



TYPE II STAFF REPORT AND NOTICE OF DECISION WITH CONDITIONS OF APPROVAL November 20th, 2019

FILE NUMBER: PI-19-00001: Public Improvement Modification

APPLICANT: City of Oregon City Parks and Recreation
625 Center Street, Oregon City, OR 97045

OWNER: Same as Applicant

REQUEST: Public Improvement Modification per OCMC 16.12.013 for 13th Street sidewalk repair and installation of seven 7 tree wells with Street Tree. The proposed sidewalk width will match the existing width of 9’ 10” but is less than 10’6” as required by OCMC 16.12.016 – Street Design. Therefore, the applicant requests a modification.

LOCATION: 1211 Jackson Street, Oregon City, OR 97045 (13th Street frontage)
APN 2-2E-32BB-06100

REVIEWER: Josh Wheeler, PE, Assistant City Engineer
Pete Walter, AICP, Senior Planner

DECISION: Approval with Conditions.

Submitted: 12/23/2019
Complete: 12/24/2019
120-Day: 2/21/2020
NOD: 11/20/2019

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 PI-19-00001

(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.

1. The applicant shall assure that seven street trees are planted along 13th Street in accordance with the submitted application narrative and OCMC 12.08. (P)
2. The applicant shall plant three larger diameter trees on site as discussed in their email of 11/12/2019. (P)
3. The applicant shall obtain an erosion and sediment control permit prior to commencement of any earth disturbing activities in the event one is required. (DS)
4. The applicant shall construct a 9'10" sidewalk with 5' x 5' tree wells. (DS)
5. Permit PST-19-00041 shall be provided once a land use decision has been made. The work shall follow the requirements of PST-19-00041. (DS)

I. BACKGROUND:

1. Existing Conditions

Currently the existing street section for 13th Street includes a 6-foot wide sidewalk, a 3 foot 4-inch-wide planter strip, and a 6-inch curb width. The total width from edge of curb to the inside edge of the sidewalk measures 9' 10". The sidewalk has raised sections from ¼" to slightly more than 2" along a significant portion of the length of 13th Street due to root intrusion and wear and tear over the years. Several of the panels have had sectional replacements. The existing mow strip has areas where the curb has eroded allowing the soil to erode and creating an uneven unload and loading transition to and from vehicle parking. There is curbside/on street parking for the public use of the swimming pool facility. Primary users of the facility are seniors, teens, school age children, and parents with small children.

The applicant provided multiple photographs of the existing condition of the sidewalk along 13th Street which are attached as exhibits to the application.

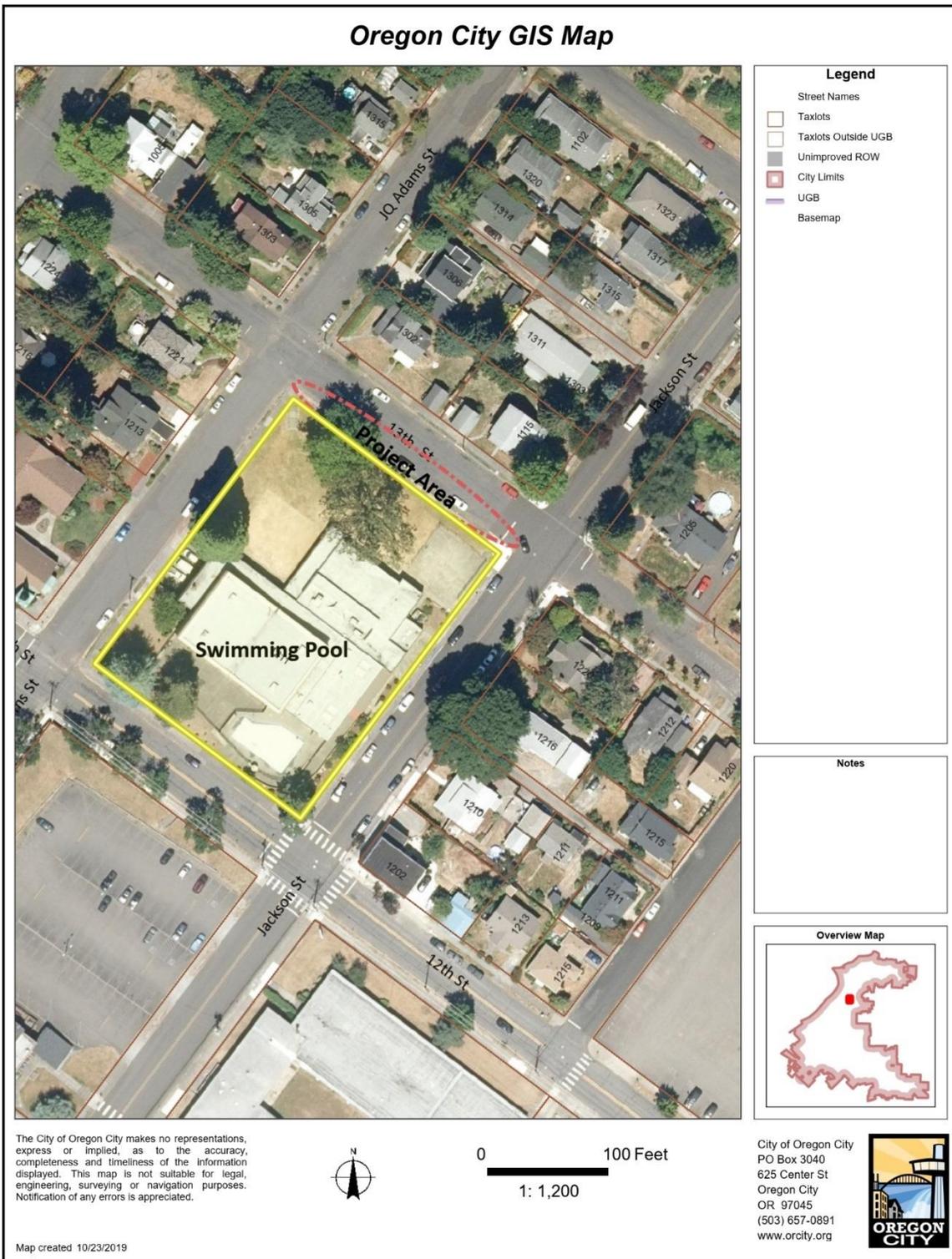


Figure 1. Vicinity Map

2. Project Description.

This application requests approval of a design modification to the sidewalk width standard of OCMC 16.12.016 – Street Design for Tax Lot 2-2E-32BB-06100. This is a request Public Improvement for modification of a public improvement standard per OCMC 16.12.013 for the 13th Street sidewalk repair and installation of seven 7 tree wells with street trees. The proposed sidewalk width will match the existing width of 9' 10" but is less than 10'6" as required by OCMC 16.12.016 – Street Design. Therefore, the applicant requests a modification.

