



TYPE IV ZONE CHANGE AND SUBDIVISION APPLICATION STAFF REPORT AND RECOMMENDATION

September 18, 2017

FILE NUMBER: Subdivision: TP 17-03
Zone Change: ZC 17-02

APPLICANT: Rian Park Development, Inc.
PO Box 2559
Oregon City, OR 97045

Application Submitted: 6/20/2017
Application Complete: 7/20/2017
120-Day Decision Deadline: 11/7/2017

OWNER: Wheeler Family Enterprises, LLC
David H. Wheeler Sr. Trust
Donald W. & Roxanne O. Wheeler

REQUEST: The applicant is seeking approval for a Zone Change from “R-10” Single-Family Dwelling District to “R-8” Single-Family Dwelling District and a Subdivision of 77 lots, w/ One Stormwater Facility Tract and one Open Space Tract.

LOCATION: Map 32E07C Tax Lot 1001 (Wheeler Family Enterprises, LLC), Map 32E07C Tax Lots 1100 (19566 Central Point Rd), and 1180 (David H. Wheeler Sr. Trust), Map 32E07C Tax Lot 1291 (Donald W. & Roxanne O. Wheeler), Map 31E12D Tax Lots 1700, 1790 (Wheeler Family Enterprises, LLC)

REVIEWER: Christina Robertson-Gardiner, AICP, Senior Planner
Mario De La Rosa, Development Engineer

RECCOEMNDATION: Approval with Conditions.

PROCESS: Type IV decisions include only quasi-judicial plan amendments and zone changes. These applications involve the greatest amount of discretion and evaluation of subjective approval standards and must be heard by the city commission for final action. The process for these land use decisions is controlled by ORS 197.763. At the evidentiary hearing held before the planning commission, all issues are addressed. If the planning commission denies the application, any party with standing (i.e., anyone who appeared before the planning commission either in person or in writing) may appeal the planning commission denial to the city commission. If the planning commission denies the application and no appeal has been received within ten days of the issuance of the final decision then the action of the planning commission becomes the final decision of the city. If the planning commission votes to approve the application, that decision is forwarded as a recommendation to the city commission for final consideration. In either case, any review by the city commission is on the record and only issues raised before the planning commission may be raised before

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

**Recommended Conditions of Approval
Planning Files TP 17-03 & ZC 17-02**

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

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

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

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

Prior to issuance of a plat for the Proposed Development:

1. Timing of construction of public improvements and provision of guarantees shall comply with section 16.12.105 and 16.12.110 of the Municipal Code. (DS)
2. Temporary water looping is required along White Lane Right-of-Way until an 8-inch water main is extended when White Lane Right-of-Way is fully developed. Water system improvements shall include an 8-inch waterline extension to the southeast in the proposed intersection improvements of White Lane and Orchard Grove Drive with reduction to a temporary 4-inch waterline extension in an easement along proposed White Lane Right-of-Way and looped to the proposed water main at the street intersection of the southeasterly subdivision street (proposed Wheeler Farm Road). (DS)
3. The Applicant must demonstrate all properties can be served with a gravity sewer system meeting the City's sanitary sewer design standards, and all other applicable standards. Otherwise, sanitary sewer pump station or other approved method shall be provided. (DS)
4. A final stormwater report shall be submitted with the public facilities construction plans to fully address all applicable Stormwater and Grading Standards, including downstream analysis. (DS)
5. The final stormwater design shall incorporate maintenance access to the Tract B stormwater facility relocated to a more direct route, such as from Wheeler Farm Road cul-de-sac, and stormwater piping traversing Tract A relocated to a more direct route, such as the border of Lots 54 and 55, unless shown that the proposed configuration is the only feasible option.
6. The stormwater management facility will be publicly-owned and maintained and will be transferred to public ownership following the 2-year warranty period. During the 2-year warranty period, the applicant is responsible for all maintenance of landscaping and shall provide cash surety of 110% of landscaping costs. Alternatively, the applicant may execute an agreement with the City to provide maintenance services during the 2-year period, to be paid at actual landscape contract rates. (DS)
7. Ten-foot public utility easements along all street frontages and all easements required for the final engineering plans shall be dedicated on the final plat. (DS)
8. The applicant shall provide written approval from PGE allowing the public stormwater facility proposed in Tract B to be placed within the 125-foot transmission easement.

9. The applicant shall comply with all applicable sections of City of Oregon City Engineering Policy 00-01 and Public Works design standards. (DS)
10. Applicant shall execute a binding agreement to not remonstrate against the formation of a local improvement district for street, water, wastewater and stormwater improvements that benefit the applicant's property. (DS)
11. A fee-in-lieu payment will be required for the northeasterly half street improvements on White Lane from the proposed street improvements at the intersection of White Lane and Orchard Grove Drive to the southeasterly boundary of the proposed development. (DS)
12. The applicant shall dedicate 54-feet of right-of-way for Orchard Grove Drive, Winnie Way, Wheeler Farm Road, Larence Lane, Skellenger Way, and Tolstrup Drive. All new streets shall consist of two (2) 16-foot-wide shared travel lanes, two (2) 5.5-foot-wide planter strips (inclusive of 0.5-foot wide curb), two (2) 5-foot-wide sidewalks, and two (2) 0.5-foot-wide public access strips. Additional requirements include curb, gutter, street trees, and street lights. (DS)
13. Applicant required to meet half-street roadway standards for portions of Orchard Grove Drive and Skellenger Way to roadway centerline, unless it is determined that a lesser width will meet the standard. (DS)
14. Applicant to provide full street improvements across Orchard Grove Drive along portion of roadway where existing curb exists in compliance with Oregon City roadway standards. (DS)
15. The proposed constrained cross-section of Orchard Grove Drive adjacent to Tract A will be approved contingent upon the following requirements; 1. Evaluation by certified arborist stating the 54" Douglas Fir Tree #10012 is likely to survive the proposed grading, and for how long after construction; 2. Submittal of scaled cross-section showing street, sidewalk, grading, tree canopy and tree root zone; 3. Modification of street alignment as far north as practicable, and with abrupt curvature smoothed out to maximum extent practicable. (DS)
16. A final site Residential Lot Grading Plan shall be required as part of the public facilities construction plans per the City's Residential Lot Grading Criteria and the International Building Code. (DS)
17. The applicant is responsible for obtaining a 1200-C permit from Oregon Department of Environmental Quality prior to commencement of construction activities. (DS)
18. The applicant shall provide an Erosion Prevention and Sedimentation Control Plan to the City for approval and obtain a City Erosion Control permit. (DS)
19. NROD and Geohazard overlay shall be clearly delineated on the public facilities construction plans, and on the subsequent building site plans for each affected lot. (DS)
20. Applicant's Geotechnical Engineer shall approve location and grading for the stormwater facility in relation to the geologic hazard area. (DS)
21. Applicant's Geotechnical Engineer shall certify that construction was completed in accordance with Geotechnical Report recommendations. Prior to issuance of a building permit, the applicant shall submit a completed a waiver of damages and an indemnity and hold harmless agreement provided by the City. (DS)

22. Applicant shall be responsible for payment of City's Geotechnical Consultant review fees. (DS)
23. City shall reimburse developer for completion of segments of Larence Lane and Orchard Grove Drive, which were required of TP 15-01 but deferred due to topographical constraints.
24. Per Annexation AN 06-02, each new home submitted before July 1, 2018 is required to mitigate the impact of the new home on the Police services they will provide with a fee of \$3,500. Credit is provided for each existing dwelling which is removed. (P)
25. The applicant shall demonstrate that Tax Lot 1201 at 19898 S White Lane, and Tax Lot 1101 at 19588 S Central Point Road maintain adequate access to or frontage on a public street as required by Clackamas County through a lot line adjustment, easement, or access agreement/covenant, and access shall be documented on the plat as applicable. (DS)
26. The plat, and a document/covenant referenced on the plat shall identify that Tract A is proposed for voluntary open space and shall not be further subdivided or developed without approval of a Type IV application, and the plat shall clearly state restrictions, purpose, and perpetual ownership of Tract A. (P)
27. The applicant has prepared a tree mitigation plan that appear to meet the development code for Option 1 and Option 4. Prior to submitting a grading permit, the applicant shall indicate where and how existing trees will be protected and provide a fee in lieu calculation. Fee in lieu payment shall occur before the site is platted. (P)
28. Prior to Occupancy of Building Permits the applicant shall record a permanent, protective covenant or easement on all properties with new or existing trees planted on private property in a form acceptable to the City for each lot with existing or mitigation trees. (P)
29. The applicant has proposed a street layout that requires 209 street trees. Final review of tree placement will occur during civil plan review and shall comply with the standards in OCMC 12.08. The species will be street trees from the Oregon City Street Tree List (or approved by a certified arborist). If there are remaining trees that cannot be planted for spacing reasons, the applicant shall pay fee in lieu for prior to platting. (P)
30. Prior to plat of the proposed subdivision, the applicant shall demonstrate that all existing structures comply with the permitted uses and dimensional standards of the R-8 Single-Family Dwelling District or have been relocated. (P)

I. BACKGROUND:

1. Existing Conditions

The project includes six tax lots that comprise a total of approximately ±22.56 acres. The project site is generally located south of the Ed's Orchard Subdivision, west of the Hazel Creek Farms Subdivision, east of the Highland Park Subdivision. The subject site is also north of the abutting Urban Growth Boundary. The subject properties have been historically used as a hazelnut orchard and Christmas tree farm. There are no designated or identified wetlands or perennial streams on the project site as verified through a previous Natural Resource Overlay District Verification application.

Figure 1. Vicinity Map



Figure 2. Existing Conditions

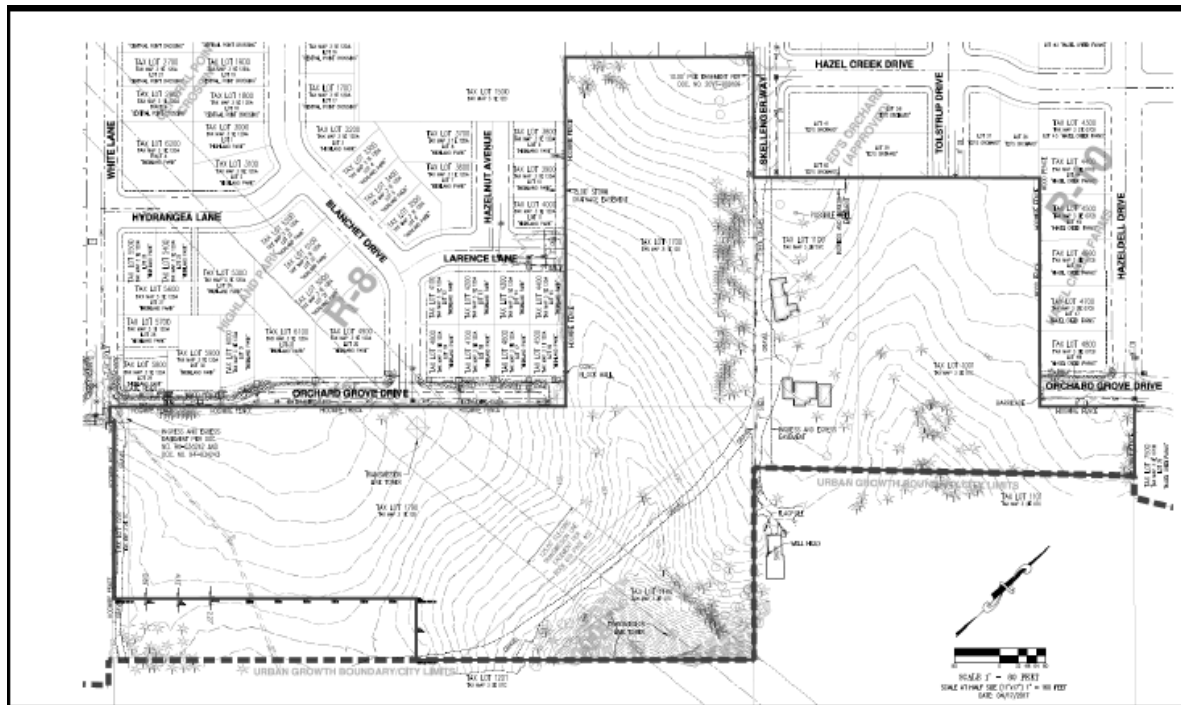
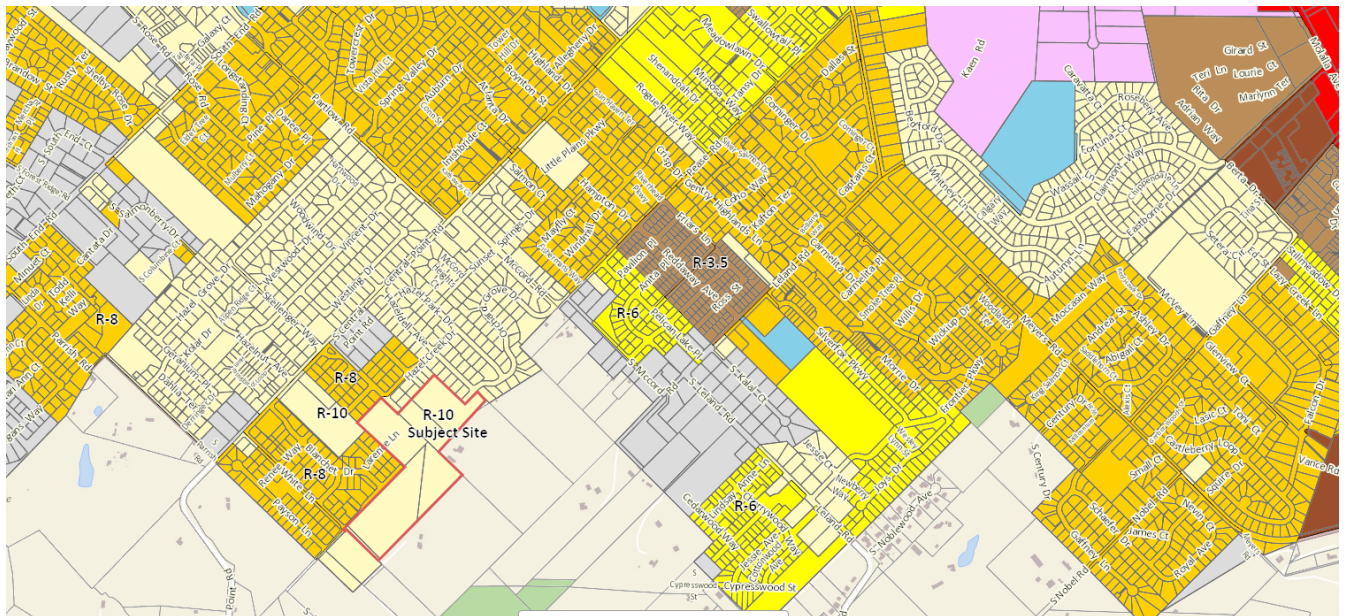




Figure 3. Existing Zoning



2. Project Description

Subdivision

The applicant proposed a 77-lot subdivision (Wheeler Farms) in the City of Oregon City for the future construction of single-family detached residential homes. The project includes the necessary streets, sidewalks, services, utilities, and other needed public improvements to support the project. The essential components of this application include:

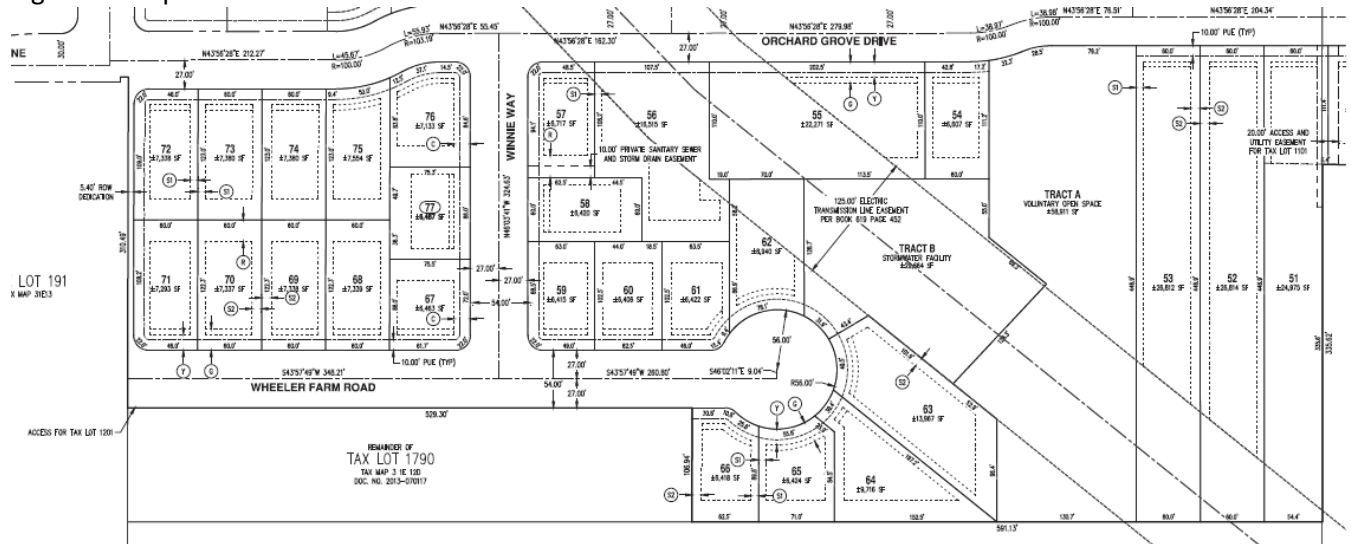
- 77 lots that meet the dimensional and density standards of the R-8 zone
- A voluntary 1.35-acre open space area
- An interconnected pedestrian and vehicular circulation system
- Creation of a cohesive neighborhood with the continuation of Orchard Grove Drive, Larence Lane, Skellenger Way, and Tolstrup Drive through the project site
- An integrated on-site stormwater management system including street side vegetated filtration swales and flow control
- An approximately ± 1.3 -acre remainder property to be incorporated into the abutting Wheeler property located off-site to the southeast

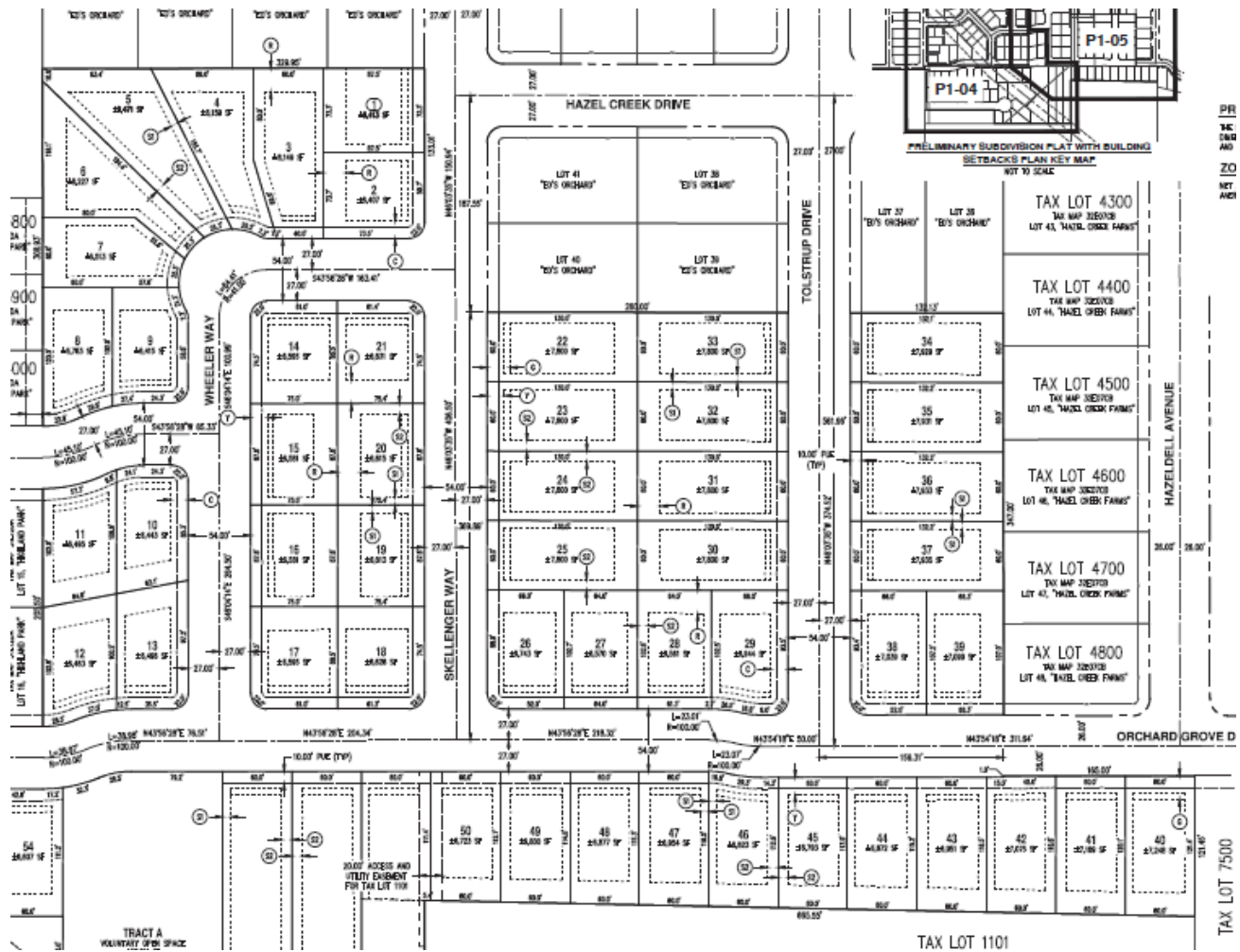
Zone Change

The applicant also proposed a zone change to change from the existing R-10 zoning designation of the Wheeler family's six tax lots to an R-8 zoning designation. The Wheeler Family properties are located in an area that is redeveloping. Surrounding residential projects such as Payson Farms No. 2, Highland Park, Central Point Crossing, and Ed's Orchard have all annexed into the City, and successfully changed the zoning from R-10 to R-8.

The Wheeler Family has owned and operated a Christmas tree and hazelnut farm on the subject properties for over 50 years. As development of surrounding properties encroached the farm, new streets and utility infrastructure were extended to the farm's boundary to facilitate future development of the property and complete the intended network for the area.

Figure 4: Proposed Site Plan





3. Municipal Code Standards and Requirements: The following sections of the Oregon City Municipal Code are applicable to this land use approval:

- 12.04 - Streets, Sidewalks, and Public Places
- 12.08 - Public and Street Trees
- 13.12 - Stormwater Management
- 15.48 - Grading, Filling and Excavating
- 16.08 - Subdivisions-Process and Standards
- 16.12 - Minimum Improvements and Design Standards for Land Divisions
- 17.08 - R-10 Single Family Dwelling District
- 17.10 - R-8 Single Family Dwelling District
- 17.41 – Tree Protection
- 17.44 - Geologic Hazards
- 17.47 - Erosion and Sediment Control
- 17.50 - Administration and Procedures
- 17.68 – Zone Change
- 17.54.100 – Fences

The City Code Book is available on-line at www.oregoncity.org.

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

5. Notice and Public Comment

Notice of the proposal was sent to various City departments, affected agencies, property owners within 300 feet, and the Neighborhood Association. Additionally, the subject property was posted with signs identifying that a land use action was occurring on the property. –

West Susan Rictor submitted a public comment relating to the size of the lots abutting her neighboring subdivision/lot.

