



STAFF REPORT AND RECOMMENDATION

Planning Commission Hearing: August 26, 2019

FILE NUMBER: **GLUA-18-00031 General Land Use Application:** SP 18-00119 Site Plan and Design Review, PARK 18-00001 Parking Adjustment, and VAR-18-00002 Variance

APPLICANT/OWNER: Sierra Vista Property Partnership
4560 SE International Way #100
Milwaukie, Oregon 97222

Submitted: October 3, 2018
Complete: April 1, 2019
120-Day Decision Deadline:
November 1, 2019

REPRESENTATIVE: Trisha Clark
Emerio Design
6455 SW Fallbrook Pl. #100
Beaverton, Oregon 97008

REQUEST: The applicant requests a Parking Adjustment to exceed the maximum number of parking spaces allowed, along with development of a parking lot expansion and variance for new parking spaces located in front of the existing building.

LOCATION: 1680 Molalla Avenue, Oregon City, Oregon 97045
Clackamas County Map 3-2E-05C Taxlot 00301

REVIEWER: Kelly Reid, Planner
Sang Pau, Development Project Engineer

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 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.

Conditions of Approval
Planning File GLUA 18-00031

SP 18-00119 Site Plan and Design Review, PARK 18-00001 Parking Adjustment, and VAR-18-00002
Variance

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

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

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

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

The applicant shall meet the following condition(s) prior to issuance of Public Works permit(s):

1. The development shall comply with all current Oregon City Public Works design standards, specifications, codes, and policies. (DS)
2. The development's engineer(s) shall schedule a pre-design meeting with Oregon City staff prior to official review of the development construction plans. (DS)
3. The applicant shall provide construction plans, stamped and signed by a professional engineer licensed in the State of Oregon, containing street, grading, stormwater, sanitary sewer and water infrastructure improvements that conforms to all current Oregon City Public Works standards, specifications, codes, and policies for review and approval by the City. (DS)
4. The engineering plans shall provide a local benchmark onsite using the NAVD88 datum. (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. Along the frontage of Molalla Avenue, the development shall dedicate ROW beginning at a 3' offset (parallel to the existing ROW line) from the northern most property corner and ending a 9' offset (parallel to the existing ROW line) from existing eastern most property corner. The new ROW line shall intersect the two aforementioned points. The applicant shall relocate or remove all private structures, signs or utilities located within the ROW dedication. (DS)
7. The applicant shall provide a fee-in-lieu of \$33,000 for the constructing a 10-foot-wide sidewalk along the property frontage of Molalla Avenue. (DS)

8. The applicant shall pay a fee-in-lieu of \$16,000 for four decorative streetlights to be installed along the frontage of Molalla Avenue. (DS)
9. The applicant shall provide an updated drainage report signed by a licensed engineer which addresses all items from the Section 9.4 of the Public Works Stormwater and Grading Design Standards. (DS)
10. The applicant shall submit a performance guarantee which is equal to one hundred twenty percent of the estimated cost of constructing the stormwater improvements shown in a city approved construction plan provided by the applicant's engineer. The estimated costs shall be supported by a verified engineering estimate and approved by the city engineer. The guarantee shall be in a form identified in Code 17.50.140.A of the Oregon City Municipal Code. The guarantee shall remain in effect until all improvements have been constructed and are accepted by the city. (DS)
11. The applicant shall obtain an Erosion control permit prior to commencement of any earth disturbing activities. (DS)
12. The applicant shall provide an Erosion Prevention and Sedimentation Control Plan prior to issuance of an erosion control permit. (DS)

The applicant shall meet the following condition(s) prior to issuance of Certificate of Final Completion by the Development Services Department:

13. The workmanship and materials for any work performed under permits issued by Oregon City Public Works shall be in accordance with the edition of the "Oregon Standard Specifications for Construction" as prepared by the Oregon Department of Transportation (ODOT) and the Oregon Chapter of American Public Works Association (APWA) and as modified and adopted by the city. (DS)
14. The applicant shall execute a "Maintenance Covenant and Access Easement For Privately Owned Stormwater Management Facilities" and pay associated recording fees. The covenant shall include a site plan identifying all privately-owned stormwater management facilities and an operation and maintenance plan for each type of stormwater facility in accordance with the Public Works Stormwater and Grading Design Standards. The Maintenance Covenant and Access Easement shall be reviewed and accepted by the City prior to recording. (DS)
15. The applicant shall provide a 10-foot-wide public utility easement (PUE) along all property lines fronting existing or proposed right-of-way unless a reduced PUE width is approved by the City Engineer. (DS)
16. The property owner shall sign a Restrictive Covenant Non-Remonstrance Agreement for the purpose of making storm sewer, sanitary sewer, water or street improvements in the future that benefit the property. The applicant shall pay all fees associated with processing and recording the Non-Remonstrance Agreement. (DS)

Planning Conditions of Approval - The applicant shall meet the following condition(s) prior to issuance of Public Works permit(s) unless otherwise indicated:

17. The applicant shall revise the landscaping plan to identify that the proposed plantings will cover 100% of the landscape area within 3 years nor that no mulch, bark chips, or similar materials will be allowed at the time of landscape installation except under the canopy of shrubs and within two feet of the base of trees. (P)
18. The applicant shall redesign the northernmost driveway to reduce its width and provide only right-in right-out access. The final width shall be determined by the city engineering staff in consultation with emergency service providers. The applicant shall install signing in conformance with the Manual on Uniform Traffic Control Devices. The southernmost driveway shall be reconstructed to limit ingress and egress to only right turn maneuvers to and from Molalla Avenue; the driveway shall be signed in conformance with the Manual on Uniform Traffic Control Devices. (P)
19. The applicant shall, as part of nonconforming upgrades to pedestrian circulation, revise the plans to provide pedestrian access from the right of way that is clearly visible and distinguishable from vehicular access. (P)
20. The applicant shall identify a location for a future connection and provide an easement for future vehicular access with Taxlot 404. The easement shall be recorded prior to final inspections for the project. The physical connection itself will not be required as part of this development. (P)
21. The applicant shall provide pedestrian connections from the sidewalk to the front entrance and from the existing walkway in front of the building to the new parking area proposed in the southeast portion of the site. The applicant shall ensure that the required connections meet all of the requirements in 17.62.050.A.9.f. (P)
22. The applicant is limited to 58 total onsite vehicle parking spaces. (P)
23. The applicant shall install bicycle parking at the ratio of one per 30 auto spaces and shall ensure that at least one space is covered. (P)
24. Prior to issuance of permits, the applicant shall include bicycle parking on the site plan and show details demonstrating that the parking is securely anchored in a convenient, secure, and accessible location, that the parking is separated from vehicle parking and maneuvering areas by 5 feet and does not obstruct pedestrian walkways, and is clearly marked or visible from the street, is connected to main building entrances, has direct access from a right of way, and is closer to the building than the nearest vehicle parking. (P)
25. Prior to issuance of permits, the applicant's landscape architect shall ensure that the Portuguese laurel species is not a nuisance species. (P)
26. Prior to issuance of permits, the applicant shall demonstrate that irrigation will be included or propose an alternative that is acceptable to the Community Development Director. (P)
27. If the applicant wishes to preserve the two trees, along with the existing monument sign on the Molalla Avenue frontage, the perimeter parking lot landscaping may be reduced or removed in this area. The preserved trees and landscape around them will provide sufficient landscaping to meet the intent of this standard. (P)

28. The applicant shall ensure that all interior landscaping islands are at least six feet in width. (P)
29. The applicant shall provide information on the loading needs of the site and revise the loading plans as needed. (P)
30. The applicant shall provide pedestrian amenities in the space between the new parking spaces and the sidewalk, with one element required for each individual parking space in front of the building. The pedestrian amenities should include at least two different items from the list below:
- Bench, seat wall, or other outdoor seating
 - Public art, interpretive panel, or sculpture
 - Enhanced landscaping of 40 square feet
 - Upsizing of proposed perimeter parking lot tree of one inch caliper
 - Bicycle rack installed on a concrete pad connected to the sidewalk (worth one element for every bike parking space provided; one staple rack would provide two spaces) (P)
31. If any trees in the Molalla Avenue right of way are removed, the applicant shall replace the tree or pay fee-in-lieu in accordance with Chapter 12.08.035. (P)
32. The applicant shall provide a revised tree removal and mitigation plan that meets this standard. The applicant may utilize fee in lieu of planting if desired. (P)
33. The applicant shall submit a revised tree mitigation plan prepared by a certified arborist, horticulturalist, forester or other environmental professional. (P)
34. The applicant shall ensure that tree protection during construction meets the requirements of 17.41.130. (P)
35. If the applicant wishes to preserve the two maple trees along the Molalla Avenue frontage, the applicant shall provide an arborist assessment of the impacts of construction on the trees. If an arborist finds that the trees will not survive construction impacts, the applicant shall mitigate for the trees. (P)
36. The applicant shall provide the construction cost estimate and make nonconforming upgrades per OCMC 17.58 as required. Note that the upgrades are limited to 10% of the construction cost and the items in OCMC 17.58.040.c.2.b. Site plan application fees may increase accordingly with any construction cost increase. (P)

I. BACKGROUND:

1. Existing Conditions

The subject property contains a one-story Memory Care and rehabilitation facility, Marquis Care, with 69 beds. The project site is an 80,000 square foot (approximately 2 acres) corner lot on Molalla Avenue and Beaver Creek Road, with two driveways on Molalla Avenue.

The zoning designation for this site is Commercial (C). The abutting private properties to the north and south are assigned the same zoning designation. Properties behind the building have a Mixed Use Employment (MUE) zoning designation. The surrounding area contains numerous commercial businesses and multifamily uses on Molalla Avenue as well.

Molalla Avenue and Beaver Creek Road is a major intersection in the hilltop area of the City. The City is currently in the design phase of a Molalla Avenue streetscape project to improve pedestrian and bicycle facilities on Beaver Creek Road along with safety and traffic flow improvements.



Figure 1. Vicinity Map



Figure 2: Existing Conditions – Aerial Image

2. Project Description

The applicant submitted the following project description:

“This request is for a parking adjustment, a major variance and site plan design review through a Type 3 review process.

The site has access to Molalla Avenue at the north end of the site and also at the southeast corner of the site. The building is already connected to public services. No changes to the existing building has been proposed. There is existing lighting attached to the building that will be retained.

The parking lot expansion is needed because the current parking lot is continually full through out the day and visitors and workers for the facility often cannot find parking in the lot dedicated to the facility and end up parking off-site at adjacent businesses, as there are no on-street parking opportunities in the immediate area.

The operation of the facility is completely dependent on the ability of staff to get to work to care for the residents; lack of on-site parking is a big issue that comes up each day at shift change, where staff must overlap to ensure the needed level of care for residents and patents.”

The applicant also included information on staffing, which will be discussed in this staff report. In addition, the applicant describes the requested approvals as:

“Parking Adjustment: Because the requested number of parking stalls exceed the maximum allowed for the existing use, which is a residential care facility. Included with this request is a detailed Parking Analysis and report provided by the applicant’s Traffic Engineer, Frank Charbonneau.

Major Variance: OCMC 17.62.050.2.A states that parking areas shall be located behind, below or on one or both sides of buildings. In this case, the existing parking lot is already located partially in front of the building and the revised parking area will continue to have spaces in front of the building, therefore a Variance is needed.

Non-Conforming: The site is non-conforming due to building and parking lot placement and building design. The proposed exterior improvements trigger required non-conforming upgrades, including pedestrian circulation and landscaping requirements, bike parking and screening; these enhancements have been included as a part of this approval request."

The applicant has proposed 20 additional parking spaces on site, adding to the existing 43 spaces. The proposal would remove eight parking spaces in front of the building and add 15 parking spaces in front of the building in a reconfiguration and expansion of the parking lot, with 13 spaces in front of the building remain. The proposal would result in a total of 28 parking spaces in front of the existing building.

