



## Community Development – Planning

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### CONDITIONAL USE AND SITE PLAN AND DESIGN REVIEW STAFF REPORT AND RECOMMENDED CONDITIONS OF APPROVAL

*Date of Staff Report: October 30, 2015*

*Planning Commission Public Hearing: November 9, 2015*

**FILE NO.:** CU 15-01: Conditional Use  
SP 15-10: Site Plan and Design Review

**HEARING DATE /** November 9, 2015  
**LOCATION:** Oregon City City Hall – Chambers, 625 Center Street, Oregon City, Oregon 97045

**OWNER/APPLICANT:** Portland General Electric  
121 SW Salmon St, Portland, OR 97204

**REPRESENTATIVES:** Mary Dorman  
Angelo Planning Group

**REQUEST:** Site Plan and Design Review and Conditional Use application for an expansion of the PGE Abernethy Substation on Main Street between 17<sup>th</sup> and 18<sup>th</sup> Streets.

**LOCATION:** 306 18<sup>th</sup> Street and 308 18<sup>th</sup> Street, Oregon City, OR 97045  
Clackamas County Map 2-2E-29CB, Tax Lots 1500 and 2000

**NEIGHBORHOOD ASSOCIATION:** Two Rivers Neighborhood Association

**REVIEWER:** Kelly Reid, AICP, Planner (503) 496-1540  
Matthew Palmer, Development Services Engineer

**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 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.

**I. BACKGROUND:**

(The following is from the applicant's project description with additional information from staff)  
Portland General Electric (PGE) is requesting Planning Commission approval of a conditional use permit and site/design review to expand the existing Abernethy substation located at 306 18<sup>th</sup> Street in Oregon City. The substation was built in the late 1950's. The population and employment base in Oregon City has grown significantly in the years since the substation was built. Increasing substation capacity is necessary in order to add capability into the power delivery system, increase system reliability, meet the demands of growth and continue to provide reliable and safe power to serve Oregon City and surrounding areas now and into the future.

In 2014, an adjacent parcel to the west of the Abernethy substation (308 18<sup>th</sup> Street) was purchased by PGE and the dwelling demolished to make room for the proposed substation expansion. The de-designation of the dwelling was approved by the Historic Review Board through HR 12-06 and the building was subsequently demolished.

The existing substation was built in the late 1950's. Oregon City first adopted zoning in 1953. There is no record of a land use approval for the existing substation and the use is considered a legal non-conforming use. Zoning for the substation and the larger area north of downtown was Industrial until 2004. Public utilities, including substations, were listed as a permitted use in the Industrial zone. Oregon City adopted a legislative plan amendment and zone change in 2004 and applied the Mixed Use Downtown zoning district to the downtown area and parcels north of downtown, including the PGE parcel. Public utilities such as substations are listed as a conditional use in the Mixed Use Downtown zone and the Oregon City Code does not allow expansion of a legal non-conforming use. Therefore, approval of the requested conditional use permit application is required for the proposed expansion of PGE's Abernethy substation.



Aerial Image of subject site

The existing substation facilities are located on Tax Lot 1500 (306 18<sup>th</sup> Street). The existing substation is surrounded by a chain link fence with gates for access from both 17<sup>th</sup> and 18<sup>th</sup> Streets. The fence is partially obscured by shrubs. 17<sup>th</sup> and 18<sup>th</sup> Streets dead end into the Union Pacific railroad right of way. The majority of the new equipment will be located inside the existing substation fence on this tax lot. PGE is proposing to expand the footprint of the substation to the west, toward Main Street, to include Tax Lot 2000 (308 18<sup>th</sup> Street), which currently contains only vegetation. The expansion includes the removal of an existing shed, two trees, and three light poles, and the addition of new electrical equipment and poles, with gravel surrounding and a new 8 foot wall along Main Street to obscure the equipment. The applicant also proposed to replace a gate on 17<sup>th</sup> Street.





Existing Conditions



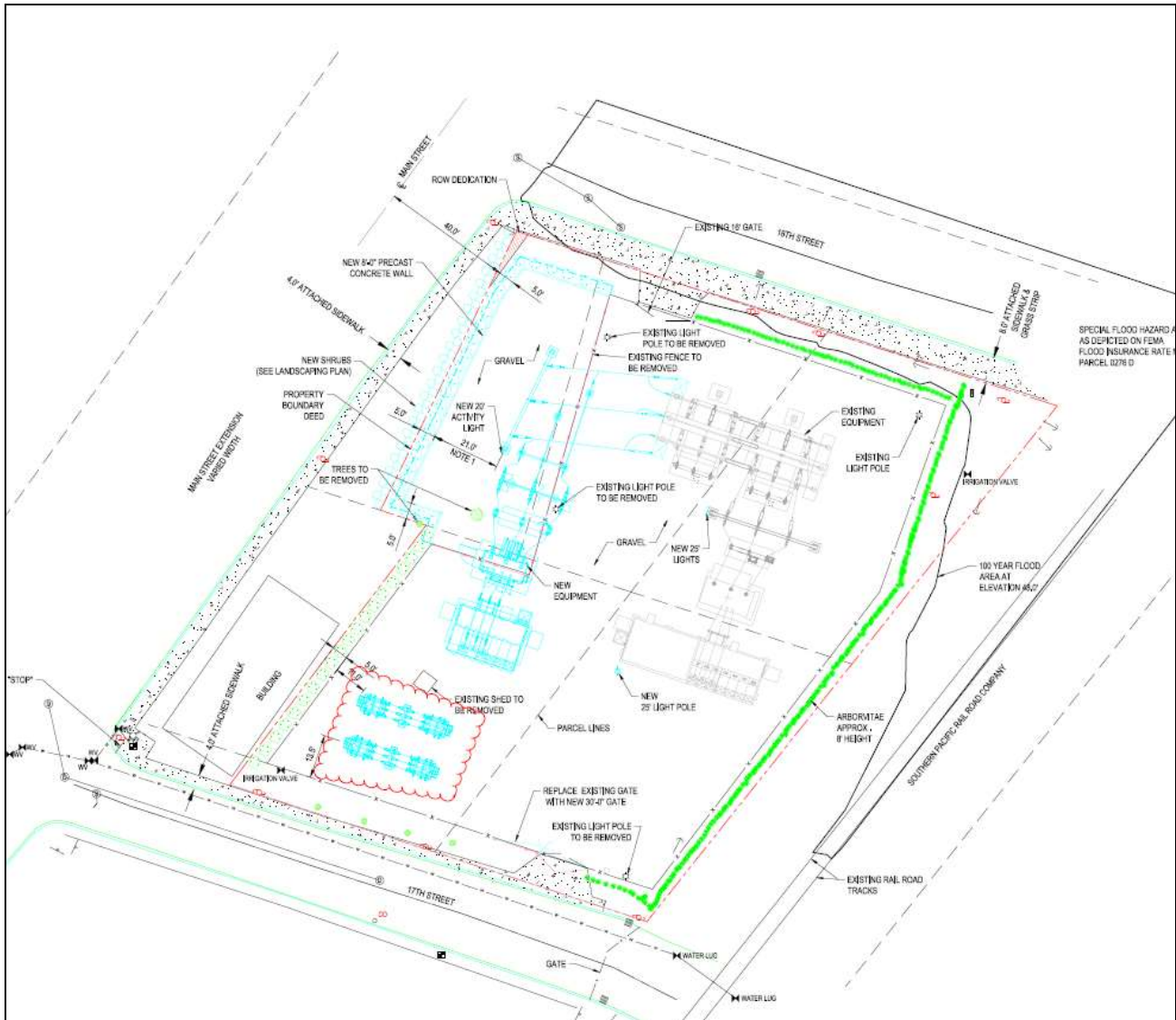
Conceptual Project

Photo simulations are for discussion purposes only and may change pending public, regulatory and utility review. Vegetation is shown at full maturity.

#### Photo simulations of proposed plans

The expansion includes an 8-foot wall (brick look) along the Main and 18<sup>th</sup> Street frontages of the proposed expansion. PGE has installed a similar type of wall (although taller at 12 feet) around the Stephenson Substation across from OMSI in Southeast Portland. The same type of wall (also at 12 feet) will be installed along the primary street elevation of the new Marquam Substation south of downtown Portland.

For safety and security reasons, PGE proposes to install 3 strands of barbed wire along the inside of the wall, angled internal to the substation. However, the barbed wire will not be visible to the public along the street frontages and it is intended to provide barriers to climbing or other unauthorized entry.



Site Plan: New equipment shown in blue.

The subject property is bounded by transportation facilities on four sides:

- South – 17<sup>th</sup> Street
- North – 18<sup>th</sup> Street
- East – UP Rail Corridor
- West – Main Street & I-205 berm

The subject property is included in the Mixed Use Downtown (MUD) zoning district. Land uses are characterized by high-volume establishments constructed at the human scale such as retail, service, office, multi-family residential, lodging or similar as defined by the Community Development Director. A mix of high-density residential, office and retail uses are encouraged in this district, with retail and service uses on the ground floor and office and residential uses on the upper floors. The emphasis is on those uses that encourage pedestrian and transit use. This district includes a Downtown Design District overlay for the historic downtown area. Retail and service uses on the ground floor and office and

residential uses on the upper floors are encouraged in this district. The design standards for this sub-district require a continuous storefront façade featuring streetscape amenities to enhance the active and attractive pedestrian environment.

#### **Surrounding Zoning and Land Use**

<u>Direction</u>	<u>Zoning</u>	<u>Land Use</u>
North	MUD	Industrial
East	MUD	Union Pacific ROW
South	MUD	Industrial/Vacant
West	MUD	Office/I-205 ROW

The subject property is at elevation 50'. This elevation is above the 100-year floodplain elevation of 48' as shown on the FEMA flood insurance maps dated June 17, 2008. However, the subject property is within the area of inundation (50.7') for the February 1996 flood.

