



**TYPE II MINOR PARTITION APPLICATION**  
**STAFF REPORT AND NOTICE OF DECISION WITH CONDITIONS OF APPROVAL**  
*November 26, 2019*

**FILE NUMBER:** GLUA-19-00015/MP-19-00002

**APPLICANT:** Roundtop LLC  
Jeff Edmondson  
2051 Willamette Falls Drive  
West Linn, OR 97068

**Submitted:** April 24, 2019  
**Complete:** September 20, 2019  
**120 Day Deadline:** January 17, 2020  
**NOD:** November 26, 2019

**OWNER:** Roundtop LLC  
Jeff Edmondson  
2051 Willamette Falls Drive  
West Linn, OR 97068

**REQUEST:** The applicant is seeking approval of a two-lot minor partition within the “R-10” Dwelling District.

**LOCATION:** 206 Holmes Lane, Oregon City, OR 97045  
Clackamas County Map 3-2E-06AC, Tax Lot 1700

**REVIEWER:** Dilia Vassileva, Assistant Planner,  
Jeremy Tamargo, PE, Development Projects Engineer

**DECISION:** Approval with Conditions.

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

**Conditions of Approval**  
**Planning File GLUA-19-00015/MP-19-00002**

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

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

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

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

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

1. The development shall comply with all current Oregon City Public Works design standards specifications, codes and policies. (DS)
2. The applicant shall obtain approval from Clackamas Fire District No. 1 for the private access road exceeding 150 feet; otherwise, a turnaround in the form of a hammerhead or cul-de-sac will be required. (DS)
3. An 8" concrete sanitary sewer main exists within Holmes Lane. The new service connection shall be made to this main per City Standards. Applicant shall obtain all Public Works and Building Department permits for new connections and pay appropriate System Development Charges. (DS)
4. A 12" water main exists within Holmes Lane. The new service connection shall be made to this main per City standards. The new lot shall have an individual water service and the water meter shall front the property that it serves. Applicant shall obtain all Public Works and Building Department permits for new connections and pay appropriate System Development Charges. (DS)
5. All pavement cuts and restoration shall comply with the City of Oregon City Pavement Cut Standards.(DS)
6. The applicant shall obtain a Public Works permit before any temporary obstructions are placed in the right-of-way. (DS)
7. All driveways (curb cuts), new and existing, shall meet the minimum driveway width standards identified in Table 12.04.025.B.(DS)
8. All driveways, new and existing, shall meet the minimum driveway spacing standards identified in Table 12.04.195.B. (DS)
9. The new lot shall have an asphalt driveway approach constructed to current City standards with a minimum asphalt surface for at least ten feet back into the lot as measured from the edge of street pavement. The applicant shall obtain a Public Works permit for construction of the driveway approach in the public right-of-way. (DS)
10. The development shall comply with the current version of the Oregon City Stormwater and Grading Design Standards. (DS)
11. The applicant shall provide a Residential Lot Grading Plan adhering to the State of Oregon Structural Specialty Code, Chapter 18 and the Oregon City Public Works Stormwater and Grading Design Standards.(DS)
12. The applicant shall obtain an erosion control permit prior to commencement of any earth disturbing activities. (DS)
13. The applicant shall provide an Erosion Prevention and Sedimentation Control Plan prior to issuance of an erosion control permit.(DS)
14. The applicant shall submit a plan for tree protection fencing during construction for existing trees impacted by grading and construction and demonstrating compliance with regulated tree protection procedures during construction in Section 17.41.030. (P)

The applicant shall include the following information prior to final plat of the Minor Partition application. The information shall be approved prior to final plat.

15. The workmanship and materials for any work performed under permits issued by Oregon City Public Works shall be in accordance with the edition of the "Oregon Standard Specifications for Construction" as prepared by the Oregon Department of Transportation (ODOT) and the Oregon Chapter of American Public Works Association (APWA) and as modified and adopted by the city. (DS)
16. The applicant shall provide a 10-foot-wide public utility easement along all property lines fronting existing or proposed right-of-way. (DS)
17. The property owner shall sign a Restrictive Covenant Non-Remonstrance Agreement for the purpose of making storm sewer, sanitary sewer, water or street improvements in the future that benefit the property. The applicant shall pay all fees associated with processing and recording the Non-Remonstrance Agreement. (DS)
18. The applicant shall provide documentation of Clackamas Fire approval of a narrower accessway pavement width and documentation that the detached garage on Lot 1 will not be served by the northern driveway. If Clackamas Fire does not approve the narrower accessway pavement width or if the detached garage on Lot 1 will be served by the northern driveway, the applicant shall provide a 16-foot wide paved accessway with a perpetual reciprocal access easement and maintenance agreement. (P)
19. The applicant shall submit a street tree plan which complies with tree species, size, installation and location standards in Chapter 12.08 of the Oregon City Municipal Code. If street trees cannot be accommodated within the public right-of-way, the applicant may plant trees on private property within the front yard setback. (P)

The applicant shall include the following information prior to issuance of an occupancy permit associated with the proposed Minor Partition application. The information shall be approved prior to issuance.

20. The applicant shall record a covenant or easement on all properties with new or existing trees planted on private property. In the event that additional trees onsite need to be removed, the applicant may choose to utilize options 2, 3 and/or 4 in addition to option 1 when recalculating the mitigation.

I. BACKGROUND:

1. Existing Conditions

The subject site is approximately 25,000 SF in size and is developed with a single-family residence and several accessory structures. The property takes access from Holmes Lane and is generally flat and is not within any overlay districts.

The subject site is designated as "LR", Low Density Residential by the Oregon City Comprehensive Plan and is zoned "R-10" Single-Family Residential District. Surrounding properties are also zoned "R-10" Single-Family Residential District and include residential uses, with the exception of the Oregon City Evangelical Church located just southeast of the site at the corner of AV Davis Road and Linn Avenue.

Figure 1. Vicinity Map



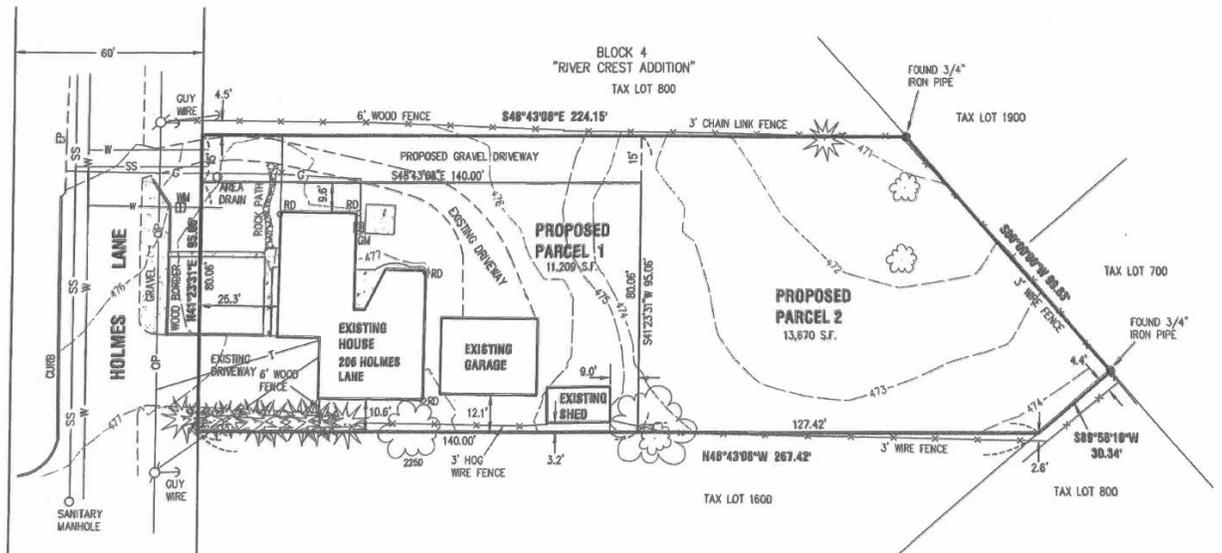
Figure 2: Existing Conditions – Aerial Image



**2. Project Description**

The applicant is requesting to divide the property into two lots, approximately 11,209 square feet and 13,670 square feet in size respectively. The applicant has proposed to retain the existing structures and create a flag lot located behind the existing house with an additional driveway to serve the new lot.

Figure 3: Proposed Site Plan



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

- 12.04 - Streets, Sidewalks, and Public Places
- 12.08 - Public and Street Trees
- 13.12 - Stormwater Management
- 15.48 - Grading, Filling and Excavating
- 16.16 – Minor Partitions Process and Standards
- 16.12 - Minimum Improvements and Design Standards for Land Divisions
- 17.08 - R-10 Single Family Dwelling District
- 17.41 – Tree Protection
- 17.47 - Erosion and Sediment Control
- 17.50 - Administration and Procedures
- 17.54.100 – Fences

The City Code Book is available on-line at [www.orcity.org](http://www.orcity.org).

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

**5. Notice and Public Comment**

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

- A comment from the Oregon City School District identifying that the proposal does not conflict with the Oregon City School District’s interests.

**Staff Response:** No response necessary.

- A comment from Linda Lord identifying concern about lesser celandine, a noxious weed found on the subject property, which has detrimental effects and is difficult to control. Ms. Lord states that approval criteria, as defined by Oregon City Municipal Code (OCMC) 17.04.080, includes applicable state law, and cites ORS 569 which regulates control and eradication of nuisance plant species and weeds. The comment identifies concern that soil disturbance associated with the proposed development would result in a spread of the weed and requests that the minor partition application be denied in order to prevent the spreading of lesser celandine.

**Staff Response:** OCMC 17.04.080 is a definition of “approval criteria and approval standards”.

***17.04.080 - Approval criteria and approval standards.***

*"Approval criteria" and "approval standards" mean all standards which must be met in order to approve an application. Depending upon the specific application, approval criteria include standards contained in this Code, the Oregon City comprehensive plan and applicable state law.*

The approval criteria for minor partitions are specified within OCMC Chapter 16.16 and within the following staff report. The applicable approval criteria do not include any standard requiring compliance with state laws related to removal of noxious or nuisance plant species, or any other criteria not specific to land divisions. The spread of a noxious weed is regulated by OCMC Chapters 8.08 and 8.28, and violations to provisions within these chapters are addressed by the Code Enforcement Division. Staff will forward the comment to the Code Enforcement Department. The comment does not identify any criteria applicable to the minor partition land use application that has not been met or cannot be met through the Conditions of Approval.

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

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

**II. ANALYSIS AND FINDINGS:**

**CHAPTER 17.08 - R-10 SINGLE FAMILY DWELLING DISTRICT**

*17.08.040 Dimensional standards.*

*Dimensional standards in the R-10 district are:*

*A. Minimum lot areas, ten thousand square feet;*

**Finding: Complies as Proposed.** Lot 1 is approximately 11,209 SF in size, and Lot 2 is approximately 13,670 SF in size. Both lots exceed the minimum lot sizes in the R-10 Dwelling District.

*B. Minimum lot width, sixty-five feet;*

**Finding: Complies as Proposed.** Lot 1 is approximately 80 feet in width and Lot 2 is approximately 94 feet in width. Both proposed lots exceed the minimum lot width required by the R-10 Dwelling District.

*C. Minimum lot depth, eighty feet;*

**Finding: Complies as Proposed.** Lot 1 is approximately 141 feet in depth and Lot 2 is approximately 120 feet in depth. Both proposed lots exceed the minimum lot depth required by the R-10 Dwelling District.

*D. Maximum building height, two and one-half stories, not to exceed thirty-five feet;*

**Finding: Complies as Proposed.** The existing house is in compliance with maximum building height and does not exceed 35 feet in height. Compliance with maximum building height on Lot 2 will be reviewed upon submittal of a building permit application for a new home on Lot 2.

*E. Minimum required setbacks:*

- 1. Front yard, twenty feet minimum setback,*
- 2. Front porch, fifteen feet minimum setback,*

**Finding: Complies as Proposed.** The existing house has a front yard setback of approximately 25 feet exceeding the minimum setback requirement. Compliance with minimum setbacks on Lot 2 will be reviewed upon submittal of a building permit application for a new home on Lot 2.

*3. Attached and detached garage, twenty feet minimum setback from the public right-of-way where access is taken, except for alleys. Detached garages on an alley shall be setback a minimum of five feet in residential areas.*

**Finding: Complies as Proposed.** The existing house on Lot 1 has a detached garage which is setback approximately 77 feet, and an attached garage which is setback approximately 38 feet from the front property line. Compliance with minimum setbacks on Lot 2 will be reviewed upon submittal of a building permit application for a new home on Lot 2.

*4. Interior side yard, ten feet minimum setback for at least one side yard; eight feet minimum setback for the other side yard,*

**Finding: Complies as Proposed.** The existing house on Lot 1 is setback approximately 10.5 feet on the right side and approximately 9.5 feet on the left side. Compliance with minimum setbacks on Lot 2 will be reviewed upon submittal of a building permit application for a new home on Lot 2.

