



**TYPE III APPLICATION
STAFF REPORT AND RECOMMENDATION**
January 25, 2019

FILE NUMBERS: GLUA-18-00040 (General Land Use Application)
GEO-18-0005 (Geologic Hazards)
FP-18-00001(Floodplain)
MAS-18-00005(Master Plan)
MAS-18-00006 (Master Plan)
SUB-18-00003(Subdivision)
NROD-18-00013 (Natural Resources Overlay District)

APPLICANT: The Cove LLC, Attn: David Mooney
1961 Collingwood St, #212, Vancouver, British Columbia V6R3K6

OWNERS: The Cove Apartments LLC, 4582 S Ulster Street Pkwy, Ste 1200, Denver, CO 80237 (2-2E-29 -02900)
Water Environment Services (WES), 150 Beaver Creek Rd, Oregon City, OR 97045 (2-2E-29 -01509)
Urban Renewal Agency of Oregon City, PO Box 3040, Oregon City, OR 97045 (10 parcels)

REPRESENTATIVE: DOWL, c/o Read Stapleton
720 SW Washington St, Ste. 750, Portland, OR 97205

REQUEST: Master Plan Amendments, Detailed Development Plan, Floodplain, Subdivision, Natural Resource Overlay District and a Geologic Hazards Overlay District Review to Permit Mass Grading of II of the Cove Waterfront Apartments, including early grading. Adjustments to specific architectural standards are requested. No buildings other than retaining walls are proposed at this time.

LOCATION: 16400 Main Street and No Address, Oregon City, Oregon 97045

Clackamas County Map 2-2E-29 TL 1509, 2800, 2900, 3000, 3100, 3200, 3300, 3400, 3500, 3600 and 3700 and Clackamas County Map 2-2E-20 TL 1100.

REVIEWERS: Pete Walter, AICP, Planner
Aleta Froman-Goodrich, PE, City Engineer
Josh Wheeler, PE, Public Works Development Projects Manager

RECOMMENDATION: Approval with Conditions.

PROCESS: Type III decisions involve the greatest amount of discretion and evaluation of subjective approval standards, yet are not required to be heard by the city commission, except upon appeal. Applications evaluated through this process include conditional use permits. The process for these land use decisions is controlled by ORS 197.763. Notice of the application and the planning commission hearing is published and mailed to the applicant, recognized neighborhood association and property owners within three hundred feet of the subject property. Notice must be issued at least twenty days pre-hearing, and the staff report must be available at least seven days pre-hearing. At the evidentiary hearing held before the planning commission, all issues are addressed. The decision of the planning commission is appealable to the city commission within fourteen days of the issuance of the final decision. The city commission hearing on appeal is on the record and no new evidence shall be allowed. Only those persons or a city-recognized neighborhood association who have participated either orally or in writing have standing to appeal the decision of the planning commission. Grounds for appeal are limited to those issues raised either orally or in writing before the close of the public record. A city-recognized neighborhood association requesting an appeal fee waiver pursuant to OCMC 17.50.290.C must officially approve the request through a vote of its general membership or board at a duly announced meeting prior to the filing of an appeal. The city commission decision on appeal from the planning commission is the city's final decision and is appealable to the Land Use Board of Appeals (LUBA) within twenty-one days of when it becomes final.

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

RECOMMENDED CONDITIONS OF APPROVAL

GLUA-18-00040 (General Land Use Application)
GEO-18-0005 (Geologic Hazards)
FP-18-00001 (Floodplain)
MAS-18-00005 (Master Plan)
MAS-18-00006 (Master Plan)
SUB-18-00003 (Subdivision)
NROD-18-00013 (Natural Resources Overlay District)

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

(B) = Verify that condition of approval has been met with the Building Division.
(F) = Verify that condition of approval has been met with Clackamas County fire Department #1.

Compliance with the following conditions shall be met prior to issuance of a Mass Grading Permit associated with the proposed development, unless otherwise noted:

1. All outstanding and applicable Conditions of Approval shall be met. (P)
2. Recommendations stated in the geotechnical report(s) shall be performed during the design and/or construction phases as applicable, and written certification by the geotechnical engineer-of-record shall be provided. (DS)
3. The applicant shall retain the services of a licensed professional engineer in the State of Oregon to prepare the geotechnical report, respond to comments, address those comments, and provide inspections at appropriate times during construction and provide field reports stating the conditions have been met. The Engineer shall observe all geologic conditions exposed during construction and document conditions that are consistent with the conditions assumed in the geotechnical report. If any conditions are different, the effect of those observations shall be evaluated and mitigation shall be provided as required. (DS)
4. The development shall comply with all current Oregon City Public Works standards, specifications, codes, and policies. (DS)
5. The development's contractor(s) and engineer(s) shall attend a pre-construction meeting with Oregon City staff prior to beginning construction work associated with the project. (DS)
6. The development shall comply with the current version of the Oregon City Stormwater and Grading Design Standards. (DS)
7. The applicant shall obtain an Erosion and Sediment Control Permit from the City prior to beginning construction work associated with the project. (DS)
8. Civil Engineering plans stamped and signed by a professional engineer in the State of Oregon shall be provided for review and approval that contain applicable grading, stormwater, and erosion control improvements conforming to all current Oregon City Public Works standards, specifications, codes, and policies. (DS)
9. The applicant is responsible for compliance with the latest edition of the "Standard Specifications for Public Works Construction," as prepared by the Oregon Chapter of American Public Works Association (APWA) and as modified and adopted by the city, in effect at the time of application. (DS)
10. The applicant is responsible for obtaining a 1200-C (NPDES) permit from Oregon Department of Environmental Quality (DEQ) prior to release of any permit from the City and prior to beginning construction work associated with the project. (DS)
11. The applicant shall provide a Private Stormwater Maintenance Covenant and Access Easement and an Operations and Maintenance Plan for review for the sediment basins that may be recorded by the City with a fee provided by the applicant if it is determined the sediment basins will not be temporary. (DS)
12. The construction plan/grading plan/stormwater report for "Phase 2 – Mass Grading" shall address drainage and shall demonstrate compliance with 17.49.155 for facilities within the NROD where applicable. (DS)
13. The applicant shall provide supplemental design data with the public facilities construction plan submittal to address protection of the public infrastructure from flooding in accordance with 17.42.160.E.2 and 3.

14. A Geotechnical Report stamped and signed by a professional engineer in the State of Oregon shall be provided for review and approval to fully address all applicable geologic hazards. An update of the existing report will be required. (DS)
15. The mass grading is required to show no net fill, and instead shall show a balance of earthwork for the entire site. Cut will be required as stated in Exhibit G as part of the mass grading efforts prior to any improvements for lots 3-7 (DS & B)
16. Grading and construction plans shall minimize cuts and fills in compliance with 17.44.060.C. Measures at a minimum shall include minimizing cut, terracing retaining walls, relocating retaining walls to reduce height, and altering of grade between the Cove and Clackamas River, to the maximum extent practicable. Applicant shall provide written justification when measures are deemed infeasible at time of construction plan submittal, and modifications to this condition shall be approved by the City Engineer. (DS)
17. Grading plan shall include an engineer's design for all structural fill. Prior to issuance of each building permit, the geotechnical engineer-of-record shall provide written certification for each building pad, that structural fill was placed as designed and in accordance with provisions of OCMC Chapter 17.44. (DS)
18. Terraced retaining walls shall be provided if the vertical cut will be greater than seven feet. The terraced wall shall have a maximum face of five feet and a minimum vegetated width of 3 feet between terraces within the Geologic Hazards Overlay District. (DS)
19. The applicant's Geotechnical Engineer shall provide design calculations for any structural retaining wall that exceeds four feet in height as defined by the Oregon Structural Specialty Code or any other wall determined by the City or its consultant to require structural design. (DS)
20. Full-time monitoring and inspection and written daily reports by geotechnical engineer-of-record are required for all earthwork during construction. Weekly reports per NPDES permit regulations will be required outside of the May to October work period to ensure erosion control measures remain during the winter. (DS)
21. Grading, drainage improvements, and/or other land disturbances shall be restricted between May 1 and October 31 or as otherwise approved by the City Engineer. The applicant's contractor shall submit a construction schedule which has been review and approved by the applicant's Geotechnical Engineer with regard to the viability of completing necessary project goals within the restricted time period. (DS)
22. The applicant shall submit appropriate documentation that verifies all requirements of City Code 17.44 have been met. (DS)
23. Cross sections shall be provided from property line to property line showing proposed structures, finished grade, existing grade, pavement and proposed walls reflecting the greatest cuts and fills expected onsite. (DS)
24. A Declaration of Covenant of Release and Indemnity for Geologic Hazards shall be provided to the City and shall be recorded by the City with a fee provided by the applicant. (DS)
25. The City will use a third party to review the Geotechnical Report, Design, and Calculations. The applicant will be charged all costs borne by the City due to the third party review. (DS)
26. Only one construction entrance will be allowed to the Phase 2 site. (DS)
27. Prior to issuance of a permit associated with the subsequent Detailed Development Plan, the applicant shall submit documentation identifying compliance with Chapter 17.42.160 of the Oregon City Municipal Code. A licensed engineer shall provide final calculations demonstrating a balance of the floodplain prior to issuance of a grading permit as well prior to issuance of a building permit for the first structure onsite. (B & DS)
28. Development Services engineering staff have reviewed the applicant's requests to slightly modify the street sections that will be proposed for the Agnes Avenue right-of-way and agrees in concept to the proposals described in this CDP application. The applicant shall comply with the

applicable standards of Chapter 12.04 and respond to the requirements of section 12.04.007 – Modifications at the time a Detailed Development Plan application for the Phase II site improvements, street sections and buildings is submitted for approval. Any future approval for an updated Agnes Avenue street section will supersede any previously approved street sections. (DS)

29. Outdoor Lighting Plans. Prior to issuance of a permit associated with the subsequent Detailed Development Plan for the Phase II buildings, the applicant shall submit lighting plans, technical details and photometric evidence from a qualified lighting engineer that the proposed lighting levels will meet the intent of OCMC 17.62.065. All lighting on-site shall be designed such that lighting levels at exterior boundary of the Master Plan do not exceed 0.5 foot-candles. Lighting fixtures shall be directed completely away from the NROD area. Dark-sky compatible fixtures and or shields shall be used to minimize glare. The Community Development Director may review the submitted information at the time of building permit submittal. (P)
30. Gas utility meters placed on the front façade of buildings on Lots 3-10 shall be screened by landscaping and fully screened within 3 years of installation. (P)
31. All proposed adjustments are approved, provided the building design and landscaping is substantially similar to the proposed renderings with associated conditions. (P)
32. Prior to issuance of a grading permit associated with the proposed development the applicant shall submit a mitigation planting plan that complies with the standards in OCMC 17.49 and that compares removed trees with extents of proposed tree planting. (P)
33. Prior to issuance of a permit associated with the subsequent Detailed Development Plan development for the Phase II buildings, a lighting plan shall be submitted which complies with:
 - a. 17.49.100.H: Incandescent lights exceeding 200 watts (or other light types exceeding the brightness of a 200 watt incandescent light) shall be placed or shielded so that they do not shine directly into resource areas. (P)
 - b. The adjustment for lighting shall only be granted to the property boundaries on lots 3-10 and adjacent tracts. The lighting adjustment shall not apply to the Natural Resources Overlay District. (P)
34. Prior to final of a permit associated with the live/work units facing the north park, a landscaping plan shall be submitted which includes landscaping consisting of a shrub every 4 feet and groundcover between the live/work portion of the building and the north park. (P)
35. Prior to final plat, documentation shall be submitted demonstrating compliance with 17.49.160.B, including a demonstration that the vegetated corridor is within a tract or recorded easement which recognizes the NROD boundary, provisions of OCMC 17.49, and with an ownership structure in compliance with OCMC 17.49.160.B.2. (P)
36. Prior to final inspection of the NROD mitigation installation documentation shall be submitted demonstrating an easement or covenant in compliance with 17.49.180.G. (P)
37. Prior to issuance of a permit associated with the proposed development the applicant shall record easements that allow access to the NROD mitigation site for monitoring and maintenance for properties not owned by the applicant. (P)
38. NROD Monitoring Report. Prior to issuance of occupancy for the first building permit associated with the proposed development the applicant shall submit a five-year monitoring and maintenance plan with annual reports in a form approved by the director of community development. Monitoring of the mitigation sites is the on-going responsibility of the property owner, assign, or designee, who shall submit said annual report to the city's planning division, documenting plant survival rates of shrubs and trees on the mitigation site. Photographs shall accompany the report that indicate the progress of the mitigation. A minimum of eighty percent survival of trees and shrubs of those species planted is required at the end of the five-year maintenance and monitoring period. Any invasive species shall be removed and plants that die shall be

replaced in kind. Bare spots and areas of invasive vegetation larger than ten square feet that remain at the end the five-year monitoring period shall be replanted or reseeded with native grasses and ground cover species. (P)

39. Prior to issuance of a permit associated with the proposed development the applicant shall submit a mitigation planting plan in compliance with the standards in OCMC 17.49. The plants shall be installed with the final of the mass grading permit or may be extended with the submittal of a subsequent final grading permit associated with a future Detailed Development Plan. If extended, all NROD plantings shall be installed prior to the first issuance of a temporary or permanent certificate of occupancy for the first building in Phase 2 (P)
40. Prior to final plat, the applicant shall provide a financial guarantee in compliance with 17.49.180.H. (P)
41. Prior to issuance of a permit associated with this development the applicant shall submit a construction timetable per 17.49. (P)
42. The Lot 1 temporary trailhead parking shall be removed or upgraded to comply with the applicable standards prior to expiration of the Master Plan. (P)
43. Prior to final of the mass grading permit, the applicant shall submit a landscaping plan and install landscaping between the temporary parking lot on lot 1 and the street with native ground cover and a shrub every 4 feet. (P)
44. The applicant shall provide a temporary hard surfaced bicycle and pedestrian trail connection during the development of the site to ensure that access to, and connectivity along, the Clackamas Trail is maintained during construction.

BACKGROUND:

Existing Conditions

A. Site Description

The Cove development includes land generally adjacent to the Clackamette Cove generally near the intersection of Main Street and Mcloughlin Boulevard. During the original approval of the Cove Master Plan in 2008, the subject site was entirely owned by the Urban Renewal Agency of Oregon City. In 2009, the Master Plan was expanded to include a portion of the WES property. The last Master Plan amendment in 2015 approved the development of 244 multi-family dwellings on Lot 2.

Construction of Phase 1 is predominantly complete. On Lot 2, 244 garden apartments are being built. A temporary trailhead parking lot is located on Lot 3, which can be accessed by the newly constructed portion of Main Street including the roundabout. On Lot 11 (Tract A), a grading and a sidewalk extension to Firestone Alley has been provided with Phase 1 construction. Tract B has been excavated with some habitat improvements. This includes the excavation of the North Beach and an enlarged storm sewer outfall. Phase 1 improvements to Tract D includes excavation, grading, and NROD mitigation. Existing conditions are shown on Sheet C0.1 of the CDP plan set included in the Application as Exhibit B.1.

Figure 1. Vicinity Map

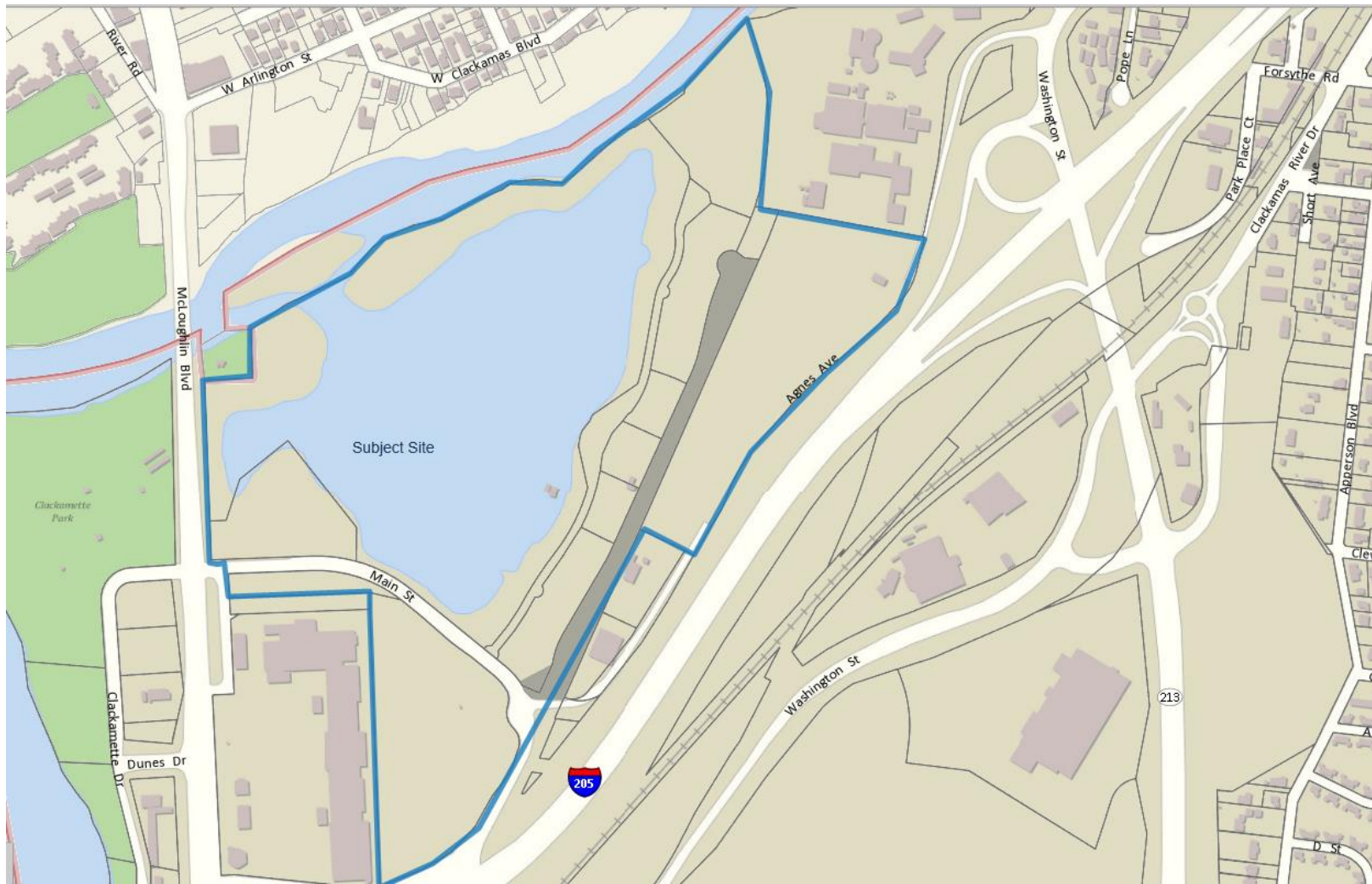


Figure 2: Existing Conditions – Aerial Image indicating Parcel Ownership

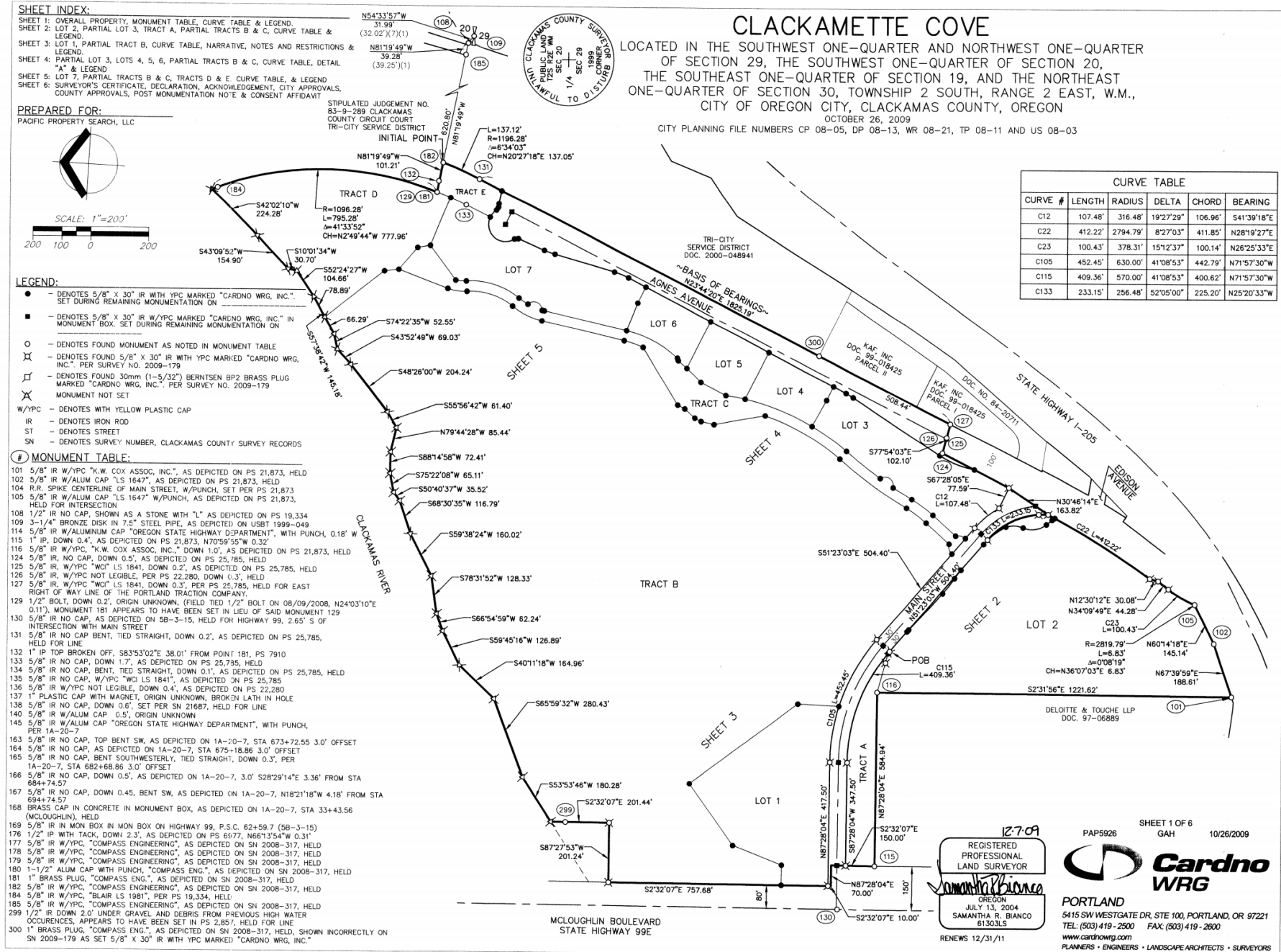


Figure 3. Property Details

Map and Tax Lot	Acres	Zoning	Comprehensive Plan
22E29 01509	14.4	General Industrial	General Industrial (GI)
22E29 02800	4.45	Mixed Use Downtown	Mixed Use District (MUD)
22E29 02900	11.4	Mixed Use Downtown	Mixed Use District (MUD)
22E29 03000	2.82	Mixed Use Downtown	Mixed Use District (MUD)
22E29 03100	0.92	Mixed Use Downtown	Mixed Use District (MUD)
22E29 03200	1.0	Mixed Use Downtown	Mixed Use District (MUD)
22E29 03300	0.90	Mixed Use Downtown	Mixed Use District (MUD)
22E29 03400	3.16	Mixed Use Downtown	Mixed Use District (MUD)
22E29 03500	1.33	Mixed Use Downtown	Mixed Use District (MUD)
22E29 03600	52.8	Mixed Use Downtown	Mixed Use District (MUD)
22E29 03700	2.59	Mixed Use Downtown	Mixed Use District (MUD)
22E20 01100	5.27	Mixed Use Downtown	Mixed Use District (MUD)

Total Acres = approximately 101.21, which includes the surface area of the cove itself (Tax lot 22E29 03600).

Figure 4: Current Approved Subdivision Plat Map (first page showing all parcels)



B. Project Description

The proposed CDP Amendment includes changes to the master plan's building program, phasing of development, the cross section of Agnes Avenue, a detailed development plan of mass grading, and a preliminary plat. While a DDP for building architecture and site plan review will be submitted later, the applicant is requesting NROD permit, Floodplain Ordinance and Geologic Hazards Overlay reviews at this time. A more detailed summary of the requested changes is provided in the application materials.

Master Plan Amendments:

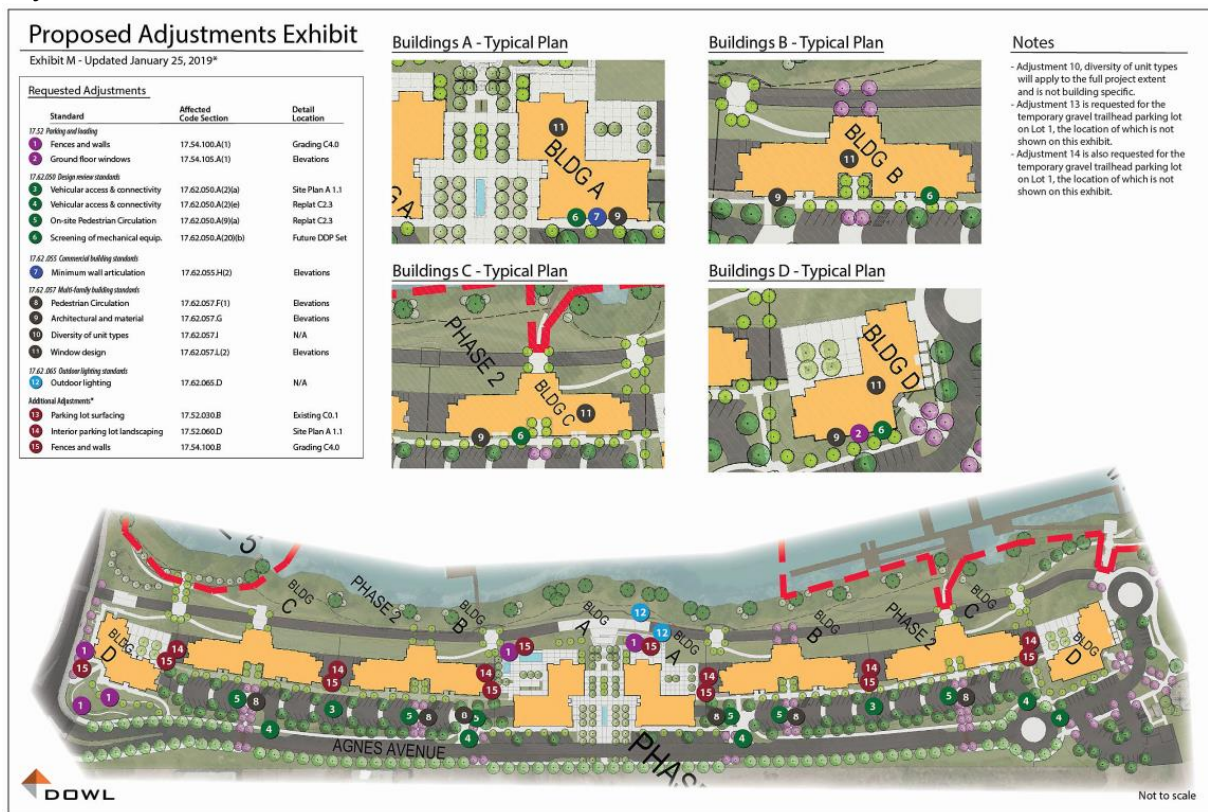
- **Phasing:** The phasing of the Master Plan has been amended as identified below and validity of the Master Plan is proposed to be extended 10 years for an overall time of 20 years from the original approval date.
- **Subdivision:** The lot lines are being altered and additional lots created. Significant changes include changes from lots 3-10 and changing Tract A to a lot.
- **Lots 3-7:** The use is amended from 195 units with two restaurants (total 3,250 square feet) and 8,712 square feet of office to eight structures with 404 apartment units, approximately 20 live-work units, and approximately 11,000 SF of retail, restaurant, or office space. Establish separate tax lots for each building so that Lots 3-7 become Lots 3-10.
- **Tract D:** Though the use of the north park is being retained, the stormwater facility, and parking lot will be expanded with park storage areas and the timing of the park improvements is amended.
- **Tract A:** The tract is proposed to be converted to a lot which will allow the exchange of ownership. Future uses include a variety of options ranging from parking, habitat, residential above parking, or commercial above parking.
- **Lot 1:** Elimination of a formerly planned 50,400 SF office building from Lot 1. Additionally, the temporary parking lot located on Lot 1 will remain beyond Installation of Phase 2. Future uses of the site range from parking, habitat, residential above parking, or commercial above parking.
- **Plaza:** The esplanade will remain as previously approved, providing pedestrian access from Main Street to Tract D along a 20-foot paved path. However, accent paving will enhance pedestrian access to the buildings, and a "festival plaza" will enhance pedestrian access for the public.
- **Grading of Cove Banks:** The grading plan has been amended to reduce the steepness of the slope on lots 3-10 and amend the grading on Lot 1.
- **Agnes Avenue Cross-Section Change**

The updated cross-sections are shown on the Typical Section sheet, Sheet C3.3 of the CDP Plan Set included in Exhibit B.1. The proposed sections with the CDP Amendment request are described below:

- Agnes Avenue – South – Sidewalk both sides: The proposed right-of-way varies along this section. The section includes two (2) 6-10-foot sidewalks, two (2) curb and planter strips, a 5- 8.5-foot curb and planter strip on the west side of the street, and a 5-9-foot curb and planter strip on the east side of the street, two (2) travel lanes, a 11-32-foot travel lane on the west side of the street and a 11-28-foot travel lane on the east side of the street, and one (1) 6-foot bike lane on the east side.
- Locations for storm sewer, sanitary sewer, water, phone, power, cable, and gas utilities are identified. The landscape areas shall not exceed a 5:1 slope in the public utility easement, and a 3:1 slope everywhere else. The public utility easement will be 5-feet wide, with extensions in limited areas for utility vaults. The bike lane will not be present where a 10-foot east side sidewalk is provided.
- Agnes Avenue – North – No east sidewalk: The proposed right-of-way varies along this section. The section includes one (1) 6.5-foot curb and sidewalk on the west side, one (1) 8-foot parallel parking area on the west side, two (2) 11-foot travel lanes, one (1) 6-foot bike lane on the east side, and one (1) 12.5-foot curb and planter swale on the east side with an adjacent landscaping strip of varied widths.
- Locations for storm sewer, sanitary sewer, water, phone, power, cable, and gas utilities are identified. The landscape areas shall not exceed a 5:1 slope in the public utility easement, and a 3:1 slope everywhere else. The public utility easement will be 5-feet wide, with limited extensions for utility vaults.
- Agnes Avenue – Central – Double parking: The proposed right-of-way for this section is 80.5- feet. The section includes two (2) sidewalks – a 9.5-foot curb and sidewalk with tree wells on the west side and a 6.50-foot sidewalk on the east side, one (1) 19.5-foot area of 60-degree angled parking on the west

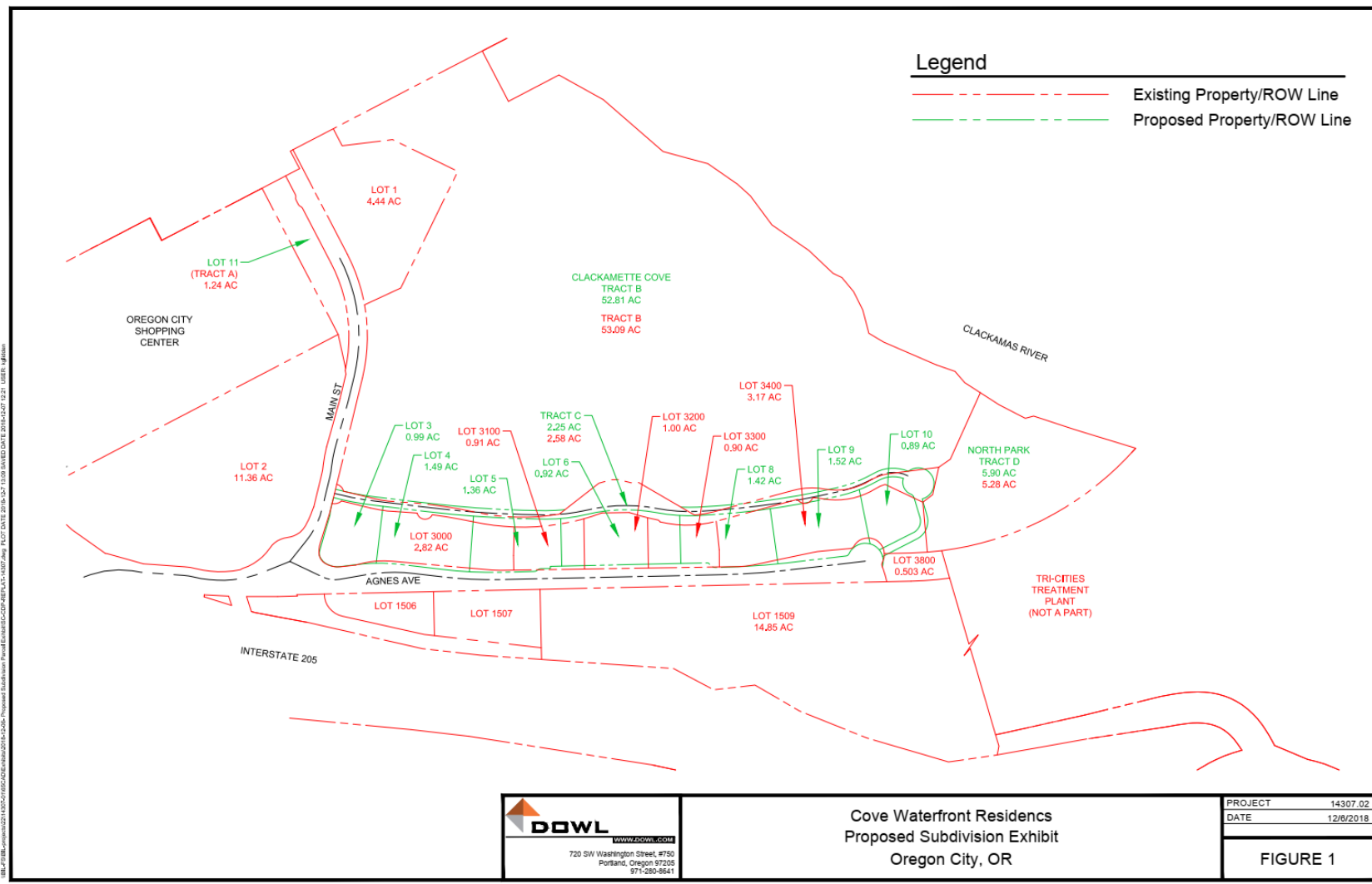
side, one (1) 8-foot area of parallel parking on the east side, two (2) travel lanes – a 14-foot travel lane on the west side and a 11-foot travel lane on the east side, one (1) 6-foot travel bike lane on the east side, and one (1) 6-foot landscaping strip on the east side.

- The location of storm sewer, sanitary sewer, and water utilities are identified. One (1) 5-foot franchise utility zone is located on the west side of the street. Angled parking allows for 1.7-feet of overhang depth. Landscaped areas will not exceed 3:1 slopes.
- Agnes Avenue – Central – Rain Garden: This section is identical to the Central – Double parking section above, except that the 8-foot parallel parking area and 6.5-foot sidewalk on the east side are replaced by an 8.5-foot curb and rain garden and a 6-foot sidewalk.
- **Agnes Extension.** The Agnes Avenue extension through the WES property has been removed and replaced by a temporary emergency access easement from the cul-de-sac at the north end of Agnes Avenue through Tract E to connect to the existing internal roadway at the sewer plant.
- **WES Property.** Parking on the WES property, previously proposed with 322 spaces during Phase 3, has been removed. On-street parking along Agnes Avenue is now proposed.
- Amended conditions of approval as discussed in this narrative
- **Shoreline Enhancement Activities.** As noted above and in the floodplain memo included under Exhibit H, The Cove waterfront residences project is required to balance the impacts created on the floodplain storage. In order to offset the large fill volume that is placed in the area of Lots 3-7, excavation will occur on the Lot 1, Tract D, and Esplanade sites. These three sites together will be able to provide enough floodplain capacity to offset the amount of floodplain impact caused by the Waterfront Residences and Agnes Ave construction, and provide an additional floodplain surplus capacity of approximately 6,750 CY.
- **Adjustments**



1. 17.54.100.A(1) Generally. Fence, hedge, or wall. Two approximately 9-foot retaining walls are proposed within 40 feet of Main Street and in front of Building D, exceeding the maximum height of 42". A 10-foot retaining wall is proposed between the Building A buildings and the esplanade exceeding the maximum height of 8.5'.
 2. 17.54.105.A(1) - Live/work units. Live/work units in Buildings D provide 43-feet of linear glazing on a 93-foot long façade, which constitutes 46% transparency, less than the minimum of 50%.
 3. 17.62.050.A(2)(a) – Vehicular Access and Connectivity. A parking lot is proposed to be located between the buildings in phase 2 and the street.
 4. 17.62.050.A(2)(e) – Vehicular Access and Connectivity. The proposal includes multiple driveways to Agnes Avenue, in excess of one per frontage.
 5. 17.62.050.A(9)(a) – As the parking lots are located between the street and the building, the proposal would include a pedestrian connection connecting the two which crosses a drive aisle which do not provide a direct pedestrian connection.
 6. 17.62.050.A(20)(b) – Screening of Mechanical Equipment. Placement of natural gas meters on the street-facing façade of the waterfront residences facing Agnes Avenue.
 7. 17.62.055.H(2) – Minimum Wall Articulation. Alterations to the design standards for the Building A buildings.
 8. 17.62.057.F(1) – Pedestrian Circulation. As the parking lots are located between the street and the building, the proposal would include a pedestrian connection connecting the two which crosses a drive aisle which do not provide a direct pedestrian connection.
 9. 17.62.057.G – Architectural and Material Standards. The facades of all the buildings do not have the depth of modulation required.
 10. 17.62.057.I – Diversity of Unit Types. The mix of units proposed does not comply with the 10% minimum standard per type.
 11. 17.62.057.L(2) – Window Design. The window trim size and recess/projection does not comply with the standard.
 12. 17.62.065.D - General Outdoor Lighting Standard and Glare Prohibition. The maximum lighting levels would exceed the master plan.
 13. 17.52.030 and 17.52.060 - Allow continuation of a temporary gravel parking lot that does not comply with the parking lot standards or landscaping standards.
 14. 17.52.060.D – Interior parking lot landscaping is proposed to not occur in the lower level of the parking garage and on the temporary parking on lot
 15. 17.54.100.B Generally. Fence, hedge, or wall. 10-foot tall retaining walls extend from the wings of Buildings B and C and are separate from the building walls exceeding the maximum height of 8.5'.
- **Grading.** The proposed Detail Development Plan for associated mass grading includes a final design of the grading onsite. Note that modifications to the grading plan may be approved through a subsequent type II process.

Figure 5. Proposed Preliminary Subdivision Replat



C. PHASING

According to the applicant the proposed project will be phased according to the schedule noted below. It should be noted that this schedule is an estimate and actual initiation and completion of improvements may vary, but all improvements are anticipated within the 10-year approval window of the CDP.

Phase 1: Cove Garden Apartments - (currently under construction)

Main Street ROW: Construction of a portion of Main Street including the roundabout. Lot 1: Excavation and Grading

- Excavation to balance Phase 1 cut and fill in floodplain.
- Temporary Trailhead parking

Lot 2: 244 Garden Apartments and 6,500 sq. ft. office/commercial

Lot 3: Temporary trail head parking

Lot 11 (Tract A): Grading and sidewalk extension to Firestone Alley Tract B: Excavation and habitat Improvements.

- North Beach excavation
- Enlarged Storm Sewer outfall

Tract D: Excavation, Grading and NROD mitigation.

Phase 2A: Cove Waterfront

Agnes Avenue ROW: Construct Agnes Avenue

- From Main Street Roundabout to Cul-De-Sac at the WES property located at the northeast corner of the master plan area.
- Complete prior to first Phase 2 Certificate of Occupancy

Emergency Egress: Construct temporary access across WES property

- Construct a temporary emergency vehicular and pedestrian connection from the cul-de-sac at north end of Agnes Avenue through Tract E to connect to the existing internal roadway at the sewer plant, and other revisions to the security gate connection to the end of Agnes Avenue east of the sewer plant.
- 20-foot wide paved temporary road over compacted landfill site; address storm water treatment and capacity.
- Loop waterline connection through WES property not affected by landfill.
- Complete prior to first Phase 2 Certificate of Occupancy

Lot 1: Excavation, grading, and habitat improvements

- Improvements to the temporary trailhead parking lot that meet city standards, unless deferred to Phase 2B.
- Complete prior to first Phase 2 Certificate of Occupancy, unless deferred.
- Excavation to balance cut and fill in floodplain. (If Required)
- NROD habitat enhancement (If required)

Lots 3, 4, 5, 6, 7: Five buildings

- Approximately 240 apartment units and live-work units.
- Commercial and retail space with possible restaurants.
- The five lots will be re-platted into eight lots.

Tract A: Excavation, grading, and trailhead improvements

- Improvements to the temporary trailhead parking lot that meet city standards, unless provided on Lot 1 or deferred to Phase 2B.
- Grading for floodplain balance (if required)

Tract B: Excavation and habitat Improvements

- All work is limited to the area above the Ordinary High Water line.
- Excavation at the future North Beach.
- Reduce slope at over-steepened bank between the Cove and the esplanade.
- Landscaping and habitat enhancement between the cove and esplanade consistent with NROD requirements.
- Excavation at the future South Beach
- NROD habitat improvements at peninsula.
- Complete prior to first Phase 2 Certificate of Occupancy.

Tract C: Esplanade construction

- Complete prior to first Phase 2 Certificate of Occupancy.

Tract D: Excavation, grading and NROD enhancement and/or mitigation, and Public Parking

- Expand LIDA treatment facility.
- Possible NROD habitat enhancement and/or mitigation.
- North Park parking lot drive aisles for emergency access connectivity
- Complete prior to final Phase 2 certificate of occupancy.
- Easement to the Cove, LLC property.
- Trash enclosure with easement for use by Lots 3-10

Phase 2B: Cove Waterfront

Lots 3, 4, 5, 6, and 7: Three buildings

- Approximately 164 apartment units and live-work units. Tract D: Construct North Park parking stalls with approximately 39-48 spaces

Phase 3: Water Quality and Habitat Improvement Project

The City and the Cove, LLC are working together to explore a water quality and habitat improvement plan for the Cove evidenced by the technical memo prepared by Cascade Environmental Group included in Exhibit K. This CDP anticipates these improvements in concept and for development phasing purposes only. These elements are not a part of this permit request, and development-specific permit requests will be filed for these elements by others after the specific improvement plan is determined. The Water Quality and Habitat Improvement project may include some combination of the following elements.

Lot 1: Possible Excavation and Grading, and Habitat Improvements

Tract B: Excavation and Water Quality and Habitat Improvements

- Dredging and/or other water quality improvements.
- Create NRDA habitat for mitigation bank.
- Possible NROD enhancement or mitigation.

- North Beach sand and recreation improvements.
- South Beach sand and recreation improvements.
- South Beach natural play area.

Clackamas River

- Construct facilities to enhance water flow into the cove.
- Possible additional dredging and other work in the Clackamas River.

Phase 4: Lot 1 and Lot 11 (Tract A) Development

Development of Phase 4 is expected to include a combination of the following uses:

Lot 1: New building(s), parking, and/or habitat improvements

- Possible residential structures on top of the parking structure.
- Possible commercial structures on top of the parking structure.
- Possible 2 story Parking Garage
- Possible NRDA Habitat for mitigation bank
- Possible NROD Habitat Enhancement or Mitigation
- Possible surface parking lot - public and private Parking.
- Trailhead parking (unless trailhead parking is provided on Lot 11 (Tract A))
- Coordinate with Phase 3 development
- Completion of approximately 450-linear feet of Main Street along the Lot 1 frontage

Lot 11 (Tract A): New building(s), parking, and/or habitat Improvements

- Possible residential structures on top of the parking structure.
- Possible commercial structures on top of the parking structure.
- Possible 2 story parking garage - public and private parking.
- Possible NRDA habitat for mitigation bank
- Possible NROD habitat enhancement or mitigation
- Possible surface parking lot - public and private parking.

