



**TYPE III APPLICATION
STAFF REPORT AND RECOMMENDATION**

December 7, 2015

FILE NUMBERS: CP 15-01: Concept (Master) Plan Amendment
DP 15-01: Detailed Development Plan
NR 15-05: Natural Resources Overlay District Review
US 15-06: Geologic Hazards Overlay District Review

APPLICANT: Grand Cove, LLC, c/o Paul Herskowitz
4582 S Ulster Street, Suite 1200, Denver, Colorado 80237

REPRESENTATIVE: Dowl Engineers, c/o Read Stapleton
720 SW Washington Street, Suite 750, Portland, Oregon 97205

OWNERS: Woodley Properties, Inc, c/o Todd Woodley,
24800 SW Quarryview Drive, Wilsonville, Oregon 97070

Urban Renewal Agency of Oregon City, c/o Eric Underwood,
PO Box 3040, Oregon City, Oregon 97045

Tri-City Services District, c/o Gregory Geist,
150 Beaver Creek Road, Oregon City, Oregon 97045

REQUEST: The applicant submitted a Concept (Master) Plan Amendment, Detailed Development Plan, Natural Resource Overlay District Review and a Geologic Hazards Overlay District Review request for construction of Phase 1 of the Cove development.

LOCATION: 16400 Main Street and No Address, Oregon City, Oregon 97045
Clackamas County Map 2-2E-29 TL 1509, 2800, 2900, 3000, 3100, 3200, 3300, 3400, 3500, 3600 and 3700 and Clackamas County Map 2-2E-20 TL 1100.

REVIEWERS: Laura Terway, AICP, Planner
Aleta Froman-Goodrich, City Engineer
Wendy Marshall, P.E., Development Projects Manager

RECOMMENDATION: Approval with Conditions.

PROCESS: Type III decisions involve the greatest amount of discretion and evaluation of subjective approval standards, yet are not required to be heard by the city commission, except upon appeal. Applications evaluated through this process include conditional use permits. The process for these land use decisions is controlled by ORS 197.763. Notice of the application and the planning commission hearing is published and mailed to the applicant,

recognized neighborhood association and property owners within three hundred feet of the subject property. Notice must be issued at least twenty days pre-hearing, and the staff report must be available at least seven days pre-hearing. At the evidentiary hearing held before the planning commission, all issues are addressed. The decision of the planning commission is appealable to the city commission within fourteen days of the issuance of the final decision. The city commission hearing on appeal is on the record and no new evidence shall be allowed. Only those persons or a city-recognized neighborhood association who have participated either orally or in writing have standing to appeal the decision of the planning commission. Grounds for appeal are limited to those issues raised either orally or in writing before the close of the public record. A city-recognized neighborhood association requesting an appeal fee waiver pursuant to OCMC 17.50.290.C must officially approve the request through a vote of its general membership or board at a duly announced meeting prior to the filing of an appeal. The city commission decision on appeal from the planning commission is the city's final decision and is appealable to the Land Use Board of Appeals (LUBA) within twenty-one days of when it becomes final.

IF YOU HAVE ANY QUESTIONS ABOUT THIS APPLICATION, PLEASE CONTACT THE PLANNING DIVISION OFFICE AT (503) 722-3789.

RECOMMENDED CONDITIONS OF APPROVAL
Files CP 15-01, DP 15-01, NR 15-05 and US 15-06

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

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

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

(F) = Verify that condition of approval has been met with Clackamas County fire Department #1.

Prior to Issuance of a Construction or Grading Permit associated with the Proposed Development:

1. Prior to issuance of a permit associated with the proposed development the applicant shall submit a revised pedestrian circulation plan which complies with all applicable standards within the Oregon City Municipal Code and includes a pedestrian connection that extends the sidewalk adjacent to the rear (parking lot side) of Building 1 (B) to a pedestrian connection along the front (Main Street side) of Building 1 (B) and to the abutting portion of Main Street. (P)
2. Prior to issuance of a permit associated with the proposed development the applicant shall submit the following revisions to the proposed building designs:
 - a. Revised architectural plans for Buildings 3(D) and 5(F) which include double doors within each of the commercial spaces on the Main Street frontage. (P)
 - b. Revised architectural plans in which the Main Street façade of Buildings A, D and F comply with OCMC 17.62.055.I.1 (60% transparency). (P)
 - c. Revised architectural plans in which the right façade of Building A complies with OCMC 17.62.055.I.1 (30% transparency). (P)
 - d. Revised plans for the following facades which comply with OCMC 17.62.057.G.1 (building articulation and modulation). (P)
 - i. Front, rear, left and right façades of buildings C and J
 - ii. Front and rear façades of building D
 - iii. Front, rear, left and right façades of buildings E, G and L
 - iv. Front and rear façades of building F
 - v. Left and right facades of building H
 - vi. Front, rear, left and right façades of buildings K and M
 - e. Documentation demonstrating that all windows recess or project at least two inches from the facade and incorporate window trim at least four inches in width that features color that contrasts with the base building color. Exceptions will be considered by the community development director where buildings employ other distinctive window or facade treatment that adds visual interest to the building. (P)

3. Prior to issuance of a permit associated with the proposed development the applicant shall submit documentation identifying compliance with the lighting standards in Chapter 17.62.065 of the Oregon City Municipal Code. (P)
4. Prior to issuance of any permit associated with the proposed development the applicant shall submit revised plans for the retaining wall between the subject site and the adjacent property. The redesigned wall and all associated alterations to the adjacent parking lot, landscaping, etc. shall comply with the Oregon City Municipal Code. (DS & P)
5. Prior to issuance of a permit associated with the proposed development the applicant shall submit documentation demonstrating that the temporary Trailhead parking lot complies with bicycle parking standards in Chapter 17.52.040 of the Oregon City Municipal Code. (P)
6. The following items relate to landscaping. The applicant shall submit the following:
 - a. A revised landscaping plan identifying landscaping between the parking lot and the adjoining property.
 - b. Documentation identifying that 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.
 - c. Documentation identifying that all landscaping trees shall be of a minimum two-inch minimum caliper size (though it may not be standard for some tree types to be distinguished by caliper).
 - d. A revised landscaping plan in which the perimeter parking lot landscaping includes:
 - i. The perimeter parking lot landscaping provided in all of the required locations.
 - ii. Trees spaced a maximum of 35 feet apart.
 - iii. Includes an evergreen hedge screen of thirty to forty-two inches high or shrubs spaced no more than four feet apart on average with visual breaks, no more than five feet in width, every thirty feet within evergreen hedges abutting public right-of-ways.
 - e. A revised landscaping plan in which the parking area/building buffer landscaping includes trees spaced a maximum of 35 feet apart.
 - f. A revised landscaping plan in which the interior parking lot landscaping includes:
 - i. Trees within the interior parking lot landscaping in accordance with OCMC 17.52.060.D.a.
 - ii. Shrubs spaced no more than an average of 4 feet on center.
 - iii. No more than eight contiguous parking spaces shall be created without providing an interior landscape strip between them. Landscape strips shall be provided between rows of parking shall be a minimum of six feet in width and a minimum of ten feet in length.
 - g. A revised tree removal plan identifying all easements as well as a calculation for the number of mitigation trees required per OCMC 16.12.310 of the 2008 Master Plan and the location, species and size of the mitigation trees. The mitigation trees shall be identified on a landscaping plan, if applicable, and may not be counted toward required landscaping. If the applicant can demonstrate that there is insufficient room to place the trees onsite, an alternative location, an increase in the size of required trees onsite by the caliper being mitigated or a fee in lieu may be considered. (P)
7. Prior to issuance of any permit associated with the proposed development the applicant shall submit revised plans which identify all fencing throughout the site. The fencing shall comply with Chapter 17.54.100 and any other applicable standard of the Oregon City Municipal Code such as 17.62.050.A.21 and 17.54.010.D. (P)
8. Prior to issuance of a permit associated with the proposed development the applicant shall submit a revised Phasing Plan reflecting the uses and square footages identified in the 2009 Master Plan approval and any approved amendments within this report. (P)

9. Prior to issuance of permits associated with the proposed development the applicant shall submit a supplement to the Transportation Impact Analysis related to the first phase of development that includes but is not limited to addressing the need for turn lanes at the site entrances, pedestrian and bicycle facilities along the frontages, site circulation and site access, intersection spacing for new intersections created as part of the development, sight distance at new intersections and major site access points and consistency of new streets with the Transportation System Plan. The plan shall demonstrate how the proposal complies with all applicable criteria. (P)
10. Prior to issuance of a permit associated with the proposed development the applicant shall submit the following items related to the Natural Resource Overlay District:
 - a. A revised mitigation planting list which complies with the standards in OCMC 17.49.
 - b. Documentation identifying that the exterior lights adjacent to the NROD would be shielded so that they do not shine directly into resource areas per Section 17.49.100 H.
 - c. Documentation identifying compliance with the standards for utility lines in OCMC 17.49.140.
 - d. Updated concurrence letters from USACE and DSL regarding wetlands per 17.49.060 B or documentation identifying that a concurrence letter is not required.
 - e. Documentation identifying compliance with 17.49.150 E which ensures that any work that will take place within the wetland banks of shall be conducted between June 1 and August 31, or shall be approved by the Oregon Department of Fish and Wildlife prior to issuance of a permit.
 - f. Revised plant notes so that all plantings are to be watered by hose or water truck during establishment and removal of the statement that planting between October 15 and April 15 is prohibited.
 - g. A revised planting plan to include a broader variety of native seeds such as wildflowers, as well as nonnative sterile wheat and/or barley grass that are not hydrophilic and that will establish quickly and thrive during the monitoring period.
 - h. A financial guarantee for establishment of the mitigation area, in a form approved by the City, 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 Chapter 17.49. (P)
11. Prior to issuance of a permit associated with this development the applicant shall submit documentation identifying compliance with the Flood Management Overlay District in Chapter 17.42 of the Oregon City Municipal Code. (B)
12. The development shall comply with Engineering Policy 00-01 and all applicable design standards. Applicant shall schedule a pre-design meeting with City's Development Services staff prior to submittal of public facilities construction plans. (DS)
13. Applicant shall obtain EPSC permit from City prior to commencement of any tree removal or ground disturbance. (DS)
14. Applicant shall obtain 1200-C permit approval from Oregon Department of Environmental Quality (DEQ) prior to construction plan approval by City and prior to commencement of any ground disturbance. (DS)
15. Construction plan submittal shall address emergency access to the adjacent shopping center in adequate detail in particular, striping and signage within the shopping center easement and an emergency plan focusing on flood events. Final design is subject to approval of City Engineer. (DS)
16. Private stormwater management facilities will require an operation and maintenance plan and recorded covenant in accordance with the Stormwater and Grading Design Standards, prior to City acceptance of public facilities. (DS)

17. Permanent energy dissipation and erosion control measures shall be installed at both existing storm outfalls if warranted per Stormwater and Grading Design Standards. (DS)
18. Amend the plat if necessary to accommodate the proposed changes including but not limited to the Trailhead parking lot on Tract A. (DS)
19. Prior to submittal of construction plans for Phase 1 or submittal of Detailed Development Plan for any subsequent phase, a final Concept Development Plan set shall be submitted for review and approval addressing the following items:
 - a. Show NROD and Floodplain delineations on the plan.
 - b. A sidewalk shall be constructed with Phase 1 along south side of Main Street from the northernmost entrance of Garden Apartments to Firestone Alley.
 - c. Waterline to be relocated along Agnes Avenue R/W in Phase 2.
 - d. Incorporate into the CDP plan set any relevant changes based on City review comments for the DDP.
 - e. Remove details of pavement sections from the CDP set. The sections on CDP should only indicate R/W, functional class, other items that are not standard. Remove references to plan sheets that are not a part of this application (for instance, "see C110").
 - f. Show functional class on typical sections.
 - g. Clarify limits of the shed and crown sections for both Agnes Avenue and Main Street.
 - h. Clarify the shaded area shown overlapping the building on Lot 1.
 - i. Extension of Agnes Avenue (emergency and multi-use path portion) from North Park entrance to Washington Street shall include the full section. Phase 2 shall include installation of the first half of the street with a minimum 20-foot pavement width. The second half should be designated for "future."
20. Prior to issuance of a permit associated with the proposed development the applicant shall submit a plan for street trees in compliance with OCMC 12.08. (P)
21. Street trees along Phase 1 portion of Main Street west of the roundabout shall be installed with Phase 1 public improvements unless otherwise approved by City Engineer with construction plan approval. (DS)
22. With Phase 1, existing 10-inch public waterline shall be replaced with new 10-inch waterline within Main Street improvements from north end of property to southerly connection to existing waterline located outside grading and street improvement limits. The waterline shall be placed in City standard utility location to maximum extent practicable. (DS)
23. Existing public sewer and storm pipes shall be replaced where impacted by cutting of Main Street, as determined by City Engineer. Construction plans shall provide adequate detailed survey data regarding pipe locations and elevations to make this determination. (DS)
24. Concurrent with Phase 2, the 10-inch waterline is to be replaced with new 10-inch waterline along Agnes Avenue right-of-way with the relocation of Agnes Avenue. (DS)
25. The proposed bypass around the water meter will not be permitted. The approved options are to provide separate fire and domestic taps, or to provide one combined tap. (DS)
26. Existing utility lines along the subject frontages shall be placed underground unless determined by the City Engineer and the franchise utility owner to be infeasible. (DS)
27. Southward from the roundabout, Main Street crown cross-section shall consist of (as measured beginning from right-of-way line) 0.5-foot public access strip, 6-foot sidewalk, 6.5-foot planter, 0.5-foot curb, 34-foot pavement, 0.5-foot curb, 6.5-foot planter, 6-foot sidewalk, 0.5-foot public access strip; to be constructed with Phase 1. Width of the planter strip and sidewalk may be reduced to accommodate topographic constraints, if approved by City Engineer at construction plan review. (DS)
28. Westward from the roundabout, Main Street shed cross-section shall consist of (as measured beginning from right-of-way line) 0.5-foot public access strip, 8-foot sidewalk, 4.5-foot planter, 0.5-foot curb, 34-foot pavement, 0.5-foot curb, variable width water quality planter or swale, 6-

foot sidewalk, 0.5-foot public access strip. Sidewalk shall not be required on the south side of between the esplanade and the northern entrance of Garden Apartments. Phase 1 shall construct southside sidewalk from northern entrance to Firestone Alley (McLoughlin Boulevard) Planter strip, swale and sidewalk may be reduced or eliminated along portions of the street where necessary to accommodate topographic constraints, if approved by City Engineer at construction plan review. (DS)

29. From the roundabout to the North Park entry, Agnes Avenue shed cross-section shall consist of (as measured beginning from right-of-way line) 14.5-foot landscape strip, 0.5-foot curb, 28-foot pavement, 0.5-foot curb, 10.5-foot water quality planter or swale, 6-foot sidewalk, 0.5-foot public access strip, to be constructed with Phase 2. (DS)
30. From North Park entry eastward to Washington Street, Agnes Avenue Extension shall consist of (as measured beginning from right-of-way line) 0.5-foot public access strip, 6-foot sidewalk, 8.5-foot water quality planter or swale, 0.5-foot curb, 34-foot pavement, 0.5-foot curb, 8.5-foot water quality planter or swale, 6-foot sidewalk, 0.5-foot public access strip. Phase 2 shall complete the first half of the street, with a minimum 20-foot pavement width. The need for construction of the second half shall be determined at time of Detailed Development Plan submittal for each phase. At this time, the segment shall be limited to use by emergency vehicles, pedestrians, and non-motorized vehicles. Bollards shall be placed at each terminus, in accordance with Clackamas Fire District #1 requirements. Sidewalk, swales, street trees and street lights on one side of the street will be required with the Phase 2 improvements. (DS)
31. Pedestrian crossing locations shall be determined at time of construction plan review in accordance with recommendations by a Traffic Engineer. (DS)
32. The construction plan/grading plan/stormwater report for Phase 1 shall address drainage outfall from the amphitheater area of the North Park site, and shall demonstrate compliance with 17.49.155 for facilities within the NROD where applicable. (DS)
33. Right-of-way, public utility easements, and public access easements shall be dedicated as needed where inadequate, prior to commencement of public improvements or issuance of building permits for each phase. (DS)
34. The applicant shall provide supplemental design data with the public facilities construction plan submittal to address protection of the public infrastructure from flooding in accordance with 17.42.160.E.2 and 3. This applies to pavement and subgrade design and pipe systems in Main Street (Phase 1) and Agnes Avenue (Phase 2). (DS)
35. Solid waste collection area shall be equipped with additional source control measures per Section 6.5 of the Stormwater and Grading Design Standards. (DS)
36. Prior to grading plan approval, the applicant's geotechnical engineer shall perform additional geotechnical exploration as recommended in the Preliminary Geotechnical Engineering Report dated May 12, 2015. The geotechnical engineer shall prepare detailed recommendations for treatment of the undocumented fill and recommendations shall be incorporated into final grading plans. (DS)
37. Recommendations stated in the geotechnical report(s) shall be performed during the design or construction phases as applicable, and written certification by the geotechnical engineer-of-record shall be provided. (DS)
38. Site grading and earthwork shall be performed between May 1 and October 31. (DS)
39. Grading and construction plans shall minimize cuts and fills in compliance with 17.44.060.C. Measures at a minimum shall include minimizing cuts to Main Street, terracing retaining walls, relocating retaining walls to reduce height, and altering of grade between the Cove and Clackamas River on the north side of North Park Amphitheater adjacent to City bank remediation project, to the maximum extent practicable. Applicant shall provide written justification when measures are deemed infeasible at time of construction plan submittal, and modifications to this condition shall be approved by City Engineer. (DS)

40. Grading plan shall include an engineer's design for all structural fill. Prior to issuance of building permits, the geotechnical engineer-of-record shall provide written certification that structural fill was placed as designed and in accordance with provisions of OCMC Chapter 17.44. (DS)
41. Prior to construction plan approval or issuance of building permits, provide engineered plans and structural design calculations in accordance with Oregon Structural Specialty code for all free standing retaining walls that retain soil. (DS)
42. Prior to issuance of building permits the geotechnical engineer-of-record shall provide written documentation that the foundation plans are in conformance with their recommendations. (DS)
43. Applicant shall comply with conditions required as part of the City's geotechnical review and pay for the City's geotechnical engineer's consultation costs related to this review. (DS)
44. Full-time monitoring and inspection and written daily reports by geotechnical engineer-of-record are required for all earthwork performed on North Park Area, Lot 1, Lot 2 Garden Apartments, Main Street right-of-way, and other areas where public improvements are proposed. (DS)
45. Prior to commencement of any work, applicant shall execute a waiver of damages and an indemnity and hold harmless agreement releasing the City from all liability for damages resulting from the development approved by the City's decision. (DS)
46. Street trees along Phase 1 portion of Main Street shall be installed with Phase 1 public improvements. (DS)
47. Steep grades on the northernmost main entrance shall be approved by Clackamas Fire District #1. (DS)
48. Fire hydrants shall be installed along public street frontages in accordance with City design standards and Clackamas Fire District #1 requirements. (DS)

Prior to Certificate of Occupancy:

49. Prior to issuance of occupancy for the first building permit associated with the proposed development 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. (P)
50. Prior to issuance of occupancy for the first building permit associated with the proposed development the applicant shall provide ODOT \$120,000 per condition of approval #7 of Planning file CP 09-02. (P)
51. Prior to certificate of occupancy for each building, the geotechnical engineer-of-record shall submit written documentation stating soils and foundation-related project elements were in conformance with their recommendations. (DS)
52. Prior to issuance of occupancy for the first building permit associated with the proposed development the applicant shall submit a five-year monitoring and maintenance plan with annual reports in a form approved by the director of community development. Monitoring of the mitigation sites is the on-going responsibility of the property owner, assign, or designee, who shall submit said annual report to the city's planning division, documenting plant survival rates of shrubs and trees on the mitigation site. Photographs shall accompany the report that indicate the progress of the mitigation. A minimum of 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. 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 ground cover species. (P)
53. Prior to issuance of occupancy for the first building permit associated with the proposed development the applicant shall submit a copy of a recorded restrictive covenant or conservation easement, in a form provided by the city, requiring the owners and assigns of properties to comply with the applicable mitigation requirements. 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 reimbursed by the owner.
(P)

I. BACKGROUND:

• **Location**

The Cove development includes land generally adjacent to the Clackamette Cove generally near the intersection of Main Street and Mcloughlin Boulevard. During the original approval of the Cove Master Plan in 2008, the subject site was entirely owned by the Urban Renewal Agency of Oregon City. In 2009, the Master Plan was expanded to include a portion of the Tri-City property. Since that time, Lot 2 was sold to Woodley Properties. The primary development within this application is the construction of 244 multi-family dwellings on Lot 2.

Figure 1. Vicinity Map

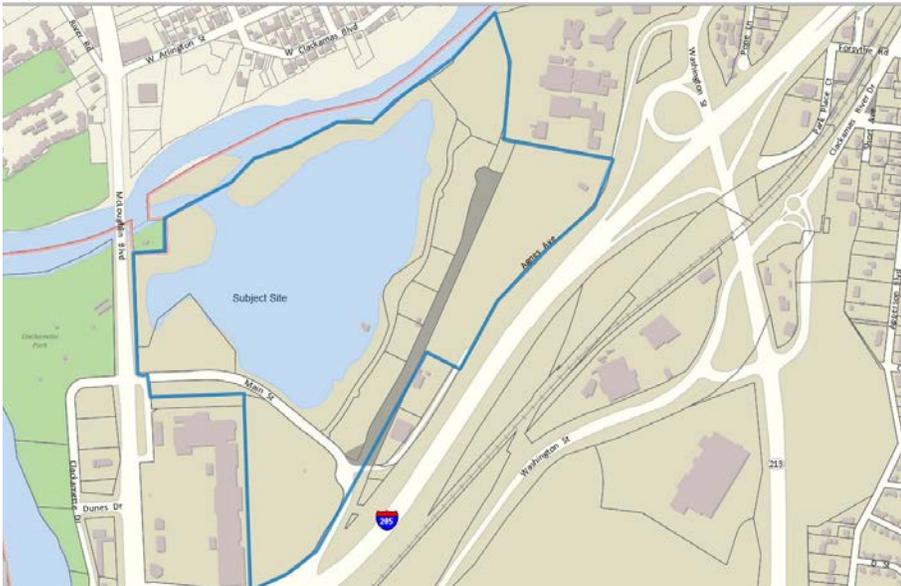
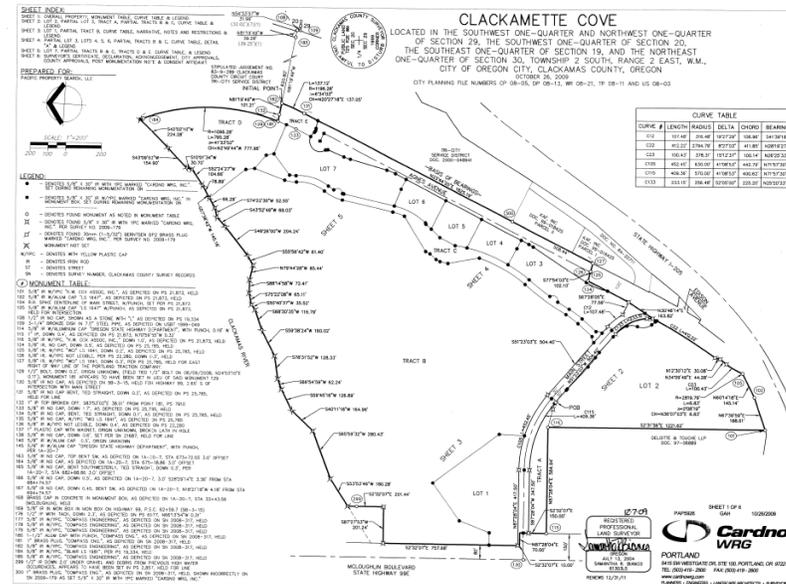


Figure 2: Existing Conditions – Aerial Image



Figure 3: Approved Subdivision Plat Map



- **Land Use Approval History**

The subject site has been reviewed multiple times associated with this project.

Concept Development Plan: CP 08-05 (Valid for 10 Years)

Detailed Development Plan: DP 08-13 (Expired)

Water Resource: WR 08-21(Valid/Expired)

Subdivision: TP 08-11 (Valid)

Geologic Hazards: US 08-03 (Expired)

Approval of the Cove Concept Plan, Water Resource, Subdivision and Geologic Hazards applications directed development of the Clackamette Cove area of Oregon City. The proposal included approximately 80,000 square feet of medical office, 42,300 square feet of general office, 16,000 square feet of restaurant, 224 condominium units, public parks, a recreation center, medical office building and paths and open space preservation and enhancement. The applicant proposed to develop the site in 8 phases over 10 years, with immediate construction of Phases 1 and 2.

Concept Development Plan Amendment: CP 09-02 (Valid)

Detailed Development Plan Amendment: DP 09-01 (Expired)

The amendment of the Concept Plan and associated Detailed Development Plan added approximately 2.5 acres to the project area with a series of other minor amendments.

DP 10-01: Detailed Development Plan (Expired)

Approval was granted to develop 210 multiple-family dwelling units on Lot 2. No changes to the Master Plan were proposed.

- **Existing Master Plan**

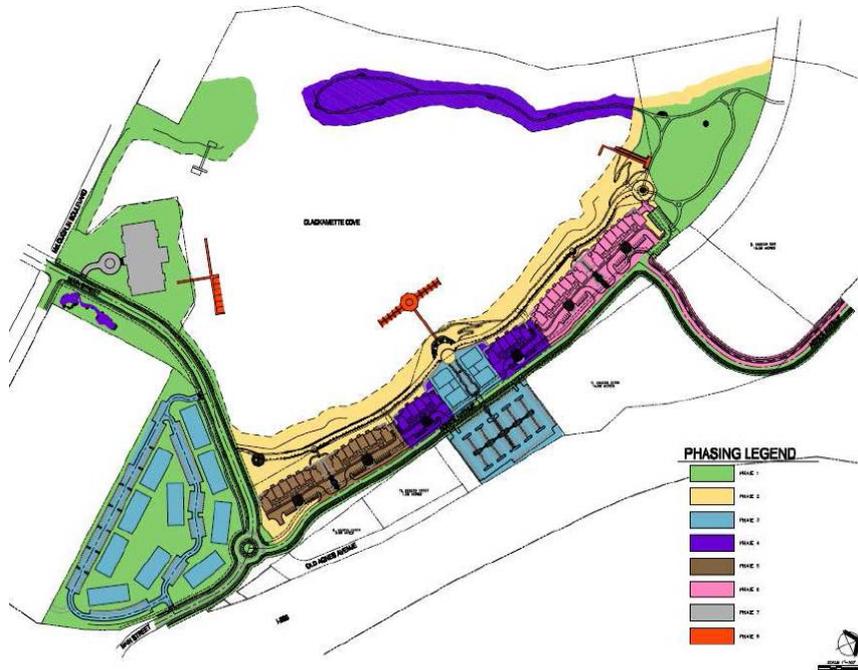
The Cove Master Plan identifies the framework for how properties within the boundaries of the development will redevelop over time. The plan identifies the type of uses, general locations of buildings, timeframe for construction and street improvements. In addition to the above, the plan includes a public trail between the water and the structures along the Cove, a public park, a dock adjacent to the mixed use building, a marina, a canoe and kayak dock.

Type of Use	Current Cove Master Plan Uses
Condominiums	180 units
Apartments	220 units
Retail Sales	3,520
High Turnover Restaurant	6,750
Quality Restaurant	6,800
Office	131,920 (80,000 can be medical)

Figure 4: Approved Master Plan



Figure 5: Phasing for Approved Master Plan



The approved phasing includes:

Phase	Approved Phasing Plan	Date
1	<ul style="list-style-type: none"> • Mass Grading including the Multifamily Apartment Area, North Park, Mixed Use Building and parcel south of Main Street and the Water Quality Resource Area (Main Street and the Mixed Use Building) • Infrastructure including fully improving Main Street, half street improvements for Agnes Avenue to north park, 20-foot paved to Washington and utilities in Agnes to north park • North Park Landscaped • Water Quality Area Landscaped around Mixed Use Building 	2010
2	<ul style="list-style-type: none"> • Grading the Water Quality Resource Area and Esplanade • Esplanade & Water Quality Resource Plantings/Restoration 	2010 to 2011
3	<ul style="list-style-type: none"> • Apartment Complex • Medical Office / General Office Building • Off-Street Parking Area • Infrastructure including full Frontages improvements to Agnes (up to Building 5) 	2010 to 2013
4	<ul style="list-style-type: none"> • Grading for Condo Buildings 3 & 4 • Condo Buildings 3 & 4 • Landscaped Monument at Main St. Entrance 	2011 to 2013
5	<ul style="list-style-type: none"> • Final Grading for Condo's 1 & 2 • Condo Buildings 1 & 2 	2012 to 2014
6	<ul style="list-style-type: none"> • Final Grading for Condo's 5 & 6 • Infrastructure including full street improvement to Agnes • Condo Buildings 5 & 6 	2013 to 2015
7	<ul style="list-style-type: none"> • Mixed Use Building 	2014 to 2016
8	<ul style="list-style-type: none"> • In-water improvements (excluding Sheriffs facility) 	2011 to 2019

Adjustments to Development Standards

As part of the 2008 Concept Development Plan, nine (9) adjustments to the Oregon City Municipal Code were approved. Some of the approved adjustments are applicable to the proposed development.

- 16.12.290.A: All lots located on a neighborhood collector, collector or minor arterial should be oriented to front the street when practicable. Corner lots may have a side yard facing the street.
- 17.62.055.E.2: Horizontal massing of the proposed Mixed-use building may exceed a height:width ratio of 1:3 due to the provisions of variation in massing and materials.
- 17.52.040.A: New retail, office, commercial and industrial development with twenty-five or more parking spaces shall designate at least two carpool and vanpool parking spaces. Carpool and vanpool parking spaces shall be located closer to the main employee or commuter entrance than all other employee parking spaces with the exception of handicapped parking spaces. The carpool/vanpool spaces shall be clearly marked "Reserved-Carpool/Vanpool Only."
- 17.34 and 17.62: No maximum setbacks shall apply to the Concept Development Plan boundary provided that actual development substantially conforms to the Concept Development Plan.
- 17.49.050.H.5(c): A walkway or bike path shall not exceed twenty (20) feet in width.
- 17.52.010: The requested adjustment to increase the medical office building parking from 3.33 to 5.0 parking spaces per 1,000 square feet shall be allowed. The applicant of the Phase 3 development of the site shall provide the City with a shared parking agreement prior to the approval of the Phase 3 Detailed Development Plan. The agreement will allow public use of at least the difference in the number of spaces allowed between the office standard of 3.33 and

the maximum of 5.0 per 1,000 square feet. The time of the shared parking shall be determined by the applicant and City during the Phase 3 Detailed Development Plan approval.

- 17.52.090.2: The requested adjustment to the perimeter and interior landscaping requirements shall not apply to the above grade parking lots for the medical office building, North Park and the mixed-use building. There will be substantial above grade parking at the medical office-building site (266 spaces), the North Park Parking Lot (28 spaces) and the mixed-use building site (19 spaces), which shall meet the parking lot landscaping requirements of the OCMC.
- 17.52.090.4: The requested adjustment to the perimeter and interior landscaping requirements shall not apply to the above grade parking lots for the medical office building, North Park and the mixed-use building. There will be substantial above grade parking at the medical office-building site (266 spaces), the North Park Parking Lot (28 spaces) and the mixed-use building site (19 spaces), which shall meet the parking lot landscaping requirements of the OCMC.
- 17.62.055.F.2: The applicant shall develop the Recreational Facility consistent with the proposed building design included in the Concept Master Plan.

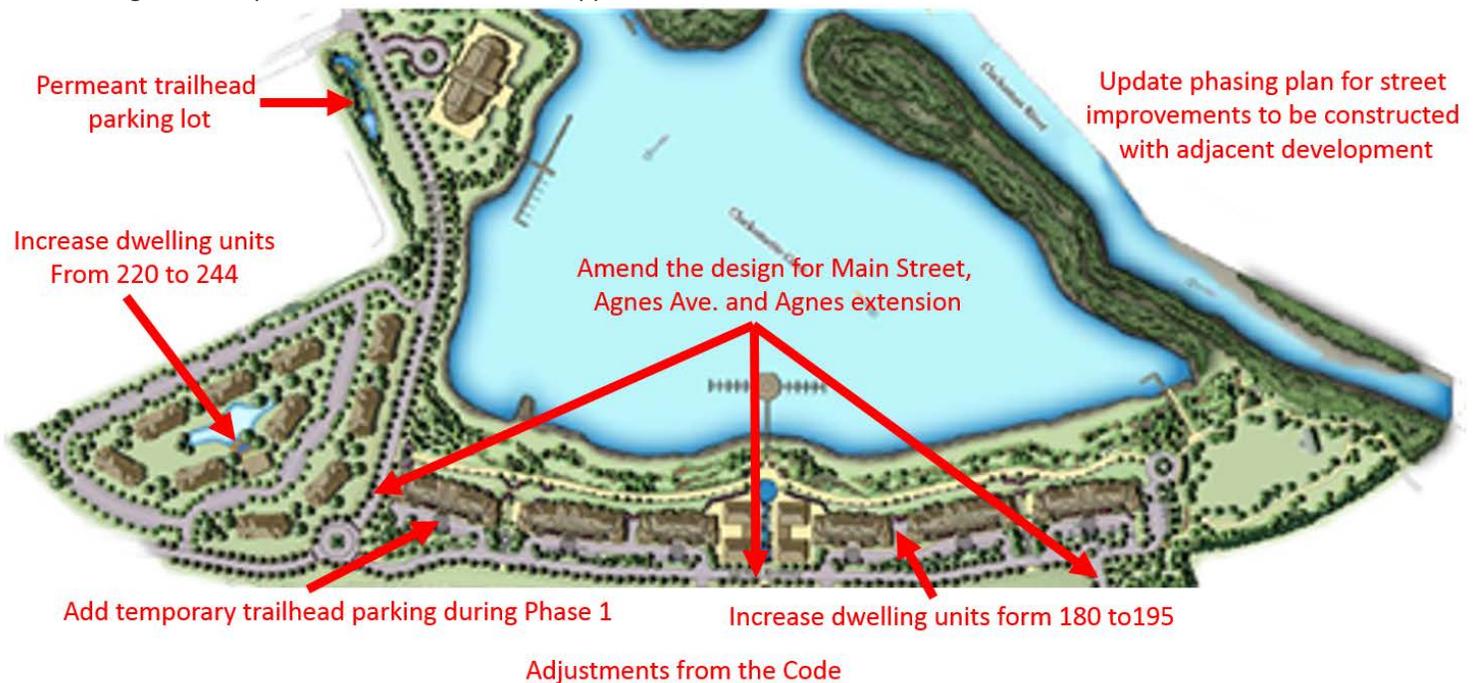
- **Project Description**

The applicant submitted a Concept (Master) Plan Amendment, Detailed Development Plan, Natural Resource Overlay District Review and a Geologic Hazards Overlay District Review request for construction of Phase 1 of the Cove development. The primary purpose of the application is to construct 244 multi-family dwelling units on Lot 2 within the Cove Master Plan boundary. The applicant additionally proposed to amend the approved Cove Master Plan. The project includes:

Amending the Previously Approved Concept (Master) Plan

The primary purpose of the proposed application is to construct Phase 1 of the Master Plan which includes construction of multi-family dwellings on Lot 2. In addition, the development includes the following amendments:

Figure 6: Proposed Amendments to the Approved Cove Master Plan



1. Update the Phasing Plan to redefine what activities are completed in each phase and the timing of each phase. The proposed phasing plan is provided below.

Phase	Proposed Phasing Plan	Estimated Start Date
1	<ul style="list-style-type: none"> • 244 Multi-Family Garden Apartments with Ancillary Structures and a Clubhouse with 5,500 Square Feet of General Office and 1,000 Square Feet Deli/Coffee Shop (or an additional 1,000 Square Feet of Office) • Main Street Improvements along Lot 2 Frontage, temporary connection to Trailhead parking lot and roundabout at Main and Agnes • Temporary Trailhead Parking Lot on Lot 3 (Removed in Phase 2) 	2015
2	<ul style="list-style-type: none"> • 195 Waterfront Units for Lease on Lots 3, 4, 6 and 7 • Two (2) High Turnover Restaurants (Total 3,250 Square Feet) Within the Waterfront Buildings • 8,712 Square Feet of General Office (Not Medical or Dental) Within the Waterfront Buildings • 5.28 Acres of Park • Final Improvements of Agnes Avenue Through the Site • Esplanade and Tract C Adjacent to 195 Waterfront units • Approx. 350 lineal feet of Main Street from Lot 2 to the East • Permeant Trailhead Parking on Tract A • Final Improvements at the North Park in Tract D 	2016
3	<ul style="list-style-type: none"> • 70,000 Square Feet of Office on Lot 5 • Two (2) High Turnover Restaurants (Total 2,700 Square Feet) on Lot 5 • Parking Lot on Tri-City Property (272 Spaces with 50 Public Spaces) 	2016
4	<ul style="list-style-type: none"> • 50,400 Square Feet of Mixed Use Office on Lot 1 (Medical/Dental Allowed) • 4,000 Square feet Quality Restaurant • 4,000 Square feet Quality Restaurant • Approximately 450 feet of Main Street Adjacent to Lot 1 	2017
5	<p>In Water Marina / Water Sports Center</p> <ul style="list-style-type: none"> • Two marinas (1 Public and 1 Private) with a Combined Total of 150 Slips • Outdoor Water Sports Center, Seasonal Use • Installation of a transit Moorage Dock on Lot 1 	2017

2. Increase in the number of multi-family units at the Lot 2 site from 220 units to 244 units with approximately 5,500 square feet of office and 1,000 square feet for a deli/coffee shop (or an additional 1,000 square feet of office).

3. Increase the number of condominium units on Lots 3, 4, 6 and 7 from 180 to 195 units.

4. Include a temporary parking lot for the trail head parking during Phase 1.

5. Replace the water feature and landscaping on Tract A with a permanent Trailhead parking lot.

6. Amend the Main Street crown section design to reduce the landscape planter strip from 6.5 feet to 4.5 feet and increase the sidewalk width from 6 feet to 10 feet.

7. Amend Agnes Street design from roundabout to North Park so that it is entirely designed to the standards of the previously approved shed section.

8. Amend the design of the Agnes Street extension to Washington from a 21-foot street with 6-foot sidewalk to a 12 foot paved path with 4 foot gravel shoulders

9. Adjusting sections of the Oregon City Municipal Code.

- Allow rockery walls up to 5 feet in height in front of the structures, exceeding the maximum wall height of 3.5 feet in front of a structure.
- Allow up to a 17 foot tall retaining wall between the subject site and the adjoining Oregon City Shopping Center, exceeding the 8.5 foot requirement.
- Allow a temporary gravel parking lot that does not comply with the parking lot standards or associated landscaping standards.

- Reduce the commercial first floor height from 14 feet to 12 feet for the commercial uses on Lot 2.
- Adjust portions of the Geologic Hazards Overlay District for Lot 2.

Detailed Development Plan for Construction of Phase 1

The applicant proposed the following construction in the Detailed Development Plan:

1. Construct 244 multi-family units on Lot 2 within 11 buildings, along with a clubhouse, a series of garages, carports and accessory structures. Two of the structures on Main Street include a total of approximately 5,500 square feet of office space and approximately 1,000 square feet of a deli/coffee shop (or an additional 1,000 square feet of office) on the first floor.
2. Excavate approximately 81,710 cubic yards of soil from the North Park and approximately 3,819 cubic yards from Lot 1. The excavation at the North Park will displace the current alignment of the Clackamas River Trail which will be replaced by a temporary 8 foot asphalt trail, approximately 920 lineal feet. The temporary trail will be replaced in Phase 2 with a 20 foot wide trail on each side of the center of Lot 5 for 200-feet.
3. Construct a temporary gravel parking lot north of the roundabout for Clackamas River Trail users with a temporary access from the northwest corner of the roundabout. The temporary parking will accommodate 14 parking spaces and will be graded and surfaced with gravel with the exception of ADA accessible pathways which will be paved.
4. Public right-of-way improvements include the construction of Main Street along a majority of the frontage of Lot 2, a roundabout located at Main Street and Agnes Avenue with a temporary connection to the temporary Trailhead parking lot.

The application was reviewed for compliance with all applicable overlay districts.

Figure 7: Proposed Lot 2 Layout



Figure 8: Clubhouse at Main Street



Figure 9: Main Street Looking South



Figure 10: Proposed Grading Locations

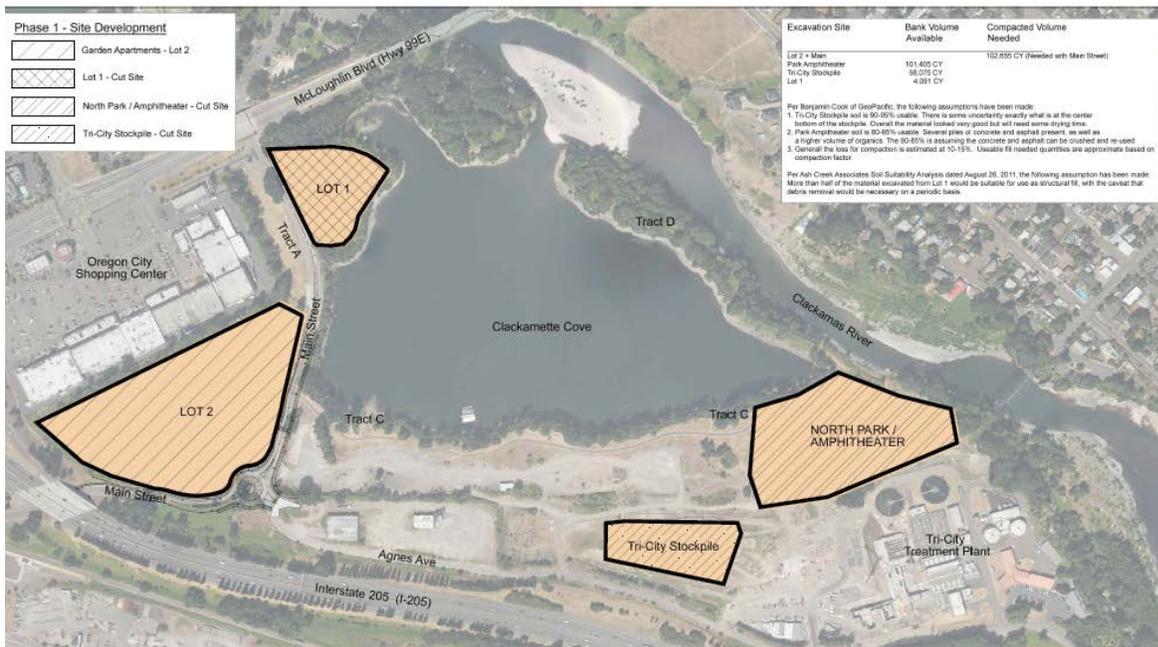


Figure 9: Proposed North Park Grading

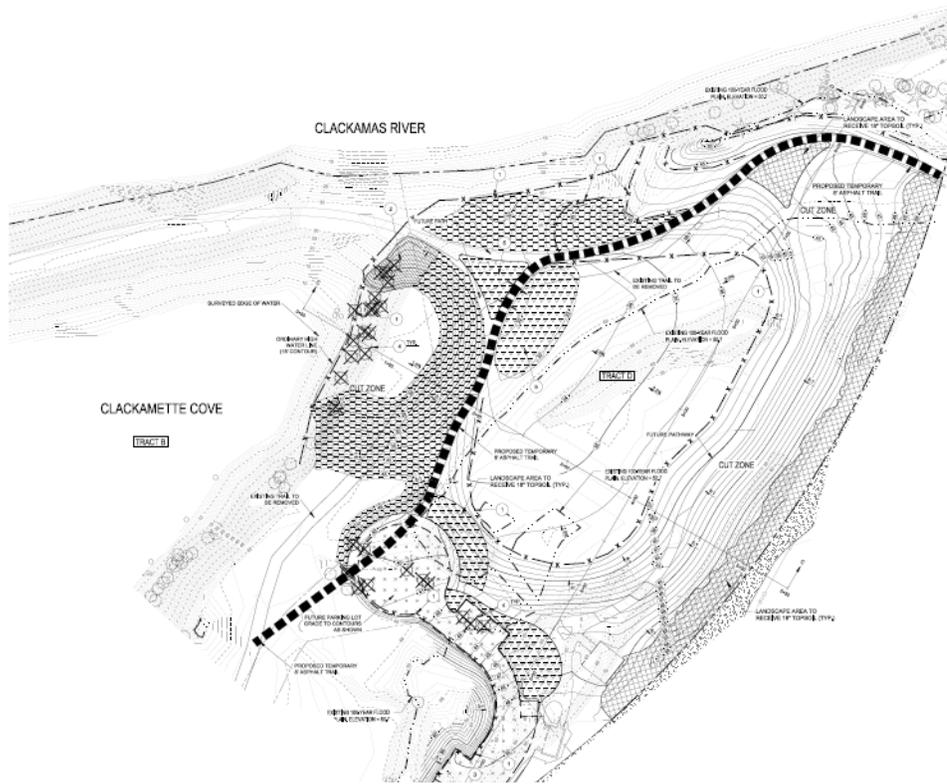


Figure 10: Proposed Lot 1 Grading



Figure 11: Proposed Temporary Trailhead Parking Lot

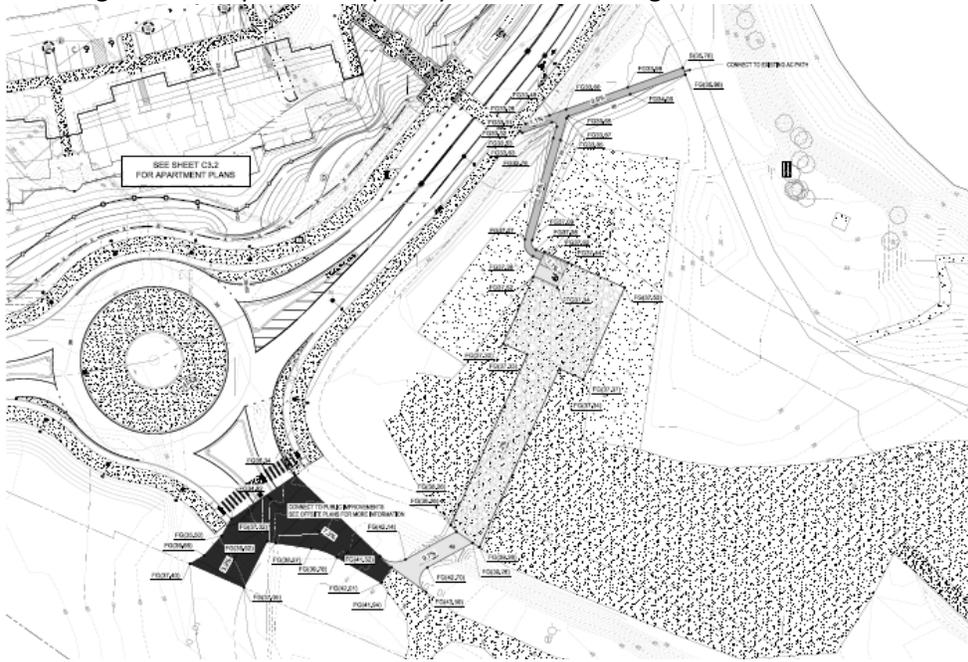
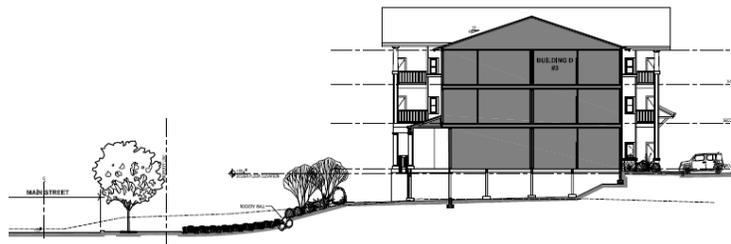
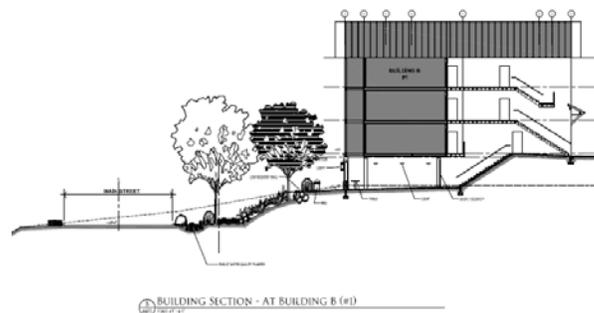
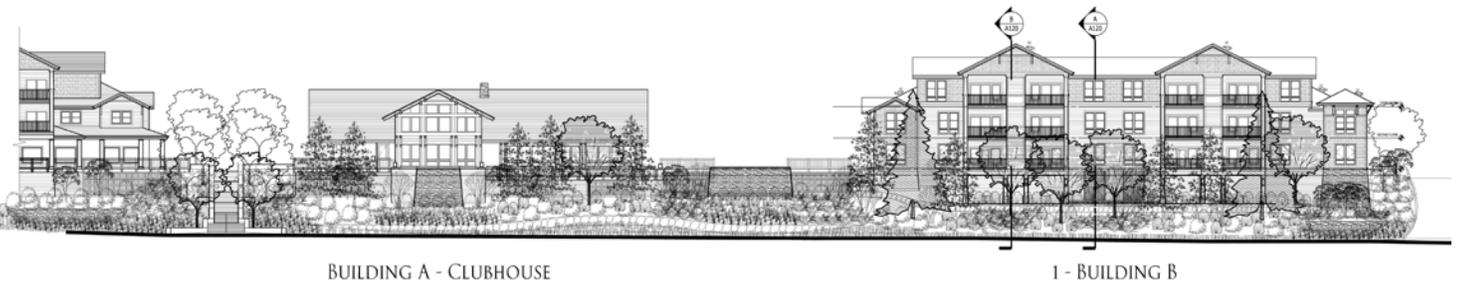


