OREGON CITY

Community Development – Planning

698 Warner Parrott Road | Oregon City OR 97045
Ph (503) 722-3789 | Fax (503) 722-3880

# LAND USE APPLICATION FORM

| Type I (OCMC 17.50.030.A) | Type II (OCMC 17.50.030.B) | Type III / IV (OCMC 17.50.030.C) |
|---|---|---|
| ☐ Compatibility Review | ☐ Detailed Development Review | ☐ Annexation |
| ☐ Lot Line Adjustment | ☒ Geotechnical Hazards | ☐ Code Interpretation / Similar Use |
| ☐ Non-Conforming Use Review | ☐ Minor Partition (<4 lots) | ☐ Concept Development Plan |
| ☐ Natural Resource (NROD) Verification | ☐ Minor Site Plan & Design Review | ☐ Conditional Use |
| ☐ Site Plan and Design Review | ☐ Non-Conforming Use Review | ☐ Comprehensive Plan Amendment (Text/Map) |
| ☐ Extension of Approval | ☐ Site Plan and Design Review | ☐ Detailed Development Plan |
| | ☐ Subdivision (4+ lots) | ☒ Historic Review |
| | ☐ Minor Variance | ☐ Municipal Code Amendment |
| | ☒ Natural Resource (NROD) Review | ☐ Variance |
| | | ☐ Zone Change |

**File Number(s):** GEO-19-02/HR-19-03/NROD-19-07

Proposed Land Use or Activity: NEW HOME

Project Name: _____ Number of Lots Proposed (If Applicable): _____

Physical Address of Site: 710 3RD AVE OREGON CITY OREGON 97045

Clackamas County Map and Tax Lot Number(s): _____

**Applicant(s):**

Applicant(s) Signature: [signature]

Applicant(s) Name Printed: MARK ZAWADZKI Date: 6/27/19

Mailing Address: 4862 SW GARDEN HOME RD

Phone: 503 806 0807 Fax: _____ Email: ZAWADZKIMARK@GMAIL.COM

**Property Owner(s):**

Property Owner(s) Signature: [signature]

Property Owner(s) Name Printed: N Date: _____

Mailing Address: _____

Phone: _____ Fax: _____ Email: _____

**Representative(s):**

Representative(s) Signature: _____

Representative (s) Name Printed: _____ Date: _____

Mailing Address: _____

Phone: _____ Fax: _____ Email: _____

*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.*

PDF Export Email

Find... 1 of 1 100%

Group Tree

REC-005043-2019

Main Report

# RECEIPT (REC-005043-2019) FOR CITY OF OREGON CITY

**BILLING CONTACT**
Mark Zawadzki
4862 Sw Garden Home
Portland, Or 97219

OREGON CITY

Payment Date: 06/27/2019

| Reference Number | Fee Name | Transaction Type | Payment Method | Amount Paid |
|---|---|---|---|---|
| GEO-19-00002 | Geologic Hazards Review | Fee Payment | Check #3349 | $937.00 |
| 710 3Rd Ave Oregon City, OR 97045 | | | SUB TOTAL | $937.00 |
| HR-19-00003 | Historic Review - New Construction | Fee Payment | Check #3349 | $50.00 |
| | Mailing Labels | Fee Payment | Check #3349 | $17.00 |
| 710 3Rd Ave Oregon City, OR 97045 | | | SUB TOTAL | $67.00 |
| NROD-19-00007 | NROD Review - Type II/III - Single/Two Family Lot | Fee Payment | Check #3349 | $1,056.00 |
| 710 3Rd Ave Oregon City, OR 97045 | | | SUB TOTAL | $1,056.00 |
| | | | TOTAL | $2,060.00 |

June 27, 2019 City of Oregon City 625 Center Street Oregon City, Oregon 97045-0304 Page 1 of 1

# INVOICE (INV-00004605)
# FOR CITY OF OREGON CITY

**BILLING CONTACT**
Mark Zawadzki
4862 SW Garden Home
Portland, OR 97219

| INVOICE NUMBER | INVOICE DATE | INVOICE DUE DATE | INVOICE STATUS | INVOICE DESCRIPTION |
|---|---|---|---|---|
| INV-00004605 | 06/27/2019 | 07/07/2019 | Due | NONE |

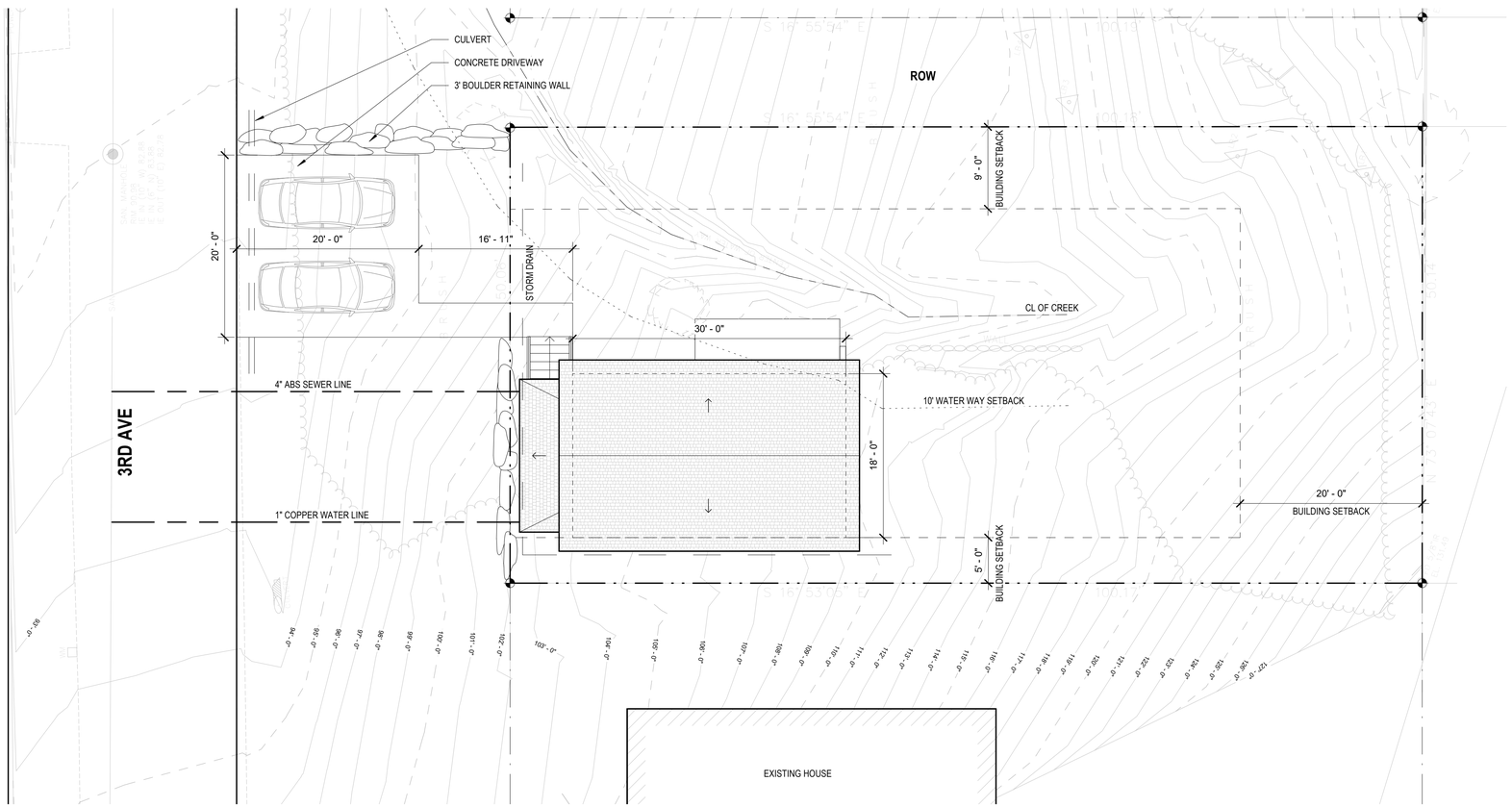
| REFERENCE NUMBER | FEE NAME | TOTAL |
|---|---|---|
| GEO-19-00002 | Geologic Hazards Review | $937.00 |
| 710 3Rd Ave Oregon City, OR 97045 | SUB TOTAL | $937.00 |

| REFERENCE NUMBER | FEE NAME | TOTAL |
|---|---|---|
| HR-19-00003 | Historic Review - New Construction | $50.00 |
| | Mailing Labels | $17.00 |
| 710 3Rd Ave Oregon City, OR 97045 | SUB TOTAL | $67.00 |

| REFERENCE NUMBER | FEE NAME | TOTAL |
|---|---|---|
| NROD-19-00007 | NROD Review - Type II/III - Single/Two Family Lot | $1,056.00 |
| 710 3Rd Ave Oregon City, OR 97045 | SUB TOTAL | $1,056.00 |

| REMITTANCE INFORMATION |
|---|
| City of Oregon City<br>625 Center Street<br>Oregon City, Oregon 97045-0304<br>503-657-0891 City phone<br>503-657-3339 Fax |

| TOTAL | **$2,060.00** |
|---|---|




1 SITE PLAN
1/8" = 1'-0"

N

**LOT COVERAGE:**

| | |
|---|---|
| LOT AREA: | 5,000 SQ. FT. |
| HOUSE AREA: (INCL. OVERHANG) | 939 SQ. FT. |
| DRIVEWAY: | 400 SQ. FT. |
| WALK: | 64 SQ. FT. |
| STAIR: | 28 SQ. FT. |
| DECK: | 96 SQ. FT. |
| STORM DRAIN: | 42 SQ FT. |

1569 SQ. FT. / 5,000 SQ. FT. = **31.38%**

**LEGAL DESCRIPTION:**
TAX LOT 501
--- THIRD AVE.
OREGON CITY, OR 97045
CLACKAMAS COUNTY
WR-01-23
MAP 3S-1E-1AA

**BUILDER:**
MARK ZAWADZKI
(503) 806-0807

**NOTES:**
1. DISPOSE OF STORMWATER PER OREGON CITY DIRECTION.


**OUTSIDE**
ARCHITECTURE

522 N THOMPSON ST. STUDIO 4
PORTLAND, OREGON 97227

971. 319. 1252
OUTSIDE-ARCHITECTURE.COM


NOT FOR CONSTRUCTION

# CANEMAH HOUSE 3

3RD AVE
OREGON CITY, OR, 97045

Revisions:

