



LAND USE APPLICATION FORM

Type I (OCMC 17.50.030.A)

- Compatibility Review
- Lot Line Adjustment
- Non-Conforming Use Review
- Natural Resource (NROD) Verification
- Site Plan and Design Review
- Extension of Approval

Type II (OCMC 17.50.030.B)

- Detailed Development Review
- Geotechnical Hazards
- Minor Partition (<4 lots)
- Minor Site Plan & Design Review
- Non-Conforming Use Review
- Site Plan and Design Review
- Subdivision (4+ lots)
- Minor Variance
- Natural Resource (NROD) Review

Type III / IV (OCMC 17.50.030.C)

- Annexation
- Code Interpretation / Similar Use
- Concept Development Plan
- Conditional Use
- Comprehensive Plan Amendment (Text/Map)
- Detailed Development Plan
- Historic Review
- Municipal Code Amendment
- Variance
- Zone Change

File Number(s): PA 19-08

Proposed Land Use or Activity: I-205 Freeway Widening and Abernethy Bridge Seismic Upgrades

Project Name: I-205: Stafford Road to OR213 Corridor Road Widening and Retrofit of the Abernethy Bridge Project Number of Lots Proposed (If Applicable): _____

Physical Address of Site: ODOT right-of-way at I-205

Clackamas County Map and Tax Lot Number(s): Map 22E29CB, Tax Lots: 0300, 0500, ROADS. Map 22E29, Tax Lot: ROADS. Map 22E30DD, Tax Lot: ROADS.

Applicant(s):

Applicant(s) Signature:

Applicant(s) Name Printed: Tova Peltz, ODOT **Date:** 2/24/2020

Mailing Address: 123 NW Flanders St, Portland, OR 97209

Phone: 503-731-8455 **Fax:** _____ **Email:** tova.r.peltz@odot.state.or.us

Property Owner(s):

Property Owner(s) Signature:

Property Owner(s) Name Printed: Tova Peltz (See next page for additional property owner signature) **Date:** 2/24/2020

Mailing Address: 123 NW Flanders St, Portland, OR 97209

Phone: 503-731-8455 **Fax:** _____ **Email:** tova.r.peltz@odot.state.or.us

Representative(s):

Representative(s) Signature:

Representative (s) Name Printed: Brian Bauman, HDR **Date:** 2/24/2020

Mailing Address: 1050 SW 6th Ave, Suite 1800, Portland, OR 97204

Phone: 503-727-3908 **Fax:** _____ **Email:** brian.bauman@hdrinc.com

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



LAND USE APPLICATION FORM

Type I (OCMC 17.50.030.A)	Type II (OCMC 17.50.030.B)	Type III / IV (OCMC 17.50.030.C)
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Project Name: and Retrofit of the Abernethy Bridge Project Number of Lots Proposed (If Applicable): _____

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Clackamas County Map and Tax Lot Number(s): Map 22E29CB, Tax Lots: 0300, 0500, ROADS. Map 22E29, Tax Lot: ROADS. Map 22E30DD, Tax Lot: ROADS

Applicant(s):

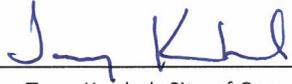
Applicant(s) Signature: _____

Applicant(s) Name Printed: Tova Peltz, ODOT Date: _____

Mailing Address: 123 NW Flanders Street, Portland, OR 97209

Phone: 503-731-8455 Fax: _____ Email: tova.r.peltz@odot.state.or.us

Property Owner(s):

Property Owner(s) Signature: 

Property Owner(s) Name Printed: Tony Konkol, City of Oregon City Date: 2-26-2020

Mailing Address: 625 Center St., Oregon City, OR 97045

Phone: 503-496-1582 Fax: _____ Email: tkonkol@orcify.org

Representative(s):

Representative(s) Signature: _____

Representative (s) Name Printed: Brian Bauman, HDR Date: _____

Mailing Address: 1050 SW 6th Ave, Suite 1800, Portland, OR 97204

Phone: 503-727-3908 Fax: _____ Email: brian.bauman@hdrinc.com

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

TYPE III –SITE PLAN AND DESIGN REVIEW

Applicant’s Submittal

February 27, 2020

- APPLICANT:** Name: Tova Peltz, Oregon Department of Transportation
Address: 123 NW Flanders Street
Portland OR 97209
- OWNER:** Name: Tova Peltz, Oregon Department of Transportation
Address: 123 NW Flanders Street
Portland OR 97209
- REQUEST:** I-205: Stafford Road to OR 213 Corridor Road Widening and Retrofit of the
Abernethy Bridge Project
- LOCATION:** Address: ODOT Right-of-way
Map 22E29CB, Tax Lots: 300, 500, ROADS
Map 22E29, Tax Lot: ROADS
Map 22E30DD, Tax Lot: ROADS

I. BACKGROUND

1. Existing Conditions

The I-205 corridor in Oregon City traverses northeast-southwest through the northern portion of Oregon City, roughly paralleling S. Clackamas River Drive/Washington Street. The Project site is almost entirely within the I-205 right-of-way between OR 213 and the Willamette River. ODOT proposes easements on Oregon City land at Jon Storm Park and Sportcraft Landing Park, including open space areas and paved parking areas.

Existing site conditions are primarily a built transportation environment with paved roadway, paved parking, sidewalks, and maintained vegetation on roadway embankments. There are no buildings on the site; however, there is a picnic shelter in Jon Storm Park and docks at Sportcraft Landing Park, some of which are covered with a roof. Surface water on the project site include the Willamette River at the western edge of the Project site and Abernethy Creek, which is in a culvert parallel to I-205 from the east side of Main Street to the west side of McLoughlin Boulevard. The ordinary high water lines for the Willamette River and Abernethy Creek occur within the Project site under the Abernethy Bridge and in the adjacent Jon Storm Park and Sportcraft Landing Park. There are two small isolated wetlands within the area along the south side of the I-205 corridor between Main Street and OR 213. Steep slopes occur along the banks of the Willamette River and Abernethy Creek.

2. Project Description

The I-205: Stafford Road to OR 213 Corridor Road Widening and Retrofit of the Abernethy Bridge (Project) consists of a 7-mile widening of I-205 in each direction and a widening and seismic upgrade of Abernethy Bridge over the Willamette River. The Project adds a third general purpose travel lane on I-205 in each direction and a new northbound auxiliary lane between OR 99E and OR 213 interchanges. To conform to the new I-205 widths, the Project requires modification of the OR 43 and OR 99E interchange ramps. In addition to Abernethy Bridge, the Project will include the widening and seismic upgrade of five other I-205 bridge sites in the Project area, replacing eight bridges, and completely removing one bridge.

The project elements listed below and described in greater detail in following paragraphs will occur within the limits of the City of Oregon City:

- Adding a third general purpose lane northbound and southbound on Abernethy Bridge and upgrading the bridge to meet current seismic design standards.
- Connecting the OR 99E Interchange ramps with the widened Abernethy Bridge.
- Constructing a 1,500-foot-long northbound auxiliary lane that connects the OR 99E Interchange northbound entrance ramp to the OR 213 Interchange northbound exit ramp.
- Widening the I-205 Bridge over Main Street and upgrading it to meet current seismic design standards.
- Constructing a retaining wall between OR 99E Interchange northbound entrance ramp and Main Street to eliminate impacts to Main Street and avoid right-of-way acquisition.
- Diverting Abernethy Creek.
- Constructing on-street parking at Jon Storm Park, partially within ODOT right-of-way and partially on City of Oregon City property.

Roadway improvements are planned to occur within existing right-of-way. They are designed to minimize modifications of entrance and exit ramps at interchanges, retaining walls, illumination relocations, and the amount of freeway reconstruction work. They are also designed to minimize impacts to environmentally sensitive features.

The Abernethy Bridge will be widened to provide an additional through lane and a wider outside shoulder, resulting in an additional 16 feet of roadway width in both directions. The river span widenings consist of steel member cantilevers from the existing main span box girders and the approach span widenings are achieved through the addition of multiple steel girder lines. The bridge seismic retrofit includes nearly all existing columns and crossbeams. These elements require enlargement or alternative seismic retrofit measures to resolve seismic deficiencies. Additional foundation elements, including drilled shafts and micropiles, will be needed at a number of bents to resolve seismic deficiencies. Ground improvement consisting of deep soil mixing or jet grouting is also needed on the riverbanks to reduce the potential effects of liquefaction and lateral spreading that may occur in the alluvium and gravel soils during a seismic event.

The Main Street Bridge will be widened approximately 14 feet to accommodate the addition of a third lane in each direction on I-205. The seismic retrofit involves installing micropiles, footing overlays, and in-fill walls between the existing columns. At the interior bents, the widening will be supported by the newly constructed pier wall over a reinforced concrete pile cap supported by micropiles. At the end bents, the additional bridge width is supported by a concrete seat abutment on drilled shaft foundations.

The retaining wall proposed between the OR 99E northbound entrance ramp and Main Street will retain the fill required to realign the entrance ramp by approximately 24 feet. The wall will be approximately 320 feet long. It will not interfere with the existing semi-cantilever wall running behind a sidewalk along Main Street.

Abernethy Creek is fish habitat and has documented use by coho, fall chinook, and winter steelhead salmon. Abernethy Creek is in a 20-foot-diameter concrete culvert approximately 650 feet long that begins east of Main Street and crosses beneath Main Street, the I-205 northbound entrance and exit ramps, OR 99E, and Clackamette Drive before emerging adjacent to the Sportcraft Landing Park parking lot beneath the Abernethy Bridge. Abernethy Creek feeds into the Willamette River next to the south column of an Abernethy Bridge bent. The Project requires permanently diverting the creek to

accommodate 12-foot-diameter drilled shafts and columns that will be placed within the existing creek alignment. Diverting the creek between the culvert outfall and the Willamette River will eliminate existing low fish passage barriers.

ODOT proposes to create on-street parking suitable for six vehicles or two trailers on Clackamette Drive. The new on-street parking will be north of the Abernethy Bridge, on the east side of Clackamette Drive across from Jon Storm Park.

II. RESPONSES TO THE OREGON CITY MUNICIPAL CODE

OCMC 12.08 – PUBLIC AND STREET TREES

12.08.015 - Street tree selection, planting and maintenance requirements.

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

Applicant's Response: The Applicant will provide street trees adjacent to all street frontages in public right-of-way as long as the locations are compliant with ODOT clearance requirements. Street trees will be selected from the Oregon City Street Tree List or approved by a certified arborist.

- A. *One street tree shall be planted for every thirty-five feet of property frontage. The tree spacing shall be evenly distributed throughout the total development frontage to meet the clearance distances required in subsection (B) below. The Community Development Director may approve an alternative street tree plan, or accept fee-in-lieu of planting pursuant to OCMC 12.08.035, if site or other constraints prevent meeting the required total number of tree plantings.*
- B. *The following clearance distances shall be maintained when planting trees:*
 - 1) *Fifteen feet from streetlights;*
 - 2) *Five feet from fire hydrants;*
 - 3) *Twenty feet from intersections;*
 - 4) *Five feet from all public utilities (i.e. sewer, storm and water lines, utility meters, etc.);*
- C. *All street trees planted in conjunction with development shall be a minimum of two inches in caliper at six inches above the root crown and installed to city specifications. Larger caliper size trees may be approved if recommended by a certified arborist or registered landscape architect.*
- D. *All established trees shall be pruned tight to the trunk to a height that provides adequate clearance for street cleaning equipment and ensures ADA complaint clearance for pedestrians.*
- E. *All trees planted within the right-of-way shall be planted with root barriers at least eighteen inches in depth adjacent to the sidewalk and curb to ensure proper root growth and reduce potential damage to sidewalks, curbs and gutters.*
- F. *All trees planted beneath powerlines shall be selected based on what is appropriate for the location. In addition, the tree species shall be approved by the associated franchise powerline utility company.*
- G. *Tree species, spacing and selection for stormwater facilities in the public right-of-way and in storm water facilities shall conform to requirements of OCMC 13.12 and the adopted Stormwater and Grading Design Standards and be approved by the City Engineer.*
- H. *Any public or street trees planted within the Natural Resource Overlay District shall conform to the applicable requirements of OCMC 17.49 - Natural Resources Overlay District (NROD).*

Applicant’s Response: The Applicant will meet the requirements of this section to the extent practicable, taking into consideration ODOT clearance requirements and tree health. The Applicant proposes to plant 74 trees along 2,608 feet of street frontage. The Landscaping Plan in Attachment B shows street tree planting locations. The Project site has 3,016 feet of frontage that would require 86 trees but, because of ODOT clearance requirements related to maintenance and safety, the Applicant cannot plant street trees along all of the proposed development frontage, including under bridges and along the I-205 corridor. For these areas, the applicant will pay a fee-in-lieu of planting trees. Street frontage under bridges is not suitable for street tree placement due to excessive amounts of shading and moisture. Trees placed along the I-205 corridor would create maintenance difficulties and safety issues; i.e., trees would need to be pruned to prevent limbs from obstructing the roadway, which would require maintenance crews accessing the trees from the highway. The Applicant proposes an alternative street tree plan that does not include street frontages on Main Street under the bridge or on McLoughlin Boulevard under the Abernethy Bridge. The Applicant proposes 74 street trees to be planted, and 12 trees to be paid for with fee-in-lieu, for a total of 86 replacement trees.

12.08.025 - General tree maintenance.

Abutting property owners shall be responsible for the maintenance and replacement of street trees and planting strips. Topping of trees is prohibited, unless under recommendation of a certified arborist, or other qualified professional. Trees shall be trimmed appropriately. Maintenance shall include watering during dry periods, trimming of established trees to remove dead branches and dangerous limbs and to maintain a minimum seven-foot clearance above all sidewalks, eight-foot clearance in clear vision areas pursuant to OCMC 10.32, and ten-foot clearance above the street. Planter strips shall be kept clear of weeds, obstructing vegetation and trash.

Applicant’s Response: The Applicant will be responsible for general tree maintenance within its right-of-way in accordance with its maintenance program.

12.08.035 - Tree removal and replacement.

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

- A. *A diseased or hazardous street tree, as determined by a registered arborist and approved by the City, may be removed, if replaced with one new tree for each diseased or hazardous tree. Hazardous trees which have raised the adjacent sidewalk in a manner which does not comply with the Americans with Disabilities Act may be removed and replaced without approval of an arborist.*
- B. *A non-diseased, non-hazardous street tree that is removed shall be replaced in accordance with the Table 12.08.035. All replaced street trees shall have a minimum 1.5-inch caliper trunk measured six inches above the root crown.*

Table 12.08.035

<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>
		<i>6" to 12"</i>	<i>2 Trees</i>

<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>
		13" to 18"	3 Trees
		19" to 24"	4 Trees
		25" to 30"	5 Trees
		31" and over	8 Trees

- C. For the purposes of this chapter, removed trees shall be replaced by trees within the right-of-way abutting the frontage subject to the clearance distances required under OCMC 12.08.015(B). If a sufficient location to replant tree(s) is not available, the Community Development Director may allow:
1. Off-site installation of replacement trees within the right-of-way or on public property;
 2. Planting of replacement trees or designation of existing trees on the abutting property within ten feet of the right-of-way as street trees. Designated street trees shall be a minimum of two inches in caliper and shall comply with the requirements in section B. In order to assure protection and replacement of the trees on private property, a covenant shall be recorded identifying the tree(s) as subject to the protections and replacement requirements in this chapter; or
 3. If sufficient space to replant tree(s) is not available, the Community Development Director may allow a fee in-lieu of planting the tree(s) to be placed into a City fund dedicated to obtaining trees, planting trees and/or tree education in Oregon City.
- D. Trees that are listed as invasive or nuisance species as defined in OCMC 17.04.605 may be removed without replacement.

Applicant’s Response: The Applicant proposes to remove 137 trees within ODOT right-of-way for the Project. This does not include trees that will be removed from Jon Storm Park or trees within the NROD, which are described in OCMC 17.41.060 and 17.49.180, respectively. Based on Table 12.08035, the Applicant is required to plant 337 replacement trees; however, due to ODOT clear zone rules, as well as unsuitable planting areas, the Applicant is unable to plant this quantity. The Applicant proposes to plant 137 street trees and pay a fee-in-lieu for the 200 remaining trees. See the Landscaping Plans (Attachment B) for tree removal locations, a table showing the calculated number of replacement trees, and a replacement tree planting plan.

OCMC 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.

Applicant's Response: The Project is designed in compliance with stormwater conveyance, quantity, and quality standards.

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

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

Applicant's Response: The Project is exempt under subsection C as described below.

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

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

Applicant's Response: The Project is exempt under Section C (1)(a-b) because the site will discharge to the Willamette River, Clackamas River, or Abernethy Creek through a manmade conveyance system, and lies within the 100-year floodplain. See Attachment C for the Stormwater Report.

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.*

Applicant's Response: The Applicant proposes exterior storage of construction materials and will follow additional management practices consistent with standards according to the DEQ NPDES 1200-CA Permit and the Public Works Stormwater and Grading Design Standards. Additional Phase II hazardous materials testing will be conducted in 2020 to determine if contaminated soils are located within the project area. Contaminated soils will be handled and disposed of in accordance with federal and state regulations, as well as in accordance with Section 6.9 (Land with Suspected or Known Contamination) of the Stormwater and Grading Design Standards.

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.*

Applicant's Response: The application submitted is subject to stormwater conveyance, water quality, and flow requirements. See the engineered drainage plans, stormwater report, and flow calculations in Attachment C, Stormwater Report.

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

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

- A. The plan and report demonstrate how the proposed development and stormwater facilities will accomplish the purpose statements of this chapter.*
- B. The plan and report meet the requirements of the Public Works Stormwater and Grading Design Standards adopted by resolution under OCMC 13.12.020.*
- C. The storm drainage design within the proposed development includes provisions to adequately control runoff from all public and private streets and roof, footing, and area drains and ensures future extension of the current drainage system.*

- D. *Streambank erosion protection is provided where stormwater, directly or indirectly, discharges to open channels or streams.*
- E. *Specific operation and maintenance measures are proposed that ensure that the proposed stormwater quantity control facilities will be properly operated and maintained.*

Applicant's Response: The Applicant's proposed stormwater facilities, described in the Stormwater Report in Attachment C and shown in the site plans in Attachment A, accomplish the purpose statements of this chapter. The proposed stormwater facilities are designed to meet the minimum stormwater quality treatment requirements to control runoff and protect against streambank erosion. The proposed stormwater quantity treatment exceeds the requirements. See Attachment C for the Stormwater Report and Engineered Drainage Plan.

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.

Applicant's Response: The applicant acknowledges this section and will comply with allowed or alternative materials, design, and methods of construction.

13.12.110 - Transfer of engineering responsibility.

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

Applicant's Response: The project drainage plan will always have a project engineer. The applicant will notify the City if the project engineer is changed at any point.

13.12.120 - Standard construction specifications.

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

Applicant's Response: The Applicant will meet specifications for construction of stormwater management facilities as applicable to ODOT right-of-way and City jurisdiction.

13.12.140 - Maintenance of public stormwater facilities.

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

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

- B. Responsibility for maintenance of stormwater facilities including all landscaping, irrigation systems, structures and appurtenances shall remain with the property owner/developer for two years (known as the warranty period). The owner/developer shall provide the City a separate two-year landscaping maintenance surety bond for one hundred ten percent of the landscaping cost. Transfer of maintenance of stormwater conveyance systems shall occur when the City accepts the stormwater conveyance system.*
- C. The City will perform an inspection of the development's entire publicly maintained stormwater system approximately forty-five days before the two-year warranty period expires. The stormwater system shall be found to be in a clean, functional condition by the City engineer before acceptance of maintenance responsibility by the City.*

Applicant's Response: The Applicant will maintain public stormwater facilities located within ODOT right-of-way, based on ODOT standard practices of maintenance. The Stormwater Report and Engineered Drainage Plans demonstrate that flow directed to Oregon City facilities will not exceed the capacity of those facilities. The Applicant anticipates no change to existing public facilities under the responsibility of Oregon City. No warranty between the Applicant and Oregon City is needed.

13.12.145 - Maintenance of private stormwater facilities.

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

Applicant's Response: No private stormwater facilities are proposed.

13.12.170 - Permits from other jurisdictions.

- A. The Oregon State Department of Environmental Quality (DEQ) currently issues NPDES 1200-C permits for projects that cover areas of one acre or greater. No permit shall be issued for projects of this size (or any other size as modified by DEQ) without a copy of said DEQ permit being on file with Oregon City. DEQ is responsible for policing its own permits; however, if City personnel observe conditions that are believed to be in violation of any such permit, and cannot get corrections made, the City will bring such conditions to the attention of the appropriate DEQ representatives.*
- B. Projects may require Oregon State Division of State Lands (DSL) and/or United States Army Corps of Engineers (USACE) permits. If such permits are required, no permission to construct will be granted until such a time as a copy of such permit is on file with the City or notice is received from those agencies that a permit is not required. DSL/USACE is responsible for enforcing its own permits; however, if City personnel observe conditions that are believed to be in violation of any such permit, and cannot get corrections made, the City will bring such conditions to the attention of the appropriate DSL/USACE representatives.*
- C. Projects may require Oregon State Department of Fish and Wildlife (ODFW) permits. When ODFW permits are required, no work will be authorized until the receipt of a copy of the ODFW permit. ODFW is responsible for policing its own permits; however, if City personnel observe conditions that*

are believed to be in violation of any such permit, and cannot get corrections made, the City will bring such conditions to the attention of the appropriate ODFW representatives.

Applicant's Response: The Applicant has acquired permits from DEQ, DSL, and USACE. See Attachment L for received permits. No permits from ODFW are required for the project.

OCMC 15.48 – GRADING, FILLING, AND EXCAVATING

15.48.030 Applicability—Grading permit required.

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

Applicant's Response: The Applicant will prepare a grading permit request prior to the commencement of filling or grading activities identified in this section.

15.48.090 Submittal requirements.

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

- A. *Abbreviated Grading Plan. The city shall allow the applicant to submit an abbreviated grading plan in compliance with the submittal requirements of the Public Works Stormwater and Grading Design Standards if the following criteria are met:*
1. *No portion of the proposed site is within the flood management area overlay district pursuant to Chapter 17.42, the unstable soils and hillside constraints overlay district pursuant to Chapter 17.44, or a water quality resource area pursuant to Chapter 17.49; and*
 2. *The proposed filling or grading activity does not involve more than fifty cubic yards of earth.*
- B. *Engineered Grading Plan. The city shall require an engineered grading plan in compliance with the submittal requirements of the Public Works Stormwater and Grading Design Standards to be prepared by a professional engineer if the proposed activities do not qualify for abbreviated grading plan.*
- C. *Geotechnical Engineering Report. The city shall require a geotechnical engineering report in compliance with the minimum report requirements of the Public Works Stormwater and Grading Design Standards to be prepared by a professional engineer who specializes in geotechnical work when any of the following site conditions may exist in the development area:*
1. *When any publicly maintained facility (structure, street, pond, utility, park, etc.) will be supported by any engineered fill;*

2. *When an embankment for a stormwater pond is created by the placement of fill;*
 3. *When, by excavation, the soils remaining in place are greater than three feet high and less than twenty feet wide.*
- D. *Residential Lot Grading Plan. The city shall require a residential lot grading plan in compliance with the minimum report requirements of the Public Works Stormwater and Grading Design Standards to be prepared by a professional engineer for all land divisions creating new residential building lots or where a public improvement project is required to provide access to an existing residential lot.*

Applicant's Response: The Applicant's site design includes plans for grading shown as cut and fill slopes in the Site Plan (Attachment A). These plans meet the requirement of 15.48.090.B Engineered Grading Plan. A Geotechnical Engineering Report is provided in Attachment D. A Residential Lot Grading Plan is not applicable to this Project.

OCMC 16.12 – MINIMUM PUBLIC IMPROVEMENTS AND DESIGN STANDARDS

16.12.010 - Purpose and general provisions.

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

16.12.011 - Applicability.

- A. *Compliance with this chapter is required for all development including land divisions, site plan and design review, master plan, detailed development plan and conditional use applications and all public improvements. Minor Site Plan and Design Review applications shall not be subject to this chapter unless improvements are proposed within the right-of-way.*
- B. *Compliance with this chapter is also required for new construction or additions which exceed fifty percent of the existing square footage of all single and two-family dwellings living space. Garages, carports, sheds, and porches may not be included in the calculation if these spaces are not living spaces. Accessory dwelling units are not subject to compliance with this chapter. All applicable single and two-family dwellings shall provide any necessary dedications, easements or agreements as identified in the transportation system plan and this chapter, subject to constitutional limitations. In addition, the street frontage shall be improved to include the following priorities for improvements:

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

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

Applicant's Response: This section applies due to necessity of site plan and design review, conditional use applications, and public improvements.

16.12.013 - Modifications.

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

Compliance with the following criteria is required:

- A. The modification meets the intent of the standard;*
- B. The modification provides safe and efficient movement of pedestrians, motor vehicles, bicyclists and freight;*
- C. The modification is consistent with an adopted transportation or utility plan; and*
- D. The modification is complementary with a surrounding street design; or, in the alternative;*
- 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.*

Applicant's Response: No modifications are proposed.

16.12.015 - Street design—Generally.

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

- A. Provide for the continuation or appropriate projection of existing principal streets in the surrounding area and on adjacent parcels or conform to a plan for the area approved or adopted by the City to meet a particular situation where topographical or other conditions make continuance or conformance to existing streets impractical;*
- B. Where necessary to give access to or permit a satisfactory future development of adjoining land, streets shall be extended to the boundary of the development and the resulting dead-end street (stub) may be approved with a temporary turnaround as approved by the City Engineer. Notification that the street is planned for future extension shall be posted on the stub street until the street is extended and shall inform the public that the dead-end street may be extended in the future. Access control in accordance with OCMC 16.12.017 shall be required to preserve the objectives of street extensions.*
- C. Adequate right-of-way and improvements to streets, pedestrian ways, bike routes and bikeways, and transit facilities shall be provided and be consistent with the City's Transportation System Plan.*

Consideration shall be given to the need for street widening and other improvements in the area of the proposed development impacted by traffic generated by the proposed development. This shall include, but not be limited to, improvements to the right-of-way, such as installation of lighting, signalization, turn lanes, median and parking strips, traffic islands, paving, curbs and gutters, sidewalks, bikeways, street drainage facilities and other facilities needed because of anticipated vehicular and pedestrian traffic generation.

Applicant’s Response: The Applicant proposes new on-street parking and a sidewalk on Clackamette Drive, but it will not interfere with the continuation or appropriate projection of existing principal streets. The proposed Project does not include street development such that access to future developments of adjoining lands would be considered. The Transportation System Plan does not identify the need for any property dedications or easements associated with the Project.

16.12.016 - Street design.

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

Table 16.12.016 Street Design

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

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

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

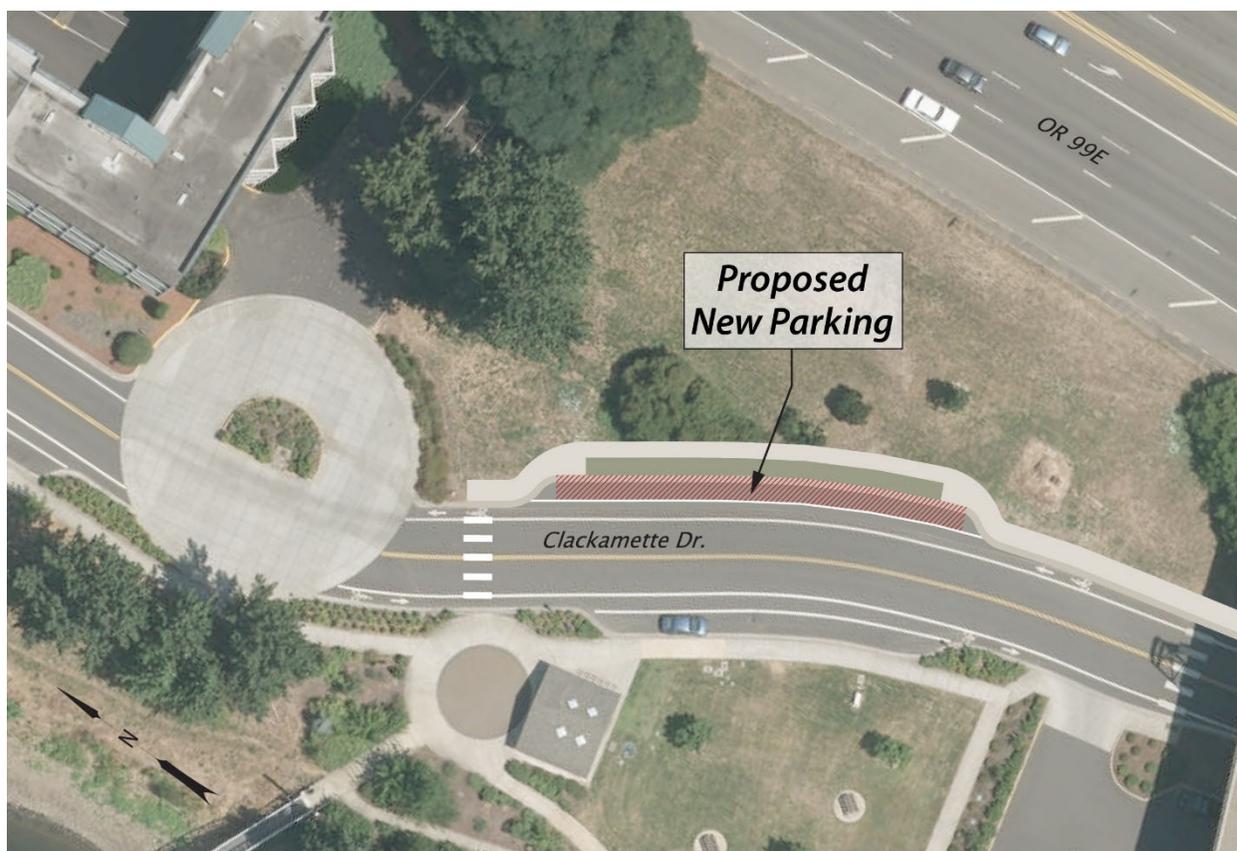
1. *Pavement width includes, bike lane, street parking, travel lanes and median.*
2. *Public access, sidewalks, landscape strips, bike lanes and on-street parking are required on both sides of the street in all designations. The right-of-way width and pavement widths identified above include the total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

Applicant’s Response: The requirements of this section apply to the proposed on-street parking on Clackamette Drive across from Jon Storm Park. The Applicant proposes on-street parking in conformance with street design parameters in Table 16.12.016. See Attachment A for the Site Plans.