*5. Corner side yard, fifteen feet minimum setback,*

**Finding: Not Applicable.** No corner lots will be created as a result of this minor partition.

*6. Rear yard, twenty feet minimum setback,*

*7. Rear porch, fifteen feet minimum setback.*

**Finding: Complies as Proposed.** The existing house is setback approximately 69 feet from the rear property line. Compliance with minimum setbacks on Lot 2 will be reviewed upon submittal of a building permit application for a new home on Lot 2.

*F. Garage standards: See Chapter 17.20—Residential Design and Landscaping Standards.*

**Finding: Complies as Proposed.** The existing house is in compliance with residential design standards. Compliance with residential design standards for new homes on Lot 2 will be reviewed upon submittal of a building permit application.

*G. Maximum lot coverage: The footprint of all structures two hundred square feet or greater shall cover a maximum of forty percent of the lot area.*

**Finding: Complies as Proposed.** Approximately 3,100 SF of Lot 1 is occupied by structures, resulting in approximately 27% lot coverage ( $3,100/11,209 = 0.2765$ ). Compliance with lot coverage on Lot 2 will be reviewed upon submittal of a building permit application for a new home on Lot 2.

## **CHAPTER 16.16 – MINOR PARTITIONS**

### **16.16.010 Purpose and General Provisions.**

*A. Minor Partitions shall be processed as a Type II decision by the Community Development Director in the same manner as set forth in Section 16.04.020.A and the applicable provisions in Chapters 16.16*

12.04, 16.12 and 17.50 of the Oregon City Municipal Code as well as any other applicable chapter. A minor partition is defined as a single division of land into two or three lots. Approval shall be granted only upon determination that all applicable requirements of this title and ORS Chapter 92 have been met. **Finding: Complies as Proposed.** The application is being processed pursuant to the Type II review process.

*B. If a parcel of land to be partitioned will create lots large enough to be divided again, the applicant shall provide a hypothetical non-binding plan or "shadow plat" depicting possible future development of the resulting lots.*

**Finding: Complies as Proposed.** The applicant has proposed two lots, approximately 11,209 square feet and 13, 670 square feet respectively. The R-10 zoning district has a minimum lot size of 10,000 square feet, therefore, neither lot is large enough to be divided again.

*C. Lot Size Limitations for Partitions in Residential Zoning Designations. A residentially zoned parcel of land or the aggregate of contiguous parcels under the same ownership containing sufficient net buildable area to be subdivided by the minimum lot size requirements of the underlying zone into 4 or more lots shall be subject to the Subdivision procedures and standards specified in Sections 16.08 and 16.12. The calculation of the net buildable area for the parcel or lot to be divided shall be determined by the Community Development Director. This standard shall not apply to a multi-family zoning designation.*

*D. A parcel of land in existence at the time this ordinance was adopted may be partitioned once if solely for the purpose of segregating one separate smaller parcel for an existing or proposed single-family house. The original parcel shall be exempt from the Lot Size Limitation for Partitions found in (C) above. The parcel to be created for the single-family house shall not contain sufficient lot area to allow further partitioning under the standards of the applicable existing zone including the use of administrative variances.*

**Finding: Not Applicable.** The subject site is approximately 25,000 square feet in size, and the R-10 zoning district has a minimum lot size of 10,000 square feet, therefore, the property does not have sufficient square footage to be subdivided into four or more lots. Adjacent properties are under different ownership.

#### **16.16.015 Preapplication Conference Required.**

*Before the city will accept an application for a partition, the applicant must attend a preapplication conference under Section 17.50.*

**Finding: Complies as Proposed.** The applicant held a pre-application conference (Planning File PA-18-39) on October 30, 2018.

#### **16.16.020 Minor Partition Application Submission Requirements.**

*A minor partition application shall include twelve copies of the proposed partition to the Community Development Director on a reproducible material, drawn at a minimum scale of one-inch equals one hundred feet with the following information:*

- A. A completed land use application form as provided by the planning division;*
- B. Legal descriptions of the parent parcel(s) and a preliminary plat map;*
- C. The name and address of the owner(s) and the representative, if any;*
- D. County tax assessment map number(s) of the land to be partitioned;*
- E. The map scale and north point;*
- F. Approximate courses and dimensions of all parts of the partition;*
- G. Around the periphery of the proposed minor partition, the boundary lines and names of adjacent minor partitions and subdivisions, streets and tract lines of adjacent parcels of property;*

H. *The location, width and names of all existing or platted streets, other public ways and easements within*

*the proposed partition, and other important features, such as the general outline and location of permanent buildings, pedestrian/bicycle access ways, watercourses, power lines, telephone lines, railroad lines, gas lines, water lines, municipal boundaries and section lines;*

I *All areas designated as being within an overlay district*

J. *A connectivity analysis may be required as directed at the pre-application conference. If required, the partition connectivity analysis shall be prepared by an engineer licensed by the State of Oregon which describes the existing and future vehicular, bicycle and pedestrian connections between the proposed partition and existing or planned land uses on adjacent properties. The connectivity analysis shall include shadow plats of adjacent properties demonstrating how lot and street patterns within the proposed partition will extend to and/or from such adjacent properties and can be developed meeting the existing Oregon City Municipal Code design standards.*

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

1. *A letter or email from the Oregon State Historic Preservation Office Archeological Division indicating the level of recommended archeological monitoring on-site, or demonstrate that the applicant had notified the Oregon State Historic Preservation Office and that the Oregon State Historic Preservation Office had not commented within 45 days of notification by the applicant; and*
2. *A letter or email from the applicable tribal cultural resource representative as designated by the Oregon Legislative Commission on Indian Services (CIS) and the Yakama Nation indicating the level of recommended archeological monitoring on-site, or demonstrate that the applicant had notified the applicable tribal cultural resource representative and that the applicable tribal cultural resource representative had not commented within 45 days of notification by the applicant.*

*If, after 45 days notice from the applicant, the Oregon State Historic Preservation Office or the applicable tribal cultural resource representative fails to provide comment, the city will not require the letter or email as part of the completeness review. For the purpose of this section, ground disturbance is defined as the movement of native soils.*

**Finding: Complies as Proposed.** The applicant submitted all required application materials and the application was deemed complete on September 20, 2019.

#### **16.16.025 Frontage Width Requirement.**

*For parcels of land created by a minor partition the parcels shall have a minimum of twenty feet of frontage on an existing public, county, state or federal road or street (unless as otherwise permitted in OCMC Chapter 16.16).*

**Finding: Complies as Proposed.** Lot 1 has approximately 80 feet of frontage. Lot 2 is a flag lot not subject to this standard.

#### **16.16.030 Flag Lots – R-10, R-8, R-6, and R-3.5.**

A. *Flag lots may be permitted in Partitions only where the configuration, topography, or an existing dwelling unit is located on the property so that it would otherwise preclude the partitioning and development of the property.*

**Finding: Complies as Proposed.** Due to the width of the existing lot and the siting of the existing house, a flag lot configuration is required in order for both proposed lots to comply with minimum width and frontage requirements.

- B. A joint accessway shall be provided unless the existing topography of the site or the dwelling unit is located on the property to prevent a joint accessway. A perpetual reciprocal access easement and maintenance agreement shall be recorded for the joint accessway, in a format acceptable to the city attorney.
- C. Access ways shall have a pavement width of at least sixteen feet to service one to two units or twenty feet to service three or more units. A fire access corridor of at least twenty feet shall be provided to all parcels with a minimum pavement width of sixteen feet to service two units or twenty feet to service three or more units. At least 6 inches of shoulder on each side of the fire access corridor shall be provided in order that construction work does not infringe on adjacent properties. A narrower pavement width may be approved by the Fire District and Planning Division. The approval may require that additional fire suppression devices be provided to assure an adequate level of fire and life safety. No vehicular obstruction, including trees, fences, landscaping or structures, shall be located within the fire access corridor.

**Finding: Complies with Condition.** The applicant has not proposed a joint accessway because the existing house is developed with a driveway on the southern side of the property and the proposed pole portion of the flag lot would only be used to serve Lot 2 and would not be a shared accessway. However, it appears that the proposed driveway would also serve an existing detached garage located on Lot 1. In addition, this section requires an accessway width of at least 16 feet to service one unit, therefore, it appears that a joint accessway is required in order to provide a 16-foot paved accessway. Unless the applicant provides documentation of Clackamas Fire approval of a narrower pavement width and documentation that the detached garage on Lot 1 will not be served by the proposed driveway, the applicant shall provide a 16-foot wide joint accessway which includes a perpetual reciprocal access easement and maintenance agreement. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

- D. The pole must connect to a public street.

**Finding: Complies as Proposed.** The proposed flag lot includes a pole that is connected to Holmes Lane.

- E. The pole must be at least 8 feet wide for its entire length.

**Finding: Complies as Proposed.** The proposed flag lot includes a pole that is 15 feet wide for its entire length exceeding the 8-foot minimum requirement.

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

**Finding: Complies as Proposed.** The pole portion of the flag lot is part of Lot 2 and would be under the same ownership as the rest of the lot.

#### 16.16.035 Pavement Requirements.

*Accessways for lots created through the minor partitioning process shall satisfy the requirements of Section 16.16.040 and 16.16.050. If the proposed accessway exceeds one hundred fifty feet in length the accessway shall conform to Fire District standards and shall be paved to a minimum width of twenty feet unless an alternative is approved by the Planning Division and Fire District. If more than two residences are served, a turnaround for emergency vehicles shall be provided. The turnaround shall be approved by the City Engineer and Fire District. Improvements shall comply with Chapter 16.12, Minimum Improvements and Design Standards for Land Divisions.*

**Finding: Complies with Condition.** The full extent of the gravel private drive (accessway) is not depicted on the site plan and is and likely to exceed 150 feet. The applicant shall obtain approval from Clackamas Fire District No. 1 for the private access road exceeding 150 feet; otherwise, a turnaround in the form of

a hammerhead or cul-de-sac will be required. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

## **CHAPTER 16.12 - MINIMUM IMPROVEMENTS AND DESIGN STANDARDS FOR LAND DIVISIONS<sup>[3]</sup>**

### **16.12.020 - Blocks—Generally.**

*The length, width and shape of blocks shall take into account the need for adequate building site size, convenient motor vehicle, pedestrian, bicycle and transit access, control of traffic circulation, and limitations imposed by topography and other natural features.*

### **16.12.030 - Blocks—Width.**

*The width of blocks shall ordinarily be sufficient to allow for two tiers of lots with depths consistent with the type of land use proposed.*

**Finding: Not Applicable.** No new blocks are being created as a result of this minor partition. No new streets are proposed or required as part of this development.

### **16.12.040 - Building sites.**

*The size, width, shape and orientation of building sites shall be appropriate for the primary use of the land division, and shall be consistent with the residential lot size provisions of the zoning ordinance with the following exceptions:*

*A. Where property is zoned and planned for commercial or industrial use, the community development director may approve other widths in order to carry out the city's comprehensive plan. Depth and width of properties reserved or laid out for commercial and industrial purposes shall be adequate to provide for the off-street service and parking facilities required by the type of use and development contemplated.*

*B. Minimum lot sizes contained in [Title 17](#) are not affected by those provided herein.*

**Finding: Complies as Proposed.** The buildings sites proposed are appropriate in size, width, shape, and orientation for low-density residential development, exceeding the minimum lot size, lot depth and lot width and similar to other development within the “R-10” Single-Family Dwelling District. The applicant is not requesting a variance to any dimensional standard.

### **16.12.045 - Building sites—Minimum density.**

*All subdivision layouts shall achieve at least eighty percent of the maximum density of the base zone for the net developable area as defined in [Chapter 17.04](#).*

**Finding:** Please refer to the analysis in Section 16.08.030.F of this report.

### **16.12.050 – Lot size reduction**

*A subdivision in the R-10, R-8, R-6, R-5, or R-3.5 dwelling district may include lots that are up to twenty percent less than the required minimum lot area of the applicable zoning designation provided the lots within the entire subdivision on average meets the minimum site area requirement of the underlying zone. Any area within a powerline easement on a lot shall not count towards the lot area for that lot.*

*The average lot area is determined by first calculating the total site area devoted to dwelling units, subtracting the powerline easement areas, and dividing that figure by the proposed number of dwelling lots. Accessory dwelling units are not included in this determination nor are tracts created for non-dwelling unit purposes such as open space, stormwater tracts, or access ways. A lot that was created pursuant to this section may not be further divided unless the average lot size requirements are still met for the entire subdivision. When a lot abuts a public alley, an area equal to the length of the alley frontage along the lot times the width of the alley right-of-way measured from the alley centerline may be added to the area of the abutting lot in order to satisfy the lot area requirement for the abutting lot. It may also be used in calculating the average lot area.*

**Finding: Not Applicable.** Minor partitions are not eligible for the lot size reductions within this section.

**16.12.055 - Building site—Through lots.**

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

**Finding: Complies as Proposed.** No through lots are proposed.

**16.12.060 - Building site—Lot and parcel side lines.**

*The lines of lots and parcels, as far as is practicable, shall run at right angles to the street upon which they face, except that on curved streets they shall be radial to the curve.*

**Finding: Complies as Proposed.** As far as practicable, the proposed lot lines and parcels run at right angles to the street upon which they face. This standard is met.

