



### STAFF REPORT RECOMMENDATION

*October 10, 2017*

**FILE NUMBER:** TP 17-02: Parker Knoll

**APPLICANT:** Rick Givens  
Planning Consultant  
18680 Sunblaze Dr.  
Oregon City, OR 97045

**OWNER:** Icon Construction and Development, LLC.  
1980 Willamette Falls Drive, Suite 200  
West Linn, OR 97068

**REQUEST:** The applicant is seeking approval of an eleven-lot Subdivision in the “R-8” Single-Family Dwelling District and “I” Institutional District. A portion of the subdivision road access will be accommodated within a 50-foot wide easement in Wesley Lynn Park.

**LOCATION:** 19510 Leland Road, Oregon City, OR 97045  
Clackamas County Map 3-2E-07D, Tax Lots 600, 601, 700, 701, 501, and 401

**REVIEWERS:** Laura Terway, AICP, Community Development Director  
Sang Pau, Development Engineer

**RECOMMENDATION:** The subdivision appears to comply with the standards in the Oregon City Municipal Code with the conditions of approval. No recommendation is provided as to how the Charter effects the proposal.

**PROCESS:** The process for this land use decision is controlled by ORS 197.763. At the evidentiary hearing held before the city commission, all issues are addressed. 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 Subdivision Conditions of Approval**  
**Planning File TP 17-02**

*No recommendation is provided as to how the Charter affects the proposal.*

**The applicant shall include the following information with submittal of a public improvement and/or grading permit and/or construction plan review associated with the proposed application. The following items shall be completed prior to final plat.**

1. The applicant shall demonstrate compliance with all Oregon City Public Works standards and design policies. (DS)
2. The 10-foot wide pedestrian path provided within the park property shall be Americans with Disabilities Act (ADA) compliant and have a ramp at the pedestrian crossing located at the intersection of Reddaway Ave and Leland Road. A 5-foot wide pedestrian path shall also be provided to establish connectivity with the sidewalk along the eastside of the proposed road that turns from Reddaway Ave toward Kalal Ct. The development shall also provide a midblock pedestrian path with ADA compliant ramps from the south side of Reddaway Ave to the 10-foot wide pedestrian path within Wesley Park to alleviate inconvenient travel patterns for local pedestrian. (DS)
3. Reddaway Ave from Leland Road easterly to the proposed bend shall have improvements consisting of 28 feet of pavement (2) 0.5' Curb, (1) 5' planter with street trees along the south side, (1) 5' sidewalk along the south side, (1) 0.5' behind sidewalk along the south side and streetlights. The applicant shall dedicate a minimum of 27-feet of right-of-way (ROW) south of the northern property line, or that width required to fully encompass the 5-foot sidewalk and 0.5-foot public access strip. (DS)
4. Reddaway Avenue south of the proposed bend shall consist of 28 feet of pavement, (2) 0.5' Curb, (2) 5' planter with street trees, (2) 5' sidewalk, (2) 0.5' behind sidewalk, and streetlights. (DS)
5. The sidewalk along Reddaway Avenue shall be located within the ROW, either by dedicating 50 feet of ROW south of the proposed bend (preferred), or with a curb-tight sidewalk within the proposed 40-foot ROW. (DS)
6. The stormwater plan and report shall be revised and resubmitted to meet submittal requirements of the Stormwater and Grading Design Standards. The report shall give justification for the utilization of a non-standard stormwater management facility such as a filter strip. The applicant shall provide infiltration tests results which conform to Appendix D of the Stormwater and Grading Design Standards. (DS)
7. The stormwater plan and report shall be revised and resubmitted with facilities designed in accordance with Chapter 4 of the Stormwater and Grading Design Standards. (DS)
8. The applicant shall submit a Residential Lot Grading Plan adhering to the City's Residential Lot Grading Criteria. All grading of building sites shall conform to the State of Oregon Structural Specialty Code, Chapter 18 and the requirements Chapters 15.48, 16.12, 17.47 of the Oregon City Municipal Code and the Public Works Stormwater and Grading Design Standards. (DS)
9. The applicant shall provide an 8" water main with fire hydrants in accordance with City and Clackamas Fire District #1 standards. The applicant shall provide each lot with an individual meter and water service from the water main. (DS)
10. The development shall provide a 10-foot-wide Public Utility Easement (PUE) along all property lines fronting an existing or proposed ROW; no PUE is required adjacent to the segment located on Wesley Lynn Park property. (DS)
11. The applicant shall sign a Non-Remonstrance Agreement for the purpose of making sanitary sewer, storm sewer, water or street improvements in the future that benefit the Property and assessing the cost to benefited properties pursuant to the City's capital improvement regulations in effect at the time of such improvement. (DS)

12. The applicant shall submit a photometric plan with the construction plan submittal to facilitate the design of street lights. (DS)
13. The applicant shall complete all public improvements prior to final plat or provide financial guarantee for the construction of the public improvements in a manner acceptable to the City Engineer. (DS)
14. The applicant shall obtain an erosion and sediment control permit from the City and a 1200-C permit from Oregon Department of Environmental Quality prior to construction activities. (DS)
15. Applicant shall obtain from Clackamas County all permits required for work in Leland Road right-of-way.
16. Right-of-way dedication and improvements along Leland Road shall be per Clackamas County standards, including 25-foot half-street widening with curb and gutter, 5-foot planter strip, 5-foot sidewalk, street trees, and 39-foot ROW from centerline. Final design shall be reviewed and approved by Clackamas County.
17. A street tree plan shall be submitted in accordance with 12.08. A fee in lieu is permitted for the trees located along the private street frontage. (P)
18. All buildings proposed to be demolished shall be removed. (P)
19. The applicant shall submit documentation demonstrating that the lot coverage for proposed Lot 1 is less than 40%. (P)
20. The applicant shall submit a plan identifying protection of existing trees per OCMC 17.41.130. (P)
21. The applicant shall submit CC&R's for the subdivision (if applicable) which do not conflict with the Oregon City Municipal Code. (P)

**The applicant shall include the following information prior to issuance of an occupancy permit associated with the proposed application. The information shall be approved prior to issuance.**

1. Per Annexation AN 07-01, each new home submitted before July 1, 2018 is required to provide a fee of \$3,500.
2. Any future development of Lot 1 shall comply with the requirements in OCMC 16.12.070.
3. Prior to occupancy of each dwelling, the applicant shall record a covenant for the lot identifying the number of existing and mitigation trees onsite and plant the required number of mitigation trees. The covenant and tree planting for Lot 1, which contains an existing home, shall be completed prior to occupancy of the first home in the development. The applicant may choose to utilize option 4 in addition to option 1 if it may be demonstrated that the mitigation trees cannot physically fit onsite.

*(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.*

## I. BACKGROUND:

### 1. Existing Conditions

The Oregon City Planning Division received an application from Icon Construction to subdivide property located at 19510 Leland Road, Oregon City, OR 97045 and identified as Clackamas County Map 3-2E-07D, Tax Lots 600, 601, 700, 701, 501, and 401 into 11 lots, known as Parker Knoll (Exhibit 1). The subject property is developed with one single-family home and includes some development along its northeast and southeast borders of Wesley Linn Park. The property is fairly level and is primarily vegetated with grass. A few coniferous trees are located on the rear portion of the property, as well as ornamental trees in the yard area around the existing home.

