



City of Oregon city Land use application



City of Oregon City, Community Development Department 221 Molalla Avenue, Oregon City, OR 97045 (503)722-3789

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| <p>Type I (OCMC 17.50.030.A)</p> <ul style="list-style-type: none"> <input type="checkbox"/> Compatibility Review <input type="checkbox"/> Nonconforming Use review <input type="checkbox"/> Water Resources Exemption | <p>Type II (OCMC 17.50.030.B)</p> <ul style="list-style-type: none"> <input type="checkbox"/> Extension <input type="checkbox"/> Detailed Development Review <input type="checkbox"/> Geotechnical Hazards <input type="checkbox"/> Minor Partition <input type="checkbox"/> Minor Site Plan & Design Review <input type="checkbox"/> Nonconforming Use Review <input type="checkbox"/> Site Plan and Design Review <input type="checkbox"/> Subdivision <input type="checkbox"/> Minor Variance <input type="checkbox"/> Water Resource Review | <p>Type III / IV (OCMC 17.50.030.C)</p> <ul style="list-style-type: none"> <input type="checkbox"/> Annexation <input checked="" type="checkbox"/> Code Interpretation / Similar Use <input type="checkbox"/> Concept Development Plan <input type="checkbox"/> Conditional Use <input type="checkbox"/> Comprehensive Plan Amendment (Text/Map) <input type="checkbox"/> Detailed Development Plan <input type="checkbox"/> Historic Review <input type="checkbox"/> Oregon City Municipal Code Amendment <input type="checkbox"/> Variance <input type="checkbox"/> Zone Change |
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Application Number: 17-0065

Proposed Land Use or Activity: Lithia Subaru requests an interpretation of the City's nonconforming use regulations.
 Project Name: Lithia Subaru Parking Deck Addition Number of Lots Proposed (If Applicable): _____
 Physical Address of Site: 1404 Main Street, Oregon City, Oregon 97045
 Clackamas County Map and Tax Lot Number(s): 2-2E-30 DD, Tax Lot 1000

Applicant(s): _____
 Applicant(s) Signature: 
 Applicant(s) Name Printed: Lithia Real Estate, Inc Date: 1/29/18
 Mailing Address: 150 North Bartlett St Medford, OR 97501
 Phone: (541) 770-3116 Fax: _____ Email: eiversen@lithia.com

Property Owner(s): _____
 Property Owner(s) Signature: 
 Property Owner(s) Lithia Real Estate, Inc Date: 1/29/18
 Mailing Address: 150 North Bartlett St Medford, OR 97501
 Phone: (541) 770-3116 Fax: _____ Email: eiversen@lithia.com

Representative(s): _____
 Representative(s) Signature: 
 Representative (s) Name Printed: Christopher P. Koback Date: 1/30/18
 Mailing Address: 1331 NW Lovejoy Street, Suite 950, Portland, OR 97209
 Phone: (503) 303-3107 Fax: (503) 205-8406 Email: chris@hathawaylarson.com

All signatures represented must have the full legal capacity and hereby authorize the filing of this application and certify that the information and exhibits herewith are correct and indicate the parties willingness to comply with all code requirements.

LAND USE APPLICATION NARRATIVE
1404 Main Street, Oregon City
(January 2018)

Summary of Request.

The Applicant is seeking a Planning Commission interpretation that its proposal to add an additional level of parking to an existing vehicle inventory storage structure is an expansion of a lawfully existing non-conforming structure that can be approved after review, and is not an expansion or intensification of a non-conforming use. The proposed additional level will be at street grade with Main Street.

Property Information.

<u>Address:</u>	1404 Main Street, Oregon City, OR 97045
<u>Tax Map Lot:</u>	2-2E-30 DD, Tax Lot 1000
<u>Alternate ID:</u>	00569450
<u>Parcel Size:</u>	43, 124
<u>Zoning:</u>	MUD
<u>Comp. Plan Designation:</u>	MUD-Mixed Use Downtown

Background.

The Property.

The Applicant, Lithia Subaru of Oregon City (“Lithia Subaru”) owns property located at 1404 Main Street, Oregon City (the “Property”). The Property is the entire block that extends from Main Street east to Center Street, and between 14th and 15th Streets. Lithia Subaru operates an automobile business on the Property. Included as part of the Application at Tab 1 is an aerial photograph and three street view photographs that depict the Property. Page 1 is an aerial photograph of the Property. The main sales and administrative building is located at the southwest corner of the Property. That building contains the indoor show room, sales offices, finance department and administrative offices. Page 2 of Tab 1 is a photograph that depicts the main building looking to the north. The service department is located immediately east of the main building and can be seen in the above referenced photograph. Behind the service building along the Property’s east boundary line, there is a 1,760 square foot building used for washing/detailing vehicles. That building was the subject of a June 23, 2014 Type II decision approving the replacement of the old 700 square foot building with a larger 1,760 square foot building.

Lithia Subaru’s understanding is that the Property has been used as a retail automobile dealership for 50 years or so. It has been a Subaru dealership since the late 1970s. Lithia believes that, prior to that, it was perhaps a Pontiac or Buick dealership.

The structure that is involved in this application is a vehicle inventory storage/housing area immediately north of the main dealership building. As depicted in the third photograph in Tab 1 which shows the service building entrance and detailing shop, the primary entrance to the

existing parking structure is from 15th Street. The surface of the existing structure is more or less level, but the property slopes up toward Main Street. Thus, the west end of the existing structure near Main Street is significantly below grade. (The floor of the existing structure slopes slightly down toward the west). There is a retaining wall at the northwest end of the structure approximately 20 feet from the Main Street right-of-way. Page 4 of Tab 1 is a photograph that depicts the existing structure from 15th Street with the retaining wall in the background. The existing structure can also be accessed from Main Street driving down a ramp and then turning left into the structure. In addition to the existing structure north of the main building, Lithia Subaru maintains two surface lots on the west side of Main Street for storing vehicle inventory, both of which appear on the aerial photograph.

Nature of Use on Property.

Since about 2002, Lithia has been part of the Oregon City community operating a retail automobile dealership at the Property. Its operations have not changed appreciably since that time. Lithia Subaru's use of the property as an automobile dealership includes a number of activities commonly found in a retail automobile dealership, including the sale and leasing of new vehicles, the sale of used vehicles, financing sale and lease transactions, servicing vehicles and detailing/reconditioning vehicles. Housing inventory is an essential component of any dealership.

Lithia prides itself on being a positive contributor to every community in which it operates.

- Lithia's Subaru dealership operates during normal retail business hours;
- Lithia takes active measures to avoid emitting excessive noise or odor from its service department;
- Lithia employs 90 employees, providing jobs in the community;
- Lithia participates in a recycling program of many of the materials it uses in its operations and properly disposes of any material it cannot recycle;

Lithia Subaru's Proposal.

As noted above, currently Lithia Subaru houses its inventory in three areas, the two surface lots on the west side of Main Street and the existing structure next to the dealership's main sales building. As the photographs illustrate, that structure is the most convenient and safe area for inventory because people do not have to cross Main Street to retrieve vehicles for customers, or take customers there.

