



TYPE III
STAFF REPORT AND NOTICE OF DECISION
January 3, 2020

FILE NUMBER: GLUA-19-00042 (General Land Use Application), VAR-19-00010, through VAR-19-00013 (Variances), WRG-19-00001 (Willamette River Greenway), FP-19-00002 (Floodplain Review)

HEARING DATE: January 13, 2020 7:00 p.m.
City Hall 625 Center Street
Oregon, City, Oregon 97045

APPLICANT/OWNER: McDonald's Corporation
110 N Carpenter St
Chicago, IL 60607

REQUEST: The applicant requests a variance for two signs exceeding the maximum number of freestanding signs permitted onsite, and a variance to allow the signs to contain a change in message more than three times per day. The signs are within the Willamette River Greenway and Flood Management Overlay Districts.

LOCATION: 2010 Clackamette Drive Oregon City, Oregon 97045
Clackamas County Map 2-2E-30 Taxlot 400

REVIEWER: Kelly Reid, AICP, Planner

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.

**Final Conditions of Approval
Planning File GLUA-19-00042**

Planning Division Conditions of approval (the applicant must demonstrate that conditions are met prior to final inspection for a building permit).

1. The applicant shall plant at least eight additional large shrubs, spaced at least 4 feet on center, in the landscaped area between the drive thru and the right of way.
2. The applicant shall submit documentation showing the resulting cut or fill from the replacement of the two signs along with any other associated site work, and shall ensure that no net fill is added. Any excavation to balance a fill shall be located on the same site.
3. The building plans submitted by the applicant shall demonstrate compliance with applicable floodproofing and anchoring standards.

I. BACKGROUND:

1. Existing Conditions

The site is an existing McDonald's restaurant with a drive-thru.

Figure 1. Vicinity Map



Figure 2: Existing Conditions – Aerial Image



2. Project Description

The applicant submitted the following project description:

The McDonald's that is located at 2010 Clackamette Dr. Oregon City OR 97045 is respectfully relief from the code that will allow the property the ability to reflect the investment being made into the site and the community as well as improve the overall customer experience. As part of the investment into this location, McDonalds is seeking to replace its 2 existing menu boards with new menu boards using new digital technology.

The area that requires relief is as follows:

- *Number of drive-through signs and size*
 - *Allowed: 1 freestanding sign NTE 150 SF, 1 incidental freestanding sign NTE 8 SF*
 - *Requested: 2*
 - *2 Menu Boards at approximately 20SF each*
- *Replacing 2 existing menu boards at approximately 45SF*
- *Signs that contain, include or illuminated by flashing, revolving, rotating or moving light or moves or has any animated or moving parts with move or rotate or change more than 3 times a day are prohibited.*
 - *Requesting 2 menu boards that list a customer's order as they place it, including the total cost.*

The requested signs all serve a purpose that work together to create an overall aesthetic balance as well as help to improve the customer experience. These signs will also help to ensure that motorists can easily navigate the site, entering and

exiting quickly, yet safely.

The applicant proposes two variances for each sign; one for the use of signs that contain flashing or moving images or words that change more than three times per day; and one for the existence of the sign, which is considered a freestanding sign and exceeds the number of freestanding signs permitted on site.

The existing site contains one main freestanding sign along with two menu boards and is already nonconforming. The applicant proposes to remove the two menu boards and replace them with new menu boards of a similar size in the same location.