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

Applicant’s Response: The Applicant will provide new sidewalks on Main Street under the I-205 Bridge and on the east side of Clackamette Drive adjacent to the new on-street parking. All new sidewalks are designed according to City standards in Table 16.12.016. See Figure 1 below and Attachment A, Site Plans. Other pedestrian facilities are described in the Applicant’s response to OCMC 16.12.032.

Figure 1. Proposed On-Street Parking on Clackamette Drive



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

Applicant's Response: The Applicant will modify the existing pedestrian/bicycle path on the east side of Clackamette Drive from south of Abernethy Bridge to north of Abernethy Bridge. See Attachment A, Site Plans. Other pedestrian facilities are described in the Applicant's response to OCMC 16.12.032.

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

Applicant's Response: The proposal does not include new streets; no new street signs or traffic control devices are proposed.

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

Applicant's Response: The proposal does not include new street lights. Any street lights affected during construction will be returned to preconstruction conditions following construction.

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

Applicant's Response: This section does not apply because no new street is proposed.

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

Applicant's Response: Consistent with this section of the OCMC, the Landscape Plan includes vegetated planter strips along Clackamette Drive between the new on-street parking and the new sidewalk. See Attachment B, Landscaping Plans.

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

Applicant's Response: This section does not apply because no vehicle and pedestrian access easements are proposed in lieu of streets.

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

Applicant's Response: The applicant does not propose any vehicular and pedestrian easements related to new streets or in lieu of streets.

16.12.017 - Street design—Access control.

- A. *A street which is dedicated to end at the boundary of the development or in the case of half-streets dedicated along a boundary shall have an access control granted to the City as a City controlled plat restriction for the purposes of controlling ingress and egress to the property adjacent to the end of the dedicated street. The access control restriction shall exist until such time as a public street is created, by dedication and accepted, extending the street to the adjacent property.*
- B. *The City may grant a permit for the adjoining owner to access through the access control.*
- C. *The plat shall contain the following access control language or similar on the face of the map at the end of each street for which access control is required: "Access Control (See plat restrictions)."*
- D. *Said plats shall also contain the following plat restriction note(s): "Access to (name of street or tract) from adjoining tracts (name of deed document number[s]) shall be controlled by the City of Oregon City by the recording of this plat, as shown. These access controls shall be automatically terminated upon the acceptance of a public road dedication or the recording of a plat extending the street to adjacent property that would access through those Access Controls."*

Applicant's Response: This section does not apply as no new streets are proposed.

16.12.018 - Street design—Alignment.

The centerline of streets shall be:

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

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

Applicant's Response: This section does not apply as no new streets are proposed.

16.12.019 - Traffic sight obstructions.

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

Applicant's Response: This section does not apply as no new streets are proposed.

16.12.020 - Street design—Intersection angles.

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

Applicant's Response: This section does not apply as no new streets or intersections are proposed.

16.12.021 - Street design—Grades and curves.

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

Applicant's Response: This section does not apply as no new streets are proposed.

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

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

Applicant's Response: This section does not apply as no new streets are proposed.

16.12.023 - Street design—Pedestrian and bicycle safety.

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

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

Applicant's Response: This section does not apply as no new streets are proposed.

16.12.024 - Street design—Half street.

Half streets, while generally not acceptable, may be approved where essential to the development, when in conformance with all other applicable requirements, and where it will not create a safety hazard. When approving half streets, the decision maker shall first determine that it will be practical to require the dedication of the other half of the street when the adjoining property is divided or developed. Where the decision maker approves a half street, the applicant shall construct a half street with at least twenty feet of pavement width and provide signage prohibiting street parking so as to make the half street safe until such time as the other half is constructed. Whenever a half street is adjacent to property capable of being divided or developed, the other half of the street shall be provided and improved when that adjacent property divides or develops. Access control may be required to preserve the objectives of half streets. When the remainder of an existing half-street improvement is completed it shall include the following items: dedication of required right-of-way, construction of the remaining portion of the street including pavement, curb and gutter, landscape strip, sidewalk, street trees, lighting and other improvements as required for that particular street. It shall also include at a minimum the pavement replacement to the centerline of the street. Any damage to the existing street shall be repaired in accordance with the City's "Pavement Cut Standards" or as approved by the City Engineer.

Applicant's Response: This section does not apply as no half streets are proposed.

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

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

- A. *When permitted, access from new cul-de-sacs and permanent dead-end streets shall be limited to a maximum of twenty-five dwelling units.*
- B. *Cul-de-sacs and permanent dead-end streets shall include pedestrian/bicycle accessways to meet minimum block width standards as prescribed in OCMC 16.12.030.*
- C. *Cul-de-sacs shall have sufficient radius to provide adequate turn-around for emergency vehicles in accordance with fire district and city adopted street standards.*
- D. *Permanent dead-end streets shall provide public street right-of-way/easements sufficient to provide a sufficient amount of turn-around space complete with appropriate no-parking signs or markings to accommodate waste disposal, sweepers, emergency, and other long vehicles in the form of a hammerhead or other design to be approved by the decision maker.*
- E. *In the case of dead-end stub streets that will connect to streets on adjacent sites in the future, notification that the street is planned for future extension shall be posted on the stub street until the street is extended and shall inform the public that the dead-end street may be extended in the future. A dead-end street shall include signage or barricade meeting Manual on Uniform Traffic Control Devices (MUTCD).*

Applicant's Response: This section does not apply as no cul-de-sacs or dead-end streets are proposed.

16.12.026 - Street design—Alleys.

Alleys with public access easements on private property shall be provided in the Park Place and South End concept plan areas for the following districts R-5, R-3.5, R-2, MUC-1, MUC-2 and NC zones unless other permanent provisions for private access to off-street parking and loading facilities are approved by the

decision maker. All alleys intended to provide access for emergency vehicles shall be a minimum width of twenty feet. The corners of alley intersections shall have a radius of not less than ten feet and shall conform to standards approved by the City Engineer. Access easements and maintenance agreements shall be recorded on affected properties.

Applicant's Response: This section does not apply as no alleys are proposed.

16.12.027 - Street design—Off-site street improvements.

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

Applicant's Response: The Applicant proposes development that will impact Main Street and Clackamette Drive. The roadway at Main Street will be replaced at the same existing width, as requested by the City of Oregon City. Sidewalks will be installed to meet dimensional standards of Table 16.12.016. At Clackamette Drive, the roadway will be rebuilt to meet dimensional standards, including the addition of a new sidewalk along the east side of the road. Minor deviations to the sidewalk width may be required where construction to full width would impact an existing utility access point.

16.12.028 - Street design—Transit.

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

Applicant's Response: This section does not apply as no new streets are proposed.

16.12.029 - Excavations—Restoration of pavement.

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

Applicant's Response: All excavated areas will be restored in accordance with the City of Oregon City Public Works Pavement Cut Standards.

16.12.030 - Blocks—Width.

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

All new streets shall be designed as local streets unless otherwise designated as arterials and collectors in the current adopted Transportation System Plan. The maximum block spacing between streets is 530 feet and the minimum block spacing between streets is 150 feet as measured between the right-of-way centerlines except in zones GI, CI, MUE, I, and WFDD where determining the appropriate street spacing

will be determined by the City Engineer. If the maximum block size is exceeded, pedestrian accessways shall be provided every 330 feet. The spacing standards within this section do not apply to alleys.

Applicant's Response: This section does not apply as no new streets or blocks are proposed.

16.12.031 - Street design—Street names.

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

Applicant's Response: This section does not apply as no new streets or street names are proposed.

16.12.032 – Public off-street pedestrian and bicycle accessways.

Pedestrian/bicycle accessways are intended to provide direct, safe and convenient connections between residential areas, retail and office areas, institutional facilities, industrial parks, transit streets, neighborhood activity centers, rights-of-way, and pedestrian/bicycle accessways which minimize out-of-direction travel, and transit-orientated developments where public street connections for automobiles, bicycles and pedestrians are unavailable. Pedestrian/bicycle accessways are appropriate in areas where public street options are unavailable, impractical or inappropriate. Pedestrian and bicycle accessways are required through private property or as right-of-way connecting development to the right-of-way at intervals not exceeding 330 feet of frontage; or where the lack of street continuity creates inconvenient or out of direction travel patterns for local pedestrian or bicycle trips.

- A. *Entry points shall align with pedestrian crossing points along adjacent streets and with adjacent street intersections.*
- B. *Accessways shall be free of horizontal obstructions and have a nine foot six inch high vertical clearance to accommodate bicyclists. To safely accommodate both pedestrians and bicycles, accessway right-of-way widths shall be as follows:*
 - 1. *Accessways shall have a fifteen- foot wide right-of-way with a seven-foot wide paved surface with a minimum four-foot planter strip on either side.*
 - 2. *If an accessway also provides secondary fire access, the right-of-way width shall be at least twenty- four feet wide with a - sixteen foot paved surface between four-foot planter strips on either side.*
- C. *Accessways shall be direct with at least one end point of the accessway always visible from any point along the accessway. On-street parking shall be prohibited within fifteen feet of the intersection of the accessway with public streets to preserve safe sight distance and promote safety.*
- D. *To enhance pedestrian and bicycle safety, accessways shall be lighted with pedestrian-scale lighting. Accessway lighting shall be to a minimum level of one-half-foot-candles, a one and one-half foot-candle average, and a maximum to minimum ratio of seven-to-one and shall be oriented not to shine upon adjacent properties. Street lighting shall be provided at both entrances.*
- E. *Accessways shall comply with Americans with Disabilities Act (ADA).*
- F. *The planter strips on either side of the accessway shall be landscaped along adjacent property by installation of the following:*
 - 1. *Either an evergreen hedge screen of thirty to forty-two inches high or shrubs spaced no more than four feet apart on average; and*

2. *Ground cover covering one hundred percent of the exposed ground. No bark mulch shall be allowed except under the canopy of shrubs and within two feet of the base of trees; and*
 3. *A two-inch minimum caliper tree for every thirty-five feet along the accessway. Trees may be planted on either side of the accessway, provided they are spaced no more than thirty-five feet apart; and*
 4. *In satisfying the requirements of this section, evergreen plant materials that grow over forty-two inches in height shall be avoided. All plant materials shall be selected from the Oregon City Native Plant List.*
- G. *Accessways shall be designed to prohibit unauthorized motorized traffic. Curbs and removable, lockable bollards are suggested mechanisms to achieve this.*
- H. *Accessway surfaces shall be paved with all-weather materials as approved by the City. Pervious materials are encouraged. Accessway surfaces shall be designed to drain stormwater runoff to the side or sides of the accessway. Minimum cross slope shall be two percent.*
- I. *In parks, greenways or other natural resource areas, accessways may be approved with a five-foot wide gravel path with wooden, brick or concrete edgings.*
- J. *The decision maker may approve an alternative accessway design due to existing site constraints through the modification process set forth in OCMC 16.12.013.*
- K. *Ownership, liability and maintenance of accessways. To ensure that all pedestrian/bicycle accessways will be adequately maintained over time, the City Engineer shall require one of the following:*
1. *Dedicate the accessways to the public as public right-of-way prior to the final approval of the development; or*
 2. *The developer incorporates the accessway into a recorded easement or tract that specifically requires the property owner and future property owners to provide for the ownership, liability and maintenance of the accessway.*

Applicant's Response: This section does not apply as no public off-street pedestrian and bicycle accessways are proposed.

16.12.033 - Mobility standards.

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

- A. *For intersections within the regional center, the following mobility standards apply:*
1. *During the first hour, a maximum v/c ratio of 1.10 shall be maintained. For signalized intersections, this standard applies to the intersection as a whole. For unsignalized intersections, this standard applies to movements on the major street. There is no performance standard for the minor street approaches.*
 2. *During the second hour, a maximum v/c ratio of 0.99 shall be maintained at signalized intersections. For signalized intersections, this standard applies to the intersection as a whole.*

For unsignalized intersections, this standard applies to movements on the major street. There is no performance standard for the minor street approaches.

3. *Intersections located on the Regional Center boundary shall be considered within the Regional Center.*
- B. *For intersections outside of the Regional Center but designated on the Arterial and Throughway Network, as defined in the Regional Transportation Plan, the following mobility standards apply:*
1. *During the first hour, a maximum v/c ratio of 0.99 shall be maintained. For signalized intersections, this standard applies to the intersection as a whole. For unsignalized intersections, this standard applies to movements on the major street. There is no performance standard for the minor street approaches.*
 2. *During the second hour, a maximum v/c ratio of 0.99 shall be maintained at signalized intersections. For signalized intersections, this standard applies to the intersection as a whole. For unsignalized intersections, this standard applies to movements on the major street. There is no performance standard for the minor street approaches.*
- C. *For intersections outside the boundaries of the Regional Center and not designated on the Arterial and Throughway Network, as defined in the Regional Transportation Plan, the following mobility standards apply:*
1. *For signalized intersections:*
 - a. *During the first hour, LOS "D" or better will be required for the intersection as a whole and no approach operating at worse than LOS "E" and a v/c ratio not higher than 1.0 for the sum of the critical movements.*
 - b. *During the second hour, LOS "D" or better will be required for the intersection as a whole and no approach operating at worse than LOS "E" and a v/c ratio not higher than 1.0 for the sum of the critical movements.*
 2. *For unsignalized intersections outside of the boundaries of the Regional Center:*
 - a. *For unsignalized intersections, during the peak hour, all movements serving more than twenty vehicles shall be maintained at LOS "E" or better. LOS "F" will be tolerated at movements serving no more than twenty vehicles during the peak hour.*
- D. *For the intersection of OR 213 & Beaver Creek Road, the following mobility standards apply:*
1. *During the first, second & third hours, a maximum v/c ratio of 1.00 shall be maintained. Calculation of the maximum v/c ratio will be based on an average annual weekday peak hour.*
- E. *Until the City adopts new performance measures that identify alternative mobility targets, the City shall exempt proposed development that is permitted, either conditionally, outright, or through detailed development master plan approval, from compliance with the above-referenced mobility standards for the following state-owned facilities:*

I-205/OR 99E Interchange

State intersections located within or on the Regional Center Boundaries

1. *In the case of conceptual development approval for a master plan that impacts the above references intersections:*
 - a. *The form of mitigation will be determined at the time of the detailed development plan review for subsequent phases utilizing the Code in place at the time the detailed development plan is submitted; and*
 - b. *Only those trips approved by a detailed development plan review are vested.*

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

Applicant’s Response: The Project is within the Regional Center and includes the I-205/OR 99E interchange. A Traffic Analysis was done for all intersections within the project area. All intersections meet the mobility standards identified in OCMC 16.12.033. See Attachment M for the Traffic Analysis Memorandum.

16.12.035 - Driveways.

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

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

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

- B. *Nonresidential or multi-family residential driveways that generate high traffic volumes shall be treated as intersections and shall adhere to requirements of OCMC 16.12.020.*
- C. *One driveway may be allowed per frontage, unless otherwise restricted. In no case shall more than two driveways be allowed for any single-family attached or detached residential property, duplex, 3-4 plex, or property developed with an ADU or internal conversion with multiple frontages, unless otherwise approved by the City Engineer.*
- D. *When a property fronts multiple roads, access shall be provided from the road with the lowest classification in the Transportation System Plan whenever possible to minimize points of access to arterials and collectors. At the discretion of the City Engineer, properties fronting a collector or arterial road may be allowed a second driveway, for the creation of a circulation pattern that eliminates reverse maneuvers for vehicles exiting a property if applied for and granted through procedures in OCMC 16.12.013. All lots proposed with a driveway and lot orientation on a collector or minor arterial shall combine driveways into one joint access per two or more lots unless the City Engineer determines that:*

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

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

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

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

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

1. To provide adequate space for on-street parking;
2. To facilitate street tree planting requirements;
3. To assure pedestrian and vehicular safety by limiting vehicular access points; and
4. To assure that adequate sight distance requirements are met.
 - a. Where the decision maker determines any of these situations exist or may occur due to the approval of a proposed development for non-residential uses or attached or multi-family housing, a shared driveway shall be required and limited to twenty-four feet in width adjacent to the sidewalk or property line.

H. For all driveways, the following standards apply.

1. Each new or redeveloped curb cut shall have an approved concrete approach or asphalted street connection where there is no concrete curb and a minimum hard surface for at least ten feet back into the property as measured from the current edge of sidewalk or street pavement to provide for controlling gravel tracking onto the public street. The hard surface may be concrete, asphalt, or other surface approved by the City Engineer.
2. Any driveway approach built within public right-of-way shall be built and permitted per City requirements as approved by the City Engineer.

3. *No driveway with a slope of greater than fifteen percent shall be permitted without approval of the City Engineer.*
- I. *Exceptions. The City Engineer reserves the right to waive these standards or not allow driveway access, if the driveway(s) would cause a significant traffic safety hazard. Narrower driveway widths may be considered where field conditions preclude use of recommended widths. When larger vehicles and trucks will be the predominant users of a particular driveway, turning templates may be utilized to develop a driveway width that can safely and expeditiously accommodate the prevalent type of ingress and egress traffic.*

Applicant's Response: This section does not apply as no new driveways are proposed.

16.12.065 - Building site—Grading.

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

Applicant's Response: Proposed grading complies with the State of Oregon Structural Specialty Code; OCMC 13.12, 15.48, 16.12; the Public Works Stormwater and Grading Design Standards; and the erosion control requirements of OCMC 17.47.

16.12.085 - Easements.

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

- A. *Utilities. Utility easements shall be required where necessary as determined by the City Engineer. Insofar as practicable, easements shall be continuous and aligned from block-to-block within the development and with adjoining subdivisions or partitions. Specific utility easements for water, sanitary or storm drainage shall be provided based on approved final engineering plans.*
- B. *Unusual Facilities. Easements for unusual facilities such as high voltage electric transmission lines, drainage channels and stormwater detention facilities shall be adequately sized for their intended purpose, including any necessary maintenance roads. These easements shall be shown to scale on the preliminary and final plats or maps. If the easement is for drainage channels, stormwater detention facilities or related purposes, the easement shall comply with the requirements of the Public Works Stormwater and Grading Design Standards.*
- C. *Watercourses. Where a development is traversed or bounded by a watercourse, drainageway, channel or stream, a stormwater easement or drainage right-of-way shall be provided which conforms substantially to the line of such watercourse, drainageway, channel or stream and is of a sufficient width to allow construction, maintenance and control for the purpose as required by the responsible agency. For those subdivisions or partitions which are bounded by a stream of established recreational value, setbacks or easements may be required to prevent impacts to the water resource or to accommodate pedestrian or bicycle paths.*
- D. *Access. When easements are used to provide vehicular access to lots within a development, the construction standards, but not necessarily width standards, for the easement shall meet City specifications. The minimum width of the easement shall be 20 feet. The easements shall be improved and recorded by the applicant and inspected by the City Engineer. Access easements may also provide for utility placement.*
- E. *Resource Protection. Easements or other protective measures may also be required as the Community Development Director deems necessary to ensure compliance with applicable review criteria protecting any unusual significant natural feature or features of historic significance.*

Applicant's Response: The City Engineer has not determined any necessary utility easements or unusual facilities. The Project area is located within State (ODOT) right-of-way. ROW is required for operation,

maintenance, and safety of the facility. An easement can restrict the State's ability to maintain and operate the interstate and is prohibited by 23 CFR 710.409; therefore, the Applicant does not propose any easements. The Project would not disturb the historic Abernethy Elm Stump, as it would be protected by a no-work zone as shown in the project plans and would be flagged in the field during construction. See Attachment A, Sheet FB08.

16.12.090 - Minimum improvements—Procedures.

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

- A. *Improvement work shall not commence until construction plans have been reviewed and approved by the City Engineer and to the extent that improvements are located in County or State right-of-way, they shall be approved by the responsible authority. To the extent necessary for evaluation of the proposal, the plans may be required before approval of the preliminary plat of a subdivision or partition. Expenses incurred thereby shall be borne by the applicant and paid for prior to final plan review.*
- B. *Improvements shall be constructed under the inspection and approval of the City Engineer. Expenses incurred thereby shall be borne by the applicant and paid prior to final approval. Where required by the City Engineer or other City decision-maker, the applicant's project engineer also shall inspect construction.*
- C. *Erosion control or resource protection facilities or measures are required to be installed in accordance with the requirements of OCMC 17.47, 17.49 and the Public Works Erosion and Sediment Control Standards.*
- D. *Underground utilities, waterlines, sanitary sewers and storm drains installed in streets shall be constructed prior to the surfacing of the streets. Stubs for service connections for underground utilities, such as, storm, water and sanitary sewer shall be placed beyond the ten-foot wide franchise utility easement within private property.*
- E. *As-built construction plans and digital copies of as-built drawings shall be filed with the City Engineer upon completion of the improvements.*
- F. *The City Engineer may regulate the hours of construction and access routes for construction equipment to minimize impacts on adjoining residences or neighborhoods.*

Applicant's Response: The Applicant will comply with all applicable improvement procedures outlined in this section. Improvements on state right-of-way will be inspected and approved by the State Engineer.

16.12.095 - Minimum improvements—Public facilities and services.

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

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

boxes with covers at every public street intersection and all points of curvature and points of tangency of their center line, and at such other points as directed by the City Engineer.

Applicant's Response: The Applicant's proposal is a transportation improvement Project. No new development is proposed that would adversely affect the transportation system. Sidewalks will be constructed along Main Street and the east side of Clackamette Drive within the project limits.

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

Applicant's Response: The Applicant's Stormwater Plan (see Attachment C) meets the requirements of this section.

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

Applicant's Response: The Applicant's proposal does not require sanitary sewer facilities. This section is not applicable.

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

Applicant's Response: The Applicant's proposal does not require water system facilities. This section is not applicable.

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

Applicant's Response: The Applicant will comply with all applicable street tree requirements outlined in OCMC 12.08.

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

Applicant's Response: The Applicant is not proposing a subdivision. This section does not apply.

G. Other Utilities. The applicant shall make all necessary arrangements with utility companies or other affected parties for the installation of underground lines and facilities. Existing and new electrical

lines and other wires, including but not limited to communication, street lighting and cable television, shall be placed underground.

Applicant's Response: The applicant will comply with all applicable utility placement and installation.

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

Applicant's Response: The Applicant will design all improvements to City standards as required.

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

Applicant's Response: The applicant will comply with all erosion control plan requirements in OCMC 17.47. See Attachment A for the Erosion and Sediment Control Plan.

16.12.100 - Same—Road standards and requirements.

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

- 1. The establishment of the public street is initiated by the City Commission and is declared essential for the purpose of general traffic circulation and the partitioning of land is an incidental effect rather than the primary objective of the street;*
- 2. The tract in which the street is to be dedicated is within an isolated ownership either not over one acre or of such size and characteristics as to make it impossible to develop building sites for more than three dwelling units.*

B. For any public street created pursuant to subsection A of this section, a copy of a preliminary plan and the proposed deed shall be submitted to the Community Development Director and City Engineer at least ten days prior to any public hearing scheduled for the matter. The plan, deed and any additional information the applicant may submit shall be reviewed by the decision-maker and, if not in conflict with the standards of Title 16 and Title 17, may be approved with appropriate conditions.

Applicant's Response: The Applicant does not propose to create a new public street or separate land parcels. This section does not apply.

16.12.105 - Same—Timing requirements.

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

B. Construction. The applicant shall construct the public improvements according to approved final engineering plans and all applicable requirements of this Code, and under the supervision of the City

Engineer. Under this option, the improvement shall be complete and accepted by the City Engineer prior to final plat approval.

Applicant's Response: The Applicant will not apply for plat approval. This section does not apply.

16.12.110 -Public improvements—Financial guarantees.

- A. *To ensure construction of required public improvements, the applicant shall provide the City with a performance guarantee in accordance with OCMC 17.50.140.*
- B. *After satisfactory completion of required public improvements and facilities, all public improvements not constructed by the City, shall be maintained and under warranty provided by the property owner or developer constructing the facilities until the City accepts the improvements at the end of the warranty period as prescribed in OCMC 17.50.141.*

Applicant's Response: The Applicant acknowledges this section and will comply with financial guarantees as applicable to project facilities outside of ODOT right-of-way unless obligations are otherwise stated within an MOA or MOU between the City and the Applicant.

16.12.120 Waiver of Remonstrance

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

Applicant's Response: The applicant acknowledges this section and will comply with a Waiver of Remonstrance if applicable.

CHAPTER 17.34 – MUD MIXED USE DOWNTOWN DISTRICT

17.34.020 - Permitted uses.

Permitted uses in the MUD district are defined as:

- A. *Banquet, conference facilities and meeting rooms;*
- B. *Bed and breakfast/boarding houses, hotels, motels, and other lodging facilities;*
- C. *Child care centers and/or nursery schools;*
- D. *Indoor entertainment centers and arcades;*
- E. *Health and fitness clubs;*
- F. *Medical and dental clinics, outpatient; infirmary services;*
- G. *Museums, libraries and cultural facilities;*
- H. *Offices, including finance, insurance, real estate and government;*
- I. *Outdoor markets, such as produce stands, craft markets and farmers markets that are operated on the weekends and after six p.m. during the weekday;*
- J. *Postal services;*
- ~~K. *Parks, playgrounds, play fields and community or neighborhood centers;*~~
- L. *Repair shops, for radio and television, office equipment, bicycles, electronic equipment, shoes and small appliances and equipment;*
- M. *Multifamily residential, 3-4 plex residential, or 1 or 2 units in conjunction with a nonresidential use;*
- N. *Restaurants, eating and drinking establishments without a drive through;*

- O. *Services, including personal, professional, educational and financial services; laundry and dry-cleaning;*
- F. *Retail trade, including grocery, hardware and gift shops, bakeries, delicatessens, florists, pharmacies, specialty stores provided the maximum footprint of a freestanding building with a single store does not exceed sixty thousand square feet (a freestanding building over sixty thousand square feet is allowed as long as the building contains multiple stores);*
- P. *Seasonal sales;*
- Q. *Residential care facilities, assisted living facilities; nursing homes and group homes for over fifteen patients licensed by the state;*
- R. *Studios and galleries, including dance, art, photography, music and other arts;*
- S. *Utilities: Basic and linear facilities, such as water, sewer, power, telephone, cable, electrical and natural gas lines, not including major facilities such as sewage and water treatment plants, pump stations, water tanks, telephone exchanges and cell towers;*
- T. *Veterinary clinics or pet hospitals, pet day care;*
- U. *Home occupations;*
- V. *Research and development activities;*
- W. *Temporary real estate offices in model dwellings located on and limited to sales of real estate on a single piece of platted property upon which new residential buildings are being constructed;*
- X. *Transportation facilities;*
- Y. *Live/work dwellings;*
- Z. *After-hours public parking;*
- AA. *Marinas;*
- BB. *Religious institutions.*
- CC. *Transitory mobile food carts outside of the downtown design district.*

Applicant’s Response: The Applicant proposes on-street parking on Clackamette Drive that extends partially into the MUD District. Its purpose is to provide parking for Jon Storm Park users; therefore, it will be an expansion of the park within the MUD District, which is not a permitted use. Due to site constraints, it is not possible to construct the on-street parking without expanding it into the MUD District.

17.34.030 - Conditional uses.

The following uses are permitted in this district when authorized and in accordance with the process and standards contained in OCMC 17.56.