Figure 1. Vicinity Map





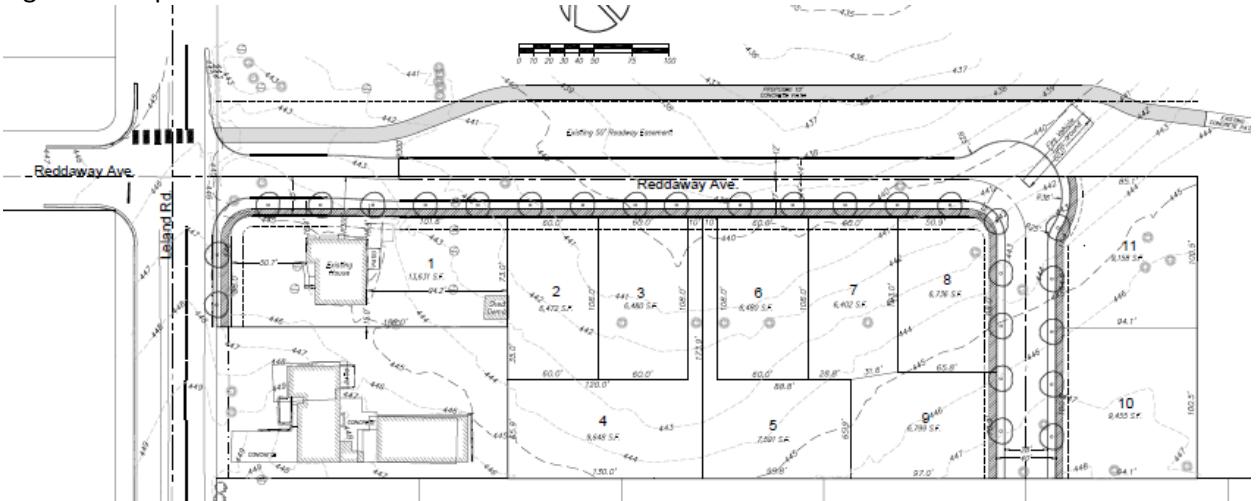
Figure 2: Existing Conditions – Aerial Image



## 2. Project Description

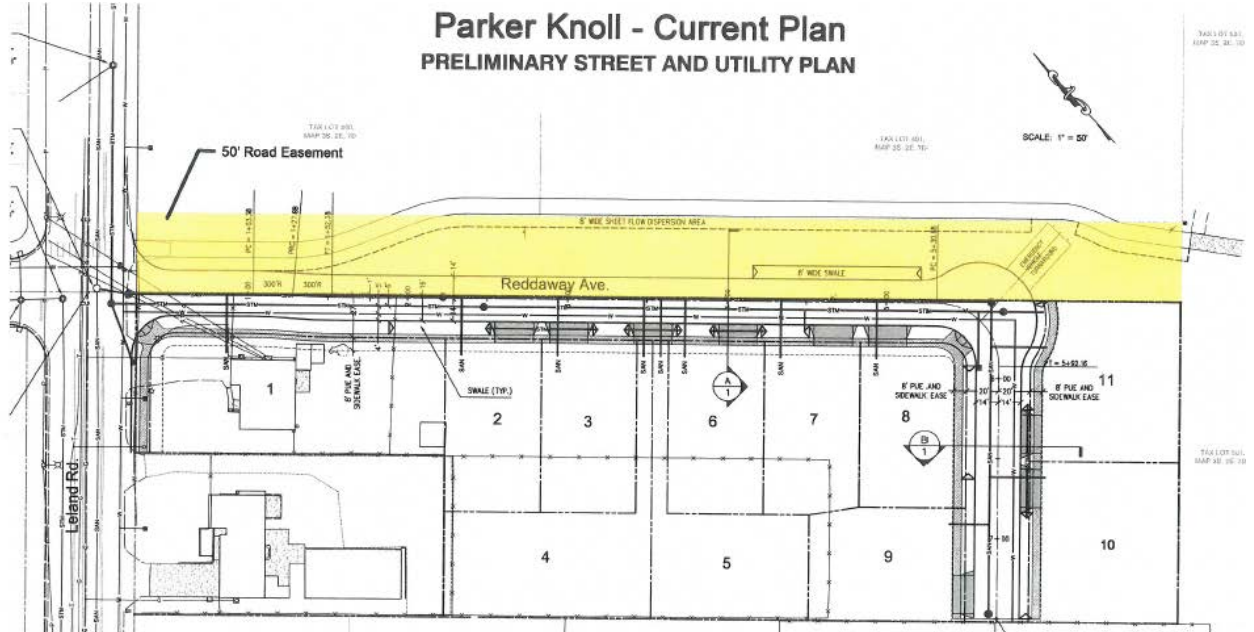
The proposed application would subdivide private property into 11 lots for the development of single-family residences with a portion of a roadway in an adjacent easement on Wesley Lynn Park (Exhibit 2). The development would retain an existing home and create an extension of Reddaway Avenue into the subject property which bends to the southwest at the rear of the property to provide for a potential future connection to Kalal Ct.

Figure 3: Proposed Site Plan



The applicant proposed to utilize an existing easement (shown below in yellow) to accommodate a portion of the roadway on the Wesley Lynn Park property. Though the easement grants the applicant rights to develop a portion of Wesley Lynn Park, according to the Oregon City Charter, certain development of park property requires approval of Oregon City voters. The easement area has twice been the subject of election proposals that would have allowed locating a roadway, drainage and utilities necessary to support the development on park land. As the elections both were narrowly defeated, the applicant revised the design to include a public road within a portion of the easement as well as a concrete path, both within

and outside of the easement area, which they believe is authorized by the easement and does not require voter approval.



Because a large component of the project entails answering the question of whether voter approval is required for the redesigned project, staff and the applicant asked the City Commission to call up the subdivision application to a public hearing. This would allow for a longer public comment period, an opportunity for the public to submit new evidence at a public hearing, will allow a clear opportunity for the public and the City to consider the Charter, and will create a process where the application may be reviewed in an efficient and comprehensive way. The City Commission will decide:

- If the proposed development complies with the applicable land division and other standards set forth within the Oregon City Municipal Code; and
- If the proposed development occurring within Wesley Lynn Park requires approval of Oregon City voters. This decision will be made utilizing the language of the easement, the language of the Charter, applicable case law, historic decisions of the City, and any other relevant evidence.

The City is obligated to process development applications to determine if they comply with the standards in the Oregon City Municipal Code. Developments are approved if all of the criteria are met. In this case, the City Commission will also be reviewing the Charter requirement to determine if a vote of Oregon City voters is legally required. The review is subject to an analysis with applicable criteria and prior votes or comments not addressing the relevant criteria are not germane to the City's decision. The City Commission's decision is appealable to the Land Use Board of Appeals (LUBA).

**3. Municipal Code Standards and Requirements:** The following sections of the Oregon City Municipal Code are applicable to this subdivision request:

- 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  
17.10 – “R-8” Single Family Dwelling District  
17.39 – “I” Institutional District  
17.41 – Tree Protection  
17.47 - Erosion and Sediment Control  
17.50 - Administration and Procedures  
17.54.100 – Fences  
The City Code Book is available on-line at [www.orcity.org](http://www.orcity.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 twice to various City departments, affected agencies, property owners within 300 feet, the Citizen Involvement Committee, and the Neighborhood Associations. Additionally, the subject property was posted with signs identifying that a land use action was occurring on the property, posted in a paper, and posted on the City’s website.

Public comments were received (Exhibit 3) generally identifying the following:

General opposition to the development and utilization of park land. The development has been voted down multiple times and concern that the voice of the citizens is not being honored. The park is used by a variety of users such as adults, kids, dogs, and wildlife and concern the development would result in a loss of park land and increase traffic while decreasing livability and safety. A concern for effects on wetlands was expressed as well as a suggestion to build a fence along the park if the roadway is built.

An additional comment was submitted which did not object to the proposal.

The findings within the enclosed staff report demonstrate the proposal can comply with the applicable standards in the Oregon City Municipal Code with the proposed conditions of approval.

## **II. ANALYSIS AND FINDINGS**

### **OREGON CITY CHARTER**

**The proposed development includes constructing a roadway to access to the subdivision on a portion of land within Wesley Lynn Park. In order to align the roadway with an existing intersection of Reddaway Avenue and Leland Road, a portion of the road extension must be located within a pre-existing 50-foot roadway easement area. The land within the easement is currently unimproved, although it does contain a well-worn foot path that connects to a hard-surfaced pedestrian trail within the park.**

**The improvements proposed within the easement area include a portion of a local roadway, 12 feet of pavement area, a drainage swale necessary to collect runoff from the roadway only, plus a 10 foot concrete path for use by residents as well as park attendees. The question for the City Commission to**

**decide is whether construction and/or use of these improvements requires prior approval by the voters, under Chapter X of the Oregon City Charter.**

The standards applicable to the City Commission's consideration of these issues set forth in Chapter X, Section 41 of the City Charter provide, in relevant part:

*The commission may not do any of the following listed acts with regard to any designated city park or part thereof without first obtaining approval of the legal voters of the city.*

- Vacate or otherwise change the legal status of any park or
- Construct permanent buildings or structures thereon other than for recreational

The Charter does not absolutely prohibit the activities such as a change in legal status or the construction of permanent non-recreation structures. Instead, the Charter provision requires that the City Commission receive voter approval for taking such actions.

**An analysis of how the Charter effects the application may be found in a memorandum from Assistant City Attorney, Carrie Richter attached in Exhibit 7.**

**OREGON CITY MUNICIPAL CODE**

**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.

***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 rights-of-way by franchises 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 acknowledges the City's and Clackamas County's jurisdiction and management of the public right-of-way. The applicant shall receive all necessary approvals from the City and from Clackamas County prior to installation of any public improvements within the adjacent right-of-way.