This proposal is to remove the existing mow strip replacing with 7 spaced tree wells and replace the existing deteriorated sidewalk. The proposal is for approximately 738 sq. ft. of sidewalk replacement, 703.5 sq. ft. of mow strip removed and installation of tree wells and repair 35 lineal ft. curb. There is one small section of sidewalk repair along Jackson St. of a 6'x 6' panel included in that proposal of sidewalk repair. That 6' x 6' panel replacement is not included in the modification application as it complies with code for a like for like replacement as maintenance standards require.

Currently there are no street trees planted in the planter strip along 13th Street. The City is planting street trees along 13th Street, as mitigation for the removal of two on-site trees and to improve the appearance of the streetscape along 13th Street. In order to provide adequate space for seven (7) street trees along 13th Street and still provide good clearance for pedestrian passage and compliance with the Americans with Disabilities Act (ADA), the proposed design for the sidewalk is for removal of the planter strip and replacement with curb-tight sidewalk panels with tree wells. The overall width will be slightly less than the standard 10.5' width required. Tree wells will be 5' by 5' in dimension, leaving 4' 4" of clearance abutting the tree well. The sidewalk area between tree wells will have a clearance of 9'-4" abutting the 6" curb.

The intent of the standards in 16.12.016 (Local Street Road Classification) is to provide safe pedestrian passage abutting higher activity areas typical of mixed-use, commercial and public land uses, such as the swimming pool. Additionally, tree wells provide space for placement of street trees to provide shade, buffering from vehicle traffic and aesthetic improvement of the street scape. The swimming pools primary users are seniors, children, teens and families. All parking serving the pool is on-street, therefore having a wider, curb-tight sidewalk will allow safer transitions for people loading and unloading their vehicles.

The applicant states that it is not practicable to install a wider sidewalk without changing the existing pavement width of the street, drainage and on-street parking needs. The proposal meets the intent of the standard.

13th Street is classified as a local street and the subject property is zoned Institutional. The property has a Comprehensive Plan designation of Public / Quasi-Public. The provisions of OCMC 16.12016 regulate street design dependent on the Road Classification and Adjacent Comprehensive Plan Designation. Table 16.12.016 of the OCMC requires that sidewalks for a local street be 10.5 ft. wide, including 5 ft. x 5 ft. tree wells.

Due to site constraints and the existing width of the edge of curb to edge of sidewalk at 9'-10", the proposed modification is the minimum practicable width that would allow for providing safe pedestrian passage.

The intent of the standards in 16.12.016 (Local Street Road Classification) is to provide safe pedestrian passage abutting higher activity areas typical of mixed-use, commercial and public land uses, such as the swimming pool. Additionally, tree wells provide space for placement of street trees to provide shade,

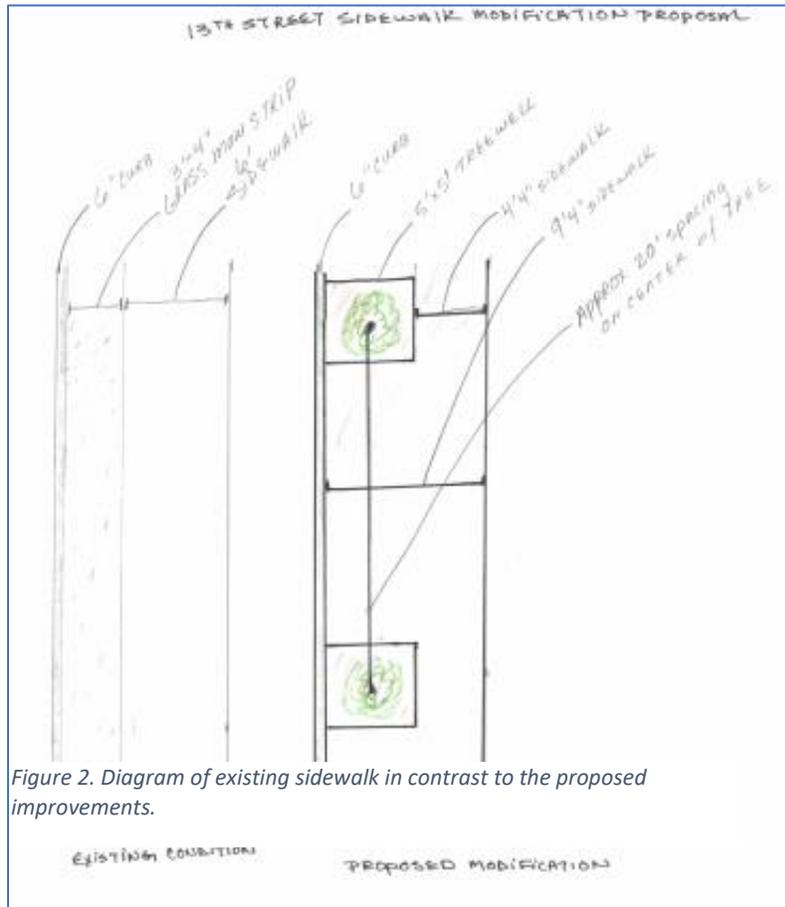


Figure 2. Diagram of existing sidewalk in contrast to the proposed improvements.

buffering from vehicle traffic and aesthetic improvement of the street scape. The swimming pools primary users are seniors, children, teens and families. All parking serving the pool is on-street, therefore having a wider, curb-tight sidewalk will allow safer transitions for people loading and unloading their vehicles.

It is not practicable to install a wider sidewalk without changing the existing pavement width of the street, drainage and on-street parking needs. The proposal meets the intent of the standard.

Design modifications may be approved through a Type II process pursuant to the provisions of OCMC 16.12.013. Compliance with the approval criteria of that section is

discussed below.

3. 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.

4. Public Comment

Public comments submitted include (Exhibit 3):

Curtis Reesor of the McLoughlin Neighborhood Association (MNA) Steering Committee submitted comments stating that the MNA generally endorses the proposal and that it would not conflict with their interests provided that the three trees that are proposed to be planted on-site in the grass be increased in diameter from 3.5" d.b.h (diameter at breast height) to 4.5" d.b.h. Although there is no code requirement to provide more than a two-inch caliper tree, the parks department has agreed to obtain larger trees than originally proposed and indicated via an email that they are planning to purchase three 6" d.b.h. trees to plant on-site. The proposed tree species for these larger trees is *Quercus robur* (Common name = English Oak). The remaining seven trees to be planted along 13th Street in the tree wells will be 3.5" caliper Hedge Maples as originally proposed.