Figure 3: Proposed Site Plan

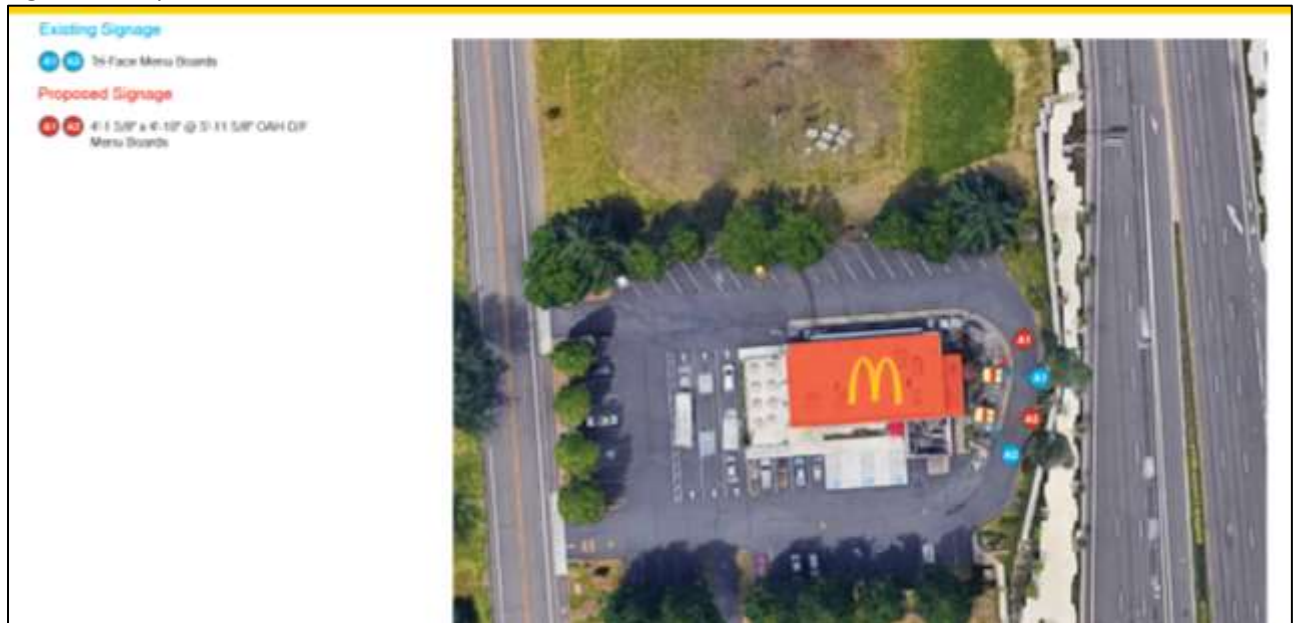


Figure 4. Existing Menu Boards



Figure 5. Proposed New Sign



Figure 6. Views From McLoughlin Blvd



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

15.28 – Signs
17.42 – Flood Management Overlay
17.48 – Willamette River Greenway Overlay
17.50 - Administration and Procedures

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

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

5. Notice and Public Comment

Notice of the proposal was sent 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):

The Oregon City School District indicated the proposal would not conflict with their interests.

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.

I. RESPONSES TO THE OREGON CITY MUNICIPAL CODE:

CHAPTER 15.28 – SIGNS

15.28.080 Signs in Office Commercial, Mixed Use and Industrial Zones

A. General. All of the following standards apply to all signs in office, commercial, mixed use and industrial zones:

- 1. With the exception of projecting or wall signs, signs shall not project over the right-of-way. Signs projecting into the right-of-way shall receive approval by the city engineer.*
- 2. With the exception of wall signs, signs shall maintain a minimum clearance of ten feet above grade over pedestrian or vehicular areas, and fourteen feet above grade over areas of truck access.*

Finding: Complies as Proposed. The proposed signs do not project over any right of way.

B. Wall Signs. All of the following standards apply to wall signs in office, commercial, mixed use and industrial zones:

- 1. The number of wall signs is unlimited provided the total combined display area of wall signs, projecting signs and banners does not exceed twenty square feet for each ground floor tenant space on which the sign is constructed. For ground floor tenant spaces exceeding twenty feet of wall length on which the sign is constructed and tenant spaces not on the ground floor, signage shall not exceed one square foot per each lineal foot of the wall length of the tenant space on which the sign is constructed.*
- 2. Signs on structures such as awnings, canopies, false fronts and wall extensions that do not extend more than one*

foot from the structure are considered wall signs.

Finding: Not Applicable. The signs in question are not wall signs. The above does not apply to this request.

C. Freestanding Signs. All of the following standards apply to freestanding signs in office, commercial, mixed use and industrial zones:

1. A maximum of one freestanding sign is allowed for each street frontage. On arterial streets, if a frontage exceeds a length of six hundred linear feet a second freestanding sign is allowed. In all cases, no freestanding sign shall be permitted on the same frontage where there is a projecting or roof sign.

Finding: See variance findings in 15.28.130. The site has two frontages; McLoughlin Blvd and Clackamette Drive. The frontages are less than 600 feet in length. The site contains two main freestanding signs and two menu boards, along with several directional signs and a flag. The applicant is requesting to replace two existing menu boards with two new, smaller menu boards.