Response: The applicant has submitted a subdivision proposal that meets the adopted development standards with conditions, including the ability to allow a 20% average of lot sizes. Ensuring that comparable lot sizes about neighboring built subdivisions is not a criteria for Subdivision or Zone Change approval nor is perception of diminished property value for smaller abutting lot.

Comments of the Public Works Department and Development Services Division are incorporated into this report and Conditions of Approval.

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

II. ANALYSIS AND FINDINGS:

CHAPTER 17.10 - “R-8” SINGLE-FAMILY DWELLING DISTRICT

17.10.040. A. Minimum lot area, eight thousand square feet;

Finding: Complies as proposed. The preliminary plans show that the average lot area in this project is approximately ±8,279 square feet. In the responses to Section 16.12.050, several of the planned lots are shown to be less than 8,000 square feet, but the average lot area across the project is approximately ±8,279 square feet. This standard is met.

17.10.040. B. Minimum lot width, sixty feet;

Finding: Complies as proposed. As shown on the preliminary plans, all lots are planned to be at least 60 feet in width. This standard is met.

17.10.040. C. Minimum lot depth, seventy-five feet;

Finding: Complies as proposed. As shown on the preliminary plans, all lots are planned to be at least 75 feet in depth. This standard is met.

17.10.040.D. Maximum building height: two and one-half stories, not to exceed thirty-five feet.

17.10.040.E

1. Front yard: fifteen feet minimum depth.

2. Front porch, ten feet minimum setback,

3. Attached and detached garage, twenty feet minimum setback from the public right-of-way where access is taken, except for alleys. Detached garages on an alley shall be setback a minimum of five feet in residential areas.

4. Interior side yard, nine feet minimum setback for at least one side yard; seven feet minimum setback for the other side yard,

5. Corner side yard, fifteen feet minimum setback,

6. Rear yard, twenty-foot minimum setback

7. Rear porch, fifteen-foot minimum setback.

17.12.040.F. *Garage standards: See Chapter 17.21—Residential Design Standards.*

G. *Maximum lot coverage: The footprint of all structures two hundred square feet or greater shall cover a maximum of forty percent of the lot area.*

Finding: Complies with condition. There are multiple existing structures onsite. Prior to plat of the proposed subdivision, the applicant shall demonstrate that all existing structures comply with the permitted uses and dimensional standards of the R-8 Single-Family Dwelling District or have been relocated. Future homes within the project plan to comply with the above-listed maximum height, setback, lot coverage and design requirements for proposed dwelling units and accessory buildings. The preliminary plans show required setbacks for future dwellings, which are planned to be reviewed for compliance at the time of building permit issuance. The applicant has demonstrated that all proposed lots have provided adequate space for typical single family development parcels. These standards are met and will show full compliance at time each house submits for building permits. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

Chapter 17.68: ZONE CHANGES AND AMENDMENT

17.68.020 Criteria

The criteria for a zone change are set forth as follows:

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

The following applicable goals and policies apply to this application:

Goal 1: Citizen Involvement

Goal 1.2: Ensure that citizens, neighborhood groups and affected property owners are involved in all phases of the comprehensive planning program.

Finding: Complies as proposed. The Oregon City Comprehensive Plan and Municipal Code include provisions to ensure citizens, neighborhood groups, and affected property owners have an opportunity to participate in the land use process. The City Comprehensive Plan is acknowledged by the State of Oregon as compliant with the Oregon Statewide Planning Goals, including Goal 1. For this application, citizens were able to attend and participate in the South End Neighborhood Association meeting held on May 18, 2017, that was open to the public. In addition to the neighborhood association meeting, citizens have the opportunity to attend and participate in public hearings before the Oregon City Planning Commission and the Oregon City Commission. In addition, notice of the proposed development was posted in multiple newspapers, on the City's website and on the subject property. In addition, notice was mailed to property owners within 300 feet of the property and emailed to a variety of agencies and members of the public including the Citizen Involvement Committee and the Neighborhood Associations. Therefore, the application is consistent with this Goal.

Goal 2: Land Use

Goal 2.1: Ensure that property planned for residential, commercial, office and industrial uses is used efficiently and that land is developed following principles of sustainable development.

Finding: Complies as proposed. This application involves a zone change from the R-10 zoning designation to the R-8 zoning designation. This represents an increase in density while still remaining in a single-family zone. Densities corresponding to the R-8 zone represent sustainable development in a more compact form that is able to capitalize on public infrastructure investment within the existing City limits, which eases external pressures to expand and sprawl beyond the current urban growth boundary, which abuts the subject properties to the south. Therefore, the application is consistent with this Goal.

Goal 2.7: Maintain the Oregon City Comprehensive Plan Land-Use Map as the official long-range

planning guide for land-use development of the city by type, density and location.

Finding: Complies as proposed. The subject properties are designated Low Density Residential (LR) by the City's Comprehensive Plan. The LR designation includes R-10, R-8, and R-6 zoning districts. This application involves a zone change from the R-10 zoning designation to the R-8 zoning designation. A change to the Comprehensive Plan designation of the site is not necessary. The subject properties are adjacent to other properties within the Low Density Residential Comprehensive Plan designation (R-8 and R-10). Therefore, the R-8 zoning designation is consistent with and maintains the Oregon City Comprehensive Plan Land-Use Map as the official long-range planning guide for land-use development. The application is consistent with this Goal.

Goal 5: Natural Resources

Policy 5.4.4: Consider natural resources and their contribution to quality of life as a key community value when planning, evaluating and assessing costs of City actions.

Finding: Complies as proposed/as conditioned According to City maps, A Natural Resource Overlay District (NROD) extends onto a portion of three of the six tax lots included in this application (Tax Lots 1180, 1790, and 1700). A Natural Resource Assessment (NRA), was prepared and included in an application for a Type I NROD Verification which was approved by the City on May 19, 2017 (NR 17-03), verifying that no natural resources exist on the Wheeler family properties and that these properties are exempt from further NROD review. Therefore, the application is consistent with this Goal. Stormwater will be equally treated under both zoning designations. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

Goal 6: Quality of Air, Water and Land Resources

Goal 6.1.1: Promote land-use patterns that reduce the need for distance travel by single occupancy vehicles and increase opportunities for walking, biking and/or transit to destinations such as places of employment, shopping and education.

Finding: Complies as proposed. The planned R-8 zoning designation promotes a compact land use pattern that reduces the amount of land dedicated to public streets, and other public infrastructure per dwelling unit. Compact land use patterns reduce travel distance by single-occupancy vehicles and increases opportunities for alternative modes of transportation including walking, biking, and transit. The properties represented in this application are located approximately one (± 1) mile from John McLoughlin Elementary School and approximately one and a half ($\pm 1\frac{1}{2}$) miles from lands being considered for Neighborhood Commercial designations (along South End Road) in the South End Concept Plan. Thus, the R-8 zoning for these properties strategically increases opportunities for greater populations to walk and bike to places of education, shopping, and employment. Therefore, the R-8 zoning designation is consistent with this Goal.

Policy 6.2.1: Prevent erosion and restrict the discharge of sediments into surface and groundwater by requiring erosion prevention measures and sediment control practices.

Finding: Complies as proposed. The application is subject to City grading, drainage, and erosion control standards. Therefore, those applications are planned to include preliminary plans that ensure erosion and sedimentation control standards are satisfied. To the extent this Goal is relevant to the application, it is satisfied.

Goal 10: Housing

Goal 10.1: Provide for the planning, development and preservation of a variety of housing types and lot sizes.

Policy 10.1.1

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

Policy 10.1.3

Designate residential land for a balanced variety of densities and types of housing, such as single-family attached and detached, and a range of multi-family densities and types, including mixed-use development.
Policy 10.1.4

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

Finding: Complies as Proposed. Since 2002, both land use decisions to increase density and policies have encouraged additional housing development. For example, units have been created through approval of zone changes that allowed greater density as well as through the creation of a variety of housing types ranging from single-family to multi-family and care facilities. With the adoption of the Comprehensive Plan in 2004, the City amended the Municipal Code to allow construction of one accessory dwelling unit in every place in which a single-family home is allowed and adopted cottage housing with density bonuses. These two unit types provided an opportunity for more diverse, and often affordable, housing opportunities within existing neighborhoods.

Moreover, the City has planned for at least 5,762 dwelling units as follows:

- The City created and approved concept plans for three areas (South End, Beavercreek, Park Place) recently brought into the UGB. The Park Place Concept Plan provides capacity for 1,091 dwelling units, the South End Concept Plan provides capacity for 1,210 dwelling units and the Beavercreek Road Concept Plan provides capacity for 1,023 dwelling units for a total of 3,324 units within the urban growth boundary.
- Since October 1, 2002, the City has granted permits for more than 2,600 dwelling units.

In addition, the City adopted a new mixed use zones, including the MUC-1, MUC-2, MUD, HC, NC and C that allows for the development of housing which is limited by building height, parking standards, lot coverage, etc (though there are some restrictions in NC). While not counted as contributing to needed housing goals in the City's Housing Technical Report (2002), the capacity from the new mixed use zones, is estimated at a potential 8,000 dwelling units within the City limits. Approximately 24.57% of the City is currently within the R-10 district while only 16.95% of the City is zoned R-8 and 13.82% is zoned R-6. Therefore, the approval of this Comprehensive Plan amendment and zone change will expand the housing types and options available within the City.

Zoning in City Limits – Acres:

C = 160.86 (2.49%)

CI = 164.66 (2.55%)

County = 245.38 (3.79%)

GI = 220.32 (3.4%)

HC = 8.82 (0.14%)

I = 475.31 (7.35%)

MUC1 = 168.46 (2.6%)

MUC2 = 44.66 (0.69%)

MUD = 510.19 (7.89%)

MUE = 156.88 (2.43%)

R2 = 262.22 (4.05%)

R3.5 = 424.15 (6.56%)

R6 = 893.99 (13.82%)

R8 = 1095.97 (16.95%)

R10 = 1589.11 (24.57%)

ROAD = 13.18 (0.2%)
WFDD = 30.44 (0.47%)

Due to the existing use of the site as well as the opportunity for residential uses throughout the City, the proposal complies with this goal.

Goal 10.2 *Provide and maintain an adequate supply of affordable housing.*

Policy 10.2.1

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

Finding: Complies as Proposed. As demonstrated in the analysis in Goal 10.1, the City has provided opportunities to allow an increase in the number of dwelling units within Oregon City as well as adopted standards which allow for smaller dwelling units which will likely be lower in cost. The proposal would allow smaller lot sizes which may be a lower cost to consumers.

Goal 11: Public Facilities

Goal 11.1: *Serve the health, safety, education, welfare and recreational needs of all Oregon City residents through the planning and provision of adequate public facilities.*

Finding: Complies as proposed. The applicant met with City and School District staff in a pre-application conference and discussed the zone change. At the pre-application conference and in subsequent correspondence with City staff, no deficiencies in terms of the adequacy of public facilities (water, sanitary sewer, storm drainage, streets) were identified. This is in part because a change from R-10 to R-8 is a shift within the Low Density Residential Comprehensive Plan Map designation and these impacts have been previously evaluated with the adoption of the City's Comprehensive Plan. School District staff did not identify concerns with this zone change application due to the small size of the subject property. Please also refer to the memorandum from a professional engineer included in the application materials discussing the adequacy of public facilities for further information. In addition, as part of any future application (including subdivision review), detailed preliminary plans are planned to be submitted for review by the City, Clackamas Fire District No.1, as well as the School District. The applicant will be required to sign a Non-Remonstrance Agreement for the purpose of ensuring sanitary sewer, storm drainage, water, and/or street improvements are extended in the future that benefit the project site. This Goal is met.

Goal 12: Transportation

Goal 12.6: *Develop and maintain a transportation system that has enough capacity of meet users' needs.*

Finding: Complies as proposed. A Transportation Planning Rule (TPR) analysis has been included in the attached Transportation Impact Study (TIS), prepared by Lancaster Engineering based upon a scope of work provided by the City's traffic engineering consultant. The TIS includes trip generation estimates for the existing R-10 zone and the planned R-8 zone, traffic count data, trip distribution and assignments, operational analysis, crash data analysis, and capacity analysis for the 20-year planning horizon consistent with the requirements of the State Transportation Planning Rule (OAR 660-012-060). Written findings are contained within the TPR analysis that demonstrate that the TPR is satisfied by the application. Therefore, the application is consistent with this Goal. John Replinger, Oregon City's transportation consultant, additionally concurs with the applicant's assertion that the requested zone change is consistent with the TPR. (Exhibit 4). In particular Mr. Replinger wrote:

...the proposal involves rezoning from R-10 to R-8. The TIS notes that in a worst case development scenario this would increase the number of dwellings by a maximum of 11. The proposed rezoning of the property from R-10 to R-8 would have negligible impacts on the operations of any study area

intersections and does not change the functional classification of any existing or planned transportation facility.

Additional findings regarding the transportation impact of the proposed subdivision are found within this report.

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

Finding: Complies as proposed. No deficiencies in terms of the adequacy of public facilities (sanitary sewer, storm drainage, water, and streets) were identified. This is in part because a change from R-10 to R-8 is a shift within the Low Density Residential Comprehensive Plan Map designation and these impacts have been previously evaluated with the adoption of the City's

Comprehensive Plan. School District staff did not identify concerns with this zone change application due to the small size of the subject property. Please refer to the memorandum from a professional engineer discussing the adequacy of public facilities for further information.

In addition, as part of any future application (including subdivision review), detailed preliminary plans are planned to be submitted for review by the City, Clackamas Fire District No.1, as well as the School District. The applicant will be required to sign a Non-Remonstrance Agreement for the purpose of ensuring sanitary sewer, storm drainage, water, and/or street improvements are extended in the future that benefit the project site. This Goal is met.

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

Response: Complies as proposed. A TPR analysis has been prepared by a registered professional traffic engineer and included in the project's TIS based upon a scope of work provided by the City's traffic engineering consultant. The TIS includes trip generation estimates for the existing R-10 zone and the planned R-8 zone, traffic count data, trip distribution and assignments, operational analysis, crash data analysis, and capacity analysis for the 20-year planning horizon consistent with the requirements of the State Transportation Planning Rule (OAR 660-012-060). John Replinger, Oregon City's transportation consultant, additionally concurs with the applicants assertion that the requested zone change is consistent with the TPR. (Exhibit 4)

Written findings are contained within the TIS that demonstrate that the TPR is satisfied by the application. Therefore, the application is consistent with this standard.

D. Statewide planning goals shall be addressed if the comprehensive plan does not contain specific policies or provisions which control the amendment.

Statewide Planning Goal 1: Citizen Involvement. Goal 1 calls for "the opportunity for citizens to be involved in all phases of the planning process." It requires each city and county to have a citizen involvement program containing six components specified in the goal. It also requires local governments to have a committee for citizen involvement (CCI) to monitor and encourage public participation in planning.

Finding: Complies as Proposed. Addressed in Comprehensive Plan Goal 1.

Statewide Planning Goal 2: Land Use Planning. Goal 2 outlines the basic procedures of Oregon's statewide planning program. It says that land use decisions are to be made in accordance with a

comprehensive plan, and that suitable "implementation ordinances" to put the plan's policies into effect must be adopted. It requires that plans be based on "factual information"; that local plans and ordinances be coordinated with those of other jurisdictions and agencies; and that plans be reviewed periodically and amended as needed.

Finding: Complies as Proposed. Addressed in Comprehensive Plan Goal 2.

Statewide Planning Goal 3: Agricultural Lands. Goal 3 defines "agricultural lands." It then requires counties to inventory such lands and to "preserve and maintain" them through farm zoning. Details on the uses allowed in farm zones are found in ORS Chapter 215 and in Oregon Administrative Rules, Chapter 660, Division 33.

Finding: Complies as Proposed. Addressed in Comprehensive Plan Goal 3.

Statewide Planning Goal 4: Forest Lands. This goal defines forest lands and requires counties to inventory them and adopt policies and ordinances that will "conserve forest lands for forest uses."

Finding: Complies as Proposed. Addressed in Comprehensive Plan Goal 4.

Statewide Planning Goal 5: Open Spaces, Scenic and Historic Area, and Natural Resources. Goal 5 covers more than a dozen natural and cultural resources such as wildlife habitats and wetlands. It establishes a process for each resource to be inventoried and evaluated. If a resource or site is found to be significant, a local government has three policy choices: preserve the resource, allow proposed uses that conflict with it, or strike some sort of a balance between the resource and the uses that would conflict with it.

Finding: Complies as Proposed. Addressed in Comprehensive Plan Goal 5.

Statewide Planning Goal 6: Air, Water and Land Resources Quality. This goal requires local comprehensive plans and implementing measures to be consistent with state and federal regulations on matters such as groundwater pollution.

Finding: Complies as Proposed. Addressed in Comprehensive Plan Goal 6.

Statewide Planning Goal 7: Areas Subject to Natural Hazards. Goal 7 deals with development in places subject to natural hazards such as floods or landslides. It requires that jurisdictions apply "appropriate safeguards" (floodplain zoning, for example) when planning for development there.

Finding: Complies as Proposed. Addressed in Comprehensive Plan Goal 7.

Statewide Planning Goal 8: Recreational Needs. This goal calls for each community to evaluate its areas and facilities for recreation and develop plans to deal with the projected demand for them. It also sets forth detailed standards for expedited siting of destination resorts.

Finding: Complies as Proposed. Addressed in Comprehensive Plan Goal 8.

Statewide Planning Goal 9: Economic Development. Goal 9 calls for diversification and improvement of the economy. It asks communities to inventory commercial and industrial lands, project future needs for such lands, and plan and zone enough land to meet those needs.

Finding: Complies as Proposed. Addressed in Comprehensive Plan Goal 9.

Statewide Planning Goal 10: Housing. This goal specifies that each city must plan for and accommodate needed housing types, such as multifamily and manufactured housing. It requires each city to inventory its buildable residential lands, project future needs for such lands, and plan and zone enough buildable land to meet those needs. It also prohibits local plans from discriminating against needed housing types.

Finding: Complies as Proposed. Addressed in Comprehensive Plan Goal 10.

Statewide Planning Goal 11: Public Facilities and Services. Goal 11 calls for efficient planning of public services such as sewers, water, law enforcement, and fire protection. The goal's central concept is that public services should be planned in accordance with a community's needs and capacities rather than be forced to respond to development as it occurs.

Finding: Complies as Proposed. Addressed in Comprehensive Plan Goal 11.

Statewide Goal 12: Transportation. The goal aims to provide "a safe, convenient and economic transportation system." It asks for communities to address the needs of the "transportation disadvantaged."

Finding: Addressed in Comprehensive Plan Goal 12.

Statewide Planning Goal 13. Energy Conservation. Goal 13 declares that "land and uses developed on the land shall be managed and controlled so as to maximize the conservation of all forms of energy, based upon sound economic principles."

Finding: Complies as Proposed. The proposal to decrease the minimum lot size allows for additional dwelling units within the same square footage of land, resulting in a more efficient use of city streets and utilities. In addition, the applicant has proposed to retain an open space with a large tree.

Statewide Planning Goal 14: Urbanization. This goal requires cities to estimate future growth and needs for land and then plan and zone enough land to meet those needs. It calls for each city to establish an "urban growth boundary" (UGB) to "identify and separate urbanizable land from rural land." It specifies seven factors that must be considered in drawing up a UGB. It also lists four criteria to be applied when undeveloped land within a UGB is to be converted to urban uses.

Finding: Complies as Proposed. The proposal would allow more efficient urbanization of the subject site within the Urban Growth Boundary.

Statewide Planning Goal 15: Willamette River Greenway. Goal 15 sets forth procedures for administering the 300 miles of greenway that protects the Willamette River.

Finding: Complies as Proposed. This goal is not directly applicable to the proposed amendments and use of the property as the site is not within the designated Willamette River Greenway.

Statewide Planning Goal 16: Estuarine Resources

Statewide Planning Goal 17: Coastal Shorelands

Statewide Planning Goal 18: Beaches and Dunes

Statewide Planning Goal 19: Ocean Resources

Finding: Complies as Proposed. These goals are not applicable as the site is not located in any of the identified areas.

OAR 660-012-0060(1)-(3) TRANSPORTATION PLANNING RULE (TPR)

The purpose of the TPR is "to implement Statewide Planning Goal 12 (Transportation) and promote the development of safe, convenient and economic transportation systems that are designed to reduce reliance on the automobile so that the air pollution, traffic and other livability problems faced by urban areas in other parts of the country might be avoided." A major purpose of the Transportation Planning Rule (TPR) is to promote more careful coordination of land use and transportation planning, to ensure that planned land uses are supported by and consistent with planned transportation facilities and improvements.

Finding: Addressed in Comprehensive Plan Goal 12.

OAR CHAPTER 660, DIVISION 7, "METROPOLITAN HOUSING RULE"

The purpose of this division is to ensure opportunity for the provision of adequate numbers of needed housing units and the efficient use of land within the Metro urban growth boundary, to provide greater certainty in the development process and so to reduce housing costs.

Finding: Complies as Proposed. Please refer to the findings in Chapter 10 of the Comprehensive Plan above.

REGIONAL TRANSPORTATION PLAN

The Regional Transportation Functional Plan (RTFP) directs how Oregon City should implement the RTP through the TSP and other land use regulations. The RTFP codifies existing and new requirements which local plans must comply with to be consistent with the RTP. If a TSP is consistent with the RTFP, Metro will find it to be consistent with the RTP.

Finding: Addressed in Comprehensive Plan Goal 12.

URBAN GROWTH MANAGEMENT METRO FUNCTIONAL PLAN

3.07.810.C states that after one year following acknowledgement of a functional plan requirement, cities and counties that amend their comprehensive plans and land use regulations shall make such amendments in compliance with the new functional plan requirement.

Finding: Complies as Proposed. The City of Oregon City's comprehensive plan and land use regulations associated with comprehensive plan and zone change amendments are in compliance with the UGB Metro Functional Plan.

METRO FUNCTIONAL PLAN

3.07.120(e), "Housing Capacity" A city or county may reduce the minimum zoned capacity of a single lot or parcel so long as the reduction has a negligible effect on the city's or county's overall minimum zoned residential capacity.

Finding: Complies as Proposed. Please refer to the findings in Chapter 10 of the Comprehensive Plan above.

Title 12 - STREETS, SIDEWALKS AND PUBLIC PLACES

Chapter 12.04 - STREETS, SIDEWALKS AND PUBLIC PLACES

12.04.003 Applicability.

A. Compliance with this chapter is required for all land divisions, site plan and design review, master plan, detailed development plan and conditional use applications and all public improvements.

B. Compliance with this chapter is also required for new construction or additions which exceed fifty percent of the existing square footage, of all single and two-family dwellings. All applicable single and two-family dwellings shall provide any necessary dedications, easements or agreements as identified in the transportation system plan and this chapter. In addition, the frontage of the site shall comply with the following prioritized standards identified in this chapter:

- 1. Improve street pavement, construct curbs, gutters, sidewalks and planter strips; and*
- 2. Plant street trees.*

The cost of compliance with the standards identified in 12.04.003.B.1 and 12.04.003.B.2 is limited to ten percent of the total construction costs. The value of the alterations and improvements as determined by the community development director is based on the entire project and not individual building permits. It is the responsibility of the applicant to submit to the community development director the value of the required improvements. Additional costs may be required to comply with other applicable requirements associated with the proposal such as access or landscaping requirements.