The MNA also requested clarification regarding whether the proposal was to plant five trees along 13th Street, as shown in the initial mitigation plan approved by the city for street tree removal, or seven

trees. The applicant’s land use application narrative, which was submitted after the issuance of the street tree permit, proposes seven trees, in accordance with the code requirement for one tree planting for every 35 feet of street frontage in OCMC 12.08. The MNA requested that page 61 of the application be edited to reflect the larger number – seven trees at curb level (street trees) and three above. Staff has added that the number of trees to be planted along 13th Street will be seven, as a Condition of Approval.

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

II. ANALYSIS OF APPLICABLE APPROVAL CRITERIA

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

CHAPTER	PAGE
<u>CHAPTER 16.12 MINIMUM PUBLIC IMPROVEMENTS AND DESIGN STANDARDS FOR DEVELOPMENT</u>	6
<u>CHAPTER 12.04 STREETS, SIDEWALKS, AND PUBLIC PLACES</u>	20
<u>CHAPTER 12.08 - PUBLIC AND STREET TREES</u>	25
<u>CHAPTER 17.39 I INSTITUTIONAL DISTRICT</u>	27
<u>CHAPTER 17.50 ADMINISTRATION AND PROCEDURES</u>	28

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

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.

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: Complies with Condition. Since this is a street improvement, it shall be reviewed and approved by the City engineer prior to construction.

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: Complies as proposed. Per 16.12.013 this chapter applies as it is a Modification to a Public Improvement Standard and this is a public improvement project, requiring a Type II review.

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: Complies as proposed. The applicant acknowledges the city's jurisdiction.

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: Applicable. This request is for modification to a public improvement standard and this is a public improvement project, requiring a Type II review.

A. The modification meets the intent of the standard;

Finding: Complies as proposed. OCMC 16.12.016 – Street Design requires 10.5' wide sidewalks including 5' by 5' tree wells. The intent of this standard is to provide a slightly wider sidewalk on a local street when it abuts a property with a comprehensive plan designation of Mixed Use, Commercial or Public / Quasi Public. 13th Street is a local street. Currently the existing street section for 13th Street includes a 6' sidewalk width, a 3'-4" planter strip width, and a 6-inch curb width. The total width from edge of curb to the inside edge of the sidewalk measures 9' 10".

Currently there are no street trees planted in the planter strip along 13th Street. The City is planting street trees along 13th street, in order to mitigate for the removal of two on-site trees at the swimming pool and to improve the appearance of the streetscape along 13th Street. In order to provide adequate space for seven (7) street trees along 13th Street and still provide good clearance for pedestrian passage and compliance with the Americans with Disabilities (ADA) act, the proposed design for the sidewalk is for removal of the planter strip and replacement with curb-tight sidewalk panels with tree wells. The overall width will be slightly less than the standard 10.5' width required. Tree wells will be 5' by 5' in dimension, leaving 4' 4" of clearance abutting the tree well.

The intent of the standards in 16.12.016 (Local Street Road Classification) is to provide safe pedestrian passage abutting higher activity areas typical of mixed-use, commercial and public land uses, such as the swimming pool. Additionally, tree wells provide space for placement of street trees to provide shade, buffering from vehicle traffic and aesthetic improvement of the street scape. The swimming pools primary users are seniors, children, teens and families. All parking serving the pool is on-street, therefor

having a wider, curb-tight sidewalk will allow safer transitions for people loading and unloading their vehicles.

It is not practicable to install a wider sidewalk without changing the existing pavement width of the street, drainage and on-street parking needs. The proposal meets the intent of the standard.

The applicant shall construct a 9'10" sidewalk with 5' x 5' tree wells.

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

Finding: Complies as proposed. The proposed modification allows for the safe and efficient movement of pedestrians, while preserving adequate street width for vehicles, bicycles and on-street parking in this neighborhood. The sidewalk will meet Americans with Disabilities Act (ADA) standards for width. Sight distance is uninterrupted in both directions. There are no fire hydrants, streetlights, overhead power lines or vegetation requiring clearance distances for tree planting per OCMC 12.08.035. Tree wells are proposed farther than 20 feet from either end of the intersections with Jackson and J.Q. Adams as required. Nothing in this proposed modification would impact the safe and efficient movement for all transportation modes on this street.

The applicant shall construct a 9'10" sidewalk with 5' x 5' tree wells. This will allow for the safe and efficient movement for all transportation modes.

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

Finding: Complies as proposed. The comprehensive plan designation for this area is Public / Quasi-Public and the current use for a public swimming pool is consistent with the Comprehensive Plan designation. 12th Street and Jackson Streets are designated as collector level streets in the Transportation System Plan (TSP), while 13th Street and JQ Adams are local streets. The proposed sidewalk and tree well areas meet the intent of the TSP designation. The modification of the sidewalk width simply reflects what is needed for that requirement to be met in a practicable manner. The proposal will not affect existing or future sewer, water, storm water, projects identified in the City's adopted public facilities plans.

The applicant shall construct a 9'10" sidewalk with 5' x 5' tree wells. This adjustment is reasonable and is only a small modification of the existing standards as adopted by the transportation plan.

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

Finding: Complies as proposed.

- The existing sidewalk on 13th Street is detached with a planter strip.
- Jackson Street has a curb-tight concrete sidewalk all the way around.
- 12th Street has curb-tight concrete sidewalk all the way around.
- JQ Adams Street has a detached sidewalk with a planter strip and overhead utility lines.

The surrounding existing street design complements the established residential and public uses in the vicinity. The proposed design will augment and complement this street design theme, especially through the addition of new street trees and a new sidewalk as described above.

The proposed modification will allow for safe passage by pedestrian and maneuvering of vehicles. For these reasons, the proposal is complementary with the surrounding street design.

The applicant shall construct a 9'10" sidewalk with 5' x 5' tree wells. This will match the surrounding area.

E. If a modification is requested for constitutional reasons, the applicant shall demonstrate the constitutional provision or provisions to be avoided by the modification and propose a modification that complies with the state

or federal constitution. The City shall be under no obligation to grant a modification in excess of that which is necessary to meet its constitutional obligations.

Finding: Not applicable. The applicant has not sought the modification for constitutional reasons.

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.

Finding: Not applicable. Public Works – Development Services waived submittal of these items on 10/21/19.

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;

Finding: Not applicable. Public Works – Development Services waived submittal of these items on 10/21/19.

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: Not applicable. Public Works – Development Services waived submittal of these items on 10/21/19.

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: See response 16.12.013.C.

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: See response 16.12.013.C.

