

**TYPE II SUBDIVISION APPLICATION
STAFF REPORT AND NOTICE OF DECISION WITH CONDITIONS OF APPROVAL**

February 20, 2020

FILE NUMBER: GLUA-19-00030 (General Land Use Application), SUB-19-00003 (Subdivision)

APPLICANT/OWNER: Rita C. Wisher
13735 Lazy Creek Lane
Oregon City, OR 97045

<p>Submitted: September 6, 2019 Complete: November 12, 2019 120 Day Deadline: April 11, 2020 NOD: February 20, 2020</p>

REPRESENTATIVE: Mark Dane Planning
12725 SW Glenhaven
Portland, OR 97225

REQUEST: The applicant is seeking approval a 20-lot subdivision in the “R-3.5” Dwelling District.

LOCATION: 13735 Lazy Creek Lane
Oregon City, OR 97045
Clackamas County Map 3-2E-08A, Tax Lot 1606

REVIEWER: Kelly Reid, Planner
Jeremy Tamargo, PE - Project Engineer

DECISION: Approval with Conditions.

PROCESS: Pursuant to OCMC 17.50. The decision of the Community Development Director is final unless appealed to the City Commission within fourteen (14) days following the mailing of this notice. Only persons who commented in writing to the Community Development Director may appeal this limited land use decision. The request for a hearing shall be in writing. The request for a hearing shall demonstrate how the party is aggrieved or how the proposal does not meet the applicable criteria. The application, decision (including specific conditions of approval), and supporting documents are available for inspection at the Oregon City Planning Division. Copies of these documents are available (for a fee) upon request. A city-recognized neighborhood association requesting an appeal fee waiver pursuant to 17.50.290(C) must officially approve the request through a vote of its general membership or board at a duly announced meeting prior to the filing of an appeal. IF YOU HAVE ANY QUESTIONS ABOUT THIS APPLICATION, PLEASE CONTACT THE PLANNING DIVISION OFFICE AT (503) 722-3789.



Conditions of Approval Planning File GLUA-19-00030

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

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

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

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

The applicant shall include the following information with submittal of a public improvement and/or grading permit associated with the proposed Subdivision application. The information shall be approved prior to issuance.

1. The development shall comply with all current Oregon City Public Works design standards, specifications, codes and policies. (DS)
2. The developer shall submit or address all items in section 16.12.015 of the Oregon City Municipal Code based on the timing requirements contained therein and as deemed applicable by the City. (DS)
3. The developer and engineer for the project shall execute a “Developer/Engineer Agreement for Public Works Improvements” and commit to the responsibilities outlined in the agreement. (DS)
4. The applicant shall provide construction plans, stamped and signed by a professional engineer licensed in the State of Oregon, containing street, grading, stormwater, sanitary sewer and water infrastructure improvements that conforms to all current Oregon City Public Works standards, specifications, codes, and policies for review and approval by the City. (DS)
5. The engineering plans shall provide a local benchmark onsite using the NAVD88 datum. (DS)
6. The development’s contractor(s) and engineer(s) shall attend a pre-construction meeting with Oregon City staff prior to beginning construction work associated with the project. (DS)
7. The applicant will be required to provide street improvements along the frontage of the property in accordance with the realignment of the Lazy Creek Lane ROW. Along Lazy Creek Lane the following will be required on the north side of the centerline: 25 feet ROW consisting of 16 feet pavement, 0.5 feet curb, 5 feet sidewalk and 3.5 feet behind the sidewalk. Along Lazy Creek Lane the following will be required on the south side of the centerline: 25 feet ROW consisting of 16 feet pavement and a 9-foot-wide landscape/planter area. (DS)
8. Right-of-way dedication shall be required to align the proposed street section with the existing Lazy Creek Lane ROW to the east of the proposed development. The applicant shall be required to provide full street improvements along the frontage of the property in accordance with the realignment of the Lazy Creek Lane right-of-way. (DS)
9. The applicant shall provide a minimum twenty-foot-wide paved asphalt road section along Lazy Creek Lane to the east of the proposed development to connect to the existing paved road section located at the western property boundary of 13834 Lazy Creek Lane. (DS)
10. The constrained street section for the unnamed local street shall have a total right-of-way width of 40 feet, including 28 feet of pavement, curb and gutter and 5-foot-wide curb-tight sidewalks on both sides. (DS)
11. Due to the reduced intersection sight distance, the intersection of the proposed unnamed local street and Lazy Creek Lane shall be a three-way stop. (DS)
12. The curb return at all intersections shall have a radius of 25 feet. (DS)



13. The development shall include streetlights along the unnamed local street and the property's frontage along Lazy Creek Lane in conformance with all City standards, specifications, codes, and policies and as approved by Portland General Electric (PGE). The developer shall submit a photometric plan to demonstrate that proposed street lighting meets IESNA ANSI RP-8-14 standards. (DS)
14. For the proposed dead-end street, an approved turnaround contained in an easement or public right-of-way with appropriate no-parking signs or markings for large emergency vehicles and other long vehicles in the form of a hammerhead or other design in accordance with Clackamas Fire District No. 1 and City adopted street standards shall be provided. (DS)
15. All pavement cuts and restoration shall comply with the City of Oregon City Pavement Cut Standards. (DS)
16. All driveways (curb cuts), new and existing, shall meet the minimum driveway width standards identified in Table 16.12.035.D. The applicant has the option to propose shared driveways which meet the minimum and maximum driveway width standards identified in Table 16.12.035.D. (DS)
17. All driveway approaches, proposed and existing, that intersect with a public sidewalk, shall be made ADA compliant. (DS)
18. The developer shall submit a request to the Community Development Department to receive approval for new street names; only approved street names shall be included on the final construction plans. (DS)
19. The applicant shall provide an updated utility easement conforming with the City's Sanitary Sewer Design Standards for the relocated sanitary sewer main based on approved final engineering plans. (DS)
20. The development shall provide a sanitary service lateral and two-way cleanout for each lot per City standards. (DS)
21. All lots for the proposed development shall have an individual water service connecting to the water main and each water meter shall front the property that it serves. (DS)
22. The applicant shall extend the water main line from the western property boundary of 13834 Lazy Creek Lane to and through the applicant's property to connect with the existing line to the west in Lazy Creek Lane in order to loop the distribution system main. The water main extension shall have a valve cluster located at the intersection with the future Naples Street extension and a fire hydrant located along Lazy Creek Lane east of the proposed development. (DS)
23. New fire hydrants shall be located and installed per Clackamas Fire District No. 1's requirements. (DS)
24. For the necessary offsite improvements of Lazy Creek Lane to the east of the proposed development, the applicant may construct a stormwater swale or pay a fee-in-lieu to meet stormwater treatment and detention standards, in accordance with the current Public Works Stormwater and Grading Design Standards. The fee shall be based on the applicant's engineering cost estimate for the City to construct an equivalent stormwater management facility or facilities. Final approval for the fee-in-lieu amount shall be approved by the City Engineer. (DS)
25. The applicant shall design a conveyance system to safely convey stormwater within the Lazy Creek Lane right-of-way from the proposed development to the existing stream corridor located



- just east of the residence at 13835 Lazy Creek Lane. The applicant has the option to design a piped system or a ditch system to safely convey stormwater to the stream corridor. (DS)
26. The developer shall provide updated engineered drainage plan(s), drainage report(s), and design flow calculation report(s) stamped and signed by a licensed engineer addressing all items from the Section 9 of the Public Works Stormwater and Grading Design Standards. (DS)
 27. The engineered drainage plans and drainage report shall comply with the current version of the Public Works Stormwater and Grading Design Standards. (DS)
 28. The developer shall obtain a 1200-C (NPDES) permit from Oregon Department of Environmental Quality (DEQ). (DS)
 29. The developer shall provide a Residential Lot Grading Plan adhering to the State of Oregon Structural Specialty Code, Chapter 18 and the Oregon City Public Works Stormwater and Grading Design Standards. (DS)
 30. The applicant shall provide an Erosion Prevention and Sedimentation Control Plan prior to issuance of an erosion control permit. The applicant shall obtain an erosion control permit prior to commencement of any earth disturbing activities. (DS)
 31. The developer shall provide a performance guarantee which is equal to 120% of the estimated cost to construct all public improvements shown in a city approved construction plan submitted by the developer's engineer. The estimated costs shall be supported by a verified engineering estimate and approved by the city engineer. The guarantee shall be in a form identified in Code 17.50.140.A of the Oregon City Municipal Code. The guarantee shall remain in effect until the construction of all required improvements are completed and accepted by the city. (DS)
 32. Prior to issuance of construction plans for the right-of-way improvements, the applicant shall submit an updated street tree plan which includes one street tree for every 35 feet of frontage and that meets the clearance requirements in OCMC 12.08. Street trees planted behind the sidewalk within ten feet of the back of the sidewalk are acceptable where no planter strip is provided. Fee-in-lieu will only be accepted when there are conflicts with utilities, lights, hydrants, or intersections that preclude achieving the spacing standards. Species shall be from the City's adopted street tree list or other approved list. (P)
 33. The final design of the pedestrian accessway shall have a 7-foot wide paved surface with four-foot planter strips on either side, shall meet ADA standards, shall meet the lighting, paving and landscaping requirements of 16.12.032.D – H, and shall include curbs or removable bollards to restrict automobile traffic. (P)
 34. The applicant shall utilize one of the two options in 16.12.032.K for ownership and maintenance of the accessway, as approved by the City Engineer. (P)
 35. The applicant shall ensure that the cover for the north side patio on the existing home on Lot 20 meets all required setbacks. (P)
 36. The applicant may substitute uses permitted in the zone on any of the proposed lots if the lot size minimum continues to be met and the maximum density is not exceeded. (P)
 37. The applicant's final tree mitigation plan shall specify species approved by a landscape architect or certified arborist or found on the City's Native Plant or Street Tree lists, and include minimum 2" caliper or 6' conifer trees. (P)

The applicant shall include the following information prior to final plat of the proposed Subdivision application.



38. The workmanship and materials for any work performed under permits issued by Oregon City Public Works shall be in accordance with the edition of the "Oregon Standard Specifications for Construction" as prepared by the Oregon Department of Transportation (ODOT) and the Oregon Chapter of American Public Works Association (APWA) and as modified and adopted by the city. (DS)
39. Improvements shall be constructed under the inspection and approval of the City. Expenses incurred thereby shall be borne by the developer and paid prior to final approval. The developer's project engineer also shall inspect construction. (DS)
40. All new franchise utilities shall be placed underground. Underground utilities, waterlines, sanitary sewers and storm drains proposed within streets shall be constructed prior to the surfacing of the streets. Stubs for service connections for underground utilities, such as, storm, water and sanitary sewer shall be placed beyond the franchise utility easement within private property. (DS)
41. The lot containing the existing dwelling shall have a concrete driveway approach with a minimum hard surface for at least ten feet back into the lot as measured from the edge of street pavement. The hard surface shall be concrete, asphalt, or other surface approved by the city engineer. (DS)
42. The existing residence shall abandon the existing septic system in accordance with Oregon Department of Environmental Quality (DEQ) requirements prior to connecting to the City's sanitary sewer system. (DS)
43. The development shall include a 10-foot-wide public utility easement along all property lines fronting existing or proposed right-of-way. (DS)
44. All new franchise utilities shall be placed underground. All new franchise utilities shall be placed underground. (DS)
45. The property owner(s) shall sign a Restrictive Covenant Non-Remonstrance Agreement for the purpose of making storm sewer, sanitary sewer, water or street improvements in the future that benefit the property and all fees associated with processing and recording the Non-Remonstrance Agreement shall be paid. (DS)
46. Responsibility for maintenance of public stormwater facilities including all landscaping, irrigation systems, structures and appurtenances shall remain with the property owner/developer for two years (known as the warranty or maintenance period). The owner/developer shall provide the city a separate two-year landscaping maintenance bond equal to one hundred ten percent of the landscaping costs or pay a fee-in-lieu and sign a contract with the City to cover the maintenance period. (DS)
47. The property owner(s) shall execute a "Maintenance Covenant and Access Easement for Privately Owned Stormwater Management Facilities" and pay associated recording fees. The covenant shall include a site plan identifying all privately-owned stormwater management facilities and an operation and maintenance plan for each type of stormwater facility in accordance with the Public Works Stormwater and Grading Design Standards. The Maintenance Covenant and Access Easement shall be reviewed and accepted by the City prior to recording. (DS)
48. The developer shall provide a Maintenance Guarantee in the amount of fifteen percent of the cost to construct all public improvements as shown in a city approved construction plan



submitted by the developer’s engineer. The estimated costs shall be supported by a verified engineering estimate approved by the City Engineer. The guarantee shall be in a form identified in Code 17.50.140.A of the Oregon City Municipal Code. The guarantee shall warrant to the City of Oregon City that construction of public improvements will remain, for a period of twenty-four (24) months from the date of acceptance, free from defects in materials and workmanship. (DS)

- 49. The applicant shall submit a final tree mitigation calculation and tree mitigation plan prepared by a certified arborist, horticulturalist, forester or other environmental professional which shows the planting location of mitigation trees. In the event that additional trees must be removed, the applicant shall submit a revised mitigation plan utilizing any of the mitigation options in OCMC Chapter 17.41. (P)
- 50. The applicant shall revise the layout to achieve 20 feet of street frontage for all proposed lots. (P)

Post Construction

- 51. As-builts conforming to City standards shall be provided within 90 days of completion of the public improvements. (DS)
- 52. Prior to occupancy of the dwellings on the subject site, the applicant shall record a covenant or easement on all properties with new or existing trees planted on private property. (P)

I. BACKGROUND:

1. Existing Conditions

The applicant submitted the following site description:

The proposed Development Parcel is located at 13735 Lazy Creek Lane, in Oregon City. It contains 2.01 acres. The site has been well maintained, with an expansive lawn, and a long rolling drive. There are several trees scattered through the interior of the property, however the vast majority of the site’s trees are located along the perimeter of the property. Most of the site’s trees will be retained. The highpoint of the site at the north corner falls from an elevation of 435, quickly down 4-feet to 431, and gently across the remainder of the site some 500- feet to the southern corner elevation of 421. An average fall of 2% across the site. The southwest line of the property has 200 feet of frontage onto Lazy Creek Lane (LCL). However, there is a second stub of the same street on the east property line. These will be connected as part of the proposal.

There is a water main at the southwest corner of the site connected to a hydrant. There is a sanitary sewer main running along the southern side of the Lane. There is a sidewalk, and curb on the north side of the west stub of LCL. LCL to the east while recently converted into a public right-of-way remains a gravel driveway for several hundred feet. There is no storm system to speak of.

The subject site is designated as “MR”, Medium Density Residential by the Oregon City Comprehensive Plan and is zoned “R-3.5” Dwelling District. Surrounding properties are residential in

nature. Properties to the south are zoned “R-8”, to the west, “R-6”, and properties to the north and east are zoned “R-3.5” Dwelling District.

There is an existing single family home on the property, along with a shed, a gravel driveway, and a manmade pond feature.

Lazy Creek Lane approaches the site from both the east and west, but does not connect through; the site is located at the dead end of each leg of the street.

Figure 1. Vicinity Map

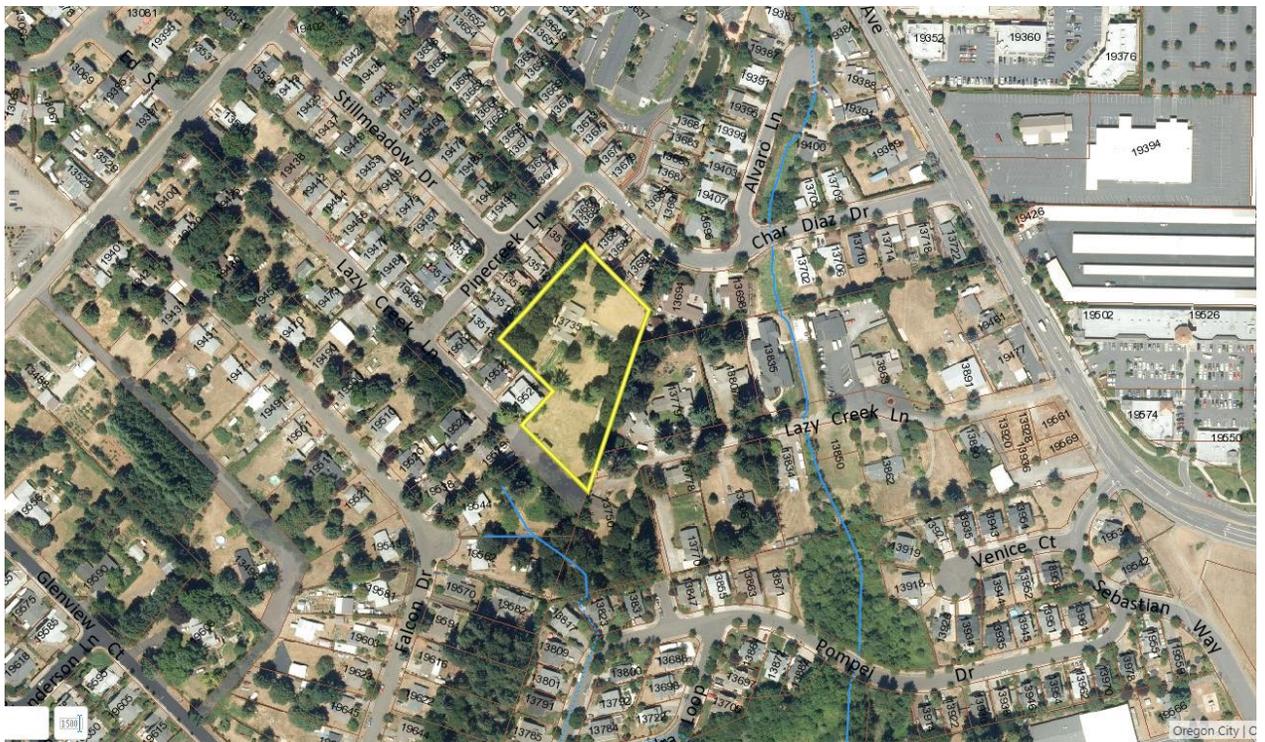


Figure 2: Existing Conditions – Aerial Image





2. Project Description

The applicant is requesting to divide the property into 20 lots, ranging in size from 2,550 square feet to 11,473 square feet, with a combination of single family attached homes and single family detached homes. The existing home on the property is proposed to be retained on the largest of the 20 lots.