Finding: Applies. The applicant has indicated that they will comply with the provisions of this chapter, as shown in the response to the approval criteria in this narrative. Street improvements and street trees will comply with the standards of the Oregon City Municipal Code, addressed later in this narrative.

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

A. The city has jurisdiction and exercises regulatory management over all public rights-of-way within the city under authority of the City Charter and state law by issuing separate public works right-of-way permits or permits as part of issued public infrastructure construction plans. No work in the public right-of-way shall be done without the proper permit. Some public rights-of-way within the city are regulated by the State of Oregon Department of Transportation (ODOT) or Clackamas County and as such, any work in these streets shall conform to their respective permitting requirements.

B. Public rights-of-way include, but are not limited to, streets, roads, highways, bridges, alleys, sidewalks, trails, paths, public easements and all other public ways or areas, including the subsurface under and air space over these areas. C. The city has jurisdiction and exercises regulatory management over each public right-of-way whether the city has a fee, easement, or other legal interest in the right-of-way. The city has jurisdiction and regulatory management of each right-of-way whether the legal interest in the right-of-way was obtained by grant, dedication, prescription, reservation, condemnation, annexation, foreclosure or other means.

D. No person may occupy or encroach on a public right-of-way without the permission of the city. The city grants permission to use right-of-way by franchises, licenses and permits.

E. The exercise of jurisdiction and regulatory management of a public right-of-way by the city is not official acceptance of the right-of-way, and does not obligate the city to maintain or repair any part of the right-of-way.

Finding: Complies as proposed. The applicant understands that the City has jurisdictional management over the future public rights-of-way within the Wheeler Farms Subdivision.

12.04.007 Modifications.

The review body may consider modification of this standard resulting from constitutional limitations restricting the city's ability to require the dedication of property or for any other reason, based upon the criteria listed below and other criteria identified in the standard to be modified. All modifications shall be processed through a Type II Land Use application and may require additional evidence from a transportation engineer or others to verify compliance.

Finding: Complies. This application includes two modifications to the standards of Section 12.04 Streets, Sidewalks and Public Places. Staff finds that it is reasonable to allow these two modification as they provide a design solution based on topography, powerlines and existing development patterns and by doing so enable the remainder of the subdivision to seamlessly connect to existing development and retain a pedestrian friendly block pattern to the extent practicable. Development Services and Planning Staff support the modification request.

Modification 1:

Finding: Complies as proposed. Subsection 12.04.195 Spacing standards, requires that all blocks have a maximum block spacing of 530 feet between streets. A pedestrian accessway must be provided every 330 feet if a block exceeds the maximum spacing of 530 feet. The "island" block created by extending Skellenger Way and Tolstrup Drive through the project between Hazel Creek Drive, and the planned extension of Orchard Grove Drive, exceeds the maximum block length standard of 530 feet by approximately ± 26 feet (± 556 feet) when considered with the relevant portion of the Ed's Orchard Subdivision to the north. City staff have suggested in the updated Pre-Application Conference Summary, dated December 28, 2016, that the applicant request a waiver for the requirement for a mid-block pedestrian path. Therefore, the following modification standards are addressed.

Modification 2

Finding: Complies as proposed. Subsection 12.04.225 Street design—Cul-de-sacs and dead-end streets, requires cul-de-sacs to be no greater than 200 feet in length measured from the right-of-way line of the

nearest intersecting street to the back of the cul-de-sac curb face. The planned cul-de-sac in the southeast portion of the project will exceed the maximum 200-foot length standard by approximately ± 89 feet due to the project's unique circumstances (adjacent to the Urban Growth Boundary (UGB), and the existing Portland General Electric (PGE) easement running through the southeast end of the project). The following standards are applicable to the necessary modification to exceed the maximum 200-foot length criterion of Subsection 12.04.225.

A. The modification meets the intent of the standard;

Modification 1

Finding: Complies as Proposed. The intent of requiring a midblock pedestrian connection through blocks exceeding the maximum spacing of 530 feet is to minimize pedestrian travel times, and provide safe, and convenient access to local amenities.

As shown in the preliminary plans, the project includes a voluntary ± 1.35 acre open space tract (Tract A), which is considered the primary pedestrian destination within the project. Tract A is approximately ± 0.2 miles from the intersection of Hazel Creek Drive and Tolstrup Drive, the furthest point of the "island" block from Tract A. According to Industry standards, most walking trips are less than ± 0.5 miles. Because the greatest distance required to travel from the "island" block to Tract A is within an acceptable limit, the small amount that the "island" block exceeds the standard (± 26 feet), coupled with the small number of future residents a midblock pedestrian connection would serve, the benefits do not justify the construction and future maintenance of such a walkway. In addition, a midblock pedestrian connection between Tolstrup Drive and Skellenger Way through the "island" block would still require residents to travel a maximum distance of ± 0.2 miles to the project's open space tract (Tract A).

Potential pedestrian trips from the project to the nearest collector street (South Central Point Road) are also below the ± 0.5 -mile acceptable walking trip distance. Because this project includes the extension of existing street patterns, future residents will have multiple travel options to South Central Point Road including, Hazeldell Drive, Tolstrup Drive, Skellenger Way, Blanchet Drive, and White Lane. A midblock pedestrian connection through the "island" block will serve no benefit to future residents accessing South Central Point Road. Staff concurs with the applicant's proposed Modification #1.

Modification 2

Finding: Complies as Proposed. As mentioned previously, the modification to exceed the maximum 200-foot length standard by approximately ± 89 feet is due to the project's unique circumstances (adjacent to the Urban Growth Boundary (UGB), and the existing Portland General Electric (PGE) easement running through the southeast end of the project). Other than the length, the planned cul-de-sac has been designed with sufficient radius to provide adequate turnaround for emergency vehicles, meet minimum dimensional requirements, and provide access to no more than 25 dwelling units, which meets the intent of Subsection 12.04.225. Staff concurs with the applicant's proposed Modification #2.

B. The modification provides safe and efficient movement of pedestrians, motor vehicles, bicyclists and freight;

Modification 1

Finding: Complies as Proposed. This project includes fully improved streets, including 5-foot wide sidewalks behind 5-foot wide planter strips, ADA compliant curb ramps, and appropriately marked street crossings, creating an open, safe, and inviting walking environment to both the interior of the project and to South Central Point Road. Historically, midblock pedestrian connections have been areas of low visibility, high maintenance, and are disruptive to adjoining property owners. The benefits of a mid-block pedestrian

connection between Tolstrup Drive and Skellenger Way through the “island” block to alleviate future residents from having to walk an extra ±26 feet does not justify the construction and maintenance of such a walkway. Therefore, it can be concluded that the planned sidewalk improvements within the project provide safe and efficient movement of pedestrians to areas of interest. Staff concurs with the applicant’s proposed Modification #1.

Modification 2

Finding: Complies as Proposed. As shown on the preliminary plans, the planned cul-de-sac has been designed with 5-foot wide sidewalks behind 5-foot wide planter strips, sufficient radius to provide adequate turn-around for emergency vehicles and other motor vehicles, and meet minimum dimensional requirements. The necessary modification to exceed the maximum allowable cul-de-sac length of 200 feet will not affect the efficient movement of pedestrians, motor vehicles, bicyclists, and freight using the planned cul-de-sac. Staff concurs with the applicant’s proposed Modification #2.

C. The modification is consistent with an adopted plan; and

Modification 1

Finding: Complies as Proposed. Oregon City’s Transportation System Plan (TSP) addresses maximum public street spacing standards and the need for sufficiently spaced pedestrian crossings. However, the TSP does not account for infill projects that extend existing street patterns of adjoining projects that create blocks that exceed the maximum street spacing standards, which would otherwise meet the standard. Therefore, the necessary modification to exceed the maximum street spacing standards of Subsection 12.04.195 does not conflict with City’s TSP. The requested modification is the least needed to alleviate the construction of unnecessary infrastructure based on the minimal distance the “island” block exceeds the standard, and the number of future residents served. Staff concurs with the applicant’s proposed Modification #1.

Modification 2

Finding: Complies as Proposed. Oregon City’s TSP limits the use of cul-de-sacs to situations where barriers prevent full street connections. The TSP also limits cul-de-sacs to a maximum length of 200 feet. Based on the irregular shape of the project area, its location adjacent to the Urban Growth Boundary (UGB), and the Portland General Electric (PGE) easement running through the site, the modification to exceed the maximum cul-de-sac length of 200 feet is necessary to provide adequate access to planned lots within the subdivision. Allowing a modification to Title 12 – Streets, Sidewalks and Public Places, coupled with the unique circumstances of the project site, while meeting housing needs within City limits, will not violate the City’s TSP. No other plans have been adopted that effect the project area. Staff concurs with the applicant’s proposed Modification #2.

D. The modification is complementary with a surrounding street design; or, in the alternative;

Modification 1

Finding: Complies as Proposed. The maximum street spacing standards of Subsection 12.04.195 require a midblock pedestrian connection within the project’s “island” block between Tolstrup Drive and Skellenger Way. This modification compliments surrounding street design by extending sidewalks along the project’s internal streets to direct pedestrian traffic along pedestrian specific routes that have been designed to capture pedestrian traffic in a controlled, safe, and vibrant pedestrian environment that does not have a negative effect on lots within the “island” block or their future owners. Staff concurs with the applicant’s proposed Modification #1.

Modification 2

Finding: Complies as Proposed. The modification to exceed the maximum cul-de-sac length of 200 feet by approximately ±89 feet compliments the irregular shape of the project area, and is the minimum modification needed based on its location adjacent to the UGB, and the PGE easement running through the project area. The necessary modification will have no impact on surrounding street design. Staff concurs with the applicant's proposed Modification #2.

E. If a modification is requested for constitutional reasons, the applicant shall demonstrate the constitutional provision or provisions to be avoided by the modification and propose a modification that complies with the state or federal constitution. The city shall be under no obligation to grant a modification in excess of that which is necessary to meet its constitutional obligations.

Finding: Not Applicable. The modification is not for constitutional reasons.

CHAPTER 16.08 – SUBDIVISIONS PROCESS AND STANDARDS

16.08.025 - Preliminary subdivision plat—Required plans.

The preliminary subdivision plat shall specifically and clearly show the following features and information on the maps, drawings, application form or attachments. All maps and site drawings shall be at a minimum scale of one inch to fifty feet.

16.08.025.A. Site Plan. A detailed site development plan showing the location and dimensions of lots, streets, pedestrian ways, transit stops, common areas, building envelopes and setbacks, all existing and proposed utilities and improvements including sanitary sewer, stormwater and water facilities, total impervious surface created (including streets, sidewalks, etc.) and an indication of existing and proposed land uses for the site. If required by staff at the pre-application conference, a subdivision connectivity analysis shall be prepared by a transportation engineer licensed by the State of Oregon that describes the existing and future vehicular, bicycle and pedestrian connections between the proposed subdivision and existing or planned land uses on adjacent properties. The subdivision connectivity analysis shall include shadow plats of adjacent properties demonstrating how lot and street patterns within the proposed subdivision will extend to and/or from such adjacent properties and can be developed meeting the existing Oregon City Municipal Code design standards.

Finding: Complies as Proposed. The development application included a preliminary site plan displaying the necessary submittal requirements. This standard is met.

16.08.025.B. Traffic/Transportation Plan. The applicant's traffic/transportation information shall include two elements: (1) A detailed site circulation plan showing proposed vehicular, bicycle, transit and pedestrian access points and connections to the existing system, circulation patterns and connectivity to existing rights-of-way or adjacent tracts, parking and loading areas and any other transportation facilities in relation to the features illustrated on the site plan; and (2) a traffic impact study prepared by a qualified professional transportation engineer, licensed in the state of Oregon, that assesses the traffic impacts of the proposed development on the existing transportation system and analyzes the adequacy of the proposed internal transportation network to handle the anticipated traffic and the adequacy of the existing system to accommodate the traffic from the proposed development. The City Engineer may waive any of the foregoing requirements if determined that the requirement is unnecessary in the particular case.

Finding: Complies as Proposed. The preliminary plans included in the application materials include a Preliminary Conceptual Connectivity Analysis, Traffic/Transportation, Circulation, and Conceptual Redevelopment Plan, which shows the planned connections between the project and adjacent residential projects. A Transportation Impact Study, prepared in accordance with City requirements, is also included in the submittal materials (Exhibit 3a)

16.08.025.C. Natural Features Plan and Topography, Preliminary Grading and Drainage Plan. The applicant shall submit a map illustrating all of the natural features and hazards on the subject property and, where

practicable, within two hundred fifty feet of the property's boundary. The map shall also illustrate the approximate grade of the site before and after development. Illustrated features must include all proposed streets and cul-de-sacs, the location and estimated volume of all cuts and fills, and all stormwater management features. This plan shall identify the location of drainage patterns and courses on the site and within two hundred fifty feet of the property boundaries where practicable. Features that must be illustrated shall include the following:

- 1. Proposed and existing street rights-of-way and all other transportation facilities;*
- 2. All proposed lots and tracts;*
- 3. All trees proposed to be removed prior to final plat with a diameter six inches or greater diameter at breast height (d.b.h);*
- 4. All natural resource areas pursuant to Chapter 17.49, including all jurisdictional wetlands shown in a delineation according to the Corps of Engineers Wetlands Delineation Manual, January, 1987 edition, and approved by the Division of State Lands and wetlands identified in the City of Oregon Local Wetlands inventory, adopted by reference in the City of Oregon City comprehensive plan;*
- 5. All known geologic and flood hazards, landslides or faults, areas with a water table within one foot of the surface and all flood management areas pursuant to Chapter 17.42*
- 6. The location of any known state or federal threatened or endangered species;*
- 7. All historic areas or cultural features acknowledged as such on any federal, state or city inventory;*
- 8. All wildlife habitat or other natural features listed on any of the city's official inventories.*

Finding: Complies as Proposed. The development application included preliminary site and drainage plans as well as the proposed lots, street, and trees proposed to be removed. A portion of the subject site is located within the Natural Resource Overlay District, though previously received an exemption.

16.08.025.D. Archeological Monitoring Recommendation. For all projects that will involve ground disturbance, the applicant shall provide,

- 1. A letter or email from the Oregon State Historic Preservation Office Archaeological Division indicating the level of recommended archeological monitoring on-site, or demonstrate that the applicant had notified the Oregon State Historic Preservation Office and that the Oregon State Historic Preservation Office had not commented within forty-five days of notification by the applicant; and*
- 2. A letter or email from the applicable tribal cultural resource representative of the Confederated Tribes of the Grand Ronde, Confederated Tribes of the Siletz, Confederated Tribes of the Umatilla, Confederated Tribes of the Warm Springs and the Confederated Tribes of the Yakama Nation indicating the level of recommended archeological monitoring on-site, or demonstrate that the applicant had notified the applicable tribal cultural resource representative and that the applicable tribal cultural resource representative had not commented within forty-five days of notification by the applicant.*

If, after forty-five days notice from the applicant, the Oregon State Historic Preservation Office or the applicable tribal cultural resource representative fails to provide comment, the city will not require the letter or email as part of the completeness review. For the purpose of this section, ground disturbance is defined as the movement of native soils. The community development director may waive any of the foregoing requirements if the community development director determines that the requirement is unnecessary in the particular case and that the intent of this chapter has been met.

Finding: Complies as Proposed. A description of the proposed development was sent to the Oregon State Historic Preservation Office (SHPO) as well as various tribes for review.

16.08.030.B. Timely Provision of Public Services and Facilities. The applicant shall explain in detail how and when each of the following public services or facilities is, or will be, adequate to serve the proposed development by the time construction begins:

16.08.030.B.1. Water

Finding: Complies with Condition. This application includes the extension of an existing 8-inch water main located in Orchard Grove Drive through the project and connect to existing water mains located in Larence

Lane, Skellenger Way, and Tolstrup Drive to create a looped water system. Each lot is planned to be provided with an individual meter and service lateral from the extended 8 inch water main.

Temporary looping is required along White Lane ROW until an 8" main is extended when White Lane Right-of-Way is fully developed. This criterion is met. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

16.08.030.B.2. Sanitary Sewer

Finding: Complies with Condition. This application includes the extension of the existing 8-inch sanitary sewer main located in Orchard Grove Drive through the project. Each lot within the project is planned to be provided an individual service lateral from the extended 8-inch sanitary sewer main.

The Applicant must demonstrate all properties can be served with a gravity sewer system meeting the City's sanitary sewer design standards, and all other applicable city design standards. Otherwise, sanitary sewer pump station or other approved method shall be provided. This criterion is met. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

16.08.030.B.3. Storm Sewer and Storm Water Drainage

Finding: Complies with Condition. On-site stormwater is planned to be collected and conveyed to a stormwater facility located in Tract B adjacent to the planned Open Space Tract (Tract A). Stormwater is to be detained and treated in the stormwater facility and discharged into an existing drainage channel south of the project. For additional information, please refer to the Preliminary Stormwater Report and preliminary plans included in the application materials. This criterion is met. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

16.08.030.B.4. Parks and Recreation

Finding: Complies as Proposed. Park System Development Charges will be paid at the time building permits are issued for each lot within the subdivision.

16.08.030.B.5. Traffic and Transportation

Finding: Complies as proposed. The application materials include a Transportation Impact Study for this project, prepared by Lancaster Engineering. Appropriate street improvements, connecting to existing transportation facilities, are shown in the preliminary plans. The TIS found that the existing streets, along with those planned, adequately accommodate the amount of additional traffic created by this project. Transportation Systems Development Charges are planned to be paid for each new home prior to issuance of a building permit. These fees fund future City and County public works street improvement projects. (Exhibit 2). The TAL was reviewed by John Replinger of Replinger and Associates, City transportation consultant, who wrote:

The engineer concludes that traffic operations would be adequate at all analyzed intersections. He concludes no mitigation is needed for traffic operations. He concludes no safety mitigation is necessary. I concur with the conclusions of the applicant's engineer.

16.08.030.B.6. Schools

Finding: Complies as Proposed. The Oregon City School District provides education services for the children of future residents. School funding is provided through a variety of sources including property taxes and surcharges that will be assessed at the time building permits are issued for each lot in the subdivision. Wes Rogers, Director of Operations for the Oregon City School District submitted comments identifying that there are no issues with the development proposal (Exhibit 5).

The Oregon City School District will provide school services for the children of future residents. School funding is provided through a variety of sources, including construction excise taxes that are to be assessed with issuance of future building permits for the homes and future property taxes. This standard is met.

16.08.030.B.7. Fire and Police Services

Finding: Complies with Condition. Clackamas County Fire District No. 1 will provide fire services to the subject site. There are no noted concerns about fire services and property taxes will be paid by future property owners to fund fire protection services thereby ensuring funding for protection services. In the event that fire hydrants are required by Clackamas County Fire District No. 1 requirements, staff finds there is adequate area available on the subject property for such installation. Prior to public facilities construction plan approval, the applicant shall submit the proposed development plans to Clackamas County Fire District No. 1 for review and install fire hydrants within the proposed development.

The City of Oregon City Police Department will provide police services to the subject site. Property taxes will be paid by future property owners to fund police protection services, thereby ensuring funding for police services.

Per Annexation AN 06-02, each new home submitted before July 1, 2018 is required to mitigate the impact of the new home on the Police services they will provide with a fee of \$3,500. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

Where adequate capacity for any of these public facilities and services is not demonstrated to be currently available, the Applicant shall describe how adequate capacity in these services and facilities will be financed and constructed before recording of the plat;

Finding: Not Applicable. All public facilities and services are or are planned to be available to accommodate this project. Therefore, no additional description of financing and construction of adequate capacity is required. Therefore, this standard does not apply to this application.

16.08.030.C. Approval Criteria and Justification for Variances. The applicant shall explain how the proposed subdivision is consistent with the standards set forth in Chapter 16.12, 12.04 and any other applicable approval standards identified in the municipal code. For each instance where the applicant proposes a variance from some applicable dimensional or other numeric requirement, the applicant shall address the approval criteria from Chapter 17.60.

Finding: Not Applicable. This application does not include any requests for variances.

16.08.030.D. Drafts of the proposed covenants, conditions and restrictions (CC&Rs), maintenance agreements, homeowner association agreements, dedications, deeds easements, or reservations of public open spaces not dedicated to the city, and related documents for the subdivision;

Finding: Complies as Proposed. The submitted a copy of the draft CC&Rs for the subdivision. Staff did not see any conflict with adopted city standards.

16.08.030.E. A description of any proposed phasing, including for each phase the time, acreage, number of residential units, amount of area for nonresidential use, open space, development of utilities and public facilities;

Finding: Complies as Proposed. The applicant proposed to construct the subdivision in a single phase.

16.08.030.F. Overall density of the subdivision and the density by dwelling type for each.

Finding: Complies as Proposed. Combined, the Wheeler Family properties total approximately ±22.56 acres of land. As stated previously, the site is subject to a separate application that, upon approval, will designate the site with R-8 zoning. The Wheeler Farms Subdivision is planned to include 77 lots for the future construction of single-family detached homes spread over the majority of the subject site (±21.26 acres). The remaining ±1.3 acres is planned to be retained by Don and Roxanne Wheeler where it is adjacent to their existing home (located off-site to the southeast). If the remainder property (to be retained by Don and Roxanne Wheeler) was to be subdivided at some point in the future, it could support ±7 dwelling units consistent with R-8 zoning.

On a gross acreage basis, the 77-lot subdivision (on ±21.26 acres) equates to ±3.7 dwelling units per acre. Based on the site's net developable area (±14.39 acres – after deduction of steeply sloped areas, open space, and public facilities/right-of-way), the density included in the subdivision is equal to ±5.35 dwelling units per acre. In this case, the applicant is voluntarily preserving a ±1.35-acre open space area within the subdivision. This area is not required to be dedicated as open space and if it was not set aside as open space (and thus included in the net developable area) then the density of the 77-lot subdivision would be lower still (±4.90 dwelling units per acre.) Lot sizes in new subdivisions are permitted to be as small as 80% of the minimum size required in the underlying zone provided the average lot size (for the entire subdivision) is as large or larger than the minimum required lot size in the underlying zone. In the R-8 zone, the minimum average lot size is 8,000 square feet. Based on the site's net developable area (±14.39 acres or ± 626,649 square feet), the maximum number of lots that can be included in the subdivision is 78. Based on the site's net developable area, the minimum number of lots that are required is 63.

As described above, the applicant is voluntarily preserving ±1.35 acres (±58,911 square feet) of open space within the subdivision. If this area was not planned to be preserved as open space, it would have been permitted to be developed as lots for additional homes. However, even with the open space calculated in the density, the site is being developed in excess of the 80% minimum of 68 lots. ($626,649 + 58,911 = 685,560$ $685,560 / 8,000 = 85.695$ $85.695 * 0.8 = 68$). Based upon the above, the 77-lot subdivision does not exceed the maximum number of lots permitted and provides in excess of the minimum number of required lots. Thus, density requirements for the project are satisfied.

16.08.045 - Building site—Frontage width requirement.

Each lot in a subdivision shall abut upon a cul-de-sac or street other than an alley for a width of at least twenty feet.

Finding: Complies as Proposed. As shown in the preliminary plans, each proposed lot's street frontage is in excess of twenty feet.

16.08.050 - Flag lots in subdivisions.

Flag lots shall not be permitted within subdivisions except as approved by the community development director and in compliance with the following standards.