- A. *Drive-through facilities;*
- B. *Emergency services;*
- C. *Hospitals;*
- D. *Outdoor markets that do not meet the criteria of OCMC 17.34.020.I.;*
- E. *Parks, playgrounds, play fields and community or neighborhood centers;*
- F. *Parking structures and lots not in conjunction with a primary use on private property, excluding after-hours public parking;*
- G. *Retail trade, including grocery, hardware and gift shops, bakeries, delicatessens, florists, pharmacies and specialty stores in a freestanding building with a single store exceeding a footprint of sixty thousand square feet;*
- H. *Public facilities such as sewage and water treatment plants, water towers and recycling and resource recovery centers;*

- I. *Public utilities and services such as pump stations and sub-stations;*
- J. *Distributing, wholesaling and warehousing;*
- K. *Gas stations;*
- L. *Public and or private educational or training facilities;*
- M. *Stadiums and arenas;*
- N. *Passenger terminals (water, auto, bus, train);*
- O. *Recycling center and/or solid waste facility;*

Applicant’s Response: No conditional uses are proposed within the MUD District.

17.34.040 - Prohibited uses.

The following uses are prohibited in the MUD district:

- A. *Kennels;*
- B. *Outdoor storage and sales, not including outdoor markets allowed in OCMC 17.34.030;*
- C. *Self-service storage;*
- D. *Single-Family attached and detached residential units and duplexes;*
- E. *Motor vehicle and recreational vehicle repair/service;*
- F. *Motor vehicle and recreational vehicle sales and incidental service;*
- G. *Heavy equipment service, repair, sales, storage or rental² (including but not limited to construction equipment and machinery and farming equipment);*
- H. *Marijuana production, processing, wholesaling, research, testing, and laboratories;*
- I. *Transitory food carts within the downtown design district, unless a special event has been issued;*
- J. *Non-transitory mobile food carts.*

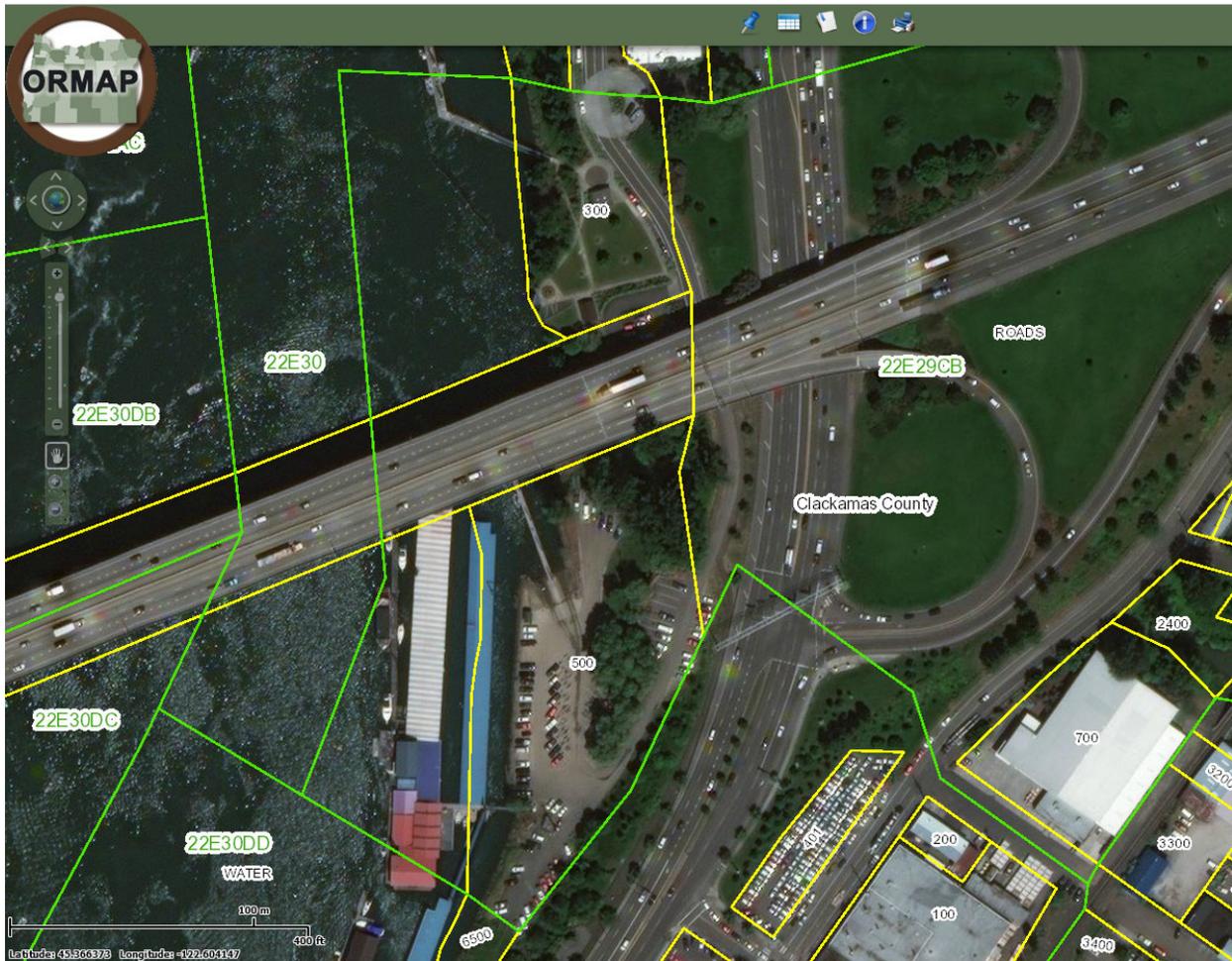
Applicant’s Response: The Applicant proposes no prohibited uses in the MUD district.

17.34.050 - Pre-existing industrial uses.

Tax lot 5400 located at Clackamas County Tax Assessors Map #22E20DD, Tax Lots 100 and two hundred located on Clackamas County Tax Assessors Map #22E30DD and Tax Lot 700 located on Clackamas County Tax Assessors Map #22E29CB have special provisions for industrial uses. These properties may maintain and expand their industrial uses on existing tax lots. A change in use is allowed as long as there is no greater impact on the area than the existing use.

Applicant’s Response: The Project does not propose a change in use within Clackamas County Tax Assessors Map #22E20DD tax lot 5400, Map #22E30DD tax lots 100 or 200, or Map #22E29CB tax lot 700 (Figure 2). The Project does not require a change in use of the tax lots with special provisions for industrial uses.

Figure 2. Tax Lots Included in the Project Proposal are #300 and #500



17.34.060 - Mixed-use downtown dimensional standards

For properties located outside of the downtown design district.

A. *Minimum lot area: None.*

Applicant's Response: The Project is in compliance with the minimum lot area.

B. *Minimum floor area ratio: 0.30.*

Applicant's Response: This section does not apply because the Project does not include a building.

C. *Minimum building height: Twenty-five feet or two stories except for accessory structures or buildings under one thousand square feet.*

Applicant's Response: This section does not apply because the Project does not include construction of a building.

D. *Maximum building height: Seventy-five feet, except for the following location where the maximum building height shall be forty-five feet:*

1. *Properties between Main Street and McLoughlin Boulevard and 11th and 16th streets;*
2. *Property within five hundred feet of the End of the Oregon Trail Center property; or*
3. *Property within one-hundred feet of single-family detached or attached units.*

Applicant's Response: This section does not apply because the Project does not include construction of a building.

E. Minimum required setbacks, if not abutting a residential zone: None.

Applicant's Response: The Project does not include a building; therefore, setbacks are not applicable.

F. Minimum required interior side yard and rear yard setback if abutting a residential zone: Fifteen feet, plus one additional foot in yard setback for every two feet in height over thirty-five feet.

Applicant's Response: This section does not apply as no yards are proposed.

G. Maximum Allowed Setbacks.

- 1. Front yard: Twenty feet.*
- 2. Interior side yard: No maximum.*
- 3. Corner side yard abutting street: Twenty feet.*
- 4. Rear yard: No maximum.*
- 5. Rear yard abutting street: Twenty feet.*

Applicant's Response: This section does not apply as no yards are proposed.

H. Maximum site coverage including the building and parking lot: Ninety percent.

Applicant's Response: The Project does not propose covering more than 90% of the site with building or parking.

I. Minimum landscape requirement (including parking lot): Ten percent.

Applicant's Response: The Project will meet the minimum landscape requirement. See Attachment B for landscaping plans.

J. Residential minimum net density of 17.4 units per acre, except that no minimum net density shall apply to residential uses proposed above nonresidential uses in a vertical mixed-use configuration or to live/work dwellings.

Applicant's Response: This section does not apply as no residential uses are existing or proposed.

CHAPTER 17.39 – I INSTITUTIONAL DISTRICT

17.39.020 - Permitted uses.

Permitted uses in the institutional district are:

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

Applicant's Response: The Project includes transportation facilities in the Institutional District; therefore, is a permitted use.

17.39.030 - Accessory uses.

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

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

Applicant's Response: The Project does not include any accessory uses listed in 17.39.030 in the Institutional District.

17.39.040 - Conditional uses.

Uses requiring conditional use permit are:

- A. *Any uses listed under OCMC 17.39.030 that are not accessory to the primary institutional use;*
- B. *Boarding and lodging houses, bed and breakfast inns;*
- C. *Cemeteries, crematories, mausoleums, and columbariums;*
- D. *Correctional facilities;*
- E. *Helipad in conjunction with a permitted use;*
- F. *Parking lots not in conjunction with a primary use;*
- G. *Public utilities, including sub-stations (such as buildings, plants and other structures);*
- H. *Fire stations;*
- I. *Police Station.*

Applicant's Response: No conditional uses in the Institutional District are proposed.

17.39.045 - Prohibited uses.

Prohibited uses in the I district are:

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

Applicant's Response: The Project does not include any prohibited uses in the Institutional District.

17.39.050 - Dimensional standards.

Dimensional standards in the I district are:

- A. *Maximum building height: Within one hundred feet of any district boundary, not to exceed thirty-five feet; elsewhere, not to exceed seventy feet.*

Applicant's Response: The Project includes widening and seismically upgrading Abernethy Bridge, which is within 100 feet of the Institutional District boundary. The bridge elevation is approximately 90 feet at its highest within 100 feet of the Institutional District boundary. The bridge improvements include placement of new piers adjacent to existing piers and removal of the existing piers, which are seismically deficient. The elevation of the bridge would not change. Although the newly constructed piers will exceed the dimensional standards of the Institutional District, the new piers will replace similarly sized but seismically deficient structures of the overall bridge structure. To comply with height requirements, the entire existing project area would need to be reconstructed. This includes lowering the on- and off-ramps of I-205, and changing the alignment of OR 99E. Because this work is not practical, the applicant is applying for a variance to 17.39.050. See the Applicant Response for Section 17.60 for the variance request.

- B. *Minimum required setbacks: Twenty-five feet from property line except when the development is adjacent to a public right-of-way. When adjacent to a public right-of-way, the minimum setback is zero feet and the maximum setback is five feet.*

Applicant's Response: The proposed improvements meet the minimum setback requirements of this section.

17.39.060 - Relationship to master plan.

- A. *A master plan is required for any development within the I District on a site over ten acres in size that:*
1. *Is for a new development on a vacant property;*
 2. *Is for the redevelopment of a property previously used as a non-institutional use; or*
 3. *Increases the floor area of the existing development by ten thousand square feet over existing conditions*
- B. *Master plan dimensional standards that are less restrictive than those of the Institutional District require adjustments. Adjustments will address the criteria of OCMC 17.65.70 and will be processed concurrently with the master plan application.*
- C. *Modifications to other development standards in the code may be made as part of the phased master plan adjustment process. All modifications shall be in accordance with the requirements of the master plan adjustment process identified in OCMC 17.65.070.*

Applicant's Response: The Project does not involve development within the Institutional District on a site over 10 acres; therefore, no Master Plan is required. The Project does not meet dimensional standards as described for 17.39.050.

CHAPTER 17.41 – TREE PRESERVATION REMOVAL AND REPLANTING PROTECTION

17.41.020 - Tree protection—Applicability.

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

Applicant's Response: The Applicant proposes the majority of work in ODOT rights-of-way, which are not subject to OCMC 16.08 or 17.62. Two areas of the Project are outside of the right-of-way: Tax Lots 22E29CB0300 and 22E29CB0500, at Jon Storm Park and Sportcraft Landing Park. This section only applies to those areas.

17.41.030 - Tree protection—Conflicting code provisions.

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

Applicant's Response: The Applicant acknowledges this section and will comply with the codes providing greater protection.

17.41.040 - Exemptions.

These regulations are not intended to regulate normal cutting, pruning and maintenance of trees on private property except where trees are located on lots that are undergoing development review or are otherwise protected within the Natural Resource Overlay District (NROD) of OCMC 17.49. These standards are not intended to regulate farm and forest practices as those practices are defined under ORS 30.930, for farm or forestlands. These regulations do not apply to the removal of trees that are considered invasive species. An applicant for development may claim exemption from compliance with these standards if the development site containing the regulated grove or trees was a designated farm or forest use, tree farm, Christmas tree plantation, or other approved timber use within one year prior to development application. "Forest practices" and "forestlands" as used in this subsection shall have the meaning as set out in ORS 30.930. The Community Development Director has the authority to modify or waive compliance in this case.

Applicant's Response: The Applicant acknowledges the exemptions.

17.41.050 - Compliance options.

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

- A. Option 1—Mitigation. Retention and removal of trees, with subsequent mitigation by replanting pursuant to OCMC 17.41.060.*
- B. Option 2—Dedicated Tract. Protection of trees or groves by placement in a tract within a new subdivision or partition plat pursuant to OCMC 17.41.080; or*
- C. Option 3—Restrictive Covenant. Protection of trees or groves by recordation of a permanent restrictive covenant pursuant to OCMC 17.41.110; or*
- D. Option 4—Cash-in-lieu of planting pursuant to OCMC 17.41.120.*

Applicant's Response: The Applicant will comply with Options 1 and 4. Trees that are removed for the Project will be replanted unless site constraints limit replanting opportunities. Where replanting is not possible or practical, the Applicant will pay cash-in-lieu of planting. See Attachment B for the Tree Removal and Mitigation Plan.

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

- A. Applicants for development who select this option shall ensure that all healthy trees shall be preserved outside the construction area as defined in OCMC 17.04 to the extent practicable. Preserved trees are subject to Option 3 of this Chapter. Compliance with these standards shall be demonstrated in a tree mitigation plan report prepared by a certified arborist, horticulturalist or forester or other environmental professional with experience and academic credentials in forestry or arboriculture. Tree inventories for the purposes of mitigation calculations may be prepared by a licensed surveyor. At the applicant's expense, the City may require the report to be reviewed by a consulting arborist. The number of replacement trees required on a development site shall be calculated separately from, and in addition to, any public or street trees in the public right-of-way required under OCMC 12.08— Public and Street Trees, any required tree planting in parking lots, and any trees planted in pedestrian and bicycle accessways.*
- B. The applicant shall determine the number of trees to be mitigated on the site by counting all of the trees six-inch DBH (minimum four and one-half feet from the ground) or larger on the entire site and either:*

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

Table 17.41.060-1 Tree Replacement Requirements

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

Steps for calculating the number of replacement trees:

1. Count all trees measuring six inches DBH (minimum four and one-half feet from the ground) or larger on the entire development site.
2. Designate the size (DBH) of all trees pursuant to accepted industry standards.
3. Document in a certified arborist report any trees that are currently dead, dying, diseased, or hazardous.
4. Subtract the number of dead, dying, diseased, or hazardous trees in step 3 from the total number of trees on the development site in step 1. The remaining number is the number of healthy trees on the site. Use this number to determine the number of replacement trees in steps 5 through 8.
5. Identify the construction area (as defined in OCMC 17.04.230).
6. Determine the number and diameter of trees to be removed within the construction area. Based on the size of each tree, use Column 2 to determine the number of replacement trees required.
7. Determine the number and diameter of trees to be removed outside of the construction area. Based on the size of each tree, use Column 1 to determine the number of replacement trees required.
8. Determine the total number of replacement trees from steps 6 and 7.

Applicant's Response: The Applicant will comply with Option 1. Trees that are removed for the Project will be replanted unless site constraints limit replanting opportunities. The remainder of trees will be mitigated with Option 4, cash-in-lieu of planting. See Attachment B for the Tree Removal and Mitigation Plan.

C. Planting area priority for mitigation.

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

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

Applicant's Response: The Applicant proposes mitigation in first priority areas.

D. *Replacement tree planting standards.*

1. *All replacement trees shall be either two-inch caliper deciduous or six-foot high conifer.*
2. *Replacement tree species shall be approved by a landscape architect or certified arborist or shall be found on the City's Native Plant or Street Tree lists.*
3. *Due to their diminishing range in the region, Oregon white oak (*Quercus garryana*) trees, if removed, shall be replaced by the same species.*

Applicant's Response: The Applicant has prepared a mitigation plan for tree replacement that varies slightly from these standards. The Applicant proposes to plant one-inch caliper trees for several reasons, including the availability of this size, especially since a large quantity is required. A one-inch caliper tree can be procured as a bareroot, container grow, or balled and burlapped (B&B). A bareroot or container grown plant and a smaller specimen is much easier to establish than a larger plant or a B&B plant. Lastly, a tree that establishes into its new home quickly, will outgrow a tree planted at a larger size and ultimately become a healthier, longer-lived tree. The primary reason to plant larger specimens is to better withstand vandalism. These trees are more likely to be threatened by harsh growing conditions than by vandalism, so the smaller planting size is recommended. See Attachment B, for the Landscaping Plan.

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

Applicant's Response: This section does not apply.

F. *The Community Development Director may, subject to a Type II procedure, approve an alternative mitigation plan that adequately protects habitat pursuant to the standards for the Natural Resource Overlay District alternative mitigation plan in OCMC 17.49.190.*

Applicant's Response: This section does not apply. The applicant has proposed a mitigation plan that complies with 17.41.060

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

- A. *An applicant for a new subdivision and partition may delineate and show the regulated trees or groves as either a separate tract or part of a larger tract that meets the requirements of subsection D. of this section. All existing tree(s) in the tract shall be protected by a permanent restrictive covenant or easement approved in form by the City.*
- B. *The standards for land divisions subject to this section shall apply in addition to the requirements of the City land division ordinance and zoning ordinance, provided that the minimum lot area, minimum average lot width, and minimum average lot depth standards of the base zone may be superseded in order to allow for a reduction of dimensional standards pursuant to OCMC 17.41.080.F below.*

- C. *Prior to preliminary plat approval, the regulated tree or grove area shall be shown either as a separate tract or part of a larger tract that meets the requirements of subsection D. of this section, which shall not be a part of any parcel used for construction of a dwelling. The size of the tract shall be the minimum necessary as recommended by a consulting arborist to adequately encompass the dripline of the tree, protect the critical root zone and ensure long term survival of the tree or grove.*
- D. *Prior to final plat approval, ownership of the regulated tree or grove tract shall be identified to distinguish it from lots intended for sale. The tract may be identified as any one of the following:*
 - 1. *Private open space held by the owner or a homeowner’s association; or*
 - 2. *For residential land divisions, private open space subject to an easement conveying stormwater and surface water management rights to the city and preventing the owner of the tract from activities and uses inconsistent with the purpose of this document; or*
 - 3. *Public open space where the tract has been dedicated to the City or other governmental unit; or*
 - 4. *Any other ownership proposed by the owner and approved by the Community Development Director.*
- E. *Density transfers incentive for tree protection tracts.*
 - 1. *The purpose of this section is to allow dimensional adjustments within a regulated tree protection tract to be transferred outside said tract to the remainder of the site. Density shall not be transferred beyond the boundaries of the development site.*
 - 2. *Development applications for subdivisions and minor partitions that request a density transfer shall:*
 - a. *Provide a map showing the net buildable area of the tree protection tract;*
 - b. *Provide calculations justifying the requested dimensional adjustments;*
 - c. *Demonstrate that the minimum lot size requirements can be met based on an average of all lots created, including the tree protection tract created pursuant to this section;*
 - d. *Demonstrate that, with the exception of the tree protection tract, no parcels have been created which would be unbuildable in terms of minimum yard setbacks;*
 - e. *Meet all other standards of the base zone except as modified in this section.*
 - 3. *The area of land contained in a tree protection tract may be excluded from the calculations for determining compliance with minimum density requirements of the zoning code.*
- F. *Permitted modifications to dimensional standards.*
 - 1. *An applicant proposing to protect trees in a dedicated tract may request, and the Community Development Director, pursuant to a Type II procedure, may grant a reduction to, the lot size, width, depth, and setbacks of the underlying zone district in approving a subdivision or partition if necessary to retain a regulated tree or grove in a tract, as long as the calculation of average lot size, including tree protection tracts, meet the minimum lot size for the zone. The applicant may choose to make the adjustments over as many lots as required. For example, the lot reduction could be spread across all the remaining lots in the proposed subdivision or partition or could be applied to only those needed to incorporate the area of the tree tract.*

Table 17.41.080.A
Lot Size Reduction

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

Table 17.41.080.B

Reduced Dimensional Standards for Detached Single-Family Residential Units

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

Table 17.41.080.C

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

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

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

Applicant’s Response: This section does not apply as the proposed action is not within a subdivision nor does the applicant propose a partition. As noted in the Applicant’s Response to OCMC 16.41.060, the Applicant will comply with Options 1 and 4.

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

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

A. Permitted adjustments.

- 1. The Community Development Director, pursuant to a Type II procedure, may grant an adjustment to the side, front and rear yard setback standards by up to fifty percent if necessary to retain a Regulated Tree or Grove through a restrictive covenant pursuant to this section. In no case may the side yard setback be reduced to less than three feet. The adjustment shall be the minimum necessary to accomplish preservation of trees on the lot and shall not conflict with other conditions imposed on the property.*
- 2. The Community Development Director, pursuant to a Type II procedure, may grant an adjustment to street standards, pursuant to adopted public works standards, in order to preserve a tree. This may include flexibility to redesign sidewalk and planter strip sizes and locations and allow placement of sidewalks and planter strips in an easement within private lots.*
- 3. The Community Development Director, pursuant to a Type II procedure, may allow other adjustments in order to preserve any healthy tree that cannot be moved due to its size, but will*

contribute to the landscape character of the area and will not present a foreseeable hazard if retained

Applicant's Response: This section does not apply. As noted in the Applicant's Response to OCMC 16.41.060, the Applicant will comply with Options 1 and 4.

17.41.120 - Cash-in-lieu of planting (Option 4).

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

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

Applicant's Response: The Applicant proposes cash-in-lieu of planting for areas where site constraints limit opportunities for replanting, with a total number of trees equal to 14.

17.41.130 - Regulated tree protection procedures during construction.

- A. *No permit for any grading or construction of public or private improvements may be released prior to verification by the Community Development Director that regulated trees designated for protection or conservation have been protected according to the following standards. No trees designated for removal shall be removed without prior written approval from the Community Development Director.*
- B. *Tree protection shall be as recommended by a qualified arborist or, as a minimum, to include the following protective measures:*
 - 1. *Except as otherwise determined by the Community Development Director, all required tree protection measures set forth in this section shall be instituted prior to any development activities, including, but not limited to clearing, grading, excavation or demolition work, and such measures shall be removed only after completion of all construction activity, including necessary landscaping and irrigation installation, and any required plat, tract, conservation easement or restrictive covenant has been recorded.*
 - 2. *Approved construction fencing, a minimum of four feet tall with steel posts placed no farther than ten feet apart, shall be installed at the edge of the tree protection zone or dripline, whichever is greater. An alternative may be used with the approval of the Community Development Director.*
 - 3. *Approved signs shall be attached to the fencing stating that inside the fencing is a tree protection zone, not to be disturbed unless prior approval has been obtained from the Community Development Director.*
 - 4. *No construction activity shall occur within the tree protection zone, including, but not limited to; dumping or storage of materials such as building supplies, soil, waste items; nor passage or parking of vehicles or equipment.*
 - 5. *The tree protection zone shall remain free of chemically injurious materials and liquids such as paints, thinners, cleaning solutions, petroleum products, and concrete or dry wall excess, construction debris, or run-off.*
 - 6. *No excavation, trenching, grading, root pruning or other activity shall occur within the tree protection zone unless directed by an arborist present on site and approved by the Community Development Director.*
 - 7. *No machinery repair or cleaning shall be performed within ten feet of the dripline of any trees identified for protection.*

8. *Digging a trench for placement of public or private utilities or other structure within the critical root zone of a tree to be protected is prohibited. Boring under or through the tree protection zone may be permitted if approved by the Community Development Director and pursuant to the approved written recommendations and on-site guidance and supervision of a certified arborist.*
 9. *The Community Development Director may require that a certified arborist be present during any construction or grading activities that may affect the dripline of trees to be protected.*
 10. *The Community Development Director may impose conditions to avoid disturbance to tree roots from grading activities and to protect trees and other significant vegetation identified for retention from harm. Such conditions may include, if necessary, the advisory expertise of a qualified consulting arborist or horticulturist both during and after site preparation, and a special maintenance/management program to provide protection to the resource as recommended by the arborist or horticulturist.*
- C. *Changes in soil hydrology due to soil compaction and site drainage within tree protection areas shall be avoided. Drainage and grading plans shall include provision to ensure that drainage of the site does not conflict with the standards of this section. Excessive site run-off shall be directed to appropriate storm drainage facilities and away from trees designated for conservation or protection.*

Applicant's Response: The Applicant will comply with the requirements of this section. Trees in the project area that will be preserved will be protected with fencing and signage that clearly prohibits construction activities. No excavation or grading will take place within tree protection zones and construction machinery will stay at a minimum 10 feet away from the protected trees' driplines. See Attachment A, Site Plans, for the Construction Management Plan, which shows tree protection measures.

CHAPTER 17.42 FLOOD MANAGEMENT OVERLAY DISTRICT

17.42.120 - Alteration of watercourses.

- A. *Notify adjacent communities and the department of land conservation and development prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration.*
- B. *Require that maintenance is provided within the altered or relocated portion of the watercourse so that the flood-carrying capacity is not diminished.*

Applicant's Response: The Applicant will notify adjacent communities and the Department of Land Conservation and Development prior to watercourse alteration. The Applicant will provide maintenance provided for the realignment of Abernethy Creek; the flood-carrying capacity will not be diminished.

17.42.160.A - Flood management area standards.

Uses Permitted Outright:

1. *Excavation and fill required to plant any new trees or vegetation.*
2. *Restoration or enhancement of floodplains, riparian areas, wetland, upland and streams that meet federal and state standards provided that any restoration project which encroaches on the floodway complies with the requirements of Section 17.42.190 (Floodways).*

Applicant's Response: This section does not apply.

17.42.160.B Provisional Uses.

Applicant's Response: The applicant does not propose any provisional uses.

17.42.160.C Prohibited Uses.

Applicant's Response: The applicant does not propose any prohibited uses.

17.42.160.D.1 *Site Development Standards. All development in the floodplain shall conform to the following balanced cut and fill standards:*

This subsection 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.

Applicant's Response: The Project is not in response to an emergency, so balanced cut and fill standards apply, which the project will comply with.

17.42.160.D.2 *No net fill in any floodplain is allowed. All fill placed in a floodplain shall be balanced with at least an equal amount of soil material removed. For the purpose of calculating net fill, fill shall include any structure below the design flood elevation that has been floodproofed pursuant to subsection (E)(5) of this section.*

Applicant's Response: The Applicant will mitigate all fill proposed within the floodplain with an equal amount of cut within the floodplain. See Attachment E for proposed Cut/Fill work within the floodplain.

17.42.160.D.3 *Any excavation below bankfull stage shall not count toward compensating for fill.*

Applicant's Response: The Applicant acknowledges and is in compliance with this section.

17.42.160.D.4 *Excavation to balance a fill shall be located on the same parcel as the fill unless it is not practicable to do so. In such cases, the excavation shall be located in the same Oregon City floodplain, so long as the proposed excavation and fill will not increase flood impacts for surrounding properties as determined through hydrologic and hydraulic analysis.*

Applicant's Response: All excavation to balance fill will be located within the same right-of-way. A hydraulic analysis has been completed to show no increase in floodway or floodplain elevations. See Attachment E for the No-Rise Certification.

17.42.160.D.5 *For excavated areas identified by the city to remain dry in the summer, such as parks or mowed areas, the lowest elevation of the excavated area shall be at least six inches above the winter "low water" elevation, and sloped at a minimum of two percent towards the protected water feature pursuant to Chapter 17.49. One percent slopes will be allowed in smaller areas.*

Applicant's Response: No excavation more than 6 inches above the winter low water elevation is proposed in areas designated to remain dry in the summer.

17.42.160.D.6 *For excavated areas identified by the city to remain wet in the summer, such as a constructed wetland, the grade shall be designed not to drain into the protected water feature pursuant to Chapter 17.49.*

Applicant's Response: There are no excavated areas within the Project identified to remain wet in the summer.

17.42.160.D.7 *Parking areas in the floodplain shall be accompanied by signs that inform the public that the parking area is located in a flood management area and that care should be taken when the potential for flooding exists.*

Applicant's Response: Parking areas in the floodplain will provide signs informing of the location within a flood management area.

17.42.160.D.8 *Temporary fills permitted during construction shall be removed at the end of construction, thirty days after subdivision acceptance or completion of the final inspection.*

Applicant's Response: All temporary fills will be removed at the end of construction.

