



NOTICE OF DECISION

DATE OF MAILING OF NOTICE OF DECISION: February 1, 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.

DECISION: On January 28, 2019, after reviewing all of the evidence in the record and considering all of the arguments made by the applicant, opposing and interested parties, the Planning Commission voted 6-0 to approve with conditions the aforementioned application.

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 is final unless appealed and description of the requirements for perfecting an appeal. 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.

FINAL CONDITIONS OF APPROVAL
(As amended by Planning Commission 01/28/2019)

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(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 within the Geologic Hazards Overlay District shall be limited to 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 and regrade the parking lot resulting in an even surface. (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. (P)
45. The Planning Commission strongly encourages the applicant to utilize native species for all planting between the Phase 2 buildings and the Cove water body. (P)