2. Freestanding signs on the same frontage shall be separated by a minimum of fifty feet distance.

Finding: See variance findings in 15.28.130. The applicant is requesting to replace two existing menu boards with two new, smaller menu boards. These two signs are not separated by 50 feet.

3. Maximum display area

a. Where the street frontage is less than fifty feet in length, the display area shall not exceed fifty square feet and the sign face shall not exceed twenty-five square feet.

b. Where the street frontage is fifty feet or greater but less than two hundred feet in length, display area shall not exceed one hundred square feet and the sign face shall not exceed fifty square feet.

c. Where the street frontage is two hundred feet or greater in length, the display area shall not exceed three hundred square feet and the sign face shall not exceed one hundred fifty square feet.

d. In no case shall any sign have a display area in excess of three hundred square feet.

Finding: Complies as Proposed. The street frontage on McLoughlin Blvd. is approximately 200 feet in length. The applicant did not provide the size of the existing main sign for the business. The proposed new signs are approximately 20SF each; or 4 feet by 5 feet; for a total of 40SF. The proposed signs are one-sided; the proposed size is the size of the sign face.

4. The sign width shall not exceed twenty linear feet.

Finding: Complies as Proposed. The width of each sign is 4'10".

5. Where the street frontage is two hundred feet in length or less the sign height shall not exceed twenty-five feet. Where the street frontage is more than two hundred feet in length, the sign height shall not exceed thirty feet.

Finding: Complies as Proposed. The height of each sign is 5' 11 5/8".

D. Incidental Freestanding Signs. All of the following standards apply to incidental signs in office, commercial, mixed use and industrial zones:

1. A maximum of one incidental freestanding sign is allowed for each street frontage.

2. The display area shall not exceed sixteen square feet and the sign face shall not exceed eight square feet.

3. The sign height shall not exceed 15 feet.

Finding: Not applicable. No incidental signs are being requested. The proposed signs exceed the allowed size of incidental signs and are thus considered freestanding signs.

15.28.110 - Prohibited signs.

It is unlawful for any of the following signs to be constructed or maintained except as otherwise provided in this chapter:

B.A sign that contains, includes or is illuminated by any flashing or revolving, rotating or moving light or moves or has any animated or moving parts which move or rotate or change more than three times per day, except as otherwise allowed within this code.

Finding: See variance findings in 15.28.130. The applicant is requesting to utilize two new menu board signs with illuminated areas that will change throughout the day to reflect customers' orders and prices.

15.28.130 Variances

All of the following standards apply to variances to this chapter:

- A. *Grounds for Variance. Upon application by an applicant, the planning commission may grant a specific variance from provisions of this chapter provided all of the following circumstances exist:*

1. *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.

Variances for the Number of Freestanding Signs

The proposed signs are approximately 5 feet in height and are smaller than the existing signs. They are located at least 80 feet from neighboring properties. Any impacts to neighboring properties will be reduced by the proposed changes on site.

Variances for Message Change more than 3x per day

The requested change will have little to no effect on adjacent properties. The content of the sign will be minimally visible, if at all, from neighboring properties. The reduction in illumination from the new signs is a benefit to adjacent properties as these new signs are not distracting and are tailored to the user.

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

Finding: Complies as Proposed.

Variances for the Number of Freestanding Signs

The applicant states: "This request is part of a nationwide campaign by McDonald's to replace their menu boards with state of the art digital boards. These new boards are smaller and give off less illumination. The site already has 2 menu boards. McDonalds simply wants to replace them with smaller, more effective and efficient menu boards." While there is no apparent hardship associated with this proposal, staff finds that because the applicant is not increasing the overall number of signs on site, this criterion is met.

Variances for Message Change more than 3x per day

The proposal would result in a sign that changes every time a new order is placed. The applicant states "The menu portion of the sign will only change twice daily, once from breakfast to lunch/dinner and then back to breakfast. The portion of the sign that will change more than 3 times is a very small area. This area is specifically designed for only the user of the sign. This area will list the user's order as well as the total cost. This will only be visible to the user as their vehicle will be in front of the board. The order will not be visible to anyone else." Staff finds that the applicant has minimized the areas of the sign that will have a changing message.

3. *Granting the variance will equal or exceed the purpose of the regulation to be modified;*

Finding: Complies as Proposed.