PGE looked up old system records and confirmed that they were able to keep the Abernethy substation in service during the February 1996 flood. The site surface was flooded but water never got high enough to require an outage for overhead transmission service into the site or neighborhood 13kV service out of the substation.

For balance cut and fill purposes, the demolition of the dwelling that was previously located on the subject property is counted toward the "cut," See analysis in Chapter 17.42 of this report.

The Natural Resource Overlay District is present on this property; however, the overlay is located on a corner of the subject site that is not proposed to be modified in any way.

No employees are based at the site and public water and sewer service is not required. The substation is monitored remotely and traffic impacts associated with the utility use are minimal.

The substation is accessed from existing driveways (gated) on 17<sup>th</sup> and 18<sup>th</sup> Streets and the proposed expansion will not change the existing driveways or access.

#### **II. DECISION-MAKING CRITERIA:**

The following Oregon City Municipal Code (OCMC) chapters apply to this project. The City Code Book is available on-line at [www.orcity.org](http://www.orcity.org).

- 12.04 – Streets, Sidewalks, and Public Places;
- 12.08 – Public and Street Trees;
- 13.12 – Stormwater Management;
- 15.48 - Grading, Filling and Excavating;
- 17.34 – Mixed Use Downtown District
- 17.41 - Tree Protection Standards;
- 17.42 – Flood Management Overlay District
- 17.50 – Administration and Procedures;
- 17.54 - Supplemental Zoning Regulations and Exceptions;
- 17.56 – Conditional Uses;
- 17.62 - Site Plan and Design Review;

## **17.34 MIXED USE DOWNTOWN DISTRICT**

### *17.34.020 Permitted Uses.*

*Permitted uses in the MUD district are defined as:*

- A. Any use permitted in the Mixed Use Corridor without a size limitation, unless otherwise restricted in Sections 17.34.020, 17.34.030 or 17.34.040;*
- B. Hotel and motel, commercial lodging;*
- C. Marinas;*
- D. Religious institutions,*
- E. Retail trade, including grocery, hardware and gift shops, bakeries, delicatessens, florists, pharmacies, specialty stores provided the maximum footprint of a free standing building with a single store does not exceed sixty thousand square feet (a free standing building over sixty thousand square feet is allowed as long as the building contains multiple stores);*
- F. Live/Work Units*

### *17.34.030 Conditional Uses.*

*The following uses are permitted in this District when authorized and in accordance with the process and standards contained in Chapter 17.56.*

- A. Ancillary drive-in or drive-through facilities ;*
- B. Emergency services;*
- C. Hospitals;*
- D. Outdoor markets that do not meet the criteria of Section 17.34.020(L);*
- E. Parks, playgrounds, play fields and community or neighborhood centers;*
- F. Parking structures and lots not in conjunction with a primary use;*
- G. Retail trade, including grocery, hardware and gift shops, bakeries, delicatessens, florists, pharmacies and specialty stores in a free standing building with a single store exceeding a foot print of sixty thousand square feet;*
- H. Public facilities such as sewage and water treatment plants, water towers and recycling and resource recovery centers;*
- I. Public utilities and services such as pump stations and sub stations;*
- J. Distributing, wholesaling and warehousing;*
- K. Gas Stations*
- L. Public and or private educational or training facilities*
- M. Stadiums and arenas*
- N. Passenger terminals (water, auto, bus, train)*
- O. Recycling center and/or solid waste facility*

**Finding: Complies as Proposed.** A substation is identified as a conditional use; the applicant proposes to expand the use. Due to the age of the substation, it does not possess an existing conditional use permit. If approved by the Planning Commission, the existing substation on Tax Lot 1500 and the proposed expansion onto Tax Lot 2000 will be authorized as an approved conditional use in the MUD zone and the existing substation will no longer be considered a legal non-conforming 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 Section 17.34.030;*
- C. Self-service storage;*
- D. Single-Family and two-family residential units*
- 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 rental<sup>2</sup> (including but not limited to construction equipment and machinery and farming equipment)*

**Finding: Complies as Proposed.** The applicant has not proposed a prohibited use.

*17.34.060 Mixed Use Downtown Dimensional Standards—for Properties Located Outside of the Downtown Design District.*

- A. Minimum lot area: none.
- B. Minimum floor area ratio: 0.30.
- C. Minimum building height: twenty-five feet or two stories except for accessory structures or buildings under one thousand square feet.
- D. Maximum building height: seventy-five feet, except for the following locations 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; and
  - 3. Property within one hundred feet of single-family detached or detached units.
- E. Minimum required setbacks, if not abutting a residential zone: none.
- 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.
- G. Maximum Allowed Setbacks.
  - 1. Front yard: twenty feet provided the site plan and design review requirements of Section 17.62.055 are met.
  - 2. Interior side yard: no maximum.
  - 3. Corner side yard abutting street: twenty feet provided the site plan and design review requirements of Section 17.62.055 are met.
  - 4. Rear yard: no maximum.
  - 5. Rear yard abutting street: twenty feet provided the site plan and design review requirements of Section 17.62.055 are met.
- H. Maximum site coverage including the building and parking lot: ninety percent.
- I. Minimum landscape requirement (including parking lot): ten percent.

**Finding: Complies as Proposed.** There are no existing or proposed buildings on the subject site. Therefore, the maximum building height standard is not applicable to the existing substation or proposed expansion. The subject property does is not adjacent to a residential zone. Therefore, there are no minimum setbacks required by the MUD zone. However, the conditional use standards for a public utility or communication facility include special setback provisions based on the height of the equipment. See Section 17.56.040.C of this report.

*17.34.070 Mixed Use Downtown Dimensional Standards—for Properties Located Within the Downtown Design District.*

**Finding: Not applicable.** The property is outside of the design district.

## **CHAPTER 17.56 CONDITIONAL USES**

*17.56.010.A.1. The use is listed as a conditional use in the underlying district;*

**Finding: Complies as Proposed.** In the MUD zone, Section 17.34 of the Oregon City Zoning Code, public utilities, including substations, are listed as “Conditional Uses.”

*17.56.010.A.2 The characteristics of the site are suitable for the proposed use considering size, shape, location, topography, existence of improvements and natural features;*

**Finding: Complies with Conditions.** According to the applicant, “PGE built the Abernethy substation at this location more than 50 years ago and the substation has operated continuously since that time. While the substation site is smaller than many PGE substations, it exhibits many characteristics that are suitable for the existing use and the proposed modest expansion, including the following:

- Adequate site size and shape to accommodate electrical equipment with required safety clearances
- Spacing relative to existing substations
- Proximity to transmission lines and feeders
- Central location to serve the electrical load growth
- Level site topography



- Compatible existing surrounding uses – including streets on three sides, the UP rail corridor, the I-205 freeway and ramps, and established industrial uses between 15th and 17th Streets.

Staff concurs with the applicant's response. Additionally, a portion of the site is within the City's Natural Resource Overlay District; however, the applicant has obtained Type I exemption through approved NR 15-07.

**17.56.010.A.3.** *Development shall demonstrate compliance with Chapter 12.04, Streets, Sidewalks and Public Places;*

**Finding:** The existing right of way on Main Street consists of two vehicle travel lanes, a bike lane, and a five-foot curb-tight sidewalk on the applicant's frontage. The properties north and south along Main Street have similar improvements. While these facilities do not fully meet the preferred widths in Chapter 12.04, the lack of traffic impact does not warrant an upgrade to the existing facilities. The side streets 17<sup>th</sup> and 18<sup>th</sup> Streets are improved with sidewalk, and curb, with a planter strip also included on 18<sup>th</sup> Street. The proposed expansion of the Abernethy substation does not trigger a requirement for street improvements because no traffic will be generated by the development. Right-of-way dedication will be required to provide a minimum of 40 feet from the centerline of Main Street to the property line of 308 18th Street for future improvements in the corridor. ADA upgrades to the public sidewalk will also be required. See section 17.56.040.B and 17.62.050.A.18 for more findings and conditions.

**17.56.010.A.4.** *The proposed use will not alter the character of the surrounding area in a manner which substantially limits, impairs or precludes the use of surrounding properties for the primary uses listed in the underlying district;*

**Findings: Complies as Proposed.** According to the applicant, "The Abernethy substation is an existing use that has operated continuously at this location for more than 50 years. The location is well-suited to the substation use with the proximity to the active railroad corridor, the close proximity to I-205, and the pre-existing industrial uses in the immediate vicinity. The structure on the corner of 17th & Main Street (a designated historic structure) is operated as a business/office use and is not occupied as a dwelling. Over time, there may be some transition of uses in the North Downtown area, and the Mixed Use Downtown zone permits a wide variety of retail service and commercial uses.

However, the segment of Main Street north of 15th Street to the undercrossing of I-205 will not develop as a typical "Main Street" with uses and buildings close to the street on both sides because ODOT owns the right-of-way to the west side of Main Street that is developed with I-205 ramps.

There may be additional traffic (vehicular and pedestrian) along the segment of Main Street adjacent to the proposed substation expansion between the Clackamette Cove and downtown areas with expected development in both of those areas. PGE will dedicate right-of-way at the corner of 18th & Main Street to accommodate streetscape improvements along Main Street if pursued by Oregon City at a future date. However, the wider right-of-way and streetscape improvements would likely require demolition of the historic structure at the corner of 17th & Main.

The scale of the proposed substation expansion is about 15 percent of the size of the existing substation footprint. Based on the long history of operation, the substation has not substantially limited, impaired or precluded the use of surrounding properties. PGE proposes to plant a mix of vertical and horizontal vegetation in front of the new wall that will provide some screening and buffering of the utility use to pedestrians along Main Street.