Phase 5: Swimming Docks and Water Sports Center (99-year submerge ground lease)

It is anticipated that Phase 5 could include some combination of the following uses: Tract B: Water Sport Center and Docks, including:

- Additional excavation and placement of sand at North Beach.
- Access walkways and stairs at North Beach
- Additional excavation and placement of sand at South Beach.
- Access walkways and stairs at North Beach
- Swimming Dock
- Boating Dock

- Water Sports Center

2018 Proposed Phasing Plan	2015 Approved Phasing Plan
Phase 1	
No changes are proposed to Phase 1	Infrastructure: <ul style="list-style-type: none"> • Main Street: Lot 2 frontage street improvements • Agnes (Temporary connection to temporary parking lot) • Roundabout construction at Agnes and Main Street
	Lot 1: <ul style="list-style-type: none"> • Approximately 4,000 cubic yards of cut transferred to Garden Apartment site.
	Lot 2: <ul style="list-style-type: none"> • 244 Garden Apartments, ancillary parking structures and clubhouse • 5,500 SF General Office (not medical or dental office) • 1,000 SF Deli/Coffee Shop
	Lot 3: <ul style="list-style-type: none"> • Temporary trailhead parking lot
	Tract B: <ul style="list-style-type: none"> • Phase 1 NROD Mitigation
	Tract D: <ul style="list-style-type: none"> • North Park excavation

Phase 2A	Phase 2
Infrastructure: <ul style="list-style-type: none"> • Agnes Avenue ROW: Construct Agnes Avenue <ul style="list-style-type: none"> ◦ From Main Street Roundabout to Cul-De-Sac at the Tri-Cities property located at the northeast corner of the master plan area. ◦ Complete prior to first Phase 2 Certificate of Occupancy 	Infrastructure: <ul style="list-style-type: none"> • Agnes fully improved through the Cove site • Esplanade & Tract C in front of 195 waterfront units • Approximately 350-lineal feet of Main Street from Lot 2 improvements to the east end of the permanent trailhead parking • Agnes Avenue Extension
Tri-Cities Property: <ul style="list-style-type: none"> • Emergency Egress: Construct temporary access across Tri-Cities property <ul style="list-style-type: none"> ◦ Construct a temporary emergency vehicular and pedestrian connection from the cul-de-sac at north end of Agnes Avenue through Tract E to connect to the existing internal roadway at the sewer plant, and other revisions to the security gate connection to the end of Agnes Avenue east of the sewer plant. ◦ 20-foot wide paved temporary road over compacted landfill site; address storm water treatment and capacity. ◦ Loop waterline connection through WES property not affected by landfill. Complete prior to first Phase 2 Certificate of Occupancy 	

<p>Lot 1: Excavation, grading, and habitat improvements</p> <ul style="list-style-type: none"> Improvements to the temporary trailhead parking lot that meet city standards, unless deferred to Phase 2B. Complete prior to first Phase 2 Certificate of Occupancy, unless deferred Excavation to balance cut and fill in floodplain. (If Required) NROD habitat enhancement (If required) 	<p>Lot 1:</p> <ul style="list-style-type: none"> Phase 2 NROD Mitigation Plantings
<p>Lots 3, 4, 5, 6, 7, 8, 9, 10: Five buildings</p> <ul style="list-style-type: none"> Approximately 240 apartment units and live-work units. Commercial and retail space with possible restaurants The five lots will be re-platted into eight lots. 	<p>Lots 3, 4, 5, 6, 7: Five buildings</p> <ul style="list-style-type: none"> 195 waterfront units for lease (2) High turnover restaurants (Total 3,250 SF) 8,712 SF General Office (not medical or dental office) 5.28 acres of park
<p>Tract A: Excavation, grading, and trailhead improvements</p> <ul style="list-style-type: none"> Improvements to the temporary trailhead parking lot that meet city standards, unless provided on Lot 1 or deferred to Phase 2B. Grading for floodplain balance (if required) 	

<p>Tract B: Excavation and habitat Improvements¹</p> <ul style="list-style-type: none"> All work is limited to the area above the Ordinary High Water line. Excavation at the future North Beach. Reduce slope at over-steepened bank between the Cove and the esplanade. Landscaping and habitat enhancement between the cove and esplanade consistent with NROD requirements. Excavation at the future South Beach NROD habitat improvements at peninsula. Complete prior to first Phase 2 Certificate of Occupancy. 	
<p>Tract C: Esplanade construction</p> <ul style="list-style-type: none"> Complete prior to first Phase 2 Certificate of Occupancy. 	
<p>Tract D: Excavation, grading and NROD enhancement and/or mitigation, and Public Parking</p> <ul style="list-style-type: none"> Expand LIDA treatment facility. Possible NROD habitat enhancement and/or mitigation. North Park parking lot drive aisles for emergency access connectivity Complete prior to final Phase 2 certificate of occupancy. Easement to the Cove, LLC property. Trash enclosure with easement for use by Lots 3-10 	<p>Tract D:</p> <ul style="list-style-type: none"> Final improvements at North Park
Phase 2B	
<p>Lots 3, 4, 5, 6, and 7: Three buildings</p> <ul style="list-style-type: none"> Approximately 164 apartment units and live-work units. 	
<p>Tract D:</p> <ul style="list-style-type: none"> Construct North Park parking stalls with approximately 39-48 spaces 	

Phase 3	
Lot 1: <ul style="list-style-type: none"> Possible Excavation and Grading, and Habitat Improvements 	
Tract B: Excavation and Water Quality and Habitat Improvements <ul style="list-style-type: none"> Dredging and/or other water quality improvements. Create NRDA habitat for mitigation bank. Possible NROD enhancement or mitigation. North Beach sand and recreation improvements. South Beach sand and recreation improvements. South Beach natural play area. 	
Clackamas River: <ul style="list-style-type: none"> Construct facilities to enhance water flow into the cove. Possible additional dredging and other work in the Clackamas River. 	
	Tri-City Property <ul style="list-style-type: none"> Parking Lot —272 spaces with 50 public spaces
	Lot 5: <ul style="list-style-type: none"> 70,000 SF Office (2) High turnover restaurants (Total 2,700 SF)

Phase 4			
Lot 1: New building(s), parking, and/or habitat improvements <ul style="list-style-type: none"> Possible residential structures on top of the parking structure. Possible commercial structures on top of the parking structure. Possible 2 story Parking Garage Possible NRDA Habitat for mitigation bank Possible NROD Habitat Enhancement or Mitigation Possible surface parking lot - public and private Parking. Trailhead parking (unless trailhead parking is provided on Lot 11 (Tract A)) Coordinate with Phase 3 development 		Lot 1: <ul style="list-style-type: none"> 50,400 SF Mixed Use Office on Lot 1 (will allow for medical-dental office) 4,000 SF "Quality" restaurant 4,000 SF "Quality" restaurant 	
Lot 11 (Tract A): New building(s), parking, and/or habitat Improvements <ul style="list-style-type: none"> Possible residential structures on top of the parking structure. Possible commercial structures on top of the parking structure. Possible 2 story parking garage - public and private parking. Possible NRDA habitat for mitigation bank Possible NROD habitat enhancement or mitigation Possible surface parking lot - public and private parking. 			
Infrastructure: <ul style="list-style-type: none"> Completion of approximately 450-lineal feet of Main Street along the Lot 1 frontage 		Infrastructure: <ul style="list-style-type: none"> Completion of approximately 450-lineal feet of Main Street along the Lot 1 frontage 	

Phase 5	
Tract B: <ul style="list-style-type: none"> • Additional excavation and placement of sand at North Beach. • Access walkways and stairs at North Beach • Additional excavation and placement of sand at South Beach. • Access walkways and stairs at North Beach • Swimming Dock • Boating Dock • Water Sports Center 	Tract B: <ul style="list-style-type: none"> • Two Marinas (One public, one private) with combined total of 150 slips • Outdoor water sports center, seasonal use.
	Lot 1 <ul style="list-style-type: none"> • Installation of a transient moorage dock

D. Previous Land Use Approvals (See application narrative, Page 19)

A history of all previous land use approvals for the site is included in the application as Attachment A.

Permi	Associated Authorization	Permit
Concept Development Plan (CP 08-05)	OCMC Chapter 17.65 – Master Plans OCMC Section 17.42.170 - Floodplain Management Overlay District OCMC Standard 17.62.050.A(11) – Tree Protection OCMC Chapter 17.62 – Site Plan and Design Review OCMC Chapter 16.12 – Minimum Improvement and Design Standards for Land Divisions	Valid
Detailed Development Plan for Phases 1 and 2 (DP 08-13)	OCMC Chapter 17.65 – Master Plans OCMC Chapter 17.34 OCMC Chapter 17.52 – Off Street Parking and Loading OCMC Chapter 17.62 – Site Plan and Design Review	Expired
Water Quality Resource Area Overlay District Permit (WR 08-21)	OCMC Chapter 17.49 – Water Quality Resource Overlay District	Valid
Subdivision Plat (TP 08-11)	OCMC 16.08 – Subdivisions – Process and Standards	Recorded
Geologic Hazards Permit (US 08-03)	OCMC Chapter 17.44 – US Geologic Hazards	Expired

Concept Development Plan Amendment (CP 09- 02)	Chapter 17.34 – Mixed Use Downtown Chapter 17.42 - Flood Management Overlay District Chapter 17.62 Section 17.65.050 – Concept Development Plan	Valid
Detailed Development Plan Amendment (DP 09- 01)	Section 17.65.060 – Detailed Development Plan Chapter 17.52 – Off Street Parking and Loading Chapter 17.62 – Site Plan and Design Review	Expired
Concept Development Plan Amendment (CP 15-01)	Chapter 17.34 – Mixed Use Downtown Chapter 17.42 - Flood Management Overlay District Chapter 17.62 Section 17.65.050 – Concept Development Plan	Valid
Detailed Development Plan (DP 15-01)	Section 17.65.060 – Detailed Development Plan Chapter 17.52 – Off Street Parking and Loading Chapter 17.62 – Site Plan and Design Review	Under Construction
Natural Resource Overlay District Review (15-05)	Chapter 17.49 – Natural Resource Overlay District	Under Construction
Geological Hazards Overlay District Review (US 15-06)	OCMC Chapter 17.44 – US Geologic Hazards	Under Construction

E. Conditions of Previous Approvals (See application narrative, Pages 23 through 46)

Pages 23 through 46 of the applicant’s narrative detail the various Conditions of Approval that have been attached to the various master plan amendments since 2008 to present, and what the status of each of those conditions of approval is currently.

Land Use Approval History

There have been multiple master plan amendments and detailed development plan approvals for the subject property, which are attached to the application as Attachment A.

F. Existing Master Plan

2015 Concept Master Plan Amendment (CP 15-01)

The most recent Cove Master Plan identifies the framework for how properties within the boundaries of the development will redevelop over time. The plan identifies the type of uses, general locations of buildings, timeframe for construction and street improvements. In addition, the plan includes a

public trail between the water and the structures along the Cove, a public park, a dock adjacent to the mixed use building, a marina, a canoe and kayak dock. CP 15-01 proposed to:

1. Increase the number of dwelling units to 244 on Lot 2 and increase the number of dwelling units on Lots 3-7 to 195.
2. Construct a temporary trailhead parking lot during Phase 1.
3. Allow a permanent trailhead parking lot.
4. Amend the Main Street design to include a roundabout.
5. Amend the Agnes Avenue design and extension.
6. See allowance for project modifications from specific design standards in the code.
7. Update the phasing plan for street improvements.

2015 Detailed Development Plan (DP 15-01)

With CP 15-01, the DDP was amended to reflect the following for Phase 1 construction:

1. Construct 244 multi-family units on Lot 2 within 11 buildings, a clubhouse, garages and other accessory structures, approximately 5,500 square feet (SF) of office space and approximately 1,000 SF of ground floor commercial space.
2. Excavate approximately 87,710 cubic yards of soil from Tract D and approximately 3,819 cubic yards from Lot 1. The excavation required temporary displacement of the Clackamas River Trail. An 8-foot temporary asphalt trail and a 20-foot replacement was approved on each side of the center of Lot 5 for 200 feet.
3. Construct a temporary Clackamas River Trail trailhead parking lot north of the roundabout. A gravel surface will be used except for ADA accessible pathways.
4. Roadway improvements including the construction of Main Street, mostly along Lot 2, a roundabout at the intersection of Main Street and Agnes Avenue, and a temporary connection to the temporary trailhead.

2015 National Resources Overlay District Review (NR 15-05)

An NROD permit was required because activities were proposed within both the 50-foot NROD setback from the Cove and within a wetland setback at the northwest corner of the Phase 1 site. A report was completed by Pacific Habitat Services and deemed compliant with OCMC 17.49 by the City.

2015 Geologic Hazards Overlay District Review (US 15-06)

Included in the 2015 application package was a request for review under OCMC 17.44, US – Geologic Hazards. Site conditions that triggered this review included steep slopes adjacent to the south and southeast bank of Clackamette Cove. The applicant provided a geotechnical report prepared by Apex Engineering and the city's review concluded that the project could be constructed in a manner consistent with OCMC 17.44.

Figure 6: 2015 Approved Master Plan

Phase	2015 Phasing Plan	Estimated Start Date
1	<ul style="list-style-type: none"> • 244 Multi-Family Garden Apartments with Ancillary Structures and a Clubhouse with 5,500 Square Feet of General Office and 1,000 Square Feet Deli/Coffee Shop (or an additional 1,000 Square Feet of Office) • Main Street Improvements along Lot 2 Frontage, temporary connection to Trailhead parking lot and roundabout at Main and Agnes • Temporary Trailhead Parking Lot on Lot 3 (Removed in Phase 2) 	2015
2	<ul style="list-style-type: none"> • 195 Waterfront Units for Lease on Lots 3, 4, 6 and 7 • Two (2) High Turnover Restaurants (Total 3,250 Square Feet) Within the Waterfront Buildings • 8,712 Square Feet of General Office (Not Medical or Dental) Within the Waterfront Buildings • 5.28 Acres of Park • Final Improvements of Agnes Avenue Through the Site • Esplanade and Tract C Adjacent to 195 Waterfront units • Approx. 350 lineal feet of Main Street from Lot 2 to the East • Permeant Trailhead Parking on Tract A • Final Improvements at the North Park in Tract D 	2016
3	<ul style="list-style-type: none"> • 70,000 Square Feet of Office on Lot 5 • Two (2) High Turnover Restaurants (Total 2,700 Square Feet) on Lot 5 • Parking Lot on WES Property (272 Spaces with 50 Public Spaces) 	2016
4	<ul style="list-style-type: none"> • 50,400 Square Feet of Mixed Use Office on Lot 1 (Medical/Dental Allowed) • 4,000 Square feet Quality Restaurant • 4,000 Square feet Quality Restaurant • Approximately 450 feet of Main Street Adjacent to Lot 1 	2017
5	<p>In Water Marina / Water Sports Center</p> <ul style="list-style-type: none"> • Two marinas (1 Public and 1 Private) with a Combined Total of 150 Slips • Outdoor Water Sports Center, Seasonal Use • Installation of a transit Moorage Dock on Lot 1 	2017

G. Approved Adjustments to Development Standards

The applicant intends to utilize previously approved adjustments as provided in the application as Attachment B. Those previously-approved adjustments that are applicable to the Phase 2 waterfront residences include maximum setback, entryways, and raised ground floor standards as shown in the table below:

Previous Approval:	Applicable Code Standard:	Phase 2 Application:
<u>CP 08-05</u> No maximum setbacks shall apply to the Concept Development Plan boundary provided that actual development substantially conforms to the Concept Development Plan.	<u>Maximum Setback</u> 17.62.055.C(5) 17.62.055.D(1) 17.62.057.C 17.62.057.E	Similar to Phase 1, the Phase 2 waterfront residences will apply this approved adjustment, eliminating the required maximum setback standard.
<u>CP 08-05</u> 16.12.290.A – Building site – Setbacks and building location – All lots located on a neighborhood collector, collector or minor arterial should be oriented to front the street when practical. Corner lots may have a side yard facing the street.	<u>Entryways</u> 17.62.055.D(3)	Buildings A1 and A2 will apply this adjustment to front the public plaza opposed to the public street. It is not practicable to front the public street as the development is oriented toward the waterfront and pedestrian esplanade.
<u>CP 15-01</u> Reduce the minimum commercial first floor height from 14 feet to 12 feet for the office and restaurant uses in Buildings 3 and 5 on Lot 2.	<u>Raised Ground Floor</u> 17.62.057.J	The applicant will apply this approved adjustment to the residential portion of the live/work buildings in order to reduce the first floor height.

In addition to applying previously approved adjustments, the applicant is requesting adjustments to the following code standards, as discussed in the Project Description below. Locations of the requested adjustments and corresponding development standards can be found on the Proposed Adjustments Exhibit included in Exhibit M.

H. Zoning/Permitted Uses

The subject site is within the “MUD” Mixed Use Downtown District and the General Industrial District and abuts the same zoning designations.

Figure 7: Existing Zoning Map

I. ANALYSIS AND FINDINGS:

CHAPTER 16.08 - SUBDIVISIONS—PROCESS AND STANDARDS

16.08.010 - Purpose and general provisions.

A. *Applicability.* This chapter controls the process and approval standards applicable to subdivisions including Chapters 16.08, 12.04, 16.12, and 17.50 of the Oregon City Municipal Code as well as any other applicable chapters. A subdivision is defined as a single division of land into four or more lots within a calendar year.

B. *These applications shall generally follow a Type II process. However, if an applicant opts to process either application as an expedited land division, the city shall follow the decision-making process provided by state law and apply the applicable approval standards set forth in this code and elsewhere.*

C. *Purpose.* The purpose of this chapter is to provide a speedy review and decision-making process with relatively clear and objective criteria indicating little discretion, with little opportunity to deviate from the city's dimensional standards. If an applicant wishes greater flexibility in lotting pattern or layout, phasing of development, or relief from dimensional or public improvement standards, the appropriate procedure would be a master plan under Chapter 17.65 or an additional application for a variance(s) under Chapter 17.60.

D. *Process Overview.* Subdivision review process requires a two-step process: preliminary and final plats. The preliminary plat, reviewed through a Type II process, provides all of the essential information about the proposal, including layout, number and pattern of lots, location of all existing structures and improvements, significant natural features, development schedule and any other required information. The final plat is a formal reproduction of the approved preliminary plat, including all conditions imposed by the decision-maker, submitted in recordable form. So long as the final plat does not deviate from the product approved in the preliminary plat, the city's review of the final plat shall be conducted through a Type I process. If the final plat deviates significantly from the approved preliminary plat, the final plat review shall be processed in the same manner as was the preliminary plat.

Finding: Complies as proposed. The applicant has proposed a subdivision to divide the property into the following lots with the corresponding areas. As shown on the Applicant's Preliminary Subdivision on Sheet C2.3 of the CDP Plan Set, three additional lots will be created to correspond to respective buildings. Previously platted Lots 3-7 will be further divided into Lots 3-10 to accommodate the waterfront residence buildings. In addition, Tract A will be converted to a lot (Lot 11 (Tract A)), and internal lot lines will be adjusted to accommodate proposed changes to the Agnes Avenue section, the esplanade pathway, and the consolidation of Lot 3800 with Tract D. An exhibit of existing and proposed property lines is included in Exhibit P, with proposed easements in Exhibit R.

Lot	Area (ac)
Lot 1	4.44
Lot 2 (No change – developed)	11.36
Lot 3	0.98
Lot 4	1.49
Lot 5	1.36
Lot 6	0.92
Lot 7	0.86
Lot 8	1.42
Lot 9	1.52
Lot 10	0.89
Lot 11 (Tract A)	1.24
Tract B (Cove)	52.81
Tract C (NROD along shore)	2.25
Tract D (North Park)	5.9
Total	87.44

16.08.015 - Preapplication conference required.

Before the city will accept a subdivision application, the applicant must schedule and attend a preapplication conference in accordance with Section 17.50.050. At a minimum, an applicant should bring to the preapplication conference a tax map of the subject tax lot(s) and surrounding tax lots, scale drawings of the proposed subdivision lotting pattern, streets, utilities and important site features and improvements, and a topographic map of the property.

Finding: Complies as proposed. A pre-application conference was held on December 13, 2017 as evidenced by the pre-application conference notes included in Exhibit D.

16.08.020 - Preliminary subdivision plat application.

Within six months of the preapplication conference, an applicant may apply for preliminary subdivision plat approval. The applicant's submittal must provide a complete description of existing conditions, the proposed subdivision and an explanation of how the application meets all applicable approval standards. The following sections describe the specific submittal requirements for a preliminary subdivision plat, which include plan drawings, a narrative statement and certain tabular information. Once the application is deemed to be complete, the community development director shall provide notice of the application and an invitation to comment for a minimum of fourteen days to surrounding property owners in accordance with Section 17.50.090(A). At the conclusion of the comment period, the community development director will evaluate the application, taking into consideration all relevant, timely filed comments, and render a written decision in accordance with Chapter 17.50. The community development director's decision may be appealed to the city commission with notification to the planning commission.

Finding: The preliminary subdivision plat application is provided concurrent with this CDP amendment request. Plans illustrating the preliminary subdivision are provided on Sheets C2.3 – C2.5 and this narrative addresses the applicable approval standards.

16.08.025 - Preliminary subdivision plat—Required plans.

Finding: Complies as proposed. The applicant submitted the preliminary subdivision plat application concurrent with this CDP amendment request. The Preliminary Subdivision Plan is provided on Sheets C2.3 – C2.5. The CDP and Preliminary Subdivision Plan set include in Exhibit B.1 as well as the supporting documents provided with this application conform to the required plans of this section.

16.08.030 - Preliminary subdivision plat—Narrative statement.

A. Subdivision Description. A detailed description of the proposed development, including a description of proposed uses, number and type of residential units, allocation and ownership of all lots, tracts, streets, and public improvements, the structure of any homeowner's association, and each instance where the proposed subdivision will vary from some dimensional or other requirement of the underlying zoning district. For each such variance, a separate application will be required pursuant to Chapter 17.60, Variances;

Finding: Complies as proposed. A detailed description of the proposed development is included in the applicant's narrative. Variances of the underlying zoning district are not proposed.

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

- 1. Water,*
- 2. Sanitary sewer,*
- 3. Storm sewer and stormwater drainage,*
- 4. Parks and recreation,*

5. Traffic and transportation,

6. Schools,

7. Fire and police services;

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

Finding: Complies as proposed. The applicant submitted a detailed description of the proposed development in narrative form. Variances of the underlying zoning district are not proposed. It should be noted that the proposed subdivision is requested primarily to create fee simple lots for individual multi-family buildings. The site's MUD zoning does not provide for minimum or maximum residential density. Therefore, the subdivision request does not have a corollary impact on public services in the manner that a single family residential subdivision would. Regardless, a response is provided below for each of the public facilities indicated in this section with a statement regarding how these facilities be adequate concurrent with development impacts.

1. Water,

Finding: Complies as proposed. Water service will be extended from the 10-inch water line located in Main Street immediately south of the site. This line is available for extension to the Phase 2 site without any additional off-site improvements. Utility plans will be submitted with the subsequent DDP request.

2. Sanitary sewer,

Finding: Complies as proposed. Sanitary sewer to the site will be extended from the 12-inch line located in Main Street. This line is sufficiently sized to accommodate the proposed project and no additional off-site sanitary sewer improvements are anticipated. Utility plans will be submitted with the subsequent DDP request.

3. Storm sewer and stormwater drainage,

Finding: Complies as proposed. As provided in response to OCMC 13.12, a Storm Plan and a Preliminary Stormwater Report will be provided with subsequent DDP and construction permit applications demonstrating compliance with this code. Stormwater run-off will be collected and treated onsite through a mix of proposed mechanical and LIDA facilities prior to being released into the Clackamette Cove before entering the Clackamas River, a tributary to the Willamette River.

4. Parks and recreation,

Finding: Complies as proposed. The waterfront esplanade is proposed consistent with the Oregon City Trails Master Plan. This trail will connect to regional amenities and to the north park, when that improvement is completed. Additionally, the project will pay park impact fees which will further contribute to park system improvements commensurate with the impacts of the proposed project.

5. Traffic and transportation,

Finding: Complies with Conditions. As evidenced in the October 15, 2018 Trip Generation Letter prepared by Kittelson & Associates included in Exhibit E.1, and as detailed on the Typical Sections, Sheet C3.3, adequate levels of service on the local and regional transportation network will continue to occur after the proposed development.

The City's transportation consultant, Replinger and Associates, has reviewed the Trip Generation Letter in relation to the previously submitted 2015 Transportation Impact Analysis. The current proposal for Phase 2 involves a change in the uses from those original, historically-approved Master Plan in 2008 and 2009. The Trip Generation Letter (TGL), dated October 15, 2018 was prepared under the direction of Diego Arguea, PE of Kittelson &

Associates. The TGL is an update of the Transportation Impact Analysis dated July 2015, which was also prepared under the direction of Diego Arguea, PE.

The new proposal for Phase 2 consists of: 404 apartments (of which 20 will be live/work units) and associated leasing office space; 5.28-acre park area; 6,800 square feet of retail space; 3,750 square feet of quality restaurant land uses; and 3,750 square feet of high-turnover sit-down restaurant land uses. This differs from the prior master plan and transportation analysis that featured office and medical office space as key elements of the development.

Mr. Replinger's report provides a review of the details required for Transportation Impact Analysis pursuant to the City's Guidelines for Transportation Analysis, including the following; Study Area, Traffic Counts, Trip Generation, Trip Distribution, Traffic Growth Analysis, and Crash Information. Mr. Replinger concluded the master plan amendment would reduce the traffic impacts from that in 2015.

Study Area. *The study addresses the appropriate intersections. The engineer evaluated traffic patterns and traffic volumes and operations at five locations. The key intersections were:*

1. *Highway 99E at Dunes Drive;*
2. *Highway 99E at the I-205 Southbound Ramp Terminal;*
3. *Highway 99E at the I-205 Northbound Ramp Terminal;*
4. *Washington Street at Highway 213;*
5. *Redland Road at Highway 213.*

The study area is appropriate.

Traffic Counts. *The traffic counts were conducted in 2015 and adjusted to 2020. Traffic counts were conducted during the AM and PM peak periods. The base year traffic volumes appear reasonable.*

Trip Generation. *The TGL presents information on trip generation for the current development proposal. It compares the original Phase 2 development scenario that was evaluated in detail in the 2015 TIA with the new development scenario. The 2015 TIA's estimate of trip generation featured general office and medical offices, for example. The 2018 TGL substitutes additional apartments in place of the offices. The original, historically-approved, development predicted Phase 1 and Phase 2 would generate 6489 weekday trips; 406 AM peak hour trips; and 609 PM peak hour trips. The revised development plan is calculated to generate 4852 weekday trips; 352 AM peak hour trips; and 447 PM peak hour trips. The new trip generation calculations presented in the 2018 TGL indicate traffic impacts will be somewhat less than analyzed in the 2015 TIA.*

The trip calculation appears reasonable.

Trip Distribution. *The engineer's trip distribution shows traffic using a variety of routes and distribution to major regional facilities as follows:*

- *Approximately 27 percent of site trips will travel to/from the north on Highway 99E;*
- *Approximately 27 percent of site trips will travel to/from the north on I205;*
- *Approximately 24 percent of site trips will travel to/from the south on I-205;*
- *Approximately 5 percent of site trips will travel to/from the southwest on Highway 99E;*
- *Approximately 5 percent of site trips will travel to/from the southeast along Redland Road;*
- *Approximately 7 percent of site trips will travel to/from the south along Highway 213; and*
- *Approximately 5 percent of site trips will travel to/from the south on other streets.*

The trip distribution and site access seem reasonable.

Traffic Growth. The engineer analyzed the operations using a build-out year of 2020. Traffic growth was developed using regional model information.

Analysis. Traffic volumes were calculated for the intersections described in #1, above. The volume-to-capacity ratio (v/c), level of service, and delay calculations were provided to assess operations relative to the ODOT and city's operational standards. The analysis described in the 2015 TIA was undertaken for both the AM and PM peak hours for existing 2015 conditions; 2020 background conditions; and 2020 conditions with build-out of the development.

According to the analysis presented in the 2015 TIA, all five study area intersections identified in #1, above, are predicted to meet applicable mobility standards under 2020 conditions with or without the development. The only operational issue noted in the analysis was a queuing issue for the southbound left-turn movement at the ORE 99E /I-205 SB Ramp Terminal intersection. This movement is forecast to continue to exceed the available striped lane queue storage during the weekday AM peak hour. The engineer notes that no site-generated traffic is expected to increase the queue at this location.

Since the 2018 TGL predicts less traffic will be generated by the development, all operational conclusions presented in the 2015 TIA remain valid.

Crash Information. The TIA provides crash information for the five-year period from 2009 through 2013. Other analyses, including the TSP, have provided more recent information. Two of the intersections (Dunes/Highway 99E and Washington/Highway 213) have been reconfigured in recent years making the historic information less relevant. Projects have been identified and included in the adopted TSP to address the other three intersections analyzed in this study.

Conclusions and Recommendations. As stated in the TIA, all five study area intersections are calculated to meet applicable mobility standards in 2020 with the development. The new development scenario for Phase 2, which focuses on residential development in place of office development, generates slightly less traffic and, therefore, also meets mobility standards at the study area intersections.

I find that the TIS and TGL provide an adequate basis upon which to assess the impacts of the proposed development. I agree that the TIA demonstrates that the applicable mobility standards are met through year 2020. The new development scenario for Phase 2 as described in the TGL has similar or slightly less impact than does the original development scenario that was previously approved. Therefore, no additional conditions of approval or mitigation is required for the development scenario specified in the TGL.

6. Schools;

Finding: Property taxes generated from the proposed project will contribute towards the school operations as these properties are completed and brought onto county tax rolls. Additionally, multi-family residential projects typically generate significantly fewer school-age residents than a standard residential subdivision.

7. Fire and police services;

Finding: Complies as proposed. Property taxes generated from the proposed project will contribute towards city services commensurate and concurrent with potential impacts to those services.

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

Finding: Complies as proposed. Per the responses above, adequate public facilities are anticipated for the proposed project.

16.08.035 - Notice and invitation to comment.

Upon the city's determination that an application for a preliminary subdivision plat is complete, pursuant to Chapter 17.50, the city shall provide notice of the application in accordance with requirements of Chapter 17.50 applicable to Type II decisions.

Finding: Complies as proposed. Notice was posted onsite, online, mailed to property owners within 300 feet of the proposed development site, and posted in the newspaper at least twenty days prior to the public hearing. Copies of the required public notices are attached. The Citizen Involvement Committee and Neighborhood Associations were provided notice via email.

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

Finding: Complies as proposed. The proposed subdivision action is in compliance with all applicable criteria. The subdivision is proposed to modify the original plat TP 08-01, and will not affect design standards. Adjustments of the code through the master plan process, as opposed to variances, are addressed in section 17.65.050.

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

Finding: Complies as proposed. Proposed phasing is described in the submitted narrative.

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

Finding: Complies as proposed. There are no minimum or maximum densities established for the MUD zone. However, the following table identifies the number of units and density within the proposed lots where apartments will be located.

Proposed Lot	Proposed Units	Acre	Density (Units / Acre)
Lot 3	39 units	.98 AC	40 du / ac
Lot 4	65 units	1.49 AC	44 du / ac
Lot 5	65 units	1.36 AC	48 du / ac
Lot 6	33 units	.92 AC	36 du / ac
Lot 7	33 units	.86 AC	38 du / ac
Lot 8	65 units	1.42 AC	46 du / ac
Lot 9	65 units	1.52 AC	43 du / ac
Lot 10	39 units	.89 AC	44 du / ac

16.08.040 - Preliminary subdivision plat—Approval standards and decision.

The minimum approval standards that must be met by all preliminary subdivision plats are set forth in Chapter 16.12, and in the dimensional and use requirements set forth in the chapter of this code that corresponds to the

underlying zone. The community development director shall evaluate the application to determine that the proposal does, or can through the imposition of conditions of approval, meet these approval standards. The community development director's decision shall be issued in accordance with the requirements of Section

Finding: Please refer to the analysis in section 16.12 and in this report. Conditions of Approval have been added to assure compliance where applicable.

16.08.045 - *Building site—Frontage width requirement.*

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

Finding: Complies as proposed. As shown on the Preliminary Subdivision, Sheets C2.3 – C2.5 included in Exhibit B.1, proposed Lots 3 – 10 exceed the 25-foot minimum frontage width requirement along Agnes Avenue and the roundabout.

16.08.050 - *Flag lots in subdivisions.*

Finding: Not applicable. No flag lots are proposed.

16.08.055 - *Final subdivision plat—Application requirements and approval standards.*

Finding: The applicant acknowledges the requirements for approval of the final plat.

16.08.060 - *Filing and recording of final subdivision plat.*

Finding: The applicant acknowledges the requirements for approval of the final plat.

16.08.065 - *Post-approval modifications to approved plat.*

Finding: The applicant acknowledges the requirements for post-approval modifications to the final plat.

CHAPTER 16.12 - MINIMUM IMPROVEMENTS AND DESIGN STANDARDS FOR LAND DIVISIONS

16.12.010 - *Purpose and general provisions.*

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

Finding: The applicant acknowledges the above provisions.

16.12.015 - *Street design—Generally.*

Development shall demonstrate compliance with Chapter 12.04—Streets, Sidewalks and Public Places.

Finding: Please refer to findings under Chapter 12.04.

16.12.020 - *Blocks—Generally.*

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

Finding: Complies as proposed. See findings below.

16.12.030 - *Blocks—Width.*

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

Finding: Not applicable. As shown on the submitted Preliminary Subdivision, Sheets C2.3 – C2.5 included in Exhibit B.1, Minimum lot dimensions are met per OCMC 17.34.060. Therefore, this section does not apply.

16.12.040 - Building sites.

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

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

B. *Minimum lot sizes contained in Title 17 are not affected by those provided herein.*

Finding: Complies as proposed. The proposed subdivision parcel sizes and dimensions are designed to create separate lots for eight mixed-use buildings which will share overlapping easements for parking, access and utilities. The design of the building sites appears to be suitable for the intended land uses proposed. The zone does not require a minimum lot size.

16.12.045 - Building sites—Minimum density.

Finding: Not applicable. Per OCMC 17.34, there is no maximum density in the base zone. Therefore, this standard does not apply. Therefore, this section does not apply.

16.12.050 - Lot size reduction.

Finding: Not applicable. The proposed subdivision is not within the zone districts to which this provision applies.

16.12.055 - Building site—Through lots.

Finding: Not applicable. No through lots are proposed.

16.12.060 - Building site—Lot and parcel side lines.

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

Finding: Complies as proposed. As shown on the Preliminary Subdivision, Sheets C2.3 – C2.5, the lines of lots run at right angles, as far as practicable, except on the roundabout.

16.12.065 - Building site—Grading.

Grading of building sites shall conform to the State of Oregon Structural Specialty Code, Chapter 18, any approved grading plan and any approved residential lot grading plan in accordance with the requirements of Chapter 15.48, 16.12 and the Public Works Stormwater and Grading Design Standards, and the erosion control requirements of Chapter 17.47.

Finding: Please refer to findings under OCMC 13.12.

16.12.070 - Building site—Setbacks and building location.

This standard ensures that lots are configured in a way that development can be oriented toward streets to provide a safe, convenient and aesthetically pleasing environment for pedestrians and bicyclists. The objective is for lots located on a neighborhood collector, collector or minor arterial street locate the front yard setback on and design the most architecturally significant elevation of the primary structure to face the neighborhood collector, collector or minor arterial street.

- A. *The front setback of all lots located on a neighborhood collector, collector or minor arterial shall be orientated toward the neighborhood collector, collector or minor arterial street.*
- B. *The most architecturally significant elevation of the house shall face the neighborhood collector, collector or minor arterial street.*
- C. *On corner lots located on the corner of two local streets, the main façade of the dwelling may be oriented towards either street.*
- D. *All lots proposed with a driveway and lot orientation on a collector or minor arterial shall combine driveways into one joint access per two or more lots unless the city engineer determines that:*
 - 1. *No driveway access may be allowed since the driveway(s) would cause a significant traffic safety hazard; or*
 - 2. *Allowing a single driveway access per lot will not cause a significant traffic safety hazard.*
- E. *The community development director may approve an alternative design, consistent with the intent of this section, where the applicant can show that existing development patterns preclude the ability to practically meet this standard.*

Finding: Complies as proposed. The front setback of Lots 3-10 orient toward Agnes Avenue, a neighborhood collector, as shown on the Preliminary Subdivision, Sheets C2.3 – C2.5 included in Exhibit B.1. The original CDP approval (CP 08-05) authorized an adjustment that eliminated the maximum setback requirement for development within the CDP boundary. As shown on the Building Elevations included in Exhibit A, the most architecturally significant elevation faces Agnes Avenue, a neighborhood collector. As shown on the Master Plan, Sheet L101 included in Exhibit B.1, five joint access drives are proposed for Lots 3-10 and Tract D. Lot 10 shares a common driveway access with Lot 9 and Tract D so as not to cause a significant traffic safety hazard. The original CDP approval (CP 08-05) authorized an adjustment that eliminated the maximum setback requirement for development within the CDP boundary.

16.12.075 - Building site—Division of lots.

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

Finding: Not applicable. This standard does not apply in situations where there is no minimum lot size. The proposed Agnes Avenue right-of-way improvements will bring the facility into its full city planned build-out as shown on the Typical Sections sheet, Sheet C3.3 of the CDP plan set included in Exhibit B.1.

16.12.080 - Protection of trees.

Protection of trees shall comply with the provisions of Chapter 17.41—Tree Protection.

Finding: See findings under 17.41.

16.12.085 - Easements.

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

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

Finding: Not applicable. Utility easements are not required with this phase of the project. They will be required with the detailed development design.

B. Unusual Facilities. *Easements for unusual facilities such as high voltage electric transmission lines, drainage channels and stormwater detention facilities shall be adequately sized for their intended purpose, including any*

necessary maintenance roads. These easements shall be shown to scale on the preliminary and final plats or maps. If the easement is for drainage channels, stormwater detention facilities or related purposes, the easement shall comply with the requirements of the Public Works Stormwater and Grading Design Standards.

Finding: Not applicable. Utility easements are not required with this phase of the project. They will be required with the detailed development design.

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

Finding: Not applicable. As shown on the Existing Conditions plan, Sheet C0.1, watercourses are not located on site. Therefore, drainage rights-of-way are not required.

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

Finding: Complies with Conditions. Joint driveways are proposed to provide access across future Lots 3 – 10. A reciprocal parking and utility access agreement will be signed by the property owners, as shown in Exhibit R, Proposed Easements Exhibit. **The applicant can assure this standard is met through the Conditions of Approval.**

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

Finding: Complies with Conditions. Section 5 of the Oregon City Comprehensive Plan is consistent with Goal 5, and protects inventoried resources. The OCMC provides overlay districts that implement this plan. The proposed development site not within a Historic District Overlay. The proposed development site is within the Natural Resource Overlay District, and a review is requested concurrent with this application. As evidenced by the NROD Report, Exhibit F, and the Geotechnical Report and Letter, Exhibit G, conducted by Apex dated December 19, 2017, the proposed Phase 2 development project has been designed in compliance with the standards defined in the applicable overlay districts.

A permanent conservation easement, deed restriction or other instrument capable of assuring long term care for the NROD tract is required at the time the NROD mitigation is completed. Please see findings under Chapter 17.49 for additional details. **The applicant can assure this standard is met through the Conditions of Approval.**

16.12.090 - Minimum improvements—Procedures.

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

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

Finding: Complies with conditions. Improvement work will not begin until construction plans have been reviewed and approved by the city engineer. **The applicant can assure this standard is met through the Conditions of Approval.**

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

Finding: Complies with conditions. Improvement work will not begin until construction plans have been reviewed and approved by the city engineer. **The applicant can assure this standard is met through the Conditions of Approval.**

C. Erosion control or resource protection facilities or measures are required to be installed in accordance with the requirements of Chapter 17.49 and the Public Works Erosion and Sediment Control Standards. Underground utilities, waterlines, sanitary sewers and storm drains installed in streets shall be constructed prior to the surfacing of the streets. Stubs for service connections for underground utilities and sanitary sewers shall be placed beyond the public utility easement behind to the lot lines.

Finding: Complies with conditions. Compliance with the City's Erosion and Sediment Control standards is required pursuant to adopted codes and policies. As provided in response to OCMC 17.49, erosion control or resource protection facilities will be installed in accordance to this standard. Utility plans will be provided with the subsequent DDP application. Underground utilities will be constructed prior to the surfacing of the streets. **The applicant can assure this standard is met through the Conditions of Approval.**

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

Finding: Complies with conditions. As-built construction plans and digital copies of as-built drawings will be filed with the city engineer upon completion of the improvements. **The applicant can assure this standard is met through the Conditions of Approval.**

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

Finding: Complies with Conditions. The city engineer may regulate the hours of construction and access routes for construction to minimize impacts on adjoining residences or neighborhoods. **The applicant can assure this standard is met through the Conditions of Approval.**

16.12.095 - Minimum improvements—Public facilities and services.

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

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

covers at every public street intersection and all points of curvature and points of tangency of their center line, and at such other points as directed by the city engineer.

Finding: See findings under Chapter 12.04.

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

Finding: Please see findings under Chapter 13.12.

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

Finding: Complies with Conditions. Utility plans, including a sanitary sewer system, will be submitted with the subsequent DDP application for site buildings. The sanitary sewer facilities will be designed in accordance with this provision. **The applicant can assure this standard is met through the Conditions of Approval.**

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

Finding: Complies with Conditions. Utility plans, including a water system, will be submitted with the subsequent DDP application for site buildings. The water facilities will be designed in accordance with this provision. **The applicant can assure this standard is met through the Conditions of Approval.**

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

against the formation of a local improvement district for sidewalk improvements that benefit the applicant's property.

Finding: See findings under Chapter 12.04.

F. Bicycle Routes. If appropriate to the extension of a system of bicycle routes, existing or planned, the decision-maker may require the installation of separate bicycle lanes within streets and separate bicycle paths.

Finding: See findings under Chapter 12.04.

G. Street Name Signs and Traffic Control Devices. The applicant shall install street signs and traffic control devices as directed by the city engineer. Street name signs and traffic control devices shall be in conformance with all applicable city regulations and standards.

Finding: See findings under Chapter 12.04.

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

Finding: See findings under Chapter 12.04.

I. Street Trees. Refer to Chapter 12.08, Street Trees.

Finding: See findings under Chapter 12.08.

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

Finding: Complies with Conditions. At least one bench mark will be located within the subdivision boundaries using datum plane specified by the city engineer. **The applicant can assure this standard is met through the Conditions of Approval.**

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

Finding: Not applicable. Utilities will not be constructed as part of this application.

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

Finding: Complies with Conditions. All facilities and improvements will be appropriately sized. Utility plans will be provided with the subsequent DDP application for site buildings. **The applicant can assure this standard is met through the Conditions of Approval.**

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

Finding: Complies with Conditions. As demonstrated by responses to Chapter 17.47, erosion control measures are met. **The applicant can assure this standard is met through the Conditions of Approval.**

16.12.100 - Same—Road standards and requirements.

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

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

B. *For any public street created pursuant to subsection A of this section, a copy of a preliminary plan and the proposed deed shall be submitted to the community development director and city engineer at least ten days prior to any public hearing scheduled for the matter. The plan, deed and any additional information the applicant may submit shall be reviewed by the decision-maker and, if not in conflict with the standards of Title 16 and Title 17, may be approved with appropriate conditions.*

Finding: See findings under Chapter 12.08. Public streets are proposed in conformance with requirements of Chapter 12.04 as demonstrated by the responses to that chapter and the Typical Sections shown on Sheet C3.3 included in Exhibit B.1 but only to be completed by the subsequent DDP application.

16.12.105 - Same—Timing requirements.

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

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

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

Finding: Complies with Conditions. The applicant will provide the city with a financial guarantee equal to one hundred twenty percent of the cost of constructing the public improvements in accordance with OCMC 17.50.

The applicant can assure this standard is met through the Conditions of Approval.

16.12.110 - Minimum improvements—Financial guarantee.

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

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

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

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

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

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

Finding: Complies with Conditions. The applicant will file the necessary guarantees for public improvements consistent with City procedures. At this point, the applicant does not anticipate filing guarantees in lieu of completing public improvements. **The applicant can assure this standard is met through the Conditions of Approval.**

CHAPTER 17.34 – MIXED USE DOWNTOWN DISTRICT

17.34.020 Permitted uses.

Finding: Complies as proposed. The previously approved Concept Plans discussed in the application and earlier portion of this report identified all of the uses within the subject site. With the current proposal the applicant is requesting approval of early grading in anticipation of the construction of 404 multi-family dwellings, two mixed use residential buildings with live/work, offices and restaurant uses (retail estimated at 11,000 square feet) on the ground floor with residential apartments above, and parking lots, all of which are permitted uses within the MUD zone. Actual buildings for these uses will be part of subsequent Detailed Development Plan submittals. Additionally, Phase 2 will include the construction of a twenty-foot wide trail on each side of the center of proposed Lot 5.

17.34.030 Conditional uses.

Finding: Not applicable. The development proposal does not include implementation of any conditional use onsite.

17.34.040 Prohibited uses in the Mixed Use Downtown District.

Finding: Not applicable. No prohibited uses are proposed.

17.34.060 Mixed-use downtown dimensional standards—For properties located outside of the downtown design district.

Finding: Applicable. The downtown design district is located to the south of the property in the established historic downtown along Main Street. The cove site is not within the downtown design district. Therefore the project is subject to the dimensional standards of the MUD zone as well as the Site Plan and Design Review criteria as adjusted through the Master Plan process, which are detailed in the Applicant's Exhibit M.

These standards are applicable to the proposed re-subdivision of the property into ten lots abutting the Agnes Avenue right-of-way, re-platting this portion of the site from the current eight lots.

17.34.060.A. Minimum lot area: None.

Finding: Not applicable. There is no minimum lot size in the MUD zone. The applicant has proposed a subdivision to divide the property into the following lots with the corresponding areas. As shown on the Applicant's Preliminary Subdivision on Sheet C2.3 of the CDP Plan Set, three additional lots will be created to correspond to respective buildings. Previously platted Lots 3-7 will be further divided into Lots 3-10 to accommodate the 8 waterfront residence buildings. In addition, Tract A will be converted to a lot of record, Lot 11 (Tract A), and internal lot lines will be adjusted to accommodate proposed changes to the Agnes Avenue section, the esplanade pathway, and the consolidation of Lot 3800 with Tract D. An exhibit of existing and proposed property lines is included in Exhibit P, with proposed easements in Exhibit R.

Lot	Area (ac)
Lot 1	4.44
Lot 2 (No change – developed)	11.36
Lot 3	0.98
Lot 4	1.49
Lot 5	1.36
Lot 6	0.92
Lot 7	0.86
Lot 8	1.42
Lot 9	1.52
Lot 10	0.89
Lot 11 (Tract A)	1.24
Tract B (Cove)	52.81
Tract C (NROD along shore)	2.25
Tract D (North Park)	5.9
Total	87.44

17.34.060.B. Minimum floor area ratio: 0.30.

Finding: Not applicable. No buildings are proposed at this time. The Applicant indicated that future buildings would be designed to meet the minimum floor area ratio (FAR). Specific floor area ratio (FAR) for Phase 2 will be addressed in future DDP requests as required.

17.34.060.C. Minimum building height: Twenty-five feet or two stories except for accessory structures or buildings under one thousand square feet.

Finding: Not applicable. No buildings are proposed at this time. Building heights will be addressed in future detailed development plan applications.

17.34.060.D. Maximum building height: Seventy-five feet, except for the following locations where the maximum building height shall be forty-five feet:

1. Properties between Main Street and McLoughlin Boulevard and 11th and 16th streets;
2. Property within five hundred feet of the End of the Oregon Trail Center property; and
3. Property within one hundred feet of single-family detached or detached units.

Finding: Not applicable. No buildings are proposed at this time. Building heights will be addressed in future detailed development plan applications.

17.34.060.E. Minimum required setbacks, if not abutting a residential zone: None.

Finding: Not applicable. Finding: Not applicable. No buildings are proposed at this time.

17.34.060.F. Minimum required interior side yard and rear yard setback if abutting a residential zone: Fifteen feet, plus one additional foot in yard setback for every two feet in height over thirty-five feet.

Finding: Not applicable. The site does not abut any residential zone and no buildings are proposed.

17.34.060.G. Maximum Allowed Setbacks

1. Front yard: Twenty feet provided the site plan and design review requirements of Section 17.62.055 are met.
2. Interior side yard: No maximum.
3. Corner side yard abutting street: Twenty feet provided the site plan and design review requirements of Section 17.62.055 are met.
4. Rear yard: No maximum.
5. Rear yard abutting street: Twenty feet provided the site plan and design review requirements of Section 17.62.055 are met.