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
Local	Mixed Use, Commercial or Public/Quasi Public	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
	Industrial	60 ft.	38 ft.	0.5 ft.	5 ft.	5.5 ft.	(2) 19 ft. Shared Space		N/A	

	Residential	54 ft.	32 ft.	0.5 ft.	5 ft.	5.5 ft.	(2) 16 ft. Shared Space	N/A
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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: See response 16.12.013.C.

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 proposed. The modification will result in the replacement of sidewalk along 13th Street.

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. The applicant is not installation or extending separate pedestrian accessways or bike routes. All of the proposed improvements will be within existing right-of-way.

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: Not applicable. Street signs and traffic control devices will remain as existing.

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

Finding: Not applicable. The existing streetlights are adequate and will not be affected by this proposal.

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: Not applicable. No changes are proposed to the existing street pavement width.

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 proposed. The proposed design calls for tree wells, not planter strips, in conformance with the Street Design standards of 16.12.016.

The applicant shall construct a 9'10" sidewalk with 5' x 5' tree wells. The tree well will act as a vegetated strip and is allowed per the Local Road Classification.

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. No vehicle or pedestrian access easements needed as the area is existing public right-of-way.

H. Vehicular and pedestrian easements shall allow for public access and shall comply with all applicable pedestrian access requirements.12.04

Finding: Not applicable. All of the proposed improvements will be within existing right-of-way.

16.12.017 - Street design—Access control.

16.12.018 - Street design—Alignment.

16.12.019 - Traffic sight obstructions.

16.12.020 - Street design—Intersection angles.

16.12.021 - Street design—Grades and curves.

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

16.12.023 - Street design—Pedestrian and bicycle safety.

16.12.024 - Street design—Half street.

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

16.12.026 - Street design—Alleys.

16.12.027 - Street design—Off-site street improvements.

16.12.028 - Street design—Transit.

16.12.029 - Excavations—Restoration of pavement.

16.12.030 - Blocks—Width.

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: Not applicable. Subsections 16.12.017 through 16.12.031 are standards that regulate the construction of new streets. These sections do not apply as the proposed project is repairing an existing sidewalk and no new streets are proposed.

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.

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

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.

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.

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.

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

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.

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

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.

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.

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.

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: Not applicable. No pedestrian accessways are proposed. The section is not applicable to this proposal.

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 Thoroughway Network, as defined in the Regional Transportation Plan, the following mobility standards apply:
 1. During the first hour, a maximum v/c ratio of 0.99 shall be maintained. For signalized intersections, this standard applies to the intersection as a whole. For unsignalized intersections, this standard applies to movements on the major street. There is no performance standard for the minor street approaches.
 2. During the second hour, a maximum v/c ratio of 0.99 shall be maintained at signalized intersections. For signalized intersections, this standard applies to the intersection as a whole. For unsignalized intersections, this standard applies to movements on the major street. There is no performance standard for the minor street approaches.
 - C. For intersections outside the boundaries of the Regional Center and not designated on the Arterial and Thoroughway Network, as defined in the Regional Transportation Plan, the following mobility standards apply:
 1. For signalized intersections:
 - a. During the first hour, LOS "D" or better will be required for the intersection as a whole and no approach operating at worse than LOS "E" and a v/c ratio not higher than 1.0 for the sum of the critical movements.
 - b. During the second hour, LOS "D" or better will be required for the intersection as a whole and no approach operating at worse than LOS "E" and a v/c ratio not higher than 1.0 for the sum of the critical movements.
 2. For unsignalized intersections outside of the boundaries of the Regional Center:
 - a. For unsignalized intersections, during the peak hour, all movements serving more than 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: Not applicable.** This proposal does not affect any mobility standards.

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>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.

<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>
<i>Single-Family Detached in R-5 & R-3.5</i>	<i>10 feet</i>	<i>12 feet</i>
<i>Single-Family Detached in R-10, R-8, & R-6</i>	<i>12 feet</i>	<i>24 feet</i>
<i>Duplexes</i>	<i>12 feet</i>	<i>24 feet</i>
<i>3-4 Plexes</i>	<i>12 feet</i>	<i>24 feet</i>
<i>Multi-Family</i>	<i>18 feet</i>	<i>30 feet</i>

Commercial, Industrial, Office, Institutional, Mixed Use, and/or Nonresidential	One-Way 12 feet	Two-Way 20 feet	40 feet
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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: Not applicable. No new driveways are proposed and there are no existing driveways.

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: Not applicable. Grading is not included in this proposal.

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.

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.

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.

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.

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. All improvements are proposed within the public right-of-way.

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 conditions. The applicant shall obtain all required permits and inspections for public sidewalk improvements through the Engineering Division of Public Works Department.

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: See response under 16.12.013.C.

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: See response under 16.12.090.

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 proposed. N/A. No changes to sanitary sewer systems proposed.

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: Not applicable. No changes to the water system are proposed.

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

Finding: See response under Chapter 12.08.

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

Finding: Not applicable. The proposal does not affect any benchmarks.

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: Not applicable. The proposal does not include any changes to the utilities listed.

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 proposal does not include oversizing of utilities.

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 with conditions. The applicant shall obtain an erosion control permit if required. The applicant shall obtain an erosion and sediment control permit prior to commencement of any earth disturbing activities in the event one is required. **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 No new roads are proposed.

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: Not applicable. This application does not include land division.

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: Not applicable. The City does not require financial guarantees for replacement of sidewalks.

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: Not applicable. A non-remonstrance agreement is not required by Public Works Engineering.

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: Complies as proposed. It is understood that the City has management and jurisdiction of the public right-of-way.

CHAPTER 12.04 STREETS, SIDEWALKS, AND PUBLIC PLACES

12.04.003 Definitions.

Whenever the words or terms and their derivatives are used in this chapter, they shall be given the meaning set forth in OCMC 17.04, unless the context dictates applying a different meaning.

Finding: Complies as proposed. It is understood that the City has management and jurisdiction of the public right-of-way.

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

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

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

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

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

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

Finding: Complies as proposed. The applicant has acknowledged that the City has management and jurisdiction of the right-of-way.

12.04.025 - Driveways.

Driveways shall be reviewed in accordance with OCMC 16.12.035. Driveway requirements may be modified through the procedures in OCMC 16.12.013.

Finding: Not applicable. No driveways are proposed.

12.04.030 - Maintenance and repair.

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

Finding: Complies as proposed. This proposal is intended to maintain sidewalk in good repair.

12.04.031 - Liability for sidewalk injuries.

