



**STAFF REPORT AND RECOMMENDATION**  
**CU 17-03 / SP 17-127 / VR 17-10 / VR 17-12 / VR 17-13**  
**November 20, 2017**

**FILE NO.:** CU 17-03: Conditional Use  
SP 17-127: Site Plan and Design Review  
VR 17-10, 12, 13: Variance

**HEARING DATE / LOCATION:** November 27, 2017  
Oregon City City Hall – Chambers  
625 Center Street  
Oregon City, Oregon 97045

**APPLICANT / PROPERTY OWNER:** Oregon City Public Schools  
Wes Rogers  
1417 12<sup>th</sup> Street  
Oregon City, Oregon 97045

**REPRESENTATIVE:** Rick Givens

**REQUEST:** Conditional Use, Site Plan and Design Review and Variance Application for new Modular 2-Classroom Building At Gardiner Middle School.

**LOCATION:** 180 Ethel Street, Oregon City, OR 97045  
Clackamas County Map: 3-2E-06AD-07800

**REVIEWER:** Kelly Reid, Planner, AICP, (503) 496-1540

**RECOMMENDATION:** Staff recommends approval with conditions.

**PROCESS:** Type III decisions involve the greatest amount of discretion and evaluation of subjective approval standards, yet are not required to be heard by the city commission, except upon appeal. Applications evaluated through this process include conditional use permits, preliminary planned unit development plans, variances, code interpretations, similar use determinations and those rezonings upon annexation under Section 17.06.050 for which discretion is provided. In the event that any decision is not classified, it shall be treated as a Type III decision. The process for these land use decisions is controlled by ORS 197.763. Notice of the application and the planning commission or the historic review board hearing is published and mailed to the applicant, recognized neighborhood association and property owners within three hundred feet. Notice must be issued at least twenty days pre-hearing, and the staff report must be available at least seven days pre-hearing. At the evidentiary hearing held before the planning commission or the historic review board, all issues are addressed. The decision of the planning commission or historic review board is appealable to the city commission, on the record. A city-recognized neighborhood association requesting an appeal fee waiver pursuant to 17.50.290(c) must officially approve the request through a vote of its general membership or board at a duly announced meeting prior to the filing of an appeal. The city commission decision on appeal from the historic review board or the planning commission is the city's final decision and is appealable to LUBA within twenty-one days of when it becomes final.

### **Recommended Conditions of Approval**

CU 17-03: Conditional Use

SP 17-127: Site Plan and Design Review

VR 17-10/12/13: Variance

1. Prior to issuance of building permits, the applicant shall submit sufficient documentation regarding the covered pedestrian walkway to demonstrate the width of the walking is at least five feet. *(P)*
2. The applicant shall demonstrate that all new public and private utilities will be placed underground.
3. Prior to occupancy the Planning Division will inspect the screening and landscaping to assure that all mechanical equipment is adequately screened. *(P)*
4. Prior to issuance of permits, the applicant shall demonstrate that the lighting on the pedestrian walkway will meet the standards in table 17.62.065.
5. The applicant shall propose a sheltering element on the entrances to the classrooms such as an awning, arcade or portico in order to provide shelter from the summer sun and winter weather. *(P)*
6. In order to delineate the space for pedestrians and indicate that is it not a parking space, the applicant shall utilize paint or a physical between the westernmost portion of the development and the nearest parking stall. *(P)*
7. Approval of the Variance request shall be limited to the proposed development. The request to also apply the variance for setbacks to future development on site is not approved. *(P)*
8. The request for a variance to nonconforming upgrades is not approved. The applicant shall choose either timing Option 1, which requires immediate upgrades limited to 10 percent of exterior project costs, or timing Option 2, which requires full upgrades to the list of items in 17.58.040 within 5 years of the issuance of the decision. The applicant shall submit documentation in accordance with OCMC 17.58.040 prior to issuance of permits including an itemize list of improvements, with a cost estimates and a site plan. Improvements shall be completed and documentation recorded as identified prior to issuance of a certificate of occupancy. *(P)*

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

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

#### ***I. BACKGROUND:***

This application requests a conditional use permit approval to allow the placement of a modular building containing two classrooms on the Gardiner Middle School campus.

The school serves grades 6 through 8. Due to anticipated increases in enrollment for the 2017-18 school year, there is a need for additional classroom space. According to the applicant the proposed modular classroom will meet this need.

### History and Prior Land Use Approvals

The original school was built in 1954, and there have been numerous upgrades and additions to the building over the years. A fire destroyed the east wing in 1989, and subsequently the east wing was built along with other renovations thereafter.

The building received a remodel in 2004 and 2005. The most recent new structure on the site is a modular building added in 2013 with 8 classrooms, shown below, and approved through CU 12-01, SP 12-19 and VR 12-05.



Figure 1. 8-classroom modular approved in 2013.

### Conditional Use Process

The original building was constructed prior to the requirement for Conditional Use approval for schools in residential zones. Since that time the subject site received approval of a Conditional Use in 2012, with file CU 12-01, which allowed the construction of a modular onsite. The approval did not authorize future development, such as the proposed modular building and thus the applicant submitted this request to modify the existing Conditional Use. Code *OCMC 17.56.010 - Permit—Authorization—Standards—Conditions*.

D. allows review of expansions to existing uses subsequently designated as conditional uses to be expanded through a conditional use review process.

### Project Information

The proposed single-story classroom building measures approximately 1800 square feet, and has a total height of approximately 11 feet at the ridge of the roof. There will be two classrooms in the building.

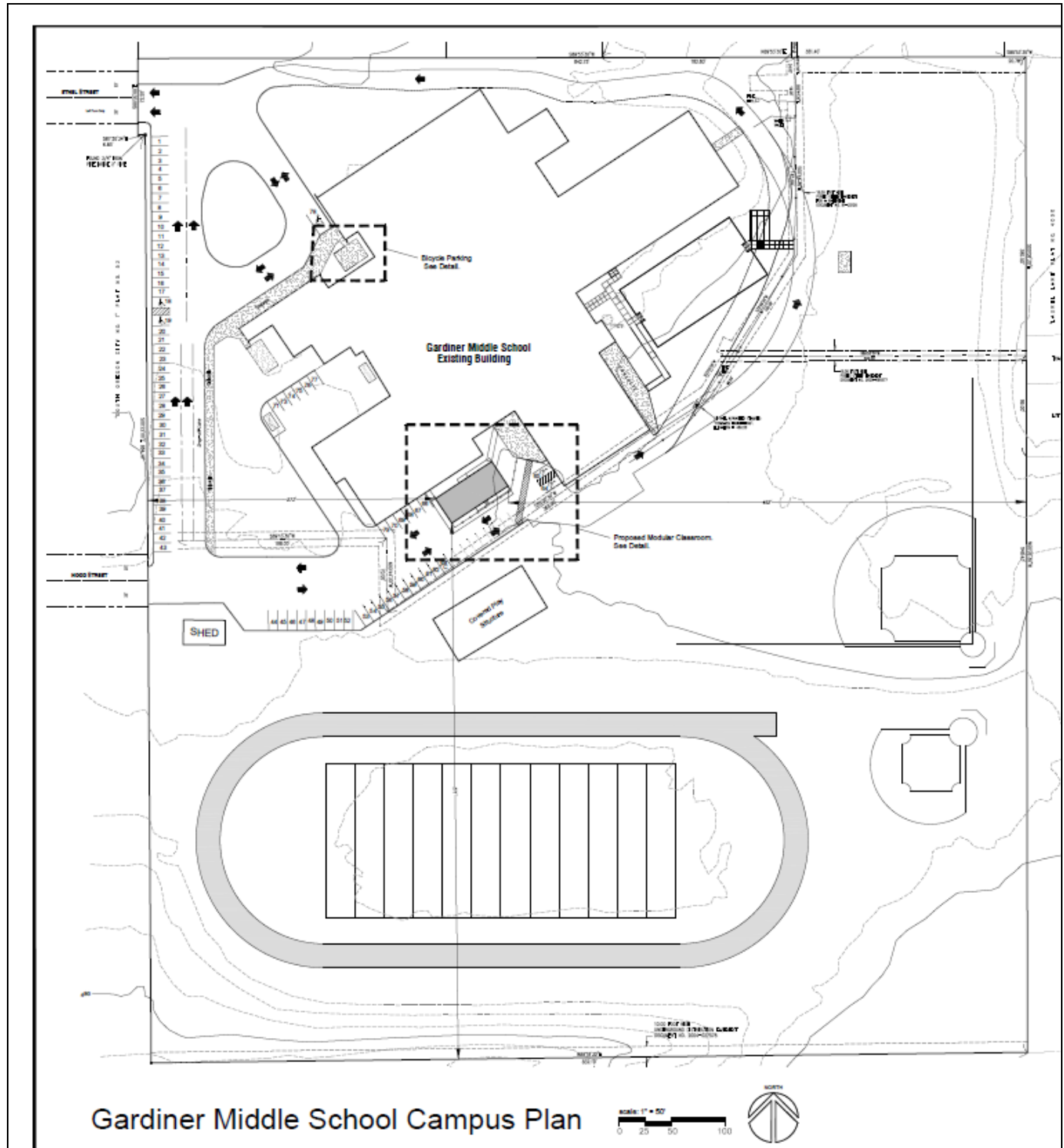


Figure 2. Overall Site Plan

The building would be placed approximately 8' from the existing school building. It would include a covered walkway and access ramp, additional landscaping and fencing, and relocated ADA parking. Several existing parking spaces will be removed to retain adequate drive aisle width.