Figure 12: Building Elevations



Building A (Clubhouse): Main Street Facade



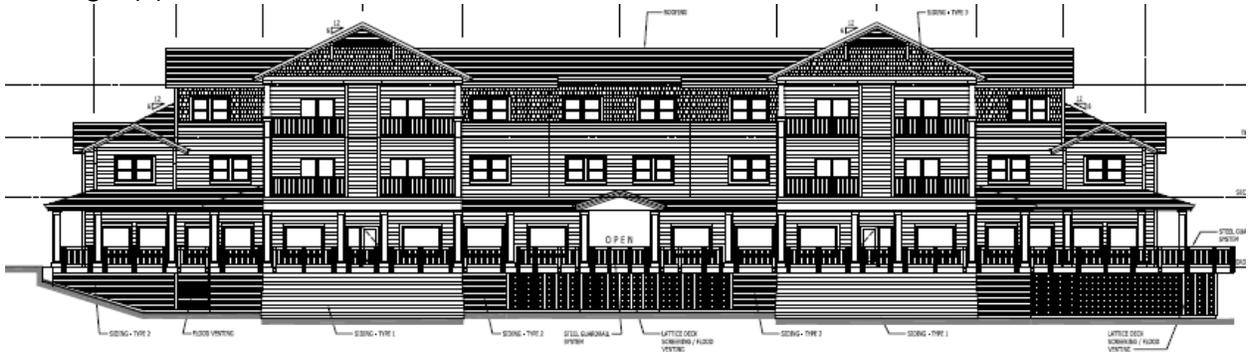
Building B (1): Main Street Facade



Building C (2): Front Parking Lot Facade

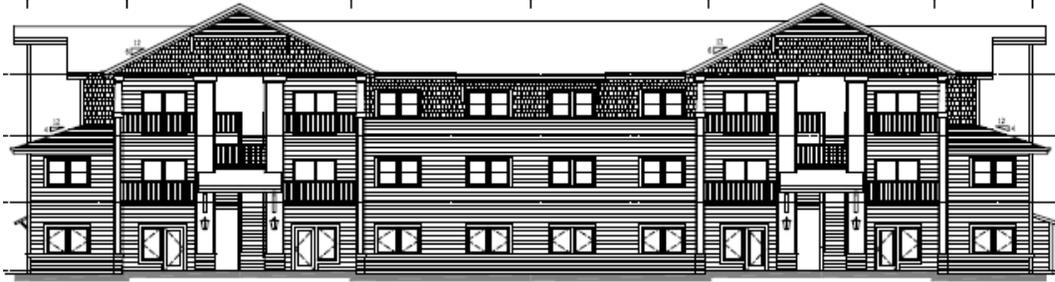


Building D (3): Main Street Facade



3 MAIN STREET ELEVATION - BUILDING D
 APRIL 11, 2015 11:11 AM

Buildings E (4): Front Parking Lot Façade



Building F (5): Front Main Street Façade



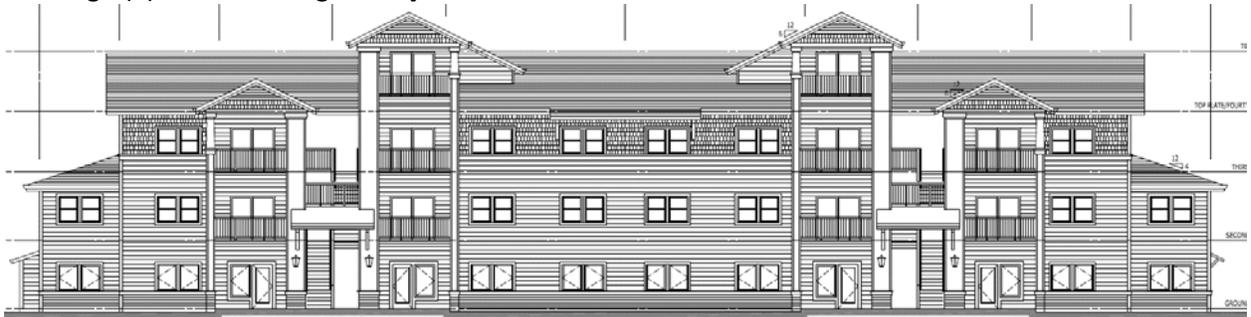
Building G (6): Front Parking Lot Façade



Building H (7): Front Parking Lot Façade



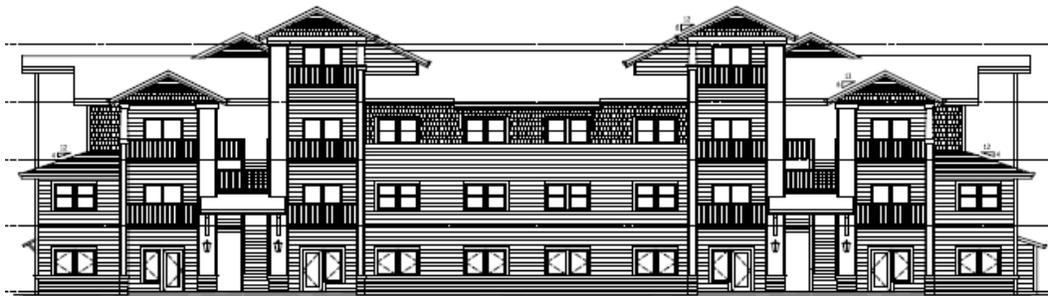
Building J (8): Front Parking Lot Façade



Building K (9): Parking Lot Façade



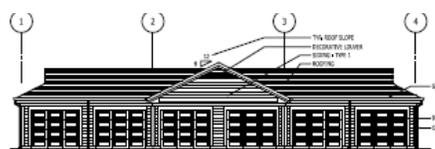
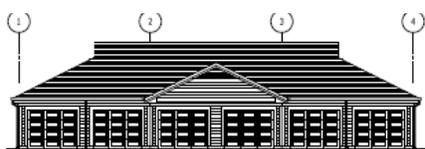
Building L (10): Front Parking Lot Façade

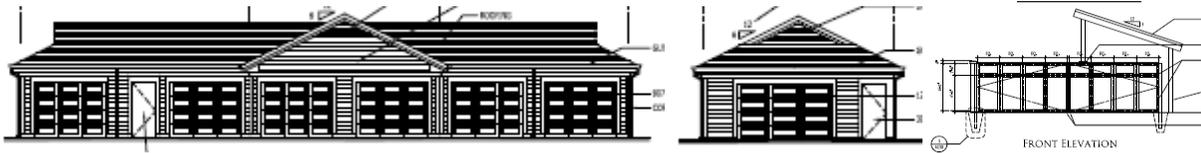


Building M (11): Front Parking Lot Façade



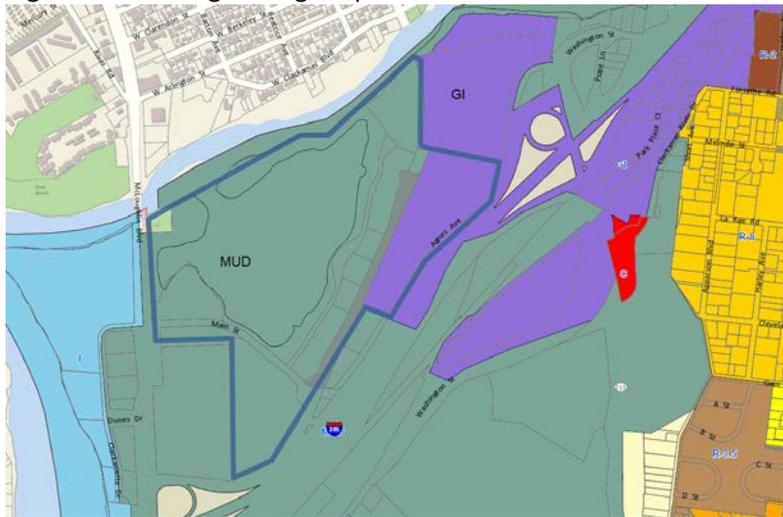
Garages: Front Façade





- Zoning/Permitted Uses:** The subject site is within the “MUD” Mixed Use Downtown District and the General Industrial District and abuts the same zoning designations.

Figure 13: Existing Zoning Map



- Municipal Code Standards and Requirements:** The following sections of the Oregon City Municipal Code are applicable to this land use approval:
 - 13.12 Stormwater Management
 - 12.04 Streets, Sidewalks, and Public Places
 - 12.08 Public and Street Trees
 - 15.48 Grading, Filling and Excavating
 - 17.34 Mixed Use Downtown District
 - 17.41 Tree Protection
 - 17.42 Flood Management Overlay District
 - 17.44 Geologic Hazards Overlay District
 - 17.49 Natural Resource Overlay District
 - 17.50 Administration and Procedures
 - 17.52 Off-Street Parking and Loading
 - 17.62 Site Plan and Design Review
 - 17.68 Master Plan
 - 17.54 Supplemental Zoning Regulations and Exceptions
 The City Code Book is available on-line at www.orcity.org.

II. ANALYSIS AND FINDINGS:

CHAPTER 17.34 – MIXED USE DOWNTOWN DISTRICT

17.34.020 Permitted uses.

Finding: Complies as proposed. The previously approved Concept Plans identified all of the uses within the subject site. The applicant has proposed to construct multi-family dwellings, office and restaurant

uses on Lot 2, uses permitted in OCMC 17.29.020.N, 17.29.020.H and 17.29.020.O via 17.34.020.A. In addition, a permanent Trailhead parking lot is proposed within the Master Plan and a temporary Trailhead parking lot during Phase 1, the parking lots supports the existing trail onsite.

17.34.030 *Conditional uses.*

Finding: Not applicable. The development proposal does not include implementation of a new conditional use onsite.

17.34.040 *Prohibited uses in the Mixed Use Downtown District.*

Finding: Not applicable. The development proposal does not include implementation of a new prohibited use onsite.

17.34.060 *Mixed-use downtown dimensional standards—For properties located outside of the downtown design district.*

Finding: Applicable. The site is not within the downtown design district.

17.34.060.A. *Minimum lot area: None.*

Finding: Not applicable. The applicant did not propose to alter the boundaries of the existing lot.

17.34.060.B. *Minimum floor area ratio: 0.30.*

Finding: Complies as proposed. Lot 2 would consist of 275,981 square feet of development on a 499,070 square foot site, resulting in an FAR of approximately 0.55 ($275,981/499,070=0.55$), in excess of the minimum requirement of 0.3. Each future phase of the Cove Master Plan will be analyzed for compliance with this standard.

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

Finding: Complies as proposed. The proposed development includes the construction of 10 multi-family structures, 1 clubhouse, 7 garage buildings, 10 carport structures, and a maintenance building. Each of the multi-family structures are a minimum of 2 stories in height. Though a majority of the garages and carports exceed 1,000 square feet, they remain ancillary in size and use to the multi-family structures, and thus this standard is not applicable. The maintenance structure is less than 1,000 square feet in size and is also not subject to this standard.

17.34.060.D. *Maximum building height: Seventy-five feet, except for the following locations 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; and*
3. *Property within one hundred feet of single-family detached or detached units.*

Finding: Complies as proposed. The subject site is not in any location identified in this section resulting in a maximum height of 75 feet. As demonstrated in Exhibit 2, each of the proposed structures are less than 75 feet in height.

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

Finding: Complies as proposed. The site does not abut a residential zone and thus no minimum setbacks are imposed.

17.34.060.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.*

Finding: Not applicable. The site does not abut a residential zone and thus no minimum setbacks are imposed.

17.34.060.G. Maximum Allowed Setbacks

1. *Front yard: Twenty feet provided the site plan and design review requirements of Section 17.62.055 are met.*
2. *Interior side yard: No maximum.*
3. *Corner side yard abutting street: Twenty feet provided the site plan and design review requirements of Section 17.62.055 are met.*
4. *Rear yard: No maximum.*
5. *Rear yard abutting street: Twenty feet provided the site plan and design review requirements of Section 17.62.055 are met.*

Finding: Complies as proposed. The 2008 Concept Plan included an adjustment that the maximum setbacks, provided the structures are sited in a location similar to that in the original Concept Plan. Though the use of the subject site differs from the original approval, the general location of the buildings on Lot 2 is similar.

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

Finding: Complies as proposed. Lot 2 includes 132,878 square feet of building footprint and 172,176 square feet of hardscape area totaling 305,054 square feet, for approximately 61% lot coverage, less than the 90 percent maximum ($305,054/499,070=0.611$). Each future phase will be analyzed for compliance with this standard.

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

Finding: Complies as proposed. The landscaping on lot 2 includes installation of 194,016 square feet of landscaping on a 499,070 square foot site totaling approximately 39% ($194,016/499,070=0.388$). Each future phase will be analyzed for compliance with this standard.

CHAPTER 17.50 - ADMINISTRATION AND PROCEDURES

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

Finding: Complies as proposed. The proposed Concept Plan amendment, Detailed Development Plan, Natural Resource Overlay District and Geologic Hazards Overlay District application is being reviewed pursuant to the Type III process. Notice was posted onsite, online and mailed to property owners within 300 feet of the proposed development site and posted in the paper.

17.50.050 Preapplication Conference

Finding: Complies as proposed. A pre-application conference (file PA 15-03) was held on February 25, 2015. The land use application was submitted within 6 months of the pre-application conference on July 6, 2015. The application was deemed incomplete on August 3, 2015 and after the submittal of additional information on September 11, 2015 and October 8, 2015, the application was deemed complete on October 9, 2015.

17.50.055 Neighborhood Association Meeting

Finding: Complies as proposed. The applicant's representatives attended the Two Rivers Neighborhood meeting on December 8, 2014 to present conceptual plans for the proposed office development.

17.50.060 Application Requirements.

Finding: Complies as proposed. The application was deemed complete on October 9, 2015.

17.50.070 Completeness Review and 120-day Rule.

Finding: Complies as Proposed. This land use application was submitted on July 6, 2015. The application was deemed incomplete on August 3, 2015 and after the submittal of additional

information on September 11, 2015 and October 8, 2015, the application was deemed complete on October 9, 2015. The City has until February 6, 2016 to make a final determination.

17.50.080 Complete Application--Required Information.

Finding: Complies as proposed. The applicant submitted all of the necessary information and was deemed complete.

17.50.090 Public Notices.

Finding: Complies as proposed. Staff provided public notice within 300' of the site via mail, the site was posted with multiple Land Use Notices, posted on the Oregon City website and in a general circulation newspaper. Staff provided email transmittal of the application and notice to affected agencies, the Natural Resource Committee and to all Neighborhood Associations requesting comment. The following comments were received:

Nick Bezzerides submitted comments that "the cove plan is too grandiose and largely privatizes what should be publically accessible parkland". The comments identified that the cove should be designated for non-motorized boats only and suggested an increase in the stormwater event design from 10 to 20 or 30 years to protect the water quality of the Cove and to design the development so that dredging is not needed. He noted that the project is out of scale with existing congested transportation infrastructure and includes too many private parking stalls and too few public parking stalls. Additionally, the comments suggest designing the landscaping and structures to block and disperse noise from I-205, develop the site with ample green space, design the project as unobtrusive as possible, limit private development, and focus on in-water activities while cleaning out the industrial detritus. Lastly, he identified the need for a micro-light rail system and associated parking garages from Highway 213 down Abernethy to the Willamette Falls Legacy Project site (Exhibit 7).

Staff Response: The proposal is within a previously approved Master Plan (Exhibits 10 and 11) in which many of the elements identified are not proposed to be changed or constructed. The approved Master Plan includes public amenities such as the retention of the Clackamette River Trail while the proposed amendment includes installation of a temporary and permanent parking lot for use by the public. The remaining concerns are addressed by implementation of standards within the Oregon City Municipal Code. The analysis for compliance with the standards regarding parking, traffic impacts, environmental implications and design are analyzed within this report.

Clelia Brigneti submitted comments expressing concern about the environmental impact the development on wildlife such as dogs and birds as well as the health of river. The comments include encouraging the use of native plants, concern that the public would be able to swim in the Cove and use the space as a public gathering place. The comments asked if the businesses will be family friendly and what the traffic impacts will be to a system which is currently busy (Exhibit 8).

Staff Response: The proposal is within a previously approved Master Plan (Exhibits 10 and 11) in which many of the elements identified are not proposed to be changed. The approved Master Plan includes public amenities such as the retention of the Clackamette River Trail while the proposed amendment includes installation of a temporary and permanent parking lot for use by the public. The remaining concerns are addressed by implementation of standards within the Oregon City Municipal Code. The analysis for compliance with the standards regarding parking, traffic impacts, environmental implications and design are analyzed within this report.

Kim Baller submitted comments regarding the future dredging to the Cove (Exhibit 9).

Staff Response: *The proposed application does not include any proposed in water work. The in water work and associated marinas were previously approved in the 2008 Cove Master Plan as demonstrated in Exhibit 10.*

Joshua Brooking, Assistant Planner with the Oregon Department of Transportation (ODOT) submitted comments suggesting the applicant comply with condition of approval #7 from the 2009 Master Plan approval (CP 09-02) which required a payment of \$120,000 to ODOT prior to the issuance of an occupancy permit for Lot 2 (Exhibit 4).

Staff Response: *This has been analyzed within Chapter 17.65.070 of the report.*

Scott Archer, Community Services Director submitted comments indicating that the project did not conflict with departmental interests (Exhibit 5).

None of the public comments identified an approval criteria which could not be met as proposed or with the conditions of the recommendation.

17.50.100 *Notice Posting Requirements.*

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

CHAPTER 17.62 SITE PLAN AND DESIGN REVIEW

The following standards are applicable to Lot 2 of the proposed development unless otherwise stated.

17.62.015 *Modifications that will better meet design review requirements.*

The review body may consider modification of site-related development standards. These modifications are done as part of design review and are not required to go through the Variance process pursuant to section 17.60.020. Adjustments to use-related development standards (such as floor area ratios, intensity of use, size of the use, number of units, or concentration of uses) are required to go through the Variance process pursuant to section 17.60.020. Modifications that are denied through design review may be requested as Variance through the Variance process pursuant to section 17.60.020. The review body may approve requested modifications if it finds that the applicant has shown that the following approval criteria are met:

Finding: Complies as proposed. The applicant did not respond to this section, however the development application included a modification to the minimum first floor ceiling height for multi-family buildings constructed in Mixed Use zones in section 17.62.057(J). The applicant is requesting to modify the required minimum ceiling height from 13' to 10'.

17.62.015.A. *The modification will result in a development that better meets design guidelines; and*

Findings: Complies as proposed. This standard applies to residential uses within mixed use zoning district. The intent of this standard is to allow spaces within mixed use districts to have flexibility over the life of the structure to accommodate a variety of uses. The subject site is within the boundary of an approved Master Plan which identifies the primary purpose of Lot 2 as multi-family dwellings. The applicant proposed a design for the dwellings which can comply with the applicable standards with the conditions of approval. The design of the floor height will not have a significant effect on the exterior of the structure and due to the specific design of the dwelling units and construction standards associated with the use of the site for the multi-family use the residential units are not likely to be used for commercial purposes.

17.62.015.B. *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.*

district. The intent of this standard is to allow spaces within mixed use districts to have flexibility over the life of the structure to accommodate a variety of uses. The subject site is within the boundary of an approved Master Plan which identifies the primary purpose of Lot 2 as multi-family dwellings. The

applicant proposed a design for the dwellings which can comply with the applicable standards with the conditions of approval. The design of the floor height will not have a significant effect on the exterior of the structure and due to the specific design of the dwelling units and construction standards associated with the use of the site for the multi-family use the residential units are not likely to be used for commercial purposes.

17.62.020 *Preapplication conference.*

Finding: Complies as proposed. Please see finding under section 17.50.050.

17.62.030 *When required.*

Site plan and design review shall be required for all development of real property in all zones except the R-10, R-8, R-6, R-5 and R-3.5 zoning 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, cottage housing development, multi-family and non-residential uses in all zones. No building permit or other permit authorization for development shall be issued prior to site plan and design review approval. Parking lots and parking areas accessory to uses regulated by this chapter also shall require site plan and design review approval. Site plan and design review shall not alter the type and category of uses permitted in zoning districts.

Finding: Applicable. The applicant proposed development of property in the Mixed Use Downtown District.

17.62.035 *Minor site plan and design review.*

Finding: Not applicable. The proposed development does not qualify for a Minor Site and Design Review application.

17.62.040 *Plans required.*

Finding: Complies as proposed. The applicant has submitted all requested application items.

17.62.050 *Standards.*

17.62.050.A.1. *Landscaping,*

The standards of this section address the quantity, quality and type of required landscaping. A minimum of fifteen percent of the lot shall be landscaped. Existing native vegetation shall 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.

Finding: Complies with condition. The applicant indicated that 38.9% of Lot 2 is landscaped. A landscape plan was submitted which appears to demonstrate that much more than 10% of Lot 2 is landscaped. The landscape plan is consistent with the preservation plan approved with the 2008 Master Plan. Each future phase will be analyzed for compliance with this standard. The plan did not identify removal of nuisance plants onsite. 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. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

17.62.050.A.1.a. *Except as allowed elsewhere in the zoning and land division chapters of this Code, all areas to be credited towards landscaping must be installed with growing plant materials. A reduction of up to twenty-five percent of the overall required landscaping may be approved by the community development director if the same or greater amount of pervious material is incorporated in the non-parking lot portion of the site plan (pervious material within parking lots are regulated in OCMC 17.52.070).*

Finding: Complies with condition. The applicant has not requested a reduction in the minimum landscaping percentage. The application does include a portion of land between the parking lot and the adjoining property for which no landscaping is proposed and it is unknown if the existing landscaping complies with the Oregon City Municipal Code. Prior to issuance of a permit associated with the

proposed development the applicant shall submit a revised landscaping plan identifying landscaping between the parking lot and the adjoining property. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

17.62.050.A.1.b. Pursuant to Chapter 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.

Finding: Complies as proposed. The vegetated corridor associated with Wetland A extends into the perimeter parking lot landscaping area associated with Lot 2. The landscaping requirements in OCMC 17.49 are superseding the perimeter parking lot landscaping requirements for this location.

17.62.050.A.1.c. The landscaping plan shall be prepared by a registered landscape architect and 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. 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. The community development department shall maintain a list of trees, shrubs and vegetation acceptable for landscaping.

Finding: Complies with condition. The landscape plan is stamped by Patrick Gaynor, Registered Landscape Architect and includes a mix of vertical and horizontal elements. The narrative indicated full coverage within the landscaped area in three years. The landscape plan and associated narrative did not identify if 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. Prior to issuance of a permit associated with the proposed development the applicant shall submit documentation identifying that 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. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

17.62.050.A.1.d. For properties within the Downtown Design District, or for major remodeling in all zones subject to this chapter, landscaping shall be required to the extent practicable up to the ten percent requirement.

Finding: Complies as proposed. The applicant indicated that 38.9% of the site is landscaped. A landscape plan was submitted which appears to demonstrate that much more than 10% of Lot 2 is landscaped.

17.62.050.A.1.e. Landscaping shall be visible from public thoroughfares to the extent practicable.

Finding: Complies as proposed. The landscape plan for this project is visible from public thoroughfares to the extent practicable.

17.62.050.A.1.f. Interior parking lot landscaping shall not be counted toward the fifteen percent minimum, unless otherwise permitted by the dimensional standards of the underlying zone district.

Finding: Complies as proposed. The site landscaping far exceeds the minimum landscaping without acknowledgement of the interior parking lot landscaping.

17.62.050.A.2. Vehicular Access and Connectivity.

a. Parking areas shall be located behind buildings, below buildings, or on one or both sides of buildings.

Finding: Complies as Proposed. The configuration of the site includes parking areas behind the front of the structures which are adjacent to the right-of-way.

17.62.050.A.2.b. Ingress and egress locations on thoroughfares shall be located in the interest of public safety. Access for emergency services (fire and police) shall be provided.

Finding: Complies with condition. The proposal includes two driveways with dimensions adequate for two lane vehicle travel. As shown on the Site Plan, Sheets C2.1 – C2.2, the southwest entrance is 26 feet wide and has a 28 feet and 48 feet fire truck radius. The northeast access drive is 32 feet and

approximately 210 feet in length, also providing a 28 feet and 48 feet fire truck radius. The northern entrance has been designed with steep slopes and will require approval of Clackamas Fire District #1.

The applicant did not address in the response that an emergency access is being connected to the Oregon City Shopping Center at the south corner of the site. The location of the emergency access is the highest point onsite and the only location above the FEMA flood elevation and protected from the 1996 flood elevation with a tall curb that would line the accessway, connecting at the existing concrete wall for additional safe passage of vehicles in the event of a flood. The applicant proposed to construct three removable bollards on the adjacent property to ensure the accessway is used for emergency vehicles only. An easement has been recorded for the emergency access over the Oregon City Shopping Center. To further define provisions for emergency access, the construction plan submittal will need to include details on striping and signage within the shopping center easement and an emergency plan.

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

17.62.050.A.2.c. Alleys or vehicular access easements shall be provided in the following Districts: R-2, MUC-1, MUC-2, MUD and NC zones unless other permanent provisions for access to off-street parking and loading facilities are approved by the decision-maker. The corners of alley intersections shall have a radius of not less than ten feet.

Finding: Not applicable. Though the site is within the MUD District, an alley is not proposed or required due to the configuration of the site, the connections proposed with the adjacent property and compliance with the circulation identified in the previously approved Concept Plans.

17.62.050.A.2.d. Sites abutting an alley shall be required to gain vehicular access from the alley unless deemed impracticable by the community development director.

Finding: Please refer to the analysis in 17.62.050.A.2.c.

17.62.050.A.2.e. Where no alley access is available, the development shall be configured to allow only one driveway per frontage. On corner lots, the driveway(s) shall be located off of the side street (unless the side street is an arterial) and away from the street intersection. Shared driveways shall be required as needed to accomplish the requirements of this section. The location and design of pedestrian access from the sidewalk shall be emphasized so as to be clearly visible and distinguishable from the vehicular access to the site. Special landscaping, paving, lighting, and architectural treatments may be required to accomplish this requirement.

Finding: Complies as proposed. The layout of the proposed development includes two driveways, one per frontage. Driveway locations meet standards set forth in 12.04.

17.62.050.A.2.f. Driveways that are at least twenty-four feet wide shall align with existing or planned streets on adjacent sites.

Finding: Not applicable. There are no existing streets opposite the driveways, and no opportunities for future streets at the locations, due to the proximity of the body of water and the I-205 right-of-way.

17.62.050.A.2.g. Development shall be required to provide existing or future connections to adjacent sites through the use of vehicular and pedestrian access easements where applicable. Such easements shall be required in addition to applicable street dedications as required in Chapter 12.04.

Finding: Complies with condition. The applicant indicated that:

As shown on the Site Plan, Sheets C2.1 – C2.3, a round-about is proposed at the intersection of Main Street and the future Agnes Street connection. Additionally, a pedestrian connection is proposed from the garden apartments from esplanade stairs across Main Street to the temporary trail access parking and future esplanade along Clackamette Cove. A 44 ft easement is proposed for the northeastern entrance to the lot. The access drive from Main Street onto the site for approximately 200 ft will be constructed to a 32 ft public road section with 5 ft sidewalks on either side. The sidewalk on the west side of the access drive will lead to the future public

roadway connection to the west, where a 40 ft easement is proposed... A 44 foot wide and approximately 200 ft long easement is proposed for the northeastern access drive. This easement proposed to allow access to the future public roadway connection to the west, where a 40 ft wide easement is proposed. The easements described are depicted on Sheet A101 of the Architectural plan set.

Staff has determined that the public interest is best served if locations of pedestrian crossings over Main Street are determined by a Traffic Engineer, especially where the roundabout is concerned, since this is not a typical design. Also, the applicant states above that sidewalk will be placed on both sides of the northern access, connecting to Main Street. In other materials, the applicant has stated that sidewalk cannot be constructed due to the steep grades created by the proposed design. Conditions will be applied to ensure pedestrian connectivity features meet the intent of the standards. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

17.62.050.A.2.h Vehicle and pedestrian access easements may serve in lieu of streets when approved by the decision maker only where dedication of a street is deemed impracticable by the city.

Finding: Not applicable. The pedestrian accessways proposed in the development are not in lieu of vehicular streets.

17.62.050.A.2.i. Vehicular and pedestrian easements shall allow for public access and shall comply with all applicable pedestrian access requirements.

Finding: Complies with condition. A public pedestrian easement has been granted for the esplanade. Additional findings associated with easements are found throughout this report. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

17.62.050.A.2.j. 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.

Finding: Complies with condition. In Phase 1, the roundabout will provide a stub for Agnes Avenue to be constructed with Phase 2. As access will need to be maintained to adjacent properties, the typical stub-street signage may not be appropriate; the need for this signage will be assessed at time of construction plan review. The applicant shall install signage as needed on Agnes avenue as identified in 17.62.050.A.2.j. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

17.62.050.A.2.k. Parcels larger than three acres shall provide streets as required in Chapter 12.04. The streets shall connect with existing or planned streets adjacent to the site.

Finding: See findings under section 12.04.007 of this report.

17.62.050.A.3. Building structures shall be complimentary to the surrounding area.

All exterior surfaces shall present a finished appearance. All sides of the building shall include materials and design characteristics consistent with those on the front. Use of inferior or lesser quality materials for side or rear facades or decking shall be prohibited.

a. Alterations, additions and new construction located within the McLoughlin Conservation District, Canemah National Register District, and the Downtown Design District and when abutting a designated Historic Landmark shall utilize materials and a design that incorporates the architecture of the subject building as well as the surrounding district or abutting Historic Landmark. Historic materials such as doors, windows and siding shall be retained or replaced with in kind materials unless the community development director determines that the materials cannot be retained and the new design and materials are compatible with the subject building, and

District or Landmark. The community development director may utilize the Historic Review Board's Guidelines for New Construction (2006) to develop findings to show compliance with this section.

b. In historic areas and where development could have a significant visual impact, the review authority may request the advisory opinions of appropriate experts designated by the community development director from the design fields of architecture, landscaping and urban planning. The applicant shall pay the costs associated with obtaining such independent professional advice; provided, however, that the review authority shall seek to minimize those costs to the extent practicable.

Finding: Complies with condition. The exterior surfaces of the buildings consists of a finished appearance. The sides of the multi-family dwellings include design elements similar to the front of the structure. as demonstrated within this report the buildings will comply with the standards prior to construction and thus are compatible with the surrounding area. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

17.62.050.A.4. *Grading shall be in accordance with the requirements of Chapter 15.48 and the public works stormwater and grading design standards.*

Finding: See findings under sections 15.48 and 13.12 of this report.

17.62.050.A.5 *Development subject to the requirements of the Geologic Hazard overlay district shall comply with the requirements of that district.*

Finding: See findings in section 17.44 of this report.

17.62.050.A.6. *Drainage shall be provided in accordance with city's drainage master plan, Chapter 13.12, and the public works stormwater and grading design standards.*

Finding: See findings under section 13.12 of this report.

17.62.050.A.7. *Parking, including carpool, vanpool and bicycle parking, shall comply with city off-street parking standards, Chapter 17.52.*

Finding: Please refer to the findings under Chapter 17.52.

17.62.050.A.8. *Sidewalks and curbs shall be provided in accordance with the city's transportation master plan and street design standards. Upon application, the community development director may waive this requirement in whole or in part in those locations where there is no probable need, or comparable alternative location provisions for pedestrians are made.*

Finding: See findings under section 12.04.007 of this report.

Pedestrian Circulation System

17.62.050.A.9. *A well-marked, continuous and protected on-site pedestrian circulation system meeting the following standards shall be provided:*

a. Pathways between all building entrances and the street are required. Pathways between the street and buildings fronting on the street shall be direct. Exceptions may be allowed by the director where steep slopes 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.

Finding: Complies with condition. Once the grading is completed, the subject site will be significantly higher in elevation than the adjacent Main Street. Rather than connecting each structure with a direct accessway to Main Street, the proposed design includes a pedestrian pathway which connects the clubhouse and building 3 and 5 at the top of a bluff, above Main Street. The pedestrian circulation system connects to a mid-block crosswalk at Main Street leading to the Clackamette Cove Trail approximately in the middle of the structures as well as a sidewalk extending to the street at the southern vehicular drive aisle. The accessway does not extend in front of Building 1 (B) or connect to the northern vehicular drive aisle. However, on Sheet A101 of the Architectural plans, sidewalks are called out along the northern vehicular drive aisle which provides connection to Main Street.

Prior to issuance of a permit associated with the proposed development the applicant shall submit a revised pedestrian circulation plan which complies with all applicable standards within the Oregon City Municipal Code and includes a pedestrian connection that extends the sidewalk adjacent to the rear (parking lot side) of Building 1 (B) to the abutting portion of Main Street. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

17.62.050.A.9.b. The pedestrian circulation system shall connect all main entrances on the site. For buildings fronting on the street, the sidewalk may be used to meet this standard. Pedestrian connections to other areas of the site, such as parking areas, recreational areas, common outdoor areas, and any pedestrian amenities shall be required.

Finding: Please refer to the finding in 17.62.050.A.9.a.

17.62.050.A.9.c. Elevated external stairways or walkways that provide pedestrian access to multiple dwelling units located above the ground floor of any building are prohibited. The community development director may allow exceptions for external stairways or walkways located in, or facing interior courtyard areas provided they do not compromise visual access from dwelling units into the courtyard.

Finding: Not applicable. No exterior walkways which provide connection to dwelling units are proposed on a structure.

17.62.050.A.9.d. The pedestrian circulation system shall connect the main entrances of adjacent buildings on the same site.

Finding: Please refer to the finding in 17.62.050.A.9.a.

17.62.050.A.9.e. The pedestrian circulation system shall connect the principal building entrance to those of buildings on adjacent commercial and residential sites where practicable. Walkway linkages to adjacent developments shall not be required within industrial developments or to industrial developments or to vacant industrially-zoned land.

Finding: Please refer to the analysis in 17.62.050.A.2.g.

17.62.050.A.9.f. 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.

Finding: Complies as proposed. The onsite pedestrian walkways are hard-surfaced, well drained and a minimum of 5 feet wide. In the locations adjacent to parking spaces, the onsite pedestrian accessway are a minimum of 7 feet.

17.62.050.A.10. There shall be provided adequate means to ensure continued maintenance and necessary normal replacement of private common facilities and areas, drainage ditches, streets and other ways, structures, recreational facilities, landscaping, fill and excavation areas, screening and fencing, groundcover, garbage storage areas and other facilities not subject to periodic maintenance by the city or other public agency.

Finding: Complies as proposed. The development application identified adequate means and accesses to ensure continued maintenance and necessary replacement of facilities and areas.

17.62.050.A.11. Site planning shall conform to the requirements of OCMC Chapter 17.41 Tree Protection.

Finding: Please refer to the analysis in Chapter 17.41 of this report.

17.62.050.A.12. Development shall be planned, designed, constructed and maintained to protect water resources and habitat conservation areas in accordance with the requirements of the city's Natural Resources Overlay District, Chapter 17.49, as applicable.

Finding: Please refer to the analysis in Chapter 17.49 of this report.

17.62.050.A.13. All development shall maintain continuous compliance with applicable federal, state, and city standards pertaining to air and water quality, odor, heat, glare, noise and vibrations, outdoor storage, radioactive materials, toxic or noxious matter, and electromagnetic interference. Prior to issuance of a building permit, the community development director or building official may require submission of evidence demonstrating compliance with such standards and receipt of necessary permits. The review authority may regulate the hours of construction or operation to minimize adverse impacts on adjoining residences, businesses or neighborhoods. The emission of odorous gases or other matter in such quantity as to be readily detectable at any point beyond the property line of the use creating the odors or matter is prohibited.

Finding: Complies as proposed. The development proposal assured compliance with this section.

Public Sewer and Water Facilities

17.62.050.A.14. Adequate public water and sanitary sewer facilities sufficient to serve the proposed or permitted level of development shall be provided. 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.

Finding: Complies with condition. Applicant states that consistent with the findings of the original CDP approval, public water and sanitary sewer facilities remain adequate to serve the proposed development. All proposed sanitary service is shown on Sheets C6.0 through C6.2. Sanitary service will connect to the 42-inch sanitary main line currently located in Main Street. As shown on the Water and Utility Plan, Sheet C5.1 – C5.2, water is provided through domestic water lines and meters. The proposed lines will connect to an existing 8-inch water stub installed during the Main Street construction at the northwest corner of the project site.

The City has reviewed the preliminary utility plans and determined that the existing 10-inch public waterline shall be replaced with a new 10-inch line within Main Street improvements, including the roundabout, from the north end of the property to the southerly connection to the existing waterline located outside the grading and street improvement limits. The proposed waterline shall be placed in the City standard utility location to the maximum extent practicable and per City approval for design exceptions.

Concurrent with Phase 2, the 10-inch waterline in Agnes Avenue is to be replaced with a new 10-inch line along the new Agnes Avenue right-of-way.

Regarding the proposed water service, the proposed bypass around the water meter will not be permitted. The approved options are to provide separate fire and domestic taps, or to provide one combined tap.

Option 1: One water service connection with Master Meter sized to provide the combined fire flows and domestic water flows. All flows shall be metered through one Master Meter, fire flows plus domestic flows. Therefore no flows are allowed to bypass the Master Meter. Master meter shall be located in the public-right-of-way and the backflow assembly shall be installed directly downstream on

private property. Water System Development Charges (SDC) are assessed based on the Master Meter size.

Option 2: Two separate water services: One metered domestic water service with meter sized to provide the domestic water flows, and one fire service with double detector check valves to provide the fire flows. Two separate private onsite systems with one for the fire protection system and the second for domestic water system. Two separate connections to the City public water system, with one connection for the fire service line and one connection for domestic water service. Domestic water meter shall be located in the public-right-of-way and the backflow assembly shall be installed directly downstream on private property. Meter sized to provide the domestic water flows. Water SDCs are assessed based on the meter size. Fire service line with double detector check valve assembly required and shall be located on private property close to the property line closest to the connection with the public water main. Water SDCs not assessed on separate fire connection. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

17.62.050.A.15. 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 master plan and design standards and this title. 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. Compliance with [Chapter] 12.04, Streets, Sidewalks and Public Places shall be sufficient to achieve right-of-way and improvement adequacy.

Finding: ee section 12.04.007 of this report.

17.62.050.A.16. 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 transportation system plan.

Finding: Complies as proposed. The application was transmitted to Tri-Met whom did not submit any comments.

17.62.050.A.17. All utility lines shall be placed underground.

Finding: Complies with condition. Applicant states that all proposed utility lines will be placed underground. Section 17.62.050.A.17 does not distinguish between existing and proposed utilities to be relocated underground. Existing utility lines along the subject frontages will need to be placed underground unless determined by the City Engineer and the franchise utility owner to be infeasible. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

17.62.050.A.18. Access and facilities for physically handicapped people shall be incorporated into the site and building design consistent with applicable federal and state requirements, with particular attention to providing continuous, uninterrupted access routes.

Finding: Complies as proposed. The applicant indicated that the site includes ADA compliant parking stalls, accessible units as well as pedestrian accessways. Compliance with ADA and accessibility standards will be reviewed upon submittal of a building permit.

17.62.050.A.19. For a residential development, site layout shall achieve at least eighty percent of the maximum density of the base zone for the net developable area. Net developable area excludes all areas for required right-of-way dedication, land protected from development through Natural Resource or Geologic Hazards protection, and required open space or park dedication.

Finding: Not applicable. The minimum or maximum density of the Mixed Use Downtown District is not specified in the Oregon City Municipal Code. The number of residential units on the site is affected by site plan and design review standards, including but not limited to: minimum and maximum building height, minimum landscaping requirements, minimum and maximum number of parking spaces, and the adequacy of public facilities such as sewer, water, stormwater and transportation system capacity.

17.62.050.A.20. Screening of Mechanical Equipment:

a. Rooftop mechanical equipment, including HVAC equipment and utility equipment that serves the structure, shall be screened. 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.

Finding: Not applicable. No rooftop mechanical equipment are proposed. This standard is not applicable.

17.62.050.A.20.b. 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.

Finding: Complies as proposed. The development proposal included wall mounted mechanical equipment on the end of the building walls and painted to match on each structure with the exception of buildings 3 and 5 in which the mechanical equipment will be located within the interior of the building.

17.62.050.A.20.c. 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. Placement and type of screening shall be determined by the community development director.

Finding: Complies as proposed. The applicant indicated that ground mounted mechanical equipment are proposed at Building 1(A) as well as 3(D) and 5 (F) which will be screened by ornamental fences, screening enclosures, trees, or shrubs that block at least eighty percent of the view.

17.62.050.A.20.d. All mechanical equipment shall comply with the standards in this section. If mechanical equipment is installed outside of the site plan and design review process, planning staff shall review the plans to determine if additional screening is required. If the proposed screening meets this section, no additional planning review is required.

Finding: Please refer to the analysis within this report.

17.62.050.A.20.e. This section shall not apply to the installation of solar energy panels, photovoltaic equipment or wind power generating equipment.

Finding: Not applicable. The development application did not include the installation of solar energy panels, photovoltaic equipment or wind power generating equipment.

17.62.050.A.21. Building Materials.

a. Preferred building materials. Building exteriors shall be constructed from high quality, durable materials. Preferred exterior building materials that reflect the city's desired traditional character are as follows:

- i. Brick.*
- ii. Basalt stone or basalt veneer.*
- iii. Narrow horizontal wood or composite siding (generally five inches wide or less); wider siding will be considered where there is a historic precedent.*
- iv. Board and baton siding.*
- v. Other materials subject to approval by the community development director.*
- vi. Plywood with battens or fiber/composite panels with concealed fasteners and contiguous aluminum sections at each joint that are either horizontally or vertically aligned.*
- vii. Stucco shall be trimmed in wood, masonry, or other approved materials and shall be sheltered from extreme weather by roof overhangs or other methods.*

Finding: Complies as proposed. The development application included a material board and architectural plans in Exhibit 2. The primary exterior building material proposed is hardiplank lap siding with a mixture of 5" and 8" exposures. Hardishingle shingle siding and cultured stone are used as accent materials throughout the site.

17.62.050.A.21.b. Prohibited materials. *The following materials shall be prohibited in visible locations 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 or as a gate for a refuse enclosure).*
- v. Crushed colored rock/crushed tumbled glass.*
- vi. Non-corrugated and highly reflective sheet metal.*

Finding: Not applicable. No prohibited materials are identified within the submittal.

17.62.050.A.21.c. Special material standards: *The following materials are allowed if they comply with the requirements found below:*

- 1. Concrete block. When used for the front facade 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.*
- 2. 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).*
- 3. Exterior Insulation and Finish System (EIFS) and similar toweled finishes shall be trimmed in wood, masonry, or other approved materials and shall be sheltered from extreme weather by roof overhangs or other methods.*
- 4. Building surfaces shall be maintained in a clean condition and painted surfaces shall be maintained to prevent or repair peeling, blistered or cracking paint.*

Finding: Complies as proposed. No special material standards are proposed within the development application. Split-faced concrete block is proposed on the refuse enclosure which is not subject to this standard. High quality building materials have been selected that are durable and easily maintained as required by Section 17.62, 21.c.4. Hardiplank siding and boral cultured stone both have 50 year warranties as an indication of their durability.

17.62.050.A.22. Conditions of Approval.

The review authority may impose such conditions as it deems necessary to ensure compliance with these standards and other applicable review criteria, including standards set out in city overlay districts, the city's master plans, and city public works design standards. Such conditions shall apply as described in Sections 17.50.310, 17.50.320 and 17.50.330. The review authority may require a property owner to sign a waiver of remonstrance against the

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

Finding: Complies with condition. The proposal can meet the approval criteria with the conditions of approval. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

17.62.055 Institutional and commercial building standards.

B. Applicability.

In addition to Section 17.62.050 requirements, institutional and commercial buildings shall comply with design standards contained in this section.

Finding: Applies. The Main Street façade of the first floor of Buildings 3(D) and 5(F) as well as the Clubhouse 1(A) include commercial uses and are subject to this standard. This does not apply to any other structure onsite.

17.62.055.C. Relationship between zoning district design standards and requirements of this section.

1. Building design shall contribute to the uniqueness of the underlying zoning district by applying appropriate materials, elements, features, color range and activity areas tailored specifically to the site and its context.

Finding: Complies with conditions. The structures comply with the standards in the Oregon City Municipal Code with the conditions of approval. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

17.62.055.C.2. A standardized prototype or franchise design shall be modified if necessary to meet the provisions of this section.

Finding: Complies with condition. The structures comply with the standards in the Oregon City Municipal Code with the conditions of approval. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

17.62.055.C.3. In the case of a multiple building development, each individual building shall include predominant characteristics, architectural vocabulary and massing shared by all buildings in the development so that the development forms a cohesive place within the underlying zoning district or community.

Finding: Complies as proposed. Each of the buildings retain the similar material palettes, detailing, roof slope, architectural vocabulary and building massing.

17.62.055.C.4. 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.

Finding: Not applicable. A conflict has not arisen.

17.62.055.C.5. 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, unless a greater setback is accepted under the provisions of Section 17.62.055D. 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 line unless a greater setback is accepted under the provisions of Section D.

Finding: Not applicable. The 2008 Concept Plan included an adjustment that the maximum setbacks are not applicable if the building is located similar to that in the original Concept Plan. The general location of the proposed structures is similar to that of the 2008 Concept Plan.

17.62.055.D. Relationship of Buildings to Streets and Parking.

1. Buildings shall be placed no farther than five feet from the front property line. 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:

- a. Tables, benches or other approved seating area.
- b. Cobbled, patterned or paved stone or enhanced concrete.
- c. Pedestrian scale lighting.
- d. Sculpture/public art.
- e. Fountains/Water feature.
- f. At least twenty square feet of landscaping or planter boxes for each tenant facade fronting on the activity area.
- g. Outdoor café.
- h. Enhanced landscaping or additional landscaping.
- i. Other elements, as approved by the community development director, that can meet the intent of this section.

Finding: Not applicable. The 2008 Concept Plan included an adjustment that the maximum setbacks are not applicable if the building is located similar to that in the original Concept Plan. The general location of the proposed structures is similar to that of the 2008 Concept Plan.

17.62.055.D.2. *The front most architecturally significant facade shall be oriented toward the street and shall be accessed from a public sidewalk. 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.*

Finding: Complies with condition. The Main Street façade of the first floor of Buildings 3(D) and 5(F) as well as the Clubhouse building 1(A) include commercial uses and are subject to this standard. Each of the structures include articulation of the building mass, larger windows facing the street, enhanced siding and stone veneer finishes on the exterior walls, etc. The applicant proposed a significant landscaping plan between the front of the structures and Main Street to emphasize the architectural significance of the front façade. The landscaping in this location is not required in the Oregon City Municipal Code and provides visual interest and softening.

Buildings 3(D) and 5(F) contain non-residential spaces on the Main Street façade with display windows, and a covered pedestrian arcade. However, the building design includes a single doorway on the front façade facing Main Street for each commercial space, while a double door which will likely act as the main entranceway faces an interior covered courtyard. The applicant indicated that double doors would be installed in the required locations facing Main Street but did not submit revised plans. Prior to issuance of a permit associated with the proposed development the applicant shall submit revised architectural plans which include double doors in each commercial space on the Main Street frontage to emphasize the architectural significance of the facade.

A defining feature of the front most architecturally façade is a direct connection to the street. Once the grading is completed, the subject site will be significantly higher in elevation than the adjacent Main Street. Rather than connecting each structure with a direct accessway to Main Street, the proposed design includes a pedestrian pathway which connects the front of the Clubhouse with Buildings 3(D) and 5(F) and the back side of Building 1(B). The pedestrian circulation system connects to a mid-block crosswalk at Main Street leading to the Clackamette Cove Trail approximately in the middle of the structures as well as at one of the southern vehicular drive aisle. The accessway does not connect to the adjacent street (located near the northern drive aisle). Prior to issuance of a permit associated with the proposed development the applicant shall submit a revised pedestrian circulation plan in which the pedestrian accessway in the rear of Building 1(B) directly connects to Main Street. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

17.62.055.D.3. *Entryways. The primary entranceway for each commercial or retail establishment shall face the major street. The entrance may be recessed behind the property line a maximum of five feet unless a larger setback*

is approved pursuant to Section 17.62.055.D.1 and shall be accessed from a public sidewalk. Primary building entrances shall be clearly defined, highly visible and recessed or framed by a sheltering element including at least four of the following elements, listed below.

- a. Canopies or porticos;
- b. Overhangs;
- c. Recesses/projections;
- d. Arcades;
- e. Raised corniced parapets over the door;
- f. Peaked roof forms;
- g. Arches;
- h. Outdoor patios;
- i. Display windows;
- j. Architectural details such as tile work and moldings which are integrated into the building structure and design;
- k. Integral planters or wing walls that incorporate landscaped areas and/or places for sitting.
- l. Planter boxes and street furniture placed in the right-of-way shall be approved for use according to materials, scale and type.

Finding: Complies with condition. The 2008 Concept Plan included an adjustment that the maximum setbacks are not applicable if the building is located similar to that in the original Concept Plan. The general location of the proposed structures is similar to that of the 2008 Concept Plan. The entrance will be significantly higher in elevation than the street and thus the commercial space will face the street but not be primarily access from the right-of-way.

- Building 3 (D): The building design includes a single doorway facing the street for each commercial space, while a double door which will likely act as the main entranceway faces an interior covered courtyard. The applicant indicated that double doors would be installed in the required locations facing Main Street but did not submit revised plans. Prior to issuance of a permit associated with the proposed development the applicant shall submit revised architectural plans for Building 3 (D) which include double doors within the commercial space on the Main Street frontage. The applicant designed the structure with overhangs, projections, display windows, and an outdoor patio.
- Building 5 (F): The building design includes a single doorway facing the street for each commercial space, while a double door which will likely act as the main entranceway faces an interior covered courtyard. The applicant indicated that double doors would be installed in the required locations facing Main Street but did not submit revised plans. Prior to issuance of a permit associated with the proposed development the applicant shall submit revised architectural plans for Building 5 (F) which include double doors within the commercial space on the Main Street frontage. The applicant designed the structure with overhangs, projections, display windows, and an outdoor patio.
- Building A (Clubhouse): The building design includes canopies, projections, peaked roof forms, an outdoor patio and display windows.