#### *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. Compliance with the following criteria is required:*

- A. The modification meets the intent of the standard;*
- B. The modification provides safe and efficient movement of pedestrians, motor vehicles, bicyclists and freight;*
- C. The modification is consistent with an adopted plan; and*
- D. The modification is complementary with a surrounding street design; or, in the alternative,*
- 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: Complies with Condition.** The applicant has proposed the following modifications.

In general, applicant has proposed the following modifications:

*Modifications are proposed to the block spacing standards of section 12.04.195 and to the right-of-way and pavement width standards for local streets as set in Table 12.04.180 Street Design. Additionally, a modification is being requested to allow the use of a filter strip as treatment for storm water flowing off of the 10 foot strip of paving on the existing 50' easement on the park property. The maximum block spacing standard of 530 feet is proposed to be increased to 570 feet. Further, the requirement for a pedestrian pathway at a 300 foot interval is requested to be waived as the existing development pattern along Kalal Ct. precludes any realistic opportunity for a through-connection to Kalal Ct. The right-of-way width of 54' and pavement width of 32 feet is proposed to be reduced 40 feet and 28 feet, respectively, for the section of Reddaway Ave that bends to the southwest to provide for a future connection to Kalal Ct.*

**Modification #1:** The applicant proposes to a modification regarding the use of a non-standard stormwater treatment facility in the following:

*A modification is being requested to allow the use of a filter strip as treatment for storm water flowing off of the 10 foot strip of paving on the existing 50' easement on the park property.*

To address part A of 12.04.007 the applicant states the following:

*At the present time, City standards do not include provisions for the use of a filter strip to meet storm detention requirements. This design has been used effectively in other jurisdictions and is a reasonable solution in this instance in order to provide for the needed treatment/detention and for the water to flow in the natural, non-point source, sheet flow onto the park property.*

**Finding: Complies with condition.** The applicant did not provide sufficient justification for the utilization of a filter strip in lieu of a standard stormwater treatment method identified in the

City's Stormwater and Grading Design Standards. A condition has been applied through findings from Section 13.12.080. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

To address part B of 12.04.007 the applicant states the following:

*There are no impacts from the use of the proposed filter strip upon the movement of all forms of traffic.*

**Finding: Complies as proposed:** Staff concurs that there are no impacts from the use of the proposed filter strip upon the movement of all forms of traffic.

To address part C of 12.04.007 the applicant states the following:

*To the applicant's knowledge there are no Comprehensive Plan policies that would be inconsistent with the proposed standards.*

**Finding: Complies as proposed:** Staff concurs that there are no adopted plan policies that would be inconsistent with the use of a filter strip.

To address part D of 12.04.007 the applicant states the following:

*The proposed use of a filter strip allows for the development of the subject property. This design option is consistent with providing for treatment and detention without causing significant impacts on the park property that would result from other standard options which would result in a single point of discharge onto the park.*

**Finding: Complies with condition.** The applicant did not provide sufficient justification for the utilization of a filterstrip in lieu of a standard stormwater treatment method identified in the City's Stormwater and Grading Design Standards. A condition has been applied through findings from Section 13.12.080. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

To address part E of 12.04.007, for all modifications proposed, the applicant states the following:

*The applicant is not claiming a constitutional basis for the requested modifications.*

**Finding: Not applicable.** The applicant is not claiming a constitutional basis for the requested modifications.

**Modification #2:** Regarding block length requirements the applicant requests the following modification:

*The maximum block spacing standard of 530 feet is proposed to be increased to 570 feet. Further, the requirement for a pedestrian pathway at a 300 foot interval is requested to be waived as the existing development pattern along Kalal Ct. precludes any realistic opportunity for a through-connection to Kalal Ct.*

To address part A of 12.04.007 the applicant states the following:

*The intent of the block length standard is to provide for an efficient lotting pattern and to ensure connectivity that reduces out-of-direction traffic and which encourages pedestrian and bicycle modes of transportation. In this instance, the reason for increasing the spacing is to provide for the alignment of Reddaway Ave. to be centered on an existing property line where its extension can occur in the future such that adjoining tax lots 2300 and 2400 on Map 32E07DC can be divided with lots facing onto the new street. Centering the right-of-way in this manner increases the likelihood of the eventual connection being made to Kalal Ct., which promotes the connectivity objective of this provision. Moving the alignment to the common lot lines between Tax Lots 2400 and 2500 or 2500 and 2600,*

*while meeting the block spacing standard, would not result in a reasonable lotting pattern on the subject property. Placing it between Lots 2400 and 2500 leaves an area on the rear of the subject property that is 230 feet deep. This would be too deep for a single tier of lots and would necessitate three flag lots, which the Code discourages in subdivisions. Placing the street so it would align on the property line between Tax Lots 2500 and 2600 would leave a useless strip to the rear of Lot 2 and would necessitate Reddaway Ave. ending in a cul-de-sac that would be longer than the 200 foot maximum set in OCMC 12.04.225. The final option would be to provide two street stubs; one at the proposed location and a second between Tax Lots 2500 and 2600. This would be an undue burden on the applicant given the relatively minor discrepancy between the proposed spacing of 570 feet and the maximum standard of 530 feet.*

The applicant has not requested a modification to the block length between Reddaway Avenue and Kalal Court, as the standard is met.

**Finding: Complies with Condition.** With the recommended conditions of approval regarding pedestrian accessway, the intent of the standard can be met. See findings from part B of 12.04.007 regarding the proposed modification to block spacing standards.

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

To address part B of 12.04.007 the applicant states the following:

*The proposed spacing would have no impact upon safety of motor vehicle or bicycle traffic because the difference between the proposed spacing and the standard is so small. Forty feet is insignificant to such modes of transportation. The fact that the street stub is being placed in a location where future extension is at least potentially practicable serves the public interest in safety and efficiency by allowing for connectivity. As for pedestrian traffic, it should be noted that degree of modification is lessened somewhat by the fact that Leland Road is an arterial street with a half-street width of 39 feet, rather than the 27 feet of a local street; meaning that the sidewalk is 12 feet closer than it would be for the same centerline spacing between local streets. The proposed sidewalk will provide for a safe and efficient means for pedestrians to move to and from Leland Road into the proposed subdivision. The future connectivity would provide for safe and efficient traffic to Kalal Ct.*

**Finding: Complies with Condition.** The applicant has proposed a 10-foot wide pedestrian path within Wesley Park in lieu of sidewalk on the north side of Reddaway Ave. The applicant requests waiver of the pedestrian accessway that is required when street spacing exceeds 530 feet. Regarding a southerly pedestrian access to Kalal Court, staff concurs that this would not provide a logical route and that the proposed public sidewalks will meet the need for pedestrian travel. To the north, however, staff has determined that providing a connection from Reddaway Avenue to the proposed east-west pedestrian path on park property is necessary to provide for adequate pedestrian travel. The vehicular and pedestrian design meets the intent of the standard and can provide safe and efficient movement of pedestrians, motor vehicles, bicyclists and freight if the following conditions are applied. The 10-foot wide pedestrian path provided within the park property shall be Americans with Disabilities Act (ADA) compliant and have a ramp at the pedestrian crossing located at the intersection of Reddaway Ave and Leland Road. A 5-foot wide pedestrian path shall also be provided to establish connectivity with the sidewalk along the eastside of the proposed road that turns from Reddaway Ave toward Kalal Ct. The development shall also provide a

midblock pedestrian path with ADA compliant ramps from the south side of Reddaway Ave to the 10-foot wide pedestrian path within Wesley Park to alleviate inconvenient travel patterns for local pedestrians, who would otherwise be required to traverse the stormwater treatment area.

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

To address part C of 12.04.007 the applicant states the following:

*To the applicant's knowledge there are no Comprehensive Plan policies that would be inconsistent with the proposed standards. The fact that a future street connection to Kalal Ct. would result in a looped street pattern, rather than two cul- de-sac streets, is consistent with the TSP.*

**Finding: Complies as proposed:** Staff concurs that there are no Comprehensive Plan policies that would be inconsistent with the proposed modification. The proposed Reddaway Ave extension completes the partial street system that may connect to Kalal Court, which is consistent with the TSP guidance.

