instructed to do so, the City may, without further notice, undertake the construction of the improvements and draw upon the permittee's performance guarantee to pay those costs.

D. *Fee-in-lieu.* When conditions of approval or the City Engineer allows a permittee to provide a fee-in-lieu of actual construction of public improvements, the fee shall be one hundred fifty percent of the estimated cost of constructing the public improvements as submitted by the permittee's engineer and approved by the City Engineer. The percentage required is to ensure adequate funds for the future work involved in design, bid, contracting, and construction management and

contract closeout. The engineer's estimated costs shall be supported by a verified engineering estimate and approved by the City Engineer. The fee-in-lieu shall be submitted as cash, certified check, or other negotiable instrument acceptable by the City Attorney.

Finding: Applicable. These obligations shall be required when development is proposed. At this point, staff finds that compliance with all of these obligations are feasible and will be reviewed at the DDP level.

17.50.141 – Public improvements – Warranty

All public improvements not constructed by the City, shall be maintained and under warranty provided by the property owner or developer constructing the facilities until the City accepts the improvements at the end of the warranty period. The warranty is to be used at the discretion of the City Engineer or designee to correct deficiencies in materials or maintenance of constructed public infrastructure, or to address any failure of engineering design.

A. **Duration of Warranty.** Responsibility for maintenance of public improvements shall remain with the property owner or developer for a warranty period of two years.

B. **Financial Guarantee.** Approvable forms of guarantee include irrevocable standby letters of credit to the benefit of the City issued by a recognized lending institution, bond, certified checks, dedicated bank accounts or allocations of construction loans held in reserve by the lending institution for the benefit of the City. The form of guarantee shall be specified by the City Engineer and, prior to execution and acceptance by the City shall be reviewed and approved by the City Attorney. The guarantee shall be filed with the City Engineer.

C. **Amount of Warranty.** The amount of the warranty shall be equal to fifteen percent of the estimated cost of construction of all public improvements (including those improvements that will become owned and maintained by the City at the end of the two year maintenance period), and shall be supported by a verified engineering estimate and approved by the City Engineer. Upon expiration of the warranty period and acceptance by the City as described below, the City shall be responsible for maintenance of those improvements.

D. **Transfer of Maintenance.** The City will perform an inspection of all public improvements approximately forty-five days before the two-year warranty period expires. The public improvements shall be found to be in a clean, functional condition by the City Engineer before acceptance of maintenance responsibility by the City. Transfer of maintenance of public improvements shall occur when the City accepts the improvements at the end of the two year warranty period.

Finding: Applicable. These obligations shall be required when development is proposed. At this point, staff finds that compliance with all of these obligations are feasible and will be reviewed at the time a DDP is approved.

CONCLUSION AND DECISION OF THE PLANNING COMMISSION:

Based on the analysis and findings as described above and including the entire record for Planning Files GLUA-21-00045 / MAS-21-00006 / VAR-22-00001, the Planning Commission concludes that the proposed development located at:

North and east S Livesay Road, South of S Holcomb Road, Oregon City, Oregon
Map 2 2E 28D: Tax Lots 100, 190, 200, 300, 301, 302, 303, 400, 500, 502, 3700, 3701
Map 2 2E 27BC: Tax Lots 1000, 2000

can meet the requirements as described in the Oregon City Municipal Code by complying with the Conditions of Approval provided in this report.

EXHIBITS

See Attached - List of Planning Commission Exhibits by Hearing Date

GLUA-21-00045 / MAS-21-00006 / VAR-22-00001 Park Place Crossing General Development Plan

Exhibit to Final Adopted Staff Report 9/12/2022

List of Planning Commission Exhibits by Hearing Date

08/22/2022

- GLUA-21-00045 / MAS-21-00006 / VAR-22-00001 Park Place Crossing General Development Plan.
 - REVISED-Commission Report 8.22.2022.pdf (0.05 MB)
 - REDLINES- Staff Report for 8.22.2022 draft 8.18.2022 redline.pdf (8.56 MB)
 - NEW- 8.19.2022 Letter to Oregon City Planning Commission-Final Written Argument.pdf (1.38 MB)
 - NEW-Exhibit 7 Alley Loaded and Topo Constrained Lots 8.18.2022.pdf (0.32 MB)
 - 7404 20220811 Layout Change Memo.pdf (0.80 MB)
 - Park Place Crossing Layout Revision Exhibit 1 8.11.2022.pdf (0.32 MB)
 - Revised Zone Overlay Map and Density Exhibit 2 8.11.2022.pdf (0.39 MB)
 - Housing Types Memo 8.15.2022.pdf (3.99 MB)
 - Park Place Crossing Average Daily Traffic Memo - 6.29.2022.pdf (8.54 MB)
 - 6.29.2022 Submitted Revised Plans and Memorandum.pdf (17.22 MB)
 - Replinger and Associates Review of Average Daily Traffic Memo 7.13.2022.pdf (0.07 MB)
 - NEW-Revised Public Comment Summary for 8.22.2022 PC Hearing.pdf (0.15 MB)
 - Comment Cards PC 7.25.2022 Park Place Crossing.pdf (1.19 MB)
 - JoAnn Grugan Comments 5.14.2022.pdf (0.06 MB)
 - Sean McLaughlin Comments 8.16.2022.pdf (0.06 MB)
 - Janice Troxler Comments 8.16.2022.pdf (0.06 MB)

Exhibits attached separately:

- Public Comment Cards for 8.22.2022
- Christine Kosinski comments 8.22.2022
- Sharon Neish comments 8.22.2022, 8.21.2022, 8.18.2022
- Suze Hammond comments 8.21.2022
- Steve Sagi comments 8.22.2022
- Dan Berge Comments 8.22.2022
- James Nicita comments 8.20.2022
- Jackie Hammond-Williams comments 8.22.2022
- Staff PowerPoint Presentation 8.22.2022

07/25/2022

- Continuance of GLUA-21-00045 / MAS-21-00006 / VAR-22-00001 Park Place Crossing General Development Plan.
 - Commission Report 7.25.2022 Continuance.pdf (0.05 MB)
 - 120 Day Extension to October 23.pdf (0.82 MB)
- Exhibits attached separately:
- Public Comment Cards for 7.25.2022

- Enoch Huang comments 7.25.2022
- Roya Mansouri comments 7.25.2022

07/11/2022

- CONTINUANCE OF GLUA-21-00045 / MAS-21-00006 / VAR-22-00001 Park Place Crossing General Development Plan.
 - Commission Report.pdf ([0.05 MB](#))
 - Applicant's Plan Revisions and Additional Information - NEW.pdf ([17.22 MB](#))
 - Applicant's Analysis of Daily Traffic Volumes - NEW.pdf ([8.54 MB](#))
 - Baker memo for Park Place Crossing 6-30.pdf ([0.04 MB](#))
 - Public Comment Summary Table UPDATED.pdf ([0.21 MB](#))
 - Vicinity Map.pdf ([1.73 MB](#))
 - Land Use Application Form.pdf ([1.87 MB](#))
 - Applicant's Narrative.pdf ([1.40 MB](#))
 - Drawings and Plans.pdf ([21.58 MB](#))
 - NROD Study.pdf ([9.70 MB](#))
 - Preliminary Stormwater Report.pdf ([6.98 MB](#))
 - Applicant's Transportation Impact Analysis.pdf ([10.40 MB](#))
 - Preliminary Geotechnical Report.pdf ([3.72 MB](#))
 - Applicant's Geohazard Overlay Memo.pdf ([23.07 MB](#))
 - Applicant's Addendum on Slopes.pdf ([5.26 MB](#))
 - Applicant's Sewer Study.pdf ([24.50 MB](#))
 - Park Place Concept Plan Analysis from Applicant.pdf ([10.28 MB](#))
 - Supplemental Memo from Applicant.pdf ([0.35 MB](#))
 - Neighborhood Meeting Information.pdf ([0.42 MB](#))
 - Copy of Park Place Concept Plan Adopted 2008.pdf ([8.76 MB](#))
 - Copy of Park Place Concept Plan Appendix.pdf ([35.60 MB](#))
 - Part 1 of public comments with links.pdf ([5.97 MB](#))
 - Part 2 of public comments with links.pdf ([13.32 MB](#))
 - Part 3 of public comments with links.pdf ([41.50 MB](#))
 - Part 4 of public comments with links.pdf ([26.75 MB](#))
 - Part 5 of public comments with links.pdf ([14.79 MB](#))
 - Traffic Analysis Review Letter from John Replinger.pdf ([0.16 MB](#))
 - Historic Inventory Forms for three eligible properties within 250 feet of site.pdf ([2.06 MB](#))
 - Wetland Land Use Notice Response.pdf ([0.78 MB](#))
 - DSL Wetland Delineation Report.pdf ([9.31 MB](#))
 - Applicant's 5.5.2022 Letter to Planning Commission.pdf ([0.14 MB](#))
 - Applicant's Presentation from 5.9.22.pdf ([11.49 MB](#))
 - Applicant's 5.23.2022 Letter to Planning Commission.pdf ([2.56 MB](#))
 - Applicant's 5.23.22 Request for Continuance.pdf ([0.08 MB](#))
 - Staff Memo re Emergency Evacuation Concerns.pdf ([0.28 MB](#))
 - Staff Memo re Condition #10 - Park Dedication.pdf ([0.17 MB](#))

- Staff Presentation Slides from 4.25.22 Hearing.pdf ([1.59 MB](#))
- Staff Presentation from 5.9.22.pdf ([2.40 MB](#))

Exhibits attached separately:

- Public Comment Cards for 7.11.2022
- Steve Sagi comments 7.11.2022
- James Nicita comments 7.11.2022
- Joanna Stram comments 7.7.2022
- Nick Veroske comments 7.6.2022
- Oregon City Business Alliance comments 7.6.2022
- Staff PowerPoint Presentation 7.11.2022

05/23/2022

- GLUA-21-00045 / MAS-21-00006 / VAR-22-00001 Park Place Crossing General Development Plan.
 - REVISED Commission Report.pdf (0.05 MB)
 - REVISED Public Comment Summary Table.pdf (0.21 MB)
 - NEW Staff Memo re revised conditions of approval with Exhibits.pdf (3.49 MB)
 - Revised Recommended Conditions of Approval.pdf (0.25 MB)
 - New Items and Comments since May 6 - PART 1 with navigation.pdf (24.69 MB)
 - May 9th agenda packet links.pdf (0.14 MB)
 - New Items and Comments since May 6 - PART 2 with navigation.pdf (49.55 MB)
 - NEW Staff Presentation Slides from 5.9.22 Hearing.pdf (2.40 MB)
- Exhibits attached separately:
- Staff PowerPoint Presentation 5.23.2022

05/09/2022

- GLUA-21-00045 / MAS-21-00006 / VAR-22-00001 Park Place Crossing General Development Plan
 - REVISED Commission Report.pdf (0.05 MB)
 - NEW 2ND REVISED Staff Report and Recommendation.pdf (2.41 MB)
 - Vicinity Map.pdf (1.73 MB)
 - REVISED Public Comment Summary Table.pdf (0.18 MB)
 - All Public Comments received before 4.18.22.pdf (5.87 MB)
 - Land Use Application Form.pdf (1.87 MB)
 - Applicant's Narrative.pdf (1.40 MB)
 - Drawings and Plans.pdf (21.58 MB)
 - NROD Study.pdf (9.70 MB)
 - Preliminary Stormwater Report.pdf (6.98 MB)
 - Applicant's Transportation Impact Analysis.pdf (10.40 MB)
 - Preliminary Geotechnical Report.pdf (3.72 MB)
 - Applicant's Geohazard Overlay Memo.pdf (23.07 MB)
 - Applicant's Addendum on Slopes.pdf (5.26 MB)
 - Applicant's Sewer Study.pdf (24.50 MB)
 - Park Place Concept Plan Analysis from Applicant.pdf (10.28 MB)

- Supplemental Memo from Applicant.pdf (0.35 MB)
- Neighborhood Meeting Information.pdf (0.42 MB)
- NEW Traffic Analysis Review Letter from John Replinger.pdf (0.16 MB)
- NEW Historic Inventory Forms for three eligible properties within 250 feet of site.pdf (2.06 MB)
- NEW Staff Presentation Slides from 4.25.22 Hearing.pdf (1.59 MB)
- NEW Public Comment Exhibit - Huang and Mansouri slides 4.25.22.pdf (0.67 MB)
- NEW Public Comment Exhibit - Huang and Mansouri supplemental info.pdf (0.10 MB)
- NEW Public Comment Exhibit - Aaron Wahnstall Presentation Slides from 4.25.22.pdf (0.31 MB)
- NEW Public Comment Exhibit - Tom Geil opinion piece OC News.pdf (1.98 MB)
- NEW Staff Memo re Emergency Evacuation Concerns.pdf (0.28 MB)
- NEW - Applicant's Memo about Holly-Holcomb Intersection.pdf (1.84 MB)
- NEW - Copy of Park Place Concept Plan Adopted 2008.pdf (8.76 MB)
- NEW 5.5.2022 Letter to Planning Commission - Response to Public Comment.pdf (0.14 MB)
- NEW Public Comments received after agenda published.pdf (0.05 MB)

04/25/2022

- CONTINUANCE OF GLUA-21-00045 / MAS-21-00006 / VAR-22-00001 Park Place Crossing General Development Plan.
 - Commission Report.pdf (0.05 MB)
 - Vicinity Map.pdf (1.73 MB)
 - Public Comment Summary Table.pdf (0.11 MB)
 - All Public Comments received before 4.18.22.pdf (5.87 MB)
 - Land Use Application Form.pdf (1.87 MB)
 - Applicant's Narrative.pdf (1.40 MB)
 - Drawings and Plans.pdf (21.58 MB)
 - NROD Study.pdf (9.70 MB)
 - Preliminary Stormwater Report.pdf (6.98 MB)
 - Applicant's Transportation Impact Analysis.pdf (10.40 MB)
 - Preliminary Geotechnical Report.pdf (3.72 MB)
 - Applicant's Geohazard Overlay Memo.pdf (23.07 MB)
 - Applicant's Addendum on Slopes.pdf (5.26 MB)
 - Applicant's Sewer Study.pdf (24.50 MB)
 - Park Place Concept Plan Analysis from Applicant.pdf (10.28 MB)
 - Supplemental Memo from Applicant.pdf (0.35 MB)
 - Neighborhood Meeting Information.pdf (0.42 MB)

PC Comment Cards 8.22.2022
Christine Kosinski 8.22.2022 All
Sharon Neish 8.18.2022
Sharon Neish 8.21.2022
Sharon Neish 8.22.2022
Suze Hammond 8.21.2022
Steve Sagi 8.22.2022
Icon presentation 082222 Sagi
Dan Berge 8.22.2022
Jackie Hammond-Williams
James Nicita 8.20.2022 All
PC 8.22.2022 Planning slides

COMMENT FORM



PLEASE PRINT CLEARLY

- SPEAK INTO THE MICROPHONE AND STATE YOUR NAME AND RESIDING CITY
- Limit Comments to 3 MINUTES.
- Give to the Clerk in Chambers prior to the meeting.

Date of Meeting

August

Item Number From Agenda

Access & Parking

NAME:

Ken Neish

ADDRESS:

Street: 16500 South Edenwild Ln

City, State, Zip: Oregon City, OR

PHONE NUMBER:

503-310-4450

E-MAIL ADDRESS:

Ken Neish@gmail.com

SIGNATURE:

[Signature]

COMMENT FORM



PLEASE PRINT CLEARLY

- SPEAK INTO THE MICROPHONE AND STATE YOUR NAME AND RESIDING CITY
- Limit Comments to **3 MINUTES**.
- Give to the Clerk in Chambers **prior** to the meeting.

Date of Meeting Aug 22nd 2022

Item Number From Agenda 2

NAME:

Jackie Hammond-Williams

ADDRESS:

Street: 16303 Wayne Dr.

City, State, Zip: OC.

PHONE NUMBER:

503-753-5321

E-MAIL ADDRESS:

Jackiesplus@aGmail-com

SIGNATURE:

JH

COMMENT FORM



PLEASE PRINT CLEARLY

- SPEAK INTO THE MICROPHONE AND STATE YOUR NAME AND RESIDING CITY
- Limit Comments to 3 MINUTES.
- Give to the Clerk in Chambers prior to the meeting.

Date of Meeting

8-22

Item Number From Agenda

2

NAME:

James N. [unclear]

ADDRESS:

Street:

302 BIA ST

City, State, Zip:

OC

PHONE NUMBER:

E-MAIL ADDRESS:

SIGNATURE:

[Handwritten signature]

COMMENT FORM



PLEASE PRINT CLEARLY

- SPEAK INTO THE MICROPHONE AND STATE YOUR NAME AND RESIDING CITY
- Limit Comments to **3 MINUTES**.
- Give to the Clerk in Chambers **prior** to the meeting.

Date of Meeting

8/22/22

Item Number From Agenda

2

NAME:

LINDA SMITH

ADDRESS:

Street: 13944 CLEVELAND

City, State, Zip: OC

PHONE NUMBER:

503-89-7089

E-MAIL ADDRESS:

OC6AL57@AOL.COM

SIGNATURE:

Linda Smith

COMMENT FORM



*****PLEASE PRINT CLEARLY*****

- SPEAK INTO THE MICROPHONE AND STATE YOUR NAME AND RESIDING CITY
- Limit Comments to **3 MINUTES**.
- Give to the Clerk in Chambers **prior** to the meeting.

Date of Meeting Aug 22, 2022

Item Number From Agenda #2

NAME:

Paulette Merrill

ADDRESS:

Street: 16390 Hiram Ave

City, State, Zip: OC 97045

PHONE NUMBER:

503-656-4629

E-MAIL ADDRESS:

egm66@comcast.net

SIGNATURE:

Paulette Merrill

COMMENT FORM



PLEASE PRINT CLEARLY

- SPEAK INTO THE MICROPHONE AND STATE YOUR NAME AND RESIDING CITY
- Limit Comments to 3 MINUTES.
- Give to the Clerk in Chambers prior to the meeting.

Date of Meeting

8/22/2022

Item Number From Agenda

#2

NAME:

Tom Geil

ADDRESS:

Street:

City, State, Zip:

PHONE NUMBER:

E-MAIL ADDRESS:

Geil@comcast.net

SIGNATURE:

Tom Geil

COMMENT FORM



PLEASE PRINT CLEARLY

- SPEAK INTO THE MICROPHONE AND STATE YOUR NAME AND RESIDING CITY
- Limit Comments to 3 MINUTES.
- Give to the Clerk in Chambers prior to the meeting.

Date of Meeting

8-20-22

Item Number From Agenda

PK PL CROSSING

NAME:

CHRISTINE KOSINSKI

ADDRESS:

Street:

HOLLY LN

City, State, Zip:

PHONE NUMBER:

E-MAIL ADDRESS:

SIGNATURE:

Christine Kosinski

Pete Walter

From: Aquilla Hurd-Ravich
Sent: Monday, August 22, 2022 12:06 PM
To: Pete Walter
Subject: FW: Testimony for tonight's Planning Commission
Attachments: TestimonyPlanCommParkPlacePlanRoadCountsAug202022.doc;
testimonyOCPlanCommParkPlaceCrossingAug222022.doc;
TestimonyOCPlanCommScottBurnsMessageHollyandRedlandIntersectParkPlaceCrossing
Aug22,2022.doc

From: britenshin@aol.com <britenshin@aol.com>
Sent: Monday, August 22, 2022 12:02 PM
To: Aquilla Hurd-Ravich <ahurdravich@orcite.org>; recorderteam <recorderteam@orcite.org>
Cc: britenshin@aol.com
Subject: Testimony for tonight's Planning Commission

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Aquilla,

Attaching my testimony for tonight's Planning Commission meeting. I will need to ask the Planning Commission if I can have 2-3 minutes more of time, in addition to the 3 minutes I will have for my testimony. This will be necessary for me to deliver a Message from Professor Scott Burns to the Planning Commission. I will ask them when I come to the microphone if I can have a little extra time.

Thank you
Christine Kosinski
Holly Ln
503-656-1029

testimonyOCPlanCommParkPlaceCrossingAug222022

Item #1.

TestimonyPlanCommParkPlacePlanRoadCountsAug202022

TestimonyOCPlanCommScottBurnsMessageHollyandRedlandIntersectParkPlaceCrossingAug22
2022

Oregon City Planning Commission

Meeting of August 22nd, 2022

Testimony of Christine Kosinski, Holly Ln, Unincorporated Clackamas County

Re: GLUA-21-00045/MAS-21-000061/VAR-22-00001
Park Place Crossing Development

Due to the extremely serious message which Scott Burns sent to the Planning Commission today, regarding the soil conditions existing at the intersection of Holly/Redland Rd, and due to the very difficult soils that exist throughout the entire proposed Park Place Crossing development.

I am requesting that the City order an In-Depth Geological Study for the following areas of,

The intersection of Holly Ln/Redland Rd, and to include in-depth studies of all four proposed roads, and as well, including the proposed Holly Ln Ext North, the road proposed behind Trailview Drive. I request this because, in a meeting with Dr. Burns in September of 2006, he stated "He is extremely concerned about the proposed connector road from Holcomb to Holly Ln, too many slide areas."

Additionally for Holcomb, Holly Ln and Redland Rd. I request this because in September of 2006, Dr. Burns stated "that Holcomb, Holly Ln and Redland Rd were some of the most dangerous areas for the ancient landslides to once again become active, if disturbed by a lot of building, excavation and removal of vegetation.

I am not an Engineer, but only an in-depth study of this intersection, and the additional areas listed above, will give results for soil conditions, water table, groundwater conditions, sheer strength and stability and all other results that will allow everyone to fully understand whether this intersection has the ability to safely perform under both normal and heavy use.

I also request the Detailed Maps which Dr. Burns spoke of in his message today to the Planning Commission, and I ask that both myself and the Park Place neighborhood association be notified of the city's decision to order these.

I am requesting that the City not close the hearing tonight, but rather wait until the results of an in-depth geological study is finalized and until the results are known by the City, developer, Professor Scott Burns, the people of Holly Ln and of the Park Place Neighborhood Assn. It must be known if the intersection can safely operate, I share the grave concerns of Dr. Burns, that it will fail. Read the Preliminary Geotech Report and you will notice all the creeping, the sub-surface water, the wall drains, roof drains, drains in crawl space, new slides that were found, as well as the many retaining and soldier walls that will be necessary to keep the land from sliding. Finally, read about the four Earthquake faults that come through the Holly Ln-Park Place area, that could leave us with severe damaging affects. This land movement is serious, in fact, so serious that I have been testifying to the City since 2004, desperately trying to raise their awareness that development in this area is a fool's errand. The voters tried to tell the City "not to build" with their NO votes in each of the three tries the City put this development on the ballot. In many cases, the people know more than the City. I ask you to please listen, protect your people with responsible leadership.

I request that if the Planning Commission does vote, either tonight or in a hearing held in the future, **TO APPROVE WITH CONDITIONS**, that one of the conditions must be that a full, in-depth Geological Study be done at the Holly Ln/Redland Rd intersection, as well as all of the roads I have noted above, and NO final approval can be given until the results of this study show the intersection, and roads can safely perform.

Please, I continue to request, NO TYPE II hearings for the remaining five phases of the Park Place Crossing development. Although OCMC 17.65, Master Plans, allow for detailed development plans to be reviewed through a Type II process following the Type III approval of a General Development Plan, due to the extremely hazardous conditions that exist in this proposed development, and especially due to the city's **FEMA agreement** which clearly states on Pg. 53, Landslide #1, under Ideas for Implementation, **“LIMIT CONSTRUCTION IN KNOWN LANDSLIDE AREAS”**, this does not allow dense R-5 and 1800 sq. ft. lots!!! **Has FEMA seen this dense plan?, perhaps they should.**

Regarding the Staff Report for August 22nd, 2022, under Adjustments to the following development standards, I **DO NOT** agree with any reduction of lot sizes, widths, depths and setbacks.

Furthermore, I **DO NOT** agree with the Variance to reduce the minimum lot size for attached single family lots to 1800 square feet.

WHY HOLLY LN SHOULD NEVER BE DEVELOPED LESS THAN ONE HOME PER ACRE.

6 Homes already either destroyed or severely damaged due to landslides

NO Landslide Insurance available

Soils are not safe and reliable, they can slip, creep, slide

Holly Ln/213 share same hill and landslides, if earthquake, both roads may go down same time

Neighboring Country Village, moratorium on building due to landslides

Beaverlake Estates – Henrici Rd, moratorium on building due to landslides

Safety for the people

To bring the City into compliance with its FEMA NHMP agreement, into compliance with the DLCD-DOGAMI Landslide guidelines, the City's Comp Plan and Goal 7 compliance.

A little history that the City and developer need to understand about, especially the bottom portion of Holly Lane and Redland Road. This is an area with an extremely large amount of underground springs that cover a large distance. I have had neighbors show me the springs on their property. This is a hazardous area with difficult topography where land can shift and move and the soils are not stable. In the 1950's, there were at least 3 lakes on Holly Lane, one on Holly, two on Donovan. Some homeowners have put in wells, sometimes reaching water at only 5 feet.

There has been rumor the City may be looking at a road connection East of Holly. I will tell you that Clackamas County searched between Holly and Henrici about 15 years ago for an area to be considered for a North/South connector, in the future, between Beavercreek and Redland Rd, and they came up with nothing, but rugged, hazardous terrain. These same difficult and unsafe soil conditions exist here at Holly Ln and Park Place. The floodplain, the water table, Earthquake faults, landslides, soils that slide, creep and fail, all of these unsafe conditions are only a recipe for catastrophic disaster.

ROAD COUNTS

PARK PLACE PLAN, BRCP, MAPLELANE, REDLAND RD, MEMORY CENTER

PLAN OR STREET	APPROX. PROPOSED ADT'S/DAY
*Beavercreek Rd Concept Plan residential, large commercial + jobs	40,000 plus is proposed by the City
*Park Place Concept Plan residential, small commercial	30,000 plus is proposed by the City
Maplelane, West of Holly	9,675 – 2021 current count
Maplelane, East of Holly	7,700 – 2021 current count
Redland Rd, West of Holly	12,445 – 2021 current count
Redland Rd, East of Holly	10,380 – 2021 current count
Memory Care, Apts, Hotel Maplelane & Beavercreek Rd.	179 Trip Cap per day
Holly Ln, North of Maplelane	3,205 – 2021 current count
Holly Ln, South of Redland	3,425 – 2021 current count

*At full build-out, it appears Holly Ln could receive added trips of approx. 92,299 trips per day!

This amount was calculated by taking the total proposed ADT's per day from both the Beavercreek and Park Place Concept Plans, adding the Memory Care, adding only the Maplelane, West of Holly, and adding only the Redland, West of Holly proposed daily ADT's. Therefore, the 92,299 trips per day is a conservative figure, since the Maplelane, East of Holly and Redland Rd, East of Holly counts were not added into this trip count. As well, as the City continues to develop, these trips per day down Holly Ln will only increase further.

I compared these proposed ADT's per day with Sunnyside Road in Clackamas because Sunnyside is an extremely large Major Arterial road where Redland Rd may be a major arterial as well, but is only one lane in each direction (with Sunnyside being many lanes). Also, Holly Ln may be classified as a Minor Arterial, however, it also is only one lane in each direction and the street is lined with landslides on both sides. Here are the counts for Sunnyside.

Sunnyside, West of 122 nd	44,635 – 2021 current count
Sunnyside, East of 122 nd	36,690 – 2021 current count

The amount of ADT's per day the City is proposing for the Holly Ln, Maplelane, Redland Rd corridor, far exceeds those of Sunnyside Rd, a highly major arterial. More local and Major Arterials are needed for this Holly Ln, Park Place community.

Christine Kosinski August 22, 2022

cc: Mike Bezner, Clackamas County

Oregon City Planning Commission

Meeting of August 22nd, 2022

RE: Message from Scott Burns, Professor of Geology, PSU to the Oregon City Planning Commission.
This is an attachment to Testimony from Christine Kosinski, Holly Ln, Unincorporated Clackamas Co

For:: Agenda Item GLUA-21-00045/MAS-21-000061/VAR-22-00001
Park Place Crossing Development

After researching soil conditions existing in the proposed Park Place Crossing, and especially the soils at the Holly Ln/Redland Rd intersection, I reached out to Professor Scott Burns regarding my serious concerns for the Troutdale Formation and Alluvium soils which are found for this intersection on the Bulletin 99 "Geologic map of the Canby and Oregon City Quadrangle. Bulletin 99 speaks to the Clay in Troutdale Formation, which is unstable and causes overlying competent units to fail by landslide. The Alluvium soils have hazards of flooding, near-surface water table, weak compressible soils; development not normally recommended.

Scott Burns Message to the Planning Commission of Oregon City

"I am extremely concerned for the soil conditions existing at the intersection of Holly Ln and Redland Rd. In a worst-case scenario, the roads could just cave in and "collapse" altogether under a heavy rainfall. I have stated to Christine Kosinski that the intersection is highly complicated and that the city needs detailed maps, and to remember, that only a Preliminary study and report have been done."

Scott Burns was unable to contact me until this past Friday, when he returned home from a geology trip out of country, unfortunately he contracted Covid and now is quarantined to home. He requested that I bring this important information to the Oregon City Planning Commission.

Note: Professor Burns first brought these serious concerns to the attention of the City in 2007. Here we are today, with development being proposed, and still no in-depth studies have been done to validate the safety for using the intersection of Holly Ln and Redland Rd.

cc: Mike Bezner, Clackamas County, Transportation Engineering Manager

Pete Walter

From: Sharon Neish <sharonaneish@gmail.com>
Sent: Thursday, August 18, 2022 9:08 PM
To: Pete Walter
Cc: Ken Neish
Subject: Fwd: Bring it up at your next meeting

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Please include in the meeting. Maybe Icon or AkS can explain. I am not certain when Kelly Reid left for Portland to share her urban vision there.

Sharon

Begin forwarded message:

From: Sharon Neish <sharonaneish@gmail.com>
Date: July 25, 2022 at 9:44:11 PM PDT
To: Kelly Reid <kreid@orccity.org>
Cc: Ken Neish <kenneish@gmail.com>
Subject: **Bring it up at your next meeting**

Since you are in charge of this huge debacle, why is park place concept plan negotiable in the first place if it was well thought out? I would like this brought up at your next planning meeting. I would like you personally to read the question since you after all are in charge of this mess and are pushing it forward. Maybe you can put it in your PowerPoint presentation since it appears to be a huge elephant in the room. Remember Feds are not done tweaking the interest rates and they haven't been this high since 2008. It's going up another .5 - .75 percent. Not to mention Canadian lumber tariffs, diesel fuel cost, cost of labor etc just to build a crappy scorched earth looking tract housing project. How do they propose to handle this inflation in relation to their affordable housing? Throw in a few more 1800 sq ft lots? In fact, if you really want to know what I think the section 8 housing off Holcomb is better planned and constructed. Just state some facts please any kind of facts that everyone and their brother wants know to know about and not your usual Icon geared fluff piece of presentation. Since they are not answering the questions at their 50000 - 100000 feet elevation I want you to answer them since it is your job. Also provide insight into what you are going to do about buying those three houses off of Holcomb to connect Holly Lane maybe condemn them to help Icon? Please address that also in your power point presentation.

Thanks,

Sharon Neish BSN MS
16580 s edenwild

Pete Walter

From: Sharon Neish <sharonaneish@gmail.com>
Sent: Sunday, August 21, 2022 8:46 PM
To: Pete Walter
Subject: Park place crossing project

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Please include this in your discussion with the commissioner. The new plan has gone from bad to worse as far as stacking people in the project. In phase 1 alone, this development went from having 59 single family homes to having 31 single family homes and 18 single family attached homes. Does the mean the 18 single family attached are duplexes therefore equal to thirty six single families attached to each other???? What does this do to the traffic pattern on Holcomb? Why add even more families to keep it affordable??? Why can't they follow the original plan it is all about their profit margins? They will throw up OSB strand homes with some kind of hardiplank siding and maybe some kind faux stone as an accent with white MDF kitchens and luxury grey vinyl flooring as their formula home. Cut corners at all costs.

Thanks
Sharon

Pete Walter

From: Sharon Neish <sharonaneish@gmail.com>
Sent: Monday, August 22, 2022 9:53 AM
To: Pete Walter
Subject: Fwd: Lot variances park place crossing

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This is regards to park place project

Begin forwarded message:

From: Sharon Neish <sharonaneish@gmail.com>
Date: August 22, 2022 at 9:50:55 AM PDT
To: sharonaneish@gmail.com
Subject: Lot variances

Please add this to the record. Are they STILL requesting lot variances with their new plan? How are they going to handle additional traffic when they throw up all the single attached homes instead of single family as their so called work around to the lot sizes? Does each single family attached dwelling have two separate households? What is the household count? It appears more bodies will be crammed in to each lot.

Thanks,
Sharon

Pete Walter

From: Suze Hammond <moreachrammstein@gmail.com>
Sent: Sunday, August 21, 2022 3:07 PM
To: Planning
Subject: Park Place Crossing

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As a nearby resident, I remain concerned about the landslide capabilities of the proposed area. Part of my own property has slid into Tour Creek. The whole area has an underlayment of slippery clay just below more stable soil. I suspect the report on the stability of the soils was "cherry-picked" by the testing company, and Oregon City will be opening itself to lawsuits if it approves this development without further study. I ask you to consider the needed demolition of an apartment block off Beavercreek Blvd. in recent years. The same soils exist here and under Park Place Crossing.

I am also concerned about any changes in local traffic patterns. Holcomb Ave. already has difficulty handling traffic during emergencies. This will make some rescues impossible. Oregon City annexed this neighborhood and now owes us considerations of this type.

Sincerely upset,
Suzanne E. Hammond
14080 Beemer Way
Oregon City, OR, 97045

Pete Walter

From: Steve Sagi <sagmanaur@yahoo.com>
Sent: Monday, August 22, 2022 1:56 PM
To: Pete Walter
Subject: Master Plan and Variance for Park Place Crossing Development
Attachments: Icon presentation 082222.pdf

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Pete,

In case I can't make the meeting tonight I wanted to submit further public testimony regarding Master Plan and Variance for Park Place Crossing Development. See attached pdf.

Thanks,

Steve Sagi
16401 Cattle Drive, Oregon City
503-969-6311

Key points for 8/22/22 Icon/City meeting

- Good evening Members of the Planning Commission. Thank you for the time to allow me to voice some concerns about the proposed Park Place Crossing General Development Plan.
 - Collector Road
 - I am still confused why Holly Lane is still being called a Collector Road. The City has a standard for a Collector Road, and this road clearly does not meet the criteria at the pinch point.
 - I am guessing Civil Engineering has similar principles to follow as in other disciplines. For instance, if an electrical circuit has the majority of it rated at 100 amps, but one portion, no matter how small, is only rated for 50 amps, then it is a 50 amp circuit. I am guessing the same would apply to roads.
 - I have a suspicion the term Collector Road must be used because they need a Collector Road to move forward with this development.
 - Plan for increased traffic
 - It has been said that traffic studies will be conducted at each phase of the project. What is the plan if any single road hits the 2,000-trip threshold in a given day? I haven't heard of a solution if that happens, just a statement that they won't even look at it until that threshold has been met. Once Phase 2 has been developed there won't be many options to correct the issue. Except to then approve Phase 3 which will bring the bulk of the traffic thru Cattle Drive. It will shift the traffic from Holly Lane to Cattle Drive.
 - I would like to hear the plan of if/when we meet the 2,000 trip threshold then we will do Plan X. My hope is that Plan X is not Eminent Domain and people are forced to sell their property for the good of the project.
 - I still have great concerns of the traffic on Cattle Drive. Not just because I live on it, but I know the dangers that the S-turn can present. It's obstructed view due to the green space fencing, parked cars and the elevation changes are a recipe for collisions.
 - So far, the only people that has given testimony in favor of this project are not residents of Oregon City. This development will be built and then the people that currently live in this neighborhood will have to deal with the outcome.

Steve Sagi

16401 Cattle Drive

503-969-6311

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Steve Sagi

16401 Cattle Drive

503-969-6311

Pete Walter

From: Dan B <orcityus@yahoo.com>
Sent: Monday, August 22, 2022 2:59 PM
To: Pete Walter
Subject: GLUA-21-00045 / MAS-21-00006 / VAR-22-00001 Park Place Crossing General Development Plan.

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For the record Oregon City Planning meeting tonight 8/22/2022

GLUA-21-00045 / MAS-21-00006 / VAR-22-00001 Park Place Crossing General Development Plan.

17.41.130. Regulated Tree Protection Procedures During Construction.

These are my comments:

Save the underground communications between trees and other vegetation as well as water retention. Underground water should be reserved and protected from zero to 15 feet. We need to see the water saved locally rather than dumped straight into the river.

Dan Berge

503 515 5488



Park Place Crossing Development

1 message

Jackie Hammond-Williams <jackiespins@gmail.com>
To: Jackie Hammond-Williams <jackiespins@gmail.com>

Mon, Aug 22, 2022 at 6:32 PM

Dear Commissioners,

I have two main points of concern tonight.

1) ICON has this summer been fined a total of \$114,000 by DEQ for code violations on 4 separate projects in Canby. 15 yrs ago I went to the City of Oregon City to complain about 100s of feet of erosion control barrier and other construction debris that had been left in place by ICON after building the Holcomb Ridge development next to our property on Tour Creek. The City made them clean it up (most of it did get removed) ICON do not have a good track record caring for the environment yet you are being asked to approve their plans for this huge project on sensitive lands (creek, wet lands, steep slopes).

2) This development proposal fails to adhere to the original Park Place Concept Plan in many ways but critically it does not provide the north /south collector street between Holcomb and Redland. Park Place Crossing will be less than a mile from an area deemed 'Critical Fire Risk' by PGE yet as designed it has just two small residential streets for access.

Approx. 1200 people will reside in this 'pocket', with the two exits at the top, both exiting in to Holcomb.

Climate Change is accelerating faster than scientists predicted. Prolonged rain storms, heat domes and wild fires (in addition to earthquakes) will affect this urban/rural neighborhood which has very little in the way of an escape route except for Holcomb Blvd. the bottom of which has a hairpin bend and also comprises of a bridge over 213.

ICON called us concerned citizens 'shortsighted' however we, who actually reside here, are being pragmatic and it's ICON who are shortsighted, I hope you will hold them accountable to the Concept Plan. I would hate for you to approve it as drafted and witness residents lose their homes and lives to landslides or fires. I hope you too will be pragmatic.

Jackie Hammond -Williams
16303, Wayne Dr
Oregon City

Pete Walter

From: James Nicita <james.nicita@gmail.com>
Sent: Saturday, August 20, 2022 7:04 PM
To: Dirk Schlagenhauer; Mike Mitchell; Daphne Wuest; Patti Gage; Gregory Stoll; Bob La Salle; cstags@orc.org
Cc: Oregon City Planning
Subject: Public Comment: "Baker Conflict" in GLUA-21-00045 / MAS-21-00006 / VAR-22-00001 Park Place Crossing General Development Plan - Response to Deputy City Attorney, Part 2
Attachments: Ex. A.pdf; Ex. B.pdf; Ex. C.pdf; Ex. D.pdf; Ex. F.pdf; Ex. E.pdf; Ex. G.pdf

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Planning Commissioners:

I request that these comments and the attachments be placed in the record of the above-referenced proceedings.

I write to provide a follow-up response to the June 30, 2022 memorandum of the deputy city attorney regarding the case *Baker v. Milwaukie*. I stated in my initial comments dated July 11, 2022 that it would require an extensive discussion in order to respond appropriately. This is the second of such responses. In advance of reading these comments, I hope you will refresh your recollection by reading those comments again, including the attachments: the issues involved are complex, and I hope that you will agree that they require careful consideration and deliberation.

In my July 11 comments I indicated that Ms. Richter's June 30 memorandum was a real-time example of my contention that the city attorney's only client is the city manager, that neither the City Commission, the Planning Commission, nor the Historic Review Board is the city attorney's client, and therefore what the city attorney communicates to the Planning Commission is not unbiased legal advice but rather advocacy on behalf of the city attorney's client, the city manager, and his agents on city staff.

In this memo, I submit to you that this pattern and practice, including in this particular quasi-judicial land use proceeding, is not consistent with procedures set forth in the Oregon Rules of Professional Conduct (ORCP), the ethics rules governing attorneys, and this procedural defect prejudices not only my substantial rights to a full and fair hearing, but the same rights as every other citizen who participates in such a hearing. This violates ORS 197.835(9)(a)(B).

I have previously sent each of you a copy of the ORPC in another similar context; I am attaching them again (Ex. A) for your convenience should you choose to review them as you consider these comments.

A. Demonstration that the City Attorney Does Not Consider the Planning Commission to be the Client.

I can recall that in past City meetings I have heard the city attorney say that the city attorney's client is "the City." I.e., the client is the City of Oregon City as an organization / municipal corporation.

While I accept that answer as far as it goes, both the question and the answer are more complicated. In the City's relation to the outside world, the city attorney clearly represents the City, and the City is the city attorney's client.

Where things get really complicated is, *within* the City of Oregon City, who is the city attorney's client?

The answer is: the city manager.

The city manager's status as the only "client" of the city attorney within the City as a corporation is established by Oregon City charter Section 21(c)(3) (Ex. B) and Oregon City municipal code (OCMC) Section 2.08 (Ex. C)

Section 21(c)(3) states:

*The manager shall designate a city recorder, **shall appoint and may remove appointive city officers and employees** except as charter otherwise provides, and **shall have general supervision and control over them and their work** with power to transfer an employee from one department to another. He shall supervise the departments to the end of obtaining the utmost efficiency in each of them. He shall have no control, however, over the commission or over the judicial activities of the municipal judge.*

(Emphasis added.)

OCMC 2.08 City Attorney states:

2.08.010 Appointed.

The attorney shall be appointed by, and shall serve at the discretion of the manager.

2.08.020 Qualifications.

The attorney shall be admitted to practice law in the state.

2.08.030 Duty to prosecute.

The attorney shall be the public prosecutor of the city. It shall be his duty to diligently inquire into and prosecute in the municipal court all violations and infractions of the laws of the city, and he shall be the legal representative of the city in any case in which the city is a party.

2.08.040 Legal advisor.

*The attorney shall be the **legal advisor** of all **city officers**, and it shall be his duty to prepare all proposed amendments to the charter, ordinances, contracts, bonds or other legal papers on the request of the proper officials, in which the city is a party or interested. He shall perform such other duties as may be prescribed by the provisions of this code or order of the commission.*

(Emphasis added.)

Under the foregoing two provisions, the city manager "employs" the city attorney, but further - and significantly - "controls" the city attorney, including the substance and nature of all communication the city attorney transmits to the City Commission and individual city commissioners, as well as to the Planning Commission and Historic Review Board.

The city manager is therefore, within the city government, the sole "client" of the city attorney.

Please note as well: the City Commission, the Planning Commission, and the Historic Review Board are all missing from the text of OCMC 2.08.040 as to who is entitled to the services of the city attorney as the "legal advisor." If these entities are not entitled to legal advice from the city attorney, they are not the city attorney's "client." This is consistent with the City organizational chart that I passed out during citizen comment earlier this summer (Ex. D), which shows the city attorney squarely under the control and authority of the city manager, whereas the Planning Commission's and Historic Review Board's lines of authority descend from the City Commission.

Here is another point to keep in mind as well. The city manager and the city attorney take the position that *not even an elected city commissioner* is a "city officer" under OCMC 2.08.040; and therefore, even an elected city commissioner is not entitled to legal advice from the "legal advisor" – the city attorney - and, further, an individual city commissioner is outside the "attorney-client privilege" between the city attorney and the city manager (including the city manager's agents, his employees such as planning staff.)

I learned this lesson when I was serving on the City Commission from 2009 to 2011. As established by the attached memo from the city attorney from August 23, 2009 (Ex. E), he specified that he worked "through the City Manager." He also said he would not respond to individual requests from city commissioners, or even the mayor, that were not cleared through either the City Manager or City Commission. (I must confess I am unclear as to why he included the City Commission, when that body is not included in the text of OCMC 2.08.040.)

Later, in 2010, I was concerned about the way city staff and the city attorney had handled a land use appeal, and I asked to obtain internal staff communications that had not been made public during the proceedings. As the attached January 26, 2011 memo (Ex. F) demonstrates, the position of the city attorney was that I as an individual city commissioner could not acquire or obtain any communications between the staff and the city attorney. As an individual commissioner, I was not within the attorney-client privilege between the city attorney and staff. (Again, I do not understand by his own logic why the City Commission could request the documentation; within the City, the Commission is by charter a different legal entity than the city manager, and is not an "officer"

pursuant to OCMC 2.08.040.) The upshot was that I only obtained the information (if indeed I received all of it, which I do not to this day) after the city manager at the time, Mr. Frasher, agreed to provide it to me.

Perhaps the city attorney's rationale for the City Commission's being able to obtain otherwise privileged communication between the city manager and the city attorney is because the City Commission is the city manager's employer.

But the Planning Commission is not. The Planning Commission cannot hire or fire the city manager; the Planning Commission cannot hire and fire the city attorney. The Planning Commission is not mentioned as an entity entitled to the legal advice of the city attorney pursuant to OCMC 2.08.040.

In short, the Planning Commission is not the city attorney's "client." Therefore, the city attorney owes none of the duties to clients imposed on the city attorney by the Oregon Rules of Professional Conduct.

B. The Deputy City Attorney's Communications and Actions Establish That She Does Not Consider the Planning Commission to Be Her "Client," and Therefore Her Communications Are "Advocacy," Not "Advice."

If one reviews key provisions of the Oregon Rules of Professional Conduct, it becomes clear that the deputy city attorney does not consider the Planning Commission to be her client. If indeed the Planning Commission *were* her client, her behavior, communications, and actions towards the Planning Commission would be different.

Specifically, the deputy city attorney would have had to comply with ORPC provisions that she does not comply with.

1. *The deputy city attorney does not give the Planning Commission "candid" legal "advice."*

ORPC 2.1 "Legal Advisor" states as follows:

In representing a client, a lawyer shall exercise independent professional judgment and render candid advice. In rendering advice, a lawyer may refer not only to law but to other considerations such as moral, economic, social and political factors, that may be relevant to the client's situation. (Emphasis added.)

Merriam-Webster's Collegiate Dictionary, Eleventh Edition, at p. 179, defines "candid" in pertinent part: "**2**: free from *bias*, prejudice, or malice : FAIR." (Emphasis added.)

The deputy city attorney's June 30 *Baker* memo is in no conceivable way "candid." I have repeatedly emphasized that it is not "unbiased." As I explained in detail in my initial July 11 response comments, the June 30 memo cherry picks only one case that supports her argument or "spin" of the *Baker* case. A "candid" memo that was actually "advice" would have straightforwardly acknowledged other cases, including those I offered in my July 11 response, that are much more factually on point to the Park Place Crossing application than the one case provided in the June 30 memo. Then, as an "advisor," the deputy attorney would dispassionately, and without bias, work through the legal principles with the Planning Commission members and allow the Planning Commission to come to its own informed conclusion.

That the deputy city attorney did not do this proves that she does not consider the Planning Commission to be her "client." Her June 30 memo is not unbiased legal "advice," but rather biased legal "advocacy."

2. *The deputy city attorney does not consider that she is confronting a "current conflict of interest" between two "clients."*

The deputy city attorney is also not complying with the ORPC provisions regarding conflict of interest. That is because she does not have to if the Planning Commission is not her client.

The *interest* of the city manager and staff, as evinced by the staff report for Park Place Crossing, is approval.

It is clear, on the other hand, that at least some of the Planning Commissioners have serious concerns about the proposal; and the Planning Commission as a whole may have an *interest* in denying the application based on the facts, testimony, law, and public interest.

If the Planning Commission were in fact the deputy city attorney's client, then under the ORPC there would be a "current conflict of interest," which includes instances where **"there is a significant risk that the representation of one or more clients will be materially limited by the lawyer's responsibilities to another client..."** ORPC 1.7(a)(2). (Emphasis added.)

That is, her representation of the Planning Commission as a client would be materially limited by her responsibilities to city manager (and his agents on city staff.) as a client.

The ORPC *does* permit the deputy city attorney to represent both “clients” in such cases of current conflict of interest. To begin with, there is a particular provision regarding an attorney’s representation of an organization, such as a corporation or a municipal government. That is ORPC 1.13. The last two sections of this rule are pertinent to the current land use proceedings, indeed to every quasi-judicial land use proceeding in Oregon City.

(f) In dealing with an organization's directors, officers, employees, members, shareholders or other constituents, a lawyer shall explain the identity of the client when the lawyer knows or reasonably should know that the organization's interests are adverse to those of the constituents with whom the lawyer is dealing.

(g) A lawyer representing an organization may also represent any of its directors, officers, employees, members, shareholders or other constituents, subject to the provisions of Rule 1.7. If the organization's consent to the dual representation is required by Rule 1.7, the consent may only be given by an appropriate official of the organization other than the individual who is to be represented, or by the shareholders.

In this case, the deputy city attorney *could*, at least hypothetically, represent both the city manager (“officer”) and the Planning Commission (“other constituent”) within the same organization, the City of Oregon City.

However, because of the “current conflict of interest” described above, the deputy city attorney would have to obtain the proper “consent.”

Notwithstanding the existence of a current conflict of interest under paragraph (a), a lawyer may represent a client if:

- (1) the lawyer reasonably believes that the lawyer will be able to provide competent and diligent representation to each affected client;**
- (2) the representation is not prohibited by law;**
- (3) the representation does not obligate the lawyer to contend for something on behalf of one client that the lawyer has a duty to oppose on behalf of another client; and**
- (4) each affected client gives informed consent, confirmed in writing.**

ORPC 1.7(b) (Emphasis added.) The deputy city attorney would have to satisfy all four of the subsections.

The deputy city attorney has certainly not done so in the current Planning Commission hearings on the Park Place Crossing land use proposal.

Further, I honestly cannot remember having heard *any* city attorney of Oregon City acknowledge or recognize that a current conflict of interest exists between city staff and the City Commission, Planning Commission, or Historic Review Board, in quasi-judicial land use proceedings in Oregon City; or, having acknowledged a current conflict of interest, secure the required consent per ORPC 1.7(b).

The only reason I can conceive why the city attorney has never grappled with such a dilemma under the ORPC in regard to the Planning Commission is because the city attorney must take the position that under the city charter and municipal code, the Planning Commission is not the “client.” If it is not the “client,” there is simply no “current conflict of interest” to begin with.

However, such a situation further substantiates that the communication the city attorney transmits to the Planning Commission is biased “advocacy” on behalf of the city manager, rather than unbiased legal “advice.”

3. The deputy city attorney’s June 30 memo is not consistent with the ORPC provisions applicable to “advocates.”

Having established that the Planning Commission is not the city attorney’s “client,” that the city attorney is not the Planning Commission’s “legal advisor,” and that the city attorney does not provide the Planning Commission unbiased legal “advice,” the question remains, what is the relationship between the city attorney and the Planning Commission?

Arguably, rather than the city attorney’s “client,” the Planning Commission is instead a “tribunal.” The definitions in the ORPC define “tribunal” under ORPC 1.0(p), in pertinent part thusly: **“Tribunal” denotes a court, an arbitrator in a binding arbitration proceeding or a legislative body, administrative agency or other body acting in an adjudicative capacity.** (Emphasis added.) This is exactly the role the Planning Commission plays in quasi-judicial land use proceedings like the current Park Place Crossing land use application.

But if that is the case, the city attorney must still adhere to the ORPC provisions that apply to “Advocates” (as opposed to “Advisors”) beginning on p. 20 of the attached ORPC, when the city attorney “advocates” on behalf of her/his client the city manager (and staff) before the Planning Commission as the “tribunal.” That has not happened in these proceedings; certainly not as it pertains to the deputy city attorney’s June 30 *Baker* memo, or indeed with any comments by any other citizen.

ORPC 3.3 is entitled “Candor to the Tribunal.”

Now, even without getting legalistic, it should go without saying that the city attorney, as a matter of forthrightness and fairness, should disclose and be up front about the fact and reality that the city attorney is not the Planning Commission’s client, and that the city attorney is communicating biased advocacy to the Planning Commission to advance the position of the city manager and staff, and is not giving the Planning Commission unbiased legal advice.

I am not going to mince words here. By a long shot, far and away, in my opinion the greatest institutional corruption in Oregon City government, as long as I lived here (15 years), is that the city attorney, who must be versed in the ORPC, and must abide by the ORPC, allows the non-lawyer lay members of the City Commission, Planning Commission, and Historic Review Board – who are NOT learned, expert, and knowledgeable regarding the ORPC – when acting in quasi-judicial land use proceedings, to drift along and BELIEVE and ASSUME that the city attorney is giving them unbiased legal advice, without in fact correcting them, disclosing to them, and informing them of the reality, namely, that the city attorney is instead communicating to them biased advocacy in order to get them to make decisions in the manner that the city manager wants them to.

The evidence is right in the current land use proceedings on Park Place Crossing. When I submitted my original May 21 comments regarding the *Baker* case, I received in reply the attached (Ex. G) email from Chair Schlagenhauser, who stated:

“Thank you for your comment, Jim. I am not a lawyer, but I’ll read through this and ask our attorney for her view of it.” (Emphasis added.)

This response makes it utterly, decisively clear that, at least at the time he wrote that email, Chair Schlagenhauser BELIEVED and ASSUMED that the deputy city attorney provides unbiased legal “advice” to the Planning Commission, as an attorney would to a “client.” I have no evidence that the deputy attorney has ever corrected him and forthrightly disclosed both to him and to the Planning Commission as a whole that what she provides the Planning Commission is not unbiased legal “advice,” but rather “advocacy” to advance the interests of her client the city manager. And in fact, what the Chair got in response to his inquiry to the deputy attorney was not candid advice but the slanted June 30 advocacy piece. This means that the Planning Commission is not making decisions based on the actual law.

And certainly, if the Chair believes that he is getting unbiased legal advice from the city attorney, there is no reason to believe that the rest of the Planning Commission members are not also under the same misimpression.

Over the past 15 years I have watched this process work against the public interest, the interests of the citizens and voters of the City, and the interests of the community as a whole. It has to stop, and stop now.

Beyond the foregoing, however, let’s in fact get “legalistic” and review what the ORPC has to say. A key provision of ORPC 3.3 “Candor to the Tribunal” is ORPC 3.3(a)(2), which states: **“A lawyer shall not knowingly... conceal or fail to disclose to a tribunal that which the lawyer is required by law to reveal.”**

In this case, the city attorney is required to disclose/reveal to the Planning Commission that she/he is the client of the city manager and not the Planning Commission, and that her/his communications to the Planning Commission consist of legal “advocacy” to advance the city manager’s interests, and is not unbiased legal “advice” to the Planning Commission as a client.

This specific obligation again derives from ORPC 1.13(f), quoted above, but restated here with different emphasis:

(f) In dealing with an organization's directors, officers, employees, members, shareholders or other constituents, a lawyer shall explain the identity of the client when the lawyer knows or reasonably should know that the organization's interests are adverse to those of the constituents with whom the lawyer is dealing.

As stated, the City as an organization is the city attorney’s client; but *within* the City, the city attorney must “explain” the identity of the in-house “client” – the city manager – when the city attorney knows that the organization’s interests, as established by the city attorney’s sole in-house client, the city manager, are adverse to the other constituents within the City – including the Planning Commission – with whom the lawyer is dealing.

Again, I have never heard, either in the current proceedings or in any other quasi-judicial land use proceeding, any city attorney ever “explain” such client identity between the various constituents and entities within the City of Oregon City.

4. The institutional system within the City of Oregon City as it pertains to the communications of the city attorney in quasi-judicial land use proceedings constitutes a systemic inconsistency with the procedures set forth in the ORPC; and as such, such procedural violations deny my substantial right to a full and fair hearing, and indeed, they deny every citizen her or his substantial rights to a full and fair hearing in violation of ORS 197.835(9)(a)(B).

The deputy city attorney took my initial comments regarding *Baker* and how the Park Place Concept Plan’s requirements for a “Main Street” building wall supersede and control the Neighborhood Commercial Zone’s allowance of parks and stormwater facilities, and attempted to discredit them with an advocacy piece “spinning” *Baker* with selective, cherry-picked legal authority and biased arguments. She presented this advocacy piece to the Planning Commission as an advocate for, and on behalf of, the city manager, her sole client within the City of Oregon City. It is not “candid advice,” or a presentation of the actual law based on *Baker*. The public interest requires that the Planning Commission decide matters on the actual law.

As Chair Schlaugenhauser’s email demonstrates, he believed that he was receiving unbiased legal advice from the deputy city attorney, but the latter – at least on the available public record – has not disclosed in these proceedings that neither the Chair nor the Planning Commission is being given unbiased legal advice, and that they are not her “client” entitled to unbiased legal advice.

The problem is that the lay, non-lawyer Planning Commissioners, unversed in the ORPC, likely are not sufficiently knowledgeable to be able to make the distinction between the deputy city attorney’s “advocacy” as opposed to “advice.” Believing and assuming that they are in fact getting unbiased “advice,” they will always defer to the deputy city attorney - who is clothed in the official capacity of a City office, and the presumed credibility of that position - and accept the “advocacy” as unbiased “advice.”

It is impossible for ANY citizen to get a full and fair hearing under such circumstances.

Therefore, I respectfully repeat my suggestion in my initial comments, that the Planning Commission retain its own counsel for the remainder of these proceedings, or at a minimum strongly advise the City Commission retain its own counsel for any appeal that might arise.

I further request that the Planning Commission draft its own findings of fact and conclusions of law regarding ORS 197.835(9)(a)(B) as an approval criterion, and not rely on the city attorney or city staff.

Thank you for your consideration of these comments.

James Nicita
Oregon City

Ex. A

Ex. B

Ex. C

Ex. D

Ex. E

Ex. F

Ex. G

Item #1.

OREGON RULES OF PROFESSIONAL CONDUCT

(as amended effective January 1, 2017)

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Ex. A

RULE 1.0 TERMINOLOGY

- (a) "Belief" or "believes" denotes that the person involved actually supposes the fact in question to be true. A person's belief may be inferred from circumstances.
- (b) "Confirmed in writing," when used in reference to the informed consent of a person, denotes informed consent that is given in writing by the person or a writing that a lawyer promptly transmits to the person confirming an oral informed consent. See paragraph (g) for the definition of "informed consent." If it is not feasible to obtain or transmit the writing at the time the person gives informed consent, then the lawyer must obtain or transmit it within a reasonable time thereafter.
- (c) "Electronic communication" includes but is not limited to messages sent to newsgroups, listservs and bulletin boards; messages sent via electronic mail; and real time interactive communications such as conversations in internet chat groups and conference areas and video conferencing.
- (d) "Firm" or "law firm" denotes a lawyer or lawyers, including "Of Counsel" lawyers, in a law partnership, professional corporation, sole proprietorship or other association authorized to practice law; or lawyers employed in a private or public legal aid or public defender organization, a legal services organization or the legal department of a corporation or other public or private organization. Any other lawyer, including an office sharer or a lawyer working for or with a firm on a limited basis, is not a member of a firm absent indicia sufficient to establish a de facto law firm among the lawyers involved.
- (e) "Fraud" or "fraudulent" denotes conduct that is fraudulent under the substantive or procedural law of the applicable jurisdiction and has a purpose to deceive.
- (f) "Information relating to the representation of a client" denotes both information protected by the attorney-client privilege under applicable law, and other information gained in a current or former professional relationship that the client has requested be held inviolate or the disclosure of which would be embarrassing or would be likely to be detrimental to the client.
- (g) "Informed consent" denotes the agreement by a person to a proposed course of conduct after the lawyer has communicated adequate information and explanation about the material risks of and reasonably available alternatives to the proposed course of conduct. When informed consent is required by these Rules to be confirmed in writing or to be given in a writing signed by the client, the lawyer shall give and

the writing shall reflect a recommendation that the client seek independent legal advice to determine if consent should be given.

(h) "Knowingly," "known," or "knows" denotes actual knowledge of the fact in question, except that for purposes of determining a lawyer's knowledge of the existence of a conflict of interest, all facts which the lawyer knew, or by the exercise of reasonable care should have known, will be attributed to the lawyer. A person's knowledge may be inferred from circumstances.

(i) "Matter" includes any judicial or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, investigation, charge, accusation, arrest or other particular matter involving a specific party or parties; and any other matter covered by the conflict of interest rules of a government agency.

(j) "Partner" denotes a member of a partnership, a shareholder in a law firm organized as a professional corporation, or a member of an association authorized to practice law.

(k) "Reasonable" or "reasonably" when used in relation to conduct by a lawyer denotes the conduct of a reasonably prudent and competent lawyer.

(l) "Reasonable belief" or "reasonably believes" when used in reference to a lawyer denotes that the lawyer believes the matter in question and that the circumstances are such that the belief is reasonable.

(m) "Reasonably should know" when used in reference to a lawyer denotes that a lawyer of reasonable prudence and competence would ascertain the matter in question.

(n) "Screened" denotes the isolation of a lawyer from any participation in a matter through the timely imposition of procedures within a firm that are reasonably adequate under the circumstances to protect information that the isolated lawyer is obligated to protect under these Rules or other law.

(o) "Substantial" when used in reference to degree or extent denotes a material matter of clear and weighty importance.

(p) "Tribunal" denotes a court, an arbitrator in a binding arbitration proceeding or a legislative body, administrative agency or other body acting in an adjudicative capacity. A legislative body, administrative agency or other body acts in an adjudicative capacity when a neutral official, after the presentation of evidence or legal argument by a party or parties, will render a binding legal judgment directly affecting a party's interests in a particular matter.

(q) "Writing" or "written" denotes a tangible or electronic record of a communication or representation, including handwriting, typewriting, printing, photostating, photography, audio or videorecording and electronic communications. A "signed" writing includes an electronic sound, symbol or process attached to or logically associated with a writing and executed or adopted by a person with the intent to sign the writing.

Adopted 01/01/05

Amended 01/01/14: "Electronic communications" substituted for "email."

Comparison to Oregon Code

This rule replaces DR 10-101 and is significantly more expansive. Some DR 10-101 definitions were retained, but others were not incorporated into this rule.

The definition of "firm member" was eliminated as not necessary, but a reference to "of counsel" was retained in the definition of "firm." The definition of "firm" also distinguishes office sharers and lawyers working in a firm on a limited basis.

The concept of "full disclosure" is replaced by "informed consent," which, in some cases, must be "confirmed in writing."

The definition of "professional legal corporation" was deleted, as the term does not appear in any of the rules and does not require explanation.

The definitions of "person" and "state" were also eliminated as being unnecessary.

Comparison to ABA Model Rule

The Model Rules do not define "information relating to the representation of a client;" it was added here to make it clear that ORPC 1.6 continues to protection of the same information protected by DR 4-101 and the term is defined with the DR definitions of confidences and secrets. The MR definition of "firm" was revised to include a reference to "of counsel" lawyers. The MR definition of "knowingly, known or knows" was revised to include language from DR 5-105(B) regarding knowledge of the existence of a conflict of interest. The definition of "matter" was moved to this rule from MR 1.11 on the belief that it has a broader application than to only former government lawyer conflicts. The MR definition of "writing" has been expanded to include "facsimile" communications.

CLIENT-LAWYER RELATIONSHIP

RULE 1.1 COMPETENCE

A lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation.

Adopted 01/01/05

Defined Terms (see Rule 1.0):

"Reasonably"

Comparison to Oregon Code

This rule is identical to DR 6-101(A).

Comparison to ABA Model Rule

This is the ABA Model Rule.

RULE 1.2 SCOPE OF REPRESENTATION AND ALLOCATION OF AUTHORITY BETWEEN CLIENT AND LAWYER

(a) Subject to paragraphs (b) and (c), a lawyer shall abide by a client's decisions concerning the objectives of representation and, as required by Rule 1.4, shall consult with the client as to the means by which they are to be pursued. A lawyer may take such action on behalf of the client as is impliedly authorized to carry out the representation. A lawyer shall abide by a client's decision whether to settle a matter. In a criminal case, the lawyer shall abide by the client's decision, after consultation with the lawyer, as to a plea to be entered, whether to waive jury trial and whether the client will testify.

(b) A lawyer may limit the scope of the representation if the limitation is reasonable under the circumstances and the client gives informed consent.

(c) A lawyer shall not counsel a client to engage, or assist a client, in conduct that the lawyer knows is illegal or fraudulent, but a lawyer may discuss the legal consequences of any proposed course of conduct with a client and may counsel or assist a client to make a good faith effort to determine the validity, scope, meaning or application of the law.

(d) Notwithstanding paragraph (c), a lawyer may counsel and assist a client regarding Oregon's marijuana-related laws. In the event Oregon law conflicts with federal or tribal law, the lawyer shall also advise the client regarding related federal and tribal law and policy.

Adopted 01/01/05

Amended 02/XX/15: Paragraph (d) added

Defined Terms (see Rule 1.0):

"Fraudulent"
 "Informed consent"
 "Knows"
 "Matter"
 "Reasonable"

Comparison to Oregon Code

This rule has no real counterpart in the Oregon Code. Subsection (a) is similar to DR 7-101(A) and (B), but expresses more clearly that lawyers must defer to the client's decisions about the objectives of the representation and whether to settle a matter. Subsection (b) is a clarification of the lawyer's right to limit the scope of a representation. Subsection (c) is similar to DR 7-102(A)(7), but recognizes that counseling a client about the meaning of a law or the consequences of proposed illegal or fraudulent conduct is not the same as assisting the client in such conduct. Paragraph (d) had no counterpart in the Oregon Code.

Comparison to ABA Model Rule

ABA Model Rule 1.2(b) states that a lawyer's representation of a client "does not constitute an endorsement of the client's political, economic, social or moral views or activities." It was omitted because it is not a rule of discipline, but rather a statement intended to encourage lawyers to represent unpopular clients. Also, MR 1.2(c) refers to "criminal" rather than "illegal" conduct.

RULE 1.3 DILIGENCE

A lawyer shall not neglect a legal matter entrusted to the lawyer.

Adopted 01/01/05

Defined Terms (see Rule 1.0)

"Matter"

Comparison to Oregon Code

This rule is identical to DR 6-101(B).

Comparison to ABA Model Rule

The ABA Model Rule requires a lawyer to "act with reasonable diligence and promptness in representing a client."

RULE 1.4 COMMUNICATION

(a) A lawyer shall keep a client reasonably informed about the status of a matter and promptly comply with reasonable requests for information

(b) A lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation.

Adopted 01/01/05

Defined Terms (see Rule 1.0):

"Knows"
 "Reasonable"
 "Reasonably"

Comparison to Oregon Code

This rule has no counterpart in the Oregon Code, although the duty to communicate with a client may be inferred from other rules and from the law of agency.

Comparison to ABA Model Rule

This is the former ABA Model Rule. ABA MR 1.4 as amended in 2002 incorporates provisions previously found in MR 1.2; it also specifically identifies five aspects of the duty to communicate.

RULE 1.5 FEES

(a) A lawyer shall not enter into an agreement for, charge or collect an illegal or clearly excessive fee or a clearly excessive amount for expenses.

(b) A fee is clearly excessive when, after a review of the facts, a lawyer of ordinary prudence would be left with a definite and firm conviction that the fee is in excess of a reasonable fee. Factors to be considered as guides in determining the reasonableness of a fee include the following:

- (1) the time and labor required, the novelty and difficulty of the questions involved, and the skill requisite to perform the legal service properly;**
- (2) the likelihood, if apparent to the client, that the acceptance of the particular employment will preclude other employment by the lawyer;**
- (3) the fee customarily charged in the locality for similar legal services;**
- (4) the amount involved and the results obtained;**
- (5) the time limitations imposed by the client or by the circumstances;**
- (6) the nature and length of the professional relationship with the client;**
- (7) the experience, reputation, and ability of the lawyer or lawyers performing the services; and**
- (8) whether the fee is fixed or contingent.**

(c) A lawyer shall not enter into an arrangement for, charge or collect:

- (1) any fee in a domestic relations matter, the payment or amount of which is contingent upon the securing of a divorce or upon the amount of spousal or child support or a property settlement;**

(2) a contingent fee for representing a defendant in a criminal case; or

(3) a fee denominated as "earned on receipt," "nonrefundable" or in similar terms unless it is pursuant to a written agreement signed by the client which explains that:

(i) the funds will not be deposited into the lawyer trust account, and

(ii) the client may discharge the lawyer at any time and in that event may be entitled to a refund of all or part of the fee if the services for which the fee was paid are not completed.

(d) A division of a fee between lawyers who are not in the same firm may be made only if:

(1) the client gives informed consent to the fact that there will be a division of fees, and

(2) the total fee of the lawyers for all legal services they rendered the client is not clearly excessive.

(e) Paragraph (d) does not prohibit payments to a former firm member pursuant to a separation or retirement agreement, or payments to a selling lawyer for the sale of a law practice pursuant to Rule 1.17.

Adopted 01/01/05

Amended 12/01/10: Paragraph(c)(3) added.

Defined Terms (see Rule 1.0):

"Firm"

"Informed Consent"

"Matter"

"Reasonable"

Comparison to Oregon Code

Paragraphs (a), (b) and (c)(1) and (2) are taken directly from DR 2-106, except that paragraph (a) is amended to include the Model Rule prohibition against charging a "clearly excessive amount for expenses." Paragraph (c)(3) had no counterpart in the Code. Paragraph (d) retains the substantive obligations of DR 2-107(A) but is rewritten to accommodate the new concepts of "informed consent" and "clearly excessive." Paragraph (e) is essentially identical to DR 2-107(B).

Comparison to ABA Model Rule

ABA Model Rule 1.5(b) requires that the scope of the representation and the basis or rate of the fees or expenses for which the client will be responsible be communicated to the client before or within a reasonable time after the representation commences, "preferably in writing." Model Rule 1.5(c) sets forth specific requirements for a contingent fee agreement, including an explanation of how the fee will be

determined and the expenses for which the client will be responsible. It also requires a written statement showing distribution of all funds recovered. Paragraph (c)(3) has no counterpart in the Model Rule. Model Rule 1.5(e) permits a division of fees between lawyers only if it is proportional to the services performed by each lawyer or if the lawyers assume joint responsibility for the representation.

RULE 1.6 CONFIDENTIALITY OF INFORMATION

(a) A lawyer shall not reveal information relating to the representation of a client unless the client gives informed consent, the disclosure is impliedly authorized in order to carry out the representation or the disclosure is permitted by paragraph (b).

(b) A lawyer may reveal information relating to the representation of a client to the extent the lawyer reasonably believes necessary:

(1) to disclose the intention of the lawyer's client to commit a crime and the information necessary to prevent the crime;

(2) to prevent reasonably certain death or substantial bodily harm;

(3) to secure legal advice about the lawyer's compliance with these Rules;

(4) to establish a claim or defense on behalf of the lawyer in a controversy between the lawyer and the client, to establish a defense to a criminal charge or civil claim against the lawyer based upon conduct in which the client was involved, or to respond to allegations in any proceeding concerning the lawyer's representation of the client;

(5) to comply with other law, court order, or as permitted by these Rules; or

(6) in connection with the sale of a law practice under Rule 1.17 or to detect and resolve conflicts of interest arising from the lawyer's change of employment or from changes in the composition or ownership of a firm. In those circumstances, a lawyer may disclose with respect to each affected client the client's identity, the identities of any adverse parties, the nature and extent of the legal services involved, and fee and payment information, but only if the information revealed would not compromise the attorney-client privilege or otherwise prejudice any of the clients. The lawyer or lawyers receiving the information shall have the same responsibilities as the disclosing lawyer to preserve the information regardless of the outcome of the contemplated transaction.

(7) to comply with the terms of a diversion agreement, probation, conditional reinstatement or conditional admission pursuant to BR 2.10, BR 6.2, BR 8.7 or Rule for Admission Rule 6.15. A lawyer serving as a monitor of another lawyer on diversion, probation, conditional reinstatement or conditional admission shall have the same responsibilities as the monitored lawyer to preserve information relating to the representation of the monitored lawyer's clients, except to the extent reasonably necessary to carry out the monitoring lawyer's responsibilities under the terms of the diversion, probation, conditional reinstatement or conditional admission and in any proceeding relating thereto.

(c) A lawyer shall make reasonable efforts to prevent the inadvertent or unauthorized disclosure of, or unauthorized access to, information relating to the representation of a client.

Adopted 01/01/05

Amended 12/01/06: Paragraph (b)(6) amended to substitute "information relating to the representation of a client" for "confidences and secrets."

Amended 01/20/09: Paragraph (b)(7) added.

Amended 01/01/14: Paragraph (6) modified to allow certain disclosures to avoid conflicts arising from a change of employment or ownership of a firm. Paragraph (c) added.

Defined Terms (see Rule 1.0):

"Believes"

"Firm"

"Information relating to the representation of a client"

"Informed Consent"

"Reasonable"

"Reasonably"

"Substantial"

Comparison to Oregon Code

This rule replaces DR 4-101(A) through (C). The most significant difference is the substitution of "information relating to the representation of a client" for "confidences and secrets." Paragraph (a) includes the exceptions for client consent found in DR 4-101(C)(1) and allows disclosures "impliedly authorized" to carry out the representation, which is similar to the exception in DR 4-101(C)(2).

The exceptions to the duty of confidentiality set forth in paragraph (b) incorporate those found in DR 4-101(C)(2) through (C)(5). There are also two new exceptions not found in the Oregon Code: disclosures to prevent "reasonably certain death or substantial bodily harm" whether or not the action is a crime, and disclosures to

obtain legal advice about compliance with the Rules of Professional Conduct.

Paragraph (b)(6) in the Oregon Code pertained only to the sale of a law practice.

Paragraph (b)(7) had no counterpart in the Oregon Code.

Comparison to ABA Model Rule

ABA Model Rule 1.6(b) allows disclosure "to prevent reasonably certain death or substantial bodily harm" regardless of whether a crime is involved. It also allows disclosure to prevent the client from committing a crime or fraud that will result in significant financial injury or to rectify such conduct in which the lawyer's services have been used. There is no counterpart in the Model Rule for information to monitoring responsibilities.

RULE 1.7 CONFLICT OF INTEREST: CURRENT CLIENTS

(a) Except as provided in paragraph (b), a lawyer shall not represent a client if the representation involves a current conflict of interest. A current conflict of interest exists if:

(1) the representation of one client will be directly adverse to another client;

(2) there is a significant risk that the representation of one or more clients will be materially limited by the lawyer's responsibilities to another client, a former client or a third person or by a personal interest of the lawyer; or

(3) the lawyer is related to another lawyer, as parent, child, sibling, spouse or domestic partner, in a matter adverse to a person whom the lawyer knows is represented by the other lawyer in the same matter.

(b) Notwithstanding the existence of a current conflict of interest under paragraph (a), a lawyer may represent a client if:

(1) the lawyer reasonably believes that the lawyer will be able to provide competent and diligent representation to each affected client;

(2) the representation is not prohibited by law;

(3) the representation does not obligate the lawyer to contend for something on behalf of one client that the lawyer has a duty to oppose on behalf of another client; and

(4) each affected client gives informed consent, confirmed in writing.

Adopted 01/01/05

Defined Terms (see Rule 1.0):

"Believes"

"Confirmed in writing"

"Informed consent"

"Knows"

"Matter"

"Reasonably believes"

Comparison to Oregon Code

The current conflicts of interest prohibited in paragraph (a) are the self-interest conflicts currently prohibited by DR 5-101(A) and current client conflicts prohibited by DR 5-105(E). Paragraph (a)(2) refers only to a "personal interest" of a lawyer, rather than the specific "financial, business, property or personal interests" enumerated in DR 5-101(A)(1). Paragraph (a)(3) incorporates the "family conflicts" from DR 5-101(A)(2).

Paragraph (b) parallels DR 5-101(A) and DR 5-105(F) in permitting a representation otherwise prohibited if the affected clients give informed consent, which must be confirmed in writing. Paragraph (b)(3) incorporates the "actual conflict" definition of DR 5-105(A)(1) to make it clear that a lawyer cannot provide competent and diligent representation to clients in that situation.

Paragraph (b) also allows consent to simultaneous representation "not prohibited by law," which has no counterpart in the Oregon Code. According to the official Comment to MR 1.7 this would apply, for instance, in jurisdictions that prohibit a lawyer from representing more than one defendant in a capital case, to certain representations by former government lawyers, or when local law prohibits a government client from consenting to a conflict of interest.

Comparison to ABA Model Rule

This is essentially identical to the ABA Model Rule, except for the addition of paragraphs (a)(3) and (b)(3) discussed above; also, the Model Rule uses the term "concurrent" rather than "current." The Model Rule allows the clients to consent to a concurrent conflict if "the representation does not involve the assertion of a claim by one client against another client represented by the lawyer in the same litigation or other proceeding before a tribunal."

RULE 1.8 CONFLICT OF INTEREST: CURRENT CLIENTS: SPECIFIC RULES

(a) A lawyer shall not enter into a business transaction with a client or knowingly acquire an ownership, possessory, security or other pecuniary interest adverse to a client unless:

(1) the transaction and terms on which the lawyer acquires the interest are fair and reasonable to the client and are fully disclosed and transmitted in writing in a manner that can be reasonably understood by the client;

(2) the client is advised in writing of the desirability of seeking and is given a reasonable opportunity to seek the advice of independent legal counsel on the transaction; and

(3) the client gives informed consent, in a writing signed by the client, to the essential terms of the transaction and the lawyer's role in the transaction, including whether the lawyer is representing the client in the transaction.

(b) A lawyer shall not use information relating to representation of a client to the disadvantage of the client unless the client gives informed consent, confirmed in writing, except as permitted or required under these Rules.

(c) A lawyer shall not solicit any substantial gift from a client, including a testamentary gift, or prepare on behalf of a client an instrument giving the lawyer or a person related to the lawyer any substantial gift, unless the lawyer or other recipient of the gift is related to the client. For purposes of this paragraph, related persons include a spouse, domestic partner, child, grandchild, parent, grandparent, or other relative or individual with whom the lawyer or the client maintains a close familial relationship.

(d) Prior to the conclusion of representation of a client, a lawyer shall not make or negotiate an agreement giving the lawyer literary or media rights to a portrayal or account based in substantial part on information relating to the representation.