A. Where the applicant can show that the existing parcel configuration, topographic constraints or where an existing dwelling unit is located so that it precludes a land division that meets the minimum density, lot width and/or depth standards of the underlying zone.

Finding: Flag lots are not part of this application.

CHAPTER 17.49 Natural Resource Overlay District-

Finding: Not applicable. According to City maps, A Natural Resource Overlay District (NROD) extends onto a portion of three of the six tax lots included in this application (Tax Lots 1180, 1790, and 1700). A Natural Resource Assessment (NRA), was prepared and included in an application for a Type I NROD Verification

which was approved by the City on May 19, 2017 (NR 17-03), verifying that no natural resources exist on the Wheeler family properties and that these properties are exempt from further NROD review.

CHAPTER 16.12 - MINIMUM IMPROVEMENTS AND DESIGN STANDARDS FOR LAND DIVISIONS^[3]

16.12.020 - Blocks—Generally.

The length, width and shape of blocks shall take into account the need for adequate building site size, convenient motor vehicle, pedestrian, bicycle and transit access, control of traffic circulation, and limitations imposed by topography and other natural features.

Finding: Complies as Proposed. The planned lengths, widths, and shapes of blocks are largely determined by the continuation of existing streets, the development pattern abutting the subject property, and the zoning and configuration of the subject property itself. Public streets with sidewalks are planned to extend through the project to provide access to lots and future homes, and enhance neighborhood connectivity and circulation. As mentioned in the Pre-Application Summary, and addressed previously under Subsection 12.04.195 Spacing Standards, the project's "island" block created by the extension of the adjoining Skellenger Way and Tolstrup Drive, exceeds the maximum block length standard of 530 feet by approximately ± 26 feet (± 556 feet) requiring a midblock pedestrian connection between Skellenger Way and Tolstrup Drive. City staff have suggested in the Pre-Application Summary to include a modification to Subsection 12.04.195 to waive the required midblock pedestrian connection, which has been addressed previously in this narrative under Subsection 12.04.007 Modifications.

16.12.030 - Blocks—Width.

The width of blocks shall ordinarily be sufficient to allow for two tiers of lots with depths consistent with the type of land use proposed.

Finding: Complies as Proposed. The widths of the planned blocks within the project will generally allow for two tiers of lots. New lots within the subdivision will average at a minimum, 8,000 square feet in area, pursuant to the requirements of the R-8 zone, and are planned to be suitable for single-family homes. This standard is met. Please refer to the written response provided to Chapter 12.04 for appropriate findings demonstrating compliance with the street design standards.

16.12.040 - Building sites.

The size, width, shape and orientation of building sites shall be appropriate for the primary use of the land division, and shall be consistent with the residential lot size provisions of the zoning ordinance with the following exceptions:

A. Where property is zoned and planned for commercial or industrial use, the community development director may approve other widths in order to carry out the city's comprehensive plan. Depth and width of properties reserved or laid out for commercial and industrial purposes shall be adequate to provide for the off-street service and parking facilities required by the type of use and development contemplated.

B. Minimum lot sizes contained in [Title 17](#) are not affected by those provided herein.

Finding: Complies as Proposed. The size, width, depth, shape, and orientation of the planned lots comply with the requirements for the R-8 zoning district, and the resulting building sites are illustrated on the preliminary plans.

16.12.045 - Building sites—Minimum density.

All subdivision layouts shall achieve at least eighty percent of the maximum density of the base zone for the net developable area as defined in [Chapter 17.04](#).

Finding: Please refer to the analysis in Section 16.08.030.F of this report.

16.12.050 - Calculations of lot area.

A subdivision in the R-10, R-8, R-6, R-5, or R-3.5 dwelling district may include lots that are up to twenty percent less than the required minimum lot area of the applicable zoning designation provided the entire subdivision on average meets the minimum site area requirement of the underlying zone. The average lot area is determined by calculating the total site area devoted to dwelling units and dividing that figure by the proposed number of dwelling lots.

Accessory dwelling units are not included in this determination nor are tracts created for non-dwelling unit purposes such as open space, stormwater tracts, or access ways.

A lot that was created pursuant to this section may not be further divided unless the average lot size requirements are still met for the entire subdivision.

When a lot abuts a public alley, an area equal to the length of the alley frontage along the lot times the width of the alley right-of-way measured from the alley centerline may be added to the area of the abutting lot in order to satisfy the lot area requirement for the abutting lot. It may also be used in calculating the average lot area.

Finding: Complies as Proposed. The project includes 77 lots for the future construction of single-family detached homes in the R-8 zoning district. As permitted above, a number of the planned lots are less than 8,000 square feet. The smallest of the future lots is approximately ±6,406 square feet, which is within the maximum 20% reduction allowed by this standard. A number of the planned lots are also larger than 8,000 square feet with the largest lot being ±26,814 square feet. The average lot area is ±8,279 square feet, which exceeds the minimum square footage requirement of the R-8 zone.

16.12.055 - Building site—Through lots.

Through lots and parcels shall be avoided except where they are essential to provide separation of residential development from major arterials or to overcome specific disadvantages of topography of existing development patterns. A reserve strip may be required. A planting screen restrictive covenant may be required to separate residential development from major arterial streets, adjacent nonresidential development, or other incompatible use, where practicable. Where practicable, alleys or shared driveways shall be used for access for lots that have frontage on a collector or minor arterial street, eliminating through lots.

Finding: Complies as Proposed. No through lots are proposed.

16.12.060 - Building site—Lot and parcel side lines.

The lines of lots and parcels, as far as is practicable, shall run at right angles to the street upon which they face, except that on curved streets they shall be radial to the curve.

Finding: Complies as Proposed. As far as practicable, the proposed lot lines and parcels run at right angles to the street upon which they face. This standard is met.

16.12.065 - Building site—Grading.

Grading of building sites shall conform to the State of Oregon Structural Specialty Code, Chapter 18, any approved grading plan and any approved residential lot grading plan in accordance with the requirements of [Chapter 15.48](#), [16.12](#) and the Public Works Stormwater and Grading Design Standards, and the erosion control requirements requirements of Chapter 17.47 are met. Please refer to the preliminary plans for additional information.

Finding: Complies as Proposed. The preliminary plans show project grading, including building site grading (where appropriate). The preliminary plans demonstrate that Chapter 15.48, Chapter 16.12, the Public Works Stormwater and Grading Design Standards, and the erosion control requirements of Chapter 17.47 are met. Please refer to the preliminary plans for additional information.

16.12.070 - Building site—Setbacks and building location.

This standard ensures that lots are configured in a way that development can be oriented toward streets to provide a safe, convenient and aesthetically pleasing environment for pedestrians and bicyclists. The

objective is for lots located on a neighborhood collector, collector or minor arterial street locate the front yard setback on and design the most architecturally significant elevation of the primary structure to face the neighborhood collector, collector or minor arterial street.

A. The front setback of all lots located on a neighborhood collector, collector or minor arterial shall be orientated toward the neighborhood collector, collector or minor arterial street.

B. The most architecturally significant elevation of the house shall face the neighborhood collector, collector or minor arterial street.

C. On corner lots located on the corner of two local streets, the main façade of the dwelling may be oriented towards either street.

D. All lots proposed with a driveway and lot orientation on a collector or minor arterial shall combine driveways into one joint access per two or more lots unless the city engineer determines that:

1. No driveway access may be allowed since the driveway(s) would cause a significant traffic safety hazard; or

2. Allowing a single driveway access per lot will not cause a significant traffic safety hazard.

E. The community development director may approve an alternative design, consistent with the intent of this section, where the applicant can show that existing development patterns preclude the ability to practically meet this standard.

Finding: Not applicable. The subject site does not include development along a nonlocal road.

16.12.075 - Building site—Division of lots.

Where a tract of land is to be divided into lots or parcels capable of redivision in accordance with this chapter, the community development director shall require an arrangement of lots, parcels and streets which facilitates future redivision. In such a case, building setback lines may be required in order to preserve future right-of-way or building sites.

Finding: Complies as Conditioned As shown on the preliminary plans, a small number of the planned lots are large enough to be re-divided. However, the existing PGE easement running through the southeast portion of the project limit future building placement to those areas outside of the easement. Therefore, no additional lots created for the construction of single-family dwellings is possible.

Tax lot 1790 that can be further divided, though is not being preserved in a tract, however the applicant proposed voluntary open space for Tract A which is large enough to be subdivided. The plat, or document referenced on the plat shall identify that Tract A is proposed for voluntary open space and shall not be further subdivided or developed without approval of a Type IV application. Additionally, the plat shall clearly state restrictions, purpose, and perpetual ownership of Tract A. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

16.12.085 - Easements.

The following shall govern the location, improvement and layout of easements:

A. Utilities. Utility easements shall be required where necessary as determined by the city engineer. Insofar as practicable, easements shall be continuous and aligned from block-to-block within the land division and with adjoining subdivisions or partitions. Specific utility easements for water, sanitary or storm drainage shall be provided based on approved final engineering plans.

Finding: Complies with Condition. All appropriate utility easements are planned to be provided on the final subdivision plat.

The applicant proposed 10-foot wide public utility easements (PUE's) along all street frontages. Ten-foot public utility easements along all street frontages and all easements required for the final engineering plans shall be dedicated to the public on the final plat. All existing and proposed utilities and easements shall be indicated on the construction plans.

The public stormwater facility proposed in Tract B is located within the 125-foot PGE transmission easement. The applicant will be required to provide written approval from the easement owner allowing the facility to be placed in the easement.

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

16.12.085.B. Unusual Facilities. Easements for unusual facilities such as high voltage electric transmission lines, drainage channels and stormwater detention facilities shall be adequately sized for their intended purpose, including any necessary maintenance roads. These easements shall be shown to scale on the preliminary and final plats or maps. If the easement is for drainage channels, stormwater detention facilities or related purposes, the easement shall comply with the requirements of the Public Works Stormwater and Grading Design Standards.

Finding: Not Applicable. There are no unusual facilities proposed or required within this development.

C. Watercourses. Where a land division is traversed or bounded by a watercourse, drainageway, channel or stream, a stormwater easement or drainage right-of-way shall be provided which conforms substantially to the line of such watercourse, drainageway, channel or stream and is of a sufficient width to allow construction, maintenance and control for the purpose as required by the responsible agency. For those subdivisions or partitions which are bounded by a stream of established recreational value, setbacks or easements may be required to prevent impacts to the water resource or to accommodate pedestrian or bicycle paths.

Finding: Not Applicable. The land division is not traversed by a watercourse.

D. Access. When easements are used to provide vehicular access to lots within a land division, the construction standards, but not necessarily width standards, for the easement shall meet city specifications. The minimum width of the easement shall be twenty feet. The easements shall be improved and recorded by the applicant and inspected by the city engineer. Access easements may also provide for utility placement.

Finding: Complies as proposed. The applicant is proposing a 20-foot wide access and utility easement between Lots 50 and 51 as indicated on Preliminary Plans.

E. Resource Protection. Easements or other protective measures may also be required as the community development director deems necessary to ensure compliance with applicable review criteria protecting any unusual significant natural feature or features of historic significance.

Finding: Not Applicable. The land division is not traversed by a water feature.

16.12.090 - Minimum improvements—Procedures.

In addition to other requirements, improvements installed by the applicant either as a requirement of these or other regulations, or at the applicant's option, shall conform to the requirements of this title and be designed to city specifications and standards as set out in the city's facility master plan and Public Works Stormwater and Grading Design Standards. The improvements shall be installed in accordance with the following procedure:

A. Improvement work shall not commence until construction plans have been reviewed and approved by the city engineer and to the extent that improvements are in county or state right-of-way, they shall be approved by the responsible authority. To the extent necessary for evaluation of the proposal, the plans may be required before approval of the preliminary plat of a subdivision or partition. Expenses incurred thereby shall be borne by the applicant and paid for prior to final plan review.

B. Improvements shall be constructed under the inspection and approval of the city engineer. Expenses incurred thereby shall be borne by the applicant and paid prior to final approval. Where required by the city engineer or other city decision-maker, the applicant's project engineer also shall inspect construction.

C. Erosion control or resource protection facilities or measures are required to be installed in accordance with the requirements of [Chapter 17.49](#) and the Public Works Erosion and Sediment Control Standards.

Underground utilities, waterlines, sanitary sewers and storm drains installed in streets shall be constructed prior to the surfacing of the streets. Stubs for service connections for underground utilities and sanitary sewers shall be placed beyond the public utility easement behind to the lot lines.

D. As-built construction plans and digital copies of as-built drawings shall be filed with the city engineer upon completion of the improvements.

E. The city engineer may regulate the hours of construction and access routes for construction equipment to minimize impacts on adjoining residences or neighborhoods.

Finding: Complies as Proposed. The preliminary plans show the public improvements for this project. Work is planned to commence when construction plans have been reviewed and approved by the City Engineer. Inspections of the planned improvements, including erosion control measures are required. Upon completion of the improvements, as-built drawings are planned to be filed with the City Engineer.

16.12.095 - Minimum improvements—Public facilities and services.

The following minimum improvements shall be required of all applicants for a land division under [Title 16](#), unless the decision-maker determines that any such improvement is not proportional to the impact imposed on the city's public systems and facilities:

A. Transportation System. Applicants and all subsequent lot owners shall be responsible for improving the city's planned level of service on all public streets, including alleys within the land division and those portions of public streets adjacent to but only partially within the land division. All applicants shall execute a binding agreement to not remonstrate against the formation of a local improvement district for street improvements that benefit the applicant's property. Applicants are responsible for designing and providing adequate vehicular, bicycle and pedestrian access to their developments and for accommodating future access to neighboring undeveloped properties that are suitably zoned for future development. Storm drainage facilities shall be installed and connected to off-site natural or man-made drainageways. Upon completion of the street improvement survey, the applicant shall reestablish and protect monuments of the type required by ORS 92.060 in monument boxes with covers at every public street intersection and all points of curvature and points of tangency of their center line, and at such other points as directed by the city engineer.

Finding: Complies with Condition. Public streets with sidewalks are planned within the project to provide access to the lots/future homes of the project and provide for neighborhood connectivity/circulation. As shown on the preliminary plans, this project will result in fully-improved streets extending from adjoining residential projects to accommodate all modes of travel. Monument boxes at street centerline intersections and other required locations are planned to be installed and/or protected. This standard is met.

B. Stormwater Drainage System. Applicants shall design and install drainage facilities within land divisions and shall connect the development's drainage system to the appropriate downstream storm drainage system as a minimum requirement for providing services to the applicant's development. The applicant shall obtain county or state approval when appropriate. All applicants shall execute a binding agreement to not remonstrate against the formation of a local improvement district for stormwater drainage improvements that benefit the applicant's property. Applicants are responsible for extending the appropriate storm drainage system to the development site and for providing for the connection of upgradient properties to that system. The applicant shall design the drainage facilities in accordance with city drainage master plan requirements, [Chapter 13.12](#) and the Public Works Stormwater and Grading Design Standards.

Finding: Complies with Condition. Refer to Section 16.08.030. B.3 of this report. The developer shall execute the City's standard non-remonstrance agreement for future public improvements benefitting the properties. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

C. Sanitary Sewer System. The applicant shall design and install a sanitary sewer system to serve all lots or parcels within a land division in accordance with the city's sanitary sewer design standards, and shall connect those lots or parcels to the city's sanitary sewer system, except where connection is required to the county sanitary sewer system as approved by the county. All applicants shall execute a binding agreement to not remonstrate against the formation of a local improvement district for sanitary sewer improvements that benefit the applicant's property. Applicants are responsible for extending the city's sanitary sewer system to the development site and through the applicant's property to allow for the future connection of neighboring undeveloped properties that are suitably zoned for future development. The applicant shall obtain all required permits and approvals from all affected jurisdictions prior to final approval and prior to commencement of construction. Design shall be approved by the city engineer before construction begins.
Finding: Refer to section 16.08.030.B.2 of this report.

16.12.095.D. Water System. The applicant shall design and install a water system to serve all lots or parcels within a land division in accordance with the city public works water system design standards, and shall connect those lots or parcels to the city's water system. All applicants shall execute a binding agreement to not remonstrate against the formation of a local improvement district for water improvements that benefit the applicant's property. Applicants are responsible for extending the city's water system to the development site and through the applicant's property to allow for the future connection of neighboring undeveloped properties that are suitably zoned for future development.
Finding: Refer to section 16.08.030.B.1 of this report.

16.12.095.E. Sidewalks. The applicant shall provide for sidewalks on both sides of all public streets, on any private street if so required by the decision-maker, and in any special pedestrian way within the land division. Exceptions to this requirement may be allowed in order to accommodate topography, trees or some similar site constraint. In the case of major or minor arterials, the decision-maker may approve a land division without sidewalks where sidewalks are found to be dangerous or otherwise impractical to construct or are not reasonably related to the applicant's development. The decision-maker may require the applicant to provide sidewalks concurrent with the issuance of the initial building permit within the area that is the subject of the land division application. Applicants for partitions may be allowed to meet this requirement by executing a binding agreement to not remonstrate against the formation of a local improvement district for sidewalk improvements that benefit the applicant's property.
Finding: Complies as Proposed. Sidewalks are proposed on Orchard Grove Drive and on proposed interior streets.

16.12.095.F. Bicycle Routes. If appropriate to the extension of a system of bicycle routes, existing or planned, the decision-maker may require the installation of separate bicycle lanes within streets and separate bicycle paths.
Finding: Complies as Proposed. The planned street system, which includes public sidewalks, provides convenient pedestrian and bicycle access and connectivity. This standard is met.

16.12.095.G. Street Name Signs and Traffic Control Devices. The applicant shall install street signs and traffic control devices as directed by the city engineer. Street name signs and traffic control devices shall be in conformance with all applicable city regulations and standards.
Finding: Complies as Proposed. Street name signs and stop signs are planned to be installed for new and continued streets, as required by City Engineering staff in compliance with applicable regulations and standards. This standard is met.

16.12.095.H. Street Lights. The applicant shall install street lights which shall be served from an underground source of supply. Street lights shall be in conformance with all city regulations.

Finding: Complies as Proposed. The applicant shall install street lights in conformance with city standards and will be served from an underground source of supply. This standard is met.

16.12.095.I. Street Trees.

Finding: Please refer to the analysis in section 12.08 of this report. This standard is met.

16.12.095.J. Bench Marks. At least one bench mark shall be located within the subdivision boundaries using datum plane specified by the city engineer.

Finding: Complies as Proposed. The final subdivision plat will reference a benchmark utilizing the datum plane specified by the City Engineer, if required. This standard is met.

16.12.095.K. Other. The applicant shall make all necessary arrangements with utility companies or other affected parties for the installation of underground lines and facilities. Electrical lines and other wires, including but not limited to communication, street lighting and cable television, shall be placed underground.

Finding: Complies as Proposed. All appropriate easements are planned to be provided for public and private utility providers. Arrangements with utility providers for the installation of these facilities is planned. This standard is met.

16.12.095.L. Oversizing of Facilities. All facilities and improvements shall be designed to city standards as set out in the city's facility master plan, public works design standards, or other city ordinances or regulations. Compliance with facility design standards shall be addressed during final engineering. The city may require oversizing of facilities to meet standards in the city's facility master plan or to allow for orderly and efficient development. Where oversizing is required, the applicant may request reimbursement from the city for oversizing based on the city's reimbursement policy and funds available, or provide for recovery of costs from intervening properties as they develop.

Finding: Complies as Proposed. Properly sized public facilities are planned to be provided throughout the project to serve future homes. All public improvements have been designed by a registered professional engineer which are planned to be reviewed and approved by City Engineering staff. This standard is met.

16.12.095.M. Erosion Control Plan—Mitigation. The applicant shall be responsible for complying with all applicable provisions of Chapter 17.47 with regard to erosion control.

Finding: Please refer to the analysis in section 17.47 of this report. This standard is met.

16.12.100 Same—Road standards and requirements.

A. The creation of a public street and the resultant separate land parcels shall be in conformance with requirements for subdivisions or partitions and the applicable street design standards of Chapter 12.04. However, the decision-maker may approve the creation of a public street to be established by deed without full compliance with the regulations applicable to subdivisions or partitions where any of the following conditions exist:

- 1. The establishment of the public street is initiated by the city commission and is declared essential for the purpose of general traffic circulation and the partitioning of land is an incidental effect rather than the primary objective of the street;*
- 2. The tract in which the street is to be dedicated is within an isolated ownership either not over one acre or of such size and characteristics as to make it impossible to develop building sites for more than three dwelling units.*

B. For any public street created pursuant to subsection A of this section, a copy of a preliminary plan and the proposed deed shall be submitted to the community development director and city engineer at least ten days prior to any public hearing scheduled for the matter. The plan, deed and any additional information the

applicant may submit shall be reviewed by the decision-maker and, if not in conflict with the standards of Title 16 and Title 17, may be approved with appropriate conditions.

Finding: Not Applicable. The proposed streets will be dedicated by plat and not by deed.

16.12.105 Same—Timing requirements.

A. Prior to applying for final plat approval, the applicant shall either complete construction of all public improvements required as part of the preliminary plat approval or guarantee the construction of those improvements. Whichever option the applicant elects shall be in accordance with this section.

B. Construction. The applicant shall construct the public improvements according to approved final engineering plans and all applicable requirements of this Code, and under the supervision of the city engineer. Under this option, the improvement must be complete and accepted by the city engineer prior to final plat approval.

C. Financial Guarantee. The applicant shall provide the city with a financial guarantee in a form acceptable to the city attorney and equal to one hundred ten percent of the cost of constructing the public improvements in accordance with Oregon City Municipal Code Chapter 17.50. Possible forms of guarantee include an irrevocable or standby letter of credit, guaranteed construction loan set-aside, reserve account, or performance guarantee, but the form of guarantee shall be specified by the city engineer and, prior to execution and acceptance by the city, must be reviewed and approved by the city attorney. The amount of the guarantee shall be based upon approved final engineering plans, equal to at least one hundred ten percent of the estimated cost of construction, and shall be supported by a verified engineering estimate and approved by the city engineer.

Finding: Complies with Condition. Construction of public improvements will comply with City standard, any additional conditions of approval relative to this land use application, and the procedures described in this section. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

16.12.110 Minimum improvements—Financial guarantee.

When conditions of permit approval require a permittee to construct certain improvements, the city may, in its discretion, allow the permittee to submit a performance guarantee in lieu of actual construction of the improvement. Performance guarantees shall be governed by this section.

A. Form of Guarantee. Performance guarantees shall be in a form approved by the city attorney. Approvable methods of performance guarantee include irrevocable standby letters of credit to the benefit of the city issued by a recognized lending institution, certified checks, dedicated bank accounts or allocations of construction loans held in reserve by the lending institution for the benefit of the city. The form of guarantee shall be specified by the city engineer and, prior to execution and acceptance by the city shall be reviewed and approved by the city attorney. The guarantee shall be filed with the city engineer.

B. Timing of Guarantee. A permittee shall be required to provide a performance guarantee as follows:

1. After Final Approved Design by the City: A permittee may request the option of submitting a performance guarantee when prepared for temporary/final occupancy. The guarantee shall be one hundred twenty percent of the estimated cost of constructing the remaining public improvements as submitted by the permittee's engineer. The engineer's estimated costs shall be supported by a verified engineering estimate and approved by the city engineer.