Lithia Subaru is proposing to add a level to the existing structure. Included with the Application at Tab 2 are a set of plans illustrating the existing structure and the proposed addition. Included at Tab 3 is an elevation drawing that depicts how the proposed added level will appear from 15th Street, after the required landscaping is installed. Lithia believes that its proposal will improve the streetscape and enhance the pedestrian experience in the vicinity consistent with the purposes of the Downtown Design District.

As the plans reflect, the existing structure will be retained. The proposed structure will be accessed similarly to the existing structure: from 15th Street, vehicles will be able to drive as they did, slightly downhill into the lower level. The proposed new level of the structure will be roughly at the same grade as the entrance from 15th Street, allowing vehicles to drive onto that level. The proposed level rises in elevation slightly as it extends toward Main Street so that at the west end, it will be at the same level as Main Street. The proposed structure itself will not be higher than the Main Street elevation. With the proposed landscaping on the other improvements, the addition to the existing structure will improve the sidewalk corridor and enhance the streetscape.

The proposed structure will not be used for any activity for which the existing structure is not already used. It will be used to house vehicle inventory. The proposed structure will allow more of the inventory to be housed closer to the main building. Lithia Subaru's operations conducted on the Property will remain unchanged. Lithia Subaru will continue to operate the retail automobile dealership offering the exact same services; it is not adding any activities or uses to its operations.

Applicable Criteria.

Procedure.

17.50.010 Purpose.

This chapter provides the procedures by which Oregon City reviews and decides upon applications for all permits relating to the use of land authorized by ORS Chapters 92, 197 and 227. These permits include all forms of land divisions, land use, limited land use and expedited land division and legislative enactments and amendments to the Oregon City comprehensive plan and Titles 16 and 17 of this code. Pursuant to ORS 227.175, any applicant may elect to consolidate applications for two or more related permits needed for a single development project. Any grading activity associated with development shall be subject to preliminary review as part of the review process for the underlying development. It is the express policy of the city that development review not be segmented into discrete parts in a manner that precludes a comprehensive review of the entire development and its cumulative impacts.

Response. Staff has advised Lithia Subaru that it is appropriate under the Code to request an interpretation on whether the proposed parking deck is a permitted expansion of a non-conforming structure in a separate application before Lithia Subaru proceeds with a further application for site plan and design review.

17.50.030 Summary of the City's decision-making processes.

OCCMC, section 17.50.030 includes a chart that identifies the type of process that must be used for various land use application. It specifies that for a code interpretation, an applicant must proceed with a Type II review process.

Response. Lithia Subaru is initiating a Type III review by the Planning Commission.

17.50.050 Pre-application conference.

OCMC 17.50.050 recites that prior to submitting any form of permit, the applicant shall schedule and attend a pre-application conference with City staff to discuss the proposal.

Response. Through its project architect, LRS Architects, Lithia Subaru initiated a pre-application conference and participated in that conference on November 14, 2017. Included at Tab 4 are the notes from that pre-application conference.

17.50.055 Neighborhood Association Meeting.

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.

Response. The current application seeks only an interpretation from the planning commission on the application of a specific code provision to the Property. Lithia Subaru does not believe a neighborhood association meeting will assist in the City's processing of the current request. If the Planning Commission issues the interpretation Lithia Subaru is requesting, Lithia Subaru will be filing a detailed application seeking site plan review and design review. Lithia Subaru will be required to conduct a neighborhood association meeting before proceeding with those requests and the information from the neighborhood association is likely to be more beneficial to Lithia Subaru and the City.

17.50.060 Application Requirements.

A permit application may only be initiated by the record property owner or contract purchaser, the city commission or planning commission. If there is more than one record owner, then the city will not accept an application without signed authorization from all record owners. All permit applications must be submitted on the form provided by the city, along with the appropriate fee and all necessary supporting documentation and information, sufficient to demonstrate compliance with all applicable approval criteria. The applicant has the burden of demonstrating, with evidence, that all applicable approval criteria are, or can be, met.

Response. Lithia Subaru is the owner of the Property and is submitting the application using the form provided by the City. Lithia Subaru has included the proper fee and all material required for the Planning Commission to review its request.

17.50.080 Complete Application – Required Information.

OCMC 17.50.080 lists the material necessary for the City to deem the application complete.

Response. Lithia Subaru believes that it has included all of the material necessary for a complete application.

Substantive Requirements.

Lithia Subaru is seeking a code interpretation that its proposed addition to the existing structure is an expansion of an existing non-conforming structure that can be approved after review, and is not an expansion of a non-conforming use, or an intensification of a non-conforming use. Below is Lithia Subaru's substantive support for its requested interpretation.

Lithia Subaru's proposal is an expansion of a non-conforming structure.

Consistent with its approval for the expanded vehicle washing/detailing structure in 2014 mentioned earlier, OCMC 17.58.040.C allows for the expansion of non-conforming structures. In considering a request to expand a non-conforming structure, the decision-maker weighs the proposal's positive and negative features and the public convenience or necessity to be served against adverse conditions that would result from authorizing the particular development at the location.

The existing vehicle storage is a structure under the plain text in the code. OCMC 17.04.1215 defines a structure as: "anything constructed or erected that requires location on the ground or attached to something having location on the ground." Plainly, the existing parking area is a structure. It is something constructed that requires location on the ground. Moreover, it is not simply a flat area of pavement, although that too would meet the clear definition of a structure. The parking area has a cement retaining wall that defines part of its perimeter.

Lithia Subaru's current proposal is consistent with its proposal in 2014, to expand an existing structure to also use as an integral part of its retail operations. In 2014, the City approved an expansion of another building on the site from 706 square feet to 1,760 square feet to increase the area the dealership uses for detailing/washing vehicles. The City approved a request to remove the smaller building and replace it with a building more than twice as large. That approval is consistent with our analysis above. The dealership had a vehicle washing/detailing structure as part of the use that became non-conforming. The approval allowed an expansion of the area used for that activity, establishing that, under the City's code, added building area for an existing activity was not an expansion of the underlying non-conforming use.

The proposal to add a deck on top of the existing parking structure should be considered an expansion of a structure as opposed to an expansion of the underlying use. If the existing structure is non-conforming, Lithia Subaru must apply for approval to expand it under OCMC 17.58.040.

Lithia Subaru is not expanding or intensifying the non-conforming Use of the Property.

The proposed addition to the existing structure is not an expansion of the existing use of the property. The first step in evaluating almost all non-conforming use issues is to determine the nature and scope of the use that became non-conforming. Most of the case law discussing non-conforming uses involves decisions at the county level as opposed to a city level, but on the core elements of the proper analysis, that law is helpful. Previously LUBA announced that, in determining an issue over alterations of non-conforming use, the local government must determine: (1) whether the use was lawfully established when the restrictive zoning was applied; (2) the nature and extent of such use when it became non-conforming; (3) whether the use has been discontinued

or abandoned; and (4) whether any proposed alteration complies with the standards governing non-conforming uses. *Tykla v. Clackamas County*, 28 Or LUBA 417 (1994). In a different context involving a question of whether the circuit court has jurisdiction to decide an enforcement action before the county made a final determination on the nature and scope of a non-conforming use, the court of appeals applied a similar analysis. *Rogue Advocates v. Board of Commissioners of Jackson County*, 277 Or App 651 (2016).