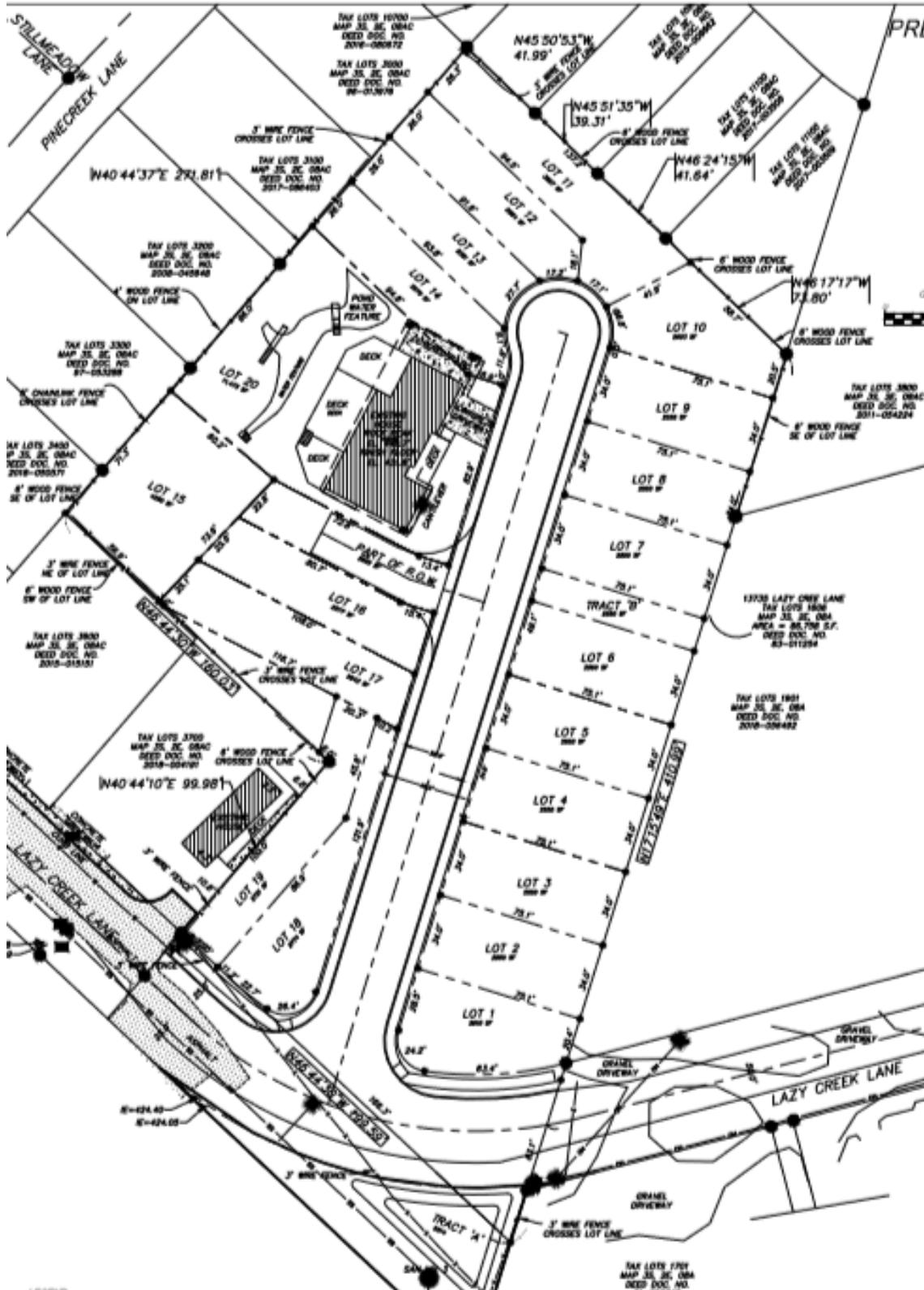
The applicant submitted the following description:

The proposed Development Parcel is located at 13735 Lazy Creek Lane, in Oregon City. It contains 2.01 acres. There is a home that will be retained. The house is located at the central northern portion of the property. There are several outbuildings on the property that will be removed. The parcel takes egress from the southeast corner of the site, and then east out to S Molalla Avenue across from the OC Point Shopping Mall. This in turn is adjacent at the Clackamas Community College. The applicant is proposing to retain the home, and to build 19 new single-family homes. 18-of the homes will be semi-detached. In other words, two homes will be connected by a single interior wall. This will be where the stairs, and the garages for each home are located. This will permit each home to have three sides for glazing. The 19th lot will be a single-family detached home at the far west corner of the site, tucked behind, and south of the existing home.

The applicant is proposing a 28-ft street with curb tight sidewalks for the internal Street. This is permitted through. The alternate engineering standard. The proposed street will be public and will have both a fire access turn around that will be approved by the Clackamas County Fire Marshall, as well as a smaller cul-de-sac with a 36-ft diameter to permit the road cleaner the ability to maneuver the end of the street.

The applicant is proposing to connect the two rights-of-way of LCL, through a 185-ft centerline radius. The applicant is proposing half street improvements along the sites frontage and will connect to the existing asphalt surface to the east through a 20-ft asphalt paved surface. This will afford to point or egress for the site and allow through traffic from Gaffney Lane to Molalla Avenue.

Figure 3: Proposed Site Plan





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

The application was submitted in September 2019; thus the code version effective August 2, 2019 applies.

- 12.08 - Public and Street Trees
- 13.12 - Stormwater Management
- 15.48 - Grading, Filling and Excavating
- 16.08 - Subdivisions-Process and Standards
- 16.12 - Minimum Improvements and Design Standards for Development
- 17.10 – Medium Density Residential Districts
- 17.41 – Tree Protection
- 17.47 - Erosion and Sediment Control
- 17.50 - Administration and Procedures
- 17.54.100 – Fences

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

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

5. Notice and Public Comment

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

- A comment from the Oregon City School District identifying that the school district has the capacity to meet the small amount of students generated by the subdivision. The district also requested concrete or asphalt sidewalks/paths for secondary school students to walk to the nearest bus stop.

Staff Response: Bus stops appear to be at Gaffney Lane at Lazy Creek Lane for High school, and at Gaffney Lane and Falcon Drive for middle school. The proposed new sidewalk connects to the existing sidewalk on Lazy Creek Lane. The sidewalk does not fully extend to Gaffney Lane, but would be built as part of redevelopment of the property at the corner of Gaffney Lane and Lazy Creek Lane, which has development potential. For sidewalks on Gaffney Lane, there is a TSP Project: W33 for sidewalk infill.

- A letter from Loretta Matulich, a resident on Lazy Creek Lane, stating that the ecological health of the property would be deteriorated by building new residences on the

property, and stating that the increased traffic on Lazy Creek Lane would be detrimental to the safety of children in the neighborhood.

Staff Response: The conditions of approval include new sidewalks and offsite paving that will serve the new development and provide safer transportation conditions. Tree mitigation is required.

- A letter from Mark and Judy Heisler, neighboring residents on Pinecreek Lane, raising concerns over the congestion, safety, school capacity, and quality of life impacts from the proposed density on the site.

Staff Response: The proposed density meets the standards in the R-3.5 zone. The traffic analysis demonstrates no off-site improvements are needed for the slight increase in traffic. The conditions of approval include new sidewalks and offsite paving that will serve the new development and provide safer transportation conditions. Tree mitigation is required. The school district noted that it has the capacity for the development.

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

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

II. RESPONSES TO THE OREGON CITY MUNICIPAL CODE:

REQUIRED CODE RESPONSES:

CHAPTER 12.08 - PUBLIC AND STREET TREES

12.08.015 - Street tree selection, planting and maintenance requirements.

All development shall provide street trees adjacent to all street frontages. Species and locations of trees shall be selected based upon vision clearance requirements, but shall in all cases be selected from the Oregon City Street Tree List, an approved street tree list for a jurisdiction in the metropolitan region, or be approved by a certified arborist unless otherwise approved pursuant to this section. If a setback sidewalk has already been constructed or the Public Works Department determines that the forthcoming street design shall include a setback sidewalk, then all street trees shall be installed with a planting strip or within tree wells. If existing street design includes a curb-tight sidewalk, then all street trees shall be placed according to OCMC 12.08.035.C.

A. One street tree shall be planted for every thirty-five feet of property frontage. The tree spacing shall be evenly distributed throughout the total development frontage to meet the clearance distances required in subsection (B) below. The Community Development Director may approve an alternative street tree plan, or accept fee-in-lieu of planting pursuant to OCMC 12.08.035, if site or other constraints prevent meeting the required total number of tree plantings.

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

- 1. Fifteen feet from streetlights;*
- 2. Five feet from fire hydrants;*
- 3. Twenty feet from intersections;*
- 4. Five feet from all public utilities (i.e. sewer, storm and water lines, utility meters, etc.);*

C. All street trees planted in conjunction with development shall be a minimum of two inches in caliper at six inches above the root crown and installed to city specifications. Larger caliper size trees may be approved if recommended by a certified arborist or registered landscape architect.

D. All established trees shall be pruned tight to the trunk to a height that provides adequate clearance for street cleaning equipment and ensures ADA complaint clearance for pedestrians.

E. All trees planted within the right-of-way shall be planted with root barriers at least eighteen inches in depth adjacent to the sidewalk and curb to ensure proper root growth and reduce potential damage to sidewalks, curbs and gutters.

F. All trees planted beneath powerlines shall be selected based on what is appropriate for the location. In addition, the tree species shall be approved by the associated franchise powerline utility company.

G. Tree species, spacing and selection for stormwater facilities in the public right-of-way and in storm water facilities shall conform to requirements of OCMC 13.12 and the adopted Stormwater and Grading Design Standards and be approved by the City Engineer.

H. Any public or street trees planted within the Natural Resource Overlay District shall conform to the applicable requirements of OCMC 17.49 - Natural Resources Overlay District (NROD).

Finding: Complies with Condition. The applicant has proposed a constrained street section for the new local street without a planter strip. The applicant submitted a street tree plan with 2” trees placed behind the sidewalk on the new local street, and trees placed within a planter strip along Lazy Creek Lane. The total street frontage length is 865 feet. Prior to issuance of construction plans for the right-of-way improvements, the applicant shall submit an updated street tree plan which includes one street tree for every 35 feet of frontage and that meets the clearance requirements in OCMC 12.08. Street trees planted behind the sidewalk within ten feet of the back of the sidewalk are acceptable where no planter strip is provided. Fee-in-lieu will only be accepted when there are conflicts with utilities, lights, hydrants, or intersections that preclude achieving the spacing standards. Species shall be from the City’s adopted street tree list or other approved list. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

12.08.035 - Tree removal and replacement.

Existing street trees, trees in the right-of-way, and trees on public property shall be retained and protected during development unless removal is specified as part of a land use approval or in conjunction with a public capital improvement project, in accordance with OCMC 17.41. Tree removal shall be mitigated by the following:

A. A diseased or hazardous street tree, as determined by a registered arborist and approved by the City, may be removed, if replaced with one new tree for each diseased or hazardous tree. Hazardous trees which have raised the adjacent sidewalk in a manner which does not comply with the Americans with Disabilities Act may be removed and replaced without approval of an arborist.

B. A non-diseased, non-hazardous street tree that is removed shall be replaced in accordance with the Table 12.08.035. All replaced street trees shall have a minimum 1.5-inch caliper trunk measured six inches above the root crown.

Table 12.08.035

Replacement Schedule for Trees Determined to be Dead, Diseased or Hazardous by a Certified Arborist		Replacement Schedule for Trees Not Determined to be Dead, Diseased or Hazardous by a Certified Arborist	
Diameter of tree to be Removed (Inches of diameter at 4-ft height)	Number of Replacement Trees to be Planted	Diameter of tree to be Removed (Inches of diameter at 4-ft height)	Number of Replacement Trees to be Planted
Any Diameter	1 Tree	Less than 6"	1 Tree

	6" to 12"	2 Trees
	13" to 18"	3 Trees
	19" to 24"	4 Trees
	25" to 30"	5 Trees
	31" and over	8 Trees

C. For the purposes of this chapter, removed trees shall be replaced by trees within the right-of-way abutting the frontage subject to the clearance distances required under OCMC 12.08.015(B). If a sufficient location to replant tree(s) is not available, the Community Development Director may allow:

1. Off-site installation of replacement trees within the right-of-way or on public property;
2. Planting of replacement trees or designation of existing trees on the abutting property within ten feet of the right-of-way as street trees. Designated street trees shall be a minimum of two inches in caliper and shall comply with the requirements in section B. In order to assure protection and replacement of the trees on private property, a covenant shall be recorded identifying the tree(s) as subject to the protections and replacement requirements in this chapter; or
3. If sufficient space to replant tree(s) is not available, the Community Development Director may allow a fee in-lieu of planting the tree(s) to be placed into a City fund dedicated to obtaining trees, planting trees and/or tree education in Oregon City.

D. Trees that are listed as invasive or nuisance species as defined in OCMC 17.04.605 may be removed without replacement.

Finding: Not applicable. The applicant does propose to remove trees within existing public right of way. In accordance with this section, mitigation for those trees will be reviewed through OCMC 17.41.

12.08.045 – Gifts, fee-in-lieu of planting, and funding.

The City of Oregon City may accept gifts, which are specifically designated for the purpose of planting or maintaining trees within the City. The Community Development Director may allow a fee -in-lieu of planting the tree(s) to be placed into a city fund dedicated to planting trees in Oregon City. The Community Development Director may determine the type, caliper and species of the trees purchased with the fund. The cost of each tree may be adjusted annually based upon current market prices for materials and labor as calculated by the Community Development Director. A separate fund shall be established and maintained for revenues and expenditures created by activities specified in this chapter. The Natural Resources Committee shall have authority on behalf of the City to seek grants and alternative funding for tree projects. Funds from such grant awards shall be administered by the City pursuant to this section.

Finding: Complies with Condition. Fee-in-lieu will only be accepted when there are conflicts with utilities, lights, hydrants, or intersections that preclude achieving the spacing standards. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

12.08.040 - Heritage Trees and Groves.

Finding: Not applicable. The applicant did not propose to designate or remove a heritage tree or grove.

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: Applicable. *Construction of improvements to public stormwater conveyance facilities is required to serve this development.*

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 OCMC 17.49 that will result in the creation of more than five hundred square feet of impervious surface within the NROD or will disturb more than one thousand square feet of existing impervious surface within the NROD 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, cumulated over any given five-year period.*

Finding: Applicable. *The proposed development will create or replace more than 5000 sf of impervious area.*

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

- 1. An exemption to the flow control requirements of this chapter will be granted when the development site discharges to the Willamette River, Clackamas River or Abernethy Creek; and either lies within the one hundred-year floodplain or is up to ten feet above the design flood elevation as defined in OCMC 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.*

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

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

Finding: Not Applicable. The proposed development does not meet the criteria for exemption.

13.12.060 - Abrogation and greater restrictions.

Where the provisions of this chapter are less restrictive or conflict with comparable provisions of other portions of this code, regional, state or federal law, the provisions that are more restrictive shall govern. Where this chapter imposes restrictions that are more stringent than regional, state or federal law, the provisions of this chapter shall govern. However, nothing in this chapter shall relieve any party from the obligation to comply with any applicable federal, state or local regulations or permit requirements.

Compliance with this chapter and the minimum requirements, minimum standards, and design procedures as set forth in the City adopted Public Works Stormwater and Grading Design Standards does not relieve the designer, owner, or developer of the responsibility to apply conservative and sound professional judgment to protect the health, safety and welfare of the public. It is not the intent of this chapter to make the City a guarantor or protector of public or private property in regard to land development activity.

Finding: Applicable. Where provisions of this chapter are less restrictive or conflict with comparable provisions of other portions of this code, regional, state or federal law, the provisions that are more restrictive shall govern.

13.12.080 - Submittal requirements.

A. Applications subject to stormwater conveyance, water quality, and/or flow control requirements of this chapter shall prepare engineered drainage plans, drainage reports, and design flow calculation reports in compliance with the submittal requirements of the Public Works Stormwater and Grading Design Standards.

B. Each project site, which may be composed of one or more contiguous parcels of land, shall have a separate valid city approved plan and report before proceeding with construction.

Finding: Complies as Conditioned. The developer shall provide updated engineered drainage plan(s), drainage report(s), and design flow calculation report(s) stamped and signed by a licensed engineer addressing all items from the Section 9 of the Public Works Stormwater and Grading Design Standards. The engineered drainage plans and drainage report shall comply with the current version of the Public Works Stormwater and Grading Design Standards. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

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

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

A. The plan and report demonstrate how the proposed development and stormwater facilities will accomplish the purpose statements of this chapter.

B. The plan and report meet the requirements of the Public Works Stormwater and Grading Design Standards adopted by resolution under OCMC 13.12.020.

C. The storm drainage design within the proposed development includes provisions to adequately control runoff from all public and private streets and roof, footing, and area drains and ensures future extension of the current drainage system.

D. Streambank erosion protection is provided where stormwater, directly or indirectly, discharges to open channels or streams.

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

Finding: Complies as Conditioned. For the proposed onsite improvements, the applicant has proposed to meet water quality and detention standards through a combination of private onsite stormwater planters and/or rain gardens, and a vegetated swale located within the right-of-way on the south side of Lazy Creek Lane. The applicant has provided a conceptual design in general accordance with the Public Works Stormwater and Grading Design Standards. The storm drainage design within the proposed development shall include 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. For the necessary offsite improvements, the applicant has proposed a stormwater swale along the north side of Lazy Creek Lane to meet stormwater treatment and detention standards. The applicant shall provide stormwater treatment and detention for all proposed onsite and offsite improvements, in accordance with the current Public Works Stormwater and Grading Design Standards.

For the necessary offsite improvements of Lazy Creek Lane to the east of the proposed development, the applicant may construct a stormwater swale or pay a fee-in-lieu to meet stormwater treatment and detention standards, in accordance with the current Public Works Stormwater and Grading Design Standards. It is possible that installation of the swale could impact adjacent property redevelopment. OCMC 16.12.010 urges the City Engineer to take the remaining development potential of adjacent properties when reviewing utility plans. As a result, the City would prefer payment of a fee-in-lieu in this case. The fee shall be based on the applicant's engineering cost estimate for the City to construct an equivalent stormwater management facility or facilities. Final approval for the fee-in-lieu amount shall be approved by the City Engineer. The applicant's development proposal triggers the General Thresholds (1.2.1) of the current Public Works Stormwater and Grading Design Standards, as it results in greater than 5,000 square feet of new or replaced impervious surface. The Stormwater and Grading Design Standards are applicable to the entire development, including the necessary offsite improvements. The provision of stormwater treatment along this widened and resurfaced area east is required to due to stormwater degradation that may result from a significant increase in traffic levels that is directly attributable to this development.

The applicant shall design a conveyance system to safely convey stormwater within the Lazy Creek Lane right-of-way from the proposed development to the existing stream corridor located just east of the residence at 13835 Lazy Creek Lane. The applicant has the option to design a piped system or a ditch system to safely convey stormwater to the stream corridor. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

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

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

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

13.12.110 - Transfer of engineering responsibility.

Project drainage plans shall always have a project engineer. If the project engineer is changed during the course of the work, the City shall be notified in writing and the work shall be stopped until the replacement engineer has agreed to accept the responsibilities of the project engineer. The new project engineer shall provide written notice of accepting project responsibility to the City within seventy-two hours of accepting the position as project engineer.

Finding: Applicable. The applicant has indicated that Sisul Engineering is the project engineer. If the project engineer is changed during the course of the work, the City shall be notified in writing and the work shall be stopped until the replacement engineer has agreed to accept the responsibilities of the project engineer. The new project engineer shall provide written notice of accepting project responsibility to the City within seventy-two hours of accepting the position as project engineer.

13.12.120 - Standard construction specifications.

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

Finding: Complies as Conditioned. The standard construction specifications for the proposal appear to be in accordance with the Stormwater and Grading Design Standards adopted August 18, 2015, which are in effect at time of application. The workmanship and materials for any work performed under permits issued by Oregon City Public Works shall be in accordance with the edition of the "Oregon Standard Specifications for Construction" as prepared by the Oregon Department of Transportation (ODOT) and the Oregon Chapter of American Public Works Association (APWA) and as modified and adopted by the city. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

13.12.140 - Maintenance of public stormwater facilities.

A. A stormwater facility that receives stormwater runoff from a public right-of-way shall be a public facility. Upon expiration of the warranty period and acceptance by the City as described below, the City shall be responsible for

maintenance of those public stormwater facilities. Access for maintenance of the stormwater facilities shall be provided to the City through the granting of a stormwater easement or other means acceptable to the City.

B. Responsibility for maintenance of stormwater facilities including all landscaping, irrigation systems, structures and appurtenances shall remain with the property owner/developer for two years (known as the warranty period). The owner/developer shall provide the City a separate two-year landscaping maintenance surety bond for one hundred ten percent of the landscaping cost. Transfer of maintenance of stormwater conveyance systems shall occur when the City accepts the stormwater conveyance system.

C. The City will perform an inspection of the development's entire publicly maintained stormwater system approximately forty-five days before the two-year warranty period expires. The stormwater system shall be found to be in a clean, functional condition by the City engineer before acceptance of maintenance responsibility by the City.

Finding: Complies as Conditioned. Responsibility for maintenance of public stormwater facilities including all landscaping, irrigation systems, structures and appurtenances shall remain with the property owner/developer for two years (known as the warranty or maintenance period). The owner/developer shall provide the city a separate two-year landscaping maintenance bond equal to one hundred ten percent of the landscaping costs or pay a fee-in-lieu and sign a contract with the City to cover the maintenance period. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

13.12.145 - Maintenance of private stormwater facilities.

A. An applicant shall submit an operation and maintenance plan for each proposed stormwater facilities, unless exempted in the Public Works Stormwater and Grading Design Standards. The information in the operation and maintenance plan shall satisfy the requirements of the Public Works Stormwater and Grading Design Standards. See 13.12.145.CB. Private owners are required to inspect and maintain stormwater facilities on their property in accordance with an approved operation and maintenance plan. A maintenance log is required to document facility inspections and specific maintenance activities. The log shall be available to City inspection staff upon request. See 13.12.145.CC. Failure to operate or maintain a stormwater facility according to the operation and maintenance plan may result in an enforcement action under Section 13.12.150.