2. Before Complete Design Approval and Established Engineered Cost Estimate: A permittee may request the option of submitting a performance guarantee before public improvements are designed and completed. The guarantee shall be one hundred fifty percent of the estimated cost of constructing the public improvements as submitted by the permittee's engineer and approved by the city engineer. The engineer's estimated costs shall be supported by a verified engineering estimate and approved by the city engineer. This scenario applies for a fee-in-lieu situation to ensure adequate funds for the future work involved in design, bid, contracting, and construction management and contract closeout. In this case, the fee-in-lieu must be submitted as cash, certified check, or other negotiable instrument as approved to form by the city attorney.

C. Duration of the Guarantee. The guarantee shall remain in effect until the improvement is actually constructed and accepted by the city. Once the city has inspected and accepted the improvement, the city shall release the guarantee to the permittee. If the improvement is not completed to the city's satisfaction within the time limits specified in the permit approval, the city engineer may, at their discretion, draw upon the guarantee and use the proceeds to construct or complete construction of the improvement and for any related administrative and legal costs incurred by the city in completing the construction, including any costs incurred in attempting to have the permittee complete the improvement. Once constructed and approved by the city, any remaining funds shall be refunded to the permittee. The city shall not allow a permittee to defer construction of improvements by using a performance guarantee, unless the permittee agrees to construct those improvements upon written notification by the city, or at some other mutually agreed-to time. If the permittee fails to commence construction of the required improvements within six months of being instructed to do so, the city may, without further notice, undertake the construction of the improvements and draw upon the permittee's performance guarantee to pay those costs.

Finding: Complies with Condition. Construction of public improvements will comply with City standard procedures described in this section. The applicant will submit the required performance guarantees or will perform the improvements required for this application. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

CHAPTER 12.04 - STREETS SIDEWALKS AND PUBLIC PLACES

12.04.003 Applicability

A. Compliance with this chapter is required for all Land Divisions, Site Plan and Design Review, Master Plan, Detailed Development Plan and Conditional Use applications and all public improvements.

Finding: Applicable. The applicant applied for a subdivision, this chapter is applicable.

Sections 12.004, 12.005, and 12.007 have been addressed at the front of the staff report.

12.04.010 Construction specifications—Improved streets.

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

Finding: Complies as Proposed. The applicant has indicated that curb and sidewalk improvements will be constructed in accordance with the City's construction specifications and the approved construction plans.

12.04.020 Construction specifications—Unimproved streets.

Sidewalks constructed on unimproved streets shall be constructed of concrete according to lines and grades established by the city engineer and approved by the city commission. On unimproved streets curbs do not have to be constructed at the same time as the sidewalk.

Finding: Complies with Condition. The project includes the extension and improvement of Orchard Grove Drive, which is currently unimproved on the street's south side. Planned improvements to Orchard Grove Drive include additional dedication of right-of-way and a half-street improvement, which includes sidewalks. Additional right-of-way is to be dedicated at the southwest boundary of the project for the future extension of White Lane. However, a fee-in-lieu of constructing any improvements has been found to be acceptable by City staff. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

12.04.025 - Street design—Driveway Curb Cuts.

12.04.025.A. One driveway shall be allowed per frontage. In no case shall more than two driveways be allowed on any single or two-family residential property with multiple frontages.

12.04.025.B. With the exception of the limitations identified in 12.04.025.C, all driveway curb cuts shall be limited to the following dimensions.

Property Use	Minimum Driveway Width at sidewalk or property line	Maximum Driveway Width at sidewalk or property line
Single or Two-Family Dwelling with one Car Garage/Parking Space	10 feet	12 feet
Single or Two-Family Dwelling with two Car Garage/Parking Space	12 feet	24 feet
Single or Two-Family Dwelling with three or more Car Garages/Parking Space	18 feet	30 feet
Non Residential or Multi-Family Residential Driveway Access	15 feet	40 feet

The driveway width abutting the street pavement may be extended 3 feet on either side of the driveway to accommodate turn movements. Driveways may be widened onsite in locations other than where the driveway meets sidewalk or property line (for example between the property line and the entrance to a garage).

12.04.025.C. The decision maker shall be authorized through a Type II process, unless another procedure applicable to the proposal applies, to minimize the number and size of curb cuts (including driveways) as far as practicable for any of the following purposes:

1. To provide adequate space for on-street parking;
2. To facilitate street tree planting requirements;
3. To assure pedestrian and vehicular safety by limiting vehicular access points; and
4. To assure that adequate sight distance requirements are met.
 - a. Where the decision maker determines any of these situations exist or may occur due to the approval of a proposed development for non-residential uses or attached or multi-family housing, a shared driveway shall be required and limited to twenty-four feet in width adjacent to the sidewalk or property line and may extend to a maximum of thirty feet abutting the street pavement to facilitate turning movements.
 - b. Where the decision maker determines any of these situations exist or may occur due to approval of a proposed development for detached housing within the "R-5" Single –Family Dwelling District or "R-3.5" Dwelling District, driveway curb cuts shall be limited to twelve feet in width adjacent to the sidewalk or property line and may extend to a maximum of eighteen feet abutting the street pavement to facilitate turning movements.

12.04.025.D. For all driveways, the following standards apply.

1. Each new or redeveloped curb cut shall have an approved concrete approach or asphalted street connection where there is no concrete curb and a minimum hard surface for at least ten feet and preferably twenty feet back into the lot as measured from the current edge of street pavement to provide for controlling gravel tracking onto the public street. The hard surface may be concrete, asphalt, or other surface approved by the city engineer.
2. Driving vehicles, trailers, boats, or other wheeled objects across a sidewalk or roadside planter strip at a location other than an approved permanent or city-approved temporary driveway approach is prohibited. Damages caused by such action shall be corrected by the adjoining property owner.
3. Placing soil, gravel, wood, or other material in the gutter or space next to the curb of a public street with the intention of using it as a permanent or temporary driveway is prohibited. Damages caused by such action shall be corrected by the adjoining property owner.

4. Any driveway built within public street or alley right-of-way shall be built and permitted per city requirements as approved by the city engineer.

12.04.025.E. *Exceptions. The public works director reserves the right to waive this standard, if it is determined through a Type II decision including written findings, that it is in the best interest of the public to do so.*

Finding: Complies as Proposed. All future homes within the project are planned to be constructed with no more than one driveway per home. Driveway widths will comply with the above-listed requirements in relation to the sizes of garages or parking spaces. This standard is met.

12.04.030 Maintenance and repair.

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

Finding: Complies as Proposed. The applicant is responsible for maintaining said sidewalk and abutting curb.

12.04.031 Liability for sidewalk injuries.

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

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

Finding: Not Applicable. The criterion are applicable to injuries incurred on public sidewalk and will be administered at such time as necessary.

12.04.032 Required sidewalk repair.

A. When the public works director determines that repair of a sidewalk is necessary he or she shall issue a notice to the owner of property adjacent to the sidewalk.

B. The notice shall require the owner of the property adjacent to the defective sidewalk to complete the repair of the sidewalk within ninety days after the service of notice. The notice shall also state that if the repair is not made by the owner, the city may do the work and the cost of the work shall be assessed against the property adjacent to the sidewalk.

C. The public works director shall cause a copy of the notice to be served personally upon the owner of the property adjacent to the defective sidewalk, or the notice may be served by registered or certified mail, return receipt requested. If after diligent search the owner is not discovered, the public works director shall cause a copy of the notice to be posted in a conspicuous place on the property, and such posting shall have the same effect as service of notice by mail or by personal service upon the owner of the property.

D. The person serving the notice shall file with the city recorder a statement stating the time, place and manner of service or notice.

Finding: Not Applicable. The criteria are applicable to repair of sidewalk and will be administered at such time as necessary.

12.04.033 City may do work.

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

Finding: Not Applicable. The criterion are applicable to repair of sidewalk and will be administered at such time as necessary.

12.04.034 Assessment of costs.

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

Finding: Not Applicable. The criterion are applicable to repair of sidewalk and will be administered at such time as necessary.

12.04.040 Streets--Enforcement.

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

Finding: Not Applicable. The criterion are applicable to repair of sidewalk and will be administered at such time as necessary.

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

Any accessway with a pavement width of less than thirty-two feet shall require the approval of the city engineer, community development director and fire chief and shall meet minimum life safety requirements, which may include fire suppression devices as determined by the fire marshal to assure an adequate level of fire and life safety. The standard width for constrained streets is twenty feet of paving with no on-street parking and twenty-eight feet with on-street parking on one side only. Constrained local streets shall maintain a twenty-foot wide unobstructed accessway. Constrained local streets and/or right-of-way shall comply with necessary slope easements, sidewalk easements and altered curve radius, as approved by the city engineer and community development director.

Table 12.04.045		
STREET DESIGN STANDARDS FOR LOCAL CONSTRAINED STREETS		
	Minimum	Required
Type of Street	Right-of-way	Pavement Width
Constrained local street	20 to 40	20 to less than 32 feet

Finding: Complies with Condition. Although the applicant's narrative omitted this section, the submitted plan shows a constrained street to allow preservation of an adjacent 54-inch Douglas Fir tree in Tract A. The proposed section includes 24 feet of pavement, and sidewalks on both sides, on being curb-tight. The proposal has not been adequately justified, so a condition will be applied to ensure the street section modification is the minimum required to preserve the tree, and will allow adequate vehicular and pedestrian access. The proposed constrained cross-section of Orchard Grove Drive adjacent to Tract A will be approved contingent upon the following requirements; 1. Evaluation by certified arborist stating the 54" Douglas Fir Tree #10012 is likely to survive the proposed grading, and for how long after construction; 2. Submittal of scaled cross-section showing street, sidewalk, grading, tree canopy and tree root zone; 3. Modification of street alignment as far north as practicable, and with abrupt curvature smoothed out to maximum extent practicable.

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

12.04.050 Retaining walls--Required.

Every owner of a lot within the city, abutting upon an improved street, where the surface of the lot or tract of land is above the surface of the improved street and where the soil or earth from the lot, or tract of land is liable to, or does slide or fall into the street or upon the sidewalk, or both, shall build a retaining wall, the

outer side of which shall be on the line separating the lot, or tract of land from the improved street, and the wall shall be so constructed as to prevent the soil or earth from the lot or tract of land from falling or sliding into the street or upon the sidewalk, or both, and the owner of any such property shall keep the wall in good repair.

Finding: Complies as Proposed. All future retaining walls associated with the project are planned to be constructed outside of any future right-of-way, and will not be located such that soil or earth will slide onto the street or sidewalk. This standard is satisfied.

12.04.060 Retaining walls--Maintenance.

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

Finding: Complies as Proposed. All future retaining walls associated with the project are planned to be maintained by property owners. If, for any reason, retaining walls should fail, they are to be repaired to their original state. This standard is understood.

12.04.070 Removal of sliding dirt.

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

Finding: Complies as Proposed. The project is not planned to cause the sliding of dirt onto the future internal streets or sidewalks of the subdivision. Property owners within the project are to be responsible for compliance with City codes and subject to enforcement action by the City for such codes, including the removal of dirt falling on or sliding into streets or sidewalks. This standard is understood.

12.04.080 Excavations--Permit required.

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

Finding: Complies with Condition. Work is anticipated to be within right-of-way on White Lane and Orchard Grove Drive to connect to existing utilities. The applicant shall obtain all permits as required for any work within the right-of-way. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

12.04.090 Excavations--Permit restrictions.

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

Finding: Not Applicable. The criteria are applicable to singular permitting of excavation; this development will be permitted within the regulations of a comprehensive construction plan certified by professional engineer and administered by the City.

12.04.095 - Street Design—Curb Cuts.

To assure public safety, reduce traffic hazards and promote the welfare of pedestrians, bicyclists and residents of the subject area, such as a cul-de-sac or dead-end street, the decision maker shall be authorized

to minimize the number and size of curb cuts (including driveways) as far as practicable where any of the following conditions are necessary:

- A. To provide adequate space for on-street parking;*
- B. To facilitate street tree planting requirements;*
- C. To assure pedestrian and vehicular safety by limiting vehicular access points; and*
- D. To assure that adequate sight distance requirements are met.*

Where the decision maker determines any of these situations exist or may occur due to approval of a proposed development, single residential driveway curb cuts shall be limited to twelve feet in width adjacent to the sidewalk and property line and may extend to a maximum of eighteen feet abutting the street pavement to facilitate turning movements. Shared residential driveways shall be limited to twenty-four feet in width adjacent to the sidewalk and property line and may extend to a maximum of thirty feet abutting the street pavement to facilitate turning movements. Non-residential development driveway curb cuts in these situations shall be limited to the minimum required widths based on vehicle turning radii based on a professional engineer's design submittal and as approved by the decision maker.

Finding: Complies as proposed. The applicant will comply with City standards regarding number and design of curb cuts for driveway approaches, sidewalk ramps, etc.

12.04.100 Excavations – Restoration of Pavement

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

Finding: Complies as Proposed. The applicant has proposed work in the public right-of-way that will require pavement restoration. This includes new pipe lines. The applicant shall restore the pavement in accordance with the City of Oregon City Public Works Pavement Cut Standards.

12.04.110 Excavations--Nuisance--Penalty.

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

Finding: Complies as Proposed. All excavations will comply with this Chapter via the conditions of approval.

12.04.120 Obstructions – Permit Required

Finding: Complies as proposed. The applicant shall obtain all required permits before any obstructions of the right-of-way.

12.04.130 Obstructions--Sidewalk sales.

- A. It is unlawful for any person to use the public sidewalks of the city for the purpose of packing, unpacking or storage of goods or merchandise or for the display of goods or merchandise for sale. It is permissible to use the public sidewalks for the process of expeditiously loading and unloading goods and merchandise.*
- B. The city commission may, in its discretion, designate certain areas of the city to permit the display and sale of goods or merchandise on the public sidewalks under such conditions as may be provided.*

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

12.04.140 Obstructions--Nuisance--Penalty.

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

Finding: Complies as Proposed. The applicant will comply with this Chapter via conditions of approval.

12.04.150 - Street and alley vacations—Cost.

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

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

12.04.160 Street vacations--Restrictions.

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

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

12.04.170 - Street design—Purpose and general provisions.

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

Finding: Complies with Condition. The applicant has proposed standard street improvements and other public facilities work in accordance with adopted public facility plans, and is required to conform to Engineering Policy 00-01, which applies to any development requiring provision of public facilities. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

12.04.175 Street Design--Generally.

The location, width and grade of street shall be considered in relation to: existing and planned streets, topographical conditions, public convenience and safety for all modes of travel, existing and identified future transit routes and pedestrian/bicycle accessways, and the proposed use of land to be served by the streets. The street system shall assure an adequate traffic circulation system with intersection angles, grades, tangents and curves appropriate for the traffic to be carried considering the terrain. To the extent possible, proposed streets shall connect to all existing or approved stub streets that abut the development site. The arrangement of streets shall either:

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

B. Where necessary to give access to or permit a satisfactory future development of adjoining land, streets shall be extended to the boundary of the development and the resulting dead-end street (stub) may be approved with a temporary turnaround as approved by the city engineer. Notification that the street is planned for future extension shall be posted on the stub street until the street is extended and shall inform the public that the dead-end street may be extended in the future. Access control in accordance with section 12.04 shall be required to preserve the objectives of street extensions.

Finding: Complies as Conditioned. The location, widths, and grades of the proposed street network provide connectivity for future development of adjacent properties, a convenient street system, and for the safety of all modes of travel, including pedestrian and bicycle to, from, and through the subject site. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

12.04.180 Street Design.

All development regulated by this Chapter shall provide street improvements in compliance with the standards in Figure 12.04.180 depending on the street classification set forth in the Transportation System Plan and the Comprehensive Plan designation of the adjacent property, unless an alternative plan has been adopted. The standards provided below are maximum design standards and may be reduced with an alternative street design which may be approved based on the modification criteria in 12.04.007. The steps for reducing the maximum design below are found in the Transportation System Plan.

Table 12.04.180 Street Design

To read the table below, select the road classification as identified in the Transportation System Plan and the Comprehensive Plan designation of the adjacent properties to find the maximum design standards for the road cross section. If the Comprehensive Plan designation on either side of the street differs, the wider right-of-way standard shall apply.

Road Classification	Comprehensive Plan Designation	Right-of-Way Width	Pavement Width	Public Access	Sidewalk	Landscape Strip	Bike Lane	Street Parking	Travel Lanes	Median
Local	Mixed Use, Commercial or Public/Quasi Public	62 ft.	40 ft.	0.5 ft.	10.5 ft. sidewalk including 5 ft.x5 ft. tree wells		N/A	8 ft.	(2) 12 ft. Lanes	N/A
	Industrial	60 ft.	38 ft.	0.5 ft.	5 ft.	5.5 ft.	(2) 19 ft. Shared Space			N/A
	Residential	54 ft.	32 ft.	0.5 ft.	5 ft.	5.5 ft.	(2) 16 ft. Shared Space			N/A

1. Pavement width includes, bike lane, street parking, travel lanes and median.
2. Public access, sidewalks, landscape strips, bike lanes and on-street parking are required on both sides of the street in all designations. The right-of-way width and pavement widths identified above include the total street section.
3. A 0.5' foot curb is included in landscape strip or sidewalk width.
4. Travel lanes may be through lanes or turn lanes.
5. The 0.5' foot public access provides access to adjacent public improvements.
6. Alleys shall have a minimum right-of-way width of 20 feet and a minimum pavement width of 16 feet. If alleys are provided, garage access shall be provided from the alley.

Finding: Complies with Condition. All new streets within the proposed development will be functionally classified as a Local (Residential). For a residential local, the Oregon City Municipal Code (OCMC) requires a 54-foot-wide right-of-way (ROW), two (2) 16-foot-wide shared travel lanes, two (2) 5.5-foot-wide planter strips (inclusive of 0.5-foot wide curb), two (2) 5-foot-wide sidewalks, and two (2) 0.5-foot-wide public access strips. Additional requirements include curb, gutter, street trees, and street lights. The applicant has proposed a Right-of- Way dedication of 54-feet for Orchard Grove Drive, Winnie Way, Wheeler Farm Road, Larence Lane, Skellenger Way, and Tolstrup Drive.

Applicant required to meet half-street roadway standards for portions of Orchard Grove Drive and Skellenger Way to roadway centerline.

Applicant to provide full street improvements across Orchard Grove Drive along portion of roadway where existing curb exists in compliance with Oregon City roadway standards.

A constrained street section is proposed adjacent to Tract A, and is described in 12.04.045.

The applicant has proposed a street system that appears to meet City requirements with a few modifications. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

12.04.185 Street Design--Access Control.

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

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

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

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

Finding: Complies with Condition. Appropriate plat restrictions allowing access to adjoining properties will be placed on the final plat prior to recording for the future extension of White Lane at the project's southwest property line. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

12.04.190 Street Design--Alignment.

The centerline of streets shall be:

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

B. Offset from the centerline by no more than five (5) feet, provided appropriate mitigation, in the judgment of the City Engineer, is provided to ensure that the offset intersection will not pose a safety hazard.

Finding: Complies as Proposed. The extension of adjoining streets through the project will either align or be offset no more than 5 feet with centerlines of other streets in or abutting the project. This standard is met.

12.04.194 Traffic Sight Obstructions

All new streets shall comply with the Traffic Sight Obstructions in Chapter 10.32.

Finding: Complies as Proposed. Clear vision areas are planned to be maintained at intersections in accordance with the applicable standards.

12.04.195 Spacing Standards.

12.04.195.A. All new streets shall be designed as local streets unless otherwise designated as arterials and collectors in Figure 8 in the Transportation System Plan. The maximum block spacing between streets is 530 feet and the minimum block spacing between streets is 150 feet as measured between the right-of-way centerlines. If the maximum block size is exceeded, pedestrian accessways must be provided every 330 feet. The spacing standards within this section do not apply to alleys.

Finding: Complies as Proposed. Planned streets within the subdivision have been designed as local streets. With the exception of the "island" block created by the extension of the adjoining Skellenger Way and Tolstrup Drive, no blocks in the project exceed the maximum block length spacing standard of 530 feet requiring a midblock pedestrian accessway. This application includes a modification to the midblock pedestrian connection required for the "island" block as addressed previously under Subsection 12.04.007 Modifications.

12.04.195.B. All new development and redevelopment shall meet the minimum driveway spacing standards identified in Table 12.04.195.B.

Table 12.04.195.B Minimum Driveway Spacing Standards

Table 12.04.195.B Minimum Driveway Spacing Standards		
Street Functional Classification	Minimum Driveway Spacing Standards	Distance
Major Arterial Streets	Minimum distance from a street corner to a driveway for all uses and Minimum distance between driveways for uses other than single and two-family dwellings	175 ft.
Minor Arterial Streets	Minimum distance from a street corner to a driveway for all uses and Minimum distance between driveways for uses other than single and two-family dwellings	175 ft.
Collector Streets	Minimum distance from a street corner to a driveway for all uses and Minimum distance between driveways for uses other than single and two-family dwellings	100 ft.
Local Streets	Minimum distance from a street corner to a driveway for all uses and Minimum distance between driveways for uses other than single and two-family dwellings	25 ft.
The distance from a street corner to a driveway is measured along the right-of-way from the edge of the intersection right-of-way to the nearest portion of the driveway and the distance between driveways is measured at the nearest portions of the driveway at the right-of-way.		

Finding: Complies as Proposed. Driveways for the future homes accessing the new local streets within the project are planned to be a minimum of 25 feet from the right-of-way line of all intersections. This standard is met.

12.04.199 Pedestrian and Bicycle Accessways

Pedestrian/bicycle accessways are intended to provide direct, safe and convenient connections between residential areas, retail and office areas, institutional facilities, industrial parks, transit streets, neighborhood activity centers, rights-of-way, and pedestrian/bicycle accessways which minimize out-of-direction travel, and transit-orientated developments where public street connections for automobiles, bicycles and pedestrians are unavailable. Pedestrian/bicycle accessways are appropriate in areas where public street options are unavailable, impractical or inappropriate. Pedestrian and bicycle accessways are required through private property or as right-of-way connecting development to the right-of-way at intervals not exceeding three-hundred-and-thirty feet of frontage; or where the lack of street continuity creates inconvenient or out of direction travel patterns for local pedestrian or bicycle trips.

12.04.199.A. Entry points shall align with pedestrian crossing points along adjacent streets and with adjacent street intersections.

12.04.199.B. Accessways shall be free of horizontal obstructions and have a nine-foot, six-inch high vertical clearance to accommodate bicyclists. To safely accommodate both pedestrians and bicycles, accessway right-of-way widths shall be as follows:

1. Accessways shall have a fifteen-foot-wide right-of-way with a seven-foot wide paved surface between a five foot planter strip and a three foot planter strip.

2. *If an accessway also provides secondary fire access, the right-of-way width shall be at least twenty-three feet wide with a fifteen-foot paved surface a five foot planter strip and a three foot planter strip.*

12.04.199.C. Accessways shall be direct with at least one end point of the accessway always visible from any point along the accessway. On-street parking shall be prohibited within fifteen feet of the intersection of the accessway with public streets to preserve safe sight distance and promote safety.

2.04.199.D. To enhance pedestrian and bicycle safety, accessways shall be lighted with pedestrian-scale lighting. Accessway lighting shall be to a minimum level of one-half foot-candles, a one and one-half foot-candle average, and a maximum to minimum ratio of seven-to-one and shall be oriented not to shine upon adjacent properties. Street lighting shall be provided at both entrances.

12.04.199.E. Accessways shall comply with Americans with Disabilities Act (ADA).

12.04.199.F. The planter strips on either side of the accessway shall be landscaped along adjacent property by installation of the following:

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

12.04.199.G. Accessways shall be designed to prohibit unauthorized motorized traffic. Curbs and removable, lockable bollards are suggested mechanisms to achieve this.