A lawful non-conforming use can consist of multiple activities, as long as they are part of the use that became non-conforming. *River City Disposal and Recycling v. City of Portland*, 35 Or LUBA 360 (1998). The “use” would include all of the activities, as long as they were lawful when they began. In that case, the owner established a sewer contracting business that included activities associated with that use. Subsequently, a recycling operator began to operate recycling activities on the site. Ultimately, LUBA agreed with the hearings officer that there was not substantial evidence to support a conclusion that certain activities and structures were established as part of the use that became non-conforming. In other words, adding new uses and activities to the site was an expansion of the original non-conforming use.

In this instance, the use of the subject property is for a retail Subaru automobile dealership. The dealership has a number of elements including an indoor showroom, offices, a service area, a vehicle washing/detailing building and parking areas for inventory. None of those elements are independent primary uses.

Lithia Subaru’s proposal to add a level to an existing parking structure is not an expansion of the use. The use of the property will remain the same Subaru dealership. Unlike the situation in *River City Recycling*, the applicant is not proposing to add any uses or activities. Storage for inventory has always been an element of the dealership as it is with any retail automobile dealership. It would perhaps be different if the proposal was for some use never conducted as part of the dealership, for example a café for customers to eat at, or a vehicle rental operation. Those are uses that were not part of the dealership when it became non-conforming and thus would likely constitute an expansion of the non-conforming use. The mere fact that the dealership may be able to store more of its vehicles closer to the main building is not an expansion of the use. Currently, the dealership has two surface parking/storage areas across Main Street. The proposed parking deck will allow more vehicles to be stored closer to the main building, but is not an intensification of the existing use. The dealership will continue to operate exactly as it has for years.

Conclusion.

Lithia Subaru respectfully submits that its proposal to add a second level to the existing vehicle inventory storage area constitutes an expansion of a lawfully existing non-conforming structure and is not an expansion or intensification of a non-conforming use. Lithia Subaru respectfully requests that the Planning Commission render an interpretation that Lithia Subaru’s proposed second level of the existing vehicle inventory storage structure is not an expansion of a non-conforming use.