17.42.160.D.9 *New culverts, stream crossings and transportation projects shall be designed as balanced cut and fill projects or designed not to significantly raise the design flood elevation. Such projects shall be designed to minimize the area of fill in flood management areas and to minimize erosive velocities. Stream crossings shall be as close to perpendicular to the stream as practicable. Bridges shall be used instead of culverts wherever practicable.*

Applicant's Response: Cut/fill will be balanced and the Project will not raise the design flood elevation. See Attachment E for the Floodplain cut/fill memo.

17.42.160.D.10 *Excavation and fill required for the construction of detention facilities or structures, and other facilities, such as levees, specifically shall be designed to reduce or mitigate flood impacts and improve water quality. Levees shall not be used to create vacant buildable lands.*

Applicant's Response: Excavation and fill required for the construction of detention facilities or structures are designed to reduce or mitigate flood impacts and improve water quality. No levees are proposed.

17.42.160.E.1 *Construction Standards.*

1. *Anchoring.*

a. *All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure.*

b. *All manufactured homes must likewise be anchored to prevent flotation, collapse or lateral movements and shall be installed using methods and practices that minimize flood damage. Anchoring methods may include, but are not limited to, use of over-the-top or frame ties to ground anchors (reference FEMA's "Manufactured Home Installation in Flood Hazard Areas" guidebooks for additional techniques).*

Applicant's Response: This section does not apply. The applicant does not propose any features that require anchoring.

17.42.160.E.2 *Construction Materials and Methods.*

a. *All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.*

b. *All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.*

c. *Electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities shall be designed and/or otherwise elevated or located so as to prevent water from entering or accumulating within the components during conditions of flooding.*

Applicant's Response: The Applicant is in compliance with construction materials and methods requirements.

17.42.160.E.3 *Utilities.*

a. *All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.*

b. *New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharge from the systems into floodwaters.*

c. *On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.*

Applicant's Response: This section does not apply. The applicant does not propose water supply systems or sanitary sewage systems.

17.42.160.E.4 *Residential Construction*

- a. *New construction and substantial improvements of any residential structure shall have the lowest floor, including basement, elevated to at least one foot above the design flood elevation.*
- b. *Full enclosed areas below the lowest floor that are subject to flooding are prohibited unless they are designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria.*
 - i. *A minimum of two openings have a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.*
 - ii. *The bottom of all openings shall be no higher than one foot above grade.*
 - iii. *Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.*

Applicant's Response: This section does not apply as there are no residential improvements proposed.

17.42.160.E.5 Nonresidential Construction.

- a. *New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement, elevated to at least one foot above base flood elevation; or, together with attendant utility and sanitary facilities, shall:*
 - i. *Be floodproofed so that below the design flood level the structure is watertight with walls substantially impermeable to the passage of water provided that the requirements of subsection D.2. of this section are met;*
 - ii. *Have structured components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy;*
 - iii. *Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting provisions of this subsection based on their development and/or review of the structural design, specifications and plans. Such certifications shall be provided to the official as set forth in Section 17.42.110B.;*
 - iv. *Nonresidential structures that are elevated, not floodproofed, must meet the same standards for space below the lowest floor as described in subsection E.4.b. of this section; and*
 - v. *Applicants floodproofing nonresidential buildings shall be notified that flood insurance premiums will be based on rates that are one foot below the floodproofed level (e.g., a building constructed to the design flood level will be rated as one foot below that level).*
 - vi. *Manufactured Homes. The following standards apply to all manufactured homes to be placed or substantially improved on sites within Flood Hazard Areas.*

When manufactured dwellings are installed in flood hazard areas, they shall be elevated and anchored according to the Oregon Residential Specialty Code.

Applicant's Response: The Applicant proposes nonresidential construction, including work to the Abernethy Bridge which is a nonresidential structure. The bridge is designed to be floodproofed and to resist loads. All design work to the bridge will be done by a registered professional engineer.

17.42.160.F Recreational Vehicles.

Applicant's Response: This section does not apply as no recreational vehicles are proposed to be on site.

17.42.160.G Below Grade Crawlspace.

Applicant's Response: This section does not apply as no buildings or crawlspaces are proposed.

17.42.170 - Review of building permits.

Where elevation data is not available either through the flood insurance study, FIRM or from another authoritative source (Section 17.42.110), application for building permits shall be reviewed to assure that

proposed construction will be reasonably safe from flooding. The test of reasonableness shall be made by the building official, considering use of historical data, high water marks, photographs of past floodings, etc., where available, and the provisions of this title. Failure to elevate at least two feet above grade in these zones may result in higher insurance rates.

Applicant's Response: This section does not apply as the Applicant is not applying for a building permit.

17.42.180 - Subdivision standards.

Applicant's Response: This section does not apply as no subdivisions are proposed.

17.42.190 - Floodways.

Applicant's Response: The Project has been designed to not increase flood levels.

CHAPTER 17.48 - WRG WILLAMETTE RIVER GREENWAY OVERLAY DISTRICT

17.48.010 - Designated.

This chapter shall apply to all development, changes of use or intensification of use in that area designated WRG Willamette River Greenway on a special city zoning map.

17.48.020 - Purpose.

The purpose of this chapter is to:

- A. *Protect, conserve, enhance and maintain the natural scenic, historical, agricultural, economic and recreational qualities of land along the Willamette River;*
- B. *Maintain the integrity of the Willamette River by minimizing erosion, promoting bank stability and maintaining and enhancing water quality and fish and wildlife habitats;*
- C. *Implement the Willamette River Greenway goal and the Willamette River Greenway portions of the city comprehensive plan.*

Applicant's Response: The Applicant recognizes the purpose of this chapter of the OCMC of use in the Willamette River Greenway.

17.48.040 - Uses allowed.

All uses permitted pursuant to the provisions of the underlying zoning district are permitted on lands designated WRG; provided, however, that any development, change of use or intensification of use shall be subject, in addition to the provisions of the underlying district, to the provisions of this chapter.

17.48.050 - Permit required—Exceptions.

A Willamette River Greenway permit shall be required for all developments and changes or intensification of uses, except the following:

- A. *The propagation of timber or the cutting of timber for public safety or personal use, except the cutting of timber along the natural vegetative fringe along the river;*
- B. *Gravel removal from the bed of the Willamette River when conducted under a permit from the state;*
- C. *Customary dredging and channel maintenance;*
- D. *Placing by a public agency of signs, markers, aids and similar structures to serve the public;*
- E. *Activities to protect, conserve, enhance and maintain public recreation, scenic, historical and natural uses on public lands;*

- F. Acquisition and maintenance of scenic easements by the Oregon Department of Transportation;
- G. Partial harvesting of timber shall be permitted beyond the natural vegetative fringe and those areas not covered by a scenic easement and when the harvest is consistent with an approved plan under the Oregon Forest Practices Act. Commercial forest activities and harvesting practices providing for vegetative buffers, shading, soil stabilization, and water filtering effects required under the Oregon Forest Practices Act;
- H. The use of a small cluster of logs for erosion control;
- I. The expansion of capacity or the replacement of existing communication or energy distribution and transmission systems, except utility sub-stations;
- J. The maintenance and repair of existing flood control facilities;
- K. Uses lawfully existing on the effective date of the provisions codified in this chapter; provided, however, that any change or intensification of use or new development shall require a Willamette River Greenway permit.

Applicant’s Response: The Project is an intensification of use and includes uses in the Willamette River Greenway that are not identified in the list of exceptions. A Willamette River Greenway permit is required.

Figure 3. Willamette River Greenway Overlay District.



17.48.060 - Administrative procedure.

Except as specifically provided for in [Section 17.48.090](#), the procedure for action on a Willamette River Greenway permit shall be as provided for under the administrative action provisions in [Chapter 17.50](#). In addition to those provisions, however, notice of a pending Willamette River Greenway permit under [Sections 17.48.070](#) through [17.48.090](#) or of a compatibility review hearing under [Section 17.48.100](#), shall be given to all persons requesting the same and paying a reasonable fee therefore, as determined by the community development director.

Applicant's Response: The Applicant requests a Willamette River Greenway permit as part of this land use application and agrees to pay the applicable fee.

17.48.070 - Development standards—Specific use.

In approving any development or change or intensification of use, the approving officer or body shall apply the following standards:

Considerations for Specific Uses.

- A. *With respect to recreational uses only: the considerations set forth in section C.3.b of Goal 15.*
- B. *With respect to those fish and wildlife habitats identified in the city comprehensive plan only: the considerations set forth in section C.3.d. of Goal 15.*
- C. *With respect to those scenic qualities and views identified in the city comprehensive plan only: the considerations set forth in section C.3.e. of Goal 15.*
- D. *With respect to timber resources only: the considerations set forth in section C.3.h. of Goal 15.*
- E. *With respect to aggregate extraction only: the considerations set forth in section C.3.i. of Goal 15.*

Applicant's Response: The specific uses in this section do not apply to the Applicant's proposal.

17.48.080 - Development standards—General considerations.

The following considerations shall be applicable to all Willamette River Greenway permits.

- A. *Access. Adequate public access to the Willamette River shall be considered and provided for.*
- B. *Protection and Safety. Maintenance of public safety and protection of public and private property, especially from vandalism and trespass, shall be provided for to the maximum extent practicable.*
- C. *Vegetative Fringe. The natural vegetative fringe along the Willamette River shall be protected and enhanced to the maximum extent practicable.*
- D. *Directing Development Away from the River. Development shall be directed away from the Willamette River to the greatest possible degree, provided that lands committed to urban uses within the Greenway may continue as urban uses, subject to the nonconforming use provisions of [Chapter 17.58](#) of this title.*
- E. *A Greenway Setback. In each application, the approving officer or body shall establish a setback to keep structures separated from the Willamette River in order to protect, maintain, preserve and enhance the natural scenic, historic and recreational qualities of the Willamette River Greenway, as set forth in the city comprehensive plan; provided, however, that the requirement to establish such setbacks shall not apply to water-related or water-dependent uses.*
- F. *Other Applicable Standards. The Oregon Department of Transportation Greenway Plan, the Greenway portions of the city comprehensive plan, the Willamette River Greenway statutes and the provisions of Statewide Planning Goal 15, shall also be considered in actions involving Willamette River Greenway permits.*

Applicant's Response: The Applicant's proposal does not change access to the Willamette River over the long-term use of the Project, although construction equipment and construction activities under the Abernethy Bridge will temporarily close access to the Willamette River via the existing boat ramp for up to 2 weeks. The temporary use of the area under and adjacent to the Abernethy Bridge will not result in a long-term effect on the natural scenic, historical, agricultural, economic, or recreational qualities of land along the Willamette River. During construction, the Applicant will maintain public safety and protect the project area from vandalism and trespass to the maximum extent practicable by restricting access to work areas. The Applicant's design protects the natural vegetative fringe along the Willamette River to the maximum extent practicable. The bridge improvements will be made in the same area as the existing bridge and are not considered new development in the Greenway. The locations of the new bridge structures are based on state-of-the-art engineering design and best practices. They will replace existing structures on the Greenway. Post-construction conditions in the Willamette River Greenway will be returned to pre-construction conditions. The Project will maintain the integrity of the Willamette River by minimizing erosion, promoting bank stability, and maintaining and enhancing water quality and fish and wildlife habitats.

17.48.090 - Procedure.

The planning director shall make findings, and may impose reasonable conditions to carry out this chapter, regarding all general, and any applicable specific, considerations of this section. The community development director shall then give notice of a pending Willamette River Greenway permit application, and proposed action thereon, in the manner provided for, and to those persons for whom notice shall be given, under [Chapter 17.50](#) of this Code, and to all other interested persons who wish to be notified and who pay a reasonable fee for such notification. If no interested person requests a hearing on such permit application within ten days of giving notice, the application shall be approved, either with or without conditions, or denied, as proposed by the community development director and in accordance with the findings required by this subsection. If there be objection, the matter shall be heard by the planning commission as an administrative action.

Applicant's Response: The Applicant acknowledges and is in compliance with this section.

17.48.100 - Compatibility review.

- A. *In all areas within one hundred fifty feet of the ordinary low-water line of the Willamette River, hereinafter referred to as the "compatibility boundary," the provisions of this subsection shall be applicable to all developments and changes or intensification of uses, so as to ensure their compatibility with Oregon's Greenway statutes, and to assure that the best possible appearance, landscaping and public access be provided.*
- B. *All development or changes or intensifications of uses in the compatibility area shall be approved only if the following findings be made by the planning commission.*
 1. *That to the greatest extent possible, the development or change or intensification of use provides for the maximum possible landscaped area, open space or vegetation between the activity and the river.*
 2. *That to the greatest degree possible, necessary public access is provided to and along the Willamette River by appropriate legal means.*
- C. *Procedure for action on compatibility review shall be as set forth in [Section 17.48.060](#) and shall include application of the relevant use management considerations and requirements provided in Sections [17.48.070](#) and [17.48.080](#). The planning commission, after notice and public hearing held pursuant to [Chapter 17.50](#) shall approve issuance, approve issuance with conditions or disapprove issuance of the Willamette River Greenway conditional use permit. The application*

shall be accompanied by the fee listed in [Chapter 17.52](#) to defray the costs of publication, investigation and processing.

Applicant's Response: The Applicant acknowledges and will comply with this section. The proposed landscaping plans (Attachment B) are designed to provide the maximum amount of landscaped area to the greatest extent possible between the river and the project activity areas. Public access to and along the Willamette River will be provided to the greatest extent possible by the Project (see Attachment A for site plans).

17.48.110 - Prohibited activities.

The following are prohibited within the Willamette River Greenway:

- A. *Any main or accessory residential structure exceeding a height of thirty-five feet, except for areas located within the Willamette Falls Downtown District;*
- B. *Structural bank protection, except rip rap or a channelization used as an emergency measure only to protect existing structures. Any such rip rap or channelization to stabilize undeveloped sites shall be prohibited as well;*
- C. *Subsurface sewage disposal drainfields within one hundred feet of the ordinary mean low-water line of the Willamette River.*

Applicant's Response: The Applicant's proposal does not propose any prohibited activities listed in this section.

17.48.120 - Additional procedural requirements.

In addition to the requirements of [Chapter 17.50](#), the following procedural requirements shall be applicable to all matters arising out of Sections [17.48.070](#) through [17.48.100](#):

- A. *Applications submitted for review under Sections [17.48.070](#) through [17.48.100](#) shall be accompanied by such materials as are reasonably necessary for adequate review, including, as necessary:*
 - 1. *A site and landscaping plan showing existing vegetation and development and location of proposed development for activities;*
 - 2. *Elevations of any proposed structures;*
 - 3. *Materials list for any proposed structures, including type and colors of siding and roofing; and*
 - 4. *Cross-sections of any area within the vegetative fringe where grading, filling, timber harvesting or excavating will occur.*
- B.
 - 1. *Written notice, including a copy of the application, shall be sent immediately upon receipt to the Oregon Department of Transportation by certified mail, return receipt requested. The Oregon Department of Transportation shall have seven working days from the date of mailing to respond before a decision be rendered.*
 - 2. *Written notice shall be given to the Oregon Department of Transportation by certified mail, return receipt requested, within seven days of the entry of a final order on the disposition of all applications made under Sections [17.48.070](#) through [17.48.100](#).*

Applicant's Response: The Applicant has provided information in this application that can be used for purposes of review under the Willamette River Greenway Overlay requirements. See Attachments A and B and Applicant's Responses in Section for OCMC 17.49.

OCMC 17.47 – EROSION AND SEDIMENT CONTROL

17.47.070 Erosion and sediment control plans.

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

Applicant's Response: An Erosion and Sediment Control Plan has been created and complies with this section. See Attachment A for the Erosion and Sediment Control Plan.

OCMC 17.49 – NATURAL RESOURCE OVERLAY DISTRICT

17.49.050 - Emergencies.

The provisions of this ordinance do 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. After the emergency has passed, any disturbed native vegetation areas shall be replanted with similar vegetation found in the Oregon City Native Plant List pursuant to the mitigation standards of OCMC 17.49.180. For purposes of this section emergency shall mean any man-made or natural event or circumstance causing or threatening loss of life, injury to person or property, and includes, but is not limited to fire, explosion, flood, severe weather, drought, earthquake, volcanic activity, spills or releases of oil or hazardous material, contamination, utility or transportation disruptions, and disease.

Applicant's Response: The proposed Project is planned and is not a result of an emergency.

17.49.060 - Consistency and relationship to other regulations.

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

Applicant's Response: Permits needed from other agencies will be applied for prior to or simultaneously with the development application to the city. The applicant will apply the requirements of this chapter only to areas within the NROD and to locally significant wetlands.

17.49.070 - Prohibited uses.

The following development and activities are not allowed within the NROD:

- A. *Any new gardens, lawns, structures, development, other than those allowed outright (exempted) by the NROD or that is part of a regulated use that is approved under prescribed conditions. Note: Gardens and lawns within the NROD that existed prior to the time the overlay district was applied to a subject property are allowed to continue but cannot expand further into the overlay district.*
- B. *New lots that would have their buildable areas for new development within the NROD are prohibited.*
- C. *The dumping of materials of any kind is prohibited except for placement of fill as provided in subsection D. below. The outside storage of materials of any kind is prohibited unless they existed before the overlay district was applied to a subject property. Uncontained areas of hazardous materials as defined by the Oregon Department of Environmental Quality (ORS 466.005) are also prohibited.*
- D. *Grading, the placement of fill in amounts greater than ten cubic yards, or any other activity that results in the removal of more than ten percent of the existing native vegetation on any lot within the NROD is prohibited, unless part of an approved development activity.*

Applicant's Response: The Project includes grading and fill in amounts greater than 10 cubic yards. The applicant is submitting an application for development within the NROD.

17.49.080 - Uses allowed outright (exempted).

The following uses are allowed within the NROD and do not require the issuance of an NROD permit:

- A. *Stream, wetland, riparian, and upland restoration or enhancement projects as authorized by the City.*
- B. *Farming practices as defined in ORS 215.203 and farm uses, excluding buildings and structures, as defined in ORS 215.203.*
- C. *Utility service using a single utility pole.*
- D. *Boundary and topographic surveys leaving no cut scars greater than three inches in diameter on live parts of native plants listed in the Oregon City Native Plant List.*
- E. *Soil tests, borings, test pits, monitor well installations, and other minor excavations necessary for geotechnical, geological or environmental investigation, provided that disturbed areas are restored to pre-existing conditions as approved by the Community Development Director.*
- F. *Trails meeting all of the following:*
 - 1. *Construction shall take place between May 1 and October 30 with hand held equipment;*
 - 2. *Widths shall not exceed forty-eight inches and trail grade shall not exceed twenty percent;*
 - 3. *Construction shall leave no scars greater than three inches in diameter on live parts of native plants;*
 - 4. *Located no closer than twenty-five feet to a wetland or the top of banks of a perennial stream, or no closer than ten feet of an intermittent stream;*
 - 5. *No impervious surfaces; and*
 - 6. *No native trees greater than one-inch in diameter may be removed or cut, unless replaced with an equal number of native trees of at least two-inch diameter and planted within ten feet of the trail.*
- G. *Land divisions provided they meet the following standards, and indicate the following on the final plat:*
 - 1. *Lots shall have their building sites (or buildable areas) entirely located at least five feet from the NROD boundary shown on the City's adopted NROD map. For the purpose of this*

- subparagraph, "building site" means an area of at least 3,500 square feet with minimum dimensions of forty feet wide by forty feet deep;*
2. *All public and private utilities (including water lines, sewer lines or drain fields, and stormwater disposal facilities) are located outside the NROD;*
 3. *Impervious streets, driveways and parking areas shall be located at least ten feet from the NROD; and*
 4. *The NROD portions of all lots are protected by:*
 - a. *A conservation easement; or*
 - b. *A lot or tract created and dedicated solely for unimproved open space or conservation purposes.*
- H. *Site Plan and Design Review applications where all new construction is located outside of the NROD boundary shown on the City's adopted NROD map, and the NROD area is protected by a conservation easement approved in form by the City.*
- I. *Routine repair and maintenance of existing structures, roadways, driveways and utilities.*
- J. *Replacement, additions, alterations and rehabilitation of existing structures, roadways, utilities, etc., where the ground level impervious surface area is not increased.*
- K. *Measures approved by the City of Oregon City to remove or abate nuisances or hazardous conditions.*
- L. *Tree Removal. The Community Development Director may permit the removal of any tree determined to be a dead, hazardous, or diseased tree as defined in OCMC 17.04. Any tree that is removed in accordance with this Section (L) shall be replaced with a new tree of at least ½-inch caliper or at least six foot overall height. An exception to this requirement may be granted if the applicant demonstrates that a replacement tree has already been planted in anticipation of tree removal, or if the existing site conditions otherwise preclude tree replacement (due to existing dense canopy coverage or other ecological reasons).*
 - a. *The replacement tree(s) shall be located in the general vicinity of the removed tree(s), somewhere within NROD on the property. The replacement tree(s) shall be identified on the Oregon City Native Plant List or other locally adopted plant list (e.g. Metro or Portland). The property owner shall ensure that the replacement tree(s) survives at least two years beyond the date of its planting.*
- M. *Planting of native vegetation and the removal of non-native, invasive vegetation (as identified on the Oregon City Native Plant List or other locally adopted plant list (e.g. Metro or Portland), or as recommended by an environmental professional with experience and academic credentials in one or more natural resource areas such as ecology, arboriculture, horticulture, wildlife biology, botany, hydrology or forestry), and removal of refuse and fill, provided that:*
 1. *All work is done using hand-held equipment;*
 2. *No existing native vegetation is disturbed or removed; and*
 3. *All work occurs outside of wetlands and the top-of-bank of streams.*
- N. *Activities in which no more than one hundred square feet of ground surface is disturbed outside of the bankfull stage of water bodies and where the disturbed area is restored to the pre-construction conditions, notwithstanding that disturbed areas that are predominantly covered with invasive species shall be required to remove the invasive species from the disturbance area and plant trees and native plants pursuant to this Chapter.*
- O. *New fences meeting all of the following:*
 1. *No taller than three and a half feet and of split rail or similar open design.;*
 2. *Two feet width on both sides of fence shall be planted or seeded with native grasses, shrubs, herbs, or trees to cover any bare ground;*

- 3. *Six inches of clearance from ground level;*
- 4. *Fence posts shall be placed outside the top-of-bank of streams and outside of delineated wetlands.*
- P. *Gardens, fences and lawns within the NROD that existed prior to the time the overlay district was applied to a subject property are allowed to be maintained but cannot expand further into the overlay district.*

Applicant's Response: The proposed Project will require an NROD permit as none of the exempt uses in this section apply.

17.49.090 - Uses allowed under prescribed conditions.

The following uses within the NROD are subject to the applicable standards listed in OCMC 17.49.100 through 17.49.190 pursuant to a Type II process:

- A. *Alteration to existing structures within the NROD when not exempted by OCMC 17.49.080, subject to OCMC 17.49.130.*
- B. *A residence on a highly constrained vacant lot of record that has less than three thousand square feet of buildable area, with minimum dimensions of fifty feet by fifty feet, remaining outside the NROD portion of the property, subject to the maximum disturbance allowance prescribed in OCMC 17.49.120.A.*
- C. *A land division that would create a new lot for an existing residence currently within the NROD, subject to OCMC 17.49.160.*
- D. *Land divisions when not exempted by OCMC 17.49.080, subject to the applicable standards of OCMC 17.49.160.*
- E. *Trails/pedestrian paths when not exempted by OCMC 17.49.080, subject to OCMC 17.49.170 (for trails) or OCMC 17.49.150 (for paved pedestrian paths).*
- F. *New roadways, bridges/creek crossings, utilities or alterations to such facilities when not exempted by OCMC 17.49.080.*
- G. *Roads, bridges/creek crossings Subject to OCMC 17.49.150.*
- H. *Utility lines subject to OCMC 17.49.140.*
- I. *Stormwater detention or pre-treatment facilities subject to OCMC 17.49.155.*
- J. *Institutional, industrial or commercial development on a vacant lot of record situated in an area designated for such use that has more than seventy-five percent of its area covered by the NROD, subject to OCMC 17.49.120.B.*
- K. *City, county and state capital improvement projects, including sanitary sewer, water and storm water facilities, water stations, and parks and recreation projects.*
- L. *Non-hazardous tree removal that is not exempted pursuant to OCMC 17.49.080.K.*
- M. *Fences that do not meet the standards for exemption pursuant to OCMC 17.49.080.O.4.*

Applicant's Response: The Project includes alteration to existing structures within the NROD that are not exempted under Section 17.49.080, but will be submitted as a Type III application. Roads, bridges/creek crossings will comply with Section 17.49.150 as outlined in Section G. See responses to OCMC 17.49.150 below.

17.49.100 - General development standards.

The following standards apply to all Uses Allowed under Prescribed Conditions within the NROD with the exception of rights of ways (subject to OCMC 17.49.150), trails (subject to OCMC 17.49.170), utility lines (subject to OCMC 17.49.140), land divisions (subject to OCMC 17.49.160), and mitigation projects (subject to OCMC 17.49.180 or 17.49.190):

A. *Native trees shall be preserved unless they are located within ten feet of any proposed structures or within five feet of new driveways, or if deemed not wind-safe by a certified arborist. Trees listed on the Oregon City Nuisance Plant List or Prohibited Plant List are exempt from this standard and may be removed. A protective covenant shall be required for any native trees that remain;*

Applicant's Response: No native trees farther than 10 feet from a structure are proposed to be removed.

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

Applicant's Response: The applicant acknowledges this section and will consult with the Community Development Director.

C. *All vegetation planted in the NROD shall be native and listed on the Oregon City Native Plant List or other locally adopted plant list (e.g. Metro or Portland), or as recommended by an environmental professional with experience and academic credentials in one or more natural resource areas such as ecology, arboriculture, horticulture, wildlife biology, botany, hydrology or forestry);*

Applicant's Response: All proposed vegetation will be native and listed on the Oregon City Native Plant List or other locally adopted plant lists.

D. *Grading is subject to installation of erosion control measures required by the City;*

Applicant's Response: The applicant is in compliance with erosion control measures for grading. See Attachment A for the Erosion and Sediment Control Plan.

E. *The minimum front, street, or garage setbacks of the base zone may be reduced to any distance between the base zone minimum and zero in order to minimize the disturbance area within the NROD portion of the lot;*

Applicant's Response: No minimum setbacks apply. The Project is to repair a bridge that spans the entire NROD zone and there are no options to avoid impacts. Disturbance will be minimized to the extent possible.

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

Applicant's Response: The Project is to repair a bridge that spans the entire NROD zone and there are no options available to avoid impacts; therefore, no maximum setbacks apply.

G. *Fences in compliance with OCMC 17.49.080.N;*

Applicant's Response: No fences are proposed in the NROD.

H. *Exterior lighting shall be placed or shielded so that they do not shine directly into resource areas;*

Applicant's Response: No lighting is proposed in the NROD.

I. *If development will occur within the one hundred-year floodplain, the standards of OCMC 17.42 shall be met; and*

Applicant’s Response: The Applicant proposes work within the 100-year floodplain and will follow the requirements of OCMC 17.42. See Attachment E for the Flood Management Plan.

J. Mitigation of impacts to the regulated buffer is required, subject to OCMC 17.49.180 or 17.49.190.

Applicant’s Response: The Applicant created a mitigation plan compliant with 17.49.180. See Attachment G for Mitigation Plan Report.

17.49.110 - Width of vegetated corridor.

A. Calculation of Vegetated Corridor Width within City Limits. The NROD consists of a vegetated corridor measured from the top of bank or edge of a protected habitat or water feature. The minimum required width is the amount of buffer required on each side of a stream, or on all sides of a feature if non-linear. The width of the vegetated corridor necessary to adequately protect the habitat or water feature is specified in Table 17.49.110.

Table 17.49.110

<i>Protected Water Feature Type (see definitions)</i>	<i>Slope Adjacent to Protected Water Feature</i>	<i>Starting Point for Measurements from Water Feature</i>	<i>Width of Vegetated Corridor (see Note 1)</i>
<i>Anadromous fish-bearing streams</i>	<i>Any slope</i>	<i>• Edge of bankfull flow</i>	<i>200 feet</i>
<i>Intermittent streams with slopes less than 25 percent and which drain less than 100 acres</i>	<i>< 25 percent</i>	<i>• Edge of bankfull flow</i>	<i>15 feet</i>
<i>All other protected water features</i>	<i>< 25 percent</i>	<i>• Edge of bankfull flow • Delineated edge of Title 3 wetland</i>	<i>50 feet</i>
	<i>≥25 percent for 150 feet or more (see Note 2)</i>		<i>200 feet</i>
	<i>≥25 percent for less than 150 feet (see Note 2)</i>		<i>Distance from starting point of measurement to top of ravine (break in ≥25 percent slope) (See Note 3) plus 50 feet.</i>

Notes:

- 1. Required width (measured horizontally) of vegetated corridor unless reduced pursuant to the provisions of OCMC 17.49.120.*
 - 2. Vegetated corridors in excess of fifty feet apply on steep slopes only in the uphill direction from the protected water feature.*
 - 3. Where the protected water feature is confined by a ravine or gully, the top of the ravine is the break in the ≥25 percent slope.*
- B. Habitat Areas within City Parks. For habitat and water features identified by Metro as regionally significant which are located within city parks, the NROD Boundary shall correspond to the Metro Regionally Significant Habitat Map.*

- C. *Habitat Areas outside city limit/within UGB. For habitat and water features identified by Metro as regionally significant which are located outside of the city limits as of the date of adoption of this ordinance, the minimum corridor width from any non-anadromous fish bearing stream or wetland shall be fifty feet.*

Applicant's Response: The width of the vegetated corridor that applies to this Project is 200 feet, due to its proximity to the Willamette River and Abernethy Creek (which are anadromous fish-bearing streams). Wetlands identified along the I-205 corridor east of Main Street also require 200-foot-wide vegetated corridors because the wetlands are located on slopes greater than or equal to 25%. Currently, due to prior development, none of the buffers extend the full 200 feet as required (including impervious surfaces), at which point the vegetated corridor ends. See Attachment H for the NROD Boundary Verification.