(e) A lawyer shall not provide financial assistance to a client in connection with pending or contemplated litigation, except that:

(1) a lawyer may advance court costs and expenses of litigation, the repayment of which may be contingent on the outcome of the matter; and

(2) a lawyer representing an indigent client may pay court costs and expenses of litigation on behalf of the client.

(f) A lawyer shall not accept compensation for representing a client from one other than the client unless:

(1) the client gives informed consent;

(2) there is no interference with the lawyer's independence of professional judgment or with the client-lawyer relationship; and

(3) information related to the representation of a client is protected as required by Rule 1.6.

(g) A lawyer who represents two or more clients shall not participate in making an aggregate settlement of the claims of or against the clients, or in a criminal case

an aggregate agreement as to guilty or nolo contendere pleas, unless each client gives informed consent, in a writing signed by the client. The lawyer's disclosure shall include the existence and nature of all the claims or pleas involved and of the participation of each person in the settlement.

(h) A lawyer shall not:

- (1) make an agreement prospectively limiting the lawyer's liability to a client for malpractice unless the client is independently represented in making the agreement;
- (2) settle a claim or potential claim for such liability with an unrepresented client or former client unless that person is advised in writing of the desirability of seeking and is given a reasonable opportunity to seek the advice of independent legal counsel in connection therewith;
- (3) enter into any agreement with a client regarding arbitration of malpractice claims without informed consent, in a writing signed by the client; or
- (4) enter into an agreement with a client or former client limiting or purporting to limit the right of the client or former client to file or to pursue any complaint before the Oregon State Bar.

(i) A lawyer shall not acquire a proprietary interest in the cause of action or subject matter of litigation the lawyer is conducting for a client, except that the lawyer may:

- (1) acquire a lien authorized by law to secure the lawyer's fee or expenses; and
- (2) contract with a client for a reasonable contingent fee in a civil case.

(j) A lawyer shall not have sexual relations with a current client of the lawyer unless a consensual sexual relationship existed between them before the client-lawyer relationship commenced; or have sexual relations with a representative of a current client of the lawyer if the sexual relations would, or would likely, damage or prejudice the client in the representation. For purposes of this rule:

- (1) "sexual relations" means sexual intercourse or any touching of the sexual or other intimate parts of a person or causing such person to touch the sexual or other intimate parts of the lawyer for the purpose of arousing or gratifying the sexual desire of either party; and
- (2) "lawyer" means any lawyer who assists in the representation of the client, but does not include other firm members who provide no such assistance.

(k) While lawyers are associated in a firm, a prohibition in the foregoing paragraphs (a) through (i) that applies to any one of them shall apply to all of them.

Adopted 01/01/05

Amended 01/01/13: Paragraph (e) amended to mirror ABA Model Rule 1.8(e).

Defined Terms (see Rule 1.0):

"Confirmed in writing"
 "Information relating to the representation of a client"
 "Informed consent"
 "Firm"
 "Knowingly"
 "Matter"
 "Reasonable"
 "Reasonably"
 "Substantial"
 "Writing"

Comparison to Oregon Code

This rule has no exact counterpart in the Oregon Code, although it incorporates prohibitions found in several separate disciplinary rules.

Paragraph (a) replaces DR 5-104(A) and incorporates the Model Rule prohibition against business transactions with clients even with consent except where the transaction is "fair and reasonable" to the client. It also includes an express requirement to disclose the lawyer's role and whether the lawyer is representing the client in the transaction.

Paragraph (b) is virtually identical to DR 4-101(B).

Paragraph (c) is similar to DR 5-101(B), but broader because it prohibits soliciting a gift as well as preparing the instrument. It also has a more inclusive list of "related persons."

Paragraph (d) is identical to DR 5-104(B).

Paragraph (e) incorporates ABA Model Rule 1.8(e).

Paragraph (f) replaces DR 5-108(A) and (B) and is essentially the same as it relates to accepting payment from someone other than the client. This rule is somewhat narrower than DR 5-108(B), which prohibits allowing influence from someone who "recommends, employs or pays" the lawyer.

Paragraph (g) is virtually identical to DR 5-107(A).

Paragraph (h)(1) and (2) are similar to DR 6-102(A), but do not include the "unless permitted by law" language. Paragraph (h)(3) retains DR 6-102(B), but substitutes "informed consent, in a writing signed by the client" for

"full disclosure." Paragraph (h)(4) is new and was taken from Illinois Rule of Professional Conduct 1.8(h).

Paragraph (i) is essentially the same as DR 5-103(A).

Paragraph (j) retains DR 5-110, reformatted to conform to the structure of the rule.

Paragraph (k) applies the same vicarious disqualification to these personal conflicts as provided in DR 5-105(G).

Comparison to ABA Model Rule

This rule is identical to ABA Model Rule 1.8 with the following exceptions. MR 1.8 (b) does not require that the client's informed consent be confirmed in writing as required in DR 4-101(B). MR 1.8 (h) does not prohibit agreements to arbitrate malpractice claims. MR 1.8 (j) does not address sexual relations with representatives of corporate clients and does not contain definitions of terms.

RULE 1.9 DUTIES TO FORMER CLIENTS

(a) A lawyer who has formerly represented a client in a matter shall not thereafter represent another person in the same or a substantially related matter in which that person's interests are materially adverse to the interests of the former client unless each affected client gives informed consent, confirmed in writing.

(b) A lawyer shall not knowingly represent a person in the same or a substantially related matter in which a firm with which the lawyer formerly was associated had previously represented a client:

(1) whose interests are materially adverse to that person; and

(2) about whom the lawyer had acquired information protected by Rules 1.6 and 1.9(c) that is material to the matter, unless each affected client gives informed consent, confirmed in writing.

(c) A lawyer who has formerly represented a client in a matter or whose present or former firm has formerly represented a client in a matter shall not thereafter:

(1) use information relating to the representation to the disadvantage of the former client except as these Rules would permit or require with respect to a client, or when the information has become generally known; or

(2) reveal information relating to the representation except as these Rules would permit or require with respect to a client.

(d) For purposes of this rule, matters are "substantially related" if (1) the lawyer's representation of the current client will injure or damage the former client in connection with the same transaction or legal dispute in

which the lawyer previously represented the former client; or (2) there is a substantial risk that confidential factual information as would normally have been obtained in the prior representation of the former client would materially advance the current client's position in the subsequent matter.

Adopted 01/01/05

Amended 12/01/06: Paragraph (d) added.

Defined Terms (see Rule 1.0):

"Confirmed in writing"

"Informed consent"

"Firm"

"Knowingly"

"Known"

"Matter"

"Reasonable"

"Substantial"

Comparison to Oregon Code

This rule replaces DR 5-105(C), (D) and (H). Like Rule 1.7, this rule is a significant departure from the language and structure of the Oregon Code provisions on conflicts. Paragraph (a) replaces the sometimes confusing reference to "actual or likely conflict" between current and former client with the simpler "interests [that are] materially adverse." The prohibition applies to matters that are the same or "substantially related," which is virtually identical to the Oregon Code standard of "significantly related."

Paragraph (b) replaces the limitation of DR 5-105(H), but is an arguably clearer expression of the prohibition. The new language makes it clear that a lawyer who moves to a new firm is prohibited from being adverse to a client of the lawyer's former firm only if the lawyer has acquired confidential information material to the matter while at the former firm.

Paragraph (c) makes clear that the duty not to use confidential information to the client's disadvantage continues after the conclusion of the representation, except where the information "has become generally known."

Paragraph (d) defines "substantially related." The definition is taken in part from former DR 5-105(D) and in part from Comment [3] to ABA Model Rule 1.9.

Comparison to ABA Model Rule

ABA Model Rule 1.9(a) and (b) require consent only of the former client. The Model Rule also has no definition of "substantially related;" this definition was derived in part from the Comment to MR 1.9.

RULE 1.10 IMPUTATION OF CONFLICTS OF INTEREST; SCREENING

(a) While lawyers are associated in a firm, none of them shall knowingly represent a client when any one of them practicing alone would be prohibited from doing so by Rules 1.7 or 1.9, unless the prohibition is based on a personal interest of the prohibited lawyer or on Rule 1.7(a)(3) and does not present a significant risk of materially limiting the representation of the client by the remaining lawyers in the firm.

(b) When a lawyer has terminated an association with a firm, the firm is not prohibited from thereafter representing a person with interests materially adverse to those of a client represented by the formerly associated lawyer and not currently represented by the firm, unless:

(1) the matter is the same or substantially related to that in which the formerly associated lawyer represented the client; and

(2) any lawyer remaining in the firm has information protected by Rules 1.6 and 1.9(c) that is material to the matter.

(c) When a lawyer becomes associated with a firm, no lawyer associated in the firm shall knowingly represent a person in a matter in which that lawyer is disqualified under Rule 1.9, unless the personally disqualified lawyer is promptly screened from any form of participation or representation in the matter and written notice of the screening procedures employed is promptly given to any affected former client.

(d) A disqualification prescribed by this rule may be waived by the affected clients under the conditions stated in Rule 1.7.

(e) The disqualification of lawyers associated in a firm with former or current government lawyers is governed by Rule 1.11.

Adopted 01/01/05

Amended 12/01/06: Paragraph (a) amended to include reference to Rule 1.7(a)(3).

Amended 01/01/14: Paragraph (c) revised to eliminate detailed screening requirements and to require notice to the affected client rather than the lawyer's former firm.

Defined Terms (see Rule 1.0):

"Firm"

"Know"

"Knowingly"

"Law firm"

"Matter"

"Screened"

"Substantial"

Comparison to Oregon Code

Paragraph (a) is similar to the vicarious disqualification provisions of DR 5-105(G), except that it does not apply when the disqualification is based only on a "personal interest" of the disqualified lawyer that will not limit the ability of the other lawyers in the firm to represent the client.

Paragraph (b) is substantially the same as DR 5-105(J).

Paragraph (d) is similar to DR 5-105 in allowing clients to consent to what would otherwise be imputed conflicts.

Paragraph (e) has no counterpart in the Oregon Code because the Oregon Code does not have a special rule addressing government lawyer conflicts.

Comparison to ABA Model Rule

Paragraph (a) is similar to the ABA Model Rule, but includes reference to "spouse/family" conflicts which are not separately addressed in the Model Rule. Paragraph (b) is identical to the ABA Model Rule.

The title was changed to include "Screening."

RULE 1.11 SPECIAL CONFLICTS OF INTEREST FOR FORMER AND CURRENT GOVERNMENT OFFICERS AND EMPLOYEES

(a) Except as Rule 1.12 or law may otherwise expressly permit, a lawyer who has formerly served as a public officer or employee of the government:

(1) is subject to Rule 1.9 (c); and

(2) shall not otherwise represent a client in connection with a matter in which the lawyer participated personally and substantially as a public officer or employee, unless the appropriate government agency gives its informed consent, confirmed in writing, to the representation.

(b) When a lawyer is disqualified from representation under paragraph (a), no lawyer in a firm with which that lawyer is associated may knowingly undertake or continue representation in such a matter unless:

(1) the disqualified lawyer is timely screened from any participation in the matter substantially in

accordance with the procedures set forth in Rule 1.10(c); and

(2) written notice is promptly given to the appropriate government agency to enable it to ascertain compliance with the provisions of this rule.

(c) Except as law may otherwise expressly permit, a lawyer having information that the lawyer knows is confidential government information about a person acquired when the lawyer was a public officer or employee, may not represent a private client whose interests are adverse to that person in a matter in which the information could be used to the material disadvantage of that person. As used in this Rule, the term "confidential government information" means information that has been obtained under governmental authority and which, at the time this Rule is applied, the government is prohibited by law from disclosing to the public or has a legal privilege not to disclose and which is not otherwise available to the public. A firm with which that lawyer is associated may undertake or continue representation in the matter only if the disqualified lawyer is timely screened from any participation in the matter substantially in accordance with the procedures set forth in Rule 1.10(c).

(d) Except as law may otherwise expressly permit, a lawyer currently serving as a public officer or employee:

(1) is subject to Rules 1.7 and 1.9; and

(2) shall not:

(i) use the lawyer's public position to obtain, or attempt to obtain, special advantage in legislative matters for the lawyer or for a client.

(ii) use the lawyer's public position to influence, or attempt to influence, a tribunal to act in favor of the lawyer or of a client.

(iii) accept anything of value from any person when the lawyer knows or it is obvious that the offer is for the purpose of influencing the lawyer's action as a public official.

(iv) either while in office or after leaving office use information the lawyer knows is confidential government information obtained while a public official to represent a private client.

(v) participate in a matter in which the lawyer participated personally and substantially while in private practice or nongovernmental employment, unless the lawyer's former client and the appropriate government agency give informed consent, confirmed in writing; or

(vi) negotiate for private employment with any person who is involved as a party or as lawyer for a party in a matter in which the lawyer is participating personally and substantially, except that a lawyer serving as a law clerk or staff lawyer to or otherwise assisting in the official duties of a judge, other adjudicative officer or arbitrator may negotiate for private employment as permitted by Rule 1.12(b) and subject to the conditions stated in Rule 1.12(b).

(e) Notwithstanding any Rule of Professional Conduct, and consistent with the "debate" clause, Article IV, section 9, of the Oregon Constitution, or the "speech or debate" clause, Article I, section 6, of the United States Constitution, a lawyer-legislator shall not be subject to discipline for words uttered in debate in either house of the Oregon Legislative Assembly or for any speech or debate in either house of the United States Congress.

(f) A member of a lawyer-legislator's firm shall not be subject to discipline for representing a client in any claim against the State of Oregon provided:

(1) the lawyer-legislator is screened from participation or representation in the matter in accordance with the procedure set forth in Rule 1.10(c) (the required affidavits shall be served on the Attorney General); and

(2) the lawyer-legislator shall not directly or indirectly receive a fee for such representation.

Adopted 01/01/05

Defined Terms (see Rule 1.0):

"Confirmed in writing"

"Informed consent"

"Firm"

"Knowingly"

"Knows"

"Matter"

"Screened"

"Substantial"

"Tribunal"

"Written"

Comparison to Oregon Code

This rule has no exact counterpart in the Oregon Code, under which the responsibilities of government lawyers are addressed in DR 5-109 and DR 8-101, as well as in the general conflict limitations of DR 5-105. This rule puts all the requirements for government lawyers in one place.

Paragraph (a) is essentially the same as DR 5-109(B).

Paragraph (b) imputes a former government lawyer's unconsented-to conflicts to the new firm unless the

former government lawyer is screened from participation in the matter, as would be allowed under DR 5-105(I).

Paragraph (c) incorporates the prohibitions in DR 8-101(A)(1), (A)(4) and (B). It also allows screening of the disqualified lawyer to avoid disqualification of the entire firm.

Paragraph (d) applies concurrent and former client conflicts to lawyers currently serving as a public officer or employee; it also incorporates in (d)(2) (i)–(iv) the limitations in DR 8-101(A)(1)–(4), with the addition in (d)(2)(iv) of language from MR 1.11 that a lawyer is prohibited from using only that government information that the lawyer knows is confidential. Paragraph (d)(2)(v) is the converse of DR 5-109(B), and has no counterpart in the Oregon Code other than the general former client conflict provision of DR 5-105. Paragraph (d)(2)(vi) has no counterpart in the Oregon Code; it is an absolute bar to negotiating for private employment while a serving in a non-judicial government position for anyone other than a law clerk or staff lawyer assisting in the official duties of a judicial officer.

Paragraph (e) is taken from DR 8-101(C) to retain a relatively recent addition to the Oregon Code.

Paragraph (f) is taken from DR 8-101(D), also to retain a relatively recent addition to the Oregon Code.

Comparison to ABA Model Rule

Paragraph (a) is identical to the ABA Model Rule, with the addition of a cross-reference to Rule 1.12, to clarify the scope of the rule.

Paragraphs (b) and (c) are identical to the Model Rule, except that the limitation on apportionment of fees does not apply when a former government lawyer is disqualified and screened from participation in a matter. MR 1.10(c) does not prescribe the screening methods; MR 1.0 defines screening as “timely...procedures that are reasonably adequate.”

Paragraphs (d)(2)(i)–(iv) are not found in the Model Rules; as discussed above, they are taken from DR 8-101(A). Paragraph (d)(2)(v) is modified to require consent of the lawyer’s former client as well as the appropriate government agency, to continue the Oregon Code requirement of current and former client consent in such situations. Paragraph (d)(2)(vi) deviates from the Model Rule to clarify that the exception applies to staff lawyers who do not perform traditional “law clerk” functions.

Paragraph (e) has no counterpart in the Model Rules.

Paragraph (f) also has no counterpart in the Model Rules.

RULE 1.12 FORMER JUDGE, ARBITRATOR, MEDIATOR OR OTHER THIRD-PARTY NEUTRAL

(a) Except as stated in paragraph (d) and Rule 2.4(b), a lawyer shall not represent anyone in connection with a matter in which the lawyer participated personally and substantially as a judge or other adjudicative officer or law clerk to such a person or as an arbitrator, mediator or other third-party neutral, unless all parties to the proceeding give informed consent, confirmed in writing.

(b) A lawyer shall not negotiate for employment with any person who is involved as a party or as lawyer for a party in a matter in which the lawyer is participating personally and substantially as a judge or other adjudicative officer or as an arbitrator, mediator or other third-party neutral. A lawyer serving as a law clerk or staff lawyer to or otherwise assisting in the official duties of a judge or other adjudicative officer may negotiate for employment with a party or lawyer involved in a matter in which the clerk is participating personally and substantially, but only after the lawyer has notified the judge or other adjudicative officer.

(c) If a lawyer is disqualified by paragraph (a), no lawyer in a firm with which that lawyer is associated may knowingly undertake or continue representation in the matter unless:

(1) the disqualified lawyer is timely screened from any participation in the matter substantially in accordance with the procedures set forth in Rule 1.10(c); and

(2) written notice is promptly given to the parties and any appropriate tribunal to enable them to ascertain compliance with the provisions of this rule.

(d) An arbitrator selected as a partisan of a party in a multimember arbitration panel is not prohibited from subsequently representing that party.

Adopted 01/01/05

Amended 01/01/14: References in paragraph (a) reversed.

Defined Terms (see Rule 1.0):

"Confirmed in writing"

"Informed consent"

"Firm"

"Knowingly"

"Matter"

"Screened"

"Substantial"

"Tribunal"

"Written"

Comparison to Oregon Code

Paragraph (a) is essentially the same as DR 5-109(A), with an exception created for lawyers serving as mediators under Rule 2.4(b).

Paragraph (b) has no equivalent rule in the Oregon Code; like Rule 1.11(d)(2)(vi) it address the conflict that arises when a person serving as, or as a clerk or staff lawyer to, a judge or other third party neutral, negotiates for employment with a party or a party's lawyer. This situation is covered under DR 5-101(A), but its application may not be as clear.

Paragraph (c) applies the vicarious disqualification that would be imposed under DR 5-105(G) to a DR 5-109 conflict; the screening provision is broader than DR 5-105(I), which is limited to lawyers moving between firms.

Paragraph (d) has no counterpart in the Oregon Code.

Comparison to ABA Model Rule

This is the ABA Model Rule, except that it requires screening substantially in accordance with the specific procedures in Rule 1.10(c). It deviates slightly to clarify that (b) applies to staff lawyers who do not perform traditional "law clerk" functions.

RULE 1.13 ORGANIZATION AS CLIENT

(a) A lawyer employed or retained by an organization represents the organization acting through its duly authorized constituents.

(b) If a lawyer for an organization knows that an officer, employee or other person associated with the organization is engaged in action, intends to act or refuses to act in a matter related to the representation that is a violation of a legal obligation to the organization, or a violation of law which reasonably might be imputed to the organization, and that is likely to result in substantial injury to the organization, then the lawyer shall proceed as is reasonably necessary in the best interest of the organization. Unless the lawyer reasonably believes that it is not necessary in the best interest of the organization to do so, the lawyer shall refer the matter to higher authority in the organization, including, if warranted by the circumstances, referral to the highest authority that can act on behalf of the organization as determined by applicable law.

(c) Except as provided in paragraph (d), if

(1) despite the lawyer's efforts in accordance with paragraph (b) the highest authority that can act on behalf of the organization insists upon or fails to address in a timely and appropriate manner an action or a refusal to act, that is clearly a violation of law, and

(2) the lawyer reasonably believes that the violation is reasonably certain to result in

substantial injury to the organization, then the lawyer may reveal information relating to the representation whether or not Rule 1.6 permits such disclosure, but only if and to the extent the lawyer reasonably believes necessary to prevent substantial injury to the organization.

(d) Paragraph (c) shall not apply with respect to information relating to a lawyer's representation of an organization to investigate an alleged violation of law, or to defend the organization or an officer, employee or other constituent associated with the organization against a claim arising out of an alleged violation of law.

(e) A lawyer who reasonably believes that he or she has been discharged because of the lawyer's actions taken pursuant to paragraphs (b) or (c), or who withdraws under circumstances that require or permit the lawyer to take action under either of those paragraphs, shall proceed as the lawyer reasonably believes necessary to assure that the organization's highest authority is informed of the lawyer's discharge or withdrawal.

(f) In dealing with an organization's directors, officers, employees, members, shareholders or other constituents, a lawyer shall explain the identity of the client when the lawyer knows or reasonably should know that the organization's interests are adverse to those of the constituents with whom the lawyer is dealing.

(g) A lawyer representing an organization may also represent any of its directors, officers, employees, members, shareholders or other constituents, subject to the provisions of Rule 1.7. If the organization's consent to the dual representation is required by Rule 1.7, the consent may only be given by an appropriate official of the organization other than the individual who is to be represented, or by the shareholders.

Adopted 01/01/05

Amended 12/01/06: Paragraph (b) amended to conform to ABA Model Rule 1.13(b).

Defined Terms (see Rule 1.0):

"Believes"

"Information relating to the representation"

"Knows"

"Matter"

"Reasonable"

"Reasonably"

"Reasonably believes"

"Reasonably should know"

"Substantial"

Comparison to Oregon Code

This rule has no counterpart in the Oregon Code.

Comparison to ABA Model Rule

This is the ABA Model Rule, as amended in August 2003, except that in paragraph (g), the words “may only” replace “shall” to make it clear that the rule does not require the organization to consent.

RULE 1.14 CLIENT WITH DIMINISHED CAPACITY

(a) When a client's capacity to make adequately considered decisions in connection with a representation is diminished, whether because of minority, mental impairment or for some other reason, the lawyer shall, as far as reasonably possible, maintain a normal client-lawyer relationship with the client.

(b) When the lawyer reasonably believes that the client has diminished capacity, is at risk of substantial physical, financial or other harm unless action is taken and cannot adequately act in the client's own interest, the lawyer may take reasonably necessary protective action, including consulting with individuals or entities that have the ability to take action to protect the client and, in appropriate cases, seeking the appointment of a guardian ad litem, conservator or guardian.

(c) Information relating to the representation of a client with diminished capacity is protected by Rule 1.6. When taking protective action pursuant to paragraph (b), the lawyer is impliedly authorized under Rule 1.6(a) to reveal information about the client, but only to the extent reasonably necessary to protect the client's interests.

Adopted 01/01/05

Defined Terms (see Rule 1.0):

“Believes”

“Information relating to the representation of a client”

“Reasonably”

“Reasonably believes”

“Substantial”

Comparison to Oregon Code

Paragraph (b) is similar to DR 7-101(C), but offers more guidance as to the circumstances when a lawyer can take protective action in regard to a client. Paragraph (a) and (c) have no counterparts in the Oregon Code, but provide helpful guidance for lawyers representing clients with diminished capacity.

Comparison to ABA Model Rule

This is the ABA Model Rule.

RULE 1.15-1 SAFEKEEPING PROPERTY

(a) A lawyer shall hold property of clients or third persons that is in a lawyer's possession separate from the lawyer's own property. Funds, including advances

for costs and expenses and escrow and other funds held for another, shall be kept in a separate "Lawyer Trust Account" maintained in the jurisdiction where the lawyer's office is situated. Each lawyer trust account shall be an interest bearing account in a financial institution selected by the lawyer or law firm in the exercise of reasonable care. Lawyer trust accounts shall conform to the rules in the jurisdictions in which the accounts are maintained. Other property shall be identified as such and appropriately safeguarded. Complete records of such account funds and other property shall be kept by the lawyer and shall be preserved for a period of five years after termination of the representation.

(b) A lawyer may deposit the lawyer's own funds in a lawyer trust account for the sole purposes of paying bank service charges or meeting minimum balance requirements on that account, but only in amounts necessary for those purposes.

(c) A lawyer shall deposit into a lawyer trust account legal fees and expenses that have been paid in advance, to be withdrawn by the lawyer only as fees are earned or expenses incurred, unless the fee is denominated as “earned on receipt,” “nonrefundable” or similar terms and complies with Rule 1.5(c)(3).

(d) Upon receiving funds or other property in which a client or third person has an interest, a lawyer shall promptly notify the client or third person. Except as stated in this rule or otherwise permitted by law or by agreement with the client, a lawyer shall promptly deliver to the client or third person any funds or other property that the client or third person is entitled to receive and, upon request by the client or third person, shall promptly render a full accounting regarding such property.

(e) When in the course of representation a lawyer is in possession of property in which two or more persons (one of whom may be the lawyer) claim interests, the property shall be kept separate by the lawyer until the dispute is resolved. The lawyer shall promptly distribute all portions of the property as to which the interests are not in dispute.

Adopted 01/01/05

Amended 11/30/05: Paragraph (a) amended to eliminate permission to have trust account “elsewhere with the consent of the client” and to require accounts to conform to jurisdiction in which located. Paragraph (b) amended to allow deposit of lawyer funds to meet minimum balance requirements.

Amended 12/01/10: Paragraph (c) amended to create an exception for fees “earned on receipt” within the meaning of Rule 1.5(c)(3).

Defined Terms (see Rule 1.0):

"Law firm"

"Reasonable"

Comparison to Oregon Code

Paragraphs (a)-(e) contain all of the elements of DR 9-101(A)-(C) and (D)(1), albeit in slightly different order. The rule is broader than DR 9-101 in that it also applies to the property of prospective clients and third persons received by a lawyer. Paragraph (c) makes it clear that fees and costs paid in advance must be held in trust until earned unless the fee is denominated "earned on receipt" and complies with the requirements of Rule 1.5(c)(3).

Comparison to ABA Model Rule

Paragraph (a) has been modified slightly from the Model Rule, which applies only to property held "in connection with a representation," while Oregon's rule continues to apply to all property, regardless of the capacity in which it is held by the lawyer. The Model Rule allows trust accounts to be maintained "elsewhere with the consent of the client or third person." There is no requirement in the Model Rule that the account to be labeled a "Lawyer Trust Account" or that it be selected by the lawyer "in the exercise of reasonable care." The Model Rule also makes no provision for "earned on receipt fees."

RULE 1.15-2 IOLTA ACCOUNTS AND TRUST ACCOUNT OVERDRAFT NOTIFICATION

(a) A lawyer trust account for client funds that cannot earn interest in excess of the costs of generating such interest ("net interest") shall be referred to as an IOLTA (Interest on Lawyer Trust Accounts) account. IOLTA accounts shall be operated in accordance with this rule and with operating regulations and procedures as may be established by the Oregon State Bar with the approval of the Oregon Supreme Court.

(b) All client funds shall be deposited in the lawyer's or law firm's IOLTA account unless a particular client's funds can earn net interest. All interest earned by funds held in the IOLTA account shall be paid to the Oregon Law Foundation as provided in this rule.

(c) Client funds that can earn net interest shall be deposited in an interest bearing trust account for the client's benefit and the net interest earned by funds in such an account shall be held in trust as property of the client in the same manner as is provided in paragraphs (a) through (d) of Rule 1.15-1 for the principal funds of the client. The interest bearing account shall be either:

(1) a separate account for each particular client or client matter; or

(2) a pooled lawyer trust account with subaccounting which will provide for computation of interest earned by each client's funds and the payment thereof, net of any bank service charges, to each client.

(d) In determining whether client funds can or cannot earn net interest, the lawyer or law firm shall consider the following factors:

(1) the amount of the funds to be deposited;

(2) the expected duration of the deposit, including the likelihood of delay in the matter for which the funds are held;

(3) the rates of interest at financial institutions where the funds are to be deposited;

(4) the cost of establishing and administering a separate interest bearing lawyer trust account for the client's benefit, including service charges imposed by financial institutions, the cost of the lawyer or law firm's services, and the cost of preparing any tax-related documents to report or account for income accruing to the client's benefit;

(5) the capability of financial institutions, the lawyer or the law firm to calculate and pay income to individual clients; and

(6) any other circumstances that affect the ability of the client's funds to earn a net return for the client.

(e) The lawyer or law firm shall review the IOLTA account at reasonable intervals to determine whether circumstances have changed that require further action with respect to the funds of a particular client.

(f) If a lawyer or law firm determines that a particular client's funds in an IOLTA account either did or can earn net interest, the lawyer shall transfer the funds into an account specified in paragraph (c) of this rule and request a refund for the lesser of either: any interest earned by the client's funds and remitted to the Oregon Law Foundation; or the interest the client's funds would have earned had those funds been placed in an interest bearing account for the benefit of the client at the same bank.

(1) The request shall be made in writing to the Oregon Law Foundation within a reasonable period of time after the interest was remitted to the Foundation and shall be accompanied by written verification from the financial institution of the interest amount.

(2) The Oregon Law Foundation will not refund more than the amount of interest it received from the client's funds in question. The refund shall be remitted to the financial institution for transmittal

to the lawyer or law firm, after appropriate accounting and reporting.

(g) No earnings from a lawyer trust account shall be made available to a lawyer or the lawyer's firm.

(h) A lawyer or law firm may maintain a lawyer trust account only at a financial institution that:

(1) is authorized by state or federal banking laws to transact banking business in the state where the account is maintained;

(2) is insured by the Federal Deposit Insurance Corporation or an analogous federal government agency;

(3) has entered into an agreement with the Oregon Law Foundation:

(i) to remit to the Oregon Law Foundation, at least quarterly, interest earned by the IOLTA account, computed in accordance with the institution's standard accounting practices, less reasonable service charges, if any; and

(ii) to deliver to the Oregon Law Foundation a report with each remittance showing the name of the lawyer or law firm for whom the remittance is sent, the number of the IOLTA account as assigned by the financial institution, the average daily collected account balance or the balance on which the interest remitted was otherwise computed for each month for which the remittance is made, the rate of interest applied, the period for which the remittance is made, and the amount and description of any service charges deducted during the remittance period; and

(4) has entered into an overdraft notification agreement with the Oregon State Bar requiring the financial institution to report to the Oregon State Bar Disciplinary Counsel when any properly payable instrument is presented against such account containing insufficient funds, whether or not the instrument is honored.

(i) Overdraft notification agreements with financial institutions shall require that the following information be provided in writing to Disciplinary Counsel within ten banking days of the date the item was returned unpaid:

(1) the identity of the financial institution;

(2) the identity of the lawyer or law firm;

(3) the account number; and

(4) either (i) the amount of the overdraft and the date it was created; or (ii) the amount of the returned instrument and the date it was returned.

(j) Agreements between financial institutions and the Oregon State Bar or the Oregon Law Foundation shall apply to all branches of the financial institution. Such agreements shall not be canceled except upon a thirty-day notice in writing to OSB Disciplinary Counsel in the case of a trust account overdraft notification agreement or to the Oregon Law Foundation in the case of an IOLTA agreement.

(k) Nothing in this rule shall preclude financial institutions which participate in any trust account overdraft notification program from charging lawyers or law firms for the reasonable costs incurred by the financial institutions in participating in such program.

(l) Every lawyer who receives notification from a financial institution that any instrument presented against his or her lawyer trust account was presented against insufficient funds, whether or not the instrument was honored, shall promptly notify Disciplinary Counsel in writing of the same information required by paragraph (i). The lawyer shall include a full explanation of the cause of the overdraft.

(m) For the purposes of paragraph (h)(3), "service charges" are limited to the institution's following customary check and deposit processing charges: monthly maintenance fees, per item check charges, items deposited charges and per deposit charges. Any other fees or transactions costs are not "service charges" for purposes of paragraph (h)(3) and must be paid by the lawyer or law firm.

Adopted 01/01/05

Amended 11/30/05: Paragraph (a) amended to clarify scope of rule. Paragraph (h) amended to allow remittance of interest to OLF in accordance with bank's standard accounting practice, and to report either the average daily collected account balance or the balance on which interest was otherwise computed. Paragraph (j) amended to require notice to OLF of cancellation of IOLTA agreement. Paragraph (m) and (n) added.

Amended 01/01/12: Requirement for annual certification, formerly paragraph (m), deleted and obligation moved to ORS Chapter 9.

Amended 01/01/14: Paragraph (f) revised to clarify the amount of interest that is to be refunded if client funds are mistakenly placed in an IOLTA account.

Defined Terms (see Rule 1.0)

"Firm"

"Law Firm"

"Matter"

"Reasonable"

"Writing"

"Written"

Comparison to Oregon Code

This rule is a significant revision of the IOLTA provisions of DR 9-101 and the trust account overdraft notification provisions of DR 9-102. The original changes were prompted by the US Supreme Court's decision in *Brown v. Washington Legal Foundation* that clients are entitled to "net interest" that can be earned on funds held in trust. Additional changes were made to conform the rule to banking practice and to clarify the requirement for annual certification.

Comparison to ABA Model Rule

The Model Rule has no equivalent provisions regarding IOLTA and the trust account overdraft notification programs. In most jurisdictions those are stand-alone Supreme Court orders.

RULE 1.16 DECLINING OR TERMINATING REPRESENTATION

(a) Except as stated in paragraph (c), a lawyer shall not represent a client or, where representation has commenced, shall withdraw from the representation of a client if:

- (1) the representation will result in violation of the Rules of Professional Conduct or other law;**
- (2) the lawyer's physical or mental condition materially impairs the lawyer's ability to represent the client; or**
- (3) the lawyer is discharged.**

(b) Except as stated in paragraph (c), a lawyer may withdraw from representing a client if:

- (1) withdrawal can be accomplished without material adverse effect on the interests of the client;**
- (2) the client persists in a course of action involving the lawyer's services that the lawyer reasonably believes is criminal or fraudulent;**
- (3) the client has used the lawyer's services to perpetrate a crime or fraud;**
- (4) the client insists upon taking action that the lawyer considers repugnant or with which the lawyer has a fundamental disagreement;**
- (5) the client fails substantially to fulfill an obligation to the lawyer regarding the lawyer's services and has been given reasonable warning that the lawyer will withdraw unless the obligation is fulfilled;**
- (6) the representation will result in an unreasonable financial burden on the lawyer or has**

been rendered unreasonably difficult by the client; or

(7) other good cause for withdrawal exists.

(c) A lawyer must comply with applicable law requiring notice to or permission of a tribunal when terminating a representation. When ordered to do so by a tribunal, a lawyer shall continue representation notwithstanding good cause for terminating the representation.

(d) Upon termination of representation, a lawyer shall take steps to the extent reasonably practicable to protect a client's interests, such as giving reasonable notice to the client, allowing time for employment of other counsel, surrendering papers and property to which the client is entitled and refunding any advance payment of fee or expense that has not been earned or incurred. The lawyer may retain papers, personal property and money of the client to the extent permitted by other law.

Adopted 01/01/05

Defined Terms (see Rule 1.0):

"Believes"
 "Fraud"
 "Fraudulent"
 "Reasonable"
 "Reasonably"
 "Reasonably believes"
 "Substantial"
 "Tribunal"

Comparison to Oregon Code

This rule is essentially the same as DR 2-110, except that it specifically applies to declining a representation as well as withdrawing from representation. Paragraph (a) parallels the circumstances in which DR 2-110(B) mandates withdrawal, and also includes when the client is acting "merely for the purpose of harassing or maliciously injuring" another person, which is prohibited in DR 2-109(A)(1) and DR 7-102(A)(1).

Paragraph (b) is similar to DR 2-110(C) regarding permissive withdrawal. It allows withdrawal for any reason if it can be accomplished without "material adverse effect" on the client. Withdrawal is also allowed if the lawyer considers the client's conduct repugnant or if the lawyer fundamentally disagrees with it.

Paragraph (c) is like DR 2-110(A)(1) in requiring compliance with applicable law requiring notice or permission from the tribunal; it also clarifies the lawyer's obligations if permission is denied.

Paragraph (d) incorporates DR 2-110(A)(2) and (3). The final sentence has no counterpart in the Oregon Code; it recognizes the right of a lawyer to retain client papers

and other property to the extent permitted by other law. The "other law" includes statutory lien rights as well as court decisions determining lawyer ownership of certain papers created during a representation. A lawyer's right under other law to retain papers and other property remains subject to other obligations, such as the lawyer's general fiduciary duty to avoid prejudicing a former client, which might supersede the right to claim a lien.

Comparison with ABA Model Rule

This is essentially identical to the Model Rule except that MR 1.16(d) refers on to the retention of the client's "papers." The additional language in the Oregon rule was taken from ORS 86.460.

RULE 1.17 SALE OF LAW PRACTICE

(a) A lawyer or law firm may sell or purchase all or part of a law practice, including goodwill, in accordance with this rule.

(b) The selling lawyer, or the selling lawyer's legal representative, in the case of a deceased or disabled lawyer, shall provide written notice of the proposed sale to each current client whose legal work is subject to transfer, by certified mail, return receipt requested, to the client's last known address. The notice shall include the following information:

- (1) that a sale is proposed;**
- (2) the identity of the purchasing lawyer or law firm, including the office address(es), and a brief description of the size and nature of the purchasing lawyer's or law firm's practice;**
- (3) that the client may object to the transfer of its legal work, may take possession of any client files and property, and may retain counsel other than the purchasing lawyer or law firm;**
- (4) that the client's legal work will be transferred to the purchasing lawyer or law firm, who will then take over the representation and act on the client's behalf, if the client does not object to the transfer within forty-five (45) days after the date the notice was mailed; and**
- (5) whether the selling lawyer will withdraw from the representation not less than forty-five (45) days after the date the notice was mailed, whether or not the client consents to the transfer of its legal work.**

(c) The notice may describe the purchasing lawyer or law firm's qualifications, including the selling lawyer's opinion of the purchasing lawyer or law firm's suitability and competence to assume representation of the client, but only if the selling lawyer has made a reasonable effort to arrive at an informed opinion.

(d) If certified mail is not effective to give the client notice, the selling lawyer shall take such steps as may be reasonable under the circumstances to give the client actual notice of the proposed sale and the other information required in subsection (b).

(e) A client's consent to the transfer of its legal work to the purchasing lawyer or law firm will be presumed if no objection is received within forty-five (45) days after the date the notice was mailed.

(f) If substitution of counsel is required by the rules of a tribunal in which a matter is pending, the selling lawyer shall assure that substitution of counsel is made.

(g) The fees charged clients shall not be increased by reason of the sale except upon agreement of the client.

(h) The sale of a law practice may be conditioned on the selling lawyer's ceasing to engage in the private practice of law or some particular area of practice for a reasonable period within the geographic area in which the practice has been conducted.

Adopted 01/01/05

Defined Terms (see Rule 1.0):

"Known"
 "Law firm"
 "Matter"
 "Reasonable"
 "Tribunal"
 "Written"

Comparison to Oregon Code

This rule continues DR 2-111 which, when adopted in 1995, was derived in large part from Model Rule 1.17.

Comparison to ABA Model Rule

The Model Rule requires sale of the entire practice or practice area, and also requires that the selling lawyer cease to engage in the private practice of law, or the area of practice sold, within a certain geographic area. The Model Rule gives the client 90 days to object before it will be presumed the client has consented to the transfer of the client's files. The Model Rule requires notice to all clients, not only current clients, but does not require that it be sent by certified mail. The Model Rule does not address the selling lawyer's right to give an opinion of the purchasing lawyer's qualifications. The Model Rule does not allow for client consent to an increase in the fees to be charged as a result of the sale.

RULE 1.18 DUTIES TO PROSPECTIVE CLIENT

(a) A person who consults with a lawyer about the possibility of forming a client-lawyer relationship with respect to a matter is a prospective client.

(b) Even when no client-lawyer relationship ensues, a lawyer who has learned information from a prospective client shall not use or reveal that information, except as Rule 1.9 would permit with respect to information of a former client.

(c) A lawyer subject to paragraph (b) shall not represent a client with interests materially adverse to those of a prospective client in the same or a substantially related matter if the lawyer received information from the prospective client that could be significantly harmful to that person in the matter, except as provided in paragraph (d). If a lawyer is disqualified from representation under this paragraph, no lawyer in a firm with which that lawyer is associated may knowingly undertake or continue representation in such a matter, except as provided in paragraph (d).

(d) When the lawyer has received disqualifying information as defined in paragraph (c), representation is permissible if:

(1) both the affected client and the prospective client have given informed consent, confirmed in writing, or:

(2) the lawyer who received the information took reasonable measures to avoid exposure to more disqualifying information than was reasonably necessary to determine whether to represent the prospective client; and

(i) the disqualified lawyer is timely screened from any participation in the matter; and

(ii) written notice is promptly given to the prospective client

Adopted 01/01/05

Amended 12/11/09: Paragraph (d) amended to conform to ABA Model Rule 1.18 except for prohibition against disqualified lawyer being apportioned a part of the fee.

Amended 01/01/14: Paragraphs (a) and (b) amended slightly to conform to changes in the Model Rule.

Defined Terms (see Rule 1.0):

"Confirmed in writing"

"Informed consent"

"Firm"

"Knowingly"

"Matter"

"Screened"

"Substantial"

"Written"

Comparison to Oregon Code

This rule has no counterpart in the Oregon Code. It is consistent with the rule of lawyer-client privilege that defines a client to include a person "who consults a

lawyer with a view to obtaining professional legal services." OEC 503(1)(a). The rule also codifies a significant body of case law and other authority that has interpreted the duty of confidentiality to apply to prospective clients.

Comparison to ABA Model Rule

This is identical to the ABA Model Rule, except it doesn't prohibit the screened lawyer from sharing in the fee.

COUNSELOR

RULE 2.1 ADVISOR

In representing a client, a lawyer shall exercise independent professional judgment and render candid advice. In rendering advice, a lawyer may refer not only to law but to other considerations such as moral, economic, social and political factors, that may be relevant to the client's situation.

Adopted 01/01/05

Comparison to Oregon Code

This rule has no counterpart in the Oregon Code, although it codifies the concept of exercising independent judgment that is fundamental to the role of the lawyer and which is mentioned specifically in DRs 2-103, 5-101, 5-104, 5-108 and 7-101.

Comparison to ABA Model Rule

This is the ABA Model Rule.

RULE 2.2 [RESERVED]

RULE 2.3 EVALUATION FOR USE BY THIRD PERSONS

(a) A lawyer may provide an evaluation of a matter affecting a client for the use of someone other than the client if the lawyer reasonably believes that making the evaluation is compatible with other aspects of the lawyer's relationship with the client.

(b) When the lawyer knows or reasonably should know that the evaluation is likely to affect the client's interests materially and adversely, the lawyer shall not provide the evaluation unless the client gives informed consent.

(c) Except as disclosure is authorized in connection with a report of an evaluation, information relating to the evaluation is otherwise protected by Rule 1.6.

Adopted 01/01/05

Defined Terms (see Rule 1.0):

"Believes"

"Informed consent"

"Knows"

"Matter"

"Reasonably believes"

"Reasonably should know"

Comparison to Oregon Code

This rule is similar to DR 7-101(D), which was adopted in 1997 based on *former* ABA Model Rule 2.3. Paragraph (b) is new in 2002 to require client consent only when the evaluation poses a risk of material and adverse affect on the client. Under paragraph (a), when there is no such risk, the lawyer needs only to determine that the evaluation is compatible with other aspects of the relationship.

Comparison to ABA Model Rule

This is the ABA Model Rule.

RULE 2.4 LAWYER SERVING AS MEDIATOR

(a) A lawyer serving as a mediator:

- (1) shall not act as a lawyer for any party against another party in the matter in mediation or in any related proceeding; and**
- (2) must clearly inform the parties of and obtain the parties' consent to the lawyer's role as mediator.**

(b) A lawyer serving as a mediator:

- (1) may prepare documents that memorialize and implement the agreement reached in mediation;**
- (2) shall recommend that each party seek independent legal advice before executing the documents; and**
- (3) with the consent of all parties, may record or may file the documents in court.**

(c) The requirements of Rule 2.4(a)(2) and (b)(2) shall not apply to mediation programs established by operation of law or court order.

Adopted 01/01/05

Amended 01/01/14: Original paragraph (c) relating to firm representation deleted to eliminate conflict with RPC 1.12.

Defined Terms (see Rule 1.0):

"Matter"

Comparison to Oregon Code

This rule retains much of *former* DR 5-106.

Comparison to ABA Model Rule

ABA Model Rule 2.4 applies to a lawyer serving as a "third-party neutral," including arbitrator, mediator or in "such other capacity as will enable the lawyer to assist

the parties to resolve the matter." It requires that the lawyer inform unrepresented parties that the lawyer is not representing them and, when necessary, explain the difference in the role of a third-party neutral. The Model Rule does not address the lawyer's drafting of documents to implement the parties' agreement, or the circumstances in which a member of the lawyer's firm can represent a party.

ADVOCATE

RULE 3.1 MERITORIOUS CLAIMS AND CONTENTIONS

In representing a client or the lawyer's own interests, a lawyer shall not knowingly bring or defend a proceeding, assert a position therein, delay a trial or take other action on behalf of a client, unless there is a basis in law and fact for doing so that is not frivolous, which includes a good faith argument for an extension, modification or reversal of existing law, except that a lawyer for the defendant in a criminal proceeding, or the respondent in a proceeding that could result in incarceration may, nevertheless so defend the proceeding as to require that every element of the case be established.

Adopted 01/01/05

Amended 12/01/06: Paragraph (a) amended to make applicable to a lawyer acting in the lawyer's own interests.

Defined Terms (see Rule 1.0):

"Knowingly"

Comparison to Oregon Code

This rule retains the essence of DR 2-109(A)(2) and DR 7-102(A)(2), although neither Oregon rule expressly confirms the right of a criminal defense lawyer to defend in a manner that requires establishment of every element of the case.

Comparison to ABA Model Rule

This is the ABA Model Rule, tailored slightly to track the language of DR 2-109(A)(2) and DR 7-102(A)(2).

RULE 3.2 [RESERVED]

RULE 3.3 CANDOR TOWARD THE TRIBUNAL

(a) A lawyer shall not knowingly:

- (1) make a false statement of fact or law to a tribunal or fail to correct a false statement of material fact or law previously made to the tribunal by the lawyer;**

(2) fail to disclose to the tribunal legal authority in the controlling jurisdiction known to the lawyer to be directly adverse to the position of the client and not disclosed by opposing counsel;

(3) offer evidence that the lawyer knows to be false. If a lawyer, the lawyer's client, or a witness called by the lawyer, has offered material evidence and the lawyer comes to know of its falsity, the lawyer shall take reasonable remedial measures, including, if permitted, disclosure to the tribunal. A lawyer may refuse to offer evidence, other than the testimony of a defendant in a criminal matter, that the lawyer reasonably believes is false;

(4) conceal or fail to disclose to a tribunal that which the lawyer is required by law to reveal; or

(5) engage in other illegal conduct or conduct contrary to these Rules.

(b) A lawyer who represents a client in an adjudicative proceeding and who knows that a person intends to engage, is engaging or has engaged in criminal or fraudulent conduct related to the proceeding shall take reasonable remedial measures, including, if permitted, disclosure to the tribunal.

(c) The duties stated in paragraphs (a) and (b) continue to the conclusion of the proceeding, but in no event require disclosure of information otherwise protected by Rule 1.6.

(d) In an ex parte proceeding, a lawyer shall inform the tribunal of all material facts known to the lawyer that will enable the tribunal to make an informed decision, whether or not the facts are adverse.

Adopted 01/01/05

Amended 12/01/10: Paragraphs (a)(3) and (b) amended to substitute "if permitted" for "if necessary;" paragraph (c) amended to make it clear that remedial measures do not require disclosure of information protected by Rule 1.6.

Defined Terms (see Rule 1.0):

"Believes"

"Fraudulent"

"Knowingly"

"Known"

"Knows"

"Matter"

"Reasonable"

"Reasonably believes"

"Tribunal"

Comparison to Oregon Code

Paragraph (a)(1) is similar to DR 7-102(A)(5), but also requires correction of a previously made statement that turns out to be false.

Paragraph (a)(2) is the same as DR 7-106(B)(1).

Paragraph (a)(3) combines the prohibition in DR 7-102(A)(4) against presenting perjured testimony or false evidence with the remedial measures required in DR 7-102(B). The rule clarifies that only materially false evidence requires remedial action. While the rule allows a criminal defense lawyer to refuse to offer evidence the lawyer reasonably believes is false, it recognizes that the lawyer must allow a criminal defendant to testify.

Paragraphs (a)(4) and (5) are the same as DR 7-102(A)(3) and (8), respectively.

Paragraph (b) is similar to and consistent with the interpretations of DR 7-102(B)(1).

Paragraph (c) continues the duty of candor to the end of the proceeding, but, notwithstanding the language in paragraphs (a)(3) and (b), does not require disclosure of confidential client information otherwise protected by Rule 1.6.

Paragraph (d) has no equivalent in the Oregon Code.

Comparison to ABA Model Rule

Subsections (4) and (5) of paragraph (a) do not exist in the Model Rule. Also, MR 3.3 (c) requires disclosure even if the information is protected by Rule 1.6.

RULE 3.4 FAIRNESS TO OPPOSING PARTY AND COUNSEL

A lawyer shall not:

(a) knowingly and unlawfully obstruct another party's access to evidence or unlawfully alter, destroy or conceal a document or other material having potential evidentiary value. A lawyer shall not counsel or assist another person to do any such act;

(b) falsify evidence; counsel or assist a witness to testify falsely; offer an inducement to a witness that is prohibited by law; or pay, offer to pay, or acquiesce in payment of compensation to a witness contingent upon the content of the witness's testimony or the outcome of the case; except that a lawyer may advance, guarantee or acquiesce in the payment of:

(1) expenses reasonably incurred by a witness in attending or testifying;

(2) reasonable compensation to a witness for the witness's loss of time in attending or testifying; or

(3) a reasonable fee for the professional services of an expert witness.

(c) knowingly disobey an obligation under the rules of a tribunal, except for an open refusal based on an assertion that no valid obligation exists;

(d) in pretrial procedure, knowingly make a frivolous discovery request or fail to make reasonably diligent effort to comply with a legally proper discovery request by an opposing party;

(e) in trial, allude to any matter that the lawyer does not reasonably believe is relevant or that will not be supported by admissible evidence, assert personal knowledge of facts in issue except when testifying as a witness, or state a personal opinion as to the justness of a cause, the credibility of a witness, the culpability of a civil litigant or the guilt or innocence of an accused;

(f) advise or cause a person to secrete himself or herself or to leave the jurisdiction of a tribunal for purposes of making the person unavailable as a witness therein; or

(g) threaten to present criminal charges to obtain an advantage in a civil matter unless the lawyer reasonably believes the charge to be true and if the purpose of the lawyer is to compel or induce the person threatened to take reasonable action to make good the wrong which is the subject of the charge.

Adopted 01/01/05

Defined Terms (see Rule 1.0):

"Believes"

"Knowingly"

"Matter"

"Reasonable"

"Reasonably"

"Reasonably believes"

"Tribunal"

Comparison to Oregon Code

Paragraph (a) is similar to DR 7-109(A).

Paragraph (b) includes the rules regarding witness contact from DR 7-109, and also the prohibition against falsifying evidence that is found in DR 7-102(A)(6).

Paragraph (c) is generally equivalent to DR 7-106(C)(7).

Paragraph (d) has no equivalent in the Oregon Code.

Paragraph (e) is the same as DR 7-106(C)(1), (3) and (4).

Paragraph (f) retains the language of DR 7-109(B).

Paragraph (g) retains DR 7-105.

Comparison to ABA Model Rule

Paragraphs (a), (c), (d) and (e) are the Model Code, with the addition of a "knowingly" standard in (a) and (d). Paragraph (b) has been amended to retain the specific rules regarding contact with witnesses from DR 7-109,

beginning with "...or pay..." Paragraph (f) in the Model Rule prohibits requesting a person other than a client to refrain from volunteering information except when the person is a relative, employee or other agent of the client and the lawyer believes the person's interests will not be adversely affected. Paragraph (g) does not exist in the Model Rules.

RULE 3.5 IMPARTIALITY AND DECORUM OF THE TRIBUNAL

A lawyer shall not:

(a) seek to influence a judge, juror, prospective juror or other official by means prohibited by law;

(b) communicate ex parte on the merits of a cause with such a person during the proceeding unless authorized to do so by law or court order;

(c) communicate with a juror or prospective juror after discharge of the jury if:

(1) the communication is prohibited by law or court order;

(2) the juror has made known to the lawyer a desire not to communicate; or

(3) the communication involves misrepresentation, coercion, duress or harassment;

(d) engage in conduct intended to disrupt a tribunal; or

(e) fail to reveal promptly to the court improper conduct by a venireman or a juror, or by another toward a venireman or a juror or a member of their families, of which the lawyer has knowledge.

Adopted 01/01/05

Amended 12/01/06: Paragraph (b) amended to add "on the merits of the cause."

Defined Terms (see Rule 1.0):

"Known"

"Tribunal"

Comparison to Oregon Code

Paragraph (a) has no counterpart in the Oregon Code.

Paragraph (b) replaces DR 7-110, making ex parte contact subject only to law and court order, without additional notice requirements.

Paragraph (c) is similar to DR 7-108(A)-(F).

Paragraph (d) is similar to DR 7-106(C)(6).

Paragraph (e) retains the DR 7-108(G).

Comparison to ABA Model Rule

This is essentially the ABA Model Rule, with the addition of paragraph (e), which has no counterpart in the Model Rule.

RULE 3.6 TRIAL PUBLICITY

(a) A lawyer who is participating or has participated in the investigation or litigation of a matter shall not make an extrajudicial statement that the lawyer knows or reasonably should know will be disseminated by means of public communication and will have a substantial likelihood of materially prejudicing an adjudicative proceeding in the matter.

(b) Notwithstanding paragraph (a), a lawyer may state:

- (1) the claim, offense or defense involved and, except when prohibited by law, the identity of the persons involved;**
- (2) information contained in a public record;**
- (3) that an investigation of a matter is in progress;**
- (4) the scheduling or result of any step in litigation;**
- (5) a request for assistance in obtaining evidence and information necessary thereto;**
- (6) a warning of danger concerning the behavior of a person involved, when there is reason to believe that there exists the likelihood of substantial harm to an individual or to the public interest; and**
- (7) in a criminal case, in addition to subparagraphs (1) through (6):**
 - (i) the identity, residence, occupation and family status of the accused;**
 - (ii) if the accused has not been apprehended, information necessary to aid in apprehension of that person;**
 - (iii) the fact, time and place of arrest; and**
 - (iv) the identity of investigating and arresting officers or agencies and the length of the investigation.**

(c) Notwithstanding paragraph (a), a lawyer may:

- (1) reply to charges of misconduct publicly made against the lawyer; or**
- (2) participate in the proceedings of legislative, administrative or other investigative bodies.**

(d) No lawyer associated in a firm or government agency with a lawyer subject to paragraph (a) shall make a statement prohibited by paragraph (a).

(e) A lawyer shall exercise reasonable care to prevent the lawyer's employees from making an extrajudicial

statement that the lawyer would be prohibited from making under this rule.

Adopted 01/01/05

Defined Terms (see Rule 1.0):

"Firm"
 "Knows"
 "Matter"
 "Reasonable"
 "Reasonably should know"
 "Substantial"

Comparison to Oregon Code

Paragraph (a) replaces DR 7-107(A).

Paragraph (b) has no counterpart in the Oregon Code.

Paragraphs (c)(1) and (2) retain the exceptions in DR 7-107(B) and (C).

Paragraph (d) applies the limitation of the rule to other members in the subject lawyer's firm or government agency.

Paragraph (e) retains the requirement of DR 7-107(C).

Comparison to ABA Model Rule

This is essentially the ABA Model Rule, although the Model Rule has an exception in (c) that allows a lawyer to make statements to protect the client from the substantial undue prejudicial effect of recent publicity not initiated by the lawyer or the client. Model Rule 3.6 has no counterpart to paragraphs (c)(1) and (2) or (e).

RULE 3.7 LAWYER AS WITNESS

(a) A lawyer shall not act as an advocate at a trial in which the lawyer is likely to be a witness on behalf of the lawyer's client unless:

- (1) the testimony relates to an uncontested issue;**
- (2) the testimony relates to the nature and value of legal services rendered in the case;**
- (3) disqualification of the lawyer would work a substantial hardship on the client; or**
- (4) the lawyer is appearing pro se.**

(b) A lawyer may act as an advocate in a trial in which another lawyer in the lawyer's firm is likely to be called as a witness on behalf of the lawyer's client.

(c) If, after undertaking employment in contemplated or pending litigation, a lawyer learns or it is obvious that the lawyer or a member of the lawyer's firm may be called as a witness other than on behalf of the lawyer's client, the lawyer may continue the representation until it is apparent that the lawyer's or firm member's testimony is or may be prejudicial to the lawyer's client.

Adopted 01/01/05

Defined Terms (see Rule 1.0):

"Firm"

"Substantial"

Comparison to Oregon Code

This rule retains DR 5-102 in its entirety.

Comparison to ABA Model Rule

This rule is similar to the ABA Model Rule. Paragraph (a) of the Model Rule applies only when the lawyer is likely to be a necessary witness. In the Model Rule, paragraph (b) does not apply if the witness lawyer will be required to disclose information protected by Rule 1.6 or 1.9. Paragraph (c) has no counterpart in the Model Rule.

RULE 3.8 SPECIAL RESPONSIBILITIES OF A PROSECUTOR

The prosecutor in a criminal case shall:

(a) refrain from prosecuting a charge that the prosecutor knows is not supported by probable cause; and

(b) make timely disclosure to the defense of all evidence or information known to the prosecutor that tends to negate the guilt of the accused or mitigates the offense, and, in connection with sentencing, disclose to the defense and to the tribunal all unprivileged mitigating information known to the prosecutor, except when the prosecutor is relieved of this responsibility by a protective order of the tribunal.

Adopted 01/01/05

Defined Terms (see Rule 1.0):

"Known"

"Knows"

"Tribunal"

Comparison to Oregon Code

Paragraph (a) is essentially the same as DR 7-103(A).

Paragraph (d) is essentially the same as DR 7-103(B), with the addition of an exception for protective orders.

Comparison to ABA Model Rule

The ABA Model Rule contains four additional provisions: prosecutors are (1) required to make reasonable efforts to ensure that accused persons are advised of the right and afforded the opportunity to consult with counsel; (2) prohibited from seeking to obtain a waiver of important pretrial rights from an unrepresented person; (3) prohibited from subpoenaing a lawyer to present evidence about current or past clients except when the information is unprivileged, necessary to successful completion of an ongoing investigation or prosecution,

and there is no other feasible means of obtaining the information; and (4) prohibited from making extrajudicial public statements that will heighten public condemnation of the accused. The Model Rule also requires prosecutors to exercise reasonable care that other people assisting or associated with the prosecutor do not make extrajudicial public statements that the prosecutor is prohibited from making by Rule .3.6.

RULE 3.9 ADVOCATE IN NONADJUDICATIVE PROCEEDINGS

A lawyer representing a client before a legislative body or administrative agency in a nonadjudicative proceeding shall disclose that the appearance is in a representative capacity and shall conform to the provisions of Rules 3.3(a) through (c), 3.4(a) through (c), and 3.5.

Adopted 01/01/05

Comparison to Oregon Code

This rule has no counterpart in the Oregon Code.

Comparison to ABA Model Rule

This is the ABA Model Rule.

TRANSACTIONS WITH PERSONS OTHER THAN CLIENTS

RULE 4.1 TRUTHFULNESS IN STATEMENTS TO OTHERS

In the course of representing a client a lawyer shall not knowingly:

(a) make a false statement of material fact or law to a third person; or

(b) fail to disclose a material fact when disclosure is necessary to avoid assisting an illegal or fraudulent act by a client, unless disclosure is prohibited by Rule 1.6.

Adopted 01/01/05

Defined Terms (see Rule 1.0):

"Fraudulent"

"Knowingly"

Comparison to Oregon Code

This rule has no direct counterpart in Oregon, but it expresses prohibitions found in DR 1-102(A)(3), DR 7-102(A)(5) and DR 1-102(A)(7).

Comparison to ABA Model Rule

This is the ABA Model Rule, except that MR 4.1(b) refers to "criminal" rather than "illegal" conduct.

RULE 4.2 COMMUNICATION WITH PERSON REPRESENTED BY COUNSEL

In representing a client or the lawyer's own interests, a lawyer shall not communicate or cause another to communicate on the subject of the representation with a person the lawyer knows to be represented by a lawyer on that subject unless:

- (a) the lawyer has the prior consent of a lawyer representing such other person;
- (b) the lawyer is authorized by law or by court order to do so; or
- (c) a written agreement requires a written notice or demand to be sent to such other person, in which case a copy of such notice or demand shall also be sent to such other person's lawyer.

Adopted 01/01/05

Defined Terms (see Rule 1.0):

"Knows"
"Written"

Comparison to Oregon Code

This rule retains the language of DR 7-104(A), except that the phrase "or on directly related subjects" has been deleted. The application of the rule to a lawyer acting in the lawyer's own interests has been moved to the beginning of the rule.

Comparison to ABA Model Rule

This rule is very similar to the ABA Model Rule, except that the Model Rule does not apply to a lawyer acting in the lawyer's own interest. The Model Rule also makes no exception for communication required by a written agreement.

RULE 4.3 DEALING WITH UNREPRESENTED PERSONS

In dealing on behalf of a client or the lawyer's own interests with a person who is not represented by counsel, a lawyer shall not state or imply that the lawyer is disinterested. When the lawyer knows or reasonably should know that the unrepresented person misunderstands the lawyer's role in the matter, the lawyer shall make reasonable efforts to correct the misunderstanding. The lawyer shall not give legal advice to an unrepresented person, other than the advice to secure counsel, if the lawyer knows or reasonably should know that the interests of such a person are or have a reasonable possibility of being in conflict with the interests of the client or the lawyer's own interests.

Adopted 01/01/05

Defined Terms (see Rule 1.0):

"Knows"
"Matter"
"Reasonable"
"Reasonably should know"

Comparison to Oregon Code

This rule replaces DR 7-104(B). It is expanded to parallel Rule 4.2 by applying to situations in which the lawyer is representing the lawyer's own interests. The rule is broader than DR 7-104(B) in that it specifically prohibits a lawyer from stating or implying that the lawyer is disinterested. It also imposes an affirmative requirement on the lawyer to correct any misunderstanding an unrepresented person may have about the lawyer's role. The rule continues the prohibition against giving legal advice to an unrepresented person.

Comparison to ABA Model Rule

This is essentially identical to the ABA Model Rule, with the addition "or the lawyers own interests" at the beginning and end to make it clear that the rule applies even when the lawyer is not acting on behalf of a client.

RULE 4.4 RESPECT FOR THE RIGHTS OF THIRD PERSONS; INADVERTENTLY SENT DOCUMENTS

(a) In representing a client or the lawyer's own interests, a lawyer shall not use means that have no substantial purpose other than to embarrass, delay, harass or burden a third person, or knowingly use methods of obtaining evidence that violate the legal rights of such a person.

(b) A lawyer who receives a document or electronically stored information relating to the representation of the lawyer's client and knows or reasonably should know that the document or electronically stored information was inadvertently sent shall promptly notify the sender.

Adopted 01/01/05

Amended 12/01/06: Paragraph (a) amended to make applicable to a lawyer acting in the lawyer's own interests.

Amended 01/01/14: Paragraph (b) amended to expand scope to electronically stored information.

Defined Terms (see Rule 1.0):

"Knowingly"
"Knows"
"Reasonably should know"
"Substantial"

Comparison to Oregon Code

This rule had no equivalent in the Oregon Code, although paragraph (a) incorporates aspects of DR 7-102(A)(1).

Comparison to ABA Model Rule

This is essentially the ABA Model Rule, except that the MR does not include the prohibition against “harassment” nor does it contain the modifier “knowingly” at the end of paragraph (a) which makes it clear that a lawyer is not responsible for inadvertently violating the legal rights of another person in the course of obtaining evidence.

LAW FIRMS AND ASSOCIATIONS

RULE 5.1 RESPONSIBILITIES OF PARTNERS, MANAGERS, AND SUPERVISORY LAWYERS

A lawyer shall be responsible for another lawyer's violation of these Rules of Professional Conduct if:

(a) the lawyer orders or, with knowledge of the specific conduct, ratifies the conduct involved; or

(b) the lawyer is a partner or has comparable managerial authority in the law firm in which the other lawyer practices, or has direct supervisory authority over the other lawyer, and knows of the conduct at a time when its consequences can be avoided or mitigated but fails to take reasonable remedial action.

Adopted 01/01/05

Defined Terms (see Rule 1.0):

"Knowledge"

"Knows"

"Law Firm"

"Partner"

"Reasonable"

Comparison to Oregon Code

This rule is essentially the same as DR 1-102(B) although it specifically applies to partners or others with comparable managerial authority, as well as lawyers with supervisory authority.

Comparison to ABA Model Rule

ABA Model Rule 5.1 contains two additional provisions. The first requires partners and lawyers with comparable managerial authority to make reasonable efforts to ensure that the firm has in place measures giving reasonable assurance that all lawyers in the firm conform to the Rules of Professional Conduct. The second requires lawyers having direct supervisory authority over another lawyer to make reasonable efforts to ensure that

the other lawyer conforms to the Rules of Professional Conduct.

RULE 5.2 RESPONSIBILITIES OF A SUBORDINATE LAWYER

(a) A lawyer is bound by the Rules of Professional Conduct notwithstanding that the lawyer acted at the direction of another person.

(b) A subordinate lawyer does not violate the Rules of Professional Conduct if that lawyer acts in accordance with a supervisory lawyer's reasonable resolution of an arguable question of professional duty.

Adopted 01/01/05

Defined Terms (see Rule 1.0):

"Reasonable"

Comparison to Oregon Code

Paragraph (a) is identical to DR 1-102(C).

Paragraph (b) has no equivalent in the Oregon Code.

Comparison to ABA Model Rule

This is the ABA Model Rule.

RULE 5.3 RESPONSIBILITIES REGARDING NONLAWYER ASSISTANCE

With respect to a nonlawyer employed or retained, supervised or directed by a lawyer:

(a) a lawyer having direct supervisory authority over the nonlawyer shall make reasonable efforts to ensure that the person's conduct is compatible with the professional obligations of the lawyer; and

(b) except as provided by Rule 8.4(b), a lawyer shall be responsible for conduct of such a person that would be a violation of the Rules of Professional Conduct if engaged in by a lawyer if:

(1) the lawyer orders or, with the knowledge of the specific conduct, ratifies the conduct involved; or

(2) the lawyer is a partner or has comparable managerial authority in the law firm in which the person is employed, or has direct supervisory authority over the person, and knows of the conduct at a time when its consequences can be avoided or mitigated but fails to take reasonable remedial action.

Adopted 01/01/05

Amended 01/01/14: Title changed from "Assistants" to "Assistance" in recognition of the broad range of nonlawyer services that can be utilized in rendering legal services.

Defined Terms (see Rule 1.0):

"Knowledge"
 "Knows"
 "Law firm"
 "Partner"
 "Reasonable"

Comparison to Oregon Code

This rule has no counterpart in the Oregon Code. Paragraph (a) is somewhat similar to the requirement in DR 4-101(D), but broader because not limited to disclosure of confidential client information.

Paragraph (b) applies the requirements of DR 1-102(B) to nonlawyer personnel. An exception by cross-reference to Rule 8.4(b) is included to avoid conflict with the rule that was formerly DR 1-102(D).

Comparison to ABA Model Rule

This is similar to the ABA Model Rule, although the Model Rule also requires law firm partners and other lawyers with comparable managerial authority to make reasonable efforts to ensure that the firm has in place measures giving reasonable assurance that the conduct of nonlawyer assistants is compatible with the professional obligations of lawyers. Also, the Model Rule does not have the "except as provided in 8.4(b)" language in paragraph (b), since the Model Rule has no counterpart to DR 1-102(D).

RULE 5.4 PROFESSIONAL INDEPENDENCE OF A LAWYER

(a) A lawyer or law firm shall not share legal fees with a nonlawyer, except that:

(1) an agreement by a lawyer with the lawyer's firm or firm members may provide for the payment of money, over a reasonable period of time after the lawyer's death, to the lawyer's estate or to one or more specified persons.

(2) a lawyer who purchases the practice of a deceased, disabled, or disappeared lawyer may, pursuant to the provisions of Rule 1.17, pay to the estate or other representative of that lawyer the agreed-upon purchase price.

(3) a lawyer or law firm may include nonlawyer employees in a compensation or retirement plan, even though the plan is based in whole or in part on a profit-sharing arrangement.

(4) a lawyer may share court-awarded legal fees with a nonprofit organization that employed, retained or recommended employment of the lawyer in the matter; and

(5) a lawyer may pay the usual charges of a bar-sponsored or operated not-for-profit lawyer

referral service, including fees calculated as a percentage of legal fees received by the lawyer from a referral.

(b) A lawyer shall not form a partnership with a nonlawyer if any of the activities of the partnership consist of the practice of law.

(c) A lawyer shall not permit a person who recommends, employs, or pays the lawyer to render legal services for another to direct or regulate the lawyer's professional judgment in rendering such legal services.

(d) A lawyer shall not practice with or in the form of a professional corporation or association authorized to practice law for a profit, if:

(1) a nonlawyer owns any interest therein, except that a fiduciary representative of the estate of a lawyer may hold the stock or interest of the lawyer for a reasonable time during administration;

(2) a nonlawyer is a corporate director or officer thereof or occupies the position of similar responsibility in any form of association other than a corporation, except as authorized by law; or

(3) a nonlawyer has the right to direct or control the professional judgment of a lawyer.

(e) A lawyer shall not refer a client to a nonlawyer with the understanding that the lawyer will receive a fee, commission or anything of value in exchange for the referral, but a lawyer may accept gifts in the ordinary course of social or business hospitality.

Adopted 01/01/05

Amended 01/01/13: Paragraph (a)(5) added.

Defined Terms (see Rule 1.0):

"Firm"
 "Law firm"
 "Matter"
 "Partner"
 "Reasonable"

Comparison to Oregon Code

Paragraph (a)(1) is the same as DR 3-102(A)(1). Paragraph (a)(2) is similar to DR 3-102(A)(2), except that it addresses the purchase of a deceased, disabled or departed lawyer's practice and payment of an agreed price, rather than only authorizing reasonable compensation for services rendered by a deceased lawyer. Paragraph (a)(3) is identical to DR 3-102(A)(3). Paragraphs (a)(4) and 9a)(5) have no counterpart in the Oregon Code.

Paragraph (b) is identical to DR 3-103.

Paragraph (c) is identical to DR 5-108(B).

Paragraph (d) is essentially identical to DR 5-108(D).

Paragraph (e) is the same as DR 2-105, approved by the Supreme Court in April 2003.

Comparison to ABA Model Rule

This is the ABA Model Rule with the addition of paragraphs (a)(5) and (e), which have no counterpart in the Model Rule. Paragraph (a)(5) is similar to MR 7.2(b)(2).

**RULE 5.5 UNAUTHORIZED PRACTICE OF LAW;
MULTIJURISDICTIONAL PRACTICE**

(a) A lawyer shall not practice law in a jurisdiction in violation of the regulation of the legal profession in that jurisdiction, or assist another in doing so.

(b) A lawyer who is not admitted to practice in this jurisdiction shall not:

(1) except as authorized by these Rules or other law, establish an office or other systematic and continuous presence in this jurisdiction for the practice of law; or

(2) hold out to the public or otherwise represent that the lawyer is admitted to practice law in this jurisdiction.

(c) A lawyer admitted in another jurisdiction, and not disbarred or suspended from practice in any jurisdiction, may provide legal services on a temporary basis in this jurisdiction that:

(1) are undertaken in association with a lawyer who is admitted to practice in this jurisdiction and who actively participates in the matter;

(2) are in or reasonably related to a pending or potential proceeding before a tribunal in this or another jurisdiction, if the lawyer, or a person the lawyer is assisting, is authorized by law or order to appear in such proceeding or reasonably expects to be so authorized;

(3) are in or reasonably related to a pending or potential arbitration, mediation, or other alternate dispute resolution proceeding in this or another jurisdiction, if the services arise out of or are reasonably related to the lawyer's practice in a jurisdiction in which the lawyer is admitted to practice and are not services for which the forum requires pro hac vice admission;

(4) are not within paragraphs (c)(2) or (c)(3) and arise out of or are reasonably related to the lawyer's practice in a jurisdiction in which the lawyer is admitted to practice; or

(5) are provided to the lawyer's employer or its organizational affiliates and are not services for which the forum requires pro hac vice admission.

(d) A lawyer admitted in another jurisdiction, and not disbarred or suspended from practice in any jurisdiction, may provide legal services in this jurisdiction that are services that the lawyer is authorized to provide by federal law or other law of this jurisdiction.

(e) A lawyer who provides legal services in connection with a pending or potential arbitration proceeding to be held in his jurisdiction under paragraph (c)(3) of this rule must, upon engagement by the client, certify to the Oregon State Bar that:

(1) the lawyer is in good standing in every jurisdiction in which the lawyer is admitted to practice; and

(2) unless the lawyer is in-house counsel or an employee of a government client in the matter, that the lawyer

(i) carries professional liability insurance substantially equivalent to that required of Oregon lawyers, or

(ii) has notified the lawyer's client in writing that the lawyer does not have such insurance and that Oregon law requires Oregon lawyers to have such insurance.

The certificate must be accompanied by the administrative fee for the appearance established by the Oregon State Bar and proof of service on the arbitrator and other parties to the proceeding.

Adopted 01/01/05

Amended 01/01/12: Paragraph (e) added.

Amended 02/XX/15: Phrase "United States" deleted from paragraphs (c) and (d), to allow foreign-licensed lawyers to engage in temporary practice as provided in the rule.

Defined Terms (see Rule 1.0):

"Matter"

"Reasonably"

"Tribunal"

Comparison to Oregon Code

Paragraph (a) contains the same prohibitions as DR 3-101(A) and (B).

Paragraph (b), (c), (d) and (e) have no counterpart in the Oregon Code.

Comparison to ABA Model Rule

Paragraphs (a), (b) and (c)(1)-(4) are identical to the Model Rule. MR 5.5(d) includes what is (c)(5) in the Oregon rule. Paragraph (e) has no counterpart in the Model Rule.

RULE 5.6 RESTRICTIONS ON RIGHT TO PRACTICE

A lawyer shall not participate in offering or making:

(a) a partnership, shareholders, operating, employment, or other similar type of agreement that restricts the right of a lawyer to practice after termination of the relationship, except an agreement concerning benefits upon retirement; or

(b) an agreement in which a direct or indirect restriction on the lawyer's right to practice is part of the settlement of a client controversy.

Adopted 01/01/05

Comparison to Oregon Code

Paragraph (a) is similar to DR 2-108(A), but in addition to partnership or employment agreements, includes shareholders and operating "or other similar type of agreements," in recognition of the fact that lawyers associate together in organizations other than traditional law firm partnerships.

Paragraph (b) is similar to DR 2-108(B).

Comparison to ABA Model Rule

This is the ABA Model Rule with the addition of the words "direct or indirect" in paragraph (b) to address agreements that are not strictly part of the "settlement agreement."

RULE 5.7 [RESERVED]

PUBLIC SERVICE

RULE 6.1 [RESERVED]

RULE 6.2 [RESERVED]

RULE 6.3 MEMBERSHIP IN LEGAL SERVICES ORGANIZATION

A lawyer may serve as a director, officer or member of a legal services organization, apart from the law firm in which the lawyer practices, notwithstanding that the organization serves persons having interests adverse to a client of the lawyer. The lawyer shall not knowingly participate in a decision or action of the organization:

(a) if participating in the decision or action would be incompatible with the lawyer's obligations to a client under Rule 1.7; or

(b) where the decision or action could have a material adverse effect on the representation of a client of the organization whose interests are adverse to a client of the lawyer.

Adopted 01/01/05

Defined Terms (see Rule 1.0):

"*Knowingly*"

"*Law firm*"

Comparison to Oregon Code

This rule is similar to DR 5-108(C)(10 and (2).

Comparison to ABA Model Rule

This is the ABA Model Rule.

RULE 6.4 LAW REFORM ACTIVITIES AFFECTING CLIENT INTERESTS

A lawyer may serve as a director, officer or member of an organization involved in reform of the law or its administration, notwithstanding that the reform may affect the interest of a client of the lawyer. When the lawyer knows that the interest of a client may be materially benefited by a decision in which the lawyer participates, the lawyer shall disclose that fact but need not identify the client.

Adopted 01/01/05

Defined Terms (see Rule 1.0):

"*Knows*"

Comparison to Oregon Code

This rule is similar to DR 5-108(C)(3).

Comparison to ABA Model Rule

This is the ABA Model Rule.

RULE 6.5 NONPROFIT AND COURT-ANNEXED LIMITED LEGAL SERVICES PROGRAMS

(a) A lawyer who, under the auspices of a program sponsored by a nonprofit organization or court, provides short-term limited legal services to a client without expectation by either the lawyer or the client that the lawyer will provide continuing representation in the matter:

(1) is subject to Rule 1.7 and 1.9(a) only if the lawyer knows that the representation of the client involves a conflict of interest; and

(2) is subject to Rule 1.10 only if the lawyer knows that another lawyer associated with the lawyer in a law firm is disqualified by Rule 1.7 or 1.9(a) with respect to the matter.

(b) Except as provided in paragraph (a)(2), Rule 1.10 is inapplicable to a representation governed by this Rule.

Adopted 01/01/05

Defined Terms (see Rule 1.0):

"Knows"

"Law firm"

"Matter"

Comparison to Oregon Code

This rule has no equivalent in the Oregon Code. It was adopted by the ABA in 2002 to address concerns that strict application of conflict of interest rules might be deterring lawyers from volunteering in programs that provide short-term limited legal services to clients under the auspices of a non-profit or court-annexed program.