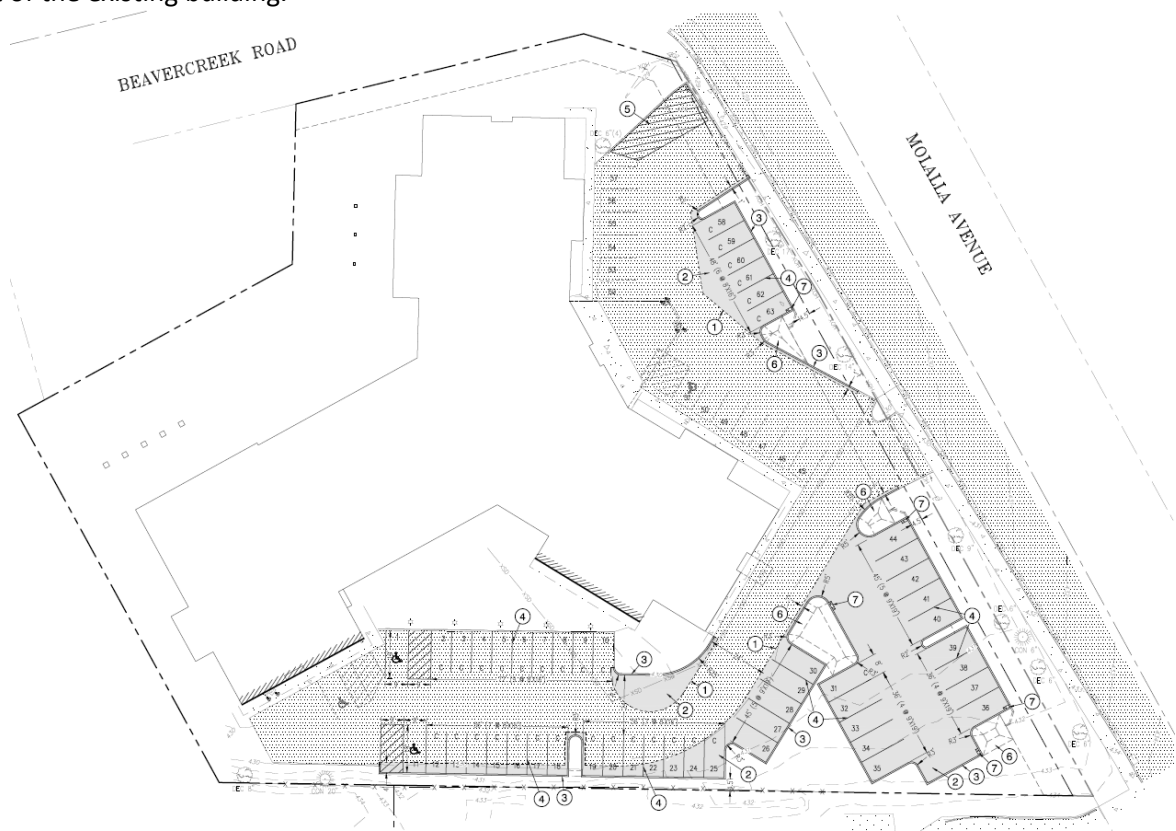


Figure 3: Proposed Site Plan

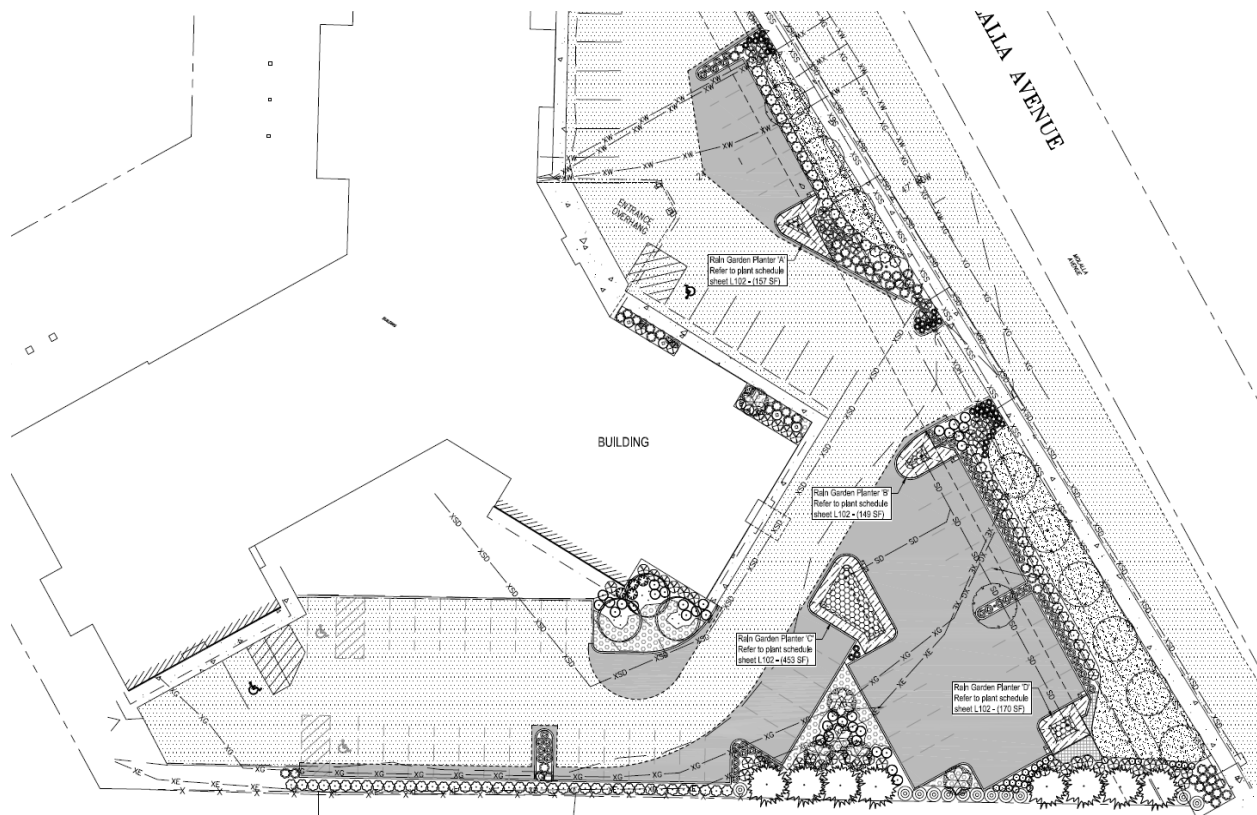


Figure 4. Proposed Landscaping Plan

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

- 12.04 - Streets, Sidewalks, and Public Places
- 12.08 - Public and Street Trees
- 13.12 - Stormwater Management
- 15.48 - Grading, Filling and Excavating
- 17.29 – Mixed Use Corridor
- 17.41 – Tree Protection
- 17.47 - Erosion and Sediment Control
- 17.50 - Administration and Procedures
- 17.52 – Off-street Parking and Loading
- 17.62 – Site Plan and Design Review
- 17.54.100 – Fences

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

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

5. Notice and Public Comment

Notice of the proposal was sent to various City departments, affected agencies, property owners within 300 feet, and the Neighborhood Association. Additionally, the subject property was posted with signs identifying that a land use action was occurring on the property. Public comments submitted include (Exhibit 3):

One comment was received from a former volunteer at the center stating that the proposal is a good idea due to lack of parking.

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

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

II. ANALYSIS AND FINDINGS:

CHAPTER 17.32 "C" GENERAL COMMERCIAL DISTRICT

17.32.020 - Permitted uses.

A. Any use permitted in the MUC - Mixed Use Corridor zone with no maximum footprint size, unless otherwise restricted in Sections [17.24.020](#), [17.24.030](#) or [17.24.040](#);

B. Hotels and motels;

C. Drive-in or drove through facilities;

D. Passenger terminals (water, auto, bus, train);

E. Gas stations;

F. Outdoor markets that do not meet Section 17.29.020.H;

G. Motor vehicle and recreational vehicle sales and/or incidental service;

H. Motor vehicle and recreational vehicle repair and/or service;

I. Custom or specialized vehicle alterations or repair wholly within a building.

Finding: Complies as proposed. The use is a memory care facility, which is a permitted use; the use is not proposed to change.

17.32.030 - Conditional uses.

The following conditional uses are permitted when authorized and in accordance with the standards contained in [Chapter 17.56](#):

A. Religious institutions;

B. Hospitals;

C. Self service storage facilities;

D. Public utilities, including sub-stations (such as buildings, plants and other structures);

E. Public and/or private educational or training facilities;

F. Parking structures and lots not in conjunction with a primary use;

G. Emergency service facilities (police and fire), excluding correctional facilities.

Finding: Complies as proposed. The use is a permitted use.

17.32.040 - Prohibited uses in the General Commercial District.

The following uses are prohibited in the General Commercial District:

A. Distribution, wholesaling and warehousing.

B. Outdoor sales or storage (Except secured areas for overnight parking or temporary parking of vehicles used in the business. Sales of products not located under a roof may be allowed if they are located in an area that is architecturally connected to the primary structure, is an ancillary use and is approved through the Site Plan and Design Review process. This area may not exceed fifteen percent of the building footprint of the primary building).

C. General manufacturing or fabrication.

D Heavy equipment service, repair, sales, storage or rental (including but not limited to construction equipment and machinery and farming equipment).

Finding: Complies as proposed. The applicant has not proposed any prohibited uses.

17.32.050 - Dimensional standards.

A. Minimum lot area: None.

Finding: Complies as proposed. The lot size will not change as a result of this proposal.

B. Maximum building height: Sixty feet.

Finding: Complies as proposed. The building height is below 60 feet and will not change as a result of this proposal.

C. Minimum required setbacks if not abutting a residential zone: None.

Finding: Complies as proposed. The site does not abut a residential zone; setbacks will not change as a result of this proposal.

D. Minimum required interior and rear yard setbacks if abutting a residential zone: twenty feet, plus one foot additional yard setback for every two feet of building height over thirty-five feet.

Finding: Not applicable. The site does not abut a residential zone.

E. Maximum Allowed Setbacks.

1. Front yard setback: Five feet (may be expanded with Site Plan and Design Review [Section 17.62.055](#)).

Finding: Complies as proposed. The existing building setback is legally nonconforming at greater than five feet. The required right of way dedication will reduce the setback and bring the property closer to conformity with this standard.

2. Interior side yard setback: None.

Finding: Complies as proposed. The interior side yard setback will not change as a result of this proposal.

3. Corner side yard setback abutting street: None

Finding: Complies as proposed. The corner side yard setback will not change as a result of this proposal.

4. Rear yard setback: None.

Finding: Complies as proposed. The rear yard setback will not change as a result of this proposal.

F. Maximum site coverage of building and parking lot: Eighty-five percent

Finding: Complies as proposed. The proposal adds 8,400 square feet of new parking lot area. The applicant did not provide a percentage for the proposed site coverage, but an analysis of the proposed site plan shows that 64% of the site would be covered by the building plus parking lot.

G. Minimum landscaping requirement (including parking lot): Fifteen percent.

Finding: Complies as proposed. The landscaping exceeds 15%; approximately 36% of the site is proposed to remain landscaped.

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:

17.62.015.A. The modification will result in a development that better meets design guidelines; and

17.62.015.B. The modification meets the intent of the standard. On balance, the proposal will be consistent with the purpose of the standard for which a modification is requested.

Finding: Not applicable. The applicant has not requested a modification; the proposed parking lot changes require a variance and a parking adjustment.

17.62.020 - Preapplication conference.

Prior to filing for site plan and design review approval, the applicant shall confer with the community development director pursuant to [Section 17.50.030](#). The community development director shall identify and explain the relevant review procedures and standards.

Finding: Please refer to the findings in Section 17.50.050 of this report.

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 has proposed development in the “C” General Commercial District, therefore, Chapter 17.62 is applicable.

17.62.035 - Minor site plan and design review.

Finding: Complies as Proposed. 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 - Standards.

A. All development shall comply with the following standards:

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

Finding: Complies as Proposed. The applicant’s narrative did not address this standard. The proposed plans demonstrate that the 15% landscaping requirement will be met.

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: Complies as Proposed. All areas credited towards the 15% site landscaping are proposed to be installed with growing plant material. No reduction is requested.

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

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: Complies with Condition. The landscape plan was prepared by Troy Mears, Registered Landscape Architect. The plan includes a mix of vertical and horizontal elements but it does not identify that the proposed plantings will cover 100% of the landscape area within 3 years nor that no mulch, bark chips, or similar materials will be allowed at the time of landscape installation except under the canopy of shrubs and within two feet of the base of trees. Prior to issuance of permits, the applicant shall revise the landscaping plan meet this standard. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

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. The subject site is not located within the Downtown Design District.

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

Finding: Complies as Proposed. The applicant has proposed landscaping that is visible from public thoroughfares to the extent practicable.

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: Complies as Proposed. Per the C base zone dimensional standards, the minimum required landscaping for a site includes landscaping material with a parking lot. The landscaping plan submitted with this application demonstrates compliance with this standard, showing a landscaping calculation equivalent to 36 percent of the parcel area.

2. Vehicular Access and Connectivity.

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

Finding: See findings in 17.60. A variance to this standard is proposed; the applicant has proposed new parking spaces in front the existing building.

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 Condition. No change is proposed for the ingress or egress of development along the Molalla Avenue street frontage. The applicant submitted a Traffic Analysis Letter (TAL), which indicated that ingress and egress would not change. The TAL was reviewed by the City's traffic consultant John Replinger, who found no safety impacts, but did recommend changes to driveway access to improve safety. The northernmost driveway is less than 175 feet from Beaver Creek Road, which does not meet Table 12.04.025.B (Minimum Driveway Spacing Standards) of the Oregon City Municipal Code. However, this existing driveway allows for easier ingress and egress for emergency vehicles entering the site. The applicant shall redesign the northernmost driveway to reduce its width and provide only right-in right-out access. The final width shall be determined by the city engineering staff in consultation with emergency service providers. The applicant shall install signing in conformance with the Manual on Uniform Traffic Control Devices. The southernmost driveway shall be reconstructed

to limit ingress and egress to only right turn maneuvers to and from Molalla Avenue; the driveway shall be signed in conformance with the Manual on Uniform Traffic Control Devices (Exhibit 4). **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

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. The subject site is not within any of these zones.

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

Finding: Not applicable. The development property is not adjacent to an existing alley.

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: Complies with condition. There are two existing driveways on Molalla Avenue. The applicant has not proposed separate pedestrian access to the site. Nonconforming upgrades are triggered for this application; see findings in Chapter 17.58. The applicant shall, as part of nonconforming upgrades to pedestrian circulation, revise the plans to provide pedestrian access from the right of way that is clearly visible and distinguishable from vehicular access. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

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

Finding: Complies with conditions. The existing driveways exceed 24 feet in width and they are not aligned with existing or planned streets. The applicant shall redesign the northernmost driveway to reduce its width and provide only right-in right-out access. The final width shall be determined by the city engineering staff in consultation with emergency service providers. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

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 site is bordered by other commercial uses but these sites are not currently physically connected. The public sidewalk provides pedestrian connection between the site and adjacent properties. To the west, the Red Soils Business Park is at a higher grade and no connection is practical. To the south, Taxlot 404 contains a driveway that could be connected in the future. The applicant shall identify a location for a future connection and provide an easement for future vehicular access with Taxlot 404. The easement shall be recorded prior to final inspections for the project. The physical connection itself will not be required as part of this development. It may be triggered by future development on site.

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: Not Applicable. No streets or easements to replace streets are required.

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

Finding: Complies with Condition. See findings in 17.62.050.A.2.g. Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.

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. Dead-end stub streets that will connect to streets on adjacent sites are not proposed or required for this development.

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: Not Applicable. The subject site is not larger than three acres.

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

Finding: Not Applicable. A parking garage has not been proposed as part of this development.

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

Finding: Not Applicable. A parking garage has not been proposed as part of this development.

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.

4. Grading shall be in accordance with the requirements of [Chapter 15.48](#) and the public works stormwater and grading design standards.

Finding: Please refer to the findings in Chapter 15.48 of this report.

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

Finding: Not applicable. No portion of the subject property is within the Geologic Hazard overlay district.

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: Please refer to the findings in Chapter 13.12 of this report.

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 in Chapter 17.52 of this report.

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: Please refer to the findings in Chapter 12.04 of this report.

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: Not Applicable. No buildings are proposed.

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: Complies with condition. A pedestrian connection from the public sidewalk to the entrance has not been provided; nor has a pedestrian connection to the new parking area on the southeast corner of the property been proposed. Pedestrian upgrades are required as part of nonconforming upgrades. The applicant shall provide pedestrian connections from the sidewalk to the front entrance and from the existing walkway in front of the building to the new parking area proposed in the southeast portion of the site. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

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.

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

Finding: Not Applicable. No buildings are proposed.

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. No buildings are proposed.

f. On-site pedestrian walkways shall be hard surfaced, well drained and at least five feet wide. Surface material shall contrast visually to adjoining surfaces. When bordering parking spaces other than spaces for parallel parking, pedestrian walkways shall be a minimum of seven feet in width unless curb stops are provided. When the pedestrian circulation system is parallel and adjacent to an auto travel lane, the walkway shall be raised or separated from the auto travel lane by a raised curb, bollards, landscaping or other physical barrier. If a raised walkway is used, the ends of the raised portions shall be equipped with curb ramps for each direction of travel. Pedestrian walkways that cross drive isles or other vehicular circulation areas shall utilize a change in textual material or height to alert the driver of the pedestrian crossing area.

Finding: Complies with Condition. The applicant has not proposed some of the required pedestrian connections. The applicant shall ensure that the required connections meet all of the requirements in 17.62.050.A.9.f. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

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 applicant's narrative identified that the building owner will provide maintenance and necessary normal repair and replacement.

11. Site planning shall conform to the requirements of OCMC [Chapter 17.41](#) Tree Protection.

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

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

Finding: Not Applicable. The subject site is not located within the Natural Resource Overlay District, therefore, OCMC Chapter 17.49 is not applicable.

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

Finding: Complies as Proposed. The applicant's narrative identified that the development proposal will comply with all applicable federal, state and city standards.

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 designed 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: Not applicable. There is existing public water and sanitary sewer facilities sufficient to serve the proposed or permitted level of development.

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 as conditioned. The frontage of Molalla Avenue currently does not meet street lighting standards identified in the City adopted Molalla Ave Streetscape Standards. Therefore, the development shall provide street lighting to meet those standards. Since there is a City Infrastructure project titled Molalla Avenue Phase 3 (CI 18-004) which will install 4 streetlights along the frontage of this property, the development shall pay a fee-in-lieu for the installation of streetlights along the frontage of Molalla Avenue. City cost estimates indicate that each streetlight and pole will be approximately \$4,000 (\$3,275 for pole and base; \$725 for luminaire). The applicant shall pay a fee-in-lieu of \$16,000 for four decorative streetlights to be installed along the frontage of Molalla Avenue. This improvement is needed to protect users of the public way which will be accessed by this development. Molalla Avenue serves the users of this development.

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

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 subject site is located on a transit route. The development application was transmitted to Tri-Met and no comments were received in response to the applicant's proposal.

17. All utility lines shall be placed underground.

Finding: Complies as proposed. The applicant has not proposed additional overhead utilities.

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

Finding: Complies as Proposed. The applicant indicated that the proposal is compliant with applicable ADA requirements. Compliance with ADA and accessibility standards will be reviewed upon submittal of a building permit application.