Variances for the Number of Freestanding Signs

The purpose of the regulation limiting the number of freestanding signs is to eliminate sign clutter. The proposed menu board signs are not oriented to the street as advertising, like most signs; instead, they are directed at the existing drive through facility. The applicant states "The new signs serve the same purpose, but are smaller, more concise and easier for the consumer to use. This is a significant decrease in overall sign square footage. Additionally, these signs do substantially not alter the appearance of the site. The new menu boards will be in the same location as the existing signs. The modification of the existing antiquated display with the new digital technology will only impact the direct user of the product. This user has made the choice to enter onto the commercial property and expects the transaction that they are

seeking to be able to be accomplished in an expedited and concise manner. In addition, this corridor is primarily commercial in nature and modifications that will allow for services offered at these types of properties should be supported and approved.” Staff finds that the reduction in size of the signs will help to minimize clutter, and recommends mitigation to better screen the signs from the right of way.

Variances for Message Change more than 3x per day

The purpose of the regulation is to avoid signs that are distracting to drivers and to maintain an aesthetically pleasing streetscape. The proposal would result in a sign that changes every time a new order is placed. The applicant states “The menu portion of the sign will only change twice daily, once from breakfast to lunch/dinner and then back to breakfast. The portion of the sign that will change more than 3 times is a very small area. This area is specifically designed for only the user of the sign. This area will list the user’s order as well as the total cost. This will only be visible to the user as their vehicle will be in front of the board. The order will not be visible to anyone else.” Staff finds that the message changes will be minimally visible from the right of way, if at all, and will not cause distractions to drivers or impact the streetscape.

4. Any impacts resulting from the adjustment are mitigated;

Finding: Complies with condition.

Variances for the Number of Freestanding Signs

Staff finds that the reduction in size of the signs will help to minimize clutter, but the number of signs will still create more visual clutter than if the applicant met the standards. Thus, mitigation to screen the signs from the right of way is recommended. The applicant shall plant at least eight additional large shrubs, spaced at least 4 feet on center, in the landscaped area between the drive thru and the right of way.

Variances for Message Change more than 3x per day

The proposal would result in a sign that changes every time a new order is placed. The applicant states “The menu portion of the sign will only change twice daily, once from breakfast to lunch/dinner and then back to breakfast. The portion of the sign that will change more than 3 times is a very small area. This area is specifically designed for only the user of the sign. This area will list the user’s order as well as the total cost. This will only be visible to the user as their vehicle will be in front of the board. The order will not be visible to anyone else.” Staff finds that the message changes will be minimally visible from the right of way, if at all, and will not cause distractions to drivers or impact the streetscape. Thus, no mitigation is required.

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

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

Finding: Complies as Proposed.

Variances for the Number of Freestanding Signs

The applicant states “There are no alternatives. This is a nationwide initiative by McDonald’s to replace existing menu boards with these smaller digital menu boards.”

Variances for Message Change more than 3x per day

The applicant states “There are no alternatives. This is a nationwide initiative by McDonald’s to replace existing menu boards with these smaller digital menu boards.”

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

Finding: Complies as Proposed. The Comprehensive Plan does not contain any goals or policies that are specific to signs. The applicant provided the following responses to other applicable Comprehensive Plan sections:

Goal 2.2 – Downtown Oregon City

The proposal for this site is in line with the goal set forth in the code. The goal is to develop the downtown area as a quality place for shopping, living, working etc. The upgrade in menu boards helps to further develop the site to comply with this goal. The site will be more aesthetically pleasing and will have less illumination from the menu boards.

Goal 2.3 – Corridors

The proposal for this site is in line with the goal set forth in the code. The proposal for new, smaller menu boards that use digital technology will help the site and its consumers. The boards are smaller, easier to read, more aesthetically pleasing and give off less illumination. The new boards will help move customers through the site quickly and safely, leading to a better overall customer experience.

Goal 2.5 – Retail and Neighborhood Commercial

The proposal for this site is in line with this goal set forth in the code. The proposal will help the business expand its customer base by allowing customers to get through the drive thru lane quicker and safer. By doing so the traffic movement will be faster as people will spend less time in the drive thru lanes. The new boards also improve the area aesthetically as the boards are smaller and give off less illumination.