12.04.199.H. Accessway surfaces shall be paved with all-weather materials as approved by the city. Pervious materials are encouraged. Accessway surfaces shall be designed to drain stormwater runoff to the side or sides of the accessway. Minimum cross slope shall be two percent.

12.04.199.I. In parks, greenways or other natural resource areas, accessways may be approved with a five-foot wide gravel path with wooden, brick or concrete edgings .

12.04.199.J. The Community Development Director may approve an alternative accessway design due to existing site constraints through the modification process set forth in Section 12.04.007.

12.04.199.K. Ownership, liability and maintenance of accessways.

To ensure that all pedestrian/bicycle accessways will be adequately maintained over time, the hearings body shall require one of the following:

1. *Dedicate the accessways to the public as public right-of-way prior to the final approval of the development; or*
2. *The developer incorporates the accessway into a recorded easement or tract that specifically requires the property owner and future property owners to provide for the ownership, liability and maintenance of the accessway.*

Finding: Complies as Proposed. As demonstrated on the preliminary plans, the planned street system includes public sidewalks on both sides of the project's interior streets. The sidewalks provide convenient pedestrian and bicycle access and connectivity for residents in the area. The planned street system also meets the intent of the "Proposed Metro Regional Trail," as indicated on the Oregon City Conceptual Trails Map and shown on the preliminary plans. This application includes modifying the midblock pedestrian connection required for the "island" block, which exceeds the maximum block spacing standard of Section 12.04.195, addressed previously in this narrative. No additional pedestrian and/or bicycle accessways are required or planned as part of this application.

12.04.205 Mobility Standards.

Development shall demonstrate compliance with intersection mobility standards. When evaluating the performance of the transportation system, the City of Oregon City requires all intersections, except for the facilities identified in subsection D below, to be maintained at or below the following mobility standards during the two-hour peak operating conditions. The first hour has the highest weekday traffic volumes and the second hour is the next highest hour before or after the first hour. Except as provided otherwise below, this may require the installation of mobility improvements as set forth in the Transportation System Plan or as otherwise identified by the City Transportation Engineer.

- A. For intersections within the Regional Center, the following mobility standards apply:*
 - 1. During the first hour, a maximum v/c ratio of 1.10 shall be maintained. For signalized intersections, this standard applies to the intersection as a whole. For unsignalized intersections, this standard applies to movements on the major street. There is no performance standard for the minor street approaches.*
 - 2. During the second hour, a maximum v/c ratio of 0.99 shall be maintained at signalized intersections. For signalized intersections, this standard applies to the intersection as a whole. For unsignalized intersections, this standard applies to movements on the major street. There is no performance standard for the minor street approaches.*
 - 3. Intersections located on the Regional Center boundary shall be considered within the Regional Center.*
- B. For intersections outside of the Regional Center but designated on the Arterial and Throughway Network, as defined in the Regional Transportation Plan, the following mobility standards apply:*
 - 1. During the first hour, a maximum v/c ratio of 0.99 shall be maintained. For signalized intersections, this standard applies to the intersection as a whole. For unsignalized intersections, this standard applies to movements on the major street. There is no performance standard for the minor street approaches.*
 - 2. During the second hour, a maximum v/c ratio of 0.99 shall be maintained at signalized intersections. For signalized intersections, this standard applies to the intersection as a whole. For unsignalized intersections, this standard applies to movements on the major street. There is no performance standard for the minor street approaches.*
- C. For intersections outside the boundaries of the Regional Center and not designated on the Arterial and Throughway Network, as defined in the Regional Transportation Plan, the following mobility standards apply:*
 - 1. For signalized intersections:*
 - a. During the first hour, LOS "D" or better will be required for the intersection as a whole and no approach operating at worse than LOS "E" and a v/c ratio not higher than 1.0 for the sum of the critical movements.*
 - b. During the second hour, LOS "D" or better will be required for the intersection as a whole and no approach operating at worse than LOS "E" and a v/c ratio not higher than 1.0 for the sum of the critical movements.*
 - 2. For unsignalized intersections outside of the boundaries of the Regional Center:*
 - a. For unsignalized intersections, during the peak hour, all movements serving more than 20 vehicles shall be maintained at LOS "E" or better. LOS "F" will be tolerated at movements serving no more than 20 vehicles during the peak hour.*
- D. Until the City adopts new performance measures that identify alternative mobility targets, the City shall exempt proposed development that is permitted, either conditionally, outright, or through detailed development master plan approval, from compliance with the above-referenced mobility standards for the following state-owned facilities:*
 - I-205 / OR 99E Interchange*
 - I-205 / OR 213 Interchange*
 - OR 213 / Beavercreek Road*
 - State intersections located within or on the Regional Center Boundaries*

1. *In the case of conceptual development approval for a master plan that impacts the above references intersections:*
 - a. *The form of mitigation will be determined at the time of the detailed development plan review for subsequent phases utilizing the Code in place at the time the detailed development plan is submitted; and*
 - b. *Only those trips approved by a detailed development plan review are vested.*
2. *Development which does not comply with the mobility standards for the intersections identified in 12.04.205.D shall provide for the improvements identified in the Transportation System Plan (TSP) in an effort to improve intersection mobility as necessary to offset the impact caused by development. Where required by other provisions of the Code, the applicant shall provide a traffic impact study that includes an assessment of the development's impact on the intersections identified in this exemption and shall construct the intersection improvements listed in the TSP or required by the Code.*

Finding: Complies as Proposed. Findings within the project's Transportation Impact Study (TIS) prepared by Lancaster Engineering, demonstrate that all Level of Service (LOS) requirements are satisfied. The engineer concluded no mitigation measures are necessary to address the impact of the proposed development. John Replinger in his letter dated September 5, 2017 concurs with this conclusion.

12.04.210 Street design--Intersection Angles.

Except where topography requires a lesser angle, streets shall be laid out to intersect at angles as near as possible to right angles. In no case shall the acute angles be less than eighty degrees unless there is a special intersection design. An arterial or collector street intersecting with another street shall have at least one hundred feet of tangent adjacent to the intersection unless topography requires a lesser distance. Other streets, except alleys, shall have at least fifty feet of tangent adjacent to the intersection unless topography requires a lesser distance. All street intersections shall be provided with a minimum curb return radius of twenty-five feet for local streets. Larger radii shall be required for higher street classifications as determined by the city engineer. Additional right-of-way shall be required to accommodate curb returns and sidewalks at intersections. Ordinarily, intersections should not have more than two streets at any one point.

Finding: Complies as Proposed. As shown on the preliminary plans, all intersection angles are laid out at right angles, including at least 50 feet of tangent adjacent to the intersection, and have curb return radii of 25 feet. Necessary rights-of-way are planned to accommodate these street improvements. The application complies with the above listed requirements.

12.04.215 Street design--Off-Site Street Improvements.

During consideration of the preliminary plan for a development, the decision maker shall determine whether existing streets impacted by, adjacent to, or abutting the development meet the city's applicable planned minimum design or dimensional requirements. Where such streets fail to meet these requirements, the decision-maker shall require the applicant to make proportional improvements sufficient to achieve conformance with minimum applicable design standards required to serve the proposed development.

Finding: Not Applicable. See section 12.04.180. No proportional off-site improvements are anticipated or needed for this application.

12.04.220 Street Design--Half Street.

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

provided and improved when that adjacent property divides or develops. Access Control may be required to preserve the objectives of half streets.

When the remainder of an existing half-street improvement is made it shall include the following items: dedication of required right-of-way, construction of the remaining portion of the street including pavement, curb and gutter, landscape strip, sidewalk, street trees, lighting and other improvements as required for that particular street. It shall also include at a minimum the pavement replacement to the centerline of the street. Any damage to the existing street shall be repaired in accordance with the City's "Moratorium Pavement Cut Standard" or as approved by the City Engineer.

Finding: Complies with Condition. The applicant has proposed a half street for portions of Orchard Grove Drive and Skellenger Way. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

12.04.225 Street Design--Cul-de-sacs and Dead-End Streets.

The city discourages the use of cul-de-sacs and permanent dead-end streets except where construction of a through street is found by the decision maker to be impracticable due to topography or some significant physical constraint such as geologic hazards, wetland, natural or historic resource areas, dedicated open space, existing development patterns, arterial access restrictions or similar situation as determined by the Community Development Director. When permitted, access from new cul-de-sacs and permanent dead-end streets shall be limited to a maximum of 25 dwelling units and a maximum street length of two hundred feet, as measured from the right-of-way line of the nearest intersecting street to the back of the cul-de-sac curb face. In addition, cul-de-sacs and dead end roads shall include pedestrian/bicycle accessways as required in this Chapter. This section is not intended to preclude the use of curvilinear eyebrow widening of a street where needed.

Where approved, cul-de-sacs shall have sufficient radius to provide adequate turn-around for emergency vehicles in accordance with Fire District and City adopted street standards. Permanent dead-end streets other than cul-de-sacs shall provide public street right-of-way / easements sufficient to provide turn-around space with appropriate no-parking signs or markings for waste disposal, sweepers, and other long vehicles in the form of a hammerhead or other design to be approved by the decision maker. Driveways shall be encouraged off the turnaround to provide for additional on-street parking space.

Finding: Not Applicable. There are no cul-de-sacs or permanent dead-ends proposed.

12.04.230 Street Design--Street Names.

Except for extensions of existing streets, no street name shall be used which will duplicate or be confused with the name of an existing street. Street names shall conform to the established standards in the City and shall be subject to the approval of the City.

Finding: Complies as Proposed. The applicant shall work with City staff to provide street names that meet City requirements.

12.04.235 Street Design--Grades and Curves.

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

Finding: Complies as Conditioned. All grades and centerline radii on Preliminary Plans appear to comply with the City's street design standards and specifications. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

12.04.240 Street Design--Development Abutting Arterial or Collector Street.

Where development abuts or contains an existing or proposed arterial or collector street, the decision maker may require: access control; screen planting or wall contained in an easement or otherwise protected by a restrictive covenant in a form acceptable to the decision maker along the rear or side property line; or such other treatment it deems necessary to adequately protect residential properties or afford separation of

through and local traffic. Reverse frontage lots with suitable depth may also be considered an option for residential property that has arterial frontage. Where access for development abuts and connects for vehicular access to another jurisdiction's facility then authorization by that jurisdiction may be required.

Finding: Not Applicable. The development does not abut an Arterial or Collector Street.

12.04.245 Street Design--Pedestrian and Bicycle Safety.

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

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

Finding: Complies as Proposed. The project's internal street system has been designed to City standards. The overall street pattern discourages non-local through traffic. This standard is met.

12.04.255 Street design--Alleys.

Public alleys shall be provided in the following districts R-5, R-3.5, R-2, MUC-1, MUC-2 and NC zones unless other permanent provisions for private access to off-street parking and loading facilities are approved by the decision maker. The corners of alley intersections shall have a radius of not less than ten feet.

Finding: Not Applicable. No alleys are proposed. This project is not within any of the zoning districts listed in this standard. Therefore, Public alleys are not required or included in this application. This standard is not relevant to the application.

12.04.260 Street Design--Transit.

Streets shall be designed and laid out in a manner that promotes pedestrian and bicycle circulation. The applicant shall coordinate with transit agencies where the application impacts transit streets as identified in 17.04.1310. Pedestrian/bicycle access ways shall be provided as necessary in Chapter 12.04 to minimize the travel distance to transit streets and stops and neighborhood activity centers. The decision maker may require provisions, including easements, for transit facilities along transit streets where a need for bus stops, bus pullouts or other transit facilities within or adjacent to the development has been identified.

Finding: Complies as Proposed. Public streets and sidewalks are planned to provide access to the project's future homes and for neighborhood connectivity/circulation. The preliminary plans show the location and arrangement of planned improvements, which promote pedestrian and bicycle circulation. Planned streets and sidewalks, together with off-site connections, minimize the travel distance to transit streets (South Central Point Road) and other off-site destinations. The need for additional transit facilities and bus stops have not been identified and are not warranted. This standard is met.

12.04.265 Street design--Planter Strips.

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

To promote and maintain the community tree canopy adjacent to public streets, trees shall be selected and planted in planter strips in accordance with Chapter 12.08, Street Trees. Individual abutting lot owners shall

be legally responsible for maintaining healthy and attractive trees and vegetation in the planter strip. If a homeowners' association is created as part of the development, the association may assume the maintenance obligation through a legally binding mechanism, e.g., deed restrictions, maintenance agreement, etc., which shall be reviewed and approved by the city attorney. Failure to properly maintain trees and vegetation in a planter strip shall be a violation of this code and enforceable as a civil infraction.

Finding: Complies with Condition. Please refer to section 12.04.180.

12.04.270 Standard Construction Specifications.

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

Finding: Complies as Proposed . All public improvements have been designed by a professional engineer licensed in the State of Oregon. The plans for these improvements are planned to be submitted to the City and reviewed for consistency with all City requirements. After the appropriate City construction permits are obtained, the improvements are planned to be constructed by a licensed General Contractor, in accordance with the approved plans. Finally, the improvements are to be inspected for consistency with the approved final plans prior to City acceptance. This standard is met.

12.04.280 Violation--Penalty.

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

Finding: Applicable. It is understood that any act in violation of this Chapter is to be deemed a nuisance and be subject to code enforcement procedures.

Chapter 12.08 - PUBLIC AND STREET TREES^[2]

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 submitted a street tree plan which included trees placed along the frontages of the development but indicated that the species will be street trees from the Oregon City Street Tree List (or approved by a certified arborist) are to be planted in conformance with this Section.

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

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 condition. The applicant indicated that one tree will be planted for every 30 feet of frontage, and provided a calculation of 7,315 lineal feet of frontage, which requires 209 street trees to be

planted. A street tree plan was submitted with the preliminary locations of street trees, but did not include the final proposed locations, location of street lights, fire hydrants or power lines. Prior to issuance of a permit associated with the proposed development the applicant shall submit a plan for street trees in compliance with OCMC 12.08. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

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.*

Finding: Complies with condition. A street tree plan was submitted with the preliminary locations of street trees, but did not include the final proposed locations, location of street lights, fire hydrants or power lines. Prior to issuance of a permit associated with the proposed development the applicant shall submit a plan for street trees in compliance with OCMC 12.08. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

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

Finding: Complies with condition. The street trees shall be a minimum of 2" in diameter. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

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.

Finding: Not applicable. The proposal does not include pruning trees.

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 submitted a street tree plan which included trees placed along the frontages of the development but indicated that the species will be street trees from the Oregon City Street Tree List (or approved by a certified arborist) are to be planted in conformance with this Section. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

12.08.025 - General tree maintenance.

Abutting property owners shall be responsible for the maintenance of street trees and planting strips. Topping of trees is permitted only under recommendation of a certified arborist, or other qualified professional, if required by city staff. Trees shall be trimmed appropriately. Maintenance shall include trimming to remove dead branches, dangerous limbs and to maintain a minimum seven-foot clearance above all sidewalks and ten-foot clearance above the street. Planter strips shall be kept clear of weeds, obstructing vegetation and trash.

Finding: Complies as proposed. The applicant indicated that "General tree and planter strip maintenance is planned to be the responsibility of future home owners, as indicated in this standard." (Exhibit 2).

12.08.035 - Public tree removal.

Existing street trees shall be retained and protected during construction unless removal is specified as part of a land use approval or in conjunction with a public facilities construction project, as approved by the

community development director. A diseased or hazardous street tree, as determined by a registered arborist and verified by the City, may be removed if replaced. A non-diseased, non-hazardous street tree that is removed shall be replaced in accordance with the Table 12.08.035.

All new street trees will have a minimum two-inch caliper trunk measured six inches above the root crown. The community development director may approve off-site installation of replacement trees where necessary due to planting constraints. The community development director may additionally allow a fee in-lieu of planting the tree(s) to be placed into a city fund dedicated to planting trees in Oregon City in accordance with Oregon City Municipal Code 12.08.

Table 12.08.035

Replacement Schedule for Trees Determined to be Dead, Diseased or Hazardous by a Certified Arborist		Replacement Schedule for Trees Not Determined to be Dead, Diseased or Hazardous by a Certified Arborist	
Diameter of tree to be Removed (Inches of diameter at 4-ft height)	Number of Replacement Trees to be Planted	Diameter of tree to be Removed (Inches of diameter at 4-ft height)	Number of Replacement Trees to be Planted
Any Diameter	1 Tree	Less than 6"	1 Tree
		6" to 12"	2 Trees
		13" to 18"	3 Trees
		19" to 24"	4 Trees
		25" to 30"	5 Trees
		31" and over	8 Trees

Finding: Not applicable. No public tree removal is proposed, however tree removal is proposed in to accommodate the proposed development in accordance with OCMC 17.41.

12.08.040 - Heritage Trees and Groves.

Finding: Not applicable. The applicant did not propose to designate or remove a heritage tree or grove.

Chapter 13.12 - STORMWATER MANAGEMENT

13.12.050 - Applicability and exemptions.

This chapter establishes performance standards for stormwater conveyance, quantity and quality. Additional performance standards for erosion prevention and sediment control are established in OCMC 17.47.

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: Applicable. Construction of improvements to public stormwater conveyance facilities is required to serve this development.

B. Water Quality and Flow Control. The water quality and flow control requirements of this chapter shall apply to the following proposed uses or developments, unless exempted under subsection C:

- 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 five-year period; or*
- 2. Activities that create or replace more than five thousand square feet of impervious surface per parcel or lot, cumulated over any given five-year period.*

Finding: Applicable. The proposed development will create or replace more than 5000 sf of impervious area.

C. Exemptions. The following exemptions to subsection B of this section apply:

- 1. An exemption to the flow control requirements of this chapter will be granted when the development site discharges to the 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, provided that the following conditions are met:*
 - a. The project site is drained by a conveyance system that is comprised entirely of manmade elements (e.g. pipes, ditches, culverts outfalls, outfall protection, etc.) and extends to the ordinary high water line of the exempt receiving water; and*
 - b. The conveyance system between the project site and the exempt receiving water has sufficient hydraulic capacity and erosion stabilization measures to convey discharges from the proposed conditions of the project site and the existing conditions from non-project areas from which runoff is collected.*
- 2. Projects in the following categories are generally exempt from the water quality and flow control requirements:*
 - a. Stream enhancement or restoration projects approved by the city.*
 - b. Farming practices as defined by ORS 30.960 and farm use as defined in ORS 214.000; except that buildings associated with farm practices and farm use are subject to the requirements of this chapter.*
 - c. Actions by a public utility or any other governmental agency to remove or alleviate an emergency condition.*
 - d. Road and parking area preservation/maintenance projects such as pothole and square cut patching, surface sealing, replacing or overlaying of existing asphalt or concrete pavement, provided the preservation/maintenance activity does not expand the existing area of impervious coverage above the thresholds in subsection B of this section.*
 - e. Pedestrian and bicycle improvements (sidewalks, trails, pathways, and bicycle paths/lands) where no other impervious surfaces are created or replaced, built to direct stormwater runoff to adjacent vegetated areas.*
 - f. Underground utility projects that replace the ground surface with in-kind material or materials with similar runoff characteristics.*
 - g. Maintenance or repair of existing utilities.*

Finding: Not Applicable. The proposed development does not meet the criteria for exemption.

D. 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 defined in the Public Works Stormwater and Grading Design Standards:

1. Bulk petroleum storage facilities;
2. Above ground storage of liquid materials;
3. Solid waste storage areas, containers, and trash compactors for commercial, industrial, or multi-family uses;
4. Exterior storage of bulk construction materials;
5. Material transfer areas and loading docks;
6. Equipment and/or vehicle washing facilities;
7. Development on land with suspected or known contamination;
8. Covered vehicle parking for commercial or industrial uses;
9. Industrial or commercial uses locating in high traffic areas, defined as average daily count trip of two thousand five hundred or more trips per day; and
10. Land uses subject to DEQ 1200-Z Industrial Stormwater Permit Requirements.

Finding: Not Applicable. The proposal does not contain elements requiring additional stormwater management practices.

13.12.080 - Submittal requirements.

- A. Applications subject to stormwater conveyance, water quality, and/or flow control requirements of this chapter shall prepare engineered drainage plans, drainage reports, and design flow calculation reports in compliance with the submittal requirements of the Public Works Stormwater and Grading Design Standards.
- B. Each project site, which may be composed of one or more contiguous parcels of land, shall have a separate valid city approved plan and report before proceeding with construction.

Finding: Complies as Conditioned. A final stormwater report is required to fully address stormwater management facilities for the site, the public street improvements, and downstream analysis. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

13.12.090 - Approval criteria for engineered drainage plans and drainage report.

An engineered drainage plan and/or drainage report shall be approved only upon making the following findings:

- A. The plan and report demonstrate how the proposed development and stormwater facilities will accomplish the purpose statements of this chapter.
- B. The plan and report meet the requirements of the Public Works Stormwater and Grading Design Standards adopted by resolution under Section 13.12.020.
- C. The storm drainage design within the proposed development includes provisions to adequately control runoff from all public and private streets and roof, footing, and area drains and ensures future extension of the current drainage system.
- D. Streambank erosion protection is provided where stormwater, directly or indirectly, discharges to open channels or streams.
- E. Specific operation and maintenance measures are proposed that ensure that the proposed stormwater quantity control facilities will be properly operated and maintained.

Complies as Conditioned. The proposed preliminary design depicts stormwater conveyance, treatment, and maintenance facilities that are generally in conformance with the standards. However, further refinement is required to ensure the public stormwater facilities can be maintained by City crews. The maintenance access to the Tract B stormwater facility follows a lengthy, indirect path from Orchard Grove Drive through Tract A. The access will need to be relocated to a more direct route, such as from Wheeler Farm Road cul-de-sac. Additionally, the applicant has proposed stormwater piping and structures from Orchard Grove Drive, traversing Tract A. These facilities will need to be relocated to a more direct route, such as the border of Lots 54 and 55, unless shown that the proposed location is the only feasible route.

A final stormwater report is required to fully address stormwater management facilities for the site, the public street improvements, and downstream analysis, plus the above mentioned revisions. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

13.12.100 - Alternative materials, alternative design and methods of construction.

The provisions of this chapter are not intended to prevent the use of any material, alternate design or method of construction not specifically prescribed by this chapter or the Public Works Stormwater and Grading Design Standards, provided any alternate has been approved and its use authorized by the city engineer. The city engineer may approve any such alternate, provided that the city engineer finds that the proposed design is satisfactory and complies with the intent of this chapter and that the material, method, or work offered is, for the purpose intended, at least the equivalent of that prescribed by this chapter in effectiveness, suitability, strength, durability and safety. The city engineer shall require that sufficient evidence or proof be submitted to substantiate any claims that may be made regarding its use. The details of any action granting approval of an alternate shall be recorded and entered in the city files.

Finding: Not Applicable. The applicant has not proposed alternative design methods requiring special approval by the City Engineer. However, should the applicant propose such methods with the public facilities construction plan submittal, the proposal will be reviewed and approved by the City Engineer as required.

13.12.120 - Standard construction specifications.

The workmanship and materials shall be in accordance with the edition of the "Standard Specifications for Public Works Construction," as prepared by the Oregon Chapter of American Public Works Association (APWA) and as modified and adopted by the city, in effect at the time of application. The exception to this requirement is where this chapter and the Public Works Stormwater and Grading Design Standards provide other design details, in which case the requirements of this chapter and the Public Works Stormwater and Grading Design Standards shall be complied with.