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. No residential uses are proposed.

20. Screening of Mechanical Equipment:

a. Rooftop mechanical equipment, including HVAC equipment and utility equipment that serves the structure, shall be screened. Screening shall be accomplished through the use of parapet walls or a sight-obscuring enclosure around the equipment constructed of one of the primary materials used on the primary facades of the structure, and that is an integral part of the building's architectural design. The parapet or screen shall completely surround the rooftop mechanical equipment to an elevation equal to or greater than the highest portion of the rooftop mechanical equipment being screened. In the event such parapet wall does not fully screen all rooftop equipment, then the rooftop equipment shall be enclosed by a screen constructed of one of the primary materials used on the primary facade of the building so as to achieve complete screening.

b. Wall-mounted mechanical equipment shall not be placed on the front facade of a building or on a facade that faces a right-of-way. Wall-mounted mechanical equipment, including air conditioning or HVAC equipment and groups of multiple utility meters, that extends six inches or more from the outer building wall shall be screened from view from streets; from residential, public, and institutional properties; and from public areas of the site or adjacent sites through the use of (a) sight-obscuring enclosures constructed of one of the primary materials used on the primary facade of the structure, (b) sight-obscuring fences, or (c) trees or shrubs that block at least eighty percent of the equipment from view or (d) painting the units to match the building. Wall-mounted mechanical equipment that extends six inches or less from the outer building wall shall be designed to blend in with the color and architectural design of the subject building.

c. Ground-mounted above-grade mechanical equipment shall be screened by ornamental fences, screening enclosures, trees, or shrubs that block at least eighty percent of the view. Placement and type of screening shall be determined by the community development director.

d. All mechanical equipment shall comply with the standards in this section. If mechanical equipment is installed outside of the site plan and design review process, planning staff shall review the plans to determine if additional screening is required. If the proposed screening meets this section, no additional planning review is required.

e. This section shall not apply to the installation of solar energy panels, photovoltaic equipment or wind power generating equipment.

Finding: Not Applicable. No outdoor mechanical equipment is proposed as part of this development.

21. Building Materials.

a. Preferred building materials. Building exteriors shall be constructed from high quality, durable materials. Preferred exterior building materials that reflect the city's desired traditional character are as follows:

i. Brick.

ii. Basalt stone or basalt veneer.

iii. Narrow horizontal wood or composite siding (generally five inches wide or less); wider siding will be considered where there is a historic precedent.

iv. Board and baton siding.

v. Other materials subject to approval by the community development director.

vi. Plywood with battens or fiber/composite panels with concealed fasteners and contiguous aluminum sections at each joint that are either horizontally or vertically aligned.

vii. Stucco shall be trimmed in wood, masonry, or other approved materials and shall be sheltered from extreme weather by roof overhangs or other methods.

Finding: Not Applicable. No buildings are proposed.

b. Prohibited materials. The following materials shall be prohibited in visible locations unless an exception is granted by the community development director based on the integration of the material into the overall design of the structure.

i. Vinyl or plywood siding (including T-111 or similar plywood).

ii. Glass block or highly tinted, reflected, translucent or mirrored glass (except stained glass) as more than ten percent of the building facade.

iii. Corrugated fiberglass.

iv. Chain link fencing (except for temporary purposes such as a construction site or as a gate for a refuse enclosure).

[v.] Crushed colored rock/crushed tumbled glass.

[vi.] Non-corrugated and highly reflective sheet metal.

Finding: Complies as Proposed. No prohibited materials have been identified within the applicant's submittal.

c. Special material standards: The following materials are allowed if they comply with the requirements found below:

1. Concrete block. When used for the front facade of any building, concrete blocks shall be split, rock- or ground-faced and shall not be the prominent material of the elevation. Plain concrete block or plain concrete may be used as foundation material if the foundation material is not revealed more than three feet above the finished grade level adjacent to the foundation wall.

2. Metal siding. Metal siding shall have visible corner moldings and trim and incorporate masonry or other similar durable/permanent material near the ground level (first two feet above ground level).

3. Exterior Insulation and Finish System (EIFS) and similar troweled finishes shall be trimmed in wood, masonry, or other approved materials and shall be sheltered from extreme weather by roof overhangs or other methods.

4. Building surfaces shall be maintained in a clean condition and painted surfaces shall be maintained to prevent or repair peeling, blistered or cracking paint.

Finding: Not Applicable. No special materials have been identified within the applicant's submittal.

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 property does not have a Non-Remonstrance agreement with the city. The review authority has determined a Non-Remonstrance agreement will be required per section 17.62.050.A.22 of the Oregon City Municipal Code. The property also, does not have a Public Utility Easement (PUE), required for compliance with city public works design standards.

The property owner shall sign a Restrictive Covenant Non-Remonstrance Agreement for the purpose of making storm sewer, sanitary sewer, water or street improvements in the future that benefit the property. The applicant shall pay all fees associated with processing and recording the Non-Remonstrance Agreement. The applicant shall provide a 10-foot-wide public utility easement (PUE) along all property lines fronting existing or proposed right-of-way unless a reduced PUE width is approved by the City Engineer.

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

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: Not applicable. The applicant has proposed a parking lot expansion. A lighting plan is not provided with this application because the property owner is not proposing new lighting for the parking

lot. The applicant has not proposed any changes to pedestrian walkways in the parking lot and thus no new lighting is required.

17.62.080 - Special development standards along transit streets.

B. Applicability. Except as otherwise provide in this section, the requirements of this section shall apply to the construction of new retail, office and institutional buildings which front on a transit street.

Finding: Not Applicable. No buildings are proposed.

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 new refuse areas are proposed.

CHAPTER 17.52 OFF-STREET PARKING AND LOADING

17.52.015 - Planning commission adjustment of parking standards.

A. Purpose: The purpose of permitting a planning commission adjustment to parking standards is to provide for flexibility in modifying parking standards in all zoning districts, without permitting an adjustment that would adversely impact the surrounding or planned neighborhood. The purpose of an adjustment is to provide flexibility to those uses which may be extraordinary, unique or to provide greater flexibility for areas that can accommodate a denser development pattern based on existing infrastructure and ability to access the site by means of walking, biking or transit. An adjustment to a minimum or maximum parking standard may be approved based on a determination by the planning commission that the adjustment is consistent with the purpose of this Code, and the approval criteria can be met.

B. Procedure: A request for a planning commission parking adjustment shall be initiated by a property owner or authorized agent by filing a land use application. The application shall be accompanied by a site plan, drawn to scale, showing the dimensions and arrangement of the proposed development and parking plan, the extent of the adjustment requested along with findings for each applicable approval criteria. A request for a parking adjustment shall be processed as a Type III application as set forth in [Chapter 17.50](#).

Finding: Complies as Proposed. This land use application includes an application for a Type III Parking Adjustment, which requests approval to exceed the maximum parking allowance onsite. The maximum allowed by code is based on the number of beds in the facility. The current allowance for this building is 14 spaces based on the existing 69 beds and maximum allowance of 1 per 5 beds. The existing parking lot contains 42 spaces. The applicant has proposed 21 additional spaces for a total of 63 spaces on site.

The purpose of the maximum parking allowance is to avoid the overabundance of parking, which encourages single occupancy auto use, and creates vast areas of pavement which create greater stormwater impacts, urban heat island impacts, and contribute to suburban sprawl. The maximum

parking code also exists to avoid the creation of parking lots that are sized to handle parking needs that only occur one or a few times a year, such retail parking lots sized for holiday shopping seasons, which are less than half full most days of the year. The Planning Commission may approve an adjustment if it finds that the request is consistent with the purpose of this code and the approval criteria are met.

The purpose of the parking adjustment provisions is to provide flexibility to those uses which may be extraordinary or unique. The applicant has provided a detailed description of the uses within the facility and the staffing levels required. They have also submitted a parking analysis of the existing parking lot and on-street parking in the vicinity. An analysis of the request can be found below.

C. Approval criteria for the adjustment are as follows:

1. Documentation: The applicant shall document that the individual project will require an amount of parking that is different from that required after all applicable reductions have been taken.

Finding: Complies as Proposed. The reductions alluded to in this section are not relevant to this discussion, as the applicant has proposed to exceed the maximum parking, not to reduce the minimum. Therefore, this standard should be read to require that the applicant demonstrate that the parking needs for the project are greater than that allowed by code.

The applicant provided ample information regarding the number of employees currently working in the building, and the number of visitors. Although the number of employees is not a criteria for determining parking requirements, the parking ratios in the code for assisted living facilities are partially based on staffing levels. The parking ratio assumes that residents do not require parking spaces, but that employees do; and the code accounts for typical staffing levels at assisted living facilities.

The current site contains 42 spaces; 7 of the spaces are visitor spaces. The average number of residents in the building is 58. Staffing ranges between 7 employees during nighttime hours to up to 44 employees on weekdays between 6AM and 2PM. The applicant conducted parking utilization counts during daytime hours and found the parking lot ranges between 38% and 100% occupancy, with occupancy exceeding 83% between 9AM and 2:30PM. The applicant also stated that 39% of total 95 employees take an alternative mode to work such as transit, carpooling, or walking. The proportion of the total employees that drive alone therefore is 58.

There is no on-street parking within 500 feet of the subject site, which is also unusual in Oregon City.

The applicant submitted the following narrative regarding staffing and parking needs:

"We currently have 95 employees on our payroll. Of those 95 employees 37 of them utilize public transportation, carpool with coworkers/family, or walk to work.

I visited all of the surrounding businesses and asked if we could use their parking lot for our employee's. None of the businesses were open to allowing employee use their parking lot and stated to me that "They would be towed." If they parked there. I asked them if they could give me some sort of letter stating that to which only one business said they would. The business complex directly across the street is owned by management company that I haven't heard back from but the parking lot it owns is very well signed to say that the parking is reserved for patrons of those businesses. If you feel it would be helpful I would be open to going back around to see if there is anything that they can give me showing that they have refused to let us use parking spots.

Though Parking for our employee's is important the parking lot expansion would be more to serve the patients families that come to visit. We average 60 plus residents which at any one time could have a visitor. This applies especially to our skilled wing of the facility that runs about 18 patients on average. The skilled patients have visitors more frequently and in greater numbers. Also, many of our visitors are elderly themselves and having to park a good distance away then to walk across a busy street creates a safety issue.

Another thought I had was that our state staffing ratio requirements have changed in over the years which require us to have more staff. We have a lot more staff than when this facility and parking lot were initially built. At the time that the building was built I am sure the parking lot was more than enough."

The applicant has demonstrated that the use is unique compared to other assisted living or memory care uses in Oregon City.

The Adjustment requests approval of up to 63 parking spaces for the development. Staff finds that due to the average residents census of 58 and the number of total employees that drive alone to work, 58 total spaces is justified. The applicant is limited to 58 total onsite spaces. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

2. Parking analysis for surrounding uses and on-street parking availability: The applicant must show that there is a continued fifteen percent parking vacancy in the area adjacent to the use during peak parking periods and that the applicant has permission to occupy this area to serve the use pursuant to the procedures set forth by the community development director.

a. For the purposes of demonstrating the availability of on street parking as defined in [Section] 17.52.020.B.3., the applicant shall undertake a parking study during time periods specified by the community development director. The time periods shall include those during which the highest parking demand is anticipated by the proposed use. Multiple observations during multiple days shall be required. Distances are to be calculated as traversed by a pedestrian that utilizes sidewalks and legal crosswalks or an alternative manner as accepted by the community development director.

b. The onsite parking requirements may be reduced based on the parking vacancy identified in the parking study. The amount of the reduction in onsite parking shall be calculated as follows:

i. Vacant on-street parking spaces within three hundred feet of the site will reduce onsite parking requirements by 0.5 parking spaces; and

ii. Vacant on-street parking spaces between three hundred and six hundred feet of the [site] will reduce onsite parking requirements by 0.2 parking spaces.

Finding: Complies as Proposed. This criteria language assumes the Parking Adjustment requests providing off-street parking at levels below the minimum code requirement. In this instance, the project is requesting approval to exceed the off-street maximum parking, rather than reduce below the minimum requirement. For this reason, most of the items discussed in Item 2 are not applicable.

The applicant conducted a parking occupancy study of the existing parking lots to meet this criterion. Detailed information is provided in the Parking Study (Exhibit 2).

The study was conducted on four separate weekdays during May and at several times. The study found that the 42 spaces in the existing lot were observed to have an occupancy of 38% to 100%. Between noon and 2PM, the occupancy was over 95% on average, and the engineer observed some people parking on lawn areas due to lack of available spaces. The results of the parking study support the reports of the applicant that parking is at capacity onsite during midday, although at other times of day

the utilization was between 40 and 80%. The engineer also observed that loading and unloading of service trucks interfered with traffic flow and parking.

Occupancy rates over 85% typically indicate that parking is insufficient or needs to be managed differently.

On-street parking conditions were evaluated within a 500-foot radius from site. No on-street parking exists within this radius.

3. Function and Use of Site: The applicant shall demonstrate that modifying the amount of required parking spaces will not significantly impact the use or function of the site and/or adjacent sites.

The applicant states that:

“The requested increase will actually increase the function and use of the site because the staff and visitors will have safe parking on site. Currently, parking sometimes occurs within the parking lots of adjacent businesses, which causes a domino effect on the efficiency of parking in the area.”

Approval of the adjustment to increase the off-street parking will result in the following:

- Removal of vegetated areas, including nine trees on the applicant’s site
- Potential for increased traffic to the site
- Fewer instances of use of neighboring parking lots
- Increase in impervious surface which contributes to the urban heat island effect and stormwater runoff.

The analysis by John Replinger, the City’s traffic engineer, found that:

“It is also reasonable to conclude that a few added trips that could potentially result from the increase in parking lot capacity would not alter the conclusions in the TAL. The removal of the five existing, angled parking spaces in the lot near the north access is a desirable change because it lessens the potential for traffic conflicts within the parking lot that could spill back onto Molalla Avenue. This change is highly desirable and more than makes up for any increase in traffic that could potentially result from the increased capacity of the parking lot.”

The negative impacts are mitigated by the proposed stormwater management, tree mitigation, and changes to circulation. Staff finds that adjacent sites will not be negatively impacted by the proposal.

4. Compatibility: The proposal is compatible with the character, scale and existing or planned uses of the surrounding neighborhood.

Surface parking lots surround the other commercial businesses in the area. The expansion of the parking lot is compatible with the existing commercial area.

The new parking lot could also present shared parking opportunities with future development that requires parking in the evening or at night, when the parking lot is not needed for the commercial building. The zoning of the area allows mixed use, restaurant, and residential uses that may be interested in shared parking opportunities.

6. Safety: The proposal does not significantly impact the safety of adjacent properties and rights-of-way.

The parking lot is designed in conformance with City standards, ensuring that turning, maneuvering and egress routes are adequately laid out for safe use.

The Traffic Analysis Letter was reviewed by the City's traffic consultant John Replinger, who found no safety impacts (Exhibit 4). In fact, the improvements to safety resulting from the removal of five parking spaces near the north entrance will increase safety.

6. *Services: The proposal will not create a significant impact to public services, including fire and emergency services.*

Finding: Complies as Proposed. The additional onsite parking proposed is not anticipated to utilize public service connections. A demand for new utility services is not required for the parking lot improvements (e.g. water or electricity). The need for fire or emergency services should be minimal, given no structures are proposed. No comments were received from Clackamas County Fire District.

17.52.020 - Number of automobile spaces required.