Finding: Complies as Conditioned. The property owner(s) shall execute a “Maintenance Covenant and Access Easement for Privately Owned Stormwater Management Facilities” and pay associated recording fees. The covenant shall include a site plan identifying all privately-owned stormwater management facilities and an operation and maintenance plan for each type of stormwater facility in accordance with the Public Works Stormwater and Grading Design Standards. The Maintenance Covenant and Access Easement shall be reviewed and accepted by the City prior to recording. Private owners are required to inspect and maintain stormwater facilities on their property in accordance with an approved operation and maintenance plan. Failure to operate or maintain a stormwater facility according to the operation and maintenance plan may result in an enforcement action under Section 13.12.150. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

13.12.150 - Penalties and enforcement.

A. The City is authorized to make inspections and take such actions as required to enforce the provisions of this chapter. The City has the authority to enter onto land for the purpose of inspecting site development activities or resulting improvements. City staff will make an effort to contact the property owner before entering onto that property.

B. If the City Engineer determines a site has any unpermitted or illegal facilities placed, constructed or installed on the site, then the City Engineer shall notify the owner in writing directing the owner to submit a written plan (with construction drawings completed by a professional engineer, if otherwise required by this chapter) within ten calendar days. This plan (and drawings, if required) shall depict the restoration or stabilization of the site or correct the work that has adversely impacted adjacent or downstream property owners. The City Engineer shall review the plan (and drawings, if required) for compliance with City standards and issue comments for correction, if necessary, or issue an approval to the owner. The City shall establish a fee by resolution for such review, with all costs borne by the owner. If the required corrective work constitutes a grading permit, then the City shall collect the appropriate grading permit fee.

C. Any person, firm, corporation or entity violating any of the provisions of this chapter, whether they be the property owner, the applicant, the contractor or any other person acting with or without the authorization of the property owner or applicant, shall be subject to the code enforcement procedures of OCMC 1.16, 1.20 and 1.24.

Finding: Applicable. The City is authorized to make inspections of stormwater facilities and take such actions as required to enforce the provisions of this chapter.

13.12.160 - Hazardous conditions.

A. Determination and Notification. If the City Engineer determines that any excavation, embankment, erosion/sedimentation control or drainage facility is a safety hazard; endangers property; or adversely affects the safety, use or stability of a public way, water quality resource areas (pursuant to OCMC 17.49) or drainage course, the owner(s) of the subject property and/or the person or agent in control of the property shall be required to repair or eliminate the hazard in conformance with the requirements of this chapter and the Public Works Stormwater and Grading Design Standards. At the time that the City Engineer makes the determination that a hazardous condition exists, the property owner and/or person or agent in control of the property will be notified in writing that the hazard exists.

B. Order to Correct. The City Engineer will order the specific work to be undertaken or will order that an engineering design be submitted for review and approval by the City Engineer, and will specify the time periods within which the hazardous conditions be repaired or eliminated. In the event that the owner and/or the person or agent in control of the property fails to comply with this order, that person shall be subject to the code enforcement procedures of OCMC 1.16, 1.20, and 1.24.

Finding: Applicable. If the City Engineer determines that a drainage facility is a safety hazard, the property owner shall be notified in writing and the City Engineer will order the specific work to be undertaken to correct the hazardous condition.

13.12.170 - Permits from other jurisdictions.

A. The Oregon State Department of Environmental Quality (DEQ) currently issues NPDES 1200-C permits for projects that cover areas of one acre or greater. No permit shall be issued for projects of this size (or any other size as modified by DEQ) without a copy of said DEQ permit being on file with Oregon City. DEQ is responsible for policing its own permits; however, if City personnel observe conditions that are believed to be in violation of any such permit, and cannot get corrections made, the City will bring such conditions to the attention of the appropriate DEQ representatives.

Finding: Complies as Conditioned. The project does cover an area of one acre or greater. The developer shall obtain a 1200-C (NPDES) permit from Oregon Department of Environmental Quality (DEQ). **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

B. Projects may require Oregon State Division of State Lands (DSL) and/or United States Army Corps of Engineers (USACE) permits. If such permits are required, no permission to construct will be granted until such a time as a copy



of such permit is on file with the City or notice is received from those agencies that a permit is not required. DSL/USACE is responsible for enforcing its own permits; however, if City personnel observe conditions that are believed to be in violation of any such permit, and cannot get corrections made, the City will bring such conditions to the attention of the appropriate DSL/USACE representatives.

Finding: Not Applicable. DSL and USACE permits are not required with this proposed development.

C. Projects may require Oregon State Department of Fish and Wildlife (ODFW) permits. When ODFW permits are required, no work will be authorized until the receipt of a copy of the ODFW permit. ODFW is responsible for policing its own permits; however, if City personnel observe conditions that are believed to be in violation of any such permit, and cannot get corrections made, the City will bring such conditions to the attention of the appropriate ODFW representatives.

Finding: Not Applicable. ODFW permits are not required with this proposed development.

13.12.180 - Violation—Penalty.

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

Finding: Applicable. Any act or omission in violation of this chapter shall be deemed a nuisance.

Violation of any provision of this chapter is subject to the code enforcement procedures of OCMC 1.16, 1.20 and 1.24.

CHAPTER 15.48 - GRADING, FILLING AND EXCAVATING

15.48.030 Applicability—Grading permit required.

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

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

Finding: Complies as Conditioned. The applicant provided a preliminary grading plan demonstrating general compliance with the City’s Public Works requirements for grading standards. The preliminary plan presents grading and paving activities that will result in the disturbance of more than one-half acre.

The developer shall provide a Residential Lot Grading Plan adhering to the State of Oregon Structural Specialty Code, Chapter 18 and the Oregon City Public Works Stormwater and Grading Design Standards. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

15.48.090 Submittal requirements.

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

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

- 1. No portion of the proposed site is within the flood management area overlay district pursuant to Chapter 17.42, the unstable soils and hillside constraints overlay district pursuant to Chapter 17.44, or a water quality resource area pursuant to Chapter 17.49; and*
- 2. The proposed filling or grading activity does not involve more than fifty cubic yards of earth.*

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

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

- 1. When any publicly maintained facility (structure, street, pond, utility, park, etc.) will be supported by any engineered fill;*
- 2. When an embankment for a stormwater pond is created by the placement of fill;*
- 3. When, by excavation, the soils remaining in place are greater than three feet high and less than twenty feet wide.*

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

Finding: Complies as Conditioned. The developer shall provide an engineered grading plan prepared by a professional engineer in compliance with the submittal requirements of the Public Works Stormwater and Grading Design Standards. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

CHAPTER 16.08 LAND DIVISIONS - PROCESS AND STANDARDS

16.08.010 - Purpose and general provisions.

A. Applicability. This chapter controls the process and approval standards applicable to land divisions including:

- 1. Partitions, defined as a single division of land into two or three lots, and/or*
- 2. Subdivisions, defined as a single division of land into four or more lots and/or*
- 3. Master plans and planned unit developments and/or*
- 4. Expedited land divisions.*

B. Approval of a land division shall be granted only upon determination by the City that all applicable requirements of this title, ORS Chapter 92, the applicable zoning designation, applicable overlay districts, and OCMC 12.08, 13.12, 15.48, 16.12, 17.41, and 17.50 of the Oregon City Municipal Code are met or can be met with conditions of approval.

C. Minor partitions and subdivisions shall generally follow a Type II process and master plans/planned unit developments shall be processed as a Type III process pursuant to OCMC 17.50. However, if an applicant opts to process a subdivision as an expedited land division, the City shall follow the decision-making process provided by state law and apply the applicable approval standards set forth in this code and elsewhere.

D. Purpose. The purpose of this chapter is to provide a speedy review and decision-making process with relatively clear and objective criteria indicating little discretion, with little opportunity to deviate from the City's dimensional standards. If an applicant wishes greater flexibility in lot pattern or layout, phasing of development, or relief from dimensional or public improvement standards, the appropriate procedure would be a Master Plan / Planned Unit Development pursuant to OCMC 17.65 or an additional application for a variance(s) pursuant to OCMC 17.60.

E. Process Overview. Land division review process requires a two-step process: preliminary and final plats. The preliminary plat, reviewed through a Type II process, provides all of the essential information about the proposal, including layout, number and pattern of lots, location of all existing structures and improvements, significant natural features, development schedule and any other required information. The final plat shall be processed as identified in OCMC 16.08.100.

Finding: Applicable. The application is a subdivision that is subject to this Chapter.

16.08.025 - Preliminary plat—Required information.

The preliminary plat shall specifically and clearly show the following features and information on the maps, drawings, application form or attachments. The preliminary plat layout may be prepared by a civil engineer, architect, land use planner or similarly qualified professional. All maps and site drawings shall be at a minimum scale of one inch to fifty feet.

A. Site Plan. A detailed site development plan drawn to scale by a licensed professional based on an existing conditions plan drawn by a licensed surveyor. The site plan shall include the location and dimensions of lots, streets, existing and proposed street names, pedestrian ways, transit stops, common areas, building envelopes and setbacks, all existing and proposed utilities and improvements including sanitary sewer, stormwater and water facilities, total impervious surface created (including streets, sidewalks, etc.), all areas designated as being within an overlay district and an indication of existing and proposed land uses for the site. If required by staff at the pre-application conference, a connectivity analysis shall be prepared by a transportation engineer licensed by the State of Oregon that describes the existing and future vehicular, bicycle and pedestrian connections between the proposed subdivision and existing or planned land uses on adjacent properties. The connectivity analysis shall include shadow plats of adjacent properties demonstrating how lot and street patterns within the proposed land division will extend to and/or from such adjacent properties and can be developed meeting the existing OCMC design standards and adopted Transportation System Plan, street design standards, and adopted concept plans, corridor and access management studies, engineering standards and infrastructure analyses.

Finding: Complies as Proposed. The development application included a preliminary site plan displaying the necessary submittal requirements. This standard is met.

B. Traffic/Transportation Plan. The applicant's traffic/transportation information shall include two elements: (1) A detailed site circulation plan showing proposed vehicular, bicycle, transit and pedestrian access points and connections to the existing system, circulation patterns and connectivity to existing rights-of-way or adjacent tracts, parking and loading areas and any other transportation facilities in relation to the features illustrated on the site plan; and (2) a traffic impact study prepared by a qualified professional transportation engineer, licensed in the State of Oregon, that assesses the traffic impacts of the proposed development on the existing transportation system and analyzes the adequacy of the proposed internal transportation network to handle the anticipated traffic and the adequacy of the existing system to accommodate the traffic from the proposed development. In the preparation of the Traffic/Transportation Plan, the applicant shall reference the adopted Transportation System Plan. The Community Development Director may waive any of the foregoing requirements if determined that the requirement is unnecessary in the particular case.

Finding: Complies as Proposed. The development application included a preliminary site plan as well as a Transportation Analysis Letter (TAL), under the direction of Michael Ard, P.E. of Ard Engineering.

C. Natural Features Plan and Topography, Preliminary Grading and Drainage Plan. The applicant shall submit a map illustrating all of the natural features and hazards on the subject property and, where practicable, within 250 feet of the property's boundary. The map shall also illustrate the approximate grade of the site before and after development. Illustrated features shall include all proposed streets and cul-de-sacs, the location and estimated volume of all cuts and fills, and all stormwater management features. This plan shall identify the location of

drainage patterns and courses on the site and within 250 feet of the property boundaries where practicable. Features that shall be illustrated shall include the following:

- 1. Proposed and existing street rights-of-way and all other transportation facilities;*
- 2. All proposed lots and tracts;*
- 3. All trees proposed to be removed prior to final plat with a diameter six inches or greater diameter at breast height (d.b.h.);*
- 4. All natural resource areas pursuant to OCMC 17.49, 17.48, 17.44, and 17.42;*
- 5. The location of any known state or federal threatened or endangered species or wildlife habitat or other natural features listed on any of the City's official inventories;*
- 6. All historic areas or cultural features acknowledged as such on any federal, state or city inventory;*

D. 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 other written demonstration that the applicant 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 any responsive 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.

The Community Development Director may waive any of the foregoing requirements if the Community Development Director determines that the requirement is unnecessary in the particular case and that the intent of this chapter has been met.

Finding: Complies as Proposed. The development application included preliminary site and drainage plans as well as the proposed lots, street, and trees proposed to be removed. A description of the proposed development was sent to the Oregon State Historic Preservation Office (SHPO) as well as various tribes for review.

16.08.030 - Preliminary plat—Narrative statement.

In addition to the plans required in the previous section, the applicant shall also prepare and submit a narrative statement that addresses the following issues:

- A. Description. A detailed description of the proposed development, including a description of proposed uses, number and type of residential units, allocation and ownership of all lots, tracts, streets, and public improvements, the structure of any homeowner's association, and each instance where the proposed subdivision will vary from some dimensional or other requirement of the underlying zoning district.*

Finding: Complies as Proposed. The development application included a narrative statement with the required information.

B. Timely Provision of Public Services and Facilities. The applicant shall explain in detail how and when each of the following public services or facilities is, or will be, adequate to serve the proposed development by the time construction begins:

- 1. Water,*



- 2. Sanitary sewer,
- 3. Storm sewer and stormwater drainage,
- 4 Parks, trails and recreation facilities, if determined to be necessary pursuant to the Oregon City adopted Trail Master Plan and / or Parks and Recreation Master Plan
- 5. Traffic and transportation, and
- 6. Fire and police services

Where adequate capacity for any of these public facilities and services is not demonstrated to be currently available, the applicant shall describe how adequate capacity in these services and facilities will be financed and constructed before recording of the plat;

Finding: Complies as Proposed. The development application included a narrative statement with the required information.

C. Drafts of the proposed covenants, conditions and restrictions (CC&Rs), maintenance agreements, homeowner association agreements, dedications, deeds easements, or reservations of public open spaces not dedicated to the City, and related documents for the land division;

Finding: Not applicable. No CC&Rs are proposed.

D. Overall density of the land division and the density by dwelling type for each.

Finding: Complies as Proposed.

The Gross Site Area is 2.01 Acres (87,556 SF) . After the dedication of right-of-way from the internal Street, and the realignment of Lazy Creek Lane (20,689 SF) A Net area of 63672 remains, or 1.46 acres. With 20 total units, the overall density is 13.7 dwelling units per acre. For the 18 proposed single family attached units, the proposed density is 18 units/1.1 acres = 16.4 units per acre, and for single family detached units, the proposed density is 2 units/.36 acres = 5.55 dwelling units per acre.

16.08.045 - Frontage width requirement.

Each lot shall abut upon a street other than an alley for a width of at least twenty feet unless flag lots are provided pursuant to OCMC 16.08.050, except for Cluster Housing development pursuant to OCMC 17.20.020.

Finding: Complies with Condition. Lots 10, 11 and 12 all have less than 20 feet of frontage width. No flag lots are proposed. Prior to final plat, the applicant shall revise the layout to achieve 20 feet of street frontage for all proposed lots. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

16.08.050 - Flag lots.

A. Flag lots shall not be permitted except where the applicant can show that the existing parcel configuration, topographic constraints or the location of a pre-existing dwelling unit precludes a land division that meets the minimum density, dimensional standards of the underlying zone, and except where street connectivity is not practicable as determined by the City Engineer.

B. A shared joint accessway shall be provided unless the existing topography of the site or the pre-existing dwelling unit is located on the property to prevent a joint accessway. A perpetual reciprocal access easement and maintenance agreement shall be recorded for the joint accessway, in a form acceptable to the City Attorney.

C. Accessways shall have a pavement width of at least sixteen feet to service one or two units or twenty feet to service three or more units. A fire access corridor of at least twenty feet shall be provided to all parcels with a minimum pavement width of sixteen feet to service two units or twenty feet to service three or more units. At least six inches of shoulder on each side of the fire access corridor shall be provided in order that construction work does not infringe on adjacent properties. A narrower pavement width may be approved by the Fire District and City Engineer. The City Engineer and/or Fire District may require that additional fire suppression devices be provided to

assure an adequate level of fire and life safety. The City Engineer and/or Fire District may prohibit vehicular obstruction, including trees, fences, landscaping and structures within the fire access corridor.

If the proposed accessway exceeds 150 feet in length the accessway shall conform to Fire District standards and shall be paved to a minimum width of twenty feet unless an alternative is approved by the Planning Division and Fire District. If more than two residences are served, a turnaround for emergency vehicles shall be provided. The turnaround shall be approved by the City Engineer and Fire District.

D. The pole portion of the flag lot shall connect to a street.

E. The pole shall be at least ten feet wide for the entire length.

F. The pole shall be part of the flag lot and shall remain under the same ownership as the flag portion of the lot.

Finding: Not Applicable. No flag lots are proposed. Lot 15 is at the terminus of a 22-ft public street, and therefore has 20-feet of frontage on a public street, and is not a flag lot.

16.08.053 Tracts

Tracts which cannot be developed with a home or office, commercial, residential, institutional, industrial, parking or other uses as determined by the City Engineer or Community Development Director are not subject to compliance with the dimensional standards of the zoning designation, frontage requirements, or flag lot standards.

Finding: Complies as Proposed. Tracts within the subdivision do not require compliance with these standards.

16.08.060 - Building sites.

A. The size, width, shape and orientation of building sites shall be rectangular or square to the maximum extent practicable.

B. Sites abutting an alley shall gain vehicular access from the alley unless deemed impracticable by the decision maker. Adequate access for emergency services (fire and police) shall be provided.

Finding: Complies as Proposed. Some of the lots in order to meet the frontage requirements have angled lines. However, each buildable area with the lot in question is rectangular in shape. No alleys are proposed.

16.08.063 - Minimum density.

All layouts shall achieve at least the minimum density of the base zone for the net developable area as defined in OCMC 17.04. Alternatively, a site may be partitioned into two lots, though one of the lots shall not contain sufficient lot area to allow further division.

Finding: Complies as Proposed. The Gross Site Area is 2.01 Acres (87,556 SF) . After the dedication of right-of-way from the internal Street, and the realignment of Lazy Creek Lane (20,689 SF) A Net area of 63672 remains, or 1.46 acres. With 20 total units, the overall density is 13.7 dwelling units per acre, which exceeds the minimum of 10 units/acre for the R-3.5 zone.

16.08.065 – Lot size reduction.

A subdivision in the R-10, R-8, R-6, R-5, or R-3.5 dwelling district may utilize lot size reduction for up to twenty-five percent of the lots proposed for single-family detached residential use. The reduced-size lots may be up to ten percent less than the required minimum lot area of the applicable zoning designation provided the average lot size of all proposed single-family detached residential lots meet the minimum requirement of the underlying zone. Any area within a powerline easement on a lot shall not count towards the lot area for that lot. Lot size reduction is only permitted through a subdivision or, master plan and planned unit developments processes and may not be used for minor partitions or any other residential uses.

The average lot area is determined by first calculating the total net developable area devoted to single-family detached dwelling units, subtracting the powerline easement areas, open space, tracts, stormwater facilities,

roads, right-of-way, or accessways and dividing that figure by the proposed number of single-family detached dwelling lots.

A lot that was created pursuant to this section may not be further divided unless the average lot size requirements are still met for the entire subdivision.

When a lot abuts a public alley, an area equal to the length of the alley frontage along the lot times the width of the alley right-of-way measured from the alley centerline may be added to the area of the abutting lot in order to satisfy the lot area requirement for the abutting lot. It may also be used in calculating the average lot area.

Finding: Complies as Proposed. The applicant proposed one lot, Lot 13, less than the minimum of 2500 square feet for single family attached lots in the R-3.5 zone. One lot out of 20 is 5% of the total lots in the development. The proposed Lot 13 is 2351 square feet, which is 6% less than the minimum lot size of 2500 square feet.

16.08.070 - Through lots.

Through lots and parcels shall be avoided except where they are essential to provide separation of residential development from major arterials or to overcome specific disadvantages of topography of existing development patterns. A reserve strip may be required. A planting screen restrictive covenant may be required to separate residential development from major arterial streets, adjacent nonresidential development, or other incompatible use, where practicable. Where practicable, alleys or shared driveways shall be used for access for lots that have frontage on a collector or minor arterial street, eliminating through lots.

Finding: Not Applicable. No through lots are proposed.

16.08.075 - Building site—Lot and parcel side lines.