**16.12.065 - Building site—Grading.**

*Grading of building sites shall conform to the State of Oregon Structural Specialty Code, Chapter 18, any approved grading plan and any approved residential lot grading plan in accordance with the requirements of [Chapter 15.48](#), [16.12](#) and the Public Works Stormwater and Grading Design Standards, and the erosion control requirements of [Chapter 17.47](#).*

**Finding: Applicable.** There shall not be more than a maximum grade differential of two (2) feet at all subdivision boundaries. Grading shall in no way create any water traps, or create other ponding situations. The plan shall show the existing and proposed swales. Grading shall adhere to the Public Works Stormwater and Grading Design Standards Manual.

**16.12.070 - Building site—Setbacks and building location.**

*This standard ensures that lots are configured in a way that development can be oriented toward streets to provide a safe, convenient and aesthetically pleasing environment for pedestrians and bicyclists. The objective is for lots located on a neighborhood collector, collector or minor arterial street locate the front yard setback on and design the most architecturally significant elevation of the primary structure to face the neighborhood collector, collector or minor arterial street.*

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

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

**Finding: Complies as Proposed.** Holmes Lane is classified as a collector and the existing home on Lot 1 and complies with this requirement. Though the flag pole of Lot 2 is located on Holmes Lane, the buildable portion of Lot 2 is not, therefore, this standard does not apply to a new home on Lot 2.

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

**Finding: Not Applicable.** The subject site is not a corner lot.

*D. 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:*

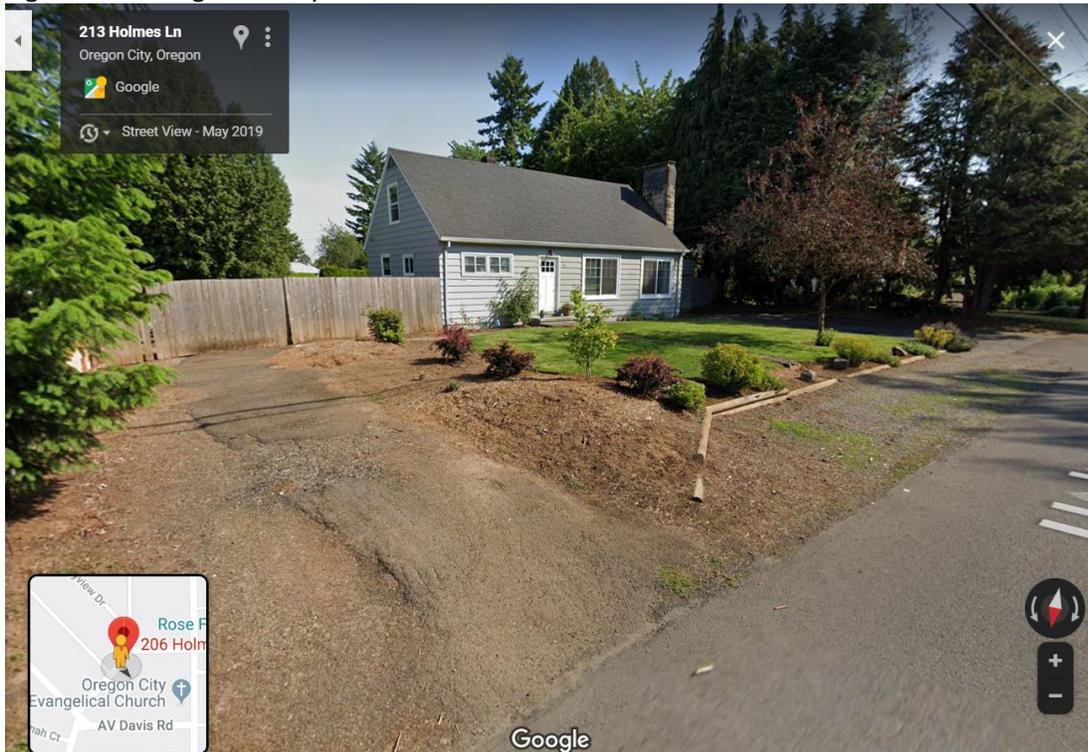
*1. No driveway access may be allowed since the driveway(s) would cause a significant traffic safety hazard; or*

2. Allowing a single driveway access per lot will not cause a significant traffic safety hazard.

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

**Finding: Complies as Proposed.** The property is developed with two driveways – one on the southern side of the property leading to the existing attached garage and one on the northern side of the property leading to the detached garage behind the existing home. Holmes Lane is classified as a collector, therefore, driveways are required to be combined. However, the two driveways are already existing and combining the driveways is infeasible due to the existing garage and siting of the house. Both existing driveways are in compliance with driveway spacing requirements and will not cause a traffic hazard or safety hazard. The driveways are already existing, the existing house precludes the combining of both driveways, and the driveways will not cause a traffic or safety hazard, therefore, the development cannot practically meet this standard and an alternative design to allow two driveways is approved.

Figure 4: Existing Driveways



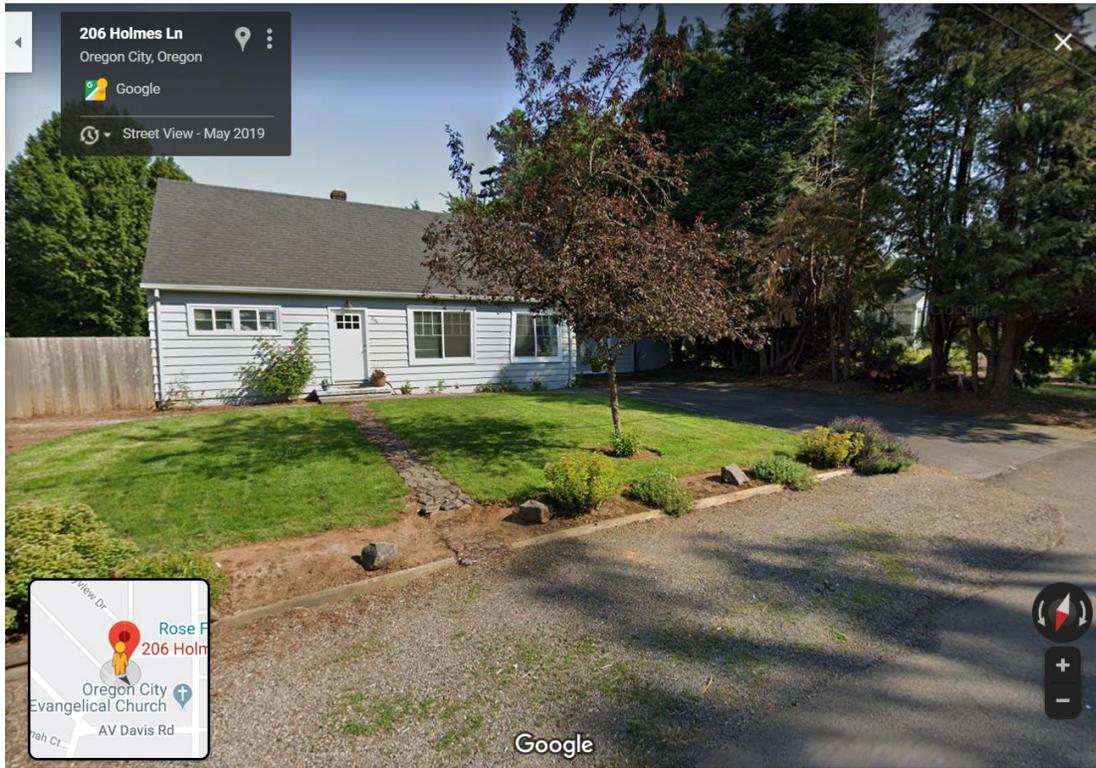
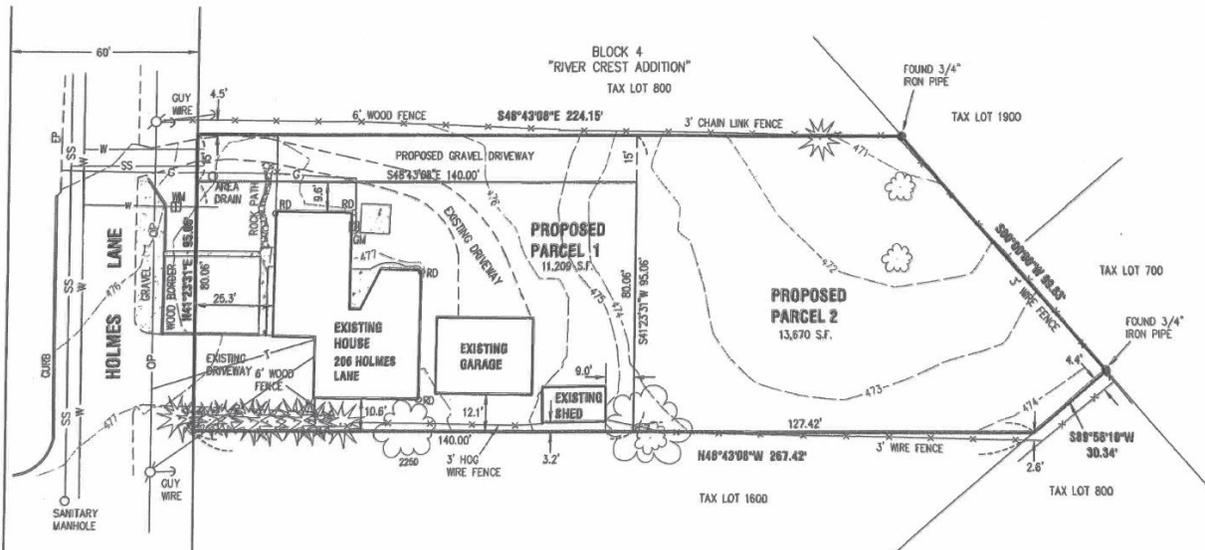


Figure 5: Proposed Driveway Design



**16.12.075 - Building site—Division of lots.**

Where a tract of land is to be divided into lots or parcels capable of redivision in accordance with this chapter, the community development director shall require an arrangement of lots, parcels and streets which facilitates future redivision. In such a case, building setback lines may be required in order to preserve future right-of-way or building sites.

**Finding: Complies as Proposed.** Neither proposed lot would be large enough to be capable of redivision.

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 land division and with adjoining subdivisions or partitions. Specific utility easements for water, sanitary or storm drainage shall be provided based on approved final engineering plans.*

**Finding: Complies with Condition.** The applicant shall provide a 10-foot-wide public utility easement along all property lines fronting existing or proposed right-of-way. All existing and proposed utilities and easements shall be indicated on the construction plans. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

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

**Finding: Not Applicable.** There are no unusual facilities proposed with this development.

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

**Finding: Not Applicable.** The land division is not traversed by a watercourse.

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

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

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

**Finding: Not Applicable.** The land division is not traversed by a water feature.

**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 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 [Chapter 17.49](#) and the Public Works Erosion and Sediment Control Standards. 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 and sanitary sewers shall be placed beyond the public utility easement behind to the lot lines.

D. As-built construction plans and digital copies of as-built drawings shall be filed with the city engineer upon completion of the improvements.

E. The city engineer may regulate the hours of construction and access routes for construction equipment to minimize impacts on adjoining residences or neighborhoods.

**Finding: Complies with Condition. Error! Reference source not found.** No erosion control measures required to be provided for public improvements. See Chapter 17.47 for building site erosion control measure requirements. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

#### **16.12.095 - Minimum improvements—Public facilities and services.**

The following minimum improvements shall be required of all applicants for a land division under [Title 16](#), 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 land division and those portions of public streets adjacent to but only partially within the land division. All applicants shall execute a binding agreement to not remonstrate against the formation of a local improvement district for street improvements that benefit the applicant's property. Applicants are responsible for designing and providing adequate vehicular, bicycle and pedestrian access to their developments and for accommodating future access to neighboring undeveloped properties that are suitably zoned for future development. Storm drainage facilities shall be installed and connected to off-site natural or man-made drainageways. Upon completion of the street improvement survey, the applicant shall reestablish and protect monuments of the type required by ORS 92.060 in monument boxes with covers at every public street intersection and all points or curvature and points of tangency of their center line, and at such other points as directed by the city engineer.