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

Table 17.52.020		
LAND USE	PARKING REQUIREMENTS	
	<u>MINIMUM</u>	<u>MAXIMUM</u>
Senior housing, including congregate care, residential care and assisted living facilities; nursing homes and other types of group homes	1 per 7 beds	1 per 5 beds

1. *Multiple Uses. In the event several uses occupy a single structure or parcel of land, the total requirements for off-street parking shall be the sum of the requirements of the several uses computed separately.*

Finding: Complies with Condition. The use is a memory care facility with rehabilitation care, which is considered assisted living use. The parking ratio is based on the number of beds. The facility contains 69 beds, which would allow for 14 parking spaces.

The parking currently provided includes 42 spaces on site. No on-street parking is located on Beaver Creek or Molalla Avenue.

The applicant has requested a parking adjustment to increase the maximum parking spaces allowed to 63. If the adjustment is approved, the number of parking spaces will comply. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

2. *Requirements for types of buildings and uses not specifically listed herein shall be determined by the community development director, based upon the requirements of comparable uses listed.*

Finding: Not Applicable. The applicant has not proposed a use not specifically listed.

3. *Where calculation in accordance with the above list results in a fractional space, any fraction less than one-half shall be disregarded and any fraction of one-half or more shall require one space.*

Finding: Complies as Proposed. Fractions were rounded in accordance with this chapter.

4. *The minimum required parking spaces shall be available for the parking of operable passenger automobiles of residents, customers, patrons and employees only, and shall not be used for storage of vehicles or materials or for the parking of vehicles used in conducting the business or use.*

Finding: Complies as Proposed. The applicant's narrative states that parking spaces provided in the surface parking lots are used only for operable vehicles associated with visitor, employee, and business parking needs. The long-term storage of vehicles is not allowed.

5. A change in use within an existing habitable building located in the MUD Design District or the Willamette Falls Downtown District is exempt from additional parking requirements. Additions to an existing building and new construction are required to meet the minimum parking requirements for the areas as specified in Table 17.52.020 for the increased square footage.

Finding: Not Applicable. The applicant has not proposed to change the use of an existing building.

B. Parking requirements can be met either onsite, or offsite by meeting the following conditions:

1. Mixed Uses. If more than one type of land use occupies a single structure or parcel of land, the total requirements for off-street automobile parking shall be the sum of the requirements for all uses, unless it can be shown that the peak parking demands are actually less (e.g. the uses operate on different days or at different times of the day). In that case, the total requirements shall be reduced accordingly, up to a maximum reduction of fifty percent, as determined by the community development director.

2. Shared Parking. Required parking facilities for two or more uses, structures, or parcels of land may be satisfied by the same parking facilities used jointly, to the extent that the owners or operators show that the need for parking facilities does not materially overlay (e.g., uses primarily of a daytime versus nighttime nature), that the shared parking facility is within one thousand feet of the potential uses, and provided that the right of joint use is evidenced by a recorded deed, lease, contract, or similar written instrument authorizing the joint use.

3. On-Street Parking. On-street parking may be counted toward the minimum standards when it is on the street face abutting the subject land use. An on-street parking space must not obstruct a required clear vision area and it shall not violate any law or street standard. On-street parking for commercial uses shall conform to the following standards:

a. Dimensions. The following constitutes one on-street parking space:

1. Parallel parking, each [twenty-two] feet of uninterrupted and available curb;

2. [Forty-five/sixty] degree diagonal, each with [fifteen] feet of curb;

3. Ninety degree (perpendicular) parking, each with [twelve] feet of curb.

4. Public Use Required for Credit. On-street parking spaces counted toward meeting the parking requirements of a specific use may not be used exclusively by that use, but shall be available for general public use at all times. Signs or other actions that limit general public use of on-street spaces are prohibited.

Finding: Not applicable. The applicant does not propose on-street, shared parking, or have a mix of uses.

C. Reduction of the Number of Automobile Spaces Required. The required number of parking stalls may be reduced in the Downtown Parking Overlay District: Fifty percent reduction in the minimum number of spaces required is allowed prior to seeking further reductions in [sub]sections 2. and 3. below:

1. Transit Oriented Development. For projects not located within the Downtown Parking Overlay District, the community development director may reduce the required number of parking stalls up to twenty-five percent when it is determined that a project in a commercial center (sixty thousand square feet or greater of retail or office use measured cumulatively within a five hundred-foot radius) or multi-family development with over eighty units, is adjacent to or within one thousand three hundred twenty feet of an existing or planned public transit street and is within one thousand three hundred twenty feet of the opposite use (commercial center or multi-family development with over eighty units).

Finding: Not Applicable. The applicant has not requested to utilize the transit oriented development parking reduction.

2. Reduction in Parking for Tree Preservation. The community development director may grant an adjustment to any standard of this requirement provided that the adjustment preserves a regulated tree or grove so that the reduction in the amount of required pavement can help preserve existing healthy trees in an undisturbed, natural condition. The amount of reduction must take into consideration any unique site conditions and the impact of the

reduction on parking needs for the use, and must be approved by the community development director. This reduction is discretionary.

Finding: Not Applicable. The applicant has not requested to utilize the tree preservation parking reduction.

3. *Transportation Demand Management.* The community development director may reduce the required number of parking stalls up to twenty-five percent when a parking-traffic study prepared by a traffic engineer demonstrates:

Finding: Not Applicable. The applicant has requested to utilize the Transportation Demand Management parking reduction.

17.52.030 - *Standards for automobile parking.*

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

Finding: Complies as Proposed. The applicant does not propose to change the location of ingress and egress. The slope of the driveway connecting the parking spaces to the street is proposed at less than 15 percent. The parking spaces that might require backing movements in the right of way are proposed to be relocated.

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

Finding: Complies as Proposed. The applicant has proposed paved surfaces for all off-street parking spaces and access aisles.

C. *Drainage.* Drainage shall be designed in accordance with the requirements of [Chapter 13.12](#) and the city public works stormwater and grading design standards.

Finding: Please refer to the findings in Chapter 13.12 of this report.

D. *Dimensional Standards.*

1. *Requirements for parking developed at varying angles are according to the table included in this section. A parking space shall not be less than seven feet in height when within a building or structure, and shall have access by an all-weather surface to a street or alley. Parking stalls in compliance with the American with Disabilities Act may vary in size in order to comply with the building division requirements. Up to thirty-five percent of the minimum required parking may be compact, while the remaining required parking stalls are designed to standard dimensions. The community development director may approve alternative dimensions for parking stalls in excess of the minimum requirement which comply with the intent of this chapter.*

2. *Alternative parking/plan.* Any applicant may propose an alternative parking plan. Such plans are often proposed to address physically constrained or smaller sites, however innovative designs for larger sites may also be considered. In such situations, the community development director may approve an alternative parking lot plan with variations to parking dimensions of this section. The alternative shall be consistent with the intent of this chapter and shall create a safe space for automobiles and pedestrians while providing landscaping to the quantity and quality found within parking lot landscaping requirements.

PARKING

STANDARD

PARKING ANGLE SPACE DIMENSIONS

A Parking Angle		B Stall Width	C Stall Curb	to	D Aisle Width	E Curb Length	F Overhang
90 degrees	Standard Compact	9' 8'	19.0' 16.0'		24' 22'	9' 8'	1.5

Finding: Complies as proposed. The applicant has proposed twenty new on-site 90-degree parking stalls. The proposed aisle widths and sizes comply with this standard.

Of the 63 spaces on site, 28, or 44%, are proposed or existing compact size. The applicant has more than the minimum required spaces; any spaces over the minimum may be compact.

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

Finding: Not applicable. The site does not contain 75 or more spaces.

17.52.040 - Bicycle parking standards.

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

Finding: Complies as Proposed. The proposal includes construction of a parking lot, therefore, compliance with bicycle parking standards is required.

B. Number of Bicycle Spaces Required. For any use not specifically mentioned in Table A, the bicycle parking requirements shall be the same as the use which, as determined by the community development director, is most similar to the use not specifically mentioned. Calculation of the number of bicycle parking spaces required shall be determined in the manner established in [Section 17.52.020](#) for determining automobile parking space requirements. Modifications to bicycle parking requirements may be made through the site plan and design, conditional use, or master plan review process.

*TABLE A Required Bicycle Parking Spaces**

Where two options for a requirement are provided, the option resulting in more bicycle parking applies. Where a calculation results in a fraction, the result is rounded up to the nearest whole number.

** Covered bicycle parking is not required for developments with two or fewer stalls.*

*Required Bicycle Parking Spaces**

USE	MINIMUM BICYCLE PARKING	MINIMUM BICYCLE PARKING - COVERED
Nursing home or care facility	1 per 30 auto spaces (minimum of two)	30% (minimum of one)

** Covered bicycle parking is not required for developments with two or fewer stalls.*

Finding: Complies with Condition. No bicycle parking currently exists on site. The applicant has proposed 63 auto spaces and two bicycle parking spaces, which does not quite meet the require of one for every 30 spaces. The applicant shall install bicycle parking at the ratio of one per 30 auto spaces and shall ensure that at least one spaces is covered. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

C. Security of Bicycle Parking. Bicycle parking facilities shall be secured. Acceptable secured bicycle parking area shall be in the form of a lockable enclosure onsite, secure room in a building onsite, a covered or uncovered rack onsite, bicycle parking within the adjacent right-of-way or another form of secure parking where the bicycle can be stored, as approved by the decision maker. All bicycle racks and lockers shall be securely anchored to the ground or to a structure. Bicycle racks shall be designed so that bicycles may be securely locked to them without undue inconvenience and, when in the right-of-way shall comply with clearance and ADA requirements.

Finding: Complies with condition. The applicant's narrative identified that the proposed bicycle parking would be next to the building but did not show it on the site plan. Prior to issuance of permits, the

applicant shall include bicycle parking on the site plan and show details demonstrating that the parking is securely anchored. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

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

Finding: Please refer to the analysis in 17.52.040.C.

Location of Bicycle Parking:

1. Bicycle parking shall be located on-site, in one or more convenient, secure and accessible location. The city engineer and the community development Director may permit the bicycle parking to be provided within the right-of-way provided adequate clear zone and ADA requirements are met. If sites have more than one building, bicycle parking shall be distributed as appropriate to serve all buildings. If a building has two or more main building entrances, the review authority may require bicycle parking to be distributed to serve all main building entrances, as it deems appropriate.

Finding: Complies with condition. The applicant's narrative identified that the proposed bicycle parking would be next to the building but did not show it on the site plan. Prior to issuance of permits, the applicant shall include bicycle parking on the site plan and show details demonstrating that the parking is in a convenient, secure, and accessible location. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

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

Finding: Complies with condition. The applicant's narrative identified that the proposed bicycle parking would be next to the building but did not show it on the site plan. Prior to issuance of permits, the applicant shall include bicycle parking on the site plan and show details demonstrating that the parking is clearly marked or visible from the street. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

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

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

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

Finding: Complies with condition. The applicant's narrative identified that the proposed bicycle parking would be next to the building but did not show it on the site plan. Prior to issuance of permits, the applicant shall include bicycle parking on the site plan and show details demonstrating that the parking is separated from vehicle parking and maneuvering areas by 5 feet and does not obstruct pedestrian walkways. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

17.52.040.D.4. Accessibility.

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

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

c. Outdoor bicycle parking should be no farther from the main building entrance than the distance to the closest vehicle space, or fifty feet, whichever is less, unless otherwise determined by the community development director, city engineer, or planning commission.

Finding: Complies with condition. The applicant's narrative identified that the proposed bicycle parking would be next to the building but did not show it on the site plan. Prior to issuance of permits, the applicant shall include bicycle parking on the site plan and show details demonstrating that the parking is connected to main building entrances, has direct access from a right of way, and is closer to the building than the nearest vehicle parking. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

17.52.060 - Parking lot landscaping.

A. Development Standards.

1. The landscaping shall be located in defined landscaped areas that are uniformly distributed throughout the parking or loading area.

Finding: Complies as Proposed. The proposed landscaping throughout the parking lot is uniformly distributed. These landscape areas are uniformly distributed around the perimeter of the parking lot.

2. All areas in a parking lot not used for parking, maneuvering, or circulation shall be landscaped.

Finding: Complies as Proposed. All areas in the parking lot not used for parking, maneuvering, or circulation are proposed to be landscaped.

3. Parking lot trees shall be a mix of deciduous shade trees and coniferous trees. The trees shall be evenly distributed throughout the parking lot as both interior and perimeter landscaping to provide shade.

Finding: Complies as proposed. The landscape plan includes Maples, Zelkova, and Cypress trees to provide a mix.

4. Required 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), planted according to American Nurseryman Standards, and selected from the Oregon City Street Tree List;

Finding: Complies as Proposed. The landscape plan identifies 2" caliper trees.

5. Landscaped areas shall include irrigation systems unless an alternate plan is submitted, and approved by the community development director, that can demonstrate adequate maintenance;

Finding: Complies with Condition. The landscaping plan does not indicate any irrigation and the applicant did not submit an alternative plan. Prior to issuance of permits, the applicant shall demonstrate that irrigation will be included or propose an alternative that is acceptable to the Community Development Director. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

6. All plant materials, including trees, shrubbery and ground cover should be selected for their appropriateness to the site, drought tolerance, year-round greenery and coverage and staggered flowering periods. Species found on the Oregon City Native Plant List are strongly encouraged and species found on the Oregon City Nuisance Plant List are prohibited.

Finding: Complies with Condition. The plan submitted by the applicant was prepared by a landscape architect to assure appropriate species. One of the species, a Portuguese laurel, is the same or similar to a species on the City's nuisance plant list. Prior to issuance of permits, the applicant's landscape architect shall ensure that the Portuguese laurel species is not a nuisance species. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

7. The landscaping in parking areas shall not obstruct lines of sight for safe traffic operation and shall comply with all requirements of [Chapter 10.32, Traffic Sight Obstructions](#).

Finding: Complies as Proposed. The proposed parking lot landscaping does not obstruct lines of sight for safe traffic operation or otherwise interfere with vehicular circulation.

8. Landscaping shall incorporate design standards in accordance with [Chapter 13.12, Stormwater Management](#).

Finding: Please refer to the analysis in Chapter 13.12 of this report.

B. Perimeter Parking Lot Landscaping and Parking Lot Entryway/Right-of-Way Screening. Parking lots shall include a five-foot wide landscaped buffer where the parking lot abuts the right-of-way and/or adjoining properties. In order to provide connectivity between non-single-family sites, the community development director may approve an interruption in the perimeter parking lot landscaping for a single driveway where the parking lot abuts property designated as multi-family, commercial or industrial. Shared driveways and parking aisles that straddle a lot line do not need to meet perimeter landscaping requirements.

Finding: Complies with condition. The landscaping plan includes a 5-foot wide landscape buffer along all new perimeter parking lot areas. There are two existing mature trees in front of the building that are in the area where perimeter parking lot landscaping is proposed. If the applicant wishes to and is able to preserve the two trees instead of removing them to provide a reconfigured parking lot and landscaping area, the perimeter parking lot landscaping may be reduced or removed in this area through an alternative landscaping plan. The preserved trees and landscape around them will provide sufficient landscaping to meet the intent of this standard. If the trees are removed, the proposed perimeter landscaping meets this standard. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

1. The perimeter parking lot are[a] shall include:

a. Trees spaced a maximum of thirty-five feet apart (minimum of one tree on either side of the entryway is required). When the parking lot is adjacent to a public right-of-way, the parking lot trees shall be offset from the street trees;

Finding: Complies as Proposed. The perimeter parking lot landscaping includes trees spaced a maximum of 35 feet apart, and includes a tree on either side of the parking lot entryway.

b. Ground cover, such as wild flowers, spaced a maximum of 16-inches on center covering one hundred percent of the exposed ground within three years. No bark mulch shall be allowed except under the canopy of shrubs and within two feet of the base of trees; and

Finding: Complies as Proposed. The perimeter parking lot landscaping includes groundcover and notes that bark mulch will not be used except under canopy of shrubs and trees.

c. An evergreen hedge screen of thirty to forty-two inches high or shrubs spaced no more than four feet apart on average. The hedge/shrubs shall be parallel to and not nearer than two feet from the right-of-way line. The required screening shall be designed to allow for free access to the site and sidewalk by pedestrians. Visual breaks, no more than five feet in width, shall be provided every thirty feet within evergreen hedges abutting public right-of-ways.