To address part D of 12.04.007 the applicant states the following:

*The proposed spacing is complementary with the existing street design in that it aligns in a location where through-connection to Kalal Ct. is feasible based on the existing development pattern.*

**Finding: Complies as proposed:** The street layout is limited by existing Kalal Court to the south, existing Reddaway Avenue location to the west, and park property to the north and east. The applicant has provided a shadow plat (future street plan) demonstrating that the proposed layout can accommodate future development consistent with surrounding street patterns given the surrounding limitations.

To address part E of 12.04.007, for all modifications proposed, the applicant states the following:

*The applicant is not claiming a constitutional basis for the requested modifications.*

**Finding: Not applicable.** The applicant is not claiming a constitutional basis for the requested modifications.

**Modification #3:** Regarding right-of-way and street cross-section requirements, the applicant requests the following modification:

*The right-of-way width of 54' and pavement width of 32 feet is proposed to be reduced 40 feet and 28 feet, respectively, for the section of Reddaway Ave that bends to the southwest to provide for a future connection to Kalal Ct.*

To address part A of 12.04.007 the applicant states the following:

*Right-of-way/Paving Width: The proposed 40 foot right-of-way with a 28 foot paved street width achieves the purpose of providing for safe traffic flow and adequate parking. Traffic volumes are going to be extremely low on this block given that it serves only 11 homes and does not provide for through-traffic. Sidewalks would be placed in easements on the adjoining lots, thereby providing for pedestrian traffic and allowing room for a park strip. Given the need to allow for the adjoining Tax Lots to be divided into two lots in order for there to be any incentive for this future connection to be made, the proposed width is necessary in order to achieve the desired connectivity.*

**Finding: Complies with Conditions.** City design standards allow for a reduction of

the Local Standard section, which is 54-foot ROW with 32-foot pavement. The street can be constrained to a minimum of 40-foot ROW with 28-foot pavement. The applicant states that the proposed street will only ultimately serve 11 lots, when in fact it has been designed to eventually connect to Kalal Court and serve additional lots. The street would not be anticipated to extend any further; therefore, staff concurs that the constrained street section, providing 28-foot pavement width and (minimum) 5-foot sidewalks on both sides will adequately meet the intent of the standard. For the east-west segment, Reddaway Ave shall have improvements consisting of 28 feet of pavement (2) 0.5' Curb, (1) 5' planter along the south side with street trees, (1) 5' sidewalk along the south side, (1) 0.5' behind sidewalk along the south side, and streetlights. There are discrepancies in the submitted drawings regarding proposed street width. It appears the applicant had proposed 27-foot ROW dedication south of the park property, and later revised the street section to accommodate stormwater swales. This in turn pushed the proposed sidewalk outside the ROW into an easement (shown on some of the submitted plan sheets). Staff has not found adequate justification to approve sidewalks in easements as opposed to in the public ROW. The submitted plans lack dimensions to determine the exact width of required ROW dedication. The applicant shall dedicate 27 feet or more of ROW south of the northern property line, to encompass the 5-foot sidewalk and 0.5-foot public access strip within the ROW.

In 12.04.180 – Street Design, the applicant provided this response:

*The half-street improvement on the Parker Knoll site will be consistent with the City's standard for a local residential street. The half-street right-of-way proposed is 27 feet with a 16' paved section, sidewalk and planter strip. The 10' driving lane in the easement on the park property will be developed per the cross sectional requirements for local streets with respect to gravel and paving. The eventual dedication of the other half of the right-of-way will be dependent upon future approval by a vote of the people. Where Reddaway turns towards Kalal Ct., we are proposing a 28' wide street in a 40' wide right-of-way with sidewalk easements. A modification is being requested to allow this reduced standard, as discussed above under Section 12.04.007.*

This response implies that the east-west segment will not be completed in its entirety, and has not been updated to reflect the most recent proposals and discussions with City staff. The current proposal, supported by the City, is to construct the east-west segment of the street in its entirety as a constrained street with 28-foot pavement width. The portion south of the park property line will conform fully to City standards, with 5-foot sidewalk and planter strip, within dedicated public ROW. The portion north of the park property line is proposed to be constructed as a private street built to public standards. Due to the restrictions of the park's Charter, the portion on park property cannot be dedicated as public ROW. The fee ownership in the easement area is owned by the City; therefore, the City will maintain the complete road cross-section, even though a portion of it is subject to a private easement. It will remain open for public road use providing adequate facilities for local vehicular traffic. On a practical level, the function and features of this split private-public street will be indistinguishable from a fully public



street improvement. The 10-foot wide multi-use path placed on park property will provide adequate pedestrian and bicycle facilities to serve this development, and will enhance access to the park from Leland Road.

For the north-south segment, the applicant proposes a 40-foot ROW with 28-foot pavement and planter strips within the ROW, with sidewalks placed outside the ROW in an easement. The applicant has not provided justification for placing sidewalks in easements, and staff does not support this proposal without adequate justification. The sidewalk along Reddaway Avenue shall be located within the ROW, either by dedicating 50 feet of ROW south of the proposed bend (to accommodate planter strip), or by proposing a curb-tight sidewalk within a 40-foot ROW. The ROW improvements for this section of Reddaway Ave shall consist of 28 feet of pavement (2) 0.5' Curb, (2) 5' planter with street trees, (2) 5' sidewalk, (2) 0.5' behind sidewalk, and streetlights.

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

To address part B of 12.04.007 the applicant states the following:

*Right-of-way/Paving Width: The proposed paving width of 28 feet has been used in many places in the City where there are constrained conditions. Parking would be limited to one side of the street, providing for two travel lanes. This provides for safe and efficient movement of vehicular traffic. The proposed sidewalks would be on easements on the adjoining lots and would provide for safe and efficient pedestrian traffic.*

**Finding: Complies as proposed:** The proposed design meets the intent of the standard, will provide safe and efficient movement of pedestrians, motor vehicles, bicyclists and freight.

To address part C of 12.04.007 the applicant states the following:

*To the applicant's knowledge there are no Comprehensive Plan policies that would be inconsistent with the proposed standards. The fact that a future street connection to Kalal Ct. would result in a looped street pattern, rather than two cul-de-sac streets, is consistent with the TSP.*

**Finding: Complies as proposed:** Staff concurs that there are no Comprehensive Plan policies that would be inconsistent with the proposed modification. The proposed Reddaway Ave extension completes the partial street system that may connect to Kalal Court, and is preferable to permanent cul-de-sacs

To address part D of 12.04.007 the applicant states the following:

*Right-of-way/Paving Width: The proposed reduction in pavement and right-of-way width is a short section of the street and provides for a standard that can reasonably be implemented given the existing lot pattern.*

**Findings: Complies as proposed:** Staff concurs that the proposed reduction in pavement and right-of-way width is a short section of the street and provides for a standard that can reasonably be implemented given the existing development patterns, and will be complementary with surrounding street designs.

To address part E of 12.04.007, for all modifications proposed, the applicant states the following:

*The applicant is not claiming a constitutional basis for the requested modifications.*

**Finding: Not applicable.** The applicant is not claiming a constitutional basis for the requested modifications.

**Modification #4:** Regarding right-of-way and street cross-section requirements, the following modification is proposed:

Leland Road is a roadway owned by Clackamas County, but within the City limits of Oregon City. Due to the ownership of the roadway, Clackamas County submitted comments recommending compliance with their roadway design rather than the City's roadway design standards. Clackamas County staff provided the following comments in response to the pre-application conference:

1. *Leland Road is a minor arterial roadway under the jurisdiction of Clackamas County. The existing one half right-of-way width along the project frontage appears to be 30 feet. The applicant will be required to dedicate an additional approximately 9 feet of right-of-way on Leland Road and shall verify by survey that a 39-foot wide, one-half right-of-way width exists along the entire site frontage, or shall dedicate additional right-of-way as necessary to provide it.*
2. *The following improvements will be required along the entire site frontage of Leland Road in accordance with Clackamas County Roadway Standards:*
  - a. *Up to a 25-foot wide half-street improvement. Structural section for Leland Road improvements shall consist of 7.5 inches of asphalt concrete per Clackamas County Roadway Standards Standard Drawing C100.*
  - b. *Standard curb, or curb and gutter if curblane slope is less than one percent, and pavement with the face of the new curb located 25 feet from the centerline of the existing 60 foot wide right-of-way. Centerline of the right-of-way shall be established by a registered survey.*
  - c. *Drainage facilities in conformance Tri-City Service District #4 regulations and Clackamas Roadway Standards, Chapter 4.*
  - d. *A minimum 5-foot wide unobstructed setback sidewalk, with a 5-foot wide landscape strip, including street trees shall be constructed along the entire site frontage. The applicant shall relocate mailboxes, fire hydrants, utility poles, etc., when they are located within the limits of the sidewalk or construct an eyebrow so that the full width of the sidewalk is provided around the obstruction. Additional easement, as necessary, shall be granted to provide for any sidewalk eyebrows.*
  - e. *If the sidewalk does not connect to sidewalk on adjacent property, the end of the sidewalk shall require the construction of a temporary asphalt ramp, adjacent to the end of the sidewalk, providing a transition from the new sidewalk to the edge of the pavement. The ramp shall meet ADA guidelines and shall be a minimum of two inches in thickness.*
  - f. *Appropriate pavement tapers shall be provided, per Clackamas County Roadway Standards Section 250.6.4.*
3. *The application should address interim operation of the intersection in relation to the off-set travel lane from the northerly leg of Reddaway Avenue.*
4. *Prior to commencement of site work, a Development Permit and a Utility Placement Permit are required and must be obtained from Clackamas County for all work performed in the road right-of-way.*