The lines of lots and parcels, as far as is practicable, shall run at right angles to the street upon which they face, except that on curved streets they shall be radial to the curve. Lot and parcel side lines for cluster housing projects proposed consistent with the standards in OCMC 17.20.020 are not subject to this standard.

Finding: Complies as Proposed. The lot line where practicable run at right- angle to the main street. The exception is at the terminus of the street, where the requirement for a rectangular building site takes precedent, in creating usable, and more livable lot.

16.08.080 - Setbacks and building location.

This standard ensures that lots are configured in a way that development can be oriented toward streets to provide a safe, convenient and aesthetically pleasing environment for pedestrians and bicyclists. Houses oriented in this manner assure a sense of openness by avoiding the “bowling alley” effect caused by uninterrupted, continuous privacy fences along higher volume streets. The objective is for lots located on a neighborhood collector, collector or minor arterial street to locate the front yard setback on and design the most architecturally significant elevation of the primary structure to face the neighborhood collector, collector or minor arterial street,

A. The front setback of all lots located on a neighborhood collector, collector or minor arterial shall be orientated toward the neighborhood collector, collector or minor arterial street.

B. The most architecturally significant elevation of the house shall face the neighborhood collector, collector or minor arterial street.

C. On corner lots located on the corner of two local streets, the main façade of the dwelling may be oriented towards either street.

D. The decision maker may approve an alternative design, consistent with the intent of this section, where the applicant can show that existing development patterns preclude the ability to practically meet this standard.

Finding: Complies as Proposed. Both streets within the subdivision are local streets. Homes on corner lots may be oriented to either street.

16.08.085 - Division of large lots.

Where land is to be divided into lots or parcels capable of redivision in accordance with this chapter, the Community Development Director shall require an arrangement of lots, parcels, buildings on lots, utilities and streets which facilitates future redivision. In such a case, development limitations including building locations and setback lines may be required and made a matter of record in order to preserve future right-of-way or building sites.

Finding: Complies as Proposed. Lot 20 is oversized and could be further divided, and still meet the lot size, and frontage requirements of the R3.5 zone.

16.08.095 - Prohibition on Additional Private Restrictions on Housing Types.

Private restrictions on the provision of accessory dwelling units, corner duplexes, or internal conversions executed after July 1, 2019 shall be prohibited. Conditions, Covenants, and Restrictions (CC&Rs) or similar legal instrument submitted with residential plats submitted for final plat approval after July 1, 2019 shall not prohibit or impose additional restrictions on accessory dwelling units, corner duplexes, and/or internal conversions to the extent permitted in the OCMC in place at the time of final plat submittal, and shall not impose additional restrictions on Accessory Dwelling Units and internal conversions through any future amendment.

Finding: Complies as Proposed. The applicant did not propose any restrictions.

CHAPTER 16.12 MINIMUM PUBLIC IMPROVEMENTS AND DESIGN STANDARDS FOR DEVELOPMENT**16.12.010 - Purpose and general provisions.**

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

Finding: Applicable. All development shall be in conformance with the policies and design standards established by this chapter and with applicable standards in the City's public facility master plans and City design standards and specifications.

16.12.011 - Applicability.

A. Compliance with this chapter is required for all development including land divisions, site plan and design review, master plan, detailed development plan and conditional use applications and all public improvements. Minor Site Plan and Design Review applications shall not be subject to this chapter unless improvements are proposed within the right-of-way.

B. Compliance with this chapter is also required for new construction or additions which exceed fifty percent of the existing square footage of all single and two-family dwellings living space. Garages, carports, sheds, and porches may not be included in the calculation if these spaces are not living spaces. Accessory dwelling units are not subject to compliance with this chapter. All applicable single and two-family dwellings shall provide any necessary dedications, easements or agreements as identified in the transportation system plan and this chapter, subject to constitutional limitations. In addition, the street frontage shall be improved to include the following priorities for improvements:

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

The cost of compliance with the standards identified in 16.12.011.B.1 and 16.12.011.B.2 is calculated based on the square footage valuation from the State of Oregon Building Codes Division and limited to ten percent of the total construction costs. The value of the alterations and improvements is based on the total construction costs for a complete project rather than costs of various project component parts subject to individual building permits. The entire proposed construction project cost includes engineering and consulting fees and construction costs. It does not include permit fees, recording fees, or any work associated with drafting or recording dedications or easements.

Finding: Applicable. This development application is for a land division, therefore compliance with this chapter is required.

16.12.012 - Jurisdiction and management of the public rights-of-way.

The City has jurisdiction and exercises regulatory management over all public rights-of-way as defined and outlined within 12.04 of the Oregon City Municipal Code.

Finding: Applicable. The City has jurisdiction and exercises regulatory management over all public rights-of-way as defined and outlined within 12.04 of the Oregon City Municipal Code.

16.12.013 - Modifications.

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

Finding: Complies as Conditioned. The applicant has proposed the following two modifications.

Proposed Unnamed Local Street

A modification to the standard street section has been requested for the proposed unnamed local street to serve the proposed development. The City standards for a local residential street are: 54-foot right-of-way, 32 feet of pavement, (2) 12-foot shared space travel lanes, curb and gutter, 5-foot sidewalk, and 5.5-foot landscape strip. The applicant has proposed a constrained street section. The constrained street section for the unnamed local street shall have a total right-of-way width of 40 feet, including 28 feet of pavement, curb and gutter and 5-foot-wide curb-tight sidewalks on both sides. The applicant shall provide 40-foot-wide dedication of right-of-way for the unnamed local street.

A. The modification meets the intent of the standard;

The standards listed in Table 12.04.180 are listed as maximum design standards and it is recognized that they may be reduced through the modification process where appropriate. The intent of the standards is not specifically listed, but is clearly intended to achieve the goals of the TSP to provide for safe and efficient traffic flows throughout the city. The proposed plan would provide for adequate right-of-way for the constrained street section. The TAL submitted with this application indicates that there are no anticipated operational or safety issues associated with the proposed development. Thus, the intent of the standard will be met.

B. The modification provides safe and efficient movement of pedestrians, motor vehicles, bicyclists and freight;

The proposed street section is adequate for vehicular traffic as it matches the constrained street section for a dead-end road and will be designed to provide safe movement of pedestrians and bicycles.

C. The modification is consistent with an adopted transportation or utility plan; and

The adopted TSP provides maximum street sections with the understanding that lesser standards may be approved where appropriate through the modification process. The unnamed local street is a dead-end local street which will carry low traffic volumes and have a statutory residential speed limit of 25 mph.

D. The modification is complementary with a surrounding street design; or, in the alternative;

The proposed street section is adequate for vehicular traffic as it matches the City's constrained street section for a dead-end road. The unnamed local road will carry low traffic volumes and have a statutory residential speed limit of 25 mph.

E. If a modification is requested for constitutional reasons, the applicant shall demonstrate the constitutional provision or provisions to be avoided by the modification and propose a modification that complies with the state or federal constitution. The City shall be under no obligation to grant a modification in excess of that which is necessary to meet its constitutional obligations.

At this time, the applicant is not asserting a constitutional basis for the requested modification

Lazy Creek Lane

A modification to the standard street section has been requested for Lazy Creek Lane that is necessary to serve the proposed development. The City standards for a local residential street are: 54-foot right-of-way, 32 feet of pavement, (2) 12-foot shared space travel lanes, curb and gutter, 5-foot sidewalk, and 5.5-foot landscape strip. ROW dedication along the south side of the subject property will be required to align the street section with the existing Lazy Creek Lane ROW to the east and the west of the proposed development. The applicant has proposed dedicating a 50-foot right-of-way with a 28-foot paved roadway with curb-tight sidewalk on the north side, which would continue the status of public improvements to the west. No improvements are proposed for the south side of Lazy Creek Lane and none exist to the west or to the east. For the reasons explained below, the applicant will be required to provide dedication of 50' of ROW aligned with the existing Lazy Creek Lane ROW to the east and west that includes 32 feet of pavement, a 0.5 feet curb, 5 feet sidewalk and 3.5 feet public utility easement behind the sidewalk along the north side. Beyond the paved travel area on the south side a 9-foot-wide landscape/planter area shall be provided.

A. The modification meets the intent of the standard;

The standards listed in Table 12.04.180 are listed as maximum design standards and it is recognized that they may be reduced through the modification process where appropriate. The intent of the standards is not specifically listed, but is clearly intended to achieve the goals of the TSP to provide for safe and efficient traffic flows throughout the city. The proposed plan would provide for adequate right-of-way for the local street section. Trees will be planted behind the curb-tight sidewalk, which moves potential sight obstructions at the proposed intersection further behind the curb than would be the case with street trees in a planter strip. The TAL submitted with this application indicates that there are no anticipated operational or safety issues associated with the proposed development. Thus, the intent of the standard will be met.

B. The modification provides safe and efficient movement of pedestrians, motor vehicles, bicyclists and freight;

The proposed street section is adequate for vehicular traffic as it matches the existing street section for Lazy Creek Lane to the west of the proposed development and will be designed to provide safe movement of pedestrians and bicycles. The requirement for 32 feet of pavement along Lazy Creek Lane rather than the proposed 28 feet is to meet Clackamas Fire requirements for a street section with parking permitted on both sides. With parking permitted on only one side of the street for the constrained local street to serve the proposed subdivision, the requirement for 32 feet of pavement will accommodate overflow parking on both sides of Lazy Creek Lane in accordance with Clackamas Fire requirements, while being located within the 50-foot-wide right-of-way section found to the east and west of the proposed development.

C. The modification is consistent with an adopted transportation or utility plan; and

The adopted TSP provides maximum street sections with the understanding that lesser standards may be approved where appropriate through the modification process. Lazy Creek Lane is a local street which will carry low traffic volumes and have a statutory residential speed limit of 25 mph.

D. The modification is complementary with a surrounding street design; or, in the alternative;

The proposed street section is adequate for vehicular traffic as it generally matches the existing Lazy Creek Lane street section to the west of the proposed development. The south side of the existing roadway does not have curbs nor sidewalks. Stormwater is conveyed through a ditch and culvert system along the south side of the road. The unnamed local road will carry low traffic volumes and have a statutory residential speed limit of 25 mph. The City's traffic engineer reviewed the applicant's TAL and concluded that the proposed section is reasonable given the surrounding development. The requirement for 32 feet of pavement along Lazy Creek Lane is to meet Clackamas Fire requirements for a street section with parking permitted on both sides.

E. If a modification is requested for constitutional reasons, the applicant shall demonstrate the constitutional provision or provisions to be avoided by the modification and propose a modification that complies with the state or federal constitution. The City shall be under no obligation to grant a modification in excess of that which is necessary to meet its constitutional obligations.

At this time, the applicant is not asserting a constitutional basis for the requested modification.

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

16.12.014 - Administrative provisions.

An applicant shall submit the following items to the City and complete the following tasks prior to proceeding with construction of proposed development plans. These items include the following:

- A. Pre-Design Meeting;*
- B. Final Engineering Plans, Stamped and Signed by an Oregon Licensed Professional Engineer;*
- C. Stormwater Report, Stamped and Signed by an Oregon Licensed Professional Engineer;*
- D. Geotechnical Report, Stamped and Signed by an Oregon Licensed Professional Engineer (if applicable);*
- E. Engineer's Preliminary and Final Cost Estimates (also may be known as engineer's opinion of probable construction cost);*
- F. Plan Check and Inspection Fees (as set by City resolution);*
- G. Certificate of Liability Insurance for city funded public projects contracted by the City (not less than one million dollars single incident and two million dollars aggregate);*
- H. Preconstruction Meeting Notes;*
- I. Financial Guarantee(s) per OCMC 17.50.140;*
- J. Applicable Approvals/Permits from other agencies or entities;*
- K. Developer/Engineer Agreement for public works improvements.*

An applicant shall submit the following additional items to the City and complete the following tasks prior to completing construction of proposed development plans. These items include the following:

- L. Project Engineer's Certificate of Completion;*
- M. Stormwater Operation and Maintenance Easement (if applicable);*
- N. Deed of Dedication (Bargain and Sale Deed);*
- O. Recorded Plat and/or Easements (if applicable);*
- P. Recorded Non-Remonstrance Covenant Agreement;*



- Q. Land Division Compliance Agreement (if applicable);
- R. Permanent Stabilization and/or Restoration of the impact from the development;
- S. Fulfillment of all Conditions of Approval;
- T. Payment of all Outstanding Fees;
- U. Maintenance Guarantee(s). per OCMC 17.50.141;
- V. Indemnity Agreement (if applicable);
- W. Completed Punchlist;
- X. As-Built Drawings;

Details on individual items required by this subsection can be obtained by contacting Public Works. Many items, such as the engineer's cost estimate and plan check and inspection fee, maybe be submitted in conjunction with documentation for other infrastructure improvements that are done with the development (such as street, sanitary sewer, and water).

Finding: Complies as Conditioned. The developer shall submit or address all items in section 16.12.014 of the Oregon City Municipal Code based on the timing requirements contained therein and as deemed applicable by the City. The developer and engineer for the project shall execute a “Developer/Engineer Agreement for Public Works Improvements” and commit to the responsibilities outlined in the agreement. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

16.12.015 - Street design—Generally.

Development shall be required to provide existing or future connections to adjacent sites through the use of vehicular and pedestrian access easements where applicable. Development shall provide any necessary dedications, easements or agreements as identified in the Transportation System Plan, Trails Master Plan, and/or Parks and Recreation Master Plan and this chapter, subject to constitutional limitations. The location, width and grade of street shall be considered in relation to: existing and planned streets, topographical conditions, public convenience and safety for all modes of travel, existing and identified future transit routes and pedestrian/bicycle accessways, overlay districts, and the proposed use of land to be served by the streets. The street system shall assure an adequate traffic circulation system with intersection angles, grades, tangents and curves appropriate for the traffic to be carried considering the terrain. To the extent possible, proposed streets shall connect to all existing or approved stub streets that abut the development site. The arrangement of streets shall either:

A. Provide for the continuation or appropriate projection of existing principal streets in the surrounding area and on adjacent parcels or conform to a plan for the area approved or adopted by the City to meet a particular situation where topographical or other conditions make continuance or conformance to existing streets impractical;

B. Where necessary to give access to or permit a satisfactory future development of adjoining land, streets shall be extended to the boundary of the development and the resulting dead-end street (stub) may be approved with a temporary turnaround as approved by the City Engineer. Notification that the street is planned for future extension shall be posted on the stub street until the street is extended and shall inform the public that the dead-end street may be extended in the future. Access control in accordance with OCMC 16.12.017 shall be required to preserve the objectives of street extensions.

C. Adequate right-of-way and improvements to streets, pedestrian ways, bike routes and bikeways, and transit facilities shall be provided and be consistent with the City's Transportation System Plan. Consideration shall be given to the need for street widening and other improvements in the area of the proposed development impacted by traffic generated by the proposed development. This shall include, but not be limited to, improvements to the right-of-way, such as installation of lighting, signalization, turn lanes, median and parking strips, traffic islands, paving, curbs and gutters, sidewalks, bikeways, street drainage facilities and other facilities needed because of anticipated vehicular and pedestrian traffic generation.

Finding: Complies as Conditioned. The location, widths, and grades of the proposed street network provide connectivity for adjacent properties, a convenient street system, and for the safety of all modes

of travel, including pedestrian and bicycle to, from, and through the subject site. See 16.12.027 for findings related to required off-site street improvements.

16.12.016 - Street design.

All development regulated by this chapter shall provide street improvements in compliance with the standards in Table 16.12.016 depending on the street classification set forth in the Transportation System Plan and the Comprehensive Plan designation of the adjacent property, unless an alternative plan has been adopted. The table implements the adopted Transportation System Plan and illustrates the maximum design standards. These standards may be reduced with an alternative street design which may be approved based on the modification criteria in OCMC 16.12.013. The steps for reducing the street design are found in the Transportation System Plan.

Finding: Complies as Conditioned. A modification to the standard street section has been requested for the unnamed local street. A modification to the standard street section has been requested for Lazy Creek Lane. See Section 16.12.013 for the required street section for the proposed unnamed local street to serve the proposed development and for Lazy Creek Lane. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

Table 16.12.016 Street Design

Table 16.12.016 Street Design. To read the table select the road classification as identified in the Transportation System Plan and the Comprehensive Plan designation of the adjacent properties to find the maximum design standards for the road cross section. If the Comprehensive Plan designation for lands on either side of the street differs, the wider right-of-way standard shall apply.

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

Road Classification	Comprehensive Plan Designation	Right-of-Way Width	Pavement Width	Public Access	Sidewalk	Landscape Strip	Bike Lane	Street Parking	Travel Lanes	Median
Minor Arterial	Mixed Use, Commercial or	116 ft.	94 ft.	0.5 ft.	10.5 ft. sidewalk including 5 ft. x 5 ft. tree wells		6 ft.	8 ft.	(5) 12 ft. Lanes	6 ft.

	<i>Public/Quasi Public</i>									
	<i>Industrial</i>	118 ft.	86 ft.	0.5 ft.	5 ft.	10.5 ft.	6 ft.	7 ft.	(5) 12 ft. Lanes	N/A
	<i>Residential</i>	100 ft.	68 ft.	0.5 ft.	5 ft.	10.5 ft.	6 ft.	7 ft.	(3) 12 ft. Lanes	6 ft.

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

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

1. Pavement width includes, bike lane, street parking, travel lanes and median.
2. Public access, sidewalks, landscape strips, bike lanes and on-street parking are required on both sides of the street in all designations. The right-of-way width and pavement widths identified above include the total street section.
3. A 0.5 foot curb is included in landscape strip or sidewalk width.
4. Travel lanes may be through lanes or turn lanes.
5. The 0.5 foot public access provides access to adjacent public improvements.
6. Alleys shall have a minimum right-of-way width of twenty feet and a minimum pavement width of sixteen feet. If alleys are provided, garage access shall be provided from the alley.

7. A raised concrete median or landscape median shall be utilized for roads identified to have access restrictions.

Finding: Complies as Conditioned. A modification to the standard street section has been requested for the unnamed local street. A modification to the standard street section has been requested for Lazy Creek Lane. See Section 16.12.013 for the required street section for the proposed unnamed local street to serve the proposed development and for Lazy Creek Lane. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

A. Sidewalks. The applicant shall provide for sidewalks on both sides of all public streets, on any private street if so required by the decision-maker, and in any special pedestrian way within the development. Both sidewalks and curbs are to be constructed to City standards and at widths set forth above, and according to plans and specifications provided by the City Engineer. Exceptions to this requirement may be allowed in order to accommodate topography, trees or some similar site constraint. In the case of major or minor arterials, the decision-maker may approve a development without sidewalks where sidewalks are found to be dangerous or otherwise impractical to construct or are not reasonably related to the applicant's development. The decision-maker may require the applicant to provide sidewalks concurrent with the issuance of the initial building permit within the area that is the subject of the development application. Applicants for partitions may be allowed to meet this requirement by providing the City with a financial guarantee per OCMC 16.12.110.

Finding: Complies as Conditioned. A modification to the standard street section has been requested for the unnamed local street. A modification to the standard street section has been requested for Lazy Creek Lane. See Section 16.12.013 for the required street section for the proposed unnamed local street to serve the proposed development and for Lazy Creek Lane. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

B. Pedestrian and Bicycle Accessways Routes. If deemed appropriate to extend pedestrian and bicycle routes, existing or planned, the decision-maker may require the installation of separate pedestrian and bicycle facilities.

Finding: Not applicable. No separate pedestrian or bicycle access routes are required aside from the pedestrian accessway required elsewhere in this section.

C. Street Name Signs and Traffic Control Devices. The applicant shall install street signs and traffic control devices as directed by the City Engineer. Street name signs and traffic control devices shall be in conformance with all applicable city regulations and standards.

Finding: Complies as Conditioned. The developer shall submit a request to the Community Development Department to receive approval for new street names; only approved street names shall be included on the final construction plans. The Transportation Analysis Letter submitted by the applicant indicates that the intersection sight distance proposed is less than the minimum of 280 feet in each direction for a local street with a statutory residential speed limit of 25 mph. The available intersection sight distance is 165 feet to the east. Due to the reduced intersection sight distance, the intersection of the proposed unnamed local street and Lazy Creek Lane shall be a three-way stop. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

D. Street Lights. The applicant shall install street lights which shall be served from an underground source of supply. Street lights shall be in conformance with all City regulations.