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

B. If the City is required to pay damages for an injury to persons or property caused by the failure of an owner or occupant to perform the duty that this ordinance imposes, the owner or occupant shall compensate the City for the

amount of the damages paid. The City may maintain an action in a court of competent jurisdiction to enforce this section.

Finding: Complies as proposed. The City/applicant understands its liability and for this reason is repairing the sidewalk.

12.04.032 - Required sidewalk repair.

- A. When the Public Works Director determines that repair of a sidewalk is necessary, written notice shall be provided to the owner of property adjacent to the defective sidewalk.
- B. The notice shall require the owner of the property adjacent to the defective sidewalk to complete the repair of the sidewalk within ninety days after the service of notice. The notice shall also state that if the repair is not made by the owner, the City may do the work and the cost of the work shall be assessed against the property adjacent to the sidewalk.
 - 1. All sidewalks hereafter constructed in the City on improved streets shall be constructed to city standards and widths required in the Oregon City Transportation System Plan and OCMC 16.12. Sidewalks and curbs are to be constructed according to plans and specifications provided by the City Engineer.
 - 2. Sidewalks constructed on unimproved streets shall be constructed of concrete according to lines and grades established by the City Engineer. On unimproved streets, curbs do not have to be constructed.
- C. The Public Works Director shall cause a copy of the notice to be served personally upon the owner of the property adjacent to the defective sidewalk, or the notice may be served by registered or certified mail, return receipt requested. If after diligent search the owner is not discovered, the Public Works Director shall cause a copy of the notice to be posted in a conspicuous place on the property, and such posting shall have the same effect as service of notice by mail or by personal service upon the owner of the property.
- D. The person serving the notice shall file with the City recorder a statement stating the time, place and manner of service or notice.

Finding: Complies as proposed. The City/applicant has determined that the sidewalk repair is needed and will comply with applicable standards.

12.04.033 - City may do work.

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

Finding: Complies as proposed. The City proposed to complete the sidewalk repair as the owner/applicant.

12.04.034 - Assessment of costs.

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

Finding: Not applicable. The City proposed to complete the sidewalk repair as the owner/applicant.

12.04.040 – Sidewalks—Enforcement.

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

Finding: Not applicable. The City proposed to complete the sidewalk repair as the owner/applicant.

12.04.050 - Retaining walls—Required.

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

Finding: Not applicable. Retaining walls are neither proposed nor required.

12.04.060 - Retaining walls—Maintenance.

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

Finding: Not applicable. There is no existing retaining wall nor is there a proposed retaining wall. Earth is not currently or in the past falling on the sidewalk. Grass is planted on the existing slope to retain the soils.

12.04.070 - Removal of sliding dirt.

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

Finding: Not applicable. This standard refers to the maintenance obligation of the property owner. There is no sliding dirt to remove.

12.04.080 - Excavations—Permit required.

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

Finding: Complies with conditions. The applicant has acknowledged that they will obtain the necessary permit for sidewalk repair. Permit PST-19-00041 shall be provided once a land use decision has been made. The work shall follow the requirements of PST-19-00041.

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

12.04.090 - Excavations—Permit restrictions.

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

Finding: Not applicable. The proposal does not contain any excavation or disruption of public streets or alleys.

12.04.100 - Excavations—Restoration of pavement.

Whenever any excavation shall have been made in any pavement or other street improvement on any street or alley in the City for any purpose whatsoever under the permit granted by the engineer, it shall be the duty of the person making the excavation to restore the pavement in accordance with the City of Oregon City Public Works Pavement Cut Standard in effect at the time a right-of-way 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: Not applicable. The proposal does not contain any excavation or disruption of public streets or alleys.

12.04.110 - Excavations—Nuisance—Penalty.

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

Finding: Not applicable. The applicant has acknowledged that they will obtain the necessary permit for sidewalk repair.

12.04.120 - Obstructions—Permit required.

A. *Permanent Obstructions.* It is unlawful for any person to place, put or maintain any obstruction, other than a temporary obstruction, as defined in subsection B. of this section, in any public street or alley in the City, without obtaining approval for a right-of-way permit from the City Commission by passage of a resolution.

1. The City Engineer shall provide applicants with an application form outlining the minimum submittal requirements.
2. The applicant shall submit at least the following information in the permitting process in order to allow the City Commission to adequately consider whether to allow the placement of an obstruction and whether any conditions may be attached:
 - a. Site plan showing right-of-way, utilities, driveways as directed by staff;
 - b. Sight distance per OCMC 10.32, Traffic Sight Obstructions;
 - c. Traffic control plan including parking per Manual on Uniform Traffic Control Devices (MUTCD);
 - d. Alternative routes if necessary;
 - e. Minimizing obstruction area; and
 - f. Hold harmless/maintenance agreement.
3. If the City Commission adopts a resolution allowing the placement of a permanent obstruction in the right-of-way, the City Engineer shall issue a right-of-way permit with any conditions deemed necessary by the City Commission.

B. *Temporary Obstructions.*

1. A "temporary obstruction" is defined as an object placed in a public street, road or alley for a period of not more than sixty consecutive days. A "temporary obstruction" includes, but is not limited to, moving containers and debris dumpsters.
2. The City Engineer, or designee, is authorized to grant a permit for a temporary obstruction.
3. The City Engineer shall provide applicants with an application form outlining the minimum submittal requirements.
4. The applicant shall submit, and the City Engineer, or designee, shall consider, at least the following items in the permitting process. Additional information may be required in the discretion of the City Engineer:
 - a. Site plan showing right-of-way, utilities, driveways as directed by staff;
 - b. Sight distance per OCMC 10.32, Traffic Sight Obstructions;
 - c. Traffic control plan including parking per Manual on Uniform Traffic Control Devices (MUTCD);
 - d. Alternative routes if necessary;
 - e. Minimizing obstruction area; and
 - f. Hold harmless/maintenance agreement.
5. In determining whether to issue a right-of-way permit to allow a temporary obstruction, the City Engineer may issue such a permit only after finding that the following criteria have been satisfied:
 - a. The obstruction will not unreasonably impair the safety of people using the right-of-way and nearby residents;
 - b. The obstruction will not unreasonably hinder the efficiency of traffic affected by the obstruction;
 - c. No alternative locations are available that would not require use of the public right-of-way; and
 - d. Any other factor that the City Engineer deems relevant.
6. The permittee shall post a weatherproof copy of the temporary obstruction permit in plain view from the right-of-way.

C. *Fees. The fee for obtaining a right-of-way permit for either a permanent obstruction or a temporary obstruction shall be set by resolution of the City Commission.*

Finding: Not applicable. No obstructions in the right-of-way are proposed other than street trees, which are required pursuant to Chapter 12.08, and do not require obstruction permits.