Finding: Complies as Conditioned. A condition will be applied to ensure the public facilities construction plan submittal will comply with the current standards.

CHAPTER 15.48 - GRADING, FILLING AND EXCAVATING

15.48.030 Applicability—Grading permit required.

A. A city-issued grading permit shall be required before the commencement of any of the following filling or grading activities:

- 1. Grading activities in excess of ten cubic yards of earth;*
- 2. Grading activities which may result in the diversion of existing drainage courses, both natural and man-made, from their natural point of entry or exit from the grading site;*
- 3. Grading and paving activities resulting in the creation of impervious surfaces greater than two thousand square feet or more in area;*
- 4. Any excavation beyond the limits of a basement or footing excavation, having an unsupported soil height greater than five feet after the completion of such a structure; or*
- 5. Grading activities involving the clearing or disturbance of one-half acres (twenty-one thousand seven hundred eighty square feet) or more of land.*

Finding: Complies with Condition. The applicant provided a preliminary grading plan demonstrating general compliance with the City's Public Works requirements for grading standards. The preliminary plan presents grading and paving activities that will result in the disturbance of more than one-half acre.

A final site Residential Lot Grading Plan shall be required as part of the final construction plans per the City's Residential Lot Grading Criteria and the International Building Code. **Staff has determined that it is**

possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.

15.48.090 Submittal requirements.

An engineered grading plan or an abbreviated grading plan shall be prepared in compliance with the submittal requirements of the Public Works Stormwater and Grading Design Standards whenever a city approved grading permit is required. In addition, a geotechnical engineering report and/or residential lot grading plan may be required pursuant to the criteria listed below.

A. Abbreviated Grading Plan. The city shall allow the applicant to submit an abbreviated grading plan in compliance with the submittal requirements of the Public Works Stormwater and Grading Design Standards if the following criteria are met:

- 1. No portion of the proposed site is within the flood management area overlay district pursuant to [Chapter 17.42](#), the unstable soils and hillside constraints overlay district pursuant to [Chapter 17.44](#), or a water quality resource area pursuant to [Chapter 17.49](#); and*
- 2. The proposed filling or grading activity does not involve more than fifty cubic yards of earth.*

B. Engineered Grading Plan. The city shall require an engineered grading plan in compliance with the submittal requirements of the Public Works Stormwater and Grading Design Standards to be prepared by a professional engineer if the proposed activities do not qualify for abbreviated grading plan.

C. Geotechnical Engineering Report. The city shall require a geotechnical engineering report in compliance with the minimum report requirements of the Public Works Stormwater and Grading Design Standards to be prepared by a professional engineer who specializes in geotechnical work when any of the following site conditions may exist in the development area:

- 1. When any publicly maintained facility (structure, street, pond, utility, park, etc.) will be supported by any engineered fill;*
- 2. When an embankment for a stormwater pond is created by the placement of fill;*
- 3. When, by excavation, the soils remaining in place are greater than three feet high and less than twenty feet wide.*

D. Residential Lot Grading Plan. The city shall require a residential lot grading plan in compliance with the minimum report requirements of the Public Works Stormwater and Grading Design Standards to be prepared by a professional engineer for all land divisions creating new residential building lots or where a public improvement project is required to provide access to an existing residential lot.

Finding: Complies as Proposed. Submittal requirements for engineered grading plan and residential lot grading plan will be prepared in compliance with submittal requirements of the Public Works Stormwater and Grading Design Standards.

CHAPTER 17.44 – GEOLOGIC HAZARDS

17.44.025 - When required; regulated activities; permit and approval requirements.

No person shall engage in any of the following regulated activities within the adopted Oregon City Geologic Hazards Overlay Zone as defined in section 17.04.515 of the Oregon City Municipal Code without first obtaining permits or approvals as required by this chapter:

- A. Installation or construction of an accessory structure greater than 500 square feet in area;*
- B. Development of land, construction, reconstruction, structural alteration, relocation or enlargement of any building or structure for which permission is required pursuant to the Oregon City Municipal Code;*
- C. Tree removal on slopes greater than 25 percent where canopy area removal exceeds 25 percent of the lot.*
- D. Excavation which exceeds two feet in depth, or which involves twenty-five or more cubic yards of volume;*

The requirements of this chapter are in addition to other provisions of the Oregon City Municipal Code. Where the provisions of this chapter conflict with other provisions of the Oregon City Municipal Code, the provisions that are the more restrictive of regulated development activity shall govern.

Finding: Applicable. The project exceeds the thresholds stated in Subsection B and D; therefore, this Chapter applies.

17.44.030 - Procedures.

No building or site development permit or other authorization for development shall be issued until the plans and other documents required by this chapter have been reviewed and found by the review authority to comply with the requirements of this chapter.

A. Where the development is part of a land use permit application, review shall occur in the manner established in Chapter 17.50 for review of land use decisions.

B. Where the development is part of a limited land use permit application, review shall occur in the manner established in Chapter 17.50 for review of limited land use decisions.

C. Where the development is solely part of a grading permit or building permit, the city engineer may allow review to occur in the manner established in Title 15, Chapters 15.04 and 15.48 if the application meets Section 17.44.060 development standards.

D. For any other proposed development not otherwise subject to review as a land use or limited land use permit application, review shall occur in the manner established in Chapter 17.50 for limited land use decisions.

Finding: Complies with Condition. A building permit will not be issued until the public facilities construction plans are reviewed and approved by the City. The plans will need to clearly depict the Geologic Hazard delineation, and the stormwater management facility will need to be approved by the applicant's geotechnical engineer. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

17.44.035 - Exemptions.

The following activities, and persons engaging in same, are EXEMPT from the provisions of this chapter.

A. An excavation which is less than two feet in depth, or which involves less than twenty-five cubic yards of volume;

B. A fill which does not exceed two feet in depth or twenty-five cubic yards of volume;

C. Structural alteration of any structure of less than five hundred square feet that does not involve grading as defined in this chapter;

D. Installation, construction, reconstruction, or replacement of utility lines in city right-of-way, or public easement, not including electric substations;

E. The removal or control of noxious vegetation;

F. Emergency actions which must be undertaken immediately to prevent an imminent threat to public health or safety, or prevent imminent danger to public or private property. The person undertaking emergency action shall notify the building official on all regulated activities associated with any building permit or city engineer/public works director on all others within one working day following the commencement of the emergency activity. If the city engineer/public works director or building official determine that the action or part of the action taken is beyond the scope of allowed emergency action, enforcement action may be taken.

Finding: Not applicable. The proposed development does not meet the threshold for exemption to the standards.

17.44.050 Development - Application Requirements and Review Procedures and Approvals.

Except as provided by subsection B of this section, the following requirements apply to all development proposals subject to this chapter:

- A. A geological assessment and geotechnical report that specifically includes, but is not limited to:
- 1) Comprehensive information and data regarding the nature and distribution of underlying geology, the physical and chemical properties of existing soils and groundwater; an opinion of site geologic stability, and conclusions regarding the effect of geologic conditions on the proposed development. In addition to any field reconnaissance or subsurface investigation performed for the site, the following resources, as a minimum, shall be reviewed to obtain this information and data:
 - a) The State of Oregon Department of Geology and Mineral Industries (DOGAMI) in Bulletin 99, *Geology and Geological Hazards of North Clackamas County, Oregon* (1979), or in any subsequent DOGAMI mapping for the Oregon City area;
 - b) Portland State University study entitled "Environmental Assessment of Newell Creek Canyon, Oregon City, Oregon" (1992);
 - c) Portland State University study, "Landslides in the Portland, Oregon, Metropolitan Area Resulting from the Storm of February 1996: Inventory Map, Database and Evaluation" (Burns and others, 1998);
 - d) DOGAMI Open File Report O-06-27, "Map of Landslide Geomorphology of Oregon City, Oregon, and Vicinity Interpreted from LIDAR Imagery and Aerial Photographs" (Madin and Burns, 2006);
 - e) "Preliminary Geologic Map of the Oregon City Quadrangle, Clackamas County, Oregon" (Madin, in press);
 - 2) Information and recommendations regarding existing local drainage, proposed permit activity impacts on local drainage, and mitigation to address adverse impacts;
 - 3) Comprehensive information about site topography;
 - 4) Opinion as to the adequacy of the proposed development from an engineering standpoint;
 - 5) Opinion as to the extent that instability on adjacent properties may adversely affect the project;
 - 6) Description of the field investigation and findings, including logs of subsurface conditions and laboratory testing results;
 - 7) Conclusions regarding the effect of geologic conditions on the proposed development, tree removal, or grading activity;
 - 8) Specific requirements and recommendations for plan modification, corrective grading, and special techniques and systems to facilitate a safe and stable site;
 - 9) Recommendations and types of considerations as appropriate for the type of proposed development:
 - a. General earthwork considerations, including recommendations for temporary and permanent cut and fill slopes and placement of structural fill,
 - b. Location of residence on lot,
 - c. Building setbacks from slopes,
 - d. Erosion control techniques applicable to the site,
 - e. Surface drainage control to mitigate existing and potential geologic hazards,
 - f. Subdrainage and/or management of groundwater seepage,
 - g. Foundations,
 - h. Embedded/retaining walls,
 - i. Management of surface water and irrigation water, and
 - j. Impact of the development on the slope stability of the lot and the adjacent properties.
 - 10) Scaled drawings that describe topography and proposed site work, including:
 - a. Natural physical features, topography at two or ten-foot contour intervals locations of all test excavations or borings, watercourses both perennial and intermittent, ravines and all existing and manmade structures or features all fully dimensioned, trees six- inch caliper or greater measured four feet from ground level, rock outcroppings and drainage facilities;
 - b. All of the features and detail required for the site plan above, but reflecting preliminary finished grades and indicating in cubic yards whether and to what extent there will be a net increase or loss of soil.
 - c. A cross-section diagram, indicating depth, extent and approximate volume of all excavation and fills.
 - 11) For properties greater than 1 acre, a preliminary hydrology report, prepared by a suitably qualified and experienced hydrology expert, addressing the effect upon the watershed in which the proposed

development is located; the effect upon the immediate area's stormwater drainage pattern of flow, the impact of the proposed development upon downstream areas and upon wetlands and water resources; and the effect upon the groundwater supply.

Finding: Complies with Condition. The applicant has submitted a geotechnical report that demonstrates the development can be constructed in accordance with the standards. Further detail is needed to guide the design, and will be provided in the final geotechnical report that will be submitted with public facilities construction plans. The plans will need to clearly depict the Geologic Hazard delineation, and the stormwater management facility will need to be approved by the applicant's geotechnical engineer. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

17.44.050.B. Review Procedures and Approvals require the following:

- 1) Examination to ensure that:
 - a) Required application requirements are completed;*
 - b) Geologic assessment and geotechnical report procedures and assumptions are generally accepted; and*
 - c) All conclusions and recommendations are supported and reasonable.**
- 2) Conclusions and recommendations stated in an approved assessment or report shall then be directly incorporated as permit conditions or provide the basis for conditions of approval for the regulated activity.*
- 3) All geologic assessments and geotechnical reports shall be reviewed by an engineer certified for expertise in geology or geologic engineering and geotechnical engineering, respectively, as determined by the City. The City will prepare a list of prequalified consultants for this purpose. The cost of review by independent review shall be paid by the applicant.*

Finding: Complies with Condition. The applicant's submitted geotechnical report has been reviewed by the City's Geotechnical consultant for general compliance with the standards, who noted, "the geologic hazards are limited to a portion of lots 51 to 53 and a corner of lots 63 and 64. The geotechnical report recommends a 50-foot setback from the top of the steep slope. This keeps the disruption well away from the slopes. No disturbance is planned for the hazard area. The stormwater facility is located near the slope and we should ask that the geotechnical engineer review the location and grading for the stormwater facility in relation to the geologic hazards. Otherwise the Geotechnical report appears to cover the geologic hazards sufficiently considering no construction is proposed near the slopes." Conditions will be applied to ensure the public facilities construction submittal includes the needed information, and that the design and construction is carried out per the Geotechnical Report recommendations. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

17.44.050.C. The city engineer may waive one or more requirements of subsections A and B of this section if the city engineer determines that site conditions, size or type or development of grading requirements do not warrant such detailed information. If one or more requirements are waived, the city engineer shall, in the staff report or decision, identify the waived provision(s), explain the reasons for the waiver, and state that the waiver may be challenged on appeal and may be denied by a subsequent review authority.

Finding: Not applicable. The City Engineer has not waived the code provisions.

17.44.060 Development Standards.

Notwithstanding any contrary dimensional or density requirements of the underlying zone, the following standards shall apply to the review of any development proposal subject to this chapter. Requirements of this chapter are in addition to other provision of the Oregon City Municipal Code. Where provision of this chapter

conflict with other provision of the Oregon City Municipal Code, the provisions that are more restrictive of regulated development activity shall govern.

17.44.060.A All developments shall be designed to avoid unnecessary disturbance of natural topography, vegetation and soils. To the maximum extent practicable as determined by the review authority, tree and ground cover removal and fill and grading for residential development on individual lots shall be confined to building footprints and driveways, to areas required for utility easements and for slope easements for road construction, and to areas of geotechnical remediation.

Finding: Complies as Proposed. Development is proposed to remain outside the geologic hazard overlay.

17.44.060B All grading, drainage improvements, or other land disturbances shall only occur from May 1 to October 31. Erosion control measures shall be installed and functional prior to any disturbances. The City Engineer may allow grading, drainage improvements or other land disturbances to begin before May 1 (but no earlier than March 16) and end after October 31 (but no later than November 30), based upon weather conditions and in consultation with the project geotechnical engineer. The modification of dates shall be the minimum necessary, based upon the evidence provided by the applicant, to accomplish the necessary project goals. Temporary protective fencing shall be established around all trees and vegetation designed for protection prior to the commencement of grading or other soil disturbance.

Finding: Complies as Proposed. Development is proposed to remain outside the geologic hazard overlay.

17.44.060.C Designs shall minimize the number and size of cuts and fills.

Finding: Complies as proposed. Development is proposed to remain outside the geologic hazard overlay.

17.44.060.D Cut and fill slopes, such as those for a street, driveway accesses, or yard area, greater than seven feet in height (as measured vertically) shall be terraced. Faces on a terraced section shall not exceed five feet. Terrace widths shall be a minimum of three feet and shall be vegetated. Total cut and fill slopes shall not exceed a vertical height of fifteen feet. Except in connection with geotechnical remediation plans approved in accordance with the chapter, cuts shall not remove the toe of any slope that contains a known landslide or is greater than twenty-five percent slope. The top of cut or fill slopes not utilizing structural retaining walls shall be located a minimum of one-half the height of the cut slope from the nearest property line.

Finding: Complies as Proposed. Development is proposed to remain outside the geologic hazard overlay.

17.44.060.E Any structural fill shall be designed by a suitably qualified and experienced civil or geotechnical engineer licensed in Oregon in accordance with standard engineering practice. The applicant's engineer shall certify that the fill has been constructed as designed in accordance with the provisions of this chapter.

Finding: Complies as Conditioned. The geotechnical engineer will need to certify construction has occurred per the geotechnical recommendations. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

17.44.060.F Retaining walls shall be constructed in accordance with the Oregon Structural Specialty Code adopted by the State of Oregon.

Finding: Not Applicable. Retaining walls have not been proposed near or in the geologic hazard area.

17.44.060.G Roads shall be the minimum width necessary to provide safe vehicle and emergency access, minimize cut and fill and provide positive drainage control. The review authority may grant a variance from the City's required road standards upon findings that the variance would provide safe vehicle and emergency access and is necessary to comply with the purpose and policy of this chapter.

Finding: Not Applicable. Roads are not proposed near or in the geologic hazard area.

17.44.060.H Density shall be determined as follows

- 1) For those areas with slopes less than twenty-five percent between grade breaks, the allowed density shall be that permitted by the underlying zoning district;
- 2) For those areas with slopes of twenty-five to thirty-five percent between grade breaks, the density shall not exceed two dwelling units per acre except as otherwise provided in subsection I of this section;
- 3) For those areas with slopes over thirty-five percent between grade breaks, development shall be prohibited except as otherwise provided in subsection I 4 of this section.

Finding: Complies as Proposed. Development is not proposed within the slope areas above 25%.

17.44.060.I For properties with slopes of twenty-five to thirty-five percent between grade breaks:

- 1) For those portions of the property with slopes of twenty-five to thirty-five percent, the maximum residential density shall be limited to two dwelling units per acre; provided, however, that where the entire site is less than one-half acre in size, a single dwelling shall be allowed on a lot or parcel existing as of January 1, 1994 and meeting the minimum lot size requirements of the underlying zone;
- 2) An individual lot or parcel with slopes between twenty-five and thirty-five percent shall have no more than fifty percent or four thousand square feet of the surface area, whichever is smaller, graded or stripped of vegetation or covered with structures or impermeable surfaces.
- 3) No cut into a slope of twenty-five to thirty-five percent for the placement of a housing unit shall exceed a maximum vertical height of 15 feet for the individual lot or parcel.
- 4) For those portions of the property with slopes over thirty-five percent between grade breaks:
 - a. Notwithstanding any other City land use regulation, development other than roads, utilities, public facilities and geotechnical remediation shall be prohibited; provided, however, that the review authority may allow development upon such portions of land upon demonstration by an applicant that failure to permit development would deprive the property owner of all economically beneficial use of the property. This determination shall be made considering the entire parcel in question and contiguous parcels in common ownership on or after January 1, 1994, not just the portion where development is otherwise prohibited by this chapter. Where this showing can be made on residentially zoned land, development shall be allowed and limited to one single-family residence. Any development approved under this chapter shall be subject to compliance with all other applicable City requirements as well as any applicable State, Federal or other requirements;
 - b. To the maximum extent practicable as determined by the review authority, the applicant shall avoid locating roads, utilities, and public facilities on or across slopes exceeding thirty-five percent.

Finding: Complies as Proposed. Development is not proposed within the slope areas above 25%.

17.44.060.J The geotechnical engineer of record shall review final grading, drainage, and foundation plans and specifications and confirm in writing that they are in conformance with the recommendations provided in their report.

Finding: Complies with Condition. The geotechnical engineer of record shall provide documentation that the final grading and drainage plan is in conformance with their recommendations. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

17.44.060.K At the City's discretion, peer review shall be required for the geotechnical evaluation/investigation report submitted for the development and/or lot plans. The peer reviewer shall be selected by the City. The applicant's geotechnical engineer shall respond to written comments provided by the City's peer reviewer prior to issuance of building permit.

Finding: Complies with Condition. Per standard procedure, the City's on-call geotechnical engineer provides peer review services for all geotechnical reports submitted as part of this development. The applicant shall pay the City's geotechnical review costs. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

17.44.060.L The review authority shall determine whether the proposed methods of rendering a known or potential hazard site safe for construction, including proposed geotechnical remediation methods, are feasible and adequate to prevent landslides or damage to property and safety. The review authority shall consult with the City's geotechnical engineer in making this determination. Costs for such consultation shall be paid by the applicant. The review authority may allow development in a known or potential hazard area as provided in this chapter if specific findings are made that the specific provisions in the design of the proposed development will prevent landslides or damage. The review authority may impose any conditions, including limits on type or intensity of land use, which it determines are necessary to assure that landslides or property damage will not occur.

Finding: Complies with Condition. The applicant will need to comply with recommendations of the geotechnical report.

17.44.070 Access to Property.

- A. Shared private driveways may be required if the city engineer or principal planner determines that their use will result in safer location of the driveway and lesser amounts of land coverage than would result if separate private driveways are used.*
- B. Innovations in driveway design and road construction shall be permitted in order to keep grading and cuts or fills to a minimum and to achieve the purpose and policy of this chapter.*
- C. Points of access to arterials and collectors shall be minimized.*
- D. The city engineer or principal planner shall verify that adequate emergency services can be provided to the site.*

Finding: Complies as Proposed. The proposed design provides minimum access required within the geologic hazard area.

17.44.080 Utilities.

All new service utilities, both on-site and off-site, shall be placed underground and under roadbeds where practicable. Every effort shall be made to minimize the impact of utility construction. Underground utilities require the geologic hazards permitting and review prescribed herein.

Finding: Not Applicable. Utilities are not proposed within the geologic hazard area.

17.44.090 Stormwater Drainage.

The applicant shall submit a permanent and complete stormwater control plan. The program shall include, but not be limited to the following items as appropriate: curbs, gutters, inlets, catch basins, detention facilities and stabilized outfalls. Detention facilities shall be designed to City standards as set out in the City's drainage master plan and design standards. The review authority may impose conditions to ensure that waters are drained from the development so as to limit degradation of water quality consistent with Oregon City's Title III section of the Oregon City Municipal Code Chapter 17.49 and the Oregon City Public Works Stormwater Management Design Manual and Standards Plan or other adopted standards subsequently adopted by the City Commission. Drainage design shall be approved by the city engineer before construction, including grading or other soil disturbance, has begun.

Finding: Complies with Condition. See discussion in 13.12.

17.44.100. Construction Standards.

During construction on land subject to this chapter, the following standards shall be implemented by the developer:

- A. All development activity shall minimize vegetation removal and soil disturbance and shall provide positive erosion prevention measures in conformance with OCMC Chapter 17.47 – Erosion and Sediment Control.*

- B. *No grading, clearing or excavation of any land shall be initiated prior to approval of the grading plan, except that the city engineer shall authorize the site access, brush to be cleared and the location of the test pit digging prior to approval of such plan to the extent needed to complete preliminary and final engineering and surveying. The grading plan shall be approved by the city engineer as part of the city's review under this chapter. The developer shall be responsible for the proper execution of the approved grading plan.*
- C. *Measures shall be taken to protect against landslides, mudflows, soil slump and erosion. Such measures shall include sediment fences, straw bales, erosion blankets, temporary sedimentation ponds, interceptor dikes and swales, undisturbed buffers, grooving and stair stepping, check dams, etc. The applicant shall comply with the measures described in the Oregon City Public Works Standards for Erosion and Sedimentation Control (Ordinance 99-1013).*
- D. *All disturbed vegetation shall be replanted with suitable vegetation upon completion of the grading of the steep slope area.*
- E. *Existing vegetative cover shall be maintained to the maximum extent practicable. No grading, compaction or change in ground elevation, soil hydrology and/or site drainage shall be permitted within the drip line of trees designated for protection, unless approved by the City.*
- F. *Existing perennial and intermittent watercourses shall not be disturbed unless specifically authorized by the review authority. This includes physical impacts to the stream course as well as siltation and erosion impacts.*
- G. *All soil erosion and sediment control measures shall be maintained during construction and for one year after development is completed, or until soils are stabilized by revegetation or other measures to the satisfaction of the city engineer. Such maintenance shall be the responsibility of the developer. If erosion or sediment control measures are not being properly maintained or are not functioning properly due to faulty installation or neglect, the City may order work to be stopped.*
- H. *All newly created lots, either by subdivision or partition, shall contain building envelopes with a slope of 35% or less.*
- I. *The applicant's geotechnical engineer shall provide special inspection during construction to confirm that the subsurface conditions and assumptions made as part of their geotechnical evaluation/investigation are appropriate. This will allow for timely design changes if site conditions are encountered that are different from those anticipated.*
- J. *Prior to issuing an occupancy permit, the geotechnical engineer shall prepare a summary letter stating that the soils- and foundation-related project elements were accomplished in substantial conformance with their recommendations.*

Finding: Complies as Proposed. The applicant's proposed design avoids construction within the geologic hazard area.