| No. | Date | Description |
|---|---|---|

PERMIT SET

Project # 19009

SITE PLAN

A1.0

Date: 03.04.2019

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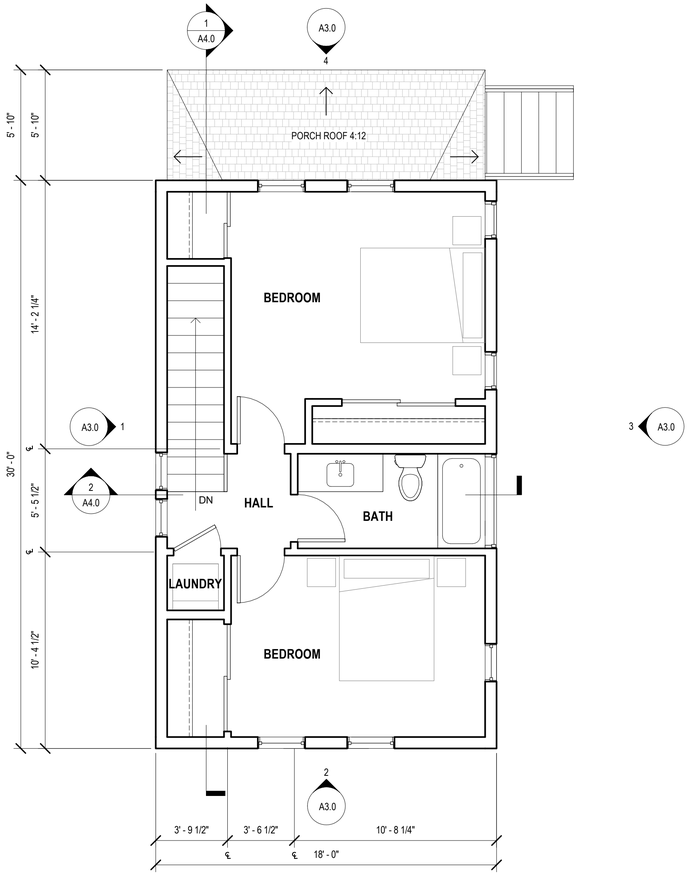
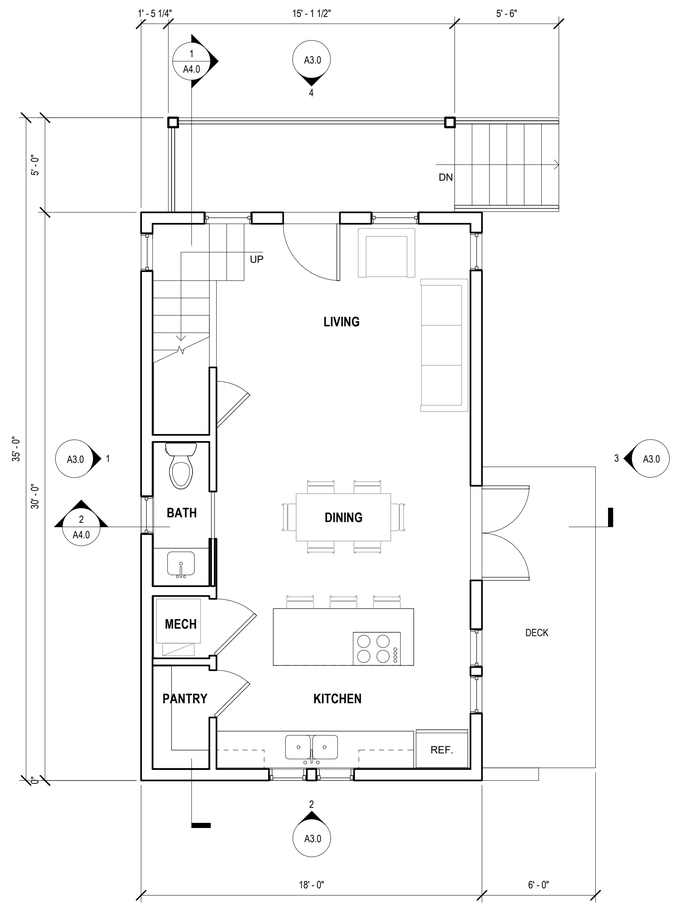
## FLOOR PLAN NOTES

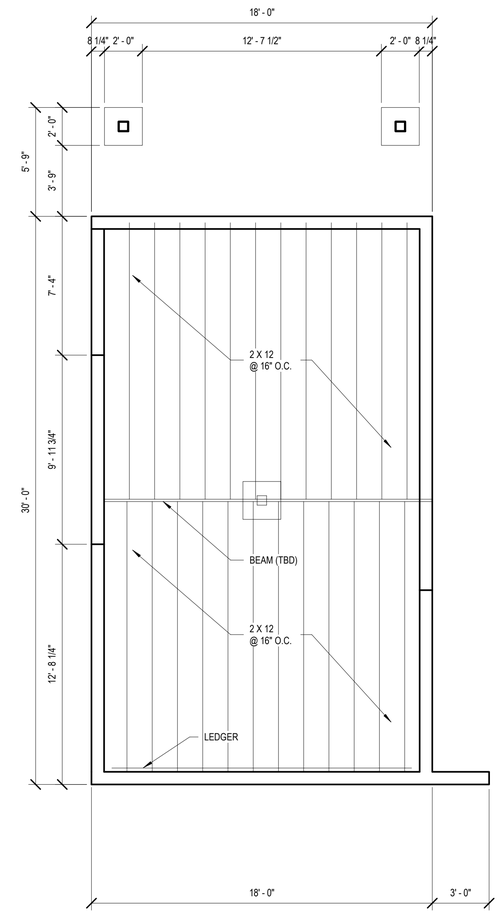
1. SEE A0.0 FOR ALL WALL, FLOOR AND ROOF ASSEMBLY INFORMATION
2. DIMESNIONS SHOWN FROM GRID LINES AND CENTERLINE OF WALL, WINDOW AND DOOR UNLESS NOTED OTHERWISE.
3. MECHANICAL, ELECTRICAL AND PLUMBING SHOWN IN GENERAL CONCEPT ONLY, FINAL EXECUTION BY DESIGN-BUILD CONTRACTOR.
4. CASEWORK SHOWN TO BE FULLY DETAILED BY DESIGN-BUILD INSTALLER.




3 UPPER LEVEL PLAN
1/4" = 1'-0"




2 MAIN LEVEL PLAN
1/4" = 1'-0"




1 FRAMING PLAN
1/4" = 1'-0"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NOT FOR CONSTRUCTION

# CANEMAH HOUSE 3

3RD AVE
OREGON CITY, OR, 97045

Revisions:

| No. | Date | Description |
|---|---|---|

PERMIT SET

Project # 19009

FLOOR PLANS

A2.0

Date: 03.04.2019

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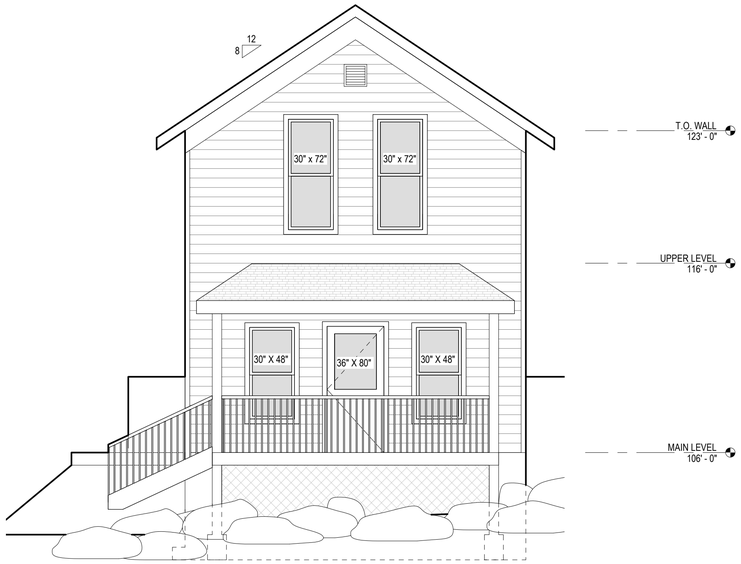
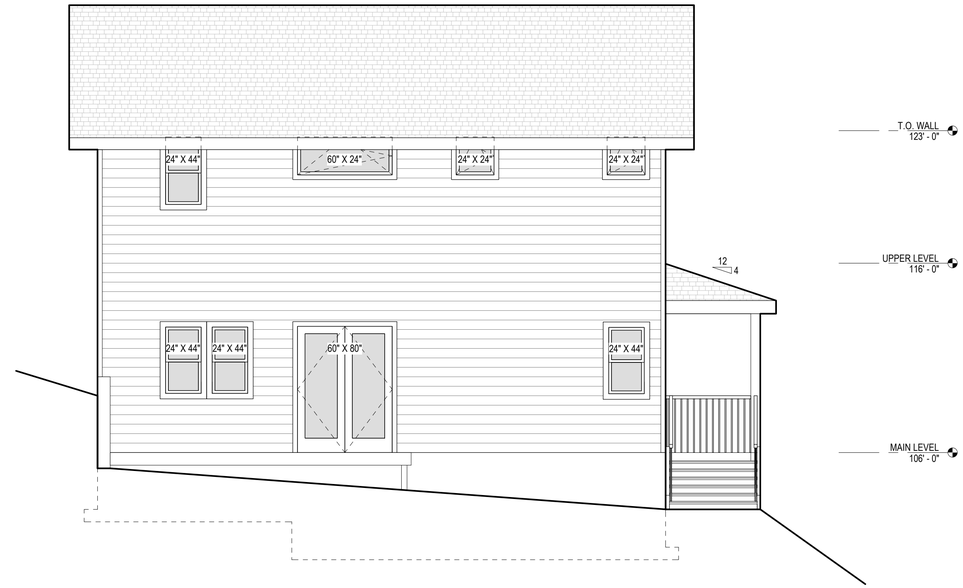
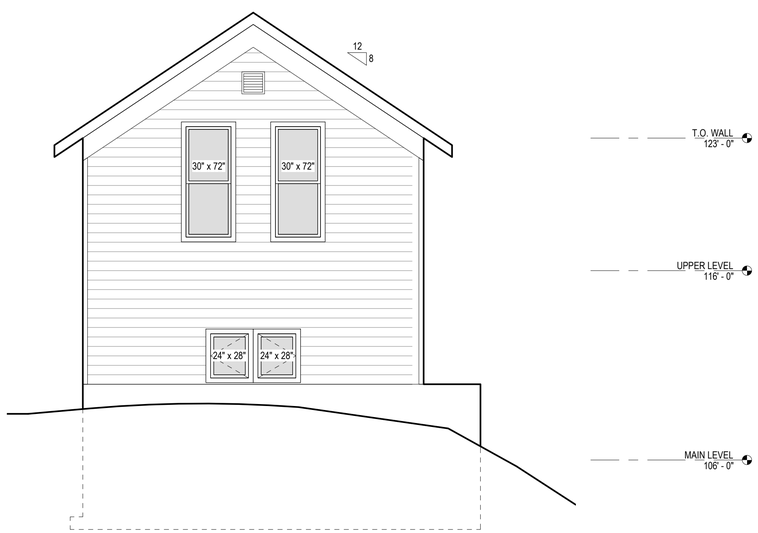