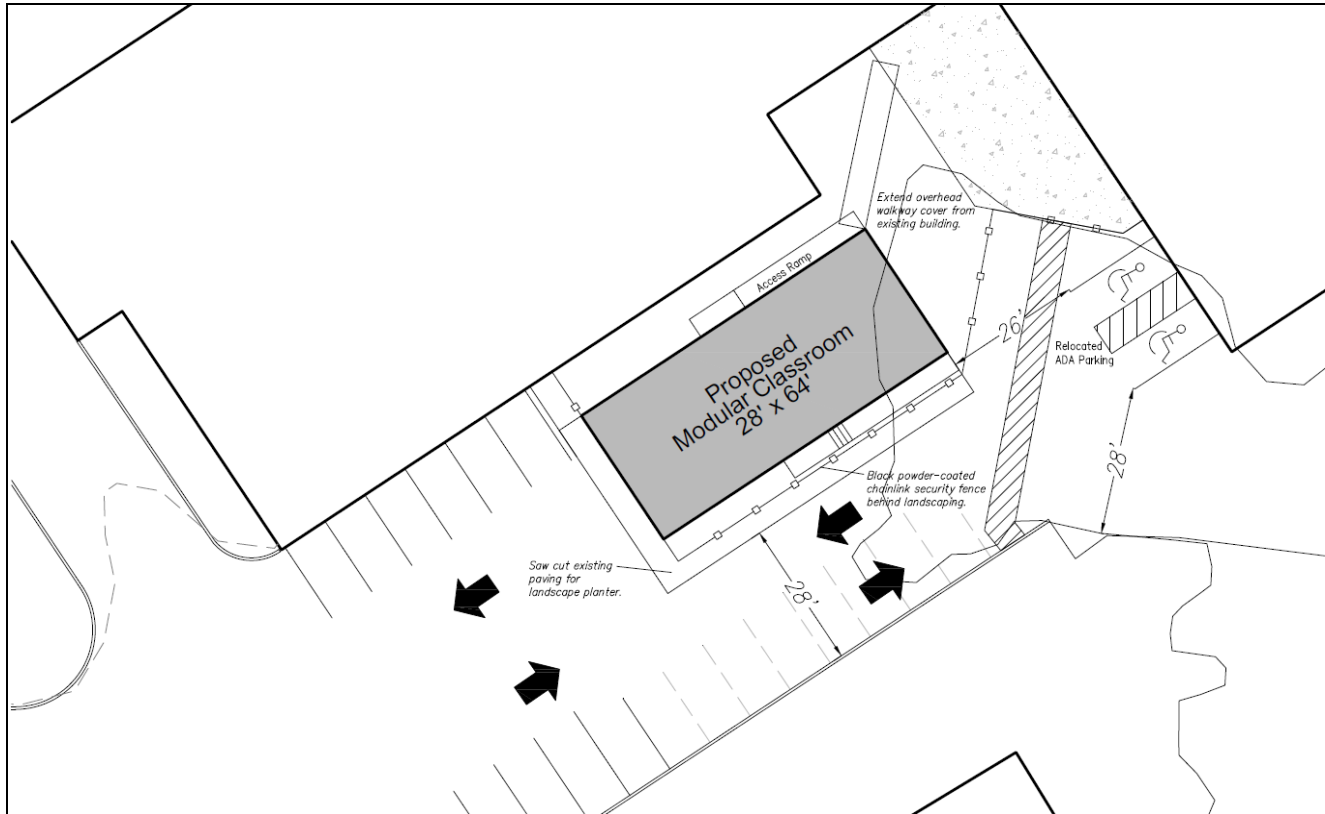


Figure 3. Site Plan Detail

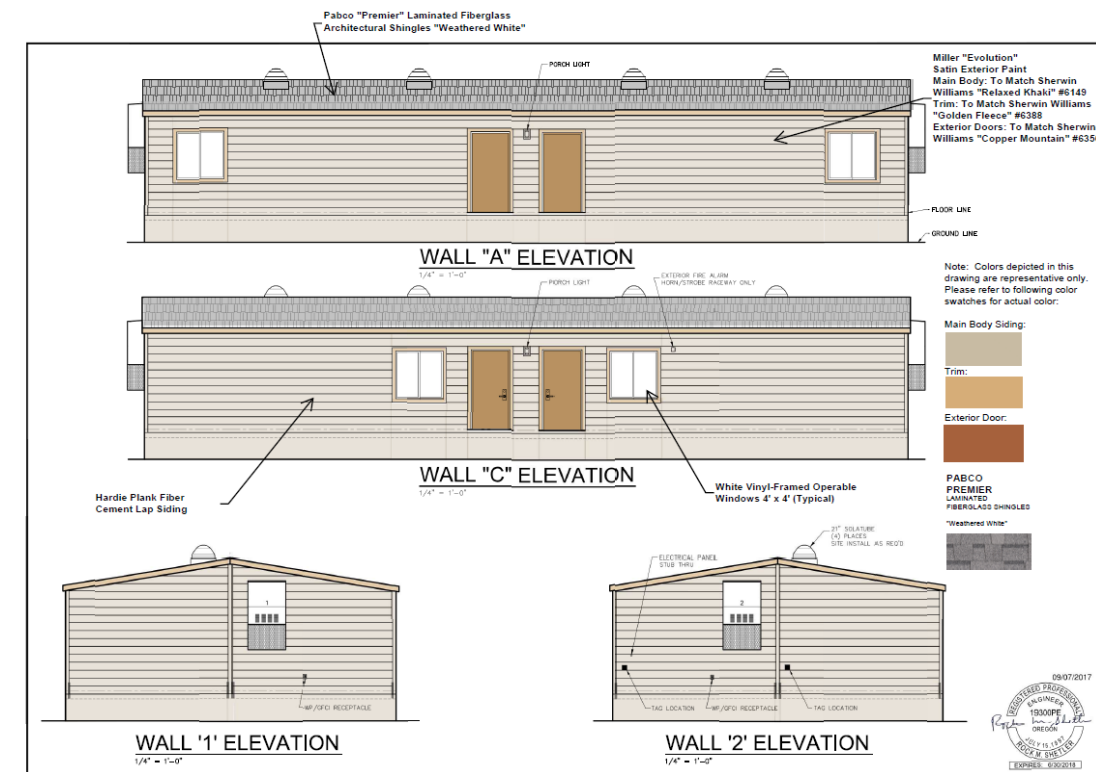


Figure 4. Building Elevations

The variance requests include:

- A variance to 17.62.055.C.5 which requires that, on sites with one hundred feet or more of frontage at least sixty percent of the site frontage width shall be occupied by buildings placed within five feet of the property line, unless a greater setback is accepted under the provisions of Section 17.62.055D. The applicant states that this is impracticable on the subject property due to the nature of the street frontage (road termini) and because of existing building placement on the property. It should be noted that a variance to this standard was granted for the 2012 modular classroom building. The applicant requests that this variance apply to any future construction on the school site.
- A variance to 17.62.055.G - I. which require variation in building massing, articulation, and transparency that the applicant contends is not practicable with modular construction.
- A variance to 17.58.040 which requires upgrades to nonconforming elements of the site.

### Existing Conditions

The proposed development site is to the rear of Gardiner Middle School in a parking lot area. The site, a total of 18.26 acres, has a slope to the southeast at about 4%. An existing paved loop road approximately 20' wide circles the eastern end of the building.



Figure 5. Proposed location of new building

### **Public Notice and Comment**

In accordance with OCMC [17.50.090 - Public notices](#). Public notice of the public hearing was mailed to all property owners within 300' of the property (Exhibit 3). Notice was also published in the Clackamas Review / Oregon City News on November 8, 2017. The site was posted with a "Notice of Proposed Land Use Action" sign on November 8, 2017.

As of the date of this staff report, staff has received no written comments from the public about this application.

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

The following Oregon City Municipal Code criteria apply to this project. The City Code Book is available online at [www.orcity.org](http://www.orcity.org)

- 12.04 – Streets, Sidewalks, and Public Places;
- 12.08 – Public and Street Trees;
- 13.12 – Stormwater Management;
- 17.12 – R-6 Single Family Dwelling District;
- 17.50 – Administration and Procedures;
- 17.52 – Off Street Parking and Loading;
- 17.54 – Supplemental Zoning Regulations and Exceptions
- 17.56 – Conditional Uses;
- 17.58 – Nonconforming Uses, Structures, and Lots
- 17.60 – Variances;
- 17.62 - Site Plan and Design Review

## **CHAPTER 17.56 CONDITIONAL USES**

*A Conditional Use is proposed to allow the site to expand to accommodate an additional 1,800 square foot modular containing two (2) classrooms.*

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

**Finding: Complies as Proposed.** Private and/or public educational or training facilities are listed as a conditional use in OCMC 17.12.030.G. This is a public middle school serving 6th through 8th grade students.

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

**Finding: Complies as Proposed.** The applicant indicates that the subject property measures 795,217 (18.26 acres). The site is rectangular in shape and is level in topography. It is presently developed with school facilities that serve the seventh and eighth grade students enrolled there. The proposed modular addition fits readily on the site, as demonstrated by the site plan, and conforms to lot coverage standards. There are no physical limitations to the use of the property and its characteristics are suited to the proposed use.

**17.56.010.A.3.** *The site and proposed development are timely, considering the adequacy of transportation systems, public facilities and services existing or planned for the area affected by the use;*

**Finding: Complies as Proposed.** Sewer, water and storm drainage utilities are present and adequate to service the proposed uses, as indicated on the site plan. The attached Transportation Analysis Letter prepared by Lancaster Engineering demonstrates that the transportation system is adequate to serve the proposed expanded school enrollment. The city's transportation consultant concurs with the applicant's TAL. For these reasons, the proposed use is timely.

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

**Finding: Complies as Proposed.** The proposed modular building is located to the rear of the existing school building and will not have significant visual impact upon surrounding properties. The campus is adequately sized such that the new modular building will not be located in close proximity to adjacent residential properties. The Transportation Analysis prepared by Lancaster Engineering demonstrates that the transportation system is adequate to serve the increased school size. For these reasons, the proposed uses will not limit or impair the use of surrounding properties.

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

**Finding: Complies as Proposed.** The applicable Comprehensive Plan policies are as follows:

*Policy 2.4.2*

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

**Finding: Complies as Proposed.** These school facilities enhance the diversity of land uses within the surrounding community, helping to provide a sense of place and uniqueness to this neighborhood.

*Policy 2.4.5*

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

**Finding: Complies as Proposed.** The conditional use process allows for school uses to be authorized in a residential neighborhood, consistent with this policy. Providing schools within residential areas provides for

connection between the school and the surrounding community and allows for convenient community use of school facilities.

*Policy 6.1.1*

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

**Finding: Complies as Proposed.** The Gardiner campus is centrally located within the service area of Oregon City Public Schools. Tri-Met bus service is located in close proximity to the property, with Route 33 providing service on Linn Avenue approximately 700 feet west of the school property. School bus service is provided directly to the school site. The existing sidewalk and crosswalks within and adjacent to the school provide opportunities to walk to school safely.

*Policy 11.1.6*

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

**Finding: Complies as Proposed.** The subject properties are located within a single-family residentially zoned area. The proposed expansion of the public educational use of this site is consistent with this policy.

*Goal 11.8 Health and Education*

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

**Finding: Complies as Proposed.** The subject properties are owned by Oregon City Public Schools. Allowing the use of these properties as proposed through the conditional use permit process would optimize their use for educational purposes, consistent with this policy.

*Policy 11.8.3*

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

**Finding: Complies as Proposed.** The Gardiner campus is centrally located within Oregon City Public School District's service area. Approval of the conditional use permit is consistent with this policy.

**17.56.010.B.** *Permits for conditional uses shall stipulate restrictions or conditions which may include, but are not limited to, a definite time limit to meet such conditions, provisions for a front, side or rear yard greater than the minimum dimensional standards of the zoning ordinance, suitable landscaping, off-street parking, and any other reasonable restriction, condition or safeguard that would uphold the spirit and intent of the zoning ordinance, and mitigate adverse effect upon the neighborhood properties by reason of the use, extension, construction or alteration allowed as set forth in the findings of the planning commission.*

**Finding: Complies as Proposed.** Staff has recommended reasonable conditions of approval to ensure that the spirit and intent of the zoning code is upheld. The applicant recognizes the authority of the city to impose reasonable conditions of approval pursuant to this section. The proposed location of the new building is more than 270 feet to the closest property line – greatly exceeding the required twenty foot rear yard setback. The applicant has the right to comment upon such conditions as may be proposed by staff or the Planning Commission through the public hearing process.

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

**Finding: Complies as Proposed/See Variance.** OCMC [17.62.055 - Institutional and commercial building standards](#). (D), requires that new buildings be placed no farther than five feet from the front property line. The applicant has therefore requested a variance to this standard in accordance with OCMC [Chapter 17.60 - VARIANCES](#) . Otherwise, the dimensions of the R-6 zone district have been met.

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

**Finding: Complies as Proposed.** Gardiner Middle School was established prior to the effective date of the ordinance requiring conditional use review for schools in residential zones. The proposed application is an expansion of the square footage onsite and the applicant has submitted the Conditional Use application in accordance with this requirement. Please refer to the analysis in Chapter 17.60 of this report.

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

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

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

**Finding: Not Applicable.** No portion of the proposed building is located within 50 feet of a residential property.

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

**Finding: Not Applicable.** The subject property is served with access from the ends of Ethel Street and Hood Street. Both of these streets have 60 feet of right-of-way. The local street standard is 54 feet of right-of-way. No additional right-of-way is required.