17.49.120 - Maximum disturbance allowance for highly constrained lots of record.

In addition to the General Development Standards of OCMC 17.49.100, the following standards apply to a vacant lot of record that is highly constrained by the NROD, per OCMC 17.49.090.B and 17.49.090.F:

- A. *Standard for Residential Development. In the NROD where the underlying zone district is zoned Residential (R-10, R-8, R-6, R-5, R-3.5): the maximum disturbance area allowed for new residential development within the NROD area of the lot is three thousand square feet.*
- B. *Standard for all developments not located in R-10, R-8, R-6, R-5, and R-3.5. For all other underlying zone districts, the maximum disturbance area allowed for a vacant, constrained lot of record development within the NROD is that square footage which when added to the square footage of the lot lying outside the NROD portion equals twenty-five percent of the total lot area.*
1. *Lots that are entirely covered by the NROD will be allowed to develop twenty-five percent of their area.*
 2. *This can be determined by: (1) Multiplying the total square footage of the lot by .25; or (2) Subtracting from that amount the square footage of the lot that is located outside the NROD. The result is the maximum square footage of disturbance to be allowed in the NROD portion of the lot. If the result is < or = to 0, no disturbance is permitted and the building shall be located outside of the boundary.*
- C. *In all areas, the disturbance area of a vacant, highly constrained lot of record within the NROD shall be set back at least fifty feet from the top of bank on Abernethy Creek, Newell Creek, or Livesay Creek or twenty-five feet from the top of bank of any tributary of the aforementioned Creeks, other water body, or from the delineated edge of a wetland located within the NROD area.*
- D. *If the highly constrained lot of record cannot comply with the above standards, a maximum 1,500 square foot disturbance within the NROD area may be allowed.*

Applicant's Response: The Project is not located on a highly constrained lot of record.

17.49.130 - Existing development standards.

In addition to the General Development Standards of OCMC 17.49.100, the following standards apply to alterations and additions to existing development within the NROD, except for trails, rights of way, utility lines, land divisions and mitigation projects. As of June 1, 2010, applicants for alterations and additions to existing development that are not exempt pursuant to OCMC 17.49.080.J. shall submit a Type II or Type III application pursuant to this section.

Mitigation is required, subject to OCMC 17.49.180 or 17.49.190.

Applicant's Response: The majority of the proposed Project is located within ODOT right-of-way. The Applicant's Type III application demonstrates compliance with this section for the project areas not within right-of-way.

17.49.140 - Standards for utility lines.

The following standards apply to new utilities, private connections to existing or new utility lines, and upgrades of existing utility lines within the NROD:

- A. *The disturbance area for private connections to utility lines shall be no greater than ten feet wide;*
- B. *The disturbance area for the upgrade of existing utility lines shall be no greater than fifteen feet wide;*
- C. *New utility lines shall be within the right-of-way, unless reviewed under subsection D.*
- D. *New utility lines that cross above or underneath a drainage way, wetland, stream, or ravine within the NROD but outside of a right-of-way shall be processed as a Type III permit pursuant to OCMC 17.49.200, Adjustment from Standards.*
- E. *No fill or excavation is allowed within the ordinary high water mark of a stream without the approval of the Division of State Lands and/or the U.S. Army Corps of Engineers;*
- F. *The Division of State Lands must approve any work that requires excavation or fill in a wetland;*
- G. *Native trees more than ten inches in diameter shall not be removed unless it is shown that there are no feasible alternatives; and*
- H. *Each six to ten-inch diameter native tree cut shall be replaced at a ratio of three trees for each one removed. Each eleven-inch or greater diameter native tree shall be replaced at a ratio of five trees for each removed. The replacement trees shall be a minimum one-half inch diameter and selected from the Oregon City Native Plant List. All trees shall be planted within the NROD on the subject property. Where a utility line is approximately parallel with the stream channel, at least half of the replacement trees shall be planted between the utility line and the stream channel.*
- I. *Mitigation is required, subject to OCMC 17.49.180 or 17.49.190.*

Applicant's Response: This section does not apply. No work is proposed to new utilities, private connections to existing or new utility lines, or upgrades of existing utility lines within the NROD. The applicant proposes a mitigation plan compliant with OCMC 17.49.180.

17.49.150 - Standards for vehicular or pedestrian paths and roads.

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

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

Applicant's Response: The Project entails routine maintenance and alterations to the existing stream crossing structures (Abernethy Bridge) and the alterations are designed to enhance vehicle safety with the minimum width necessary. The existing Abernethy Bridge crossing angle is not perpendicular to the stream, but is as close to perpendicular as was practicable. Changing the orientation to make it perpendicular would not be practicable, as it would result in extensive in water, NROD, and community impacts. There are no existing pedestrian or bicycle facilities on the Abernethy Bridge nor are any proposed. There is no expectation for pedestrian and bicycle connectivity at the stream crossing. No new stream crossings are proposed.

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

Applicant's Response: The right-of-way crossing the Willamette River is the Abernethy Bridge. No new stream crossings are proposed.

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

Applicant's Response: All proposed fill or excavation within the ordinary high water mark of a stream will take place after approval from DSL and/or USACE.

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

Applicant's Response: No excavation or fill in a wetland is proposed.

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

Applicant's Response: The current in-water work window for the project area is June 1 – October 31. Proposed work within the banks of Abernethy Creek and the Willamette River will be conducted between June 1 and October 31. DSL approved an extension for drilled shaft oscillation work in the Willamette River to occur from July 1 to December 31 (see Attachment G for DSL permit #62035).

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

Applicant's Response: Mitigation will be implemented according to the proposed mitigation plan (Attachment G).

17.49.155 - Standards for stormwater facilities.

Approved facilities that infiltrate stormwater on-site in accordance with Public Works Low-Impact Development standards, including but not limited to; vegetated swales, rain gardens, vegetated filter strips, and vegetated infiltration basins, and their associated piping, may be placed within the NROD boundary pursuant to the following standards:

A. *The forest canopy within the driplines of existing trees shall not be disturbed.*

Applicant's Response: No stormwater facilities are proposed that would disturb the forest canopy within the NROD.

B. *Only vegetation from the Oregon City Native Plant List shall be planted within these facilities.*

Applicant's Response: The applicant will only plant vegetation from the Oregon City Native Plant List or other locally adopted native plant lists.

C. *Mitigation is required, subject to OCMC 17.49.180 or 17.49.190.*

Applicant's Response: Mitigation will be implemented according to the proposed mitigation plan (Attachment G).

D. *The storm water facility may encroach up to one-half the distance of the NROD corridor.*

Applicant's Response: The Applicant proposes a bioslope along the I-205 corridor that would be placed both inside of and outside of the NROD boundary.

E. *The stormwater facility shall not impact more than one thousand square feet of the NROD. Impacts greater than one thousand square feet shall be processed as a Type III application.*

Applicant's Response: The Applicant proposes a bioslope along the south side of the I-205 corridor, which has an area equal to 4,723 square feet within the NROD. This application will be submitted as a Type III application.

F. *The community development director may allow landscaping requirements of the base zone, other than landscaping required for parking lots, to be met by preserving, restoring, and permanently protecting habitat on development sites within the Natural Resource Overlay District.*

Applicant's Response: The applicant acknowledges this section.

G. *The design of the stormwater facility shall be subject to OCMC 13.12.*

Applicant's Response: All stormwater facilities are designed to meet the standards of OCMC 13.12. See Attachment C, Stormwater Report for stormwater facility details.

17.49.160 - Standards for land divisions.

Other than those land divisions exempted by OCMC 17.49.070.G., new residential lots created within the NROD shall conform to the following standards.

- A. *For a lot for an existing residence currently within the NROD. This type of lot is allowed within the NROD for a residence that existed before the NROD was applied to a subject property. A new lot for an existing house may be created through a partition or subdivision process when all of the following are met:*
1. *There is an existing house on the site that is entirely within the NROD area; and*
 2. *The existing house will remain; and*
 3. *The new lot is no larger than required to contain the house, minimum required side setbacks, garage, driveway and a twenty-foot deep rear yard, with the remaining NROD area beyond that point protected by a conservation easement, or by dedicating a conservation tract or public open space.*
- B. *Protection and ownership of NROD areas in land divisions:*
1. *New partitions shall delineate the NROD area either as a separate tract or conservation easement that meets the requirements of subsection 2. of this section.*
 2. *Prior to final plat approval, ownership and maintenance of the NROD area shall be identified to distinguish it from the buildable areas of the development site. The NROD area may be identified as any one of the following:*
 - a. *A tract of private open space held by the homeowners association;*
 - b. *For residential land divisions, a tract of private open space held by a homeowner's association 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;*
 - c. *Public open space where the tract has been dedicated to the City or other governmental unit;*
 - d. *Conservation easement area pursuant to OCMC 17.49.180.G. and approved in form by the Community Development Director; or*
 - e. *Any other ownership proposed by the owner and approved by the Community Development Director.*

- f. *NROD tracts shall be exempt from minimum frontage requirements, dimensional standards of the zoning designation, street frontage requirements, or flag lot standards pursuant to OCMC 16.08.053.*

Applicant's Response: This section does not apply. The applicant does not propose any residential lots.

17.49.170 - Standards for trails.

All trails that are not exempt pursuant to OCMC 17.49.80.F shall be processed through a Type II or Type III process pursuant to this chapter; and shall provide mitigation, subject to OCMC 17.49.180 or 17.49.190.

Applicant's Response: No trails are proposed in the NROD.

17.49.180 - Mitigation standards.

The following standards (or the alternative standards of OCMC 17.49.190) apply to required mitigation:

- A. *Mitigation shall occur at a two-to-one ratio of mitigation area to proposed NROD disturbance area. Mitigation of the removal or encroachment of a wetland or stream shall not be part of this chapter and will be reviewed by the Division of State Lands or the Army Corp of Engineers during a separate review process;*

Applicant's Response: Mitigation for disturbance in the NROD will be implemented at a 2:1 ratio. DSL has reviewed and concurred with the project mitigation for stream impacts. Proposed mitigation for stream impacts was reviewed and approved by USACE during a separate review process. See Attachment L for received permits.

- B. *Mitigation shall occur on the site where the disturbance occurs, pursuant to the following:*
- 1. The mitigation required for disturbance associated with a right-of-way or utility in the right-of-way shall be located as close to the impact area as possible within the NROD;*
 - 2. If not possible to locate mitigation on the same site, the mitigation shall occur first on the same stream tributary, secondly in the Abernethy, Newell or Livesay Creek or a tributary thereof, or thirdly as close to the impact area as possible within the NROD; and*
 - 3. An easement that allows access to the mitigation site for monitoring and maintenance shall be provided as part of the mitigation plan.*

Applicant's Response: Mitigation for disturbance associated with a right-of-way will occur as close to the impact area as possible within the NROD. ODOT will be responsible for monitoring and maintaining the mitigation area. The Project area is located within right-of-way. Right-of-way access is required for operation, maintenance, and safety of the facility. An easement can restrict the State's ability to maintain and operate the interstate and is not allowed by the Federal Highway Administration, therefore, the Applicant does not propose any easements. See Attachment G for the NROD mitigation site plan and report.

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

Applicant's Response: Mitigation will occur within the NROD areas of the project site. See Attachment G for the Mitigation Plan and Report.

Invasive and nuisance vegetation shall be removed within the mitigation area;

Applicant's Response: All invasive and nuisance vegetation will be removed within the mitigation area.

D. *Required Mitigation Planting. An applicant shall meet Mitigation Planting Option 1 or 2 below, whichever option results in more tree plantings, except that where the disturbance area is one acre or more, Mitigation Option 2 shall be required. All trees, shrubs and ground cover shall be selected from the Oregon City Native Plant List.*

Applicant’s Response: The disturbance area is more than 1 acre and will comply with Option 2.

NOTE: Applications on sites where no trees are present or which are predominantly covered with invasive species shall be required to mitigate the site, remove the invasive species and plant trees and native plants pursuant to Option 2.

1. *Mitigation Planting Option 1.*

a. *Planting Quantity. This option requires mitigation planting based on the number and size of trees that are removed from the site pursuant to Table 17.49.180E.1.a.*

Table 17.49.180E.1.a.—Required Planting

Size of Tree to be Removed (DBH)	Number of Trees and Shrubs to be Replanted
6 to 12"	2 trees and 3 shrubs
13 to 18"	3 trees and 6 shrubs
19 to 24"	5 trees and 12 shrubs
25 to 30"	7 trees and 18 shrubs
Over 30"	10 trees and 30 shrubs

b. *Plant Size. Replacement trees shall be at least one-half inch in caliper on average, measured at six inches above the ground level for field grown trees or above the soil line for container grown trees. Oak, madrone, ash or alder may be one gallon size. Conifers shall be a minimum of six feet in height. Shrubs shall be at least one-gallon container size or the equivalent in ball and burlap, and shall be at least twelve inches in height at the time of planting. All other species shall be a minimum of four-inch pots;*

Applicant’s Response: The applicant will comply with the requirements of Option 2.

c. *Plant Spacing. Except for the outer edges of mitigation areas, trees and shrubs shall be planted in a non-linear fashion. Plant spacing for new species shall be measured from the driplines of existing trees when present. Trees shall be planted on average between eight and twelve feet on center, and shrubs shall be planted on average between four and five feet on center, or clustered in single species groups of no more than four plants, with each cluster planted on average between eight and ten feet on center.*

Applicant’s Response: The applicant will comply with the requirements of Option 2.

d. *Mulching and Irrigation. Mulch new plantings a minimum of three inches in depth and eighteen inches in diameter. Water new plantings one inch per week from June 30th to September 15th, for the three years following planting.*

Applicant’s Response: The applicant will comply with the requirements of Option 2.

e. *Plant Species. Shrubs shall consist of at least two different species. If ten trees or more are planted, no more than one-half of the trees may be of the same genus.*

Conifers shall be replaced with conifers. Bare ground shall be planted or seeded with native grasses and ground cover species.

Applicant's Response: The applicant will comply with the requirements of Option 2.

2. *Mitigation Planting Option 2.*

- a. *Planting Quantity. In this option, the mitigation requirement is calculated based on the size of the disturbance area within the NROD. Native trees and shrubs are required to be planted at a rate of five trees and twenty-five shrubs per every five hundred square feet of disturbance area (calculated by dividing the number of square feet of disturbance area by five hundred, and then multiplying that result times five trees and twenty-five shrubs, and rounding all fractions to the nearest whole number of trees and shrubs; for example, if there will be three hundred thirty square feet of disturbance area, then three hundred thirty divided by five hundred equals .66, and .66 times five equals 3.3, so three trees shall be planted, and .66 times twenty-five equals 16.5, so seventeen shrubs shall be planted). Bare ground shall be planted or seeded with native grasses or herbs. Non-native sterile wheat grass may also be planted or seeded, in equal or lesser proportion to the native grasses or herbs.*

Applicant's Response: The Project proposes 58,687 square feet of disturbance area within the NROD. Based on the mitigation calculation, a total of 587 trees and 2,934 shrubs will be planted in an area equal to 117,374 square feet to meet the 2:1 mitigation ratio requirement. See Attachment G for the Mitigation Plan.

- b. *Plant Size. Plantings may vary in size dependent on whether they are live cuttings, bare root stock or container stock, however, no initial plantings may be shorter than twelve inches in height.*

Applicant's Response: No initial plantings shorter than 12 inches are proposed.

- c. *Plant Spacing. Trees shall be planted at average intervals of seven feet on center. Shrubs may be planted in single-species groups of no more than four plants, with clusters planted on average between eight and ten feet on center.*

Applicant's Response: Trees are proposed to be planted at an average of 15 feet on center. Shrubs will be installed 5 feet on center, in groups of 3 to 9 plants per species. Shrub groups will be spaced no closer than 15 feet apart and no closer than 5 feet to an adjacent tree. Planting at a more open density will yield a healthier, more self-sustaining ecosystem. Overplanting will require removals or result in tree-fall as species crowd each other out. See Attachment H for the planting plan prepared by a professional landscape architect.

- d. *Mulching and Irrigation shall be applied in the amounts necessary to ensure eighty percent survival at the end of the required five-year monitoring period.*

Applicant's Response: Mulching and irrigation will be applied to ensure 80% survival after 5 years of monitoring.

- e. *Plant Diversity. Shrubs shall consist of at least three different species. If twenty trees or more are planted, no more than one-third of the trees may be of the same genus.*

Applicant's Response: Proposed plantings meet the plant diversity requirements. The Applicant proposes to plan 13 different species of shrubs, 19 species of trees, and a mix of several species of grasses and forbs. See Attachment G for the NROD mitigation landscaping plan.

E. *An alternative planting plan using native plants may be approved in order to create a new wetland area, if it is part of a wetlands mitigation plan that has been approved by the DSL or the U.S. Army Corps of Engineers (USACE) in conjunction with a wetland joint removal/fill permit application.*

Applicant's Response: No alternative planting plan for wetland creation is proposed.

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

Applicant's Response: The applicant will provide a 5-year monitoring and maintenance plan, including annual reports. See the NROD Mitigation Plan Report in Attachment G for monitoring and maintenance details.

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

Applicant's Response: ODOT will be responsible for monitoring and maintaining the mitigation area. The Project area is located within right-of-way. Right-of-way access is required for operation, maintenance, and safety of the facility. An easement can restrict the State's ability to maintain and operate the interstate and is prohibited by 23 CFR 710.409, therefore, the Applicant does not propose any easements.

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

Applicant's Response: ODOT is responsible for monitoring and maintenance of all NROD mitigation areas. Financial guarantees are not proposed as no easements or covenants are proposed and ODOT is self-insured. See Attachment G for the proposed NROD mitigation plan and report.

17.49.190 - Alternative mitigation standards.

In lieu of the above mitigation standards of OCMC 17.49.180, the following standards may be used. Compliance with these standards shall be demonstrated in a mitigation plan report prepared by an environmental professional with experience and academic credentials in one or more natural resource

areas such as ecology, wildlife biology, botany, hydrology or forestry. At the applicant's expense, the City may require the report to be reviewed by an environmental consultant.

A. The report shall document the existing condition of the vegetated corridor as one of the following categories:

Good Existing Corridor:	Combination of trees, shrubs and groundcover are eighty percent present, and there is more than fifty percent tree canopy coverage in the vegetated corridor.
Marginal Existing Vegetated Corridor:	Combination of trees, shrubs and groundcover are eighty percent present, and twenty-five to fifty percent canopy coverage in the vegetated corridor.
Degraded Existing Vegetated Corridor:	Less vegetation and canopy coverage than marginal vegetated corridors, and/or greater than ten percent surface coverage of any non-native species.

Applicant's Response: This section does not apply as no alternative mitigation plan is proposed.

B. The proposed mitigation shall occur at a minimum two-to-one ratio of mitigation area to proposed disturbance area;

Applicant's Response: This section does not apply as no alternative mitigation plan is proposed.

C. The proposed mitigation shall result in a significant improvement to Good Existing Condition as determined by a qualified environmental professional;

Applicant's Response: This section does not apply as no alternative mitigation plan is proposed.

D. There shall be no detrimental impact on resources and functional values in the area designated to be left undisturbed;

Applicant's Response: This section does not apply as no alternative mitigation plan is proposed.

E. Where the proposed mitigation includes alteration or replacement of development in a stream channel, wetland, or other water body, there shall be no detrimental impact related to the migration, rearing, feeding or spawning of fish;

Applicant's Response: This section does not apply as no alternative mitigation plan is proposed.

F. Mitigation shall occur on the site of the disturbance to the extent practicable. If the proposed mitigation cannot practically occur on the site of the disturbance, then the applicant shall possess a legal instrument, such as an easement, sufficient to carry out and ensure the success of the mitigation.

Applicant's Response: This section does not apply as no alternative mitigation plan is proposed.

17.49.200 - Adjustment from standards.

If a regulated NROD use cannot meet one or more of the applicable NROD standards then an adjustment may be issued if all of the following criteria are met. Compliance with these criteria shall be demonstrated by the applicant in a written report prepared by an environmental professional with experience and academic credentials in one or more natural resource areas such as ecology, wildlife biology, botany, hydrology or forestry. At the applicant's expense, the City may require the report to be reviewed by an environmental consultant. Such requests shall be processed under the Type III development permit procedure. The applicant shall demonstrate:

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

Applicant's Response: The Project cannot meet all applicable NROD standards listed in this Section, and no feasible alternatives exist that would avoid proposed work within NROD areas. The Applicant has created a written report (NROD Mitigation Plan Report) which is included in Attachment G.

B. *The proposal has fewer adverse impacts on significant resources and resource functions found in the local NROD area than actions that would meet the applicable environmental development standards;*

Applicant's Response: Per response to 17.49.200(A) above, there is no alternative action that would meet applicable environmental development standards and meet the purpose and need of the Project.

C. *The proposed use or activity proposes the minimum intrusion into the NROD area that is necessary to meet development objectives;*

Applicant's Response: The materials presented in this application demonstrate the Applicant's effort to minimize intrusion into the NROD. See Attachment G for the NROD Mitigation Plan Report.

D. *Fish and wildlife passage will not be impeded;*

Applicant's Response: Permits in Attachment L demonstrate that fish and wildlife passage will not be impeded.

E. *With the exception of the standard(s) subject to the adjustment request, all other applicable NROD standards can be met; and*

Applicant's Response: Besides the standards listed in 17.49.180(D)(2)(c), 17.49.180(G), and 17.49.180(H), all other applicable NROD standards will be met.

F. *The applicant has proposed adequate mitigation to offset the impact of the adjustment.*

Applicant's Response: The Applicant has created a mitigation plan that is adequate to offset the impact of the adjustment. See Attachment G.

17.49.210 - Type II development permit application.

Unless otherwise directed by the NROD standards, proposed development within the NROD shall be processed as a Type II development permit application. All applications shall include the items required for a complete application by OCMC 17.49.220—17.49.230, and 17.50.080 as well as a discussion of how the proposal meets all of the applicable NROD development standards in OCMC 17.49.100—17.49.170.

Applicant's Response: This application will be submitted as a Type III development permit application.

17.49.220 - Required site plans.

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

- A. *For the entire subject property (NROD and non-NROD areas):*
- 1. The NROD district boundary. This may be scaled in relation to property lines from the NROD Map;*
 - 2. One hundred-year floodplain and floodway boundary (if determined by FEMA);*
 - 3. Creeks and other waterbodies;*
 - 4. Any wetlands, with the boundary of the wetland that will be adjacent to the proposed development determined in a wetlands delineation report prepared by a professional*

- wetland specialist and following the Oregon Division of State Lands wetlands delineation procedures;
5. Topography shown by contour lines of two or one foot intervals for slopes less than fifteen percent and by ten foot intervals for slopes fifteen percent or greater;
 6. Existing improvements such as structures or buildings, utility lines, fences, driveways, parking areas, etc.
 7. Extent of the required Vegetated Corridor required by Table 17.49.110.
- B. Within the NROD area of the subject property:
1. The distribution outline of shrubs and ground covers, with a list of most abundant species;
 2. Trees six inches or greater in diameter, identified by species. When trees are located in clusters they may be described by the approximate number of trees, the diameter range, and a listing of dominant species;
 3. An outline of the disturbance area that identifies the vegetation that will be removed. All trees to be removed with a diameter of six inches or greater shall be specifically identified as to number, trunk diameters and species;
 4. If grading will occur within the NROD, a grading plan showing the proposed alteration of the ground at two foot vertical contours in areas of slopes less than fifteen percent and at five foot vertical contours of slopes fifteen percent or greater.
- C. A construction management plan including:
1. Location of site access and egress that construction equipment will use;
 2. Equipment and material staging and stockpile areas;
 3. Erosion control measures that conform to City of Oregon City erosion control standards;
 4. Measures to protect trees and other vegetation located outside the disturbance area.
- D. A mitigation site plan demonstrating compliance with OCMC 17.49.180 or 17.49.190, including:
1. Dams, weirs or other in-water features;
 2. Distribution, species composition, and percent cover of ground covers to be planted or seeded;
 3. Distribution, species composition, size, and spacing of shrubs to be planted;
 4. Location, species and size of each tree to be planted;
 5. Stormwater management features, including retention, infiltration, detention, discharges and outfalls;
 6. Water bodies or wetlands to be created, including depth;
 7. Water sources to be used for irrigation of plantings or for a water source for a proposed wetland.

Applicant's Response: The applicant has included all required site plans. See Attachment F for NROD Site Plans and Attachment G for Mitigation Site Plans and Report.

17.49.230 - Mitigation plan report.

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

- A. Written responses to each applicable Mitigation Standard in OCMC 17.49.180 or 17.49.190 indicating how the proposed development complies with the mitigation standards;
- B. The resources and functional values to be restored, created, or enhanced through the mitigation plan;

- C. Documentation of coordination with appropriate local, regional, state and federal regulatory/resource agencies such as the Oregon Department of State Lands (DSL) and the United States Army Corps of Engineers (USACE);
- D. Construction timetables;
- E. Monitoring and Maintenance practices pursuant to OCMC 17.49.230.F and a contingency plan for undertaking remedial actions that might be needed to correct unsuccessful mitigation actions during the first five years of the mitigation area establishment.

Applicant’s Response: The Applicant has prepared a mitigation plan report. See Attachment G.

17.49.240 - Density transfer.

The NROD allocates urban densities to the non-NROD portions of properties located partially within the NROD, generally resulting in a substantial increase in net development potential.

For lots of record that are located within the NROD, density transfer is allowed, subject to the following provisions:

- A. Density may be transferred from the NROD to non-NROD portions of the same property or of contiguous properties within the same development site;
- B. The residential transfer credit shall be as follows: for new residential partitions and subdivisions, one-third of the area of the NROD tract or conservation easement area may be added to the net developable area outside of the tract or conservation easement area within the boundary of the development site in order to calculate the allowable number of lots.
- C. Permitted Modifications to Residential Dimensional Standards. In order to allow for a transfer of density pursuant to subsection B. above, the dimensional standards of the base zone may be modified in order minimize disturbance to the NROD. The permissible reductions are specified in Tables 17.49.240C.—17.49.240D.
- D. The applicant shall demonstrate that the minimum lot size of the underlying zone has been met. The area of the NROD in subsection B. above that is used to transfer density may be included in the calculation of the average minimum lot size.
- E. The applicant may choose to make the adjustments over as many lots as required.

Table 17.49.240 A: Lot Size Reductions Allowed for NROD Density Transfers

ZONE	Min. Lot Size (%)	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 17.49.240 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 17.49.240 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*

- F. *For density transfers on properties zoned Commercial, Institutional, Industrial or Multi-Family, the transfer credit ratio is ten thousand square feet per acre of land within the NROD;*
- G. *The area of land contained in the NROD area may be excluded from the calculations for determining compliance with minimum density requirements of the land division code.*
- H. *The owner of the transferring property shall execute a covenant that records the transfer of density. The covenant shall be found to meet the requirements of this section and be recorded before building permits are issued; and*
- I. *All other applicable development standards, including setbacks, building heights, and maximum lot coverage shall continue to apply when a density transfer occurs.*

Applicant’s Response: This section does not apply as no density transfers are proposed.

17.49.250 - Verification of NROD boundary.

The NROD boundary may have to be verified occasionally to determine the true location of a resource and its functional values on a site. This may be through a site specific environmental survey or a simple site visit in those cases where existing information demonstrates that the NROD significance rating does not apply to a site-specific area. Applications for development on a site located in the NROD area may request a determination that the subject site is not in an NROD area and therefore is not subject to the standards of OCMC 17.49.100. Verifications shall be processed as either a Type I or Type II process.

Applicant’s Response: A wetland delineation was conducted and concluded that the NROD boundary is not as extensive as shown. See the Type II Verification below.

17.49.255 - Type I verification.