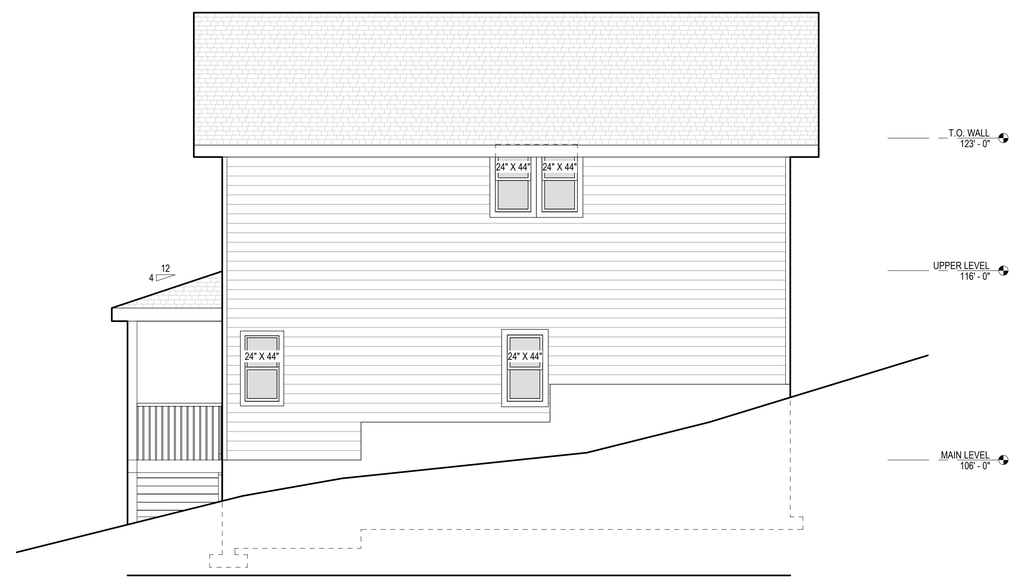

4 NORTH ELEVATION
1/4" = 1'-0"




3 WEST ELEVATION
1/4" = 1'-0"




2 SOUTH ELEVATION
1/4" = 1'-0"




1 EAST ELEVATION
1/4" = 1'-0"

**OUTSIDE**
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NOT FOR CONSTRUCTION

# CANEMAH HOUSE 3

3RD AVE
OREGON CITY, OR, 97045

Revisions:

| No. | Date | Description |
|---|---|---|

PERMIT SET

Project # 19009

EXTERIOR ELEVATIONS
A3.0

Date: 03.04.2019

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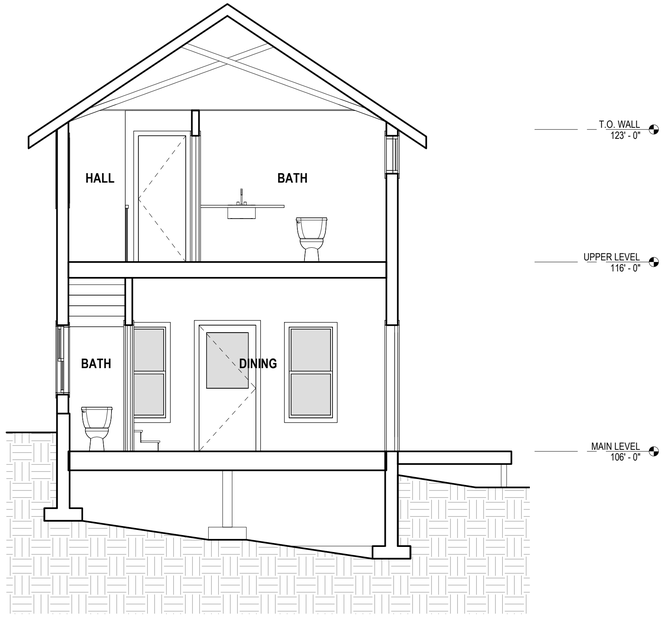


2 SOUTH SECTION

1/4" = 1'-0"

1 EAST SECTION

1/4" = 1'-0"

**OUTSIDE**
ARCHITECTURE

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NOT FOR CONSTRUCTION

CANEMAH HOUSE 3

3RD AVE
OREGON CITY, OR, 97045

Revisions:

| No. | Date | Description |
|---|---|---|

PERMIT SET

Project # 19009

BUILDING SECTIONS

A4.0

Date: 03.04.2019

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**TYPE III –HISTORIC REVIEW BOARD SUBMITTAL**
***710 3rd Ave, Oregon City***
*November 4, 2019*

I. BACKGROUND:

1. **Existing Conditions:**

   **The site is an undeveloped lot, overgrown with non-native plants, particularly blackberry and ivy.**

2. **Project Description:**

   **A single family home of approximately 1080 square feet with 2 bedrooms and one and a half bathrooms.**

**CODE RESPONSES:**

*17.40.060 - Exterior alteration and new construction.*

*A. Except as provided pursuant to subsection I of this section, no person shall alter any historic site in such a manner as to affect its exterior appearance, nor shall there be any new construction in an historic district, conservation district, historic corridor, or on a landmark site, unless a certificate of appropriateness has previously been issued by the historic review board. Any building addition that is thirty percent or more in area of the historic building (be it individual or cumulative) shall be considered new construction in a district. Further, no major public improvements shall be made in the district unless approved by the board and given a certificate of appropriateness.*

*B. Application for such a certificate shall be made to the planning staff and shall be referred to the historic review board. The application shall be in such form and detail as the board prescribes.*

*C. Archeological Monitoring Recommendation. For all projects that will involve ground disturbance, the applicant shall provide,*

*1. A letter or email from the Oregon State Historic Preservation Office Archaeological Division indicating the level of recommended archeological monitoring on-site, or demonstrate that the applicant had notified the Oregon State Historic Preservation Office and that the Oregon State Historic Preservation Office had not commented within forty-five days of notification by the applicant; and*

*2. A letter or email from the applicable tribal cultural resource representative of the Confederated Tribes of the Grand Ronde, Confederated Tribes of the Siletz, Confederated Tribes of the Umatilla, Confederated Tribes of the Warm Springs and the Confederated Tribes of the Yakama Nation indicating the level of recommended archeological monitoring on-site, or demonstrate that the applicant had notified the applicable tribal cultural resource representative and that the applicable tribal cultural resource representative had not commented within forty-five days of notification by the applicant.*

*If, after forty-five days notice from the applicant, the Oregon State Historic Preservation Office or the applicable tribal cultural resource representative fails to provide comment, the city will not require the letter or email as part of the completeness review. For the purpose of this section, ground disturbance is defined as the movement of native soils.*

*D. [1.] The historic review board, after notice and public hearing held pursuant to Chapter 17.50, shall approve the issuance, approve the issuance with conditions or disapprove issuance of the certificate of appropriateness.*

*F. For construction of new structures in an historic or conservation district, or on an historic site, the criteria to be used by the board in reaching its decision on the certificate of appropriateness shall include the following:*

1. *The purpose of the historic conservation district as set forth in Section 17.40.010;*

2. *The provisions of the city comprehensive plan;*

3. *The economic effect of the new proposed structure on the historic value of the district or historic site;*

4. *The effect of the proposed new structure on the historic value of the district or historic site;*

5. *The general compatibility of the exterior design, arrangement, proportion, detail, scale, color, texture and materials proposed to be used in the construction of the new building or structure;*

   **Applicant response:**
   **The proposed house will be similar to the new house built by the applicant next door at 704 3rd Ave. Although smaller, the proportions and detail are similar, and both will be gray with white trim.**

6. *Economic, social, environmental and energy consequences;*

7. *Design guidelines adopted by the historic review board.*

**Design Guidelines for New Construction - Canemah**

1. **STYLE**
   New construction shall complement one of these styles to support the historic context. Use of other styles dilutes and distracts from the historic context of the district.
   While there may be several styles dominant within the district, the specific choice of a style shall be compatible with adjacent properties, the block, and the neighborhood. It also must be fitting for the particular function of the building and its size.

**Applicant response:**

**The proposed new single family home is designed in the vernacular style as found on the several existing vernacular style houses on 3rd Ave, including the new house immediately adjacent, built by the applicant. The drawings previously submitted show the style and characteristics of the proposed house, which is similar to the new house at 704 3rd Ave**.

2. **SITE**

Siting principles involve both how the site is used and how the building(s) is placed within the site. The specific lot location and its topography can dictate many requirements.
Residential buildings are to face the street squarely with their primary face in full view, and to be set back from lot lines and be spaced from one another similar to the immediate neighborhood. The primary structure is to be placed in the primary position with accessory structures in a service or ancillary position except where topography is an issue. Yard area between the house and street to primarily be planted with minimal paving

only for pedestrian access and for vehicle movement. More private activity spaces to be located at the less public areas of the site.

SITE CHARACTERISTICS OF THE VERNACULAR STYLE IN CANEMAH

- No uniform front setback; South of 3rd Street: houses may face front or side depending on topography.
- Lots range from 50x100 to 100x100 and contain a single house.
- Properties edges often not defined; Where fenced, primarily picket or low slat at front with side or partial returns.
- Planting: South of 3rd Street: forest setting, native and ornamental plantings form visual screen and sense of privacy; Elsewhere on the more level portions: lawn and planted area around buildings.
- House Placement: to suit the existing topography and most level lot portion especially south of 3rd Street.
- Garages Retaining walls: stone, mortared or stacked basalt, or concrete south of 3rd Street, especially in proximity with street.
- Not found historically; informal graveled or paved parking next to street or along house; New garages to be located along side or behind house. Where topography is a concern, locate garage offset from building primary façade, close to street with direct access.
- Accessory Buildings: detached, behind along side of house and located to allow use of particular function.
- Streets: South of 3rd Street: narrow, without curbs or sidewalks; casual pedestrian paths and connecting stairs are encouraged.

**Applicant Response:**

**The site is a 50 x 100 foot lot., and is in an R6 zone. The proposed building meets all dimensional requirements of the R6 zone.**

**The home faces 3rd Ave and is on a level portion of near the front of a steep lot. The house is dug into the hillside to retain the earth of the uphill side. The location of the house is also constrained by the wetlands that run from the back of the property to the front between this proposed house and the house at 704 3rd Ave. The applicant is also submitting application for building in the NROD approval. The location has been reviewed and approved by a geologist and geotechnical engineer. Applicant is planning to have a 4' rock wall in front of the proposed house to help with the steep slope in front of the house.**

**The yard will be planted in a "forest style" with appropriate native plants pursuant to a plan to be submitted.**

**There will be no garage. There will be a concrete pad in the right-of-way (off the street) for parking. Because of the wetlands there is no room for parking on the lot.**

**3. BUILDING FORM**

Address the overall size, shape and bulk of the building. The architectural style used for the building defines many aspects of its appropriate form and proportions. Excessive variation in the size, shape, or configuration creates an inappropriate solution that is stylistically incorrect and not complementary to the district. The building form needs to relate to the buildings in the immediate neighborhood, and to take into account both similarities and changes on the block. The new building form shall reference the principles, proportions and scale of a historically appropriate style.

BUILDING FORM CHARACTERISTICS OF THE VERNACULAR STYLE IN CANEMAH

- Form easily allows additions and alterations such as increases in family size, activities or changing technology; generally smaller in size than McLoughlin.

- Shape: rectangular in plan, with smaller rectangular combinations to primary form; Rectangular or square form reinforced on façade. L-plan, T-plan options.
- Height: Maximum 1 ½ stories in height; Basement option.
- Proportions: Height (eave) to maximum width: 1:1 Height to Depth: can vary greatly.
- Roof: gable, of not less than 8:12 pitch, 10:12 and steeper are preferred. No cross-gable roofs; Possible wing or addition with lower ridgeline that is perpendicular or is offset.

**Applicant Response:**

**The proposed house is 1080 square feet, two bedrooms, one and a half bathrooms and a large open living space on the main floor. It is rectangular in shape with no smaller combinations. It is one and one half stories with no basement. The house will be higher than its width, roughly 24 feet high by 18 feet wide. The roof will have a 8:12 pitch.**

**4. DESIGN COMPOSITION**

Include a range of more detailed design issues that address groups of elements, individual elements, their design and how they relate to the overall composition and finish. The principles place a traditional emphasis on the design's composition as seen from the exterior, rather than as a result of interior functional planning requirements. They also outwardly convey a sense of quality craftsmanship.
The design composition principles, being more detailed, and stylistically dependent, are typically developed after the previous principles are resolved. These principles also reflect historically appropriate materials, respective finishes, and unobtrusive integration of new technology.

DESIGN COMPOSITION CHARACTERISTICS OF THE VERNACULAR STYLE IN CANEMAH

- Lacks rigid system of exterior detailing that makes it a clearly definable architectural style; allows design flexibility and is inherently varied.
- Designed and built without assistance of a trained architect. Collaborative design evolved with homeowner and builder, based on familiar styles, features and products.
- Can combine features from other architectural styles popular during the historic period; simpler designs than McLoughlin.
- Porch: full or partial length at the front entry; if close to the ground, no railings; at main story only.
- Dormers: None.
- Materials: local, readily available.
- Windows: 1:1, double hung windows.
- Siding: horizontal board siding; typically shiplap, or channel; occasionally bevel.
- Ornament: Exterior decoration is modest, consisting of scroll-work brackets at the top of porch pillars, plain cornerboards and simple window trim. Most houses do not feature spindlework in the peaks of their gable roofs.
- Interior fireplaces and chimneys.