Comparison to ABA Model Rule

This is the ABA Model Rule.

INFORMATION ABOUT LEGAL SERVICES

RULE 7.1 COMMUNICATION CONCERNING A LAWYER'S SERVICES

A lawyer shall not make a false or misleading communication about the lawyer or the lawyer's services. A communication is false or misleading if it contains a material misrepresentation of fact or law, or omits a fact necessary to make the statement considered as a whole not materially misleading.

Adopted 01/01/05

Amended 12/01/06: Paragraph (a)(5) reworded to conform to former DR 2-101(A)(5).

Amended 01/01/14: Model Rule 7.1 language substituted for former RPC 7.1.

Comparison to Oregon Code

The rule retains the essential prohibition against false or misleading communications, but not the specifically enumerated types of communications deemed misleading.

Comparison to ABA Model Rule

This is the ABA Model Rule.

RULE 7.2 ADVERTISING

(a) Subject to the requirements of Rules 7.1 and 7.3, a lawyer may advertise services through written, recorded or electronic communication, including public media.

(b) A lawyer shall not give anything of value to a person for recommending the lawyer's services except that a lawyer may

(1) pay the reasonable costs of advertisements or communications permitted by this Rule;

(2) pay the usual charges of a legal service plan or a lawyer referral service; and

(3) pay for a law practice in accordance with Rule 1.17.

(c) Any communication made pursuant to this rule shall include the name and contact information of at least one lawyer or law firm responsible for its content.

Adopted 01/01/05

Amended 01/01/14: Revised to track more closely Model Rule 7.2 and eliminate redundant language.

Amended 01/01/17: Revised to remove "not-for-profit" from (2) and to require listing "contact information" in lieu of "office address."

Defined Terms (see Rule 1.0):

"Law firm"

Comparison to Oregon Code

This rule retains DR 2-103's permission for advertising in various media, provided the communications are not false or misleading and do not involve improper in-person contact. It retains the prohibition against paying another to recommend or secure employment, with the exception of a legal service plan or not-for-profit lawyer referral service. The rule also continues the requirement that communications contain the name and office address of the lawyer or firm.

Comparison to ABA Model Rule

This rule is drawn from and is very similar to the ABA Model Rule, except that the MR allows payment only to a lawyer referral service approved by an appropriate regulatory agency. The MR also permits reciprocal referral agreements between lawyers and between lawyers and nonlawyer professionals, which is directly contradictory to Oregon RPC 5.4(e).

RULE 7.3 SOLICITATION OF CLIENTS

(a) A lawyer shall not by in-person, live telephone or real-time electronic contact solicit professional employment when a significant motive for the lawyer's doing so is the lawyer's pecuniary gain, unless the person contacted:

(1) is a lawyer; or

(2) has a family, close personal, or prior professional relationship with the lawyer.

(b) A lawyer shall not solicit professional employment by written, recorded or electronic communication or by in-person, telephone or real-time electronic contact even when not otherwise prohibited by paragraph (a), if:

(1) the lawyer knows or reasonably should know that the physical, emotional or mental state of the target of the solicitation is such that the person could not exercise reasonable judgment in employing a lawyer;

(2) the target of the solicitation has made known to the lawyer a desire not to be solicited by the lawyer; or

(3) the solicitation involves coercion, duress or harassment.

(c) Notwithstanding the prohibitions in paragraph (a), a lawyer may participate with a prepaid or group legal service plan operated by an organization not owned or directed by the lawyer that uses in-person or telephone contact to solicit memberships or subscriptions for the plan from persons who are not known to need legal services in a particular matter covered by the plan.

Adopted 01/01/05

Amended 01/01/14: The title is changed and the phrase "target of the solicitation" or the word "anyone" is substituted for "prospective client" to avoid confusion with the use of the latter term in RPC 1.8. The phrase "Advertising Material" is substituted for "Advertising" in paragraph (c).

Amended 01/01/17: Deleting requirement that lawyer place "Advertising Material" on advertising.

Defined Terms (see Rule 1.0):

"Electronic communication"
 "Known"
 "Knows"
 "Matter"
 "Reasonable"
 "Reasonably should know"
 "Written"

Comparison to Oregon Code

This rule incorporates elements of DR 2-101(D) and (H) and DR 2-104.

Comparison to ABA Model Rule

This rule closely mirrors the Model Rule, although the MR has no counterpart to paragraph (b)(1).

RULE 7.4 [RESERVED]

RULE 7.5 FIRM NAMES AND LETTERHEADS

(a) A lawyer shall not use a firm name, letterhead or other professional designation that violates Rule 7.1. A trade name may be used by a lawyer in private practice if it does not imply a connection with a government agency or with a public or charitable legal services organization and is not otherwise in violation of Rule 7.1.

(b) A law firm with offices in more than one jurisdiction may use the same name or other professional designation in each jurisdiction, but identification of the lawyers in an office of the firm shall indicate the jurisdictional limitations on those not licensed to practice in the jurisdiction where the office is located.

(c) The name of a lawyer holding a public office shall not be used in the name of a law firm, or in communications on its behalf, during any substantial period in which the lawyer is not actively and regularly practicing with the firm.

(d) Lawyers may state or imply that they practice in a partnership or other organization only when that is a fact.

(e) A lawyer may be designated "Of Counsel" on a letterhead if the lawyer has a continuing professional relationship with a lawyer or law firm, other than as partner or associate. A lawyer may be designated as "General Counsel" or by a similar professional reference on stationery of a client if the lawyer of the lawyer's firm devotes a substantial amount of professional time in the representation of the client.

Adopted 01/01/05

Amended 01/01/14: The rule was modified to mirror the ABA Model Rule.

Defined Terms (see Rule 1.0):

"Firm"
 "Law firm"
 "Partner"
 "Substantial"

Comparison to Oregon Code

This rule retains much of the essential content of DR 2-102.

Comparison to ABA Model Rule

This is the Model Rule.

RULE 7.6 [RESERVED]**MAINTAINING THE INTEGRITY OF THE PROFESSION****RULE 8.1 BAR ADMISSION AND DISCIPLINARY MATTERS**

(a) An applicant for admission to the bar, or a lawyer in connection with a bar admission application or in connection with a disciplinary matter, shall not:

- (1) knowingly make a false statement of material fact; or**
- (2) fail to disclose a fact necessary to correct a misapprehension known by the person to have arisen in the matter, or knowingly fail to respond to a lawful demand for information from an admissions or disciplinary authority, except that this rule does not require disclosure of information otherwise protected by Rule 1.6.**

(b) A lawyer admitted to practice in this state shall, within 30 days after receiving notice thereof, report in writing to the disciplinary counsel of the Oregon State Bar the commencement against the lawyer of any disciplinary proceeding in any other jurisdiction.

(c) A lawyer who is the subject of a complaint or referral to the State Lawyers Assistance Committee shall, subject to the exercise of any applicable right or privilege, cooperate with the committee and its designees, including:

- (1) responding to the initial inquiry of the committee or its designees;**
- (2) furnishing any documents in the lawyer's possession relating to the matter under investigation by the committee or its designees;**
- (3) participating in interviews with the committee or its designees; and**
- (4) participating in and complying with a remedial program established by the committee or its designees.**

Adopted 01/01/05

Defined Terms (see Rule 1.0):

"Knowingly"
 "Known"
 "Matter"
 "Writing"

Comparison to Oregon Code

Paragraph (a) replaces DR 1-101, but is broader because the Oregon rule applies only to misconduct in connection with the lawyer's own or another person's application for admission and this rule applies to any "disciplinary

matter." Paragraph (a)(2) replaces DR 1-103(C) but requires only that a lawyer respond rather than "cooperate."

Paragraph (b) is the same as DR 1-103(D). It is placed here because it pertains to the obligations of a lawyer regarding the lawyer's own professional conduct.

Paragraph (c) is the same as DR 1-103(F). It is placed here because it pertains to the obligations of a lawyer regarding the lawyer's own professional conduct.

Comparison to ABA Model Rule

Paragraph (a) is identical to Model Rule 8.1. Paragraphs (b) and (c) have no counterpart in the Model Rules and are taken from the Oregon Code.

RULE 8.2 JUDICIAL AND LEGAL OFFICIALS

(a) A lawyer shall not make a statement that the lawyer knows to be false or with reckless disregard to its truth or falsity concerning the qualifications or integrity of a judge or adjudicatory officer, or of a candidate for election or appointment to a judicial or other adjudicatory office.

(b) A lawyer who is a candidate for judicial office shall comply with the applicable provisions of the Code of Judicial Conduct.

Adopted 01/01/05

Defined Terms (see Rule 1.0):

"Knows"

Comparison to Oregon Code

Paragraph (a) is essentially the same as DR 8-102(A) and (B), although the Oregon rule prohibits "accusations" rather than "statements" and applies only to statements about the qualifications of the person.

Comparison to ABA Model Rule

This is the ABA Model Rule, except that the Model Rule also prohibits statements pertaining to "other legal officers."

RULE 8.3 REPORTING PROFESSIONAL MISCONDUCT

(a) A lawyer who knows that another lawyer has committed a violation of the Rules of Professional Conduct that raises a substantial question as to that lawyer's honesty, trustworthiness or fitness as a lawyer in other respects shall inform the Oregon State Bar Client Assistance Office.

(b) A lawyer who knows that a judge has committed a violation of applicable rules of judicial conduct that raises a substantial question as to the judge's fitness for office shall inform the appropriate authority.

(c) This rule does not require disclosure of information otherwise protected by Rule 1.6 or ORS 9.460(3), or apply to lawyers who obtain such knowledge or evidence while:

- (1) acting as a member, investigator, agent, employee or as a designee of the State Lawyers Assistance Committee;**
- (2) acting as a board member, employee, investigator, agent or lawyer for or on behalf of the Professional Liability Fund or as a Board of Governors liaison to the Professional Liability Fund; or**
- (3) participating in the loss prevention programs of the Professional Liability Fund, including the Oregon Attorney Assistance Program.**

Adopted 01/01/05

Defined Terms (see Rule 1.0):

"Knows"

"Substantial"

Comparison to Oregon Code

This rule replaces DR 1-103(A) and (E). Paragraph (a) is essentially the same as DR 1-103(A), although the exception for confidential client information is found in paragraph (c). Also, the rule now requires that misconduct be reported to the OSB Client Assistance Office, to conform to changes in the Bar Rules of Procedure that were effective August 1, 2003.

Paragraph (b) has no counterpart in the Oregon Code, although the obligation might be inferred from DR 1-103(A).

Paragraph (c) incorporates the exception for information protected by rule and statute. It also incorporates the exception contained in DR 1-103(E).

Comparison to ABA Model Rule

This is essentially the ABA Model Rule, expanded slightly. Paragraph (c) includes a reference to ORS 9.460(3) to parallel the exceptions in DR 1-103(A). Paragraph (c) in the Model Rule refers only to "information gained...while participating in an approved lawyer assistance program."

RULE 8.4 MISCONDUCT

(a) It is professional misconduct for a lawyer to:

- (1) violate the Rules of Professional Conduct, knowingly assist or induce another to do so, or do so through the acts of another;**
- (2) commit a criminal act that reflects adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer in other respects;**

(3) engage in conduct involving dishonesty, fraud, deceit or misrepresentation that reflects adversely on the lawyer's fitness to practice law;

(4) engage in conduct that is prejudicial to the administration of justice; or

(5) state or imply an ability to influence improperly a government agency or official or to achieve results by means that violate these Rules or other law, or

(6) knowingly assist a judge or judicial officer in conduct that is a violation of applicable rules of judicial conduct or other law.

(7) in the course of representing a client, knowingly intimidate or harass a person because of that person's race, color, national origin, religion, age, sex, gender identity, gender expression, sexual orientation, marital status, or disability.

(b) Notwithstanding paragraphs (a)(1), (3) and (4) and Rule 3.3(a)(1), it shall not be professional misconduct for a lawyer to advise clients or others about or to supervise lawful covert activity in the investigation of violations of civil or criminal law or constitutional rights, provided the lawyer's conduct is otherwise in compliance with these Rules of Professional Conduct. "Covert activity," as used in this rule, means an effort to obtain information on unlawful activity through the use of misrepresentations or other subterfuge. "Covert activity" may be commenced by a lawyer or involve a lawyer as an advisor or supervisor only when the lawyer in good faith believes there is a reasonable possibility that unlawful activity has taken place, is taking place or will take place in the foreseeable future.

(c) Notwithstanding paragraph (a)(7), a lawyer shall not be prohibited from engaging in legitimate advocacy with respect to the bases set forth therein.

Adopted 01/01/05

Amended 12/01/06: Paragraph (a)(5) added.

Amended 02/XX/15: Paragraphs (a)(7) and (c) added.

Defined Terms (see Rule 1.0):

"Believes"

"Fraud"

"Knowingly"

"Reasonable"

Comparison to Oregon Code

This rule is essentially the same as DR 1-102(A).

Paragraph (b) retains DR 1-102(D).

Comparison to ABA Model Rule

Paragraphs (a)(1) through (6) are the same as Model Rule 8.4(a) through (f), except that MR 8.4(a) also prohibits attempts to violate the rules. Paragraph (a)(7) reflects language in Comment [3] of the Model Rule.

Paragraphs (b) and (d) have no counterpart in the Model Rule.

RULE 8.5 DISCIPLINARY AUTHORITY; CHOICE OF LAW

(a) Disciplinary Authority. A lawyer admitted to practice in this jurisdiction is subject to the disciplinary authority of this jurisdiction, regardless of where the lawyer's conduct occurs. A lawyer not admitted in this jurisdiction is also subject to the disciplinary authority of this jurisdiction if the lawyer provides or offers to provide any legal services in this jurisdiction. A lawyer may be subject to the disciplinary authority of both this jurisdiction and another jurisdiction for the same conduct.

(b) Choice of Law. In any exercise of the disciplinary authority of this jurisdiction, the Rules of Professional Conduct to be applied shall be as follows:

(1) for conduct in connection with a matter pending before a tribunal, the rules of the jurisdiction in which the tribunal sits, unless the rules of the tribunal provide otherwise; and

(2) for any other conduct, the rules of the jurisdiction in which the lawyer's conduct occurred, or, if the predominant effect of the conduct is in a different jurisdiction, the rules of that jurisdiction shall be applied to the conduct. A lawyer shall not be subject to discipline if the lawyer's conduct conforms to the rules of a jurisdiction in which the lawyer reasonably believes the predominant effect of the lawyer's conduct will occur.

Adopted 01/01/05

Defined Terms (see Rule 1.0):

"Believes"

"Matter"

"Reasonably believes"

"Tribunal"

Comparison to Oregon Code

This rule has no counterpart in the Oregon Code. A similar version based on *former* ABA Model Rule 8.5 was adopted by the Supreme Court in 1996 as Bar Rule of Procedure 1.4.

BR 1.4(a) specifically provides that the Supreme Court's jurisdiction over a lawyer's conduct continues whether or

not the lawyer retains authority to practice law in Oregon and regardless of where the lawyer resides.

BR 1.4(b)(1) is essentially the same as 8.5(b)(1).

BR 1.4(b)(2) applies the Oregon Code if the lawyer is licensed only in Oregon. If the lawyer is licensed in Oregon and another jurisdiction, the rules of the jurisdiction in which the lawyer principally practices apply, or if the conduct has its predominant effect in another jurisdiction in which the lawyer is licensed, then the rules of that jurisdiction will apply.

Comparison to ABA Model Rule

This is the ABA Model Rule, as amended in 2002 in conjunction with the adoption of the amendments to Rule 5.5 regarding multijurisdictional practice. As amended, the rule applies to lawyers not licensed in the jurisdiction if they render or offer to render any legal services in the jurisdiction.

RULE 8.6 WRITTEN ADVISORY OPINIONS ON PROFESSIONAL CONDUCT; CONSIDERATION GIVEN IN DISCIPLINARY PROCEEDINGS

(a) The Oregon State Bar Board of Governors may issue formal written advisory opinions on questions under these Rules. The Oregon State Bar Legal Ethics Committee and General Counsel's Office may also issue informal written advisory opinions on questions under these Rules. The General Counsel's Office of the Oregon State Bar shall maintain records of both OSB formal and informal written advisory opinions and copies of each shall be available to the Oregon Supreme Court, Disciplinary Board, State Professional Responsibility Board, and Disciplinary Counsel. The General Counsel's Office may also disseminate the bar's advisory opinions as it deems appropriate to its role in educating lawyers about these Rules.

(b) In considering alleged violations of these Rules, the Disciplinary Board and Oregon Supreme Court may consider any lawyer's good faith effort to comply with an opinion issued under paragraph (a) of this rule as:

(1) a showing of the lawyer's good faith effort to comply with these Rules; and

(2) a basis for mitigation of any sanction that may be imposed if the lawyer is found to be in violation of these Rules.

(c) This rule is not intended to, and does not, preclude the Disciplinary Board or the Oregon Supreme Court from considering any other evidence of either good faith or basis for mitigation in a bar disciplinary proceeding.

Adopted 01/01/05

Defined Terms (see Rule 1.0):

"Written"

Comparison to Oregon Code

This rule is identical to DR 1-105, amended only to refer to "General Counsel's Office" in the second sentence of

paragraph (a), rather than only to "General Counsel," to make it clear that opinions of assistant general counsel are covered by the rule.

Comparison to ABA Model Rule

This rule has no counterpart in the Model Rules.

DR 1-101	Rule 8.1(a)
DR 1-102(A)(1)	Rule 8.4(a)(1)
DR 1-102(A)(2)	Rule 8.4(a)(2)
DR 1-102(A)(3)	Rule 8.4(a)(3)
DR 1-102(A)(4)	Rule 8.4(a)(4)
DR 1-102(A)(5)	Rule 7.1(a)(5)
DR 1-102(B)(1)	Rule 5.1(c)(1)
DR 1-102(B)(2)	Rule 5.1(c)(2)
DR 1-102(C)	Rule 5.2(a)
DR 1-102(D)	Rule 8.4(b)
DR 1-103(A)	Rule 8.3(a)
DR 1-103(B)	Rule 8.3(b)
DR 1-103(C)	Rule 8.1(a)
DR 1-103(D)	Rule 8.1(b)
DR 1-103(E)	Rule 8.3(c)
DR 1-103(F)	Rule 8.1(c)
DR 1-104	Eliminated
DR 1-105	Rule 8.6
DR 2-101(A)(1)	Rule 7.1(a)(1)
DR 2-101(A)(2)	Rule 7.1(a)(2)
DR 2-101(A)(3)	Rule 7.1(a)(3)
DR 2-101(A)(4)	Rule 7.1(a)(4)
DR 2-101(A)(5)	eliminated
DR 2-101(A)(6)	Rule 7.1(a)(6)
DR 2-101(A)(7)	Rule 7.1(a)(7)
DR 2-101(A)(8)	Rule 7.1(a)(8)
DR 2-101(A)(9)	Rule 7.1(a)(9)
DR 2-101(A)(10)	Rule 7.1(a)(10)
DR 2-101(A)(11)	Rule 7.1(a)(11)
DR 2-101(A)(12)	Rule 7.1(a)(12)
DR 2-101(B)	eliminated
DR 2-101(C)	Rule 7.1(b)
DR 2-101(D)	Rule 7.3(b)

DR 2-101(E)	Rule 7.1(c)
DR 2-101(F)	Rule 7.1(d)
DR 2-101(G)	Rule 7.1(e)
DR 2-101(H)	Rule 7.3(c)
DR 2-102(A)	Rule 7.5(a)
DR 2-102(B)	Rule 7.5(b)
DR 2-102(C)	Rule 7.5(c)
DR 2-102(D)	Rule 7.5(d)
DR 2-102(E)	Rule 7.5(e)
DR 2-102(F)	Rule 7.5(f)
DR 2-103(A)	Rule 7.2(a)
DR 2-103(B)	Rule 7.2(b)
DR 2-103(C)	Rule 7.2(c)
DR 2-104(A)(1)	Rule 7.3(a)
DR 2-104(A)(2)	Rule 7.3(a)
DR 2-104(A)(3)	Rule 7.3(d)
DR 2-104(B)	Eliminated
DR 2-105	Rule 5.4(e)
DR 2-106(A)	Rule 1.5(a)
DR 2-106(B)	Rule 1.5(b)
DR 2-106(C)	Rule 1.5(c)
DR 2-107(A)	Rule 1.5(d)
DR 2-107(B)	Rule 1.5(e)
DR 2-108	Rule 5.6
DR 2-109	Rule 3.1
DR 2-110	Rule 1.16
DR 2-111	Rule 1.17
DR 3-101(A)	Rule 5.5(a)
DR 3-101(B)	Rule 5.5(a)
DR 3-102	Rule 5.4(a)
DR 3-103	Rule 5.4(b)
DR 4-101(A)-C	Rule 1.6(a)-(b)

DR 4-101(D)	Rule 5.3(b)
DR 5-101(A)(1)	Rule 1.7(a)(2)
DR 5-101(A)(2)	Rule 1.7(a)(3)
DR 5-101(B)	Rule 1.8(c)
DR 5-102	Rule 3.7
DR 5-103(A)	Rule 1.8(i)
DR 5-103(B)	Rule 1.8(e)
DR 5-104(A)	Rule 1.8(a)
DR 5-104(B)	Rule 1.8(d)
DR 5-105(A)(1)	Rule 1.7(b)(3)
DR 5-105(B)	Rule 1.0(i)
DR 5-105(C)	Rule 1.9(a)
DR 5-105(D)	Rule 1.9(a)
DR 5-105(E)	Rule 1.7(a)
DR 5-105(F)	Rule 1.7(b)
DR 5-105(G)	Rule 1.8(k)
DR 5-105(H)	Rule 1.9(b)
DR 5-105(I)	Rule 1.10(c)
DR 5-105(J)	Rule 1.10(b)
DR 5-106	Rule 2.4
DR 5-107	Rule 1.8(g)
DR 5-108(A)	Rule 1.8(f)
DR 5-108(B)	Rule 5.4(c)
DR 5-109(A)	Rule 1.12(a)
DR 5-109(B)	Rule 1.11(a)
DR 5-110	Rule 1.8(j)
DR 6-101(A)	Rule 1.1
DR 6-101(B)	Rule 1.3
DR 6-102(A)	Rule 1.8(h)(1)-(2)
DR 6-102(B)	Rule 1.8(h)(3)
DR 7-101(A)	Rule 1.2(a)

DR 7-101(B)	Rule 1.2(a)
DR 7-101(C)	Rule 1.14
DR 7-101(D)	Rule 2.3
DR 7-102(A)(1)	Rule 3.1, 4.4(a)
DR 7-102(A)(2)	Rule 3.1
DR 7-102(A)(3)	Rule 3.3(a)(4)
DR 7-102(A)(4)	Rule 3.3(a)(3)
DR 7-102(A)(5)	Rule 3.3(a)(1)
DR 7-102(A)(6)	Rule 3.4(b)
DR 7-102(A)(7)	Rule 1.2(c)
DR 7-102(A)(8)	eliminated
DR 7-102(B)	Rule 3.3(b)
DR 7-103	Rule 3.8
DR 7-104(A)(1)	Rule 4.2
DR 7-104(A)(2)	Rule 4.3
DR 7-105	Rule 3.4(g)
DR 7-106(A)	Rule 3.4(c)
DR 7-106(B)(1)	Rule 3.3(a)(2)
DR 7-106(B)(2)	eliminated
DR 7-106(C)(1)	Rule 3.4(e)
DR 7-106(C)(2)	eliminated
DR 7-106(C)(3)	Rule 3.4(e)
DR 7-106(C)(4)	Rule 3.4(e)
DR 7-106(C)(5)	eliminated
DR 7-106(C)(6)	Rule 3.5(d)
DR 7-106(C)(7)	Rule 3.4(c)
DR 7-107(A)	Rule 3.6(a)
DR 7-107(B)	Rule 3.6(b)
DR 7-107(C)	Rule 3.6(c)
DR 7-108(A)	Rule 3.5(b)
DR 7-108(B)	Rule 3.5(b)
DR 7-108(C)	eliminated
DR 7-108(D)	Rule 3.5(c)
DR 7-108(E)	Rule 3.5(c)

DR 7-108(F)	Rule 3.5(c)
DR 7-108(G)	Rule 3.5(e)
DR 7-109(A)	Rule 3.4(a)
DR 7-109(B)	Rule 3.4(f)
DR 7-110	Rule 3.5(b)
DR 8-101(A)(1)	Rule 1.11(c) & (d)(i)
DR 8-101(A)(2)	Rule 1.11(d)(ii)
DR 8-101(A)(3)	Rule 1.11(d)(iii)
DR 8-101(A)(4)	Rule 1.11(c) & (d)(iv)
DR 8-101(B)	eliminated
DR 8-101(C)	Rule 1.11(e)
DR 8-101(D)	Rule 1.11(f)
DR 8-102	Rule 8.2
DR 8-103	Rule 8.2(b)
DR 9-101(A)-(C)	Rule 1.15-1(a)-(e)
DR 9-101(D)(1)	Rule 1.15(a)
DR 9-101(D)(2)-(4)	Rule 1.15-2(a)-(h)
DR 9-102	Rule 1.15(i)-(l)
DR 10-101	Rule 1.0

Rule 1.0	DR 10-101
Rule 1.0(i)	DR 5-105(B)
Rule 1.1	DR 6-101(A)
Rule 1.2(a)	DR 7-101(A)&(B)
Rule 1.2(c)	DR 7-102(A)(7)
Rule 1.3	DR 6-101(B)
Rule 1.5(a)	DR 2-106(A)
Rule 1.5(b)	DR 2-106(B)
Rule 1.5(c)	DR 2-106(C)
Rule 1.5(d)	DR 2-107(A)
Rule 1.5(e)	DR 2-107(B)
Rule 1.6(a)-(b)	DR 4-101(A)-(C)
Rule 1.7(a)(1)	DR 5-105(E)
Rule 1.7(a)(2)	DR 5-101(A)(1)
Rule 1.7(a)(3)	DR 5-101(A)(2)
Rule 1.7(b)	DR 5-105(F)
Rule 1.7(b)(3)	DR 5-105(A)(1)
Rule 1.8(a)	DR 5-104(A)
Rule 1.8(b)	DR 4-101(B)
Rule 1.8(c)	DR 5-101(B)
Rule 1.8(d)	DR 5-104(B)
Rule 1.8(e)	DR 5-103(B)
Rule 1.8(f)	DR 5-108(A)
Rule 1.8(g)	DR 5-107
Rule 1.8(h)(1)-(2)	DR 6-102(A)
Rule 1.8(h)(3)	DR 6-102(B)
Rule 1.8(i)	DR 5-103(A)
Rule 1.8(j)	DR 5-110
Rule 1.8(k)	DR 5-105(G)
Rule 1.9(a)	DR 5-105(C)&(D)
Rule 1.9(b)	DR 5-105(H)
Rule 1.10(a)	DR 5-105(G)
Rule 1.10(b)	DR 5-105(J)

Rule 1.10(c)	DR 5-105(I)
Rule 1.11(a)	DR 5-109(B) & 8-101(B)
Rule 1.11(b)	DR 5-105(G)
Rule 1.11(c)	DR 8-101(A)(4)
Rule 1.11(d)(2)(i)-(iv)	DR 8-101(A)(1)-(4)
Rule 1.11(e)	DR 8-101(C)
Rule 1.11(f)	DR 8-101(D)
Rule 1.12(a)	DR 5-109(A)
Rule 1.14	DR 7-101(C)
Rule 1.15-1	DR 9-101(A)-(C) & (D)(1)
Rule 1.15-2(a)-(h)	DR 9-101(D)(2)-(4)
Rule 1.15-2(i)-(l)	DR 9-102
Rule 1.16	DR 2-110
Rule 1.17	DR 2-111
Rule 2.3	DR 7-101(D)
Rule 2.4	DR 5-106
Rule 3.1	DR 2-109 & 7-102(A)(1) & (2)
Rule 3.3(a)(1)	DR 7-102(A)(5)
Rule 3.3(a)(2)	DR 7-106(B)(1)
Rule 3.3(a)(3)	DR 7-102(A)(4)
Rule 3.3(a)(4)	DR 7-102(A)(3)
Rule 3.3(a)(5)	DR 7-102(A)(8)
Rule 3.3(b)	DR 7-102(B)
Rule 3.4(a)	DR 7-109(A)
Rule 3.4(b)	DR 7-102(A)(6) & 7-109(B)&(C)
Rule 3.4(c)	DR 7-106(A) & (C)(7)
Rule 3.4(e)	DR 7-106(C)(1), (3)&(4)

Rule 3.4(f)	DR 7-109(B)
Rule 3.4(g)	DR 7-105
Rule 3.5(b)	DR 7-108(A)&(B) & DR 7-110
Rule 3.5(c)	DR 7-108(D)-(F)
Rule 3.5(d)	DR 7-106(C)(6)
Rule 3.5(e)	DR 7-108(G)
Rule 3.6(a)	DR 7-107(A)
Rule 3.6(b)	DR 7-107(B)
Rule 3.6(c)	DR 7-107(C)
Rule 3.7	DR 5-102
Rule 3.8	DR 7-103
Rule 4.2	DR 7-104(A)(1)
Rule 4.3	DR 7-104(A)(2)
Rule 4.4(a)	DR 7-102(A)(1)
Rule 5.1(a)	DR 1-102(B)(1)
Rule 5.1(b)	DR 1-102(B)(2)
Rule 5.2(a)	DR 1-102(C)
Rule 5.3(B)	DR 4-101(D)
Rule 5.4(a)	DR 3-102
Rule 5.4(b)	DR 3-103
Rule 5.4(c)	DR 5-108(B)
Rule 5.4(d)	DR 5-108(D)
Rule 5.4(e)	DR 2-105
Rule 5.5(a)	DR 3-101
Rule 5.6	DR 2-108
Rule 6.3	DR 5-108(C)(1)&(2)
Rule 6.4	DR 5-108(C)(3)
Rule 7.1(a)(1)	DR 2-101(A)(1)
Rule 7.1(a)(2)	DR 2-101(A)(2)
Rule 7.1(a)(3)	DR 2-102(A)(3)

Rule 7.1(a)(4)	DR 2-102(A)(4)
Rule 7.1(a)(5)	DR 1-102(A)(5)
Rule 7.1(a)(6)	DR 2-101(A)(6)
Rule 7.1(a)(7)	DR 2-101(A)(7)
Rule 7.1(a)(8)	DR 2-101(A)(8)
Rule 7.1(a)(9)	DR 2-101(A)(9)
Rule 7.1(a)(10)	DR 2-101(A)(10)
Rule 7.1(a)(11)	DR 2-101(A)(11)
Rule 7.1(a)(12)	DR 2-101(A)(12)
Rule 7.1(b)	DR 2-101(C)
Rule 7.1(c)	DR 2-101(D)
Rule 7.1(d)	DR 2-101(F)
Rule 7.1(e)	DR 2-101(G)

Rule 7.2(a)	DR 2-103(A)
Rule 7.2(b)	DR 2-103(B)
Rule 7.2(c)	DR 2-103(C)
Rule 7.3(a)	DR 2-104(A)(1)
Rule 7.3(b)	DR 2-101(D)
Rule 7.3(c)	DR 2-101(H)
Rule 7.3(d)	DR 2-104(A)(3)
Rule 7.5(a)	DR 2-102(A)
Rule 7.5(b)	DR 2-102(B)
Rule 7.5(c)	DR 2-102(C)
Rule 7.5(d)	DR 2-102(D)
Rule 7.5(e)	DR 2-102(E)
Rule 7.5(f)	DR 2-102(F)

Rule 8.1(a)	DR 1-101 & 1-103(C)
Rule 8.1(b)	DR 1-103(D)
Rule 8.1(c)	DR 1-103(F)
Rule 8.2(a)	DR 8-102
Rule 8.2(b)	DR 8-103
Rule 8.3(a)	DR 1-103(A)
Rule 8.3(b)	DR 1-103(B)
Rule 8.3(c)	DR 1-103(E)
Rule 8.4(a)(1)-(4)	DR 1-102(A)(1)-(4)
Rule 8.4(b)	DR 1-102(D)
Rule 8.6	DR 1-105

Section 21 City Manager.

- (a) **Qualifications.** The city manager shall be the administrative head of the government of the city. He shall be chosen by the commission without regard to political considerations and solely with reference to his executive and administrative qualifications. He need not be a resident of the city or of the state at the time of his appointment. Before taking office, he shall give a bond in such amount and with such surety as may be approved by the commission. The premiums on such bond shall be paid by the city.
- (b) **Term.** The manager shall be appointed for an indefinite term and may be removed at the pleasure of the commission. Upon any vacancy occurring in the office of manager after the first appointment pursuant to this charter, the commission at its next meeting shall adopt a resolution of its intention to appoint another manager. Not later than four months after adopting the resolution, the commission shall appoint a manager to fill the vacancy.
- (c) **Powers and Duties.** The powers and duties of the manager shall be as follows:
 - (1) He shall devote his entire time to the discharge of his official duties, attend all meetings of the commission unless excused therefrom by the commission or the mayor, keep the commission advised at all times of the affairs and needs of the city, and make reports annually, or more frequently if requested by the commission, of all the affairs and departments of the city.
 - (2) He shall see that all ordinances are enforced and that the provisions of all franchises, leases, contracts, permits, and privileges granted by the city are observed.
 - (3) The manager shall designate a city recorder, shall appoint and may remove appointive city officers and employees except as this charter otherwise provides, and shall have general supervision and control over them and their work with power to transfer an employee from one department to another. He shall supervise the departments to the end of obtaining the utmost efficiency in each of them. He shall have no control, however, over the commission or over the judicial activities of the municipal judge.
 - (4) He shall act as purchasing agent for all departments of the city. All purchases shall be made by requisition signed by him or authorized designee.
 - (5) He shall be responsible for preparing and submitting to the budget committee the annual budget estimates and such reports as that body request.
 - (6) He shall supervise the operation of all public utilities owned and operated by the city and shall have general supervision over all city property.
- (d) **Seats at Commission Meetings.** The manager and such other officers as the commission designates shall be entitled to sit with the commission but shall have no vote on questions before it. The manager may take part in all commission discussions.
- (e) **Manager Pro Tem.** Whenever the manager is absent from the city, is temporarily disabled from acting as manager, or whenever his office becomes vacant, the commission shall appoint a manager pro tem, who shall possess the powers and duties of the manager. No manager pro tem, however, may appoint or remove a city officer or employee except with the approval of three members of the commission.
- (f) **Ineligible Persons.** Neither the manager's spouse nor any person related to the manager or his spouse by consanguinity or affinity within the third degree may hold any appointive office or employment with the city.

Ex. B

Chapter 2.08 - CITY ATTORNEY

2.08.010 - Appointed.

The attorney shall be appointed by, and shall serve at the discretion of the manager.

(Prior code §1-11-1)

2.08.020 - Qualifications.

The attorney shall be admitted to practice law in the state.

(Prior code §1-11-2)

2.08.030 - Duty to prosecute.

The attorney shall be the public prosecutor of the city. It shall be his duty to diligently inquire into and prosecute in the municipal court all violations and infractions of the laws of the city, and he shall be the legal representative of the city in any case in which the city is a party.

(Prior code §1-11-3)

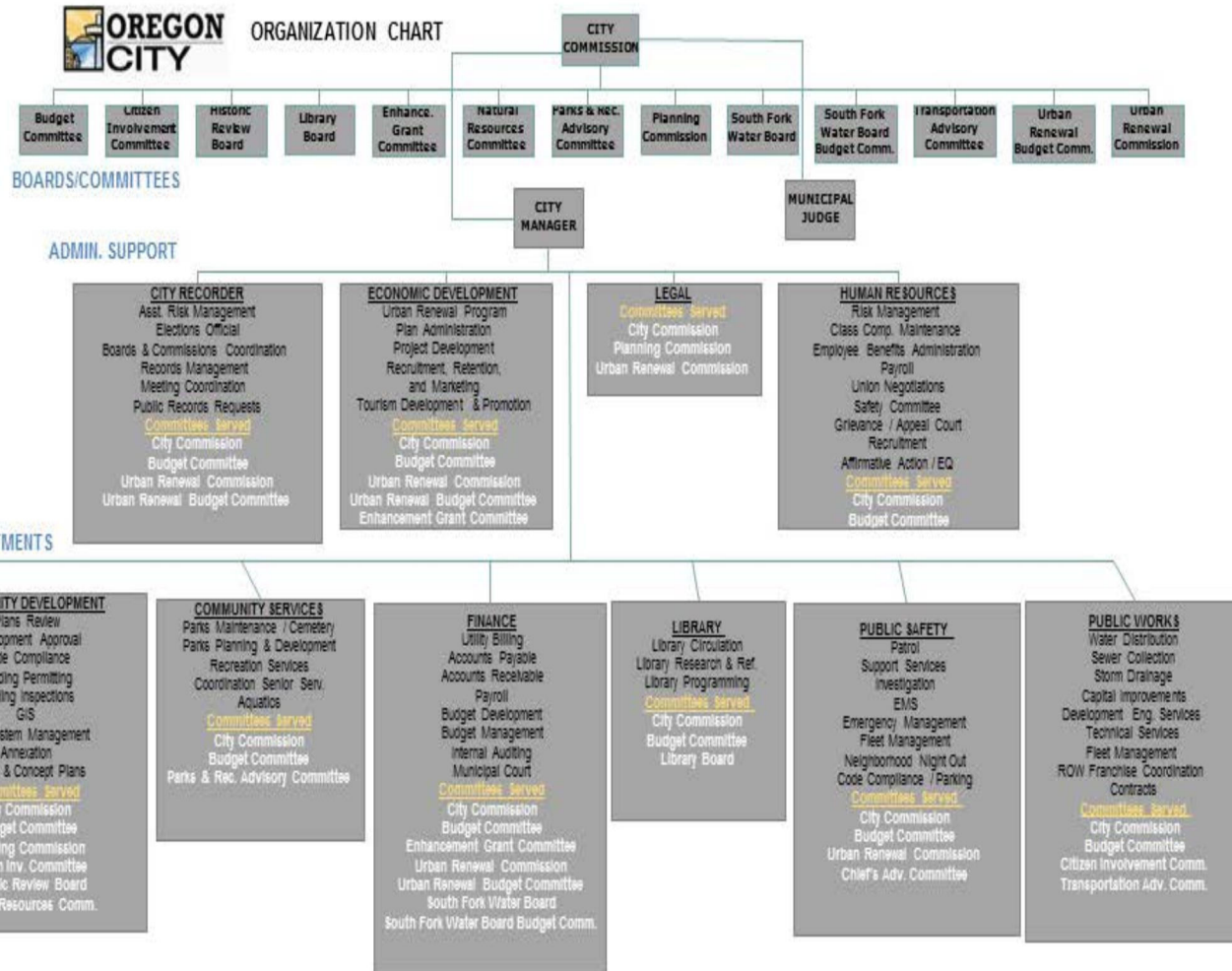
2.08.040 - Legal advisor.

The attorney shall be the legal advisor of all city officers, and it shall be his duty to prepare all proposed amendments to the charter, ordinances, contracts, bonds or other legal papers on the request of the proper officials, in which the city is a party or interested. He shall perform such other duties as may be prescribed by the provisions of this code or order of the commission.

(Prior code §1-11-4)

Ex. C

CITY OF OREGON CITY ORGANIZATIONAL CHART



**Garvey Schubert
Barer**

Memo

To: Mayor Norris and City Commission
From: City Attorney
CC: City Manager
Date: August 20, 2022
Re: Commissioner Nicita's Memorandum of July 7, 2009 on Commission and Staff Communications

In response to requests by the Commission and the Manager, here are my comments on the above memorandum. These comments are limited to those matters in which our office is mentioned in that memorandum.

Commissioner Nicita expresses concerns over our advice on the Cove DDA and Agnes Road issues being sent to the Manager, rather than to all of the City Commission or Urban Renewal Commission. He also notes that I responded to his request regarding the status of the Cove project after Kaiser had withdrawn in a "terse" manner, to the effect that I understood, and still understand, that the use of City Attorney time must be authorized by the relevant commission or the City Manager.

My understanding of my role in advising the City and Urban Renewal Commissions is that I am to work through the City Manager unless the relevant Commission requests otherwise. That means that, if the Mayor or an individual commissioner requests advice, I must clear authority to respond from either the relevant commission or the Manager. If the Commission wishes to change this protocol so that any of the Commission members may request research and advice directly from our office, or to establish a certain amount of hours allocated to each Commissioner, or to allow the Mayor or Urban Renewal Commission Chair to authorize our time, the Commission may certainly undertake these steps.

Similarly, our advice to the City and Urban Renewal commissions is channeled through the City Manager, who has the Charter authority to appoint and remove city officers and employees and has "general supervision and control" over them.¹ While we have occasionally responded directly to issues (e.g., to indicate that the City has separate counsel on urban renewal, ordinance violation or labor relations matters), my understanding of the "chain of command" is that the Manager is responsible to the elected officials and that, in the main, I must provide advice through that office. Again, if the Commission wishes to change that protocol, we will follow that direction.

Regarding the Hermann public records request, we have not been involved in the prosecution of that case in municipal court and we have not been asked to assist the City in response to any public record request.

¹ Charter §21(c)(3).

In his "Discussion Points," Commissioner Nicita raises issues over the role of the Commission, and individual commissioners, in the operations of the City. It is true that the Commission is the body in which policy and legislative authority of the City is vested. It is also true that the City Manager is the "administrative head" of city government. The Commission has the power to pass ordinances and provide policy direction. The important distinction is between the roles of the Commission and individual commissioners. While the *Commission* may require reports, and may hire, fire or discipline the City Manager, or undertake other policy or personnel action, individual commissioners do not have that power unless the Charter or ordinance provide otherwise. The Manager may act at his peril if he or she is unresponsive or hostile to an individual commissioner, but there is no Charter-granted right for an individual commissioner (as opposed to the Commission itself) to have any greater right to undertake these actions individually.

Similarly, the City Attorney advises the City, acting through its manager (for administrative functions) and the City Commission (for policy and certain personnel functions). If the Commission wishes to have the City Attorney advise Commissioners directly outside of City Commission meetings, it may do so. However, that is not my understanding of the present protocol, which the City Commission is free to revise.²

Thank you for the opportunity to respond.

PDX_DOCS:436892.1
DRAFT 6:20 PM

² Commissioner Nicita refers to a response to Commissioner Neeley regarding the CHP management issue. I assume I did so, although I cannot find an email to that effect and do not know whether that response was before or after the Commission became involved in the matter and how extensive that response was. Commissioner Nicita would be correct in his point on consistency, however, and we will seek not to respond causally or otherwise to individual Commissioner requests, but seek to channel them through the Commission or the Manager, as appropriate, unless directed otherwise.



MEMORANDUM

TO: Oregon City Commission

CC: City Manager
City Recorder

FROM: Edward J. Sullivan

DATE: January 26, 2011

RE: Atkinson Church Proceedings

The Development Director contacted our office to say he had been asked by a City Commissioner to provide copies of all internal staff correspondence dealing with the Atkinson Church proceedings, which had been decided by the City's Historic Review Board and City Commission.¹ The request for documents included all correspondence between the Director and our office. I have reviewed these materials and am prepared to provide copies of all these documents to the Manager and City Commission if desired. However, the request raises three issues that the Manager and Commission should consider as a matter of policy in dealing with confidential legal advice:

1. While the City is the client with respect to confidential legal advice, the attorney-client privilege extends to the staff member or members who receive that advice, but staff is not authorized to share that advice. That authority rests with the Commission as a whole or with the City Manager.
2. If the information is shared outside of those two offices, such as to anyone else, including a City Commissioner acting in an individual capacity, the privilege is lost completely and finally. What was privileged and confidential in the communication about the subject matter can no longer be protected.
3. If the Commission wishes to share any attorney-client privileged information outside these two centers of authority, it should establish a policy to do so. Until that is done, the attorney-client privilege for this information may be lost as to the subject matter of the communication. Because of that possibility, I am uncomfortable providing sharing this information until either the Manager, or the Commission as a whole, directs us to do so.

This memorandum contains an analysis of (1) the City of Oregon City's duty to disclose confidential communications between its counsel and City representatives; and (2) the consequences of voluntary disclosure of those records.

¹ The application was approved, there was no further appeal in that case and the matter is now final.

A. Public Records Are Exempt from Disclosure When Privileged By Oregon Law

Under the Oregon Public Records Law, “[e]very person has a right to inspect any public record of a public body in this state, except as otherwise expressly provided by ORS 192.501 to ORS 192.505.” ORS 192.420(1). The communications in question (mostly emails) are public records, which are defined as including “any writing that contains information relating to the conduct of the public’s business.” ORS 192.410(4)(a). The records at issue fit squarely within the “public record” definition because they relate to a particular Historic Review Board decision and contain communications between our firm, the City Manager and the City Manager’s staff, the City Commissioners, and staff members of the City Planning Department regarding a particular land use decision and pertain to the process by which the decision was made. However, the Public Records Law provides that if public records are “confidential or privileged under Oregon law,” they are unconditionally exempt from disclosure. ORS 192.502(9). *Klamath County School District v. Teamey*, 207 Or.App. 250, 260, 140 P3d 1152, rev. den., 342 Or. 46 148 P3d 915 (2006). The scope of this disclosure exemption runs parallel to the definition of the attorney-client privilege in Oregon. “[I]f the requirements of OEC 503 are satisfied, the attorney-client privilege applies” and disclosure under the public law is not required. *Id.* at 261.

The public records sought in the request are covered by the lawyer-client privilege codified by Rule 503 of the Oregon Evidence Code. ORS 40.225. The lawyer-client privilege in Oregon applies to “confidential communications made for the purpose of facilitating the rendering of professional legal services to the client....” OEC 503(2). In this case, the communications appear to be made in confidence between representatives of the client and lawyers of the client, or between the lawyers themselves, and were made for the purpose of facilitating the rendering of professional legal services, as opposed to the purposes of providing commercial or personal advice. There is no indication that this privilege has been waived or that confidentiality has not been maintained regarding the subject matter of these communications. Therefore, the records are exempt from disclosure under the Public Records Law.

B. Voluntary Disclosure of Privileged Communications Waives Privilege as to Other Communications

“Rule 511 provides that disclosure of a significant part of the privileged matter or communication to any person will waive the privilege, unless the disclosure is itself a privileged communication.” Kirkpatrick on Evidence § 511.03.

“Under that rule, when a holder of the lawyer-client privilege voluntarily has disclosed material covered by the privilege, two considerations arise in determining whether a waiver has occurred: (1) whether the disclosure itself was ‘itself a privileged communication’ and, if not, (2) whether the disclosure was of a ‘significant part of the matter or communication.’”

State ex rel. Oregon Health Sciences University v. Haas, 325 Or. 492, 498 (1997).

In this case, providing the records to a Commissioner *in his or her individual capacity* would be considered non-privileged communication. To be privileged, a communication requires three elements.

“First, the communication must be ‘confidential’ within the meaning of OEC 503(1)(b). Second, the communication must be made for the purpose of facilitating the rendition of professional

legal services to the client. Third, the communication must have been between persons described in one of the paragraphs of OEC 503(2)(a) through (e).” *Id.* at 501.

Even if the first test is met because the communication remains confidential, the disclosure to a Commissioner in his or her individual capacity would not meet the criteria of the second or third test. First, disclosure would not be for the purpose of facilitating the rendition of professional legal services. Second, the Commissioner, as an individual, does not fall into the categories of persons described in OEC 503(2)(a) through (e) (various combinations of the client, the client’s representatives, the lawyer and the lawyer’s representatives) because in his or her individual capacity, the Commissioner is not a representative of the client. Therefore, voluntary disclosure to such a person of these privileged records is not itself privileged communication.

Disclosure of the requested records themselves would constitute a “significant part of the matter or communication.” This is in contrast to when a holder of the privilege discloses the underlying *facts* to third persons without waiving the privilege (only actual communications are privileged, not facts).

The consequences of waiving privilege by voluntarily providing privileged communications could potentially be severe:

“The Commentary states that if a significant part of the privileged communication is voluntarily disclosed, then ‘the privilege in question is waived as to other communications on the same subject with the same person, and communications on the same subject with other persons....’ Under this view, waiver extends to the entire subject matter of the privileged communication rather than to merely one specific communication.” Kirkpatrick on Evidence § 511.05.

Therefore, providing a Commissioner, in an individual capacity, with the communications between our firm and various representatives of the City could lead to losing the privilege to all communications regarding the Atkinson Church application if *any other person* requests communications on the same topic.

Although disclosure of these particular records may not be harmful in the case at issue based on the substance contained therein, the confidentiality that the client, i.e., the City, desires to maintain would be at risk if the confidential communications were disclosed in the face of a privilege that could be exercised.

Under the City Charter, the Commission and the Manager have control over the affairs of the City and may determine whether the attorney-client privilege will be waived. If such a written request is made in the future, we will supply such privileged communications to either the Commission or the Manager who can determine whether to waive the privilege. The Commission should provide direction as to how it wishes to treat these matters as a body, so that the City would not lose the privilege inadvertently.

I will be happy to discuss the matter with the Commission at its convenience.



James Nicita <james.nicita@gmail.com>

Public Comment: "Baker Conflict" in GLUA-21-00045 / MAS-21-00006 / VAR-22-00001 Park Place Crossing General Development Plan.

Dirk Schlagenhauser <dschlagenhauser@orccity.org>
To: James Nicita <james.nicita@gmail.com>

Sun, May 22, 2022 at 12:21 PM

Thank you for the comment Jim

I'm not a lawyer but I'll read through this and ask our attorney for her view of it.

Dirk



Sent from my iPhone

On May 21, 2022, at 4:59 PM, James Nicita <james.nicita@gmail.com> wrote:

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

[Quoted text hidden]

2 attachments

-  **Baker Conflicts.pdf**
148K
-  **NC Zone Findings.pdf**
159K

Ex. G

GLUA-21-00045: Park Place Crossing General Development Plan:

MAS-21-00006 – General Development Plan (GDP)

VAR-22-00001 – Variance

Type III Quasi-judicial review

Pete Walter, Planning Manager

Planning Commission

8/22/2022



Project Summary

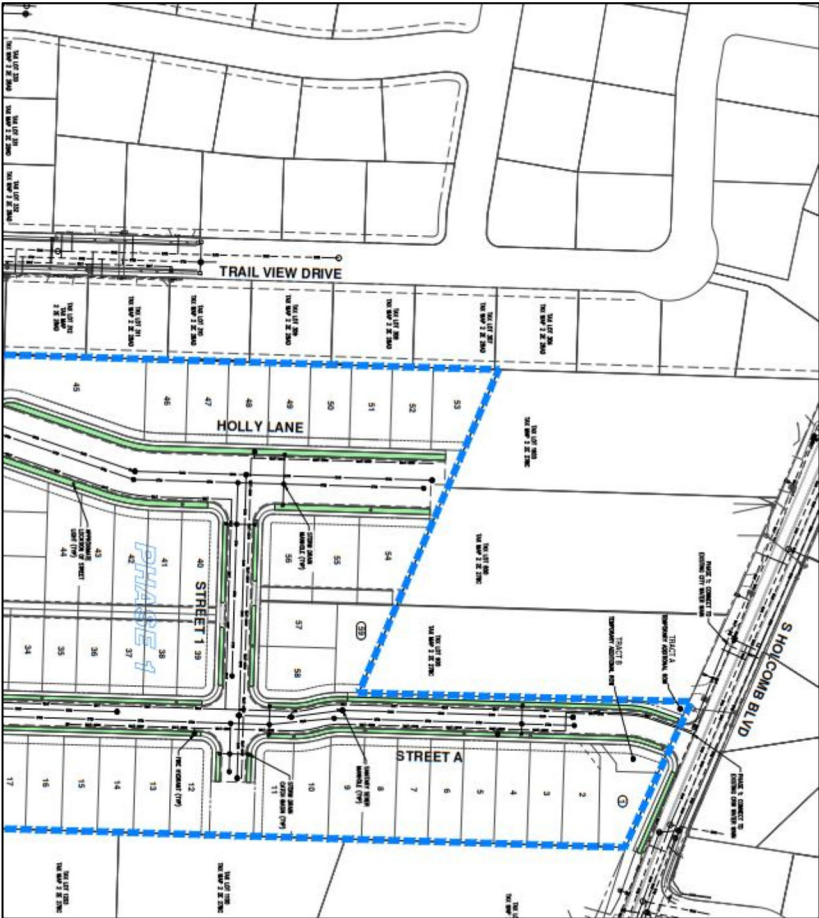
- **General Development Plan (GDP):** The overall long-term approach to development through 2030 for up to 426 residential lots, including supporting parks, trails, and neighborhood commercial and civic spaces. Included in the request for GDP approval is:
 - A modification to street width standards for a limited segment of Holly Lane
 - Adjustments to the following development standards:
 - OCMC 17.08.040 and 17.10.040 Dimensional Standards, including up to 20% reduction of lot sizes, widths, depths, and setbacks
 - OCMC 17.21.090.A for garage placement and design
 - ~~OCMC 17.08.050 and 17.10.050 Density Standards to exceed maximum density by approximately 4%~~
- **Variance:** Request to reduce the minimum lot size for attached single family lots to 1800 square feet.



Park Place Crossing GDP

Items that will be reviewed at time of DDP

- Tree removal and mitigation
- Geologic Hazard compliance
- NROD compliance
- Stormwater designs
- Block lengths
- Final lot sizes and layout
- Further transportation analysis



Previous hearings and continuances:

- April 25th
- May 9th
- May 23rd
- July 11th
- July 27



Tonight's Hearing

1. Staff Report
2. Applicant's Presentation and Questions
3. Public Testimony
4. Applicant rebuttal
5. Planning Commission deliberation
6. Close public record
7. Tentative approval with conditions
8. Continue to Sept 5, 2022 for adoption of final findings



Park Place Crossing GDP

120-Day Land Use Decision Deadline

Extensions may be granted by applicant

Current deadline: October 23, 2022

All local appeals must occur before deadline

- Period in which to appeal Planning Commission decision to City Commission: 14 days from mailing of notice of decision.
- Notice period in advance of City Commission appeal hearing: 20 days



Park Place Crossing GDP

Public Testimony

- Staff provided an updated Public Comment Summary responding to comments received with the revised 8/18/2022 packet.
- Comments attached in Planning Commission Packet:
 - Janice Troxler 8.16.2022
 - Sean McLaughlin 8.16.2022
 - JoAnn Grugan 5.14.2022
- Comments received since 8/15, sent via email to Planning Commissioners today:
 - Steve Sagi 8.22.2022
 - Dan Berge, 8.22.2022
 - Christine Kosinski, 8.22.2022
 - Sharon Neish (3), 8.22.2022
 - James Nicita, w/ Exhibits A-G, 8.20.2022
 - Suze Hammond, 8.21.2022



New Items

•In published agenda packet

- Staff Report – Redlined and Re-published
- Applicant’s final written Argument – letter to PC, 8.19.2022
- Exhibit 7 – A new exhibit submitted 8/17/2022 indicating locations of alley loaded vs. topographically constrained lots
- Applicant memo describing with revised layout, 8.11.2022
- Exhibit 1 – Park Place Crossing Layout Revision, 8.11.2022
- Exhibit 2 – Revised Zone Overlay Map and Density, 8.11.2022
- Housing Types Memo, 8.15.2022
- Public Comment Summary Table UPDATED through 8.15.2022
- Copies of all written testimony received before close of business 8.15.2022.



Park Place Crossing GDP

Summary of Revisions

- Revised layout for park, reduced to 4.3 acres, still consistent with PPCP
- Improved street connectivity and access to park, mixed-use and civic areas
- Livesay Main Street has longer mixed-use frontage
- Overall units reduced to 426 in R-5 and R-10 zone
- 440 total housing units.
 - 287 single-family detached dwelling - 65%
 - 139 single-family attached dwellings – 32%
 - 14 units of Mixed Use – Apartments – 3%.
- Phase 1 reduced to 49 units
- “Paired townhomes” added to Phase 1
- Larger lots abutting existing neighborhoods
- Addition of alleys where feasible
- Increased NC zoning, 3 parcels = 2.43 acres



Items in Applicant's Latest Memo to Planning Commission

II. Concerns regarding proposed Conditions of Approval

- #11: Parks financial guarantee ← NEW
- #53: Hydrology report to discuss maintenance of aquifers ← NEW

III. Responses to Public Comments (a-k)

IV. Argument that the application is subject to Clear and Objective Standards / Needed Housing ← NEW

- City of Oregon City Housing Needs Analysis – Dec. 2021 ← NEW



Revised Layout

Item #1.

UNIT TYPE LEGEND:

	LOTS CONSOLIDATED AND INCREASED IN SIZE TO MATCH EXISTING ADJACENT PROPERTY LINES, INCREASE TO 10,000 SQ FT WITHIN R-10 ZONE, AND LIMIT NEW LOTS ON PERIMETER OF DEVELOPMENT
	TOWNHOME LOTS
	PAIRED TOWNHOMES LOTS

PARK PLACE CROSSING RESIDENTIAL UNITS

UNIT TYPE	UNITS
PAIRED TOWNHOMES	18
TOWNHOMES	121
4-5K SQ FT DETACHED	255
>5K SQ FT DETACHED	32
MIXED-USE (APARTMENT)	14
TOTAL	440

PARK PLACE CROSSING PROPORTIONALITY TO PARK PLACE CONCEPT PLAN NORTH VILLAGE

PPCP NORTH VILLAGE TOTAL UNITS	937
PPC TOTAL UNITS	440
PERCENTAGE OF PPCP NORTH VILLAGE	47.0%
TOTAL PPCP NORTH VILLAGE PARK (ACRES)	8
PPC PROPORTIONAL PARK REQUIRED (ACRES)	3.8
*PPC DEDICATED PARK (ACRES)	4.3
REIMBURSED PARK (ACRES)	0.5

* IN ADDITION TO 15.3 ACRES OF OPEN SPACE

PHASED UNIT TYPE AND OPEN SPACE SUMMARY:

PHASE 1:	
• SINGLE FAMILY DETACHED:	31
• SINGLE FAMILY ATTACHED:	18
• MIXED-USE (APARTMENTS):	0
• OPEN SPACE:	0.2± ACRE
PHASE 2:	
• SINGLE FAMILY DETACHED:	114
• SINGLE FAMILY ATTACHED:	121
• MIXED-USE (APARTMENTS):	14
• OPEN SPACE:	6.1± ACRE
PHASE 3:	
• SINGLE FAMILY DETACHED:	52
• SINGLE FAMILY ATTACHED:	0
• MIXED-USE (APARTMENTS):	0
• OPEN SPACE:	0.0± ACRE
PHASE 4:	
• SINGLE FAMILY DETACHED:	44
• SINGLE FAMILY ATTACHED:	0
• MIXED-USE (APARTMENTS):	0
• OPEN SPACE:	7.6± ACRE
PHASE 5:	
• SINGLE FAMILY DETACHED:	35
• SINGLE FAMILY ATTACHED:	0
• MIXED-USE (APARTMENTS):	0
• OPEN SPACE:	1.5± ACRE
PHASE 6:	
• SINGLE FAMILY DETACHED:	11
• SINGLE FAMILY ATTACHED:	0
• MIXED-USE (APARTMENTS):	0
• OPEN SPACE:	0.0± ACRE
TOTAL:	
SINGLE FAMILY LOTS:	426
RESIDENTIAL UNITS:	440
SINGLE FAMILY DETACHED UNITS:	287 (65%)
SINGLE FAMILY ATTACHED UNITS:	139 (32%)
MIXED-USE (APARTMENT) UNITS:	14 (3%)
OPEN SPACE:	15.3± ACRE

Townhome lots relocated away from edges

Revised park layout and size

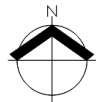
Added street west of Holly Lane

Paired townhomes

Larger lots abutting existing residential

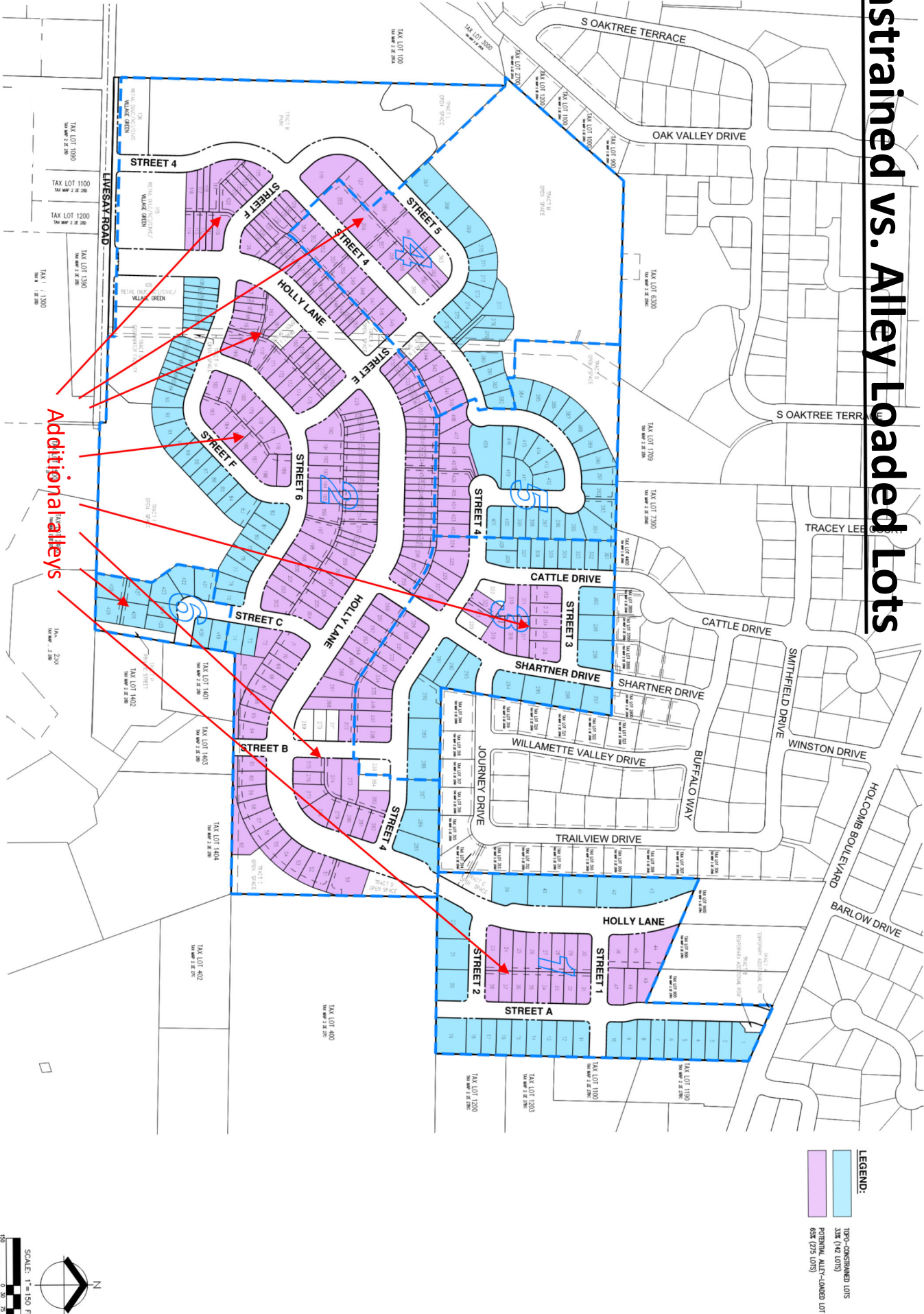
Additional alleys

Increased Mixed Use / Civic Area

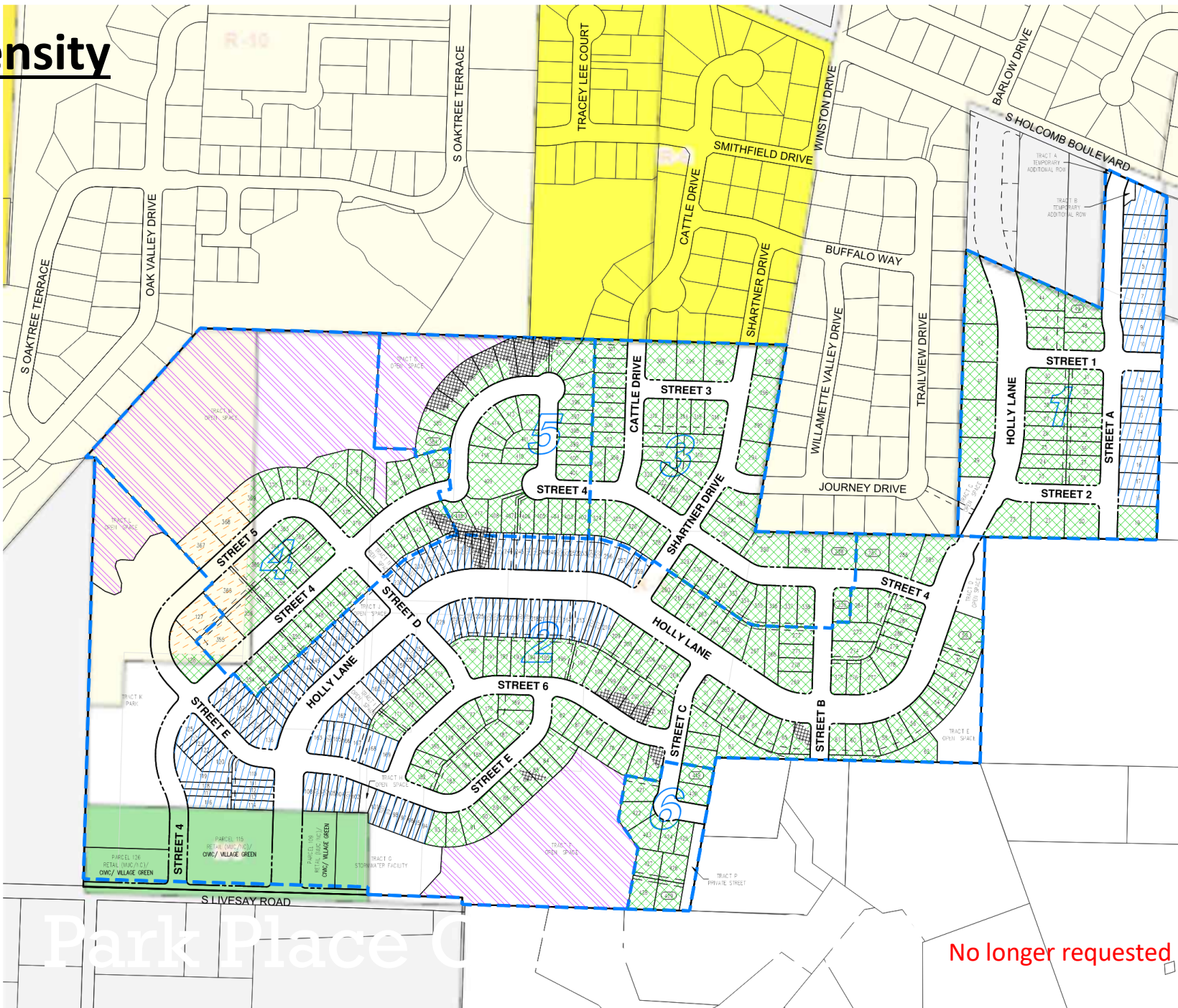


Topo Constrained vs. Alley Loaded Lots

Item #1.



Density



DENSITY CALCULATIONS

Item #1.

ACHIEVED DWELLING UNITS

426 DU

NET DEVELOPABLE AREA:

$33.9 + 9.9 + 1.5 + 1.1 = 46.4$ ACRE

ACHIEVED DENSITY:

$426/46.4 = 9.2$ DU/ACRE

MINIMUM DWELLING UNITS:

316 DU = 6.8×46.4

COMPOSITE MINIMUM RESIDENTIAL DENSITY:

$((33.9/46.4) \times 7.0) + ((9.9/46.4) \times 7.0) + ((1.5/46.4) \times 3.5) + ((1.1/46.4) \times 2.0) = 6.8$ DU/ACRE

MAXIMUM DWELLING UNITS:

427 DU = 9.2×46.4

COMPOSITE MAXIMUM RESIDENTIAL DENSITY:

$((33.9/46.4) \times 8.7) + ((9.9/46.4) \times 12.4) + ((1.5/46.4) \times 4.4) + ((1.1/46.4) \times 2.0) = 9.2$ DU/ACRE

MAXIMUM DWELLING UNITS WITH NROD DENSITY TRANSFER:

469 DU = 9.2×51.0

17.49.240 - NROD DENSITY TRANSFER:

$13.9 \times (1/3) = 4.6$ ACRE

$46.4 + 4.6 = 51.0$ ACRE

MAXIMUM DWELLING UNITS WITH 10% DENSITY INCREASE AND NROD DENSITY TRANSFER:

515 DU = 10.1×51.0

17.65.070.C.4 - INCREASE IN ALLOWED MAXIMUM RESIDENTIAL DENSITY OF UP TO TEN
 $9.2 \times 110\% = 10.1$ DU/ACRE

No longer requested

Revised Conditions of Approval

- #5

5. The following adjustments to the Municipal Code are approved and subject to the conditions found in the Notice of Decision.

~~a.~~ OCMC 17.08.040 and 17.10.040 Dimensional Standards, including up to 20% reduction of lot sizes, widths, depths, and setbacks.

a.

b. The requested adjustment to the garage orientation standards in OCMC 17.21.090.A is approved for the lots indicated as topographically constrained on Exhibit 7, "Revised Alley-loaded and Topo Constrained Lot Exhibit" dated 8/17/2022. Corner lots shall use sideloaded garages wherever feasible. is not approved. Since lot layouts and garage locations will be subject to further refinement with subsequent DDP submittals, the applicant shall provide narrative justification for granting the exception to the garage orientation standard to be reviewed with each DDP submittal.



Revised Conditions of

Approval

- #6
- The proportional share will change with the revised number of units to be determined at time of DDP

6. The recommended proportional share amounts in Exhibit 4 for Phase 1 shall be required at the time of final plat for Phase 1, unless amended by an updated transportation study provided by the applicant and reviewed by the City as part of the Phase I DDP review.

TSP Project	Estimated TSP Project Cost (\$000)	Total PM Peak Entering Volume (2035)	\$/trip	Phase 1 Trips	Phase 1 Share \$
Redland/Holly D36	\$1,040	688	\$545	1	\$545
Holcomb/Holly D43	\$1,040	1899	\$1512	61	\$92,232
I-205 SB Ramps/ OR 99E D75	\$2,990	5690	\$525	5	\$2,625
I-205 NB Ramps/ OR 99E D76	\$1,970	6155	\$320	5	\$1,600
Hwy213/Redland D97	\$10,105	6540	\$1545	22	\$33,990
Redland/ Holcomb/ Abernethy	na	2273	na	35	na
Hwy213/Beavercreek D94	\$2,800	6935	\$404	5	\$2,020
Holcomb Blvd Sidewalk Infill W11, W12, W13	\$3,035	1135*	\$2674	50	\$133,700
Holcomb Blvd Bike Lanes B12	\$560	1135*	\$493	50	\$24,650
Holcomb Blvd Pedestrian Crossings C3, C4, C5, C6	\$140	1135*	\$123	50	\$6,150
* Two-way PM peak volume on Holcomb Boulevard east of Redland Road/Holcomb Blvd/Abernethy Road intersection					



Park Place Crossing GDP

Revised Conditions of Approval

- #8

8. Detailed development plans for any phase beyond Phase 1, or 60 residential units, will require additional analysis and implementation of mitigation measures that demonstrate that the transportation system is “capable of serving the proposed development, or will be made capable by the time each phase of the development is completed” in accordance with OCMC 17.65.050.C.3. Specifically, the applicant shall show that improvements have been made to OR-213 and Redland Road and at the intersection of Redland Road/Abernethy Road/Holcomb Boulevard such that v/c standards are met and adequate queue storage is provided before building permits are approved for half the units in Phase 2 ~~before development can be approved.~~



Park Place Crossing GDP

Revised Conditions of Approval

- #11
- “The applicant shall coordinate a deposit in the form of a fee-in-lieu of for parks to be calculated, based on the total number of units in Phase 1 at \$5,065.83 per unit for park land cost plus \$3,882.38 per unit for park improvement costs increased at 18% per annum, to be paid at the time of final plat recording of Phase 1 of the project. This amount shall be held by the City in the form of a surety until at least 4.3 acres of park land in the location identified in the General Development Plan is dedicated to the City. The 4.3 acres of park land shall be dedicated to the City at the time of final plan recording of Phase 2 of the development. Upon dedication of the land, the surety shall be released.”



Revised Conditions of Approval

- #27(C)

27. To provide street connectivity and walkability to meet the intent of the Park Place Concept Plan, the applicant shall provide for the following in future DDP applications:

- Wherever feasible, utilize traffic calming measures, low speed limits, and tight curb radii to promote slow vehicle speeds.
- Marked crosswalks with curb extensions shall be provided at all Holly Lane intersections.
- ~~Provide an additional local street connection to the east of Holly Lane and South of Street E.~~
- Meet the maximum block spacing of 530 feet throughout the development, except where topographic constraints prevent practicability.
- If the maximum block length is exceeded, pedestrian accessways shall be provided no further than 330 feet from the nearest street intersection.



Revised Conditions of Approval

- #27(C) and (D)

27. To provide street connectivity and walkability to meet the intent of the Park Place Concept Plan, the applicant shall provide for the following in future DDP applications:

- Wherever feasible, utilize traffic calming measures, low speed limits, and tight curb radii to promote slow vehicle speeds.
- Marked crosswalks with curb extensions shall be provided at all Holly Lane intersections.
- ~~Provide an additional local street connection to the east of Holly Lane and South of Street E.~~
- Meet the maximum block spacing of 530 feet throughout the development, except where topographic constraints prevent practicability.
- If the maximum block length is exceeded, pedestrian accessways shall be provided no further than 330 feet from the nearest street intersection.



Revised Conditions of Approval

- #31B

31. Driveways shall be limited to provide for the following on all local streets:

a. No driveway approach, including wings, shall be more than 50% of the width of the lot.

~~b. Curb space for on street parking shall be present on 50% or greater of the total block face. For example, for a block that is 400 feet long, 200 feet of curb space shall be available for on street parking, with minimum on street parking space measured at 22 feet of curb length.~~

~~e.b.~~ Shared driveways may be utilized to meet these conditions

~~e.c.~~ Alleys may be utilized as an alternative to driveways to meet these conditions

~~e.d.~~ Alley width may be reduced to 12-foot one-way circulation, to reduce amount of impervious surface needed, if approved by the City Engineer.



Park Place Crossing GDP

Revised Conditions of Approval

- #46

46. Where block lengths exceed 530 feet, e~~Each~~ DDP shall provide updated plans ~~with off-street and~~ bicycle/pedestrian accessway locations ~~shall be~~ spaced at intervals not exceeding 330 feet ~~of~~ frontage. from the nearest street intersection. (DS)



Conditions of Approval

- #53

53. The applicant shall provide a hydrology report that addresses the effect of the stormwater outfall upon the local watershed with each DDP. The hydrology report must address the discharges erosion and landslide effect on the downhill slope, the stabilization of the uphill slope, and the environmental impact on the downhill slope as well as how the underground aquifers will be maintained. (DS)



Revised Conditions of Approval

- #57

~~57. Future Type III Master Plan refinement review to address the multiple outstanding discretionary issues listed below shall be accomplished before or as part of each Detailed Development Plan review:~~

~~a. A feasibility study addressing how a street connection from the development site to Redland Road would be provided.~~

~~b. How the applicant will achieve a balance between urban design and the natural topography of the site, if retaining wall heights over 3.5 feet are proposed~~

~~c. Analysis of alley feasibility/practicability and mitigation where alleys are not proposed~~

~~d. Local street connectivity and block lengths~~

~~e. Density and increases to the total number of units~~



Park Place Crossing GDP

Revised Conditions of Approval

- #56

56. ~~Left turn lanes will be needed at the intersection of the future Holly Lane and Holcomb Boulevard. While that intersection is not a part of this GDP, right of way dedication shall be further reviewed in Phase 1 DDP to determine if the appropriate amount of right of way is provided for the necessary left turn lanes.~~ Further traffic analysis shall be provided for the intersection of Holly Lane and Holcomb Boulevard to determine the appropriate amount of right-of-way at that intersection and its approach south into the site along Holly Lane. This shall be reviewed as part of the Phase 1 DDP. (DS)



Conditions of Approval

- #9a - Vehicle trip mitigation on local streets
9. Mitigation for livability impacts to existing residential streets (Cattle Drive, Winston Drive, etc) and proposed Street A shall be as follows:
- a. At the time street connections are made to Cattle Drive and Shartner Drive, the applicant shall add traffic calming elements within the new streets near the connecting points to Cattle Drive, Shartner Drive, Journey Drive, Smithfield Drive and Winston Drive including speed humps, traffic circles, or chicanes, to promote safe speeds. The applicant shall also provide traffic volume and speed data at up to three selected locations to the City to enable the City to evaluate the potential for a traffic calming and/or a speed limit change to 20 mph on the existing local streets. The data shall be provided with any DDP application that includes street connections to Cattle Drive, Shartner Drive, or Journey Drive.



Conditions of Approval

- #9 b – Vehicle trip mitigation on local streets
 - b. The applicant shall measure average daily trip volume on Winston Drive, Cattle Drive and Shartner Drive and proposed Street A at the time of each DDP application that would route trips on these streets. If trips (total existing plus new) are projected to exceed 2,000 per day on any of these streets, the applicant shall implement one or more of the following transportation improvements:
 - i. Implement the proposed phased barrier system to ensure that ADT on existing local streets Winston Drive, Cattle Drive and Shartner Drive and proposed Street A does not exceed 2,000 vehicle per day;
 - ii. Ensure a secondary street connection is provided to the south connecting to Redland Road, reducing northbound congestion and so that drivers have multiple route choices. The street connection to Redland Road shall be open and available before the units that would increase local street volumes beyond 2000 trips per day are occupied.
 - iii. Provide a full street connection to Livesay Road and make the improvements required by Clackamas County in Condition 47.