Finding: Complies as Proposed. Evergreen shrubs with a mature height between 3 and 5 feet are specified in the perimeter areas on the landscape plan.

C. Parking Area/Building Buffer. Parking areas shall be separated from the exterior wall of a structure, exclusive of pedestrian entranceways or loading areas, by one of the following:

1. Minimum five-foot wide landscaped planter strip (excluding areas for pedestrian connection) abutting either side of a parking lot sidewalk with:

a. Trees spaced a maximum of thirty-five feet apart;

b. Ground cover such as wild flowers, spaced a maximum of sixteen-inches on center covering one hundred percent of the exposed ground within three years. No bark mulch shall be allowed except under the canopy of shrubs and within two feet of the base of trees; and

c. An evergreen hedge of thirty to forty-two inches or shrubs placed no more than four feet apart on average; or

2. Seven-foot sidewalks with shade trees spaced a maximum of thirty-five feet apart in three-foot by five-foot tree wells.

Finding: Complies as Proposed. The site is currently nonconforming as it does not meet this standard. The applicant has not proposed to change the parking spaces that border the building. Thus, no changes are required to the building buffer landscaping unless triggered by nonconforming upgrades.

D. Interior Parking Lot Landscaping. Surface parking lots shall have a minimum ten percent of the interior of the gross area of the parking lot devoted to landscaping to improve the water quality, reduce storm water runoff, and provide pavement shade. Interior parking lot landscaping shall not be counted toward the fifteen percent minimum total site landscaping required by [Section 17.62.050\(1\)](#) unless otherwise permitted by the dimensional standards of the underlying zone district. Pedestrian walkways or any impervious surface in the landscaped areas are not to be counted in the percentage. Interior parking lot landscaping shall include:

a. A minimum of one tree per six parking spaces.

b. Ground cover, such as wild flowers, spaced a maximum of sixteen-inches on center covering one hundred percent of the exposed ground within three years. No bark mulch shall be allowed except under the canopy of shrubs and within two feet of the base of trees

c. Shrubs spaced no more than four feet apart on average.

Finding: Complies as Proposed. Twenty new parking spaces are proposed, requiring a minimum of four interior parking lot trees. More than four trees are proposed on the plan. Shrubs and groundcover are provided as required. The new parking lot area proposed is approximately 9,650 square feet, and the new proposed interior landscaping is approximately 2,120 square feet, or 22% of the parking lot.

d. 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.

Finding: Complies with condition. The parking lot includes no more than eight spaces in a row. One of the proposed islands is only 4 feet wide. The applicant shall ensure that all interior landscaping islands are at least six feet in width. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

e. Pedestrian walkways shall have shade trees spaced a maximum of every thirty-five feet in a minimum three-foot by five-foot tree wells; or

Trees spaced every thirty-five feet, shrubs spaced no more than four feet apart on average, and ground cover covering one hundred percent of the exposed ground. No bark mulch shall be allowed except under the canopy of shrubs and within two feet of the base of trees.

Finding: Not Applicable. The applicant has not proposed pedestrian walkways within the parking area, therefore, this standard is not applicable.

E. Installation.

1. All landscaping shall be installed according to accepted planting procedures, according to American Nurseryman Standards.

2. The site, soils and proposed irrigation systems shall be appropriate for the healthy and long-term maintenance of the proposed plant species.

3. Certificates of occupancy shall not be issued unless the landscaping requirements have been met or other arrangements have been made and approved by the city, such as the posting of a surety.

Finding: Complies as Proposed. The applicant's narrative identified that all landscaping will be installed according to American Nurseryman standards. The applicant has proposed an alternative irrigation system for all landscaped areas.

17.52.070 - Alternative landscaping plan.

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

17.52.080 - Maintenance.

The owner, tenant and their agent, if any, shall be jointly and severally responsible for the maintenance of the site including but not limited to the off-street parking and loading spaces, bicycle parking and all landscaping which shall be maintained in good condition so as to present a healthy, neat and orderly appearance and shall be kept free from refuse and debris.

All plant growth in interior landscaped areas shall be controlled by pruning, trimming, or otherwise so that:

- a. It will not interfere with the maintenance or repair of any public utility;*
- b. It will not restrict pedestrian or vehicular access; and*
- c. It will not constitute a traffic hazard due to reduced visibility.*

Finding: Complies as Proposed. The applicant's narrative identified that the landscaped areas will be maintained by the owner.

17.52.090 - Loading areas.

B. Applicability.

1. [Section 17.52.090](#) *applies to uses that are expected to have service or delivery truck visits with a forty-foot or longer wheelbase, at a frequency of one or more vehicles per week. The city engineer and decision maker shall determine through site plan and design review the number, size, and location of required loading areas, if any.*

Finding: Complies with condition. The applicant did not respond to this section. A loading zone on the north edge of the northern existing driveway is proposed, although this loading area would not proposed ample space for a truck with a forty-foot wheelbase. Prior to issuance of permits, the applicant shall provide information on the loading needs of the site and revise the loading plans as needed. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

CHAPTER 17.60 VARIANCES

17.60.020 - Variances—Procedures.

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

Finding: Complies as Proposed. The applicant submitted this Variance request.

17.60.020.B. *A nonrefundable filing fee, as listed in [Section 17.50.0180](#), shall accompany the application for a variance to defray the costs.*

Finding: Complies as Proposed. The applicant submitted a filing fee and the application was deemed complete .

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

Finding: Complies as Proposed. The proposed Variance is a Type III application.

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

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

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

2. Variances to width, depth and frontage requirements of up to twenty percent;
3. Variances to residential yard/setback requirements of up to twenty-five percent;
4. Variances to nonresidential yard/setback requirements of up to ten percent;
5. Variances to lot area requirements of up to five;
6. Variance to lot coverage requirements of up to twenty-five percent;
7. Variances to the minimum required parking stalls of up to five percent; and
8. Variances to the floor area requirements and minimum required building height in the mixed-use districts.

Finding: Not applicable. The request is not a minor variance.

17.60.030 - Variance—Grounds.

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

17.60.030.A. *That the variance from the requirements is not likely to cause substantial damage to adjacent properties by reducing light, air, safe access or other desirable or necessary qualities otherwise protected by this title;*

Finding: Complies as Proposed. The submitted the following response:

“The proposed variance to allow parking in front of the building will not have any effect on the adjacent properties because the building at its location are already existing and have been placed on the property in such a way for some time. No expansion to the building is proposed, so there will be no impact to available light or air to adjacent properties. The variance will provide improved safety to the existing access for the site by re-configuring the parking in the area of the entry.”

Staff concurs with the applicant that the proposal is not likely to cause substantial damage to adjacent properties.

17.60.030.B. *That the request is the minimum variance that would alleviate the hardship;*

Finding: Complies as Proposed. The applicant has proposed to remove eight parking spaces in front of the building and to add 15 parking spaces in front of the building in a reconfiguration and expansion of the parking lot. The applicant proposed that 13 spaces in front of the building remain. The proposal would result in a total of 28 parking spaces in front of the existing building.

The applicant has proposed as many spaces as possible on the side of the building, while the remaining spaces that are desired are placed within available space in front of the building. The north and west sides of the site also have open space, but there is not ample space around the perimeter of the building to construct a driveway to these areas of the site; and furthermore, some of these open areas are utilized as open space for residents. The applicant has also attempted to find shared parking opportunities in the area, but has not been successful. Staff finds that there is no other place on the site to add additional parking; thus the request is the minimum variance.

17.60.030.C. *Granting the variance will equal or exceed the purpose of the regulation to be modified.*

Finding: Complies with Condition. The purpose of requiring parking areas to be next to or behind a building rather than in front of it is to provide a pedestrian oriented streetscape with entrances on the street, to encourage walking and transit use and to support a vibrant and active public realm.

The building was constructed before this standard was in place, and parking spaces are currently placed in front of the building. The applicant has proposed to remove eight parking spaces in front of the building and to add 15 parking spaces in front of the building in a reconfiguration and expansion of the parking lot. The applicant proposed that 13 spaces in front of the building remain. The

proposal would result in a total of 28 parking spaces in front of the existing building, and additional street frontage that is bordered by parking spaces rather than a building.

By increasing the amount of parking in front and extending the parking area along the property frontage, the proposal does not equal or exceed the purpose of the standard. Staff recommends mitigation in 17.60.030.D that will create a more pedestrian oriented streetscape and equal the purpose of the standard. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

17.60.030.D. Any impacts resulting from the adjustment are mitigated;

Finding: Complies with condition. The purpose of requiring parking areas to be next to or behind a building rather than in front of it is to provide a pedestrian oriented streetscape with entrances on the street, to encourage walking and transit use and to support a vibrant and active public realm. The proposal would result in a total of 28 parking spaces in front of the existing building, and additional street frontage that is bordered by parking spaces rather than a building. By increasing the amount of parking in front and extending the parking area along the property frontage, this proposal impacts the quality of the pedestrian environment and detracts from a vibrant and active public realm. In order to mitigate this impact, staff recommends that the applicant provide pedestrian amenities in the space between the new parking spaces and the sidewalk, with one element required for each individual parking space in front of the building. The pedestrian amenities should include at least two different items from the list below:

- Bench, seat wall, or other outdoor seating
- Public art, interpretive panel, or sculpture
- Enhanced landscaping of 40 square feet
- Upsizing of proposed perimeter parking lot tree of one inch caliper
- Preservation of an existing tree within 20 feet of the right of way
- Bicycle rack installed on a concrete pad connected to the sidewalk (worth one element for every bike parking space provided; one staple rack would provide two spaces)

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

17.60.030.E. No practical alternatives have been identified which would accomplish the same purpose and not require a variance; and

Finding: Complies as Proposed. The applicant has proposed as many spaces as possible on the side of the building, while the remaining spaces that are desired are placed within available space in front of the building. The north and west sides of the site also have open space, but there is not ample space around the perimeter of the building to construct a driveway to these areas of the site; and furthermore, some of these open areas are utilized as open space for residents. Staff finds that there is no other place on the site to add additional parking. The applicant also points out that it is not practical to move the building. The applicant has also attempted to find shared parking opportunities in the area, but has not been successful.

17.60.030.F. The variance conforms to the comprehensive plan and the intent of the ordinance being varied.

Finding: Complies with Condition.

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 decision making 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.*

Policy 1.2.1 - *Encourage citizens to participate in appropriate government functions and land-use planning.*

Policy 1.4.1 - *Notify citizens about community involvement opportunities when they occur.*

Finding: Complies as proposed. The applicant held a neighborhood meeting prior to submittal of a complete application. Furthermore, the application was posted on the City's website, posted in a local newspaper and signs were posted on the subject site informing the public. In addition, notice of the proposal was mailed to all property owners within 300 feet of the site and emailed to a variety of agencies, as well as each Citizen Involvement Committee member and each neighborhood association chair. Each of the notifications informed the public of the proposal and invited applicants to comment on the proposal. Lastly, the agenda for each Planning Commission hearing is posted at a variety of City facilities and emailed to the public.

Goal 2.1 Efficient Use of Land

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

Finding: Complies as proposed. The available site area is being maximized in its use.

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.*

Finding: Complies with condition. By increasing the amount of parking in front and extending the parking area along the property frontage, this proposal impacts the quality of the pedestrian environment and detracts from a vibrant and active public realm. In order to mitigate this impact, staff recommends that the applicant provide pedestrian amenities in the space between the new parking spaces and the sidewalk, with one element required for each individual parking space in front of the building. The pedestrian amenities should include at least two different items from the list below:

- Bench, seat wall, or other outdoor seating
- Public art, interpretive panel, or sculpture
- Enhanced landscaping of 40 square feet
- Upsizing of proposed perimeter parking lot tree of one inch caliper
- Preservation of an existing tree within 20 feet of the right of way
- Bicycle rack installed on a concrete pad connected to the sidewalk (worth one element for every bike parking space provided; one staple rack would provide two spaces)

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

Goal 6.1: Air Quality

Promote the conservation, protection and improvement of the quality of the air in Oregon City.
Policy 6.1.1 Promote land use patterns that reduce the need for distance travel by single-occupant vehicles and increases the opportunities for walking, biking and/or transit to destinations such as places of employment, shopping and education.

Policy 6.1.2 Ensure that development practices comply with or exceed regional, state, and federal standards for air quality.

Policy 6.1.4 Encourage the planting and maintenance of the city's tree canopy to allow natural systems to improve air quality.

Finding: Complies with Condition. The site aligns with the surrounding neighborhood and is easily accessible via walking, bicycling, and transit. The proposal to increase parking spaces on the site may lead to increased driving, which is bad for air quality. The applicant has not justified the full request of 63 spaces, which is 39 spaces above the permitted maximum (see findings in 17.52.015). The applicant proposes tree removal onsite to provide room for the increase in parking spaces. The applicant shall reduce the total parking to 58 spaces, and preserve existing trees to the maximum extent practicable and shall meet the full tree mitigation requirements in Chapter 17.41. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

CHAPTER 12.04 - STREETS SIDEWALKS AND PUBLIC PLACES

12.04.003 Applicability

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

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

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

The cost of compliance with the standards identified in 12.04.003.B.1 and 12.04.003.B.2 is limited to ten percent of the total construction costs. The value of the alterations and improvements as determined by the community development director is based on the entire project and not individual building permits. It is the responsibility of the applicant to submit to the community development director the value of the required improvements.

Additional costs may be required to comply with other applicable requirements associated with the proposal such as access or landscaping requirements.

Finding: Applicable. The applicant applied for a Site Plan and Design Review, therefore this chapter is applicable.

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

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

B. Public rights-of-way include, but are not limited to, streets, roads, highways, bridges, alleys, sidewalks, trails, paths, public easements and all other public ways or areas, including the subsurface under and air space over these areas.

C. The city has jurisdiction and exercises regulatory management over each public right-of-way whether the city has a fee, easement, or other legal interest in the right-of-way. The city has jurisdiction and regulatory management of each right-of-way whether the legal interest in the right-of-way was obtained by grant, dedication, prescription, reservation, condemnation, annexation, foreclosure or other means.

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

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

Finding: Complies as proposed. By submission of the application, the applicant has acknowledged the City's jurisdiction and management of the public right-of-way.

12.04.007 Modifications.

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

- A. The modification meets the intent of the standard;
- B. The modification provides safe and efficient movement of pedestrians, motor vehicles, bicyclists and freight;
- C. The modification is consistent with an adopted plan; and
- D. The modification is complementary with a surrounding street design; or, in the alternative,
- E. If a modification is requested for constitutional reasons, the applicant shall demonstrate the constitutional provision or provisions to be avoided by the modification and propose a modification that complies with the state or federal constitution. The City shall be under no obligation to grant a modification in excess of that which is necessary to meet its constitutional obligations.

Finding: Not applicable. The applicant has not requested any modifications.

12.04.010 Construction specifications—Improved streets.

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

Finding: Complies with Condition. See section 12.040.180 B for findings.

12.04.020 Construction specifications—Unimproved streets.

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

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

12.04.025 - Street design—Driveway Curb Cuts.