A defining feature of the front most architecturally façade is a direct connection to the street. Once the grading is completed, the subject site will be significantly higher in elevation than the adjacent Main Street. Rather than connecting each structure with a direct accessway to Main Street, the proposed design includes a pedestrian pathway which connects the front of the Clubhouse with Buildings 3(D) and 5(F) and the back side of Building 1(B). The pedestrian circulation system connects to a mid-block crosswalk at Main Street leading to the Clackamette Cove Trail approximately in the middle of the structures as well as at one of the southern vehicular drive aisle. The accessway does not connect to the adjacent street (located near the northern drive aisle). Prior to issuance of a permit associated with the proposed development the applicant shall submit a revised pedestrian circulation plan in which the pedestrian accessway in the rear of Building 1(B) directly connects to Main Street. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

17.62.055.D.4. *Where additional stores will be located in the large retail establishment, each such store shall have at least one exterior customer entrance, which shall conform to the same requirements. (Ord. 01-1002 §2, 2001)*

Finding: Not applicable. The site is not located in a large retail establishment.

17.62.055.D.5. *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. Awnings shall be no longer than a single storefront.*

Finding: Not applicable. The applicant has not proposed a trellis, canopy or awning in the public right-of-way.

17.62.055.E. 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.*

Finding: Complies as proposed. Lot 2 is adjacent to Main Street on three sides with a roundabout at the intersection of Agnes Street. The 2008 Master Plan approval included approval of general building locations of which this proposal complies. Buildings 3 and 5 are the nearest to the intersection and include a commercial element.

17.62.055.F. Commercial First Floor Frontage.

In order to ensure that the ground floor of structures have adequate height to function efficiently for retail uses, the first floor height to finished ceiling of new infill buildings in the mixed use and neighborhood commercial districts shall be no lower than fourteen feet floor to floor. Where appropriate, the exterior facade at the ceiling level of new structures shall include banding, a change of materials or relief which responds to the cornice lines and window location of existing buildings that abut new structures.

Finding: Please refer to the analysis in Chapter 17.65.070.

17.62.055.G. Variation in Massing.

- 1. A single, large, dominant building mass shall be avoided in new buildings and, to the extent reasonably feasible, in development projects involving changes to the mass of existing buildings.*
- 2. Horizontal masses shall not exceed a height: width ratio of 1:3 without substantial variation in massing that includes a change in height and projecting or recessed elements.*
- 3. Changes in mass shall be related to entrances, the integral structure and/or the organization of interior spaces and activities and not merely for cosmetic effect.*

Finding: Complies as proposed. Each of the applicable buildings comply with this standard.

- Building 3 (D): The Main Street façade on the first floor of the structure is subject to compliance with this standard. The façade contains multiple projections ranging from 4 to 10 feet to create visual interest associated with the interior of the structure. A change in height is not necessary as multiple stories are above the commercial use which are not subject to this standard.
- Building 5 (F): The Main Street facing façade on the first floor of the structure is subject to compliance with this standard. The façade contains multiple projections ranging from 4 to 10 feet to create visual interest associated with the interior of the structure. A change in height is not necessary as multiple stories are above the commercial use which are not subject to this standard.
- Building A (Clubhouse): The clubhouse structure is visually segmented by a change in building massing related to the interior space organization. A large open room includes a second story of windows and gable end facing the street as well as an entranceway.

17.62.055.H.2 *Facades greater than one hundred feet in length, measured horizontally, shall incorporate wall plane projections or recesses having a depth of at least three percent of the length of the facade and extending at least twenty percent of the length of the facade. No uninterrupted length of any facade shall exceed one hundred horizontal feet.*

Finding: Complies as proposed. Each of the applicable buildings comply with this standard.

- Building 3 (D): The 184 foot long façade facing Main Street is required to have recesses or projections a minimum of 5.52 feet in depth ($184 \times 0.03 = 5.52'$) for a minimum of 36.8' length of the façade ($184 \times 0.2 = 36.8'$). The structure contains recesses and projections of 10 feet for a majority of the façade. No uninterrupted length of any facade shall exceed one hundred horizontal feet.
- Building 5 (F): The 184 foot long façade facing Main Street is required to have recesses or projections a minimum of 5.52 feet in depth ($184 \times 0.03 = 5.52'$) for a minimum of 36.8' length of the façade ($184 \times 0.2 = 36.8'$). The structure contains recesses projecting 10 feet for a majority of the façade. No uninterrupted length of any facade shall exceed one hundred horizontal feet.
- Building A (Clubhouse): The 106 foot long façade facing Main Street is required to have recesses or projections a minimum of 3.18 feet in depth ($106 \times 0.03 = 3.18'$) for a minimum of 21.2' length of the façade ($106 \times 0.2 = 21.2'$). The structure contains recesses significantly greater than 3 feet for a majority of the façade. No uninterrupted length of any facade shall exceed one hundred horizontal feet.

17.62.055.H.3. *Ground floor facades that face public streets shall have arcades, display windows, entry areas, awnings or other such features along no less than sixty percent of their horizontal length.*

Finding: Complies as proposed. Each of the applicable buildings comply with this standard.

- Building 3 (D): The Main Street façade includes an arcade along the entire length.
- Building 5 (F): The Main Street façade includes an arcade along the entire length.
- Building A (Clubhouse): The Main Street façade includes an arcade and windows which extends 52 feet along the northernmost façade and 25 feet of windows which are located on the southernmost façade for a total of 77 feet or 72.6% ($77/106 = 0.726$).

17.62.055.H.4. *Building facades must include a repeating pattern that includes any one or more of the following elements:*

- a. Color change;*
- b. Texture change;*
- c. Material module change.*

Finding: Complies as proposed. Each of the applicable buildings comply with this standard.

- Building 3 (D): The Main Street façade of building D includes modulation of the building exterior.
- Building 5 (F): The Main Street façade of building F includes modulation of the building exterior.
- Building A (Clubhouse): The Main Street façade of the Clubhouse includes modulation of the building exterior.

17.62.055.H.5. *Facades shall have an expression of architectural or structural bays through a change in plane no less than twelve inches in width, such as an offset, reveal or projecting rib.*

Finding: Please refer to the finding in OCMC 17.62.055.H.2.

17.62.055.H.6. *Facades shall have at least one of elements subsections (H) 4 or 5 of this section repeat horizontally. All elements shall repeat at intervals of no more than thirty feet, either horizontally or vertically.*

Finding: Complies as proposed. Each of the applicable buildings comply with this standard.

- Building 3 (D): Building D includes a pattern of windows which repeat horizontally.
- Building 5 (F): Building F includes a pattern of windows which repeat horizontally.
- Building A (Clubhouse): The Clubhouse includes a pattern of windows which repeat horizontally on the second story of the "Great Room".

17.62.055.I. Facade Transparency.

1. *Transparent windows or doors facing the street are required. The main front elevation shall provide at least sixty percent (60%) windows or transparency at the pedestrian level. Facades on corner lots shall provide at least sixty percent (60%) windows or transparency on all corner-side façades. All other side elevations shall provide at least thirty percent (30%) transparency. The transparency is measured in lineal fashion. For example, a one-hundred-foot long building elevation shall have at least sixty feet (60% of 100 feet) of transparency in length. Reflective, glazed, mirrored or tinted glass is limited to ten percent (10%) of the lineal footage of windows on the street facing façade. Highly reflective or glare-producing glass with a reflective factor of .25 or greater is prohibited on all building facades. Any glazing materials shall have a maximum fifteen (15) percent outside visual light reflectivity value. No exception shall be made for reflective glass styles that appear transparent when internally illuminated.*

Finding: Complies with condition. An analysis for the applicable buildings is provided below.

- Building 3 (D): The Main Street façade contains 101 feet of windows for a total width of approximately 54.9% of the façade ($101/184=0.549$), less than the 60% required. The applicant indicated revised building elevations will be submitted to comply with this standard but did not submit the revised elevations. Prior to issuance of a permit associated with the proposed development the applicant shall submit revised architectural plans in which the Main Street façade of Building D complies with OCMC 17.62.055.I.1.

Due to the configuration of the structure, the sides are required to provide 30% transparency. The northernmost facade is 20.5 feet in length and contains windows for a length of 8 feet, approximately 39% of the façade ($8/20.5=0.39$). The southernmost facade is 20.5 feet in length and contains windows for a length of 8 feet, approximately 39% of the façade ($8/20.5=0.39$).

- Building 5 (F): The Main Street façade contains 101 feet of windows for a total width of approximately 54.9% of the façade ($101/184=0.549$), less than the 60% required. The applicant indicated revised building elevations will be submitted to comply with this standard but did not submit the revised elevations. Prior to issuance of a permit associated with the proposed development the applicant shall submit revised architectural plans in which the Main Street façade of Building F complies with OCMC 17.62.055.I.1.

Due to the configuration of the structure, the sides are required to provide 30% transparency. The northernmost facade is 20.5 feet in length and contains windows for a length of 8 feet, approximately 39% of the façade ($8/20.5=0.39$). The southernmost facade is 20.5 feet in length and contains windows for a length of 8 feet, approximately 39% of the façade ($8/20.5=0.39$).

- Building A (Clubhouse): The Main Street façade contains 54 feet of windows for a total width of approximately 51% of the façade ($54/106=0.509$), less than the 60% required. The applicant indicated revised building elevations will be submitted to comply with this standard but did not submit the revised elevations. Prior to issuance of a permit associated with the proposed development the applicant shall submit revised architectural plans in which the Main Street façade of Building A complies with OCMC 17.62.055.I.1.

Due to the configuration of the structure, the sides are required to provide 30% transparency. The left facade is 66 feet in length and contains windows for a length of 34 feet, approximately 51% of the façade ($34/66=0.515$). The right facade is 66 feet in length and contains windows for a length of 12.5 feet, approximately 18.9% of the façade ($12.5/66=0.189$). The applicant indicated revised building elevations will be submitted to comply with this standard but did not submit the revised elevations. Prior to issuance of a permit associated with the proposed development the applicant shall submit revised architectural plans in which the right façade of Building A complies with OCMC 17.62.055.I.1.

- The applicant indicated that the windows are dual glazed, clear, low-e glass with visual light reflectivity less than 15%.

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

17.62.055.I.2. Side or rear 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 20 feet of a Right of Way shall be utilized as display windows with a minimum display depth of 36 inches.

Finding: Not applicable. Each of the applicable buildings comply with this standard and do not include any false windows or doors.

17.62.055.J. Roof Treatments.

1. All facades shall have a recognizable "top" consisting of, but not limited to:

- a. Cornice treatments, other than just colored "stripes" or "bands," with integrally textured materials such as stone or other masonry or differently colored materials; or
- b. Sloping roof with overhangs and brackets; or
- c. Stepped parapets;
- d. Special architectural features, such as bay windows, decorative roofs and entry features may project up to three feet into street rights-of-way, provided that they are not less than nine feet above the sidewalk.

2. Mixed use buildings: For flat roofs or facades with a horizontal eave, fascia, or parapet, the minimum vertical dimension of roofline modulation is the greater of two feet or 0.1 multiplied by the wall height (finish grade to top of wall). The maximum length of any continuous roofline shall be 75 feet.

3 Other roof forms consistent with the design standards herein may satisfy this standard if the individual segments of the roof with no change in slope or discontinuity are less than 40 feet in width (measured horizontally).

Finding: Complies as proposed. All structures subject to this standard have sloped roofs with overhangs.

17.62.055.K. Drive-through facilities shall:

Finding: Not applicable. The development proposal does not include a drive thru.

17.62.057 MULTI-FAMILY STANDARDS.

17.62.057.B. Applicability.

In addition to Section 17.62.050 requirements, all multi-family buildings shall comply with the design standards contained in this section. Cottage Housing Development shall follow OCMC 17.62.58 instead of this section.

Finding: Applies. The development proposal includes construction of 11 structures which contain 244 multi-family dwellings. This does not apply to the Clubhouse, the first floor of Buildings 3 (D) and 5 (F), garages, carports or accessory structures.

17.62.057.C. Setbacks.

Multi-family developments shall be placed no farther than twenty feet from the front property line. A deeper front yard setback may be approved through site plan and design review if the setback area incorporates enhanced pedestrian spaces and amenities, including but not limited to, street furniture, public art or other such deliberately shaped area and/or a feature or amenity that, in the judgment of the community development director, integrates well with adjoining areas. Setbacks may also be increased in order to protect wildlife habitat and water resources pursuant to Section 17.49.100F., and trees and tree groves pursuant to and Section 17.41.120A.

Finding: Not applicable. The 2008 Concept Plan included an adjustment that the maximum setbacks are not applicable if the building is located similar to that in the original Concept Plan. The general location of the proposed structures is similar to that of the 2008 Concept Plan.

17.62.057.D. Entrances.

Every building abutting a street shall have a street facing front facade. The facade shall be oriented to the street and include windows, doorways, and a structured transition from public to private areas using built elements such as porch features, arbors, low walls, trellis work and/or similar elements integrated with planting.

Finding: Complies with condition. The development proposal indicated:

The Clubhouse and Buildings 1, 3, and 5 abut Main Street. The street facing façades of these buildings are oriented to Main Street, with pedestrian access to the street between Building 3 and the Clubhouse and at the east end of Building 5. The primary building entrance is the street-side elevation shown on the attached building elevations. The street facing facades feature recessed porticos as well as enhanced landscaping as the site transitions from the building down to Main Street. The stairs provided between Building 3 and the Clubhouse are the central element and a prominent feature that anchors the transition from public to private areas and vice versa. The stairs provide a scored concrete landing along Main Street that ties into the pedestrian crossing across Main Street to Clackamette Cove and the Clackamas River Trail. Both sides of the stairs feature trees and shrubs to frame the stairs, as well as benches on both sides located on the secondary landing area as shown in the attached Main Street Frontage Landscape Concept.

Buildings 1(B), the Clubhouse(A), 3(D) and 5(F) abut the right-of-way. The Clubhouse (A) and the first floor of 3(D) and 5(F) are commercial and not subject to this standard. A defining feature of the entranceway is a direct connection to the street. Once the grading is completed, the subject site will be significantly higher in elevation than the adjacent Main Street. Rather than connecting each structure with a direct accessway to Main Street, the proposed design includes a pedestrian pathway which connects the front of the Clubhouse with Buildings 3(D) and 5(F) and the back side of Building 1(B). The pedestrian circulation system connects to a mid-block crosswalk at Main Street leading to the Clackamette Cove Trail approximately in the middle of the structures as well as at one of the southern vehicular drive aisle. The accessway does not connect to the front of Building 1(B) or the adjacent street (located near the northern drive aisle). Prior to issuance of a permit associated with the proposed development the applicant shall submit a revised pedestrian circulation plan in which the pedestrian accessway in the rear of Building 1(B) directly connects to Main Street as well as the front of Building 1(B). **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

17.62.057.E. Percentage of Frontage.

On sites with one hundred feet or more of street frontage at least fifty percent of the site frontage width shall be occupied by buildings placed within twenty feet from the property line, unless a greater setback is accepted under the provisions of Section 17.62.057C. For sites with less than one hundred feet of street frontage, at least forty percent of the site frontage width shall be occupied by buildings placed within twenty feet of the property line, unless a greater setback is accepted under the provisions of Section 17.62.056D.

Finding: Not applicable. The 2008 Concept Plan included an adjustment that the maximum setbacks are not applicable if the building is located similar to that in the original Concept Plan. The general location of the proposed structures is similar to that of the 2008 Concept Plan.

17.62.057.F. Pedestrian Circulation.

1. Pathways between dwelling units entrances and the street are required. Such pathways between the street and buildings fronting on the street shall be in a straight line. Exceptions may be allowed by the director where steep slopes prevent a direct connection or where an indirect route would enhance the design and/or use of a common open space.

Finding: Please refer to the analysis in 17.62.050.A.9.

17.62.057.F.2. *The pedestrian circulation system shall connect all main entrances on the site. For townhouses or other residential units fronting on the street, the sidewalk may be used to meet this standard. For multiple-family developments, pedestrian connections to other areas of the site, such as parking areas, recreational areas, common outdoor areas, and any pedestrian amenities shall be required.*

Finding: Complies with condition. Buildings 1(B), the Clubhouse(A), 3(D) and 5(F) abut the right-of-way. The Clubhouse (A) and the first floor of 3(D) and 5(F) are commercial and not subject to this standard. A

defining feature of the entranceway is a direct connection to the street. Once the grading is completed, the subject site will be significantly higher in elevation than the adjacent Main Street. Rather than connecting each structure with a direct accessway to Main Street, the proposed design includes a pedestrian pathway which connects the front of the Clubhouse with Buildings 3(D) and 5(F) and the back side of Building 1(B). The pedestrian circulation system connects to a mid-block crosswalk at Main Street leading to the Clackamette Cove Trail approximately in the middle of the structures as well as at one of the southern vehicular drive aisle. The accessway does not connect to the front of Building 1(B) or the adjacent street (located near the northern drive aisle). Prior to issuance of a permit associated with the proposed development the applicant shall submit a revised pedestrian circulation plan in which the pedestrian accessway in the rear of Building 1(B) directly connects to Main Street as well as the front of Building 1(B). **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

17.62.057.F.3. *Elevated external stairways or walkways, which provide pedestrian access to dwelling units located above the ground floor are prohibited. The community development director may allow exceptions for external stairways or walkways located in, or facing interior courtyard areas provided they do not compromise visual access from dwelling units into the courtyard.*

Finding: Not applicable. No external stairways are proposed which would provide access to the dwelling units.

17.62.057.G. *Architectural and Material Standards.*

Building articulation and modulation - multifamily residential buildings and residential portions of mixed-use buildings. An alternative to the standards in subsection G. below may be approved by the community development director if the design is consistent with the intent of the standards and a specific architectural or building use exists that prohibits the full implementation of the standard.

1. Articulation and modulation of buildings is essential in providing the ability for new buildings to be compatible with the surrounding commercial and residential development. All residential buildings and residential portions of mixed-use buildings shall include at least three of the following modulation and/or articulation features at intervals of no more than thirty feet along all facades facing a street, common open space, and common parking areas:

a. Repeating distinctive window patterns at intervals less than the required interval.

[b.] Vertical building modulation. Minimum depth and width of modulation is thirty-six inches and four feet (respectively) if tied to a change in color or building material and/or roofline modulation. Otherwise, minimum depth of modulation is ten feet and minimum width for each modulation is fifteen feet. Balconies may not be used to meet modulation option unless they are recessed or projected from the facade and integrated with the building's architecture as determined by the community development director, balconies that appear to be "tacked on" to the facade will not qualify for this option.

b. Horizontal modulation (upper level step-backs). The minimum horizontal modulation for buildings higher than two stories shall be five feet. A dormer- set five feet back from the front facade-is an example of an acceptable horizontal modulation.

c. Articulation of the building's top, middle, and bottom. This typically includes a distinctive ground floor or lower floor design, consistent articulation of middle floors, and a distinctive roofline.

Finding: Complies with condition. Each façade of the following buildings are subject to this standard: Building B, C, D, E, F, G, H, J, K, L and M which requires 3 of the 4 elements identified at intervals of no more than 30 feet along the facades facing a street, common open space, and common parking areas. Findings for each applicable faced are provided below.

- Building B:
 - Front Façade: The design includes a pattern of windows, a distinct building separation of top, middle and bottom with a sloped roof, and vertical modulation.
 - Rear Façade: The design includes a pattern of windows, a distinct top, middle and bottom with a sloped roof, and vertical modulation.

- Left Facade: The design includes a distinct building separation of top, middle and bottom with a sloped roof, vertical modulation throughout the structure, and horizontal modulation between the second and third story.
- Right Facade: The design includes a distinct building separation of top, middle and bottom with a sloped roof, vertical modulation throughout the structure, and horizontal modulation between the second and third story.
- Building C and J:
 - Front Façade: The design includes a pattern of windows, a distinct building separation of top, middle and bottom with a sloped roof, and vertical modulation, though at a distance exceeding 30 feet in the middle of the structure. Prior to issuance of a permit associated with the proposed development the applicant shall submit revised plans for the front façade of buildings C and J which comply with OCMC 17.62.057.G.1.
 - Rear Façade: The design includes a pattern of windows, a distinct building separation of top, middle and bottom with a sloped roof, and vertical modulation, though at a distance exceeding 30 feet in the middle of the structure. Prior to issuance of a permit associated with the proposed development the applicant shall submit revised plans for the rear façade of buildings C and J which comply with OCMC 17.62.057.G.1.
 - Left Façade: The design includes a distinct building separation of top, middle and bottom with a sloped roof, horizontal modulation between the second and third story and vertical modulation that exceeds 30 feet. Prior to issuance of a permit associated with the proposed development the applicant shall submit revised plans for the left façade of buildings C and J which comply with OCMC 17.62.057.G.1.
 - Right Façade: The design includes a distinct building separation of top, middle and bottom with a sloped roof, horizontal modulation between the second and third story and vertical modulation that exceeds 30 feet. Prior to issuance of a permit associated with the proposed development the applicant shall submit revised plans for the right façade of buildings C and J which comply with OCMC 17.62.057.G.1.
- Building D:
 - Front Façade: The design includes a pattern of windows, a distinct building separation of top, middle and bottom with a sloped roof, and vertical modulation, though the modulation in the middle of the building is not the minimum depth required. Prior to issuance of a permit associated with the proposed development the applicant shall submit revised plans for the front façade of building D which comply with OCMC 17.62.057.G.1.
 - Rear Façade: The design includes a pattern of windows, a distinct building separation of top, middle and bottom with a sloped roof, and vertical modulation, though not at a maximum distance of 30 feet. Prior to issuance of a permit associated with the proposed development the applicant shall submit revised plans for the rear façade of building D which comply with OCMC 17.62.057.G.1.
 - Left Facade: The design includes a distinct building separation of top, middle and bottom with a sloped roof, vertical modulation throughout the structure, and horizontal modulation between the second and third story.
 - Right Facade: The design includes a distinct building separation of top, middle and bottom with a sloped roof, vertical modulation throughout the structure, and horizontal modulation between the second and third story.
- Building E, G and L:
 - Front Façade: The design includes a pattern of windows, a distinct building separation of top, middle and bottom with a sloped roof, and vertical modulation, though not at a maximum distance of 30 feet in the middle of the building. Prior to issuance of a permit associated with the proposed development the applicant shall submit revised plans for the front façade of buildings E, G and L which comply with OCMC 17.62.057.G.1.

- Rear Façade: The design includes a pattern of windows, a distinct building separation of top, middle and bottom with a sloped roof, and vertical modulation, though not at a maximum distance of 30 feet in the middle of the building. Prior to issuance of a permit associated with the proposed development the applicant shall submit revised plans for the rear façade of buildings E, G and L which comply with OCMC 17.62.057.G.1.
- Left Façade: The design includes a distinct building separation of top, middle and bottom with a sloped roof and horizontal modulation between the second and third story. Prior to issuance of a permit associated with the proposed development the applicant shall submit revised plans for the left façade of buildings E, G and L which comply with OCMC 17.62.057.G.1.
- Right Façade: The design includes a distinct building separation of top, middle and bottom with a sloped roof, and horizontal modulation between the second and third story. Prior to issuance of a permit associated with the proposed development the applicant shall submit revised plans for the right façade of buildings E, G and L which comply with OCMC 17.62.057.G.1.
- Building F:
 - Front Façade: The design includes a pattern of windows, a distinct building separation of top, middle and bottom with a sloped roof, and vertical modulation, though the modulation in the middle of the building is not the minimum depth required. Prior to issuance of a permit associated with the proposed development the applicant shall submit revised plans for the front façade of building F which comply with OCMC 17.62.057.G.1.
 - Rear Façade: The design includes a pattern of windows, a distinct building separation of top, middle and bottom with a sloped roof, and vertical modulation, though not at a maximum distance of 30 feet in the middle of the building. Prior to issuance of a permit associated with the proposed development the applicant shall submit revised plans for the rear façade of building F which complies with OCMC 17.62.057.G.1.
 - Left Façade: The design includes a distinct building separation of top, middle and bottom with a sloped roof, vertical modulation throughout the structure, and horizontal modulation between the second and third story.
 - Right Façade: The design includes a distinct building separation of top, middle and bottom with a sloped roof, vertical modulation throughout the structure, and horizontal modulation between the second and third story.
- Building H:
 - Front Façade: The design includes a pattern of windows, a distinct building separation of top, middle and bottom with a sloped roof, and vertical modulation.
 - Rear Façade: The design includes a pattern of windows, a distinct building separation of top, middle and bottom with a sloped roof, and vertical modulation.
 - Left Façade: The design includes a distinct building separation of top, middle and bottom with a sloped roof and horizontal modulation between the second and third story. Prior to issuance of a permit associated with the proposed development the applicant shall submit revised plans for the left façade of building H which comply with OCMC 17.62.057.G.1.
 - Right Façade: The design includes a distinct building separation of top, middle and bottom with a sloped roof and horizontal modulation between the second and third story. Prior to issuance of a permit associated with the proposed development the applicant shall submit revised plans for the right façade of building H which comply with OCMC 17.62.057.G.1.
- Building K and M:
 - Front Façade: The design includes a pattern of windows, a distinct building separation of top, middle and bottom with a sloped roof, and vertical modulation, though not at a maximum distance of 30 feet in the middle of the structure. Prior to issuance of a permit associated with the proposed development the applicant shall submit revised plans for the front façade of buildings K and M which comply with OCMC 17.62.057.G.1.

- Rear Façade: The design includes a pattern of windows, a distinct building separation of top, middle and bottom with a sloped roof, and vertical modulation, though not at a maximum distance of 30 feet in the middle of the structure. Prior to issuance of a permit associated with the proposed development the applicant shall submit revised plans for the rear façade of buildings K and M which complies with OCMC 17.62.057.G.1.
- Left Façade: The design includes a distinct building separation of top, middle and bottom with a sloped roof and horizontal modulation between the second and third story. Prior to issuance of a permit associated with the proposed development the applicant shall submit revised plans for the left façade of buildings K and M which comply with OCMC 17.62.057.G.1.
- Right Façade: The design includes a distinct building separation of top, middle and bottom with a sloped roof and an entranceway and horizontal modulation between the second and third story. Prior to issuance of a permit associated with the proposed development the applicant shall submit revised plans for the right façade of buildings K and M which comply with OCMC 17.62.057.G.1.

The applicant indicated that the plans will be revised to comply with this standard but revised plans have not been submitted.

17.62.057.G.2. Maximum facades width.

Buildings visible from the street must use design techniques to break up long continuous building walls, reduce the architectural scale of the building, and add visual interest. Buildings exceeding one hundred twenty feet in width along the street front shall be divided by a thirty-foot wide modulation of the exterior wall, so that the maximum length of a particular facade is one hundred twenty feet. Such modulation must be at least twenty feet or deeper and extend through all floors. Decks and roof overhangs may encroach up to three feet (per side) into the modulation. The director will consider other design methods that are effective at reducing the perceived width of the building. Examples could include a combination of vertical and/or horizontal building modulation with a change in building materials or finishes, a clear change in building articulation and/or fenestration technique.

Finding: Complies as proposed. Three buildings will be visible from Main Street.

- Building B:
 - Main Street Façade: The 162 foot façade is divided by two modulations approximately 31 feet in width and extend 15 feet from the structure with an additional 6 feet of covered porches and storage areas. The modulation extends throughout all floors. As the covered porches are integrated into the structure with the storage area and the associated covers and the applicant has proposed two modulations, the proposed design complies with the intent of this standard.
 - Northernmost Building Façade: The northernmost faced is approximately 70 feet in width and thus this standard is not applicable.
 - Southernmost Building Façade: The northernmost faced is approximately 70 feet in width and thus this standard is not applicable.
- Building D:
 - Main Street Façade: The first floor is commercial use and thus this standard is only applicable to the second and third stories. The 184 foot façade is divided by two modulations approximately 31 feet in width and extend 15 feet from the structure with an additional 6 feet of covered porches and storage areas. The modulation extends throughout all floors. As the covered porches are integrated into the structure with the storage area and the associated covers and the applicant has proposed two modulations, the proposed design complies with the intent of this standard.
 - Northernmost Building Façade: The northernmost facade is approximately 70 feet in width and thus this standard is not applicable.
 - Southernmost Building Façade: The northernmost facade is approximately 70 feet in width and thus this standard is not applicable.

- Building F: The first floor is commercial use and thus this standard is only applicable to the second and third stories. The 184 foot façade is divided by two modulations approximately 31 feet in width and extend 15 feet from the structure with an additional 6 feet of covered porches and storage areas. The modulation extends throughout all floors. As the covered porches are integrated into the structure with the storage area and the associated covers and the applicant has proposed two modulations, the proposed design complies with the intent of this standard.
 - Northernmost Building Façade: The northernmost facade is approximately 70 feet in width and thus this standard is not applicable.
 - Southernmost Building Façade: The northernmost façade is approximately 70 feet in width and thus this standard is not applicable.

17.62.057.G.3. Roofline standards.

a. Single purpose residential buildings in residential districts must provide a pitched roof with minimum 6:12 roof pitch. The maximum width of any continuous roofline shall be thirty-five feet for single purpose residential buildings. Alternative roof designs will be considered provided design elements are included to help the building and its roofline fit into the site's context.

b. Mixed use buildings and stand-alone residential in commercial districts shall incorporate a roofline modulation. Specifically: For flat roofs or facades with a horizontal eave, fascia, or parapet, the minimum vertical dimension of roofline modulation is the greater of two feet or 0.1 multiplied by the wall height (finish grade to top of wall). The maximum length of any continuous roofline shall be seventy-five feet.

c. Other roof forms consistent with the design standards herein may satisfy this standard if the individual segments of the roof with no change in slope or discontinuity are less than forty feet in width (measured horizontally).

Finding: Complies as proposed. The subject site contains mixed use and standalone residential buildings in a mixed use zoning designation and thus section b is applicable.

- Building B: The sloped roofline is visually broken into sections less than 45 feet measured horizontally.
- Building C and J: The sloped roofline is visually broken into sections less than 50 feet measured horizontally.
- Building D: The sloped roofline is visually broken into sections less than 50 feet measured horizontally.
- Building E, G and L: The sloped roofline is visually broken into sections less than 50 feet measured horizontally.
- Building F: The sloped roofline is visually broken into sections less than 50 feet measured horizontally.
- Building H: The sloped roofline is visually broken into sections less than 50 feet measured horizontally.
- Building K and M: The sloped roofline is visually broken into sections less than 50 feet measured horizontally.

17.62.057.H. Diversity of building types.

Multi-building developments of four or more buildings shall be required to provide different architectural designs to provide interest and variety. This is particularly important where multiple buildings front on the same street. Simple changes in building colors or reversal of basic facade designs are not sufficient to comply with this standard. Consider changes in vertical and/or horizontal articulation, fenestration, building materials, architectural style, and/or roof design.

Finding: Complies as proposed. The site plan includes a total of 12 proposed buildings comprised of 8 total building types.

- Clubhouse: This structure is a single story with a significantly smaller building footprint.
- Building B: This structure features a corner tower element.

- Building D and F: The structures include commercial uses on the first floor, Main Street façade.
- Building H: The structure is smaller in size with a compact building footprint and a single building entry.
- Building C and J: The buildings are taller with a fourth floor.
- Building K and M: The building ends differ from others.
- Building E and G: The buildings are three story with symmetrical ends.
- Building L: The buildings are similar to buildings E & G but taller include a fourth floor.

17.62.057.I. Diversity of unit types.

Multifamily buildings with more than twenty-five units are required to provide a diversity of housing types to allow for a range of households and age groups. Unit types are defined as the following:

Studio, one-bedroom, two-bedroom and three-bedroom units or an ADA accessible master bedroom and bathroom (ground floor or elevator access).

1. Developments of twenty-five to fifty units must provide two unit types representing a minimum of ten percent of the total units per unit type.
2. Developments of fifty-one to seventy-five units must provide three unit types representing a minimum of ten percent of the total units per unit type.
3. Developments of seventy-six units and above must provide four unit types representing a minimum of ten percent of the total units per unit type.

Finding: Complies as proposed. With 244 total units on site this section requires four unit types representing a minimum of ten percent of the total units per type. The chart below demonstrates compliance with this standard.

Unit Type	Quantity	Percentage
1 Bedroom Units	86	35%
2 Bedroom Units	124	51%
3 Bedroom Units	24	10%
Accessible	61	25%
Total Units on Site	244	

17.62.057.J. Raised Ground Floor.

This is particularly important when dwelling units are within fifteen feet of a sidewalk or common parking area or for buildings in established neighborhoods that have an established pattern with raised dwelling units.

Where ground floor residential uses are permitted on the ground floor in commercial districts, developments shall incorporate a thirteen-foot tall ground floor height to allow future conversion to commercial uses where desirable. Such projects can utilize a false floor thirty-six inches above the ground for residential uses to increase residents' privacy.

Finding: Complies as proposed. The ground floor of each of the buildings fronting Main Street is raised. A raised floor is not required for the structures on the interior of the site.

17.62.057.K. Building Materials.

All multifamily buildings shall be enhanced with appropriate details. Each of the types of details listed below are worth one point. Multifamily buildings must achieve the equivalent of five points worth of architectural details.

1. Decorative porch design with distinct design and use of materials.
2. Decorative treatment of windows and doors, such as decorative molding/framing details around all ground floor windows and doors, bay windows, decorative glazing, or door designs, and/or unique window designs.
3. Landscaped trellises or other decorative element that incorporates landscaping near the building entry or entries.
4. Decorative light fixtures with a diffuse visible light source, such as a globe or "acorn" that is non-glaring or a decorative shade or mounting for each building entry on the facade.
5. Brick or stonework covering more than fifteen percent of the facade.
6. Decorative building materials that add visual interest, including:
 - a. Individualized patterns or continuous wood details.
 - b. Decorative moldings, brackets, wave trim or lattice work.

c. Other materials with decorative or textural qualities as approved by the director. The applicant must submit architectural drawings and material samples for approval.

7. Decorative roofline design, including multiple gables and/or dormers, decorative parapet or other design that adds distinct visual interest.

8. Decorative railings, grill work, or terraced landscape beds integrated along the facade of the building.

9. Other details that meet the intent of the guidelines as approved by the director.

Finding: Complies as proposed. To meet the required five points for multifamily building materials the proposed buildings have included the following architectural details from the provided list:

- (7) Decorative roofline design which includes gables
- (4) Wall mounted light fixtures at the sides of each building entry
- (2) Molding trim around each window and door
- (6) Decorative building materials such as siding with varied exposures and shingle accents
- (6) Decorative roof brackets

17.62.057.L. Window Design.

1. Transparent windows or doors facing the street are required. To meet this requirement, at least fifteen percent of the facade must be transparent. Transparency is measured at the first floor only.

Finding: Complies as proposed. Buildings B, D, and F are adjacent to the street and subject to this standard. The first floor the transparency is as follows:

- Building B: The building contains a covered common area below the first floor of dwelling units. The common area is open to the elements for 49% of the façade (80'/162'=0.49).
- Buildings D and F: The first floor contains commercial space which is subject to the transparency standards in OCMC 17.62.055.

17.62.057.L.2. All windows on all elevations shall recess or project individual windows at least two inches from the facade and incorporate window trim at least four inches in width that features color that contrasts with the base building color. Exceptions will be considered by the community development director where buildings employ other distinctive window or facade treatment that adds visual interest to the building.

Finding: Complies with condition. The applicant indicated that all windows in the project will be detailed to provide the required 2" recess from the façade and will be trimmed with either 4" or 6" trim that will be of a contrasting color to the building base color.

A structural or architectural detail indicating the 2" recess or projection for individual windows, nor a color rendering of each building was provided. Prior to issuance of a permit associated with the proposed development the applicant shall provide documentation demonstrating the all windows on all elevations recess or project at least two inches from the facade and incorporate window trim at least four inches in width that features color that contrasts with the base building color. Exceptions will be considered by the community development director where buildings employ other distinctive window or facade treatment that adds visual interest to the building. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

17.62.057.M. Common Open Space Requirements.

Finding: Not applicable. The proposed multi-family development is located in a site that is zoned as MUD and therefore does not fall subject to the requirements of the section per item 2.

17.62.057.N. Private Open Space.

2. Common And Private Open Space Requirements For Multifamily Dwelling Units In The Mixed Use Corridor, Neighborhood Commercial Or Mixed Use Downtown Districts. All residential development in the Mixed Use Corridor, Neighborhood Commercial or Mixed Use Downtown Districts must provide a portion of the project area for private open space or common open space. Fifty square feet of private or common open space is required for

each dwelling unit. The open space may be allocated exclusively for private or common use or may be a combination of the two uses.

a. *Common Open Space:* Common open space may be provided in the form of decks, shared patios, roof gardens, recreation rooms, lobbies or other gathering spaces created strictly for the tenants and not associated with storage or circulation. Landscape buffer areas may not be used as common open space unless active and passive uses are integrated into the space and its use will not adversely affect abutting properties.

b. *Private Open Space:* Private open space may be provided in the forms of decks, screened patios, roof gardens or an alternate private space as approved by the community development director.

Finding: Complies as proposed. The proposed project located in an MUD District shall comply with subsection 2 which requires 50 square feet of open space for each dwelling unit. With 244 proposed units 12,200 square feet of open space is required ($244 \times 50 = 12,200$). In addition to the lawn area and private decks for each units, the Clubhouse is 6,647 square feet with approximately 6,400 square feet of outdoor pool and deck area.

17.62.065 Outdoor lighting.

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/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.

Finding: Applicable. The proposed development includes commercial and multi-family development.

17.62.065.B.2. Lighting Plan Requirement.

All commercial, industrial, mixed-use, cottage housing and multi-family developments shall submit a proposed exterior lighting plan. The plan must 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.

Finding: Complies as proposed. The applicant submitted a photometric plan indicating proposed lighting levels in foot-candles along with manufacturer specification sheets for each of the lighting features to be installed on the site.

17.62.065.B.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.

Finding: Not applicable. The applicant has not proposed excepted lighting.

17.62.065.C. General Review Standard. If installed, all exterior lighting shall meet the functional security needs of the proposed land use without adversely affecting adjacent properties or the community. For purposes of this section, properties that comply with the design standards of subsection D. below shall be deemed to not adversely affect adjacent properties or the community.

Finding: Please refer to the findings within this report.

17.62.065.D. Design and Illumination Standards.

General Outdoor Lighting Standard and Glare Prohibition.

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. In no case shall exterior lighting add more than 0.5 footcandle to illumination levels at any point off-site. Exterior lighting is not required except for purposes of public safety. However, if installed, all exterior lighting shall meet the following design standards:

Finding: Complies as proposed. The development application included a photometric plan which demonstrated compliance with this standard.

17.62.065.D.2 Any light source or lamp that emits more than nine hundred lumens (thirteen watt compact fluorescent or sixty watt incandescent) 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. All fixtures shall utilize one of the following bulb types: metal halide, induction lamp, compact fluorescent, incandescent (including tungsten-halogen), or high pressure sodium with a color rendering index above seventy.

Finding: Complies with condition. The development proposal included details of the light fixtures which include designs in which the fixtures are not shielded. The proposal did not identify compliance with this standard. Prior to issuance of a permit associated with the proposed development the applicant shall submit documentation identifying compliance with the lighting standards in Chapter 17.62.065 of the Oregon City Municipal Code. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

17.62.065.D.3. 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.

Finding: Complies as proposed. The maximum height of the lighting is identified as 20 feet.

Table 1-17.62.065. Foot-candle Levels

Location	Min	Max	Avg.
Pedestrian Walkways	0.5	7:1 max/min ratio	1.5
Pedestrian Walkways in Parking Lots		10:1 max/min ratio	0.5
Pedestrian Accessways	0.5	7:1 max/min ratio	1.5
Building Entrances	3		
Bicycle Parking Areas	3		
Abutting property	N/A	.05	

Finding: Complies with condition. The applicant submitted a photometric plan indicating the lighting levels throughout lot 2. Though the plan complied with the standards of this section, it stated that actual light levels may vary and it did not identify the lighting levels for the temporary parking lot or the pedestrian pathway along the Clackamette Cove.

As demonstrated in Chapter 17.65.070, staff recommends the lighting standards within this chapter not be applied to the portion of the pathway along the Cove being altered or the temporary gravel parking lot. As the trail, and associated temporary parking lot is closed from dusk to dawn, lighting is not necessary. Furthermore, the uses are temporary and according to the amended phasing plan, will be replaced with the construction of Phase 2. Prior to issuance of a permit associated with the proposed development the applicant shall submit documentation identifying compliance with the lighting

standards in Chapter 17.62.065 of the Oregon City Municipal Code. The documentation shall address each subsection of OCMC 17.62.065 and the associated plan shall reflect actual lighting levels. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

17.62.065.D.5 Parking lots and other background spaces shall be illuminated as unobtrusively as possible while meeting the functional needs of safe circulation and protection of people and property. Foreground spaces, such as building entrances and outside seating areas, shall utilize pedestrian scale lighting that defines the space without glare.

Finding: Please refer to the findings in Table 1-17.62.065.

17.62.065.D.6. Any on-site pedestrian circulation system shall be lighted to enhance pedestrian safety and allow employees, residents, customers or the public to use the walkways at night. Pedestrian walkway lighting through parking lots shall be lighted to light the walkway and enhance pedestrian safety pursuant to Table 1.

Finding: Please refer to the findings in Table 1-17.62.065.

17.62.065.D.7. Pedestrian Accessways. To enhance pedestrian and bicycle safety, pedestrian accessways required pursuant to OCMC 12.28 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. Lamps shall include a high-pressure sodium bulb with an unbreakable lens.

Finding: Please refer to the findings in Table 1-17.62.065.

17.62.065.D.8. Floodlights shall not be utilized to light all or any portion of a building facade between ten p.m. and six a.m.

Finding: Complies with condition. The applicant did not respond to this section. Prior to issuance of a permit associated with this development the applicant shall submit documentation identifying compliance with OCMC 17.62.065. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

17.62.065.D.9. Lighting on automobile service station, convenience store, and other outdoor canopies shall be fully recessed into the canopy and shall not protrude downward beyond the ceiling of the canopy.

Finding: Complies with condition. The applicant did not respond to this section or identify if any lighting would be installed within a canopy onsite. Prior to issuance of a permit associated with this development the applicant shall submit documentation identifying compliance with OCMC 17.62.065. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

17.62.065.D.10. The style of light standards and fixtures shall be consistent with the style and character of architecture proposed on the site.

Finding: Complies as proposed. The development application included the style of all lighting fixtures.

17.62.065.D.11. In no case shall exterior lighting add more than one foot-candle to illumination levels at any point off-site.

Finding: Please refer to the findings in Table 1-17.62.065.

17.62.065.D.12. All outdoor light not necessary for security purposes shall be reduced, activated by motion sensor detectors, or turned off during non-operating hours.

Finding: Complies with condition. The applicant did not respond to this section. Prior to issuance of a permit associated with this development the applicant shall submit documentation identifying compliance with OCMC 17.62.065. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

17.62.065.D.13. *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.*

Finding: Complies with condition. The applicant did not respond to this section. Prior to issuance of a permit associated with this development the applicant shall submit documentation identifying compliance with OCMC 17.62.065. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

17.62.065.D.14. *For upward-directed architectural, landscape, and decorative lighting, direct light emissions shall not be visible above the building roofline.*

Finding: Complies with condition. The applicant did not respond to this section or identify if any upward directed lighting is proposed. Prior to issuance of a permit associated with this development the applicant shall submit documentation identifying compliance with OCMC 17.62.065. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

17.62.065.D.15. *No flickering or flashing lights shall be permitted, except for temporary decorative seasonal lighting.*

Finding: Complies with condition. The applicant did not respond to this section. Prior to issuance of a permit associated with this development the applicant shall submit documentation identifying compliance with OCMC 17.62.065. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

17.62.065.D.16. *Wireless Sites. Unless required by the Federal Aviation Administration or the Oregon Aeronautics Division, artificial lighting of wireless communication towers and antennas shall be prohibited. Strobe lighting of wireless communication facilities is prohibited unless required by the Federal Aviation Administration. Security lighting for equipment shelters or cabinets and other on-the-ground auxiliary equipment on wireless communication facilities shall be initiated by motion detecting lighting.*

Finding: Not applicable. The applicant has not proposed a wireless site.

17.62.065.D.17. *Lighting for outdoor recreational uses such as ball fields, playing fields, tennis courts, and similar uses, provided that such uses comply with the following standards:*

i. Maximum permitted light post height: eighty feet.

ii. Maximum permitted illumination at the property line: 0.5 foot-candles.

Finding: Not applicable. The applicant has not proposed recreational uses.

17.62.080 *Special development standards along transit streets.*

Finding: Not applicable. The abutting portion of Main Street is not a transit street.

17.62.085 *Refuse and recycling standards for commercial, industrial, 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 shall include a refuse and recycling enclosure. The area(s) shall be:

A. Sized appropriately to meet the needs of current and expected tenants, including an expansion area if necessary;

B. Designed with sturdy materials, which are compatible to the primary structure(s);

C. Fully enclosed and visually screened;

D. Located in a manner easily and safely accessible by collection vehicles;

E. Located in a manner so as not to hinder travel lanes, walkways, streets or adjacent properties;

F. On a level, hard surface designed to discharge surface water runoff and avoid ponding;

G. Maintained by the property owner;

H. Used only for purposes of storing solid waste and recyclable materials;

I. Designed in accordance with applicable sections of the Oregon City Municipal Code (including Chapter 8.20—Solid Waste Collection and Disposal) and city adopted policies.

Finding: Complies as proposed. Refuse and recycling enclosure locations are identified on the site plan. The enclosure is located adjacent to the emergency access route to the Oregon City Shopping Center, also adjacent to the maintenance building. The applicant stated:

Refuse and recycling collection service is provided to the project by Oregon City Garbage Company. Plans were provided to the trash hauler for review and comment. Verbal comments were received indicating that the proposed 24 yard trash compactor plus (2) 6 yard commingle recycling dumpsters plus (4) totes for glass recycling appeared to provide adequate capacity for the project. A larger trash compactor would fit within the enclosure should future expansion be required.

Enclosure walls are constructed of CMU and gates of sturdy steel tubing and marine grade plywood. Colors will be from the same palette as the primary structures. Enclosure is located adjacent to the Maintenance Building at the southwest corner of the site, offering easy and safe collection vehicle access while being visually screened by landscaping and the Maintenance Building. Collection pickup will not hinder travel lanes, walkways, streets or adjacent properties.

Enclosure is maintained by the owner as part of property management and is for the sole purpose of trash and recycling storage. The ground surface is fully paved and sloped to drain.

Enclosure is designed in accordance with applicable sections of the Oregon City Municipal Code (including Chapter 8.20—Solid Waste Collection and Disposal) and City adopted policies.

17.62.095 *Performance guarantees.*

A. Purpose. This section states the requirements for performance guarantees when they are required of an applicant by this section or as a condition of a site plan and design review approval.

B. Types of guarantees. Guarantees by the applicant may be in the form of a performance bond payable to the city in cash, by certified check, time certificate of deposit, irrevocable letter of credit, or other form acceptable to the city. Indemnity agreements may be used by other governmental agencies. Guarantees must be accompanied by a contract. The form of the guarantee and contract must be approved by the city attorney. The community development director is authorized to accept and sign the contract for the city, and to accept the guarantee. The guarantee must be filed with the city recorder.

C. Amount of guarantee. The amount of the performance guarantee must be equal to at least one hundred ten percent of the estimated cost of performance. The applicant must provide written estimates by three contractors with their names and addresses. The estimates must include as separate items all materials, labor, and other costs of the required action.

D. Completion. An inspection and approval of the action or improvement covered by the performance guarantee is required before the performance guarantee is returned. The inspection is done by the Planning Division or by other appropriate city departments. If the action or improvement is not completed satisfactorily within the stated time limits, the city may have the necessary action or improvement completed and seek reimbursement for the work from the performance guarantee. Any remaining funds will be returned to the applicant.

Finding: Applies. The applicant may provide a performance guarantees as identified in the Oregon City Municipal Code.

CHAPTER 17.52 – OFF-STREET PARKING AND LOADING

17.52.010 *Applicability.*

The construction of a new structure or parking lot, or alterations to the size or use of an existing structure, parking lot or property use shall require site plan review approval and compliance with this chapter. This chapter does not apply to single- and two-family residential dwellings.

Finding: Applies. The applicant is constructing a multi-family development and associated parking on lot 2 and a temporary trailhead parking lot within a mixed-use zone district.

17.52.015 Planning commission adjustment of parking standards.

Finding: Not applicable. The applicant has not requesting an adjustment of parking standards.

17.52.020 Number of automobile spaces required.

17.52.020.A. The number of parking spaces shall comply with the minimum and maximum standards listed in Table 17.52.020. The parking requirements are based on spaces per one thousand square feet net leasable area unless otherwise stated.

1. Multiple Uses. In the event several uses occupy a single structure or parcel of land, the total requirements for off-street parking shall be the sum of the requirements of the several uses computed separately.

Finding: Complies as proposed. The development proposal includes a mix of uses. The first floor of buildings 3(D) and 5(F) are identified as 5,000 square feet of office and an additional 1,000 square feet of restaurant or office. The analysis shows that the applicant complies with the calculation of either use. The applicant proposed 403 parking spaces on Lot 2, a number within the minimum and maximum allowable parking spaces. Each future phase will be analyzed for compliance with this standard.