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

*16.12.095.B. Stormwater Drainage System.* Applicants shall design and install drainage facilities within land divisions 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. All applicants shall execute a binding agreement to not remonstrate against the formation of a local improvement district for

*stormwater drainage improvements that benefit the applicant's property. 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, [Chapter 13.12](#) and the Public Works Stormwater and Grading Design Standards.*

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

*C. Sanitary Sewer System. The applicant shall design and install a sanitary sewer system to serve all lots or parcels within a land division 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. All applicants shall execute a binding agreement to not remonstrate against the formation of a local improvement district for sanitary sewer improvements that benefit the applicant's property. Applicants are responsible for extending the city's sanitary sewer system to the development site and through the applicant's property to allow for the future connection of neighboring undeveloped properties that are suitably zoned for future development. The applicant shall obtain all required permits and approvals from all affected jurisdictions prior to final approval and prior to commencement of construction. Design shall be approved by the city engineer before construction begins.*

**Finding: Complies as Conditioned.** An 8" concrete sanitary sewer main exists within Holmes Lane. The new service connection shall be made to this main per City Standards. Applicant shall obtain all Public Works and Building Department permits for new connections and pay appropriate System Development Charges. Applicant shall sign a Non-Remonstrance Agreement for the purpose of making sanitary sewer, storm sewer, water or street improvements in the future that benefit the Property and assessing the cost to benefited properties pursuant to the City's capital improvement regulations in effect at the time of such improvement. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

*16.12.095.D. Water System. The applicant shall design and install a water system to serve all lots or parcels within a land division in accordance with the city public works water system design standards, and shall connect those lots or parcels to the city's water system. All applicants shall execute a binding agreement to not remonstrate against the formation of a local improvement district for water improvements that benefit the applicant's property. Applicants are responsible for extending the city's water system to the development site and through the applicant's property to allow for the future connection of neighboring undeveloped properties that are suitably zoned for future development.*

**Finding: Complies with Condition.** A 12" water main exists within Holmes Lane. The new service connection shall be made to this main per City standards. The new lot shall have an individual water service and the water meter shall front the property that it serves. Applicant shall obtain all Public Works and Building Department permits for new connections and pay appropriate System Development Charges. Applicant shall sign a Non-Remonstrance Agreement for the purpose of making sanitary sewer, storm sewer, water or street improvements in the future that benefit the Property and assessing the cost to benefited properties pursuant to the City's capital improvement regulations in effect at the time of such improvement. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

16.12.095.E. *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 land division. 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 land division 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 land division application. Applicants for partitions may be allowed to meet this requirement by executing a binding agreement to not remonstrate against the formation of a local improvement district for sidewalk improvements that benefit the applicant's property.*

**Finding: Complies as Proposed.** Please refer to section 12.04.007 of this report.

16.12.095.F. *Bicycle Routes. If appropriate to the extension of a system of bicycle routes, existing or planned, the decision-maker may require the installation of separate bicycle lanes within streets and separate bicycle paths.*

**Finding: Complies as Proposed.** Please refer to section 12.04.007 of this report.

16.12.095.G. *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.** The project does not propose to, nor is required to, install street signs or traffic control devices.

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

**Finding: Not Applicable.** The project does not propose to, nor is required to, install street lights.

16.12.095.I. *Street Trees.*

**Finding: Planning to Complete.** Please refer to the review in section 12.08 of this report.

16.12.095.J. *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 project does not include public improvements – section does not apply.

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

**Finding: Complies as Proposed.** All new utility lines shall be placed underground. The undergrounding of existing overhead utility lines is not required. This decision is in proportion to the scope of the development and conforms with that of similar projects such as MP 13-01.

16.12.095.L. *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. 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.** No public facilities or improvements are proposed.

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

**Finding: Applicable.** See Chapter 17.47.

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 Chapter 12.04. 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.** A public street is not proposed or required as part of this project.

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 this section.

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 must be complete and accepted by the city engineer prior to final plat approval.

C. Financial Guarantee. The applicant shall provide the city with a financial guarantee in a form acceptable to the city attorney and equal to one hundred ten percent of the cost of constructing the public improvements in accordance with Oregon City Municipal Code Chapter 17.50. Possible forms of guarantee include an irrevocable or standby letter of credit, guaranteed construction loan set-aside, reserve account, or performance guarantee, but the form of guarantee shall be specified by the city engineer and, prior to execution and acceptance by the city, must be reviewed and approved by the city attorney. The amount of the guarantee shall be based upon approved final engineering plans, equal to at least one hundred ten percent of the estimated cost of construction, and shall be supported by a verified engineering estimate and approved by the city engineer.

**Finding: Not Applicable.** No public improvements are required as part of this project.

16.12.110 Minimum improvements—Financial guarantee.

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

A. Form of Guarantee. Performance guarantees shall be in a form approved by the city attorney. Approvable methods of performance guarantee include irrevocable standby letters of credit to the

benefit of the city issued by a recognized lending institution, certified checks, dedicated bank accounts or allocations of construction loans held in reserve by the lending institution for the benefit of the city. The form of guarantee shall be specified by the city engineer and, prior to execution and acceptance by the city shall be reviewed and approved by the city attorney. The guarantee shall be filed with the city engineer.

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

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

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

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

**Finding: Not Applicable.** No public improvements are required as part of this project.

## **CHAPTER 12.04 - STREETS SIDEWALKS AND PUBLIC PLACES**

### *12.04.003 Applicability*

*A. Compliance with this chapter is required for all Land Divisions, Site Plan and Design Review, Master Plan, Detailed Development Plan and Conditional Use applications and all public improvements.*

*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. 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. In addition, the frontage of the site shall comply with the following prioritized standards identified in this chapter:*

- 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 12.04.003.B.1 and 12.04.003.B.2 is limited to ten percent of the total construction costs. The value of the alterations and improvements as determined by the community development director is based on the entire project and not individual building permits. It is the responsibility of the applicant to submit to the community development director the value of the required improvements. Additional costs may be required to comply with other applicable requirements associated with the proposal such as access or landscaping requirements.*

**Finding: Applicable.** The applicant has proposed a land division; therefore, this chapter is applicable.

*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 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 acknowledges the City's jurisdiction and management of the public right-of-way.

*12.04.007 Modifications.*

*The review body may consider modification of this standard 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:*

**Holmes Lane:**

Holmes Lane – functionally classified as a collector road – currently has an approximately 60-foot-wide right-of-way (ROW) along the property's frontage. There is approximately 12-feet of asphalt pavement on the project side of centerline. The development would typically be required to provide full street improvements on the subject side of centerline consisting of the following per code standards in 12.04.180: one half of a 11 ft center turn lane, and 11 ft travel lane, a 6 ft bike lane, 7 ft of street parking, a 0.5 ft curb and gutter, a 7.5 ft landscape strip, and a 5 ft sidewalk – a total of 42.5 ft.

However, Holmes Lane is configured with 2 lanes (not 3), which is unlikely to change based on the development pattern and potential of the surrounding neighborhood. A parking lane and bike lane are also unlikely to be developed. The unlikelihood of roadway expansion yields a practicable required right-of-way width of 24 ft. The current frontage has a 28 ft right-of-way width.

Adjacent neighborhood characteristics including fences, shrubbery, and homes near the roadway are potential obstructions to constructing sidewalk along Holmes Ln. Curb-tight sidewalk along Holmes Lane from Molalla Ave to Linn Ave would add connectivity to sidewalk on Telford Road if sidewalk were constructed along this property's side of Holmes Lane. However, sidewalk funding is not likely per the Transportation System Plan.

*12.04.007.A. The modification meets the intent of the standard;*

**Finding: Complies as Proposed.** The standards listed in Table 12.04.180 are listed as maximum design standards and it is recognized that they may be reduced through the modification process where appropriate. The intent of the standards is not specifically listed, but it is clearly intended to achieve the goals of the TSP to provide for safe and efficient traffic flows throughout the city. There are no anticipated operational or safety issues associated with the proposed development.

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

**Finding: Complies as Proposed.** The existing right-of-way of Holmes Lane in this extent currently provides for the safe and efficient transportation of modes of travel. The right-of-way width along this extent is wider than that between Linn Avenue and Molalla Avenue, which has a higher ADT. No right-of-way dedication will be required.

*12.04.007.C. The modification is consistent with adopted plans;*

**Finding: Complies as Proposed.** The adopted TSP provides maximum street sections with the understanding that lesser standards may be approved where appropriate through the modification process. The Linn Ave, Leland Road, and Meyers Road Corridor Plan 2015 in Table 2-1 lists Holmes Lane as having sidewalk on one side in the vicinity of Linn Avenue. Increased pedestrian connectivity would add to that for Gardiner Middle School off Holmes Lane east of Linn Avenue per this plan (page 23). The 2013 Transportation System Plan identifies Holmes Lane as having a connectivity gap in Table T.M. #3 (page A3). However, the TSP identifies sidewalk completion in this section of Holmes Lane as Long-Term Phase 3 and unlikely to be funded. Therefore, no sidewalk (or fee-in-lieu of construction) will be required as part of this Minor Partition application.

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

**Finding: Complies as Proposed.** The modification is complimentary to surrounding street design.

*12.04.007.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.*

**Not Applicable.** This modification is not being proposed for constitutional reasons.

*12.04.010 Construction specifications—Improved streets.*

*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. The curb shall be constructed at the same time as the construction of the sidewalk and shall be located as provided in the ordinance authorizing the improvement of said street next proceeding unless otherwise ordered by the city commission. Both sidewalks and curbs are to be constructed according to plans and specifications provided by the city engineer.*

**Finding:** No public street improvements are required. Please refer to section 12.04.007.

*12.04.020 Construction specifications—Unimproved streets.*

*Sidewalks constructed on unimproved streets shall be constructed of concrete according to lines and grades established by the city engineer and approved by the city commission. On unimproved streets curbs do not have to be constructed at the same time as the sidewalk.*

**Finding: Not Applicable.** The applicant has not proposed to construct any infrastructure within an unimproved street.

*12.04.025 - Street design—Driveway Curb Cuts.*

*12.04.025.A. One driveway shall be allowed per frontage. In no case shall more than two driveways be allowed on any single or two-family residential property with multiple frontages.*

**Finding: Not Applicable.** One driveway per frontage is proposed.

*12.04.025.B. With the exception of the limitations identified in 12.04.025.C, all driveway curb cuts shall be limited to the following dimensions.*

<i>Property Use</i>	<i>Minimum Driveway Width at sidewalk or property line</i>	<i>Maximum Driveway Width at sidewalk or property line</i>
<i>Single or Two-Family Dwelling with one Car Garage/Parking Space</i>	<i>10 feet</i>	<i>12 feet</i>
<i>Single or Two-Family Dwelling with two Car Garage/Parking Space</i>	<i>12 feet</i>	<i>24 feet</i>
<i>Single or Two-Family Dwelling with three or more Car Garages/Parking Space</i>	<i>18 feet</i>	<i>30 feet</i>
<i>Non Residential or Multi-Family Residential Driveway Access</i>	<i>15 feet</i>	<i>40 feet</i>

*The driveway width abutting the street pavement may be extended 3 feet on either side of the driveway to accommodate turn movements. Driveways may be widened onsite in locations other than where the driveway meets sidewalk or property line (for example between the property line and the entrance to a garage).*

**Finding: Complies with Condition.** Applicant’s response on complete application meets indicates that proposed new driveway will meet standards. All driveways (curb cuts), new and existing, shall meet the minimum driveway width standards identified in Table 12.04.025.B. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

*12.04.025.C. The decision maker shall be authorized through a Type II process, unless another procedure applicable to the proposal applies, to minimize the number and size of curb cuts (including driveways) 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 and may extend to a maximum of thirty feet abutting the street pavement to facilitate turning movements.*
  - b. Where the decision maker determines any of these situations exist or may occur due to approval of a proposed development for detached housing within the “R-5” Single –Family*

*Dwelling District or "R-3.5" Dwelling District, driveway curb cuts shall be limited to twelve feet in width adjacent to the sidewalk or property line and may extend to a maximum of eighteen feet abutting the street pavement to facilitate turning movements.*

**Finding: Applicable.** The decision maker reserves the right to minimize the size of driveway approaches per this section.

*12.04.025.D. 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 and preferably twenty feet back into the lot as measured from the current edge of 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. Driving vehicles, trailers, boats, or other wheeled objects across a sidewalk or roadside planter strip at a location other than an approved permanent or city-approved temporary driveway approach is prohibited. Damages caused by such action shall be corrected by the adjoining property owner.*
- 3. Placing soil, gravel, wood, or other material in the gutter or space next to the curb of a public street with the intention of using it as a permanent or temporary driveway is prohibited. Damages caused by such action shall be corrected by the adjoining property owner.*
- 4. Any driveway built within public street or alley right-of-way shall be built and permitted per city requirements as approved by the city engineer.*

**Finding: Complies with Condition.** The new lot shall have an asphalt driveway approach constructed to current City standards with a minimum asphalt surface for at least ten feet back into the lot as measured from the edge of street pavement. The applicant shall obtain a Public Works permit for construction of the driveway approach in the public right-of-way. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

*12.04.025.E. Exceptions. The public works director reserves the right to waive this standard, if it is determined through a Type II decision including written findings, that it is in the best interest of the public to do so.*

**Finding: Applicable.** The Public Works Director may waive the standards of this section if 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: Not Applicable.** No sidewalk repair or maintenance is proposed or required as part of this project.

*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 a person to perform the duty that this ordinance imposes, the person 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: Not Applicable.** This is not a criterion for this development.

*12.04.032 Required sidewalk repair.*

A. When the public works director determines that repair of a sidewalk is necessary he or she shall issue a notice to the owner of property adjacent to the 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.

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: Not Applicable.** The applicant has not proposed and is not required to repair a sidewalk.

#### *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: Not Applicable.** This is not a criterion for this development because no sidewalk repair is required.

#### *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.** This is not a criterion for this development because no sidewalk repair is required.