The substation expansion will be designed to meet all applicable state and federal standards and regulations pertaining to electrical safety, clearances, etc. The use does not involve the storage, transportation or disposal of any hazardous materials. Operation of the substation does not generate air emissions, odor, heat or glare. Transformers are the only source of continuous sound generation in an electric utility substation. The new 28 MVA transformer will be a factory-reduced sound level unit that is guaranteed by the manufacturer to produce

less than 64dBA, measured 3 feet from the transformer tank. The 64dBA occurs only at heavy transformer loading times such as extreme weather events causing a higher nameplate rating temporarily. During normal operations the settings are lower and far less than 64dBA. This is PGE's standard transformer design and it is being used for future compatibility with other transformers in the PGE system.

At the meeting with the Two Rivers Neighborhood Association, members of the NA commented that there is relatively high background noise at this location with the active rail corridor and traffic noise from I-205. Therefore, the proposed expansion of the Abernethy substation will not alter the character of the surrounding area in a manner that substantially limits, impairs or precludes the use of surrounding properties for primary uses listed in the Mixed Use Downtown (MUD) zone."

Staff generally concurs with this statement and adds the following additional information:

The structure at 309 17<sup>th</sup> Street, immediately adjacent to the substation, is a designated Historic Landmark (see Exhibit 4 for Historic Resource Inventory forms). A chain link fence and a mature hedge is located along the side of the designated historic structure and provides screening and buffering of the substation use. The applicant states it has communicated with the property owner regarding the proposed expansion and is not aware of any specific issues or concerns. The structure is not occupied as a dwelling, but is currently used for an office use (counseling). Some of the proposed new equipment will be placed 16 feet from the property line closest to the structure. An inspection of the site revealed that the hedge is in healthy condition and fully obscures the existing slatted chain link fence from view from the adjacent property. Staff finds that the structure is adequately screened by the existing hedge.

The new wall and landscaping will screen the site from view from the Main Street right of way, but there is a section along 17<sup>th</sup> Street next to the neighboring structure that has a large gap in the landscaping. The substation and existing chain link fence are not screened in this area and are very visible from the right of way. Highly visible substation equipment at the ground level is not compatible with the primary uses of the zone. In order to preserve the integrity of the area and the primary uses in the area, the applicant shall add landscaping along the outside of the chain link fence on 17<sup>th</sup> Street near the existing property line that border 309 17<sup>th</sup> Street. The landscaping shall be added to the site plan for building permit issuance and shall adequately screen the property. **Staff has determined it is possible, likely and reasonable the applicant can meet this standard by complying with condition of approval 7.**

**17.56.010.A.5.** *The proposal satisfies the goals and policies of the city comprehensive plan which apply to the proposed use.*

**Finding:** The applicable Comprehensive Plan policies are as follows:

**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 decisionmaking 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.*

**Goal 1.2 Community and Comprehensive Planning** - *Ensure that citizens, neighborhood groups, and affected property owners are involved in all phases of the comprehensive planning program.*

**Policy 1.2.1** - *Encourage citizens to participate in appropriate government functions and land-use planning.*

**Goal 1.3 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.

**Policy 1.4.1** - Notify citizens about community involvement opportunities when they occur.

**Finding: Complies as Proposed.** The applicant attended a meeting of the Two Rivers Neighborhood Association to discuss the project prior to the submission of this application. A summary of the comments from the meeting are found in Exhibit 2. Notice of the application identifying the approval process and applicable criteria was sent to the Citizen Involvement Committee and Neighborhood Associations, property owners within 300 feet of the site, and posted onsite, online and in the newspaper. The public is provided the opportunity to review the application and comment in writing and person throughout the Planning Commission hearings for this Type III process.

**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 foot and bicycle traffic, preserve views of Willamette Falls and the Willamette River, and preserve the natural amenities of the area.*

**Finding: Complies as Proposed.** PGE has operated the Abernethy substation at this location for more than 50 years. The zoning of the “north end” of downtown has transitioned over time from the historical emphasis on industrial uses to the more recent emphasis on mixed uses. The subject site is not located in an area that provides views of the Willamette Falls or the Willamette River.

The frontage of Main Street adjacent to the subject site is improved with a sidewalk, and conditions of approval are included in this staff report to ensure that the sidewalk is upgraded to ADA standards. The public right-of-way for Main Street is irregular and the applicant has proposed to dedicate the right-of-way needed to assure 40 feet from the center line to accommodate future streetscape improvements. While the use of a substation does not contribute to the livability of downtown, the proposed wall and landscaping screening will provide an improved pedestrian environment along Main Street and will mitigate for the impact of substation expansion. The ADA upgrades will also improve the walking environment through the area.

Natural features include the stream and wetland to the south – the applicant has an approved Type I NROD review NR 15-07.

**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 2.4.2** 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 2.4.4** 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.

**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.

**Policy 2.7.1** Maintain a sufficient land supply within the city limits and the Urban Growth Boundary to meet local, regional, and state requirements for accommodating growth.

**Policy 2.7.2** Use the following 11 land-use classifications on the Oregon City Comprehensive Plan Land-Use Map to determine the zoning classifications that may be applied to parcels:

- Low Density Residential (LR)
- Medium Density Residential (MR)

- *High Density Residential (HR)*
- *Mixed Use Corridor (MUC)*
- *Mixed Use Downtown (MUD)*
- *Public and Quasi-Public (QP)*
- *Future Urban Holding (FUH)*
- *Commercial (C)*
- *Mixed Use Employment (MUE)*
- *Industrial (I)*
- *Parks (P)*

**Finding: Complies as Proposed.** The applicant proposed to retain the existing Comprehensive Plan designation as Mixed Use Downtown, and a Conditional Use under that designation will allow for a substation. The Conditional Use process provides criteria to allow approval of substations and substation expansions. The criteria identified for the Conditional Use do not provide barriers to construction that cannot be mitigated through compliance with the applicable approval criteria and conditions of approval.

The proposed development does not limit the ability of other residents within the area to continue to access city services, utilize the transportation system or continue existing uses within the area.

The existing Abernethy substation is not located in an established residential neighborhood. The character of the “north end” of downtown is mixed, with industrial uses, institutional uses (including the End of the Oregon Trail, the rail depot and Metro’s waste transfer station), some offices and scattered dwellings. The substation has operated at this location for more than 50 years and provides power to serve the full range of land uses in the area north of downtown and the larger service area. The proposed wall and landscaping screening will provide an improved pedestrian environment along Main Street and will mitigate for the substation expansion.

**Goal 11.7: Non-City Utility Operations**

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

**Finding: Complies as Proposed.** The PGE regularly coordinates with the City of Oregon City on utility and development plans. PGE is proceeding with the proposed expansion of the Abernethy substation to ensure maintenance and improvement of adequate electrical service for residential, business and institutional uses in Oregon City.

**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.*

**Complies as proposed.** Staff does not anticipate that the proposed use will produce excessive noise beyond the property line. Excessive noise is typically addressed through the nuisance / code enforcement process if and when a complaint is lodged. The new 28 MVA transformer will be a factory-reduced sound level unit that is guaranteed by the manufacturer to produce less than 64dBA, measured 3 feet from the transformer tank. The 64dBA occurs only at heavy transformer loading times such as extreme weather events causing a higher nameplate rating temporarily. During normal operations the settings are lower and far less than 64dBA. This is PGE’s standard transformer design and it is being used for future compatibility with other transformers in the PGE system.

At the meeting with the Two Rivers Neighborhood Association, members of the NA commented that there is relatively high background noise at this location with the active rail corridor and traffic noise from I-205.

**17.56.010.B.** *Permits for conditional uses shall stipulate restrictions or conditions which may include, but are not limited to, a definite time limit to meet such conditions, provisions for a front, side or rear yard greater than the minimum dimensional*

*standards of the zoning ordinance, suitable landscaping, off-street parking, and any other reasonable restriction, condition or safeguard that would uphold the spirit and intent of the zoning ordinance, and mitigate adverse effect upon the neighborhood properties by reason of the use, extension, construction or alteration allowed as set forth in the findings of the planning commission.*

**Finding: Complies with Conditions.** Staff recommends conditions of approval described in this report. The applicant has recognized the ability of staff or the Planning Commission to include such conditions and restrictions. The Development Services manager has recommended standard conditions of approval for public facilities, street improvements and engineering. **Staff has determined it is possible, likely and reasonable the applicant can meet this standard by complying with all of the conditions of approval.**

**17.56.010.C.** *Any conditional use shall meet the dimensional standards of the zone in which it is to be located pursuant to subsection B of this section unless otherwise indicated, as well as the minimum conditions listed below.*

**Finding: Complies with Conditions.** Please refer to the analyses regarding OCMC Chapters 17.34 and 17.56 in this report.

**17.56.010.D.** *In the case of a use existing prior to the effective date of the ordinance codified in this title and classified in this title as a conditional use, any change of use, expansion of lot area or expansion of structure shall conform with the requirements for conditional use.*

**Finding: Complies as Proposed.** The existing substation was established on Tax Lot 1500 before the subject site was zoned MUD. PGE is proceeding with this consolidated land use application because the proposed expansion of the substation onto Tax Lot 2000 triggers the requirement for conditional use approval. If approved by the Planning Commission, the existing and new substation facilities on the subject property (Tax Lots 1500 and 2000) will be an authorized conditional use in the MUD zone and will no longer be considered a legal non-conforming use.

**17.56.010.E.** *The planning commission may specifically permit, upon approval of a conditional use, further expansion to a specified maximum designated by the planning commission without the need to return for additional review.*

**Finding: Not Applicable.** The applicant has not requested that the Planning Commission approve a future expansion to the Conditional Use.