To address part A of 12.04.007:

**Finding: Complies with Conditions.** The proposed improvements provide opportunities for automobiles with travel lanes, opportunities for pedestrians with sidewalks and opportunities for neighborhood livability and stormwater protections with installation of planter strips. Staff finds the proposal complies with intent of this standard. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of**

## Approval.

To address part B of 12.04.007:

**Finding: Complies as proposed:** The proposed design meets the intent of the standard, will provide safe and efficient movement of pedestrians, motor vehicles, bicyclists and freight.

To address part C of 12.04.007:

**Finding: Complies as proposed:** There are no Comprehensive Plan policies or adopted roadway plan for Leland Road that would be inconsistent with the proposed modification.

To address part D of 12.04.007:

**Findings: Complies as proposed:** The proposed design is identified for a short section of the street and matches a segment of the street improvements already identified on Leland Road. The proposal provides for a standard that can reasonably be implemented given the existing development patterns, and will be complementary with surrounding street designs.

To address part E of 12.04.007, for all modifications proposed, the applicant states the following:

**Finding: Not applicable.** The applicant is not claiming a constitutional basis for the requested modifications.

### *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.*

**Complies with Condition.** The applicant shall demonstrate compliance with all Oregon City Public Works standards, as modified by conditions of approval. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

### *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: Not Applicable.** The applicant has not proposed to construct any infrastructure within an unimproved street.

### *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.*

<i>Property Use</i>	<i>Minimum Driveway Width at sidewalk or property line</i>	<i>Maximum Driveway Width at sidewalk or property line</i>

<i>Single or Two-Family Dwelling with one Car Garage/Parking Space</i>	<i>10 feet</i>	<i>12 feet</i>
<i>Single or Two-Family Dwelling with two Car Garage/Parking Space</i>	<i>12 feet</i>	<i>24 feet</i>
<i>Single or Two-Family Dwelling with three or more Car Garages/Parking Space</i>	<i>18 feet</i>	<i>30 feet</i>
<i>Non Residential or Multi-Family Residential Driveway Access</i>	<i>15 feet</i>	<i>40 feet</i>

*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.** The applicant has stated that curb cuts for driveways will conform to the standards for single-family dwellings. Driveway plans will be reviewed at the time of building permit submittal.

**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.** See findings from Section 12.04.007. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

**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 shall demonstrate compliance with all Oregon City Public Works standards. Improvements to Leland Road shall be permitted by Clackamas County per 12.04.007. **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 Proposed.** The applicant has provided a street connectivity plan demonstrating that the proposed street layout will accommodate future development of adjoining land.

#### 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
Minor Arterial	Mixed Use, Commercial or Public/Quasi Public	116 ft.	94 ft.	0.5 ft.	10.5 ft. sidewalk including 5 ft.x5 ft. tree wells		6 ft.	8 ft.	(5) 12 ft. Lanes	6 ft.
	Industrial	118 ft.	86 ft.	0.5 ft.	5 ft.	10.5 ft.	6 ft.	7 ft.	(5) 12 ft. Lanes	N/A
	Residential	100 ft.	68 ft.	0.5 ft.	5 ft.	10.5 ft.	6 ft.	7 ft.	(3) 12 ft. Lanes	6 ft.
Road Classification	Comprehensive Plan Designation	Right-of-Way Width	Pavement Width	Public Access	Sidewalk	Landscape Strip	Bike Lane	Street Parking	Travel Lanes	Median
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:** See findings from Section 12.04.007 regarding design of the City streets.

#### *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 as Proposed.** The applicant proposes access control at the end of Reddaway Avenue per City requirements.

#### *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 proposed street alignments meet the City requirements. 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.** Applicant acknowledges streets will be designed per this standard.

#### *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:** The spacing between Reddaway Avenue and Kalal Court is approximately 375 feet, which meets the standard. The applicant seeks modification to the spacing standard for the east-west portion of proposed Reddaway Avenue, which is discussed in 12.04.007.

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

<b>Table 12.04.195.B Minimum Driveway Spacing Standards</b>		
<b>Street Functional Classification</b>	<b>Minimum Driveway Spacing Standards</b>	<b>Distance</b>
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.** Driveway locations shown on the preliminary plan meet the standard.

#### 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:** See findings from Section 12.04.007.

#### **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:** Please refer to the analysis in 16.08.030.B.5.

**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.** The street layout shown on the preliminary plan demonstrates intersection angles in compliance with this standard.

**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: Complies with Condition.** Improvements to the adjacent street – Leland Road – are warranted by this development. The applicant has shown improvements on the preliminary plan, but no dimensions were provided on the plan or in the narrative. Right-of-way dedication and improvements along the Leland Road frontage shall conform to Clackamas County standards, as further described in 12.04.180. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

**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: Not Applicable.** The applicant's narrative implies a half street is proposed. In fact, both sides of the street section will be constructed with this development; therefore, this section does not apply.

#### *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: Complies as Proposed.** No cul-de-sac streets are proposed. Reddaway Avenue will be provided with a temporary dead-end at the property's boundary until such time as redevelopment of property along South Kalal Court allows for its extension.

#### *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.** All street names being proposed under this development are extensions of other existing streets.

#### *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 Proposed.** The proposed road grades and centerline radii conform to City standards.

#### *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: Complies as Proposed.** Leland Road is a minor arterial street. The existing home on Lot 1 fronts onto this street. Applicant proposes to reconfigure access to this lot with a driveway onto the extension of Reddaway 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:** See findings from Section 12.04.007.

*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.

*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: Not Applicable.** There are no nearby transit facilities.

*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:** See findings from Section 12.04.007.

#### *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 with Condition.** The applicant shall demonstrate compliance with all Oregon City Public Works standards. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

### **Chapter 12.08 - PUBLIC AND STREET TREES<sup>[2]</sup>**

#### *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 a majority of the frontages of the development. No street trees were proposed or are required within the private street frontage and no fee in lieu for the frontage was proposed.

In addition, the applicant did not indicate the species of trees to be planted. 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.

Prior to issuance of permits associated with the proposed development the applicant shall submit a revised street tree plan which complies with the standards in OCMC 12.08 for all frontages. The design of the improvements along the street is described in OCMC 12.04 of this report. **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 submitted a street tree plan which included trees placed along a majority of the frontages, however, no trees are proposed adjacent to the private street

frontage. A measurement of all private and public frontages indicates that the proposed development includes construction of 1,541 lineal feet of frontage, requiring installation of 44 trees. As explained in 12.04, the design of private street does not require the installation of a planter strip. The applicant may provide a fee in lieu of installation of the trees along the private street frontage. The design of the improvements along the street is described in OCMC 12.04 of this report. **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.** The applicant provided a preliminary layout of street trees is shown on plans submitted with this application with a note that the plan is preliminary and may be revised when construction plans are prepared and a final plan will be submitted for approval with construction plans. Furthermore, the plan did not demonstrate the location of street lights or fire hydrants. Prior to issuance of permits associated with the proposed development the applicant shall submit a revised street tree plan which complies with the standards in OCMC 12.08 for all street frontages. **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 applicant indicated compliance with this section but did not identify the caliper of trees proposed. Prior to issuance of permits associated with the proposed development the applicant shall submit a revised street tree plan which complies with the standards in OCMC 12.08 for all street frontages. **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: Complies as proposed.** The applicant indicated that any trees remaining near street rights-of-way will be pruned in accordance with this section.

*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 application did not identify the caliper of trees proposed. Prior to issuance of permits associated with the proposed development the applicant shall submit a revised street tree plan which complies with the standards in OCMC 12.08 for all street frontages. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

*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.** The applicant did not propose to remove a tree within an existing right-of-way.