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

**Finding: Not Applicable.** No such facilities are proposed with this development application.

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

**Finding: Complies as Proposed.** The subject property is centrally located within its service area. The proposed conditional use would allow the expansion of the current Gardiner Middle School campus so as to make fuller use of this public facility. The site has been recognized by Oregon City as suitable for school use since its construction in the mid-1950s. The site has adequate access, as demonstrated by the attached Transportation Impact Analysis. The existing facility conforms to all applicable State standards and the proposed modular building expansion when constructed will meet all applicable State, local and regional requirements.

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

**Finding: Not Applicable.** A helicopter landing facility is not proposed with this development.

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

**Finding: Not Applicable.** A residential care facility is not proposed with this development.

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

**Finding: Not Applicable.** A bed and breakfast is not proposed with this development.

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

**Finding: Not Applicable.** No previous conditional use permit is being revoked with this application.

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

**Finding: Not Applicable.** The site has not been identified as needing a periodic review by staff.

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

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

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

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

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

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

**Finding: Complies as Proposed.** The total landscaped area is approximately 74 percent of the site. No removal of landscaping is proposed. A landscape plan for the area in the vicinity of the new modular building is included with this application. The landscaping plan was prepared by a registered Landscape Architect, and includes a mix of vertical and horizontal elements. Included on the preliminary landscape plan are trees, shrubs, and groundcover plants with specifications for plant spacing that will meet the coverage requirements of this section.

The subject property is not located within a Natural Resource Overlay District, nor is it within the Downtown Design District, so provisions of this section that address such areas are not applicable.

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

**Finding: Not applicable.** The project area is not visible from a public thoroughfare.

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

**Finding: Not applicable.** It is not necessary for the applicant to count parking lot landscaping in order for the site to meet the minimum landscaping requirements.

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

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

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

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

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

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

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

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

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

**Finding: Complies as Proposed.** The existing ingress (Hood Street) and egress (Ethel Street) for the site are not proposed to change with this proposal. The parking lot that serves the existing school will provide ample parking to provide for the added classroom space. The existing circulation system provides for traffic to flow through the site from Hood Street to Ethel Street. Please see discussion in Chapter 17.52.

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

a. Alterations, additions and new construction located within the McLoughlin Conservation District, Canemah National Register District, and the Downtown Design District and when abutting a designated Historic Landmark shall utilize materials and a design that incorporates the architecture of the subject building as well as the surrounding district or abutting Historic Landmark. Historic materials such as doors, windows and siding shall be retained or replaced with in kind materials unless the community development director determines that the materials cannot be retained and the new design and materials are compatible with the subject building, and District or Landmark. The community development director may utilize the Historic Review Board's Guidelines for New Construction (2006) to develop findings to show compliance with this section.

b. In historic areas and where development could have a significant visual impact, the review authority may request the advisory opinions of appropriate experts designated by the community development director from the design fields of architecture, landscaping and urban planning. The applicant shall pay the costs associated with obtaining such independent professional advice; provided, however, that the review authority shall seek to minimize those costs to the extent practicable.

**Finding: Complies with Conditions.** The applicant has provided elevations for the modular classrooms and breezeway and exterior building materials and colors which will be complimentary to the surrounding area. The site is not within a historic district or design district. With conditions, the application will comply with the standards in 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.**

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

**Finding: Not Applicable.** No grading is proposed.

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

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

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

**Finding: Not Applicable.** No new impervious area is proposed. The existing storm drainage system for the parking lot will accommodate the new structure.

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

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

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

**Finding: Complies as Proposed.** No public sidewalks and curbs are affected with this proposal, since the loop drive is not located on public right-of-way.

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

- a. Pathways between all building entrances and the street are required. Pathways between the street and buildings fronting on the street shall be direct. Exceptions may be allowed by the director where steep slopes or protected natural resources prevent a direct connection or where an indirect route would enhance the design and/or use of a common open space.*
- b. The pedestrian circulation system shall connect all main entrances on the site. For buildings fronting on the street, the sidewalk may be used to meet this standard. Pedestrian connections to other areas of the site, such as parking areas, recreational areas, common outdoor areas, and any pedestrian amenities shall be required.*
- c. Elevated external stairways or walkways, that provide pedestrian access to multiple dwelling units located above the ground floor of any building are prohibited. The community development director may allow exceptions for external stairways or walkways located in, or facing interior courtyard areas provided they do not compromise visual access from dwelling units into the courtyard.*
- d. The pedestrian circulation system shall connect the main entrances of adjacent buildings on the same site.*
- e. The pedestrian circulation system shall connect the principal building entrance to those of buildings on adjacent commercial and residential sites where practicable. Walkway linkages to adjacent developments shall not be required within industrial developments or to industrial developments or to vacant industrially-zoned land.*
- f. On-site pedestrian walkways shall be hard surfaced, well drained and at least five feet wide. Surface material shall contrast visually to adjoining surfaces. When bordering parking spaces other than spaces for parallel parking, pedestrian walkways shall be a minimum of seven feet in width unless curb stops are provided. When the pedestrian circulation system is parallel and adjacent to an auto travel lane, the walkway shall be raised or separated from the auto travel lane by a raised curb, bollards, landscaping or other physical barrier. If a raised walkway is used, the ends of the raised portions shall be equipped with curb ramps for each direction of travel. Pedestrian walkways that cross drive isles or other vehicular circulation areas shall utilize a change in textual material or height to alert the driver of the pedestrian crossing area.*

**Finding: Complies with Condition.** The area where the modular building will be placed is paved with asphalt. A ramp will connect the classroom entrances to the existing pavement and a covered walkway striped with paint from the classrooms to the school entrance is proposed. No other changes to pedestrian circulation are proposed. The applicant did not show the width of the walkway. Prior to issuance of building permits, the applicant shall submit sufficient documentation regarding the covered pedestrian walkway to demonstrate the width of the walking is at least five feet.

The westernmost edge of the development consists of a space between the nearest parking stall and a gate which is used to access the building. In order to delineate the space for pedestrians and indicate that it is not a parking space, the applicant shall utilize paint or a physical barrier between the westernmost portion of the development and the nearest parking stall. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

**17.62.050.A.10.** *There shall be provided adequate means to ensure continued maintenance and necessary normal replacement of private common facilities and areas, drainage ditches, streets and other ways, structures, recreational*

*facilities, landscaping, fill and excavation areas, screening and fencing, groundcover, garbage storage areas and other facilities not subject to periodic maintenance by the city or other public agency.*

**Finding: Complies as Proposed.** All facilities on the site are owned and maintained by Oregon City Public Schools.

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

**Finding: Not Applicable.** No tree removal is proposed.

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

**Finding: Not Applicable.** The subject site is not within the Natural Resource Overlay District.

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

**Finding: Complies as Proposed.** The applicant indicated that proposed uses are educational in nature, that they will not have any significant impacts upon the environment, and that neither the existing school facility nor the proposed modular classroom generate or have any significant impact upon air and water quality, odor, heat, glare, noise and vibrations, outdoor storage, radioactive materials, toxic or noxious matter, and electromagnetic interference.

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

**Finding: Complies as Proposed.** A 12-inch city water line passes through the site, as shown on plans submitted with this application. A 10-inch city sewer line located at the end of Ethel Street provides service to the school site. The proposed modular building contains only classroom space. Students will make use of restroom facilities in the existing school building. No new public utilities are proposed.

**17.62.050.A.15** *Adequate right-of-way and improvements to streets, pedestrian ways, bike routes and bikeways, and transit facilities shall be provided and be consistent with the city's transportation master plan and design standards and this title. Consideration shall be given to the need for street widening and other improvements in the area of the proposed development impacted by traffic generated by the proposed development. This shall include, but not be limited to, improvements to the right-of-way, such as installation of lighting, signalization, turn lanes, median and parking strips, traffic islands, paving, curbs and gutters, sidewalks, bikeways, street drainage facilities and other facilities needed because of anticipated vehicular and pedestrian traffic generation. When approving land use actions, Oregon City requires all relevant intersections to be maintained at the minimum acceptable level of service (LOS) upon full build-out of the proposed land use action. The minimum acceptable LOS standards are as follows:*

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

- b. For signalized intersections within the Regional Center boundaries a LOS "D" can be exceeded during the peak hour; however, during the second peak hour, LOS "D" or better will be required as a whole and no approach operating at worse than LOS "E" and a v/c ratio not higher than 1.0.
- c. For unsignalized intersection throughout the city a LOS "E" or better for the poorest approach and with no movement serving more than twenty peak hour vehicles operating at worse than LOS "F" will be tolerated for minor movements during a peak hour.

**Finding: Complies as Proposed.** The applicant submitted a Traffic Analysis Letter). The TAL was prepared under the direction of Michael Ard of Lancaster Engineering. The TAL concluded that:

"The traffic impact on surrounding public intersections resulting from traffic generated by the proposed modular classroom is projected to be negligible. No operational mitigations are necessary or recommended. All site access driveways meet the applicable Oregon City Private Access Driveway Width Standards and Access Spacing Standards. Based on the analysis, adequate intersection sight distance is available for safe egress from the school campus. Based on the review of crash data, no significant existing crash hazards are evident in the site vicinity. No specific safety mitigations are necessary or recommended in conjunction with the proposed development."

Upon review of the applicant's TAL, John Replinger, the City's transportation consultant, concluded,

"I find that the TIS provides an adequate basis upon which to assess the impacts of the proposed school expansion. I find no need for mitigation to address traffic impacts from the proposed expansion."

See Exhibit 2 for the full traffic review.

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

**Finding: Complies as Proposed.** TriMet did not comment on this application. Route 33 runs up Linn Avenue to the west of the site with a stop at Ethel and Linn approximately 620 feet to the west of the school, and thus adequate service is provided to the site.

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

**Finding: Complies with Condition.** The applicant has not proposed and is not required to provide changes to the public utility system. The applicant did not indicate how private utilities such as power would be provided to the new building. The applicant shall demonstrate that all public and private utilities will meet this standard. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

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

**Finding: Complies as Proposed.** ADA compliance for access to the building is required as part of building permit review by the building division.

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

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

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

**Finding: Conditionally Complies.** The applicant indicates that the proposed modular building will make use of wall-mounted heat pumps on the sides of the building that will be screened by landscaping. Prior to occupancy the Planning Division will inspect the screening and landscaping to assure that all mechanical

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

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

- a. Preferred building materials. Building exteriors shall be constructed from high quality, durable materials. Preferred exterior building materials that reflect the City's desired traditional character are as follows:
  - i. Brick.
  - ii. Basalt stone or basalt veneer
  - iii. Narrow horizontal wood or composite siding (generally 5 inches wide or less); wider siding will be considered where there is a historic precedent.
  - iv. Board and baton siding
  - v. Other materials subject to approval by the Community Development Director.
  - vi. Plywood with battens or fiber/composite panels with concealed fasteners and contiguous aluminum sections at each joint that are either horizontally or vertically aligned.
  - vii. Stucco shall be trimmed in wood, masonry, or other approved materials and shall be sheltered from extreme weather by roof overhangs or other methods.
- b. Prohibited materials. The following materials shall be prohibited in visible locations unless an exception is granted by the Community Development Director based on the integration of the material into the overall design of the structure.
  - i. Vinyl or plywood siding(including T-111 or similar plywood).
  - ii. Glass block or highly tinted, reflected, translucent or mirrored glass (except stained glass) as more than 10 percent of the building façade
  - iii. Corrugated fiberglass.
  - iv. Chain link fencing (except for temporary purposes such as a construction site or as a gate for a refuse enclosure).
  - v. Crushed colored rock/crushed tumbled glass.
  - vii. Non-corrugated and highly reflective sheet metal.
- c. Special material standards: The following materials are allowed if they comply with the requirements found below:
  1. Concrete block. When used for the front façade of any building, concrete blocks shall be split, rock- or ground-faced and shall not be the prominent material of the elevation. Plain concrete block or plain concrete may be used as foundation material if the foundation material is not revealed more than 3 feet above the finished grade level adjacent to the foundation wall.
  2. Metal siding. Metal siding shall have visible corner moldings and trim and incorporate masonry or other similar durable/permanent material near the ground level (first two feet above ground level).
  3. Exterior Insulation and Finish System (EIFS) and similar troweled finishes shall be trimmed in wood, masonry, or other approved materials and shall be sheltered from extreme weather by roof overhangs or other methods.
  4. Building surfaces shall be maintained in a clean condition and painted surfaces shall be maintained to prevent or repair peeling, blistered or cracking paint.