**17.56.040.A.** *Building Openings. The city may limit or prohibit building openings within fifty feet of residential property in a residential zone if the openings will cause glare, excessive noise or excessive traffic which would adversely affect adjacent residential property as set forth in the findings of the planning commission.*

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

**17.56.040.B** *Additional Street Right-of-Way. The dedication of additional right-of-way may be required where the city plan indicates need for increased width and where the street is inadequate for its use; or where the nature of the proposed development warrants increased street width.*

**Finding: Complies with Condition.** Right-of-way dedication is required at the corner of Tax Lot 2000 to accommodate 40 feet from the center line of Main Street for future streetscape improvements. Prior to issuance of permits, the applicant shall dedicate right-of-way along Main Street frontage to achieve 40 feet from centerline (as depicted on tax map 03-2S2E29CB). Should right-of-way dedication require minor changes to the placement of the wall, landscaping, or new equipment, the applicant will not be required to submit a revised site plan for land use approval a second time. **The applicant can meet this standard through Condition of Approval 3.**

**17.56.040.C** *Public Utility or Communication Facility. Such facilities as a utility substation, water storage tank, radio or television transmitter, tower, tank, power transformer, pumping station and similar structures shall be located, designed and installed with suitable regard for aesthetic values. The base of these facilities shall not be located closer to the property*



line than a distance equal to the height of the structure. Hydroelectric generation facilities shall not exceed ninety megawatts of generation capacity.

**Response:** This standard requires that the base of new proposed substation facilities shall not be located closer to the property line than a distance equal to the height of the structure.

The height of the tallest structure is 25 feet, and the base supporting this structure is 26 feet from the closest property line parallel to Main Street. The applicant submitted an additional site plan on October 28, 2015 to demonstrate that all other equipment is shorter in height than their shortest setback.

**17.56.040.D Schools.** *The site must be located to best serve the intended area, must be in conformance with the city plan, must have adequate access, and must be in accordance with appropriate State standards.*

**Finding: Not Applicable.** The applicant has not proposed a school use.

**17.56.040.E** *Helipad Landing Facility. In evaluating a conditional use application for a helipad, the planning commission shall consider such matters as the following:*

**Finding: Not Applicable.** The applicant has not proposed a helicopter landing facility with this development.

**17.56.040.F** *Residential Care Facilities.*

**Finding: Not Applicable.** The applicant has not proposed a residential care facility with this development.

**17.56.040.G** *Bed and Breakfast Inns.*

**Finding: Not Applicable.** The applicant has not proposed a bed and breakfast with this development.

**17.56.060** *Revocation of conditional use permits.*

*The Planning Commission or the City Commission may initiate administrative action under Chapter 17.50 to revoke any conditional use permit previously issued by the city or, with regard to lands annexed by the city, those such permits issued by the county. The Planning Commission or, on review, the City Commission, may revoke such permit upon determining:*

*A. One or more conditions attached to the grant of the conditional use permit have not been fulfilled; and*

*B. The unfulfilled condition is substantially related to the issuance of the conditional use permit.*

**Finding: Not applicable.** The applicant has applied for a new Conditional Use permit.

**17.56.070** *Periodic review of conditional use permits.*

*A. The City Commission may provide for the periodic review of some or all of the conditional use permits previously issued by the city, or, with regard to lands annexed by the city, those such permits issued by the county. In providing for such review, the City Commission may designate classes of such previously issued permits for which periodic review shall be undertaken.*

*B. Such review shall be accomplished as an administrative action under Chapter 17.50 and shall be limited to the question of whether additional conditions should be imposed on a conditional use in the light of changing circumstances and more efficient implementation of the city's comprehensive plan.*

*C. Notwithstanding the provisions of Chapter 17.58, any additional conditions shall be met as a requirement for continued operation of the conditional use.*

**Finding: Not applicable.** This is a new application for conditional use approval.

## **CHAPTER 17.62 SITE PLAN AND DESIGN REVIEW**

**17.62.050.A.1** *Landscaping, A minimum of fifteen percent of the lot shall be landscaped. Existing native vegetation shall be retained to the maximum extent practicable. All plants listed on the Oregon City Nuisance Plant List shall be removed from the site prior to issuance of a final occupancy permit for the building.*

**Finding: Complies as Proposed.** The MUD district has a landscape requirement of 10% of the site, which trumps the general 15% landscape requirement in the Site Plan and Design Review standards. The subject site comprises a total of 27,442 square feet. Based on the 10% standard, 2,744 square feet of landscaping is

required. The existing evergreen screen hedge to remain and the additional plantings on PGE property to screen the new wall total 5,161 square feet, 18% of the total site area. Therefore, the 10% landscape standard is met.

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

**Finding: Complies as Proposed.** All areas proposed to be landscaped will be planted with growing plant materials with the exception of walkways. The applicant has not requested credit for landscaped areas that do not contain growing plant materials.

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

**Finding: Not Applicable.** The landscaping proposed is not within the NROD. The applicant obtained an exemption from the NROD (NR 15-07).

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

**Finding: Complies as Proposed:** The Landscape Plan for the proposed substation expansion was prepared by a registered landscape architect Matthew Simpson from WH Pacific. PGE proposes to plant a mix of screen shrubs and accent shrubs outside of the new wall. A portion of the plantings will extend about 5 feet into the unimproved public right-of-way. PGE proposes to maintain the groundcover and shrubs in the unimproved public right-of-way between the expanded substation and Main Street.

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

**Finding: Not Applicable.** The subject property is not located within the Downtown Design District.

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

**Finding: Complies as Proposed.** The landscaping plan includes landscaping which is visible from the public right-of-way. The proposed landscaping in front of the new wall will be visible from Main Street and 18<sup>th</sup> Street.

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

**Finding: Not Applicable.** The substation facility does not include a parking lot and the Oregon City Code does not require off-street parking for this particular type of use.

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

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

**Finding: Complies as Proposed.** The existing substation does not include buildings and no buildings or parking areas are associated with the proposed expansion. There is adequate area located inside the substation fence/wall to accommodate PGE vehicles that visit the site on an intermittent basis for inspection purposes. Therefore, this standard is not applicable to the proposed expansion.

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

**Finding: Complies as Proposed.** There are two existing driveways (gated) that provide access into the substation – one on 17<sup>th</sup> Street and one on 18<sup>th</sup> Street. No changes to the existing access locations are proposed. PGE has established protocols with emergency services (fire and police) regarding substation access and protection in the interest of public safety.

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

**Finding: Not Applicable.** The substation has existed at this location for more than 50 years and the subject property has frontage on three streets (17<sup>th</sup>, 18<sup>th</sup> and Main). The substation is a low impact use relative to traffic. The substation is monitored remotely and PGE employees typically inspect the substation site every 45 days. There will be no changes to the trip generation or existing access points to the substation and alleys or vehicular access easements are not warranted.

**17.62.050.A.2.d.** *Sites abutting an alley shall be required to gain vehicular access from the alley unless deemed impracticable by the community development director.*

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

**17.62.050.A.2.e.** *Where no alley access is available, the development shall be configured to allow only one driveway per frontage. On corner lots, the driveway(s) shall be located off of the side street (unless the side street is an arterial) and away from the street intersection. Shared driveways shall be required as needed to accomplish the requirements of this section. The location and design of pedestrian access from the public sidewalk shall be emphasized so as to be clearly visible and distinguishable from the vehicular access to the site. Special landscaping, paving, lighting, and architectural treatments may be required to accomplish this requirement.*

**Finding: Not Applicable.** The substation has frontage and existing driveway access points off of 17<sup>th</sup> and 18<sup>th</sup> Streets. No changes to the existing access points are proposed and the subject property does not abut an alley. Therefore, the standard above is not applicable. The existing substation has two driveways located on the side streets (17<sup>th</sup> & 18<sup>th</sup>), with no driveways on Main Street. The existing gate to the driveway on 17<sup>th</sup> Street will be replaced, but there will be no changes to the existing driveways.

**17.62.050.A.2.f.** *Development shall be required to provide existing or future connections to adjacent sites through the use of a vehicular and pedestrian access easements where applicable.*

**Finding: Not Applicable.** This standard is not applicable to the proposed substation expansion. The subject property (Tax Lots 1500 & 2000) has frontage on three streets (17<sup>th</sup>, 18<sup>th</sup> & Main) and the only other lot on the block (309 Main Street) also has frontage on two public streets.

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

**Finding: Not Applicable.** The applicant has not proposed a parking garage onsite.

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

**Finding: Not Applicable.** The applicant has not proposed an above grade parking garage onsite.

**17.62.050.A.2.i-m.**

*These standards address vehicle and pedestrian easements, dead end streets, street connections for parcels larger than 3 acres, and structured parking.*

**Finding: Not Applicable.** Subsections A.2.i through A.2.m are not applicable to this application.

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

**Finding: Complies as Proposed.** This standard is not applicable to the proposed substation expansion. No buildings are proposed. The Abernethy substation is not located within the McLoughlin Conservation District, the Canemah National Register District or the Downtown Design District.

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

**Finding: Complies with Conditions.** The subject site and associated improvements are located in fairly level locations. No significant grading is anticipated. Review for compliance with grading design standards will take place prior to building permits being issued. Standard conditions will be include compliance with grading standards and Engineering Policy 00-01. **Staff has determined it is possible, likely and reasonable the applicant can meet this standard by complying with conditions of approval 1 and 2.**

**17.62.050.A.5** *Development subject to the requirements of the Geologic Hazard overlay district shall comply with the requirements of that district.*

**Finding: Not Applicable.** The subject site is not located in a Geologic Hazard Overlay District.

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

**Finding: Not Applicable.** The area inside of the substation fence/wall is gravel and does not include new impervious area. Therefore, stormwater quantity and quality control will not be required.