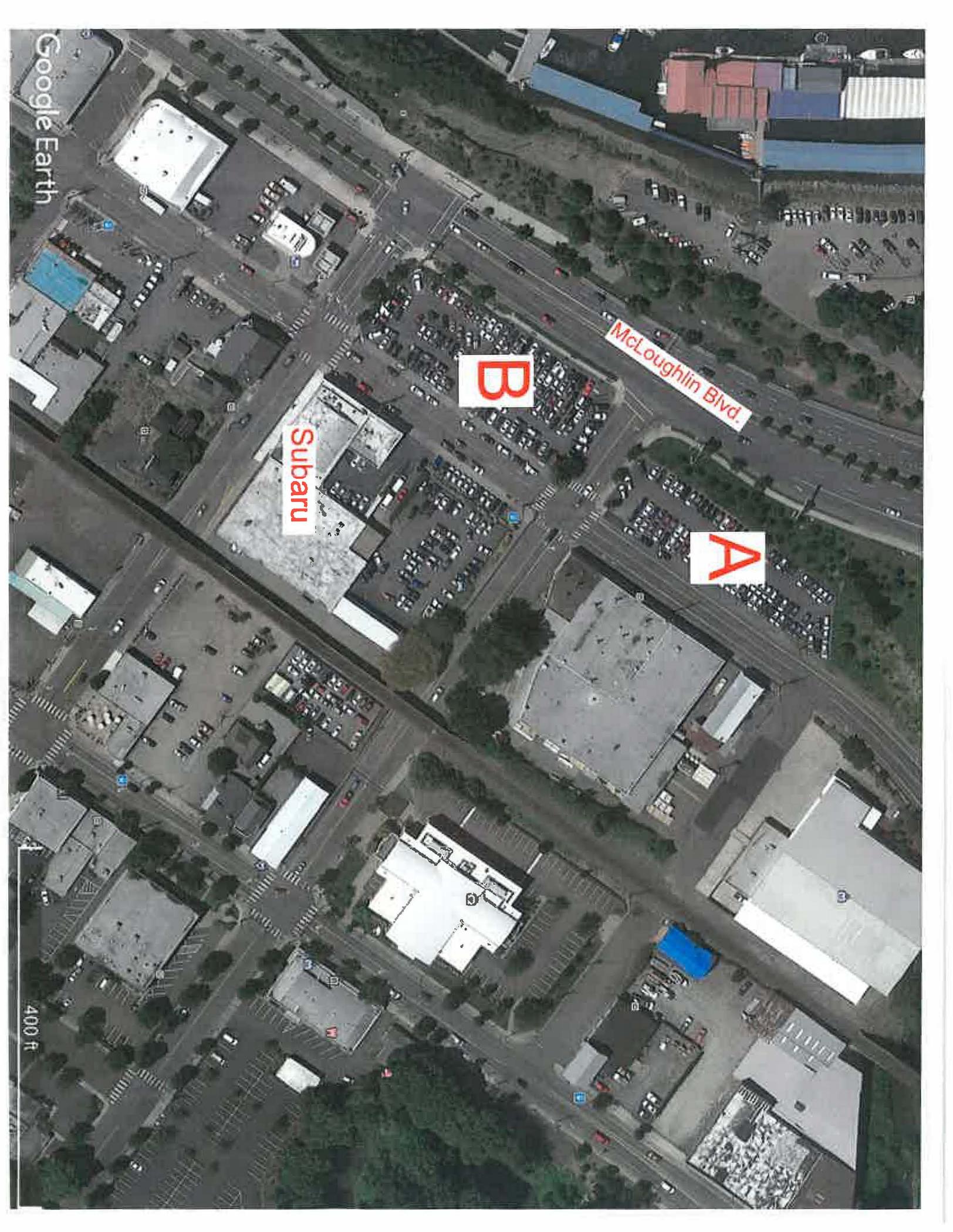
TAB 1

McLoughlin Blvd

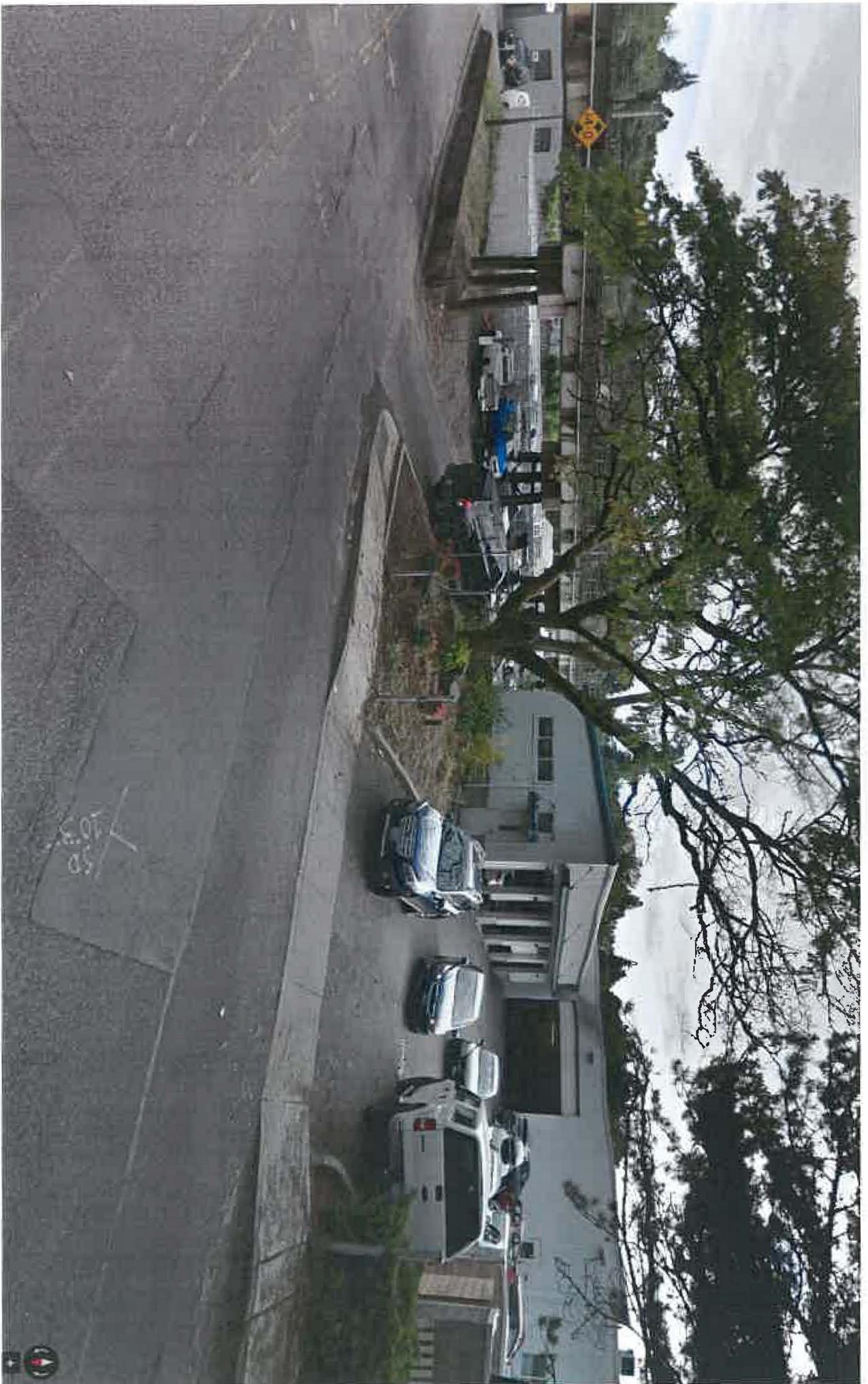
B

Subaru

A









TAB 2

LITHIA AUTO STORES

PARKING DECK CONCEPT PLAN
00-27-2017

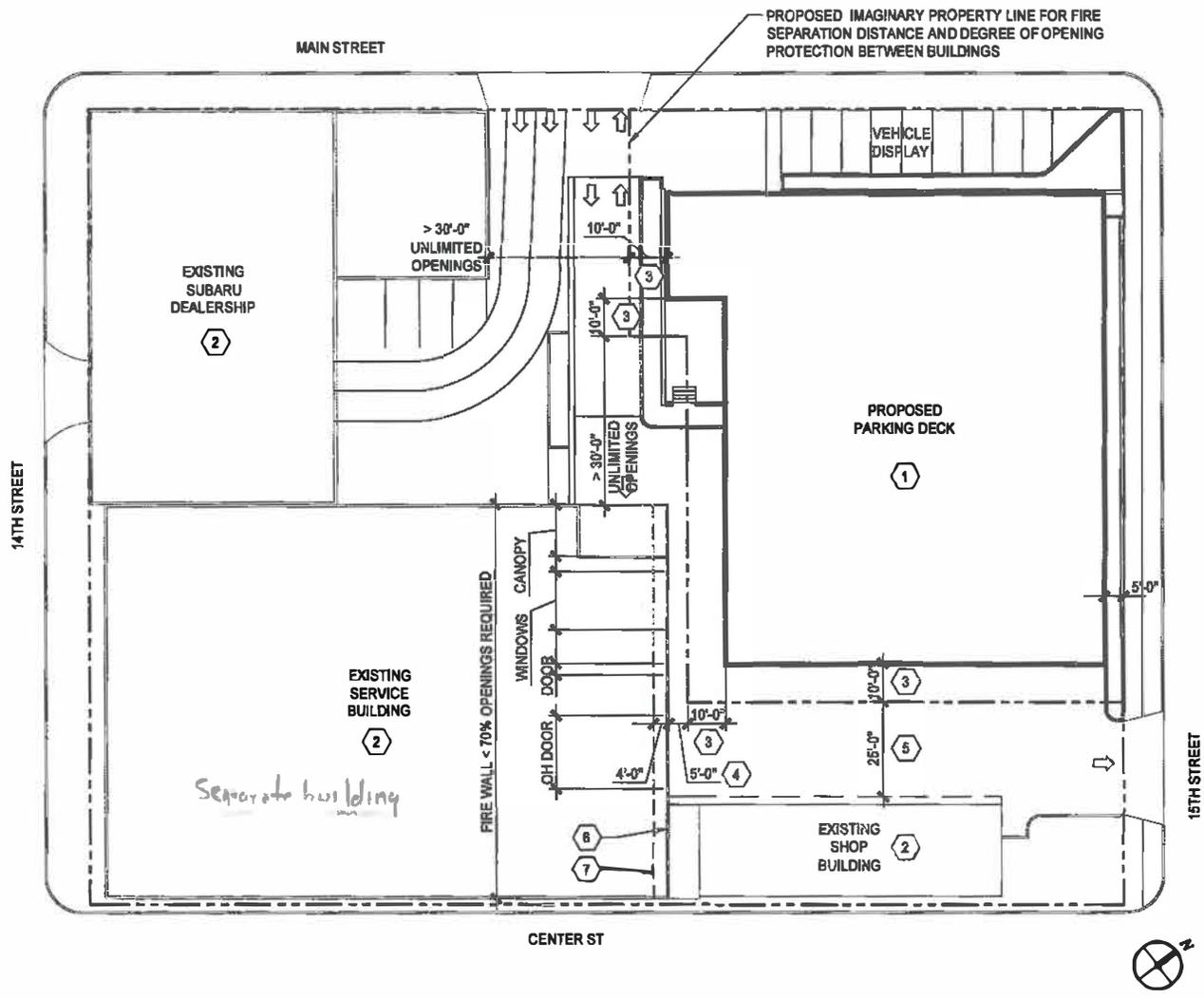
LITHIA SUBARU OF OREGON CITY
PROJECT NO. 217287

 LRS
ARCHITECTS



AERIAL PHOTO - EXISTING
09-27-2011 N.T.S.