**Finding: Complies as Proposed.** Exterior building materials consist of Hardie Plank Lap siding. Narrow horizontal lap siding is included in the list of preferred building materials. The applicant does propose a chain link fence, but the area of the site in which it is proposed is not in a visible location. The fence is proposed on the perimeter of the modular structure, which is located behind the existing school building and not visible from any public right-of-way due to the distance from the right-of-way as well as the adjacent landscaping. The fence is also proposed to be screened with landscaping. Thus, the material may be used. No materials listed as special materials are proposed to be used.

**17.62.050.A.22 Conditions of Approval.** *The review authority may impose such conditions as it deems necessary to ensure compliance with these standards and other applicable review criteria, including standards set out in city overlay districts, the city's master plans, and city public works design standards. Such conditions shall apply as described in Sections 17.50.310, 17.50.320 and 17.50.330. The review authority may require a property owner to sign a waiver of remonstrance against the formation of and participation in a local improvement district where it deems such a waiver necessary to provide needed improvements reasonably related to the impacts created by the proposed development. To ensure*

compliance with this chapter, the review authority may require an applicant to sign or accept a legal and enforceable covenant, contract, dedication, easement, performance guarantee, or other document, which shall be approved in form by the city attorney.

**Finding: Complies as Proposed.** The applicant has already signed a Non-Remonstrance Agreement as part of a previous land use decision.

#### **17.62.065 - Outdoor lighting.**

##### **B. Applicability.**

1. General. a. All exterior lighting for any type of commercial, mixed-use, industrial or multi-family development shall comply with the standards of this section, unless excepted in subsection B.3. b. The city engineer/public works director shall have the authority to enforce these regulations on private property if any outdoor illumination is determined to present an immediate threat to the public health, safety and welfare.

2. Lighting Plan Requirement. All commercial, industrial, mixed-use, cottage housing and multi-family developments shall submit a proposed exterior lighting plan. The plan must be submitted concurrently with the site plan. The exterior lighting plan shall include plans and specifications for streetlights, parking lot lights, and exterior building lights. The specifications shall include details of the pole, fixture height and design, lamp type, wattage, and spacing of lights.

**Finding: Complies as Proposed.** The proposed school use is an institutional use, which is not listed as a type of development for which an exterior lighting plan is required. As a practical matter, the existing school facility has pre-existing exterior lighting for the building, parking and walkway areas.

The proposed outdoor lighting is limited to the porch lights that will be mounted at the building entrances. The building will generally not be used at night, but the porch lights do aid in security and safety for the occasional times that it will be used.

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

1. Outdoor lighting, if provided, shall be provided in a manner that enhances security, is appropriate for the use, avoids adverse impacts on surrounding properties, and the night sky through appropriate shielding as defined in this section. Glare shall not cause illumination on other properties in excess of a measurement of 0.5 footcandles of light as measured at the property line. In no case shall exterior lighting add more than 0.5 footcandle to illumination levels at any point off-site. Exterior lighting is not required except for purposes of public safety. However, if installed, all exterior lighting shall meet the following design standards:

**Finding: Complies as Proposed.** The angle of the front façade at the proposed building site will result in the light emitted by the porch lights being screened by the corner of the building to the closest property line at Hood St. The property lines to the east and south are more than 500 feet from the proposed lights. Cut sheet information provided for the lighting fixture indicates a maximum light output of 329 candela for the porch lights (measured at 90 degrees to the fixture). Using the standard formula for conversion of candela to foot candles: (Foot-candles = candela / distance in feet \* distance in feet) yields a maximum light measurement at the property line of less than one .001 foot candle at that distance.

2. Any light source or lamp that emits more than nine hundred lumens (thirteen watt compact fluorescent or sixty watt incandescent) shall be concealed or shielded with a full cut-off style fixture in order to minimize the potential for glare and unnecessary diffusion on adjacent property. All fixtures shall utilize one of the following bulb types: metal halide, induction lamp, compact fluorescent, incandescent (including tungsten-halogen), or high pressure sodium with a color rendering index above seventy.

**Finding: Not Applicable.** The maximum light emitted by the fixtures is 204 lumens.

3. The maximum height of any lighting pole serving a multi-family residential use shall be twenty feet. The maximum height serving any other type of use shall be twenty-five feet, except in parking lots larger than five acres, the maximum height shall be thirty-five feet if the pole is located at least one hundred feet from any residential use.

**Finding: Not Applicable.** No lighting poles are proposed.

##### **4. Lighting levels:**

Table 1-17.62.065. Foot-candle Levels

<i>Location</i>	<i>Min</i>	<i>Max</i>	<i>Avg</i>
<i>Pedestrian Walkways</i>	<i>0.5</i>	<i>7:1 max/min ratio</i>	<i>1.5</i>
<i>Pedestrian Walkways in Parking Lots</i>		<i>10:1 max/min ratio</i>	<i>0.5</i>
<i>Pedestrian Accessways</i>	<i>0.5</i>	<i>7:1 max/min ratio</i>	<i>1.5</i>
<i>Building Entrances</i>	<i>3</i>		
<i>Bicycle Parking Areas</i>	<i>3</i>		
<i>Abutting property</i>	<i>N/A</i>	<i>.05</i>	

**Finding: Complies with Condition.** For building entrances, Table 1-17.62.065 requires a minimum of 3 Foot-candles. The proposed lights emit 3 foot candles when measured at 8 feet from the door. The applicant did not provide the measurements for the pedestrian walkway. Prior to issuance of permits, the applicant shall demonstrate that the lighting on the pedestrian walkway will meet the standards in table 17.62.065. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

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

**Finding: Complies as Proposed.** The use of compact fluorescent lighting in the wall sconce designs at the building entrance meets the intent of this standard. The proposed project does not include additional parking lot lighting.

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

**Finding: Complies as proposed.** The porch lights at the main school doors plus the porch lights on the building will serve to light the short distance to the modular entrance.

*7. Pedestrian Accessways. To enhance pedestrian and bicycle safety, pedestrian accessways required pursuant to OCMC 12.28 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. Lamps shall include a high-pressure sodium bulb with an unbreakable lens.*

**Finding: Not applicable.** The proposal does not include any pedestrian accessways.

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

**Finding: Not applicable.** No floodlights are proposed.

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

**Finding: Not Applicable.** No canopy lighting is proposed.

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

**Finding: Complies as proposed.** The proposed lights are a standard porch light design that is typical for modular buildings.

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

**Finding: Complies as proposed.** The lighting will not add more than one foot-candle to illumination levels at any point off-site according to the submitted lighting plan.

*12. All outdoor light not necessary for security purposes shall be reduced, activated by motion sensor detectors, or turned off during non-operating hours.*

**Finding: Complies as proposed.** All lighting that will remain on during non-operating hours is necessary for security purposes.

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

**Finding: Not applicable.** None of these light fixtures are proposed.

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

**Finding: Not applicable.** None of these light fixtures are proposed.

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

**Finding: Not applicable.** None of these light fixtures are proposed.

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

**Finding: Not applicable.** None of these light fixtures are proposed.

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

*i. Maximum permitted light post height: eighty feet.*

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

**Finding: Not applicable.** None of these light fixtures are proposed.

## **17.62.055 - INSTITUTIONAL AND COMMERCIAL BUILDING STANDARDS.**

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

**Finding:** Schools are an institutional use and the proposed modular classroom addition is subject to the provisions of this section.

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

*1. Building design shall contribute to the uniqueness of the underlying zoning district by applying appropriate materials, elements, features, color range and activity areas tailored specifically to the site and its context.*

**Finding: Complies as Proposed.** The scale of the proposed building and the materials used are commonly used in residential construction in the R-6 district.

*2. A standardized prototype or franchise design shall be modified if necessary to meet the provisions of this section.*

**Finding: Not applicable.** The applicant has not proposed a standardized prototype or franchise design.

*3. In the case of a multiple building development, each individual building shall include predominant characteristics, architectural vocabulary and massing shared by all buildings in the development so that the development forms a cohesive place within the underlying zoning district or community.*

**Finding: Complies as Proposed.** As a modular unit, it is not practical to employ the same architectural elements of the larger existing school facility in the proposed classroom building. The proposed modular classroom has been placed to the rear of the existing school building so that it has minimal impact upon the general appearance of the school as viewed from public entrances, and it has been designed with similar materials and colors of the 8-classroom modular building built in 2013. The single-story design, scale and placement of the building serve to achieve the objectives of this standard.

*4. With the exception of standards for building orientation and building front setbacks, in the event of a conflict between a design standard in this section and a standard or requirement contained in the underlying zoning district, the standard in the zoning district shall prevail.*

**Finding: Not applicable.** With the exception building front setback requirements, from which the applicant has requested a variance, there are no conflicts between the underlying zone district requirements and the standards of this section.

*5. On sites with one hundred feet or more of frontage at least sixty percent of the site frontage width shall be occupied by buildings placed within five feet of the property line, unless a greater setback is accepted under the provisions of Section 17.62.055D. For sites with less than one hundred feet of street frontage, at least fifty percent of the site frontage width shall be occupied by buildings placed within five feet of the property line unless a greater setback is accepted under the provisions of Section 17.62.055D.*

**Finding: The applicant requests a variance to this requirement.** The subject property abuts the termini of Hood Street and Ethel Street for a combined distance of 100 feet. These streets constitute the only access into the subject property. The placement of the modular building within five feet of these street frontages would not be practical as it would block access to the school. Further, the modular building must be functionally tied to the existing school facility, which is separated from the street frontages by the existing parking and access drives. A variance is requested to this standard. Please see discussion of requested variance below.

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

*1. Buildings shall be placed no farther than five feet from the front property line. A larger front yard setback may be approved through site plan and design review if the setback area incorporates at least one element from the following list for every five feet of increased setback requested:*

- a. Tables, benches or other approved seating area.*
- b. Cobbled, patterned or paved stone or enhanced concrete.*
- c. Pedestrian scale lighting.*
- d. Sculpture/public art.*
- e. Fountains/Water feature.*
- f. At least twenty square feet of landscaping or planter boxes for each tenant facade fronting on the activity area.*
- g. Outdoor café.*
- h. Enhanced landscaping or additional landscaping.*
- i. Other elements, as approved by the community development director, that can meet the intent of this section.*

**Finding: The applicant requests a variance to this requirement.** Response: As discussed in the previous section, it is not practicable to comply with the five foot setback standard. It is also not feasible to achieve compliance through the installation of the elements listed in this section. The existing school building has a front setback of approximately 88 feet. The area between the building and the front lot line is developed with parking and vehicular accessways so there is no room for the types of improvements discussed above. It is not practicable to place the new building within five feet of the front property line because it needs to connect to the existing school facility. For these reasons, a variance to the setback standard is requested. Please see variance discussion below.