Finding: Complies as Conditioned. Street lighting along the frontage of the development appears to be inadequate. Illumination plans which meet specifications found in the Illuminating Engineering Society of North America (IESNA) ANSI RP-8-14 Roadway Lighting book will be required. The materials for this

design must be from the latest PGE approved material list. The development shall include streetlights along the unnamed local street and the property's frontage along Lazy Creek Lane in conformance with all City standards, specifications, codes, and policies and as approved by Portland General Electric (PGE). The developer shall submit a photometric plan to demonstrate that proposed street lighting meets IESNA ANSI RP-8-14 standards. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

E. Any new street proposed with a pavement width of less than thirty-two feet shall be processed through OCMC 16.12.013 and meet minimum life safety requirements, which may include fire suppression devices as determined by the Fire Marshall to assure an adequate level of fire and life safety. The modified street shall have no less than a twenty-foot wide unobstructed travel lane.

Finding: Complies as Conditioned. See Section 16.12.013 for the required street section for the proposed unnamed local street to serve the proposed development. See Section 16.12.025 for requirements regarding minimum life safety requirements.

F. All development shall include vegetated planter strips that are five feet in width or larger and located between the sidewalk and curb unless otherwise approved pursuant to this chapter. All development shall utilize the vegetated planter strip for the placement of street trees or place street trees in other acceptable locations, as prescribed by OCMC 12.08. Development proposed along a collector, minor arterial, or major arterial roads may place street trees within tree wells within a wider sidewalk in lieu of a planter strip. In addition to street trees per OCMC 12.08, vegetated planter strips shall include ground cover and/or shrubs spaced four feet apart and appropriate for the location. No invasive or nuisance plant species shall be permitted.

Finding: Complies as Conditioned. A modification to the standard street section has been requested for the unnamed local street. A modification to the standard street section has been requested for Lazy Creek Lane. See Section 16.12.013 for the required street section for the proposed unnamed local street to serve the proposed development and for Lazy Creek Lane. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

G. Vehicle and pedestrian access easements may serve in lieu of streets when approved by the decision maker and only where dedication of a street is deemed impracticable.

Finding: Not applicable. The applicant has not proposed a vehicle and pedestrian access easement in lieu of a street to serve the proposed development.

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

Finding: Not applicable. The applicant has not proposed a vehicle and pedestrian access easement in lieu of a street to serve the proposed development.

16.12.017 - Street design—Access control.

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

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

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

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

Finding: Not applicable. The proposed unnamed dead-end street is not dedicated to the end at the boundary of the development. The proposed street is not designed for future extension to any adjacent properties.

16.12.018 - Street design—Alignment.

The centerline of streets shall be:

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

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

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

Finding: Complies as Conditioned. Right-of-way dedication shall be required to align the proposed street section with the existing Lazy Creek Lane ROW to the east of the proposed development. The applicant shall be required to provide full street improvements along the frontage of the property in accordance with the realignment of the Lazy Creek Lane right-of-way. See Section 16.12.013 for the required street section for Lazy Creek Lane. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

16.12.019 - Traffic sight obstructions.

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

Finding: Complies as Proposed. All new streets shall comply with the Traffic Sight Obstructions in Chapter 10.32.

16.12.020 - Street design—Intersection angles.

Except where topography requires a lesser angle, streets shall be laid out to intersect at angles as near as possible to right angles. In no case shall the acute angles be less than eighty degrees unless there is a special intersection design. An arterial or collector street intersecting with another street shall have at least one hundred feet of tangent adjacent to the intersection unless topography requires a lesser distance. Other streets, except alleys, shall have at least fifty feet of tangent adjacent to the intersection unless topography requires a lesser distance. All street intersections shall be provided with a minimum curb return radius of twenty-five feet for local streets. Larger radii shall be required for higher street classifications as determined by the City Engineer. Additional right-of-way shall be required to accommodate curb returns and sidewalks at intersections. Ordinarily, intersections should not have more than two streets at any one point.

Finding: Complies as Conditioned. Right-of-way dedication shall be required to align the proposed street section with the existing Lazy Creek Lane ROW to the east of the proposed development. Due to the existing alignment of the east and western portions of Lazy Creek Lane, the intersection with the proposed unnamed local road shall be laid out to intersect as near as possible to a right angle. The curb return at all intersections shall have a radius of 25 feet. The Transportation Analysis Letter submitted by the applicant indicates that the intersection sight distance proposed is less than the minimum of 280

feet in each direction for a local street with a statutory residential speed limit of 25 mph. The available intersection sight distance is 165 feet to the east. Due to the reduced intersection sight distance, the intersection of the proposed unnamed local street and Lazy Creek Lane shall be a three-way stop. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

16.12.021 - Street design—Grades and curves.

Grades and center line radii shall conform to standards approved by the City Engineer.

Finding: Complies as Proposed. Proposed grades conform to standards. See 16.12.020 for findings related to the curved alignment of Lazy Creek Lane.

16.12.022 - Street design—Development abutting arterial or collector street.

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

Finding: Not Applicable. The proposed development is not abutting an arterial or collector street.

16.12.023 - Street design—Pedestrian and bicycle safety.

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

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

Finding: Complies as Proposed. The proposed unnamed local road and Lazy Creek Lane are local streets. Local streets carry low traffic volumes and have a statutory residential speed limit of 25 mph.

16.12.024 - Street design—Half street.

Half streets, while generally not acceptable, may be approved where essential to the development, when in conformance with all other applicable requirements, and where it will not create a safety hazard. When approving half streets, the decision maker shall first determine that it will be practical to require the dedication of the other half of the street when the adjoining property is divided or developed. Where the decision maker approves a half street, the applicant shall construct a half street with at least twenty feet of pavement width and provide signage prohibiting street parking so as to make the half street safe until such time as the other half is constructed.

Whenever a half street is adjacent to property capable of being divided or developed, the other half of the street shall be provided and improved when that adjacent property divides or develops. Access control may be required to preserve the objectives of half streets.

When the remainder of an existing half-street improvement is completed it shall include the following items: dedication of required right-of-way, construction of the remaining portion of the street including pavement, curb and gutter, landscape strip, sidewalk, street trees, lighting and other improvements as required for that particular street. It shall also include at a minimum the pavement replacement to the centerline of the street. Any damage to

the existing street shall be repaired in accordance with the City's "Pavement Cut Standards" or as approved by the City Engineer.

Finding: Not applicable. A half street improvement is not acceptable for Lazy Creek Lane. See 16.12.016 for findings related to required street section for Lazy Creek Lane.

16.12.025 - Street design—Cul-de-sacs and dead-end streets.

The City discourages the use of cul-de-sacs and permanent dead-end streets except where construction of a through street is found by the decision maker to be impracticable due to topography or some significant physical constraint such as geologic hazards, wetland, natural or historic resource areas, pre-existing dedicated open space, pre-existing development patterns, arterial access restrictions or similar situation as determined by the decision maker. This section is not intended to preclude the use of curvilinear eyebrow widening of a street where needed.

A. When permitted, access from new cul-de-sacs and permanent dead-end streets shall be limited to a maximum of twenty-five dwelling units.

B. Cul-de-sacs and permanent dead-end streets shall include pedestrian/bicycle accessways to meet minimum block width standards as prescribed in OCMC 16.12.030.

C. Cul-de-sacs shall have sufficient radius to provide adequate turn-around for emergency vehicles in accordance with fire district and city adopted street standards.

D. Permanent dead-end streets shall provide public street right-of-way/easements sufficient to provide a sufficient amount of turn-around space complete with appropriate no-parking signs or markings to accommodate waste disposal, sweepers, emergency and other long vehicles in the form of a hammerhead or other design to be approved by the decision maker.

E. In the case of dead-end stub streets that will connect to streets on adjacent sites in the future, notification that the street is planned for future extension shall be posted on the stub street until the street is extended and shall inform the public that the dead-end street may be extended in the future. A dead-end street shall include signage or barricade meeting Manual on Uniform Traffic Control Devices (MUTCD).

Finding: Complies as Conditioned. See 16.12.013 for findings related to the required street section for the proposed unnamed local street to serve the proposed development. For the proposed dead-end street, an approved turnaround contained in an easement or public right-of-way with appropriate no-parking signs or markings for large emergency vehicles and other long vehicles in the form of a hammerhead or other design in accordance with Clackamas Fire District No. 1 and City adopted street standards shall be provided. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

16.12.026 - Street design—Alleys.

Alleys with public access easements on private property shall be provided in the Park Place and South End concept plan areas for the following districts R-5, R-3.5, R-2, MUC-1, MUC-2 and NC zones unless other permanent provisions for private access to off-street parking and loading facilities are approved by the decision maker. All alleys intended to provide access for emergency vehicles shall be a minimum width of twenty feet. The corners of alley intersections shall have a radius of not less than ten feet and shall conform to standards approved by the City Engineer. Access easements and maintenance agreements shall be recorded on affected properties.

Finding: Not applicable. No alleys are proposed with this development.

16.12.027 - Street design—Off-site street improvements.

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

Finding: Complies as Conditioned. The existing street section of Lazy Creek Lane to the east of the proposed development where it intersects Molalla Avenue it has a paved width of 20 feet. This paved width extends approximately 200 feet from Molalla Avenue, after which the paved width narrows to just 14.5 feet, has a mixed asphalt and gravel surface and accommodates only one undersized travel lane. This 14.5 foot-wide area does not meet the City’s Design Standards and is inadequate to meet minimum fire truck widths and surfacing requirements. A width of 20 feet of paved surface is the minimum required to provide fire and life safety access. Improving this access from the east will provide a secondary fire access – a direct benefit for future residents of this development. Further, OCMC 16.12.015 urges the continuation of future streets to enhance connectivity to the maximum extent possible. The existing undersized road currently serves 6 or 7 existing homes. The proposed development will add an additional 19 homes. The provision of an improved secondary access will provide a closer connection to Molalla Avenue for these future residents suggesting that it is likely to be highly used. This development is projected to generate 178 daily trips and many of those trips will be to the east. The existing under-sized gravel road cannot safely accommodate what will at least double the existing road usage. For these reasons, the applicant shall provide a minimum twenty-foot-wide paved asphalt road section along Lazy Creek Lane to the east of the proposed development to connect to the existing paved road section located at the western property boundary of 13834 Lazy Creek Lane. This obligation represents the minimum improvement necessary to allow for safely provide fire access, provide connectivity and accommodate additional traffic resulting from the proposed development. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

16.12.028 - Street design—Transit.

Streets shall be designed and laid out in a manner that promotes pedestrian and bicycle circulation. The applicant shall coordinate with transit agencies where the application impacts transit streets as identified in OCMC 17.04.1310. Pedestrian/bicycle access ways shall be provided as necessary to minimize the travel distance to transit streets and stops and neighborhood activity centers. The decision maker may require provisions, including easements, for transit facilities along transit streets where a need for bus stops, bus pullouts or other transit facilities within or adjacent to the development has been identified.

Finding: Not applicable. There are no transit facilities adjacent to the proposed development.

16.12.029 - Excavations—Restoration of pavement.

Whenever any excavation shall have been made in any pavement or other street improvement on any street or alley in the City for any purpose whatsoever under the permit granted by the engineer, it shall be the duty of the person making the excavation to restore the pavement in accordance with the City of Oregon City Public Works Pavement Cut Standards in effect at the time the permit is granted. The City Commission may adopt and modify the City of Oregon City Public Works Pavement Cut Standards by resolution as necessary to implement the requirements of this chapter.

Finding: Complies as Conditioned. The applicant has proposed work in the public right-of-way that will require pavement restoration. This includes new utility lines. All pavement cuts and restoration shall comply with the City of Oregon City Pavement Cut Standards. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

16.12.030 - Blocks—Width.

The width of blocks shall ordinarily be sufficient to allow for two tiers of lots with depths consistent with the type of land use proposed. The length, width and shape of blocks shall take into account the need for adequate building site size, convenient motor vehicle, pedestrian, bicycle and transit access, control of traffic circulation, and limitations imposed by topography and other natural features.

All new streets shall be designed as local streets unless otherwise designated as arterials and collectors in the current adopted Transportation System Plan. The maximum block spacing between streets is 530 feet and the



minimum block spacing between streets is 150 feet as measured between the right-of-way centerlines except in zones GI, CI, MUE, I, and WFDD where determining the appropriate street spacing will be determined by the City Engineer. If the maximum block size is exceeded, pedestrian accessways shall be provided every 330 feet. The spacing standards within this section do not apply to alleys.

Finding: Complies as Proposed. The applicant proposes to connect each of the two dead ends of Lazy Creek Lane to create a continuous connection through the area. On the resulting frontage of Lazy Creek Lane, the applicant has proposed one intersecting street. The 2-acre site is surrounded by existing development and no additional opportunities for street connectivity are available. The new proposed street is 350 feet in length and will end in a cul-de-sac. A pedestrian accessway to an adjacent site will be provided from the cul-de-sac to achieve pedestrian connectivity.

16.12.031 - Street design—Street names.

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

Finding: Complies with Condition. No street name shall be used which will duplicate or be confused with the name of an existing street. Street names shall conform to the established standards in the City and shall be subject to the approval of the City. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

16.12.032 – Public off-street pedestrian and bicycle accessways.

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

Pedestrian/bicycle accessways are appropriate in areas where public street options are unavailable, impractical or inappropriate. Pedestrian and bicycle accessways are required through private property or as right-of-way connecting development to the right-of-way at intervals not exceeding 330 feet of frontage; or where the lack of street continuity creates inconvenient or out of direction travel patterns for local pedestrian or bicycle trips.

Finding: Complies as Proposed. The applicant has proposed a pedestrian and bicycle accessway from the new local street to the adjacent property to the east. This accessway is proposed due to the lack of street connectivity resulting from the cul-de-sac.

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

Finding: Complies as Proposed. There are no adjacent streets. The entry point location is acceptable.

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

1. Accessways shall have a fifteen-foot wide right-of-way with a seven-foot wide paved surface with a minimum four-foot planter strip on either side.

2. If an accessway also provides secondary fire access, the right-of-way width shall be at least twenty-four feet wide with a - sixteen foot paved surface between four-foot planter strips on either side.

Finding: Complies with Condition. The applicant proposed a 15-foot wide accessway. It does not provide secondary fire access. The final design of the accessway shall have a 7-foot wide paved surface

with four-foot planter strips on either side. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

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

Finding: Complies as Proposed. The accessway is direct. No on-street parking will be permitted on that side of the street due to a constrained right of way.

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

Finding: Complies with Condition. The final design of the accessway shall meet the lighting requirements of 16.12.032.D. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

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

Finding: Complies with Condition. The final design of the accessway shall meet ADA standards. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

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

- 1. Either an evergreen hedge screen of thirty to forty-two inches high or shrubs spaced no more than four feet apart on average; and*
- 2. Ground cover covering one hundred percent of the exposed ground. No bark mulch shall be allowed except under the canopy of shrubs and within two feet of the base of trees; and*
- 3. A two-inch minimum caliper tree for every thirty-five feet along the accessway. Trees may be planted on either side of the accessway, provided they are spaced no more than thirty-five feet apart; and*
- 4. In satisfying the requirements of this section, evergreen plant materials that grow over forty-two inches in height shall be avoided. All plant materials shall be selected from the Oregon City Native Plant List.*

Finding: Complies with Condition. The final design of the accessway shall meet the paving and landscaping requirements of 16.12.032.F and H. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

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

Finding: Complies with Condition. The final design of the accessway shall include curbs or removable bollards to restrict automobile traffic. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

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

Finding: Complies with Condition. The final design of the accessway shall meet the paving and landscaping requirements of 16.12.032.F and H. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

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

Finding: Not applicable. The site is not a park, greenway, or natural resource area.

J. The decision maker may approve an alternative accessway design due to existing site constraints through the modification process set forth in OCMC 16.12.013.

Finding: Not applicable. An alternative design is not proposed.

K. Ownership, liability and maintenance of accessways. To ensure that all pedestrian/bicycle accessways will be adequately maintained over time, the City Engineer shall require one of the following:

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

Finding: Complies with Condition. The applicant did not indicate who would own and maintain the accessway. The applicant shall utilize one of the two options in 16.12.032.K for ownership and maintenance of the accessway, as approved by the City Engineer. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

16.12.033 - Mobility standards.

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

A. For intersections within the regional center, the following mobility standards apply:

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

B. For intersections outside of the Regional Center but designated on the Arterial and Throughway Network, as defined in the Regional Transportation Plan, the following mobility standards apply:

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

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

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

1. For signalized intersections:

- a. During the first hour, LOS "D" or better will be required for the intersection as a whole and no approach operating at worse than LOS "E" and a v/c ratio not higher than 1.0 for the sum of the critical movements.
- b. During the second hour, LOS "D" or better will be required for the intersection as a whole and no approach operating at worse than LOS "E" and a v/c ratio not higher than 1.0 for the sum of the critical movements.

2. For unsignalized intersections outside of the boundaries of the Regional Center:

- a. For unsignalized intersections, during the peak hour, all movements serving more than twenty vehicles shall be maintained at LOS "E" or better. LOS "F" will be tolerated at movements serving no more than twenty vehicles during the peak hour.

D. For the intersection of OR 213 & Beaver Creek Road, the following mobility standards apply:

1. During the first, second & third hours, a maximum v/c ratio of 1.00 shall be maintained. Calculation of the maximum v/c ratio will be based on an average annual weekday peak hour.

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

I-205/OR 99E Interchange

State intersections located within or on the Regional Center Boundaries

1. In the case of conceptual development approval for a master plan that impacts the above references intersections:

- a. The form of mitigation will be determined at the time of the detailed development plan review for subsequent phases utilizing the Code in place at the time the detailed development plan is submitted; and
- b. Only those trips approved by a detailed development plan review are vested.

2. Development which does not comply with the mobility standards for the intersections identified in OCMC 16.12.033 shall provide for the improvements identified in the Transportation System Plan (TSP) in an effort to improve intersection mobility as necessary to offset the impact caused by development. Where required by other provisions of the Code, the applicant shall provide a traffic impact study that includes an assessment of the development's impact on the intersections identified in this exemption and shall construct the intersection improvements listed in the TSP or required by the Code.

Finding: Complies as Proposed. The applicant submitted a traffic analysis letter, which was reviewed by the City's transportation consultant, John Replinger of Replinger and Associates. The nineteen new dwellings are calculated to produce 14 new AM peak hour trip; 19 new PM peak hour trips; and 178 new weekday trips. The proposed development will generate traffic volumes that are below the threshold at which a full traffic impact study is required by Oregon City. Since the added traffic volumes are minimal, no significant operational impacts are anticipated in conjunction with the proposed development.

John's review letter states:

"The engineer concluded that the development will have minimal impacts, that adequate sight distance is available, and that driveway spacing standards will be met. He concludes no mitigation is necessary for safety issues. He provides arguments in favor of the narrow street section proposed for Lazy Creek Lane. He indicates the extension of Lazy Creek Lane will improve connectivity for users of all modes. I concur with the engineer's conclusions.

I find the connection of the two non-connected segments of Lazy Creek Lane to be a highly desirable element of this proposal. There are no transportation-related issues associated with this development proposal requiring mitigation.”

16.12.035 - Driveways.

A. All new development and redevelopment shall meet the minimum driveway spacing standards identified in Table 16.12.035.A.

<i>Table 16.12.035.A Minimum Driveway Spacing Standards</i>		
<i>Street Functional Classification</i>	<i>Minimum Driveway Spacing Standards</i>	<i>Distance</i>
<i>Major Arterial Streets</i>	<i>Minimum distance from a street corner to a driveway for all uses other than detached single and two-family dwellings</i>	<i>175 ft.</i>
<i>Minor Arterial Streets</i>	<i>Minimum distance from a street corner to a driveway for all uses other than detached single and two-family dwellings</i>	<i>175 ft.</i>
<i>Collector Streets</i>	<i>Minimum distance from a street corner to a driveway for all uses other than detached single and two-family dwellings</i>	<i>100 ft.</i>
<i>Local Streets</i>	<i>Minimum distance from a street corner to a driveway for all uses other than detached single and two-family dwellings</i>	<i>25 ft.</i>

The distance from a street corner to a driveway is measured along the right-of-way from the edge of the intersection (on the same side of the road) right-of-way to the nearest portion of the driveway and the distance between driveways is measured at the nearest portions of the driveway at the right-of-way.