12.04.130 - Obstructions—Sidewalk sales.

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

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

Finding: Not applicable. No sidewalk sales in the right-of-way are proposed.

12.04.140 - Obstructions—Nuisance—Penalty.

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

Finding: Not applicable. No obstructions of the right-of-way are proposed.

12.04.150 - Street and alley vacations—Cost.

At the time of filing a petition for vacation of a street, alley or any part thereof, a fee as established by City Commission resolution shall be paid to the City. The City Commission, upon hearing such petition, may grant the same in whole or in part, or may deny the same in whole or in part, or may grant the same with such reservations as would appear to be for the public interest, including reservations pertaining to the maintenance and use of underground public utilities in the portion vacated.

Finding: Not applicable. No vacations of streets or alleys are proposed.

12.04.170 - Street design—Purpose and general provisions.

All development shall be in conformance with the city's public facility master plans, public works policies, standard drawings and engineering specifications. All streets shall be reviewed and approved by the city engineer prior to construction. All streets and driveway connections to another jurisdiction's facility or right-of-way must be reviewed by the appropriate jurisdiction as a condition of the preliminary plat or site planning and when required by law or intergovernmental agreement shall be approved by the appropriate jurisdiction.

Finding: Complies as proposed. No development other than sidewalk repair and street tree planting is proposed. No new streets or driveways are proposed. The applicant has acknowledged that they will obtain all necessary permits.

12.04.194 - Traffic sight obstructions.

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

Finding: Not applicable. No changes are proposed that affect sight distance. Sight distance is compliant with OCMC 10.32. Installation of new street trees will remain compliant.

12.04.270 - Standard construction specifications.

The workmanship and materials for any work performed under permits issued per this chapter shall be in accordance with the current 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 in accordance with this ordinance, in effect at the time of application. The exception to this requirement is where this chapter and the Public Works Street Standard Drawings provide other design details, in which case the requirements of this chapter and the Public Works Street Standard Drawings shall control. In the case of work within ODOT or Clackamas County rights-of-way, work shall be in conformance with their respective construction standards.

Finding: Complies as proposed. All work is anticipated to comply with Public Work’s standards.

12.04.280 - Violation—Penalty.

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

Finding: Not applicable. The City/applicant intends to comply with applicable standards.

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.

Finding: Complies as conditioned. Currently, there are no street trees on the south side of 13th Street between Jackson Street and JQ Adams Street. This block length measures approximately 230 feet from curb face to curb face. New street tree plantings are proposed to comply with this section per plans. Curtis Reesor of the McLoughlin Neighborhood Association (MNA) Steering Committee submitted comments stating that the MNA generally endorses the proposal and that it would not conflict with their interests provided that the three trees that are proposed to be planted on-site in the grass be increased in diameter from 3.5” d.b.h (diameter at breast height) to 4.5” d.b.h. Although there is no code requirement to provide more than a two-inch caliper tree on site or in the street, the parks department has agreed to obtain larger trees than originally proposed and indicated via an email (attached as Exhibit 4) that they are planning to purchase three 6” d.b.h. trees to plant on-site. The proposed tree species for these larger trees is *Quercus robur* (Common name = English Oak). The remaining seven trees to be planted along 13th Street in the tree wells will be 3.5” caliper Hedge Maples as originally proposed. The MNA also requested clarification regarding whether the proposal was to plant five trees along 13th Street, as shown in the initial mitigation plan approved by the city for street tree removal, or seven trees. The applicant’s land use application narrative, which was submitted after the issuance of the street tree permit, proposes seven trees, in accordance with the code requirement for one tree planting for every 35 feet of street frontage in OCMC 12.08 (230 feet of street frontage ÷ 35 = 6.6 or 7 trees). The MNA requested that page 61 of the application be edited to reflect the larger number – seven trees at curb level (street trees) and three above. **Staff has added that the number of trees to be planted along 13th Street will be seven, as a Condition of Approval.**

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 as proposed. Per plans, clearance distances will comply.

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: Complies as proposed. The proposed tree species have been approved and are selected from the Oregon City Street Tree approved list. Trees are proposed to exceed the minimum caliper size.

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 as proposed. N/A. Applicant will be providing replacement trees.

CHAPTER 17.39 I INSTITUTIONAL DISTRICT

17.39.010 - Designated.

The purpose of this district is designed to facilitate the development of major public institutions, government facilities and parks and ensure the compatibility of these developments with surrounding areas. The I—Institutional zone is consistent with the public/quasi public and park designations on the comprehensive plan map.

The Swimming Pool is a permitted use in the Institutional Zone 17.39.020 - Permitted uses.

Permitted uses in the institutional district are:

- A. Private and/or public educational or training facilities;
- B. Parks, playgrounds, playfields and community or neighborhood community centers;
- C. Public facilities and services including courts, libraries and general government offices and maintenance facilities;
- D. Stadiums and arenas;
- E. Banquet, conference facilities and meeting rooms;
- F. Government offices;
- G. Transportation facilities;
- H. Mobile food carts.

Finding: Complies as proposed. The Swimming Pool is a permitted use in the Institutional Zone under (B) above.

17.39.030 - Accessory uses.

The following uses are permitted outright if they are accessory to and related to the primary institutional use:

- A. Offices;
- B. Retail (not to exceed twenty percent of total gross floor area of all building);
- C. Child care centers or nursery schools;
- D. Scientific, educational, or medical research facilities and laboratories;
- E. Religious institutions.

Finding: Complies as proposed. N/A. The Swimming Pool is a permitted use in the Institutional Zone.

17.39.040 - Conditional uses.

Uses requiring conditional use permit are:

- A. Any uses listed under OCMC 17.39.030 that are not accessory to the primary institutional use;
- B. Boarding and lodging houses, bed and breakfast inns;

- C. Cemeteries, crematories, mausoleums, and columbariums;
- D. Correctional facilities;
- E. Helipad in conjunction with a permitted use;
- F. Parking lots not in conjunction with a primary use;
- G. Public utilities, including sub-stations (such as buildings, plants and other structures);
- H. Fire stations;
- I. Police Station.

Finding: Complies as proposed. N/A. The Swimming Pool is a permitted use in the Institutional Zone.

17.39.045 - Prohibited uses.

Prohibited uses in the I district are:

- A. Any use not expressly listed in OCMC 17.39.020, 17.39.030 or 17.39.040;
- B. Marijuana businesses;

Finding: Complies as proposed. N/A. The Swimming Pool is a permitted use in the Institutional Zone.

17.39.050 - Dimensional standards.