**Applicant Response:**

**The house follows the vernacular style. It has a full porch with railings. Although there will be 6 steps up to the porch, additional concrete steps will be needed along the parking area to the front of the house. No dormers. The materials are all local and readily available. Will have Marvin low profile, aluminum/fiberglass, double hung windows. The siding will be smooth, seven inch width, Hardiplank cement siding. There is no exterior ornamentation. There will be no fireplace.**

*17.40.065 - Historic Preservation Incentives.*
*A. Purpose. Historic preservation incentives increase the potential for historically designated properties to be used, protected, renovated, and preserved. Incentives make preservation more attractive to owners of locally designated structures because they provide flexibility and economic opportunities.*
*B. Eligibility for Historic Preservation Incentives. All exterior alterations of designated structures and new construction in historic and conservation districts are eligible for historic preservation incentives if the exterior alteration or new construction has received a certificate of appropriateness from the Historic Review Board per OCMC 17.50.110(c).*
*C. Incentives Allowed. The dimensional standards of the underlying zone as well as for accessory buildings (OCMC 17.54.100) may be adjusted to allow for compatible development if the expansion or new construction is approved through historic design review.*
*D. Process. The applicant must request the incentive at the time of application to the Historic Review Board.*

**Applicant Response:**

**The applicant will not be requesting incentives.**

**ALSO**
**Relevant Character Guidelines:**
Topography (see page 34 of Guidelines)
Landscaping (see page 34 of Guidelines)
Spacing (see page 36 of Guidelines)
Heights (see page 38 of Guidelines)
Widths (see page 38 of Guidelines)
Context Scale (see page 40 of Guidelines)
Volume (see page 40 of Guidelines)
Proportion (see page 44 of Guidelines)
Porches (see page 46 of Guidelines)
Dormers (see page 47 of Guidelines)
Foundations (see page 56 of Guidelines)
Windows (see page 63 of Guidelines)

Staff will review your application based on these guidelines. If you propose anything that does not meet these character guidelines, please include an explanation in your application of how your design differs and why you think it is still compatible with the District.

**TYPE II GEOLOGIC HAZARDS APPLICATION**
**Applicant's Submittal**
*7/9/2019*

**APPLICANT:** Mark Zawadzki
4862 SW Garden Home Road, Portland, OR 97219

**OWNER:** Same

**REQUEST:** Seeking approval for the construction of a single-family home

**LOCATION:** 710 3rd Avenue
Map 3-1E-01AA-00501, Tax Lot 402

## I. BACKGROUND:

1. **Existing Conditions:** Need Type III Historic Review, Type II Geologic Hazards Review, and Type II Natural Resources Review.

2. **Project Description:** Construction of a new single-family home on a 5000 square foot lot **.**

## II. RESPONSES TO THE OREGON CITY MUNICIPAL CODE:

### CHAPTER 17.49 NATURAL RESOURCE OVERLAY DISTRICT

***17.49.050*** *Emergencies*
**Applicant's Response:** This is not in response to an emergency.

***17.49.060*** *Consistency and Relationship to Other Regulations*
*A. Where the provisions of the NROD are less restrictive or conflict with comparable provisions of the Oregon City Municipal Code, other City requirements, regional, state or federal law, the provisions that provides the greater protection of the resource shall govern.*
**Applicant's Response:** Understood and agreed.

***17.49.060.B.*** *Compliance with Federal and State Requirements.*
*a. If the proposed development requires the approval of any other governmental agency, such as the Division of State Lands or the U.S. Army Corps of Engineers, the applicant shall make application for such approval prior to or simultaneously with the submittal of its development application to the City. The planning division shall coordinate City approvals with those of other agencies to the extent necessary and feasible. Any permit issued by the City pursuant to this chapter shall not become valid until other agency approvals have been obtained or those agencies indicate that such approvals are not required.*
*b. The requirements of this chapter apply only to areas within the NROD and to locally significant wetlands that may be added to the boundary during the course of development review pursuant to Section 17.49.035. If, in the course of a development review, evidence suggests that a property outside the NROD may contain a wetland or other protected water resource, the provisions of this chapter shall not be applied to that development review. However, the omission shall not excuse the applicant from satisfying any state and federal wetland requirements which are otherwise applicable. Those requirements apply in addition to, and apart from the requirements of the City's comprehensive plan and this code.*

**Applicant's Response:** Understood and agreed.

**17.49.[0]70** - Prohibited uses.
**Applicant's Response:** Applicant shall not undertake any of the prohibited uses.

***17.49.[0]80*** *–Uses allowed outright (Exempted).*
**Applicant's Response:** Applicant's use is not exempt.

***17.49.090*** *Uses Allowed Under Prescribed Conditions*
**Applicant's Response:** Applicant is proposing construction pursuant to 17.49.[0]90(B).

***17.49.100*** *General Development Standards*
*The following standards apply to all Uses Allowed under Prescribed Conditions within the NROD with the exception of rights of ways (subject to Section 17.49.150), trails (subject to Section 17.49.170), utility lines (subject to Section 17.49.140), land divisions (subject to Section 17.49.160), and mitigation projects (subject to Section 17.49.180 or 17.49.190):*
*A. Native trees may be removed only if they occur within 10 feet of any proposed structures or within 5 feet of new driveways or if deemed not wind-safe by a certified arborist. Trees listed on the Oregon City Nuisance Plant List or Prohibited Plant List are exempt from this standard and may be removed. A protective covenant shall be required for any native trees that remain;*
**Applicant's Response:** Applicant will not remove any native trees more than 10 feet from the structure and no native trees more than 5 feet of the driveway.

***17.49.100.B****. The Community Development Director may allow the landscaping requirements of the base zone, other than landscaping required for parking lots, to be met by preserving, restoring and permanently protecting habitat on development sites in the Natural Resource Overlay District.*
**Applicant's Response:** Understood and agreed.

***17.49.100.C****. All vegetation planted in the NROD shall be native and listed on the Oregon City Native Plant List;*
**Applicant's Response:** Applicant's planting plan (to be submitted to the City) will use only accepted native plants.

***17.49.100.E****. The minimum front, street, or garage setbacks of the base zone may be reduced to any distance between the base zone minimum and zero in order to minimize the disturbance area within the NROD portion of the lot;*
**Applicant's Response:** Applicant will ask to reduce the front setback to five feet in order to minimize the disturbance area.

***17.49.100.F****. Any maximum required setback in any zone, such as for multi-family, commercial or institutional development, may be increased to any distance between the maximum and the distance necessary to minimize the disturbance area within the NROD portion of the lot;*
**Applicant's Response:** Inapplicable

***17.49.100.G****. Fences are allowed only within the disturbance area;*
**Applicant's Response:** Understood and agreed.

***17.49.100.H****. Incandescent lights exceeding 200 watts (or other light types exceeding the brightness of a 200 watt incandescent light) shall be placed or shielded so that they do not shine directly into resource areas;*

**Applicant's Response:** Understood and agreed.

***17.49.100.I**. If development will occur within the 100 yr. floodplain, the FEMA floodplain standards of Chapter 17.42 shall be met; and*
**Applicant's Response:** Not in floodplain.

***17.49.110** Width of Vegetated Corridor.*
*Calculation of Vegetated Corridor Width within City Limits. The NROD consists of a vegetated corridor measured from the top of bank or edge of a protected habitat or water feature. The minimum required width is the amount of buffer required on each side of a stream, or on all sides of a feature if non-linear. The width of the vegetated corridor necessary to adequately protect the habitat or water feature is specified in Table 17.49.110.*
**Applicant's Response:** Applicant will observe the required minimum width as modified by 17.49.120.

***17.49.120** Maximum Disturbance Allowance for Highly Constrained Lots of Record*
**Applicant's Response:** Applicant has a "highly constrained lot" and will not disturb over 1500 square feet in the NROD area. See attached site plan.

**17.49.130** Existing Development Standards
*In addition to the General Development Standards of Section 17.49.100, the following standards apply to alterations and additions to existing development within the NROD, except for trails, rights of way, utility lines, land divisions and mitigation projects. Replacement, additions, alterations and rehabilitation of existing structures, roadways, utilities, etc., where the ground level impervious surface area is not increased are exempt from review pursuant to Section 17.49.080(J). As of June 1, 2010, applicants for alterations and additions to existing development that are not exempt pursuant to Section 17.49.080(J) shall submit a Type II or Type III application pursuant to this section. The application shall include a site plan which delineates a permanent disturbance area that includes all existing buildings, parking and loading areas, paved or graveled areas, patios and decks. The same delineated disturbance area shall be shown on every subsequent proposal for alterations and additions meeting this standard.*
*A. The following alterations and additions to existing development are permitted subject to the following standards.*
1. *Alterations or additions that cumulatively total up to a maximum of five-hundred (500) square feet of additional disturbance area after June 1, 2010 shall be processed as a Type II permit pursuant to this Chapter. The new disturbance area shall not encroach closer than 1/2 of the distance of the regulated NROD buffer.*
2. *Alterations or additions that cumulatively exceed five-hundred (500) square feet of additional disturbance area or which propose encroachment closer than 1/2 of the distance of the regulated NROD buffer after June 1, 2010 shall be processed as a Type III permit pursuant to Section 17.49.200, Adjustment from Standards.*

**Applicant's Response:** Applicant is proposing new construction so this is inapplicable.

**17.49.130.B**. *Mitigation is required, subject to Section 17.49.180 or 17.49.190.*
**Applicant's Response:** Applicant is proposing new construction so this is inapplicable.

***17.49.140** Standards for Utility Lines*
*The following standards apply to new utilities, private connections to existing or new utility lines, and upgrades of existing utility lines within the NROD:*
*A. The disturbance area for private connections to utility lines shall be no greater than 10 feet wide;*
*B. The disturbance area for the upgrade of existing utility lines shall be no greater than 15 feet wide;*
*C. New utility lines shall be within the right-of-way, unless reviewed under D.*

*D. New utility lines that cross above or underneath a drainage way, wetland, stream, or ravine within the NROD but outside of a right-of-way shall be processed as a Type III permit pursuant to Section 17.49.200, Adjustment from Standards.*

*E. No fill or excavation is allowed within the ordinary high water mark of a stream without the approval of the Division of State Lands and/or the U.S. Army Corps of Engineers;*

*F. The Division of State Lands must approve any work that requires excavation or fill in a wetland;*

*G. Native trees more than 10 inches in diameter shall not be removed unless it is shown that there are no feasible alternatives; and*

*H. Each 6 to 10-inch diameter native tree cut shall be replaced at a ratio of three trees for each one removed. Each 11-inch or greater diameter native tree shall be replaced at a ratio of five trees for each removed. The replacement trees shall be a minimum one-half inch diameter and selected from the Oregon City Native Plant List. All trees shall be planted on the applicant's site. Where a utility line is approximately parallel with the stream channel, at least half of the replacement trees shall be planted between the utility line and the stream channel.*

*I. Mitigation is required, subject to Section 17.49.180 or 17.49.190.*

**Applicant's Response:** Applicant will work with utility providers to assure that the provisions of 17.49.140 are followed.

***17.49.150 Standards for Vehicular or Pedestrian Paths and Roads***

*The following standards apply to public rights-of-way and private roads within the NROD, including roads, bridges/stream crossings, driveways and pedestrian paths with impervious surfaces:*

*A. Stream crossings shall be limited to the minimum number and width necessary to ensure safe and convenient pedestrian, bicycle and vehicle connectivity, and shall cross the stream at an angle as close to perpendicular to the stream channel as practicable. Bridges shall be used instead of culverts wherever practicable.*

**Applicant's Response:** Applicant does not have a stream crossing.

***17.49.150.B****. Where the right-of-way or private road crosses a stream the crossing shall be by bridge or a bottomless culvert;*

**Applicant's Response:** See above response to 17.49.150.

***17.49.150.C****. No fill or excavation shall occur within the ordinary high water mark of a stream without the approval of the Division of State Lands and/or the U.S. Army Corps of Engineers;*

**Applicant's Response:** Applicant does not anticipate any fill or excavation within the ordinary high water mark of the stream. However, if there is such work done, Applicant shall obtain the necessary approval, permits and authorizations required, and shall do the work pursuant to the Code.