Conditions of Approval

- #10 – Redland Road

10. The applicant shall provide a timeline and plan to complete the Holly Lane to Redland Road connection with the submittal of Detailed Development Plans for phases 4-6, or concurrent with Clackamas County's planned Transportation System Plan Projects 1109 and 1120 for improvements to Holly Lane Bridge and the Holly Lane / Redland Road intersection, whichever occurs first.



Annexation and Zone Change Application

- The application and the staff report and decision for the annexation and zone change, files AN 17-04 ZC 17-05, is added to the record.



Review Subject Only to Clear and Objective Conditions of Approval

- ORS 197.307(4) requires an evaluation of housing applications against clear and objective conditions, unless a local government has adopted an alternative approval process under ORS 197.307(6). The master plan review of OCMC 17.65 represents that alternative review tract.
- In 2018 annexation and zone change application, this application was premised on the election to proceed with a master plan approval. For example, with respect to housing, the annexation / zone change application says:

“The North Village Plan within the Park Place Concept Plan calls for a mixture of housing types and densities, as well as neighborhood commercial and institutional uses within the annexation area. The future master plan will implement these land uses.” P 32.
- Condition 4 requiring a master plan review only reaffirmed the applicant’s election during the annexation / zone change. The applicant did not challenge or otherwise object to that election when it was made.



Protection of the NC Area and the Park Place Concept Plan (Baker issue)

- The park has been moved to the west and north, restoring the NC zoned area and most of the PPCP mixed use area for mixed use.
- Nearly all of Livesay Rd can accommodate mixed uses consistent with the adopted site plan and design review standards – maximum 5' setback, front-orientation, parking in the rear – this will result in a “desirable sense of enclosure”.
- All of the cases cited to date deal with unambiguous, mandatory plan requirements – The PPCP offers a conceptual framework only
- The PPCP does not mandate: (1) only commercial / residential mixed uses in the NC zone or (2) an uninterrupted building wall. Allowing the eastern portion to accommodate a stormwater facility does not violate any PPCP provision



Condition of Approval #11 – Parks Guarantee

Calculation:

Deferred dedication of 4.3 acres to phase 2

Fee calculation is based on:

Land Price: avg. price per acre of comparable undeveloped land

+

Park improvement cost



Park Place Crossing GDP

Condition of Approval #11 – Parks Guarantee Calculation

Land Value Calculation:

Comparables

Location	Sale Date	Acreage	Sale Price	Price per acre
16433 Front Ave	4/22/2020	0.41	\$ 195,000	\$ 475,610
13930 Forsythe	for sale	0.94	\$ 529,000	\$ 562,766
16175 Apperson	10/31/2021	0.74	\$ 420,000	\$ 567,568
16294 Hunter	10/30/2020	0.29	\$ 137,000	\$ 472,414
				\$ 519,589 AVG

- Land Costs: \$519,589 or \$11.90 / square foot
- 4.3 acres = 187,308 square feet
- 187,308 sf / 440 units = 425.70 sf / unit
- 425.70 x \$11.90 = \$5,065.83
- Phase I: 49 units @ \$5,065.83 = \$248,225.67 Land Cost



Park Place Crossing GDP

Condition of Approval #11 – Parks Guarantee Calculation

Park Improvement Cost Calculation

- Hazelnut Grove Park Improvement Costs (3.5 acres) = \$1.35 million
- Development cost per acre = \$9.12 / square foot
- 4.3 acres = 187,308 square feet
- 187,308 sf / 440 units = 425.70 sf / unit
- Cost per unit 425.70 sf / unit x \$9.12 = \$3,882.38 / unit



Park Place Crossing GDP

Condition of Approval #11 – Parks Guarantee Calculation

- Total Phase I Park Improvement Cost:
 - 49 units X \$3,882.38 / unit = \$190,236.82
- Total Phase I Land Cost:
 - 49 units @ \$5,065.83 / unit = \$248,225.67
- Total Park Land + Park Improvements Cost **\$438,462.486**
- Construction Cost Index 18% / year



Park Place Crossing GDP

Condition of Approval #11 – Parks Guarantee Calculation

Staff suggested revision to Condition #11:

- “The applicant shall coordinate a deposit in the form of a fee-in-lieu of for parks to be calculated, based on the total number of units in Phase 1 at \$5,065.83 per unit for park land cost plus \$3,882.38 per unit for park improvement costs increased at 18% per annum, to be paid at the time of final plat recording of Phase 1 of the project. This amount shall be held by the City in the form of a surety until at least 4.3 acres of park land in the location identified in the General Development Plan is dedicated to the City. The 4.3 acres of park land shall be dedicated to the City at the time of final plan recording of Phase 2 of the development. Upon dedication of the land, the surety shall be released.”



Park Place Crossing GDP

Staff Recommendation

1. Close public hearing
2. Tentative approval with conditions
3. Continue to Sept 5, 2022 for adoption of final findings.



Comment Cards PC 7.25.2022 Park Place Crossing

Item #1.

OC Planning Commission Meeting 2022.07.25 Huang

OC Planning Commission Meeting 2022.07.25 Mansouri

COMMENT FORM

#1

*****PLEASE PRINT CLEARLY*****

- SPEAK INTO THE MICROPHONE AND STATE YOUR NAME AND RESIDING CITY
- Limit Comments to **3 MINUTES**.
- Give to the Clerk in Chambers **prior** to the meeting.

Date of Meeting

7/25/2022

Item Number From Agenda

NAME:

Tom Guil

ADDRESS:

Street:

City, State, Zip:

PHONE NUMBER:

E-MAIL ADDRESS:

Tguil@comcast.net

SIGNATURE:

Tom Guil

COMMENT FORM

#2



PLEASE PRINT CLEARLY

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- Limit Comments to **3 MINUTES**.
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Date of Meeting

11-25-22

Item Number From Agenda

2

NAME:

CHRISTINE KOSINSKI

ADDRESS:

Street:

HOLLY LN

City, State, Zip:

PHONE NUMBER:

E-MAIL ADDRESS:

SIGNATURE:

Christine Kosinski

CONTINUANCE OF GLUA-21-00045 / MAS-21-00006 / VAR-22-00001 Park Place Crossing General Development Plan

Public Comments by:

Enoch Huang

Oregon City

Introduction

- We are not opposed to development
- We are not short-sighted
- We are not naïve
- We see problems with the Park Place Crossing General Development Plan
 - Affordable housing vs. maximizing profits

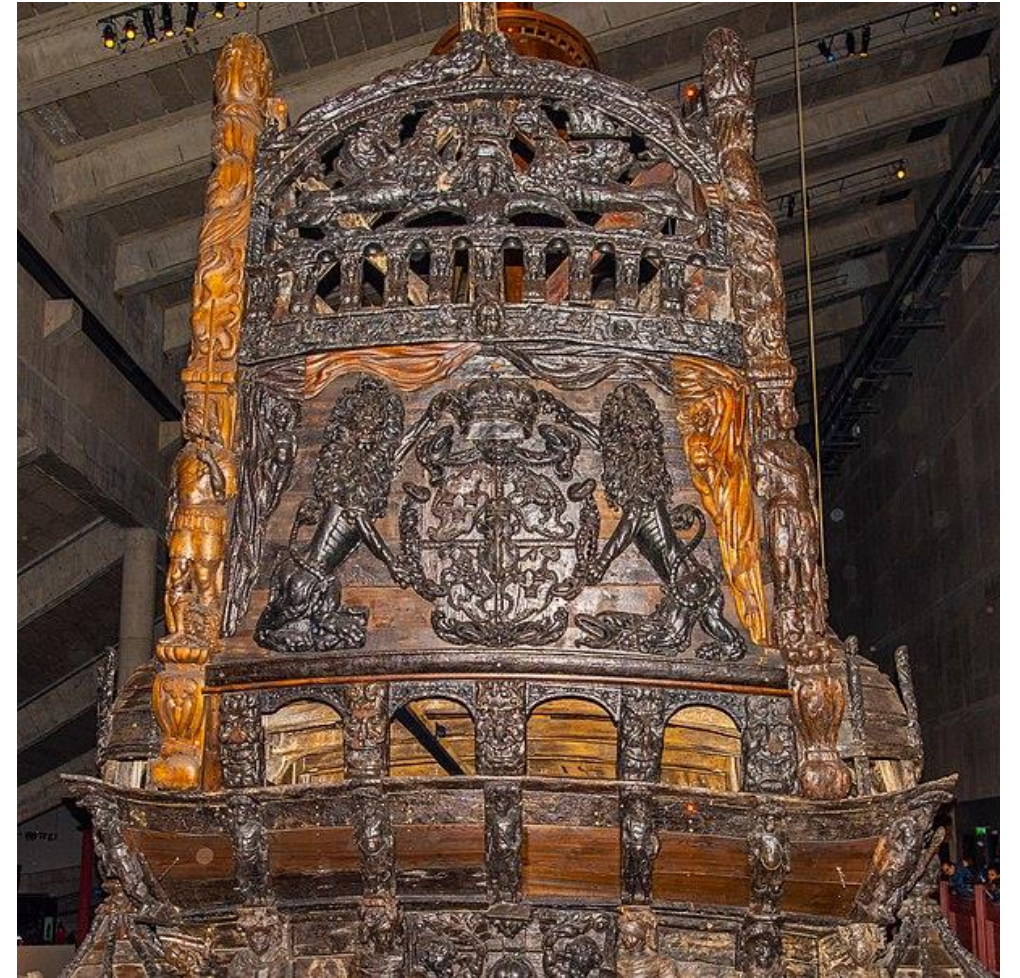
The *Vasa* of Sweden

- Warship built on the orders of the King of Sweden Gustavus Adolphus in 1626
- Swedish Navy
 - small to medium-sized ships
 - a single gundeck
 - normally armed with thirty-six (36) 12-pound and smaller cannon
- The *Vasa* was to be the pride of the fleet...
 - The King changed the design and ordered seventy two (72) 24-pound cannons
 - Required a second row of cannons



The *Vasa* of Sweden

- Heavy wooden sculptures celebrating Sweden and the king were placed on the sterncastle



The maiden voyage

- August 10, 1628
 - Calm weather
 - Mild breeze from the southwest
- Gun ports were opened to fire a salute to the city of Stockholm
- Thousands of citizens and foreign ambassadors were on hand to celebrate the launch



The maiden voyage

- A gust of wind forced her to her port side
- Water rushed into the open gun ports and filled the hold, sinking the ship 20 minutes after launch
 - Sank to a depth of 32 m (105 ft)
 - Only 120 m (390 ft) from shore
- The masts of the ship were still above water in full view of all of the citizens of Stockholm



What went wrong?

- High center of gravity
 - High superstructures
 - Heavy ornamentation
 - Extra weight from more and heavier guns
- Keel width too narrow
 - Stability testing by having 30 sailors run from side to side
 - Vice Admiral Fleming stopped the testing after 3 passes fearing the ship would capsize
 - The King was in Poland fighting the war and pushing for the *Vasa* to be launched



How does this relate to PPC?

- Variations from the Concept Plan may have unintended consequences
- Density *does* matter
 - ICON made it clear in July 11th meeting
 - “We are not building the minimum number of lots”
- Don’t ignore the warning signs
- Don’t let the insistence of the developer make you compromise your common sense
- Don’t let poor planning and execution make PPC stand out in the “harbor” of Oregon City

CONTINUANCE OF GLUA-21-00045 / MAS-21-00006 / VAR-22-00001 Park Place Crossing General Development Plan

Public Comments by:

Roya Mansouri

Oregon City

Variances from Park Place Concept Plan

- <https://www.orcity.org/publicworks/park-place-concept-plan>
- Green Edges
- Housing Density
- Importance of green space for children in an urban setting

Green Edges

- (Page 1) The use of green edges to define neighborhoods and buffer developments
- (Page 1-3) Edges around and between residential areas and existing neighborhoods are defined by open spaced (primarily corresponding to natural areas) and larger rear setbacks for new lots that border existing neighborhoods.

Green Edges

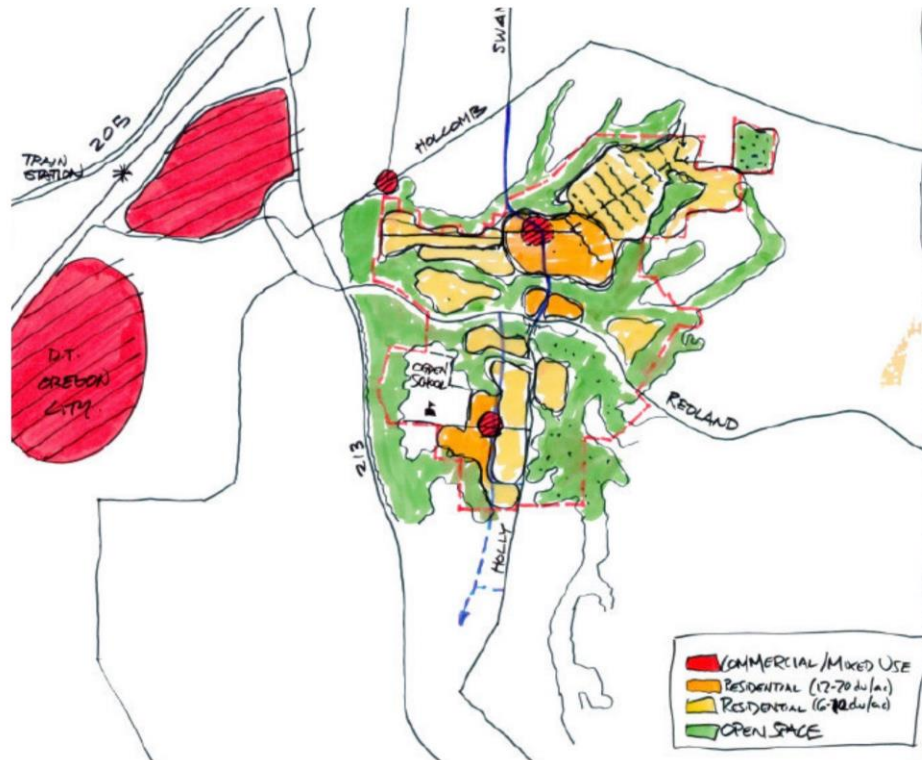


- 9 lots in contact with our lot
- Unclear where there are green edges for buffering
- In this and other past alternate diagrams, buffer zones were visible at other points but not along UGB

Alternative Designs

C. Charrette Process

Charrette Summary/ Alternatives Summary



Holly/Swan Extension

Unique features of the Holly-Swan Extension include:

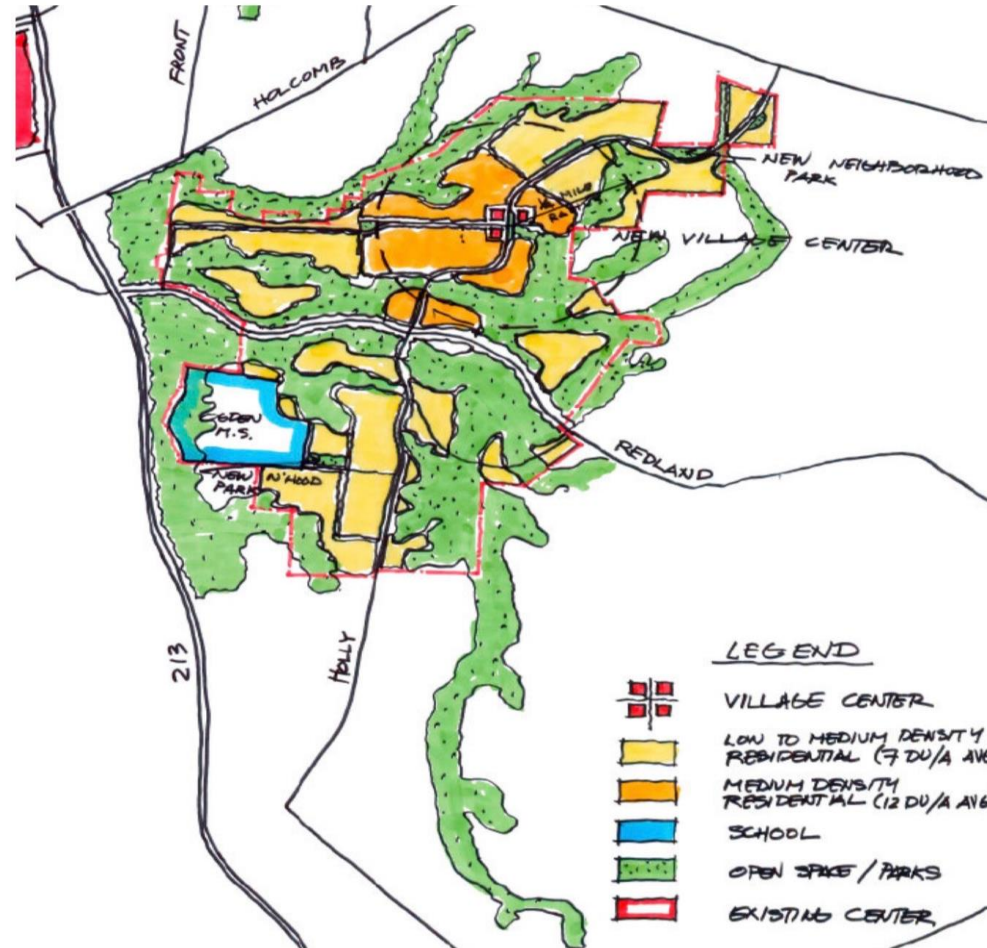
- A new road parallel to the existing Holly Lane that terminates at Redland
- An extension of Holly Lane to Swan Avenue
- An extension of Upper Livesay Road to the existing street network within the Trailview Estates Neighborhood

Alternative Designs

C. Charrette Process

Unique features of the Holly Lane Extension include:

- Extension of Holly Lane north of Redland to Holcomb Avenue, east of Trailview
- Retention of the existing single-family residential pattern, south of Redland
- Incorporation of medium density housing and neighborhood commercial-oriented land uses around a node at Upper Livesay and Holly Lane.

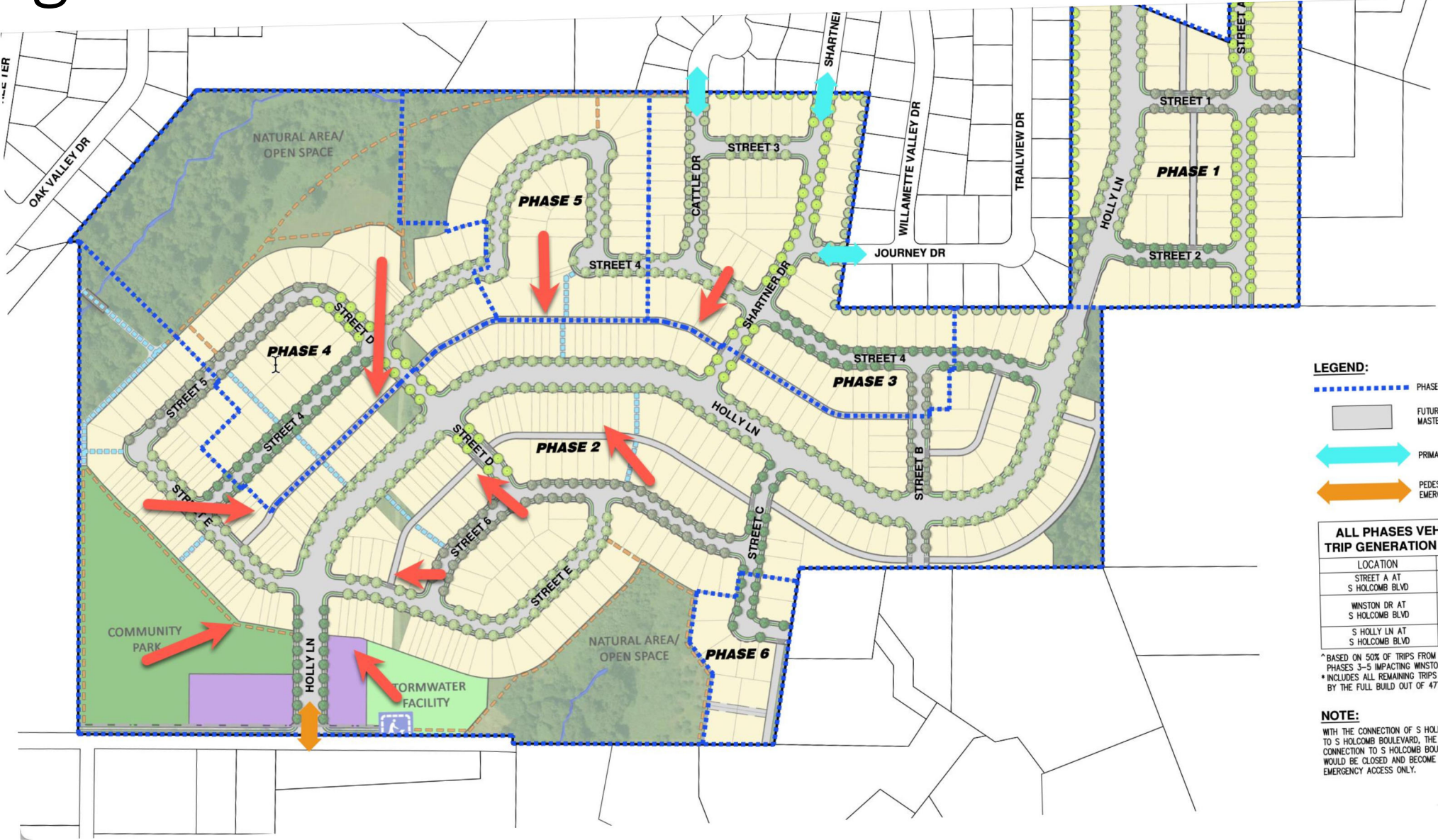


Holly Lane Extension

Housing density

- (Page 3) Existing low-density clusters
 - Properties along Lower Livesay Road and Holly Lane are expected to remain as low-density clusters in the foreseeable future. They will have the potential to transition to medium-density residential uses over time. However, in the near term they are expected to retain the lowest densities within the planning area.

Highest density lots are along Holly Lane



Impact of Increased Density Housing

- Examples of medium density housing:



Impact of Increased Density Housing

The Planet Camazotz

vs.

Happy Valley



Examples of Increased Density Housing

Can you find the park?



Increased Housing Density – The Dark Side

- Argument is to create increased affordability. However, increasing density does not necessarily make the houses cheaper, just increases how many houses can be sold at a still high premium by keeping square footage but limiting green space .
- The original Park Place Crossing Plan was designed to be a village, not a dystopic neighborhood devoid of green space except in small, not easily accessible designated areas.

The Village Green



A Better Way: The Parks at Broken Top

Item #1.

—as part of a 68 acre plan, [the builders] designed two community parks, and the open space areas. The landscape features include a park shelter with arbors, a pavilion with an interactive water feature, green spaces with native plants, and bicycle trails. This Craftsmen Style neighborhood enlisted Neo-Traditional design elements like alley fed garages that encourages pedestrian friendly streets and sidewalks and bike trails that are heavily used for recreation.



A Better Way



Community Gardening in Germany – The Schrebergarten

Named after Dr. Moritz Schreber – a 19th century German doctor. He insisted that children in the increasingly industrialised cities needed space to run around, and burn off energy.

Helped lower-income families as well as families living during the World Wars grow their own fruits and vegetables and prevented starvation

Today provide classes and workshops to teach people how to sow, garden, preserve seeds, etc.



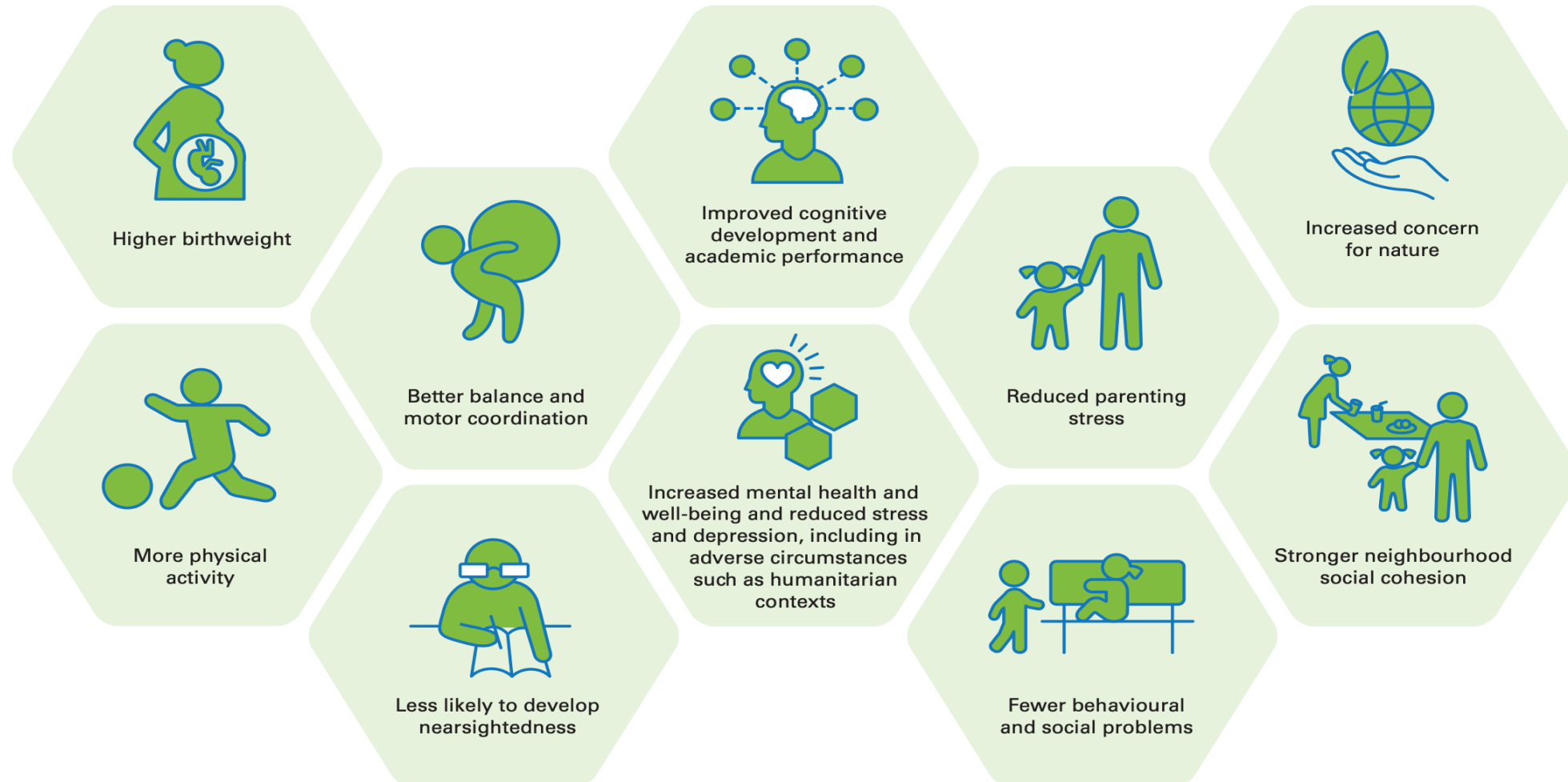
Why is Green Space So Important?

- The Necessity of Urban Green Space for Children's Optimal Development – a discussion paper produced by Unicef
- Examples of green space may include public and private parks, grassy lawns, home and community gardens, playgrounds, agricultural land, overgrown vacant lots, street trees, roadside verges, and green roofs.
- Violence and crime tend to decrease around green spaces, likely a result of increased social cohesion, more people spending time outdoors, and the perception of orderly, maintained spaces.

Benefit of Green Spaces

- In general, the greater diversity of natural elements in the space, the better, as the diversity enables a richer set of experiences for children.
- These elements may include a diversity of perennial plants, edible plants, trees, vines and shrubs, water elements, birds and other wildlife, shaded and sunny spaces
- Where possible, local and indigenous vegetation, adapted to the soil and climate, should be preserved or planted.

Positive Impact from Green Spaces



Community Actions for Increasing Green Space

Recommended Actions for Municipal Governments



Set child-responsive building and infrastructure regulations, land-use standards and plans, including standards for safe and accessible green spaces.

Support real estate developers to meet and exceed regulations on the inclusion of safe and accessible green space by new developments.



Conclusion

- Increased density of housing does not necessarily result in increased affordability, increased health, or increased social cohesion.
- It is important to have significant green space in urban/suburban settings in order to increase social cohesion, decrease anxiety and depression, increase livability and can be a significant sales point for all individuals seeking *healthy* and affordable living.
- The PPC was designed to be more of a village with a village green and increased green space/decreased density would be in keeping with this model

Conclusion

- Oregon City, the City of Trees, has an opportunity to be on the cutting edge of helping to design and create a truly modern, progressive design of urban living that integrates open spaces, sports fields, playgrounds, natural interactive areas, and community gardens for the health and benefits of all Oregonians choosing to live in this space.

Comment Cards PC 7.11.2022

Steve Sagi 7.11.2022

James Nicita 7.11.2022

Joanna Stram 7.7.2022

Nick Veroske Support Letter 7.6.2022

OCBA Support Comment Letter 7.6.2022

PC 7.11.2022 Planning slides

COMMENT FORM



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Date of Meeting

7/11/2021

Item Number From Agenda

1

NAME:

IAN Grady

ADDRESS:

Street:

15021 Journey Dr.

City, State, Zip:

OC. 97045

PHONE NUMBER:

503-557-2993

E-MAIL ADDRESS:

myg1976@msn.com

SIGNATURE:

ian grady

COMMENT FORM



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Date of Meeting

7/11/2022

Item Number From Agenda

1

NAME:

Becky Gray

ADDRESS:

Street: 16300 Trailview Drive

City, State, Zip: Oregon City, OR, 97045

PHONE NUMBER:

503-810-4949

E-MAIL ADDRESS:

BeckyGray1110@comcast.net

SIGNATURE:

Becky Gray

COMMENT FORM



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Date of Meeting

7-11-22

Item Number From Agenda

NAME:

Steve Sagi

ADDRESS:

Street:

16401 Cattle Dr.

City, State, Zip:

Oregon City, OR 97045

PHONE NUMBER:

503-969-6311

E-MAIL ADDRESS:

sagmanaur@yahoo.com

SIGNATURE:

COMMENT FORM



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Date of Meeting

7/11/22

Item Number From Agenda

NAME:

Stephen VanHavertbeke

ADDRESS:

Street:

16477 Oaktree Terr

City, State, Zip:

Oregon City, OR

PHONE NUMBER:

503.806.8631

E-MAIL ADDRESS:

steve@vanhavertbeke.org

SIGNATURE:

Stephen VanHavertbeke

COMMENT FORM



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Date of Meeting

7-11-22

Item Number From Agenda

PARK PLACE CROSSING

NAME:

CHRISTINE ROSINSKI

ADDRESS:

Street: HOLLY LN

City, State, Zip:

PHONE NUMBER:

503-654-1025

E-MAIL ADDRESS:

SIGNATURE:

Christine Rosinski

COMMENT FORM



PLEASE PRINT CLEARLY

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Date of Meeting

7/11/02

Item Number From Agenda

GLUA-21-00045

NAME:

KENT ZIGLER

ADDRESS:

Street: 2142 MARYWOOD CT

City, State, Zip: WEST Linn, OR

PHONE NUMBER:

97068

E-MAIL ADDRESS:

KENT ZIGLER 1@AOL.COM

SIGNATURE:

K. H. Zigler

COMMENT FORM



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Date of Meeting

7/11/

Item Number From Agenda

1

NAME:

TOM GEIL

ADDRESS:

Street: 16470 TRAILVIEW

City, State, Zip: OR 97015

PHONE NUMBER:

503-846-9267

E-MAIL ADDRESS:

SIGNATURE:

COMMENT FORM



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Date of Meeting

7-11-22

Item Number From Agenda

1

NAME:

RANDY POINDEXTER

ADDRESS:

Street: 1633 E TRAILVIEW DR.

City, State, Zip: OREGON CITY, OR 97045

PHONE NUMBER:

E-MAIL ADDRESS:

SIGNATURE:

COMMENT FORM



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Date of Meeting

July 11, 2022

Item Number From Agenda

Park Place Crossing

NAME:

James Nicity

ADDRESS:

Street:

302 Bluff St.

City, State, Zip:

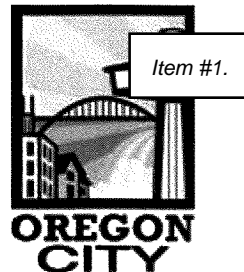
OC 97045

PHONE NUMBER:

E-MAIL ADDRESS:

SIGNATURE:

COMMENT FORM



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Date of Meeting

7/11/22

Item Number From Agenda

NAME:

Mark Hutt Bennett

ADDRESS:

Street:

15025 Smithfield P

City, State, Zip:

OC. OR 97045

PHONE NUMBER:

(503) 307-0791

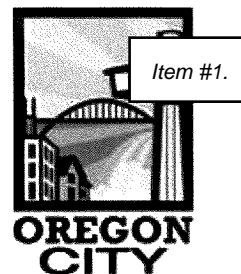
E-MAIL ADDRESS:

thesundancetid596@gmail.com

SIGNATURE:

Mark Hutt Bennett

COMMENT FORM



PLEASE PRINT CLEARLY

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Date of Meeting 7/11/22

Item Number From Agenda 1

NAME:

Dan Fowler

ADDRESS:

Street:

City, State, Zip: Oregon City, OR 97045

PHONE NUMBER:

503-351-4500

E-MAIL ADDRESS:

danf@abernethycenter.com

SIGNATURE:

Dan Fowler

Key points for 7/11/22 Icon/City meeting

- Good evening Members of the Planning Commission. Thank you for the time to allow me to voice some concerns about the proposed Park Place Crossing General Development Plan. I just want to say that at first, I wasn't against the proposed development. However, when I found out that the thru street to connect to Redland has been removed from the equation, at least for now, that raised a lot of red flags with me.
 - Pinch point issue
 - From what I understand, Phases 2-6 of the proposed Plan is contingent on a pinch point directly behind the home located at 15058 Journey Drive, AKA Tax Lot 314. Holly Lane and Street A would be the only other access to the future phases besides the current access on Winston Drive. I believe Icon has purchased that house with the intent to possibly utilize the back corner of the property to help with the pinch point. It also has been pointed out that due to HOA bylaws for that property, Icon cannot legally sell or utilize any portion of that property without direct HOA consent. Currently, the HOA is not approving any alteration to the property.
 - On Plan drawing EXH-6 a detail of the pinch point is shown. A typical Collector Road is shown that is 85' wide, whereas the proposed modified Collector Street is only 57'. That is a difference of 28'! I could understand if Icon was asking for a variance of 3' or maybe even 5', but they are proposing it to be 1/3 smaller than the City's standard. There is a reason there are standards for roads and this proposal clearly does not meet the standard, and it's not even close. Matter of fact, it barely meets the width needed to be classified as a Local Road of 54'. To compound the issue, at the pinch point there will be a slight curve in the road as seen on EXH-5. Until Icon can install a Collector Road that meets the standard, they should not be allowed to construct that road.
 - Traffic study
 - Was the traffic study performed considering all the other nearby new housing developments? About ¼ mile east on Holcomb almost 100 new homes were built over the past 2 years. Icon is currently building another 120+ homes across the street on Holcomb over the next 2 years. With the proposed almost 500 houses to be built over the next few years in the Trailview neighborhood that will add about 1,400 cars (2 per household) in about a 1/2-mile radius to Holcomb Blvd traffic. This will have a great impact on the congestion down the hill on Holcomb onto Redland. These are just the 3 developments that I know of, I'm sure there are more coming.
 - In the study it seems that they are proposing that some of the traffic will be on Shartner Lane. Although this is true regarding the new added on section of Shartner Lane, a good portion of the traffic will be utilizing the current portion of Cattle Drive traveling into the new development. It is unlikely drivers would travel on Cattle Drive turn on Buffalo Way and then to Shartner when they could simply travel down Cattle Drive into the new development and then make

the proper turns at Street 3 and 4. Using existing portion of Cattle Drive would be the most direct route to the housing marked Phase 2, most of 3, 4 and 5. These phases contain about 85% of the houses in the plan, approximately 400 homes or 800 cars.

- If you look at the existing Cattle Drive road, just prior to the new extension, there is a bit of an S-turn in the road between Buffalo Way and proposed Street 3. It doesn't look like much on the map, but if you were to drive that section right now there is impeded vision coming around the turns due to the fence line in front of the greenspace and if any cars are parked on the road. To add to the vision impediment there is a slight incline on Cattle Drive just before that turn. I live on that S-turn and I must be extremely careful coming around that first turn to make sure no one is coming the other way, and this is with virtually no traffic on the street currently. With the potential of 800 cars added to the traffic on that road, I believe this could become a major potential for accidents to occur. I would hope Icon and the traffic study is being diligent in taking into these considerations since it would be virtually impossible to address this situation after the homes are built.
- Parking
 - With the houses being stacked on top of each other, it doesn't appear there will be very much street parking in this development.
- Eminent Domain
 - I have a bad feeling if this project moves forward and is allowed to be built that down the road it will be found that the points I brought up above, among others, will then be addressed and the only solution at that time would be to use eminent domain to acquire the properties needed to make this work. Is that a fair solution? To take over people's property that are currently unwilling to sell so Icon can put in this development. The reason why myself and many others have bought homes in this area is to be away from all of the congestion found closer to the City. It seems like the proper way of doing this, is to do it correctly up front and wait for Icon to acquire the needed properties to Redland as described in the original Plan, and not rush this thru.

Steve Sagi
16401 Cattle Drive
503-969-6311

Pete Walter

From: James Nicita <james.nicita@gmail.com>
Sent: Monday, July 11, 2022 3:05 PM
To: Dirk Schlagenhauer; Mike Mitchell; Bob La Salle; Daphne Wuest; Patti Gage; Gregory Stoll; cstaggs@orcify.org
Cc: Oregon City Planning
Subject: Public Comment: "Baker Conflict" in GLUA-21-00045 / MAS-21-00006 / VAR-22-00001 Park Place Crossing General Development Plan - Response to Deputy City Attorney Pamplin Media Group - Former commissioner_ Park Place fiasco falls on city manager.pdf; Van Dyke v Yamhill Cnty Or LUBA 2018.pdf
Attachments:

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Planning Commissioners:

Please find attached for addition to the record in the above referenced case an article I recently wrote for the Oregon City News on the Park Place Crossing land use application. In addition, please add to the record these comments, which I respectfully submit in response to the June 30, 2022 memorandum from the deputy city attorney, Carrie Richter, regarding the Supreme Court case *Baker v. City of Milwaukie*, regarding the question as to whether the Park Place Concept Plan prevails over the Neighborhood Commercial zone in case of conflicts between the plan and the zoning ordinance.

In my article, I make the following statement:

Unfortunately, unlike in most other cities, in Oregon City the city manager, rather than the city council, hires the city attorney. Therefore, in my opinion, within the "municipal corporation" of Oregon City, these city attorneys owe their loyalty and ethical duties to their true, actual, and primary client, i.e., the city manager — the one person with the power to fire them.

Because of this, I believe that in land-use hearings neither the City Commission, nor by extension the Planning Commission (or the Historic Review Board), ever get unbiased legal "advice" from the city attorneys. Instead, the city attorneys communicate to these bodies legal "advocacy," that is, the city manager's — and staff's — preferred interpretation of the code, in order to convince these bodies to decide matters in the way the manager wants.

Ms. Richter's June 30 memo is an example, in real-time, of my contention.

Her memo is not unbiased legal advice. It is pure advocacy to advance a preferred interpretation and result that the city manager and staff want: namely, approval of the Park Place Crossing proposal, even to the detriment of the public interest of Oregon City and its citizens, and the evisceration of the Park Place Concept Plan.

I would overwhelm the Planning Commission if I tried at one time to respond to each contention in Ms. Richter's advocacy piece. I will have to do so over time, in discrete responses. As a point of departure, however, I do feel compelled to respond to her basic contention regarding the *Baker* case. I cite her argument in *italics*, then I respond with my own comments in **bold**:

In *Baker v City of Milwaukie*, the city of Milwaukie's zoning ordinance allowed a density of 39 units per acre on a particular piece of property, while the city's later-adopted comprehensive plan allowed only 17 units per acre. After the city issued building permits for neighboring property to develop at the more intensive density provided in the zoning ordinance, the plaintiffs filed a writ of mandamus to compel the city to suspend issuance of the building permits and amend the city's zoning ordinance to conform to the comprehensive plan's less intensive development density. The plaintiffs also sought to compel the city to modify the zoning to conform to the comprehensive plan. Agreeing with the plaintiffs, the Supreme Court explained that zoning is subordinate to planning because zoning is "the means by which the comprehensive plan is effectuated." The court held that the comprehensive plan controlled over the inconsistent and subordinate zoning ordinance that allowed for more intensive development than contemplated in the plan.

That said, in *Marracci v. City of Scappoose*, a case decided after *Baker*, the Court of Appeals considered a *Baker* challenge to a city decision to deny a conditional use permit for multi-family housing within a high density residential zone where multi-family development was contemplated. 26 Or App 131, 552 P2d 552, rev den, 276 Or 133 (1976). The court explained that *Baker* "does not stand for the proposition that every land-use determination must at all times literally comply with the applicable comprehensive plan." In that case, the Court found that, since the city of Scappoose's plan did not contain a timeline or other guidance on when more restrictive zoning may evolve into conformity with the plan, the policy judgment about what future use of land was best left to the local government.

JN Response: The proof that this is an advocacy piece and not unbiased legal advice is that it selects only one case that cites *Baker*, a case that Ms. Richter uses in support of the particular position she is advancing on behalf of her client, the city manager. Ms. Richter would have the Planning Commission believe that *Baker* only applies to conflicts over density.

Unbiased legal advice to the Planning Commission, by contrast, would have disclosed to the Planning Commission that cases have applied the *Baker* rule to a much broader range of plan conflicts than those pertaining to density. Here is a sampling from a brief search on a legal database:

A number of LUBA cases have cited *Baker* in considering local land use decisions on roads or trails that conflict with either comprehensive plans or transportation systems plans. Needless to say, these cases have nothing to do with density.

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- *JCK Enterprises v. City of Cottage Grove*,
- LUBA No. 2011-045 (2011) ("The city's TSP is part of the city's comprehensive plan, and to the extent there is any conflict between the TSP and the CGDC [Cottage Grove Development Code] on this point, the CGDC must give way.
- *Baker v. City of Milwaukie*,
- 271 Or 500, 533 P2d 772 (1975).") This case was decided after *Baker*
- and
- *Marracci*.
-
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-
- *GPA1 v City of Corvallis*,
- LUBA No. 2016-078 (2016)

-
-
-
- *Van Dyke v. Yamhill County*,
- 2018-061 (2018) (trail). This case is attached, with pertinent language highlighted in yellow. Please note again that this case is much more recent than
- *Baker*
- and *Marracci*.
- LUBA certainly did not think that *Baker*
- reduces everything to mere “policy judgment.” A comprehensive plan means something.
-

One case I found addressed a conflict regarding a plan’s requirement for sidewalks. Again this has nothing to do with density.

- *Wicks-Snodgrass v. City of Reedsport*, LUBA No. 95-240 (1997).

In short, I don’t believe the Planning Commission is getting unbiased legal advice, and it absolutely needs unbiased legal advice, particularly in a land use proceeding as consequential as the Park Place Crossing. It also needs independent legal counsel whose ethical and fiduciary obligations are strictly, and only, to the Planning Commission, and not to the city manager.

I hope the Planning Commission will consider one of the following options:

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- Retain independent counsel to advise it for the remainder of the Park Place Crossing proceedings; hired on the contractual basis
- that such counsel will recognize that its fiduciary obligations lie only with the Planning Commission.
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-
- Vote to request at the next meeting of the City Commission that the latter retain independent legal counsel for the Planning
- Commission for the remainder of the Planning Commission proceedings on Park Place Crossing; hired on the contractual basis that such counsel will recognize that its fiduciary obligations lie only with the Planning Commission..
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- **Recommend to the City Commission in its decision document or otherwise that the City Commission retain independent legal counsel**
- **for the City Commission for any local appeal of the Park Place Crossing land use decision from the Planning Commission; hired on the contractual basis that such counsel will recognize that its fiduciary obligations lie only with the City Commission.**
-

Thank you for considering these comments.

James Nicita
Oregon City

Former commissioner: Park Place fiasco falls on city manager

James Nicita June 01 2022

James Nicita: Oregon City officials can ensure Icon develops in strict compliance with concept plan.

Recent editorials in this newspaper on the proposed Park Place Crossing development give the impression that the land-use hearings on this proposal have become a train wreck of sorts, and they criticize the developer, Icon Construction, for the proposal's shortcomings.

I agree in part, but respectfully dissent, in part. In my opinion, primarily liability for any train wreck lies with our city manager, Tony Konkol, in both his breach of his charter duties and his poor management and oversight of planning in Oregon City.

To frame my convictions, let me relate how I came to Oregon City. In 2006, I was working as a senior planner for a surveying and civil engineering firm that specialized in small infill subdivisions. I visited Oregon City to secure development approval for one such subdivision out along Maplelane Road. On these visits, I was attracted to Oregon City's historic character, and discovered the house in which I now live.

As a planner, both my firm and I had ethical duties to advance the interests of our developer clients. If our clients wanted to "swing for the fence" and maximize profit by squeezing as many lots into a subdivision as they could, we would use our talents and skills to do everything that was legally and ethically within the limits: ask for variances, argue for a certain interpretation of code, etc.

Sometimes, the reviewing authority would give a response akin to "You gotta be kidding." If they had discretion, planners in certain jurisdictions would tell us that the public interest was not served by our proposal, and they would flatly deny our application. Then we would go back and change the application, for example, to propose fewer lots. It was still profitable; it just wasn't as profitable as the "swing for the fence."

With the Park Place Crossing application, Icon and its consultants are "swinging for the fence," and in a manner that I believe not only contravenes the public interest, but also crosses the line into noncompliance with the Park Place concept plan. The proposal as submitted virtually destroys the central feature of the Park Place concept plan itself: namely, the little "Main Street" village along Livesay Road.

The proposal maximizes lots — and profit — by placing many extra lots directly on top of a large park mapped out in the concept plan. To compensate, the proposal shifts the park down to the north side of Livesay Road, and virtually wipes out the north side of the "Main Street" village.

Park Place developers now envision one rump corner of small retail, rather than the robust four-block Main Street village of mixed uses, including 2-3 floors of residential densities above street-level commercial, that the text of the concept plan describes.



Figure 9: Planned PPCMP area with conceptual park area

Figure 10: Conceptual PPCP park area

(<https://pamplinmedia.com/images/artimg/00003736939036-0600.jpg>)

Item #1.

But the village is key to the livability and quality of life strategies of the entire concept plan: for example, by allowing residents to obtain a substantial variety of goods and services within walking/biking distance, and thereby reducing vehicle trip generation in and out of the neighborhood.

On the one hand, Icon's consultants are doing what they are obligated to do in "swinging for the fence," making arguments and offering evidence that their proposal complies with the concept plan, the comprehensive plan and city code. I get that. I've done that. On the other hand, however, Icon and its consultants have breached the limits.

But the train wreck results from the city's response.

In other jurisdictions, city staff would have told Icon, "You gotta be kidding," and would have rejected the application instantly as noncompliant, or alternatively, recommended denial in the staff report to the subsequent review authority.

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Instead, Oregon City staff simply folded on the opening offer.

Worse, the staff report aggressively advocates for Planning Commission approval of the proposal, and tries to obscure how badly the proposal does not comply with the Park Place concept plan and municipal codes.

Here, the buck stops with the city manager, Tony Konkol, who is himself a trained and certified planner. The City Charter imposes on him the specific duty to "see that all ordinances are enforced." That would include plans, such as the Park Place concept plan, which are adopted via ordinance. I have a long list of ways in which I believe Konkol has breached this particular charter duty, including some that have compromised the integrity of the review of the Park Place Crossing proposal.

The citizens of Oregon City, through their elected City Commission representatives in enacting the ordinance adopting the Park Place concept plan, have mandated through the text of that plan that "main street" design standards will be promulgated for the "Main Street" village along Livesay Road.

Konkol served for years as the City's community development director. During that time, the Park Place concept plan's mandate for "main street" design standards went unfulfilled. Now as city manager, he is in ongoing breach of his duties under the charter to see that this particular aspect of the Park Place concept plan is enforced.

Konkol has also overseen the recent chaos in the planning division, including the recent high turnover, staff departures and formal citizen complaints.

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Because all city staff are employees and agents of the city manager, the charter duty to ensure compliance with city code accrues to them as well. That should go without saying. Konkol is ultimately liable for the staff report's acceptance of the unlawful evisceration of the "Main Street" village.

I struggle to think that Kelly Reid, the staff planner assigned to the Park Place Crossing application, and her supervisor, new community development director Aquila Hurd-Ravich, would actually want to wipe out the "Main Street" village in the Park Place concept plan. Urban design was by far the most inspiring part of my planning education; I can't imagine that it would not have inspired theirs as well, at least to some degree.

But if their boss Konkol does not care about the "Main Street" village, (as his failure to bring forth the "main street" design standards suggests), and he gives his staff strict marching orders to secure approval of the current application notwithstanding its evisceration of the village, what are they to do?

The same could be said regarding two of Konkol's other employees, city attorney Bill Kabeiseman and the deputy city attorney, Carrie Richter. Outside of Oregon City, these two attorneys represent citizens groups in public interest land use cases, with a good track record. Ms. Richter, assigned to the Park Place Crossing hearings, trained as an architect prior to attending law school.

Unfortunately, unlike in most other cities, in Oregon City the city manager, rather than the city council, hires the city attorney. Therefore, in my opinion, within the "municipal corporation" of Oregon City, these city attorneys owe their loyalty and ethical duties to their true, actual, and primary client, i.e., the city manager — the one person with the power to fire them.

Because of this, I believe that in land-use hearings neither the City Commission, nor by extension the Planning Commission (or the Historic Review Board), ever get unbiased legal "advice" from the city attorneys. Instead, the city attorneys communicate to these bodies legal "advocacy," that is, the city manager's — and staff's — preferred interpretation of the code, in order to convince these bodies to decide matters in the way the manager wants.

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To me it's all a big conflict of interest, but I certainly do not remember ever having heard the city attorneys (or their predecessor) disclose such a conflict of interest, raise the issue of whether such a conflict exists.

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In a normal city, the city attorneys would shut down the Park Place Crossing "swing for the fence" application as grossly noncompliant with the Park Place concept plan: they would proactively raise a big red flag of noncompliance to staff, and failing that, to the final decision makers and the public, in a public hearing.

But in Oregon City the Park Place Crossing train, as if without a brakeman, jumped the tracks, and we now have the current train wreck.

My past experience as a private planning consultant practicing in other jurisdictions, as well as my often-frustrating experience both as an elected and as an appointed Oregon City official participating in panel reviews of initial applications and appeals of land use proposals, gave me the sense of a continuum. Some cities are hard-nosed, and reject initial land use applications regularly, unless an applicant meets the high bar of public interest.

Oregon City, unfortunately, is on the other end of the continuum. It seems to have a dispiriting lack of self-respect and self-esteem, to the point where caving on land use applications is the default, to the detriment of citizens' quality of life.

Oregon City's Planning Commission could begin the long twilight process of changing these old patterns. It could self-confidently look Icon in the eye and say, "You gotta be kidding." If the Planning Commission denied the unlawful "swing for the fence" application, Icon and its consultants would come back with a compliant one.

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Ideally, approval of that subsequent application would be based on removal of the parkland away from the "Main Street" village on Livesay Road and would be conditioned upon 1) the adoption of the "main street" design standards required by the Park Place concept plan, and 2) compliance by all future development in the "Main Street" village with those design standards.

The very good news is, Icon can do it right. In fact, I would say that Icon is particularly suited to developing Park Place Crossing in strict compliance with the Park Place concept plan. When I think of what the "Main Street" village in Park Place would look like, the image that comes to mind is West Linn's historic Willamette district, where Icon constructed an extension to the district in architectural styles consistent with its historic character. (<https://pamplinmedia.com/images/artimg/00003736938896-0600.jpg>)



COURTESY PHOTO: JIM NICITA - Icon constructed an extension to West Linn's Willamette district, in architectural styles consistent with its historic character.

Here in Oregon City, working within Historic Review Board review, Icon renovated the historic M.M. McCarver House and constructed surrounding homes that are in design delightfully sympathetic to the original home's 1850s board-and-batten style.

If Icon can do it right, there is no reason why Oregon City shouldn't do it right.

Former Oregon City Commissioner and Historic Review Board member James Nicita has earned degrees in planning and law.

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Emily Freebird • 15 days ago

wonderfully put Jim, and thank you for all your insights- which based on the park place hearing- are fully supported by the residents of OC

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Douglas D • 15 days ago

Well said Jim. Carefully reasoned and carefully supported.

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patti r webb • 16 days ago • edited

Well said Mr Nicita. Thank you very much.

Myself and many, many others are tired of Mr Konkle and his staff forgetting that they are employed to serve the citizens of Oregon City, not the City Manager.

With a mayoral election nearing, I've heard many voters voice just one requirement- replace Konkle. Please, please replace Mr Konkle with a City Manager that works for the best interests of Oregon City and its citizen's livability, not the benefit of outside developers. Thank You

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**JIM VAN DYKE, JULIE VAN DYKE, MARK
VAN DYKE, VELMA VAN DYKE,
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DYKE, BEN VAN DYKE FARMS INC.,
BRIAN SCHMIDT,
SCOTT BERNARDS, LESTER SITTON,
BROOK SITTON, ALLEN SITTON,
TIM PFEIFFER, MARYALLICE PFEIFFER,
RICHARD CLOEPFIL, CHRISTY
CLOEPFIL,
TOM HAMMER, KELSEY FREESE,
HAROLD KUEHNE, JOLENE KUEHNE,
ERIC HUEHNE, MARK GAIBLER, GREG
MCCARTHY, DARREN SUTHERLAND,
and B.J. MATTHEWS, Petitioners,
and
KRIS WEINBENDER, Intervenor-
Petitioner,
v.
YAMHILL COUNTY, Respondent.**

LUBA No. 2018-061

**LAND USE BOARD OF APPEALS OF THE
STATE OF OREGON**

December 20, 2018

FINAL OPINION AND ORDER

Appeal from Yamhill County.

Wendie L. Kellington, Lake Oswego, filed the petition for review and argued on behalf of petitioners and intervenor-petitioner. With her on the brief

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was Kellington Law Group PC.

Timothy S. Sadlo, Assistant Yamhill County Counsel, McMinnville, filed the response brief and argued on behalf of respondent.

BASSHAM, Board Member; ZAMUDIO, Board Member, participated in the decision.

RYAN, Board Chair, did not participate in the decision.

You are entitled to judicial review of this Order. Judicial review is governed by the provisions of ORS 197.850.

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Opinion by Bassham.

NATURE OF THE DECISION

Petitioners appeal Ordinance 904, which amends the county transportation system plan (TSP) to (1) acknowledge county ownership of a 12.48-mile segment of a railroad corridor, and (2) authorize development of a recreational trail within a 2.82-mile segment of the corridor that runs between the cities of Yamhill and Carlton.

FACTS

The rail corridor at issue is part of a longer rail corridor that was established by the Oregon Central Railroad Company in 1872, after the railroad acquired deeds to the 60-foot-wide corridor from adjoining property owners. Rail operations ceased in the early 1980s, and some of the track was removed. Since the 1990s, various groups have advocated converting the corridor to a recreational trail. In 2012, the county adopted Ordinance 880, which amended the TSP to designate the entire corridor segment within the county as a future rails-to-trails project, and recommended acquiring portions of the corridor and constructing a recreational path within the existing railroad right of way.

The county obtained grants to study a rails-to-trails conversion, including design of three bridges that must be constructed. Starting in 2015, the county held a number of planning sessions. In November 2017, the county paid the then-current owner of the rail corridor \$1.4 million for a quitclaim deed to a 12.48-mile segment of the rail corridor (the corridor).

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On April 3, 2018, the county initiated legislative proceedings leading to the adoption of

the ordinance challenged in this appeal. The ordinance (1) acknowledges that the county owns the 12.48-mile segment of the rail corridor,¹ and (2) authorizes "immediate development" of a 2.82-mile segment that runs between the cities of Yamhill and Carlton. This 2.82-mile segment of the corridor is largely within an area that is planned for agricultural use and zoned exclusive farm use (EFU), although on a portion of the segment half of the corridor is zoned Agriculture-Forestry Small Holding District (AF-10).

Although the proceedings were conducted pursuant to county procedures that govern legislative decisions, which generally do not require individual notice, the county mailed notice of hearings to property owners within 750 feet of the corridor. On May 3, 2018, the planning commission conducted a hearing, at which petitioners, who own agricultural land adjacent to the corridor, appeared in opposition. Petitioners provided testimony regarding impacts of the proposed trail on adjoining farm practices. Among the issues raised by the Oregon Farm Bureau and others was whether proposed construction of the recreational trail required findings of compliance with ORS 215.296, which generally require findings that non-farm uses allowed in the EFU zone do not force a significant change in accepted farm practices on

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surrounding lands devoted to farm use, or significantly increase the cost of accepted farm practices on such lands. *See* n 4. In addition, opponents raised issues regarding whether the county is the legal owner of the corridor, taking the position that, notwithstanding the quitclaim deed granted to the county, when the railroad use ceased in the 1980s the ownership of the corridor reverted to the adjoining landowners.

A motion to recommend approval of the draft ordinance failed, 4-4, and the planning commission ultimately voted to forward the ordinance to the board of commissioners without recommendation.

On May 11, 2015, the assistant county counsel (who was also acting as the applicant) submitted proposed findings taking the position that the proposed recreational trail is not subject to ORS 215.296. In the alternative, the proposed findings addressed the requirements of ORS 215.296 and the testimony regarding impacts on farm practices and concluded that ORS 215.296 is satisfied, based on identified means of mitigation or minimization of impacts to farm practices. Record 322.

On May 15, 2018, the board of commissioners conducted a hearing on the ordinance. At the conclusion of the May 15, 2018 hearing, the three commissioners deliberated and voted 2-1 against the proposal, with Commissioner Starrett and Olson voting against. Record 223. Following the May 15, 2018 hearing, county counsel, the county administrator and the deputy county administrator met with Commissioner Olson in a successful attempt to

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persuade him to change his vote. On May 22, 2018, the county mailed notice that the board of commissioners would reconsider the May 15, 2018 vote at a May 31, 2018 formal session.

On May 30, 2018, the commissioners met in formal session. Although the notice stated that no additional testimony would be received, the commissioners allowed public testimony. At the conclusion of the session, Commissioner Olson made a motion to reconsider the original motion that was rejected on May 15, 2018. The motion to reconsider passed 2-1. On reconsideration, the motion to approve the proposed ordinance passed 2-1. Exhibit A of Ordinance 904 consists of revised findings proposed by the assistant county counsel, which include additional findings and conditions intended to ensure compliance with ORS 215.296.

This appeal followed.

INTRODUCTION

Petitioners advance six assignments of error. The fifth and sixth assignments of error involve procedural or process matters that we address first, because their resolution could affect how we resolve the remaining assignments of error. We next address the first, second and third assignments of error, which challenge the county's findings regarding compliance with ORS 215.296 and county land use regulations implementing ORS 215.296. Finally, we address the fourth assignment of error, which challenges the county's failure to

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adopt findings addressing the issue raised below regarding whether the county legally owns the corridor.

FIFTH ASSIGNMENT OF ERROR

As noted, the county processed the application as a legislative action. Petitioners argue that both the county code and state law required the county to process the application under quasi-judicial procedures, subject to ORS 197.763 and local quasi-judicial equivalents. Among other things, petitioners argue that the county's failure to process the application under quasi-judicial procedures meant that petitioners were denied several procedural protections, including the right to a request continuance of the evidentiary hearing and a decision free of undisclosed ex parte contacts pursuant to ORS 215.422(3) and Yamhill County Zoning Ordinance (YZCO) 1402.

We agree with petitioners. As explained under the first and third assignments of error, discussed below, the proposed recreational path is a transportation facility or improvement allowed in the county EFU zone as a conditional use, pursuant to YCZO 402.04(N).² A proposed land use that

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requires a conditional land use permit must be processed under quasi-judicial procedures. YCZO

402.04 specifies that conditional uses in the EFU zone are subject to conditional use criteria in YCZO 1202 and 402.07(A), and "shall be reviewed under the Type B procedure of Section 1301," which is one of the county's quasi-judicial review procedures. For that reason alone, we agree with petitioners that the county erred in processing the application under county legislative, rather than quasi-judicial, land use procedures.

In addition, we agree with petitioners that under state law the decision must be viewed as a quasi-judicial decision. In *Strawberry Hill 4-Wheelers v. Board of Comm.*, 287 Or 591, 602-603, 601 P2d 769 (1979), the Oregon Supreme Court established a three-factor test to determine whether a land use matter is quasi-judicial or legislative:

1. Is the process bound to result in a decision?
2. Is the making of the decision bound to apply preexisting criteria to concrete facts?
3. Is the matter directed at a closely circumscribed factual situation or a small number of persons?

No factor is determinative, but answering two or three of the questions in the affirmative suggests that the matter is quasi-judicial in nature. *Id.*

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Petitioners argue that all three factors point to the conclusion that the matter is quasi-judicial, and we agree. The process was initiated by a land use application that, among other things, sought final county land use approval to construct improvements for a proposed transportation facility. The county argues that the board of commissioners could have tabled proceedings on the application at any point, and was free at all times to refuse to make any decision on the application. However, the county cites to nothing in the county code or elsewhere that purports to authorize the county to refuse to make a decision

on a land use application pending before it that, among other things, seeks approval to construct a transportation facility.

The second factor—application of preexisting criteria to concrete facts—also points to a quasi-judicial decision. As discussed below, the county was required to apply discretionary approval standards that implement ORS 215.296, which address impacts on farm practices on land adjoining the 2.82-mile segment of rail corridor. As noted, the county's findings in fact address compliance with ORS 215.296, address a number of specific impacts to farm practices that were raised by participants below, and impose conditions intended to mitigate or avoid such impacts.

For similar reasons, the third factor—whether the matter is directed at a closely circumscribed factual situation or relatively small number of persons—also points to a quasi-judicial decision. The county argues that the proposed 2.82-mile segment of trail, once constructed, will be enjoyed by many

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thousands of bicyclists and pedestrians from across the county and the region, and further that the farm impacts addressed in the decision affect 40 different parcels and 34 different property owners. However, in the context of a transportation facility the focus under this factor is not on the number of people that will use the facility on a daily or annual basis, as otherwise this factor would suggest that approval of virtually any and all transportation facilities would constitute legislative decisions. The focus instead is on whether the characteristics of the proposed transportation facility, including its size and location, are such that the land use consequences are disproportionately concentrated on a relatively small pool of persons, as opposed to a larger region or the general population. Here, the decision approves construction of a 2.82-mile recreational path that, surrounding farmers allege, will cause specific and direct adverse impacts on a relatively small number of adjacent

farm operations. We conclude that the third *Strawberry Hill* factor is met and consideration of all three factors indicates that the county's action is quasi-judicial in nature.

Accordingly, the county erred in processing the application under its legislative rather than its quasi-judicial procedures. Consequently, the county was required to process the application pursuant to quasi-judicial procedures at YCZO 1301, and further was required to conduct any land use hearings pursuant to procedures implementing ORS 197.763.

Under ORS 197.835(9)(a)(B), LUBA shall remand a decision where the local government "[f]ailed to follow the procedures applicable to the matter

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before it in a manner that prejudiced the substantial rights of the petitioner." Petitioners argue that the county's failure to follow quasi-judicial procedures prejudiced their substantial rights, noting the planning commission rejected their request to continue the initial evidentiary hearing to allow submission of additional evidence, a request that the county is obligated to grant under local quasi-judicial procedures implementing ORS 197.763(6). The county generally disputes that any procedural error prejudiced petitioners' substantial rights, but does not respond to petitioners' specific allegations of prejudice for failure to comply with ORS 197.763. Accordingly, we agree with petitioners that the county's failure to follow quasi-judicial procedures implementing ORS 197.763 prejudiced their substantial rights, and that remand is necessary for the county to review the application under the appropriate quasi-judicial procedures.³

The fifth assignment of error is sustained.

SIXTH ASSIGNMENT OF ERROR

As noted, the application initially failed to gain approval at the May 15, 2018 board of

commissioners' meeting. However, on May 30, 2018, the commissioners met and voted 2-1 to reconsider their May 15, 2018 decision and ultimately voted 2-1 to approve the application. Petitioners argue that the May

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15, 2018 denial was the county's final decision, because the motion for reconsideration was improper under YCZO 900, section 5.02, which provides:

"A motion to reconsider any item may be made only by a commissioner who voted with the majority on the question or a commissioner who was absent for the vote. Such a motion can be made only at the same meeting that the original motion was adopted, or at the next formal session."

Petitioners contend that the motion to reconsider was improper because the "item" voted on at the May 31, 2018 meeting—approval or denial of the application based on modified findings and additional conditions of approval—was not the same "item" that was the subject of the May 15, 2018 vote resulting in denial of the application. Because the findings and conditions were modified, petitioners argue, the matter before the commissioners was not the same "item" and therefore YCZO 900, section 5.02 does not provide a basis to reconsider the county's otherwise final May 15, 2018 denial.

The county does not respond to petitioners' arguments regarding the meaning of "item" and whether YCZO 900, section 5.02 is properly understood to allow reconsideration of an item that, following the initial vote, has been modified. Nonetheless, petitioners' arguments do not provide a basis for reversal or remand. As explained, remand is necessary for the county to conduct new proceedings that comply with quasi-judicial procedures, the result of which will be a new vote on whether or not to approve the application. Accordingly, there is no point in

resolving petitioners' challenges to the alleged error in reconsidering the May 15, 2018 denial.

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We do not reach the sixth assignment of error.

FIRST AND THIRD ASSIGNMENTS OF ERROR

Under the first assignment of error, petitioners challenge the county's finding that the application is not subject to the standards in ORS 215.296(1).⁴ Petitioners also challenge the county's alternative findings of compliance with ORS 215.296. Alternatively, petitioners argue that even if ORS 215.296 does not apply to the proposed transportation facility, the facility is a conditional use under the county's EFU zone, and therefore subject to YCZO 402.07(A), which implements ORS 215.296 in identical terms. For the same reason, petitioners argue under the third assignment of error that the application is subject to the conditional use standards at YCZO 1202, which the county failed to address. Finally, petitioners argue that a portion of the rail corridor is within the AF-10

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zone, a residential zone in which a transportation facility of this kind is not authorized at all.

As discussed under the fifth assignment of error, remand is necessary in any event for the county to conduct new evidentiary proceedings consistent with ORS 197.763, which will result in a new decision based on a different evidentiary record and, most likely, different findings. Accordingly, we address here only the legal issues raised by the parties regarding the applicable criteria. For the reasons below, we agree with petitioners that the proposed facility is a conditional use in the county EFU zone and hence subject to the standards at YCZO 402.07(A) and 1202. Because the standards at YCZO 402.07(A) replicate the standards at ORS 215.296, we need not resolve whether ORS 215.296 applies directly.

Finally, because the decision must be remanded for a new decision based on new evidentiary proceedings, we do not reach petitioners' adequacy and evidentiary challenges to the county's present findings of compliance with ORS 215.296.

A. YCZO 402.04(N)

As noted above, Ordinance 904 approves the "immediate development" of a 2.82-mile segment of the rail corridor as a recreational bicycle and pedestrian path, including construction of a bridge. Under the third assignment of error, petitioners argue that the approved development is a "transportation facility[y] or improvement[]" listed as a conditional use in the county EFU zone

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under YCZO 402.04(N). *See* n 2. YCZO 402.04(N) authorizes as a conditional use in the EFU zone:

"Roads, highways and other transportation facilities and improvements not allowed under Subsections 402.02(K) or 402.04(J), subject to compliance with OAR 660-12."

The county's findings do not address YCZO 402.04(N) or take the position that the proposed facility is not a facility described in YCZO 402.04(N). On appeal, we do not understand the county to dispute that a recreational path of the kind approved here is a "transportation facilit[y] and improvement[]" for purposes of YCZO 402.04(N), and hence categorized as a conditional use in the county EFU zone. Nonetheless, the county argues that no conditional use permit under YCO 402.04(N) is needed in this case for the approved development, because the transportation facility is authorized in the county TSP pursuant to Ordinance 880. As noted, in 2012, the county adopted Ordinance 880, which amended the TSP to designate the entire corridor segment within the county as a future rails-to-trails project, and recommended acquiring portions of the corridor and

constructing a recreational path within the existing railroad right of way. We do not understand the county to dispute that, in the absence of Ordinance 880, a conditional use permit would be required to authorize construction of the recreational path. However, the county contends that no conditional use permit is required in this case because the county's TSP already authorizes the proposed development.

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We disagree with the county. That the county's TSP includes language recommending that the county acquire property to develop a transportation facility does not mean that whatever land use permits are required to actually construct the facility under the local code or state law are thereby waived. The county could of course choose to approve whatever land use permits are required under law at the same time it approves an amendment to its TSP, but the latter is not a substitute for the former, or vice versa.

The county correctly notes that a decision that determines "final engineering design, construction, operation, maintenance, repair or preservation of a transportation facility which is otherwise authorized by and consistent with the comprehensive plan and land use regulations" is excluded from the definition of "permit" at ORS 215.402(4).⁵ That class of decisions is also excluded from the definition of "land use decision" subject to LUBA's review,

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at ORS 197.015(10)(b)(D).⁶ However, that class of decisions does not include land use decisions that are subject to discretionary conditional use permit approval standards. Stated differently, a decision that approves, for example, the "final engineering design" or "construction" of a transportation facility that is otherwise authorized by and consistent with a local TSP would fall within the definitional exclusions to ORS 215.402(4)(c) and ORS 197.015(10)(b)(D) only if there were no discretionary land use

approval standards that must be applied to that decision, for example, if a transportation facility or improvement is an outright permitted use in the applicable zone. However, where the proposed facility is categorized as a conditional use in the applicable zone the local government can approve construction of the facility only after first addressing the applicable conditional use standards.

The county also cites to OAR 660-012-0050(3), part of the Transportation Planning Rule addressing project development.⁷ We understand

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the county to argue that approval of the proposed recreational path constitutes "project development," which need not require any land use decision-making, and that all land use authorizations necessary to approve the recreational path

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were fully accomplished by the adoption of Ordinance 880. However, OAR 660-012-0050(3) provides no support for that argument. As OAR 660-012-0050(4) and (5) make clear, project development can avoid application of land use standards and decision-making only if all applicable standards have been applied and required decision-making have been made by the time of project development. The county did not, in adopting Ordinance 880 or at any other prior time, apply to the proposed facility the conditional use standards that govern development of transportation facilities in the county EFU zone under YCZO 402 and 1202. Nothing cited to us in OAR 660-012-0050 or elsewhere purports to authorize the county to waive otherwise applicable, mandatory, discretionary land use approval standards when approving a transportation facility or improvement.

In sum, we agree with petitioners that the proposed facility is a conditional use in the county

EFU zone, and the county erred in failing to apply the applicable conditional use standards at YCZO 402 and 1202. Relatedly, we agree with petitioners that a decision approving a transportation facility under discretionary conditional use permit standards in YCZO 402 and 1202 is a "permit" decision as defined at ORS 215.402. *See* n 5. As a consequence, the application for the proposed transportation facility must be approved subject to procedures consistent with ORS 215.416.

The third assignment of error is sustained.

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B. AF-10 Zone

As noted, a portion of the rail corridor adjoins a residential area zoned AF-10, and the AF-10 zone apparently extends to the midpoint of the rail corridor, so in that portion half of the corridor is zoned EFU and half AF-10. Petitioners argue that the AF-10 zone does not allow as a conditional or permitted use a transportation facility of this kind, and is in fact prohibited.⁸

The county does not dispute that the AF-10 zone does not allow the proposed recreational trail. However, we understand the county to argue that the prohibition on non-listed uses in the AF-10 zone cannot prevent the county from approving a non-listed recreational trail use in the AF-10 zoned portion of the corridor, because the TSP as amended by Ordinance 880 recommends that the county acquire the rail corridor and construct a trail on a portion of the corridor.⁹

Although not entirely clear, the county appears to be arguing that any conflict between the AF-10 zone and the TSP must be resolved in favor of the

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TSP, because the TSP is part of the comprehensive plan, and hence hierarchically superior to the zoning ordinance. *See Baker v. City of Milwaukie*, 271 Or 500, 514, 533 P2d 772 (1975) (a zone cannot allow a residential density

that is prohibited by the underlying comprehensive plan designation).

The county's decision does not address the AF-10 zone prohibition on unlisted uses, including transportation facilities such as the proposed trail, and nothing in the record cited to us suggests that the county even considered the issue. We agree with petitioners that remand is necessary for the county to consider that issue and adopt any findings or measures necessary to avoid or resolve conflict between the TSP and the AF-10 zone.¹⁰

C. ORS 215.296

Under the first assignment of error, petitioners challenge the county's conclusion that ORS 215.296 does not apply to the proposed recreational trail. Petitioners also challenge the adequacy and evidentiary support for the county's alternative findings that the requirements of ORS 215.296 are met, with the conditions imposed.

As explained above, the proposed trail is a conditional use in the county EFU zone under YCZO 402.04(N), which is subject not only to the conditional use permit standards at YCZO 1202, but also the farm impact standards at

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YCZO 402.07(A), which is the local implementation of ORS 215.296.¹¹ Thus, even if ORS 215.296 does not apply directly, its substantive requirements apply via YCZO 402.07(A). Accordingly, there is no need in this opinion to resolve the rather complex legal arguments regarding whether ORS 215.296 applies directly.¹²

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Because the substantive requirements of ORS 215.296(1) and YCZO 402.07(A) are identical, the county's findings addressing the statute can also serve to address the code equivalent. However, there is no point in resolving the parties' disputes over the adequacy and evidentiary support for the

present findings of compliance with ORS 215.296, because the decision must be remanded in any event for new evidentiary proceedings, and on remand the evidence and likely the findings addressing the farm impact standards will

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change. Accordingly, we decline to resolve petitioners' challenges to the adequacy and evidentiary support for the present findings.

The third assignment of error is sustained; the first assignment of error is sustained in part.

SECOND ASSIGNMENT OF ERROR

The county's findings address whether the proposed plan amendment is consistent with the statewide planning goals. With respect to Goal 3, the findings state that due to compacted rail ballast within the corridor "[m]uch of the corridor is no longer suitable for growing crops[.]" Record 23. Petitioners challenge that finding, arguing that is not supported by substantial evidence. Petitioners cite to testimony that surrounding farmers grow crops within the rail corridor (presumably in areas not covered by rail ballast). Further, petitioners argue that whether the land remains "agricultural land" subject to Statewide Planning Goal 3 (Agricultural Lands) depends not only on whether the soils can grow crops, but also whether the land is "necessary to permit farm practices to be undertaken on adjacent or nearby agricultural lands." OAR 660-033-0020(1)(a)(C). Petitioners cite to testimony that some of the farmers who own or farm land on both sides of the corridor drive equipment across the corridor at frequent intervals during harvest operations.

The county responds that the county's findings of consistency with Goal 3 are supported by substantial evidence. The county argues that the fact that some farmers may (illegally) grow crops within the corridor does not

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undermine the county's finding that much of the rail corridor is covered with compacted ballast. The county also argues that the county did not find, and did not need to find, that the rail corridor is no longer "agricultural land" for purposes of Goal 3, only that the proposed recreational path is consistent with Goal 3. We agree with the county. A recreational trail approved under the applicable standards can be consistent with Goal 3, even if the rail corridor still qualifies as "agricultural land" as defined in Goal 3. Petitioners' arguments under the third assignment of error thus do not provide a basis for reversal or remand.

The second assignment of error is denied.

FOURTH ASSIGNMENT OF ERROR

As explained above, opponents argued to the county that the county did not in fact own the rail corridor, which according to opponents' legal theory had reverted to the adjoining land owners when the railroad use ceased in the 1980s. The county's findings did not address that issue. On appeal, petitioners argue that the county has the burden to demonstrate that it is the legal owner of the rail corridor, which as a matter of law can be established only if the county files and prevails in a quiet title action in circuit court, the only review body with jurisdiction to definitely determine ownership. Alternatively, petitioners argue that even if the county does not have that burden, the county is nonetheless obligated to adopt findings addressing the issue and establishing that it is feasible for the county to prevail in a quiet title action.

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The county responds that the county, as deed owner of the rail corridor, has sufficient authority, without more, to file a land use application to develop the corridor, and that the county has no obligation to establish by means of a quiet title action or any other process that no other person is the legal owner as a condition precedent to proceeding on its land use application.

We agree with the county. While the county requires the landowner or authorized agent to sign the land use application form, the undisputed fact that the applicant owns the deed to the subject property is sufficient, without more, to authorize the county to proceed on the application. The applicant is not required to file and win a quiet title action in circuit court as a condition precedent to filing the application, simply because another party disputes the applicant's title under a legal theory that can be resolved only in circuit court. In such circumstances, neither the county nor LUBA is in a position to resolve the legal dispute over whether the applicant/deed owner's title is good. For that reason, the county is also not obligated to adopt findings resolving the title dispute.

In circumstances where consent or lack of ownership has a bearing on an approval criteria, for example where proposed development relies upon a third-party easement to establish access required by code, we have held that the decision-maker may be required to impose conditions to ensure that the required easement or consent is obtained prior to construction. *See, e.g., Culligan v. Washington County*, 57 Or LUBA 395 (2008) (where subdivision

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relies on private easement for access but the scope of easement is disputed, the decision maker can approve the application with conditions that ensure that the dispute is resolved prior to construction). However, ownership of the subject property is not an approval criterion in the present case and has no bearing, as far as petitioners have established, on any approval criteria. We have never held that the applicant has the obligation to quiet title in the subject property where some doubt is raised during the proceedings below as to the legality of that title, or that the decision-maker is obliged to adopt findings addressing the likelihood that the applicant will prevail in a quiet title action, and we decline to so hold now. Petitioners' arguments under this assignment of error do not provide a basis for reversal or remand.