**17.62.050.A.7** *Parking, including carpool, vanpool and bicycle parking, shall comply with city off-street parking standards, Chapter 17.52.*

**Finding: Not Applicable.** Chapter 17.52 does not specify off-street parking standards for public utility uses such as a substation. There is sufficient area available within the substation fence/wall to accommodate PGE vehicles. Following completion of the construction work associated with the expansion, there will be minimal traffic or related parking associated with the substation use.

**17.62.050.A.8** *Sidewalks and curbs shall be provided in accordance with the city's transportation master plan and street design standards. Upon application, the community development director may waive this requirement in whole or in part in those locations where there is no probable need, or comparable alternative location provisions for pedestrians are made.*

**Finding: Complies with Condition.** The existing right of way on Main Street consists of a five-foot curb-tight sidewalk on the applicant's frontage. The properties north and south along Main Street have similar improvements. The side streets 17<sup>th</sup> and 18<sup>th</sup> Streets are improved with 5-foot sidewalks and curb. Chapter 12.04 requires, at a maximum, a 10-foot sidewalk on streets in mixed use areas. However, the proposed expansion of the Abernethy substation does not trigger a requirement for street improvements because no traffic will be generated by the development. Staff finds that the existing sidewalk is adequate with proportional ADA upgrades. The sidewalks along the site frontage do not appear to be compliant with ADA regulations. The ADA ramp area at the corner of Main Street and 18<sup>th</sup> Street, and potentially portions of the sidewalk, will need to meet current ADA standards. The ADA ramp area at the corner of Main Street and 18<sup>th</sup> Street, and sidewalk along the site frontage shall be modified as necessary to meet current ADA standards. **Staff has determined it is**

**possible, likely and reasonable the applicant can meet this standard by complying with conditions of approval 4 and 5.**

**17.62.050.A.9** *A well-marked, continuous and protected on-site pedestrian circulation system meeting the following standards shall be provided:*

**17.62.050.A.9.a.** *Pathways between all building entrances and the street are required. Pathways between the street and buildings fronting on the street shall be direct. Exceptions may be allowed by the director where steep slopes 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.*

**17.62.050.A.9.b.** *The pedestrian circulation system shall connect all main entrances on the site. For buildings fronting on the street, the sidewalk may be used to meet this standard. Pedestrian connections to other areas of the site, such as parking areas, recreational areas, common outdoor areas, and any pedestrian amenities shall be required.*

**17.62.050.A.9.c.** *Elevated external stairways or walkways, that provide pedestrian access to multiple dwelling units located above the ground floor of any building are prohibited. The community development director may allow exceptions for external stairways or walkways located in, or facing interior courtyard areas provided they do not compromise visual access from dwelling units into the courtyard.*

**17.62.050.A.9.d.** *The pedestrian circulation system shall connect the main entrances of adjacent buildings on the same site.*

**17.62.050.A.9.e.** *The pedestrian circulation system shall connect the principal building entrance to those of buildings on adjacent commercial and residential sites where practicable. Walkway linkages to adjacent developments shall not be required within industrial developments or to industrial developments or to vacant industrially-zoned land.*

**17.62.050.A.9.f.** *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: Not Applicable.** The standards relating to on-site pedestrian improvements are not relevant to the proposed substation expansion. The substation use does not include buildings and no employees are based at the facility. Additionally, the subject property is bounded by public streets with existing sidewalks on three sides.

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

**Finding: Complies as Proposed.** The applicant indicates that the facility will have weekly maintenance crews who will provide the adequate maintenance for the building and grounds. There are no common facilities, recreational facilities, garbage storage areas or other storage areas associated with the on-going operation of the Abernethy substation. PGE will maintain the landscaping around the perimeter of the substation and will also maintain the new shrubs and lawn/ground cover in the unimproved right-of-way between Main Street and the new wall.

**17.62.050.A.11** *Site planning shall conform to the requirements of OCMC Chapter 17.41 Tree Protection.*

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

**17.62.050.A.12** *Development shall be planned, designed, constructed and maintained to protect water resources and habitat conservation areas in accordance with the requirements of the city's Natural Resources Overlay District, Chapter 17.49, as applicable.*



**Finding: Complies as Proposed.** The Natural Resource Overlay District is present on the site due to a stream and wetland to the south. The applicant submitted a Type I NROD application NR 15-07 which was approved previously. The approval found that the area of expansion is exempt from the NROD due to the separation of the subject site from the protected feature by an impervious street (17<sup>th</sup> Street).

**17.62.050.A.13** *All development shall maintain continuous compliance with applicable federal, state, and city standards pertaining to air and water quality, odor, heat, glare, noise and vibrations, outdoor storage, radioactive materials, toxic or noxious matter, and electromagnetic interference. Prior to issuance of a building permit, the community development director or building official may require submission of evidence demonstrating compliance with such standards and receipt of necessary permits. The review authority may regulate the hours of construction or operation to minimize adverse impacts on adjoining residences, businesses or neighborhoods. The emission of odorous gases or other matter in such quantity as to be readily detectable at any point beyond the property line of the use creating the odors or matter is prohibited.*

**Finding: Complies as Proposed.** The applicant indicated, "PGE will continue to maintain compliance with all applicable federal, state and city environmental performance standards. The substation does not require an air quality permit from DEQ for either a direct or indirect source discharge. The substation facility does not result in emissions to the air. The substation does not generate odors, heat or glare. The substation use does not involve the storage, transportation, or disposal of hazardous materials under current standards. PCB's are no longer used in transformers. PGE will prepare and file an oil spill containment plan to comply with DEQ standards potentially associated with an on-site spill of the small amounts of mineral oil used in transformers. PGE can comply with DEQ noise standards. Transformers are the only source of continuous sound generation in an electric utility substation. The 2<sup>nd</sup> transformer for this facility is designed and manufactured to minimize noise generation. The transformer has internal automatic settings that adjust as load requirements on the transformer increase. During normal operations the settings are lower and generate far less than 64dBA within 3 feet of the transformer tank."

**17.62.050.A.14** *Adequate public water and sanitary sewer facilities sufficient to serve the proposed or permitted level of development shall be provided. The applicant shall demonstrate that adequate facilities and services are presently available or can be made available concurrent with development. Service providers shall be presumed correct in the evidence, which they submit. All facilities shall be designated to city standards as set out in the city's facility master plans and public works design standards. A development may be required to modify or replace existing 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: Not Applicable.** The Abernethy substation is not connected to and does not require public water or sewer facilities.

**17.62.050.A.15** *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 master plan and design standards and this title. 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.*

*When approving land use actions, Oregon City requires all relevant intersections to be maintained at the minimum acceptable level of service (LOS) upon full build-out of the proposed land use action.*

**Finding: See discussion in 17.56.010.A.3 and 17.56.040.B.**

**17.62.050.A.16.** *This standard requires the proposed development to be reviewed by Tri-Met to determine whether transit service is or reasonably can be made available to serve the site.*

**Finding: Complies as Proposed.** The proposed development was transmitted to Tri-Met, who did not comment on the application. TriMet does not currently provide transit service along Main Street north of the Oregon City Transit Center.

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

**Finding: Not Applicable.** Utility poles in this location are above ground. The applicant is not developing the site with a new building or use; the expansion of the substation is not a significant enough development to trigger placement of utilities underground.

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

**Finding: Complies with Condition.** The sidewalks along the site frontage do not appear to be compliant with ADA regulations. The ADA ramp area at the corner of Main Street and 18<sup>th</sup> Street, and potentially portions of the sidewalk, will need to meet current ADA standards. The ADA ramp area at the corner of Main Street and 18<sup>th</sup> Street, and sidewalk along the site frontage shall be modified as necessary to meet current ADA standards. **Staff has determined it is possible, likely and reasonable the applicant can meet this standard by complying with conditions of approval 4 and 5.**

**17.62.050.A.19.** *For a residential development, site layout shall achieve at least eighty percent of the maximum density of the base zone for the net developable area. Net developable area excludes all areas for required right-of-way dedication, land protected from development through Natural Resource or Geologic Hazards protection, and required open space or park dedication.*

**Finding: Not Applicable.** The subject site is not a residential development.

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

a. *Rooftop mechanical equipment, including HVAC equipment and utility equipment that serves the structure, shall be screened. 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. 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.*

b. *Wall-mounted mechanical equipment 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 or HVAC equipment and groups of multiple utility meters, that extends six inches or more from the outer building wall shall be screened from view from 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.*

c. *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. Placement and type of screening shall be determined by the community development director.*

d. *All mechanical equipment shall comply with the standards in this section. If mechanical equipment is installed outside of the site plan and design review process, planning staff shall review the plans to determine if additional screening is required. If the proposed screening meets this section, no additional planning review is required.*

e. *This section shall not apply to the installation of solar energy panels, photovoltaic equipment or wind power generating equipment.*

**Finding: Not applicable.** The standards relating to screening of roof and wall mounted mechanical equipment are not applicable to the proposed substation expansion. The conditional use standards address substations; thus, the ground-mounted equipment standards here are not applicable.

**17.62.050.A.21. Building Materials.**

**17.62.050.A.21.a. Preferred building materials.** *Building exteriors shall be constructed from high quality, durable materials. Preferred exterior building materials that reflect the city's desired traditional character are as follows:*

- i. Brick.*
- ii. Basalt stone or basalt veneer.*
- iii. Right-of-way horizontal wood or composite siding (generally five inches wide or less); wider siding will be considered where there is a historic precedent.*
- iv. Board and baton siding.*
- v. Other materials subject to approval by the community development director.*
- vi. Plywood with battens or fiber/composite panels with concealed fasteners and contiguous aluminum sections at each joint that are either horizontally or vertically aligned.*
- vii. Stucco shall be trimmed in wood, masonry, or other approved materials and shall be sheltered from extreme weather by roof overhangs or other methods.*

**Finding: Complies as Proposed:** The proposed substation expansion does not include any buildings. The proposed wall is concrete material designed to look like brick.