***17.49.150.D****. If the Oregon Department of State Lands (DSL) has jurisdiction over any work that requires excavation or fill in a wetland, required permits or authorization shall be obtained from DSL prior to release of a grading permit;*

**Applicant's Response:** See above response to 17.49.150.C.

***17.49.150.E****. Any work that will take place within the banks of a stream shall be conducted between June 1 and August 31, or shall be approved by the Oregon Department of Fish and Wildlife; and*

**Applicant's Response:** See above response to 17.49.150.C.

***17.49.150.F****. Mitigation is required, subject to Section 17.49.180 or 17.49.190.*

**Applicant's Response:** Understood and agreed.

***17.49.155*** *Standards for Stormwater Facilities*

*Approved facilities that infiltrate stormwater on-site in accordance with Public Works Low-Impact Development standards, including but not limited to; vegetated swales, rain gardens, vegetated filter strips, and vegetated infiltration basins, and their associated piping, may be placed within the NROD boundary pursuant to the following standards:*
*A. The forest canopy within the driplines of existing trees shall not be disturbed.*
*B. Only vegetation from the Oregon City Native Plant List shall be planted within these facilities.*
*C. Mitigation is required, subject to Section 17.49.180 or 17.49.190.*
*D. The storm water facility may encroach up to1/2 the distance of the NROD corridor.*
*E. The stormwater facility shall not impact more than 1,000 square feet of the NROD. Impacts greater than 1,000 square feet shall be process as a Type III application.*
*F.. The Community Development Director may allow landscaping requirements of the base zone, other than landscaping required for parking lots, to be met by preserving, restoring and permanently protecting habitat on development sites within the Natural Resource Overlay District.*
**Applicant's Response:** Applicant plans to have direct ABS line with gravity discharge into Canemah Creek which will not create a disturbance area of more than 1500 square feet.

***17.49.160*** *Standards for Land Divisions*
**Applicant's Response:** This is an existing lot and there will be no division.

***17.49.170*** *Standards for Trails*
*The following standards apply to trails within the NROD:*
**Applicant's Response:** Applicant is not putting in any trails.

***17.49.180.*** *Mitigation Standards*
*The following standards (or the alternative standards of Section 17.49.190) apply to required mitigation:*
**Applicant's Response:** Mitigation is not applicable.

***17.49.180.A****. Mitigation shall occur at a 2:1 ratio of mitigation area to proposed NROD disturbance area. Mitigation of the removal or encroachment of a wetland or stream shall not be part of this chapter and will be reviewed by the Division of State Lands or the Army Corp of Engineers during a separate review process;*
**Applicant's Response:** See the response to 17.49.180.

***17.49.180.B****. Mitigation shall occur on the site where the disturbance occurs, except as follows:*
*1. The mitigation is required for disturbance associated with a right-of-way or utility in the right-of-way;*
*2. The mitigation shall occur first on the same stream tributary, secondly in the Abernethy, Newell or Livesay Creek or a tributary thereof, or thirdly as close to the impact area as possible within the NROD; and*
*3. An easement that allows access to the mitigation site for monitoring and maintenance shall be provided as part of the mitigation plan.*
**Applicant's Response:** See the response to 17.49.180.

***17.49.180.C****. Mitigation shall occur within the NROD area of a site unless it is demonstrated that this is not feasible because of a lack of available and appropriate area. In such cases, the proposed mitigation area shall be contiguous to the existing NROD area so the NROD boundary can be easily extended in the future to include the new resource site.*
**Applicant's Response:** See the response to 17.49.180.

***17.49.180.D****. Invasive and nuisance vegetation shall be removed within the mitigation area;*
**Applicant's Response:** See the response to 17.49.180.

***17.49.180.E****. Required Mitigation Planting. An applicant shall meet Mitigation Planting Option 1 or 2*

*below, whichever option results in more tree plantings, except that where the disturbance area is one acre or more, Mitigation Option 2 shall be required. All trees, shrubs and ground cover shall be selected from the Oregon City Native Plant List.*
*Mitigation Planting Option 1.*
**Applicant's Response:** See the response to 17.49.180.

***17.49.180.E.2**. Mitigation Planting Option 2.*
***17.49.180.E.2a.** Option 2 - Planting Quantity. In this option, the mitigation requirement is calculated based on the size of the disturbance area within the NROD. Native trees and shrubs are required to be planted at a rate of five (5) trees and twenty-five (25) shrubs per every 500 square feet of disturbance area (calculated by dividing the number of square feet of disturbance area by 500, and then multiplying that result times five trees and 25 shrubs, and rounding all fractions to the nearest whole number of trees and shrubs; for example, if there will be 330 square feet of disturbance area, then 330 divided by 500 equals .66, and .66 times five equals 3.3, so three trees must be planted, and .66 times 25 equals 16.5, so 17 shrubs must be planted). Bare ground must be planted or seeded with native grasses or herbs. Non-native sterile wheat grass may also be planted or seeded, in equal or lesser proportion to the native grasses or herbs.*
**Applicant's Response:** See the response to 17.49.180.

***17.49.180.E.2.b** Option 2 - Plant Size. Plantings may vary in size dependent on whether they are live cuttings, bare root stock or container stock, however, no initial plantings may be shorter than 12 inches in height.*
**Applicant's Response:** See the response to 17.49.180.

***17.49.180.E.2.c** Option 2 - Plant Spacing. Trees shall be planted at average intervals of seven (7) feet on center. Shrubs may be planted in single-species groups of no more than four (4) plants, with clusters planted on average between 8 and 10 feet on center.*
**Applicant's Response:** See the response to 17.49.180.

***17.49.180.E.2.d** Option 2 – Mulching and Irrigation shall be applied in the amounts necessary to ensure 80% survival at the end of the required 5-year monitoring period.*
**Applicant's Response:** See the response to 17.49.180.

***17.49.180.E.2.e** Option 2 – Plant Diversity. Shrubs shall consist of at least three (3) different species. If 20 trees or more are planted, no more than one-third of the trees may be of the same genus.*
*An alternative planting plan using native plants may be approved in order to create a new wetland area, if it is part of a wetlands mitigation plan that has been approved by the DSL or the U.S. Army Corps of Engineers (USACE) in conjunction with a wetland joint removal/fill permit application.*
**Applicant's Response:** See the response to 17.49.180.

***17.49.180.F**. Monitoring and Maintenance. The mitigation plan shall provide for a 5-year monitoring and maintenance plan with annual reports in a form approved by the Director of Community Development. Monitoring of the mitigation site is the on-going responsibility of the property owner, assign, or designee, who shall submit said annual report to the City's Planning Division, documenting plant survival rates of shrubs and trees on the mitigation site. Photographs shall accompany the report that indicate the progress of the mitigation. A minimum of 80% survival of trees and shrubs of those species planted is required at the end of the 5-year maintenance and monitoring period. Any invasive species shall be removed and plants that die shall be replaced in kind. Bare spots and areas of invasive vegetation larger than ten (10) square feet that remain at the end the 5 year monitoring period shall be replanted or reseeded with native grasses and ground cover species.*
**Applicant's Response:** See the response to 17.49.180.

***17.49.180.G**. Covenant or Conservation Easement. Applicant shall record a restrictive covenant or conservation easement, in a form provided by the City, requiring the owners and assigns of properties subject to this section to comply with the applicable mitigation requirements of this section. Said covenant shall run with the land, and permit the City to complete mitigation work in the event of default by the responsible party. Costs borne by the City for such mitigation shall be borne by the owner.*
**Applicant's Response:** See the response to 17.49.180.

***17.49.180.H**. Financial Guarantee. A financial guarantee for establishment of the mitigation area, in a form approved by the City, shall be submitted before development within the NROD disturbance area commences. The City will release the guarantee at the end of the five-year monitoring period, or before, upon it's determination that the mitigation plan has been satisfactorily implemented pursuant to this section.*
**Applicant's Response:** See the response to 17.49.180.

**17.49.190** Alternative Mitigation Standards
**Applicant's Response:** Inapplicable. See the response to 17.49.180.

***17.49.200.** Adjustment from Standards*
*If a regulated NROD use cannot meet one or more of the applicable NROD standards then an adjustment may be issued if all of the following criteria are met. Compliance with these criteria shall be demonstrated by the applicant in a written report prepared by an environmental professional with experience and academic credentials in one or more natural resource areas such as ecology, wildlife biology, botany, hydrology or forestry. At the applicant's expense, the City may require the report to be reviewed by an environmental consultant. Such requests shall be processed under the Type III development permit procedure. The applicant shall demonstrate:*
**Applicant's Response:** Applicant will meet all applicable standards and no adjustment will be necessary.

***17.49.200.A**. There are no feasible alternatives for the proposed use or activity to be located outside the NROD area or to be located inside the NROD area and to be designed in a way that will meet all of the applicable NROD development standards;*
**Applicant's Response:** See response to 17.49.200.

***17.49.200.B**. The proposal has fewer adverse impacts on significant resources and resource functions found in the local NROD area than actions that would meet the applicable environmental development standards;*
**Applicant's Response:** See response to 17.49.200.

***17.49.200.C**. The proposed use or activity proposes the minimum intrusion into the NROD area that is necessary to meet development objectives;*
**Applicant's Response:** See response to 17.49.200.

***17.49.200.D**. Fish and wildlife passage will not be impeded;*
**Applicant's Response:** See response to 17.49.200.

***17.49.200.E**. With the exception of the standard(s) subject to the adjustment request, all other applicable NROD standards can be met; and*
**Applicant's Response:** See response to 17.49.200.

***17.49.200.F**. The applicant has proposed adequate mitigation to offset the impact of the adjustment.*
**Applicant's Response:** See response to 17.49.200.