B. Nonresidential or multi-family residential driveways that generate high traffic volumes shall be treated as intersections and shall adhere to requirements of OCMC 16.12.020.

C. One driveway may be allowed per frontage, unless otherwise restricted. In no case shall more than two driveways be allowed for any single-family attached or detached residential property, duplex, 3-4 plex, or property developed with an ADU or internal conversion with multiple frontages, unless otherwise approved by the City Engineer.

D. When a property fronts multiple roads, access shall be provided from the road with the lowest classification in the Transportation System Plan whenever possible to minimize points of access to arterials and collectors. At the discretion of the City Engineer, properties fronting a collector or arterial road may be allowed a second driveway, for the creation of a circulation pattern that eliminates reverse maneuvers for vehicles exiting a property if applied for and granted through procedures in OCMC 16.12.013. All lots proposed with a driveway and lot orientation on a collector or minor arterial shall combine driveways into one joint access per two or more lots unless the City Engineer determines that:

1. No driveway access may be allowed since the driveway(s) would cause a significant traffic safety hazard; or
2. Allowing a single driveway access per lot will not cause a significant traffic safety hazard.

E. All driveway approaches shall be limited to the dimensions identified in Table 16.12.035.D.

Table 16.12.035.D Driveway Approach Size Standards		
<i>Property Use</i>	<i>Minimum Driveway Approach Width</i>	<i>Maximum Driveway Approach Width</i>
<i>Single-Family Attached</i>	<i>10 feet</i>	<i>12 feet</i>

Single-Family Detached in R-5 & R-3.5	10 feet	12 feet	
Single-Family Detached in R-10, R-8, & R-6	12 feet	24 feet	
Duplexes	12 feet	24 feet	
3-4 Plexes	12 feet	24 feet	
Multi-Family	18 feet	30 feet	
Commercial, Industrial, Office, Institutional, Mixed Use, and/or Nonresidential	One-Way 12 feet	Two-Way 20 feet	40 feet

Driveway widths shall match the width of the driveway approach where the driveway meets sidewalk or property line but may be widened onsite (for example between the property line and the entrance to a garage). Groups of more than four parking spaces shall be so located and served by driveways so that their use will not require backing movements or other maneuvering within a street right-of-way other than an alley.

F. The City Engineer reserves the right to require a reduction in the number and size of driveway approaches as far as practicable for any of the following purposes:

1. To provide adequate space for on-street parking;
2. To facilitate street tree planting requirements;
3. To assure pedestrian and vehicular safety by limiting vehicular access points; and
4. To assure that adequate sight distance requirements are met.

a. Where the decision maker determines any of these situations exist or may occur due to the approval of a proposed development for non-residential uses or attached or multi-family housing, a shared driveway shall be required and limited to twenty-four feet in width adjacent to the sidewalk or property line.

G. For all driveways, the following standards apply.

1. Each new or redeveloped curb cut shall have an approved concrete approach or asphalted street connection where there is no concrete curb and a minimum hard surface for at least ten feet back into the property as measured from the current edge of sidewalk or street pavement to provide for controlling gravel tracking onto the public street. The hard surface may be concrete, asphalt, or other surface approved by the City Engineer.
2. Any driveway approach built within public right-of-way shall be built and permitted per City requirements as approved by the City Engineer.
3. No driveway with a slope of greater than fifteen percent shall be permitted without approval of the City Engineer.

H. Exceptions. The City Engineer reserves the right to waive these standards or not allow driveway access, if the driveway(s) would cause a significant traffic safety hazard. Narrower driveway widths may be considered where field conditions preclude use of recommended widths. When larger vehicles and trucks will be the predominant users of a particular driveway, turning templates may be utilized to develop a driveway width that can safely and expeditiously accommodate the prevalent type of ingress and egress traffic.

Finding: Complies as Conditioned. The applicant has proposed 12-foot-wide driveway approaches for each property. Driveway widths and spacing appear to be in conformance with City standards. All driveways (curb cuts), new and existing, shall meet the minimum driveway width standards identified in Table 16.12.035.D. 1. All driveways (curb cuts), new and existing, shall meet the minimum driveway width standards identified in Table 16.12.035.D. The applicant has the option to propose shared driveways which meet the minimum and maximum driveway width standards identified in Table 16.12.035.D. For example, a shared driveway for two lots would be a minimum of 20 feet wide and a maximum of 24 feet wide. The proposed driveways shown on the site plan are a minimum of 25 feet from the intersection, meeting the standard for a local street. The lot containing the existing dwelling

shall have a concrete driveway approach with a minimum hard surface for at least ten feet back into the lot as measured from the edge of street pavement. The hard surface shall be concrete, asphalt, or other surface approved by the city engineer. All driveway approaches, proposed and existing, that intersect with a public sidewalk, shall be made ADA compliant. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

16.12.065 - Building site—Grading.

Grading of building sites shall conform to the State of Oregon Structural Specialty Code, Title 18, any approved grading plan and any approved residential lot grading plan in accordance with the requirements of OCMC 13.12, 15.48, 16.12 and the Public Works Stormwater and Grading Design Standards, and the erosion control requirements of OCMC 17.47.

Finding: Complies with Condition. See Sections 13.12, 15.48, 16.12 and 17.47 for findings.

16.12.085 - Easements.

The following shall govern the location, improvement and layout of easements:

A. Utilities. Utility easements shall be required where necessary as determined by the City Engineer. Insofar as practicable, easements shall be continuous and aligned from block-to-block within the development and with adjoining subdivisions or partitions. Specific utility easements for water, sanitary or storm drainage shall be provided based on approved final engineering plans.

Finding: Complies as Conditioned. The development shall include a 10-foot-wide public utility easement along all property lines fronting existing or proposed right-of-way. The applicant shall provide an updated utility easement conforming with the City's Sanitary Sewer Design Standards for the relocated sanitary sewer main based on approved final engineering plans. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

B. Unusual Facilities. Easements for unusual facilities such as high voltage electric transmission lines, drainage channels and stormwater detention facilities shall be adequately sized for their intended purpose, including any necessary maintenance roads. These easements shall be shown to scale on the preliminary and final plats or maps. If the easement is for drainage channels, stormwater detention facilities or related purposes, the easement shall comply with the requirements of the Public Works Stormwater and Grading Design Standards.

Finding: Not applicable. The applicant has not proposed unusual facilities.

C. Watercourses. Where a development is traversed or bounded by a watercourse, drainageway, channel or stream, a stormwater easement or drainage right-of-way shall be provided which conforms substantially to the line of such watercourse, drainageway, channel or stream and is of a sufficient width to allow construction, maintenance and control for the purpose as required by the responsible agency. For those subdivisions or partitions which are bounded by a stream of established recreational value, setbacks or easements may be required to prevent impacts to the water resource or to accommodate pedestrian or bicycle paths.

Finding: Not applicable. The development is not traversed by a watercourse.

D. Access. When easements are used to provide vehicular access to lots within a development, the construction standards, but not necessarily width standards, for the easement shall meet City specifications. The minimum width of the easement shall be 20 feet. The easements shall be improved and recorded by the applicant and inspected by the City Engineer. Access easements may also provide for utility placement.

Finding: Not Applicable. The applicant has not proposed any access easements as part of this development.

E. Resource Protection. Easements or other protective measures may also be required as the Community Development Director deems necessary to ensure compliance with applicable review criteria protecting any unusual significant natural feature or features of historic significance.

Finding: Not applicable. The development is not traversed by a significant natural feature or features of historic significance.

16.12.090 - Minimum improvements—Procedures.

In addition to other requirements, improvements installed by the applicant either as a requirement of these or other regulations, or at the applicant's option, shall conform to the requirements of this title and be designed to City specifications and standards as set out in the City's facility master plan and Public Works Stormwater and Grading Design Standards. The improvements shall be installed in accordance with the following procedure:

A. Improvement work shall not commence until construction plans have been reviewed and approved by the City Engineer and to the extent that improvements are located in County or State right-of-way, they shall be approved by the responsible authority. To the extent necessary for evaluation of the proposal, the plans may be required before approval of the preliminary plat of a subdivision or partition. Expenses incurred thereby shall be borne by the applicant and paid for prior to final plan review.

B. Improvements shall be constructed under the inspection and approval of the City Engineer. Expenses incurred thereby shall be borne by the applicant and paid prior to final approval. Where required by the City Engineer or other City decision-maker, the applicant's project engineer also shall inspect construction.

C. Erosion control or resource protection facilities or measures are required to be installed in accordance with the requirements of OCMC 17.47, 17.49 and the Public Works Erosion and Sediment Control Standards.

D. Underground utilities, waterlines, sanitary sewers and storm drains installed in streets shall be constructed prior to the surfacing of the streets. Stubs for service connections for underground utilities, such as, storm, water and sanitary sewer shall be placed beyond the ten-foot wide franchise utility easement within private property.

E. As-built construction plans and digital copies of as-built drawings shall be filed with the City Engineer upon completion of the improvements.

F. The City Engineer may regulate the hours of construction and access routes for construction equipment to minimize impacts on adjoining residences or neighborhoods.

Finding: Complies with Condition. The applicant indicated that construction plans for all required improvements will be presented to the city for review and approval prior to the commencement of any construction activities on the site. As required by these standards and city policy, inspections will occur during construction of these improvements. Erosion control measures will be provided and are depicted in conceptual form on the attached preliminary grading plans.

The development shall comply with all current Oregon City Public Works design standards, specifications, codes and policies. The development's engineer(s) may schedule a pre-design meeting with Oregon City staff prior to official review of the development construction plans. The applicant shall provide construction plans, stamped and signed by a professional engineer licensed in the State of Oregon, containing street, grading, stormwater, sanitary sewer and water infrastructure improvements that conforms to all current Oregon City Public Works standards, specifications, codes, and policies for review and approval by the City. The engineering plans shall provide a local benchmark onsite using the NAVD88 datum. The development's contractor(s) and engineer(s) shall attend a pre-construction meeting with Oregon City staff prior to beginning construction work associated with the project. As-builts conforming to City standards shall be provided within 90 days of completion of the public improvements.

Improvements shall be constructed under the inspection and approval of the City. Expenses incurred thereby shall be borne by the developer and paid prior to final approval. The developer's project engineer also shall inspect construction. Underground utilities, waterlines, sanitary sewers and storm drains proposed within streets shall be constructed prior to the surfacing of the streets. Stubs for service connections for underground utilities, such as, storm, water and sanitary sewer shall be placed beyond the franchise utility easement within private property.

Furthermore, the applicant shall sign a Non-Remonstrance Agreement for the purpose of making sanitary sewer, storm sewer, water or street improvements in the future that benefit the Property and assessing the cost to benefited properties pursuant to the City's capital improvement regulations in effect at the time of such improvement. Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

16.12.095 - Minimum improvements—Public facilities and services.

The following minimum improvements shall be required of all applicants for a development, unless the decision-maker determines that any such improvement is not proportional to the impact imposed on the City's public systems and facilities:

A. Transportation System. Applicants and all subsequent lot owners shall be responsible for improving the City's planned level of service on all public streets, including alleys within the development and those portions of public streets adjacent to but only partially within development. Applicants are responsible for designing and providing adequate vehicular, bicycle and pedestrian access to their developments and for accommodating future access to neighboring undeveloped properties that are suitably zoned for future development. Storm drainage facilities shall be installed and connected to off-site natural or man-made drainageways. Upon completion of the street improvement survey, the applicant shall reestablish and protect monuments of the type required by ORS 92.060 in monument boxes with covers at every public street intersection and all points or curvature and points of tangency of their center line, and at such other points as directed by the City Engineer.

Finding: Complies as Conditioned. The applicant shall sign a Non-Remonstrance Agreement for the purpose of making sanitary sewer, storm sewer, water or street improvements in the future that benefit the property and assessing the cost to benefited properties pursuant to the City's capital improvement regulations in effect at the time of such improvement. The applicant shall reestablish and protect monuments of the type required by ORS 92.060 in monument boxes with covers at every public street intersection and all points or curvature and points of tangency of their center line, and at such other points as directed by the city engineer. See 16.12.027 for findings related to required off-site street improvements. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

B. Stormwater Drainage System. Applicants shall design and install drainage facilities within a development and shall connect the development's drainage system to the appropriate downstream storm drainage system as a minimum requirement for providing services to the applicant's development. The applicant shall obtain county or state approval when appropriate. Applicants are responsible for extending the appropriate storm drainage system to the development site and for providing for the connection of upgradient properties to that system. The applicant shall design the drainage facilities in accordance with City drainage master plan requirements, OCMC 13.12 and the Public Works Stormwater and Grading Design Standards.

Finding: Complies as Conditioned. Refer to section 13.12 of this report for a discussion of storm water.

C. Sanitary Sewer System. The applicant shall design and install a sanitary sewer system to serve all lots or parcels within a development in accordance with the City's sanitary sewer design standards, and shall connect those lots or parcels to the City's sanitary sewer system, except where connection is required to the county sanitary sewer system as approved by the county. Applicants are responsible for extending the City's sanitary sewer system to the development site and through the applicant's property to allow for the future connection of neighboring undeveloped properties that are suitably zoned for future development. The applicant shall obtain all required permits and approvals from all affected jurisdictions prior to final approval and prior to commencement of construction. Design shall be approved by the City Engineer before construction begins.

Finding: Complies as Conditioned. The development shall provide a sanitary service lateral and two-way cleanout for each lot per City standards. The existing residence shall abandon the existing septic system in accordance with Oregon Department of Environmental Quality (DEQ) requirements prior to connecting to the City's sanitary sewer system. The applicant shall provide an updated utility easement conforming with the City's Sanitary Sewer Design Standards for the relocated sanitary sewer main based on approved final engineering plans. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

D. Water System. The applicant shall design and install a water system to serve all lots or parcels within a development in accordance with the City public works water system design standards, and shall connect those lots or parcels to the City's water system. Applicants are responsible for extending the City's water system to the development site and through the applicant's property to allow for the future connection of neighboring undeveloped properties that are suitably zoned for future development.

Finding: Complies as Conditioned. All lots for the proposed development shall have an individual water service connecting to the water main and each water meter shall front the property that it serves. The water main line to the east in Lazy Creek Lane has recently been extended to the western property boundary of 13834 Lazy Creek Lane. In accordance with Section 2.10 of the City's Water Design Standards, the distribution system mains shall be looped at all possible locations, but at least every 600 to 1,200-foot intervals to provide adequate circulation and water quality. The applicant has proposed a single-point connection to an existing water main to the west connecting to Pinecreek Lane, a distance of over 800 feet (450 feet to the subject property plus an additional 350 – 400 feet along the property frontage.) A looped water system connecting to the existing water main to the east is required to satisfy this standard. The subject development will directly benefit from a looped system by improving reliability by feeding water from two directions rather than one and providing redundancy in the system. A looped system will allow service to this development to continue even after a main break. Further, a looped system will improve water quality for the proposed development as it allows for circulation even at times of low flow and by not allowing solids to settle at low points in the pipeline. The applicant shall extend the water main line from the western property boundary of 13834 Lazy Creek Lane to and through the applicant's property to connect with the existing line to the west in Lazy Creek Lane in order to loop the distribution system main. The water main extension shall have a valve cluster located at the intersection with the future Naples Street extension and a fire hydrant located along Lazy Creek Lane east of the proposed development. New fire hydrants shall be located and installed per Clackamas Fire District No. 1's requirements. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

E. Street Trees. Refer to OCMC 12.08, Street Trees.

Finding: Applicable. See Section 12.08 for findings.

F. Bench Marks. At least one bench mark shall be located within the subdivision boundaries using datum plane specified by the City Engineer.

Finding: Complies as Conditioned. The engineering plans shall provide a local benchmark, onsite, using the NAVD88 datum. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

G. Other Utilities. The applicant shall make all necessary arrangements with utility companies or other affected parties for the installation of underground lines and facilities. Existing and new electrical lines and other wires, including but not limited to communication, street lighting and cable television, shall be placed underground.

Finding: Complies as Conditioned. All new franchise utilities shall be placed underground. There are no existing overhead utilities located along the property's frontage. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

H. Oversizing of Facilities. All facilities and improvements shall be designed to City standards as set out in the City's facility master plan, public works design standards, or other City ordinances or regulations. Compliance with facility design standards shall be addressed during final engineering. A development may be required to modify or replace existing offsite systems if necessary to provide adequate public facilities. The City may require oversizing of facilities to meet standards in the City's facility master plan or to allow for orderly and efficient development. Where oversizing is required, the applicant may request reimbursement from the City for oversizing based on the City's reimbursement policy and funds available, or provide for recovery of costs from intervening properties as they develop.

Finding: Not applicable. The applicant is not required to oversize facilities.

I. Erosion Control Plan—Mitigation. The applicant shall be responsible for complying with all applicable provisions of OCMC 17.47 with regard to erosion control.

Finding: Complies as Conditioned. The applicant provided a preliminary rough grading plan that indicates the applicant will be able to meet the City's Public Works erosion control standards. Further, the applicant indicated that it will comply with this section by submission of its erosion control plan to the Public Works Department to ensure the erosion control will meet meets the Public Works requirements. The applicant shall provide an Erosion Prevention and Sedimentation Control Plan suitable to the Public Works Department to meet the Public Works requirements for erosion control. The applicant shall provide a Preliminary Residential Lot Grading Plan to the City for review prior to the approval of construction plans. A final site Residential Lot Grading Plan shall be required as part of the final construction plans per the City's Residential Lot Grading Criteria and the International Building Code. If significant grading is required for the lots due to its location or the nature of the site, rough grading shall be required of the developer prior to the acceptance of the public improvements. There shall not be more than a maximum grade differential of two (2) feet at all subdivision boundaries. Grading shall in no way create any water traps, or create other ponding situations. The plan shall show the existing and proposed swales. See findings in 17.47 related to erosion control. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

16.12.100 - Same—Road standards and requirements.

A. The creation of a public street and the resultant separate land parcels shall be in conformance with requirements for subdivisions or partitions and the applicable street design standards of this Chapter. However, the decision-maker may approve the creation of a public street to be established by deed without full compliance with the regulations applicable to subdivisions or partitions where any of the following conditions exist:

1. *The establishment of the public street is initiated by the City Commission and is declared essential for the purpose of general traffic circulation and the partitioning of land is an incidental effect rather than the primary objective of the street;*
2. *The tract in which the street is to be dedicated is within an isolated ownership either not over one acre or of such size and characteristics as to make it impossible to develop building sites for more than three dwelling units.*
 - B. *For any public street created pursuant to subsection A of this section, a copy of a preliminary plan and the proposed deed shall be submitted to the Community Development Director and City Engineer at least ten days prior to any public hearing scheduled for the matter. The plan, deed and any additional information the applicant may submit shall be reviewed by the decision-maker and, if not in conflict with the standards of Title 16 and Title 17, may be approved with appropriate conditions.*

Finding: Not applicable. The conditions outlined in 16.12.100 do not exist for this proposed development.

16.12.105 - Same—Timing requirements.

A. *Prior to applying for final plat approval, the applicant shall either complete construction of all public improvements required as part of the preliminary plat approval or guarantee the construction of those improvements. Whichever option the applicant elects shall be in accordance with OCMC 17.50.140.*

B. *Construction. The applicant shall construct the public improvements according to approved final engineering plans and all applicable requirements of this Code, and under the supervision of the City Engineer. Under this option, the improvement shall be complete and accepted by the City Engineer prior to final plat approval.*

Finding: Complies as Proposed. The applicant has proposed to complete construction improvements required as part of the preliminary plat approval.

16.12.110 -Public improvements—Financial guarantees.

To ensure construction of required public improvements, the applicant shall provide the City with a performance guarantee in accordance with OCMC 17.50.140.

After satisfactory completion of required public improvements and facilities, all public improvements not constructed by the City, shall be maintained and under warranty provided by the property owner or developer constructing the facilities until the City accepts the improvements at the end of the warranty period as prescribed in OCMC 17.50.141.