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 with Condition.** The submitted stormwater plan and report did not meet submittal requirements from Section 9.1.2 of the Stormwater and Grading Design Standards. The infiltration test results were only adequate to verify the viability of employing infiltration facilities for the development. The report did not justify the utilization of a filter strip in lieu of a standard stormwater treatment method identified in the City's Stormwater and Grading Design Standards. The applicant has included the request for using a filter strip in Section 12.04.007. This section of the Code relates to street improvements and not stormwater improvements. The filter strip design is more appropriately reviewed and approved under authority of the Stormwater and Grading Design Standards. The stormwater plan and report shall be revised and resubmitted to meet submittal requirements of the Stormwater and Grading Design Standards. The report shall give justification for the utilization of a non-standard stormwater management facility such as a filter strip, which does not provide a detention component. The applicant shall provide infiltration tests results which conform to Appendix D of the Stormwater and Grading Design Standards. **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.*

**Finding: Complies with Condition.** The submitted stormwater plan and report did not propose a design of the stormwater facilities in accordance with Chapter 4 of the Stormwater and Grading Design Standards. The stormwater plan and report shall be revised and resubmitted with facilities designed in accordance with Chapter 4 of the Stormwater and Grading Design Standards. **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: Applicable.** The applicant has proposed the use of a filter strip requiring special approval by the City Engineer. The proposal will be reviewed for 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.** The applicant shall demonstrate compliance with all Oregon City Public Works standards. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

## **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: Applicable.** The preliminary plan presents grading and paving activities that will result in the disturbance of more than one-half acre.

*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 with Conditions.** The applicant shall submit a Residential Lot Grading Plan adhering to the City's Residential Lot Grading Criteria. All grading of building sites shall conform to the State of Oregon Structural Specialty Code, Chapter 18 and the requirements Chapters 15.48, 16.12, 17.47 of the Oregon City Municipal Code and the Public Works Stormwater and Grading Design Standards. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

## **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 development application included a preliminary site plan as well as a Transportation Analysis Letter (TAL), under the direction of William Farley, PE of Lancaster Engineering (Exhibit 2). John Replinger, a transportation engineer and City consultant for Replinger and Associates reviewed the letter and found that the TAL addresses the city's requirements and provides an adequate basis to evaluate impacts of the proposed subdivision. The following comments were provided in Exhibit 5:

- 1. Trip Generation. The TAL presents information on trip generation from the construction of twelve single-family houses. The trip generation rates were taken from the Institute of Transportation Engineers' Trip Generation Manual. The eleven new dwellings are calculated to produce 8 new AM peak hour trips; 11 new PM peak hour trips; and 104 new weekday trips.*
- 2. Access Locations. Access for all of the houses will be to a new extension of Reddaway Avenue.*
- 3. Driveway Width. There appears to be no impediment for the driveways to meet city standards. The engineer notes that driveways should be separated by a minimum of 25 feet to meet city standards.*
- 4. Intersection Spacing. The proposal would cause Reddaway Avenue to be extended to the southeast, converting it from a T-intersection to a four-way intersection. The intersection is in an appropriate location and meets spacing standards.*
- 5. Sight Distance. The engineer measured sight distance at the intersection of Leland Road and Reddaway Avenue. The sight distance was determined to be more than 430 feet to the northeast and more than 500 feet to the southwest. This exceeds 390 foot standard associated with a 35 mph roadway. Sight distance is adequate.*
- 6. Safety Issues. The TAL included a crash summary that reported one crash at the intersection of Leland Road and Reddaway Avenue. There was no pattern indicating a safety issue. The engineer indicates there are no design concerns associated with the intersection. He recommends no safety mitigations. The engineer states that the intersection will operate much as it does now. I concur with the engineer's conclusion and recommendation.*

7. *Consistency with the Transportation System Plan (TSP). Based on the materials submitted it appears that the street frontage would be developed in accordance with city standards and would be consistent with the TSP. The frontage along Leland Road would complete the road for a short section. Improvements along Reddaway Avenue would consist of a half-street improvement that would be developed to city standards by development of the adjacent parcel.*

*Conclusion and Recommendations*

*I find that the TAL meets city requirements and provides an adequate basis upon which impacts of the five-lot subdivision can be assessed. The subdivision will result in a minor increase in traffic. The extension of Reddaway Avenue across Leland Road is appropriate. There are no transportation-related issues associated with this development proposal requiring mitigation.*

*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. The subject site is not within an environmental overlay district.

*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 (Exhibit 4).

*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.** The applicant proposes to provide water service from existing 12-inch ductile iron City water main within Leland Road. The applicant also proposes new fire hydrants to be located within the proposed development per the requirements and direction of Clackamas Fire District No. 1. The applicant shall provide an 8" main since the proposed main is dead-ended and has an unsupported length of 600 feet. The applicant shall provide each lot with an individual meter and water service from the water main. **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 as Proposed.** The applicant proposes extension of the existing 8-inch City sanitary sewer main within Leland Road and along the proposed street to service the proposed lots in the subdivision. The applicant also proposes to provide sanitary sewer laterals to all of the lots in the proposed development.

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

**Finding:** See findings from Chapter 13.12 of this report.

*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:** Please refer to the analysis in 16.08.025.B.

*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. This application was transmitted to the school district but no comments were received. The applicant indicated that "Students from this subdivision will attend Gaffney Lane Elementary School, Gardiner Middle School, and Oregon City High School. Discussions with District staff indicate that there is adequate capacity in these schools".

*16.08.030.B.7. Fire and Police Services*



**Finding: Complies with Condition.** Clackamas Fire District No. 1 will provide fire services to the subject site. The City of Oregon City Police Department will provide police services to the subject site.

Per a voluntary agreement with the annexation file AN 07-01 (Exhibit 6), each new home submitted before July 1, 2018 is required to mitigate the impact of the new home on the Police services by providing a fee of \$3,500. Property taxes will be paid by future property owners to fund police protection services, thereby ensuring continued funding for police services. **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.** As described above, all public facilities and services are available. 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 with Condition.** The applicant did not submit a copy of the draft CC&Rs for the subdivision. Prior to issuance of a permit associated with the proposed development the applicant shall submit CC&R's for the subdivision (if applicable) which do not conflict with the Oregon City Municipal Code. **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.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.** The net site area is 89,009 square feet and the subdivision proposes 11 lots. This equates to a net site density of 5.38 units per acre. All lots will be used for single-family detached homes.

**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, with the exception of lots 4 and 5 which are proposed to be flag lots. The flag lots are further analyzed within this report.

**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: Complies as Proposed.** As shown on the site plan, all lots with the exception of 4 and 5, comply with the frontage width standard. Lots 4 and 5 are flag lots and comply with the access requirements of OCMC 16.08.050 B through E. Roadway access to the site is dictated by the location of the existing home on the property and the alignment of Reddaway Street on the opposing side of Leland Road. There is insufficient width to relocate the street to the center of the property and have a lot on either side of the street and the lot depth is too great for a single-loaded configuration. As a result, the use of flag lots is the only feasible means to provide for the development of the property in a manner consistent with the R-8 zoning applicable to this site.

*B. If a flag lot is created, a joint accessway shall be provided unless the location of the existing dwelling unit prevents a joint accessway. A perpetual reciprocal access easement and maintenance agreement shall be recorded for the joint accessway, in a format acceptable by the city attorney.*

**Finding: Complies as Proposed.** The two proposed flag lots will share a joint accessway and the required easement and maintenance agreement will be provided with the final plat of the subdivision.

*C. The pole portion of the flag lot shall connect to a public street.*

**Finding: Complies as Proposed.** The pole portion of the flag lots connects to the proposed extension of Reddaway Avenue, which will be a public street in this location.

*D. The pole shall be at least 8 feet wide for the entire length.*

**Finding: Complies as Proposed.** The two pole strips are proposed to each be 10 feet wide, providing for a shared easement width of 20 feet.

*E. The pole shall be part of the flag lot and must be under the same ownership as the flag portion of the lot.*

**Finding: Complies as Proposed.** Lots 4 and 5 will each own the pole section of their respective lots.

**CHAPTER 16.12 - MINIMUM IMPROVEMENTS AND DESIGN STANDARDS FOR LAND DIVISIONS<sup>[3]</sup>**

**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 block shape is appropriate for the constrained site and with conditions, complies with all of the applicable standards.

**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 proposed development generally results in the formation of new blocks which provide two tiers of lots, where practicable.