#### *12.04.040 Streets--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 Chapters 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 Chapters 1.16, 1.20 and 1.24.*

**Finding: Not Applicable.** This is not a criterion for this development because no sidewalk repair is required.

#### **12.04.045** *Street design – Constrained local streets and/or rights-of-way*

*Any accessway with a pavement width of less than thirty-two feet shall require the approval of the city engineer, community development director and fire chief and shall meet minimum life safety requirements, which may include fire suppression devices as determined by the fire marshal to assure an adequate level of fire and life safety. The standard width for constrained streets is twenty feet of paving with no on-street parking and twenty-eight feet with on-street parking on one side only. Constrained local streets shall maintain a twenty-foot wide unobstructed accessway. Constrained local streets and/or right-of-way shall comply with necessary slope easements, sidewalk easements and altered curve radius, as approved by the city engineer and community development director.*

Table 12.04.045		
STREET DESIGN STANDARDS FOR LOCAL CONSTRAINED STREETS		
	Minimum	Required
Type of Street	Right-of-way	Pavement Width
Constrained local street	20 to 40	20 to less than 32 feet

**Finding: Not Applicable.** The applicant has not proposed a constrained street.

**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.** Applicant is not proposing and is not required to construct a retaining wall.

**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 Chapters 1.16, 1.20 and 1.24.*

**Finding: Not Applicable.** Applicant is not proposing and is not required to construct a retaining wall.

**12.04.070 Removal of sliding dirt.**

*It shall be the duty of the owner of any property as mentioned in Section 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.** The applicant has not proposed and is not required to remove sliding dirt as part of this project.

**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: Applicable.** A Public Works permit for construction of public utilities shall be required to be issued prior to their construction.

**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: Applicable.** A Public Works permit for construction of public utilities shall be restricted by requirement for designations per this section.

*12.04.095 - Street Design—Curb Cuts.*

*To assure public safety, reduce traffic hazards and promote the welfare of pedestrians, bicyclists and residents of the subject area, such as a cul-de-sac or dead-end street, the decision maker shall be authorized to minimize the number and size of curb cuts (including driveways) as far as practicable where any of the following conditions are necessary:*

- A. To provide adequate space for on-street parking;*
- B. To facilitate street tree planting requirements;*
- C. To assure pedestrian and vehicular safety by limiting vehicular access points; and*
- D. To assure that adequate sight distance requirements are met.*

*Where the decision maker determines any of these situations exist or may occur due to approval of a proposed development, single residential driveway curb cuts shall be limited to twelve feet in width adjacent to the sidewalk and property line and may extend to a maximum of eighteen feet abutting the street pavement to facilitate turning movements. Shared residential driveways shall be limited to twenty-four feet in width adjacent to the sidewalk and property line and may extend to a maximum of thirty feet abutting the street pavement to facilitate turning movements. Non-residential development driveway curb cuts in these situations shall be limited to the minimum required widths based on vehicle turning radii based on a professional engineer's design submittal and as approved by the decision maker.*

**Finding: Applicable.** The decision maker reserves the right to minimize the size of driveway approaches per this section.

*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 put the street or alley in as good condition as it was before it was so broken, dug up or disturbed, and shall remove all surplus dirt, rubbish, or other material from the street or alley.*

**Finding: Complies with Condition.** Applicant's response indicates compliance will be maintained with this section. All pavement cuts and restoration shall comply with the City of Oregon City Pavement Cut Standards. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

*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 Chapters 1.16, 1.20 and 1.24.*

**Finding: Applicable.** All excavations shall comply with this section.

*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 commission by passage of a resolution.*

**Finding: Complies with Condition.** Applicant's response indicates compliance will be maintained with this section. The applicant shall obtain a Public Works permit before any temporary obstructions are placed in the right-of-way. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

*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.** The applicant has not proposed a sidewalk sale with this project.

*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 Chapters 1.16, 1.20 and 1.24.*

**Finding: Applicable.** All obstructions shall follow this section.

*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.*

**Finding: Not Applicable.** The applicant has not proposed a street or alley vacation with this project.

*12.04.160 Street vacations--Restrictions.*

*The 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.** The applicant has not proposed a street or alley vacation with this project.

*12.04.170 - Street design—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 plan 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 must 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 must 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 as Proposed.** Please refer to section 12.04.007 of this report.

*12.04.175 Street Design--Generally.*

*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, 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 section 12.04 shall be required to preserve the objectives of street extensions.

**Finding: Not Applicable.** No public streets are proposed as a part of this project.

**12.04.180 Street Design.**

All development regulated by this Chapter shall provide street improvements in compliance with the standards in Figure 12.04.180 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 standards provided below are maximum design standards and may be reduced with an alternative street design which may be approved based on the modification criteria in 12.04.007. The steps for reducing the maximum design below are found in the Transportation System Plan.

Table 12.04.180 Street Design

To read the table below, 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 on either side of the street differs, the wider right-of-way standard shall apply.

Road Classification	Comprehensive Plan Designation	Right-of-Way Width	Pavement Width	Public Access	Sidewalk	Landscape Strip	Bike Lane	Street Parking	Travel Lanes	Median
Major Arterial	Mixed Use, Commercial or Public/Quasi Public	116 ft.	94 ft.	0.5 ft.	10.5 ft. sidewalk including 5 ft.x5 ft. tree wells		6 ft.	8 ft.	(5) 12 ft. Lanes	6 ft.
	Industrial	120 ft.	88 ft.	0.5 ft.	5 ft.	10.5 ft.	6 ft.	N/A	(5) 14 ft. Lanes	6 ft.
	Residential	126 ft.	94 ft.	0.5 ft.	5 ft.	10.5 ft.	6 ft.	8 ft.	(5) 12 ft. Lanes	6 ft.

Road Classification	Comprehensive Plan Designation	Right-of-Way Width	Pavement Width	Public Access	Sidewalk	Landscape Strip	Bike Lane	Street Parking	Travel Lanes	Median
Minor Arterial	Mixed Use, Commercial or Public/Quasi Public	116 ft.	94 ft.	0.5 ft.	10.5 ft. sidewalk including 5 ft.x5 ft. tree wells		6 ft.	8 ft.	(5) 12 ft. Lanes	6 ft.
	Industrial	118 ft.	86 ft.	0.5 ft.	5 ft.	10.5 ft.	6 ft.	7 ft.	(5) 12 ft. Lanes	N/A
	Residential	100 ft.	68 ft.	0.5 ft.	5 ft.	10.5 ft.	6 ft.	7 ft.	(3) 12 ft. Lanes	6 ft.

Road Classification	Comprehensive Plan Designation	Right-of-Way Width	Pavement Width	Public Access	Sidewalk	Landscape Strip	Bike Lane	Street Parking	Travel Lanes	Median
Collector	Mixed Use, Commercial or Public/Quasi Public	86 ft.	64 ft.	0.5 ft.	10.5 ft. sidewalk including 5 ft.x5 ft. tree wells		6 ft.	8 ft.	(3) 12 ft. Lanes	N/A
	Industrial	88 ft.	62 ft.	0.5 ft.	5 ft.	7.5 ft.	6 ft.	7 ft.	(3) 12 ft. Lanes	N/A
	Residential	85 ft.	59 ft.	0.5 ft.	5 ft.	7.5 ft.	6 ft.	7 ft.	(3) 11 ft. Lanes	N/A

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.x5 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	

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 20 feet and a minimum pavement width of 16 feet. If alleys are provided, garage access shall be provided from the alley.

**Finding: Complies as Proposed.** The standards listed in Table 12.04.180 are listed as maximum design standards and it is recognized that they may be reduced through the modification process where appropriate. The intent of the standards is not specifically listed, but is intended to achieve the goals of the TSP to provide for safe and efficient traffic flows throughout the city. Please refer to section 12.04.007 of this report.

**12.04.185 Street Design--Access Control.**

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

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

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

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

**Finding: Not Applicable.** No streets are proposed to be dedicated.

**12.04.190 Street Design--Alignment.**

The centerline of streets shall be:

- A. Aligned with existing streets by continuation of the centerlines; or
- B. Offset from the centerline by no more than five (5) feet, provided appropriate mitigation, in the judgment of the City Engineer, is provided to ensure that the offset intersection will not pose a safety hazard.

**Finding: Not Applicable.** No continuation of a public street through a three-way 'T' intersection is proposed.

**12.04.194 Traffic Sight Obstructions**

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

**Finding: Complies as Proposed.** Staff have determined that traffic sightline obstructions requirements are met in the proposed development. Specifically, the new driveway will have adequate sight distance to the intersection of Holmes Lane and McCarver Avenue.

**12.04.195.A. Spacing Standards.**

The new streets shall be designed as local streets unless otherwise designated as arterials and collectors in Figure 8 in the Transportation System Plan. The maximum block spacing between streets is 530 feet and the minimum block spacing between streets is 150 feet as measured between the right-of-way centerlines. If the maximum block size is exceeded, pedestrian accessways must be provided every 330 feet. The spacing standards within this section do not apply to alleys.

**Finding: Not Applicable.** The proposal does not include new public streets.

**12.04.195.B.** All new development and redevelopment shall meet the minimum driveway spacing standards identified in Table 12.04.195.B.

Table 12.04.195.B Minimum Driveway Spacing Standards

<b>Table 12.04.195.B Minimum Driveway Spacing Standards</b>		
<b>Street Functional Classification</b>	<b>Minimum Driveway Spacing Standards</b>	<b>Distance</b>
Major Arterial Streets	Minimum distance from a street corner to a driveway for all uses and Minimum distance between driveways for uses other than single and two-family dwellings	175 ft.
Minor Arterial Streets	Minimum distance from a street corner to a driveway for all uses and Minimum distance between driveways for uses other than single and two-family dwellings	175 ft.
Collector Streets	Minimum distance from a street corner to a driveway for all uses and	100 ft.

<b>Table 12.04.195.B Minimum Driveway Spacing Standards</b>		
<b>Street Functional Classification</b>	<b>Minimum Driveway Spacing Standards</b>	<b>Distance</b>
	<i>Minimum distance between driveways for uses other than single and two-family dwellings</i>	
<i>Local Streets</i>	<i>Minimum distance from a street corner to a driveway for all uses and Minimum distance between driveways for uses other than single and two-family dwellings</i>	<i>25 ft.</i>
<i>The distance from a street corner to a driveway is measured along the right-of-way from the edge of the intersection 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.</i>		

**Finding: Complies with Condition.** All driveways, new and existing, shall meet the minimum driveway spacing standards identified in Table 12.04.195.B. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

**12.04.199 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 three-hundred-and-thirty 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 between a five foot planter strip and a three foot planter strip.*
- 2. If an accessway also provides secondary fire access, the right-of-way width shall be at least twenty-three feet wide with a fifteen-foot paved surface a five foot planter strip and a three foot planter strip.*

*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. *Within the three foot planter strip, an evergreen hedge screen of thirty to forty-two inches high or shrubs spaced no more than four feet apart on average;*
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;*
3. *Within the five foot planter strip, two-inch minimum caliper trees with a maximum of thirty-five feet of separation between the trees to increase the tree canopy over the accessway;*
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 Community Development Director may approve an alternative accessway design due to existing site constraints through the modification process set forth in Section 12.04.007.*

*K. Ownership, liability and maintenance of accessways.*

*To ensure that all pedestrian/bicycle accessways will be adequately maintained over time, the hearings body 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.** There are no pedestrian or bicycle accessways as part of this project.

#### *12.04.205 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 D 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 or as otherwise identified by the City Transportation Engineer.*

*A. For intersections within the Regional Center, the following mobility standards apply:*

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

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

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

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

1. For signalized intersections:
  - a. During the first hour, LOS "D" or better will be required for the intersection as a whole and no approach operating at worse than LOS "E" and a v/c ratio not higher than 1.0 for the sum of the critical movements.
  - b. During the second hour, LOS "D" or better will be required for the intersection as a whole and no approach operating at worse than LOS "E" and a v/c ratio not higher than 1.0 for the sum of the critical movements.
2. For unsignalized intersections outside of the boundaries of the Regional Center:
  - a. For unsignalized intersections, during the peak hour, all movements serving more than 20 vehicles shall be maintained at LOS "E" or better. LOS "F" will be tolerated at movements serving no more than 20 vehicles during the peak hour.

D. 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
- I-205 / OR 213 Interchange
- OR 213 / Beavercreek Road

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 12.04.205.D 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.** There are no street intersections as part of this project.

#### 12.04.210 Street design--Intersection Angles.

Except where topography requires a lesser angle, streets shall be laid out to intersect at angles as near as possible to right angles. In no case shall the acute angles be less than eighty degrees unless there is a special intersection design. An arterial or collector street intersecting with another street shall have at

least one hundred feet of tangent adjacent to the intersection unless topography requires a lesser distance. Other streets, except alleys, shall have at least fifty feet of tangent adjacent to the intersection unless topography requires a lesser distance. All street intersections shall be provided with a minimum curb return radius of twenty-five feet for local streets. Larger radii shall be required for higher street classifications as determined by the city engineer. Additional right-of-way shall be required to accommodate curb returns and sidewalks at intersections. Ordinarily, intersections should not have more than two streets at any one point.