- A. *Applicants for a determination under this section shall submit a site plan meeting the requirements of OCMC 17.49.220, as applicable.*
- B. *An applicant may request a Type I Verification determination by the Community Development Director. Such requests may be approved provided that there is evidence substantiating that all the requirements of this chapter relative to the proposed use are satisfied and demonstrates that the property also satisfies the following criteria, as applicable:*
 1. *No soil, vegetation, hydrologic features have been disturbed;*
 2. *No hydrologic features have been changed;*

3. *There are no man-made drainage features, water marks, swash lines, drift lines present on trees or shrubs, sediment deposits on plants, or any other evidence of sustained inundation.*
 4. *The property does not contain a wetland as identified by the City's Local Wetland Inventory or Water Quality and Flood Management Areas map.*
 5. *There is no evidence of a perennial or intermittent stream system or other protected water feature. This does not include established irrigation ditches currently under active farm use, canals or manmade storm or surface water runoff structures or artificial water collection devices.*
 6. *Evidence of prior land use approvals that conform to the Natural Resource Overlay District, or which conformed to the Water Quality Resources Area Overlay District that was in effect prior to the current adopted NROD (Ord. 99-1013).*
 7. *There is an existing physical barrier between the site and a protected water feature, including:*
 - a. *Streets, driveways, alleys, parking lots or other approved impervious areas wider than fifteen feet and which includes drainage improvements that are connected to the City storm sewer system, as approved by the City.*
 - b. *Walls, buildings, drainages, culverts, topographic features or other structures which form a physical barrier between the site and the protected water features, as approved by the City.*
- C. *If the City is not able to clearly determine, through the Type I verification process that the applicable criteria subsection B.1.—B.7 above are met, the verification application shall be denied. An applicant may then opt to apply for a verification through the Type II process defined below.*

Applicant's Response: This section does not apply as the Applicant is submitting a Type II verification.

17.49.260. - Type II verification.

Verifications of the NROD which cannot be determined pursuant to the standards of OCMC 17.49.255 may be processed under the Type II permit procedure.

- A. *Applicants for a determination under this section shall submit a site plan meeting the requirements of OCMC 17.49.220 as applicable.*
- B. *Such requests may be approved provided that there is evidence that demonstrates in an environmental report prepared by one or more qualified professionals with experience and credentials in natural resource areas, including wildlife biology, ecology, hydrology and forestry, that a resource function(s) and/or land feature(s) does not exist on a site-specific area.*
- C. *Verification to remove a recently developed area from the NROD shall show that all of the following have been met:*
 1. *All approved development in the NROD has been completed;*
 2. *All mitigation required for the approved development, located within the NROD, has been successful; and*
 3. *The previously identified resources and functional values on the developed site no longer exist or have been subject to a significant detrimental impact.*

Applicant's Response: A Type II verification has been completed. See Attachment H.

17.49.265 - Corrections to violations.

For correcting violations, the violator shall submit a remediation plan that meets all of the applicable standards of the NROD. The remediation plan shall be prepared by one or more qualified professionals with experience and credentials in natural resource areas, including wildlife biology, ecology, hydrology

and forestry. If one or more of these standards cannot be met, then the applicant's remediation plan shall demonstrate that there will be:

- A. No permanent loss of any type of resource or functional value listed in OCMC 17.49.10, as determined by a qualified environmental professional;
- B. A significant improvement of at least one functional value listed in OCMC 17.49.10, as determined by a qualified environmental professional; and
- C. There will be minimal loss of resources and functional values during the remediation action until it is fully established.

Applicant's Response: This section does not apply as no corrections to violations are proposed.

OCMC 17.50 – ADMINISTRATIVE PROCESSES

17.50.050 – Pre-application conference.

- A. *Pre-application Conference. Prior to a Type II – IV or Legislative application, excluding Historic Review, being deemed complete, the applicant shall schedule and attend a pre-application conference with City staff to discuss the proposal, unless waived by the Community Development Director. The purpose of the pre-application conference is to provide an opportunity for staff to provide the applicant with information on the likely impacts, limitations, requirements, approval standards, fees and other information that may affect the proposal.*
 - 1. *To schedule a pre-application conference, the applicant shall contact the Planning Division, submit the required materials, and pay the appropriate conference fee.*
 - 2. *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.*
 - 3. *The Planning Division shall provide the applicant(s) with the identity and contact persons for all affected neighborhood associations as well as a written summary of the pre-application conference.*
- B. *A pre-application conference shall be valid for a period of six months from the date it is held. If no application is filed within six months of the conference or meeting, the applicant shall schedule and attend another conference before the City will accept a permit application. The Community Development Director may waive the pre-application requirement if, in the Director's opinion, the development has not changed significantly and the applicable municipal code or standards have not been significantly amended. In no case shall a pre-application conference be valid for more than one year.*
- C. *Notwithstanding any representations by City staff at a pre-application conference, staff is not authorized to waive any requirements of this code, and any omission or failure by staff to recite to an applicant all relevant applicable land use requirements shall not constitute a waiver by the City of any standard or requirement.*

Applicant's Response: The applicant participated in a pre-application conference on February 28, 2019. The Applicant requested an extension of the validity of the pre-application conference to 1 year on August, 8, 2019. The extension was approved and is valid until February 28, 2020. See Attachment I for pre-application conference notes and documentation of extension request.

17.50.055 - Neighborhood association meeting.

Neighborhood Association Meeting. The purpose of the meeting with the recognized neighborhood association is to inform the affected neighborhood association about the proposed development and to receive the preliminary responses and suggestions from the neighborhood association and the member residents.

- A. *Applicants applying for annexations, zone change, comprehensive plan amendments, conditional use, Planning Commission variances, subdivision, or site plan and design review (excluding minor site plan and design review), general development master plans or detailed development plans applications shall schedule and attend a meeting with the City-recognized neighborhood association in whose territory the application is proposed no earlier than one year prior to the date of application. Although not required for other projects than those identified above, a meeting with the neighborhood association is highly recommended.*
- B. *The applicant shall request via email or regular mail a request to meet with the neighborhood association chair where the proposed development is located. The notice shall describe the proposed project. A copy of this notice shall also be provided to the chair of the Citizen Involvement Committee.*
- C. *A meeting shall be scheduled within thirty days of the date that the notice is sent. A meeting may be scheduled later than thirty days if by mutual agreement of the applicant and the neighborhood association. If the neighborhood association does not want to, or cannot meet within thirty days, the applicant shall host a meeting inviting the neighborhood association, Citizen Involvement Committee, and all property owners within three hundred feet to attend. This meeting shall not begin before six p.m. on a weekday or may be held on a weekend and shall occur within the neighborhood association boundaries or at a City facility.*
- D. *If the neighborhood association is not currently recognized by the City, is inactive, or does not exist, the applicant shall request a meeting with the Citizen Involvement Committee.*
- E. *To show compliance with this section, the applicant shall submit a copy of the email or mail notice to the neighborhood association and CIC chair, a sign-in sheet of meeting attendees, and a summary of issues discussed at the meeting. If the applicant held a separately noticed meeting, the applicant shall submit a copy of the meeting flyer, postcard or other correspondence used, and a summary of issues discussed at the meeting and submittal of these materials shall be required for a complete application.*

Applicant's Response: The applicant attended a neighborhood association meeting with Two Rivers Neighborhood Association on July 24, 2019. A sign-in sheet of meeting attendees, a summary of issues discussed, and a letter from the neighborhood association chairman indicating that a neighborhood meeting was held are provided in Attachment J.

17.50.100 FENCES, HEDGES, WALLS, AND RETAINING WALLS.

- A. *A fence, hedge, wall, retaining wall, or combination thereof may be located on real property, not within the right-of-way, subject to all of the following:*
 - 1. *A fence, hedge, wall, retaining wall, or combination thereof located in front of a building may be up to 3.5-feet in total height as measured from the finished grade at any point on the fence.*
 - 2. *A fence, hedge, wall, located next to and behind the forward most building, or within more than forty feet of the right-of-way, whichever is less may be up to:*
 - a. *Six feet in total height for residential properties with less than five units as measured from the finished grade at any point on the fence; or*
 - b. *Eight feet in total height for all other uses as measured from the finished grade at any point on the fence.*
 - 3. *A retaining wall or combination of a fence, hedge, wall located next to and behind the forward most building, or within more than forty feet of the right-of-way, whichever is less, may be up to (as measured from the finished grade) 8.5 feet in height from the finished grade.*

4. *Fences, hedges, and/or walls located within two feet above a retaining wall, as measured on a horizontal plane, shall be measured together for the purposes of determining height.*
5. *Property owners shall ensure compliance with the Traffic Sight Obstruction requirements in Chapter 10.32 of the Oregon City Municipal Code.*

Applicant’s Response: The Applicant does not propose to locate a fence, hedge, wall, retaining wall, or combination thereof on real property outside of right-of-way. This section of OCMC 17.54.100 does not apply to the Applicant’s proposal.

- B. When no other practicable alternative exists, the City Engineer may permit a fence, hedge, wall, retaining wall, or combination thereof to be located within the right-of-way subject to all of the following:*
1. *A Revocable Permanent Obstruction in the Right of Way permit is granted per OCMC 12.04.120;*
 2. *Retaining walls, fences, or hedges comply with OCMC 17.54.100.A, unless determined to be impracticable by the City Engineer.*
 3. *The abutting property owner shall ensure compliance with the Traffic Sight Obstruction requirements in Chapter 10.32 of the Oregon City Municipal Code.*

Applicant’s Response: The Applicant proposes to construct a retaining walls within ODOT right-of-way along I-205, parallel to Main Street (see Attachment A). The applicant does not require a Revocable Permanent Obstruction in the Right of Way permit from Oregon City as the wall is not proposed to be constructed within Oregon City right-of-way. The requirements of OCMC 17.54.100.A do not apply to the wall because it would not be located in front of, next to, or behind a building, or within 2 feet of a retaining wall. The wall would not be an obstruction; rather, it is a required element of the design to support structural integrity of the roadway improvement.

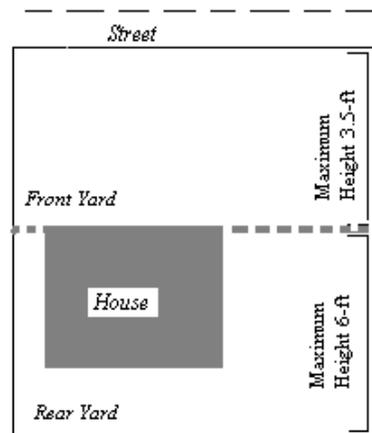
- D. It is unlawful for any person to erect any electric fence or any fence constructed in whole or in part of barbed wire or to use barbed wire, except as erected in connection with security installations at a minimum height of six feet, providing further that prior written approval has been granted by the City Manager.*

Applicant’s Response: The Applicant does not propose to erect any electric fence or any fence in whole or in part of barbed wire or to use barbed wire.

Residential Height Requirements

Any fence, hedge, or wall located in front of may be up to 3.5-feet in total height.

A fence, hedge, or wall located next to and behind your home may be up to 6 feet in total height.



Applicant’s Response: The applicant does not proposed a fence, hedge, or wall on any parcel with a home. This section of the code does not apply to the Applicant’s proposal.

CHAPTER 17.60 – VARIANCES

17.60.020 - Variances—Procedures.

A. *A request for a variance shall be initiated by a property owner or authorized agent by filing an application with the city recorder. The application shall be accompanied by a site plan, drawn to scale, showing the dimensions and arrangement of the proposed development. When relevant to the request, building plans may also be required. The application shall note the zoning requirement and the extent of the variance requested. Procedures shall thereafter be held under Chapter 17.50. In addition, the procedures set forth in subsection D. of this section shall apply when applicable.*

Applicant’s Response: The requested variances are identified in the site plan. The zoning requirements and extent of the variance requested are listed below:

ZONING REQUIREMENT	VARIANCE REQUESTED
<p>17.39.050 Dimensional standards in the I district are: A. <i>Maximum building height: Within one hundred feet of any district boundary, not to exceed thirty-five feet; elsewhere, not to exceed seventy feet.</i></p>	<p>The bridge elevation is approximately 90 feet at its highest within 100 feet of the Institutional District boundary. To meet the dimensional standard of 17.39.050, the I-205 Bridge, roadway, and ramps would need to be completely redesigned and reconstructed. Roads that pass under I-205 also would need to be redesigned and reconstructed to meet required clearances. Meeting the standard is not practicable because it would cause undo expense and inappropriate use of resources.</p>

B. *A nonrefundable filing fee, as listed in OCMC 17.50.080, shall accompany the application for a variance to defray the costs.*

Applicant’s Response: The Applicant has included the nonrefundable filing fee for the requested variance with this application.

C. *Before the planning commission may act on a variance, it shall hold a public hearing thereon following procedures as established in Chapter 17.50. A Variance shall address the criteria identified in OCMC 17.60.030, Variances — Grounds.*

Applicant’s Response: The Applicant understands a public hearing will be held for the requested variance.

D. *Minor variances, as defined in subsection E. of this section, shall be processed as a Type II decision, shall be reviewed pursuant to the requirements in OCMC 17.50.030B., and shall address the criteria identified in OCMC 17.60.030, Variance — Grounds.*

Applicant's Response: The Applicant does not propose minor variances listed in OCMC 17.60.020E.

E. *For the purposes of this section, minor variances shall be defined as follows:*

1. *Variances to setback and yard requirements to allow additions to existing buildings so that the additions follow existing building lines;*
2. *Variances to width, depth, and frontage requirements of up to twenty percent;*
3. *Variances to residential yard/setback requirements of up to twenty-five percent;*
4. *Variances to nonresidential yard/setback requirements of up to ten percent;*
5. *Variances to lot area requirements of up to five percent;*
6. *Variance to lot coverage requirements of up to twenty-five percent;*
7. *Variances to the minimum required parking stalls of up to five percent; and*
8. *Variances to the floor area requirements and minimum required building height in the mixed-use districts.*
9. *Variances to design and/or architectural standards for single family dwellings, duplexes, single-family attached dwellings, internal conversions, accessory dwelling units, and 3-4 plexes in OCMC 17.14, 17.16, 17.20, 17.21, and 17.22.*

Applicant's Response: The applicant does not propose minor variances listed in OCMC 17.60.020E.

17.60.030 - Variance—Grounds.

A variance may be granted only in the event that all of the following conditions exist:

- A. *That the variance from the requirements is not likely to cause substantial damage to adjacent properties by reducing light, air, safe access or other desirable or necessary qualities otherwise protected by this title;*
- B. *That the request is the minimum variance that would alleviate the hardship;*
- C. *Granting the variance will equal or exceed the purpose of the regulation to be modified.*
- D. *Any impacts resulting from the adjustment are mitigated;*
- E. *No practical alternatives have been identified which would accomplish the same purpose and not require a variance; and*
- F. *The variance conforms to the comprehensive plan and the intent of the ordinance being varied.*

Applicant's Response: The Applicant's requested variances meet the conditions listed in 17.60.030 as follows for 17.39.050A:

- A. The applicant is not requesting a modification of the existing bridge structure height. Maintaining the bridge elevation at its current level is not likely to cause substantial damage to adjacent properties by reducing light, air, safe access, or other desirable or necessary qualities otherwise protected by this title.
- B. Maintaining the bridge elevation at its current level is the minimum variance that would alleviate the hardship.
- C. Granting the variance to maintain the bridge elevation at its current level will equal or exceed the purpose of the regulation to be modified.
- D. Any impacts resulting from maintaining the bridge elevation at its current level are far less than the impact of reconfiguring the bridge to meet the dimensional standard of the Institutional District.
- E. No practical alternatives to bridge design have been identified, which would accomplish the same purpose and not require a variance. Reducing the elevation of the bridge would not allow for the minimum vertical clearance over either the Willamette River navigation channel or McLoughlin Boulevard to be maintained.

- F. The intent of the ordinance being varied relates to building heights within an institutional zone. Because the variance is specific to a bridge structure, it conforms to the intent of the ordinance. It does not seek variance for a building.

OCMC 17.62 – SITE PLAN AND DESIGN REVIEW

17.62.015 - Modifications that will better meet design review requirements.

The review body shall consider modification of certain site related development standards of this Chapter specified below. These modifications may be approved as part of a Type II design review process.

- A. *Applicability.*
 - 1. *This process shall apply to modifications to:*
 - a. *Landscaping in OCMC 17.62.050.A;*
 - b. *Vehicular Connections to Adjoining Properties in OCMC 17.62.050.B.2;*
 - c. *On-site pedestrian circulation in OCMC 17.62.050.C;*
 - d. *Utility Undergrounding Requirements in OCMC 16.12.095.G;*
 - e. *Building location in OCMC 17.62.055.D;*
 - f. *Building Details in OCMC 17.62.050.B.9.055.I;*
 - g. *Windows in OCMC 17.62.050.B.10.055.J*
 - h. *Parking Lot Landscaping in OCMC 17.52.060.*
 - 2. *Modifications that are denied through Type II design review may be requested as a variance through the Variance process pursuant to OCMC 17.60.020 or Master Plan Adjustment pursuant to OCMC 17.65.070 as applicable.*
 - 3. *Rather than a modification, applicants may choose to apply for a Variance through the Variance process pursuant to OCMC 17.60.020 or Master Plan Adjustment pursuant to OCMC 17.65.070 as applicable.*
- B. *The review body may approve requested modifications if it finds that the applicant has shown that the following approval criteria are met:*
 - 1. *The modification will result in a development that better meets the applicable design guidelines; and*
 - 2. *The modification meets the intent of the standard. On balance, the proposal will be consistent with the purpose of the standard for which a modification is requested.*

Applicant’s Response: The Applicant acknowledges the process of modifications to design review requirements.

17.62.030 - When required.

Site plan and design review shall be required for all development of real property in all zones except the low and medium density residential districts, unless otherwise provided for by this title or as a condition of approval of a permit. Site plan and design review shall also apply to all conditional uses, cluster housing developments, multi-family uses, and non-residential uses in all zones. Site Plan and Design Review does not apply to activities occurring within the right-of-way except for communication facilities pursuant to OCMC 17.80.

Site plan and design review is required for a change in use between the uses in Table 17.62.030:

Table 17.62.030

<i>Existing Use</i>	<i>Proposed Use</i>
<i>Residential</i>	<i>Nonresidential use, including but not limited to: commercial, office, industrial, retail, or institutional</i>
<i>Single-family or duplex</i>	<i>3 or more dwellings</i>

Site plan and design review shall not alter the type and category of uses permitted in the underlying zoning districts.

Applicant's Response: The Applicant acknowledges site plan and design reviews are required for improvements located outside of the right-of-way. The Applicant proposes activities outside the right-of-way will include temporary construction work zones to facilitate making seismic upgrades to Abernethy Bridge and construction of on-street parking on Clackamette Drive to benefit Oregon City by providing more parking facilities for Jon Storm Park users, Sportcraft Landing Park, and Clackamette Park. The proposed on-street parking will be a permanent feature, and is located both in ODOT right-of-way and on City of Oregon City property. Temporary work areas will be restored to pre-construction conditions once construction is complete. Section 17.62 applies to the portion of the on-street parking that lies within Oregon City property. See Attachment A for a site plan of the Project area.

17.62.035 - Minor site plan and design review.

This section provides for a Minor Site Plan and Design Review process. Minor Site Plan review is a Type I or Type II decision, as described in OCMC 17.62.035.A., subject to administrative proceedings described in OCMC 17.50 and may be utilized as the appropriate review process only when authorized by the Community Development Director. The purpose of this type of review is to expedite design review standards for uses and activities that require only a minimal amount of review, typical of minor modifications and/or changes to existing uses or buildings.

A. Type I Minor Site Plan and Design Review.

1. *Applicability. Type I applications involve no discretion and are typically processed concurrently with a building permit application. The Type I process is not applicable for:*
 - a. *Any activity which is included with or initiates actions that require Type II-IV review.*
 - b. *Any increase in square footage of a conditional or nonconforming use (excluding nonconforming structures).*
 - c. *Any proposal in which nonconforming upgrades are required under OCMC 17.58.*
 - d. *Any proposal in which modifications are proposed under OCMC 17.62.015.*
2. *The following projects may be processed as a Type I application:*
 - a. *Addition of up to two hundred square feet to a commercial, institutional, or multifamily structure in which no increases are required to off-street parking. This includes a new ancillary structure, addition to an existing structure, or new interior space (excluding new drive thru). Increases of more than two hundred square feet in a twelve-month period shall be processed as Type II.*
 - b. *Addition of up to one thousand square feet to an industrial use in which no increases are required to off-street parking. This includes a new ancillary structure, addition to an existing structure, or new interior space (excluding ancillary retail and office). Increases of more than one thousand square feet in a twelve-month period shall be processed as Type II.*
 - c. *Temporary structures, excluding mobile vendors.*
 - d. *Removal, replacement or addition of awnings, or architectural projections to existing structures.*
 - e. *Addition, modification, or relocation of refuse enclosure.*
 - f. *Changes to amount, location, or design of bicycle parking.*
 - g. *Installation of mechanical equipment.*
 - h. *Repaving of previously approved parking lots with no change to striping.*
 - i. *Replacement of exterior building materials.*

- j. *Addition of windows and doors, relocation of windows and doors in which transparency levels remain unchanged, or removal of windows and doors provided minimum transparency requirements are still met.*
 - k. *Addition or alteration of parapets or rooflines.*
 - l. *Modification of building entrances.*
 - m. *Addition to or alteration of a legal nonconforming single or two-family dwelling.*
 - n. *Change to parking lot circulation or layout, excluding driveway modifications.*
 - o. *Removal or relocation of vehicle parking stalls provided total parking remains between approved minimum and maximum with no new reductions other than through the downtown parking district.*
 - p. *Adoption of shared parking agreements.*
 - q. *Changes to landscaping that do not require stormwater quality and quantity treatment under OCMC 13.12.*
 - r. *New or changes to existing pedestrian accessways, walkways or plazas.*
 - s. *Installation of or alterations to ADA accessibility site elements.*
 - t. *Modification or installation of a fence, hedge, or wall, or addition of a fence, hedge or wall.*
 - u. *Addition of or alterations to outdoor lighting.*
 - v. *Demolition of any structure or portion of a structure*
 - w. *Tree removal*
 - x. *Type I Master Plan Amendments under OCMC 17.65.080.*
 - y. *Mobile food carts in one location for five hours or less as identified in OCMC 17.54.115*
 - z. *3-4 plex, duplex, single-family attached dwellings, single-family detached residential unit, internal conversions, live/work dwelling and accessory dwelling unit.*
 - aa. *Placement of a single manufactured home within an existing space or lot in a manufactured home park.*
3. *Submittal Requirements. A Type I application shall include:*
- a. *A narrative describing the project.*
 - b. *Site plan drawings showing existing conditions/uses and proposed conditions/uses.*
 - c. *Architectural drawings, including building elevations and envelopes, if architectural work is proposed.*
 - d. *A completed application form.*
 - e. *Any other information determined necessary by the Community Development Director.*
- B. *Type II Minor Site Plan and Design Review.*
1. *Type II Minor Site Plan and Design Review applies to the following uses and activities unless those uses and activities qualify for Type I review per OCMC 17.62.035.A.:*
- a. *Modification of an office, commercial, industrial, institutional, public or multi-family structure that does not increase the interior usable space (for example covered walkways or entryways, addition of unoccupied features such as clock tower, etc.).*
 - b. *Modification to parking lot layout and landscaping, or the addition of up to five parking spaces.*
 - c. *A maximum addition of up to one thousandsquare feet to a commercial, office, institutional, public, multi-family, or industrial building provided that the addition is not more than thirty-five percent of the original building square footage.*
 - d. *Mobile food carts in OCMC 17.54.115.*
 - e. *Other land uses and activities may be added if the Community Development Director makes written findings that the activity/use will not increase off-site impacts and is consistent with the type and/or scale of activities/uses listed above.*

2. *Application. The application for the Type II Minor Site Plan and Design Review shall contain the following elements:*
 - a. *The submittal requirements of OCMC 17.50.*
 - b. *A narrative explaining all aspects of the proposal in detail and addressing each of the applicable criteria listed in OCMC 17.62.*
 - c. *Site plan drawings showing existing conditions/uses and proposed conditions/uses.*
 - d. *Architectural drawings, including building elevations and envelopes, if architectural work is proposed.*
 - e. *Additional submittal material may be required by the Community Development Director on a case-by-case basis.*

Applicant's Response: The Applicant has prepared this Type II submittal in accordance with the requirements outlined in the pre-application conference by Oregon City Development Services and Planning Division staff. It contains the applicable elements listed in OCMC 17.62.040.

17.62.040 – Items required.

A complete application for Site Plan and Design Review shall be submitted. Except as otherwise in subsection I of this section, the application shall include the following:

- A. *A site plan or plans, to scale, containing the following:*
 1. *Vicinity information showing streets and access points, pedestrian and bicycle pathways, transit stops and utility locations;*
 2. *The site size, dimensions, and zoning, including dimensions and gross area of each lot or parcel and tax lot and assessor map designations for the proposed site and immediately adjoining properties;*
 3. *Contour lines at two-foot contour intervals for grades zero to ten percent, and five-foot intervals for grades over ten percent;*
 4. *The location of natural hazard areas on and within one hundred feet of the boundaries of the site, including:*
 - a. *Areas indicated on floodplain maps as being within the one-hundred-year floodplain,*
 - b. *Unstable slopes, as defined in OCMC 17.44.020,*
 - c. *Areas identified on the seismic conditions map in the comprehensive plan as subject to earthquake and seismic conditions;*
 5. *The location of natural resource areas on and within one hundred feet of the boundaries of the site, including fish and wildlife habitat, existing trees (six inches or greater in caliper measured four feet above ground level), wetlands, streams, natural areas, wooded areas, areas of significant trees or vegetation, and areas designated as being within the natural resources overlay district;*
 6. *The location of inventoried historic or cultural resources on and within one hundred feet of the boundaries of the site;*
 7. *The location, dimensions, and setback distances of all existing permanent structures, improvements and utilities on or within twenty five feet of the site, and the current or proposed uses of the structures;*
 8. *The location, dimensions, square footage, building orientation and setback distances of proposed structures, improvements and utilities, and the proposed uses of the structures by square footage;*
 9. *The location, dimension and names, as appropriate, of all existing and platted streets, other public ways, sidewalks, bike routes and bikeways, pedestrian/bicycle accessways and other*

- pedestrian and bicycle ways, transit street and facilities, neighborhood activity centers, and easements on and within two hundred fifty feet of the boundaries of the site;*
10. *The location, dimension and names, as appropriate, of all proposed streets, other public ways, sidewalks, bike routes and bikeways, pedestrian/bicycle accessways and other pedestrian and bicycle ways, transit streets and facilities, neighborhood activity centers, and easements on and within two hundred feet of the boundaries of the site;*
 11. *All parking, circulation, loading and servicing areas, including the locations of all carpool, vanpool and bicycle parking spaces as required in OCMC 17.52;*
 12. *Site access points for automobiles, pedestrians, bicycles and transit;*
 13. *On-site pedestrian and bicycle circulation;*
 14. *Outdoor common areas proposed as open space;*
 15. *Total impervious surface created (including buildings and hard ground surfaces);*
 16. *The proposed location, dimensions, and materials of fences and walls.*
- B. *A landscaping plan, drawn to scale, showing the location and types of existing trees (six inches or greater in caliper measured four feet above ground level) and vegetation proposed to be removed and to be retained on the site, the location and design of landscaped areas, the varieties, sizes and spacings of trees and plant materials to be planted on the site, other pertinent landscape features, and irrigation systems required to maintain plant materials.*
 - C. *Architectural drawings or sketches, drawn to scale and showing floor plans, elevations accurately reflected to grade, and exterior materials of all proposed structures and other improvements as they will appear on completion of construction. The name of the adjacent street shall be identified on each applicable building elevation.*
 - D. *An electronic materials board clearly depicting all building materials with specifications as to type, color, and texture of exterior materials of proposed structures. .*
 - E. *An erosion/sedimentation control plan, in accordance with the requirements of OCMC 17.47 and the Public Works Erosion and Sediment Control Standards, and a drainage plan developed in accordance with city drainage master plan requirements, OCMC 13.12 and the Public Works Stormwater and Grading Design Standards. The drainage plan shall identify the location of drainage patterns and drainage courses on and within one hundred feet of the boundaries of the site. Where development is proposed within an identified hazard area, these plans shall reflect concerns identified in the hydrological/geological/geotechnical development impact statement.*
 - F. *An exterior lighting plan, drawn to scale, showing type, height, and area of illumination.*
 - G. *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 forty-five days of notification by the applicant; and*
 2. *A letter or email from the applicable tribal cultural resource representative of the Confederated Tribes of the Grand Ronde, Confederated Tribes of the Siletz, Confederated Tribes of the Umatilla, Confederated Tribes of the Warm Springs and the Confederated Tribes of the Yakama Nation indicating the level of recommended archeological monitoring on-site, or demonstrate that the applicant had notified the applicable tribal cultural resource representative and that the applicable tribal cultural resource representative had not commented within forty-five days of notification by the applicant.*
If, after forty-five days' notice from the applicant, the Oregon State Historic Preservation Office or the applicable tribal cultural resource representative fails to provide comment, the

City will not require the letter or email as part of the completeness review. For the purpose of this section, ground disturbance is defined as the movement of native soils.