**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 buildings sites proposed are appropriate in size, width, shape, and orientation for low-density residential development, exceeding the minimum lot size, lot depth and lot width and similar to other development within the “R-8” Single-Family Dwelling District. The applicant is not requesting a variance to any dimensional standard.

#### **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: Complies as Proposed.** The net developable area for the project of 89,009 square feet. The net developable area divided by 8,000 (the minimum lot size) provides a maximum density of 11.1 units. The Oregon City Municipal Code requires a minimum of 80% of the maximum density be constructed. Eighty percent of 11 is 8 units. The applicant has proposed 11 lots, therefore, the application complies with the maximum allowed density and achieves at least 80 percent of the maximum density of the base zone for the net developable area.

#### **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 site is within the “R-8” Single-Family Dwelling District which has a minimum lot size of 8,000 square feet. This provision allows lots within the land division to be 20% less than the minimum lot size ( $8,000 \times 0.8 = 6,400$  square feet) provided the average of all the lots within the subdivision comply with the 8,000 square foot minimum. The proposed development has an average of lot size of 8,110 square feet with no lot less than 6,400 square feet.

#### **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 of [Chapter 17.47](#).*

**Finding:** See findings from Section 15.48.090 of this report.

**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: Complies with Condition.** All lots proposed provide for the homes that will be built to face the street on which they front. The only lot which abuts a non-local roadway is Lot 1 which faces onto Leland Road, a minor arterial street and is currently developed with an existing single-family home which is proposed to be retained. Any future development of Lot 1 shall comply with the requirements in OCMC 16.12.070. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

**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 Proposed.** No lots within the subdivision have sufficient lot size for further land division, given the average lot size of the subdivision.

**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.** The applicant provided plans showing only an 8-foot wide public utility easement (PUE), the standard is a 10-foot PUE along all street frontages. The development shall provide a 10-foot-wide PUE along all property lines fronting an existing or proposed ROW. Future development is not anticipated along the north side (the park property), and this segment is proposed to be a private street. Therefore, the 10-foot PUE requirement will not be applied to the frontage located on park property. **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 and is not within the Natural Resource Overlay District. No wetland is identified on the subject site.

*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 has proposed a shared access easement serving Lots 4 and 5 that is 20 feet in width. The applicant proposes to improve and design the private driveway to City specifications.

*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.** No unusual significant natural feature or features of historic significance are located onsite.

#### **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 with Condition.** The applicant shall demonstrate compliance with all Oregon City Public Works standards. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

#### **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 or curvature and points of tangency of their center line, and at such other points as directed by the city engineer.*

**Finding: Complies with Condition.** The applicant proposes to improve the street frontage on Leland Road per Clackamas County specifications. The applicant proposed a street system providing access to the proposed lots. The applicant has proposed a road to be stubbed to the south so that a future connection to Kalal Ct. can be made when and if the adjoining lots are further divided. Per standard



procedure, the applicant shall sign a Non-Remonstrance Agreement for the purpose of making sanitary sewer, storm sewer, water or street improvements in the future that benefit the Property and assessing the cost to benefited properties pursuant to the City's capital improvement regulations in effect at the time of such improvement. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

*B. Stormwater Drainage System. Applicants shall design and install drainage facilities within 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:** See findings from Section 13.12 of this report.

*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 for a discussion of sanitary sewer.

*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 for a discussion of the water system.

*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:** See findings from Section 12.04.007 for a discussion of sidewalks.

*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:** Please refer to the analysis in chapter 12.04 of this report.

*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.** The applicant indicated compliance with this section. 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 with Condition.** The applicant shall submit a photometric plan with the construction plan submittal to facilitate the design of street lights. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

*16.12.095.I. Street Trees.*

**Finding:** Please refer to the analysis in section 12.08 of this report.

*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 applicant proposes to locate a bench mark within the subdivision boundaries using datum plane specified by the city engineer. 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.** The applicant proposes to coordinate with the utility companies serving this area of the city to insure the underground installation of required services. 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.** Applicant proposes to design all facilities and improvements to City standards. The services will only serve the proposed development and no oversizing is proposed or required. 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:** See finding from Section 17.47.070 of this report.

*16.12.100 Same—Road standards and requirements.*

*A. The creation of a public street and the resultant separate land parcels shall be in conformance with requirements for subdivisions or partitions and the applicable street design standards of 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.** No public streets will be dedicated by separate 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.** The applicant did not address this code section. Per standard procedure, the applicant shall complete all public improvements prior to final plat recordation or provide financial guarantee for the construction of the public improvements in a manner acceptable to the City Engineer. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

*16.12.110 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: Not Applicable.** The applicant did not address this code section and is not seeking to submit a performance guarantee in lieu of actual construction of required public improvements.

## **CHAPTER 17.10 - "R-8" SINGLE-FAMILY DWELLING DISTRICT**

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

**Finding:** Please refer to the analysis in 16.12.050.

*17.10.040. B. Minimum lot width, sixty feet;*

**Finding: Complies as Proposed.** All of the proposed lots are at least 60 feet in width.

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

**Finding: Complies as Proposed.** All of the propose lots are at least 75 feet in depth.

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

**Finding: Complies as Proposed.** The subdivision has been proposed to construct any buildings. Future development will be reviewed for compliance with the applicable standards upon submittal of an application.

*17.10.040.E*

*1. Front yard: fifteen feet minimum depth.*

**Finding: Complies as Proposed.** The proposed development will retain the existing structure on Lot 1. The proposed configuration of Lot 1 would result in a front yard setback of 50.7 feet, in excess of the minimum setback requirement. Future development will be reviewed for compliance with the applicable standards upon submittal of an application.

*2. Front porch, ten feet minimum setback,*

**Finding: Complies as Proposed.** The proposed development will retain the existing structure on Lot 1. The proposed configuration of Lot 1 would result in a front porch setback of approximately 50 feet, in excess of the minimum setback requirement. Future development will be reviewed for compliance with the applicable standards upon submittal of an application.

*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.*

**Finding: Complies as Proposed.** The proposed development will retain the existing structure on Lot 1. The proposed configuration of Lot 1 which does not have a garage. Future development will be reviewed for compliance with the applicable standards upon submittal of an application.

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

**Finding: Complies with Condition.** The proposed development will retain the existing structure on Lot 1. The proposed configuration of Lot 1 would result in an interior yard setback of 15 feet, in excess of the minimum setback requirement.

The proposal also entails demolition of a shed on Lot 1 which is within the interior setback. All structures identified to be demolished shall be removed prior to plat. Future development will be reviewed for compliance with the applicable standards upon submittal of an application. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

*5. Corner side yard, fifteen feet minimum setback,*

**Finding: Complies with Condition.** The proposed development will retain the existing structure on Lot 1. The proposed configuration of Lot 1 would result in a corner yard setback of 15.5 feet, in excess of the minimum setback requirement.

The proposal also entails demolition of a shed on Lot 1 as well as removal of a portion of the home structure within the corner setback. All structures identified to be demolished shall be removed prior to plat. Future development will be reviewed for compliance with the applicable standards upon submittal of an application. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

*6. Rear yard, twenty-foot minimum setback*

**Finding: Complies with Condition.** The proposed development will retain the existing structure on Lot 1. The proposed configuration of Lot 1 would result in a rear yard setback of 94.2 feet, in excess of the minimum setback requirement.

The proposal also entails demolition of a shed on Lot 1 as well as removal of a portion of the home structure. All structures identified to be demolished shall be removed prior to plat. Future development will be reviewed for compliance with the applicable standards upon submittal of an application. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

*7. Rear porch, fifteen-foot minimum setback.*

**Finding: Complies as Proposed.** The proposed development will retain the existing structure on Lot 1. The proposed configuration of Lot 1 would result in a rear porch setback of more than 90 feet, in excess of the minimum setback requirement.

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

**Finding: Not Applicable.** No new or alterations to a garage are proposed. Future development will be reviewed for compliance with the applicable standards upon submittal of an application

*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.** The lot coverage for proposed Lot 1 appears to visually exceed the maximum lot coverage of 40%, however the calculation was not submitted. Prior to final plat the applicant shall submit documentation demonstrating that the lot coverage for proposed Lot 1 is less than 40%. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

## **CHAPTER 17.39 - "I" INSTITUTIONAL DISTRICT**

**Finding: Not Applicable/Refer to Charter Analysis.** The proposal does not include construction of a building within the "I" Institutional District. A portion of the site is utilized as a park. Please refer to the Charter analysis regarding the use of the land within the park property.