**17.62.050.A.21.b. Prohibited materials.** *The following materials shall be prohibited in visible locations unless an exception is granted by the community development director based on the integration of the material into the overall design of the structure.*

- 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 or as a gate for a refuse enclosure).*
- [v.] Crushed colored rock/crushed tumbled glass.*
- [vi.] Non-corrugated and highly reflective sheet metal.*

**Finding: Complies as Proposed.** The substation on Tax Lot 2000 is enclosed by an existing nonconforming 8 foot chain link fence topped by 3 strands of barbed wire. No new chain link is proposed.

**17.62.050.A.21.c. Special material standards:** *The following materials are allowed if they comply with the requirements found below:*

- 1. Concrete block. When used for the front facade 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.*
- 2. 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).*
- 3. 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.*
- 4. Building surfaces shall be maintained in a clean condition and painted surfaces shall be maintained to prevent or repair peeling, blistered or cracking paint.*

**Finding: Complies as Proposed.** The new wall is proposed to be made of concrete, but will have the appearance of brick and will include articulation with vertical “posts,” which meets the intent of this standard.

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

**Finding: Complies with Conditions.** As demonstrated within this report, the proposal will comply with the standards of the Oregon City Municipal Code with conditions. **Staff has determined it is possible, likely and reasonable the applicant can meet this standard by complying with all of the conditions of approval.**

**17.62.065.D Design and Illumination Standards.**

**General Outdoor Lighting Standard and Glare Prohibition.**

**17.62.065 .D.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. In no case shall exterior lighting add more than 0.5 footcandle to illumination levels at any point off-site. Exterior lighting is not required except for purposes of public safety. However, if installed, all exterior lighting shall meet the following design standards:

**Finding: Complies as Proposed.** The applicant submitted a lighting plan that shows the location and specifications for three existing light poles to be removed, one new light pole to be added, and two additional lights to be added on electrical structures. Note 1 on the plan identifies the activity lights that are controlled by a switch at the gate and are only used when required for an emergency or other special purpose. The background lights are photocell controlled. PGE's exterior lighting of substations is designed to meet the security needs of the utility use without adversely affecting adjacent properties or the community. The proposed substation lighting does not cause illumination on other properties in excess of 0.5 foot-candles as measured at the property line.

**17.62.065 .D.2** Any light source or lamp that emits more than nine hundred lumens (thirteen watt compact fluorescent or sixty watt incandescent) 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. All fixtures shall utilize one of the following bulb types: metal halide, induction lamp, compact fluorescent, incandescent (including tungsten-halogen), or high pressure sodium with a color rendering index above seventy.

**Finding: Complies with Condition.** The applicant did not provide sufficient detail about the lighting fixtures. Prior to issuance of building permits, the applicant shall better describe the lighting fixtures or submit cut sheet for the lighting fixtures to ensure compliance with this standard. **Staff has determined it is possible, likely and reasonable the applicant can meet this standard by complying with condition of approval 8.**

**17.62.065 .D.3** 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: Complies as Proposed.** The new light pole that is centrally located in the substation is 25 ft tall. The other new lights will be installed on the substation structures that are 20 ft and 25 ft tall.

**17.62.065 .D.4** Lighting levels:

Table 1-17.62.065. Foot-candle Levels

Location	Min	Max	Avg
Pedestrian Walkways	0.5	7:1 max/min ratio	1.5
Pedestrian Walkways in Parking Lots		10:1 max/min ratio	0.5
Pedestrian Access ways	0.5	7:1 max/min ratio	1.5
Building Entrances	3		
Bicycle Parking Areas	3		
Abutting property	N/A	.50	

**Finding: Complies as Proposed.** There are no parking lots, pedestrian walkways, building entrances, or bicycle parking areas proposed. The lighting plan shows that no abutting property is illuminated greater than 0.5 footcandles.

*17.62.065.D.5 Parking lots and other background spaces shall be illuminated as unobtrusively as possible while meeting the functional needs of safe circulation and protection of people and property. Foreground spaces, such as building entrances and outside seating areas, shall utilize pedestrian scale lighting that defines the space without glare.*

**Finding: Not Applicable.** There are no parking lots, pedestrian walkways, building entrances, or bicycle parking areas proposed.

*17.62.065.D.6 Any on-site pedestrian circulation system shall be lighted to enhance pedestrian safety and allow employees, residents, customers or the public to use the walkways at night. Pedestrian walkway lighting through parking lots shall be lighted to light the walkway and enhance pedestrian safety pursuant to Table 1.*

**Finding: Not Applicable.** There are no parking lots, pedestrian walkways, building entrances, or bicycle parking areas proposed.

*17.62.065.D.7 Pedestrian Accessways. To enhance pedestrian and bicycle safety, pedestrian accessways required pursuant to OCMC 12.28 shall be lighted with pedestrian-scale lighting.*

**Finding: Not Applicable.** No pedestrian accessways are proposed.

*17.62.065.D.8 Floodlights shall not be utilized to light all or any portion of a building facade between ten p.m. and six a.m.*

**Finding: Complies as Proposed.** The applicant proposes activity lights that will only be used for emergencies when the switch is turned on inside the substation gates.

*17.62.065.D.9 Lighting on automobile service station, convenience store, and other outdoor canopies shall be fully recessed into the canopy and shall not protrude downward beyond the ceiling of the canopy.*

**Finding: Not Applicable.** The applicant has not proposed canopy lighting.

*17.62.065.D.10 The style of light standards and fixtures shall be consistent with the style and character of architecture proposed on the site.*

**Finding: Complies as Proposed.** The applicant submitted drawings of the proposed light fixtures demonstrating they are consistent with the Oregon City Municipal Code and with the proposed architecture. The lighting plan uses standard PGE fixtures associated with substations and safety. This is not an architectural style fixture since it's for substation background and task lighting functions.

*17.62.065.D.11 In no case shall exterior lighting add more than one foot-candle to illumination levels at any point off-site.*

**Finding: Complies as Proposed.** The lighting plan shows that no abutting property is illuminated greater than 0.5 footcandles.

*17.62.065.D.12 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.** The applicant states that PGE's standard operating procedures comply with this standard. The background lights will be controlled by photocells and the activity lights will only be used if activated by a switch inside the gates and needed for emergency or maintenance purposes.

*17.62.065.D.13 Light fixtures used to illuminate flags, statues, or any other objects mounted on a pole, pedestal, or platform shall use a right-of-way cone beam of light that will not extend beyond the illuminated object.*

**Finding: Not Applicable.** The applicant has not proposed these features.



**17.62.065 .D.14** For upward-directed architectural, landscape, and decorative lighting, direct light emissions shall not be visible above the building roofline.

**Finding: Not Applicable.** The applicant has not proposed these features.

**17.62.065 .D.15** No flickering or flashing lights shall be permitted, except for temporary decorative seasonal lighting.

**Finding: Complies as Proposed.** No flickering or flashing lights are proposed with this development.

**17.62.065 .D.16** Wireless Sites. Unless required by the Federal Aviation Administration or the Oregon Aeronautics Division, artificial lighting of wireless communication towers and antennas shall be prohibited. Strobe lighting of wireless communication facilities is prohibited unless required by the Federal Aviation Administration. Security lighting for equipment shelters or cabinets and other on-the-ground auxiliary

**Finding: Not Applicable.** The applicant has not proposed a wireless site.

**17.62.065 .D .17** Lighting for outdoor recreational uses such as ball fields, playing fields, tennis courts, and similar uses, provided that such uses comply with the following standards:

i. Maximum permitted light post height: eighty feet.

ii . Maximum permitted illumination at the property line: 0.5 foot-candles

**Finding: Not Applicable.** The proposed development does not involve an outdoor recreation site.

**17.62.080** Special development standards along transit streets.

**Finding: Not Applicable.** The abutting portion of Main Street is not a transit street.

## **CHAPTER 17.54 – SUPPLEMENTAL ZONING REGULATIONS AND EXCEPTIONS:**

**17.54.100** Fence, Setback and Height Limitations.

A. Generally. Fence, hedge, or wall.

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

2. Hedges shall not be more than forty-two inches in the underlying front yard setback.

3. Property owners shall ensure compliance with the Traffic Sight Obstruction requirements in Chapter 10.32 of the Oregon City Municipal Code.

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

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

1. When the retaining wall or artificial berm is 30 inches or less in height from the finished grade, the maximum fence or wall height on top of the retaining wall shall be six feet.

2. When the retaining wall or earth berm is greater than thirty inches in height, the combined height of the retaining wall and fence or, wall from finished grade shall not exceed eight and one-half feet.

3. Fences, hedges or walls located on top of retaining walls or earth berms in excess of eight and one-half feet in height shall be setback a minimum of two feet from the edge of the retaining wall or earth berm below and shall not exceed a combined height of eight and one-half feet.

4. An alternative height or location requirement may be approved within a land use process for all non-single-family and two-family residential properties. The fence, hedge or wall shall be compatible with the adjacent neighborhood and achieve the same intent of the zoning designation and applicable site plan and design review process. In no case may the fence, hedge or wall exceed eight feet in height without approval of a variance.

**Finding: Complies as Proposed.** The applicant proposes to construct an 8-foot tall wall along the street frontages of the proposed expansion area. The wall will have the appearance of brick and will provide some articulation with vertical posts. For security and safety reasons, the applicant has also proposed to install three

strands of barbed wire on the inside of the top of the wall, angled toward the substation. The barbed wire will not be visible from Main Street.