*2. The front most architecturally significant facade shall be oriented toward the street and shall be accessed from a public sidewalk. Primary building entrances shall be clearly defined and recessed or framed by a sheltering element such as an awning, arcade or portico in order to provide shelter from the summer sun and winter weather.*

**Finding: Complies with Condition.** The building façade is not visible from the street and staff suggests that this portion of the standard be covered under the variance requested to 17.62.055.D. The primary building entrance does not appear to be clearly defined and framed. The applicant shall propose a sheltering element on the entrances to the classrooms such as an awning, arcade or portico in order to provide shelter from the summer sun and winter weather for approval by the Community Development Director prior to issuance of a building permit. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

3. Entryways. The primary entranceway for each commercial or retail establishment shall face the major street.

**Finding: Not Applicable.** The proposed development does not include commercial or retail uses.

**17.62.055.E Corner Lots.**

**Finding: Not Applicable.** The property is not a corner lot.

**17.62.055.F Commercial First Floor Frontage.**

*In order to ensure that the ground floor of structures have adequate height to function efficiently for retail uses, the first floor height to finished ceiling of new infill buildings in the mixed use and neighborhood commercial districts shall be no lower than fourteen feet floor to floor.*

**Finding: Not Applicable.** The proposed building is not for commercial use and is not within a mixed use or neighborhood commercial zone district.

**17.62.055.G Variation in Massing.**

1. A single, large, dominant building mass shall be avoided in new buildings and, to the extent reasonably feasible, in development projects involving changes to the mass of existing buildings.
2. Horizontal masses shall not exceed a height: width ratio of one-to-three without substantial variation in massing that includes a change in height and projecting or recessed elements.
3. Changes in mass shall be related to entrances, the integral structure and/or the organization of interior spaces and activities and not merely for cosmetic effect.

**Finding: the applicant requests a variance to this standard.** The proposed modular building is 64 feet long and is approximately 13.5 feet high. Because of height restrictions on modular buildings that are moved on highways, it is not practicable to meet the one-to-three ratio. A variance to this provision is requested. Please see variance discussion pursuant to Chapter 17.60 below.

**17.62.055.H Minimum Wall Articulation.**

1. Facades shall add architectural interest and variety and avoid the effect of a single, long or massive wall with no relation to human size. No wall that faces a street or connecting walkway shall have a blank, uninterrupted length exceeding thirty feet without including, but not be limited to, at least two of the following:

- i. Change in plane,
- ii. Change in texture or masonry pattern or color,
- iii. Windows, trellage with landscaping appropriate for establishment on a trellis.
- iv. An equivalent element that subdivides the wall into human scale proportions.

**Finding: Complies as Proposed.** The proposed modular building will be located at the south side of the existing school building. It does not directly face onto a street, but will be somewhat visible from the terminus of Hood Street. The building façade that will be oriented towards this street measures 28 in length and conforms to this standard. The building façade that faces the pedestrian walkway is 64 feet in length and the façade is broken up by windows and the change in color of the walls versus the doors.

2. Facades greater than one hundred feet in length, measured horizontally, shall incorporate wall plane projections or recesses having a depth of at least three percent of the length of the facade and extending at least twenty percent of the length of the facade. No uninterrupted length of any facade shall exceed one hundred horizontal feet.

**Finding: Not applicable.** The proposed building is only 64 feet in length.

3. Ground floor facades that face public streets shall have arcades, display windows, entry areas, awnings or other such features along no less than sixty percent of their horizontal length.

**Finding: Not applicable.** The proposed building does not face a public street.

4. Building facades must include a repeating pattern that includes any one or more of the following elements:

- a. Color change;
- b. Texture change;
- c. Material module change.

5. Facades shall have an expression of architectural or structural bays through a change in plane no less than twelve inches in width, such as an offset, reveal or projecting rib.

6. Facades shall have at least one of elements subsections H.4. or H.5. of this section repeat horizontally. All elements shall repeat at intervals of no more than thirty feet, either horizontally or vertically.

**Finding: The applicant requests a variance to these standards.** Please refer to variance discussion below.

#### **17.62.055.I Facade Transparency.**

1. Transparent windows or doors facing the street are required. The main front elevation shall provide at least sixty percent windows or transparency at the pedestrian level. Facades on corner lots shall provide at least sixty percent windows or transparency on all corner-side facades. All other side elevations shall provide at least thirty percent transparency. The transparency is measured in lineal fashion. For example, a one hundred-foot long building elevation shall have at least sixty feet (sixty percent of one hundred feet) of transparency in length. Reflective, glazed, mirrored or tinted glass is limited to ten percent of the lineal footage of windows on the street facing facade. Highly reflective or glare-producing glass with a reflective factor of one-quarter or greater is prohibited on all building facades. Any glazing materials shall have a maximum fifteen percent outside visual light reflectivity value. No exception shall be made for reflective glass styles that appear transparent when internally illuminated.

**Finding: The applicant requests a variance to this standard:** The front elevation of the new modular classroom is 64 feet in length and provides 8' of window glazing (12.5%). It is not practicable in a modular building to increase the percentage of window glazing. A variance to this standard is requested. Please refer to the variance discussion, below.

2. Side or rear walls that face walkways may include false windows and door openings only when actual doors and windows are not feasible because of the nature of the use of the interior use of the building. False windows located within twenty feet of a right-of-way shall be utilized as display windows with a minimum display depth of thirty-six inches.

**Finding: Not applicable.** No false windows or door openings are proposed.

#### **17.62.055.J Roof Treatments.**

**Finding: Complies as Proposed.** The proposed design for the roof is sloping with overhangs.

#### **17.62.055.K Drive-through facilities shall:**

**Finding: Not Applicable.** The applicant has not proposed a drive through.

### **CHAPTER 17.52 OFF-STREET PARKING AND LOADING**

**17.52.020.A.** The number of parking spaces shall comply with the minimum and maximum standards listed in Table 17.52.020. The parking requirements are based on spaces per one thousand square feet gross leasable area unless otherwise stated.

LAND USE	PARKING REQUIREMENTS	
	MINIMUM	MAXIMUM
Elementary/Middle School	1 per classroom	1 per classroom + 1 per administrative employee + 0.25 per seat in auditorium/assembly room/stadium

1. *Multiple Uses.* In the event several uses occupy a single structure or parcel of land, the total requirements for off-street parking shall be the sum of the requirements of the several uses computed separately.
2. *Requirements for types of buildings and uses not specifically listed herein shall be determined by the community development director, based upon the requirements of comparable uses listed.*
3. *Where calculation in accordance with the following list results in a fractional space, any fraction less than one-half shall be disregarded and any fraction of one-half or more shall require one space.*
4. *The minimum required parking spaces shall be available for the parking of operable passenger automobiles of residents, customers, patrons and employees only, and shall not be used for storage of vehicles or materials or for the parking of trucks used in conducting the business or use.*
5. *A Change in use within an existing building located in the MUD Design District is exempt from additional parking requirements. Additions to an existing building or new construction in the district are required to meet the minimum parking requirements in Table 17.52.020.*

**Finding: Complies as Proposed.** Table 17.52.020 sets the parking requirements for elementary and middle schools as minimum of one space per classroom and a maximum of 1 per classroom + 1 per administrative employee + 0.25 per seat in auditorium/assembly room/stadium. The existing parking lot provides for a total of 90 vehicles. Several spaces would be removed to allow for placement of the modular building. Two of these spaces will be relocated, as shown on the site plan. The number of parking spaces remaining after completion of this project will be 78. The existing school has a total of 28 classrooms. With the addition of the two classrooms in the modular unit, the total increases to 30. The minimum number of parking spaces that would be required by this section would be 30, which is satisfied by the existing parking. The existing parking lot predates the adoption of the maximum parking standards and no expansion of parking is proposed. Therefore, it is not necessary to address compliance with the maximum standard in this application.

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

**Finding: Not applicable.** The applicant has not requested to reduce the number of parking spaces.

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

**Finding: Not Applicable.** No changes to driveway access points are proposed or required.

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

**Finding: Complies as Proposed.** The existing parking lot and access aisle are paved and provide for stormwater runoff.

**17.52.030.C.** *Drainage.* Drainage shall be designed in accordance with the requirements of Chapter 13.12 and the city Public Works Stormwater and Grading Design Standards.

**Finding: Complies as Proposed.** The existing parking lot has provisions to accommodate storm water runoff. No changes to the existing parking lot are proposed.

**17.52.030.D.** *Dimensional Requirements.*

**Finding: Not Applicable.** The existing parking lot will continue to be used in its current configuration. No parking improvements are required.

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

employee, student or commuter parking spaces with the exception of handicapped parking spaces. The carpool/vanpool spaces shall be clearly marked "Reserved - Carpool/Vanpool Only."

**Finding: Not Applicable.** No expansion of the existing parking facilities are proposed or required for this project so compliance with carpool or vanpool parking improvements does not apply.

**17.52.040.A. Bicycle parking standards.**

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

**Finding: Applies.** This standard was reviewed by both the applicant's engineer and the city's transportation consultant. Bicycle parking standards are applicable.

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

**Finding: Complies as Proposed.** Table A in this section requires that Junior High schools provide a minimum of 2 bicycle parking spaces per classroom and that 50 percent of the spaces be covered. With the addition of the two new classrooms, the total number of classrooms at Gardiner Middle School will be 30, thus requiring bicycle racks capable of accommodating a minimum of 60 bicycles. At least 30 of these spaces would be required to be covered. The school has existing covered bicycle parking near the front entrance to the school, as shown on the site plan. Two 8-foot double-sided bicycle racks capable of accommodating 16 bicycles each, and two 10-foot bicycle racks capable of accommodating 20 bicycles each are provided, for a total capacity of 72 bicycles. All of these racks are under cover, as shown in the photograph below. The requirements of this section are met by the existing bicycle racks.

**17.52.040.C.1. Location of Bicycle Parking**

*Bicycle parking shall be located on-site, in one or more convenient, secure and accessible location. The City Engineer and the community development director may permit the bicycle parking to be provided within the public right-of-way. If sites have more than one building, bicycle parking shall be distributed as appropriate to serve all buildings. If a building has two or more main building entrances, the review authority may require bicycle parking to be distributed to serve all main building entrances, as it deems appropriate.*

**Finding: Complies as proposed.** For safety and security reasons, the applicant prefers to keep all bicycle parking near the main entrance, as shown on the submitted plans. The location of the existing bike racks provides for safety and security as it is in an area that is within view of adjacent classroom windows and in close proximity to the main entrance of the school. There is a direct pedestrian connection from the bicycle parking area to the main entrance of the building. The bicycle parking area does not interfere with pedestrian or vehicular movement as it is located adjacent to, but does not obstruct the pedestrian walkway near the existing school's main entrance. No changes are proposed.