***17.49.210*** *Type II Development Permit Application*

**Applicant's Response:** This is a Type II application.

***17.49.220*** *Required Site Plans*

*Site plans showing the following required items shall be part of the application:*

*A. For the entire subject property (NROD and non-NROD areas):*

1. *The NROD district boundary. This may be scaled in relation to property lines from the NROD Map;*
2. *100 year floodplain and floodway boundary (if determined by FEMA);*
3. *Creeks and other waterbodies;*
4. *Any wetlands, with the boundary of the wetland that will be adjacent to the proposed development determined in a wetlands delineation report prepared by a professional wetland specialist and following the Oregon Division of State Lands wetlands delineation procedures;*
5. *Topography shown by contour lines of 2 or 1 foot intervals for slopes less than 15% and by 10 foot intervals for slopes 15% or greater;*
6. *Existing improvements such as structures or buildings, utility lines, fences, driveways, parking areas, etc.*
7. *Extent of the required Vegetated Corridor required by Table 17.49.110.*

**Applicant's Response:** Submitted plan which meets all requirements of this 17.49.220.

*B. Within the NROD area of the subject property:*

1. *The distribution outline of shrubs and ground covers, with a list of most abundant species;*
2. *Trees 6 inches or greater in diameter, identified by species. When trees are located in clusters they may be described by the approximate number of trees, the diameter range, and a listing of dominant species;*
3. *An outline of the disturbance area that identifies the vegetation that will be removed. All trees to be removed with a diameter of 6 inches or greater shall be specifically identified as to number, trunk diameters and species;*
4. *If grading will occur within the NROD, a grading plan showing the proposed alteration of the ground at 2 foot vertical contours in areas of slopes less than 15% and at 5 foot vertical contours of slopes 15% or greater.*

**Applicant's Response:** See response to 17.49.220.A.

*C. A construction management plan including:*

1. *Location of site access and egress that construction equipment will use;*
2. *Equipment and material staging and stockpile areas;*
3. *Erosion control measures that conform to City of Oregon City erosion control standards;*
4. *Measures to protect trees and other vegetation located outside the disturbance area.*

**Applicant's Response:** See response to 17.49.220.A.

*D. A mitigation site plan demonstrating compliance with Section 17.49.180 or 17.49.190, including:*

1. *Dams, weirs or other in-water features;*
2. *Distribution, species composition, and percent cover of ground covers to be planted or seeded;*
3. *Distribution, species composition, size, and spacing of shrubs to be planted;*
4. *Location, species and size of each tree to be planted;*
5. *Stormwater management features, including retention, infiltration, detention, discharges and outfalls;*
6. *Water bodies or wetlands to be created, including depth;*
7. *Water sources to be used for irrigation of plantings or for a water source for a proposed wetland.*

**Applicant's Response:** See response to 17.49.220.A.

***17.49.230 Mitigation Plan Report***

*A mitigation plan report that accompanies the above mitigation site plan is also required. The report shall be prepared by an environmental professional with experience and academic credentials in one or more natural resource areas such as ecology, wildlife biology, botany, hydrology or forestry. The mitigation plan report shall, at a minimum, discuss:*

*A. Written responses to each applicable Mitigation Standard 17.49.180 or 17.49.190 indicating how the proposed development complies with the mitigation standards;*

*B. The resources and functional values to be restored, created, or enhanced through the mitigation plan;*

*C. Documentation of coordination with appropriate local, regional, state and federal regulatory/resource agencies such as the Oregon Department of State Lands (DSL) and the United States Army Corps of Engineers (USACE);*

*D. Construction timetables;*

*E. Monitoring and Maintenance practices pursuant to Section 17.49.230 (F) and a contingency plan for undertaking remedial actions that might be needed to correct unsuccessful mitigation actions during the first 5 years of the mitigation area establishment.*

**Applicant's Response:** No mitigation is required.

***17.49.240*** *Density Transfer*

**Applicant's Response:** Inapplicable to this one lot.

**17.49.250** *Verification of NROD Boundary*

**Applicant's Response:** The NROD boundary applicable to this property will be verified by a site specific environmental survey.

***17.49.255*** *Type I Verification*

**Applicant's Response:** See response to 17.49.250.

***17.49.260.*** *Type II Verification*

**Applicant's Response:** See response to 17.49.250.

**<u>GEOLOGIC HAZARDS – CHAPTER 17.44</u>**

***17.44.035*** *- Exemptions.*

*The following activities, and persons engaging in same, are EXEMPT from the provisions of this chapter.*

*A. An excavation which is less than two feet in depth, or which involves less than twenty-five cubic yards of volume;*

*B. A fill which does not exceed two feet in depth or twenty-five cubic yards of volume;*

*C. Structural alteration of any structure of less than five hundred square feet that does not involve grading as defined in this chapter;*

*D. Installation, construction, reconstruction, or replacement of utility lines in city right-of-way, or public easement, not including electric substations;*

*E. The removal or control of noxious vegetation;*

*F. Emergency actions which must be undertaken immediately to prevent an imminent threat to public health or safety, or prevent imminent danger to public or private property. The person undertaking emergency action shall notify the building official on all regulated activities associated with any building permit or city engineer/public works director on all others within one working day following the commencement of the emergency activity. If the city engineer/public works director or building official determine that the action or part of the action taken is beyond the scope of allowed emergency action, enforcement action may be taken.*

**Applicant's Response:** Not exempt.

***17.44.050*** *Development - Application Requirements and Review Procedures and Approvals.*
*Except as provided by subsection B of this section, the following requirements apply to all development proposals subject to this chapter:*
*A. A geological assessment and geotechnical report that specifically includes, but is not limited to:*

1) *Comprehensive information and data regarding the nature and distribution of underlying geology, the physical and chemical properties of existing soils and groundwater; an opinion of site geologic stability, and conclusions regarding the effect of geologic conditions on the proposed development. In addition to any field reconnaissance or subsurface investigation performed for the site, the following resources, as a minimum, shall be reviewed to obtain this information and data:*
   a) *The State of Oregon Department of Geology and Mineral Industries (DOGAMI) in Bulletin 99, Geology and Geological Hazards of North Clackamas County, Oregon (1979), or in any subsequent DOGAMI mapping for the Oregon City area;*
   b) *Portland State University study entitled "Environmental Assessment of Newell Creek Canyon, Oregon City, Oregon" (1992);*
   c) *Portland State University study, "Landslides in the Portland, Oregon, Metropolitan Area Resulting from the Storm of February 1996: Inventory Map, Database and Evaluation" (Burns and others, 1998);*
   d) *DOGAMI Open File Report O-06-27, "Map of Landslide Geomorphology of Oregon City, Oregon, and Vicinity Interpreted from LIDAR Imagery and Aerial Photographs" (Madin and Burns, 2006);*
   e) *"Preliminary Geologic Map of the Oregon City Quadrangle, Clackamas County, Oregon" (Madin, in press);*

**Applicant's Response**: A geological assessment and geotechnical report has been prepared and submitted to the City. Applicant believes that it meets all requirements of the Code.

2) *Information and recommendations regarding existing local drainage, proposed permit activity impacts on local drainage, and mitigation to address adverse impacts;*

**Applicant's Response:** See the response to 17.44.050.A.

3) *Comprehensive information about site topography;*

**Applicant's Response:** See the response to 17.44.050.A.

4) *Opinion as to the adequacy of the proposed development from an engineering standpoint;*

**Applicant's Response:** See the response to 17.44.050.A.

5) *Opinion as to the extent that instability on adjacent properties may adversely affect the project;*

**Applicant's Response:** See the response to 17.44.050.A.

6) *Description of the field investigation and findings, including logs of subsurface conditions and laboratory testing results;*

**Applicant's Response:** See the response to 17.44.050.A.

7) *Conclusions regarding the effect of geologic conditions on the proposed development, tree removal, or grading activity;*

**Applicant's Response:** See the response to 17.44.050.A.

8) *Specific requirements and recommendations for plan modification, corrective grading, and special techniques and systems to facilitate a safe and stable site;*

**Applicant's Response:** See the response to 17.44.050.A.

9) *Recommendations and types of considerations as appropriate for the type of proposed development:*
   a. *General earthwork considerations, including recommendations for temporary and permanent cut and fill slopes and placement of structural fill,*
   b. *Location of residence on lot,*
   c. *Building setbacks from slopes,*
   d. *Erosion control techniques applicable to the site,*
   e. *Surface drainage control to mitigate existing and potential geologic hazards,*
   f. *Subdrainage and/or management of groundwater seepage,*
   g. *Foundations,*
   h. *Embedded/retaining walls,*
   i. *Management of surface water and irrigation water, and*
   j. *Impact of the development on the slope stability of the lot and the adjacent properties.*

**Applicant's Response:** See the response to 17.44.050.A.

10) *Scaled drawings that describe topography and proposed site work, including:*
   a. *Natural physical features, topography at two or ten-foot contour intervals locations of all test excavations or borings, watercourses both perennial and intermittent, ravines and all existing and manmade structures or features all fully dimensioned, trees six- inch caliper or greater measured four feet from ground level, rock outcroppings and drainage facilities;*
   b. *All of the features and detail required for the site plan above, but reflecting preliminary finished grades and indicating in cubic yards whether and to what extent there will be a net increase or loss of soil.*
   c. *A cross-section diagram, indicating depth, extent and approximate volume of all excavation and fills.*

**Applicant's Response:** See the response to 17.44.050.A.

11) *For properties greater than 1 acre, a preliminary hydrology report, prepared by a suitably qualified and experienced hydrology expert, addressing the effect upon the watershed in which the proposed development is located; the effect upon the immediate area's stormwater drainage pattern of flow, the impact of the proposed development upon downstream areas and upon wetlands and water resources; and the effect upon the groundwater supply.*

**Applicant's Response:** See the response to 17.44.050.A.

***17.44.050.B.*** *Review Procedures and Approvals require the following:*

1) *Examination to ensure that:*
   a) *Required application requirements are completed;*
   b) *Geologic assessme nt and geotechnical report procedures and assumptions are generally accepted; and*
   c) *All conclusions and recommendations are supported and reasonable.*

**Applicant's Response:** Understood and agreed.

***17.44.050.B.2*** *Conclusions and recommendations stated in an approved assessment or report shall then be directly incorporated as permit conditions or provide the basis for conditions of approval for the regulated activity.*

**Applicant's Response:** Understood and agreed.

***17.44.050.B.3*** *All geologic assessments and geotechnical reports shall be reviewed by an engineer certified for expertise in geology or geologic engineering and geotechnical engineering, respectively, as determined by the City. The City will prepare a list of prequalified consultants for this purpose. The cost of review by independent review shall be paid by the applicant.*

**Applicant's Response:** Understood and agreed.

***17.44.050.C**. The city engineer may waive one or more requirements of subsections A and B of this section if the city engineer determines that site conditions, size or type or development of grading requirements do not warrant such detailed information. If one or more requirements are waived, the city engineer shall, in the staff report or decision, identify the waived provision(s), explain the reasons for the waiver, and state that the waiver may be challenged on appeal and may be denied by a subsequent review authority.*
**Applicant's Response:** Understood and agreed.

***17.44.060** Development Standards.*
*Notwithstanding any contrary dimensional or density requirements of the underlying zone, the following standards shall apply to the review of any development proposal subject to this chapter. Requirements of this chapter are in addition to other provision of the Oregon City Municipal Code. Where provision of this chapter conflict with other provision of the Oregon City Municipal Code, the provisions that are more restrictive of regulated development activity shall govern.*
***17.44.060.A** All developments shall be designed to avoid unnecessary disturbance of natural topography, vegetation and soils. To the maximum extent practicable as determined by the review authority, tree and ground cover removal and fill and grading for residential development on individual lots shall be confined to building footprints and driveways, to areas required for utility easements and for slope easements for road construction, and to areas of geotechnical remediation.*
**Applicant's Response:** Understood and agreed.

***17.44.060B** All grading, drainage improvements, or other land disturbances shall only occur from May 1 to October 31. Erosion control measures shall be installed and functional prior to any disturbances. The City Engineer may allow grading, drainage improvements or other land disturbances to begin before May 1 (but no earlier than March 16) and end after October 31 (but no later than November 30), based upon weather conditions and in consultation with the project geotechnical engineer. The modification of dates shall be the minimum necessary, based upon the evidence provided by the applicant, to accomplish the necessary project goals. Temporary protective fencing shall be established around all trees and vegetation designed for protection prior to the commencement of grading or other soil disturbance.*
**Applicant's Response:** Understood and agreed.

***17.44.060.C** Designs shall minimize the number and size of cuts and fills.*
**Applicant's Response:** Understood and agreed.

***17.44.060.D** Cut and fill slopes, such as those for a street, driveway accesses, or yard area, greater than seven feet in height (as measured vertically) shall be terraced. Faces on a terraced section shall not exceed five feet. Terrace widths shall be a minimum of three feet and shall be vegetated. Total cut and fill slopes shall not exceed a vertical height of fifteen feet. Except in connection with geotechnical remediation plans approved in accordance with the chapter, cuts shall not remove the toe of any slope that contains a known landslide or is greater than twenty-five percent slope. The top of cut or fill slopes not utilizing structural retaining walls shall be located a minimum of one-half the height of the cut slope from the nearest property line.*
**Applicant's Response:** Inapplicable.