#### **CHAPTER 12.04 – STREETS, SIDEWALK, AND PUBLIC PLACES**

See section 17.56.010.A.3, 17.62.050.A.18

#### **CHAPTER 12.08 - PUBLIC AND STREET TREES**

**12.08.015** - *Street tree planting and maintenance requirements.*

*All new construction or major redevelopment shall provide street trees adjacent to all street frontages. Species of trees shall be selected based upon vision clearance requirements, but shall in all cases be selected from the Oregon City Street Tree List or be approved by a certified arborist. If a setback sidewalk has already been constructed or the Development Services determines that the forthcoming street design shall include a setback sidewalk, then all street trees shall be installed with a planting strip. If existing street design includes a curb-tight sidewalk, then all street trees shall be placed within the front yard setback, exclusive of any utility easement.*

**Finding: Complies with Condition.** The applicant has not proposed to install street trees within the public ROW. Main Street currently has no planter strip; the sidewalk is 5-foot curb tight. 17<sup>th</sup> Street includes existing street trees behind the sidewalk. 18<sup>th</sup> Street has a 4-foot planter strip with no street trees. The applicant must provide street trees along the frontage, or plant elsewhere through planting or a fee in lieu where street tree placement is impracticable. **Staff has determined it is possible, likely and reasonable the applicant can meet this standard by complying with condition of approval 9.**

**12.08.015.A** *One street tree shall be planted for every thirty-five feet of property frontage. The tree spacing shall be evenly distributed throughout the total development frontage. The community development director may approve an alternative street tree plan if site or other constraints prevent meeting the placement of one street tree per thirty-five feet of property frontage.*

**Finding: Complies with Conditions.** The applicant has not proposed to install street trees within the public ROW. The applicant shall therefore submit a revised plan prior to building permit issuance that complies with the requirements of this subsection. **Staff has determined it is possible, likely and reasonable the applicant can meet this standard by complying with condition of approval 9.**

**12.08.015.B** *The following clearance distances shall be maintained when planting trees:*

1. *Fifteen feet from streetlights;*
2. *Five feet from fire hydrants;*
3. *Twenty feet from intersections;*
4. *A minimum of five feet (at mature height) below power lines.*

**12.08.015.C** *All trees shall be a minimum of two inches in caliper at six inches above the root crown and installed to city specifications.*

**12.08.015.D** *All established trees shall be pruned tight to the trunk to a height that provides adequate clearance for street cleaning equipment and ensures ADA complaint clearance for pedestrians.*

**12.08.020** - *Street tree species selection.*

*The community development director may specify the species of street trees required to be planted if there is an established planting scheme adjacent to a lot frontage, if there are obstructions in the planting strip, or if overhead power lines are present.*

**Finding: Complies with Condition.** The applicant has not proposed to install street trees along the frontage of the site within the ROW. Prior to issuance of permits associated with the proposed development the applicant shall submit documentation demonstrating the street trees comply with the planting requirements identified in OCMC 12.08.015 and 020. **Staff has determined it is possible, likely and reasonable the applicant can meet this standard by complying with condition of approval 9.**

**12.08.035 - Public tree removal.**

**Finding:** A street tree on 17<sup>th</sup> Street was recently removed, but there is no record of a street tree removal permit. The findings and conditions for street tree planting above will suffice for replacement of this tree.

**12.08.040 - Heritage Trees and Groves.**

**Finding: Not Applicable.** The applicant does not have any designated heritage trees or groves onsite and did not propose and is not required to designate any trees.

**12.08.045 - Gifts and funding.**

**Finding: Not Applicable.** The applicant has not proposed and the City has not required any gift or funding for street trees.

**12.08.050 - Violation—Penalty.**

**Finding: Not Applicable.** This application does not include a violation.

**CHAPTER 13.12 STORMWATER CONVEYANCE, QUANTITY AND QUALITY**

**13.12.050** Pursuant to each of the subsections below, proposed activities may be required to meet the performance standards for stormwater conveyance, stormwater quantity or stormwater quality.

A. Stormwater Conveyance. The stormwater conveyance requirements of this chapter shall apply to all stormwater systems constructed with any development activity, except as follows:

1. The conveyance facilities are located entirely on one privately owned parcel;
2. The conveyance facilities are privately maintained; and
3. The conveyance facilities receive no stormwater runoff from outside the parcel's property limits.

Those facilities exempted from the stormwater conveyance requirements by the above subsection will remain subject to the requirements of the Oregon Uniform Plumbing Code. Those exempted facilities shall be reviewed by the building official.

**Finding: Complies as Proposed.** Proposed improvements are below threshold for stormwater management requirements.

**13.12.050.B.** Stormwater Quantity Control. The stormwater quantity control requirements of this chapter shall apply to the following proposed activities, uses or developments:

**13.12.050.B.1.** Activities located wholly or partially within water quality resource areas pursuant to Chapter 17.49 that will result in the creation of more than five hundred square feet of impervious surface within the WQRA or will disturb more than one thousand square feet of existing impervious surface within the WQRA as part of a commercial or industrial redevelopment project. These square footage measurements will be considered cumulative for any given seven-year period;

**Finding: Not Applicable.** The site has been approved as exempt from Natural Resource Overlay District requirements through NR 1-07.

**13.12.050.B.2** Activities that create more than two thousand square feet of impervious surface, cumulated over any given seven year period; or

**13.12.050.B.3** Redevelopment of a commercial or industrial land use that will disturb more than five thousand square feet of existing impervious surface. This five thousand square foot measurement cumulates over any given seven year period;

**Finding: Complies as Proposed.** Proposed improvements are below threshold for stormwater management requirements.

**13.12.050.B.4** An exemption to the stormwater quantity control requirements of this chapter will be granted in the following circumstances:

- a. The development site discharges to a stormwater quantity control facility approved by the city engineer to receive the developed site runoff after verification that the facility is adequately sized to receive the additional stormwater, or,
- b. The development site discharges to one of the following receiving bodies of water: Willamette River, Clackamas River or Abernethy Creek; and either lies within the one hundred year floodplain or is up to ten feet above the design flood elevation

as defined in Chapter 17.42

**Finding: Not Applicable.** Exemption not required.

**13.12.050.C.** *Stormwater Quality Control. The stormwater quality control requirements of this chapter shall apply to the following proposed activities, uses or developments:*

**13.12.050.C.1.** *Category A. Activities subject to general water quality requirements of this chapter:*

- a. The construction of four or more single-family residences;*
- b. Activities located wholly or partially within water quality resource areas pursuant to Chapter 17.49 that will result in the creation of more than five hundred square feet of impervious surface within the WQRA or will disturb more than one thousand square feet of existing impervious surface within the WQRA as part of a commercial or industrial redevelopment project. These square footage measurements will be considered cumulative for any given seven year period; or*
- c. Activities that create more than eight thousand square feet of new impervious surface for other than a single-family residential development. This eight thousand square foot measurement will be considered cumulative for any given seven year period;*
- d. An exemption to the stormwater quantity control requirements of this subsection will be granted if the development site discharges to a stormwater quality control facility approved by the city engineer to receive the developed site runoff after verification that the facility is adequately sized to receive the additional stormwater.*

**Finding: Complies as Proposed.** Proposed improvements are below threshold for stormwater management requirements.

**13.12.050.C.2** *Category B. Uses Requiring Additional Management Practices. In addition to any other applicable requirements of this chapter, the following uses are subject to additional management practices as contained in the Public Works Stormwater and Grading Design Standards:*

- a. Fuel dispensing facilities;*
- b. Bulk petroleum storage in multiple stationary tanks;*
- c. Solid waste storage areas for commercial, industrial or multi-family uses;*
- d. Loading and unloading docks for commercial or industrial uses; or*
- e. Covered vehicle parking for commercial or industrial uses.*

**Finding: Not Applicable.** The proposed work does not include these elements.

**13.12.050.C.3** *Category C. Clackamas River Watershed. In addition to any other applicable requirements of this chapter, any development that creates new waste discharges and whose stormwater runoff may directly or indirectly flow into the Clackamas River is subject to additional requirements associated with Oregon Administrative Rules (OAR) 340-41-470 (Thee Basin Rule).*

**Finding: Not Applicable.** No new waste discharges or new stormwater flow will occur with this development.

## **CHAPTER 15.48 – GRADING, FILLING AND EXCAVATING**

**Finding: Complies with Condition.** Standard condition has been included to ensure compliance with grading permit requirements at time of construction.

## **CHAPTER 17.41 – TREE PROTECTION STANDARDS**

**17.41.020** *Tree Protection – Applicability.*

**Finding: Applicable.** This Site Plan and Design Review application requires compliance with OCMC 17.41.

**17.41.050-125** *Tree Removal*

**17.41.050 - Tree Protection – Compliance Options.**

*Applicants for review shall comply with these requirements through one or a combination of the following procedures:*

- A. Option 1 - Mitigation. Retention and removal of trees, with subsequent mitigation by replanting pursuant to section 17.41.060 or 17.41.070. All replanted and saved trees shall be protected by a permanent restrictive covenant or easement approved in form by the city.
- B. Option 2 – Dedicated Tract. Protection of trees or groves by placement in a tract within a new subdivision or partition plat pursuant to sections 17.41.080-100; or
- C. Option 3 – Restrictive Covenant. Protection of trees or groves by recordation of a permanent restrictive covenant pursuant to section 17.41.110-120.; or
- D. Option 4 - Cash-in-lieu of planting pursuant to Section 17.41.130.

A regulated tree that has been designated for protection pursuant to this section must be retained or permanently protected unless it has been determined by a certified arborist to be diseased or hazardous, pursuant to the following applicable provisions.

The Community Development Director, pursuant to a Type II procedure, may allow a property owner to cut a specific number of trees within a regulated grove if preserving those trees would:

- (1) Preclude achieving 80% of minimum density with reduction of lot size; or
- (2) Preclude meeting minimum connectivity requirements for subdivisions.