17.44.110 Approval of Development.

The city engineer shall review the application and verify, based on the applicant's materials and the land use record, whether the proposed development constitutes a hazard to life, property, natural resources or public facilities. If, in the city engineer's opinion, a particular development poses such a hazard, the city engineer shall recommend to the review authority permit conditions designed to reduce or eliminate the hazard. These conditions may include, but are not limited to, prohibitions on construction activities between November 1st and March 31st.

Finding: Complies with condition. The application has been reviewed and conditions recommended in accordance with this section. The geologist of record shall observe the excavations and geologic conditions exposed during construction and document that the conditions are consistent with the conditions assumed in the geotechnical hazard evaluation. If the conditions are different than expected, the effect of the new observations shall be evaluated and mitigation provided if required. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

17.44.120 Liability.

Approval of an application for development on land subject to this chapter shall not imply any liability on the part of the city for any subsequent damage due to earth slides. Prior to the issuance of a building permit, a waiver of damages and an indemnity and hold harmless agreement shall be required which releases the City from all liability for any damages resulting from the development approved by the City's decision.

Finding: Complies with Condition. Prior to issuance of a building permit, the applicant shall submit a completed a waiver of damages and an indemnity and hold harmless agreement provided by the City. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

17.44.130 Compliance.

Nothing contained in this chapter shall relieve the developer of the duty to comply with any other provision of law. In the case of a conflict, the more restrictive regulation shall apply.

Finding: Acknowledged. Upon discovery of any conflicting code, the more restrictive code will be deemed applicable.

17.44.140 Appeal.

The review authority's decision may be appealed in the manner set forth in Chapter 17.50.

Finding: Acknowledged. Any appeal will be administered in accordance with Chapter 17.50.

CHAPTER 17.47 - EROSION AND SEDIMENT CONTROL

17.47.030 - Applicability.

A. This chapter, which may also be referred to as "erosion control" in this Code, applies to development that may cause visible or measurable erosion on any property within the city limits of Oregon City.

B. This chapter does not apply to work necessary to protect, repair, maintain or replace existing structures, utility facilities, roadways, driveways, accessory uses and exterior improvements in response to emergencies, provided that after the emergency has passed, adverse impacts are mitigated in accordance with applicable standards.

Finding: Applicable. The applicant has proposed to construct a new subdivision with associated street improvements.

17.47.060 - Permit required.

The applicant must obtain an erosion and sediment control permit prior to, or contemporaneous with, the approval of an application for any building, land use or other city-issued permit that may cause visible or measurable erosion.

Finding: Complies with Condition. The applicant has proposed to construct a new subdivision with associated street improvements. The applicant shall provide an Erosion Prevention and Sedimentation Control Plan to the City for approval. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

17.47.070 - Erosion and sediment control plans.

A. An application for an erosion and sediment control permit shall include an erosion and sediment control plan, which contains methods and interim measures to be used during and following construction to prevent or control erosion prepared in compliance with City of Oregon City public works standards for erosion and sediment control. These standards are incorporated herein and made a part of this title and are on file in the office of the city recorder.

B. Approval Standards. An erosion and sediment control plan shall be approved only upon making the following findings:

1. The erosion and sediment control plan meets the requirements of the City of Oregon City public works standards for erosion and sediment control incorporated by reference as part of this chapter;
2. The erosion and sediment control plan indicates that erosion and sediment control measures will be managed and maintained during and following development. The erosion and sediment control plan indicates that erosion and sediment control measures will remain in place until disturbed soil areas are permanently stabilized by landscaping, grass, approved mulch or other permanent soil stabilizing measures.

C. The erosion and sediment control plan shall be reviewed in conjunction with the requested development approval. If the development does not require additional review, the manager may approve or deny the permit with notice of the decision to the applicant.

D. The city may inspect the development site to determine compliance with the erosion and sediment control plan and permit.

E. Erosion that occurs on a development site that does not have an erosion and sediment control permit, or that results from a failure to comply with the terms of such a permit, constitutes a violation of this chapter.

F. If the manager finds that the facilities and techniques approved in an erosion and sediment control plan and permit are not sufficient to prevent erosion, the manager shall notify the owner or his/her designated representative. Upon receiving notice, the owner or his/her designated representative shall immediately install interim erosion and sediment control measures as specified in the City of Oregon City public works standards for erosion and sediment control. Within three days from the date of notice, the owner or his/her designated representative shall submit a revised erosion and sediment control plan to the city. Upon approval of the revised plan and issuance of an amended permit, the owner or his/her designated representative shall immediately implement the revised plan.

G. Approval of an erosion and sediment control plan does not constitute an approval of permanent road or drainage design (e.g., size and location of roads, pipes, restrictors, channels, retention facilities, utilities, etc.).

Finding: Complies with Condition. The applicant shall provide an Erosion Prevention and Sedimentation Control Plan to the City for approval. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

CHAPTER 17.41 - TREE PROTECTION STANDARDS

17.41.020 - Tree protection—Applicability.

1. Applications for development subject to Chapters 16.08 or 16.12 (Subdivision or Minor Partition) or Chapter 17.62 (Site Plan and Design Review) shall demonstrate compliance with these standards as part of the review proceedings for those developments.
2. For public capital improvement projects, the city engineer shall demonstrate compliance with these standards pursuant to a Type II process.
3. Tree canopy removal greater than twenty-five percent on sites greater than twenty-five percent slope, unless exempted under Section 17.41.040, shall be subject to these standards.
4. A heritage tree or grove which has been designated pursuant to the procedures of Chapter 12.08.050 shall be subject to the standards of this section.

Finding: Applicable. The proposed development includes a Subdivision, therefore this section applies.

17.41.030 - Tree protection—Conflicting code provisions.

Except as otherwise specified in this section, where these standards conflict with adopted city development codes or policies, the provision which provides the greater protection for regulated trees or groves, as defined in Section 17.04, shall govern.

Finding: Applicable. The trees within the boundaries of the property or associated with the proposed development onsite are regulated under this section of code and do not fall under any other protections within the City's development codes.

17.41.040 - Same—Exemptions.

These regulations are not intended to regulate normal cutting, pruning and maintenance of trees on private property except where trees are located on lots that are undergoing development review or are otherwise protected within the Natural Resource Overlay District (NROD) of [section 17.49](#). These standards are not intended to regulate farm and forest practices as those practices are defined under ORS 30.930. Farm or forest resources. An applicant for development may claim exemption from compliance with these standards if the development site containing the regulated grove or trees was a designated farm or forest use, tree farm, Christmas tree plantation, or other approved timber use within one year prior to development application. "Forest practices" and "forestlands" as used in this subsection shall have the meaning as set out in ORS 30.930. The community development director has the authority to modify or waive compliance in this case.

Finding: Complies as conditioned. The project site has historically been used as a farm, as evidenced by the Farm Deferral tax status shown on the 2016 Property Tax Statements for Tax Lots 1001, 1100, and 1700 included in the application materials. More specifically, the property has been used as a hazelnut and Christmas tree farm, and is currently occupied with both hazelnut and Christmas trees. A number of stands of the larger trees located on the property were originally planted as Christmas trees that were never harvested. The hazelnut trees have been overcome with Eastern Filbert Blight, a common disease among hazelnut orchards that is spread during wet weather. The existing hazelnut trees have been deemed "diseased" by a certified arborist, as addressed in the project's Arborist Report. Based on the project site's farm use status within one year of this application, the trees mentioned in this response are considered exempt from Chapter 17.41 and are not included in the project's mitigation calculation. However, the removal of 9 trees are subject to compliance with this standard. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

17.41.050 - Same—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 Sections [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](#)—[17.41.100](#); or

C. Option 3—Restrictive Covenant. Protection of trees or groves by recordation of a permanent restrictive covenant pursuant to Sections [17.41.110](#)—[17.41.120](#); 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 eighty percent of minimum density with reduction of lot size; or*
- 2. Preclude meeting minimum connectivity requirements for subdivisions.*

Finding: Complies with Condition. Based on the health of the trees, as detailed in the "Detailed Tree Inventory" Located in the preliminary plans, 9 trees are subject to mitigation. Using Table 17.41.060-1 (Tree Replacement Requirements) to calculate the number of trees required for mitigation, 36 mitigation trees are required. This application chooses to use a combination of Option 1 and Option 4 to satisfy this

requirement. A final tree mitigation plan is planned to be submitted based on the City's final decision. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

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 six inch DBH (minimum four and one-half 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:

Two-inch caliper deciduous, or

Six-foot high conifer

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

Steps for calculating the number of replacement trees:

- 1. Count all trees measuring six inches DBH (minimum four and one-half 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. Of the trees to be removed, a total of 5 are located inside the construction area for project improvements. A total of 4 trees are located outside of the construction area with a total of 36 mitigation trees required. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

17.41.070 - Planting area priority for mitigation (Option 1).

Development applications which opt for removal of trees with subsequent replanting pursuant to section 17.41.050A. shall be required to mitigate for tree cutting by complying with the following priority for replanting standards below:

A. First Priority. Replanting on the development site.

B. Second Priority. Off-site replacement tree planting locations. If the community development director determines that it is not practicable to plant the total number of replacement trees on-site, a suitable off-site planting location for the remainder of the trees may be approved that will reasonably satisfy the objectives of this section. Such locations may include either publicly owned or private land and must be approved by the community development director.

Finding: Complies with Condition. Trees located on the project site were inventoried and evaluated by a professional certified arborist. Many of the trees on-site are either hazardous or diseased and need to be removed. Nine (9) trees to be removed are subject to mitigation, (4 trees located “outside of construction area” and 5 trees are located “inside of construction area”). Based on the size of the trees to be removed and their location relative to the “construction area,” a total of 36 mitigation trees are planned to be planted per Option 1 or cash-in-lieu of planting paid per Option 4. This standard is met. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

17.41.075 - Alternative mitigation plan.

The community development director may, subject to a Type II procedure, approve an alternative mitigation plan that adequately protects habitat pursuant to the standards for the natural resource overlay district alternative mitigation plan, Section 17.49.190.

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

17.41.080 - Tree preservation within subdivisions and partitions—Dedicated tract (Option 2).

A. Applicants for new subdivision and partition plats may delineate and show the regulated trees or groves as either a separate tract or part of a larger tract that meets the requirements of subsection D. of this section.

B. The standards for land divisions subject to this section shall apply in addition to the requirements of the city land division ordinance and zoning ordinance, provided that the minimum lot area, minimum average lot width, and minimum average lot depth standards of the base zone may be superseded in order to allow for a reduction of dimensional standards pursuant to Section 17.41100 below. C. Prior to preliminary plat approval, the regulated tree or grove area shall be shown either as a separate tract or part of a larger tract that meets the requirements of subsection D. of this section, which shall not be a part of any parcel used for construction

of a structure. The size of the tract shall be the minimum necessary as recommended by a consulting arborist to adequately encompass the dripline of the tree, protect the critical root zone and ensure long term survival of the tree or grove.

D. Prior to final plat approval, ownership of the regulated tree or grove tract shall be identified to distinguish it from lots intended for sale. The tract may be identified as any one of the following:

1. Private open space held by the owner or a homeowners association; or
2. For residential land divisions, private open space subject to an easement conveying stormwater and surface water management rights to the city and preventing the owner of the tract from activities and uses inconsistent with the purpose of this document; or
3. At the owners option, public open space where the tract has been dedicated to the city or other governmental unit; or
4. Any other ownership proposed by the owner and approved by the community development director.

Finding: Not Applicable. The applicant has not chosen this option.

17.41.090 - Density transfers incentive for tree protection tracts (Option 2).

A. The purpose of this section is to allow dimensional adjustments within a regulated tree protection tract to be transferred outside said tract to the remainder of the site. This provision applies on-site and density shall not be transferred beyond the boundaries of the development site.

B. Development applications for subdivisions and minor partitions that request a density transfer shall:

1. Provide a map showing the net buildable area of the tree protection tract;
2. Provide calculations justifying the requested dimensional adjustments;
3. Demonstrate that the minimum lot size requirements can be met based on an average of all lots created, including the tree protection tract created pursuant to [Section 17.41.080](#);
4. Demonstrate that, with the exception of the tree protection tract created pursuant to [Section 17.41.080](#), no parcels have been created which would be unbuildable in terms of minimum yard setbacks;
5. Meet all other standards of the base zone except as modified in [section 17.41.100](#).

C. The area of land contained in a tree protection tract may be excluded from the calculations for determining compliance with minimum density requirements of the zoning code.

Finding: Not Applicable. The applicant has not chosen this option.

17.41.100 - Permitted modifications to dimensional standards (Option 2 only).

A. An applicant proposing to protect trees in a dedicated tract pursuant to [section 17.41.080](#) may request, and the community development director, pursuant to a Type II procedure, may grant a reduction to, the lot size, width, depth, and setbacks of the underlying zone district in approving a subdivision or partition if necessary to retain a regulated tree or grove in a tract, as long as the calculation of average lot size, including tree protection tracts, meet the minimum lot size for the zone. The applicant may choose to make the adjustments over as many lots as required. For example, the lot reduction could be spread across all the remaining lots in the proposed subdivision or partition or could be applied to only those needed to incorporate the area of the tree tract.

Finding: Finding: Not Applicable. The applicant has not chosen this option.

17.41.110 - Tree protection by restrictive covenant (Option 3).

Any regulated tree or grove which cannot be protected in a tract pursuant to [Section 17.41.080](#) above shall be protected with a restrictive covenant in a format to be approved by the community development director. Such covenant shall be recorded against the property deed and shall contain provisions to permanently protect the regulated tree or grove unless such tree or grove, as determined by a certified arborist and approved by the community development director, are determined to be diseased or hazardous.

Finding: Not Applicable. The applicant has not chosen this option.

17.41.120 - Permitted adjustments (Option 3 Only).

A. The community development director, pursuant to a Type II procedure, may grant an adjustment to the side, front and rear yard setback standards by up to 50 percent if necessary to retain a Regulated Tree or Grove through a restrictive covenant pursuant to this section. In no case may the side yard setback be reduced less than three feet. The adjustment shall be the minimum necessary to accomplish preservation of trees on the lot and shall not conflict with other conditions imposed on the property.

B. The community development director, pursuant to a Type II procedure, may grant an adjustment to street standards, pursuant to adopted public works standards, in order to preserve a tree. This may include flexibility to redesign sidewalk and planter strip sizes and locations and allow placement of sidewalks and planter strips in an easement within private lots.

C. The community development director, pursuant to a Type II procedure, may allow other adjustments in order to preserve any healthy tree that cannot be moved due to its size, but will contribute to the landscape character of the area and will not present a foreseeable hazard if retained.

Finding: Not Applicable. The applicant has not chosen this option.

17.41.1[25] - Cash-in-lieu of planting (tree bank/fund) (Option 4).

The applicant may choose this option in-lieu-of or in addition to Compliance Options 1 through 3. In this case, the community development director may approve the payment of cash-in-lieu into a dedicated fund for the remainder of trees that cannot be replanted in the manner described above.

A. The cash-in-lieu payment per tree shall be as listed on the adopted fee schedule and shall be adjusted annually based on the Consumer Price Index (Index). The price shall include the cost of materials, transportation and planting.

B. The amount of the cash-in-lieu payment into the tree bank shall be calculated as the difference between the value of the total number of trees an applicant is required to plant, including cost of installation and adjusted for Consumer Price Index, minus the value of the trees actually planted. The value of the trees shall be based on the adopted fee schedule.

Finding: Complies with Condition. Mitigation trees are planned to be planted on or off-site and/or cash-in-lieu of planting is to be paid in accordance with this Chapter. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

17.41.130 - Regulated tree protection procedures during construction.

A. No permit for any grading or construction of public or private improvements may be released prior to verification by the community development director that regulated trees designated for protection or conservation have been protected according to the following standards. No trees designated for removal shall be removed without prior written approval from the community development director.

B. Tree protection shall be as recommended by a qualified arborist or, as a minimum, to include the following protective measures:

1. Except as otherwise determined by the community development director, all required tree protection measures set forth in this section shall be instituted prior to any development activities, including, but not limited to clearing, grading, excavation or demolition work, and such measures shall be removed only after completion of all construction activity, including necessary landscaping and irrigation installation, and any required plat, tract, conservation easement or restrictive covenant has been recorded.

2. Approved construction fencing, a minimum of four feet tall with steel posts placed no farther than ten feet apart, shall be installed at the edge of the tree protection zone or dripline, whichever is greater. An alternative may be used with the approval of the community development director.

3. Approved signs shall be attached to the fencing stating that inside the fencing is a tree protection zone, not to be disturbed unless prior approval has been obtained from the community development director.

4. No construction activity shall occur within the tree protection zone, including, but not limited to; dumping or storage of materials such as building supplies, soil, waste items; nor passage or parking of vehicles or equipment.

5. *The tree protection zone shall remain free of chemically injurious materials and liquids such as paints, thinners, cleaning solutions, petroleum products, and concrete or dry wall excess, construction debris, or run-off.*
 6. *No excavation, trenching, grading, root pruning or other activity shall occur within the tree protection zone unless directed by an arborist present on site and approved by the community development director.*
 7. *No machinery repair or cleaning shall be performed within ten feet of the dripline of any trees identified for protection.*
 8. *Digging a trench for placement of public or private utilities or other structure within the critical root zone of a tree to be protected is prohibited. Boring under or through the tree protection zone may be permitted if approved by the community development director and pursuant to the approved written recommendations and on-site guidance and supervision of a certified arborist.*
 9. *The city may require that a certified arborist be present during any construction or grading activities that may affect the dripline of trees to be protected.*
 10. *The community development director may impose conditions to avoid disturbance to tree roots from grading activities and to protect trees and other significant vegetation identified for retention from harm. Such conditions may include, if necessary, the advisory expertise of a qualified consulting arborist or horticulturist both during and after site preparation, and a special maintenance/management program to provide protection to the resource as recommended by the arborist or horticulturist.*
- C. Changes in soil hydrology due to soil compaction and site drainage within tree protection areas shall be avoided. Drainage and grading plans shall include provision to ensure that drainage of the site does not conflict with the standards of this section. Excessive site run-off shall be directed to appropriate storm drainage facilities and away from trees designated for conservation or protection.*

Finding: Complies as Proposed. Tree protection measures for those trees to remain on the project site have been outlined in the project's Arborist Report and shown on the preliminary plans in accordance with the criteria of this standard. Grading and/or construction activity will not commence prior to the installation of planned tree protection.

CHAPTER 17.50 - ADMINISTRATION AND PROCEDURES

17.50.030 Summary of the City's Decision-Making Processes.

Finding: Complies as Proposed. The proposed Subdivision and Zone Change application is being reviewed pursuant to the Type IV process. Notice was posted onsite, online and mailed to property owners within 300 feet of the proposed development site and posted in the paper.

17.50.050 Preapplication Conference

A. Preapplication Conference. Prior to submitting an application for any form of permit, the applicant shall schedule and attend a preapplication conference with City staff to discuss the proposal. To schedule a preapplication conference, the applicant shall contact the Planning Division, submit the required materials, and pay the appropriate conference fee. At a minimum, an applicant should submit a short narrative describing the proposal and a proposed site plan, drawn to a scale acceptable to the City, which identifies the proposed land uses, traffic circulation, and public rights-of-way and all other required plans. The purpose of the preapplication conference is to provide an opportunity for staff to provide the applicant with information on the likely impacts, limitations, requirements, approval standards, fees and other information that may affect the proposal. The Planning Division shall provide the applicant(s) with the identity and contact persons for all affected neighborhood associations as well as a written summary of the preapplication conference. Notwithstanding any representations by City staff at a preapplication conference, staff is not authorized to waive any requirements of this code, and any omission or failure by staff to recite to an applicant all relevant applicable land use requirements shall not constitute a waiver by the City of any standard or requirement.

B. A preapplication conference shall be valid for a period of six months from the date it is held. If no application is filed within six months of the conference or meeting, the applicant must schedule and attend

another conference before the city will accept a permit application. The community development director may waive the preapplication requirement if, in the Director's opinion, the development does not warrant this step. In no case shall a preapplication conference be valid for more than one year.

Finding: Complies as Proposed. On November 3, 2016, the applicant's consultant submitted a request for a preapplication conference on the required form, and included a short explanatory narrative, preliminary site plan, and the appropriate fee. The pre-application conference was held on December 6, 2016. The original pre-application conference summary, including updated summary dated December 28, 2016, provided by Oregon City Planning and Development Services are included in the application materials. The subdivision application was filed with the City within six months of the pre-application conference. These criteria are met.

17.50.055 Neighborhood Association Meeting

Finding: Complies as Proposed. Upon receiving approval to communicate with the South End Neighborhood Association (SENA) via email, the applicant's consultant sent an email to SENA Chair Bill McConnel on March 15, 2017, describing the planned project. The SENA responded on April 6, 2017 indicating that the applicant would be included on the May 18, 2017 meeting agenda. The applicant's consultant attended the SENA meeting, presented the project, and answered questions from the neighbors in attendance. In order to show compliance with the applicable criteria, as required by 17.50.055.A.5, the required neighborhood meeting submittal items have been included in the application materials. This standard has been met.

17.50.060 Application Requirements.

Finding: Complies as Proposed. All application materials required are submitted with this narrative. The applicant has provided full-size and two reduced size sets of plans to accompany the submittal items.

17.50.070 Completeness Review and 120-day Rule.

Finding: Complies as Proposed. This land use application was submitted on June 20, 2017. The application was deemed incomplete on July 20, 2017. The City has until November 7, 2017 to make a final determination.

17.50.080 Complete Application--Required Information.

Finding: Complies as Proposed. This land use application was submitted on June 20, 2017. The application was deemed incomplete on July 20, 2017.

17.50.090 Public Notices.

Finding: Complies as Proposed. Staff provided public notice within 300' of the site via mail, the site was posted with multiple Land Use Notices, posted on the Oregon City website and in a general circulation newspaper. Staff provided email transmittal of the application and notice to affected agencies, the Natural Resource Committee and to all Neighborhood Associations requesting comment.

17.50.100 Notice Posting Requirements.

Finding: Complies as Proposed. The site was posted with a sign longer than the minimum requirement.

CHAPTER 17.54.100 - FENCES

Finding: Not Applicable. The applicant indicated that no fences or walls are proposed with this development. Future retaining walls (other than a stormwater facility and tract A) shall be reviewed for compliance with this section.

CONCLUSION AND RECOMMENDATION:

Based on the analysis and findings as described above, Staff concludes that the proposed Subdivision and Zone Change Identified as Map 32E07C Tax Lot 1001 (Wheeler Family Enterprises, LLC), Map 32E07C Tax

Lots 1100 (19566 Central Point Rd), and 1180 (David H. Wheeler Sr. Trust), Map 32E07C Tax Lot 1291 (Donald W. & Roxanne O. Wheeler), Map 31E12D Tax Lots 1700, 1790 (Wheeler Family Enterprises, LLC) can meet the requirements as described in the Oregon City Municipal Code by complying with the Conditions of Approval provided in this report. Therefore, staff recommends approval file TP 17-03 and ZC 17-02 with conditions, based upon the findings and exhibits contained in this staff report.

EXHIBITS:

1. Vicinity Map
2. Applicant's Narrative and Plans
 - a. ZC 17-02 plans and findings
 - b. TP 17-03 plans and findings.
3. Letter from John Replinger
4. Public Comments-West Susan Rictor
5. NR 17-03 Exemption (onfile)