LITHIA SUBARU OF OREGON CITY
PROJECT NO. 217287

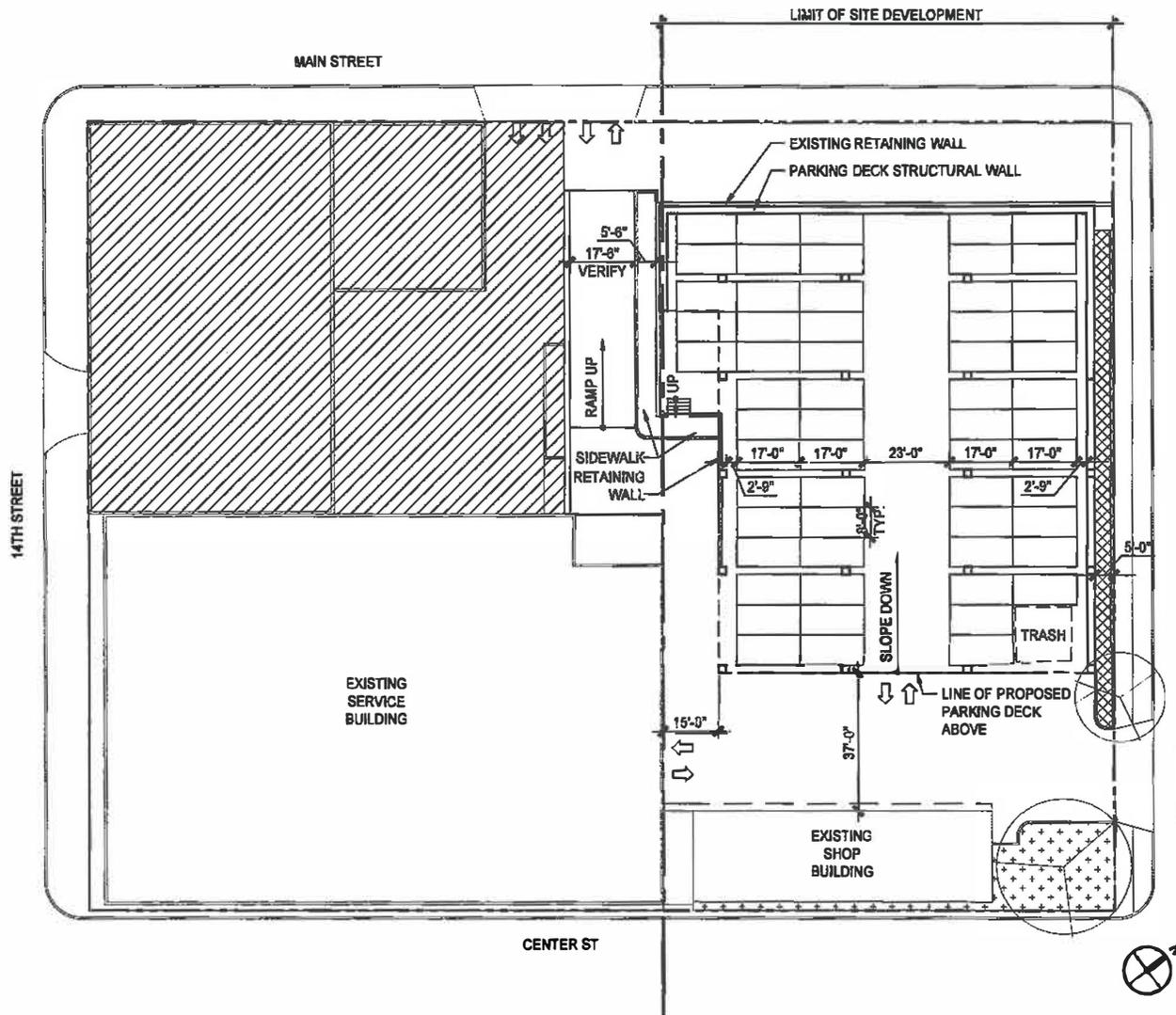


GENERAL NOTES

- A. ALL SETBACKS AND DIMENSIONS ARE APPROXIMATE AND TO BE CONFIRMED WITH SURVEY AND LOCAL CODE OFFICIAL.

KEYNOTES

- 1 PROPOSED PARKING DECK TO BE EQUIPPED THROUGHOUT WITH AUTOMATIC FIRE SPRINKLER SYSTEM.
- 2 EXISTING BUILDINGS ON SITE ASSUMED TO BE UNPROTECTED, NON-SPRINKLERED (VERIFY).
- 3 THE AREA OF OPENINGS IN AN OPEN PARKING STRUCTURE WITH FIRE SEPARATION DISTANCE OF 10' OR GREATER SHALL NOT BE LIMITED (TABLE 705.8, g).
- 4 FIRE SEPARATION DISTANCE (5' TO LESS THAN 10') ALLOWS FOR UP TO 10% OPENINGS. ALTERNATE: IF OPENINGS ARE PROTECTED, ALLOWS FOR 25% OPENINGS. INCLUDES 3'-0" MAN DOOR AND LARGE OH DOOR.
- 5 FIRE SEPARATION DISTANCE (25' TO LESS THAN 30') ALLOWS FOR UP TO 70% OPENINGS.
- 6 WALL REQUIRED TO BE CLASSIFIED AS FIRE WALL
- 7 4'-0" OF FIRE RESISTIVE PLYWOOD DECK REQUIRED AT ROOF ASSEMBLY.



GENERAL NOTES

- ALL SETBACKS AND DIMENSIONS ARE APPROXIMATE AND TO BE CONFIRMED WITH SURVEY AND LOCAL CODE OFFICIAL.
- REFER TO CODE ANALYSIS SITE PLAN FOR REQUIRED SETBACKS AND CODE ASSUMPTIONS.