Finding: Complies as Conditioned. The developer shall provide a performance guarantee which is equal to 120% of the estimated cost to construct all public improvements shown in a city approved construction plan submitted by the developer's engineer. The estimated costs shall be supported by a verified engineering estimate and approved by the city engineer. The guarantee shall be in a form identified in Code 17.50.140.A of the Oregon City Municipal Code. The guarantee shall remain in effect until the construction of all required improvements are completed and accepted by the city. The developer shall provide a Maintenance Guarantee in the amount of fifteen percent of the cost to construct all public improvements as shown in a city approved construction plan submitted by the developer's engineer. The estimated costs shall be supported by a verified engineering estimate approved by the City Engineer. The guarantee shall be in a form identified in Code 17.50.140.A of the Oregon City Municipal Code. The guarantee shall warrant to the City of Oregon City that construction of public improvements will remain, for a period of twenty-four (24) months from the date of acceptance, free from defects in materials and workmanship. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

16.12.120 Waiver of Remonstrance



The review authority may require a property owner to sign a waiver of remonstrance against the formation of and participation in a local improvement district where it deems such a waiver necessary to provide needed improvements reasonably related to the impacts created by the proposed development. To ensure compliance with this chapter, the review authority may require an applicant to sign or accept a legal and enforceable covenant, contract, dedication, easement, performance guarantee, or other document, which shall be approved in form by the City Attorney.

Finding: Complies as Conditioned. The property owner(s) shall sign a Restrictive Covenant Non-Remonstrance Agreement for the purpose of making storm sewer, sanitary sewer, water or street improvements in the future that benefit the property and all fees associated with processing and recording the Non-Remonstrance Agreement shall be paid. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

16.12.125 - Violation—Penalty.

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

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

CHAPTER 17.10 MEDIUM DENSITY RESIDENTIAL DISTRICTS

17.10.010 - Designated.

The R-5 and R-3.5 residential districts are designed for medium density residential development.

Finding: Applicable. The site is within the R-3.5 district.

17.10.020 - Permitted uses.

Permitted uses in the R-5 and R-3.5 districts are:

- A. Single-family detached residential units;*
- B. Accessory uses, buildings and dwellings;*
- C. Internal conversions;*
- D. Duplexes;*
- E. Corner duplexes;*
- F. Single-family attached residential units;*
- G. 3-4 plex residential;*
- H. Cluster housing;*
- I. Manufactured home parks or subdivisions in the R-3.5 district only;*
- J. Residential homes;*
- K. Parks, playgrounds, playfields and community or neighborhood centers;*
- L. Home occupations;*
- M. Family day care providers;*
- N. Farms, commercial or truck gardening and horticultural nurseries on a lot not less than twenty thousand square feet in area (retail sales of materials grown on-site is permitted);*
- O. Temporary real estate offices in model homes located on and limited to sales of real estate on a single piece of platted property upon which new residential buildings are being constructed;*
- P. Transportation facilities.*

Finding: Complies as Proposed. The applicant proposed single family attached and single family detached uses.

17.10.025 - Conditional uses.

The following uses are permitted in the R-5 and R-3.5 districts when authorized by and in accordance with the standards contained in OCMC 17.56:

- A. Golf courses, except miniature golf courses, driving ranges or similar commercial enterprises;
- B. Bed and breakfast inns/boarding houses;
- C. Cemeteries, crematories, mausoleums and columbariums;
- D. Child care centers and nursery schools;
- E. Emergency service facilities (police and fire), excluding correctional facilities;
- F. Residential care facilities;
- G. Private and/or public educational or training facilities;
- H. Public utilities, including sub-stations (such as buildings, plants and other structures);
- I. Religious institutions;
- J. Assisted living facilities; nursing homes and group homes for over fifteen patients.
- K. Live/work dwellings.

Finding: Not Applicable. No conditional uses are proposed.

17.10.030 - Master plans.

The following use is permitted in the R-3.5 district when authorized by and in accordance with the standards contained in OCMC 17.65.

- A. Multifamily residential.

Finding: Not applicable. A master plan is not proposed.

17.10.035 - Prohibited uses.

Prohibited uses in the R-5 and R-3.5 districts are:

- A. Any use not expressly listed in OCMC 17.10.020, 17.10.025 or 17.10.030.
- B. Marijuana businesses.

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

17.10.040 - Dimensional standards.

Dimensional standards in the R-5 and R-3.5 districts are as follows:

Table 17.10.040

Standard	R-5	R-3.5
Minimum lot size ¹		
Single-family detached	5,000 sq. ft.	3,500 sq. ft.
Duplex	6,000 sq. ft.	4,000 sq. ft.
Single-family attached	3,500 sq. ft.	2,500 sq. ft.
3-4 plex	2,500 sq. ft. per unit	2,000 sq. ft. per unit
Maximum height	35 ft.	35 ft.
Maximum building lot coverage		
Single-family detached and all duplexes	50%	55%
With ADU	60%	65%
Single-family attached and 3-4 plex	70%	80%
Minimum lot width		
All, except	35 ft., except	25 ft., except



<i>Single-family attached</i>	<i>25 ft.</i>	<i>20 ft.</i>
<i>Minimum lot depth</i>	<i>70 ft.</i>	<i>70 ft.</i>
<i>Minimum front yard setback</i>	<i>10 ft., except 5 ft. - Porch.</i>	<i>5 ft., except 0 ft. - Porch</i>
<i>Minimum interior side yard setback All, except Single-family attached</i>	<i>5 ft., except 0 ft. (attached) /5 ft. (side)</i>	<i>5 ft., except 0 ft. (attached) /5 ft. (side)</i>
<i>Minimum corner side yard setback</i>	<i>7 ft.</i>	<i>7 ft.</i>
<i>Minimum rear yard setback</i>	<i>20 ft., except 15 ft. - porch 10 ft. - ADU</i>	<i>20 ft., except 15 ft. - porch 5 ft. - ADU</i>
<i>Garage setbacks</i>	<i>20 ft. from ROW, except 5 ft. from alley</i>	<i>20 ft. from ROW, except 5 ft. from alley</i>

Notes:

1. For land divisions, lot sizes may be reduced pursuant to OCMC 16.08.065.

Finding: Complies with condition. The applicant’s proposal meets all of the dimensional standards. The existing home on Lot 20 is proposed with a front setback of 16 feet, a garage setback of 20 feet, and side setbacks of 7 feet and 5 feet. However, the right side setback adjacent to Lot 14 shows a covered patio, which is considered part of the structure, that encroaches within the setback and over the property line with Lot 14. The applicant shall ensure that the cover for the north side patio on the existing home on Lot 20 meets all required setbacks.

Lot 13 is proposed to be undersized in accordance with Lot size reduction in 16.08.065. Minimum lot width for single family attached is 20 feet; for single family detached is 25 feet. Minimum lot depth is 70 feet. The table below shows the proposed lot sizes, widths and depths. Setbacks for homes on the new lots will be reviewed at the time of building permit submittal.

Lot	Size	Width	Depth
1	2610	30	75
2	2550	34	75
3	2550	34	75
4	2550	34	75
5	2550	34	75
6	2550	34	75
7	2550	34	75
8	2550	34	75
9	2550	34	75
10	2623	34	70
11	3807	26	137
12	2564	26	92

13	2351	27.7	92
14	2679	26	93
15	4250	60	74
16	2577	26	80
17	2843	25	108
18	2774	29	121
19	2721	22	121
20	11473	83	100

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

17.10.045 - Exceptions to setbacks.

A. Projections from buildings. Ordinary building projections such as cornices, eaves, overhangs, canopies, sunshades, gutters, chimneys, flues, sills or similar architectural features may project into the required yards up to twenty-four inches.

B. Through lot setbacks. Through lots having a frontage on two streets shall provide the required front yard on each street. The required rear yard is not necessary.

Finding: Not Applicable No through lots are proposed. Projections from buildings will be reviewed upon submittal of building permits.

17.10.050 - Density standards.

A. Density standards in the R-5 and R-3.5 districts are as follows:

Table 17.10.050

Standard	R-5	R-3.5
Minimum net density	7.0 du/acre	10 du/acre
Maximum net density		
Single-family detached	8.7 du/acre	12.4 du/acre
Single-family attached	12.4 du/acre	17.4 du/acre
3-4 plexes	17.4 du/acre	21.8 du/acre

B. Exceptions.

1. Any dwelling units created as accessory dwelling units or internal conversions do not count towards the minimum or maximum density limits in Table 17.10.050.

2. Duplexes and corner duplexes shall count as a single dwelling unit for the purposes of calculating minimum and maximum density standards.

3. Cluster housing is permitted at higher densities exempt from the standards in Table 17.10.050; see OCMC 17.20.020.

Finding: Complies as Proposed. The Gross Site Area is 2.01 Acres (87,556 SF) . After the dedication of right-of-way from the internal Street, and the realignment of Lazy Creek Lane (20,689 SF) A Net area of 63672 remains, or 1.46 acres. With 20 total units, the overall density is 13.7 dwelling units per acre. For the 18 proposed single family attached units, the proposed density is 18 units/1.1 acres = 16.4 units per acre, and for single family detached units, the proposed density is 2 units/.36 acres = 5.55 dwelling units per acre.

While the single family density does not meet the minimum of 10 units per acre, the overall density of 13.7 unites/acre exceeds the minimum. The applicant may substitute uses permitted in the zone on any of the proposed lots if the lot size minimum continue to be met and the maximum density is not exceeded.

17.10.060 - Conversion of Existing Duplexes.

Any conversion of an existing duplex unit into two single-family attached dwellings shall be reviewed for compliance with the land division requirements in Title 16 and the underlying zone district.

Finding: Not Applicable. There are no existing duplexes.

CHAPTER 17.41 TREE PROTECTION, PRESERVATION, REMOVAL AND REPLANTING STANDARDS**17.41.020 - Tree protection—Applicability.**

1. Applications for development subject to OCMC 16.08 (Land Divisions) or OCMC 17.62 (Site Plan and Design Review) shall demonstrate compliance with these standards as part of the review proceedings for those developments. Compliance with this chapter is required from the date a land use application is filed until a land division is recorded or other development approval is final.
2. For public capital improvement projects, the City Engineer shall demonstrate compliance with these standards pursuant to a Type I process.
3. Tree canopy removal greater than twenty-five percent on areas with greater than twenty-five percent slope, unless exempted under OCMC 17.41.040, shall be subject to these standards.
4. A heritage tree or grove which has been designated pursuant to the procedures of OCMC 12.32 shall be subject to the standards of this section.
5. A tree that has been planted pursuant to this section shall remain or shall be replaced with a new tree if removed.

Finding: Applicable. The proposed development includes a Subdivision, therefore this chapter applies.

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 OCMC 17.04, shall govern.

Finding: Applicable. The applicant proposes to remove trees on private property and within the public right of way. The trees in the right of way are subject to this Chapter rather than OCMC 12.08 under the provisions in OCMC 12.08.

17.41.040 - 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 OCMC 17.49. These standards are not intended to regulate farm and forest practices as those practices are defined under ORS 30.930, for farm or forestlands. These regulations to not apply to the removal of trees that are considered invasive species. 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.

Finding: Not Applicable. The applicant has not proposed an exemption in accordance with this provision.

17.41.050 - 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 OCMC 17.41.060.

B. Option 2—Dedicated Tract. Protection of trees or groves by placement in a tract within a new subdivision or partition plat pursuant to OCMC 17.41.080; or

C. Option 3—Restrictive Covenant. Protection of trees or groves by recordation of a permanent restrictive covenant pursuant to OCMC 17.41.110; or

D. Option 4—Cash-in-lieu of planting pursuant to OCMC 17.41.120.

Finding: Complies with Condition. The applicant proposed the following:

“There are a total of 84 trees onsite. Of these 65 are to be retained, and 19 removed

Of the 19 trees onsite to be removed two are not in the construction envelope. These are trees 10645, and 10644, are fruiting plumbs, with a portion of the trunk in the building envelope. Regardless all stems are under 12” Therefore no mitigation is proposed for these trees.

There are in addition 4 trees in Lazy creek Lane offsite to the east to allow an offsite street connection that will have to be removed, and 20 trees in The current right-of-way that will be in a dedicated tract ‘ Tract ‘A’. All 4 offsite trees are healthy. Of the 20 trees to be removed for the facility, ten (trees 10204-5, and 10210-10218) are observed by the arborist as unhealthy, and therefore not included in the mitigation count.

Thus of the total of 108 trees impacted by this development, none of the trees to be removed are located out side of the public improvements or the building envelope limits.

After excluding those trees in poor health a total of 33 trees are to be mitigated. With the varying sizes as measured by the arborist, the applicant will be required to mitigate a total of 84 trees.

One possible option is two plant two trees on each of the new nine lots (38), and a further 16 trees in the rear yard of the parent parcel retaining the house, and then paying a fee in lieu for the remaining 30 trees. The trees to be planted would not be included in the street tree count. The preservation of same said trees would be included in the preservation requirements noted with the plat for the retention of the 65 trees onsite.”

The applicant has proposed to utilize a combination of Option 1 and Option 4 for mitigation. It is expected that the plans for stormwater detention and treatment will change and may result in a change to the final number of trees that will be removed. Thus, the applicant shall submit a final tree mitigation plan prior to final plat. As identified in this section, all replanted and saved trees shall be protected by a permanent restrictive covenant or easement approved in form by the city. Prior to occupancy of the dwellings on the subject site, the applicant shall record a covenant or easement on all properties with new or existing trees planted on private property. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

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 OCMC 17.04 to the extent practicable. Preserved trees are subject to Option 3 of this Chapter. Compliance with these standards shall be demonstrated in a tree mitigation plan report prepared by a certified arborist, horticulturalist or forester or other environmental professional with experience and academic credentials in forestry or arboriculture. Tree inventories for the purposes of mitigation calculations may be prepared by a licensed surveyor. 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 OCMC 12.08— Public and Street Trees, any required tree planting in parking lots, and any trees planted in pedestrian and bicycle accessways.

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. Dying, diseased or hazardous trees, when the condition is verified by a certified arborist to be consistent with the definitions in OCMC 17.04, may be removed from the tree replacement calculation. Dead trees may also be removed from the calculation, with the condition of the tree verified either by the Community Development Director or by a certified arborist at the applicant's expense, when the Community Development Director cannot make a determination. To the extent that the Community Development Director determines that the dead, dying, hazardous or diseased condition of the tree is the result of intentional action, the removal of that tree shall require mitigation pursuant to Column 2 of Table 17.41.060-1.

Table 17.41.060-1

Tree Replacement Requirements

Size of tree removed (DBH)	Column 1 Number of trees to be planted. (If removed Outside of construction area)	Column 2 Number of trees to be planted. (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 the size (DBH) of all trees pursuant to accepted industry standards.
3. Document in a certified arborist report any trees that are currently dead, dying, diseased or hazardous.
4. Subtract the number of dead, dying, 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. Identify the construction area (as defined in OCMC 17.04.230).
6. Determine the number and diameter of trees to be removed within the construction area. Based on the size of each tree, use Column 2 to determine the number of replacement trees required.

7. Determine the number and diameter of trees to be removed outside of the construction area. Based on the size of each tree, use Column 1 to determine the number of replacement trees required.

8. Determine the total number of replacement trees from steps 6 and 7.

Finding: Complies with Condition. This section requires the tree mitigation plan report be prepared by a certified arborist, horticulturalist, forester or other environmental professionals with experience and academic credentials in forestry or arboriculture. The applicant has submitted a tree inventory, health assessment and tree removal plan prepared by Certified Arborist Brenden Monahan. The plan identifies that all trees proposed for removal are within the construction area. However, the definition of construction area is:

17.04.230 - Construction area.

Defined as right-of-way, public utility easements, and within the building footprint of a building site for any mixed-use, commercial or industrial development, or if a residential development, within the allowable building footprint permitted by the setback requirements of the zone district.

A number of the trees proposed for removal are therefore outside of the construction area, meaning the applicant's calculation of the number of required mitigation trees is incorrect. The applicant did not submit a mitigation plan showing the planting locations for the mitigation trees, although did indicate that there is space on each lot for mitigation trees. Prior to final plat of the subdivision, the applicant shall submit a final tree mitigation calculation and tree mitigation plan prepared by a certified arborist, horticulturalist, forester or other environmental professional which shows the planting location of mitigation trees. In the event that additional trees must be removed, the applicant shall submit a revised mitigation plan utilizing any of the mitigation options in OCMC Chapter 17.41. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

C. Planting area priority for mitigation.

Development applications which opt for removal of trees with subsequent replanting pursuant to OCMC 17.41.050.A. shall be required to mitigate for tree cutting by complying with the following priority for replanting standards below:

1. First Priority. Replanting on the development site.

2. 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 shall be approved by the Community Development Director.

Finding: Complies with Condition. The applicant has not submitted a mitigation planting plan identifying planting locations of mitigation trees. Prior to final plat of the subdivision, the applicant shall submit a final tree mitigation calculation and tree mitigation plan prepared by a certified arborist, horticulturalist, forester or other environmental professional which shows the planting location of mitigation trees. In the event that additional trees must be removed, the applicant shall submit a revised mitigation plan utilizing any of the mitigation options in OCMC Chapter 17.41. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

D. Replacement tree planting standards.

1. All replacement trees shall be either two-inch caliper deciduous or six-foot high conifer.

2. Replacement tree species shall be approved by a landscape architect or certified arborist or shall be found on the City's Native Plant or Street Tree lists.

3. Due to their diminishing range in the region, Oregon white oak (*Quercus garryana*) trees, if removed, shall be replaced by the same species.

Finding: Complies with Condition. No Oregon White Oak trees are proposed for removal. The applicant did not indicate the species or size of replacement trees. The applicant's final tree mitigation plan shall specify species approved by a landscape architect or certified arborist or found on the City's Native Plant or Street Tree lists, and include minimum 2" caliper or 6' conifer trees. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

E. All existing tree(s) in the tract shall be protected by a permanent restrictive covenant or easement approved in form by the City.

Finding: Not applicable. No tree protection tracts are proposed.

F. 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 in OCMC 17.49.190.

Finding: Not applicable. An alternative plan is not proposed.

17.41.080 - Tree preservation within subdivisions and partitions—Dedicated tract (Option 2).

A. An applicant for a new subdivision and partition 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. All existing tree(s) in the tract shall be protected by a permanent restrictive covenant or easement approved in form by the City.

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 OCMC 17.41.080.F 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 dwelling. 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 homeowner's 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. 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.

E. Density transfers incentive for tree protection tracts.

1. 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. Density shall not be transferred beyond the boundaries of the development site.

2. Development applications for subdivisions and minor partitions that request a density transfer shall:

- a. Provide a map showing the net buildable area of the tree protection tract;
- b. Provide calculations justifying the requested dimensional adjustments;
- c. 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 to this section;
- d. Demonstrate that, with the exception of the tree protection tract, no parcels have been created which would be unbuildable in terms of minimum yard setbacks;
- e. Meet all other standards of the base zone except as modified in this section.

3. 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.

F. Permitted modifications to dimensional standards.

1. An applicant proposing to protect trees in a dedicated tract 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 17.41.080.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 17.41.080.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 17.41.080.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
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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*

Finding: Complies with Condition. The applicant indicated that a combination of mitigation options 1 and 4 will be used, however, a mitigation plan was not submitted. Prior to final plat of the subdivision, the applicant shall submit a final tree mitigation calculation and tree mitigation plan prepared by a certified arborist, horticulturalist, forester or other environmental professional and utilizing any of the mitigation options in OCMC Chapter 17.41. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

17.41.110 - Tree protection by restrictive covenant (Option 3).

Any regulated tree or grove which cannot be protected in a tract pursuant to Section 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.

A. Permitted adjustments.

- 1. 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 fifty 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 reduced to 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.*
- 2. 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.*
- 3. 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.*

Finding: Complies with Condition. The applicant indicated that a combination of mitigation options 1 and 4 will be used, however, a mitigation plan was not submitted. Prior to final plat of the subdivision, the applicant shall submit a final tree mitigation calculation and tree mitigation plan prepared by a certified arborist, horticulturalist, forester or other environmental professional and utilizing any of the mitigation options in OCMC Chapter 17.41. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

17.41.120 - Cash-in-lieu of planting (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.

The cash-in-lieu payment per required mitigation tree shall be as listed on the adopted fee schedule and shall be adjusted annually based on the Consumer Price Index. The price shall include 150% of the cost of materials, transportation and planting.

Finding: Complies with Condition. The applicant indicated that a combination of mitigation options 1 and 4 will be used, however, a mitigation plan was not submitted. Prior to final plat of the subdivision, the applicant shall submit a final tree mitigation calculation and tree mitigation plan prepared by a

certified arborist, horticulturalist, forester or other environmental professional and utilizing any of the mitigation options in OCMC Chapter 17.41. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

17.41.130 - Regulated tree protection procedures during construction.