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

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

Property Use	Minimum Driveway Width at sidewalk or property line	Maximum Driveway Width at sidewalk or property line
Single or Two-Family Dwelling with one Car Garage/Parking Space	10 feet	12 feet

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

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

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

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

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

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

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

Finding: Complies as conditioned. Two driveways on Molalla Avenue are existing; no changes are proposed. A separate condition of approval requires modification to the existing driveways to improve safety on Molalla Avenue. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

12.04.030 Maintenance and repair.

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

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

12.04.031 Liability for sidewalk injuries.

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

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

Finding: Not Applicable. This is not a criterion for this development.

12.04.032 Required sidewalk repair.

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

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

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

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

Finding: Not Applicable. The applicant has not proposed and is not required to repair a sidewalk.

12.04.033 City may do work.

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

Finding: Not Applicable. This is not a criterion for this development because no sidewalk repair is required.

12.04.034 Assessment of costs.

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

Finding: Not Applicable. This is not a criterion for this development because no sidewalk repair is required.

12.04.040 Streets--Enforcement.

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

Finding: Not Applicable. This is not a criterion for this development.

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

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

Table 12.04.045		
STREET DESIGN STANDARDS FOR LOCAL CONSTRAINED STREETS		
	Minimum	Required

Type of Street	Right-of-way	Pavement Width
Constrained local street	20 to 40	20 to less than 32 feet

Finding: Not Applicable. The applicant has not proposed a constrained street.

12.04.050 Retaining walls--Required.

Every owner of a lot within the city, abutting upon an improved street, where the surface of the lot or tract of land is above the surface of the improved street and where the soil or earth from the lot, or tract of land is liable to, or does slide or fall into the street or upon the sidewalk, or both, shall build a retaining wall, the outer side of which shall be on the line separating the lot, or tract of land from the improved street, and the wall shall be so constructed as to prevent the soil or earth from the lot or tract of land from falling or sliding into the street or upon the sidewalk, or both, and the owner of any such property shall keep the wall in good repair.

Finding: Not Applicable. Applicant is not proposing construction of a retaining wall.

12.04.060 Retaining walls--Maintenance.

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

Finding: Not Applicable. Applicant is not proposing construction of a retaining wall.

12.04.070 Removal of sliding dirt.

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

Finding: Not Applicable. The applicant has not proposed and is not required to remove sliding dirt with this application.

12.04.080 Excavations--Permit required.

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

Finding: Not applicable. Applicant will be permitted for excavations through Public Works construction plan review.

12.04.090 Excavations--Permit restrictions.

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

Finding: Not applicable. Applicant will be permitted for excavations through Public Works construction plan review.

12.04.095 - Street Design—Curb Cuts.

To assure public safety, reduce traffic hazards and promote the welfare of pedestrians, bicyclists and residents of the subject area, such as a cul-de-sac or dead-end street, the decision maker shall be authorized to minimize the number and size of curb cuts (including driveways) as far as practicable where any of the following conditions are necessary:

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

D. To assure that adequate sight distance requirements are met.

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

Finding: Not applicable. The decision maker has not exercised the authority to minimize the number and size of curb cuts beyond what has been proposed by the applicant.

12.04.100 Excavations – Restoration of Pavement

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

Finding: Complies as conditioned. The applicant has not proposed work in the public right-of-way that will require pavement restoration.

12.04.110 Excavations--Nuisance--Penalty.

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

Finding: Not applicable. This is not a criterion for this development.

12.04.120 Obstructions – Permit Required

Finding: Not applicable. This is not a criterion for this development.

12.04.130 Obstructions--Sidewalk sales.

A. It is unlawful for any person to use the public sidewalks of the city for the purpose of packing, unpacking or storage of goods or merchandise or for the display of goods or merchandise for sale. It is permissible to use the public sidewalks for the process of expeditiously loading and unloading goods and merchandise.

B. The city commission may, in its discretion, designate certain areas of the city to permit the display and sale of goods or merchandise on the public sidewalks under such conditions as may be provided.

Finding: Not applicable. This is not a criterion for this development.

12.04.140 Obstructions--Nuisance--Penalty.

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

Finding: Not applicable. This is not a criterion for this development.

12.04.150 - Street and alley vacations—Cost.

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

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

12.04.160 Street vacations--Restrictions.

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

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

12.04.170 - Street design—Purpose and general provisions.

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

Finding: Complies as Conditioned. The development shall comply with all current Oregon City Public Works design standards, specifications, codes, and policies.

The development's engineer(s) shall schedule a pre-design meeting with Oregon City staff prior to official review of the development construction plans.

The applicant shall provide construction plans, stamped and signed by a professional engineer licensed in the State of Oregon, containing street, grading, stormwater, sanitary sewer and water infrastructure improvements that conforms to all current Oregon City Public Works standards, specifications, codes, and policies for review and approval by the City.

The engineering plans shall provide a local benchmark onsite using the NAVD88 datum.

The workmanship and materials for any work performed under permits issued by Oregon City Public Works shall be in accordance with the edition of the "Oregon Standard Specifications for Construction" as prepared by the Oregon Department of Transportation (ODOT) and the Oregon Chapter of American Public Works Association (APWA) and as modified and adopted by the city.

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

12.04.175 Street Design--Generally.

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

- A. Provide for the continuation or appropriate projection of existing principal streets in the surrounding area and on adjacent parcels or conform to a plan for the area approved or adopted by the city to meet a particular situation where topographical or other conditions make continuance or conformance to existing streets impractical;*
- B. Where necessary to give access to or permit a satisfactory future development of adjoining land, streets shall be extended to the boundary of the development and the resulting dead-end street (stub) may be approved with a temporary turnaround as approved by the city engineer. Notification that the street is planned for future extension shall be posted on the stub street until the street is extended and shall inform the public that the dead-end street may be extended in the future. Access control in accordance with section 12.04 shall be required to preserve the objectives of street extensions.*

Finding: See findings from section 12.04.180 of this document.

12.04.180 Street Design.

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

Table 12.04.180 Street Design

To read the table below, select the road classification as identified in the Transportation System Plan and the Comprehensive Plan designation of the adjacent properties to find the maximum design standards for the road

cross section. If the Comprehensive Plan designation on either side of the street differs, the wider right-of-way standard shall apply.

Road Classification	Comprehensive Plan Designation	Right-of-Way Width	Pavement Width	Public Access	Sidewalk	Landscape Strip	Bike Lane	Street Parking	Travel Lanes	Median
Major Arterial	Mixed Use, Commercial or Public/Quasi Public	116 ft.	94 ft.	0.5 ft.	10.5 ft. sidewalk including 5 ft.x5 ft. tree wells		6 ft.	8 ft.	(5) 12 ft. Lanes	6 ft.
	Industrial	120 ft.	88 ft.	0.5 ft.	5 ft.	10.5 ft.	6 ft.	N/A	(5) 14 ft. Lanes	6 ft.
	Residential	126 ft.	94 ft.	0.5 ft.	5 ft.	10.5 ft.	6 ft.	8 ft.	(5) 12 ft. Lanes	6 ft.

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

Road Classification	Comprehensive Plan Designation	Right-of-Way Width	Pavement Width	Public Access	Sidewalk	Landscape Strip	Bike Lane	Street Parking	Travel Lanes	Median
Collector	Mixed Use, Commercial or Public/Quasi Public	86 ft.	64 ft.	0.5 ft.	10.5 ft. sidewalk including 5 ft.x5 ft. tree wells		6 ft.	8 ft.	(3) 12 ft. Lanes	N/A
	Industrial	88 ft.	62 ft.	0.5 ft.	5 ft.	7.5 ft.	6 ft.	7 ft.	(3) 12 ft. Lanes	N/A
	Residential	85 ft.	59 ft.	0.5 ft.	5 ft.	7.5 ft.	6 ft.	7 ft.	(3) 11 ft. Lanes	N/A

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

1. Pavement width includes, bike lane, street parking, travel lanes and median.

2. Public access, sidewalks, landscape strips, bike lanes and on-street parking are required on both sides of the street in all designations. The right-of-way width and pavement widths identified above include the total street section.

3. A 0.5' foot curb is included in landscape strip or sidewalk width.
4. Travel lanes may be through lanes or turn lanes.
5. The 0.5' foot public access provides access to adjacent public improvements.
6. Alleys shall have a minimum right-of-way width of 20 feet and a minimum pavement width of 16 feet. If alleys are provided, garage access shall be provided from the alley.

Finding: Complies with Condition. Beaver Creek Road is a Minor Arterial and the development property is zoned as "Commercial". Therefore, Beaver Creek Road may be required to have 36 feet of pavement on the development side of the centerline to accommodate the following: 6-foot-wide bike lane, (2) 12-foot-wide lanes, 6-foot-wide half lane and 6-foot-wide median. The frontage of Beaver Creek Road has an existing road width of approximately 36 feet on the development side which meets city code requirements. The existing frontage of Beaver Creek Road has a 5.5-foot-wide curb tight sidewalk which does not meet city code requirement of a 10-foot-wide sidewalk which has 5-foot by 5-foot tree wells and a 0.5-foot public access. However, the sidewalk improvements and street parking would not be practical because there are existing city utilities behind the sidewalk which would conflict with a widened sidewalk or the addition of street parking. Therefore, no frontage improvements are required along the frontage of Beaver Creek Road.

Molalla Avenue is classified as a Major Arterial by the Oregon City Transportation System Plan (TSP) and the development property is zoned "Commercial". Based on city code Table 12.04.180, the maximum street improvements required for Molalla Avenue, on the development side of the centerline, is 58 feet of ROW consisting of 47 feet of pavement and 10.5 feet of sidewalk (including 0.5 ft of curb and 5ft x 5ft tree wells). The frontage of Molalla Avenue has an existing road width of approximately 40 to 20 feet on the development side which does not meet city code requirements and the development has not proposed to improve the frontage of Molalla Avenue to meet those requirements. As a development regulated by this Chapter, the development is required to provide street improvements in compliance with the standards in Figure 12.04.180. However, the city has a capital improvement (project CI 18-004, Molalla Avenue Phase 3) planned for Molalla Avenue which will widen the road and provide frontage improvements. Standards identified in Table 12.04.180 would be required, due to the addition of parking spaces and the intensification of the site, if the city had no capital improvements planned. Therefore, the applicant will be required to meet to the code requirements to the maximum extent practicable. To do this, the applicant shall dedicate ROW along the frontage of Molalla Avenue to accommodate city capital improvement project CI 18-004 (Molalla Avenue Phase 3) and pay fee-in-lieu of constructing sidewalk and installation of decorative street lighting along the frontage of the property. Right-of-way dedication shall be in-lieu of pavement widening.

Along the frontage of Molalla Avenue, the development shall dedicate ROW beginning at a 3' offset (parallel to the existing ROW line) from the northern most property corner and ending a 9' offset (parallel to the existing ROW line) from existing eastern most property corner. The new ROW line shall intersect the two aforementioned points. The applicant shall relocate or remove all private structures, signs or utilities located within the ROW dedication. The cost estimate for project CI 18-004 (Molalla Avenue Phase 3) estimates the cost to construct sidewalk to be \$10.00 per square foot; the frontage of the development property is approximately 330 feet long and the sidewalk across the frontage is to be 10 feet in width; therefore, the cost to construct sidewalk along the development property frontage is estimated to be \$33,000 ($\$10 \times 10\text{ft} \times 333 = \$33,000$).

The applicant shall provide a fee-in-lieu of \$33,000 for the constructing a 10-foot-wide sidewalk along the property frontage of Molalla Avenue.

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

12.04.185 Street Design--Access Control.

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

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

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

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

Finding: Not applicable. No dead-end streets or streets that end at the boundary of the development are proposed or required for this development.

12.04.190 Street Design--Alignment.

The centerline of streets shall be:

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

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

Finding: Not applicable. The existing street alignments meet the City requirements. This standard is met.

12.04.194 Traffic Sight Obstructions

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

Finding: Not applicable. The existing street alignments meet the City requirements.

12.04.195 Spacing Standards.

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

Finding: Not applicable. The applicant has not proposed and is not required to provide new streets.

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

Table 12.04.195.B Minimum Driveway Spacing Standards

Table 12.04.195.B Minimum Driveway Spacing Standards		
Street Functional Classification	Minimum Driveway Spacing Standards	Distance
Major Arterial Streets	Minimum distance from a street corner to a driveway for all uses and Minimum distance between driveways for uses other than single and two-family dwellings	175 ft.
Minor Arterial Streets	Minimum distance from a street corner to a driveway for all uses and Minimum distance between driveways for uses other than single and two-family dwellings	175 ft.
Collector Streets	Minimum distance from a street corner to a driveway for all uses and Minimum distance between driveways for uses other than single and two-family dwellings	100 ft.

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

Finding: Complies as conditioned. . The applicant submitted a Traffic Analysis Letter (TAL), which indicated that ingress and egress would not change. The TAL was reviewed by the City's traffic consultant John Replinger, who found no safety impacts, but did recommend changes to driveway access to improve safety. The northernmost driveway is less than 175 feet from Beaver Creek Road, which does not meet Table 12.04.025.B (Minimum Driveway Spacing Standards) of the Oregon City Municipal Code. However, this existing driveway allows for easier ingress and egress for emergency vehicles entering the site. The applicant shall redesign the northernmost driveway to reduce its width and provide only right-in right-out access. The final width shall be determined by the city engineering staff in consultation with emergency service providers. The applicant shall install signing in conformance with the Manual on Uniform Traffic Control Devices. The southernmost driveway shall be reconstructed to limit ingress and egress to only right turn maneuvers to and from Molalla Avenue; the driveway shall be signed in conformance with the Manual on Uniform Traffic Control Devices (Exhibit 4). **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

12.04.199 Pedestrian and Bicycle Accessways

Pedestrian/bicycle accessways are intended to provide direct, safe and convenient connections between residential areas, retail and office areas, institutional facilities, industrial parks, transit streets, neighborhood activity centers, rights-of-way, and pedestrian/bicycle accessways which minimize out-of-direction travel, and transit-orientated developments where public street connections for automobiles, bicycles and pedestrians are unavailable.

Pedestrian/bicycle accessways are appropriate in areas where public street options are unavailable, impractical or inappropriate. Pedestrian and bicycle accessways are required through private property or as right-of-way connecting development to the right-of-way at intervals not exceeding three-hundred-and-thirty feet of frontage; or where the lack of street continuity creates inconvenient or out of direction travel patterns for local pedestrian or bicycle trips.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Finding: Not Applicable. The property is less than three acres and does not trigger the requirement to provide new streets or accessways. The frontage length is approximately 330 feet. Staff has determined that direct, safe and convenient connections between residential areas, retail and office areas, institutional facilities, industrial parks, transit streets, neighborhood activity centers, rights-of-way, and pedestrian/bicycle accessways which minimize out-of-direction travel, and transit-orientated developments where public street connections for automobiles, bicycles and pedestrians are available. Staff has determined that there is no lack of street continuity which creates inconvenient or out of direction travel patterns for local pedestrian or bicycle trips. The city TSP does not indicate a requirement for any accessways in the area.

12.04.205 Mobility Standards.

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

A. For intersections within the Regional Center, the following mobility standards apply:

1. During the first hour, a maximum v/c ratio of 1.10 shall be maintained. For signalized intersections, this standard applies to the intersection as a whole. For unsignalized intersections, this standard applies to movements on the major street. There is no performance standard for the minor street approaches.
2. During the second hour, a maximum v/c ratio of 0.99 shall be maintained at signalized intersections. For signalized intersections, this standard applies to the intersection as a whole. For unsignalized intersections, this standard applies to movements on the major street. There is no performance standard for the minor street approaches.