LEGEND

- EXISTING LANDSCAPE
- PROPOSED LANDSCAPE
- BUILDING AREAS NOT OCCUPIED AT THIS LEVEL

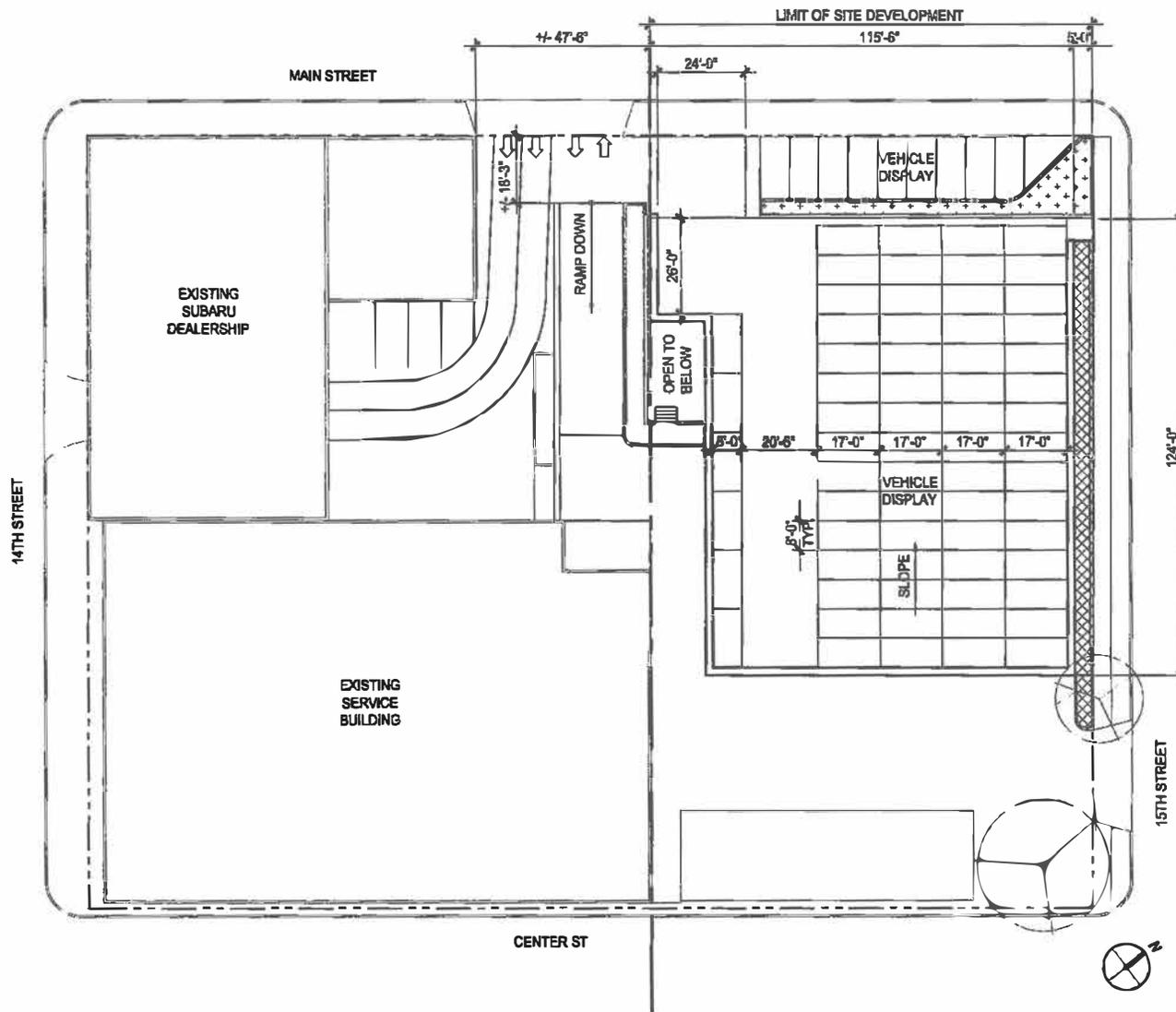
SITE CALCULATIONS

PARTIAL SITE DEVELOPMENT AREA SUMMARY

PARTIAL SITE AREA:	25,305 SF
LANDSCAPE REQUIRED (10% MIN):	2,531 SF
(E) LOWER LEVEL LANDSCAPE TO REMAIN:	+/- 889 SF
(E) MAIN STREET LANDSCAPE TO REMAIN:	+/- 511 SF
ADDED 15TH STREET LANDSCAPE:	852 SF
TOTAL LANDSCAPE PROPOSED:	2,052 SF (8.1%)

PARKING / DISPLAY SUMMARY

LOWER LEVEL	59 STALLS (8' X 17')
MAIN STREET LEVEL DISPLAY	68 STALLS (8' X 17')
MAIN STREET SURFACE DISPLAY	9 STALLS (8' X 17')
PARKING / DISPLAY TOTAL	134 STALLS



GENERAL NOTES

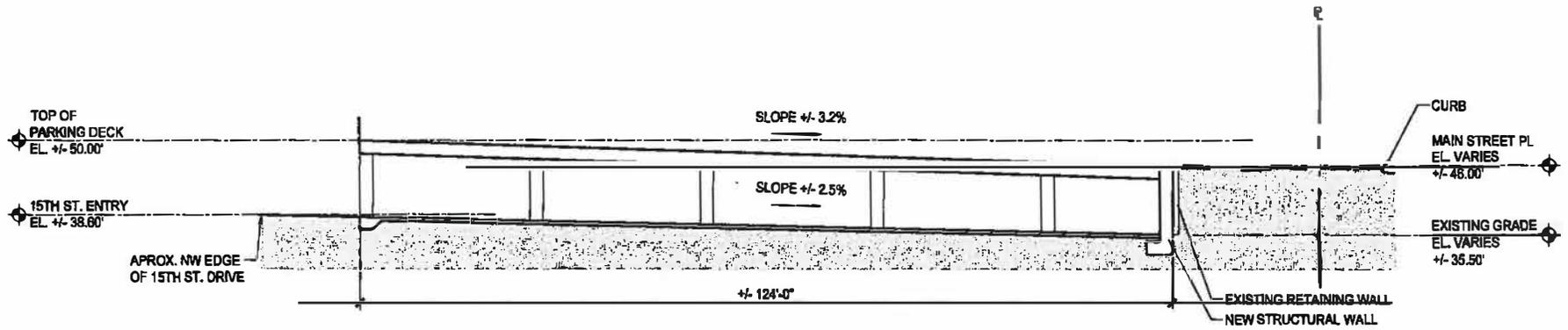
- A. ALL SETBACKS AND DIMENSIONS ARE APPROXIMATE AND TO BE CONFIRMED WITH SURVEY AND LOCAL CODE OFFICIAL.
- B. REFER TO CODE ANALYSIS SITE PLAN FOR REQUIRED SETBACKS AND CODE ASSUMPTIONS.