Finding: Complies as proposed. The original CDP approval (CP 08-05) authorized an adjustment that eliminated the maximum setback requirement for development within the master plan boundary.

17.34.060.H. Maximum site coverage including the building and parking lot: Ninety percent.

Finding: Complies as proposed. As shown on the Site Plan, Sheet L1.1 of the CDP plan set included in Exhibit B.1, the proposed building and parking lot does not cover more than ninety percent of the site. Specific landscaping plans will be submitted with the subsequent DDP application. Each future phase will be analyzed for compliance with this standard.

17.34.060.I. Minimum landscape requirement (including parking lot): Ten percent.

Finding: Complies as proposed. Specific landscape coverage for the Phase 2 development site will be addressed in future DDP requests as required. At least ten percent of the site will be landscaped. Each future phase will be analyzed for compliance with this standard.

CHAPTER 17.50 - ADMINISTRATION AND PROCEDURES

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

Finding: Complies as proposed. This application is 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 the newspaper at least twenty days prior to the public hearing. Copies of the required public notices are attached. The Citizen Involvement Committee and Neighborhood Associations were provided notice via email.

17.50.050 Preapplication Conference

Finding: Complies as proposed. A preapplication conference was held on December 13, 2017 pursuant to OCMC 17.50.030. As the development proposal nor the applicable municipal code did not significantly change, the validity of the pre-application conference was extended to December 13, 2018. This application was submitted on December 11, 2018, prior to expiration of the pre-application conference. Notes are provided in the Application Exhibit D.

17.50.055 Neighborhood Association Meeting

Finding: Complies as proposed. The applicant conducted a neighborhood meeting on October 25, 2017 with the Two Rivers Neighborhood Association to discuss proposed changes as documented in the Neighborhood Meeting Materials, included in Application Exhibit I.

17.50.060 Application Requirements.

Finding: Complies as proposed. The application was deemed complete on December 15, 2018.

17.50.070 Completeness Review and 120-day Rule.

Finding: Complies as Proposed. This land use application was submitted on December 11, 2018. The application was deemed complete on December 15, 2018. The City has until April 14, 2019 to make a final determination.

17.50.080 Complete Application--Required Information.

Finding: Complies as proposed. The applicant submitted all of the necessary information and was deemed complete.

17.50.090 Public Notices.

Finding: Complies as proposed. Notice was posted onsite, online, mailed to property owners within 300 feet of the proposed development site, and posted in the newspaper at least twenty days prior to the public hearing. Copies of the required public notices are attached. The Citizen Involvement Committee and Neighborhood Associations were provided notice via email.

The Natural Resources Committee submitted comments suggesting that native plants be utilized for plantings within 200 feet of the Cove.

Staff Response: During the original Master Plan for the Cove in 2008 the Planning Commission approved a request to reduce the vegetated corridor width surrounding the Cove from 200' to 50'. Though the analysis included a variety of mitigating factors, native species are no longer required to be used 50-200 feet from the cove. The proposed development does not include installation of plantings within this area, though it is expected in a future application. The request has been transmitted to the applicant for their advisement, however, there is no nexus to an applicable criteria which would require installation of native plantings in this area at time of development.

Jerry Herrmann submitted comments requesting to learn more about the wildlife within the waters of the cove (including lamprey), suggested the vegetation around the cove is established and has significantly improved over time. In addition, he suggested utilizing previous design work which included integration of downed woody material/rootwads/etc near the cove and identified that the grading proposed would damage existing habitats and may forgo opportunities for integration of mitigation strategies

Staff Response: The applicant submitted documentation from Tina Farrelly and John van Staveren of Pacific Habitat Services, Inc. and John Runyon of Cascade Environmental Group which was reviewed by the City's consultant Gigi Cooper of David Evans and Associates. The analysis discussing how the proposed development has complied with the applicable Natural Resources Overlay District is provided below within this report. Though

no in water disturbance is proposed with the Detailed Development Plan, the overall proposal does include work within the Cove. The City does not have authority to regulate activities within the Cove which are below the ordinary high waterline, though has forwarded this proposal to the Department of State Lands and as a criteria of the Natural Resources Overlay District, the applicant is required to obtain any necessary approvals from regulatory agencies.

No of the public comments identified an approval criteria which could not be met as proposed or with the conditions of the recommendation.

17.50.100 Notice Posting Requirements.

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

CHAPTER 17.62 SITE PLAN AND DESIGN REVIEW

17.62.015 Modifications that will better meet design review requirements.

The review body may consider modification of site-related development standards. These modifications are done as part of design review and are not required to go through the Variance process pursuant to section 17.60.020. Adjustments to use-related development standards (such as floor area ratios, intensity of use, size of the use, number of units, or concentration of uses) are required to go through the Variance process pursuant to section 17.60.020. Modifications that are denied through design review may be requested as Variance through the Variance process pursuant to section 17.60.020. The review body may approve requested modifications if it finds that the applicant has shown that the following approval criteria are met:

Finding: Not applicable. The applicant has not requested modifications pursuant to this code section. The applicant has requested specific adjustments to development standards pursuant to the Master Plan adjustment process in 17.62.070.

17.62.020 Preapplication conference.

Finding: Complies as proposed. Please see finding under section 17.50.050.

17.62.030 When required.

Site plan and design review shall be required for all development of real property in all zones except the R-10, R-8, R-6, R-5 and R-3.5 zoning districts, unless otherwise provided for by this title or as a condition of approval of a permit. Site plan and design review shall also apply to all conditional uses, cottage housing development, multi-family and non-residential uses in all zones. No building permit or other permit authorization for development shall be issued prior to site plan and design review approval. Parking lots and parking areas accessory to uses regulated by this chapter also shall require site plan and design review approval. Site plan and design review shall not alter the type and category of uses permitted in zoning districts.

Finding: Applicable. The applicant proposed development of property in the Mixed Use Downtown District.

17.62.035 Minor site plan and design review.

Finding: Not applicable. The proposed development does not qualify for a Minor Site and Design Review application.

17.62.040 Plans required.

Finding: Complies as proposed. The applicant has submitted all requested application items.

17.62.050 – Site Plan and Design Review – General Standards.

The applicant indicates that all applicable standards of this section will be addressed with the subsequent Detailed Development Plan (DDP) for the details. However, the applicant has requested specific adjustments

to design standards pursuant to 17.65.070 at this time.

In the Application, Exhibit M, Proposed Adjustments Exhibit, and Attachment C, Findings for Specific Architectural Standards are provided for reference.

17.62.050.A.1. Landscaping,

The standards of this section address the quantity, quality and type of required landscaping. A minimum of fifteen percent of the lot shall be landscaped. Existing native vegetation shall be retained to the maximum extent practicable. All plants listed on the Oregon City Nuisance Plant List shall be removed from the site prior to issuance of a final occupancy permit for the building.

Finding: Complies as proposed. The applicant indicates that all applicable standards of this section will be addressed with the subsequent Detailed Development Plan (DDP) for the details.

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

Finding: Not applicable. The current design review application applies to the early grading request and does not propose a landscaping plan at this time. The applicant indicates that all applicable standards of this section will be addressed with the subsequent Detailed Development Plan (DDP) for the details. The applicant has not requested a reduction in the minimum landscaping percentage.

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

Finding: Please refer to section 17.49 for findings.

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

Finding: Not applicable. The current design review application applies to the early grading request and does not propose a landscaping plan for the residential parcels or streetscape at this time. A separate mitigation and enhancement planting plan for the areas of the site affected by the proposed bank grading and tree removal within the delineated Natural Resources Overlay District (NROD) tract has been prepared by Pacific Habitat Services, although the final mitigation will be deferred to a later phase. The applicant indicates that all applicable standards of this section will be addressed with the subsequent Detailed Development Plan (DDP) for the details. The applicant has not requested a reduction in the minimum landscaping percentage.

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

Finding: Not applicable. This application is not within the Downtown Design District, nor does it propose major remodeling.

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

Finding: Not applicable. The current design review application applies to the early grading request and does not propose a landscaping plan at this time. The applicant indicates that all applicable standards of this section will be addressed with the subsequent Detailed Development Plan (DDP) for the details. The applicant has not requested a reduction in the minimum landscaping percentage.

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

Finding: Not applicable. The current design review application applies to the early grading request and does not propose a landscaping plan at this time. The applicant indicates that all applicable standards of this section will be addressed with the subsequent Detailed Development Plan (DDP) for the details. The applicant has not requested a reduction in the minimum landscaping percentage.

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.*

Finding: Due to the orientation of the buildings in relation to the Cove and Agnes Avenue, the applicant has requested an adjustment to this standard pursuant to OCMC 17.65.070. Please see findings in that section.

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

Finding: Complies with Conditions. See section 12.04. The proposal includes a site circulation plan which matches the previous circulation plans approved in 2015, although there may some refinement of these details with subsequent detailed development plan submittals for the buildings.

There are four vehicle access driveways proposed into the parking areas from Agnes Avenue. Driveway width, spacing and sight distance requirements are governed by OCMC 12.04.025, 12.04.195 and OCMC 10.32, respectively. Specific findings are provided in those sections of this report. Ingress and egress locations on Agnes Avenue appear to be adequate for public safety and access for emergency services (fire and police) as evidenced by the Site Circulation Plan, Sheets C3.0 – C3.2 included in Exhibit B.1.

The applicant can meet this standard through the Conditions of Approval.

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

Finding: Not applicable. Though the site is within the MUD District, no alleys are proposed or required due to the configuration of the site, the connections proposed with the adjacent property and compliance with the circulation identified in the previously approved Concept Plans.

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

Finding: See 17.62.050.A.2.c.

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

Finding: Adjustment Requested – See section 17.65.070. The layout of the proposed development includes four driveways with spaced along Agnes, with no more than one per lot frontage. However, due to fact that the multiple lots are under common ownership within the same Master Plan boundary, the Community Development Director interprets this standard to apply to the entire Master Plan area. The applicant is requesting to replat the property into eight lots along Agnes for the future buildings with no more than one driveway per lot frontage per building. The applicant has requested an adjustment pursuant to OCMC 17.65.070. Driveway locations meet standards set forth in 12.04.025 and 12.04.195.

17.62.050.A.2.f. *Driveways that are at least twenty-four feet wide shall align with existing or planned streets on adjacent sites.*

Finding: Not applicable. There are no existing streets opposite the driveways, and no planned future streets at those locations. If redevelopment of adjacent parcels on the east side of the Agnes Avenue occurs, compliance with this section will be determined at that time.

17.62.050.A.2.g. *Development shall be required to provide existing or future connections to adjacent sites through the use of vehicular and pedestrian access easements where applicable. Such easements shall be required in addition to applicable street dedications as required in Chapter 12.04.*

Finding: Complies with condition. The applicant indicated that street and sidewalk improvements are proposed in compliance with Chapter 12.04 as shown on the Site Circulation Plan and Typical Sections, Sheets C3.0 – C3.3 included in Exhibit B.1. The applicant has indicated proposed reciprocal access easements across Lots 3 to 10. An emergency access easement is proposed through the WES property to be under separate instrument. The applicant shall provide the proposed easements for Lots 3-10 for review by the City and record the easements prior to issuance of a certificate of final occupancy for the buildings on Lots 3-10. **The applicant can meet this standard through the Conditions of Approval.**

17.62.050.A.2.h *Vehicle and pedestrian access easements may serve in lieu of streets when approved by the decision maker only where dedication of a street is deemed impracticable by the city.*

Finding: Complies as proposed. The pedestrian accessways proposed in the development are not in lieu of vehicular streets. Street and sidewalk improvements are proposed in compliance with Chapter 12.04 as shown on the Site Circulation Plan and Typical Sections, Sheets C3.0 – C3.3 included in Exhibit B.1. A reciprocal parking and utility access agreement will be provided to allow access across lots as shown in Exhibit R, Proposed Easements Exhibit.

17.62.050.A.2.i. *Vehicular and pedestrian easements shall allow for public access and shall comply with all applicable pedestrian access requirements.*

Finding: Complies with condition. A public pedestrian easement has been granted for the esplanade. Additional findings associated with easements are found throughout this report. A reciprocal parking and utility access agreement will be provided to allow access across lots as shown in Exhibit R, Proposed Easements Exhibit. This easement will likely be modified with the proposed subdivision. The applicant shall provide the proposed easements for Lots 3-10 for review by the City and record the easements prior to issuance of a certificate of final occupancy for the buildings on Lots 3-10. **The applicant can meet this standard through the Conditions of Approval.**

17.62.050.A.2.j. *In the case of dead-end stub streets that will connect to streets on adjacent sites in the future, notification that the street is planned for future extension shall be posted on the stub street until the street is extended and shall inform the public that the dead-end street may be extended in the future.*

Finding: Not applicable. No stub streets are proposed.

17.62.050.A.2.k. *Parcels larger than three acres shall provide streets as required in Chapter 12.04. The streets shall connect with existing or planned streets adjacent to the site.*

Finding: See findings under section 12.04. of this report.

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: Not applicable. No buildings are proposed with this application.

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: See findings under sections 15.48 and 13.12 of this report.

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: See findings in section 17.44 of this report.

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: See findings under section 13.12 of this report.

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 findings under Chapter 17.52.

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: See findings under section 12.04 of this report.

Pedestrian Circulation System

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.

Finding: Adjustment Requested – See section 17.65.070. The applicant did not respond to this section, but indicated that they are requesting an adjustment to this standard in their narrative and plans (See Exhibit M, *Proposed Adjustments Legend* and application plan sheets C.2.3). Staff interprets this standard to apply to pedestrian pathways between the entrance and the street that cross a parking lot or drive aisle. As shown on the Site Plan, Sheets C2.0 – C2.2, pedestrian pathways are proposed between the building entrance and the street that cross the parking lot adjacent to Building B and Building C buildings, and that cross a drive aisle adjacent to Building A buildings. Due to the orientation of the future buildings and Esplanade toward the Cove with the parking areas located between the buildings and Agnes Avenue, any pedestrian pathways must necessarily cross the parking areas in order to connect to the public sidewalk. Therefore, the applicant is requesting an adjustment pursuant to OCMC 17.65.070.

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

Finding: Not applicable. The applicant did not respond to this section. Since No buildings or specific site improvements are proposed at this time, compliance with this section will need to be determined with future submittals.

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

Finding: Not applicable. No buildings are proposed with this submittal.

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

Finding: Not applicable. The applicant did not respond to this section. Since No buildings or specific site improvements are proposed at this time, compliance with this section will need to be determined with future submittals.

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

Finding: Not applicable. The applicant did not respond to this section. Since No buildings or specific site improvements are proposed at this time, compliance with this section will need to be determined with future submittals.

17.62.050.A.9.f. *On-site pedestrian walkways shall be hard surfaced, well drained and at least five feet wide. Surface material shall contrast visually to adjoining surfaces. When bordering parking spaces other than spaces for parallel parking, pedestrian walkways shall be a minimum of seven feet in width unless curb stops are provided. When the pedestrian circulation system is parallel and adjacent to an auto travel lane, the walkway shall be raised or separated from the auto travel lane by a raised curb, bollards, landscaping or other physical*

barrier. If a raised walkway is used, the ends of the raised portions shall be equipped with curb ramps for each direction of travel. Pedestrian walkways that cross drive isles or other vehicular circulation areas shall utilize a change in textual material or height to alert the driver of the pedestrian crossing area.

Finding: Not applicable. The applicant did not respond to this section. Since no buildings are proposed with this submittal, compliance with this section will need to be determined with future submittals.

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

Finding: Complies as proposed. The development application identified adequate means and accesses to ensure continued maintenance and necessary replacement of facilities and areas.

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

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

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

Finding: Please refer to the analysis in Chapter 17.49 of this report.

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 development proposal assured compliance with this section.

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 with condition. Applicant states that consistent with the findings of the original CDP approval, public water and sanitary sewer facilities remain adequate to serve the proposed development. All proposed sanitary service is shown on Sheets C6.0 through C6.2. Sanitary service will connect to the 42-inch sanitary main line currently located in Main Street. As shown on the Water and Utility Plan, Sheet C5.1 – C5.2, water is provided through domestic water lines and meters. The proposed lines will connect to an existing 8-inch water stub installed during the Main Street construction at the northwest corner of the project site.

The City has reviewed the preliminary utility plans and determined that the existing 10-inch public waterline shall be replaced with a new 10-inch line within Main Street improvements, including the roundabout, from the north end of the property to the southerly connection to the existing waterline located outside the grading and street improvement limits. The proposed waterline shall be placed in the City standard utility location to the maximum extent practicable and per City approval for design exceptions.

Concurrent with Phase 2, the 10-inch waterline in Agnes Avenue is to be replaced with a new 10-inch line along the new Agnes Avenue right-of-way.

Regarding the proposed water service, the proposed bypass around the water meter will not be permitted. The approved options are to provide separate fire and domestic taps, or to provide one combined tap.

Option 1: One water service connection with Master Meter sized to provide the combined fire flows and domestic water flows. All flows shall be metered through one Master Meter, fire flows plus domestic flows. Therefore no flows are allowed to bypass the Master Meter. Master meter shall be located in the public-right-of-way and the backflow assembly shall be installed directly downstream on private property. Water System Development Charges (SDC) are assessed based on the Master Meter size.

Option 2: Two separate water services: One metered domestic water service with meter sized to provide the domestic water flows, and one fire service with double detector check valves to provide the fire flows. Two separate private onsite systems with one for the fire protection system and the second for domestic water system. Two separate connections to the City public water system, with one connection for the fire service line and one connection for domestic water service. Domestic water meter shall be located in the public-right-of-way and the backflow assembly shall be installed directly downstream on private property. Meter sized to provide the domestic water flows. Water SDCs are assessed based on the meter size. Fire service line with double detector check valve assembly required and shall be located on private property close to the property line closest to the connection with the public water main. Water SDCs not assessed on separate fire connection. **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.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. Compliance with [Chapter] 12.04, Streets, Sidewalks and Public Places shall be sufficient to achieve right-of-way and improvement adequacy.*

Finding: Complies with conditions. See findings under section 16.08.030.B.5. See section 12.04 of this report for additional findings.

17.62.050.A.16. *If a transit agency, upon review of an application for an industrial, institutional, retail or office development, recommends that a bus stop, bus turnout lane, bus shelter, accessible bus landing pad, lighting, or transit stop connection be constructed, or that an easement or dedication be provided for one of these uses, consistent with an agency adopted or approved plan at the time of development, the review authority shall require such improvement, using designs supportive of transit use. Improvements at a major transit stop may*

include intersection or mid-block traffic management improvements to allow for crossings at major transit stops, as identified in the transportation system plan.

Finding: Complies as proposed. The application was transmitted to Tri-Met. No comments were received in response. It is anticipated that Tri-Met may comment on the subsequent DDP application for site improvements and buildings.

17.62.050.A.17. *All utility lines shall be placed underground.*

Finding: Complies with condition. Applicant states that all proposed utility lines will be placed underground. Section 17.62.050.A.17 does not distinguish between existing and proposed utilities to be relocated underground. Existing utility lines along the subject frontages will need to be placed underground unless determined by the City Engineer and the franchise utility owner to be infeasible. **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: Not applicable. The applicant did not respond to this section. Since No buildings or specific site improvements are proposed at this time, compliance with this section will need to be determined with future submittals. The applicant indicated that the site will include ADA compliant parking stalls, accessible units as well as pedestrian accessways. Compliance with ADA and accessibility standards will be reviewed upon submittal of a building permit.

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

Finding: Not applicable. The minimum or maximum density of the Mixed Use Downtown District is not specified in the Oregon City Municipal Code. The number of residential units on the site is affected by site plan and design review standards, including but not limited to: minimum and maximum building height, minimum landscaping requirements, minimum and maximum number of parking spaces, and the adequacy of public facilities such as sewer, water, stormwater and transportation system capacity.

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

Finding: Adjustment Requested pursuant to OCMC 17.65.070. The applicant is proposing an adjustment to this section pursuant to the Master Plan adjustment process of 17.65.070 for several locations. Application Exhibit A includes typical building elevations illustrating the proposed adjustment, and the applicant has described the proposed adjustment on Page 109-112 of their submitted narrative. Also, Attachment C, *Findings for Specific Architectural Standards* is provided for reference. **Please refer to the findings under OCMC 17.65.070.**

17.62.050.A.21. *Building Materials.*

Finding: Not applicable. No buildings or specific site improvements are proposed at this time, therefore compliance with this section will be determined with future submittals.

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 with condition. The proposal can meet the approval criteria with the conditions of approval. Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.

17.62.055 Institutional and commercial building standards.

B. Applicability.

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

Finding: The applicant indicates that all applicable standards from Chapter 17.62 Site Plan and Design Review will be addressed with the subsequent DDP when buildings are proposed.

At this time, the applicant is proposing an adjustment to the Minimum Wall Articulation (subsection H.2) of this section pursuant to the Master Plan adjustment process of 17.65.070 at this time for the first floor the two mixed-use building types “A”, which have the commercial component on the ground floor.

Application Exhibit A includes typical building elevations illustrating the proposed adjustment, and the applicant has described the proposed adjustment on Page 110 of their submitted narrative. Also, Attachment C, *Findings for Specific Architectural Standards* is provided for reference. Please refer to the findings under OCMC 17.65.070.

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: Not applicable. Since No buildings or specific site improvements are proposed at this time, compliance with this standard will be determined with future submittals.

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

Finding: Not applicable. Since No buildings or specific site improvements are proposed at this time, compliance with this standard will be determined with future submittals.

17.62.055.C.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: Not applicable. Since No buildings or specific site improvements are proposed at this time, compliance with this standard will be determined with future submittals.

17.62.055.C.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. Since No buildings or specific site improvements are proposed at this time, compliance with this standard will be determined with future submittals.

17.62.055.C.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 D.*

Finding: Not applicable. The 2008 Concept Plan included an adjustment that the maximum setbacks are not applicable if the building is located similar to that in the original Concept Plan. The general location of the proposed structures is similar to that of the 2008 Concept Plan.

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: Not applicable. The 2008 Concept Plan included an adjustment that the maximum setbacks are not applicable if the building is located similar to that in the original Concept Plan. The general location of the proposed structures is similar to that of the 2008 Concept Plan.

17.62.055.D.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: Not applicable. No buildings or specific site improvements are proposed at this time, therefore compliance with this standard will be determined with the subsequent DDP submittal.

17.62.055.D.3. *Entryways. The primary entranceway for each commercial or retail establishment shall face the major street. The entrance may be recessed behind the property line a maximum of five feet unless a larger setback is approved pursuant to Section 17.62.055.D.1 and shall be accessed from a public sidewalk. Primary building entrances shall be clearly defined, highly visible and recessed or framed by a sheltering element including at least four of the following elements, listed below.*

- a. Canopies or porticos;*
- b. Overhangs;*
- c. Recesses/projections;*
- d. Arcades;*
- e. Raised corniced parapets over the door;*
- f. Peaked roof forms;*
- g. Arches;*
- h. Outdoor patios;*
- i. Display windows;*
- j. Architectural details such as tile work and moldings which are integrated into the building structure and design;*

k. Integral planters or wing walls that incorporate landscaped areas and/or places for sitting.

l. Planter boxes and street furniture placed in the right-of-way shall be approved for use according to materials, scale and type.

Finding: Not applicable. No buildings or specific site improvements are proposed at this time, therefore compliance with this standard will be determined with the subsequent DDP submittal.

17.62.055.D.4. *Where additional stores will be located in the large retail establishment, each such store shall have at least one exterior customer entrance, which shall conform to the same requirements. (Ord. 01-1002 §2, 2001)*

Finding: Not applicable. The proposal does not include a large retail establishment.

17.62.055.D.5. *Trellises, canopies and fabric awnings may project up to five feet into front setbacks and public rights-of-way, provided that the base is not less than eight feet at the lowest point and no higher than ten feet above the sidewalk. Awnings shall be no longer than a single storefront.*

Finding: Not applicable. The applicant has not proposed a trellis, canopy or awning projecting into a public right-of-way.

17.62.055.E. Corner Lots.

For buildings located at the corner of intersections, the primary entrance of the building shall be located at the corner of the building or within twenty-five feet of the corner of the building. Additionally, one of the following treatments shall be required:

- 1. Incorporate prominent architectural elements, such as increased building height or massing, cupola, turrets, or pitched roof, at the corner of the building or within twenty-five feet of the corner of the building.*
- 2. Chamfer the corner of the building (i.e. cut the corner at a forty-five-degree angle and a minimum of ten feet from the corner) and incorporate extended weather protection (arcade or awning), special paving materials, street furnishings, or plantings in the chamfered area.*

Finding: Not applicable. No buildings or specific site improvements are proposed at this time, therefore compliance with this standard will be determined with the subsequent DDP submittal. Two buildings of type “D” will be located at the corner of Agnes Avenue and Main Street, and at the northern terminus of Agnes Avenue.

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. Where appropriate, the exterior facade at the ceiling level of new structures shall include banding, a change of materials or relief which responds to the cornice lines and window location of existing buildings that abut new structures.

Finding: Not applicable. No buildings or specific site improvements are proposed at this time, therefore compliance with this standard will be determined with the subsequent DDP submittal.

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 1:3 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: Not applicable. No buildings or specific site improvements are proposed at this time, therefore compliance with this standard will be determined with the subsequent DDP submittal.

17.62.055.H. Minimum Wall Articulation.

17.62.055.H.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, treillage with landscaping appropriate for establishment on a trellis.*
- iv. An equivalent element that subdivides the wall into human scale proportions.*

17.62.055.H.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: Adjustment Requested pursuant to OCMC 17.65.070. At this time, the applicant is proposing an adjustment to the Minimum Wall Articulation (subsection H.2) of this section pursuant to the Master Plan adjustment process of 17.65.070 for the first floor the two mixed-use building types “A”, which have the commercial component on the ground floor.

Application Exhibit A includes typical building elevations illustrating the proposed adjustment, and the applicant has described the proposed adjustment on Page 110 of their submitted narrative. Also, Attachment C, *Findings for Specific Architectural Standards* is provided for reference. **Please refer to the findings under OCMC 17.65.070.**

17.62.055.H.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. No buildings or specific site improvements are proposed at this time. Compliance with this standard will be determined with the subsequent DDP submittal. The applicant has not requested an adjustment to this standard.

17.62.055.H.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.*

Finding: Not applicable. No buildings or specific site improvements are proposed at this time. Compliance with this standard will be determined with the subsequent DDP submittal. The applicant has not requested an adjustment to this standard.

17.62.055.H.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.*

Finding: Not applicable. No buildings or specific site improvements are proposed at this time. Compliance with this standard will be determined with the subsequent DDP submittal. The applicant has not requested an adjustment to this standard.

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

Finding: Not applicable. No buildings or specific site improvements are proposed at this time. Compliance with this standard will be determined with the subsequent DDP submittal. The applicant has not requested an adjustment to this standard.

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 (60%) windows or transparency at the pedestrian level. Facades on corner lots shall provide at least sixty percent (60%) windows or transparency on all corner-side façades. All other side elevations shall provide at least thirty percent (30%) transparency. The transparency is measured in lineal fashion. For example, a one-hundred-foot long building elevation shall have at least sixty feet (60% of 100 feet) of transparency in length. Reflective, glazed, mirrored or tinted glass is limited to ten percent (10%) of the lineal footage of windows on the street facing façade. Highly reflective or glare-producing glass with a reflective factor of .25 or greater is prohibited on all building facades. Any glazing materials shall have a maximum fifteen (15) percent outside visual light reflectivity value. No exception shall be made for reflective glass styles that appear transparent when internally illuminated.

Finding: Not applicable. No buildings or specific site improvements are proposed at this time. Compliance with this standard will be determined with the subsequent DDP submittal. The applicant has not requested an adjustment to this standard.

17.62.055.I.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 20 feet of a Right of Way shall be utilized as display windows with a minimum display depth of 36 inches.

Finding: Not applicable. No buildings or specific site improvements are proposed at this time. Compliance with this standard will be determined with the subsequent DDP submittal. The applicant has not requested an adjustment to this standard.

17.62.055.J. Roof Treatments.

1. All facades shall have a recognizable "top" consisting of, but not limited to:

- a. Cornice treatments, other than just colored "stripes" or "bands," with integrally textured materials such as stone or other masonry or differently colored materials; or*
 - b. Sloping roof with overhangs and brackets; or*
 - c. Stepped parapets;*
 - d. Special architectural features, such as bay windows, decorative roofs and entry features may project up to three feet into street rights-of-way, provided that they are not less than nine feet above the sidewalk.*
- 2. Mixed use buildings: For flat roofs or facades with a horizontal eave, fascia, or parapet, the minimum vertical dimension of roofline modulation is the greater of two feet or 0.1 multiplied by the wall height (finish grade to top of wall). The maximum length of any continuous roofline shall be 75 feet.*
- 3. Other roof forms consistent with the design standards herein may satisfy this standard if the individual segments of the roof with no change in slope or discontinuity are less than 40 feet in width (measured horizontally).*

Finding: Not applicable. No buildings or specific site improvements are proposed at this time. Compliance with this standard will be determined with the subsequent DDP submittal. The applicant has not requested an adjustment to this standard.

17.62.055.K. Drive-through facilities shall:

Finding: Not applicable. The development proposal does not include a drive thru.

17.62.057 MULTI-FAMILY STANDARDS.

17.62.057.B. Applicability.

In addition to Section 17.62.050 requirements, all multi-family buildings shall comply with the design standards contained in this section. Cottage Housing Development shall follow OCMC 17.62.58 instead of this section.

Finding: Applicable. The applicant is requesting specific adjustments from the standards of this subsection. The development proposal includes multifamily residences on Lots 3, 4, 5, 6, 7, 8, 9 and 10. Eight structures with commercial and/or community center uses on the ground floor will be developed. Development includes approximately 404 apartment units, approximately 20 live- work units, and approximately 11,000 SF of retail, restaurant, or office space.

At this time, the applicant is proposing adjustments to design standards of this section pursuant to 17.65.070. Attachment C, Findings for Specific Architectural Standards is provided for reference. The specific multi-family design standards of this subsection to be adjusted are:

- 17.62.057.F(1) Pedestrian Circulation
- 17.62.057.G Architectural and Materials Requirements
- 17.62.057.I Diversity of Unit Types (Number of Bedrooms / Unit)
- 17.62.057.L(2) Window Design

Application Exhibit A includes typical building elevations illustrating the proposed adjustments, and the applicant has described the proposed adjustments on Pages 109 through 112 of their submitted narrative. Attachment C, Findings for Specific Architectural Standards is provided for reference.

Compliance with this subsection and all applicable standards will be addressed with the subsequent DDP when buildings are proposed. **Please refer to the findings under OCMC 17.65.070.**

17.62.057.C. Setbacks.

Multi-family developments shall be placed no farther than twenty feet from the front property line. A deeper front yard setback may be approved through site plan and design review if the setback area incorporates enhanced pedestrian spaces and amenities, including but not limited to, street furniture, public art or other such deliberately shaped area and/or a feature or amenity that, in the judgment of the community development director, integrates well with adjoining areas. Setbacks may also be increased in order to protect wildlife habitat and water resources pursuant to Section 17.49.100F., and trees and tree groves pursuant to and Section 17.41.120A.

Finding: Not applicable. The 2008 Concept Plan included an adjustment that the maximum setbacks are not applicable if the building is located similar to that in the original Concept Plan. The general location of the proposed structures is similar to that of the 2008 Concept Plan.

17.62.057.D. Entrances.

Every building abutting a street shall have a street facing front facade. The facade shall be oriented to the street and include windows, doorways, and a structured transition from public to private areas using built elements such as porch features, arbors, low walls, trellis work and/or similar elements integrated with planting.

Finding: Not applicable. No buildings or specific site improvements are proposed at this time. Compliance with this standard will be determined with the subsequent DDP submittal. The applicant has not requested an adjustment to this standard.

17.62.057.E. Percentage of Frontage.

On sites with one hundred feet or more of street frontage at least fifty percent of the site frontage width shall be occupied by buildings placed within twenty feet from the property line, unless a greater setback is accepted under

the provisions of Section 17.62.057C. For sites with less than one hundred feet of street frontage, at least forty percent of the site frontage width shall be occupied by buildings placed within twenty feet of the property line, unless a greater setback is accepted under the provisions of Section 17.62.056D.

Finding: Not applicable. The 2008 Concept Plan included an adjustment that the maximum setbacks are not applicable if the building is located similar to that in the original Concept Plan. No buildings or specific site improvements are proposed at this time.

17.62.057.F. Pedestrian Circulation.

1. Pathways between dwelling units entrances and the street are required. Such pathways between the street and buildings fronting on the street shall be in a straight line. Exceptions may be allowed by the director where steep slopes prevent a direct connection or where an indirect route would enhance the design and/or use of a common open space.

Finding: Adjustment Requested pursuant to OCMC 17.65.070. The applicant is proposing an adjustment to this standard pursuant to the Master Plan adjustment process of 17.65.070. See Exhibit M, Proposed Adjustments Legend and application plan sheets C.2.3.

The applicant states “As shown on the Site Plan, Sheets C2.0 – C2.2, pedestrian pathways are provided between the building entrance and the street in a straight line. City staff has determined that crossing the parking lot adjacent to Building B and Building C buildings, and that crossing a drive aisle adjacent to Building A buildings will require an adjustment to this standard. The access provided is in a straight line, and the most direct access that can be provided in this waterfront oriented development. Direct access is also provided from each building to the public waterfront esplanade. Therefore, this standard is equally met.”

Due to the orientation of the future buildings and Esplanade toward the Cove with the parking areas located between the buildings and Agnes Avenue, any pedestrian pathways must necessarily cross the parking areas in order to connect to the public sidewalk. Therefore, the applicant is requesting an adjustment pursuant to OCMC 17.65.070.

Application Exhibit A includes typical building elevations illustrating the proposed adjustment, and the applicant has described the proposed adjustment on Page 110 of their submitted narrative. Also, Attachment C, *Findings for Specific Architectural Standards* is provided for reference. **Please refer to the findings under OCMC 17.65.070.**

17.62.057.F.2. *The pedestrian circulation system shall connect all main entrances on the site. For townhouses or other residential units fronting on the street, the sidewalk may be used to meet this standard. For multiple-family developments, pedestrian connections to other areas of the site, such as parking areas, recreational areas, common outdoor areas, and any pedestrian amenities shall be required.*

Finding: Not applicable. No buildings or specific site improvements are proposed at this time. Compliance with this standard will be determined with the subsequent DDP submittal. The applicant has not requested an adjustment to this standard.

17.62.057.F.3. *Elevated external stairways or walkways, which provide pedestrian access to dwelling units located above the ground floor 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.*

Finding: Not applicable. No buildings or specific site improvements are proposed at this time. Compliance with this standard will be determined with the subsequent DDP submittal. The applicant has not requested an adjustment to this standard.

17.62.057.G. Architectural and Material Standards.

Building articulation and modulation - multifamily residential buildings and residential portions of mixed-use buildings. An alternative to the standards in subsection G. below may be approved by the community development director if the design is consistent with the intent of the standards and a specific architectural or building use exists that prohibits the full implementation of the standard.

1. Articulation and modulation of buildings is essential in providing the ability for new buildings to be compatible with the surrounding commercial and residential development. All residential buildings and residential portions of mixed-use buildings shall include at least three of the following modulation and/or articulation features at intervals of no more than thirty feet along all facades facing a street, common open space, and common parking areas:

a. Repeating distinctive window patterns at intervals less than the required interval.

b. Vertical building modulation. Minimum depth and width of modulation is thirty-six inches and four feet (respectively) if tied to a change in color or building material and/or roofline modulation. Otherwise, minimum depth of modulation is ten feet and minimum width for each modulation is fifteen feet. Balconies may not be used to meet modulation option unless they are recessed or projected from the facade and integrated with the building's architecture as determined by the community development director, balconies that appear to be "tacked on" to the facade will not qualify for this option.

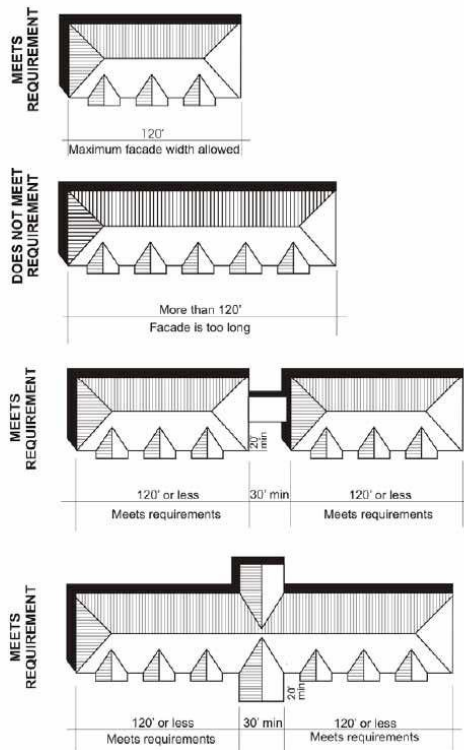
b. Horizontal modulation (upper level step-backs). The minimum horizontal modulation for buildings higher than two stories shall be five feet. A dormer- set five feet back from the front facade-is an example of an acceptable horizontal modulation.

c. Articulation of the building's top, middle, and bottom. This typically includes a distinctive ground floor or lower floor design, consistent articulation of middle floors, and a distinctive roofline.



This multifamily building uses a combination of horizontal and vertical modulation, roofline modulation, distinctive window patterns, and clear articulation of the building's top, middle, and bottom to help reduce its perceived architectural scale and add visual interest.

2. Maximum facades width. Buildings visible from the street must use design techniques to break up long continuous building walls, reduce the architectural scale of the building, and add visual interest. Buildings exceeding one hundred twenty feet in width along the street front shall be divided by a thirty-foot wide modulation of the exterior wall, so that the maximum length of a particular facade is one hundred twenty feet. Such modulation must be at least twenty feet or deeper and extend through all floors. Decks and roof overhangs may encroach up to three feet (per side) into the modulation. The director will consider other design methods that are effective at reducing the perceived width of the building. Examples could include a combination of vertical and/or horizontal building modulation with a change in building materials or finishes, a clear change in building articulation and/or fenestration technique.



3. Roofline standards.

a. Single purpose residential buildings in residential districts must provide a pitched roof with minimum 6:12 roof pitch. The maximum width of any continuous roofline shall be thirty-five feet for single purpose residential buildings. Alternative roof designs will be considered provided design elements are included to help the building and its roofline fit into the site's context.

b. Mixed use buildings and stand-alone residential in commercial districts shall incorporate a roofline modulation. Specifically: For flat roofs or facades with a horizontal eave, fascia, or parapet, the minimum vertical dimension of roofline modulation is the greater of two feet or 0.1 multiplied by the wall height (finish grade to top of wall). The maximum length of any continuous roofline shall be seventy-five feet.

c. Other roof forms consistent with the design standards herein may satisfy this standard if the individual segments of the roof with no change in slope or discontinuity are less than forty feet in width (measured horizontally).

Finding: Adjustment Requested pursuant to OCMC 17.65.070. Please refer to the findings under OCMC 17.65.070. The applicant is proposing an adjustment to this standard pursuant to the Master Plan adjustment process of 17.65.070. The applicant did not specify which of the standards above is to be adjusted -: i.e. (1) Articulation and Modulation, (2) Maximum Façade Width, and (3) Roofline Standards.

The applicant states *“The facades of all the buildings have extensive articulation and modulation that exceed horizontal requirements but are not as deep as the code requires. The buildings provide a much greater variety of features than required. Therefore, the purpose of this articulation and modulation standard is equally met.”*

See Exhibit M, Proposed Adjustments Legend and application plan sheets C.2.3. Application Exhibit A includes typical building elevations illustrating the proposed adjustment, and the applicant has described the proposed adjustments on Pages 109-112 of their submitted narrative.

17.62.057.H. Diversity of building types.

Multi-building developments of four or more buildings shall be required to provide different architectural designs to provide interest and variety. This is particularly important where multiple buildings front on the same street. Simple changes in building colors or reversal of basic facade designs are not sufficient to comply with this standard. Consider changes in vertical and/or horizontal articulation, fenestration, building materials, architectural style, and/or roof design.

17.62.057.I. Diversity of unit types.

Multifamily buildings with more than twenty-five units are required to provide a diversity of housing types to allow for a range of households and age groups. Unit types are defined as the following: Studio, one-bedroom, two-bedroom and three-bedroom units or an ADA accessible master bedroom and bathroom (ground floor or elevator access).

1. Developments of twenty-five to fifty units must provide two unit types representing a minimum of ten percent of the total units per unit type.

2. Developments of fifty-one to seventy-five units must provide three unit types representing a minimum of ten percent of the total units per unit type.

3. Developments of seventy-six units and above must provide four unit types representing a minimum of ten percent of the total units per unit type.

Finding: Adjustment Requested pursuant to OCMC 17.65.070. Please refer to the findings under OCMC 17.65.070.

The application states: *“The applicant is providing a variety of unit types including three types of 1- bedroom units, two types of 2-bedroom units, and 3-bedroom units. The mix of units does not comply with the 10% minimum standard per type. Therefore, an adjustment to this standard is requested. (It should be noted that draft municipal code changes, if adopted later this year, will eliminate this requirement.)”*

See Exhibit M, Proposed Adjustments Legend and application plan sheets C.2.3. Application Exhibit A includes typical building elevations illustrating the proposed adjustment, and the applicant has described the proposed adjustments on Pages 109-112 of their submitted narrative.

With 404 total units on site this section requires four unit types representing a minimum of ten percent of the total units per type. According to the submitted application, the following mix of unit types will be proposed with the subsequent DDP.

Unit Type	Quantity	Percentage
Studio	36	9 %
1 Bedroom Units	194	48 %
3 Bedroom Units	162	40 %
Accessible	12	3 %
Total Units on Site	404	

17.62.057.J. Raised Ground Floor.

This is particularly important when dwelling units are within fifteen feet of a sidewalk or common parking area or for buildings in established neighborhoods that have an established pattern with raised dwelling units.

Where ground floor residential uses are permitted on the ground floor in commercial districts, developments shall incorporate a thirteen-foot tall ground floor height to allow future conversion to commercial uses where desirable. Such projects can utilize a false floor thirty-six inches above the ground for residential uses to increase residents' privacy.

Finding: Not applicable. No buildings or specific site improvements are proposed at this time. Compliance with this standard will be determined with the subsequent DDP submittal. The applicant has not requested an adjustment to this standard.

17.62.057.K. Building Materials.

All multifamily buildings shall be enhanced with appropriate details. Each of the types of details listed below are worth one point. Multifamily buildings must achieve the equivalent of five points worth of architectural details.

- 1. Decorative porch design with distinct design and use of materials.*
- 2. Decorative treatment of windows and doors, such as decorative molding/framing details around all ground floor windows and doors, bay windows, decorative glazing, or door designs, and/or unique window designs.*
- 3. Landscaped trellises or other decorative element that incorporates landscaping near the building entry or entries.*
- 4. Decorative light fixtures with a diffuse visible light source, such as a globe or "acorn" that is non-glaring or a decorative shade or mounting for each building entry on the facade.*
- 5. Brick or stonework covering more than fifteen percent of the facade.*
- 6. Decorative building materials that add visual interest, including:*
 - a. Individualized patterns or continuous wood details.*
 - b. Decorative moldings, brackets, wave trim or lattice work.*
 - c. Other materials with decorative or textural qualities as approved by the director. The applicant must submit architectural drawings and material samples for approval.*
- 7. Decorative roofline design, including multiple gables and/or dormers, decorative parapet or other design that adds distinct visual interest.*
- 8. Decorative railings, grill work, or terraced landscape beds integrated along the facade of the building.*
- 9. Other details that meet the intent of the guidelines as approved by the director.*

Finding: Not applicable. No buildings or specific site improvements are proposed at this time. Compliance with this standard will be determined with the subsequent DDP submittal. The applicant has not requested an adjustment to this standard.

17.62.057.L. Window Design.

- 1. Transparent windows or doors facing the street are required. To meet this requirement, at least fifteen percent of the facade must be transparent. Transparency is measured at the first floor only.*

Finding: Not applicable. No buildings or specific site improvements are proposed at this time. Compliance with this standard will be determined with the subsequent DDP submittal. The applicant has not requested an adjustment to this standard.

17.62.057.L.2. *All windows on all elevations shall recess or project individual windows at least two inches from the facade and incorporate window trim at least four inches in width that features color that contrasts with the base building color. Exceptions will be considered by the community development director where buildings employ other distinctive window or facade treatment that adds visual interest to the building.*

Finding: Adjustment requested pursuant to OCMC 17.65.070. Please refer to the findings under OCMC 17.65.070.

The application states: *“As shown on the building elevations included in Exhibit A, windows will incorporate 3.5 inch trim in most locations with a few exceptions where different design calls for a reduced window treatment. All windows will have 1.3 inch deep trim per manufacturer’s standard. Therefore, the applicant requests an adjustment. (It should be noted that draft municipal code changes, if adopted later this year, will revise this requirement.)”*

“Requested Adjustment #11 - 17.62.057.L(2) – Window Design

Windows will incorporate 3.5-inch trim in most locations with a few exceptions where different design calls for a reduced window trim treatment. All windows will have 1.3-inch deep trim per manufacturer’s standard. The City has proposed removing this standard in the updated code. Since decorative window treatment, both horizontal and vertical façade trim, and material changes are provided as shown on the building elevations included in Exhibit A, the purpose of this standard is equally or better met.”

See Exhibit M, Proposed Adjustments Legend and application plan sheets C.2.3. Application Exhibit A includes typical building elevations illustrating the proposed adjustment, and the applicant has described the proposed adjustments on Pages 109-112 of their submitted narrative.

17.62.057.M. Common Open Space Requirements.

Finding: Not applicable. No buildings or specific site improvements are proposed at this time. Compliance with this standard will be determined with the subsequent DDP submittal. The applicant has not requested an adjustment to this standard.

17.62.057.N. Private Open Space.

2. Common And Private Open Space Requirements For Multifamily Dwelling Units In The Mixed Use Corridor, Neighborhood Commercial Or Mixed Use Downtown Districts. All residential development in the Mixed Use Corridor, Neighborhood Commercial or Mixed Use Downtown Districts must provide a portion of the project area for private open space or common open space. Fifty square feet of private or common open space is required for each dwelling unit. The open space may be allocated exclusively for private or common use or may be a combination of the two uses.

a. Common Open Space: Common open space may be provided in the form of decks, shared patios, roof gardens, recreation rooms, lobbies or other gathering spaces created strictly for the tenants and not associated with storage or circulation. Landscape buffer areas may not be used as common open space unless active and passive uses are integrated into the space and its use will not adversely affect abutting properties.

b. Private Open Space: Private open space may be provided in the forms of decks, screened patios, roof gardens or an alternate private space as approved by the community development director.