3. Intersections located on the Regional Center boundary shall be considered within the Regional Center.
B. For intersections outside of the Regional Center but designated on the Arterial and Thoroughway Network, as defined in the Regional Transportation Plan, the following mobility standards apply:

1. During the first hour, a maximum v/c ratio of 0.99 shall be maintained. For signalized intersections, this standard applies to the intersection as a whole. For unsignalized intersections, this standard applies to movements on the major street. There is no performance standard for the minor street approaches.
2. During the second hour, a maximum v/c ratio of 0.99 shall be maintained at signalized intersections. For signalized intersections, this standard applies to the intersection as a whole. For unsignalized intersections, this standard applies to movements on the major street. There is no performance standard for the minor street approaches.

C. For intersections outside the boundaries of the Regional Center and not designated on the Arterial and Thoroughway Network, as defined in the Regional Transportation Plan, the following mobility standards apply:

1. For signalized intersections:
 - a. During the first hour, LOS "D" or better will be required for the intersection as a whole and no approach operating at worse than LOS "E" and a v/c ratio not higher than 1.0 for the sum of the critical movements.
 - b. During the second hour, LOS "D" or better will be required for the intersection as a whole and no approach operating at worse than LOS "E" and a v/c ratio not higher than 1.0 for the sum of the critical movements.
2. For unsignalized intersections outside of the boundaries of the Regional Center:
 - a. For unsignalized intersections, during the peak hour, all movements serving more than 20 vehicles shall be maintained at LOS "E" or better. LOS "F" will be tolerated at movements serving no more than 20 vehicles during the peak hour.

D. Until the City adopts new performance measures that identify alternative mobility targets, the City shall exempt proposed development that is permitted, either conditionally, outright, or through detailed development master plan approval, from compliance with the above-referenced mobility standards for the following state-owned facilities:

I-205 / OR 99E Interchange

I-205 / OR 213 Interchange

OR 213 / Beaver Creek Road

State intersections located within or on the Regional Center Boundaries

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

Finding: Complies as proposed. The applicant submitted a Traffic Analysis Letter (TAL), which indicated that no additional trips would result from this proposal. The TAL was reviewed by the City's traffic consultant John Replinger, who reached the same conclusion.

12.04.210 Street design--Intersection Angles.

Except where topography requires a lesser angle, streets shall be laid out to intersect at angles as near as possible to right angles. In no case shall the acute angles be less than eighty degrees unless there is a special intersection design. An arterial or collector street intersecting with another street shall have at least one hundred feet of tangent adjacent to the intersection unless topography requires a lesser distance. Other streets, except alleys, shall have at least fifty feet of tangent adjacent to the intersection unless topography requires a lesser distance. All

street intersections shall be provided with a minimum curb return radius of twenty-five feet for local streets. Larger radii shall be required for higher street classifications as determined by the city engineer. Additional right-of-way shall be required to accommodate curb returns and sidewalks at intersections. Ordinarily, intersections should not have more than two streets at any one point.

Finding: Not applicable. No new streets are proposed.

12.04.215 Street design--Off-Site Street Improvements.

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

Finding: Not Applicable. No off-site street improvements are required.

12.04.220 Street Design--Half Street.

Half streets, while generally not acceptable, may be approved where essential to the development, when in conformance with all other applicable requirements, and where it will not create a safety hazard. When approving half streets, the decision maker must first determine that it will be practical to require the dedication of the other half of the street when the adjoining property is divided or developed. Where the decision maker approves a half street, the applicant must construct an additional ten feet of pavement width so as to make the half street safe and usable until such time as the other half is constructed. Whenever a half street is adjacent to property capable of being divided or developed, the other half of the street shall be provided and improved when that adjacent property divides or develops. Access Control may be required to preserve the objectives of half streets. When the remainder of an existing half-street improvement is made it shall include the following items: dedication of required right-of-way, construction of the remaining portion of the street including pavement, curb and gutter, landscape strip, sidewalk, street trees, lighting and other improvements as required for that particular street. It shall also include at a minimum the pavement replacement to the centerline of the street. Any damage to the existing street shall be repaired in accordance with the City's "Moratorium Pavement Cut Standard" or as approved by the City Engineer.

Finding: Complies as conditioned. See findings from section 12.04.180 of this report.

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

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

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

Finding: Not applicable. No Cul-de-sacs or Dead-End Streets are proposed or required.

12.04.230 Street Design--Street Names.

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

Finding: Not applicable. No new street are proposed or required for this development.

12.04.235 Street Design--Grades and Curves.

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

Finding: Not applicable. No new streets are proposed or required for this development.

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

Where development abuts or contains an existing or proposed arterial or collector street, the decision maker may require: access control; screen planting or wall contained in an easement or otherwise protected by a restrictive covenant in a form acceptable to the decision maker along the rear or side property line; or such other treatment it deems necessary to adequately protect residential properties or afford separation of through and local traffic. Reverse frontage lots with suitable depth may also be considered an option for residential property that has arterial frontage. Where access for development abuts and connects for vehicular access to another jurisdiction's facility then authorization by that jurisdiction may be required.

Finding: Complies as proposed. The development is adjacent to arterial streets and proposes to utilize existing driveways. The decision maker has not required: access control; screen planting or wall contained in an easement or otherwise protected by a restrictive covenant in a form acceptable to the decision maker along the rear or side property line; or such other treatment it deems necessary to adequately protect residential properties or afford separation of through and local traffic.

12.04.245 Street Design--Pedestrian and Bicycle Safety.

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

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

Finding: Not applicable. Curb extensions have not been deemed necessary for this development by the decision maker.

12.04.255 Street design--Alleys.

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

Finding: Not Applicable. No alleys are proposed.

12.04.260 Street Design--Transit.

Streets shall be designed and laid out in a manner that promotes pedestrian and bicycle circulation. The applicant shall coordinate with transit agencies where the application impacts transit streets as identified in 17.04.1310.

Pedestrian/bicycle access ways shall be provided as necessary in Chapter 12.04 to minimize the travel distance to transit streets and stops and neighborhood activity centers. The decision maker may require provisions, including easements, for transit facilities along transit streets where a need for bus stops, bus pullouts or other transit facilities within or adjacent to the development has been identified.

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

12.04.265 Street design--Planter Strips.

All development shall include vegetative planter strips that are five feet in width or larger and located adjacent to the curb. This requirement may be waived or modified if the decision maker finds it is not practicable. The decision maker may permit constrained sites to place street trees on the abutting private property within 10 feet of the public right-of-way if a covenant is recorded on the title of the property identifying the tree as a city street tree which is maintained by the property owner. Development proposed along a collector, minor arterial, or major

arterial street may use tree wells with root barriers located near the curb within a wider sidewalk in lieu of a planter strip, in which case each tree shall have a protected area to ensure proper root growth and reduce potential damage to sidewalks, curbs and gutters.

To promote and maintain the community tree canopy adjacent to public streets, trees shall be selected and planted in planter strips in accordance with Chapter 12.08, Street Trees. Individual abutting lot owners shall be legally responsible for maintaining healthy and attractive trees and vegetation in the planter strip. If a homeowners' association is created as part of the development, the association may assume the maintenance obligation through a legally binding mechanism, e.g., deed restrictions, maintenance agreement, etc., which shall be reviewed and approved by the city attorney. Failure to properly maintain trees and vegetation in a planter strip shall be a violation of this code and enforceable as a civil infraction.

Finding: See findings from section 12.04.180 of this document.

12.04.270 Standard Construction Specifications.

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

Finding: Complies with Condition. The applicant is responsible for the project's compliance 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. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

12.04.280 Violation--Penalty.

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

Finding: Not Applicable. No violations have been identified.

CHAPTER 12.08 - PUBLIC AND STREET TREES^[2]

12.08.015 - Street tree planting and maintenance requirements.

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

A. One street tree shall be planted for every thirty-five feet of property frontage. The tree spacing shall be evenly distributed throughout the total development frontage. The community development director may approve an alternative street tree plan if site or other constraints prevent meeting the placement of one street tree per thirty-five feet of property frontage.

B. The following clearance distances shall be maintained when planting trees:

1. Fifteen feet from streetlights;
2. Five feet from fire hydrants;
3. Twenty feet from intersections;
4. A minimum of five feet (at mature height) below power lines.

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

12.08.020 - Street tree species selection.

The community development director may specify the species of street trees required to be planted if there is an established planting scheme adjacent to a lot frontage, if there are obstructions in the planting strip, or if overhead power lines are present.

Finding: Complies as proposed. The frontage along Beavercreek Road has been reconstructed by the city without street trees and existing conditions are not conducive for the placement of new street trees. Therefore, no street trees are required along the frontage of Beavercreek Road. The frontage along Molalla Avenue is approximately 330 feet long. Therefore, ten street trees would be required along Molalla Avenue. The conditions of approval in this staff report already require sidewalk and street lighting upgrades, as well as right of way dedication. Staff finds that requiring street trees in addition to these other public improvements would not be proportional to the impact of the development, which does not include new square footage to the site or major intensification of the use. Thus, no new street trees are required.

12.08.035 - Public tree removal.

Existing street trees shall be retained and protected during construction unless removal is specified as part of a land use approval or in conjunction with a public facilities construction project, as approved by the community development director. A diseased or hazardous street tree, as determined by a registered arborist and verified by the City, may be removed if replaced. A non-diseased, non-hazardous street tree that is removed shall be replaced in accordance with the Table 12.08.035.

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

Table 12.08.035

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

Finding: Complies with Condition. There are several existing 6" to 9" trees shown on the plans in the Molalla Avenue right of way. It appears that these trees will be removed. If any trees in the Molalla Avenue right of way are removed, the applicant shall replace the tree or pay fee-in-lieu in accordance with Chapter 12.08.035. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard 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 Co

de. Those exempted facilities shall be reviewed by the building official.

Finding: Applicable. The stormwater from the site will leave private property and will discharge into the ROW.

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

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

Finding: Applicable. The applicant has provided a site plan which shows that the development proposes to create or replace more than 5000 square feet of impervious area.

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

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

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

Finding: Not Applicable. The applicant has not met exemption requirements set forth in section 13.12.050.C of the Oregon City Municipal Code.

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

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

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

13.12.080 - Submittal requirements.

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

Finding: Complies as Conditioned. Section 9.4 of the Public Works Stormwater and Grading Design Standards identifies contents required within a drainage report. The drainage report submitted by the applicant did not contained all items identified in Section 9.4 of the Public Works Stormwater and Grading Design Standards. The applicant shall provide an updated drainage report signed by a licensed engineer which addresses all items from the Section 9.4 of the Public Works Stormwater and Grading Design Standards. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

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

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

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

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

Finding: Complies as Conditioned. The provided report appears to meet stormwater treatment and detention requirements of the Public Works Stormwater and Grading Design Standards. The drainage plan may change depending on the design requirements set forth by the conditions of approval contained in this staff report. A revised drainage plan will not increase the overall impervious area of the development and will meet requirements of the Public Works Stormwater and Grading Design Standards. The applicant shall execute a "Maintenance Covenant And Access Easement For Privately Owned Stormwater Management Facilities" and pay associated recording fees. The covenant shall include a site plan identifying all privately-owned stormwater management facilities and an operation and maintenance plan for each type of stormwater facility in accordance with the Public Works Stormwater and Grading Design Standards. The Maintenance Covenant and Access Easement shall be reviewed and accepted by the City prior to recording.

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

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

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

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

13.12.120 - Standard construction specifications.

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

Finding: Complies as proposed. The applicant has noted the requirement to follow city standards which are developed in compliance with the Oregon Chapter of American Public Works Association (APWA) and as modified and adopted by the city, in effect at the time of application.

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: Complies as conditioned. The applicant shall provide performance assurance per section 17.50.140 – “Performance guarantees” of the Oregon City Municipal Code. The applicant may fulfill all other requirements of this section by complying with all current Oregon City Public Works design standards, specifications, codes, and policies.

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

CHAPTER 15.48 - GRADING, FILLING AND EXCAVATING

15.48.030 Applicability—Grading permit required.

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

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

Finding: Applicable. The development proposes grading and paving activities resulting in the creation of impervious surfaces greater than two thousand square feet.

15.48.090 Submittal requirements.

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

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

1. No portion of the proposed site is within the flood management area overlay district pursuant to [Chapter 17.42](#), the unstable soils and hillside constraints overlay district pursuant to [Chapter 17.44](#), or a water quality resource area pursuant to [Chapter 17.49](#); and

2. The proposed filling or grading activity does not involve more than fifty cubic yards of earth.

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

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

1. When any publicly maintained facility (structure, street, pond, utility, park, etc.) will be supported by any engineered fill;

2. When an embankment for a stormwater pond is created by the placement of fill;

3. When, by excavation, the soils remaining in place are greater than three feet high and less than twenty feet wide.

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

Finding: Complies as proposed. The applicant provided a preliminary engineered grading plan demonstrating general compliance with the City's Public Works requirements for grading standards.

CHAPTER 17.47 - EROSION AND SEDIMENT CONTROL

17.47.030 - Applicability.

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

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

Finding: Applicable. The applicant has proposed to construction activities which will disturb 1,000 square feet or more of the land.

17.47.060 - Permit required.

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

Finding: Complies with Condition. The development proposes disturbance which is less than one acre in size. The applicant seeks approval of an application for land use which requires construction that may cause visible or measurable erosion. The applicant shall obtain an Erosion control permit prior to commencement of any earth disturbing activities. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

17.47.070 - Erosion and sediment control plans.

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

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

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

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

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

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

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

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

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

CHAPTER 17.41 - TREE PROTECTION STANDARDS

17.41.020 - Tree protection—Applicability.

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

Finding: Applicable. The proposed development includes a site plan and design review application, therefore this section applies. The applicant's plans show 9 trees on private property proposed to be removed.

17.410 - Same—Compliance options. Applicants for review shall comply with these requirements through one or a combination of the following procedures: A. Option 1—Mitigation. Retention and removal of trees, with subsequent mitigation by replanting pursuant to Sections 17.41.060 or 17.41.070. All replanted and saved trees shall be protected by a permanent restrictive covenant or easement approved in form by the city. B. Option 2—Dedicated Tract. Protection of trees or groves by placement in a tract within a new subdivision or partition plat pursuant to Sections 17.41.080—17.41.100; or C. Option 3—Restrictive Covenant. Protection of trees or groves by recordation of a permanent restrictive covenant pursuant to Sections 17.41.110—17.41.120; or D. Option 4—Cash-in-lieu of planting pursuant to Section 17.41.130. A regulated tree that has been designated for protection pursuant to this section must be retained or permanently protected unless it has been determined by a certified arborist to be diseased or hazardous, pursuant to the following applicable provisions. The community development director,

pursuant to a Type II procedure, may allow a property owner to cut a specific number of trees within a regulated grove if preserving those trees would: 1. Preclude achieving eighty percent of minimum density with reduction of lot size; or 2. Preclude meeting minimum connectivity requirements for subdivisions.

Finding: Complies with condition. The applicant has proposed to remove 9 trees onsite. It is possible that other trees onsite will be removed as well. The applicant has proposed to utilize Option 1, mitigation, however, the required number of mitigation trees is not sufficient on the proposed plans. Prior to issuance of permits, the applicant shall identify all trees that will be removed and provide a mitigation plan that meets the requirements of Chapter 17.41.

17.41.060 - Tree removal and replanting—Mitigation (Option 1). A. Applicants for development who select this option shall ensure that all healthy trees shall be preserved outside the construction area as defined in Chapter 17.04 to the extent practicable. Compliance with these standards shall be demonstrated in a tree mitigation plan report prepared by a certified arborist, horticulturalist or forester or other environmental professional with experience and academic credentials in forestry or arboriculture. At the applicant's expense, the city may require the report to be reviewed by a consulting arborist. The number of replacement trees required on a development site shall be calculated separately from, and in addition to, any public or street trees in the public right-of-way required under section 12.08—Community Forest and Street Trees. B. The applicant shall determine the number of trees to be mitigated on the site by counting all of the trees six inch DBH (minimum four and one-half feet from the ground) or larger on the entire site and either: 1. Trees that are removed outside of the construction area, shall be replanted with the number of trees specified in Column 1 of Table 17.41.060-1. Trees that are removed within the construction area shall be replanted with the number of replacement trees required in Column 2; or 2. Diseased or hazardous trees, when the condition is verified by a certified arborist to be consistent with the definition in Section 17.04.1360, may be removed from the tree replacement calculation. Regulated healthy trees that are removed outside of the construction area, shall be replanted with the number of trees specified in Column 1 of Table 17.41.060-1. Regulated healthy trees that are removed within the construction area shall be replanted with the number of replacement trees required in Column 2.