Table 17.52.020 Number of automobile spaces required. LAND USE	PARKING REQUIREMENTS	
	MINIMUM	MAXIMUM
Multi-Family: Studio (10 units)	1.00 per unit (10 stalls)	1.5 per unit (15 stalls)
Multi-Family: 1 bedroom (86 units)	1.25 per unit (108 stalls)	2.00 per unit (172 stalls)
Multi-Family: 2 bedroom (122 units)	1.5 per unit (183 stalls)	2.00 per unit (244 stalls)
Multi-Family: 3 bedroom (26 units)	1.75 per unit (46 stalls)	2.50 per unit (65 stalls)
Office (5,500 sq. ft.)	2.70 (15 stalls)	3.33 (18 stalls)
Restaurant (1,000 sq. ft.) or an additional 1,000 square feet of office	4.10 (4 stalls) 2.70 (3 stalls)	5.00 (5 stalls) 3.33 (3 stalls)
	365-366 stalls	517-519 stalls

17.52.020.A.2. Requirements for types of buildings and uses not specifically listed herein shall be determined by the community development director, based upon the requirements of comparable uses listed.

Finding: Complies as proposed. The development includes a temporary trailhead parking lot. Parking standards are not identified for this proposed use. City staff does not have reason to believe the number of spaces in the temporary trailhead parking lot is insufficient. The parking lot will be removed with the implementation of Phase 2.

17.52.020.A.3 Where calculation in accordance with the above list results in a fractional space, any fraction less than one-half shall be disregarded and any fraction of one-half or more shall require one space.

Finding: Complies as proposed. Fractions were rounded in accordance with this chapter.

17.52.020.A.4. The minimum required parking spaces shall be available for the parking of operable passenger automobiles of residents, customers, patrons and employees only, and shall not be used for storage of vehicles or materials or for the parking of vehicles used in conducting the business or use.

Finding: Complies as proposed. The application indicated that parking spaces will be provided for the use of apartment residents and visitors to the commercial retail spaces. It is not anticipated that vehicles or materials will be stored onsite.

17.52.020.A.5. A change in use within an existing building located in the MUD Design District is exempt from additional parking requirements. Additions to an existing building and new construction are required to meet the minimum parking requirements for the areas as specified in Table 17.52.020 for the increased square footage.

Finding: Not applicable. The applicant has not proposed to change the use of an existing building.

17.52.020.B. *Parking requirements can be met either onsite, or offsite by meeting the following conditions:*

1. *Mixed Uses.* If more than one type of land use occupies a single structure or parcel of land, the total requirements for off-street automobile parking shall be the sum of the requirements for all uses, unless it can be shown that the peak parking demands are actually less (e.g. the uses operate on different days or at different times of the day). In that case, the total requirements shall be reduced accordingly, up to a maximum reduction of fifty percent, as determined by the community development director.

2. *Shared Parking.* Required parking facilities for two or more uses, structures, or parcels of land may be satisfied by the same parking facilities used jointly, to the extent that the owners or operators show that the need for parking facilities does not materially overlap (e.g., uses primarily of a daytime versus nighttime nature), that the shared parking facility is within one thousand feet of the potential uses, and provided that the right of joint use is evidenced by a recorded deed, lease, contract, or similar written instrument authorizing the joint use.

3. *On-Street Parking.* On-street parking may be counted toward the minimum standards when it is on the street face abutting the subject land use. An on-street parking space must not obstruct a required clear vision area and it shall not violate any law or street standard. On-street parking for commercial uses shall conform to the following standards:

a. *Dimensions.* The following constitutes one on-street parking space:

1. *Parallel parking,* each [twenty-two] feet of uninterrupted and available curb;

2. *[Forty-five/sixty] degree diagonal,* each with [fifteen] feet of curb;

3. *Ninety degree (perpendicular) parking,* each with [twelve] feet of curb.

4. *Public Use Required for Credit.* On-street parking spaces counted toward meeting the parking requirements of a specific use may not be used exclusively by that use, but shall be available for general public use at all times. Signs or other actions that limit general public use of on-street spaces are prohibited.

Finding: Not applicable. The applicant did not propose any of the options provided in this section. All parking stalls are accommodated onsite.

17.52.020.C. *Reduction of the Number of Automobile Spaces Required.* The required number of parking stalls may be reduced in the Downtown Parking Overlay District: Fifty percent reduction in the minimum number of spaces required is allowed prior to seeking further reductions in [sub]sections 2. and 3. below:

1. *Transit Oriented Development.* For projects not located within the Downtown Parking Overlay District, the community development director may reduce the required number of parking stalls up to twenty-five percent when it is determined that a project in a commercial center (sixty thousand square feet or greater of retail or office use measured cumulatively within a five hundred-foot radius) or multi-family development with over eighty units, is adjacent to or within one thousand three hundred twenty feet of an existing or planned public transit street and is within one thousand three hundred twenty feet of the opposite use (commercial center or multi-family development with over eighty units).

2. *Reduction in Parking for Tree Preservation.* The community development director may grant an adjustment to any standard of this requirement provided that the adjustment preserves a regulated tree or grove so that the reduction in the amount of required pavement can help preserve existing healthy trees in an undisturbed, natural condition. The amount of reduction must take into consideration any unique site conditions and the impact of the reduction on parking needs for the use, and must be approved by the community development director. This reduction is discretionary.

3. *Transportation Demand Management.*

Finding: Not applicable. The development proposal did not include a reduction in the automobile spaces required.

17.52.030 Standards for automobile parking.

The development application included an adjustment request that the standards within 17.52.030 do not apply to the temporary trail head parking lot. Please refer to the analysis within this report.

A. *Access.*

Ingress and egress locations on public thoroughfares shall be located in the interests of public traffic safety. Groups of more than four parking spaces shall be so located and served by driveways so that their use will require no

backing movements or other maneuvering within a street right-of-way other than an alley. No driveway with a slope of greater than fifteen percent shall be permitted without approval of the city engineer.

Findings: Please refer to the analysis in Goal 12 of the Comprehensive Plan.

17.52.030.B. Surfacing.

Required off-street parking spaces and access aisles shall have paved surfaces adequately maintained. The use of pervious asphalt/concrete and alternative designs that reduce storm water runoff and improve water quality pursuant to the city's stormwater and low impact development design standards are encouraged.

Findings: Complies as proposed. The applicant has proposed to use paved surfaces for the parking areas for Lot 2 and an exception for gravel on the temporary Trailhead parking lot. The analysis for the adjustment for the temporary Trailhead parking lot is provided in chapter 17.65.070 this report.

17.52.030.C. Drainage.

Drainage shall be designed in accordance with the requirements of Chapter 13.12 and the city public works stormwater and grading design standards.

Finding: See findings in section 13.12 of this report.

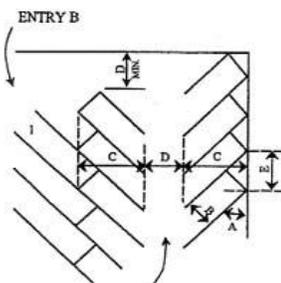
17.52.030.D. Dimensional Standards.

1. Requirements for parking developed at varying angles are according to the table included in this section. A parking space shall not be less than seven feet in height when within a building or structure, and shall have access by an all-weather surface to a street or alley. Parking stalls in compliance with the American with Disabilities Act may vary in size in order to comply with the building division requirements. Up to thirty-five percent of the minimum required parking may be compact, while the remaining required parking stalls are designed to standard dimensions. The community development director may approve alternative dimensions for parking stalls in excess of the minimum requirement which comply with the intent of this chapter.

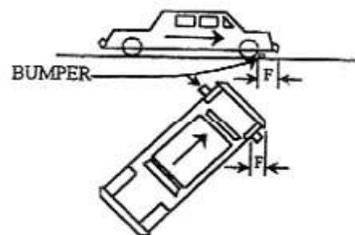
2. Alternative parking/plan. Any applicant may propose an alternative parking plan. Such plans are often proposed to address physically constrained or smaller sites, however innovative designs for larger sites may also be considered. In such situations, the community development director may approve an alternative parking lot plan with variations to parking dimensions of this section. The alternative shall be consistent with the intent of this chapter and shall create a safe space for automobiles and pedestrians while providing landscaping to the quantity and quality found within parking lot landscaping requirements.

PARKING STANDARD

A Parking Angle		B Stall Width	C Stall to Curb	D Aisle Width	E Curb Length	F Overhang
90 degrees	Standard Compact	9' 8'	19.0' 16.0'	24' 22'	9' 8'	1.5



TYPICAL PARKING LAYOUT



OVERHANG

NOTE: Overhang dimensions are intended to indicate possible location from parking area edge for location of bumpers.

Finding: Complies with condition. This section allows for up to 35% of the minimum parking stalls to be compact ($366 \times 0.35 = 128$), provided that the remaining 75% of the minimum parking stalls are standard size ($366 \times 0.75 = 275$) and all additional stalls may be any size. The applicant proposed 290 standard stalls (including 54 in a garage), 71 compact stalls and 42 irregular stalls. The proposed design includes

utilization of overhang into the adjacent drive aisle.

The development application includes a retaining wall adjacent to the parking lot which is required to be redesigned. The redesign of the wall may potentially alter the size or configuration of the parking lot. Prior to issuance of any permit associated with the proposed development the applicant shall submit revised plans for the retaining wall between the subject site and the adjacent property. The redesigned wall and all associated alterations to the adjacent parking lot, landscaping, etc. shall comply with the Oregon City Municipal Code. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

17.52.030.E. Carpool and Vanpool Parking. *New developments with seventy-five or more parking spaces, and new hospitals, government offices, group homes, nursing and retirement homes, schools and transit park-and-ride facilities with fifty or more parking spaces, shall identify the spaces available for employee, student and commuter parking and designate at least five percent, but not fewer than two, of those spaces for exclusive carpool and vanpool parking. Carpool and vanpool parking spaces shall be located closer to the main employee, student or commuter entrance than all other employee, student or commuter parking spaces with the exception of ADA accessible parking spaces. The carpool/vanpool spaces shall be clearly marked "Reserved - Carpool/Vanpool Only."*

Finding: Not applicable. This standard is not meant to be applied to residential development. The proposed residential on lot 2 is not subject to this standard. The development application included an adjustment request that the standards within 17.52.030 do not apply to the temporary trail head parking lot. Please refer to the analysis within this report.

17.52.040 Bicycle parking standards.

17.52.040 Bicycle parking standards.

17.52.040.B. Number of Bicycle Spaces Required. *For any use not specifically mentioned in Table A, the bicycle parking requirements shall be the same as the use which, as determined by the community development director, is most similar to the use not specifically mentioned. Calculation of the number of bicycle parking spaces required shall be determined in the manner established in Section 17.52.020 for determining automobile parking space requirements. Modifications to bicycle parking requirements may be made through the site plan and design, conditional use, or master plan review process.*

Finding: Complies with condition. The proposal included construction of two parking lots.

Required Bicycle Parking Spaces*

USE	PROPOSED	MINIMUM BICYCLE PARKING	MINIMUM BICYCLE PARKING - COVERED
Multi-family	244 units	1 per 10 units 24 Required	50% (min. of 1) 12 Required
Office	15 Auto Parking Stalls Minimum	1 per 20 auto spaces (min. of 2) 1 Required	50% (min. of 2) 1 Required
Restaurant	4 Auto Parking Stalls Minimum	1 per 20 auto spaces 1 Required	0%
Parks and Open Space	14 automobile parking stalls	1 per 10 auto parking stall 1 Required	0%

* Covered bicycle parking is not required for developments with two or fewer stalls.

- The applicant proposed 60 bicycle parking stalls (including 58 which will be covered) throughout Lot 2. More than double the minimum of 26 bicycle parking stalls required.
- The applicant indicated two bicycle parking spaces will be provided at the temporary parking lot but did not submit a plan displaying the location or details about the bicycle parking in this location. Prior to issuance of a permit associated with the proposed development the applicant

shall submit documentation demonstrating that the temporary Trailhead parking lot complies with Chapter 17.52.040 of the Oregon City Municipal Code.

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

17.52.040.C. Security of Bicycle Parking. Bicycle parking facilities shall be secured. Acceptable secured bicycle parking area shall be in the form of a lockable enclosure onsite, secure room in a building onsite, a covered or uncovered rack onsite, bicycle parking within the adjacent right-of-way or another form of secure parking where the bicycle can be stored, as approved by the decision maker. All bicycle racks and lockers shall be securely anchored to the ground or to a structure. Bicycle racks shall be designed so that bicycles may be securely locked to them without undue inconvenience and, when in the right-of-way shall comply with clearance and ADA requirements.

Finding: Complies as proposed. The development proposal included the design of steel bicycle racks bolted to the ground and designed to hold two bicycles.

17.52.040.D. Bicycle parking facilities shall offer security in the form of either a lockable enclosure or a stationary rack to which the bicycle can be locked. All bicycle racks and lockers shall be securely anchored to the ground or to a structure. Bicycle racks shall be designed so that bicycles may be securely locked to them without undue inconvenience.

Finding: Please refer to the analysis in 17.52.040.C.

17.52.040.D. Location of Bicycle Parking:

1. Bicycle parking shall be located on-site, in one or more convenient, secure and accessible location. The city engineer and the community development Director may permit the bicycle parking to be provided within the right-of-way provided adequate clear zone and ADA requirements are met. If sites have more than one building, bicycle parking shall be distributed as appropriate to serve all buildings. If a building has two or more main building entrances, the review authority may require bicycle parking to be distributed to serve all main building entrances, as it deems appropriate.

Finding: Complies with condition. As demonstrated on the site plan on sheet A101, the bicycle parking is proposed throughout Lot 2.

The applicant indicated two bicycle parking spaces will be provided at the temporary parking lot but did not submit a plan displaying the location or details about the bicycle parking in this location. Prior to issuance of a permit associated with the proposed development the applicant shall submit documentation demonstrating that the temporary Trailhead parking lot complies with Chapter 17.52.040 of the Oregon City Municipal Code. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

17.52.040.D.2. Bicycle parking areas shall be clearly marked or visible from on-site buildings or the street. If a bicycle parking area is not plainly visible from the street or main building entrance, a sign must be posted indicating the location of the bicycle parking area. Indoor bicycle parking areas shall not require stairs to access the space unless approved by the community development director.

Finding: Complies as proposed. As demonstrated on the site plan on sheet A101, the bicycle parking is proposed throughout Lot 2 in visible locations. Any location near the temporary parking lot would be highly visible.

17.52.040.D.3. All bicycle parking areas shall be located to avoid conflicts with pedestrian and motor vehicle movement.

a. Bicycle parking areas shall be separated from motor vehicle parking and maneuvering areas and from arterial streets by a barrier or a minimum of five feet.

b. Bicycle parking areas shall not obstruct pedestrian walkways; provided, however, that the review authority may allow bicycle parking in the right-of-way where this does not conflict with pedestrian accessibility.

Finding: Complies with condition. The bicycle parking is located adjacent to the side of pedestrian accessway and do not appear to conflict with pedestrian or vehicular movement.

The applicant indicated two bicycle parking spaces will be provided at the temporary parking lot but did not submit a plan displaying the location or details about the bicycle parking in this location. Prior to issuance of a permit associated with the proposed development the applicant shall submit documentation demonstrating that the temporary Trailhead parking lot complies with Chapter 17.52.040 of the Oregon City Municipal Code. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

17.52.040.D.4. Accessibility.

a. Outdoor bicycle areas shall be connected to main building entrances by pedestrian accessible walkways.

Finding: Complies as proposed. All of the bicycle parking locations are adjacent to pedestrian accessway which are connected to the main building entrances. No buildings are located at the temporary Trailhead parking lot and thus this standard is not applicable.

17.52.040.D.4.b. Outdoor bicycle parking areas shall have direct access to a right-of-way.

Finding: Complies with condition. Please refer to the analysis in 17.62.050.A.9. Any location at the temporary Trailhead parking lot will comply with this standard. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

17.52.040.D.4.c. Outdoor bicycle parking should be no farther from the main building entrance than the distance to the closest vehicle space, or fifty feet, whichever is less, unless otherwise determined by the community development director, city engineer, or planning commission.

Finding: Complies as proposed. All of the bicycle parking locations are located adjacent to the building entrances. No buildings are located at the temporary Trailhead parking lot and thus this standard is not applicable.

17.52.060 Parking lot landscaping.

The applicant proposed an adjustment to this standard for the temporary trailhead parking lot.

17.52.060 A. Development Standards.

1. The landscaping shall be located in defined landscaped areas that are uniformly distributed throughout the parking or loading area.

Finding: Complies as proposed. A landscape plan of Lot 2 was provided on sheet L4.0-L4.2 of Exhibit 2.

17.52.060.A.2. All areas in a parking lot not used for parking, maneuvering, or circulation shall be landscaped.

Finding: Complies as proposed. All areas in a parking lot not used for parking, maneuvering, or circulation are landscaped with a mix of trees, shrubs, and lawn cover.

17.52.060.A.3. Parking lot trees shall be a mix of deciduous shade trees and coniferous trees. The trees shall be evenly distributed throughout the parking lot as both interior and perimeter landscaping to provide shade.

Finding: Complies as proposed. The landscape plan includes a mix of deciduous and coniferous trees spread throughout the parking lot.

17.52.060.A.4. Required landscaping trees shall be of a minimum two-inch minimum caliper size (though it may not be standard for some tree types to be distinguished by caliper), planted according to American Nurseryman Standards, and selected from the Oregon City Street Tree List;

Finding: Complies with condition. The tree plan identifies both 2-inch caliper trees as well as 6-foot minimum height trees and planted in accordance with American Nurseryman Standards. Prior to issuance of a permit associated with the proposed development the applicant shall submit documentation identifying that all landscaping trees shall be of a minimum two-inch minimum caliper

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

17.52.060.A.5. Landscaped areas shall include irrigation systems unless an alternate plan is submitted, and approved by the community development director, that can demonstrate adequate maintenance;

Finding: Complies as proposed. The plans indicated that irrigation would be provided unless otherwise identified. No notes identifying otherwise were identified on the parking lot landscaping plan for Lot 2.

17.52.060.A.6. All plant materials, including trees, shrubbery and ground cover should be selected for their appropriateness to the site, drought tolerance, year-round greenery and coverage and staggered flowering periods. Species found on the Oregon City Native Plant List are strongly encouraged and species found on the Oregon City Nuisance Plant List are prohibited.

Finding: Complies as proposed. No nuisance plants were proposed within the parking lot landscaping. The plan submitted by the applicant was prepared by a landscape architect to assure appropriate species.

17.52.060.A.7. The landscaping in parking areas shall not obstruct lines of sight for safe traffic operation and shall comply with all requirements of Chapter 10.32, Traffic Sight Obstructions.

Finding: Complies with condition. The applicant submitted a traffic study but it did not identify site specific issues associated with the development on Lot 2. Prior to issuance of a permit associated with the proposed development the applicant shall submit a revised traffic analysis adequately addressing the proposed development and demonstrating compliance with all applicable criteria. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

17.52.060.A.8. Landscaping shall incorporate design standards in accordance with Chapter 13.12, Stormwater Management.

Finding: Please refer to the analysis in Chapter 13.12 of this report.

17.52.060.B. Perimeter Parking Lot Landscaping and Parking Lot Entryway/Right-of-Way Screening. Parking lots shall include a five-foot wide landscaped buffer where the parking lot abuts the right-of-way and/or adjoining properties. In order to provide connectivity between non-single-family sites, the community development director may approve an interruption in the perimeter parking lot landscaping for a single driveway where the parking lot abuts property designated as multi-family, commercial or industrial. Shared driveways and parking aisles that straddle a lot line do not need to meet perimeter landscaping requirements.

Finding: Complies with condition. The landscaping plan includes perimeter parking lot landscaping between the right-of-way and adjoining properties. The perimeter parking lot landscaping is not provided between the southern portion of the parking lot and the adjoining property. The applicant indicated that existing landscaping would comply with this standard but did not identify the landscaping in a plan so that compliance could be confirmed. Two driveway connections are allowed to provide connectivity to the adjoining property. Prior to issuance of a permit associated with the proposed development the applicant shall submit a revised landscaping plan in which the perimeter parking lot landscaping is provided in all of the required locations. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

17.52.060.B.1. The perimeter parking lot are[a] shall include:

a. Trees spaced a maximum of thirty-five feet apart (minimum of one tree on either side of the entryway is required). When the parking lot is adjacent to a public right-of-way, the parking lot trees shall be offset from the street trees;

Finding: Complies with condition. The perimeter parking lot landscaping includes trees, but in some cases the spacing exceeds 35 feet. Prior to issuance of a permit associated with the proposed development the applicant shall submit a revised landscaping plan in which the perimeter parking lot

landscaping includes trees spaced a maximum of 35 feet apart. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

17.52.060.B.1.b. Ground cover, such as wild flowers, spaced a maximum of 16-inches on center covering one hundred percent of the exposed ground within three years. No bark mulch shall be allowed except under the canopy of shrubs and within two feet of the base of trees; and

Finding: Complies with condition. The landscaping plan was prepared by Patrick Gaynor, Landscape Architect whom proposed groundcover planted 3 feet on center, exceeding the maximum spacing of 16 inches but identified the planting would result in full ground coverage within 3 years. The plans did not identify that no bark mulch shall be allowed except under the canopy of shrubs and within two feet of the base of trees. Prior to issuance of a permit associated with the proposed development the applicant shall submit a revised landscaping plan identifying that in the perimeter parking lot landscaping no bark mulch shall be allowed except under the canopy of shrubs and within two feet of the base of trees. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

17.52.060.B.c. An evergreen hedge screen of thirty to forty-two inches high or shrubs spaced no more than four feet apart on average. The hedge/shrubs shall be parallel to and not nearer than two feet from the right-of-way line. The required screening shall be designed to allow for free access to the site and sidewalk by pedestrians. Visual breaks, no more than five feet in width, shall be provided every thirty feet within evergreen hedges abutting public right-of-ways.

Finding: Complies as proposed. The landscaping plan includes shrubs in a majority of the required locations. The perimeter parking lot landscaping is not provided between the southern portion of the parking lot and the adjoining property. Some of the locations which include shrubs exceed the maximum spacing of 4 feet and it is unclear if they average 4 feet of spacing. Prior to issuance of a permit associated with the proposed development the applicant shall submit a revised landscaping plan in which the perimeter parking lot landscaping is provided in all of the required locations and includes an evergreen hedge screen of thirty to forty-two inches high or shrubs spaced no more than four feet apart on average. Visual breaks, no more than five feet in width, shall be provided every thirty feet within evergreen hedges abutting public right-of-ways. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

17.52.060.C. Parking Area/Building Buffer.

Parking areas shall be separated from the exterior wall of a structure, exclusive of pedestrian entranceways or loading areas, by one of the following:

1. Minimum five-foot wide landscaped planter strip (excluding areas for pedestrian connection) abutting either side of a parking lot sidewalk with:

Finding: Complies as proposed. The applicant has proposed an adequate width parking area/building buffer landscaping.

17.52.060.C.1.a. Trees spaced a maximum of thirty-five feet apart;

Finding: Complies with condition. The parking area/building buffer includes trees, though the spacing exceeds 35 feet. Prior to issuance of a permit associated with the proposed development the applicant shall submit a revised landscaping plan in which the parking area/building buffer landscaping includes trees spaced a maximum of 35 feet apart. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

17.52.060.C.1.b. Ground cover such as wild flowers, spaced a maximum of sixteen-inches on center covering one hundred percent of the exposed ground within three years. No bark mulch shall be allowed except under the canopy of shrubs and within two feet of the base of trees; and

Finding: Complies with condition. The landscaping plan was prepared by Patrick Gaynor, Landscape Architect whom proposed groundcover planted 3 feet on center, exceeding the maximum spacing of 16

inches but identified the planting would result in full ground coverage within 3 years. The plans did not identify that no bark mulch shall be allowed except under the canopy of shrubs and within two feet of the base of trees. Prior to issuance of a permit associated with the proposed development the applicant shall submit a revised landscaping plan identifying that in the parking area/building buffer landscaping no bark mulch shall be allowed except under the canopy of shrubs and within two feet of the base of trees. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

17.52.060.C.1.c. An evergreen hedge of thirty to forty-two inches or shrubs placed no more than four feet apart on average; or

Finding: Complies as proposed. The landscaping plan includes shrubs placed no more than 4 feet apart within the parking area/building buffer.

17.52.060.C.2. Seven-foot sidewalks with shade trees spaced a maximum of thirty-five feet apart in three-foot by five-foot tree wells.

Finding: Not applicable. The applicant proposed adequate parking area/building buffer landscaping where applicable in accordance with standard 1.

17.52.060.D. Interior Parking Lot Landscaping.

Surface parking lots shall have a minimum ten percent of the interior of the gross area of the parking lot devoted to landscaping to improve the water quality, reduce storm water runoff, and provide pavement shade. Interior parking lot landscaping shall not be counted toward the fifteen percent minimum total site landscaping required by Section 17.62.050(1) unless otherwise permitted by the dimensional standards of the underlying zone district. Pedestrian walkways or any impervious surface in the landscaped areas are not to be counted in the percentage. Interior parking lot landscaping shall include:

Finding: Not applicable. Per Chapter 17.34.060.I, the interior parking lot landscaping may be counted toward the overall landscaping.

17.52.060.D.a. A minimum of one tree per six parking spaces.

Finding: Complies with condition. The site plan includes 403 parking stalls requiring 68 trees within the interior parking lot landscaping ($403/6=67.16$). The landscape plan did not include 68 trees within the interior of the parking lot. Prior to issuance of a permit associated with the proposed development the applicant shall submit a revised landscaping plan identifying trees within the interior parking lot landscaping in accordance with OCMC 17.52.060.D.a. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

17.52.060.D.b. Ground cover, such as wild flowers, spaced a maximum of sixteen-inches on center covering one hundred percent of the exposed ground within three years. No bark mulch shall be allowed except under the canopy of shrubs and within two feet of the base of trees.

Finding: Complies with condition. The landscaping plan was prepared by Patrick Gaynor, Landscape Architect whom proposed groundcover planted 3 feet on center, exceeding the maximum spacing of 16 inches but identified the planting would result in full ground coverage within 3 years. The plans did not identify that no bark mulch shall be allowed except under the canopy of shrubs and within two feet of the base of trees. Prior to issuance of a permit associated with the proposed development the applicant shall submit a revised landscaping plan identifying that in the interior parking lot landscaping no bark mulch shall be allowed except under the canopy of shrubs and within two feet of the base of trees. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

17.52.060.D.c. Shrubs spaced no more than four feet apart on average.

Finding: Complies with condition. The landscaping plan did not include shrubs spaced no more than an average of 4 feet apart throughout the interior parking lot landscaping. Prior to issuance of a permit

associated with the proposed development the applicant shall submit a revised landscaping plan identifying shrubs spaced no more than 3 feet on center throughout the interior parking lot landscaping. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

17.52.060.D.d. *No more than eight contiguous parking spaces shall be created without providing an interior landscape strip between them. Landscape strips shall be provided between rows of parking shall be a minimum of six feet in width and a minimum of ten feet in length.*

Finding: Complies with condition. The landscaping plan included more than eight parking stalls without interior parking lot landscaping. Prior to issuance of a permit associated with the proposed development the applicant shall submit a revised landscaping plan which includes no more than eight contiguous parking spaces shall be created without providing an interior landscape strip between them. Landscape strips shall be provided between rows of parking shall be a minimum of six feet in width and a minimum of ten feet in length. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

17.52.060.D.e. *Pedestrian walkways shall have shade trees spaced a maximum of every thirty-five feet in a minimum three-foot by five-foot tree wells; or Trees spaced every thirty-five feet, shrubs spaced no more than four feet apart on average, and 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.*

Finding: Complies with condition. The parking lot circulation plan includes two pedestrian walkways which cross the drive aisles, generally near the middle of the site. Trees are located every 35 feet along the accessways within the parking lot with groundcover but the application did not identify that no bark mulch shall be allowed except under the canopy of shrubs and within two feet of the base of trees. Prior to issuance of a permit associated with the proposed development the applicant shall submit documentation identifying that no bark mulch shall be allowed except under the canopy of shrubs and within two feet of the base of trees. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

17.52.060.E. Installation.

- 1. All landscaping shall be installed according to accepted planting procedures, according to American Nurseryman Standards.*
- 2. The site, soils and proposed irrigation systems shall be appropriate for the healthy and long-term maintenance of the proposed plant species.*
- 3. Certificates of occupancy shall not be issued unless the landscaping requirements have been met or other arrangements have been made and approved by the city, such as the posting of a surety.*

Finding: Complies as proposed. The applicant indicated that all landscaping shall be installed according to accepted planting procedures, according to American Nurseryman Standards. In addition, irrigation is proposed.

17.52.070 Alternative landscaping plan.

Finding: Not applicable. The applicant did not propose an alternative landscaping plan.

17.52.080 Maintenance.

Finding: Complies as proposed. The property owner acknowledges responsibility for the maintenance of all parking areas.

17.52.090 Loading areas.

Finding: Not applicable. The development proposal does anticipate the need to provide loading areas for vehicles with a 40-foot wheel-base pursuant to this section since it is primarily a residential development.

CHAPTER 17.54 SUPPLEMENTAL ZONING REGULATIONS AND EXCEPTIONS

17.54.010.D Swimming Pools. *In-ground and above-ground swimming pools shall be constructed not less than three feet from the side or rear yard lines. Swimming pools shall comply with the front yard requirement for the principal building. A pool must be surrounded by a fence no less than four feet in height or a suitable alternative such as a locked or electric cover, approved by the building official.*

Finding: Complies as proposed. An outdoor pool is proposed between Building A and Building B. As shown on the Site Plan, Sheet A101, located in Exhibit B, the pool is set back approximately 45 feet from the front yard line of Building A and Building B. The pool will be behind a 6 foot fence.

17.54.100 – Fences

Fence, Setback and Height Limitations.

A. Generally. Fence, hedge, or wall.

- 1. Fences and walls—Fences and walls over forty-two inches shall not be located in front of the front façade or within forty feet of the public right-of-way, whichever is less. All other fences (including fences along the side and rear of a property) shall not exceed six feet in total height unless as permitted [in] Section 17.54.100.B.*
- 2. Hedges shall not be more than forty-two inches in the underlying front yard setback. Individual plants and trees taller than forty-two inches tall may be permitted provided there is at least one foot clearance between each plant.*
- 3. Property owners shall ensure compliance with the traffic sight obstruction requirements in Chapter 10.32 of the Oregon City Municipal Code.*
- 4. 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.*

B. Exception. Fence, hedge, wall, or other obstructing vegetation on retaining wall. When a fence, hedge, wall, or other obstructing vegetation is built on a retaining wall or an artificial berm that is not adjacent to or abutting a public right-of-way, the following standards shall apply:

- 1. When the retaining wall or artificial berm is thirty inches or less in height from the finished grade, the maximum fence or wall height on top of the retaining wall shall be six feet.*
- 2. When the retaining wall or earth berm is greater than thirty inches in height, the combined height of the retaining wall and fence or, wall from finished grade shall not exceed eight and one-half feet.*
- 3. Fences, hedges or walls located on top of retaining walls or earth berms in excess of eight and one-half feet in height shall be set back a minimum of two feet from the edge of the retaining wall or earth berm below and shall not exceed a combined height of eight and one-half feet.*
- 4. An alternative height or location requirement may be approved within a land use process for all non-single-family and two-family residential properties. The fence, hedge or wall shall be compatible with the adjacent neighborhood and achieve the same intent of the zoning designation and applicable site plan and design review process. In no case may the fence, hedge or wall exceed eight feet in height without approval of a variance.*

Finding: Complies with condition. The applicant proposed to construct retaining walls in two primary locations.

- A series of rockery retaining walls are proposed between the front of the structures and Main Street which extend between 2 and 5 feet in height. As identified within OCMC 17.54.100.A.1, the maximum height is 3.5 feet and thus the applicant has requested an adjustment to the code to allow the proposed rockery walls. As identified in the findings in OCMC 17.65.070, the adjustment is supported by staff.
- A retaining wall between Lot 2 and the adjoining property is proposed which would extend to a height of 17 feet. As identified in OCMC 17.54.100.B.2 and 3, the retaining wall (and any associated fencing on top of the retaining wall) is limited to a combined height of 8.5 feet. Additional retaining walls and/or fences may be placed a minimum of 2 feet from existing walls/fences when the combined height is more than 8.5 feet. The applicant requested an adjustment to this standard, but as identified in OCMC 17.65.070, it is not supported by staff. In addition, it is likely that some type of barrier or fencing may be proposed on top of the retaining wall. Prior to issuance of any permit associated with the proposed development the applicant

shall submit revised plans in which the retaining wall between Lot 2 and the adjacent property and any associated fencing which is compliant with Chapter 17.54.100 and any other applicable standard of the Oregon City Municipal Code.

The application identified two fences onsite:

- A 6 foot tall fence is proposed surrounding the pool. The fence would extend to be even with the front of the structures along Main Street and thus comply with this standard.
- Fencing is listed as a possible option to screen ground mounted mechanical equipment. Prior to issuance of any permit associated with the proposed development the applicant shall submit revised plans which identify all fencing throughout the site. The fencing shall comply with Chapter 17.54.100 and any other applicable standard of the Oregon City Municipal Code.

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

CHAPTER 17.41 - TREE PROTECTION STANDARDS

17.41.020 *Tree Protection – Applicability.*

1. Applications for development subject to Chapter 16.08 or 16.12 (Subdivision or Minor Partition) or Chapter 17.62 (Site Plan and Design Review) shall demonstrate compliance with these standards as part of the review proceedings for those developments.
2. For public capital improvement projects, the City Engineer shall demonstrate compliance with these standards pursuant to a Type II process.
3. Tree canopy removal greater than 25% on sites greater than 25% percent slope, unless exempted under section 17.41.040, shall be subject to these standards.
4. A heritage tree or grove which has been designated pursuant to the procedures of Chapter 12.08.050 shall be subject to the standards of this section.

Finding: Not applicable. Though the proposed development is subject to this chapter, a tree protection plan for the Master Plan area was previously approved in 2008 under Planning file CP 08-05 and was provided in Exhibit N of the applicant’s submittal. The approved plan delineated the trees which were to be protected, thus allowing the trees outside of the protection zone to be removed.

The applicable tree removal criteria was identified in Chapter 16.12.310 of the Oregon City Municipal Code, prior to adoption of this Chapter. Condition of approval #13 of Planning file CP 08-05 required the applicant to submit a revised tree removal plan identifying trees that are to be removed that are not located within the vegetated corridor or proposed right-of-ways, easements, building pads, public walkways and parking lots. The trees that are not located within one of the identified locations above shall be mitigated for per the replacement schedule identified below in Table 16.12.310-1.

Table 16.12.310-1
Tree Replacement Requirements

Size of Tree Removed (Inches in diameter)	Number of Trees to be Planted.
6 to 12	3 trees
13 to 18	5 trees
19 to 24	8 trees
25 to 30	10 trees
31 and over	15 trees

Plans identifying the size, location and mitigation of all trees to be removed with this development were provided in sheets L2.0-L2.2. The tree removal plans did not include removal of trees identified for protection in the 2008 Master Plan approval.

The trees located within the public right-of-way, Natural Resource Overlay District, proposed public walkways, beneath proposed building footprints and within a proposed parking lot can easily be identified. The plan did not display easements and thus it is difficult to distinguish of the trees which required mitigation. Prior to issuance of a permit associated with this development the applicant shall submit a revised tree removal plan identifying all easements as well as a calculation for the number of mitigation trees required per OCMC 16.12.310 of the 2008 Master Plan and the location, species and size of the mitigation trees. The mitigation trees shall be identified on a landscaping plan, if applicable, and may not be counted toward required landscaping. If the applicant can demonstrate that there is insufficient room to place the trees onsite an alternative location, an increase of required trees onsite or a fee in lieu may be considered. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

CHAPTER 12.08 - PUBLIC AND STREET TREES

12.08.015 Street tree planting and maintenance requirements.

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

Finding: Complies as proposed. The applicant submitted a street tree plan which included trees placed along the frontages of the development. The applicant indicated that the trees are the same as those approved in the 2008 Master Plan including Autumn Flame Red Maples along the southern portion of Main Street and PaperBark Maple along the planting strip bordering the roundabout at the Main Street and Agnes Avenue intersection.

12.08.015.A. *One street tree shall be planted for every thirty-five feet of property frontage. The tree spacing shall be evenly distributed throughout the total development frontage. The community development director may approve an alternative street tree plan if site or other constraints prevent meeting the placement of one street tree per thirty-five feet of property frontage.*

Finding: Complies with condition. The applicant indicated that one tree will be planted for every 30 feet of frontage, but did not submit the calculation to demonstrate compliance with this standard. Prior to issuance of a permit associated with the proposed development the applicant shall submit a plan for street trees in compliance with OCMC 12.08. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

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

- 1. Fifteen feet from streetlights;*
- 2. Five feet from fire hydrants;*
- 3. Twenty feet from intersections;*
- 4. A minimum of five feet (at mature height) below power lines.*

Finding: Complies with condition. A street tree plan was submitted with the preliminary locations of street trees, but did not include the final proposed locations, location of street lights, fire hydrants or power lines. Prior to issuance of a permit associated with the proposed development the applicant shall submit a plan for street trees in compliance with OCMC 12.08. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

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

Finding: Complies as proposed. The applicant submitted a street tree plan which included trees which are a minimum of 2" in diameter.

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

Finding: Not applicable. The proposal includes the installation of new street trees.

12.08.020 Street tree species selection.

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

Finding: Complies as proposed. The applicant indicated that the trees are the same as those approved in the 2008 Master Plan including Autumn Flame Red Maples along the southern portion of Main Street and PaperBark Maple along the planting strip bordering the roundabout at the Main Street and Agnes Avenue intersection.

12.08.025 General tree maintenance.

Abutting property owners shall be responsible for the maintenance of street trees and planting strips. Topping of trees is permitted only under recommendation of a certified arborist, or other qualified professional, if required by city staff. Trees shall be trimmed appropriately. Maintenance shall include trimming to remove dead branches, dangerous limbs and to maintain a minimum seven-foot clearance above all sidewalks and ten-foot clearance above the street. Planter strips shall be kept clear of weeds, obstructing vegetation and trash.

Finding: Complies as proposed. The applicant indicated that "maintenance of street trees and planting strips is anticipated to be the responsibility of the property owner and/or the hired management company." (Exhibit 2).

12.08.030 Public property tree maintenance.

The city shall have the right to plant, prune, maintain and remove trees, plants and shrubs in all public rights-of-way and public grounds, as may be necessary to ensure public safety or to preserve and enhance the symmetry or other desirable characteristics of such public areas. The natural resources committee may recommend to the community development director the removal of any tree or part thereof which is in an unsafe condition, or which by reason of its nature is injurious to above or below-ground public utilities or other public improvements.

Finding: Not applicable. The City is not proposing to maintain the street trees with this application.

12.08.035 Public tree removal.

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

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

Finding: Please refer to the finding for tree removal with this report.

12.08.040 Heritage Trees and Groves.

A. Purpose. Certain trees, because of their age, species, natural resource value, ecological or historical association, are of special importance to the city. These trees may live on private or public property.

1. The purpose of this chapter is to recognize, foster appreciation and provide for voluntary protection of Heritage Trees.

2. In particular, the following trees shall be considered significant, and therefore eligible for heritage tree nomination in Oregon City, if they meet the minimum size requirements of the table below:

Finding: Not applicable. No heritage trees or groves are currently on the subject site nor are they proposed with this development.

CHAPTER 15.48 - GRADING, FILLING AND EXCAVATING

15.48.030 Applicability—Grading permit required.

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

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

Finding: Applicable. The development exceeds the sizing thresholds.

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.

Finding: Not Applicable. The development exceeds the sizing thresholds for an abbreviated plan.

15.48.090.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.

Finding: Complies with condition. This is a standard requirement for a development. The City's geotechnical engineer has recommended conditions of approval that will provide more specificity. See discussion in 17.44. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

15.48.090.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.

Finding: Complies with condition. Geotechnical Reports are included with this submittal under Exhibit G to address geohazards and soil stability for both the Garden Apartments and North Park amphitheater, as well as proposed roadway locations. This is a standard requirement for a development. The City's geotechnical engineer has recommended conditions of approval that will provide more specificity. See discussion in 17.44. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

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

Finding: Not applicable. Site grading will be accomplished with an overall grading plan.

CHAPTER 17.47 - EROSION AND SEDIMENT CONTROL

17.47.030 - Applicability.

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

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

Finding: Applicable. Measurable erosion will be created with the development.

17.47.060 - Permit required.

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

Finding: Applicable. Erosion Control permit is required as standard procedure for all construction plans.

17.47.070 - Erosion and sediment control plans.

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

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

1. The erosion and sediment control plan meets the requirements of the City of Oregon City public works standards for erosion and sediment control incorporated by reference as part of this chapter;

2. The erosion and sediment control plan indicates that erosion and sediment control measures will be managed and maintained during and following development. The erosion and sediment control plan indicates that erosion and sediment control measures will remain in place until disturbed soil areas are permanently stabilized by landscaping, grass, approved mulch or other permanent soil stabilizing measures.

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

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

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

F. If the manager finds that the facilities and techniques approved in an erosion and sediment control plan and permit are not sufficient to prevent erosion, the manager shall notify the owner or his/her designated representative. Upon receiving notice, the owner or his/her designated representative shall immediately install interim erosion and sediment control measures as specified in the City of Oregon City public works standards for erosion and sediment control. Within three days from the date of notice, the owner or his/her designated representative shall submit a revised erosion and sediment control plan to the city. Upon approval of the revised plan and issuance of an amended permit, the owner or his/her designated representative shall immediately implement the revised plan.

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

Finding: Complies with condition. An Erosion Control Plan is included with the Plan Set under Exhibit B that identifies inlet protection, sediment control fencing, bio bags, and gravel construction entrances as erosion prevention measures to be installed during construction to prevent and restrict the discharge of sediments. The Erosion Control Plan also includes a detail sheet showing how each prevention measure is to be installed and maintained.

The applicant shall provide a final Erosion Prevention and Sedimentation Control Plan to the City for approval in conjunction with the grading plan. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

CHAPTER 12.04 - STREETS, SIDEWALKS AND PUBLIC PLACES

12.04.003 *Applicability.*

- A. *Compliance with this chapter is required for all land divisions, site plan and design review, master plan, detailed development plan and conditional use applications and all public improvements.*
- B. *Compliance with this chapter is also required for new construction or additions which exceed fifty percent of the existing square footage, of all single and two-family dwellings. All applicable single and two-family dwellings shall provide any necessary dedications, easements or agreements as identified in the transportation system plan and this chapter. In addition, the frontage of the site shall comply with the following prioritized standards identified in this chapter:*
 - 1. *Improve street pavement, construct curbs, gutters, sidewalks and planter strips; and*
 - 2. *Plant street trees.*

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

Finding: Applicable. The development is comprised of master plan, detailed development plan, and public improvements; therefore 12.04 applies per Section A.

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

- A. *The city has jurisdiction and exercises regulatory management over all public rights-of-way within the city under authority of the City Charter and state law by issuing separate public works right-of-way permits or permits as part of issued public infrastructure construction plans. No work in the public right-of-way shall be done without the proper permit. Some public rights-of-way within the city are regulated by the State of Oregon Department of Transportation (ODOT) or Clackamas County and as such, any work in these streets shall conform to their respective permitting requirements.*
- B. *Public rights-of-way include, but are not limited to, streets, roads, highways, bridges, alleys, sidewalks, trails, paths, public easements and all other public ways or areas, including the subsurface under and air space over these areas.*
- C. *The city has jurisdiction and exercises regulatory management over each public right-of-way whether the city has a fee, easement, or other legal interest in the right-of-way. The city has jurisdiction and regulatory*

management of each right-of-way whether the legal interest in the right-of-way was obtained by grant, dedication, prescription, reservation, condemnation, annexation, foreclosure or other means.

- D. No person may occupy or encroach on a public right-of-way without the permission of the city. The city grants permission to use rights-of-way by franchises, licenses and permits.
- E. The exercise of jurisdiction and regulatory management of a public right-of-way by the city is not official acceptance of the right-of-way, and does not obligate the city to maintain or repair any part of the right-of-way.

Finding: Applies. The development will take place in the public right-of-way and will require permits at time of construction.

12.04.007 - Modifications.

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

- 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 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.

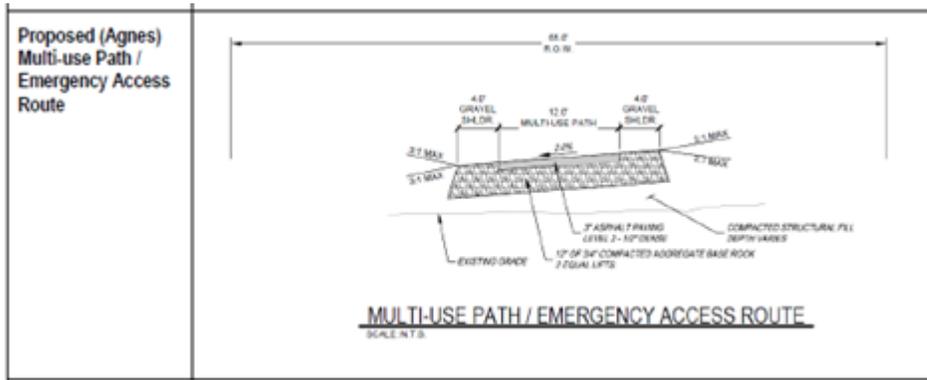
Finding: Complies with condition. The applicant's narrative offers the following modification requests:

The applicant states that although the phasing of public road improvements has changed from previous approvals, Main Street and Agnes Street will remain predominantly the same as approved by the City, with a few minor changes:

- The landscape planter strip on the Main Street crown section has been reduced from 6.5-feet to 4.5-feet and the sidewalk width has been increased from 6-feet to 10-feet;
- A crown section for Agnes Street is no longer proposed; and,
- The extension of Agnes Street to Washington, as completed in Phase 2, would be a 12-foot paved path with 4-foot gravel shoulders (as compared to a 20-foot paved path conditioned with CP 09-02). The Agnes Avenue connection to Washington Street would be for emergency vehicles only, would be separated from the north park access by removable bollards and would also serve as a multi-use path.

The table below illustrates the formerly approved cross sections and the proposed cross sections.

<p>CP 09-02 Approved or Proposed Cross Section</p>	<p>Cross Section</p>
<p>CP 09-02 Approved Main Street Crown Cross Section</p>	<p>MAIN STREET - CROWN SECTION</p>
<p>Proposed Main Street Crown Cross Section</p>	<p>MAIN STREET - CROWN SECTION</p>



- The road cross section modifications noted above are warranted and meet the approval criteria of this section as follows: The proposed modifications will continue to provide for safe and efficient movement of pedestrians motor vehicles, bicyclists and freight by:
 - Ensuring that sidewalks and bicycle lanes are provided with all sections; and,
 - Providing adequate lane widths for standard vehicular traffic and any freight traffic that might travel through the site;
- The modification is fundamentally consistent with the plan as it will provide collector levels of service within collector corridors identified by the City.
- The modification will allow unique street sections to the Cove, which will permit a unique design for the master planned community and create a complementary multi-modal network through the site.
- The modification is not proposed due to constitutionality concerns, but rather to create a unique and complimentary transportation network through the site.

The City has reviewed the modification request. The applicant’s materials have many conflicts and discrepancies. It is not clear in particular what street sections are currently proposed. For instance, in the narrative, as a response to Condition of Approval #6 of CP 09-02, the applicant states that the full section of Agnes Avenue will be constructed from North Park to Washington Street. In Section 12.04.007 the applicant states that the section will consist only of a 12-foot paved path, with no justification of the proposed modification. The cross-sections shown on Sheet 2.0 of the Site Circulation Plan indicates a 12-foot paved path, while the plan view on the same sheet shows a sidewalk along one side of the path. Since it is unclear which of the numerous versions of street sections are actually being proposed, the reviewers had difficulty presenting the information in a comparative format between the prior proposals and approvals and the current proposal. We therefore offer our determination in the following format regarding street segments that are appropriate and necessary to serve the proposed development:

Main Street crown section location is generally approved as shown on the site circulation plan modified 10.08.2015, southward from the roundabout. Main Street crown cross-section shall consist of (as measured beginning from right-of-way line): 0.5-foot public access strip, 6-foot sidewalk, 6.5-foot planter, 0.5-foot curb, 34-foot pavement, 0.5-foot curb, 6.5-foot planter, 6-foot sidewalk, 0.5-foot public access strip. Width of planter strip and sidewalk may be reduced to accommodate topographic constraints, if approved by City Engineer at time of construction plan review. Existing right-of-way is 60-foot and may need to be adjusted accordingly. If adjusting right-of-way is not feasible, the planter strips or sidewalks may each be reduced by 0.5 feet.

Noted differences: The applicant proposed the planter strips from 6.5-foot to 4.5-foot to accommodate a widening of the sidewalk from 6-foot to 10-foot; City did not concur; the City added the required 0.5-foot public access strips that were omitted; right-of-way may need adjustment from 60-foot to 64-foot.

Main Street shed section location is generally approved as shown on the site circulation plan modified 10.08.2015, westward from the roundabout. Main Street shed cross-section shall consist of (as measured beginning from right-of-way line): 0.5-foot public access strip, 8-foot sidewalk, 4.5-foot planter, 0.5-foot curb, 34-foot pavement, 0.5-foot curb, variable width water quality planter or swale, 6-foot sidewalk, 0.5-foot public access strip. Planter strip, swale and sidewalk may be reduced or eliminated along portions of the street where necessary to accommodate topographic constraints, if approved by City Engineer at construction plan review. Existing right-of-way is 60-foot and may need to be adjusted accordingly. If adjusting right-of-way is not feasible, swale width may be reduced by 0.5 feet.

Noted differences: The applicant noted the sidewalk as variable width; both prior approvals required 8-foot sidewalk; the City added the required 0.5-foot public access strip that was omitted and sidewalk on both sides of Main unless waived by City Engineer; right-of-way may need adjustment.