Goal 15.1 – Protect the Willamette River Greenway

The proposal for this site is in line with the goal set forth in the code. Changing the menu boards will have no effect on the environment. The impact will be internal to the site and will have no impact on the environment in the surrounding areas.

B. Variance Fee. At the time of application for variance from the provisions of this chapter, the applicant shall pay a fee in accordance with the fee schedule established and amended from time to time by the city commission and on file with the city recorder.

C. Procedure. A variance application shall be treated in the manner provided by [Chapter 17.50](#) of this code with respect to zoning variances.

Finding: Complies as Proposed. The applicant has submitted the required fees.

CHAPTER 17.42 FLOOD MANAGEMENT OVERLAY DISTRICT

17.42.160.D.1 *Site Development Standards. All development in the floodplain shall conform to the following balanced cut and fill standards:*

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

Finding: Applicable.

17.42.160.D.2 *No net fill in any floodplain is allowed. All fill placed in a floodplain shall be balanced with at least an equal amount of soil material removed. For the purpose of calculating net fill, fill shall include any structure below the design flood elevation that has been floodproofed pursuant to subsection (E)(5) of this section.*

Finding: Complies with Condition. The applicant did not provide evidence to demonstrate that no net fill would be added to the floodplain. The applicant shall submit documentation showing the resulting cut or fill from the replacement of the two signs along with any other associated site work, and shall ensure that

no net fill is added. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

17.42.160.D.3 Any excavation below bankfull stage shall not count toward compensating for fill.

Finding: Not Applicable. No excavation below bankfull stage is proposed.

17.42.160.D.4 Excavation to balance a fill shall be located on the same parcel as the fill unless it is not practicable to do so. In such cases, the excavation shall be located in the same Oregon City floodplain, so long as the proposed excavation and fill will not increase flood impacts for surrounding properties as determined through hydrologic and hydraulic analysis.

Finding: Complies with Condition. The applicant did not provide evidence to demonstrate that no net fill would be added to the floodplain. The applicant shall submit documentation showing the resulting cut or fill from the replacement of the two signs along with any other associated site work, and shall ensure that no net fill is added. Any excavation to balance a fill shall be located on the same site. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

17.42.160.D.5 For excavated areas identified by the city to remain dry in the summer, such as parks or mowed areas, the lowest elevation of the excavated area shall be at least six inches above the winter "low water" elevation, and sloped at a minimum of two percent towards the protected water feature pursuant to Chapter 17.49. One percent slopes will be allowed in smaller areas.

Finding: Not Applicable. No significant excavation is proposed.

17.42.160.D.6 For excavated areas identified by the city to remain wet in the summer, such as a constructed wetland, the grade shall be designed not to drain into the protected water feature pursuant to Chapter 17.49.

Finding: Not Applicable. No significant excavation is proposed.

17.42.160.D.7 Parking areas in the floodplain shall be accompanied by signs that inform the public that the parking area is located in a flood management area and that care should be taken when the potential for flooding exists.

Finding: Not Applicable. The site already complies with this standard. No changes to the parking lot are proposed.

17.42.160.D.8 Temporary fills permitted during construction shall be removed at the end of construction, thirty days after subdivision acceptance or completion of the final inspection.

Finding: Not Applicable. No temporary fills are proposed.

17.42.160.D.9 New culverts, stream crossings and transportation projects shall be designed as balanced cut and fill projects or designed not to significantly raise the design flood elevation. Such projects shall be designed to minimize the area of fill in flood management areas and to minimize erosive velocities. Stream crossings shall be as close to perpendicular to the stream as practicable. Bridges shall be used instead of culverts wherever practicable.

Finding: Not Applicable. No culverts, crossings, or transportation projects are proposed.

17.42.160.D.10 Excavation and fill required for the construction of detention facilities or structures, and other facilities, such as levees, specifically shall be designed to reduce or mitigate flood impacts and improve water quality. Levees shall not be used to create vacant buildable lands.

Finding: Not Applicable. No detention facilities are proposed.

17.42.160.E.1 Construction Standards.

1. Anchoring.

a. All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure.

b. All manufactured homes must likewise be anchored to prevent flotation, collapse or lateral movements and shall be installed using methods and practices that minimize flood damage. Anchoring methods may include, but are

not limited to, use of over-the-top or frame ties to ground anchors (reference FEMA's "Manufactured Home Installation in Flood Hazard Areas" guidebooks for additional techniques).