Steps for calculating the number of replacement trees: 1. Count all trees measuring six inches DBH (minimum four and one-half feet from the ground) or larger on the entire development site. 2. Designate (in certified arborists report) the condition and size (DBH) of all trees pursuant to accepted industry standards. 3. Document any trees that are currently diseased or hazardous. 4. Subtract the number of diseased or hazardous trees in step 3. from the total number of trees on the development site in step 1. The remaining number is the number of healthy trees on the site. Use this number to determine the number of replacement trees in steps 5. through 8. 5. Define the construction area (as defined in Chapter 17.04). 6. Determine the number and diameter of trees to be removed within the construction area. Based on the size of each tree, use Column 2 to determine the number of replacement trees required. 7. Determine the number and diameter of trees to be removed outside of the construction area. Based on the size of each tree, use Column 1 to determine the number of replacement trees required. 8. Determine the total number of replacement trees from steps 6. and 7.

Finding: Complies with Condition. The applicant's plans did not consider that some of the trees proposed to be removed are outside of the construction area. Staff has made a determination, based on the definition of construction area in 17.04.230, of which trees are within the construction area, and which trees are outside of the construction area. Tree removal is proposed according to the following table:

Tree to be removed	Size (inches DBH)	Mitigation trees required
1	22	9
2	16	6
3	20	9
4	14	6
5	16	6
6	6	3
7	14	6

8	18	6
9	14	6
TOTAL		57

The proposed mitigation does not provide the required mitigation based on the proposed tree removal; 57 trees are required if the proposed removal plan remains. The applicant shall provide a revised tree removal and mitigation plan that meets this standard. The applicant may utilize fee in lieu of planting if desired. This standard requires the tree mitigation plan report be prepared by a certified arborist, horticulturalist, forester or other environmental professionals with experience and academic credentials in forestry or arboriculture. Prior to issuance of a permit associated with the proposed development, the applicant shall submit a revised tree mitigation plan prepared by a certified arborist, horticulturalist, forester or other environmental professional. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

17.41.130 - Regulated tree protection procedures during construction.

A. No permit for any grading or construction of public or private improvements may be released prior to verification by the community development director that regulated trees designated for protection or conservation have been protected according to the following standards. No trees designated for removal shall be removed without prior written approval from the community development director. B. Tree protection shall be as recommended by a qualified arborist or, as a minimum, to include the following protective measures: 1. Except as otherwise determined by the community development director, all required tree protection measures set forth in this section shall be instituted prior to any development activities, including, but not limited to clearing, grading, excavation or demolition work, and such measures shall be removed only after completion of all construction activity, including necessary landscaping and irrigation installation, and any required plat, tract, conservation easement or restrictive covenant has been recorded. 2. Approved construction fencing, a minimum of four feet tall with steel posts placed no farther than ten feet apart, shall be installed at the edge of the tree protection zone or dripline, whichever is greater. An alternative may be used with the approval of the community development director. 3. Approved signs shall be attached to the fencing stating that inside the fencing is a tree protection zone, not to be disturbed unless prior approval has been obtained from the community development director. 4. No construction activity shall occur within the tree protection zone, including, but not limited to; dumping or storage of materials such as building supplies, soil, waste items; nor passage or parking of vehicles or equipment. 5. The tree protection zone shall remain free of chemically injurious materials and liquids such as paints, thinners, cleaning solutions, petroleum products, and concrete or dry wall excess, construction debris, or run-off. 6. No excavation, trenching, grading, root pruning or other activity shall occur within the tree protection zone unless directed by an arborist present on site and approved by the community development director. 7. No machinery repair or cleaning shall be performed within ten feet of the dripline of any trees identified for protection. 8. Digging a trench for placement of public or private utilities or other structure within the critical root zone of a tree to be protected is prohibited. Boring under or through the tree protection zone may be permitted if approved by the community development director and pursuant to the approved written recommendations and on-site guidance and supervision of a certified arborist. 9. The city may require that a certified arborist be present during any construction or grading activities that may affect the dripline of trees to be protected. 10. The community development director may impose conditions to avoid disturbance to tree roots from grading activities and to protect trees and other significant vegetation identified for retention from harm. Such conditions may include, if necessary, the advisory expertise of a qualified consulting arborist or horticulturist both during and after site preparation, and a special maintenance/management program to provide protection to the resource as recommended by the arborist or horticulturist. C. Changes in soil hydrology due to soil compaction and site drainage within tree protection areas shall be avoided. Drainage and grading plans shall include provision to ensure that drainage of the site does not conflict with the standards of this section. Excessive site run-off shall be directed to appropriate storm drainage facilities and away 98 from trees designated for conservation or protection.

Finding: Complies with condition. The applicant has not proposed tree protection. The applicant shall ensure that tree protection during construction meets the requirements of 17.41.130. If the applicant wishes to preserve the two maple trees along the Molalla Avenue frontage, the applicant shall provide

an arborist assessment of the impacts of construction on the trees. If an arborist finds that the trees will not survive construction impacts, the applicant shall mitigate for the trees. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

CHAPTER 17.50 - ADMINISTRATION AND PROCEDURES

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

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

17.50.050 Preapplication Conference

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

B. A preapplication conference shall be valid for a period of six months from the date it is held. If no application is filed within six months of the conference or meeting, the applicant must schedule and attend another conference before the city will accept a permit application. The community development director may waive the preapplication requirement if, in the Director's opinion, the development does not warrant this step. In no case shall a preapplication conference be valid for more than one year.

Finding: Complies as Proposed. The applicant held a pre-application conference (file PA 18-16) on April 3, 2018. The land use application was submitted on October 3, 2018 within 6 months of the pre-application conference.

17.50.055 Neighborhood Association Meeting

A. Neighborhood Association Meeting. The purpose of the meeting with the recognized neighborhood association is to inform the affected neighborhood association about the proposed development and to receive the preliminary responses and suggestions from the neighborhood association and the member residents.

- 1. Applicants applying for annexations, zone change, comprehensive plan amendments, conditional use, planning commission variances, subdivision, or site plan and design review (excluding minor site plan and design review), general development master plans or detailed development plans applications shall schedule and attend a meeting with the city-recognized neighborhood association in whose territory the application is proposed. Although not required for other projects than those identified above, a meeting with the neighborhood association is highly recommended.*
- 2. The applicant shall send, by certified mail, return receipt requested letter to the chairperson of the neighborhood association and the citizen involvement committee describing the proposed project. Other communication methods may be used if approved by the neighborhood association.*
- 3. A meeting shall be scheduled within thirty days of the notice. A meeting may be scheduled later than thirty days if by mutual agreement of the applicant and the neighborhood association. If the neighborhood association does not want to, or cannot meet within thirty days, the applicant shall hold*

their own meeting after six p.m. or on the weekend, with notice to the neighborhood association, citizen involvement committee, and all property owners within three hundred feet. If the applicant holds their own meeting, a copy of the certified letter requesting a neighborhood association meeting shall be required for a complete application. The meeting held by the applicant shall be held within the boundaries of the neighborhood association or in a city facility.

4. If the neighborhood association is not currently recognized by the city, is inactive, or does not exist, the applicant shall request a meeting with the citizen involvement committee.
5. To show compliance with this section, the applicant shall submit a sign-in sheet of meeting attendees, a summary of issues discussed, and letter from the neighborhood association or citizen involvement committee indicating that a neighborhood meeting was held. If the applicant held a separately noticed meeting, the applicant shall submit a copy of the meeting flyer, a sign in sheet of attendees and a summary of issues discussed.

Finding: Complies as Proposed. The project is located within the Hillendale Neighborhood Association. The applicant was given incorrect information in the pre-application conference and as a result, contacted the Barclay Hills Neighborhood Association. After corresponding with the Barclay Hills NA, the applicant held their own meeting on August 28th, 2018 at 6PM at their property, and sent the required notices. The neighborhood meeting requirement is not an approval criterion, but a completeness item. The application was deemed complete on April 1, 2019.

17.50.060 Application Requirements.

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

17.50.070 Completeness Review and 120-day Rule.

Finding: Complies as Proposed. This land use application was submitted on October 3, 2018. The application was deemed complete on April 1, 2019. The applicant granted an extension of the 120-day deadline to November 1, 2019.

17.50.090 Public Notices.

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

17.50.100 Notice Posting Requirements.

Finding: Complies as Proposed. The applicant provided a signed affidavit that the site was posted with the notice for at least the minimum requirement.

17.50.140 - Performance guarantees.

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 as conditioned. The applicant shall submit a performance guarantee which is equal to one hundred twenty percent of the estimated cost of constructing the stormwater improvements shown in a city approved construction plan provided by the applicant's engineer. The estimated costs shall be supported by a verified engineering estimate and approved by the city engineer. The guarantee shall be in a form identified in Code 17.50.140.A of the Oregon City Municipal Code. The guarantee shall remain in effect until all improvements have been constructed and are accepted by the city.

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

CHAPTER 17.54.100 – FENCES

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 applicant proposes to retain existing fences. No new fences are proposed.

CHAPTER 17.58 LAWFUL NONCONFORMING USES, STRUCTURES AND LOTS

17.58.015 Applicability.

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

Finding:

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

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

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

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

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

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

a. Thresholds triggering compliance. The standards of subparagraph C.2.b. below shall be met when the value of the proposed exterior alterations or additions to the site, as determined by the community development director, is more than seventy-five thousand dollars. The following alterations and improvements shall not be included in the threshold calculation:

- 1. Proposed alterations to meet approved fire and life safety agreements;*
- 2. Alterations related to the removal of existing architectural barriers, as required by the Americans with Disabilities Act, or as specified in Section 1113 of the Oregon Structural Specialty Code;*
- 3. Alterations required to meet Seismic Design Requirements; and*
- 4. Improvements to on-site stormwater management facilities in conformance with Oregon City Stormwater Design Standards.*

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

- 1. Pedestrian circulation systems, as set out in the pedestrian standards that apply to the sites;*
- 2. Minimum perimeter parking lot landscaping;*
- 3. Minimum interior parking lot landscaping;*

4. Minimum site landscaping requirements;
 5. Bicycle parking by upgrading existing racks and providing additional spaces in order to comply with [Chapter 17.52—Off-Street Parking and Loading](#);
 6. Screening; and
 7. Paving of surface parking and exterior storage and display areas.
- c. Area of required improvements.
1. Generally. Except as provided in C.2.c.2. below, required improvements shall be made for the entire site.
 2. Exception for sites with ground leases. Required improvements may be limited to a smaller area if there is a ground lease for the portion of the site where the alterations are proposed. If all of the following are met, the area of the ground lease will be considered as a separate site for purposes of required improvements. The applicant shall meet the following:
 - i. The signed ground lease — or excerpts from the lease document satisfactory to the city attorney — shall be submitted to the community development director. The portions of the lease shall include the following:
 - The term of the lease. In all cases, there must be at least one year remaining on the ground lease; and
 - A legal description of the boundaries of the lease.
 - ii. The boundaries of the ground lease shall be shown on the site plan submitted with the application. The area of the lease shall include all existing and any proposed development that is required for, or is used exclusively by, those uses within the area of the lease; and
 - iii. Screening shall not be required along the boundaries of ground leases that are interior to the site.
- d. Timing and cost of required improvements. The applicant may choose one of the two following options for making the required improvements:
1. Option 1. Required improvements may be made as part of the alteration that triggers the required improvements. The cost of the standards that shall be met, identified in subparagraph C.2.b. above, is limited to ten percent of the value of the proposed alterations. It is the responsibility of the applicant to document to the community development director the value of the required improvements. Additional costs may be required to comply with other applicable requirements associated with the proposal. When all required improvements are not being made, the priority for the improvements shall be as listed in subparagraph C.2.b. above.
 2. Option 2. Required improvements may be made over several years, based on the compliance period identified in [Table 17.58—1](#) below. However, by the end of the compliance period, the site shall be brought fully into compliance with the standards listed in subparagraph C.2.b. Where this option is chosen, the following must be met:
 - i. Before a building permit is issued, the applicant shall submit the following to the community development director:
 - A Nonconforming Development Assessment, which identifies in writing and on a site plan, all development that does not meet the standards listed in Subparagraph C.2.b.
 - A covenant, in a form approved by the city attorney, executed by the property owner that meets the requirements of [17.50.150](#). The covenant shall identify development on the site that does not meet the standards listed in Subparagraph C.2.b., and require the owner to bring that development fully into compliance with this title. The covenant shall also specify the date by which the owner will be in conformance. The date must be within the compliance periods set out in [Table 17.58 — 1](#).
 - ii. The nonconforming development identified in the Nonconforming Development Assessment shall be brought into full compliance with the requirements of this Title within the following compliance periods. The compliance period begins when a building permit is issued for alterations to the site of more than seventy-five thousand dollars. The compliance periods are based on the size of the site (see [Table 17.58—1](#) below).
 - iii. By the end of the compliance period, the applicant or owner shall request that the site be certified by the community development director as in compliance. If the request is not received within that time, or if the site is not fully in conformance, no additional building permits will be issued.
 - iv. If the regulations referred to by subparagraph C.2.b. are amended after the Nonconforming Development Assessment is received by the community development director, and those amendments result in development on the site that was not addressed by the Assessment becoming nonconforming, the applicant shall address the new nonconforming development using Option 1 or 2. If the applicant chooses Option 2, a separate Nonconforming Development Assessment, covenant and compliance period will be required for the new nonconforming development.

[Table 17.58—1](#)

[Compliance Periods for Option 2](#)

<i>Square footage of site</i>	<i>Compliance Period</i>
<i>Less than 150,000 sq. ft.</i>	<i>2 years</i>
<i>150,000 sq. ft. or more, up to 300,000 sq. ft.</i>	<i>3 years</i>
<i>300,000 sq. ft. or more, up to 500,000 sq. ft.</i>	<i>4 years</i>
<i>More than 500,000 sq. ft.</i>	<i>5 years</i>

Finding: Complies with Condition. The subject site was constructed prior to adoption of the existing standards and is nonconforming for a variety of reasons including the location of the parking lot in front of the building, as well as a parking lot in front of the building. The applicant indicated that the cost of the project will be more than \$75,000. The proposal does include nonconforming upgrades which may be excluded from the construction cost such as some of the landscaping as well as the bicycle parking. The applicant shall provide the construction cost estimate and make nonconforming upgrades per OCMC 17.58 as required. Note that the upgrades are limited to 10% of the construction cost and the items in OCMC 17.58.040.c.2.b. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

CONCLUSION AND RECOMMENDATION:

Based on the analysis and findings as described above, Staff concludes that the proposed variance, parking adjustment, and parking lot located 1680 Molalla Avenue, identified as Clackamas County Map 3-2E-05C Taxlot 00301 can meet the requirements as described in the Oregon City Municipal Code by complying with the Conditions of Approval provided in this report. Staff recommends approval of file GLUA 18-00031 with conditions, based upon the findings and exhibits contained in this staff report.

EXHIBITS:

1. Vicinity Map (On File)
2. Applicant's Narrative and Plans (On File)
3. Public Comments
4. Letter from John Replinger (On File)