LEGEND

- EXISTING LANDSCAPE
- PROPOSED LANDSCAPE

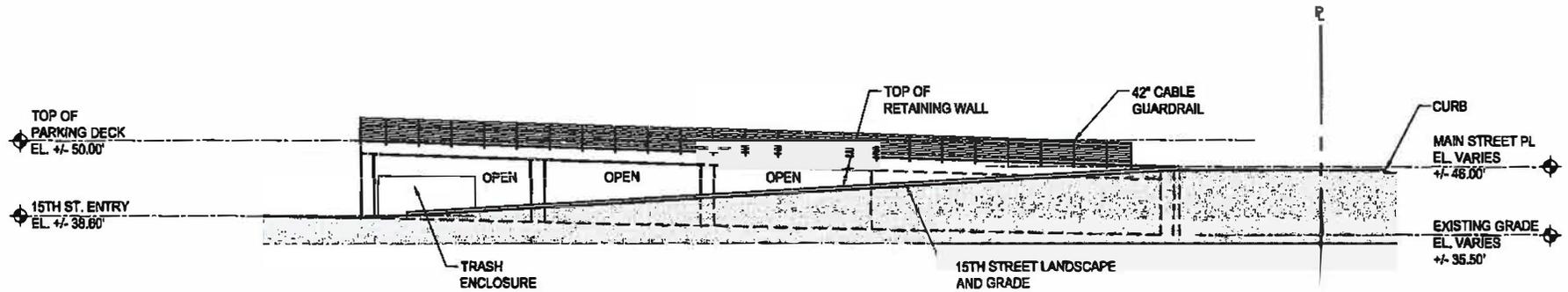
SITE CALCULATIONS

SEE LOWER LEVEL FOR LANDSCAPE AREA CALCULATIONS AND PARKING SUMMARY



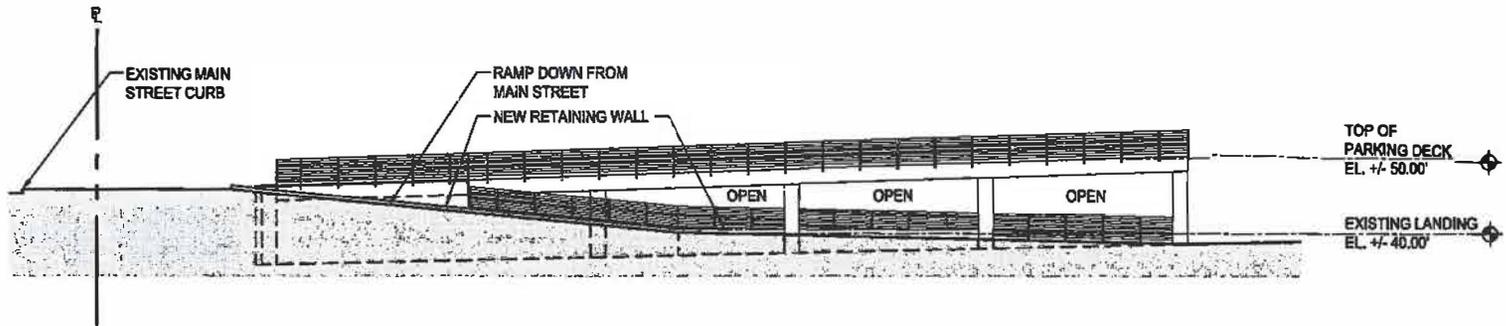
1. BUILDING SECTION

SCALE: 1/16" = 1'-0"



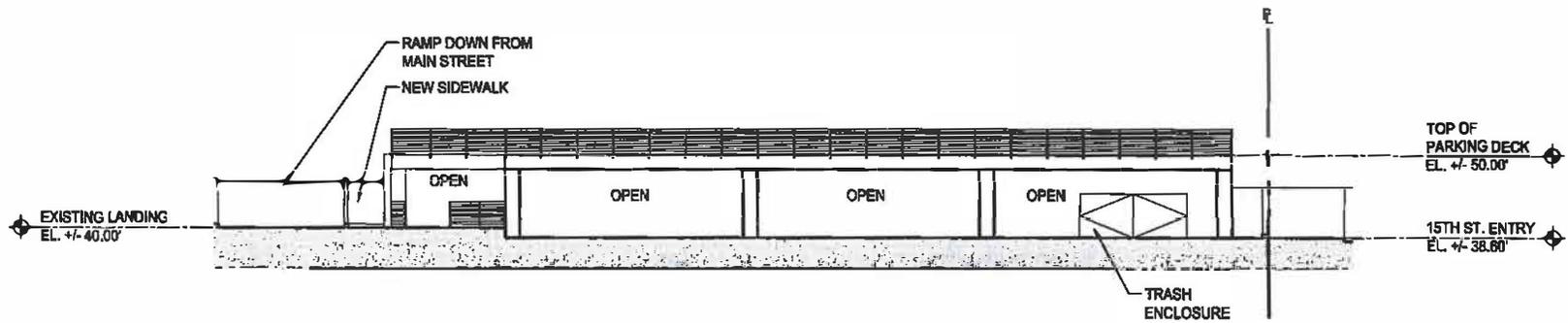
2. NORTHEAST ELEVATION

SCALE: 1/16" = 1'-0"



3. SOUTHWEST ELEVATION

SCALE: 1/16" = 1'-0"



4. SOUTHEAST ELEVATION

SCALE: 1/16" = 1'-0"

TAB 3



1. EXISTING VIEW FROM 15TH STREET

SCALE: NTS



2. PROPOSED ELEVATION AT 15TH STREET

SCALE: 1/16" = 1'-0"

TAB 4



Pre-Application Conference Notes

PA 17-65, November 14, 2017

Proposed Project:

New Parking Structure

Location:

1404 Main Street, Oregon City, OR 97045
Clackamas County Map 2-2E-30DD, Tax Lot 1000

General Information:

- Zoning: "MUD" Mixed Use Downtown
- Overlay Districts
 - Floodplain Overlay
 - Geologic Hazards
 - High Water Table
- Applications anticipated:
 - Site Plan and Design Review
 - Code Interpretation
 - Variance

Timing and Process:

This application is a **Type II** decision process involving a site plan and design review application. Pursuant with OCMC Section 17.50.050, a pre-application conference is valid for a period of six months. The applicant has **180 days** from the date of submittal of a land use application to have a complete application.

Upon a complete application submittal, the applicant is entitled to a decision from the city of approval, approval with conditions, or denial within **120 days** by state law. Type II decisions are rendered by the Community Development Director, with appeal on the record to the City Commission, and then LUBA.

Type II decisions are based on the code approval criteria and require limited discretion by the Community Development staff for approval. Staff is not authorized to waive any requirements of the code except for modifications through Chapter 12.04.

If a Planning Commission Parking Adjustment application is requested, a **Type III** application process would be required. Type III decision require a minimum of one public hearing before the Planning Commission and 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.

A Zone Change/Comprehensive Plan Amendment triggers a **Type IV** process. Type IV decisions require a minimum of one public hearing before the Planning Commission and one before the City Commission, and involve the greatest amount of discretion and evaluation of subjective approval standards.

Lawful Non-Conforming Use:

- A lawful non-conforming use may not be expanded or intensified per OCMC 17.58.030

- Motor vehicle sales and outdoor storage and sales are a prohibited use in the MUD District.
- The applicant may apply for a code interpretation where the Planning Commission would make a determination whether or not the addition of a second parking level does not constitute

Site Plan and Design Review

Items to consider:

- Per the OCMC, parking structures are subject to all parking lot standards in OCMC 17.52. The applicant may apply for a code interpretation where the Planning Commission would make a determination whether or not certain standards in OCMC 17.52 are not applicable to parking structures.
- The OCMC does not specify minimum and maximum parking requirements for automobile sales/automobile storage. The applicant may provide justification for the number of stalls based on
- The proposed parking stalls don't appear to meet parking dimensions as identified in OCMC 17.52.030.D.
- Up to 35% of the minimum required parking may be compact while the remaining required parking stalls must comply with the standard dimensions.
- The application must demonstrate compliance with parking lot and site landscaping standards
- Pedestrian circulation system standards in OCMC Section 17.62.050.A.9.
- Connections to adjacent commercially zoned sites through the use of vehicular and pedestrian access easements are required.
- Per OCMC 17.62.050.A.2.a, parking areas must be located behind buildings, below buildings or to the sides of buildings. Existing parking areas may be reconfigured but not expanded. A variance for parking in front of the building may be requested.
- Per the OCMC, parking structures are subject to all parking lot standards in OCMC 17.52. The applicant may apply for a code interpretation where the Planning Commission would make a determination whether or not certain standards in OCMC 17.52 are not applicable to parking structures. Alternatively, a variance application to certain standards may be submitted.