Dimensional standards in the I district are:

- A. Maximum building height: Within one hundred feet of any district boundary, not to exceed thirty-five feet; elsewhere, not to exceed seventy feet.
- B. Minimum required setbacks: Twenty-five feet from property line except when the development is adjacent to a public right-of-way. When adjacent to a public right-of-way, the minimum setback is zero feet and the maximum setback is five feet.

Finding: Complies as proposed. N/A. No changes are proposed to existing structures on site.

17.39.060 - Relationship to master plan.

A. A master plan is required for any development within the I District on a site over ten acres in size that:

- 1. Is for a new development on a vacant property;
- 2. Is for the redevelopment of a property previously used a non-institutional use; or
- 3. Increases the floor area of the existing development by ten thousand square feet over existing conditions

B. Master plan dimensional standards that are less restrictive than those of the Institutional District require adjustments. Adjustments will address the criteria of OCMC 17.65.70 and will be processed concurrently with the master plan application.

C. Modifications to other development standards in the code may be made as part of the phased master plan adjustment process. All modifications shall be in accordance with the requirements of the master plan adjustment process identified in OCMC 17.65.070.

Finding: Complies as proposed. N/A. No Master Plan is required as no new development is proposed on the property.

CHAPTER 17.50 ADMINISTRATION AND PROCEDURES

17.50.010 - Purpose.

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

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

The following decision-making processes chart shall control the City's review of the indicated permits:

Table 17.50.030: PERMIT APPROVAL PROCESS

PERMIT TYPE	I	II	III	IV	Expedited Land Division
Annexation				X	
Compatibility Review for Communication Facilities	X				
Compatibility Review for the Willamette River Greenway Overlay District			X		
Code Interpretation			X		
Master Plan/Planned Unit Development - General Development Plan			X		
Master Plan/Planned Unit Development - General Development Plan Amendment	X	X	X		
Conditional Use			X		
Detailed Development Plan ¹	X	X	X		
Extension	X				
Final Plat	X				
Geologic Hazards		X			
Historic Review	X		X		
Lot Line Adjustment and Abandonment	X				
Manufactured Home Park Review (New or Modification)		X			
Placement of a Single Manufactured Home on Existing Space or Lot within a Park	X				
Minor Partition		X			
Nonconforming Use, Structure and Lots Review	X	X			
Plan or Code Amendment				X	
Revocation				X	
Site Plan and Design Review	X	X			
Subdivision		X			X
Variance		X	X		
Zone Change				X	
Natural Resource Overlay District Exemption	X				
Natural Resource Overlay District Review		X	X		
Live/Work Dwelling Review		X			
Cluster Housing Development Review		X			
Residential Design Standards Review for Single Family Attached, Single Family Detached, Duplexes, 3-4 Plexes, Internal Conversions and Accessory Dwelling Units	X				
Modification of Residential Design Standards		X			

1 *If any provision or element of the Master Plan/Planned Unit Development requires a deferred Type III procedure, the Detailed Development Plan shall be processed through a Type III procedure.*

A. Type I decisions do not require interpretation or the exercise of policy or legal judgment in evaluating approval criteria. Because no discretion is involved, Type I decisions do not qualify as a land use, or limited land use, decision. The decision-making process requires no notice to any party other than the applicant. The Community Development Director's decision is final and not appealable by any party through the normal City land use process.

Finding: Complies as proposed. N/A. This application is subject to a Type II decision process as required per OCMC 16.12.013.

B. Type II decisions involve the exercise of limited interpretation and discretion in evaluating approval criteria, similar to the limited land use decision-making process under state law. Applications evaluated through this process are assumed to be allowable in the underlying zone, and the inquiry typically focuses on what form the use will take or how it will look. Notice of application and an invitation to comment is mailed to the applicant, recognized active neighborhood association(s) and property owners within three hundred feet. The Community Development Director accepts comments for a minimum of fourteen days and renders a decision. The Community Development Director's decision is appealable to the City Commission, by any party who submitted comments in writing before the expiration of the comment period. Review by the City Commission shall be on the record pursuant to OCMC 17.50.190 under ORS 197.195(5). The City Commission decision is the City's final decision and is subject to review by the Land Use Board of Appeals (LUBA) within twenty-one days of when it becomes final.

Finding: Complies as proposed. Applicant understands that this application is subject to a Type II decision process as required per OCMC 16.12.013.

C. Type III decisions involve the greatest amount of discretion and evaluation of subjective approval standards, yet are not required to be heard by the City Commission, except upon appeal. In the event that any decision is not classified, it shall be treated as a Type III decision. The process for these land use decisions is controlled by ORS 197.763. Notice of the application and the Planning Commission or the Historic Review Board hearing is published and mailed to the applicant, recognized neighborhood association(s) and property owners within three hundred feet. Notice shall be issued at least twenty days pre-hearing, and the staff report shall be available at least seven days pre-hearing. At the evidentiary hearing held before the Planning Commission or the Historic Review Board, all issues are addressed. The decision of the Planning Commission or Historic Review Board is appealable to the City Commission, on the record pursuant to OCMC 17.50.190. The City Commission decision on appeal from is the City's final decision and is subject to review by LUBA within twenty-one days of when it becomes final, unless otherwise provided by state law.

Finding: Complies as proposed. N/A. This application is subject to a Type II decision process as required per OCMC 16.12.013.

D. Type IV decisions include only quasi-judicial plan amendments and zone changes. These applications involve the greatest amount of discretion and evaluation of subjective approval standards and shall be heard by the City Commission for final action. The process for these land use decisions is controlled by ORS 197.763. Notice of the application and Planning Commission hearing is published and mailed to the applicant, recognized neighborhood association(s) and property owners within three hundred feet. Notice shall be issued at least twenty days pre-hearing, and the staff report shall be available at least seven days pre-hearing. At the evidentiary hearing held before the Planning Commission, all issues are addressed. If the Planning Commission denies the application, any party with standing (i.e., anyone who appeared before the Planning Commission either in person or in writing within the comment period) may appeal the Planning Commission denial to the City Commission. If the Planning Commission denies the application and no appeal has been received within fourteen days of the issuance of the final decision, then the action of the Planning Commission becomes the final decision of the City. If the Planning Commission votes to approve the application, that decision is forwarded as a recommendation to the City Commission for final consideration. In either case, any review by the City Commission is on the record and only issues raised before the Planning Commission may be raised before the City Commission. The City Commission

decision is the City's final decision and is subject to review by LUBA within twenty-one days of when it becomes final.

Finding: Complies as proposed. N/A. This application is subject to a Type II decision process as required per OCMC 16.12.013.