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

A. Applicants for development who select this option shall ensure that all healthy trees shall be preserved outside the construction area as defined in Chapter 17.04 to the extent practicable. Compliance with these standards shall be demonstrated in a tree mitigation plan report prepared by a certified arborist, horticulturalist or forester or other environmental professional with experience and academic credentials in forestry or arboriculture. At the applicant's expense, the City may require the report to be reviewed by a consulting arborist. The number of replacement trees required on a development site shall be calculated separately from, and in addition to, any public or street trees in the public right-of-way required under section 12.08 – Community Forest and Street Trees.

B. The applicant shall determine the number of trees to be mitigated on the site by counting all of the trees 6" DBH (minimum 4.5 feet from the ground) or larger on the entire site and either:

- (1) Trees that are removed outside of the construction area, shall be replanted with the number of trees specified in Column 1 of Table 17.41.060-1. Trees that are removed within the construction area shall be replanted with the number of replacement trees required in Column 2; or
- (2) Diseased or hazardous trees, when the condition is verified by a certified arborist to be consistent with the definition in Section 17.04.1360, may be removed from the tree replacement calculation. Regulated healthy trees that are removed outside of the construction area, shall be replanted with the number of trees specified in Column 1 of Table 17.41.060-1. Regulated healthy trees that are removed within the construction area shall be replanted with the number of replacement trees required in Column 2.

Table 17.41.060-1  
Tree Replacement Requirements  
All replacement trees shall be either:  
2 inch caliper deciduous, or  
6 foot high conifer

Size of tree removed (DBH)	Column 1 Number of trees to be planted. (If removed <b>Outside</b> of construction area)	Column 2 Number of trees to be planted. (If removed <b>Within</b> the construction area)
6 to 12"	3	1
13 to 18"	6	2
19 to 24"	9	3
25 to 30"	12	4
31 and over"	15	5

Steps for calculating the number of replacement trees:

1. Count all trees measuring 6" DBH (minimum 4.5 feet from the ground) or larger on the entire development site.



2. Designate (in certified arborists report) the condition and size (DBH) of all trees pursuant to accepted industry standards.
3. Document any trees that are currently diseased or hazardous.
4. Subtract the number of diseased or hazardous trees in step (3) from the total number of trees on the development site in step (1). The remaining number is the number of healthy trees on the site. Use this number to determine the number of replacement trees in steps (5) through (8).
5. Define the construction area (as defined in Chapter 17.04)
6. Determine the number and diameter of trees to be removed within the construction area. Based on the size of each tree, use Column 2 to determine the number of replacement trees required.
7. Determine the number and diameter of trees to be removed outside of the construction area. Based on the size of each tree, use Column 1 to determine the number of replacement trees required.
8. Determine the total number of replacement trees from steps (6) and (7).

**Finding: Complies with Condition.** There are two existing trees on the subject property that are proposed to be removed to accommodate the expansion of the substation. The trees are a 42" dbh Cherry tree and 18" dbh Hawthorn. Neither tree is identified as a heritage tree. Both of the trees are located within the construction area for the substation expansion (inside of the wall). According to the arborist's report, the trees are mature and in fair health, but showing signs of decay. Given the minimal area that will be available outside of the new wall to accommodate planting new trees, the applicant proposes to pay a fee in lieu of planting to mitigate for the removal of the two trees as authorized by 17.41.1. Based on the size of the two trees to be removed within the construction area, the in lieu fee is estimated at \$2,121 (code replacement requirement of 7 trees X \$303 per tree). The applicant shall pay the in lieu fee prior to final building inspections. **Staff has determined it is possible, likely and reasonable the applicant can meet this standard by complying with condition of approval 10.**

#### **17.41.130. Regulated Tree Protection Procedures During Construction.**

**Response:** There are four existing trees planted on PGE property to the south side of the existing substation abutting 17th Street (see Landscape Plan). The initial application submitted on July 2, 2015 proposed a new underground utility line extending out of the substation in proximity to these four trees. To avoid removal or disturbance of these existing trees, PGE has revised the plan to shift the location of the underground utility line further east. There is another existing tree within the public right-of-way near the corner of Main and 18th Street. This tree is located well outside of the construction area and will not be disturbed. PGE proposes to install appropriate tree protection fencing around the five existing trees as required. Prior to issuance of a construction-related permits, the applicant shall verify that tree protection measures are in place through an inspection. **Staff has determined it is possible, likely and reasonable the applicant can meet this standard by complying with condition of approval 11.**

### **CHAPTER 17.42 FLOOD MANAGEMENT OVERLAY DISTRICT**

#### **17.42.160 Flood management area standards.**

##### **A. 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).

##### **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.

*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: Applicable.** The proposed use is a provisional use.

*E. Site Development Standards. All development in the floodplain shall conform to the following balanced cut and fill standards:*

1. 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.
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 purposes 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.
3. Any excavation below bankfull stage shall not count toward compensating for fill.
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.
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.
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.
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.
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.
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.
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.

**Finding: Complies with Condition.** The applicant submitted preliminary cut and fill calculations that demonstrate no net fill. Prior to issuance of building permits the applicant shall submit final cut and fill calculations that include any new equipment (not just foundations) that is within the flood management overlay district. **Staff has determined it is possible, likely and reasonable the applicant can meet this standard by complying with condition of approval 12.**

*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:** The applicant did not submit full construction drawings. Building permit review will ensure this standard is met.

*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:** The applicant did not submit full construction drawings. Building permit review will ensure this standard is met.

*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: Not Applicable.** This project does not include any of these types of utilities.

*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 17.42.110(B);*
  - 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*

**Finding: Not Applicable.** No new buildings are proposed.

## **CHAPTER 17.50 ADMINISTRATION AND PROCEDURES**

**Finding: Complies as Proposed.** Consistent with the requirements of this section, this application for a Conditional Use Permit and Site Plan and Design Review is processed through a Type III process. A pre-application conference was held on May 13, 2014, prior to the submission of this application (PA 14-05). As required by OCMC 17.50.055, the applicant contacted the Neighborhood Association and provided the associated notes as part of its application.

The City provided appropriate notice pursuant to OCMC 17.50.090 and the applicant posted signs on the property consistent with OCMC 17.50.100. Notice of the public hearings for the proposal was mailed to property owners within 300 feet of the subject site on October 14, 2014, and to the Two Rivers Neighborhood Association. The notice was advertised in the Clackamas Review 20 days prior to the public hearing, and the site was posted with land use notification signs as required on October 19, 2014. The notice requested comments and indicated that interested parties could testify at the public hearing or submit written comments prior to or at the hearing. Prior to the release of this staff report, no public comments were submitted.

### **III. SUMMARY OF COMPLIANCE WITH APPLICABLE CRITERIA**

Staff has reviewed the criteria for files CU 15-01, SP 15-10, provided findings that the criteria have been met or can be met with conditions of approval and recommends the Planning Commission approve the application with the conditions identified within this report.

The Planning Commission may choose to agree or disagree with the findings and revise the findings and/or conditions of approval as needed.

### **IV. EXHIBITS**

The following exhibits are attached to this staff report.

1. Recommended Conditions of Approval for CU 15-01/ SP 15-10,
2. Applicant's Submittal – See Full Packet at <http://www.orcity.org/planning/landusecase/cu-15-01-conditional-use-and-sp-15-10-site-plan-design-review>
3. Vicinity Map
4. Historic Resource Inventory Forms for 309 17<sup>th</sup> St.
5. Photos of existing landscaping screening

**Exhibit 1. Recommended Conditions of Approval****CU 15-01: Conditional Use, SP 15-10: Site Plan and Design Review**

1. Project shall comply with Engineering Policy 00-01 and all applicable City of Oregon City design standards. (DS)
2. Prior to final occupancy, Applicant shall execute a Non-Remonstrance Agreement for the purpose of making sanitary sewer, storm sewer, water and/or street improvements in the future that benefit the Property and assessing the cost to benefited properties pursuant to the City's capital improvement regulations in effect at the time of such improvement. (DS)
3. Dedicate right-of-way along Main Street frontage to achieve 40 feet from centerline (as depicted on tax map 03-2S2E29CB). (DS)
4. The ADA ramp area at the corner of Main Street and 18<sup>th</sup> Street, and sidewalk along the site frontage shall be modified as necessary to meet current ADA standards. (DS)
5. Right-of-way, Grading and Erosion Control permits, as warranted, shall be obtained prior to commencement of construction. (DS)
6. Prior to permit issuance, Applicant shall submit the proposed development plans to Clackamas County Fire District No. 1 for review, and shall install any required fire protection. (F)
7. The applicant shall add landscaping along the outside of the chain link fence on 17<sup>th</sup> Street near the existing property line that border 309 17<sup>th</sup> Street. The landscaping shall be added to the site plan for building permit issuance and shall adequately screen the property. (P)
8. Prior to issuance of building permits, the applicant shall better describe the lighting fixtures or submit cut sheet for the lighting fixtures to ensure compliance with this standard. (P)
9. The applicant must provide street trees along the Main Street and 18<sup>th</sup> Street frontages, or plant elsewhere through planting or a fee in lieu where street tree placement is impracticable. Prior to issuance of permits associated with the proposed development the applicant shall submit documentation demonstrating the street trees comply with the planting requirements identified in OCMC 12.08.015 and 020. (P)
10. Based on the size of the two trees to be removed within the construction area, the in lieu fee is estimated at \$2,121 (code replacement requirement of 7 trees X \$303 per tree). The applicant shall pay the in lieu fee prior to final building inspections. (P)
11. Prior to issuance of a construction-related permits, the applicant shall verify that tree protection measures are in place through an inspection. (P)
12. Prior to issuance of building permits the applicant shall submit final cut and fill calculations that include any new equipment (not just foundations) that is within the flood management overlay district. (B, DS)

(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 County Fire District.