Finding: Complies with Condition. The applicant indicated that the development will comply with this section. The building plans submitted by the applicant shall demonstrate compliance with applicable floodproofing and anchoring standards. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

17.42.160.E.2 Construction Materials and Methods.

- a. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.*
- b. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.*
- c. Electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities shall be designed and/or otherwise elevated or located so as to prevent water from entering or accumulating within the components during conditions of flooding.*

Finding: Complies with Condition. The applicant indicated that the development will comply with this section. The building plans submitted by the applicant shall demonstrate compliance with applicable floodproofing and anchoring standards. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

17.42.160.E.3 Utilities.

- a. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.*
- b. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharge from the systems into floodwaters.*
- c. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.*

Finding: Not Applicable. No utilities are proposed.

17.42.160.E.4 Residential Construction

- a. New construction and substantial improvements of any residential structure shall have the lowest floor, including basement, elevated to at least one foot above the design flood elevation.*
- b. Full enclosed areas below the lowest floor that are subject to flooding are prohibited unless they are designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria.*
 - i. A minimum of two openings have a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.*
 - ii. The bottom of all openings shall be no higher than one foot above grade.*
 - iii. Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.*

Finding: Not Applicable. No residential construction is proposed.

17.42.160.E.5 Nonresidential Construction.

- a. New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement, elevated to at least one foot above base flood elevation; or, together with attendant utility and sanitary facilities, shall:*
 - i. Be floodproofed so that below the design flood level the structure is watertight with walls substantially impermeable to the passage of water provided that the requirements of subsection D.2. of this section are met;*
 - ii. Have structured components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy;*
 - iii. Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting provisions of this*

subsection based on their development and/or review of the structural design, specifications and plans. Such certifications shall be provided to the official as set forth in Section 17.42.110B.;

- iv. Nonresidential structures that are elevated, not floodproofed, must meet the same standards for space below the lowest floor as described in subsection E.4.b. of this section; and
- v. Applicants floodproofing nonresidential buildings shall be notified that flood insurance premiums will be based on rates that are one foot below the floodproofed level (e.g., a building constructed to the design flood level will be rated as one foot below that level).
- vi. Manufactured Homes. The following standards apply to all manufactured homes to be placed or substantially improved on sites within Flood Hazard Areas.

When manufactured dwellings are installed in flood hazard areas, they shall be elevated and anchored according to the Oregon Residential Specialty Code.

Finding: Complies with Condition. The applicant indicated that the development will comply with this section. The building plans submitted by the applicant shall demonstrate compliance with applicable floodproofing and anchoring standards. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

17.42.160.F Recreational Vehicles.

Finding: Not Applicable. No recreational vehicles are proposed.

17.42.160.G Below Grade Crawlspaces.

Finding: Not Applicable. No crawlspaces are proposed.

17.42.170 - Review of building permits.

Where elevation data is not available either through the flood insurance study, FIRM or from another authoritative source (Section 17.42.110), application for building permits shall be reviewed to assure that proposed construction will be reasonably safe from flooding. The test of reasonableness shall be made by the building official, considering use of historical data, high water marks, photographs of past floodings, etc., where available, and the provisions of this title. Failure to elevate at least two feet above grade in these zones may result in higher insurance rates.

Finding: Not Applicable. Elevation data is available through FIRM.

17.42.180 - Subdivision standards.

Finding: Not Applicable. No subdivisions are proposed.

17.42.190 - Floodways.

Finding: Not Applicable. The proposed signs are not within the floodway.

Chapter 17.48 - WRG WILLAMETTE RIVER GREENWAY OVERLAY DISTRICT^[24]

17.48.040 - Uses allowed.

All uses permitted pursuant to the provisions of the underlying zoning district are permitted on lands designated WRG; provided, however, that any development, change of use or intensification of use shall be subject, in addition to the provisions of the underlying district, to the provisions of this chapter.

17.48.050 - Permit required—Exceptions.