The fourth assignment of error is denied.

The county's decision is remanded.

Footnotes:

¹ Petitioners contend, and the county does not dispute, that amending the TSP to acknowledge ownership of the rail corridor was intended to facilitate obtaining future grants necessary to plan for and develop the recreational trail.

² YCZO 402.04 provides, in relevant part:

"The following uses are allowed in the Exclusive Farm Use District upon conditional use approval. Approval of these uses is subject to the Conditional Use criteria and requirements of Section 1202, and subsection 402.07(A) of this ordinance and any other provision set forth below. Applications shall be reviewed under the Type B procedure of Section 1301:

"* * * * *

"N. Roads, highways and other transportation facilities and improvements not allowed under Subsections 402.02(K) or 402.04(J), subject to compliance with OAR 660-12."

³ Petitioners also advance arguments under the Due Process Clause of the Fourteenth Amendment to the U.S. Constitution. Because we sustain the fifth assignment of error on sub-constitutional grounds, there is no need to address petitioners' constitutional arguments.

⁴ ORS 215.296(1) provides:

"A use allowed under ORS 215.213 (2) or (11) or 215.283 (2) or (4) may be approved only where the local

governing body or its designee finds that the use will not:

"(a) Force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; or

"(b) Significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use."

⁵ ORS 215.402(4) provides:

"'Permit' means discretionary approval of a proposed development of land under ORS 215.010 to 215.311, 215.317, 215.327 and 215.402 to 215.438 and 215.700 to 215.780 or county legislation or regulation adopted pursuant thereto. 'Permit' does not include:

"* * * * *

"(c) A decision which determines final engineering design, construction, operation, maintenance, repair or preservation of a transportation facility which is otherwise authorized by and consistent with the comprehensive plan and land use regulations[.]"

⁶ ORS 197.015(10)(b)(D) excludes from the definition of "land use decision" at ORS 197.015(10)(a) a decision of a local government that "determines final engineering design, construction, operation, maintenance, repair or preservation of a transportation facility that is otherwise authorized by and consistent with the comprehensive plan and land use regulations."

⁷ OAR 660-012-0050(3) provides, in relevant part:

"Project development addresses how a transportation facility or improvement authorized in a TSP is

designed and constructed. This may or may not require land use decision-making. The focus of project development is project implementation, e.g. alignment, preliminary design and mitigation of impacts. During project development, projects authorized in an acknowledged TSP shall not be subject to further justification with regard to their need, mode, function, or general location. For purposes of this section, a project is authorized in a TSP where the TSP makes decisions about transportation need, mode, function and general location for the facility or improvement as required by this division.

"(a) Project development does not involve land use decision-making to the extent that it involves transportation facilities, services or improvements identified in OAR 660-012-0045(1)(a); the application of uniform road improvement design standards and other uniformly accepted engineering design standards and practices that are applied during project implementation; procedures and standards for right-of-way acquisition as set forth in the Oregon Revised Statutes; or the application of local, state or federal rules and regulations that are not a part of the local government's land use regulations.

"(b) Project development involves land use decision-making to the extent that issues of compliance with applicable requirements requiring interpretation or the exercise of policy or legal discretion or judgment remain outstanding at the project development phase. These requirements may include * *

* transportation improvements required to comply with ORS 215.296 or 660-012-0065(5). When project development involves land use decision-making, all unresolved issues of compliance with applicable acknowledged comprehensive plan policies and land use regulations shall be addressed and findings of compliance adopted prior to project approval."

8. YZCO 501.02 and 501.03 list the permitted and conditional uses allowed in the AF-10 zone. Petitioners are correct that neither YZCO 501.02 nor 501.03 list a recreational trail or similar transportation facility as an allowed use. YZCO 501.04 states that "[u]ses of land and water nor specifically mentioned in this section are prohibited in the AF-10 District." Thus, petitioners appear to be correct that the proposed recreational trail is prohibited in the AF-10 zone.

9. The county also suggests that AF-10's prohibition on unlisted uses cannot preclude approval of the trail because the rail corridor has been a transportation facility since 1872. Response Brief 32-33. If the county is arguing that the recreational trail represents a lawful nonconforming use in the AF-10 zone, the argument is not developed sufficiently for review.

10. Such measures could be as simple as a condition limiting construction of the recreational trail to the EFU-zoned half of the corridor.

11. YCZO 402.07(A) provides:

"In the Exclusive Farm Use District, prior to establishment of a conditional use, the applicant shall demonstrate compliance with the following criteria in addition to other requirements of this ordinance:

"1. The use will not force significant change in accepted farming or forest practices on surrounding lands devoted to farm or forest use.

"2. The use will not significantly increase the cost of accepted farming or forest practices on surrounding lands devoted to farm or forest use."

¹². Briefly, the statutory authority to allow transportation facilities such as the proposed recreational path in the county's EFU zone is ORS 215.283(3), which delegates to the Land Conservation and Development Commission (LCDC) the authority to identify which transportation facilities not authorized in ORS 215.283(1) or (2) may be allowed in the EFU zone without a goal exception, but subject to ORS 215.296. LCDC duly promulgated OAR 660-012-0065, a rule that is part of the administrative rule implementing Statewide Planning Goal 12 (Transportation Facilities). OAR 660-012-0065 applies to all rural areas, not limited to EFU lands or resource lands. OAR 660-012-0065(3) sets out a list of transportation facilities and improvements that may be approved on rural lands that do not require a goal exception. Among the listed uses are "Bikeways, footpaths and recreation trails[.]" OAR 660-012-0065(3)(h). However, OAR 660-012-0065(3) does not mention ORS 215.296. The only mention of ORS 215.296 that occurs in OAR 660-012-0065 is in subsection (5), which is specific to facilities in EFU zones and forest zones. OAR 660-012-0065(5) subjects five of the facilities listed in OAR 660-012-0065(3), not including "Bikeways, footpaths and recreation trails," to an alternatives analysis, "in addition to demonstrating compliance with the requirements of ORS 215.296[.]" That parenthetical reference to ORS 215.296 is ambiguous, and can be read in context to indicate that LCDC intended that ORS 215.296 apply *only* to the five facilities subject to the alternatives analysis under OAR 660-012-0065(5), and no other facilities listed in OAR 660-012-0065(3).

The record includes a 2015 memorandum from staff at the Department of Land Conservation and Development (DLCD), taking the position that LCDC intended ORS 215.296 to

apply to recreation trails on EFU land. Record 621-22. Also in 2015, DLCD staff testified to the legislature that recreational trails allowed in the EFU zone under ORS 215.283(3) and OAR 660-012-0065 are subject to ORS 215.296. Response Brief App 3. In the findings, the county disagreed with DLCD staff, and interpreted OAR 660-012-0065 to apply ORS 215.296 only to the five facilities identified in OAR 660-012-0065(5). Although we need not and do not resolve the dispute on this point, there is no question that OAR 660-012-0065 and related administrative rules are ambiguous and unclear on this issue. LCDC may wish to consider amending OAR 660-012-0065 or OAR 660-033-0120, Table 1, to make its intent more clear.

Pete Walter

From: Joanna Strahm <joannastrahm@gmail.com>
Sent: Thursday, July 7, 2022 1:32 PM
To: Planning
Subject: written testimony for Project ID: GLUA-21-00045

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear Planning Commision,

I am submitting my written testimony below prior to the July 11th meeting for the project: GLUA-21-00045 / MAS-21-00006 / VAR-22-00001

IKON & AKS engineering have repeatedly avoided discussing the serious issues with the proposed plan. I am extremely concerned about the power dynamic between Oregon City and these companies.

This development must be planned with all current and future OC residents in mind only.

I am concerned about major traffic safety issues, not only during the construction phase but also forever after for everyone in this community and those who travel through it:

vehicle congestion

vehicle/pedestrian/pet/bicycle safety

construction vehicle noise pollution/debris/air and water way pollution along one major route (Holcomb) for several years

wildfire/natural disaster evacuation

I urge you to take control back of this planning process.

Sincerely,

Joanna Strahm

Mother, Wife, Small Business Owner, living in the Park Place Neighborhood

--

Joanna Strahm

Owner

pronouns:she/her

@SmallBakingCo

[Instagram](#) [Facebook](#) [Web](#)



Nicholas R. Veroske
 3870 NW Banff Drive
 Portland, OR 97229-8222
 Tel: 503-617-7662
 Cell/Text: 503-577-6903
 Email: nick@willamette-equities.com

July 6, 2022

Oregon City Commissioners
 City of Oregon City
 625 Center Street
 Oregon City, OR 97045

*Delivered by email this date to
 Jakob Wiley for entry into the
 public record.*
jwiley@orcify.org

RE: Park Place Crossing Workforce Housing Development

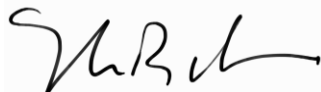
Dear City Commissioners:

Economist Bill Conerly stated last year that a key challenge employers face is finding housing for employees necessary for their business vitality. At a median house price approaching \$700,000, Oregon City has already priced first-time buyers out of the market. (Source: [Oregon City, OR 97045 \(altos.re\)](https://altos.re/)) A study by ECONorthwest in 2018 said that over 56,000 families statewide were spending more than 50% of their household income on housing and that this was a key contributor to temporary homelessness. Furthermore, they said that more supply would help alleviate price pressures at all levels of housing, contributing to affordability for first-time buyers.

Park Place Crossing spans a 20-year effort by multiple agencies to bring much-needed housing to City of Oregon City in conformance with Statewide Planning Goals and Metro's Urban Growth Management Functional Plan. It's mix of single family detached homes, attached townhomes and mixed-use residential zonings will help meet regional goals for increased availability of affordable housing and community diversity. In the process, the developer will pay approximately \$1,000,000 to \$1,800,000 to the City as proportional share payments to contribute to the improvement of bike lanes, pedestrian crossings and sidewalks as well as improvements to six major intersections. Throughout construction of the homes, the homebuilders will pay over \$15,000,000 in system development charges (SDCs) for future improvements to transportation, water and sanitary sewer capital improvements throughout the City, and will pay additional fees to expand and improve parks, stormwater infrastructure, and schools. This project has many winners.

Please work with this developer in approving the Park Place Crossings land-use application tonight so that this much needed development can move forward, helping to assure that new generations of Oregon City families can find homes near their birth places, their families and their work places.

Thank you.



Nick Veroske
 Oregon City Business Owner
 Developer of Workforce Housing since 1997
 Former Community Bank Director
 YMCA Board of Trustees since 2000.
 Founding Director of the Oregon City Business Alliance

July 6, 2022

Oregon City Planning Commission
625 Center Street
Oregon City, Oregon 97045

Re: Letter of Support

Dear OC Planning Commission,

We at the Oregon City Business Alliance want to express our strong support for the Park Place Crossing land-use application. At this point it has become obviously clear that our city and surrounding communities are experiencing a tremendous shortage of affordable and diverse housing options. It is estimated that we are short over 100,000 housing units at the present time to serve existing families. It is also estimated that there is a need to produce over 30,000 new housing units per year for the next 20 years to satisfy this need. How are we going to do it? Quite simply it comes down to increasing the supply of buildable land to meet the deficiency. Nothing else will accomplish it.

The Park Place Crossing project has been in the planning stages since 2002, 20 years ago, when Metro added to the land that was already in the UGB in the area. This helped facilitate an opportunity to construct a new road connection between Redland Road and Holcomb Blvd without having to cross steep canyons. In the proposed masterplan for this development it is anticipated that this connection will be made at the intersection of Holly Lane and Redland Road at a future date on land the developer already owns. The project includes a wide range of housing types ranging from detached single family homes to attached townhomes. In addition, a new community park will be created to serve the needs not only of the Park Place Crossing neighborhoods but for others already living in the area.

Approximately 20 acres of open space will also be dedicated for the protection of creeks, hillsides, and other natural features for the benefit of wildlife and greenbelts. The developer also plans on expending approximately \$1,000,000.00 to \$1,800,000.00 to the City as their proportional share of costs to construct bike lanes, pedestrian crossings and sidewalks to Holcomb Blvd. and transportation improvements to six major intersections including Hwy. 213 and Beavercreek Road. It is anticipated that the new construction of homes will also generate over \$15,000,000.00 in system development charges (SDCs) for future improvements in water, sanitary and storm sewer, roads, parks and schools.

We at the OC Business Alliance understand that many people are very resistant to change in their lives and communities. All cities experience this and unfortunately the silent majority of families that live in the existing neighborhoods or hope to move into the new homes usually never show up at public hearings to express their support. We also recognize that most of objections come from nearby citizens that already live in a home that was built which also most likely experienced opposition to their housing project. Do they wish that their home was never constructed in the first place? We very seriously doubt that. We respect their right to voice their opinion but we also recognize that without planned growth our communities and local businesses will suffer.

In summary, we recognize that without new housing stock being added to the available inventory of homes for sale prices will simply keep going higher and higher due to a continued lack of supply to meet

the ever growing demand. The legislature had to intervene with the seriousness of the shortage by creating new infill density laws called "missing middle housing" to help address this shortage. Unfortunately, the consequences of additional homes in family's backyards might receive an even bigger backlash from neighbors rather than the new communities. Only time will tell how these new laws (HB 2001 and SB 458) will play out. Therefore, we strongly urge that you approve the Park Place Crossing land-use application with conditions as deemed appropriate so that the affordable housing crisis can be addressed and somewhat alleviated now rather than later if at all.

Respectfully,

A handwritten signature in black ink, appearing to read "Kent Ziegler". The signature is fluid and cursive, with the first name "Kent" and last name "Ziegler" clearly distinguishable.

Kent Ziegler
President, OC Business Alliance

GLUA-21-00045: Park Place Crossing General Development Plan:

MAS-21-00006 – General Development Plan (GDP)

VAR-22-00001 – Variance

Type III Quasi-judicial review

Pete Walter, Planning Manager

Planning Commission

July 11, 2022



Previous hearings and continuances:

1. April 25th, 2022
2. May 9th, 2022
3. May 23rd, 2022 continued until tonight July 11



Tonight's Hearing

1. Applicant's Presentation (20 minutes) and Questions
2. Take public testimony from anyone who may wish to comment
3. Planning Commission discussion and motion to continue to July 25, 2022.
4. Staff will provide updated findings for July 25, 2022.



120-Day Land Use Decision Deadline

Extensions may be granted by applicant

Current deadline: September 23, 2022

All local appeals must occur before deadline

- Period in which to appeal Planning Commission decision to City Commission: 14 days from mailing of notice of decision.
- Notice period in advance of City Commission appeal hearing: 20 days



Park Place Crossing GDP

New Items

• In published agenda packet

- Applicant's Plan Revisions and Additional Information
- Applicant's Analysis of Daily Traffic Volumes
- “Baker v. City of Milwaukie” memo from Deputy City Attorney Carrie Richter
- Public Comment Summary Table UPDATED through July 1.
- Copies of all written testimony received before EOB July 1.

• Sent by Email from Staff to Planning Commission

- Public testimony from July 1 through today:
 - Joanna Stram
 - OCBA – Kent Ziegler
 - Nick Veroske
 - Christine Kosinski
 - Steve Sagi
 - James Nicita



Park Place Crossing GDP

Future Hearing Schedule – if continued

1. Agenda packet with new information posted on July 18
2. Continued hearing July 25, 7:00 PM
 - Additional public comment will be accepted.





CITY OF OREGON CITY

Staff Report

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

To: Planning Commission **Agenda Date:** 09/12/2022
From: Christina Robertson- Gardiner Senior Planner

SUBJECT:

GLUA-22-00015, SP-22-00050, VAR-22-0002, FP 22-00002-Planning Commission Variance request to the rear yard abutting a residential zone to allow for the relocation of existing non-transitory mobile food units and a minor site plan for a 250 square foot rear addition to the main building onsite on property located at 504 14th Street.

STAFF RECOMMENDATION:

Approval of GLUA-22-00015, SP-22-00050, VAR-22-0002, FP 22-00002 with conditions.

EXECUTIVE SUMMARY:

Planning Commission Variance

A Type III Variance review involves discretion and evaluation of subjective approval standards through a noticed public hearing. Planning Commissioners should direct their review and analysis to the OCMC 17.60 Variance section of the staff report.

The Applicant would like to relocate five existing on-site non-transitory mobile food units (food carts) to be placed as close as 2" from the southern property line of the site instead of constructing the previously approved seating canopy. The applicant requests a setback adjustment by more than 25%, which will require a Type III Planning Commission Variance. A new Variance is needed for this request as the previous Variance findings and deliberation were based on a structure and seating near the property line rather than a food truck (mobile food unit). As the uses and potential impacts are not the same, staff found that a new Variance request was needed for this proposal.

Minor Site Plan and Design Review

The applicant has chosen to combine the Type III Variance Request with a Type II Site Plan and Design Review and Flood Overlay District review, which would, if noticed separately, be approved by the Community Development Director. Type II Decisions involve the exercise of limited interpretation and discretion in evaluating clear and objective approval criteria. The final Planning Commission motion will include both applications (Variance and Site Plan/Flood Review)

The applicant is also proposing a building addition of an existing exterior storage area on the southern side of the existing building. The simple extension will consist of a roof overhang, posts and a wood fence surround. This would normally be reviewed as a Type II Minor Site Plan and Design Review and Flood Overlay Review, not subject to Planning Commission review, but has been packaged with the Variance request, and a majority of the Conditions of Approval for this proposal relate to this portion of the request.

BACKGROUND:

The Variance requested is to the OCMC 17.54.115C(2)b(v) section of the Mobile Food Unit code that requires non-transitory food carts to comply with the underlying zone's setbacks. Specifically:

Non-Transitory Mobile Food Units. All other mobile food units that remain on a property for more than five hours at a time shall comply with the following:

a. Standards related to the site.

i. Maintain the minimum number of parking stalls and minimum drive aisle widths and parking lot requirements;

ii. Not result in the reduction of landscaping less than the minimum site;

b. Standards related to the unit.

i. Fully screen from view any mechanical or power generating equipment that is separated from and external to the mobile food unit with vegetation or screening at a height equal to or greater than the height of the generating unit;

ii. Connect to a permanent water source, unless exempted by the city engineer if utilities are not available;

iii. Connect to public sewer. This may be achieved through a communal system;

iv. Connect to a permanent power source; and

v. Comply with the minimum setbacks and maximum height of the zoning designation.

Vehicles are normally not considered structures and generally are not subject to setback requirements unless specifically stated in code, such as the mobile food unit code above.

The Mixed-Use Downtown zone requires a 15-foot setback when abutting a residential property.

This applicant indicates that the proposal will not cause any substantial damage to adjacent properties via reduction of air, light, or safe access due to the unique nature of the site conditions. Section 17.34.060 is intended to prevent commercial development from imposing on smaller-scale residential development. The entirety of the subject site, 508 14th Street, sits approximately 30' below the residential structures to the south. These residences are located on the far south end of their properties due to slopes exceeding 20% between the proposed covering and the existing residences.

OPTIONS:

1. Approval with Conditions of GLUA-22-00015, SP-22-00050, VAR-22-0002, and FP 22-00002
2. Denial of GLUA-22-00015, SP-22-00050, VAR-22-0002, and FP 22-00002
3. Continue GLUA-22-00015, SP-22-00050, VAR-22-0002, and FP 22-00002 to the September 26, 2022 Planning Commission Hearing



Community Development – Planning

695 Warner Parrott Road | Oregon City OR 97045
Ph (503) 722-3789 | Fax (503) 722-3880

TYPE III STAFF RECOMMENDATION

September 1, 2022

A preliminary analysis of the applicable approval criteria is enclosed within the following staff report. All applicable criteria shall be met, or met with conditions in order to be approved. The Planning Commission may choose to adopt the findings as recommended by staff or alter any finding as determined appropriate.

FILE NUMBER: GLUA-22-00015 SP-22-00050 VAR-22-0002, FP 22-00002

APPLICANT: Derek Metson
502 7th Street
Oregon City OR 97045

OWNER: Clackamas Cream II LLC
16740 SE 130th
Clackamas, OR 97015

Application Submitted: 05/24/2022
Application Paid: 06/01/2022
Application Incomplete: 06/24/2022
Application Complete: 06/26/2022
Revised 120-Day Decision Deadline: 11/04/2022

REQUEST: GLUA-22-00015 SP-22-00050 VAR-22-0002, FP 22-00002- 504 14th Street -Planning Commission Variance to the rear yard abutting a residential zone to allow for the relocation of existing non-transitory mobile food units and a minor site plan for a 250 square foot rear addition to the main building onsite.

LOCATION: 504 14th Street
Oregon City OR 97045
2-2E-30DD-03100
Zone: Mixed Use Downtown (MUD)

REVIEWER: Christina Robertson-Gardiner, Senior Planner AICP

DECISION: 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. The process for these land use decisions is controlled by ORS 197.763. Notice of the application and the planning commission hearing is published and mailed to the Applicant, recognized neighborhood association and property owners within three hundred feet of the subject property. 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 is final unless appealed and description of the requirements for perfecting an appeal. The decision of the planning commission is appealable to the city

commission within fourteen days of the issuance of the final decision. The city commission hearing on appeal is on the record and no new evidence shall be allowed. Only those persons or a city-recognized neighborhood association who have participated either orally or in writing have standing to appeal the decision of the planning commission. Grounds for appeal are limited to those issues raised either orally or in writing before the close of the public record. A city-recognized neighborhood association requesting an appeal fee waiver pursuant to OCMC 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 the Land Use Board of Appeals (LUBA) within twenty-one days of when it becomes final.

Conditions of Approval

Planning File GLUA-22-00015 SP-22-00050 VAR-22-0002, FP 22-00002

(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.

(B) = Verify that condition of approval has been met with the Building Division.

(F) = Verify that condition of approval has been met with Clackamas Fire Department.

The applicant shall include the following information with the submittal of a Building permit associated with the proposed application. The information shall be approved prior to issuance.

Minor Site Plan and Flood Review (Building Extension/Modification)

1. The applicant shall submit documentation prepared by a registered engineer identifying compliance with balanced cut and fill standards in OCMC Section 17.42.160.D. (B/P)
2. The applicant shall remove the food carts and any above-ground tanks from the site in the event of a flood. Prior to issuance of a building permit, the applicant shall provide documentation acceptable to the Building Official that includes a plan and proposal for the mobile food units explaining the units shall be removed from the site in the event of a flood. The applicant's proposal shall also include a notification system of how the mobile food unit owners will be notified and relocated by the property owner out of the floodplain if they are not relocated by the mobile food unit owner. (B)
3. Prior to issuance of a building permit associated with the Minor Site Plan and Design Review application, the applicant shall submit documentation to the Building Official identifying compliance with the construction materials and methods included within the standards in OCMC Section 17.42.160.E. (B)
4. Per GLUA-21-00044/SP-21-00085/VAR-21-00004/FP-21-00004, the applicant shall provide a signed agreement, approved in form by the City Attorney, that holds the City harmless from any liability on the part of the city, any officer or employee thereof, or the Federal Insurance Administration for any flood damages that result from reliance on this chapter or any administrative decision lawfully made thereunder. (B/P)
5. Temporary fills within the floodplain permitted during construction shall be removed at the end of construction prior to the issuance of an occupancy permit. (B/P)

Conditions associated with Planning Commission Variance Request

6. The applicant shall ensure that the existing light standards on the NW corner of the site are repositioned to shine downward and not cause glare to the residences on Washington Street. (P)
7. The applicant shall ensure that the proposed landscape planting proposed in GLUA-21-00044/SP-21-00085/VAR-21-00004/FP-21-00004 is installed prior to obtaining final Building Permit Approval. (P)

I. BACKGROUND:

1. Existing Conditions

The subject site is zoned MUD, Mixed Use Downtown District, and the lot is 0.67 acres, measuring 132' X 210'. The subject property was previously the Spicer Brothers Produce Market which closed in October 2018.

The site was redeveloped with a food cart pod under three prior land use reviews (GLUA-20-00031/SP-20-00068 / FP-20-00002, GLUA-20-00049/SP-20-00110/FP-20-00004 and GLUA-21-00044/SP-21-00085/VAR-21-00004/FP-21-00004). The most recent review approved seating canopy in the rear yard setback through a Type III Planning Commission Variance Review.

Currently, the site is developed with a taphouse building, food cart pod. The site has virtually no landscaping and is fully paved, however, some planting pots and screening were approved under previous approvals. The site has street frontage on three sides with existing sidewalks on the Washington and 14th Street frontages. The Center Street frontage consists of asphalt pavement next to the railroad trestle that runs overhead. There are three street trees in tree wells along the Washington Street frontage of the property.



Figure 1. Vicinity Map

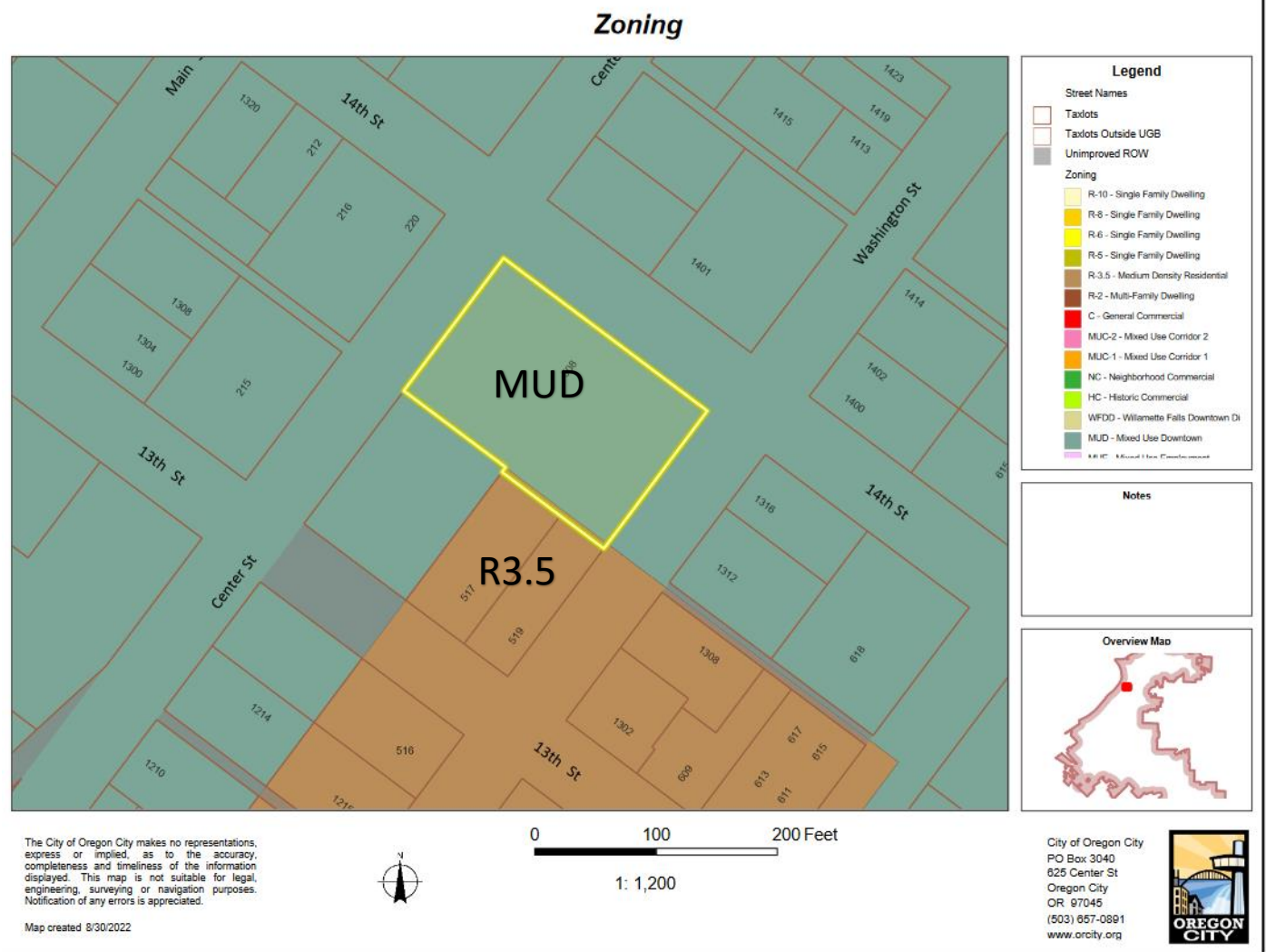


Figure 2- Zoning Map

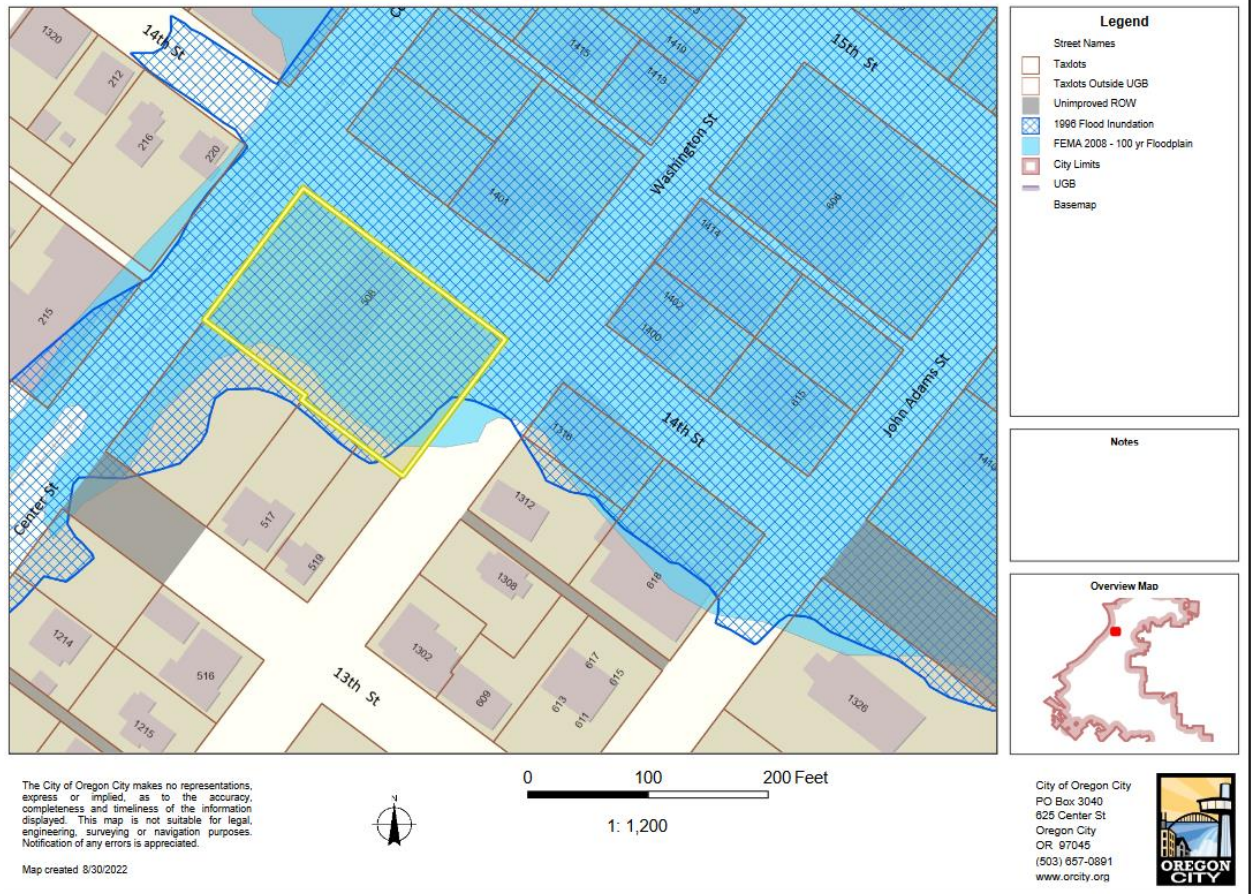


Figure 3- Flood Overlay Map

2. Project Description

Corner 14 is an existing taphouse and series of non-transitory mobile food units at the corner of Washington Street and 14th Street in Oregon City. Currently, 9 existing non-transitory mobile food units face the existing taphouse, and three existing non-transitory mobile food units face 14th Street food, with two existing non-transitory mobile food units facing south, approximately 70' back from the Right of Way. The existing non-transitory mobile food units surround a large existing outdoor seating area, with a second smaller outdoor seating area along the southern edge of the property line. Water, electrical power, and a gray water sewer line have been provided to each unit. There is minimal wastewater as only hand washing and cookware washing occurs. All restroom facilities are located inside the Taphouse and are fully ADA compliant.

On November 8, 2021, the Planning Commission approved GLUA-21-00044/SP-21-00085/VAR-21-00004/FP-21-00004) which allowed an 800-square foot seating canopy be located in the rear year setback through a Type III Planning Commission Variance Review.

Planning Commission Variance

A Type III Variance review involves discretion and evaluation of subjective approval standards through a noticed public hearing. Planning Commissioners should direct their review and analysis to the OCMC 17.60 Variance section of the staff report.

With this application, the Applicant would like to relocate five existing on-site non-transitory mobile food units (food carts) to be placed as close as 2" from the southern property line of the site instead of constructing the previously approved seating canopy. The applicant requests a setback adjustment by more than 25%, which will require a Type III Planning Commission Variance. A new Variance is needed for this request as the previous Variance findings and deliberation were based on a structure and seating near the property line rather than a food truck (mobile food unit). As the uses and potential impacts are not the same, staff found that a new Variance request was needed for this proposal.

The Variance requested is to the OCMC 17.54.115C(2)b(v) section of the Mobile Food Unit code that requires non-transitory food carts to comply with the underlying zone's setbacks. Specifically:

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v. Comply with the minimum setbacks and maximum height of the zoning designation.

Vehicles are normally not considered structures and generally are not subject to setback requirements unless specifically stated in code, such as the mobile food unit code above.

This applicant indicates that the proposal will not cause any substantial damage to adjacent properties via reduction of air, light, or safe access due to the unique nature of the site conditions. Section 17.34.060 is intended to prevent commercial development from imposing on smaller-scale residential development. The entirety of the subject site, 508 14th Street, sits approximately 30' below the residential structures to the south. These residences are located on the far south end of their properties due to slopes exceeding 20% between the proposed food carts and the existing residences.

Minor Site Plan and Design Review

The applicant has chosen to combine the Type III Variance Request with a Type II Site Plan and Design Review and Flood Overlay District review, which would, if noticed separately, be approved by the Community Development Director. Type II Decisions involve the exercise of limited interpretation and discretion in evaluating clear and objective approval criteria. The final Planning Commission motion will include both applications (Variance and Site Plan/Flood Review)

The applicant is also proposing a building addition/modification of an existing exterior storage area on the southern side of the existing building. The simple extension will consist of a roof overhang post and a wood fence surround (figures 10& 11).

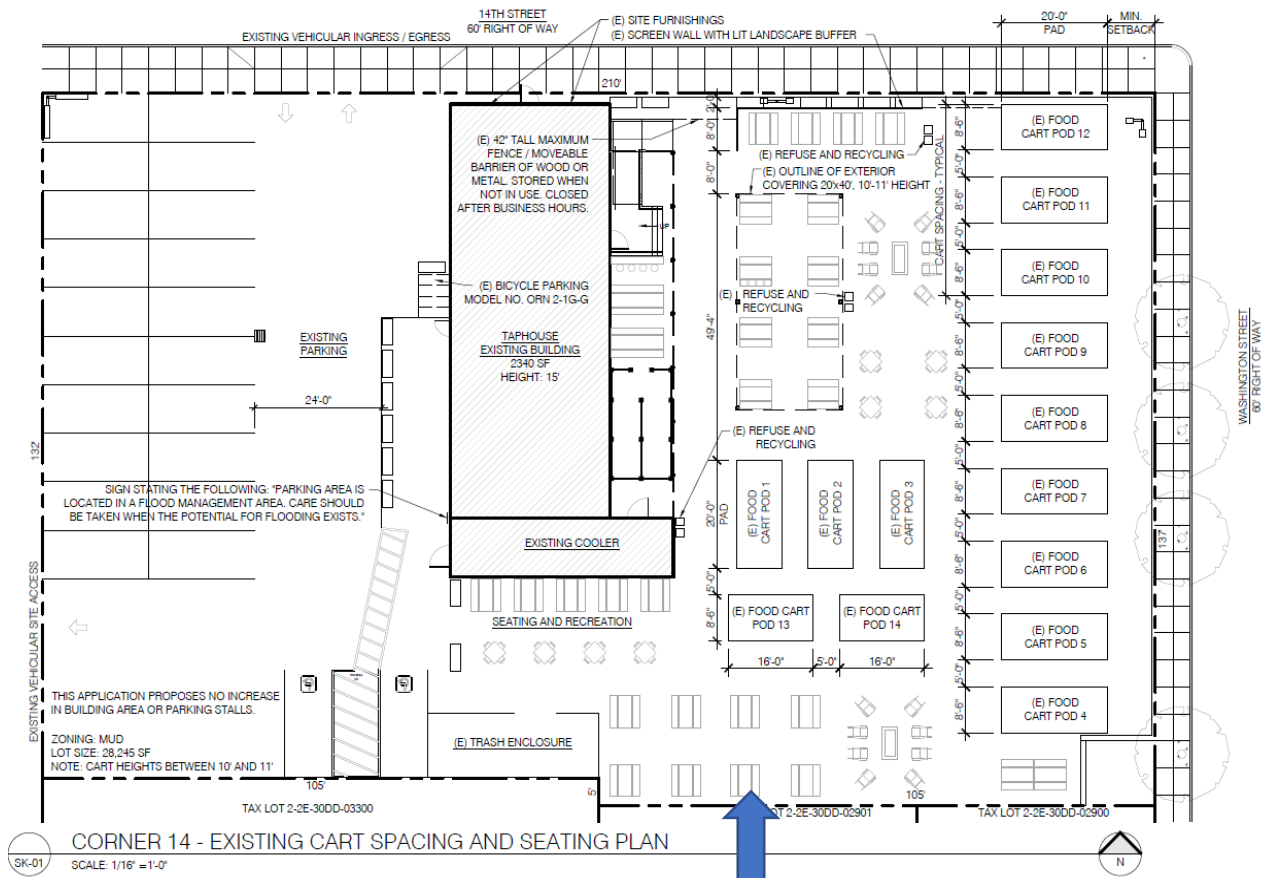
This would normally be reviewed as a Type II Minor Site Plan and Design Review and Flood Overlay Review, not subject to Planning Commission review, but has been packaged with the Variance request, and a majority of the Conditions of Approval for this proposal relate to this portion of the request.

This Minor Site Plan will add approx. 250 SF of exterior covered storage space, enclosed by a new fence and roof covering. The proposed exterior storage area would store seasonal goods, chairs, games, and other various site furnishings when not in use. This proposed modification would not increase the intensity of the use as there is no increase in the occupant load of the interior space, and it does not propose additional non-transitory mobile food units.

The site meets the minimum parking standards, and no parking spaces are proposed to be added or removed. The seating and recreation areas shown on the Proposed Site Plan are to be used for tables and chairs for outdoor dining, as well as large outdoor games.

Flood Management Overlay District

The improvements are not proposed to be floodproofed. The facility is designed as a flow-through structure. No net fill is calculatable by the proposed structures. Some improvements do constitute fill within the floodplain; these improvements shall be offset by volume removed from the site. As a condition of approval, a survey shall be completed prior to and after construction by a surveyor. Cut and fill calculations will be performed by a civil engineer (Tom Sisul, Sisul Engineering).



Location of approved, but unbuilt
canopy GLUA-21-00044/SP-21-
00085/VAR-21-00004/FP-21-00004

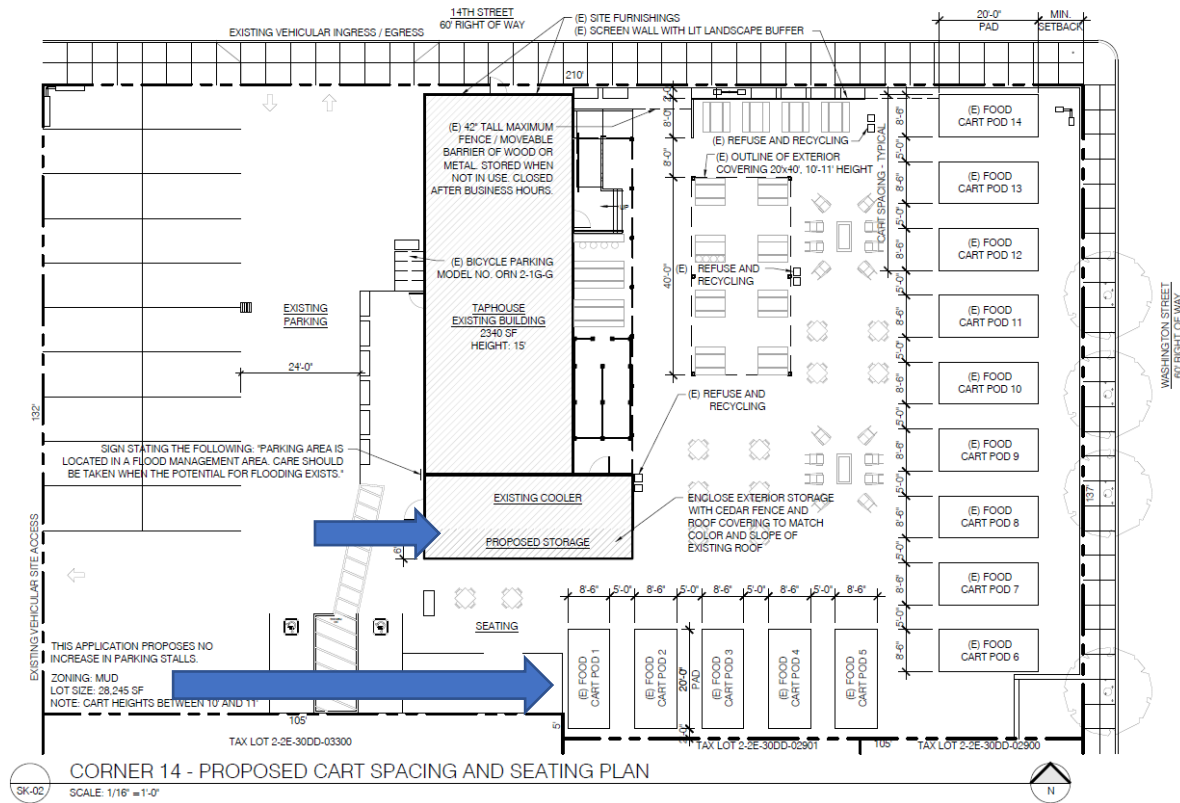


Figure 5 Proposed Site Plan



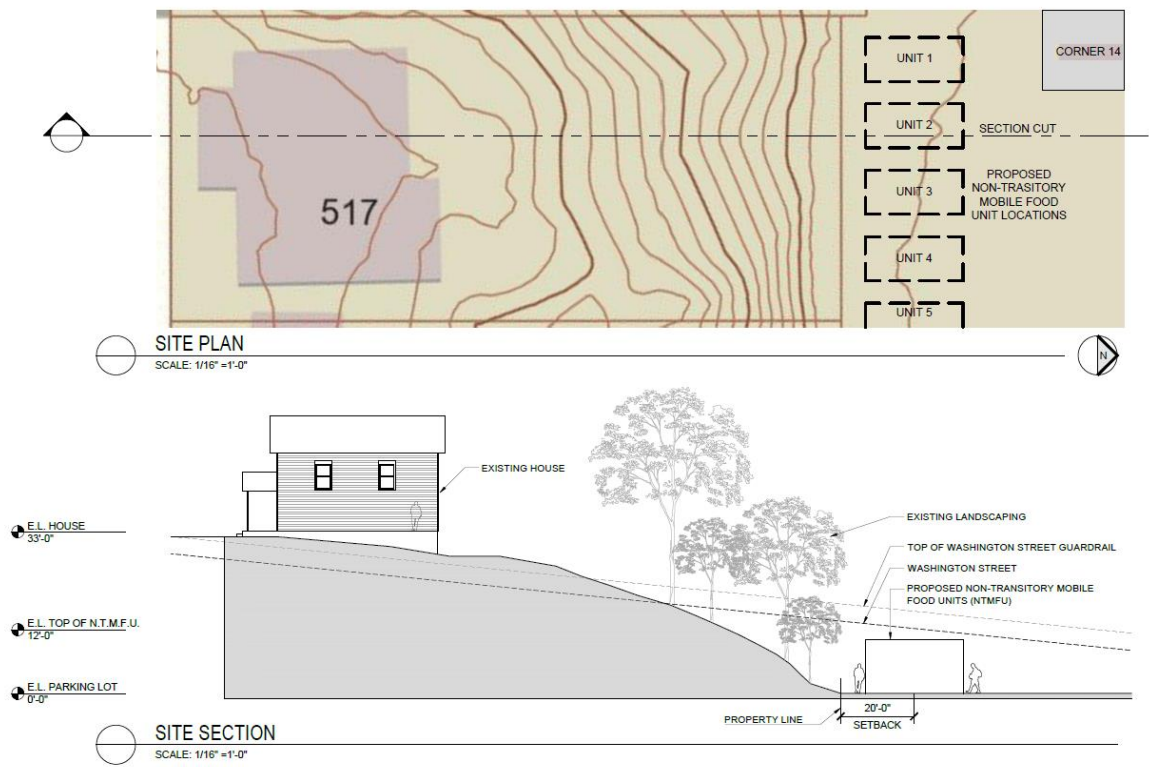
Figure 6 Street View -Washington Street



Figure 7- Stret View 14th Street



Figure 8- Lighting standard described in public comment



ARCHITECTURE
Greenbox
508 14TH STREET, SUITE 203
OREGON CITY, OREGON 97063

SITE SECTION

CORNER 14
508 14TH STREET
OREGON CITY, OR
DATE: MAY 11, 2022
PROJECT NO. 534222

Figure 9- Site Section

Figure 9

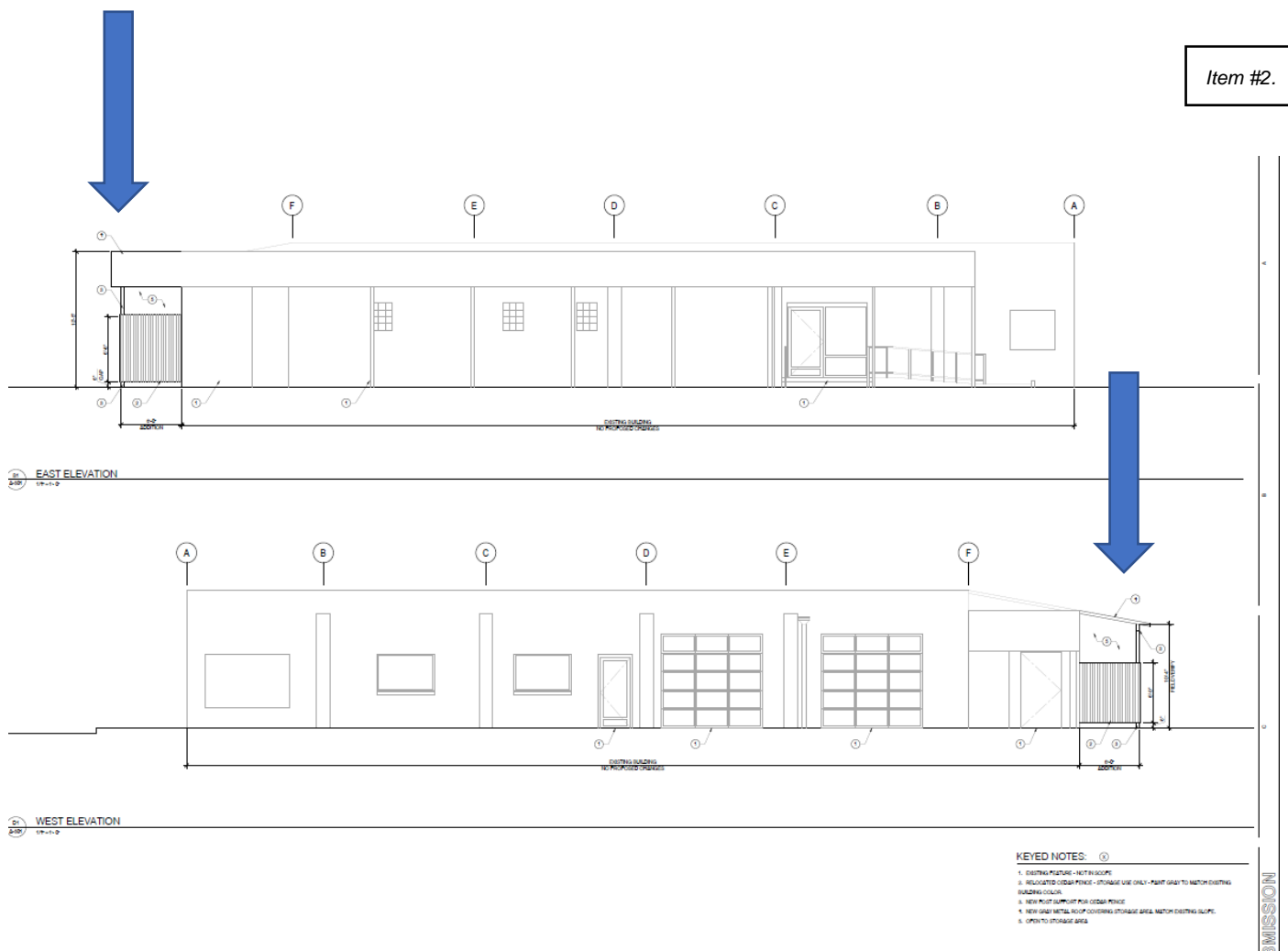


Figure 10 Building addition/modification for storage.

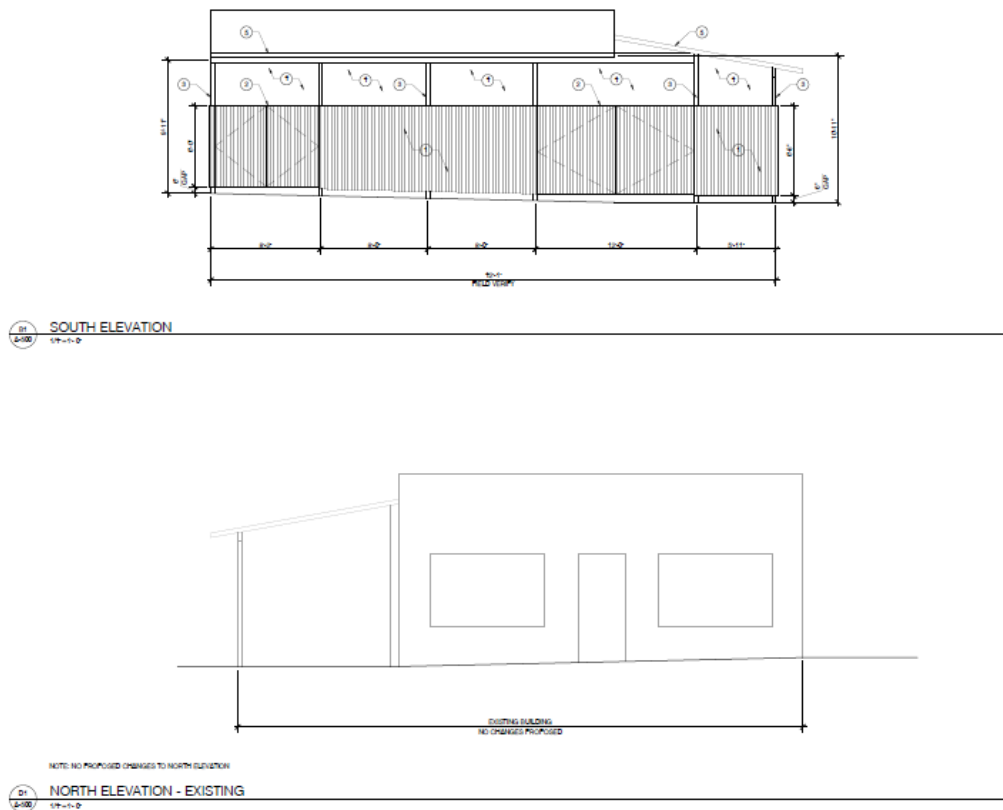


Figure 11: Building addition/modification for storage.

3. Permits and Approvals: The Applicant is responsible for obtaining approval and permits from each applicable governmental agency and department in Oregon City, including but not limited to the Engineering and Building Divisions.

4. Public Comment

Public comments submitted include (Exhibit 3):

Wes Rogers- Oregon City School District: The proposal does not conflict with our interests.

Betty Johnson- Clackamas River Water: The proposal does not conflict with our interests.

Jim Sayers- Building Official: The proposal does not conflict with our interests. Obtain Building Permits as needed.

Jay Pearce- A neighbor on Washington Street indicated that an existing light pole on the NW corner of the lot was repositioned at some point and shines towards the residences on Washington Street (see figure 8). He would like this to be resolved as part of the proposal.

Staff response: A condition of approval has been added to the staff report to address this concern.

None of the comments provided indicate that an approval criterion has not been met or cannot be met through the Conditions of Approval attached to this Staff Report.

II. ANALYSIS AND FINDINGS:

Municipal Code Standards and Requirements: The following sections of the Oregon City Municipal Code are applicable to this land use approval:

CHAPTER 17.34 MIXED USE DOWNTOWN
 CHAPTER 17.42 FLOOD MANAGMETN OVERLAY DISTRICT.
 CHAPTER 17.44 GEOLOGIC HAZARDS
 CHAPTER 17.50 ADMINISTRATION AND PROCEDURES
 CHAPTER 17.52 OFF STREET PARKING AND LOADING
 CHAPTER 17.60 VARIANCES (Code applicable to Planning Commission Review)
 CHAPTER 17.62 SITE PLAN ANND DESIGN REVIEW

CHAPTER 12.04 – STREETS SIDEWALKS AND PUBLIC SPACES

Finding: Not Applicable. The applicable standards of Chapter 12.04 were reviewed and met with the previous approval of Planning Files GLUA-20-00031/ SP-20-00068 / FP-20-00002 for the property. The proposal for the addition of two more food carts and an additional storage structure will not affect compliance with this chapter.

CHAPTER 13.12 – STORMWATER MANAGEMENT

Not Applicable. The proposed development does not meet the threshold triggers for stormwater management.

CHAPTER 15.48 – GRADING, FILLING AND EXCAVATING

15.48.030 Applicability—Grading permit required.

A. A city-issued grading permit shall be required before the commencement of any of the following filling or grading activities:

- 1. Grading activities in excess of ten cubic yards of earth;*
- 2. Grading activities which may result in the diversion of existing drainage courses, both natural and man-made, from their natural point of entry or exit from the grading site;*
- 3. Grading and paving activities resulting in the creation of impervious surfaces greater than two thousand square feet or more in area;*
- 4. Any excavation beyond the limits of a basement or footing excavation, having an unsupported soil height greater than five feet after the completion of such a structure; or*
- 5. Grading activities involving the clearing or disturbance of one-half acres (twenty-one thousand seven hundred eighty square feet) or more of land.*

B. Those fill and grading activities proposed to be undertaken in conjunction with a land use application, including but not limited to subdivisions, planned unit developments, partitions and site plan reviews, are subject to the standards of this chapter. However, a separate grading permit is not required. Approval of the construction plans submitted through the land use application process shall constitute the grading permit required under this chapter.

Finding: Not Applicable. The proposed development of a 250 SF storage addition does not exceed the thresholds stated within this section for requiring the issuance of a grading permit.

CHAPTER 16.12 – MINIMUM PUBLIC IMPROVEMENTS AND DESIGN STANDARDS FOR DEVELOPMENT

16.12.10 - Purpose and general provisions.

The purpose of this chapter is to identify the standards for development in and adjacent to spaces which benefit the public including right-of-way, access to the right-of-way, public off-street pedestrian and bicycle accessways, and easements. 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 plans 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 shall 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 shall 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. See response under 16.12.011.

16.12.11 - Applicability.

- A. Compliance with this chapter is required for all development including land divisions, site plan and design review, master plan, detailed development plan and conditional use applications and all public improvements that are required in conjunction with a land use decision.*
- B. Compliance with this chapter is also required for new construction or additions which exceed fifty percent of the existing square footage of all 3-4 plexes, single and two-family dwellings living space. Garages, carports, sheds, and porches may not be included in the calculation if these spaces are not living spaces. Accessory dwelling units are not subject to compliance with this chapter. All applicable 3-4 plexes, single and two-family dwellings shall provide any necessary dedications, easements or agreements as identified in the transportation system plan and this chapter, subject to constitutional limitations. In addition, the street frontage shall be improved to include the following priorities for improvements:*
 - 1. Improve street pavement, construct curbs, gutters, sidewalks and planter strips; and*
 - 2. Plant street trees.*

The cost of compliance with the standards identified in 16.12.011.B.1 and 16.12.011.B.2 is calculated based on the square footage valuation from the State of Oregon Building Codes Division and limited to ten percent of the total construction costs. The value of the alterations and improvements is based on the total construction costs for a complete project rather than costs of various project component parts subject to individual building permits. The entire proposed construction project cost includes engineering and consulting fees and construction costs. It does not include permit fees, recording fees, or any work associated with drafting or recording dedications or easements.

C. *Exemptions. The following are exempt from review by this chapter unless public improvements, driveways, PUEs, or other items regulated by this chapter are proposed.*

1. *Minor Site Plan and Design Review applications*
2. *Work within the right-of-way*
3. *Lot Line Adjustments and Abandonments*
4. *Public capital improvement projects*

Finding: Not Applicable. Per OCMC 16.12.011.A, this application is for a minor site plan, and design review for Non-Transitory Mobile Food Units pursuant to OCMC 17.54.115 and a small storage space expansion and therefore is not subject to the public improvements and design standards identified in OCMC 16.12. The proposed development did not include any voluntary public improvement.

CHAPTER 12.08 – PUBLIC AND STREET TREES

Finding: Not Applicable. The subject site includes existing street trees along the Washington Street frontage. This proposal is reviewed through a Minor Site Plan and Design Review process, which is exempt from review under OCMC 16.12 since public improvements within the right-of-way are neither proposed nor required. Since the impact of this project is relatively minor and mitigated by system development charges, no additional street trees are required.

CHAPTER 17.34 MUD MIXED USE DOWNTOWN DISTRICT

17.34.020 - Permitted uses.

Permitted uses in the MUD district are defined as:

- A. *Banquet, conference facilities and meeting rooms;*
- B. *Bed and breakfast/boarding houses, hotels, motels, and other lodging facilities;*
- C. *Child care centers and/or nursery schools;*
- D. *Indoor entertainment centers and arcades;*
- E. *Health and fitness clubs;*
- F. *Medical and dental clinics, outpatient; infirmity services;*
- G. *Museums, libraries and cultural facilities; Offices, including finance, insurance, real estate and government;*
- H. *Outdoor markets, such as produce stands, craft markets and farmers markets that are operated on the weekends and after six p.m. during the weekday;*
- I. *Postal services;*
- K.. *Repair shops, for radio and television, office equipment, bicycles, electronic equipment, shoes and small appliances and equipment;*
- L. *Multifamily residential, 3-4 plex residential;*
- M. *1 or 2 units in conjunction with a nonresidential use provided that the residential use occupies no more than 50% of the total square footage of the development;*
- N. *Restaurants, eating and drinking establishments without a drive through;*
- O. *Services, including personal, professional, educational and financial services; laundry and dry-cleaning;*
- P. *Retail trade, including grocery, hardware and gift shops, bakeries, delicatessens, florists, pharmacies,*

specialty stores provided the maximum footprint of a freestanding building with a single store does not exceed sixty thousand square feet (a freestanding building over sixty thousand square feet is allowed as long as the building contains multiple stores);

Q. Seasonal sales;

R. Residential care facilities, assisted living facilities; nursing homes and group homes for over fifteen patients licensed by the state;

S. Studios and galleries, including dance, art, photography, music and other arts;

T. Utilities: Basic and linear facilities, such as water, sewer, power, telephone, cable, electrical and natural gas lines, not including major facilities such as sewage and water treatment plants, pump stations, water tanks, telephone exchanges and cell towers;

U. Veterinary clinics or pet hospitals, pet day care;

V. Home occupations;

W. Research and development activities;

X. Temporary real estate offices in model dwellings located on and limited to sales of real estate on a single piece of platted property upon which new residential buildings are being constructed;

Y. Transportation facilities;

Z. Live/work dwellings;

AA. After-hours public parking;

BB. Marinas;

CC. Religious institutions.

DD. Mobile food units outside of the downtown design district.

Finding: Complies as Proposed. The applicant has proposed mobile food units outside of the downtown district, which is a permitted use pursuant with OCMC 17.34.020.DD.

17.34.030 - Conditional uses.

Finding: Not Applicable. The applicant has not proposed a conditional use.

17.34.040 - Prohibited uses.

The following uses are prohibited in the MUD district:

A. Kennels;

B. Outdoor storage and sales, not including outdoor markets allowed in OCMC 17.34.030;

C. Self-service storage;

D. Single-Family attached and detached residential units and duplexes;

E. Motor vehicle and recreational vehicle repair/service;

F. Motor vehicle and recreational vehicle sales and incidental service;

- G. *Heavy equipment service, repair, sales, storage or rental² (including but not limited to construction equipment and machinery and farming equipment);*
- H. *Marijuana production, processing, wholesaling, research, testing, and laboratories;*
- I. *Mobile food units within the downtown design district unless a special event has been issued.*

Finding: Complies as Proposed. The proposed mobile food units are outside of the downtown design district, therefore, no prohibited uses have been proposed.

17.34.050 - Pre-existing industrial uses.

Tax lot 5400 located at Clackamas County Tax Assessors Map #22E20DD, Tax Lots 100 and two hundred located on Clackamas County Tax Assessors Map #22E30DD and Tax Lot 700 located on Clackamas County Tax Assessors Map #22E29CB have special provisions for industrial uses. These properties may maintain and expand their industrial uses on existing tax lots. A change in use is allowed as long as there is no greater impact on the area than the existing use.

Finding: Not Applicable. The subject site does not include a pre-existing industrial use.

17.34.060 - Mixed-use downtown dimensional standards—For properties located outside of the downtown design district.

- A. *Minimum lot area: None.*

Finding: Not Applicable. No changes to the existing lot area have been proposed.

- B. *Minimum floor area ratio: 0.30.*

Finding: Not Applicable. Floor area refers to enclosed areas within buildings. Because the food carts (mobile food units) is not enclosed, it will not impact the site's existing floor area ratio. No additional development which would impact the existing floor area ratio is proposed.

- C. *Minimum building height: Twenty-five feet or two stories except for accessory structures or buildings under one thousand square feet.*

Finding: Not Applicable. Food carts (mobile food units) are not subject to this standard.

- D. *Maximum building height: Seventy-five feet, except for the following location where the maximum building height shall be forty-five feet:*

1. *Properties between Main Street and McLoughlin Boulevard and 11th and 16th streets;*
2. *Property within five hundred feet of the End of the Oregon Trail Center property; or*
3. *Property abutting single-family detached or attached units.*

Finding: Complies as Proposed. The food carts (mobile food units) are generally no more than 10 feet in height.

- E. *Minimum required setbacks, if not abutting a residential zone: None.*

Finding: Not Applicable. The rear property line abuts a residential zone and is subject to the minimum setbacks in OCMC 17.34.060.F.

F. Minimum required interior side yard and rear yard setback if abutting a residential zone: Fifteen feet, plus one additional foot in yard setback for every two feet in height over thirty-five feet.

Finding: Applicable. The rear property line abuts a residential zone, therefore, a fifteen-foot setback is required for non-transitory mobile food units per OCMC 17.54.115C(2)b(v). The applicant has requested a variance to this standard. Please refer to the findings in Chapter 17.60 of this staff report.

G. Maximum Allowed Setbacks.

1. Front yard: Twenty feet.

Finding: Complies as Proposed. Food carts (mobile food units) are not subject to this standard.

2. Interior side yard: No maximum.

Finding: Complies as Proposed. There is no maximum interior setback; therefore, the standard is met.

3. Corner side yard abutting street: Twenty feet.

Finding: Complies as Proposed. The proposed rear storage addition does not increase the existing nonconforming condition of the existing building being located further than 20 feet from the intersection. While not regulated as structures, the food carts and outdoor seating do provide the intended pedestrian experience at the corner of Washington and 14th Street,

4. Rear yard: No maximum.

Finding: Complies as Proposed. There is no maximum interior setback; therefore, the standard is met.

5. Rear yard abutting street: Twenty feet.

Finding: Not Applicable. The development does not include a rear property line that abuts a street. This standard is not applicable.

H. Maximum site coverage including the building and parking lot: Ninety percent.

I. Minimum landscape requirement (including parking lot): Ten percent.

Finding: Not Applicable. The applicant has proposed food carts and a storage structure in an existing paved area. The building and parking lot to landscaping ratio is not proposed to change as a result of this development.

J. Residential minimum net density of 17.4 units per acre, except that no minimum net density shall apply to residential uses proposed above nonresidential uses in a vertical mixed-use configuration or to live/work dwellings.

Finding: Not Applicable. The applicant has not proposed a residential development.

17.34.070 - Mixed-use downtown dimensional standards—For properties located within the downtown design district.

Finding: Not Applicable. The subject site is not located within the downtown design district, therefore, the dimensional standards in OCMC 17.34.070 are not applicable.

CHAPTER 17.41 – TREE PROTECTION, PRESERVATION, REMOVAL AND REPLANTING STANDARDS

Finding: Not Applicable. There are no trees onsite and the applicant has not proposed any tree removal, therefore this chapter in its entirety is not applicable.

CHAPTER 17.42 FLOOD MANAGEMENT OVERLAY DISTRICT

17.42.020 - Applicability.

A. This chapter shall apply to development in the flood management overlay district, which may also be referred to as the "floodplain overlay district" in this code. The flood management overlay district includes all areas of special flood hazards and all flood management areas within the city. The overlay district restricts the uses that are allowed in the base zone by right, with limitations, or as provisional uses.

B. The flood management areas which have been mapped include the following locations:

- 1. Land contained within the one hundred-year floodplain, flood area and floodway as shown on the Federal Emergency Management Agency flood insurance maps dated June 17, 2008, including areas of special flood hazard pursuant to [Section 17.42.040](#) and the area of inundation for the February 1996 flood; and*
- 2. Lands that have physical or documented evidence of flooding within recorded history based on aerial photographs of the 1996 flooding and/or the water quality and flood management areas maps.*

C. The standards that apply to the flood management areas apply in addition to state or federal restrictions governing floodplains or flood management areas.

Finding: Applicable. The subject site is located within the 1996/FEMA 100 Year Floodplain. The subject property is not located within the FEMA Floodway. OCMC 17.42 Flood Management Overlay District is applicable to this application.

Additionally, the following code definitions are pertinent to the findings of this section.

OCMC 17.04.1215 - Structure.

"Structure" means anything constructed or erected that requires location on the ground or attached to something having location on the ground. For OCMC 17.42 "structure" means a walled and roofed building including a gas or liquid storage tank that is principally above ground.

OCMC 17.04.154 - Building.

"Building" means structure.

Food carts are not considered structures subject to the regulations of chapter 17.42 since they are not constructed or erected, and are not a building with walls or a roof. The building addition/modification is regulated under this definition.

17.42.040 - Compliance.

No structure or land shall hereafter be constructed, located, extended, converted or altered without full compliance with the terms of these floodplain regulations and other applicable regulations.

Violations of the provisions of this chapter by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a civil infraction. Any person who violates this chapter or fails to comply with any of its requirements shall be subject to the enforcement procedures of this code per OCMC [1.20](#) Civil Infractions

and [1.24](#) Code Enforcement. Nothing herein contained shall prevent the city from taking such other lawful action as is necessary to prevent or remedy.

Finding: Complies as Proposed. The subject site is within the 100-year floodplain and the 1996 flood inundation. Compliance with this chapter is required. The applicant understands no structure shall be constructed, located, extended, converted, or altered without full compliance with this code section.

17.42.060 - Warning and disclaimer of liability.

The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This chapter does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flooding damages. This chapter shall not create liability on the part of the city, any officer or employee thereof, or the Federal Insurance Administration for any flood damages that result from reliance on this chapter or any administrative decision lawfully made thereunder.

Finding: Complies with Condition. The applicant understands regulations may change or vary and shall hold the City harmless in regard to this application. The city will issue a land use decision to the applicant for the purposes of warning and disclaiming of the liability associated with developing land within the flood management overlay district. Prior to issuance of an occupancy permit or final, the applicant shall provide a signed agreement, approved in form by the City Attorney, that holds the City harmless from any liability on the part of the city, any officer or employee thereof, or the Federal Insurance Administration for any flood damages that result from reliance on this chapter or any administrative decision lawfully made thereunder. It is possible, likely, and reasonable that the applicant can meet this standard through the Conditions of Approval.

17.42.080 - Administration.

This chapter establishes a flood management overlay district, which is delineated on the water quality and flood management areas map attached and incorporated by reference as a part of this document.

A. The following maps and studies are adopted and declared to be a part of this chapter. These maps are on file in the office of the city recorder:

- 1. The Water Quality and Flood Management Areas Map, dated June 7, 1999;*
- 2. The Federal Insurance Administration, Flood Insurance Rate Maps for Clackamas County, Oregon and Incorporated Areas dated June 17, 2008;*

Finding: Complies as Proposed. The applicant has reviewed the applicable Water Quality and Flood Management Areas Map and FIRM map for the area. The subject property is located within the 1996/FEMA 100 Year Floodplain. The following maps and studies are adopted and declared to be a part of this chapter. These maps are on file in the office of the city recorder:

1. The Water Quality and Flood Management Areas Map, dated June 7, 1999;
2. The Federal Insurance Administration, Flood Insurance Rate Maps for Clackamas County, Oregon and Incorporated Areas dated June 17, 2008.

B. Applicants are required to provide the city with a delineation of the flood management areas on the subject property as part of any application. An application shall not be complete until this delineation is submitted to the city.

C. The city shall review the water quality and flood management areas maps during periodic review as required by ORS 197.633 (1997).

Finding: Complies as Proposed. A delineation of the flood management area was provided with the application, along with site plans for reference. Nearly the entirety of the site is covered in the 1996 Inundation layer and/or 100 Year Floodplain. Some small portions of the site are not subject to flooding; however, for the purposes of this application, the entire site shall be considered within the flood management area. All proposed alterations shall be treated as if they are within the flood management area. The City reviews the water quality and flood management areas maps during periodic review as required by ORS 197.633 (1997).

D. Development Permit.

1. A development permit shall be obtained before construction or development begins within any portion of the flood management overlay district. The permit shall be for all structures, including manufactured homes and all other development, including fill and other activities, as set forth in [Chapter 17.04](#) (Definitions).

2. Application for a development permit shall be made on forms furnished by the community development department. Requirements may include, but are not limited to: plans in duplicate drawn to scale showing the nature, location, dimensions and elevations of the area in question; existing or proposed structures, fill, storage materials, drainage facilities; and the location of the foregoing.

Finding: Complies as Proposed. The applicant has submitted an application for development within the floodplain and has submitted all required documentation.

3. The following information is specifically required:

- a. Elevation in relation to mean sea level of the lowest floor (including basement) of all structures;*
- b. Elevation in relation to mean sea level to which any structure has been floodproofed;*
- c. Certification by a registered professional engineer or architect that the floodproofing methods for any nonresidential structure meet the floodproofing criteria in Section 17.42.170E.5.; and*
- d. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.*

Finding: Not Applicable. For the purposes of this chapter, structure is defined as follows:

17.04.1215 - Structure.

For OCMC 17.42 "structure" means a walled and roofed building including a gas or liquid storage tank that is principally aboveground.

Because the applicant has proposed a storage addition that is not a walled building, the standards in this section are not applicable. Additionally, the applicant has not proposed an alteration of a watercourse.

17.42.120 - Alteration of watercourses.

A. Notify adjacent communities and the department of land conservation and development prior to

any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration.

B. Require that maintenance is provided within the altered or relocated portion of the watercourse so that the flood-carrying capacity is not diminished.

Finding: Not Applicable. The applicant has not proposed an alteration of a watercourse.

17.42.140 - Appeals and variance procedure.

Finding: Not Applicable. The applicant has not requested a variance to any floodplain standard in this chapter or an appeal. These standards are not applicable.

17.42.150 - Conditions for variances.

Finding: Not Applicable. The applicant has not requested a variance to any floodplain standard.

17.42.160.A - Flood management area standards.

Uses Permitted Outright:

1. *Excavation and fill required to plant any new trees or vegetation.*
2. *Restoration or enhancement of floodplains, riparian areas, wetland, upland and streams that meet federal and state standards provided that any restoration project which encroaches on the floodway complies with the requirements of Section 17.42.190 (Floodways).*

Finding: Applicable As a condition of approval, a survey shall be completed prior to and after construction by a surveyor. Cut and fill calculations shall be performed by a civil engineer.

17.42.160.B Provisional Uses.

1. *All uses allowed in the base zone or existing flood hazard overlay zone are allowed in the flood management overlay district subject to compliance with the development standards of this section.*

Finding: Applicable. The applicant has proposed uses and structures which are permitted in the base zone. Compliance with the development standards in this chapter is required.

17.42.160.C Prohibited Uses.

1. *Any use prohibited in the base zone;*
2. *Uncontained areas of hazardous materials as defined by the Department of Environmental Quality.*

Finding: Complies as Proposed. No prohibited uses have been proposed.

17.42.160.D.1 Site Development Standards. All development in the floodplain shall conform to the following balanced cut and fill standards:

This subsection does not apply to work necessary to protect, repair, maintain or replace existing structures, utility facilities, roadways, driveways, accessory uses and exterior improvements in response to emergencies provided that, after the emergency has passed, adverse impacts are mitigated in accordance with applicable standards.

Finding: Not Applicable. The proposed development is not being proposed in response to an emergency.

17.42.160.D.2 No net fill in any floodplain is allowed. All fill placed in a floodplain shall be balanced with at least an equal amount of soil material removed. For the purpose of calculating net fill, fill shall include any structure below the design flood elevation that has been floodproofed pursuant to subsection (E)(5) of this section.

Finding: Complies with Condition. The applicant identified compliance with the standard but did not provide calculations demonstrating that all fill in the floodplain is balanced with at least an equal amount of cut. Though the proposed food carts are considered vehicles not subject to this standard, the applicant must balance the fill associated with the food carts (mobile food units) with an equal amount of cut. Prior to issuance of a building permit, the applicant shall submit documentation prepared by a registered engineer identifying compliance with balanced cut and fill standards in OCMC Section 17.42.160.D Staff has determined that it is possible, likely, and reasonable that the applicant can meet this standard through the Conditions of Approval.

17.42.160.D.3 Any excavation below bankfull stage shall not count toward compensating for fill.

Finding: Complies with Condition. The applicant identified compliance with this section but did not identify where cuts to balance out fills would be located. Prior to issuance of a building permit, the applicant shall submit documentation prepared by a registered engineer identifying compliance with balanced cut and fill standards in OCMC Section 17.42.160.D **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

Excavation to balance a fill shall be located on the same parcel as the fill unless it is not practicable to do so. In such cases, the excavation shall be located in the same Oregon City floodplain, so long as the proposed excavation and fill will not increase flood impacts for surrounding properties as determined through hydrologic and hydraulic analysis.

Finding: Complies with Conditions. The fill is expected to be removed from the subject site. Prior to issuance of a building permit, the applicant shall submit documentation prepared by a registered engineer identifying compliance with balanced cut and fill standards in OCMC Section 17.42.160.D **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

17.42.160.D.4 For excavated areas identified by the city to remain dry in the summer, such as parks or mowed areas, the lowest elevation of the excavated area shall be at least six inches above the winter "low water" elevation, and sloped at a minimum of two percent towards the protected water feature pursuant to Chapter 17.49. One percent slopes will be allowed in smaller areas.

Finding: Not Applicable. The subject site does not include areas identified by the city to remain dry in summer.

17.42.160.D.5 For excavated areas identified by the city to remain wet in the summer, such as a constructed wetland, the grade shall be designed not to drain into the protected water feature pursuant to Chapter 17.49.

Finding: Not Applicable. The subject site does not include areas identified by the city to remain wet in summer.

17.42.160.D.6 Parking areas in the floodplain shall be accompanied by signs that inform the public that

the parking area is located in a flood management area and that care should be taken when the potential for flooding exists.

Finding: Not Applicable. The existing parking area was required to comply with this standard as part of prior reviews. Because no new parking areas are proposed as part of this development application, this standard is not applicable.

17.42.160.D.7 Temporary fills permitted during construction shall be removed at the end of construction, thirty days after subdivision acceptance or completion of the final inspection.

Finding: Complies with Condition. Temporary fills within the floodplain permitted during construction shall be removed at the end of construction prior to issuance of an occupancy permit. Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.

17.42.160.D.8 New culverts, stream crossings and transportation projects shall be designed as balanced cut and fill projects or designed not to significantly raise the design flood elevation. Such projects shall be designed to minimize the area of fill in flood management areas and to minimize erosive velocities. Stream crossings shall be as close to perpendicular to the stream as practicable. Bridges shall be used instead of culverts wherever practicable.

Finding: Not Applicable. The applicant has not proposed any new culverts, stream crossings or transportation projects.

17.42.160.D.9 Excavation and fill required for the construction of detention facilities or structures, and other facilities, such as levees, specifically shall be designed to reduce or mitigate flood impacts and improve water quality. Levees shall not be used to create vacant buildable lands.

Finding: Not Applicable. The applicant has not proposed detention facilities or structures.

17.42.160.E.1 Construction Standards.

1. Anchoring.

a. All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure.

b. All manufactured homes must likewise be anchored to prevent flotation, collapse or lateral movements and shall be installed using methods and practices that minimize flood damage.

Anchoring methods may include, but are not limited to, use of over-the-top or frame ties to ground anchors (reference FEMA's "Manufactured Home Installation in Flood Hazard Areas" guidebooks for additional techniques).