**Finding: Not Applicable.** There are no street intersections as part of this project.

#### *12.04.215 Street design--Off-Site Street Improvements.*

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

**Finding: Complies as Proposed.** Please refer to section 12.04.007 of this report.

#### *12.04.220 Street Design--Half Street.*

*Half streets, while generally not acceptable, may be approved where essential to the development, when in conformance with all other applicable requirements, and where it will not create a safety hazard. When approving half streets, the decision maker must first determine that it will be practical to require the dedication of the other half of the street when the adjoining property is divided or developed. Where the decision maker approves a half street, the applicant must construct an additional ten feet of pavement width so as to make the half street safe and usable until such time as the other half is constructed. Whenever a half street is adjacent to property capable of being divided or developed, the other half of the street shall be provided and improved when that adjacent property divides or develops. Access Control may be required to preserve the objectives of half streets.*

*When the remainder of an existing half-street improvement is made it shall include the following items: dedication of required right-of-way, construction of the remaining portion of the street including pavement, curb and gutter, landscape strip, sidewalk, street trees, lighting and other improvements as required for that particular street. It shall also include at a minimum the pavement replacement to the centerline of the street. Any damage to the existing street shall be repaired in accordance with the City's "Moratorium Pavement Cut Standard" or as approved by the City Engineer.*

**Finding: Not Applicable.** No half streets are proposed or required as part of this project.

#### *12.04.225 Street Design--Cul-de-sacs and Dead-End Streets.*

*The city discourages the use of cul-de-sacs and permanent dead-end streets except where construction of a through street is found by the decision maker to be impracticable due to topography or some significant physical constraint such as geologic hazards, wetland, natural or historic resource areas, dedicated open space, existing development patterns, arterial access restrictions or similar situation as determined by the Community Development Director. When permitted, access from new cul-de-sacs and permanent dead-end streets shall be limited to a maximum of 25 dwelling units and a maximum street length of two hundred feet, as measured from the right-of-way line of the nearest intersecting street to the back of the cul-de-sac curb face. In addition, cul-de-sacs and dead-end roads shall include pedestrian/bicycle accessways as required in this Chapter. This section is not intended to preclude the use of curvilinear eyebrow widening of a street where needed.*

*Where approved, cul-de-sacs shall have sufficient radius to provide adequate turn-around for emergency vehicles in accordance with Fire District and City adopted street standards. Permanent dead-end streets*

*other than cul-de-sacs shall provide public street right-of-way / easements sufficient to provide turn-around space with appropriate no-parking signs or markings for waste disposal, sweepers, and other long vehicles in the form of a hammerhead or other design to be approved by the decision maker. Driveways shall be encouraged off the turnaround to provide for additional on-street parking space.*

**Finding: Not Applicable.** There are no cul-de-sac or permanent dead-end streets proposed as part of this project.

#### *12.04.230 Street Design--Street Names.*

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

**Finding: Complies as Proposed.** No new streets are proposed or required as part of this minor partition.

#### *12.04.235 Street Design--Grades and Curves.*

*Grades and center line radii shall conform to the standards in the City's street design standards and specifications.*

**Finding: Not Applicable.** There are no public streets proposed as part of this project.

#### *12.04.240 Street Design--Development Abutting Arterial or Collector Street.*

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

**Finding: Not Applicable.** While the property frontage abuts collector Holmes Lane, due to the location and configuration of Holmes Lane, only local traffic is expected to be typical. The project is not required to dedicate access control, screen planting or walls, or other such treatment to afford separation of through and local traffic.

#### *12.04.245 Street Design--Pedestrian and Bicycle Safety.*

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

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

**Finding: Not Applicable.** Curb extensions or an approvable crossing alternative are not required as part of this project.

#### *12.04.255 Street design--Alleys.*

*Public alleys shall be provided in the following districts R-5, R-3.5, R-2, MUC-1, MUC-2 and NC zones unless other permanent provisions for private access to off-street parking and loading facilities are approved by the decision maker. The corners of alley intersections shall have a radius of not less than ten feet.*

**Finding: Not Applicable.** No alleys are proposed. The zoning is R-10, so no alleyway or other provision for off-street parking facilities are required.

*12.04.260 Street Design--Transit.*

*Streets shall be designed and laid out in a manner that promotes pedestrian and bicycle circulation. The applicant shall coordinate with transit agencies where the application impacts transit streets as identified in 17.04.1310. Pedestrian/bicycle access ways shall be provided as necessary in Chapter 12.04 to minimize the travel distance to transit streets and stops and neighborhood activity centers. The decision maker may require provisions, including easements, for transit facilities along transit streets where a need for bus stops, bus pullouts or other transit facilities within or adjacent to the development has been identified.*

**Finding: Not Applicable.** There are no streets proposed as part of this project.

*12.04.265 Street design--Planter Strips.*

*All development shall include vegetative planter strips that are five feet in width or larger and located adjacent to the curb. This requirement may be waived or modified if the decision maker finds it is not practicable. The decision maker may permit constrained sites to place street trees on the abutting private property within 10 feet of the public right-of-way if a covenant is recorded on the title of the property identifying the tree as a city street tree which is maintained by the property owner. Development proposed along a collector, minor arterial, or major arterial street may use tree wells with root barriers located near the curb within a wider sidewalk in lieu of a planter strip, in which case each tree shall have a protected area to ensure proper root growth and reduce potential damage to sidewalks, curbs and gutters.*

*To promote and maintain the community tree canopy adjacent to public streets, trees shall be selected and planted in planter strips in accordance with Chapter 12.08, Street Trees. Individual abutting lot owners shall be legally responsible for maintaining healthy and attractive trees and vegetation in the planter strip. If a homeowners' association is created as part of the development, the association may assume the maintenance obligation through a legally binding mechanism, e.g., deed restrictions, maintenance agreement, etc., which shall be reviewed and approved by the city attorney. Failure to properly maintain trees and vegetation in a planter strip shall be a violation of this code and enforceable as a civil infraction.*

**Finding: Not Applicable.** No planter strips are required as part of this project. Please refer to section 12.04.007 of this report.

*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 edition of the "Standard Specifications for Public Works Construction," as prepared by the Oregon Chapter of American Public Works Association (APWA) and as modified and adopted by the city, in effect at the time of application. The exception to this requirement is where this chapter and the Public Works Street Design Drawings provide other design details, in which case the requirements of this chapter and the Public Works Street Design Drawings shall be complied with. 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 with Condition.** The workmanship and materials for any work performed under permits issued by Oregon City Public Works shall be in accordance with the edition of the "Oregon Standard Specifications for Construction" as prepared by the Oregon Department of Transportation (ODOT) and the Oregon Chapter of American Public Works Association (APWA) and as modified and adopted by the city. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

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 Chapters 1.16, 1.20 and 1.24.

**Finding: Applicable.** Violations of this chapter are nuisances subject to code enforcement per this section.

**Chapter 12.08 - PUBLIC AND STREET TREES<sup>[2]</sup>**

12.08.015 - Street tree planting and maintenance requirements.

All new construction or major redevelopment shall provide street trees adjacent to all street frontages. Species of trees shall be selected based upon vision clearance requirements, but shall in all cases be selected from the Oregon City Street Tree List or be approved by a certified arborist. If a setback sidewalk has already been constructed or the Development Services determines that the forthcoming street design shall include a setback sidewalk, then all street trees shall be installed with a planting strip. If existing street design includes a curb-tight sidewalk, then all street trees shall be placed within the front yard setback, exclusive of any utility easement.

**Finding: Complies with Condition.** The property's frontage does not include planter strips or tree wells so the applicant has not submitted a street tree plan. Per this section if the street design does not include a planter strip, street trees shall be planted within the front yard setback on private property. Prior to final plat of the proposed minor partition, the applicant shall submit a street tree plan which complies with tree species, size, installation and location standards in Chapter 12.08 of the Oregon City Municipal Code. If street trees cannot be accommodated within the public right-of-way, the applicant may plant trees on private property within the front yard setback with a restrictive covenant. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

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. The community development director may approve an alternative street tree plan if site or other constraints prevent meeting the placement of one street tree per thirty-five feet of property frontage.

**Finding: Complies with Condition.** The subject site has approximately 80 feet of frontage, therefore, two street trees are required ( $80/35 = 2.28$ ). applicant indicated that one tree will be planted for every 30 feet of frontage, but did not submit a street tree plan. Prior to final plat of the proposed minor partition, the applicant shall submit a street tree plan which demonstrates compliance with tree species, size, and planting location standards in Chapter 12.08 of the Oregon City Municipal Code. If street trees cannot be accommodated within the public right-of-way, the applicant may plant trees on private property within the front yard setback with a restrictive covenant. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions 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. A minimum of five feet (at mature height) below power lines.

**Finding: Complies with Condition.** The applicant has not submitted a street tree plan demonstrating compliance with clearance distances within this section. Prior to final plat of the proposed minor partition, the applicant shall submit a street tree plan which complies with tree species, size, and planting location standards in Chapter 12.08 of the Oregon City Municipal Code. If street trees cannot be

accommodated within the public right-of-way, the applicant may plant trees on private property within the front yard setback with a restrictive covenant. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

*C. All trees shall be a minimum of two inches in caliper at six inches above the root crown and installed to city specifications.*

**Finding: Complies with Condition.** The applicant has not submitted a street tree plan identifying the size of proposed street trees. Prior to final plat of the proposed minor partition, the applicant shall submit a street tree plan which demonstrates compliance with tree species, size, and planting location standards in Chapter 12.08 of the Oregon City Municipal Code. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

*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.*

**Finding: Complies as Proposed.** Per this chapter, property owners abutting street trees are responsible for the general maintenance of street trees, including pruning to ensure adequate clearance for vehicles and pedestrians.

*12.08.020 - Street tree species selection.*

*The community development director may specify the species of street trees required to be planted if there is an established planting scheme adjacent to a lot frontage, if there are obstructions in the planting strip, or if overhead power lines are present.*

**Finding: Complies with Condition.** The applicant has not submitted a street tree plan identifying the species of proposed street trees. Prior to final plat of the proposed minor partition, the applicant shall submit a street tree plan which demonstrates compliance with tree species, size, and planting location standards in Chapter 12.08 of the Oregon City Municipal Code. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

*12.08.035 - Public tree removal.*

*Existing street trees shall be retained and protected during construction unless removal is specified as part of a land use approval or in conjunction with a public facilities construction project, as approved by the community development director. A diseased or hazardous street tree, as determined by a registered arborist and verified by the City, may be removed if replaced. A non-diseased, non-hazardous street tree that is removed shall be replaced in accordance with the Table [12.08.035](#).*

*All new street trees will have a minimum two-inch caliper trunk measured six inches above the root crown. The community development director may approve off-site installation of replacement trees where necessary due to planting constraints. The community development director may additionally allow a fee in-lieu of planting the tree(s) to be placed into a city fund dedicated to planting trees in Oregon City in accordance with Oregon City Municipal Code 12.08.*

*Table [12.08.035](#)*

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

		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

**Finding: Not Applicable.** The applicant has not proposed removal of any existing street trees.

12.08.040 - Heritage Trees and Groves.

**Finding: Not Applicable.** The applicant has not proposed to designate or remove a heritage tree or grove.

**Chapter 13.12 - STORMWATER MANAGEMENT**

13.12.050 - Applicability and exemptions.

*This chapter establishes performance standards for stormwater conveyance, quantity and quality. Additional performance standards for erosion prevention and sediment control are established in OCMC 17.47.*

A. *Stormwater Conveyance. The stormwater conveyance requirements of this chapter shall apply to all stormwater systems constructed with any development activity, except as follows:*

1. *The conveyance facilities are located entirely on one privately owned parcel;*
2. *The conveyance facilities are privately maintained; and*
3. *The conveyance facilities receive no stormwater runoff from outside the parcel's property limits.*

*Those facilities exempted from the stormwater conveyance requirements by the above subsection will remain subject to the requirements of the Oregon Uniform Plumbing Code. Those exempted facilities shall be reviewed by the building official.*

**Finding: Applicable.** The conveyance facilities are proposed to be contained entirely onsite. However, if new or replaced impervious area exceeds five thousand square feet per item B. below exemptions per this subsection are no longer applicable.

B. *Water Quality and Flow Control. The water quality and flow control requirements of this chapter shall apply to the following proposed uses or developments, unless exempted under subsection C:*

1. *Activities located wholly or partially within water quality resource areas pursuant to Chapter 17.49 that will result in the creation of more than five hundred square feet of impervious surface within the WQRA or will disturb more than one thousand square feet of existing impervious surface within the WQRA as part of a commercial or industrial redevelopment project. These square footage measurements will be considered cumulative for any given five-year period; or*
2. *Activities that create or replace more than five thousand square feet of impervious surface per parcel or lot, cumulated over any given five-year period.*

**Finding: Applicable.** The project does not fall within the mapped water quality resource area. However, should the proposed development meet the threshold of five thousand square feet of new or replacement impervious area, requirements of this Chapter shall apply.