***17.44.060.E** Any structural fill shall be designed by a suitably qualified and experienced civil or geotechnical engineer licensed in Oregon in accordance with standard engineering practice. The applicant's engineer shall certify that the fill has been constructed as designed in accordance with the provisions of this chapter.*
**Applicant's Response:** Understood and agreed.

***17.44.060.F** Retaining walls shall be constructed in accordance with the Oregon Structural Specialty Code adopted by the State of Oregon.*

**Applicant's Response:** Understood and agreed.

***17.44.060.G*** *Roads shall be the minimum width necessary to provide safe vehicle and emergency access, minimize cut and fill and provide positive drainage control. The review authority may grant a variance from the City's required road standards upon findings that the variance would provide safe vehicle and emergency access and is necessary to comply with the purpose and policy of this chapter.*
**Applicant's Response:** Understood and agreed.

***17.44.060.H*** *Density shall be determined as follows*

1) *For those areas with slopes less than twenty-five percent between grade breaks, the allowed density shall be that permitted by the underlying zoning district;*
2) *For those areas with slopes of twenty-five to thirty-five percent between grade breaks, the density shall not exceed two dwelling units per acre except as otherwise provided in subsection I of this section;*
3) *For those areas with slopes over thirty-five percent between grade breaks, development shall be prohibited except as otherwise provided in subsection I 4 of this section.*

**Applicant's Response:** Understood and agreed.

***17.44.060.I*** *For properties with slopes of twenty-five to thirty-five percent between grade breaks:*

1) *For those portions of the property with slopes of twenty-five to thirty-five percent, the maximum residential density shall be limited to two dwelling units per acre; provided, however, that where the entire site is less than one-half acre in size, a single dwelling shall be allowed on a lot or parcel existing as of January 1, 1994 and meeting the minimum lot size requirements of the underlying zone;*
2) *An individual lot or parcel with slopes between twenty-five and thirty-five percent shall have no more than fifty percent or four thousand square feet of the surface area, whichever is smaller, graded or stripped of vegetation or covered with structures or impermeable surfaces.*
3) *No cut into a slope of twenty-five to thirty-five percent for the placement of a housing unit shall exceed a maximum vertical height of 15 feet for the individual lot or parcel.*
4) *For those portions of the property with slopes over thirty-five percent between grade breaks:*

a. *Notwithstanding any other City land use regulation, development other than roads, utilities, public facilities and geotechnical remediation shall be prohibited; provided, however, that the review authority may allow development upon such portions of land upon demonstration by an applicant that failure to permit development would deprive the property owner of all economically beneficial use of the property. This determination shall be made considering the entire parcel in question and contiguous parcels in common ownership on or after January 1, 1994, not just the portion where development is otherwise prohibited by this chapter. Where this showing can be made on residentially zoned land, development shall be allowed and limited to one single-family residence. Any development approved under this chapter shall be subject to compliance with all other applicable City requirements as well as any applicable State, Federal or other requirements;*
b. *To the maximum extent practicable as determined by the review authority, the applicant shall avoid locating roads, utilities, and public facilities on or across slopes exceeding thirty-five percent.*

**Applicant's Response:** Understood and agreed.

***17.44.060.J*** *The geotechnical engineer of record shall review final grading, drainage, and foundation plans and specifications and confirm in writing that they are in conformance with the recommendations provided in their report.*
**Applicant's Response:** Understood and agreed.

***17.44.060.K*** *At the City's discretion, peer review shall be required for the geotechnical evaluation/investigation report submitted for the development and/or lot plans. The peer reviewer shall be selected by the City. The applicant's geotechnical engineer shall respond to written comments provided by the City's peer reviewer prior to issuance of building permit.*

**Applicant's Response:** Understood and agreed.

***17.44.060.L*** *The review authority shall determine whether the proposed methods of rendering a known or potential hazard site safe for construction, including proposed geotechnical remediation methods, are feasible and adequate to prevent landslides or damage to property and safety. The review authority shall consult with the City's geotechnical engineer in making this determination. Costs for such consultation shall be paid by the applicant. The review authority may allow development in a known or potential hazard area as provided in this chapter if specific findings are made that the specific provisions in the design of the proposed development will prevent landslides or damage. The review authority may impose any conditions, including limits on type or intensity of land use, which it determines are necessary to assure that landslides or property damage will not occur.*

**Applicant's Response:** Understood and agreed.

***17.44.070*** *Access to Property.*

A. *Shared private driveways may be required if the city engineer or principal planner determines that their use will result in safer location of the driveway and lesser amounts of land coverage than would result if separate private driveways are used.*
B. *Innovations in driveway design and road construction shall be permitted in order to keep grading and cuts or fills to a minimum and to achieve the purpose and policy of this chapter.*
C. *Points of access to arterials and collectors shall be minimized.*
D. *The city engineer or principal planner shall verify that adequate emergency services can be provided to the site.*

**Applicant's Response:** Understood and agreed.

***17.44.080*** *Utilities.*

*All new service utilities, both on-site and off-site, shall be placed underground and under roadbeds where practicable. Every effort shall be made to minimize the impact of utility construction. Underground utilities require the geologic hazards permitting and review prescribed herein.*

**Applicant's Response:** Understood and agreed.

***17.44.090*** *Stormwater Drainage.*

*The applicant shall submit a permanent and complete stormwater control plan. The program shall include, but not be limited to the following items as appropriate: curbs, gutters, inlets, catch basins, detention facilities and stabilized outfalls. Detention facilities shall be designed to City standards as set out in the City's drainage master plan and design standards. The review authority may impose conditions to ensure that waters are drained from the development so as to limit degradation of water quality consistent with Oregon City's Title III section of the Oregon City Municipal Code Chapter 17.49 and the Oregon City Public Works Stormwater Management Design Manual and Standards Plan or other adopted standards subsequently adopted by the City Commission. Drainage design shall be approved by the city engineer before construction, including grading or other soil disturbance, has begun.*

**Applicant's Response:** Applicant will submit the plan with the application for a building permit.

***17.44.100.*** *Construction Standards.*

*During construction on land subject to this chapter, the following standards shall be implemented by the developer:*

***17.44.100.A*** *All development activity shall minimize vegetation removal and soil disturbance and shall provide positive erosion prevention measures in conformance with OCMC Chapter 17.47 – Erosion and Sediment Control.*

**Applicant's Response:** Understood and agreed.

***17.44.100.B*** *No grading, clearing or excavation of any land shall be initiated prior to approval of the grading plan, except that the city engineer shall authorize the site access, brush to be cleared and the location of the test pit digging prior to approval of such plan to the extent needed to complete preliminary and final engineering and surveying. The grading plan shall be approved by the city engineer as part of the city's review under this chapter. The developer shall be responsible for the proper execution of the approved grading plan.*

**Applicant's Response:** The grading plan will be provided when needed, and will comply with this section of the Code.

***17.44.100.C*** *Measures shall be taken to protect against landslides, mudflows, soil slump and erosion. Such measures shall include sediment fences, straw bales, erosion blankets, temporary sedimentation ponds, interceptor dikes and swales, undisturbed buffers, grooving and stair stepping, check dams, etc. The applicant shall comply with the measures described in the Oregon City Public Works Standards for Erosion and Sedimentation Control (Ordinance 99-1013).*

**Applicant's Response:** Understood and agreed.

***17.44.100.D*** *All disturbed vegetation shall be replanted with suitable vegetation upon completion of the grading of the steep slope area.*

**Applicant's Response:** Understood and agreed.

***17.44.100.E*** *Existing vegetative cover shall be maintained to the maximum extent practicable. No grading, compaction or change in ground elevation, soil hydrology and/or site drainage shall be permitted within the drip line of trees designated for protection, unless approved by the City.*

**Applicant's Response:** Understood and agreed.

***17.44.100.F*** *Existing perennial and intermittent watercourses shall not be disturbed unless specifically authorized by the review authority. This includes physical impacts to the stream course as well as siltation and erosion impacts.*

**Applicant's Response:** Understood and agreed.

***17.44.100.G*** *All soil erosion and sediment control measures shall be maintained during construction and for one year after development is completed, or until soils are stabilized by revegetation or other measures to the satisfaction of the city engineer. Such maintenance shall be the responsibility of the developer. If erosion or sediment control measures are not being properly maintained or are not functioning properly due to faulty installation or neglect, the City may order work to be stopped.*

**Applicant's Response:** Understood and agreed.

***17.44.100.H*** *All newly created lots, either by subdivision or partition, shall contain building envelopes with a slope of 35% or less.*

**Applicant's Response:** Inapplicable.

***17.44.100.I*** *The applicant's geotechnical engineer shall provide special inspection during construction to confirm that the subsurface conditions and assumptions made as part of their geotechnical evaluation/investigation are appropriate. This will allow for timely design changes if site conditions are encountered that are different from those anticipated.*

**Applicant's Response:** Understood and agreed.

***17.44.100.J*** *Prior to issuing an occupancy permit, the geotechnical engineer shall prepare a summary letter stating that the soils- and foundation-related project elements were accomplished in substantial conformance with their recommendations.*

**Applicant's Response:** Understood and agreed.

**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.*
**Applicant's Response:** Has been completed.

*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.*
**Applicant's Response:** Applicant is exempt from a meeting, but is considering whether to seek one.

## CHAPTER 17.54.100 – FENCES, HEDGES AND WALLS

**Applicant's Response:** If Applicant does erect a fence, hedge or wall on the property, he will comply with the requirements of this section.

## CHAPTER 13.12 - STORMWATER MANAGEMENT

*13.12.050 - Applicability and exemptions.*
*This chapter establishes performance standards for stormwater conveyance, quantity and quality. Additional performance standards for erosion prevention and sediment control are established in OCMC 17.47.*
*A. Stormwater Conveyance. The stormwater conveyance requirements of this chapter shall apply to all stormwater systems constructed with any development activity, except as follows:*
*1. The conveyance facilities are located entirely on one privately owned parcel;*
*2. The conveyance facilities are privately maintained; and*
*3. The conveyance facilities receive no stormwater runoff from outside the parcel's property limits.*
*Those facilities exempted from the stormwater conveyance requirements by the above subsection will remain subject to the requirements of the Oregon Uniform Plumbing Code. Those exempted facilities shall be reviewed by the building official.*
**Finding:** Applicant is not sure how to respond to the request for "Finding". Applicant will prepare and provide a plan for stormwater management as required.

*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:**

*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:**

*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**

*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:**

*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:**

*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:**

*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:**

## CHAPTER 17.47 - EROSION AND SEDIMENT CONTROL

*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.*
**Applicant's Response:** Will file plan with application for building permit.

## 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.*
**Applicant's Response:** Applicant will not require a grading permit.

*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.*
**Applicant's Response:** Inapplicable.

## WILLAMETTE RIVER GREENWAY – CHAPTER 17.48

***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.*

***Applicant's Response:*** Understood and agreed.

***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.*

**Applicant's Response:** Inapplicable.

***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;*

*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.*

**Applicant's Response:** Inapplicable.

## CHAPTER 17.12 - "R-6" SINGLE-FAMILY DWELLING DISTRICT

*17.12.040.A. Minimum lot area, six thousand square feet;*
**Applicant's Response:** The area of the lot is 5000 square feet. At the time of creation it was allowed under the applicable zoning provision, so it is a "legal lot".

*17.12.040.B. Minimum lot width, fifty feet;*
**Applicant's Response:** Yes

*17.12.040.C. Minimum lot depth, seventy feet;*
**Applicant's Response:** Yes

*17.12.040.D. Maximum building height: two and one-half stories, not to exceed thirty-five feet. If an existing structure is being retained.*
**Applicant's Response:** Yes

*17.12.040.E Setbacks*
*1. Front yard: ten feet minimum depth.*
**Applicant's Response:** Seeking five foot minimum to limit disturbance area.