Finding: Not applicable. No buildings or specific site improvements are proposed at this time. Compliance with this standard will be determined with the subsequent DDP submittal. The applicant has not requested an adjustment to this standard.

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.

Finding: Adjustment requested pursuant to OCMC 17.65.070. Please refer to the findings under OCMC 17.65.070.

The application states: *"It is anticipated that light trespass will occur across internal project lot lines. Since the master plan site is under single ownership, glare will not cause a negative impact to adjacent properties. However, an adjustment is required to allow light to cross internal lot lines."*

See Exhibit M, Proposed Adjustments Legend and application plan sheets C.2.3. Application Exhibit A includes typical building elevations illustrating the proposed adjustment, and the applicant has described the proposed adjustments on Pages 109-112 of their submitted narrative.

17.62.065.B.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.

17.62.065.B.3. Excepted Lighting.

The following types of lighting are excepted from the requirements of this section.

- a. Residential lighting for single-family attached and detached homes, and duplexes.*
- b. Public street and right-of-way lighting.*
- c. Temporary decorative seasonal lighting provided that individual lamps have a light output of sixty watts or less.*
- d. Temporary lighting for emergency or nighttime work and construction.*
- e. Temporary lighting for theatrical, television, and performance areas, or for special public events.*
- f. Lighting for a special district, street, or building that, according to an adopted municipal plan or ordinance, is determined to require special lighting aesthetics as part of its physical character.*
- g. Lighting required and regulated by the Federal Aviation Administration.*

17.62.065.C. General Review Standard. *If installed, all exterior lighting shall meet the functional security needs of the proposed land use without adversely affecting adjacent properties or the community. For purposes of this section, properties that comply with the design standards of subsection D. below shall be deemed to not adversely affect adjacent properties or the community.*

17.62.065.D. Design and Illumination Standards.

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 with conditions. Applicant has indicated that outdoor lighting in compliance with this section will be proposed with the subsequent DDP request for site buildings. An adjustment to OCMC 17.62.065.D is requested pursuant to OCMC 17.65.070 with this application.

The applicant states: *"Requested Adjustment #12 - 17.62.065.D - General Outdoor Lighting Standard and Glare Prohibition. It is anticipated that light trespass will occur across internal project lot lines. Since the master plan site is under single ownership, glare will not cause a negative impact to adjacent properties. However, an adjustment is required to allow light to cross internal lot lines."*

The applicant did not respond the remaining criteria of this section and has not specified the magnitude of light trespass in measureable units (e.g. foot-candles), nor which adjacent properties might be affected by light

trespass in excess of 0.5 foot-candles. Therefore, staff could not objectively determine that the criteria for this adjustment are fully met. The applicant shall address the applicable criteria of 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.**

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

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

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

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

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

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

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

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

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

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

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

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

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

Finding: Not applicable. No lighting is proposed at this time.

17.62.065.D.16. Wireless Sites. Unless required by the Federal Aviation Administration or the Oregon Aeronautics Division, artificial lighting of wireless communication towers and antennas shall be prohibited. Strobe lighting of wireless communication facilities is prohibited unless required by the Federal Aviation Administration. Security

lighting for equipment shelters or cabinets and other on-the-ground auxiliary equipment on wireless communication facilities shall be initiated by motion detecting lighting.

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

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

i. Maximum permitted light post height: eighty feet.

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

Finding: Not applicable. The applicant has not proposed any of the aforementioned recreational uses.

17.62.080 *Special Development Standards along Transit Streets.*

Finding: Not applicable. The abutting portion of Agnes Avenue is not a transit street.

17.62.085 *Refuse and recycling standards for commercial, industrial, and multi-family developments.*

The purpose and intent of these provisions is to provide an efficient, safe and convenient refuse and recycling enclosure for the public as well as the local collection firm. All new development, change in property use, expansions or exterior alterations to uses other than single-family or duplex residences shall include a refuse and recycling enclosure. The area(s) shall be:

A. Sized appropriately to meet the needs of current and expected tenants, including an expansion area if necessary;

B. Designed with sturdy materials, which are compatible to the primary structure(s);

C. Fully enclosed and visually screened;

D. Located in a manner easily and safely accessible by collection vehicles;

E. Located in a manner so as not to hinder travel lanes, walkways, streets or adjacent properties;

F. On a level, hard surface designed to discharge surface water runoff and avoid ponding;

G. Maintained by the property owner;

H. Used only for purposes of storing solid waste and recyclable materials;

I. Designed in accordance with applicable sections of the Oregon City Municipal Code (including Chapter 8.20—Solid Waste Collection and Disposal) and city adopted policies.

Finding: Not applicable. No buildings or specific site improvements are proposed at this time. Compliance with this standard will be determined with the subsequent DDP submittal. The applicant has not requested an adjustment to this standard.

17.62.095 *Performance guarantees.*

Finding: Applies. The applicant may provide a performance guarantees as identified in the Oregon City Municipal Code with the subsequent Detailed Development Plan application.

CHAPTER 17.52 – OFF-STREET PARKING AND LOADING

17.52.010 *Applicability.*

The construction of a new structure or parking lot, or alterations to the size or use of an existing structure, parking lot or property use shall require site plan review approval and compliance with this chapter. This chapter does not apply to single- and two-family residential dwellings.

Finding: Not applicable. No buildings or specific site improvements are proposed at this time. Compliance with this standard will be determined with the subsequent DDP submittal. The applicant has not requested an adjustment to this section with this application. The application includes tables with calculations of minimum and maximum parking requirements for the subsequent Detailed Development Plan proposal that appear to indicate compliance with this section, however, it is not applicable at this time.

CHAPTER 17.54 SUPPLEMENTAL ZONING REGULATIONS AND EXCEPTIONS

17.54.010.D Swimming Pools. *In-ground and above-ground swimming pools shall be constructed not less than three feet from the side or rear yard lines. Swimming pools shall comply with the front yard requirement for the principal building. A pool must be surrounded by a fence no less than four feet in height or a suitable alternative such as a locked or electric cover, approved by the building official.*

Finding: Not applicable. No swimming pools are proposed with this application.

17.54.100 – Fences

Fence, Setback and Height Limitations.

A. Generally. Fence, hedge, or wall.

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

2. Hedges shall not be more than forty-two inches in the underlying front yard setback. Individual plants and trees taller than forty-two inches tall may be permitted provided there is at least one foot clearance between each plant.

3. Property owners shall ensure compliance with the traffic sight obstruction requirements in Chapter 10.32 of the Oregon City Municipal Code.

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

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

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

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

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

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

Finding: Complies as Proposed. The proposed mass grading includes the installation of multiple retaining walls which are less than the maximum height allowed. Pursuant to (4) above the applicant is requesting an alternative retaining wall height through the land use process for this mixed-use property.

The application states:

“Requested Adjustment #1 – 17.54.100.A(1) Generally. Fence, hedge, or wall. As shown on the Grading Plan – South, Sheet C4.1, two approximately 9-foot retaining walls are proposed within 40 feet of Main Street and in front of Building D located at the southern end of Phase 2. The walls will be terraced in order to break up the vertical height. Landscaping will be included to screen the wall. The top wall will include a railing. Patterned detailing will be added to the face of the wall in order to break up the massing. The wall is necessary to prevent site development from encroaching into the public street.”

“A second retaining wall is proposed between the Building A buildings and the esplanade that exceeds the maximum fence, hedge, or wall requirement as shown on the Grading Plan – Center, Sheet C4.2. A 42-inch railing is proposed on top of the approximately 10-foot retaining wall as shown on the Color Perspectives included in Exhibit O.”

See Exhibit M, Proposed Adjustments Legend and application plan sheets C.2.3. Application Exhibit A includes typical building elevations illustrating the proposed adjustment, and the applicant has described the proposed adjustments on Pages 109-112 of their submitted narrative.

CHAPTER 17.41 - TREE PROTECTION STANDARDS

17.41.020 Tree Protection – Applicability.

1. Applications for development subject to Chapter 16.08 or 16.12 (Subdivision or Minor Partition) or Chapter 17.62 (Site Plan and Design Review) shall demonstrate compliance with these standards as part of the review proceedings for those developments.
2. For public capital improvement projects, the City Engineer shall demonstrate compliance with these standards pursuant to a Type II process.
3. Tree canopy removal greater than 25% on sites greater than 25% percent slope, unless exempted under section 17.41.040, shall be subject to these standards.
4. A heritage tree or grove which has been designated pursuant to the procedures of Chapter 12.08.050 shall be subject to the standards of this section.

Finding: Complies with Conditions. With CP 08-01, the applicable tree removal criteria were identified in OCMC Chapter 16.12.310 prior to adoption of this Chapter. A tree removal and protection plan for the Master Plan area was previously approved in 2008 under Planning file CP 08-05 and has been updated to reflect the locations of trees in relation to the revised site layout as indicted on the Early Grading Plan DDP Submittal, plan sheet C110. Condition of approval #13 of Planning file CP 08-05 requires the applicant to submit a revised tree removal plan with any subsequent site plan that identifies trees that are to be removed that are not located within the vegetated corridor or proposed right-of-ways, easements, building pads, public walkways and parking lots. Trees that are not located within one of the identified locations above shall be mitigated for per the replacement schedule identified below in Table 16.12.310-1.

The submitted plan indicates that 63 trees located outside of the delineated NROD boundary are proposed for removal. This is unavoidable, given the proposed extent of cut and fill necessary to comply with development regulations for the floodplain requirements, construct the building pads and parking lots, make street improvements, and comply with geotechnical recommendations. An overview of the proposed earthwork that illustrates this is provided on Sheet C4.0.

TREE REMOVAL TOTALS

(63) TREES TO BE REMOVED (OUTSIDE OF NROD)

PUBLIC ROW:

(10) EXISTING TREES TO BE REMOVED TOTALING
(130) CALIPER INCHES

WATERFRONT RESIDENCES & ESPLANADE:

(53) EXISTING TREES TO BE REMOVED TOTALING
(702) CALIPER INCHES

TREE MITIGATION IS ONLY REQUIRED IN THE RESIDENCES & ESPLANADE FOR (27) EXISTING TREES THAT FALL OUTSIDE OF NROD, EASEMENTS, AND HARDSCAPE. ALL OTHER TREES DO NOT REQUIRE MITIGATION PER CONDITION OF APPROVAL #13 FOUND WITHIN THE LAND USE DECISION FILE # CP 08-05 / DP 08-13, DATED 01/26/2009.

Tree removal proposed within the NROD is described in the NROD Report, dated August 6, 2018, prepared by Pacific Habitat Services and mitigation for NROD tree impacts is discussed separately in the same report (*Please see findings under OCMC 17.49*).

Table 16.12.310-1
Tree Replacement Requirements

Size of Tree Removed (Inches in diameter)	Number of Trees to be Planted.
6 to 12	3 trees
13 to 18	5 trees
19 to 24	8 trees
25 to 30	10 trees
31 and over	15 trees

The applicant has not provided a proposed form of mitigation for tree removal at this time. Options include planting new mitigation trees on-site, within the NROD, off-site, or through the payment of fee-in-lieu, or some combination of these options.

In accordance with the original Condition of Approval #13 of CP 08-05 / DP 08-13, the applicant shall propose suitable mitigation for the tree removal outside of the NROD area through planting of new mitigation trees on-site, within the NROD, off-site, or through the payment of fee-in-lieu, or some combination of these options with the subsequent Detailed Development Plan submittal for the Phase 2 buildings. **It is reasonable, practicable and likely that the applicant can meet this standard through the Conditions of Approval.**

CHAPTER 12.08 - PUBLIC AND STREET TREES

12.08.015 - Street tree planting and maintenance requirements.

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

Finding: Not applicable. Street tree requirements will be addressed through landscape planting plans as part of the subsequent DDP submittal.

CHAPTER 15.48 - GRADING, FILLING AND EXCAVATING

15.48.030 Applicability—Grading permit required.

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

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

Finding: Applicable. The development exceeds the sizing thresholds.

15.48.090 Submittal requirements.

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

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

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

Finding: Not Applicable. The development exceeds the sizing thresholds for an abbreviated plan.

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

Finding: Complies with condition. This is a standard requirement for a development. A final mass grading plan will be required. The City's geotechnical engineer has recommended conditions of approval that will provide more specificity. See discussion in 17.44. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

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

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

Finding: Complies with condition. Geotechnical Reports are included with this submittal under Exhibit G to address geohazards and soil stability. This is a standard requirement for a development. The City's geotechnical engineer has recommended conditions of approval that will provide more specificity. See discussion in 17.44. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

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

Finding: Not applicable. Site grading will be accomplished with an overall grading plan.

CHAPTER 17.47 - EROSION AND SEDIMENT CONTROL

17.47.030 - Applicability.

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

B. This chapter does not apply to work necessary to protect, repair, maintain or replace existing structures, utility facilities, roadways, driveways, accessory uses and exterior improvements in response to emergencies,

provided that after the emergency has passed, adverse impacts are mitigated in accordance with applicable standards.

Finding: Applicable. Measurable erosion will be created with the development.

17.47.060 - *Permit required.*

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

Finding: Applicable. Erosion Control permit is required as standard procedure for all construction plans.

17.47.070 - *Erosion and sediment control plans.*

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

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

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

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

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

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

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

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

Finding: Complies with condition. An Erosion Control Plan is included with the Plan Set under Exhibit B.1 and Exhibit B.2 that identifies sediment fence, compost wattles, slope stabilization matting, and temporary sediment pond as erosion prevention measures to be installed during construction to prevent and restrict the discharge of sediments.

The applicant shall provide a final Erosion Prevention and Sedimentation Control Plan to the City for approval in conjunction with the grading plan. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

CHAPTER 12.04 - STREETS, SIDEWALKS AND PUBLIC PLACES

12.04.003 Applicability.

Finding: Complies with Conditions. Compliance with this section will be determined with the subsequent detailed development plan application for street and site improvements, utilities and buildings on the property. The proposed CDP Amendment includes changes to the cross section of Agnes Avenue. While a DDP for building architecture and site plan review will be submitted later, the applicant is requesting preliminary approval of the changes to Agnes Avenue at this time. These changes are described below:

Agnes Avenue Cross-Section Change (CDP Amendment Request)

The updated cross-sections are shown on the Typical Section sheet, Sheet C3.3 of the CDP Plan Set included in Exhibit B.1. The proposed sections with the CDP Amendment request are described below:

Agnes Avenue – South – Sidewalk both sides: The proposed right-of-way varies along this section. The section includes two (2) 6-10-foot sidewalks, two (2) curb and planter strips, a 5- 8.5-foot curb and planter strip on the west side of the street, and a 5-9-foot curb and planter strip on the east side of the street, two (2) travel lanes, a 11-32-foot travel lane on the west side of the street and a 11-28-foot travel lane on the east side of the street, and one (1) 6-foot bike lane on the east side.

Locations for storm sewer, sanitary sewer, water, phone, power, cable, and gas utilities are identified. The landscape areas shall not exceed a 5:1 slope in the public utility easement, and a 3:1 slope everywhere else. The public utility easement will be 5-feet wide, with extensions in limited areas for utility vaults. The bike lane will not be present where a 10-foot east side sidewalk is provided.

Agnes Avenue – North – No east sidewalk: The proposed right-of-way varies along this section. The section includes one (1) 6.5-foot curb and sidewalk on the west side, one (1) 8-foot parallel parking area on the west side, two (2) 11-foot travel lanes, one (1) 6-foot bike lane on the east side, and one (1) 12.5-foot curb and planter swale on the east side with an adjacent landscaping strip of varied widths.

Locations for storm sewer, sanitary sewer, water, phone, power, cable, and gas utilities are identified. The landscape areas shall not exceed a 5:1 slope in the public utility easement, and a 3:1 slope everywhere else. The public utility easement will be 5-feet wide, with limited extensions for utility vaults.

Agnes Avenue – Central – Double parking: The proposed right-of-way for this section is 80.5- feet. The section includes two (2) sidewalks – a 9.5-foot curb and sidewalk with tree wells on the west side and a 6.50-foot sidewalk on the east side, one (1) 19.5-foot area of 60-degree angled parking on the west side, one (1) 8-foot area of parallel parking on the east side, two (2) travel lanes – a 14-foot travel lane on the west side and a 11-foot travel lane on the east side, one (1) 6-foot travel bike lane on the east side, and one (1) 6-foot landscaping strip on the east side.

The location of storm sewer, sanitary sewer, and water utilities are identified. One (1) 5-foot franchise utility zone is located on the west side of the street. Angled parking allows for 1.7-feet of overhang depth. Landscaped areas will not exceed 3:1 slopes.

Agnes Avenue – Central – Rain Garden: This section is identical to the Central – Double parking section above, except that the 8-foot parallel parking area and 6.5-foot sidewalk on the east side are replaced by an 8.5-foot curb and rain garden and a 6-foot sidewalk.

Public Works – Development Services engineering staff have reviewed the applicant's requests to slightly modify the street sections that will be proposed for the Agnes Avenue right-of-way and agrees in concept to the proposals described above. The applicant shall comply with the applicable standards of Chapter 12.04 and respond to the requirements of section 12.04.007 – *Modifications* at the time a Detailed Development Plan

application for the Phase II site improvements, street sections and buildings is submitted for approval. **The applicant can meet these standards through the Conditions of Approval.**

CHAPTER 13.12 STORMWATER MANAGEMENT

13.12.050 *Applicability and exemptions.*

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

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

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

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

Finding: Not Applicable. There are no conveyance systems proposed.

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

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

Finding: Not Applicable. No impervious areas are proposed.

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

- 1. An exemption to the flow control requirements of this chapter will be granted when the development site discharges to the Willamette River, Clackamas River or Abernethy Creek; and either lies within the one hundred-year floodplain or is up to ten feet above the design flood elevation as defined in Chapter 17.42, provided that the following conditions are met:*
 - a. The project site is drained by a conveyance system that is comprised entirely of manmade elements (e.g. pipes, ditches, culverts outfalls, outfall protection, etc.) and extends to the ordinary high water line of the exempt receiving water; and*
 - b. The conveyance system between the project site and the exempt receiving water has sufficient hydraulic capacity and erosion stabilization measures to convey discharges from the proposed conditions of the project site and the existing conditions from non-project areas from which runoff is collected.*
- 2. Projects in the following categories are generally exempt from the water quality and flow control requirements:*
 - a. Stream enhancement or restoration projects approved by the city.*
 - b. Farming practices as defined by ORS 30.960 and farm use as defined in ORS 214.000; except that buildings associated with farm practices and farm use are subject to the requirements of this chapter.*
 - c. Actions by a public utility or any other governmental agency to remove or alleviate an emergency condition.*
 - d. Road and parking area preservation/maintenance projects such as pothole and square cut patching, surface sealing, replacing or overlaying of existing asphalt or concrete pavement, provided the preservation/maintenance activity does not expand the existing area of impervious coverage above the thresholds in subsection B of this section.*

- e. *Pedestrian and bicycle improvements (sidewalks, trails, pathways, and bicycle paths/lands) where no other impervious surfaces are created or replaced, built to direct stormwater runoff to adjacent vegetated areas.*
- f. *Underground utility projects that replace the ground surface with in-kind material or materials with similar runoff characteristics.*
- g. *Maintenance or repair of existing utilities.*

Finding: Applicable. The development meets criteria in Subsection 1 due to elevations, location adjacent to Clackamas River, and conveyance pipe location does not apply in a mass grading proposal.

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

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

Finding: Not applicable. No development is proposed with the mass grading of this property.

13.12.060 *Abrogation and greater restrictions.*

Where the provisions of this chapter are less restrictive or conflict with comparable provisions of other portions of this code, regional, state or federal law, the provisions that are more restrictive shall govern. Where this chapter imposes restrictions that are more stringent than regional, state or federal law, the provisions of this chapter shall govern. However, nothing in this chapter shall relieve any party from the obligation to comply with any applicable federal, state or local regulations or permit requirements.

Compliance with this chapter and the minimum requirements, minimum standards, and design procedures as set forth in the city's adopted Public Works Stormwater and Grading Design Standards does not relieve the designer, owner, or developer of the responsibility to apply conservative and sound professional judgment to protect the health, safety and welfare of the public. It is not the intent of this chapter to make the city a guarantor or protector of public or private property in regard to land development activity.

Finding: Applicable. The construction plans that will be submitted for approval for the mass grading and erosion control will be stamped by the appropriate design professionals certifying compliance with all applicable codes.

13.12.070 - *Severability.*

The provisions of this chapter are severable. If any section, clause, or phrase of this chapter is adjudged invalid by a court of competent jurisdiction, the decision of that court shall not affect the validity of the remaining portions of this ordinance.

Finding: Not applicable. This application is not subject of any court action at this time.

13.12.080 - *Submittal requirements.*

- A. *Applications subject to stormwater conveyance, water quality, and/or flow control requirements of this chapter shall prepare engineered drainage plans, drainage reports, and design flow calculation reports in compliance with the submittal requirements of the Public Works Stormwater and Grading Design Standards.*

B. Each project site, which may be composed of one or more contiguous parcels of land, shall have a separate valid city approved plan and report before proceeding with construction.

Finding: Complies as proposed. The applicant submitted the required grading plans (Exhibit B.1 and B.2) and preliminary stormwater reports (Exhibit S) with this application.

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

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

A. The plan and report demonstrate how the proposed development and stormwater facilities will accomplish the purpose statements of this chapter.

Finding: Complies as proposed. The applicant stated “The Early Grading project does not trigger any water quality requirements as laid out in the Oregon City Stormwater and Grading Design Standards. Due to the large amounts of earthwork proposed with this project, many precautions will be taken to prevent sediment-laden runoff from

leaving the site, including multiple temporary sediment ponds that are sized to accommodate the runoff volume from the 2-year storm event.”

The submitted preliminary materials appear to comply with the standards; therefore, it is reasonable to assume that final materials that will be required with construction plan submittals will also comply.

13.12.090.B *The plan and report meet the requirements of the Public Works Stormwater and Grading Design Standards adopted by resolution under Section 13.12.020.*

Finding: Complies as proposed. The applicant stated “The Early Grading project does not trigger any water quality requirements as laid out in the Oregon City Stormwater and Grading Design Standards. Due to the large amounts of earthwork proposed with this project, many precautions will be taken to prevent sediment-laden runoff from

leaving the site, including multiple temporary sediment ponds that are sized to accommodate the runoff volume from the 2-year storm event.”

The submitted preliminary materials appear to comply with the standards; therefore, it is reasonable to assume that final materials that will be required with construction plan submittals will also comply.

13.12.090.C *The storm drainage design within the proposed development includes provisions to adequately control runoff from all public and private streets and roof, footing, and area drains and ensures future extension of the current drainage system.*

Finding: Complies as proposed. The applicant stated “The Early Grading project does not trigger any water quality requirements as laid out in the Oregon City Stormwater and Grading Design Standards. Due to the large amounts of earthwork proposed with this project, many precautions will be taken to prevent sediment-laden runoff from

leaving the site, including multiple temporary sediment ponds that are sized to accommodate the runoff volume from the 2-year storm event.”

The submitted preliminary materials appear to comply with the standards; therefore, it is reasonable to assume that final materials that will be required with construction plan submittals will also comply.

13.12.090.D *Streambank erosion protection is provided where stormwater, directly or indirectly, discharges to open channels or streams.*

Finding: Complies with condition. The applicant has proposed several sediment basins to protect Clackamette Cove from the mass grading operations. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

13.12.090.E *Specific operation and maintenance measures are proposed that ensure that the proposed stormwater quantity control facilities will be properly operated and maintained.*

Finding: Complies with condition. This application is only for mass grading of the Phase 2 site. Stormwater detention is not required for this proposal. However, it should be noted that the required stormwater *quality* control facilities may require an operation and maintenance plan and recorded covenant in accordance with the Stormwater and Grading Design Standards if it is deemed the sedimentation basins are not temporary. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

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

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

Finding: Not applicable. The applicant has not proposed alternate methods. Should the applicant propose alternate design with submittal of construction plans, the design will be reviewed by City Engineer for compliance with the intent of this code.

13.12.110 *Transfer of engineering responsibility.*

Project drainage plans shall always have a project engineer. If the project engineer is changed during the course of the work, the city shall be notified in writing and the work shall be stopped until the replacement engineer has agreed to accept the responsibilities of the project engineer. The new project engineer shall provide written notice of accepting project responsibility to the city within seventy-two hours of accepting the position as project engineer.

Finding: Not applicable. The applicant has not requested a transfer of engineering responsibility at this time. The City utilizes a standard agreement that identifies the engineer-of-record for public improvement projects. Should the need arise after construction plan preparation has begun, the City will implement a new agreement identifying the responsible party.

13.12.120 *Standard construction specifications.*

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

Finding: Applicable. The development will consist of elements that will need to comply with the stated construction standards. Applicable standards will be determined at time of construction plan review and will be carried out during inspection of the public improvement construction.

13.12.130 - Administrative provisions.

An applicant shall submit the following additional items to the city and complete the following tasks prior to proceeding with construction of proposed development plans. These items include the following:

- A. *Engineer's cost estimate (also may be known as engineer's opinion of probable construction cost).*
- B. *Plan check and inspection fees (as set by city resolution).*
- C. *Certificate of liability insurance for city funded public projects contracted by the city (not less than one million dollars single incident and two million dollars aggregate).*
- D. *Preconstruction meeting (if required by some other provision of this code).*
- E. *Performance Assurance(s). Applicant must submit a letter of commitment, cash deposit or other form of assurance in form and substance satisfactory to the city engineer and city attorney, to cover the engineer's cost estimate for the construction of the stormwater facility. This is required to assure that the following are accomplished to the satisfaction of the city engineer:*
 - 1. *Work shown on the development plans is accomplished;*
 - 2. *Appropriate as-built/record drawings and electronic files are delivered to the city. (As-built drawings, or record drawings, will be on four-mil Mylar.) Electronic files shall be submitted per city engineer format requirements;*
 - 3. *Compliance with the criteria in this chapter and the Public Works Stormwater and Grading Design Standards, as well as with other city standards, ordinances, resolutions or rules;*
 - 4. *Permanent stabilization and/or restoration of the impact from the development;*
 - 5. *Fulfillment of all conditions of approval;*
 - 6. *Payment of all outstanding fees;*
 - 7. *Submittal of any required maintenance guarantee(s).*
- F. *Developer/engineer agreement for public works improvements.*
- G. *Land division compliance agreement (if applicable).*
- H. *Project engineer's certificate of completion.*
- I. *Operation and maintenance easement (if applicable).*
- J. *Details on individual items required by this subsection can be obtained by contacting the city's engineering division. Many items, such as the engineer's cost estimate and plan check and inspection fee, maybe be submitted in conjunction with documentation for other infrastructure improvements that are done with the development (such as street, sanitary sewer, and water).*

Finding: Applicable. These administrative provisions will be implemented per Public Works standard operating procedures upon submittal of public improvement construction plans.

13.12.140 Maintenance of public stormwater facilities.

- A. *A stormwater facility that receives stormwater runoff from a public right-of-way shall be a public facility. Upon expiration of the warranty period and acceptance by the city as described below, the city shall be responsible for maintenance of those public stormwater facilities. Access for maintenance of the stormwater facilities shall be provided to the city through the granting of a stormwater easement or other means acceptable to the city.*
- B. *Responsibility for maintenance of stormwater facilities including all landscaping, irrigation systems, structures and appurtenances shall remain with the property owner/developer for two years (known as the warranty period). The owner/developer shall provide the city a separate two-year landscaping maintenance bond for one hundred ten percent of the landscaping cost. Transfer of maintenance of stormwater conveyance systems shall occur when the city accepts the stormwater conveyance system.*
- C. *The city will perform an inspection of the development's entire publicly maintained stormwater system approximately forty-five days before the two-year warranty period expires. The stormwater system must be found to be in a clean, functional condition by the city engineer before acceptance of maintenance responsibility by the city.*

Finding: Not applicable. The stormwater management facilities are proposed to be constructed on the private site and will not be maintained by the City as public facilities.

13.12.145 Maintenance of private stormwater facilities.

- A. *An applicant shall submit an operation and maintenance plan for each proposed stormwater facilities, unless exempted in the Public Works Stormwater and Grading Design Standards. The information in the operation and maintenance plan shall satisfy the requirements of the Public Works Stormwater and Grading Design Standards.*
- B. *Private owners are required to inspect and maintain stormwater facilities on their property in accordance with an approved operation and maintenance plan. A maintenance log is required to document facility inspections and specific maintenance activities. The log shall be available to city inspection staff upon request.*
- C. *Failure to operate or maintain a stormwater facility according to the operation and maintenance plan may result in an enforcement action under Section 13.12.150.*

Finding: Complies with condition. Compliance with the Stormwater and Grading Design Standards may require an operation and maintenance plan and recorded covenant in accordance with the Stormwater and Grading Design Standards if it is deemed the sedimentation basins are not temporary. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

13.12.150 - Penalties and enforcement.

- A. *The city is authorized to make inspections and take such actions as required to enforce the provisions of this chapter. The city has the authority to enter onto land for the purpose of inspecting site development activities or resulting improvements. City staff will make an effort to contact the property owner before entering onto that property.*
- B. *If the city engineer determines a site has any unpermitted or illegal facilities placed, constructed or installed on the site, then the city engineer shall notify the owner in writing directing the owner to submit a written plan (with construction drawings completed by a professional engineer, if otherwise required by this chapter) within ten calendar days. This plan (and drawings, if required) shall depict the restoration or stabilization of the site or correct the work that has adversely impacted adjacent or downstream property owners. The city engineer shall review the plan (and drawings, if required) for compliance with city standards and issue comments for correction, if necessary, or issue an approval to the owner. The city shall establish a fee by resolution for such review, with all costs borne by the owner. If the required corrective work constitutes a grading permit, then the city shall collect the appropriate grading permit fee.*
- C. *Any person, firm, corporation or entity violating any of the provisions of this chapter, whether they be the property owner, the applicant, the contractor or any other person acting with or without the authorization of the property owner or applicant, shall be subject to the code enforcement procedures of Chapters 1.16, 1.20 and 1.24.*

Finding: Applicable. These provisions will be covered in the standard agreements to be executed during the construction review process.

13.12.160 Hazardous conditions.

- A. *Determination and Notification. If the city engineer determines that any excavation, embankment, erosion/sedimentation control or drainage facility is a safety hazard; endangers property; or adversely affects the safety, use or stability of a public way, water quality resource areas (pursuant to [Chapter] 17.49) or drainage course, the owner(s) of the subject property and/or the person or agent in control of the property shall be required to repair or eliminate the hazard in conformance with the requirements of this chapter and the Public Works Stormwater and Grading Design Standards. At the time that the city engineer makes the determination that a hazardous condition exists, the property owner and/or person or agent in control of the property will be notified in writing that the hazard exists.*

- B. *Order to Correct. The city engineer will order the specific work to be undertaken or will order that an engineering design be submitted for review and approval by the city engineer, and will specify the time periods within which the hazardous conditions be repaired or eliminated. In the event that the owner and/or the person or agent in control of the property fails to comply with this order, that person shall be subject to the code enforcement procedures of Chapters 1.16, 1.20, and 1.24.*

Finding: Not applicable. No hazardous conditions have been created by construction, as construction has not commenced.

13.12.170 *Permits from other jurisdictions.*

- A. *The Oregon State Department of Environmental Quality (DEQ) currently issues NPDES 1200-C permits for projects that cover areas of one acre or greater. No permit shall be issued for projects of this size (or any other size as modified by DEQ) without a copy of said DEQ permit being on file with Oregon City. DEQ is responsible for policing its own permits; however, if city personnel observe conditions that are believed to be in violation of any such permit, and cannot get corrections made, the city will bring such conditions to the attention of the appropriate DEQ representatives.*
- B. *Projects may require Oregon State Division of State Lands (DSL) and/or United States Army Corps of Engineers (USACE) permits. If such permits are required, no permission to construct will be granted until such a time as a copy of such permit is on file with the city or notice is received from those agencies that a permit is not required. DSL/USACE is responsible for enforcing its own permits; however, if city personnel observe conditions that are believed to be in violation of any such permit, and cannot get corrections made, the city will bring such conditions to the attention of the appropriate DSL/USACE representatives.*
- C. *Projects may require Oregon State Department of Fish and Wildlife (ODFW) permits. When ODFW permits are required, no work will be authorized until the receipt of a copy of the ODFW permit. ODFW is responsible for policing its own permits; however, if city personnel observe conditions that are believed to be in violation of any such permit, and cannot get corrections made, the city will bring such conditions to the attention of the appropriate ODFW representatives.*

Finding: Complies with condition. The proposed development will exceed one acre and thus will require an NPDES 1200-C permit from Oregon DEQ. The permit will be required prior to construction plan approval. It is possible that DEQ can issue one permit to encompass all phases of the development. A condition has been applied to ensure the permit is obtained in a timely fashion or that it still applies from previous phases. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

13.12.180 *Violation—Penalty.*

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

Finding: Not Applicable. No violations have been identified.

CHAPTER 17.65 MASTER PLANS

The applicant has proposed amendments to the Master Plan including the following:

- **Phasing:** The phasing of the Master Plan has been amended as identified below and validity of the Master Plan is proposed to be extended 10 years for an overall time of 20 years from the original approval date.
- **Subdivision:** The lot lines are being altered and additional lots created. Significant changes include changes from lots 3-10 and changing Tract A to a lot.
- **Lots 3-7:** The use is amended from 195 units with two restaurants (total 3,250 square feet) and 8,712 square feet of office to eight structures with 404 apartment units, approximately 20 live-work units, and

approximately 11,000 SF of retail, restaurant, or office space. Establish separate tax lots for each building so that Lots 3-7 become Lots 3-10.

- **Tract D:** Though the use of the north park is being retained, the stormwater facility, and parking lot will be expanded with park storage areas and the timing of the park improvements is amended.
- **Tract A:** The tract is proposed to be converted to a lot which will allow the exchange of ownership. Future uses include a variety of options ranging from parking, habitat, residential above parking, or commercial above parking.
- **Lot 1:** Elimination of a formerly planned 50,400 SF office building from Lot 1. Additionally, the temporary parking lot located on Lot 1 will remain beyond Installation of Phase 2. Future uses of the site range from parking, habitat, residential above parking, or commercial above parking.
- **Plaza:** The esplanade will remain as previously approved, providing pedestrian access from Main Street to Tract D along a 20-foot paved path. However, accent paving will enhance pedestrian access to the buildings, and a “festival plaza” will enhance pedestrian access for the public.
- **Grading of Cove Banks:** The grading plan has been amended to reduce the steepness of the slope on lots 3-10 and amend the grading on Lot 1.
- **Agnes Avenue Cross-Section Change**

The updated cross-sections are shown on the Typical Section sheet, Sheet C3.3 of the CDP Plan Set included in Exhibit B.1. The proposed sections with the CDP Amendment request are described below:

- **Agnes Avenue – South – Sidewalk both sides:** The proposed right-of-way varies along this section. The section includes two (2) 6-10-foot sidewalks, two (2) curb and planter strips, a 5- 8.5-foot curb and planter strip on the west side of the street, and a 5-9-foot curb and planter strip on the east side of the street, two (2) travel lanes, a 11-32-foot travel lane on the west side of the street and a 11-28-foot travel lane on the east side of the street, and one (1) 6-foot bike lane on the east side.
- Locations for storm sewer, sanitary sewer, water, phone, power, cable, and gas utilities are identified. The landscape areas shall not exceed a 5:1 slope in the public utility easement, and a 3:1 slope everywhere else. The public utility easement will be 5-feet wide, with extensions in limited areas for utility vaults. The bike lane will not be present where a 10-foot east side sidewalk is provided.
- **Agnes Avenue – North – No east sidewalk:** The proposed right-of-way varies along this section. The section includes one (1) 6.5-foot curb and sidewalk on the west side, one (1) 8-foot parallel parking area on the west side, two (2) 11-foot travel lanes, one (1) 6-foot bike lane on the east side, and one (1) 12.5-foot curb and planter swale on the east side with an adjacent landscaping strip of varied widths.
- Locations for storm sewer, sanitary sewer, water, phone, power, cable, and gas utilities are identified. The landscape areas shall not exceed a 5:1 slope in the public utility easement, and a 3:1 slope everywhere else. The public utility easement will be 5-feet wide, with limited extensions for utility vaults.
- **Agnes Avenue – Central – Double parking:** The proposed right-of-way for this section is 80.5- feet. The section includes two (2) sidewalks – a 9.5-foot curb and sidewalk with tree wells on the west side and a 6.50-foot sidewalk on the east side, one (1) 19.5-foot area of 60-degree angled parking on the west side, one (1) 8-foot area of parallel parking on the east side, two (2) travel lanes – a 14-foot travel lane on the west side and a 11-foot travel lane on the east side, one (1) 6-foot travel bike lane on the east side, and one (1) 6-foot landscaping strip on the east side.
- The location of storm sewer, sanitary sewer, and water utilities are identified. One (1) 5-foot franchise utility zone is located on the west side of the street. Angled parking allows for 1.7-feet of overhang depth. Landscaped areas will not exceed 3:1 slopes.

- Agnes Avenue – Central – Rain Garden: This section is identical to the Central – Double parking section above, except that the 8-foot parallel parking area and 6.5-foot sidewalk on the east side are replaced by an 8.5-foot curb and rain garden and a 6-foot sidewalk.
- **Agnes Extension.** The Agnes Avenue extension through the WES property has been removed and replaced by a temporary emergency access easement from the cul-de-sac at the north end of Agnes Avenue through Tract E to connect to the existing internal roadway at the sewer plant.
- **WES Property.** Parking on the WES property, previously proposed with 322 spaces during Phase 3, has been removed. On-street parking along Agnes Avenue is now proposed.
- Amended conditions of approval as discussed in this narrative
- **Shoreline Enhancement Activities.** As noted above and in the floodplain memo included under Exhibit H, The Cove waterfront residences project is required to balance the impacts created on the floodplain storage. In order to offset the large fill volume that is placed in the area of Lots 3-7, excavation will occur on the Lot 1, Tract D, and Esplanade sites. These three sites together will be able to provide enough floodplain capacity to offset the amount of floodplain impact caused by the Waterfront Residences and Agnes Ave construction, and provide an additional floodplain surplus capacity of approximately 6,750 CY.
- **Adjustments**
 1. 17.54.100.A(1) Generally. Fence, hedge, or wall. Two approximately 9-foot retaining walls are proposed within 40 feet of Main Street and in front of Building D, exceeding the maximum height of 42". A 10-foot retaining wall is proposed between the Building A buildings and the esplanade exceeding the maximum height of 8.5'.
 2. 17.54.105.A(1) - Live/work units. Live/work units in Buildings D provide 43-feet of linear glazing on a 93-foot long façade, which constitutes 46% transparency, less than the minimum of 50%.
 3. 17.62.050.A(2)(a) – Vehicular Access and Connectivity. A parking lot is proposed to be located between the buildings in phase 2 and the street.
 4. 17.62.050.A(2)(e) – Vehicular Access and Connectivity. The proposal includes multiple driveways to Agnes Avenue, in excess of one per frontage.
 5. 17.62.050.A(9)(a) – As the parking lots are located between the street and the building, the proposal would include a pedestrian connection connecting the two which crosses a drive aisle which do not provide a direct pedestrian connection.
 6. 17.62.050.A(20)(b) – Screening of Mechanical Equipment. Placement of natural gas meters on the street-facing façade of the waterfront residences facing Agnes Avenue.
 7. 17.62.055.H(2) – Minimum Wall Articulation. Alterations to the design standards for the Building A buildings.
 8. 17.62.057.F(1) – Pedestrian Circulation. As the parking lots are located between the street and the building, the proposal would include a pedestrian connection connecting the two which crosses a drive aisle which do not provide a direct pedestrian connection.
 9. 17.62.057.G – Architectural and Material Standards. The facades of all the buildings do not have the depth of modulation required.
 10. 17.62.057.I – Diversity of Unit Types. The mix of units proposed does not comply with the 10% minimum standard per type.
 11. 17.62.057.L(2) – Window Design. The window trim size and recess/projection does not comply with the standard.
 12. 17.62.065.D - General Outdoor Lighting Standard and Glare Prohibition. The maximum lighting levels would exceed the master plan.

Staff added the following adjustment:

 13. 17.52.030 and 17.52.060 - Allow continuation of a temporary gravel parking lot that does not comply with the parking lot standards or landscaping standards.

17.65.050.A.1. Narrative statement. An applicant must submit a narrative statement that describes the following:
a. Current uses of and development on the site, including programs or services.
b. History or background information about the mission and operational characteristics of the institution that may be helpful in the evaluation of the general development plan.

Finding: Complies as proposed. The applicant submitted a detailed narrative explaining the background of the site.

17.65.050.A.1.c. A vicinity map showing the location of the General Development Plan boundary relative to the larger community, along with affected major transportation routes, transit, and parking facilities. At least one copy of the vicinity map must be eight and one-half inches x eleven inches in size, and black and white reproducible.

d. Non-institutional uses that surround the development site. May also reference submitted maps, diagrams or photographs.

Finding: Complies as proposed. The application included a Vicinity Map.

17.65.050.A.1.e. Previous land use approvals within the General Development Plan boundary and related conditions of approval.

Finding: Complies as proposed. The applicant provided a detailed review of previous land use approvals and the pertinent conditions of approval on Pages 23 through 46 of the application narrative and in Attachments A and B of the application. Staff has reviewed these sections and determined them to be correctly described.

2008 CDP APPROVAL # CP 08-05

1. The applicant shall provide an easement or right-of-way for a vehicular and pedestrian connection between the Oregon City Shopping Center and Main Street extension. The location and design of the connection shall be identified as part of the review during the Detailed Development Plan for the phase 3 development of the project.

Response: This condition has already been addressed with the Phase 1 DDP. Phase 1 of the CDP included a 40-foot public access easement from the western limits of the proposed apartment project to the Oregon City Shopping Center to allow for a future connection when and if the Oregon City Shopping Center is redeveloped and a connection can be made.

2. The applicant shall increase the parking associated with the North Park from 10 spaces to 28 spaces.

Response: The current application addresses this condition. As shown on the Master Plan, Sheet A1.1, Exhibit B.1, approximately 39 to 48 parking spaces will be provided for the North Park. The applicant requests a modification to remove the cap of the number of parking spaces with the North Park.

3. The applicant shall construct Main Street, a collector street designated in the TSP, through and adjacent to the site.

Response: These improvements are currently under construction. It is anticipated that Phase 4 will complete the remainder of Main Street as identified on the updated phasing plan described in this application.

4. The applicant shall construct Agnes Avenue, a collector street designated in the TSP, through and adjacent to the site. As part of the phase 1 development of the site, the applicant shall construct a partial Agnes Avenue, which will include two (2) 5-foot bike lanes, one (1) 11-foot paved section for southbound one-way traffic, one (1) 6.5-foot planter strip and one (1) 6-foot sidewalk from North Park to Washington Street. The other half of Agnes Avenue shall be constructed as proposed by the applicant in phase 6.

Response: Phase 1 improvements to Agnes Avenue were removed in the previously approved CP 15-01.

Construction of Agnes Avenue is now planned for completion in Phase 2. See the Typical Sections sheet, Sheet C3.3 of the CDP plan set included in Exhibit B.1, which detail the Agnes Avenue sections.

5. The applicant shall submit design details of the internal street system including the specifics of intersection spacing, sight distance, bicycle lanes, sidewalks, and pedestrian circulation during the review of the subsequent detailed development plans.

Response: Design details specified above will be submitted during the subsequent DDP and construction plan requests. The Agnes Avenue shed section is detailed in Sheet C3.3 of the CDP plan set, and includes the proposed paved lane widths, bike lanes and sidewalks as previously conditioned from approvals CP 08-05, CP 09- 02, and CP 15-01. A Circulation Plan is found in Exhibit B.1, Sheets C3.0 – 3.2.

6. The applicant has volunteered to provide the Oregon Department of Transportation \$100,000 prior to the issuance of an occupancy permit for the medical office building or residential development, whichever occurs first. These funds may be used for the design and/or construction of phase two of the McLoughlin Enhancement project and/or improvements to Firestone Alley. If ODOT decides to make these improvements prior to receiving the payment from the applicant, the applicant will reimburse ODOT an equal amount, up to \$100,000, prior to the issuance of an occupancy permit for the medical office building or (residential development, whichever occurs first.

Response: Condition of approval #7 of the 2009 CDP amendment (CP 09-02) amended this condition to require an additional \$20,000 contribution with Phase 1. See the response to that condition with applicant findings regarding off-site traffic conditions and operations.

7. The requested adjustment to the perimeter and interior landscaping requirements shall not apply to the above grade parking lots for the medical office building, North Park and the mixed-use building. There will be substantial above grade parking at the medical office-building site (266 spaces), the North Park Parking Lot (28 spaces) and the mixed-use building site (19 spaces), which shall meet the parking lot landscaping requirements of the OCMC.

Response: Compliance of the perimeter and interior landscaping requirements found in OCMC Title 17 for the parking lots will be addressed with submittal of the subsequent detailed development plans. A medical office building is no longer proposed on Lot 1. No change to this condition of approval related to the North Park and mixed-use buildings are anticipated or requested.

8. Water quality treatment shall be provided for the development to mitigate impacts to down-stream receiving waters as set forth in the Oregon City Stormwater Manual and Design Standards.

Response: A 10-foot wide swale was constructed onsite at the garden apartments between Buildings 2, 4, 6, 7, 8, 9, 10 and 11. Additionally, a 12.5-foot wide roadside swale was constructed along Main Street. For Phase 2, a 10.5-foot roadside swale is proposed along the Agnes Avenue shed section. A mix of mechanical and LIDA facilities will be developed with the Phase 2 waterfront residences . A utility plan detailing stormwater facilities will be provided with the subsequent DDP request. Runoff from impervious surfaces on Tract D will be treated with a water quality pond as shown on the Sheet C4.3, Grading Plan – North. A preliminary stormwater drainage report is submitted with this DDP grading application under Exhibit S. A preliminary stormwater drainage report will be submitted with the subsequent DDP application for site buildings.

9. The applicant shall submit a detailed design of the band shelter and meet the construction requirements for a structure within the flood plain per the standards identified in Chapter 17.42: Flood Management Overlay District of the Oregon City Municipal Code. The design shall be approved by the city prior to the issuance of a building permit for the construction of the structure.

Response: The band shelter will be addressed with a subsequent Detailed Development Plan submittal

application and will meet the construction requirements for a structure within the floodplain identified in Chapter 17.42: Flood Management Overlay District.

10. A fill permit will be required either separately or in conjunction with construction plan approvals for these improvements to meet City grading standards and flood plain equal cut and fill requirements.

Response: The applicant will apply for a fill permit in conjunction with construction plan approval requests.