A. No permit for any grading or construction of public or private improvements may be released prior to verification by the Community Development Director that regulated trees designated for protection or conservation have been protected according to the following standards. No trees designated for removal shall be removed without prior written approval from the Community Development Director.

B. Tree protection shall be as recommended by a qualified arborist or, as a minimum, to include the following protective measures:

- 1. Except as otherwise determined by the Community Development Director, all required tree protection measures set forth in this section shall be instituted prior to any development activities, including, but not limited to clearing, grading, excavation or demolition work, and such measures shall be removed only after completion of all construction activity, including necessary landscaping and irrigation installation, and any required plat, tract, conservation easement or restrictive covenant has been recorded.*
- 2. Approved construction fencing, a minimum of four feet tall with steel posts placed no farther than ten feet apart, shall be installed at the edge of the tree protection zone or dripline, whichever is greater. An alternative may be used with the approval of the Community Development Director.*
- 3. Approved signs shall be attached to the fencing stating that inside the fencing is a tree protection zone, not to be disturbed unless prior approval has been obtained from the Community Development Director.*
- 4. No construction activity shall occur within the tree protection zone, including, but not limited to; dumping or storage of materials such as building supplies, soil, waste items; nor passage or parking of vehicles or equipment.*
- 5. The tree protection zone shall remain free of chemically injurious materials and liquids such as paints, thinners, cleaning solutions, petroleum products, and concrete or dry wall excess, construction debris, or run-off.*
- 6. No excavation, trenching, grading, root pruning or other activity shall occur within the tree protection zone unless directed by an arborist present on site and approved by the Community Development Director.*
- 7. No machinery repair or cleaning shall be performed within ten feet of the dripline of any trees identified for protection.*
- 8. Digging a trench for placement of public or private utilities or other structure within the critical root zone of a tree to be protected is prohibited. Boring under or through the tree protection zone may be permitted if approved by the Community Development Director and pursuant to the approved written recommendations and on-site guidance and supervision of a certified arborist.*
- 9. The Community Development Director may require that a certified arborist be present during any construction or grading activities that may affect the dripline of trees to be protected.*
- 10. The Community Development Director may impose conditions to avoid disturbance to tree roots from grading activities and to protect trees and other significant vegetation identified for retention from harm. Such conditions may include, if necessary, the advisory expertise of a qualified consulting arborist or horticulturist both during and after site preparation, and a special maintenance/management program to provide protection to the resource as recommended by the arborist or horticulturist.*

C. Changes in soil hydrology due to soil compaction and site drainage within tree protection areas shall be avoided. Drainage and grading plans shall include provision to ensure that drainage of the site does not conflict with the standards of this section. Excessive site run-off shall be directed to appropriate storm drainage facilities and away from trees designated for conservation or protection.

Finding: Complies as Proposed. The applicant has submitted a plan identifying protection fencing for existing trees which would be protected during development, and the arborist letter included additional measures for tree protection during construction which are in compliance with this section. Additional tree protection measures are not required.

CHAPTER 17.47 - EROSION AND SEDIMENT CONTROL

17.47.030 - Applicability.

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

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

Finding: Applicable. The applicant has proposed to construct a new subdivision with associated street improvements.

17.47.060 - Permit required.

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

Finding: Complies with Condition. The applicant has proposed to construct a new subdivision with associated street improvements. The applicant shall provide an Erosion Prevention and Sedimentation Control Plan prior to issuance of an erosion control permit. The applicant shall obtain an erosion control permit prior to commencement of any earth disturbing activities. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

17.47.070 - Erosion and sediment control plans.

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

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

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

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

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

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

F. If the manager finds that the facilities and techniques approved in an erosion and sediment control plan and permit are not sufficient to prevent erosion, the manager shall notify the owner or his/her designated

representative. Upon receiving notice, the owner or his/her designated representative shall immediately install interim erosion and sediment control measures as specified in the City of Oregon City public works standards for erosion and sediment control. Within three days from the date of notice, the owner or his/her designated representative shall submit a revised erosion and sediment control plan to the city. Upon approval of the revised plan and issuance of an amended permit, the owner or his/her designated representative shall immediately implement the revised plan.

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

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

CHAPTER 17.50 ADMINISTRATION AND PROCEDURES

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

Finding: Complies as Proposed. The proposed Subdivision application is being reviewed pursuant to the Type II process. Notice was posted onsite, online and mailed to property owners within 300 feet of the proposed development.

17.50.050 – Pre-application conference.

A Pre-application Conference. Prior to a Type II – IV or Legislative application, excluding Historic Review, being deemed complete, the applicant shall schedule and attend a pre-application conference with City staff to discuss the proposal, unless waived by the Community Development Director. The purpose of the pre-application 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.

To schedule a pre-application 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 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 pre-application conference.

B. A pre-application 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 shall schedule and attend another conference before the City will accept a permit application. The Community Development Director may waive the pre-application requirement if, in the Director's opinion, the development has not changed significantly and the applicable municipal code or standards have not been significantly amended. In no case shall a pre-application conference be valid for more than one year.

C. Notwithstanding any representations by City staff at a pre-application 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.

Finding: Complies as Proposed. The applicant held a pre-application conference (PA-19-32) on July 9, 2019. The land use application was submitted within 6 months of the pre-application conference on September 6, 2019. The application was deemed incomplete on September 26, 2019, and after the submittal of additional information, the application was deemed complete on November 12, 2019. The City has until March 11, 2020 to make a final determination.

17.50.055 - Neighborhood association meeting.

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.

A. 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 no earlier than one year prior to the date of application. Although not required for other projects than those identified above, a meeting with the neighborhood association is highly recommended.

B. The applicant shall request via email or regular mail a request to meet with the neighborhood association chair where the proposed development is located. The notice shall describe the proposed project. A copy of this notice shall also be provided to the chair of the Citizen Involvement Committee.

C. A meeting shall be scheduled within thirty days of the date that the notice is sent. 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 host a meeting inviting the neighborhood association, Citizen Involvement Committee, and all property owners within three hundred feet to attend. This meeting shall not begin before six p.m. on a weekday or may be held on a weekend and shall occur within the neighborhood association boundaries or at a City facility.

D. 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.

E. To show compliance with this section, the applicant shall submit a copy of the email or mail notice to the neighborhood association and CIC chair, a sign-in sheet of meeting attendees, and a summary of issues discussed at the meeting. If the applicant held a separately noticed meeting, the applicant shall submit a copy of the meeting flyer, postcard or other correspondence used, and a summary of issues discussed at the meeting and submittal of these materials shall be required for a complete application.

Finding: Complies as Proposed. The applicant attended the Gaffney Lane Neighborhood Association meeting on September 12, 2019.

17.50.070 - Completeness review and one hundred twenty-day rule.

C. Once the Community Development Director determines the application is complete enough to process, or the applicant refuses to submit any more information, the City shall declare the application complete. Pursuant to ORS 227.178, the City will reach a final decision on an application within one hundred twenty calendar days from the date that the application is determined to be or deemed complete unless the applicant agrees to suspend the one hundred twenty calendar day time line or unless State law provides otherwise. The one hundred twenty-day period, however, does not apply in the following situations:

- 1. Any hearing continuance or other process delay requested by the applicant shall be deemed an extension or waiver, as appropriate, of the one hundred twenty-day period.*
- 2. Any delay in the decision-making process necessitated because the applicant provided an incomplete set of mailing labels for the record property owners within three hundred feet of the subject property shall extend the one hundred twenty-day period for the amount of time required to correct the notice defect.*
- 3. The one hundred twenty-day period does not apply to any application for a permit that is not wholly within the City's authority and control.*
- 4. The one hundred twenty-day period does not apply to any application for an amendment to the City's comprehensive plan or land use regulations nor to any application for a permit, the approval of which depends upon a plan amendment.*

D. A one-hundred day period applies in place of the one-hundred-twenty day period for affordable housing projects where:

- 1. The project includes five or more residential units, including assisted living facilities or group homes;*

2. At least 50% of the residential units will be sold or rented to households with incomes equal to or less than 60% of the median family income for Clackamas County or for the state, whichever is greater; and

3. Development is subject to a covenant restricting the owner and successive owner from selling or renting any of the affordable units as housing that is not affordable for a period of 60 years from the date of the certificate of occupancy.

E. The one hundred twenty-day period specified in OCMC 17.50.070.C or D may be extended for a specified period of time at the written request of the applicant. The total of all extensions may not exceed two hundred forty-five calendar days.

F. The approval standards that control the City's review and decision on a complete application are those which were in effect on the date the application was first submitted.

Finding: Complies as Proposed. This land use application was submitted on September 6, 2019. The application was deemed incomplete on September 26, 2019, and after the submittal of additional information, the application was deemed complete on November 12, 2019. The City has until March 11, 2020 to make a final determination.

17.50.080 - Complete application—Required information.

Unless stated elsewhere in OCMC 16 or 17, a complete application includes all the materials listed in this subsection. The Community Development Director may waive the submission of any of these materials if not deemed to be applicable to the specific review sought. Likewise, within thirty days of when the application is first submitted, the Community Development Director may require additional information, beyond that listed in this subsection or elsewhere in Titles 12, 14, 15, 16, or 17, such as a traffic study or other report prepared by an appropriate expert. In any event, the applicant is responsible for the completeness and accuracy of the application and all of the supporting documentation, and the City will not deem the application complete until all information required by the Community Development Director is submitted. At a minimum, the applicant shall submit the following:

A. One copy of a completed application form that includes the following information:

1. An accurate address and tax map and location of all properties that are the subject of the application;
2. Name, address, telephone number and authorization signature of all record property owners or contract owners, and the name, address and telephone number of the applicant, if different from the property owner(s);

B. A complete list of the permit approvals sought by the applicant;

C. A complete and detailed narrative description of the proposed development;

D. A discussion of the approval criteria for all permits required for approval of the development proposal that explains how the criteria are or can be met or are not applicable, and any other information indicated by staff at the pre-application conference as being required;

E. One copy of all architectural drawings and site plans shall be submitted for Type II-IV applications. One paper copy of all application materials shall be submitted for Type I applications;

F. For all Type II – IV applications, the following is required:

1. An electronic copy of all materials.

2. Mailing labels or associated fee for notice to all parties entitled under OCMC 17.50.090 to receive mailed notice of the application. The applicant shall use the names and addresses of property owners within the notice area indicated on the most recent property tax rolls;

3. Documentation indicating there are no liens favoring the City on the subject site.

4. A receipt from the county assessor's office indicating that all taxes for the lot or parcels involved are paid in full for the preceding tax year.

5. A current preliminary title report or trio for the subject property(ies);

G. All required application fees;

H. Annexation agreements, traffic or technical studies (if applicable);

I. Additional documentation, as needed and identified by the Community Development Director.

Finding: Complies as Proposed. This land use application was submitted on September 6, 2019. The application was deemed incomplete on September 26, 2019, and after the submittal of additional information, the application was deemed complete on November 12, 2019. The City has until March 11, 2020 to make a final determination.

17.50.090 - Public notices.

All public notices issued by the City announcing applications or public hearings of quasi-judicial or legislative actions, shall comply with the requirements of this section.

A. Notice of Type II Applications. Once the Community Development Director has deemed a Type II application complete, the City shall prepare and send notice of the application, by first class mail, to all record owners of property within three hundred feet of the subject property and to any city-recognized neighborhood association whose territory includes the subject property. The applicant shall provide or the City shall prepare for a fee an accurate and complete set of mailing labels for these property owners and for posting the subject property with the City-prepared notice in accordance with OCMC 17.50.100. The City's Type II notice shall include the following information:

- 1. Street address or other easily understood location of the subject property and city-assigned planning file number;*
- 2. A description of the applicant's proposal, along with citations of the approval criteria that the City will use to evaluate the proposal;*
- 3. A statement that any interested party may submit to the City written comments on the application during a fourteen-day comment period prior to the City's deciding the application, along with instructions on where to send the comments and the deadline of the fourteen-day comment period;*
- 4. A statement that any issue which is intended to provide a basis for an appeal shall be raised in writing during the fourteen-day comment period with sufficient specificity to enable the City to respond to the issue;*
- 5. A statement that the application and all supporting materials may be inspected, and copied at cost, at city hall during normal business hours;*
- 6. The name and telephone number of the planning staff person assigned to the application or is otherwise available to answer questions about the application.*
- 7. The notice shall state that a City-recognized neighborhood association requesting an appeal fee waiver pursuant to OCMC 17.50.290.C must officially approve the request through a vote of its general membership or board at a duly announced meeting prior to the filing of an appeal.*

B. Notice of Public Hearing on a Type III or IV Quasi-Judicial Application. Notice for all public hearings concerning a quasi-judicial application shall conform to the requirements of this subsection. At least twenty days prior to the hearing, the City shall prepare and send, by first class mail, notice of the hearing to all record owners of property within three hundred feet of the subject property and to any City-recognized neighborhood association whose territory includes the subject property. The City shall also publish the notice on the City website within the City at least twenty days prior to the hearing. Pursuant to OCMC 17.50.080H., the applicant is responsible for providing an accurate and complete set of mailing labels for these property owners and for posting the subject property with the City-prepared notice in accordance with OCMC 17.50.100. Notice of the application hearing shall include the following information:

- 1. The time, date and location of the public hearing;*
- 2. Street address or other easily understood location of the subject property and city-assigned planning file number;*
- 3. A description of the applicant's proposal, along with a list of citations of the approval criteria that the City will use to evaluate the proposal;*
- 4. A statement that any interested party may testify at the hearing or submit written comments on the proposal at or prior to the hearing and that a staff report will be prepared and made available to the public at least seven days prior to the hearing;*

5. A statement that any issue which is intended to provide a basis for an appeal to the City Commission shall be raised before the close of the public record. Issues must be raised and accompanied by statements or evidence sufficient to afford the City and all parties to respond to the issue;

6. The notice shall state that a City-recognized neighborhood association requesting an appeal fee waiver pursuant to OCMC 17.50.290C. must officially approve the request through a vote of its general membership or board at a duly announced meeting prior to the filing of an appeal.

7. A statement that the application and all supporting materials and evidence submitted in support of the application may be inspected at no charge and that copies may be obtained at reasonable cost at the Planning Division offices during normal business hours; and

8. The name and telephone number of the planning staff person responsible for the application or is otherwise available to answer questions about the application.

C. *Notice of Public Hearing on a Legislative Proposal.* At least twenty days prior to a public hearing at which a legislative proposal to amend or adopt the City's land use regulations or Comprehensive Plan is to be considered, the Community Development Director shall issue a public notice that conforms to the requirements of this subsection. Notice shall be sent to affected governmental entities, special districts, providers of urban services, including Tri-Met, Oregon Department of Transportation and Metro, any affected recognized neighborhood associations and any party who has requested in writing such notice. Notice shall also be published on the City website. Notice issued under this subsection shall include the following information:

1. The time, date and location of the public hearing;

2. The City-assigned planning file number and title of the proposal;

3. A description of the proposal in sufficient detail for people to determine the nature of the change being proposed;

4. A statement that any interested party may testify at the hearing or submit written comments on the proposal at or prior to the hearing; and

5. The name and telephone number of the planning staff person responsible for the proposal and who interested people may contact for further information.

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

17.50.100 - Notice posting requirements.

Where this chapter requires notice of a pending or proposed permit application or hearing to be posted on the subject property, the requirements of this section shall apply.

A. *City Guidance and the Applicant's Responsibility.* The City shall supply all of the notices which the applicant is required to post on the subject property and shall specify the dates the notices are to be posted and the earliest date on which they may be removed. The City shall also provide a statement to be signed and returned by the applicant certifying that the notice(s) were posted at the correct time and that if there is any delay in the City's land use process caused by the applicant's failure to correctly post the subject property for the required period of time and in the correct location, the applicant agrees to extend the applicable decision-making time limit in a timely manner.

B. *Number and Location.* The applicant shall place the notices on each frontage of the subject property. If the property's frontage exceeds six hundred feet, the applicant shall post one copy of the notice for each six hundred feet or fraction thereof. Notices do not have to be posted adjacent to alleys or unconstructed right-of-way. Notices shall be posted within ten feet of the street and shall be visible to pedestrians and motorists. Notices shall not be posted within the public right-of-way or on trees. The applicant shall remove all signs within ten days following the event announced in the notice.

Finding: Complies as Proposed. The site was posted with a sign longer than the minimum requirement.

17.50.140 - Performance guarantees.

When conditions of permit approval require a permittee to construct certain improvements, the city may, in its discretion, allow the permittee to submit a performance guarantee in lieu of actual construction of the improvement. Performance guarantees shall be governed by this section.

A. Form of Guarantee. Performance guarantees shall be in a form approved by the city attorney. Approvable methods of performance guarantee include irrevocable standby letters of credit to the benefit of the city issued by a recognized lending institution, certified checks, dedicated bank accounts or allocations of construction loans held in reserve by the lending institution for the benefit of the city. The form of guarantee shall be specified by the city engineer and, prior to execution and acceptance by the city shall be reviewed and approved by the city attorney. The guarantee shall be filed with the city engineer.

B. Timing of Guarantee. A permittee shall be required to provide a performance guarantee as follows.

1. After Final Approved Design by The City: A permittee may request the option of submitting a performance guarantee when prepared for temporary/final occupancy. The guarantee shall be one hundred twenty percent of the estimated cost of constructing the remaining public improvements as submitted by the permittee's engineer. The engineer's estimated costs shall be supported by a verified engineering estimate and approved by the city engineer.

2. Before Complete Design Approval And Established Engineered Cost Estimate: A permittee may request the option of submitting a performance guarantee before public improvements are designed and completed. The guarantee shall be one hundred fifty percent of the estimated cost of constructing the public improvements as submitted by the permittee's engineer and approved by the city engineer. The engineer's estimated costs shall be supported by a verified engineering estimate and approved by the city engineer. This scenario applies for a fee-in-lieu situation to ensure adequate funds for the future work involved in design, bid, contracting, and construction management and contract closeout. In this case, the fee-in-lieu must be submitted as cash, certified check, or other negotiable instrument as approved to form by the city attorney.

C. Duration of the Guarantee. The guarantee shall remain in effect until the improvement is actually constructed and accepted by the city. Once the city has inspected and accepted the improvement, the city shall release the guarantee to the permittee. If the improvement is not completed to the city's satisfaction within the time limits specified in the permit approval, the city engineer may, at their discretion, draw upon the guarantee and use the proceeds to construct or complete construction of the improvement and for any related administrative and legal costs incurred by the city in completing the construction, including any costs incurred in attempting to have the permittee complete the improvement. Once constructed and approved by the city, any remaining funds shall be refunded to the permittee. The city shall not allow a permittee to defer construction of improvements by using a performance guarantee, unless the permittee agrees to construct those improvements upon written notification by the city, or at some other mutually agreed-to time. If the permittee fails to commence construction of the required improvements within six months of being instructed to do so, the city may, without further notice, undertake the construction of the improvements and draw upon the permittee's performance guarantee to pay those costs.

Finding: Complies with Condition. The applicant shall submit a performance guarantee which is equal to one hundred twenty percent of the estimated cost of constructing the public improvements shown in a city approved construction plan submitted by the applicant's engineer. The estimated costs shall be



supported by a verified engineering estimate and approved by the city engineer. The guarantee shall be in a form identified in Code 17.50.140.A of the Oregon City Municipal Code. The guarantee shall remain in effect until the improvement is actually constructed and accepted by the city. The applicant shall provide a Maintenance Guarantee in the amount of fifteen percent of the cost to construct all public improvements as shown in a city approved construction plan submitted by the applicant's engineer. The estimated costs shall be supported by a verified engineering estimate approved by the City Engineer. The guarantee shall be in a form identified in Code 17.50.140.A of the Oregon City Municipal Code. The guarantee shall warrant to the City of Oregon City that construction of public improvements will remain, for a period of twenty-four (24) months from the date of acceptance, free from defects in materials and workmanship. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

CONCLUSION AND DECISION:

Based on the analysis and findings as described above, Staff concludes that the proposed Subdivision located at 13735 Lazy Creek Lane, Oregon City, can meet the requirements as described in the Oregon City Municipal Code by complying with the Conditions of Approval provided in this report. Therefore, the Community Development Director approves file GLUA-19-00030/SUB-19-00003 with conditions, based upon the findings and exhibits contained in this staff report.

EXHIBITS:

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