- H. *Such special studies or reports as the Community Development Director may require to obtain information to ensure that the proposed development does not adversely affect the surrounding community or identified natural resource areas or create hazardous conditions for persons or improvements on the site. The Community Development Director shall require an applicant to submit one or more development impact evaluations as may be necessary to establish that the City's traffic safety or capacity standards, natural resource, including geologic hazard and flood plain overlay districts, will be satisfied.*
- I. *The Community Development Director may waive the submission of information for specific requirements of this section or may require information in addition to that required by a specific provision of this section, as follows:*
 - 1. *The Community Development Director may waive the submission of information for a specific requirement upon determination either that specific information is not necessary to evaluate the application properly, or that a specific approval standard is not applicable to the application. If submission of information is waived, the Community Development Director shall, in the decision, identify the waived requirements, explain the reasons for the waiver, and state that the waiver may be challenged on appeal and may be denied by a subsequent review authority. If the matter is forwarded to the Planning Commission for initial review, the information required by this paragraph shall be included in the staff report;*
 - 2. *The Community Development Director may require information in addition to that required by a specific provision of this section upon determination that the information is needed to evaluate the application properly and that the need can be justified on the basis of a special or unforeseen circumstance as necessary to comply with the applicable standards. If additional information is required, the Community Development Director shall, in the decision, explain the reasons for requiring the additional information.*
- J. *One full-sized copy of all architectural and site plans.*

Applicant's Response: The Applicant has met the requirements of this section as follows:

- A. A site plan for the project elements outside of right-of-way that shows vicinity information, site dimensions, zoning, tax lots, 2-foot contours, natural hazard areas, natural resources, existing structures, streets, proposed and existing pedestrian/bicycle access ways, proposed roadway and parking improvements, proposed walls, and new impervious areas is provided in Attachment A.
- B. A landscaping plan showing the location and types of existing trees 6 inches or greater in caliper that are proposed to be removed is located in Attachment B. The location and design of landscaped areas, the trees and plant materials to be planted, and other pertinent landscape features for the project elements outside of right-of-way is also provided in Attachment B.
- C. The project elements outside of right-of-way do not include construction of new buildings or structures that require architectural drawings or building elevations. This section of OCMC 17.62.040 does not apply.
- D. The project elements outside of right-of-way do not include construction of new buildings or structures. This section of OCMC 17.62.040 does not apply.
- E. The Applicant has prepared an erosion and sediment control plan that includes the area subject to this section of OCMC 17.62.40: see Attachment A. The drainage plan, including drainage patterns and drainage courses on the project site is included in Attachment C.
- F. The exterior lighting (illumination) plan is included in Attachment A.

- G. The Applicant has consulted with the Oregon State Historic Preservation Office and the Confederated Tribes of the Grand Ronde, Confederated Tribes of the Siletz, Confederated Tribes of the Warm Springs, and the Confederated Tribes of the Yakama Nation and obtained concurrence from SHPO as part of the Section 106 Consultation process. No archaeological monitoring was recommended. See Attachment K for Section 106 Consultation documentation.
- H. The Applicant requests a Geologic Hazard Waiver. The waiver request is in the Geotechnical Engineering Report in Attachment D. The Community Development Director has not asked the Applicant for other special studies or reports.
- I. The Community Development Director has not waived specific submission requirements or required additional information pursuant to this section of OCMC 17.62.040.

Copies of the site plan for project elements outside of right-of-way are included in Attachment A and submitted in full size with this application.

17.62.050 - General Standards

All development shall comply with the following standards:

A. Landscaping.

- 1. *Existing native vegetation is encouraged to be retained to the maximum extent practicable. All plants listed on the Oregon City Nuisance Plant List shall be removed from the site prior to issuance of a final occupancy permit for the building.*

Applicant’s Response: For the proposed activities outside of the right-of-way, the Applicant will remove plants listed on the Oregon City Nuisance Plant List and replant cleared areas using native vegetation to the extent practicable. The Landscaping Plan is provided in Attachment B of this permit application.

- 2. *Except as allowed elsewhere in Title 16 or 17 of this Code, all areas to be credited towards landscaping shall be installed with growing plant materials.*

Applicant’s Response: The Applicant will install growing plant materials in all landscaping areas to be applied to the percentage of the landscaping.

- 3. *Pursuant to OCMC 17.49, landscaping requirements within the Natural Resource Overlay District, other than landscaping required for parking lots, may be met by preserving, restoring, and permanently protecting native vegetation and habitat on development sites.*

Applicant’s Response: The landscaping plan includes preserving and protecting existing native vegetation and habitat on the development sites in the NROD to the extent practicable. Native vegetation that is removed for construction will be restored using native plant seeds to the extent practicable.

- 4. *A landscaping plan shall be prepared by a registered landscape architect for new or revised landscaped areas and parking lots. Landscape architect approval is not required for tree removal and/or installation if the species are chosen from an approved street tree list. A certified landscape designer, arborist, or nurseryman shall be acceptable in lieu of a landscape architect for projects with less than five hundred square feet of landscaping. All landscape plans shall include a mix of vertical (trees and shrubs) and horizontal elements (grass, groundcover, etc.) that within three years will cover one hundred percent of the landscape area. Plant species listed on the Oregon City Nuisance Plant list are prohibited and native species are encouraged. No mulch, bark chips, or similar materials shall be allowed at the time of landscape installation except under the canopy of shrubs and within two feet of the base of trees.*

Applicant's Response: A landscape plan has been prepared by a registered landscape architect and proposes only approved species. See Attachment B of this permit application.

5. *Landscaping shall be visible from public thoroughfares to the extent practicable.*

Applicant's Response: The Landscaping Plan includes landscaping that will be visible from public thoroughfares to the extent practicable. See Attachment B of this permit application.

6. *The landscaping in parking areas shall not obstruct lines of sight for safe traffic operation and shall comply with all requirements of OCMC 10.32, Traffic Sight Obstructions.*

Applicant's Response: The Applicant proposes a 5-foot vegetated landscaping strip adjacent to the proposed on-street parking on the east side of Clackamette Drive. The plantings will not obstruct line-of-sight for traffic.

B. *Vehicular Access and Connectivity.*

1. *Parking areas shall be located behind the building façade that is closest to the street, below buildings, or on one or both sides of buildings.*

Applicant's Response: The proposed on-street spaces on Clackamette Drive are not considered a parking area requiring compliance with this portion of the OCMC.

2. *Existing or future connections to adjacent sites through the use of vehicular and pedestrian access easements which provide connection from the right-of-way to the adjoining property shall be provided.*

Applicant's Response: No access easements are proposed.

3. *Parcels larger than three acres shall provide streets as required in OCMC 16.12.*

Applicant's Response: The Applicant does not propose improvements on any area outside of the right-of-way greater than 3 acres. There is no need for the Applicant to provide streets.

4. *Parking garage entries shall not be more than half of the streetscape.*

Applicant's Response: There are no parking garages proposed in the Project.

C. *A well-marked, continuous, and protected on-site pedestrian circulation system meeting the following standards shall be provided:*

1. *Pathways between all building entrances and the street are required. Pathways between the street and buildings fronting on the street shall be direct and not cross a drive aisle. Exceptions may be allowed by the director where steep slopes, a physically constrained site, or protected natural resources prevent a direct connection or where an indirect route would enhance the design and/or use of a common open space.*

Applicant's Response: The Applicant does not propose buildings. This section of OCMC 17.62.050 does not apply.

2. *The pedestrian circulation system shall connect all main entrances, parking areas, bicycle parking, recreational areas, common outdoor areas, and any pedestrian amenities on the site. For buildings fronting on the street, the sidewalk may be used to meet this standard.*

Applicant's Response: The Applicant does not propose pedestrian circulation systems.

3. *The pedestrian circulation system shall connect the principal building entrance to those of buildings on adjacent sites, except within industrial zoning designations.*

Applicant's Response: The Applicant does not propose buildings. This section of OCMC 17.62.050 does not apply.

4. *Elevated external stairways or walkways shall not extend beyond the building facade except for external stairways or walkways located in, or facing interior courtyard areas that are not visible from the street or a public access easement. This standard does not apply to sky-bridges or sky-ways.*

Applicant's Response: The Applicant does not propose buildings with external stairways or walkways. This section of OCMC 17.62.050 does not apply.

- 5e. *On-site pedestrian walkways shall be hard surfaced, well drained and at least five feet wide. Surface material shall contrast visually to adjoining surfaces. When bordering parking spaces other than spaces for parallel parking, pedestrian walkways shall be a minimum of seven feet in width unless curb stops are provided. When the pedestrian circulation system is parallel and adjacent to an auto travel lane, the walkway shall be raised or separated from the auto travel lane by a raised curb, bollards, landscaping or other physical barrier. If a raised walkway is used, the ends of the raised portions shall be equipped with curb ramps for each direction of travel. Pedestrian walkways that cross drive isles or other vehicular circulation areas shall utilize a change in textual material or height to alert the driver of the pedestrian crossing area.*

Applicant's Response: The Project is in compliance with pedestrian walkway requirements and proposes surfaces at least 5 to 7 feet wide. Walkways parallel to travel lanes will be raised or separated and have curb ramps. Crosswalk striping is proposed near the on-street parking lane on Clackamette Drive from the sidewalk to Jon Storm Park.

- D. *All development shall maintain continuous compliance with applicable federal, state, and City standards.*

Applicant's Response: The proposed on-street parking and associated improvements will be in compliance with all applicable federal, state, and City standards.

- E. *Adequate public water and sanitary sewer facilities sufficient to serve the proposed or permitted level of development shall be provided pursuant to OCMC 16.12. The applicant shall demonstrate that adequate facilities and services are presently available or can be made available concurrent with development. Service providers shall be presumed correct in the evidence, which they submit. All facilities shall be designated to City standards as set out in the City's facility master plans and public works design standards. A development may be required to modify or replace existing offsite systems if necessary to provide adequate public facilities. The City may require over sizing of facilities where necessary to meet standards in the City's facility master plan or to allow for the orderly and efficient provision of public facilities and services. Where over sizing is required, the developer may request reimbursement from the City for over sizing based on the City's reimbursement policy and fund availability, or provide for recovery of costs from intervening properties as they develop.*

Applicant's Response: No public water or sanitary sewer facilities are needed for the Project as there are no buildings proposed.

- F. *If a transit agency, upon review of an application for an industrial, institutional, retail or office development, recommends that a bus stop, bus turnout lane, bus shelter, accessible bus landing pad, lighting, or transit stop connection be constructed, or that an easement or*

dedication be provided for one of these uses, consistent with an agency adopted or approved plan at the time of development, the review authority shall require such improvement, using designs supportive of transit use. Improvements at a major transit stop may include intersection or mid-block traffic management improvements to allow for crossings at major transit stops, as identified in the City's Transportation System Plan.

Applicant's Response: The Applicant assumes no transit agency would recommend adding transit facilities as a result of this proposal.

G. Screening of Mechanical Equipment:

1. *Rooftop mechanical equipment, including HVAC equipment and utility equipment that serves the structure, shall be screened from view from the adjacent street. Screening shall be accomplished through the use of parapet walls or a sight-obscuring enclosure around the equipment constructed of one of the primary materials used on the primary facades of the structure, and that is an integral part of the building's architectural design. The parapet or screen shall completely surround the rooftop mechanical equipment to an elevation equal to or greater than the highest portion of the rooftop mechanical equipment being screened. In the event such parapet wall does not fully screen all rooftop equipment, then the rooftop equipment shall be enclosed by a screen constructed of one of the primary materials used on the primary facade of the building so as to achieve complete screening.*
2. *Wall-mounted mechanical equipment shall not be placed on the front facade of a building or on a facade that faces a right-of-way. Wall-mounted mechanical equipment, including air conditioning or HVAC equipment and groups of multiple utility meters, that extends six inches or more from the outer building wall shall be screened from view from streets; from residential, public, and institutional properties; and from public areas of the site or adjacent sites through the use of (a) sight-obscuring enclosures constructed of one of the primary materials used on the primary facade of the structure, (b) sight-obscuring fences, or (c) trees or shrubs that block at least eighty percent of the equipment from view or (d) painting the units to match the building. Wall-mounted mechanical equipment that extends six inches or less from the outer building wall shall be designed to blend in with the color and architectural design of the subject building. Vents which extend six inches or less from the outer building wall shall exempt from this standard if painted.*
3. *Ground-mounted above-grade mechanical equipment shall be screened by ornamental fences, screening enclosures, trees, or shrubs that block at least eighty percent of the view.*
4. *This section shall not apply to the installation of solar energy panels, photovoltaic equipment, or wind power generating equipment.*

Applicant's Response: This section of OCMC 17.62.050 applies to electrical equipment needed for parking lot lighting. No rooftop or wall-mounted mechanical equipment will be used. Ground-mounted above-grade mechanical equipment will be screened by at least 80 percent.

H. Building Materials.

1. *Prohibited Materials. The following materials shall be prohibited in visible locations from the right-of-way or a public access easement unless an exception is granted by the Community Development Director based on the integration of the material into the overall design of the structure.*
 - i. *Vinyl or plywood siding (including T-111 or similar plywood).*
 - ii. *Glass block or highly tinted, reflected, translucent, or mirrored glass (except stained glass) as more than ten percent of the building facade.*

- iii. *Corrugated fiberglass.*
- iv. *Chain link fencing (except for temporary purposes such as a construction site, gates for a refuse enclosure, stormwater facilities, or when located on properties within the General Industrial District).*
- v. *Crushed colored rock/crushed tumbled glass.*
- vi. *Non-corrugated and highly reflective sheet metal.*
- vii. *Tarps, except for the protection of outside storage.*

Applicant's Response: No prohibited building materials are proposed.

- 2. *Special Material Standards. The following materials are allowed if they comply with the requirements found below:*
 - i. *Concrete Block. When used for the front façade of any building, concrete blocks shall be split, rock- or ground-faced and shall not be the prominent material of the elevation. Plain concrete block or plain concrete may be used as foundation material if the foundation material is not revealed more than three feet above the finished grade level adjacent to the foundation wall.*
 - ii. *Metal Siding. Metal siding shall have visible corner moldings and trim and incorporate masonry or other similar durable/permanent material near the ground level (first two feet above ground level) except when used for a temporary structure.*
 - iii. *Exterior insulation and finish system (EIFS) and similar troweled finishes shall be trimmed in wood, masonry, or other approved materials and shall be sheltered from extreme weather by roof overhangs or other methods.*
 - iv. *Building surfaces shall be maintained in a clean condition and painted surfaces shall be maintained to prevent or repair peeling, blistered or cracking paint.*
 - v. *Membrane or fabric covered storage areas are permitted as temporary structures, excluding the use of tarps.*
 - vi. *Vinyl or powder coated chain link fencing is permitted for City-owned stormwater management facilities, reservoirs, and other public works facilities such as pump stations, maintenance yards, and storage yards not located within the General Industrial District.*

Applicant's Response: None of the Applicant's proposed improvements include materials listed in this section of OCMC 17.62.050.

Temporary Structures. Temporary structures are permitted pursuant to the following standards:

- 1. *Structures up to two hundred square feet:*
 - i. *Shall not be on a property for more than three consecutive days; and*
 - ii. *Shall not be on a property more than six times per year; and*
 - iii. *Shall comply with the minimum dimensional standards of the zoning designation; and*
 - iv. *Shall be sited so as to leave the minimum number of parking spaces for the primary uses as required by OCMC 17.52 or as otherwise specified in a land use approval;*
 - v. *Shall not disturb ingress or egress to the site; and*
 - vi. *Shall be exempt from all sections of s OCMC 12.08, 16.12, 17.52 and 17.62 except subsections 17.62.050.I and J.*
- 2. *Temporary structures larger than two hundred square feet may be permitted up to 2 times per year; and:*
 - i. *Structures larger than two hundred square feet up to eight hundred square feet:*
 - a. *Shall not be on a property for more than thirty consecutive days;*

- b. *Shall comply with the minimum dimensional standards of the zoning designation;*
- c. *Shall be sited so as to leave the minimum number of parking spaces for the primary uses as required by OCMC 17.52 or as otherwise specified in a land use approval;*
- d. *Shall not disturb ingress or egress to the site; and*
- e. *Shall be exempt from all sections of OCMC 12.08, 16.12, 17.52, and 17.62 except subsections 17.62.050.I and J.*
- ii. *Structures larger than eight hundred square feet:*
 - a. *Shall not be on a property for more than seven consecutive days;*
 - b. *Shall comply with the minimum dimensional standards of the zoning designation;*
 - c. *Shall be sited so as to leave the minimum number of parking spaces for the primary uses as required by OCMC 17.52 or as otherwise specified in a land use approval;*
 - d. *Shall not disturb ingress or egress to the site; and*
 - e. *Shall be exempt from all sections of OCMC 12.08, 16.12, 17.52, and 17.62 except subsections 17.62.050.I and J.*
- 3. *Government owned properties are exempt from all sections of OCMC 12.08, 16.12, 17.52 and 17.62 except subsections 17.62.050.H and I and the dimensional standards of the zoning designation.*

Applicant's Response: This section of OCMC 17.62.050 does not apply to the Applicant's proposal. The Project does not include temporary structures outside of right-of-way.

- J. *Development shall comply with requirements of the following Oregon City Municipal Code chapters, as applicable, including but not limited to:*
 - 1. *12.04 Streets, Sidewalks and Public Places*
 - 2. *12.08 Public and Street Trees*
 - 3. *13.04 Water Service System*
 - 4. *13.08 Sewer Regulations*
 - 5. *13.12 Stormwater Management*
 - 6. *16.12 Minimum Improvements and Design Standards for Development*
 - 7. *17.20 Residential Design Standards for ADU's, Cluster Housing, Internal Conversions, Live/Work Units, and Manufactured Home Parks*
 - 8. *17.40 Historic Overlay District*
 - 9. *17.41 Tree Protection Standards*
 - 10. *17.42 Flood Management Overlay District*
 - 11. *17.44 Geologic Hazards*
 - 12. *17.47 Erosion and Sediment Control*
 - 13. *17.48 Willamette River Greenway*
 - 14. *17.49 Natural Resource Overlay District*
 - 15. *17.50 Administration and Procedures*
 - 16. *17.52 Off-Street Parking and Loading*
 - 17. *17.54 Supplemental Zoning Regulations and Exceptions*
 - 18. *17.58 Lawful Nonconforming Uses, Structures, and Lots*
 - 19. *17.65 Master Plans and Planned Unit Development*

Applicant's Response: The Applicant's proposal will comply with applicable OCMC code listed in this section of OCMC 17.62.050 as demonstrated in other sections of this application.

17.62.055 –Institutional, office, multi-family, retail, and commercial building standards.

- A. *Purpose.* The primary objective of the regulations contained in this section is to provide a range of design choices that promote creative, functional, and cohesive development that is compatible with surrounding areas. Buildings approved in compliance with these standards are intended to serve multiple tenants over the life of the building, and are not intended for a one-time occupant. The standards encourage people to spend time in the area, which also provides safety through informal surveillance. Finally, this section is intended to promote the design of an urban environment that is built to human scale by creating buildings and streets that are attractive to pedestrians, create a sense of enclosure, provide activity and interest at the intersection of the public and private spaces, while also accommodating vehicular movement.
- B. *Applicability.* This section applies to institutional, office, multi-family, retail, and commercial buildings except accessory structures less than one thousand square feet and temporary structures.
- C. *Conflicts.* With the exception of standards for building orientation and building front setbacks, in the event of a conflict between a design standard in this section and a standard or requirement contained in the underlying zoning district, the standard in the zoning district shall prevail.
- D. *Siting of Structures.* On sites with one hundred feet or more of frontage at least sixty percent of the site frontage width shall be occupied by buildings placed within five feet of the property line. For sites with less than one hundred feet of street frontage, at least fifty percent of the site frontage width shall be occupied by buildings placed within five feet of the property. Multi-family developments shall be placed no farther than twenty feet from the front property line. This section does not apply to properties with less than forty feet of frontage.
A larger front yard setback may be approved through site plan and design review if the setback area incorporates at least one element from the following list for every five feet of increased setback requested:
1. Tables, benches or other approved seating area.
 2. Cobbled, patterned, or paved stone or enhanced concrete.
 3. Pedestrian scale lighting.
 4. Sculpture/public art.
 5. Fountains/Water feature.
 6. At least twenty square feet of landscaping or planter boxes for each tenant facade fronting on the activity area.
 7. Outdoor café.
 8. Enhanced landscaping or additional landscaping.
 9. Other elements, as approved by the Community Development Director, that can meet the intent of this section.
- E. *Building Orientation.* All buildings along the street frontage shall face the front most architecturally significant facade toward the street and have a functional primary entrance facing the street. Primary building entrances shall be clearly defined and recessed or framed by a sheltering element such as an awning, arcade or portico in order to provide shelter from the summer sun and winter weather.
- F. *Entryways.* Entrances shall include a doorway and a minimum of four of the following elements:
1. Display windows;
Recesses or projections; Peaked roof or raised parapet over the door; Canopy of at least five feet in depth; Porch; Distinct materials; Architectural details such as tile work and moldings; Pedestrian amenities such as benches, planters or planter boxes; Landscape treatments integrating arbors, low walls, trellis work; or Similar elements. Trellises, canopies and fabric

awnings may project up to five feet into front setbacks and public rights-of-way, provided that the base is not less than eight feet at the lowest point and no higher than ten feet above the sidewalk.

G. Corner Lots.

For buildings located at the corner of intersections, the primary entrance of the building shall be located at the corner of the building or within twenty-five feet of the corner of the building.

Additionally, one of the following treatments shall be required:

- 1. Incorporate prominent architectural elements, such as increased building height or massing, cupola, turrets, or pitched roof, at the corner of the building or within twenty-five feet of the corner of the building.*
- 2. Chamfer the corner of the building (i.e. cut the corner at a forty-five degree angle and a minimum of ten feet from the corner) and incorporate extended weather protection (arcade or awning), special paving materials, street furnishings, or plantings in the chamfered area.*
- 3. Standards 1 and 2 above do not apply to multi-family buildings or multi-family portions of residential mixed-use buildings.*

H. Variation in Massing. *For street facing facades greater than 120 feet in length a modulation is required which extends through all floors. Decks and roof overhangs may encroach up to three feet per side into the modulation. The modulation shall meet one of the following dimensional requirements:*

- 1. A minimum depth of two percent of the length of the façade and a minimum width of thirty percent of the length of the façade; or*
- 2. A minimum depth of four percent of the length of the façade and a minimum width of twenty percent of the length of the façade.*

I Building Design Elements.

- 1. All front and side facades shall provide a design element or architectural feature that add interest and detail such that there are no blank walls of thirty feet in length or more, measured horizontally. Features that can meet this requirement include:*
 - a. Change in building material or texture;*
 - b. Window or door;*
 - c. Balcony; or*
 - d. Pillar or post*
- 2. Street facing facades shall include additional design features. For every thirty feet of façade length, three of the following elements are required:*
 - a. Decorative materials on more than ten percent of the total wall area (e.g., brick or stonework, shingles, wainscoting, ornamentation, and similar features);*
 - b. Decorative cornice and/or roof line (e.g., for flat roofs);*
 - c. Roof gable;*
 - d. Recessed entry;*
 - e. Covered canopy entry;*
 - f. Cupola or tower;*
 - g. Dormer;*
 - h. Balcony;*
 - i. Pillars or posts;*
 - j. Repeating pattern of building materials;*
 - k. A change in plane of at least two feet in width and six inches in depth;*
 - l. Bay or oriel window; or*
 - m. An alternative feature providing visual relief and detail as approved by the Community Development Director*

3. *Building Detail Variation. Architectural features shall be varied on different buildings within the same development. At least two of the required features on each street-facing elevation shall be distinct from the street-facing elevations of other buildings within the same development.*

J. Windows.

1. *The minimum windows requirements are set forth in Table 17.62.055.J. Windows are measured in lineal fashion between 3.5 feet and six feet from the ground. For example, a one hundred foot long building elevation would be required to have at least sixty feet (sixty percent of one hundred feet) of windows in length between the height of 3.5 feet and six feet from the ground.*

<i>Use</i>	<i>Ground Floor: Front and Street Facing Facades</i>	<i>Upper floor(s): Front and Street Facing Facades</i>	<i>Ground Floor: Side(s) Facades</i>	<i>Upper Floor(s): Side(s) Facades</i>
<i>Non-Multi-Family (or Portions of Buildings Thereof)</i>	<i>60%</i>	<i>10%</i>	<i>30%</i>	<i>10%</i>
<i>Multi-Family (or Portions of Buildings Thereof)</i>	<i>15%</i>	<i>15%</i>	<i>10%</i>	<i>10%</i>

2. *Reflective, glazed, mirrored, or tinted glass is limited to ten percent of the lineal footage of windows on the street facing facade. Highly reflective or glare-producing glass with a reflective factor of one-quarter or greater is prohibited on all building facades. Any glazing materials shall have a maximum fifteen percent outside visual light reflectivity value. No exception shall be made for reflective glass styles that appear transparent when internally illuminated.*
3. *Side walls that face walkways may include false windows and door openings only when actual doors and windows are not feasible because of the nature of the use of the interior use of the building. False windows located within twenty feet of a right-of-way shall be utilized as display windows with a minimum display depth of thirty-six inches.*
4. *Multi-family windows shall incorporate window trim at least four inches in width when surrounded by horizontal or vertical lap siding.*

K. Roof Treatments. The maximum length of any continuous roofline on a street-facing façade shall be seventy-five feet without a cross gable or change in height of at least two feet.

L. Drive-through facilities shall:

1. *Be located at the side or rear of the building.*
2. *Be designed to maximize queue storage on site.*

M. Special development standards along transit streets.

1. *Purpose. This section is intended to provide direct and convenient pedestrian access to retail, office and institutional buildings from public sidewalks and transit facilities and to promote pedestrian and transit travel to commercial and institutional facilities.*
2. *Applicability. Except as otherwise provide in this section, the requirements of this section shall apply to the construction of new retail, office and institutional buildings which front on a transit street.*
3. *Development Standards.*
 - a. *All buildings shall have at least one main building entrance oriented towards the transit street. A main building entrance is oriented toward a transit street if it is directly located*

on the transit street, or if it is linked to the transit street by an on-site pedestrian walkway that does not cross off-street parking or maneuvering areas.

- i. If the site has frontage on more than one transit street, or on a transit street and a street intersecting a transit street, the building shall provide one main building entrance oriented to the transit street or to the corner where the two streets intersect.*
 - ii. For building facades over three hundred feet in length on a transit street, two or more main building entrances shall be provided as appropriate and oriented towards the transit street.*
 - b. In the event a requirement of this section conflicts with other requirements in Title 17, the requirements of this section shall control.*
- 4. Exemptions. The following permitted uses are exempted from meeting the requirements of subsection 3. of this section:*
- a. Heavy equipment sales;*
 - b. Motor vehicle service stations, including convenience stores associated therewith; or*
 - c. Solid waste transfer stations.*

Applicant's Response: This section of OCMC 17.63.050 does not apply to the Applicant's proposal because the Project does not include construction of new retail, office and institutional buildings that front on a transit street.

17.62.056 - Additional standards for large retail establishments.

Retail building(s) occupying more than ten thousand gross square feet of floor area shall contribute to the establishment or enhancement of community and public spaces by providing at least two of the following:

- A. Patio/seating area;*
- B. Pedestrian plaza with benches;*
- C. Transportation center;*
- D. Window shopping walkway;*
- E. Outdoor playground area;*
- F. Kiosk area, water feature;*
- G. Clock tower; or*
- H. Other such deliberately shaped area and/or a focal feature or amenity that, in the judgment of the appropriate decision maker, adequately enhances such community and public spaces. Any such areas shall have direct access to the public sidewalk network and such features shall not be constructed of materials that are inferior to the principle materials of the building and landscape.*

Applicant's Response: The Project is not a large retail establishment: OCMC 17.62.056 does not apply to the Applicant's proposal.

17.62.065 - Outdoor lighting.

- A. Purpose. The general purpose of this section is to require outdoor lighting that is adequate for safety and convenience; in scale with the activity to be illuminated and its surroundings; directed to the surface or activity to be illuminated; and designed to clearly render people and objects and contribute to a pleasant nighttime environment. Additional specific purposes are to:*
 - 1. Provide safety and personal security as well as convenience and utility in areas of public use or traverse, for uses where there is outdoor public activity during hours of darkness;*

2. *Control glare and excessive brightness to improve visual performance, allow better visibility with relatively less light, and protect residents from nuisance and discomfort;*
3. *Control trespass light onto neighboring properties to protect inhabitants from the consequences of stray light shining in inhabitants' eyes or onto neighboring properties;*
4. *Result in cost and energy savings to establishments by carefully directing light at the surface area or activity to be illuminated, using only the amount of light necessary; and*
5. *Control light pollution to minimize the negative effects of misdirected light and recapture views to the night sky.*
6. *Encourage energy efficient lighting with new technologies such as Light Emitting Diodes (LED) or similar to reduce ongoing electrical demand and operating costs.*

B. Applicability.

1. General.

- a. *All exterior lighting for any type of commercial, mixed-use, industrial, or multi-family development shall comply with the standards of this section, unless excepted in subsection B.3.*
- b. *The City Engineer or Public Works Director shall have the authority to enforce these regulations on private property if any outdoor illumination is determined to present an immediate threat to the public health, safety and welfare.*

Applicant's Response: This section does not apply as exterior lighting is exempted by subsection B.3b: Public street and right-of-way lighting. No lights outside of right-of-way are proposed. .