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

1. *An exemption to the flow control requirements of this chapter will be granted when the development site discharges to the Willamette River, Clackamas River or Abernethy Creek; and either lies within the one hundred-year floodplain or is up to ten feet above the design flood elevation as defined in Chapter 17.42, provided that the following conditions are met:*
  - a. *The project site is drained by a conveyance system that is comprised entirely of manmade elements (e.g. pipes, ditches, culverts outfalls, outfall protection, etc.) and extends to the ordinary high water line of the exempt receiving water; and*
  - b. *The conveyance system between the project site and the exempt receiving water has sufficient hydraulic capacity and erosion stabilization measures to convey discharges from the proposed conditions of the project site and the existing conditions from non-project areas from which runoff is collected.*
2. *Projects in the following categories are generally exempt from the water quality and flow control requirements:*
  - a. *Stream enhancement or restoration projects approved by the city.*
  - b. *Farming practices as defined by ORS 30.960 and farm use as defined in ORS 214.000; except that buildings associated with farm practices and farm use are subject to the requirements of this chapter.*
  - c. *Actions by a public utility or any other governmental agency to remove or alleviate an emergency condition.*
  - d. *Road and parking area preservation/maintenance projects such as pothole and square cut patching, surface sealing, replacing or overlaying of existing asphalt or concrete pavement, provided the preservation/maintenance activity does not expand the existing area of impervious coverage above the thresholds in subsection B of this section.*
  - e. *Pedestrian and bicycle improvements (sidewalks, trails, pathways, and bicycle paths/lands) where no other impervious surfaces are created or replaced, built to direct stormwater runoff to adjacent vegetated areas.*
  - f. *Underground utility projects that replace the ground surface with in-kind material or materials with similar runoff characteristics.*
  - g. *Maintenance or repair of existing utilities.*

**Finding: Not Applicable.** The project does meet any of the above criteria for exemption.

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

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

**Finding: Not Applicable.** The project does not appear to contain elements requiring additional stormwater management practices per this section.

*13.12.080 - Submittal requirements.*

- A. Applications subject to stormwater conveyance, water quality, and/or flow control requirements of this chapter shall prepare engineered drainage plans, drainage reports, and design flow calculation reports in compliance with the submittal requirements of the Public Works Stormwater and Grading Design Standards.*
- B. Each project site, which may be composed of one or more contiguous parcels of land, shall have a separate valid city approved plan and report before proceeding with construction.*

**Finding: Applicable.** The project may trigger stormwater submittal requirements per item A. of this section – see section 13.12.050.B. If new or replaced impervious area does not exceed five-thousand square feet, submittal requirements of this section apply.

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

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

- A. The plan and report demonstrate how the proposed development and stormwater facilities will accomplish the purpose statements of this chapter.*
- B. The plan and report meet the requirements of the Public Works Stormwater and Grading Design Standards adopted by resolution under Section 13.12.020.*
- C. The storm drainage design within the proposed development includes provisions to adequately control runoff from all public and private streets and roof, footing, and area drains and ensures future extension of the current drainage system.*
- D. Streambank erosion protection is provided where stormwater, directly or indirectly, discharges to open channels or streams.*
- E. Specific operation and maintenance measures are proposed that ensure that the proposed stormwater quantity control facilities will be properly operated and maintained.*

**Finding: Not Applicable.** The project as currently proposed does not require engineered drainage plans or a drainage report. Should the new or replaced impervious area onsite exceed the five thousand square foot threshold, then the applicant will be required to meet the submittal requirements found in 13.12.080.

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

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

**Finding: Not Applicable.** The applicant has not proposed alternative design methods requiring special approval by the City Engineer.

*13.12.120 - Standard construction specifications.*

*The workmanship and materials shall be in accordance with the edition of the "Standard Specifications for Public Works Construction," as prepared by the Oregon Chapter of American Public Works Association (APWA) and as modified and adopted by the city, in effect at the time of application. The exception to this requirement is where this chapter and the Public Works Stormwater and Grading*

*Design Standards provide other design details, in which case the requirements of this chapter and the Public Works Stormwater and Grading Design Standards shall be complied with.*

**Finding: Applicable.** The workmanship and materials shall be in accordance with the latest edition of the Standard Specifications for Public Works Construction, as modified and adopted by the city, in effect at the time of application.

#### **CHAPTER 15.48 - GRADING, FILLING AND EXCAVATING**

*15.48.030 Applicability—Grading permit required.*

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

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

**Finding: Complies with Condition.** The development shall comply with the current version of the Oregon City Stormwater and Grading Design Standards. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

*15.48.090 Submittal requirements.*

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

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

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

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

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

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

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

**Finding: Complies with Condition.** The applicant shall provide a Residential Lot Grading Plan adhering to the State of Oregon Structural Specialty Code, Chapter 18 and the Oregon City Public Works Stormwater and Grading Design Standards. The grading plan shows cut and fill locations, cut and fill volumes (separated between foundation and general grading), stockpile locations, initial and final topography, etc. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

#### **CHAPTER 17.47 - EROSION AND SEDIMENT CONTROL**

##### **17.47.030 - Applicability.**

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

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

**Finding: Applicable.** The applicant has proposed to construct a new development that may cause visible or measurable erosion.

##### **17.47.060 - Permit required.**

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

**Finding: Complies with Condition.** The applicant shall obtain an erosion control permit prior to commencement of any earth disturbing activities. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

##### **17.47.070 - Erosion and sediment control plans.**

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

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

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

- C. The erosion and sediment control plan shall be reviewed in conjunction with the requested development approval. If the development does not require additional review, the manager may approve or deny the permit with notice of the decision to the applicant.
- D. The city may inspect the development site to determine compliance with the erosion and sediment control plan and permit.
- E. Erosion that occurs on a development site that does not have an erosion and sediment control permit, or that results from a failure to comply with the terms of such a permit, constitutes a violation of this chapter.
- F. If the manager finds that the facilities and techniques approved in an erosion and sediment control plan and permit are not sufficient to prevent erosion, the manager shall notify the owner or his/her designated representative. Upon receiving notice, the owner or his/her designated representative shall immediately install interim erosion and sediment control measures as specified in the City of Oregon City public works standards for erosion and sediment control. Within three days from the date of notice, the owner or his/her designated representative shall submit a revised erosion and sediment control plan to the city. Upon approval of the revised plan and issuance of an amended permit, the owner or his/her designated representative shall immediately implement the revised plan.
- G. Approval of an erosion and sediment control plan does not constitute an approval of permanent road or drainage design (e.g., size and location of roads, pipes, restrictors, channels, retention facilities, utilities, etc.).

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

## **CHAPTER 17.41 - TREE PROTECTION STANDARDS**

### *17.41.020 - Tree protection—Applicability.*

1. Applications for development subject to Chapters [16.08](#) or [16.12](#) (Subdivision or Minor Partition) or [Chapter 17.62](#) (Site Plan and Design Review) shall demonstrate compliance with these standards as part of the review proceedings for those developments.
2. For public capital improvement projects, the city engineer shall demonstrate compliance with these standards pursuant to a Type II process.
3. Tree canopy removal greater than twenty-five percent on sites greater than twenty-five percent slope, unless exempted under [Section 17.41.040](#), shall be subject to these standards.
4. A heritage tree or grove which has been designated pursuant to the procedures of [Chapter 12.08.050](#) shall be subject to the standards of this section.

**Finding: Applicable.** The proposed development includes a minor partition, therefore this section applies.

### *17.41.030 - Tree protection—Conflicting code provisions.*

*Except as otherwise specified in this section, where these standards conflict with adopted city development codes or policies, the provision which provides the greater protection for regulated trees or groves, as defined in [Section 17.04](#), shall govern.*

**Finding: Applicable.** The trees within the boundaries of the property or associated with the proposed development onsite are regulated under this section of code and do not fall under any other protections within the City's development codes.

### *17.41.040 - Same—Exemptions.*

*These regulations are not intended to regulate normal cutting, pruning and maintenance of trees on private property except where trees are located on lots that are undergoing development review or are*

otherwise protected within the Natural Resource Overlay District (NROD) of [section 17.49](#). These standards are not intended to regulate farm and forest practices as those practices are defined under ORS 30.930. Farm or forest resources. An applicant for development may claim exemption from compliance with these standards if the development site containing the regulated grove or trees was a designated farm or forest use, tree farm, Christmas tree plantation, or other approved timber use within one year prior to development application. "Forest practices" and "forestlands" as used in this subsection shall have the meaning as set out in ORS 30.930. The community development director has the authority to modify or waive compliance in this case.

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

*17.41.050 - Same—Compliance options.*

*Applicants for review shall comply with these requirements through one or a combination of the following procedures:*

*A. Option 1—Mitigation. Retention and removal of trees, with subsequent mitigation by replanting pursuant to Sections [17.41.060](#) or [17.41.070](#). All replanted and saved trees shall be protected by a permanent restrictive covenant or easement approved in form by the city.*

*B. Option 2—Dedicated Tract. Protection of trees or groves by placement in a tract within a new subdivision or partition plat pursuant to Sections [17.41.080](#)—[17.41.100](#); or*

*C. Option 3—Restrictive Covenant. Protection of trees or groves by recordation of a permanent restrictive covenant pursuant to Sections [17.41.110](#)—[17.41.120](#); or*

*D. Option 4—Cash-in-lieu of planting pursuant to [Section 17.41.130](#).*

*A regulated tree that has been designated for protection pursuant to this section must be retained or permanently protected unless it has been determined by a certified arborist to be diseased or hazardous, pursuant to the following applicable provisions.*

*The community development director, pursuant to a Type II procedure, may allow a property owner to cut a specific number of trees within a regulated grove if preserving those trees would:*

- 1. Preclude achieving eighty percent of minimum density with reduction of lot size; or*
- 2. Preclude meeting minimum connectivity requirements for subdivisions.*

**Finding: Complies with Condition.** The applicant has proposed to remove one tree and to utilize option 1, mitigation. As identified in this section, all replanted and saved trees shall be protected by a permanent restrictive covenant or easement approved in form by the city. Prior to occupancy of the dwellings on the subject site, the applicant shall record a covenant or easement on all properties with new or existing trees planted on private property. In the event that additional trees onsite need to be removed, the applicant may choose to utilize options 2, 3 and/or 4 in addition to option 1 when recalculating the mitigation. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

*17.41.060 - Tree removal and replanting—Mitigation (Option 1).*

*A. Applicants for development who select this option shall ensure that all healthy trees shall be preserved outside the construction area as defined in [Chapter 17.04](#) to the extent practicable. Compliance with these standards shall be demonstrated in a tree mitigation plan report prepared by a certified arborist, horticulturalist or forester or other environmental professional with experience and academic credentials in forestry or arboriculture. At the applicant's expense, the city may require the report to be reviewed by a consulting arborist. The number of replacement trees required on a development site shall be calculated separately from, and in addition to, any public or street trees in the public right-of-way required under [section 12.08](#)—Community Forest and Street Trees.*

B. The applicant shall determine the number of trees to be mitigated on the site by counting all of the trees six inch DBH (minimum four and one-half feet from the ground) or larger on the entire site and either:

1. Trees that are removed outside of the construction area, shall be replanted with the number of trees specified in Column 1 of Table 17.41.060-1. Trees that are removed within the construction area shall be replanted with the number of replacement trees required in Column 2; or
2. Diseased or hazardous trees, when the condition is verified by a certified arborist to be consistent with the definition in [Section 17.04.1360](#), may be removed from the tree replacement calculation. Regulated healthy trees that are removed outside of the construction area, shall be replanted with the number of trees specified in Column 1 of Table 17.41.060-1. Regulated healthy trees that are removed within the construction area shall be replanted with the number of replacement trees required in Column 2.

Table 17.41.060-1

*Tree Replacement Requirements*

All replacement trees shall be either:

- Two-inch caliper deciduous, or
- Six-foot high conifer

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

*Steps for calculating the number of replacement trees:*

1. Count all trees measuring six inches DBH (minimum four and one-half feet from the ground) or larger on the entire development site.
2. Designate (in certified arborists report) the condition and size (DBH) of all trees pursuant to accepted industry standards.
3. Document any trees that are currently diseased or hazardous.
4. Subtract the number of diseased or hazardous trees in step 3. from the total number of trees on the development site in step 1. The remaining number is the number of healthy trees on the site. Use this number to determine the number of replacement trees in steps 5. through 8.
5. Define the construction area (as defined in [Chapter 17.04](#)).
6. Determine the number and diameter of trees to be removed within the construction area. Based on the size of each tree, use Column 2 to determine the number of replacement trees required.
7. Determine the number and diameter of trees to be removed outside of the construction area. Based on the size of each tree, use Column 1 to determine the number of replacement trees required.
8. Determine the total number of replacement trees from steps 6. and 7.