11. The Applicant shall provide an Erosion Prevention and Sedimentation Control Plan to the City for approval pursuant to Oregon City Municipal Code Section 15.48.

Response: A grading and erosion plan is provided for the Phase 2 CDP on Sheets C4.0-4.4. As shown on the plans, inlet protections are proposed at the lowest grade and in the path of the natural directional flow of run-off across the site. A sediment fence is proposed along the Phase 2 site boundaries. At areas with steep slopes, such as the Tract D area (Sheet C4.3), slope stabilization and a temporary sediment pond is proposed during construction. Additionally, stabilized construction entrances are proposed for the anticipated grading activities on Tract D and Lot 1.

12. The applicant is proposing to provide sidewalks and curbs consistent with the City's Engineering Policies and Standards. The applicant has proposed some alternatives using swales thereby perhaps eliminating some curbs, as permitted by the City's Engineering Policy, and will be reviewed and approved during construction plan review.

Response: All the proposed road improvements along the apartment frontage on Main Street and Agnes Avenue are detailed on the CDP Plan Set, Sheets 1.0 - 1.2. These cross sections are consistent with CP 08-05 condition of approval #20 and CP 09-02 condition of approval #4, as well as the City's Engineering Policies and Standards.

13. The applicant shall prepare a revised tree removal plan identifying trees that are to be removed that are not located within the vegetated corridor or proposed right-of-ways, easements, building pads, public walkways and parking lots. The trees that are not located within one of the identified locations above shall be mitigated for per the replacement schedule identified above or as approved by the Community Development Director.

Response: As provided in response to OCMC 17.41.020, the applicant has prepared a revised tree removal plan that identifies tree removal proposed with Phase 2, and whether mitigation is required, the trees are located within the NROD, or exempt from mitigation per site development as described by this condition.

14. The applicant shall submit a revised lighting plan demonstrating compliance with this requirement for the esplanade 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.

Response: A lighting plan will be addressed with the DDP submittal for Phase 2.

15. An adequately sized water service and meter assembly shall be installed and appropriate system development charges shall be paid for each building when it develops as part of the building permit process.

Response: The location of the water facilities will be detailed in the utility plan to be provided with the subsequent DDP request. System Development Charges (SDC) will be paid prior to building permit issuance.

16. New fire hydrants shall be located and installed per Clackamas County Fire District No. 1's requirements.

Response: This condition is superseded by CP 15-01 condition of approval #47, which requires fire hydrants to be located along public street frontages, which will be detailed in utility plans to be provided with the

subsequent DDP application for site buildings.

17. Sanitary sewer laterals shall be installed for the new buildings and appropriate system development charges shall be paid for each building when it develops as part of the building permit process.

Response: The location of sanitary sewer laterals will be detailed in utility plans to be provided with the subsequent DDP application for site buildings. The SDC charges will be paid prior to building permit issuance.

18. The applicant is responsible for this project's compliance with Engineering Policy 00- 01: Guidelines for Development. The policy pertains to any land use decision requiring the applicant to provide any public improvements.

Response: The applicant plans to follow this CDP amendment request with a submittal of a DDP amendment and construction plans for Phase 2 public works improvements that meet the City standards listed in the document entitled Engineering Policy 00-01: Guidelines for Development.

19. The Applicant shall sign a Non-Remonstrance Agreement for the purpose of making sanitary sewer, storm sewer, water or street improvements in the future that benefit the Property and assessing the cost to benefited properties pursuant to the City's capital improvement regulations in effect at the time of such improvement.

Response: No changes to this condition are proposed or requested with this CDP amendment.

20. The Applicant shall construct the following transportation improvements in order to facilitate connectivity and service for vehicles, bicyclists and pedestrians using the development. The first major improvement necessary to serve the condominiums will be the realignment of Agnes Avenue and Main Street. The Applicant is proposing to incorporate two (2) roundabouts into this new alignment in order to add an aesthetic quality to the roadways and to calm and direct traffic. While the City agrees on the concept of the two roundabouts, further design details and increased ROW in the area surrounding the two roundabouts will be required during construction plan review to accommodate a collector function. Main Street and Agnes Avenue are both designated as "collectors" and as such, the Applicant shall realign Main Street and Agnes Avenue with modified collector sections which includes four different sections, as detailed below:

- The first is the Agnes Avenue -- Shed Section which includes two (2) eleven- foot wide travel lanes, one (1) six-foot wide bike lane, a ten (10) and-a-half foot swale, one (1) six (6) foot sidewalk (proposed on the east side but should be moved over to the west side) and a fifteen (15) foot frontage zone.
- The second section is the Agnes Avenue and Main Street Crown Section. This section includes two (2) eleven (11) foot wide travel lanes, two (2) six (6) foot bike lanes, two (2) six-and-a-half (6 .5) foot wide planter strips and two (2) six (6) foot sidewalks.
- The third section is the Main Street Shed Section. This section includes two (2) eleven (11) foot wide travel lanes, two (2) six (6) foot bike lanes, a four-and- a-half (4.5) foot planter strip and a twelve-and-a- half (12.5) foot swale.
- The fourth and final section is Main Street with on-street parking section. This section includes two (2) eleven (11) foot wide travel lanes, two (2) six (6) foot bike lanes, eight (8) feet of parking, a twelve-and- a-half (12.5) foot swale and an eight (8) foot sidewalk.

Response: This condition was amended with the 2009 and 2015 CDP amendment (CP 09- 02 and CP 15-01) conditions of approval. The proposed Agnes Avenue shed sections are shown on Sheet C3.3 of the CDP plan set included in Exhibit B.1. As amended by CP 09-02 condition of approval # 4, no on-street parking is required. A crown section for Agnes Avenue is no longer proposed. Main Street is currently under construction, and adheres to the applicable conditions of approval and provisions in the OCMC.

21. The applicant shall dedicate a 60-foot wide right-of-way for both Agnes Avenue and Main Street. For that portion of Main Street that is adjacent to the proposed recreation facility, where on-street parking is allowed, the applicant shall dedicate a 64-foot wide right-of-way.

Response: This condition was amended with the 2009 CDP amendment (CP 09-02) conditions of approval. As amended by CP 09-02 condition of approval # 4, on- street parking is not required and is not included within the Main Street roadway cross section. Therefore, the required dedication of Main Street and Agnes is 60 feet. This section has been dedicated as stipulated with prior approvals.

22. Where Agnes Avenue fronts the proposed condominiums, the proposed section will be further modified to include two (2) "decoupled" 11-foot travel lanes. Bicycle traffic that would normally have utilized the western portion of the street will be encouraged to use the waterfront esplanade. A six-foot bike lane on the (east side of Agnes Avenue will still be incorporated. The Applicant is proposing the removal of the westernmost sidewalk for this portion of the roadway and the removal of the sidewalk in select sections. The design has been proposed in order to reduce redundancy in impervious surfaces. This section of the roadway will also incorporate seven-foot planted swales and a one-foot utility strip on both sides. Access to Tax Lots 1506 and 1507 shall be maintained and shall be determined during plan review.

Response: The proposed CDP Amendment requests a change to the design of Agnes Avenue, which will be constructed in Phase 2 of the project. Four sections of Agnes Avenue are proposed, which are detailed on Sheet C3.3 of the CDP plan set included in Exhibit B.1.

23. The applicant shall provide a non-vehicular access strip (NVAS) on the final plat as directed along Agnes Avenue and the intersections and curves around the round-abouts to provide safe locations for driveways.

Response: The final plat of the Cove Master Plan was recorded after the first CDP approval. Therefore, this condition of approval is not applicable to the proposed CDP amendment request.

24. The applicant shall provide ten-foot wide public utility easements (PUE's) along all street frontages. All easements required for the final engineering plans shall be dedicated to the public on the final plat. All existing and proposed utilities and easements shall be indicated on the construction plans. Any off-site utility easements required for this project shall be obtained and submitted to the City prior to approval of the construction plans.

Response: Per discussions with City public works and engineering groups and the private utilities, the applicant is requesting 5-foot public utility easements (PUE's) along Agnes Avenue. Where buildings are tight to the proposed right-of-way, no PUE will be provided and the utilities will be located under the public sidewalk.

25. The requested adjustment to increase the medical office building parking from 3.33 to 5.0 parking spaces per 1,000 square feet shall be allowed. The applicant of the phase 3 development of the site shall provide the City with a shared parking agreement prior to the approval of the phase 3 Detailed Development Plan. The agreement will allow public use of at least the difference in the number of spaces allowed between the office standard of 3.33 and the maximum of 5.0 per 1,000 square feet. The time of the shared parking shall be determined by the applicant and City during the phase 3 Detailed Development Plan approval.

Response: As part of the requested amendment, the CDP no longer proposes the medical office building on Lot 1. Therefore, this condition does not apply to this request.

26. To ensure that the public open spaces and pathways are protected, the applicant shall record public access easements over all pathways and open spaces described as open to the public in the application.

Response: No changes to this condition of approval are requested and it is anticipated that public access

easements will be recorded over public pathways and open spaces that are outside of the public right of way.

27. The applicant shall submit a revised parking lot landscaping plan for the North Park parking area(s) demonstrating compliance with the parking lot landscaping requirements of the Oregon City Municipal Code.

Response: This condition is superseded by CP 15-01 condition #6(f). Parking lot landscaping will be addressed in the subsequent DDP and construction plan submittal associated with the waterfront residences.

1. 2009 CDP AMENDMENT # CP 09-02

1. The reduction of the mixed-use building footprint will remove the proposed building from the 50-foot vegetated corridor that was approved through the original application (WR 08-21). The applicant shall revise the landscaping plan and increase the planting within the vegetated buffer to ensure that the areas that were approved from the location of the mixed-use building footprint are replanted as required by the Oregon City Municipal Code.

Response: This condition applies to Phase 1 and is not applicable to the proposed CDP amendment.

2. The applicant has proposed to amend the application to include up to 220 apartment units. The apartment units were not part of the original application and staff recommends that the detailed development plan for the apartments should be required to comply with the Oregon City Municipal Code that when into effect on July 31, 2009.

Response: This condition applies to Phase 1 and is not applicable to the proposed CDP amendment.

3. The applicant and owners of the Tri-City property shall amend the approved Tri-City concept master plan and receive conditional use and detailed development plan approval for the proposed shared parking lot located on the property. Prior to the issuance of a building permit for the medical office/general office building proposed in phase III, the applicant shall have received the approvals identified in this condition of approval.

Response: The applicant is no longer proposing a medical office building with the CDP. Therefore, this condition no longer applies.

4. This condition amends conditions of approval 20 and 21 from the decision for Planning File CP 08-05. Condition of approval number 20 shall be amended as follows to remove the on-street parking street design:

- a. The reference to "The fourth and final section is Main Street" shall be deleted;
- b. "The third section is the Main Street Shed Section. This section includes two (2) eleven (11) foot wide travel lanes, two (2) six (6) foot wide bike lanes, a four-and-a-half (4.5) foot planter strip, a twelve-and-a-half (12.5) foot wide swale and an eight (8) foot wide sidewalk on the north side of the street."

Response: The CDP Plan Set submitted with the approved CP 15-01 application complied with amended conditions of approval 20 and 21 from CP 08-05.

Main Street on-street parking from the right-of-way dedication requirements:

- a. "The applicant shall dedicate a minimum 60-foot wide right-of-way for both Agnes Avenue and Main Street."

Response: Previously approved CDP and DDP applications did not include on-street parking on Main Street. Phase 1 construction of Main Street has been completed and does not include on-street parking. The applicant will dedicate a minimum 60-foot wide right-of-way for Agnes Avenue.

5. The applicant shall submit detailed plans of the restrooms that include the design and exterior materials of the building, landscaping around the facility and how the facility meets the construction requirements for a structure within a flood plain per the standards identified in Chapter 17.42: Flood Management Overlay

District of the Oregon City Municipal Code. The design shall be approved by the city prior to the issuance of a building permit for the construction of the structure. The restrooms shall comply with the detailed development plan code requirements that went into effect on July 31, 2009.

Response: Plans of the restroom structure at the North Park detailing the design and exterior materials of the building will be submitted with future DDP and construction plan applications.

6. The applicant shall provide a half street improvement for Agnes Avenue between Main Street and the North Park as part of the phase 1 development of the site. The $\frac{1}{2}$ street section shall include a minimum of 20 feet of pavement, a 10.5-foot swale and a 6-foot sidewalk.

The applicant shall comply with the condition of approval 4 from Planning File CP 08-05, which requires that as part of the phase 1 development, the applicant shall construct a partial Agnes Avenue that will include two (2) five-foot bike lanes, one

(1) eleven-foot paved section for southbound one-way traffic, one (1) six and a half-foot planter strip and one (1) six-foot sidewalk from the North Park to Washington

Street. The other half of Agnes Avenue shall be constructed as proposed by the applicant in phase 6.

Response: The applicant amended this condition in CP 15-01 to construct Agnes Avenue to its fully improved width in Phase 2 of the project.

7. Per condition of approval 6 from Planning File CP 08-05, the applicant volunteered to provide the Oregon Department of Transportation \$100,000 prior to the issuance of an occupancy permit for the medical office building or residential development, whichever occurs first. Condition of approval 6 shall be amended to require an additional payment from the applicant to the Oregon Department of Transportation in the amount of \$20,000 to mitigate for the additional trips created by the inclusion of the 220 apartment units.

Response: This condition of approval amended condition of approval #6 from the original Concept Development Plan approval and relates to Phase 1 residential occupancy. The developer of the residential development in Phase 1 will provide the fee as conditioned prior to occupancy. This fee does not apply to the proposed CDP amendment.

8. During the detailed development plan for the property south of Main Street, the applicant shall incorporate a pedestrian circulation plan through the site that provides access to safe Main Street pedestrian crossing sites, specifically the round-about at the intersection of Main Street and Agnes Avenue and the two proposed driveways intersections from the site with Main Street. Pedestrian crossing improvements may be necessary, such as a marked crosswalk and sidewalk ramps.

Response: This condition of approval relates to Phase 1 which has been constructed to include the required pedestrian connections as described in this condition.

9. The applicant shall comply with Planning File CP 08-05 as proposed by the applicant and as conditioned by the Planning Commission with the exception of those parts of the previous conditions of approval that have been amended as part of this approval.

Response: This narrative and attached materials are provided as evidence of project compliance with the provisions of CP 08-05, or as subsequently amended.

10. The applicant shall provide a clearly marked pedestrian crossing between the walkway to the North Park and the sidewalk to the future condominiums on the east side of the permanent parking lot.

Response: As shown on the Site Plan, Sheet L1.1 of the CDP Plan Set included in Exhibit B.1, a pedestrian connection is proposed via a waterfront esplanade from the waterfront residences site to the roundabout south of Tract D.

11. The applicant shall revise the parking lot lay out so that there are no more than eight contiguous parking spaces without an interior landscaping strip between them and demonstrate that a minimum of 10% of the interior parking lot is devoted to landscaping.

Response: This condition is superseded by condition of approval #6(f)(iii) from DP 15-01, the compliance of which will result in over 10% of the required interior parking lot landscaped area. A landscaping plan will be submitted with the subsequent DDP and construction plan request.

12. The applicant shall incorporate interpretive signage throughout the development identifying the location of bicycle and pedestrian public access within and through the site.

Response: Permanent signage improvements throughout the project for public wayfinding will be installed in conjunction with esplanade improvements. Details of interpretive signage will be identified in the subsequent DDP application.

13. The applicant shall provide a temporary bicycle and pedestrian trail connection during the phase 1 and 2 development of the site to ensure that access to, and connectivity along, the Clackamas Trail is maintained during construction.

Response: Connection to the Clackamas Trail has been maintained during construction of Phase 1. A temporary 8-foot wide asphalt trail was built with Phase 1 south of the North Park that connects to the Clackamas Trail and the cove peninsula. At the completion of Phase 2, the trail will be slightly realigned and integrated into the overall Circulation Plan for the northern area of the Cove, as depicted on the Site Circulation Plan, Sheets C3.0 – C3.2, Exhibit B.1. **Staff has reviewed the application for compliance with the applicable public infrastructure requirements and determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

14. The applicant shall provide signage for the 20 permanent parking stalls adjacent to the North Park to ensure that the stalls are available for the public and will not be utilized by the condominiums for parking.

Response: The proposed CDP Amendment request will not amend this condition of approval. Plans including the signage of the parking stalls adjacent to the North Park will be submitted with the subsequent DDP application.

2. 2015 CDP AMENDMENT # CP 15-01, DP 15-01, NR 15-05, US 15-06

1. Prior to issuance of a permit associated with the proposed development the applicant shall submit a revised pedestrian circulation plan which complies with all applicable standards within the Oregon City Municipal Code and includes a pedestrian connection that extends the sidewalk adjacent to the rear (parking lot side) of Building 1 (B) to a pedestrian connection along the front (Main Streetside) of Building 1 (B) and to the abutting portion of Main Street. (P)

Response: The proposed CDP Amendment does not pertain to Building 1 of the garden apartments, and therefore this condition does not apply.

2. Prior to issuance of a permit associated with the proposed development the applicant shall submit the following revisions to the proposed building designs:

- a. Revised architectural plans for Buildings 3(D) and 5(F) which include double doors within each of the

- commercial spaces on the Main Street frontage. (P)
- b. Revised architectural plans in which the Main Street facade of Buildings A, D and F comply with OCMC 17.62.055.1.1 (60% transparency). (P)
- c. Revised architectural plans in which the right facade of Building A complies with OCMC 17.62.055.1.1 (30% transparency). (P)
- d. Revised plans for the following facades which comply with OCMC 17.62.057.G.1 (building articulation and modulation). (P)
 - i. Front, rear, left and right facades of buildings C and J
 - ii. Front and rear façades of building D
 - iii. Front, rear, left and right façades of buildings E, G and L
 - iv. Front and rear façades of building F
 - v. Left and right facades of building H
 - vi. Front, rear, left and right facades of buildings K and M
- e. Documentation demonstrating that all windows recess or project at least two inches from the facade and incorporate window trim at least four inches in width that features color that contrasts with the base building color. Exceptions will be considered by the community development director where buildings employ other distinctive window or facade treatment that adds visual interest to the building. (P)

Response: This condition applied to the Phase 1 DDP, and does not apply to the proposed CDP amendment.

- 3. Prior to issuance of a permit associated with the proposed development the applicant shall submit documentation identifying compliance with the lighting standards in Chapter 17.62.065 of the Oregon City Municipal Code. (P)

Response: A lighting plan will be submitted with a subsequent DDP submittal.

- 4. Prior to issuance of any permit associated with the proposed development the applicant shall submit revised plans for the retaining wall between Lot 2 and the Oregon City Shopping Center. The redesigned wall and all associated alterations to the adjacent parking lot, landscaping, etc. shall comply with the Oregon City Municipal Code. (DS & P)

Response: The proposed CDP Amendment does not pertain to the Lot 2 garden apartments, which are currently in construction. Therefore, this condition does not apply.

- 5. Prior to issuance of a permit associated with the proposed development the applicant shall submit documentation demonstrating that the temporary Trailhead parking lot complies with bicycle parking standards in Chapter 17.52.040 of the Oregon City Municipal Code. (P)

Response: The temporary trailhead parking lot has already been constructed as part of Phase 1 and therefore does not apply to this CDP amendment submittal.

- 6. The following items relate to landscaping. The applicant shall submit the following:
 - a. A revised landscaping plan identifying landscaping between the parking lot and the adjoining property.
 - b. Documentation identifying that 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.
 - c. Documentation identifying that all landscaping trees shall be of a minimum two-inch minimum caliper size (though it may not be standard for some tree types to be distinguished by caliper). The planting of taller trees is encouraged and the planting of Juniper trees is discouraged.
 - d. A revised landscaping plan in which the perimeter parking lot landscaping includes:
 - i. The perimeter parking lot landscaping provided in all of the required locations.
 - ii. Trees spaced a maximum of 35 feet apart.

- iii. Includes an evergreen hedge screen of thirty to forty-two inches high or shrubs spaced no more than four feet apart on average with visual breaks, no more than five feet in width, every thirty feet within evergreen hedges abutting public right-of-ways.
- e. A revised landscaping plan in which the parking area/building buffer landscaping includes trees spaced a maximum of 35 feet apart.
- f. A revised landscaping plan in which the interior parking lot landscaping includes:
 - i. Trees within the interior parking lot landscaping in accordance with OCMC 17.52.060.D.a.
 - ii. Shrubs spaced no more than an average of 4 feet on center.
 - iii. No more than eight contiguous parking spaces shall be created without providing an interior landscape strip between them. Landscape strips shall be provided between rows of parking shall be a minimum of six feet in width and a minimum of ten feet in length.
- g. A revised tree removal plan identifying all easements as well as a calculation for the number of mitigation trees required per OCMC 16.12.310 of the 2008 Master Plan and the location, species and size of the mitigation trees. The mitigation trees shall be identified on a landscaping plan, if applicable, and may not be counted toward required landscaping. If the applicant can demonstrate that there is insufficient room to place the trees onsite, an alternative location, an increase in the size of required trees onsite by the caliper being mitigated or a fee in lieu may be considered. (P)

Response: The NROD Report included in Exhibit F provides a calculation for the number of trees required per this condition. Details of the mitigation trees will be included on the landscaping plans to be provided with the subsequent DDP submittal.

- 7. Prior to issuance of any permit associated with the proposed development the applicant shall submit revised plans which identify all fencing throughout the site. The fencing shall comply with Chapter 17.54.100 and any other applicable standard of the Oregon City Municipal Code such as 17.62.050.A.21 and 17.54.010.D. (P)

Response: Plans that identify fencing will be submitted with the subsequent DDP application, and are not applicable to this CDP submittal.

- 8. Prior to issuance of a permit associated with the proposed development the applicant shall submit a revised Phasing Plan reflecting the uses and square footages identified in the 2009 Master Plan approval and any approved amendments within this report. (P)

Response: This condition pertained to the Phase 1 DDP submittal. An updated phasing plan associated with the proposed CDP amendment is provided in Exhibit B.1.

- 9. Prior to issuance of permits associated with the proposed development the applicant shall submit a supplement to the Transportation Impact Analysis related to the first phase of development that includes but is not limited to addressing the need for turn lanes at the site entrances, pedestrian and bicycle facilities along the frontages, site circulation and site access, intersection spacing for new intersections created as part of the development, sight distance at new intersections and major site access points and consistency of new streets with the Transportation System Plan. The plan shall demonstrate how the proposal complies with all applicable criteria. (P)

Response: This condition applies to Phase 1 development and therefore is not applicable to the proposed CDP amendment.

- 10. Prior to issuance of a permit associated with the proposed development the applicant shall submit the following items related to the Natural Resource Overlay District:

- a. A revised mitigation planting list which complies with the standards in OCMC 17.49.

Response: The NROD Report included in Exhibit F provides information on mitigation plantings. Detailed

planting schedules, including mitigation trees, will be included on the landscaping plans to be provided with the subsequent DDP submittal.

- b. Documentation identifying that the exterior lights adjacent to the NROD would be shielded so that they do not shine directly into resource areas per Section 17.49.100 H.

Response: Exterior lights adjacent to the NROD will be shielded to prevent direct glare into the resource area in compliance with Section 17.49.100.H. A detailed lighting plan will be submitted with the subsequent DDP submittal.

- c. Documentation identifying compliance with the standards for utility lines in OCMC 17.49.140.

Response: This condition relates to the stormwater outfall pipe associated with the Phase 1 garden apartments. Utilities are not proposed within the NROD for the Phase 2 waterfront residences.

- d. Updated concurrence letters from USACE and DSL regarding wetlands per 17.49.060 B or documentation identifying that a concurrence letter is not required to satisfy state and/or federal permitting requirements.

Response: Documentation identifying that a concurrence letter was not required to satisfy state and/or federal permitting requirements was provided with previously approved applications.

- e. Documentation identifying compliance with 17.49.150.E.

Response: A construction management plan associated with the NROD identifying compliance with 17.49.150.E was submitted with prior approvals, and it is expected that a construction management plan for Phase 2 work within the NROD will be provided prior to construction of Phase 2.

- f. Revised plant notes so that all plantings are to be watered by hose or water truck during establishment and removal of the statement that planting between October 15 and April 15 is prohibited.

Response: This condition applies to the DDP associated with the Phase 1 garden apartments. A detailed planting plan will be submitted with the subsequent DDP for the Phase 2 waterfront residences.

- g. A revised planting plan to include a broader variety of native seeds such as wildflowers, as well as nonnative sterile wheat and/or barley grass that are not hydrophilic and that will establish quickly and thrive during the monitoring period.

Response: This condition applies to the DDP associated with the Phase 1 garden apartments. A detailed planting plan will be submitted with the subsequent DDP for the Phase 2 waterfront residences.

- h. A financial guarantee for establishment of the mitigation area, in a form approved by the City, before development within the NROD disturbance area commences. The City will release the guarantee at the end of the five- year monitoring period, or before, upon its determination that the mitigation plan has been satisfactorily implemented pursuant to Chapter 17.49. (P)

Response: This condition applies to the DDP associated with the Phase 1 garden apartments. A mitigation plan for the Phase 2 waterfront residences is included in the NROD report, Exhibit F.

11. Prior to issuance of a permit associated with this development the applicant shall submit documentation identifying compliance with the Flood Management Overlay District in Chapter 17.42 of the Oregon City Municipal Code. (B)

Response: The response to OCMC 17.42 in this application narrative provides a description of how the project complies with the Flood Management Overlay District.

12. The development shall comply with Engineering Policy 00-01 and all applicable design standards. Applicant shall schedule a pre-design meeting with City's Development Services staff prior to submittal

of public facilities construction plans. (DS)

Response: The proposed Phase 2 waterfront residences will comply with Engineering Policy 00-01 and all applicable design standards.

13. Applicant shall obtain EPSC permit from City prior to commencement of any tree removal or ground disturbance. (DS)

Response: The applicant obtained an Erosion Prevention and Sediment Control permit from the City prior to commencement of any tree removal or ground disturbance associated with the Phase 1 garden apartments.

14. Applicant shall obtain 1200-C permit approval from Oregon Department of Environmental Quality (DEQ) prior to construction plan approval by City and prior to commencement of any ground disturbance. (DS)

Response: Consistent with this requirement, a 1200-C permit approval was obtained from DEQ prior to construction of the Phase 1 Garden apartments.

15. Construction plan submittal shall address emergency access to the adjacent shopping center in adequate detail in particular, striping and signage within the shopping center easement and an emergency plan focusing on flood events. Final design is subject to approval of City Engineer. (DS)

Response: Emergency access to the adjacent shopping was addressed with Phase 1, which is currently under construction.

16. Private stormwater management facilities will require an operation and maintenance plan and recorded covenant in accordance with the Stormwater and Grading Design Standards, prior to City acceptance of public facilities. (DS)

Response: An operation and maintenance plan and recorded covenant in accordance with the Stormwater and Grading Design Standards, will be recorded within the CDP area where applicable. Details regarding stormwater management facilities will be provided with the subsequent DDP application.

17. Permanent energy dissipation and erosion control measures shall be installed at both existing storm outfalls if warranted per Stormwater and Grading Design Standards. (DS)

Response: Permanent energy dissipation was installed as part of Phase 1 at the two stormwater outfalls located on Main Street. No new or modified stormwater outfalls are anticipated with remaining phases of the CDP.

18. Amend the plat if necessary to accommodate the proposed changes including but not limited to the Trailhead parking lot on Lot 11 (Tract A). (DS)

Response: A plat amendment is requested in conjunction with the Type III CDP Amendment.

19. Prior to submittal of construction plans for Phase 1 or submittal of Detailed Development Plan for any subsequent phase, a final Concept Development Plan set shall be submitted for review and approval addressing the following items:

a. Show NROD and Floodplain delineations on the plan.

Response: The NROD and floodplain boundaries are shown on the CDP Plan Set included in Exhibit B.1.

b. A sidewalk shall be constructed with Phase 1 along south side of Main Street from the northernmost entrance of garden apartments to Firestone Alley.

Response: Phase 1 construction of the garden apartments is underway. Therefore, this condition does not apply to the proposed CDP amendment.

c. Waterline to be relocated along Agnes Avenue R/W in Phase 2.

Response: The waterline to be relocated along Agnes Avenue will be shown on the utility plans to be provided with the subsequent DDP application.

d. Incorporate into the CDP plan set any relevant changes based on City review comments for the DDP.

Response: Relevant comments from City review of the DDP were incorporated in the final CDP plan set associated with CP 15-01.

e. Remove details of pavement sections from the CDP set. The sections on CDP should only indicate R/W, functional class, other items that are not standard. Remove references to plan sheets that are not a part of this application (for instance, "see C110").

Response: Details of pavement sections were removed from the previously approved CDP plan set associated with the 2015 CDP amendment approval. Details of pavement sections are not included on the proposed CDP plan set included in Exhibit B.1.

f. Show functional class on typical sections.

Response: The proposed ROW for Agnes Avenue varies. Therefore, the sections submitted as shown on Sheet C3.3 of the CDP plan set included in Exhibit B.1 are unique to the project.

g. Clarify limits of the shed and crown sections for both Agnes Avenue and Main Street.

Response: Crown sections are not proposed for Agnes Avenue. Shed sections are proposed for Agnes Avenue, as provided on Sheet C3.3 included in Exhibit B.1.

h. Clarify the shaded area shown overlapping the building on Lot 1.

Response: This item applies to the Phase 1 garden apartments, which are currently under construction and does not apply to the proposed CDP amendment.

i. Extension of Agnes Avenue (emergency and multi-use path portion) from North Park entrance to Washington Street shall include the full section. Phase 2 shall include installation of the first half of the street with a minimum 20-foot pavement width. The second half should be designated for "future."

Response: The Agnes Avenue Extension is no longer proposed as part this CDP amendment. Therefore, this item does not apply.

20. Prior to issuance of a permit associated with the proposed development the applicant shall submit a plan for street trees in compliance with OCMC 12.08. (P)

Response: A plan for street trees in compliance with OCMC 12.08 will be submitted in the subsequent DDP submittal.

21. Street trees along Phase 1 portion of Main Street west of the roundabout shall be installed with Phase 1 public improvements unless otherwise approved by City Engineer with construction plan approval. (DS)

Response: Phase 1 is currently under construction and therefore this condition does not apply to this CDP amendment proposal.

22. With Phase-1; existing 10-inch public waterline shall be replaced with new 10-inch waterline within Main Street improvements from north end of property to southerly connection to existing waterline located outside grading and street improvement limits. The waterline shall be placed in City standard utility location to maximum extent practicable. (DS)

Response: Phase 1 is currently under construction and therefore this condition does not apply to this CDP amendment proposal.

23. Existing public sewer and storm pipes shall be replaced where impacted by cutting of Main Street, as determined by City Engineer. Construction plans shall provide adequate detailed survey data regarding pipe locations and elevations to make this determination. (DS)

Response: Cutting of Main Street is associated with Phase 1 and does not apply to this CDP amendment proposal.

24. Concurrent with Phase 2, the 10-inch waterline is to be replaced with new 10-inch waterline along Agnes Avenue right-of-way with the relocation of Agnes Avenue. (DS)

Response: The new 10-inch waterline along the relocated Agnes Avenue will be shown on the utility plans to be provided with the subsequent DDP request.

25. The proposed bypass around the water meter will not be permitted. The approved options are to provide separate fire and domestic taps, or to provide one combined tap. (DS)

Response: Separate taps will be provided for domestic and fire for the Phase 2 design. The layout of the water meter bypass will be shown in the subsequent DDP application.

26. Existing utility lines along the subject frontages shall be placed underground unless determined by the City Engineer and the franchise utility owner to be infeasible. (DS)

Response: All existing and future utility lines on site will be placed underground along the subject frontages. Existing overhead transmission mains east of Agnes Avenue are to remain, as they are not along the subject property frontages. Therefore, this condition is met.

27. Southward from the roundabout, Main Street crown cross-section shall consist of (as measured beginning from right-of-way line) 0.5-foot public access strip, 6-foot sidewalk, 6.5-foot planter, 0.5-foot curb, 34-foot pavement, 0.5-foot curb, 6.5-foot planter, 6-foot sidewalk, 0.5-foot public access strip; to be constructed with Phase

1. Width of the planter strip and sidewalk may be reduced to accommodate topographic constraints, if approved by City Engineer at construction plan review. (DS)

Response: Main Street has been constructed and therefore this condition does not apply to the current CDP amendment proposal.

28. Westward from the roundabout, Main Street shed cross-section shall consist of (as measured beginning from right-of-way line) 0.5-foot public access strip, 8-foot sidewalk, 4.5-foot planter, 0.5-foot curb, 34-foot pavement, 0.5-foot curb, variable width water quality planter or swale, 6-foot sidewalk, 0.5-foot public access strip. Sidewalk shall not be required on the south side of between the esplanade and the northern entrance of Garden Apartments. Phase 1 shall construct southside sidewalk from northern entrance to Firestone Alley (McLoughlin Boulevard) Planter strip, swale and sidewalk may be reduced or eliminated along portions of the street where necessary to accommodate topographic constraints, if approved by City Engineer at construction plan review. (DS)

Response: Main Street has been constructed and therefore this condition does not apply to the current CDP amendment proposal.

29. From the roundabout to the North Park entry, Agnes Avenue shed cross-section shall consist of (as measured beginning from right-of-way line) 14.5-foot landscape strip, 0.5-foot curb, 28-foot pavement, 0.5-foot curb, 10.5-foot water quality planter or swale, 6-foot sidewalk, 0.5-foot public access

strip, to be constructed with Phase 2. (DS)

Response: The CDP amendment proposes changes to the Agnes Avenue shed cross-section as described in this condition. This narrative further describes the proposed section as shown on the Typical Sections sheet, Sheet C3.3 of the CDP plan set included in Exhibit B.1.

30. From North Park entry eastward to Washington Street, Agnes Avenue Extension shall consist of (as measured beginning from right-of-way line) 0.5-foot public access strip, 6-foot sidewalk, 8.5-foot water quality planter or swale, 0.5-foot curb, 34-foot pavement, 0.5-foot curb, 8.5-foot water quality planter or swale, 6-foot sidewalk, 0.5-foot public access strip. Phase 2 shall complete the first half of the street, with a minimum 20-foot pavement width. The need for construction of the second half shall be determined at time of Detailed Development Plan submittal for each phase. At this time, the segment shall be limited to use by emergency vehicles, pedestrians, and non-motorized vehicles. Bollards shall be placed at each terminus, in accordance with Clackamas Fire District #1 requirements. Sidewalk, swales, street trees and street lights on one side of the street will be required with the Phase 2 improvements. (DS)

Response: The Agnes Avenue extension is no longer adjustment 1 proposed as part of the CDP. Therefore, the applicant is proposing to eliminate this condition with this CDP amendment request.

31. Pedestrian crossing locations shall be determined at time of construction plan review in accordance with recommendations by a Traffic Engineer. (DS)

Response: Pedestrian crossing locations will be detailed in future DDP and construction plan requests, to be submitted concurrently.

32. The construction plan/grading plan/stormwater report for Phase 1 shall address drainage outfall from the amphitheater area of the North Park site, and shall demonstrate compliance with 17.49.155 for facilities within the NROD where applicable. (DS)

Response: This condition is associated with Phase 1 and does not apply to the current CDP amendment.

33. Right-of-way, public utility easements, and public access easements shall be dedicated as needed where inadequate, prior to commencement of public improvements or issuance of building permits for each phase. (DS)

Response: Right-of-way, public utility easements, and public access easements were dedicated as necessary prior to issuance of building permits for Phase 1, and will be dedicated as needed for each subsequent phase.

34. The applicant shall provide supplemental design data with the public facilities construction plan submittal to address protection of the public infrastructure from flooding in accordance with 17.42.160.E.2 and 3. This applies to pavement and subgrade design and pipe systems in Main Street (Phase 1) and Agnes Avenue (Phase 2). (DS)

Response: Supplemental design data for Agnes Avenue (Phase 2) will be provided at the time of construction in accordance with 17.42.160.E.2 and 3.

35. Solid waste collection area shall be equipped with additional source control measures per Section 6.5 of the Stormwater and Grading Design Standards. (DS)

Response: Solid waste collection areas will be equipped with additional source control measures per Section 6.5 of the Stormwater and Grading Design Standards.

36. Prior to grading plan approval, the applicant's geotechnical engineer shall perform additional geotechnical exploration as recommended in the Preliminary Geotechnical Engineering Report dated May

12, 2015. The geotechnical engineer shall prepare detailed recommendations for treatment of the undocumented fill and recommendations shall be incorporated into final grading plans. (DS)

Response: Additional geotechnical exploration specified above was performed prior to the final grading plan approval for the Phase 1 garden apartments.

37. Recommendations stated in the geotechnical report(s) shall be performed during the design or construction phases as applicable, and written certification by the geotechnical engineer-of-record shall be provided. (DS)

Response: Recommendations stated in the geotechnical report will be performed during design or construction phases as applicable. Written certification by the geotechnical engineer is currently being provided in Phase 1 construction and will continue in future phases of construction.

38. Site grading and earthwork shall be performed between May 1 and October 31 unless otherwise authorized per OCMC 17.44.060(B). (DS)

Response: Site grading and earthwork will be performed between May 1 and October 31 unless otherwise authorized per OCMC 17.44.060(B).

39. Grading and construction plans shall minimize cuts and fills in compliance with 17.44.060.C. Measures at a minimum shall include minimizing cuts to Main Street, terracing retaining walls, relocating retaining walls to reduce height, and altering of grade between the Cove and Clackamas River on the north side of North Park Amphitheater adjacent to City bank remediation project, to the maximum extent practicable. Applicant shall provide written justification when measures are deemed infeasible at time of construction plan submittal, and modifications to this condition shall be approved by City Engineer. (DS)

Response: This condition relates to Phase 1 and is not applicable to this proposed CDP amendment.

40. Grading plan shall include an engineer's design for all structural fill. Prior to issuance of each building permit, the geotechnical engineer-of-record shall provide written certification that structural fill for the affected area was placed as designed and in accordance with provisions of OCMC Chapter 17.44. (DS)

Response: Written certifications for structural fill will be provided with construction permit requests.

41. Prior to construction plan approval or issuance of building permits, provide engineered plans and structural design calculations in accordance with Oregon Structural Specialty code for all free-standing retaining walls that retain soil. (DS)

Response: Engineered plans and structural design calculations for all free-standing retaining walls that retain soil will be provided in subsequent DDP and construction requests.

42. Prior to issuance of building permits the geotechnical engineer-of-record shall provide written documentation that the foundation plans are in conformance with their recommendations. (DS)

Response: Written documentation that the foundation plans are in conformance with geotechnical engineer recommendations will be provided in subsequent DDP and construction submittals.

43. Applicant shall comply with conditions required as part of the City's geotechnical review and pay for the City's geotechnical engineer's consultation costs related to this review. (DS)

Response: The applicant complied with conditions required as part of the City's geotechnical review for Phase 1, and paid fees associated with the City's geotechnical review for Phase 1.

44. Full-time monitoring and inspection and written daily reports by geotechnical engineer-of-record are required for all earthwork performed on North Park Area, Lot 1, Lot 2 Garden Apartments, Main Street right-of-way, and other areas where public improvements are proposed. (DS)

Response: This condition applies to Phase 1 and does not apply to the proposed CDP amendment.

45. Prior to commencement of any work, applicant shall execute a waiver of damages and an indemnity and hold harmless agreement releasing the City from all liability for damages resulting from the development approved by the City's decision. (DS)

Response: This condition relates to City indemnification and is assumed to be generally applicable prior to all development phases.

46. Steep grades on the northernmost main entrance shall be approved by Clackamas Fire District #1. (DS)

Response: Steep grades on the northernmost main entrance were approved by Clackamas Fire District #1 as part of Phase 1 construction permitting.

47. Fire hydrants shall be installed along public street frontages in accordance with City design standards and Clackamas Fire District #1 requirements. (DS)

Response: Fire hydrants will be installed throughout the project for consistency with City design standards and Clackamas Fire District #1 design requirements.

17.65.050.A.1.f. Existing utilization of the site. May also reference submitted maps, diagrams or photographs.

Finding: Complies as proposed. The application included a description of the site.

17.65.050.A.1.g. Site description, including the following items. May also reference submitted maps, diagrams or photographs.

1. Physical characteristics;
2. Ownership patterns;
3. Building inventory;
4. Vehicle/bicycle parking;
5. Landscaping/usable open space;
6. FAR/lot coverage;
7. Natural resources that appear on the city's adopted Goal 5 inventory;
8. Cultural/historic resources that appear on the city's adopted Goal 5 inventory; and
9. Location of existing trees six inches in diameter or greater when measured four feet above the ground. The location of single trees shall be shown. Trees within groves may be clustered together rather than shown individually.

Finding: Complies as proposed. The application included a detailed site description, various Existing Conditions plan sheets, tree plans and studies, the submitted NROD report, and all items 1 – 9 listed above in

either narrative or plan sheet form.

17.65.050.A.1.h. *Existing transportation analysis, including the following items. May also reference submitted maps, diagrams or photographs.*

1. Existing transportation facilities, including highways, local streets and street classifications, and pedestrian and bicycle access points and ways;
2. Transit routes, facilities and availability;
3. Alternative modes utilization, including shuttle buses and carpool programs; and
4. Baseline parking demand and supply study (may be appended to application or waived if not applicable).

Finding: Complies with Conditions. See findings under section 16.08.030.B.5.

17.65.050.A.1.i. *Infrastructure facilities and capacity, including the following items.*

1. Water;
2. Sanitary sewer;
3. Stormwater management; and
4. Easements.

Finding: Complies as proposed. The applicant submitted utility plans.

17.65.050.B. *Proposed Development Submittal Requirements.*

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

a. The proposed duration of the general development plan.

Finding: Complies as proposed. A phasing plan and comparison of previously approved versus proposed phasing was submitted. The applicant is proposing a planning period of 10 years from approval of the submitted CDP, with changes to the phases within that timeframe.

17.65.050.B.1.b. *The proposed development boundary. May also reference submitted maps or diagrams.*

Finding: Complies as proposed. The boundaries of the Master Plan are identified. The proposal would not alter the size or location of the boundary.

17.65.050.B.1.c. *A description, approximate location, and timing of each proposed phase of development, and a statement specifying the phase or phases for which approval is sought under the current application. May also reference submitted maps or diagrams.*

Finding: Complies as proposed. The applicant submitted revised documentation that identified the uses and phases within the Master Plan boundary.

17.65.050.B.1.d. *An explanation of how the proposed development is consistent with the purposes of Section 17.65, the institutional zone, and any applicable overlay district.*

Finding: Complies as proposed. The application included a detailed narrative with responses to all of the applicable code criteria and supporting reports and documentation. Findings are analyzed within this report.

17.65.050.B.1.e. *A statement describing the impacts of the proposed development on inventoried Goal 5 natural, historic or cultural resources within the development boundary or within two hundred fifty feet of the proposed development boundary.*

Finding: Complies as proposed. See response under B.1.d.

17.65.050.B.1.f. *An analysis of the impacts of the proposed development on the surrounding community and neighborhood, including:*

1. Transportation impacts as prescribed in subsection g. below;
2. Internal parking and circulation impacts and connectivity to sites adjacent to the development boundary and public right-of-ways within two hundred fifty feet of the development boundary;

3. *Public facilities impacts (sanitary sewer, water and stormwater management) both within the development boundary and on city-wide systems;*
4. *Neighborhood livability impacts;*
5. *Natural, cultural and historical resource impacts within the development boundary and within two hundred fifty feet of the development boundary.*

Finding: Complies with Conditions. See findings under section 16.08.030.B.5.

17.65.050.B.1.g. *A summary statement describing the anticipated transportation impacts of the proposed development. This summary shall include a general description of the impact of the entire development on the local street and road network, and shall specify the maximum projected average daily trips, projected AM and PM peak hour traffic and the maximum parking demand associated with build-out each phase of the master plan.*

Finding: Complies with Conditions. See findings under section 16.08.030.B.5.

17.65.050.B.1.h. *In addition to the summary statement of anticipated transportation impacts, an applicant shall provide a traffic impact study as specified by city requirements. The transportation impact study shall either:*

1. *Address the impacts of the development of the site consistent with all phases of the general development plan; or*
2. *Address the impacts of specific phases if the city engineer determines that the traffic impacts of the full development can be adequately evaluated without specifically addressing subsequent phases.*

Finding: Complies with Conditions. See findings under section 16.08.030.B.5.

17.65.050.B.1.i. *If an applicant chooses to pursue option h.1., the applicant may choose among three options for implementing required transportation capacity and safety improvements:*

1. *The General Development Plan may include a phasing plan for the proposed interior circulation system and for all on-site and off-site transportation capacity and safety improvements required on the existing street system as a result of fully implementing the plan. If this option is selected, the transportation phasing plan shall be binding on the applicant.*
2. *The applicant may choose to immediately implement all required transportation safety and capacity improvements associated with the fully executed general development plan. If this option is selected, no further transportation improvements will be required from the applicant. However, if a general development plan is later amended in a manner so as to cause the projected average daily trips, the projected AM or PM peak hour trips, or the peak parking demand of the development to increase over original projections, an additional transportation impact report shall be required to be submitted during the detailed development plan review process for all future phases of the development project and additional improvements may be required.*
3. *The applicant may defer implementation of any and all capacity and safety improvements required for any phase until that phase of the development reaches the detailed development plan stage. If this option is selected, the applicant shall submit a table linking required transportation improvements to vehicle trip thresholds for each development phase.*

Finding: Complies with Conditions. See findings under section 16.08.030.B.5.

17.65.050.B.1.j. *The applicant or city staff may propose objective development standards to address identified impacts that will apply within the proposed development on land that is controlled by the institution. Upon approval of the general development plan, these standards will supersede corresponding development standards found in this code. Development standards shall address at least the following:*

1. *Pedestrian, bicycle and vehicle circulation and connectivity;*
2. *Internal vehicle and bicycle parking;*
3. *Building setbacks, landscaping and buffering;*

4. Building design, including pedestrian orientation, height, bulk, materials, ground floor windows and other standards of Chapter 17.62; and

5. Other standards that address identified development impacts.

Finding: Not applicable. No alternate development standards are proposed. However, the applicant has received prior approval for various adjustments to development standards with each successive Master Plan amendment since 2008. The adjustments are “vested” and are either applicable or not applicable to the current proposal. These adjustments are described in application Attachment B and on pages 23 through 46 of the application narrative.

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

Finding: Complies as proposed. *The application included all necessary items.*

17.65.050.C. Approval Criteria for a General Development Plan.

The planning commission shall approve an application for general development plan approval only upon finding that the following approval criteria are met.