*2. Front porch, five feet minimum setback,*
**Applicant's Response:** Yes

*3. Attached and detached garage, twenty feet minimum setback from the public right-of-way where access is taken, except for alleys. Detached garages on an alley shall be setback a minimum of five feet in residential areas.*
**Applicant's Response:** No garage.

*4. Interior side yard, nine feet minimum setback for at least one side yard; five feet minimum setback for the other side yard,*
**Applicant's Response:** Yes

*5. Corner side yard, fifteen feet minimum setback,*
**Applicant's Response:** No corner

*6. Rear yard, twenty-foot minimum setback*
**Applicant's Response:** Yes

*7. Rear porch, fifteen-foot minimum setback.*
**Applicant's Response:** No rear porch.

*17.12.040.G. Maximum lot coverage: The footprint of all structures two hundred square feet or greater shall cover a maximum of forty percent of the lot area. If an existing structure is being retained.*
**Applicant's Response:** Yes.

## 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 ofChapter 12.08.050 shall be subject to the standards of this section.*

*17.41.030 - Tree protection—Conflicting code provisions.*
*Except as otherwise specified in this section, where these standards conflict with adopted city development codes or policies, the provision which provides the greater protection for regulated trees or groves, as defined in Section 17.04, shall govern.*
**Applicant's Response:** Understood and agreed.

*17.41.040 - Same—Exemptions.*
*These regulations are not intended to regulate normal cutting, pruning and maintenance of trees on private property except where trees are located on lots that are undergoing development review or are otherwise protected within the Natural Resource Overlay District (NROD) of section 17.49. These standards are not intended to regulate farm and forest practices as those practices are defined under ORS 30.930. Farm or forest resources. An applicant for development may claim exemption from compliance with these standards if the development site containing the regulated grove or trees was a designated farm or forest use, tree farm, Christmas tree plantation, or other approved timber use within one year prior to development application. "Forest practices" and "forestlands" as used in this subsection shall have the meaning as set out in ORS 30.930. The community development director has the authority to modify or waive compliance in this case.*
**Applicant's Response:** Inapplicable.

*17.41.050 - 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 re gulated 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.*
**Applicant's Response:** Applicant is not going to be removing any trees.

*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 17.04to 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 arborculture. 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.*
*Table 17.41.060-1*
*Tree Replacement Requirements*
*All replacement trees shall be either:*
*Two-inch caliper deciduous, or*
*Six-foot high conifer*

| *Size of tree removed (DBH)* | *Column 1*<br><br>*Number of trees to be planted.*<br>*(If removed Outside of construction area)* | *Column 2*<br><br>*Number of trees to be planted.*<br>*(If removed Within the construction area)* |
|---|---|---|
| *6 to 12"* | *3* | *1* |
| *13 to 18"* | *6* | *2* |
| *19 to 24"* | *9* | *3* |
| *25 to 30"* | *12* | *4* |
| *31 and over"* | *15* | *5* |

*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.*
**Applicant's Response:** Inapplicable.

*17.41.070 - Planting area priority for mitigation (Option 1).*

*Development applications which opt for removal of trees with subsequent replanting pursuant to section 17.41.050A. shall be required to mitigate for tree cutting by complying with the following priority for replanting standards below:*
*A. First Priority. Replanting on the development site.*
*B. Second Priority. Off-site replacement tree planting locations. If the community development director determines that it is not practicable to plant the total number of replacement trees on-site, a suitable off-site planting location for the remainder of the trees may be approved that will reasonably satisfy the objectives of this section. Such locations may include either publicly owned or private land and must be approved by the community development director.*
**Applicant's Response:** Inapplicable.

*17.41.075 - Alternative mitigation plan.*
*The community development director may, subject to a Type II procedure, approve an alternative mitigation plan that adequately protects habitat pursuant to the standards for the natural resource overlay district alternative mitigation plan, Section 17.49.190.*
**Applicant's Response:** Inapplicable.

*17.41.080 - Tree preservation within subdivisions and partitions—Dedicated tract (Option 2).*
*A. Applicants for new subdivision and partition plats may delineate and show the regulated trees or groves as either a separate tract or part of a larger tract that meets the requirements of subsection D. of this section.*
*B. The standards for land divisions subject to this section shall apply in addition to the requirements of the city land division ordinance and zoning ordinance, provided that the minimum lot area, minimum average lot width, and minimum average lot depth standards of the base zone may be superseded in order to allow for a reduction of dimensional standards pursuant to Section 17.41100 below.*
*C. Prior to preliminary plat approval, the regulated tree or grove area shall be shown either as a separate tract or part of a larger tract that meets the requirements of subsection D. of this section, which shall not be a part of any parcel used for construction of a structure. The size of the tract shall be the minimum necessary as recommended by a consulting arborist to adequately encompass the dripline of the tree, protect the critical root zone and ensure long term survival of the tree or grove.*
*D. Prior to final plat approval, ownership of the regulated tree or grove tract shall be identified to distinguish it from lots intended for sale. The tract may be identified as any one of the following:*
*1. Private open space held by the owner or a homeowners association; or*
*2. For residential land divisions, private open space subject to an easement conveying stormwater and surface water management rights to the city and preventing the owner of the tract from activities and uses inconsistent with the purpose of this document; or*
*3. At the owners option, public open space where the tract has been dedicated to the city or other governmental unit; or*
*4. Any other ownership proposed by the owner and approved by the community development director.*
**Applicant's Response:** Inapplicable.

*17.41.090 - Density transfers incentive for tree protection tracts (Option 2).*
*A. The purpose of this section is to allow dimensional adjustments within a regulated tree protection tract to be transferred outside said tract to the remainder of the site. This provision applies on-site and density shall not be transferred beyond the boundaries of the development site.*
*B. Development applications for subdivisions and minor partitions that request a density transfer shall:*
*1. Provide a map showing the net buildable area of the tree protection tract;*
*2. Provide calculations justifying the requested dimensional adjustments;*
*3. Demonstrate that the minimum lot size requirements can be met based on an average of all lots created, including the tree protection tract created pursuant toSection 17.41.080;*
*4. Demonstrate that, with the exception of the tree protection tract created pursuant to Section 17.41.080, no parcels have been created which would be unbuildable in terms of minimum yard setbacks;*
*5. Meet all other standards of the base zone except as modified in section 17.41.100.*

*C. The area of land contained in a tree protection tract may be excluded from the calculations for determining compliance with minimum density requirements of the zoning code.*
**Applicant's Response:** Inapplicable.

*17.41.100 - Permitted modifications to dimensional standards (Option 2 only).*
*A. An applicant proposing to protect trees in a dedicated tract pursuant to section 17.41.080 may request, and the community development director, pursuant to a Type II procedure, may grant a reduction to, the lot size, width, depth, and setbacks of the underlying zone district in approving a subdivision or partition if necessary to retain a regulated tree or grove in a tract, as long as the calculation of average lot size, including tree protection tracts, meet the minimum lot size for the zone. The applicant may choose to make the adjustments over as many lots as required. For example, the lot reduction could be spread across all the remaining lots in the proposed subdivision or partition or could be applied to only those needed to incorporate the area of the tree tract.*

*Table 17.41.100 A*
*Lot Size Reduction*

| *ZONE* | *Min. Lot Size [sq. feet]* | *Min. Lot Width* | *Min. Lot Depth* |
|---|---|---|---|
| *R-10* | *5,000 sq. feet* | *50'* | *65'* |
| *R-8* | *4,000 sq. feet* | *45'* | *60'* |
| *R-6* | *3,500 sq. feet* | *35'* | *55'* |
| *R-5* | *3,000 sq. feet* | *30'* | *50'* |
| *R-3.5* | *1,800 sq. feet* | *20'* | *45'* |

*Table 17.41.100 B*
*Reduced Dimensional Standards for Detached Single-Family Residential Units*

| *Size of Reduced Lot* | *Front Yard Setback* | *Rear Yard Setback* | *Side yard Setback* | *Corner Side* | *Lot Coverage* |
|---|---|---|---|---|---|
| *8,000—9,999 square feet* | *15 feet* | *20 feet* | *7/9 feet* | *15 feet* | *40%* |
| *6,000—7,999 square feet* | *10 feet* | *15 feet* | *5/7 feet* | *15 feet* | *40%* |
| *4,000—5,999 square feet* | *10 feet* | *15 feet* | *5/5 feet* | *10 feet* | *40%* |
| *1,800—3,999 square feet* | *5 feet* | *15 feet* | *5/5 feet* | *10 feet* | *55%* |

*Table 17.41.100 C*
*Reduced Dimensional Standards for Single-Family Attached or Two-Family Residential Units*

| *Size of Reduced Lot* | *Front Yard Setback* | *Rear Yard Setback* | *Side yard Setback* | *Corner Side* | *Lot Coverage* |
|---|---|---|---|---|---|

| | | | | | |
|---|---|---|---|---|---|
| *3,500—7,000 square feet* | *10 feet* | *15 feet* | *5/0* feet* | *10 feet* | *40%* |
| *1,800—3,499 square feet* | *5 feet* | *15 feet* | *5/0* feet* | *10 feet* | *55%* |

**0 foot setback is only allowed on single-family attached units*

**Applicant's Response:** Inapplicable.

*17.41.110 - Tree protection by restrictive covenant (Option 3).*
*Any regulated tree or grove which cannot be protected in a tract pursuant toSection 17.41.080 above shall be protected with a restrictive covenant in a format to be approved by the community development director. Such covenant shall be recorded against the property deed and shall contain provisions to permanently protect the regulated tree or grove unless such tree or grove, as determined by a certified arborist and approved by the community development director, are determined to be diseased or hazardous.*

**Applicant's Response:** Inapplicable.

*17.41.120 - Permitted adjustments (Option 3 Only).*
*A. The community development director, pursuant to a Type II procedure, may grant an adjustment to the side, front and rear yard setback standards by up to 50 percent if necessary to retain a Regulated Tree or Grove through a restrictive covenant pursuant to this section. In no case may the side yard setback be reduce less than three feet. The adjustment shall be the minimum necessary to accomplish preservation of trees on the lot and shall not conflict with other conditions imposed on the property.*
*B. The community development director, pursuant to a Type II procedure, may grant an adjustment to street standards, pursuant to adopted public works standards, in order to preserve a tree. This may include flexibility to redesign sidewalk and planter strip sizes and locations and allow placement of sidewalks and planter strips in an easement within private lots.*
*C. The community development director, pursuant to a Type II procedure, may allow other adjustments in order to preserve any healthy tree that cannot be moved due to its size, but will contribute to the landscape character of the area and will not present a foreseeable hazard if retained.*

**Applicant's Response:** Inapplicable.

*17.41.1[25] - Cash-in-lieu of planting (tree bank/fund) (Option 4).*
*The applicant may choose this option in-lieu-of or in addition to Compliance Options 1 through 3. In this case, the community development director may approve the payment of cash-in-lieu into a dedicated fund for the remainder of trees that cannot be replanted in the manner described above.*
*A. The cash-in-lieu payment per tree shall be as listed on the adopted fee schedule and shall be adjusted annually based on the Consumer Price Index (Index). The price shall include the cost of materials, transportation and planting.*
*B. The amount of the cash-in-lieu payment into the tree bank shall be calculated as the difference between the value of the total number of trees an applicant is required to plant, including cost of installation and adjusted for Consumer Price Index, minus the value of the trees actually planted. The value of the trees shall be based on the adopted fee schedule.*

**Applicant's Response:** Inapplicable.

*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.*

**Applicant's Response:** Understood and agreed.

*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.*
**Applicant's Response:** Understood and agreed.

*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 from trees designated for conservation or protection.*
**Applicant's Response:** Understood and agreed.