Finding: Complies with Conditions. All new construction and substantial improvements including those which are to remain on site during a flooding event shall be designed to be anchored to the ground to prevent floatation and or collapse. The standards in this section apply to the new proposed storage and the mobile food units if they are proposed to remain in place during a flood event. The applicant shall remove the food carts and any above ground tanks from the site in the event of a flood. Prior to issuance of a building permit, the applicant shall provide documentation acceptable to the Building Official that includes a plan and proposal for the mobile food units explaining the units shall be removed from the site in the event of a flood. The applicant's proposal shall also include a notification system of how the mobile food unit owners will be notified and relocated by the property owner out of the floodplain if they are not relocated

by the mobile food unit owner. Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.

17.42.160.E.2 Construction Materials and Methods.

- a. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.*
- b. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.*
- c. Electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities shall be designed and/or otherwise elevated or located so as to prevent water from entering or accumulating within the components during conditions of flooding.*

Finding: Complies with Conditions. The standards in this section apply to the new proposed storage and the mobile food units if they are proposed to remain in place during a flood event. The applicant shall remove the food carts and any above ground tanks from the site in the event of a flood. The applicant shall provide documentation acceptable to the Building Official that includes a plan and proposal for the mobile food units explaining the units shall be removed from the site in the event of a flood. The applicant's proposal shall also include a notification system of how the mobile food unit owners will be notified and relocated by the property owner out of the floodplain if they are not relocated by the mobile food unit owner. Compliance for the structures that remain on site during a flood event will be confirmed at the time of building permit inspection. Prior to issuance of a building permit associated with the Minor Site Plan and Design Review application, the applicant shall submit documentation to the Building Official identifying compliance with the construction materials and methods included within the standards in OCMC Section 17.42.160.E. **Staff has determined that it is reasonable, practicable and likely that the applicant can meet this standard through the Conditions of Approval.**

17.42.160.E.3 Utilities.

- a. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.*
- b. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharge from the systems into floodwaters.*
- c. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.*

Finding: Complies as Proposed. The applicant's narrative identified:

The water supply system has been expanded to serve various food carts per the initial application. This existing system meets all applicable building and plumbing codes. This piping is below-grade with valves at termination points to prevent floodwaters into the system. The sanitary system for the existing structure has been modified to include an oil water separator per the initial application. The new food carts shall also connect to the sanitary system. All openings into these systems and tanks (such as the oil water separator) include tight-fitting lids and enclosures to deter infiltration of floodwaters into the systems. No onsite wastewater disposal systems occur.

17.42.160.E.4 Residential Construction

- a. New construction and substantial improvements of any residential structure shall have the lowest*

floor, including basement, elevated to at least one foot above the design flood elevation.

b. Full enclosed areas below the lowest floor that are subject to flooding are prohibited unless they are designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria.

- i. A minimum of two openings have a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.*
- ii. The bottom of all openings shall be no higher than one foot above grade.*
- iii. Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.*

Finding: Not Applicable. The proposed development does not include any residential construction subject to these standards.

17.42.160.E.5 Nonresidential Construction.

- a. New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement, elevated to at least one foot above base flood elevation; or, together with attendant utility and sanitary facilities, shall:*
 - i. Be floodproofed so that below the design flood level the structure is watertight with walls substantially impermeable to the passage of water provided that the requirements of subsection D.2. of this section are met;*
 - ii. Have structured components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy;*
 - iii. Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting provisions of this subsection based on their development and/or review of the structural design, specifications and plans. Such certifications shall be provided to the official as set forth in Section 17.42.110B.;*
 - iv. Nonresidential structures that are elevated, not floodproofed, must meet the same standards for space below the lowest floor as described in subsection E.4.b. of this section; and*
 - v. Applicants floodproofing nonresidential buildings shall be notified that flood insurance premiums will be based on rates that are one foot below the floodproofed level (e.g., a building constructed to the design flood level will be rated as one foot below that level).*
 - vi. Manufactured Homes. The following standards apply to all manufactured homes to be placed or substantially improved on sites within Flood Hazard Areas.*

When manufactured dwellings are installed in flood hazard areas, they shall be elevated and anchored according to the Oregon Residential Specialty Code.

Finding: Complies with Conditions. The standards in this section apply to the new proposed storage and any structures that require a building permit. The applicant shall remove the food carts and any above ground tanks from the site in the event of a flood. The applicant shall provide documentation acceptable to the Building Official that includes a plan and proposal for the mobile food units explaining the units shall be removed from the site in the event of a flood. The applicant's proposal shall also include a notification system of how the mobile food unit owners will be notified and relocated by the property owner out of the floodplain if they are not relocated by the mobile food unit owner.

Compliance for the structures that remain on-site during a flood event shall be confirmed prior to issuance of a building permit associated with the Minor Site Plan and Design Review application. Prior to issuance of a building permit associated with the Minor Site Plan and Design Review application, the applicant shall submit documentation to the Building Official identifying compliance with the construction standards in OCMC Section 17.42.160.E. **Staff has determined that it is reasonable, practicable and likely that the applicant can meet this standard through the Conditions of Approval.**

F. Recreational Vehicles. Recreational vehicles placed on sites within Zones A1-30, AH and AE as shown on the flood insurance rate map shall:

- 1. Be on site for fewer than one hundred eighty consecutive days, and be fully licensed and ready for highway use, on its wheels or jacking system, attached to the site only by quick disconnect type utilities and security devices, and have no permanently attached additions; or*
- 2. Meet the requirements of subsection E.6. of this section and the elevation and anchoring requirements for manufactured homes.*

Finding: Not Applicable. No recreational vehicles have been proposed as part of this development application.

G. Below Grade Crawlspace. Below grade crawlspaces are allowed subject to the following standards. It should be noted that there are potential increased charges to personal insurance costs for below grade crawlspaces.

Finding: Not Applicable. No below grade crawlspaces have been proposed as part of this development application.

17.42.170 - Review of building permits.

Where elevation data is not available either through the flood insurance study, FIRM or from another authoritative source (Section 17.42.110), application for building permits shall be reviewed to assure that proposed construction will be reasonably safe from flooding. The test of reasonableness shall be made by the building official, considering use of historical data, high water marks, photographs of past floodings, etc., where available, and the provisions of this title. Failure to elevate at least two feet above grade in these zones may result in higher insurance rates.

Finding: Complies with Conditions. The building official will review permits required to assure compliance with this section. The subject property is completely within the floodplain. Prior to issuance of a building permit associated with the Minor Site Plan and Design Review application, the applicant shall submit documentation to the Building Official identifying compliance with the applicable cut and fill standards of OCMC 17.42.160.D and the construction standards in OCMC Section 17.42.160.E. **Staff has determined that it is reasonable, practicable and likely that the applicant can meet this standard through the Conditions of Approval.**

17.42.180 - Subdivision standards.

Finding: Not Applicable. The proposal does not include a subdivision.

17.42.190 - Floodways.

Located within areas of special flood hazard established in Section 17.42.030 are areas designated as floodways.

Finding: Not Applicable. The site is not within the floodway identified on the FIRM.

GEOLOGIC HAZARDS – CHAPTER 17.44

17.44.025 - *When required; regulated activities; permit and approval requirements.*

No person shall develop land, construct, reconstruct, structurally alter, relocate or enlarge any building or structure for which a land development, sign, or building permit is required on a property that contains an area mapped within the adopted Oregon City Geologic Hazards Overlay Zone without first obtaining permits or approvals as required by this chapter.

The requirements of this chapter are in addition to other provisions of the Oregon City Municipal Code. Where the provisions of this chapter conflict with other provisions of the Oregon City Municipal Code, the provisions that are the more restrictive of regulated development activity shall govern.

Finding: Applicable. A portion of the property is within the geologic hazards overlay. This chapter is applicable.

17.44.30 - *Procedures.*

No building or site development permit or other authorization for development shall be issued until the plans and other documents required by this chapter have been reviewed and found by the review authority to comply with the requirements of this chapter.

- A. *Where the development is part of an application that otherwise requires a Type III procedure, review shall occur in the manner established in Chapter 17.50 for a consolidated Type III review.*
- B. *Where the development is part of an application that otherwise requires a Type II procedure, review shall occur in the manner established in Chapter 17.50 for a consolidated Type II review.*
- C. *For any other proposed development not otherwise subject to review as part of a development proposal that requires land use review, review shall occur in the manner established in Chapter 17.50 for a Type II procedure.*

Finding: Applicable. This application is being reviewed pursuant to the Type III process established in OCMC 17.50.

17.44.35 - *Exemptions.*

The following activities, and persons engaging in same, are EXEMPT from the provisions of this chapter.

- A. *An excavation which is less than two feet in depth, or which involves less than twenty-five cubic yards of volume;*
- B. *A fill which does not exceed two feet in depth or which includes less than twenty-five cubic yards of volume;*

- C. *A combined cut and fill that does not involve more than twenty-five cubic yards of volume.*
- D. *Installation, new construction, addition or structural alteration of any existing structure of less than five hundred square feet in building footprint that does not involve grading as defined in this chapter;*
- E. *Installation, construction, reconstruction, or replacement of public and private utility lines in the hardscape portion of the city right-of-way, existing utility crossings, existing basalt lined drainage channels, or public easement, not including electric substations;*
- F. *Tree removal on slopes 25 percent or greater where storage area removal is less than 25 percent of the portion of the lot which contains 25 percent or greater slopes. For the purpose of this chapter, "tree" shall be as defined in OCMC 17.04.1315.*
- G. *The removal or control of noxious vegetation;*
- H. *Emergency actions which must be undertaken immediately to prevent an imminent threat to public health or safety, or prevent imminent danger to public or private property. The person undertaking emergency action shall notify the building official on all regulated activities associated with any building permit or City Engineer/Public Works Director on all others within one working day following the commencement of the emergency activity. If the City Engineer/Public Works Director or building official determine that the action or part of the action taken is beyond the scope of allowed emergency action, enforcement action may be taken.*

Finding: Complies as Proposed. Per GLUA-21-00044/SP-21-00085/VAR-21-00004/FP-21-00004. The Assistant City Engineer, Josh Wheeler, has identified that the addition of food carts and seating areas at grade will not trigger the Geologic Hazards code of 17.44 and is exempt from further review for compliance with this chapter. This proposal meets the same criteria and is therefore exempt from further review.

CHAPTER 17.50 – ADMINISTRATION AND PROCEDURES

17.50.050 – Pre-application conference.

A Pre-application Conference. Prior to a Type II – IV or Legislative application, excluding Historic Review, being deemed complete, the applicant shall schedule and attend a pre-application conference with City staff to discuss the proposal, unless waived by the Community Development Director. The purpose of the pre-application conference is to provide an opportunity for staff to provide the applicant with information on the likely impacts, limitations, requirements, approval standards, fees and other information that may affect the proposal.

1. To schedule a pre-application conference, the applicant shall contact the Planning Division, submit the required materials, and pay the appropriate conference fee.

2. At a minimum, an applicant should submit a short narrative describing the proposal and a proposed site plan, drawn to a scale acceptable to the City, which identifies the proposed land uses, traffic circulation, and public rights-of-way and all other required plans.

3. The Planning Division shall provide the applicant(s) with the identity and contact persons for all affected neighborhood associations as well as a written summary of the pre-application conference.

B. A pre-application conference shall be valid for a period of six months from the date it is held. If no application is filed within six months of the conference or meeting, the applicant

shall schedule and attend another conference before the City will accept a permit application. The Community Development Director may waive the pre-application requirement if, in the Director's opinion, the development has not changed significantly and the applicable municipal code or standards have not been significantly amended. In no case shall a pre-application conference be valid for more than one year.

Finding: Complies as Proposed. The applicant held a pre-application meeting on June 15, 2021 (PA-21-00026). The application was submitted within one year of the date of the pre-application conference.

17.50.055 - Neighborhood association meeting.

Neighborhood Association Meeting. The purpose of the meeting with the recognized neighborhood association is to inform the affected neighborhood association about the proposed development and to receive the preliminary responses and suggestions from the neighborhood association and the member residents.

A. Applicants applying for annexations, zone change, comprehensive plan amendments, conditional use, Planning Commission variances, subdivision, or site plan and design review (excluding minor site plan and design review), general development master plans or detailed development plans applications shall schedule and attend a meeting with the City-recognized neighborhood association in whose territory the application is proposed no earlier than one year prior to the date of application. Although not required for other projects than those identified above, a meeting with the neighborhood association is highly recommended.

B. The applicant shall request via email or regular mail a request to meet with the neighborhood association chair where the proposed development is located. The notice shall describe the proposed project. A copy of this notice shall also be provided to the chair of the Citizen Involvement Committee.

C. A meeting shall be scheduled within thirty days of the date that the notice is sent. A meeting may be scheduled later than thirty days if by mutual agreement of the applicant and the neighborhood association. If the neighborhood association does not want to, or cannot meet within thirty days, the applicant shall host a meeting inviting the neighborhood association, Citizen Involvement Committee, and all property owners within three hundred feet to attend. This meeting shall not begin before six p.m. on a weekday or may be held on a weekend and shall occur within the neighborhood association boundaries or at a City facility.

D. If the neighborhood association is not currently recognized by the City, is inactive, or does not exist, the applicant shall request a meeting with the Citizen Involvement Committee.

E. To show compliance with this section, the applicant shall submit a copy of the email or mail notice to the neighborhood association and CIC chair, a sign-in sheet of meeting attendees, and a summary of issues discussed at the meeting. If the applicant held a separately noticed meeting, the applicant shall submit a copy of the meeting flyer, postcard or other correspondence used, and a summary of issues discussed at the meeting and submittal of these materials shall be required for a complete application.

Finding: Complies as Proposed. The subject site is located within the Two Rivers Neighborhood Association. The applicant held a meeting on April 4, 2022 with the Citizen Involvement Committee as the Two River NA was unable to meet in a timely manner.

17.50.090 - Public notices.

All public notices issued by the city 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 community development director 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. The applicant shall provide or the city shall prepare for a fee 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 OCMC [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 shall 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 OCMC 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.*

Finding: Not Applicable. This application is being reviewed through the Type III procedure and is subject to the noticing requirements in Section B.

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 on the city website within the city at least twenty days prior to the hearing. Pursuant to OCMC 17.50.080.H, 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 OCMC [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 shall 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 OCMC 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;
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 the planning division offices 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 community development director 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 on the city website. 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.

Finding: Complies as Proposed. Notice was posted onsite, mailed to property owners and tenants within 300 feet of the subject site, and provided to affected departments and agencies via email.

17.50.100 - Notice posting requirements.

Where this chapter requires notice of a pending or proposed permit application or hearing to be posted on the subject property, the requirements of this section shall apply.

- A. City Guidance and the Applicant's Responsibility. The City shall supply all of the notices which the

applicant is required to post on the subject property and shall specify the dates the notices are to be posted and the earliest date on which they may be removed. The City shall also provide a statement to be signed and returned by the applicant certifying that the notice(s) were posted at the correct time and that if there is any delay in the City's land use process caused by the applicant's failure to correctly post the subject property for the required period of time and in the correct location, the applicant agrees to extend the applicable decision-making time limit in a timely manner.

B. Number and Location. The applicant shall place the notices on each frontage of the subject property. If the property's frontage exceeds six hundred feet, the applicant shall post one copy of the notice for each six hundred feet or fraction thereof. Notices do not have to be posted adjacent to alleys or unconstructed right-of-way. Notices shall be posted within ten feet of the street and shall be visible to pedestrians and motorists. Notices shall not be posted within the public right-of-way or on trees. The applicant shall remove all signs within ten days following the event announced in the notice.

Finding: Complies as Proposed. The sign was posted with land use notice signs in accordance with the requirements in this section.

CHAPTER 17.52 OFF-STREET PARKING AND LOADING

17.52.010 - Applicability.

The construction of a new structure or parking lot, or alterations to the size or use of an existing structure, parking lot or property use shall require site plan review approval and compliance with this chapter. This chapter does not apply to single-family attached, detached residential dwellings and duplexes.

Finding: Applies. The proposal includes a building addition; therefore, this chapter is applicable.

17.52.020 - Number of automobile spaces required.

A. The number of parking spaces shall comply with the minimum and maximum standards listed in Table 17.52.020. The parking requirements are based on spaces per one thousand square feet net leasable area unless otherwise stated.

Table 17.52.020		
LAND USE	PARKING REQUIREMENTS	
	MINIMUM	MAXIMUM
Retail Store, Shopping Center, Restaurants	4.10	5.00

Finding: Complies as Proposed. In total, there is 4,343 SF of restaurant/retail space, requiring a minimum of 18 parking stalls ($4.343 \times 4.1 = 17.806$), and a maximum of 22 parking stalls ($4.343 \times 5 = 21.715$). There are 22 spaces onsite. The applicant is not proposing to add or remove any parking stalls with this request and is in compliance with minimum and maximum parking requirements.

CHAPTER 17.54 – SUPPLEMENTAL ZONING REGULATIONS AND EXCEPTIONS

17.54.100 Fences, Hedges, Walls, and Retaining Walls.

A. A fence, hedge, wall, retaining wall, or combination thereof may be located on real property, not within the right-of-way, subject to all of the following:

1. A fence, hedge, wall, retaining wall, or combination thereof located in front of a building may be up to 3.5-feet in total height as measured from the finished grade at any point on the fence.

2. A fence, hedge, wall, located next to, or behind the forward most building, or within more than forty feet of the right-of-way, whichever is less may be up to:

a. Six feet in total height for residential properties with less than five units as measured from the finished grade at any point on the fence; or

b. Eight feet in total height for all other uses as measured from the finished grade at any point on the fence.

3. A retaining wall or combination of a fence, hedge, wall located next to and behind the forward most building, or within more than forty feet of the right-of-way, whichever is less, may be up to (as measured from the finished grade) 8.5 feet in height from the finished grade.

4. Fences, hedges, and/or walls located within two feet above a retaining wall, as measured on a horizontal plane, shall be measured together for the purposes of determining height.

5. Property owners shall ensure compliance with the Traffic Sight Obstruction requirements in Chapter 10.32 of the Oregon City Municipal Code.

6. Retaining walls completely below the elevation of the right-of-way may be up to six feet in height.

7. Minimum fall protection required by the Building Official, such as railings, is not included in the height of a retaining wall but must comply with the fence height requirements.

Finding: Not Applicable. No new site fences, hedges, or walls are proposed as part of this development application. Materials relating to the storage area fencing are reviewed in COMC 17.62 Site Plan and Design Review. A wood fence is being integrated into the storage addition footprint.

17.54.115 - Mobile Food Units

A. Applicability. The following provisions apply to mobile food units not located within a building. The provisions do not apply to indoor mobile food units or mobile food units allowed pursuant to a special event permit issued by the City.

Finding: Applicable. The applicant is rearranging the existing mobile food units onsite.

B. General Requirements.

1. Mobile food units shall primarily sell food items;

Finding: Complies as Proposed. The applicant identified that the proposed mobile food units will primarily sell food items. Compliance with general requirements for mobile food units will be confirmed upon submittal of a business license application for individual mobile food units.

2. *Mobile food units shall not sell cannabis, in any form;*

Finding: Complies as Proposed. The applicant identified that the proposed mobile food units will not sell cannabis in any form. Compliance with general requirements for mobile food units will be confirmed upon submittal of a business license application for individual mobile food units.

3. *Mobile food units shall have a valid Oregon City business license; and*

Finding: Complies as Proposed. The applicant's submittal identified that individual mobile food units will obtain and maintain a valid Oregon City business license.

4. *Mobile food units shall not be located within the right-of-way, except as approved by the City Engineer.*

Finding: Complies as Proposed. The applicant's proposal does not include mobile food units within the right-of-way.

5. *Mobile food units shall maintain continuous compliance with applicable federal, state, and city standards;*

Finding: Complies as Proposed. The applicant's narrative identified compliance with this standard.

6. *Discharge or leakage draining into the storm water system is prohibited. Wastewater shall not be dumped onto the ground, onto the streets, or into a storm a drain. All liquid waste from the waste tank or from cleaning activities such as cleaning the mobile food cart shall be captured and properly disposed of in the sanitary sewer.*

Finding: Complies as Proposed. The development has proposed an on-site holding tank to capture wastewater generated by the mobile food units, and indicated all mobile food units will be connected directly to a sanitary sewer system draining into a common septic tank to be pumped at regular intervals.

7. *All permanent utility lines shall be placed underground. Temporary utilities, lines and tanks shall be placed underground or otherwise screened, covered, or hidden from view from the right of way as to minimize visual impacts and prevent tripping hazards or other unsafe conditions.*

Finding: Complies as Proposed. The applicant's submittal identified compliance with this standard. Compliance with general requirements for mobile food units will be verified upon submittal of a business license application for individual mobile food units.

8. *Power connections may not be connected by overhead wires to the individual mobile food units.*

Finding: Complies as Proposed. The applicant's submittal identified compliance with this standard. Compliance with general requirements for mobile food units will be verified upon submittal of a business license application for individual mobile food units.

9. *Comply with the Stormwater and Grading Design Standards for additional impervious surfaces*

Finding: Please refer to the findings in Chapter 13.12 of this report.

10. *Mobile food units, equipment, customer service areas, or any associated item may not be located within the right of way.*

Finding: Complies as Proposed. The applicant has not proposed mobile food units, equipment, customer service areas, or any associated items within the right-of-way.

11. *Sites with more than ten mobile food units at any time shall have a designated loading area.*

Finding: Complies A loading zone exists along the south property line west of the trash enclosure.

Parking lots, refuse and recycling areas, outdoor lighting, fencing, and structures (other than the mobile food units) are subject to compliance with Site Plan and Design Review standards in OCMC

17.62. *Mobile food units are exempt from OCMC 17.52 unless otherwise identified below.*

Finding: Complies as Proposed. The applicant's submittal demonstrates compliance with these standards. Please refer to the findings in Chapter 17.62.

12. *Mobile food unit owners are responsible for maintaining the mobile unit and the adjacent site area in a neat and clean condition. This includes but is not limited to regular maintenance and cleaning of the exterior of the mobile food unit to avoid rust and peeling paint, repair of broken or sagging awnings, canopies, platforms, counters, benches, tables, umbrellas, and other structures used by customers adjacent to the mobile food unit.*

Finding: Complies as Proposed. The applicant's narrative identified compliance with this standard.

C. Design Standards.

1. *Transitory Mobile Food Units. Mobile food units that remain on a property for five hours or less in a twenty-four hour period shall comply with the following:*

Finding: Not Applicable. The applicant has proposed non-transitory food carts in a permanent food cart pod, which are not subject to the standards for transitory mobile food units.

2. *Non-Transitory Mobile Food Units.*

All other mobile food units that remain on a property for more than five hours at a time shall comply with the following:

i. *Standards related to the site*

a. *Maintain the minimum number of parking stalls and minimum drive aisle widths and parking lot requirements;*

Finding: Complies as Proposed. The minimum number of parking stalls and drive aisle widths are being maintained. Please refer to the findings in Chapter 17.52 of this report.

b. Not result in the reduction of landscaping less than the minimum site;

Finding: Complies as Proposed. No landscaping is proposed to be removed as part of this development application.

ii. Standards related to the unit.

a. Fully screen from view any mechanical or power generating equipment that is separated from and external to the mobile food unit with vegetation or screening at a height equal to or greater than the height of the generating unit;

b. Connect to a permanent water source, unless exempted by the City Engineer if utilities are not available;

c. Connect to public sewer. This may be achieved through a communal system;

d. Connect to a permanent power source; and

e. Comply with the minimum setbacks and maximum height of the zoning designation.

Finding: Complies with Condition. Compliance with standards related to individual mobile food units will be verified upon submittal of a business license application. Prior to issuance of a business license, each mobile food unit shall submit a mobile food unit form demonstrating compliance with all applicable standards related to the mobile food unit. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

D. Process

1. A Type I Minor Site Plan and Design Review shall be submitted for each property in compliance with the transitory standards in OCMC 17.54.115.C.1 with a wastewater / water operations and maintenance plan.

2. A Type II Minor Site Plan and Design Review shall be submitted for each property in compliance with the non-transitory standards in OCMC 17.54.115.C with a wastewater / water operations and maintenance plan.

3. Mobile food cart units shall each submit a business license and mobile food cart unit form.

Finding: Complies as Proposed. The development proposal is being reviewed pursuant to the Type III process. Individual mobile food units will be reviewed for compliance with applicable standards upon submittal of a business license application and mobile food cart unit form.

CHAPTER 17.58 LAWFUL NONCONFORMING USES, LOTS, STRUCTURES, AND SITES

17.58.020 - Lawful nonconforming lots of record.

Finding: Not Applicable. The subject site is not a lawful nonconforming lot of record.

17.58.030 - Lawful nonconforming use.

Finding: Not Applicable. The subject site does not include a lawful non-conforming use.

17.58.040 - Lawful nonconforming structure or site.

A structure or site that was lawfully established but no longer conforms to all development standards of this land use code (such as setbacks) shall be considered lawfully nonconforming. Notwithstanding

development standard requirements in this Code, minor repairs and routine maintenance of a lawful nonconforming structure are permitted. The continuation of a lawful nonconforming structure or site is subject to the following:

- A. *Accidental Destruction.* When a nonconforming structure is damaged by fire or other causes, the structure may be rebuilt using the same structure footprint.
- B. *Intentional Destruction.* When a nonconforming structure is removed or intentionally damaged by fire or other causes within the control of the owner, the replacement structure shall comply with the development standards of this title.
- C. *Expansion.* An expansion of a lawful nonconforming structure or site may be approved, conditionally approved or denied in accordance with the standards and procedures of this section.
 - 1. *In making a determination on such applications, the decision maker shall weigh the proposal's positive and negative features and the public convenience or necessity to be served against any adverse conditions that would result from authorizing the particular development at the location proposed, and, to approve such expansion, it shall be found that the criteria identified in OCMC 17.58.060 have either been met, can be met by observance of conditions, or are not applicable.*
 - 2. *Increases in the square footage of a building and/or site improvements which include installation of any additional off-street parking stalls 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.*
 - a. *Thresholds triggering compliance.* The standards of subparagraph C.2.b. below shall be met when the value of the increase in square footage of a building and/or increase in off-street parking stalls, as determined by the Community Development Director, is more than seventy-five thousand dollars. 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.*

Finding: Not Applicable. The subject site is considered non-conforming for several reasons, including site landscaping, parking lot landscaping, and building design. The applicant has proposed a new storage structure which will result in an increase in square footage. The applicant identified that the storage structure does not equal \$75,000, proportional non-conforming upgrades are not required.

CHAPTER 17.60 VARIANCES

17.60.020 - Variances—Procedures.

- A. *A request for a variance shall be initiated by a property owner or authorized agent by filing an application with the city recorder. The application shall be accompanied by a site plan, drawn to scale, showing the dimensions and arrangement of the proposed development. When relevant to the request, building plans may also be required. The application shall note the zoning requirement and the extent of the variance requested. Procedures shall thereafter be held under Chapter 17.50. In addition, the procedures set forth in subsection D. of this section shall apply when applicable.*

B. A nonrefundable filing fee, as listed in OCMC 17.50.080, shall accompany the application for a variance to defray the costs.

Finding: Complies as Proposed. The applicant has requested a variance to the required rear yard setback and has provided all required application materials and fees.

C. Before the planning commission may act on a variance, it shall hold a public hearing thereon following procedures as established in Chapter 17.50. A Variance shall address the criteria identified in OCMC 17.60.030, Variances — Grounds.

Finding: Complies as Proposed. The public hearing procedures established in OCMC 17.50 have been followed accordingly.

D. Minor variances, as defined in subsection E. of this section, shall be processed as a Type II decision, shall be reviewed pursuant to the requirements in OCMC 17.50.030B., and shall address the criteria identified in OCMC 17.60.030, Variance — Grounds.

E. For the purposes of this section, minor variances shall be defined as follows:

- 1. Variances to setback and yard requirements to allow additions to existing buildings so that the additions follow existing building lines;*
- 2. Variances to width, depth and frontage requirements of up to twenty percent;*
- 3. Variances to residential yard/setback requirements of up to twenty-five percent;*
- 4. Variances to nonresidential yard/setback requirements of up to ten percent;*
- 5. Variances to lot area requirements of up to five percent;*
- 6. Variance to lot coverage requirements of up to twenty-five percent;*
- 7. Variances to the minimum required parking stalls of up to five percent; and*
- 8. Variances to the floor area requirements and minimum required building height in the mixed-use districts.*
- 9. Variances to design and/or architectural standards for single family dwellings, duplexes, single-family attached dwellings, internal conversions, accessory dwelling units, and 3-4 plexes in OCMC 17.14, 17.16, 17.20, 17.21, and 17.22.*

Finding: Not Applicable. the Applicant would like to relocate five existing on-site non-transitory mobile food units to be placed as close as 2" from the southern property line of the site instead of constructing the covered structure. The applicant requests to adjust this setback by more than 25%, which will require a Type III Planning Commission Variance. A new Variance is needed for this request as the previous Variance findings and deliberation were based on a structure and seating area near the property line rather than a food truck (mobile food unit). As the uses and potential impacts are not the same, staff found that a new Variance request was needed for this proposal.

The Variance requested is to the OCMC 17.54.115C(2)b(v) section of the Mobile Food Unit code that requires non-transitory food carts to comply with the underlying zone's setbacks. Specifically:

Non-Transitory Mobile Food Units. All other mobile food units that remain on a property for more than five hours at a time shall comply with the following:

a. Standards related to the site.

i. Maintain the minimum number of parking stalls and minimum drive aisle widths and parking lot requirements;

- ii. Not result in the reduction of landscaping less than the minimum site;
- b. Standards related to the unit.
 - i. Fully screen from view any mechanical or power generating equipment that is separated from and external to the mobile food unit with vegetation or screening at a height equal to or greater than the height of the generating unit;
 - ii. Connect to a permanent water source, unless exempted by the city engineer if utilities are not available;
 - iii. Connect to public sewer. This may be achieved through a communal system;
 - iv. Connect to a permanent power source; and
 - v. **Comply with the minimum setbacks and maximum height of the zoning designation.**

Based on the dimensional standards in OCMC 17.34.060.F, a 15-foot rear yard setback is required. Vehicles are normally not considered structures and generally are not subject to setback requirements unless specifically stated in code, such as the mobile food unit code above.

17.60.030 - Variance—Grounds.

A variance may be granted only in the event that all of the following conditions exist:

- A. *That the variance from the requirements is not likely to cause substantial damage to adjacent properties by reducing light, air, safe access or other desirable or necessary qualities otherwise protected by this title;*

Finding: Complies as Proposed. The variance is requested to allow better access and egress for the food carts in case of an emergency. Due to the mapped Geological Hazard, it is unlikely the northern portions of lots 517 and 519 will be developed. Further, the dense trees and planting along the slope screen the visibility of the non-transitory mobile food units and maintain the integrity of the hillside. Views from these lots are not through the proposed non-transitory mobile food units but rather over the non-transitory mobile food units. Impacts resulting from the adjustment are mitigated due to the dramatic change in elevation and natural screening. The variance conforms to the comprehensive plan, as there is a considerable visual separation between the subject site and the adjacent residential zone. Even those properties to the east sit well above this subject site, and the retaining wall along Washington street provides nearly approximately 10 feet of screening. As these are not permanent structures, these shall not cause any substantial damage to adjacent properties via reduction of air, light, or safe access due to the unique nature of the site conditions. The proposed relocated non-transitory mobile food units meets or exceed the intent of the Municipal Code.

While not directly relating to the request to relocate the vehicles closer to the property line, a neighbor indicates through a public comment that there is an existing light that shines offsite towards Washington Street neighbors. As further discussed in the lighting section of this report and as a mitigation condition to remove an adverse impact, the applicant is required to ensure that the lighting standard is repositioned to shine downward onsite.

Figure 6: Topography and Distance to Residences on 13th Street



B. That the request is the minimum variance that would alleviate the hardship;

Finding: Complies as Proposed. The variance requests a modification to the required setback on the south side of the site. Locating the proposed non-transitory mobile food units in other locations would limit the ability of the non-transitory mobile food units to be removed in case of a flood or put patrons in conflict with car traffic. The proposed solution is the best solution available to accomplish the purpose. Other sections related to setbacks address this criterion more fully and should be considered. This adjustment on this sloped site will exceed the purpose of the regulation on comparable flat sites. The zoning code is generally written assuming adjacent properties are at the same elevation. This property is substantially lower than the adjacent residential property to the south. Given the limitations of developing the adjacent residential property due to the steep slope of the property/classification as a geological hazard, development opportunities of the residential site are extremely limited. A comparable flat sight that conforms to standard setbacks would look out at an adjacent building. In this case, a reduced setback is requested, and no visual obstruction to lights, air, or view will occur. The staff has determined that it is possible, likely, and reasonable that the applicant can meet this standard through the Conditions of Approval.

Granting the variance will equal or exceed the purpose of the regulation to be modified.

Finding: Complies as Proposed. The purpose of setback requirements is to provide a buffer between structures, resulting in privacy and separation between neighboring structures and uses. Additionally,

setback requirements are in place in order to provide fire separation, access to light and air, and an aesthetically consistent neighborhood design. A larger setback is required when commercial zones abut residential zones in order to prevent larger commercial developments from imposing on smaller-scale residential development. The elevation change between the subject property and the residential structures on the abutting properties at 517 and 519 13th Street is approximately 30 feet. The structures themselves are located more than 80 feet from the property line. The hillside between the residences on 13th Street and the proposed location of the storage structure is significantly vegetated providing additional screening and privacy between the subject site and the residences on 13th Street.

Furthermore, due to the steep slope of the hillside between the subject site and the residences on 13th Street, it is unlikely that the northern portion of the properties on 13th Street will be developed further because of regulations of the Oregon City Geologic Hazards Overlay District limiting development on steep slopes. An adequate separation will be maintained between the commercial development and the residences on 13th Street, given the dramatic elevation change, significant distance between the residential structures on 13th Street and the proposed storage structure, the unlikelihood of further development of the properties on 13th Street, and the existing vegetation on the hillside, therefore, the purpose of setback requirements is equaled or exceeded.

C. Any impacts resulting from the adjustment are mitigated;

Finding: Complies as Proposed. No impacts have been identified that require mitigation. Adjacent property owners have not submitted comments on the proposed development identifying any impacts of the proposed development. Given the dramatic elevation change, significant distance between the residential structures on 13th Street and the vehicles, location in a Flood Overlay District, the unlikelihood of further development of the properties on 13th Street, and the existing vegetation on the hillside, which provides added screening and increased privacy, staff is not recommending any mitigation for the requested variance.

While not directly relating to the request to relocate the vehicles closer to the property line, a neighbor indicates through a public comment that there is an existing light that shines offsite towards Washington Street neighbors. As further discussed in the lighting section of this report and as a mitigation condition to remove an adverse impact, the applicant is required to ensure that the lighting standard is repositioned not to shine downward onsite.

D. No practical alternatives have been identified which would accomplish the same purpose and not require a variance; and

Finding: Complies as Proposed. Though the food carts (mobile food units) could be located elsewhere onsite, the applicant is required to remove food carts onsite during a flood event. Reorienting the cart to an L formation will allow for each cart owner to independently remove their carts in a flood event, rather than the existing configuration, which would require a more valet style removal and would be dependent on other cart owners to move their carts. By granting this variance, the carts can more easily be relocated prior to possible flood situations.

E. The variance conforms to the comprehensive plan and the intent of the ordinance being varied.

Finding: Complies as Proposed. An analysis of applicable goals and policies of the Oregon City Comprehensive Plan has been provided below.

Section 1: Citizen Involvement

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.

Policy 1.1.1

Utilize neighborhood associations as the vehicle for neighborhood-based input to meet the requirements of the Land Conservation and Development Commission (LCDC) Statewide Planning Goal 1, Citizen Involvement. The Citizen Involvement Committee (CIC) shall serve as the officially recognized citizen committee needed to meet LCDC Statewide Planning Goal 1.

Finding: Complies as Proposed. Chapter 17.50 of the Oregon City Municipal Code includes provisions to ensure that citizens, neighborhood groups, and affected property owners have ample opportunity for participation in this application. The applicant met with the Two Rivers Neighborhood Association prior to submitting this application, and once the application was deemed complete, the City noticed the application to property owners within 300 feet of the subject site, and neighborhood associations and posted the application on the City's website. Additionally, the subject site was posted with land use notice signs. All interested persons have the opportunity to comment in writing or in person through the public hearing process. This goal is met.

Section 2: Land Use

Goal 2.1 Efficient Use of Land

Ensure that property planned for residential, commercial, office, and industrial uses is used efficiently and that land is developed following principles of sustainable development.

Policy 2.1.1

Create incentives for new development to use land more efficiently, such as by having minimum floor area ratios and maximums for parking and setbacks.

Policy 2.1.2

Encourage the vertical and horizontal mixing of different land-use types in selected areas of the city where compatible uses can be designed to reduce the overall need for parking, create vibrant urban areas, reduce reliance on private automobiles, create more business opportunities and achieve better places to live.

Policy 2.1.3

Encourage sub-area master planning for larger developments or parcels, including re-development, where it may be feasible to develop more mixed uses, or campus-style industrial parks, with shared

parking and landscaping areas. Allow developments to vary from prescriptive standards if planned and approved under this provision.

Policy 2.1.4

Use redevelopment programs such as urban renewal to help redevelop underutilized commercial and industrial land.

Finding: Complies as Proposed. The relocation of the vehicles would allow the subject site to efficiently use the entire property safely, supporting the site as a year-long downtown amenity.

Goal 2.2 Downtown Oregon City

Develop the Downtown area, which includes the Historic Downtown Area, the “north end” of the Downtown, Clackamette Cove, and the End of the Oregon Trail area, as a quality place for shopping, living, working, cultural and recreational activities, and social interaction. Provide walkways for pedestrian and bicycle traffic, preserve views of Willamette Falls and the Willamette River, and preserve the natural amenities of the area.

Policy 2.2.1

Redefine the Metro Regional Center concept to recognize the unique character of Oregon City while being in accordance with Metro’s 2040 Growth Concept.

Policy 2.2.2

Support multi-modal transportation options throughout the Regional Center and to other Regional and Town Centers.

Policy 2.2.3

Develop and promote a vision for the economic development and redevelopment of the Downtown area that solidifies the Oregon City Downtown Community Plan and Oregon City Waterfront Master Plan.

Policy 2.2.4

Target public infrastructure investments and create public/private partnerships to leverage maximum benefits from public investment and to help ensure that the Regional Center develops to its maximum capacity and realizes its full potential.

Policy 2.2.5

Encourage the development of a strong and healthy Historic Downtown retail, office, cultural, and residential center.

Policy 2.2.6

Working with major stakeholders, develop and implement a strategy to help the Historic Downtown Area enhance its position as a retail district. Such a strategy might include funding for a “Main Street” or similar program.

Policy 2.2.7

Explore options for improving Downtown vehicle circulation and parking in a manner that promotes revitalization.

Policy 2.2.8

Implement the Oregon City Downtown Community Plan and Oregon City Waterfront Master Plan with regulations and programs that support compatible and complementary mixed uses, including housing, hospitality services, restaurants, civic and institutional, offices, some types of industrial and retail uses in the Regional Center, all at a relatively concentrated density.

Policy 2.2.9

Improve connectivity for vehicles, bicycles, and pedestrians within the Oregon City Downtown community and waterfront master plan areas and improve links between residential areas and the community beyond.

Policy 2.2.10

Develop the Clackamette Cove area through the implementation of the Oregon City Waterfront Master Plan to achieve a balance between the natural and built environments, including wildlife habitat, multi family residential development, office and retail, and family recreation.

Policy 2.2.11

Investigate an interpretive scheme that incorporates the End of the Oregon Trail Interpretive Center, the waterfront, and Downtown. Describe environmental, social, and historic aspects including the concept of a greenway along Abernethy Creek and nearby structures of historic significance.

Policy 2.2.12

Ensure a master plan is developed at the Blue Heron Paper Company site at such time as the property owner proposes a large-scale development, which addresses transitioning the overall site from industrial to non-industrial land uses.

Policy 2.2.13

Monitor the redevelopment within the Downtown Design District and investigate the need to require retail and service uses on the first floor and limit residential and office uses to the second floor and above.

Finding: Complies as Proposed. Relocating the food cart (mobile food units) allows for efficient use of land of the subject site, maximizing its development potential and advancing goals and policies related to the development of Downtown Oregon City as a quality place for shopping, living, working, cultural and recreational activities, and social interaction.

Goal 2.4 Neighborhood Livability

Provide a sense of place and identity for residents and visitors by protecting and maintaining neighborhoods as the basic unit of community life in Oregon City while implementing the goals and policies of the other sections of the Comprehensive Plan.

Policy 2.4.1

Develop local neighborhood plans to strengthen and protect residential neighborhoods and historic areas from infill development; such as development along linear commercial corridors.

Policy 2.4.2

Strive to establish facilities and land uses in every neighborhood that help give vibrancy, a sense of place, and a feeling of uniqueness; such as activity centers and points of interest.

Policy 2.4.3

Promote connectivity between neighborhoods and neighborhood commercial centers through a variety of transportation modes.

Policy 2.4.4

Where environmental constraints reduce the amount of buildable land, and/or where adjacent land differs in uses or density, implement Comprehensive Plan and zoning designations that encourage compatible transitional uses.

Policy 2.4.5

Ensure a process is developed to prevent barriers in the development of neighborhood schools, senior and childcare facilities, parks, and other uses that serve the needs of the immediate area and the residents of Oregon City.

Finding: Complies as Proposed. The proposed development contributes to neighborhood vibrancy, a sense of place, a feeling of uniqueness, and creating an activity center and point of interest in the neighborhood. Though the minimum required setback is not being provided between the southern property line, an adequate separation will be maintained between the commercial development and the residences on 13th Street, given the dramatic elevation change, significant distance between the residential structures on 13th Street and the proposed storage structure, the unlikelihood of further development of the properties on 13th Street, and the existing vegetation on the hillside, helping to ensure that neighborhood livability is maintained for the residential properties on 13th Street that are impacted by the setback reduction.

Goal 2.5 Retail and Neighborhood Commercial

Encourage the provision of appropriately scaled services to neighborhoods.

Policy 2.5.1

Encourage the redevelopment of linear commercial corridors in ways that encourage expansion of existing businesses and infill development, and at the same time reduces conflicting traffic movements,

improves the aesthetic character of these commercial areas, and encourages trips by transit, bicycling and walking.

Policy 2.5.2

Allow and encourage the development of small retail centers in residential neighborhoods that provide goods and services for local residents and workers. Generally, these centers should be located at the intersections of two or more streets that are classified as neighborhood collectors or higher.

Policy 2.5.3

Review design standards and the sign code to ensure compatibility with existing neighborhoods. Policy 2.5.4

Encourage the development of successful commercial areas organized as centers surrounded by higher density housing and office uses, rather than as commercial strips adjacent to low-density housing.

Policy 2.5.5

Encourage commercial and industrial development that enhances livability of neighborhoods through the design of attractive LEEDTM-certified buildings and environmentally responsible landscaping that uses native vegetation wherever possible, and by ensuring that development is screened and buffered from adjoining residential neighborhoods and access is provided by a variety of transportation modes.

Policy 2.5.6

Develop a concept plan for South End that includes commercial designations in an amount sufficient to serve the needs of the South End neighborhood. The area designated as “Future Urban Holding” on South End Road lacks sufficient commercial services.

Finding: Complies as Proposed. Relocating the food cart (mobile food units) allows for efficient use of land of the subject site, maximizing its development potential and providing an amenity within the neighborhood, advancing goals and policies related to neighborhood commercial and retail uses.

Section 7: Natural Hazards

Goal 7.1 Natural Hazards

Protect life and reduce property loss from the destruction associated with natural hazards.

Policy 7.1.1

Limit loss of life and damage to property from natural hazards by regulating or prohibiting development in areas of known or potential hazards.

Policy 7.1.2

Protect existing development from natural hazards through mitigation measures identified in the Oregon City Hazard Mitigation Plan.

Policy 7.1.3

Reduce risk to residents and businesses by maintaining accurate information on the existence and potential of hazards.

Policy 7.1.4

Ensure that key public facilities (emergency service) are located outside recognized hazard areas.

Policy 7.1.5

Minimize the risk of loss of life and damage to property from flooding by limiting development in the 100-year floodplain and by ensuring that accepted methods of flood proofing are used.

Policy 7.1.6

Encourage the use of land and design of structures that are relatively unaffected by the periodic effects of flooding, such as parking and other uses not normally occupied by humans.

Policy 7.1.7

Prohibit uses in areas subject to flooding that would exacerbate or contribute to hazards posed by flooding by introducing hazardous materials, filling or obstructing floodways, modifying drainage channels, and other detrimental actions.

Policy 7.1.8

Provide standards in City Codes for planning, reviewing, and approving development in areas of potential landslides that will prevent or minimize potential landslides while allowing appropriate development.

Policy 7.1.9

Locate, design, and construct structures in conformance with current building codes and standards for seismic-resistant design.

Policy 7.1.10

Evaluate the need to retrofit existing public facilities such as water reservoirs, bridges, pipelines, and hospitals to better withstand earthquakes.

Policy 7.1.11

Prioritize roadways needed for public service, medical, and emergency vehicles during emergencies.

Policy 7.1.12

Ensure that key public services, such as water and sewer; and key public facilities such as police, fire, and hospital structures have the capability to back-up electricity during emergencies.

Policy 7.1.13

Minimize the risk of loss of life and damage to property from wildfires within the city and the Urban Growth Boundary.

Finding: Complies as Proposed. Though the food carts (mobile food units) could be located elsewhere onsite, the applicant is required to remove food carts onsite during a flood event. Placing the food carts closer to the southern property line would allow for egress and ingress of the food carts in the event of a flood. Complying with the standard required setback would significantly hinder evacuation of the carts in the event of a flood. By granting this variance, the carts can more easily be relocated prior to possible flood situations, ensuring goals and policies related to natural hazards are satisfied.

Section 9: Economic Development

Goal 9.1 Improve Oregon City's Economic Health

Provide a vital, diversified, innovative economy including an adequate supply of goods and services and employment opportunities to work toward an economically reasonable, ecologically sound and socially equitable economy.

Policy 9.1.1

Attract high-quality commercial and industrial development that provides stable, high-paying jobs in safe and healthy work environments, that contributes to a broad and sufficient tax base, and that does not compromise the quality of the environment.

Policy 9.1.2

Contribute to the health of the regional and state economy by supporting efforts to attract "traded sector industries" such as high technology and production of metals, machinery, and transportation equipment. (Traded sector industries compete in multi-state, national, and international markets and bolster the state's economy by bringing money in from sales of goods and services outside of the state.)

Goal 9.3 Retention of Existing Employers

Retain existing employers, both public and private, and encourage them to expand their operations within the City.

Policy 9.3.1

Protect existing industries from encroachment by incompatible land uses, and ensure that expansion options are available to them wherever possible.

Policy 9.3.2

Support programs of Clackamas County, the Oregon Department of Economic and Community Development, the Small Business Administration and other agencies that provide business-related services such as low-interest loans, job training, and business counseling.

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.

Goal 9.5 Retail Service

Allow a variety of retail outlets and shopping areas to meet the needs of the community and nearby rural areas.

Policy 9.5.1

Develop local neighborhood or specific plans, when appropriate, to blend infill development along linear commercial areas into existing neighborhoods.

Policy 9.5.2

Develop plans to provide necessary public services to surrounding rural industrial lands for future development.

Goal 9.6 Tourism

Promote Oregon City as a destination for tourism.

Policy 9.6.1

Protect historic, recreational, and natural resources as the basis for tourism, such as the Historic Downtown Area.

Policy 9.6.2

Ensure land uses and transportation connections that support tourism as an important aspect of the City's economic development strategy. This could include connections to the End of the Oregon Trail Interpretive Center and the train depot.

Policy 9.6.3

Provide land uses in the Downtown Historic Area, 7th Street corridor, and the End of the Oregon Trail Interpretive Center that support tourism and visitor services.

Policy 9.6.4

Encourage and support citywide events that would attract visitors and tie to the historic attractions of the city. Preserve tourism-related transportation services like the Oregon City Elevator and trolley.

Policy 9.6.5

Encourage river-related tourism facilities and services, such as docking facilities, river transit and river tours.

Policy 9.6.6

Encourage private development of hotel, bed and breakfast, restaurant facilities and other visitor services.

Finding: Complies as Proposed. Granting the variance will allow Corner 14 to expand and remain in its current location, contributing to Oregon City's local economy by providing employment and retail opportunities for Oregon City residents, and creating a tourism destination in a central Oregon City location easily accessible by local residents and regional visitors.

CHAPTER 17.62 – SITE PLAN AND DESIGN REVIEW

17.62.015 - Modifications that will better meet design review requirements. The review body shall consider modification of certain site related development standards of this Chapter specified below. These modifications may be approved as part of a Type II design review process.

A. Applicability.

1. This process shall apply to modifications to:

- a. Landscaping in OCMC 17.62.050.A;*
- b. Vehicular Connections to Adjoining Properties in OCMC 17.62.050.B.2;*
- c. On-site pedestrian circulation in OCMC 17.62.050.C;*
- d. Utility Undergrounding Requirements in OCMC 16.12.095.G;*
- e. Building location in OCMC 17.62.055.D;*
- f. Building Details in OCMC 17.62.050.B.9.055.I;*
- g. Windows in OCMC 17.62.050.B.10.055.J Parking Lot Landscaping in OCMC 17.52.060.*

Finding: Not Applicable. The applicant has not requested any modifications.

17.62.030 - When required.

Site plan and design review shall be required for all development of real property in all zones except the low and medium density residential districts, unless otherwise provided for by this title or as a condition of approval of a permit. Site plan and design review shall also apply to all conditional uses, cluster housing developments, multi-family uses, manufactured home parks, and non-residential uses in all zones. Site

Plan and Design Review does not apply to activities occurring within the right-of-way except for communication facilities pursuant to OCMC 17.80.

Site plan and design review is required for a change in use between the uses in Table 17.62.030:

Table 17.62.030

<i>Existing Use</i>	<i>Proposed Use</i>
<i>Residential</i>	<i>Nonresidential use, including but not limited to: commercial, office, industrial, retail, or institutional</i>
<i>Single-family or duplex</i>	<i>3 or more dwellings</i>

Site plan and design review shall not alter the type and category of uses permitted in the underlying zoning districts.

The general standards of section 17.62.050 do not apply to 3-4 plex, duplex, single-family attached dwellings, single-family detached residential unit, internal conversions, live/work dwelling and accessory dwelling unit Type I applications.

Finding: Applicable. The applicant has proposed the expansion of a building and the rearrangement of existing food cart pod within the MUD, Mixed Use Downtown District. Chapter 17.62 is applicable to this development.

17.62.035 - Minor site plan and design review.

This section provides for a Minor Site Plan and Design Review process. Minor Site Plan review is a Type I or Type II decision, as described in OCMC 17.62.035.A., subject to administrative proceedings described in OCMC 17.50 and may be utilized as the appropriate review process only when authorized by the Community Development Director. The purpose of this type of review is to expedite design review standards for uses and activities that require only a minimal amount of review, typical of minor modifications and/or changes to existing uses or buildings.

A. Type I Minor Site Plan and Design Review.

1. Applicability. Type I applications involve no discretion and are typically processed concurrently with a building permit application. The Type I process is not applicable for:

- a. Any activity which is included with or initiates actions that require Type II-IV review.*
- b. Any increase in square footage of a conditional or nonconforming use (excluding nonconforming structures).*
- c. Any proposal in which nonconforming upgrades are required under OCMC 17.58.*
- d. Any proposal in which modifications are proposed under OCMC 17.62.015.*

Finding: Not Applicable. The proposed development is not eligible for the Type I Minor Site Plan and Design Review process.

B. Type II Minor Site Plan and Design Review.

1. Type II Minor Site Plan and Design Review applies to the following uses and activities unless those uses and activities qualify for Type I review per OCMC 17.62.035.A.:

- a. Modification of an office, commercial, industrial, institutional, public or multi-family structure that*

does not increase the interior usable space (for example covered walkways or entryways, addition of unoccupied features such as clock tower, etc.).

b. Modification to parking lot layout and landscaping, or the addition of up to five parking spaces.

c. A maximum addition of up to one thousand square feet to a commercial, office, institutional, public, multi-family, or industrial building provided that the addition is not more than thirty-five percent of the original building square footage.

d. Mobile food units in OCMC 17.54.115.

e. Other land uses and activities may be added if the Community Development Director makes written findings that the activity/use will not increase off-site impacts and is consistent with the type and/or scale of activities/uses listed above.

Finding: Applicable. The proposal includes a building addition of under 1,000 SF, and rearrangement to an existing food cart pod, which is reviewed through a Type I Minor Site Plan and Design Review process pursuant with OCMC 17.54.115.D.

17.62.050 - General Standards

All development shall comply with the following standards:

A. Landscaping.

1. Existing native vegetation is encouraged to 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 as Proposed. There is currently no landscaping on the site, so there will be no reduction in landscaping. The landscape plan provided in the previous application was developed by Anderson Associates Landscape Architect and is included as an exhibit in the staff report and proposals for additional planter boxes filled with shrubs and trees. The proposed development complies with the development standards. A new landscape plan by Anderson's associate illustrates the current building conditions. No alterations to the proposed landscaping are required due to this modification.

2. The amount of landscaping required is found in the standards for each underlying zone. Where the underlying zone does not contain and minimum landscaping standard, the minimum site landscaping shall be 15% of the total site area. Except as allowed elsewhere in Title 16 or 17 of this Code, all areas to be credited towards landscaping shall be installed with growing plant materials.

Finding: Complies as Proposed. Though the site is currently nonconforming with regard to minimum site landscaping standards, the applicant has proposed food carts and a storage structure in an existing paved area. The building and parking lot to landscaping ratio is not proposed to change as a result of this development.

3. Pursuant to OCMC 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: Not Applicable. The subject site is not located within the Natural Resource Overlay District.

4. A landscaping plan shall be prepared by a registered landscape architect for new or revised landscaped areas and parking lots. Landscape architect approval is not required for tree removal and/or installation if the species are chosen from an approved street tree list. A certified landscape designer, arborist, or nurseryman shall be acceptable in lieu of a landscape architect for projects with less than five hundred square feet of landscaping. All landscape plans shall 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. Plant species listed on the Oregon City Nuisance Plant list are prohibited and native species are encouraged. No mulch, bark chips, or similar materials shall be allowed at the time of landscape installation except under the storage of shrubs and within two feet of the base of trees.

Finding: Not applicable. No changes in landscaping is being proposed with this application.

5. Landscaping shall be visible from public thoroughfares to the extent practicable.

Finding: Complies as Proposed. Existing and proposed landscaping is visible from 14th Street, Washington Street, and Center Street.

6. The landscaping in parking areas shall not obstruct lines of sight for safe traffic operation and shall comply with all requirements of OCMC 10.32, Traffic Sight Obstructions.

Finding: Complies as Proposed. The applicant has not proposed new landscaping within the parking lot.

B. Vehicular Access and Connectivity.

1. Parking areas shall be located behind the building façade that is closest to the street, below buildings, or on one or both sides of buildings.

Finding: Not Applicable. No new parking areas have been proposed.

2. Existing or future connections to adjacent sites through the use of vehicular and pedestrian access easements which provide connection from the right-of-way to the adjoining property shall be provided.

Finding: Complies as Proposed. Three sides of the subject site abut a public right-of-way. The southern side abuts residential properties which are separated from the site by a significant elevation change, although there is an existing staircase providing the residential properties with access to the subject site. Vehicular connections to residential properties are impracticable and not required.

3. Parcels larger than three acres shall provide streets as required in OCMC 16.12.

Finding: Not Applicable. The subject site is not larger than three acres.

4. Parking garage entries shall not be more than half of the streetscape.

Finding: Not Applicable. A parking garage has not been proposed as part of this development.

C. A well-marked, continuous and protected on-site pedestrian circulation system meeting the following standards shall be provided:

1. Pathways between all building entrances and the street are required. Pathways between the street and buildings fronting on the street shall be direct and not cross a drive aisle. Exceptions may be allowed by the director where steep slopes, a physically constrained site, or protected natural resources prevent a direct connection or where an indirect route would enhance the design and/or use of a common open space.

Finding: Complies as Proposed. The entire southeastern portion of the site, which includes all of the food carts, outdoor seating areas, and storage structures, is a pedestrian-only area providing pedestrian access to and from the building and on-site amenities.

2. The pedestrian circulation system shall connect all main entrances, parking areas, bicycle parking, recreational areas, common outdoor areas, and any pedestrian amenities on the site. For buildings fronting on the street, the sidewalk may be used to meet this standard.

Finding: Complies as Proposed. The entire southeastern portion of the site which includes all of the food carts, outdoor seating areas, and storage structures, is a pedestrian-only area providing pedestrian access to and from the building and on-site amenities. The new food carts, storage and outdoor seating areas will be in the pedestrian-only area and will be connected to the taphouse building, common outdoor areas, parking areas, and bicycle parking.

3. The pedestrian circulation system shall connect the principal building entrance to those of buildings on adjacent sites, except within industrial zoning designations.

Finding: Complies as Proposed. The subject site is surrounded on three sides by the 14th Street, Washington Street, and Center Street public rights-of-way. The public streets surrounding the subject site provide pedestrian access to adjacent sites.

4. Elevated external stairways or walkways shall not extend beyond the building facade except for external stairways or walkways located in, or facing interior courtyard areas that are not visible from the street or a public access easement. This standard does not apply to sky-bridges or sky-ways.

Finding: Not Applicable. No elevated external stairways or walkways are proposed.

5. On-site pedestrian walkways shall be hard surfaced, well drained and at least five feet wide. Surface material shall contrast visually to adjoining surfaces. When bordering parking spaces other than spaces for parallel parking, pedestrian walkways shall be a minimum of seven feet in width unless curb stops are provided. When the pedestrian circulation system is parallel and adjacent to an auto travel lane, the walkway shall be raised or separated from the auto travel lane by a raised curb, bollards, landscaping or other physical barrier. If a raised walkway is used, the ends of the raised portions shall be equipped with curb ramps for each direction of travel. Pedestrian walkways that cross drive isles or other vehicular circulation areas shall utilize a change in textual material or height to alert the driver of the pedestrian crossing area.

Finding: Complies as Proposed. The entire southeastern portion of the site which includes all of the food carts, outdoor seating areas, and storage structures, is a pedestrian-only area providing pedestrian access to and from the building and on-site amenities. This entire area is a protected pedestrian area that is separated from the parking lot and the area open to vehicles onsite on the other side of the taphouse building.

D. All development shall maintain continuous compliance with applicable federal, state, and City standards.

Finding: Complies as Proposed. The applicant's narrative identified that the development proposal will maintain continuous compliance with applicable federal, state, and City standards.

E. Adequate public water and sanitary sewer facilities sufficient to serve the proposed or permitted level of development shall be provided pursuant to OCMC 16.12. 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 offsite 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: Please refer to the findings in OCMC 16.12 of this report.

F. If a transit agency, upon review of an application for an industrial, institutional, retail or office development, recommends that a bus stop, bus turnout lane, bus shelter, accessible bus landing pad, lighting, or transit stop connection be constructed, or that an easement or dedication be provided for one of these uses, consistent with an agency adopted or approved plan at the time of development, the review authority shall require such improvement, using designs supportive of transit use. Improvements at a major transit stop may include intersection or mid-block traffic management improvements to allow for crossings at major transit stops, as identified in the City's Transportation System Plan.

Finding: Complies as Proposed. Notice of this application was provided to Tri-Met, who did not comment on the proposal.

G. Screening of Mechanical Equipment: Commercial, mixed-use, institutional, and multi-family buildings shall include the following measures to screen or block views of mechanical equipment from adjacent streets according to the following requirements.

1. Rooftop mechanical equipment, including HVAC equipment and utility equipment that serves the structure, shall be screened from view from the adjacent street on all new buildings or building additions. Screening shall be accomplished through the use of parapet walls or a sight-obscuring enclosure around the equipment constructed of one of the primary materials used on the primary facades of the structure, and that is an integral part of the building's architectural design. The parapet or screen shall completely surround the rooftop mechanical equipment to an elevation equal to or greater than the highest portion of the rooftop mechanical equipment being screened from adjacent streets, as viewed from the sidewalk or future sidewalk location on the adjacent street at pedestrian level. In the event such parapet wall does not fully screen all rooftop equipment, then the rooftop equipment shall be enclosed by a screen constructed of one of the primary materials used on the primary facade of the building so as to achieve complete screening. Screening requirements do not apply to new or replacement equipment on existing buildings. New or replacement

rooftop mechanical equipment on existing buildings shall be painted or powder-coated.

2. Wall-mounted mechanical HVAC and air conditioning equipment, and groups of multiple utility meters shall not be placed on the front facade of a building or on a facade that faces a right-of-way. Wall-mounted mechanical equipment, including air conditioning and groups of multiple utility meters, that extend six inches or more from the outer building wall shall be screened from view from adjacent streets; from residential, public, and institutional properties; and from public areas of the site or adjacent sites through the use of (a) sight-obscuring enclosures constructed of one of the primary materials used on the primary facade of the structure, (b) sight-obscuring fences, or (c) trees or shrubs that block at least eighty percent of the equipment from view or (d) painting the units to match the building. Wall-mounted mechanical equipment that extends six inches or less from the outer building wall shall be designed to blend in with the color and architectural design of the subject building. Vents which extend six inches or less from the outer building wall shall exempt from this standard if painted.

3. Ground-mounted above-grade mechanical equipment shall be screened by ornamental fences, screening enclosures, trees, or shrubs that block at least eighty percent of the view from the public right of way.

4. This section shall not apply to the installation of solar energy panels, photovoltaic equipment, wind power generating equipment, dishes/antennas, pipes, vents, and chimneys.

Finding: Not Applicable. No new mechanical equipment is proposed as part of this development. Mechanical equipment on individual mobile food units is reviewed as part of the business license application for individual units and is subject to the standards for individual mobile food units in OCMC 17.54.

H. Building Materials.

1. *Prohibited Materials.* The following materials shall be prohibited in visible locations from the right-of-way or a public access easement unless an exception is granted by the Community Development Director based on the integration of the material into the overall design of the structure.

i. Vinyl or plywood siding (including T-111 or similar plywood).

ii. Glass block or highly tinted, reflected, translucent or mirrored glass (except stained glass) as more than ten percent of the building facade.

iii. Corrugated fiberglass.

iv. Chain link fencing (except for temporary purposes such as a construction site, gates for a refuse enclosure, stormwater facilities, when excepted by 17.62.050.H.2.vii, or when located on properties within the General Industrial District).

v. Crushed colored rock/crushed tumbled glass.

vi. Non-corrugated and highly reflective sheet metal.

vii. Tarps, except for the protection of outside storage.

Finding: Complies as Proposed. The food carts (mobile food units) does not include any prohibited building materials. Individual mobile food units are not subject to these standards.

2. *Special Material Standards.* The following materials are allowed if they comply with the requirements found below:

i. *Concrete Block.* When used for the front façade of any building, concrete blocks shall be split, rock- or

ground-faced and shall not be the prominent material of the elevation. Plain concrete block or plain concrete may be used as foundation material if the foundation material is not revealed more than three feet above the finished grade level adjacent to the foundation wall.

ii. *Metal Siding.* Metal siding shall have visible corner moldings and trim and incorporate masonry or other similar durable/permanent material near the ground level (first two feet above ground level) except when used for a temporary structure.

iii. *Exterior insulation and finish system (EIFS) and similar troweled finishes* shall be trimmed in wood, masonry, or other approved materials and shall be sheltered from extreme weather by roof overhangs or other methods.

iv. *Building surfaces* shall be maintained in a clean condition and painted surfaces shall be maintained to prevent or repair peeling, blistered or cracking paint.

v. *Membrane or fabric covered storage areas* are permitted as temporary structures, excluding the use of tarps.

vi. *Vinyl or powder coated chain link fencing* is permitted for City-owned stormwater management facilities, reservoirs, and other public works facilities such as pump stations, maintenance yards, and storage yards not located within the General Industrial District.

vii. *Chain link fencing* is permitted in the following circumstances:

1. *Within City-owned parks and recreational facilities*
2. *On any property when used for a baseball or softball backstop or dugout, track and field facility, or sports court.*

Finding: Not Applicable. The food carts (mobile food units) does not include any special materials. Individual mobile food units are not subject to these standards.

J. Development shall comply with requirements of the following Oregon City Municipal Code chapters, as applicable, including but not limited to:

1. *12.04 Streets, Sidewalks and Public Places*
2. *12.08 Public and Street Trees*
3. *13.04 Water Service System*
4. *13.08 Sewer Regulations*
5. *13.12 Stormwater Management*
6. *16.12 Minimum Improvements and Design Standards for Development*
7. *17.20 Residential Design Standards for ADU's, Cluster Housing, Internal Conversions, Live/Work Units, and Manufactured Home Parks*
8. *17.40 Historic Overlay District*
9. *17.41 Tree Protection Standards*
10. *17.42 Flood Management Overlay District*
11. *17.44 Geologic Hazards*
12. *17.47 Erosion and Sediment Control*
13. *17.48 Willamette River Greenway*
14. *17.49 Natural Resource Overlay District*
15. *17.50 Administration and Procedures*
16. *17.52 Off-Street Parking and Loading*
17. *17.54 Supplemental Zoning Regulations and Exceptions*
18. *17.58 Lawful Nonconforming Uses, Structures, and Lots*
19. *17.65 Master Plans and Planned Unit Development*

Finding: Applies. The applicable chapters are included within this report.

17.62.55 –Institutional, office, multi-family, retail, and commercial building standards.

A. Applicability. This section applies to institutional, office, multi-family, retail and commercial buildings except accessory structures less than one thousand square feet and temporary structures.

Finding: Applicable. The food carts (mobile food units and is not subject to these standards. Individual mobile food units are considered vehicles not subject to these standards. However, the small storage addition to the rear of the main building is subject to the standards to ensure that the addition does not reduce any conformity with the code.

B. Conflicts. With the exception of standards for building orientation and building front setbacks, in the event of a conflict between a design standard in this section and a standard or requirement contained in the underlying zoning district, the standard in the zoning district shall prevail.

Applicant's Response: Conflicts between these sections are not relevant to this proposal. N/A

C. Siting of Structures. On sites with one hundred feet or more of frontage at least sixty percent of the site frontage width shall be occupied by buildings placed within five feet of the property line. For sites with less than one hundred feet of street frontage, at least fifty percent of the site frontage width shall be occupied by buildings placed within five feet of the property. Multi-family developments shall be placed no farther than twenty feet from the front property line. This section does not apply to properties with less than forty feet of frontage.

Finding: Complies The site contains more than 100 feet of street frontage. Less than fifty percent of the site frontage width is occupied by the existing building. The existing building and the modification are located within five feet of the 14th Street property line. The proposed development complies with the development standard.

A larger front yard setback may be approved through site plan and design review if the setback area incorporates at least one element from the following list for every five feet of increased setback requested:

- 1. Tables, benches or other approved seating area.*
- 2. Cobbled, patterned or paved stone or enhanced concrete.*
- 3. Pedestrian scale lighting.*
- 4. Sculpture/public art.*
- 5. Fountains/Water feature.*
- 6. At least twenty square feet of landscaping or planter boxes for each tenant facade fronting on the activity area.*
- 7. Outdoor café.*
- 8. Enhanced landscaping or additional landscaping.*
- 9. Other elements, as approved by the Community Development Director, that can meet the*

intent of this section.

Finding: Complies A larger front yard setback is not proposed.

Building Orientation. All buildings along the street frontage shall face the front most architecturally significant facade toward the street and have a functional primary entrance facing the street. Primary building entrances shall be clearly defined and recessed or framed by a sheltering element such as an awning, arcade or portico in order to provide shelter from the summer sun and winter weather.

Finding: Complies The proposed building addition/modification is not related to the building entrance. The existing building entrance is off of 14th Street and shall remain in use and unchanged. The proposed development complies with the development standard.

D. Entryways. Entrances shall include a doorway and a minimum of four of the following elements:

1. Display windows;

Recesses or projections; Peaked roof or raised parapet over the door; Canopy of at least five feet in depth; Porch; Distinct materials; Architectural details such as tile work and moldings; Pedestrian amenities such as benches, planters or planter boxes; Landscape treatments integrating arbors, low walls, trellis work; or Similar elements. Trellises, canopies and fabric awnings may project up to five feet into front setbacks and public rights-of-way, provided that the base is not less than eight feet at the lowest point and no higher than ten feet above the sidewalk.

Finding: Complies The proposed building addition/modification is not related to the building entrance. The existing building entrance is off of 14th Street and shall remain in use and unchanged. Any of the amenities listed above, including benches, planters, low walls, and similar elements, have been integrated into the site design. The proposed development complies with the development standard.

E. Corner Lots.

For buildings located at the corner of intersections, the primary entrance of the building shall be located at the corner of the building or within twenty-five feet of the corner of the building. Additionally, one of the following treatments shall be required:

- 1. Incorporate prominent architectural elements, such as increased building height or massing, cupola, turrets, or pitched roof, at the corner of the building or within twenty-five feet of the corner of the building.*
- 2. Chamfer the corner of the building (i.e. cut the corner at a forty-five degree angle and a minimum of ten feet from the corner) and incorporate extended weather protection (arcade or awning), special paving materials, street furnishings, or plantings in the chamfered area.*
- 3. Standards 1 and 2 above do not apply to vertically attached 3-4 plexes, multi-family buildings or multi-family portions of residential mixed-use buildings.*

Finding: Complies: The proposed modification is not related to the building entrance. The existing building entrance is off of 14th Street and shall remain in use and unchanged. The proposed development complies with the development standard.

- F. Variation in Massing. For street facing facades greater than 120 feet in length a modulation is required which extends through all floors. Decks and roof overhangs may encroach up to three feet per side into the modulation. The modulation shall meet one of the following dimensional requirements:*
- 1. A minimum depth of two percent of the length of the façade and a minimum width of thirty percent of the length of the façade; or*
 - 2. A minimum depth of four percent of the length of the façade and a minimum width of twenty percent of the length of the façade.*

Finding: Complies: No façade on this building exceeds 120 feet. The proposed development complies with the development standard.

- I. Building Design Elements.*
- 1. All front and side facades shall provide a design element or architectural feature that add interest and detail such that there are no blank walls of thirty feet in length or more, measured horizontally. Features that can meet this requirement include:*
 - a. Change in building material or texture;*
 - b. Window or door;*
 - c. Balcony; or*
 - d. Pillar or post*

Finding: Complies: The modification has no walls. It is a fenced covering. The proposed development complies with the development standard.

- 2. Street facing facades shall include additional design features. For every thirty feet of façade length, three of the following elements are required:*
 - a. Decorative materials on more than ten percent of the total wall area (e.g., brick or stonework, shingles, wainscoting, ornamentation, and similar features);*
 - b. Decorative cornice and/or roof line (e.g., for flat roofs);*
 - c. Roof gable;*
 - d. Recessed entry;*
 - e. Covered canopy entry;*
 - f. Cupola or tower;*
 - g. Dormer;*
 - h. Balcony;*
 - i. Pillars or posts;*
 - j. Repeating pattern of building materials;*
 - k. A change in plane of at least two feet in width and six inches in depth;*
 - l. Bay or oriel window; or*
 - m. An alternative feature providing visual relief and detail as approved by the Community Development Director*

Finding: Complies: This addition includes repetitive posts for a covered canopy, increasing the visual appeal from the southern side of the property. The proposed development complies with the development standard.

3. Building Detail Variation. Architectural features shall be varied on different buildings within the same development. At least two of the required features on each street-facing elevation shall be distinct from the street-facing elevations of other buildings within the same development.

Finding: Complies: The existing building is vernacular and eclectic. No two facades are the same. The proposed development complies with the development standard.

J. Windows.

1. The minimum windows requirements are set forth in Table 17.62.055.J. Windows are measured in lineal fashion between 3.5 feet and six feet from the ground. For example, a one hundred foot long building elevation would be required to have at least sixty feet (sixty percent of one hundred feet) of windows in length between the height of 3.5 feet and six feet from the ground.

<i>Table 17.62.055.J Minimum Windows</i>				
<i>Use</i>	<i>Ground Floor: Front and Street Facing Facades</i>	<i>Upper floor(s): Front and Street Facing Facades</i>	<i>Ground Floor: Side(s) Facades</i>	<i>Upper Floor(s): Side(s) Facades</i>



Non-Multi-Family (or Portions of Buildings Thereof)	60%	10%	30%	10%
Multi-Family (or Portions of Buildings Thereof)	15%	15%	10%	10%

Finding: Complies The modification is a fenced enclosure for exterior storage without windows or walls and does not reduce the overlay transparency calculation on the side elevations to be less than 30% transparency. The proposed development complies with the development standard.

2. Reflective, glazed, mirrored or tinted glass is limited to ten percent of the lineal footage of windows on the street facing facade. Highly reflective or glare-producing glass with a reflective factor of one-quarter or greater is prohibited on all building facades. Any glazing materials shall have a maximum fifteen percent outside visual light reflectivity value. No exception shall be made for reflective glass styles that appear transparent when internally illuminated.

Finding: Complies. No glazing is proposed as a part of this application. The proposed development complies with the development standard.

3. Side walls that face walkways may include false windows and door openings only when actual doors and windows are not feasible because of the nature of the use of the interior use of the building. False windows located within twenty feet of a right-of-way shall be utilized as display windows with a minimum display depth of thirty-six inches.

Finding: Complies: No false windows or doors are proposed. The proposed development complies with the development standard.

4. Multi-family windows shall incorporate window trim at least four inches in width when surrounded by horizontal or vertical lap siding.

Finding: Not Applicable This proposal is not multi-family.

K. Roof Treatments. The maximum length of any continuous roofline on a street-facing façade shall be seventy-five feet without a cross gable or change in height of at least two feet.

Finding: Complies The proposed rooflines are less than seventy-five feet. The proposed development complies with the development standard.

L. 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. This is not proposed to be a drive-through facility.

M. Special development standards along transit streets.

- 1. Purpose. This section is intended to provide direct and convenient pedestrian access to retail, office and institutional buildings from public sidewalks and transit facilities and to promote pedestrian and transit travel to commercial and institutional facilities.*
- 2. Applicability. Except as otherwise provide 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.*
- 3. Development Standards.*
 - a. All buildings shall have at least one main building entrance oriented towards the transit street. A main building entrance is oriented toward a transit street if it is directly located on the transit street, or if it is linked to the transit street by an on-site pedestrian walkway that does not cross off-street parking or maneuvering areas.*
 - i. If the site has frontage on more than one transit street, or on a transit street and a street intersecting a transit street, the building shall provide one main building entrance oriented to the transit street or to the corner where the two streets intersect.*
 - ii. For building facades over three hundred feet in length on a transit street, two or more main building entrances shall be provided as appropriate and oriented towards the transit street.*
 - b. In the event a requirement of this section conflicts with other requirements in Title 17, the requirements of this section shall control.*
- 4. Exemptions. The following permitted uses are exempted from meeting the requirements of subsection 3. of this section:*
 - a. Heavy equipment sales;*
 - b. Motor vehicle service stations, including convenience stores associated therewith; or*
 - c. Solid waste transfer stations.*

Finding: Not applicable. The requirements of this section apply to the construction of new retail, office, and institutional buildings which front a transit street. This is a small rear storage addition to an existing building.

17.62.56 - Additional standards for large retail establishments.

Finding: Not Applicable. The proposed development does not include a large retail establishment.

17.62.57 - Multifamily Usable Open Space Requirements

Finding: Not Applicable. The proposed development does not include a multi-family development.

17.62.059 - Cluster housing.

Finding: Not Applicable. The proposed development does not include a cluster housing development.

17.62.065 - Outdoor lighting.

B. Applicability.

1. General.

- a. All exterior lighting for any type of commercial, mixed-use, industrial, institutional, or multi-family development shall comply with the standards of this section, unless excepted in subsection B.3.
- b. The City Engineer or Public Works Director shall have the authority to enforce these regulations on private property if any outdoor illumination is determined to present an immediate threat to the public health, safety and welfare.

Finding: Complies as Proposed. The proposal includes a commercial development and is subject to outdoor lighting requirements in this section.

- 2. *Lighting Plan Requirement.* All commercial, industrial, mixed-use, cottage housing and multi-family developments shall submit a proposed exterior lighting plan. The plan shall be submitted concurrently with the site plan. The exterior lighting plan shall include plans and specifications for streetlights, parking lot lights, and exterior building lights. The specifications shall include details of the pole, fixture height and design, lamp type, wattage, and spacing of lights.

Finding: Complies as Proposed. The applicant has not proposed any additional lighting onsite

- 3. *Excepted Lighting.* The following types of lighting are excepted from the requirements of this section.

- a. Residential lighting for single-family attached and detached homes, and duplexes
- b. Public street and right-of-way lighting.
- c. Temporary decorative seasonal lighting provided that individual lamps have a light output of sixty watts or less.
- d. Temporary lighting for emergency or nighttime work and construction.
- e. Temporary lighting for theatrical, television, and performance areas, or for special public events.
- f. Lighting for a special district, street, or building that, according to an adopted municipal plan or ordinance, is determined to require special lighting aesthetics as part of its physical character.
- g. Lighting required and regulated by the Federal Aviation Administration.

C. Finding: Complies as Proposed. The applicant has not proposed any additional lighting onsite

D. Design and Illumination Standards.

- 1. Outdoor lighting, if provided, shall be provided in a manner that enhances security, is appropriate for the use, avoids adverse impacts on surrounding properties, and the night sky through appropriate shielding as defined in this section. Glare shall not cause illumination on other properties in excess of a measurement of 0.5 footcandles of light as measured at the property line.

Finding: Complies with Condition. While not directly relating to the request to relocate the vehicles closer to the property line, a neighbor indicates through a public comment that there is an existing light that shines offsite towards Washington Street neighbors. The applicant is required to ensure that the lighting standard is repositioned to shine downward onsite.

Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.

Lighting shall be provided in parking lots and vehicular circulation areas.

Finding: Complies as Proposed. The existing parking lot and vehicular circulation areas include lighting.

2. *Lighting shall be provided in pedestrian walkways, pedestrian plazas, and pedestrian circulation areas.*

Finding: Complies as Proposed. Lighting is provided in the pedestrian areas onsite.

3. *Lighting shall be provided at all building entrances.*

Finding: Complies as Proposed. Lighting is provided at all building entrances onsite.