17.65.050.C.1. *The proposed General Development Plan is consistent with the purposes of Section 17.65.*

Finding: Complies as proposed. The proposed amendment to the plan is consistent with the purpose of 17.65 as “The master plan process is intended to facilitate an efficient and flexible review process for major developments and to provide them with the assurance they need over the long term so that they can plan for and execute their developments in a phased manner”. The proposed modifications result in a mixed use project with flexibility to implement future phases with options to utilize Lot 1 and 11 with a variety of options.

17.65.050.C.2. *Development shall demonstrate compliance with Chapter 12.04, Streets, Sidewalks and Public Places.*

Finding: Not applicable. Only early grading of the Agnes Street right-of-way is proposed at this time. Detailed plans for the street sections will be proposed for approval with the subsequent detailed development plan submittal. Please refer to the analysis in chapter 12.04 of this report.

17.65.050.C.3. *Public services for water supply, police, fire, sanitary waste disposal, and storm-water disposal are capable of serving the proposed development, or will be made capable by the time each phase of the development is completed.*

Finding: Complies as proposed. Existing water, sewer, and stormwater infrastructure are capable of serving the proposed developments. Any required upgrading of services will be addressed with construction plan submittal for each phase.

17.65.050.C.4. *The proposed General Development Plan protects any inventoried Goal 5 natural, historic or cultural resources within the proposed development boundary consistent with the provisions of applicable overlay districts.*

Finding: Complies as proposed. Goal 5 resources are protected through the use of overlay districts within the Oregon City Municipal Code. These include the Natural Resources Overlay District (OCMC 17.49), the Historic Resources Overlay District (OCMC 17.40), the Flood Management Overlay District (OCMC 17.42), the Erosion and Sediment Control standards (OCMC 17.47), the Stormwater Management standards (OCMC 13.12), the Grading, Filling and Excavation Standards (OCMC 15.48) and the Geologic Hazards Overlay District (OCMC 17.44). The analysis is provided within this report.

The proposed development site not within a Historic District Overlay. The proposed development site is within the Natural Resource Overlay District, and a review is requested concurrent with this application. As

evidenced by the NROD Report, Exhibit F, and the Geotechnical Report and Letter, Exhibit G, conducted by Apex dated December 19, 2017, the proposed Phase 2 development project has been designed in compliance with the standards defined in the applicable overlay districts.

17.65.050.C.5. *The proposed General Development Plan, including development standards and impact mitigation thresholds and improvements adequately mitigates identified impacts from each phase of development. For needed housing, as defined in ORS 197.303(1), the development standards and mitigation thresholds shall contain clear and objective standards.*

Finding: Please refer to the analysis within this report.

17.65.050.C.6. *The proposed general development plan is consistent with the Oregon City Comprehensive Plan and its ancillary documents.*

Finding: Please refer to the analysis below.

Section 1: Citizen Involvement

Goal 1.1 Citizen Involvement Program Implement a Citizen Involvement Program that will provide an active and systematic process for citizen participation in all phases of the land-use decisionmaking process to enable citizens to consider and act upon a broad range of issues affecting the livability, community sustainability, and quality of neighborhoods and the community as a whole.

Policy 1.1.1 - Utilize neighborhood associations as the vehicle for neighborhood-based input to meet the requirements of the Land Conservation and Development Commission (LCDC) Statewide Planning Goal 1, Citizen Involvement. The Citizen Involvement Committee (CIC) shall serve as the officially recognized citizen committee needed to meet LCDC Statewide Planning Goal 1.

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

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

Goal 1.3 Community Education - Provide education for individuals, groups, and communities to ensure effective participation in decision-making processes that affect the livability of neighborhoods.

Goal 1.4 Community Involvement - Provide complete information for individuals, groups, and communities to participate in public policy planning and implementation of policies.

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

Finding: Complies as proposed. Chapter 17.50 of the Oregon City Municipal Code includes provisions to ensure that citizens, neighborhood groups, and affected property owners have ample opportunity for participation in this application. The applicant met with the Two Rivers Neighborhood Association prior to submitting this application and once the application was deemed complete, the City noticed the application to property owners within 300 feet of the subject site, neighborhood **associations**, the Citizens Involvement Committee, a general circulation newspaper, and posted the application on the City's website. The applicant additionally posted signs on the subject site. All interested persons have the opportunity to comment in writing or in person through the public hearing process. This policy is met.

Section 2: Land Use

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

Policy 2.1.2

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

Finding: Complies as proposed. The amendment would allow additional dwelling units within the Master Plan boundary and the addition of mixed commercial and residential uses as in the Mixed Use Downtown zone. This results in greater efficiency of land use and a vertical mixing of land uses.

Goal 2.2 Downtown Oregon City

Develop the Downtown area, which includes the Historic Downtown Area, the “north end” of the Downtown, Clackamette Cove, and the End of the Oregon Trail area, as a quality place for shopping, living, working, cultural and recreational activities, and social interaction. Provide walkways for pedestrian and bicycle traffic, preserve views of Willamette Falls and the Willamette River, and preserve the natural amenities of the area.

Policy 2.2.10

Develop the Clackamette Cove area through the implementation of the Oregon City Waterfront Master Plan to achieve a balance between the natural and built environments, including wildlife habitat, multi-family residential development, office and retail, and family recreation.

Finding: Complies as proposed. The amendments would support development of the Clackamette Cove with mixed use development, and allow for additional amenities within the Downtown area and Master Plan boundary. The Esplanade, trail access provided to the Cove, wider trails and parking lot for the trailhead will improve recreational opportunities close to high density development near transit corridors (Goal 2.3), i.e. Highway 99E. The proposed amendment also adds neighborhood amenities such as a waterfront esplanade and trailhead parking lot, consistent with Goal 2.4, Neighborhood Livability. Goal 2.4 calls for appropriately-scaled neighborhood services, accomplished by the multiple ground floor retail, office, and community center spaces.

The proposed amendment includes a temporary and permanent parking lot for use by the Clackamette River Trail users.

Goal 2.3: Corridors: *Focus transit-oriented, higher intensity, mixed-use development along selected transit corridors.*

Finding: Complies as proposed. The proposed additional dwelling units and additional commercial square footage within the Master Plan boundary will focus high density development within the Mixed Use Downtown District and located near Highway 99E, a transit corridor.

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 childcare facilities, parks, and other uses that serve the needs of the immediate area and the residents of Oregon City.

Finding: Complies as proposed. The proposed amendment adds neighborhood amenities such as a waterfront esplanade and trailhead parking lot, consistent with Goal 2.4. This goal also calls for appropriately scaled neighborhood services, accomplished by the multiple ground floor retail, office, and community center spaces. The amendment would add additional amenities within the Master Plan boundary. The commercial square footage on Lot 2 will provide amenities to the dwelling units onsite. In addition, the temporary and permanent parking lot would support the public in providing access to the Cove with a Trailhead parking lot.

Goal 2.5: Retail and Neighborhood Commercial

Encourage the provision of appropriately scaled services to neighborhoods.

Policy 2.5.2

Allow and encourage the development of small retail centers in residential neighborhoods that provide goods and services for local residents and workers.

Generally, these centers should be located at the intersections of two or more streets that are classified as neighborhood collectors or higher.

Policy 2.5.4

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

Finding: Complies as proposed. The amendment would add 404 apartments (of which 20 will be live/work units) and associated leasing office space, a 5.28-acre park area, and 6,800 square feet of retail space, in close proximity to existing shopping areas in Downtown Oregon City and along McLoughlin Boulevard / OR 99-E that provide goods and services for local residents and visitors.

Section 3: Agricultural Land: *requires local governments “to preserve and maintain agricultural lands.”*

Finding: Not applicable. The subject site is within the Oregon City limits and is not designated as agricultural. This goal is not applicable.

Section 4: Forest Lands: *requires local governments “to conserve forest lands.”*

Finding: Not applicable. The subject site is within the Oregon City limits and is not designated as forest lands.

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

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

Goal 5.4 Natural Resources

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

Policy 5.4.8

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

Finding: Complies as proposed. Goal 5 resources are protected through the use of overlay districts within the Oregon City Municipal Code. These include the Natural Resources Overlay District (OCMC 17.49), the Historic Resources Overlay District (OCMC 17.40), the Flood Management Overlay District (OCMC 17.42), the Erosion and Sediment Control standards (OCMC 17.47), the Stormwater Management standards (OCMC 13.12), the Grading, Filling and Excavation Standards (OCMC 15.48) and the Geologic Hazards Overlay District (OCMC 17.44). The analysis is provided within this report.

There are no historic structures located on the subject site. The amendment includes installation of a temporary and permanent parking lot to support the users of the regional trail through the site which is supported by this section.

Section 6: Quality of Air, Water and Land Resources

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.*

Policy 6.1.4

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

Finding: Complies as Proposed. Policy 6.1.1 encourages the reduction of single occupancy vehicle trips. The mixed used development, bike lanes, access to trailheads, and overall circulation of the site will promote more walking and biking trips. The traffic analysis letter by Kittelson & Associates, Inc. included in Exhibit E.1 further explains that the proposed CDP amendment will result in a net decrease in new vehicle trips. This goal

promotes land use patterns that reduce travel by providing additional dwelling units, office and restaurant uses within the MUD District and near a transit corridor and other shopping amenities. Tree removal will be mitigated for in accordance with the requirements of the Natural Resources Overlay District and the city's adopted tree removal requirements.

Section 7: Natural Hazards

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

Policy 7.1.1

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

Policy 7.1.5

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

Policy 7.1.6

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

Policy 7.1.7

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

Policy 7.1.8

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

Finding: Complies as proposed. Portions of the subject site are within the Geologic Hazards Overlay District, Flood Management Overlay District and the Natural Resources Overlay District. Areas of 100-year floodplain exist on the site. Low Impact Development Approach (LIDA) stormwater facilities are proposed along Agnes Avenue, which will help reduce the risk of flood. As demonstrated in Exhibit G, Geotechnical Report, the project complies with OCCP Section 7. Compliance with the applicable standards is demonstrated through the findings in this report.

Section 8: Developing Oregon City's Park and Recreation System

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

Policy 8.1.5

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

Finding: Complies as proposed. This goal is to provide recreational opportunities and sites for all residents of Oregon City. The development proposal will contribute to this goal by providing temporary and permanent Trailhead parking, off-street trails and trail connections to the Clackamas River Trail, trail access, and a park. All future development of the site is subject to pay system development charges (SDC's) for parks.

Section 9: Economic Development

Goal 9.1 *Improve Oregon City's Economic Health - Provide a vital, diversified, innovative economy including an adequate supply of goods and services and employment opportunities to work toward an economically reasonable, ecologically sound and socially equitable economy.*

Finding: Complies as proposed. The proposed amendments will result in the increased housing and employment opportunities, commercial uses and services, and will generate tax revenue.

Section 10: Housing

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

Policy 10.1.3

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

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

Finding: Complies as proposed. The additional dwellings proposed in this amendment would increase the housing diversity and housing opportunities within Oregon City.

Section 11: Public Facilities

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

Policy 11.1.2: *Provide public facilities and services consistent with the goals, policies and implementing measures of the Comprehensive Plan, if feasible.*

Policy 11.1.3: *Confine urban public facilities and services to the city limits except where allowed for safety and health reasons in accordance with state land-use planning goals and regulations. Facilities that serve the public will be centrally located and accessible, preferably by multiple modes of transportation.*

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.*

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

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.*

Policy 11.2, *Wastewater, 11.3, Water Distribution, 11.4, Stormwater Management, 11.5, Solid Waste, 11.6, Transportation Infrastructure, 11.7, Private Utility Operations, 11.8, Health and Education, 11.9, Fire Protection, 11.10, Police Protection, 11.11, Civic Facilities and 11.12, Library*

Finding: Complies with conditions. As demonstrated within this report, the proposed Master Plan amendments may be served by the utility system. **Public Works staff has reviewed the application for compliance with the applicable public infrastructure requirements and determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

Section 12: Transportation

Goal 12.1 Land Use-Transportation Connection

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

Policy 12.1.1 *Maintain and enhance citywide transportation functionality by emphasizing multi-modal travel options for all types of land uses.*

Policy 12.1.2 *Continue to develop corridor plans for the major arterials in Oregon City, and provide for appropriate land uses in and adjacent to those corridors to optimize the land use-transportation connection.*

Policy 12.1.3 *Support mixed uses with higher residential densities in transportation corridors and include a consideration of financial and regulatory incentives to upgrade existing buildings and transportation systems.*

Policy 12.1.4 *Provide walkable neighborhoods. They are desirable places to live, work, learn and play, and therefore a key component of smart growth.*

Goal 12.5 Safety *Develop and maintain a transportation system that is safe.*

Policy 12.5.1 *Identify improvements that are needed to increase the safety of the transportation system for all users.*

Policy 12.5.2 *Identify and implement ways to minimize conflict points between different modes of travel.*

Policy 12.5.3 *Improve the safety of vehicular, rail, bicycle, and pedestrian crossings.*

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

Policy 12.6.1 *Provide a transportation system that serves existing and projected travel demand.*

Policy 12.6.2 Identify transportation system improvements that mitigate existing and projected areas of congestion.

Policy 12.6.3 Ensure the adequacy of travel mode options and travel routes (parallel systems) in areas of congestion.

Policy 12.6.4 Identify and prioritize improved connectivity throughout the city street system.

Finding: Complies with condition. See findings under section 16.08.030.B.5. This section encourages multi-modal transportation facilities that are appropriately related to adjacent land uses. The proposed amendment provides a variety of well-designed streetscapes that respond to the needs of pedestrians, cyclists, and motorists. Moreover, the planter swales, street trees, and esplanade encourage walking within the Mixed Use Downtown district. Goal 12.6 states that capacity meets users' needs. Kittelson & Associates' July 2015 TIA finds that mobility goals are met, and the attached 2018 letter finds the new amended buildout program will result in a net decrease in vehicle trips (see Exhibits E and E.1). The TIA and the trip generation letter was reviewed by a City consultant John Replinger, P.E., of Replinger and Associates. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

Section 13: Energy Conservation

Goal 13.1 Conserve energy in all forms through efficient land-use patterns, public transportation, building siting and construction standards, and city programs, facilities, and activities.

Policy 13.2.1- Promote mixed-use development, increased densities near activity centers, and home-based occupations (where appropriate).

Finding: Complies as Proposed. This section requires the conservation of energy in all forms through efficient land-use patterns, public transportation, building siting and construction standards, and city programs, facilities and activities. The proposed development promotes energy conservation through dense, efficient, mixed-use development within the existing urban core of Oregon City. The policies promote energy conservation through the promotion of mixed-use developments and increased densities near activity centers, and the construction of bikeways and sidewalks to improve connectivity. The proposed amendment will result in efficient land use pattern by increasing the intensity of mixed-use on the site in accordance with the intent of the Mixed Use Downtown zone.

Section 14: Urbanization

Goal 14.2: Orderly Redevelopment of Existing City Areas- Reduce the need to develop land within the Urban Growth Boundary by encouraging redevelopment of underdeveloped or blighted areas within the existing city limits.

Policy 14.2.1 - Maximize public investment in existing public facilities and services by encouraging redevelopment as appropriate.

Policy 14.2.2 - Encourage redevelopment of city areas currently served by public facilities through regulatory and financial incentives.

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

Finding: Complies as proposed. This proposal will contribute to achieving this Section by approving quality, high-density residential and mixed-use redevelopment of underdeveloped properties within the Urban Renewal district within the existing city limits. The proposed development within these areas in close proximity to existing infrastructure maximizes public investment at densities that are appropriate for the Mixed Use Downtown zone.

Section 15: Willamette River Greenway

Finding: Not applicable. The proposed changes do not affect the Willamette River Greenway, which does not extend into the Cove.

D. Duration of General Development Plan. A general development plan shall involve a planning period of at least five years and up to twenty years. An approved general development plan shall remain in effect until development allowed by the plan has been completed through the detailed development plan process, the plan is amended or superseded, or the plan expires under its stated expiration date.

Finding: Complies as proposed. The applicant is proposing a planning period of ten years for the duration of the CDP. If approved, the Master Plan will expire ten years from the approval date, unless the plan is amended or superseded or expires.

17.65.060. - Detailed development plan.

A. Submittal Requirements...

Finding: Complies as proposed. The land use narrative and its supporting documents, plans, and technical reports, including the DDP Early Grading Plan Set included in Exhibit B.2, provide the submittal requirements required by this provision pertaining to the DDP for mass grading. This application was reviewed for completeness purposes and determined to be complete enough to process.

17.65.060.B.

Approval Criteria. The community development director shall approve an application for detailed development plan approval only upon findings that:

1.All development standards and impact mitigation meet the requirements of the approved general development plan, including conditions of approval.

Finding: Please refer to the analysis within this report.

17.65.060.B.2.

Any other applicable zoning regulations that are not addressed in the general development plan are met, unless an adjustment to those regulations has been applied for and is approved. The approval standards applicable to adjustments required as part of a master plan are contained in Section 17.65.070.

Finding: Complies as proposed. All applicable zoning and development regulations pertaining to this Detailed Development Plan, including previously and proposed adjustments to the development standards have been addressed in the applicant's proposal as analyzed in this report and through the conditions of approval.

17.65.060.B.3.

The detailed development plan conforms with the standards contained in Chapter 17.62, unless adjusted as provided in Section 17.65.070.

Finding: Complies as proposed. The DDP (grading) plan conforms with all applicable standards contained in Chapter 17.62, as related to mass grading. In anticipation of the subsequent DDP for site buildings, adjustments are requested pursuant to OCMC 17.65.70. Please refer to the analysis within section 17.62 and 17.65.070 of this report.

17.65.060.C.

Duration of Detailed Development Plan. Unless substantial expenditures have been made to implement the approved detailed development plan, defined as the submittal to the city of engineered plans for approval, a detailed development plan shall expire twenty-four months from the notice of decision date. The date of final approval includes the resolution of all appeals. Upon the receipt from the applicant of a written request and payment of the required fee prior to the expiration dated of the detailed development plan, the community development director may, on a one-time basis, grant a twelve-month extension.

Finding: Applicable. This applicant has not requested to amend this standard. The requested early grading DDP will expire 24 months from the notice of decision, unless extended.

17.65.070 - Adjustments to development standards.

Finding: Complies. In addition to applying previously approved adjustments, the applicant is requesting

adjustments to the following code standards, as discussed in detail below. Locations of the requested adjustments and corresponding development standards can be found on the Proposed Adjustments Exhibit included in Exhibit M.

1. 17.54.100.A(1) Generally. Fence, hedge, or wall. Two approximately 9-foot retaining walls are proposed within 40 feet of Main Street and in front of Building D, exceeding the maximum height of 42". A 10-foot retaining wall is proposed between the Building A buildings and the esplanade exceeding the maximum height of 8.5'.
2. 17.54.105.A(1) - Live/work units. Live/work units in Buildings D provide 43-feet of linear glazing on a 93-foot long façade, which constitutes 46% transparency, less than the minimum of 50%.
3. 17.62.050.A(2)(a) – Vehicular Access and Connectivity. A parking lot is proposed to be located between the buildings in phase 2 and the street.
4. 17.62.050.A(2)(e) – Vehicular Access and Connectivity. The proposal includes multiple driveways to Agnes Avenue, in excess of one per frontage.
5. 17.62.050.A(9)(a) – As the parking lots are located between the street and the building, the proposal would include a pedestrian connection connecting the two which crosses a drive aisle which do not provide a direct pedestrian connection.
6. 17.62.050.A(20)(b) – Screening of Mechanical Equipment. Placement of natural gas meters on the street-facing façade of the waterfront residences facing Agnes Avenue.
7. 17.62.055.H(2) – Minimum Wall Articulation. Alterations to the design standards for the Building A buildings.
8. 17.62.057.F(1) – Pedestrian Circulation. As the parking lots are located between the street and the building, the proposal would include a pedestrian connection connecting the two which crosses a drive aisle which do not provide a direct pedestrian connection.
9. 17.62.057.G – Architectural and Material Standards. The facades of all the buildings do not have the depth of modulation required.
10. 17.62.057.I – Diversity of Unit Types. The mix of units proposed does not comply with the 10% minimum standard per type.
11. 17.62.057.L(2) – Window Design. The window trim size and recess/projection does not comply with the standard.
12. 17.62.065.D - General Outdoor Lighting Standard and Glare Prohibition. The maximum lighting levels would exceed the master plan.
13. 17.52.030 and 17.52.060 - Allow continuation of a temporary gravel parking lot that does not comply with the parking lot standards or landscaping standards.
14. 17.52.060.D – Interior parking lot landscaping is proposed to not occur in the lower level of the parking garage and on the temporary parking on lot
15. 17.54.100.B Generally. Fence, hedge, or wall. 10-foot tall retaining walls extend from the wings of Buildings B and C and are separate from the building walls exceeding the maximum height of 8.5'.

17.65.070.B. Procedure. *Requests for adjustments shall be processed concurrently with a general development plan. An adjustment request at the detailed development plan review shall cause the detailed development plan to be reviewed as a Type III application.*

Finding: Complies as proposed. The adjustment requests are being processed concurrent with the Master Plan Amendment and Detailed Development Plan.

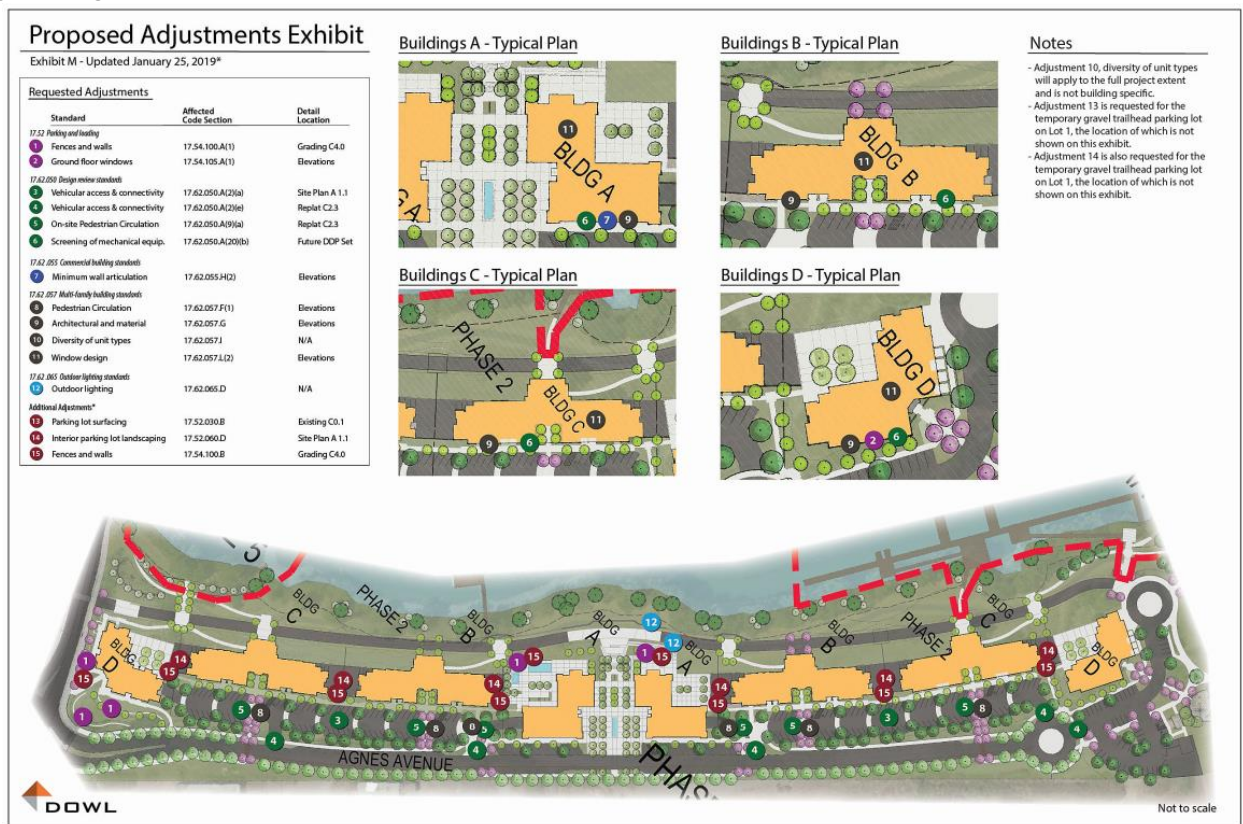
17.65.070.C. Regulations That May Not be Adjusted. *Adjustments are prohibited for the following items:*

1. *To allow a primary or accessory use that is not allowed by the regulations;*
2. *To any regulation that contains the word "prohibited";*
3. *As an exception to a threshold review, such as a Type III review process; and*

4. Any exception to allow a use not identified as a permitted or conditional use in the underlying zone.

Finding: Complies as proposed. The applicant has not proposed any prohibited adjustments.

17.65.070.D. Approval Criteria. A request for an adjustment to one or more applicable development regulations under this section shall be approved if the review body finds that the applicant has shown the following criteria to be met.



17.65.070.D 1. Granting the adjustment will equally or better meet the purpose of the regulation to be modified;

Finding: Complies as proposed/complies with condition. The applicant's responses to this standard for each requested adjustment and staff's findings follow:

Requested Adjustment #1 – 17.54.100.A.1

Applicant's Response:

- A 10-foot tall retaining wall is proposed between the Building A buildings and the esplanade; the wall exceeds the 8-foot maximum wall requirement, as shown on the Grading Plan – Center, Sheet C4.2. A 42-inch railing is proposed on top of the wall as shown on the Color Perspectives included in Exhibit O. This adjustment is necessary to ensure the buildings meet flood management requirements with the lowest finished floor elevated one foot above the floodplain in compliance with OCMC 17.42. Furthermore, the narrow lot configuration of the site necessitates that a retaining wall is located between the Building A buildings and the esplanade to prevent encroachment into the Natural Resources Overlay District (NROD).

The retaining wall and railing located between Buildings A and the esplanade will be screened by landscaping as shown on the Color Perspectives included in Exhibit O to mitigate any visual impact. Therefore, the purpose of the regulation is equally met.

- Two approximately 9-foot retaining walls are proposed in front of Building D located at the southern end of Phase 2. The walls are necessary to prevent site development from encroaching into the public street. The site grades in this location are dictated by the requirement to elevate the finished floor of the structures above the city-regulated flood elevation, a requirement that requires substantial fill near Building D relative to the grade of Main Street.

The purpose of OCMC 17.54.100.A.1 is to reduce visual impacts as viewed from the public right-of-way. The retaining walls between Buildings D and Main Street will be terraced to break up the massing, and patterned detailing and landscaped screening will be added to the face of the wall, thus reducing visual impact as intended by the regulation.

Side profile of building D1 on Lot 3 along Main Street



Side profile of building D1 on Lot 3 along Main Street



Image of wall between the A and B Buildings



Staff concurs with the applicant's response and finds that the proposed adjustment will provide visual relief and interest by providing landscape adjacent to the retaining walls larger than the height allowed and will not detract from the intent of the standard. The proposed landscaping shall visually screen

Requested Adjustment #2 - 17.54.105.A(1) - Live/work units.

Applicant's Response: The applicant requests an adjustment from the 50% transparency standard at the pedestrian level for live/work units in Buildings D. Live/work units in Buildings D provide 43-feet of linear glazing on a 93-foot long façade, which constitutes 46% transparency. Live/work units in Buildings B provide 43-feet of linear glazing on an 82-foot long façade, which constitutes 52% transparency, exceeding the 50% minimum standard. Because the live/work units in Buildings B exceed the standard, the standard is equally met.

ENLARGED ELEVATIONS

BUILDING D1



The intent of the standard is to provide pedestrian engagement with the street, visual relief, and to support the live/work use by design requirements similar to that of a commercial building. The adjustment applies to buildings D1 (lot 3, adjacent to Main and Agnes intersection) and D2 (lot 10, adjacent to the north park). In addition, the buildings are each setback a significant distance from Agnes Avenue and thus the minor difference in transparency is rather indistinguishable from the street. While it is helpful that the majority of the buildings exceed the transparency along the Agnes frontage, and the reduction is minor, the locations of the buildings are each in a prominent location. The side elevation of Building D1 is significantly higher than the adjacent Main Street (reducing the opportunity for those to see in and engage with the live/work from the street) and is mitigated by installation of plantings. The applicant shall assure plantings between any portion of the live/work units and the north park are screened with a minimum of one shrub every 4 feet and groundcover. With the amount of transparency proposed, changes in elevation, and installation in landscaping, the intent of the standard is met.

Requested Adjustment #3 - 17.62.050.A(2)(a) – Vehicular Access and Connectivity.

Applicant's Response: Parking is located in front of the buildings in order to orient the building toward the public plaza, maximizing access to open space and the waterfront, which meets the intent of this standard to enhance the pedestrian experience.

The standard requires parking to not be located behind buildings. The intent of the standard is so that buildings may engage with the street. However, in this case, the Master Plan was previously approved with the buildings and parking in the approximate location proposed so that the buildings may engage with the pedestrian walkway extending along the cove between the buildings and the water. In addition, the applicant has also proposed a pedestrian plaza in the middle of the buildings which supports additional pedestrian connection and engagement. Staff finds that the proposed adjustment will not detract from the intent of the standard.

Requested Adjustment #4 - 17.62.050.A(2)(e) – Vehicular Access and Connectivity.

Applicant's Response: The purpose of this regulation is to provide for safe and efficient access to the site. Access is necessary to each individual building to comply with emergency access and circulation standards. No more than one access drive is provided per lot. Therefore, the intent of this regulation is equally met.

The standard requires applicants to provide a single driveway per frontage. The subject site includes a long frontage comprised of multiple properties which contain separate buildings. Staff concurs with the applicant's response and finds that the applicant has limited the number of accessways along Agnes and that the access proposed are similar to other access patterns/spacing within the Mixed Use Downtown.

Requested Adjustment #5 – 17.62.050.A(9)(a) – On-Site Pedestrian Circulation

Applicant's Response: As shown on the Site Plan, Sheets C2.0 – C2.2, direct pedestrian pathways are provided between the building entrance and the street. City staff has determined that crossing the parking lot adjacent to Building B and Building C buildings, and that crossing a drive aisle adjacent to Building A buildings will require an adjustment to this standard. The access provided is in a straight line, and the most direct access that can be provided in this waterfront oriented development. Direct access is also provided from each building to the public waterfront esplanade. Therefore, this standard is equally met.

The standard requires a direct pedestrian connection between the building and the street. In addition to the purpose identified by the applicant above, it also supports the configuration where the parking lot is not located in front of the building. If the applicant is allowed to cross a drive aisle with the pedestrian connection between the building and the street, the Municipal Code provides standards to require the

crossing be safe, such as that it be visually distinguishable from the drive aisle (such as with paint or another material). Given that the accessway will have a level of safety in design in order to comply with the Municipal Code, the intent of the standard is met.

Requested Adjustment #6 - 17.62.050.A(20)(b) – Screening of Mechanical Equipment.

Applicant's Response: Natural gas meters will be placed on the street-facing façade of the waterfront residences facing Agnes Avenue. The equipment will be screened with sight- obscuring screening comprised of plant materials. The screening will reduce any visual impact that may result from the adjustment and enhance the aesthetic qualities of the site. Therefore, the intent of the standard is better met. Details of landscaped screening will be provided with landscaping plans associated with the subsequent DDP.

Staff concurs with the applicant's response and finds that the proposed adjustment will not detract from the intent of the standard due to the landscaping, provided the natural gas meters are fully screened within 3 years of installation.

Requested Adjustment #7 - 17.62.055.H(2) – Minimum Wall Articulation

Applicant's Response: 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.

Buildings A - Typical Plan



ENLARGED ELEVATIONS

BUILDING A1





The façade length for Buildings A, which have the commercial component on the ground floor, is 129-feet facing the public plaza and 121-feet facing the street.

Therefore, the applicant requests an adjustment to this standard. The projections/recesses vary from 4 to 40-feet (under and over 20 percent) and vary in depth from 2 to 45-feet (under and over 3 percent), making the longest uninterrupted length of façade 81-feet. Because the proposed buildings exceed the horizontal articulation standard, the purpose of the standard is equally met.

For Buildings A1 and A2 the façade facing the public plaza is 129-feet long which would require articulation of 4-foot depth every 28 feet. The articulation on the whole façade occurs on intervals much less than 28 feet (from 12 to 25 feet) and the depth varies from 2 to 8 feet.

For Buildings A1 and A2 the façade facing the street is 121-feet long which would require articulation of 4-foot depth every 24 feet. The articulation on the whole façade is as follows: 14 feet, 16 feet, 32 feet, 42 feet, 18 feet, and the depth is 2 or 2.5 feet.

For the 129' façade of the A buildings, this section requires recesses or projections of at least 3.87 feet for a duration of 25.8' along the façade ($129' \times .03 = 3.87'$ and $129' \times .2 = 25.8'$). The 121' façade requires recesses or projections of at least 3.63 feet for a duration of 24.2' along the façade ($121' \times .03 = 3.63'$ and $121' \times .2 = 24.2'$). The purpose of the requirement is to break up the massing of larger structures into smaller segments and provide visual interest. Though the standard is only applicable to the bottom floor, the applicant has proposed frequent modulations at wide intervals to provide visual relief for the massing of the façade in addition to changes with building material, color, and providing a variety of design elements on the upper floors which differ from the bottom floor.

Requested Adjustment #8 – 17.62.057.F(1) – Pedestrian Circulation

Applicant's Response: As shown on the Site Plan, Sheets C2.0 – C2.2, pedestrian pathways are provided between the building entrance and the street in a straight line. City staff has determined that crossing the parking lot adjacent to Building B and Building C buildings, and that crossing a drive aisle adjacent to Building A buildings will require an adjustment to this standard. The access provided is in a straight line, and the most direct access that can be provided in this waterfront oriented development. Direct access is also provided from each building to the public waterfront esplanade. Therefore, this standard is equally met.

Staff concurs with the applicant's response and finds that the proposed adjustment will not detract from the

intent of the standard.

Requested Adjustment #9 - 17.62.057.G – Architectural and Material Standards.

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.



ENLARGED ELEVATIONS

BUILDING A1



ENLARGED ELEVATIONS

BUILDING B1



The facades of all the buildings have extensive articulation and modulation that exceed horizontal requirements but are not as deep as the code requires. The buildings provide a much greater variety of features than required. Therefore, the purpose of this articulation and modulation standard is equally met.

- *1a) Vertical building modulation. Minimum depth and width of modulation is thirty-six inches and four feet (respectively) if tied to a change in color or building material and/or roofline modulation. Otherwise, minimum depth of modulation is ten feet and minimum width for each modulation is fifteen feet.*

Recessed balconies are being used to provide vertical modulation in lieu of dormers with windows. Balconies occur on all buildings' facades and are typically 6 feet deep and 11 feet wide.

- *1b) Horizontal modulation (upper level step-backs). The minimum horizontal modulation for buildings higher than two stories shall be five feet.*

All buildings have a foot wide "water table" extension that projects one foot outward from the

building face and one foot above the street level. Buildings B and D corners step back 6 feet with additional roof articulation at those corners.

- 1c) *Articulation of the building's top, middle, and bottom. This typically includes a distinctive ground floor or lower floor design, consistent articulation of middle floors, and a distinctive roofline.* This requirement is met.
- 2) *Buildings exceeding one hundred twenty feet in width along the street front shall be divided by a thirty-foot wide modulation of the exterior wall, so that the maximum length of a particular facade is one hundred twenty feet. Such modulation must be at least twenty feet or deeper and extend through all floors. The director will consider other design methods that are effective at reducing the perceived width of the building. Examples could include a combination of vertical and/or horizontal building modulation with a change in building materials or finishes, a clear change in building articulation and/or fenestration technique.*

Buildings A street façade modulation is as outlined in Adjustment #7.

Buildings B street façade modulation is as follows: from SE end the façade is setback 6 feet for 22-foot length, steps forward for 48 feet, then is setback for 23 feet at 6-foot depth, then steps forward for 27 feet, then it's setback for 38 feet at 21-foot depth at the main entry. Façade elements longer than 30 feet are broken up into smaller elements on upper floors and use additional vertical modulation or change in building materials above the street level.

Buildings D street façade modulation is as follows: on Agnes Street from SE corner the façade is setback 6 feet for 12 feet, then is steps forward for 30 feet, then it's setback 6 feet for 10 feet, then it steps forward for 37 feet, then it steps back 6 feet for 21-foot length. Main Street façade from SE corner steps back 6 feet for 12-foot length, then steps forward for 27 feet, then steps back 6 feet for 10-foot length, then steps forward 12 feet, then is set back 6 feet for 13 feet and 20 feet with a large column articulation in between.

- 3) *Roofline standards C) Other roof forms consistent with the design standards herein may satisfy this standard if the individual segments of the roof with no change in slope or discontinuity are less than forty feet in width (measured horizontally).*

Building A roofs change slope and shape in less than 40 feet width. Buildings B have two roof elements that are 40 feet wide, the rest is under 40-foot width. Building D roofs have two areas with roof elements at 41-foot width, the rest is under 40-foot width.

The intent of the standard is to break up the massing of multi-family structures into smaller scale segments and provide visual interest and relief with a variety of decorative elements, modulation, windows, materials and color. Staff concurs with the applicant's response and finds that the proposed adjustment will not detract from the intent of the standard.

Requested Adjustment #10 - 17.62.057.I – Diversity of Unit Types

Applicant's Response: The applicant is providing a variety of unit types. While the 10% minimum standard is not met, there are three distinct floor plans of 1-bedroom units, two distinct floor plans of 2-bedroom units, and 3-bedroom units are provided. Therefore, the intent to provide a diversity of housing types to allow for a range of households and age groups is equally met.

Staff concurs with the applicant's response and finds that the proposed adjustment will not detract from the intent of the standard.

Requested Adjustment #11 - 17.62.057.L(2) – Window Design

Applicant's Response: Windows will incorporate 3.5-inch trim in most locations with a few exceptions where different design calls for a reduced window trim treatment. All windows will have 1.3-inch deep trim per manufacturer's standard. The City has proposed removing this standard in the updated code. Since decorative window treatment, both horizontal and vertical façade trim, and material

changes are provided as shown on the building elevations included in Exhibit A, the purpose of this standard is equally or better met.



Staff concurs with the applicant's response and finds that the proposed adjustment will not detract from the intent of the standard.

Requested Adjustment #12 - 17.62.065.D - General Outdoor Lighting Standard and Glare Prohibition.

Applicant's Response: The purpose of this standard is to prevent negative impacts on adjacent properties. Because the development site is under single ownership, no adverse impacts will occur as a result of light trespass. Therefore, this standard is equally met.

The Master Plan includes an assortment of lots and tracts which could result in a variety of owners. The lighting standard helps protect adjacent properties from glare. The adjustment for lighting shall only apply to the property boundaries on lots 3-10 and adjacent tracts. The lighting adjustment shall not apply to the Natural Resources Overlay District.

Requested Adjustment #13 - 17.52.030 and 17.52.060 - Allow continuation of a temporary gravel parking lot that does not comply with the parking lot standards or landscaping standards.

This standard requires paved surfaces and installation of landscaping for all off-street parking spaces. The applicant adjustment would allow for the continuation of the temporary trailhead parking lot on Lot 1 until the site is redeveloped. The parking lot currently provides public access to the Clackamas River Trail.

The purpose of this regulation is to ensure durability of permanent parking lot improvements. The applicant requests an adjustment to this standard to maintain the existing gravel parking lot on Lot 1. Stormwater on the parking lot sheet flows to existing perimeter vegetation. A landscaped buffer will be installed to minimized visual impacts from the public right-of-way. Moreover, the gravel parking lot is a temporary condition to allow future buildout of the master plan and paving the lot would be an unnecessary expense. Therefore, the purpose of this regulation is equally met.



Staff finds that the purpose of the requirements is to have long lasting, orderly and safe parking lots which include landscaping to mitigate impervious surfaces and provide visual interest. A temporary trailhead parking lot on Lot 1 was approved with the same adjustment during the 2015 approval process under the premise that it would be removed upon development of phase 2. The proposed Master Plan amendment would alter both the timing of development of lot 1 to occur at any time in the next 10 years while the Master Plan is valid. The temporary gravel parking lot is intended to accommodate the visitors of the esplanade until lot 1 is developed. Allowing the facility to remain in a similar condition does not result in a negative impact, though if the parking becomes permanent, it should comply with the applicable standards. In order to avoid the temporary parking which does not comply with the applicable standards for an extended period of time, the Lot 1 temporary trailhead parking shall be removed or upgraded to comply with the applicable standards prior to expiration of the Master Plan.

In order to mitigate the impact of the extended timeline, prior to final of the mass grading permit, the applicant shall submit a landscaping plan and install landscaping between the temporary parking lot on lot 1 and the street with native ground cover and a shrub every 4 feet.

Requested Adjustment #14 – 17.52.060.D – Interior Parking Lot Landscaping.

This standard requires an interior landscaping within parking lots.

The lower level structured parking areas do not contain landscaping strips. However, these areas are blocked entirely from view as they are either located underneath buildings or screened by 10-foot retaining walls to the east and a mix of plantings to the west. Therefore, the lower level parking areas are not visible from the public streets or esplanade. Providing landscaping within the structured parking areas is not practicable due to shade and water issues.

Due to the screening and shading of structured parking areas from the adjacent retaining walls and buildings, landscaping is not included in the lower level parking areas. These areas are screened by 10-foot retaining walls and a mix of plantings or located underneath buildings. The lower level parking areas are not visible from the public streets or esplanade. The buildings will provide shade, and low impact development approach (LIDA) stormwater filter strips will be installed on the outer perimeter of the lot. Therefore, the purpose of this regulation is equally met. Therefore, any impacts resulting from the adjustment related to drainage, heat, and aesthetics will be mitigated.

Requested Adjustment #15 – 17.54.100.B Fences and walls.

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

This standard does not allow walls to exceed 8.5-feet in height.

- *10-foot tall retaining walls extend from the wings of Buildings B and C and are separate from the building walls. These walls are necessary to retain grades for the lower level parking areas and obscure the view of structured parking areas from the public right of way and pedestrian plazas. Landscaping will be provided in front of these walls.*

The purpose of this regulation is to soften appearance of large, blank walls. These walls are screened by landscaping. Therefore, any impact resulting from the adjustment will be mitigated.

The requested adjustment for the two 9-foot retaining walls proposed in front of Building D and the proposed walls between the A buildings and the esplanade are addressed with Adjustment #1.



Staff concurs with the applicant's response for the proposed 10-foot tall retaining wall in front of Buildings B and C and finds that the proposed adjustment will not detract from the intent of the standard.

17.65.070.D.2. *If more than one adjustment is being requested, the cumulative effect of the adjustments results in a project that is still consistent with the overall purpose of the zone;*

Finding: Complies as proposed. The applicant's response to this standard and staff's findings follow:

In combination with the adjustments already approved for The Cove, the requested adjustments will not create a situation in which the cumulative requests are inconsistent with the purposes of the MUD zone. Per OCMC 17.34.010, the MUD district is intended to provide a mix of high-density residential, office and retail uses, with retail and service uses on the ground floor and office and residential uses on the upper floors. Pedestrian and transit use is encouraged through these uses. The Cove project provides for an appropriate mix of land uses with ground floor commercial uses and high-density residential uses above. The requested adjustments will not preclude the ability to provide a mix of uses that engage the pedestrian nor preclude consistency with the purpose of the zone to encourage mixed uses, and pedestrian and transit access.

Staff concurs and finds that the cumulative effect of the adjustments is consistent with the intent of the approved Master Plan to provide a quality mixed-use development.

17.65.070.D.3. *City-designated Goal 5 resources are protected to the extent otherwise required by Title 17;*

Finding: Complies as proposed. No adjustments are proposed that would impact city designated Goal 5 resources. Section 5 of the Oregon City Comprehensive Plan addresses Goal 5 resources. Goal 5 resources are protected through the use of overlay districts within the Oregon City Municipal Code. These include the Natural Resources Overlay District (OCMC 17.49), the Historic Resources Overlay District (OCMC 17.40), the Flood Management Overlay District (OCMC 17.42), the Erosion and Sediment Control standards (OCMC 17.47), the Stormwater Management standards (OCMC 13.12), the Grading, Filling and Excavation Standards (OCMC 15.48) and the Geologic Hazards Overlay District (OCMC 17.44). The proposed development site is not within a Historic District Overlay. The proposed development site includes areas within the Natural Resource Overlay District, and a review is requested concurrent with this application. As evidenced by the NROD Report, the proposed Phase 2 development project has been designed in compliance with the standards defined in the applicable overlay districts. No requested adjustments are proposed within the NROD. Light fixtures along the waterfront esplanade will be shielded to prevent glare into the resource area. Therefore, no impact to Goal 5 resources will occur as a result of the adjustments.

17.65.070.D.4. *Any impacts resulting from the adjustment are mitigated; and*

Finding: Please refer to the analysis above.

17.65.070.D.5. *If an environmental zone, the proposal has as few significant detrimental environmental impacts on the resource and resource values as is practicable. (Ord. 03-1014, Att. B3 (part), 2003)*

Finding: Not applicable. The proposed adjustments do not affect the Natural Resources Overlay District (NROD) nor any standards required by the NROD pursuant to OCMC 17.49. Therefore, there are no environmental impacts associated with the adjustments. Related to Adjustment #9, light fixtures along the waterfront esplanade will be shielded to prevent glare into the adjacent NROD area (this is an NROD requirement). Staff concurs with the applicant's response and finds that the proposed adjustments will have as few as few significant detrimental environmental impacts on the resource and resource values as is practicable.

17.65.070.6. *The proposed adjustment is consistent with the Oregon City Comprehensive Plan and ancillary documents.*

Finding: Complies as proposed. The applicant's responses to this standard for each requested adjustment and staff's findings follow:

Requested Adjustment #1 – 17.54.100.A(1) Generally. Fence, hedge, or wall. Retaining wall heights.

Goal 7.1 Natural Hazards.

Policy 7.1.6 *Encourage the use of land and design of structures that are relatively unaffected by the periodic effects of flooding, such as parking and other uses not normally occupied by humans.*

The requested adjustment to retaining wall heights is consistent with this goal because they are necessary to elevate the human-occupied areas of the development above the 100-year floodplain and facilitate the tuck-under parking lots. The tuck-under parking areas will be within the 100-year floodplain, consistent with Policy 7.1.6 above.

Staff concurs with the applicant's response and finds that the proposed adjustment is consistent with the Oregon City Comprehensive Plan and ancillary documents.

Goal 2.2 Downtown Oregon City.

Policy 2.2.10 Develop the Clackamette Cove area through the implementation of the Oregon City Waterfront Master Plan to achieve a balance between the natural and built environments, including wildlife habitat, multi-family residential development, office and retail, and family recreation.