A Willamette River Greenway permit shall be required for all developments and changes or intensification of uses, except the following:

- A. The propagation of timber or the cutting of timber for public safety or personal use, except the cutting of timber along the natural vegetative fringe along the river;
- B. Gravel removal from the bed of the Willamette River when conducted under a permit from the state;
- C. Customary dredging and channel maintenance;
- D. Placing by a public agency of signs, markers, aids and similar structures to serve the public;
- E. Activities to protect, conserve, enhance and maintain public recreation, scenic, historical and natural uses on public lands;
- F. Acquisition and maintenance of scenic easements by the Oregon Department of Transportation;
- G. Partial harvesting of timber shall be permitted beyond the natural vegetative fringe and those areas not covered by

a scenic easement and when the harvest is consistent with an approved plan under the Oregon Forest Practices Act. Commercial forest activities and harvesting practices providing for vegetative buffers, shading, soil stabilization, and water filtering effects required under the Oregon Forest Practices Act;

H. The use of a small cluster of logs for erosion control;

I. The expansion of capacity or the replacement of existing communication or energy distribution and transmission systems, except utility sub-stations;

J. The maintenance and repair of existing flood control facilities;

K. Uses lawfully existing on the effective date of the provisions codified in this chapter; provided, however, that any change or intensification of use or new development shall require a Willamette River Greenway permit.

Finding: Applicable. The freestanding signs are considered development that is subject to this chapter.

17.48.060 - Administrative procedure.

Except as specifically provided for in [Section 17.48.090](#), the procedure for action on a Willamette River Greenway permit shall be as provided for under the administrative action provisions in [Chapter 17.50](#). In addition to those provisions, however, notice of a pending Willamette River Greenway permit under [Sections 17.48.070 through 17.48.090](#) or of a compatibility review hearing under [Section 17.48.100](#), shall be given to all persons requesting the same and paying a reasonable fee therefore, as determined by the community development director.

Finding: Complies as Proposed. The applicant has applied for overlay review in accordance with this Chapter.

17.48.070 - Development standards—Specific use.

In approving any development or change or intensification of use, the approving officer or body shall apply the following standards:

Considerations for Specific Uses.

A. With respect to recreational uses only: the considerations set forth in section C.3.b of Goal 15.

B. With respect to those fish and wildlife habitats identified in the city comprehensive plan only: the considerations set forth in section C.3.d. of Goal 15.

C. With respect to those scenic qualities and views identified in the city comprehensive plan only: the considerations set forth in section C.3.e. of Goal 15.

D. With respect to timber resources only: the considerations set forth in section C.3.h. of Goal 15.

E. With respect to aggregate extraction only: the considerations set forth in section C.3.i. of Goal 15.

Finding: Not Applicable. None of these uses are proposed. The site is a commercial use.

17.48.080 - Development standards—General considerations.

The following considerations shall be applicable to all Willamette River Greenway permits.

A. Access. Adequate public access to the Willamette River shall be considered and provided for.

B. Protection and Safety. Maintenance of public safety and protection of public and private property, especially from vandalism and trespass, shall be provided for to the maximum extent practicable.

C. Vegetative Fringe. The natural vegetative fringe along the Willamette River shall be protected and enhanced to the maximum extent practicable.

D. Directing Development Away from the River. Development shall be directed away from the Willamette River to the greatest possible degree, provided that lands committed to urban uses within the Greenway may continue as urban uses, subject to the nonconforming use provisions of [Chapter 17.58](#) of this title.

E. A Greenway Setback. In each application, the approving officer or body shall establish a setback to keep structures separated from the Willamette River in order to protect, maintain, preserve and enhance the natural scenic, historic and recreational qualities of the Willamette River Greenway, as set forth in the city comprehensive plan; provided, however, that the requirement to establish such setbacks shall not apply to water-related or water-dependent uses.

F. Other Applicable Standards. The Oregon Department of Transportation Greenway Plan, the Greenway portions of the city comprehensive plan, the Willamette River Greenway statutes and the provisions of Statewide Planning Goal 15, shall also be considered in actions involving Willamette River Greenway permits.

Finding: Complies as Proposed. The proposed signs are located on the east side of the building, which faces away from the river. While the area is within the overlay, the signs do not affect river access, vegetation, or public safety. The signs are no closer to the river than other structures on site and are directed away from the river.

17.48.090 - Procedure.

The planning director shall make findings, and may impose reasonable conditions to carry out this chapter, regarding all general, and any applicable specific, considerations of this section. The community development director shall then give notice of a pending Willamette River Greenway permit application, and proposed action thereon, in the manner provided for, and to those persons for whom notice shall be given, under [Chapter 17.50](#) of this Code, and to all other interested persons who wish to be notified and who pay a reasonable fee for such notification. If no interested person requests a hearing on such permit application within ten days of giving notice, the application shall be approved, either with or without conditions, or denied, as proposed by the community development director and in accordance with the findings required by this subsection. If there be objection, the matter shall be heard by the planning commission as an administrative action.