**17.52.040.C.2.**

*Bicycle parking areas shall be clearly marked or visible from on-site buildings or the street. If a bicycle parking area is not plainly visible from the street or main building entrance, a sign must be posted indicating the location of the bicycle parking area. Indoor bicycle parking areas shall not require stairs to access the space unless approved by the community development director.*

**Finding: Complies as Proposed.** No changes to existing bicycle parking location are proposed.

**17.52.040.C.3.**

*All bicycle parking areas shall be located to avoid conflicts with pedestrian and motor vehicle movement.*

*a. Bicycle parking areas shall be separated from motor vehicle parking and maneuvering areas and from arterial streets by a barrier or a minimum of five feet.*

*b. Bicycle parking areas shall not obstruct pedestrian walkways; provided, however, that the review authority may allow bicycle parking in the public sidewalk where this does not conflict with pedestrian accessibility.*

**Finding: Complies as Proposed.** No changes to existing bicycle parking location are proposed.

**17.52.040.C.4.**

*Accessibility.*

*a. Outdoor bicycle areas shall be connected to main building entrances by pedestrian accessible walks.*

*b. Outdoor bicycle parking areas shall have direct access to a public right-of-way.*

**Finding: Complies as Proposed.** The applicant indicates that the existing area for bicycle parking is directly adjacent to existing walkways that connect to the main entrance, which has direct access to the public right-of-way.

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

**Finding: Complies as Proposed.** The existing bicycle parking meets this standard and is not proposed to change.

**17.52.060 - Parking lot landscaping.**

**Finding: Complies with Condition.** The existing parking lot is landscaped, however the applicant has proposed to install a modular within the parking lot, leaving a space between the westernmost portion of the modular and the adjacent parking stall. In order to delineate the space for pedestrians and indicate that it is not a parking space, the applicant shall utilize paint or a physical between the westernmost portion of the development and the nearest parking stall. . **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

**17.52.070 - Alternative landscaping plan.**

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

**17.52.080 - Maintenance.**

*The owner, tenant and their agent, if any, shall be jointly and severally responsible for the maintenance of the site including but not limited to the off-street parking and loading spaces, bicycle parking and all landscaping which shall be maintained in good condition so as to present a healthy, neat and orderly appearance and shall be kept free from refuse and debris. All plant growth in interior landscaped areas shall be controlled by pruning, trimming, or otherwise so that:*

*a. It will not interfere with the maintenance or repair of any public utility;*

*b. It will not restrict pedestrian or vehicular access; and*

*c. It will not constitute a traffic hazard due to reduced visibility.*

**Finding: Complies as Proposed.** The owner would be responsible for maintenance of the site.

**CHAPTER 12.04 – STREETS, SIDEWALKS AND PUBLIC PLACES**

**Finding: Not Applicable.** The street system in the area of the subject property is a well-established grid system. No new streets are proposed or required for the temporary modular. No additional findings for compliance with Chapter 12.04 are necessary.

**CHAPTER 12.08 – PUBLIC AND STREET TREES**

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

*All new construction or major redevelopment shall provide street trees adjacent to all street frontages.*

**Finding: Not applicable.** The existing street configuration does not provide any street frontage with adequate planting area. No new street trees are proposed or required for the temporary modular. No additional findings for compliance with Chapter 12.08 are necessary.

#### **CHAPTER 17.12 R-6 SINGLE-FAMILY DWELLING DISTRICT:**

**Finding: Complies as Proposed.** Oregon City Municipal Code chapter 17.12.030G allows the establishment of “private and/or public educational or training facilities” through a conditional use process, as is proposed in this application.

**17.12.040.A.** *Minimum lot areas, six thousand square feet;*

**Finding: Not Applicable.** The applicant has not proposed to alter the lot size with this development.

**17.12.040.B.** *Minimum lot width, fifty feet;*

**Finding: Not Applicable.** The applicant has not proposed to alter the lot size with this development.

**17.12.040.C.** *Minimum lot depth, seventy feet;*

**Finding: Not Applicable.** The applicant has not proposed to alter the lot size with this development.

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

**Finding: Complies as Proposed.** Both the existing building and the proposed building are less than 35 feet or 2.5 stories in height.

**17.12.040.E.1.** *Front yard, ten feet minimum depth,*

**17.12.040.E.2.** *Attached and detached garage, twenty feet minimum depth from the public right-of-way where access is taken, except for alleys. Garages on an alley shall be setback a minimum of five feet in residential areas.*

**17.12.040.E.3.** *Interior side yard, nine feet minimum width for at least one side yard; five feet minimum width for the other side yard,*

**17.12.040.E.4.** *Corner side yard, fifteen feet minimum width,*

**17.12.040.E.5.** *Rear yard, twenty feet minimum depth,*

**Finding: Complies as Proposed.** The existing school building complies with setback standards as follows: Front – 87.9’, Side – 29.8’, Rear – 272.6’. The modular classroom is located on the south side of the existing school and is 270 feet from the front (west) property line and 516 feet from the south property line. It is within the setback envelope of the current facility. The overall setbacks will not change and will continue to exceed the minimum standards of the R-6 zone.

**17.12.040.F.** *Garage Standards: See Section 17.20 – Residential Design Standards.*

**Finding: Not Applicable.** This is not a residential building and no garages are proposed.

**17.12.040.G.** *Maximum Building Coverage: See Section 17.20 – Residential Design Standards.*

**Finding: Complies as Proposed.** The existing school building has a foot print of 108,251 square feet. With the addition of the new modular classroom measures approximately 64 feet by 28 square feet, or 1,792 sq. ft. The total lot coverage would come to 110,043 sq. ft. This would equal 13.8% coverage for the 795,217 sq. ft. site, which is well under the 40 percent maximum allowable coverage.

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

**A.** *Generally. Fence, hedge, or wall.*

- 1. Fences and walls – Fences and walls over 42 inches shall not be located in front of the front faced or within 40 feet of the public right-of-way, whichever is less. All other fences (including fences along the side and rear of a property) shall not exceed 6 feet in total height unless as permitted in 17.54.100, Section (B).*
- 2. Hedges shall not be more than 42-inches in the underlying front yard setback*
- 3. Property owners shall ensure compliance with the Traffic Sight Obstruction requirements in Chapter 10.32 of the Oregon City Municipal Code.*

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

**Finding: Complies as Proposed.** As shown on the landscape plan submitted with this application, a six foot high fence is proposed to be constructed around the perimeter of the proposed modular classroom in order to provide for security of students moving to and from the new building. The fence will ensure that students do not wander into the parking lot area and will help to prevent outsiders from entering the school environment. This fence is not located in the “front yard” of the property, in front of the structure, and is not visible from the public right of way. The proposed landscape screening in front of the fencing will help to soften the impact of the fencing.

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

1. *When the retaining wall or artificial berm is 30 inches or less in height from the finished grade, the maximum fence or wall height on top of the retaining wall shall be six feet.*
2. *When the retaining wall or earth berm is greater than 30 inches in height, the combined height of the retaining wall and fence or, wall from finished grade shall not exceed 8 ½ feet.*
3. *Fences, hedges or walls located on top of retaining walls or earth berms in excess of 8 ½ feet in height shall be setback a minimum of 2 feet from the edge of the retaining wall or earth berm below and shall not exceed a combined height of 8 ½ feet.*
4. *An alternative height or location requirement may be approved within a land use process for all non-single-family and two-family residential properties. The fence, hedge or wall shall be compatible with the adjacent neighborhood and achieve the same intent of the zoning designation and applicable Site Plan and Design Review process. In no case may the fence, hedge or wall exceed 8 feet in height without approval of a variance.*

**Finding: Not Applicable.** The fence will not be placed on a wall or berm, and the applicant has not requested a fence taller than 6 feet.

## **CHAPTER 17.58 – NONCONFORMING USES, STRUCTURES, AND LOTS**

### *17.58.015 Applicability.*

*The regulations of this chapter apply only to those nonconforming situations that were lawfully established or that were approved through a land use decision. All nonconforming structures, uses or lots shall have been maintained over time. These situations have lawful nonconforming status. Nonconforming situations that were not allowed when established or have not been maintained over time have no lawful right to continue.*

**Finding: Applicable:** The original school building was constructed prior to the requirement for Conditional Use approval for schools in residential zones. *OCMC 17.56.010 - Permit—Authorization—Standards—Conditions. D.* allows review of expansions to existing uses subsequently designated as conditional uses to be expanded through a conditional use review process. Therefore, subsequent expansion of the school with a modular classroom wing was approved in 2013 as a modification to a pre-existing conditional use. (CU 12-01). The existing use, therefore, is legally established.

In 2008, the City adopted new standards for institutional uses that contain design provisions that the existing school does not conform to. These include standards such as setbacks, landscaping, parking spaces, façade transparency, and pedestrian circulation. As a result, the proposed expansion through the placement of a modular classroom on the school site is subject to the provisions of Chapter 17.58.

### *17.58.040 Lawful Nonconforming Structure.*

*A structure that was lawfully established but no longer conforms to all development standards of this land use code (such as setbacks) shall be considered a lawful nonconforming structure. Notwithstanding development standard requirements in this code, minor repairs and routine maintenance of a lawful nonconforming structure are permitted. The continuation of a lawful nonconforming structure is subject to the following:*

*Accidental Destruction. When a nonconforming structure is damaged by fire or other causes, the structure may be rebuilt using the same structure footprint.*

*Intentional Destruction. When a nonconforming structure is removed or intentionally damaged by fire or other causes within the control of the owner, the replacement structure shall comply with the development standards of this title.*

*Expansion. An expansion of a lawful nonconforming structure may be approved, conditionally approved or denied in accordance with the standards and procedures of this section.*

**Finding: Applicable.** This application would expand the existing, lawfully established, nonconforming school structure by adding a modular unit.

1. *In making a determination on such applications, the decision maker shall weigh the proposal's positive and negative features and the public convenience or necessity to be served against any adverse conditions that would result from authorizing the particular development at the location proposed, and, to approve such expansion, it must be found that the criteria identified in section 17.58.060 have either been met, can be met by observance of conditions, or are not applicable.*

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

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

*Proposed alterations to meet approved fire and life safety agreements;*

*Alterations related to the removal of existing architectural barriers, as required by the Americans with Disabilities Act, or as specified in Section 1113 of the Oregon Structural Specialty Code;*

*Alterations required to meet Seismic Design Requirements; and*

*Improvements to on-site stormwater management facilities in conformance with Oregon City Stormwater Design Standards.*

**Finding: Applicable.** The value of the proposed modular addition is approximately \$300,000. This cost does not relate to any of the exempt alterations or modifications, therefore the project meets the threshold of this section.

*b. Standards that shall be met. Developments not complying with the development standards listed below shall be brought into conformance.*

*Pedestrian circulation systems, as set out in the pedestrian standards that apply to the sites;*

*Minimum perimeter parking lot landscaping;*

*Minimum interior parking lot landscaping;*

*Minimum site landscaping requirements;*

*Bicycle parking by upgrading existing racks and providing additional spaces in order to comply with 17.52 Off-Street Parking and Loading;*

*Screening; and*

*Paving of surface parking and exterior storage and display areas.*

**Finding: The applicant has requested a variance to this standard.** See findings in Chapter 17.60.

*c. Area of required improvements.*

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

2. *Exception for sites with ground leases. Required improvements may be limited to a smaller area if there is a ground lease for the portion of the site where the alterations are proposed. If all of the following are met, the area of the ground lease will be considered as a separate site for purposes of required improvements. The applicant shall meet the following:*

i. *The signed ground lease – or excerpts from the lease document satisfactory to the City Attorney – shall be submitted to the Community Development Director. The portions of the lease shall include the following:*

- *The term of the lease. In all cases, there must be at least one year remaining on the ground lease; and*
- *A legal description of the boundaries of the lease.*

ii. *The boundaries of the ground lease shall be shown on the site plan submitted with the application. The area of the lease shall include all existing and any proposed development that is required for, or is used exclusively by, those uses within the area of the lease; and*

iii. *Screening shall not be required along the boundaries of ground leases that are interior to the site.*

**Finding: Applicable.** The entire site is subject to this standard.

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

1. Option 1. Required improvements may be made as part of the alteration that triggers the required improvements. The cost of the standards that shall be met, identified in Subparagraph C.2.b above, is limited to 10% of the value of the proposed alterations. It is the responsibility of the applicant to document to the Community Development Director the value of the required improvements. Additional costs may be required to comply with other applicable requirements associated with the proposal. When all required improvements are not being made, the priority for the improvements shall be as listed in Subparagraph C.2.b above.