Agnes Avenue shed section location is generally approved as shown on the site circulation plan modified 10.08.2015, from the roundabout to the North Park entry. Agnes Avenue shed cross-section shall consist of (as measured beginning from right-of-way line): 14.5-foot landscape strip, 0.5-foot curb, 28-foot pavement, 0.5-foot curb, 10.5-foot water quality planter or swale, 6-foot sidewalk, 0.5-foot public access strip. Existing right-of-way is 60-foot and may need to be adjusted accordingly. If adjusting right-of-way is not feasible, the planter strip or landscape area may be reduced by 0.5 feet.

Noted differences: The City added the required 0.5-foot public access strip that was omitted; right-of-way may need adjustment from 60-foot to 60.5-foot.

Agnes Avenue Extension (Multi-Use/Emergency Access) location is generally approved as shown the site circulation plan modified 10.08.2015, from North Park entry eastward to Washington Street. Agnes Avenue Extension shall consist of (as measured beginning from right-of-way line): 0.5-foot public access strip, 6-foot sidewalk, 10.5-foot water quality planter or swale, 0.5-foot curb, 34-foot pavement, 0.5-foot curb, 8.5-foot water quality planter or swale, 6-foot sidewalk, 0.5-foot public access strip. Phase 2 shall complete the first half of the street, with a minimum 20-foot pavement width. The need for construction of the second half shall be determined at time of Detailed Development Plan submittal for each phase. . At this time, this segment shall be limited to use by emergency vehicles, pedestrians, and non-motorized vehicles. Removable bollards shall be placed at each terminus, in accordance with Clackamas Fire District #1 requirements. Street trees, sidewalk and street lights will be required along one side of the street with the Phase 2 improvements.

Noted differences: The City added the required 0.5-foot public access strip that was omitted; the City widened the planter strip from 6.5-foot approved with CP 09-02 to 8.5-foot to accommodate water quality swale; City reduced pavement width from 21-foot to 20-foot, which is adequate to accommodate multi-use and emergency vehicles. The applicant currently proposes a 12-foot multi-use path only. This will not accommodate emergency vehicles and is not consistent with prior approvals. Though it was not addressed in the applicant's narrative, the Agnes Avenue Extension was converted to multi-use/emergency access because ODOT had prohibited vehicular connection to Washington Street. However, the City does not consider this as a permanent condition, and the street improvements need to be constructed as a half-street improvement to allow for full connection in the future if conditions change.

12.04.010 - Construction specifications—Improved streets.

All sidewalks hereafter constructed in the city on improved streets shall be constructed to city standards and widths required in the Oregon City Transportation System Plan. The curb shall be constructed at the same time as the construction of the sidewalk and shall be located as provided in the ordinance authorizing the improvement of said street next proceeding unless otherwise ordered by the city commission. Both sidewalks and curbs are to be constructed according to plans and specifications provided by the city engineer.

Finding: Complies as proposed. As shown on the Site Plans, Sheets C2.1 through C2.3, all proposed sidewalks are at least 6-feet in width, with standard curbs to meet the plans and specifications provided by the City Engineer.

12.04.020 - Construction specifications—Unimproved streets.

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

Finding: Not applicable. Sidewalks and curbs will be constructed contiguously with new and widened pavements.

12.04.025 - Street design—Driveway curb cuts.

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

Finding: Complies as proposed. One vehicular access is provided from Main Street west of the roundabout, and one to the south.

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

Property Use	Minimum Driveway Width at sidewalk or property line	Maximum Driveway Width at sidewalk or property line
Single or two-family dwelling with one car garage/parking space	10 feet	12 feet
Single or two-family dwelling with two car garage/parking space	12 feet	24 feet
Single or two-family dwelling with three or more car garages/parking space	18 feet	30 feet
Nonresidential or multi-family residential driveway access	15 feet	40 feet

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

Finding: Complies as proposed. The primary entrance into the Garden Apartments site is located along Main Street, north of the roundabout. This entrance is 32-feet wide to accommodate the tenants and visitors to the project. The secondary access from the Main Street side to the west of the roundabout and nearest the Oregon City Shopping Center is 26-feet wide. Both of these driveway entrances are within the allowed range shown above for maximum and minimum driveway widths.

12.04.025.C. *The decision maker shall be authorized through a Type II process, unless another procedure applicable to the proposal applies, to minimize the number and size of curb cuts (including driveways) as far as practicable for any of the following purposes:*

1. *To provide adequate space for on-street parking;*
2. *To facilitate street tree planting requirements;*
3. *To assure pedestrian and vehicular safety by limiting vehicular access points; and*
4. *To assure that adequate sight distance requirements are met.*
 - a. *Where the decision maker determines any of these situations exist or may occur due to the approval of a proposed development for non-residential uses or attached or multi-family housing, a shared driveway shall be required and limited to twenty-four feet in width adjacent to the sidewalk or property line and may extend to a maximum of thirty feet abutting the street pavement to facilitate turning movements.*
 - b. *Where the decision maker determines any of these situations exist or may occur due to approval of a proposed development for detached housing within the "R-5" Single-Family Dwelling District or "R-3.5" Dwelling District, driveway curb cuts shall be limited to twelve feet in width adjacent to the*

sidewalk or property line and may extend to a maximum of eighteen feet abutting the street pavement to facilitate turning movements.

Finding: Not applicable. The proposed curb cuts comply.

12.04.025.D. For all driveways, the following standards apply.

1. Each new or redeveloped curb cut shall have an approved concrete approach or asphalted street connection where there is no concrete curb and a minimum hard surface for at least ten feet and preferably twenty feet back into the lot as measured from the current edge of street pavement to provide for controlling gravel tracking onto the public street. The hard surface may be concrete, asphalt, or other surface approved by the city engineer.
 2. Driving vehicles, trailers, boats, or other wheeled objects across a sidewalk or roadside planter strip at a location other than an approved permanent or city-approved temporary driveway approach is prohibited. Damages caused by such action shall be corrected by the adjoining property owner.
 3. Placing soil, gravel, wood, or other material in the gutter or space next to the curb of a public street with the intention of using it as a permanent or temporary driveway is prohibited. Damages caused by such action shall be corrected by the adjoining property owner.
 4. Any driveway built within public street or alley right-of-way shall be built and permitted per city requirements as approved by the city engineer.
- E. Exceptions. The public works director reserves the right to waive this standard, if it is determined through a Type II decision including written findings that it is in the best interest of the public to do so.

Finding: Not applicable. The criteria are applicable to construction and use of the public driveway access points and will be administered at such time as necessary.

12.04.030 - Maintenance and repair.

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

Finding: Not applicable. The criteria are applicable to maintenance of sidewalk and will be administered at such time as necessary.

12.04.031 - Liability for sidewalk injuries.

- A. The owner or occupant of real property responsible for maintaining the adjacent sidewalk shall be liable to any person injured because of negligence of such owner or occupant in failing to maintain the sidewalk in good condition.
- B. If the city is required to pay damages for an injury to persons or property caused by the failure of a person to perform the duty that this ordinance imposes, the person shall compensate the city for the amount of the damages paid. The city may maintain an action in a court of competent jurisdiction to enforce this section.

Finding: Not applicable. The criteria are applicable to injuries incurred on public sidewalk and will be administered at such time as necessary.

12.04.032 - Required sidewalk repair.

- A. When the public works director determines that repair of a sidewalk is necessary he or she shall issue a notice to the owner of property adjacent to the sidewalk.
- B. The notice shall require the owner of the property adjacent to the defective sidewalk to complete the repair of the sidewalk within ninety days after the service of notice. The notice shall also state that if the repair is not made by the owner, the city may do the work and the cost of the work shall be assessed against the property adjacent to the sidewalk.
- C. The public works director shall cause a copy of the notice to be served personally upon the owner of the property adjacent to the defective sidewalk, or the notice may be served by registered or certified mail, return receipt requested. If after diligent search the owner is not discovered, the public works director shall cause a copy of the notice to be posted in a conspicuous place on the property, and such posting shall have the same effect as service of notice by mail or by personal service upon the owner of the property.
- D. The person serving the notice shall file with the city recorder a statement stating the time, place and manner of service or notice.

Finding: Not applicable. The criteria are applicable to repair of sidewalk and will be administered at such time as necessary.

12.04.033 - *City may do work.*

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

Finding: Not applicable. The criteria are applicable to repair of sidewalk and will be administered at such time as necessary.

12.04.034 - *Assessment of costs.*

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

Finding: Not applicable. The criteria are applicable to repair of sidewalk and will be administered at such time as necessary.

12.04.040 - *Streets—Enforcement.*

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

Finding: Not applicable. The criteria are applicable to repair of sidewalk and will be administered at such time as necessary.

12.04.050 - *Retaining walls—Required.*

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

Finding: Complies as proposed. As shown on the Grading Plans on DDP Plan Sheets C3.1 and C3.2 there are several rock retaining walls placed between the building pads and the Main Street frontage along the garden apartments site. These rock walls will retain the grades adjacent to the garden apartments, which are above the finished grades for Main Street. The rock walls are shown along both Main Street frontages along the garden apartments. Also, there is a “lock and load” retaining wall along the back of the garden apartment site, near the northwest side of the site adjacent to the shopping center. Installation and placement of retaining walls will be done consistent with the final recommendations of the project’s geotechnical engineering consultant.

12.04.060 - *Retaining walls—Maintenance.*

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

Finding: Not applicable. Retaining walls are proposed to be constructed with this development.

12.04.070 - *Removal of sliding dirt.*

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

Finding: Not applicable. The criteria are applicable to maintenance of walls and will be administered at such time as necessary.

12.04.080 - Excavations—Permit required.

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

Finding: Applicable. The proposed work will require proper permits.

12.04.090 - Excavations—Permit restrictions.

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

Finding: Not applicable. The criteria are applicable to singular permitting of excavation; this development will be permitted within the regulations of a comprehensive construction plan certified by professional engineer and administered by the City.

12.04.100 - Excavations—Restoration of pavement.

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

Finding: Applicable. The restoration standards will be incorporated into the approved construction plans and inspected by City personnel for compliance.

12.04.110 - Excavations—Nuisance—Penalty.

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

Finding: Not applicable. No violations have been identified, as construction has not commenced.

12.04.120 - Obstructions—Permit required.

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

1. *The city engineer shall provide applicants with an application form outlining the minimum submittal requirements.*
2. *The applicant shall submit at least the following information in the permitting process in order to allow the commission to adequately consider whether to allow the placement of an obstruction and whether any conditions may be attached:*
 - a. *Site plan showing right-of-way, utilities, driveways as directed by staff;*
 - b. *Sight distance per Chapter 10.32, Traffic Sight Obstructions;*
 - c. *Traffic control plan including parking per Manual on Uniform Traffic Control Devices (MUTCD);*
 - d. *Alternative routes if necessary;*
 - e. *Minimizing obstruction area; and*

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

Finding: Not applicable. Obstructions in the right-of-way are not proposed.

12.04.130 - Obstructions—Sidewalk sales.

- A. *It is unlawful for any person to use the public sidewalks of the city for the purpose of packing, unpacking or storage of goods or merchandise or for the display of goods or merchandise for sale. It is permissible to use the public sidewalks for the process of expeditiously loading and unloading goods and merchandise.*
- B. *The city commission may, in its discretion, designate certain areas of the city to permit the display and sale of goods or merchandise on the public sidewalks under such conditions as may be provided.*

Finding: Not applicable. Sidewalk sales are not proposed.

12.04.140 - Obstructions—Nuisance—Penalty.

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

Finding: Not applicable. No violations have been identified.

12.04.150 - Street and alley vacations—Cost.

At the time of filing a petition for vacation of a street, alley or any part thereof, a fee as established by city commission resolution shall be paid to the city.

Finding: Not applicable. No vacations are proposed.

12.04.160 - Street vacations—Restrictions.

The commission, upon hearing such petition, may grant the same in whole or in part, or may deny the same in whole or in part, or may grant the same with such reservations as would appear to be for the public interest, including reservations pertaining to the maintenance and use of underground public utilities in the portion vacated.

Finding: Not applicable. No vacations are proposed.

12.04.170 - Street design—Purpose and general provisions.

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

Finding: Applicable. The proposed development, if approved, will require submittal of public improvement construction plans, which will be reviewed by the City Engineer and appropriate jurisdictions.

12.04.175 - Street design—Generally.

The location, width and grade of street shall be considered in relation to: existing and planned streets, topographical conditions, public convenience and safety for all modes of travel, existing and identified future transit routes and pedestrian/bicycle accessways, 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 [Chapter] 12.04 shall be required to preserve the objectives of street extensions.*

Finding: Complies with condition. The proposed Concept Development Plan, after being revised per the relevant conditions of approval described in other sections of this report, will ensure proper future street connectivity. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

12.04.180 - Street design.

All development regulated by this chapter shall provide street improvements in compliance with the standards in Figure 12.04.180 depending on the street classification set forth in the Transportation System Plan and the Comprehensive Plan designation of the adjacent property, unless an alternative plan has been adopted. The standards provided below are maximum design standards and may be reduced with an alternative street design which may be approved based on the modification criteria in [Section] 12.04.007. The steps for reducing the maximum design below are found in the Transportation System Plan.

Table 12.04.180 Street Design

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

Road Classification	Comprehensive Plan Designation	Right-of-Way Width	Pavement Width	Public Access	Sidewalk	Landscape Strip	Bike Lane	Street Parking	Travel Lanes	Median
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

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.

Finding: Complies with condition. The applicant states that both Main Street and Agnes Avenue are classified as “Collectors” in the Oregon City Transportation System Plan (TSP). With the past CDP approvals of the site, amendments to the collector street design section requirements have been approved by the City (See the response to OCMC 12.04.007 above). The applicant is proposing a minor change to the cross section of the Main Street crown section to reduce the landscape planter strip width from 6.5-feet to 4.5-feet and increase the sidewalk width from 6-feet to 10-feet. In addition, a crown section for Agnes Street that was previously contemplated and approved for Agnes Street is no longer proposed and Agnes will be built entirely as a shed section. In addition, with Phase 2 of the master plan, a 12’ paved multi-use path is proposed that would extend from the north park parking lot area to Washington Street.

a. **Main Street:** Proposed roadway design and construction for Phase 1 will include the improvement of approximately 650 lineal feet of Main Street along the north side of the apartment project site and approximately 720 lineal feet on the east side of the apartment site. On the north side of the apartment project, Main Street will be a shed section and on the east side of the apartment project the road will be a crown section.

As previously conditioned in CP 08-05 and CP 09-02, the proposed road improvements for Phase 1 are as follows:

Road Section	Existing	Proposed
Main Street North (Shed Section)	60' ROW: 37' paved width (2) 11' travel lanes Shoulders with varying width from 3 to 10-feet	60' ROW: (2) 11' travel lane (2) 6' bike lanes (1) 4.5' planter strip with 0.5' curb (east side, along Cove) (1) 8' sidewalk (east side, along Cove) 12.5' swale with 0.5' curb (on garden apartment side of the road)
Main Street South (Crown Section)	60' ROW: 33-37' paved width (2) 11' travel lanes Shoulders with varying width from 3 to 10-feet	60' ROW: (2) 11' travel lane (2) 6' bike lanes (2) 6.5' planter strips with 0.5' curbs (2) 6' sidewalks
Agnes Avenue (Crown Section) <i>*Proposed for Phase 2</i>	<i>Unimproved</i>	60' ROW (2) 11' travel lane (2) 6' bike lanes (2) 6.5' planter strips with 0.5' curbs (2) 6' sidewalks
Agnes Avenue (Shed Section)	<i>Unimproved</i>	60' ROW (varies) (2) 11' travel lane (1) 6' bike lanes (1) 6.5' planter strips with 0.5' curbs (1) 6' sidewalks 10.5' swale with 0.5' curb
Roundabout	60' ROW (per Main Street)	20' Travel Way 40' Central Landscape Area 30' Mountable Truck Aprons 4.5' planter strips with 0.5' curbs 10' sidewalk

The Applicant's response above provides inconsistent information regarding the proposed street designs. The City has determined the appropriate and necessary sections; please refer to Section 12.04.007 for analysis. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

12.04.185 - Street design—Access control.

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

Finding: Not applicable. All streets will provide access.

12.04.190 - Street design—Alignment.

The centerline of streets shall be:

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

Finding: Complies as proposed. The proposed design complies with this standard.

12.04.194 - Traffic sight obstructions.

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

Finding: Please refer to the analysis in Title 12 of the Oregon City Comprehensive Plan.

12.04.195 - Spacing standards.

- A. All new streets shall be designed as local streets unless otherwise designated as arterials and collectors in Figure 8 in the transportation system plan. The maximum block spacing between streets is five hundred thirty feet and the minimum block spacing between streets is one hundred fifty feet as measured between the right-of-way centerlines. If the maximum block size is exceeded, pedestrian accessways must be provided every three hundred thirty feet. The spacing standards within this section do not apply to alleys.
- B. All new development and redevelopment shall meet the minimum driveway spacing standards identified in Table 12.04.195.B.

Table 12.04.195.B Minimum Driveway Spacing Standards		
Street Functional Classification	Minimum Driveway Spacing Standards	Distance
Major Arterial Streets	Minimum distance from a street corner to a driveway for all uses and Minimum distance between driveways for uses other than single and two-family dwellings	175 ft.
Minor Arterial Streets	Minimum distance from a street corner to a driveway for all uses and Minimum distance between driveways for uses other than single and two-family dwellings	175 ft.
Collector Streets	Minimum distance from a street corner to a driveway for all uses and Minimum distance between driveways for uses other than single and two-family dwellings	100 ft.
Local Streets	Minimum distance from a street corner to a driveway for all uses and Minimum distance between driveways for uses other than single and two-family dwellings	25 ft.

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

Finding: Complies as proposed. The applicant stated that there are no proposed changes from the original street design. The distance from the roundabout north to the primary driveway entrance on Main Street is approximately 550-feet, while the secondary driveway entrance on the west side of the roundabout along Main Street is approximately 250-feet from the roundabout. For future phases, the minimum driveway spacing along Agnes Street is approximately 150-feet. The majority of the driveway entrances are spaced at least 200-feet between entrances. Pedestrian accessways are provided where intersection spacing exceeds the maximum.

12.04.199 - Pedestrian and bicycle accessways.

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

- A. *Entry points shall align with pedestrian crossing points along adjacent streets and with adjacent street intersections.*
- B. *Accessways shall be free of horizontal obstructions and have a nine-foot, six-inch high vertical clearance to accommodate bicyclists. To safely accommodate both pedestrians and bicycles, accessway right-of-way widths shall be as follows:*
 - 1. *Accessways shall have a fifteen-foot-wide right-of-way with a seven-foot wide paved surface between a five-foot planter strip and a three-foot planter strip.*
 - 2. *If an accessway also provides secondary fire access, the right-of-way width shall be at least twenty-three feet wide with a fifteen-foot paved surface a five-foot planter strip and a three-foot planter strip.*
- C. *Accessways shall be direct with at least one end point of the accessway always visible from any point along the accessway. On-street parking shall be prohibited within fifteen feet of the intersection of the accessway with public streets to preserve safe sight distance and promote safety.*
- D. *To enhance pedestrian and bicycle safety, accessways shall be lighted with pedestrian-scale lighting. Accessway lighting shall be to a minimum level of one-half-foot-candles, a one and one-half foot-candle average, and a maximum to minimum ratio of seven-to-one and shall be oriented not to shine upon adjacent properties. Street lighting shall be provided at both entrances.*
- E. *Accessways shall comply with Americans with Disabilities Act (ADA).*
- F. *The planter strips on either side of the accessway shall be landscaped along adjacent property by installation of the following:*
 - 1. *Within the three-foot planter strip, an evergreen hedge screen of thirty to forty-two inches high or shrubs spaced no more than four feet apart on average;*
 - 2. *Ground cover covering one hundred percent of the exposed ground. No bark mulch shall be allowed except under the canopy of shrubs and within two feet of the base of trees;*
 - 3. *Within the five-foot planter strip, two-inch minimum caliper trees with a maximum of thirty-five feet of separation between the trees to increase the tree canopy over the accessway;*
 - 4. *In satisfying the requirements of this section, evergreen plant materials that grow over forty-two inches in height shall be avoided. All plant materials shall be selected from the Oregon City Native Plant List.*
- G. *Accessways shall be designed to prohibit unauthorized motorized traffic. Curbs and removable, lockable bollards are suggested mechanisms to achieve this.*
- H. *Accessway surfaces shall be paved with all-weather materials as approved by the city. Pervious materials are encouraged. Accessway surfaces shall be designed to drain stormwater runoff to the side or sides of the accessway. Minimum cross slope shall be two percent.*
- I. *In parks, greenways or other natural resource areas, accessways may be approved with a five-foot wide gravel path with wooden, brick or concrete edgings.*
- J. *The community development director may approve an alternative accessway design due to existing site constraints through the modification process set forth in Section 12.04.007.*
- K. *Ownership, liability and maintenance of accessways. To ensure that all pedestrian/bicycle accessways will be adequately maintained over time, the hearings body shall require one of the following:*
 - 1. *Dedicate the accessways to the public as public right-of-way prior to the final approval of the development; or*
 - 2. *The developer incorporates the accessway into a recorded easement or tract that specifically requires the property owner and future property owners to provide for the ownership, liability and maintenance of the accessway.*

Finding: Complies with condition. The applicant stated that the CDP Site Circulation Plan on Sheets C2.0 and C2.1 and the DDP Site Plans, Sheets C2.1 through C2.3 demonstrates that pedestrian circulation within the Master Plan Boundary is provided via a series of sidewalks, pathways, and trails. The layout of the proposed pathways has been designed to connect with existing and planned pedestrian facilities along the natural areas that exist within and adjacent the master plan area. The proposed design enables pedestrians to move throughout the site and access all of the amenities of the development safely. The proposed CDP amendment will not significantly impact the approved pedestrian circulation system. Six-foot wide sidewalks will be constructed along all internal and adjacent frontages of both Main Street and Agnes Avenue. The esplanade that runs the length of the eastern shore of the Clackamette Cove will remain unchanged. The applicant has provided connections between the proposed uses, buildings, parking areas and open space through a series of separated pathways.

These pathways are approved to be eight (8)-feet wide and are designed to be ADA accessible to the greatest extent possible. Due to topography constraints some pathways may have grades that exceed the requirements of ADA.

The proposed esplanade will be located in a previously granted public pedestrian access easement. The other pathways are private. The applicant states that the esplanade “will remain unchanged” but does not provide comparison. The plans submitted with CP 09-02 indicate width, landscaping, and lighting that comply with the standards. The applicant proposed to replace a portion of the Clackamette river Trail with this project. The alignment will be rerouted temporarily during Phase 1 and permanently installed during phase 2. Staff has suggested an adjustment in OCMC 17.65.070 to not apply this portion of the code for the temporary pathway along the Cove. The construction plan submittal for Phase 2 will also need to show compliance with current standards for public accessways. As the design details are not required for the Concept Plan, a condition is not warranted at this time. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

12.04.205 - Mobility standards.

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

- A. *For intersections within the regional center, the following mobility standards apply:*
 - 1. *During the first hour, a maximum v/c ratio of 1.10 shall be maintained. For signalized intersections, this standard applies to the intersection as a whole. For unsignalized intersections, this standard applies to movements on the major street. There is no performance standard for the minor street approaches.*
 - 2. *During the second hour, a maximum v/c ratio of 0.99 shall be maintained at signalized intersections. For signalized intersections, this standard applies to the intersection as a whole. For unsignalized intersections, this standard applies to movements on the major street. There is no performance standard for the minor street approaches.*
 - 3. *Intersections located on the Regional Center boundary shall be considered within the Regional Center.*
- B. *For intersections outside of the Regional Center but designated on the Arterial and Throughway Network, as defined in the Regional Transportation Plan, the following mobility standards apply:*
 - 1. *During the first hour, a maximum v/c ratio of 0.99 shall be maintained. For signalized intersections, this standard applies to the intersection as a whole. For unsignalized intersections, this standard applies to movements on the major street. There is no performance standard for the minor street approaches.*
 - 2. *During the second hour, a maximum v/c ratio of 0.99 shall be maintained at signalized intersections. For signalized intersections, this standard applies to the intersection as a whole. For unsignalized intersections, this standard applies to movements on the major street. There is no performance standard for the minor street approaches.*
- C. *For intersections outside the boundaries of the Regional Center and not designated on the Arterial and 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. *Until the city adopts new performance measures that identify alternative mobility targets, the city shall exempt proposed development that is permitted, either conditionally, outright, or through detailed development master plan approval, from compliance with the above-referenced mobility standards for the following state-owned facilities:*
 - I-205/OR 99E Interchange*
 - I-205/OR 213 Interchange*
 - OR 213/Beavercreek Road*
 - State intersections located within or on the Regional Center Boundaries*
- 1. *In the case of conceptual development approval for a master plan that impacts the above references intersections:*
 - a. *The form of mitigation will be determined at the time of the detailed development plan review for subsequent phases utilizing the Code in place at the time the detailed development plan is submitted; and*
 - b. *Only those trips approved by a detailed development plan review are vested.*
- 2. *Development which does not comply with the mobility standards for the intersections identified in [Section] 12.04.205.D shall provide for the improvements identified in the Transportation System Plan (TSP) in an effort to improve intersection mobility as necessary to offset the impact caused by development. Where required by other provisions of the Code, the applicant shall provide a traffic impact study that includes an assessment of the development's impact on the intersections identified in this exemption and shall construct the intersection improvements listed in the TSP or required by the Code.*

Finding: Please refer to the analysis in Title 12 of the Oregon City Comprehensive Plan.

12.04.210 - Street design—Intersection angles.

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

Finding: Complies as proposed. The applicant stated that due to the existing orientation of Main Street and Agnes intersection where the two roads come together at an acute angle on a bend in Main Street, a roundabout intersection is proposed to optimize safe travel through the intersection. Consistent with the Multi-Modal Connectivity Plan, the proposed streets are designed to be multi-modal, with vehicle and bicycle lanes and sidewalks for pedestrians. As shown on the South Site Plan, Sheet 1.1, of the CDP Plan Set, the Main Street crown section will taper from a two (2) lane 11 foot travel into a 20 foot travel lane. Forcing a decrease in speed prior to the approach, the roundabout maintains the intent of one-hundred feet of tangential distance adjacent to the intersection onto either Main Street or Agnes Avenue. The roundabout has been designed to the standard of the Federal Highway Administration, allowing for adequate large truck turn radius.

12.04.215 - Street design—Off-site street improvements.

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

Finding: Complies as proposed. Improvements are proposed to adjacent existing streets.

12.04.220 - Street design—Half street.

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

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

Finding: Complies with condition. Main Street and Agnes Avenue improvements are proposed as full-street sections. Agnes Avenue Extension is conditioned to be constructed as a half-street improvement, as there is potential for completion of the second half with future adjacent development. See discussion in Section 12.04.007. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

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

The city discourages the use of cul-de-sacs and permanent dead-end streets except where construction of a through street is found by the decision maker to be impracticable due to topography or some significant physical constraint such as geologic hazards, wetland, natural or historic resource areas, dedicated open space, existing development patterns, arterial access restrictions or similar situation as determined by the community development director.

When permitted, access from new cul-de-sacs and permanent dead-end streets shall be limited to a maximum of twenty-five dwelling units and a maximum street length of two hundred feet, as measured from the right-of-way line of the nearest intersecting street to the back of the cul-de-sac curb face. In addition, cul-de-sacs and dead end roads shall include pedestrian/bicycle accessways as required in this chapter. This section is not intended to preclude the use of curvilinear eyebrow widening of a street where needed.

Where approved, cul-de-sacs shall have sufficient radius to provide adequate turn-around for emergency vehicles in accordance with fire district and city adopted street standards. Permanent dead-end streets other than cul-de-sacs shall provide public street right-of-way/easements sufficient to provide turn-around space with appropriate no-parking signs or markings for waste disposal, sweepers, and other long vehicles in the form of a hammerhead or other design to be approved by the decision maker. Driveways shall be encouraged off the turnaround to provide for additional on-street parking space.

Finding: Not applicable. Cul-de-sacs and dead-end streets are not a part of the proposal.

12.04.230 - Street design—Street names.

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

Finding: Complies as proposed. Streets are existing and are named.

12.04.235 - Street design—Grades and curves.

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

Finding: Complies as proposed. The applicant stated that as shown on the details provided for Main Street and Agnes Avenue on Sheet 1.0 of the CDP Plan Set, the grades and the center line radii conform to the collector classified street design standard. Although the referenced sheet does not provide information regarding grades and radii, the design appears to meet the City's design standards. These criteria will be reviewed in further detail at time of construction plan review.

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

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

Finding: Not applicable. The measures outlined in this section have not been found to be warranted.

12.04.245 - Street design—Pedestrian and bicycle safety.

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

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

Finding: Complies with condition. The applicant stated that as shown on the DDP Plan Set, Sheet A101, Site Plan, Exhibit B, a pedestrian crossing is proposed between the clubhouse and Building #3. An esplanade stair case from the internal pedestrian circulation route on-site leads down and adjoins to the proposed sidewalk meeting street grade on Main Street. The pedestrian crosswalk will be constructed of different materials than the concrete street section from the bottom of the stairs, across Main Street, to the opposite sidewalk. This pathway leads to the proposed temporary trailhead parking lot. The prominent features of this sidewalk and crossing will alert vehicles of the presence of pedestrians and facilitate safe crossings.

Staff feels that because a parking lane does not exist, it is not feasible to extend the curb into the street section. The proposal to draw attention to the crossing with varying materials is a valid design alternative. Additional safety features, such as warning signals, will be further evaluated at time of construction.

The current proposal includes pedestrian crossings at the esplanade, at the roundabout across the Agnes Avenue stub, and at the trailhead parking lot on Tract A. Other needed pedestrian crossing locations have been potentially identified at Main Street on the south of the roundabout, and at the northernmost entrance to lot 2. The onsite pedestrian pathways need to continue from the apartment site to this public street crossing. Exact locations will be determined at time of construction plan review, as recommended by a Traffic Engineer. Conditions will be applied to ensure adequate pedestrian and bicycle connectivity is provided. It is reasonable and likely that these criteria can be met with these conditions. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

12.04.255 - Street design—Alleys.

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

Finding: Not applicable. Alleys are not proposed or required for this development.

12.04.260 - Street design—Transit.

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

Finding: Not applicable. The development does not abut transit streets.

12.04.265 - Street design—Planter strips.

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

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

Finding: See 12.04.007 for discussion of planter strip design.

12.04.270 Standard construction specifications.

The workmanship and materials for any work performed under permits issued per this chapter shall be in accordance with the edition of the "Oregon Standard Specifications for Construction" as prepared by the Oregon Department of Transportation (ODOT) and the Oregon Chapter of American Public Works Association (APWA) and as modified and adopted by the city in accordance with this ordinance, in effect at the time of application. The exception to this requirement is where this chapter and the Public Works Street Design Drawings provide other design details, in which case the requirements of this chapter and the Public Works Street Design Drawings shall be complied with. In the case of work within ODOT or Clackamas County rights-of-way, work shall be in conformance with their respective construction standards.

Finding: Applicable. The development will consist of elements that will need to comply with the stated construction standards. Applicable standards will be determined at time of construction plan review and will be carried out during inspection of the public improvement construction.

12.04.280 Violation—Penalty.

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

Finding: Not applicable. No violations have been identified.

CHAPTER 13.12 STORMWATER MANAGEMENT

13.12.050 Applicability and exemptions.

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

- A. Stormwater Conveyance. The stormwater conveyance requirements of this chapter shall apply to all stormwater systems constructed with any development activity, except as follows:
1. The conveyance facilities are located entirely on one privately owned parcel;
 2. The conveyance facilities are privately maintained; and
 3. The conveyance facilities receive no stormwater runoff from outside the parcel's property limits.

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

Finding: Applicable. The conveyance facilities will connect to the public storm system.

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

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

Finding: Applicable. The development will create over 5000 square feet of impervious surface per parcel; therefore, water quality standards are applicable.

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

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

Finding: Applicable. The development meets criteria in Subsection 1 due to elevations, location adjacent to Clackamas River, and conveyance pipe location.

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

1. Bulk petroleum storage facilities;
2. Above ground storage of liquid materials;
3. Solid waste storage areas, containers, and trash compactors for commercial, industrial, or multi-family uses;
4. Exterior storage of bulk construction materials;
5. Material transfer areas and loading docks;

6. *Equipment and/or vehicle washing facilities;*
7. *Development on land with suspected or known contamination;*
8. *Covered vehicle parking for commercial or industrial uses;*
9. *Industrial or commercial uses locating in high traffic areas, defined as average daily count trip of two thousand five hundred or more trips per day; and*
10. *Land uses subject to DEQ 1200-Z Industrial Stormwater Permit Requirements.*

Finding: Complies with condition. The development will include solid waste facilities for multi-family use; therefore, additional measures apply. The plan shows a covered solid waste collection area, but lacks the other required protections as outlined in Section 6.5 of the Stormwater and Grading Design Standards. A condition will be applied to ensure adequate protection from stormwater pollution is provided. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

13.12.060 *Abrogation and greater restrictions.*

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

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

Finding: Applicable. The applicant has not provided a response to this section. The construction plans that will be submitted for approval for the site plan and the public facilities, as a matter of course, will be stamped by the appropriate design professionals certifying compliance with all applicable codes.

13.12.070 *- Severability.*

The provisions of this chapter are severable. If any section, clause, or phrase of this chapter is adjudged invalid by a court of competent jurisdiction, the decision of that court shall not affect the validity of the remaining portions of this ordinance.

Finding: Not applicable. This application is not subject of any court action at this time.

13.12.080 *- Submittal requirements.*

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

Finding: Complies as proposed. The applicant submitted the required preliminary stormwater design plans and reports with this application, and will submit final design documents upon public facilities and building permit construction plans.

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.*

Finding: Complies as proposed. The applicant stated that as shown on the Storm Plan, Sheets C4.0 through C4.2 and the Preliminary Stormwater Report, provided under Exhibit H, the stormwater management system meets the general purpose of ensuring the new development does not have adverse impacts on the existing downstream systems and stormwater infrastructure and it will not

increase nonpoint source pollution typically associated with increase impervious materials and stormwater run-off.

The submitted preliminary materials appear to comply with the standards; therefore, it is reasonable to assume that final materials that will be required with construction plan submittals will also comply.

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

Finding: Complies as proposed. the applicant stated that following the City of Oregon City Stormwater and Grading Design Standards, a Storm Plan is included on Sheets C4.0 through C4.2 and a Preliminary Stormwater Report is provided under Exhibit H with this submittal demonstrating compliance with the provisions of this section. The submitted preliminary materials appear to comply with the standards; therefore, it is reasonable to assume that final materials that will be required with construction plan submittals will also comply.

13.12.090.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.

Finding: Complies as proposed. The applicant stated that as shown on the Storm Plan, Sheets C4.0 through C4.2, Exhibit B, stormwater runoff will be collected through multiple trapped catch basins on-site, in the parking areas. Stormwater runoff will be treated onsite with Contech StormFilters and a LIDA Swale prior to being released to the existing public storm sewer system. The proposed system does not interfere with future extension of the existing system.

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

Finding: Complies with condition. The applicant stated that stormwater is not anticipated to discharge into open channels or streams. Stormwater will drain into the Clackamette Cove and dump into the Clackamas River and Willamette River. Both rivers have 100 square miles of basin area and, is therefore, not subject to the streambank erosion protection standard. The runoff discharges into a body of water that is not classified as a channel or stream. It is still appropriate and necessary to provide energy dissipation and erosion control measures at the outfalls. For clarity, and to ensure the waters of the Cove are protected, a condition will be applied to ensure protective measures are installed as warranted. Permanent energy dissipation and erosion control measures shall be installed at both existing storm outfalls as warranted per Stormwater and Grading Design Standards. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

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

Finding: Not applicable. The applicant states that both the Clackamas River and the Willamette River, which the Clackamette Cove discharges into, have adequate downstream conveyance capacity. Therefore, stormwater detention is not required for this proposal. The City concurs that stormwater quantity control facilities are not required and thus this section is not applicable. However, it should be noted that the required stormwater quality control facilities will require an operation and maintenance plan and recorded covenant in accordance with the Stormwater and Grading Design Standards.

13.12.100 Alternative materials, alternative design and methods of construction.

The provisions of this chapter are not intended to prevent the use of any material, alternate design or method of construction not specifically prescribed by this chapter or the Public Works Stormwater and Grading Design Standards, provided any alternate has been approved and its use authorized by the city engineer. The city engineer

may approve any such alternate, provided that the city engineer finds that the proposed design is satisfactory and complies with the intent of this chapter and that the material, method, or work offered is, for the purpose intended, at least the equivalent of that prescribed by this chapter in effectiveness, suitability, strength, durability and safety. The city engineer shall require that sufficient evidence or proof be submitted to substantiate any claims that may be made regarding its use. The details of any action granting approval of an alternate shall be recorded and entered in the city files.

Finding: Not applicable. The applicant has not proposed alternate methods. Should the applicant propose alternate design with submittal of construction plans, the design will be reviewed by City Engineer for compliance with the intent of this code.

13.12.110 *Transfer of engineering responsibility.*

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

Finding: Not applicable. The applicant has not requested a transfer of engineering responsibility at this time. The City utilizes a standard agreement that identifies the engineer-of-record for public improvement projects. Should the need arise after construction plan preparation has begun, the City will implement a new agreement identifying the responsible party.

13.12.120 *Standard construction specifications.*

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

Finding: Applicable. The development will consist of elements that will need to comply with the stated construction standards. Applicable standards will be determined at time of construction plan review and will be carried out during inspection of the public improvement construction.

13.12.130 - *Administrative provisions.*

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

- A. *Engineer's cost estimate (also may be known as engineer's opinion of probable construction cost).*
- B. *Plan check and inspection fees (as set by city resolution).*
- C. *Certificate of liability insurance for city funded public projects contracted by the city (not less than one million dollars single incident and two million dollars aggregate).*
- D. *Preconstruction meeting (if required by some other provision of this code).*
- E. *Performance Assurance(s). Applicant must submit a letter of commitment, cash deposit or other form of assurance in form and substance satisfactory to the city engineer and city attorney, to cover the engineer's cost estimate for the construction of the stormwater facility. This is required to assure that the following are accomplished to the satisfaction of the city engineer:*
 1. *Work shown on the development plans is accomplished;*
 2. *Appropriate as-built/record drawings and electronic files are delivered to the city. (As-built drawings, or record drawings, will be on four-mil Mylar.) Electronic files shall be submitted per city engineer format requirements;*
 3. *Compliance with the criteria in this chapter and the Public Works Stormwater and Grading Design Standards, as well as with other city standards, ordinances, resolutions or rules;*
 4. *Permanent stabilization and/or restoration of the impact from the development;*
 5. *Fulfillment of all conditions of approval;*
 6. *Payment of all outstanding fees;*
 7. *Submittal of any required maintenance guarantee(s).*
- F. *Developer/engineer agreement for public works improvements.*

- G. *Land division compliance agreement (if applicable).*
- H. *Project engineer's certificate of completion.*
- I. *Operation and maintenance easement (if applicable).*
- J. *Details on individual items required by this subsection can be obtained by contacting the city's engineering division. Many items, such as the engineer's cost estimate and plan check and inspection fee, maybe be submitted in conjunction with documentation for other infrastructure improvements that are done with the development (such as street, sanitary sewer, and water).*

Finding: Applicable. These administrative provisions will be implemented per Public Works standard operating procedures upon submittal of public improvement construction plans.

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 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 must be found to be in a clean, functional condition by the city engineer before acceptance of maintenance responsibility by the city.*

Finding: Not applicable. The stormwater management facilities are proposed to be constructed on the private site and will not be maintained by the City as public facilities.

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.*

Finding: Complies with condition. Compliance with the Stormwater and Grading Design Standards will include execution of the operation and maintenance plan and covenants, as standard operating procedure. A condition is applied to require the plan and associated covenant to ensure compliance. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

13.12.150 - *Penalties and enforcement.*

- A. *The city is authorized to make inspections and take such actions as required to enforce the provisions of this chapter. The city has the authority to enter onto land for the purpose of inspecting site development activities or resulting improvements. City staff will make an effort to contact the property owner before entering onto that property.*
- B. *If the city engineer determines a site has any unpermitted or illegal facilities placed, constructed or installed on the site, then the city engineer shall notify the owner in writing directing the owner to submit a written plan (with construction drawings completed by a professional engineer, if otherwise required by this chapter) within ten calendar days. This plan (and drawings, if required) shall depict the restoration or stabilization of the site or correct the work that has adversely impacted adjacent or downstream property owners. The city*

engineer shall review the plan (and drawings, if required) for compliance with city standards and issue comments for correction, if necessary, or issue an approval to the owner. The city shall establish a fee by resolution for such review, with all costs borne by the owner. If the required corrective work constitutes a grading permit, then the city shall collect the appropriate grading permit fee.

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

Finding: Applicable. These provisions will be covered in the standard agreements to be executed during the construction review process.

13.12.160 Hazardous conditions.

- A. *Determination and Notification.* If the city engineer determines that any excavation, embankment, erosion/sedimentation control or drainage facility is a safety hazard; endangers property; or adversely affects the safety, use or stability of a public way, water quality resource areas (pursuant to [Chapter] 17.49) or drainage course, the owner(s) of the subject property and/or the person or agent in control of the property shall be required to repair or eliminate the hazard in conformance with the requirements of this chapter and the Public Works Stormwater and Grading Design Standards. At the time that the city engineer makes the determination that a hazardous condition exists, the property owner and/or person or agent in control of the property will be notified in writing that the hazard exists.
- B. *Order to Correct.* The city engineer will order the specific work to be undertaken or will order that an engineering design be submitted for review and approval by the city engineer, and will specify the time periods within which the hazardous conditions be repaired or eliminated. In the event that the owner and/or the person or agent in control of the property fails to comply with this order, that person shall be subject to the code enforcement procedures of Chapters 1.16, 1.20, and 1.24.

Finding: Not applicable. No hazardous conditions have been created by construction, as construction has not commenced.

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.*

Finding: Complies with condition. The proposed development will exceed one acre and thus will require an NPDES 1200-C permit from Oregon DEQ. The permit will be required prior to construction plan approval. It is possible that DEQ can issue one permit to encompass all phases of the development. A condition has been applied to ensure the permit is obtained in a timely fashion. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

13.12.180 Violation—Penalty.

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

Finding: Not Applicable. No violations have been identified.

CHAPTER 17.65 MASTER PLANS

17.65.050.A.1. *Narrative statement. An applicant must submit a narrative statement that describes the following:*

a. Current uses of and development on the site, including programs or services.

b. History or background information about the mission and operational characteristics of the institution that may be helpful in the evaluation of the general development plan.

Finding: Complies as proposed. The applicant submitted a background of the site in Exhibit 2.

17.65.050.A.1.c. *A vicinity map showing the location of the General Development Plan boundary relative to the larger community, along with affected major transportation routes, transit, and parking facilities. At least one copy of the vicinity map must be eight and one-half inches x eleven inches in size, and black and white reproducible.*

d. Non-institutional uses that surround the development site. May also reference submitted maps, diagrams or photographs.

Finding: Complies as proposed. The application included a Vicinity Map in Exhibit 2.

17.65.050.A.1.e. *Previous land use approvals within the General Development Plan boundary and related conditions of approval.*

Finding: Complies with condition. The subject site has received numerous approvals, though only Planning files CP 08-05, CP 09-01, TP 08-11 and WR 08-21 remain valid. The conditions of approval associated with each approval are identified below.

2008 APPROVAL # CP 08-05, TP 08-11 and WR 08-21

2008 Water Resource Review (WR 08-21)

At the time that the 2008 CDP application was vested, the OCMC included Chapter 17.49, Water Quality Resource Overlay District, which included provisions regarding riparian buffer requirements. On The Cove site, the standard buffer width from the ordinary high water line (OHWL) of the Clackamette Cove was 250-feet. Through the Water Quality Resource and CDP review, the applicant requested, and the City granted, approval of a reduction of the Water Quality Resource Area (WQRA) from 250-feet to 50-feet. The applicant also requested a limited encroachment into the 50-foot buffer for the purposes of constructing a mixed use office building on Lot 1 of the development. The establishment of a 50-foot buffer through the 2008 CDP review remains valid.

2008 Subdivision Review (TP 08-11)

Included with the suite of approvals was a proposal to subdivide parent parcels within the aggregated Cove master plan site and dedicated public rights-of-way. The City approved this request in conjunction with the package of requested land use approvals.

Compliance with 2008 approval: On February 10, 2009 the City of Oregon City issued final approval of a CDP for The Cove, a master planned development surrounding the Clackamette Cove. The CDP proposed that the project would be built in eight phases over 10-years and the record established a CDP expiration date of February 10, 2019. The 2008 Master Plan was subsequently amended in 2009 and compliance with the Approved Master (Concept) Plan is analyzed in 17.65.050.C. The proposal is analyzed for compliance with the previous conditions of approval below. A portion of the conditions are applicable to the proposed Phase 1 and others were subsequently amended with the 2009 Master Plan approval.

CP 08-05 Conditions of Approval:

CP 08-05 COA #1. The applicant shall provide an easement or right-of-way for a vehicular and pedestrian connection between the Oregon City Shopping Center and Main Street extension. The location and design of the connection shall be identified as part of the review during the Detailed Development Plan for the phase 3 development of the project.

Finding: Please refer to the analysis in Chapter 17.62.050.A.2.g and h of this report.

CP 08-05 COA #2. The applicant shall increase the parking associated with the North Park from 10 spaces to a 28 spaces.

Finding: Not applicable. The construction of North Park is not a part of the proposed Phase 1. The final construction of the North Park is included in Phase 2 and will be completed prior to that phase.

CP 08-05 COA #3. The applicant shall construct Main Street, a collector street designated in the TSP, through and adjacent to the site.

Finding: Complies with condition. The Phase 1 proposal includes completing 1,370 lineal feet of improvements to Main Street along the Garden Apartment frontage. These improvements are detailed in Plan Sheets 1.0 and 1.1 in Exhibit B. It is anticipated that Phases 2 and 3 will complete the remainder of Main Street as identified on Sheet 3.1. See section 12.04.007 for discussion of modification of the prior approved Main Street section. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

CP 08-05 COA #4. The applicant shall construct Agnes Avenue, a collector street designated in the TSP, through and adjacent to the site. As part of the phase 1 development of the site, the applicant shall construct a partial Agnes Avenue, which will include two (2) 5-foot bike lanes, one (1) 11-foot paved section for southbound one-way traffic, one (1) 6.5-foot planter strip and one (1) 6-foot sidewalk from North Park to Washington Street. The other half of Agnes Avenue shall be constructed as proposed by the applicant in phase 6.

Finding: Complies with condition. The applicant proposed to alter the phasing of the proposed project from previous development plans in a manner that would eliminate improvements to Agnes in Phase 1. See Sheet 1.0 and 2.0 in Exhibit B, which details the Agnes Avenue Shed Section. However, Agnes Avenue is now planned for completion in Phase 2, estimated to begin in 2016. This response implies that the applicant intends to construct a full section for Agnes; however, the proposal elsewhere states that only a 12-foot path is proposed. See section 12.04.007 for discussion of modifications of the prior approved Agnes Avenue sections. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

CP 08-05 COA #5. The applicant shall submit design details of the internal street system including the specifics of intersection spacing, sight distance, bicycle lanes, sidewalks, and pedestrian circulation during the review of the subsequent detailed development plans.

Finding: Complies with condition. The proposed Main Street, roundabout and Agnes Avenue improvements are shown on Sheets C2.1 – C2.3, of the DDP Plan Set. Sheet 1.0 in the CDP Plan Set, Exhibit B, the Main Street shed and crown sections and Agnes Avenue shed section detail the proposed paved lane widths, bike lanes and sidewalks as previously conditioned from approvals CP 08-05 and CP 09-02. A Circulation Plan is found in Exhibit B, Sheets 2.0 – 2.1. See section 12.04 for discussion of street and access design. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

CP 08-05 COA #6. The applicant has volunteered to provide the Oregon Department of Transportation \$100,000 prior to the issuance of an occupancy permit for the medical office building or residential development, whichever occurs first. These funds may be used for the design and/or construction of phase two of the McLoughlin Enhancement project and/or improvements to Firestone Alley. If ODOT decides to make these improvements prior to receiving the payment from the applicant, the applicant will reimburse ODOT an equal amount, up to \$100,000,

prior to the issuance of an occupancy permit for the medical office building or (residential development, whichever occurs first.

Finding: Please refer to condition #7 of the 2009 Master Plan below.

CP 08-05 COA #7. *The requested adjustment to the perimeter and interior landscaping requirements shall not apply to the above grade parking lots for the medical office building, North Park and the mixed-use building. There will be substantial above grade parking at the medical office-building site (266 spaces), the North Park Parking Lot (28 spaces) and the mixed-use building site (19 spaces), which shall meet the parking lot landscaping requirements of the OCMC.*

Finding: Not applicable. Compliance of the perimeter and interior landscaping requirements found in OCMC Title 17 will be addressed with submittal of the subsequent detailed development plans and no change to this condition of approval is anticipated or requested.

CP 08-05 COA #8. *Water quality treatment shall be provided for the development to mitigate impacts to downstream receiving waters as set forth in the Oregon City Stormwater Manual and Design Standards.*

Finding: Complies as proposed. As detailed on Sheet C3.1 of the DDP Plan Set, a 10 foot wide swale is proposed onsite between Buildings 2, 4, 6, 7, 8, 9, 10 and 11. Additionally, part of the approved cross section for the Main Street shed connection, a 12.5 foot wide roadside swale is proposed, along with a 10.5 foot roadside swale along the Agnes Avenue shed section (Site Plan, Sheet 1.0, Exhibit B). The stormwater management plan for the Phase 1 project site is detailed in Sheets 4.0 - 4.3 of Exhibit B. Rock check dams are proposed in the interior of the site and HDPE N-12 pipes that range from 4 to 15 inches are proposed along the perimeter of Lot 2. Trapped catch basins are proposed at the lowest grade in the directional flow of run-off to collect run-off. Additionally, a LIDA swale and conveyance ditches are proposed interior to the site as part of Phase 1 development. Specific designs of stormwater management for future phases will be addressed as necessary with the design of future phases. See also discussion in section 13.12 of this report.