Finding: Complies as Proposed. The applicant has applied for overlay review in accordance with this Chapter.

17.48.100 - Compatibility review.

A. In all areas within one hundred fifty feet of the ordinary low-water line of the Willamette River, hereinafter referred to as the "compatibility boundary," the provisions of this subsection shall be applicable to all developments and changes or intensification of uses, so as to ensure their compatibility with Oregon's Greenway statutes, and to assure that the best possible appearance, landscaping and public access be provided.

B. All development or changes or intensifications of uses in the compatibility area shall be approved only if the following findings be made by the planning commission.

1. That to the greatest extent possible, the development or change or intensification of use provides for the maximum possible landscaped area, open space or vegetation between the activity and the river.

2. That to the greatest degree possible, necessary public access is provided to and along the Willamette River by appropriate legal means.

C. Procedure for action on compatibility review shall be as set forth in [Section 17.48.060](#) and shall include application of the relevant use management considerations and requirements provided in [Sections 17.48.070](#) and [17.48.080](#). The planning commission, after notice and public hearing held pursuant to [Chapter 17.50](#) shall approve issuance, approve issuance with conditions or disapprove issuance of the Willamette River Greenway conditional use permit. The application shall be accompanied by the fee listed in [Chapter 17.52](#) to defray the costs of publication, investigation and processing.

Finding: Not Applicable. The signs are more than 500 feet from the water line and are not within the compatibility boundary.

17.48.110 - Prohibited activities.

The following are prohibited within the Willamette River Greenway:

A. Any main or accessory residential structure exceeding a height of thirty-five feet, except for areas located within the Willamette Falls Downtown District;

B. Structural bank protection, except rip rap or a channelization used as an emergency measure only to protect existing structures. Any such rip rap or channelization to stabilize undeveloped sites shall be prohibited as well;

C. Subsurface sewage disposal drainfields within one hundred feet of the ordinary mean low-water line of the Willamette River.

Finding: Complies as Proposed. No prohibited activities are proposed.

17.48.120 - Additional procedural requirements.

In addition to the requirements of [Chapter 17.50](#), the following procedural requirements shall be applicable to all matters arising out of [Sections 17.48.070](#) through [17.48.100](#):

A. Applications submitted for review under [Sections 17.48.070](#) through [17.48.100](#) shall be accompanied by such materials as are reasonably necessary for adequate review, including, as necessary:

1. A site and landscaping plan showing existing vegetation and development and location of proposed development for activities;

2. Elevations of any proposed structures;

3. Materials list for any proposed structures, including type and colors of siding and roofing; and

4. Cross-sections of any area within the vegetative fringe where grading, filling, timber harvesting or excavating will occur.

B.

1. Written notice, including a copy of the application, shall be sent immediately upon receipt to the Oregon Department of Transportation by certified mail, return receipt requested. The Oregon Department of Transportation shall have seven working days from the date of mailing to respond before a decision be rendered.

2. Written notice shall be given to the Oregon Department of Transportation by certified mail, return receipt requested, within seven days of the entry of a final order on the disposition of all applications made under Sections 17.48.070 through 17.48.100.

Finding: Complies as Proposed. The applicant has applied for overlay review in accordance with this Chapter.

CHAPTER 17.50 - ADMINISTRATION AND PROCEDURES

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. A Pre-application conference was held on 7/9/19 via conference call.

17.50.055 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. A Neighborhood Association Meeting was held on 10/23/19.

CHAPTER 17.60 - VARIANCES

Sign Variance criteria is found in Chapter 15.28 rather than Chapter 17.60.

CONCLUSION AND DECISION:

Based on the analysis and findings as described above, Staff concludes that the proposed development located at 2010 Clackamette Dr, Oregon City OR 97045 can meet the requirements as described in the Oregon City Municipal Code by complying with the Conditions of Approval provided in this report. Therefore, the Community Development Director recommends approval with conditions, based upon the findings and exhibits contained in this staff report.

EXHIBITS:

1. Vicinity Map
2. Applicant's Narrative and Plans (On File)
3. Public Comments