4. *With the exception of pedestrian scale lighting, all light sources shall be concealed or shielded with a full cut-off style fixture in order to minimize the potential for glare and unnecessary diffusion on adjacent property.*

Finding: Complies with Condition. While not directly relating to the request to relocate the vehicles closer to the property line, a neighbor indicates through a public comment that there is an existing light that shines offsite towards Washington Street neighbors. The applicant is required to ensure that the lighting standard is repositioned to shine downward onsite.

Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.

5. *The maximum height of any lighting pole serving a multi-family residential use shall be twenty feet. The maximum height serving any other type of use shall be twenty-five feet, except in parking lots larger than five acres, the maximum height shall be thirty-five feet if the pole is located at least one hundred feet from any residential use.*

Finding: Not Applicable. No new light poles have been proposed.

6. *Floodlights shall not be utilized to light all or any portion of a building facade between 10 p.m. and 6 a.m.*

Finding: Complies as Proposed. The applicant has not proposed any floodlights.

7. *Lighting on outdoor canopies shall be fully recessed into the storage and shall not protrude downward beyond the ceiling of the storage.*

Finding: Complies with Condition. Based on the lighting plan, it appears that the proposed storage will include lighting. Prior to issuance of a building permit associated with the proposed storage structure, the applicant shall submit details of any lighting proposed within the storage, demonstrating that the proposed lighting is fully recessed into the storage and does not protrude downward beyond the ceiling of the storage. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the conditions of approval.**

8. *All outdoor light not necessary for security purposes shall be reduced, activated by motion sensor detectors, or turned off during non-operating hours.*

Finding: Complies as Proposed. All outdoor lighting not necessary for security purposes is proposed to be turned off during non-operating hours.

9. *Light fixtures used to illuminate flags, statues, or any other objects mounted on a pole, pedestal,*

or platform shall use a narrow cone beam of light that will not extend beyond the illuminated object.

Finding: Not Applicable. The applicant has not proposed any light fixtures to illuminate flags, statues or other objects mounted on a pole, pedestal or platform.

10. *For upward-directed architectural, landscape, and decorative lighting, direct light emissions shall not be visible above the building roofline.*

Finding: Not Applicable. No upward directed lighting is proposed.

11. *No flickering or flashing lights shall be permitted, except for temporary decorative seasonal lighting.*

Finding: Not Applicable. No flickering or flashing lighting is proposed.

12. *Lighting for outdoor recreational uses such as ball fields, playing fields, tennis courts, and similar uses, are allowed a light post height up to eighty feet in height.*

Finding: Not Applicable. No lighting for outdoor recreational uses has been proposed.

13. *Main building entrances shall be well lighted and visible from any transit street. The minimum lighting level for building entries fronting on a transit street shall be three foot-candles.*

Finding: Not Applicable. No changes to lighting for the main building entrance of the taphouse have been proposed.

17.62.85 - *Refuse and recycling standards for commercial, industrial, office, institutional, and multi-* **Finding: Not Applicable.** The proposed development does not include a refuse and recycling enclosure or changes to the existing refuse and recycling enclosure.

CONCLUSION AND RECOMMENDATION:

Based on the analysis and findings as described above, Staff concludes that the proposed development located at 508 14th Avenue Oregon City, Oregon 97045, identified as Clackamas County Map 2-2E-30DD, Tax Lot 3100, can meet the requirements as described in the Oregon City Municipal Code by complying with the Conditions of Approval provided in this report. Therefore, the Community Development Director recommends approval with conditions, based upon the findings and exhibits contained in this staff report.

EXHIBITS

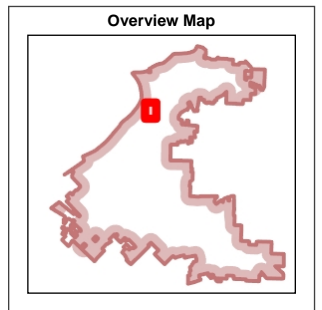
1. Vicinity Map
2. Applicant's Submittal
3. Public Comments
 - a. Wes Rogers
 - b. Betty Johnson
 - c. Jim Sayers
 - d. Jay Pearce



Legend

- Street Names
- Taxlots
- Taxlots Outside UGB
- Unimproved ROW
- City Limits
- UGB
- Basemap

Notes



The City of Oregon City makes no representations, express or implied, as to the accuracy, completeness and timeliness of the information displayed. This map is not suitable for legal, engineering, surveying or navigation purposes. Notification of any errors is appreciated.



0 200 Feet
1: 2,400

City of Oregon City
PO Box 3040
625 Center St
Oregon City
OR 97045
(503) 657-0891
www.orcity.org





May 11, 2022

Planning Division
City of Oregon City
695 Warner Parrott Road
Oregon City, OR 97045

Re: Corner 14 – Minor Site Plan and Design Review – Written Statement

To Whom It May Concern:

Corner 14 is an existing taphouse and series of non-transitory mobile food units at the corner of Washington Street and 14th Street in Oregon City. Currently, 9 existing non-transitory mobile food units face the existing taphouse, and three existing non-transitory mobile food units face 14th Street food with two existing non-transitory mobile food units facing south, approximately 70' back from the Right of Way. The existing non-transitory mobile food units surround a large existing outdoor seating area, with a second smaller outdoor seating area along the southern edge of the property line. Water, electrical power, and a gray water sewer line have been provided to each unit. There is minimal wastewater as only hand washing, and cookware washing occurs. All restroom facilities are located inside the Taphouse and are fully ADA compliant. The restroom facilities have been approved and constructed on a separate building permit. Existing landscape to the southeast corner of the property and the north eastern edge of the property along the Right of Way shall remain. All plants are native Oregon plantings. There is no irrigation to landscaping in these areas. Temporary structures such as non-permanent screens will remain to obscure utility connections from view per code section 17.54.115 (C)(2) of the Oregon City Municipal Code. All utility connections are screened from view per code section 17.54.115 (C)(2)(b)(i) of the Oregon City Municipal Code. We will utilize all existing outdoor lighting. No additional lighting is proposed. There is currently a large recycling and refuse area fenced that is suitable for the proposed use. No additional hedges, walls or retaining walls are planned at this time.

Greenbox is proposing modification of an existing exterior storage area on the southern side of the existing building. This modification will add approx. 250 SF of exterior covered storage space, enclosed by a new fence and roof covering. The proposed exterior storage area would store seasonal goods, chairs, games, and other various site furnishings when not in use. This proposed modification would not increase the intensity of the use because it shall not increase the occupant load of the interior space, shall not propose additional non-transitory mobile food units.

The improvements are not proposed to be floodproofed. The facility is designed as a flow-through structure. No net fill is calculatable by the proposed structures. Some improvements do constitute fill within the floodplain; these improvements shall be offset by volume removed from the site. As a condition of approval, a survey shall be completed prior to and after construction by a surveyor. Cut and fill calculations shall be performed by a civil engineer (Tom Sisul, Sisul Engineering).

Greenbox is also proposing that five existing non-transitory mobile food units centrally located on site be relocated along the southern property line to unify the existing seating areas. The existing non-transitory mobile food units to be relocated were previously approved in previous land use actions: GLUA-21-00044 / SP-21-00085 / VAR-21-00004 / FP-21-00004 and the quantity of non-transitory mobile food units shall not change. No intensity of use change shall occur by moving existing non-transitory mobile food units. The site is considerably overparked already, and no parking spaces are proposed to be added or removed. The seating and recreation areas shown on the Proposed Site Plan are to be used for

tables and chairs for outdoor dining, as well as large outdoor games, including but not limited to oversized Yahtzee, Bean Bag Toss, and oversized Jenga. These uses are permitted within the MUD district as a "Service" or as a "Health and Fitness club" according to section 17.34.020 of the Oregon City municipal code. A "service" is being provided as customers have the opportunity to learn a new skill – be "served" – while on site before leaving. The subject property shall maintain a balanced cut and fill of all materials located within the floodplain during an event. This calculation shall be completed at a later point in time but shall meet or exceed the approval criteria.

We are requesting a variance to the 20' minimum setback abutting a residential zone. Corner 14 would like to relocate five existing on-site non-transitory mobile food units to be placed as close as 2" from the southern property line of the site. We request to adjust this setback more than 25%, which will require a Type III Planning Commission Variance. This variance shall not cause any substantial damage to adjacent properties via reduction of air, light, or safe access due to the unique nature of the site conditions. Section 17.34.060 is intended to prevent commercial development from imposing on smaller scale residential development. The entirety of the subject site, 508 14th Street, sits approximately 30' below the residential structures to the south. These residences are located on the far south end of their properties due to slopes exceeding 20% between the proposed covering and the existing residences. Due to the mapped Geological Hazard, it is unlikely the northern portions of lots 517 and 519 will be developed. Further, the dense trees and planting along the slope screens the visibility of the non-transitory mobile food units and maintains the integrity of the hillside. Views from these lots are not through the proposed non-transitory mobile food units but rather over the non-transitory mobile food units. Impacts resulting from the adjustment are mitigated due to the dramatic change in elevation and natural screening. The variance conforms to the comprehensive plan, as there is considerable visual separation between the subject site and adjacent residential zone. Even those properties to the east sit well above this subject site and the retaining wall along Washington street provides nearly approximately 10 feet of screening. The property owner has also reached out to residential property owners of lots 517 and 519, who have voiced support for the proposed variance at Corner 14. Complying with standard setback, evacuation of the carts in the event of a flood situation would be hindered significantly. By allowing this variance, the carts can more easily be relocated prior to possible flood situations. The proposed setback alteration will allow for a more efficient evacuation in the case of a flood.

As these are not permanent structures, these shall not cause any substantial damage to adjacent properties via reduction of air, light, or safe access due to the unique nature of the site conditions. The proposed relocated non-transitory mobile food units meets or exceeds the intent of the Municipal Code.

Sincerely,



Derek Metson, AIA, NCARB
Principal



LAND USE APPLICATION FORM

Type I (OCMC 17.50.030.A) <input type="checkbox"/> Compatibility Review <input type="checkbox"/> Willamette River Greenway <input type="checkbox"/> Communication Facility <input type="checkbox"/> Lot Line Adjustment <input type="checkbox"/> Non-Conforming Use Review <input type="checkbox"/> Natural Resource (NROD) Verification <input type="checkbox"/> Minor Site Plan & Design Review <input type="checkbox"/> Historic Review – Remodel <input type="checkbox"/> Detailed Dev. Plan (DDP)	Type II (OCMC 17.50.030.B) <input type="checkbox"/> Master Plan / PUD / GDP or Amendment <input type="checkbox"/> Detailed Development Plan (DDP) <input type="checkbox"/> Floodplain Review <input type="checkbox"/> Geologic Hazard Overlay <input type="checkbox"/> Minor Partition (<4 lots) <input checked="" type="checkbox"/> Minor Site Plan & Design Review <input type="checkbox"/> Non-Conforming Use Review <input type="checkbox"/> Site Plan and Design Review / DDP <input type="checkbox"/> Subdivision (4+ lots) <input type="checkbox"/> Minor Variance <input type="checkbox"/> Natural Resource (NROD) Review <input type="checkbox"/> Public Improvement Modification <input type="checkbox"/> Willamette River Greenway ELD Process (OCMC 17.50.030.E) <input type="checkbox"/> Expedited Land Division	Type III / IV (OCMC 17.50.030.C & D.) <input type="checkbox"/> Annexation <input type="checkbox"/> Code Interpretation / Similar Use <input type="checkbox"/> Master Plan / PUD / GDP Amendment <input type="checkbox"/> Conditional Use <input type="checkbox"/> Comprehensive Plan / Legislative Amendment <input type="checkbox"/> Code <input type="checkbox"/> Map <input type="checkbox"/> Detailed Development Plan DDP <input type="checkbox"/> Historic Review <input type="checkbox"/> Municipal Code Amendment <input type="checkbox"/> Parking Adjustment <input checked="" type="checkbox"/> Variance <input type="checkbox"/> Sign Variance <input type="checkbox"/> Natural Resource (NROD) Review <input type="checkbox"/> Zone Change (Text/Map) <input type="checkbox"/> Willamette River Greenway Legislative Action (OCMC 17.50.170) <input type="checkbox"/> Legislative
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File Number(s):	Application Date: 5-11-2022
Project Name: Corner 14	
Proposed Land Use or Activity: Minor Site Plan & Design Review	# of Lots Proposed (if Applicable):
Physical Address(es) of Site: 504 14th Street, Oregon City OR 97045	
Clackamas County Map and Tax Lot Number(s): 2-2E-30DD-03100	

Applicant(s)

Applicant(s) Signature:	
Applicant(s) Name Printed: Derek Metson	Date: 5-11-2022
Mailing Address: 502 Seventh Street, Suite 203	
Phone: 503.207.5537	Fax: n/a
Email: permits@greenboxpdx.com	

Property Owner(s) – See reverse for more than two Owners

Property Owner #1

Property Owner#1 Signature:	
Property Owner#1 Name Printed: Clackamas Cream II, LLC	Date: 5-11-2022
Mailing Address: 16940 SE 130TH Ave Clackamas OR 97015	
Ownership Address: 16940 SE 130TH Ave Clackamas OR 97015	
Phone:	Fax:
Email:	

Property Owner #2

Property Owner#2 Signature:	
Property Owner#2 Name Printed:	Date:
Mailing Address:	
Ownership Address:	
Phone:	Fax:
Email:	

Representative(s)

Representative(s) Signature:	
Representative(s) Name Printed:	Date:
Mailing Address:	
Phone:	Fax:
Email:	

All signatures represented must have the full legal capacity and hereby authorize the filing of this application and certify that the information and exhibits herewith are correct and indicate the parties willingness to comply with all code requirements.

Pre-App Meeting

June 15, 2021

10:00 am

508 14th street . – Corner 14

Design Professional: Greenbox Architecture

Project Owner: Corner 14

Building Staff Present: Mike Roberts,

Notes:

- Codes in Effect
 - 2019 Oregon Structural Specialty Code w/ 2021 Cpt 1
 - 2019 Oregon Mechanical Specialty Code
 - 2021 Oregon Electrical Specialty Code
 - 2021 Oregon Plumbing Specialty Code
 - 2009 ANSI 117.1
 - 2021 Oregon Energy Efficiency Specialty Code
 - 2019 Oregon Fire Code
- All permit applications to the Building Division shall be in electronic format.
- Applications for permits are on the OC Building Division website.
- Additional or supplemental items are required to have a completed transmittal sheet accompanied with the items.
- All information for the building division is to be sent to email permits@orccity.org
- All construction documents for building division review shall be sent as an unlocked pdf
- A two inch by two inch space in the upper right hand corner of construction documents is reserved for the building division stamp.
- Red font on the construction documents is reserved for the building division.
- Any site utilities outside of the public ROW or a public easement require a site utility permit application to be made to the Building division
- Site Utilities is defined as
 - Private not in the Right of Way or Public Easement:
 - Water
 - Storm sewer
 - Sanitary sewer
 - Street / path lighting
 - Retaining walls
 - Pedestrian passageways
 - Accessible parking

NEIGHBORHOOD ASSOCIATION MEETING

Citizen Involvement Committee (CIC)

04/04/2022 07:00 PM

Commission Chambers, 625 Center Street, Oregon City

Attendance list

Christina Robertson-Gardiner (Staff)

John Lewis (Staff/ Presenting)

Dorothy (Dede) – Via Phone/Zoom

Sara Peterson – Via Phone/Zoom

Ray Atkinson – Via Phone/Zoom

Linda Baysinger

John Kies

Sara Peterson

Denyse McGriff

Will McGriff

Steve Van Haverbeke

Bob La Salle

Adam Marl

Bonnie Espe – Via Phone/Zoom

Adam

Karla Laws

Dennis Anderson

Denise Beasley

Will Illsonsen

Aquilla Hurd-Ravich (Presenting)

Skii Vondracek (Presenting) – Via Phone/Zoom

Cherisse Reilly (Presenting)



Citizen Involvement Committee (CIC)

Item #2.

04/04/2022 07:00 PM

Commission Chambers, 625 Center Street, Oregon City

This meeting will be held online via Zoom; please contact planning@orc.org for the meeting link.

CALL TO ORDER**PUBLIC COMMENT**

Citizens are allowed up to 3 minutes to present information relevant to the City but not listed as an item on the agenda. Prior to speaking, citizens shall complete a comment form and deliver it to the City Recorder. The Citizen Involvement Committee does not generally engage in dialog with those making comments but may refer the issue to the City Manager. Complaints shall first be addressed at the department level prior to addressing the Citizen Involvement Committee.

PRESENTATIONS

1. Public Works Update- John Lewis, Public Works Director
2. Expansion of Corner 14 - Dan Fowler
3. Introduction- Aquilla Hurd-Ravich, Community Development Director
4. Emergency Annexation 19204 Rose Road - Skii Vondracek

STAFF LIAISON UPDATES

5. Staff Liaison Update

ROUNDTABLE

For more information on upcoming neighborhood association meetings and contacts please visit:
<https://www.orcity.org/community/neighborhood-associations>

ADJOURNMENT

PUBLIC COMMENT GUIDELINES

Complete a Comment Card prior to the meeting and submit it to the City Recorder. When the Mayor calls your name, proceed to the speaker table, and state your name and city of residence into the microphone. Each speaker is given three (3) minutes to speak. To assist in tracking your speaking time, refer to the timer on the table. As a general practice, the City Commission does not engage in discussion with those making comments. Electronic presentations are permitted but shall be delivered to the City Recorder 48 hours in advance of the meeting.

ADA NOTICE

The location is ADA accessible. Hearing devices may be requested from the City Recorder prior to the meeting. 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

Agenda Posted at City Hall, Pioneer Community Center, Library, City Web site. Video Streaming & Broadcasts: The meeting is streamed live on Internet on the Oregon City's Web site at www.orcity.org and available on demand following the meeting. The meeting can be viewed live on Willamette Falls Television on channel 28 for Oregon City area residents. The meetings are also rebroadcast on WFMC. Please contact WFMC at 503 650 0275 for a programming schedule

- Is the existing “grey water” holding tank the Oil / Grease Separator large enough to handle two additional units?
- Will need permits for additional connections to power, water and sewer potentially
- County Health department will be required to approve which will include size of separator per OHA mobile food cart rules and OPSC.
- Information on new covered seating area.
- Building Division Links
 - [Electronic Submittal Requirements](#)
 - [Commercial Application Checklist](#)
 - [Commercial Building Permit Application](#)
 - [Commercial Electrical Checklist](#)
 - [Commercial Electrical Plan Requirements](#)
 - [Commercial Electrical Application](#)
 - [Mechanical Application Checklist](#)
 - [Commercial Mechanical Permit Application](#)
 - [Commercial Plumbing Application Checklist](#)
 - [Commercial Plumbing Plan Review Requirements](#)
 - [Commercial Plumbing Application](#)
 - [Commercial Site Utility Application](#)
 - [Commercial Special Inspection Agreement](#)
 - [Transmittal Sheet](#)
 - [Energy Com-Check](#)
 - [Certificate of Occupancy Request](#)
 - [Alternate Material Design and Method](#)
 - [OHA FOOD CART RULES](#)
 - [Clackamas County Health Department](#)

Property Detail Report

Owner: Clackamas Cream II LLC
 Site: 508 14th St Oregon City OR 97045
 Mail: 5035 Mapleton Dr West Linn OR 97068



Clackamas County Data as of: 03/22/2022

Location and Site Information

County:	Clackamas	Lot SqFt:	29,294
Legal Description:	Subdivision OREGON CITY 2 Block 47	Lot Acres:	0.67
APN:	LTS 1 2 7 8 & VAC ALLEY[Y]184,139	Land Use:	201 - Commercial land improved
Tax Lot:	00569664	Land Use STD:	Commercial Miscellaneous
TwN-Rng-Sec:	22E30DD03100	County Bldg Use:	CMSC
Neighborhood:	02S / 02E / 30 / SE	# Dwellings:	
Subdivision:	Two Rivers	Map Page/Grid:	687-D7
Legal Lot/Block:	Oregon City	Zoning:	Oregon City-MUD
Census Tract/Block:	1 / 47	Watershed:	Abernethy Creek-Willamette River
	022400 / 5015		

Property Characteristics

Total Living Area:	Bedrooms:	Year Built/Eff:	1955
First Floor SqFt:	Bathrooms Total:	Heating:	
Second Floor SqFt:	Bathrooms Full/Half:	Cooling:	
Basement Fin/Unfin:	Stories:	Fireplace:	
Attic Fin/Unfin:	Foundation:	Pool:	
Garage SqFt:	Roof Material:	Kitchen:	

Assessment and Tax Information

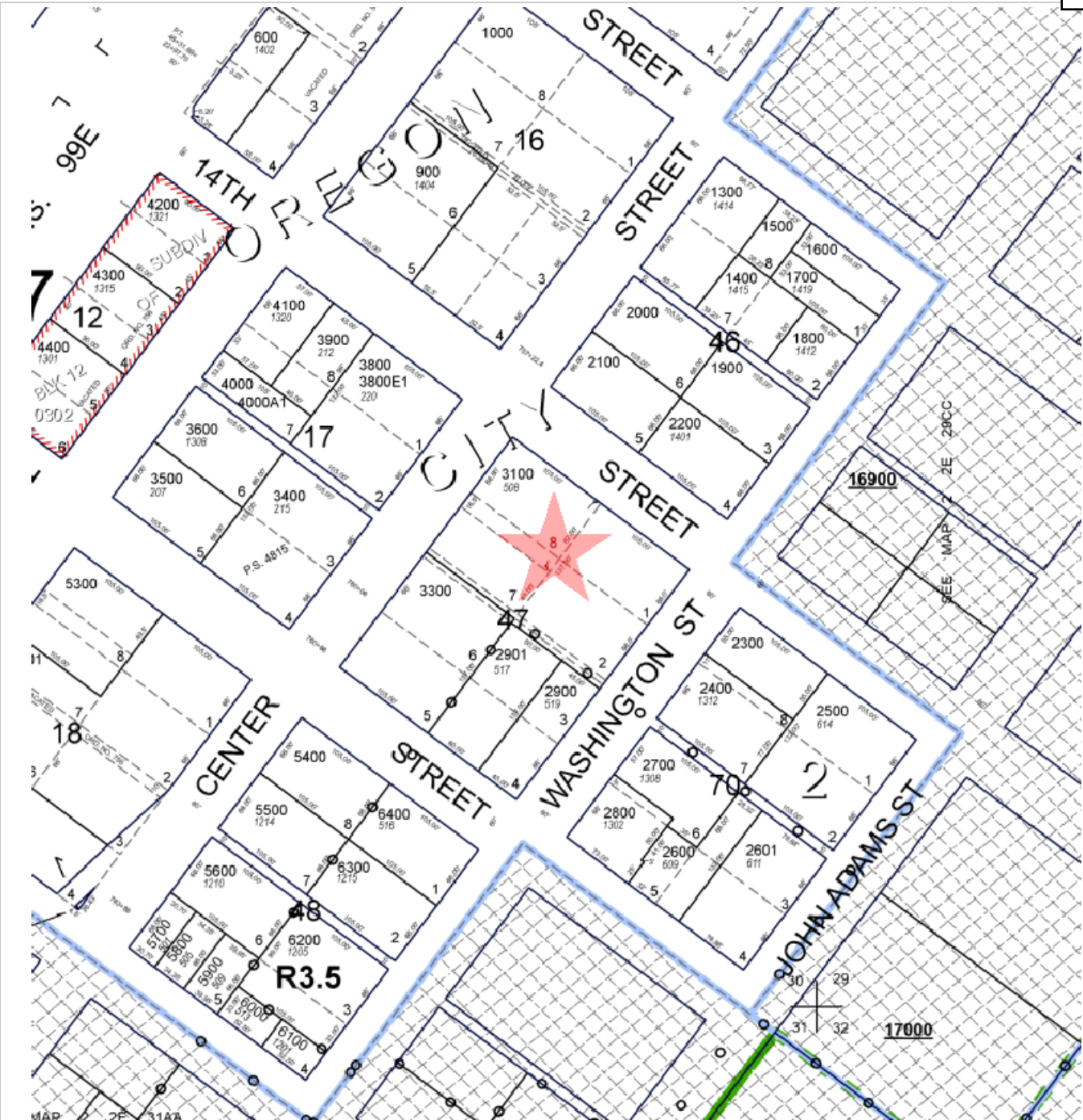
Market Total:	\$1,296,573.00	Property Tax:	\$5,475.21
Market Land:	\$1,047,123.00	Exemption:	
Market Structure:	\$249,450.00	Market Improved %:	19.00%
Assessment Year:	2021	Levy Code:	062-057
Assessed Total:	\$303,126.00	Mill Rate:	18.0625

Sale and Loan Information

Sale Date:	12/21/2018	Lender:	SPICER
Sale Amount:	\$880,000.00	Loan Amount:	\$680,000.00
Document #:	2018-076472	Loan Type:	Private Party Lender
Deed Type:	Deed	Price/SqFt:	\$0.00
Title Co:	FIDELITY NAT'L TITLE/OREGON	Seller Name:	SPICER KEITH W & NANCY A

Prepared By: WFG National Title Customer Service Department
 12909 SW 68th Pkwy, Suite 350, Portland, OR 97223
 P: 503 603 1700 | 360 891 5474 E: cs@wfgnationaltitle.com | cccs@wfgtitle.com

Sentry Dynamics, Inc. and its customers make no representation, warranties or conditions, express or implied, as to the accuracy or completeness of information contained in this report.



Parcel ID: 00569664

Site Address: 508 14th St

Sentry Dynamics, Inc. and its customers make no representations, warranties or conditions, express or implied, as to the accuracy or completeness of information contained in this report.



Parcel ID: 00569664

Sentry Dynamics, Inc. and its customers make no representations, warranties or conditions, express or implied, as to the accuracy or completeness of information contained in this report.

RECORDING REQUESTED BY:**Fidelity National Title**
Company of Oregon900 SW 5th Avenue
Portland, OR 97204Clackamas County Official Records
Sherry Hall, County Clerk**2018-076472**

12/21/2018 11:55:00 AM

D-D Cnt=1 Stn=73 KARLYN
\$10.00 \$16.00 \$10.00 \$62.00**\$98.00**

Item #2.

GRANTOR'S NAME:

Keith W. Spicer and Nancy A. Spicer, as tenants by the entirety

GRANTEE'S NAME:

Clackamas Cream II, LLC, an Oregon limited liability company

AFTER RECORDING RETURN TO:Clackamas Cream II, LLC, an Oregon limited liability company
5035 Mapleton Drive
West Linn, OR 97068**SEND TAX STATEMENTS TO:**Clackamas Cream II, LLC, an Oregon limited liability company
5035 Mapleton Drive
West Linn, OR 97068

508 14th Street, Oregon City, OR 97045

SPACE ABOVE THIS LINE FOR RECORDER'S USE

STATUTORY WARRANTY DEED

Keith W. Spicer and Nancy A. Spicer, as tenants by the entirety, Grantor, conveys and warrants to **Clackamas Cream II, LLC, an Oregon limited liability company**, Grantee, the following described real property, free and clear of encumbrances except as specifically set forth below, situated in the County of Clackamas, State of Oregon:

Lots 1, 2, 7 and 8, Block 47, OREGON CITY, in the City of Oregon City, County of Clackamas and State of Oregon.

TOGETHER WITH that portion of vacated alley that inured thereto by Ordinance No. 1653, recorded June 17, 1968 as Recorder's Fee No. 68-11258, recorded in Clackamas County and State of Oregon.

THE TRUE AND ACTUAL CONSIDERATION FOR THIS CONVEYANCE IS EIGHT HUNDRED EIGHTY THOUSAND AND NO/100 DOLLARS (\$880,000.00). (See ORS 93.030).

Subject to:

- Any irregularities, reservations, easements or other matters in the proceedings occasioning the abandonment or vacation of the Alley:

Recording Date: June 17, 1968
Recording No: 68-11258
- Easement(s) for the purpose(s) shown below and rights incidental thereto, as granted in a document:
Granted to: Oregon City
Purpose: Public utilities
Recording Date: August 26, 1994
Recording No: 94068149
(Affects Lot 1)
- Existing leases and tenancies, if any, and any interests that may appear upon examination of such leases.

BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010. THIS INSTRUMENT DOES NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY THAT THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY ESTABLISHED LOT OR PARCEL, AS DEFINED IN ORS 92.010 OR 215.010, TO VERIFY THE APPROVED USES OF THE LOT OR PARCEL, TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES, AS DEFINED IN ORS 30.930, AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010.

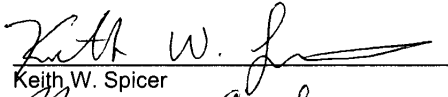
Fidelity National Title of Oregon 45141820712-01 COMM

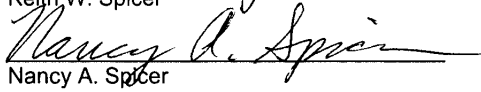
STATUTORY WARRANTY DEED
(continued)

Item #2.

IN WITNESS WHEREOF, the undersigned have executed this document on the date(s) set forth below.

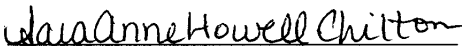
Dated: December 20, 2018


Keith W. Spicer

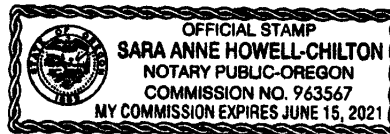

Nancy A. Spicer

State of OREGON
County of MULTNOMAH

This instrument was acknowledged before me on Keith W. Spicer and Nancy A. Spicer.


Notary Public - State of Oregon

My Commission Expires: 6-15-2021





RECEIPT NUMBER: 5152249
Page 1 of 1
Entered: 11/17/2021 4:57 PM
Interest Date: 11/15/2021
Cashier: ROMYMIE
Drawer: 6

Amount Tendered: \$5,310.95
Less Change: \$0.00
Amount Applied: \$5,310.95

Receipt Applied To:

Property Account No. / Reference	Year	District	Amount	Description
00569664	2021	062-057	\$5,310.95	Property Tax Principal
	2021	062-057	\$164.26	Property Tax Principal - Discount Allowed
TOTAL:			\$5,475.21	

Form of Payment	Amount	Reference	Payer
Business Check	\$5,310.95		CORNER 14 LLC
TOTAL:	\$5,310.95		

Thank you for your payment.

End of Receipt Number 5152249: 1 Page

CORNER 14 LLC
1300 JOHN ADAMS ST STE 104
OREGON CITY OR 97045

RECEIPT NUMBER: 5152249

Derek Metson

From: Ashley Fraijo <afraijo@orcity.org>
Sent: April 25, 2022 8:32 AM
To: Derek Metson
Cc: Travis Blunt; Ashley Fraijo
Subject: RE: Lien Status - 508 14th St. Oregon City OR 97045

Hi Derek,

No, there are no liens at 508 14th St. in favor of the City of Oregon City.

Thank you,

-Ashley Fraijo



Ashley Fraijo
Utility Billing
afraijo@orcity.org
City of Oregon City
PO Box 3040
625 Center Street
Oregon City, Oregon 97045
503-496-1522 Direct phone
503-657-8151 Utility Billing phone
503-657-3339 fax

Website: www.orcity.org | webmaps.orcity.org |

Follow us on: [Facebook!](#) | [Twitter](#)

PUBLIC RECORDS LAW DISCLOSURE: This e-mail is subject to the State Retention Schedule and may be made available to the public.

From: Derek Metson <derekm@greenboxpdx.com>
Sent: Saturday, April 23, 2022 9:21 AM
To: Ashley Fraijo <afraijo@orcity.org>
Cc: Travis Blunt <travis@greenboxpdx.com>
Subject: Lien Status - 508 14th St. Oregon City OR 97045

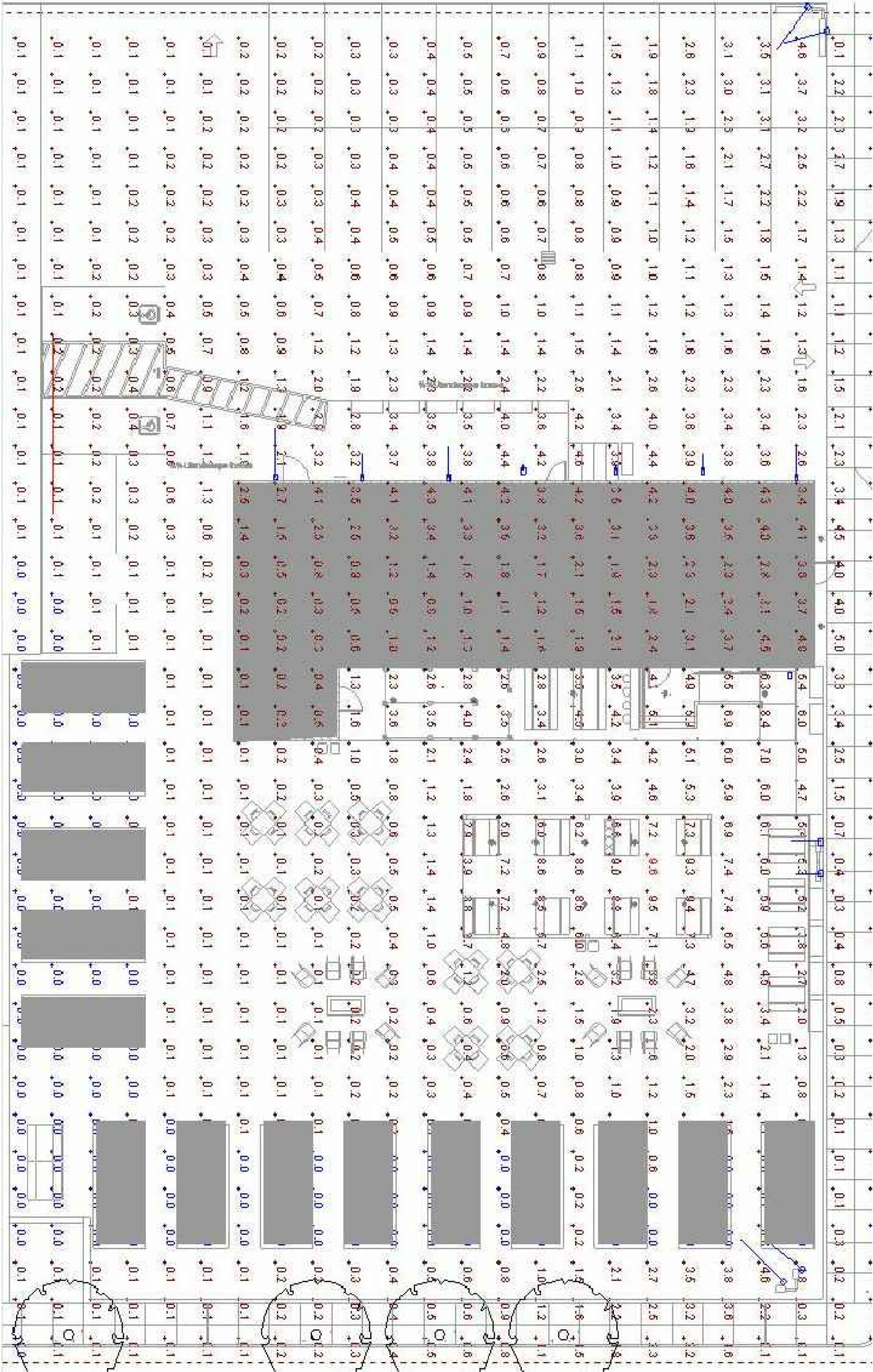
CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hello Ashley,

Does the City of Oregon City have any liens on the property located at 508 14th St. Oregon City OR 97045?

Thank you,

Derek Metson, AIA
Greenbox Architecture
502 7th Street Suite 203
Oregon City, OR 97045
p: (503) 207-5537
w: www.greenboxpro.com



CORNER 14 - LIGHTING PLAN

SK-01.7

1/16" = 1'-0"

CHAPTER 17.62 - SITE PLAN AND DESIGN REVIEW

17.62.015 - Modifications that will better meet design review requirements.

The review body shall consider modification of certain site-related development standards of this Chapter specified below. These modifications may be approved as part of a Type II design review process.

A. Applicability.

1. *This process shall apply to modifications to:*
 - a. *Landscaping in OCMC 17.62.050.A;*
 - b. *Vehicular Connections to Adjoining Properties in OCMC 17.62.050.B.2;*
 - c. *On-site pedestrian circulation in OCMC 17.62.050.C;*
 - d. *Utility Undergrounding Requirements in OCMC 16.12.095.G;*
 - e. *Building location in OCMC 17.62.055.D;*
 - f. *Building Details in OCMC 17.62.050.B.9.055.I;*
 - g. *Windows in OCMC 17.62.050.B.10.055.J;*
 - h. *Parking Lot Landscaping in OCMC 17.52.060.*

Applicant's Response: Chapter 17.62 is applicable to this land use application.

B. *The review body may approve requested modifications if it finds that the applicant has shown that the following approval criteria are met:*

1. *The modification will result in a development that better meets the applicable design guidelines; and*

Applicant's Response: The existing development was constructed before this zoning code was enacted. It does not conform in many ways to the existing zoning regulations. This proposed alteration brings the development closer inline, or "better meets the applicable design guidelines."

2. *The modification meets the intent of the standard. On balance, the proposal will be consistent with the purpose of the standard for which a modification is requested.*

Applicant's Response: This facility is altered in a very minor way and fully complies with the intent of this section. Most of this alteration is temporary in nature; as it is primarily related to food carts which can be moved or relocated. The modification of an exterior covered storage area is included in this application. The fence shall be similar in color and esthetic to the current trash enclosure. This shall be used to obscure seasonal outdoor items such as heaters or outdoor games to protect them from the elements.

17.62.030 - When required.

Site plan and design review shall be required for all development of real property in all zones except the low and medium density residential districts, unless otherwise provided for by this title or as a condition of approval of a permit. Site plan and design review shall also apply to all conditional uses, cluster housing developments, multi-family uses, manufactured home parks, and non-residential uses in all zones. Site Plan and Design Review does not apply to activities occurring within the right-of-way except for communication facilities pursuant to OCMC 17.80.

Site plan and design review is required for a change in use between the uses in Table 17.62.030:
Table 17.62.030

<i>Existing Use</i>	<i>Proposed Use</i>
<i>Residential</i>	<i>Nonresidential use, including but not limited to: commercial, office, industrial, retail, or institutional</i>
<i>Single-family or duplex</i>	<i>3 or more dwellings</i>

Site plan and design review shall not alter the type and category of uses permitted in the underlying zoning districts.

The general standards of Section 17.62.050 do not apply to 3-4 plex, duplex, single-family attached dwellings, single-family detached residential unit, internal conversions, live/work dwelling and accessory dwelling unit Type I applications.

Applicant's Response: Site plan and design review shall be required for the modifications requested by the applicant.

17.62.035 - Minor site plan and design review.

This section provides for a Minor Site Plan and Design Review process. Minor Site Plan review is a Type I or Type II decision, as described in OCMC 17.62.035.A., subject to administrative proceedings described in OCMC 17.50 and may be utilized as the appropriate review process only when authorized by the Community Development Director. The purpose of this type of review is to expedite design review standards for uses and activities that require only a minimal amount of review, typical of minor modifications and/or changes to existing uses or buildings.

A. Type I Minor Site Plan and Design Review.

- 1. Applicability. Type I applications involve no discretion and are typically processed concurrently with a building permit application. The Type I process is not applicable for:*
 - a. Any activity which is included with or initiates actions that require Type II-IV review.*
 - b. Any increase in square footage of a conditional or nonconforming use (excluding nonconforming structures).*
 - c. Any proposal in which nonconforming upgrades are required under OCMC 17.58.*
 - d. Any proposal in which modifications are proposed under OCMC 17.62.015.*

Applicant's Response: The minor site plan and design review has been authorized by the Community Development Director because the proposal is a minor change to existing use and buildings. This proposal qualifies as a Type II review.

B. Type II Minor Site Plan and Design Review.

- 1. Type II Minor Site Plan and Design Review applies to the following uses and activities unless those uses and activities qualify for Type I review per OCMC 17.62.035.A.:*
 - a. Modification of an office, commercial, industrial, institutional, public or multi-family structure that does not increase the interior usable space (for example covered walkways or entryways, addition of unoccupied features such as clock tower, etc.).*
 - b. Modification to parking lot layout and landscaping, or the addition of up to five parking spaces.*
 - c. A maximum addition of up to one thousand square feet to a commercial, office, institutional, public, multi-family, or industrial building provided that the addition is not more than thirty-five percent of the original building square footage.*
 - d. Mobile food units in OCMC 17.54.115.*
 - e. Other land uses and activities may be added if the Community Development Director makes written findings that the activity/use will not increase off-site impacts and is consistent with the type and/or scale of activities/uses listed above.*

Applicant's Response: The proposal is relevant to this section as it relates to the proposed exterior covered storage area. This would be considered a commercial modification that does not increase the interior usable space. The parking will maintain its existing location and parking count will remain the same. The existing carts shall be relocated south near the south property line to allow for a single open/ connected seating area in the center of the carts. The other uses on site remain as approved

under previous land use actions. The proposed development meets the approval criteria as a Type II Minor Site Plan and Design Review.

17.62.050 - General Standards

All development shall comply with the following standards:

A. Landscaping.

- 1. Existing native vegetation is encouraged to 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.*

Applicant's Response: Currently, the site is nearly 100% impervious and has limited landscaping, as well as landscaped/planted boxes. The landscaping is generally located along 14th Street fronting the property at the most prominent location. N/A

- 2. The amount of landscaping required is found in the standards for each underlying zone. Where the underlying zone does not contain and minimum landscaping standard, the minimum site landscaping shall be 15% of the total site area. Except as allowed elsewhere in Title 16 or 17 of this Code, all areas to be credited towards landscaping shall be installed with growing plant materials.*

Applicant's Response: No adjustment to the landscaping plan is proposed. Existing landscaping is in conformity with 17.62.050.

- 3. Pursuant to OCMC 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.*

Applicant's Response: This site is not within the Natural Resource Overlay District, and there is no native vegetation or habitat on site. N/A

- 4. A landscaping plan shall be prepared by a registered landscape architect for new or revised landscaped areas and parking lots. Landscape architect approval is not required for tree removal and/or installation if the species are chosen from an approved street tree list. A certified landscape designer, arborist, or nurseryman shall be acceptable in lieu of a landscape architect for projects with less than five hundred square feet of landscaping. All landscape plans shall 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. Plant species listed on the Oregon City Nuisance Plant list are prohibited and native species are encouraged. 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.*

Applicant's Response: The landscape plan provided in the initial application was developed by Anderson Associates Landscape Architect. The proposed development complies with the development standards. A new landscape plan by Anderson associate illustrates the current building conditions. No alterations to the proposed landscaping are required due to this modification.

- 5. Landscaping shall be visible from public thoroughfares to the extent practicable.*

Applicant's Response: The landscaping is generally located along 14th Street fronting the property at the most prominent location. The proposed development complies with the development standard.

- 6. The landscaping in parking areas shall not obstruct lines of sight for safe traffic operation and shall comply with all requirements of OCMC 10.32, Traffic Sight Obstructions.*

Applicant's Response: The proposed landscaping is situated so that it does not obstruct lines of sight. The proposed development complies with the development standard.

B. Vehicular Access and Connectivity.

1. *Parking areas shall be located behind the building façade that is closest to the street, below buildings, or on one or both sides of buildings.*

Applicant's Response: This is a corner lot. Parking is located along south and western portions of the site. Vehicular activity occurs behind and beside the building when viewed from the primary street frontages. The proposed development complies with the development standard.

2. *Existing or future connections to adjacent sites through the use of vehicular and pedestrian access easements which provide connection from the right-of-way to the adjoining property shall be provided.*

Applicant's Response: No connections to adjacent sites exist and no proposed connections to adjacent sites are proposed. NA

3. *Parcels larger than three acres shall provide streets as required in OCMC 16.12.*

Applicant's Response: This site is less than three acres. N/A

4. *Parking garage entries shall not be more than half of the streetscape.*

Applicant's Response: No parking garage entries occur in this building. The existing conditions comply with this section.

C. A well-marked, continuous and protected on-site pedestrian circulation system meeting the following standards shall be provided:

1. *Pathways between all building entrances and the street are required. Pathways between the street and buildings fronting on the street shall be direct and not cross a drive aisle. Exceptions may be allowed by the director where steep slopes, a physically constrained site, or protected natural resources prevent a direct connection or where an indirect route would enhance the design and/or use of a common open space.*

Applicant's Response: The initial application has provided clear and concise pedestrian connections between the existing building entrances and the right of way (sidewalk). These connections to the right of way occur on both the north and east building faces. No alterations to existing pedestrian circulation are proposed. The proposed development complies with the development standard.

2. *The pedestrian circulation system shall connect all main entrances, parking areas, bicycle parking, recreational areas, common outdoor areas, and any pedestrian amenities on the site. For buildings fronting on the street, the sidewalk may be used to meet this standard.*

Applicant's Response: This building fronts 14th Street on the north side of the building. A pedestrian entrance is located on the 14th Street frontage to both the building and the site. Bicycle parking, recreational areas, common outdoor areas, and pedestrian amenities on the site are accessed from 14th Street. Parking areas may be accessed from either 14th Street or Center Street. The proposed development complies with the development standard.

3. *The pedestrian circulation system shall connect the principal building entrance to those of buildings on adjacent sites, except within industrial zoning designations.*

Applicant's Response: This building fronts 14th Street on the north side of the building. A pedestrian entrance is located on the 14th Street frontage. The proposed development complies with the development standard.

4. *Elevated external stairways or walkways shall not extend beyond the building facade except for external stairways or walkways located in, or facing interior courtyard areas that are not visible from the street or a public access easement. This standard does not apply to sky-bridges or skyways.*

Applicant's Response: The site is flat, and no portion of this sub-section is applicable. N/A

5. *On-site pedestrian walkways shall be hard surfaced, well drained and at least five feet wide. Surface material shall contrast visually to adjoining surfaces. When bordering parking spaces other than spaces for parallel parking, pedestrian walkways shall be a minimum of seven feet in width unless curb stops are provided. When the pedestrian circulation system is parallel and adjacent to an auto travel lane, the walkway shall be raised or separated from the auto travel lane by a raised curb, bollards, landscaping or other physical barrier. If a raised walkway is used, the ends of the raised portions shall be equipped with curb ramps for each direction of travel. Pedestrian walkways that cross drive isles or other vehicular circulation areas shall utilize a change in textual material or height to alert the driver of the pedestrian crossing area.*

Applicant's Response: Parking is bis not being altered from previous land use approvals.

- D. *All development shall maintain continuous compliance with applicable federal, state, and City standards .*

Applicant's Response: The building owner shall be responsible for ongoing compliance with applicable federal, state, and city standards.

- E. *Adequate public water and sanitary sewer facilities sufficient to serve the proposed or permitted level of development shall be provided pursuant to OCMC 16.12. 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 offsite 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.*

Applicant's Response: The site is currently served by gas, water, sewer, and electricity that have been deemed suitable for the existing use. These services have been evaluated for the proposed use and appear to be adequate. Public water and sanitary sewer facilities have been coordinated with the applicable Authorities Having Jurisdiction for all uses on site. Water and sewer are available at the street and have the required capacity for this development. The proposed development complies with the development standard.

- F. *If a transit agency, upon review of an application for an industrial, institutional, retail or office development, recommends that a bus stop, bus turnout lane, bus shelter, accessible bus landing pad, lighting, or transit stop connection be constructed, or that an easement or dedication be provided for one of these uses, consistent with an agency adopted or approved plan at the time of development,*

the review authority shall require such improvement, using designs supportive of transit use. Improvements at a major transit stop may include intersection or mid-block traffic management improvements to allow for crossings at major transit stops, as identified in the City's Transportation System Plan.

Applicant's Response: This development is not an industrial, institutional, retail or office development. N/A

G. Screening of Mechanical Equipment: Commercial, mixed-use, institutional, and multi-family buildings shall include the following measures to screen or block views of mechanical equipment from adjacent streets according to the following requirements.

- 1. Rooftop mechanical equipment, including HVAC equipment and utility equipment that serves the structure, shall be screened from view from the adjacent street on all new buildings or building additions. Screening shall be accomplished through the use of parapet walls or a sight-obscuring enclosure around the equipment constructed of one of the primary materials used on the primary facades of the structure, and that is an integral part of the building's architectural design. The parapet or screen shall completely surround the rooftop mechanical equipment to an elevation equal to or greater than the highest portion of the rooftop mechanical equipment being screened from adjacent streets, as viewed from the sidewalk or future sidewalk location on the adjacent street at pedestrian level. In the event such parapet wall does not fully screen all rooftop equipment, then the rooftop equipment shall be enclosed by a screen constructed of one of the primary materials used on the primary facade of the building so as to achieve complete screening. Screening requirements do not apply to new or replacement equipment on existing buildings. New or replacement rooftop mechanical equipment on existing buildings shall be painted or powder-coated.*

Applicant's Response: The building modification shall have no rooftop or ground-mounted HVAC equipment. N/A

- 2. Wall-mounted mechanical HVAC and air conditioning equipment, and groups of multiple utility meters shall not be placed on the front facade of a building or on a facade that faces a right-of-way. Wall-mounted mechanical equipment, including—air conditioning and groups of multiple utility meters, that extend six inches or more from the outer building wall shall be screened from view from adjacent streets; from residential, public, and institutional properties; and from public areas of the site or adjacent sites through the use of (a) sight-obscuring enclosures constructed of one of the primary materials used on the primary facade of the structure, (b) sight-obscuring fences, or (c) trees or shrubs that block at least eighty percent of the equipment from view or (d) painting the units to match the building. Wall-mounted mechanical equipment that extends six inches or less from the outer building wall shall be designed to blend in with the color and architectural design of the subject building. Vents which extend six inches or less from the outer building wall shall exempt from this standard if painted.*

Applicant's Response: No wall-mounted mechanical HVAC or air conditioning equipment is proposed in this application. No electrical meter is applicable to this application. N/A

- 3. Ground-mounted above-grade mechanical equipment shall be screened by ornamental fences, screening enclosures, trees, or shrubs that block at least eighty percent of the view from the public right of way.*

Applicant's Response: The building modification shall have no roof top or ground mounted HVAC equipment. N/A

4. *This section shall not apply to the installation of solar energy panels, photovoltaic equipment, wind power generating equipment, dishes/antennas, pipes, vents, and chimneys.*

Applicant's Response: The building modification shall have none of the items listed in this subsection. The proposed development complies with the development standard.

H. Building Materials.

1. *Prohibited Materials. The following materials shall be prohibited in visible locations from the right-of-way or a public access easement unless an exception is granted by the Community Development Director based on the integration of the material into the overall design of the structure.*
 - i. *Vinyl or plywood siding (including T-111 or similar plywood).*
 - ii. *Glass block or highly tinted, reflected, translucent or mirrored glass (except stained glass) as more than ten percent of the building facade.*
 - iii. *Corrugated fiberglass.*
 - iv. *Chain link fencing (except for temporary purposes such as a construction site, gates for a refuse enclosure, stormwater facilities, when excepted by 17.62.050.H.2.vii, or when located on properties within the General Industrial District).*
 - v. *Crushed colored rock/crushed tumbled glass.*
 - vi. *Non-corrugated and highly reflective sheet metal.*
 - vii. *Tarps, except for the protection of outside storage.*

Applicant's Response: The proposed modification contains no walls as it is only a roof covering. Prohibited materials are not proposed. The proposed development complies with the development standard.

2. *Special Material Standards. The following materials are allowed if they comply with the requirements found below:*
 - i. *Concrete Block. When used for the front façade of any building, concrete blocks shall be split, rock- or ground-faced and shall not be the prominent material of the elevation. Plain concrete block or plain concrete may be used as foundation material if the foundation material is not revealed more than three feet above the finished grade level adjacent to the foundation wall.*
 - ii. *Metal Siding. Metal siding shall have visible corner moldings and trim and incorporate masonry or other similar durable/permanent material near the ground level (first two feet above ground level) except when used for a temporary structure.*
 - iii. *Exterior insulation and finish system (EIFS) and similar troweled finishes shall be trimmed in wood, masonry, or other approved materials and shall be sheltered from extreme weather by roof overhangs or other methods.*
 - iv. *Building surfaces shall be maintained in a clean condition and painted surfaces shall be maintained to prevent or repair peeling, blistered or cracking paint.*
 - v. *Membrane or fabric covered storage areas are permitted as temporary structures, excluding the use of tarps.*
 - vi. *Vinyl or powder coated chain link fencing is permitted for City-owned stormwater management facilities, reservoirs, and other public works facilities such as pump stations, maintenance yards, and storage yards not located within the General Industrial District.*
 - vii. *Chain link fencing is permitted in the following circumstances:*
 1. *Within City-owned parks and recreational facilities*

2. *On any property when used for a baseball or softball backstop or dugout, track and field facility, or sports court.*

Applicant's Response: The proposed modification contains no walls. It is a relocation of existing carts and a wood fence enclosing an exterior storage area along the south face of the building. As it is only a roof covering, no special materials are not proposed. N/A

17.62.055 –Institutional, office, multi-family, retail, and commercial building standards.

- B. *Applicability. This section applies to institutional, office, multi-family, retail and commercial buildings except accessory structures less than one thousand square feet and temporary structures. .*

Applicant's Response: The applicant is proposing a commercial use with a relocation of already approved cart locations. It is the applicant's opinion this design is "On balance, ... consistent with the purpose of the standard for which a modification is requested". If it is determined by the Authority having jurisdiction that this modification is at conflict with intent of the municipal code the canopy can be reduced to less than 1,000SF; which would make section 17.62.055 not applicable.

- C. *Conflicts. With the exception of standards for building orientation and building front setbacks, in the event of a conflict between a design standard in this section and a standard or requirement contained in the underlying zoning district, the standard in the zoning district shall prevail.*

Applicant's Response: Conflicts between these sections are not relevant to this proposal. N/A

- D. *Siting of Structures. On sites with one hundred feet or more of frontage at least sixty percent of the site frontage width shall be occupied by buildings placed within five feet of the property line. For sites with less than one hundred feet of street frontage, at least fifty percent of the site frontage width shall be occupied by buildings placed within five feet of the property. Multi-family developments shall be placed no farther than twenty feet from the front property line. This section does not apply to properties with less than forty feet of frontage.*

Applicant's Response: The site contains more than 100 feet of street frontage. Less than fifty percent of the site frontage width is occupied by the existing building. The existing building and the modification are located within five feet of the 14th Street property line. The proposed development complies with the development standard.

A larger front yard setback may be approved through site plan and design review if the setback area incorporates at least one element from the following list for every five feet of increased setback requested:

1. *Tables, benches or other approved seating area.*
2. *Cobbled, patterned or paved stone or enhanced concrete.*
3. *Pedestrian scale lighting.*
4. *Sculpture/public art.*
5. *Fountains/Water feature.*
6. *At least twenty square feet of landscaping or planter boxes for each tenant facade fronting on the activity area.*
7. *Outdoor café.*
8. *Enhanced landscaping or additional landscaping.*
9. *Other elements, as approved by the Community Development Director, that can meet the intent of this section.*

Applicant's Response: A larger front yard setback is not proposed. N/A

E. Building Orientation. All buildings along the street frontage shall face the front most architecturally significant facade toward the street and have a functional primary entrance facing the street. Primary building entrances shall be clearly defined and recessed or framed by a sheltering element such as an awning, arcade or portico in order to provide shelter from the summer sun and winter weather.

Applicant's Response: The proposed modification is not related to the building entrance. The existing building entrance is off of 14th Street and shall remain in use and unchanged. The proposed development complies with the development standard.

F. Entryways. Entrances shall include a doorway and a minimum of four of the following elements:

1. Display windows;

Recesses or projections; Peaked roof or raised parapet over the door; Canopy of at least five feet in depth; Porch; Distinct materials; Architectural details such as tile work and moldings; Pedestrian amenities such as benches, planters or planter boxes; Landscape treatments integrating arbors, low walls, trellis work; or Similar elements. Trellises, canopies and fabric awnings may project up to five feet into front setbacks and public rights-of-way, provided that the base is not less than eight feet at the lowest point and no higher than ten feet above the sidewalk.

Applicant's Response: The proposed modification is not related to the building entrance. The existing building entrance is off of 14th Street and shall remain in use and unchanged. Any of the amenities listed above including benches, planters, low walls, and similar elements have been integrated into the site design. The proposed development complies with the development standard.

G. Corner Lots.

For buildings located at the corner of intersections, the primary entrance of the building shall be located at the corner of the building or within twenty-five feet of the corner of the building. Additionally, one of the following treatments shall be required:

- 1. Incorporate prominent architectural elements, such as increased building height or massing, cupola, turrets, or pitched roof, at the corner of the building or within twenty-five feet of the corner of the building.*
- 2. Chamfer the corner of the building (i.e. cut the corner at a forty-five degree angle and a minimum of ten feet from the corner) and incorporate extended weather protection (arcade or awning), special paving materials, street furnishings, or plantings in the chamfered area.*
- 3. Standards 1 and 2 above do not apply to vertically attached 3-4 plexes, multi-family buildings or multi-family portions of residential mixed-use buildings.*

Applicant's Response: The proposed modification is not related to the building entrance. The existing building entrance is off of 14th Street and shall remain in use and unchanged. The proposed development complies with the development standard.

H. Variation in Massing. For street facing facades greater than 120 feet in length a modulation is required which extends through all floors. Decks and roof overhangs may encroach up to three feet per side into the modulation. The modulation shall meet one of the following dimensional requirements:

- 1. A minimum depth of two percent of the length of the façade and a minimum width of thirty percent of the length of the façade; or*
- 2. A minimum depth of four percent of the length of the façade and a minimum width of twenty percent of the length of the façade.*

Applicant's Response: No façade on this building exceeds 120 feet. The proposed development complies with the development standard.

I. Building Design Elements.

1. All front and side facades shall provide a design element or architectural feature that add interest and detail such that there are no blank walls of thirty feet in length or more, measured horizontally. Features that can meet this requirement include:
 - a. Change in building material or texture;
 - b. Window or door;
 - c. Balcony; or
 - d. Pillar or post

Applicant's Response: The modification has no walls. It is a fenced covering. The proposed development complies with the development standard.

2. Street facing facades shall include additional design features. For every thirty feet of façade length, three of the following elements are required:
 - a. Decorative materials on more than ten percent of the total wall area (e.g., brick or stonework, shingles, wainscoting, ornamentation, and similar features);
 - b. Decorative cornice and/or roof line (e.g., for flat roofs);
 - c. Roof gable;
 - d. Recessed entry;
 - e. Covered canopy entry;
 - f. Cupola or tower;
 - g. Dormer;
 - h. Balcony;
 - i. Pillars or posts;
 - j. Repeating pattern of building materials;
 - k. A change in plane of at least two feet in width and six inches in depth;
 - l. Bay or oriel window; or
 - m. An alternative feature providing visual relief and detail as approved by the Community Development Director

Applicant's Response: This addition includes repetitive posts for a covered canopy, increasing the visual appeal from the southern side of the property. The proposed development complies with the development standard.

3. Building Detail Variation. Architectural features shall be varied on different buildings within the same development. At least two of the required features on each street-facing elevation shall be distinct from the street-facing elevations of other buildings within the same development.

Applicant's Response: The existing building is vernacular and eclectic. No two facades are the same. The proposed development complies with the development standard.

J. Windows.

1. The minimum windows requirements are set forth in Table 17.62.055.J. Windows are measured in lineal fashion between 3.5 feet and six feet from the ground. For example, a one hundred foot long building elevation would be required to have at least sixty feet (sixty percent of one hundred feet) of windows in length between the height of 3.5 feet and six feet from the ground.

Table 17.62.055.J Minimum Windows				
Use	Ground Floor: Front and Street Facing Facades	Upper floor(s): Front and Street Facing Facades	Ground Floor: Side(s) Facades	Upper Floor(s): Side(s) Facades

Non-Multi-Family (or Portions of Buildings Thereof)	60%	10%	30%	10%
Multi-Family (or Portions of Buildings Thereof)	15%	15%	10%	10%

Applicant's Response: The modification is a fenced enclosure for exterior storage without windows or walls. The existing façade is more than 60% transparent. This sub-section is not applicable to this type of unwall development except that it ensures the development does not reduce the existing glazing/ transparency. The proposed development complies with the development standard.

2. Reflective, glazed, mirrored or tinted glass is limited to ten percent of the lineal footage of windows on the street facing facade. Highly reflective or glare-producing glass with a reflective factor of one-quarter or greater is prohibited on all building facades. Any glazing materials shall have a maximum fifteen percent outside visual light reflectivity value. No exception shall be made for reflective glass styles that appear transparent when internally illuminated.

Applicant's Response: No glazing is proposed as a part of this application. The proposed development complies with the development standard.

3. Side walls that face walkways may include false windows and door openings only when actual doors and windows are not feasible because of the nature of the use of the interior use of the building. False windows located within twenty feet of a right-of-way shall be utilized as display windows with a minimum display depth of thirty-six inches.

Applicant's Response: No false windows or doors are proposed. The proposed development complies with the development standard.

4. Multi-family windows shall incorporate window trim at least four inches in width when surrounded by horizontal or vertical lap siding.

Applicant's Response: This proposal is not multi-family. N/A

K. Roof Treatments. The maximum length of any continuous roofline on a street-facing façade shall be seventy-five feet without a cross gable or change in height of at least two feet.

Applicant's Response: The proposed rooflines are less than seventy-five feet. The proposed development complies with the development standard.

L. Drive-through facilities shall:

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

Applicant's Response: This is not proposed to be a drive-through facility. N/A

M. Special development standards along transit streets.

- 1. Purpose. This section is intended to provide direct and convenient pedestrian access to retail, office and institutional buildings from public sidewalks and transit facilities and to promote pedestrian and transit travel to commercial and institutional facilities.*
- 2. Applicability. Except as otherwise provide 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.*

3. *Development Standards.*

- a. *All buildings shall have at least one main building entrance oriented towards the transit street. A main building entrance is oriented toward a transit street if it is directly located on the transit street, or if it is linked to the transit street by an on-site pedestrian walkway that does not cross off-street parking or maneuvering areas.*
 - i. *If the site has frontage on more than one transit street, or on a transit street and a street intersecting a transit street, the building shall provide one main building entrance oriented to the transit street or to the corner where the two streets intersect.*
 - ii. *For building facades over three hundred feet in length on a transit street, two or more main building entrances shall be provided as appropriate and oriented towards the transit street.*
- b. *In the event a requirement of this section conflicts with other requirements in Title 17, the requirements of this section shall control.*

4. *Exemptions. The following permitted uses are exempted from meeting the requirements of subsection 3. of this section:*

- a. *Heavy equipment sales;*
- b. *Motor vehicle service stations, including convenience stores associated therewith; or*
- c. *Solid waste transfer stations.*

Applicant's Response: The requirements of this section apply to the construction of new retail, office, and institutional buildings which front on a transit street. The application does not propose a new building and does not include any of the uses described in this applicability section. N/A

17.62.056 - Additional standards for large retail establishments.

Retail building(s) occupying more than ten thousand gross square feet of floor area

shall contribute to the establishment or enhancement of community and public spaces by providing at least two of the following:

- A. *Patio/seating area;*
- B. *Pedestrian plaza with benches;*
- C. *Transportation center;*
- D. *Window shopping walkway;*
- E. *Outdoor playground area;*
- F. *Kiosk area, water feature;*
- G. *Clock tower; or*
- H. *Other such deliberately shaped area and/or a focal feature or amenity that, in the judgment of the appropriate decision maker, adequately enhances such community and public spaces. Any such areas shall have direct access to the public sidewalk network and such features shall not be constructed of materials that are inferior to the principle materials of the building and landscape.*

Applicant's Response: This facility does not fit the definition of a large retail establishment. This subsection is not an applicable approval criterion. N/A

17.62.057 - Multifamily Usable Open Space Requirements

B. Open Space Required. All new multi-family developments in all zones shall provide usable open space.

- 1. *In residential zones, each development shall provide a minimum of one hundred square feet of open space per dwelling unit.*

Applicant's Response: This facility is not a multi-family or residential development. Common open space is not an applicable approval criterion. N/A

2. *In non-residential, commercial and mixed-use zones, each development shall provide a minimum of fifty square feet of open space per dwelling unit.*

Applicant's Response: This facility is not a multi-family or residential development. Common open space is not an applicable approval criterion. NA

3. *Required setback areas shall not count toward the open space requirement unless setback areas are incorporated into spaces that meet all other requirements of this section.*

Applicant's Response: This facility is not a multi-family or residential development. Common open space is not an applicable approval criterion. NA

4. *Required open space areas may be counted towards both the open space requirements and the minimum landscaping requirements in OCMC 17.62.050.A, if the spaces meet the requirements of both sections.*

Applicant's Response: This facility is not a multi-family/ residential development. Common open space is not an applicable approval criterion. N/A

C. Usable Open Space Types.

1. *Common open spaces shall be accessible to all residents of the development and include landscaped courtyards, decks, gardens with pathways, children's play areas, common rooftop decks and terraces, and other multipurpose recreational or green spaces.*

Applicant's Response: This facility is not a multi-family or residential development. Common open space is not an applicable approval criterion. N/A

Common open spaces may be used to meet one hundred percent of the usable open space requirement. Design standards:

- a. *Minimum dimensions for common open space shall be twelve feet with a minimum size of two hundred square feet for developments with twenty units or less, and twenty feet with a minimum size of four hundred square feet for developments with twenty-one or more units.*

Applicant's Response: This facility is not a multi-family or residential development. Common open space is not an applicable approval criterion. N/A

- b. *Common open space shall feature a mix of natural and recreational amenities to make the area more functional and enjoyable for a range of users. Sites with twenty units or less shall provide a minimum of two of the following amenities, and sites with twenty-one units or more shall provide a minimum of three of the following amenities and an additional amenity for every twenty units over forty, rounded up.*
 1. *Landscaping areas.*
 2. *Community gardening areas.*
 3. *Large trees expected to reach over eighteen inches dbh at maturity.*
 4. *Seating.*
 5. *Pedestrian-scaled lighting.*
 6. *Hard-surfaced pedestrian paths in addition to those required for internal pedestrian circulation.*
 7. *Paved courtyard or plaza.*
 8. *Gazebos or other decorative shelters.*
 9. *Play structures for children.*
 10. *Sports courts.*

11. *An alternative amenity as approved by the Community Development Director.*

Applicant's Response: This facility is not a multi-family or residential development. Common open space is not an applicable approval criterion. N/A

- c. *Common open space shall be separated from ground level windows, streets, service areas and parking lots with landscaping, low-level fencing, and/or other treatments as approved by the City that enhance safety and privacy for both the common open space and dwelling units.*

Applicant's Response: This facility is not a multi-family or residential development. Common open space is not an applicable approval criterion. N/A

- d. *Common open space shall be accessible from the dwelling units and, as appropriate, from public streets and sidewalks. The space shall be oriented to encourage activity from local residents.*

Applicant's Response: This facility is not a multi-family or residential development. Common open space is not an applicable approval criterion. N/A

- 2. *Private open space that is not open to all residents includes balconies, patios, and other outdoor multi-purpose recreational or green spaces. It may be used to meet up to fifty percent of the usable open space requirement.*
 - a. *Minimum dimensions for private open space shall be five feet with a minimum size of forty square feet.*

Applicant's Response: This facility is not a multi-family or residential development. Common open space is not an applicable approval criterion. N/A

- 3. *Indoor recreational space may be used to meet up to twenty-five percent of the usable open space requirement provided the space is:*
 - a. *Accessible to all dwelling units.*
 - b. *Designed for and includes equipment for a recreational use (e.g., exercise, group functions, etc.).*

Applicant's Response: This facility is not a multi-family or residential development. Common open space is not an applicable approval criterion. N/A

17.62.059 - Cluster housing.

All cluster housing shall comply with the standards in Chapter 17.20.020 in addition to the standards in this chapter.

Applicant's Response: Applicant's Response: This facility is not a multi-family or residential development. Cluster housing is not an applicable approval criterion. N/A

17.62.085 - Refuse and recycling standards for commercial, industrial, office, institutional, 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, single-family attached dwellings, 3-4 plexes, internal conversions, or accessory dwelling units (ADUs), shall include a refuse and recycling enclosure. The area(s) shall be:

- A. *Fully enclosed and visually screened;*
- B. *Located in a manner easily and safely accessible by collection vehicles;*

- C. Located in a manner so as not to hinder travel lanes, walkways, streets or adjacent properties;
- D. On a level, hard surface designed to discharge surface water runoff and avoid ponding;
- E. Maintained by the property owner;
- F. Used only for purposes of storing solid waste and recyclable materials;
- G. Designed in accordance with applicable sections of the Oregon City Municipal Code (including OCMC 8.20—Solid Waste Collection and Disposal) and city adopted policies.

Enclosures are encouraged to be sized appropriately to meet the needs of current and future tenants and designed with sturdy materials which are compatible to the primary structure(s).

Applicant's Response: The refuse and recycling enclosure is adequately sized and accessed. The refuse and recycling enclosure has not been altered in this application. The enclosure meets criteria A-G above.

CHAPTER 17.54 SUPPLEMENTAL ZONING REGULATIONS AND EXCEPTION

17.54.115 - Mobile Food Units

- A. Applicability. The following provisions apply to mobile food units not located within a building. The provisions do not apply to indoor mobile food units or mobile food units allowed pursuant to a special event permit issued by the City.*

Applicant's Response: Several exterior mobile food units are proposed in this facility. Section 17.54.115 is applicable to this application.

B. General Requirements.

- 1. Mobile food units shall primarily sell food items;*

Applicant's Response: The proposed carts are mobile food units intended to sell food.

- 2. Mobile food units shall not sell cannabis, in any form;*

Applicant's Response: The applicant has not proposed or implied cannabis sales in this application. No OLCC cannabis license will be pursued in relation to this application.

- 3. Mobile food units shall have a valid Oregon City business license; and*

Applicant's Response: The business owner subleasing the food cart stalls shall request proof of a valid Oregon City business license of each mobile food unit

- 4. Mobile food units shall not be located within the right-of-way, except as approved by the City Engineer.*

Applicant's Response: Food cart pods in this application are entirely within private property.

- 5. Mobile food units shall maintain continuous compliance with applicable federal, state, and city standards;*

Applicant's Response: The business owner subleasing the food cart stalls shall notify each mobile food unit that they must maintain continuous compliance with applicable federal standards.

- 6. Discharge or leakage draining into the storm water system is prohibited. Wastewater shall not be dumped onto the ground, onto the streets, or into a storm a drain. All liquid waste from the waste tank or from cleaning activities such as cleaning the mobile food cart shall be captured and properly disposed of in the sanitary sewer.*

Applicant's Response: A sanitary sewer system design was described in the initial application drawings. All food carts (mobile food units) shall be connected directly to a sanitary sewer system

draining into a common septic tank to be pumped at regular intervals. The owner has also installed a drain line from this septic tank for future connection to the sanitary systems mainline.

7. *All permanent utility lines shall be placed underground. Temporary utilities, lines and tanks shall be placed underground or otherwise screened, covered, or hidden from view from the right of way as to minimize visual impacts and prevent tripping hazards or other unsafe conditions.*

Applicant's Response: A detail describing the trenching method and below-grade utility installation was included in the initial application.

8. *Power connections may not be connected by overhead wires to the individual mobile food units.*

Applicant's Response: Each unit has been provided with a utility connection near the base of the unit. This was further described in the initial application's food pod diagram.

9. *Comply with the Stormwater and Grading Design Standards for additional impervious surfaces*

Applicant's Response: No additional impervious area is proposed in this application. N/A

10. *Mobile food units, equipment, customer service areas, or any associated item may not be located within the right of way.*

Applicant's Response: Food cart pods and all associated items with this service are entirely within private property.

11. *Sites with more than ten mobile food units at any time shall have a designated loading area.*

Applicant's Response: A loading zone exists along the south property line west of the trash enclosure.

12. *Parking lots, refuse and recycling areas, outdoor lighting, fencing, and structures (other than the mobile food units) are subject to compliance with Site Plan and Design Review standards in OCMC 17.62. Mobile food units are exempt from OCMC 17.52 unless otherwise identified below.*

Applicant's Response: The proposed outdoor lighting, fencing, and structures are designed in compliance with the Site Plan and Design Review standards. Refer to the initial site plan(s), sketches, and previous section for applicable supporting information.

13. *Mobile food unit owners are responsible for maintaining the mobile unit and the adjacent site area in a neat and clean condition. This includes but is not limited to regular maintenance and cleaning of the exterior of the mobile food unit to avoid rust and peeling paint, repair of broken or sagging awnings, canopies, platforms, counters, benches, tables, umbrellas, and other structures used by customers adjacent to the mobile food unit.*

Applicant's Response: The business owner subleasing the food cart stalls shall notify each mobile food unit owner that they are responsible for maintaining the mobile unit and the adjacent site area in a neat and clean condition.

C. Design Standards.

1. *Transitory Mobile Food Units. Mobile food units that remain on a property for five hours or less in a twenty-four hour period shall comply with the following:*
 - i. *Standards related to the site.*
 - a. *Be limited to three food units on a property at any one time;*
 - b. *Maintain the minimum number of parking stalls and minimum drive aisle widths and parking lot requirements; and*

- c. *Not result in the reduction of landscaping less than the minimum site.*
- ii. *Standards related to the mobile food unit.*
 - a. *Comply with nuisances regulations in OCMC 8.08.040;*
 - b. *Comply with OCMC 17.62.050.I for all temporary structures associated with the Mobile food cart units (except for the unit itself);*
 - c. *Connect to individual wastewater holding tanks at all times; and*
 - d. *Connect to a potable water tank at all times.*

2. *Non-Transitory Mobile Food Units.*

All other mobile food units that remain on a property for more than five hours at a time shall comply with the following:

- i. *Standards related to the site*
 - a. *Maintain the minimum number of parking stalls and minimum drive aisle widths and parking lot requirements;*

Applicant's Response: This application does not propose any transitory mobile food. This is not applicable approval criteria. N/A

- b. *Not result in the reduction of landscaping less than the minimum site;*

Applicant's Response: This application does not propose any transitory mobile food. This is not applicable approval criteria. N/A

ii. *Standards related to the unit.*

- a. *Fully screen from view any mechanical or power generating equipment that is separated from and external to the mobile food unit with vegetation or screening at a height equal to or greater than the height of the generating unit;*

Applicant's Response: This application does not propose any transitory mobile food. This is not applicable approval criteria. N/A

- b. *Connect to a permanent water source, unless exempted by the City Engineer if utilities are not available;*

Applicant's Response: This application does not propose any transitory mobile food. This is not applicable approval criteria. N/A

- c. *Connect to public sewer. This may be achieved through a communal system;*

Applicant's Response: This application does not propose any transitory mobile food. This is not applicable approval criteria. N/A

- d. *Connect to a permanent power source; and*

Applicant's Response: This application does not propose any transitory mobile food. This is not applicable approval criteria. N/A

- e. *Comply with the minimum setbacks and maximum height of the zoning designation.*

Applicant's Response: This application does not propose any transitory mobile food. This is not applicable approval criteria. N/A

D. Process

1. A Type I Minor Site Plan and Design Review shall be submitted for each property in compliance with the transitory standards in OCMC 17.54.115.C.1 with a wastewater / water operations and maintenance plan.
2. A Type II Minor Site Plan and Design Review shall be submitted for each property in compliance with the non-transitory standards in OCMC 17.54.115.C with a wastewater / water operations and maintenance plan.
3. Mobile food cart units shall each submit a business license and mobile food cart unit form.

Applicant's Response: This application does not propose any transitory mobile food. This is not applicable approval criteria. N/A

CHAPTER 17.42 FLOOD MANAGEMENT OVERLAY DISTRICT

17.42.020 - Applicability.

A. This chapter shall apply to development in the flood management overlay district, which may also be referred to as the "floodplain overlay district" in this code. The flood management overlay district includes all areas of special flood hazards and all flood management areas within the city. The overlay district restricts the uses that are allowed in the base zone by right, with limitations, or as provisional uses.

B. The flood management areas which have been mapped include the following locations:

1. Land contained within the one hundred-year floodplain, flood area and floodway as shown on the Federal Emergency Management Agency flood insurance maps dated June 17, 2008, including areas of special flood hazard pursuant to [Section 17.42.040](#) and the area of inundation for the February 1996 flood; and
2. Lands that have physical or documented evidence of flooding within recorded history based on aerial photographs of the 1996 flooding and/or the water quality and flood management areas maps.

C. The standards that apply to the flood management areas apply in addition to state or federal restrictions governing floodplains or flood management areas.

Applicant's Response: The subject property is located at 508 14th Street Oregon City, Oregon, 97045 (APN: 2-2E-30DD-03100) and is located within the 1996/FEMA 100 Yr Floodplain. The subject property is not located within the FEMA Floodway. Chapter 17.42 Flood Management Overlay District is applicable to this application.

17.42.040 - Compliance.

No structure or land shall hereafter be constructed, located, extended, converted or altered without full compliance with the terms of these floodplain regulations and other applicable regulations. Violations of the provisions of this chapter by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a civil infraction. Any person who violates this chapter or fails to comply with any of its requirements shall be subject to the enforcement procedures of this code per OCMC [1.20](#) Civil Infractions and [1.24](#) Code Enforcement. Nothing herein contained shall prevent the city from taking such other lawful action as is necessary to prevent or remedy.

Applicant's Response: The applicant understands no structure shall be constructed, located, extended, converted, or altered without full compliance with this code section. The applicant shall comply with all applicable laws and regulations regarding this chapter.

17.42.060 - Warning and disclaimer of liability.

The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This chapter does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flooding damages. This chapter shall not create liability on the part of the city, any officer or employee thereof, or the Federal Insurance Administration for any flood damages that result from reliance on this chapter or any administrative decision lawfully made thereunder.

Applicant's Response: The applicant understands regulations may change or vary and shall hold the City harmless in regard to this application.

17.42.080 - Administration.

This chapter establishes a flood management overlay district, which is delineated on the water quality and flood management areas map attached and incorporated by reference as a part of this document.