The Oregon City Waterfront Master Plan (2002) referenced in the policy above calls for “returning Oregon City to its riverfront heritage” by promoting riverfront development in a way that enhances connections between downtown and the river and provides improved bicycle and pedestrian connections along the river. The plan also calls for development in the Cove, particularly new housing, to be oriented toward Clackamette Cove to “capitalize on the waterfront housing market and provide a community presence on the Cove.” The requested adjustment is consistent with this goal because it balances the desire to keep development close to, and oriented toward, the river with the need to manage the 100-year floodplain.

Staff concurs with the applicant’s response and finds that the proposed adjustment is consistent with the Oregon City Comprehensive Plan and ancillary documents.

Requested Adjustment #2 - 17.54.105.A(1) - Live/work units. Glazing on street-facing facades.
Goal 2.2 Downtown Oregon City.

Policy 2.2.10 Develop the Clackamette Cove area through the implementation of the Oregon City Waterfront Master Plan to achieve a balance between the natural and built environments, including wildlife habitat, multi-family residential development, office and retail, and family recreation.

The Oregon City Waterfront Master Plan (2002) referenced in the policy above calls for “returning Oregon City to its riverfront heritage” by promoting riverfront development in a way that enhances connections between downtown and the river and provides improved bicycle and pedestrian connections along the river. The plan also calls for development in the Cove, particularly new housing, to be oriented toward Clackamette Cove to “capitalize on the waterfront housing market and provide a community presence on the Cove.” The proposed adjustment is consistent with the Waterfront Master Plan because it orients development toward the river by emphasizing windows and doors (glazing) on the river-facing façade.

Staff concurs with the applicant’s response and finds that the proposed adjustment is consistent with the Oregon City Comprehensive Plan and ancillary documents.

Requested Adjustment #3 - 17.62.050.A(2)(a) – Vehicular Access and Connectivity. Parking location.

Goal 2.2 Downtown Oregon City.

Policy 2.2.10 Develop the Clackamette Cove area through the implementation of the Oregon City Waterfront Master Plan to achieve a balance between the natural and built environments, including wildlife habitat, multi-family residential development, office and retail, and family recreation.

Goal 15.1 Protect the Willamette River Greenway

Policy 15.1.3 Encourage access to and along the river consistent with the Oregon City Park and Recreation Master Plan and the Oregon City Waterfront Master Plan.

The Oregon City Waterfront Master Plan (2002) referenced in the policy above calls for “returning Oregon City to its riverfront heritage” by promoting riverfront development in a way that enhances

connections between downtown and the river and provides improved bicycle and pedestrian connections along the river. The plan also calls for development in the Cove, particularly new multi-family housing, to be oriented toward Clackamette Cove to “capitalize on the waterfront housing market and provide a community presence on the Cove.” The plan also calls for a riverfront trail “tracing the shoreline” that connects Clackamette Cove to downtown Oregon City. The proposed adjustment to the location of off-street parking in the development supports these policies by orienting the buildings to the river and riverfront trail and avoiding barriers (such as surface parking) between the buildings and the trail.

Staff concurs with the applicant’s response and finds that the proposed adjustment is consistent with the Oregon City Comprehensive Plan and ancillary documents.

Requested Adjustment #4 - 17.62.050.A(2)(e) – Vehicular Access and Connectivity. Number of driveways.

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.*

Goal 11.9 Fire Protection. *Maintain a high level of fire protection and emergency medical services. Policy 11.9.1 Ensure that all areas, including newly annexed areas, receive fire protection and emergency medical services.*

The proposed adjustment to the number of driveways is consistent with the above policies because it will facilitate more direct access to each building for emergency vehicles and fire protection. Limiting the entire development to only one access point from Agnes would reduce efficiencies for emergency services and increase response times for those buildings furthest from the access point.

Staff concurs with the applicant’s response and finds that the proposed adjustment is consistent with the Oregon City Comprehensive Plan and ancillary documents.

Requested Adjustment #5 – 17.62.050.A(9)(a) – On-Site Pedestrian Circulation. Pedestrian connections between street and building entrances.

Goal 2.2 Downtown Oregon City.

Policy 2.2.10 Develop the Clackamette Cove *area through the implementation of the Oregon City Waterfront Master Plan to achieve a balance between the natural and built environments, including wildlife habitat, multi-family residential development, office and retail, and family recreation.*

Goal 15.1 Protect the Willamette River Greenway

Policy 15.1.3 Encourage access to and along the river *consistent with the Oregon City Park and Recreation Master Plan and the Oregon City Waterfront Master Plan.*

The Oregon City Waterfront Master Plan (2002) referenced in the policy above calls for “returning Oregon City to its riverfront heritage” by promoting riverfront development in a way that enhances connections between downtown and the river and provides improved bicycle and pedestrian connections along the river. The plan also calls for development in the Cove, particularly new multi-family housing, to be oriented toward Clackamette Cove to “capitalize on the waterfront housing market and provide a community presence on the Cove.” The plan also calls for a riverfront trail

“tracing the shoreline” that connects Clackamette Cove to downtown Oregon City. The proposed adjustment to the pedestrian connectivity standard is linked to the adjustment for location of parking (adjustment #3 above). Parking is proposed between the buildings and Agnes Avenue so that the buildings can be oriented to the river with no barriers between the riverfront trail and buildings. Due to this parking lot location, it is not possible to create pedestrian pathways between the street (Agnes Ave.) and building entrances that do not cross a drive aisle or parking area.

Staff concurs with the applicant’s response and finds that the proposed adjustment is consistent with the Oregon City Comprehensive Plan and ancillary documents.

Requested Adjustment #6 - 17.62.050.A(20)(b) – Screening of Mechanical Equipment. Gas meters on the street-facing façade.

Goal 2.2 Downtown Oregon City.

Policy 2.2.10 Develop the Clackamette Cove area through the implementation of the Oregon City Waterfront Master Plan to achieve a balance between the natural and built environments, including wildlife habitat, multi-family residential development, office and retail, and family recreation.

The Oregon City Waterfront Master Plan (2002) referenced in the policy above calls for “returning Oregon City to its riverfront heritage” by promoting riverfront development in a way that enhances connections between downtown and the river and provides improved bicycle and pedestrian connections along the river. The plan also calls for development in the Cove, particularly new housing, to be oriented toward Clackamette Cove to “capitalize on the waterfront housing market and provide a community presence on the Cove.” The adjustment is requested to facilitate building orientation toward the river. Because this development emphasizes its river-facing façade as the “front”, locating mechanical equipment at the “back” of buildings is appropriate and consistent with this policy.

Staff concurs with the applicant’s response and finds that the proposed adjustment is consistent with the Oregon City Comprehensive Plan and ancillary documents.

Requested Adjustment #7 - 17.62.055.H(2) – Minimum Wall Articulation, street-facing facades.

Goal 2.2 Downtown Oregon City.

Policy 2.2.10 Develop the Clackamette Cove area through the implementation of the Oregon City Waterfront Master Plan to achieve a balance between the natural and built environments, including wildlife habitat, multi-family residential development, office and retail, and family recreation.

The Oregon City Waterfront Master Plan (2002) referenced in the policy above calls for “returning Oregon City to its riverfront heritage” by promoting riverfront development in a way that enhances connections between downtown and the river and provides improved bicycle and pedestrian connections along the river. The plan also calls for development in the Cove, particularly new housing, to be oriented toward Clackamette Cove to “capitalize on the waterfront housing market and provide a community presence on the Cove.” This adjustment is consistent because it focuses building articulation on the river-facing facades and the large public plaza proposed between the two “A” buildings. The plaza is intended as a main entrance into the development and ground floor retail stores will be oriented to the plaza and out toward the river.

Staff concurs with the applicant’s response and finds that the proposed adjustment is consistent with the

Oregon City Comprehensive Plan and ancillary documents.

Requested Adjustment #8 – 17.62.057.F(1) – Pedestrian Circulation. Pedestrian connections between street and building entrances.

Goal 2.2 Downtown Oregon City.

Policy 2.2.10 Develop the Clackamette Cove area through the implementation of the Oregon City Waterfront Master Plan to achieve a balance between the natural and built environments, including wildlife habitat, multi-family residential development, office and retail, and family recreation.

Goal 15.1 Protect the Willamette River Greenway

Policy 15.1.3 Encourage access to and along the river consistent with the Oregon City Park and Recreation Master Plan and the Oregon City Waterfront Master Plan.

The Oregon City Waterfront Master Plan (2002) referenced in the policy above calls for “returning Oregon City to its riverfront heritage” by promoting riverfront development in a way that enhances connections between downtown and the river and provides improved bicycle and pedestrian connections along the river. The plan also calls for development in the Cove, particularly new multi-family housing, to be oriented toward Clackamette Cove to “capitalize on the waterfront housing market and provide a community presence on the Cove.” The plan also calls for a riverfront trail “tracing the shoreline” that connects Clackamette Cove to downtown Oregon City. The proposed adjustment to the pedestrian connectivity standard is linked to the adjustment for location of parking (adjustment #3 above). Parking is proposed between the buildings and Agnes Avenue so that the buildings can be oriented to the river with no barriers between the riverfront trail and buildings. Due to this parking lot location, it is not possible to create pedestrian pathways between the street (Agnes Ave.) and building entrances that do not cross a drive aisle or parking area.

Staff concurs with the applicant’s response and finds that the proposed adjustment is consistent with the Oregon City Comprehensive Plan and ancillary documents.

Requested Adjustment #9 - 17.62.057.G – Architectural and Material Standards.

As shown on the building elevations included in Exhibit A, the facades of all the buildings have extensive articulation and modulation that exceeds horizontal requirements but are not as deep as the code requires. The buildings still provide a much greater variety of features than required. Therefore, the applicant requests an adjustment to this standard. (It should be noted that draft municipal code changes, if adopted later this year, will eliminate this requirement.)

Goal 2.1 Efficient Use of Land

Policy 2.1.3 Encourage sub-area master planning for larger developments or parcels, including re-development, where it may be feasible to develop more mixed uses, or campus-style industrial parks, with shared parking and landscaping areas. Allow developments to vary from prescriptive standards if planned and approved under this provision.

The proposed adjustment is consistent with this policy because it facilitates a large, cohesive waterfront-oriented mixed-use project with shared parking and landscaped areas. The project’s design, orientation and use of a variety of materials provides a rich variation in appearance, even though the prescriptive standard for façade depth is not met. Through the use of horizontal

modulation, building materials, landscaping, plazas and other site features, the applicant is supporting the City's intent for integrated master planning of large sites. Consistent with this plan policy, the City can vary from prescriptive standards through site master planning as allowed through the CDP process.

Staff concurs with the applicant's response and finds that the proposed adjustment is consistent with the Oregon City Comprehensive Plan and ancillary documents.

Requested Adjustment #10 - 17.62.057.I – Diversity of Unit Types

The applicant is providing a variety of unit types including three types of 1-bedroom units, two types of 2-bedroom units, and 3-bedroom units. The mix of units does not comply with the 10% minimum standard per type. Therefore, an adjustment to this standard is requested. (It should be noted that draft municipal code changes, if adopted later this year, will eliminate this requirement.)

Goal 10.1 Diverse Housing Opportunities

Policy 10.1.3 *Designate residential land for a balanced variety of densities and types of housing, such as single-family attached and detached, and a range of multi-family densities and types, including mixed-use development.*

The proposed adjustment is consistent with this policy because it provides a diversity of housing opportunities including multi-family apartments through a mixed-use development. The proposed CDP amendment increases the number of residential units to 404 units which will increase the inventory of multi-family units—in particular mixed-use multi-family units—in the City.

Staff concurs with the applicant's response and finds that the proposed adjustment is consistent with the Oregon City Comprehensive Plan and ancillary documents.

Requested Adjustment #11 - 17.62.057.L(2) – Window Design

As shown on the building elevations included in Exhibit A, windows will incorporate 3.5 inch trim in most locations with a few exceptions where different design calls for a reduced window treatment. All windows will have 1.3-inch-deep trim per manufacturer's standard. Therefore, the applicant requests an adjustment. (It should be noted that draft municipal code changes, if adopted later this year, will revise this requirement.)

Goal 2.1 Efficient Use of Land

Policy 2.1.3 *Encourage sub-area master planning for larger developments or parcels, including re-development, where it may be feasible to develop more mixed uses, or campus-style industrial parks, with shared parking and landscaping areas. Allow developments to vary from prescriptive standards if planned and approved under this provision.*

Because the project is subject to review under the City's CDP provisions, and will create a waterfront mixed use master plan project, alternatives to the prescriptive standards are available as noted in this policy. In this instance, the prescriptive standard—that window trim is at least four-inches in width--requires an adjustment. The applicant is providing a variety of building materials, and horizontal modulation along with other site amenities to offer significant variation in building appearance to ensure that the building is of a high quality pedestrian- oriented design. Therefore, the proposal is consistent with this plan policy.

Staff concurs with the applicant's response and finds that the proposed adjustment is consistent with the Oregon City Comprehensive Plan and ancillary documents.

Requested Adjustment #12 - 17.62.065.D - General Outdoor Lighting Standard and Glare Prohibition.

Goal 2.1 Efficient Use of Land

Policy 2.1.3 Encourage sub-area master planning for larger developments or parcels, including re-development, where it may be feasible to develop more mixed uses, or campus-style industrial parks, with shared parking and landscaping areas. Allow developments to vary from prescriptive standards if planned and approved under this provision.

The proposed adjustment is consistent with this policy because it facilitates a large, cohesive project that spans across several tax lots but is essentially one development. The prescriptive standard here – that lighting cannot exceed 0.5 foot-candles at the property line – is not appropriate for this type of master planned development where buildings are technically on separate tax lots but are intended to be part of an interconnected and unified development.

Allowing an adjustment to the lighting standard supports this policy.

Staff concurs with the applicant's response and finds that the proposed adjustment is consistent with the Oregon City Comprehensive Plan and ancillary documents.

Requested Adjustment #13 - 17.52.030 and 17.52.060 - Allow continuation of a temporary gravel parking lot that does not comply with the parking lot standards or landscaping standards.

Goal 2.2 Downtown Oregon City.

Develop the Downtown area, which includes the Historic Downtown Area, the "north end" of the Downtown, Clackamette Cove, and the End of the Oregon Trail area, as a quality place for shopping, living, working, cultural and recreational activities, and social interaction. Provide walkways for pedestrian and bicycle traffic, preserve views of Willamette Falls and the Willamette River, and preserve the natural amenities of the area.

Policy 2.4.2 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.

The siting of a permanent and temporary Trailhead parking lot would increase community livability as identified in Goal 2.4 and Goal 2.2 of the Comprehensive Plan which encourages development of the subject site as a "quality place for shopping, living, working, cultural and recreational activities, and social interaction".

Policy 2.2.10 Develop the Clackamette Cove area through the implementation of the Oregon City Waterfront Master Plan to achieve a balance between the natural and built environments, including wildlife habitat, multi-family residential development, office and retail, and family recreation.

The *Oregon City Waterfront Master Plan* (2002) referenced in the policy above calls for "returning Oregon City to its riverfront heritage" by promoting riverfront development in a way that enhances connections between downtown and the river and provides improved bicycle and pedestrian connections along the river. The plan also calls for development in the Cove, particularly new housing, to be oriented toward Clackamette Cove to "capitalize on the waterfront housing market and provide a community presence on the Cove." The requested adjustment is consistent with this goal because it balances public access to the Clackamas River

Trail while allowing for future mixed use development.

Goal 15.1 Protect the Willamette River Greenway

- *Policy 15.1.3 Encourage access to and along the river consistent with the Oregon City Park and Recreation Master Plan and the Oregon City Waterfront Master Plan.*

The *Oregon City Waterfront Master Plan* (2002) referenced in the policy above calls for “returning Oregon City to its riverfront heritage” by promoting riverfront development in a way that enhances connections between downtown and the river and provides improved bicycle and pedestrian connections along the river. The proposed adjustment to the temporary gravel parking lot on Lot 1 supports these policies by providing public access to the river and riverfront trail.

Requested Adjustment #14 - 17.52.060.D.d – Interior Parking Lot Landscaping for landscaping in a parking garage.

Goal 2.1 Efficient Use of Land

Policy 2.1.3 Encourage sub-area master planning for larger developments or parcels, including re-development, where it may be feasible to develop more mixed uses, or campus-style industrial parks, with shared parking and landscaping areas. Allow developments to vary from prescriptive standards if planned and approved under this provision.

The proposed adjustment is consistent with this policy because it facilitates a large, cohesive project that spans across several tax lots but is essentially one development. The prescriptive standard here – that bays of eight contiguous surface parking spaces provide a landscape strip – is not appropriate for this type of parking area which is a minor projection of structured parking exempt from surface parking standards. Allowing an adjustment to the interior parking lot landscaping standard supports this policy to allow for efficient use of land.

Goal 7.1 Natural Hazards.

- *Policy 7.1.6 Encourage the use of land and design of structures that are relatively unaffected by the periodic effects of flooding, such as parking and other uses not normally occupied by humans.*

The requested adjustment to interior parking lot landscaping is consistent with this goal because they are necessary to elevate the human-occupied areas of the development above the 100-year floodplain and facilitate the tuck-under parking lots. The tuck-under parking areas will be within the 100-year floodplain, consistent with Policy 7.1.6 above.

Goal 2.2 Downtown Oregon City.

- *Policy 2.2.10 Develop the Clackamette Cove area through the implementation of the Oregon City Waterfront Master Plan to achieve a balance between the natural and built environments, including wildlife habitat, multi-family residential development, office and retail, and family recreation.*

The *Oregon City Waterfront Master Plan* (2002) referenced in the policy above calls for “returning Oregon City to its riverfront heritage” by promoting riverfront development in a way that enhances connections between downtown and the river and provides improved bicycle and pedestrian connections along the river. The plan also calls for development in the Cove, particularly new housing, to be oriented toward Clackamette Cove to “capitalize on the waterfront housing market and provide a community presence on the Cove.” The requested adjustment is consistent with this goal because it balances the desire to keep development close to, and oriented toward, the river with the need to manage the 100-year floodplain.

Requested Adjustment #15 - 17.54.100.B Fences.

Goal 7.1 Natural Hazards.

- Policy 7.1.6 Encourage the use of land and design of structures that are relatively unaffected by the periodic effects of flooding, such as parking and other uses not normally occupied by humans.

The requested adjustment to allow retaining walls that exceed 8.5 feet is consistent with this goal because these walls are necessary to elevate the human-occupied areas of the development above the 100-year floodplain and facilitate the tuck-under parking lots. The tuck-under parking areas will be within the 100-year floodplain, consistent with Policy 7.1.6 above.

Goal 2.2 Downtown Oregon City.

- Policy 2.2.10 Develop the Clackamette Cove area through the implementation of the Oregon City Waterfront Master Plan to achieve a balance between the natural and built environments, including wildlife habitat, multi-family residential development, office and retail, and family recreation.

The *Oregon City Waterfront Master Plan* (2002) referenced in the policy above calls for “returning Oregon City to its riverfront heritage” by promoting riverfront development in a way that enhances connections between downtown and the river and provides improved bicycle and pedestrian connections along the river. The plan also calls for development in the Cove, particularly new housing, to be oriented toward Clackamette Cove to “capitalize on the waterfront housing market and provide a community presence on the Cove.” The requested adjustment is consistent with this goal because it balances the desire to keep development close to, and oriented toward, the river with the need to manage the 100-year floodplain.

17.65.80 Amendments to Approved Plans

Finding: Complies. This application is being reviewed as a Type III amendment to the Master Plan. This proposed amendment to the original 2008 CDP, the amended 2009 CDP, and the amended 2015 CDP addresses all applicable development code sections. The detailed development plan provisions outlined under OCMC 17.65.060 will be addressed upon submittal of the DDP for site buildings as required. The proposed adjustments, changes and replat/subdivision meet the thresholds pursuant to OCMC 17.65.80. B, and are subject to a Type III review.

17.65.090 Regulations that Apply

An applicant is entitled to rely on land use regulations in effect on the date its General Development Plan application was initially submitted, pursuant to ORS 227.178(3), as that statute may be amended from time to time. After a General Development Plan is approved, and so long as that General Development Plan is in effect, an applicant is entitled to rely on the land use regulations in effect on the date its General Development Plan application was initially submitted, as provided above, when seeking approval of detailed development plans that implement an approved General Development Plan. At its option, an applicant may request that a detailed development plan be subject to the land use regulations in effect on the date its detailed development plan is initially submitted.

Finding: Complies as Proposed. This CDP amendment proposal is subject to the applicable land use regulations of this code and as vested through the previously approved CDP.

CHAPTER 17.49 NATURAL RESOURCE OVERLAY DISTRICT

The applicant is seeking an amendment to the approved concept development plan (CP 08-05/15-01) for Phase 2 of The Cove Waterfront Apartments. As part of the amendment, the applicant is seeking a Natural Resources Overlay District (OCMC Ch. 17.49) permit for five project elements:

- Enhancement of the NROD.
- Construction of the esplanade and recreational paths.

- The expansion of a stormwater facility at the North Park area.
- Grading along the Cove shoreline for bank functional improvement, recreational areas, and flood storage.
- Mitigation for permanent encroachments.

The applicant submitted documentation from Tina Farrelly and John van Staveren of Pacific Habitat Services, Inc. and John Runyon of Cascade Environmental Group which was reviewed by the City's consultant Gigi Cooper of David Evans and Associates.

17.49.[0]35 – Addition of wetlands to map following adoption

Finding: Not applicable. There are no wetlands present in the proposed development and enhancement areas.

17.49.040 NROD Permit

An NROD permit is required for those uses regulated under Section 17.49.90, Uses Allowed under Prescribed Conditions. An NROD permit shall be processed under the Type II development permit procedure, unless an adjustment of standards pursuant to Section 17.49.200 is requested or the application is being processed in conjunction with a concurrent application or action requiring a Type III or Type IV development permit. Applications for development on properties affected by the NROD shall delineate or verify the exact location of the NROD as part of a Type I or II development review process unless exempted pursuant to section 17.40.080.

Finding: Complies as proposed. The applicant submitted an NROD application to meet the requirements of this chapter. The NROD report was completed by prepared by Pacific Habitat Services, Inc., dated August 6, 2018 (Exhibit F of the application package), and the habitat enhancement memorandum was prepared by Cascade Environmental Group, dated March 21, 2018 (Exhibit K of the application package), and reviewed by David Evans and Associates, the City's natural resource consultants.

17.49.050 Emergencies

Finding: Not applicable. This is not an emergency.

17.49.060 Consistency and Relationship to Other Regulations

A. Where the provisions of the NROD are less restrictive or conflict with comparable provisions of the Oregon City Municipal Code, other City requirements, regional, state or federal law, the provisions that provides the greater protection of the resource shall govern.

Finding: Not applicable. No conflicts within the Natural Resource Overlay District have arisen.

17.49.060.B. Compliance with Federal and State Requirements.

a. If the proposed development requires the approval of any other governmental agency, such as the Division of State Lands or the U.S. Army Corps of Engineers, the applicant shall make application for such approval prior to or simultaneously with the submittal of its development application to the City. The planning division shall coordinate City approvals with those of other agencies to the extent necessary and feasible. Any permit issued by the City pursuant to this chapter shall not become valid until other agency approvals have been obtained or those agencies indicate that such approvals are not required.

b. The requirements of this chapter apply only to areas within the NROD and to locally significant wetlands that may be added to the boundary during the course of development review pursuant to Section 17.49.035. If, in the course of a development review, evidence suggests that a property outside the NROD may contain a wetland or other protected water resource, the provisions of this chapter shall not be applied to that development review. However, the omission shall not excuse the applicant from satisfying any state and federal wetland requirements which are otherwise applicable. Those requirements apply in addition to, and apart from the requirements of the City's comprehensive plan and this code.

Finding: Complies as proposed. The NROD report includes ODSL and USACE concurrence with the wetland delineation. Although the concurrences are old enough to have expired, there is no need to renew them because no earthwork in wetlands or waters is proposed. There are no wetlands present in the proposed development and enhancement areas, and no work will occur within regulated waters. The proposal was forwarded to the Department of State Lands and the U.S. Army Corps of Engineers.

17.49.[0]70 - Prohibited uses.

- A. *Any new gardens, lawns, structures, development, other than those allowed outright (exempted) by the NROD or that is part of a regulated use that is approved under prescribed conditions. Note: Gardens and lawns within the NROD that existed prior to the time the overlay district was applied to a subject property are allowed to continue but cannot expand further into the overlay district.*

Finding: Not applicable. The proposal includes regulated exempted uses and those allowed under prescribed conditions. All enhancement is exempted from this standard and thus allows installation of lawn within the enhancement areas.

- B. *New lots that would have their buildable areas for new development within the NROD are prohibited.*

Finding: Not applicable. The proposal does not include any new lots.

- C. *The dumping of materials of any kind is prohibited except for placement of fill as provided in subsection D. below. The outside storage of materials of any kind is prohibited unless they existed before the overlay district was applied to a subject property. Uncontained areas of hazardous materials as defined by the Oregon Department of Environmental Quality (ORS 466.005) are also prohibited.*

Finding: Not applicable. The proposal does not include any dumping of materials.

- D. *Grading, the placement of fill in amounts greater than ten cubic yards, or any other activity that results in the removal of more than ten percent of the existing native vegetation on any lot within the NROD is prohibited, unless part of an approved development activity.*

Finding: Not applicable. The proposal includes regulated exempted uses and those allowed under prescribed conditions.

17.49.[0]80 –Uses allowed outright (Exempted).

The following uses are allowed within the NROD and do not require the issuance of an NROD permit:

- A. *Stream, wetland, riparian, and upland restoration or enhancement projects as authorized by the City.*
J. *Replacement, additions, alterations and rehabilitation of existing structures, roadways, utilities, etc., where the ground level impervious surface area is not increased.*

Finding: Complies as proposed. The proposed project includes a variety of enhancement and development within the Natural Resources Overlay District. The enhancement activities include significantly reducing the slope of approximately 1,600 linear feet of Clackamette Cove's bank within the vegetated corridor resulting in an improved habitat. Two studies were submitted which identified that the gentler slope would enhance Clackamette Cove's habitat values and functions and existing vegetation dominated by native cottonwood trees and invasive Himalayan blackberry will be removed during grading, and a diverse array of native vegetation will be planted on the re-graded bank. The studies were reviewed by Gigi Cooper with David Evans and Associates, a City consultant, who confirmed the conclusion.

Though a majority of the project is considered enhancement, the applicant did propose disturbance for pathways, etc. The disturbance which is not considered enhancement is further analyzed within this report.

17.49.090 Uses Allowed Under Prescribed Conditions

The following uses within the NROD are subject to the applicable standards listed in Sections 17.49.100 through 17.49.190 pursuant to a Type II process:

E. Trails/pedestrian paths when not exempted by Section 17.49.080, subject to Section 17.49.170 (for trails) or Section 17.49.150 (for paved pedestrian paths).

I. Stormwater detention or pre-treatment facilities subject to Section 17.49.155

Finding: Complies as proposed. The proposed construction of the esplanade and recreational paths falls under E., and is subject to the standards of 17.49.150 and 17.49.170. The proposed construction of the esplanade and recreational paths do not meet 17.49.080.F., trails, because the width of the esplanade would be 20 feet, and the pathways would be six feet wide, both of which exceed the width standard of 48 inches in 17.49.080.F.2. In addition, the esplanade would be paved and the ground-level pathways would be impervious, and 17.49.080.F.5 requires no impervious surfaces in order to be allowed outright. Mitigation for permanent encroachments will consist of restoring the Clackamette Cove shoreline to native vegetation and removing old industrial debris. The work does not meet the criteria to be permitted outright because work will employ wheeled or tracked equipment for grading within the NROD, and because native vegetation will be removed along with the invasive species. No work will occur within jurisdictional wetlands and waters. Expansion of a stormwater facility at the North Park area falls under I., and is subject to the standards in Section 17.49.155. The proposal is subject to the development standards in 17.49.100 through 17.49.190.

17.49.100 General Development Standards

The following standards apply to all Uses Allowed under Prescribed Conditions within the NROD with the exception of rights of ways (subject to Section 17.49.150), trails (subject to Section 17.49.170), utility lines (subject to Section 17.49.140), land divisions (subject to Section 17.49.160), and mitigation projects (subject to Section 17.49.180 or 17.49.190):

A. Native trees may be removed only if they occur within 10 feet of any proposed structures or within 5 feet of new driveways or if deemed not wind-safe by a certified arborist. Trees listed on the Oregon City Nuisance Plant List or Prohibited Plant List are exempt from this standard and may be removed. A protective covenant shall be required for any native trees that remain;

Finding: Complies with condition. Applicant is requesting an adjustment to this standard for 18 trees, all of which are black cottonwood (*Populus balsamifera*) per Table 4 in the NROD report. Black cottonwood is not listed on Oregon City's Nuisance Plant List. According to the narrative response provided in section 17.49.200, these trees are proposed for removal in order to accomplish bank grading and functional enhancements (flood storage, bank slope improvements). The applicant's plan sheet C 110 Tree Removal Plan only specifically shows and lists trees to be removed outside the NROD. Prior to issuance of a permit associated with the proposed development the applicant shall submit a mitigation planting plan that complies with the standards in OCMC 17.49 and that compares removed trees with extents of proposed tree planting. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

17.49.100.B. *The Community Development Director may allow the landscaping requirements of the base zone, other than landscaping required for parking lots, to be met by preserving, restoring and permanently protecting habitat on development sites in the Natural Resource Overlay District.*

Finding: Not applicable. The applicant is not proposing to meet base zone landscaping requirements within the NROD.

17.49.100.C. *All vegetation planted in the NROD shall be native and listed on the Oregon City Native Plant List;*

Finding: Complies with condition. The applicant's NROD report includes a list of plant species, but indicated that the species are subject to change based on availability and site conditions. Prior to issuance of a permit associated with the proposed development the applicant shall submit a mitigation planting list which complies with the standards in OCMC 17.49. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

17.49.100.D. *Grading is subject to installation of erosion control measures required by the City of Oregon;*

Finding: Please refer to the analysis within chapter 15.48 of this report.

17.49.100.E. *The minimum front, street, or garage setbacks of the base zone may be reduced to any distance between the base zone minimum and zero in order to minimize the disturbance area within the NROD portion of the lot;*

Finding: Not applicable. A reduction in the minimum setback has not been proposed.

17.49.100.F. *Any maximum required setback in any zone, such as for multi-family, commercial or institutional development, may be increased to any distance between the maximum and the distance necessary to minimize the disturbance area within the NROD portion of the lot;*

Finding: Not applicable. An increase in the maximum setback has not been proposed.

17.49.100.G. *Fences are allowed only within the disturbance area;*

Finding: Not applicable. The applicant has not proposed a fence within the vegetated corridor.

17.49.100.H. *Incandescent lights exceeding 200 watts (or other light types exceeding the brightness of a 200 watt incandescent light) shall be placed or shielded so that they do not shine directly into resource areas;*

Finding: Complies with Condition. No lighting is proposed with the development, however, the applicant did propose an adjustment to allow lighting in excess of 0.5 foot-candles to cross property lines. The adjustment did not include an adjustment to this standard and thus all lighting shall comply with 17.49.100.H: Incandescent lights exceeding 200 watts (or other light types exceeding the brightness of a 200 watt incandescent light) shall be placed or shielded so that they do not shine directly into resource areas. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

17.49.100.I. *If development will occur within the 100 yr. floodplain, the FEMA floodplain standards of Chapter 17.42 shall be met; and*

Finding: Please refer to the analysis in Chapter 17.42 of this report.

17.49.100.J. *Mitigation of impacts to the regulated buffer is required, subject to Section 17.49.180 or 17.49.190.*

Finding: Complies as proposed. A mitigation plan has been provided for impacts to the regulated buffer. Please refer to the analysis in Section 17.49.180.

17.49.110 *Width of Vegetated Corridor.*

Calculation of Vegetated Corridor Width within City Limits. The NROD consists of a vegetated corridor measured from the top of bank or edge of a protected habitat or water feature. The minimum required width is the amount of buffer required on each side of a stream, or on all sides of a feature if non-linear. The width of the vegetated corridor necessary to adequately protect the habitat or water feature is specified in Table 17.49.110.

Finding: Complies as proposed. Although a 200 foot wide vegetated corridor is required on the Clackamas River, the original Master Plan included a reduction for the vegetated corridor around the Clackamette Cove to 50'. No changes to the previously established vegetated corridor is proposed onsite.

17.49.120 *Maximum Disturbance Allowance for Highly Constrained Lots of Record*

Finding: Not applicable. The site is not a highly constrained lot of record.

17.49.130 Existing Development Standards

In addition to the General Development Standards of Section 17.49.100, the following standards apply to alterations and additions to existing development within the NROD, except for trails, rights of way, utility lines, land divisions and mitigation projects. Replacement, additions, alterations and rehabilitation of existing structures, roadways, utilities, etc., where the ground level impervious surface area is not increased are exempt from review pursuant to Section 17.49.080(J). As of June 1, 2010, applicants for alterations and additions to existing development that are not exempt pursuant to Section 17.49.080(J) shall submit a Type II or Type III application pursuant to this section. The application shall include a site plan which delineates a permanent disturbance area that includes all existing buildings, parking and loading areas, paved or graveled areas, patios and decks. The same delineated disturbance area shall be shown on every subsequent proposal for alterations and additions meeting this standard.

Finding: Complies as proposed. The applicant does not propose any alterations or additions to existing development within the NROD, therefore; the existing development standards do not apply. The applicant has proposed a Type III application.

17.49.140 Standards for Utility Lines

The following standards apply to new utilities, private connections to existing or new utility lines, and upgrades of existing utility lines within the NROD:

Finding: Not applicable. The applicant does not propose any utility lines in this Phase 2 project, therefore; these standards do not apply.

17.49.150 Standards for Vehicular or Pedestrian Paths and Roads

The following standards apply to public rights-of-way and private roads within the NROD, including roads, bridges/stream crossings, driveways and pedestrian paths with impervious surfaces:

A. Stream crossings shall be limited to the minimum number and width necessary to ensure safe and convenient pedestrian, bicycle and vehicle connectivity, and shall cross the stream at an angle as close to perpendicular to the stream channel as practicable. Bridges shall be used instead of culverts wherever practicable.

Finding: Not applicable. According to the applicant's narrative and plans, the esplanade and pathways do not cross any streams.

17.49.150.B. *Where the right-of-way or private road crosses a stream the crossing shall be by bridge or a bottomless culvert;*

Finding: Not applicable. The proposal does not include a stream crossing.

17.49.150.C. *No fill or excavation shall occur within the ordinary high water mark of a stream without the approval of the Division of State Lands and/or the U.S. Army Corps of Engineers;*

Finding: Not applicable. No excavation or fill would occur in this Phase 2 below the ordinary high watermark. Further, the proposal was forwarded to the Department of State Lands and the U.S. Army Corps of Engineers.

17.49.150.D. *If the Oregon Department of State Lands (DSL) has jurisdiction over any work that requires excavation or fill in a wetland, required permits or authorization shall be obtained from DSL prior to release of a grading permit;*

Finding: Not applicable. There are no wetlands (also see response to 17.49.060), though the proposal was forwarded to the Department of State Lands and the U.S. Army Corps of Engineers.

17.49.150.E. *Any work that will take place within the banks of a stream shall be conducted between June 1 and August 31, or shall be approved by the Oregon Department of Fish and Wildlife; and*

Finding: Not applicable. No work would take place within the banks of a stream.

17.49.150.F. *Mitigation is required, subject to Section 17.49.180 or 17.49.190.*

Finding: A mitigation plan has been provided. Please refer to the analysis in Section 17.49.180.

17.49.155 Standards for Stormwater Facilities

Approved facilities that infiltrate stormwater on-site in accordance with Public Works Low-Impact Development standards, including but not limited to; vegetated swales, rain gardens, vegetated filter strips, and vegetated infiltration basins, and their associated piping, may be placed within the NROD boundary pursuant to the following standards:

A. The forest canopy within the driplines of existing trees shall not be disturbed.

Finding: Not applicable. According to the applicant's NROD report and plans, there is no tree canopy in the stormwater facility location.

B. Only vegetation from the Oregon City Native Plant List shall be planted within these facilities.

Finding: Complies with condition. The applicant's NROD report includes a list of plant species, but indicated that the species are subject to change based on availability and site conditions. Prior to issuance of a permit associated with the proposed development the applicant shall submit a mitigation planting list which complies with the standards in OCMC 17.49. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

C. Mitigation is required, subject to Section 17.49.180 or 17.49.190.

Finding: Complies as proposed. A mitigation plan has been provided. Please refer to the analysis in Section 17.49.180.

D. The storm water facility may encroach up to 1/2 the distance of the NROD corridor.

Finding: Complies as proposed. The Vegetated Corridor is 90 feet and the encroachment, at 35 feet, is less than the one-half standard.

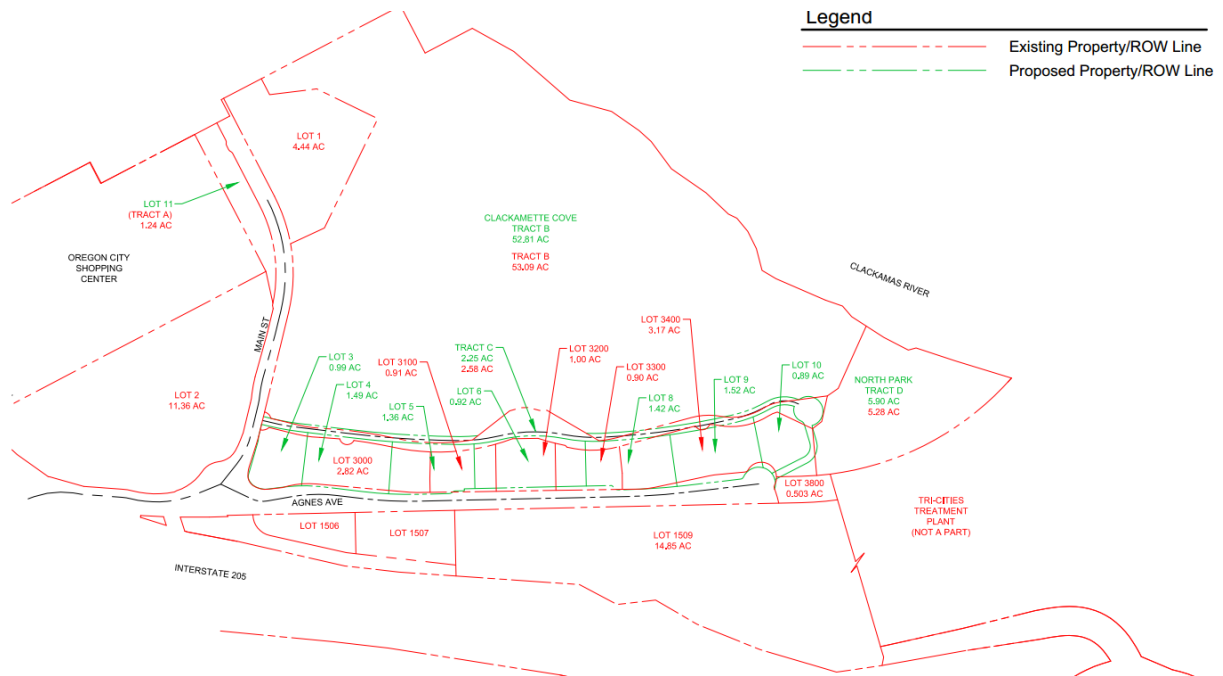
E. The stormwater facility shall not impact more than 1,000 square feet of the NROD. Impacts greater than 1,000 square feet shall be process as a Type III application.

Finding: Complies as proposed. The proposed stormwater facility would permanently disturb 2,465 square feet within the NROD, more than the 1,000-square-foot standard. The applicant has proposed a Type III application.

F. The Community Development Director may allow landscaping requirements of the base zone, other than landscaping required for parking lots, to be met by preserving, restoring and permanently protecting habitat on development sites within the Natural Resource Overlay District.

Finding: Not applicable. The applicant is not requesting application of base zone requirements.

17.49.160 Standards for Land Divisions



17.49.160 Standards for Land Divisions

Other than those land divisions exempted by Section 17.49.070 (G), new residential lots created within the NROD shall conform to the following standards.

A. For a lot for an existing residence currently within the NROD. This type of lot is allowed within the NROD for a residence that existed before the NROD was applied to a subject property. A new lot for an existing house may be created through a partition or subdivision process when all of the following are met:

1. There is an existing house on the site that is entirely within the NROD area; and
2. The existing house will remain; and
3. The new lot is no larger than required to contain the house, minimum required side setbacks, garage, driveway and a 20-foot deep rear yard, with the remaining NROD area beyond that point protected by a conservation easement, or by dedicating a conservation tract or public open space.

Finding: Not applicable. The site does not include a lot with an existing residence.

B. Subdivisions.

1. Prior to preliminary plat approval, the NROD area shall be shown either as a separate tract or part of a larger tract that meets the requirements of subsection (3) of this section, which shall not be a part of any parcel used for construction of a dwelling unit.
2. Prior to final plat approval, ownership of the NROD tract shall be identified to distinguish it from lots intended for sale. The tract may be identified as any one of the following:
 - a. Private open space held by the owner or a homeowners association; or
 - b. For residential land divisions, private open space subject to an easement conveying stormwater and surface water management rights to the city and preventing the owner of the tract from activities and uses inconsistent with the purpose of this document; or
 - c. At the owners option, public open space where the tract has been dedicated to the city or other governmental unit; or
 - d. Any other ownership proposed by the owner and approved by the city.
 - e. Tracts shall be exempt from minimum frontage requirements.

Finding: Complies with condition. The proposal includes a subdivision which would modify property boundaries. As a result, lots which are not within a dedicated tract will likely be within the delineated vegetated corridor associated with Clackamette Cove. Prior to final plat, the applicant shall submit documentation demonstrating compliance with 17.49.160.B, including a demonstration that the vegetated

corridor is within a tract or recorded easement which recognizes the NROD boundary, provisions of OCMC 17.49, and with an ownership structure in compliance with OCMC 17.49.160.B.2. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

C. Partitions

Finding: Not applicable. The applicant has not proposed a partition.

17.49.170 Standards for Trails

The following standards apply to trails within the NROD:

A. *All trails that are not exempt pursuant to Section 17.49.80F., except as designated in the Oregon City Parks, Open Space and Trails Master Plans; and*

B. *Mitigation is required, subject to Section 17.49.180 or 17.49.190*

Finding: Complies as proposed. The proposed construction of the esplanade and recreational paths do not meet 17.49.080 F., trails, because the width of the esplanade would be 20 feet, and the pathways would be six feet wide, both of which exceed the width standard of 48 inches in 17.49.080 F. 2. In addition, the esplanade would be paved and the ground-level pathways would be impervious, and 17.49.080 F. 5. requires no impervious surfaces in order to be allowed outright. Therefore, the esplanade and pathways must meet this provision, which, under B., requires mitigation subject to 17.49.180 and 17.49.190. A mitigation plan has been provided. Please refer to the analysis in Section 17.49.180.

17.49.180. Mitigation Standards

The following standards (or the alternative standards of Section 17.49.190) apply to required mitigation:

17.49.180.A. *Mitigation shall occur at a 2:1 ratio of mitigation area to proposed NROD disturbance area. Mitigation of the removal or encroachment of a wetland or stream shall not be part of this chapter and will be reviewed by the Division of State Lands or the Army Corp of Engineers during a separate review process;*

Finding: Complies as proposed. According to the applicant's narrative and Site Plan Figures 5A and 5B and Mitigation and Enhancement Plan Figure 6, project impacts total 44,030 square feet. The required 2:1 ratio is 88,060. The applicant proposes 90,155 square feet, and therefore meets this standard.

17.49.180.B. *Mitigation shall occur on the site where the disturbance occurs, except as follows:*

- 1. The mitigation is required for disturbance associated with a right-of-way or utility in the right-of-way;*
- 2. The mitigation shall occur first on the same stream tributary, secondly in the Abernethy, Newell or Livesay Creek or a tributary thereof, or thirdly as close to the impact area as possible within the NROD; and*
- 3. An easement that allows access to the mitigation site for monitoring and maintenance shall be provided as part of the mitigation plan.*

Finding: Complies with condition. The applicant indicated:

Proposed mitigation occurs within and contiguous with the existing NROD area. The entire mitigation area is not located within the NROD because steep slopes make large portions of the NROD unsuitable for plantings and invasive removal. In addition, future habitat enhancement projects described in the Feasibility Study are planned for the western portion of the project area, which would otherwise have NROD areas that would be suitable for mitigation. As such, there is insufficient mitigation area within the NROD that is available (not planned for future enhancement) and suitable (not on steep slopes) for mitigation. As such, in addition to mitigation within the existing NROD, mitigation is proposed in areas contiguous with the existing NROD as shown on Figure 6

Prior to issuance of a permit associated with the proposed development the applicant shall record easements that allow access to the NROD mitigation site for monitoring and maintenance for properties not owned by

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

17.49.180.C. *Mitigation shall occur within the NROD area of a site unless it is demonstrated that this is not feasible because of a lack of available and appropriate area. In such cases, the proposed mitigation area shall be contiguous to the existing NROD area so the NROD boundary can be easily extended in the future to include the new resource site.*

Finding: Refer to the finding in 17.49.180.B.

17.49.180.D. *Invasive and nuisance vegetation shall be removed within the mitigation area;*

Finding: Complies with condition. The applicant indicated that “invasive vegetation listed on the Oregon City Nuisance Plant List including, but not limited to cut-leaf birch, Himalayan blackberry, multi-flora rose, Scotch broom, English ivy, common tansy, common vetch, oxeye daisy, reed canarygrass, Robert’s geranium, spotted cat’s ear, sweet clover, and common teasel will be removed within the mitigation area”.

17.49.180.E. *Required Mitigation Planting. An applicant shall meet Mitigation Planting Option 1 or 2 below, whichever option results in more tree plantings, except that where the disturbance area is one acre or more, Mitigation Option 2 shall be required. All trees, shrubs and ground cover shall be selected from the Oregon City Native Plant List.*

Mitigation Planting Option 1.

Finding: Complies as proposed. Mitigation Planting Option 2 will be used as more than one acre will be disturbed.

17.49.180.E.2. *Mitigation Planting Option 2.*

17.49.180.E.2a. *Option 2 - Planting Quantity. In this option, the mitigation requirement is calculated based on the size of the disturbance area within the NROD. Native trees and shrubs are required to be planted at a rate of five (5) trees and twenty-five (25) shrubs per every 500 square feet of disturbance area (calculated by dividing the number of square feet of disturbance area by 500, and then multiplying that result times five trees and 25 shrubs, and rounding all fractions to the nearest whole number of trees and shrubs; for example, if there will be 330 square feet of disturbance area, then 330 divided by 500 equals .66, and .66 times five equals 3.3, so three trees must be planted, and .66 times 25 equals 16.5, so 17 shrubs must be planted). Bare ground must be planted or seeded with native grasses or herbs. Non-native sterile wheat grass may also be planted or seeded, in equal or lesser proportion to the native grasses or herbs.*

Finding: Complies as proposed. The applicant indicated that:

The mitigation planting quantity is based on the disturbance area within the NROD.