2. Option 2. Required improvements may be made over several years, based on the compliance period identified in Table 17.58 – 1 below. However, by the end of the compliance period, the site shall be brought fully into compliance with the standards listed in Subparagraph C.2.b. Where this option is chosen, the following must be met:

- i. Before a building permit is issued, the applicant shall submit the following to the Community Development Director:
  - A Nonconforming Development Assessment, which identifies in writing and on a site plan, all development that does not meet the standards listed in Subparagraph C.2.b.
  - A covenant, in a form approved by the City Attorney, executed by the property owner that meets the requirements of 17.50.150. The covenant shall identify development on the site that does not meet the standards listed in Subparagraph C.2.b, and require the owner to bring that development fully into compliance with this Title. The covenant shall also specify the date by which the owner will be in conformance. The date must be within the compliance periods set out in Table 17.58 – 1.
- ii. The nonconforming development identified in the Nonconforming Development Assessment shall be brought into full compliance with the requirements of this Title within the following compliance periods. The compliance period begins when a building permit is issued for alterations to the site of more than \$75,000. The compliance periods are based on the size of the site (see Table 17.58 – 1 below).
- iii. By the end of the compliance period, the applicant or owner shall request that the site be certified by the Community Development Director as in compliance. If the request is not received within that time, or if the site is not fully in conformance, no additional building permits will be issued.
- iv. If the regulations referred to by Subparagraph C.2.b are amended after the Nonconforming Development Assessment is received by the Community Development Director, and those amendments result in development on the site that was not addressed by the Assessment becoming nonconforming, the applicant shall address the new nonconforming development using Option 1 or 2. If the applicant chooses Option 2, a separate Nonconforming Development Assessment, covenant and compliance period will be required for the new nonconforming development.

Table 17.58 – 1 Compliance Periods for Option 2	
Square footage of site	Compliance Period
Less than 150,000 sq. ft.	2 years
150,000 sq. ft. or more, up to 300,000 sq. ft.	3 years
300,000 sq. ft. or more, up to 500,000 sq. ft.	4 years
More than 500,000 sq. ft.	5 years

**Finding: The applicant has requested a variance to this standard.** See findings in Chapter 17.60. According to Table 17.58-1, the compliance period for this site of 794,000 square feet would be five years.

## **CHAPTER 17.65 MASTER PLANS**

### **17.65.030 - Applicability of the Master Plan Regulations.**

A. **Submission.** A master plan shall be submitted for any institutional development on a site over ten acres in size. If the boundaries of an institutional development exceed ten acres in size, the proposed development shall be master planned using the regulations of this chapter. No permit under this title shall be issued for any institutional development in excess of ten acres in total acreage unless it is accompanied by or preceded by a master plan approval under this chapter. The provisions of this chapter do not apply to modifications to existing institutional developments unless the modification results in a cumulative square footage increase of over ten thousand total building square feet in an existing institutional development over ten acres.

**Finding: Not Applicable.** The subject site is an institutional use; however, the modification to the existing development is not greater than 10,00 square feet of new buildings.

## **CHAPTER 17.50 ADMINISTRATION AND PROCEDURES**

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

**Finding: Complies as Proposed.** The proposed applications are being reviewed pursuant to the Type III process. Notice was posted onsite, online, mailed to property owners within 300 feet of the proposed development site and posted in a general circulation newspaper.

*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 17-24) on June 6, 2017. The applicant submitted a land use application on September 11, 2017, within six months after the date of the pre-application conference. The application was deemed incomplete on October 2, 2017, and after submittal of additional items was deemed complete on October 30, 2017.

*17.50.055 Neighborhood Association Meeting*

**Finding: Complies as Proposed.** The applicant attended a Rivercrest Neighborhood Association meeting on June 15, 2017. The applicant submitted a copy of the meeting flyer, a sign-in sheet of the meeting attendees, and a summary of the issues discussed.

*17.50.060 Application Requirements.*

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

*17.50.070 Completeness Review and 120-day Rule.*

**Finding: Complies as Proposed.** The applicant submitted a land use application on September 11, 2017, within six months after the date of the pre-application conference. The application was deemed incomplete on October 2, 2017, and after submittal of additional items was deemed complete on October 30, 2017. The 120-day deadline is February 27, 2018.

*17.50.080 Complete Application--Required Information.*

**Finding: Complies as Proposed.** The applicant submitted a land use application on September 11, 2017, within six months after the date of the pre-application conference. The application was deemed incomplete on October 2, 2017, and after submittal of additional items was deemed complete on October 30, 2017.

*17.50.090 Public Notices.*

**Finding: Complies as Proposed.** Staff provided public notice within 300' of the site via mail, the site was posted with multiple Land Use Notices, posted on the Oregon City website and in a general circulation

newspaper. Staff provided email transmittal or the application and notice to affected agencies, the Natural Resource Committee and to all Neighborhood Associations requesting comment.

*17.50.100 Notice Posting Requirements.*

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

**Chapter 17.60 VARIANCES**

**17.60.010 - Authority.**

*According to procedures set forth in Section 17.60.030, the planning commission or the community development director may authorize variances from the requirements of this title. In granting a variance, the planning commission or community development director may attach conditions to protect the best interests of the surrounding property or neighborhood and otherwise achieve the purposes of this title. No variances shall be granted to allow the use of property for a purpose not authorized within the zone in which the proposed use would be located.*

**Finding: Complies as Proposed.** The applicant has requested several variances in conjunction with this project that require Planning Commission consideration. The variances are described and analyzed separately below. Variances may be allowed subject to the criteria listed in section 17.60.030.

**7.60.020 - Variances—Procedures.**

*A. A request for a variance shall be initiated by a property owner or authorized agent by filing an application with the city recorder. The application shall be accompanied by a site plan, drawn to scale, showing the dimensions and arrangement of the proposed development. When relevant to the request, building plans may also be required. The application shall note the zoning requirement and the extent of the variance requested. Procedures shall thereafter be held under Chapter 17.50. In addition, the procedures set forth in subsection D. of this section shall apply when applicable.*

*B. A nonrefundable filing fee, as listed in Section 17.50.[0]80, shall accompany the application for a variance to defray the costs.*

*C. Before the planning commission may act on a variance, it shall hold a public hearing thereon following procedures as established in Chapter 17.50. A Variance shall address the criteria identified in Section 17.60.030, Variances — Grounds.*

*D. Minor variances, as defined in subsection E. of this section, shall be processed as a Type II decision, shall be reviewed pursuant to the requirements in Section 17.50.030B., and shall address the criteria identified in Section 17.60.030, Variance — Grounds.*

*E. For the purposes of this section, minor variances shall be defined as follows:*

*1. Variances to setback and yard requirements to allow additions to existing buildings so that the additions follow existing building lines;*

*2. Variances to width, depth and frontage requirements of up to twenty percent;*

*3. Variances to residential yard/setback requirements of up to twenty-five percent;*

*4. Variances to nonresidential yard/setback requirements of up to ten percent;*

*5. Variances to lot area requirements of up to five;*

*6. Variance to lot coverage requirements of up to twenty-five percent;*

*7. Variances to the minimum required parking stalls of up to five percent; and*

*8. Variances to the floor area requirements and minimum required building height in the mixed-use districts.*

**Finding: Complies as Proposed.** The owner, Oregon City School District, initiated the Type III variance requests in accordance with the procedures in this section and with OCMC 17.50. No minor variances are requested. The approval criteria are addressed below.

**17.60.030 - Variance—Grounds.**

*A variance may be granted only in the event that all of the following conditions exist:*

- A. That the variance from the requirements is not likely to cause substantial damage to adjacent properties by reducing light, air, safe access or other desirable or necessary qualities otherwise protected by this title;*
- B. That the request is the minimum variance that would alleviate the hardship;*
- C. Granting the variance will equal or exceed the purpose of the regulation to be modified.*
- D. Any impacts resulting from the adjustment are mitigated;*
- E. No practical alternatives have been identified which would accomplish the same purpose and not require a variance; and*
- F. The variance conforms to the comprehensive plan and the intent of the ordinance being varied.*

The applicant's variance requests for this project and their justification subject to the review criteria are listed below, followed by Staff's findings.

The variance requests include:

- A variance to 17.62.055.C.5 which requires that, on sites with one hundred feet or more of frontage at least sixty percent of the site frontage width shall be occupied by buildings placed within five feet of the property line, unless a greater setback is accepted under the provisions of Section 17.62.055D. The applicant states that this is impracticable on the subject property due to the nature of the street frontage (road termini) and because of existing building placement on the property. It should be noted that a variance to this standard was granted for the 2012 modular classroom building. The applicant requests that this variance apply to any future construction on the school site.
- A variance to 17.62.055.G - I. which require variation in building massing, articulation, and transparency that the applicant contends is not practicable with modular construction.
- A variance to 17.58.040 which requires upgrades to nonconforming elements of the site.

Staff suggests the Planning Commission approve Variances to 17.62.055.D.2, which is related to the variance to 17.62.055.D.1.

***1. Variance from OCMC 17.62.055.C.5 & 17.62.055.D.1. - Variance of maximum allowed 5' setback from the street for an institutional building.***

The provisions of Section 17.62.055.C.5 require that, on sites with one hundred feet or more of frontage at least sixty percent of the site frontage width shall be occupied by buildings placed within five feet of the property line, unless a greater setback is accepted under the provisions of Section 17.62.055D.

The applicant states that this is impracticable on the subject property due to the nature of the street frontage (road termini) and because of existing building placement on the property.

It should be noted that a variance to this standard was granted for the 2012 modular classroom building. The applicant requests that this variance apply to any future construction on the school site.

**Applicant's Response to Variance Criteria (A-F):**

- A. The requested variance will not impact adjacent properties by reducing light, air, safe access or other desirable or necessary qualities. The existing school is located more than 80 feet back from the ends of Hood Street and Ethel Street. This location is necessary in order to allow for the parking lot as well as site circulation from Hood Street to Ethel Street. The proposed modular would be located more than 270 feet from the closest property line and, therefore, cannot impact light, air or other desirable qualities on abutting properties.
- B. The variance requested is the minimum variance feasible. Placing the building at the specified 5' setback distance would interfere with access from the ends of Hood Street and Ethel Street. The proposed location at the rear of the existing school building is the only feasible spot on the property

that will allow for the new modular classroom to be tied into the functions of the existing school building. Short walkways to existing building access points will allow students to move to and from the classrooms in the modular building as necessary for other school activities that take place in the main building. Placing the building closer to either Ethel Street or Hood Street would not allow for the school to function in a unified manner that effectively serves the students.

- C. The purpose of the five foot maximum setback for institutional buildings is, presumably, to ensure that building placement supports convenient pedestrian access from public streets. In the case of Gardiner Middle School, students are typically bussed to the campus or dropped off by parents. The availability of these forms of access ensures that the purpose of the standard will be met by alternative means.
- D. The availability of bussing and parent drop-off areas serve to mitigate for the building being set back farther from the public street.
- E. The proposed location is the only area on the school property that has open space for a new building and which can be tied into the existing school building via short connecting walkways.
- F. There are no comprehensive plan policies that require a 5-foot maximum setback. The intent of the ordinance, while not specifically stated, is presumably to ensure convenient pedestrian access to institutional buildings. The school provides walkways and areas for bus and parents to conveniently drop-off students. These measures achieve the same purpose as the ordinance standard.