CP 08-05 COA #9. *The applicant shall submit a detailed design of the band shelter and meet the construction requirements for a structure within the flood plain per the standards identified in Chapter 17.42: Flood Management Overlay District of the Oregon City Municipal Code. The design shall be approved by the city prior to the issuance of a building permit for the construction of the structure.*

Finding: Please refer to the analysis in Chapter 17.42 of this report.

CP 08-05 COA #10. *A fill permit will be required either separately or in conjunction with construction plan approvals for these improvements to meet City grading standards and flood plain equal cut and fill requirements.*

Finding: Please refer to the analysis in Chapter 17.42 of this report.

CP 08-05 COA #11. *The Applicant shall provide an Erosion Prevention and Sedimentation Control Plan to the City for approval pursuant to Oregon City Municipal Code Section 15.48.*

Finding: Complies as proposed. A grading and erosion plan is provided for the Phase 1 DDP on Sheets C3.0-3.6. As shown on the plans, inlet protections are proposed at the lowest grade and in the path of the natural directional flow of run-off across the site. A sediment fence is proposed along the Phase 1 site boundaries. At areas with steep slopes, such as the North Park area (Sheet C3.4), slope stabilization and a temporary sediment pond is proposed during construction. Additionally, stabilized construction entrances are proposed for the anticipated grading activities in North Park and Lot 1.

CP 08-05 COA #12. *The applicant is proposing to provide sidewalks and curbs consistent with the City's Engineering Policies and Standards. The applicant has proposed some alternatives using swales thereby perhaps eliminating some curbs, as permitted by the City's Engineering Policy, and will be reviewed and approved during construction plan review.*

Finding: Complies with condition. All the proposed road improvements along the apartment frontage on Main Street and Agnes Avenue are detailed on the CDP Plan Set, Sheets 1.0 and 1.1. These cross sections are consistent with CP 08-05 Conditions of Approval #20 and CP 09-02 Condition of Approval #4, as well as the City's Engineering Policies and Standards. See section 12.04.007 for discussion of modification of the prior approved street sections. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

CP 08-05 COA #13. The applicant shall prepare a revised tree removal plan identifying trees that are to be removed that are not located within the vegetated corridor or proposed right-of-ways, easements, building pads, public walkways and parking lots. The trees that are not located within one of the identified locations above shall be mitigated for per the replacement schedule identified above or as approved by the Community Development Director.

Finding: Complies as proposed. Tree removal is identified within this report.

CP 08-05 COA #14. The applicant shall submit a revised lighting plan demonstrating compliance with this requirement for the esplanade 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.

Finding: Not applicable. Development of the esplanade is proposed for Phase 2. Therefore, this condition of approval is not applicable to the proposed Phase 1 development and will be addressed with the DDP submittal for Phase 2.

CP 08-05 COA #15. An adequately sized water service and meter assembly shall be installed and appropriate system development charges shall be paid for each building when it develops as part of the building permit process.

Finding: Complies with condition. The location of the water facilities are detailed in Sheets C5.0 – C5.2, Water & Utility Plan, Exhibit B. System Development Charges (SDC) will be paid prior to building permit issuance. See section 17.62.050.A for discussion of water service requirements. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

CP 08-05 COA #16. New fire hydrants shall be located and installed per Clackamas County Fire District No. 1's requirements.

Finding: Complies with condition. As shown on the Water and Utility Plan, Sheets C5.1 - C5.2, fire hydrants with water line connections are proposed across the site. The locations of which are in compliance with the Clackamas County Fire District defined standards. Fire hydrants are not shown along the public street frontages, as required by City design standards. A condition is applied to ensure proper fire coverage is provided. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

CP 08-05 COA #17. Sanitary sewer laterals shall be installed for the new buildings and appropriate system development charges shall be paid for each building when it develops as part of the building permit process.

Finding: Complies as proposed. The location of sanitary sewer facilities are identified in Sheets C6.0 – C6.2, Sanitary Plan, Exhibit B. The SDC charges will be paid prior to building permit issuance.

CP 08-05 COA #18. The applicant is responsible for this project's compliance with Engineering Policy 00-01: Guidelines for Development. The policy pertains to any land use decision requiring the applicant to provide any public improvements.

Finding: Complies as proposed. The applicant plans to follow this CDP amendment and DDP request with a submittal of construction plans for Phase 1 public works improvements that meet the City standards listed in the document entitled Engineering Policy 00-01: Guidelines for Development.

CP 08-05 COA #19. The Applicant shall sign a Non-Remonstrance Agreement for the purpose of making sanitary sewer, storm sewer, water or street improvements in the future that benefit the Property and assessing the cost to benefited properties pursuant to the City's capital improvement regulations in effect at the time of such improvement.

Finding: Complies as proposed. No changes to this condition are proposed or requested with this CDP amendment and DDP request.

CP 08-05 COA #20. *The Applicant shall construct the following transportation improvements in order to facilitate connectivity and service for vehicles, bicyclists and pedestrians using the development. The first major improvement necessary to serve the condominiums will be the realignment of Agnes Avenue and Main Street. The Applicant is proposing to incorporate two (2) roundabouts into this new alignment in order to add an aesthetic quality to the roadways and to calm and direct traffic. While the City agrees on the concept of the two roundabouts, further design details and increased ROW in the area surrounding the two roundabouts will be required during construction plan review to accommodate a collector function. Main Street and Agnes Avenue are both designated as "collectors" and as such, the Applicant shall realign Main Street and Agnes Avenue with modified collector sections which includes four different sections, as detailed below:*

- *The first is the Agnes Avenue -- Shed Section which includes two (2) eleven-foot wide travel lanes, one (1) six-foot wide bike lane, a ten (10) and-a-half foot swale, one (1) six (6) foot sidewalk (proposed on the east side but should be moved over to the west side) and a fifteen (15) foot frontage zone.*
- *The second section is the Agnes Avenue and Main Street Crown Section. This section includes two (2) eleven (11) foot wide travel lanes, two (2) six (6) foot bike lanes, two (2) six-and-a-half (6 .5) foot wide planter strips and two (2) six (6) foot sidewalks.*
- *The third section is the Main Street Shed Section. This section includes two (2) eleven (11) foot wide travel lanes, two (2) six (6) foot bike lanes, a four-and-a-half (4.5) foot planter strip and a twelve-and-a-half (12.5) foot swale.*
- *The fourth and final section is Main Street with on-street parking section. This section includes two (2) eleven (11) foot wide travel lanes, two (2) six (6) foot bike lanes, eight (8) feet of parking, a twelve-and-a-half (12.5) foot swale and an eight (8) foot sidewalk.*

Finding: Complies with condition. This condition was amended with the 2009 CDP amendment (CP 09-02) conditions of approval. As shown on the Site Plan, Sheet 1.0 of the CDP Plan Set, the street sections proposed are outlined in the table below. As amended by CP 09-02 condition of approval # 4, no on-street parking is required. See 12.04.007 for discussion of street sections.

Road Section	Existing	Proposed
Main Street North (Shed Section)	60' ROW: 37' paved width (2) 11' travel lanes Shoulders with varying width from 3 to 10-feet	60' ROW: (2) 11' travel lane (2) 6' bike lanes (1) 4.5' planter strip with 0.5' curb (east side, along Cove) (1) 8' sidewalk (east side, along Cove) 12.5' swale with 0.5' curb (on garden apartment side of the road)
Main Street South (Crown Section)	60' ROW: 33-37' paved width (2) 11' travel lanes Shoulders with varying width from 3 to 10-feet	60' ROW: (2) 11' travel lane (2) 6' bike lanes (2) 4.5' planter strips with 0.5' curbs (2) 6' sidewalks
Agnes Avenue (Crown Section) *Proposed for Phase 2	Unimproved	60' ROW (2) 11' travel lane (2) 6' bike lanes (2) 6.5' planter strips with 0.5' curbs (2) 6' sidewalks
Agnes Avenue (Shed Section)	Unimproved	60' ROW (varies) (2) 11' travel lane (1) 6' bike lanes (1) 6.5' planter strips with 0.5' curbs (1) 6' sidewalks 10.5' swale with 0.5' curb
Roundabout	60' ROW (per Main Street)	20' Travel Way 40' Central Landscape Area 30' Mountable Truck Aprons 4.5' planter strips with 0.5' curbs 10' sidewalk

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

CP 08-05 COA #21. The applicant shall dedicate a 60-foot wide right-of-way for both Agnes Avenue and Main Street. For that portion of Main Street that is adjacent to the proposed recreation facility, where on-street parking is allowed, the applicant shall dedicate a 64-foot wide right-of-way.

Finding: Complies as proposed. This condition was amended with the 2009 CDP amendment (CP 09-02) conditions of approval. As amended by CP 09-02 condition of approval # 4, on-street parking is not required and will not be included within the Main Street roadway cross section. Therefore, the required dedication of Main Street and Agnes is 60 feet. This section was dedicated with the previous approved DDP in 2008.

CP 08-05 COA #22. Where Agnes Avenue fronts the proposed condominiums, the proposed section will be further modified to include two (2) "decoupled" 11-foot travel lanes. Bicycle traffic that would normally have utilized the western portion of the street will be encouraged to use the waterfront esplanade. A six-foot bike lane on the (east side of Agnes Avenue will still be incorporated. The Applicant is proposing the removal of the westernmost sidewalk for this portion of the roadway and the removal of the sidewalk in select sections. The design has been proposed in order to reduce redundancy in impervious surfaces. This section of the roadway will also incorporate seven-foot planted swales and a one-foot utility strip on both sides. Access to Tax Lots 1506 and 1507 shall be maintained and shall be determined during plan review.

Finding: Complies with condition. The proposed CDP Amendment does not request a change to this design of Agnes Avenue, which will be constructed in Phase 2 of the project. The application materials contained many discrepancies regarding the proposed street designs. See section 12.04.007 for discussion of modifications of the prior approved Agnes Avenue sections. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

CP 08-05 COA #23. The applicant shall provide a non-vehicular access strip (NVAS) on the final plat as directed along Agnes Avenue and the intersections and curves around the roundabouts to provide safe locations for driveways.

Finding: Not applicable. The final plat of the Cove Master Plan has previously platted.

CP 08-05 COA #24. The applicant shall provide ten-foot wide public utility easements (PUE's) along all street frontages. All easements required for the final engineering plans shall be dedicated to the public on the final plat. All existing and proposed utilities and easements shall be indicated on the construction plans. Any off-site utility easements required for this project shall be obtained and submitted to the City prior to approval of the construction plans.

Finding: Complies as proposed. As part of the original plat, the PUE was completed along Main Street, north of the proposed roundabout. The southern/eastern portion along Main Street from the roundabout will be completed as part of this phase.

CP 08-05 COA #25. The requested adjustment to increase the medical office building parking from 3.33 to 5.0 parking spaces per 1,000 square feet shall be allowed. The applicant of the phase 3 development of the site shall provide the City with a shared parking agreement prior to the approval of the phase 3 Detailed Development Plan. The agreement will allow public use of at least the difference in the number of spaces allowed between the office standard of 3.33 and the maximum of 5.0 per 1,000 square feet. The time of the shared parking shall be determined by the applicant and City during the phase 3 Detailed Development Plan approval.

Finding: Not applicable. The application did not include medical office or implementation of phase 3.

CP 08-05 COA #26. To ensure that the public open spaces and pathways are protected, the applicant shall record public access easements over all pathways and open spaces described as open to the public in the application.

Finding: Complies as proposed. No changes to this condition of approval are requested and it is anticipated that public access easements will be recorded over public pathways and open spaces that are outside of the public right of way. There are no open spaces or pathways within the Lot 2 garden apartment project included with this DDP request.

CP 08-05 COA #27. The applicant shall submit a revised parking lot landscaping plan for the North Park parking area(s) demonstrating compliance with the parking lot landscaping requirements of the Oregon City Municipal Code.

Finding: Not applicable. This condition of approval is not applicable to the proposed Phase 1 improvements and will be addressed in a future DDP submittal for Phase 2.

2009 CDP AMENDMENT # CP 09-02

Finding: Complies with condition. The applicant submitted revised documentation which identifies the uses within the Master Plan boundary. The square footages and uses in the revised information comply with the approved Master Plan but differ from the Phasing Plan in the application. Prior to issuance of a permit associated with the proposed development the applicant shall submit a revised Phasing Plan reflecting the uses and square footages identified in the 2009 Master Plan approval with any approved amendments within this report. The table below identifies the changes in land uses for The Cove as requested and approved under CP-09-02.

Type of Use	2008 Original Approval	2009 Currently Approved	2015 Proposed Uses	2015 (Proposed Phasing Plan)
Condominiums	224 units	180 units	439 multi-family units	439 multi-family units
Apartments	0 units	220 units		
Retail Sales	0 sq. ft.	3,520 sq. ft.	3,520 sq. ft.	0 sq. ft.
High Turnover Restaurant	8,000 sq. ft.	6,750 sq. ft.	6,700 sq. ft.	6,950* sq. ft.
Quality Restaurant	8,000 sq. ft.	6,800 sq. ft.	6,800 sq. ft.	8,000 sq. ft.

Office	122,300 sq. ft. (80,000 can be medical)	131,920 sq. ft. (80,000 can be medical)	131,920 sq. ft.	135,612* sq. ft. (50,400 can be medical)
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*1,000 sq. ft. can be office or high turnover restaurant. The chart reflects the square footage in each category

The Oregon City Municipal Code does not identify ownership and thus the dwelling units identified above were changed from “apartments” and “condominiums” to multi-family units. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

CP 09-02 COA #1. *The reduction of the mixed use building footprint will remove the proposed building from the 50-foot vegetated corridor that was approved through the original application (WR 08-21). The applicant shall revise the landscaping plan and increase the planting within the vegetated buffer to ensure that the areas that were approved from the location of the mixed use building footprint are replanted as required by the Oregon City Municipal Code.*

Finding: Not applicable. The development proposal does not include construction within the vegetated corridor in the location identified.

CP 09-02 COA #2. *The applicant has proposed to amend the application to include up to 220 apartment units. The apartment units were not part of the original application and staff recommends that the detailed development plan for the apartments should be required to comply with the Oregon City Municipal Code that when into effect on July 31, 2009.*

Finding: Not applicable. The proposed Master Plan amendment includes increasing the number of apartment units from 220 to 244 units. Please refer to the analysis below.

CP 09-02 COA #3. *The applicant and owners of the Tri-City property shall amend the approved Tri-City concept master plan and receive conditional use and detailed development plan approval for the proposed shared parking lot located on the property. Prior to the issuance of a building permit for the medical office/general office building proposed in phase III, the applicant shall have received the approvals identified in this condition of approval.*

Finding: Not applicable. The application does not include implementation of the medical/office building or Phase 3. This will be reviewed for compliance with the submittal of Phase 2 Detailed Development Plan.

CP 09-02 COA #4. *This condition amends conditions of approval 20 and 21 from the decision for Planning File CP 08-05. Condition of approval number 20 shall be amended as follows to remove the on-street parking street design:*
a. The reference to “The fourth and final section is Main Street” shall be deleted;
b. “The third section is the Main Street Shed Section. This section includes two (2) eleven (11) foot wide travel lanes, two (2) six (6) foot wide bike lanes, a four-and-a-half (4.5) foot planter strip, a twelve-and-a-half (12.5) foot wide swale and an eight (8) foot wide sidewalk on the north side of the street.”

Finding: Complies with condition. As amended by this condition of approval # 4, no on-street parking is required on Main Street and the proposed street sections are those that were approved with the original CDP approval (CP 08-05). This is detailed in the response for condition #20 and shown on Sheet 1.0 of the CDP Plan Set and Sheets C2.1 – C2.2 of the DDP Plan Set located in Exhibit B. Condition of approval number 21 shall be amended as follows to remove the Main Street on-street parking from the right-of-way dedication requirements:

a. “The applicant shall dedicate a minimum 60-foot wide right-of-way for both Agnes Avenue and Main Street.”

Response: As shown on Site Plan – North, Sheet 1.0, there are no on-street parking spaces proposed along the Main Street Shed Section.

The application materials contained many discrepancies regarding the proposed street designs. See section 12.04.007 for discussion of modifications of the prior approved street sections. **Staff has**

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

CP 09-02 COA #5. The applicant shall submit detailed plans of the restrooms that include the design and exterior materials of the building, landscaping around the facility and how the facility meets the construction requirements for a structure within a flood plain per the standards identified in Chapter 17.42: Flood Management Overlay District of the Oregon City Municipal Code. The design shall be approved by the city prior to the issuance of a building permit for the construction of the structure. The restrooms shall comply with the detailed development plan code requirements that went into effect on July 31, 2009.

Finding: Not applicable. The Phase 1 development proposal does not include construction or development of a stand-alone restroom facility.

CP 09-02 COA #6. The applicant shall provide a half street improvement for Agnes Avenue between Main Street and the North Park as part of the phase 1 development of the site. The ½ street section shall include a minimum of 20 feet of pavement, a 10.5-foot swale and a 6-foot sidewalk.

The applicant shall comply with the condition of approval 4 from Planning File CP 08-05, which requires that as part of the phase 1 development, the applicant shall construct a partial Agnes Avenue that will include two (2) five-foot bike lanes, one (1) eleven-foot paved section for southbound one-way traffic, one (1) six and a half-foot planter strip and one (1) six-foot sidewalk from the North Park to Washington Street. The other half of Agnes Avenue shall be constructed as proposed by the applicant in phase 6.

Finding: Complies with condition. The applicant proposed to amend this condition and is proposing to construct Agnes Avenue to its fully improved width in Phase 2 of the project. The application materials contained many discrepancies regarding the proposed street designs. See section 12.04.007 for discussion of modifications of the prior approved street sections. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

CP 09-02 COA #7. Per condition of approval 6 from Planning File CP 08-05, the applicant volunteered to provide the Oregon Department of Transportation \$100,000 prior to the issuance of an occupancy permit for the medical office building or residential development, whichever occurs first. Condition of approval 6 shall be amended to require an additional payment from the applicant to the Oregon Department of Transportation in the amount of \$20,000 to mitigate for the additional trips created by the inclusion of the 220 apartment units.

Finding: Complies with condition. The applicant indicated that the development proposal placed no new impact on the identified intersection. This is supported by comments submitted by ODOT as well as the transportation analysis conducted by John Replinger of Replinger and Associates, a City consultant (Exhibits 3 and 4). Prior to issuance of the first occupancy permit, the applicant shall provide ODOT \$120,000 per condition of approval #7 of Planning file CP 09-02. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

CP 09-02 COA #8. During the detailed development plan for the property south of Main Street, the applicant shall incorporate a pedestrian circulation plan through the site that provides access to safe Main Street pedestrian crossing sites, specifically the round-about at the intersection of Main Street and Agnes Avenue and the two proposed driveways intersections from the site with Main Street. Pedestrian crossing improvements may be necessary, such as a marked crosswalk and sidewalk ramps.

Finding: Complies with condition. An interconnected pedestrian circulation plan is proposed from each of the proposed 11 buildings included with the garden apartment project in the Phase 1 DDP. These pathways circulate around the buildings and parking lot perimeter to proposed 6-foot sidewalk at the round-about at the intersection of Main Street and Agnes Avenue. Standard 6-foot concrete pedestrian walkways are proposed adjacent to the southern driveway access to Main Street. Esplanade stairs are proposed connecting the internal pedestrian circulation route to the sidewalk south of the northernmost driveway intersection and crosses Main Street at the esplanade along the waterfront. Details are shown on the Site Plan Sheets C2.1 and C2.2, of the DDP set in Exhibit BA circulation plan is

shown on Sheets 2.0 and 2.1 of the CDP Plan Set to show the overall site circulation pattern. See discussion of circulation plan requirements in Section 12.04 of this report.

Once the grading is completed, the subject site will be significantly higher in elevation than the adjacent Main Street. Rather than connecting each structure with a direct accessway to Main Street, the proposed design includes a pedestrian pathway which connects the front of the Clubhouse with Buildings 3(D) and 5(F) and the back side of Building 1(B). The pedestrian circulation system connects to a mid-block crosswalk at Main Street leading to the Clackamette Cove Trail approximately in the middle of the structures as well as at one of the southern vehicular drive aisle. The accessway does not connect to the front of Building 1(B) or the adjacent street (located near the northern drive aisle). Prior to issuance of a permit associated with the proposed development the applicant shall submit a revised pedestrian circulation plan in which the pedestrian accessway in the rear of Building 1(B) directly connects to Main Street as well as the front of Building 1(B). **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

CP 09-02 COA #9. The applicant shall comply with Planning File CP 08-05 as proposed by the applicant and as conditioned by the Planning Commission with the exception of those parts of the previous conditions of approval that have been amended as part of this approval.

Finding: Complies with condition. The application will comply with the previous approvals and associated conditions of approval pertinent to the development proposed. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

CP 09-02 COA #10. The applicant shall provide a clearly marked pedestrian crossing between the walkway to the North Park and the sidewalk to the future condominiums on the east side of the permanent parking lot.

Finding: Not applicable. The proposal does not include construction at the North Park.

CP 09-02 COA #11. The applicant shall revise the parking lot lay out so that there are no more than eight contiguous parking spaces without an interior landscaping strip between them and demonstrate that a minimum of 10% of the interior parking lot is devoted to landscaping.

Finding: Not applicable. This criteria is associated with the previous Detailed Development Plan which has since expired.

CP 09-02 COA #12. The applicant shall incorporate interpretive signage throughout the development identifying the location of bicycle and pedestrian public access within and through the site.

Finding: Please refer to the analysis within this report.

CP 09-02 COA #13. The applicant shall provide a temporary bicycle and pedestrian trail connection during the phase 1 and 2 development of the site to ensure that access to, and connectivity along, the Clackamas Trail is maintained during construction.

Finding: Complies as proposed. Connection to the Clackamas Trail will be maintained during construction of Phase 1. A temporary 8 foot asphalt trail, to be built with Phase 1, is proposed south of the North Park and connects to the Clackamas Trail and the cove peninsula, as shown on Sheet 1.0, Site Plan – North, Exhibit B. At the completion of Phase 2, the trail will be minimally realigned and integrated into the overall Circulation Plan for the northern area of the Cove.

CP 09-02 COA #14. The applicant shall provide signage for the 20 permanent parking stalls adjacent to the North Park to ensure that the stalls are available for the public and will not be utilized by the condominiums for parking.

Finding: Not applicable. Construction of the parking stalls adjacent to the North Park will occur with Phase 2 of the project.

17.65.050.A.1.f. Existing utilization of the site. May also reference submitted maps, diagrams or photographs.

Finding: Complies as proposed. The application included a description of the site in Exhibit 2.

17.65.050.A.1.g. *Site description, including the following items. May also reference submitted maps, diagrams or photographs.*

1. Physical characteristics;
2. Ownership patterns;
3. Building inventory;
4. Vehicle/bicycle parking;
5. Landscaping/usable open space;
6. FAR/lot coverage;
7. Natural resources that appear on the city's adopted Goal 5 inventory;
8. Cultural/historic resources that appear on the city's adopted Goal 5 inventory; and
9. Location of existing trees six inches in diameter or greater when measured four feet above the ground. The location of single trees shall be shown. Trees within groves may be clustered together rather than shown individually.

Finding: Complies as proposed. The application included a description of the site in Exhibit 2. The study is analyzed in Goal 12 findings for compliance with the Comprehensive Plan.

17.65.050.A.1.h. *Existing transportation analysis, including the following items. May also reference submitted maps, diagrams or photographs.*

1. Existing transportation facilities, including highways, local streets and street classifications, and pedestrian and bicycle access points and ways;
2. Transit routes, facilities and availability;
3. Alternative modes utilization, including shuttle buses and carpool programs; and
4. Baseline parking demand and supply study (may be appended to application or waived if not applicable).

Finding: Complies as proposed. The application included a transportation analysis in Exhibit 2 which was reviewed by the City and the findings may be found in the analysis of Goal 12.

17.65.050.A.1.i. *Infrastructure facilities and capacity, including the following items.*

1. Water;
2. Sanitary sewer;
3. Stormwater management; and
4. Easements.

Finding: Complies as proposed. The applicant submitted utility plans.

17.65.050.B. Proposed Development Submittal Requirements.

1. Narrative statement. An applicant shall submit a narrative statement that describes the following:
 - a. The proposed duration of the general development plan.

Finding: Complies as proposed. The proposed amendment to the phasing plan would not extend the implementation time of the approved Master Plan. The phasing plan, identified in OCMC 17.65.050.C, is proposed to be completed prior to 2019.

17.65.050.B.1.b. *The proposed development boundary. May also reference submitted maps or diagrams.*

Finding: Complies as proposed. The boundaries of the Master Plan are identified in Exhibit 2. The proposal would not alter the size of the boundary.

17.65.050.B.1.c. *A description, approximate location, and timing of each proposed phase of development, and a statement specifying the phase or phases for which approval is sought under the current application. May also reference submitted maps or diagrams.*

Finding: Complies with condition. The applicant submitted revised documentation which identified the uses within the Master Plan boundary. The square footages and uses in the revised information comply with the approved Master Plan but differ from the Phasing Plan in the application. Prior to issuance of a permit associated with the proposed development the applicant shall submit a revised Phasing Plan

reflecting the uses and square footages identified in the 2009 Master Plan approval with any approved amendments within this report. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

17.65.050.B.1.d. *An explanation of how the proposed development is consistent with the purposes of Section 17.65, the institutional zone, and any applicable overlay district.*

Finding: Complies as proposed. The application included findings analyzed within this report.

17.65.050.B.1.e. *A statement describing the impacts of the proposed development on inventoried Goal 5 natural, historic or cultural resources within the development boundary or within two hundred fifty feet of the proposed development boundary.*

Finding: Complies as proposed. The application included findings analyzed within this report.

17.65.050.B.1.f. *An analysis of the impacts of the proposed development on the surrounding community and neighborhood, including:*

- 1. Transportation impacts as prescribed in subsection g. below;*
- 2. Internal parking and circulation impacts and connectivity to sites adjacent to the development boundary and public right-of-ways within two hundred fifty feet of the development boundary;*
- 3. Public facilities impacts (sanitary sewer, water and stormwater management) both within the development boundary and on city-wide systems;*
- 4. Neighborhood livability impacts;*
- 5. Natural, cultural and historical resource impacts within the development boundary and within two hundred fifty feet of the development boundary.*

Finding: Complies as proposed. The application included findings analyzed within this report.

17.65.050.B.1.g. *A summary statement describing the anticipated transportation impacts of the proposed development. This summary shall include a general description of the impact of the entire development on the local street and road network, and shall specify the maximum projected average daily trips, projected AM and PM peak hour traffic and the maximum parking demand associated with build-out each phase of the master plan.*

17.65.050.B.1.h. *In addition to the summary statement of anticipated transportation impacts, an applicant shall provide a traffic impact study as specified by city requirements. The transportation impact study shall either:*

- 1. Address the impacts of the development of the site consistent with all phases of the general development plan;*
- or*
- 2. Address the impacts of specific phases if the city engineer determines that the traffic impacts of the full development can be adequately evaluated without specifically addressing subsequent phases.*

17.65.050.B.1.i. *If an applicant chooses to pursue option h.1., the applicant may choose among three options for implementing required transportation capacity and safety improvements:*

- 1. The General Development Plan may include a phasing plan for the proposed interior circulation system and for all on-site and off-site transportation capacity and safety improvements required on the existing street system as a result of fully implementing the plan. If this option is selected, the transportation phasing plan shall be binding on the applicant.*
- 2. The applicant may choose to immediately implement all required transportation safety and capacity improvements associated with the fully executed general development plan. If this option is selected, no further transportation improvements will be required from the applicant. However, if a general development plan is later amended in a manner so as to cause the projected average daily trips, the projected AM or PM peak hour trips, or the peak parking demand of the development to increase over original projections, an additional transportation impact report shall be required to be submitted during the detailed development plan review process for all future phases of the development project and additional improvements may be required.*
- 3. The applicant may defer implementation of any and all capacity and safety improvements required for any phase until that phase of the development reaches the detailed development plan stage. If this option is selected, the applicant shall submit a table linking required transportation improvements to vehicle trip thresholds for each development phase.*

Finding: Complies as proposed. The application included a transportation impact study for the proposed development (Exhibit 2). Additional traffic studies will be conducted with each Detailed Development

application.

17.65.050.B.1.j. *The applicant or city staff may propose objective development standards to address identified impacts that will apply within the proposed development on land that is controlled by the institution. Upon approval of the general development plan, these standards will supersede corresponding development standards found in this code. Development standards shall address at least the following:*

1. Pedestrian, bicycle and vehicle circulation and connectivity;
2. Internal vehicle and bicycle parking;
3. Building setbacks, landscaping and buffering;
4. Building design, including pedestrian orientation, height, bulk, materials, ground floor windows and other standards of Chapter 17.62; and
5. Other standards that address identified development impacts.

Finding: Not applicable. No alternate development standards are proposed.

17.65.050.B.2 *Maps and diagrams. The applicant must submit, in the form of scaled maps or diagrams, as appropriate, the following information:*

- a. A preliminary site circulation plan showing the approximate location of proposed vehicular, bicycle, and pedestrian access points and circulation patterns, parking and loading areas or, in the alternative, proposed criteria for the location of such facilities to be determined during detailed development plan review.
- b. The approximate location of all proposed streets, alleys, other public ways, sidewalks, bicycle and pedestrian access ways and other bicycle and pedestrian ways, transit streets and facilities, neighborhood activity centers and easements on and within two hundred fifty feet of the site. The map shall identify existing subdivisions and development and un-subdivided or unpartitioned land ownerships adjacent to the proposed development site and show how existing streets, alleys, sidewalks, bike routes, pedestrian/bicycle access ways and utilities within two hundred fifty feet may be extended to and/or through the proposed development.
- c. The approximate location of all public facilities to serve the proposed development, including water, sanitary sewer, stormwater management facilities.
- d. The approximate projected location, footprint and building square footage of each phase of proposed development.
- e. The approximate locations of proposed parks, playgrounds or other outdoor play areas; outdoor common areas and usable open spaces; and natural, historic and cultural resource areas or features proposed for preservation. This information shall include identification of areas proposed to be dedicated or otherwise preserved for public use and those open areas to be maintained and controlled by the owners of the property and their successors in interest for private use.

Finding: Complies as proposed. The application included all necessary items.

17.65.050.C. *Approval Criteria for a General Development Plan. The planning commission shall approve an application for general development plan approval only upon finding that the following approval criteria are met.*

Finding: Applies. The applicant proposed to amend the previously approved Master Plan with the following changes:

1. Amend the phasing plan to redefine the activities within each phase to the chart below.

Amending the Previously Approved Concept (Master) Plan

Phase	Proposed Phasing Plan	Estimated Start Date
1	<ul style="list-style-type: none"> • 244 Multi-Family Garden Apartments with Ancillary Structures and a Clubhouse with 5,500 Square Feet of General Office and 1,000 Square Feet Deli/Coffee Shop (or an additional 1,000 Square Feet of Office) • Main Street Improvements along Lot 2 Frontage, temporary connection to Trailhead parking lot and roundabout at Main and Agnes • Temporary Trailhead Parking Lot on Lot 3 (Removed in Phase 2) 	2015

2	<ul style="list-style-type: none"> • 195 Waterfront Units for Lease on Lots 3, 4, 6 and 7 • Two (2) High Turnover Restaurants (Total 3,250 Square Feet) Within the Waterfront Buildings • 8,712 Square Feet of General Office (Not Medical or Dental) Within the Waterfront Buildings • 5.28 Acres of Park • Final Improvements of Agnes Avenue Through the Site • Esplanade and Tract C Adjacent to 195 Waterfront units • Approx. 350 lineal feet of Main Street from Lot 2 to the East • Permeant Trailhead Parking on Tract A • Final Improvements at the North Park in Tract D 	2016
3	<ul style="list-style-type: none"> • 70,000 Square Feet of Office on Lot 5 • Two (2) High Turnover Restaurants (Total 2,700 Square Feet) on Lot 5 • Parking Lot on Tri-City Property (272 Spaces with 50 Public Spaces) 	2016
4	<ul style="list-style-type: none"> • 50,400 Square Feet of Mixed Use Office on Lot 1 (Medical/Dental Allowed) • 4,000 Square feet Quality Restaurant • 4,000 Square feet Quality Restaurant • Approximately 450 feet of Main Street Adjacent to Lot 1 	2017
5	<p>In Water Marina / Water Sports Center</p> <ul style="list-style-type: none"> • Two marinas (1 Public and 1 Private) with a Combined Total of 150 Slips • Outdoor Water Sports Center, Seasonal Use • Installation of a transit Moorage Dock on Lot 1 	2017

2. Increase in the number of multi-family units at the Lot 2 site from 220 units to 244 units with approximately 5,500 square feet of office and 1,000 square feet for a deli/coffee shop (or an additional 1,000 square feet of office).
3. An increase in the number of condominium units on Lots 3, 4, 6 and 7 from 180 to 195 units.
4. Include a temporary parking lot for the trail head parking during Phase 1.
5. Replace the storm pond and landscaping on Tract A with a permanent Trailhead parking lot.
6. Amend the Main Street crown section design to reduce the landscape planter strip from 6.5 feet to 4.5 feet and increase the sidewalk width from 6 feet to 10 feet.
7. Amend Agnes Street design so that it is entirely designed to the standards of the previously approved shed section.
8. Amend the design of the Agnes Street extension to Washington from a 20 foot paved path to a 12 foot paved path with 4 foot gravel shoulders
9. Adjusting sections of the Oregon City Municipal Code
 - Allow rockery walls up to 5 feet in height in front of the structures, exceeding the maximum wall height of 3.5 feet in front of a structure.
 - Allow up to a 17 foot tall retaining wall between the subject site and the adjoining Oregon City Shopping Center, exceeding the 8.5 foot requirement.
 - Allow a temporary gravel parking lot that does not comply with the parking lot standards or associated landscaping standards
 - Reduce the commercial first floor height from 14 feet to 12 feet for the commercial uses on Lot 2
 - Adjust portions of the Geologic Hazards Overlay District for Lot 2

17.65.050.C.1. *The proposed General Development Plan is consistent with the purposes of Section 17.65.*

Finding: Complies as proposed. The proposed amendment to the plan is consistent with the purpose of 17.65 as “The master plan process is intended to facilitate an efficient and flexible review process for major developments and to provide them with the assurance they need over the long term so that they can plan for and execute their developments in a phased manner”.

17.65.050.C.2. *Development shall demonstrate compliance with Chapter 12.04, Streets, Sidewalks and Public Places.*

Finding: Please refer to the analysis in chapter 12.04 of this report.

17.65.050.C.3. Public services for water supply, police, fire, sanitary waste disposal, and storm-water disposal are capable of serving the proposed development, or will be made capable by the time each phase of the development is completed.

Finding: Complies as proposed. Existing water, sewer, and stormwater infrastructure are capable of serving the proposed developments. Any required upgrading of services will be addressed with construction plan submittal for each phase.

17.65.050.C.4. The proposed General Development Plan protects any inventoried Goal 5 natural, historic or cultural resources within the proposed development boundary consistent with the provisions of applicable overlay districts.

Finding: Goal 5 resources are implemented through the use of overlay districts within the Oregon City Municipal Code. The analysis is provided within this report.

17.65.050.C.5. The proposed General Development Plan, including development standards and impact mitigation thresholds and improvements adequately mitigates identified impacts from each phase of development. For needed housing, as defined in ORS 197.303(1), the development standards and mitigation thresholds shall contain clear and objective standards.

Finding: Please refer to the analysis within this report.

17.65.050.C.6. The proposed general development plan is consistent with the Oregon City Comprehensive Plan and its ancillary documents.

Finding: Please refer to the analysis below.

Section 1: Citizen Involvement

Goal 1.1 Citizen Involvement Program Implement a Citizen Involvement Program that will provide an active and systematic process for citizen participation in all phases of the land-use decisionmaking process to enable citizens to consider and act upon a broad range of issues affecting the livability, community sustainability, and quality of neighborhoods and the community as a whole.

Policy 1.1.1 - Utilize neighborhood associations as the vehicle for neighborhood-based input to meet the requirements of the Land Conservation and Development Commission (LCDC) Statewide Planning Goal 1, PWF Medical Center Master Plan Modification and Comprehensive Plan/Zone Change Application 20 Citizen Involvement. The Citizen Involvement Committee (CIC) shall serve as the officially recognized citizen committee needed to meet LCDC Statewide Planning Goal 1.

Goal 1.2 Community and Comprehensive Planning - Ensure that citizens, neighborhood groups, and affected property owners are involved in all phases of the comprehensive planning program.

Policy 1.2.1 - Encourage citizens to participate in appropriate government functions and land-use planning.

Goal 1.3 Community Education - Provide education for individuals, groups, and communities to ensure effective participation in decision-making processes that affect the livability of neighborhoods.

Goal 1.4 Community Involvement - Provide complete information for individuals, groups, and communities to participate in public policy planning and implementation of policies.

Policy 1.4.1 - Notify citizens about community involvement opportunities when they occur.

Finding: Complies as proposed. Chapter 17.50 of the Oregon City Municipal Code includes provisions to ensure that citizens, neighborhood groups, and affected property owners have ample opportunity for participation in this application. The applicant met with the Two Rivers Neighborhood Association prior to submitting this application and once the application was deemed complete, the City noticed the application to property owners within 300 feet of the subject site, neighborhood associations, the Citizens Involvement Committee, a general circulation newspaper, and posted the application on the City's website. The applicant additionally posted signs on the subject site. All interested persons have the opportunity to comment in writing or in person through the public hearing process. This policy is met.

Section 2: Land Use

Goal 2.1: *Ensure that property planned for residential, commercial, office and industrial uses is used efficiently and that land is developed following principles of sustainable development.*

Policy 2.1.2

Encourage the vertical and horizontal mixing of different land-use types in selected areas of the city where compatible uses can be designed to reduce the overall need for parking, create vibrant urban areas, reduce reliance on private automobiles, create more business opportunities and achieve better places to live.

Finding: Complies as proposed. The amendment would allow additional dwelling units within the Master Plan boundary and the addition of 6,500 square feet of commercial space on the first floor of two of the buildings on Lot 2 results in greater efficiency of land and a vertical mixing of land uses on a single property.

Goal 2.2 Downtown Oregon City

Develop the Downtown area, which includes the Historic Downtown Area, the “north end” of the Downtown, Clackamette Cove, and the End of the Oregon Trail area, as a quality place for shopping, living, working, cultural and recreational activities, and social interaction. Provide walkways for pedestrian and bicycle traffic, preserve views of Willamette Falls and the Willamette River, and preserve the natural amenities of the area.

Policy 2.2.10

Develop the Clackamette Cove area through the implementation of the Oregon City Waterfront Master Plan to achieve a balance between the natural and built environments, including wildlife habitat, multi-family residential development, office and retail, and family recreation.

Finding: Complies as proposed. The amendments would support development of the Clackamette Cove allow for additional places for additional amenities within the Master Plan boundary. The proposed amendment includes a temporary and permanent parking lot for use by the Clackamette River Trail users.

Goal 2.3: *Corridors: Focus transit-oriented, higher intensity, mixed-use development along selected transit corridors.*

Finding: Complies as proposed. The proposed additional dwelling units and square footage within the Master Plan boundary comply with this standard. The property is within the Mixed Use Downtown District and located near Highway 99E, a transit corridor.

Goal 2.4: *Neighborhood Livability - Provide a sense of place and identity for residents and visitors by protecting and maintaining neighborhoods as the basic unit of community life in Oregon City while implementing the goals and policies of the other sections of the Comprehensive Plan.*

Policy 2.4.2 Strive to establish facilities and land uses in every neighborhood that help give vibrancy, a sense of place, and a feeling of uniqueness; such as activity centers and points of interest.

Policy 2.4.5 - Ensure a process is developed to prevent barriers in the development of neighborhood schools, senior and childcare facilities, parks, and other uses that serve the needs of the immediate area and the residents of Oregon City.

Finding: Complies as proposed. The amendment would add additional amenities within the Master Plan boundary. The commercial square footage on Lot 2 will provide amenities to the dwelling units onsite. In addition, the temporary and permanent parking lot would support the public in providing access to the Cove with a Trailhead parking lot.

Goal 2.5: Retail and Neighborhood Commercial

Encourage the provision of appropriately scaled services to neighborhoods.

Policy 2.5.2

Allow and encourage the development of small retail centers in residential neighborhoods that provide goods and services for local residents and workers.

Generally, these centers should be located at the intersections of two or more streets that are classified as neighborhood collectors or higher.

Policy 2.5.4

Encourage the development of successful commercial areas organized as centers surrounded by higher density housing and office uses, rather than as commercial strips adjacent to low-density housing.

Finding: Complies as proposed. The amendment would add approximately 6,500 square feet of retail to Lot 2, resulting in appropriately scaled for the 244 dwelling units onsite.

Section 3: Agricultural Land: *requires local governments “to preserve and maintain agricultural lands.”*

Finding: Not applicable. The subject site is within the Oregon City limits and is not designated as agricultural. This goal is not applicable.

Section 4: Forest Lands: *requires local governments “to conserve forest lands.”*

Finding: Not applicable. The subject site is within the Oregon City limits and is not designated as forest lands.

Section 5: Open Spaces, Scenic and Historic Areas, and Natural Resources

Establish an open space system that conserves fish and wildlife habitat and provides recreational opportunities, scenic vistas, access to nature and other community benefits.

Goal 5.4 Natural Resources

Identify and seek strategies to conserve and restore Oregon City’s natural resources, including air, surface and subsurface water, geologic features, soils, vegetation, and fish and wildlife, in order to sustain quality of life for current and future citizens and visitors, and the long-term viability of the ecological systems.

Policy 5.4.8

Conserve natural resources that have significant functions and values related to flood protection, sediment and erosion control, water quality, groundwater recharge and discharge, education, vegetation and fish, and wildlife habitat.

Finding: Not applicable. The Oregon City Municipal Code implements Goal 5 through a variety of overlay districts. Portions of the Master Plan boundary are within the Natural Resource Overlay District, Flood Management Overlay District as well as the Geologic Hazards Overlay District, which are addressed upon submittal of an application for development of the site. There are no historic structures located on the subject site. The amendment includes installation of a temporary and permanent parking lot to support the users of the regional trail through the site which is supported by this section.

Section 6: Quality of Air, Water and Land Resources

Policy 6.1.1 Promote land-use patterns that reduce the need for distance travel by single-occupancy vehicles and increase opportunities for walking, biking and/or transit to destinations such as places of employment, shopping and education.

Policy 6.1.4

Encourage the maintenance and improvement of the city’s tree canopy to improve air quality.

Finding: Complies as Proposed. This goal promotes land use patterns that reduce travel by providing additional dwelling units, office and restaurant uses within the MUD District and near a transit corridor and other shopping amenities.

Section 7: Natural Hazards

Protect life and reduce property loss from the destruction associated with natural hazards.

Policy 7.1.1

Limit loss of life and damage to property from natural hazards by regulating or prohibiting development in areas of known or potential hazards.

Policy 7.1.5

Minimize the risk of loss of life and damage to property from flooding by limiting development in the 100-year floodplain and by ensuring that accepted methods of flood proofing are used.

Policy 7.1.6

Encourage the use of land and design of structures that are relatively unaffected by the periodic effects of flooding, such as parking and other uses not normally occupied by humans.

Policy 7.1.7

Prohibit uses in areas subject to flooding that would exacerbate or contribute to hazards posed by flooding by introducing hazardous materials, filling or obstructing floodways, modifying drainage channels, and other detrimental actions.

Policy 7.1.8

Provide standards in City Codes for planning, reviewing, and approving development in areas of potential landslides that will prevent or minimize potential landslides while allowing appropriate development.

Finding: Complies with condition. Portions of the subject site are within the Geologic Hazards Overlay District, Flood Management Overlay District and the Natural Resources Overlay District. Compliance with the applicable standards may be obtained with the conditions of approval.

The applicant proposed two adjustments below in 17.65.070 to be exempt from Geologic hazards review and to construct a wall up to 17 feet in height between Lot 2 and the adjoining property. Staff does not concur with either request as it does not appear to comply with the following portions of the Oregon City Comprehensive Plan:

- *Section 7: Natural Hazards. Protect life and reduce property loss from the destruction associated with natural hazards.*
- *Policy 7.1.1. Limit loss of life and damage to property from natural hazards by regulating or prohibiting development in areas of known or potential hazards.*
- *Policy 7.1.5. Minimize the risk of loss of life and damage to property from flooding by limiting development in the 100-year floodplain and by ensuring that accepted methods of flood proofing are used.*
- *Policy 7.1.6. Encourage the use of land and design of structures that are relatively unaffected by the periodic effects of flooding, such as parking and other uses not normally occupied by humans.*
- *Policy 7.1.7. Prohibit uses in areas subject to flooding that would exacerbate or contribute to hazards posed by flooding by introducing hazardous materials, filling or obstructing floodways, modifying drainage channels, and other detrimental actions.*
- *Policy 7.1.8. Provide standards in City Codes for planning, reviewing, and approving development in areas of potential landslides that will prevent or minimize potential landslides while allowing appropriate development.*

The applicant did not provide sufficient documentation identifying that the proposed adjustments comply. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

Section 8: Developing Oregon City's Park and Recreation System

Maintain and enhance the existing park and recreation system while planning for future expansion to meet residential growth.

Policy 8.1.5

Identify and construct a network of off-street trails throughout the city for walking and jogging.

Finding: Complies as proposed. This goal is designed to provide recreational opportunities and sites for all residents of Oregon City. The development proposal will not have a significant effect on this goal by providing temporary and permanent Trailhead parking. All future development of the site is subject to pay system development charges (SDC's) for parks. This goal is met.

Section 9: Economic Development

Goal 9.1 Improve Oregon City's Economic Health - Provide a vital, diversified, innovative economy including an adequate supply of goods and services and employment opportunities to work toward an economically reasonable, ecologically sound and socially equitable economy.

Finding: Complies as proposed. The proposed amendments will result in the increased housing and employment opportunities. Once development occurs, taxes will be levied for support of services and facilities.

Section 10: Housing

Goal 10.1: Provide for the planning, development and preservation of a variety of housing types and lot sizes.

Policy 10.1.3

Designate residential land for a balanced variety of densities and types of housing, such as single-family attached and detached, and a range of multi-family densities and types, including mixed-use development.

Goal 10.2 Provide and maintain an adequate supply of affordable housing.

Finding: Complies as proposed. The additional dwellings proposed in this amendment would increase the housing opportunities within Oregon City.

Section 11: Public Facilities

Goal 11.1: Serve the health, safety, education, welfare and recreational needs of all Oregon City residents through the planning and provision of adequate public facilities.

Policy 11.1.2: Provide public facilities and services consistent with the goals, policies and implementing measures of the Comprehensive Plan, if feasible.

Policy 11.1.3: Confine urban public facilities and services to the city limits except where allowed for safety and health reasons in accordance with state land-use planning goals and regulations. Facilities that serve the public will be centrally located and accessible, preferably by multiple modes of transportation.

Policy 11.1.4: Support development on underdeveloped or vacant buildable land within the city where public facilities and services are available or can be provided and where land-use compatibility can be found relative to the environment, zoning, and Comprehensive Plan goals.

Policy 11.1.5: Design the extension or improvement of any major public facility and service to an area to complement other public facilities and services at uniform levels.

Policy 11.1.6: Enhance efficient use of existing public facilities and services by encouraging development at maximum levels permitted in the Comprehensive Plan, implementing minimum residential densities, and adopting an Accessory Dwelling Unit Ordinance to infill vacant land.

Policy 11.2, Wastewater, 11.3, Water Distribution, 11.4, Stormwater Management, 11.5, Solid Waste, 11.6, Transportation Infrastructure, 11.7, Private Utility Operations, 11.8, Health and Education, 11.9, Fire Protection, 11.10, Police Protection, 11.11, Civic Facilities and 11.12, Library

Finding: Complies with condition. As demonstrated within this report, the proposed Master Plan amendments may be served by the utility system. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

Section 12: Transportation

Goal 12.1 Land Use-Transportation Connection

Ensure that the mutually supportive nature of land use and transportation is recognized in planning for the future of Oregon City.

Policy 12.1.1 Maintain and enhance citywide transportation functionality by emphasizing multi-modal travel options for all types of land uses.

Policy 12.1.2 Continue to develop corridor plans for the major arterials in Oregon City, and provide for appropriate land uses in and adjacent to those corridors to optimize the land use-transportation connection.

Policy 12.1.3 Support mixed uses with higher residential densities in transportation corridors and include a consideration of financial and regulatory incentives to upgrade existing buildings and transportation systems.

Policy 12.1.4 Provide walkable neighborhoods. They are desirable places to live, work, learn and play, and therefore a key component of smart growth.

Goal 12.5 Safety Develop and maintain a transportation system that is safe.

Policy 12.5.1 Identify improvements that are needed to increase the safety of the transportation system for all users.

Policy 12.5.2 Identify and implement ways to minimize conflict points between different modes of travel.

Policy 12.5.3 Improve the safety of vehicular, rail, bicycle, and pedestrian crossings.

Goal 12.6 Capacity Develop and maintain a transportation system that has enough capacity to meet users' needs.

Policy 12.6.1 Provide a transportation system that serves existing and projected travel demand.

Policy 12.6.2 Identify transportation system improvements that mitigate existing and projected areas of congestion.

Policy 12.6.3 Ensure the adequacy of travel mode options and travel routes (parallel systems) in areas of congestion.

Policy 12.6.4 Identify and prioritize improved connectivity throughout the city street system.