The disturbance area within the NROD is 44,030 square feet, which requires that four hundred and forty (440) replacement trees (5 trees for every 500 square feet) and two-thousand, two-hundred and two (2,202) replacement shrubs (25 shrubs for every 500 square feet) be planted according to planting quantity standards of this section. Bare ground will be planted or seeded with native grasses and herbs. If necessary for erosion control, bare ground may also be planted or seeded with non-native sterile wheatgrass, in equal or lesser proportion to the native grasses or herbs.

17.49.180.E.2.b *Option 2 - Plant Size. Plantings may vary in size dependent on whether they are live cuttings, bare root stock or container stock, however, no initial plantings may be shorter than 12 inches in height.*

Finding: Complies with condition. The applicant indicated that no initial plantings will be less than 12” in height. The applicant’s NROD report includes a list of plant species, but no planting plan that shows size, quantities, spacing, and location is provided. Prior to issuance of a permit associated with the proposed development the applicant shall submit a mitigation planting plan in compliance with the standards in OCMC

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

17.49.180.E.2.c Option 2 - Plant Spacing. *Trees shall be planted at average intervals of seven (7) feet on center. Shrubs may be planted in single-species groups of no more than four (4) plants, with clusters planted on average between 8 and 10 feet on center.*

Finding: Complies with condition. The applicant indicated compliance with this section no planting plan that shows size, quantities, spacing, and location is provided. Prior to issuance of a permit associated with the proposed development the applicant shall submit a mitigation planting plan in compliance with the standards in OCMC 17.49. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

17.49.180.E.2.d Option 2 – Mulching and Irrigation *shall be applied in the amounts necessary to ensure 80% survival at the end of the required 5-year monitoring period.*

Finding: Complies as proposed. The applicant indicated that mulching and irrigation shall be applied in the amounts necessary to ensure 80% survival at the end of the required 5-year monitoring period though a planting plan was not submitted. Prior to issuance of a permit associated with the proposed development the applicant shall submit a mitigation planting plan in compliance with the standards in OCMC 17.49. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

17.49.180.E.2.e Option 2 – Plant Diversity. *Shrubs shall consist of at least three (3) different species. If 20 trees or more are planted, no more than one-third of the trees may be of the same genus.*

An alternative planting plan using native plants may be approved in order to create a new wetland area, if it is part of a wetlands mitigation plan that has been approved by the DSL or the U.S. Army Corps of Engineers (USACE) in conjunction with a wetland joint removal/fill permit application.

Finding: Complies as proposed. The applicant submitted a species list and indicated compliance with this section, but did not provide the quantities for each species. Prior to issuance of a permit associated with the proposed development the applicant shall submit a mitigation planting plan in compliance with the standards in OCMC 17.49. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

17.49.180.F. Monitoring and Maintenance. *The mitigation plan shall provide for a 5-year monitoring and maintenance plan with annual reports in a form approved by the Director of Community Development. Monitoring of the mitigation site is the on-going responsibility of the property owner, assign, or designee, who shall submit said annual report to the City's Planning Division, documenting plant survival rates of shrubs and trees on the mitigation site. Photographs shall accompany the report that indicate the progress of the mitigation. A minimum of 80% survival of trees and shrubs of those species planted is required at the end of the 5-year maintenance and monitoring period. Any invasive species shall be removed and plants that die shall be replaced in kind. Bare spots and areas of invasive vegetation larger than ten (10) square feet that remain at the end the 5 year monitoring period shall be replanted or reseeded with native grasses and ground cover species.*

Finding: Complies as proposed. The applicant indicated that:

The proposed mitigation will be monitored and maintained for a minimum of five years, with approved annual progress reports submitted to the City's planning division. Mulching and irrigation will be applied in the amounts necessary to ensure eighty percent (80%) survival at the end of the required five-year monitoring period. Irrigation is to be determined, but may require the use of a watering truck for the duration of the maintenance and monitoring period. The mitigation area will be inspected annually during the active growing season. During site

monitoring, survival rates of planted trees and shrubs and invasive plant species cover will be documented. This information, along with photo documentation of the mitigation area, will be used to inform the annual progress report. Should the survival rate drop below 80 percent or invasive plant coverage exceed 10 percent at any time during the maintenance period, immediate remedial action will be taken. Monitoring and maintenance is the on-going responsibility of the property owner, assign, or designee.

17.49.180.G. Covenant or Conservation Easement. *Applicant shall record a restrictive covenant or conservation easement, in a form provided by the City, requiring the owners and assigns of properties subject to this section to comply with the applicable mitigation requirements of this section. Said covenant shall run with the land, and permit the City to complete mitigation work in the event of default by the responsible party. Costs borne by the City for such mitigation shall be borne by the owner.*

Finding: Complies with condition. The applicant identified compliance with this section. Prior to final plat, the applicant shall record an easement or covenant in compliance with 17.49.180.G. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

17.49.180.H. Financial Guarantee. *A financial guarantee for establishment of the mitigation area, in a form approved by the City, shall be submitted before development within the NROD disturbance area commences. The City will release the guarantee at the end of the five-year monitoring period, or before, upon its determination that the mitigation plan has been satisfactorily implemented pursuant to this section.*

Finding: Complies with condition. The proposal includes a note that a financial guarantee will be provided to the city prior to development within the NROD disturbance area. Prior to final plat, the applicant shall provide a financial guarantee in compliance with 17.49.180.H. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

17.49.190 Alternative Mitigation Standards

Finding: Not applicable. The applicant does not propose alternative mitigation in lieu of the standards in 17.49.180.

17.49.200. Adjustment from Standards

If a regulated NROD use cannot meet one or more of the applicable NROD standards then an adjustment may be issued if all of the following criteria are met. Compliance with these criteria shall be demonstrated by the applicant in a written report prepared by an environmental professional with experience and academic credentials in one or more natural resource areas such as ecology, wildlife biology, botany, hydrology or forestry. At the applicant's expense, the City may require the report to be reviewed by an environmental consultant. Such requests shall be processed under the Type III development permit procedure. The applicant shall demonstrate:

Finding: Complies as proposed. The NROD report and habitat enhancement memorandum were prepared by qualified environmental professionals. This application is being processed with the Type III review.

17.49.200.A. *There are no feasible alternatives for the proposed use or activity to be located outside the NROD area or to be located inside the NROD area and to be designed in a way that will meet all of the applicable NROD development standards;*

Finding: Complies as proposed. The applicant indicated:

The proposed grading and tree removal within the NROD that is not considered *Enhancement* (per Section 17.04.375) and is not associated with the proposed esplanade or paths is for future in-water habitat, future water-related recreational uses (beaches, beach viewing area, water feature), and flood storage. This non-exempt grading encroaches into 34,361 square feet of the NROD. Future in-water habitat and water-related recreational areas that are planned for Phase 3 must be in or

adjacent to the water, and as such must be within the NROD. The location of flood storage areas were constrained by lot size and configuration; the location of Main Street, Agnes Avenue, and other existing developments; and the location of the Rossman Landfill. Given these constraints, flood storage areas could not be conducted completely outside of the NROD area.

Providing flood storage and water-related recreational areas are not uses allowed outright or under prescribed conditions within the NROD, with the exception of future trails (detailed in Section 17.49.150). Although the north and south beach areas planned for Phase 3 would be considered in-water habitat enhancement areas per Section 17.04.375, the in-water work would not occur until Phase 3. During Phase 2 construction, the future in-water habitat areas will be graded to provide flood storage, and will not be planted to meet the standards of Chapter 17.49. Because grading and native vegetation removal are prohibited per Section 17.49.[0]70.D unless part of an approved development activity, and tree removal is only allowed within 10 feet of proposed development per Section 17.49.100.A, it is not possible that these uses could meet the applicable NROD development standards without an adjustment from standards.

A majority of the NROD area will remain intact and/or will be improved in function. The riparian area of the Clackamas River and Clackamette Cove adjacent to the development area is expected to improve through the proposed enhancement and required mitigation measures. The proposed project is not anticipated to cause additional wildlife passage impacts within the NROD other than those already present associated with the existing developments within the project vicinity.

The City's natural resource consultant, David Evans and Associates, Inc., finds the applicant's response reasonable.

17.49.200.B. *The proposal has fewer adverse impacts on significant resources and resource functions found in the local NROD area than actions that would meet the applicable environmental development standards;*

Finding: Complies as proposed. The applicant indicated:

The proposed project has been designed to address project specific criteria while minimizing impacts to natural resources. Site constraints limit the potential location of areas suitable for cut/fill balance within the floodplain. The proposed grading along the bank has been minimized to the extent practicable, and will provide improvements to significant resource functions within the local NROD as compared to the existing function. Project alternatives that eliminate this grading would not provide flood storage, future in-water habitat and recreational uses, and improved bank function or the associated public benefits of these actions.

The NROD within the project area is in degraded condition. The enhancement and mitigation proposed for the project, which includes removing invasive plant species and increasing tree canopy, vegetation structure, and native plant diversity, is expected to create a higher functioning NROD area than currently exists within the project area.

The City's natural resource consultant, David Evans and Associates, Inc., finds the applicant's response reasonable.

17.49.200.C. *The proposed use or activity proposes the minimum intrusion into the NROD area that is necessary to meet development objectives;*

Finding: Complies as proposed. The applicant indicated:

The project proposes the minimum amount of disturbance inside the NROD while still meeting project specific criteria detailed in the application package. Grading has been limited to the amount necessary to improve bank functions, provide in-water habitat and recreational uses, and balance cut and fill within the development area.

The City's natural resource consultant, David Evans and Associates, Inc., finds the applicant's response reasonable.

17.49.200.D. *Fish and wildlife passage will not be impeded;*

Finding: Complies as proposed. The applicant indicated:

The impacts to the NROD are not expected to impede fish and wildlife passage. As no work is proposed below the OHW of the Clackamas River or Clackamette Cove during Phase 2, fish passage should not be impeded. In-water project elements constructed during Phase 3 will be permitted by the applicable federal, state, and local regulatory authorities, and will not impede fish passage.

The City's natural resource consultant, David Evans and Associates, Inc., finds the applicant's response reasonable.

17.49.200.E. *With the exception of the standard(s) subject to the adjustment request, all other applicable NROD standards can be met; and*

Finding: Complies as proposed. The applicant indicated:

All standards will be met with the exception of the standard where an adjustment has been requested in this section, as described in the responses provided to *Section 17.49.100.B-J – General development standards, Section 17.49.150 – Standards for vehicular and pedestrian paths or roads, and Section 17.49.155 – Standards for stormwater facilities.*

The City's natural resource consultant, David Evans and Associates, Inc., finds the applicant's response reasonable.

17.49.200.F. *The applicant has proposed adequate mitigation to offset the impact of the adjustment.*

Finding: Complies as proposed. Please refer to the analysis in Section 17.49.180.

17.49.210 *Type II Development Permit Application*

Finding: Not Applicable. The applicant has proposed a Type III application.

17.49.220 *Required Site Plans*

Site plans showing the following required items shall be part of the application:

A. *For the entire subject property (NROD and non-NROD areas):*

- 1. The NROD district boundary. This may be scaled in relation to property lines from the NROD Map;*
- 2. 100 year floodplain and floodway boundary (if determined by FEMA);*
- 3. Creeks and other waterbodies;*
- 4. Any wetlands, with the boundary of the wetland that will be adjacent to the proposed development determined in a wetlands delineation report prepared by a professional wetland specialist and following the Oregon Division of State Lands wetlands delineation procedures;*
- 5. Topography shown by contour lines of 2 or 1 foot intervals for slopes less than 15% and by 10 foot intervals for slopes 15% or greater;*
- 6. Existing improvements such as structures or buildings, utility lines, fences, driveways, parking areas, etc.*
- 7. Extent of the required Vegetated Corridor required by Table 17.49.110.*

B. *Within the NROD area of the subject property:*

- 1. The distribution outline of shrubs and ground covers, with a list of most abundant species;*
- 2. Trees 6 inches or greater in diameter, identified by species. When trees are located in clusters they may be described by the approximate number of trees, the diameter range, and a listing of dominant species;*
- 3. An outline of the disturbance area that identifies the vegetation that will be removed. All trees to be removed with a diameter of 6 inches or greater shall be specifically identified as to number, trunk diameters and species;*

4. *If grading will occur within the NROD, a grading plan showing the proposed alteration of the ground at 2 foot vertical contours in areas of slopes less than 15% and at 5 foot vertical contours of slopes 15% or greater.*

C. A construction management plan including:

1. *Location of site access and egress that construction equipment will use;*
2. *Equipment and material staging and stockpile areas;*
3. *Erosion control measures that conform to City of Oregon City erosion control standards;*
4. *Measures to protect trees and other vegetation located outside the disturbance area.*

D. A mitigation site plan demonstrating compliance with Section 17.49.180 or 17.49.190, including:

1. *Dams, weirs or other in-water features;*
2. *Distribution, species composition, and percent cover of ground covers to be planted or seeded;*
3. *Distribution, species composition, size, and spacing of shrubs to be planted;*
4. *Location, species and size of each tree to be planted;*
5. *Stormwater management features, including retention, infiltration, detention, discharges and outfalls;*
6. *Water bodies or wetlands to be created, including depth;*
7. *Water sources to be used for irrigation of plantings or for a water source for a proposed wetland.*

Finding: Complies as proposed. The applicant's submittal materials were evaluated during the completeness review.

17.49.230 Mitigation Plan Report

A mitigation plan report that accompanies the above mitigation site plan is also required. The report shall be prepared by an environmental professional with experience and academic credentials in one or more natural resource areas such as ecology, wildlife biology, botany, hydrology or forestry. The mitigation plan report shall, at a minimum, discuss:

- A. Written responses to each applicable Mitigation Standard 17.49.180 or 17.49.190 indicating how the proposed development complies with the mitigation standards;*
- B. The resources and functional values to be restored, created, or enhanced through the mitigation plan;*
- C. Documentation of coordination with appropriate local, regional, state and federal regulatory/resource agencies such as the Oregon Department of State Lands (DSL) and the United States Army Corps of Engineers (USACE);*
- D. Construction timetables;*
- E. Monitoring and Maintenance practices pursuant to Section 17.49.230 (F) and a contingency plan for undertaking remedial actions that might be needed to correct unsuccessful mitigation actions during the first 5 years of the mitigation area establishment.*

Finding: Complies with condition. The applicant's submittal materials were evaluated during the completeness review and were primarily found to be sufficient. The applicant's materials do not provide a construction timetable. Prior to issuance of a permit associated with this development the applicant shall submit a construction timetable. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

17.49.240 Density Transfer

Finding: Not applicable. The proposal does not include a density transfer.

17.49.250 Verification of NROD Boundary

Finding: Not applicable. The development proposal does not include a Verification of the NROD boundary.

17.49.255 Type I Verification

Finding: Not applicable. The development proposal does not include a Type I Verification request.

17.49.260. Type II Verification

Finding: Not applicable. The development proposal does not include a Type II Verification request.

Recommended conditions of approval:

Prior to issuance of a permit associated with the proposed development the applicant shall submit the following that comply with the standards in OCMC 17.49:

1. Signed easements for access to private properties for maintenance and monitoring of mitigation areas.
2. A planting plan that shows size, quantities, spacing, and location
3. Monitoring and maintenance plan
4. Covenant or conservation easement
5. Financial guarantee
6. Construction timetable

CHAPTER 17.42 FLOOD MANAGEMENT OVERLAY DISTRICT

17.42.020 - Applicability.

A. This chapter shall apply to development in the flood management overlay district, which may also be referred to as the "floodplain overlay district" in this code. The flood management overlay district includes all areas of special flood hazards and all flood management areas within the city. The overlay district restricts the uses that are allowed in the base zone by right, with limitations, or as provisional uses.

B. The flood management areas which have been mapped include the following locations:

- 1. Land contained within the one hundred-year floodplain, flood area and floodway as shown on the Federal Emergency Management Agency flood insurance maps dated June 17, 2008, including areas of special flood hazard pursuant to Section 17.42.040 and the area of inundation for the February 1996 flood; and*
- 2. Lands that have physical or documented evidence of flooding within recorded history based on aerial photographs of the 1996 flooding and/or the water quality and flood management areas maps.*

C. The standards that apply to the flood management areas apply in addition to state or federal restrictions governing floodplains or flood management areas.

Finding: Complies with Condition. The subject site is within the Flood Management Overlay District; compliance is required. The mass grading will be required to show no net fill, and instead shall show a balance of earthwork for the entire site. Cut will be required as stated in Exhibit G as part of the mass grading efforts prior to any improvements for lots 3-7. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

17.42.040 - Compliance.

No structure or land shall hereafter be constructed, located, extended, converted or altered without full compliance with the terms of these floodplain regulations and other applicable regulations. Violations of the provisions of this Chapter by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a civil infraction. Any person who violates this Chapter or fails to comply with any of its requirements shall be subject to the enforcement procedures of this code per OCMC 1.20 Civil Infractions and 1.24 Code Enforcement. Nothing herein contained shall prevent the city from taking such other lawful action as is necessary to prevent or remedy.

Finding: Applicable. The subject site is within the 100 year floodplain and the 1996 flood inundation. Compliance with this Chapter is required.

17.42.040.A Development Permit.

A development permit shall be obtained before construction or development begins within any portion of the flood management overlay district. The permit shall be for all structures, including manufactured homes and all other development, including fill and other activities, as set forth in Chapter 17.04 (Definitions).

Application for a development permit shall be made on forms furnished by the community development department. Requirements may include, but are not limited to: plans in duplicate drawn to scale showing the nature, location, dimensions and elevations of the area in question; existing or proposed structures, fill, storage materials, drainage facilities; and the location of the foregoing.

The following information is specifically required:

Elevation in relation to mean sea level of the lowest floor (including basement) of all structures;

Elevation in relation to mean sea level to which any structure has been floodproofed;

Certification by a registered professional engineer or architect that the floodproofing methods for any nonresidential structure meet the floodproofing criteria in Section 17.42.170E.5.; and

Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

Finding: Applicable. The subject site is within the 100 year floodplain and the 1996 flood inundation. The applicant submitted this application to determine compliance with this chapter.

17.42.110 - Information to be obtained and maintained.

Finding: Not applicable. No structures are proposed with the development.

17.42.120 - Alteration of watercourses.

A. Notify adjacent communities and the department of land conservation and development prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration.

B. Require that maintenance is provided within the altered or relocated portion of the watercourse so that the flood-carrying capacity is not diminished.

Finding: Not Applicable. The applicant has not proposed to alter a watercourse with this development.

17.42.130 - Map administration.

Finding: Not applicable. The applicant has not proposed a map correction with this development application.

17.42.140 - Appeals and variance procedure.

Finding: Not applicable. The applicant has not proposed an appeal or variance.

17.42.150 - Conditions for variances.

Finding: Not applicable. The applicant has not proposed a variance to the floodplain.

17.42.160.A - Flood management area standards.

Uses Permitted Outright:

1. Excavation and fill required to plant any new trees or vegetation.

2. Restoration or enhancement of floodplains, riparian areas, wetland, upland and streams that meet federal and state standards provided that any restoration project which encroaches on the floodway complies with the requirements of Section 17.42.190 (Floodways).

Finding: Not applicable. As evidenced by the NROD Report included in Exhibit F and the March 21, 2018 Habitat Enhancement Memo prepared by Cascade Environmental Group dated March 21, 2018, included in Exhibit K, some enhancement is proposed in compliance with this chapter. Also, the applicant proposed mass grading and construction of retaining walls within the floodplain. The development is not permitted outright.

17.42.160.B Provisional Uses.

1. All uses allowed in the base zone or existing flood hazard overlay zone are allowed in the flood management overlay district subject to compliance with the development standards of this section.

Finding: Complies as proposed. The applicant proposed grading, a use permitted within the base zone subject to compliance with this Chapter.

17.42.160.C Prohibited Uses.

1. Any use prohibited in the base zone;

2. Uncontained areas of hazardous materials as defined by the Department of Environmental Quality.

Finding: Not applicable. The applicant did not propose prohibited uses.

17.42.160.D.1 *Site Development Standards. All development in the floodplain shall conform to the following balanced cut and fill standards:*

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

Finding: Not applicable. The proposed improvements are not in response to an emergency situation.

17.42.160.D.2 *No net fill in any floodplain is allowed. All fill placed in a floodplain shall be balanced with at least an equal amount of soil material removed. For the purpose of calculating net fill, fill shall include any structure below the design flood elevation that has been floodproofed pursuant to subsection (E)(5) of this section.*

17.42.160.D.3 *Any excavation below bankfull stage shall not count toward compensating for fill.*

17.42.160.D.4 *Excavation to balance a fill shall be located on the same parcel as the fill unless it is not practicable to do so. In such cases, the excavation shall be located in the same Oregon City floodplain, so long as the proposed excavation and fill will not increase flood impacts for surrounding properties as determined through hydrologic and hydraulic analysis.*

Finding: Complies with Condition. The subject site is within the Flood Management Overlay District; compliance is required. The development application included Exhibit H. The mass grading will be required to show no net fill, and instead shall show a balance of earthwork for the entire site prior to issuance of a grading permit as well as upon completion of the grading permit. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

17.42.160.D.5 *For excavated areas identified by the city to remain dry in the summer, such as parks or mowed areas, the lowest elevation of the excavated area shall be at least six inches above the winter "low water" elevation, and sloped at a minimum of two percent towards the protected water feature pursuant to Chapter 17.49. One percent slopes will be allowed in smaller areas.*

Finding: Complies with condition. Prior to issuance of a permit associated with this development the applicant shall submit documentation identifying compliance with Chapter 17.42.160 of 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.**

17.42.160.D.6 *For excavated areas identified by the city to remain wet in the summer, such as a constructed wetland, the grade shall be designed not to drain into the protected water feature pursuant to Chapter 17.49.*

Finding: Complies with condition. Prior to issuance of a permit associated with this development the applicant shall submit documentation identifying compliance with Chapter 17.42.160 of 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.**

17.42.160.D.7 *Parking areas in the floodplain shall be accompanied by signs that inform the public that the parking area is located in a flood management area and that care should be taken when the potential for flooding exists.*

Finding: Not applicable. No parking lot is proposed with this development. Future installation of a parking lot shall demonstrate compliance with this standard.

17.42.160.D.8 *Temporary fills permitted during construction shall be removed at the end of construction, thirty days after subdivision acceptance or completion of the final inspection.*

Finding: Complies with condition. Prior to issuance of a permit associated with this development the applicant shall submit documentation identifying compliance with Chapter 17.42.160 of 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.**

17.42.160.D.9 *New culverts, stream crossings and transportation projects shall be designed as balanced cut and fill projects or designed not to significantly raise the design flood elevation. Such projects shall be designed to minimize the area of fill in flood management areas and to minimize erosive velocities. Stream crossings shall be as close to perpendicular to the stream as practicable. Bridges shall be used instead of culverts wherever practicable.*

Finding: Complies with condition. Prior to issuance of a permit associated with this development the applicant shall submit documentation identifying compliance with Chapter 17.42.160 of 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.**

17.42.160.D.10 *Excavation and fill required for the construction of detention facilities or structures, and other facilities, such as levees, specifically shall be designed to reduce or mitigate flood impacts and improve water quality. Levees shall not be used to create vacant buildable lands.*

Finding: Complies with condition. As shown the Grading Plan, Sheets C4.0-C4.4 of Exhibit B.1, detention facilities are designed to reduce or mitigate flood impacts and improve water quality. Prior to issuance of a permit associated with this development the applicant shall submit documentation identifying compliance with Chapter 17.42.160 of 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.**

17.42.160.E. Construction Standards.

Finding: Complies with condition. The applicant indicates that development within the flood management area will comply with the construction standards of this section. Construction details will be provided at the time of the subsequent building permit application. Prior to issuance of a permit associated with the subsequent Detailed Development Plan, the applicant shall submit documentation identifying compliance with Chapter 17.42.160 of 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.**

17.42.160.F Recreational Vehicles.

Finding: Not applicable. The development proposal did not include placement of recreational vehicles within the floodway.

17.42.160.G Below Grade Crawlspace.

Finding: Not applicable. No structures are proposed with this development. Future structures shall be subject to compliance with this standard.

17.42.170 - Review of building permits.

Where elevation data is not available either through the flood insurance study, FIRM or from another authoritative source (Section 17.42.110), application for building permits shall be reviewed to assure that proposed construction will be reasonably safe from flooding. The test of reasonableness shall be made by the building official, considering use of historical data, high water marks, photographs of past floodings, etc., where available, and the provisions of this title. Failure to elevate at least two feet above grade in these zones may result in higher insurance rates.

Finding: Applicable. The subsequent DDP application will be reviewed by the Building Division upon submittal of an application.

17.42.180 - Subdivision standards.

A. Subdivision Proposals.

1. All subdivision proposals shall be consistent with the need to minimize flood damage.

Finding: Complies with conditions. Proposed development complies with the flood management overlay district. As evidenced by the Floodplain Balance Memo included in Exhibit H, the cut and fill activities will leave excess capacity within the floodplain. Development within the flood management area will comply with the construction standards of this section. Construction details will be provided at the time of the subsequent building permit application. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

2. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize or eliminate flood damage.

Finding: Complies with conditions. A stormwater control plan will be provided with subsequent DDP and construction permit submittals. Stormwater runoff will be treated onsite with a mix of mechanical and LIDA facilities. Construction details and utility plans will be provided at the time of the subsequent building permit application. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

3. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage.

Finding: Complies with Conditions. A stormwater control plan will be provided with subsequent DDP and construction permit submittals. Stormwater runoff will be treated onsite with a mix of mechanical and LIDA facilities. Construction details and utility plans will be provided at the time of the subsequent building permit application. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

4. Where base flood elevation data has not been provided or is not available from another authoritative source, it shall be generated for subdivision proposals and other proposed developments which contain at least fifty lots or five acres (whichever is less).

Finding: Complies as proposed. Existing and proposed floodplain elevations are shown on the grading plans, Sheets C4.0 – C4.4. Therefore, this standard is satisfied.

5. All structures and site grading developed or conducted in conjunction with a subdivision proposal shall comply with Section 17.42.160, flood management area standards.

Finding: Complies as proposed. The applicant indicates that development within the flood management area will comply with the construction standards of this section. Construction details will be provided at the time of the subsequent building permit application. Prior to issuance of a permit associated with the subsequent Detailed Development Plan, the applicant shall submit documentation identifying compliance with Chapter 17.42.160 of 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.**

B. The purpose of this section is to allow density accruing to portions of a property within the flood management overlay district to be transferred outside the overlay district.

Finding: Not applicable. Density transfers from property within the flood management overlay district are not proposed. Therefore, this section does not apply.

17.42.190 - Floodways.

Finding: Not applicable. Development is not proposed within the floodway. Therefore, this standard does not apply.

GEOLOGIC HAZARDS – CHAPTER 17.44

Grading activities will occur within the steep slopes overlay located within the promenade portion of the site. Steep slopes are located along the eastern bank of Clackamette Cove. A geotechnical report and letter that address the geohazard overlay and approval criteria of OCMC 17.44 are provided in the Application Exhibit G.

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

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

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

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

Finding: Applicable. The applicant proposed construction within the Geologic Hazards Overlay District.

17.44.030 - *Procedures.*

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

- A. Where the development is part of a land use permit application, review shall occur in the manner established in Chapter 17.50 for review of land use decisions.*
- B. Where the development is part of a limited land use permit application, review shall occur in the manner established in Chapter 17.50 for review of limited land use decisions.*
- C. Where the development is solely part of a grading permit or building permit, the city engineer may allow review to occur in the manner established in Title 15, Chapters 15.04 and 15.48 if the application meets Section 17.44.060 development standards.*
- D. For any other proposed development not otherwise subject to review as a land use or limited land use permit application, review shall occur in the manner established in Chapter 17.50 for limited land use decisions.*

Finding: Applicable. The Geologic Hazards request is being processed according to the process identified in the Oregon City Municipal Code.

17.44.035 - *Exemptions.*

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

- A. An excavation which is less than two feet in depth, or which involves less than twenty-five cubic yards of volume;*
- B. A fill which does not exceed two feet in depth or twenty-five cubic yards of volume;*
- C. Structural alteration of any structure of less than five hundred square feet that does not involve grading as defined in this chapter;*
- D. Installation, construction, reconstruction, or replacement of utility lines in city right-of-way, or public easement, not including electric substations;*
- E. The removal or control of noxious vegetation;*
- F. Emergency actions which must be undertaken immediately to prevent an imminent threat to public health or safety, or prevent imminent danger to public or private property. The person undertaking emergency action shall notify the building official on all regulated activities associated with any building*

permit or city engineer/public works director on all others within one working day following the commencement of the emergency activity. If the city engineer/public works director or building official determine that the action or part of the action taken is beyond the scope of allowed emergency action, enforcement action may be taken.

Finding: Not applicable. The applicant has not proposed an exception.

17.44.050 Development - Application Requirements and Review Procedures and Approvals.

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

A. A geological assessment and geotechnical report that specifically includes, but is not limited to:

- 1) Comprehensive information and data regarding the nature and distribution of underlying geology, the physical and chemical properties of existing soils and groundwater; an opinion of site geologic stability, and conclusions regarding the effect of geologic conditions on the proposed development. In addition to any field reconnaissance or subsurface investigation performed for the site, the following resources, as a minimum, shall be reviewed to obtain this information and data:
 - a) The State of Oregon Department of Geology and Mineral Industries (DOGAMI) in Bulletin 99, *Geology and Geological Hazards of North Clackamas County, Oregon* (1979), or in any subsequent DOGAMI mapping for the Oregon City area;
 - b) Portland State University study entitled "Environmental Assessment of Newell Creek Canyon, Oregon City, Oregon" (1992);
 - c) Portland State University study, "Landslides in the Portland, Oregon, Metropolitan Area Resulting from the Storm of February 1996: Inventory Map, Database and Evaluation" (Burns and others, 1998);
 - d) DOGAMI Open File Report O-06-27, "Map of Landslide Geomorphology of Oregon City, Oregon, and Vicinity Interpreted from LIDAR Imagery and Aerial Photographs" (Madin and Burns, 2006);
 - e) "Preliminary Geologic Map of the Oregon City Quadrangle, Clackamas County, Oregon" (Madin, in press);
- 2) Information and recommendations regarding existing local drainage, proposed permit activity impacts on local drainage, and mitigation to address adverse impacts;
- 3) Comprehensive information about site topography;
- 4) Opinion as to the adequacy of the proposed development from an engineering standpoint;
- 5) Opinion as to the extent that instability on adjacent properties may adversely affect the project;
- 6) Description of the field investigation and findings, including logs of subsurface conditions and laboratory testing results;
- 7) Conclusions regarding the effect of geologic conditions on the proposed development, tree removal, or grading activity;
- 8) Specific requirements and recommendations for plan modification, corrective grading, and special techniques and systems to facilitate a safe and stable site;
- 9) Recommendations and types of considerations as appropriate for the type of proposed development:
 - a. General earthwork considerations, including recommendations for temporary and permanent cut and fill slopes and placement of structural fill,
 - b. Location of residence on lot,
 - c. Building setbacks from slopes,
 - d. Erosion control techniques applicable to the site,
 - e. Surface drainage control to mitigate existing and potential geologic hazards,
 - f. Subdrainage and/or management of groundwater seepage,
 - g. Foundations,
 - h. Embedded/retaining walls,
 - i. Management of surface water and irrigation water, and
 - j. Impact of the development on the slope stability of the lot and the adjacent properties.
- 10) Scaled drawings that describe topography and proposed site work, including:

- a. Natural physical features, topography at two or ten-foot contour intervals locations of all test excavations or borings, watercourses both perennial and intermittent, ravines and all existing and manmade structures or features all fully dimensioned, trees six- inch caliper or greater measured four feet from ground level, rock outcroppings and drainage facilities;
 - b. All of the features and detail required for the site plan above, but reflecting preliminary finished grades and indicating in cubic yards whether and to what extent there will be a net increase or loss of soil.
 - c. A cross-section diagram, indicating depth, extent and approximate volume of all excavation and fills.
- 11) For properties greater than 1 acre, a preliminary hydrology report, prepared by a suitably qualified and experienced hydrology expert, addressing the effect upon the watershed in which the proposed development is located; the effect upon the immediate area's stormwater drainage pattern of flow, the impact of the proposed development upon downstream areas and upon wetlands and water resources; and the effect upon the groundwater supply.

Finding: Complies with condition. The applicant indicated "As provided under Exhibit G, a geotechnical report has been prepared to address proposed development activity for the overall site, with specific focus on site grading at Tract D and the Phase 2 waterfront residences site."

The Geotechnical Report should be updated to address only the mass grading proposed. The report from December 19, 2017 from Apex includes general recommendations for mass grading and mitigation of existing fill. The geotechnical engineer should review the proposed grading and provide specific recommendations as needed to address the proposed grading and retaining walls.

The report includes recommendations for treatment of the existing undocumented fill and the geotechnical engineer's ongoing involvement to mitigate existing fill and provide structural fill. The final grading plans **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

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

- 1) Examination to ensure that:
 - a) Required application requirements are completed;
 - b) Geologic assessment and geotechnical report procedures and assumptions are generally accepted; and
 - c) All conclusions and recommendations are supported and reasonable.

Finding: Applicable. The review procedures and approvals are ensuring that the application requirements are completed, report criteria are generally accepted, and conclusions and recommendations are supported and reasonable.

17.44.050.B.2 Conclusions and recommendations stated in an approved assessment or report shall then be directly incorporated as permit conditions or provide the basis for conditions of approval for the regulated activity.

Finding: Complies with condition. The geotechnical reports and assessments include conclusions and recommendations to be addressed during the design and construction phases. Prior to construction plan approval including final grading plan approval, the recommendations stated in the geotechnical report(s) shall be performed during the design or construction phases as applicable, and incorporated into final construction plans as appropriate. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

17.44.050.B.3 All geologic assessments and geotechnical reports shall be reviewed by an engineer certified for expertise in geology or geologic engineering and geotechnical engineering, respectively, as determined by the City. The City will prepare a list of prequalified consultants for this purpose. The cost of review by independent review shall be paid by the applicant.

Finding: Complies with condition. The applicant has prepared geologic assessments and geotechnical reports complying with the requirements. The City shall have independent peer review of final reports and applicable construction plans. Prior to construction plan approval, the applicant shall pay the cost of the City's peer review. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

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

Finding: Not applicable. The city engineer has not waived requirements of the identified subsections.

17.44.060 *Development Standards.*

Notwithstanding any contrary dimensional or density requirements of the underlying zone, the following standards shall apply to the review of any development proposal subject to this chapter. Requirements of this chapter are in addition to other provision of the Oregon City Municipal Code. Where provision of this chapter conflict with other provision of the Oregon City Municipal Code, the provisions that are more restrictive of regulated development activity shall govern.

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

Finding: Complies with condition. The applicant has proposed extensive grading, excavations, and fill. Excavations are planned for the area of steep slopes and fill is planned for the area of the proposed structures and road improvements. Prior to construction plan approval confirm the final grading plan is consistent with floodplain balance calculations and the geotechnical recommendations. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

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

Finding: Complies with condition. Prior to construction plan approval, construction plans shall include the requirement for site grading and earthwork to be performed between May 1 and October 31. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

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

Finding: Complies with condition.

Grading and construction plans shall minimize cuts and fills in compliance with 17.44.060.C. Measures at a minimum shall include minimizing cut, terracing retaining walls, relocating retaining walls to reduce height, and avoiding alteration of the grade between the Cove and Clackamas River, to the maximum extent practicable. Applicant shall provide written justification when measures are deemed infeasible at time of

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

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

Finding: Complies with condition. The applicant shows several walls in Exhibit B.2 that may exceed City standards for retaining wall height. Terraced retaining walls shall be provided if the vertical retaining wall height will be greater than seven feet. The terraced wall shall have a maximum face of five feet and a minimum vegetated width of 3 feet between terraces. Prior to construction plan approval and building permits, the applicant shall provide engineered plans and structural design calculations in accordance with Oregon Structural Specialty code for all retaining walls that retain soil. Provide the following for all retaining wall designs: sliding, overturning, bearing capacity, and global stability. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

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

Finding: Complies with condition. The Geotechnical Assessment – Cove Waterfront provides recommendations for grading, building pad preparation and structural fill.

The Grading plan shall incorporate the engineer's design for all structural fill. Prior to submittal of Detailed Development Plan application for permits, the geotechnical engineer-of-record shall provide written certification that structural fill was placed as designed and in accordance with provisions of OCMC Chapter 17.44. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

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

Finding: Complies with condition. The applicant shows several walls in Exhibit B.2. Prior to construction plan approval and building permits, the applicant shall provide engineered plans and structural design calculations in accordance with Oregon Structural Specialty code for all retaining walls that retain soil. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

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

Finding: Complies with condition. The mass grading of the site will be access by a gravel construction entrance on the south side of the property for Phase 2. Only one access is allowed for access to the property during mass grading. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

17.44.060.H *Density shall be determined as follows*

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

Finding: Not Applicable. The development does not propose dwellings on slopes greater than 25 percent.

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

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

Finding: Not applicable. The development does not propose dwellings on slopes greater than 25 percent.

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

Finding: Complies with condition. The applicant shall be providing final grading and drainage plans as part of the overall construction plan package for the development for City review and approval. The applicant's geotechnical engineer is required to perform a review as well. Prior to construction plan approval, the geotechnical engineer-of-record shall provide written documentation that the final grading and drainage plans are in conformance with their recommendations. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

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

Finding: Complies with condition. Due to the extensive grading proposed for the site development, the City requires peer review. The City shall require peer review for all geotechnical reports and other related materials submitted for the development. The peer reviewer shall be selected by the City. Prior to

construction plan approval and issuance of building permits, the applicant's geotechnical engineer shall respond to written comments provided by the City's peer reviewer. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

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

Finding: Complies with condition. Due to the extensive grading proposed for the site development, the City will consult with the City's geotechnical engineer in making determination that the development proposal and site are safe for construction, including proposed geotechnical remediation methods. Costs for such consultation shall be paid by the applicant and the applicant shall comply with conditions that are required. Prior to construction plan approval and issuance of building permits, the applicant shall comply with conditions required as part of the City's geotechnical review and pay for the City's geotechnical engineer's consultation costs related to this review. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

17.44.070 *Access to Property.*

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

Finding: Complies with condition. The mass grading of the site will be access by a gravel construction entrance on the south side of the property for Phase 2. Only one access is allowed for access to the property during mass grading. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

17.44.080 *Utilities.*

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

Finding: Not Applicable. No utilities are proposed.

17.44.090 *Stormwater Drainage.*

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

City Commission. Drainage design shall be approved by the city engineer before construction, including grading or other soil disturbance, has begun.

Finding: Complies with Condition. The applicant indicated in Exhibit S:

The Early Grading project does not trigger any water quality requirements as laid out in the Oregon City Stormwater and Grading Design Standards. Due to the large amounts of earthwork proposed with this project, many precautions will be taken to prevent sediment-laden runoff from leaving the site, including multiple temporary sediment ponds that are sized to accommodate the runoff volume from the 2-year storm event.

DOWL provided a Preliminary Drainage Report for the early grading, dated December 10, 2018, that provides recommendations for erosion and sediment control that were incorporated into the preliminary grading and erosion control plans. The final early grading plan should incorporate these recommendations and include provisions for maintaining sediment basins and erosion control during construction.

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

17.44.100. Construction Standards.

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

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

Finding: Complies with condition. Construction activities under this section will be guided and monitored by the required geotechnical engineering overviews and inspections. Prior to issuance of a permit associated with the proposed development the applicant shall submit sufficient documentation identifying compliance with OCMC 17.44. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

17.44.100.B *No grading, clearing or excavation of any land shall be initiated prior to approval of the grading plan, except that the city engineer shall authorize the site access, brush to be cleared and the location of the test pit digging prior to approval of such plan to the extent needed to complete preliminary and final engineering and surveying. The grading plan shall be approved by the city engineer as part of the city's review under this chapter. The developer shall be responsible for the proper execution of the approved grading plan.*

Finding: Complies with condition. Construction activities under this section will be guided and monitored by the required geotechnical engineering overviews and inspections. Prior to issuance of a permit associated with the proposed development the applicant shall submit sufficient documentation identifying compliance with OCMC 17.44. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

17.44.100.C *Measures shall be taken to protect against landslides, mudflows, soil slump and erosion. Such measures shall include sediment fences, straw bales, erosion blankets, temporary sedimentation ponds, interceptor dikes and swales, undisturbed buffers, grooving and stair stepping, check dams, etc. The applicant shall comply with the measures described in the Oregon City Public Works Standards for Erosion and Sedimentation Control (Ordinance 99-1013).*

Finding: Complies with condition. Construction activities under this section will be guided and monitored by the required geotechnical engineering overviews and inspections. Prior to issuance of a permit associated with the proposed development the applicant shall submit sufficient documentation identifying compliance with OCMC 17.44. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

17.44.100.D All disturbed vegetation shall be replanted with suitable vegetation upon completion of the grading of the steep slope area.

Finding: Complies with condition. Construction activities under this section will be guided and monitored by the required geotechnical engineering overviews and inspections. Prior to issuance of a permit associated with the proposed development the applicant shall submit sufficient documentation identifying compliance with OCMC 17.44. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

17.44.100.E Existing vegetative cover shall be maintained to the maximum extent practicable. No grading, compaction or change in ground elevation, soil hydrology and/or site drainage shall be permitted within the drip line of trees designated for protection, unless approved by the City.

Finding: Complies with condition. Construction activities under this section will be guided and monitored by the required geotechnical engineering overviews and inspections. Prior to issuance of a permit associated with the proposed development the applicant shall submit sufficient documentation identifying compliance with OCMC 17.44. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

17.44.100.F Existing perennial and intermittent watercourses shall not be disturbed unless specifically authorized by the review authority. This includes physical impacts to the stream course as well as siltation and erosion impacts.

Finding: Complies with condition. Construction activities under this section will be guided and monitored by the required geotechnical engineering overviews and inspections. Prior to issuance of a permit associated with the proposed development the applicant shall submit sufficient documentation identifying compliance with OCMC 17.44. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

17.44.100.G All soil erosion and sediment control measures shall be maintained during construction and for one year after development is completed, or until soils are stabilized by revegetation or other measures to the satisfaction of the city engineer. Such maintenance shall be the responsibility of the developer. If erosion or sediment control measures are not being properly maintained or are not functioning properly due to faulty installation or neglect, the City may order work to be stopped.

Finding: Complies with Condition. Construction activities under this section will be guided and monitored by the required geotechnical engineering overviews and inspections. Prior to issuance of a permit associated with the proposed development the applicant shall submit sufficient documentation identifying compliance with OCMC 17.44. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

17.44.100.H All newly created lots, either by subdivision or partition, shall contain building envelopes with a slope of 35% or less.

Finding: Complies with condition. Construction activities under this section will be guided and monitored by the required geotechnical engineering overviews and inspections. Prior to issuance of a permit associated with the proposed development the applicant shall submit sufficient documentation identifying compliance with OCMC 17.44. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

17.44.100.I The applicant's geotechnical engineer shall provide special inspection during construction to confirm that the subsurface conditions and assumptions made as part of their geotechnical evaluation/investigation are appropriate. This will allow for timely design changes if site conditions are encountered that are different from those anticipated.

Finding: Complies with condition. Construction activities under this section will be guided and monitored by the required geotechnical engineering overviews and inspections. Prior to issuance of a permit associated with the proposed development the applicant shall submit sufficient documentation identifying compliance with OCMC 17.44. Prior to construction plan approval, final grading plans shall include construction plan note for full-time continuous monitoring and inspection and written daily reports by geotechnical engineer-of-record for all earthwork performed. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

17.44.100.J *Prior to issuing an occupancy permit, the geotechnical engineer shall prepare a summary letter stating that the soils- and foundation-related project elements were accomplished in substantial conformance with their recommendations.*

Finding: Complies with condition. Construction activities under this section will be guided and monitored by the required geotechnical engineering overviews and inspections. Prior to issuance of a permit associated with the proposed development the applicant shall submit sufficient documentation identifying compliance with OCMC 17.44. Prior to certificate of occupancy, the geotechnical engineer-of-record shall submit written documentation stating soils and foundation-related project elements were in conformance with their recommendations. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

17.44.110 *Approval of Development.*

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

Finding: Complies with condition. The City's geotechnical engineer has recommended that construction activities be limited to the above dates and a condition of approval has been applied. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

17.44.120 *Liability.*

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

Finding: Complies with condition. The City requires compliance with this requirement for development approval. Prior to the issuance of building permits, the applicant shall execute a waiver of damages and an indemnity and hold harmless agreement releasing the City from all liability for damages resulting from the development approved by the City's decision. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

17.44.130 *Compliance.*

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

Finding: Applicable. The developer shall comply with all applicable laws and the more restrictive regulation shall apply.

17.44.140 *Appeal.*

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

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

CONCLUSION AND RECOMMENDATION:

Based on the analysis and findings as described above, Staff concludes that the proposed Master Plan Amendments, Detailed Development Plan, Floodplain, Subdivision, Natural Resource Overlay District and a Geologic Hazards Overlay District Review to Permit Mass Grading of II of the Cove Waterfront Apartments, including early grading and adjustments to specific architectural standard located at 16400 Main Street and No Address, Oregon City, Oregon 97045, Clackamas County Map 2-2E-29 TL 1509, 2800, 2900, 3000, 3100, 3200, 3300, 3400, 3500, 3600 and 3700 and Clackamas County Map 2-2E-20 TL 1100. can meet the requirements as described in the Oregon City Municipal Code by complying with the Conditions of Approval provided in this report. Therefore, the Community Development Director recommends the Planning Commission and City Commission approve files GLUA-18-00040 (General Land Use Application), GEO-18-0005 (Geologic Hazards), FP-18-00001(Floodplain), MAS-18-00005(Master Plan), MAS-18-00006 (Master Plan), SUB-18-00003(Subdivision), and NROD-18-00013 (Natural Resources Overlay District) with conditions, based upon the findings and exhibits contained in this staff report.

EXHIBITS:

1. Vicinity Map
2. Applicant's Narrative and Plans
3. Comments from John Replinger of Replinger and Associates, City Transportation Consultant
4. Comments from the Natural Resources Committee
5. Comments from Jerry Herrmann