**Finding: Complies with Condition.**

Staff concurs with the applicant's response and finds that the criteria for granting a variance to OCMC 17.62.055.C. are met.

**Policy 11.1.4** - *Support development on underdeveloped or vacant buildable land within the city where public facilities and services are available or can be provided and where land-use compatibility can be found relative to the environment, zoning, and Comprehensive Plan goals.*

**Finding: Complies as Proposed.** The requested adjustments will allow for a temporary development of an underdeveloped site, and allow for the A Safe Place services to remain on a single site, providing optimal service to the public.

The following goals and policies of the Comprehensive Plan are applicable to this variance request:

*Goal 2.4: Neighborhood Livability -*

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

*Policy 2.4.2*

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

*Policy 2.4.5*

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

*Goal 11.1: Provision of Public Facilities*

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

**Policy 11.1.4** *Support development on underdeveloped or vacant buildable land within the City where urban facilities and services are available or can be provided and where land use compatibility can be found relative to the environment, zoning, and comprehensive plan goals.*

**Policy 11.1.5** *Design the extension or improvement of any major urban facility and service to an area to complement other urban facilities and services at uniform levels.*

*Policy 11.1.6 Enhance efficient use of existing urban facilities and services by encouraging development at maximum levels permitted in the comprehensive plan, implementing minimum residential densities, and adopting an Accessory Dwelling Unit Ordinance to infill vacant land.*

The Gardiner Middle School campus is an institutional development. The proposed variance to allow a new structure for would increase neighborhood livability and efficiency of public facilities by allowing the Oregon City School District to accommodate additional students, thus allowing Clackamas County to function efficiently and improving their service to Oregon City and surrounding communities.

Staff does not recommend granting the request to apply this variance to future development on the site. If a brand new school building is proposed to replace the current building, which the applicant has indicated is likely in the near future, staff's opinion is that no variances for that new building be pre-approved. Should the planning commission wish to apply the request to only new secondary buildings added to the existing campus (i.e. additional modular buildings or ancillary structures), staff would support that decision. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

***2. Variance from OCMC 17.62.055.G – I. - Variance of requirement for variation in building massing, wall articulation, and façade transparency:.***

*G. Building Massing*

- 1. A single, large, dominant building mass shall be avoided in new buildings and, to the extent reasonably feasible, in development projects involving changes to the mass of existing buildings.*
- 2. Horizontal masses shall not exceed a height: width ratio of one-to-three without substantial variation in massing that includes a change in height and projecting or recessed elements.*
- 3. Changes in mass shall be related to entrances, the integral structure and/or the organization of interior spaces and activities and not merely for cosmetic effect.*

*H. Minimum Wall Articulation*

- 4. Building facades must include a repeating pattern,*
- 5. Facades shall have an expression of architectural or structural bays through a change in plane no less than twelve inches in width, such as an offset, reveal or projecting rib.*
- 6. Facades shall have at least one of elements subsections H.4. or H.5. of this section repeat horizontally.*

*I. Transparency*

*Transparent windows or doors facing the street are required. The main front elevation shall provide at least sixty percent windows or transparency at the pedestrian level. Facades on corner lots shall provide at least sixty percent windows or transparency on all corner-side facades. All other side elevations shall provide at least thirty percent transparency. The transparency is measured in lineal fashion. For example, a one hundred-foot long building elevation shall have at least sixty feet (sixty percent of one hundred feet) of transparency in length. Reflective, glazed, mirrored or tinted glass is limited to ten percent of the lineal footage of windows on the street facing facade. Highly reflective or glare-producing glass with a reflective factor of one-quarter or greater is prohibited on all building facades. Any glazing materials shall have a maximum fifteen percent outside visual light reflectivity value. No exception shall be made for reflective glass styles that appear transparent when internally illuminated.*

The applicant states that the provisions of Section 17.62.055.G - I. require a variation in building massing, articulation, and transparency that is not practicable with modular construction.

**Applicant's Response to Variance Criteria (A-F):**

- A. The requested variance will not impact adjacent properties by reducing light, air, safe access or other desirable or necessary qualities. The requested variance relates only to the appearance of the proposed modular classroom. The location of the proposed building is only visible from a limited number of off-site properties that are well-removed from the building location. Proposed landscaping and screening as shown on the landscape plan will mitigate for the requested variances impact upon the appearance of this building.
- B. The variance requested to eliminate compliance with these standards is the minimum variance feasible. Complying with standards relating to articulation, height to width ratios, and 60 percent glazing standards is simply not compatible with the design requirements for a modular classroom building that must be transported to the site over highways. Lane widths create limitations in the ability to articulate the structure. Heights must be kept low due to overpass height restrictions.
- C. The purpose of these standards is to create a visually interesting building design. It must be realized that the modular building is only one element of the overall campus building design. Many of these design requirements are satisfied if viewed from the aspect of the overall campus having an interesting appearance, with multiple masses, articulation, roof height changes, major glazing on primary building elevations, etc. For this reason, not requiring compliance for the modular classroom has a lesser impact than if it were the only building being proposed for a site. Granting the variance will still allow for the overall purpose of a visually appealing building complex on the Gardiner campus to be met.
- D. The placement of the proposed modular building to the side of the main school building, well set back from property boundaries, together with landscape screening and fencing, will mitigate for the requested variance.
- E. The proposed modular classroom is the only means available to provide for the classroom needs of an increased student enrollment. This is a temporary solution until a new school is built on the Gardiner site.
- F. There are no comprehensive plan policies that require the design standards listed in this section. Granting the variance will allow for the Oregon City School District to continue to provide educational services needed by the public in this area.

**Finding: Complies as Proposed.** The purpose of standards related to variation in massing, minimum wall articulation, and façade transparency are to provide architectural interest and variety and to avoid a dominant building mass with no relation to human size. The purpose of standards for similar characteristics for buildings in a multiple building development are to provide cohesiveness through the site and to enhance architectural interest.

These standards affect only the appearance of the building and are intended to provide for visually appealing building design. With the proposed conditions of approval, the building will not be visible from the street, standards intended to provide for buildings that are visually interesting and appealing in appearance are not as essential as they would be if the building were located in a more prominent location. Staff concurs with the applicant's response and finds that the criteria for granting a variance to OCMC 17.62.055.G. are met.

The following goals and policies of the Comprehensive Plan are applicable to this variance request:

*Goal 2.4: Neighborhood Livability -*

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

*Policy 2.4.2*

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

*Policy 2.4.5*

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

The Gardiner Middle School campus is an institutional development. The proposed variance to allow a new structure for would increase neighborhood livability by allowing the Oregon City School District to accommodate additional students, thus allowing Clackamas County to function efficiently and improving their service to Oregon City and surrounding communities.

**3. Variance to OCMC 17.58. – Variance of Nonconforming Upgrades**

*Standards that shall be met. Developments not complying with the development standards listed below shall be brought into conformance.*

*Pedestrian circulation systems, as set out in the pedestrian standards that apply to the sites;*

*Minimum perimeter parking lot landscaping;*

*Minimum interior parking lot landscaping;*

*Minimum site landscaping requirements;*

*Bicycle parking by upgrading existing racks and providing additional spaces in order to comply with 17.52 Off-Street Parking and Loading;*

*Screening; and*

*Paving of surface parking and exterior storage and display areas.*

Bicycle parking, screening and paved parking standards are already satisfied.

The pedestrian circulation system is incomplete and would need to be upgraded to meet this standard. The parking lot was developed prior to the adoption of current landscaping standards. Perimeter landscaping and interior parking lot landscaping do not meet current standards.

The applicant has requested to be exempt from nonconforming upgrades due to the temporary nature of the project.

The applicant states the following regarding the parking lot landscaping:

- For perimeter parking lot landscaping, while there is a buffer of approximately 5 feet, it is not landscaped for most of its length. There are large cedar trees within the buffer near Ethel Street. There are cedar fences, but no significant landscaping for the rest of the length of that strip. As shown in photographs within the applicant's submittal, there is a significant grade change between the parking lot and adjacent residential lots to the west along much of this border. This grade change makes providing landscaping problematic.
- Given that this is a small project that is only intended to be in place until such time as the new middle school is built, a variance is being requested to allow the parking lot, its landscaping and the pedestrian circulation system to remain in their existing configurations.

**Applicant's Response to Variance Criteria (A-F):**

- A. The parking lot has been in existence for decades in its current configuration. Allowing it to continue without additional landscaping will have no significant impact upon adjacent properties. As the photograph shows, there are existing fences that provide for buffer screening. Requiring that parking spaces be removed in order to comply with interior landscape standards would reduce needed parking and would be an expense beyond the scope of this project. When the new middle school is built, parking will be reconfigured and brought into full compliance at that time. With respect to pedestrian circulation, there are no sidewalks in the streets leading up to the school site. Therefore, not having sidewalks to the streets does not significantly impact pedestrian access to the school.
- B. The variance requested is the minimum variance feasible. Requiring new landscaping and sidewalks would create a disproportionate cost to the scale of this minor project. The School District is working

with limited funds to deal with increasing enrollment. The time to bring the parking lot into compliance with new standards is when a construction bond is approved and the new middle school is built.

- C. The existing parking lot and pedestrian circulation system have functioned well for decades. The placement of a modular classroom on the site will not trigger any change that warrants a major upgrade to parking lot landscaping.
- D. The availability of bussing and parent drop-off areas serve to mitigate for the lack of sidewalk connections to the school. The lack of parking lot landscaping is mitigated by existing fencing and other landscaping along the front of the school.
- E. There do not appear to be any other measures that would resolve the parking lot landscaping or sidewalk issues.
- F. There are no comprehensive plan policies that require the parking lot landscaping specified in this section.

**Finding: Complies with Condition.** Staff finds that the applicant's responses are inadequate to show that all of the variance criteria are met. While the applicant indicates that nonconforming upgrades should be waived because the site will be rebuilt with a new building in upcoming years, the City has no guarantee that this redevelopment will occur. The school has not been held to nonconforming upgrades over a series of site changes including a new playground area and a new modular 8-building classroom built 4 years ago. The Planning Division enforces the standards for nonconforming upgrades for all nonconforming properties that undergo staff-level land use review.

Therefore, staff recommends that the Planning Commission require nonconforming upgrades and give the applicant a choice of either utilizing Option 1 or utilizing timing Option 2, which requires full upgrades to the list of items in 17.58.040 within 5 years of the issuance of the decision. If the school district chooses option 2 and then subsequently applies for land use approval of a new building within that time period, the new findings and conditions would supersede the conditions within this staff report. If the school district does not move forward with a new building proposal for the site within the 5 year time period, then this condition would ensure that upgrades are installed. Upgrades would include both perimeter and interior parking lot landscaping, plus any additional upgrades identified through a full nonconforming analysis required by OCMC 17.58.040.

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

### **III. STAFF RECOMMENDATION**

Staff recommends that the Planning Commission approve Planning files CU 17-03, SP 17-127 and VR 17-10, 12, and 13 as submitted by the applicant with the attached recommended conditions of approval.

### **IV. EXHIBITS**

***The following exhibits are attached to this staff report.***

1. Vicinity Map
2. Applicant's Submittal
3. Memorandum from John Replinger of Replinger and Associates