Finding: Complies with condition. The applicant submitted a Transportation Impact Analysis (TIA) dated July 23, 2015 prepared under the direction of Diego Aruga, P.E. of Kittleson and Associates, Inc. The TIA was reviewed by a City consultant John Replinger, P.E., of Replinger and Associates. Mr. Replinger indicated the following in Exhibit 3:

"1. Study Area. The study addresses the appropriate intersections. The engineer evaluated traffic patterns and traffic volumes and evaluated: Highway 99E/Dunes Drive; Highway 99E/I-205 SB Ramp Terminal; Highway 99E/I-205 NB Ramp Terminal; Highway 213/Washington Street; Highway 213/Redland Road. The study area is appropriate.

2. Traffic Counts. The traffic counts were conducted in July 2015 at the intersections identified above. Traffic counts were conducted during the AM and PM peak periods. The base year traffic volumes appear reasonable.

3. Trip Generation. The TIA presents information on trip generation from the construction of 244 apartments, 195 townhouses/condos, 14,950 square feet of restaurants (quality restaurant, high-turnover restaurant, coffee/donut shop), 84,212 square feet of general office space, 50,400 square feet of medical-dental office space, a 150-slip marina, and a regional park. The trip generation rates were taken from the Institute of Transportation Engineers' Trip Generation Manual. Adjustments were made for internal trips that have multiple destinations within a development and for pass-by trips. After these adjustments, the total development is predicted to produce 406 AM peak hour trips; 609 PM peak hour trips; and 6489 total weekday trips.

The project narrative suggests that the development may have slightly less office space and more space devoted to restaurant uses than analyzed in the TIA. The differences are fairly slight given the overall size of the development. Small differences between the uses analyzed in the TIA and what is now proposed will not have a significant effect on the operations at the intersections or my conclusions related to the need for mitigation.

4. Trip Distribution. The engineer's trip distribution shows 27 percent of the traffic going to and from the north on Highway 99E; 24 percent to and from the southwest on I-205; 27 percent to and from the north on I-205; 7 percent to and from the south on Highway 213; and the remainder on other streets. The trip distribution seems reasonable.

5. Traffic Growth. The engineer provided an analysis that compared traffic volumes with those obtained in 2008. In several cases, traffic growth was negative. To account for background traffic growth, the traffic counts were adjusted by 0.5 percent per year through 2020 for both the AM and PM peak hours. The traffic growth assumptions and methodology appear reasonable.

6. Analysis. Traffic volumes were calculated for the intersections identified in #1, above. Level of service (LOS), delay, and volume-to-capacity (v/c) information was provided to assess operations relative to the city's and ODOT's operational standard. The analysis was

undertaken for the AM and PM peak hours and included year 2015 existing conditions, and 2020 background, and 2020 total traffic conditions.

According to the engineer, the intersection with the poorest performance is the intersection of Highway 213/Redland Road during the PM peak hour. The performance of the intersection is calculated to be 0.98 under existing conditions; 1.00 under 2020 background conditions and 1.01 under 2020 total build conditions. The deterioration of performance is greater due to regional growth than the proposed development.

The engineer notes that the intersections meet ODOT v/c standards and that the intersections of Highway 99E and I-205 are subject to the exclusion in the Oregon City Municipal Code and Transportation System Plan exempting permitted uses from complying with the mobility standards.

The engineer also noted that the vehicles seeking to make a left turn from Highway 99E at the I-205 SB Ramp Terminal exceeded the available queue storage distance under existing conditions. He notes that this condition will continue to occur in the future but that the development does not add significant traffic to this movement.

The engineer concluded no mitigation measures were necessary. I concur with his conclusions.

7. Turn Lanes at Site Entrance(s). The TIA did not address operations as site entrances. A supplement to the TIA should be provided that addresses the need for turn lanes at the access point for the first phase of the development.
8. Crash Information. The TIA provided a comprehensive analysis of the five-year crash history at the study area intersections. The engineer concluded there were no patterns or trends that required mitigation due to the development. I concur.
9. Pedestrian and Bicycle Facilities. The TIA summarizes the presence of bicycle, pedestrian and transit facilities in the vicinity. The project narrative or a supplement to the TIA should address details related to the site frontage to assure construction of appropriate features related to bicycling and walking.
10. Site Plan and Access. The proposal does not address site access. A supplement to the TIA should address site circulation and site access for the first phase of the development.
11. Intersection Spacing. The TIA did not address intersection spacing. A supplement to the TIA should address intersection spacing related to the first phase of development.
12. Sight Distance. The TIA did not address sight distance. A supplement to the TIA should address sight distance for the first phase of development.
13. Consistency with the Transportation System Plan (TSP). In general, the development is consistent with the Transportation System Plan. A supplement to the TIA or the project narrative should assure that frontage improvements are consistent with the TSP.
14. Conclusions and Recommendations. The engineer concludes that traffic operations would be adequate at the analyzed intersections. He concludes no mitigation is needed for traffic operations. I concur with the conclusions of the applicant's engineer".

Prior to issuance of permits associated with the proposed development the applicant shall submit a supplement to the Transportation Impact Analysis related to the first phase of development that includes but is not limited to addressing the need for turn lanes at the site entrances, pedestrian and bicycle facilities along the frontages, site circulation and site access, intersection spacing for new intersections created as part of the development, sight distance at new intersections and major site access points and consistency of new streets with the TSP and demonstrates how the proposal will comply with all applicable criteria. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

Section 13: Energy Conservation

Goal 13.1 Conserve energy in all forms through efficient land-use patterns, public transportation, building siting and construction standards, and city programs, facilities, and activities.

Policy 13.2.1- Promote mixed-use development, increased densities near activity centers, and home-based occupations (where appropriate).

Finding: Complies as Proposed. This section requires the conservation of energy in all forms through efficient land-use patterns, public transportation, building siting and construction standards, and city programs, facilities and activities. The policies promote energy conservation through the promotion of mixed-use developments and increased densities near activity centers, and the construction of bikeways and sidewalks to improve connectivity. The proposed amendment will result in efficient land use pattern by slightly increasing the intensity of the site.

Section 14: Urbanization

Goal 14.2: Orderly Redevelopment of Existing City Areas- Reduce the need to develop land within the Urban Growth Boundary by encouraging redevelopment of underdeveloped or blighted areas within the existing city limits.

Policy 14.2.1 - Maximize public investment in existing public facilities and services by encouraging redevelopment as appropriate.

Policy 14.2.2 - Encourage redevelopment of city areas currently served by public facilities through regulatory and financial incentives.

Policy 14.3.1 - Maximize new public facilities and services by encouraging new development within the Urban Growth Boundary at maximum densities allowed by the Comprehensive Plan.

Finding: Complies as proposed. This proposal will contribute to achieving this Section (Goal) by increasing the intensity of commercial uses and the number of dwelling units within the Concept Plan.

Section 15: Willamette River Greenway

Finding: Not applicable. The proposed changes do not affect the Willamette River Greenway, which does not extend into the Cove.

D. Duration of General Development Plan. A general development plan shall involve a planning period of at least five years and up to twenty years. An approved general development plan shall remain in effect until development allowed by the plan has been completed through the detailed development plan process, the plan is amended or superseded, or the plan expires under its stated expiration date.

Finding: Complies as proposed. The applicant did not propose to amend the duration of the Master Plan. The Master Plan will expire on February 10, 2019, 10 years from the approval date.

17.65.060. - Detailed development plan.

A. Submittal Requirements.

1. A transportation impact study documenting the on- and off-site transportation impacts, as specified in Section 17.65.050.B.1.h(1). If such an analysis was submitted as part of the general development plan process, the scope of the report may be limited to any changes which have occurred during the interim and any information listed below which was not a part of the initial study.

The on-site portion of the analysis shall include the location, dimensions and names of all proposed streets, alleys, other public ways, sidewalks, bike routes and bikeways, pedestrian/bicycle access ways and other pedestrian and bicycle ways, transit streets and facilities, neighborhood activity centers, and easements on and within two hundred fifty feet of the boundaries of the site. The map shall identify existing subdivisions and development and un-subdivided or unpartitioned land ownerships adjacent to the proposed development site and show how existing streets, alleys, sidewalks, bike routes, pedestrian/bicycle access ways and utilities within two hundred fifty feet may be extended to and/or through the proposed development.

17.65.060.A.2

The location within the development and in the adjoining streets of existing and proposed sewers, water mains, culverts, drain pipes, underground electric, cable television and telephone distribution lines, gas lines, and the

location of existing aerial electric, telephone and television cable lines, if any, to be relocated within the development.

17.65.060.A.3.

A site plan or plans, to scale, containing the required information identified in:

- a. Chapter 17.62.040.A.(8), (10), (11), (12), (13), (14), and (15);
- b. Chapter 17.62.040.B;
- c. Chapter 17.62.040.C;
- d. Chapter 17.62.040.D;
- e. Chapter 17.62.040.E;
- f. Chapter 17.62.040.G;
- g. Chapter 17.62.040.H; and
- h. Chapter 17.62.040.J.

17.65.060.A.4. Any other information the community development director deems necessary to show that the proposed development will comply with all of the applicable Chapter 17 requirements.

Finding: Complies as proposed. This application was reviewed for completeness purposes and determined to be complete enough to process.

17.65.060.B.

Approval Criteria. The community development director shall approve an application for detailed development plan approval only upon findings that:

1. All development standards and impact mitigation meet the requirements of the approved general development plan, including conditions of approval.

Finding: Please refer to the analysis within this report.

17.65.060.B.2.

Any other applicable zoning regulations that are not addressed in the general development plan are met, unless an adjustment to those regulations has been applied for and is approved. The approval standards applicable to adjustments required as part of a master plan are contained in Section 17.65.070.

Finding: Complies as proposed. This application was reviewed for completeness purposes and determined to be complete enough to process.

17.65.060.B.3.

The detailed development plan conforms with the standards contained in Chapter 17.62, unless adjusted as provided in Section 17.65.070.

Finding: Please refer to the analysis within this report.

17.65.060.C.

Duration of Detailed Development Plan. Unless substantial expenditures have been made to implement the approved detailed development plan, defined as the submittal to the city of engineered plans for approval, a detailed development plan shall expire twenty-four months from the notice of decision date. The date of final approval includes the resolution of all appeals. Upon the receipt from the applicant of a written request and payment of the required fee prior to the expiration dated of the detailed development plan, the community development director may, on a one-time basis, grant a twelve-month extension.

Finding: Applicable. This applicant has not requested to amend this standard.

17.65.070 - Adjustments to development standards.

Finding: Complies. The applicant has requested adjustment to the following adjustments:

- 17.62.055.F Commercial First Floor Frontage for Buildings 3 and 5
- 17.52.030 Standards for Automobile Parking Lots for Trailhead Parking Lot
- 17.52.060 Parking Lot Landscaping for Trailhead Parking Lot
- 17.44 Geologic Hazards
- 17.54.100.A.1. Rockery wall along Main Street
- 17.54.100.B Western Retaining Walls

17.65.070.B. Procedure. Requests for adjustments shall be processed concurrently with a general development plan. An adjustment request at the detailed development plan review shall cause the detailed development plan to be reviewed as a Type III application.

Finding: Complies as proposed. The adjustment requests are being processed concurrent with the Master Plan Amendment and Detailed Development Plan.

17.65.070.C. Regulations That May Not be Adjusted. Adjustments are prohibited for the following items:

1. To allow a primary or accessory use that is not allowed by the regulations;
2. To any regulation that contains the word "prohibited";
3. As an exception to a threshold review, such as a Type III review process; and
4. Any exception to allow a use not identified as a permitted or conditional use in the underlying zone.

Finding: Complies as proposed. The applicant did propose an adjustment to a regulation which may not be adjusted.

Adjustment #1: 17.62.055.F Reduce the minimum commercial first floor height from 14 feet to 12 feet for the office and restaurant uses in Buildings 3 and 5 on Lot 2.

17.65.070.D. Approval Criteria. A request for an adjustment to one or more applicable development regulations under this section shall be approved if the review body finds that the applicant has shown the following criteria to be met.

Finding: Applicable. The applicant proposed to adjust OCMC 17.62.055.F Commercial First Floor Frontage for Buildings 3 and 5 to allow the height of the approximately 5,500 square feet of office and 1,000 square feet deli/coffee shop (or an additional 1,000 square feet of office) to be 12 feet (floor to floor) rather than the minimum 14.

17.65.070.D 1. Granting the adjustment will equally or better meet the purpose of the regulation to be modified;

Finding: Complies as proposed. The applicant indicated:

The purpose of Section 17.62.055(F) is to provide adequate height on the first floor of mixed use structures to function for commercial uses which could include retail, restaurants and/or office uses. Along Main Street and within the garden apartment project, Buildings 3 and 5 contain spaces that would be a maximum of 1,625 square feet in area. It is anticipated that these spaces could be office units or could include a small scale sandwich or coffee shop. Allowing floor to floor heights of 12-feet in this area will still maintain flexibility for future tenancy of these types of uses, without impeding the function or market viability of these spaces.

The approval requires the commercial use remain as office (with the ability for a 1,000 square foot restaurant use) and cannot revert to another use. The applicant identified that the commercial uses are feasible and thus the adjustment will not negatively impact the use.

17.65.070.D.2. If more than one adjustment is being requested, the cumulative effect of the adjustments results in a project that is still consistent with the overall purpose of the zone;

Finding: Complies as proposed. The applicant indicated that

In combination with the adjustments already approved for The Cove, the requested adjustments will not create a situation in which the cumulative requests are inconsistent with the purposes of the MUD zone. Provisions in OCMC 17.34.010 state that the MUD district is intended to provide "A mix of high-density residential, office and office uses are encouraged in this district, with retail and service uses on the ground floor and office and residential uses on the upper floors. The emphasis is on those uses that encourage pedestrian and transit use." The Cove project provides for an appropriate mix of land uses with ground floor office and retail uses in Buildings 3 and 5 of the garden apartment site and additional office and retail uses on Lots 1 and 3-7, while

considering the environmental constraints and the planned phases of the development. Limiting the height of the first floor on these sites, allowing leniency in the permanent requirements for the proposed temporary trailhead parking area, and the retaining wall height allowance will not preclude the ability to provide a mix of uses that engage the pedestrian nor preclude consistency with the purpose of the zone to encourage mixed uses, and pedestrian and transit access.

The adjustments are consistent with the intent of the approved Master Plan to provide a quality mixed use development.

17.65.070.D.3. City-designated Goal 5 resources are protected to the extent otherwise required by Title 17;

Finding: Not applicable. The adjustment affects the interior building, therefore no Goal 5 resources are expected to be impacted.

17.65.070.D.4. Any impacts resulting from the adjustment are mitigated; and

Finding: Complies as proposed. The applicant indicated that “no adverse impacts are anticipated to result from the proposed adjustment of the floor to floor height of the first floor of buildings with ground floor commercial uses. Therefore, no mitigation is proposed”. As the site is proposed to be primarily developed as a multi-family site, it is not imperative that the ceiling heights in this location be high enough to accommodate all commercial and retail uses. In addition, the applicant proposed to mitigate the adjustment with extensive landscaping between the building and the street.

17.65.070.D.5. If an environmental zone, the proposal has as few significant detrimental environmental impacts on the resource and resource values as is practicable. (Ord. 03-1014, Att. B3 (part), 2003)

Finding: Not applicable. The adjustment affects the interior building, therefore no environmental impacts are expected.

17.65.070.6. The proposed adjustment is consistent with the Oregon City Comprehensive Plan and ancillary documents.

Finding: Complies as proposed. The applicant indicated that the adjustment would allow the site to be constructed with flexibility as well as market feasibility. This is supported by Goal 2.2 of the Comprehensive Plan which encourages development of the subject site as a “quality place for shopping, living, working, cultural and recreational activities, and social interaction”, Goal 9, economic development and Goal 14.2 encouraging redevelopment.

Adjustment #2: 17.52.030 and 17.52.060 Standards for Automobile Parking Lots. Allow a temporary gravel parking lot that does not comply with the parking lot standards or landscaping standards.

17.65.070.D. Approval Criteria. A request for an adjustment to one or more applicable development regulations under this section shall be approved if the review body finds that the applicant has shown the following criteria to be met.

Finding: Applicable. The applicant proposed to adjust OCMC 17.52.030 Standards for Automobile Parking and 17.52.060 Parking Lot Landscaping for a temporary trailhead parking lot. In addition, staff recommends the Planning Commission adjust the lighting standards in Chapter 17.62.065

17.65.070.D.1. Granting the adjustment will equally or better meet the purpose of the regulation to be modified;

Finding: Complies as proposed. The purpose of the requirements is to have long lasting, orderly and safe parking lots which include landscaping to mitigate impervious surfaces and provide visual interest. The applicant noted that “the proposed trailhead was intended to be a temporary access for visitors of the site and the residents of the garden apartments to access the cove until the site can be fully developed. The location of the temporary trailhead will be redeveloped when the Phase 2 is implemented. Therefore, the placement of permanent features would create unnecessary demolition and reconstruction activities” (Exhibit 2).

17.65.070.D.2. *If more than one adjustment is being requested, the cumulative effect of the adjustments results in a project that is still consistent with the overall purpose of the zone;*

Finding: Please refer to the analysis in Adjustment #1.

17.65.070.D.3. *City-designated Goal 5 resources are protected to the extent otherwise required by Title 17;*

Finding: Please refer to the analysis within this report.

17.65.070.D.4. *Any impacts resulting from the adjustment are mitigated; and*

Finding: Not applicable. The temporary parking lot will be constructed in Phase 1 and removed in Phase 2 which is estimated to be started in 2016. In addition, the location of the temporary parking lot contains various surfaces including some existing asphalt and some existing gravel. Allowing the facility to remain in a similar condition does not result in a negative impact.

17.65.070.D.5. *If an environmental zone, the proposal has as few significant detrimental environmental impacts on the resource and resource values as is practicable. (Ord. 03-1014, Att. B3 (part), 2003)*

Finding: The analysis for compliance with all overlay districts is provided within this report.

17.65.070.D.6. *The proposed adjustment is consistent with the Oregon City Comprehensive Plan and ancillary documents.*

Finding: Complies as proposed. The siting of a permanent and temporary Trailhead parking lot would increase community livability as identified in Goal 2.4 and Goal 2.2 of the Comprehensive Plan which encourages development of the subject site as a “quality place for shopping, living, working, cultural and recreational activities, and social interaction”.

Adjustment #3: Applicability of the Geologic Hazards Overlay District in OCMC Chapter 17.44

17.65.070.D. *Approval Criteria. A request for an adjustment to one or more applicable development regulations under this section shall be approved if the review body finds that the applicant has shown the following criteria to be met.*

Finding: Applicable. The applicant indicated the following in Exhibit 2:

The applicant is seeking an adjustment from the provisions of OCMC 17.44 as they would be applied to the garden apartment site. In the absence of a geologic hazard on the site, the provisions of 17.44 would not apply to the garden apartment project. The City has provided City geologic hazards mapping that identifies pockets of “geologic hazard” areas within the apartment site. However, as described in detail in a September 10, 2015 letter from Apex Engineering included in Exhibit G of the application, the City’s mapping does not reflect native conditions and is a temporary representation of conditions left in place by the former mining operation. Specifically, the map represents a former process pond and material stockpile areas that were excavated on a cut slope with past mining and reclamation activities. As described in the letter from Apex, these mapped features would be completely eliminated with mass grading of the site thereby eliminating the condition that caused the original City mapping. Consequently, an adjustment to the geologic hazard provisions of OCMC 17.44 as they pertain to the apartment site is being requested.

17.65.070.D.1. *Granting the adjustment will equally or better meet the purpose of the regulation to be modified;*

Finding: Complies with condition. The applicant indicated the following in Exhibit 3:

The applicant is seeking an adjustment from the provisions of OCMC 17.44 as they would be applied to the garden apartment site. Regarding OCMC 17.44 Geologic Hazards, in the absence of a geologic hazard on the site, the provisions of 17.44 would not apply to the garden apartment project. The City has provided City geologic hazards mapping that identifies pockets of “geologic hazard” areas within the apartment site. However, as described in detail in a

September 10, 2015 letter from Apex Engineering included in Exhibit G of the application, the City's mapping does not reflect native conditions and is a temporary representation of conditions left in place by the former mining operation. Specifically, the map represents a former process pond and material stockpile areas that were excavated on a cut slope with past mining and reclamation activities. As described in the letter from Apex, these mapped features would be completely eliminated with mass grading of the site thereby eliminating the condition that caused the original City mapping. Consequently, an adjustment to the geologic hazard provisions of OCMC 17.44 as they pertain to the apartment site would still meet the purpose of the chapter.

At the garden apartment site (Lot 2), there are existing steep slopes that will continue to exist after development of the garden apartments and will continue to be part of the City's US Geologic Hazards Overlay District. These steep slopes are located along the westerly side of the site on each side of an existing drainage channel and delineated wetlands. The existing slope elevations generally range from top of slope 45 feet to toe of slope 33 feet with an overall grade change of 12 feet and slopes above 25%. The applicant proposed filling on and along these steep slopes constructing walls to retain proposed fill soils with one area requiring a 9-foot to 17-foot high wall placed on the existing steep slope with top of wall at approximately 53 feet and bottom of wall at 36 feet for developing 8 parking spaces at the top of the retaining wall. The 17-foot high wall section includes a 90 degree angle in the wall alignment, changing from being approximately perpendicular to parallel with the existing slope. The height and alignment of this section of wall poses concerns for public safety, erosion, extensive filling within flood plain, and placing additional soil loads on existing steep slopes. Because the proposed parking exceeds the requirement for this zone, the development has not been minimized to avoid the need for an adjustment.

Provisions of OCMC 17.44 shall apply to the Garden Apartments site on the steep slope areas along the western drainage channel and wetlands area. Staff has determined that the requested adjustment is applicable to the other steep slope areas on the Garden Apartments site. The steep slope delineations shall be shown on the construction plans per the City's Geographic Information System mapping. Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.

17.65.070.D.2. *If more than one adjustment is being requested, the cumulative effect of the adjustments results in a project that is still consistent with the overall purpose of the zone;*

Finding: Please refer to the analysis in Adjustment #1.

17.65.070.D.3. *City-designated Goal5 resources are protected to the extent otherwise required by Title 17;*

Finding: Please refer to the analysis in 17.65.070.D.1 for Adjustment #3 as well as in chapter 17.44 of this report.

17.65.070.D.4. *Any impacts resulting from the adjustment are mitigated; and*

Finding: Complies with condition. The applicant did not respond to this criteria or provide mitigation for the requested adjustment. However, staff has determined that the requested adjustment can be applied to portions of the site as described in 17.65.070.D.1; therefore mitigation is not required. Staff does not concur with the request for portions of the site as described in 17.65.070.D.1. Provisions of OCMC 17.44 will apply to those portions and mitigation will not be applicable. See discussion in 17.65.070.D.1. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

17.65.070.D.5. *If an environmental zone, the proposal has as few significant detrimental environmental impacts on*

the resource and resource values as is practicable. (Ord. 03-1014, Att. B3 (part), 2003)

Finding: See discussion in 17.65.070.D.1 and D.4.

17.65.070.D.6. *The proposed adjustment is consistent with the Oregon City Comprehensive Plan and ancillary documents.*

Finding: The applicant indicated that “the proposed adjustment is consistent with the Oregon City Comprehensive Plan and ancillary documents as the desired mix of uses in the MUD zone will not be affected by the proposed adjustment”.

Finding: Complies with condition. The Oregon City Comprehensive Plan includes policies that are applicable to the existing steep slopes that shall continue to exist after the garden apartments development. The applicable policies include, Policy goals 7.1.1. to limit loss of life and damage to property from natural hazards by regulating or prohibiting development in areas of known or potential hazards; *Policy 7.1.5* Minimize the risk of loss of life and damage to property from flooding by limiting development in the 100-year floodplain and by ensuring that accepted methods of flood proofing are used; *Policy 7.1.7* Prohibit uses in areas subject to flooding that would exacerbate or contribute to hazards posed by flooding by introducing hazardous materials, filling or obstructing floodways, modifying drainage channels, and other detrimental actions. Please refer to an analysis in Section 7 of the Oregon City Comprehensive Plan above.

Provisions of OCMC 17.44 shall apply to the Garden Apartments site on the steep slope areas along the western drainage channel and wetlands area. Staff has determined that the requested adjustment is applicable to the other steep slope areas on the Garden Apartments site. The steep slope delineations shall be shown on the construction plans per the City’s Geographic Information System mapping.

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

Adjustment #4: 17.54.100.A.1. Rockery walls along Main Street. Allow rockery walls up to 5 feet in height in front of the structures, exceeding the maximum wall height of 3.5 feet in front of a structure.

17.65.070.D. Approval Criteria. *A request for an adjustment to one or more applicable development regulations under this section shall be approved if the review body finds that the applicant has shown the following criteria to be met.*

Finding: Applicable. The applicant proposed to adjust OCMC 17.54.100.A.1. The proposed rockery walls along Main Street vary from 2 feet to 5 feet between the buildings and Main Street, exceeding the allowed height of 3.5 feet in some locations. The walls are between 30 feet and 40 feet from the public right of way and the applicant indicated they are necessary to stabilize the slope and allow for development.

17.65.070.D 1. *Granting the adjustment will equally or better meet the purpose of the regulation to be modified;*

Finding: Complies as proposed. The purpose of the height limitation is to create an inviting and interactive space for those within the right-of-way. Because the site is within the floodplain, the finished grading of the site will result in a significant difference in elevation between the street and the buildings. The applicant has proposed to limit the height of the wall as much as necessary and mitigation so that the space remains inviting and interactive for those within the right-of-way. In addition the applicant proposed mitigation for the adjustment as identified below which results in creating a space which is interactive with the street, thereby meeting the same intent as the standard.

17.65.070.D 2. *If more than one adjustment is being requested, the cumulative effect of the adjustments results in a project that is still consistent with the overall purpose of the zone;*

Finding: Please refer to the analysis in Adjustment #1.

17.65.070.D. 3. *City-designated Goal 5 resources are protected to the extent otherwise required by Title 17;*

Finding: Please refer to the findings within this report.

17.65.070.D.4. Any impacts resulting from the adjustment are mitigated; and

Finding: Complies as proposed. The impacts have been mitigated by placing the walls 30-40 feet from the right-of-way, breaking the retaining walls into shorter sections, designing the walls to vary in height so they maintain visual interest, limiting the height as much as possible, as well as an intensive landscape plan throughout the space featuring a mix of trees, shrubs and groundcover.

17.65.070.D.5. If an environmental zone, the proposal has as few significant detrimental environmental impacts on the resource and resource values as is practicable. (Ord. 03-1014, Att. B3 (part), 2003)

Finding: Please refer to the findings within this report.

17.65.070.D 6. The proposed adjustment is consistent with the Oregon City Comprehensive Plan and ancillary documents.

Finding: Complies as proposed. The applicant indicated that the adjustment would allow the site to be constructed with flexibility as well as market feasibility. This is supported by Goal 2.2 of the Comprehensive Plan which encourages development of the subject site as a “quality place for shopping, living, working, cultural and recreational activities, and social interaction”, Goal 9, economic development and Goal 14.2 encouraging redevelopment.

Adjustment #5: 17.54.100.B Western Retaining Walls. Allow up to a 17 foot tall retaining wall between the subject site and the adjoining Oregon City Shopping Center, exceeding the 8.5 foot requirement.

17.65.070.D. Approval Criteria. A request for an adjustment to one or more applicable development regulations under this section shall be approved if the review body finds that the applicant has shown the following criteria to be met.

Finding: Applicable. The applicant proposed to adjust OCMC 17.54.100.B. The development application includes the use of retaining walls which extend up to 17 feet in height, in excess of the 8.5 foot maximum retaining wall height for this location. The walls are provided in part to retain imported fill and ensure that the site development does not encroach into the buffer of the wetland feature located in the northwest corner of the development site.

17.65.070.D 1. Granting the adjustment will equally or better meet the purpose of the regulation to be modified;

Finding: Complies with condition. The development application stated the following in Exhibit 2:

The applicant has discussed the provisions of OCMC 17.54.100.B with city planning staff. While it is the opinion of the applicant that the provisions of this section do not limit the height of retaining walls on the site as there are no walls “built on a retaining wall or an artificial berm,” city staff has provided an informal interpretation that this section would apply to all proposed walls on the site and effectively limit the height of on-site walls to 8.5-feet.

As noted on the project grading plan C3.1 and C3.2 in the DDP plan set, the project includes retaining walls on the western perimeter of the garden apartment site that reach up to 17-feet in height. Because the city has provided an interpretation that this code provision effectively limits the height of walls to 8.5-feet, we have included a request for an adjustment as allowed under OCMC 17.65.070 to permit the wall heights as proposed. These walls are provided in part to retain imported fill and ensure that the site development does not encroach into the buffer of the wetland feature located in the northwest corner of the development site. Should the City change its interpretation on this code section over the course of the review of this application, the applicant would withdraw this request.

At the garden apartment site (Lot 2), there are existing steep slopes that will continue to exist after development of the garden apartments and will continue to be part of the City’s US Geologic Hazards

Overlay District. These steep slopes are located along the westerly side of the site on each side of an existing drainage channel and delineated wetlands. The existing slope elevations generally range from top of slope 45 feet to toe of slope 33 feet with an overall grade change of 12 feet and slopes above 25%. The applicant proposed filling on and along these steep slopes constructing walls to retain proposed fill soils with one area requiring a 9-foot to 17-foot high wall placed on the existing steep slope with top of wall at approximately 53 feet and bottom of wall at 36 feet for developing 8 parking spaces at the top of the retaining wall. The 17-foot high wall section includes a 90 degree angle in the wall alignment, changing from being approximately perpendicular to parallel with the existing slope. The height and alignment of this section of wall poses concerns for public safety, erosion, extensive filling within flood plain, and placing additional soil loads on existing steep slopes. Because the proposed parking exceeds the requirement for this zone, the development has not been minimized to avoid the need for an adjustment.

Staff has identified feasible revisions to the parking lot/retaining wall design that will significantly reduce the height and thus impact of the wall, while meeting thresholds for parking requirements, that can comply with 17.54.100.B. Therefore, this adjustment is not granted. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

17.65.070.D.2. If more than one adjustment is being requested, the cumulative effect of the adjustments results in a project that is still consistent with the overall purpose of the zone;

Finding: Please refer to the analysis in Adjustment #1.

17.65.070.D.3. City-designated Goal 5 resources are protected to the extent otherwise required by Title 17; Please refer to the analysis in 17.65.070.D.1 for Adjustment #3 as well as in chapter 17.44 of this report.

17.65.070.D.4. Any impacts resulting from the adjustment are mitigated; and

Finding: Complies with condition. The applicant did not respond to this criteria or provide mitigation for the requested adjustment. However, staff has determined that the requested adjustment can be applied to portions of the site as described in 17.65.070.D.1; therefore mitigation is not required. Staff does not concur with the request for portions of the site as described in 17.65.070.D.1. Provisions of OCMC 17.44 will apply to those portions and mitigation will not be applicable. See discussion in 17.65.070.D.1. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

17.65.070.D.5. If an environmental zone, the proposal has as few significant detrimental environmental impacts on the resource and resource values as is practicable. (Ord. 03-1014, Att. B3 (part), 2003)

Finding: This application is

Please refer to the analysis in 17.65.070.D.1 for Adjustment #3 as well as in chapter 17.44 of this report.

17.65.070.D.6. The proposed adjustment is consistent with the Oregon City Comprehensive Plan and ancillary documents.

Finding: The applicant indicated that “the proposed adjustment is consistent with the Oregon City Comprehensive Plan and ancillary documents as the desired mix of uses in the MUD zone will not be affected by the proposed adjustment”.

Finding: Complies with condition. The Oregon City Comprehensive Plan includes policies that are applicable to the existing steep slopes that shall continue to exist after the garden apartments development. The applicable policies include, Policy goals 7.1.1. to limit loss of life and damage to property from natural hazards by regulating or prohibiting development in areas of known or potential hazards; *Policy 7.1.5* Minimize the risk of loss of life and damage to property from flooding by limiting development in the 100-year floodplain and by ensuring that accepted methods of flood proofing are used; *Policy 7.1.7* Prohibit uses in areas subject to flooding that would exacerbate or contribute to

hazards posed by flooding by introducing hazardous materials, filling or obstructing floodways, modifying drainage channels, and other detrimental actions. Please refer to an analysis in Section 7 of the Oregon City Comprehensive Plan above.

Provisions of OCMC 17.44 shall apply to the Garden Apartments site on the steep slope areas along the western drainage channel and wetlands area. Staff has determined that the requested adjustment is applicable to the other steep slope areas on the Garden Apartments site. The steep slope delineations shall be shown on the construction plans per the City's Geographic Information System mapping. Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.

Adjustment #6: 17.62.057. Adjust the lighting standards for the temporary trail and temporary trailhead parking lot so no lighting is required and the pedestrian accessway standards in OCMC 12.04.199 for the temporary Clackamette Cove alignment in Phase 1.

17.65.070.D. Approval Criteria. A request for an adjustment to one or more applicable development regulations under this section shall be approved if the review body finds that the applicant has shown the following criteria to be met.

Finding: Applicable. Staff proposes to adjust OCMC 17.62.065 so the lighting standards are not applicable to the temporary trail alignment and temporary trailhead parking lot which will be constructed in Phase 1 and removed in Phase 2 of the Cove Master Plan. In addition, the pedestrian accessway requirements (which include lighting) in OCMC 12.04.199 are proposed to be adjusted.

17.65.070.D.1. Granting the adjustment will equally or better meet the purpose of the regulation to be modified;

Finding: Complies as proposed. The purpose of the requirements is to provide safety and security to the public during the evening. As the trail, and associated temporary parking lot is closed from dusk to dawn, lighting is not necessary. Furthermore, the uses are temporary and according to the amended phasing plan, will be replaced with the construction of Phase 2.

17.65.070.D.2. If more than one adjustment is being requested, the cumulative effect of the adjustments results in a project that is still consistent with the overall purpose of the zone;

Finding: Please refer to the analysis in Adjustment #1.

17.65.070.D.3. City-designated Goal 5 resources are protected to the extent otherwise required by Title 17;

Finding: Not applicable. The adjustment does not affect Goal 5.

17.65.070.D.4. Any impacts resulting from the adjustment are mitigated; and

Finding: Not applicable. The purpose of the requirements is to provide safety and security to the public during the evening. As the trail, and associated temporary parking lot is closed from dusk to dawn, lighting is not necessary. Furthermore, the uses are temporary and according to the amended phasing plan, will be replaced with the construction of Phase 2.

17.65.070.D.5. If an environmental zone, the proposal has as few significant detrimental environmental impacts on the resource and resource values as is practicable. (Ord. 03-1014, Att. B3 (part), 2003)

Finding: Not applicable. The adjustment does not affect any environmental resources.

17.65.070.D.6. The proposed adjustment is consistent with the Oregon City Comprehensive Plan and ancillary documents.

Finding: Complies as proposed. The adjustment does not conflict with any Goal or policy within the Comprehensive Plan.

17.65.80 Amendments to Approved Plans

Finding: Complies. This application is being reviewed as a Type III amendment to the Master Plan.

17.65.090 Regulations that Apply

An applicant is entitled to rely on land use regulations in effect on the date its General Development Plan application was initially submitted, pursuant to ORS 227.178(3), as that statute may be amended from time to time. After a General Development Plan is approved, and so long as that General Development Plan is in effect, an applicant is entitled to rely on the land use regulations in effect on the date its General Development Plan application was initially submitted, as provided above, when seeking approval of detailed development plans that implement an approved General Development Plan. At its option, an applicant may request that a detailed development plan be subject to the land use regulations in effect on the date its detailed development plan is initially submitted.

Finding: Complies as Proposed. The application is subject to the code in effect at the time of submittal of this application.

CHAPTER 17.49 NATURAL RESOURCE OVERLAY DISTRICT

The applicant has proposed the following development within the vegetated corridor:

- Grading in the North Park will disturb 13,326 square feet (0.31 acre) of the vegetated corridor associated with Clackamette Cove and the Clackamas River, including the removal of 18 trees greater than six inches in diameter.
- Development near Wetland A on the northern portion of the Garden Apartment site. Grading on the Garden Apartments site will permanently impact 27,666 square feet (0.64 acre) of the vegetated corridor associated with Wetland A. However, 16,559 square feet (0.38 acre) of the impact area is considered impervious surface, the alteration of which is exempt from review pursuant to Section 17.49.080.J and thus the remaining 11,107 square feet (0.25 acre) of impact area will be mitigated. The retaining wall adjacent to the parking lot which is required to be redesigned. The redesign of the may potentially alter the size or configuration of the parking lot. Any alterations to the parking lot shall comply with the applicable standards within the Oregon City Municipal Code.
- The Main Street roadway improvements will include additional construction within the NROD and installation of an upsized stormwater pipe in Main Street. These improvements will permanently impact 7, 204 square feet (0.17 acre) of the Clackamette Cove VC.

17.49.[0]35 – Addition of wetlands to map following adoption

The NROD boundary shall be expanded to include a wetland identified during the course of a development permit review if it is within or partially within the mapped NROD boundary and meets the State of Oregon's definition of a "Locally Significant Wetland". In such cases the entire wetland and its required vegetated corridor as defined in Table 17.49.110 shall be regulated pursuant to the standards of this chapter. The NROD boundary shall be added to the NROD map by the community development director after the development permit becomes final.

Finding: Complies as proposed. Wetland A is a palustrine forested, seasonally saturated (PFOE) wetland swale located along the northwestern edge of the former Glacier Ready Mix site. The wetland is in the bottom of a steep-sided ravine formed by the fill slopes of the current and former development located to the east and west. The HGM classification of the wetland is Slope. The total area of Wetland A is approximately 4,158 square feet (0.10 acres). A narrow excavated ditch extends from the northern portion of the swale to a culvert located near the northwestern property corner. This culvert conveys surface water from the swale, under Main Street, and into Clackamette Cove. Although Wetland A is not included on the existing NROD map, it is partially within the existing NROD boundary. As such, the entirety of Wetland A and its required vegetated corridor will be added to the NROD map, and shall be regulated pursuant to the standards of Chapter 17.49.

17.49.040 NROD Permit

An NROD permit is required for those uses regulated under Section 17.49.90, Uses Allowed under Prescribed

Conditions. An NROD permit shall be processed under the Type II development permit procedure, unless an adjustment of standards pursuant to Section 17.49.200 is requested or the application is being processed in conjunction with a concurrent application or action requiring a Type III or Type IV development permit. Applications for development on properties affected by the NROD shall delineate or verify the exact location of the NROD as part of a Type I or II development review process unless exempted pursuant to section 17.40.080.

Finding: Complies as proposed. The applicant submitted an NROD application to meet the requirements of this chapter. The report was completed by Pacific Habitat Services (August 26, 2015), and reviewed by David Evans and Associates, the City's natural resource consultants (Exhibit 6).

17.49.050 Emergencies

Finding: Not applicable. This is not an emergency.

17.49.060 Consistency and Relationship to Other Regulations

A. Where the provisions of the NROD are less restrictive or conflict with comparable provisions of the Oregon City Municipal Code, other City requirements, regional, state or federal law, the provisions that provides the greater protection of the resource shall govern.

Finding: Not applicable. No conflicts within the Natural Resource Overlay District have arisen.

17.49.060.B. Compliance with Federal and State Requirements.

a. If the proposed development requires the approval of any other governmental agency, such as the Division of State Lands or the U.S. Army Corps of Engineers, the applicant shall make application for such approval prior to or simultaneously with the submittal of its development application to the City. The planning division shall coordinate City approvals with those of other agencies to the extent necessary and feasible. Any permit issued by the City pursuant to this chapter shall not become valid until other agency approvals have been obtained or those agencies indicate that such approvals are not required.

b. The requirements of this chapter apply only to areas within the NROD and to locally significant wetlands that may be added to the boundary during the course of development review pursuant to Section 17.49.035. If, in the course of a development review, evidence suggests that a property outside the NROD may contain a wetland or other protected water resource, the provisions of this chapter shall not be applied to that development review. However, the omission shall not excuse the applicant from satisfying any state and federal wetland requirements which are otherwise applicable. Those requirements apply in addition to, and apart from the requirements of the City's comprehensive plan and this code.

Finding: Complies with condition. The subject site contains land subject to compliance with the Department of State Lands (DSL). A letter was submitted from DSL dated May 13, 2010 for concurrence with state removal and fill law. As the project has been amended subsequent to DSL and U.S. Army Corps of Engineers, an update of the previous review is needed. Prior to issuance of a permit associated with the proposed development the applicant shall receive approval from the Division of State Lands, the U.S. Army Corps of Engineers and all other applicable agencies. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

17.49.[0]70 - Prohibited uses.

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.

Finding: Not applicable. The applicant proposed the following development within the vegetated corridor:

- Grading and placement of more than ten cubic yards of fill at the North Park site, on Lot 2 and adjacent to Main Street.
- Removal of 18 trees greater than 6 inches in diameter from the Clackamette Cove vegetated corridor.

All of the uses identified, including grading, fill placement, and native vegetation removal, have been previously approved in the Cove Master Plan and are included in this application, and are thus not prohibited.

17.49.[0]80 –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.

J. Replacement, additions, alterations and rehabilitation of existing structures, roadways, utilities, etc., where the ground level impervious surface area is not increased.

Finding: Not applicable. The proposed development includes activities allowed under prescribed conditions (17.49.090) and therefore requires issuance of an NROD permit.

17.49.090 Uses Allowed Under Prescribed Conditions

The following uses within the NROD are subject to the applicable standards listed in Sections 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 Section 17.49.080, subject to Section 17.49.130.

E. Trails/pedestrian paths when not exempted by Section 17.49.080, subject to Section 17.49.170 (for trails) or Section 17.49.150 (for paved pedestrian paths).

F. New roadways, bridges/creek crossings, utilities or alterations to such facilities when not exempted by Section 17.49.080,

K City, county and state capital improvement projects, including sanitary sewer, water and storm water facilities, water stations, and parks and recreation projects.

Finding: Complies as proposed. The applicant has proposed the following development and associated mitigation within the vegetated corridor:

- 125 lineal feet of encroachment for grading and a pedestrian pathway along the North Park
- Development near Wetland A on the northern portion of the Garden Apartment site
- 525 lineal feet of encroachment for installation of public improvements along Main Street

Wetland A is located along the northwestern edge of the garden apartment site. The wetland is in the bottom of a steep ravine formed by the fill slopes culvert conveys surface water from the swale, under Main Street, and into Clackamette Cove. The total vegetated area adjacent to Wetland A is 55,691 square feet (1.28 acres). Approximately 16,559 square feet (0.38 acre) within the vegetated corridor of Wetland A is existing impervious surface and thus approximately 16,559 square feet of disturbance area within the vegetated corridor adjacent to Wetland A is not considered development or subject to mitigation per OCMC 17.49.080.J.

The proposed new stormwater facilities (a combination of Low Impact Development Approach swales and Contech StormFilters that would be directed via pipes to an existing 36-inch stormwater pipe located along Main Street and an existing 15-inch pipe that outfall into Clackamette Cove) would not be within the NROD. The proposal is subject to the development standards in 17.49.100 through 17.49.190.

17.49.100 General Development Standards

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

A. Native trees may be removed only if they occur within 10 feet of any proposed structures or within 5 feet of new driveways or if deemed not wind-safe by a certified arborist. Trees listed on the Oregon City Nuisance Plant List or Prohibited Plant List are exempt from this standard and may be removed. A protective covenant shall be required for any native trees that remain;

Finding: Complies as proposed. The development application proposed to adjust this standard in order to remove 18 trees associated with the grading of the North Park. Please refer to the analysis in OCMC 17.49.200.

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

Finding: Not applicable. The applicant is not proposing to meet base zone landscaping requirements within the NROD.

17.49.100.C. All vegetation planted in the NROD shall be native and listed on the Oregon City Native Plant List;

Finding: Complies with condition. The development application included a list of plant species on sheet M6.0, though the applicant indicated that the plant species are subject to adjustment based on site conditions and plant availability at the time of planting. All vegetation planting identified in the mitigation plan are on the Oregon City Native Plant List.

However, the Phase 2 planting plan shows non-native plants being planted inside the NROD vegetated buffer as part of the streetscape. There are many native trees, shrubs and groundcovers and grasses that could provide an attractive landscape that would not only look good, but benefit the native ecosystem.

Prior to issuance of a permit associated with the proposed development the applicant shall submit a revised mitigation planting list which complies with the standards in OCMC 17.49. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

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

Finding: Please refer to the analysis within chapter 15.48 of this report.

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

Finding: Not applicable. A reduction in the minimum setback has not been proposed.

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

Finding: Not applicable. An increase in the maximum setback has not been proposed.

17.49.100.G. Fences are allowed only within the disturbance area;

Finding: Not applicable. The applicant has not proposed a fence within the vegetated corridor. Retaining walls are not subject to this standard.

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

Finding: Complies with condition. The applicant's site lighting plan sheet shows exterior lights along pedestrian walkways and accessways, vehicle and bicycle parking areas, and building entrances. Lights adjacent to the NROD must be shielded so that they do not shine directly into resource areas. Prior to issuance of a permit associated with the proposed development the applicant shall submit documentation identifying that lights adjacent to the NROD must be shielded so that they do not shine

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

17.49.100.I. *If development will occur within the 100 yr. floodplain, the FEMA floodplain standards of Chapter 17.42 shall be met; and*

Finding: The proposed development would encroach into the design flood elevation, as calculated in the Floodplain Balance Report – Cut and Fill Calculations (prepared by Cardno, July 2, 2015). Please refer to the analysis in Chapter 17.42 of this report.

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

Finding: Complies as proposed. A mitigation plan has been provided for impacts to the regulated buffer. Please refer to the analysis in Section 17.49.180.

17.49.110 *Width of Vegetated Corridor.*

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

Finding: Complies as proposed. The Natural Resource Overlay District associated with this development extends on to the subject site due to the nearby anadromous Clackamette Cove and Clackamas River and Wetland A. In 2008, the vegetated corridor associated with the Clackamette Cove as well as the Clackamas River was reduced from 200 feet from the ordinary high watermark to 50 feet from the ordinarily high watermark with Planning file WR 08-21. The vegetated corridor associated with Wetland A is 50 feet.

17.49.120 *Maximum Disturbance Allowance for Highly Constrained Lots of Record*

Finding: Not applicable. The site is not a highly constrained lot of record.

17.49.130 Existing Development Standards

In addition to the General Development Standards of Section 17.49.100, the following standards apply to alterations and additions to existing development within the NROD, except for trails, rights of way, utility lines, land divisions and mitigation projects. Replacement, additions, alterations and rehabilitation of existing structures, roadways, utilities, etc., where the ground level impervious surface area is not increased are exempt from review pursuant to Section 17.49.080(J). As of June 1, 2010, applicants for alterations and additions to existing development that are not exempt pursuant to Section 17.49.080(J) shall submit a Type II or Type III application pursuant to this section. The application shall include a site plan which delineates a permanent disturbance area that includes all existing buildings, parking and loading areas, paved or graveled areas, patios and decks. The same delineated disturbance area shall be shown on every subsequent proposal for alterations and additions meeting this standard.

A. The following alterations and additions to existing development are permitted subject to the following standards.

- 1. Alterations or additions that cumulatively total up to a maximum of five-hundred (500) square feet of additional disturbance area after June 1, 2010 shall be processed as a Type II permit pursuant to this Chapter. The new disturbance area shall not encroach closer than 1/2 of the distance of the regulated NROD buffer.*
- 2. Alterations or additions that cumulatively exceed five-hundred (500) square feet of additional disturbance area or which propose encroachment closer than 1/2 of the distance of the regulated NROD buffer after June 1, 2010 shall be processed as a Type III permit pursuant to Section 17.49.200, Adjustment from Standards.*

Finding: Complies as proposed. The applicant has proposed a type III application.

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

Finding: Complies as proposed. A mitigation plan has been provided for impacts to the regulated buffer. Please refer to the analysis in Section 17.49.180.

17.49.140 Standards for Utility Lines

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

- A. *The disturbance area for private connections to utility lines shall be no greater than 10 feet wide;*
- B. *The disturbance area for the upgrade of existing utility lines shall be no greater than 15 feet wide;*
- C. *New utility lines shall be within the right-of-way, unless reviewed under D.*
- D. *New utility lines that cross above or underneath a drainage way, wetland, stream, or ravine within the NROD but outside of a right-of-way shall be processed as a Type III permit pursuant to Section 17.49.200, Adjustment from Standards.*
- E. *No fill or excavation is allowed within the ordinary high water mark of a stream without the approval of the Division of State Lands and/or the U.S. Army Corps of Engineers;*
- F. *The Division of State Lands must approve any work that requires excavation or fill in a wetland;*
- G. *Native trees more than 10 inches in diameter shall not be removed unless it is shown that there are no feasible alternatives; and*
- H. *Each 6 to 10-inch diameter native tree cut shall be replaced at a ratio of three trees for each one removed. Each 11-inch or greater diameter native tree shall be replaced at a ratio of five trees for each removed. The replacement trees shall be a minimum one-half inch diameter and selected from the Oregon City Native Plant List. All trees shall be planted on the applicant's site. Where a utility line is approximately parallel with the stream channel, at least half of the replacement trees shall be planted between the utility line and the stream channel.*
- I. *Mitigation is required, subject to Section 17.49.180 or 17.49.190.*

Finding: Complies with condition. The applicant did not indicate if a utility line will be within the vegetated corridor. As it is possible that utility lines may exist in the disturbance area on the Garden Apartment site and/or within the Main Street right-of-way, prior to issuance of a permit associated with the proposed development, the applicant shall submit sufficient documentation identifying compliance with the standards for utility lines in OCMC 17.49.140 if applicable. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

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.*

Finding: Not applicable. The proposal includes a pedestrian and vehicular accessways within the vegetated corridor in two locations for the sidewalk and travel lanes on Main Street as well as the travel lane on the Garden Apartments near Wetland A. Neither disturbance area includes a stream crossing.

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

Finding: Not applicable. The proposal does not include a stream crossing.