## **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: Not Applicable.** The applicant has not proposed an exemption in accordance with this provision.

*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.** This applicant submitted a tree removal and mitigation plan which identifies the removal of 16 trees. All but one of these trees are located within proposed rights-of-way, construction area, or within an easement, with the exception of a single tree which is proposed to be removed because it is in a side yard area where foundation excavation and construction activities are likely to impact the roots of the tree.

The applicant has proposed to utilize option 1, mitigation. As identified in this section, all replanted and saved trees shall be protected by a permanent restrictive covenant or easement approved in form by the city. Prior to occupancy of the dwellings on the subject site, the applicant shall record a covenant for lots with new or existing trees and plant the required number of mitigation trees. The covenant and

tree planting for Lot 1, which contains an existing home, shall be completed prior to occupancy of the first home in the development. The applicant may choose to utilize option 4 in addition to option 1 if it may be demonstrated that the mitigation trees cannot physically fit onsite.

The applicant may choose to utilize option 4 in addition to option 1 if it may be demonstrated that the mitigation trees cannot physically fit onsite. **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.** This section requires the tree mitigation plan report be prepared by a certified arborist, horticulturalist, forester or other environmental professionals with experience and academic credentials in forestry or arboriculture. No documentation was submitted indicating compliance with this section. Prior to issuance of a permit associated with the proposed development the applicant shall submit a revised tree mitigation plan prepared by a certified arborist, horticulturalist, forester or other environmental professionals with experience and academic credentials in forestry or arboriculture.

The applicant submitted a table correctly identifying the number of trees to be mitigated as demonstrated below:

SIZE TREE TO BE REMOVED	MITIGATION OUTSIDE OF CONSTRUCTION		MITIGATION WITHIN CONSTRUCTION		REQUIRED TREES TO PLANT
	# Rem.	Multiplier	# Rem.	Multiplier	
6 TO 12"	0	3	1	1	1
13 TO 18"	1	6	10	2	26
19 TO 24"	0	9	2	3	6
25 TO 30"	0	12	2	4	8
31" PLUS	0	15	0	5	0
TOTAL MITIGATION TREES TO BE PLANTED:					41

CODE 17.41.060-1

41 mitigation trees will be planted on lots in this subdivision per the following schedule: 3 trees each on Lots 1, 5, and 9; 4 trees each on all other lots.

The proposed development requires installation of 41 mitigation trees.

**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.** The applicant proposed to install the 41 mitigation trees on the subject site with 3 trees on lots 1, 5, and 9, and 4 trees on all other lots. The mitigation trees for Lot 1, which contains an existing home, shall be planted prior to occupancy of the first home in the development. **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 application does not include an 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 to utilize 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 to utilize 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.

Table [17.41.100 A](#)  
Lot Size Reduction

ZONE	Min. Lot Size [sq. feet]	Min. Lot Width	Min. Lot Depth
R-10	5,000 sq. feet	50'	65'
R-8	4,000 sq. feet	45'	60'
R-6	3,500 sq. feet	35'	55'
R-5	3,000 sq. feet	30'	50'
R-3.5	1,800 sq. feet	20'	45'

Table [17.41.100 B](#)  
Reduced Dimensional Standards for Detached Single-Family Residential Units

Size of Reduced Lot	Front Yard Setback	Rear Yard Setback	Side yard Setback	Corner Side	Lot Coverage
8,000—9,999 square feet	15 feet	20 feet	7/9 feet	15 feet	40%
6,000—7,999 square feet	10 feet	15 feet	5/7 feet	15 feet	40%
4,000—5,999 square feet	10 feet	15 feet	5/5 feet	10 feet	40%
1,800—3,999 square feet	5 feet	15 feet	5/5 feet	10 feet	55%

Table 17.41.100 C

Reduced Dimensional Standards for Single-Family Attached or Two-Family Residential Units

Size of Reduced Lot	Front Yard Setback	Rear Yard Setback	Side yard Setback	Corner Side	Lot Coverage
3,500—7,000 square feet	10 feet	15 feet	5/0* feet	10 feet	40%
1,800—3,499 square feet	5 feet	15 feet	5/0* feet	10 feet	55%

\*0 foot setback is only allowed on single-family attached units

**Finding: Not Applicable.** The applicant has not chosen to utilize 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 to utilize 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 reduce 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 to utilize 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.** The applicant may choose to utilize option 4 in addition to option 1 if it may be demonstrated that the mitigation trees cannot physically fit onsite. **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 with Condition.** The applicant did not submit a plan identifying protection fencing for existing tree which would be protected during development. Additional tree protection measures are not required. Prior to final plat the applicant shall submit a plan identifying protection of existing trees per OCMC 17.41.130. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

#### **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, which will cause measurable erosion.

##### **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, which will cause measurable erosion. The applicant shall obtain an erosion and sediment control permit from the City and a 1200-C construction permit from Oregon Department of Environmental Quality prior to commencement of construction. **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 review and approval. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

## **CHAPTER 17.50 - ADMINISTRATION AND PROCEDURES**

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

**Finding: Complies as Proposed.** The proposed subdivision is typically a Type II application, however, the City Commission called up the application to also address how the proposal complies with requirements in the Oregon City Charter.

### *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.** The applicant held a pre-application conference (file PA 16-62) on January 10, 2016. The land use application was submitted within 6 months of the pre-application conference on March 27, 2017. The application was deemed incomplete on April 25, 2017 and additional information was received on May 25, 2017. The application was deemed incomplete again on June 23, 2017 and the application submitted additional information on July 5, 2017 and requested that the City deem the application complete. Though a signature from the City had not been obtained, the City was obligated to complete and process the application and did so. The application was deemed complete on July 10, 2017.

#### *17.50.055 Neighborhood Association Meeting*

**Finding: Complies as Proposed.** A meeting with the Hillendale Neighborhood Association was held on February 7, 2017. Minutes of that meeting, as well as an email from the Secretary of the Hillendale Neighborhood Association and the sign-in sheet from the meeting are included in the record of this application.

#### *17.50.060 Application Requirements.*

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

#### *17.50.070 Completeness Review and 120-day Rule.*

**Finding: Complies as Proposed.** This application was deemed complete on July 10, 2017. The City had until November 7, 2017, however the applicant continued the 120 date by 14 days resulting in a date of November 21, 2017 to make a final determination.

#### *17.50.080 Complete Application--Required Information.*

**Finding: Complies as Proposed.** The applicant held a pre-application conference (file PA 16-62) on January 10, 2016. The land use application was submitted within 6 months of the pre-application conference on March 27, 2017. The application was deemed incomplete on April 25, 2017 and additional information was received on May 25, 2017. The application was deemed incomplete again on June 23, 2017 and the application submitted additional information on July 5, 2017 and requested that the City deem the application complete. Though a signature from the City had not been obtained, the City was obligated to complete and process the application and did so. The application was deemed complete on July 10, 2017.

#### *17.50.090 Public Notices.*

#### *17.50.100 Notice Posting Requirements.*

**Finding: Complies as Proposed.** The application was noticed to the public twice, one before the call up by the City Commission and once after. The first notice included a transmittal of the application to a variety of agencies including neighborhood associations and the Citizen Involvement Committee, posting signage on the site and on the City's website as well as mailing notice to property owners within 300 feet. The second notice entailed all of the noticing methods previously identified as well as posting notification of the application in a general circulation newspaper and an emailed notice of each City Commission agenda.

### **CHAPTER 17.54.100 - FENCES**

**Finding: Not Applicable.** The applicant did not indicate if any fences are proposed. All future fences

shall comply with the standards in OCMC 17.54.100.

**CONCLUSION AND RECOMMENDATION:**

Based on the analysis and findings as described above, Staff concludes that the proposed subdivision 19510 Leland Road, Oregon City, OR 97045, Clackamas County Map 3-2E-07D, Tax Lots 600, 601, 700, 701, 501, and 401 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 17-02 with conditions, based upon the findings and exhibits contained in this staff report. No conclusion or recommendation has been made to determine if the proposal requires voter approval.

**EXHIBITS:**

1. Vicinity Map
2. Applicant's Narrative and Plans
3. Public Comments
4. Notification to Tribes and Oregon State Historic Preservation Office
5. Comments from John Replinger of Replinger and Associates
6. Annexation Agreement for AN 07-01
7. Information from the August 16, 2017 City Commission Hearing
8. Information from the September 12, 2017 City Commission Work Session
9. Memorandum from Carrie Richter, Deputy City Attorney dated September 5, 2017