A. The following maps and studies are adopted and declared to be a part of this chapter. These maps are on file in the office of the city recorder:

- 1. The Water Quality and Flood Management Areas Map, dated June 7, 1999;*
- 2. The Federal Insurance Administration, Flood Insurance Rate Maps for Clackamas County, Oregon and Incorporated Areas dated June 17, 2008;*

Applicant's Response: The applicant has reviewed the applicable Water Quality and Flood Management Areas Map and FIM map for the area. The subject property is located within the 1996/FEMA 100 Year Floodplain.

B. Applicants are required to provide the city with a delineation of the flood management areas on the subject property as part of any application. An application shall not be complete until this delineation is submitted to the city.

C. The city shall review the water quality and flood management areas maps during periodic review as required by ORS 197.633 (1997).

Applicant's Response: A delineation of the flood management area is provided herein as well as on the application, along with site plans for reference. Nearly the entirety of the site is covered in the 1996 and/or 100 Year Floodplain. While fully acknowledging some small portions of the site are not subject to flooding, for the purposes of this application the entire site shall be considered within the flood management area. All proposed alterations shall be treated as if they are within the flood management area.

D. Development Permit.

1. A development permit shall be obtained before construction or development begins within any portion of the flood management overlay district. The permit shall be for all structures, including manufactured homes and all other development, including fill and other activities, as set forth in [Chapter 17.04](#) (Definitions).

2. Application for a development permit shall be made on forms furnished by the community development department. Requirements may include, but are not limited to: plans in duplicate drawn to scale showing the nature, location, dimensions and elevations of the area in question; existing or proposed structures, fill, storage materials, drainage facilities; and the location of the foregoing.

3. The following information is specifically required:

- a. Elevation in relation to mean sea level of the lowest floor (including basement) of all structures;*
- b. Elevation in relation to mean sea level to which any structure has been floodproofed;*
- c. Certification by a registered professional engineer or architect that the floodproofing methods for any nonresidential structure meet the floodproofing criteria in Section 17.42.170E.5.; and*

d. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

Applicant's Response: Development permits are required within the Flood Management Overlay District. A floodplain application was initially submitted with the building permit application for applicable alterations. The finish floor elevation of the lowest floor is approximately 46' above sea level. No portion of the existing or proposed development is considered floodproof. Certification by a registered professional engineer or architect has been provided certifying the permanent improvements meet the floodproofing criteria in Section 17.42.170E.5. The flood management plan in the initial application has dictated methods for safeguarding non-permanent/non-fixed items.

17.42.120 - Alteration of watercourses.

A. Notify adjacent communities and the department of land conservation and development prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration.

B. Require that maintenance is provided within the altered or relocated portion of the watercourse so that the flood-carrying capacity is not diminished.

Applicant's Response: No changes to the water course are proposed in this application.

17.42.140 - Appeals and variance procedure.

A. The purpose of this section is to ensure that compliance with this chapter does not cause unreasonable hardship. To avoid such instances, the requirements of this chapter may be varied. Variances are also allowed when strict application of this chapter would deprive an owner of all economically viable use of land.

B. This section applies to requests to vary from the standards of this chapter only. Requests to vary from other standards of this title shall be subject to the requirements of [Chapter 17.60](#).

Applicant's Response: N/A. No variance is requested in this application.

1. Variance applications made pursuant to this section shall follow the variance procedures outlined in [Chapter 17.50](#).

2. In addition to the public notice requirements outlined in [Section 17.50.090](#), Metro shall be notified within fourteen days of the city receiving an application to vary the requirements of this section and within fourteen days of a decision on the variance.

3. The requirements of [Section 17.60.020](#) (Variances—Grounds) do not apply to requests to vary from the standards of [Chapter 17.42](#).

4. If an application to vary from the standards of [Chapter 17.42](#) is made in conjunction with an application to vary from other standards of this chapter, the variances may be processed as one application, provided the standards applicable to each variance requested must be met before the requested variance may be granted.

Applicant's Response: N/A. No variance is requested in this application.

C. Hardship Variance. Variances to avoid unreasonable hardship caused by the strict application of this chapter are permitted subject to the criteria set forth in this section. To vary from the requirements of this chapter, the applicant must demonstrate the following:

1. The variance is the minimum necessary to allow the proposed use or activity;

Applicant's Response: N/A. No variance is requested in this application.

2. The variance will not increase danger to life and property due to flooding or erosion;

Applicant's Response: N/A. No variance is requested in this application.

3. The impact of the increase in flood hazard which will result from the variance will not prevent the city from meeting the requirements of this chapter. In support of this criteria the applicant shall have a qualified professional engineer document the expected height, velocity and duration of floodwaters, and estimate the rate of increase in sediment transport of the floodwaters expected both downstream and upstream as a result of the variance;

Applicant's Response: N/A. No variance is requested in this application.

4. The variance will not increase the cost of providing and maintaining public services during and after flood conditions so as to unduly burden public agencies and taxpayers; and

Applicant's Response: N/A. No variance is requested in this application.

5. The proposed use complies with the standards of the base zone.

Applicant's Response: This Facility has been approved as a "restaurants, eating and drinking establishments without a drive-through" in a previous Type I application. The parking area shall be modified to accommodate "mobile food units outside of the downtown design district." In all cases this application is in compliance with the Base Zone permitted uses. No variance is requested in this application.

D. The planning commission shall hear and decide appeals and requests for variances when it is alleged there is an error in any requirement, decision or determination made by the building official in the enforcement or administration of these regulations, or that enforcement of this district would result in exceptional hardship. In passing upon such applications, the planning commission shall consider all technical evaluations, all relevant factors, standards specified in other sections of this title, and:

1. The danger that materials may be swept onto other lands to the injury of others;
2. The danger to life and property due to flooding or erosion damage;
3. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
4. The importance of the services provided by the proposed facility to the community;
5. The necessity to the facility of a waterfront location, where applicable;
6. The availability of alternative locations for the proposed use, which are not subject to flooding or erosion damage;
7. The compatibility of the proposed use with existing and anticipated development;
8. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
9. The safety of access to the property in times of flood for ordinary and emergency vehicles;
10. The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and
11. The cost of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges.

E. Upon consideration of the factors listed in subsection D of this section and the purposes of this district, the planning commission may attach such conditions to the granting of variances as it deems necessary to meet the purposes of this district.

F. The city recorder shall maintain the records of all appeal actions and the building official shall report any granted variances to the Federal Insurance Administration upon request.

Applicant's Response: N/A. No variance is requested in this application.

17.42.150 - Conditions for variances.

The planning commission, pursuant to [Chapter 17.60](#), may impose such conditions as are deemed necessary to limit any adverse impacts that may result from granting relief. If a variance is granted pursuant to [Section 17.42.140](#), the variance shall be subject to the conditions set out in this section. In addition to other standards listed in [Section 17.42.160](#), the following conditions must be met:

A. Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register or identified as a locally designated historic structure and without regard to the procedures set forth in the remainder of this chapter.

Applicant's Response: N/A. No variance is requested in this application.

B. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

Applicant's Response: N/A. No variance is requested in this application. The property is not within a floodway.

C. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

Applicant's Response: N/A. No variance is requested in this application.

D. Variances shall only be issued upon a showing of good and sufficient cause.

Applicant's Response: N/A. No variance is requested in this application.

E. A determination that failure to grant the variance would result in exceptional hardship to the applicant.

Applicant's Response: N/A. No variance is requested in this application.

F. Variances as interpreted in the national flood insurance program are based on the general zoning law principle that they pertain to a physical piece or property; they are not personal in nature and do not pertain to the structure, its inhabitants, economic or financial circumstances. They primarily address small lots in densely populated residential neighborhoods. As such, variances from the flood elevations should be quite rare.

Applicant's Response: N/A. No variance is requested in this application.

G. Variances may be issued for nonresidential buildings in very limited circumstances to allow a lesser degree of floodproofing than watertight or dry-floodproofing, where it can be determined that such action will have low damage potential, complies with all other variance criteria as set forth in this chapter.

Applicant's Response: N/A. No variance is requested in this application.

H. A variance from the elevation standard may only be issued for new construction, and substantial improvements to be erected on a lot of one-half acre or less in size, that are to contiguous and surrounded by lots with existing structures constructed below the base flood level. As the lot size increases the technical justification required for issuing the variance increases.

Applicant's Response: N/A. No variance is requested in this application.

I. Variances shall not result in increased flood heights, additional threats to public safety, extraordinary public expenses, cause nuisances, cause fraud on or victimization of the public or conflict with existing laws or ordinances.

Applicant's Response: N/A. No variance is requested in this application.

J. Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with the lowest flood elevation below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

Applicant's Response: N/A. No variance is requested in this application.

17.42.160.A - Flood management area standards.

Uses Permitted Outright:

1. *Excavation and fill required to plant any new trees or vegetation.*
2. *Restoration or enhancement of floodplains, riparian areas, wetland, upland and streams that meet federal and state standards provided that any restoration project which encroaches on the floodway complies with the requirements of Section 17.42.190 (Floodways).*

Applicant's Response: As a condition of approval, a survey shall be completed prior to and after construction by a surveyor. Cut and fill calculations shall be performed by a civil engineer.

17.42.160.B Provisional Uses.

1. All uses allowed in the base zone or existing flood hazard overlay zone are allowed in the flood management overlay district subject to compliance with the development standards of this section.

Applicant's Response: The existing structure has been approved as a "restaurants, eating and drinking establishment without a drive-through" in a previous Type I application. The axe-throwing component has been consistent with a designation of a "health and fitness club." Please note that both the Oregon City Building and Engineering departments also found this axe-throwing use to fall within either a gymnasium or bowling alley designation when assessing fees and occupancy calculations in reference to existing codes. These uses shall remain.

17.42.160.C Prohibited Uses.

1. *Any use prohibited in the base zone;*
2. *Uncontained areas of hazardous materials as defined by the Department of Environmental Quality.*

Applicant's Response: All proposed uses are allowed in the Base Zone. Neither prohibited uses nor hazardous materials are proposed.

17.42.160.D.1 Site Development Standards. All development in the floodplain shall conform to the following balanced cut and fill standards:

This subsection does not apply to work necessary to protect, repair, maintain or replace existing structures, utility facilities, roadways, driveways, accessory uses and exterior improvements in response to emergencies provided that, after the emergency has passed, adverse impacts are mitigated in accordance with applicable standards.

Applicant's Response: As a condition of approval, a survey shall be completed prior to and after construction by a surveyor. Cut and fill calculations shall be performed by a civil engineer.

17.42.160.D.2 No net fill in any floodplain is allowed. All fill placed in a floodplain shall be balanced with at least an equal amount of soil material removed. For the purpose of calculating net fill, fill shall include any structure below the design flood elevation that has been floodproofed pursuant to subsection (E)(5) of this section.

Applicant's Response: The improvements are not proposed to be floodproofed. The facility is designed as a flow-through structure. No net fill is calculatable by the proposed structures. Some

improvements do constitute fill within the floodplain; these improvements shall be offset by volume removed from the site. As a condition of approval, a survey shall be completed prior to and after construction by a surveyor. Cut and fill calculations shall be performed by a civil engineer.

17.42.160.D.3 Any excavation below bankfull stage shall not count toward compensating for fill.

Applicant's Response: Nearly the entire site is below the "bankfull stage." Soil or other materials shall not compensate for fill if located above the "bankfull stage."

17.42.160.D.4 Excavation to balance a fill shall be located on the same parcel as the fill unless it is not practicable to do so. In such cases, the excavation shall be located in the same Oregon City floodplain, so long as the proposed excavation and fill will not increase flood impacts for surrounding properties as determined through hydrologic and hydraulic analysis.

Applicant's Response: As a condition of approval, a survey shall be completed prior to and after construction by a surveyor. Cut and fill calculations shall be performed by a civil engineer.

17.42.160.D.5 For excavated areas identified by the city to remain dry in the summer, such as parks or mowed areas, the lowest elevation of the excavated area shall be at least six inches above the winter "low water" elevation, and sloped at a minimum of two percent towards the protected water feature pursuant to Chapter 17.49. One percent slopes will be allowed in smaller areas.

Applicant's Response: This site is fully developed and is not identified by the city to remain dry in the summer. This section is not applicable.

17.42.160.D.6 For excavated areas identified by the city to remain wet in the summer, such as a constructed wetland, the grade shall be designed not to drain into the protected water feature pursuant to Chapter 17.49.

Applicant's Response: This site is fully developed and is not identified by the city to remain dry in the summer. This section is not applicable.

17.42.160.D.7 Parking areas in the floodplain shall be accompanied by signs that inform the public that the parking area is located in a flood management area and that care should be taken when the potential for flooding exists.

Applicant's Response: The applicant shall post the required signage in the parking areas as required by this section.

17.42.160.D.8 Temporary fills permitted during construction shall be removed at the end of construction, thirty days after subdivision acceptance or completion of the final inspection.

Applicant's Response: N/A. Temporary fills are not applicable to this project.

17.42.160.D.9 New culverts, stream crossings and transportation projects shall be designed as balanced cut and fill projects or designed not to significantly raise the design flood elevation. Such projects shall be designed to minimize the area of fill in flood management areas and to minimize erosive velocities. Stream crossings shall be as close to perpendicular to the stream as practicable. Bridges shall be used instead of culverts wherever practicable.

Applicant's Response: N/A. Culverts, stream crossings, and transportation projects are not applicable to this project.

17.42.160.D.10 Excavation and fill required for the construction of detention facilities or structures, and other facilities, such as levees, specifically shall be designed to reduce or mitigate flood impacts and improve water quality. Levees shall not be used to create vacant buildable lands.

Applicant's Response: No detention structures are proposed in this scope of work. This section is not applicable.

17.42.160.E.1 Construction Standards.

1. Anchoring.

- a. All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure.*
- b. All manufactured homes must likewise be anchored to prevent flotation, collapse or lateral movements and shall be installed using methods and practices that minimize flood damage. Anchoring methods may include, but are not limited to, use of over-the-top or frame ties to ground anchors (reference FEMA's "Manufactured Home Installation in Flood Hazard Areas" guidebooks for additional techniques).*

Applicant's Response: All new construction and substantial improvements that are to remain on site during a flooding event have been designed to be anchored to the ground to prevent floatation and or collapse. Details and calculations have been provided to the building department as part of the initial application. Buoyancy calculations and details for the new fence are attached to this application.

17.42.160.E.2 Construction Materials and Methods.

- a. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.*
- b. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.*
- c. Electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities shall be designed and/or otherwise elevated or located so as to prevent water from entering or accumulating within the components during conditions of flooding.*

Applicant's Response: New construction and utilities have been placed to prevent risk of damage from flooding. Materials are selected to maximize resistance to weathering and exposure to outdoor environments and flooding.

17.42.160.E.3 Utilities.

- a. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.*
- b. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharge from the systems into floodwaters.*
- c. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.*

Applicant's Response: The water supply system has been expanded to serve various food carts per the initial application. This existing system meets all applicable building and plumbing codes. This piping is below-grade with valves at termination points to prevent floodwaters into the system. The sanitary system for the existing structure has been modified to include an oil water separator per the initial application. The new food carts shall also connect to the sanitary system. All openings into these systems and tanks (such as the oil water separator) include tight-fitting lids and enclosures to deter infiltration of floodwaters into the systems. No onsite wastewater disposal systems occur.

17.42.160.E.4 Residential Construction

- a. New construction and substantial improvements of any residential structure shall have the lowest floor, including basement, elevated to at least one foot above the design flood elevation.*
- b. Full enclosed areas below the lowest floor that are subject to flooding are prohibited unless they are designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria.*
 - i. A minimum of two openings have a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.*
 - ii. The bottom of all openings shall be no higher than one foot above grade.*
 - iii. Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.*

Applicant's Response: N/A. This is a commercial project with no residential components.

17.42.160.E.5 Nonresidential Construction.

- a. New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement, elevated to at least one foot above base flood elevation; or, together with attendant utility and sanitary facilities, shall:*
 - i. Be floodproofed so that below the design flood level the structure is watertight with walls substantially impermeable to the passage of water provided that the requirements of subsection D.2. of this section are met;*
 - ii. Have structured components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy;*
 - iii. Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting provisions of this subsection based on their development and/or review of the structural design, specifications and plans. Such certifications shall be provided to the official as set forth in Section 17.42.110B.;*
 - iv. Nonresidential structures that are elevated, not floodproofed, must meet the same standards for space below the lowest floor as described in subsection E.4.b. of this section; and*
 - v. Applicants floodproofing nonresidential buildings shall be notified that flood insurance premiums will be based on rates that are one foot below the floodproofed level (e.g., a building constructed to the design flood level will be rated as one foot below that level).*
 - vi. Manufactured Homes. The following standards apply to all manufactured homes to be placed or substantially improved on sites within Flood Hazard Areas.*

When manufactured dwellings are installed in flood hazard areas, they shall be elevated and anchored according to the Oregon Residential Specialty Code.

Applicant's Response: Neither new construction nor substantial improvement is proposed. This application is classified as a minor modification.

F. Recreational Vehicles. Recreational vehicles placed on sites within Zones A1-30, AH and AE as shown on the flood insurance rate map shall:

- 1. Be on site for fewer than one hundred eighty consecutive days, and be fully licensed and ready for highway use, on its wheels or jacking system, attached to the site only by quick disconnect type utilities and security devices, and have no permanently attached additions; or*
- 2. Meet the requirements of subsection E.6. of this section and the elevation and anchoring requirements for manufactured homes.*

Applicant's Response: N/A. No recreational vehicles are proposed in this application.

G. Below Grade Crawlspaces. Below grade crawlspaces are allowed subject to the following standards. It should be noted that there are potential increased charges to personal insurance costs for below grade crawlspaces.

Applicant's Response: N/A. No below-grade crawl spaces are proposed in this application.

1. The building shall be designed and adequately anchored to resist flotation, collapse, and lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy. Hydrostatic loads and effects of buoyancy can usually be addressed through the required openings stated in subsection 2. below. Because of hydrodynamic loads, crawlspace construction is not allowed in areas with flood velocities greater than five feet per second unless the design is reviewed by a qualified design professional, such as a registered architect or professional engineer. Other types of foundations are recommended for these areas.

Applicant's Response: N/A. No parts of this section are applicable to this application.

2. The crawlspace is an enclosed area below the base flood elevation (BFE) and, as such, must have openings that equalize hydrostatic pressures by allowing the automatic entry and exit of floodwaters. The bottom of each flood vent opening can be no more than one foot above the lowest adjacent exterior grade.

Applicant's Response: N/A. No below-grade crawlspaces are proposed in this application.

3. Portions of the building below the BFE must be constructed with materials resistant to flood damage. This includes not only the foundation walls of the crawlspace used to elevate the building, but also any joists, insulation, or other materials that extend below the BFE. The recommended construction practice is to elevate the bottom of joists and all insulation above BFE.

Applicant's Response: The work proposed is primarily below the BFE. Permanent structures proposed in this application are concrete and P.T wood and cedar fencing; all are inherently resistant to damages of flood waters. Non-permanent improvements located below the BFE are subject to the flood management plan.

4. Any building utility systems within the crawlspace must be elevated above BFE or designed so that floodways cannot enter or accumulate within the system components during flood conditions. Ductwork, in particular, must either be placed above the BFE or sealed from floodwaters.

Applicant's Response: N/A. No below-grade crawlspaces are proposed in this application.

5. The interior grade of a crawlspace below the BFE must not be more than two feet below the lowest adjacent exterior grade.

Applicant's Response: N/A. No below-grade crawlspaces are proposed in this application.

6. The height of the below-grade crawlspace, measured from the interior grade of the crawlspace to the top of the crawlspace foundation wall must not exceed four feet at any point. The height limitations is the maximum allowable unsupported wall height according to the engineering analyses and building code requirements for flood hazard areas.

Applicant's Response: N/A. No below-grade crawlspaces are proposed in this application.

7. There must be an adequate drainage system that removes floodwaters from the interior area of the crawlspace. The enclosed area should be drained within a reasonable time after a flood event. The type

of drainage system will vary because of the site gradient and other drainage characteristics, such as soil types. Possible options include natural drainage through porous, well-drained soils and drainage systems such as perforated pipes, drainage tiles or gravel or crushed stone drainage by gravity or mechanical means.

Applicant's Response: N/A. No below-grade crawlspaces are proposed in this application.

8.The velocity of floodwaters at the site should not exceed five feet per second for any crawlspace. For areas with floodwater velocities in excess of five feet per second, below grade crawlspaces are prohibited.

Applicant's Response: N/A. No below-grade crawlspaces are proposed in this application.

17.42.170 - Review of building permits.

Where elevation data is not available either through the flood insurance study, FIRM or from another authoritative source (Section 17.42.110), application for building permits shall be reviewed to assure that proposed construction will be reasonably safe from flooding. The test of reasonableness shall be made by the building official, considering use of historical data, high water marks, photographs of past floodings, etc., where available, and the provisions of this title. Failure to elevate at least two feet above grade in these zones may result in higher insurance rates.

Applicant's Response: The subject property is completely within the floodplain. The existing structure shall remain the same square footage. No increase in interior building area is proposed. As a condition of approval, a survey shall be completed prior to and after construction by a surveyor. Cut and fill calculations shall be performed by a civil engineer.

Other improvements such as food carts are inherently temporary in nature and shall be managed through a flood management plan. These improvements include food carts and fixtures and furnishings that shall be non-fixed. The food carts shall have written into their leases that, upon notice of a flood, the food cart "pads" must be vacated within 24 hours. "Pad" refers to the leasable space provided to each tenant and illustrated on the site plan. Food carts shall be located within the areas illustrated on the site plan(s).

Food carts are essentially trailers that can be relocated easily in the case of an emergency. The evacuation of any and all food carts upon notice of flooding shall be listed on any building permits applied for.

This area is not prone to flash flooding. This area is prone to flooding during extreme and prolonged weather events that are calculatable with a factor of reasonable assertion. For this reason, the applicant asserts the test of reasonableness can be made by the building official.

17.42.180 - Subdivision standards.

A. Subdivision Proposals.

1.All subdivision proposals shall be consistent with the need to minimize flood damage.

Applicant's Response: N/A. No subdivision is proposed.

2.All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize or eliminate flood damage.

Applicant's Response: N/A. No subdivision is proposed.

3.All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage.

Applicant's Response: N/A. No subdivision is proposed.

4. Where base flood elevation data has not been provided or is not available from another authoritative source, it shall be generated for subdivision proposals and other proposed developments which contain at least fifty lots or five acres (whichever is less).

Applicant's Response: N/A. No subdivision is proposed. Base flood data is available.

5. All structures and site grading developed or conducted in conjunction with a subdivision proposal shall comply with Section 17.42.160, flood management area standards.

Applicant's Response: N/A. No subdivision is proposed. Base flood data is available.

B. The purpose of this section is to allow density accruing to portions of a property within the flood management overlay district to be transferred outside the overlay district.

1. Density transfers shall be allowed if the applicant demonstrates compliance with the following standards:

a. The density transfer is proposed as part of a subdivision.

b. Minimum density standards will not increase due to the density transfers.

c. The area of land contained in a flood management area may be excluded from the calculations for determining compliance with minimum density requirements of the zoning code.

Applicant's Response: N/A. No density transfer is requested in this application.

17.42.190 - Floodways.

Located within areas of special flood hazard established in Section 17.42.030 are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters which carry debris, potential projectiles and erosion potential, the following provisions apply:

A. Encroachments, including fill, new construction, substantial improvements and other development shall be prohibited unless certification by a registered professional engineer or architect is provided demonstrating through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.

Applicant's Response: Greenbox Architecture has reviewed the applicable firm map and determined this property is not within the floodway. This section is not applicable.

B. If subsection A of this section is satisfied, all new construction and substantial improvements shall comply with all applicable flood management area standards of Sections 17.42.160 through 17.42.190.

Applicant's Response: Greenbox Architecture has reviewed the applicable firm map and determined this property is not within the floodway. This section is not applicable.

C. Below-grade crawlspace construction is allowed in the floodplain in accordance with the Oregon Residential Specialty Code and the Oregon State Structural Specialty Code as adopted by local building code.

Applicant's Response: N/A. No below-grade crawlspaces are proposed in this application.

D. In areas where a regulatory floodway has not been designated, no new construction, substantial improvements, or other development (including fill) shall be permitted within Zones A1-30 and AE on the community's FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.

Applicant's Response: The subject property is located within the AE and X flood zones. This section applies to substantial developments. This application proposes minor alterations such as food carts that are temporary in nature. As a condition of approval, a survey shall be completed prior to and after construction by a surveyor. Cut and fill calculations shall be performed by a civil engineer. The proposed development meets intent of the approval criteria.

GEOLOGIC HAZARDS – CHAPTER 17.44

17.44.025 - When required; regulated activities; permit and approval requirements.

No person shall engage in any of the following regulated activities within the adopted Oregon City Geologic Hazards Overlay Zone as defined in section 17.04.515 of the Oregon City Municipal Code without first obtaining permits or approvals as required by this chapter:

- A. *Installation or construction of an accessory structure greater than 500 square feet in area;*
- B. *Development of land, construction, reconstruction, structural alteration, relocation or enlargement of any building or structure for which permission is required pursuant to the Oregon City Municipal Code;*
- C. *Tree removal on slopes greater than 25 percent where canopy area removal exceeds 25 percent of the lot.*
- D. *Excavation which exceeds two feet in depth, or which involves twenty-five or more cubic yards of volume;*

The requirements of this chapter are in addition to other provisions of the Oregon City Municipal Code. Where the provisions of this chapter conflict with other provisions of the Oregon City Municipal Code, the provisions that are the more restrictive of regulated development activity shall govern.

Applicant's Response: The applicant does not propose to perform items A-C above. The applicant is proposing no excavation which will require a permit or approvals as required by this chapter.

17.44.030 - Procedures.

No building or site development permit or other authorization for development shall be issued until the plans and other documents required by this chapter have been reviewed and found by the review authority to comply with the requirements of this chapter.

- A. *Where the development is part of a land use permit application, review shall occur in the manner established in Chapter 17.50 for review of land use decisions.*
- B. *Where the development is part of a limited land use permit application, review shall occur in the manner established in Chapter 17.50 for review of limited land use decisions.*
- C. *Where the development is solely part of a grading permit or building permit, the city engineer may allow review to occur in the manner established in Title 15, Chapters 15.04 and 15.48 if the application meets Section 17.44.060 development standards.*
- D. *For any other proposed development not otherwise subject to review as a land use or limited land use permit application, review shall occur in the manner established in Chapter 17.50 for limited land use decisions.*

Applicant's Response: It is the applicant's understanding this development is part of a limited land use permit application. Review shall occur in the manner established in Chapter 17.50 for review of limited land use decisions.

17.44.035 - Exemptions.

The following activities, and persons engaging in same, are EXEMPT from the provisions of this chapter.

- A. An excavation which is less than two feet in depth, or which involves less than twenty-five cubic yards of volume;
- B. A fill which does not exceed two feet in depth or twenty-five cubic yards of volume;
- C. Structural alteration of any structure of less than five hundred square feet that does not involve grading as defined in this chapter;
- D. Installation, construction, reconstruction, or replacement of utility lines in city right-of-way, or public easement, not including electric substations;
- E. The removal or control of noxious vegetation;
- F. Emergency actions which must be undertaken immediately to prevent an imminent threat to public health or safety, or prevent imminent danger to public or private property. The person undertaking emergency action shall notify the building official on all regulated activities associated with any building permit or city engineer/public works director on all others within one working day following the commencement of the emergency activity. If the city engineer/public works director or building official determine that the action or part of the action taken is beyond the scope of allowed emergency action, enforcement action may be taken.

Applicant's Response: This project is not exempt.

CHAPTER 17.58 LAWFUL NONCONFORMING USES, LOTS, STRUCTURES, AND SITES

17.58.040 - Lawful nonconforming structure or site.

A structure or site that was lawfully established but no longer conforms to all development standards of this land use code (such as setbacks) shall be considered lawfully nonconforming. Notwithstanding development standard requirements in this Code, minor repairs and routine maintenance of a lawful nonconforming structure are permitted. The continuation of a lawful nonconforming structure or site is subject to the following:

- A. *Accidental Destruction.* When a nonconforming structure is damaged by fire or other causes, the structure may be rebuilt using the same structure footprint.
- B. *Intentional Destruction.* When a nonconforming structure is removed or intentionally damaged by fire or other causes within the control of the owner, the replacement structure shall comply with the development standards of this title.
- C. *Expansion.* An expansion of a lawful nonconforming structure or site may be approved, conditionally approved or denied in accordance with the standards and procedures of this section.
 - 1. In making a determination on such applications, the decision maker shall weigh the proposal's positive and negative features and the public convenience or necessity to be served against any adverse conditions that would result from authorizing the particular development at the location proposed, and, to approve such expansion, it shall be found that the criteria identified in OCMC 17.58.060 have either been met, can be met by observance of conditions, or are not applicable.
 - 2. Increases in the square footage of a building and/or site improvements which include installation of any additional off-street parking stalls 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.
 - a. *Thresholds triggering compliance.* The standards of subparagraph C.2.b. below shall be met when the value of the increase in square footage of a building and/or increase in off-street parking stalls, as determined by the Community Development Director, is

more than seventy-five thousand dollars. 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.*

Applicant's Response: The existing building is a lawful non-confirming structure or site. The appropriateness of the building use and site design has been determined in previous land use actions and is not subject to review in this application. The proposed fence and associated roof covers exterior storage for the mobile food units and has an estimated valuation of less than \$10,000. It does not increase the square footage of the existing building, as this space shall remain an exterior, open air space.

Whether it be an expansion of a non-confirming use or a new confirming use on site, the development does not meet the threshold for review stated in Subsection 17.58.040.C.a. Approval criteria in Subsection 17.58.040.C.b is not applicable. The development director may find this application meets the approval criteria without further review of Chapter 17.58. The remainder of Chapter 17.58 is not applicable.

The proposed mobile food units, landscaping and exterior covered area are all applicable items under review in Chapter 17.62. refer to Chapter 17.62 for demonstrated conformance with applicable design standards.

- 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 OCMC 17.52—Off-Street Parking and Loading;*
 - 6. Screening; and*
 - 7. Paving of surface parking and exterior storage and display areas.*

Applicant's Response: N/A

- 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.*
 - 2. Exception for sites with ground leases. Required improvements may be limited to a smaller area if there is a ground lease for the portion of the site where the alterations are proposed. If all of the following are met, the area of the ground lease will be considered as a separate site for purposes of required improvements. The applicant shall meet the following:*

- i. *The signed ground lease — or excerpts from the lease document satisfactory to the city attorney — shall be submitted to the Community Development Director. The portions of the lease shall include the following:*
 - A. *The term of the lease. In all cases, there shall be at least one year remaining on the ground lease; and*
 - B. *A legal description of the boundaries of the lease.*
- ii. *The boundaries of the ground lease shall be shown on the site plan submitted with the application. The area of the lease shall include all existing and any proposed development that is required for, or is used exclusively by, those uses within the area of the lease; and*
- iii. *Screening shall not be required along the boundaries of ground leases that are interior to the site.*

Applicant's Response: N/A

- d. *Timing and cost of required improvements. The applicant may choose one of the two following options for making the required improvements:*
 - 1. *Option 1. Required improvements may be made as part of the alteration that triggers the required improvements. The cost of the standards that shall be met, identified in subparagraph C.2.b. above, is limited to ten percent of the value of the proposed alterations. It is the responsibility of the applicant to document to the Community Development Director the value of the required improvements. Additional costs may be required to comply with other applicable requirements associated with the proposal. When all required improvements are not being made, the priority for the improvements shall be as listed in subparagraph C.2.b. above.*
 - 2. *Option 2. Required improvements may be made over several years, based on the compliance period identified in Table 17.58—1 below. However, by the end of the compliance period, the site shall be brought fully into compliance with the standards listed in subparagraph C.2.b. Where this option is chosen, the following shall be met:*
 - i. *Before a building permit is issued, the applicant shall submit the following to the Community Development Director:*
 - A. *A Nonconforming Development Assessment, which identifies in writing and on a site plan, all development that does not meet the standards listed in Subparagraph C.2.b.*
 - B. *A covenant, in a form approved by the City Attorney, executed by the property owner that meets the requirements of OCMC 17.50.150. The covenant shall identify development on the site that does not meet the standards listed in Subparagraph C.2.b., and require the owner to bring that development fully into compliance with this title. The covenant shall also specify the date by which the owner will be in conformance. The date shall be within the compliance periods set out in Table 17.58 — 1.*
 - ii. *The nonconforming development identified in the Nonconforming Development Assessment shall be brought into full compliance with the requirements of this Title within the following compliance periods. The compliance period begins when a building permit is issued for alterations to the site of more than seventy-five thousand dollars. The compliance periods are based on the size of the site (see Table 17.58—1 below).*

- iii. *By the end of the compliance period, the applicant or owner shall request that the site be certified by the Community Development Director as in compliance. If the request is not received within that time, or if the site is not fully in conformance, no additional building permits will be issued.*
- iv. *If the regulations referred to by subparagraph C.2.b. are amended after the Nonconforming Development Assessment is received by the Community Development Director, and those amendments result in development on the site that was not addressed by the Assessment becoming nonconforming, the applicant shall address the new nonconforming development using Option 1 or 2. If the applicant chooses Option 2, a separate Nonconforming Development Assessment, covenant and compliance period will be required for the new nonconforming development.*

Table 17.58—1: Compliance Periods for Option 2

<i>Square footage of site</i>	<i>Compliance Period</i>
<i>Less than 150,000 sq. ft.</i>	<i>2 years</i>
<i>150,000 sq. ft. or more, up to 300,000 sq. ft.</i>	<i>3 years</i>
<i>300,000 sq. ft. or more, up to 500,000 sq. ft.</i>	<i>4 years</i>
<i>More than 500,000 sq. ft.</i>	<i>5 years</i>

Applicant's Response: N/A

17.58.060 - Process to confirm the legality of a nonconforming use, lot, structure, or site.

Any person may request a Type I or a Type II review to confirm the legality of a nonconforming use, lot, structure or site. In order to confirm that the nonconforming use, lot, structure or site is legal, sufficient evidence shall be submitted to the city determining the following:

- A. *The nonconforming use, lot, structure or site was established lawfully; and*

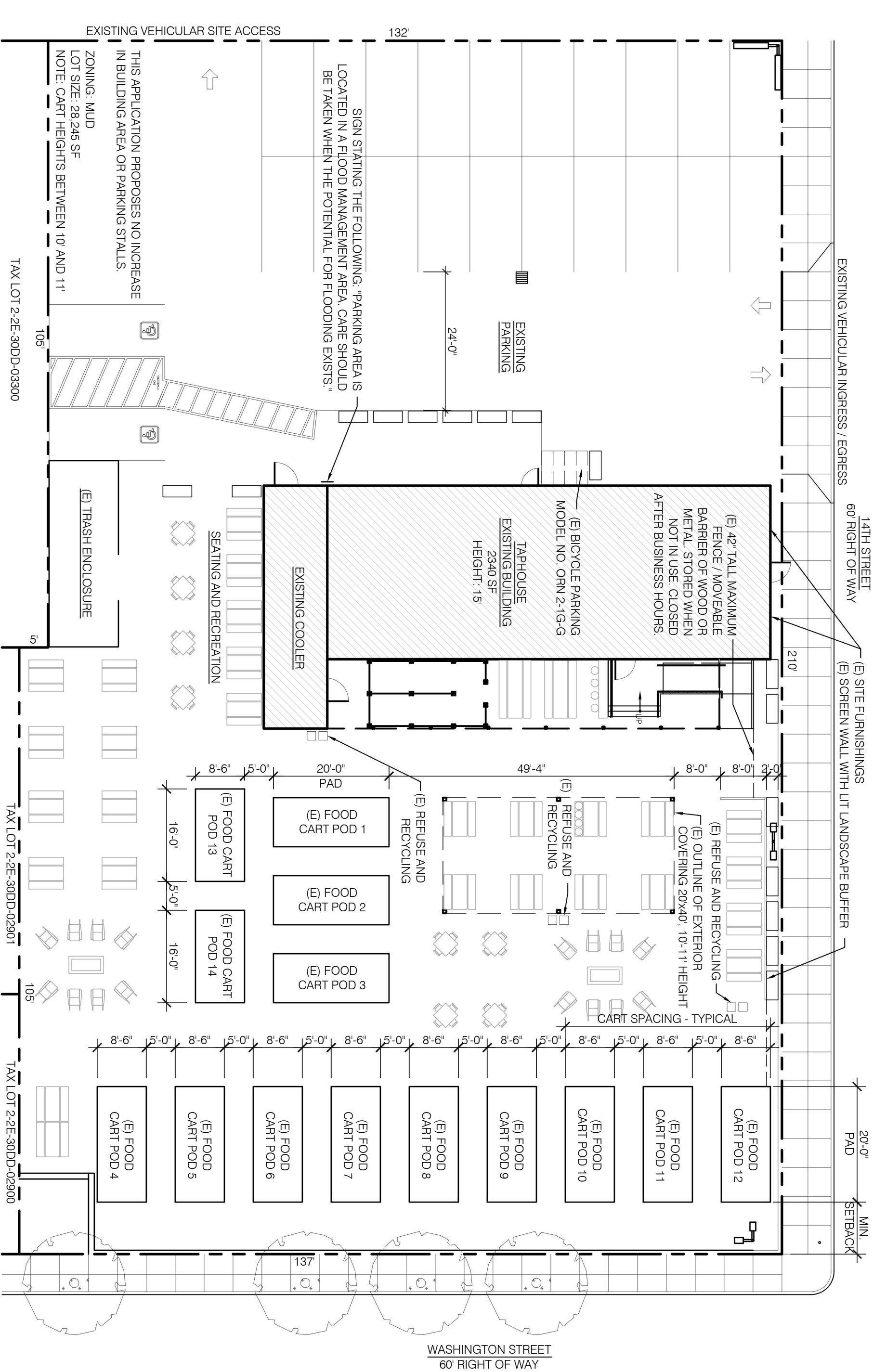
Applicant's Response: N/A

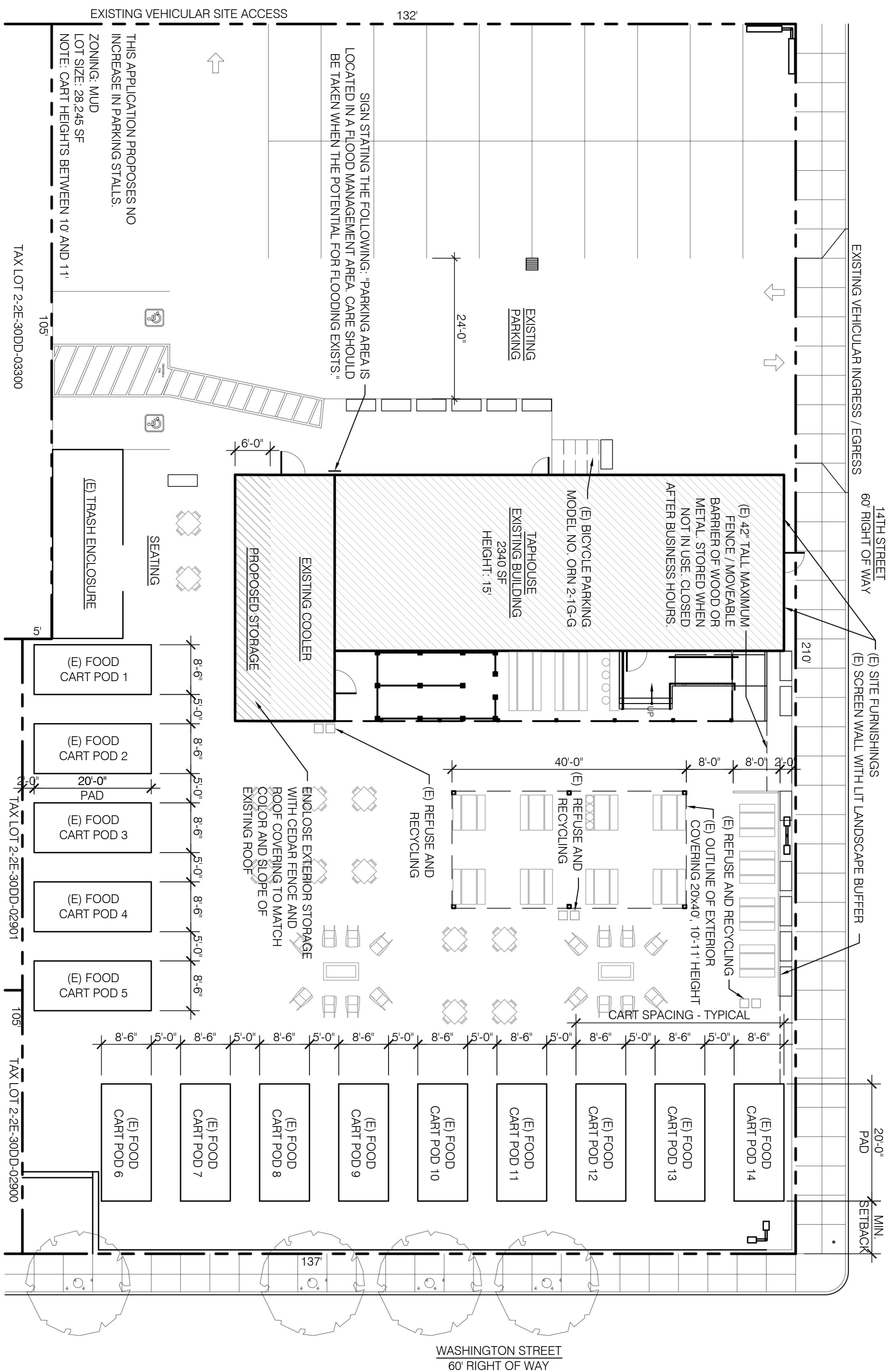
- B. *The nonconforming use, lot, structure or site has not become more nonconforming within the past twenty years from the date of application.*

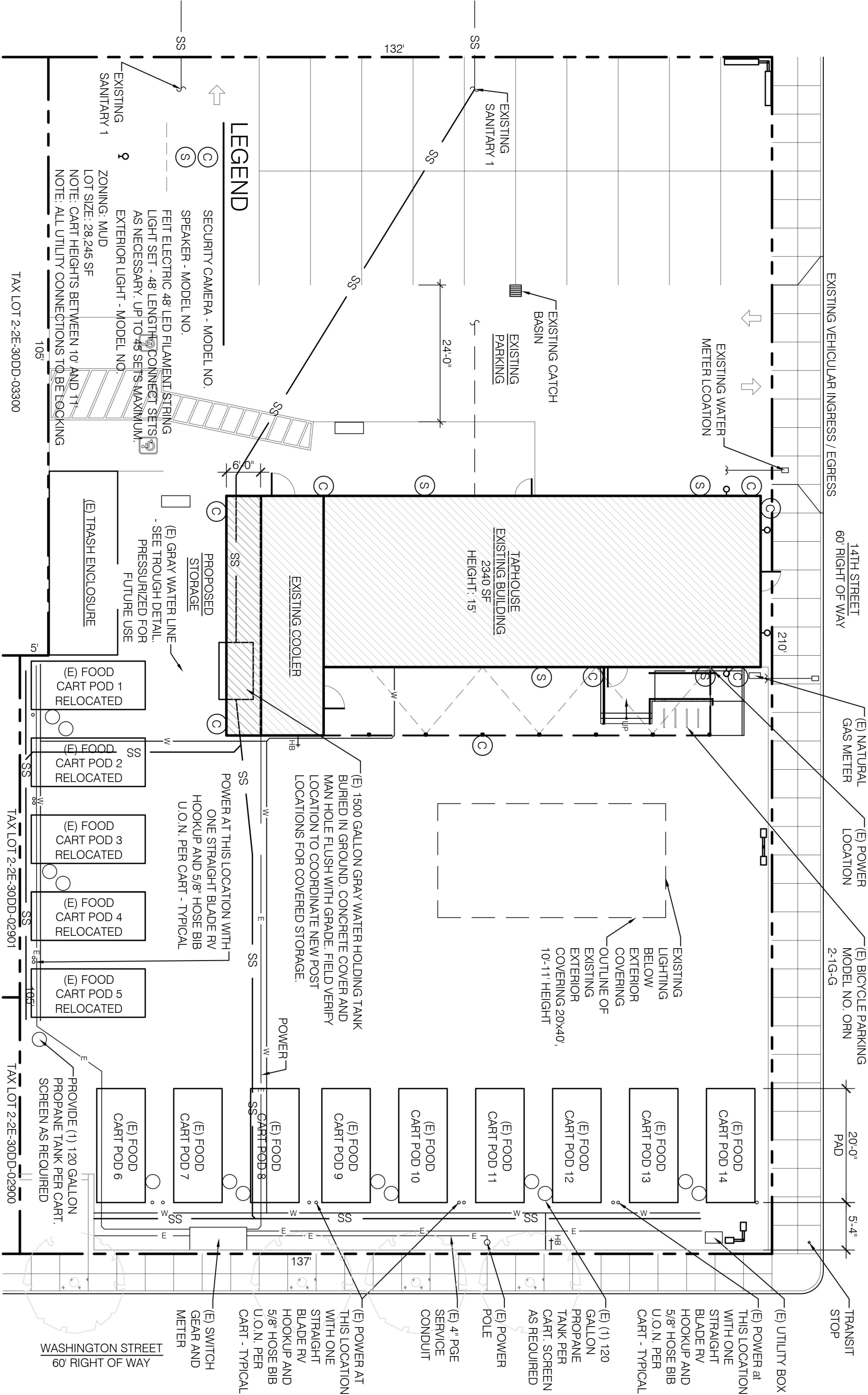
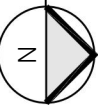
Applicant's Response: N/A

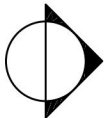
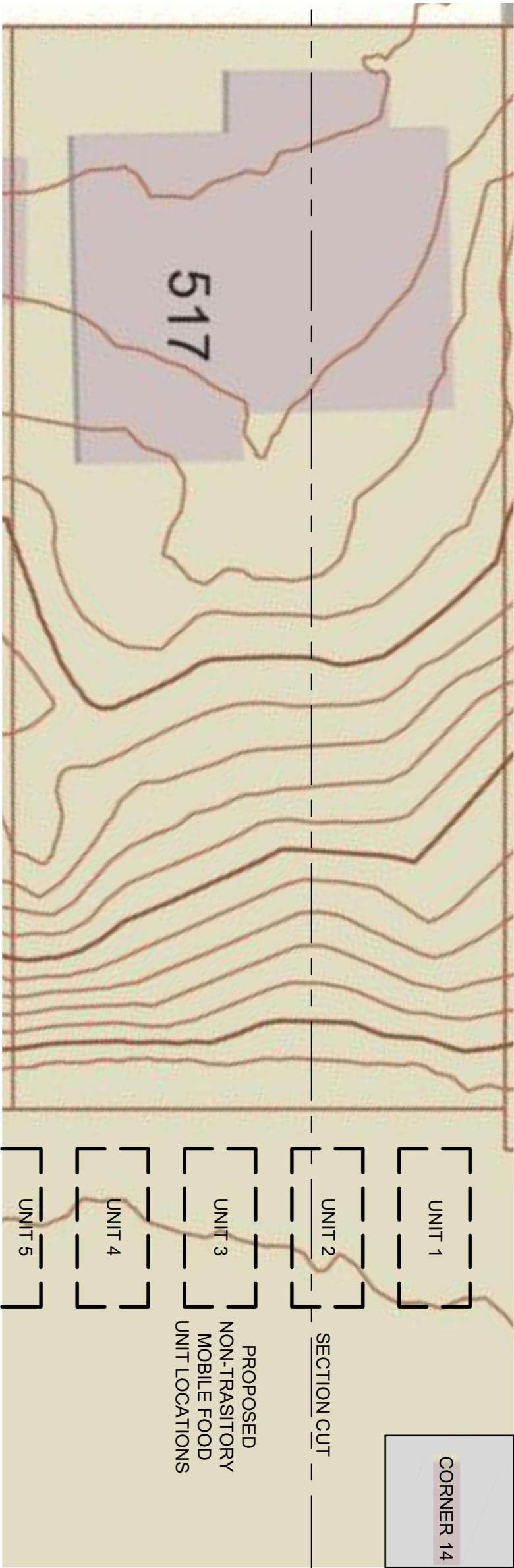
The applicant shall provide sufficient evidence to allow the Community Development Director to review and confirm the legality of a nonconforming use, lot, structure or site. An applicant may request a Type I procedure, provided the applicant can provide sufficient evidence to confirm OCMC 17.58.060A. and B. without discretion. If the applicant cannot provide sufficient evidence to determine OCMC 17.58.060A. and B. without discretion, the applicant may apply for a Type II procedure. Applications for a Type II procedures shall be noticed to the public in a public comment period to gather additional information. If the applicant cannot show that the nonconforming use, lot, structure or site was lawfully established or has not been expanded pursuant to OCMC 17.58.060A. and B. above, the use, lot, structure or site shall be determined to be illegal.

Applicant's Response: N/A







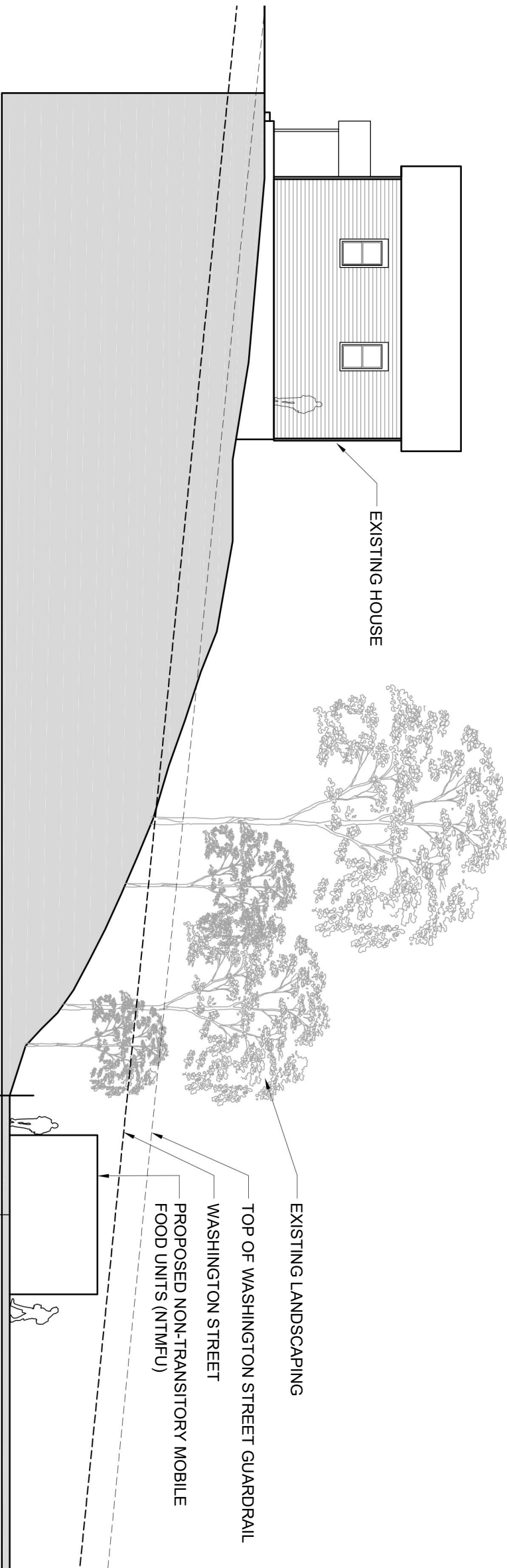


SITE PLAN

SCALE: 1/16" = 1'-0"



- E.L. HOUSE
33'-0"
- E.L. TOP OF N.T.M.F.U.
12'-0"
- E.L. PARKING LOT
0'-0"



SITE SECTION

SCALE: 1/16" = 1'-0"

SITE SECTION

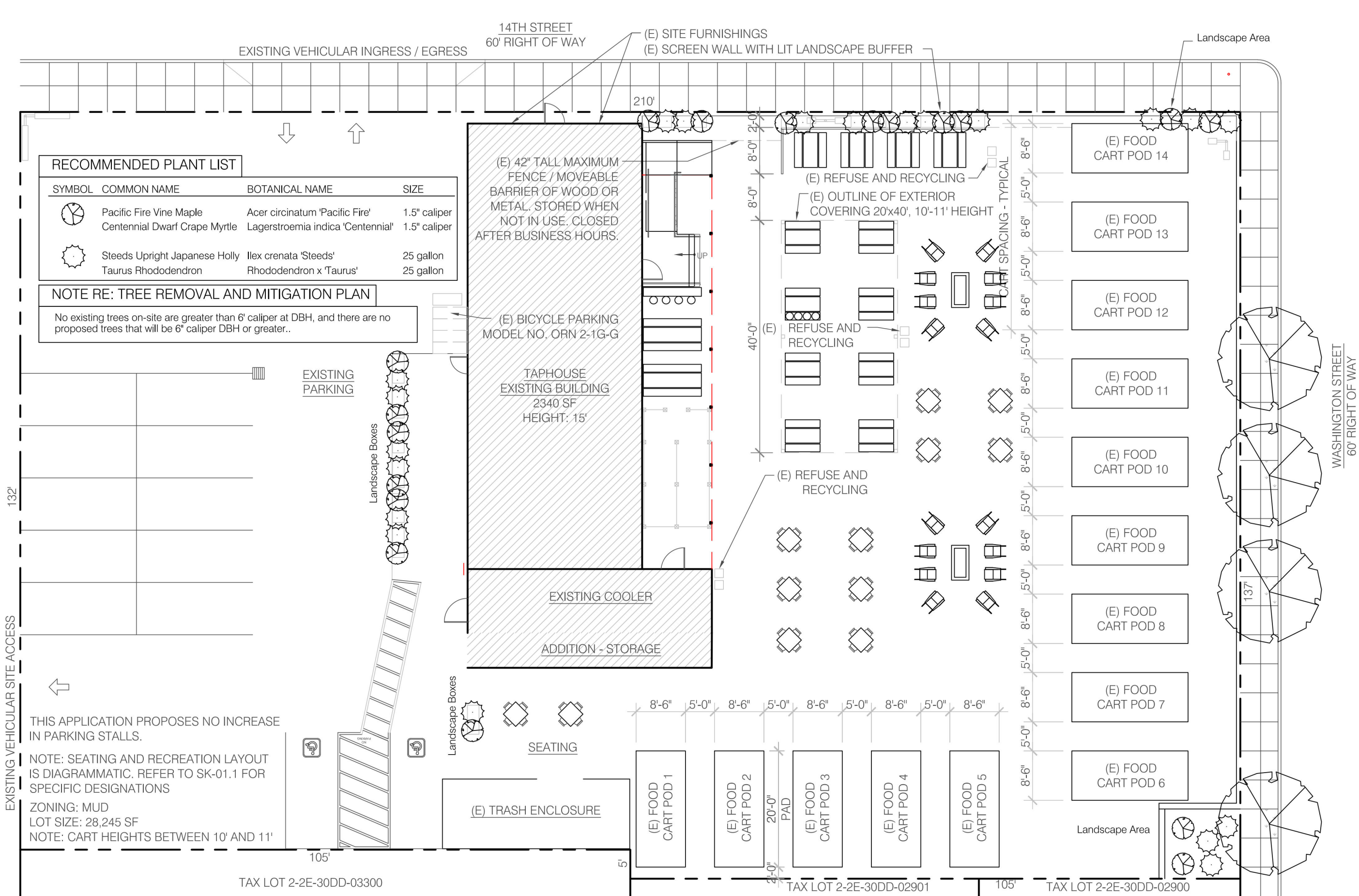
CORNER 14
508 14TH STREET
OREGON CITY, OR
DATE: MAY 11, 2022
PROJECT NO: 5342-22

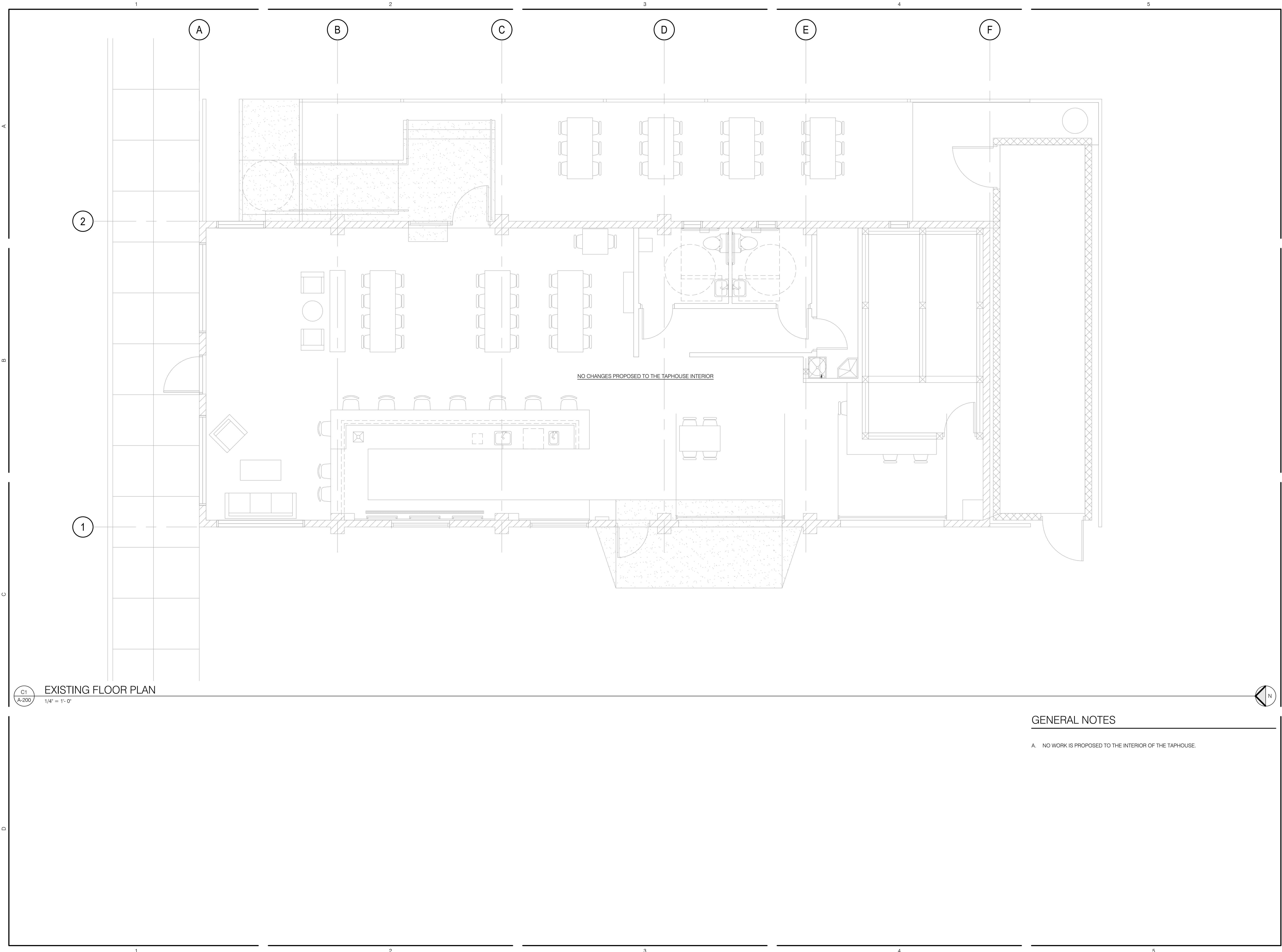
Architecture
Greenbox
502 SEVENTH STREET, SUITE
OREGON CITY, OREGON 97030

Item #2:

CORNER 14 SITE PLAN - LANDSCAPE PLAN & TREE REMOVAL & MITIGATION PLAN

SCALE: 1/16" = 1'-0"





Item #2.

Greenbox

Architecture

802 SEVENTH STREET, SUITE 203

OREGON CITY, OREGON 97045

EXISTING FLOOR PLAN

PROJECT NO. : 5342-22

DRAWN BY:

DATE: APRIL 22, 2022

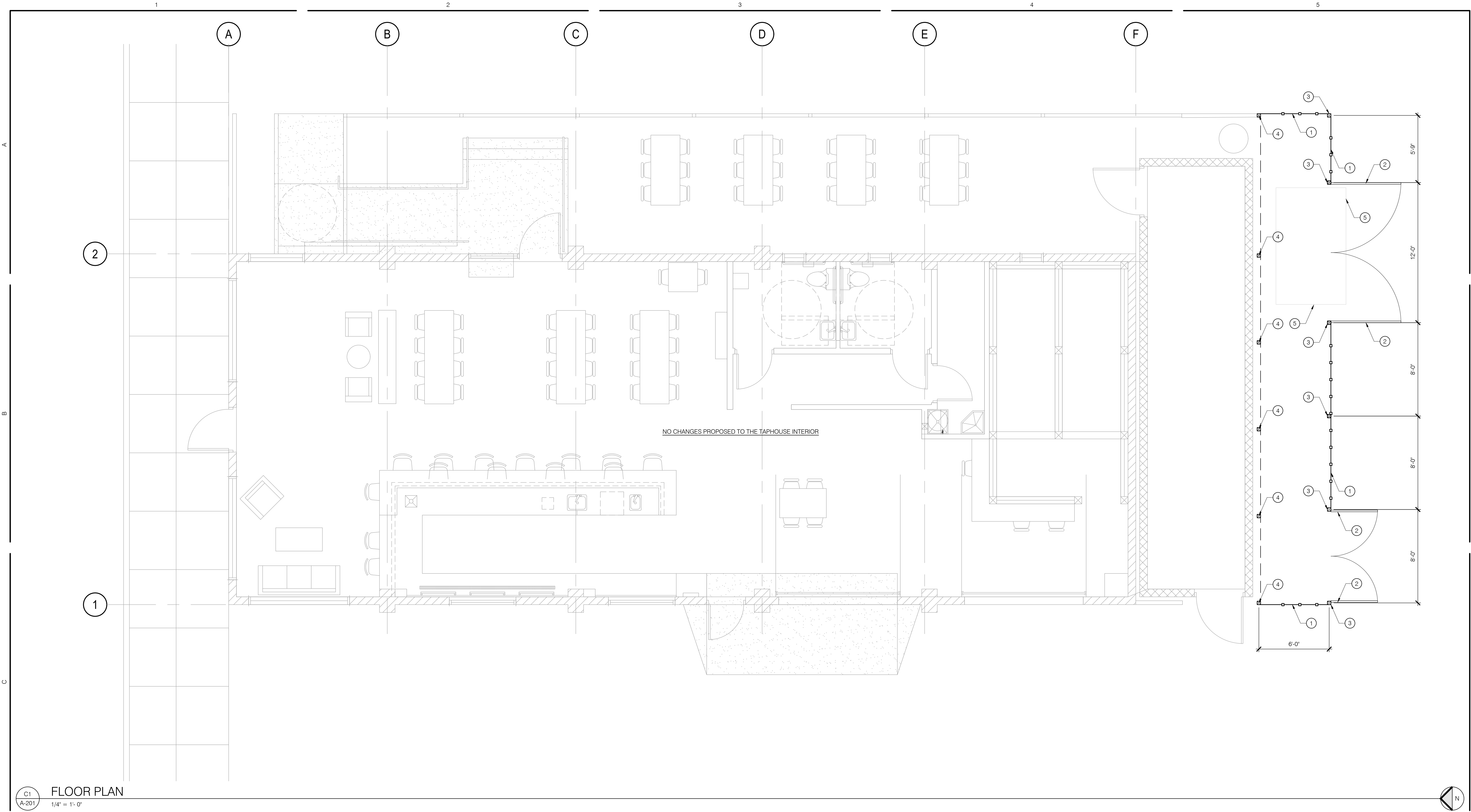
A-200

CORNER 14 LAND USE ALTERATION

508 14TH STREET OREGON CITY OR 97045

2-2E-30DD-03100

Page 538



C1
A-201

FLOOR PLAN
1/4" = 1'- 0"

LEGEND:

- RELOCATED CEDAR FENCE LOCATION
- EXISTING FENCE TO BE RELOCATED

KEYED NOTES: (X)

- 1. RELOCATED CEDAR FENCE LOCATION
- 2. NEW GATE ACCESS TO NEW ENLARGED EXTERIOR STORAGE AREA
- 3. NEW POST
- 4. EXISTING POST - FIELD VERIFY SPACING/LOCATIONS
- 5. EXISTING GRAY WATER TANK - FIELD VERIFY LOCATIONS OF MAN HOLE COVERS TO COORDINATE NEW POST LOCATIONS

CORNER 14 LAND USE
ALTERATION

PROPOSED FLOOR PLAN

PROJECT NO.: 5342-22
DRAWN BY:
DATE: APRIL 22, 2022

A-201

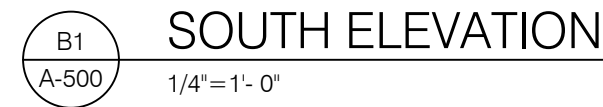
CORNER 14 LAND USE ALTERATION

EXTERIOR ELEVATIONS

PROJECT NO.: 5342-2
DRAWN BY:
DATE: APRIL 22, 2022

A-500

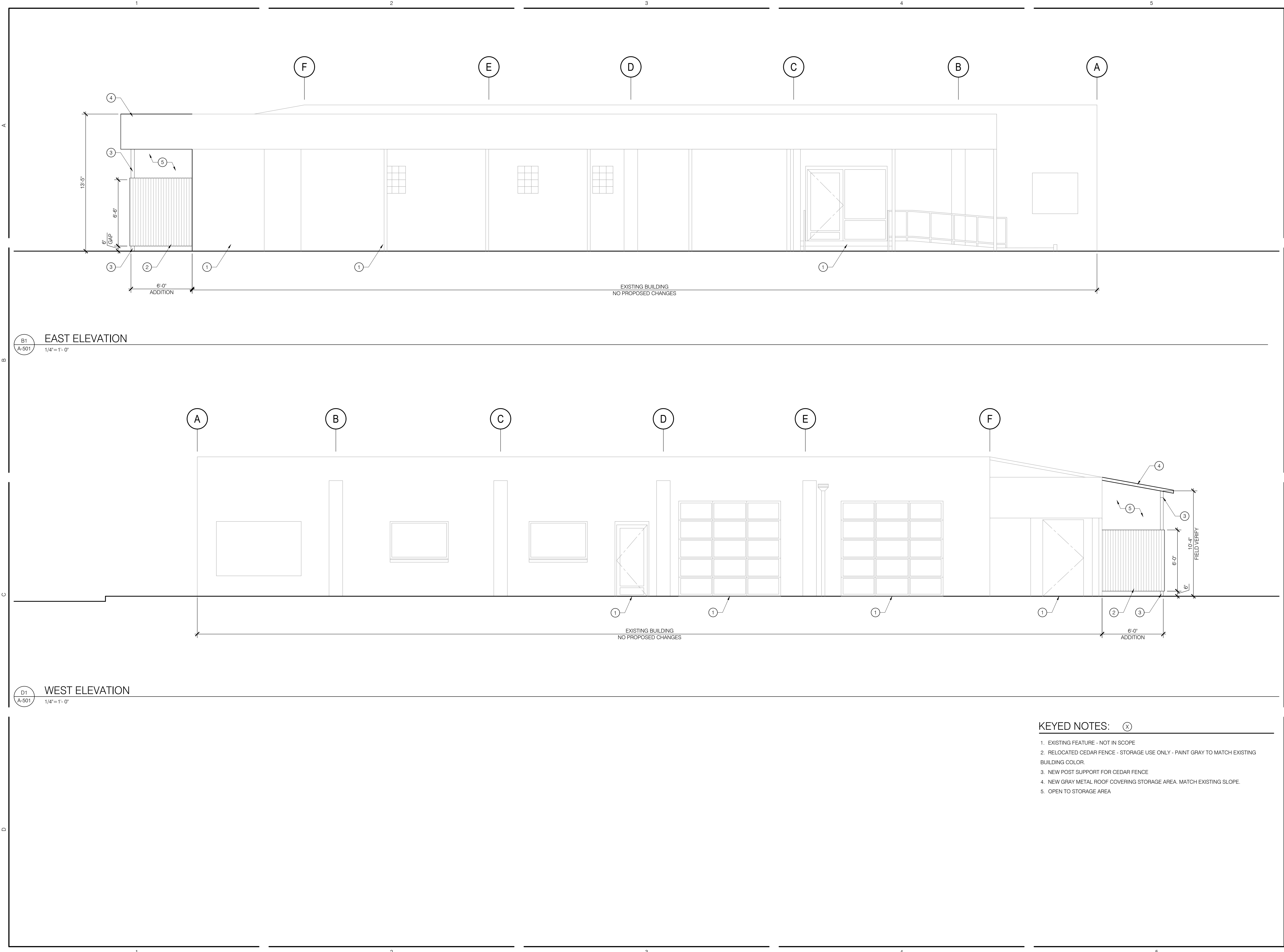
1. RELOCATED CEDAR FENCE - STORAGE USE ONLY - PAINT GRAY TO MATCH EXISTING BUILDING COLOR
2. NEW DOUBLE GATE
3. NEW FENCE POST SUPPORT
4. OPEN TO STORAGE AREA
5. NEW GRAY* METAL ROOF COVERING STORAGE AREA. *MATCH SLOPE AND COLOR TO EXISTING ROOF



NOTE: NO PROPOSED CHANGES TO NORTH ELEVATION

NORTH ELEVATION - EXISTING

LAND USE SUBMISSION

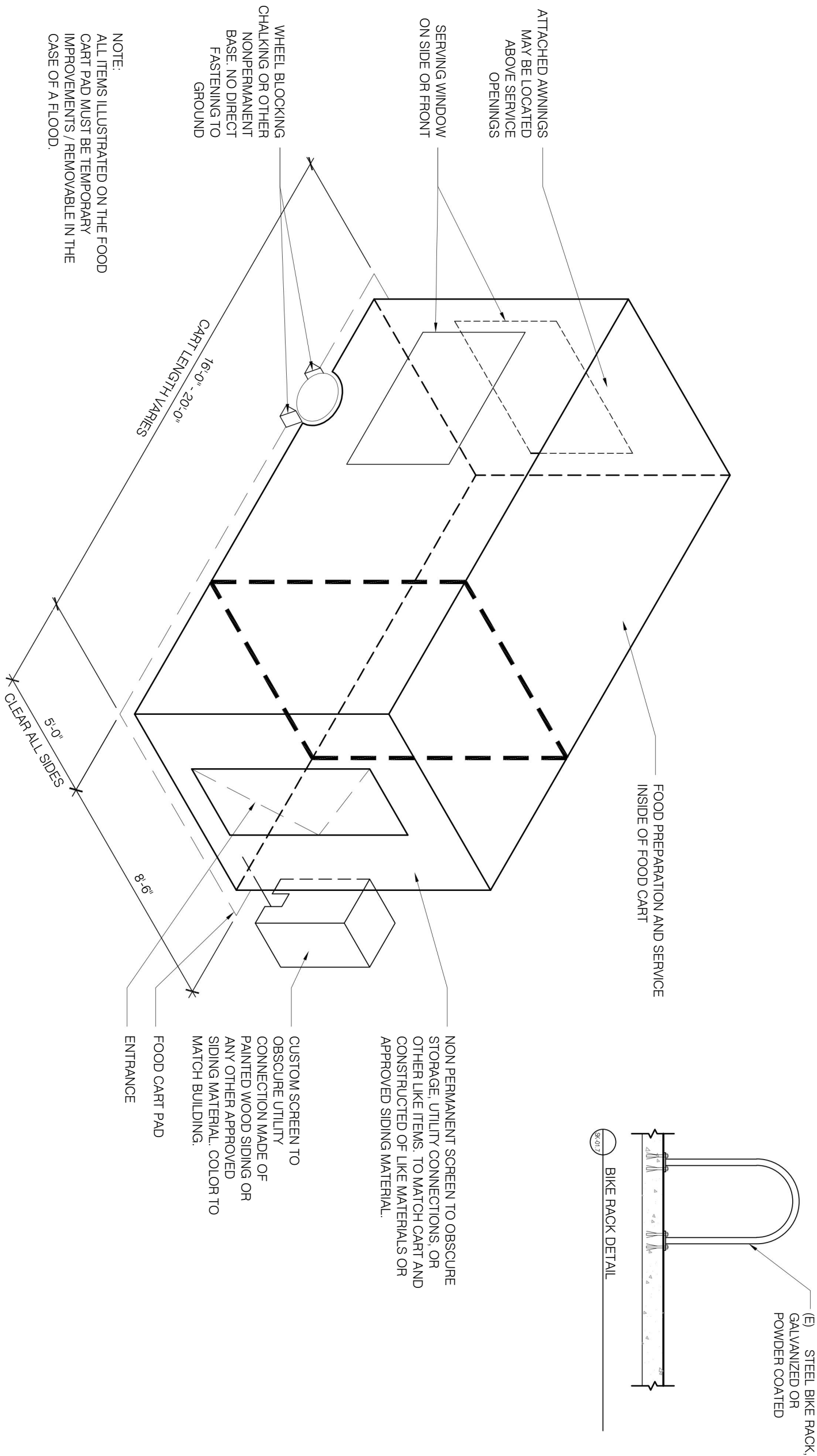


CORNER 14 LAND USE
ALTERATION

EXTERIOR ELEVATIONS

PROJECT NO.: 5342-22
DRAWN BY:
DATE: APRIL 22, 2022

A-501



SK-03

CORNER 14 - TYPICAL FOOD CART PAD DIAGRAM

SCALE: 1/4" = 1'-0"





LAND USE APPLICATION TRANSMITTAL – RESPONSE FORM

Date: 7-13-22

Land Use Application File Number: GLUA-22-00015 SP-22-00050 VAR-22-0002

NAME: Wes Rogers

AGENCY: Oregon City SD

EMAIL ADDRESS: wes.rogers@orecity.k12.or.

The land use application material is referred to you for your information, study and official comments. Your recommendations and suggestions will be used to guide the Planning staff when reviewing this proposal. If you wish to have your comments considered and incorporated into the staff report, please return a copy of this form to facilitate the processing of this application and to ensure prompt consideration of your recommendations.

Please check the appropriate spaces below.



The proposal does not conflict with our interests.



The proposal conflicts with our interests for the reasons attached. (Please attach additional information)



The proposal would not conflict our interests if the changes noted below or attached are addressed.

Please add any specific comments below or attach a separate document with more information.

CONTACT THE PLANNING DIVISION IF YOU HAVE ANY QUESTIONS ABOUT THIS APPLICATION

**LAND USE APPLICATION TRANSMITTAL – RESPONSE FORM**Date: 7/13/22Land Use Application File Number: GLUA-22-00015NAME: Betty JohnsonAGENCY: Clackamas River WaterEMAIL ADDRESS: bjohnson@crwater.com

The land use application material is referred to you for your information, study and official comments. Your recommendations and suggestions will be used to guide the Planning staff when reviewing this proposal. If you wish to have your comments considered and incorporated into the staff report, please return a copy of this form to facilitate the processing of this application and to ensure prompt consideration of your recommendations.

Please check the appropriate spaces below.

The proposal does not conflict with our interests.



The proposal conflicts with our interests for the reasons attached. (Please attach additional information)



The proposal would not conflict our interests if the changes noted below or attached are addressed.

Please add any specific comments below or attach a separate document with more information.
This development falls outside the Clackamas River Water district boundary. The City of Oregon City will be the water purveyor.

CONTACT THE PLANNING DIVISION IF YOU HAVE ANY QUESTIONS ABOUT THIS APPLICATION

**LAND USE APPLICATION TRANSMITTAL – RESPONSE FORM**Date: 8/31/22Land Use Application File Number: GLUA-22-00015NAME: James SayersAGENCY: Oregon City Building DivisioEMAIL ADDRESS: jsayers@orcitey.org

The land use application material is referred to you for your information, study and official comments. Your recommendations and suggestions will be used to guide the Planning staff when reviewing this proposal. If you wish to have your comments considered and incorporated into the staff report, please return a copy of this form to facilitate the processing of this application and to ensure prompt consideration of your recommendations.

Please check the appropriate spaces below.

The proposal does not conflict with our interests.



The proposal conflicts with our interests for the reasons attached. (Please attach additional information)



The proposal would not conflict our interests if the changes noted below or attached are addressed.

Please add any specific comments below or attach a separate document with more information.

The food carts, being on wheels, are outside the authority of the Oregon Structural Specialty Code and can be placed as shown on the proposed plans. Other items, such as location of propane tanks, mechanical exhaust, utility connections, etc. do need to be approved by the City of Oregon City, Building Division for any new or revised locations.

CONTACT THE PLANNING DIVISION IF YOU HAVE ANY QUESTIONS ABOUT THIS APPLICATION

From: [Jay Pearce](#)
To: [Christina Robertson-Gardiner](#)
Subject: Corner 14 Variance Hearing - GLUA 22-15
Date: Wednesday, August 17, 2022 11:07:21 AM

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Christina –

It was great connecting with you again. It's been a while but I wanted to bring a situation with the Corner 14 development to the attention of Planning.

Since the Corner 14 complex opened its doors (and carts) in February of 2021 there has been a problem with the parking lot lighting that affects all the Washington Street neighbors uphill facing the property.

Particularly the lights on the pole at the northwest corner of the site, near the railroad trestle, which cast a very high lumen industrial light southward toward the neighbors.

I don't remember a problem with these lights when Spicer Bros. owned the property. Perhaps they have been added, or perhaps the hours of operation were different. But since Corner 14 has been in operation, those lights are shining very brightly directly toward the north side of our property into our living space all night long.

I have informally asked the management to simply adjust the angle at which the lights are positioned on their mounting, or install a simple baffle to prevent light from projecting above horizontal. No response has occurred and recently the pole on which the lights are mounted was struck by a vehicle and tilted even farther back than before, exacerbating the existing problem.

Other neighbors have mentioned this problem. No one has questioned other operations at Corner 14, except perhaps the noise from the outdoor music venue which has for the most part lived up to curfew requirements. But the lights continue to be a problem with a relatively simple solution. We hope that the Planning Department can assist the neighbors with this mitigation solution.

Thank you for addressing this issue.

M. Jay Pearce

1214 Washington Street
Oregon City, Oregon 97045
503-804-0469