**Finding: Complies with Condition.** This section requires the tree mitigation plan report be prepared by a certified arborist, horticulturalist, forester or other environmental professionals with experience and

academic credentials in forestry or arboriculture. The applicant submitted a health assessment of the tree proposed to be removed and a mitigation plan prepared by Lorin Fielding, Certified Arborist. The tree proposed to be removed is 53 inches in diameter and is located within the construction area, therefore, it requires five mitigation trees. The applicant has proposed five mitigation trees to be planted on Lot 2. Prior to occupancy of the dwellings on the subject site, all required mitigation trees shall be planted and the applicant shall record a covenant or easement on all properties with new or existing trees planted on private property. In the event that additional trees onsite need to be removed, the applicant may choose to utilize options 2, 3 and/or 4 in addition to option 1 when recalculating the mitigation. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

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

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

*A. First Priority. Replanting on the development site.*

*B. Second Priority. Off-site replacement tree planting locations. If the community development director determines that it is not practicable to plant the total number of replacement trees on-site, a suitable off-site planting location for the remainder of the trees may be approved that will reasonably satisfy the objectives of this section. Such locations may include either publicly owned or private land and must be approved by the community development director.*

**Finding: Complies as Proposed.** The applicant has proposed to plant the mitigation trees on the development site.

*17.41.075 - Alternative mitigation plan.*

*The community development director may, subject to a Type II procedure, approve an alternative mitigation plan that adequately protects habitat pursuant to the standards for the natural resource overlay district alternative mitigation plan, [Section 17.49.190](#).*

**Finding: Not Applicable.** The applicant has not proposed an alternative mitigation plan in accordance with this section.

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

*A. Applicants for new subdivision and partition plats may delineate and show the regulated trees or groves as either a separate tract or part of a larger tract that meets the requirements of subsection D. of this section.*

*B. The standards for land divisions subject to this section shall apply in addition to the requirements of the city land division ordinance and zoning ordinance, provided that the minimum lot area, minimum average lot width, and minimum average lot depth standards of the base zone may be superseded in order to allow for a reduction of dimensional standards pursuant to Section 17.41100 below.*

*C. Prior to preliminary plat approval, the regulated tree or grove area shall be shown either as a separate tract or part of a larger tract that meets the requirements of subsection D. of this section, which shall not be a part of any parcel used for construction of a structure. The size of the tract shall be the minimum necessary as recommended by a consulting arborist to adequately encompass the dripline of the tree, protect the critical root zone and ensure long term survival of the tree or grove.*

*D. Prior to final plat approval, ownership of the regulated tree or grove tract shall be identified to distinguish it from lots intended for sale. The tract may be identified as any one of the following:*

*1. Private open space held by the owner or a homeowners association; or*

2. For residential land divisions, private open space subject to an easement conveying stormwater and surface water management rights to the city and preventing the owner of the tract from activities and uses inconsistent with the purpose of this document; or
3. At the owners option, public open space where the tract has been dedicated to the city or other governmental unit; or
4. Any other ownership proposed by the owner and approved by the community development director.

**Finding: Complies with Condition.** The applicant has proposed five mitigation trees to be planted on Lot 2 in accordance with mitigation option 1. In the event that additional trees onsite need to be removed, the applicant may choose to utilize options 2, 3 and/or 4 in addition to option 1 when recalculating the mitigation. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

*17.41.090 - Density transfers incentive for tree protection tracts (Option 2).*

A. The purpose of this section is to allow dimensional adjustments within a regulated tree protection tract to be transferred outside said tract to the remainder of the site. This provision applies on-site and density shall not be transferred beyond the boundaries of the development site.

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

1. Provide a map showing the net buildable area of the tree protection tract;
2. Provide calculations justifying the requested dimensional adjustments;
3. Demonstrate that the minimum lot size requirements can be met based on an average of all lots created, including the tree protection tract created pursuant to [Section 17.41.080](#);
4. Demonstrate that, with the exception of the tree protection tract created pursuant to [Section 17.41.080](#), no parcels have been created which would be unbuildable in terms of minimum yard setbacks;
5. Meet all other standards of the base zone except as modified in [section 17.41.100](#).

C. The area of land contained in a tree protection tract may be excluded from the calculations for determining compliance with minimum density requirements of the zoning code.

**Finding: Complies with Condition.** The applicant has proposed five mitigation trees to be planted on Lot 2 in accordance with mitigation option 1. In the event that additional trees onsite need to be removed, the applicant may choose to utilize options 2, 3 and/or 4 in addition to option 1 when recalculating the mitigation. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

*17.41.100 - Permitted modifications to dimensional standards (Option 2 only).*

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

Table [17.41.100 A](#)  
Lot Size Reduction

ZONE	Min. Lot Size [sq. feet]	Min. Lot Width	Min. Lot Depth
R-10	5,000 sq. feet	50'	65'

R-8	4,000 sq. feet	45'	60'
R-6	3,500 sq. feet	35'	55'
R-5	3,000 sq. feet	30'	50'
R-3.5	1,800 sq. feet	20'	45'

Table 17.41.100 B

Reduced Dimensional Standards for Detached Single-Family Residential Units

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

Table 17.41.100 C

Reduced Dimensional Standards for Single-Family Attached or Two-Family Residential Units

Size of Reduced Lot	Front Yard Setback	Rear Yard Setback	Side yard Setback	Corner Side	Lot Coverage
3,500—7,000 square feet	10 feet	15 feet	5/0* feet	10 feet	40%
1,800—3,499 square feet	5 feet	15 feet	5/0* feet	10 feet	55%

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

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

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

17.41.120 - Permitted adjustments (Option 3 Only).

A. The community development director, pursuant to a Type II procedure, may grant an adjustment to the side, front and rear yard setback standards by up to 50 percent if necessary to retain a Regulated

*Tree or Grove through a restrictive covenant pursuant to this section. In no case may the side yard setback be reduce less than three feet. The adjustment shall be the minimum necessary to accomplish preservation of trees on the lot and shall not conflict with other conditions imposed on the property.*

*B. The community development director, pursuant to a Type II procedure, may grant an adjustment to street standards, pursuant to adopted public works standards, in order to preserve a tree. This may include flexibility to redesign sidewalk and planter strip sizes and locations and allow placement of sidewalks and planter strips in an easement within private lots.*

*C. The community development director, pursuant to a Type II procedure, may allow other adjustments in order to preserve any healthy tree that cannot be moved due to its size, but will contribute to the landscape character of the area and will not present a foreseeable hazard if retained.*

**Finding: Complies with Condition.** The applicant has proposed five mitigation trees to be planted on Lot 2 in accordance with mitigation option 1. In the event that additional trees onsite need to be removed, the applicant may choose to utilize options 2, 3 and/or 4 in addition to option 1 when recalculating the mitigation. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

*17.41.1[25] - Cash-in-lieu of planting (tree bank/fund) (Option 4).*

*The applicant may choose this option in-lieu-of or in addition to Compliance Options 1 through 3. In this case, the community development director may approve the payment of cash-in-lieu into a dedicated fund for the remainder of trees that cannot be replanted in the manner described above.*

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

*B. The amount of the cash-in-lieu payment into the tree bank shall be calculated as the difference between the value of the total number of trees an applicant is required to plant, including cost of installation and adjusted for Consumer Price Index, minus the value of the trees actually planted. The value of the trees shall be based on the adopted fee schedule.*

**Finding: Finding: Complies with Condition.** The applicant has proposed five mitigation trees to be planted on Lot 2 in accordance with mitigation option 1. In the event that additional trees onsite need to be removed, the applicant may choose to utilize options 2, 3 and/or 4 in addition to option 1 when recalculating the mitigation. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

*17.41.130 - Regulated tree protection procedures during construction.*

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

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

*1. Except as otherwise determined by the community development director, all required tree protection measures set forth in this section shall be instituted prior to any development activities, including, but not limited to clearing, grading, excavation or demolition work, and such measures shall be removed only after completion of all construction activity, including necessary landscaping and irrigation installation, and any required plat, tract, conservation easement or restrictive covenant has been recorded.*

2. *Approved construction fencing, a minimum of four feet tall with steel posts placed no farther than ten feet apart, shall be installed at the edge of the tree protection zone or dripline, whichever is greater. An alternative may be used with the approval of the community development director.*
  3. *Approved signs shall be attached to the fencing stating that inside the fencing is a tree protection zone, not to be disturbed unless prior approval has been obtained from the community development director.*
  4. *No construction activity shall occur within the tree protection zone, including, but not limited to; dumping or storage of materials such as building supplies, soil, waste items; nor passage or parking of vehicles or equipment.*
  5. *The tree protection zone shall remain free of chemically injurious materials and liquids such as paints, thinners, cleaning solutions, petroleum products, and concrete or dry wall excess, construction debris, or run-off.*
  6. *No excavation, trenching, grading, root pruning or other activity shall occur within the tree protection zone unless directed by an arborist present on site and approved by the community development director.*
  7. *No machinery repair or cleaning shall be performed within ten feet of the dripline of any trees identified for protection.*
  8. *Digging a trench for placement of public or private utilities or other structure within the critical root zone of a tree to be protected is prohibited. Boring under or through the tree protection zone may be permitted if approved by the community development director and pursuant to the approved written recommendations and on-site guidance and supervision of a certified arborist.*
  9. *The city may require that a certified arborist be present during any construction or grading activities that may affect the dripline of trees to be protected.*
  10. *The community development director may impose conditions to avoid disturbance to tree roots from grading activities and to protect trees and other significant vegetation identified for retention from harm. Such conditions may include, if necessary, the advisory expertise of a qualified consulting arborist or horticulturist both during and after site preparation, and a special maintenance/management program to provide protection to the resource as recommended by the arborist or horticulturist.*
- C. Changes in soil hydrology due to soil compaction and site drainage within tree protection areas shall be avoided. Drainage and grading plans shall include provision to ensure that drainage of the site does not conflict with the standards of this section. Excessive site run-off shall be directed to appropriate storm drainage facilities and away from trees designated for conservation or protection.*

**Finding: Complies with Condition.** The applicant indicated that the development will comply with criteria in this section for tree protection during construction, however, a tree protection plan has not been submitted. Prior to final plat of the proposed minor partition, the applicant shall submit a plan for tree protection fencing during construction for existing trees impacted by grading and construction and demonstrating compliance with regulated tree protection procedures during construction in Section 17.41.030. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

## **CHAPTER 17.50 - ADMINISTRATION AND PROCEDURES**

### *17.50.030 Summary of the City's Decision-Making Processes.*

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

### *17.50.050 Preapplication Conference*

*A. Preapplication Conference. Prior to submitting an application for any form of permit, the applicant shall schedule and attend a preapplication conference with City staff to discuss the proposal. To schedule a preapplication conference, the applicant shall contact the Planning Division, submit the required materials, and pay the appropriate conference fee. At a minimum, an applicant should submit a short narrative describing the proposal and a proposed site plan, drawn to a scale acceptable to the City, which identifies the proposed land uses, traffic circulation, and public rights-of-way and all other required plans. The purpose of the preapplication conference is to provide an opportunity for staff to provide the applicant with information on the likely impacts, limitations, requirements, approval standards, fees and other information that may affect the proposal. The Planning Division shall provide the applicant(s) with the identity and contact persons for all affected neighborhood associations as well as a written summary of the preapplication conference. Notwithstanding any representations by City staff at a preapplication conference, staff is not authorized to waive any requirements of this code, and any omission or failure by staff to recite to an applicant all relevant applicable land use requirements shall not constitute a waiver by the City of any standard or requirement.*

*B. A preapplication conference shall be valid for a period of six months from the date it is held. If no application is filed within six months of the conference or meeting, the applicant must schedule and attend another conference before the city will accept a permit application. The community development director may waive the preapplication requirement if, in the Director's opinion, the development does not warrant this step. In no case shall a preapplication conference be valid for more than one year.*

**Finding: Complies as Proposed.** The applicant held a pre-application conference (file PA 18-39) on October 30, 2018. The land use application was submitted within 6 months of the pre-application conference on April 24, 2019. The application was deemed incomplete on April 30, 2019, and after the submittal of additional information the application was deemed complete on September 20, 2019.

#### *17.50.055 Neighborhood Association Meeting*

**Finding: Not Applicable.** A neighborhood association meeting is not required for a minor partition application.

#### *17.50.060 Application Requirements.*

**Finding: Complies as Proposed.** All application materials required are submitted with this narrative. The applicant has provided full-size and two reduced size sets of plans to accompany the submittal items.

#### *17.50.070 Completeness Review and 120-day Rule.*

**Finding: Complies as Proposed.** This land use application was submitted on April 24, 2019. The application was deemed incomplete on April 30, 2019, and after the submittal of additional information, the application was deemed complete on September 20, 2019. The City has until January 17, 2020 to make a final determination.

#### *17.50.080 Complete Application--Required Information.*

**Finding: Complies as Proposed.** This land use application was submitted on April 24, 2019. The application was deemed incomplete on April 30, 2019, and after the submittal of additional information, the application was deemed complete on September 20, 2019.

#### *17.50.090 Public Notices.*

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

*17.50.100 Notice Posting Requirements.*

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

**CHAPTER 17.54.100 - FENCES**

**Finding: Not Applicable.** The applicant indicated that no fences or walls are proposed with this development.

**CONCLUSION AND DECISION:**

Based on the analysis and findings as described above, Staff concludes that the proposed Minor Partition located at 206 Holmes Lane, Oregon City, and identified as Clackamas County Map 3-2E-06AC, Tax Lot 1700, can meet the requirements as described in the Oregon City Municipal Code by complying with the Conditions of Approval provided in this report. Therefore, the Community Development Director approves files GLUA-19-00015 and MP-19-00002 with conditions, based upon the findings and exhibits contained in this staff report.

**EXHIBITS:**

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