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

Finding: Complies with condition. The subject site contains land subject to compliance with the Department of State Lands (DSL). A letter was submitted from DSL dated May 13, 2010 for concurrence with state removal and fill law. As the project has been amended subsequent to DSL and U.S. Army Corps of Engineers, an update of the previous review is needed. Prior to issuance of a permit associated with the proposed development the applicant shall receive approval from the Division of State Lands, the U.S. Army Corps of Engineers and all other applicable agencies. **Staff has determined that it is**

possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.

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

Finding: Complies with condition. The subject site contains land subject to compliance with the Department of State Lands (DSL). A letter was submitted from DSL dated May 13, 2010 for concurrence with state removal and fill law. As the project has been amended subsequent to DSL and U.S. Army Corps of Engineers, an update of the previous review is needed. Prior to issuance of a permit associated with the proposed development the applicant shall receive approval from the Division of State Lands, the U.S. Army Corps of Engineers and all other applicable agencies. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

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

Finding: Complies with condition. The proposal did not address this criterion. The applicant shall assure that any work that will take place within the banks of shall be conducted between June 1 and August 31, or shall be approved by the Oregon Department of Fish and Wildlife prior to issuance of a permit. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

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

Finding: Complies as proposed. A mitigation plan has been provided for impacts to the regulated buffer. Please refer to the analysis in Section 17.49.180.

17.49.155 Standards for Stormwater Facilities

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

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

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

C. Mitigation is required, subject to Section 17.49.180 or 17.49.190.

D. The storm water facility may encroach up to 1/2 the distance of the NROD corridor.

E. The stormwater facility shall not impact more than 1,000 square feet of the NROD. Impacts greater than 1,000 square feet shall be process as a Type III application.

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

Finding: Complies with condition. The applicant has not provided a response to this section, nor shown the stormwater management facilities in relation to the NROD. It appears that a small amount of piping along the northern corner of the apartment site may encroach into the NROD. Needed stormwater management for the North Park site will likely encroach into the NROD. The applicant will be required to show the missing information in greater detail on construction plans to be submitted for each phase of the development.

The preliminary stormwater report indicates the North Park area will sheet flow to the Cove, yet the preliminary grading plan shows the path at an elevation that will preclude sheet flow. Stormwater management will be required for the modified North Park Area; the construction plan/grading

plan/stormwater report for Phase 1 shall more fully address stormwater management for the modified North Park site.

It is reasonable to expect that this code section can be satisfied by inclusion of a condition to ensure this information is provided on the construction plans. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

17.49.160 Standards for Land Divisions

Finding: Not applicable. The applicant has not proposed a land division.

17.49.170 Standards for Trails

The following standards apply to trails within the NROD:

Finding: Not applicable. The development would temporarily relocate the Clackmette River Trail from within the vegetated corridor to outside of the vegetated corridor. No new trails are proposed.

17.49.180. Mitigation Standards

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

Finding: Complies as proposed. The proposal includes 48,196 square feet (1.11 acres) of disturbance area within the vegetated corridor (including removal of 18 trees greater than 6-inches diameter).

Location	Size of Disturbance Area
Wetland A (Garden Apartments)	11,107 square feet (not exempt)
Main Street Improvements	7,204 square feet
North Park	13,326 square feet
Total impact 31,637 square feet	

Of the total impact area, 16,559 square feet (0.38 acre) of existing impervious surface is exempt from review pursuant to Section 17.49.080.J and will not require mitigation. The required mitigation for the remaining 31,637 square feet (0.73 acre) of impact area is described in this section. The applicant calculated the mitigation utilizing option 1 and option 2 and chose to implement option 2 as it results in a greater number of mitigation trees and shrubs to be planted.

17.49.180.A. Mitigation shall occur at a 2:1 ratio of mitigation area to proposed NROD disturbance area.

Mitigation of the removal or encroachment of a wetland or stream shall not be part of this chapter and will be reviewed by the Division of State Lands or the Army Corp of Engineers during a separate review process;

Finding: Complies as proposed. The proposed disturbance area, excluding disturbance to existing impervious surface areas is 31,637 square feet (0.73 acre), which requires 63,274 square feet of mitigation. The proposed mitigation areas total 69,931 square feet (1.61 acres). As such, this standard will be exceeded by 6,657 square feet of mitigation area.

17.49.180.B. Mitigation shall occur on the site where the disturbance occurs, except as follows:

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

Finding: Complies as proposed. The proposed mitigation is located near the disturbance areas on the subject site. According to the applicant, for the North Park site, the required 26,652 square-foot mitigation area will be within 22E20, Tax Lot 1100 and 22E29, tax Lot 3600 between the proposed alignment of the Clackamas River Trail and the OHW of the Clackamas River and/or Clackamette Cove. For the Main Street roadway improvements, 10,495 square feet of the required 14,408 square-foot mitigation area will be within 22E29, Tax lot 3600, between the Main Street easement and the OHW of

the Clackamette Cove. For the Garden Apartments site, 21,546 square feet of the required 22,214-square-foot mitigation area will be within 22E29, Tax Lot 2900, adjacent to Wetland A. The remaining 3,913 square feet of required mitigation area for the Main Street impacts and the remaining 668 square feet of required mitigation area for the Garden Apartment impacts will be sited on tax lot 3600 adjacent to the mitigation area for the North Park site.

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

Finding: Complies as proposed. The proposed mitigation is located within the NROD area of the site.

17.49.180.D. *Invasive and nuisance vegetation shall be removed within the mitigation area;*

Finding: Complies as proposed. Invasive vegetation listed on the Oregon City Nuisance Plant List would be removed within the mitigation area.

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

Mitigation Planting Option 1.

Finding: Complies as proposed. Mitigation Planting Option 2 will be used as it results in more tree plantings. All trees, shrubs, and herbaceous (groundcover) selected for the mitigation plan are from the Oregon City Native Plant List.

17.49.180.E.2. *Mitigation Planting Option 2.*

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

Finding: Complies with condition. The mitigation planting quantity is based on the disturbance area within the NROD. The disturbance area of 31,637 square feet requires 316 trees $((31,637/500)*5=316.37)$ and 1,582 shrubs $((31,637/500)*25=1,581.85)$. The applicant indicated that bare ground will be planted or seeded with native grasses and ground cover species.

For landscaping, the most immediate and pervasive component for the first few years is the seeding. Two-thirds of the seed mix requires wet conditions. All three of the seed species are native. Native grasses do not germinate rapidly. With the open exposure, the steep slopes and well drained soils it may be difficult for hydrophilic grasses to thrive. It is recommended that a broader variety of native seeds be incorporated into the seed mix. Included in this would be native wildflowers. Lupine, for one, is a legume and fixes nitrogen into the soil (like fertilizer) Lupine is highly regarded by pollinators, it grows fast and has attractive flowers. Other wildflowers are also recommended. Another shortcoming of the seed mix is that, in being slow to germinate, it does little, the first season, to stabilize disturbed soils against erosion. Regreen is a sterile wheat grass that does not persist in the landscape. Another grass that does not persist in the landscape is *Hordeum vulgare* "Poco", the Poco barley. This is a grain crop that is an annual grass. When seeded in the autumn it germinates quickly, grows fast, but does not have time in the winter season, to set seed. Either of those would be a viable addition in a seed mix as an

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

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

Finding: Complies as proposed. The Planting Plan on sheets L3.1 to L3.3 and L5 prepared by Cardno for the applicant indicated compliance with this standard.

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

Finding: Complies as proposed. The Planting Plan on sheets L3.1 to L3.3 and L5 prepared by Cardno for the applicant indicated compliance with this standard.

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

Finding: Complies with condition. In the plant notes on the planting plan sheets, it reads that all plantings are to be watered by in-ground automatic irrigation system. The response to 17.49.180.F. Monitoring and Maintenance in the NROD review (page 17) states that hose or water truck is to be used to water during establishment. For restoration and/or mitigation plantings, hose or water truck should be used, as trenching associated with an in-ground system is disruptive. Considering the open exposure, steep slopes and the well-drained, cobbly soils, careful placement of the plants that have high water requirements is advised. Watering will be necessary for plant establishment. Plants in the correct location establish faster and stronger and not depend as much on supplemental watering. In addition, the plant notes state that planting between October 15 and April 15 is prohibited. For native plant installations, this period is beneficial, therefore the note should be removed. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

17.49.180.E.2.e *Option 2 – Plant Diversity. Shrubs shall consist of at least three (3) different species. If 20 trees or more are planted, no more than one-third of the trees may be of the same genus.*

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

Finding: Complies with condition. The applicant indicated compliance with this standard but did not identify the quantity of each species and additionally states that the species identified were subject to availability. There is good diversity in the plant selection shown. Prior to issuance of a permit associated with this development the applicant shall submit documentation identifying compliance with the NROD mitigation planting option 2 in OCMC 17.49.180.E.2. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

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

Finding: Complies with condition. The application indicated that “the proposed mitigation will be monitored and maintained for a minimum of five years, with approved annual progress reports

submitted to the City's planning division. Mulching and irrigation will be applied in the amounts necessary to ensure eighty percent survival at the end of the required five-year monitoring period. The Garden Apartments mitigation area will be irrigated through the Garden Apartments irrigation system. Plantings in the Main Street Mitigation area and North Park mitigation areas will require either hand water or water truck service for the duration of the maintenance and monitoring period."

The mitigation area will be inspected annually during the active growing season. During site monitoring, survival rates of planted trees and shrubs and invasive plant species cover will be documented. This information, along with photo-documentation of the mitigation area, will be used to inform the annual progress report. Should survival rate drop below 80 percent or invasive plant coverage exceed 10 percent at any time during the maintenance period, immediate remedial action will be taken. Monitoring and maintenance is the on-going responsibility of the property owner, assign, or designee" (Exhibit 2).

The applicant shall comply with the standards for monitoring and maintenance within the NROD per OCMC 17.49.180.F. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

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

Finding: Complies with condition. The applicant indicated that the NROD will be identified onsite with a recorded covenant or easement. Prior to occupancy for any buildings associated with the proposed development the applicant shall provide the City with a copy of a recorded covenant or conservation easement per OCMC 17.49.180.G. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

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

Finding: Complies with condition. The applicant indicated that a financial guarantee will be provided to the City. Prior to occupancy for any buildings associated with the proposed development the applicant shall provide the City with a financial guarantee per OCMC 17.49.180.H. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

17.49.190 Alternative Mitigation Standards

Finding: Not applicable. The applicant does not propose alternative mitigation in lieu of the standards in 17.49.180.

17.49.200. Adjustment from Standards

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

Finding: Complies as proposed. The applicant requested an adjustment to OCMC 17.49.100.A which

states:

Native trees may be removed only if they occur 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;

In Exhibit 6 the David Evans and Associates biologist reviewed the Habitat Assessment Report prepared for the applicant by Pacific Habitat Services, Inc. (July 27, 2015).

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

Finding: Complies as proposed. The project proposes the minimum amount of disturbance inside the NROD while still meeting project specific criteria detailed in the application package. Grading within the North Park site is being conducted to balance cut and fill within the development area and adhere to the FEMA floodplain standards of Chapter 17.42 for development within the 100-year floodplain. Areas graded within the NROD will be stabilized and revegetated.

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

Finding: Complies as proposed. The proposed project largely avoids adverse impacts to NROD resources and their functions within the parcel by minimizing impacts within the NROD and surrounding environment. Minimization and avoidance measures include:

- Avoiding impacting wetlands or areas below the OHW.
- Proposing to remove invasive, non-native plant species from the development area.
- Balancing cuts and fills within the development area.
- Proposing a stormwater treatment and conveyance system that will utilize pervious pavement throughout the site, bioswales within the public right-of-way, and rain gardens in building area.
- Leaving the majority of the site in open space or as parks to assist with the protection of the aquatic and terrestrial habitat.
- The NROD within the project area is in degraded condition. The mitigation proposed for the project, which includes removing invasive plant species and increasing tree canopy, vegetation structure, and native plant diversity, is expected to create a higher functioning NROD area than currently exists within the project area.

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

Finding: Complies as proposed. The project's intrusion is minimized by placing mitigation areas within NROD area while improving the condition of the vegetated corridor. The proposed project has been designed to address project specific criteria while minimizing impacts to natural resources. Site constraints limit the potential location of areas suitable for cut/fill balance within the floodplain. The proposed grading within the North Park site has been minimized to the extent practicable. Further, the area will be stabilized and revegetated following final grading.

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

Finding: Complies as proposed. There are no suitable habitats or known occurrences of ESA-listed species within the project action area. Furthermore, there are no significant wildlife or fish corridors for which passage would be impeded.

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

Finding: Complies as proposed. The impacts to the NROD are not expected to impede fish and wildlife passage. As no work is proposed below the OHW of the Clackamas River or Clackamette Cove passage should not be impeded. A majority of the NROD area will remain intact and/or will be improved in function. The riparian area of the Clackamas River and Clackamette Cove adjacent to the development area is expected to improve through the required mitigation measures. The proposed project is not anticipated to cause additional wildlife passage impacts within the NROD other than those already present from the existing developments within the project vicinity.

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

Finding: Complies as proposed. Please refer to the analysis in Section 17.49.180.

17.49.210 *Type II Development Permit Application*

Finding: Not Applicable. The applicant has proposed a Type III application.

17.49.220 *Required Site Plans*

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

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

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

B. Within the NROD area of the subject property:

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

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 Section 17.49.180 or 17.49.190, including:

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

Finding: Complies as proposed. The applicant's submittal materials were evaluated during the completeness review.

17.49.230 Mitigation Plan Report

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

- A. Written responses to each applicable Mitigation Standard 17.49.180 or 17.49.190 indicating how the proposed development complies with the mitigation standards;
- B. The resources and functional values to be restored, created, or enhanced through the mitigation plan;
- C. Documentation of coordination with appropriate local, regional, state and federal regulatory/resource agencies such as the Oregon Department of State Lands (DSL) and the United States Army Corps of Engineers (USACE);
- D. Construction timetables;
- E. Monitoring and Maintenance practices pursuant to Section 17.49.230 (F) and a contingency plan for undertaking remedial actions that might be needed to correct unsuccessful mitigation actions during the first 5 years of the mitigation area establishment.

Finding: Complies as proposed. The applicant's submittal materials were evaluated during the completeness review.

17.49.240 Density Transfer

Finding: Not applicable. The proposal does not include a density transfer.

17.49.250 Verification of NROD Boundary

Finding: Not applicable. The development proposal does not include a Verification of the NROD boundary.

17.49.255 Type I Verification

Finding: Not applicable. The development proposal does not include a Type I Verification request.

17.49.260. Type II Verification

Finding: Not applicable. The development proposal does not include a Type II Verification request.

CHAPTER 17.42 FLOOD MANAGEMENT OVERLAY DISTRICT

17.42.020 - Applicability.

A. This chapter shall apply to development in the flood management overlay district, which may also be referred to as the "floodplain overlay district" in this code. The flood management overlay district includes all areas of special flood hazards and all flood management areas within the city. The overlay district restricts the uses that are allowed in the base zone by right, with limitations, or as provisional uses.

B. The flood management areas which have been mapped include the following locations:

1. Land contained within the one hundred-year floodplain, flood area and floodway as shown on the Federal Emergency Management Agency flood insurance maps dated June 17, 2008, including areas of special flood hazard pursuant to Section 17.42.040 and the area of inundation for the February 1996 flood; and
2. Lands that have physical or documented evidence of flooding within recorded history based on aerial photographs of the 1996 flooding and/or the water quality and flood management areas maps.

C. The standards that apply to the flood management areas apply in addition to state or federal restrictions governing floodplains or flood management areas.

Finding: Applicable. The subject site is within the Flood Management Overlay District; compliance is required. The development application included a letter from Atalia Raskin, registered Engineer from Cardno which identified floodplain calculations for Phase 1 and Phase 2 of the Cove development. As the applicant has not proposed to construct Phase 2 with this application, the scope of this Flood Management Overlay District is limited to Phase 1.

17.42.040 - Compliance.

No structure or land shall hereafter be constructed, located, extended, converted or altered without full compliance with the terms of these floodplain regulations and other applicable regulations. Violations of the provisions of this Chapter by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a civil infraction. Any person who violates this Chapter or fails to comply with any of its requirements shall be subject to the enforcement procedures of this code per OCMC 1.20 Civil Infractions and 1.24 Code Enforcement. Nothing herein contained shall prevent the city from taking such other lawful action as is necessary to prevent or remedy.

Finding: Applicable. The subject site is within the 100 year floodplain and the 1996 flood inundation. Compliance with this Chapter is required.

17.42.040.A Development Permit.

1. A development permit shall be obtained before construction or development begins within any portion of the flood management overlay district. The permit shall be for all structures, including manufactured homes and all other development, including fill and other activities, as set forth in Chapter 17.04 (Definitions).
2. Application for a development permit shall be made on forms furnished by the community development department. Requirements may include, but are not limited to: plans in duplicate drawn to scale showing the nature, location, dimensions and elevations of the area in question; existing or proposed structures, fill, storage materials, drainage facilities; and the location of the foregoing.
3. The following information is specifically required:
 - a. Elevation in relation to mean sea level of the lowest floor (including basement) of all structures;
 - b. Elevation in relation to mean sea level to which any structure has been floodproofed;
 - c. Certification by a registered professional engineer or architect that the floodproofing methods for any nonresidential structure meet the floodproofing criteria in Section 17.42.170E.5.; and
 - d. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

Finding: Applicable. The subject site is within the 100 year floodplain and the 1996 flood inundation. The applicant submitted this application to determine compliance with this chapter.

17.42.110 - Information to be obtained and maintained.

The building official shall:

- A. Where base flood elevation data is provided through the flood insurance study, FIRM or required as in Section 17.42.100, obtain and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, and whether or not the structure contains a basement.
- B. For all new or substantially improved floodproofed structures where base flood elevation data is provided through the flood insurance study, FIRM, or as required in Section 17.42.080:
 1. Verify and record the actual elevation (in relation to mean sea level); and
 2. Maintain the floodproofing certifications required in Section 17.42.080C.3.;
 3. Maintain for public inspection all records pertinent to the provisions of this Chapter.

Finding: Complies with condition. Prior to issuance of permits, the applicant shall submit adequate documentation to the building official to comply with OCMC 17.42.110. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

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.

Finding: Not Applicable. The applicant has not proposed to alter a watercourse with this development.

17.42.130 - Map administration.

Finding: Not applicable. The applicant has not proposed a map correction with this development application.

17.42.140 - Appeals and variance procedure.

Finding: Not applicable. The applicant has not proposed an appeal or variance.

17.42.150 - Conditions for variances.

Finding: Not applicable. The applicant has not proposed a variance to the floodplain.

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).*

Finding: Not applicable. The applicant proposed grading and construction of structures within the floodplain. The development is not permitted outright.

17.42.160.B Provisional Uses.

1. *All uses allowed in the base zone or existing flood hazard overlay zone are allowed in the flood management overlay district subject to compliance with the development standards of this section.*

Finding: Complies as proposed. The applicant proposed uses which are permitted within the construction within the flood plain.

17.42.160.C Prohibited Uses.

1. *Any use prohibited in the base zone;*
2. *Uncontained areas of hazardous materials as defined by the Department of Environmental Quality.*

Finding: Not applicable. The applicant did not propose 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.

Finding: Not applicable. The proposed improvements are not in response to an emergency situation.

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.*

Finding: Complies with condition. The development application included a letter from Atalia Raskin, registered Engineer from Cardno which identified floodplain calculations for Phase 1 and Phase 2 of the Cove development. As the applicant has not proposed to construct Phase 2 with this application, the scope of this Flood Management Overlay District is limited to Phase 1.

The design flood elevation (DFE) is based upon the 1996 flood inundation level and is 50.7 North American Vertical Datum of 1988 (NAVD88). The report indicated that approximately 107,984 cubic yards (CY) of fill will be placed below 50.7 NAVD88 in Phase 1 of the project. This fill amount will be balanced by the following:

- Excavation of approximately 3,819 CY of material from Lot 1
- Excavation of approximately 81,710 CY of material from the North Park
- Allocation of 22,455 CY of floodplain storage created with the City's "Jughandle" project

The plans noted that the fill and excavation volumes are approximate and will be verified and refined during construction based on compaction factors and accepted engineering and construction practices. Prior to submittal of building permits the applicant shall submit documentation from an engineer certifying that the project did not result in net fill within the floodplain. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

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

Finding: Not applicable. The applicant identified that no excavation will occur below the bankfull stage.

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.

Finding: Complies as proposed. As detailed in the Geotechnical Report conducted by GeoPacific Engineering, Inc. dated May 12th, 2015, the proposed development will meet the requirement to balance cut and fill within the floodplain by excavating within the Master Plan boundaries on Lot 1 and the North Park. In addition, the project will utilize unused extra capacity associated with the “Jughandle” project.

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.

Finding: Complies with condition. The applicant did not respond to this criteria. Prior to issuance of a permit associated with this development the applicant shall submit documentation identifying compliance with Chapter 17.42.160 of the Oregon City Municipal Code. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

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.

Finding: Complies with condition. The applicant did not respond to this criteria. Prior to issuance of a permit associated with this development the applicant shall submit documentation identifying compliance with Chapter 17.42.160 of the Oregon City Municipal Code. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

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.

Finding: Complies with condition. The applicant did not respond to this criteria. Prior to issuance of a permit associated with this development the applicant shall submit documentation identifying compliance with Chapter 17.42.160 of the Oregon City Municipal Code. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

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.

Finding: Complies with condition. The applicant did not respond to this criteria. Prior to issuance of a permit associated with this development the applicant shall submit documentation identifying

compliance with Chapter 17.42.160 of the Oregon City Municipal Code. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

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.*

Finding: Complies with condition. The applicant did not respond to this criteria. Prior to issuance of a permit associated with this development the applicant shall submit documentation identifying compliance with Chapter 17.42.160 of the Oregon City Municipal Code. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

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.*

Finding: Complies with condition. The applicant did not respond to this criteria. Prior to issuance of a permit associated with this development the applicant shall submit documentation identifying compliance with Chapter 17.42.160 of the Oregon City Municipal Code. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

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).*

Finding: Complies with condition. The applicant did not respond to this criteria. Prior to issuance of a permit associated with this development the applicant shall submit documentation identifying compliance with Chapter 17.42.160 of the Oregon City Municipal Code. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

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.*

Finding: Complies with condition. The applicant did not respond to this criteria. Prior to issuance of a permit associated with this development the applicant shall submit documentation identifying compliance with Chapter 17.42.160 of the Oregon City Municipal Code. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

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.

Finding: Complies with Condition. The applicant has not provided a response to this section. The plan proposes cuts of several feet in Main Street, where public water, sewer, and storm pipes exist. As a result, the water lines and possibly sewer and storm lines as well, will need to be replaced. The applicant will need to provide supplemental design data with the public facilities construction plan submittal to address protection of the public infrastructure in accordance with 17.42.160.E.3. A condition will be applied to ensure proper floodproofing methodologies are incorporated into the design. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

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.

Finding: Complies with condition. The applicant did not respond to this criteria. Prior to issuance of a permit associated with this development the applicant shall submit documentation identifying compliance with Chapter 17.42.160 of the Oregon City Municipal Code. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

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.

Finding: Complies with condition. The applicant did not respond to this criteria. Prior to issuance of a permit associated with this development the applicant shall submit documentation identifying compliance with Chapter 17.42.160 of the Oregon City Municipal Code. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

17.42.160.F Recreational Vehicles.

Finding: Not applicable. The development proposal did not include placement of recreational vehicles within the floodway.

17.42.160.G Below Grade Crawlspace.

Finding: Complies with condition. The applicant did not respond to this criteria. Prior to issuance of a permit associated with this development the applicant shall submit documentation identifying compliance with Chapter 17.42.160 of the Oregon City Municipal Code. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

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.

Finding: Applicable. The application will be reviewed by the Building Division upon submittal of an application.

17.42.180 - Subdivision standards.

Finding: Not applicable. The applicant has not proposed a subdivision with this proposal.

17.42.190 - Floodways.

Finding: Complies with condition. The applicant did not respond to this criteria. Prior to issuance of a permit associated with this development the applicant shall submit documentation identifying compliance with Chapter 17.42.190 of the Oregon City Municipal Code. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

GEOLOGIC HAZARDS – CHAPTER 17.44

17.44.025 - When required; regulated activities; permit and approval requirements.

No person shall engage in any of the following regulated activities within the adopted Oregon City Geologic Hazards Overlay Zone as defined in section 17.04.515 of the Oregon City Municipal Code without first obtaining permits or approvals as required by this chapter:

- A. Installation or construction of an accessory structure greater than 500 square feet in area;*
 - B. Development of land, construction, reconstruction, structural alteration, relocation or enlargement of any building or structure for which permission is required pursuant to the Oregon City Municipal Code;*
 - C. Tree removal on slopes greater than 25 percent where canopy area removal exceeds 25 percent of the lot.*
 - D. Excavation which exceeds two feet in depth, or which involves twenty-five or more cubic yards of volume;*
- The requirements of this chapter are in addition to other provisions of the Oregon City Municipal Code. Where the provisions of this chapter conflict with other provisions of the Oregon City Municipal Code, the provisions that are the more restrictive of regulated development activity shall govern.*

Finding: Applicable. The applicant proposed construction within the Geologic Hazards Overlay District.

17.44.030 - Procedures.

No building or site development permit or other authorization for development shall be issued until the plans and other documents required by this chapter have been reviewed and found by the review authority to comply with the requirements of this chapter.

A. Where the development is part of a land use permit application, review shall occur in the manner established in Chapter 17.50 for review of land use decisions.

B. Where the development is part of a limited land use permit application, review shall occur in the manner established in Chapter 17.50 for review of limited land use decisions.

C. Where the development is solely part of a grading permit or building permit, the city engineer may allow review to occur in the manner established in Title 15, Chapters 15.04 and 15.48 if the application meets Section 17.44.060 development standards.

D. For any other proposed development not otherwise subject to review as a land use or limited land use permit application, review shall occur in the manner established in Chapter 17.50 for limited land use decisions.

Finding: Applicable. The Geologic Hazards request is being processed according to the process identified in the Oregon City Municipal Code.

17.44.035 - Exemptions.

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

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

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

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

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

E. The removal or control of noxious vegetation;

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

Finding: Not applicable. The applicant has not proposed an exception.

17.44.050 Development - Application Requirements and Review Procedures and Approvals.

Except as provided by subsection B of this section, the following requirements apply to all development proposals subject to this chapter:

A. A geological assessment and geotechnical report that specifically includes, but is not limited to:

1) Comprehensive information and data regarding the nature and distribution of underlying geology, the physical and chemical properties of existing soils and groundwater; an opinion of site geologic stability, and conclusions regarding the effect of geologic conditions on the proposed development. In addition to any field reconnaissance or subsurface investigation performed for the site, the following resources, as a minimum, shall be reviewed to obtain this information and data:

a) The State of Oregon Department of Geology and Mineral Industries (DOGAMI) in Bulletin 99, Geology and Geological Hazards of North Clackamas County, Oregon (1979), or in any subsequent DOGAMI mapping for the Oregon City area;

b) Portland State University study entitled "Environmental Assessment of Newell Creek Canyon, Oregon City, Oregon" (1992);

- c) Portland State University study, "Landslides in the Portland, Oregon, Metropolitan Area Resulting from the Storm of February 1996: Inventory Map, Database and Evaluation" (Burns and others, 1998);
- d) DOGAMI Open File Report O-06-27, "Map of Landslide Geomorphology of Oregon City, Oregon, and Vicinity Interpreted from LIDAR Imagery and Aerial Photographs" (Madin and Burns, 2006);
- e) "Preliminary Geologic Map of the Oregon City Quadrangle, Clackamas County, Oregon" (Madin, in press);
- 2) Information and recommendations regarding existing local drainage, proposed permit activity impacts on local drainage, and mitigation to address adverse impacts;
- 3) Comprehensive information about site topography;
- 4) Opinion as to the adequacy of the proposed development from an engineering standpoint;
- 5) Opinion as to the extent that instability on adjacent properties may adversely affect the project;
- 6) Description of the field investigation and findings, including logs of subsurface conditions and laboratory testing results;
- 7) Conclusions regarding the effect of geologic conditions on the proposed development, tree removal, or grading activity;
- 8) Specific requirements and recommendations for plan modification, corrective grading, and special techniques and systems to facilitate a safe and stable site;
- 9) Recommendations and types of considerations as appropriate for the type of proposed development:
 - a. General earthwork considerations, including recommendations for temporary and permanent cut and fill slopes and placement of structural fill,
 - b. Location of residence on lot,
 - c. Building setbacks from slopes,
 - d. Erosion control techniques applicable to the site,
 - e. Surface drainage control to mitigate existing and potential geologic hazards,
 - f. Subdrainage and/or management of groundwater seepage,
 - g. Foundations,
 - h. Embedded/retaining walls,
 - i. Management of surface water and irrigation water, and
 - j. Impact of the development on the slope stability of the lot and the adjacent properties.
- 10) Scaled drawings that describe topography and proposed site work, including:
 - a. Natural physical features, topography at two or ten-foot contour intervals locations of all test excavations or borings, watercourses both perennial and intermittent, ravines and all existing and manmade structures or features all fully dimensioned, trees six- inch caliper or greater measured four feet from ground level, rock outcroppings and drainage facilities;
 - b. All of the features and detail required for the site plan above, but reflecting preliminary finished grades and indicating in cubic yards whether and to what extent there will be a net increase or loss of soil.
 - c. A cross-section diagram, indicating depth, extent and approximate volume of all excavation and fills.
- 11) For properties greater than 1 acre, a preliminary hydrology report, prepared by a suitably qualified and experienced hydrology expert, addressing the effect upon the watershed in which the proposed development is located; the effect upon the immediate area's stormwater drainage pattern of flow, the impact of the proposed development upon downstream areas and upon wetlands and water resources; and the effect upon the groundwater supply.

Finding: Complies with condition. The applicant indicated "As provided under Exhibit G, Geotechnical Reports have been prepared to address proposed development activity for the overall site, with specific focus on the site grading at North Park and the Phase 1 Garden Apartment site" (Exhibit 2).

The following documents cover the geologic hazards and geotechnical engineering: Geologic Hazards Evaluation by Apex Companies, LLC dated June 16, 2015, Geotechnical Assessment by Ash Creek dated May 26, 2011, Preliminary Geotechnical Engineering Report, by GeoPacific, Inc. dated May 12, 2015, and the Geotechnical Response by GeoPacific, Inc. dated September 2, 2015.

The Preliminary Geotechnical Engineering Report dated May, 12, 2015, stated existing undocumented fill was observed to extend to greater depths than test pit explorations and subsurface stratum across

the site is not thoroughly known. Recommendations were made for additional subsurface explorations consisting of deep soils borings to determine extent and depth of existing undocumented fill soils.

Prior to construction plan approval including final grading plan approval, the applicant's geotechnical engineer shall perform additional geotechnical exploration as recommended in the Preliminary Geotechnical Engineering Report dated May 12, 2015. The geotechnical engineer shall prepare detailed recommendations for treatment of the undocumented fill and recommendations shall be incorporated into final grading plans. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

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

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

Finding: Applicable. The review procedures and approvals are ensuring that the application requirements are completed, report criteria are generally accepted, and conclusions and recommendations are supported and reasonable.

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

Finding: Complies with condition. The geotechnical reports and assessments include conclusions and recommendations to be addressed during the design and construction phases. Prior to construction plan approval including final grading plan approval, the recommendations stated in the geotechnical report(s) shall be performed during the design or construction phases as applicable, and incorporated into final construction plans as appropriate. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

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

Finding: Complies with condition. The applicant has prepared geologic assessments and geotechnical reports complying with the requirements. The City shall have independent peer review of final reports and applicable construction plans. Prior to construction plan approval, the applicant shall pay the cost of the City's peer review. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

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

Finding: Not applicable. The city engineer has not waived requirements of the identified subsections.

17.44.060 Development Standards.

Notwithstanding any contrary dimensional or density requirements of the underlying zone, the following standards shall apply to the review of any development proposal subject to this chapter. Requirements of this chapter are in addition to other provision of the Oregon City Municipal Code. Where provision of this chapter conflict with other provision of the Oregon City Municipal Code, the provisions that are more restrictive of regulated development activity shall govern.

17.44.060.A All developments shall be designed to avoid unnecessary disturbance of natural topography, vegetation and soils. To the maximum extent practicable as determined by the review authority, tree and ground cover removal and fill and grading for residential development on individual lots shall be confined to building footprints and driveways, to areas required for utility easements and for slope easements for road construction, and to areas of geotechnical remediation.

Finding: Complies with condition. The applicant indicated:

Previously, the site has been significantly disturbed by past mining activity and the proposed project will have minimal impact to natural vegetation or previously undisturbed areas. As provided under Exhibit G, Geotechnical Reports have been prepared to address proposed development activity for the overall site, with specific focus on the site grading at the North Park Amphitheater and the garden apartments site. The Grading Plans provided for the Phase 1 development site, including North Park, the Tri-City and Lot 1 areas (Sheets C3.0 – C3.6) have been developed by a professional engineer and will be implemented consistent with the recommendations from the Geotechnical Reports.

The applicant has proposed extensive grading and excavations at the North Park Amphitheater and Main Street public right-of-way, and structural fill for The Cove Garden Apartments. In areas of The Cove Garden Apartments, Main Street, and North Park, the applicant's proposal does not appear to minimize grading and filling to the maximum extent practicable. Prior to construction plan approval, the applicant shall in the final design minimize to the maximum extent practicable the altering of the grade between the Cove and the Clackamas River on the north side of the North Park Amphitheater adjacent to the City bank remediation project, altering the grade along the steep slopes on the Garden Apartments property, and altering the grade in Main Street right-of-way. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

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

Finding: Complies with condition. The development proposal noted that erosion control measures, as shown on the Grading Plan, Sheets C3.0 – C3.6, within Exhibit B, including proposed inlet protections, a sediment fence and straw wattle will be installed prior to any grading activity within the defined window as stated above. The development proposal includes extensive site grading, including deep excavations and compaction of structural fill. Prior to construction plan approval, construction plans shall include the requirement for site grading and earthwork to be performed between May 1 and October 31. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

17.44.060.C Designs shall minimize the number and size of cuts and fills.

Finding: Complies with condition. The applicant indicated that:

The proposed development is a waterfront recreation based project that requires the development and integration of both passive and active recreation uses with residential, commercial and office uses that utilize the site's open space as a core amenity. Because of the site's location within the 100-year floodplain, the project requires the transfer of material from

the open space areas of the site to the developable areas in order to allow developed areas to be raised above the 100-year flood elevation, a fundamental requirement to obtain flood insurance available under the National Flood Insurance Program. Much of the material obtained for the Garden Apartment site is from the North Park, where grading will create an amphitheater-like setting for passive enjoyment and, at certain times, for public events. Consistent with this provision, the Applicant has minimized grading to the amount needed to achieve finished floor elevations 1-foot above the City's 100-year floodplain standard.

This development proposal is reliant on massive cuts and fills over a large land area to allow the proposed buildings to be constructed above the floodplain. The anticipated volume of cut is approximately 160,000 cy, to produce approximately 100,000 cy of fill. Proposed fill heights exceed 20 feet in places, and a 17-foot high vertical retaining wall is proposed. The proposal includes cutting down existing Main Street by seven feet in places. Additional cuts are proposed in the North Park area, including 28-foot cuts in areas of the amphitheater and 10-foot cuts in places outside the noted amphitheater area along the shore slopes of the cove.

The applicant has not demonstrated that the number of cuts and fills have been minimized. The City has noted areas where measures can be taken to reduce the cut and fill impacts. It appears that moving sections of the retaining wall inward along the backside of the Garden Apartments, and terracing (per Code) would reduce its impact. Cutting of Main Street will also need to be minimized to the maximum extent practicable; the proposed tie-in locations can be moved back to create a less drastic change in the longitudinal slope. Prior to construction plan approval, final grading plan shall incorporate measures for cuts and fills to comply with 17.44.060.C. Measures at a minimum shall include minimizing cuts to Main Street to the maximum extent practicable, to be approved by City Engineer, terracing the retaining walls, and relocating retaining walls to reduce height. The applicant shall provide written justification when measures are deemed infeasible at time of construction plan submittal for City's review and approval. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

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

Finding: Complies with condition. The applicant indicated that:

There are no cut and fill slopes greater than seven (7) ft in height proposed in a hazard area that are regulated and defined in this ordinance for streets, driveway accesses or yard areas as part of this development project. Details are provided in the Geologic Hazard Evaluation Letter from Apex, dated June 16th, 2015 and provided in Exhibit G.

Maximum wall height without terraces is 7 feet per 17.44.060.D for sites where geohazards exist, and 8.5 feet in other areas, per 17.54.100. The referenced letter of June 16th, 2015 was not found in Exhibit G. However, a letter dated September 10, 2015, by Apex, in Exhibit G.1 argues that the site does not contain valid areas of Geohazard as documented in City records (which indicate many Geohazard areas encumbering the site, in particular in the area of the proposed retaining wall), and that the geohazards will be eliminated by the proposed development. The City does not support the argument that Geohazard standards do not apply to the development. Compliance by terracing the walls in

accordance with the standards is feasible and practicable. Prior to construction plan approval, retaining wall design shall comply with 17.44.060.D, including terracing. Also retaining wall design shall move walls inward to reduce height where feasible. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

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

Finding: Complies with condition. The applicant indicated that:

A professional engineer licensed in the State of Oregon designed the structural fill for the proposed Phase 1 development site with the recommendations from a Geotechnical firm, GeoPacific Engineering, Inc. and Apex. The Geotechnical Reports are provided in Exhibit G of this submittal package.

Structural fill is required for The Cove – Garden Apartments. Prior to construction plan approval, the final grading plan shall provide an engineer's design for the structural fill. Prior to issuance of building permits, the geotechnical engineer-of-record shall provide written certification that the structural fill was constructed as designed and in accordance with the provisions of OCMC Chapter 17.44. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

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

Finding: Complies with condition. The applicant indicated that:

The proposed retaining wall along the western boundary of the project limits will be constructed in accordance with the Oregon Structural Specialty Code. Details will be provided with the construction plan set submitted at the time of building permit approval. A supporting geologic Hazard Evaluation letter from Apex, dated June 16th, 2015 is provided in Exhibit G.

Retaining walls are planned for The Cove – Garden Apartments. Prior to construction plan approval and building permits, the applicant shall provide engineered plans and structural design calculations in accordance with Oregon Structural Specialty code for all free standing retaining walls that retain soil. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

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

Finding: Complies with condition. The applicant stated:

As detailed in the CDP Site Plan, Sheets 1.0 and 1.1, and the DDP Plan Set located in Exhibit B, Main Street, Agnes Avenue and the proposed roundabout are designed in compliance with the City of Oregon City design standards for collector roads. As shown on the Grading Plan, Sheets C3.1 – C3.3, the southern part of Main Street slopes towards the roundabout. Catch basins are proposed in the roundabout and along Main Street to collect and convey runoff.

Grading plans show the elevation of Main Street much lower than the existing street elevation. Since Main Street is below the flood elevation, this cut increases the frequency and duration of flooding on

Main Street. The grading plan shall minimize the cut for Main Street to the maximum extent practicable. Prior to construction plan approval, the applicant shall in the final design minimize to the maximum extent practicable the altering of the grade altering the grade in Main Street right-of-way. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

17.44.060.H *Density shall be determined as follows*

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

Finding: Not Applicable. The development does not propose dwellings between grade breaks.

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

- 1) *For those portions of the property with slopes of twenty-five to thirty-five percent, the maximum residential density shall be limited to two dwelling units per acre; provided, however, that where the entire site is less than one-half acre in size, a single dwelling shall be allowed on a lot or parcel existing as of January 1, 1994 and meeting the minimum lot size requirements of the underlying zone;*
- 2) *An individual lot or parcel with slopes between twenty-five and thirty-five percent shall have no more than fifty percent or four thousand square feet of the surface area, whichever is smaller, graded or stripped of vegetation or covered with structures or impermeable surfaces.*
- 3) *No cut into a slope of twenty-five to thirty-five percent for the placement of a housing unit shall exceed a maximum vertical height of 15 feet for the individual lot or parcel.*
- 4) *For those portions of the property with slopes over thirty-five percent between grade breaks:*
 - a. *Notwithstanding any other City land use regulation, development other than roads, utilities, public facilities and geotechnical remediation shall be prohibited; provided, however, that the review authority may allow development upon such portions of land upon demonstration by an applicant that failure to permit development would deprive the property owner of all economically beneficial use of the property. This determination shall be made considering the entire parcel in question and contiguous parcels in common ownership on or after January 1, 1994, not just the portion where development is otherwise prohibited by this chapter. Where this showing can be made on residentially zoned land, development shall be allowed and limited to one single-family residence. Any development approved under this chapter shall be subject to compliance with all other applicable City requirements as well as any applicable State, Federal or other requirements;*
 - b. *To the maximum extent practicable as determined by the review authority, the applicant shall avoid locating roads, utilities, and public facilities on or across slopes exceeding thirty-five percent.*

Finding: Not applicable. The development does not propose dwellings between grade breaks.

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

Finding: Complies with condition. The applicant shall be providing final grading, drainage and foundation plans as part of the overall construction plan package for the development for City review and approval. The applicant's geotechnical engineer is required to perform a review as well. Prior to construction plan approval, the geotechnical engineer-of-record shall provide written documentation that the final grading and drainage plans are in conformance with their recommendations. Prior to issuance of building permits the geotechnical engineer-of-record shall provide written documentation that the foundation plans are in conformance with their recommendations. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

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

Finding: Complies with condition. Due to the extensive grading proposed for the site development, the City requires peer review. The City shall require peer review for all geotechnical reports and other related materials submitted for the development. The peer reviewer shall be selected by the City. Prior to construction plan approval and issuance of building permits, the applicant's geotechnical engineer shall respond to written comments provided by the City's peer reviewer. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

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

Finding: Complies with condition. Due to the extensive grading proposed for the site development, the City will consult with the City's geotechnical engineer in making determination that the development proposal and site are safe for construction, including proposed geotechnical remediation methods. Costs for such consultation shall be paid by the applicant and the applicant shall comply with conditions that are required. Prior to construction plan approval and issuance of building permits, the applicant shall comply with conditions required as part of the City's geotechnical review and pay for the City's geotechnical engineer's consultation costs related to this review. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

17.44.070 Access to Property.

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

Finding: Complies with condition. The applicant has not provided a response, though emergency access has been identified as a significant issue for this development.

The submitted plan shows emergency access to the adjacent shopping center. As this has not been addressed in the narrative, the design cannot be deemed to be approved. The construction submittal will need to address design of this access in further detail.

Main Street, which is in the flood plain, is proposed to be lowered by several feet, making it vulnerable to more frequent flooding, as noted in 17.44.060.G. This has not been addressed by the applicant. Altering the Main Street elevations will need to be kept to the minimum extent practicable. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

17.44.080 Utilities.

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

Finding: Complies as proposed. All proposed utilities for the Phase 1 development project will be installed underground in compliance with this standard.

17.44.090 Stormwater Drainage.

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

Finding: Complies with Condition. The applicant indicated:

As evident in the Preliminary Drainage Report, conducted by Cardno and dated August 12, 2015, and the Storm Plan, Sheets 4.1 – 4.2, a complete stormwater control plan is provided with this application submittal package.

The submitted preliminary plan shows a stormwater design that is feasible. A few needed revisions to the design have been identified, and will be reviewed further with construction plan submittal. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

17.44.100. Construction Standards.

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

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

Finding: Complies with condition. The applicant has not provided a response to this section.

Construction activities under this section will be guided and monitored by the required geotechnical engineering overviews and inspections. Prior to issuance of a permit associated with the proposed development the applicant shall submit sufficient documentation identifying compliance with OCMC 17.44. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

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

Finding: Complies with condition. The applicant has not provided a response to this section.

Construction activities under this section will be guided and monitored by the required geotechnical engineering overviews and inspections. Prior to issuance of a permit associated with the proposed development the applicant shall submit sufficient documentation identifying compliance with OCMC 17.44. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

17.44.100.C Measures shall be taken to protect against landslides, mudflows, soil slump and erosion. Such measures shall include sediment fences, straw bales, erosion blankets, temporary sedimentation ponds, interceptor

dikes and swales, undisturbed buffers, grooving and stair stepping, check dams, etc. The applicant shall comply with the measures described in the Oregon City Public Works Standards for Erosion and Sedimentation Control (Ordinance 99-1013).

Finding: Complies with condition. The applicant has not provided a response to this section. Construction activities under this section will be guided and monitored by the required geotechnical engineering overviews and inspections. Prior to issuance of a permit associated with the proposed development the applicant shall submit sufficient documentation identifying compliance with OCMC 17.44. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

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

Finding: Complies with condition. The applicant has not provided a response to this section. Construction activities under this section will be guided and monitored by the required geotechnical engineering overviews and inspections. Prior to issuance of a permit associated with the proposed development the applicant shall submit sufficient documentation identifying compliance with OCMC 17.44. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

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

Finding: Complies with condition. The applicant has not provided a response to this section. Construction activities under this section will be guided and monitored by the required geotechnical engineering overviews and inspections. Prior to issuance of a permit associated with the proposed development the applicant shall submit sufficient documentation identifying compliance with OCMC 17.44. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

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

Finding: Complies with condition. The applicant has not provided a response to this section. Construction activities under this section will be guided and monitored by the required geotechnical engineering overviews and inspections. Prior to issuance of a permit associated with the proposed development the applicant shall submit sufficient documentation identifying compliance with OCMC 17.44. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

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

Finding: Complies with Condition. The applicant has not provided a response to this section. Construction activities under this section will be guided and monitored by the required geotechnical engineering overviews and inspections. Prior to issuance of a permit associated with the proposed development the applicant shall submit sufficient documentation identifying compliance with OCMC 17.44. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

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

Finding: Complies with condition. The applicant has not provided a response to this section. Construction activities under this section will be guided and monitored by the required geotechnical engineering overviews and inspections. Prior to issuance of a permit associated with the proposed development the applicant shall submit sufficient documentation identifying compliance with OCMC 17.44. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

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

Finding: Complies with condition. The applicant has not provided a response to this section. Construction activities under this section will be guided and monitored by the required geotechnical engineering overviews and inspections. Prior to issuance of a permit associated with the proposed development the applicant shall submit sufficient documentation identifying compliance with OCMC 17.44. Prior to construction plan approval, final grading plans shall include construction plan note for full-time continuous monitoring and inspection and written daily reports by geotechnical engineer-of-record for all earthwork performed on North Park Area, Lot 1, Lot 2 Garden Apartments, Main Street right-of-way, and other areas where public improvements are proposed. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

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

Finding: Complies with condition. The applicant has not provided a response to this section. Construction activities under this section will be guided and monitored by the required geotechnical engineering overviews and inspections. Prior to issuance of a permit associated with the proposed development the applicant shall submit sufficient documentation identifying compliance with OCMC 17.44. Prior to certificate of occupancy, the geotechnical engineer-of-record shall submit written documentation stating soils and foundation-related project elements were in conformance with their recommendations. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

17.44.110 Approval of Development.

The city engineer shall review the application and verify, based on the applicant's materials and the land use record, whether the proposed development constitutes a hazard to life, property, natural resources or public facilities. If, in the city engineer's opinion, a particular development poses such a hazard, the city engineer shall recommend to the review authority permit conditions designed to reduce or eliminate the hazard. These conditions may include, but are not limited to, prohibitions on construction activities between November 1st and March 31st.

Finding: Complies with condition. The City's geotechnical engineer has recommended that construction activities be limited to the above dates and a condition of approval has been applied. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

17.44.120 Liability.

Approval of an application for development on land subject to this chapter shall not imply any liability on the part of the city for any subsequent damage due to earth slides. Prior to the issuance of a building permit, a waiver of damages and an indemnity and hold harmless agreement shall be required which releases the City from all liability for any damages resulting from the development approved by the City's decision.

Finding: Complies with condition. The City requires compliance with this requirement for development approval. Prior to the issuance of building permits, the applicant shall execute a waiver of damages and an indemnity and hold harmless agreement releasing the City from all liability for damages resulting from the development approved by the City's decision. **Staff has determined that it is possible, likely and reasonable that the applicant can meet this standard through the Conditions of Approval.**

17.44.130 Compliance.

Nothing contained in this chapter shall relieve the developer of the duty to comply with any other provision of law. In the case of a conflict, the more restrictive regulation shall apply.

Finding: Applicable. The developer shall comply with all applicable laws and the more restrictive regulation shall apply.

17.44.140 Appeal.

The review authority's decision may be appealed in the manner set forth in Chapter 17.50.

Finding: Complies. Any appeal will be administered in accordance with Chapter 17.50.

CONCLUSION AND RECOMMENDATION:

Based on the analysis and findings as described above, Staff concludes that the proposed Concept (Master) Plan Amendment, Detailed Development Plan, Natural Resource Overlay District and Geologic Hazards requests located at 16400 Main Street and No Address, Oregon City, Oregon 97045 and identified as Clackamas County Map 2-2E-29 TL 1509, 2800, 2900, 3000, 3100, 3200, 3300, 3400, 3500, 3600 and 3700 and Clackamas County Map 2-2E-20 TL 1100 can meet the requirements as described in the Oregon City Municipal Code by complying with the Conditions of Approval provided in this report. Therefore, the Community Development Director recommends the Planning Commission and City Commission approve files CP 15-01, DP 15-01, NR 15-15 and US 15-06 with conditions, based upon the findings and exhibits contained in this staff report.

EXHIBITS:

1. Vicinity Map
2. Applicant's Narrative and Plans
3. Comments from John Replinger of Replinger and Associates, City Consultant
4. Comments from Joshua Brooking, Assistant Planner with the Oregon Department of Transportation (ODOT)
5. Comments from Scott Archer, Community Services Director
6. Comments from Gigi Cooper of David Evans and Associates, City Consultant
7. Comments from Nick Bezzerides
8. Comments from Clelia Brigneti
9. Comments from Kim Baller
10. Excerpts from the 2008 Cove Master Plan Approval
11. Excerpts from the 2009 Cove Master Plan Approval