Additional items to provide. The City could not review compliance with the items below:

- A tree removal, protection and mitigation plan is required pursuant with OCMC 17.41 by qualified professional
- Landscaping plan by a landscape architect or other qualified professional
 - 15% of the lot must be landscaped
- Refuse and recycling enclosures in OCMC Section 17.62.085
- Outdoor lighting standards in OCMC Section 17.62.065.
 - .5 foot-candle on adjacent properties

Planning Commission Adjustment of Parking Standards:

- A Planning Commission adjustment of parking standards is required if the applicant is requesting more than the maximum number of permitted parking stalls. Please note, the code is based on adjustments for parking reductions. The inverse would be required for an increase in parking.
- Approval Criteria for Parking Adjustments
 - 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.
 - 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.
 - 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.

- Minimum of five days (weekends and weekdays)
- Two hour increments during hours of operation
- The onsite parking requirements may be reduced based on the parking vacancy identified in the parking study.
- **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.
- **Compatibility:** The proposal is compatible with the character, scale and existing or planned uses of the surrounding neighborhood.
- **Safety:** The proposal does not significantly impact the safety of adjacent properties and rights-of-way.
- **Services:** The proposal will not create a significant impact to public services, including fire and emergency services.

Variance

- If requesting a variance to standards of the OCMC, please address the approval criteria as they relate to the proposal and the requirement being varied.
 - 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;
 - That the request is the minimum variance that would alleviate the hardship;
 - Granting the variance will equal or exceed the regulation to be modified;
 - Any impacts resulting from the adjustment are mitigated;
 - No practical alternatives have been identified which would accomplish the same purpose and not require a variance.
 - That the variance conforms to the comprehensive plan and the intent of the ordinance being varied.

Transportation Impacts:

The applicant will need to have a traffic engineer conduct a transportation study in conformance with the City's *Guidelines for Transportation Impact Analyses* available on the Oregon City website.

Based on the information provided by the applicant, it appears the transportation analysis associated with this development proposal can be satisfied by submittal of a Transportation Analysis Letter (TAL). This option is available when specific criteria are met. These include a determination that the development generates 24 or fewer AM and PM peak hour trips and fewer than 250 daily trips. Details for a TAL can be found in Section 3.1 of the *Guidelines*. It is the applicant's responsibility to verify the trip generation characteristics of the proposed development.

A primary focus of the TAL should be on site access, including sight distance and adequacy of driveway width. The TAL should also address on-site circulation to ensure that operations on the site do not result in stacking at the site driveways that would cause undo interference with operations on city streets.

The applicant's traffic engineer is welcome to contact the city's traffic engineering consultant, John Replinger, at Replinger-Associates@comcast.net or at 503-719-3383.

Tree Protection/Mitigation and Street Trees

Tree removal outside of the NROD during the land development process is subject to compliance with tree protection and mitigation standards.

- Street trees are subject to OCMC Chapter 12.08
- A street tree plan demonstrating compliance with OCMC 12.08 is required

- The applicant’s submittal should identify species and size of all trees onsite.
- Tree removal is subject to OCMC Chapter 17.41
- Tree protection standards can be found in OCMC Section 17.41.130
- A mitigation plan prepared by a qualified professional is required in accordance with OCMC Chapter 17.41.

Notes:

- A Neighborhood Association meeting is required prior to a complete application. The site is in the Two Rivers Neighborhood Association.
Chair: Bryon Boyce, bryony@birdlink.net
Secretary: Margie Hughes, margiehughes1@aol.com
CIC Representative: Bryon Boyce, bryony@birdlink.net
Upcoming Meetings: 2018 meeting dates TBD
Meeting Location: First City Cycles Bistro, 1800-1866 Main Street, Oregon City, OR 97045
Meeting Time: 7:00PM
- OCMC 17.50.055 requires submittal of the meeting sign-in sheet, a summary of issues discussed, and a letter from the neighborhood association indicating that a meeting was held.
- Your application was transmitted to the State Historic Preservation Office (SHPO) and affected tribes for review. Comments received have been provided.

Planning Review and Application Fees:

The 2017 Planning applications and fees include-

- Site Plan and Design Review:

Construction Cost	Application Fee
Less than \$500,000	\$2,068 plus 0.007 x project cost
\$500,000 to \$3,000,000	\$3,445 plus 0.005 x project cost
Over \$3,000,000	\$11,718 plus 0.003 x project cost
Maximum fee	\$54,964

- Non-Conforming Use Review: \$827
- Code Interpretation/Similar Use: \$1,048 (per application)
- Planning Commission Variance: \$2,496 (per application)
- 2017 Planning Fee Schedule
- Please note, Planning Division fees are set to increase on January 1, 2018

Applications, Checklists and Links

- Type II Review Process
- Type III Review Process
- Land Use Application
- Site Plan and Design Review Construction Cost Form
- Site Plan and Design Review Checklist
- Oregon City Adopted Tree List
- Oregon City Municipal Code

Planning Division

Diliana Vassileva, Assistant Planner with the Oregon City Planning Division reviewed your pre-application submittal for the Planning Division. Diliana may be reached at 503.974.5501 or dvassileva@orc.org.

Development Services Division (Utilities/Public Improvements/SDC’s etc):

Sang Pau, Development Engineering Associate with the Oregon City Development Services Division reviewed your pre-application submittal for the Development Services Division. Sang may be reached at 503.974.5503 or spau@orcite.org.

Building Division:

You may contact Mike Roberts, Building Official at 503.496.1517 or by email at mroberts@orcite.org.

Clackamas Fire District:

Questions can be directed to Mike Boumann, Lieutenant Deputy Fire Marshal of Clackamas Fire District #1. You may contact Mr. Boumann at 503.742.2660 or mike.boumann@ClackamasFire.com.

Oregon City Municipal Code Criteria:

The following chapters of the Oregon City Municipal Code (OCMC) may be applicable to this proposal:

OCMC 12.04 - Streets, Sidewalks and Public Places

OCMC 12.08 - Public and Street Trees

OCMC 13.12 – Stormwater Management

OCMC 15.48 – Grading, Filling and Excavating

OCMC 17.34 – “MUD” Mixed-Use Downtown District

OCMC 17.41- Tree Protection Standards

OCMC 17.50 – Administrative Processes

OCMC 17.52 – Off-Street Parking and Loading

OCMC 17.54.100 – Fences, Hedges and Walls

OCMC 17.58 – Lawful Nonconforming Uses, Structures, and Lots

OCMC 17.60 -- Variances

OCMC 17.62 – Site Plan and Design Review

A template for your submittal with the applicable criteria will be emailed by the City.

Pre-application conferences are required by Section 17.50.050 of the City Code, as follows:

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.*

NOTICE TO APPLICANT: *A property owner may apply for any permit they wish for their property. HOWEVER, THERE ARE NO GUARANTEES THAT ANY APPLICATION WILL BE APPROVED. No decisions are made until all reports and testimony have been submitted. This form will be kept by the Community Development*

Department. A copy will be given to the applicant. IF the applicant does not submit an application within six (6) months from the Pre-application Conference meeting date, a NEW Pre-Application Conference will be required.