E. The expedited land division (ELD) process is set forth in ORS 197.360 to 197.380. To qualify for this type of process, the development shall meet the basic criteria in ORS 197.360(1)(a) or (b). While the decision-making process is controlled by state law, the approval criteria are found in this code. The Community Development Director has twenty-one days within which to determine whether an application is complete. Once deemed complete, the Community Development Director has sixty-three days within which to issue a decision. Notice of application and opportunity to comment is mailed to the applicant, recognized neighborhood association and property owners within one hundred feet of the subject site. The Community Development Director will accept written comments on the application for fourteen days and then issues a decision. State law prohibits a hearing. Any party who submitted comments may call for an appeal of the Community Development Director's decision before a hearing referee. The referee need not hold a hearing; the only requirement is that the determination be based on the evidentiary record established by the Community Development Director and that the process be "fair." The referee applies the City's approval standards, and has forty-two days within which to issue a decision on the appeal. The referee is charged with the general objective to identify means by which the application can satisfy the applicable requirements without reducing density. The referee's decision is appealable only to the court of appeals pursuant to ORS 197.375(8) and 36.355(1).

Finding: Complies as proposed. N/A. This application is subject to a Type II decision process as required per OCMC 16.12.013.

F. Decisions, completeness reviews, appeals, and notices in this Chapter shall be calculated according to OCMC 1.04.070 and shall be based on calendar days, not business days.

Finding: Complies as proposed. Understood.

17.50.040 - Development review in overlay districts and for erosion control.

For any development subject to regulation of Geologic Hazards Overlay District under OCMC 17.44; Natural Resource Overlay District under OCMC 17.49; Willamette River Greenway Overlay District under OCMC 17.48; Historic Overlay District under OCMC 17.40, and Erosion and Sediment Control under OCMC 17.47, compliance with the requirements of these chapters shall be reviewed as part of the review process required for the underlying development for the site.

Finding: Complies as proposed. N/A. The project is not within any overlay districts. Applicant anticipates that erosion control is not required per Public Works – Engineering.

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. N/A. No pre-application is required for this form of permit. The applicant met with both the Planning and Public Works staff prior to submittal to discuss and understand the application requirements and standards.

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. N/A. No Neighborhood Association meeting required for this type of application.

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. Applicant understand the timelines as established.

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. Applicant has submitted all required materials.

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. The applicant understands that the Planning Division will provide public notice in accordance with this section.

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. See 17.50.090.

17.50.120 - Quasi-judicial hearing process.

All public hearings pertaining to quasi-judicial permits, whether before the Planning Commission, Historic Review Board, or City Commission, shall comply with the procedures of this section. In addition, all public hearings held pursuant to this chapter shall comply with the Oregon Public Meetings Law, the applicable provisions of ORS 197.763 and any other applicable law.

A. Once the Community Development Director determines that an application for a Type III or IV decision is complete, the Planning Division shall schedule a hearing before the Planning Commission or Historic Review Board, as applicable. Once the Community Development Director determines that an appeal of a Type II, Type III or Type IV decision has been properly filed under OCMC 17.50.190, the Planning Division shall schedule a hearing pursuant to OCMC 17.50.190.

B. Notice of the Type III or IV hearing shall be issued at least twenty days prior to the hearing in accordance with OCMC 17.50.090B.

C. Written notice of an appeal hearing shall be sent by regular mail no later than fourteen days prior to the date of the hearing to the appellant, the applicant if different from the appellant, the property owner(s) of the subject site,

all persons who testified either orally or in writing before the hearing body and all persons that requested in writing to be notified.

D. The Community Development Director shall prepare a staff report on the application which lists the applicable approval criteria, describes the application and the applicant's development proposal, summarizes all relevant city department, agency and public comments, describes all other pertinent facts as they relate to the application and the approval criteria and makes a recommendation as to whether each of the approval criteria are met.

E. At the beginning of the initial public hearing at which any quasi-judicial application or appeal is reviewed, a statement describing the following shall be announced to those in attendance:

1. That the hearing will proceed in the following general order: staff report, applicant's presentation, testimony in favor of the application, testimony in opposition to the application, rebuttal, record closes, commission deliberation and decision;

2. That all testimony and evidence submitted, orally or in writing, shall be directed toward the applicable approval criteria. If any person believes that other criteria apply in addition to those addressed in the staff report, those criteria shall be listed and discussed on the record. The meeting chairperson may reasonably limit oral presentations in length or content depending upon time constraints. Any party may submit written materials of any length while the public record is open;

3. Failure to raise an issue on the record with sufficient specificity and accompanied by statements or evidence sufficient to afford the City and all parties to respond to the issue, will preclude appeal on that issue to the Land Use Board of Appeals;

4. Any party wishing a continuance or to keep open the record shall make that request while the record is still open; and

5. That the commission chair shall call for any ex-parte contacts, conflicts of interest or bias before the beginning of each hearing item.

6. For appeal hearings, only those persons who participated either orally or in writing in the decision or review will be allowed to participate either orally or in writing on the appeal.

F. Requests for continuance and to keep open the record: The hearing may be continued to allow the submission of additional information or for deliberation without additional information. New notice of a continued hearing need not be given so long as a time-certain and location is established for the continued hearing. Similarly, hearing may be closed but the record kept open for the submission of additional written material or other documents and exhibits. The chairperson may limit the factual and legal issues that may be addressed in any continued hearing or open record period.

Finding: Complies as proposed. N/A. Not required as this is a Type II application.

III. CONCLUSION AND DECISION:

Based on the analysis and findings as described above, the Community Development Director concludes that the proposed Public Improvement Modification request located at 1211 Jackson Street and identified as Clackamas County Assessor Map APN 2-2E-32BB, Tax Lot 6100 , can meet the requirements of the Oregon City Municipal Code by complying with the Conditions of Approval provided in this report.

Therefore, the Community Development Director approves file PI-19-00001 with conditions, based upon the application, findings and exhibits contained in this staff report.

IV. EXHIBITS (On File*):

1. Vicinity Map
2. Application, Narrative and Plans (On File)
 - a. Land Use Application Form
 - b. Narrative and Code Responses
 - c. Diagram of Existing Condition / Proposed Modification
 - d. Photos of Existing Conditions
 - e. Pool Tree Mitigation Plan Map
 - f. 13th Street Classification

- g. Google Earth View of 13th Street
 - h. Public Improvement Permit for 13th Street Sidewalk
 - i. SP-19-00098 Tree Removal Permit – Revoked and Re-Issued.
 - j. Tax Lot Report
3. Public Comments
 - a. Curtis Reesor, McLoughlin Neighborhood Association, Transmittal Form and Letter, 10/24/19
 4. Staff email conversation responding to request for larger tree plantings on-site, 11/12/2019.

*Items on-file may be reviewed by contacting the Planning Division.