2. *Lighting Plan Requirement. All commercial, industrial, mixed-use, cottage housing and multi-family developments shall submit a proposed exterior lighting plan. The plan shall be submitted concurrently with the site plan. The exterior lighting plan shall include plans and specifications for streetlights, parking lot lights, and exterior building lights. The specifications shall include details of the pole, fixture height and design, lamp type, wattage, and spacing of lights.*

Applicant's Response: This section does not apply as exterior lighting and is exempted by subsection B.3.b. and B.3.d.

3. *Excepted Lighting. The following types of lighting are excepted from the requirements of this section.*
 - a. *Residential lighting for single-family attached and detached homes, and duplexes*
 - b. *Public street and right-of-way lighting.*
 - c. *Temporary decorative seasonal lighting provided that individual lamps have a light output of sixty watts or less.*
 - d. *Temporary lighting for emergency or nighttime work and construction.*
 - e. *Temporary lighting for theatrical, television, and performance areas, or for special public events.*
 - f. *Lighting for a special district, street, or building that, according to an adopted municipal plan or ordinance, is determined to require special lighting aesthetics as part of its physical character.*
 - g. *Lighting required and regulated by the Federal Aviation Administration.*

Applicant's Response: Temporary lighting for nighttime construction activities will be needed in work zones outside of the right-of-way: these are excepted conditions under this section of OCMC 17.62.065.

C. Design and Illumination Standards.

1. *Outdoor lighting, if provided, shall be provided in a manner that enhances security, is appropriate for the use, avoids adverse impacts on surrounding properties, and the night sky through appropriate shielding as defined in this section. Glare shall not cause illumination on other properties in excess of a measurement of 0.5 footcandles of light as measured at the property line.*

Applicant's Response: Exterior lighting subject to the requirements of this section will be consistent with this standard. The lighting will be in compliance with applicable minimum, maximum, and average foot-candle levels.

2. *Lighting shall be provided in parking lots and vehicular circulation areas.*

Applicant's Response: This section does not apply to the Applicant's proposal.

3. *Lighting shall be provided in pedestrian walkways, pedestrian plazas, and pedestrian circulation areas.*

Applicant's Response: The Applicant's exterior lighting plan complies with the requirements of this section.

4. *Lighting shall be provided at all building entrances.*

Applicant's Response: This section of OCMC 17.62.065 is not applicable to the Applicant's proposal.

5. *With the exception of pedestrian scale lighting, all light sources shall be concealed or shielded with a full cut-off style fixture in order to minimize the potential for glare and unnecessary diffusion on adjacent property.*

Applicant's Response: The Applicant's exterior lighting plan complies with the requirements of this section.

6. *The maximum height of any lighting pole serving a multi-family residential use shall be twenty feet. The maximum height serving any other type of use shall be twenty-five feet, except in parking lots larger than five acres, the maximum height shall be thirty-five feet if the pole is located at least one hundred feet from any residential use.*

Applicant's Response: The Applicant's exterior lighting plan complies with the requirements of this section.

7. *Floodlights shall not be utilized to light all or any portion of a building facade between 10 p.m. and 6 a.m.*

Applicant's Response: The Applicant's exterior lighting plan does not include floodlights to light building facades.

8. *Lighting on outdoor canopies shall be fully recessed into the canopy and shall not protrude downward beyond the ceiling of the canopy.*

Applicant's Response: The Applicant's exterior lighting plan does not include lighting on outdoor canopies.

9. *All outdoor light not necessary for security purposes shall be reduced, activated by motion sensor detectors, or turned off during non-operating hours.*

Applicant's Response: The Applicant's exterior lighting plan complies with the requirements of this section.

10. *Light fixtures used to illuminate flags, statues, or any other objects mounted on a pole, pedestal, or platform shall use a narrow cone beam of light that will not extend beyond the illuminated object.*

Applicant's Response: The Applicant's exterior lighting plan does not include light fixtures to illuminate flags, statues, or any other mounted objects.

11. *For upward-directed architectural, landscape, and decorative lighting, direct light emissions shall not be visible above the building roofline.*

Applicant's Response: The Applicant's exterior lighting plan does not include upward-directed architectural, landscape, and decorative lighting.

12. *No flickering or flashing lights shall be permitted, except for temporary decorative seasonal lighting.*

Applicant's Response: The Applicant's exterior lighting plan does not include flickering or flashing lights.

13. *Lighting for outdoor recreational uses such as ball fields, playing fields, tennis courts, and similar uses, are allowed a light post height up to eighty feet in height.*

Applicant's Response: The Applicant's exterior lighting plan does not include lighting for outdoor recreational uses such as ball fields, playing fields, tennis courts, and similar uses. This section of OCMC 17.62.065 is not applicable to the Applicant's proposal.

14. *Main building entrances shall be well lighted and visible from any transit street. The minimum lighting level for building entries fronting on a transit street shall be three foot-candles.*

Applicant's Response: This section of OCMC 17.62.065 is not applicable to the Applicant's proposal because the Project does not include a building.

17.62.085 - Refuse and recycling standards for commercial, industrial, office, institutional, and multi-family developments.

The purpose and intent of these provisions is to provide an efficient, safe and convenient refuse and recycling enclosure for the public as well as the local collection firm. All new development, change in property use, expansions or exterior alterations to uses, other than single-family or duplex residences, single-family attached dwellings, 3-4 plexes, internal conversions, or accessory dwelling units (ADUs), shall include a refuse and recycling enclosure. The area(s) shall be:

- A. *Fully enclosed and visually screened;*
- B. *Located in a manner easily and safely accessible by collection vehicles;*
- C. *Located in a manner so as not to hinder travel lanes, walkways, streets or adjacent properties;*
- D. *On a level, hard surface designed to discharge surface water runoff and avoid ponding;*
- E. *Maintained by the property owner;*
- F. *Used only for purposes of storing solid waste and recyclable materials;*
- G. *Designed in accordance with applicable sections of the Oregon City Municipal Code (including OCMC 8.20—Solid Waste Collection and Disposal) and city adopted policies. Enclosures are encouraged to be sized appropriately to meet the needs of current and future tenants and designed with sturdy materials which are compatible to the primary structure(s).*

Applicant's Response: The Applicant's proposal does not include commercial, industrial, or multi-family development. This section does not apply.

17.62.090 – Implementation.

- A. *Applications for site plan and design review shall be reviewed in the manner provided in OCMC 16.12 and 17.50. The Building Official may issue a certificate of occupancy only after the improvements required by Site Plan and Design Review approval have been completed, or a schedule for completion and a bond or other financial guarantee have been accepted by the City.*
- B. *In performing Site Plan and Design Review, the review authority shall consider the effect of additional financial burdens imposed by such review on the cost and availability of needed housing types. Consideration of such factors shall not prevent the imposition of conditions of approval found necessary to meet the requirements of this section. The cost of such conditions of approval shall not unduly increase the cost of housing beyond the minimum necessary to achieve the provisions of this title, nor shall such cost prevent the construction of needed housing types.*
- C. *The Site Plan and Design Review provisions of this chapter shall not be applied to reduce the density or height of an application for a development project that reserves at least seventy-five percent of the gross floor area for housing where the proposed density or height is at or below what is allowed in the base zone, except in the following situations:*
 - 1. *Where the reduction in density is required for development subject to historic overlay provision in OCMC 17.40; or*
 - 2. *Where the reduction in density is necessary to resolve a health, safety or habitability issue, or to comply with the Natural Resource Overlay District regulations of OCMC 17.49, the Geologic Hazard Overlay District regulations of OCMC 17.44, or the Floodplain Management Overlay District regulations of OCMC 17.42 or steep slope regulations.*

Applicant’s Response: The Applicant’s proposal does not include improvements that would be subject to 17.62.090 Implementation.

OCMC 17.58 – LAWFUL NON-CONFORMING USES, LOTS, STRUCTURES AND SITES

17.58.040 - Lawful nonconforming structure or site.

A structure or site that was lawfully established but no longer conforms to all development standards of this land use code (such as setbacks) shall be considered lawfully nonconforming. Notwithstanding development standard requirements in this Code, minor repairs and routine maintenance of a lawful nonconforming structure are permitted. The continuation of a lawful nonconforming structure or site is subject to the following:

- A. *Accidental Destruction. When a nonconforming structure is damaged by fire or other causes, the structure may be rebuilt using the same structure footprint.*
- B. *Intentional Destruction. When a nonconforming structure is removed or intentionally damaged by fire or other causes within the control of the owner, the replacement structure shall comply with the development standards of this title.*
- C. *Expansion. An expansion of a lawful nonconforming structure or site may be approved, conditionally approved or denied in accordance with the standards and procedures of this section.*
 - 1. *In making a determination on such applications, the decision maker shall weigh the proposal's positive and negative features and the public convenience or necessity to be served against any adverse conditions that would result from authorizing the particular development at the location proposed, and, to approve such expansion, it shall be found that the criteria identified in OCMC 17.58.060 have either been met, can be met by observance of conditions, or are not applicable.*

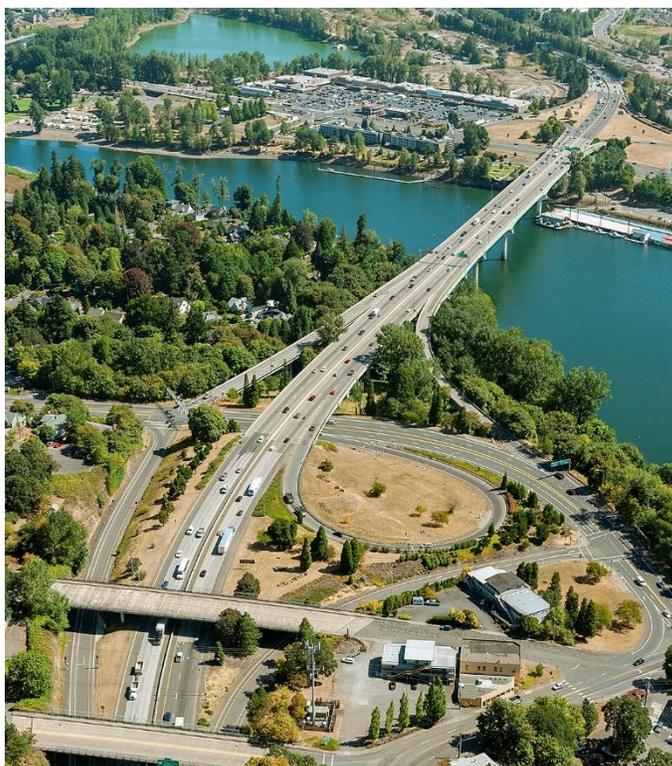
2. *Increases in the square footage of a building and/or site improvements which include installation of any additional off-street parking stalls that exceed the threshold of subparagraph C.2.a. below shall comply with the development standards listed in subparagraph C.2.b. The value of the alterations and improvements is based on the entire project and not individual building permits.*
 - a. *Thresholds triggering compliance. The standards of subparagraph C.2.b. below shall be met when the value of the increase in square footage of a building and/or increase in off-street parking stalls, as determined by the Community Development Director, is more than seventy-five thousand dollars. The following alterations and improvements shall not be included in the threshold calculation:*
 1. *Proposed alterations to meet approved fire and life safety agreements;*
 2. *Alterations related to the removal of existing architectural barriers, as required by the Americans with Disabilities Act, or as specified in Section 1113 of the Oregon Structural Specialty Code;*
 3. *Alterations required to meet Seismic Design Requirements; and*
 4. *Improvements to on-site stormwater management facilities in conformance with Oregon City Stormwater Design Standards.*
 - b. *Standards that shall be met. Developments not complying with the development standards listed below shall be brought into conformance.*
 1. *Pedestrian circulation systems, as set out in the pedestrian standards that apply to the sites;*
 2. *Minimum perimeter parking lot landscaping;*
 3. *Minimum interior parking lot landscaping;*
 4. *Minimum site landscaping requirements;*
 5. *Bicycle parking by upgrading existing racks and providing additional spaces in order to comply with OCMC 17.52—Off-Street Parking and Loading;*
 6. *Screening; and*
 7. *Paving of surface parking and exterior storage and display areas.*
 - c. *Area of required improvements.*
 1. *Generally. Except as provided in C.2.c.2. below, required improvements shall be made for the entire site.*
 2. *Exception for sites with ground leases. Required improvements may be limited to a smaller area if there is a ground lease for the portion of the site where the alterations are proposed. If all of the following are met, the area of the ground lease will be considered as a separate site for purposes of required improvements. The applicant shall meet the following:*
 - i. *The signed ground lease — or excerpts from the lease document satisfactory to the city attorney — shall be submitted to the Community Development Director. The portions of the lease shall include the following:*
 - A. *The term of the lease. In all cases, there shall be at least one year remaining on the ground lease; and*
 - B. *A legal description of the boundaries of the lease.*
 - ii. *The boundaries of the ground lease shall be shown on the site plan submitted with the application. The area of the lease shall include all existing and any proposed development that is required for, or is used exclusively by, those uses within the area of the lease; and*
 - iii. *Screening shall not be required along the boundaries of ground leases that are interior to the site.*

- d. *Timing and cost of required improvements. The applicant may choose one of the two following options for making the required improvements:*
1. *Option 1. Required improvements may be made as part of the alteration that triggers the required improvements. The cost of the standards that shall be met, identified in subparagraph C.2.b. above, is limited to ten percent of the value of the proposed alterations. It is the responsibility of the applicant to document 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. When all required improvements are not being made, the priority for the improvements shall be as listed in subparagraph C.2.b. above.*
 2. *Option 2. Required improvements may be made over several years, based on the compliance period identified in Table 17.58—1 below. However, by the end of the compliance period, the site shall be brought fully into compliance with the standards listed in subparagraph C.2.b. Where this option is chosen, the following shall be met:*
 - i. *Before a building permit is issued, the applicant shall submit the following to the Community Development Director:*
 - A. *A Nonconforming Development Assessment, which identifies in writing and on a site plan, all development that does not meet the standards listed in Subparagraph C.2.b.*
 - B. *A covenant, in a form approved by the City Attorney, executed by the property owner that meets the requirements of OCMC 17.50.150. The covenant shall identify development on the site that does not meet the standards listed in Subparagraph C.2.b., and require the owner to bring that development fully into compliance with this title. The covenant shall also specify the date by which the owner will be in conformance. The date shall be within the compliance periods set out in Table 17.58 — 1.*
 - ii. *The nonconforming development identified in the Nonconforming Development Assessment shall be brought into full compliance with the requirements of this Title within the following compliance periods. The compliance period begins when a building permit is issued for alterations to the site of more than seventy-five thousand dollars. The compliance periods are based on the size of the site (see Table 17.58—1 below).*
 - iii. *By the end of the compliance period, the applicant or owner shall request that the site be certified by the Community Development Director as in compliance. If the request is not received within that time, or if the site is not fully in conformance, no additional building permits will be issued.*
 - iv. *If the regulations referred to by subparagraph C.2.b. are amended after the Nonconforming Development Assessment is received by the Community Development Director, and those amendments result in development on the site that was not addressed by the Assessment becoming nonconforming, the applicant shall address the new nonconforming development using Option 1 or 2. If the applicant chooses Option 2, a separate Nonconforming Development Assessment, covenant and compliance period will be required for the new nonconforming development.*

Table 17.58—1: Compliance Periods for Option 2

<i>Square footage of site</i>	<i>Compliance Period</i>
<i>Less than 150,000 sq. ft.</i>	<i>2 years</i>
<i>150,000 sq. ft. or more, up to 300,000 sq. ft.</i>	<i>3 years</i>
<i>300,000 sq. ft. or more, up to 500,000 sq. ft.</i>	<i>4 years</i>
<i>More than 500,000 sq. ft.</i>	<i>5 years</i>

Applicant's Response: The Applicant acknowledges the requirements of this section and will coordinate any structural changes with the City.



Land Use Application Addendum

ODOT | K19786 I-205: Stafford Rd to OR 213

I-205: Stafford Road to OR 213 Corridor Road
Widening & Retrofit of the Abernethy Bridge Project

City of Oregon City Project GLUA-20-00014/SP-20-
00025/VAR-20-00005/WRG-20-00001/NROD-20-
00008/FP-20-00001

April 24, 2020





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Attachments

- Attachment A. Chapter 17.52 Code Responses
- Attachment B. Site Plan
- Attachment C. NROD Verification
- Attachment D. Landscaping Plan
- Attachment E. Stormwater Report



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1 Introduction

On February 27, 2020, HDR submitted a Land Use Permit application to Oregon City's Community Development Department, Planning Division, on behalf of the Oregon Department of Transportation (ODOT) for the I-205: Stafford Road to OR 213 Corridor Road Widening & Retrofit of the Abernethy Bridge Project. This document provides the Applicant's responses to the Planning Division's Determination of Application Incompleteness on March 26, 2020.

2 Site Plan and Design Review

2.1 Code Responses to Chapter 17.52 – Off-Street Parking and Loading

The Applicant prepared code responses to Oregon City Municipal Code (OCMC) Chapter 17.52 for the proposed parking area at Jon Storm Park. These are included as Attachment A.

2.2 Site Plan

The Applicant created a simplified site plan that provides an overview of work proposed from the Project. See Attachment B.

3 Natural Resources Overlay District (NROD)

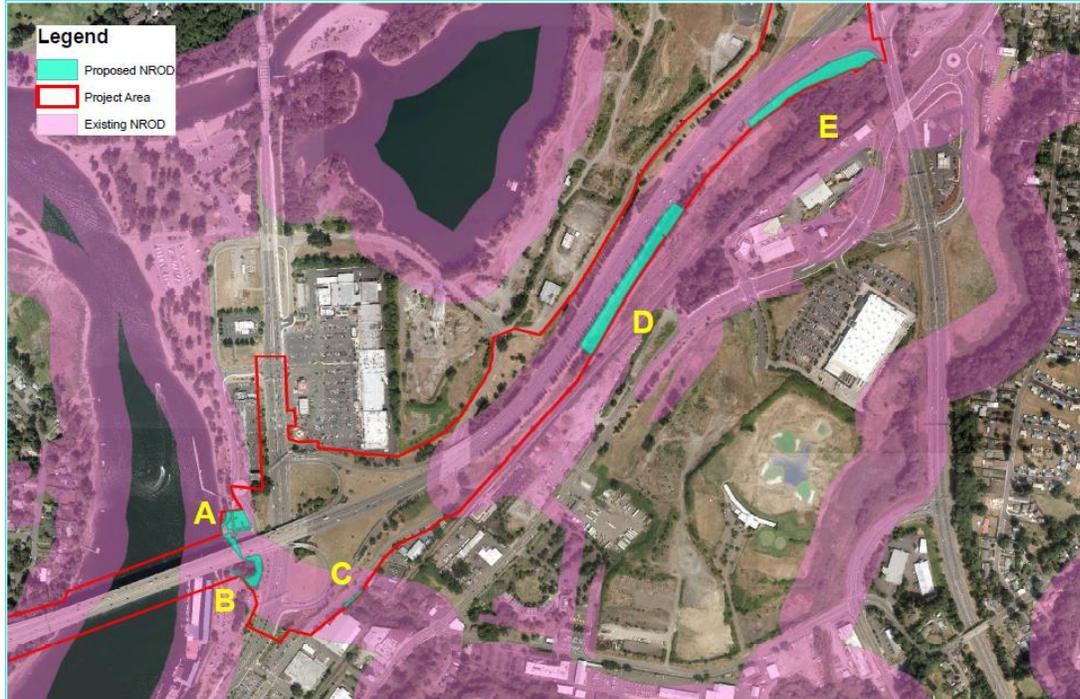
3.1 NROD Verification and Delineation of Natural Features

The NROD Verification submitted with the Land Use Application included only a portion of Jon Storm Park. The Applicant determined these area should not have been excluded and revised the NROD Boundary Verification. The revised NROD Verification includes vegetated areas within 200 feet of the Willamette River. All areas of impervious surfaces are excluded from the NROD boundary. Vegetated areas lying within 200 feet of the ordinary high water mark (OHWM) of the Willamette River but with a physical barrier of at least 15 feet of impervious surfaces are also excluded, based on Oregon City Municipal Code Chapter 17.49.255.B.7.a.

The revised areas are designated as areas A and B in Figure 3-1 below and in the attached Revised NROD Verification (Attachment C). NROD areas designated C, D, and E in the original Land Use Application remain unchanged.



Figure 3-1 . Revised NROD Boundary



4 NROD Mitigation Plan

The Applicant has revised the Landscaping Plans to clearly identify proposed landscaping in compliance with NROD mitigation requirements. See Attachment D, Landscaping Plan.

The revised NROD Boundary Verification includes new NROD disturbance areas and new amounts of required NROD mitigation (Figure 4-1). Per the revised NROD Verification (Attachment C), vegetated areas in Jon Storm Park are within the NROD boundary. With the revised NROD boundary, the disturbance area of the Project would increase by approximately 12,149 square feet. This revised area added to the NROD areas identified in the original NROD Verification creates a total disturbance area within the NROD overlay of approximately 70,836 square feet. Based on the density requirements outlined in OCMC Chapter 17.49.180.E.2.a., 70,836 square feet of disturbance area requires 708 trees and 3,542 shrubs to be planted for mitigation in an area twice as large as the disturbance area, which is approximately 141,672 square feet. The disturbance area within the NROD boundary is as follows:

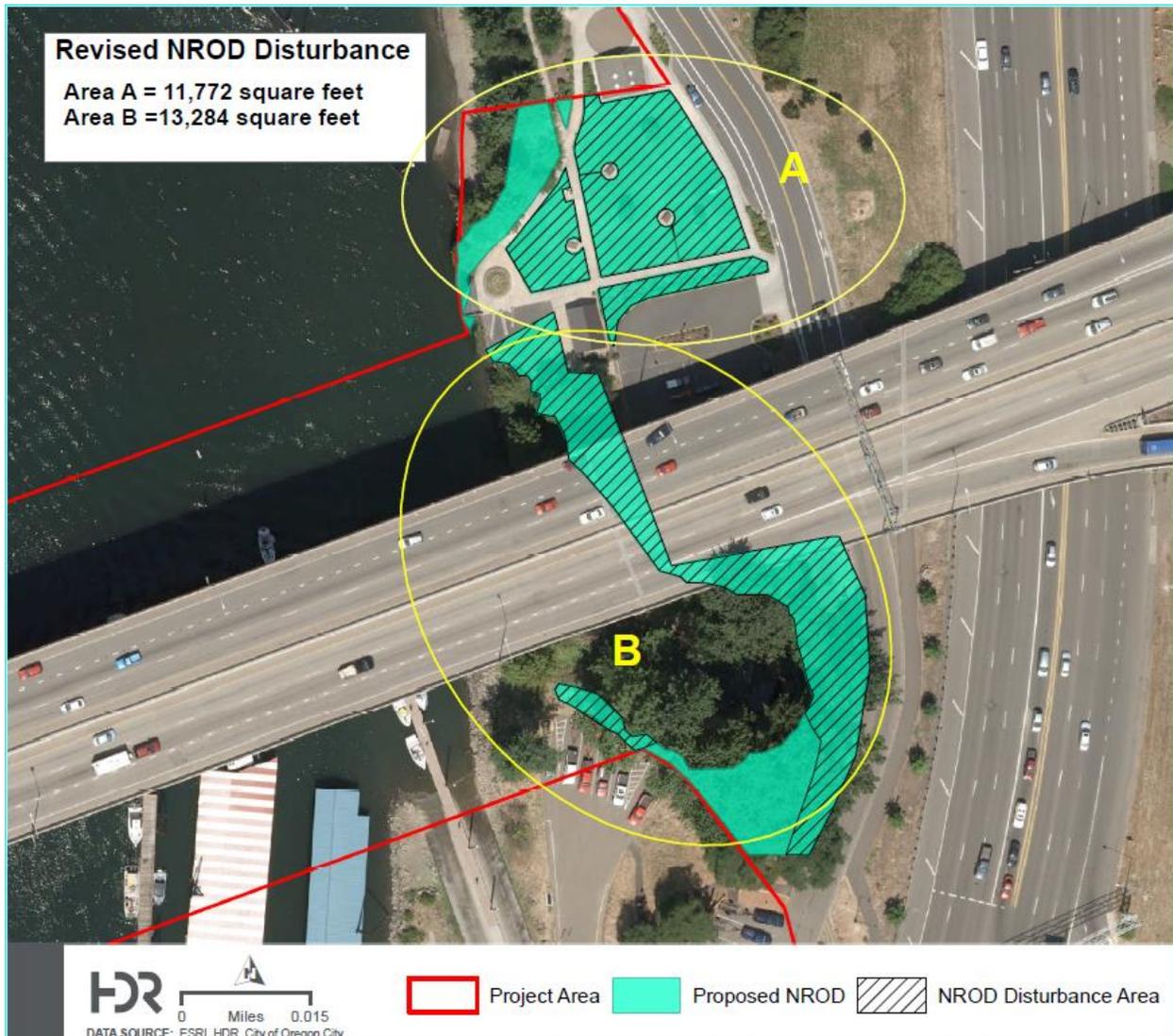
- Area A: 11,772 square feet (SF; revised)
- Area B: 13,284 SF (revised)
- Area C: 0 SF (unchanged)
- Area D: 42,372 SF (unchanged)
- Area E: 3,408 SF (unchanged)
- Total NROD disturbance: 70,836 SF



Oregon City Parks and Recreation Department, in discussions with ODOT, has requested that areas within Jon Storm Park used for temporary construction staging be returned to pre-construction conditions. This includes the lawn area located south of the restroom. Because it will be returned to pre-construction conditions, the planting quantity requirements for NROD mitigation cannot be applied there. Mitigation plantings compensating for impacts to Jon Storm Park will be included in other NROD mitigation areas within the project area.

The proposed NROD mitigation area is 167,828 square feet, which is comprised of 130,315 square feet of on-site mitigation, and 37,513 square feet of off-site mitigation. Off-site mitigation is in areas that are contiguous to existing NROD areas, as outlined in OCMC Chapter 17.49.180.C. The proposed number of NROD mitigation trees is 708 and the proposed number of NROD mitigation shrubs is 3,642. The revised Landscaping Plan in Attachment D shows the proposed NROD mitigation.

Figure 4-1. Revised NROD Disturbance Area





5 Stormwater Report

The Applicant has revised the Stormwater Report to clearly address how the stormwater design complies with the Oregon City Stormwater and Grading Design Standards. The report was also revised to clearly address how stormwater management facilities were sized using the BMP sizing tool. The flow control exemption requirement section was revised to better align with the language in the Oregon City Stormwater and Grading Design Standards. The revisions included adding detention to a facility that was previously only designed for water quality.

The design parameters used as inputs for the BMP sizing tool were revised to match the parameters identified in the Oregon City Stormwater and Grading Design Standards.

The Stormwater Report was also revised to include a discussion of proposed work near the I-205 Bridge over Main Street. Temporary roadway impacts of approximately 800 square feet are anticipated to allow for work access to the bridge footings. The report also describes the 1,000 linear feet of sidewalk infill along Main Street that has been requested by Oregon City. The sidewalk improvements are considered a standalone project and are exempt from stormwater management requirements per Section 1.2.2F of the Oregon City Public Works Stormwater and Grading Design Standards. See Attachment E for the revised Stormwater Report.



Community Development - Planning

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Construction Costs for Site Plan and Design Review and Detailed Development Plans

The cost of Planning Division review for Site Plan and Design Review and Detailed Development Plans is based on the construction cost of the project. The construction costs is defined as all costs to complete the project, including soft costs. The estimate does exclude interior furniture or moving expenses.

Address: I-205 Widening and Abernethy Bridge Seismic Upgrades - construction costs specific to proposed on-street parking at Jon Storm Park, Clackamette Drive, Tax Lot ID Number 22E29CB00300

Project Description: Proposed on-street parking to support access to Jon Storm Park, east side of Clackamette Drive. Construction costs relate only to construction activities on Tax Lot ID Number 22E29CB00300.

Construction Costs:

<i>Item</i>	<i>Quantity</i>	<i>Cost</i>
PARKING LOT		
Clearing and Grubbing	0.1 acre	\$4,500
Excavation	250 CY	\$44,000
Agg Base	150 Ton	\$3,150
Level 3 Asphalt Pavement	100 Ton	\$2,700
Signs	LS	\$2,000
Lighting	LS	\$5,000
Pavement Markings	100'	\$200
Landscaping	LS	\$1,000
JON STORM PARK RESTORATION	LS	\$50,000
CLACKAMETTE DRIVE		
Sidewalk	600 sq ft	\$16,000
Curb Ramps	2	\$9,000



OREGON CITY

<i>Item</i>	<i>Quantity</i>	<i>Cost</i>
DRAINAGE		
Stormwater Planter	1	\$50,000
Drainage Inlet	1	\$2,100
12" pipe under Clackamette Dr.	40'	\$4,400
Adjust Inlet	1	\$1,000
Connection to Extg Structure	1	\$1,000
	SUBTOTAL	\$196,050
	Mobilization (10%)	\$ 19,605
	Contingencies (20%)	\$ 39,210
	TOTAL	\$254,865
	CALL	\$260,000